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Congressional Record

United States of America PROCEEDINGS AND DEBATES OF THE 96^{th} CONGRESS, FIRST SESSION

SENATE—*Friday, December 7, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 8:45 a.m., on the expiration of the recess, and was called to order by Hon. CARL LEVIN, a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

PEARL HARBOR ANNIVERSARY

Almighty God, on this day which lives in the memory of the Nation as a day of tragedy, of suffering, and heartache, we beseech Thee to unite us now as once we were united in a common endeavor to achieve the reign of justice and truth. Marshal our resources of mind and heart, of personality and material substance, that we may stand strong and unafraid in the hour of trial. May we dedicate ourselves to purer, nobler living, to a more unselfish patriotism, to true religion and loyalty to the kingship of Thy Son. Draw together the peoples of all races and tongues into a firm spiritual allegiance, dedicated to obeying Thy law and ever striving to know and to do Thy will. O Lord, begin with each of us. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 7, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CARL LEVIN, a Senator from the State of Michigan, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. LEVIN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ANN STEVENS MEMORIAL RED CROSS BUILDING

Mr. ROBERT C. BYRD. Mr. President, it had been my intention and my hope on yesterday to attend a fund raiser for the Ann Stevens Memorial Red Cross Building in Anchorage, Alaska. Because of the pressing business here and because of the uncertainty of programing amendments, I felt that I could not go, and I am truly sorry that I was not able to go. I have so explained to my friend, Senator STEVENS, and he graciously stated his understanding.

The Red Cross, one might say, was inevitable because compassion is a nearly universal impulse among men of good will.

I suppose everyone has experienced a sometimes agonizing sense of frustration in the face of obvious human suffering that is being endured hundreds of miles away, or we have at times had a maddening feeling of helplessness in the weight of an awful disaster in some part of the world.

The Red Cross serves as an almost instinctive response that civilized men and women can make to the otherwise unchallenged onslaught of the unexpected and the unimaginable—earthquakes, storms, epidemics, war, fire—or even personal calamities that may beset any individual from time to time. The Red Cross is one of the world's most dependable helping hands.

Ann Stevens realized this better than most people. Whether in Alaska or in Washington, the Red Cross was for Ann Stevens a primary means of expressing her love and her concern for human beings in need.

Four thousand years ago, an ancient Egyptian sculptor etched on the walls of a tomb: "A man's virtue is his monument." That may be partially so, but the Ann Stevens Memorial Building will help to make possible the culmination of the desires of people to help others.

And it will serve as an extension of Ann Stevens' virtue and as a continuing reminder of the devotion and commitment that Ann Stevens embodied for many years in her Red Cross service.

A Senator's wife has to be a special kind of person, and Mrs. Stevens more than met the demands of her role. She chose to sublimate many of her own potential ambitions to the public needs of her husband, but she was uncontent to bury her talents or hide her light under a bushel. Ann was a woman who found rich fulfillment in so many ways that one might well describe her as a "Renaissance Woman." She shared her abilities with us as a writer, a community leader, a businesswoman, a politician and diplomat in her own right, and as a wife and mother. Her life was never without purpose and direction, and in all that Mrs. Stevens accomplished, she complemented the life of her husband, the very distinguished Republican whip—now the acting Republican leader during this period—a Senator who represents the State of Alaska in a very fine way, a Senator who is beloved by his colleagues on both sides of the aisle.

Her life enhanced the well-being of her fellow man.

Many years ago, Ann came to Alaska with her husband, and threw her arms around this vast and wonderful State and its people. She coursed throughout Alaska with TED on his political campaigns, and she traveled often between Washington and Alaska. She met constituents and aided Senator STEVENS in his work.

So closely did the people of Alaska come to identify with Ann that she was able to boast understandably that she was one of the few women ever invited on the annual whale hunts and attendant ceremonies held in the Eskimo villages in the North.

So while I was not able to go yesterday with Senator STEVENS, Mr. President, may I say, in our beloved colleague's necessary absence from the Senate today, on behalf of all of my colleagues that the completion of the Ann Stevens Memorial Building will insure that the star-crossed partnership of Ann's talents and interests with the purposes and activities of the Red Cross will continue in the days ahead.

I extend my congratulations to all persons who were at the event last evening,

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

to all who participated and who will participate in this worthy project, and I wish them every success in this effort to honor the memory of a great lady, Ann Stevens, and to serve the needs of the people of Alaska.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is now recognized.

ANN STEVENS MEMORIAL RED CROSS BUILDING

Mr. TOWER. Mr. President, I at once wish to thank the distinguished majority leader on behalf of my colleague TED STEVENS and on behalf of all of us on the Republican side of the aisle for his very eloquent and sincere remarks and to associate myself with those remarks. There is very little that I could add to what he has said.

Ann Stevens was a woman of superior quality, a person much loved by all who knew her and who were privileged to be associated with her, and I think it is fitting that her memory should be honored in such a fashion and because of this occasion I feel privileged to have contributed only the small thing of filling in for our very distinguished acting minority leader while he is participating in this occasion.

PEARL HARBOR DAY

Mr. TOWER. Mr. President, the Chaplain's eloquent prayer this morning reminded us that this is Pearl Harbor Day.

As one who was privileged to serve in the U.S. Navy during World War II, I am bound to observe that this should be not only a day of recollection but a day of resolve.

We, the American people, should resolve that we will never again be perceived as being so weak and so unprepared that any power on Earth can feel that it can risk an attack against us.

It was such a perception that brought about the attack at Pearl Harbor on December 7, 1941.

As a Navy man I am inclined to recall the somber words of Kipling:

Far-called, our navies melt away—
  On dune and headland sinks the fire—
Lo, all our pomp of yesterday
  Is one with Nineveh and Tyre!
Judge of the Nations, spare us yet,
Lest we forget—lest we forget!

Mr. President, today our navies are far called. Today we have no carriers in the Western Pacific because they have been diverted to the Indian Ocean, and this simply illuminates in glaring light the current deficiencies in the naval capability of the United States of America.

In this instance we have no foreign power to blame. No adversary has decimated our fleet. We have done so ourselves by our own lack of vision and we are fast losing naval supremacy to another great power who challenges us throughout the world and whose global objectives are certainly not consonant with our own.

I hope in our resolve to be sure that we are never so weak again nor perceived to be weak again, that we will be aware that the Navy is our first line of defense—it is the cutting edge of the military capability of the United States of America—and that we will look to the future and examine the plans that we have for the maintenance of the fleet and make sure that we do enough that future generations may be secure in the knowledge that the U.S. Navy is still the most powerful maritime force in the world.

Mr. President, I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. TOWER. Yes.

Mr. ROBERT C. BYRD. Mr. President, I want to join with the distinguished acting Republican leader in what he said about the need for preparation lest we ever again be perceived as being weak, unresolved, or unprepared.

I commend him for reminding us that today is the day which will long live in the memories of millions of people all over the world, and especially in the memories of the American people.

It is time, Mr. President, that we act prudently, carefully, thoughtfully, and wisely to improve our defense capabilities.

There is a national debate going on right now, and it has been precipitated as much as anything by the hearings on the SALT II treaty. Those hearings have alerted me to the fact that although we have taken steps forward, we have not stood still; nevertheless, we have not done enough to keep our defense arm as strong as we should have.

So, Mr. President, I think on this day we ought to rededicate ourselves to the principles that made this country great, and reconsecrate ourselves to the ideals for which many Americans fought and gave their lives and fortunes and, hopefully, experience a recrudescence of the spirit if we are to save the flesh, if I may paraphrase the words of General MacArthur, and with that recrudescence of spirit experience a renewed determination to take whatever prudent steps are necessary to make sure that our country will not again be attacked, to make sure that we are prepared to state our national interests clearly, and prepared to protect those interests wherever it may become necessary.

The distinguished Senator from Texas referred to that great British poet Rudyard Kipling, I think quite appropriately, and I would like to close my remarks in the same way, with lines from Kipling's "The Heritage:"

Our fathers in a wondrous age,
  Ere yet the Earth was small,
Ensured to us an heritage,
  And doubted not at all
That we, the children of their heart,
  Which then did beat so high,
In later time should play like part
  For our posterity.
Then fretful murmur not they gave
  So great a charge to keep,
Nor dream that awestruck time shall save
  Their labour while we sleep.
Dear-bought and clear, a thousand year
  Our fathers' title runs.
Make we likewise their sacrifice,
  Defrauding not our sons.

RECOGNITION OF SENATOR JEPSEN

The PRESIDING OFFICER (Mr. PRYOR). Under the previous order, the Senator from Iowa (Mr. JEPSEN) is recognized for not to exceed 15 minutes. The Senator from Iowa.

COMMEMORATING THE ATTACK ON PEARL HARBOR, DECEMBER 7, 1941

Mr. JEPSEN. I thank the Chair.

I wish to commend the distinguished acting minority leader and the distinguished majority leader. It is a proud moment for me to sit and listen to the reflections of what took place on this day 38 years ago, December 7, 1941.

The muffled cries and the haunting memories of the poor state of preparedness that this country was in 38 years ago today ring true and remind us that there are some similar things taking place in our hearings, and that there are some who would have the United States of America become a second-rate, third-rate, or fourth-rate power under the well-meant but erroneous thought that this will lend itself to peace in the world and prevent war.

Mr. President, on this date 38 years ago, December 7, 1941, the combined forces of the empire of Japan launched a coordinated strategic attack upon U.S. land, sea, and air forces in the Far East.

There are young people in this room who were not born when this event took place, but it was, as President Roosevelt described it, "a day of infamy;" a day which would become forever forged upon the minds of all who experienced this historic event. The circumstances surrounding this attack which abruptly cast the United States into an already raging world war have come to symbolize America's historic lack of preparation for conflict.

I rise this morning, Mr. President, to remind my colleagues of the role which the Congress played in the making of national security policy during those critical prewar years.

The rather significant contribution of the Congress to our military unpreparedness at that time is well documented in the official history of prewar plans.

Several themes appear to predominate: an over-reliance on arms control agreements, or unilateral restraint by other nations, as a substitute for adequate national security.

Another theme seems to predominate, one of economic and fiscal constraints which successively tightened the defense budget first at the War Department, then at the White House, then the Bureau of the Budget, and finally at the Congress; and a lack of political determination to stand up to the gravity of the international situation—a seemingly persistent view that war could not happen or that if war should occur—which it finally did in Europe—the United States would escape involvement.

I quote from the excerpted remarks of the official historians on these issues (Matloff, Snell, and Watson), from the following sources:

Chief of Staff: Prewar Plans and Preparations. Mark S. Watson, Historical Division, United States Army (Washington, D.C. 1950).

Strategic Planning for Coalition Warfare: 1941–42. Matloff and Snell, Office of the Chief of Military History, Department of the Army (Washington, D.C. 1953).

Regarding the defense budget process:

General Pershing's pungent remarks on 4 July 1925 noted that "Under our very eyes there have already been serious reductions made by Congress" and that "the politician, himself oftentimes uninformed as to his country's history, frequently appeals to the ignorant and unthinking on the score of economy; . . . such demagogues are dangerous." Gen. Douglas MacArthur in 1934 summarized the personnel shortage dramatically, declaring: "In many cases there is but one officer on duty with an entire battalion; this lack of officers [has] brought Regular Army training in the continental United States to a virtual standstill . . . correction is mandatory." Stocks of materiel, he continued, were "inadequate even for limited forces . . . and, such as they are, manifestly obsolescent. The secrets of our weakness are secrets only to our own people." The 1935 report from Mr. Dern predicted that in the event of war "we should find that our so-called economies have in reality been a hideously extravagant waste of money and lives." With less rhetoric Secretary Henry L. Stimson in his 1941 report made the following statement:

"Not until our country saw its former democratic allies and friends struck down in quick succession did our Congress, representing accurately the view of our public, authorize the fiscal appropriations necessary to make any adequate defense. Until such Congressional action, no increased American armies would be raised and paid for and no contracts for munitions could be entered into."

The routine, disciplined obedience of the Army to the President as Commander in Chief and to such of his agents as the Budget Director was itself a handicap to Army programs, barring any save a refractory officer from demanding more funds than were approved by the White House. This fact was illustrated every year, and often in every year, and the reason for it made clear on 25 November 1924 when Brig. Gen. K. W. Walker, then Army Chief of Finance, was interrogated by a committeeman on this issue of full acceptance of Presidential directions:

"Q. In general, which do you regard as the more important—the President's policy of economy or the actual needs and requirements of the War Department?

"Gen. WALKER. That is a pretty hard question for me to answer. . . . The President's policy is the controlling factor and must be our guide; but that does not prevent the War Department from stating to the President through the Budget Bureau its needs as it sees them.

"Q. Would it prevent the War Department from presenting its needs before this committee?

"Gen. WALKER. I think it would. I think when the Budget has once been approved by the President and transmitted to Congress, it is his budget estimate and no officer or official of the War Department would have any right to come up here and attempt to get a single dollar more than is contained in that estimate. . . .

"Q. So the final analysis of it is, General, that up to the present the $336,000,000 must suffice, even though that does not meet your requirements at all?

"Gen. WALKER. Insofar as the War Department is concerned, yes, sir. If this committee should develop that more money should be had for any specific purpose, it would be of course its prerogative to give it, just as it is its prerogative to reduce any amount. This prerogative has been exercised time and time again."

A year late, on 8 December 1925, when again the Secretary's plea for an army of 150,000 had been ignored and the Department's reduced estimates were laid before Congress, Maj. Gen. Dennis E. Nolan, then Deputy Chief of Staff, answered similar questioning from appropriations committeemen in a somewhat tarter manner.

"Q. If you do not get all you need that is because you do not ask for it?

"Gen. NOLAN. Oh yes, we ask for it.

"Q. Well, you ask the Budget and they do not give you the money, nor does Congress?

"Gen. NOLAN. But we are prohibited by law from asking Congress for anything except the amount that is allowed here in the Budget.

"Q. . . . Now, why should you not come up here and frankly tell us that the amount is not sufficient to maintain those activities . . .?

"Gen. NOLAN. Because Congress passed a Budget law, in which there is a proviso prohibiting any official of the Government coming before a Committee of Congress and arguing for more money than is permitted under the Budget sent up by the President. That is a matter of law."

Still more directly pointing at the Congressional responsibility, Gen. MacArthur, before the same committee, on 28 November 1932, in his pleas for the Army's miniature armored forces of that day said explosively that "they suffer tremendously from one thing and one thing only—that Congress will not give them enough money to equip them properly with modern tanks."

Regarding the impact of arms control and unilateral restraint:

During these years national policy was deeply influenced by popular beliefs relating to national security which had in common the idea that the United States should not enter into military alliance or maintain military forces capable of offensive operations. National policy provided a narrow basis and small scope for military planning. During the 1920's the United States entered into international agreements to limit naval construction and to "outlaw" war. In the 1930's the United States experimented with the use of diplomatic and economic sanctions to discourage military aggression, and with legislation intended to keep the United States out of European and Asiatic wars.

This between-wars idea that American armed forces should be designed for defense only, not offense, illuminated as it was by the Washington Treaties for arms limitation (1922) and the Kellogg-Briand Pact (1929), was so completely a national policy imposed upon the Army that it became a guide to Army planning and upon occasion had a particularly crippling effect upon the Air Corps. Thus, in May 1938 a program for acquiring long-range bombers was sent back to the planners by the Deputy Chief of Staff with a sharp restatement of Air Corps limitations. He directed restudy of the program, with the following reminder:

"(1) Our national policy contemplates preparation for defense, not aggression, (2) Defense of sea areas, other than within the coastal zone, is a function of the Navy, (3) The Military superiority of . . . a B–17 over the two or three smaller planes that could be procured with the same funds remains to be established, in view of the vulnerability, air-base limitation and complexity in operation of the former type. . . . If the equipment to be provided for the Air Corps be that best adapted to carry out the specific functions appropriately assigned it under Joint Action . . . there would appear to be no need for a plane larger than the B–17."

Even in early 1940 an urgent Army plea to Congress for 166 airplanes was beaten down to 57, and no 4-motor bombers were permitted, an opponent making the explanation that these were not defensive but "aggressive" weapons, the very type against which the American delegates' efforts had been directed at Geneva in 1934.

Regarding the widespread belief that could not happen:

The Army and the War Department as a whole were heirs also to what had been left undone in a peace-minded nation whose day-by-day thinking from 1919 onward had been on other than military affairs, partly from actual antagonism to everything suggestive of "militarism," but chiefly from ignorance and apathy about the peacetime requirements of national defense. During the prosperous decade there was a popular delusion that another war was so remote from possibility that no large defenses against it were necessary, and certainly no acquisition of offensive means; appropriations for military purposes were made grudgingly and on a falling scale. During the succeeding decade of depression, the enormous governmental deficits of each fiscal year discouraged anything beyond bare maintenance of even the small establishment which the recent years' reduced appropriations had permitted. The first resumption of a naval building program in mid-depression years was justified by the White House itself on the ground that it was a make-work enterprise to reduce public unemployment.[1]

After two decades of neglect, despite known armings in Germany and Japan, the United States Army of 1939, reviving from its low point of 1933, was still weak in numbers, ill equipped by 1939 standards, scattered over a great many posts, and never assembled for true corps maneuvers, partly because it included no complete organization for corps or army troops or their service elements. The air elements were still feeble in numbers, but encouraged by the new appropriations stemming from a 1938 revitalizing. The National Guard, counted upon to provide early support for the Regular Army, was far below nominal peace equipped, and insufficiently trained. The strength, unbalanced, insufficiently equipped, and insufficiently trained. The supply services of the Regular force were low in number of personnel and in reserve stocks. Even so limited, their surviving personnel, notably that in ordnance arsenals, was efficient in operation and watchful in development work, and from that fortunate circumstance sprang memorable results. Industry as a whole, upon which the 1918 experience had clearly shown the armed services would have to rely for the vast output of wartime, was not set up for wartime production, nor even acquainted with the requirements for grand-scale munitions production. The "antimilitarism" groups throughout America, most of them temperamentally opposed to war of any sort, a few inspired from abroad to block American rearming, were still active, but were less of a handicap to national defense than was the apathy of the nation as a whole. Recalling today how magnificent was to be the effort of the nation and all its parts once war actually came, one is struck the more by the inertness of 1939, when war was almost at hand but when a large part of the American public was still suspicious of "militarists" and still sure that war could not come to America.

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[1] See "Plant Surveys and Educational Orders in World War II," U.S. Army Industrial College, Department of Research, Jan. 47.

The public's hostility to both the principle and the cost of rearming inevitably affected White House thinking during the two decades between wars; Presidential messages to Congress sought much less in military appropriations than the services urged, and on one occasion (during the Coolidge administration) even the Congressional appropriations were reduced by a horizontal percentage cut. Public hostility to military outlay also influenced the attitude of Congress and was in turn encouraged by Congressional arguments in opposition to new outlays of money. Because Congress determined the appropriations, it was Congress which the War Department, aware of the rapidly changing world situation, had to inform of the full significance of the distant drumbeats in Berlin and Rome and Tokyo. Information had to be cautiously imparted at such a time. Yet until Congress should understand the dark prospect and the critical needs of America, there was small chance that the public would understand, or that the President would feel warranted in pressing the rearmament program with determination. National awareness of the situation appeared to come only with the burst of Blitzkrieg in mid-1940. Even this awakening was incomplete; some of the incredulity that war would really touch America, which had been shaken away in June 1940, was to return, and the public state of mind remained serene on the very eve of Pearl Harbor.

On December 7, 1941, our country was shaken by the realization that war could, in fact had, come to America; and many sailors from the land-locked State of Iowa gave their lives on that Sunday morning at Pearl Harbor.

I ask unanimous consent that the names of those Iowans who went down with the battleship Arizona be printed in the record at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

MEMORIAL LIST OF NAVAL PERSONNEL ENTOMBED IN THE U.S.S. "ARIZONA"

IOWA—27

Anderson, Lawrence Donald, Ensign, Waukon.
Ball, William V., S1c, Fredericksburg.
Barker, Loren Joe, Cox, Keosauqua.
Bersch, Arthur Anthony, S1c, Muscatine.
Bosley, Kenneth LeRoy, EM3c, Sioux City.
Bowman, Howard Alton, S2c, Coon Rapids.
Bridie, Robert Maurice, F1c, Colfax.
Eulberg, Richard Henry, FC2c, Garnsville.
Giesen, Karl Anthony, Y2c, Decorah.
Granger, Raymond Edward, F3c, Des Moines.
Grosnickle, Warren Wilbert, EM2c, Econe.
Herring, James, Jr., SM3c, Iowa City.
Jackson, Robert Woods, Y3c, Glenwood.
Jante, Edwin Earl, Y3c, Garner.
Johann, Paul Frederick, GM3c, Altavesta.
Kellogg, Wilbur Leroy, F1c, Shenandoah.
Langenwalter, Orville J., SK2c, Storm Lake.
Leedy, David Alonzo, FC2c, Muscatine.
Lincoln, John William, F1c, Norway.
Loustanau, Charles Bernard, S1c, Gray.
Manske, Robert Francis, Y2c, Waterloo.
Peavey, William Howard, QM2c, Iowa Falls.
Seaman, Russell Otto, F1c, Fairfield.
Taylor, Robert Danzil, Cox, Sabula.
Thorman, John Christopher, EM2c, Granville.
Wilcox, Arnold Alfred, QM2c, Cherokee.
Wilson, Ray Milo, RM3c, Charles City.

Mr. JEPSEN. Mr. President, these 27 Iowans who remain entombed in the sunken battleship U.S.S. *Arizona* are, I believe, a testament to a lack of military preparedness which I am determined to avoid.

As the Congress enters the fiscal year 1981 defense budget cycle in the midst of growing international turmoil I urge my colleagues in the Senate, and in the lower body, to consider the bitter experience gained by our predecessors.

Douglas MacArthur once noted:

> The history of failure in war can be summed up in two words: Too Late. Too late in comprehending the deadly purpose of a potential enemy; too late in realizing the mortal danger; too late in preparedness; too late in uniting all possible forces for resistance; too late in standing with one's friends.

In his annual report of 1939, Chief of Staff, General Craig remarked:

> What transpires on prospective battlefields is influenced vitally years before in the councils of the staff and in the legislative halls of Congress. TIME is the only thing that may be irrevocably lost, and it is the thing first lost sight of in the seductive false security of peaceful times.

S. 2097—JOINT EXPORT MARKETING ASSISTANCE ACT OF 1979

Mr. JEPSEN. Mr. President, the expansion of exports is an area of paramount importance to the State of Iowa and to our Nation. During the last 16 years, Iowa's exporting has grown from less than $500 million in 1960 to more than $2.9 billion in 1976. Approximately 20 percent of Iowa's manufacturers export more than twice the national average of 9 percent. Export expansion and promotion is critical to reducing the 1978 trade deficit of $29 billion.

Mr. President, little attention has been given to the small- and medium-size exporters. Today, in an effort to assist the smaller exporters of this country, I am introducing the Joint Export Marketing Assistance Act of 1979. This legislation would offer a program designed to reduce the financial risks entailed in initial export market development. This legislation will provide support and help to encourage the small- and medium-size firms of our Nation to take advantage of potential exporting opportunities and to commit themselves to a serious, ongoing export program.

I am not an advocate of Government expansion and Government spending; that is why I am sponsoring legislation that would require businessmen to return the Government's money after they have successfully marketed their products in foreign countries. That is, the Joint Export Marketing Assistance Act will not provide a Government subsidy, since repayment of the Government's share of the marketing costs is required, except in cases where the new marketing effort fails. Individual firms as well as groups of exporters would be eligible for assistance under this legislation.

Funding for joint export marketing assistance was included in the original 1980 Commerce budget.

Though many programs exist that attempt to benefit U.S. exporters, my bill can be distinguished from existing programs in three ways as indicated in the fiscal year 1980 congressional budget submission for joint export marketing assistance.

First. Assistance. Since potential small exporters fear high risk in foreign marketing efforts, this program will relieve some of the financial burden. For example, a small or medium size firm may need to invest between $30,000 and a $100,000 during the initial 2 to 3 years of its export development activities before obtaining significant export sales. For a small- or medium-size firm this can constitute a significant financial exposure. To reduce this financial risk which is not addressed by traditional Government loan programs, the joint export marketing assistance program will share specified cost relating to initial overseas market development activities with individual firms or groups of firms on a contractual basis. Only marketing costs that can be specifically related to initial development of foreign markets for U.S. products are eligible for assistance.

Second. The requirements of the program. As I previously mentioned, participants will be required to repay Government costs based on total sales in the market during a period specified in the contract. The repayment provisions will be designed to minimize the possibility of default by participants. Firms seeking financial support will be required to prepare detailed development proposals setting forth a comprehensive market plan that offers a reasonable prospect for sustained export sales after Government support is withdrawn. This is an important point because it will help to insure sound investment and assures a common sense and responsible approach to Government involvement in export development.

Third. Eligibility. Only firms with a proven track record and viable financial assets will be allowed to participate in this export assistance program. Emphasis will be given to the smaller exporter.

Mr. President, this country must aggressively develop marketing opportunities in every foreign market. We must realize, also that the small and medium size exporter can substantially impact our balance of trade. And therefore, we must guide and assist these companies in their trade efforts.

I send the bill to the desk for appropriate referral.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, Mr. LEVIN had an order for this morning, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may control that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER VITIATING ORDER FOR RECOGNITION OF SENATOR MORGAN

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. MORGAN wants to cancel his order. I, therefore, ask unanimous consent that the order for Mr. MORGAN be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business not to exceed beyond 5 minutes and that Senators may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

FINANCIAL DEPOSITORY INSTITUTION DEREGULATION ACT—H.R. 4986

Mr. MORGAN. Mr. President, a few weeks ago the Senate enacted the Depository Institutions Deregulation Act, H.R. 4986. As my colleagues will recall, this was a rather far-reaching bill entailing many changes in the basic financial institution laws of our Nation.

Yesterday, I understand the conference on H.R. 4986 met for the first time and, according to my information, little progress was made on resolving the differences on the many controversial matters in that bill.

Mr. TOWER. Will the Senator yield?

Mr. MORGAN. I am happy to yield.

Mr. TOWER. That conference was the day before yesterday and I can assure the Senator that nothing at all was resolved and the conference dissolved in disagreement at an early period.

Mr. MORGAN. I would ask my colleague if it would not be more accurate, according to my information, to say that the conference adjourned in a state of disarray.

Mr. TOWER. Disarray would be an appropriate characterization of how the conference dissolved.

Mr. MORGAN. That was according to my information.

I think my colleague from Texas, Mr. President, helps to make the point very well. What I am simply trying to say is that the likelihood of resolving the difference between the House bill and the Senate bill is not very good.

Mr. TOWER. If the Senator will yield, I should say the likelihood is virtually nonexistent at this point.

Mr. MORGAN. That, too, was my understanding. Unless some action is taken now in light of that fact, millions of users of credit union share drafts, automatic transfer plans, and remote service units will be adversely affected on January 1, 1980, which is just around the corner.

My colleagues will remember that these are services that are now being offered by financial institutions, especially the credit union share drafts, which are the equivalent in everyday language of checking accounts. The Federal court, the Supreme Court having affirmed it, some time ago ruled that there was no statutory authority for these instruments and, therefore they would have to be discontinued unless the Congress acted to authorize them specifically by January 1.

As my distinguished colleague, the Senator from Texas (Mr. TOWER) and I were just indicating, there is no likelihood that H.R. 4986 will be satisfactorily resolved by then.

Earlier I offered legislation which would have authorized all three of these types of instruments on the same basis on which they have been operating and had been operating prior to the Court decision. I wanted to bring to the attention of my colleagues that I think we could still enact a simple bill overturning the Court decisions outlawing all of these three services in adequate time or at least in time to permit these institutions to continue these services until next year and until such time as the Senate can resolve these other difficulties.

I simply would support and call to the attention of the Senate that this earlier bill would have authorized these matters, and I think maybe we in the Senate should give some consideration to proceeding in this manner. To require the credit unions to discontinue their share draft accounts, which they have been offering for a long time, would entail not only great inconvenience to their members, but also entail a cost of probably millions of dollars.

I hope my colleagues will give some consideration to enacting a simple bill to simply extend these rights until such time as the Senate and the House can reach agreement.

Mr. TOWER. Will the Senator from North Carolina yield?

Mr. MORGAN. I am happy to yield.

Mr. TOWER. I think what the Senator from North Carolina proposes is the probable solution to the problem we have at the moment, that is the extension of a moratorium on the application of the Court decision until such time as we can agree on a more comprehensive bill.

As the Senator is aware, there are some differences between the Senate and the House on the important issue of regulation Q, and also a difference between the Senate and the House on the question of Federal Reserve membership, neither of which seem likely to be resolved before the first of the year.

Therefore, I might suggest to the Senator from North Carolina that probably the appropriate course for us to take would be for us to extend the moratorium for a limited period of time, though not too long a time because I think we should have the external discipline of an expiration date to force us to arrive at some sort of accommodation with the House and for them to arrive at an accommodation with us on those two unresolved questions I have mentioned.

Mr. MORGAN. I thank my colleague. I will probably proceed to try to work with the Senator from Texas and other members of the committee to do that. I believe the idea of a limitation of time would be good and would impose some discipline on us.

Mr. President, I yield back the remainder of my time.

ORDER FOR RECESS TODAY UNTIL MONDAY, DECEMBER 10, 1979, AT 10 A.M.

Mr. ROBERT C. BYRD. Mr. President, the Senate will not be in tomorrow. We announced that on yesterday. I ask unanimous consent that, when the Senate completes its business today, it stand in recess until 10 o'clock on Monday morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

WINDFALL PROFIT TAX BILL

SCHEDULE TODAY

Mr. ROBERT C. BYRD. Mr. President, the Senate will be on the windfall profit tax bill throughout the day. I anticipate several rollcalls. In view of the fact that the Senate will not be in tomorrow, I wonder if Mr. LONG can agree with me that it is quite conceivable that the Senate will be in until a reasonably early hour in the evening today. Normally, when we are in on Friday, we do not stay around much after 4 or 5 o'clock, but in view of the press of circumstances and the fact that we are not going to be in tomorrow, I should like to alert the Senators that we may be in until 6 o'clock, perhaps, today.

AMENDMENTS

Mr. LONG. Mr. President, it is fine with me to stay in session as long as the majority leader wants to stay in session this evening. But I want to point out to him that there are some amendments that people ought to be offering, that they should just bring them up.

I am not saying anybody is engaging in dilatory tactics. But there is an amendment that the Senator form West Virginia will offer, or at least support. He will support an amendment involving a minimum tax. I do not think I am going to vote for it, but it ought to be offered.

There is no man I love more than the distinguished majority leader. I say that sincerely. Mr. President, I have had complete sympathy for the Senator when he has stood here on this floor and pleaded with Senators, if they want their amendments agreed to, to bring it on in here. I have really felt for him, because I can recall the day when I was an assistant majority leader here on the Senate floor and when the majority leader was not here, I would stand and plead with people to get on with the business.

I must say, Mr. President, it does not entirely behoove our great leader to stand here and say, "Come on, fellows, let us do business," when he himself wants an amendment to go. It ought to be brought out here and offered so we can vote on it.

So, if we can go ahead and act on these significant amendments until we only have some minor amendments left, that would give us some encouragement to stay around the clock if need be to try to finish the bill. But as long as we have major amendments that people are holding back, other Senators are just as inclined to hold back on theirs.

Mr. ROBERT C. BYRD. I understand. Mr. President, may I say that the minimum tax amendment is not ready to be brought up yet because we are trying to prepare it. I had a meeting in my office yesterday, a luncheon, at which a good many Senators were in attendance and the subject was a minimum tax. So we are attempting to develop an amendment, and as soon as we can get it prepared, I hope we will get it up.

I also hope Mr. DANFORTH would call up his amendment. He has an amendment we have been hearing a lot about for quite some time, and I hope that amendment could be called up. So we have two big amendments that I hope can be called up in the next not too many days, certainly.

Mr. LONG. Let us hope the next couple of days.

Mr. ROBERT C. BYRD. Yes, the next couple of days. And there are other amendments. I join with the distinguished Senator in hoping we can dispose of these amendments.

I am very interested in a minimum tax amendment. I hope we can get it up and disposed of. As soon as the Senators complete its preparation, I assure the Senator from Louisiana that as far as I am concerned, we are ready to go with it.

Mr. LONG. In line with what the majority leader said, I would not at all mind if some people would change their minds. If Mr. DANFORTH could see the light and decide his amendment is ill-considered, and tell us so, that would be great news to all of us.

We would know then that we are going to make great progress, and the debate would be shortened somewhat. In any event, if Senators are going to insist on their amendments, they should bring them in.

Mr. ROBERT C. BYRD. I do agree. Mr. President, I anticipate rollcall votes throughout the day and urge Senators not to make airline reservations too early in the day.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered. Morning business is closed.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 3919.

The Senate resumed consideration of the bill H.R. 3919.

The PRESIDING OFFICER. The pending question is on the amendment No. 711 offered by the Senator from Colorado (Mr. HART).

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 711

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. What is the pending business?

The PRESIDING OFFICER. The pending question before the Senate is the amendment offered by the Senator from Colorado (Mr. HART).

Mr. HART. Mr. President, that is amendment No. 711.

The PRESIDING OFFICER. The Senator is correct.

Mr. HART. A further parliamentary inquiry: Is unanimous consent required for the Senator from Colorado to make a change in his amendment or to amend his own amendment?

The PRESIDING OFFICER. Unanimous consent is not required for the Senator to modify his amendment at this point.

Mr. HART. Has the amendment been stated?

The PRESIDING OFFICER. The amendment has been stated.

Mr. HART. I thank the Chair.

Mr. President, for the information of the distinguished floor manager and acting leader on the other side, the only change that was made in the amendment that is at the desk was to change the applicable date for the effect of this amendment to September 30, 1980; that is to say, a year from now, to avoid the budget problems that are going to be minor anyhow if the amendment had taken effect this year.

The PRESIDING OFFICER. The amendment is modified as requested by the Senator from Colorado.

Mr. HART. I thank the Chair.

The amendment, as modified, is as follows:

On page 152, between lines 11 and 12, insert the following new section:

SEC. 272. CREDIT FOR PASSIVE SOLAR RESIDENTIAL CONSTRUCTION.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowable), as amended by section 301, is amended by inserting immediately before section 45 the following new section:

"SEC. 44G. CREDIT FOR PASSIVE SOLAR RESIDENTIAL CONSTRUCTION.

"(a) ALLOWANCE OF CREDIT.—In the case of a builder of a new residential unit which incorporates a passive solar energy system, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount determined under the solar construction credit table which shall be prescribed by the Secretary, based on the ratio of the solar collection area to the house heating load.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT PER UNIT.—The amount of the credit allowed by subsection (a) shall not exceed $2,000 for a residential unit.

"(2) APPLICATION WITH OTHER CREDITS.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) BUILDER.—The term 'builder' means a person who is in the trade or business of building residential units and has a proprietary interest in the residential unit built.

"(2) NEW RESIDENTIAL UNIT.—The term 'new residential unit' means any unit—

"(A) which is located in the United States,

"(B) which is designed for use as a residence,

"(C) which is a unit of a building having less than five residential units,

"(D) the construction of which is completed after September 30, 1980, and before January 1, 1986, and

"(E) which is ready for occupancy before such date.

"(3) PASSIVE SOLAR ENERGY SYSTEM.—The term 'passive solar energy system' means a system—

"(A) which contains—

"(i) a solar collection area,

"(ii) an absorber,

"(iii) a storage mass,

"(iv) a heat distribution method, and

"(v) heat regulation devices, and

"(B) which is installed in a new residential unit after September 30, 1980, and before January 1, 1986.

"(4) SOLAR COLLECTION AREA.—The term 'solar collection area' means an expanse of transparent or translucent material that—

"(A) is located on that side of the structure which faces (within 30 degrees) south, and

"(B) the position of which may be changed from vertical to horizontal in such a manner that the rays of the Sun directly strike an absorber.

"(5) ABSORBER.—The term 'absorber' means a hard surface that—

"(A) is exposed to the rays of the Sun admitted through a solar collection area,

"(B) converts solar radiation into heat, and

"(C) transfers heat to a storage mass.

"(6) STORAGE MASS.—The term 'storage mass' means a dense, heavy material that—

"(A) receives and holds heat from an absorber and later releases the heat to the interior of the structure,

"(B) is of sufficient volume, depth, and thermal energy capacity to store and deliver adequate amounts of solar heat for the structure in which it is incorporated,

"(C) is located so that it is capable of distributing the stored heat directly to the habitable areas of the structure through a heat distribution method, and

"(D) has an area of direct irradiated material (that is, floors, walls, etc.) equal to or greater than the solar collection area.

"(7) HEAT DISTRIBUTION METHOD.—The term 'heat distribution method' means—

"(A) the release of radiant heat from a storage mass within the habitable areas of the structure, or

"(B) convective heating from a storage mass, through airflow paths provided by openings or by ducts (with or without the assistance of a fan or pump having a horsepower rating of less than 1 horsepower) in the storage mass, to habitable areas of a structure.

"(8) HEAT REGULATION DEVICE.—The term 'heat regulation device' means—

"(A) shading or venting mechanisms to control the amount of solar heat admitted through solar collection area; and

"(B) nighttime insulation or its equivalent to control the amount of heat permitted to escape from the interior of a structure.

"(9) HOUSE HEATING LOAD.—The term 'house heating load' is the product of the number of square feet in the habitable floor area of the house multiplied by the insulation factor obtained from the insulation factor table under subsection (d) (1) (B).

"(10) JOINT PROPRIETARY INTEREST IN RESIDENTIAL UNIT.—If 2 or more builders have a proprietary interest in a residential unit, the credit allowable under subsection (a) shall be apportioned to each builder on the basis of his ownership interest in the residential unit.

"(d) SOLAR CONSTRUCTION CREDIT TABLE.—

"(1) PRESCRIPTION OF TABLE.—After consultation with the Secretary of Energy and the Secretary of Housing and Urban Development, the Secretary by regulations shall—

"(A) prescribe a solar construction credit table, to which reference is made in subsection (a), which meets the requirements set forth in paragraph (2), and

"(B) prescribe a table of insulation factors, based on the amounts of insulation in floors, walls, and ceilings and the number of panes of glass in the windows of a structure, for 8 categories of residential units ranging from one having no added insulation to one having the maximum feasible amount of insulation.

"(2) REQUIREMENTS FOR SOLAR CONSTRUCTION CREDIT TABLE.—

"(A) IN GENERAL.—In order to meet the requirements of this paragraph, the table prescribed by the Secretary—

"(i) shall provide a credit at the rate of $60 for each 1 million Btu's of annual energy savings per residential unit, and

"(ii) shall set forth different amounts of credit for different ratios of solar collection area to house heating load and for residential units located in different areas of the United States.

"(3) ANNUAL ENERGY SAVINGS PER RESIDENTIAL UNIT.—For purposes of subparagraph (A), the annual energy saving for a residential unit shall be the amount by which the number of Btu's of nonsolar energy required to provide heat to a reference house for a calendar year exceeds the number of Btu's of nonsolar energy required to heat a similar house, in the same or a similar location, which uses an incorporated passive solar energy system for a calendar year.

"(C) REFERENCE HOUSE.—For purposes of subparagraph (B), the term 'reference house' means a residential unit with 1,500 square feet of habitable floor space and a heating load of 7.5 Btu's per square foot per degree day.

"(D) HEATING LOAD.—For purposes of subparagraph (C), the term 'heating load' means the product of the number of square feet of habitable floor space of a residential unit multiplied by the appropriate insulation factor, set forth in the table prescribed by the Secretary under paragraph (1) (B), for that unit.

"(c) TERMINATION.—The credit allowable by subsection (a) shall not be allowed with respect to a residential unit the construction of which is completed after December 31, 1985.".

(b) CLERICAL AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1, as amended by section 331, is amended by inserting immediately after the item relating to section 44F the following new item:

"Sec. 44G. Credit for passive solar residential construction.".

(2) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 331, is amended by striking out "and 44F" and inserting "44F, and 44G".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after September 30, 1980.

Mr. HART. Mr. President, before proceeding further, I had intended earlier to say to the floor manager that I would be willing to enter into a time agreement if he wishes.

Mr. LONG. Mr. President, I do not believe we need to enter into a time agreement. If the Senator wants the yeas and nays, he can have them. I think we can dispose of this amendment with reasonable dispatch. I think we can just go on.

Mr. President, on second thought, I believe I will take the Senator up on his proposal because I believe it might expedite matters.

I ask unanimous consent that debate on the amendment be limited to—how much time would the Senator like?

Mr. HART. I suggest an hour and a half equally divided, but I do not intend to use all that. I have about 15 cosponsors, and about half would like to say a word.

Mr. LONG. I would say 1½ hours equally divided under the usual germane requirements.

Mr. TOWER. Reserving the right to object, and I have no particular desire to object, but we are still trying to touch base with the minority floor manager of the bill. If the Senator will withhold that request, I am sure we can probably accommodate it. I cannot, at the moment, agree to it.

Mr. LONG. No problem, we shall wait.

Mr. HART. Mr. President, I ask unanimous consent that the Senator from West Virginia (Mr. RANDOLPH) be added as a cosponsor of the amendment as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, on June 20, 1979, at the occasion of the dedication of the White House solar system, President Carter established as a national goal that 20 percent of our energy in the year 2000 be derived from renewable resources.

I believe this goal is both realistic and obtainable—but not without a concerted effort to encourage the use of currently available, cost-effective solar systems.

"Passive" solar systems rely on energy-efficient architectural techniques and the use of special building materials, rather than mechanical means, to make maximum use of the sun's energy.

The use of passive solar techniques is hardly a novel concept. More than 400 years ago, the cliff dwellers of Mesa Verde in western Colorado made simple adaptions to capture and store the Sun's energy during the chill winter months, and deflect the Sun's scorching summer rays.

In general, passive solar techniques are relatively simple, inexpensive and just a matter of commonsense. For example, new homes should be constructed with eaves on their summer exposure which block the direct rays of the high southern Sun, while permitting direct light from the low winter Sun to heat the structure. Other passive design features, such as Trombe walls which capture, store, and gradually release heat from the Sun, are more sophisticated and somewhat more expensive. But a well-designed passive solar system can reduce the heating load of a standard home by as much as 80 percent.

In general, passive solar systems are the most cost-effective solar technology for heating and cooling homes. Passive solar is a sound investment today which will reap additional benefits as the cost of fuel oil, natural gas, and electricity continues to rise. The potential of passive solar systems to reduce our reliance on conventional energy for residential space heating and cooling is significant.

While opportunities exist to add passive features to existing homes, the greatest potential for energy savings are realized when passive solar systems are incorporated as part of the original design of the home. In light of the fact that the Nation's entire housing stock is expected to be replaced over the course of the next 50 years, it is vitally important that new housing incorporate passive solar systems (as well as other energy-efficiency measures) if future generations are not to be "locked-in" to increasingly costly and uncertain supplies of energy for their residential needs.

Clearly, a concerted effort to encourage the use of passive solar systems in new housing is an essential element of any program to achieve the aggressive goals we have established for solar energy. By that, I mean not only the President but also Congress.

The question then arises, if passive solar makes economic sense today, why are not builders including passive solar features in new housing? Although a passive solar system will often pay for itself over the course of just a few years, this saving accrues to the owner of the house rather than to the builder. Builders and developers, who must compete in an extremely tight capital market, are understandably hesitant to make any addition to a home which will increase its cost. This problem is magnified by the recent increase in mortgage rates which makes it difficult for prospective homeowners to obtain the additional capital necessary for a passive solar home.

In addition, the homebuilding industry in this country is dominated by small businesses which construct, on the average, only nine homes a year. Small homebuilders can ill afford the risk that the public will not readily accept—or cannot find the financial backing for—passive solar homes. Given these barriers, there is a clear need to provide a strong incentive to builders to include passive solar features as an integral part of new housing.

Despite longstanding congressional interest in passive solar, it has not been possible to implement a residential passive solar tax credit in the past because of difficulties in determining how to provide a tax credit for components of a home which serve a "dual" function, for example, a Trombe wall which stores heat (a passive solar function), as well as supporting the ceiling (a structural function).

The amendment I am offering today circumvents this problem by providing a tax credit to builders of new homes based on their effectiveness in reducing the energy load of the home, rather than providing a credit for a percentage of the cost of the components of a passive solar system. This approach has the additional advantage of encouraging the use of low-cost, high-performance passive solar designs.

To qualify for the credit, a passive solar system must possess all of the following elements:

First, a solar collection area;

Second, an absorber;

Third, a heat storage "mass";

Fourth, a heat distribution mechanism; and

Fifth, heat regulation devices.

To determine the amount of the credit for a given passive solar system—based on its performance—the builder must know:

First, the size of the solar collection area of the passive home;

Second, the amount of insulation and other energy-conserving features in the home; and

Third, the nearest city, to determine the amount of sunlight which falls on the home.

These factors can be compared on a simple chart which will predetermine the amount of the credit based on the extent to which the passive solar system has reduced the heating and cooling requirement of the home.

The maximum credit for a passive solar system would be $2,000. An average passive solar system would be eligible for a $1,000 credit, which would cover about 20 percent of the total cost of an average system. The builders would be eligible for this credit from September 30, 1979, through December 31, 1985. According to the Internal Revenue Service, total revenue loss for the passive solar tax credits during that period would be $328 million.

Mr. President, I am pleased to be joined in offering this amendment by Senators Percy, Durkin, Tsongas, Heinz, Domenici, Bradley, Leahy, Baucus, Cranston, and Randolph and some of them have asked for an opportunity to speak on it. This amendment also has the full support of the administration. I ask unanimous consent to have printed in the Record a letter from Mr. Stuart Eizenstat, the President's Domestic Affairs Adviser, strongly endorsing this amendment, together with a letter from Donald C. Lubick, Department of the Treasury.

There being no objection, the letters were ordered to be printed in the Record, as follows:

The White House,
Washington, D.C., November 14, 1979.

Hon. Gary W. Hart,
Russell Senate Office Building,
Washington, D.C.

Dear Senator Hart: As you know, in July of this year President Carter proposed the establishment of a new tax credit of up to $2,000 per unit for builders of residences designed to make use of passive solar energy. This was one of a series of initiatives recommended by the President to reduce our dangerous dependence on imported oil.

The builder's "passive solar tax credit" is an extremely important component of the President's program. Although it is generally recognized that a well designed home using solar energy can produce fuel savings of as much as 80%, most of the homes now being built fail to take advantage of this free and inexhaustible resource. The passive solar tax credit will provide a strong incentive to the homebuilding industry to build houses which will make maximum use of solar power and minimum use of scarce fossil fuels.

It is my understanding that you plan to offer on the Senate Floor an amendment to the Windfall Profits Tax Bill which would implement the President's proposal for a builder's tax credit for passive solar residences. I also understand that this amendment has been developed in consultation with the Treasury Department, the Department of Energy and the Department of Housing and Urban Development.

I wish to assure you that your efforts to carry forward this portion of the President's program have our complete support.

Sincerely,

Stuart E. Eizenstat,
Assistant to the President, for Domestic Affairs and Policy.

Department of the Treasury,
Washington, D.C.

Hon. Gary W. Hart,
U.S. Senate,
Washington, D.C.

Dear Senator Hart: Enclosed is the Administration's proposed tax credit for passive solar residential construction and a draft of legislative language for the proposal. As you know, the Administration strongly encourages the use of solar energy and has proposed several incentives to stimulate growth in this area.

The specific proposal and legislative language were developed jointly by Treasury and the Department of Energy. We believe that the proposed credit would provide builders a worthwhile incentive to incorporate passive solar energy designs in new construction. We are satisfied as well that the proposal is both administrable for the Internal Revenue Service and workable for the builders who would claim the credit. In addition, we have consulted the Department of Housing and Urban Development to ensure that the proposal is consistent with the standards of the Solar Bank's proposed loan program.

The Administration recommends that the passive solar residential construction credit be included as part of the conservation measures of the Windfall Profit Tax Bill.

I appreciate your interest in the proposal and look forward to your comments on the legislative draft.

Sincerely,

Donald C. Lubick.

Mr. HART. Mr. President, this amendment has been endorsed by the following national organizations:

National Conference of State Legislatures, National League of Cities, National Association of Home Builders, Sierra Club, Friends of the Earth, Environmental Action, National Wildlife Federation, Environmental Policy Center, League of Women Voters, Solar Lobby, American Institute of Architects, National Woodwork Manufacturers Association.

Mr. President, the reality of this Nation's energy situation makes it vitally important that new housing incorporate passive solar systems. This amendment provides important incentives toward that goal and I urge my colleagues to support it.

Mr. DOLE. Mr. President, I have indicated to the distinguished Senator from Colorado that, so far as this Senator is concerned, we will be willing to accept the amendment.

I understand that a number of other Senators wish to be heard on the amendment and that the Senator from Colorado would like a rollcall vote following the discussion.

Is that correct?

Mr. HART. Mr. President, I do not want to impede the Senate in moving on with the bill.

The amendment was brought up in the committee and was not accepted, for a variety of reasons. Since it was not accepted by the committee, it is important that there be some demonstration of support for it.

Also, for the purpose of getting it accepted in the conference, I think a strong Senate vote would be important. I do not want a rollcall vote simply for the sake of a rollcall vote.

Mr. DOLE. I understand that—just to indicate that there is support for the amendment.

Mr. President, in the absence of other speakers, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HART. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I ask for the yeas and the nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I ask unanimous consent that Dana Peck have the privilege of the floor during the discussion of this amendment and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, during 1976, the Governmental Affairs Committee developed the Energy Conservation and Production Act (ECPA). It was our intent to raise energy conservation considerations to the same position then occupied by supply side policies.

In doing that, we quickly identified the buildings sector as a primary target for any energy conservation effort. Our specific response in ECPA was the "Energy Conservation Standards for New Buildings" title, a legislative undertaken originally in the Banking Committee.

Testimony had indicated that considerable energy savings could be gained through new construction techniques and materials. At the same time, a GAO report underscored the need for national residential sector conservation goals.

The buildings sector in general, and residential construction in particular, is highly sensitive to changes in the cost and availability of credit. This is why first cost considerations are given the highest priority in home buying decisions by consumers. Builders understand this and do everything possible to insure the lowest first costs.

The result is homes designed for quicker sale, not homes with adequate priority on careful design and building to save energy and to minimize life-cycle costs.

Conservation, while important to the Nation as a whole, has never been a major interest among home buyers or builders. The validity of this finding has been dramaticaly shown over the last 3 years. In 1976, the buildings sector accounted for 32 percent of the Nation's end use energy consumption. By 1979, with the industrial sector working on conservation and automotive efficiency standards beginning to bite, the buildings sector accounted for 37 percent of end use consumption. It has not matched the other sectors in conservation.

Buildings sector consumption is extremely important. Most of the 74 million residential buildings and 1.5 million commercial buildings were constructed when energy was not a major consideration. The focus on low first costs has brought about a tremendous waste of energy by most of the existing inventory of buildings.

Fully one-third of the total energy consumed in the United States—almost 14 million barrels of oil equivalent per day—is consumed by buildings. They represent a major opportunity for conservation.

Decisions regarding the building energy performance standards (BEPS) area are still some months away. The passive solar tax credit now before us would do much to start the Nation on its way toward efficient buildings by encouraging builders to use passive solar design techniques in new construction. At a low cost over the life of the program, the passive credit offers the chance to gain energy savings of 30 to 80 percent in a large portion of 1 to 1.5 million new homes constructed annually.

In effect, we are establishing a passive solar demonstration program while avoiding additional bureaucratic costs of program administration. Those using the credit provide the examples needed to stimulate others to enter into passive home construction. As the savings potential of passive solar design become better known through this process, it has been projected that another 300,000 to 400,000 passive homes will be constructed at no cost to the Treasury.

Passive solar credits help offset higher first costs of home construction. The definition of what constitutes a passive solar home has been carefully developed with the fullest possible input from the Treasury Department and IRS. And the cost to the Treasury is marginal over the life of the program, especially when the reduction in energy use is considered.

Mr. President, this amendment would encourage sound home design. Passive solar designs make good sense—to the homebuilder, the homeowner, and to the Nation. I urge my colleagues to support this amendment.

Mr. President, I shall comment briefly on the short-run and the long-run solution to this energy problem. Obviously, as I mentioned in the Chamber yesterday, the best short-run solution is conservation. Just stop using as much energy as we do, and this particularly effects imported oil. We should find a way to impose a sensible gasoline tax. I introduced legislation several years ago to tax gasoline at 30 cents a gallon. After all, some countries today tax it anywhere from $1 to $1.50 a gallon. They have been paying $2 a gallon for years in Europe. And we think we can get by by imposing a 4-cent Federal tax. It is absolutely outrageous. A strong gasoline tax is just one of many steps we can do to move forward and encourage conservation.

I pay particular tribute to the courage and foresight of JOHN ANDERSON, my distinguished Illinois colleague. He is running for President and advocating a 50 cent per gallon tax. In taking that stance, he is absolutely right. It probably should be double that if we are ever to price the product at what it is really worth. We are wasting it, we are squandering it, we are using up far too much. We are encouraging use of the automobile and ever-increasing gasoline consumption by underpricing the product, making it impossible through free Federal parking, we are making it much cheaper to drive than to use mass transit, and that makes no sense at all. Conservation is the most important single thing we can do. We must recognize that fact ad move decisively on these short-term conservation issues.

The next step which must be taken is the move to the direct use of coal. We should double our production and consumption of coal, and the President has called upon the Nation to establish that goal. The Coal Coalition, on which I serve under the chairmanship of the Governor of West Virginia, the distinguished Jay Rockefeller, will issue a report early next year indicating how this Nation can move forward and save millions of barrels of imported oil by the direct use of coal. That is the second thing that can be done.

I commend all the members of the Coal Coalition and our distinguished majority leader, ROBERT BYRD, and his distinguished colleague, JENNINGS RANDOLPH, of West Virginia, for the leadership that they have provided, together with DEE HUDDLESTON and other members of the Coal Coalition, in finding ways that the Nation can mandate the use of coal if necessary in order to move forward and lessen our dependence on oil.

But looking to the short, medium, and long run, there is no greater hope than in solar energy. The Solar Coalition, on which I am pleased to serve, benefits from the tremendous leadership provided by our distinguished colleague Senator GARY HART, of Colorado. In this whole area of solar use, Senator HART is a visionary. At an earlier time, solar was looked upon as utterly preposterous, some dream. Now, it is looked upon as pragmatic, hard, sensible, cost-effective and an area where we must move ahead. We are gratified that the President has come at least 80 percent of the way with us in his solar policy as outlined in the domestic policy review. We felt it was achievable to have a national goal of at least 25 percent of our energy requirements from solar by the year 2000.

Within 2 or 3 weeks of calling on the President, together with my distinguished colleague from Colorado, Senator HART, the President adopted a goal of 20 percent. That is better than half a loaf. That is four-fifths of a loaf. We join together with the President now in trying to make this a practical reality, and it can be done.

But we cannot do it unless we start to bite the bullet, unless we start to do the kinds of things day-by-day that will provide the incentive to move forward. We cannot establish a goal without doing something about it. We must take action.

This amendment is a major step forward because there are all types of solar energy, and passive is an extraordinarily important element. People in this country have to begin to learn that in a well-designed house, when the Sun comes up it can offset a large portion of heating needs which would otherwise have to be met by energy-consuming heating equipment. Why not use this infinite source of energy rather than precious oil or gas burning down in the basement?

All we have to do is provide the incentives to encourage more people to take advantage of the benefits good, passive solar design can bring.

I commend my distinguished colleague for the leadership he has provided in this and many other fields. I think in this area he has been a real giant. I trust the country will follow in this leadership now and recognize that this is the path down which we must go if this Nation's national security and balance of payments are to be freed from the excessive pressures of huge oil payments. This really gets to the heart of what this country is all about: flexibility, ingenuity, and a strong desire to be free from external controls.

I trust that our colleagues will overwhelmingly support this amendment.

Mr. HART. Mr. President, I thank the Senator from Illinois both for his support of this amendment and for his kind words. I say on his behalf he has demonstrated as much vision in this area as any one of our Members and I am pleased to have him in support of this amendment.

Mr. President, I wish to take only a very few minutes to walk through the system for calculating this tax credit so that the RECORD at least will reflect how this works and hopefully our colleagues who are in the conference on this legislation will be able to support it a little more thoughtfully by having this information available to them.

Mr. President, as the charts here on the Chamber floor show the system would work as follows: To determine whether a passive solar system qualified, the builder would complete a very simple recognition form. That form would establish that the passive solar system contained all of the following components:

First of all, a solar collection area; that is to say, south window, and an absorber, a storage mass, heat distribution method and heat regulation devices.

These are simple definitions that have been worked out for each of these components. Information on all of these components is known to the builder which would allow him to easily perform this recognition step.

Second, to determine his tax credit, the builder would also have to know the closest city to the builder—there is a list of 219 urban areas around the country—the size of the passive collection area, that is the total area of south-facing window; and

Then, third, the house, heating load. That is to say the amount of heating energy required by the house. The third factor will be used to determine the passive rating of the house. The builder would then determine the ratio of passive collection areas to the house-heating load.

That calculation is the result. The house heating load is determined by the builder by taking the floor area of the house, that is to say, the square feet, and multiplying by one of eight selective insulation factors or eight levels from the installation factor table.

The Internal Revenue Service and the Department of Energy are, in fact, in the process of preparing those or have them already prepared in preliminary form.

Next, Mr. President, the builder would then determine the passive solar rating by dividing the area of south glass by the heating load, and that would give him the passive solar rating.

The builder then checks the passive solar rating in comparison with the closest number on the nearest construction credit table.

In the hypothetical case, a passive rating would be 0.6. We are using the hypothetical city of Sacramento, and the credit would be $708.

Just to walk through this very quickly, the house location in this hypothetical would be in Roseville, Calif., the nearest location would be Sacramento, a very easily determined factor; the passive collection area is 279 square feet, again a very simple calculation by the builder.

The house heating load, determined as we have already indicated by the process described, is also fairly easily done by the builder.

Using those two factors, three and four, making a simple calculation that the passive rating is 0.6, he then, referring again to the chart below, calculates that his building is nearest Sacramento, and using that passive rating of 0.6, his credit is $708, and that is what he would claim in his tax return forms.

Mr. President, although this may sound at first as a rather complicated procedure, it is not and, in fact, can be done in a relatively few minutes by any builder in the country, who can then determine for himself what his tax credit should be and claim that on his return.

He would, of course, be subject to audit as any other taxpayer is for any miscalculations or conscious or purposeful evasion of the law. But in consulting and discussing this with the administration, the Internal Revenue Service, the Department of Energy, and other agencies involved, it is the judgment of the Administrator and, I think, all the agencies involved, as I have indicated, the White House itself, that this is simple and workable and pragmatic enough to make sense and be available to any builder in the country who qualifies and, therefore, Mr. President, I urge the distinguished floor manager to accept the amendment.

Mr. LONG. Mr. President, there may be others who would wish to speak to the amendment. I will be glad to speak about it in due course. I would like, however, to ask the Senator from Colorado whether his cosponsors desire to speak to the amendment?

Mr. President, when we on the committee looked at the proposed tax credit of passive solar it presented a great number of problems that the committee could not satisfactorily resolve. Among other things was the fact that the credit would go, not to the homeowner, but, to the builder. There also was the question whether it might be better to have such a program, not as a part of the tax system, but, as a part of the more traditional Federal spending programs for which the Government authorizes a grant and money for it is appropriated by the traditional authorizing and appropriating processes.

We on the Finance Committee are not necessarily prejudiced against the idea of using the tax system for economic incentives. We have sometimes been severely criticized by some of our colleagues for preferring the tax approach over the appropriation and authorizing approach when we felt the taxing approach might be more efficient.

The House looked at the same problems, with providing a tax credit for residential passive solar systems that we did, and the Ways and Means Committee concluded that the various problems raised at that point were insurmountable.

The Senator and his cosponsors have worked diligently to find answers to the various problems that caused so many of us to feel it was not the time to move forward with the passive solar tax credit. It may very well be, Mr. President, that with the advice of able staff members and fellow Senators that the sponsors of the amendment have effected an approach that might be in the national interest.

Therefore, I would be willing to take the amendment to conference and discuss it with the House Members who really felt that, on first consideration, it just would not work. I am willing to see if they could be persuaded that enough answers have been provided to make this credit work and to make it the more logical way to do the job that the Senator, I believe, and his cosponsors want it to do.

I believe the Senator has some cosponsors who might want to address themselves to the issue.

As far as this Senator is concerned, it is perfectly all right with the manager of the bill for the Senate to vote the amendment, and if that be the judgment of the Senate, we would be glad to discuss it with the House and see what can be worked out.

At one time we went so far in voting for tax credits to try to develop alternative sources of energy that we ourselves were severely criticized for reducing the amount of net revenue in the bill to the point that the bill lost more money than it raised. Then, we had to trim back our credits after persuasion by some of the members of the Finance Committee who believed that the bill should stay within budget limits.

The bill now raises additional revenue as a result of the increase in the tax, and if it be the judgment of the Senate that it would like to give further consideration to this type of proposal, then so far as this Senator is concerned, he would be glad to take it to conference and see what the House would like to do about the matter.

Mr. HART. Mr. President. I thank the distinguished chairman of the committee and floor manager for his willingness to accept the amendment and his attitude toward it.

I want to yield to my colleague from Montana as a cosponsor and colleague of the amendment.

Before doing that, let me just cite two excerpts from letters of endorsement, one from Mr. Eizenstat, whom I mentioned on behalf of the administration, saying:

> The builder's "passive solar tax credit" is an extremely important component of the President's program.

Skipping down:

> The passive solar tax credit will provide a strong incentive to the homebuilding industry to build houses which will make maximum use of solar power and minimum use of scarce fossil fuels.

Then, Mr. Donald C. Lubick of the Treasury Department states:

> We believe that the proposed credit would provide builders a worthwhile incentive to incorporate passive solar energy design in new construction. We are satisfied as well that the proposal is both administrable for the Internal Revenue Service and workable for the builders who would claim the credit.
>
> The administration recommends that the passive solar residential construction credit be included as part of the conservation measures of the windfall profit tax bill.

I yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I thank the Senator for yielding.

As the chairman of the committee knows, this amendment was essentially discussed in the Finance Committee. We all realize it is important; that is, that because of our energy difficulties, we have to find whatever means we can to produce energy and also to conserve energy.

Certainly active solar energy is gaining in prominence in American construction and the development of our country. Moreover, Mr. President, we all agree that it would be helpful if we could find some way to develop passive solar systems in addition. Passive solar systems, after all, are those kinds of systems built into homes to take advantage of sunlight, to take advantage of natural heating processes, and to take advantage of natural insulation, including the ground. Basically, the passive systems are included in the design of the home, much more than active systems, such as the solar collector, using sunlight to heat water, and so forth.

The basic difficulty was finding some way for the Treasury Department to develop regulations that would stimulate the production of homes utilizing solar technology, and also to develop sufficient guidelines so that people would not take advantage of it. It is a matter of administration. It is a little ticklish, and it was for that reason that we in the committee did not frontally address the problem, and we did not find a solution at the time. We really did not focus on it.

I think as we look further into it, we will find a way to develop regulations that will give us both the initial production and also not let people take advantage, in trying to build homes, of credits they should not be given the advantage of. I think the Senator from Colorado is performing an excellent service in forcing us to focus on the question even more. I am glad to see the chairman of the committee willing to accept the amendment. I am confident that by the time we go to conference, we will iron out the difficulties that remain, so that we will have the passive solar credit in the bill when it is finally passed by Congress.

I think, Mr. President, that when we do reach that point, as I say, the Internal Revenue Service, along with all of us who are interested in the measure, will find a way. It may not be perfect, but it will certainly be better than not having the passive credit at all.

I am a cosponsor of the amendment. Its provisions are similar to one on which action was deferred in the Senate Finance Committee. I regret that the committee did not include passive solar home construction in its list of allowable conservation credits, but I am hopeful the Senate will now take the proper action.

Mr. President, there is simply no persuasive reason why we should delay any longer a national commitment to the construction of passive solar homes. There are many such homes now in use in this country. The technology is known. Savings are proven. All that is needed is the proper incentive to stimulate their construction.

The amendment before us defines a passive solar home as one which possesses five characteristics: A solar collection area, an absorber, a heat storage mass, a heat distribution device and heat regulation device. Put in layman's terms, it normally means a south-facing house with plenty of glass to let the sun in, a stone or brick wall or floor to absorb the heat, some method for distributing the heat, and a roof overhang which blocks the rays of the sun in the summer when they are not wanted.

The amendment makes a tax break available to the builder so that he may incorporate passive solar design features in the original blueprints. He does not have to worry about building a solar home and then wonder whether customer acceptance will permit him to recoup the necessary expense. As for customer acceptance, surveys have shown that buyers who might have balked at paying the additional amount in advance are extremely satisfied later with their purchase.

Incorporation of the right designs into homes can mean substantial savings in heating costs. With the construction of 1 to 2 million housing units annually, the potential savings run into billions of gallons of precious heating fuel.

This amendment offers a maximum credit of $2,000 for a passive solar system, with the average expected to be about $1,000. This constitutes a subsidy of about 20 percent for residential passive solar systems.

Individuals would be eligible for this credit from April 5, 1979 through December 31, 1985.

According to the Internal Revenue Service, total revenue loss during that period is expected to be $328 million, with $4.1 million during the current fiscal year.

I might say that the amendment can have a great impact on my State of Montana. It is precisely in the northern climates, where the heating demands are greatest, that the savings of fuel are also greatest. The State of Montana has a strong record of support of solar programs, and such organizations as the Alternate Energy Resource Organization (AERO) have done much to stimulate public interest in solar power. In cooperation, they have produced the most extensive solar manual of any State in the Union. The number of sun-free days have been plotted for all regions of Montana and every community of substantial size, as have the average temperature and other factors which would affect heating performance.

Mr. President, this amendment is but one of many initiatives in solar power and conservation which I think the Congress should adopt.

I urge the adoption of the amendment, and I thank the Senator for yielding.

Mr. HART. I thank the Senator from Montana.

Mr. President, let me just say there is a misconception, I believe, that anyone who builds a house facing south that has a window in it would qualify. It is a little more complicated than that, as I believe the evidence in connection with this amendment shows. People would not only have to be able to capture the heat energy of the sun from the direction of that south facing window, but would also have to have the storage facilities and the ability to store and utilize that heat from the sun. It would have to be a system that would work.

Mr. BAUCUS. I think that is the critical point. I think too many people do misunderstand the idea of the credit. Just because your house faces south does not mean you will get the credit. You have to have devices in the construction of the home to show that you are taking an action that would save energy which would not otherwise be available.

Mr. HART. I thank the Senator. I yield to the Senator from New Mexico.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I thank my friend from Colorado. It has been my privilege to be a cosponsor of this amendment.

What we have been trying to do here in Congress is to create certain tax incentives for increased utilization of solar technology by Americans. But for the most part, until this idea has come along, we have concentrated our efforts on giving tax credits for solar energy in the area of home ownership and home buildings that are insignificant in numbers when compared to the mass-produced homes in America. If you go into any city where new homes are being produced, and you find a whole new subdivision going up, usually a home builder or two or three of them are building new homes in large quantities, and the remarkable thing is that you do not find any solar equipment in those homes of the kind that we have had over the past 20 years. This is true of almost all of the new housing for Americans.

Basically, the reason has been that when the buyer comes into this new subdivision and takes a look, even if you have a model home that has some solar equipment in it, it is significantly higher priced than the one beside it; and even though you try to impress them that they might save energy on the one that has solar equipment in it, they look at the mortgage payment, and the mortgage payment over 25 years or 30 years is more for the solar home than the other one.

It is the custom in America to fit your budget to the mortgage payment. So the homebuilders who are adding the huge new stock of homes cannot sell such homes. Yet we come along and continue to try to say to individuals, "If you will do it, we will give you the credit." The fact of the matter is that there is not anyone who is in a position to go into these mass-produced homes, where we are really producing the inventory, and apply that individual tax incentive.

So what we are doing here today, as I understand it, is to put these homes side by side as they are built, and be able to tell the homebuilder, "You take the credit." Two homes, the solar home and the nonsolar home, might now be setting side by side with the same price, relatively speaking or perhaps even identical; and this is the real opportunity for a breakthrough. Because now, when you go there to look at it as an average new home buyer, the tax credit will already have been built into the base price of the home. That is not a bonanza to the homebuilder, because pretty soon homes with the credit will become competitive. So we can give that homebuilder a big tax break; we are giving him the opportunity to take the credit on that home so he can offer it at a competitive price.

Unless and until this happens, we are not going to get the kind of demand for solar technology that will cause it to be mass produced and make it efficient, make it possible for the builder to apply this mass production talent and yet have individual homes at an acceptable market price.

I am sure the Senator from Colorado understands that we do not have everything precise here. It is very complicated as to how we are doing it, but the theory is an excellent one.

When you go into the average new home area, where they have their model homes, the problem we have had with solar technology is that the bottom line on the mortgage payments is that the one is cheaper than the other; and you cannot have the buyer figure in the energy, because he pays that separately. The way to get it competitive is to say to the homebuilder, "We will help you make it more competitive"; therefore, there will be more people interested, because when they look at the home, it will not have the disparity built into the price the new customer pays, but rather we will have given the credit to the homebuilder so he can make it competitive.

I hope I have not improperly stated what we are trying to do, but it seems to me that is what we ought to want to see happen, and it also seems certain to me that unless we do something like this, we will get one American with one house trying to build solar, and that is not what we need, because that is not where the inventory of new homes is coming from.

It is coming from the homebuilder who is a part of a subdivision. And that is what we are directing this to, the new homebuilding in America.

Mr. HART. The Senator is correct, with a few possible exceptions. One, the system looks a lot more complicated than it is. The procedures under the amendment are a lot more simple than they might seem from these charts. It is a calculation that a builder can make in a very few minutes, as a matter of fact, based on information he has or will shortly have.

Second, it is a lot tighter than it seems, in terms of its applicability. People will have to do very specific things to qualify. There are a million or a million and a half homes built in this country each year.

The Los Alamos Scientific Laboratory, which I am sure the Senator is familiar with, has estimated that approximately 220,000 new homes between the period of 1979 and 1985 would incorporate passive solar energy systems are a direct result of the passive tax credit proposed in this amendment. They further estimate that, in the period 1985–90, an additional 350,000 to 400,000 new homes would be built with passive solar energy systems as a direct result of changes in the building industry and in public demand for energy conservation and housing.

These passive solar homes will require 30 to 80 percent less energy than the homes of similar living characteristics without passive solar energy systems.

So it is not just a hope. I think there is some very precise scientific and marketing data available to support the theory behind this amendment.

Mr. DOMENICI. I thank the Senator for his explanation. When I used the word "hope," I did not mean we did not have market data. I meant that it is our expectation that this would really happen.

Mr. HART. I yield to the Senator from Alabama (Mr. STEWART) and then to the Senator from Pennsylvania (Mr. HEINZ).

Mr. STEWART. Mr. President, as a strong and enthusiastic supporter of solar energy, I am proud to be a cosponsor of this amendment with the Senator from Colorado to provide tax credits to building to include passive solar energy systems in new homes.

I want to associate myself with the remarks of the Senator from New Mexico (Mr. DOMENICI). One of the things that I think this amendment offers in the way of a benefit is to provide homes with passive solar systems in the new homes that are built in this country.

For too long, Mr. President, we have heard the tired old line that solar energy will be great in the future, that it is the energy of the 21st century. The people who say this are often the people who have vested interests in other forms of energy, people who fear the competition of an abundant, cheap energy source that cannot be controlled or owned by a handful of multinational energy conglomerates. These people do not want the American people to know that solar energy is an energy source for today, as well as a source for tomorrow.

With the passage of this amendment, the American public will see more and more evidence that solar energy is here today. This amendment will encourage home builders to use passive solar energy systems. At present, the obstacles to a builder including a passive solar energy system are almost insurmountable. We all know of the severe impact that astronomical interest rates are having on the housing market. Builders are paying unbearable rates for construction money. In the face of this, a builder is very reluctant to add to his cost by installing a passive solar system. This amendment will offer added incentive.

Also, Mr. President, the major problem in my State is that people simply cannot afford to buy a house, particularly with the soaring interest rates on mortgages. These people, hardworking Alabamians who have saved for years to be able to afford a house, are reluctant to pay a higher price for a house to include a solar energy system. With this amendment, however, the builder will be able to pass the cost savings along to the buyer. When coupled with the savings in energy costs, I am very hopeful that buyers will find passive solar energy systems to be attractive additions to their new homes.

Again, I commend the Senator from Colorado and Senator PERCY for their leadership on this vital issue.

I thank the Senator for yielding time to me to make these remarks.

Mr. HART. Mr. President, I yield to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank the Senator from Colorado.

Mr. President, I am very pleased to also be a cosponsor of the amendment of the Senator from Colorado (Mr. HART) and the Senator from Illinois (Mr. PERCY).

Mr. President, I commend my colleague from Colorado for his efforts to make solar design in residences a reality by offering this amendment. The passive solar tax credit amendment, of which I am proud to be a cosponsor, solves the technical problems encountered in previous attempts to construct a passive solar tax credit.

This amendment provides a meaningful economic incentive for builders to incorporate passive solar design into the construction of America's homes. In the past, it has not been possible to implement a tax credit for passive solar because of technical difficulties in making a distinction between components which serve both a structural and a passive solar function. This amendment resolves this problem by providing a tax credit based on the effectiveness of the passive solar components in reducing the standard heating and cooling needs of the home in which they are installed.

Mr. President, the Nation must reduce its consumption of energy and passive solar design can reduce the heating and cooling demand of a home by up to 80 percent. This amendment will provide a credit for the energy saved by incorporating passive solar design into new homes. This will contribute to the reduction in energy use now and in the future. It is an investment to protect the future of the Nation by making homes more energy efficient today.

Earlier this year, I had the opportunity to tour a home in Pittsburgh which was renovated based on a design which included a passive solar heating system. My first impression of the house was that it looked unlike any other house that I have ever seen. The unconventional design of houses constructed to take maximum advantage of the free energy from the sun is just one of many different factors which have prevented broad application of the principles of passive solar design. As a result, we are unnecessarily consuming more oil and natural gas and electricity in the heating and cooling of our homes.

This amendment will also help overcome the bias against including passive solar design caused by the increase in the initial cost of the home that results from the incorporation of solar design into the home. With interest rates at 14 percent and above, the average home buyer is primarily concerned with the principal on which he will have to pay interest. The builder in a competitive market is very sensitive to this concern of the buyer and is therefore reluctant to take an action which would raise the cost of the home, even if it would lead to lower operating costs during the life of the residence. This amendment will eliminate this disincentive and encourage intelligent energy-conserving design of homes.

The fact of the matter is that until recently energy consumption was not an important factor in the design of residential structures. When energy was inexpensive, there was no consideration of the energy efficiency of homes. Simply put, it was cheaper to design and build energy inefficient buildings than it was to spend a few extra dollars to minimize the energy needs of the structure.

However, today energy prices are rising and supply is dwindling. A well-designed passive solar home has the potential to reduce the heating-load of the structure by 80 percent. This can be accomplished by constructing the home with a proper orientation toward the Sun, by minimizing the exposure to the north, east, and west while allowing the Sun's energy to enter from the south through a bank of windows. Glazing on the windows gathers heat during the winter to prevent heat loss from the home.

The energy saved through passive solar design will benefit the country today by reducing the demand for limited supplies of oil and natural gas, but will also protect us in the future by preventing the construction of energy inefficient homes.

This amendment makes a significant positive contribution to meeting our national energy needs through dependence on domestic sources of energy, and I encourage my colleagues to support it.

Mr. President, sometimes people come to the conclusion that the only future for solar energy is in the Sunbelt. That is not at all the case. There is a tremendous future for solar energy in residential construction as a major source of energy throughout the United States.

I come from a Snowbelt State—Pennsylvania. Even as we put up with our poor weather during the winter, as we put up with its unpredictability during other seasons, the fact is that solar energy in a State as far north as Pennsylvania is an efficient and effective way of saving other forms of energy.

Just this last summer, I had the opportunity to visit a new solar-designed house, incorporating both passive and active solar elements. The house is located in the South Oakland area of the city of Pittsburgh. That house, because of the nature of its very intelligent solar design, which was worked on with great thought and care by some of the people associated with the Architectural School at Carnegie-Mellon University, if the estimates of those who have built it and who will be watching carefully its performance are correct, will cost, in energy costs in the coming year, less than $300. And this is for a 2,000-square-foot house, a not inconsiderable sized house.

Notwithstanding the fact that our heating bills are all doubling, fuel oil costs are going up, electricity costs are going up, this house will have a total energy outlay per year estimated at less than $300. If it is such a great deal, why will people not buy it? Well, the Senator from New Mexico (Mr. DOMENICI) touched on it a few minutes ago, and I imagine some of my other colleagues have spoken to this point.

Solar houses, because of the innovativeness, the newness of solar design, are at this point more expensive to construct. That has, I am sure been well documented in the discussion already.

And what may have been touched on, but I want to emphasize it, is that the houses do not exactly look like your typical house. They are also not only unconventional in the kind of energy they use, they are unconventional in their appearance. So there is both a financial question that must be addressed, which this amendment addresses, and there is a marketing question that must be addressed, which is: How do you insure that a home buyer, who goes to buy a home out of an inventory of existing prebuilt houses by a developer, that they gravitate towards what does not look like your average house?

I think the financial incentives structured into Senator HART's amendment is the best answer we have come up with so far. I think it is a good answer. I think it is an answer that will work.

I have great hope, as a result of this amendment, that we will see the kind of progress we all hope to see in the solar area.

Mr. President, I thank the Senator from Colorado for yielding. I commend him once again for his excellent work in this area.

Mr. HART. I thank the Senator from Pennsylvania.

Mr. President, on November 19, 1979, an article appeared in the Denver Post on the passive solar home of Stuart Krebs in Fort Collins, Colo.

I ask unanimous consent that that article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

PASSIVE SOLAR HOUSE MIXES ANCIENT AND MODERN CONCEPTS

(By Barbara Allbrandt)

FORT COLLINS.—The simple, clean lines of the Stuart Krebs home in Fort Collins seem to harmonize with the environment, but they don't give adequate testimony to the uniqueness of the structure.

And it is unique. A passive solar house based on ancient concepts and implemented by 20th century understanding, the house embodies everything that Stuart and Barbara Krebs believe about how to live. Both have long been dedicated to conserving energy and not disrupting nature.

But it wasn't easy to achieve. The Krebses, who can safely be described as a middle-income family, had to work hard to put their beliefs so concretely into their lives. Building the house required unexpected amounts of time, money, work and stubborn commitment.

The result, a house which not only implements passive solar heat but contains composting toilets and a wood-burning stove, (the only backup heating source) has been worth the effort, says Barbara Krebs. Since the couple and their two young sons moved into the house in June, they've found it cool on hot days (the highest temperature inside was 83 degrees, when it was 95 outside), warm on cold days (it has maintained an average temperature of 65 degrees), and livable every day.

Concave, the house is shaped like a sharp-angled horseshoe. The front, which faces south, is two stories high, with large expanses of double-paned glass. The house backs into a hill; its northern wall is solid brick, to absorb and retain the sun's heat.

That's the idea, explains Mrs. Krebs. Passive solar heat depends on solid masses to catch and hold heat; thus the masses—the brick wall, a concrete floor, and earth. Eventually, she says, the greenhouse, which is attached to the front of the house, will contain drums of water to act as additional thermal masses.

Because the floor is a thermal mass, it can only be covered with area rugs that aren't so thick they would prevent absorption of heat. Long-range plans call for flagstone flooring over the concrete, but Mrs. Krebs says living with the bare concrete floor hasn't been unpleasant so far, and the floor is consistently warm to the touch.

Enlarging on the concept of masses to hold heat, Mrs. Krebs uncovers the water bed in the master bedroom every day to let the sun shine on it. Thus far, she says, there's been no need to heat the bed artificially.

At night, the thick wooden shutters on the inside of the windows are closed, to hold in the heat that's been caught. On one window, Mrs. Krebs has put a window quilt—a thick dacron covering which is rolled up in the daytime and down at night, in lieu of curtains. It works well, she says, costs no more than good draperies would, and is available in the region. She likes it and probably will buy more window quilts.

Like a symphony orchestra, many coordinates have to harmonize if the passive-solar-heat concept is to function properly, she explains. Consequently, the material of which the house is built was chosen with the orchestration in mind—it is concrete, filled with insulating foam. Made in Fort Collins, the material fits together like a giant erector set. Fiberglass stucco goes over it.

All these materials help to insulate the structure. The roof is metal—a choice Mrs. Krebs says she unhesitatingly would make again—and brown, a neutral color for heat. The roof survived the devastating July hailstorm in Fort Collins with only "some small dents," and it was no more expensive than wooden shakes, she says.

Roof to floor, the house came to be because of Mrs. Kreb's long involvement with the

League of Women Voters. She attended an energy conservation seminar in Boulder in 1976 and was inspired by the possibilities passive solar heat seemed to have. Later she read a book, "Design With Climate," by Victor Olgyay, and what had been a mere idea gradually took shape as a feasible concept.

Together, the Krebses designed a house. Mrs. Kreb's father, an architect, drew up plans. An appropriate site was found; the couple hired one carpenter, Dennis Sovcik, and work began. It took about 18 months to build the house. The cost, excluding the land, was about $45,000. The house has 1,900 square feet of living space.

There were obstacles. For one, building codes for passive solar homes aren't well-defined yet. Larimer County officials, though "very supportive," couldn't be very specific. Moreover, the county health department was uncertain, to put it mildly, about the composting toilet system, she says. At length, after a meeting with the department's director, the Krebses were issued the first permit in Larimer County for such a system. However, they also installed a septic system that can be made operational if necessary.

The toilet works well, says Mrs. Krebs. The holding tank also receives kitchen garbage and that, combined with the human waste, activities composting. There's been no problem with odor, she says, but they did discover that an adequate sealant is needed for the seats.

Done artistically in woods, the bathroom is unusual and attractive. One young guest, says Mrs. Krebs, refused to use the toilet, "because it seemed like an outhouse to her—you can't see the bottom, you know." But by and large, the toilet hasn't been a problem.

The finished bathroom typifies the experimental nature of the project. As building progressed, many original ideas were altered. There are two toilet stools, back to back, for instance, instead of one. On the advice of knowledgeable friends, the Krebs' left the brick wall uncovered instead of insulating it as planned. The brick wall was vented on the bottom to pull in cool air in the summer, and two skylights were installed on the roof.

Inside, the house is homey, comfortable and attractive. Woods dominate the decor. The living-dining-kitchen area, the house's center, is two stories high; both wings have main-floor bedrooms and second-story lofts.

One problem, says Mrs. Krebs, has been the walkway and plant shelf which connects the wing lofts. Open-slatted, the shelf goes right over the dining room tables, which suffered at first from feet overhead, so rules had to be made.

Small holes between the floorboards in the lofts, left in order to allow air to circulate freely throughout the house, have proved something of a problem, too. When a loft room is occupied ("The boys use theirs all the time," says Mrs. Krebs, dirt can fall through on objects below.

But such problems are minor, Mrs. Krebs feels. Their way of life "took getting used to," but it's really not difficult or time-consuming, she says. It takes only 15 or 20 minutes a day. "I could work full time and keep the house functional. I wouldn't be able to fine-tune it, but it would work."

At the moment, Barbara Krebs—a small, energetic, outgoing woman—is working full time at home. Though the bulk of the work on the house (a fair amount of which she did also) is completed, there are many finishing-up tasks left, and she works at them as she can. This fall, she's been putting the outside stucco on. Later, she wants to install a solar water-heating system, put in the flagstone floor, and finish the patio in the front.

Sovik has gone on to start a business of building solar greenhouses, and Stuart Krebs, a professor at CSU, has limited spare time, so that leaves the job to her.

She hopes, too, to get the root cellar at the back of the house functioning properly soon; right now, she says, non-edibles are stored there and the door is consequently opened too often for the room to stay properly cool.

Before they had even moved in, the Krebses shared their innovative ideas with League members and others when they opened the house for a public tour last fall. The response, says Barbara Krebs, was exciting. She believes that a great many people are interested in and committed to finding non-destructive ways to cope with dwindling energy supplies. Not everyone has the opportunity the Krebs' have had to put that concern and commitment into such definitive action, but the Krebs' home west of Fort Collins stands as concrete evidence that it can be done.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. HART. Yes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a time limit of 30 minutes on this amendment to be equally divided between Mr. HART and Mr. DOLE.

Mr. DOLE. Mr. President, I support the amendment.

Mr. DURKIN. Mr. President, reserving the right to object, how much time is left?

Mr. HART. There is no time limit.

Mr. ROBERT C. BYRD. Then, under the control of Mr. HART, I do not know of anyone who is opposing the amendment.

Mr. DOLE. I will take 15 minutes.

Mr. ROBERT C. BYRD. Yes, half to Mr. DOLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, I support renewable energy sources development in this country. I have some doubt, however, whether tax credits for possible solar devices is the most appropriate way to foster the development of this source.

In the first place the credit goes to the builder not the home buyer. This, of course, is not a problem to the extent that the credit is passed on. I feel, however, that in all cases it will not be passed on.

More importantly, however, I am bothered by the complication of the credit scheme. Indeed, when the administration first made this proposal there was substantial concern about the complication. As an example, the amendment would put the IRS into the business of checking whether windows in new homes are "located on that side of the structure which faces (within 30 degrees) south." This type of complication will be difficult for the builders and difficult for the IRS to monitor compliance.

It may be wiser to spend our money educating the public about the substantial savings that can be made from possible solar devices.

On balance I support the amendment. We must do whatever is possible to conserve oil and gas in this country. This is one way to conserve that deserves a boost.

I have some questions about the amendment and some serious reservations. The Senator from Kansas may be a conferee, I am not certain. But if we can work out some of the problems that may not be apparent, then I believe we can come back with the conference report with the amendment in it, which I assume is the goal of the distinguished Senator from Colorado.

Mr. HART. Mr. President, I certainly am prepared to work with the Senator from Kansas in trying to answer those questions.

I yield to the Senator from New Hampshire (Mr. DURKIN).

Mr. DURKIN. Mr. President, I thank the Senator from Colorado.

At the outset, I am pleased to be a cosponsor of the legislation of the Senator from Colorado. I commend him for his efforts in the solar field.

We in the Energy Committee have been working for several months on the renewables title. We held a hearing in the State of New Hampshire. Of the houses in the State of New Hampshire last year, there was one incorporating passive designs with a total heating and cooling bill for the year of $160, having an electric backup. It would have been substantially less if it had been a backup system other than electric. That house did not qualify for any tax credit under the existing solar tax legislation.

Another house in the northern part of New Hampshire, a passive solar house, the total heating and cooling bill for the year—mind you, we had some unprecedented cold snaps during last January and February—the total heating and cooling bill for the year was just a cord and a half of wood.

I do not think we are ever going to solve our energy problem in this country if we leave it up to the bureaucrats at the Department of Energy, because we freeze the technology at the highest level of understanding of the particular bureaucrat.

I am concerned that had Edison been forced to do business with the Department of Energy, he would have started a hotdog stand in Hoboken and given up on the light bulb, and many of his inventions that we are still benefiting from today.

One problem today is the builders do not get any incentives. With interest rates as high as they are, with the real estate market slowing down substantially, we have got to provide an efficient incentive, an incentive for new construction, an incentive for retrofiting existing houses.

If we follow the thrust of the Hart amendment, we are giving the incentive to the builder and we are giving the incentive to the homeowner. That will translate into substantially more construction and retrofitting of passive solar. Passive solar is the technology of today. It is here and it is now. It is not, as the Mobil ads on issues and answers would have you believe, that it is something for our children or our children's children. It is here today. The most efficient way to create demand is with the tax code. I believe the Hart amendment is a tremendous step and a significant step in the right direction.

Mr. President, it is important to dispel those misconceptions which have clouded the development of solar energy. The Sun is often seen as exotic, ineffective, expensive source of energy. These misconceptions have in the past hampered Congress support for solar energy.

Far from being exotic, solar energy is just plain sensible. Tapping the Sun's resources makes sense both today and in the future. The Sun shines freely on New Hampshire's houses.

Passive solar design emphasizes constructing houses and commercial buildings to take full advantage of the Sun's heat. Savings from the passive approach can be substantial. During a recent Senate energy hearing on the use of solar energy which I held in Concord, N.H., numerous New Hampshire builders and homeowners testified that passive solar techniques in combination with good conservation measures, produce savings of 50 percent or better on heating bills. The passive approach, however, is generally geared to new home construction so that the sooner we adopt this measure the sooner we can realize its savings.

Solar energy is nonpolluting, inexhaustible, and economical. Our Nation's energy security will no longer be jeopardized by hostile government's holding us over their oil barrels. A passive solar tax credit will also help to revitalize small business, especially in the housing industry. And, most important, it will provide much needed relief to the energy consumer.

I urge my Senate colleagues to support this amendment.

Mr. HART. Mr. President, I thank the Senator from New Hampshire for his support of this amendment and his strong words on behalf of the amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore (Mr. HEFLIN). Without objection, it is so ordered.

● Mr. LEAHY. Mr. President, I am pleased to be a cosponsor of the amendment offered by the distinguished Senator from Colorado (Mr. HART) and our other colleagues. The amendment would, very simply, provide the needed incentive for our homebuilders to construct an energy-efficient, passive solar home.

Many people have taken advantage of the conservation and renewable energy tax credits, included in the Energy Tax Act of 1978, to install insulation and weatherstripping, thermal pane windows and energy-efficient burners, wind-energy systems and solar collectors. These tax credits have provided an added incentive to purchase efficient, energy conserving equipment.

The Finance Committe has expanded the credits available to homeowners purchasing the more expensive solar (wind) and geothermal equipment to 50 percent. The committe has also made eligible solar equipment that is essentially a structural component of the home. By making these changes the solar credits will be far more effective in encouraging the use of renewable energy-source equipment.

However, the use of solar energy is not limited to expensive solar collectors or solar heating and cooling equipment. Passive solar energy can be used as effectively as erecting solar panels. But passive solar must be integrated into the home's design.

The existing credits cover primarily face-lifting additions—done by the homeowner after the house has been built or at his or her direction during its construction. The wisest use of passive solar techniques is to incorporate them into the building's design and construction—from the ground on up—by the builder. In these inflationary times, with home mortgage money in extremely short supply, builders and developers are reluctant to add anything to homes, even if the energy efficiency will be increased, if it will mean added costs to the buyer. This is especially true since the benefits of incorporating passive solar equipment right into the home's design will not accrue to the builder but to the owner.

We are entering an era of increased awareness of the need to conserve energy and homeowners have been the most active in this regard. What better way to insure the efficiency and comfort of a home than to start from scratch. This amendment will provide the incentive to take those extra steps when the house is being built.

Many people know how beautiful my State of Vermont is. I am also proud of the fact that Vermonters have been in the forefront of energy conservation—insulating their homes and buildings, changing from oil to wood for heating, erecting wind machines to capture the often stiff breezes that blow through the hills.

What many people do not realize is that the State is also extremely cloudy, with less than one-third of the year in sunshine. This atmospheric condition would appear to preclude the use of solar energy in any extensive form. But the State's energy office has been conducting surveys to dispel this myth that we cannot use solar without sunshine or that solar energy is limited to the Southwest's Sunshine Belt.

Mr. President, I submit for the RECORD several articles published in the recent newsletter of the State energy office on the amount of insulation available and how some enterprising Vermont architects have utilized solar design in their buildings.

I strongly recommend to my colleagues that this amendment be adopted.

The articles follow:

VERMONT ARCHITECT WINS INTERNATIONAL COMPETITION

The Architectural Association of Waitsfield, Vermont is one of three grand award winners in the Energy Efficient Design Competition organized by the Northeast International Committee on Energy, and sponsored by the New England Governors and Eastern Canadian Premiers Conference.

The $5,000 award won by Architectural Association came as a result of their design for a new single-family house using solar and/or other renewable energies.

According to the program requirements, the designer had to create a single-family detached dwelling, between 1000 and 2000 square feet, contain at least two bedrooms and exceed national minimum housing standards for the area typified by Boston, Massachusetts. The requirements also stipulated that construction costs, exclusive of land and site improvements not exceed $30–$40 per square foot.

The Waitsfield architectural firm was in competition with 52 other designers from New England and the five Eastern Canadian Provinces.

The general purpose of the competition was, first, to provide a series of low-to-moderate cost housing designs which contribute to a reduction in energy consumption through techniques of energy conservation and the use of renewable energies; second, to increase the awareness and incorporation of renewable energy in new housing design for low to moderate income markets by builders, engineers and architects; and, third, to generate designs of readily marketable buildings suited specifically to the Eastern Canadian Provinces and the New England States.

A special book, featuring the award-winning designs, will be distributed to the general public early next year through the state and provincial energy offices.

Funding for the project was provided by the New England Regional Commission, the six New England States, the five Eastern Canadian Provinces, and the Northeast Solar Energy Center.

YES, VIRGINIA, THERE IS ENOUGH SUNSHINE IN VERMONT—PART II

(By David C. Pinkham)

Last month we presented evidence verifying that the engineers and designers in Vermont do have a good basis for utilizing the sun to heat your home. A ten square foot vertical surface (like your winds facing true south) during the nine month heating season will collect 2,470,000 BTU's. This amount of energy would replace 24.5 gallons of fuel oil (figuring a 70 percent furnace efficiency).

This total, calculated from weather data for Burlington, Vermont and the historical insulation data from Amherst, Massachusetts, reflects the total energy reaching a window over a nine month heating season. The total does not reflect the monthly variaions in solar activity. Therefore, we thought you might be interested in looking at the monthly solar collection for Burlington and Amherst.

Vertical 10SF window facing true south

Heat month	Burl/ BTU	Amherst/ BTU
Sept.	310, 000	280, 000
Oct.	310, 000	330, 000
Nov.	190, 000	250, 000
Dec.	180, 000	280, 000
Jan.	250, 000	220, 000
Feb.	290, 000	250, 000
Mar.	390, 000	390, 000
Apr.	280, 000	240, 000
May	270, 000	240, 000
Total	2, 470, 000	2, 480, 000

As you see, these locations have slightly different monthly amounts. The lower amounts in November, December and January are due to the shorter hours of daylight and the additional length of the earth's atmosphere the low sun has to shine through. By April and May the sun is high enough to bounce more of its energy off the window and as a result the amount of energy passing through the vertical window begins to decrease. What these figures mean to the average homeowner is that during the critical heating months of December, January and February you can utilize the sun's energy to contribute to the heating of your home. These figures represent historical data, and therefore refute the common belief that there is not enough sun to be useful for heating in the winter in Vermont.

The bottom line is this: Yes, Virginia, the State Energy Office and the professional solar people know there is enough sunshine in Vermont to help heat your home. What they do is take this fictional south-facing window and expand on it several ways: through large south-facing windows, with mass to absorb the energy in the house; trombe walls to absorb the energy and radiate it into the house at night; solar greenhouses to both heat your house and grow food; or collectors to heat your house and/or your hot water.

For readers who may have missed Dave Pinkham's article in the October '79 issue of Vermont Energy News, reprints are available. Write to the State Energy Office, State Office Bldg., Montpelier, VT 05602; or Vermonters can call the toll-free Energy Action Line: 1–800–642–3281.

The First Solar Heated Bank in New England

(By Dick Cambio)

On October 20, 1979, a first in the ever-increasing use of solar energy occurred in the City of Winooski in Northwestern Vermont. The first passive solar heated bank building in the New England States was officially opened. The branch office of the Merchants Bank on Main Street was designed by the architectural/engineering firm of Parallax, Inc. of Hinesburg. They utilized two distinct passive solar techniques to provide space heating and much of the lighting necessary.

A large waterwall, utilizing fourteen one-foot diameter tubes of water, is located in the lobby and provides both space heating and lighting for this area. The tubes hold approximately 5800 pounds of water and are positioned to allow sunlight to pass through the water. Approximately 60 to 70 percent of the sunlight is absorbed by the water and converted to heat. The heat then is re-radiated into the lobby area as needed to provide space heating. The remaining sunlight passes through the water tubes and provides natural daylighting to the lobby area.

The second major heating component of the building is a direct gain wall placed high on the center section of the south-facing wall. This large double-glazed area provides direct access for sunlight to the massive vault located in the center of the bank. The vault, weighing more than 125,000 pounds, provides an excellent thermal mass to temper the interior of the building and prevent overheating of the area illuminated by the large direct gain windows.

In addition, a tank on top of the vault contains 2100 gallons (approximately 17,500 pounds) of water which is also heated by the direct gain windows. This water forms a heat reservoir to provide backup heat for the bank through a heat pump located in the mechanical room of the building. The heat pump removes energy from the pool and provides 110° air to the standard hot air system located throughout the bank.

At night large thermal shades are lowered over both of the south-facing windows to provide a barrier for the thermal energy collected during the daytime. These shades, which result in an effective R Value of 10 for these windows, restrict the heat loss through the large glassed areas.

Parallax estimates an annual heating, lighting and cooling cost of $918 for this building compared to an annual energy cost of $2,311 for a branch bank of similar design without the solar elements.

The resulting $1393 in energy savings include $972 from the passive solar components added to the structure and $421 from energy conservation measures within the building.

The cost of the solar components in the bank was pegged at $6,010. When compared with the annual energy savings of $972 for the solar equipment, the time period to recoup the initial investment is 6.2 years.

Obviously the additional investment in this building will result in a substantial savings for the owner, as well as a considerable savings on energy consumption by the building. The entire building will be extensively instrumented to provide hard data on the actual performance of this structure throughout the coming winter and next year's cooling season. The results of this monitoring program will be reported to us and will be reported in a later issue of the Vermont Energy News.

Vermont Guide to Solar Heating

The Vermont State Energy Office has received a limited supply of booklets entitled Vermont Guide to Solar Heating.

The 95-page booklet provides an in-depth evaluation of some approaches to residential solar heating that are being used in this State today. The booklet also provides a rough but realistic dollars and cents picture of potential costs and savings for each approach.

The booklet stresses energy conservation and wise building design as a foundation on which to build further fuel savings through solar heating.

The booklet is available from the State Energy Office, State Office Building, Montpelier VT 05602.●

Mr. DOLE. Mr. President, I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. Hart, I yield back the remainder of his time. I am authorized to do that.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment by the Senator from Colorado. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. Bayh), the Senator from Delaware (Mr. Biden), the Senator from Oklahoma (Mr. Boren), the Senator from Idaho (Mr. Church), the Senator from Iowa (Mr. Culver), the Senator from Alaska (Mr. Gravel). the Senator from Massachusetts (Mr. Kennedy), the Senator from Maryland (Mr. Sarbanes), the Senator from Tennessee (Mr. Sasser), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGovern) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Utah (Mr. Garn), the Senator from Utah (Mr. Hatch), the Senator from Maryland (Mr. Mathias), and the Senator from Alaska (Mr. Stevens) are necessarily absent.

I also announce that the Senator from Arizona (Mr. Goldwater) is absent on official business.

I further announce that, if present and voting, the Senator from Utah (Mr. Garn) and the Senator from Utah (Mr. Hatch) would each vote "yea."

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 82, nays 1, as follows:

[Rollcall Vote No. 462 Leg.]

YEAS—82

Armstrong
Baucus
Bellmon
Bentsen
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
McClure
Magnuson
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Riegle
Roth
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

NAYS—1

Ribicoff

NOT VOTING—17

Baker
Bayh
Biden
Boren
Church
Culver
Garn
Goldwater
Gravel
Hatch
Kennedy
McGovern
Mathias
Sarbanes
Sasser
Stevens
Talmadge

So Mr. Hart's amendment (No. 711, as modified) was agreed to.

Mr. HART. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HART. Mr. President, I ask unanimous consent that on the amendment just agreed to, due to a misprinting on the last line of the amendment as printed, that it be in order that word "ending" be changed to "beginning."

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. Mr. President, I also ask unanimous consent that the amendment remain open for further cosponsorship as long as the Senate is in session today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HART. I thank the Chair.

AMENDMENT NO. 681

(Purpose: To provide a refundable tax credit for investment in qualified industrial conservation projects)

Mr. WALLOP. Mr. President, I call up my amendment No. 681 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. Wallop) proposes an amendment numbered 681.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place, the following:

TITLE V—COST EFFECTIVE INDUSTRIAL ENERGY CONSERVATION INCENTIVES

Sec. 501. Short Title.

This title may be cited as the "Industrial Energy Conservation Tax Act".

Sec. 502. Allowance of Credit.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits against tax) is amended by inserting after section 44C the following new section:

"Sec. 44D. Investment in Qualified Industrial Conservation Projects.

"(a) General Rule.—There is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage (determined under subsection (b)) of the qualified investment (as determined under sections 46 (c) and (d)) in section 38 property (determined without regard to the words '(not including a building or its structural components)' in section 48(a)(1)(B)) which is (or, for the purpose of applying section 46(d), will be) qualified industrial energy conservation property.

"(b) Determination of Percentage.—

"(1) In general.—For purposes of subsection (a) the applicable percentage is the smaller of—

"(A) 30 percent, or

"(B) the percentage determined under paragraph (2).

"(2) Paragraph (2) percentage.—For purposes of subparagraph (B) of paragraph (1), the percentage determined under this paragraph is that percentage (if any) which is necessary to enable the taxpayer to realize a real rate of return on investment in the property, over the useful life of the property, of 15 percent. The percentage described in the preceding sentence shall be determined, under regulations prescribed by the Secretary, by taking into account the cost of the property, the amount of the credit allowed by section 38 with respect to that property (determined without regard to this section and without regard to the energy percentage under section 46(a)(2)(C)), the amount of any deduction allowable with respect to such property under part VI of subchapter B of this chapter (relating to itemized deductions for individuals and corporations), the cost decreases resulting from the energy saved by the property, and all other costs and benefits resulting from the investment, including any reduction in production costs properly attributable to the use of such property, and a real rate of return on investment of 15 percent.

"(c) Limitation Based on Alternative Energy Cost Equivalent.—

"(1) In general.—If the conservation price of the taxpayer's qualified investment in qualified industrial energy conservation property with respect to a facility, item of equipment, or process exceeds the alternative energy cost equivalent, the amount of the credit allowed by subsection (a) with respect to that investment shall be zero.

"(2) Conservation price.—For purposes of paragraph (1), the conservation price of such a qualified investment shall be the cost over the useful life of the modified or replaced facility, equipment, or process, expressed in terms of dollars per barrel of oil equivalent, of producing the energy savings properly attributable to the replacement or modification of the facility, equipment, or process with respect to which the credit is allowed. Pursuant to regulations prescribed by the Secretary, the conservation price shall be determined by taking into account the energy saved, and the corresponding cost of the replacement or modification, the credit allowed by section 38 with respect to the qualified investment in property involved in the replacement or modification (determined without regard to this section and without regard to the energy percentage under section 46(a)(2)(C), the amount of any deduction allowable with respect to such property under part VI of subchapter B of chapter 1 (relating to itemized deductions for individuals and corporations), all other costs and benefits resulting from the investment, including any reduction in production costs properly attributable to the use of such property, and a real rate of return of 15 percent. Determinations under this paragraph with respect to electricity shall be made by employing a heat rate of 10,000 Btu per kilowatt hour.

"(3) Alternative energy cost equivalent.—For purposes of paragraph (1), the alternative energy cost equivalent of a barrel of oil shall be $32. The $32 amount in the preceding sentence shall be increased annually, beginning with 1980, by the Secretary by an amount which bears the same ratio to $32 as the amount, if any, by which the average landed price of a barrel of crude oil not produced in the United States during the 12-month period ending on September 30 of the year in which the determination is being made exceeds the average landed price of such oil for the 12-month period ending on September 30, 1979.

"(d) Definitions.—For purposes of this section—

"(1) Qualified industrial energy conservation property.—The term 'qualified industrial energy conservation property' means industrial energy conservation property used by the taxpayer as a modification to, or a replacement of, all or part of an existing productive facility, items of equipment, or process located in the United States if such modification or replacement—

"(A) results in the utilization of less energy per unit of production,

"(B) does not increase the total amount, in barrels of oil equivalent, or oil and natural gas (other than petroleum coke and waste gases from industrial operations) consumed per unit of production, and

"(C) results in an aggregate annual decrease in energy consumption, based upon levels of production in effect before such modification or replacement, of 15,000 or more barrels of oil equivalent per year.

"(2) Industrial energy conservation property.—The term 'industrial energy conservation property' means tangible property—

"(A) used as an integral part of manufacturing, production, or extraction,

"(B) with respect to which depreciation (or amortization in lieu of depreciation) is allowable,

"(C) the useful life of which (determined as of the time such property is placed in service) is 3 years or more,

"(D) the original use of which commences with the taxpayer, and

"(E) which is part of, physically attached to, or otherwise directly associated with the property the use of which results in the utilization of less energy per unit of production.

"(3) Existing.—The term 'existing' means—

"(A) when used in connection with a building or facility, a building or facility the construction, reconstruction, or erection of which is completed before the date of enactment of the Industrial Energy Conservation Incentive Tax Act,

"(B) when used in connection with equipment, such equipment was placed in service before such date of enactment, and

"(C) when used in connection with a process, such process was carried on as of such date of enactment.

"(4) Alternative substance.—The term 'alternate substance' means any substance other than—

"(A) oil,

"(B) natural gas, or

"(C) any product of oil or natural gas.

"(e) Special Rules.—

"(1) Application of investment credit rules.—

"(A) Credit in addition to section 38 credit.—The credit allowed by this section is in addition to any amount allowed as a credit under section 38 (other than any amount determined under section 46(a)(2)(C) (relating to the energy percentage)).

"(B) Certain subpart B rules to apply.—

"(i) Except as otherwise provided in this section, the provisions of sections 47 and 48 are hereby made applicable, under regulations prescribed by the Secretary, to the credit allowed by this section, except that the words '(not including a building and its structural components)' contained in section 48(a)(1)(B) shall be disregarded and any reference to 'section 38 property' shall be treated as a reference to 'qualified industrial energy conservation property'.

"(ii) For the purpose of determining the amount of the taxpayer's qualified investment, the applicable percentage (for purposes of section 46(c)(1)) shall be 100 percent for all items without regard to the useful life of any particular item.

"(iii) For purposes of applying section 47, if qualified industrial energy conservation property is disposed of or converted into property which is not qualified industrial energy conservation property, and if such disposition or conversion occurs before it has been in service for half its useful life, the disposition or conversion shall be treated as having occurred before the close of the third year after the property was placed in service.

"(iv) No credit shall be allowed under this section for property which is public utility property (within the meaning of section 46 (f)(5)).

"(v) In the case of a taxpayer which is not a corporation, the credit allowed by subsection (a) shall be allowed with respect to property of which such person is the lessor under the rules applicable to the credit allowed by section 38 set forth in section 46 (e)(3) (but without regard to the limitations of section 48(a) (4) and (5)).

"(2) Property financed by public funds.—Any investment in qualified industrial energy conservation property shall be reduced to the extent that such investment is made directly or indirectly, with funds provided for the acquisition or modification of such property by a grant paid by any agency of the United States.

"(3) Property financed by industrial development bonds.—In the case of qualified industrial energy conservation property which is financed in whole or in part by the proceeds of an industrial development bond (within the meaning of section 103(b)(2)) the interest on which is exempt from tax under section 103, the applicable percentage, for purposes of subsection (a), shall be one-half of the applicable percentage determined under subsection (b).

"(4) Certain otherwise qualified property not to be treated as qualified.—No property shall be treated as qualified industrial energy conservation property if—

"(A) the taxpayer claims the energy percentage provided by section 46(a)(2)(C) with respect to that property, or

"(B) in the case of property which replaces an existing productive facility—

"(i) the replaced property is not retired from service, other than for use as a temporary replacement for the qualified industrial energy conservation property which replaced it during periods for which the qualified property is inoperable due to an emergency or on account of repairs or maintenance, or

"(ii) the replacement property is constructed on a site other than the site of the replaced property or reasonably adjacent to that site.

"(f) Recomputation of Credit Amount After Period of Operation.—The amount of the credit allowed by subsection (a) with respect to the taxpayer's qualified investment in qualified industrial energy conservation property shall be redetermined as of the close of the first taxable year beginning after the property has been placed in service for more than 6 months, on the basis of actual costs and operating data and the alternative energy cost equivalent originally determined under subsection (c) with respect to the investment. If the amount of the credit so redetermined—

"(1) is greater than the amount of the credit allowed under subsection (a) for the taxable year in which the credit was claimed, then the excess shall be allowed as a credit against the tax imposed by this chapter for the taxable year for which the redetermination is made and added to the amount of the credit otherwise allowable under subsection (a) for that taxable year, or

"(2) is less than the amount of the credit allowed under subsection (a) for the taxable year in which the credit was claimed, then the tax under this chapter for the taxable year for which the redetermination is made shall be increased by the amount by which the credit allowed for the prior taxable year exceeds the amount of the credit as so redetermined.

"(g) Application of Credit to Projects to Convert to Coal.—In applying this section to industrial conservation projects which increase the taxpayer's utilization of coal—

"(1) subsection (d)(1)(B) shall be disregarded, and

"(2) the computation of the applicable percentage under subsection (b) and the conservation price under subsection (c) shall take into account all costs and benefits associated with the utilization of coal.".

(b) Technical and Conforming Amendments.—

(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Investment in qualified industrial conservation projects.".

(2) Paragraph (8) of section 46(f) of such Code is amended by striking out "and the Revenue Act of 1978" and inserting in lieu thereof "the Revenue Act of 1978, and the Industrial Energy Conservation Incentive Tax Act".

(3) Section 6096(b) of such Code (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) Refund of Excess Credit Attributable to Qualified Industrial Energy Conservation Property.—Section 6401(b) of such Code (relating to amounts treated as overpayments) is amended—

(1) by striking out "and 43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit)," and inserting in lieu thereof "43 (relating to earned income credit), and 44D (relating to investment in qualified industrial energy conservation projects),", and

(2) by striking out "and 43" and inserting in lieu thereof "43, and 44D".

(d) Effective Date.—The amendments made by this section shall apply to—

(1) property to which section 46(d) of the Internal Revenue Code of 1954 does not apply, the construction, reconstruction, or erection of which is commenced by the taxpayer after September 30, 1979, and before January 1, 1985, and which is placed in service before January 1, 1989,

(2) property to which section 46(d) of such Code does not apply, acquired by the taxpayer after September 30, 1979, and which is placed in service before January 1, 1989, and

(3) property to which section 46(d) of such Code applies which is placed in service before January 1, 1989, but only to the extent of the qualified investment (as determined under subsections (c) and (d) of section 46 of such Code) with respect to qualified progress expenditures made after September 30, 1979.

Mr. WALLOP. Mr. President, I suggest that this amendment will not take very long, perhaps 15 minutes on each side. I call it up because I think it is a question worthy of serious consideration on the part of Senators. This amendment would add a new title to the pending windfall profits tax bill to provide for cost-effective tax incentives for industrial energy conservation projects.

What we have done so far by way of incentives for domestic conservation is in the realm of those efforts which are economical in and of themselves. While we are using windfall profit tax money to fund certain conservation projects they would probably proceed in any case because they are economical and in the interests of the people who are making the conservation investments.

Mr. President, to my way of thinking that is not the most effective use of the taxpayer's money. I have no doubt in my mind that the tax credits for conservation are going to carry. But if we are looking at how effectively and efficiently to spend the people's money to achieve the greatest conservation quota for the country, this amendment would go much farther in that direction and give us more conservation for the money.

Mr. President, may we have order?

Mr. MOYNIHAN. Mr. President, may we have order. The Senator from Wyoming is making an important statement and is entitled to the attention and respect of the Chamber.

Mr. WALLOP. I thank the Senator from New York.

Mr. President, this is a new idea and it is gathering support. I have no question in my mind but that it is acceptable right now, but in substance the amendment is identical to legislation Senator Simpson and I introduced as S. 1819 on the 25th of September of this year.

The Committee on Finance received testimony on S. 1819 but the substance of the bill was not included in the committee's windfall profits tax bill as reported.

Nevertheless, Mr. President, the subject of industrial conservation is so important that I have concluded that this legislation should be brought to the attention of the full Senate at this time. I hope it will receive some of the public awareness that the topic in and of itself deserves.

I believe that carefully structured tax incentives for industrial energy conservation projects can contribute significantly over the next decade to reducing our dependence upon imported energy.

Let me first address the question of why incentives for industrial energy conservation are needed at all. Obviously, the amount of energy consumed by our domestic industries is significant in amount and it must remain so if we are to have a healthy and vigorous economy. Nevertheless, we must not overlook those opportunities for conservation savings that exist in the industrial sector. Indeed, as the price of energy has increased, significant conservation savings have already been achieved by industry.

However, there is a potential for even greater savings with existing, proven technology. Projects to achieve these additional savings are in many instances not going forward today despite the presence of adequate technology. This is because the capital investment required for such projects is often so substantial that the projects will not produce a sufficient real rate of return on the investment. As the price of energy continues to escalate, many of these projects will ultimately be undertaken. However, with properly structured incentives, we can stimulate the early initiation of many of these projects so that we can benefit from the resulting energy savings over the decade of the 1980's, and not postpone benefits to the country into the 1990's.

Thus, the question is not whether incentives for industrial energy conservation are needed, but how those needed incentives should be structured to permit us to realize the benefits of conservation at an earlier time than we would otherwise realize them.

Before turning to the amendment itself, Mr. President, let me apprise the Senate of two significant developments which have occurred since the introduction of S. 1819. These two developments have strengthened my belief that the incentives contemplated by this amendment must receive early consideration by the Congress.

First, I have received from Professor Yergin of the Harvard Business School, and one of the coauthors of the influential book "Energy Future," a telegram indicating his strong support in principle for the types of incentives contemplated by S. 1819 and by this amendment. I ask unanimous consent that the text of Professor Yergin's telegram to me be printed in the Record at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. WALLOP. Second, I have received a copy of a study prepared for the Department of Energy which compares the cost effectiveness and energy savings resulting from a variable incentive such as this amendment provides and a nonvariable or nonselective incentive such as that embodied in legislation introduced to provide a fixed payment to industry for each barrel of oil (or its equivalent) saved. This study, prepared by Energy and Environmental Analysis, Inc., reaches two central conclusions. First, the study clearly shows that additional industrial energy savings can be realized with carefully drafted incentives. Second, the study demonstrates that a variable incentive, such as that embodied in the amendment, will produce greater energy savings at a smaller revenue cost than will a nonvariable incentive such as a grant equal to $15 per barrel of oil equivalent saved.

Against this background, Mr. President, let me now turn to the amendment itself. Under this amendment, tax incentives—in the form of an additional, refundable, 30 percent investment tax credit—would be made available for those industrial energy conservation projects which meet three criteria. First, the project would have to be one to modify or replace all or part of an existing domestic productive facility. Second, once completed, the project must result in the utilization of less energy, other than coal, per unit of production. Third, once completed, the project cannot increase the amount in oil and gas consumed per unit of production. The amendment thus applies both to projects which will result in the more-efficient use of energy and to projects which involve conversion coal, our most abundant domestic energy resource. In addition, the bill specifies a minimum level of energy savings. As a result of this minimum requirement, the bill will apply only to those cases where there are quantifiable energy savings sufficent in amount to justify the use of tax incentives.

After these initial three tests have been met, the special tax incentives would be available, but only if and to the extent they are necessary to enable a taxpayer to realize a real rate of return of 15 percent on the project. The determination of whether a taxpayer needs the additional investment tax credit allowed by the amendment to produce the specified real rate of return is to be made by reference to a formula similar to that commonly used by businesses to determine their rates of return on investment. If this formula indicates that a taxpayer will, without the additional incentives, realize a real rate of return on the project investment of 15 percent or more, then no incentive would be available because the project has a sufficient potential for producing an adequate return without the intervention of the Government through incentive. In short, there is no need for Government incentives for projects which will proceed without grants or incentives—which is, Mr. President, the single fault that I find with the credits included in the bill as it came from the Finance Committee.

On the other hand, if this formula indicates that less than a 15-percent real rate of return would be realized, the project is not economical to the taxpayer without the additional incentive and an incentive is therefore provided in a variable amount up to the amount necessary to produce a 15 percent real rate of return.

I should point out, Mr. President, that the formula used takes into account all of the costs and benefits accruing to the taxpayer as a result of the project including energy savings, existing tax incentives, and increased production and capacity. Thus, the credit allowed will necessarily vary from project to project and will never exceed the amount necessary to enable the taxpayer to produce a real rate of return of 15 percent.

By reason of this formulation, Mr. President, it is apparent that my amendment responds to the criticisms of many that incentives are frequently paid to individuals and to businesses for doing something that they would do in any event. This criticism has been levied for example at those incentive programs which would provide a flat payment for energy savings irrespective of how those energy savings are achieved or whether they would be achieved without the granting of such incentives. My amendment, which has been carefully structured, meets this criticism head on. Incentives are to be available only if needed by the taxpayer and then only to the extent that they create an energy saving. All of those features have to be present.

Another central feature of my amendment is that even if incentives are needed for the project to be economical to the taxpayer, they will nevertheless be denied unless a second determination is made that granting of incentives for the particular project is cost effective to the Nation. The amendment recognizes that however desirable conservation may be, there is a point at which realizing additional energy production through conservation is too costly, when compared to the cost of producing the same amount of energy from an alternative domestic source. Under the amendment, the taxpayer, utilizing essentially the same formula, calculates the amount that he would have to sell the energy saved by the project in order for that project to produce a 15 percent real rate of return. If the taxpayer would have to sell the energy saved by the project at a price—expressed in terms of dollars per barrel of oil equivalent—for a price in excess of $32 per barrel of oil equivalent, then achieving the energy savings by conservation is not cost effective to the Nation and consequently incentives would be denied. On the other hand, so long as the conservation price is less than $32 per barrel of oil equivalent (which figure would increase with movements in the world price of oil) the granting of incentives for the project is remarkably cost effective to the Nation.

There is a third feature of this amendment, Mr. President, to which I wish to call the attention of my colleagues. Under the amendment, once a project has been completed and in operation for a reasonable period of time, the amount of the tax incentive to which a taxpayer is entitled will be recalculated. If, as a result of this recalculation, it is determined that the project did not achieve energy savings of the magnitude required by the amendment, then the entire incentive would have to be repaid to the Government by the taxpayer. Similarly, if the taxpayer was entitled to some incentive but not to as much as he had received, the excess incentive would be repaid to the Government at the time of the recalculation. This could occur, for example, if the taxpayer's estimates of its costs were too high or its energy savings were too low. Finally, and as a matter of fairness, if the recalculation shows that the taxpayer was entitled to a greater incentive, it would receive it at that time. The effect of this recalculation provision, Mr. President, is to assure that we will provide an incentive only where there is an actual savings of energy. Thus, we are not speculating whether the incentive will in fact produce the result that it is given for.

To summarize, Mr. President, the amendment has ample safeguards. First, it limits the amount of the incentive to that actually needed by the taxpayer in order for the project to be economical to the taxpayer. Second, it recognizes that there is a price above which the realization of additional energy savings by conservation is too expensive from the Nation's standpoint. Third, the bill provides, in effect, a guarantee to the Nation that the purpose of the incentive program will in fact be achieved in each and every case with respect to which incentives are made available.

Mr. President, I would ordinarily be inclined to ask for a roll call vote on the amendment at this time. I recognize, however, that we were able to develop this kind of creative and constructive approach to incentives for industrial energy conservation only after the Finance Committee had done much of its work on this bill, and that it may be premature to ask the entire Senate to consider it on its merits. Nevertheless prior to withdrawing the amendment, I would ask the distinguished chairman of the Finance Committee, and the distinguished ranking minority member, for assurances that this legislation will receive the most careful consideration by the committee in its deliberations, later this year or early next year when the subject of energy legislation is again before us.

Mr. LONG. Mr. President, I appreciate the Senator's very thoughtful remarks and his willingness to cooperate and to let us have more time to look at this matter before the Senate is required to vote on it.

I will be happy to cooperate with the Senator in seeing to it that the matter is considered in hearings at the appropriate time in the future.

Mr. WALLOP. I thank the Senator.

As the Senator knows, since he was in on at least part of the hearings, the one feature this proposal achieves—that all the rest of our panoply of incentives which we attached to the windfall profit bill do not—is to give the Nation something for the money it is buying on a calculable basis. I am not saying we will not achieve benefits by some of the incentives that we have put in the Senate bill. But those incentives are provided regardless of whether or not there is an energy savings.

We could stack the insulation in the attic and nothing may happen, but the incentive is still provided.

The country is in effect paying for these conservation incentives on the supposition that they will work, but there is nothing which guarantees they will be cost effective. The energy savings attached to this proposal are, calculated to be in the range of, 4½ to 5 million barrels per day potential. The Government of the United States and the public taxpayer will never pay more than the world price of oil for the energy saved by this variable incentive. Money is going to be spent here in this country and not handed over into the hands of OPEC.

I thank the Senator.

Mr. President, I ask unanimous consent that there be printed in the RECORD at the conclusion of my remarks an analysis of the proposals to provide incentives for the reduction of oil and gas consumption in the industrial sector. This is the study prepared by Energy and Environment Analysis, Inc., at the request of the DOE. Mr. President, and it provides a very telling comparison between the bill that I sponsored with Senators KENNEDY and DURKIN and the one that I introduced by way of amendment here today.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. WALLOP. Mr. President, I thank the Chair and I thank my colleague, the chairman.

I withdraw my amendment.

The PRESIDING OFFICER (Mr. LONG). The amendment is withdrawn.

The Chair recognizes the Senator from Oklahoma.

EXHIBIT 1

Hon. Senator MALCOLM WALLOP,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WALLOP: Several Senators have introduced major new legislation that would significantly promote energy efficiency. I applaud the efforts by you and your colleagues in this matter and as a citizen am deeply appreciative. It is pragmatic efforts like these proposed by pragmatic men that will do more than anything else to resolve our Nation's energy problems. For conservation energy is the cheapest, most abundant, most accessible, and quickest source of energy. It is America's major new energy source for the 1980's. But it will not be tapped by magic. There are major barriers. There is no single perfect method to cross those barriers.

Among the several admirable and sensible proposals now on the agenda, your S. 1819 strikes me as deserving the most serious and careful attention. Several features recommended strongly. It goes right to the heart of major industrial use among major industrial energy consumers. The big hitters.

It serves the national interest well by encouraging cost effective domestic investment in energy conservation as an alternative to spending dollars to import oil, and pegs savings in relation to the cost of imported oil. It goes right to the problem of payback—by encouraging investments that will be increasingly economic for the firm as energy prices go up, but are not now—but are certainly most economic for the country today. And it is frugal. It does not subsidize what the firm would do anyway without incentives. And results are monitored. These type of investments create jobs in America—instead of driving up the price of gold in Europe. S. 1819 seems to me a particularly deft and thoughtful way to use the carrot and one that would promote a lot of energy saving very quickly. The potential is there as we have observed in energy future. I wish you and your colleagues the greatest success in finally getting the United States on to the sensible energy track.

PROF. DANIEL YERGIN,
Harvard University.

EXHIBIT 2

ANALYSIS OF PROPOSALS TO PROVIDE INCENTIVES FOR THE REDUCTION OF OIL AND GAS CONSUMPTION IN THE INDUSTRIAL SECTOR

ABSTRACT

Proposals put forth by Senators Kennedy and Durkin and Senator Wallop seek to reduce oil and gas use in the industrial sector. Both would provide financial incentives to industrial users who reduce their consumption of these fuels. While a complete analysis of each of these proposals was not possible, a more limited analysis was performed.

The major distinguishing element between these proposals is the selection of which projects undertaken by the industrial sector would be eligible for financial incentives. The Durkin-Kennedy plan would provide a fixed value rebate for all reductions in oil and natural gas use, while the Wallop proposal would provide a variable incentive only to users who reduce consumption due to the availability of the incentive. Thus the Kennedy-Durkin plan would select projects that would have been undertaken in the absence of the incentive while the Wallop proposal would not.

Energy and Environmental Analysis, Inc., under contract to the Department of Energy, Division of Conservation and Solar Applications, Office of Industrial Programs undertook an analysis of the selective versus non-selective aspects of the two plans. Using a model simulating industrial energy demand over the next several decades, the analysis found that:

A non-selective $15/bbl rebate would reduce oil/gas consumption in existing facilities by 164,000 Barrels of Oil Equivalent (BOE) per day, by 1990.

A selective incentive program could reduce oil/gas consumption by upwards of 700,000 BOE/day. The upper limit would be equivalent to an incentive which increased the opportunity cost of oil or gas consumption up to $32/bbl.

The cost of the $15/bbl rebate program would be nearly $6 billion (1978 $). To achieve the same reduction in oil/gas use the variable incentive program would cost the treasury $384 million.

The cost of the variable incentive program would range from $170 million to $7.4 billion by 1990 to save 114,000 to 700,000 BOE/day, respectively.

Both programs would appear to be cost effective. The non-selective program would cost approximately $9 for each barrel of oil equivalent saved. The cost per BOE saved under the discriminating variable incentive program would range from $.30 to $2.75.

Although no attempt was made to estimate the higher implementation costs of the selective incentive program, the comparative cost advantage demonstrated by this analysis would imply that the higher implementation costs could be absorbed without substantially altering the conclusions.

Mr. MOYNIHAN. It has been years since Harvard University has met with such approbation on that side of the aisle. Coming as it does from one educated elsewhere, it is indeed a compliment, and I thank the Senator for it.

Mr. WALLOP. Well, from time to time all of us are forced to recognize there are other pockets of learning.

Mr. MOYNIHAN. I thank the Senator.

UP AMENDMENT NO. 867

(Purpose: To clarify the definition of qualified fuels for the $3.00 production credit for synfuels from coal contained in subparagraph (C) of Section 44D(d)(1).)

Mr. BOREN. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN) proposes an unprinted amendment numbered 867:

On page 143, on line 8 after the word "alcohol" and before the " " and the word "produced", insert the following: '", but including such fuels when used as a petrochemical feedstock'."

Mr. BOREN. Mr. President, this amendment relates to the definition of qualified fuels for purposes of the $3 production credit allowed for the production of fuel from nonconventional sources. It appears on page 142 of the bill.

Subparagraph (C) of new section 44D (d)(1) provides that "liquid, gaseous, or solid synthetic fuels (other than alcohol) produced from coal" are qualified fuels for purposes of the $3 production credit. It has been called to my attention that in some cases the synthetic fuel produced from coal may not be used as fuel—but may be used as petrochemical feedstock.

My amendment is simply to clarify that synthetic fuel which otherwise qualifies for the $3 production credit will continue to qualify when it is used as petrochemical feedstock.

The Finance Committee did not focus on the possibility that synfuels produced from coal may be used not only as fuel but also as petrochemical feedstock. Since the primary purpose of encouraging the production of synfuels from coal is to conserve or displace the use of oil or natural gas, that purpose is served equally well whether the synfuel is used as fuel or as petrochemical feedstock.

I might add—by way of further explanation—that in considering the need for encouraging the development of synthetic solids, gas, and liquids derived from coal, we generally speak in terms of the production of synthetic fuels. This is because use as a fuel has received the major attention. It would be more accurate, technically, if we were to speak of synthetic substitutes displacing oil or natural gas—because that is the objective of our national energy policy. However, since use as a petrochemical feedstock is the only significant nonfuel use, and it is relatively minor in the overall picture, it is more practical to speak in terms of synthetic fuels or synfuels.

Finally, I note that my amendment involves no revenue loss. Due to the recent acceleration of world oil prices and the phase out of the production credits at $29.50 a barrel, the committee has estimated no revenue loss for the various production credits provided by the bill. It appears that at this time the production credits serve primarily as insurance against the unlikely event of world oil prices falling sometime after huge investments have been made.

I would simply add that since the price of oil is already above the $29 level specified in the credit section, that there should not be any dollar impact from this amendment. It simply is a technical one, which I think clarifies the general intent of the committee to provide the credit whenever we are using the synfuels to replace oil so that we can conserve oil.

The PRESIDING OFFICER. The question is on agreeing to the amendment. Without objection, the amendment is agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BENTSEN). Without objection, it is so ordered.

Who seeks recognition?

UP AMENDMENT NO. 868

(Purpose: To make technical corrections in the definition of "heavy oil")

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the amendment being considered at this time?

Without objection, the clerk will state the amendment.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 868.

Mr. CRANSTON. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 64, beginning with line 16, strike out through line 18, page 64, and substitute the following language:

"(c) HEAVY OIL.—For the purposes of this chapter, the term 'heavy oil' means—

"(1) in the case of a property which had production prior to July, 1979, all crude oil produced from such property if, during the last month prior to July, 1979 in which crude oil was produced and sold from that property, such crude oil had a weighted average gravity of 16° API or less, corrected to 60° Fahrenheit, and

"(2) in the case of a property which does not satisfy the requirements of paragraph (1), all crude oil produced from such property if, during the taxable period, such crude oil has a weighted average gravity of 16° API or less, corrected to 60° Fahrenheit."

Mr. CRANSTON. Mr. President, I am advised that this amendment is acceptable to the administration and has been cleared by both sides of the aisle.

My amendment is simply a technical amendment to accomplish what I believe the Finance Committee intended in its definition of "heavy oils" appearing in section 4991 of this bill, the section defining special rules and categories of oil.

My amendment relates only to the definition of "heavy oil" which begins on line 16 of page 64 of the bill.

The bill provides that the term, "heavy oil," has the meaning given to such term by Executive Order 12153.

Section 1 of my amendment spells out this definition, which is merely incorporated by reference in the bill.

When the language is spelled out, the need for my amendment becomes clear.

The definition given for "heavy oil" in this chapter of the bill is all crude oil produced from a property if the oil produced and sold from that property had a weighted average gravity of 16 degrees API or less, corrected to 60° F. during any month prior to July 1979, the date when the Executive order was issued.

The committee apparently intended to apply the 16 degree standard to its exemption from the windfall profit tax for heavy oil.

There is general agreement that the expensive cost of production of these very heavy oils with a gravity of 16 degrees API or less require both a decontrolled price and an exemption from the windfall profit tax, if we are to get any new production of this great potential resource of domestic oil from these wells.

My amendment does not change the standard that the committee apparently intended to apply.

Its revenue effect is insignificant.

It does correct what otherwise will be a self-defeating and unintended arbitrary definition which will eliminate the very incentive to new heavy oil production that the committee apparently intended to provide.

That is because, as the unamended definition now stands, if the average gravity of a producing property was higher than 16 degrees up to July 1979, any increment of new production which brings the weighted average gravity below 16 degrees subsequent to July 1979 will not qualify the property for exemption from the windfall profit tax.

Hence, the incentive to produce heavy oil not now being produced is not there.

The second part of my amendment corrects this situation by providing the same treatment for crude oil from a property which reaches a weighted average gravity of 16 degrees API or less, corrected to 16° F, at any time during the effective period of the windfall profit tax, as provided by section 1 of my amendment and by the committee bill for properties which reach that average prior to the issuance of the Executive order.

Mr. President, this apparently is a noncontroversial amendment which can be accepted by the managers. I thank them for that if that is indeed the case. I move the adoption of the amendment.

Mr. LONG. Mr. President, I do not object to this amendment and I am not aware of any objection to it. As far as I am concerned, I am happy to accept the amendment.

Mr. CRANSTON. I thank the distinguished leader from Louisiana very, very much.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CRANSTON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator withhold that?

Mr. LONG. Yes.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I want to alert the distinguished Senator from North Carolina (Mr. HELMS) that a motion to reconsider will be made shortly on the vote that occurred last evening. I believe it was a 40 to 39 vote by which his amendment was not agreed to. At that late hour, several Senators had been told that there would be no more votes. Consequently, I put the Senate into morning business and did not move to reconsider.

That amendment was up under a 30-minute time limitation; and when the vote occurred, that meant there would be no time on the motion to reconsider. As one of those who voted against the amendment, with the prevailing side, I would be eligible—or any other Senator so voting would be eligible—to move to reconsider.

So if we could have an understanding to vote at, say, 1 o'clock today on the motion to table the motion to reconsider, I would be pleased to enter into that kind of arrangement.

Mr. DOLE. If the Senator will yield, we will contact Senator HELMS right now.

Mr. ROBERT C. BYRD. Earlier, I was sort of taking my time, so that Mr. HELMS could be alerted to the fact that a motion to reconsider will be made. Once that motion is made, there is no time for debate on it, because the time on the amendment was limited.

I would like the Senator to have an opportunity to address his remarks to the motion to reconsider before it is made, if we could work out a little agreement here, to allow a little time.

FIVE-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, with the understanding that I not lose my right to the floor, I ask unanimous consent that the Senate stand in recess for 5 minutes. By that time, Mr. HELMS will be here.

Mr. DOLE. Fine.

There being no objection, the Senate, at 12:12 p.m., recessed until 12:17 p.m.; whereupon, the Senate was called to order by the Presiding Officer (Mr. BENTSEN).

Mr. ROBERT C. BYRD. Mr. President, I am not going to make the motion to reconsider at the moment, because Mr. HELMS has not arrived as yet. I will, however, proceed with it in due time, but I want to give the Senator the opportunity to be here.

I will be happy to ask for unanimous consent that the motion to reconsider be made at 1 p.m. and that I be recognized to move to table immediately thereafter, and we can spend the time between now and then debating it, if any Senators wish to do so.

Mr. DOLE. The Senator from Kansas has no objection. I would rather that the Senator from North Carolina make that judgment.

Senator ARMSTRONG has an amendment he can bring up.

FIVE-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I understand that the distinguished Senator from North Caroina is on his way to the floor.

I ask unanimous consent that there be another recess for 5 minutes and that I then be recognized, without losing my right to the floor.

There being no objection, the Senate, at 12:19 p.m., recessed unti 12:24 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. BENTSEN).

UNANIMOUS-CONSENT AGREEMENT—AMENDMENT NO. 632

Mr. ROBERT C. BYRD. Mr. President, I have discussed the matter concerning a motion to reconsider and a motion to table the motion to reconsider the vote by which amendment No. 632, by Mr. HELMS, was rejected on last evening by a vote of 40 to 39.

Mr. HELMS is here and he is consulting with Mr. DOLE. For the moment I will not press the motion to reconsider. I will shortly, however. But I have made the suggestion that we possibly vote at 1 p.m. to give Senators a little notice. If they want to say a few words they may do so.

While Mr. HELMS and Mr. DOLE are discussing this, I point out that there was a 30-minute time limitation on the amendment yesterday and that time was either yielded back or expired and the vote occurred which means in accordance with the precedents having a time agreement on the amendment there would be no time for debate on the motion to reconsider. And that motion to reconsider can be made by any Senator who voted with the prevailing side on the same day or on any one of 2 succeeding days that the Senate is in legislative session or a Senator who was absent when the vote occurred may also move to reconsider.

Last evening immediately following the vote I said this:

> Mr. President, we have said that there would be no more rollcall votes tonight. If there is a motion to reconsider, if someone wants to make it now, the vote will go over until tomorrow, because we have stated this would be the last vote.

So I said, Mr. President, the vote would go over until tomorrow, that means today, even though the motion to reconsider was made last night. "If not, I ask unanimous consent," and I proceeded then to put the Senate into morning business, and that was all at that point.

Mr. President, a motion to reconsider this vote will be made at some point. We all know that. If not today it will be made Monday and Monday would be the last day it could be made because the Senate will not be in tomorrow, tomorrow being Saturday.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, if we are going to have to vote on a motion to reconsider I wish we would go ahead and vote on it today. A few Senators had plans to be out of town. They have rearranged their plans to be here. And when they are here they should at least have an opportunity to vote on something.

We have had one vote which was sort of a pro forma thing because it was an amendment we would have accepted anyway. Senators are here to do business. We should be voting on important matters.

This was a close vote. If the Senator wants to move to reconsider or lay that motion on the table, as the case may be, we should be voting on that today and getting this behind us and going on to something else.

We have business to do, and I hope Senators will get their amendments in here and give us a chance to vote on them.

Mr. ROBERT C. BYRD. Yes. I thank the distinguished Senator.

Last evening after the vote occurred I assured Mr. HELMS that there would be no action taken last night, that he would be fully protected last night, and that promise was carried out.

Mr. President, I ask unanimous consent that at 1:15 p.m. today Mr. MUSKIE be recognized to make a motion to reconsider; that time on the motion to reconsider be limited to 15 minutes to be equally divided between Mr. HELMS and Mr. MUSKIE; that there be a tabling motion at the conclusion of those 15 minutes, and I ask unanimous consent that I be recognized to make that motion to table or that Mr. LONG be recognized at that time to make the motion to table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. I thank all Senators, and I thank the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

UP AMENDMENT NO. 869

(Purpose: To terminate the windfall profit tax if the President discontinues decontrol of crude oil prices or reimposes price controls on crude oil)

Mr. ARMSTRONG. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 869.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The amendment is as follows:

On page 79, between lines 14 and 15, insert the following new section:

"SEC. 4994. TERMINATION OF TAX.

"If the President makes any adjustment by rule or order under the Emergency Petroleum Allocation Act which has the effect of significantly slowing the rate at which price controls on crude oil under that Act are being phased out with respect to any category of crude oil, or which imposes price controls on crude oil at a level equal to or lower than the prices for such crude oil in effect on the date of imposition, then the tax imposed by section 4986 shall not apply with respect to taxable crude oil removed from the premises after the date on which such rate was slowed or such controls were imposed.

On page 79, line 15, strike out "SEC. 4994." and insert in lieu thereof "SEC. 4995.".

On page 80, line 3, strike out "SEC. 4995." and insert in lieu thereof "SEC. 4996.".

On page 39, in the matter betweeen lines 9 and 10, strike out the last 2 items and insert in lieu thereof the following:

"Sec. 4994. Termination of tax.

"Sec. 4995. Records and information; regulations.

"Sec. 4996. Cross references.".

Mr. ARMSTRONG. I will undertake to explain the purpose of the amendment which, indeeed, is very simple.

As the distinguished chairman of the Finance Committee has pointed out, and as the ranking Republican member of the Finance Committee has pointed out, and as other Members are well aware, the essence of this bill is really to tax the additional revenues of oil companies which arise from the President's program of decontrolling gradually the price at which crude oil is being sold. As a matter of fact, it is instructive that in the report of the committee the first sentence sums up the bill in that way. It says "Here is a bill which will tax the windfall profits that arise from or are pursuant to the President's decontrol program."

So it seems to me to be important that since the Senate is legislating on the basis of a program of phased decontrol of crude oil prices that we nail down that phased decontrol will not be withdrawn or upset or in any way changed at the enactment of this windfall profit bill.

I want to make it plain that I have grave reservations about the bill itself, but certainly if we are going to enact this so-called windfall profit tax, we should not then permit a future President to abolish the decontrol or to place limits on the price of crude oil different from those which are in effect on the date under which we are legislating.

So all this amendment says is that if the President should act to significantly slow the rate at which price controls on crude oil are being phased out, then to that extent the windfall profit tax imposed by this bill shall no longer apply.

With that brief word of explanation, I would encourage my colleagues to support this amendment.

I am reminded by staff that I should point out that the term "significantly," which appears on line 6 of the amendment, is intended to accommodate any technical changes that might be made in the future by the administration.

If there was a technical change in some existing rule or order, that would not trigger the effect of this amendment on the windfall profit tax. This appears in the sentence, and I will read it just so the record is clear:

> If the President makes any adjustment by rule or order under the Emergency Petroleum Act which has the effect of significantly slowing the rate at which price controls on crude oil under that Act are being phased out with respect to any category of crude oil, or which imposes price controls on crude oil at a level equal to or lower than the prices for such crude oil in effect on the date of the imposition, then the tax imposed by section 4986 shall not apply with respect to taxable crude oil removed from the premises after the date on which such rate was slowed or such controls were imposed.

The significance of the term I have just described on line 6, the word "significantly" is simply to make it clear we are not talking about minor technical changes in the rule which the President might order at some future date. We are talking only about something which really has the effect of slowing down in a significant way the rate of decontrol now in effect.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. This amendment is one that I personally would expect to vote for. There may be other Senators, either on the Finance Committee or in the Senate as a whole, who would want to oppose the amendment, and I hope those listening in their offices may take note, or their assistants listening in offices may take note, of what I am saying.

The Senator's amendment is based on the theory that the windfall tax is justified because of the decontrol order, and is based on the theory that if the decontrol is not to go forward then the windfall tax should not go forward. Therefore, it would, in effect, terminate the tax or suspend the tax in the event the President slows down or terminates the progress of the decontrol of oil prices.

In my judgment, that is a fair proposition, and I expect to vote for it. It might have some technical problems but, if so, I think we could work them out in conference.

There may be some, perhaps some, who feel very strongly that we should not have decontrol at all. There may be some who would like to oppose the amendment. If Senators want to do that then they should come to the floor or call the cloakroom immediately and let it be known that they want to oppose it. I personally expect to vote for the windfall tax for the reason that it is a price we have to pay in order to move the Nation where it ought to be going, which is toward decontrol in oil prices.

To me that is implicit in the overall energy program. As I understand it, the Senator from Colorado has an amendment that is based on the philosophy that the reason we have the tax is because of decontrol, and without decontrol we would not have the tax.

To me that is the reason I am voting for the tax, that the tax is implicitly pointed toward decontrol. So I will at this point suggest the absence of a quorum, Mr. President, unless I hear a request from Senators for time, in which case I will call off the quorum and proceed to vote. Mr. President, I suggest the absence of a quorum.

Mr. DOLE. Mr. President, will the Senator withhold?

Mr. LONG. I withhold.

Mr. DOLE. Mr. President, the Senator from Kansas has reviewed the amendment. I share the views just expressed by the chairman of the committee. The purpose of the amendment is to insure that the decision to decontrol oil is adhered to. The purpose of the tax is to reduce the amount of revenues received due to decontrol. So it seems to me the amendment makes a great deal of sense. If we are going to reverse the decontrol order, then there should not be any tax.

I might point out that there are categories of oil, such as stripper oil, which are not affected by decontrol, but they would still be taxed; so it seems to me that this amendment should be supported. There may be opposition to the amendment, but I am sure everyone is on notice; Senators are listening in their offices and can come to the floor and express their opposition.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

MOTION TO RECONSIDER VOTE ON AMENDMENT NO. 632

Under the previous order, the hour of 1:15 having arrived, the Senator from Maine (Mr. MUSKIE) is recognized to offer a motion to reconsider the vote whereby an amendment offered yesterday by the Senator from North Carolina (Mr. HELMS) was not agreed to.

The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I make that motion to reconsider the vote.

The PRESIDING OFFICER. The Senator is recognized to speak on the motion.

Mr. MUSKIE. Mr. President, I yield myself 3 minutes.

Early in this debate, Mr. President, I outlined for the Senate the budget implications of the pending bill, as it was reported out of the Committee on Finance. If Senators will recall the charts which I presented at that time, the implications of the bill, as reported, were that we would have a persistent and large deficit through the 1980's, contrary to the budget plan which we adopted in the spring of this year and reaffirmed only a couple of weeks ago.

Mr. President, that Finance Committee bill would have yielded $139 billion. We promptly reduced that by $10 billion to $129 billion. We have since added two increments of revenue to it: $22.5 billion as a result of the adoption of the Bradley-Chafee amendment, and $4.5 billion as a result of the adoption of the Moynihan-Wallop amendment. So we now stand at $155 billion.

Mr. President, the present amendment would cost us, over that decade, $34 billion. That would reduce the net yield of this bill, then, to $121 billion, $18 billion below the bill as it was reported out from the Finance Committee.

Under what pretext, Mr. President? Under the pretext that we would be restoring a tax benefit that we had taken from taxpayers a few years ago in the 1978 Revenue Act.

What are the facts, Mr. President? The fact is that the deductibility of State gasoline taxes was eliminated in the 1978 law in the name of simplifying tax returns. But the value of that tax deduction was restored in the same bill by reducing income taxes for low- and middle-income people, for whom this benefit was intended. So the taxpayers did not lose the tax value of the deductibility at that point; it was preserved, but in another form. Now we would return the tax value of that deductibility on top of the tax adjustment that was made to the 1978 bill, and at a cost to the budget in the next 10 years of $34 billion.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. MUSKIE. Mr. President, I yield myself 1 more minute.

We are here on the floor in the name of raising revenues for purposes, which Members consider in the public interest. And here we cannot resist the temptation, Mr. President, we cannot seem to resist the temptation to cut those very revenues out from under our ability to deal with the public needs of this country for the next 10 years.

This is the biggest cut offered yet and has had a very close vote; $34 billion. Mr. President, if we adopt this, we start back where we were when the bill came out of the Committee on Finance.

I urge my colleagues to reject this and other deficit-generating amendments.

Mr. HELMS. Mr. President, who is in charge of the time on the other side?

Mr. DOLE. I yield to the Senator.

Mr. HELMS. I thank the Senator from Kansas.

Mr. President, my friend from Maine knows of my respect and affection for him. But I fear that he has fallen into the syndrome that is prevalent among people in public office today, a syndrome which contends that all the money belongs to the Federal Government and that we, the masters in Washington, will decide how much we are going to let the people keep.

My friend used the words "this amendment will cost us." Then he indicated that this amendment is offered under "the pretext that we"—meaning Congress—"had taken away a tax deduction." It is not a pretext. It is an absolute fact. That is precisely what was done, and it was done under a parliamentary situation for which there was no remedy. Senators know that.

Then my friend from Maine said we should make no mistake about it, that this amendment will be approved "at a cost to the budget."

The position of the Senator from North Carolina in urging Senators to restore some equity to the taxpayers of this country—and I am talking about the middle-income taxpayers—is very simple. They deserve to have some relief, and this may be the only relief they are going to get.

On the other hand, the Senate and the House of Representatives vote pellmell to raise Federal spending. Look at the Federal debt today—in excess of $800 billion, and the forecast is that if the trend of Federal spending continues, by 1985 it will be $1.3 trillion; and the interest on that debt is going to cost the taxpayers more than $100 billion.

I think we should bear in mind that a gentleman named Lyndon Baines Johnson was President of the United States at the time the Federal budget exceeded $100 billion for the first time in history, and that was about 15 or 16 years ago.

So the moving finger writes. We know what we are doing. This amendment simply pleads for a bit of equity for the middle-income taxpayer.

Mr. President, I made my remarks last night, but in order that they can be in context again, I ask unanimous consent that my statement on this amendment, as delivered on the floor last evening—page S. 17959—be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

Mr. HELMS. Mr. President, this amendment would restore the itemized deduction for State and local nonbusiness gasoline and motor fuel taxes. This deduction was deleted from the Tax Code by the Revenue Act of 1978, which was enacted into law during the frenzy of the final hours of the 95th Congress. The language of my amendment is identical to that of S. 79 which was introduced at the beginning of this session. Cosponsors of S. 79 include Senators Dole, Hatch, Tower, Melcher, Riegle, Ford, Stevens, Schmitt, Garn, Humphrey, Stone, and Morgan.

We believe that Congress should restore the deduction for the following reasons:

First. The absence of this reduction will be felt most severely by middle-income taxpayers.

Second. Its elimination will help undermine the incentive for taxpayers to make use of itemized deductions.

Third. Its reenactment will have no perceptible effect on energy consumption.

Fourth. It was deleted without adequate deliberation by Congress.

Beginning this year, individuals who itemize will no longer be allowed to deduct State and local excise taxes imposed on gasoline, diesel, and other motor fuels which are not used for business purposes. If Congress fails to restore this deduction, the middle-income taxpayer will bear the greatest burden in additional taxes. According to U.S. Treasury Department figures, over 70 percent of the revenue raised from the repeal of this deduction will come from taxpayers making less than $30,000 a year. In 1983 alone, the elimination of this deduction will, according to the Treasury, take an additional $2.2 billion from the pockets of the American taxpayer who must also face spiraling prices.

Concern about the conservation of energy and the reduction of oil imports has been one argument advanced to support the deletion of the gasoline deduction. In our opinion, the elimination of this deduction will have little effect in assisting our Nation achieve its energy goals. Instead, it will create an unfair tax burden not just for taxpayers in western and rural States who must drive greater distances, but also for suburban commuters who must drive their automobiles to work. We promised our constituents a tax cut and then turned right around and deleted a meaningful deduction. We disguise our actions by claiming that it will somehow help cure our energy crisis. If this measure is designed to save fuel, how can Congress allow business to maintain its fuel deductions? Or will business be next?

When the elimination of this deduction was considered by the Finance Committee last fall, it was added to the tax bill during the final hours of markup. When the tax bill reached the floor of the Senate, an amendment to restore the deduction was ruled "out of order" because it would have lowered projected revenues below the legal limit set by the budget resolution. The Senate, as a whole, was not allowed to vote on the measure. Because of this parliamentary technicality, the Finance Committee's supposed "recommendation" became law without adequate review by the Senate.

In 1977, an amendment to delete this deduction was soundly defeated by a vote of 65 to 12. We believe the outcome last session would have been much the same—had the Senate been allowed to vote. H.R. 3919 presents a convenient opportunity to reinstate the deduction (to take effect in 1981), and I urge support for the amendment.

Mr. DOLE. Mr. President, I understand that the last vote was 82 to 1, which means 17 Members were not present on that vote. I assume that we could take last night's vote and take the number of absentees and figure out that probably the motion to table would be agreed to. However, I understand that the Senator from North Carolina has a number of other amendments, addressing the same problem, on which we will be voting next week.

Mr. HELMS. I think we should vote a number of times on this question because I feel that strongly about it, I say to the Senator.

Mr. DOLE. As the Senator said last night, most of the benefits go to the working people of this country, those who earn between $15,000 and $30,000 or $40,000. To get $34 billion must be stretching everything. I do not understand how we start out with the first-year cost of $1.2 billion and end up with $34 billion for the cost of this amendment, over a 10-year period.

It must be considering a lot of things that the Senator from Kansas is not aware of—that everybody will suddenly itemize their deductions, I suppose. If that were the case, maybe it could add up to $34 billion. I hope the motion to table will be defeated.

I yield the remainder of my time to the Senator from Alabama (Mr. HEFLIN).

Mr. HEFLIN. Mr. President, I want to put myself on record today as supporting the amendment offered by the Senator from North Carolina (Mr. HELMS) which would restore the tax deduction for State and local taxes on gasoline, diesel fuel, and other motor fuels.

Mr. President, the American public probably today is not even aware of the fact that the Congress acted last year to take this deduction away from them. This will be the first year that the average American taxpayer will not be able to deduct these State and local taxes and until the general public begins to fill out its tax returns after the first of the year, I am afraid most of them will not realize that the law has been changed. I think when the middle-income American taxpayer learns that Congress has in effect raised his taxes by disallowing this deduction, there will be a hue and cry throughout the country that will reverberate into these halls.

Mr. President, as I understand it, this deduction was deleted from the Tax Code by the Revenue Act of 1978. I was not a Member of this august body at that time; but had I been here, I would have done everything within my power to make sure that this deduction was not taken away from the American taxpayers. In my judgment, the deduction is well justified, and its removal by Congress was, in effect, a tax increase placed upon the American taxpayers in an indirect fashion.

Mr. President, the business community of this country is allowed to deduct almost every conceivable expense as an ordinary and necessary business expense; but the working man of this country, who is often forced to commute to and from work over long distances every day, is not allowed to deduct the expense of operating his automobile to commute back and forth. I think that perhaps we should consider putting the working man on a more even par with the business community in this situation so that our tax laws will be seen by the average working man and woman as being more fair and equitable. This amendment represents a step in the right direction, since it would at least allow the working man who must drive long distances to and from work every day the opportunity to deduct the gasoline taxes he is required to pay in order to earn his livelihood.

In my judgment, the restoration of this tax deduction will be neutral so far as fuel consumption is concerned. It merely places the law back like it was before the ill-advised action of Congress last year.

Mr. President, I have stated over and over on the floor of the Senate that the American taxpayers deserve a break. Americans have always believed in a fair and equitable tax system, and they do not mind paying reasonable taxes so long as they are called upon to only pay their fair share. What American taxpayers object to are paying taxes which are disproportionate and then seeing their tax dollars wasted by the government. I think this tax deduction is fair and equitable, and I urge the Members to support this amendment.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. BENTSEN. Mr. President, will the Senator yield me a minute and a half?

Mr. MUSKIE. I yield.

Mr. BENTSEN. Mr. President, I can understand the Senator from Alabama saying what he has said, but let me describe what happened and how we worked this out in the Finance Committee.

We did this by taking this in consideration as we increased the tax brackets, and we particularly did that with respect to middle-income people. We did it to try to bring about simplification in the tax law. We had our charts, our tables, to see just how much they were getting by itemization on the gasoline tax and the deduction for it. So we gave consideration for that and some other measures, as we widened the tax bracket to try to go at least part way in making them whole. There was simplification and trying to see that we gave equity, so that they do not pay more in taxes and do not spend as much time on those tax returns.

In addition, we had another problem, in that, obviously, many people were guessing as to how much mileage they had traveled. We finally had numbers coming together that had to be, in their totality, more than people could possibly have driven. That is the sort of thing we were catching in the tax returns.

So it was not taking something away from them. We balanced it off. This was not taking a deduction away. We included that in the tax bracket.

Mr. MUSKIE. Mr. President, I yield the remainder of my time to the majority leader.

The PRESIDING OFFICER. The Senator from West Virginia, the majority leader, is recognized.

Mr. ROBERT C. BYRD. Mr. President, I will offer a motion to table, shortly. I hope the motion to table will be adopted.

This is a measure which should not be adopted in a precipitous fashion on a bill that is designed to deal with the phenomenon of excess oil company profits. The bill before us is part of comprehensive approach to this Nation's energy problems. It is not and should not become a Christmas tree or a general revenue bill. We must concentrate our efforts on devising a windfall profit tax bill that produces energy while using some of the unjustified profits that will accrue to the oil companies as a result of decontrol and skyrocketing oil prices for the greater public good. This is not the time or the place to serve special interests.

There has been much discussion in the past few days about energy conservation. Restoration of the itemized deduction for State and local gasoline taxes would only encourage people to drive more and to use more energy. It is becoming apparent that we may soon be required to consider a higher Federal tax on gasoline as a means of achieving the level of conservation that may be required of all our citizens. Who knows? This type of special tax advantage which would only encourage energy use is inappropriate in this climate.

The experts from the Finance Committee and the Budget Committee have indicated that adoption of the Helms amendment would cause a revenue loss of something like $34 billion over the next 10 years. While this amendment is not directly related to the windfall profit tax, we must remain cognizant of the urgent need to pass a fair and meaningful bill. The drain on revenues which would result from the Helms amendment cannot be justified as we work to achieve the proper balance on the windfall tax bill.

Mr. President, I move to table the motion—I withhold that.

Mr. HELMS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes. I withhold.

Mr. HELMS. I do not have time remaining. May I ask unanimous consent for 1 additional minute to ask a question of the distinguished Senator from Maine?

Mr. ROBERT C. BYRD. Yes, with the understanding again that I be recognized to make a motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina is recognized.

Mr. HELMS. I thank the Senator from West Virginia and I thank the Chair.

I just ask the Senator from Maine if in the interest of time—I do not want him to answer this orally—but would he put in the RECORD how he arrived at the $34 billion figure?

Mr. MUSKIE. Yes. May I say, first of all, that the table was produced by the Finance Committee staff and the joint committee which makes these estimates and was reconfirmed by the Budget Committee. We shall be glad to put the analysis in the RECORD.

Mr. HELMS. I thank the Senator.

I yield back the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, of course, as I said, I cannot yield the floor to other Senators, but I intend to make a motion to table at this time. If there be no objection, I yield to Mr. BENTSEN to make that motion. I can make the motion and would be glad to, but I yield to him if there is no objection for that purpose. And I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I move to table the motion.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the amendment of the Senator from North Carolina was rejected.

Mr. HELMS. Mr. President, I call for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE), are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from Maryland (Mr. MATHIAS), and the Senator from Alaska (Mr. STEVENS), are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN), and the Senator from Utah (Mr. HATCH), would each vote "nay."

The PRESIDING OFFICER. Does any other Senator desire to vote who has not done so?

The result was announced—yeas 44, nays 42, as follows:

[Rollcall Vote No. 463 Leg.]

YEAS—44

Bellmon
Bentsen
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Cohen
Danforth
Eagleton
Exon
Glenn
Hart
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Long
Magnuson
Matsunaga
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Stafford
Stennis
Stevenson
Stewart
Tsongas
Weicker
Williams

NAYS—42

Armstrong
Baucus
Boschwitz
Byrd,
  Harry F., Jr.
Chiles
Cochran
Cranston
DeConcini
Dole
Domenici
Durenberger
Durkin
Ford
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Melcher
Metzenbaum
Morgan
Packwood
Pressler
Roth
Sasser
Schmitt
Schweiker
Simpson
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—14

Baker
Bayh
Biden
Church
Culver
Garn
Goldwater
Gravel
Hatch
Kennedy
Mathias
McGovern
Stevens
Talmadge

So the motion to lay on the table the motion to reconsider was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

The PRESIDING OFFICER. The motion is not in order.

The question recurs on agreeing to the amendment of the Senator from Colorado.

Mr. LONG. Mr. President, I ask for the yeas and nays on that amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 869) of the Senator from Colorado (Mr. ARMSTRONG). The yeas and nays have been ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME IS RUNNING OUT

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of Senators? I do not want to be misunderstood in what I am about to say, in any of several respects.

The Senate has been debating this bill now for going on 4 weeks. The bill was first called up on November 15, which was a Thursday, 3 weeks ago yesterday. So the Senate is in its fourth week of debate on this measure.

Mr. President, this is a very difficult, complex bill. Any measure that deals with energy is going to be divisive, contentious, and complex. The Senate has been making progress on the bill. I am always most hesitant to file a cloture motion when the Senate has been making some progress. But time is running out. We have 2 weeks, Mr. President, after this week, and that will put us up to Friday, the 21st of December.

In that period of time, we need to finish the action on this bill and we need to complete action, whatever the action may be, on the Chrysler legislation. I personally have not made any decision for or against that legislation, but I feel it incumbent upon me to say that I am going to have to make every effort to bring the bill up and get action by the Senate. Time is, as I understand it, of the essence in connection with the Chrysler legislation.

Now, we spent 1 day this week on an amendment that was offered by the distinguished Senator from Delaware (Mr. ROTH). That amendment, as I understand it, was not germane to the subject matter of this bill. On another day, we spent several hours on an amendment by Mr. ARMSTRONG. I am told that amendment was not germane to the bill.

So we have this problem of nongermane amendments which continue to come up, and some of those nongermane amendments—and I am certainly not reflecting upon the authors of the amendments when I say this—can create a lot of mischief with respect to this bill.

The bill came out of the Finance Committee with something like, I think, $138 billion or $139 billion in revenue over a period of 10 years. There was an amendment by Mr. BENTSEN that decreased that amount back to about $129 billion, or something like that. The amendment by Mr. BRADLEY and Mr. CHAFEE was agreed to, and that brings the figure back up to something like $155 billion or $156 billion.

The tax credit amendment adopted this morning—that was offered by Mr. HART, I believe—lopped off, what was it, Senator HART, $300 million or something like that?

Mr. HART. Over 6 years.

Mr. ROBERT C. BYRD. Over a period of 6 years, $300 million.

Many of these nongermane amendments have great appeal to Senators. They have a lot of appeal to me, and they have a lot of appeal to other Senators, but they can damage the bill. Cloture would stop nongermane amendments.

Mr. TOWER. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. I will yield to the distinguished Senator, but may I finish my train of thought here?

Mr. TOWER. Of course.

Mr. ROBERT C. BYRD. And it is difficult, I know, to vote against some of those amendments. If they were offered to some other bill I might even vote for them. But we are attempting to pass a bill that is as fair and equitable to the oil companies—I have never been one to attack the oil companies—but we also want a bill that is fair and equitable to the American people, and it must be that in reality, and must be perceived in that way.

The bill still has to go to conference, of course, and there will be adjustments and modifications in conference.

Now, I have been told that there will be a filibuster on the Chrysler legislation.

So, I do not see any way to proceed, under these circumstances, other than by offering a cloture motion on the tax bill. I will offer that today before the day is over, which means we will have a vote on cloture on next Tuesday.

I have said what I have said without any criticism of anyone. The distinguished manager of the bill (Mr. LONG), the distinguished ranking manager (Mr. DOLE), and others on the Finance Committee have attempted to proceed as expeditiously as they could. They have their problems, also. What I am saying is not in criticism of anyone. It is simply the situation we now find ourselves in.

The second point I want to make is this: I support decontrol of oil prices. I supported decontrol of oil prices way back when, sometime early on in these discussions; months ago, and I did so on the advice that to decontrol would enhance production. But I supported decontrol with the understanding that we were also going to have a meaningful excess profits tax bill.

But I also favor a tax bill that will assist in producing energy—that is what we need to do, produce energy—at the same time, we are going to have to be fair with the American people and tax unwarranted profits.

I urged the President to decontrol. I am also going to urge the President, if the Congress does not pass a meaningful windfall profit tax bill, that he should put the controls back on. I am going to urge him to do that.

I think it is our obligation to pass a bill and to pass it after reasonable time for debate—one that is meaningful and kept within the balance that I have stated. Decontrols, yes. But also a windfall profit tax bill.

Mr. President, to repeat, I hope the President—if we do not get a meaningful excess profits tax bill out of Congress—will slap the controls back on. I think that is only reasonable and fair.

Third, let me say this—and I appreciate the indulgence of Senators in listening—if Congress completes action on this bill and on the Chrysler bill and on the conference report on the Chrysler bill by December 21, which is 2 weeks from today, it would be my desire, with the support and understanding of my colleagues, to go into a type of pro forma recess until January 22, which would be 1 month and 1 day—that would be a Tuesday—with this understanding: That it would be pro forma in nature. I will be here every day, the Lord willing. Other Senators would not have to be here unless the necessity arose.

I am not going, under any President, to leave this Senate in a situation, with an ongoing, very critical international crisis such as we have now, where any President is ever going to have to call this Senator back. We will call ourselves back. Because we have an international crisis, this Senate will be here when it is needed.

If the situation arises in which Senators are needed, the joint leadership will see to it that they are so informed and they can come back.

But, now let us take the other side of that coin. If the Senate does not complete action on this bill and on the Chrysler legislation, including the conference report on that legislation, by the 21st, it will be my intention to recess the Senate over, pro forma again, until January 3, which is the date set by law, unless Congress otherwise changes. In that case, we would be back in business on January 3, 1980.

Now, Mr. President, I think I have said all I need to say. I appreciate the patience of everyone. I know of no other way to proceed than the way I have indicated.

As I say, I am not criticizing anyone. Senators have been calling up amendments. But, at some point, we have to bring a halt to offering nongermane amendments and get on with action on this bill.

I realize that there are Senators on one side of the question who feel that we ought to get on with the minimum tax amendment. That amendment is being prepared and we can proceed in due time with that. But I urge Senators who are serious about calling up their amendments, and who have germane amendments, to be ready to call them up, because I should hope that cloture could be invoked on this bill on next Tuesday unless, in the meantime, we can work out a time agreement which would accomplish the same purpose.

We have not had a filibuster this year, and I do not call this a filibuster. I do not, in any sense, imply that.

But I should hope that we could work out a time agreement on this bill and also on the Chrysler legislation, so that the Senate can complete its work within the timeframe I have suggested.

Mr. MAGNUSON. Will the Senator yield?

Mr. ROBERT C. BYRD. I promised the acting Republican leader (Mr. TOWER) first to yield to him, and then I will yield to the able Senator from Washington (Mr. MAGNUSON).

Mr. TOWER. I thank the majority leader for giving me an opportunity to respond.

I first would note that were it not for the constitutional proscription on the Senate as to the introduction of revenue measures, we would never be confronted on a major tax bill with as many nongermane amendments as we are on this one and have been, indeed, on many other tax bills.

I do not think that the majority leader, or anyone else, should consider that the offering of nongermane amendments on this bill is simply an effort to delay it or to load it down in a mischievous way. But it is the opportunity that many Members seize on to initiate tax legislation that otherwise they would not be able to do. And we are not the body of original jurisdiction on tax measures.

I would say that most of the nongermane amendments that have been offered have not been offered in the spirit of mischief or in a desire to make this bill unpalatable or to delay it, but have been driven by genuine concerns that there are tax matters equally important with this that we should consider in the process of levying a heavy tax on one segment of American industry to finance a new spending machine that we are creating at the same time.

As to offering cloture, I am aware that the invocation of cloture would shut off nongermane amendments, but I would hope that the Senator from West Virginia would withhold on offering that cloture motion until some effort has been made at least to see what kind of an agreement we can strike on Chrysler. I think that should he offer a cloture petition on the so-called windfall profit tax bill at this time, that might militate against our being able to get a controlled time agreement of some sort on Chrysler.

That may not be achievable anyway, I do not know, but it is a matter that certainly should be explored.

As to the matter of the merits of decontrol and taxation, I will not get into the substance of that, except simply to say that many of us regard decontrol as simply one step that can be, in effect, obviated by a tax, because the function of decontrol, as I understand it, is to create an incentive for more production and at the same time, through the price mechanism, perhaps result in some conservation. I think the tax bill militates against that particular objective. And, too, it has been clearly shown that the tax bill will be a disincentive to production to the extent of perhaps 450,000 barrels a day at some point. Therefore, many who oppose this bill oppose it simply on the grounds that they are afraid that it will impact adversely on our drive toward energy self-sufficiency.

But the merits of this bill are being debated by the hour and the day, and, therefore, there is no need to get into that.

As to the pro forma sessions mentioned by the Senator from West Virginia, I do not disagree with that procedure for the recess period. I think that we should be prepared to call ourselves back into session without awaiting the pleasure of the President on that point. It is quite conceivable to me that the President would prefer that we do recess and not be in the pro forma position that we might come back. I can conceive of that kind of circumstance, and I hope I will not be considered to be partisan when I make that statement.

But I think we should be the masters of our own fate in this instance and be prepared to call ourselves back. Whether the President wants us back or not, we may want ourselves back here. Therefore, we should be prepared to do it through pro forma sessions.

Let me simply conclude by saying that I see no disposition on this side of the aisle to delay final action on this bill. I think even the opponents have faced up to the inevitable that in the current political climate there is no way we are going to prevent this so-called windfall profit tax bill from passing. It is going to pass. Some of us do have concerns about certain amendments, and once they are disposed of I believe that it will be probably relatively easy to get a controlled time agreement as to the final disposition of the bill. I believe that if the distinguished Senator from West Virginia could withhold the filing of his cloture petition until, say, Monday, it will give us some time to see what is likely to happen on one or two key amendments, and also to see what we can do in the way of trying to work out some kind of accommodation for Chrysler.

Mr. ROBERT C. BYRD. Mr. President, let me respond. I think that is a reasonable suggestion. I would like to pursue that. I want to go as far as I can go down the road toward an amenable solution to any problem here. So I will withhold offering the cloture motion until Monday, hoping that a time agreement can be worked out meanwhile on the Chrysler matter, and perhaps an agreement on this bill, as well.

If I may say one other thing while I have the floor, I think it should be stated that conferences are already meeting on the energy bills passed weeks ago by the Senate.

Mr. McCLURE. The Senator is correct. There is a meeting at 2 o'clock I am supposed to be attending right now, but I wanted to see what would be resolved here. And there is another meeting at 4 o'clock.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for mentioning that he is a conferee. There is some impression abroad that this Congress is just going to fold up and go home for a month and forget about the energy conferences. The energy conferences are being conducted now. Mr. JACKSON, the chairman of the Energy Committee, has conferences going with the House on the Energy Mobilization Board bill. Mr. Long is here and I do not presume to speak for him as he can speak for himself in a moment. He and I have discussed the matter of a conference on this tax bill. He has indicated to me that he does not think a conference will take long with the House.

It is Senator LONG's intention to move expeditiously to proceed with the conference on this bill once it is passed. I say that for the record so that the public will know that the Senate, while debating this windfall profit tax bill on this floor right now, is also working in conference with the House on other energy legislation already passed.

Mr. LONG. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Mr. President, I do not believe we need a limitation on each Senator of 1 hour as in the cloture rule as we need a germaneness agreement. Sometimes we have to vote for cloture just to get germaneness. I have been sitting here begging and pleading with Senators not to offer amendments not germane to this bill. Sometimes I have been successful and sometimes not. We on the Finance Committee met yesterday with the consent of the Senate, while the Senate was in session, and we voted on measures, all of which have been the subject of hearings. In some cases we said we would vote and if anybody wanted to change their vote they could change their vote. We agreed to more than 20 revenue measures which will be added to the House-passed bills and we will report them.

We on the Finance Committee, the tax-writing committee, will take our chances of passing those three bills on which those 20 amendments will be offered. We would urge other Senators to take the same chance that we are going to take, to put their amendments on these bills. I will urge the leader to help see that those bills are considered, that we try to get them up for consideration. I understand it is late in the session and that with any single thing that really rubs someone very much the wrong way, that makes them think it is very much against the public interest, a single Senator may be able to defeat it at this late stage in the session. But the same thing is true of the bill.

If Senators are willing to limit themselves to germaneness, we have three other revenue bills that we will call up. If we cannot pass them in this session, we will pass what we can and get back on it in January.

Mr. President, I ask unanimous consent—and I am sure the majority leader would have no objection and I hope the minority leader would have no objection—that further amendments to this bill be germane.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, I nevertheless plead with Senators to please try to limit themselves to germane amendments. I am willing to accommodate any Senator in trying to have his proposal considered and to have a vote on his proposition if it is a revenue measure, but to try to put it all on this bill really makes it very, very difficult to move the bill. Of course, that is one reason that some of us may find ourselves, in the end, being forced to vote for cloture because that is the only way we can get germaneness.

I do not think anybody has filibustered the bill, Mr. President. The problem is that we are being confronted with so many nongermane amendments that we just lose day after day and week after week considering matters that are not germane at all.

If the public wants to know why the bill has not passed, in my judgment, it is the nongermane amendments. Obviously, we have had some real heated fights about the amount of tax, but that is necessarily a part of passing this bill.

All these nongermane things could be offered on some other bill and can be offered between now and the time we get through. For example, as strongly as one might feel about, let us say, that gasoline tax we just voted on, that would not have taken effect for a whole solid year. They have a year to offer it on some other bill. But at this time, when we are led to believe that it is very important to get this matter settled, we have spent this time talking about an amendment with a tax that would not have taken effect until 1981 and I guess it would be in someone's tax return in 1982. That is 2½ years from now before anybody would really feel the benefit of that deduction.

I plead with Senators to recognize that there is a need to reach a decision here so we can get on with other vital national matters and to please withhold offering any further nongermane amendments.

Mr. DOLE. Mr. President, I objected to that request, not that I particularly oppose the proposition, but it seems to me we have two matters that are holding up this bill. One is the minimum tax that the administration wants to shove down our throat, and the minimum tax amendment can be offered right now. That is a germane amendment.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. The amendment that should be before the Senate right now is the plowback amendment by Mr. DOLE under the authorization. We have been temporarily setting it aside.

Mr. DOLE. I may want to work out a deal on the minimum tax in my plowback amendment. There is another amendment called the Danforth amendment which has something to do with State royalties. I do not understand that; we do not have that in Kansas. That would set off a hornet's nest in this Chamber.

But let us not get the idea that there is somehow a filibuster taking place in the Chamber or that we are bogged down on nongermane amendments. We are bogged down because we are not quite certain of the vote count on the minimum tax and we are not quite certain of the vote count on the Danforth amendment.

If the administration thought we could be rolled on the minimum tax and the chairman thought we could be rolled on the Danforth amendment, we would be moving right down the street. Some of us are concerned about how are we going to vote on the Danforth amendment, because we do not want the minimum tax. If we are going to tax the industry $85 billion, they are going to have to find some other money someplace else. We are up to 75 percent right now.

First, we exempt categories in the committee, then we trot it out on the floor and say let us put a tax on the exempt categories. The categories were exempted in the first place so we might have some incentive for production. But we want to take away that production incentive on the Senate floor.

Christmas is coming, whether we pass this bill or not. We are not going to be able to change that, I believe, by amendment. In any event, I suggest to those who want to move this bill, let us call up the minimum tax amendment. I would be glad to set the Dole amendment aside.

Frankly, on the plowback provision, we are trying to save time by working out an agreement with Senator STEVENS, who cannot be here, and Senator McCLURE, and this Senator, the Senator from Kansas, because we all have plowback amendments. We are ready to bring up the Danforth amendment, wherever Senator DANFORTH is, or the minimum tax amendment and, maybe, dispose of both of them this afternoon.

The PRESIDING OFFICER. The Chair wishes to call to the Senator's attention that the Senator from Missouri is in the Chamber.

Mr. DOLE. Yes, I noted that.

Mr. DANFORTH. Will the Senator yield?

Mr. DOLE. I am glad to yield.

Mr. DANFORTH. I just say to the Senator from Kansas that, several days ago, when there was an effort to put together a series of amendments which would come up in sequence, at that point, I offered to bring up an amendment with a time agreement and we could not work out an agreement.

I have one basic proposition. I think it will probably amount to two amendments rather than one. But I do not think there would be any problem working out an agreement on those two amendments.

I assume that both sides would want sufficient time to debate it thoroughly, but I have absolutely no intention, on either of my amendments, of stretching it out for extended periods of time.

Mr. DOLE. I think that is an indication that would meet with approval by the majority leader. We are not prepared to give any agreement on the minimum tax, because we do not want a minimum tax. But at least, if it were brought up, we might be able to table it and then move on to some other amendments.

As I indicated to the majority leader this morning, we are in the process, on this side, of asking each Senator what amendments he has that he really believes ought to be called up. We hope to have that by 5 o'clock.

There is certainly no disposition on this side, I say very sincerely, to delay. I shall not take much time on my amendments. I do not have many.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. The distinguished Senator indicated earlier today that that process had been set in motion on his side of the aisle and we are doing it over here, to see what amendments there are, what Senators have amendments that they seriously will call up. I hope the Senators will refrain from calling up nongermane amendments.

I thank all Senators for this discussion and I assure the acting Republican leader that I shall not offer the cloture motion today. I hope we can work out agreements on the Chrysler measure and on this measure, if possible, by Monday. I shall not offer the motion today.

Mr. TOWER. I thank the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I had understood that Senator BUMPERS wanted to speak on the amendment. Senator BUMPERS is in the Chamber. I yield the floor.

Mr. DOMENICI. Mr. President, after the Bumpers statement, are we prepared to vote? Is there a pending matter that we are going to vote on or can we go to the conference?

Mr. ROBERT C. BYRD. There is an amendment by Mr. ARMSTRONG, I believe, pending.

Am I correct?

Mr. ARMSTRONG. That is correct.

Mr. DOMENICI. Is it the leader's impression that we shall vote soon?

Mr. ROBERT C. BYRD. I do not know how many Senators will want to speak or how long Mr. BUMPERS will want. Mr. BUMPERS is now by the microphone. He may want to respond to that.

Mr. DOMENICI. How long does the Senator intend to speak?

Mr. BUMPERS. Ten minutes.

Mr. DOMENICI. I thank the Senator.

UP AMENDMENT NO. 870

Mr. BUMPERS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself, Mr. ROBERT C. BYRD, and Mr. MUSKIE, proposes an unprinted amendment numbered 870 to the amendment of the Senator from Colorado (Mr. ARMSTRONG) numbered 869.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language to be inserted by the amendment of the Senator from Colorado insert the following:

"Thirty days before the President makes any adjustment by rule or order under the Emergency Petroleum Allocation Act which has the effect of significantly slowing the rate at which price controls on crude oil under that Act are being phased out with respect to any category of crude oil, or which imposes price controls on crude oil at a level equal to or lower than the prices for such crude oil in effect on the date of imposition, the President shall give notice to the Congress of his intent to make such adjustment."

Mr. BUMPERS. Mr. President, I have offered a substitute amendment to the Armstrong amendment. I am opposed to the Armstrong amendment because it is an unnecessarily stringent approach. The amendment provides that if the President ever considers changing the decontrol rate he will lose the windfall profit tax. However, I am not trying to vitiate the total effect of the Armstrong amendment. Perhaps it has some merit.

My substitute amendment requires the President to give 30 days notice to Congress if he decides to alter the decontrol process. Congress can then take such action as it deems necessary, depending upon whatever circumstances may exist at that time.

This is a violent world, and these are very violent times. It often becomes necessary for the President to act in a certain way because of things we cannot possibly foresee as we stand on the floor today. Nobody could have known that the Iranian situation was going to arise, and certainly nobody could have known it was going to arise in the way it did. Nobody here knows how it is going to be terminated.

Mr. President, we should bear in mind that if there were no decontrol, there would be no tax. Unhappily, the effect of the Armstrong amendment is that the President may not alter decontrol without losing all of the windfall profit tax. Under the Armstrong amendment, if the President tinkers with decontrol by changing the rate of decontrol from 1.5 percent per month to 1 percent per month, then there is no windfall profit and, therefore, no windfall profit tax.

The President might conceivably have very good grounds for altering the present rate of decontrol. I think it would be most unfortunate if the Senate sought to tie his hands in such a way as to prohibit him from taking any action on decontrol. After all, he has already made his decision.

The President is literally pleading with this body to keep what he considers Congress part of the bargain. I was in the White House with him the morning he first discussed decontrolling oil prices. I made my feelings known to him. I disagreed with him. Having disagreed with him on the whole concept of decontrol, I pleaded with him not to decontrol until the windfall profit tax was in place. I thought he should keep a stick handy. Well, everybody within earshot of my voice knows that I did not persuade the President to my viewpoint.

So the hornets are out of the nest, and we cannot get them back in.

The President has been pleading with Congress to alleviate the economic disaster that decontrol would cause without a windfall profit tax, and we sit here now, ready to go into the 4th week of debate, so far, confessing to the world that we in the U.S. Senate are not prepared to pass a strong windfall profits tax.

We are saying to our constituents back home that the President took the action that apparently a large part of the U.S. Senate—perhaps a majority of the Senate—wanted to take, but the Senate has not yet voted to recapture a significant part of the windfall on behalf of the American people.

I think it would be unfortunate to adopt an amendment as broad as the Armstrong amendment and say that if the President decides to alter the decontrol order by one-quarter percent, one-half percent, or one-tenth percent, there will be no windfall profit tax. That would wreak even more havoc than is already being wreaked on the American people.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BUMPERS. I yield.

Mr. ROBERT C. BYRD. I compliment the Senator on his amendment. I ask whether he has any objection to adding my name as a cosponsor.

Mr. BUMPERS. I would be delighted to have the majority leader as a cosponsor, and I thank him very much.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, I trust that the Senate will turn down the Bumpers amendment. The effect of this amendment, of course, despite the representations of the Senator and despite his discussion, to vitiate completely the purpose of the amendment I have presented.

So, clearly, a vote for the Bumpers amendment is a vote against the idea that we should have a joining of the issue of windfalls and decontrol of crude oil.

The idea that the two are closely related and, indeed, that there is a cause and effect relationship between the enactment of windfall profits legislation and the decontrol of crude oil is not an idea which originated with the Senator from Colorado. In fact, I direct the attention of Senators to page 1 of the report of the Committee on Finance, explaining this bill. I will read just one sentence that sums it up well:

> The Finance Committee substitute for H.R. 3919, the "Crude Oil Windfall Profit Tax Act of 1979," imposes a windfall profit tax on domestic oil producers and royalty owners to supplement the decontrol of oil prices announced by the Administration.

We have before us a very, very complex piece of legislation, a piece of legislation which represents a series of delicately balanced compromises, compromises of which I do not fully approve but which have been worked out based on estimates of the present program of decontrol of crude oil.

This is an enormously complex subject, and the Senate is enacting a gigantic tax program on assumptions which have been built up from the present program for decontrol of crude oil, not from some faster or from some slower program for decontrol.

I favor a different kind of program for decontrolling crude oil, natural gas, and so forth. That is not the issue. The issue is that we have, as a matter of policy, established by the President, pursuant to existing law, a schedule under which crude oil will be decontrolled.

With that in mind, with that as the predicate, the Senate has fashioned a bill to impose windfall profit taxes on the oil companies. If the underlying decontrol schedule and all that implies is changed, clearly the legislation we are enacting today is not appropriate. The tax rates may be too low. The tax rates may be too high. They may be applied to the wrong classifications of oil.

All I am saying is that the ballgame will be different; and if the rules are to be changed, the Senate should be brought back into the picture and given a chance to look at the whole issue of what the windfall profit tax should be, what level of tax should be imposed, if any.

I have some real reservations, some deeply seated, strongly held reservations, about whether any one man should be given the broad powers which are granted to the President of the United States under existing law to regulate the prices of crude oil. The power to raise and lower the prices of this basic commodity is literally the power of life or death over many industries, over many regions of the country, over many communities. It is the power to decide which workers have jobs and which do not. It is the power to decide which communities thrive and prosper and which wither on the vine.

It is the power to determine whether or not a nation's energy companies make a profit, whether they have the resources necessary to reinvest in order to produce more energy for the Nation's future. It is the power to reward or punish various regions of the country.

This is more power, in my view, than the President of the United States or any other person should have.

I believe that if we are going to have a program for price controls, it should be established by law, just as we make most other decisions of this kind by law. We do not ordinarily delegate such sweeping power to any one man.

In its wisdom, however, Congress has seen fit to make that delegation of power to the President of the United States. We have conveyed to him enormous power to make discretionary decisions. The President has made his decision. He has announced what his program for decontrolling crude oil will be. It is not my program. It is not the Senate's program. It is not the program of the Congress of the United States. It is the President's program.

On the basis of that, on the basis of the administration proposal, the Senate is now fashioning a windfall profit tax bill. It seems to me very farfetched to suggest that this is the right bill if the underlying assumptions about the price of crude oil and the rate of decontrol are changed.

So I hope that the Senator from Arkansas will perhaps think again about this amendment and withdraw it. In its very essence he is not even asking that the President submit for the approval of the Senate any changes he may wish to make in decontrol. He is just saying the President shall notify us. It does not even require, as I read it, any formal submission.

Mr. President, there is another way to get at this, and depending on the outcome of this amendment, I may or may not offer an amendment in a slightly different form. The original formulation which I had in mind for my amendment was quite different. It simply read as follows:

> The President may not adjust, amend, or terminate any rule or order in effect on December 3, 1979 which is part of a plan to phase out price controls on crude oil under the Emergency Petroleum Allocation Act or change the application of any such rule or order to any class or category of crude oil after that date.

That amendment would have merely implemented the belief, which many of us have, that we should have a statutory basis for this decontrol program. When we are talking about setting the price of a commodity which is nearly the critical essence of the Nation's economic future, that should not be set by one man. It should be set by Congress. I think a good case can be made for an amendment of that type.

However, in consultation with others who are concerned, knowledgeable, and wiser perhaps than I, I was persuaded that it would be a more effective approach to the problem not to tie the President's hands, that having made a decision there was no reason to suppose that he would change his mind or change the rate of decontrol schedule which has now been promulgated by rule; therefore, it would be unnecessary for us to take up an amendment such as I have just mentioned which would legally restrict his authority to change the decontrol schedule, particularly in light of the fact that the administration has evidently expressed its concern about the amendment which I did offer which merely conditions the windfall profit tax on maintenance of the present schedule on maintaining the President's program for decontrol.

I am beginning to think that perhaps the amendment would have been better off to simply restrict the administration's power to make these adjustments. That is a very great power and perhaps, as I said earlier, one that no President should have.

Under the circumstances, Mr. President, it is my hope and recommendation to Senators that they defeat the Bumpers amendment and then proceed to pass the Armstrong amendment. For those who may have arrived late I will simply point out that the effect of doing so will be to condition the legislation enacted here today on continuation of the present schedule for decontrol. If the decontrol program goes forward as scheduled, as is the basic representation which has been made to the Finance Committee and to the Senate, then there will be no change in the windfall profit legislation.

If, on the other hand, the President sees a need to change the decontrol schedule, then in doing so, he will trigger the termination of the windfall profit tax which will put the matter squarely back in the lap of Congress which, in that event, is where it should be.

Mr. BUMPERS. Mr. President, I shall only take a couple of minutes.

First, I ask unanimous consent that the Senator from Maine (Mr. MUSKIE) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUMPERS. Mr. President, the power the President has now is power Congress gave him. We gave him the power to control. We gave him the power to decontrol. Now he is in the process of exercising that power in a way that up until now, at least, has been very acceptable to the oil industry and a number of Senators.

The only reason we are here now is that he chose to exercise that power in a very acceptable way to those people.

But under the Armstrong amendment, if he should exercise that power in a way unacceptable to the oil companies, he loses everything and they gain everything. If the President should slow the decontrol rate by one-quarter of a percent, we will have decontrol but no tax. I do not think even the Senator from Colorado wants that.

Under my amendment, the Senate is going to be notified and the House of Representatives is going to be notified 30 days prior to implementing any alteration or change in the decontrol order, no matter how minimal or insignificant the change may be.

That is adequate time for Congress to act. If we had a filibuster and it took 60 days to act, we would have ample time. What else do we want? Why tie the President's hands unnecessarily?

Mr. ARMSTRONG. Mr. President, will the Senator yield at that point?

Mr. BUMPERS. I am happy to yield.

Mr. ARMSTRONG. I want to be sure I understand clearly how the Senator's amendment would operate in practice. If the President sent us a notice of his intent to do something 30 days in advance of the date that he did it, am I correct in assuming that the way the Senate and House of Representatives would express their will would be through a joint resolution; that is, enactment of a statute if it were our desire to overturn the President's decision in any way or change the windfall tax?

Mr. BUMPERS. In the Emergency Petroleum Allocation Act, the President was given this power, and if we choose to take it away from him we can do that. If the majority of the Members of the Senate and House of Representatives elect today, tomorrow, or any other time to take it away from him, that is our prerogative.

Mr. ARMSTRONG. But am I correct in understanding that to do so under the Senator's amendment would require the passage of a joint resolution in both Houses of Congress and the signature of the President? In other words, let me make a hypothetical case. If in fact the President adjusted the crude oil price decontrol schedule in a way which prompted a majority of Congress to wish to change the windfall profit tax, am I correct that in order to do so it would require passage by a majority vote in both Houses of Congress and the signature of the President? My point is that without the approval of the President, which would be unlikely since we would be overruling his action in effect, it would require a two-thirds majority vote to override?

Mr. BUMPERS. That is the way it is with every bill we pass here.

The President has the right to veto it, which places a greater burden on Congress to overcome, of course.

Mr. ARMSTRONG. As a practical matter, and then I will be seated because I do not mean to interrupt the Senator's statement, as a practical matter——

Mr. BUMPERS. From a technical standpoint then the statement I made about a simple majority may or may not be the case.

Mr. ARMSTRONG. I want to clarify that because it is evident that to overrule the President or to change the windfall profit tax under those circumstances would be a very lengthy, difficult process and might take several months. It might take a year. It might never be possible. But certainly it would not be something that could be accomplished within a 30-day period.

Mr. BUMPERS. The substance of my argument is that under the President's decontrol proposal, he is saying to the oil companies, "We are going to let OPEC set the price of your product in the future," and a majority of Senators seem to be happy with that decision. Under the Armstrong amendment, if the President decides to slow that down and only decontrol over a period of 3 years instead of 2, then there will be no windfall profit tax, but the oil companies still price their product according to OPEC prices.

That is the old story of "What's mine is mine and what's yours is negotiable."

I do not think that is fair to the people of the country. I do not think it is fair to the President. That is the reason I have offered my substitute amendment.

Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Is the Senator from Colorado's amendment divisible?

The PRESIDING OFFICER. The Senator from Colorado's amendment is divisible.

Mr. BUMPERS. And the Bumpers amendment is an amendment to the first part of the amendment of the Senator from Colorado; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BUMPERS. Is it permissible then to ask for a division with a vote only on the first portion which my amendment affects?

The PRESIDING OFFICER. It is. The Senator is correct.

Mr. BUMPERS. Then the Chair will consider that as my request, and I ask for the yeas and nays.

The PRESIDING OFFICER. The amendment is so divided. The yeas and nays have been requested. Is there a sufficient second?

Mr. ARMSTRONG. Mr. President, may I inquire, are we asking for the yeas and nays on the Bumpers amendment?

The PRESIDING OFFICER. The Senator from Colorado is correct.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado. The rollcall has not been commenced.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum so that I may discuss one matter.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, before summing up the issue at policy level, let me just share with my colleagues a brief discussion I have had with the Senator from Arkansas. I wanted to clarify for my own benefit, and I will clarify for the benefit of other Senators, the effect of his request to divide my amendment.

My amendment has been divided at a point where the substantive part will now be before us, along with his proposed substitute for the meat of my amendment, leaving dangling some technical and conforming changes, and there is nothing more to it than that.

In the event the Senator from Arkansas should prevail, it will be his intention to ask whatever technical changes are necessary be made by the clerk and I, of course, will agree to that. There is nothing deeper or more meaningful at the policy level to his request for a division of the amendment than just what I have stated, and I believe the Senator will agree.

Mr. BUMPERS. The Senator is correct.

Mr. ARMSTRONG. I would like to discuss briefly the remaining policy issues, and I ask the Senator from Arkansas this question so that we can illuminate the issue.

Is it the position of the Senator from Arkansas that the decontrol program of the President as it now exists is a desirable one? Did I understand him to say he did not favor the President's program?

Mr. BUMPERS. The Senator is correct. I never favored the President's decision to decontrol. One morning a group of us met with the President and urged him not to decontrol unless the order was coupled with a windfall profit tax.

Mr. ARMSTRONG. Unless he coupled it with a windfall profit tax?

Mr. BUMPERS. That is correct.

Mr. ARMSTRONG. I am wondering, at least at one level I share his feelings that the two issues go together, that windfall profits are logical only if there is decontrol, and I wonder if the Senator would be interested in the amendment which I discussed earlier, not the amendment I offered but the one which I considered offering and may offer later in the day, which simply says that the President may not further adjust the decontrol program, and which would have the effect of enacting into the same statute with the windfall profit tax the decontrol.

It seems to me that to separate those and to leave one discretionary with the President while fixing the other into a statutory enactment creates a very awkward and potentially very unfortunate situation.

Would the Senator be interested in an amendment that would simply wrap it all up together so that it is all before the Senate now, and then if it has to be changed later the Senate and House would have a chance to vote on the whole thing?

Mr. BUMPERS. I would have to look at the Senator's amendment.

Mr. ARMSTRONG. I would be happy to suggest the absence of a quorum.

Mr. BUMPERS. I would like to talk to the Senator about it.

Mr. ARMSTRONG. I would be glad to yield for other speakers or to suggest the absence of a quorum so that the Senator can look at it because that is really the gut issue involved here.

Mr. BUMPERS. Will the Senator state the text of his amendment again?

Mr. ARMSTRONG. I have not yet offered it, but I would be willing to offer it. It simply says:

> The President may not adjust, amend, or terminate any rule or order in effect on December 3, 1979, which is part of a plan to phase out price controls on crude oil under the Emergency Petroleum Allocation Act, or change the application of any such rule or order to any class or category of crude oil after that date.

The effect of such amendment would simply be that having enacted a huge tax bill on the basis of the present decontrol schedule that that decontrol schedule may not be changed without further action by the Congress.

Mr. BUMPERS. That would be after a windfall profit tax would be put in place?

Mr. ARMSTRONG. If we adopted this amendment it would be part of a windfall profit tax bill. In other words, this amendment, if it were to be offered, would be put right into this act.

Mr. BUMPERS. Is the Senator saying that once the tax becomes law with the President's signature on it there would be a provision in it that said if the President altered the decontrol mechanism in any way the windfall profit tax would fall?

Mr. ARMSTRONG. No. The President's authority to alter the decontrol schedule would be terminated and the schedule would be part of the law.

Mr. BUMPERS. I am sorry I could not agree with that because the substitute amendment I have offered is adequate protection for the Congress if the President ever chooses to alter the decontrol order in any way. None of us have enough vision to know whether the President should not be allowed to tamper with the decontrol process. I would be reluctant to tie the President's hands to that extent.

We are just looking ahead a year and a half, and I think the President is going to keep his word. I do not think he is going to tamper with the decontrol order.

If I were the President, I would be saying to this body that I am prepared to reimpose controls right now. I think he made the decision to decontrol oil prices in good faith. He made that decision with the understanding that Congress would pass a good windfall profit tax—one that is fair to the American people.

In my opinion, we have been on this 3 weeks, and we are stalemated. You can call it by any other name, but that is the substance of it. We are on high center, and I do not know whether we are going to get off or not.

But if I were the President, I would do as I did as Governor, call the legislators down to the office and " 'splain" the bill to them, as we say in Arkansas. That is the technique we often used to get bills passed. If I were the President I would be " 'splaining" this bill to some folks.

If I had decontrolled oil prices in utmost good faith, believing decontrol, coupled with a good windfall profit tax to be in the best interest of the country, and then found a majority of Senators and all the oil companies trying to thwart the tax, then I would reimpose controls. Otherwise, it is a one-way street. It reminds me of the little boy who dropped his lunch money on the way to school. He could not find it and he was desperate, so he got down on his knees and started to pray to find his money. While he was praying, he saw it. He looked up and said, "Never mind, God, I just found it."

That is what is going on here. We are saying "Thank you, Mr. President. Now that we have got what we wanted from you we may or may not give you what you asked in exchange."

Everybody knows how I feel about this matter. I am not going to go through all my philosophical and economic arguments again, but I do not think we are keeping faith with the President, I do not care whether you are a Republican or a Democrat.

(Mr. DECONCINI assumed the Chair.)

Mr. ARMSTRONG. Mr. President, it is no wonder to me that the Senator from Arkansas is thought to be one of the most skillful orators in this body, because he has really made the very best argument——

Mr. BUMPERS. That is all right, Senator; you do not have to pay any tribute to me.

Mr. ARMSTRONG. Well, the Senator's skill is evident from his description here today. But the logic of his proposition seems to me to be no tribute to any Senator.

What he seems to be saying is that Congress and the Senate shall be bound, that we shall enact our decision into a statute, and then leave it to the President to change his part of the bargain—and this is a bargain. That is what the report of the Finance Committee said it was, and that is what the Senator from Arkansas said. The Senator from Arkansas said the President said he is not going to change the schedule for decontrol of crude oil, and so be it. I am just saying that after we have enacted the legislation, we should not leave it open to this President or to subsequent Presidents to make a change in the schedule now in effect. I see no reason to question the good faith of the President of the United States. If he says this is his schedule for crude oil, I believe it. I have no doubt that he has acted in good faith.

But I have never heard the President promise that he would not change the decontrol schedule after the enactment of the windfall profit tax. Second, there is going to be an election; someone else might be in the White House a year from now. I do not say that to criticize the President or the administration; not in the slightest. I am just saying that it is a bad system, a system which binds Congress, when Congress makes a tax policy—and this is an important tax, not some trivial excise or some minor code modification; we are talking about a huge tax on what may very well be the most important commodity in our Nation's economy—and we base that tax policy on schedules and representations by the President and the White House, and then leave it to them to change those underlying considerations afterward. That seems to me to be very poor policy.

Mr. BUMPERS. Mr. President, will the Senator yield for a moment?

Mr. ARMSTRONG. Of course.

Mr. BUMPERS. Let me talk about the politics of this whole matter for a moment. When the President announced his decision to decontrol oil prices he was the lowest in the polls of any President in the history of this country, including Richard Milhous Nixon—lower in the polls than any President of the United States had ever been.

At that very moment he announced to the world that he was going to decontrol the price of oil, in the certain knowledge that the American people would be separated from between $1 trillion and $3 trillion over the next 10 years in exchange for, in my opinion, very little except to satisfy somebody's convoluted notion of the burdens and perplexities of control and regulation.

He, thereafter, got a memo from one of his chief staff members and advisers that it was the worst thing he had ever done politically. He said, "I knew it was going to be, but I did it because I thought it was right."

When a President of the United States, who is not above politics, as you and I are not, makes a decision which he knew at the time would be politically devastating to him, but makes it in good faith, and then says to Congress, "I am now expecting you to fulfill your share of the bargain"—then he has acted in good faith with Congress. So far there has been no reciprocity on the part of Congress; and the oil companies, who wanted controls taken off worse than they wanted to go to heaven, have lobbied this body as intensely as it has ever been lobbied to kill any semblance of a decent windfall profit tax.

People keep calling me about the Shah, and asking, "What do you think about what Senator KENNEDY said about the Shah?" and, "Do you think the Shah should have been allowed to come here?" I do not want to comment on every controversial statement made by a Presidential candidate. But I want to say this: Decontrol was a very courageous decision on the President's part. It may have been the wrong one, but he made it.

Now, what the amendment of the Senator from Colorado would do is say, as we used to in the Marine Corps, "Pull up the ladder, Jack, I am on board," and I do not think it is fair.

Mr. ARMSTRONG. Mr. President, I wonder if we should lay aside the pending business in order to consider the language of the suggestion of the Senator from Arkansas that the President is a man of political courage. I would like to vote for that proposition; I think he is.

What I am saying is that whenever a decision of this kind gets logged into a statute, we should not leave the other part of the decision subject to any kind of future decision by one man. I would feel just the same about it if the shoe was on the other foot. I think it is just as wrong for the Congress of the United States to enact into law the price decontrol schedule and leave it to the President of the United States to adjust the windfall tax rate, as a matter of one-branch discretion. That may seem like a farfetched possibility, but that is exactly the correct analogy, because what we are talking about is how much revenue will be raised and how much new oil, how much tier 2 oil, and how much heavy oil will be produced. If we leave the President with the discretion, without action by Congress, unilaterally to make those adjustments, the effect will be to permit him to adjust the consequences of the tax act which we will pass.

I think we have identified the differences of opinion between the Senator from Arkansas and the Senator from Colorado on that point. I want to make only one other observation, which relates to the Senator's earlier comments, and then I am prepared to let the matter come to a vote, unless other Senators wish to speak. Maybe after that we can vote on my other amendment, or not, as seems necessary at that point.

The Senator from Arkansas says we have been here for 3 weeks, and have been really stalemated, wrapped around the axle. I do not know whether I agree with that, but the amendment says that the President, in the event he intends to change the schedule, will give Congress 30 days' notice. The implication is that we will be able to get the matter through the House Committee on Ways and Means, through the Rules Committee of the House, through the Senate Finance Committee, obtain action by both Houses of Congress, go to conference, get the conference report enacted, and get the legislation to the President for his signature within a 30-day period.

It seems to me that is a very unlikely scenario, and that a vote for the Bumpers amendment is really just a vote to say that the President ought to have discretion to change his mind about crude oil decontrol after the passage of the windfall profit tax legislation.

So I ask that the Bumpers amendment be defeated. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ARMSTRONG. Are we dealing here with a substitute amendment, Mr. President?

The PRESIDING OFFICER. This is a substitute for the amendment of the Senator from Colorado.

Mr. ARMSTRONG. I think the issue is clear. I urge my colleagues to vote no on the amendment of the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 870) of the Senator from Arkansas (Mr. BUMPERS). The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr. CULVER), the Senator from Kentucky (Mr. FORD), the Senator from Alaska (Mr. GRAVEL), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGOVERN) is absent on official business.

Mr. TOWER. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Utah (Mr. GARN), the Senator from Utah (Mr. HATCH), the Senator from California (Mr. HAYAKAWA), the Senator from MARYLAND (Mr. MATHIAS), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Utah (Mr. GARN) and the Senator from Utah (Mr. HATCH) would each vote "nay."

The PRESIDING OFFICER. Is there anyone in the Chamber who has not voted?

The result was announced—yeas 42, nays 40, as follows:

[Rollcall Vote No. 464 Leg.]

YEAS—42

Baucus
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Cranston
DeConcini
Durkin
Eagleton
Exon
Glenn
Hart
Hollings
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Stone
Tsongas
Williams

NAYS—40

Armstrong
Bellmon
Bentsen
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Hatfield
Heflin
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Thurmond
Tower
Wallop
Warner
Weicker
Young
Zorinsky

NOT VOTING—18

Baker
Bayh
Biden
Bradley
Church
Culver
Ford
Garn
Goldwater
Gravel
Hatch
Hayakawa
Huddleston
Kennedy
Mathias
McGovern
Stevens
Talmadge

So Mr. BUMPERS' amendment (UP No. 870) was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NELSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Until the Armstrong amendment, as amended, is disposed of, any further amendment would be out of order.

Mr. NELSON. Mr. President, I did not hear the Chair.

Mr. ARMSTRONG. Mr. President, may we have order?

The PRESIDING OFFICER. Until the Armstrong amendment, as amended, is disposed of, any further amendment would be out of order.

The question is on division 1, as amended, the yeas and nays have been ordered, and the clerk will call the roll.

Mr. ARMSTRONG. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. ARMSTRONG. Will the Chair restate the question?

The PRESIDING OFFICER. The question is on division 1 of the Armstrong amendment, as amended.

Mr. ARMSTRONG. Mr. President, I suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withhold that request for a moment?

Mr. ARMSTRONG. Yes.

Mr. BUMPERS. The Armstrong amendment was in four parts. The substance of the first division was just voted upon. The other three parts are simply follow-on perfecting amendments so that the rest of the bill would conform to the first part. Is that not correct?

Mr. ARMSTRONG. Mr. President, I think the Senator has accurately stated the issue. I see no reason for a rollcall vote at this time. That is why I suggested a quorum. I should like to check with some of my other colleagues. Unless there is a reason to have a rollcall on this issue, I would suggest that we proceed.

It is my intention, Mr. President, to raise the issue again in a slightly different way, in view of the large number of absentees and the very close vote that we have had. In looking at the absentee list, it does appear that there is a strong likelihood that the amendment would be adopted the first of the week. So in a slightly different version, perhaps along the lines I discussed earlier, I may raise the issue again. But I see no reason to take the time of the Senate to have a rollcall vote at this point on the Bumpers amendment. I ask if other Senators feel the same.

Mr. MATSUNAGA. Will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. MATSUNAGA. Would it be acceptable to the Senator from Colorado to set aside his amendment temporarily so that Senator NELSON may offer his amendment?

Mr. ROBERT C. BYRD. Mr. President, let us have a voice vote——

Mr. BUMPERS. Mr. President, would it be in order to ask unanimous consent that the balance of the Armstrong amendment be withdrawn? They are simple perfecting amendments.

The PRESIDING OFFICER. That would be in order.

Mr. BUMPERS. That would be in order?

The PRESIDING OFFICER. That would be in order.

Mr. BUMPERS. Would it be in order for anybody except the Senator from Colorado to make that request?

The PRESIDING OFFICER. It would take unanimous consent.

Mr. ARMSTRONG. Mr. President, I make that request then, just to make things easier. I understand that it does not prejudice in any way our right to raise the issue again in a different way when 18 more of our colleagues are present next week.

The PRESIDING OFFICER. The Senator is correct.

Mr. ARMSTRONG. I make that request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. Division 2 is withdrawn.

Division 2 was withdrawn.

Mr. ARMSTRONG. I ask the Senator from Arkansas if he will vitiate the yeas and nays.

Mr. BUMPERS. Mr. President, if the unanimous-consent request did not vitiate the yeas and nays, I ask unanimous consent that the yeas and nays be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to division 1 of the amendment.

Division 1 was agreed to.

Mr. DOLE. I move to reconsider the vote.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 871

(Purpose: To allow a production tax credit for qualifying processed wood fuel)

Mr. NELSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) for himself, Mr. TALMADGE, and Mr. MATSUNAGA proposes an unprinted amendment numbered 871.

Mr. NELSON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 147, beginning with line 11, strike out all through page 148, line 21, and insert in lieu thereof the following: "barrel over such fraction bears to a barrel.

"(f) TERMINATION DATE.—This section shall not apply to taxable years beginning after December 31, 2000.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Production of fuels from nonconventional sources.".

(2) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuels produced after December 31, 1979, in facilities placed in service, or from wells drilled, after September 30, 1979, and before January 1, 1990.

(2) EXCEPTIONS.—

(A) QUALIFYING PROCESSED WOOD FUELS.—In the case of qualifying processed wood fuels (within the meaning of section 44D(d)(2) of the Internal Revenue Code of 1954, as added by subsection (a)), the provisions of section 44D(c)(1) of such Code, as so added, shall not apply, and the amendments made by this section shall apply to fuels sold after September 30, 1980, and before October 1, 1983 and produced in facilities placed in service after April 20, 1977, and before October 1, 1980. In the case of facilities placed in service after September 30, 1980, and before January 1, 1982, such credit shall apply to fuels sold for three calendar years following the date such facility was placed in service.

(B) BIOMASS STEAM.—In the case of steam produced from solid agricultural byproducts, the amendments made by this section shall apply to steam sold after December 31, 1979, and before January 1, 1985, and produced in facilities placed in service after September 30, 1978.

Mr. NELSON. Mr. President, the Finance Committee substitute provides a tax credit for the domestic production of energy from certain alternative sources, including "qualifying processed wood fuel." The credit is equal to $3 per barrel of oil equivalent. A barrel of oil is equivalent to 5.8 million Btu's of energy.

The amount of the credit would phase out as the price of imported crude oil rises from $23.50 to $29.50 per barrel. This amendment provides that the full $3 tax credit would be available to qualifying processed solid wood fuels for a period of 3 years from the date the production facility is placed in service.

Under the amendment, the credit would not phase out in the case of qualified wood fuels as the price of imported crude rises to $29.50.

Under this amendment the full $3 production tax credit would be available as of October 1, 1980, for production facilities placed in service before that date. For these facilities the credit would be available through September 30, 1983. For production facilities placed in service after September 30, 1980, and before January 1, 1982, the full $3 credit would be available for 3 calendar years following the date the facility is actually placed in service. Since the credit does not become available until October 1, 1980, this amendment will have no revenue impact on the fiscal 1980 budget.

QUALIFYING WOOD FUEL

"Qualified processed solid wood fuel" is a pelletized biomass.

These pellets can be burned in their solid state in conventional coal or wood-fired equipment, or can be converted into a combustible, stable gas in a gas generator to facilitate utilization in gas or oil-fired furnaces. Proven in numerous installations, 1 ton of pellets generates approximately 17 million Btu's, burns with no sulfur emissions, meets EPA particulate emission standards with less than 3 percent ash, handles easily, and can be made available for industrial and residential use today.

The pellets are made from biomass fiber, essentially any organic fibrous waste. To date, the majority of the pellets produced have been made using forest and lumber mill waste products. However, other fibers which have been successfully pelletized include bagasse (sugar cane residue), peat, rye grass straw, copra and rice hulls, hardwood bark, ipril and luan wood, and primary and secondary sewer sludge. Other possible raw material sources include grass, vines, leaves, or cellulose fiber vegetation in the form of fast growing high Btu trees, planted as a crop for that purpose.

Unlike other proposed synfuel technologies, the wood pellet manufacturing process is basically simple, utilizing off-the-shelf machinery and technology available today from the agricultural industry. In producing the pellets, the raw material is pulverized, dried to approximately 20-percent moisture, and then compressed at extremely high pressures (30,000 psi) and temperature (300 degrees F). The heat and pressure not only decrease the volume and increase the density of the raw material, but also further reduce the moisture content and rearrange the fiber structure to increase the amount of carbon readily available for burning in the finished product.

ENERGY PRODUCTION

Each wood pellet plant module produces 100,000 tons of pellets per year, the equivalent of 1.7 trillion Btu's or almost 300,000 barrels of oil per year. If 1,000 plants each produced 300 tons of pellets per day, they would produce the energy equivalent to 300 million barrels of oil per year. At $20 per barrel for imported oil, our Nation's balance of payments would be improved by over $6 billion annually.

ECONOMIC CONSIDERATIONS

The wood pellet concept consists of small efficient plants uniformly distributed throughout a geographic area. In this way, the plants operate in the most efficient manner, decreasing freight costs and providing a more properly balanced employment distribution.

Because of the size and efficiency of the plants, pellets can be produced for approximately $30 a ton and transported to the user within a 75-mile radius for an additional $4 a ton. The total cost of production is; therefore, around $2 a million Btu's. To be equivalent to this cost, coal would have to sell at a delivered cost of $50 a ton, No. 6 fuel oil at a delivered cost of 30 cents a gallon ($13 a barrel), and natural gas at $2/Mcf. It should be noted, however, that the wood pellet figures are production costs, returns on investment incentives are required for the manufacturer to construct and operate plants and for the user to change fuel sources. If modifications are required to the user's equipment he will require a fuel cost savings to justify his capital expenditure.

Other economic advantages are realized by wood pellet production. A thousand plants would employ 20,000 people directly and create an additional 5,000 jobs for transporation and handling of the fuel. These new jobs would generate almost $400 million annually in taxable income for the U.S. Treasury.

The construction of 1,000 plants would not only generate additional taxable income but also revenues on machinery and related equipment for the plants. One thousand plants would generate expenditures of over $3 billion by pellet manufacturers.

These are a few of the desirable effects of manufacturing fuels from our own natural resources. In addition to helping solve our Nation's energy problems, these plants rechannel money that is going out of the community back into the community by creating new jobs and additional revenues.

THE NEED FOR A PRODUCTION TAX CREDIT

The growth of the processed biomass industry will depend upon the return corporations can realize on their plant investments. A tax credit based on millions of Btu's produced would allow corporations to realize quicker returns, thereby allowing them to increase their capital commitments for plant construction. It is estimated that the suggested tax credit on Btu production would allow a corporation to increase its commitments by a factor of 5. With the credit, a corporation could construct 100 plants in 5 years; without the credit, 20 plants could be constructed.

The committee bill provides a $3 production tax credit. However, the credit would terminate if the world price of crude oil rises to $29.50 per barrel.

The current OPEC price is approximately $23.50 per barrel. Moreover, on the spot market, some oil has been trading at $45 a barrel. And OPEC is expected to raise the $23.50 base price to over $30 a barrel within the next few weeks.

Therefore, the $3 production tax credit will probably never be available for the development of alternative energy sources.

This amendment will provide a measure of assurance to those who would risk investment capital for the construction of wood pellet plants. It provides that the tax credit will be available for 3 years regardless of the world price of crude oil. Without this assurance, the plants may not be constructed and the precious energy they would produce will be lost. We cannot afford to take this risk. Industry must be assured that the credit will be available.

This amendment places a moratorium on the phaseout of the credit. The Joint Tax Committee estimates the revenue impact of the proposal would be $286 million between now and 1985, when the credit would terminate.

Mr. President, this amendment was narrowly confined to one phase of fuel production. I understand that the distinguished Senator from Hawaii has a substitute that broadens the base of this amendment to extend this same credit to other qualifying processes, which the original bill permits to be covered by a credit now. So, Mr. President, I yield the floor to the Senator from Hawaii who, I think, wishes to amend my amendment.

UP AMENDMENT NO. 872

(Purpose: To provide that the credit for the production of fuels from nonconventional sources will be allowed without regard to the phaseout for the first 3 years of production)

Mr. MATSUNAGA. Mr. President, I send a substitute amendment to the Nelson amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA), for himself, Mr. NELSON, Mr. TALMADGE, Mr. MOYNIHAN, Mr. PACKWOOD, and Mr. DURKIN, proposes an unprinted amendment numbered 872 to the Nelson amendment numbered 871.

Mr. MATSUNAGA. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the matter to be inserted by the Nelson amendment, insert the following: "barrel over such fraction bears to a barrel.

"(7) LIMITATION ON APPLICATION OF PHASEOUT.—Beginning with taxable years beginning after September 30, 1980, the provisions of subsection (c)(1) (relating to phaseout of credit) shall not apply with respect to the first 3 taxable years of production of qualified fuels by a facility or property (within the meaning of section 613(a)) with regard to periods after September 30, 1980.

"(8) WOOD FUEL PRODUCTION UTILIZED BY TAXPAYER.—Qualifying processed wood fuel (as defined in subsection (d)(3)) which is produced by the taxpayer and which is used by the taxpayer in his trade or business to produce steam shall be treated as having been sold if the taxpayer establishes and maintains adequate records to reasonably satisfy the Secretary as to the barrel-of-oil equivalent of the qualifying processed wood fuel produced by the taxpayer which is used during the taxable year. The amount of production which is treated as having been sold by the taxpayer shall be reduced by the amount of fuel that is directly used by the taxpayer in producing the qualifying processed wood fuel.

"(f) TERMINATION DATE.—This section shall not apply to taxable years beginning after December 31, 2000.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

"Sec. 44D. Production of fuels from nonconventional sources.".

(2) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuels produced after December 31, 1979, in facilities placed in service, or from wells drilled, after September 30, 1979, and before January 1, 1990.

(2) EXCEPTIONS.—

(A) QUALIFYING PROCESSED WOOD FUELS.—In the case of qualifying processed wood fuels (within the meaning of section 44D(d)(2) of the Internal Revenue Code of 1954, as added by subsection (a)), the provisions of section "SEC. 44D. Production of fuels from non-not apply, and the amendments made by this section shall apply to fuels sold after September 30, 1980, and before October 1, 1983 and produced in facilities placed in service after April 20, 1977, and before October 1, 1980. In the case of facilities placed in service after September 30, 1980, and before January 1, 1982, such credit shall apply to fuels sold for three calendar years following the date such facility was placed in service.

(B) BIOMASS STEAM.—In the case of steam produced from solid agricultural byproducts, the amendments made by this section shall apply to steam sold after December 31, 1979, and before January 1, 1985, and produced in facilities placed in service after September 30, 1978. Where the facility is placed in service on or prior to September 30, 1978, the amendments made by this section shall apply to steam sold after September 30, 1980, and before January 1, 1985, only to the extent, additional or replacement facilities placed in service after September 30, 1978, increases the production capacity and actual production is increased.

Mr. MATSUNAGA. Mr. President, the amendment I am proposing guarantees the $3 tax credit per barrel of oil equivalent, for the production of alternative energy for a period of 3 years for qualified facilities. This amendment implements the production credit provision already in the committee bill.

The committee bill, however, has a phaseout provision; under the phaseout, once oil reaches the price of $29.50 a barrel, the $3 credit would not be allowed.

Already, the price of a barrel of oil is approaching $29.50. If we were not to accept this amendment to disregard the phaseout for at least 3 years, those exploring the feasibility of producing synthetic oil and energy from alternative sources, would lack the incentive to do so. This amendment is in full keeping with the intent of the bill itself; that is, to encourage entrepreneurs to risk the production of alternative sources of energy.

Of course, as we well know, the President proposed the windfall profit tax for the purpose of raising money to finance the production of energy from alternative sources; development of domestic alternative energy resources would reduce and eventually eliminate the importation of foreign oil from uncertain sources.

Mr. President, it is my understanding that the manager of the bill is prepared to accept this amendment. It is my understanding that the minority side has no objection to this.

Mr. DOLE. The minority side has not been consulted on it. I am not certain we will accept it.

Mr. RIBICOFF. May I say there may be opposition on this side to this proposal. This is a proposal that will cost some $3 billion over the next 10 years. The credit was intended to provide a price incentive for the producton of specified forms of energy. After the credit phases out, this amendment would continue to subsidize production for at least 3 years without regard to the price for which competing forms of energy or oil sells. This credit was originally provided when the price of oil was down at about $23 or $24. Now it is coming up to $30 and it is going to rise further. There are enough incentives with the normal market price to warrant the alternate sources of energy without giving a special break to these alternative sources of energy.

So the committee proposal was a fair one, and there is no justification at the present time, because the price of oil has gone up, to give this special break to the amendment of the distinguished Senator. I have to oppose it.

Mr. MATSUNAGA. Mr. President, I believe I still have the floor. I have not given up the floor.

In response to the Senator from Connecticut, I must emphasize again that the alternative energy program in the windfall profit tax bill seeks to eliminate the importation of foreign oil. How do we eliminate the importation of foreign oil? By developing alternative sources of domestic energy; by offering this $3 credit, we will encourage the development of alternative domestic energy.

The Senator from Connecticut will recall that the committee did accept and approve the Talmadge amendment, establishing the $3 credit; at that time we had no idea the OPEC nations would raise the price of oil to the extent they have.

The cost of developing alternative sources of energy—for plant, equipment, and labor—has increased with rising oil prices. Unless we provide an incentive, the industry will have no encouragement to undertake the risk and develop alternative sources of energy.

Let us keep in mind the objective of this bill, and let us not forget that this amendment implements the original provision the committee bill; we are not extending the credit to any other sources not covered by the bill. We are merely assuring that the credit originally intended, will continue for at least 3 years.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I yield to the Senator from Wisconsin.

Mr. NELSON. I point out that the cost is no greater than we anticipated the cost would be when we adopted the amendment in the Finance Committee. The cost is the same. What we did not anticipate was that the price of oil would rise as rapidly as it has.

Therefore, the proposition before us is the same as the proposition that was before us in the Finance Committee, and the need and the desirability of inducing various alternative sources of energy so we will not import so much oil remain the same.

There are forests all over New England and in other parts of the country. I am interested in a pelletized wood process. We have plenty of resources in my State and, as I said, all over New England. Pellets for this process can be made from biomass fiber, essentially any organic fibers. Pellets have been produced from forest and lumber mill waste products.

However, other fibers which have been pelletized successfully include sugar cane residue, peat, rye grass, straw, copra, rice hulls, hardwood bark, primary and secondary sewer sludge. All these have been pelletized and used as a source of energy.

I think it is important that we let this credit go at least for 3 years and not have the trigger point for a cutoff of the subsidy occur at a certain dollar value, because that is unrelated to the problem we are seeking to solve.

In the Finance Committee, we could just as well have selected a figure of $35 a barrel, and then any company or anyone in this country would have been eligible. We arbitrarily took a figure, expecting that it would be high enough so that industries which wanted to get into this kind of alternate source would have an inducement to do so. We guessed wrong as to how fast the price of a barrel of oil would go up. That would not bar us from proceeding with what we thought in the Finance Committee, after careful consideration, was a sound and good proposal.

Mr. President, I do not know whether the Senator from Hawaii has yielded the floor or just yielded to me.

Mr. MATSUNAGA. Mr. President, I regret the earlier confusion. I was under the mistaken impression that the staff had worked out the matter and agreement had been reached. However, I find the situation to be otherwise; the Senators had not been informed about this.

Mr. President, I point out, in addition to what the Senator from Wisconsin has said, that this credit would apply to items already in the committee provision—that is, oil from shale; oil from tar sands; natural gas from geopressurized brine, coal seams, or Devonian shale; liquid, gaseous, or solid synthetic fuel, other than alcohol, from coal liquefaction or gasification facilities: gas from biomass; steam from agricultural byproducts; and qualifying processed solid wood fuels.

In addition the credit is cost effective. It applies only if the facilities create alternative energy. If the energy is not produced, the credit does not apply. In other words, only in the event a barrel of imported oil is replaced or displaced by an equivalent of that barrel of oil, by the production of domestic alternative sources of energy, will the $3 credit apply. So it is cost effective. It is not a case of a giveaway.

I think the figures of the committee staff indicate that this will cost $3 billion. The committee provision originally was intended to cost that much. But the provision may never be implemented, because the phaseout provision will apply prematurely. This amendment corrects that situation; the amendment does not deviate from the intent of the original committee bill. The amendment carries out the original intention of the committee; it gives a tax incentive for undertaking the present-day uncertainties and developing alternative sources of energy. If the energy is produced, the developers will get the credit. If they do not produce, they do not get the credit. That is how simple it is.

I cannot see why the Senator from Connecticut would object to this. I do not believe he is representing the view of the committee.

Mr. RIBICOFF. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I yield the floor.

Mr. RIBICOFF. Mr. President, I do not know whether I represent the view of the committee or not, but as a Senator, I represent the view of myself and, I believe, of many other Senators.

I was a member of the committee when this credit was voted on. At that time, oil was $21 a barrel, and it was estimated that the alternate sources of nonconventional energy would be expensive and that, therefore, they were entitled to a break of $3 a barrel, which would take it up to $24.50, to make them whole. But now oil is at $30 a barrel. So this extra $3 credit would be a new windfall.

With oil going up at a rapid rate and OPEC meeting soon, undoubtedly we will be paying $30, $40, or $50 for a barrel of oil, and the $3 certainly will be absorbed easily in the cost of production. Consequently, it is no longer necessary to give an incentive to the nonconventional producers of energy, because they will more than be able to amortize their additional costs and make a substantial profit.

It is one thing to give a $3 break to someone producing oil at $21 a barrel in the marketplace, but it is another thing to give it to someone who is getting $30,

$35, or $40 a barrel. Not only would it cost the fund $3 billion, but also, it would give an unnecessary break to a group in our society to which it is not necessary. Therefore, I oppose the amendment.

Mr. DOLE. Mr. President, the Senator from Kansas dislikes opposing any amendment, but I might say in this instance I know the staff had a conversation but it was not brought to the attention of the Senator from Kansas until it was introduced a few moments ago.

I guess we could all suggest the best way to increase production, and there have been a number of votes in this Chamber. Some of us offered proposals we thought at least would not hinder production by loading up increased taxes on oil producers, and we have been not very successful in that effort. But in any event until the Senator from Kansas has a chance to fully understand the amendment, until the staff has had a chance to fully explain it to this Senator, I must either oppose the amendment or hope that we have another chance to look at it before it is finally put to a vote.

Does the Senator from Hawaii want to withhold action on the amendment now and try to work it out? I do not want to foreclose favorable consideration.

Mr. NELSON. I thought both sides worked on it.

Mr. MATSUNAGA. Mr. President, I have just discussed with the Senator from Wisconsin the situation before us. Under the circumstances we are willing to lay aside the amendment temporarily. I ask unanimous consent that the Nelson amendment and the substitute which I offered be laid aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, what is the pending business?

The PRESIDING OFFICER. The order is to consider plowback amendments offered by either the Senator from Kansas (Mr. DOLE) or the Senator from Washington (Mr. JACKSON).

Mr. DOLE. But other amendments are in order?

The PRESIDING OFFICER. By unanimous consent.

Mr. RIBICOFF. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURDICK). Without objection, it is so ordered.

Mr. DOLE. Mr. President, a parliamentary question.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is it in order to make statements?

The PRESIDING OFFICER. Yes.

LET'S SET THE RECORD STRAIGHT ON TAXFLATION

Mr. DOLE. Mr. President, yesterday the Senate voted to automatically increase taxes every year without needing to vote the increases. That is the practical effect of the Senate vote on the Dole-Armstrong amendment to the windfall profits tax. The amendment would have ended the inflation tax penalty by precluding the automatic tax increases that occur when inflated income pushes people into higher tax brackets.

Perhaps the Senate is not ready for such a significant, simple, and essential tax reform. But the American people are ready for it, and the Senator from Kansas is gratified that the Senate is moving closer to ending taxflation. When this issue was last voted on the floor of the Senate, there were 37 votes for indexing the income tax, and 53 votes against. That was in October 1978. Now, little more than a year later, 42 votes were cast in favor of indexing, and only 46 votes were cast in opposition. If anyone doubted that support for indexing is growing, they should doubt no longer.

Mr. President, the Senator from Kansas would like to express his deep appreciation to those of his colleagues who spoke in behalf of the Dole-Armstrong amendment, and to those who cosponsored the proposal. I particularly want to thank the distinguished Senator from Colorado, Mr. ARMSTRONG, for his fine effort in behalf of this amendment.

Mr. President, the inflation taxing penalty has become a bipartisan issue, as yesterday's vote clearly shows. I believe the Senators on our side of the aisle should be unanimous in support of tax indexing, and I hope that that will be the case next time around. But the bipartisan nature of the support for indexing convinces me that we will win next time the question is brought up. For that reason, there is cause to be gratified by yesterday's action.

I was disappointed, however, by the quality of the arguments raised in opposition to the Dole-Armstrong amendment. We have heard them all before, and they have been definitively rebutted before. Just so there can be no further doubts, let me address some of the objections raised by the distinguished Senator from New York (Mr. MOYNIHAN) and by the distinguished chairman of the Finance Committee (Mr. LONG).

Mr. President, Senator MOYNIHAN stated that the Dole-Armstrong amendment would cost the Treasury $17 billion in 1981, and $92 billion by 1984. These figures are wrong, and I do not know how the Senator arrived at them. I suspect that he misunderstood how the Dole-Armstrong amendment would work, so I will take this opportunity to explain it to him.

The Dole-Armstrong amendment, like the Tax Equalization Act, S. 12, would require that the tax brackets, zero bracket amount, and personal exemption be adjusted each year according to the rise in the Consumer Price Index for the most recent year. This needs to be done so that withholding tables for the coming tax year will reflect the inflation adjustments.

For calendar year 1981, the adjustments would reflect the inflation during fiscal 1980. According to the Joint Committee on Taxation, inflation will increase income taxes by $9.7 billion in fiscal 1980 (assuming 10.6 percent inflation in calendar year 1980). That $9.7 billion is the amount that the Dole-Armstrong amendment would restore to taxpayers for calendar year 1981. Again according to the joint committee, inflation would raise taxes by another $9.6 billion in fiscal 1981. This amount would be restored to taxpayers in calendar year 1982. The figure for fiscal 1982 (calendar 1983) is $9.9 billion; for fiscal 1983 (calendar 1984) it is $10.1 billion. The inflation assumptions are 9.3 percent for 1981, 8.6 percent for 1982, and 7.8 percent for 1983.

Mr. President, these figures are not nearly so terrifying as those suggested by Senator MOYNIHAN. Admittedly, the figures are much higher if you consider the cumulative effect of inflation on taxes. Once people are pushed into higher tax brackets, they stay there; and the inflation tax increase for 1 year is taxed again the next year. But even if that factor is taken into account, the Joint Committee on Taxation estimates that in 1984 the cumulative revenue effect on indexing under Dole-Armstrong would be $66.7 billion, not $92 billion as stated by Senator MOYNIHAN.

But whatever figures you accept, the argument that tax indexing would increase the deficit is false and misleading. That argument was made yesterday by both Senator LONG and Senator MOYNIHAN. It is false because Congress can find ways to cut spending, or it can vote to increase taxes to raise revenues. I suspect the Senators fear having to face such a vote. The argument is misleading because the Senators who raise the specter of a rising deficit claim, at the same time, that periodic tax cuts are adequate to compensate for the effect of inflation on taxes.

In other words, the Senators expect to vote for tax cuts that would eliminate the taxflation revenues anyway. What they want is to preserve their ability to take credit for tax cuts that do nothing more than maintain the status quo. Either that, or they must concede that inflation does automatically increase the tax burden, and the size of Government, over time. They cannot have it both ways, as they are accustomed to do.

Mr. President, these threadbare arguments against tax indexing prove that the time is near when tax equalization will be enacted. The case against it has been demolished, and there are no new arguments to be made. I urge my colleagues to continue to work for this legislation, and to continue to educate the public concerning inflation and taxes. Equity, honesty, and sound economic policy have always been on our side. Now we have the momentum as well.

Mr. President, I understand the Senator from Washington (Mr. JACKSON) and the Senator from Kansas have plowback amendments pending. Is the Senator from Washington ready to proceed? The Senator from Kansas is not.

Mr. JACKSON. No. Monday.

Mr. DOLE. I indicate in due time those amendments will be presented.

The Senator from Kansas wishes to have the opportunity to call up an amendment sponsored by the Senator from Kansas, the two Senators from New Hampshire, and the distinguished Senator from Maine (Mr. COHEN). The amendment is one of those nongermane amendments. But I might add that it does directly involve energy and the energy crisis and the need for urgent action. It is a matter where there is a great deal of interest in this particular amendment by the Senator from New Hampshire (Mr. DURKIN) and the Senator from New Hampshire (Mr. HUMPHREY).

All it does is increase the statutory ceiling on SBA guaranteed loans to fuel oil dealers at prime interest rate with a 90-percent guarantee from $500,000 to $1 million; and increase the statutory ceiling on economic dislocation loans to fuel oil dealers at 8¼-percent interest from $100,000 to $500,000.

Mr. President, the Senator from Kansas would just indicate that we are in the winter season now, and while I understand the reluctance to accept nongermane amendments, I also understand that Mother Nature is not going to wait until Congress goes through the hearing process next year and until we have an appropriate vehicle from an appropriate committee.

I hope that before the day is out we can offer this amendment and have it accepted or voted on by the Senate. There is no cost involved in the amendment. It is not an amendment that costs any money. I think it will be very helpful to those fuel oil dealers, medium-sized and small fuel oil dealers, who are paying increased costs for heating oil.

Mr. LONG. Mr. President, we have an agreement that we are going to vote on some amendments that are germane to the bill, and I would be willing to agree to set aside those germane amendments to vote on something that is germane to the bill. But I would have to object to setting aside amendments that are germane to the bill to take up amendments that are not germane to the bill. We will just never get this bill to a vote if we are going to continue to debate and consider amendments here that are not germane to the bill. We will be here until Christmas.

For example, the Finance Committee met on yesterday and considered 30 amendments that it recommended involving revenue bills, and all of them have merit. It even declined to act on some that have merit because the Treasury opposed them. Every one of those amendments, perhaps 30 in number, could all be offered here on this bill, and all the time we spend debating those just delays the action on this bill.

Now, in a plea to the distinguished ranking Member on the other side of the aisle, I would appeal to him to withhold these nongermane amendments for the time being and let us vote on the things that are germane to the bill. He has an amendment. If it is germane I would plead with him to bring it up and let us vote on it. But please spare us these nongermane amendments until we have had an opportunity to act on the amendments that must be disposed of, that are germane and, perhaps, essential to this bill.

We have these other bills coming up behind this bill and the amendments could be offered to one of those. Would he please limit himself for the time being to germane amendments so that we can make progress on something that is germane to the bill.

Mr. DOLE. The Senator from Kansas prefaced his remarks that this amendment was not germane and he would not pursue it at this time if there were germane amendments to act on. If there were not, I do not know why we could not act on an amendment that does not cost anything, an amendment that would accommodate some Members of this body and accommodate some fuel oil dealers who are having trouble in some areas that are cold.

Mr. LONG. Mr. President, every time we act on one nongermane amendment, we open the door to other nongermane amendments. There have been several Senators who have come to me for the purpose of offering amendments that are not germane. I plead with them not to offer them but to come forward with amendments that are germane. Their plea is, "Well, there are nongermane amendments in the bill already," one that was reported and proposed by the Senator from Kansas, which is a good amendment, but we decided that this was one we wanted to send down to the President on a bill he very much wanted to sign. We thought about it and thought about it, and that it might amount to a confrontation, and we decided to do that and made up our minds to do that.

But I know this amendment is not quite that sort. If we start getting into more and more of these type things, it just postpones indefinitely the time that we can get around to others. People who have amendments that are here—and we have had a whole sheet of amendments around here, most of which are germane to the bill—I would urge that we consider those rather than talking here this afternoon and adding more and more nongermane amendments. By the time we get to Monday people will clean out their desk drawers on nongermane amendments, and we will have more from those with imagination.

Every time we add one that sets the stage, and if we must invoke cloture in order to get a germaneness rule, that then sets the stage, for people to offer amendments to those amendments which leaves us even further afield and takes more time before we can get through.

I yield to the Senator from Arizona.

Mr. DeCONCINI. Mr. President, what is the pending order, the plowback amendments of Senator DOLE or Senator JACKSON?

The PRESIDING OFFICER. There is an order pending providing for the consideration of an amendment of the Senator from Kansas and an amendment of the Senator from Washington.

Mr. DeCONCINI. A further parliamentary inquiry. To vary from that order would take unanimous consent; is the Senator from Arizona correct?

The PRESIDING OFFICER. That is correct.

Mr. DeCONCINI. I thank the Chair.

Mr. DOLE. If that is the case, I understand the Senator from California has a little bombshell he wants to drop here, a little technical amendment, that wipes out the Danforth amendment, so I will object to anything he wants to offer if it takes unanimous consent, and we can stop right now.

Mr. ROBERT C. BYRD. Mr. President, we do not have to stop right now. Under the order Mr. DOLE can call up his amendment, I believe, or we can ask unanimous consent, as we have been doing, continuing to set that aside and to proceed with any other amendments.

I am prepared at this time to either withdraw my amendment to the House bill—I do not need any consent to do that—or I can ask unanimous consent to temporarily lay it aside and let somebody offer an amendment to the House bill.

Mr. DOLE. I would certainly be willing to not object if the Senator from Arizona has a germane amendment he wants to offer. I might say to the majority leader that the Senator from Kansas agreed to a time limitation of 1 hour, and then two of those amendments were set over until Monday, and we were hoping on this side that we could merge them.

Mr. DeCONCINI. Mr. President, will the Senator from Kansas yield?

Mr. DOLE. Yes, I would be happy to yield.

Mr. DeCONCINI. The Senator from Arizona's amendment is nongermane. It does not affect revenues. I have waited for over a week and tried to work with the committee majority and minority to try to get the amendment up. I am willing to enter into a time agreement. It is not a highly controversial amendment. It deals with a slight repeal of the 1976 tax bill, and yet I have waited and accommodated myself for over a week to get a single amendment up. I do not mind waiting a day or 2 days, but I think it is unreasonable around here to stand and wait and let everybody else bring up amendments because they happen to be "germane," and I happen to have an amendment that does not apply to revenues.

Mr. ROBERT C. BYRD. Mr. President, we just started only today, may I say to my friend from Arizona, urging that amendments be germane. There have been days this week and days last week—and I can see where I have been on my knees, I can see the spot where I was on my knees on the carpet, pleading for Members to come over and call up their amendments, and I did not ask whether they were germane or not germane.

Mr. DeCONCINI. I was not here when the Senator was on his knees asking for that. But I have had folks tell me when I asked if I could bring up the amendment to "Please put it off. We are working on a time agreement, and we would appreciate it if you would not bring up any amendment at this time," and I have continuously accommodated them.

Mr. DOLE. Mr. President, the Senator from Kansas has no objection to the Senator from Arizona—I do not know what the amendment is, but it sounds like a good one—bringing up his amendment; but I would have some objection to the Cranston amendment, unless we understand what it is. I would be willing to agree that the Senator from Arizona might bring up his nongermane amendment if following that the Senator from Kansas still has the floor.

Mr. CRANSTON. Mr. President, I would like to say that my amendment does not wipe out the Danforth amendment. It does not mention the Danforth amendment.

Mr. DOLE. Well, the Senator from Kansas is aware of what is happening here. Once we take care of the chairman and his problems, cloture will be invoked, and the rest of us can go fishing.

We all have to protect our interests in this Chamber, and I am going to do the best I can to protect my own and that of other Senators who do not want a minimum tax unloaded on categories that are exempt.

If we can take the sting out of the Danforth amendment, cloture can be invoked; but until that is done I do not believe any cloture will be invoked around here, as I understand the feelings of the membership. But if we could take care of the Danforth matter, we could wrap up this other package. We were very nearly in agreement a few days ago, within a few dollars. I do not know about the amendment of the Senator from California, but if we could have some time to discuss his amendment with members of the staff on this side—we have not seen it, and we have not been a part of the discussion. That is not a requirement, but it is a courtesy that is sometimes extended.

Mr. CRANSTON. My amendment, in specific terms, was approved by the Finance Committee. It is no bombshell, no surprise.

Mr. DOLE. Does it do anything?

Mr. CRANSTON. It is an amendment to the House-passed bill that asserts the right of States to decide what to do with their revenues. Why should the Federal Government tell the States how to use their money if they use it for public purposes?

Mr. DOLE. I am sympathetic with the Senator from California's subject matter, but I have to protect the rights of the Senator from Missouri, who is on his way, I hope. He better hurry.

In any event, I would like to vote with the Senator from Louisiana, but any little leverage we have on this side we do not want to have consumed by agreeing to some procedure that will, in effect, make it much easier to impose a minimum tax on certain exempted categories of oil. This Senator has a strong feeling that that would happen.

Is yours an amendment to the House bill?

Mr. CRANSTON. Yes.

Mr. DOLE. As I understand, that is not open to amendment.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. Mr. President, I would be willing to lay my amendment aside, on behalf of myself and Mr. BRADLEY, to allow Senator CRANSTON to offer his amendment to the House bill.

Mr. DOLE. Well, I remember the other day the distinguished majority leader—I said, "We forgot to withdraw that amendment from the House-passed bill." He said, "No, we did not forget that at all. It is there for a good purpose. We plugged that avenue. We are going to stay on this Finance Committee bill and act on it."

I said, "That is a good idea; I wish I had thought of it."

But I understand the flexibility here, particularly on the part of the leadership. I do not want the leadership amendment on this bill, but this would permit a test vote on the Danforth amendment, without it having any impact. Maybe that is the place to put the minimum tax.

If we could work out some agreement to put the minimum tax on the House-passed bill, maybe we could work out a package. But we have alerted the Senator from Missouri, and I trust that he is on his way.

Mr. NELSON. Mr. President, will the Senator yield for a question?

Mr. DOLE. Be happy to.

Mr. NELSON. I understood the Senator to say that this would be a test vote on the Danforth amendment. I am not sure of that. I do not think it would be. I might be for the Danforth amendment, but also for the Cranston amendment, because, as I understand, the House allowed the States to control their revenue, but earmarked it for education, which simply allows the Governor of the State to use it for education purposes on the State level. I do not even think we should have a rollcall on the Cranston amendment.

Mr. DOLE. The Senator may be correct, but I would like to have the Senator from Missouri present. His feeling is that we are legislating here for the benefit of four States, and it will be a big drain on the so-called frost belt States. They will get $33 billion in taxes; I do not know how many billions of dollars in California; Alaska is not exactly sun belt, but—that is their theory. It may not be mine.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. DOLE. I am happy to yield to the Senator from California.

Mr. CRANSTON. I would like to say there are many more than four States that would benefit from the legislation.

Mr. DOLE. Well, 83 percent would go to four States.

Mr. CRANSTON. Let me tell you exactly what the amendment is, so we can talk about it intelligently.

Mr. DOLE. That would be helpful.

Mr. CRANSTON. The House language reads:

> Under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to public education.

It is a limit that revenues can only be used for public education. My amendment would simply insert the words "or other public purpose."

Why should we tell States they can use money from their own resources only for public education, if they have some other higher, demonstrable need in their own wisdom, like energy development, like transportation, or like other public purposes?

Mr. DOLE. As I understand, that is essentially what happened in the Senate Finance Committee.

Mr. CRANSTON. Right.

Mr. DOLE. And I think I voted that way in the Senate Finance Committee.

Mr. CRANSTON. Yes.

Mr. DOLE. So I do not want to be misunderstood. I do not believe I am going to be misunderstood. That is the thing that Senator DANFORTH would not agree with.

Mr. CRANSTON. Where is Senator DANFORTH?

Mr. DOLE. He is on his way. I do not know whether he is coming from Washington or Missouri, but he will be here. He has been notified.

Maybe we can work it out, if it is only going to be a little change on the House bill.

But it does seem to me that the only way the Senator has—I may not disagree with that amendment, but I disagree with the procedure. I can see the fuse getting a little shorter on any amendments others may have, because once this is adopted, I assume there will be a motion for cloture. Maybe the Senator from California opposes the minimum tax on the heavy oil they have in California. I would hope that would be the case.

Mr. CRANSTON. That is correct.

Mr. DOLE. So we can count on that.

Mr. CRANSTON. I happen to agree with the Senator on that.

Mr. DOLE. There may be others around who would oppose the minimum tax on that, and I hope the Senator from California will remember that. But that is the question the Senator from Kansas is pondering while the Senator from Missouri is traveling to the floor. If we could somehow avoid the minimum tax, then I believe a majority of the Senate could accommodate what the Senator from California has in mind. But in the meantime, it would seem to me that there are those Senators with legitimate nongermane amendments which can be adopted without much discussion, and I would hope that at the appropriate time some of those that are noncontroversial can be accepted or adopted by the Senate.

I might also suggest that we should have within the next hour a list of all the amendments on this side, whether or not they are germane, and whether or not the sponsors of those amendments would be willing to enter into a time agreement on their amendments. We have found thus far that most were willing to do that. Also, I guess we have discussed nongermane amendments, but I would hope we could accommodate the leadership in that way.

I would say to the Senator from Missouri, who has just entered the Chamber, that the Senator from California has an amendment that might be of some interest to the Senator from Missouri. I wonder if, without my losing my right to the floor, the Senator from California would repeat the substance of his amendment to the Senator from Missouri.

Mr. CRANSTON. Certainly.

Mr. DOLE. I ask him to do that.

Mr. CRANSTON. Certainly. It is an amendment to the House bill. Where the House bill states: "Under the applicable State or local law, all of the net income received pursuant to such interest is dedicated to public education." My amendment would add four words to that provision, simply stating: "or other public purpose."

The objective would be to permit the States to do what is certainly appropriate under the doctrine of States' rights and under our Federal system: to use their own resources and their own revenues from those resources for the purposes that they deem are most suitable.

In my view, proposing to tax State-owned oil revenues—and that has been proposed—makes as little sense as levying a Federal surtax on revenues collected by State tax collection agencies.

The States should be allowed to use their resources for what they would like to use their resources for. If they would like to use them for education, fine. If they would like to use them to develop means of energy or modes of transporting energy, or modes of transporting people through transportation facilities, they should have that right. Whatever the public needs that is paramount, it seems to me that a State should be allowed to use their resources for that purpose.

The Sohio pipeline, which I think is of interest to the State of Missouri, was defeated for various reasons, primarily, perhaps, because the Sohio Co. decided to put corporate interests ahead of national interests.

The State of California is now considering developing the Sohio pipeline, using substantial State funds for that purpose. That would be—I would like to have the attention of the Senator from Missouri, if I may.

One purpose that the State of California is giving serious thought to in regard to using State resources is to develop the Sohio pipeline, which would be of great benefit to the people of Missouri and to other States.

The Sohio pipeline was not built, mainly because Sohio put corporate interests ahead of the national interests. The State of California is now exploring the feasibility of using revenues available to the States, and some other resources, to develop that pipeline on its own. Obviously, that could not occur if the State was robbed by the Federal Government of substantial resources presently available to the State. I believe that would be a disservice, not only to the people of California, but to the people of Missouri and the people of other States.

Mr. DOLE. Mr. President, have the yeas and nays been ordered to the Byrd amendment to the House bill?

The PRESIDING OFFICER. They have not been ordered.

Mr. DOLE. Mr. President, I would ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. Mr. President, I will yield to the Senator without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, maybe I can help the Senator with the yeas and nays a little later, if we could let the colloquy go on. I understand Mr. Danforth was about to speak. Am I correct?

Mr. DOLE. Is the majority leader suggesting that I yield the floor to the Senator from Missouri?

Mr. ROBERT C. BYRD. If you wish to.

Mr. DOLE. I yield to the Senator from Missouri (Mr. Danforth).

Mr. DANFORTH. I thank the Senator from Kansas for his usual skill and care in protecting the interests of other Members on this side of the aisle, and particularly other members of the Finance Committee.

I am sure that the Senator from Kansas has some questions about the nature of the amendment which I plan to offer at some time. I do not know how he intends to vote on it. But it is characteristic of him and of the kind of leadership that he has shown on the Republican side in the Finance Committee, that regardless of what position he intends to take on the Danforth amendment, or amendments, whenever they are called up, that he would protect my interests at this time.

Mr. President, as I understand the parliamentary situation, we have a unanimous-consent agreement that no amendments are in order at this time to the Senate bill, unless such amendments are related to the question of plowback. I ask the Chair if that is the parliamentary situation at this time?

The PRESIDING OFFICER (Mr. Pryor). The order is either for the Senator from Kansas (Mr. Dole) or for the Senator from Washington (Mr. Jackson) to offer a plowback amendment to the bill.

Mr. DANFORTH. So it would take unanimous consent for me to offer an amendment at this time to the Senate bill, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DANFORTH. Mr. President, I ask unanimous consent that it may be in order at this time for me to offer an amendment to the Senate bill.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, I have no objection, if the Senator wants to offer the amendment he has been talking about.

Mr. DANFORTH. Well, it may be a different amendment; it may be the same amendment.

Mr. LONG. Well, a Senator usually sends his amendment to the desk so all Senators can see what the amendment is.

The PRESIDING OFFICER. Does the Senator from Missouri desire to send the amendment to the desk?

Mr. DANFORTH. Mr. President, I might, at some time in the foreseeable future. I want to consider that. I am, more or less, thinking on my feet, since I did not anticipate this course of events to occur this afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, I am not willing to give unanimous consent, without knowing what I am giving unanimous consent to. I would have to object, under those circumstances. If the Senator would like to send his amendment up, I would be glad to give consent, if he is offering the amendment he has been talking about here. But if it is something else, then I do not know whether I would want to consent or not. I would like to see what the amendment is.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I must object, Mr. President, to a request to offer some amendment without specifying what the amendment is.

I believe the Senator has the amendment printed. If it is the amendment that I believe he has in mind, I would be glad to consent. But I would like to know what it is I am being asked to consent to.

The PRESIDING OFFICER. The objection is heard.

Mr. ROBERT C. BYRD. Has the Senator objected yet?

Mr. LONG. I objected, because the Senator has not told us what amendment he had in mind. If it is amendment No. 707, then I would not object.

Mr. DANFORTH. Mr. President, I am not aware of any precedent for a Senator identifying in advance what amendment he is sending to the desk. I simply have asked unanimous consent that it may be in order for me at this time to offer an amendment to the Senate bill.

Mr. LONG. Mr. President, when one Senator asks unanimous consent, another Senator can object to it for any reason whatever. The point that concerns me is if I am giving consent for someone to offer an amendment, I want to know what I am giving consent to. So far, there has been objection to an amendment to be offered by Senator Cranston, and he specified what he had in mind. If it is the Senator's amendment No. 707, I would be glad to give consent. For all I know, if he has other amendments he wants consent for, I might be glad to give consent for them. But I want to know what I am consenting to.

Mr. DOLE. Will the Senator yield for a parliamentary inquiry?

Mr. DANFORTH. Yes.

Mr. DOLE. Can the Senator from Kansas send an amendment to the desk?

The PRESIDING OFFICER. The Senator from Kansas may send a plowback amendment to the desk.

Mr. DOLE. If I can send a plowback amendment to the desk, then he can amend my amendment?

The PRESIDING OFFICER. The amendment would be amendable.

Mr. DOLE. I thank the Senator for yielding.

The Senator from Missouri has the floor.

Mr. DANFORTH. Mr. President, I would just like to speak at this point about the nature of the amendment offered by the Senator from California. As I understand it, in the House of Representatives at the 11th hour, I believe, as the consideration of the windfall profit tax was beginning to wind down, a Representative from Texas, I think Representative Pickle, offered an amendment to the tax to the effect that States should be exempt from the application of the windfall tax provided the revenues they received from royalties are dedicated to educational purposes. Without any particular consideration or thought about what that means, that amendment was accepted by the House of Representatives. I am not sure that there was ever really a rollcall vote on that particular proposition.

When the matter was brought up in the Senate Finance Committee, the point was made that the fact that funds are dedicated to an educational purpose really is not much of a limitation at all. It is not much of a limitation because of the fact that money is fungible. The money which is used for education is cash. Money which the State uses to operate their highway patrol or to build highways or to hire State employees is simply cash.

Therefore, if you have a fund available and you spend it for education, that simply frees up funds which would be available otherwise, which would be used otherwise, for educational purposes and makes those funds available for other purposes of the State.

It is my understanding that what the Senator from California is doing here is to add some words which probably in reality will not have all that much effect.

The State of California, even without the additional words that Senator CRANSTON would add to the bill, is going to be doing exceedingly well as a result of the decontrol of the price of oil. But I think, Mr. President, that this is one of the matters that we have lost sight of in our consideration of the windfall profit tax. We have addressed our attention as a Senate almost exclusively to how much money is going to be left in the hands of the oil producers and how much money is going to be taken from the oil producers and turned over to Government. This has been a matter on which the Senate has gone on at very great length.

I think the distinguished majority leader mentioned earlier this afternoon we have already taken something like 3 or 4 weeks on the windfall bill. The majority leader is contemplating filing a cloture petition because he feels that we should get on to other matters.

Mr. President, I am sure we should get on to other matters in the foreseeable future. However, we have failed to pay attention to an economic consideration which, in the opinion of the Senator from Missouri, is at least as important as the question of how much in the way of funds is saved to the oil producers and how much goes to Government.

Mr. CRANSTON. Will the Senator yield?

Mr. DANFORTH. Of course.

Mr. CRANSTON. The Senator stated a while ago that the amendment was offered in the House perhaps without very much thought. It was offered after very careful thought by a Texas Congressman because Texas allocates all of its revenues to education. As a consequence, I understand, it has a very fine educational system.

I would like to ask the Senator what rationality there is for devoting funds produced by this oil only to education, why not other purposes, like transportation, like other public needs? Why only education?

Mr. DANFORTH. I am not sure what the history was in the House.

Mr. CRANSTON. But just in the Senator's own mind.

Mr. DANFORTH. My answer to that question very frankly would be what public needs are we talking about. I think if we are talking about public needs which are peculiar, say, to the State of California, then as far as a citizen of Missouri is concerned, or anywhere else in the country, it really does not make very much difference.

Mr. CRANSTON. We would be talking about what is publicly determined under a State's constitution, under State law, by action of the legislature, by action of the legislative branch to meet, under the theory of States rights, what needs seem to be appropriate to be met. In this case it so happens that the State of California is considering investing a lot of time, effort, and money in exploring the feasibility of using a substantial portion of these revenues to build what was once called the Sohio pipeline. The State of California would like to build that. It would like to see it built. It would like to share its excess energy with people elsewhere, including the people in the State of Missouri. Here is a public program that the State of California envisages which would help the people of the Senator's State and other States.

Mr. DANFORTH. Let me ask whether any public purpose would include, for example, using the proceeds from royalties to acquire more oil-producing properties.

Mr. CRANSTON. It could. It would be whatever the State determines is appropriate use. The purpose of acquiring more State oil-producing properties would be to achieve funds, to earn funds to meet public purposes and thereby, to hold taxes down or reduce taxes. Is the Senator against reducing taxes where that is possible?

Mr. DANFORTH. Am I what?

Mr. CRANSTON. Is the Senator against reducing taxes where that is possible?

The objective here is to find ways to hold down the taxes of local taxpayers.

Mr. DANFORTH. I can only say to the Senator from California, for whom I have the greatest possible respect, that I really believe that our perspectives are somewhat different with respect to this bill and with respect to the entire energy situation and the situation with respect to decontrol.

My view is that we have a national energy crisis. My view is that the entire country is threatened by a national energy crisis; that this is something that is not peculiar to the State of California, it is not peculiar to the State of Texas or to the State of Louisiana or to the State of Alaska; that the energy crisis that America is facing today is one that hits every citizen of our country—not just a fraction of the citizens, every single one.

The issue, therefore, before the Senate as we debate the windfall-profit tax should be, how does the revenue relate to the national purpose? How does the revenue relate to the economic good and the energy security of the United States of America as a whole? Therefore, if the question is, Do I object to the possibility of having a situation arise where a few States—and I am talking about four States in number—receive such an additional economic benefit for their own people, for the service of their own people, that it does mischief to the rest of the country, yes, I am concerned about that. That is precisely what the issue is.

Mr. LONG. Will the Senator yield at that point?

Mr. DANFORTH. Of course.

Mr. LONG. I think I understand the point. This Senator is very concerned about taking the property of a State, and minerals are property. Mineral rights are real property rights. The Senator from Missouri would like to use the Federal power to tax away the property of a State. The Senator would ask to permit the State to keep some of its own property, he would ask, "How does this serve a national purpose?" I would ask, "How does it serve a State purpose?"

Minerals from State-owned lands are property of the States to begin with. I would ask him, How did it serve a State purpose for the Federal Government to take away from the State something that does not belong to the Federal Government? How would it serve a Federal purpose, for example, for the Federal Government to tax away a State's own revenue that the State taxes from its citizens? How would that serve a Federal purpose?

That is what comes next. What the Senator is proposing would tax a State just as though it were a corporation. If the Senator could do what he proposes to do here, it would make just as much sense to say a State should file a Form 1040, just like a corporation, and pay taxes on its income, just as though the State capitol building were corporate property, and pay a tax on that. Under both Federal and State laws, mineral rights are real property rights just as the State capitol building and the land on which it sits is real property. Legally, the minerals are part and parcel of the land itself.

When the Senator seeks to deny a State its income or deny a State its property, he asks, how does that serve a Federal purpose? My question to him is this: How does it serve a State purpose? The property, I say, to the Senator, belongs to the State itself. Would the Senator mind explaining how this serves a State purpose?

Mr. DANFORTH. I think it is very clear. The four States that are involved are going to be doing very well under any circumstance.

Mr. LONG. There are a lot of States involved. I would be glad to provide for the RECORD a list of States that have oil production on State lands. They are: Alabama, Alaska, Arkansas, California, Colorado, Florida, Illinois, Indiana, Louisiana, Michigan, Mississippi Montana, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, Tennessee, Texas, Utah, Wyoming, and South Dakota.

A further question. Basically the Senator is making the argument that we should redistribute the resources so that the States who have those resources would have less benefit out of them. The Senator says this tax should apply to all royalty interests, especially that which comes from under State lands. Why not redistribute the royalties from under Federal lands? If this is a windfall for the States to receive the royalty income on the increased price on oil from their State lands, is it not equally a windfall for any State to receive that 37.5 percent that they get out of the oil that comes from under Federal lands located within their States? Is that not equally a windfall?

Mr. DANFORTH. I say to the Senator from Louisiana that, quite frankly, I have not considered that matter. What I have considered is simply the advisability of deleting a special exemption which is provided in this bill. A special exemption has been provided in this bill for royalties received by State and local governments.

Mr. LONG. If we are going to tax at all, does it not make better sense, and does the Senator not have a more equitable right to tax from the States the windfall they get from under the Federal lands than he does the income they get from under their own lands?

Mr. DANFORTH. I am not making that argument one way or another. Maybe the Senator from Louisiana would care to offer such an amendment to that effect.

Mr. LONG. If the Senator succeeds in what he is trying to do, I would be compelled to offer such an amendment, just on the basis that misery loves company. If the Federal Government is going to redistribute the resources and they are going to redistribute what little resources we have in Louisiana, which has less than the national average per capita income, I guess I would have to share the pleasure of making a redistribution of someone else's resources.

I do not have invidious eyes toward Alaska. I voted for Alaska's statehood. I voted for Alaska to have land. Back at that time, people said Alaska could not financially support statehood. But Senator Bob Kerr of Oklahoma said, "Oh, yes, they can. They will find a lot of oil up there." And they found a lot of oil. They are better off because of it.

I am not seeking to redistribute Alaska's resources. If the Senator from Missouri succeeds in taxing Louisiana, if I can find a way to do it, I shall surely tax Missouri. I just do not see the point.

One point I would like to make, Mr. President, is that it is very ungracious of a Senator from Missouri to try to do such a thing to the State of Louisiana in view of the debt which Missouri owes Louisiana which can never be repaid. Perhaps the Senator does not recall it; he might not have read this in his history. But there was a time when the United States sent commissioners to France to see if they could buy the State of Louisiana, that beautiful territory with all those lovely black-haired women and gorgeous Creole people.

During negotiations, Napoleon said—

> I don't want to make a deal and just sell that beautiful area of Louisiana, the garden spot of America. If I am to separate myself from that gorgeous land, you are going to have to take this whole acreage up here that I don't want.

The United States did not want to have anything to do with that proposition, but they said, "I guess, to get Louisiana, we will have to take all that." That is how Missouri became a part of the United States; they had to take you in order to get us.

It is very ungracious of a Senator from Missouri to try to tax Louisiana's resources after all that Missouri owes Louisiana. The people of Louisiana do not appreciate it.

Mr. CHAFEE. Will the Senator yield for a question?

Mr. DANFORTH. I am happy to yield.

Mr. CHAFEE. It seems to me that the concern, as I see it, is that we have a real problem on the point the Senator's amendment touches on; namely, that for some peculiar reasons, the holdings of a State and the production from State lands are exempt. Of course, that has nothing to do with producing more windfall profit tax revenue—which the Senator from California and the others on that side are so interested in, this $185 billion—and it really has nothing to do with producing more oil. But it does satisfy the States that have the income.

It seems to me the more serious problem is what is going to happen with the tremendous revenues that these four States are going to receive from their severance tax on the windfall total price—in other words, when oil goes to the world price.

I do not know what Louisiana's severance tax is. Is it 17 percent?

Mr. LONG. Twelve-and-a-half percent.

Mr. CHAFEE. If you are getting 12½ percent on $13 and there is no competition—there is no free marketplace here—some people sitting in Vienna or Tunis, or wherever it is, under the color of OPEC, set the price at $24, $26, $30, whatever it is, the 12½ percent follows right along with that.

Research has indicated that in the next 10 years, between now and 1990, $128 billion additional revenue—these are billions, not millions—$128 billion of additional revenue is going to those States that have oil production, and 83 percent of that is going to four States. Eighty three percent of the $128 billion goes to four States.

Alaska comes in for $37 billion; Texas, $33 billion; California, $22 billion, and Louisiana, $14 billion.

What does that permit? Think of this. Texas, a State that is running a surplus currently, with no personal income tax, as I understand it, is going to have $3.3 billion a year in the next 10 years. That will permit Texas to offer untold advantages, privileges, inducements to anybody who will come down there and relocate.

A further exasperating and exacerbating factor is that the revenue sharing, which is very limited—it is set; it gets no bigger—that the distribution of the revenue sharing among the various States is based upon the tax efforts of the various States. So a State such as Louisiana—listen to this—which has not done anything different from what they have been doing, because of deregulation, has its 12½ percent on the oil that is produced there go up double, when you go from $13 a barrel to $26.

Their tax revenues are doubled, and that is viewed as a doubling of their tax effort. So not only do they get the $13 billion over 10 years, but also, if you can believe it, they get a bigger slice of the revenue sharing pie. I cannot believe that that is what we want to see happen.

Mr. DANFORTH. If I may respond to the question so well put by the Senator from Rhode Island, which I appreciate, I think the Senator from Rhode Island has stated the case very well, and that is to say that what is really involved here, and the matter that has received little attention, has to do with the flow of economic power in the United States of America. That is the big issue. It is not some parade of horribles: "Why, if you tax this, the next thing you know, you'll be taxing apples in Missouri." That is not the issue at all.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. DANFORTH. I should like to proceed for a short time, and then I will be happy to yield for any question the Senator from California may care to ask.

The basic issue here is the flow of economic power within the United States. That is the question. The question, on one hand, is the economic interests of four States.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. DANFORTH. If I may proceed for a short time——

Mr. TOWER. I just want to ask where the major concentration of economic power is today in the United States.

Mr. DANFORTH. The question involves the flow of economic power in this country. I think a well documented case has been made that, increasingly, the flow of economic power has been away from the Northeast, away from the north central part of this country.

What we are dealing with here is an economic situation in which four States are going to receive a total increase in State revenues, State and local governmental revenues, of $128 billion over a 10-year period.

The problem is not that we do not want to do something nice for Texas, Louisiana, or California. That is not the issue at all. I would be delighted to do something nice for California, Louisiana, and Texas, if it did not hurt the rest of the country. What is at issue here is the health of the whole country.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. DANFORTH. If I may proceed, I will be happy to entertain any questions the Senator has.

At issue here is the economic health of the United States of America.

These four States—Alaska, Texas, California, and Louisiana—will receive 83 percent of the increased revenues of State governments over this period of time. Eighty-three percent of the $128 billion increased revenue will go to four States.

The State of Alaska, between now and 1990 will have $37.3 billion of additional State revenue. The State of Texas will have $33.2 billion of additional revenue. The State of California will have $21.8 billion of additional revenue. The State of Louisiana will have $13.8 billion of additional revenue.

If I were a Senator from Texas or Louisiana or California, I might feel the same way. This is a tremendous bonanza for these four States. It is not just that I do not want them to get a bonanza, but the problem is this: These four States now comprise 50 percent of the aggregate surplus in State budgets.

It is well known that there is a deficit in the Federal budget and that there is a surplus in the aggregate in State budgets. These four States constitute half of the aggregate surplus of all State budgets. Now, in addition to that large surplus of these States which are doing very well economically, we are adding an additional $128 billion of revenue between now and 1990.

The point simply is this: What are they going to do with the money? The State of Texas has no income tax. The State of Texas has no corporate tax. What are they going to do with this much money?

I submit to the Senate that there is only one thing they will do. They will conduct the most effective economic warfare against the rest of the country ever dreamed of, and they will begin packaging tax programs. They will build factories at nominal rentals, make loans at nominal interest. They will do this in order to make a very appealing package of economic incentives for business and industry to move into these States.

If the people from Chrysler States—and I happen to be one of them—think we are having problems now, just wait until one plant after another is picked off all over the rest of the country and this Mecca is created in just four States.

That is the big problem. We are not talking here about some minor, little, fine point. We are not talking here about some minor, little situation of "Why not? What's the difference, for a few billion dollars here and a few billion dollars there?"

We are talking about the economic health of the whole country. We are talking about the future of America. We are talking about jobs.

I say to the truly great chairman of the Finance Committee—he is a great man, and I admire him greatly—that what he is asking Senators to do is to vote against the economic interests not just of their own States but of the country as a whole.

That is the issue that is before the Senate.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. DANFORTH. Of course, to answer questions.

Mr. TOWER. Is the Senator aware of where the current economic power of the United States is located? The greatest concentration of economic power is east of the Mississippi River, not west of it.

I submit, if the kind of mentality expressed here by the Senator from Missouri had been expressed and manifested by legislation in this body 175 years ago, no one would have ever settled in Missouri. There would never have been a westward movement in this country.

What the Senator proposes is to go to the foundations of the immunization of State institutions and State revenues from Federal taxation. This is not just a Texas-Louisiana-Alaska-California issue. Just wait. If this precedent is set, maybe municipal and State revenue bonds will be next because that is the kind of step the Senator is taking.

What is ignored here is the fact that controls have denied us revenue. We will just be catching up the revenue we have lost because of controls imposed on industries in our States on natural gas and on crude oil. And then what? These are capital assets that we are taxing that are not replaceable. Once that oil is gone it is gone. And that source of revenue is no longer available to the States that produce it.

So, perhaps if the Senator would make a provision that the Federal Government will make up for lost revenues once the natural resources are exhausted, ad infinitum, perhaps we could consider that there was something equitable about the amendment that he offers.

In my State no money is going into industrial development. It is going into education. I am not affected like the Senator from California because we use it entirely for educational purposes in my State.

But I think the Senator from California has made a valid point and I will support him on it.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield for a question.

Mr. CRANSTON. I thank the Senator from Texas for his forceful and very sound statement.

The Senator from Missouri spoke of economic warfare. The State of California is not proposing any form of economic warfare against any other State or against the Union.

What the Senator from Missouri is proposing is a brandnew form of economic warfare, the Federal Government against the States.

The State of California and other States have various sources of revenue. The Senator is proposing and is raising what seems to me to be a totally new concept of relations among the States, namely, the idea that a State is a taxable entity like a corporation, a business, and an individual. And that is a very novel, totally new concept. My State is not Exxon.

The redistributor of wealth in our country and the machinery for that is the income tax system under our federal system. That is quite different from taking or taxing the property of a State.

Would the Senator propose that we tax the State of California because we have attractions that bring people here? Would he tax the State of New York because they have a tourist industry that is perhaps more successful than other States? Would he tax the State of Colorado or the State of Arizona because they have the Grand Canyon and many people go there for their scenery?

Once we start down this line of taking or taxing the property, revenue-producing assets owned by the people of our various States, we have a totally new approach to income levying and distribution of revenues and meeting the needs of our Federal Government. It is contrary to the sound federal system with which we have had very long experience.

I think it is a very radical idea that the Members of this Senate would not approve if they thought it through because they would feel they would be next.

Incidentally, even on this matter we are not talking only about California, Louisiana, Texas, and Alaska. We are talking about oil producing States like Montana, New Mexico, Oklahoma, Colorado—and there may be a lot more produced in that State shortly—Wyoming, which is similar, Mississippi, and other States.

But the basic principle goes beyond the matter of oil. Once we start saying that we can tax something that produces revenue in a State owned by that State that is the beginning of a long and dangerous trend in our country.

Mr. DANFORTH. Mr. President, I only respond to that in words far more eloquent than I could ever muster. They are the words that Justice Frankfurter uttered in delivering the opinion of the Supreme Court of the United States in the case of New York against United States, which is the leading case on this subject.

He was faced with the same kind of argument, exactly the same kind of argument the Senator from California is now making, and that is that the basic way to argue this kind of situation is to dream up a parade of horribles, dream up a parade of horribles about what if this and what if that and what if the other thing. And Justice Frankfurter in a decision closely on point answered that kind of argument as follows:

> To press a juristic principle designed for the practical affairs of government to abstract extremes is neither sound logic nor good sense. The process of constitutional adjudication does not thrive on conjuring up horrible possibilities that never happen in the real world and divising doctrines sufficiently comprehensive and detailed to cover the remotest contingency.

That is the statement of Justice Frankfurter and I think that it is as equally applicable today. We are not dealing with the normal situation.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. DANFORTH. We are dealing with a situation in which by the stroke of a governmental pen price controls, that were imposed by the Federal Government on the States and everyone else, controls on the price of oil, imposed by the Federal Government on the States, restricting what the States and every other producer could get from their oil, which were not challenged to my knowledge for constitutionality, that the Federal Government had on the States were suddenly lifted.

Mr. CRANSTON. Before we get too far will the Senator yield?

Mr. DANFORTH. As a result of lifting those controls, these four States will have revenue increases that go through the roof with or without my amendment.

If my amendment succeeds, these four States, the States in general, will have revenue increases of $117.2 billion.

Mr. CRANSTON. Will the Senator yield?

Mr. DANFORTH. If my amendment prevails these States will have income increases of $117 billion. If my amendment is defeated, they will have $127.5 billion, $128 billion.

So what is involved is $10.5 billion. The State of California, the State of Texas, the State of Louisiana, and the State of Alaska are going to be rolling in additional resources with or without my amendment. All I am trying to do is to somehow do something to retard this economic wave of the future and to protect the rest of the country, my own constituents and people throughout the country, from this problem.

This is a unique situation. This has not happened in the past where we have had controls suddenly lifted, prices and revenues suddenly going through the roof. This has not happened in the past. The energy crisis in America is unique. The energy crisis in America is desperate.

The resources, the funds, that are going to go into the treasuries of the States with or without my amendment are astronomical, and I really think it is stretching matters to say, "Well, if we deal with this unique situation, if we try to address this sudden wrenching of the economy of the country as a whole, then suddenly this parade of horribles that Justice Frankfurter so eloquently debunked in his opinion in New York versus United States is going to occur."

Mr. CRANSTON. On the Frankfurter decision, I believe it is not relevant in the sense that the Senator has cited it because it related to a business to make money run by the State of New York, which was in the soda water business. That is quite different. The Government was proposing to tax the soda-water business and that is quite different from proposing to tax a resource owned by the State.

The Frankfurter decision is relevant in that it did suggest the exact parade of horrors that the Senator is now proposing to start by his proposed amendment.

I would like to have the attention of the Senator for one moment in order to ask him a question.

Mr. DOLE. Mr. President, I wondered—

Mr. CRANSTON. I would like to ask this question. The Senator said that perhaps his amendment can prevail. Why do we not ask—and I am prepared to stand or fall on a vote of the Senate, and I presume the Senator from Missouri is prepared to stand or fall on a vote of the Senate—that we should go on with the tax bill and then get on to the Chrysler measure, which is important to the people in his State?

The longer we talk about this matter, the longer we delay talking about the Chrysler matter, which is exceedingly important, as the Senator knows.

I would like to suggest that we enable Senator BYRD to withdraw his amendment, then I will offer my amendment, and the Senator from Missouri can offer his amendment on top of mine, we can debate it, and then have a vote on his amendment. Will the Senator be prepared to do that? We have talked about this for quite a while, and Senators have had an opportunity to learn about the merits or demerits.

Mr. DANFORTH. The answer to that is I stood on the floor of the Senate a few days ago and tried to reach some sort of an agreement with the floor manager of the bill and was turned down flat. Now, the strategy, which is a very neat strategy, is to try to take the play away from my amendment which I want to raise on my own time and not be blindsided at this time.

Mr. President, I ask for the yeas and nays on two different amendments, for amendment No. 728 and amendment No. 729.

Mr. LONG. Mr. President, I object, and I object for a very simple reason. Reserving the right to object, Mr. President——

The PRESIDING OFFICER (Mr. BAUCUS). The Chair informs the Senator that the only amendment on which the yeas and nays can be ordered at this time, except by unanimous consent, is amendment No. 729.

Mr. DANFORTH. I ask unanimous consent for the yeas and nays——

Mr. LONG. Reserving the right to object, Mr. President, I am not going to give unanimous consent——

Mr. DOLE. Does that require unanimous consent?

Mr. LONG. To various and sundry things that I do not know what I am consenting to.

If somebody wants to explain to me what those amendments are the Senator is talking about so that I will know what I am being asked to consent to, maybe I will agree. But I must object until I know what the amendments are.

Mr. DANFORTH. I ask for the yeas and nays on amendment No. 729.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. LONG. I must object.

The PRESIDING OFFICER. The Chair informs the Senator that unanimous consent is not required for the yeas and nays on 729. It is required for other amendments.

Mr. LONG. Is that the pending amendment?

AMENDMENT NO. 729

The PRESIDING OFFICER. Amendment 729 is considered the pending amendment.

Mr. LONG. I object.

Mr. DECONCINI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DECONCINI. What is amendment 729?

The PRESIDING OFFICER. Amendment 729 is the amendment offered by the Senator from West Virginia (Mr. ROBERT C. BYRD) and by others to the amendment by the Senator from——

Mr. LONG. Mr. President, how many people does it take to second that?

The PRESIDING OFFICER. It takes 11 Senators raising their hands to grant a sufficient second.

Mr. DOLE. Mr. President, how many seconds are there?

The PRESIDING OFFICER. Is there a sufficient second to the request of the Senator from Missouri? There is not a sufficient second.

Mr. DOLE. Mr. President, will the Senator from Missouri yield? I think the RECORD should show 11 Senators, and 4 cannot raise their arms.

It would seem to me if there is going to be the procedure around here where you cannot get the yeas and nays on your amendment or ask for the yeas and nays and have the cooperation of your colleagues, then this is going to be a long, long cold winter.

I would hope that we would give—I think there is also some right to have a vote on an amendment, and I hope the Senator from Missouri will continue to renew his request for the yeas and nays and we will try to round up 11 Republicans who can raise their hands.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

Mr. DANFORTH. I object.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. Does the Senator withhold the suggestion of the absence of a quorum? Does the Senator from Missouri yield for the purpose of suggesting the absence of a quorum?

Mr. DANFORTH. No; I do not.

Mr. HART. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HART. Is the amendment in question, 729, the amendment offered by the Senator from Missouri or offered by another Senator?

The PRESIDING OFFICER. Amendment 729 is an amendment offered by another Senator.

Mr. HART. Then I think, in response to the Senator from Kansas, this is not a situation where a Senator cannot get the yeas and nays on his own amendment. He is seeking the yeas and nays on an amendment of a Senator not present on the floor, so I think that changes the situation considerably.

Mr. DOLE. Not very much.

Mr. LONG. Mr. President, if the Senator——

Mr. DANFORTH. The Senator from Missouri still has the floor.

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG. Mr. President, when the Senator asks unanimous consent and then the Senator asks for the yeas and nays, am I to be advised that at no point along that line does he lose the floor so that somebody else can be recognized?

The PRESIDING OFFICER. The Senator does not lose the floor in either case.

Mr. LONG. So no one can be recognized even to object?

The PRESIDING OFFICER. One need not be recognized to object.

Mr. LONG. Well, Mr. President, if one asks unanimous consent and one cannot be recognized to object, how is he going to object? [Laughter].

The PRESIDING OFFICER. One does not need the floor to object. One needs only to object.

The Senator from Missouri.

Mr. DANFORTH. Mr. President, my amendment, when I do call it up—and, as I say, I would like the privilege at least of calling it up on my own time, and I do not think that is too much to ask for, rather than late on Friday afternoon to have the play being taken from me like this. But when my amendment is called up, I think it raises a very important question. It would delete from the windfall profits tax the exemption for oil production by State and local governments.

As reported from the Senate Finance Committee, the windfall profits tax contains an exemption for oil interests owned by State and local governments if the proceeds are used for public purposes.

The Senator from California wants to amend the House bill, which really does not accomplish anything for what we are doing, but he wants to put this public purposes language in the House bill as well, expanding it. Currently, oil-producing States and their political subdivisions receive substantial revenues from oil produced within their boundaries. This revenue comes from two sources: taxes on oil production and oil producers, and royalties from oil produced on public lands.

As there is also decontrol these revenues will be increased by approximately $128 billion between 1980 and 1990; $95 billion of this amount will come from taxes, severance taxes, and other taxes on the production of oil; $33 billion will come from royalties.

If these royalties were subject to the windfall tax, State and local governments would be allowed to retain $117.5 billion instead of the full $128 billion. If these royalties were not subject to the windfall tax, they would keep $128 billion.

Mr. President, these figures, $117.5 billion and $128 billion, are computed on the assumption that oil prices will go up over a base of $30 by 20 percent over the rate of inflation during the next decade.

There are many who believe that this is a wholly unrealistic assumption, that the notion of oil prices going up but 2 percent over the rate of inflation is a very, very conservative assumption which has no basis at all in reality, and that what in fact is going to happen is that oil prices will go up at a much greater rate than that.

If they do go up at a much greater rate, the result of that will be that these States will not have $128 billion of additional revenue, but they will have quantum amounts beyond that. So the modest assumption, the most projection, the conservative projection is an increase in State revenues by $128 billion, but it will probably be much more than that, and all my amendment would do would be to reduce that by a small fraction: if it is $128 billion, to reduce it down to $117.5 billion, putting the States on the same basis as every other producer.

The legal question has been raised that when a State goes into business—and oil production is a business, let us face it—when a State competes with everyone else, it should be taxed like everybody else.

This is no new idea. Excise taxes have long been levied on State governments when they operate like everybody else in a business, and the windfall tax is an excise tax.

So, in any event, we are going to find this very marked increase in revenues, and 83 percent of it will go to four States. Alaska will have $37 billion of increased State revenues. Imagine that: $37 billion, in fact more than $37 billion, in increased revenue for the State of Alaska. Texas, $33 billion, when they already have a surplus. That is the situation.

An exemption for oil owned by State and local governments does not meet the test imposed by the Finance Committee in justifying other exemptions from the windfall tax. Over and over again, it was argued in the Finance Committee, as it has been argued on the floor of the Senate with respect to one proposal after another, that such treatment for one type of crude oil or another is justified because it would be repaid by increased production. It has been argued that if we forego the revenue from taxing a certain type of oil, newly discovered, incremental, tertiary, heavy oil, stripper production, independent production, the argument has been that if we forego the tax on that, we, the people—Americans as a whole—will be repaid; that we are not just trying to benefit the producers; that we are not just trying to give more money to the producers of oil. What we are trying to do instead is benefit all the people of America, and we benefit all the people of America, it is argued—argued by those who have supported one exemption after another, including many members of the Senate Finance Committee; many people who are on the floor right now have argued this—that all the people will benefit because production will go up.

Well, this argument for the exemptions that are in the bill just does not apply to the exemption for State royalties.

We agreed, in the case of newly discovered oil, tertiary recovery, and the like, that the test of increased production could be met. The revenues lost as a result of the exemption would be repaid by increased production, to the benefit of all Americans. The exempted sources of oil were believed to be price sensitive, and therefore deserving of special treatment under the act.

The exemption for State and local governments cannot meet this test. The revenue lost by this exemption would do nothing whatever to help us meet our national energy needs. That is the question before us, the national interest, not just the interest of four States. This exemption for royalties received by State and local governments will not produce one additional barrel of oil. It will not finance one additional synthetic fuel plant. It will not result in any additional energy conservation. This exemption simply accelerates the transfer of wealth from the country as a whole to a few States which are lucky enough to hold royalty interests or oil produced from State lands. It is a special treatment solely for the sake of special treatment.

The pretext for this exemption is that a tax on oil produced on State lands would be unconstitutional. That argument, however, is contrary to the holdings of the U.S. Supreme Court, and contrary to the legal opinion of the Treasury Department and the Congressional Research Service. It is their opinion that the courts would hold such a tax to be constitutional.

Concern for the Constitution, then, is not the real reason for providing a special exemption for State and local governments. The real reason for the exemption is regionalism. It rests on the pursuit of narrow self-interests of individual States, and it reflects the traditionally parochial approach to new legislation which too often characterizes us.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. DANFORTH. We ask, "What is in it for my State?"

Mr. CRANSTON. Will the Senator yield?

Mr. DANFORTH. For a question, yes.

Mr. CRANSTON. I would like to ask the Senator, where in the Constitution does he find the notion or any authority for the concept that he is suggesting now, that the resources of State governments can be taken away from them by the Federal Government? I would like to suggest that the Senator can find nothing in the Constitution, the Senator can find nothing in the writings of the federalist papers, which suggests that the Federal Government, the central power in our society, can tax the revenues of individual States. Where does he find any basis for that approach?

Mr. DANFORTH. As I understand the position of the Senator from California, this is a tax on the revenues of the State.

Mr. CRANSTON. It is a tax on the possessions of the State, in effect.

Mr. DANFORTH. The answer is that this is a matter that is not covered in the Constitution. It is a matter on which the Constitution is silent, and therefore it is a matter which has been construed over the years by a series of court cases.

Mr. CRANSTON. I think the Senator has conceded my point.

Mr. DANFORTH. It is also true, I would say to the assistant majority leader, that there is nothing whatever in the Constitution to exempt or compel the exemption of this property from the windfall profits tax, and therefore it is subject to the tax, and this is why the Treasury Department has written a legal opinion and the Congressional Research Service has written a legal opinion on this subject. It is also why the U.S. Supreme Court, in the closest case on point, New York against the United States, has held this to be constitutional.

Mr. CRANSTON. The 10th amendment to the Constitution expressly states:

> The powers not delegated to the United States by the Constitution, nor prohibited

by it to the States, are reserved to the States respectively, or to the people.

Mr. DANFORTH. Mr. President, I am absolutely delighted to have the Senator from California rely on the 10th amendment. It has been so neglected over the years, so forgotten, so swept under the carpet in legal actions in America, that the 10th amendment has gone virtually unnoticed. Now it has arisen on the floor of the Senate, and I am delighted to hear it, although I would only say that the 10th amendment is not a basis for this exemption, and that the legal opinions of the Treasury Department and the Congressional Research Service have found no constitutional basis for the exemption.

Mr. CRANSTON. The Senator from California has sided in accordance with his understanding of the 10th amendment on many occasions. For example, the Criminal Code bill, which I voted against because I felt it intruded upon the rights of the States.

Mr. DANFORTH. Mr. President, the broad issue that is raised for our consideration and will be raised by my amendment is not the constitutional question. The broad issue is national good versus regional interests.

In offering this amendment, when I do offer it, it will be my intention to pose the most important question of all in our deliberation on energy: Are we going to take a truly national approach to fashioning an energy policy? Or will we indulge ourselves in a grab-bag exercise, grasping for energy prizes for our individual States?

A perfect illustration of parochialism which has thwarted the creation of an effective energy policy occurred during a debate over energy assistance to low-income households. At that time, one proposal after another, one computer printout after another, was presented to Senators. And we considered them not on the basis of whether they made sense in helping people who were in need, but what is in it for my State?

At least half a dozen formulas were distributed on the floor of the Senate, not because they measured comparative need, but because they might be used to forge a winning political coalition.

Although it was finally discarded, a population factor was used in some computer runs, even though most people believed that that criterion really did not serve as the proper basis for helping people who were in need.

The energy crisis, Mr. President, is not a regional crisis. It is a threat to all Americans, no matter where they live. Vulnerability to interruptions of supply imperils the security not of a few States or communities, but of the entire Nation.

Regardless of where we live, whether in States which produce large quantities of oil, or in those which produce none at all, we are faced with a common problem which we must approach, not as Texans or Alaskans or Missourians or New Englanders, but as Americans. That is why the carrying out of a special exemption for the benefit of certain States or communities is inherently defective.

Mr. President, I ask the yeas and nays on amendment 729.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays on amendment No. 728, as well.

Mr. TOWER. A point of order, Mr. President. Is it in order to——

The PRESIDING OFFICER. It takes unanimous consent to order the yeas and nays on amendment No. 728, while another amendment is pending.

Mr. CRANSTON. Will the Senator yield?

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Of course, I will yield for a question from the Senator from California.

Mr. CRANSTON. Mr. President, I will say that I totally agree with the Senator's estimate of the seriousness of the energy difficulties, problems, indeed, crisis that confronts us. But the position of the Senator from California is that we need not resolve that crisis at the expense of undermining the federal system.

We are undermining the federal system when the Federal Government moves in and takes the resources of the State. If it starts with oil, it is not going to end with oil. It is going to go on and on and on and on. And those who understand the importance of States' rights in this body had better heed this point.

Mr. LONG addressed the Chair.

Mr. DANFORTH. Mr. President, I still have the floor, I believe.

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. DANFORTH. Mr. President, as I was saying before yielding to the Senator from California, the carrying out of a special exemption for the benefit of certain States or communities is inherently defective. And it is inherently defective because——

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order.

The Senate is not in order.

The Senator may proceed.

Mr. DANFORTH. I thank the Chair.

Mr. President, I direct the attention of the Senate to last summer's gasoline shortage. Its effects were felt across the entire country. In California, people camped out in their cars all night in order to fill their gas tanks. Riots broke out in Pennsylvania, resulting in a hundred injuries and 70 arrests. In North Carolina, 900 National Guard troops were mobilized to avert a blockade of fuel deliveries. And truckers surrounding a diesel fuel stop in Michigan, halted operation and deliveries for more than 48 hours.

The impact was not confined to service stations and drivers. Our faltering economy was further weakened. Florida citrus growers suffered $50 million in losses due to shipping delays; Midwest meat packers laid off workers; California grocers plowed under crops that they could not transport to the East Coast markets.

Also last summer, participants in the "Boston Gas Party" tossed oil cans into Boston Harbor. OPEC countries continued to raise their prices. And, if our patience was not sufficiently tried by early fall, the Nation's nervous system was stilted by a radical Libyan leader who was rumored to be considering oil cutbacks.

To be in a position where mere rumor sends the American stockmarket and world currency markets into tailspins is absolutely untenable. It is unacceptable in terms of national security, the domestic economy, and American pride. If the OPEC countries decide to bring this country to its knees, they will not target certain States in doing so. We will all go to our knees together.

Certainly, by now we have learned not to attempt predictions in the Middle East. But each new development in that part of the world will continue to raise America's energy anxieties until we act to solve America's energy needs. Our bondage to foreign oil is national—only by a national effort can we break out of it.

The principle behind the amendment I offer is a simple one—and I will repeat again, Mr. President, that with respect to this amendment and perhaps another amendment that I will offer, I am perfectly willing to enter into a time agreement. I am perfectly willing to bring it up at a time certain. I believe it is an important subject which deserves our debate and careful attention. I do not believe that the time period should be so short as to not give it its due debate. But we can certainly enter into a time agreement on this amendment and on the other one that I plan to offer to this bill to address the same question.

The principle behind the amendment that I will offer is a simple one: That is, in a time of national crisis, America must pull together. In the Revolutionary War, two world wars, and other times of emergency, the citizens of this country have stood together in unified response. If we fail to do that now, we cannot cut our dependence on foreign oil and boost our own production to necessary levels.

Americans all over this country have angrily muttered about how ridiculous it is for the most powerful country on earth to be strangled by a few Arab sheiks. Well, America did not get to be the most powerful country by depending on others—we did it by self-reliance, hard work, and pulling together.

That has been the source of our strength in the past, and will be the source of our growth in the future.

But future growth will depend on a unified, concerted effort now. We have come to take plentiful energy supplies for granted, and have been spoiled by generations of such plenty. We are used to the luxury of unlimited auto travel and unlimited air-conditioning. The notion of cutting back is an affront to the American lifestyle.

Cutting back, however, is now mandatory, as is greater production from our own energy sources. Neither process will just happen—they will both take work and sacrifice. I believe that most Americans are ready to accept those tasks, but only if they believe that they are equally imposed on all Americans. Equal imposition will happen only if our energy policy transcends local interests and represents national ones.

I fully recognize the obligations that

we each owe our constituents. We must exercise responsible representation of their interests and their views. But I believe that we have an additional duty as Members of the U.S. Senate, which is a national policymaking body. In addition to representing individual States, we also represent the Nation. If we ignore this fact in examining national issues, we are abdicating a large part of our responsibility.

So often, we receive appeals made on the basis of purely local interests. It is commonplace to receive a Dear Colleague letter that amounts to little more than an account of how each particular State will fare under one proposal or another. In revenue sharing, welfare reform, and even national defense, State interests are often paramount in our minds. Where should a ship be built or a pilot be trained? Which State will get how much under which formula? These are typical of our concerns, and as a result, our work frequently resembles a frantic scramble of one coalition of States against another.

This is the way it is, and the way it always has been. Yet there are issues that transcend purely regional concerns—questions of national security, of war and peace, of American pride and honor. These are matters that should bind us together, not drive us apart.

If the choice between State and national interests which confronts the Senate is a dilemma, it is certainly not a new one. Those who have served here before us faced issues just as complex as energy, with just as many conflicting regional aspects. And there have always been individuals who dared to raise their sights to solutions that would benefit all States, not just their own. Had our predecessors heeded only regional concerns, America's history would have certainly been different than it is.

In his book, "Profiles in Courage," John F. Kennedy focused on the conflict which a Senator sometimes experiences between the interests of the Nation as a whole and interests peculiar to his own State. President Kennedy's years in the Senate gave him firsthand knowledge of the choices that involve great risk of personal unpopularity and defeat. And he recognized the Senators who took those risks to promote the national good.

Kennedy writes, for example, of a predecessor from Massachusetts, John Quincy Adams. In 1807, the British were seizing American ships, stealing their cargo and forcing their seamen into service for the British navy. President Thomas Jefferson had urged that the United States enact an embargo that would effectively shut off all further international trade—a measure that would be ruinous to the leading commercial State in the Nation, Massachusetts. Yet it was John Quincy Adams who rose on the Senate floor and called for referral of the message to a select committee; who was appointed chairman of the committee; and who reported both the embargo bill and a bill of his own preventing British vessels from entering American waters.

"This measure will cost you and me our seats," Adams remarked to a colleague, "but private interests must not be put in opposition to public good."

Some 40 years later, another Senator subordinated his State's views on fugitive slaves to the preservation of the Union itself. Knowing that it would cost him his last chance for his life's goal, the Presidency, Daniel Webster made a speech on the Senate floor calling for adoption of the Clay compromise. "Mr. President," he began, "I wish to speak today, not as a Massachusetts man, nor as a Northern man, but as an American and a Member of the Senate of the United States * * * I speak today for the preservation of the Union. Hear me for my cause."

That cause has bound this Nation together through generations of statesmen. Early in this century, it was the focus of Theodore Roosevelt's "New Nationalism," which he defined as putting "national need before sectional advantage." In explaining his philosophy to a Kansas audience, Roosevelt said, "I do not ask for over-centralization, but I do ask that we work in a spirit of broad and far-reaching nationalism when we work for what concerns our people as a whole. We are all Americans. Our common interests are as broad as the continent. I speak to you here in Kansas exactly as I would speak in New York or Georgia, for the most vital problems are those which affect us all alike."

No issue affects all States more than energy, yet no issue has created such regional polarization as the struggle to create an energy policy. It has separated the sun belt from the snow belt, producing State from consuming State, east from west. These differences have us stalemated, and we have failed to fashion an effective national policy as a result. We have bickered and compromised and even filibustered our way into inaction. And we have watched America's energy situation deteriorate each day.

Our energy crisis is a question of national security and of national pride. And the issue now is whether we can unite behind a national policy to meet this crisis or whether we will continue to heed the old, feeble cry, "What's in it for my region?"

Will we endorse narrow self-interests at the expense of national interests? In the face of energy shortages that will affect all parts of this country, will we insist on exempting a handful of States that happen to have oil within their borders?

If we do, then the windfall tax will be a sham as it pertains to "national" energy policy. If we do, there will be little reason for all Americans to commit themselves to the sacrifices that improved energy supplies will require. And if we do, we give Americans even less reason to believe that on issues of overriding national interest, this body can raise its sights above 50 separate points of view to 1 consensus of the general good.

As elected Representatives, we hold a public trust. As national Representatives, that trust is defined not only by the borders of our own States, but by the borders of the United States. If we cannot establish an energy policy that is truly national in spirit and in fact, we will have violated that trust.

Mr. President, that is the issue that is before the Senate of the United States. It is a very big issue indeed. It is not an issue of whether oil-producing States get $128 billion or only $117.5 billion. That is not the question. The question is whether we can or cannot look at the good of the entire country.

I have no objection to conferring benefits on the State of Louisiana or Texas or anywhere else. So often, Members of the Senate appeal to one another to please help pass some bill which is of importance to their own State. The question before us is more than one State or a handful of States. The question is whether we have a national energy policy or whether this regionalization, this factionalism, will continue to divide us. It is whether we can focus on the national energy crisis as a truly national crisis, or whether we look for what is in it for one particular region or another, for one particular State or another.

My concern is very simple indeed. My concern is that, by placing such a large, increased amount of revenue in a few States in a very short period of time, we do not create serious economic consequences for the rest of the country. That is a matter that worries me very, very deeply.

The economy of America now is not in very good shape at all. The economy of the United States is now in a state where automobile plants are laying off workers. One of the three major manufacturers has its entire future at stake. Steel mills are shutting down. I think we have to reach this as a national problem and not just a fund for States in what will be a raiding party on the rest of the country.

Mr. CHAFEE. I wonder if the Senator will yield for a question?

Mr. DANFORTH. Certainly.

Mr. CHAFEE. Mr. President, I share the deep concern of the Senator from Missouri on the national economic situation as it appears to be in the forthcoming, at least foreseeable, future. As he mentioned, we have the crisis of the 10th largest corporation in the Nation verging on bankruptcy and coming to the Senate and the Congress for substantial assistance. We have the other two major automobile manufacturers in the Nation both suffering actual losses in the third quarter on their domestic production and but for their foreign sales, would have recorded a deficit.

We have one of the great institutions of our Nation, which we always looked upon as inviolate, as rich, as eternal really—that is, the United States Steel Corp.—laying off thousands of workers, closing some 30 plants, and reviewing their operations in their other plants as they look toward the gloomy future and what they are going to do to reorganize that company into a profitable one once again.

It seems to me that the subject we are discussing here today is, namely, $138 billion going to a very limited number of States and, indeed, 82 percent of it, as the distinguished Senator from Missouri has pointed out, going to some four States, with the entitlements that those

States are going to have. I heard the Senator from California state that they have no concern about luring away other industries. I find that refreshing, although perhaps inconceivable. There is not a State I know of in the Nation that is not searching from other States for industry, commerce, whatever it might be that will help the revenues within that State.

Mr. CRANSTON. Will my good friend from Rhode Island yield?

Mr. CHAFEE. I do not have control of the floor.

Mr. CRANSTON. I just want to say I made no such statement.

Mr. CHAFEE. I ascribe to the Senator more generous motives than perhaps the Senator has.

Mr. CRANSTON. I did not say that we do not want to have industry in California.

Mr. CHAFEE. No, he said California was not out to lure industries from other States to California.

Mr. CRANSTON. We do not have to lure them. They come because of our natural attractions, but we welcome them.

Mr. CHAFEE. I know California welcomes them and it will be in a better position to welcome them with the substantial bait that comes from this windfall profit tax. The revenue yielding to California alone, as I recall it, and I do recall it correctly, is some $22 billion in the course of the next 10 years. That amounts to $2 billion a year. California's budget, I suppose, annually is something like $9 or $10 billion. So we have 20 percent of that budget suddenly coming pouring in from unexpected sources.

I come from a section of the country that is very vulnerable to such inducements. We are in a high-energy area, it is cold. It is not the most modern area as far as manufacturing capacity goes. And unfortunately, sometimes, our industrialists do look with yearning to the sunny climes of California.

Florida is bad enough. They are all going to Florida, retiring there, moving their plants there.

I ask my distinguished colleague from Missouri if he does not see this not just as of deep concern to the Nation as a whole—that is, the other 46 States—but will it not probably be concentrated in the areas that are suffering most now, that have the highest unemployment, as he views the situation?

Mr. DANFORTH. Mr. President, in very short order, I intend to yield the floor. I am pleased to have had the opportunity this afternoon to begin debate on what I think is a really crucially important issue. I think that, regardless of what side we are on in this particular proposition, we all can agree, at least, on that. It is a matter which has received a lot of attention within the Senate, and I know that the feelings are very strong on both sides of it. I think it is an important question which has to be debated.

I will say to the chairman of the Committee on Finance—and I think he knows this—that I have the highest regard for him as a Senator and as a person and have really a great affection for him. He is a man who is a very big person in ways that I think go unmentioned and unnoticed, but I certainly have noticed it in his dealings with me. The one regret I have in this whole episode is that I know he feels very strongly about this, and I do not simply want to pick some quarrel with him. I am not that kind of person, and I know he is not that kind of person. It is a matter of principle to him, but I want him to know that it is a matter of principle to me. It is a matter about which I feel very deeply, from the standpoint of fashioning a national energy policy and from the standpoint of the economic future of the other 46 States in the Union. I really think they are threatened.

I do not believe this amendment is going to cure the problem at all. It is a minor part of it that is involved here—maybe $10.5 billion, maybe more, depending on the price of oil. It is certainly a fraction of the total problem.

However, I am very concerned about the future of the rest of the country, the future of the economy. It is not just to make some political points that I stand up in connection with the Roth amendment and in connection with my amendment and talk about it.

I think that we in the Senate became so involved in little details and little amendments that are before us that we miss the major problems, and the major problems have to do with demographics, with the economic flow in America, and with providing jobs and opportunities for people. That is why I feel so strongly about this.

I have a second amendment, which I have not offered yet, but which I will describe to the Senate very briefly, and then I intend to yield the floor.

If I could have the attention of the Senate, Mr. President, I would appreciate it.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DANFORTH. Mr. President, the second amendment I intend to offer would condition exemptions under the windfall bill on State governments not increasing their severance taxes on oil produced within their States. That is to say that right now, a barrel of oil is taxed at a certain amount, depending on the State. What concerns me is that even with or without a raising of rates by the States, the price of oil is going to go up; therefore, the State severance tax per barrel of oil also is going to go up. So the State's tax receipts, whether it will be $148 billion or $95 billion, are increased.

In committee and on the floor of the Senate, the debate has been as follows:

We, the U.S. Senate, should exempt from application of the windfall tax certain production of oil—newly discovered oil, tertiary recovery, heavy oil, stripper oil, the first thousand barrels produced by independent producers. In each case, the argument was made that these are price sensitive, that these are tax sensitive. We will increase the production of oil if the Federal Government relents, if the Federal Government exempts these types of oil from the tax.

Yet, at the time we are exempting those barrels of oil in these various categories from the Federal windfall profits tax, the State severance tax on the same barrels of oil will be going up.

So we are in a position in which we are exempting the oil and saying, "No, we are going to forego tax receipts," and at the same time, the State governments are increasing their receipts from exactly the same producers.

After all, a severance tax—a royalty, for that matter—is funds extracted from oil producers.

So it seems to be anomalous for us to say to the Federal Government that, in the name of production, we are going to forego the tax, while the State governments increase their revenues from the same barrel of oil.

My proposal, which I hope to call up and hope to resolve, is to condition the exemption from the Federal tax on State taxes not receiving absolutely nothing from a barrel of oil but on State taxes not increasing their revenues per barrel of oil in these exempted categories.

The effect of that would be either that the State continues to impose the tax, and then we would collect the tax from that barrel of oil, or, in the alternative, the State would say, "We are now collecting enough from these particular categories—newly discovered, tertiary, heavy oil, stripper, small producers—and we are going to go along in a common policy with the Federal Government and exempt the windfall part of it from our own tax."

I think that is a reasonable suggestion. It certainly avoids the various criticisms that the Senator from Louisiana has levied at the amendment which is the more publicized amendment, which I intend to call up. It really is a State's rights amendment, in that the State is perfectly free, under this proposal, to propose a severance tax at any rate, on any amount, on this oil; but that the Federal Government would at least take the position that if the State legislature does not feel that it is production sensitive, if the State legislature does not feel that the tax rates have an effect on oil production, they are in a better position than we in Washington to make that decision. Therefore, if they at least are not going to put a cap on the tax they receive for a barrel of oil, the exemption in our bill no longer will apply.

That is a second proposal. It is a separate proposal. I think it stands on its own feet, and it is one that I intend to present to the Senate at the appropriate time.

Mr. CHAFEE. Mr. President, will the Senator yield for a question?

Mr. DANFORTH. I yield.

Mr. CHAFEE. As I understand the Senator's next proposal, it will be that the State severance tax would not apply to the so-called windfall part of the decontrol price.

Mr. DANFORTH. Yes.

Mr. CHAFEE. In other words, if an independent is exempt for the first thousand barrels and the base price is $13, the Senator has no objection to the State continuing its tax on the first $13 a barrel. But the Senator says that if the additional amount, the difference between the $13 and the world price, is to be exempt from Federal taxes, then it will be exempt from the State's severance tax.

Mr. DANFORTH. That is absolutely correct.

Mr. CHAFEE. I thank the Senator.

Mr. DANFORTH. Mr. President, I point out that this is a matter the States would be free to decide whatever way they wished. They would be free to impose the tax or not. They would be free to collect whatever revenue they wish from the barrel of oil. But they would make the decision as to price sensitivity, which we in Congress, perhaps, are not as prepared to make as they.

Mr. President, if no one else wishes to inquire at this point, I yield the floor.

Mr. LONG. Mr. President, it seems to me that the Senator very aptly referred to horrible possibilities in the course of his speech, because, in my judgment, that is the basis of his amendment. The Senator is assuming that if States which have oil beneath their lands should receive additional revenue, they would use that revenue in economic warfare on other States.

Mr. President, I recall an instance many years ago when it was my privilege to be a guest at a party in Arkansas with the former Democratic candidate for President, Adlai Stevenson. One of the people at that party was a gentleman named Reynolds, I believe, from North Carolina. He was associated with the family that owns a great deal of aluminum production and interests in other industrial concerns.

That gentleman made the point to me that what States like Louisiana which have large amounts of minerals should do is to use that mineral resource to build themselves an economic base.

Mr. President, I must admit that from the point of view of a big businessman or an industrialist it makes a lot of sense that States should do that. Louisiana did not do it. During that 20-year period since that man mentioned that to me, Louisiana has done nothing of that sort even though it has more oil and gas per acre than any other State in the Union.

The reason it did not do it is the same reason Texas did not do it and the same reason other States with minerals have not done that. It is simply that when State legislators look at the needs of their State, they think more in terms of the interests of their people than they do in terms of economic competition with other States.

For example, if you take a poll and ask the citizens of your State, "what do you think the main issue should be in the next Governor's race, or what do you think the principal problem will be confronting the State legislature?" Education might come in with about 67 percent, law and order might come in with 15 percent. If it comes in at all, regardless of how you ask the question, providing more jobs, attracting more industries, industrial expansion, put it however you want to put it on the poll, it will come in right down at the bottom of the list. Maybe about 4 percent of the people will indicate that is something they think would be an important thing that the legislature should consider.

So if you go before the State legislatures, as I have many times, and take the view, "You should to do more about trying to attract jobs and more payroll down here," do not be surprised if you are disappointed that they do nothing about it, just nothing. When you really get down to it that is not what the people out in the hustings are especially concerned about. You will find that there are some people from whom you might get a hand. You might find some interest if you are speaking to a Chamber of Commerce crowd. You might stir up a little excitement if you can find a group of people who are out of work.

But generally speaking the people who have a job are not excited about the issue of bringing new industries and new payrolls to the State.

Louisiana right now is doing rather well in terms of attracting new industry, not that we provide any subsidy or any advantage that others do not provide. It has been our great good fortune that other States would not permit certain petrochemical industries to locate in their State. So we got them because others would not have them.

A while back, I was at one of the dedications in Louisiana where we were celebrating the fact that we got this fine new industrial complex and payroll and it was going to create quite a few new jobs, a huge capital investment but only a few jobs, perhaps 100. It came out in the course of the discussion the reason the plant located in Louisiana was that all the Northern States would not have it. They were concerned about the atmosphere more than Louisiana. We were used to having some petrochemical plants and oil refineries. We were glad to have whatever we could get along that line. We were happy to have them. So they located in Louisiana because they could not go somewhere else.

And furthermore, even the big industrial construction that one might see in Louisiana these days is mainly because we have some resources there that someone wants to export and we have water transportation. So the logical point to separate the various elements within the oil and gas is near the point where it is produced, because when you break it up into several different components going different directions, the sooner you break it up into its components the easier it is to reduce the transportation costs to the particular market.

In terms of the number of jobs Louisiana is attracting, we are not doing nearly as well as Mississippi or Alabama or South Carolina, frankly, just because those States have provided more incentives. That does not mean they have oil and gas to provide it with. Alabama has very, very little. Mississippi has about 10 percent of what Louisiana has. South Carolina has none. But they are doing a tremendous job of bringing new industries and new payrolls into those States.

Not necessarily dollars of capital investment, but the number of jobs greatly exceeds what we have been attracting to Louisiana. The reason is that they feel they need those jobs. They have to compete for them harder. So they offer some tax incentives and advantages that we in Louisiana are not offering.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield to the Senator.

Mr. TOWER. The Senator mentioned a fact that a lot of States in the Northeast did not want to locate petrochemical plants and refineries and that sort of thing.

Is there any proposal in this bill to indemnify the producing States against the environmental damage, the industrial accidents, the property damage, that has come to be a fact of life for those of us in the producing States? Is there anything in this bill that indemnifies the producing States against this?

Mr. LONG. No, there is nothing in the bill along that line, but I particularly want to assure anyone worried about Louisiana or even Texas using our oil revenues to bring industry to our States, forget about it. If we were going to do that, we would have been doing it for the last 20 years.

Texas is not going to do it for the reason that Texas is doing very well indeed, thank you, without doing that. In Texas, if you visit around Dallas or you visit around Houston, you will see something of a labor shortage because they are working like beavers over there trying to produce energy, among other things. Texas is attractive to industry.

I know Texas is attractive to industry because we are geographically located next to them, and we have had a tough time competing with them. Let me tell the Senator the number one reason. It did not have anything to do with oil and gas. We have oil and gas; so do they. We have a lot of it; so do they.

What was the problem? Our biggest deficiency in competing with Texas was they had a right-to-work law and we did not. And industry after industry, especially those labor intensive, having the choice between the two, said, "Well, thank you just the same, Louisiana, we can go over to Texas and there we have a better labor climate." Louisiana recognizes this competitive disadvantage it suffered from and now has a right-to-work law on the books.

Mr. TOWER. Mr. President, will the Senator yield at that point for a comment?

Mr. LONG. Yes.

Mr. TOWER. In fact the demand, productivity, and return on labor dollar is higher in Texas than it is in any other State. And a lot of industrial States that the Senator from Missouri wants to try to protect with his great parochial and regional legislation are States that will refuse to do anything but create a more favorable labor-management climate and a higher productivity for their labor force.

Mr. LONG. Let me say, further, Mr. President, that about 70 percent of the revenue we are talking about in the Danforth amendment appears to involve the State of Alaska. I wonder if the Senator really trembles in his shoes, really trembles when he thinks of Alaska making all that money. Think of Chrysler Corp. moving up to Fairbanks or maybe even Nome and shipping their cars perhaps out by putting them on an icebreaker and sending them down to compete with the Toyotas down in California and even in Missouri where the Senator is fortunate to have some plants that should be saved.

I really wonder if that is what the Senator is worried about, that perhaps they might put a big plant on top of some glaciers with all that money. That is not to say that Alaska will not do something. I am sure they will.

(Mr. TSONGAS assumed the chair.)

Mr. LONG. But as Alaska develops, the kind of things they would develop there more likely would be something that capitalized on the resources they have in that State, large in area, small in population, fine people though they be. You could expect them to have something like we have in Louisiana, some petrochemical plants, perhaps some oil refineries, something to make some of that lumber into paper. All that would benefit the whole economy.

They would compete with us in Louisiana, I would assume, because those are the kinds of plants we have, and it is not appropriate, Senator, that those particular plants be located in Missouri for one simple reason: In terms of transportation you are at a disadvantage. But you have a lot of other things to your advantage that would bring a lot of industry to your State if the people of Missouri showed the same interest in attracting them and persuading them to locate there and providing the same productivity as we hope to do in Louisiana.

I hope the Senator will take another look at his theory that because they have some revenues from oil and gas that Louisiana, Texas, Alaska, and California are going to use that revenue in some great drive to destroy all the rest of the States. All we really hope to do is to provide an opportunity for our people, and we are doing well indeed with that. We would like to do a little better, but as far as the kind of things the Senator had in mind that preempt the hopes of other States, forget about that. We do not have the people to take that many jobs, and we are not looking for that kind of population growth.

Florida had rapid growth, and Florida is actually affirmatively trying to keep people from coming to Florida. If you do not believe it, just send some friend to Florida looking for a job and see what he runs into. Florida is not trying to take jobs away from other States. They have a lot more than they can handle and they are trying to handle their population explosion. By the way, what Florida has in the way of oil and gas is very, very small.

Mr. President, the Senator stated that the big issue, as he sees it, is economic warfare. You talk about a hobgoblin, in my judgment, that issue is really a hobgoblin. The economic warfare he is worrying about should be States that do not have this much revenue, States that do not have enough jobs, and are finding they have some real problems, and that will just compete fiercely, make tremendous sacrifices to attract jobs, because they do have an economic plight.

Pennsylvania would be an example. Louisiana would not think to do for an industry what Pennsylvania did to attract Volkswagen into Pennsylvania. Louisiana would not think of it. We do not have to do that to attract jobs in Louisiana. Pennsylvania does, and more power to Pennsylvania. But that is not a reason why Pennsylvania should make war on Louisiana either or try to punish us because of the fact that we are doing fairly well. We are not in as good shape as Texas, perhaps not doing as well in terms of jobs and employment as some other States, but we are satisfied. We are content, and we pretty much love our neighbors and want to live and let live.

Let us look at what is the important question here. The important question is whether there is to be any sovereignty whatever left in State governments. I concede there is a good argument for the Federal Government having vast powers, and the Federal Government indeed has a lot. This Senate, and other Senates, while I have been here, are ready to give it a lot more. The Federal Government has preempted State revenues to the extent that the States had to come to Washington begging and pleading for us to pass a revenue bill to share some of the revenues the Federal Government had with the States so that the States could fulfill the proper functions of State and local governments.

If you believe, as I do, that the government that is most responsive to the will of the people is that government which is closest to those people, then you believe we should have local government. We should have State government, and that the problems which can be handled by those State and local governments should be handled there before the Great White Father in Washington takes charge and attempts to run everything for them.

I just have not seen anything, Mr. President, that the Federal Government can administer or do better here in Washington than the States can do at the local level, except one. There is one thing that the Federal Government can do more effectively than the States—tax. It can tax people more effectively than any local government or any State government for a good reason. You just cannot escape the Federal taxing power without going to some foreign country, which is not nearly as good as this one. So to escape the Federal Government's taxing power you have to cease to be a citizen of the United States and get beyond the reach of Uncle Sam's Internal Revenue Service.

In terms of taxing people, Uncle Sam is very, very effective. He has been so effective that he has preempted first one source and then another source of revenue for the States.

All right. Now, that gets us down to one pitiful little source of revenue left to the States. Uncle Sam has pretty well preempted the income tax. The States can tax you, but there is not much left after Uncle Sam gets through. The States are pleading for the Federal Government not to put on any more excise taxes than need be because they need their sales taxes. They are trying to give some relief from their property taxes because they are so heavy already.

Now, one little source of revenue that has always been permitted to the States has been the revenue that comes from land within those States. The original 13 States owned the land within those States. Either the State owned it or the citizens owned it. The Federal Government did not own any of it.

Subsequently, of course, the Federal Government might have bought some land for a military installation or bought some land for some Federal purpose. But in the beginning of this Union, the 13 States formed the United States and they owned all of their land. The revenue that came from those lands belonged to those States, and no one ever anticipated when those 13 States formed this Union that the Great White Father in Washington would be trying to tax away from those States their State lands or the revenues from their State lands. It was not discussed, and I challenge a Senator to present anywhere the concept that anybody even considered the idea that the Federal Government was going to support itself by taxing the lands away from the States or taxing away from the States the revenue that came from the lands that those States owned when they formed this Federal Government.

As new States were formed, this Federal Government sought to bring those States in on an equal footing, and when it brought Maine into the Union it permitted Maine to own the land in Maine; when it brought Tennessee into the Union it permitted Tennessee to own the land in Tennessee; when it brought Kentucky into the Union, it allowed Kentucky to own the land in its State, and so it went. When it brought Louisiana in, it permitted Louisiana to own the land in Louisiana.

As the great western area was developed, someone began to come up with the idea that the people of those Western States were so sparse in population that they might not be able to manage those lands, and so rather than permit them to have their lands as was done with Louisiana, with Missouri, with Tennessee, with Kentucky, with Mississippi, with Alabama, and with others, it was said that the Federal Government at Washington would best preserve that land, hold it, manage it for the benefit of the Federal Government and for the benefit of those people.

But down through the years the people of those Western States were well represented here in Congress. They pleaded with Congress to rectify an injustice which they felt had been inflicted upon them and where they had been discriminated against because they were entitled to treatment parallel to the original States. So laws were passed which caused the States to receive directly a share of the revenues. The last time I looked at it it was 37.5 percent, and it may be more now, but at least 37.5 percent was paid directly to the State governments, and the remainder of it, save some part that was paid out for administration, all went to a reclamation fund, and that was used to benefit those States and help to develop the water resources for the benefit of those States.

The fact that the Federal Government, through the Department of Interior, managed those resources is one reason why Senators from Western States were all asking to serve on the Interior Committee when I first came here. They wanted to use their influence to help see to it that their States got what they thought would be their proper share of the funds available from that reclamation fund.

Now, that money was not used, Mr. President, be it the money from the oil, from the gas, from the coal, from the timber, to finance the Federal Government here at Washington. That money was used in terms of economic justice and fairness to try to see to it that those States would benefit from the money received from minerals produced from the land in those States, recognizing that the other States had been permitted to have all their land.

So the Federal land policy historically, for the last 200 years, has proceeded on the view that the money derived from minerals in those States would go to the benefit of those States.

It is passing strange, Mr. President, that a Senator would seek to redistribute the resources by his amendment, and seek to tax away from the States the revenues from the land owned by those States' governments, and completely ignore the revenue from the Federal lands located within those States. Should not that have been his starting point? If the Federal Government is going to redistribute the resources, redistribute the oil and gas, redistribute the coal, redistribute the land, redistribute the iron ore located in United States, spread it around, use it for the benefit of the general Government. If it is going to do that kind of thing, would it not be more logical to start out by taxing the land the Federal Government itself owns?

If the Senator is going to start his program of redistributing the resources, why does he not start out by redistributing the resources that Uncle Sam himself owns, to begin with? Why does not the Senator from Missouri make a starting point by saying, "Why not here? Missouri is not sharing in the economic wealth of those western coal States from all that Federal land out there. Missouri is not sharing in the wealth of the State of Alaska, from the resources being produced on Federal lands in Alaska. Missouri demands its share."

I must admit that to put the matter that way would be a little bit in conflict with the way the Senator put his argument, in saying that the national interest must come first; and it takes great courage to stand here as a Senator from a State that has very little oil and advocate taxing those that do.

But on the other hand, Mr. President, if the Senator wants to take the view that the national interest must prevail above all, and that there is great fear that the wealth produced from State lands might be used in a way that some other State might not approve—if that is his thesis, then would not the logical starting point be to start by redistributing the land owned by Uncle Sam only, the Federal Government only? There is no constitutional problem involved there. The Congress has every right to simply amend this bill to simply say that, "While you are taxing the oil on Federal lands, you tax oil from all lands, just do not make any exclusion," and if you ask, "What is the point of the Federal Government taxing oil from Federal land", the point is that you would take the money from the reclamation fund and put it in the Federal Treasury. You would remove the windfall from the Western States. That should be the Senator's starting point, it seems to me.

I interrogated the Senator about that point. He acted like he had never heard of it. He never heard of it. That should be the logical starting point, that you would tax the oil coming from Federal lands. We have a little bit of it in Louisiana, though not much. You would tax the oil from Federal land and redistribute that in such a way that no State could be found to be using that money to try to proceed with economic development.

Mr. President, Louisiana is not the only State that has some minerals under its State lands. At least 23 States have some oil production on State lands. A large portion of the revenue we are talking about here would involve the State of Alaska, for Alaska has a lot of State lands.

When we brought Alaska into the Union, it was well recognized that Alaska might not be able to sustain itself, that it might well be that the State could not succeed financially and could not shoulder the burdens of State government; and so Alaska was given a large amount of State land, well knowing that there might be oil under a lot of that land, and that Alaska might have a lot of oil revenues.

It turns out to be a great deal of oil. Now the Senator from Missouri comes in here urging us to play Indian giver. Mr. President, I am not in favor of taking back from Alaska what we gave that State; and so far as I am concerned, if that produces energy, that will benefit Louisiana and every State in the Nation. As far as I am concerned, I voted for that Statehood bill. I thought we were pretty generous at that point, and the fact that we were more generous than we realized does not cause this Senator to change his mind. But if we are going to do it, we ought to do it to benefit all States, not just a few, and if we are going to redistribute resources, it seems to me we ought to redistribute all the resources, not just oil and gas but all of them.

But, Mr. President, in terms of what the Senator would do, there is no way he could succeed in his effort to levy a tax directly on a State government which is not in the oil business but just leasing out its lands, without that tax being levied on the income from State and municipal bonds sooner or later. I have been around here for many years to see this fight. I can recall it even before I came to the Senate. When I was a student in law school, one of my professors had been educated up here in Washington, D.C., and he was a great advocate that the Federal Government ought to tax State and local bonds, that we ought to tax all income. We surely should not let that State and local bond money escape.

The courts have said you cannot do that, that it is unconstitutional, that the Federal Government has no right to tax a State, and that this puts a burden on the State government. But this law professor of mine contended that that is wrong, that the court can be made to reverse that, that all the Treasury has to do is get back into that court some day, and when they do, they will win that lawsuit, that that court will reverse its previous decisions. The Federal Government will then be able to tax those State and local bonds.

Mr. President, they have tried nobly at that effort. They have tried to do it indirectly. I can recall when the House sent us a bill to put a minimum tax on State and local bonds. That was the opening wedge. They did not succeed here in the Senate, and I am glad to say I played some part in defeating that effort.

The Senate action was received with tremendous joy, adulation, and enthusiasm by the bankers and business people of Louisiana. I do not know of anything, during those days, I liked better to discuss with business groups, or that had such complete enthusiasm and applause, as the fact that the Senate Finance Committee had overwhelmingly—I believe either unanimously or almost unanimously—voted to refuse the Federal Government the right to tax those State and local bonds.

One of the reasons that we did it, and a compelling reason, was that we were convinced it was not constitutional. It may be that we just relied on the old law. It may be that those fellows over on that court right now would reverse that, if they had the proposition before them; but they haven't had it before them.

The closest anyone has come to taxing State and municipal bond interest was to come up with the proposal to have a taxable bond option.

Under that option a State could issue a bond that would be taxable, and which would be subsidized by the Federal Government.

Some people view that as an entering wedge toward the Federal taxation of those State and local bonds. Some do not, I am sure. I do not know what the view of the Senator from Missouri is on that. He is a sponsor of such a proposal.

I do not know whether the Senator feels that this is a part of a process where he is going to lead Uncle Sam into taxing those State or local bonds or not. But I know that his proposal here would lead to it, because it would destroy the best argument against taxing the State and local bonds, and that is that you really do not have the right to do it under the Constitution.

Mr. DANFORTH. Will the Senator yield?

Mr. LONG. Yes.

Mr. DANFORTH. Mr. President, I have never suggested taxing State or municipal bonds. I do not support the taxation of State or municipal bonds. I never have; I never will.

I do not think that you could find two people in the U.S. Senate who would support the taxation of State and municipal bonds. This is an example of the kind of total red herring that is being used as a scare tactic on this amendment.

Mr. LONG. Mr. President——

Mr. DANFORTH. If I may continue. I will finish in about a minute.

I received a letter mailed to me 2 or 3 days ago from the American Bankers Association, asking me to vote against my own amendment with respect to State royalty incomes. They had been sold the position that somehow this was the opening wedge for the tax on State and municipal bonds. No one is proposing that.

As I pointed out in the colloquy with the Senator from California, this is the kind of parade of horrible arguments which has absolutely no basis in reality. The question before us is very simple. That is, Can this amount of additional revenue go to this small number of States without having serious economic consequences for the rest of the country? That is the simple question.

Nobody is proposing taxing State or municipal bonds. If that were done, it would have to be done by an act of Congress. We would all have to vote on it, the Finance Committee would have to vote on it, vote on it in Ways and Means, and it would have to be voted on on the floor of the Senate. You would not get enough votes on that to flag down a bread truck.

Mr. LONG. Mr. President, I might have made a misstatement. I said that the Senator has sponsored, while he has been here, a proposal under which the States would issue a bond which would be taxed by the Federal Government. Is that correct? The so-called taxable bond option?

Mr. DANFORTH. It would give the taxpayer the option to gross up the value of his interest and deduct it from Federal taxes. All that does is give the taxpayer a different kind of option that he can take as a taxpayer in taking the tax benefit, which some taxpayers, the more wealthy ones, now get tax-free municipal bonds.

I brought that up in the Senate Finance Committee and it was passed. It was voted on, as I remember, unanimously in the Finance Committee, Mr. Chairman.

And I stood on the floor of the Senate and said that anything pertaining to municipal bonds is bound to send such concern to the financial community that, on my own initiative, without anybody prodding it, I pulled it down. I offered an amendment to take it from the Finance Committee bill so that it could be further studied.

But it had nothing to do with subjecting municipal bond interest to Federal taxation. I have never suggested such a thing. I strongly oppose it and I would vigorously join with the Senator from Louisiana in opposing it if anyone else was silly enough to propose it.

Mr. LONG. Mr. President, my recollection is somewhat vague on the issue. But if I recall correctly, the Senator's proposal would permit the taxpayer the option of paying the tax on the interest from a State and local bond. Is that correct?

Mr. DANFORTH. No, the Senator is not correct. The bond is still a municipal bond, and it would still be exempt from tax. The taxpayer, for his own tax benefit, could waive the exemption, gross up the income, and deduct it. The effect of this is, as I recall—and I do not have the figures in front of me right now—taxpayers in the marginal tax bracket of 40 percent or over, it is mathematically attractive for them to invest in municipal bonds. For taxpayers at a lesser bracket, it is not attractive.

I was simply attempting to give them another option for treating it on their tax returns, so that municipal bonds would be attractive to taxpayers in the lower brackets. That would increase the marketability of municipal bonds. It would be very desirable from the standpoint of municipal governments and State governments.

But I have never proposed subjecting State or municipal bonds to taxation. It is a total red herring.

Mr. LONG. Mr. President, I did not say the Senator proposed it. I said he proposed an option, whereby a taxpayer would pay taxes, at his election, on interest income from State and municipal bonds. And my impression was that that proposal would give the taxpayer that election, if he found it to his advantage to pay taxes on State and municipal bonds.

Mr. DANFORTH. Mr. President, I think it is an unfair characterization of what I am proposing. I think what the Senator is trying to suggest is somehow I am engaging in some type of plot to subject everything under the Sun to taxation. It is not so.

Mr. LONG. Well, Mr. President, the proposal will speak for itself. I will be glad to take a look at it.

Mr. DANFORTH. The chairman supported it in the Finance Committee. It could not have been all that bad.

Mr. LONG. Well, the Senator, withdrew it, so it could not have been all that good, either.

But we will take another look at it, and we will see just exactly what it was.

But the point remains, the Senator says he is not in favor of taxing State and municipal bonds. It is my recollection that the people in Treasury who have been generating many of these proposals to tax State governments—and I am not talking about the Secretary of the Treasury, I am not talking about the Under Secretary, and I am not talking about the Assistant Secretary. I am talking about people over there who were there long before they came in. There have been people around who have been there for many, many years, who have agreed with my old law professor—he was not old then, but he is old now, because I am not so young myself—who felt that the income on State and municipal bonds ought to be taxed just like on all other income.

Mr. President, their feeling was that all they really needed was a chance to get back into Court. If they could just get back into that Supreme Court, the people who have been appointed since that time would go along with them with this great proposal, this magnificent proposal, tax reform to its ultimate, and tax those State and municipal bonds just like any other ordinary income from any other source.

Mr. President, the strongest reason that this Senator—and so far as I know, this Senate, the Senate Finance Committee and everybody else around here—have been unwilling to tax those State and municipal bonds is that we did not think it was constitutional. And you can read the decisions of the U.S. Supreme Court that say that.

Furthermore, Mr. President, the Supreme Court has said that a tax such as the Senator has proposed would also be constitutional.

Let me just read the Court's language on that subject, language which has never been countermanded, never been contradicted, and never been withdrawn by the Supreme Court. This is from an opinion written by Mr. Justice Stone, back in 1931 in the case of *Group No. 1 Oil Corporation* v. *Bass*, 283 United States Reports at 282:

Let me quote what he said:

> Property—and the property involved in the case was oil and gas—sold or otherwise disposed of by the Government, either State or national, in order to raise revenue for government purposes, is in a broad sense a government instrumentality, with respect to which neither the property itself before sale, nor its sale by one government, may be taxed by the other. But it does not follow that the same property in the hands of the buyer, or his use or enjoyment of it, or the income he derives from it, is also tax immune.

Admittedly, that language can be regarded as dicta. In that case an oil company took a lease from a State government, and the oil company contended that it should not be taxed because the government should not be taxed. The court said clearly, "Well, you cannot tax the State government, but you can tax that oil company because that oil company is not the State."

Nobody is arguing about that. We all recognize that as the law. The oil company is not a State.

But if that tax had been levied on the State, there is Mr. Justice Stone saying, "No, sir, you cannot tax that State. You can tax the oil company but you cannot tax the State." That statement has never been changed; it has never been reversed. That is the language for all history as far as the laws stand at this moment.

The Senator bases his argument that what he seeks to do is constitutional on a different set of facts. He relies upon a situation where the Federal Government passed an excise tax on bottled mineral water. The State of New York, seeking to restore the vigor of Saratoga Springs, thought the State had better go in there and restore the flow of water in those springs. So the State bought the wells and proceeded to bottle that water and sell it. The question was, did the State owe the excise tax on that Saratoga Springs water?

It was a divided opinion in the Supreme Court. Justice Douglas, for example, said he did not think so.

There were no five Judges together, but in the same opinion relied on by Senator DANFORTH for general philosophy, there was the following explanation of the real basis for the decision:

> On the basis of authority the case is quickly disposed of. States were denied immunity from Federal taxes on the liquor business, and we see no reason for putting soft drinks in a different constitutional category from hard drinks.

The State was, in effect, in business, competing with other commercial businesses. Accordingly the State was not exempt from this tax which was really an excise tax borne by the consumer.

Mr. President, this is not a tax on the consumer that we are talking about here. It is the intent of the President of the United States, Jimmy Carter, and his administration, the Secretary of the Treasury and everyone involved in this administration, to put this tax on the producer and the landowner. So the tax here falls clearly on the State governments. This is not an excise tax on the consumer. It is a tax on the producer.

This case is clearly distinguishable, Mr. President, from the case on which the Senator from Missouri relies involving the tax on soft drinks. The State of New York was engaging in a commercial operation in bottling and marketing the Saratoga water.

The States receiving oil royalties are not engaging in a commercial operation. They are not drilling for oil. They are not operating oil wells. They are not even employing seismograph crews to see whether oil might be there. What the State is doing is merely signing a lease so someone else can go out there and produce oil and gas.

In many instances, they have no real choice except to grant the lease. If there is someone on land right next to them that would drain the oil out from under the State property without the State getting anything out of it, the State is compelled to enter into a lease itself.

Mr. President, the amount of revenue involved in taxing State and municipal bonds dwarfs the amount of revenue the Senator is talking about being involved in his amendment. The Senator would like to put about $1 billion a year in taxes on State and local governments. That is what we are talking about. You can extend it over a 10-year period and it sounds like a much larger figure. We are talking about a tax of roughly $1 billion a year that the Senator would like to impose on State and local governments. That is a small figure, Mr. President, compared to what the burden on those State and local governments will be if they are denied the opportunity to issue tax exempt bonds.

Mr. DANFORTH. Will the Senator yield?

Mr. LONG. I yield.

Mr. DANFORTH. I wonder if the Senator from Louisiana would estimate for the Senate. If an amendment were offered on this bill to begin taxing State and municipal bonds, how many votes would there be in the Senate for such a proposition?

Mr. LONG. That is sort of beside the point. As long as you have a good constitutional argument, I do not think the Congress is going to vote to tax those State and municipal bonds. That is the reason I think there would be so few votes. I have read excerpts from another Supreme Court opinion that said it was unconstitutional to do the kind of thing the Senator is trying to do here. That being the case I do not think the Senator will get many votes.

But you just take to the courts the case that would go there if the Danforth amendment were agreed to, and assume that the Senator is successful and the court upholds the tax directly on the State government. In such a case how could an instrumentality of a State government be considered tax exempt if the State itself is not tax exempt?

I would say once the States have been stripped of their constitutional immunity, once that has been taken away from them and they stand there naked, unarmed, and defenseless, you would get a lot more votes than you would get today if you tried the same thing.

Mr. DANFORTH. Will the Senator yield?

Mr. LONG. I am not saying that the Senator did not have good intentions. Many times in law school I learned that the road to hell is paved with good intentions. I hope in due time the Senator will find this amendment is just as ill-considered as the one he said he withdrew which had to do with taxation of municipal bonds in some other respect. One can have very good intentions and those intentions can lead him into an area that he would not have entered if he had known as much about it as experience would teach him.

Mr. President, I have a memorandum which I think it appropriate to read into the RECORD on just this point. It is a memo that we prepared, and I believe it correct.

Will State Immunity from Federal Taxation be Continued?

Mr. DANFORTH. Mr. President, may I ask who prepared that memorandum and by whom it is reported?

Mr. LONG. I say to the Senator, it was prepared by me with the assistance of some individuals who in my judgment are able lawyers.

If the Danforth amendment is adopted and sustained, thus subjecting States to the windfall profit tax, an extremely damaging constitutional precedent will have been set. In particular, it will endanger the present tax exempt status of State and municipal bonds.

Unlike prior Federal taxes payable by the States, the Danforth amendment: Does not deal with a case where the State has gone into a commercial business, and does not deal with a case where the burden is passed on to others.

Instead, the Danforth amendment would impose a direct tax on the sale of nonrenewable State resources, the burden of which falls solely on the State itself. It does this in the context of a bill in which educational institutions and charitable hospitals, whose tax exemptions are traditional rather than constitutional, are exempt, as are independent commercial producers.

At present, the entire structure of State financing rests on the tax exemption of State and municipal bonds. That exemption is clearly supported by Supreme Court decisions holding that a tax on such interest would be unconstitutional.

For at least 40 years, however, the Treasury has been trying to raise the matter before the courts again, in the hope that present justices would reverse their predecessors.

Congress has so far denied Treasury the opportunity to re-litigate the issue, relying heavily on the theory that existing court decisions are correct. If, however, the Danforth amendment is passed and is upheld by the courts, how will anyone any longer be able to argue that a bond issued by a State is exempt, when the State itself is not exempt?

Indeed, the relationship between the two issues has already been noted and pointed out by Justice Douglas. He asked:

> If the constitution grants a State immunity from a tax on the issuance of securities, on what grounds can it be forced to pay a tax when it sells power or disposes of other natural resources?

That is a quote from Justice Douglas' dissenting opinion in *New York* v. *United States*, 326 U.S. 572, at 591 (1946).

Mr. DANFORTH. That was a dissent, is that correct?

Mr. LONG. That is right. Let me read on.

Justice Douglas' question is equally forceful the other way. If a State can be taxed on the sale of its natural resources, on what grounds can the the issuance of securities be held exempt?

The American Bankers Association is supporting my position. I would appreciate the help of all Senators.

Frankly, the American Bankers Association are not all lawyers. A lot of them are. But they have good lawyers. I would think the Senator would not challenge the qualifications of their lawyers.

Mr. President, I shall be glad to put in the RECORD in due course a statement by the Attorney General of Louisiana and some lawyers who see as I do that the proposed tax is unconstitutional. Let us keep in mind the difference between the authority on which the Senator relies and the authority on which I rely. They are both dicta, because neither of them squarely fit this particular situation.

The Senator is relying upon a case where the tax fell on the consumer. The burden of that tax is on the consumer. In that case, the Solicitor General asked the Court to hold that, so long as the Federal Government was not discriminating, it could tax the States just like everybody else, but the Court did not so hold. The language of one of the opinions did almost go that far, but that opinion reflected the views of only two Justices on the Court.

Mr. President, I have here an opinion from the Attorney General of Louisiana, the Honorable William J. Guste, Jr., discussing the Danforth proposal and giving us his judgment that—and I quote:

> Such an amendment would clearly be unconstitutional.

That is the opinion of the attorney general of Louisiana who, in my judgment, is a very good lawyer. I know that the Senator from Missouri was attorney general and I am not saying he is not a good lawyer.

As a matter of fact, Mr. President, I know lawyers differ about these things. The former majority leader of the U.S. Senate, Mike Mansfield, once heard a debate that went on for some time among lawyers on his floor. He made the statement that he was not a lawyer himself he had just been a college professor on some other subject. But he said that it was his impression that in all lawsuits, there are lawyers on both sides, and one side won and one side lost. That convinced him that lawyers were right 50 percent of the time.

So lawyers can differ about these things and people should not be surprised when lawyers take a differing point of view.

(Mr. PROXMIRE assumed the chair.)

Mr. MELCHER. Will the Senator yield at that point?

Mr. LONG. Yes.

Mr. MELCHER. I think I can say unequivocally that in this case, the Senator from Missouri, if he offers his amendment, which I hope he never does, would be wrong.

The folly of trying to interfere with an exemption for States in this instance is absolutely folly. The schools that derive some benefit out of the oil or natural gas that is on the school lands are certainly enhanced by that benefit. I am here to tell the Senator from Missouri that those schools need that help.

Mr. LONG. Well, Mr. President, I want to touch briefly on another part of this subject. The Senator has a backup amendment to say that the States will be permitted to enjoy the mineral resources from their own lands without the Federal Government hogging it all up and taking it away, provided they meet one condition: That they do not raise their severance taxes.

Mr. President, no State could agree to that more easily than Louisiana. We have a severance tax of 12.5 percent. We have no intention of raising it.

It brings a lot of revenue to the State government. The Senator is right that the price is going to go up and that we are going to receive more revenue. So no one could more graciously agree to the present severance tax than Louisiana.

But, Mr. President, how about these other States? How about the State of Missouri? Suppose someone should drill down to 20,000 feet and find vast untold reserves of oil and gas, enormous resources there that no one ever estimated to be there? Would it be fair to say to the State of Missouri, "In view of the fact that you do not have a severance tax, you cannot levy one. Louisiana can have 12.5 percent of the resources and tax that away, and Alaska can do it and someone else can do it, because they were there first. But in view of the fact that you did not have a severance tax, you cannot levy one." Mr. President, that would be patently unfair.

Furthermore, Mr. President, the Federal Government should not take this additional step.

Let us keep in mind that Danforth No. 1 is to break new taxing ground. Danforth No. 1 is to break new ground in destroying what little is left of State and local sovereignty. Danforth No. 2 is to strip away their taxing power. Danforth No. 1 takes their property. Danforth No. 2 takes their taxing power, saying, "You can keep what is yours, provided you do not exercise your taxing power."

Danforth No. 1 strips from them their sovereignty, takes their property with Federal taxes. Danforth No. 2 strips them of their taxing power and says, "You can have what is yours, on one condition—that you do not exercise your rights."

I cannot support either proposal.

I suppose now it is my time to read from "Profiles in Courage," because here is something I can well go along with. What Mr. Danforth proposes to do is courageous, to be sure. All we are doing here is giving away the other guy's rights, because Louisiana has no intention of raising its severance tax.

I could well say, "Shame on you people in Montana. You found some coal. We'll buy some coal, but we don't want you to put a tax on it. Furthermore, we're worried that you people in Alaska might put an oil refinery on top of a glacier. So we're going to take that taxing power away from you. We don't want you to do it."

Mr. President, States should have their taxing power. Let us say this much for Danforth No. 2: It is an improvement over Danforth No. 1. No. 1 is unconstitutional. No. 2 is immoral.

No. 2 would say that "them as has gets." Those who already have a severance tax can collect, but those who do not have a severance tax are forbidden to have one. At least, they will be punished for exercising a right that is clearly theirs.

So I do not think either proposal should be agreed to.

We know what it is to be concerned about someone exercising their rights to a degree we think unwise. Sometime ago, Alaska proposed to have a severance tax that was substantially higher than that of Louisiana. People in Louisiana joined others in complaining about it and suggesting to Alaska that they thought that would be going too far, that they should restrain themselves, and they did. I am pleased to say that they even hired some Louisiana lawyers, which is a compliment to Louisiana law firms, to advise them how the minerals should be developed in Alaska. They reduced their taxing desires to conform to about what we have in Louisiana.

Another example is the tidelands fight. In Louisiana and Texas the proposed amendment is viewed pretty much as the people of that area viewed the tidelands fight, when they felt their States' sovereignty and their States' rights were affected.

The States had always felt—and they had good reason to think so, including many declarations of the Supreme Court—that they owned the submerged land within their States, including the land within their 3-mile limit and as far out as they had claimed sovereignty. They fought that battle over a long period of time.

Finally, a law was passed whereby States were permitted to have at least 3 miles. Texas could prove it had a bar that went out further, so it got more than 3 miles. On the gulf side of Florida, they got more than 3 miles. Louisiana was limited to the 3 miles and so were practically all the other States.

Mr. President, the Federal Government knew that there was oil in those tidelands off Louisiana when that bill was passed. President Eisenhower knew he was signing a bill that vested rights in those properties, in properties bearing oil, to Louisiana and California and Texas, when he signed that bill, which is known as the tidelands bill.

The Federal Government vested in the States 3 miles. The Federal Government took everything else. So, off Louisiana, the Federal Government permitted the State to have 3 miles, and the Federal Government took about 140 miles out into the gulf, on the Continental Shelf. The Continental Shelf is very productive. It is not producing anything like what we are producing inside our 3-mile limit, however. Why not? Because the Federal Government does not have the same interest in developing minerals that the State of Louisiana has.

It is easy to see why the State has such interest in developing minerals, when you recognize that it means a great deal more to the State than it does to the Federal Government. Louisiana is about an average sized State, about 2 percent of the population. So when Louisiana is able to bring about the development of its State-owned lands, a dollar derived from that to the State of Louisiana is worth $50 derived by the Federal Government if the Federal Government had owned land on which that oil was situated.

In other words, it is worth 50 times as much to a State the size of Louisiana to bring about the development of its mineral resources as it is to the Federal Government, because the Federal Government is 50 times as large.

Furthermore, the States do only about half as much taxing as the Federal Government does. Look at all the revenues collected by the State governments and add them up, and that works out to about 50 percent of the tax take of the Federal Government in Washington, because the States are not serving the same function as the Federal Government.

When we make that further calculation, a dollar of revenue to an average State such as Louisiana is worth a hundred times as much as the same dollar of revenue would be worth to the Federal Government. So Louisiana has put tremendous emphasis on developing its resources.

Our State legislature right now is moving forward to investigate to see if some lease that has been let by the State has been developed fully, even though the lessee is paying rentals. The State wants to be sure that he is capable of producing more and drilling more and developing it, because they feel the State has needs, that those are pressing and urgent needs, and they want the revenue.

On the other hand, in the area beyond the 3-mile limit, owned by the Federal Government with its environmental policies, it takes years for a person to obtain the lease and to erect a platform or even to mount a movable structure on that lease and to drill for oil. It takes much longer on Federal lands than on State lands.

The Federal Government has 50 times

as much to work with as the State has, and the Federal Government does a poorer job. They spend their time talking about environmental things and speculating about all kinds of things that might or might not happen, when all they need to do is to look at the experience the State had for 20 years before the Federal Government arrived on the scene, to see how those problems can be handled.

So the result is that they just take forever to let the leases and take forever to let someone drill on them to bring in an oil field or a gas field. To bring the product to shore, par for the course is about 5 years on the Federal lands. It should be about 2 years. So it takes about 2½ times longer than it should.

One of the great frustrations has been that we would sit there with those valuable prospects that could be developed and just sit and sit and think about it and talk about it without ever leasing it out.

When President Jimmy Carter visited a drilling rig out in the Gulf of Mexico he visited one that was in the process of drilling a dry hole. Those people were not out there to drill a dry hole. They hoped they were going to find something. But they were drilling a prospect that did not have much hope. They drilled on one side of the fault where they thought the oil was likely to be. Because they did not find anything and because Uncle Sam would not lease out very much in the gulf or anything in the Atlantic for them to drill, they just decided, "Well, for the lack of anything better why do we not drill over on the other side of the fault. We do not think there is any oil over there, but who knows. Rather than have nothing to do we will drill there also."

So they drilled a dry hole at great expense, the odds being very heavily against finding something. Their view was that was better than have the rig sitting there doing nothing, in view of the fact Uncle Sam was not willing at that time to let the leases in the Atlantic and not even willing to do much leasing in the Gulf of Mexico. If that had been State lands they would not have all these drilling rigs laid up at Morgan City, La., and all those rigs tied up at the shore at Grand Isle and Jefferson Parish and in the New Orleans area. Nothing of that sort. All of that equipment would have been out there working. Instead it was tied up at the dockside because even though they were hard pressed for energy the Federal bureaucracy had so many other things to think about than the urgent thing of getting minerals. They wanted to think of all the different environmental issues.

With time, they have gotten a little more reasonable. For a while I recall they wanted to require that when they lifted water out of the ocean to cool the equipment the water that went back into the ocean had to be purer than the water that came out of the ocean. One would have thought they were out there for the purpose of making freshwater out of saltwater rather than being out there for the purpose of producing oil and gas.

The reason I say that is just to illustrate that the Senator is wrong on his other major point, saying there will not be any supply response from the States. If the State is to have all its resources taxed away from it, then the State would not have this overwhelming and compulsive pressure to require the State lessees to drill on these leases.

Whether it be State land or Federal land in Louisiana most of the drilling is going to be done by the major companies. Most of Louisiana's mineral land is located beneath water. It is expensive to drill, and the best prospects are in the coastal areas that are out in the ocean. It is very expensive to drill out there. So most of it will be done by major companies.

They will be paying the 75-percent tax. There is a 46-percent-corporation tax and, on top of that, shareholders have to pay as much as 70 percent on the dividends. We had to amend this bill to be sure that anything would be left, so the Finance Committee put in a generous amendment to the bill. It said that in no case would this windfall profit tax exceed 100 percent. Was that not generous, Mr. President? In no case does the tax exceed 100 percent. If they take it all that is all you have to pay.

In short, there should be some incentive for someone to ride herd on those lessees, who have the burden of producing, to see that they do produce. By permitting the State at least on its share, which might be one-eighth or it might be one-sixth—perhaps a little more than that—if the State on its share is permitted to keep the full benefit that the landowner or the royalty owner is expected to have, then, at least, Mr. President, one could expect that the State would ride herd, as it is doing, to see to it that every bit that can be produced on these State properties is produced. That would be true for Alaska, California, Louisiana, Texas, and all the other States.

Mr. President, the Senator has thought to make it appear that there were only a few States involved.

I ask unanimous consent to print in the RECORD all these States that are involved as far as oil is concerned.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CURRENT STATE ROYALTY PRODUCTION

State	Production	Royalty	Authorizing agency
Alabama	1978: 28,938 bbl	$305, 380	Conservation Department, Mr. Reynolds, 205/832-6354.
Alaska	70 mm/bbl	$840,000,000	Donna Cline, 907/465-2301.
Arkansas	1978-79: 180,638 bbl; 1979-80 (July to Nov. 28)—89,533 bbl.	$37,353.84; $4,588.66	Miscellaneous tax section, Mr. Mitchell, 501/371-2114.
California	30,000,000	$75,000,000	State Lands Commission.
Colorado	3 mm/bbl	$3,298,000	(*).
Florida		1978: $1,748,196.23	Department of Resources, Division of State Lands Management, 904/488-2290.
Illinois	1 producing lease on State-owned land; it's currently dormant.	⅛ to total sale revenue	Department of Energy Resources, George Lane, 217/782-775.
Indiana	Only production on river bottom land running through private land; no production figures kept.	1977: $103,913; 1978: $128,063	Department of Natural Resources, Mr. Brown, 317/232-4055.
Kansas	State land not leased to oil companies		Conservation Divisionof Kansas Corporation Commission, Roger Post, 316/263-3238.
Kentucky	0	0	
Louisiana	11.5 mm/bbl	$87,552,000	(*).
Michigan	6,950,676 bbl	$19,392,210.27	Marilyn Moral, 517/373-1250.
Mississippi	16th section tract of land 10,000 bbl/month. Royalties-Public education. No production figures for fiscal year 1978 or fiscal year 1979.	Fiscal year 1978; $20,000; fiscal year 1979: $21,978	Bureau of Geology, Alvin Bicker, 601/354-6228.
Missouri	None	None	Division of Geology, Jack Wells, 314/364-1752.
Montana	No figures available	1977-78; $2,586,423; 1978-79: $2,355,418	Department of State Lands, Ethyl Schenk, 406/449-207.
Nebraska		1977: $284,695.87; 1978: $290,083.32; 1979: $381,731.33	Board of Education, Lands and Funds, Sherry Hemple, 402/471-2014.
Nevada	No data	No data	(*).
New Mexico	4.6 mm/bbl	$48,416,000	* Tax section, Carolyn Lindberg, 505/827-3221.
New York			
North Dakota		$3,600,000	(*).
Ohio	55,700	$445.000	Department of Energy, Mr. Ryan, 614/466-3465.
Oklahoma		$11,090.730 (1978-79)	(*).
Pennsylvania	No oil production on State land—only natural gas		Department of Minerals, Eugene Frund, 717/787-48.
Tennessee	1978: 593,000 bbl	Received 1/20 of 1/8 of total dollar sales in royalties	Tennessee Energy Authority, Steve Kopp, 615/741-6667.
Texas	1978-79: 8.5 mm/bbl	$90,200,000	(*).
Utah	28.3 mm/bbl		(*).
Wyoming	1978-79: 7.6 mm/bbl	$9,752,194	(*).
South Dakota	197,905 bbl	$263,252 (1978-79)	(*).

* Denotes list prepared by Mr. Lamont.

Mr. LONG. Mr. President, when the Danforth proposal, if agreed to, breaks new ground in taxing State government it is not going to stop there, and this would do more than break new ground in taxing State governments. It would also be the beginning of a new Federal-State land policy where they would redistribute the resources on a completely different basis than has been the case in the past. You can understand that other States than Louisiana would be concerned about that.

Mr. President, here is a statement from the Western State Land Commissioners endorsing the exemption for State and local royalty oil. This, Mr. President, includes the State land commissioners from Alaska, Arizona, California, Colorado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming.

They are all concerned about this Danforth proposal and they are against it for the reasons I have explained. A lot of them do not have oil, but they understand that when we do this type of thing it is a threat to them.

Mr. President, I ask unanimous consent that their statement be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WESTERN STATES LAND COMMISSIONERS ASSOCIATION ENDORSES EXEMPTION FOR STATE AND LOCAL ROYALTY OIL

Public land commissioners from sixteen states belong to the Western States Land Commissioners Association. The Association has gone on record supporting the Finance Committee's decision not to apply the windfall profit tax to royalty income received by the states from the production of oil on state-owned lands. Alaska, Arizona, California, Colcrado, Hawaii, Idaho, Louisiana, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming all belong to this organization. The group agreed that the federal government should not tax income received by the states or any political subdivision derived from any publicly-owned natural resource.

RESOLUTION NO. 4 WINDFALL PROFIT TAX

Whereas, the Western States Land Commissioners Association is an organization of nineteen cooperating states which administer trust lands for the benefit of their citizens and all people of the United States; and

Whereas, the President of the United States has extended federal price controls for oil, allowing oil to be released gradually to higher price levels over a period of time, and

Whereas, the President has urged the Congress to adopt a tax on the added profits to producers of oil resulting from the higher prices to be received for crude oil; and

Whereas, there is before the Congress legislation which would, if enacted, impose a Windfall Profit Tax on oil released from regulation; and

Whereas, such legislation would exempt economic interests in crude oil held by a State or political subdivision thereof from imposition of the Windfall Profit Tax if all of the net income received pursuant to such interest is dedicated to public education or to a fund the income from which is dedicated to public education; and

Whereas, many of the member states have trusts which provide for important public uses other than public education to benefit from revenues from production of crude oil production on State lands;

Now, therefore, be it resolved that the Western States Land Commissioners Association urges the Congress to include in the "Crude Oil Windfall Profit Tax Act of 1979" full exemption from the tax provisions for all interests in crude oil held by a State and used or dedicated to a fund for use for a statewide public purpose or benefit, and

Be it further resolved that the Western States Land Commissioners Association urges and requests the Congress and the President of the United States to refrain from advancing or supporting legislation which incorporates taxation of income received by the states or their political subdivisions derived from any publicly owned natural resource, and

Be it further resolved that copies of this resolution be sent to the President of the United States, all members of the United States Senate, the Secretary of the Interior, the Secretary of Energy and Secretary of the Treasury and each member of the House of Representatives of the member states.

ADOPTED this 2nd day of August 1979.

Mr. LONG. Mr. President, there are other resources that have had an increase in the price of their products, and those should be kept in mind.

If this type policy is to be adopted where we are going to tax the States and tax the State lands, it will not stop there. It will be extended in time and apply to other things.

The oil and gas that we have, for example, will only last a few years in the future. Coal is going to be the big fossil fuel 10 years from now which will far outstrip the oil and gas that we have. Timber will always be a valuable resource because it is a renewable resource. Those have gone up in price also, as has silver and lead. Those minerals must be considered.

Mr. President, I ask unanimous consent that a paper entitled "Price Increases of Selected Natural Resources" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRICE INCREASES OF SELECTED NATURAL RESOURCES

COAL

Domestic coal prices were four times higher in 1976 than in 1970. If you bought a ton of coal in 1970, it cost you an average of $4.99. In 1976, you would have to pay $19.43 for that same ton of coal. This price increase affected an important natural resource in many states. West Virginia, Pennsylvania, Kentucky, Tennessee, Alabama, Colorado, Indiana, Maryland, New Mexico, Ohio, Utah, Washington, Alaska, Kansas, Arkansas, Missouri, Virginia, Iowa, Wyoming, Arizona, Illinois, Montana, North Dakota, and Oklahoma all have coal reserves.

SOURCE.—Department of Energy.

TIMBER

Price increases for lumber are equally startling. The average price of one thousand board feet of lumber skyrocketed from $113 to $394 in a single decade. From 1970–1979, the average price for timber more than tripled.

Timber is an important natural resource for states across the country. Every state in the union has timber resources that can be used for lumber. Maine, Washington, Georgia, New Hampshire, Oregon, Vermont, Minnesota, Alabama, North Carolina, New York, Mississippi, Tennessee, South Carolina, and my own state of Louisiana all have significant timber production.

SOURCE.—U.S. Forest Service, Composite of Softwood Lumber Prices.

SILVER

Silver may well top the list of natural resources that have dramatically escalated in value. In 1970, a unit of silver (troy ounce) was $1.77. This October, the same unit of silver cost $16.78. That is a price increase of 847 percent. While few states are fortunate enough to have silver resources, these price increases mean substantial increases in the amount of money received from royalty leases. Washington, Colorado, Idaho, Utah, and Arizona all have silver deposits.

SOURCE.—Bureau of Mines/Congressional Research Service.

LEAD

The spot price of lead on the New York market has increased from 14.5¢ per pound in 1972 to 67¢ per pound in September of this year. This is a price increase of over 360 percent in less than seven years. Colorado and Missouri have important lead resources.

SOURCE.—Wall Street Journal daily listing of lead metal prices in New York spot market and Hammond's World Atlas.

Mr. LONG. Mr. President, this oil is not going to be around here all that long, at least not in profitable quantities. We voted to exempt stripper wells and tertiary recovery because it is very expensive to recover by tertiary recovery methods. There is not much profit in it, but we will squeeze what oil is there out for many years to come.

But the oil and gas people generally think that, if they could produce all of American oil requirements rather than only half of it, they could only produce enough to meet our oil needs for somewhere between 7 and 15 years.

So our potential for producing great quantities of oil is limited. It is only a few years. But, in my judgment, we are going to be producing enormous supplies of oil from shale. There are tremendous deposits out in Colorado and other Western States in that immediate vicinity, and there will be tremendous amounts of revenue coming from that.

Colorado is not regarded as a major oil-producing State. I see here they are listed as having only $3.298 million worth of oil royalties according to the latest report available to me, but that can be considered tidbits compared to the wealth that will be produced in Colorado from that shale out there. The money is being put together to bring on the development of that shale, and they have enough out there in Colorado alone, Mr. President. to provide our energy needs for a hundred years. So other States will have a far greater stake in this type of thing in the future than we do.

Mr. President, I know the Senator from Missouri views his fight as a very noble, inspired fight in the national interest, and I hope he will pardon me if I do not agree with him.

It seems to me it is sort of a beggar-thy-neighbor policy.

Mr. President, may I just announce for the majority leader that there will be no more votes this evening. He wanted to announce it, and I do so rather than yield to him.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. LONG. Mr. President, how did your land policy, your Federal land policy, evolve? You started with 13 States which owned their own land. They formed the Federal Government, and they did not give their land to the Federal Government.

When other States were brought in, they said they would permit them to have the same benefit of owning their own land. The land was owned either by the State or the people in that State. The Federal Government became more restrictive when it brought Western States into the Union. But the land policy in those States was that that which was derived from that land would be used to develop the resources of that area, and it would be used for the benefit of the people of that area.

The original 13 States were not claiming anything out of it for themselves, nor were the other States like Louisiana, which came in, you might say, with the second tier of States which were fortunate enough to own their land for the States and the people, but who could conceivably claim some economic interest at the expense of States that were denied the benefit of owning the land that was within their borders when those States were made a part of the Union.

So the Senator is urging not only a new breakthrough in denying the States the rights that were reserved to them under the 10th amendment and in forming the Union, but the Senator is also seeking to destroy a land policy which has far more justice and equity and fairness to it than does a proposal of divide and conquer where one says, "Well, here there are about four States that have a lot of oil and, therefore, we ought to tax them so that we can spread their revenues among the entire Federal Establishment."

Mr. President, such a beggar-thy-neighbor policy is bound to fail, and it is bound to come back to haunt those who support such a thing. They would be wise to have no part of it.

I said sometimes, Mr. President, some people point a finger of scorn at those of us who represent States that produce oil. They give us a bad time and say some unkind things about us, and they seek to put us in a very bad light indeed.

But, Mr. President, they would be in one terrible fix without us, the States that produce oil. We in Louisiana produce about four times as much as we consume. We export the rest of it. We abide by price controls and all the rest. We do not complain about it, but we really feel they ought to be a little more generous toward us when they recognize that we, too, are working to benefit this great Nation and we are not holding back. We have not had the kind of strikes that people have complained of in other regions. There has been no interruption in our production of oil and gas.

Even though we find we may export most of it, a great deal of the revenue goes to others for whatever reason. We do not complain about all that in particular, but we do feel we are doing a lot for this great country, and we would hope others would recognize it.

The State of Texas, the State of Alaska, and the State of California are doing their share to support this great Nation, and they are doing too much for America, and they are doing it too well and too nobly, Mr. President, to be treated in a somewhat demeaning fashion, as though those States were out trying to do some harm or some injury to others. They have no intention of doing any such thing.

The revenue that properly belongs to those State governments will be used not to try to take an industry that belongs in some other State, it will be used to try to either pay off their State debts or reduce the obligations they owe, to provide a better education for their children or to develop their highways or provide other services to their people.

When the Senator spoke of the horrible results that one could envisage from some programs, Mr. President, I suspect it was the Senator's own imagination that he will find betrayed him because the States, so far as I know, have no intention of doing any of the kind of things the Senator has in mind, and lacking evidence to support such a charge, the Senator should not make it again. I hope he would not in any event.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. BUMPERS). The Senator from West Virginia.

Mr. ROBERT C. BYRD. I do not intend, Mr. President, to take the floor from any Senator who wishes to speak. Otherwise I thought we would proceed with morning business and come back to this matter on Monday. But if any Senator wishes to speak on this bill I will yield the floor.

Mr. DANFORTH. Mr. President, I was just going to proceed for 1 minute.

Mr. ROBERT C. BYRD. Yes.

Mr. DANFORTH. Mr. President, I will only reiterate what the issue is before us. It is not a legal issue. The Treasury Department has issued an opinion, CRS has issued an opinion, that this amendment would be constitutional.

The issue is an economic issue, and it is simply this: There is no way that over the next 10-year period of time the State of Texas should receive in excess of $33 billion, the State of Louisiana in excess of $13 billion, the State of California in excess of $21 billion without the threat, and very serious threat, of profound economic consequences for the rest of the United States of America. That is the issue before the Senate.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. ROBERT C. BYRD. Is the Senator going to speak on this subject?

Mr. CRANSTON. On this subject.

I would just like to state very briefly that plainly we have a very serious energy problem confronting our country, but the Senator from Missouri would approach that in a way that undermines our Federal system, undermines our tax system, undermines the entire matter of States' rights and, for that reason, I and the Senator from Louisiana and others very firmly oppose it.

I would like to correct one statement that was made not by the Senator from Missouri but by the Senator from Rhode Island sometime ago.

The annual $2 billion that California obtains from the sale of oil owned by the State is less than the amount the State of California receives from revenue-sharing. I want to correct the impression that the amount would equal 20 percent of our State budget as suggested by the Senator from Rhode Island.

The California State budget is not the $8 billion or $9 billion that the Senator mentions; it is $16 billion for 1980. The Senator from Rhode Island suggested, based upon an erroneous assumption about California's budget, that as much as 20 percent of our revenues would come from oil. I simply want to correct that exaggeration.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield? I ask unanimous consent that there be a period for the transaction of routine morning business not to extend beyond 30 minutes, and Senators may speak during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRESIDENT CARTER PROCLAIMS HUMAN RIGHTS WEEK AND CALLS FOR RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, yesterday President Carter issued a proclamation designating the week of December 10, Human Rights Week, and proclaiming December 10, Human Rights Day, and December 15, Bill of Rights Day. It is extremely fitting that these 2 days be celebrated during Human Rights Week. As President Carter pointed out, they provide us with an opportunity to "renew our dedication both to our own liberties and to the protection of human rights everywhere."

A TIMELY CALL

The President's call is particularly timely. Fundamental human rights continue to be threatened across the globe. Just a sampling of the daily press tells the story.

The internationally protected rights of diplomatic envoys are being mocked today in Iran.

Millions of Cambodians whom managed to survive the carnage of Pol Pot's despotic regime are now dying from starvation and disease.

Political prisoners continue to be imprisoned and tortured by the thousands.

And this list goes on and on.

Mr. President, these incidents make it clear. We must stand firm on human rights issues. We must speak out—loud and clear—on human rights issues. We must act quickly on human rights issues.

RATIFICATION OF THE GENOCIDE CONVENTION

But what can we do, Mr. President? President Carter's statement shows the way. We can take prompt action on the human rights treaties now pending before the Senate, beginning with the Genocide Convention.

Mr. President, this is at least the fourth time that President Carter has called upon the Senate to act on the Genocide Convention.

Four times, Mr. President. We cannot ignore his call any longer.

Ratification of these Conventions, beginning with the Genocide Treaty, which seeks to guarantee the most fundamental of human rights, the right to live, will strengthen our hand in meeting these challenges to human rights. Our action will help focus world attention on the primacy that human rights must have in every nation's foreign policy.

Mr. President, as we celebrate Bill of Rights Day, we will be able to reflect with pride on our domestic record of civil and political rights—unsurpassed by any other nation.

But the challenge of Human Rights Week is to take those principles enshrined in our Bill of Rights and establish them as firm principles of international law.

The way to meet that challenge, Mr. President, is by taking prompt action on these Conventions. I urge my colleagues to act.

Mr. President, I ask unanimous consent that the text of President Carter's proclamation be included in the Record in full.

There being no objection, the proclamation was ordered to be printed in the Record, as follows:

Bill of Rights Day; Human Rights Day and Week, 1979: A Proclamation

On December 15, 1791, the Bill of Rights became part of the Constitution of the United States. On December 10, 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights. In marking these anniversaries, we renew our dedication both to our own liberties and to the promotion of human rights everywhere on earth.

In our open society, a freely elected government, an independent judiciary, a free and vigorous press, and the vigilance of our citizens combine to protect our rights and liberties—civil, political, economic and social.

We can be proud of what we have achieved so far. Yet we cannot rest satisfied until the Bill of Rights is a living reality for every person in the United States. The Equal Rights Amendment would help do that by explicitly guaranteeing the basic rights of American women. I urge every state that has not yet done so to ratify this wise and necessary measure in the coming year.

The Universal Declaration of Human Rights sets global standards that reflect the same vision that inspired our own Bill of Rights. Almost every country has endorsed the Declaration. Yet in too much of the world its promise is mocked.

Arbitrary arrest and imprisonment, summary executions and torture, disappearances and acts of genocide still shatter the lives of millions. Fundamental human liberties are continually threatened by the silencing of political dissenters, by discrimination based on race, religion, ethnic origin and sex, by violations of the freedoms of assembly, association, expression and movement, and by the suppression of trade unions. And as the kidnapping and abuse of American Embassy employees in Iran have reminded us, the internationally protected rights of diplomatic envoys are a basic condition of civilized relations among nations.

Those who cause others anguish—whether they are the secret police of dictators, the faceless bureaucrats of totalitarian states or the chanting mobs of revolutionary zealots—must know that we will not defend them, but their victims.

Bill of Rights Day and Human Rights Day and Week should be marked of redoubled support for international efforts on behalf of the full range of human rights.

I renew my request to the Senate to give its advice and consent to the Genocide Convention, the Convention on the Elimination of all Forms of Racial Discrimination, the Covenant on Civil and Political Rights, the Covenant on Economic, Social and Cultural Rights, and the American Convention on Human Rights. I commend the Senate Foreign Relations Committee for holding hearings on these treaties, and I urge all Americans to support their ratification.

Now, Therefore, I, Jimmy Carter, President of the United States of America, do hereby proclaim December 10, 1979, as Human Rights Day and December 15, 1979, as Bill of Rights Day, and call on all Americans to observe Human Rights Week beginning December 10, 1979. Let us rededicate ourselves to promoting the ideals embodied in the Bill of Rights and the Universal Declaration so that, one day, they will be enjoyed by all peoples of the world.

In witness whereof, I have hereunto set my hand this sixth day of December, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

MEMORIES OF THE GREAT BATTLESHIP "WEE VEE" STIRRED BY DEDICATION CEREMONY AT SALEM COLLEGE IN WEST VIRGINIA

Mr. RANDOLPH. Mr. President, December 7, 1941, is a date that not only will "live in infamy," in the late President Franklin Roosevelt's words, it is a date that stirs memories and agonies for many Americans. The Japanese attack on Pearl Harbor accelerated the largest and most savage war in the history of mankind. It claimed millions of lives, and dislocated millions more as ideologies and geography combined to redraw the map of the world. It was, in short, an event which irrevocably changed the course of civilization.

Not all the memories of that era are bitter ones. Those of us who lived during World War II can mask our sorrows with nostalgic remembrances and feelings of understandable pride. These feelings are often evoked by souvenirs and other tangible evidence of the great war machine assembled during World War II.

Recently, Salem College, my alma mater, received an object on loan from the U.S. Naval Historical Center which is of historical importance to West Virginians. It is the secondary conning station wheel salvaged from the battleship U.S.S. *West Virginia* before it fell to the cutter's torch in 1961.

In placing the steering wheel on display, college officials conducted a dedication ceremony in remembrance of the grand old ship and the men who served aboard her. In dedicating the wheel, Salem President James C. Stam turned to Myron J. Smith Jr., associate professor of history and director of libraries, to deliver a definitive history of the U.S.S. *West Virgina*.

I ask that Mr. Smith's address, together with an account of the ceremony in the Clarksburg, W. Va., Exponent and a listing of the battleship's honors and achievements, be printed in the Record.

The PRESIDING OFFICER. There being no objection, the material is ordered to be printed in the Record, as follows:

U.S.S. "West Virginia" Steering Wheel To Be Dedicated At Salem

The largest remaining piece of the World War II battleship U.S.S. West Virginia is to be placed on public display at Salem College, Friday, Oct. 26, in conjunction with the 35th anniversary of the vessel's most famous battle, Surigao Strait, the college will hold a memorial ceremony to dedicate the steering wheel from the ship's secondary conning station.

The United States Naval Historical Center has given the steering wheel to the college on permanent loan. It will be placed "as a monument to the patriotism of all Mountaineers" in the main lobby of the Benedum Library on the Salem campus.

The dedication will be held at 5:30 p.m. at the Benedum Library. The public is invited to attend the ceremony.

The colorful history of the U.S.S. West Virginia has been a source of pride to the state for which it was named. Other fragments of the vessel have been placed as monuments in Charleston, Clarksburg, and the West Virginia University campus at Morgantown.

Salem College librarian Myron Jack Smith, a naval historian, is the author of a history of the ship, "The Mountain State Battleship, The U.S.S. West Virginia," which is now appearing in serial form in the "West Virginia Hillbilly" and will later be published by subscription.

The U.S.S. West Virginia was one of the many American ships sunk at Pearl Harbor on Dec. 7, 1941. It was raised in March 1942 and saw combat throughout World War II. In the battle of Surigao Strait in the Philippines on Oct. 25, 1944, the ship fired the opening and most effective rounds of fire, sinking a Japanese battleship. That enemy ship was the last battleship ever sunk in naval combat.

After World War II, the West Virginia was stationed at Bremerton Naval Yard in Washington. It was scrapped at Puget Sound in 1961. Its sister ships, the U.S.S. Colorado and U.S.S. Maryland, have also been scrapped.

The secondary steering wheel, which will be displayed at Salem College, was located on the ship, aft of the main mast, below decks. The solid brass wheel measures 42 inches and weighs just under 100 pounds. The main ship's wheel has been lost.

Taking part in Friday's dedication ceremony will be Salem College President James C. Stam, Board of Trustees Chairman James Frashure, Dean Ronald Champagne, Community Congress President Steve Powell and Associate Dean Doyle Zwiebel. Representing the U.S. Navy will be Commander Bryon E. Tobin, commanding officer of the Naval Recruiting District in Pittsburgh, Pa.

Dedication Ceremonies

Significant features of the U.S.S. *West Virginia* (BB–48):

Physical: 624′ x 97′; 32,600 tons; main battery, 8 16″/45 cal. guns.

Launched: November 1921.

Commissioned: December 1923.

Pre-Pearl Harbor awards: Fleet gunnery, efficiency, or preparedness champion, 1925, 1927, 1931–1934.

Pearl Harbor: Sunk, 7 December 1941; raised, 30 May 1942; repaired, 4 July 1944.

World War II battles and campaigns: Leyte landing, October 1944; Battle of Surigao Strait, October 1944; Flagship, Mindoro Invasion, December 1944; Luzon landing, January 1945; Iwo Jima landing, February 1945; and Okinawa campaign, April–June 1945.

World War II achievements and awards: 223 days in combat area(s); 8 Japanese planes shot down, 12 assists; 1 Japanese battleship (Yamishiro) sunk; 71,165 miles steamed; casualties: 4 killed, 31 wounded, 2 MIA; and awarded 5 battle stars.

Post-war fate: "Operation Magic Carpet," Sept.–Dec. 1945; inactivated, December 1945; decommissioned, January 1947; sold, August 1959; and scrapped, 1961–1962.

Other U.S.S. *West Virginia* memorials in West Virginia: Mainmast, West Virginia University, and Jackstaff, Harrison County Courthouse, Clarksburg.

ADDRESS BY MYRON J. SMITH, JR.

Mr. President, Representatives of the Trustees, Faculty, Students, and U.S. Navy, Friends:

Writing to French moneymen in 1778, American sailor John Paul Jones implored the use of a good, stout vessel. "I intend to go in harm's way," he warned. Two hundred years ago September 23, Jones went into "harm's way" and won the most famous naval victory of our history.

Today we gather to honor the memory of a generation of men and a ship which was no stranger to harm and was often in harm's way. People from this State and around the world knew the battleship as the U.S.S. *West Virginia* (BB–48). To her crews, she was affectionately the "Wee Vee" or old "Task Force 48."

Conceived in the months prior to U.S. entry into World War I, the *West Virginia* was the ultimate in naval construction when commissioned in 1923. She was the Trident or MX of her day—America's first line of defense. In the crises filled days before 1941, she was the showboat of our fleet, taking the flag around the globe to assure and reassure foreigners and Americans alike that this country would tolerate no force hostile to its well-being.

Many of us gathered here today can remember—and have so testified—as to the shock experienced when news came of the "Wee Vee's" loss at Pearl Harbor. The ship's honor, that of our State and Nation, had been soiled by sneak attack. America would now go to work to redeem and revenge this setback.

In one of the engineering miracles of the Second World War, the *West Virginia* was pulled from the mud of Battleship Row in May 1942 and completely rebuilt by July 4, 1944. With a new crew, new officers, and a new spirit, the "Wee Vee" was sent to war in late summer 1944.

It was in the Battle of Suriago Strait, during the American return to the Philippines, that the *West Virginia* sailed into harm's way and was not found wanting. With a little help, the ship won a victory all Mountaineers still recall with pride.

In an effort to dislodge MacArthur's invasion fleet off Leyte, the Japanese dispatched a powerful group of battleships and cruisers. The Imperial warships, on a moonless, starless night—35 years ago yesterday, entered into their plan to find and destroy the beachhead. Little did the sailors of Nippon know that they were headed straight into a watery valley of death.

Forewarned, the American shore bombardment force of the U.S. 7th fleet was waiting at the northern entrance to the Strait, with the radar-equipped Pearl Harbor ghost *West Virginia* leading the battleline. As the Japanese came within 17,000 yards, the "Wee Vee's" captain received permission to open fire. The first battlewagon to spit a broadside, the *West Virginia* poured 93 one-ton shells into the enemy formation in 14 minutes. When the battle was over, the Imperial task force was destroyed with one battleship, the last to be sunk by gunfire, the victim of marvelous accuracy by the gunners of old "Task Force 48."

The *West Virginia*, as you can see by your programs, was a participant in all of the remaining big campaigns of the Pacific war. Her guns were often in action and her contribution to final Allied victory was not small. Although the "Wee Vee" had only been in "harm's way" 223 days when the Japanese surrendered, she had more than recovered any honor lost at Pearl Harbor.

The wheel we dedicate today is the largest remaining piece of the vessel available for public display. It was saved by the Navy from the cutter's torch when the ship was scrapped in 1961. Housed in the secondary conning station aft the main funnel, its purpose was to be available should the main wheel in the conning tower forward be destroyed in action. It is the only large piece from the 1923 commissioning period on display in this state. Never employed in combat, it is somewhat ironic that this wheel survives while the main wheel has vanished.

On behalf of the ship and men whose honor it has been mine to chronicle, I thank all of you who have joined us today for this ceremony.

MRS. JESSIE M. RATTLEY OF NEWPORT NEWS, NEW PRESIDENT OF THE NATIONAL LEAGUE OF CITIES

Mr. HARRY F. BYRD, JR. Mr. President, as a Virginian, I am pleased that Mrs. Jessie M. Rattley of Newport News is the new president of the National League of Cities. In 1978, she was elected to the presidency of the Virginia Municipal League.

Mr. President, I am pleased to congratulate Mrs. Rattley. It is a fine tribute to her that her talents and her dedication to community betterment has been recognized both statewide and nationwide.

The Daily Press of Newport News-Hampton had this editorial comment on Mrs. Rattley in its December 2 issue. I ask unanimous consent that the editorial be printed at this point in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SHE BRINGS HONOR

The succession of Mrs. Jessie M. Rattley to the presidency of the National League of Cities (NLC) brings honor to Newport News and the State of Virginia.

This recognition by her peers in American city government bestows distinction on her, the first black woman to achieve this post.

We join her fellow Newport News City Council members and other friends in offering congratulations.

Mrs. Rattley had been deeply involved in community betterment efforts even before she first won a seat on council in 1970. As a councilwoman she has labored in behalf of the city as a whole as well as the black community.

Beyond her home community Mrs. Rattley's abilities have had statewide recognition. In 1978 she was elected to the presidency of the Virginia Municipal League.

A "come hell or high water" Democrat, she became first vice chairman of the state party and went on to the National Committee where she has been given important assignments including convention committee seats.

Her dual capacity as a National Democratic Committee member and an elected municipal official have gained her entre to the White House on various groups.

Over the years, she has become an authority on federal revenue sharing programs, an area of expertise which has already redounded to the benefit of this area and will stand her in good stead as NCL's leading spokesman.

For the past two years as second and then first vice president of NCL, she has been chosen to represent American municipal government and the nation on fact-finding and good will trips to a number of foreign nations. Most recently she was in China.

In her new post with NCL, Mrs. Rattley will be traveling more than ever. Wherever she goes, she will take with her the identification of Newport News, Virginia.

We wish her success in her efforts on behalf of better, more efficient government.

VA STUDY ON THE EFFECTS OF AGENT ORANGE: A TROUBLING COMPROMISE

Mr. PERCY. Mr. President, I have for some time been extremely concerned about the welfare of the Vietnam veterans who may have been exposed to the defoliant commonly known as "Agent Orange." Thousands of veterans have reported that they were exposed to the substance while in Vietnam. Many of them have reported strikingly similar pathologies, including, cancer, genetic damage, psychological abnormalities, nervous disorders, skin rashes, and a host of other pathologies.

Scientific controversies over the precise effects of Agent Orange are as yet unsettled, but we cannot ignore the preliminary scientific data of Agent Orange's danger to human health, nor the tragic firsthand accounts of thousands of Vietnam veterans. As the Senator from California (Mr. CRANSTON), the distinguished chairman of the Veterans' Affairs Committee knows, I believe that a thorough, scientific and impartial epidemiological study of Agent Orange's health effects on Vietnam veterans should be undertaken immediately.

To that end, I cosponsored with the Senator from California and Senators JAVITS, MOYNIHAN, and SIMPSON, an amendment to H.R. 3892, directing the Secretary of HEW to conduct such an epidemiological study. The compromise language, reached in conference between the Senator from California and Representative SATTERFIELD, was made known to me and my staff yesterday; the measure was brought up on the Senate floor last night, unfortunately without my knowledge.

Although I believe I understand the reasons for the compromise, I frankly find the compromise language a bitter pill to swallow. The Senate has been forced to yield to jurisdictional concerns of House Members that, in this instance, are not in the best interests of our Vietnam veterans.

Mr. CRANSTON. As I have said, the compromise was not what I have wanted or thought best, but I believe that we had to do what was necessary to get a study underway as soon as possible.

Mr. PERCY. My principal concern is that any epidemiological study of Agent Orange's effects upon Vietnam veterans be done with the utmost dispatch, thoroughness, objectivity, and impartiality possible. The Department of Health, Education, and Welfare, as the agency principally responsible for the Nation's health needs, is, we have agreed, best equipped to conduct such a study. I refer principally to the Department's Center for Disease Control in Atlanta, which has superb facilities, staffed by experts in epidemiology. Language agreed to last night would, instead, place the study in the hands of the Veterans' Administration. There is good reason in the minds of many people, including many veterans, to question the ability and the willingness of the VA to conduct a thorough, immediate and objective study of Agent Orange.

Time and time again, the VA has proven unresponsive to the pressing needs and concerns of veterans concerned about Agent Orange. Months ago, the VA appointed an interagency task force to study the problem. To date, the task force has produced few visible results. The VA's official policy is to perform a thorough examination of any veteran who comes to the VA and reports that he may have been exposed. Many veterans, however, have told us that VA doctors bypass this procedure. Moreover, a VA circular of instruction on Agent Orange dated April 16, 1979, says—

> It is to be emphasized that at this time VA medical centers will refrain from efforts to induce veterans who are not currently part of their patient population to undergo an examination for possible health related effects of herbicides.

In light of recent GAO findings that many thousands of servicemen may well have been exposed, I find this directive totally inappropriate. The VA's response in this matter has been and continues to be unsatisfactory.

For all of these reasons, I continue to believe that HEW and not the VA should be directed to conduct the study. I do believe however, that this compromise is better than having no study at all.

Mr. CRANSTON. I agree with the Senator that, ideally, HEW should conduct the study. I believe that the compromise language we hammered out is the best that could have been achieved and that the VA will be able to do the job under the provision. The compromise agreement requires the VA to submit its protocol to the Director of the Office of Technology Assessment for his review and approval thereby effectively giving the Director of OTA a veto over an invalid protocol or an approach that lacks credibility or objectivity. The Director is to monitor the conduct of the VA's study in order to assure the VA's compliance with the protocol. The Administrator of the VA must also submit to Congress annual reports of the VA's progress.

The Senate last night approved S. 2096, to require a similar study of dioxins, with similar oversight by the OTA, to be performed by HEW, of populations that have been exposed to dioxins.

The ongoing OTA review, and Presidential mandate for coordination, coupled with a concurrent HEW study, is designed to assure a scrupulously fair, expeditious, and thorough study by the VA.

Mr. PERCY. In a previous conversation the Senator from California and the ranking minority Member (Mr. Simpson) have assured me that they will personally do their best to assure that the objectivity of the VA's study and the OTA's review procedures will be preserved. That is a matter of utmost concern to me.

The Department of HEW has medical, human, and research resources unmatched by any other Government agency. I would suggest to the VA, to HEW, and to the OTA that HEW personnel and other resources should be loaned to the OTA to assist in the design and monitoring of the study. Indeed I would hope that the VA itself would seek to have HEW personnel temporarily detached to it for the purpose of conducting and writing this study.

The compromise language provides that the President shall assure full coordination and cooperation between HEW and VA studies. I urge that that language be broadly construed to insure intimate HEW involvement in the VA's study.

The VA should be on notice, here and now, that the Senate will be looking over their shoulder every step of the way on this study. The Senators have given me their personal assurances that the objectivity, thoroughness, and expeditiousness of the VA's study will be beyond question. Should there be any sign that the study is not going forward in this manner, I am prepared to initiate an immediate inquiry through the Permanent Subcommittee on Investigations.

Mr. CRANSTON. The Senator does indeed have my assurances of my utmost vigilance over the conduct of these studies.

Mr. PERCY. In light of the recent history of lack of action by the VA and the DOD, congressional action on this matter is taken under a dark cloud. Following my receipt of the GAO report that thousands of U.S. troops were in areas sprayed with Agent Orange, I hand-delivered letters to Secretary of Defense Brown and Mr. Cleland of the VA on November 20, requesting their prompt response to my request for immediate action on their part to conduct an outreach program to contact veterans in close proximity to spraying missions. I also requested from Secretary Brown an immediate response about the serious and indisputable inaccuracies in Defense Department assertions about the proximity of U.S. ground troops to spraying missions. The fact that as of this moment DOD and VA have not seen fit to respond does not bode well for the future of these particular veterans' concerns.

PRESIDENT CARTER'S PROPOSALS ON THE NUCLEAR REGULATORY COMMISSION DESERVE OUR SUPPORT

Mr. RANDOLPH. Mr. President, I call attention to President Carter's proposals relating to the Nuclear Regulatory Commission.

I am gratified that the President has expeditiously considered and responded to the report of the President's Commission on the Accident at Three Mile Island which was issued just over a month ago.

The President is right in declaring that nuclear energy must be a power source of last resort and that the safe operation of nuclear powerplants must have the highest priority. I am particularly gratified by his emphasis on the direct use of coal as a means by which increased use of nuclear power can be held to a minimum.

President Carter has acted correctly in retaining the Commission as a multimember body rather than an agency directed by a single administrator. The issues of nuclear power safety and operation are complex and far-reaching. They must have the attention and deliberations of individuals of diverse backgrounds and viewpoints.

It is important, however, for one person to have the authority to act quickly and decisively in emergency situations. The proposals of the President to enhance the emergency powers of the NRC Chairman, as well as his plans for other reorganization of the agency, will be carefully reviewed by the Committee on Environment and Public Works when they are submitted to the Congress early next year.

This responsibility will coincide with our own development of legislative proposals growing out of the Three Mile Island accident. Senators Gary Hart of Colorado and Alan Simpson, of Wyoming, the chairman and the ranking minority member of our Subcommittee on Nuclear Regulation, as well as all members of our committee, will work constructively in this area of concern.

DRAFT MX BASING BILL

Mr. PROXMIRE. Mr. President, today I am making public a proposed bill the Air Force has quietly circulated on Capitol Hill which would waive certain environmental requirements for deploying the MX missile system; make it easier to withdraw public lands for MX use; reduce the time local officials have for considering the MX; and shortcircuit judicial review relating to the MX.

The MX bill, titled draft No. 22 to the MX Missile System Basing Act, has not been approved by the Pentagon or the Office of Management and Budget. It is being changed day by day. As such, it does not yet represent administration policy. It has been circulated to various Senators and Members of the House of Representatives representing the geographical area involved. In some cases, this was done by request after word leaked out about the existence of such a bill. In other cases the Air Force simply offered the bill for review to interested parties.

The Air Force should have followed normal policy for a controversial issue of this magnitude. That is, they should have obtained clearance from the Office of Management and Budget and the Secretary of Defense and then sent this proposal to the Congress for review.

The draft bill spells trouble for the residents and local political leaders of Utah and Nevada. Here is what it would do:

It would permit the President, upon recommendation of the Secretary of Defense, to select a basing area for the MX without fully analyzing the environmental effects of alternative areas. It would thus limit a provision of the National Environmental Policy Act (NEPA) requiring that alternative sites be fully compared in environmental terms to the selected site.

The Council on Environmental Quality has strongly protested this waiver authority. In a letter to the Air Force on November 14, CEQ said the legislation was unneeded. The Council said:

> The precedent of this sort of waiver of a law, which in President Carter's words "has had a dramatic—and beneficial—influence on the way new projects are planned," would be most undesirable.

This bill also provides authority to the Secretary of Defense to recommend additional basing areas even after MX is deployed. Thus, residents of Nevada and Utah, or wherever MX is deployed, will be faced with the continual uncertainty of future land grabs by the Air Force.

Under title III of the proposed bill, the Air Force could bypass existing laws governing the use of public land. This provision would permit the Air Force to acquire all necessary land by late 1981 by first "segregating" large land areas for potential MX use simply by filing a letter with the Secretary of the Interior. Then the Secretary of the Air Force would "withdraw" specific areas from those "segregated" on which the MX would be built. Unused land eventually would revert back to the Department of the Interior.

In order to preclude local officials from holding up the MX system, the Air Force bill would intervene and overrule local and State permit granting authority and force a decision on any requested permits within a 270-day period. If no action is taken before 270 days, the Air Force would proceed as if the application had been approved.

And finally, the Air Force bill designates the U.S. Court of Appeals for the District of Columbia Circuit to have exclusive jurisdiction to hear MX legal challenges under the bill. This bypasses regional district courts.

The Air Force would like some Member of Congress to introduce this bill before the end of this year and have it considered and passed in 1980. As of yet there have been no takers.

This bill would gut environmental laws, usurp local and State control over land, curtail local legal rights, and railroad the MX down the throats of residents in the effected areas. Undoubtedly, this bill will be modified and changed. The "segregation" provision already has been dropped I am told. Nonetheless, I hope the Congress has the wisdom to kill this bill should it ever get the concurrence of the administration. Further, I question the authority of the Air Force to circulate this bill without the administration's consent.

Mr. President, I ask unanimous consent that the proposed draft bill and the referenced Council on Environmental Quality letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DRAFT 22 OF MX BASING BILL

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SHORT TITLE; FINDING; PURPOSES; DEFINITIONS SHORT TITLE

SEC. 101. This Act may be cited as the "MX Missile System Basing Act".

FINDINGS AND STATEMENT OF PURPOSE

SEC. 102. (a) The Congress finds that the expeditious siting and construction of the MX missile system and the achievement of an initial operational capability of such system by 1986 are vital to the national defense and are in the paramount interest of the United States.

(b) The purpose of this Act is to provide the means for expediting Federal and State procedures required for the selection of a basing area for the MX missile system, for the selection of particular sites for specific components of such system, and for the construction of such components.

DEFINITIONS

SEC. 103. As used in this Act—

(1) The term "MX system" means (A) the MX intercontinental ballistic missiles proposed to be deployed, and (B) all devices and facilities (including roads, railroads, shelters, bases, field assembly facilities, maintenance facilities, and support facilities) to be used to operate and maintain such missiles that are located in a basing area.

(2) The term "basing area" means the total land area or areas within which the entire MX system is proposed to be deployed.

(3) The term "missile area" means an area of land within the basing area on which one or more MX missiles are proposed to be deployed.

(4) The term "missile site" means a specific tract of land within a missile area on which components of the MX system, or facilities used for the construction, operation, or maintenance of such system, are proposed to be located.

(5) The term "support site" means a specific tract of land within the basing area but not inside any missile area on which facilities used for the construction, operation, or maintenance of the MX system are proposed to be located.

(6) The term "withdrawal" means the withholding of an area of Federal land from settlement, sale, location, or entry under the public land laws and the Mining law of 1872 and the transfer of such land to the Department of the Air Force for use in connection with the deployment of the MX system.

TITLE II—SELECTION OF BASING AREA

RECOMMENDATION OF BASING AREA TO THE PRESIDENT BY THE SECRETARY OF DEFENSE

SEC. 201. (a) Before September 1, 1980, the Secretary of Defense shall recommend to the President a basing area, or alternative basing areas, for the MX system. The recommendation shall be accompanied by—

(1) a written report setting forth the reasons for recommending the area or areas recommended; and

(2) the environmental impact statement respecting the recommended basing area or areas required by section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

(b) The environmental impact statement submitted under subsection (a)(2) shall include a description and analysis of alternative basing areas to the extent considered appropriate by the Secretary of Defense in light of the purposes of this Act and of section 101 of the National Environmental Policy Act of 1969 (42 U.S.C. 4331) and after consultation with the Council on Environmental Quality. However, notwithstanding any other provision of law, such statement shall not be considered to be inadequate or deficient because of insufficient description or level of analysis of any alternative basing area described in such statement or because of any failure to analyze alternative basing areas not described in such statement.

PUBLIC AVAILABILITY OF RECOMMENDATION; COMMENTS

SEC. 202. (a) The recommendation, report, and environmental impact statement submitted to the President under section 201 shall be made available to the public at the same time that they are submitted to the President.

(b) The Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Council on Environmental Quality may hold joint or separate public hearings on the recommendation of the Secretary of Defense and on any alternative basing area described in the environmental impact statement or in any draft version of the environmental impact statement.

(c) The Secretary of the Interior, the Administrator of the Environmental Protection Agency, the Council on Environmental Quality, and the Governor of any State in which any part of the basing area or areas recommended by the Secretary of Defense is to be located may submit comments to the President regarding the recommendation of the Secretary of Defense under section 201. Any such comment shall be submitted before the end of the 45-day period beginning on the date of the submission of such recommendation to the President. Such comments shall be made available to the public when submitted to the President, except to the extent that they are exempt from disclosure under section 552(b)(1) of title 5, United States Code, relating to classified information.

NOTIFICATION TO CONGRESS OF BASING AREA SELECTION

SEC. 203. The President, promptly upon his selection of a basing area, shall notify the Congress of such selection. Such notification shall be accompanied by a statement of the reasons for the selection of the area selected and shall include the report and environmental impact statement submitted to the President under section 201 for the area selected, modified in such manner as the President considers appropriate.

ADDITIONAL RECOMMENDATIONS BY THE SECRETARY OF DEFENSE

SEC. 204. The Secretary of Defense may, if he considers it appropriate, modify any basing area recommendation submitted to the President under section 201 or make additional basing area recommendations to the President. The provisions of this title shall apply to any modification of a basing area recommendation and to any additional basing area recommendation submitted to the President.

TITLE III—USE OF PUBLIC LANDS

SEGREGATION OF PUBLIC LANDS COMPRISING PROPOSED MISSILE AREAS AND SUPPORT SITES

SEC. 301. (a) Simultaneously with any submission by the Secretary of Defense of a recommendation for a basing area or areas to the President under title II, the Secretary of the Air Force shall submit to the Secretary of the Interior a description (in accordance with the public land system of survey) of the Federal lands comprising the proposed missile areas and support sites within the recommended basing area or areas.

(b)(1) Upon delivery of any land description to the Secretary of the Interior under subsection (a), the lands described therein shall be segregated from the operation of the public lands laws in accordance with this section. Upon receipt of such description, the

Secretary of the Interior shall promptly publish a notice in the Federal Register describing such lands and stating that such lands have been so segregated.

(2) Lands segregated from the operation of the public land laws pursuant to this section shall be withheld from settlement, sale, location, or entry under the public land laws and the Mining Law of 1872 except as otherwise provided in this title, but any such segregation shall be subject to rights with respect to such lands existing at the time of the segregation.

(3) Unless terminated sooner under section 303, lands segregated from the operation of the public land laws under paragraph (1) shall remain segregated for a period of five years beginning on the date of the publication of notice of such segregation under such paragraph and for such additional period (not to exceed five years) as the Secretary of the Air Force may determine is required to complete the selection and withdrawal of sites for the MX system under section 302.

(c)(1) Subject to paragraph (2), during the period of the segregation of Federal lands segregated from the operation of the public land laws under subsection (b), the Bureau of Land Management of the Department of the Interior shall continue to manage such lands for multiple use under the provisions of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) and other applicable statutes.

(2) The Secretary of the Air Force shall be given advance notice of, and 30 days in which to object to, any land-use management action proposed by the Bureau of Land Management which will result in a substantial new or increased use of such segregated lands. If the Secretary of the Air Force objects to such proposed action within such 30-day period, the Secretary of the Interior may not proceed with such action until the objection is resolved.

(d) Mineral exploration by private persons on lands segregated under subsection (b) may continue during the period of such segregation unless and until such lands are withdrawn under section 302.

(e) Notwithstanding any provision of the Mining Law of 1872, no claim on any land segregated under subsection (b) that is located after the segregation takes effect shall carry any legal or equitable rights (except for a right of possession against parties other than the Federal Government) as long as the segregation (and any subsequent withdrawal) of such land is in effect.

WITHDRAWAL OF LANDS FOR THE MX SYSTEM

SEC. 302. (a) After the selection of a basing area by the President, the Secretary of the Air Force (after consultation with the Secretary of the Interior) shall prepare proposals for areas of land in the area selected as the basing area which are proposed to be withdrawn for use as missile sites or support sites for the MX system. Each such proposal shall be prepared in compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 42(2)(C)) and shall include a description of the lands proposed to be withdrawn based on a survey by metes and bounds performed in accordance with survey standards and procedures prescribed by the Secretary of the Interior. When practicable, such surveys shall refer to previously established township or section corner monuments of the United States Public Land Survey System.

(b)(1) The Secretary of the Air Force shall publish each such proposal in the Federal Register and shall transmit a copy of any such proposal to each State and local official and each member of the public who has requested notice of proposals under this section. Any interested person or governmental entity may submit comments on such proposal to the Secretary of the Interior or the Secretary of the Air Force before the end of the 45-day period beginning on the date of the publication of such proposal.

(2) After the end of the period for submission of comments under paragraph (1) and before the end of the 90-day period beginning on the date of such publication, the Secretary of the Interior shall publish in the Federal Register and shall submit to the Congress an order withdrawing the lands described in the proposal with such modifications as the Secretary of the Interior and the Secretary of the Air Force may agree upon. If the Secretaries disagree with respect to any such modification, such 90-day period shall be extended until the disagreement is resolved.

(c) Each order published by the Secretary of the Interior under subsection (b) shall become effective when published, but any such order shall terminate and become ineffective if, before the end of the 90-day period beginning on the date of the submission of such order to the Congress, the Congress adopts a concurrent resolution disapproving such order. In computing such 90-day period, days on which either House of Congress is not in session because of a recess or adjournment of more than three days shall be excluded.

(d)(1) Unless terminated sooner under section 303, each withdrawal of an area of land put into effect by an order under this section shall remain in effect until the end of the 30-year period beginning on the date of the publication of such order. If the Secretary of Defense determines that any withdrawn area is required for the MX system (or for another strategic missile system) after such 30-year period and notifies the Secretary of the Interior of such determination, the withdrawal of such area shall remain in effect until the Secretary of Defense notifies the Secretary of the Interior that such area is no longer needed for such purpose.

(2) A site withdrawn under this section may not be used for any purpose not connected with basing a strategic missile system unless a permit for such use or a new withdrawal order for such purpose is issued under applicable provisions of law.

TERMINATION OF SEGREGATION AND WITHDRAWAL OF LANDS

SEC. 303. (a) After a basing area is selected, the Secretary of the Air Force shall review, at least once every six months, the lands segregated under section 301 and shall determine to what extent segregation of such lands should continue or should be terminated. The results of each such review shall be promptly transmitted to the Secretary of the Interior, who shall promptly revoke, by an appropriate order published in the Federal Register, the segregated status of the lands designated by the Secretary of the Air Force for termination of segregation.

(b) Upon any modification by the Secretary of Defense of any basing area recommendation or any modification by the President of the area or areas selected for the basing area, the Secretary of the Air Force shall notify the Secretary of the Interior of the segregated lands which are no longer included in the basing area as so modified. The Secretary of the Interior, upon such notification, shall promptly revoke the segregated status of such lands by an appropriate order published in the Federal Register.

(c) Whenever the Secretary of the Air Force determines that withdrawal of some or all of the lands in the basing area is no longer required for the MX system or for any other strategic missile system, he shall so notify the Secretary of the Interior. Upon receiving such a notification, the Secretary of the Interior shall promptly publish in the Federal Register an order revoking the withdrawal of the lands specified by the Secretary of the Air Force in such notification, except that such order shall not apply to lands determined by the Secretary of the Interior to be unsuitable for administration by the Department of the Interior because of substantial changes in the character of such lands. The Secretary of the Interior shall notify the Secretary of the Air Force of any such lands determined to be unsuitable for administration by the Department of the Interior, and the Secretary of the Air Force shall then dispose of such lands in accordance with applicable provisions of law.

TEMPORARY USE PERMITS AND RIGHTS-OF-WAY

SEC. 304. (a) The Secretary of the Interior may issue temporary use permits to allow studies to be made in proposed basing areas to aid in the preparation of an environmental impact statement and in the preparation of any recommendation of the Secretary of Defense under section 201.

(b) The Secretary of the Air Force may obtain rights-of-way for the purpose of this Act under the procedures of section 302 of this Act or under the procedures of section 507 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1767).

RELATION OF THIS ACT TO EXISTING LAW

SEC. 305. The first section and sections 2 and 3 of Public Law 85–337 (commonly referred to as the "Engle Act") (43 U.S.C. 155–157) and section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1714) shall not apply to the segregation or withdrawal of Federal land under this Act.

TITLE IV—AGENCY PERMITS

JOINT PROCEDURES FOR EXPEDITING DECISIONS BY THE ENVIRONMENTAL PROTECTION AGENCY RELATING TO THE MX SYSTEM

SEC. 401. The Secretary of the Air Force and the Administrator of the Environmental Protection Agency shall jointly establish procedures for the issuance on an expedited basis of the permits for the construction and operation of the MX system required to be issued by such agency under applicable Federal laws governing air and water pollution, solid waste disposal, and underground injection of liquid waste. Such procedures shall provide that to the extent reasonably possible such permits shall be issued on a consolidated basis.

EXPEDITING OF AGENCY PERMIT DECISIONS

SEC. 402. (a)(1) Notwithstanding any other provision of law, every authorization, license, permit, variance, or other form of permission with respect to the construction or operation of the MX system (or any component of such system) that is required to be issued by any Federal or interstate agency or official, or by any State or local agency or official of a State in which any part of the basing area is proposed to be located, shall be granted or denied before the end of the 270-day period beginning on the date on which an application for such permission is received by such agency or official. Failure of any such agency or official to render a final decision with respect to such application before the end of such 270-day period shall authorize the Secretary of the Air Force to proceed as if the application had been granted.

(2) Upon the request of the head of the agency or the official to whom the application for such permission was submitted, the Secretary of the Air Force may, in his discretion, agree to extend such 270-day period for such additional period as the Secretary of the Air Force determines will not substantially impair the expeditious and cost-effective construction and operation of the MX system.

(b) This section shall not be construed as an extension of the provisions of existing law granting the consent of the Congress to the application of State or local laws, regulations, standards, or procedural requirements to Federal activities of any kind.

TITLE V—JUDICIAL REVIEW

VENUE AND TIMING OF JUDICIAL REVIEW

Sec. 501. (a) Petitions for review of (1) any action taken under this Act (including any petition alleging the unconstitutionality of any such action), and (2) any decision by a Federal agency or official to which section 402(a) applies may be filed only in the United States Court of Appeals for the District of Columbia Circuit, which shall have exclusive jurisdiction over such petitions.

(b) Any such petition shall be filed within 60 days after the date of the action or decision of which review is sought and shall (1) be docketed at the earliest possible date, (2) to the greatest extent practicable, take precedence over all other matters pending before the court, and (3) be expedited in every way by the court. The court shall render its decision with respect to any such petition within 90 days after the date of the filing of such petition unless it determines that a longer period is required by the Constitution, in which case it shall render its decision as soon as possible.

EXCLUSIVELY OF JUDICIAL REVIEW UNDER THIS TITLE

Sec. 502. Any action with respect to which review could have been obtained under section 501 shall not be subject to judicial review in any other forum.

SUPREME COURT REVIEW

Sec. 503. Any petition for review by the Supreme Court of a decision by the Court of Appeals under section 501 shall be barred unless filed within fifteen days after the date of the decision of the Court of Appeals. Review of such a decision by the Supreme Court shall be completed at the earliest possible date.

SUITS FOR INVERSE CONDEMNATION

Sec. 504. Nothing in this title shall apply to actions for inverse condemnation under section 1346 or 1491 of title 28, United States Code.

Executive Office of the President on Environmetal Quality,
Washington, D.C., November 14, 1979.
Hon. Antonia H. Chayes,
Under Secretary, Department of the Air Force, The Pentagon, Washington, D.C.

Dear Toni: I am writing with some concern since the Air Force has not responded for almost a month to our proposals for expediting the application of NEPA to the MX siting decisions. You will recall that you and others from the Air Force made a presentation to Gus Speth, myself, and others from the Council on October 11. Specifically we discussed how best to cooperate to comply with NEPA within severe time constraints occasioned by national security considerations. We offered our assistance and experience in making this possible. You suggested a legislative partial waiver of NEPA, a solution concerning which we had grave doubts absent a compelling showing on your part of overriding necessity. We asked that you immediately provide us with your time chart or schedule showing what had to take place by what time so we could apply our expertise with NEPA to make implementation of that Act fit the time available, if that was possible. No time chart arrived for several days despite our calls and although both you and Grant Reynolds phoned to say one would be coming. When one came, it did not deal in any detailed fashion with the matter at issue—just what had to be done by what time to prepare the basing area EIS. Instead this critical issue was relegated to the first one inch segment of a full-page flow chart. There was no breakdown within that inch of what was to be done by when during that time. After receiving this CEQ representatives met twice over the next two days (October 17 and 18) with Air Force representatives. Both agencies said they wished to expedite matters.

At the sceond such meeting (October 18) I took the lead in representing the Council, and Grant Reynolds did so for the Air Force. At that time we informed the Air Force that based upon our experience with NEPA and with other agencies' successful efforts (with our cooperation) to expedite its application when required by important national priorities, no legislative waiver of NEPA was needed. All that had to be done could be done within the time available (using the Air Force's own time deadlines). Your schedule involved filing a draft EIS by June 30, 1980, filing a final EIS by October, 1980, and making a decision on the basing area (including location of the operating centers and first 10 loops) by November/December, 1980. This schedule is governed by the need to start construction in early 1981 in order to meet the President's goal of having initial operating capability for the MX (10 loops) by 1986.

At the October 18 meeting CEQ advised the Air Force that it is possible to meet your deadline without waiving NEPA in one of two ways—(1) by one EIS which considered basing area alternatives (i.e., Utah-Nevada as opposed to Western Nebraska-Eastern Colorado, etc.) as well as more geographically specific (valleys, 10 loops) material or (2) by two EISs on expedited time schedules (which I personally prefer), the first dealing with basing area alternatively and the second with the siting decisions within the basing area(s) chosen after the first EIS.

The essence of these options is our insistence that NEPA does not require the alternative basing area analysis to go into site specific effects of the MX program. For example, you can do a program EIS just on alternative areas with a broad-brush analysis of effects. This EIS can be done relatively quickly (using information available in your Milestone II EIS on the basing mode and other information the Air Force has been collecting and has available). We said that based on our expertise the Air Force could with determined direction prepare a draft EIS by February, 1980, and a final EIS (and, with time waivers, a decision) by April, 1980. Either a second EIS or a supplement to the first one can then be done analyzing site specific effects of the MX program on the basing area selected (e.g. Utah-Nevada) to be finished by October, 1980. Expedited consideration of environmental factors is not a perfect solution, but it is infinitely preferable to waiving by legislation any consideration of the environmental effects of the basing area alternatives and decision, as the draft legislation would do. We further stressed that legislation was undesirable[1] because:

(1) The Air Force would still have to prepare an EIS on the legislation (since the legislation would in fact make the choice among alternative basing areas; see NEPA, Sec. 102(2)(C)).

(2) The precedent of this sort of waiver of a law, which in President Carter's words "has had a dramatic—and beneficial—influence on the way new projects are planned," would be most undesirable.

(3) Having just gone through a very devisive fight in Congress on the waiver provisions of the Energy Mobilization Board (also dealing in good part with Western lands and water rights issues), the last thing the Administration needs is a repeat, with chancy prospects of success.

In brief, legislation partially waiving NEPA is not needed, and we offered our wholehearted cooperation to move with the utmost rapidity to complete environmental analyses within the time permitted by your schedule. We emphasized that firm direction and a willingness to move the process expeditiously would be vital. Almost a month has passed, and we have received no response from the Air Force to our proposals on how to make NEPA fit the time available, despite our attempts by phone to get a response. Instead the General Counsel's office has sent over another draft of the legislation. It is this circumstance that occasions this letter. We cannot afford to waste time, but must get on with the job of preparing the environmental impact statement or statements. The time is there, but it is growing shorter. Prompt action by the Air Force is essential.

We look forward to hearing from you promptly and to lending our support and cooperation to you to move the NEPA process vigorously to a conclusion within the time available.

Yours truly,

Nicholas C. Yost,
General Counsel.

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[1] We understand from EPA that no legislation is needed to deal with the issues of their permits, but that any waivers, if needed in the national interest, may be handled by the President under his existing statutory authority. We further understand from the Department of the Interior that legislation will ultimately be needed for land withdrawals, but this, of course, comes at a later stage when the lands involved have been identified.

Mr. PROXMIRE. Mr. President, I yield the floor.

SENATOR BAUCUS GETS THE GOLDEN GAVEL

Mr. ROBERT C. BYRD. Mr. President, I wish to call the Senate's attention to the fact that at 5:35 p.m. today our colleague, Senator Max Baucus, completed his 107th hour of presiding over the Senate. I wish to take this opportunity to compliment and to commend him for the fair and impartial method in which he has presided over this body and to express my personal appreciation to him for his cooperative attitude in assuming this responsibility. I am fully aware—and I want the other Members of the Senate to be aware—that this has included considerable sacrifice on his part to accommodate these presiding duties.

In terms of age, Senator Baucus would probably be rated as one of the younger Members of the Senate but, in terms of judgment, wisdom, and expertise in mastering the workings of the legislative branch of our Government, Max Baucus is wise and experienced beyond his numerical years. He could truly be called an "old timer" in that respect.

Mr. President, since Senator Baucus came to the Senate, I have found him to be one of our most able and dedicated Members of the Senate and in addition, he is always willing to work with the leadership and for that I am personally appreciative. Senator Baucus is a fighter for his State and the causes in which he believes. However, while he is an able and tenacious adversary, he is also a gentleman in every sense of the word who ultimately gains the respect of both of his supporters and his adversaries for the competent and gentlemanly ways in which he fights his causes.

Senator Baucus, I congratulate and thank you for presiding over this body for 107 hours.

Mr. MATSUNAGA. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. MATSUNAGA. As a golden gaveler myself, I wish to join with the distinguished majority leader in the accolade accorded the distinguished Senator from Montana. I have observed the young Senator, with whom I served in the House, perform in the President's chair, and I must say that he performs superbly. I congratulate the Senator from Montana, and in doing so I wish to associate myself with all the great things which the majority leader said about him. Congratulations.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Hawaii, who has spoken of the golden gavel. Mr. BAUCUS will be presented with a golden gavel at a ceremony next week.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield to the Senator from California.

Mr. CRANSTON. Mr. President, I join the other Senators in tribute to our colleague from Montana. In addition to his performance in the chair, he has been diligent in all respects in the performance of his duties on the floor, and I offer him my congratulations.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. I was just wondering whether the golden gavel award could be made retroactive. In that Republicans are no longer permitted to preside over the Senate, if we could go back in the records and find what Republicans have presided for more than 100 hours, perhaps we could present them with golden gavels also.

Mr. ROBERT C. BYRD. Mr. President, Republicans are not the only ones, may I say, who have not been awarded golden gavels. May I say that I was never presented with one, though I have served my time in the chair, I am sure more than 100 hours. But I have no desire to go back and get a golden gavel.

Mr. BAUCUS. Mr. President, I thank the majority leader for his very kind words. I might add, however, that one of the reasons why I have presided as many hours as I have has been in an attempt to learn the complicated Senate rules. When I first came to the Senate I was told that the rules were very complex, and that if one would spend some time learning the rules, one could perhaps further one's legislative goals.

I must say, however, that even after 107 hours in the chair, I have by no means perfected my understanding of the rules. I will certainly strive to learn more.

I might also add that I feel that the majority leader does an exceptionally capable job. I have carefully watched the majority leader, quite candidly in part because his predecessor, Mike Mansfield of Montana, was an idol of mine. I might say that we in Montana admire the Senate majority leader, Mr. ROBERT C. BYRD, and I am very honored to be associated with the majority leader, and also with the other Members of the Senate.

With those final words, I am very grateful, not just for the recognition, but for the opportunity to serve it represents.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for what he has said, with his characteristic modesty.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:23 a.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 914) to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for multistate regional development commissions to promote balanced development in the regions of the Nation, disagreed to by the Senate; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; that Mr. JOHNSON of California, Mr. ROE, Mr. OBERSTAR, Mr. NOVAK, Mrs. BOUQUARD, Mr. EVANS of Georgia, Mr. HARSHA, Mr. HAMMERSCHMIDT, and Mr. CLINGER were appointed as managers of the conference on the part of the House; and that the Speaker has appointed Mr. MOORHEAD of Pennsylvania as an additional manager on the part of the House for consideration only of the following provisions of the House amendment and Senate modifications thereto committed to conference: In section 103 of the House amendment, the following provisions added to title II of the Public Works and Economic Act of 1965: Section 202(f); in section 203(a), the 10-year limitation on partial payment of interest by the Secretary; in section 203(c), the 4 per centum minimum rate payable by the Secretary; in section 205 (4), the provision following the comma in the second sentence, exempting the extension of maturity of a loan or guarantee from the restrictions on maturities; and section 205(7), paragraphs A through E.

The message also announced that the Speaker has appointed Mr. ECKHARDT as a manager in the conference on the part of the House on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1308) to provide for an expedited and coordinated process for decisions on proposed nonnuclear energy facilities, and for other purposes, vice, Mr. SEIBERLING, resigned.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, December 7, 1979, he presented to the President of the United States the following enrolled bills:

S. 901. An act to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery;

S. 1491. An act to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building";

S. 1535. An act to designate the Federal Building in Rochester, N.Y., the "Kenneth B. Keating Federal Building";

S. 1655. An act to designate the building known as the Department of Labor Building in Washington, District of Columbia, as the "Frances Perkins Department of Labor Building"; and

S. 1788. An act to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2603. A communication from the Comptroller of the Currency, transmitting, pursuant to law, the 1978 Annual Report of the Comptroller of the Currency; to the Committee on Banking, Housing, and Urban Affairs.

EC-2604. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to authorize additional appropriations for the Northeast Corridor Improvement Project of the Railroad Revitalization and Regulatory Reform Act of 1976; to the Committee on Commerce, Science, and Transportation.

EC-2605. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the Administration's Semiannual Report on the Effectiveness of the Civil Aviation Security Program, January 1 to June 30, 1979; to the Committee on Commerce, Science, and Transportation.

EC-2606. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report entitled "NRC Semi-Annual Report to Congress on the Status of Domestic and International Evaluations of Nuclear Fuel Cycle Systems"; to the Committee on Environment and Public Works.

EC-2607. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a prospectus proposing the acquisition of space by lease in Philadelphia, Pa.; to the Committee on Environment and Public Works.

EC-2608. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report of the Advisory Council on Social Security reviewing the status of the social security trust funds; to the Committee on Finance.

EC-2609. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to amend chapter 23 of title 44, United States Code, to reconstitute the membership of the National Archives Trust Fund Board, and for other purposes; to the Committee on Governmental Affairs.

EC-2610. A communication from the Director of the Office of Administration, U.S. Nuclear Regulatory Commission, transmitting, pursuant to law, a proposed new system of records for the Commission for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC–2611. A communication from the Director of the Federal Judicial Center, transmitting, pursuant to law, the annual report of the Federal Judicial Center for fiscal year 1979; to the Committee on the Judiciary.

EC–2612. A communication from the Administrator of the Veterans' Administration, transmitting, pursuant to law, the annual report on the exchange of medical information program of the Veterans' Administration for fiscal year 1979; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, without amendment:

H.R. 2727. An act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes (Rept. 96–465).

By Mr. DECONCINI, from the Committee on the Judiciary, with an amendment:

S. 1654. A bill to improve the Federal judicial machinery by clarifying and revising certain provisions of title 28, United States Code, relating to the judiciary and judicial review of international trade matters, and for other purposes (Rept. No. 96–466).

By Mr. JACKSON, from the Committee on Energy and Natural Resources, with an amendment:

H.R. 3756. An act to authorize appropriations for certain insular areas of the United States, and for other purposes (Rept. No. 96–467).

By Mr. MELCHER, from the Select Committee on Indian Affairs, without amendment:

S. 1730. A bill to declare that title to certain lands in the State of New Mexico are held in trust by the United States for the Ramah Band of the Navajo Tribe (Rept. No. 96–468).

By Mr. MELCHER, from the Select Committee on Indian Affairs, with amendments and with a preamble:

S.J. Res. 108. A joint resolution to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups (Rept. No. 96–469).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1946. A bill to reform the economic regulation of railroads, and for other purposes (Rept. No. 96–470).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submited:

By Mr. LONG, from the Committee on Finance:

Michael Brackett Smith, of Maryland, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

(The above nomination from the Committee on Finance was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. CANNON. Mr. President, as in executive session, I report favorably sundry nominations in the Coast Guard which have previously appeared in the Congressional Record and, to save the expense of printing them on the Executive Calendar, I ask unanimous consent that they lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk appeared in the Record of November 28, 1979, at the conclusion of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JEPSEN (for himself and Mr. Roth):

S. 2097. A bill to establish a joint export marketing assistance program within the Department of Commerce to stimulate promotion activities; to the Commitee on Banking, Housing, and Urban Affairs.

By Mr. STEWART:

S. 2098. A bill to amend section 431 of the Public Health Service Act to provide funds to the National Institute of Neurological and Communicative Disorders and Stroke for research in the area of regeneration of the spinal cord; to the Committee on Labor and Human Resources.

By Mr. COCHRAN:

S. 2099. A bill for the relief of Rene Arevalo Guerrero; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 2100. A bill to provide conditions of bail to prevent continued drug trafficking pending trial; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 2101. A bill to authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. NELSON (by request):

S. 2102. A bill to amend the Inland Waterway Authorization Act of 1978 (Public Law 95–502; 92 Stat. 1693); to the Committee on Finance.

By Mr. MATSUNAGA (for himself, Mr. Randolph, and Mr. Hatfield):

S. 2103. A bill to establish a Department of Peace, and for other purposes; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JEPSEN (for himself and Mr. Roth):

S. 2097. A bill to establish a joint export marketing assistance program within the Department of Commerce to stimulate promotion activities; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. Jepsen when he introduced the bill appear earlier in today's proceedings.)

By Mr. STEWART:

S. 2098. A bill to amend section 431 of the Public Health Service Act to provide funds to the National Institute of Neurological and Communicative Disorders and Stroke for research in the area of regeneration of the spinal cord; to the Committee on Labor and Human Resources.

RESEARCH IN SPINAL CORD REGENERATION

Mr. STEWART. Mr. President, spinal cord injury is a devastating and catastrophic condition which has resulted in the paralysis of more than half a million Americans. Injury to the spine can happen to anyone, of any age, at anytime. The list of those paralyzed as a result of spinal cord injury includes politicians, athletes, doctors, and laborers. They are young, they are old, they are black, and they are white. Three-term Alabama Gov. George Wallace is one of those who suffers from paralysis as a result of spinal cord injury, former professional football player Daryl Stingley is another. The list goes on and includes the famous and the not so famous. What all these people have in common is the loss of movement in their limbs as a result of a spinal cord injury.

The legislation which I am introducing today would give hope to those now paralyzed as a result of spinal cord injuries. This legislation would authorize the National Institute for Neurological and Communicative Disorders and Stroke in the National Institutes of Health to spend $16 million for research in the area of spinal cord regeneration. Research in this area has potential for developing a cure for spinal cord injuries.

This year the National Institute of Neurological and Communicative Disorders and Stroke will spend about $7 million on spinal cord regeneration research. Even with this meager expenditure we have made major breakthroughs in the area. Drs. Malcolm Wood and Melvin Cohen at Yale University have successfully repaired severed spinal cords in lampreys using a horseradish derivative. Doctors elsewhere have successfully stimulated spinal nerve regeneration in dogs and mice. The additional moneys will permit the acceleration of research into spinal cord regeneration and hopefully it will hasten the day when we can cure spinal cord injury.

A sum of $16 million is not a lot of money when one considers what spinal cord injuries cost. It has been estimated that lifelong medical cost along with lost earnings amount to more than $700,000 per person. Initial hospitalization and rehabilitation costs alone amount to between $40,000 and $150,000 per person. HEW will spend $3 billion on rehabilitation programs and an equal amount is spent on rehabilitation in the private sector. Then there is the additional cost in public assistance payments for spine injured people. There is no way that we can quantify the human cost of spinal injuries. More than 16,000 families must cope with the trauma of spine injury related paralysis. The tremendous physical and psychological adjustments to paralysis are devastating, often resulting in alcoholism and mental illness.

The bill I am introducing today will provide hope and encouragement to victims of spinal injuries and their families. It will allow us to take full advantage of our research capabilities to address a major medical problem.

By Mr. DECONCINI:

S. 2100. A bill to provide conditions of bail to prevent continued drug trafficking pending trial; to the Committee on the Judiciary.

DRUG TRAFFICKING PREVENTION ACT OF 1979

● Mr. DECONCINI. Mr. President, the Senate Appropriations Subcommittee on State, Justice, Commerce, and the Judiciary is in the process of conducting an intensive examination into the many problems associated with the war on illicit drugs. Frankly, it does not appear that we are winning that war; the best that can be said is that after substantial governmental reorganization and the expenditure of many millions of tax dollars, we are treading water.

It is my intention, Mr. President, to continue these investigations until satisfactory answers emerge. We may find, in the future, that some fundamental changes in our manner of attack will be necessary. However, the problem I would like to address today is more limited. In the context of our hearings, the GAO released to the subcommittee the results of a comprehensive study of the Federal drug enforcement effort, entitled: "Gains Made in Controlling Illegal Drugs, Yet the Drug Trade Flourishes." The GAO study is the most extensive ever attempted on the subject, and it overs the entire range of relevant topics.

In its analysis of the drug trafficking problem, the GAO examined Federal judicial practices. It discovered that a major flaw in the process of bringing traffickers to justice is our inability to control their activities prior to trial. Thus, while the law enforcement agencies of the Federal Government may arrest a major trafficker and the Justice Department obtain an indictment, his activities will not cease. In most cases, he will continue his trafficking activities as usual. It seems to me, Mr. President, that such a loose attitude toward individuals who head or figure prominently in major drug trafficking organizations is unwarranted. Society has a right to demand that certain safeguards be established to protect it from the continuing predatory activity of these persons.

The legislation I am introducing today is designed to protect society from the continued operation of drug trafficking organizations between the time of arrest and trial. The bill will allow the Court to impose certain conditions on an individual prior to permitting release on bond. Those conditions might involve travel and association restrictions. If, in the judgment of the Court, however, no set of reasonable conditions could prevent the defendant from continuing in drug trafficking, or if the drug trafficking offense was committed while the defendant was on release pending trial on a previous offense, it would be allowed to deny bail on the grounds of a "danger to the community."

The suggestion embodied in this bill was originally made by the GAO study. That report states:

> Bail and sentencing practices throughout the country have diluted the effect of drug enforcement efforts. Many defendants who are released on bail continue their drug trafficking, while those who are convicted often are not immobilized for long periods of time. These are long-standing problems that have remained unresolved despite considerable attention. Changes in the judicial system should be considered by the Congress to improve the bail law and enhance the capacity of the court system. The Judicial Conference of the United States should perform a comprehensive assessment to determine the effects of judicial discretion on the justice system and whether disparate sentences and a reduced deterrent value of sentencing have resulted.

Mr. President, there remains an unresolved question of constitutional law as to whether a person may be denied release pending trial. The eighth amendment states:

> Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

The ambiguity of the amendment on the question of right to bail is exemplified by dicta statements in two Supreme Court cases handed down in the same term. In *Stack* v. *Boyle*, 432 U.S. 1, 4 (1951):

> This traditional right to freedom before conviction permits the unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to conviction.

> In *Carlson* v. *Landon*, 342 U.S. 524, 545 (1952): The bail clause was lifted with slight changes from the English Bill of Rights Act. In England that clause has never been thought to accord a right to bail in all cases, but merely to provide that bail shall not be excessive in those cases where it is proper to grant bail. When this clause was carried over into our Bill of Rights, nothing was said that indicated any different Concept.

Mr. President, there is ample precedent for the proposition that the eighth amendment guarantees only reasonable bail in those cases where bail is appropriate. The Massachusetts Body of Liberties of 1641 guaranteed bail except in those cases where an "act of Court doth allow it (that is, detention pending trial)," or in capital cases. The 1682 Pennsylvania Constitution, the congressionally enacted Northwest Ordinance of 1787, and the District of Columbia Code also enacted by Congress, all provide for preventive detention for specified classes of cases.

The legislation I am introducing is grounded in the rationale that the continued operation of drug trafficking organizations poses a serious danger to the community. Where conditions of release less restrictive than pretrial detention would be an effective prophylactic, the bill authorizes the court to impose those conditions. However, when the court finds that no conditions of release could effectively prevent the defendant from trafficking in drugs on release, I believe it is in the best interest of the community that the person be detained. Certainly, when the defendant has been arrested for a trafficking offense while already on pretrial release, parole, or probation, he has proven himself dangerous and this bill would allow the court to detain him.

I ask unanimous consent to have the relevant section of the GAO report and the text of the legislation printed in the RECORD.

There being no objection, the bill and excerpt were ordered to be printed in the RECORD, as follows:

S. 2100

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Add a new section to 18 U.S.C., Chapter 207, as follows:

Section 3148A. **Release in cases involving controlled substances.**

(a) A person who is charged with an offense involving the manufacture, transportation, or sale of a substance controlled under Title 21, United States Code shall be treated in accordance with section 3146, except that the court shall order such conditions as to reasonably insure that the person will not engage in the conduct proscribed by the offense pending trial. If the court finds that no conditions could reasonably insure that the person will not engage in the proscribed conduct pending trial, the person may be ordered detained.

(b) For purposes of subsection (a), it is conclusively presumed that no conditions will reasonably insure that the person will not engage in the proscribed conduct if the person was charged:

(1) while on release pending trial for any State or Federal offense; or

(2) while on probation or parole under a conviction on any State or Federal offense.

BAIL AND SENTENCING PRACTICES FURTHER WEAKEN IMMOBILIZATION EFFORTS

Bail and sentencing practices throughout the country have diluted the effect of drug enforcement efforts. Many defendants who are released on bail continue their drug trafficking, while those who are convicted often are not immobilized for long periods of time. These are longstanding problems that have remained unresolved despite considerable attention. Changes in the judicial system should be considered by the Congress to improve the bail law and enhance the capacity of the court system. The Judicial Conference of the United States should perform a comprehensive assessment to determine the effects of judicial discretion on the justice system and whether disparate sentences and a reduced deterrent value of sentencing have resulted.

TRAFFICKING WHILE ON BAIL

Many alleged drug traffickers who are subsequently convicted do not curtail their illegal activities after arrest because they continue their illicit trafficking activities while free on bail. The current bail law does not authorize judges, when deciding bail in noncapital cases, to consider the danger of an alleged trafficker to the community, i.e., the likelihood that the defendant will deal in drugs while on bail and thereby present a danger to the community. Various reports and studies have concluded that the bail statutes have, therefore, hindered the immobilization of alleged drug traffickers by allowing them to be released with no restrictions before trial.

BAIL LAW DOES NOT AUTHORIZE DETENTION OF DRUG DEFENDANTS LIKELY TO TRAFFIC IN DRUGS

The Bail Reform Act of 1966 (18 U.S.C. 3146 *et seq.*) does not provide for pretrial bail decisions for drug defendants based on considerations of whether the individuals may traffic in drugs while on bail and therefore pose a "danger to the community." Current bail law applicable to drug violations provides that assurance of "the appearance of the person as required" is the criteria to be considered. Other bail laws—those dealing with capital offenses[1]—do permit judges to consider danger to the community and allow the refusal of pretrial bail. But narcotics violations are not considered capital offenses.

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[1] Crimes punishable by death.

The Bail Reform Act was passed to better assure that defendants, regardless of financial status, are not needlessly detained while awaiting court appearances. The bail law delineates certain factors judges are to use in determining a defendant's conditions of release. One section of the act provides that defendants in noncapital cases shall be released on bail unless the judge determines that release will not reasonably assure the defendant's appearance at trial. If the judge determines that the imposition of bail by itself will not ensure the defendant's appearance, he may impose certain specified conditions on the defendant's release. Since drug offenses are not capital offeses, bail for such defendants must be provided in accordance with section 3146.

In contrast, another section of the bail law (18 U.S.C. 3148) provides that defendants in capital cases and convicted defendants awaiting sentencing or appeal shall be released on bail unless the judge determines that no conditions of release will adequately assure either that the defendant will appear for trial or sentencing or that the defendant will not pose a threat to the community. If such a determination is made, the judge may order the defendant detained. Where the danger to the community rationale is employed to detain a convicted drug offender awaiting appeal, there must be substantial evidence that the community would be threatened by the defendant's release.

Studies have cited bail law as a problem

Various reports by the executive branch, the Congress, and our office have all concluded that many drug traffickers continue to deal in drugs while free on bail pending trial. In addition to these past studies, we noted recent instances where drug defendants were released prior to trial and then rearrested on new drug charges while out on bail, obviously diluting the effects of drug enforcement efforts.

In 1973, our office[2] concluded that some alleged drug traffickers were not being effectively immobilized because, among other reasons, they were frequently released on bail for long periods. This situation was determined to exist because the bail criteria did not consider the likelihood of a defendant continuing to deal in drugs and thereby posing a danger to the community when released on bail, and BNDD generally did not monitor the activities of arrested traffickers who were free on bail. We recommended that DEA monitor those alleged traffickers who are out on bail and who are likely to traffic in drugs.

The House Select Committee on Narcotics Abuse and control has also identified the bail law as a problem. The Committee, in a 1977 Interim Report, found that the current law allows for major traffickers to be released to the community, and a significant number of those released return to their illegal activities or become fugitives.

DEA has continually claimed that the bail law is inadequate. In one study, DEA found that of a random sample of 499 individuals released pending trial after arrest for narcotics trafficking in 1972, 47.5 percent were implicated in postarrest trafficking. Similar DEA results were used as a basis for the recommendation in the 1975 White Paper that stiffer penalties be imposed to deter drug offenses committed while on bail. A more recent (1977) DEA examination of bail practices showed that:

> One-half of DEA's serious defendants in the study were released awaiting trial, on bond or personal recognizance; and
>
> "More than one-third of the released serious defendants were free on bond or own recognizance for 7 months to more than a year.

In our review we saw examples of what can happen after an alleged drug trafficker is released. To illustrate:

"Two men were arrested and charged with manufacturing PCP. While on trial for that charge, the same two were arrested again and charged with conspiring to manufacture PCP. Enough material to make 10 pounds of PCP was seized at the time of the second arrest.

"An individual was arrested on drug charges and released on bail. While free on bail, he was arrested in another State and charged with conspiring to smuggle approximately 58 pounds of cocaine from Bolivia to the United States. The Magistrate ordered the person released on the existing bail posted in the first case."

Various proposals have been suggested to help alleviate the problem of accused drug offenders continuing to deal in drugs while released on bail. One of these proposals has suggested that the Federal bail statute be amended to provide that judges setting pretrial bail in all serious, noncapital cases could consider whether a defendant released on bail would pose a danger to the community.

While the proposed changes appear simple and clearcut, they are not without problems, since opinions differ regarding their advisability and constitutionality. It has never been resolved, for instance, whether a defendant may constitutionally be denied bail in noncapital offenses for reasons other than to assure that the defendant appear for trial. Some believe that it may be unconstitutional to deny bail to defendants for any other reason than assuring their appearance for trials except in capital offenses. The Eighth Amendment provides that "excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." This provision is, however, subject to two different interpretations. The first is that, since only excessive bail is prohibited, the Congress is not prevented from denying bail altogether in certain classes of cases. The second interpretation is that, since "excessive bail" is prohibited, an outright denial of bail, which is a more serious infringement on the liberty of an accused person, must also be barred. The Supreme Court has never settled this issue.

In summary, then, it is clear that the bail problem is complex and difficult to deal with. This does not mean that the Congress should be deterred from developing solutions, but any modifications or reform to the bail law must consider both constitutional principles and the means to prevent traffickers from engaging in illicit activities that present a danger to the community.●

By Mr. EAGLETON:

S. 2101. A bill to authorize the use of certified mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes; to the Committee on Labor and Human Resources.

● Mr. EAGLETON. Mr. President, I am introducing today a bill which would authorize the National Labor Relations Board to serve process and papers by certified mail.

Under existing law, the NLRB may deliver many case documents only by hand, telegraph or registered mail. Adding certified mail to this list of options would save approximately $2.5 million over the next 5 years and, according to the Board itself, the Office of Management and Budget and the Postal Service, have absolutely no adverse consequences whatsoever. This appears, in fact, to be one of those rare instances in which something can be done a different way perfectly well, at less cost, and to everyone's satisfaction.

Congress imposed the registered mail requirement on the NLRB, and other agencies over the years, as a failsafe mechanism for establishing proof of service. Its purpose was to insure that the sending and delivery of legal documents could be verified, by requiring the use of a specific delivery operation which furnishes receipts.

Receipts notwithstanding, however, registered mail is an inappropriate and inordinately expensive answer to the NLRB's needs. Registered delivery is primarily a high-security system for the shipment of valuables. Provision of receipts is incidental to the indemnification against loss or damage of mailed items which is this service's distinctive feature. Logically, rates for registered mail reflect the cost of its insurance coverage.

Few NLRB papers have any intrinsic value. The Board's only real need is to document their delivery. Yet, under law, this agency must serve filings, notices and other materials on all parties in approximately 60,000 cases a year via a system intended to protect jewelry. In fiscal year 1979, this amounted to 189,000 registered mailings. Each carried between $2.20 and $3.00 worth of postage. This is an outrageous price to pay for a receipt.

Such expense becomes all the more preposterous in view of the fact that another form of delivery, perfectly attuned to the Board's needs, is available at a dramatically lower rate. The Postal Service designed certified mail service to carry items for which delivery records are necessary, but extra security and insurance are not. It costs about 80 cents a letter.

In 1960, Congress recognized the greater-cost efficiency which certified mail offers by authorizing most Federal agencies to use it. The Certified Mail Act amended 56 statutes for this purpose; apparently due to an oversight, the National Labor Relations Act was not among them.

Correcting this omission will let the NLRB accomplish the same purpose for which registered mail was originally required, at substantial savings. Its postage costs, according to the Congressional Budget Office, will diminish by $400,000 in fiscal year 1980; $500,000 a year from fiscal year 1981 through fiscal year 1983, and $600,000 in fiscal year 1984. At the same time, the Board asserts there would be no reduction in the security or effectiveness of its mailings. OMB and the Postal Service agree.

Frankly, all parties concerned consider the proposed change to their advantage. Certainly, it would be to the taxpayers. I hope the Senate will concur.●

By Mr. NELSON (by request):

S. 2102. A bill to amend the Inland Waterway Authorization Act of 1978

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[2] "Difficulties in Immobilizing Major Narcotics Traffickers" (B-175425. Dec. 21, 1973).

(P.L. 95–502; 92 Stat. 1693); to the Committee on Finance.

● Mr. NELSON. Mr. President, I am today introducing legislation on behalf of the administration to extend the deadline for preparing a master plan of the upper Mississippi River system, as mandated by Congress last year in the Inland Waterway Authorization Act of 1978 (P.L. 95–502). The extension, which would change the date of submission of the plan by 19 months, is necessary to allow the preparation of the information requested by the Congress, and reflects substantial congressional delays in enacting the legislation and in appropriating the authorized funds.

I ask that the text of the November 29, 1979, letter from Mr. Guy Martin, alternate to the chairman of the U.S. Water Resources Council to the President of the Senate, the Honorable Walter F. Mondale, be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Hon. Walter F. Mondale,
President of the United States Senate,
Washington, D.C.

Dear Mr. President: Enclosed is a draft bill "To amend the Inland Waterway Authorization Act of 1978 (P.L. 95–502; 92 Stat. 1693)."

We recommend that the bill be introduced and enacted.

This bill would amend section 101(a) of the Inland Waterway Authorization Act of 1978 to extend the deadline for preparing a Master Plan of the Upper Mississippi River System. The development of a comprehensive Master Plan was mandated by Congress in legislation authorizing rebuilding of Locks and Dam 26 on the Upper Mississippi River's navigation system. The existing law requires publication of a preliminary plan by January 1, 1981, and submission of the final Master Plan to the Congress by January 1, 1982. The draft bill would change those dates to December 1, 1982, and July 25, 1983, respectively.

The Master Plan process is intended to help coordinate the many policies and programs of the five States and ten Federal agencies which manage various segments of the Upper Mississippi River System. Congress assigned responsibility for preparing the Master Plan to the Upper Mississippi River Basin Commission, working in conjunction with Federal, State and local officials, and other affected parties.

The Master Plan language, including dates, was inserted into the Locks and Dam 26 legislation in 1976, but the bill was not enacted and signed into law by President Carter until October 1978. The law still contained the original dates for the completion of the Master Plan which were based upon an anticipated four-year plan of study when the bill was introduced. The dates were not changed to reflect the lengthy debate. Because of delays in enacting the bill, the deadline in the bill is not adequate; accordingly an extension of the deadline is needed.

Months of work went into preparation of a four-year Plan of Study (POS) for conducting the environmental, economic and transportation studies required by the Act. The POS was unanimously adopted by the Upper Mississippi River Basin Commission at their August meeting. The Commission, however, resolved to ask Congress to amend the deadline in the Federal law to reflect the four-year time-frame included in the original legislation. This decision was based on strong evidence that only the longer period could yield the information essential to develop a viable Master Plan and to resolve the management problems created by competing economic, recreational and environmental interests.

The legislation mandating the Master Plan authorized $12 million for this effort. To date, Congress has appropriated only $6 million—$2 million in Fiscal Year 1979 and $4 million in Fiscal Year 1980—for the Master Plan. The supplemental appropriation for Fiscal Year 1979 was not signed until July 25, 1979. These funding decisions were not made until recently and contribute to the need for a time extension.

Furthermore, the Commission has been directed to utilize the resources and results of the Upper Mississippi River Resources management study (GREAT) and other ongoing studies to the fullest extent possible. The GREAT reports were originally scheduled for September 1979 (GREAT I), September 1980 (GREAT II), and September 1983 (GREAT III). To attempt to complete the study within the presently authorized time-frame would preclude maximizing use of these study results.

Work on the Master Plan is underway. The Master Plan Task Force held its first meeting September 6. Committees are organizing and scopes of work are being written. Contracts must be advertised and let. The contract work alone will take six months. Plan formulation from the data that must be collected and analyzed will also take months. The bill we are submitting reflects these time requirements.

The bill will provide three full years for the technical planning and research needed to formulate a Master Plan based on study results with statistical reliability. An excerpt from a letter to the Upper Mississippi River Basin Commission Chairman, Neil Haugerud, from the Upper Mississippi River Conservation Committee (UMRCC) illustrates this point. The letter from the UMROC Chairman states.

"UMROC biologists have maintained throughout the GREAT River Study and now the Master Plan that except for small scale inventories, one year biological studies are of little value. At least 3–5 years are required for a sound biological study. . . . We recognize that Congress has placed time limitations on the development of this plan. Yet we sincerely believe that it is our professional responsibility to bring to Congress' attention the fact that the proposed POS* and the time limitations they have imposed on its (sic) development, prevent achievement of the environmental objectives of Public Law 95–502."

The law authorized numerous transportation, environmental and economic studies. Almost none of the prescribed work elements could be adequately addressed in the next fourteen months as required by existing law.

The time-frames established in the attached draft bill are necessary for a quality document that will give Congress the information it needs to make the decisions about the River's carrying capacity and larger questions surrounding the management of the entire Upper Mississippi River System. I urge your favorable consideration of this bill.

The Office of Management and Budget advises that there is no objection to the presentation of this legislation from the standpoint of the Administration's program.

Sincerely,

Guy Martin,
Alternate to the Chairman.●

By Mr. MATSUNAGA (for himself, Mr. Randolph, and Mr. Hatfield):

S. 2103. A bill to establish a Department of Peace, and for other purposes; to the Committee on Governmental Affairs.

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*Refers to an April draft POS.

DEPARTMENT OF PEACE ORGANIZATION ACT OF 1979

Mr. MATSUNAGA. Mr. President, today with the cosponsorship of the distinguished senior Senator from West Virginia, Mr. Randolph, and the distinguished Senator from Oregon, Mr. Hatfield, I am introducing the Department of Peace Organization Act, a bill that supports an idea that is as old as the Republic itself. It seems altogether fitting and proper that I do this on a day which commemorates the 38th anniversary of the bombing of Pearl Harbor and the entry of the United States into World War II. Sorrowfully, we and the world have experienced peace only fitfully since then.

Shortly after another war—the American Revolution—an essay appeared, entitled "A Plan of a Peace Office for the United States." The writing honors were shared by Benjamin Bannekar an author and scientist who sometimes was called the black Ben Franklin, and Dr. Benjamin Rush a physician, social reformer, and a signatory to the Declaration of Independence.

This essay proposed that a peace office should be established and be presided over by a Secretary of Peace, and should have the objective of influencing the American public and its Government toward peace. Further, the peace office was to undertake extensive educational efforts in each American community.

After 200 years in which we have failed to establish a peace office one might conclude that this is an old and tired idea that should at long last be laid to rest. I do not share that view. On this 38th anniversary of the beginning of the worst hiatus in the peace of the world we need to be mindful of a message by Gen. Omar Bradley in which he said:

> We have grasped the mystery of the atom and rejected the Sermon on the Mount. . . . Ours is a world of nuclear giants and ethical infants. We know more about war than we know about peace, more about killing than we know about living.

Mr. President, we need to heed these words and learn more about peace and living than war and killing.

I am sure that there are a good number of people in our Nation who are astounded by an irony that allows us to profess the desirability of peace while we continue to organize for war, and refuse to recognize the absence of a strong Government agency to argue for alternatives to war.

Peace, when we think about it, is too often appended to muscle, as in the phrase "peace through strength," or, as former Secretary of Defense Melvin Laird recently put it, in opposing approval of SALT II, "strength and purpose in the cause of world peace." Mr. President, this is not the kind of peace about which I am speaking. I do not believe that a "Pax Romana" is a real peace. Peace through suppression is nothing more than an uprising waiting to happen, a hiatus between conflicts, not the peace which all men crave. Subjugation has never been and never will be an acceptable price to pay for peace.

A condition that will bring peace with dignity was articulated by Walter Scheel, former President of the Federal Republic of Germany when he said, in January 1979, that world peace requires a new international system based on an appreciation of the economic interdependence between nations. It was also stated very well 190 years ago by our own James Madison who in drafting the U.S. Constitution called for a "mature world order" emerging from balance and stability.

Whatever the basis of peace may be, peace will not come about by wistfully wishing for it. At the time that the peace treaty was signed between the once bitter enemies of Israel and Egypt, President Carter pointed the way. He said at that time that "Peace is active, not passive * * * peace is doing, not waiting * * * peace, like war is waged."

In the context of waging peace an event took place this week from which we may take heart. President Carter made the final three appointments to the nine member Commission on Proposals for the National Academy of Peace and Conflict Resolution. The Commission will shortly be undertaking its assigned task. Mr. President, I am pleased to be a member of this Commission which will be looking into the creation of an entity committed to the study and research of peace.

But, Mr. President, this is only the first beachhead in waging peace. We must now commit the resources to make absolutely sure that this brave beginning is sustained and nurtured—and this can only be accomplished by providing the ideas of peace with access to the highest councils of Government.

By setting up a Department of Peace my bill would create a Cabinet-level Secretary of Peace who could engage in debates and discussions with other high-level officers of the administration in the Executive decisonmaking process.

It would also pull together a number of agencies devoted to the encouragement of both foreign and domestic peacemaking activities and provide centralized administrative coordination and accountability. Agencies to be included in such an organization are the newly created International Development Cooperation Agency, ACTION and all of its components including the Peace Corps and VISTA, and the Arms Control and Disarmament Agency.

Among new functions to be included in the Department are the creation and overall administration and responsibility for the Academy of Peace and Conflict Resolution—which would also act as the research arm of the Department, and the creation and administration of the U.S. Peace Award Commission.

The Academy would function primarily as a center for graduate training and research in fields associated with the peaceful resolution of conflict in both domestic and foreign relations.

The purpose of the U.S. Peace Award Commission would be to recognize citizens of the United States and foreign countries who have made notable contributions to peaceful conflict resolution, or who otherwise have enhanced the climate of human relationships in order that people might live with each other in harmony. The awards would be made yearly in a number of categories. The public recognition that would thus be drawn to the efforts of those engaged in waging peace could be expected to further encourage peacemaking activities, and, thereby, achieve the objective advanced two centuries ago by Bannekar and Rush, "To influence the American public and its government toward peace."

Mr. President, the world today exists with a sense of its own mortality. While it has shrunk through technical advances in communication and transportation it has simultaneously expanded its destructive capacity to the point where the continuation of humankind itself is threatened. We who inhabit the world are therefore more interdependent than ever before for our very existence, and while we have the capacity to promote a good life for all, we can also end life for all.

This condition begs us to look at life and living in ways that we never have before. In our own self-interest—the self-interest of survival—we must look at new ways of interacting and solving our differences. The Department of Peace can be the instrument to help us practice these new ways.

One major obstacle to a Department of Peace in the past has been opposition from those who held that it would only duplicate efforts of the Department of State. This would be true only in the narrowest sense that the Peace Department would be substantially concerned with issues in international relations. The responsibilities of the two departments in fact would be quite different.

The State Department represents special interests of U.S. citizens and U.S. businesses—and it should. As stated by John Foster Dulles before a House Appropriations Committee on June 18, 1957: "Not for 1 minute do I think the purpose of the State Department is to make friends." In contrast to this view, the Peace Department would represent no special interest in the traditional sense. The function that it will serve would be to strive for the reconciliation of conflicts in global terms.

In this sense it would take a long view of the concept of self-interest. It would say in fact that self-interest for Americans is the same as self-interest for all of mankind, and that if the interest of mankind is served then we too are well served. Carried further it takes the philosophy uttered by Goldwin Smith at Cornell University 100 years ago, that "Above all nations is humanity," and makes it a reality. I might mention at this point, with pride, that this same phrase is also the motto of the University of Hawaii, my alma mater.

The closest that the United States has ever come to having a Secretary of Peace occurred in 1955 when President Eisenhower appointed Harold E. Stassen to a newly created Cabinet-level post of Special Assistant to the President for Disarmament, and Stassen became informally hailed as "The U.S. Secretary of Peace."

At that time President Eisenhower said that he was convinced of the need for the new post by his "deep concern" for "* * * the massive resources required for modern armaments, the huge diversion of materials and of energy, the heavy burden of taxation, the demands for years of service of vast numbers of men, the unprecedented destructive power of new weapons, and the internation tensions which powerful armaments aggravate * * *."

While this position never achieved prominence, it was speculated that it led in 1959 to a proposal for a national peace agency by the Democratic Advisory Committee, which in turn led to the establishment of the Arms Control and Disarmament Agency in 1961.

A year earlier in 1960, Senator Hubert Humphrey introduced a bill to establish a national peace agency. At the time he said that such an agency was necessary, "because of the need for emphasis on peace by the Government—not peace as a byproduct of the State Department, but rather as a concerted, determined effort by the Government of the United States to dramatize our sincere dedication to the cause of a just and enduring peace." As for myself, I introduced my first peace department bill in 1968 while I was serving in the House.

In a press conference in February 1969 former President Richard M. Nixon declared himself to be strongly in favor of peace but strongly against a Peace Department. He said:

> I consider the Department of State to be a department of peace and I can assure you that at the White House level in the National Security Council that is where we coordinate all of our efforts toward peace.
>
> I think putting one department over here as a department of peace would tend to indicate that the other departments were engaged in activities that were not interested in peace.

A response in Commonweal magazine, that same month, stated that the central issue to which Nixon was addressing himself was whether he or any President would tolerate a devil's advocate of so grand a conspiracy in the Cabinet.

Mr. President, it is for us to pry loose from their smug sanctuaries the concepts of "love," "peace," and "the dignity of man," and force them to wallow in the mire of real politics, genuinely competing with all other ideas. Too often these words are as divorced from what people really believe as Sunday is divorced from the rest of the week. I hope to see the time when peace becomes a 7-day word.

Mr. President, what I am pursuing so avidly in this body is a new vehicle that will provide fresh views on issues of paramount international and domestic significance, and by so doing remove a natural obstacle to sound decisionmaking. The peace department can provide a new level of national dialog and debate, and thereby avoid potential disasters. It can maintain and continue to articulate the view expressed by President Carter at his press conference on Wednesday, November 29, 1979, relating to the Iranian crisis, when he said:

> The United States has neither the ability nor the will to dominate the world, to inter-

> fere in the internal affairs of other nations, to impose our will on other people whom we desire to be free to make their own decisions. . . . Patience is not at all a sign of weakness, it is a sign of sure strength.

Mr. President, I have long wished for my country, the United States of America, that it shall be the first Nation on the face of the Earth to establish a high Cabinet level Department of Peace, dedicated solely to the promotion of peace on Earth and brotherhood among all men. It is with this wish that I am today introducing a bill to create that Department of Peace.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2103

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Department of Peace Organization Act of 1979".

DECLARATION OF PURPOSE

SEC. 2. The Congress declares that it is in the national interest and will promote the general welfare to establish a Department of Peace in order to—

(1) carry out the urgent and continuing responsibility of the United States to seek international peace;

(2) fulfill the obligations of the United States under the Kellogg-Briand Pact of 1929, the Nuremberg Charter of 1945, and paragraph (1) of article I and paragraphs (3) and (4) of article II of the United Nations Charter;

(3) provide an organizational structure to facilitate the achievement of the peaceful resolution of international and domestic conflict.

TITLE I—DEPARTMENT OF PEACE

ESTABLISHMENT OF DEPARTMENT

SEC. 101. There is established as an executive department of the Government, the Department of Peace (hereinafter referred to as the "Department"). The Department shall be administered, in accordance with the provisions of this Act, by a Secretary of Peace (hereinafter referred to as the "Secretary") who shall be appointed by the President, by and with the advice and consent of the Senate.

FUNCTIONS OF THE DEPARTMENT

SEC. 102. (a) The Department shall carry out the purposes specified in section 2 of this Act. In achieving such purposes, the Department shall—

(1) develop and recommend to the President appropriate plans, policies, and programs designed to foster peace;

(2) exercise leadership in coordinating all activities of the United States Government affecting the preservation or promotion of peace;

(3) cooperate with the governments of other nations in research and planning for the peaceful resolution of international conflict, and encourage similar action by private institutions;

(4) encourage and assist the interchange of ideas and persons between private institutions and groups in the United States and those in other countries; and

(5) encourage the work of private institutions and groups aimed at the resolution of international and domestic conflict.

(b) (1) In carrying out the functions of the Department under subsection (a) (1), the Secretary shall include such recommendations as he determines appropriate for the pacific settlement of current international controversies in which the United States Government has or claims an interest. Such recommendations may include specific proposals for the arbitration or adjudication of legal or justiciable disputes, the diplomatic settlement through compromise of political disputes, and such other procedures, with or without past precedents in international practice, as the Secretary determines most likely to achieve a nonviolent resolution of a controversy.

(2) In carrying out the functions of the Department under subsection (a) (4), the Secretary shall establish a Cultural Exchange Division within the Department.

PRINCIPAL OFFICERS

SEC. 103. (a) There shall be in the Department an Under Secretary of Peace (hereinafter referred to as the "Under Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate. The Under Secretary of Peace shall perform such functions as the Secretary shall prescribe. During the absence or disability of the Secretary, or in the event of a vacancy in the office of Secretary, the Under Secretary shall act as Secretary. The Secretary shall designate the order in which other officials of the Department shall act for and perform the functions of the Secretary during the absence or disability of both the Secretary and the Under Secretary or in the event of vacancies in both of those offices.

(b) There shall be in the Department four Assistant Secretaries of Peace and a General Counsel. Each Assistant Secretary and the General Counsel shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such functions as the Secretary shall prescribe.

TRANSFERS OF AGENCIES AND FUNCTIONS TO THE DEPARTMENT

SEC. 104. (a) The International Development Cooperation Agency, including the Agency for International Development and the Institute for Scientific and Technological Cooperation, is transferred to the Department, and all functions of the Director of the International Development Cooperation Agency are transferred to the Secretary.

(b) (1) The ACTION Agency is transferred to the Department, and all functions of the Director of the ACTION Agency are transferred to the Secretary.

(2) All functions of the President with respect to and being administered by the Director of the ACTION Agency under the Peace Corps Act are transferred to the Secretary.

(c) The United States Arms Control and Disarmament Agency is transferred to the Department, and all functions of the Director of the United States Arms Control and Disarmament Agency are transferred to the Secretary.

(d) All functions of the Secretary of State with respect to any agency or function transferred to the Secretary and the Department under subsections (b), (c), and (d) are transferred to the Secretary.

(e) All functions of the Secretary of State, or of any office or officer of the Department of State relating to the participation of the United States in the specialized agencies (as defined in Article 57 of the United Nations Charter) are transferred to the Secretary.

(f) Within one hundred and eighty days after the effective date of this Act, the President may transfer to the Secretary any function of any other agency or office, or part of any agency or office, in the executive branch of the United States Government if the President determines that such function relates primarily to functions or agencies transferred to the Secretary or the Department by subsections (a) through (e) of this section.

CODIFICATION

SEC. 105. Within two years after the effective date of this Act, the Secretary shall prepare and transmit to the Congress a proposed codification of all laws which authorize functions transferred to the Secretary by this title.

TITLE II—NATIONAL PEACE ACADEMY

ESTABLISHMENT OF ACADEMY

SEC. 201. There is established in the Department the National Peace Academy (hereinafter referred to as the "Academy"). The Academy shall furnish training and instruction to prepare citizens of the United States for service in positions or programs relating to the field of promoting international and domestic understanding and peace, and shall carry out the functions of the Department under section 104(a) (3).

OFFICERS, STAFF, AND INSTRUCTORS

SEC. 202 (a). There shall be in the Academy a Director, who shall be appointed by the Secretary. The Director shall be responsible for the executive and administrative operation of the Academy and shall carry out such functions as the Secretary may prescribe.

(b) The Secretary may appoint or assign, on a full-time or part-time basis, such officers, staff, and instructors as the needs of the Academy require.

(c) The Secretary may assign or detail, on a full-time or part-time basis and with the consent of the head of the Federal agency concerned, any officer or employee of the executive branch of the United States Government to serve on the faculty or staff of the Academy. During the period of his assignment or detail, such officer or employee shall be considered as remaining in the position from which he was assigned or detailed.

(d) The Secretary shall provide the Academy with such support, facilities, and assistance as may be necessary to enable the Academy to carry out its duties under this title.

BOARD OF TRUSTEES

SEC. 203. (a) There is established in the Academy a Board of Trustees of the Academy (hereafter referred to in this Act as the "Board") which shall advise the Secretary on the operation of the Academy. The Board shall be composed of—

(1) the Secretary, who shall be an ex officio member;

(2) two officers of the Department designated by the Secretary;

(3) (A) one member of the Senate appointed by the President pro tempore of the Senate upon recommendation of the majority leader of the Senate; and

(B) one member of the Senate appointed by the President pro tempore of the Senate upon recommendation of the minority leader of the Senate;

(4) two Members of the House of Representatives, one of the majority party and one of the minority party, appointed by the Speaker of the House of Representatives;

(5) the Chairman of the Nuclear Regulatory Commission, or his designee;

(6) The Chairman of the Federal Council on the Arts and the Humanities, or his designee;

(7) one member from the National Academy of Sciences, to be appointed by the President after consultation with the President of the Academy;

(8) two educators of prominence appointed by the President;

(9) two prominent individuals associated with the advancement of world peace, appointed by the Secretary; and

(10) the United States Ambassador to the United Nations.

(b) Each member of the Board shall be appointed for a two year term and shall be eligible for reappointment. A vacancy on the Board shall not impair its power to function.

(c) A majority of the members of the Board shall constitute a quorum.

(d) The Board shall elect a Chairman from among its members.

(e) The Board shall visit the Academy

annually. With the approval of the Secretary, the Board, or any of its members may make other visits to the Academy in connection with carrying out the duties of the Board.

(f) The Board shall inquire into the morale and discipline, curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy that the Board determines appropriate.

(g) Within sixty days after its annual visit, the Board shall submit a written report to the President concerning the visit, which shall contain the views and recommendations of the Board pertaining to the Academy. Any report of a visit, other than the annual visit, shall, if approved by a majority of the members of the Board, be submitted to the President within sixty days after its approval by the Board.

(h) Each member of the Board who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Board. A member of the Board who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

ADMISSION OF STUDENTS

SEC. 204. (a) The authorized number of students at the Academy shall be one hundred and fifty.

(b) The Academy shall operate as a coeducational institution and students shall be selected for admission to the Academy on the basis of merit, as determined by a competitive examination to be given annually in each State, the District of Columbia, and the Commonwealth of Puerto Rico, at such time, in such manner, and covering such subject matter, as the Secretary may prescribe.

(c) No individual shall be eligible for admission to the Academy unless he is a citizen of the United States who has been awarded a bachelor's degree upon graduation from a college or university located in the United States or a degree which the Secretary determines is generally recognized as the equivalent of a bachelor's degree upon graduation from a college or university located in a foreign country.

STIPENDS AND TRAVEL AND TRANSPORTATION ALLOWANCES

SEC. 205. Each student of the Academy shall be entitled to receive—

(1) a stipend in an amount determined by the Secretary to be within the range of stipends or fellowships payable under other Government programs providing for the education or training of graduate students; and

(2) reasonable travel and transportation allowances, including transportation for his immediate family, household goods, and personal effects, under regulations prescribed by the Secretary, but such allowances shall not exceed the allowances payable under section 5723 of title 5, United States Code.

COURSE OF INSTRUCTION AND TRAINING

SEC. 206. (a) The course of instruction and training for students at the Academy shall be prescribed by the Secretary, and shall be for a period of two years. In prescribing such course of instruction and training, the Secretary shall provide that special emphasis be placed on such studies as will best prepare students for leadership and research in the nonviolent resolution of international and domestic conflicts and in the promotion of international and domestic understanding and peace. The Chairman of the Board may confer the degree of Master of Arts in Conflict Resolution upon any student who the Secretary determines has satisfactorily completed the prescribed course of instruction and training of the Academy.

(b) The course of instruction and training at the Academy shall, during each year of its operation, be organized as prescribed by the Secretary.

AGREEMENTS BY STUDENTS

SEC. 207. Each student selected for admission to the Academy shall sign an agreement that, unless sooner separated, he will—

(1) complete the course of instruction at the Academy; and

(2) accept, if offered, an appointment as an officer or employee of the United States or, in the discretion of the Secretary, employment with an international organization or private agency or foundation determined by the Secretary to be engaged in activities relating to the promoting or achieving of international understanding and peace, in any position for which such student is qualified by reason of his special training at the academy, for at least two years immediately following the award of his certificate from the Academy or the completion by him of any period of full-time graduate study approved by the Secretary.

AUTHORIZATION; ACQUISITION OF PROPERTY

SEC. 208. (a) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

(b) The Academy shall have power to acquire and hold real and personal property and may receive and accept gifts, donations, and trusts.

TITLE III—UNITED STATES PEACE AWARD COMMISSION

FUNCTION OF THE COMMISSION

SEC. 301. (a) There is established within the Department the United States Peace Award Commission (hereinafter referred to as the "commission"). Each year, the Commission shall make awards to citizens of the United States and foreign countries who have made notable contributions to peace and conflict resolution. The categories, types, and numbers of United States Peace Awards shall be determined by the Commission. The Commission shall accept nominations for United States Peace Awards and shall determine the recipients. The Commission shall develop a method for distributing United States Peace Awards that maximizes public awareness of the goals of the award.

(b) The Commission shall be composed of—

(1) the Secretary, who shall be an ex officio member;

(2) the Director of the Commission appointed under section 303;

(3)(A) one member of the Senate appointed by the President pro tempore of the Senate upon recomendation of the majority leader of the Senate; and

(B) one member of the Senate appointed by the President pro tempore of the Senate upon recomemndation of the minority leader of the Senate;

(4) two members of the House of Representatives, one of the majority party and one of the minority party, appointed by the Speaker of the House of Representatives;

(5) two individuals appointed by the President;

(6) the Director of the National Peace Academy;

(7) the United States Ambassador to the United Nations, or his designee;

(8) the Secretary of State, or his designee;

(9) the Secretary of Labor, or his designee; and

(10) three prominent individuals associated with the advancement of peace appointed by the Secretary, except that after the expiration of the first term of membership of such individuals, the Secretary shall appoint individuals under this clause who are also recipients of a United States Peace Award.

(c) Each member of the Commission shall be appointed for a two year term and shall be eligible for reappointment for a maximum of two additional terms. A vacancy in the Commission shall not affect its power to function.

(d) A majority of the members of the Commission shall contitute a quorum.

(e) The Commission shall elect a Chairman from among its members.

(f) Each member of the Commission who is not otherwise employed by the United States Government shall receive compensation at a rate equal to the daily rate prescribed for GS–18 under the General Schedule under section 5332 of title 5, United States Code, including traveltime, for each day such member is engaged in the actual performance of duties as a member of the Commission. A member of the Commission who is an officer or employee of the United States Government shall serve without additional compensation. All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

STAFF

SEC. 302. (a) There shall be in the Commission a Director, who shall be appointed by the Secretary. The Director shall be responsible for the executive and administrative operation of the Commission and shall carry out such additional functions as the Secretary may prescribe.

(b) The Secretary shall provide the Commission with such other staff, support, facilities, and assistance as may be necessary to enable the Commission to carry out its duties under this title.

ADMINISTRATIVE PROVISIONS

SEC. 303. (a) In carrying out the provisions of this title, the Commission is authorized—

(1) to promulgate such rules, regulations, and procedures as may be necessary to carry out its functions;

(2) hold such hearings and sit and act at such times and places, either as a whole or by subcommittee, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee may deem advisable;

(3) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal departments and agencies and of State, local, and private agencies and instrumentalities, with or without reimbursement therefor;

(4) to accept voluntary and uncompensated services, without regard to the provisions of section 3679 (b) of the Revised Statutes (31 U.S.C. 665(b)) if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis; and

(5) to request such information, data, and reports from any Federal department or agency as the Board may require and as may be produced consistent with other law.

(b) Upon request of the Commission, the head of each Federal department or agency shall promptly make the services, equipment, personnel, facilities, and information of the department or agency (including suggestions, estimates, and statistics) available to the Commission to the greatest extent practicable.

AUTHORIZATION OF APPROPRIATIONS

SEC. 304. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title.

TITLE IV—GENERAL PROVISIONS

ADMINISTRATIVE PROVISIONS

SEC. 401. (a) The Secretary is authorized to appoint and fix the compensation of such officers and employees, including attorneys and investigators, as may be necessary to carry out the functions of the Secretary and the Department. Except as otherwise provided by law, such officers and employees shall be appointed in accordance with the provisions of title 5, United States Code, governing appointments in the competitive service, and compensated in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title.

(b) The Secretary may obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code, and may compensate such experts and consultants at rates not to exceed the daily rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

(c) The Secretary is authorized to accept voluntary and uncompensated services without regard to the provisions of section 3679 (b) of the Revised Statutes (31 U.S.C. 665 (b)) if such services will not be used to displace Federal employees employed on a full-time, part-time, or seasonal basis.

(d) The Secretary is authorized to appoint such advisory committees as may be necessary to assist him in carrying out the functions of the Secretary of the Department.

(e) In the exercise of the functions transferred under this Act, the Secretary shall have the same authority as the functions of the agency or office, or any part thereof, exercising such functions immediately preceding their transfer, and the actions of the Secretary in exercising such functions shall have the same force and effect as when exercised by such agency or office, or part thereof.

(f) Except as otherwise provided in this Act, the Secretary may delegate any of his functions to such officers and employees of the Department as the Secretary may designate, and may authorize such successive redelegations of such functions within the Department as may be necessary or appropriate. No delegation of functions by the Secretary under this section or under any other provision of this Act shall not relieve the Secretary of responsibility for the administration of such functions.

(g) The Secretary is authorized to prescribe, in accordance with the provisions of chapter 5 of title 5, United States Code, such rules and regulations as may be necessary or appropriate to carry out the functions of the Secretary or the Department.

(h) (1) The Secretary is authorized to enter into and perform such contracts, grants, leases, cooperative agreements, or other similar transactions with Federal departments and agencies, public agencies, State, local, and tribal governments, private organizations, and individuals, and to make such payments, by way of advance or reimbursement, as the Secretary may deem necessary or appropriate to carry out his functions in administering the Department.

(2) Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance under appropriation Acts. This subsection shall not apply with respect to the authority granted under subsection (i).

(i) (1) The Secretary is authorized to accept, hold, administer, and utilize gifts, bequests and devises of property, both real and personal, for the purpose of aiding or facilitating the work of the Department. Gifts, bequests, and devises of money and proceeds from sales of other property received as gifts, bequests, or devises shall be deposited in the Treasury in a separate fund and shall be disbursed upon the order of the Secretary. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gift, bequest, or devise donating such property. For the purposes of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

(2) Upon the request of the Secretary, the Secretary of the Treasury may invest and reinvest in securities of the United States or in securities guaranteed as to principal and interest by the United States any moneys contained in the fund provided for in paragraph (1). Income accruing from such securities, and from any other property held by the Secretary pursuant to paragraph (1), shall be deposited to the credit of the fund, and shall be disbursed upon order of the Secretary.

(j) The Secretary is authorized to establish a working capital fund, to be available without fiscal year limitation, for expenses necessary for the maintenance and operation of such common administrative services as the Secretary shall find to be desirable in the interests of economy and efficiency, including such services as a central supply service for stationery and other supplies and equipment for which adequate stocks may be maintained to meet in whole or in part the requirements of the Department and its components; central messenger, mail, telephone, and other communications services; office space, central services for document reproduction, and for graphics and visual aids; and a central library service. The capital of the fund shall consist of any appropriations made for the purpose of providing capital (which appropriations are authorized) and the fair and reasonable value of such stocks of supplies, equipment, and other assets and inventories on order as the Secretary may transfer to the fund, less the related liabilities and unpaid obligations. Such funds shall be reimbursed in advance from available funds of components of the Department, or from other sources, for supplies and services at rates which will approximate the expense of operation, including the accrual of annual leave and the depreciation of equipment. The fund shall also be credited with receipts from sale or exchange of property and receipts in payments for loss or damage to property owned by the fund. There shall be covered into the the United States Treasury as miscellaneous receipts any surplus found in the fund (all assets, liabilities, and prior losses considered) above the amounts transferred or appropriated to establish and maintain such fund. There shall be transferred to the fund the stocks of supplies, equipment, other assets, liabilities, and unpaid obligations relating to the services which the Secretary determines will be performed through the fund.

(k) The Secretary shall cause a seal of office to be made for the Department of such design as the Secretary shall approve. Judicial notice shall be taken of such seal.

(l) The Secretary is authorized to provide for, construct, or maintain for employees and their dependents stationed at remote locations as necessary and when not otherwise available—

(1) emergency medical services and supplies;

(2) food and other subsistence supplies;

(3) dining facilities;

(4) motion picture equipment and film for recreation and training; and

(5) living and working quarters and facilities.

The furnishing of medical treatment under clause (1) and the furnishing of services and supplies under clauses (2) and (3) of this subsection shall be at prices reflecting reasonable value as determined by the Secretary and the proceeds therefrom shall be credited to the appropriation from which the expenditure was made.

(m) (1) The Secretary is authorized to enter into contracts with educational institutions, public or private agencies or organizations, or individuals for the conduct of research into any aspect of the problems related to the programs of the Department which are authorized by statute.

(2) The Secretary may disseminate in the form of reports or publications to public or private agencies or organizations, or individuals such information as he deems pertinent on the research carried out pursuant to this subsection.

(3) Nothing contained in this subsection is intended to amend, modify, or repeal any provisions of law administered by the Secretary which authorize the making of contracts for research.

(n) The Secretary is authorized to appoint such advisory committees as may be necessary to carry out the functions of the Department.

TRANSFER OF PERSONNEL

SEC. 402. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedures Act of 1950, are transferred to the Secretary for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) Except as otherwise provided in this Act, the transfer pursuant to this title of full-time personnel (except special Government employees) and part-time personnel holding permanent positions shall not cause any such employee to be separated or reduced in grade or compensation for one year after such transfer or after the effective date of this Act, whichever is later.

(c) Any person who, on the day before the effective date of this Act, held a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department to a position having duties comparable to the duties performed immediately preceding such appointment shall continue to be compensated in such new position at not less than the rate provided for such previous position for the duration of the service of such person in such new position.

INCIDENTAL DISPOSITIONS

SEC. 403. The Director of the Office of Management and Budget, at such time or times as such Director shall provide, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an officer, agency, commission or other body, or component thereof, affected by this Act, and to make such additional incidental dispositions of personnel, assets, liabilities, grants, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as may be necessary to carry out the provisions of this Act.

SAVINGS PROVISIONS

SEC. 404. (a) All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction, in the performance of functions which are transferred under this Act to the Department or the Secretary, and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Secretary, or other authorized official, a court of competent jurisdiction, or by operation of law.

(b) (1) The provisions of this Act shall not affect any proceedings, including notices of proposed rulemaking, or any application for any license, permit, certificate, or financial assistance pending on the effective date of this Act before any department, agency, commission, or component thereof, the functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(2) The Secretary is authorized to promulgate regulations providing for the orderly transfer of proceedings continued under paragraph (1) to the Department.

(c) Except as provided in subsection (e)—

(1) the provisions of this Act shall not affect suits commenced prior to the effective date of this Act, and

(2) in all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in the official capacity of such individual as an officer or any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer thereof in the official capacity of such officer shall abate by reason of the enactment of this Act.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in the official capacity of such officer, is a party to a suit, and under this Act any function of such department, agency, or officer is transferred to the Secretary or any other official of the Department, then such suit shall be continued with the Secretary or other appropriate official of the Department substituted or added as a party.

(f) Orders and actions of the Secretary in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been taken by the agency or office, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearing, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Secretary.

ANNUAL REPORT

Sec. 405. The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for submission to the Congress on the activities of the Department during the preceding calendar year.

REFERENCE

Sec. 406. With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or to any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or the Department.

TRANSITION

Sec. 407. With the consent of the appropriate department or agency head concerned, the Secretary is authorized to utilize the services of such officers, employees, and other personnel of the departments and agencies of the executive branch for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

AMENDMENTS

Sec. 408. (a) Section 19(d)(1) of title 3, United States Code, is amended by inserting immediately before the period a comma and the following: "Secretary of Peace".

(b) Section 101 of title 5, United States Code, is amended by adding at the end thereof the following: "The Department of Peace.".

(c) Section 5312 of such title is amended by adding at the end thereof the following:

"(16) Secretary of Peace.".

(d) Section 5314 of such title is amended by adding at the end thereof the following:

"(70) Under Secretary of Peace.".

(e) Section 5315 of such title is amended by adding at the end thereof the following:

"(128) Assistant Secretaries of Peace (4).

"(129) General Counsel, Department of Peace.".

(f) Section 5317 of such title is amended by striking out "34" and inserting in lieu thereof "36".

(g) Section 2 of the United Nations Participation Act of 1945 (22 U.S.C. 287) is amended by inserting at the end thereof the following new subsection:

"(h) The Secretary of Peace shall advise the President with respect to the appointment of any person to represent the United States in the United Nations, or in any of its organs, commissions, specialized agencies, or other bodies.".

AUTHORIZATION OF APPROPRIATIONS

Sec. 409. Subject to any limitation on appropriations applicable with respect to any function transferred to the Secretary, there are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act and to enable the Secretary to administer and manage the Department. Funds appropriated in accordance with this section shall remain available until expended.

SEPARABILITY

Sec. 410. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provision to other persons or circumstances shall be affected thereby.

EFFECTIVE DATE

Sec. 411. (a) The provisions of this Act shall take effect ninety days after the Secretary first takes office, or on such earlier date as the President may prescribe and publish in the Federal Register, except that at any time after the date of enactment of this Act—

(1) any of the officers provided for in title II of this Act may be nominated and appointed as provided in such title, and

(2) the Secretary may promulgate regulations pursuant to section 401(f) of this Act.

(b) Funds available to any department or agency (or any official or component thereof), the functions of which are transferred to the Secretary by this Act, may, with the approval of the Director of the Office of Management and Budget, be used to pay the compensation and expenses of any officer appointed pursuant to this Act until such time as funds for that purpose are otherwise available.

INTERIM APPOINTMENTS

Sec. 412. (a) In the event that one or more officers required by this Act to be appointed by and with the advice and consent of the Senate shall not have entered upon office on the effective date of this Act and notwithstanding any other provision of law, the President may designate an officer in the executive branch to act in such office for ninety days or until the office is filled as provided in this Act, whichever occurs first.

(b) Any officer acting in an office in the Department pursuant to the provisions of subsection (a) shall receive compensation at the rate prescribed for such office under this Act.

● Mr. RANDOLPH. Mr. President, it is my privilege to join with my able colleagues, the Senator from Hawaii (Mr. MATSUNAGA) and the Senator from Oregon (Mr. HATFIELD) in cosponsoring legislation to establish a Department of Peace.

I am delighted to actively participate in this renewed movement to establish a Department of Peace and to be a part of this coordinated and bipartisan effort.

Mr. President, what a great dream can come true if peace among the nations and peoples of the world is achieved. Today, with the Middle East a tinderbox of violence and threats of violence, with 50 American citizens held in an insane situation defying diplomatic initiatives, with new candidates for the nuclear club preparing their credentials day by day, we must attempt to move civilization back on the path toward peace.

In this proposal we are not attempting to expand the Federal bureaucracy, as such, or to construe the lines of authority of other agencies which presently have jurisdiction over programs that promote international understanding and cooperation. Rather we are attempting to bring together in one place all our efforts to accomplish the goal of peace. We need an organized and concerted campaign. It cannot be the hodgepodge we have today.

Life is too important to me, to you, to the people of the United States of America, and to citizens living under other flags and other governments to dismiss this legislation as a well-meaning effort to legislate and manufacture love of our neighbors. If we do not do our utmost for peace today, there may be no tomorrow for any of us.

As many of you know, my efforts on this issue are not new. They date back to 1945 when I introduced such legislation as a Member of the U.S. House of Representatives. We succeeded in holding hearings on that bill before the House Foreign Affairs Committee. No affirmative action was taken, however, and I subsequently returned to testify before the Committee on Expenditures in the executive departments on a similar measure introduced by my successor in the 80th Congress.

Returning to the Congress as a Senator in 1958, I renewed my efforts for this proposal by introducing a Department of Peace bill in 1959.

In the past 3 years I also have been actively involved in the campaign to create a U.S. Academy of Peace and Conflict Resolution, and I believe that we may see some concrete results of this movement over the next couple of years. This fiscal year the Congress appropriated a half million dollars for a 1-year study of this proposal.

Let us carry the message of peace in this season of goodwill and giving to all nations and to all peoples. Let us give impetus to the crusade for harmony among all God's children by the creation of a Department of Peace.

Mr. President, we read in the Scripture, "Blessed are the peacemakers: for they shall be called the children of God." To the high purpose of peace let us dedicate our personal and official energies. We can—indeed we must—learn to live together in comity and understanding. To the realization of this coveted goal, let us move forward with a new demonstration of faith in our future—the creation of a mechanism to promote and produce peace on Earth and goodwill to men and women.

Yes, it is time we placed greater emphasis on the job of finding a base of understanding in this world. With a Department of Peace to spearhead the campaign we can bring the issue of peace to the forefront of the lives of all Americans and the lives of all the inhabitants of this Earth.●

● Mr. HATFIELD. Mr. President, I am pleased to join with my distinguished colleagues, Senator Matsunaga and Senator Randolph, in cosponsoring the Department of Peace Organization Act.

The psychology of high level Government decisionmaking demands that we offset the institutional momentum behind coercive and hostile methods of conflict resolution. Time and time again, we have seen the mentality produced by an overinsulated decisionmaking process bring us to the brink of war. Mr. President, a Cabinet-level Secretary of Peace would serve to counter the often self-destructive tendencies which stem from blind pursuit of the national interest. He would serve the human interest—disregarding the artificial barriers which separate nations. Humanity requires that the most powerful Nation on Earth voluntarily establish a check and balance on the incredible momentum behind war and violence. As the distinguished Senator from Hawaii so aptly noted, "group think" or the exclusion of unpopular or unusual ideas from a decisionmaking group is a phenomenon which has threatened us many times. A strong case can be made that the professed willingness of the United States to engage in a nuclear exchange for no reason other than to "save face" during the Cuban missile crisis, stemmed, in part, from this "group think" mentality.

I am reminded of President Washington's desire that some type of "peace establishment" come into being. At first, it may seem to be an irony that the first great military hero of our country would have asked to be remembered in such a way. This should not surprise us, however. Often those who have experienced the most brutal and devastating manifestations of warfare have become some of the most eloquent spokesmen for finding ways to avoid war in the future. The words of another great military hero, Dwight Eisenhower, are frequently quoted as a caution against excessive reliance upon military solutions for international conflicts.

It is long past time for us to begin exploring alternatives to the traditional means of defending our country. The armament approach to security has become bankrupt and obsolete in the nuclear age. As military technology has become more sophisticated, its capacity to actually protect us has diminished. We must move out into the frontier of new philosophies and techniques of keeping the peace, symbolized not by the gun and the bomb, but by the human embrace and the extended hand of friendship and understanding.

Over $400 billion is spent by the family of nations each year to further fuel the military machines of this world. This occurs while millions go to bed hungry at night, while illiteracy reigns more powerful than education. It is truly ironic that we have not given legitimacy to ways of cultivating friendship between nations other than to transfer the means and the knowledge with which to kill one another. I cannot help but dream of the world that we might someday create when all of the technological expertise, physical manpower, and financial backing which we now pour into the endless reservoir of the military is channeled toward peace, the eradication of disease, and developing the tools with which people can provide for themselves and their families.

The Department of Peace would, unfortunately, not divert resources from the Pentagon and its armament solutions to the problems we face. But it would integrate and strengthen the ways of peace. Mr. President, I sincerely hope that the Congress will give this important idea, whose implementation is long overdue, its most serious consideration.●

ADDITIONAL COSPONSORS

S. 1427

At the request of Mr. Schmitt, the Senator from Idaho (Mr. McClure) was added as a cosponsor of S. 1427, the United States-Mexico Good Neighbor Act of 1979.

S. 1858

At the request of Mr. Bayh, the Senator from North Carolina (Mr. Morgan) was added as a cosponsor of S. 1858, the National Guard Tort Claims Act of 1979.

SENATE JOINT RESOLUTION 40

At the request of Mr. Williams, the Senator from Indiana (Mr. Bayh), the Senator from Minnesota (Mr. Boschwitz), the Senator from New Jersey (Mr. Bradley), the Senator from Minnesota (Mr. Durenberger), the Senator from Utah (Mr. Hatch), the Senator from Oregon (Mr. Hatfield), the Senator from Pennsylvania (Mr. Heinz), the Senator from Michigan (Mr. Levin), the Senator from South Dakota (Mr. Pressler), the Senator from West Virginia (Mr. Randolph), the Senator from Maryland (Mr. Sarbanes), the Senator from Tennessee (Mr. Sasser), the Senator from Georgia (Mr. Talmadge), and the Senator from Massachusetts (Mr. Tsongas) were added as cosponsors of Senate Joint Resolution 40, a joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day."

SENATE CONCURRENT RESOLUTION 50

At the request of Mr. Williams, the Senator from Minnesota (Mr. Boschwitz) was added as a cosponsor of Senate Concurrent Resolution 50, a concurrent resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel.

AMENDMENT NO. 212

At the request of Mr. Schmitt, the Senator from California (Mr. Hayakawa) was added as a cosponsor of amendment No. 212 intended to be proposed to S. 1020, the Federal Trade Commission authorization bill.

AMENDMENT NO. 711 (AS MODIFIED)

At the request of Mr. Hart, the Senator from West Virginia (Mr. Randolph), the Senator from New Hampshire (Mr. Humphrey), the Senator from Nebraska (Mr. Exon), the Senator from New Jersey (Mr. Williams), and the Senator from Alabama (Mr. Heflin) were added as cosponsors of amendment No. 711 (as modified) proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 735

At the request of Mr. Bentsen, the Senator from Oklahoma (Mr. Bellmon), the Senator from Minnesota (Mr. Boschwitz), the Senator from Utah (Mr. Garn), the Senator from Maryland (Mr. Mathias), the Senator from New Mexico (Mr. Schmitt), and the Senator from North Dakota (Mr. Young) were added as cosponsors of amendment No. 735 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 746

At the request of Mr. Packwood, the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of amendment No. 746 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 304—SUBMISSION OF A RESOLUTION COMMENDING GREAT BRITAIN ON PEACE IN ZIMBABWE-RHODESIA

Mr. PERCY (for himself, Mr. Javits, Mr. Church, Mr. Baker, Mr. Pell, Mr. Lugar, Mr. McGovern, Mr. Hayakawa, Mr. Zorinsky, Mr. Biden, Mr. Glenn, Mr. Stone, Mr. Cohen, Mr. Chiles, Mr. Nunn, and Mr. Roth) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. Res. 304

Whereas the status of the government of Rhodesia (now Zimbabwe-Rhodesia) has been a disputed issue in the world community for over fourteen years;

Whereas the differences among the concerned parties have resulted in hostile conflict in the region for seven years;

Whereas the people of the southern African region have suffered great tragedy as a result of the conflict;

Whereas the government of the United Kingdom by authority of Prime Minister Margaret Thatcher and with the skillful assistance of Foreign Secretary Lord Carrington, has brought the parties to the conflict together to achieve a peaceful resolution; and

Whereas the negotiations have resulted in an agreement among the concerned parties: Now, therefore, be it

Resolved, That it is the sense of the Senate that the government of the United Kingdom merits the commendation and appreciation of all peaceloving and free nations for a major contribution in reducing tensions in Zimbabwe-Rhodesia and the southern African region and establishing a basis for peace.

Mr. PERCY. Mr. President, it appears that the London negotiations on the future of Zimbabwe-Rhodesia have been successful.

In less than 4 months the British Government, under the gifted leadership of Prime Minister Margaret Thatcher and Foreign Secretary Lord Carrington, have achieved a settlement which has eluded all others before them for 14 years.

For the last 7 years a bloody conflict has raged in Zimbabwe-Rhodesia and surrounding countries. Tens of thousands of innocents have lost their lives. Economic disaster has befallen the region.

The situation in the area was very bleak when Prime Minister Thatcher proposed to make a last-chance attempt at settling the issue through negotiations involving all concerned parties. Under the no-nonsense chairmanship of Foreign Secretary Carrington, the conference moved forward, issue by issue, phase by phase, at an astounding pace. What is emerging from the conference is an agreement which will bring a cease-fire, elections, and a constitution which protects the principles of majority rule and minority rights—which are essential to the stability and future development of the country. Though there are still many difficulties to overcome in the future, magnificent progress has been made these past 100 or so days. The British Government deserves the highest praise for a major contribution to peace in southern Africa, and for this reason I am today submitting for myself and Senators JAVITS, CHURCH, BAKER, PELL, LUGAR, MCGOVERN, HAYAKAWA, ZORINSKY, BIDEN, GLENN, STONE, COHEN, CHILES, NUNN, and ROTH, a resolution commending the Government of the United Kingdom. I would welcome the support of other colleagues and an early opportunity for the entire Senate to put itself on record in this sense of the Senate resolution.

SENATE RESOLUTION 305—SUBMISSION OF A RESOLUTION RELATING TO PAYMENT OF EXPENSES PAYABLE FROM A SENATOR'S OFFICIAL OFFICE EXPENSE ACCOUNT

Mr. HATFIELD (for himself, Mr. CRANSTON, Mr. COHEN, Mr. PACKWOOD, and Mr. SCHWEIKER) submitted the following resolution, which was referred to the Committee on Rules and Administration:

S. RES. 305

Resolved, That, effective October 1, 1979, whenever a Senator or an employee in his office has incurred an expense for which reimbursement may be made under Section 506 of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58), the Secretary of the Senate is authorized to make payment to that Senator or employee for the expense incurred, subject to the same terms and conditions as apply to reimbursement of the expense under such section.

● Mr. HATFIELD. Mr. President, I am today introducing a resolution which would make a much needed change in reimbursement procedure used by the Senate Disbursing Office. Joining me as cosponsors are Senators CRANSTON, COHEN, PACKWOOD, and SCHWEIKER. Thanks to the suggestions of these colleagues, we have drafted a simple resolution aimed at a vexing problem of office administration.

As my colleagues are aware, Mr. President, the current system in the Senate requires that a Senator make actual payment on an expense before he or she may be reimbursed. In practice, this means that a Senator must establish an office account, drawn from personal funds, from which these expenses are paid.

As the key step in the procedure, this account is then replenished by reimbursements from the Disbursing Office for those expenses which are paid and approved. The end result is a system which can tie up a considerable amount of personal funds for what are official office expenses.

To put it more bluntly, many Senators face an uncomfortable tension with this personal fund. As the bills for official expenses come in, this small account is not always enough to insure timely payment. The result is a choice between going further in debt to cover official duties or falling behind in the payment of bills.

The resolution I am offering, Mr. President, is significant for the simple things it will accomplish. Its remedy centers around authority for the Disbursing Office to make payment for expenses when they are incurred, rather than after payment by individual Senators. As a result, Senators would not have to tie up their personal money for official costs. Instead, vouchers for a Senator or a Senate employee may be handled on expenses as soon as they are forwarded to the Disbursing Office. Thus, the resolution will create a smoother operation for the payment of expenses under the official office expense account.

At the same time, the resolution is significant for the changes it would not make. No additional money is required under this proposal. Nor would there be a restriction of the standards for determining what constitutes an official expense, since the disbursing office would still review all submissions for payment.

Mr. President, I urge my colleagues to give this resolution their favorable consideration. It is a long overdue change.●

AMENDMENTS SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 752

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself, Mr. NELSON, and Mr. BIDEN) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SPECIAL RULES FOR INCREMENTAL TERTIARY OIL

● Mr. JAVITS. Mr. President, I am today submitting for myself and Senators NELSON and BIDEN an amendment which deals with a tax on incremental tertiary oil. The Senate Finance Committee, like the House of Representatives, has accepted the principle that gains accruing to producers because of future OPEC price increases are in a sense as truly a "windfall" as gains from decontrol of already-discovered oil. Yet the Senate bill exempts such oil altogether. It is true that the House measure imposed an unrealistically low base price on this expensive production—a 60-percent tax on a base price of $17.

Hence I am submitting today an alternative tax on tertiary oil at a more modest level.

The Senate Finance Committee bill exemption of tertiary oil would cost the Treasury $27.0 billion while assuming only 144,000 barrels of new production above that production induced by the House measure. While it is in the national interest to induce cost-effective tertiary oil recovery investments, the modest production increment resulting from this massive tax expenditure is not as cost effective as alternative investments in new energy technology would be.

According to the Department of Treasury a tax of 50 percent on tertiary oil between a base price of $23.50 and $26, and of 60 percent on such oil over a $26 base price would return $11.7 billion to the Treasury and would still produce an estimated 1,663,000 barrels of tertiary oil a day in 1990 or 74,000 barrels more than the estimate on which the House bill was based.●

AMENDMENTS NOS. 753 THROUGH 757

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted five amendments intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENTS NOS. 758 THROUGH 760

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI submitted three amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 761

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM (for himself, Mr. RANDOLPH, Mr. STEWART, Mr. HEINZ, Mr. HUDDLESTON, and Mr. SCHWEIKER) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 762

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 763

(Ordered to be printed and to lie on the table.)

Mr. HEINZ (for himself, Mr. RANDOLPH, Mr. GLENN, Mr. HUDDLESTON, Mr. SCHWEIKER, and Mr. BELLMON) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENTS NOS. 764 AND 765

(Ordered to be printed and to lie on the table.)

Mr. DURENBERGER submitted two amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 766

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself, Mr. LEAHY, Mr. STAFFORD, Mr. COHEN, Mr. TSONGAS, Mr. NELSON, and Mr. DOLE) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

● Mr. DURKIN. Mr. President, I am proposing today an amendment to H.R. 3919, the Windfall Profit Tax Act, which would extend the residential energy credits to include wood-burning furnaces and boilers which are part of central heating systems.

I want to thank my colleagues, Senators LEAHY, NELSON, STAFFORD, COHEN, and TSONGAS for joining me as cosponsors.

My amendment would allow a 15-percent credit, up to $2,000, on the cost of wood-burning central heating equipment bought after September 30, 1980, and before January 1, 1983. In order to be eligible for the credit all systems must be approved and certified to be safe and energy efficient.

There is a great need for this tax credit. Already a significant amount of energy comes from the use of wood-burning stoves in the residential sector. In northern New England, well over half of the homeowners use wood as a source of energy. Over 1 million wood stoves were sold in 1978 and indications are that perhaps twice that many will be sold in 1979. By the end of the year 4 to 5 million families will rely on wood to supply their heating needs. If wood-burning central heating equipment were more economically attractive to homeowners, even more imported oil could be displaced. Because wood-burning central heating equipment is expensive to buy—typically as much as $2,000 per unit—hard-working homeowners find it difficult, if not impossible, to purchase it. This is particularly true for low-income families. For these reasons, the tax credit we propose is badly needed.

Also the 15-percent tax credit will encourage the purchase of the more expensive low polluting and high efficiency furnaces which will soon be on the market.

My amendment will cost approximately $10 million, but it would save almost $78 million per year. By 1983 it will decrease our expensive and dangerous dependence on imported oil by over 3 million barrels.

Additionally, the management and productivity of the Nation's forests can be improved through more intensive use of wood stoves and furnaces. The use of wood for energy creates a demand for low-quality trees which presently inhibit forest productivity. The end result is that a larger rather than smaller wood supply is created.

In sum, a vast almost incalculable energy resource exists today—not in some foreign country or future world—but in the forests of the Northeast, Southeast, and Northwest.

I urge my colleagues to support my amendment, and tap this vital resource. A coordinated wood-energy program will enhance our forests and provide valuable savings to our hard-working homeowners. Its prompt passage will be an important step down the road to energy independence.●

AMENDMENT NO. 767

(Ordered to be printed and to lie on the table.)

Mr. BAUCUS (for himself and Mr. HART) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

NATURAL GAS FROM TIGHT SANDS FORMATIONS

● Mr. BAUCUS. Mr. President, for myself and Mr. HART, I submit for printing an amendment to H.R. 3919, the windfall profit tax bill.

I ask unanimous consent that a fact sheet on the amendment, together with other material, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FACTSHEET—NATURAL GAS FROM TIGHT SANDS FORMATIONS

Tax Credit.—This amendment provides a tax credit of 50 cents per mcf for natural gas produced from new wells in tight sands formations. The tax credit is not indexed for inflation. The tax credit will phase out as the price of gas from these formations rises to the energy equivalent of $29.50 per barrel of oil. The tax credit is expected to expire by 1985 when price controls on new gas expires.

Production.—Natural gas in tight sands formations flows extremely slowly due to the almost impermeable geological formation. Expensive techniques, called hydraulic fracturing, are needed to increase the rate of flow of gas from these formations. A high incentive price is necessary to justify the hydraulic fracturing techniques. This tax credit incentive, plus incentive prices offered under existing law, will greatly accelerate efforts to produce gas from tight sands formations.

Quantities of Reserves and Production.—There are estimated to be over 600 trillion cubic feet of gas in three major tight sands formations in the Rocky Mountain West. There are estimated to be another 600 trillion cubic feet of tight sands gas in smaller formations in the South, Southwest, and Western parts of the United States, as well as in the Appalachian East. When fully developed, these reserves could supply the equivalent of 30 years of American gas consumption at present rates. Gas from tight sands formations is currently producing the equivalent of 400,000 barrels of oil per day. With accelerated efforts to drill into these formations and to apply flow stimulation techniques, tight sands formations could be producing the equivalent of four million barrels of oil per day by 1990, according to Administration estimates. Tight sands formations in the next few years could provide sufficient energy to replace the equivalent of our past daily imports from Iran.

Definition.—The definition of tight sands formations is based on the principles of the FERC proposed regulations for tight sands with some modifications. Qualifying formations may have up to 0.1 millidarcies of permeability (1.0 millidarcies in low pressure wells less than 3,000 feet deep). This definition is sufficient to include most of the tight sands resources in the country.

Environmental Impacts.—Natural gas is our cleanest burning fuel and therefore maximum supplies are desired. Environmental impacts of drilling and hydraulic fracturing to stimulate faster rates of production are environmentally acceptable in most locations.

Administration Position.—The Administration strongly endorses this amendment.

Cost.—The Joint Committee on Taxation estimates the cost of this amendment to be $1.1 billion before the tax credit phases out in the mid-1980's.

THE WHITE HOUSE,
Washington.

"TIGHT SANDS" NATURAL GAS COULD SAVE MILLIONS OF BARRELS OF OIL

We could add the equivalent of several million barrels of oil per day to domestic energy production by 1990 by developing previously uneconomic natural gas formations, so-called "unconventional gas". (Total oil imports are now 8 million barrels a day.) Almost all of this new production would come from "tight sands" areas, low permeability sandstone and limestone formations in the Southwest, the Rockies, and the Northern Great Plains, Recoverable tight sands natural gas reserves probably exceed total proven U.S. reserves of oil.

These tight sands formations would produce the equivalent of between several hundred thousand and two million barrels a day of this safe, clean, economic fuel by 1985. Given world energy uncertainties, this early relief is urgent business.

The President's program proposed a tax credit for all unconventional gas production. However, the credit in the current Windfall Profits Tax bill excludes tight sands gas. The Administration urges the Senate to amend the bill to include tight sands production, the heart of the matter.

The tight sands formations are already yielding the equivalent of 500,000 barrels of oil a day. This production could grow to over 4,000,000 barrels a day by 1990 assuming either a $20/barrel price and advanced technology or prices exceeding $20. Four million barrels a day is half our current level of oil imports. The higher and more secure the price, the more energy we will produce.

The Department of Energy estimates that it may cost $24 per barrel to produce the bulk of this gas. The Administration's proposed tax credit of 50 cents per thousand cubic feet will make the gas worth that much to the producers. The credit phases out at higher prices.

In addition to providing a great deal of new energy quickly, this gas has a number of other advantages:

It is one of our least expensive means of replacing foreign oil.

It is clean and safe—both to produce and to use.

Tight sands drilling is a known technology—with known costs that are unlikely to escalate dramatically.

It will generate jobs.

It would be produced from many thousands of wells encouraging competition and ensuring against large scale interruptions and military vulnerability.

Some of the easiest to get tight sands is already in production, but most tight sands gas is still too expensive to produce. The massive production increases we could achieve and the reduction in oil imports they imply will not occur unless the unconventional gas tax credit also covers tight sands gas.

PRODUCTION ESTIMATES FOR TIGHT SANDS AREAS

Tight Sands production could provide the equivalent of up to 4 million barrels of oil a day by 1990:

Estimated tight sands production [*in barrels of oil equivalent per day assuming a $20/barrel price in 1979 dollars*]

	Low		High
1985	800,000	to	1,850,000
1990	1,750,000	to	3,800,000
2000	2,100,000	to	3,350,000

Source: Lewin Associates (Report for DOE, 1978).

For comparison, the U.S. imported 8 million barrels of oil in 1978.

The actual level of production we achieve over the next decade will depend on the price of the gas produced, the risks, and the pace of technological development. Covering tight sands under the unconventional gas tax credit will help push production towards the upper end of these ranges.

RECOVERABLE RESERVES OF UNCONVENTIONAL GAS

Recoverable U.S. reserves of unconventional natural gas are truly enormous. Tight sands natural gas recoverable reserves at current oil prices exceed the U.S.'s current proven oil reserves.

"Unconventional Gas" is natural gas from western and southwestern tight sands, from Devonian shale in the Appalachians and Midwest, from geopressurized methane along chiefly the Gulf of Mexico, from coal seams in most regions, and from very deep wells. Limited production, chiefly from the tight sands regions, has begun.

DOE's National Energy Plan estimates of recoverable reserves of unconventional gas were as follows:

Recoverable unconventional gas reserves

[Trillions of cubic feet (quads)]

Tight sands formation	40	420
Devonian shale	25	400
Coal bed methane	50	700
Geopressurized methane	5,000	63,000

Sources: NEP II, Table IV-6.

Lewin and Associates and the Institute of Gas Technology have made similar estimates. To put these figures in perspective, we now import 16 quads of oil a year.

In addition, the United States Geological Survey has recently informed the National Petroleum Council that their examination of drilling logs from old wells indicates the existence of previously uncounted tight sands gas deposits below 10,000 feet. These deposits are roughly equal to 400 quads (less than half recoverable), but they will cost the equivalent of $25 to $55 per barrel to recover because of the depth involved. These reserves are in addition to those shown in the table and illustrate an important point. These estimates only include discovered basins. No provision is made for new field discoveries.

Price will be the chief determinant of how quickly these reserves are developed. The Administration's proposed tax credit of 50 cents per thousand cubic feet for all forms of unconventional gas, specifically including tight sands, would make an enormous difference.●

AMENDMENT NO. 768

(Ordered to be printed.)

Mr. NELSON (for himself, Mr. TALMADGE, and Mr. MATSUNAGA) proposed an amendment to H.R. 3919, supra.

AMENDMENT NO. 769

(Ordered to be printed.)

Mr. MATSUNAGA (for himself, Mr. NELSON, Mr. TALMADGE, Mr. MOYNIHAN, Mr. PACKWOOD, and Mr. DURKIN) proposed an amendment to H.R. 3919, supra.

CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

AMENDMENT NO. 770

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to S. 2094, a bill to authorize loan guarantees for the benefit of the Chrysler Corp.

INDUSTRIAL ADJUSTMENT ACT OF 1979

● Mr. STEVENSON. Mr. President, I submit an amendment in the nature of a substitute to the Chrysler Corporation Loan Guarantee Act of 1979. It is an alternative to the ad hoc bailout legislation for Chrysler reported by the Banking Committee and addresses the systemic problem of distressed companies which will continue on the heels of Chrysler.

My amendment would authorize the President, if he determines there is a threat of an economic emergency with respect to workers or a business, to direct the Secretary of Commerce, acting through the Economic Development Administration, to administer loans, loan guarantees, and retraining and relocation programs to firms which are innovative and competitive. It aids the competitive—not the noncompetitive industries, in this case the survivors, not the wreck of Chrysler. It would permit the use of the $1.5 billion in loan guarantees for firms which could make something out of Chrysler's facilities and provide durable employment.

Mr. President, this amendment does not require any new governmental agencies. It builds on the capacities for informed and coherent industrial policymaking we are developing in the Commerce Department. EDA already has the mandate to promote innovation and industrial adjustment assistance.

The Nation enters the 1980's with an aging industrial structure. We face stiff foreign competition with no framework for an effective industrial policy. It is easy to regard the proposed bailout for Chrysler as a one time phenomenon, to pretend that we can hand over $1.5 billion in Government assistance in a manner so grudging that no firm will again seek such assistance. But this process is a small price to pay for parties with much at stake, and vastly more comfortable, than the alternatives of bankruptcy or reorganization. We delude ourselves; we have heard this argument before. It is made for every bailout.

Conditions are always attached. And if they pinch, they are lost on the Senate floor, or in conference, or in committee. The UAW and Chrysler have made public their opposition to the 3-year wage freeze provision of S. 2094. Even if approved, the conditions do nothing, except to fine tune another bailout—again. The outcome is the same.

By guaranteeing these loans we divert $4 billion in capital resources to a firm which is a singularly poor risk. The entire pool of venture capital in the country invested in new, high technology and other enterprises this year was under $300 million—less than 10 percent of the total contributions to be invested in Chrysler. Even if Chrysler is saved, it will not generate more wealth or employment than the $300 million invested in the enteprises of the future. The administration proposed $55 million in additional funding for industrial innovation one day—and $1.5 billion the next for Chrysler. The $1.5 billion in Federal and State assistance exceed all the authority of EDA for adjustment assistance to all workers, all communities, and all companies in the country. Comparisons of this kind and weighing of such priorities have been absent from the debate on Federal assistance to Chrysler.

Producivity is declining. Per unit labor costs are rising. Inflation continues, and our action is another bailout for an inefficient, uncompetitive firm.

We ignore the issues which brought Chrysler to this pass. We do not have to look far for evidence of the Chrysler syndrome. Ford has joined the billion dollar league. United States Steel announces it can no longer produce steel profitably in many of its plants. Five other steel companies are already receiving Federal assistance. The textile industry is in chronic difficulty.

In just the first wave of layoffs, United States Steel has disgorged 13,000 workers. In the auto industry, 130,000 are on temporary or indefinite layoff. And our programs of adjustment assistance are ineffective; mechanisms are available, but they lack funds and a mandate. We prefer the illusions that Chrysler is an anomaly and that we are helping workers, while, in fact, consigning them to lives on and off the unemployment rolls.

Economic efficiency and social welfare could both be served if the Federal Government accepted its responsibility for an industrial strategy and effective adjustment assistance to facilitate the flow of labor and capital from declining companies and sectors to expanding employment-generating ones. But this Government does not resist the pressure—and so it goes the British route—resisting change, instead of adapting to it—as do the Japanese and West Germans.

The alternative to bailing out Chrysler is not Government inaction. It should be, instead, a package of guarantees, loans, and direct grants, when necessary, to firms which would reshape Chrysler's assets and for assistance to workers in need of retraining, relocation, and new employment. The Treasury Department lacks the authorities, tools, and mandate to construct such a package. It approaches the Chrysler request—as it did Lockheed's—on an ad hoc financing basis and not in the context of U.S. industrial strategy.

A sound industrial strategy will not be developed without a change in our habit of responding with billion-dollar bailouts and reserving only lipservice—and small change—for efforts to spur research, innovation and capital for the future. With an ad hoc approach to crises and no systematic approach to adjustment, as in other nations, political pressures in the United States dictate recourse to loan guarantees which simply prop up the existing structures, no matter how futile and wasteful and cruel to the human beneficiaries of our professed solicitude.

No legislation can map or promise the magic balance which could minimize all the social and economic costs of a Chrysler bankruptcy, or transplant displaced workers painlessly into new and rewarding careers. No adjustment is painless. But we could move substantially in the direction of effective adjustment assistance with reform and expansion of the programs we have. This amendment is an option to be preferred over special legislation for Chrysler.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

● Mr. WILLIAMS. Mr. President, I wish to announce that the Subcommittee on Housing and Urban Affairs, which I chair on the Banking, Housing and Urban Affairs Committee has scheduled a hearing on Thursday, December 13, 1979, at 9:30 a.m. in room 5302, Dirksen Senate Office Building, on energy conservation issues as they relate to community planning and development.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to mark up the Nuclear Policy Act and other pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Near Eastern and South Asian Affairs Subcommittee of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, December 10, 1979, beginning at 2 p.m. to hear administration officials on U.S. military assistance to Egypt.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

SENATE JOINT RESOLUTION 40—NATIONAL ARBOR DAY

● Mr. WILLIAMS. Mr. President, I am delighted to report that 17 of my colleagues have joined as cosponsors of Senate Joint Resolution 40, a resolution I have introduced to designate the last Friday in April as "National Arbor Day." They are: Mr. Bayh, Mr. Boschwitz, Mr. Bradley, Mr. Durenberger, Mr. Hatch, Mr. Hatfield, Mr. Heinz, Mr. Levin, Mr. Mathias, Mr. McGovern, Mr. Moynihan, Mr. Pressler, Mr. Randolph, Mr. Sarbanes, Mr. Sasser, Mr. Talmadge, and Mr. Tsongas.

This strong bipartisan support for the Arbor Day resolution will enable the Judiciary Committee to act on it expeditiously. I am pleased that the distinguished chairman of the Judiciary Committee (Mr. Kennedy) has indicated his willingness to take up the resolution at the committee's next business meeting.

Mr. President, by stimulating interest in planting and maintaining trees, a National Arbor Day will provide benefits to this and future generations. It is, therefore, most gratifying to be able to report on the progress of this resolution.●

OUTDOOR LIFE CONSERVATION AWARD

● Mr. COHEN. Mr. President, John Cole, a writer and environmentalist, recently received the Outdoor Life Conservation Award for 1979. He was honored not only for his commitment to saving the striped bass, but for his far-seeing philosophy of man's place in Nature.

His articles, which often appear in the New York Times, Atlantic Monthly, and the Maine Times, which he founded, describe both our responsibility for preserving the environment and philosophy that demands action on behalf of endangered species. His last book, "Striper," in fact, led in a significant way to Federal legislation mandating an emergency 3-year study of the striped bass in Atlantic coastal waters.

Mr. Cole is especially interested in how we perceive our world and how their perception shapes our actions. His recent essay, "Giving Old Sol His Due," which appeared in the New York Times, examines the modern "personna" of our Sun.

Mr. Cole wrote:

> During the millions of years that life has existed on this earth, the sun has seldom been seen solely in its current modes: as a fusion phenomena to be duplicated, or an energy source to be captured and exploited. It has instead been viewed through a third dimension—a dimension of wonder, of reverence, of mysticism, magic, worship, gratitude, artistic inspiration, and an awareness of essential mystery. These are qualities so vividly absent from today's perceptions.

This brief passage makes clear the philosophy of John Cole. Essential to the idea of preservation is the awareness of the metaphysical worth of what we are preserving.

Mr. President, I request that the following article be printed in the Record.

The article follows:

[From the New York Times, Dec. 1, 1979]

Giving Old Sol His Due

(By John N. Cole)

Brunswick, Maine.—During the millions of years that life has existed on this earth, the sun has seldom been seen solely in its current modes: as a fusion phenomena to be duplicated, or an energy source to be captured and exploited. It has, instead, been viewed through a third dimension—a dimension of wonder, of reverence, of mysticism, magic, worship, gratitude, artistic inspiration, and an awareness of essential mystery. These are the qualities so vivdly absent from today's perceptions. Yes, we have astronomers, we have physicists, we have more knowledge of the facts of the sun than ever before. But in a paradox of history, as that physical knowledge has increased, the sun's metaphysical significance has decreased until the personna of our star is eclipsed by the data of its vital statistics.

Just as we shall never be governed best by leaders chosen only for their height, weight, features, age and sex, so we shall not establish a good and true relationship with the sun until we re-explore its metaphysics, reread its fables, reacquaint ourselves with its mysteries and reinvest it with the full measure of meaning for humanity that the sun has acquired since it first generated the environment for life on this earth millions of years ago.

The wonder is that a force as pervasive as the sun's could have been as minimized as it has been since the start of the Industrial Age. One has only to consider the fundamental universality of the sun's relationship with this planet to comprehend the totality of its effect on our lives. The sun provides heat and light; without it, we would indeed freeze in the dark. It is the parent of the wind, the progenitor of clouds, the creator of rain, the sprouter of seeds. Our seasons are orchestrated by the sun's arc in the heavens; our sunrises and sunsets are witness to its daily passage—a journey that moves a perpetual dawn around the globe, inspiring bird songs in a rippling wave from meridian to meridian so there is never a moment when this earth is without natural music.

The sun tames glaciers, is the alchemist that draws life-giving oxygen from the plants of land and sea, and is the massive gravitational force that holds each celestial sphere of our galaxy in its proper orbit. Without the sun, humanity would have long since been lost in space.

Echoes of that knowledge reverberate within us, unconsciously, whenever we feel the warmth of the sun in our face, whenever we awaken to a bright dawn. We say we "feel great" in the clear sunshine of a new spring, or in an azure September afternoon; what we are feeling is the sun's own reassurance that the natural order of things is in place. We say "it came to me in a flash" when we have an idea, a creative thought; the imagery is one of interior illumination, of a light within the mind, of a small sunbeam flashing within the cellular galaxies of our own internal universe.

The parallels are no accident; the electromagnetic energy that allows brain-cell communication is a duplicate of the sun's radiations. Although this earth captures but a fraction of that energy the rest is bestowed munificently on our sister planets and the vast void of space), it is, on balance, more than enough, not only for our survival, but for our flourishing.

We can comprehend and have proved the mathematics of the solar-energy equation. What we have been unable to do in recent years is to acknowledge the sun as our primary natural presence—metaphysically as well as physically. If we had done that, we would not view the future with anxiety but with the certainty that it could be lived fulfillingly, in harmony with the natural.

We must begin to see the sun for its wonder as well as its warmth; for its history as well as its hydrogen; for its relationship to the individual as well as its spatial relation to earth. Only by re-investing the sun with these dimensions can we hope to establish it as a benign and primary energy source. The sun has, after all, been around for some 4,000-million years, and (we are informed by astronomers) should be around for at least 5,000 million more. It behooves us—energy crisis or no energy crisis—to get to know it in all its fascinating aspects, not just its vital statistics. It is a comment on the technological imbalance of this, our generation, that we could have been led so far from the sun. Our solar balance needs restoring.●

INTERDEPENDENCE, A SIGN OF THE FUTURE

Mr. STEVENSON. Mr. President, Robert J. Samuelson has written a perceptive article entitled "Interdependence, a Sign of the Future" which appeared in the Washington Post on December 4. His discussion of the implications of an unstable, interdependence world is worth heeding.

Mr. President, I request that the following article be printed in full in the RECORD.

The article follows:

INTERDEPENDENCE, A SIGN OF THE FUTURE

(By Robert J. Samuelson)

We are fooling ourselves if we view the Iranian crisis as some freak accident. Better to recognize it as a painful illustration of the dilemmas we face in a world where the worn cliche has acquired a horrifying reality: As nations become increasingly interdependent economically, the cultural and political bonds that link them seem to grow weaker.

Iran and the United States aren't behaving as differently as we would like to believe. Both countries are groping after a past that is forever gone: the United States after its once-clear economic and political dominance; Iran after a traditional, preindustrial society in which religious leaders and values reigned supreme.

That is the modern paradox. As countries become more subject to outside influence, they seek to deny the intrusion by resurrecting history. If Americans are learning the impossibility of this, so is Iran. The urbanization and population growth of the past 20 years have made Iran heavily dependent on food imports and industrial employment. Change has trapped the Ayatollah Khomeini as much as it has President Carter.

We haven't become weaker so much as other nations have become stronger. All our advantages have eroded: the overwhelming military dominance, the unquestioned economic stability, the unsurpassed technological superiority, the boundless natural resources. We confront a world in which nations still aren't equal, but are less unequal.

Consequently more and more events slip beyond our control. It is easy to say that we aligned ourselves too closely with the shah but, even in retrospect, it isn't clear whether another policy would have made much difference. Other nations were eager to sell the shah any arms that we wouldn't.

And in guns, as in almost everything else, the market is broadening. Technology and wealth are spreading. According to the U.S. Arms Control and Disarmament Agency 12 "developing" countries exported arms in 1977. Brazil is beginning to ship armored cars and jet trainer aircraft; Israel sells guided missiles and transport planes.

Don't think that we can shut ourselves off from these changes. They have gone too far. Even without our critical dependence on energy imports, too many powerful constituencies have a sizable stake in internationalism. About one-third of America's grain goes abroad, and about half of our production of commerical jets. At last count, U.S. banks had $125 billion outstanding in foreign loans. In 1977, 8.3 million Americans journeyed overseas and 6.5 million foreigners came here. Vested interests protect all these flows.

Moreover, if many of our problems originate abroad, their solutions also may lie—at least partially—abroad. In a recent speech, Donald E. Stingel, a director of the Export-Import Bank of the United States persuasively argued that one way to lessen energy scarcity here is to import more energy-intensive products such as fertilizer and aluminum from countries with abundant natural gas or hydroelectric power. Environmental hazards—atmospheric and oceanic pollution, control of nuclear and chemical wastes—increasingly demand international policing.

In short, there seems to be an historic drift toward global community, even of the most turbulent sort. Nations that traditionally sought isolation and self-sufficiency have succumbed progressively to the suction of world commerce: most conspicuously China and the Soviet Union. Money increasingly flows across national borders, as do workers, even when countries (such as the United States) impose official restrictions. According to one estimate cited in a recent report by the Worldwatch Institute, such "economic refugees" now may total 20 million.

By temperament and training, Americans aren't well equipped to deal with this world. We are being thrown into contact and conflict with peoples whose histories and motivations we hardly understand at all.

On the simplest level, few of us speak anyone else's language: A presidential commission recently reported that only 8 percent of American colleges and universities have a foreign language entrance requirement against 34 percent in 1966. It is naive to see language training as the path to brotherhood, but it is essential if Americans are to shed the burden they carry overseas: dread of the unfamiliar and dependence on translators.

Our language inadequacies betray a sense of moral superiority that sends U.S. foreign policy swinging between extremes of altruism and violence. We like to assume that all good things are compatible. Democracy and economic development go hand in hand; prosperity means peace and, probably, friendship. Life would be easier if these things were true but, unfortunately, they aren't.

A central dilemma today revolves around this question: How do we deal with governments whose friendship or resources or trade we value when we disapprove of the regime's politics?

To say, for example, that American support for the shah prostituted our commitment to democracy is an easy judgment, but one that smacks of moral absolutism. The shah's torture was not pretty, but neither is the anarchy and religious tyranny of Khomeini. Repression in Chile may not be appealing, but neither was the economic and political chaos of Salvador Allende. And what about South Korea?

It is also too simplistic to argue that our self-interest lies in supporting regimes friendly to the United States no matter what their other vices. As the case of Iran demonstrates, excessively close ties to unpopular governments ultimately may boomerang.

But where do American interests lie?

The foreign policy establishment—too preoccupied with superpower politics—has few answers. At home and abroad we are suffering the aftereffects of our reduced power. Others take us as a symbol of their frustrations, and we are frustrated by our apparent impotence. We dislike uncertainty and instability, but they are inevitable. The impulse to retreat from this unpleasantness is as understandable as it is inadvisable. Perhaps our refuge is to deal more with others but to expect less: to limit our risks by spreading them.●

DELAWARE DAY

● Mr. ROTH. Mr. President, I ask my colleagues to pause for a moment from our legislative business, because I want to tell them today is a very special day in the hearts and minds of the citizens of my home State.

Today, December 7, 1979, is Delaware Day. Today, my home State commemorates that joyous day 192 years ago when Delaware became the first of the Thirteen Original States to ratify the Constitution.

Delaware is not only the First State—it is indeed "The State That Started a Nation."

Delaware's history is a long and proud one. The earliest explorations of our coastline were made by the Spanish and Portuguese in the 16th century.

The State derived its name from Lord De La Warr, an early Governor of Virginia. In 1610 Capt. Samuel Argall, sailing for Lord De La Warr, was blown off course and sailed into a strange bay, which he named De La Warr in honor of his Governor.

During the colonial period in our history, no less than three flags of different nations flew over the colony of Delaware, commencing with the Dutch with their ill-fated settlement near the present town of Lewes in 1631, continuing with Peter Minuit and the Swedes in 1638 at Fort Christina near present day Wilmington, and the English from 1664 until our Declaration of Independence. At one time Delaware was even part of William Penn's colony of Pennsylvania, but in 1776 achieved State independence along with the independence of the Nation.

Every Delaware schoolboy or girl can call from memory the famous all-night horseback ride on July 1, 1776, of Caesar Rodney, the Delaware delegate who broke the deadlock among our patriots at the First Continental Congress in Philadelphia and helped lead them to the Declaration of Independence.

Delaware played a substantial role in the Revolution. It rasied nearly 4,000 men. Its long-term Continental regiment fought in almost every important battle from Long Island in 1776 to Yorktown in 1781. The only Revolutionary engagement fought on Delaware soil was the skirmish at Cooch's Bridge near Newark on September 3, 1777.

Tradition has it that it was here that the American flag was first unfurled in battle on U.S. soil.

Mr. President, from its signing of the Constitution to its University of Delaware football team, from its industrial muscle to its lovely beaches and shoreline, from its poultry farmers who feed the Nation, to its schools and hospitals and strong cultural and religious traditions, Delaware is still the First State today.

I am proud to be a Delawarean, and as a token of my pride, I will be distributing to each of my colleagues a pin which symbolizes Delaware, the First State.●

A MEMORIAL TO FORMER SENATOR CHARLES E. POTTER

● Mr. LEVIN. Mr. President, our former colleague, Charles E. Potter, of Michigan, who served his State and the Nation from 1947 to 1959, passed away on Friday, November 23, 1979.

A valiant infantry soldier in World War II, Mr. Potter lost both legs in that struggle and was decorated with the silver Star, the Bronze Star, and the French Croix de Guerre.

During a career of public service, Mr. Potter worked in the U.S. Labor Department as a vocational rehabilitation adviser for handicapped veterans before running for elected office.

A landslide victory in his home district in 1947 brought him to the House of Representatives where he served for three terms. His election to the U.S. Senate in 1952 propelled him into national prominence. Of his many efforts, Michigan shall always remember him particularly with gratitude for his tireless effort to improve the St. Lawrence Seaway.

Mr. President, as we honor and remember our late Senator, Charles E. Potter, I submit for the RECORD the following obituary from the Detroit Free Press.

The article follows:

FORMER MICHIGAN SENATOR CHARLES POTTER DIES IN WASHINGTON

(By W. Kim Heron)

During his 11 years in Washington as a representative and senator, Charles E. Potter commanded attention.

He spearheaded investigations into alleged communist activities in Hollywood and Michigan labor organizations, and later was an opponent of Sen. Joe McCarthy, R-Wis.

He also led the drive that forced Sherman Adams, a high-ranking adviser to President Eisenhower to resign.

For the last 20 years, Potter had been active in Republican circles and as a Washington consultant to private firms.

Mr. Potter died Friday in Walter Reed Hospital in Washington. He was 63.

He was first elected to Congress from the district that included Cheyboygan, and reelected in 1948 and 1950.

In 1952, he opposed Democratic appointee Blair Moody for the Senate seat vacated when Arthur H. Vandenberg died. Mr. Potter was elected to the remaining two months of Vandenberg's term and won a full six-year term in the same election. He was defeated by Philip Hart in 1958.

He spent the last 20 years behind the scenes in Washington politics and running a consulting firm for American and foreign companies.

Born on a farm near Lapeer in 1916, he attended Eastern Michigan University and went to work as director of social aid in Cheboygan County in 1938.

In 1942 he enlisted in the U.S. Army. After having been injured twice before, he lost both legs in France in 1945 when a land mine exploded. He left the service as a major with the Silver Star, Bronze Star and the Croix de Guerre medals.

After returning from the war, he became interested in politics, said his sister, Frances Potter, a retired Lapeer schoolteacher. While he was undergoing therapy at Walter Reed Hospital, his sister said, "He was able to go to the Senate and the Capitol because he didn't have anything else to do at the time."

Fitted with artificial legs and able to walk with two canes, Mr. Potter worked for the U.S. Department of Labor after his discharge in 1946 as a rehabilitation adviser. A year later he was in Washington as a congressman.

While in the House he served two years on the House Un-American Activities Committee and gained notoriety for his role in reopening hearings on alleged communist penetration of Hollywood and for a separate investigation into the alleged spread of communism in Michigan's labor organizations.

But after the Army-McCarthy hearings, Mr. Potter, then a senator, became the first member of McCarthy's committee to inquire into allegations of impropriety by McCarthy and his staff. A statement issued in his name said, "I believe a criminal case against some of the principals might be developed." That was seen as the beginning of the end for McCarthy, clearing the way for his censure.

However, another version of the story, advanced by Mr. Potter's press aide Tommy McIntyre, had McIntyre writing the decisive statement without Mr. Potter's prior knowledge and the senator finding out only after it had been distributed.

Mr. Potter was also one of the first Republicans to question the relationship of Eisenhower adviser Sherman Adams to Boston industrialist Bernard Goldfine.

Despite Eisenhower defense of Adams, Adams ultimately resigned. Loss of support from the president was seen by some as decisive in Potter's defeat in 1958.

After leaving office, Potter never strayed far from government.

He founded Potter International, a small firm which kept major companies like Uniroyal and Rockwell International abreast of government's regulations and engaged in limited lobbying.

Survivors include his wife, Mary Elizabeth; a daughter Wendy Cundy; a sister, Frances Potter, and one grandchild.

He will be buried Wednesday in Arlington National Cemetery.●

SPECIAL PURPOSE AGRICULTURAL STRUCTURES DESERVE TAX CREDITS CONGRESS INTENDED

● Mr. HELMS. Mr. President, I am delighted to cosponsor S. 2089, introduced by the able Senator from Delaware (Mr. ROTH) to amend the Revenue Act of 1978. This bill seeks to clarify an interpretation of the Internal Revenue Service with respect to a taxpayer taking an investment tax credit for the construction of special purpose agricultural structures or buildings.

The Revenue Act of 1971 restored use of the investment credit, and Congress attempted at that time to specify that the credit was intended to apply to special, or single purpose agricultural structures. Examples of these structures include poultry houses, hog barns and greenhouses, among others.

However, the IRS denied the credit for these structures on numerous occasions, which prompted farmers and nurserymen to take their cases to court. The U.S. Tax Court properly sustained their allegations, and allowed them to take the credit. But, this judicial process was time consuming and expensive. In order to correct this oversight, Congress approved a provision contained in the Revenue Act of 1978 allowing the investment tax credit for special purpose agricultural structures.

Unfortunately, the Internal Revenue Code, thus amended, limited refunds for credits to 3 years after the tax return is filed. This effectively restrains taxpayers from using the credit for expenditures made before 1976—even though the clear intent of Congress was to allow retroactive use for all tax years after August 15, 1971. The only exception to this ruling relates to taxpayers who disputed the original IRS regulations, therefore leaving those prior tax years open, and in so doing became eligible for the credit. I hope my colleagues will agree that this is a most inequitable situation that must be corrected.

I also would stress that enactment of this legislation will not result in any "windfall" for the poultry or pork industries. Producers of these products have provided ample supplies for our consumers in recent years, and at lower prices than many other commodities. If they are allowed to keep their industries stable and regain their lost tax credits, I feel sure they will be able to serve the American public in a similar manner as in the past.

Moreover, this bill does not seek to disadvantage family farmers or small pork or poultry producers. The vertical integration that has developed in their industries has occurred through the action of market forces—supply and demand—and will not be reversed. It seems logical at this time to keep them viable and productive so that we may be assured of adequate poultry and pork products in the future.

For the record, Mr. President, I am submitting the following list of organizations that support this legislation:

National Broiler Council; United Egg Producers; National Turkey Federation; National Pork Producers Council; Poultry and Egg Institute of America; and American Farm Bureau Federation.●

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT—S. 985

● Mr. INOUYE. Mr. President, it is my understanding that next week the Committee on Agriculture, Nutrition, and Forestry will move that the Senate concur in the House amendment to S. 985 with a further amendment. S. 985 amends the Consolidated Farm and Rural Development Act to establish overall lending limits for the next 3 years under the farm and rural development loan programs administered by the Farmers Home Administration.

When the message from the House of Representatives on S. 985 is considered by the Senate, it is my intent to ask the Senate to concur in an amendment that has already been approved by the House of Representatives.

This amendment simply rewrites section 343, which defines certain terms used in the Consolidated Farm and Rural Development Act, and the only substantive change made in the section is to include a definition of the term owner-operator to include lessee-operator. This provision was in the bill during the period September 16, 1966, to September 19, 1970, and through oversight, was omitted from the bill since then.

This amendment is very important to the people of Hawaii because there are large areas of land which cannot be owned with fee simple deeds but which must be leased for farming or rural housing. It is especially important to native Hawaiians and small farmers who cannot secure adequate capital to farm productively. The Secretary of Agriculture makes the determination of whether or not the property cannot be owned in fee simple.

This provision was previously enacted and the Department of Agriculture has accepted the amendment without any difficulties whatsoever. The House of Representatives did approve this provision when it passed H.R. 368 (S. 985) on October 24, 1979.

I am offering this amendment at this time because the problem had not been called to my attention prior to the reauthorization consideration last spring. The House of Representatives of the 10th Legislature of the State of Hawaii did enact Resolution No. 297 specifically requesting this provision in order to deal with this special problem in Hawaii. A very large part of the land which is used for farming in Hawaii involves farming on leasehold lands. In 1970, Hawaii had approximately 1,500 farmers operating on about 40,000 acres of leased lands. Under the Hawaiian Home Lands Act of 1920, much of this land cannot be sold; it can only be leased. Native Hawaiians and small farmers have great difficulty in securing adequate financing of farm improvements needed for successful farming.

Credit is especially needed because of the higher capital cost of modern technology. With inadequate credit, native Hawaiians who have eligibility to lease this land cannot develop or maintain the agricultural potential of their land. At the same time there is increasing pressure to turn farmland into other nonagricultural uses which offer higher rates of return. Much of the agricultural land which is farmed under leases—such as those leased under the Hawaiian Home Lands Act or State leases—are now underutilized because of a lack of credit assistance. In order to maintain family farms and to maintain and improve diversified agricultural productivity in Hawaii, this amendment is needed.

In particular, we need to make credit available to small farmers so they can continue to farm productively. If land can be farmed productively, it will reduce the pressure for its conversion to nonagricultural uses. The rapid rise in land values has also meant that the use of leasehold lands for farming is becoming a necessary alternative to the purchase of fee simple land in order to maintain financially feasible farming operations.

This amendment is very important to the people of Hawaii and I urge its acceptance.

Mr. President, I ask that the text of this amendment be printed in the Record.

The amendment follows:

Sec.   . Section 343 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991) is amended to read as follows:

"Sec. 343. As used in this title—

"(1) the term 'farmers' includes persons who are engaged in, or who, with assistance afforded under this Act, intend to engage in, fish farming.

"(2) the term 'farming' includes fish farming;

"(3) the word 'insure' includes guarantee which means to guarantee the payment of a loan originated, held, or serviced by a private financial agency or other lender approved by the Secretary;

"(4) the term 'contract of insurance' includes a contract of guarantee;

"(5) the term 'owner-operator' includes, in the case of the State of Hawaii, the lessee-operator of real property in any case in which the Secretary determines that such property cannot be acquired in fee simple by the lessee-operator, that adequate security is provided for the loan with respect to such property for which the lessee-operator applies under this title, and that there is a reasonable probability of accomplishing the objectives and repayment of the loan; and

"(6) the term 'United States' and 'State' includes each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and, to the extent the Secretary determines it to be feasible and appropriate, the Trust Territory of the Pacific Islands.".●

NASA AND CLEVELAND ELECTRIC ILLUMINATING COMPANY ANNOUNCE UNIQUE TURBOGENERATION FEASIBILITY STUDY

● Mr. GLENN. Mr. President, today, in Cleveland, Ohio, the National Aeronautics and Space Administration's Lewis Research Center and the Cleveland Electric Illuminating Co. are announcing their agreement to cooperate in a 6-month, $200,000 feasibility study with broad implications for both the electric power and high-sulfur coal industries.

The aid of this study is to determine if a unique plant should be built at Lewis Labs to generate heating and process steam and simultaneously produce electricity. If the study results confirm expectations, such a plant will be built. The plant would represent an attractive option for the highly efficient use of high-sulfur coal with minimal environmental impact. That development would be of tremendous importance to the State of Ohio.

If built, the envisioned plant would be the first in the world to combine coal gasification, integrated confined cycle power generation, and the generation of steam. By controlling the air or oxygen flow and temperature, the plant would convert high-sulfur coal into a clean fuel gas. Pollutants in the gas would be removed by one of a number of processes already available on the market. The clean gas would be burned to drive a gas turbogenerator to produce electric power. Waste heat from the turbine would be recovered and used to produce steam. The steam, in turn, would be used for heating or for additional electric power generation in a steam turbogenerator.

Estimates are that, during those periods when the waste heat can be used fully, the plant could approximately double the amount of energy extracted from each ton of coal, when compared with conventional methods of electric power generation.

Dr. John F. McCarthy, Jr., Director of the Lewis Research Center, and Robert M. Ginn, president of CEI, are announcing the feasibility study today. According to Dr. McCarthy, the plant being studied is envisioned as a fully working facility, not a demonstration project.

Dr. McCarthy said:

In operation, it would supply our baseload electric needs at Lewis plus steam for heating and process requirements.

Even so, the plant also would be an effective demonstration of operating techniques that might be applied broadly across the electric power industry, and other industries, for heat energy or power needs.

As Dr. McCarthy points out in today's announcement, the potential benefits of such a plant on a commercial scale could keep costs to both electrical producers and the consumer at the lowest possible levels consistent with national need and help to both improve our environment and reduce our dependence on imported energy.

Mr. Ginn pointed out in today's announcement that another highly important benefit of the plant would be the development of an environmentally sound and economically practical means of using the high-sulfur coal so abundant in the State of Ohio.

Mr. President, it pleases me very much to be able to call the Senate's attention to this cooperative study between Government and the private sector. The project in question addresses several pressing problems—economic, environmental, and energy related. I can only hope for optimistic results from the feasibility study.●

FRINGE BENEFIT REGULATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 461.

THE PRESIDING OFFICER (Mr. Matsunaga). The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 5224) to continue through May 31, 1981, the existing prohibition on the issuance of fringe benefit regulations, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Finance with an amendment on page 2, beginning with line 10, strike through and including line 23, and insert in lieu thereof the following:

Sec. 3. Payment of Interest Where Levy Has Been Wrongfully Made and Money Received by United States.

(a) In General.—Section 6343 (relating to release of levy and return of property) is amended by adding at the end thereof the following new subsection:

(c) Interest.—Interest shall be allowed and paid at an annual rate established under section 6621—

"(1) in a case described in subsection (b) (2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

"(2) in a case described in subsection (b)(3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days."

(b) Technical Amendment.—Subsection (a) of section 6621 is amended to read as follows:

"(a) In General.—The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b)."

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to levies made after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

Sec. 4. Repeal of Requirement That Transferors of Certain Property to Exempt Organizations Must File Returns.

(a) General Rule.—Section 6050 (relating to returns relating to certain transfers to exempt organizations) is hereby repealed.

(b) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050.

(c) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

Sec. 5. Repeal of Addition to Tax in Case of Jeopardy.

(a) General Rule.—Section 6658 (relating to addition to tax in case of jeopardy is hereby repealed.

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 68 is amended by striking out the item relating to section 6658.

(c) Effective Date.—The amendments made by this section shall apply to violations (or attempted violations) occurring after the date of the enactment of this Act.

Sec. 6. Repeal of Requirement That Information Be Furnished To the Service in Connection With Certain Options.

(a) General Rule.—Section 6039 (relating to information required in connection with certain options) is amended to read as follows:

"Sec. 6039. Information Required in Connection With Certain Options.

"(a) Furnishing of Information.—Every corporation—

"(1) which in any calendar year transfers a share of stock to any person pursuant to such person's exercise of a qualified stock option or a restricted stock option, or

"(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

"(A) acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

"(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.

"(b) Special Rules.—For purposes of this section—

"(1) Treatment by employer to be determinative.—Any option which the corporation treats as a qualified stock option, a restricted stock option, or an option granted under an employee stock purchase plan shall be deemed to be such an option.

"(2) Subsection (a)(2) applies only to first transfer described therein.—A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

"(3) Identification of stock.—Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

"(c) Cross References.—

"For definition of—

"(1) The term 'qualified stock option', see section 422(b).

"(2) The term 'employee stock purchase plan', see section 423(b).

"(3) The term 'restricted stock option', see section 424(b)."

(b) Technical Amendments.—

(1) Subsection (a) of section 6652 is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2), and

(C) by striking out "return referred to in paragraph (2) or (3)" and inserting in lieu thereof "return referred to in paragraph (2)".

(2) Section 6678 (relating to penalty for failure to furnish certain statements) is amended to read as follows:

"Sec. 6678. Failure To Furnish Certain Statements.

"In the case of each failure—

"(1) to furnish a statement under section 6042(c), 6044(e), 6049(c), or 6052(b), on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), 6049(a)(1), or 6052(a), respectively, or

"(2) to furnish a statement under section 6039(a) on the date prescribed therefor to a person with respect to whom such a statement is required,

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so furnish the statement $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

(c) Effective Date.—The amendments made by this section shall apply with respect to calendar years beginning after 1979.

Sec. 7. Extension of Time for Filing Gift Tax Return for Fourth Calendar Quarter.

(a) General Rule.—Paragraph (1) of section 6075(b) (relating to due date for gift tax returns) is amended to read as follows:

"(1) General rule.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before—

"(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or

"(B) in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter."

(b) Extension of Date for Filing Income Tax Return Treated as Extension of Date for Filing Gift Tax Return.—Subsection (b) of section 6075 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Extension where taxpayer granted extension for filing income tax return.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for the fourth calendar quarter of such taxable year."

(c) Technical Amendments.—Paragraph (2) of section 6075(b) is amended—

(1) by striking out "the 15th day of the second month after" and inserting in lieu thereof "the date prescribed by paragraph (1) for filing the return for", and

(2) by striking out "the close of" in subparagraphs (A) and (B).

(d) Effective Date.—The amendments made by this section shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act.

Sec. 8. Extension of Certain Temporary Tax Provisions.

(a) Government Health Provision Scholarship Programs.—Subsection (c) of section 4 of Public Law 93-483, as amended, is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981", and

(2) by striking out "1984" and inserting in lieu thereof "1985".

(b) National Research Service Awards.—Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to national research service awards) is amended by striking out "1979" and inserting in lieu thereof "1980".

(c) Deduction for Eliminating Architectural and Transportation Barriers to the Handicapped.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers to the handicapped) is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1983".

(d) Controversies Involving Whether Individuals Are Employees for Purposes of the Employment Taxes.—

(1) In general.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1980) is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

(B) by striking out "1980" in the subsection heading and inserting in lieu thereof "1981", and

(C) by striking out "1979" in the heading for paragraph (3) and inserting in lieu thereof "1979 and 1980".

(2) Prohibition against regulations and rulings on employment status.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1981".

(e) Additional 2-Year Delay in Application of the Net Operating Loss Rules Added by the Tax Reform Act of 1976.—Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) are amended by striking out "1980" each place it appears and inserting in lieu thereof "1982".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 1. Prohibition of Issuance of Fringe Benefit Regulations.

Section 1 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (Public Law 95-427), is amended by striking out "December 31, 1979" each place it appears and inserting in lieu thereof "May 31, 1981".

SEC. 2. COMMUTING EXPENSES

Section 2 of the Act entitled "An Act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes", approved October 7, 1978 (Public Law 95-427), is amended by striking out "December 31, 1979" and inserting in lieu thereof "May 31, 1981".

SEC. 3. PAYMENT OF INTEREST WHERE LEVY HAS BEEN WRONGFULLY MADE AND MONEY RECEIVED BY UNITED STATES.

(a) In General.—Section 6343 (relating to release of levy and return of property) is amended by adding at the end thereof the following new subsection:

"(c) Interest.—Interest shall be allowed and paid at an annual rate established under section 6621—

"(1) in a case described in subsection (b) (2), from the date the Secretary receives the money to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days, or

"(2) in a case described in subsection (b) (3), from the date of the sale of the property to a date (to be determined by the Secretary) preceding the date of return by not more than 30 days."

(b) Technical Amendment.—Subsection (a) of section 6621 is amended to read as follows:

"(a) In General.—The annual rate established under this section shall be such adjusted rate as is established by the Secretary under subsection (b)."

(c) Effective Dates.—

(1) The amendment made by subsection (a) shall apply to levies made after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall take effect on the date of the enactment of this Act.

SEC. 4. REPEAL OF REQUIREMENT THAT TRANSFERORS OF CERTAIN PROPERTY TO EXEMPT ORGANIZATIONS MUST FILE RETURNS.

(c) General Rule.—Section 6050 (relating to returns relating to certain transfers to exempt organizations) is hereby repealed.

(b) Clerical Amendment.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by striking out the item relating to section 6050.

(c) Effective Date.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 5. REPEAL OF ADDITION TO TAX IN CASE OF JEOPARDY.

(a) General Rule.—Section 6658 (relating to addition to tax in case of jeopardy) is hereby repealed.

(b) Clerical Amendment.—The table of sections for subchapter A of chapter 68 is amended by striking out the item relating to section 6658.

(c) Effective Date.—The amendments made by this section shall apply to violations (or attempted violations) occurring after the date of the enactment of this Act.

SEC. 6. REPEAL OF REQUIREMENT THAT INFORMATION BE FURNISHED TO THE SERVICE IN CONNECTION WITH CERTAIN OPTIONS.

(a) General Rule.—Section 6039 (relating to information required in connection with certain options) is amended to read as follows:

"SEC. 6039. INFORMATION REQUIRED IN CONNECTION WITH CERTAIN OPTIONS.

"(a) Furnishing of Information.—Every corporation—

"(1) which in any calendar year transfers a share of stock to any person pursuant to such person's exercise of a qualified stock option or a restricted stock option, or

"(2) which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

"(A) acquired by the transferor pursuant to his exercise of an option described in section 423(c) (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

"(B) acquired by the transferor pursuant to his exercise of a restricted stock option described in section 424(c)(1) (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Secretary may by regulations prescribe.

"(b) Special Rules.—For purposes of this section—

"(1) Treatment by employer to be determinative.—Any option which the corporation treats as a qualified stock option, a restricted stock option, or an option granted under an employee stock purchase plan shall be deemed to be such an option.

"(2) Subsection (a)(2) applies only to first transfer described therein.—A statement is required by reason of a transfer described in subsection (a)(2) of a share only with respect to the first transfer of such share by the person who exercised the option.

"(3) Identification of stock.—Any corporation which transfers any share of stock pursuant to the exercise of any option described in subsection (a)(2) shall identify such stock in a manner adequate to carry out the purposes of this section.

"(c) Cross References.—

"For definition of—

"(1) The term 'qualified stock option', see section 422(b).

"(2) The term 'employee stock purchase plan', see section 423(b).

"(3) The term 'restricted stock option', see section 424(b)."

(b) Technical Amendments.—

(1) Subsection (a) of section 6652 is amended—

(A) by inserting "or" at the end of paragraph (1),

(B) by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2), and

(C) by striking out "return referred to in paragraph (2) or (3)" and inserting in lieu thereof "return referred to in paragraph (2)".

(2) Section 6678 (relating to penalty for failure to furnish certain statements) is amended to read as follows:

"SEC. 6678. FAILURE TO FURNISH CERTAIN STATEMENTS.

"In the case of each failure—

"(1) to furnish a statement under section 6042(c), 6044(e), 6049(c), or 6052(b), on the date prescribed therefor to a person with respect to whom a return has been made under section 6042(a)(1), 6044(a)(1), 6049(a)(1), or 6052(a), respectively, or

"(2) to furnish a statement under section 6039(a) on the date prescribed therefor to a person with respect to whom such a statement is required,

unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Secretary and in the same manner as tax) by the person failing to so furnish the statement $10 for each such statement not so furnished, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed $25,000."

(c) Effective Date.—The amendments made by this section shall apply with respect to calendar years beginning after 1979.

SEC. 7. EXTENSION OF TIME FOR FILING GIFT TAX RETURN FOR FOURTH CALENDAR QUARTER.

(a) General Rule.—Paragraph (1) of section 6075(b) (relating to due date for gift tax returns) is amended to read as follows:

"(1) General rule.—Except as provided in paragraph (2), returns made under section 6019 (relating to gift taxes) shall be filed on or before—

"(A) in the case of a return for the first, second, or third calendar quarter of any calendar year, the 15th day of the second month following the close of the calendar quarter, or

"(B) in the case of a return for the fourth calendar quarter of any calendar year, the 15th day of the fourth month following the close of the calendar quarter."

(b) Extension of Date for Filing Income Tax Return Treated as Extension of Date for Filing Gift Tax Return.—Subsection (b) of section 6075 is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Extension where taxpayer granted extension for filing income tax return.—Any extension of time granted the taxpayer for filing the return of income taxes imposed by subtitle A for any taxable year which is a calendar year shall be deemed to be also an extension of time granted the taxpayer for filing the return under section 6019 for the fourth calendar quarter of such taxable year."

(c) Technical Amendments.—Paragraph (2) of section 6075(b) is amended—

(1) by striking out "the 15th day of the second month after" and inserting in lieu thereof "the date prescribed by paragraph (1) for filing the return for", and

(2) by striking out "the close of" in subparagraphs (A) and (B).

(d) Effective Date.—The amendments made by this section shall apply to returns for gifts made in calendar years ending after the date of the enactment of this Act.

SEC. 8. EXTENSION OF CERTAIN TEMPORARY TAX PROVISIONS.

(a) Government Health Provision Scholarship Programs.—Subsection (c) of section 4 of Public Law 93-483, as amended, is amended—

(1) by striking out "1980" and inserting in lieu thereof "1981", and

(2) by striking out "1984" and inserting in lieu thereof "1985".

(b) National Research Service Awards.—Paragraph (2) of section 161(b) of the Revenue Act of 1978 (relating to national research srevice awards) is amended by striking out "1979" and inserting in lieu thereof "1980".

(c) Deduction for Eliminating Architectural and Transportation Barriers to the Handicapped.—Subsection (c) of section 2122 of the Tax Reform Act of 1976 (relating to effective date for allowance of deduction for eliminating architectural and transportation barriers to the handicapped) is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1983".

(d) Controversies Involving Whether Individuals Are Employees for Purposes of the Employment Taxes.—

(1) In general.—Subsection (a) of section 530 of the Revenue Act of 1978 (relating to termination of certain employment tax liability for periods before 1980) is amended—

(A) by striking out "January 1, 1980" in paragraphs (1)(A) and (3) and inserting in lieu thereof "January 1, 1981",

(B) by striking out "1980" in the subsection heading and inserting in lieu thereof "1981", and

(C) by striking out "1979" in the heading for paragraph (3) and inserting in lieu thereof "1979 and 1980".

(2) PROHIBITION AGAINST REGULATIONS AND RULINGS ON EMPLOYMENT STATUS.—Subsection (b) of section 530 of the Revenue Act of 1978 is amended by striking out "January 1, 1980" and inserting in lieu thereof "January 1, 1981".

(e) ADDITIONAL 2-YEAR DELAY IN APPLICATION OF THE NET OPERATING LOSS RULES ADDED BY THE TAX REFORM ACT OF 1976.—Paragraphs (2) and (3) of section 806(g) of the Tax Reform Act of 1976 (relating to effective dates for the amendments to sections 382 and 383 of the Internal Revenue Code of 1954) are amended by striking out "1980" each place it appears and inserting in lieu thereof "1982".

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

● Mr. ARMSTRONG. Mr. President, I rise to commend the leadership of the chairman and ranking minority member of the Senate Finance Committee in recommending to the full Senate passage of this legislation which, in part, extends to June 1, 1981, the present ban on IRS efforts to tax employee fringe benefits.

Enactment of this bill will be an important victory for the American taxpayer. IRS would like to tax some 40 employee fringe benefits which would cost the average American family an estimated $240 more each year in taxes—a burden already financially pressed Americans can ill afford. Hardest hit would be employees of airlines, buslines, and railroads who receive free transportation, and retail store workers who are entitled to discounts.

If Congress does not act, the present ban on taxing fringe benefits will expire at the end of this year, and the IRS will be free to decide which "fringe benefits" ought to be subject to taxation and at what rates.

The fringe benefit moratorium was imposed by Congress last year so that it would have time to hold hearings and write legislation on which fringe benefits, if any, would be subject to taxation. Extensive hearings have not been held, and a final bill has not been drafted. In light of IRS past eagerness to lay and collect fringe benefit taxes, this bill is particularly important and timely.

This bill is virtually identical to an amendment I offered earlier this year to the appropriations bill funding IRS operations. That amendment was adopted unanimously by the full Senate, but was dropped in House-Senate conference as an accommodation to the tax-writing committees of Congress. Because the Senate Finance Committee and the House Ways and Means Committee came through on this issue, American taxpayers have won an important victory.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 5224), as amended, was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECOGNITION ON MONDAY, DECEMBER 10, 1979, OF SENATORS PROXMIRE, LEVIN, ROBERT C. BYRD, AND TOWER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, after the two leaders or their designees have been recognized under the standing order, Messrs. PROXMIRE, LEVIN, ROBERT C. BYRD, and TOWER be recognized each for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M., MONDAY, DECEMBER 10, 1979

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m., on Monday.

The motion was agreed to; and at 8:02 p.m., the Senate recessed until Monday, December 10, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 7, 1979:

DEPARTMENT OF STATE

Deane R. Hinton, of Illinois, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State.

THE JUDICIARY

Earl Ben Gilliam, of California, to be U.S. district judge for the southern district of California, vice a new position created by Public Law 95–486, approved October 20, 1978.

HOUSE OF REPRESENTATIVES—*Monday, December 10, 1979*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious Lord, we pause in anticipation of the coming Holy Days to laud and praise You for Your mighty acts on our behalf, and Your promise of peace on Earth, good will toward all people. We thank You for the abundant gifts we have received and we are filled with adoration as we meditate on our blessings. Even as we acknowledge these gifts our hearts reach out to those who do not have opportunities to worship as we do, to gather with family and friends. We commend to You, O Lord, all people who have any need or care, and may we, by our prayers and by our acts of good will, bring a measure of hope and love to Your people. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 4943. An act granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects; and

H.R. 5224. An act to continue through December 31, 1980, the existing prohibition on the issuance of fringe benefit regulations.

The message also announced that the Senate had passed bills and a concurrent resolution of the following titles, in which the concurrence of the House is requested:

S. 2069. An act to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities;

S. 2076. An act to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances;

S. 2096. An act to provide for a study by the Secretary of Health, Education, and Welfare of the long-term health effects in humans of exposure to dioxins; and

S. Con. Res. 48. Concurrent resolution providing for the acceptance of a statue of Mother Joseph of the Sisters of Providence presented by the State of Washington for the National Statuary Hall collection, and for other purposes.

NATIONAL GRAIN BOARD

(Mr. WEAVER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, it is clear our policy on grain sales to foreign nations is bankrupt. We have agreed to sell to the Soviets 25 million tons of grain at prices which will be less than it cost our farmers to produce the grain. Several experts have written recently in the Washington Star, November 29, and the New York Times, December 10, to express their misgivings on our present policy and to support policies similar to my National Grain Board, the barrel-for-bushel bill.

These experts also say that the trigger prices which bring grain out of the grain reserve are too low. I agree. As the author of the grain reserve bill, which was enacted in 1977, I attempted to pass higher trigger prices even. Today it is imperative, else Russia and other nations benefit to our farmer and taxpayer loss.

I also intend to offer a bill to raise trigger prices for the grain reserve and invite cosponsors.

DAVID C. TREEN, 56TH GOVERNOR OF LOUISIANA

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, I take great pleasure in announcing to the House that our distinguished colleague, the gentleman from Louisiana, DAVID C. TREEN, was elected on Saturday, December 8, 1979, as the 56th Governor of the State of Louisiana. He becomes the first Republican Governor of Louisiana in this century and the first one in well over 100 years. To know DAVID is to know that being the first is not something unusual for him.

DAVID ran for Congress four times before being elected as the first Republican Member of the House from Louisiana in this century. Each time he ran, even in those three losing efforts, he did better than any Republican had done before. He has been elected to four terms from Louisiana's Third Congressional District; thus having served in this House longer than any Republican in Louisiana's history. In his last election in 1978, he was unopposed. He was the first Republican ever elected to Congress from Louisiana without opposition.

DAVID ran for Governor once before in 1972. Although that race was unsuccessful, he again established a first among Republicans by having received a greater percentage of the vote than any Republican who had run for Governor in Louisiana in this century. In this race, he carried many parishes never before carried by a Republican candidate. With his election on Saturday, he has again been first not only as a Republican, but now by choice of the majority of the citizens of his State.

DAVID's record of service in this House during his four terms has been nothing less than exemplary for us all. He currently serves as fifth ranking Republican on the Armed Services Committee, as fourth ranking Republican on the Merchant Marine and Fisheries Committee and as ranking member on the Coast Guard and Navigation Subcommittee. He has also served as a member of the Select Committee on the Outer Continental Shelf, and the Select Committee on Intelligence. As a Republican Member of the House, he serves on the executive committee of the Republican Congressional Committee, has served as chairman of the Republican Study Committee, and a member of the executive committee of the committee on committees.

In his service on these committees and on the House floor, his work has been distinguished as that of a legislator's legislator. He has become known among us as one who works hard, knows his subject matter, is willing to work with both sides of the aisle; yet one who is as strong an advocate as any Member who has served in this Chamber. All of us who know him know he serves his State, his constituency and his Nation above all other interests and his personal characteristics of honesty, integrity, and sincerity closely mark his efforts and our dealings with him.

There is no question that his presence in this greatest legislative body will leave a permanent mark worthy of us all to emulate. It is with a note of sadness that we realize come next March he will no longer be an active colleague, yet it is with great joy and satisfaction that we realize he will be even more involved in public service as the chief executive of the sovereign State of Louisiana. I will personally miss him as he has been a good friend, strong ally, and valued mentor.

I know that all of you join me in congratulating him, wishing him well, and praying for his success in his new responsibilities.

AMERICA FIRST AND FOREMOST

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the Iranian crisis has taught us with great clarity some of the facts of international life. Chief among these is the fact that we can ultimately depend only on ourselves.

Secretary of State Cyrus Vance is even now on a journey to persuade our allies to join with us in putting pressure on Iran. When a nation has to send high-level missions to its allies to persuade them to do something that they should have already gladly and willingly done, it says something about how we are perceived in the world.

I know that the phrase "America First" has been discredited because of its isolationist associations. But the Iranian situation has shown us that if we do not put America first and foremost, nobody else will.

If we are to survive the challenges of the 1980's we are going to have to develop a viewpoint that puts our national interest ahead of the desire to be loved and admired.

The post-Vietnam era of a docile America is over and the world ought to know that.

MEDIA COVERAGE OF THE IRANIAN CRISIS

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, the Iranian crisis shows us once again how important media coverage can be. It is quite clear that the ayatollah recognizes the fact that Western news media can be used to his own advantage. If the ayatollah wants to say something to the world or if his well-planned spontaneous street demonstrations need television coverage, the Western media are all too glad to oblige.

This is not to say that our news media should not report what the ayatollah says or does. But more than ever there is a need for careful, documented, truly balanced reporting, putting into context what is being said and done in Iran.

The current issue of Time magazine has on its cover a picture of the Shah. Printed beside his portrait are the words "Center of the Storm."

The editors of Time, selecting those words to accompany the Shah's portrait have accepted the ayatollah's view of this controversy. It is the position of the United States that it is the taking of the hostages which is the "center of the storm." When the news magazine with the largest circulation says the Shah is the center of the storm, millions of people here and around the world see the debate as the ayatollah does. I wish the media would think clearly.

MILITARY SERVICE RECRUITERS PROHIBITED FROM VISITING 25 PERCENT OF HIGH SCHOOLS

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, Representative ROBERT C. MCEWEN recently circulated a "Dear Colleague" letter that caused me great concern. Citing remarks made by Army Chief of Staff Edward C. Meyer, Representative MCEWEN noted that fully 25 percent of America's high schools do not permit military service recruiters to visit their schools at any time.

Moreover, an additional 25 percent of the Nation's high schools allow military recruiters to visit only during their annual "job fairs." This is a deplorable situation, especially considering the recruitment problems the All Volunteer Army has experienced over the last few years.

This disconcerting state of affairs must change—and change quickly. Mr. Speaker, I urge all of my colleagues in the House to ask the principals of high schools in their districts to adopt a more open and accessible policy toward military service recruiters. It is time we start giving our military services the kind of cooperation they deserve.

Mr. Speaker, I am indebted to Mr. MCEWEN for his insightful letter. Since

Gen. Edward C. "Shy" Meyer is a native of Elk County, Pa., the heart of the 23d Congressional District, I feel a special obligation to bring this unsettling dilemma to the attention of high schools in my district. I urge all of my colleagues to do the same.

□ 1210

REPRESENTATIVE BAUMAN INTRODUCES BILL TO PROTECT AMERICAN EMBASSIES AND PERSONNEL

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, it is quite obvious that unless we as a nation issue a stern warning to the countries of the world we can expect to be treated continually as the doormat of the world, as we have been in Iran, and Pakistan, and Libya in recent weeks.

As a warning to all nations, I am today introducing legislation that would require in any instance where American diplomatic personnel are taken hostage, or our Embassies are taken, or our facilities are damaged or attacked, that the President would have to determine within 2 weeks whether the host government was in anyway responsible for, condoned, or refused to give assistance in response to requests by the U.S. Government.

If, in fact, that finding were made, the President would break diplomatic relations, would, cut off all aid immediately of any nature and, third, would take over the assets of that host country and out of those assets pay retribution of up to $10 million a day to those who suffer. If the United States is going to be treated this way, the countries who are tempted to act against us ought to know precisely what they stand to lose.

I invite my colleagues to cosponsor this with me. Those wishing to join me should call Luis Luna of my staff at 225-5311.

A copy of the bill follows:

H.R. 6073

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Protection of Americans Abroad Act".

Sec. 2. (a) In any case in which—

(1) a United States diplomatic mission or any other property of the United States in a foreign country is seized, damaged, or otherwise illegally intruded upon by foreign nationals, or

(2) a United States diplomatic agent or other officer or employee of the United States assigned to duty in a foreign country is illegally arrested or detained or is held hostage or attacked in any way by foreign nationals, the President shall, not later than 14 days after any act described in paragraph (1) or (2) occurs, determine—

(A) whether the foreign nationals involved committed such act as authorized or de facto agents of the government of the foreign country in which the incident occurred,

(B) whether that government sanctioned that act, or

(C) if the United States requested the assistance of that government in preventing or terminating that act, whether that government failed to respond to that request by taking appropriate action in a timely manner.

(b) If the President makes a determination, pursuant to subsection (a), that any event described in subparagraph (A), (B), or (C) of that subsection did occur with respect to a foreign country, the President shall—

(1) terminate diplomatic relations with that country, if in his discretion he deems it appropriate,

(2) notwithstanding any other provision of law, immediately terminate all direct or indirect United States military and economic assistance to that country, including credits, guaranties, and sales under the Arms Export Control Act, and

(3) under authorities which the President has under other provisions of law, prohibit any transfer of property or assets which are subject to the jurisdiction of the United States or which are in the control of persons subject to the jurisdiction of the United States, and in which that foreign country has any interest,

until such time as the President determines that the government of that country has restored to the custody of the United States any property of the United States, or any United States officers or employees, seized in the incident and has made adequate restitution for damages to United States property or harm to United States officers or employees involved in the incident.

(c) For purposes of this Act the President may impose a fine or indemnity of up to $10,000,000 for each day any act described in paragraph (1) or (2) of subsection (a) of this section continues, payment to be made to the United States government out of any assets of the foreign government subject to the jurisdiction of the United States or in the control of persons subject to the jurisdiction of the United States.

COMMEMORATING HUMAN RIGHTS DAY

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FASCELL. Mr. Speaker, today marks the 31st anniversary of the adoption of the United Nations Universal Declaration of Human Rights—the historic document that set what Eleanor Roosevelt described as the "common standard of achievement for all nations." As we commemorate 1979 International Human Rights Day, it is with deep regret that we note that this standard has yet to be universally achieved. Despite the guarantees contained in the Universal Declaration, repression of human liberty and flagrant disregard for freedom continue to exist in many nations of the world.

As chairman of the Helsinski Commission, I have seen that rights so routinely exercised in the West—freedom of thought and expression, freedom of movement, the right to practice and profess a religion—are systematically violated by the countries of Eastern Europe. In Czechoslovakia, members of the Charter 1977 movement are imprisoned for their efforts to get the Government to honor its international commitments. In East Germany, harsh restrictions on the flow of people and information are in force, in direct contravention to the Universal Declaration and the Helsinki Final Act. In Bulgaria, the existence of religious repression is evidenced by the recent conviction of seven Pentecostal pastors. In Poland, hundreds of families remain separated from their American relatives. And in Romania, religious activists and leaders of an unofficial trade union movement are subjected to harassment and arrest.

Perhaps the harshest restrictions on liberty are found in the Soviet Union. There, 33 dedicated men and women are imprisoned or exiled merely for attempting to promote compliance by their government with the human rights provisions of the Helsinki Final Act. In recognition of the invaluable contribution to the cause of human rights by these courageous individuals and their colleagues in the Helsinki Monitoring Groups, the Helsinki Commission is today releasing an updated edition of its publication: "Profiles: The Helsinki Monitors." The report—available from the Commission—contains biographical information and photographs of the members of the Helsinki groups in Moscow, Ukraine, Lithuania, Georgia, and Armenia, as well as on the members of the five allied groups formed to deal with more specific issues.

President Carter last year characterized the Universal Declaration as a "beacon, a guide to a future of personal security, political freedom and social justice."

Today, we should not only reaffirm our commitment to the goals espoused in the Universal Declaration, but we should resolve to make that beacon shine on all peoples of the world.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER laid before the House the following communication from the Clerk of the House of Representatives:

Washington, D.C.,
December 7, 1979.

Hon. Thomas P. O'Neill, Jr.,
The Speaker, House of Representatives,
Washington, D.C.

Dear Mr. Speaker: Pursuant to the permission granted December 6, 1979, the Clerk has received this date the following messages from the Secretary of the Senate:

That the Senate passed without amendment H.R. 5163, an Act to authorize the sale to certain foreign nations of certain excess naval vessels.

That the Senate passed without amendment H.R. 5651, An Act to establish the position of Chief of the Capitol Police, and for other purposes;

That the Senate passed without amendment H. Con. Res. 184, providing for printing additional copies of the committee print entitled "7th Edition of the Immigration and Nationality Act with amendments and Notes on Related Laws"; and

That the Senate agree to the amendments of the House of Representatives to the amendments of the Senate to the bill H.R. 3892, An act to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to contract for the furnishing of private health care to veterans when such health care is authorized by a Veterans' Administration physician as necessary for the treatment of medical emergency, to authorize the Administrator of Veterans' Affairs to provide outpatient medical services for any disability of a veteran of World War I as if such disability were service-connected, to extend the authorization for certain health care programs of the Veterans' Administration, and for other purposes.

With kind regards, I am,

Sincerely,
EDMUND L. HENSHAW, Jr.,
Clerk, House of Representatives.
By W. RAYMOND COLLEY,
Deputy Clerk.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the authority granted the Speaker on December 6, 1979, the Speaker did on that day sign the following enrolled bills:

S. 901. An act to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery;

S. 1491. An act to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building";

S. 1535. An act to designate the Federal Building in Rochester, N.Y., the "Kenneth B. Keating Federal Building";

S. 1655. An act to designate the building known as the Department of Labor Building in Washington, District of Columbia, as the "Frances Perkins Department of Labor Building";

S. 1788. An act to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the bank's board;

H.R. 4259. An act authorizing the President of the United States to present a Gold Medal to the American Red Cross;

H.R. 4732. An act to fix the annual rates of pay for the Architect of the Capitol and the Assistant Architect of the Capitol; and

H.J. Res. 488. Joint resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week."

APPOINTMENT OF CONFEREES ON H.R. 5079, PROVIDING FOR PARTICIPATION OF THE UNITED STATES IN INTERNATIONAL ENERGY EXPOSITION

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5079) to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none and, without objection, appoints the following conferees: Messrs. ZABLOCKI, FOUNTAIN, FASCELL, BINGHAM, BONKER, PEASE, BARNES, WOLPE, BROOMFIELD, LAGOMARSINO, FINDLEY, and GILMAN.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

Such rollcall votes, if postponed, will be taken on Tuesday, December 11.

GREAT DISMAL SWAMP NATIONAL REFUGE AUTHORIZATION

Mr. BREAUX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4889) to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge.

The Clerk read as follows:

H.R. 4889

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4(4) of the Act entitled "An Act to establish the Great Dismal Swamp National Wildlife Refuge" (Public Law 93–402; 88 Stat. 801) is amended by striking the words "September 30, 1980," and inserting in lieu thereof the words "September 30, 1983,".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Louisiana (Mr. BREAUX) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before the House today has been unanimously reported by the Subcommittee on Fisheries, and Wildlife Conservation and the Environment and the Committee on Merchant Marine and Fisheries. It would simply extend, at the existing level of authorizations, the time period for those authorizations to be used. The authorization in question is for the operation and acquisition of lands in the Great Dismal Swamp National Wildlife Refuge. This legislative action has been requested by the administration.

The Great Dismal Swamp, located in the States of Virginia and North Carolina, is comprised of approximately 385,000 acres. This area is rich in historical significance in that it was once owned by such prominent Virginians as George Washington and Patrick Henry. The swamp itself is made up of predominant forest areas attracting a diverse collection of fish and wildlife species. In addition to the many species of birds and water species, the swamp supports the only breeding population of black bears in eastern Virginia.

In 1972, the Congress enacted a law which authorized a study to determine the feasibility of preserving the Great Dismal Swamp as a public trust. About the same time, approximately 50,000 acres of the swamp were donated to the Department of the Interior for use as a national wildlife refuge. This donation, valued at $13 million, was the largest single land donation to the Government for wildlife conservation. In 1974, Congress passed legislation establishing the Great Dismal Swamp National Wildlife Refuge. The previous study recommended that an additional 58,000 acres be acquired for inclusion within this refuge. The Department has been acquiring this additional acreage since that time, but delays have occurred since they have had to deal with approximately 80 landowners.

Therefore, in order for the Department to complete its acquisition from these landowners they have requested, and the committee has approved, a 3-year extension of the existing authorization of $21.1 million.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4889. The legislation does not authorize any additional funds but simply extends the present authorization for the Great Dismal Swamp National Wildlife Refuge. The purpose of this 3-year extension is to allow the Fish and Wildlife Service to complete land acquisition and development of the refuge. Of the $28.1 million presently authorized for acquisition and development purposes, only a little over $11 million had been appropriated through fiscal year 1979.

The Fish and Wildlife Service plans to acquire a total of 113,000 acres for the refuge but land acquisition has been slow because of the "willing seller" policy of the Service under present agreements There still remain over 20,000 acres left to acquire from about 80 landowners. Development projects have also been delayed pending the completion of land acquisitions.

The Great Dismal Swamp is a unique refuge in that it supports both northern and southern species of flora and fauna. The opportunities for public environmental education and wildlife-oriented recreation are enhanced by its proximity to urban areas.

Mr. Speaker, when Congress established the Great Dismal Swamp National Wildlife Refuge in 1974 we recognized the importance of preserving the fish and wildlife resources and their habitat in this beautiful area along the Virginia/North Carolina border. I support the administration's request for a 3-year extension of the present authorization and strongly recommend enactment of H.R. 4889.

• Mr. MURPHY of New York. Mr. Speaker, the purpose of H.R. 4889 is to extend for an additional 3 years the funding authorization for the Great Dismal Swamp National Wildlife Refuge.

The Great Dismal Swamp Refuge, which was established in 1974, is located in the States of North Carolina and Virginia. It presently consists of a 49,000-acre tract of land donated by the Union Camp Co. This land donation, valued at over $12 million, was the largest single land donation ever made to the Federal Government for wildlife conservation. Since that donation was made, an additional 31,000 acres have been purchased with appropriated funds and included in the refuge. Of the remaining acreage planned for acquisition in order to complete the refuge, it is anticipated that another donation will be made consisting of approximately 11,000 acres leaving approximately 20,000 acres to be purchased.

Mr. Speaker, the Great Dismal Swamp is rich in historical significance in that it was once owned by such prominent Virginians as George Washington and Patrick Henry. The remarkably diverse collection of fish and wildlife species in the swamp makes it significantly attractive in that a variety of fish can be found in the waters of Lake Drummond which is located in the swamp along with other water species such as snapping turtles and bullfrogs. The lake also serves as a resting area for Canada geese and whistling swans. The swamp provides habitat for deer, bobcats, black bears, and numerous smaller mammals including flying squirrels. Of the 75 species of birds known to nest in the swamp, included are two that are relatively rare—Wayne's warbler and the southern Swainson's warbler.

Mr. Speaker, under present law, there is authorized to be appropriated $21,100,000 through fiscal year 1980 to be used for acquisitions and for the operation and maintenance of the refuge. Of this amount, approximately $11 million has been appropriated leaving approximately $10.1 million to be appropriated. H.R. 4889 would merely extend the $21.1 million authorization which was previously approved by the House in 1977 for an additional 3 years, through fiscal year 1983.

Mr. Speaker, H.R. 4889 was unanimously ordered reported by the Committee on Merchant Marine and Fisheries. It has the support of the administration and it is widely supported by conservationists throughout the country.

I urge its prompt passage.●

Mr. BREAUX. Mr. Speaker, I have no further requests for time.

Mr. FORSYTHE. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX) that the House suspend the rules and pass the bill, H.R. 4889.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE AUTHORIZATIONS

Mr. BREAUX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4887) to authorize appropriations for the San Francisco Bay National Wildlife Refuge, as amended.

The Clerk read as follows:

H.R. 4887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That that part of section 4 of the Act entitled "An Act to provide for the establishment of the San Francisco Bay National Wildlife Refuge", approved June 30, 1972 (86 Stat. 399; 16 U.S.C. 668ii), that precedes the proviso is amended to read as follows: "The Secretary may acquire lands and waters or interests therein, subject to the interest of the State of California in lands now or formerly flowed by the tide, including the public trust of the State, within the boundaries of the refuge by donation, purchase with donated or appropriated funds, or exchange:".

SEC. 2. (a) Section 5 of such Act of June 30, 1972 (16 U.S.C. 668jj) is amended to read as follows:

"SEC. 5. There are authorized to be appropriated not to exceed—

"(1) $13,200,000 for the acquisition of lands and interests therein as authorized by section 4 of this Act, to remain available until the close of September 30, 1983; and

"(2) $11,300,000 to carry out the other provisions of this Act, to remain available until expended.".

(b) The amendment made by subsection (a) shall take effect October 1, 1980.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Louisiana (Mr. BREAUX) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

□ 1220

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the San Francisco Bay National Wildlife Refuge authorization, the bill before us today, was recommended for adoption by the administration. The purpose of H.R. 4887 is to increase the authorization for land acquisition in the San Francisco Bay National Wildlife Refuge by $4.2 million to be available until 1983. It also provides that the funds presently authorized for development of the refuge remain available to be expended and it will allow the Fish and Wildlife Service to complete the acquisition of lands needed for the refuge subject to the interests of the State of California.

The Department of the Interior indicated that the legislation was needed to complete land acquisition and development of the San Francisco Bay refuge. The acquisition of these areas has been delayed because of the possibility of retained State interests by the State of California. Justice Department regulations do not allow for title clearance when there is a possible State claim remaining. Therefore, the committee adopted a provision to permit the Department of Interior to purchase land within the refuge subject to the interests of the State. Present owners of the land in question are willing to sell their acreage, and the State of California has expressed its willingness to lease their interest in the refuge in these lands for an extended period at a minimum cost to the Government. This lease arrangement will enable the Secretary of the Interior to control the areas of the refuge and assure that no activities are conducted which are incompatible with the purposes of the refuge.

The committee believes that this arrangement between the landowners, the State of California, and the Federal Government is an equitable and responsible way to overcome these title complications.

The administration has indicated that the additional authorization of $4.2 million will be sufficient to allow for completion of this refuge unit.

The refuge has three major purposes: First, to preserve the natural resources of the south bay; second, to provide environmental education and wildlife interpretation opportunities to area schools and residents; and, third, to insure the protection of an important open space resource and other wildlife-oriented recreational opportunities. The South San Francisco Bay constitutes an ecological system that supports a rich diversity of fish and wildlife, including such species as migratory birds, harbor seals, and five endangered species. Of the 23,000 acres proposed for the refuge the Department of the Interior indicated that they have acquired 16,000 acres to date with additional contracts for the remaining acreage. This remaining acquisition should be able to be completed within the 3-year extension provided for in the legislation.

I urge the adoption of this bill supported by all interested parties involved in this refuge.

Mr. Speaker, I would also like to take this time to commend the staff for their work on both of these refuge bills, and in particular commend the staff director of the majority side, Wayne Smith, whose birthday we honor today.

Mr. Speaker, I reserve the balance of my time.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Fish and Wildlife Service plans to acquire a total of about 23,000 acres for the San Francisco Bay National Wildlife Refuge. However, only about 16,000 acres have been acquired to date. Although present law provides an authorization of $9 million for land acquisition, the appropriations for this purpose have nearly reached the ceiling. The Department of the Interior's request for a $4.2 million authorization increase will allow the Service to complete acquisition of the remaining tracts.

Development plans for the dispersion of interpretive and educational facilities throughout the San Francisco Bay Refuge will allow the public to enjoy the opportunity to experience wildlife in their natural settings. The refuge contains nine major habitats. Of these, the marsh and mudflat habitats of the tidelands are the most productive sources of oxygen and food and are essential to the health of the bay. They provide important feeding grounds for shorebirds and valuable habitat for a variety of other wildlife, including two endangered species.

Of the over 6,000 acres left to be acquired, about 5,000 acres are tideland tracts which are the most productive of, and the most valuable to, the refuge. The acquisition of these lands has been held up because under their present authorities, the Justice Department cannot approve their purchase unless the titles are conveyed clear, and unencumbered. At the same time, under its present constitution, the State of California cannot give up its public trust easement in favor of the Federal Government. This has resulted in many people willing to sell their tideland property and the Fish and Wildlife Service being unable to acquire the land. Because the present act prohibits the condemnation of State interests in the tidelands, the committee adopted an amendment which authorizes the Secretary to purchase the tideland and former tideland areas subject to the State interests. Our solution to the acquisition problem is in no way intended to set a precedent for solving similar problems in other tideland areas of the Nation. It is only intended to resolve the specific problem in the San Francisco Bay Refuge.

Mr. Speaker, I urge my colleagues to join me in the adoption of H.R. 4887. It is important that this legislation be passed if we are to continue to preserve the fish and wildlife resources and their habitat in the South San Francisco Bay.

● Mr. MURPHY of New York. Mr. Speaker, the San Francisco Bay National Wildlife Refuge was established in 1972 pursuant to legislation reported by the Committee on Merchant Marine and Fisheries.

The refuge consists of four distinct units totaling about 23,000 acres. Its 11,000 acres of salt ponds, 3,000 acres of salt marshes, 6,000 acres of tidal flats, and 3,000 acres of open waters afford natural habitat to a rich diversity of fish and wildlife, including such species as migratory waterfowl, shore and water birds, harbor seals, and five endangered species—the California clapper rail, least tern, salt water harvest mouse, brown pelican, and peregrine falcon.

Mr. Speaker, of the 23,000 acres proposed for inclusion in the refuge, 15,000 acres have been acquired at a total cost of $10.6 million. Most of the other lands remaining to be acquired consist of tidelands which are encumbered by the public trust claims of the State of California. Federal regulations prohibit the acquisition of these lands until these outstanding rights to the title are eliminated.

Mr. Speaker, H.R. 4887, as reported by the Committee on Merchant Marine and Fisheries, will eliminate this dilemma by authorizing the Secretary of the Interior to acquire these tidelands subject to the State's interest. The committee was convinced that California's public trust interest does not pose a problem since the State has expressed its willingness to lease its interest in the refuge lands to the Secretary for an extended period of 66 years at a nominal cost. The lease would enable the Secretary to control the tideland areas of the refuge to assure that no activities are conducted incompatible with the purposes of the refuge.

Mr. Speaker, H.R. 4887 would also extend the funding authorization for the refuge for an additional 3 years and increase the funding by $4.2 million for a total funding authorization of $24.5 million.

The passage of this legislation will finally allow the Secretary to complete the acquisition of the remaining acreage within the refuge. It was unanimously ordered reported by the Committee on Merchant Marine and Fisheries and I urge its prompt passage.●

Mr. FORSYTHE. Mr. Speaker, I yield back the balance of my time.

Mr. BREAUX. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. DANIELSON). The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX) that the House suspend the rules and pass the bill (H.R. 4887), as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize appropriations for the San Francisco Bay National Wild Refuge, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the two bills just passed, H.R. 4887 and H.R. 4889.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

SUISUN MARSH PRESERVATION AND RESTORATION ACT OF 1979

Mr. BREAUX. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4084) to provide for a cooperative agreement between the Secretary of the Interior and the State of California to improve and manage the Suisun Marsh in California, as amended.

The Clerk read as follows:

H.R. 4084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Suisun Marsh Preservation and Restoration Act of 1979".

SEC. 2. It is the purpose of this Act to—

(1) provide for partial mitigation of the adverse effects on the fish and wildlife resources of the Suisun March in Solano County, California of the Central Valley project; and

(2) assist in the preservation and restoration of the fish and wildlife resources of the Marsh by authorizing the Secretary of the Interior to enter into a cooperative agreement with the State of California for the planning, design, construction, operation and maintenance of certain facilities for the Marsh which will not materially enhance the overall resources of the Marsh; and

(3) to provide for such facilities as part of the more extensive system of preservation and restoration facilities to be developed for the Solano County region by the State of California, the Secretary of the Interior, or both.

SEC. 3. The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, is authorized to enter into a cooperative agreement with the State of California (hereinafter in this Act referred to as the "State") to provide for mitigation of the adverse effects of the Central Valley project on the fish anid wildlife resources of the Suisun Marsh, Solano County, California, and for the preservation and restoration of these resources. The cooperative agreement shall include the following provisions:

(1) The State shall design, construct, operate, and maintain certain channels, levees, and control structures in the Marsh in a manner which substantially conforms to the provisions of the development plan contained in the Report on the Suisun Marsh Interim Facilities (dated May 1978), prepared by the State of California with the assistance of the Bureau of Reclamation and the Fish and Wildlife Service. The State may enter into contracts with appropriate non-Federal public agencies within the State for the operation and maintenance of such facilities.

(2) The Secretary of the Interior shall pay to the State the Federal share of the costs of the activities described in paragraph (1), whether such costs are incurred before or after the date the cooperative agreement is entered into, upon a determination that such activities are in substantial conformity with the development plan referred to in such paragraph.

(3) A study shall be conducted by the State, the Secretary of the Interior, or both parties, for the purpose of identifying management techniques which could result in more efficient water use on the managed wetlands of the Marsh.

(4) Appropriate arrangements shall be made by the Secretary of the Interior and the State to provide for the monitoring of the salinity levels in the Marsh.

(5) The Federal share of the costs of the activities referred to in paragraphs (1) through (4) shall be 50 per centum: *Provided,* That the Federal share may be altered when the system of preservation and restoration facilities referred to in section 2, subsection (3) is authorized: *And provided further,* That any such altered division of costs shall be made retroactively applicable to the cost of the facilities herein provided for.

SEC. 4. The authority to enter into cooperative agreements under this Act shall be effective only to the extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 5. There are authorized to be appropriated $2,500,000 for the fiscal year ending September 30, 1981 for the Federal share of the costs of the construction and the initial operation and maintenance of the facilities described in section 3(1) of this Act. Sums appropriated under this section shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule a second is not required on this motion.

The gentleman from Louisiana (Mr. BREAUX) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. FORSYTHE) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BREAUX).

Mr. BREAUX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4084. This bill is a simple measure to mitigate the adverse impact of Federal water project diversions on a very important fish and wildlife area. The Subcommittee on Fisheries and Wildlife Conservation held a hearing on this legislation on September 27. All of the witnesses appearing before the subcommittee—from the Bureau of Reclaimation to the Fish and Wildlife Service to the California Waterfowl Association—testified in favor of this legislation.

The bill requires the Bureau of Reclamation to reimburse the State of California for half of the cost of mitigation facilities now under construction by the State of California in the Suisun Marsh. The mitigation facilities are necessary to preserve the marsh because State and

Federal water project diversions are decreasing the fresh water flow through the marsh and are increasing ocean saltwater intrusions. These saltwater intrusions will ultimately change the marsh from a brackish water marsh to a saltwater marsh that will not be able to support the abundance and diversity of wildlife species now found in the marsh.

There is no dispute that the Bureau of Reclamation's Central Valley project has added to the problems of the marsh. There is a dispute about the degree of the Federal responsibility. The State argues that the Federal and State Governments should share equally in the cost of the mitigation facilities since a joint Federal-State study indicated that the salinity problem would not exist, but for the Federal and State water exports.

The Bureau of Reclamation argues that it should only reimburse the State for 30 percent of the cost of mitigation facilities since the Bureau only diverts 30 percent of the freshwater. There are several problems with the Bureau's argument. First, the State only diverts 23 percent of the freshwater. Under the Bureau's reasoning the State should only pay for 23 percent. The remaining 47 percent is diverted by upstream water users. Upstream water users, however, did not historically pose any threat to the resources of the marsh until the State and the Bureau began large out-of-basin water exports. Second, many of the upstream water users are riparian users. They have special water rights by virtue of their riparian ownership. There appear to be substantial legal and practical impediments to the collection of a percentage of the cost of the mitigation facilities from these individuals.

This bill does not entirely resolve the issue of the degree of Federal responsibility. The committee adopted an amendment which provides that the 50 percent Federal share may be altered when an agreement is reached on the costs of the full mitigation facilities which are now in the planning process. This amendment will allow the reconsideration of the funding issue when the permanent facilities are authorized by Congress.

This country is facing a serious dilemma in the effort to conserve our waterfowl resources. Approximately 100 million waterfowl migrate annually to the United States. If we are to retain this population level we must make serious efforts to conserve the remaining breeding and wintering habitat in the United States. The waterfowl populations of the United States depend to a large extent on the availability of breeding areas in Canada.

Unfortunately, there is increasing pressure to convert many of Canada's best breeding areas to incompatible agricultural production. As this happens, it becomes more and more incumbent on us to make the most of the remaining waterfowl habitat in this country. Obviously, we can not simply terminate all economic uses of the waterfowl habitat in this country. We can, however, act responsibly and mitigate the damage that is caused and enhance the resources whenever possible.

Unfortunately, the mitigation record of the Federal Government is a poor one. I find it a little disturbing that applicants for a section 404 dredge and fill permit in my district have to negotiate a labyrinth of environmental regulations, while Federal agencies can avoid the mitigation requirements of Federal law. There is no question that the Central Valley project has damaged the fish and wildlife resources of the State and the Nation. There is also no question that those losses have not been adequately compensated. This bill will begin to alleviate one problem created by the Central Valley project and will substantially add to the long-term conservation of the waterfowl resources of the Pacific flyway and the Nation.

Mr. Speaker, at this time I want to commend our good friend and colleague from the State of California (Mr. FAZIO), who previously brought this matter to the attention of our committee. We had hearings on it, and I would like to commend him for his efforts in this area, because it is indeed good legislation and we are pleased to call for its favorable consideration.

Mr. FAZIO. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I will be glad to yield to the gentleman from California.

Mr. FAZIO. Mr. Speaker, in 1977 the California State Legislature carried a land use plan to protect the 85,000 acres of sloughs, wetlands, and related uplands that comprise the Suisun Marsh. I had the privilege of carrying that bill as a member of the legislature, and at that time we were well aware that guarding against incompatible residential and industrial development was only half the problem.

The other half lies in preserving for the marsh something approaching the historical level of its natural water quality. The marsh is part of the delta region at the confluence of the Sacramento and San Joaquin rivers in central California. The salinity of its water has been increasing in recent years largely due to fresh water diversions from those rivers for agricultural and urban uses south of the delta. The resulting saltwater intrusion from the ocean has damaged the marsh's ability to grow the food plants necessary for it to serve as one of the principal wintering areas for the millions of waterfowl on the Pacific flyway.

H.R. 4084 represents the first step toward solving that water problem. As the 20 generous cosponsors of the bill might indicate, it is a step agreed to and supported actively by all the major interests in California, including environmentalists, water users, and the State government itself. Such unanimity is not always typical of California water matters, but I am very happy to report that we have in there. I hope we will be able to sustain it when the time comes to move on to the next step.

This bill merely says that the Federal Government should share in the costs of certain water management facilities being constructed in the marsh by the State. The facilities will enable us to make more efficient use of the freshwater that gets to the marsh. They were designed by the State pursuant to a series of Federal-State studies of the marsh. Both levels of government are in agreement about them.

The Federal Government should rightly pay a share because it and the State are jointly responsible for the fresh water diversions and therefore for the salt water intrusion. The State and Federal shares are set at 50 percent each, though the bill contains the provision that if studies which are ongoing indicate a different sharing formula is appropriated, recompense will be made at a later date, when the next step is defined and proposed for authorization.

Though I very much hope we will be successful at obtaining authorization for the next step and thereby finish the job this bill starts, I would like to assure the House that facilities for their viability are necessary now and self-sufficient. The House should also be aware that costs for these remedies are to be borne by the water projects themselves and not by the general taxpayer, because they are mitigation of the projects' impact, not environmental enhancement beyond what nature originally provided.

This bill represents a good, balanced approach to a problem, and will go a long way toward avoiding a critical rupture in the progression of natural wetland areas making up the Pacific flyway. The Suisun Marsh is California's largest remaining and most important single wetland. In fact, it is the largest contiguous marsh of its type in the United States. So, though the facilities themselves lie in my district only, the bill really affects the Pacific region as a whole, including Canada and Alaska. A vote for this bill is a vote that would be supported by all people in this country who are concerned about the welfare of migratory waterfowl.

Thank you, very much.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. BREAUX. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Speaker, this is a joint referral to the Committee on Merchant Marine and Fisheries and the Committee on Interior and Insular Affairs. We strongly support the bill, and I associate myself with the remarks of the gentleman from Louisiana.

Mr. BREAUX. I thank the gentleman for his comments.

Mr. FORSYTHE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the 85,000-acre Suisun Marsh is the largest freshwater wetland remaining in the State of California. It hosts millions of birds each year and is also northern California's best breeding grounds for striped bass. The marsh provides hunting, fishing, and other recreational opportunities near major metropolitan areas.

H.R. 4084, the Suisun Marsh Preservation and Restoration Act of 1979, will provide for partial mitigation of the adverse effects on the fish and wildlife resources of the marsh due to water diversion by the Federal Central Valley project. The reduction of freshwater flows into the marsh, due to the project and other upstream diversions, has resulted in greater salinity intrusion from the waters of San Francisco Bay and a threat to the waterfowl food plants.

The State of California has already started on the mitigation effort and expects to complete interim water control structures within 1 year. The bill before us authorizes the Secretary of the Interior to enter into a cooperative agreement with the State of California in order to provide for mitigation of the adverse effects on the marsh due to the Central Valley project. It authorizes $2.5 million for the 50-percent Federal share of the costs of the construction of the initial facilities. However, language in the bill makes it clear that this share may be altered at some later time if a different formula is agreed to for the Federal share of the cost of permanent facilities. The language insures that this bill will not establish a precedent for future mitigation.

Mr. Speaker, H.R. 4084 has widespread support among Federal and State governmental officials as well as the sportsmen and wildlife organizations. I strongly urge approval of this legislation in order to restore the Suisun Marsh wildlife habitat.

● Mr. MURPHY of New York. Mr. Speaker, I rise in support of H.R. 4084. H.R. 4084 would require the Secretary of the Interior to enter into a cooperative agreement with the State of California to mitigate the adverse impacts of the Bureau of Reclamation's Central Valley project on the Suisun Marsh. The cooperative agreement would require the Secretary to reimburse the State of California for half of the cost of mitigation facilities now under construction by the State. These mitigation facilities, estimated to cost $5 million, are intended to lessen the impact of reduced freshwater flows and increased salinity levels in the marsh that have been caused by State and Federal water diversions.

The Suisun Marsh is an extremely valuable fish and wildlife area. Reclamation and land utilization for intensive agriculture and urbanization have reduced California's wetland habit from over 5 million acres to less than 500,000 acres. The Suisun Marsh represents fully 10 percent of the remaining acreage. The marsh provides habitat for a wide variety of birds, mammals, and fish, including upward of 1 million waterfowl during the winter months. The marsh is unusual in that it is located adjacent to the San Francisco metropolitan area. The Fish and Wildlife Service estimated that in 1977 that the marsh supported 150,000 recreation visits per year. The level of recreational use of the area is expected to increase dramatically as the resources of the marsh are made more readily available to the people of the San Francisco area. All too often the Federal Government has concentrated its wildlife conservation activities away from the major urban centers of the country. We have an opportunity here to preserve an area that is not only ecologically significant, but is also readily available to the cross-section of people that live in the San Francisco metropolitan area.

Unfortunately, the marsh is facing a gradual but potentially devastating threat. This threat is the increase in salanity levels in the marsh as a result of the increased diversion of fresh water away from the marsh by the State of California and the Federal Government's Bureau of Reclamation. Very simply, ocean saltwater intrudes into the marsh when the freshwater outflow from the Sacramento Delta falls below the level needed to prevent the tides from carrying the saltwater upstream from the San Francisco Bay. If the salinity levels are permitted to increase the marsh will not be able to support the salt sensitive food species that attract most of the animals to the area.

In recent years, the salinity problem has grown especially acute because of increased water project diversions by the State and Federal Government. Both the State and Federal water project systems impound the water of northern California rivers and streams and divert it for agricultural and other uses in central and southern California. The State of California and the entire Nation have benefitted from these diversions. It is only appropriate that an effort be made to offset the adverse impact of these diversions.

Brackish water marsh areas are becoming exceedingly rare in California, as they are in many parts of the country. Once these areas are destroyed it is very difficult, if not impossible to restore them. The loss of marsh areas is especially disturbing because they represent some of the most productive fish and wildlife habitat available. It is no accident that the marsh attracts upward of a million migratory birds each winter. This is an area that supports an abundance of food sources that the birds rely on for survival. Fish and Wildlife studies of the marsh have revealed that it provides food for a wide variety of commercial and noncommercial species, including the striped bass which is severely depressed on the eastern seaboard. Hopefully, we can keep the striped bass populations on the west coast healthy, and we will not have to resort to special conservation programs as we have for the stripers of the Atlantic Ocean.

The State of California has recognized the problem facing the Suisun Marsh. Congressman FAZIO led the effort in the State legislature to establish a model land use bill for the area. The State has already proceeded to commit its own funds to the preservation of the marsh. This bill simply recognizes that the Federal Government's water diversions have added to the problems of the marsh and that the Federal Government has a responsibility to share in the cost of the solution.●

● Mr. KAZEN. Mr. Speaker, H.R. 4084 was referred to both the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries. Both committees adopted identical substantive amendments to the bill which I will describe in a moment. However, the Committee on Merchant Marine and Fisheries adopted one technical amendment which my committee did not. This is a necessary technical amendment and that is why I support the version reported out by the Committee on Merchant Marine and Fisheries.

Mr. Speaker, H.R. 4084 would authorize the Secretary of the Interior to enter into a cooperative agreement with the State of California to partially rectify a serious water problem currently plaguing the Suisun Marsh in California.

The Suisun Marsh is located near the Sacramento-San Joaquin Delta and is the largest of the State of California's remaining wetlands, and, as such, serves as the home for over three-quarters of a million migratory waterfowl. However, because of freshwater diversions for irrigation and other purposes, the salinity of the water in the marsh has increased. The presence of this higher saline water in the marsh could eventually destroy waterfowl food plants and greatly reduce the value of the marsh as a waterfowl habitat.

Although no agreement has been reached on a long term solution to the problem, there are certain things which can be done in the interim to mitigate some of the damage which has occurred. H.R. 4084 would provide the authority to carry out these interim measures.

Specifically, H.R. 4084, as introduced, requires the Secretary of the Interior to enter into a cooperative agreement with the State of California whereby the State will construct, operate and maintain certain interim facilities—such as channels and levees—and the Secretary of the Interior will be obligated to pay 50 percent of the costs of these facilities. The bill as introduced authorizes to be appropriated for fiscal year 1980 the sum of $2½ million to cover the Federal share of the costs of the construction and initial operation and maintenance of these interim facilities.

Mr. Speaker, both committees adopted three amendments to the bill. The first amendment merely conforms H.R. 4084 to the requirements of the Congressional Budget Act by making the authorization of appropriations effective for fiscal year 1981 instead of for fiscal year 1980.

The second amendment adopted by the committees was in response to a departmental objection and changes the bill by deleting the provision requiring the Department to enter into this cooperative agreement and replacing it with a provision giving the Secretary the discretionary authority to do so. This was done in order to give the Secretary the ability to refuse to enter into a cooperative agreement which would be contrary to the public interest.

The final amendment to H.R. 4084 adopted by the committees provides that the Federal cost-sharing responsibility for the interim facilities as contemplated by the bill—namely, 50 percent—may be altered and applied retroactively when long term marsh protection measures are authorized. This amendment responds to the departmental objection that the Federal cost-sharing obligation provided for in the bill was too high and that the bill would set a precedent for Federal cost-sharing on the long term measures to protect the marsh.

Mr. Speaker, I believe that the Suisun Marsh problem is a serious one in need of a prompt solution. H.R. 4084, as amended by the Committee on Merchant Marine and Fisheries, provides such a solution and therefore I urge its favorable consideration.●

● Mr. JOHNSON of California. Mr. Speaker, H.R. 4084, the Suisun Marsh Preservation and Restoration Act of 1979, authorizes the Interior Secretary to enter into a cooperative agreement with the State of California for the protection and restoration of the fish and wildlife resources of the Suisun Marsh, located in California's Solano County approximately 40 miles northeast of San Francisco. This bill is of great importance not only to Californians, but to all Americans who want to preserve our Nation's great natural resources.

Indeed, the Suisun Marsh is part of one of the largest water systems in the United States, comprised of the San Francisco Bay and the Sacramento-San Joaquin Delta, covering some 80,000 acres of coastal wetland that serves as the home for more than three-quarters of a million migratory waterfowl.

California's industrial and agricultural growth has taken its toll on the Suisun Bay. The reduction of fresh water to these scenic lands has prompted salination and other damage.

Pending the development of a long term solution, this bill would require the Interior Secretary to enter into a cooperative agreement with California to mitigate the harmful effects on fish and wildlife now being incurred in the Suisun Marsh as well as to restore these rich resources.

H.R. 4084 requires California to construct, coordinate, and maintain certain facilities in the marsh, that among other things provide for an increased flow of fresh water to this area. This legislation also requires a study in marsh management techniques that would help insure a long term solution to the problems experienced in the Suisun Marsh.

For these purposes, the Federal Government's share in this cost for fiscal year 1980 will be $2,500,000, a very small cost considering the long term benefits to be derived from this bill.

Our legislation took into account the wise counsel of the Interior Department and the State of California. Modifications were made in this bill to meet significant objections.

This thoughtful, timely legislation is truly in the interest of all Americans who want to hold on to our Nation's very special natural resources. Accordingly, I was pleased to be a cosponsor of this bill and pleased now to urge my colleagues to join in voting for this measure.●

Mr. BREAUX. Mr. Speaker, I yield back the balance of my time.

Mr. FORSYTHE. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

GENERAL LEAVE

Mr. FORSYTHE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BREAUX) that the House suspend the rules and pass the bill, H.R. 4084, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1230

GENERAL LEAVE

Mr. BREAUX. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 4084.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

COLORADO NATIONAL WILDERNESS PRESERVATION SYSTEM

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5487) to designate certain National Forest System lands in the State of Colorado for inclusion in the National Wilderness Preservation System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5487

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) In furtherance of the purposes of the Wilderness Act of September 3, 1964 (78 Stat. 890), the following National Forest lands in the States of Colorado and South Dakota, as generally depicted on maps appropriately referenced, dated October 1979, are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Arapahoe-Roosevelt National Forest, Colorado, which comprise approximately fourteen thousand nine hundred acres, are generally depicted on a map, entitled "Never Summer Wilderness Proposal", and shall be known as the Never Summer Wilderness;

(2) certain lands in the Arapahoe-Roosevelt National Forest, Colorado, which comprise approximately fifty-nine thousand four hundred and ninety acres, are generally depicted on a map entitled "Comanche Peak Wilderness Proposal", and shall be known as the Comanche Peak Wilderness;

(3) certain lands in the Arapahoe-Roosevelt and Pike National Forests, Colorado, which comprise approximately seventy-four thousand acres, are generally depicted on a map entitled "Mount Evans Wilderness Proposal", and shall be known as the Mount Evans Wilderness;

(4) certain lands in the Arapahoe-Roosevelt National Forest, Colorado, which comprise approximately nine thousand four hundred acres, are generally depicted on a map entitled "Cache Le Poudre Wilderness Proposal", and shall be known as the Cache La Poudre Wilderness;

(5) certain lands in the Arapahoe-Roosevelt National Forest, Colorado, which comprise approximately nine thousand nine hundred acres, are generally depicted on a map entitled "Neota Wilderness Proposal", and shall be known as the Neota Wilderness;

(6) certain lands in the San Isabel and White River National Forests, Colorado, which comprise approximately one hundred one thousand four hundred and thirty-two acres, are generally depicted on a map entitled "Holy Cross Wilderness Proposal", and shall be known as the Holy Cross Wilderness: Provided, That no right, or right of claim of right, to the diversion and use of existing conditional water rights for the Homestake Water Development project by the cities of Aurora and Colorado Springs, shall be prejudiced, expanded, diminished, altered, or affected by this Act. Nothing in this Act shall be construed to expand, abate, impair, impede, or interfere with the construction, maintenance, or repair of said project, nor the operation thereof, or any exchange or modification of the same agreed to by the cities and the United States, acting through any appropriate agency thereof;

(7) certain lands in the Gunnison, San Isabel, and White River National Forests, Colorado, which comprise approximately one hundred fifty-five thousand acres, are generally depicted on a map entitled "Elk Mountain-Collegiate Wilderness Proposal", and shall be known as Elk Mountain-Collegiate Wilderness;

(8) certain lands in the Grand Mesa-Uncompahgre National Forest, Colorado, which comprise approximately sixty-seven thousand acres, are generally depicted on a map entitled "Raggeds Wilderness Proposal", and shall be known as the Raggeds Wilderness;

(9) certain lands in the San Juan and Uncompahgre National Forests, Colorado, which comprise approximately forty thousand acres, are generally depicted on a map entitled "Mount Wilson Primitive Area Proposal", and shall be known as the Lizard Head Wilderness;

(10) certain lands in the Uncompahgre National Forest, Colorado, which comprise approximately sixteen thousand two hundred acres, are generally depicted on a map entitled "Mount Sneffels Wilderness Proposal", and shall be known as Mount Sneffels Wilderness;

(11) certain lands in the Uncompahgre National Forest, Colorado, which comprise approximately one hundred thousand acres, are generally depicted on a map entitled "Big Blue-Courthouse Wilderness Proposal", and shall be known as the Big Blue Wilderness;

(12) certain lands in the Gunnison and White River National Forests, Colorado, which comprise approximately one hundred one thousand five hundred acres, are generally depicted on a map entitled "Maroon Bells-Snowmass Additions—Proposed", and which are hereby incorporated in and shall be deemed to be a part of the Maroon Bells-Snowmass Wilderness as designated by Public Law 88–577;

(13) certain lands in the Routt National Forest, Colorado, which comprise approximately sixty-eight thousand acres, are generally depicted on a map entitled "Mount Zirkel Wilderness Additions—Proposed" and which are hereby incorporated in and shall be deemed to be a part of the Mount Zirkel Wilderness as designated by Public Law 88–577: *Provided*, That the Secretary shall permit motorized access and the use of motorized equipment used for the periodic maintenance and repair of the Lookout Ditch and headgate;

(14) certain lands in the Arapahoe-Roosevelt National Forest, Colorado which comprise approximately forty-eight thousand nine hundred and thirty acres are generally depicted on a map entitled "Mount Rawah Wilderness Additions—Proposed" and which are hereby incorporated in and shall be deemed to be a part of the Rawah Wilderness as designated by Public Law 85–577: *Provided*, That the Secretary shall permit motorized access and the use of motorized equip-

ment used for the periodic maintenance and repair of the McGuire Water Transmission Line ditch;

(15) certain lands in the Rio Grande and San Juan National Forests, Colorado, which comprise approximately sixty-six thousand acres are generally depicted on a map entitled "Weminuche Wilderness Additions—Proposed", and which are hereby incorporated in and shall be deemed to be a part of the Weminuche Wilderness as designated by Public Law 93–632;

(16) certain lands in the San Isabel and White River National Forests, Colorado, which comprise approximately twenty-six thousand acres, and are generally depicted on a map entitled "Hunter-Fryingpan Wilderness Additions—Proposed", and which are hereby incorporated in and shall be deemed to be a part of the Hunter-Fryingpan Wilderness as designated by Public Law 95–237;

(17) certain lands in the Grand Mesa-Uncompahgre National Forest, Colorado, which comprise approximately one hundred and thirty thousand acres, and are generally depicted on a map entitled "West Elk Wilderness Additions—Proposed", and which are hereby incorporated in and shall be deemed to be a part of West Elk Wilderness as designated by Public Law 88–577;

(18) certain lands in the San Juan National Forest, Colorado, which comprise approximately one hundred thirty thousand acres, and are generally depicted on a map entitled "South San Juan Wilderness—Proposed", and which shall be known as the South San Juan Wilderness;

(19) certain lands in the Rio Grande and Gunnison National Forests, Colorado, which comprise approximately sixty thousand acres, and are generally depicted on a map entitled "La Garita Addition—Proposed", and which are hereby incorporated in and shall be deemed to be a part of the La Garita Wilderness as designated by Public Law 88–577: *Provided*, That the area depicted on such map as the "Wheeler Geologic Special Study Area" and comprising approximately eleven thousand acres, shall be jointly evaluated and studied by the Secretary of the Interior and Secretary of Agriculture as provided in section 2 of this Act.

(20) certain lands in the Black Hills National Forest, South Dakota, which comprise approximately ten thousand seven hundred acres, and are generally depicted on a map entitled "Harney Peak Wilderness—Proposed", and shall be known as the Harney Peak Wilderness; provided that the provisions of the Act establishing the Custer State Park Sanctuary (41 Stat. 986) and the later named Norbeck Wildlife Preserve (63 Stat. 708) shall also apply to the Harney Peak Wilderness to the extent they are not inconsistent with the provisions of the Wilderness Act;

(b) The previous classification of the Wilson Mountains Primitive Area and the Uncompahgre Primitive Area are hereby abolished.

SEC. 2. Within twelve months of the date of enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall undertake and complete a comprehensive report studying and evaluating the "Wheeler Geologic Special Study Area", and shall submit such report along with their recommendations to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such report shall fully evaluate the following, including, but not limited to:

(a) the natural, historical, cultural, scenic, economic, educational, scientific, and geologic values of the special study area;

(b) the management and protection of fragile geologic resources within the area;

(c) possible land management options or designations including national park, monument, or national recreation area designation, addition to the wilderness system, special administrative designations, and management under the general laws and regulations applicable to the National Forest System;

(d) the effect of possible land management options on State and local economies, including timber harvest, tourism, grazing, mineral, and other commercial activities;

(e) the suitability and desirability of permanent or temporary road or other mechanized access to the Special Study Area, with special attention to access by the elderly and handicapped.

SEC. 3. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however*, That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

ADMINISTRATION OF WILDERNESS

SEC. 4. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas except that with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

GRAZING IN NATIONAL FOREST WILDERNESS

SEC. 5. The Secretary of Agriculture is directed to review all policies, practices, and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in order to ensure that such policies, practices, and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act and this Act.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

H.R. 5487 by the gentlemen from Colorado (Mr. JOHNSON and Mr. KOGOVSEK) is an attempt to sort out and to solve some of the pressing problems in the State of Colorado relating to the designation of wilderness. This is a good bill. It has broad support in the areas of Colorado affected. Our Subcommittee on Public Lands under the chairmanship of the gentleman from Ohio (Mr. SEIBERLING) did an outstanding good job in balancing the various interests. I know of no controversy surrounding this bill.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield myself so much time as I may consume.

Mr. Speaker, I am pleased that we are able to bring to the House floor, a RARE II wilderness bill for Colorado which has such a broad base of support. Although the degree of support is not total, the major issues of concern voiced by the many and varied interests involved have received a full and fair hearing, and those concerns have been fully considered and dealt with in the most appropriate manner possible.

H.R. 5487 was reported out of the Public Lands Subcommittee and from the full Interior Committee by unanimous voice votes, without major controversy.

The reason for the relative ease of action in subcommittee and in full committee is that Congressman KOGOVSEK and I, as authors of the legislation, took our time in developing the legislative language and in determining the most appropriate boundaries for the approximately 1.3-million acres which will be designated as additional wilderness in Colorado as a result of passage of this bill.

My colleague from Colorado, Mr. KOGOVSEK, and I both took a very personal interest in the RARE II process in Colorado. Virtually all of the RARE II wilderness recommendations are located in our congressional districts. We personally visited most of the proposed wilderness areas. We each met and spoke with Forest Service officials as well as local citizens and local and State government representatives. We received thousands of pieces of mail from other interested citizens, which we carefully categorized, reviewed, and fully considered on an area-by-area basis.

In August of this year, the Public Lands Subcommittee spent 5 days in Colorado, viewing many of the proposed wilderness area as well as other RARE II areas, from the air and on the ground. The subcommittee also had an opportunity to meet informally with local citizens in many parts of the State, to receive additional public comments about the specific proposals.

On October 18 and 19, the subcommittee held formal public hearings here in Washington, and heard from a wide variety of interested citizens, interest groups, local, county, and State government officials.

From this extensive information base, we proceeded to finalize the legislative language and wilderness boundaries which spoke to the major concerns. Although our legislation, which amounts to approximately 1.3 million acres of new wilderness designation for Colorado, is roughly one-half of the RARE II wilderness recommendations of the administration, the wilderness areas designated by our bill will nonetheless double the amount of wilderness presently existing in Colorado.

Another major accomplishment of this legislation involves the administration policy concerning grazing of livestock in wilderness areas. The legislative language in H.R. 5487 directs the Secretary to initiate and complete an intensive review of present grazing policies and guidelines in national forest wilderness areas, to insure that they conform with the intent of the Congress as spelled out in the legislative history of the 1964 Wilderness Act as well as in H.R. 5487. To enhance and supplement that statutory directive, the intent of the Congress as it concerns grazing policy in wilderness areas, especially access to such areas and operation and maintenance of grazing structures and facilities in wilderness areas, is made very clear in considerable detail in the committee report.

The Forest Service, conservationists, cattlemen, Mr. KOGOVSEK and myself, and the chairman of the subcommittee, were all actively involved in the drafting of this grazing policy report langauge. We believe it is a simple reaffirmation of what the Congress initially intended in the 1964 Wilderness Act.

Yet it will serve, where necessary, as further direction and clarification to the Forest Service regarding the exact intent of the Congress regarding this issue. The Forest Service has assured us the policy as spelled out in H.R. 5487, and in the committee report, will be followed as it regards the specific wilderness areas created by this legislation. After a thorough review of grazing policy in wilderness areas on a nationwide basis, the Forest Service has again assured us the policy enunciated in the committee report language will be followed in other wilderness areas in other States, to the extent it is not found to be in major conflict with existing law.

This is a major policy issue to those of us from the West. I am most gratified that with the diligent help of the chairman of the subcommittee, we were able to work out this issue, to the basic satisfaction of all concerned. We see this as resulting in a change in direction of present policy, and I expect the Forest Service to follow through with specific implementation of the policy through revision of on-the-ground management guidelines at all levels of Forest Service management.

Mr. Speaker, a good many people have spent a good deal of time and effort in developing this legislation. We have considered the legitimate need to preserve certain areas of our State for future generations, while not neglecting the present need to maintain the economic viability of our communities by providing the necessary resource base. I firmly believe we have accomplished that purpose in this legislation.

My colleague from Colorado (Mr. KOGOVSEK) is to be commended for his diligent and detailed efforts in helping to develop a sound piece of legislation. The chairman of the subcommittee, the gentleman from Ohio (Mr. SEIBERLING) was untiring, very patient, and most constructive in his involvement. I very much appreciate the chairman's guidance in helping to refine and move this legislation in a timely manner.

Mr. Speaker, H.R. 5487 also contains language designating 10,700 acres of the Black Hills National Forest in South Dakota as wilderness. The original legislation to create the Harney Peak Wilderness was introduced by our colleague from South Dakota (Mr. ABDNOR).

The area which Mr. ABDNOR proposed to designate as wilderness, and in which the subcommittee and full committee agreed to without any controversy, is immediately adjacent to Mount Rushmore. Mr. ABDNOR'S proposal is identical to the RARE II wilderness recommendation of the administration. Nearly identical legislation has been introduced in the other body for this same area.

Mr. ABDNOR is to be commended for his initiative in bringing this legislation to the committee and now to the House. His proposal is a very thoughtful and important addition to the national wilderness preservation system in my native State of South Dakota.

I am proud that we have been able to work together to develop a reasonable and balanced piece of legislation to bring to the House floor as the first RARE II wilderness bill which will be adopted by this body.

I urge my colleagues to vote for the passage of H.R. 5487.

Mr. Speaker, the gentleman from Colorado (Mr. KOGOVSEK) and I spent a great deal of time this summer traveling around in the proposed RARE II wilderness areas, and this bill is a product of that effort. I would like to pay tribute to the gentleman from Ohio (Mr. SEIBERLING) who is unable to be here due to the death of his mother last week, and there is a memorial service for her today. That is the only reason he could not be here. The gentleman from Ohio (Mr. SEIBERLING) has exhibited a great deal of patience and fortitude and dedication in the work that he has been doing with all of the RARE II bills.

The fact that this one happens to be the first to go through the House I think is due largely to the fact that he was willing to go out to Colorado this summer, take a look around the area, and endorse the efforts of Mr. KOGOVSEK and myself in our attempt to reconcile the inevitable controversy that arises whenever you try to meet with all of the different conflicting interests that are involved in wilderness. I think in this particular case the boundaries are about as well drawn as they can be, and there is little or no controversy involved with any of the competing or conflicting multiple uses.

Mr. Speaker, I urge all of my colleagues to endorse and vote for this bill because I feel that it is a significant contribution to the wilderness system. It is 1.3 million acres. It practically doubles the amount of wilderness that we have in Colorado, and I think that after having traveled through most of the territory in my own district, if the Members ever get the opportunity to take a horseback trip under the auspices of the Forest Service, they ought to do so. It is a magnificent opportunity for the Members and other people, and these are beautiful areas.

I want to congratulate and thank Mr. KOGOVSEK for the fine work he has done on this bill. He is deserving of high recognition for his contribution to this bill which is so significant for our State.

Mr. ABDNOR. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of Colorado. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Speaker, I rise in support of H.R. 5487, to designate certain wilderness areas in Colorado and South Dakota. The text of my bill, H.R. 5301, to designate the Harney Peak Wilderness, has been included in H.R. 5487 by the committee.

Although the vast bulk of the acreage, some 1.3 million acres, in H.R. 5487 is located in Colorado, my prime concern is with the 10,700-acre Harney Peak Area, which is located in my district.

The large majority of my constituency reacts negatively to the very concept of wilderness. They perceive the designation in terms of a lockup of potentially needed resources. They are violently opposed to the continued expansion of the authority of the Federal Government, and they are particularly concerned when such expansion takes the form of increased ownership or control of a basic and precious resource; that is, our land.

On the other hand, my constituents know that I am anything other than a wild-eyed, environmentalist rabblerouser. While I would acknowledge that we have abused our environment unduly in far too many instances, I truly believe that the worst examples and the large bulk of the cases of such abuses are associated with our urban areas—not rural areas, like South Dakota. As such, I sincerely resent the holier-than-thou attitude many of our urban cousins take in suggesting that they know better than local rural people what should be done with our Nation's abundant Federal public lands.

Personally, I am a staunch supporter of multiple-use management of our public lands—not just in some cases or even in most cases, but in virtually every case for which there is not an obvious and compelling reason for a more limited use, such as is provided under the wilderness designation. In terms of the best interests of my State and rural America in general, I strongly believe the balance of needs is tilted far more toward the developmental side of the scale than toward the preservationist side. Indeed, rural America has a vast abundance of undeveloped resource potential which can and must be realized if our Nation is to maintain its standard of living, much less sustain a position of preeminence in the world economy.

Even so, I have absolutely no qualms about recommending wilderness designation of this particular tract of national forest land. I do not regard it as necessarily inconsistent to believe that rural development is receiving too little attention and rural preservation, relatively speaking, too much, and yet to believe that the Harney Peak Area in particular should be preserved in its current state of natural beauty—forever. I honestly believe that the large majority of my constituents, who are opposed to the wilderness in principle, would take that very position. In fact, I know of no one who has voiced the opinion that the Harney Peak Area should not remain unspoiled by the works of man.

Very much to the contrary, there was a great deal of opposition expressed in regard to designation of the so-called Beaver Park Area of the Black Hills, which was the initial recommendation of the Forest Service as a potential representation of the Black Hills ponderosa pine in the Wilderness System. Due to the degree of local opposition expressed, I suggested and the President agreed in his recommendations to Congress to substitute the Harney Peak Area for Beaver Park.

There are a number of unique features which justify inclusion of the 10,700-acre Harney Peak Area in the Wilderness System. The area boasts some of the highest elevations east of the Rocky Mountains, ranging from 4,050 to 7,242 feet above sea level. Rolling hills, granite walls, and stands of ponderosa pine contribute to the splendor and provide habitat, as well as a breathtaking backdrop, for a variety of wildlife. Wildlife which populate the area and add to the wilderness experience of human visitors include Rocky Mountain goats, elk, deer, grouse, turkey, as well as other nongame birds and mammals. Although not within the boundaries of the proposed wilderness area, two lovely mountain lakes—Sylvan Lake and Horse Thief Lake—are nearby and also add to the splendor of the area.

The Harney Peak Wilderness will comprise about one-third of the existing Norbeck Wildlife Preserve. As such, I requested the Department of Agriculture to draft the legislation, which I introduced as H.R. 5301, in such fashion as to address any potential conflicts between the wildlife preserve and wilderness designations. We are assured that the two need not be in conflict, that the wilderness designation will not disrupt management policies necessary for the Norbeck area as a whole, and, finally, that the original intent of Congress to recognize the Norbeck area as a geographically complete unit of nature will be preserved.

The "Norbeck core" area initially considered by the Forest Service under the RARE II process for inclusion in the Wilderness System comprised 9,400 acres. In making their final review of the area prior to furnishing the draft legislation, however, the Forest Service concluded that the 10,700-acre unit to be authorized by H.R. 5487 reflects the logical, natural boundaries, without major addition to the area initially considered.

The name, "Harney Peak Wilderness," has been suggested by the Department of Agriculture and describes the area geographically since its most distinctive feature is Harney Peak. Senator McGOVERN has suggested the nomenclature, "Black Elk Wilderness," however; and I wrote a large number of my constituents on this issue. A large majority of those who have responded and expressed a preference support the "Harney Peak" designation over "Black Elk."

There are a number of issues of concern to my constituency with respect to this legislation; and I want to be sure the record is clear, as follows:

First. Because of the relatively small acreage involved, any fires will be controlled to prevent damage to adjacent areas.

Second. Likewise, if a mountain pine beetle epidemic threatens adjacent stands of ponderosa pine, the problem can be dealt with under wilderness law.

Third. Since the area is already a wildlife preserve, the timber would not be harvested for commercial purposes whether or not a wilderness is established.

Fourth. The Forest Service maintains that the management of the area will not be significantly different if the area is declared wilderness or maintained in its present wildlife preserve status.

Fifth. The only distinction is that vegetative manipulations will not be performed to increase wildlife populations. The widespread use of mechanized equipment for this purpose would be highly unlikely in any event, however, due to the terrain.

Sixth. Wilderness designation, per se, will in no way restrict nonmechanized visitations by the public. Our discussions with the Forest Service have disclosed, however, that they have contemplated whether restriction of the number of visitations may not be required in the future to insure compatibility with the existing wildlife preserve status of the area.

Seventh. Sanitary facilities would not be allowed, but it should be remembered that the wilderness will comprise only about one-third of the existing Norbeck Wildlife Preserve. Vegetative manipulations may still be performed upon the bulk of the preserve to enhance wildlife propagation.

Eighth. Finally, due to misinformation provided earlier, some accounts have indicated that two lakes are included in the Harney Peak Wilderness Area. The record should be absolutely clear that these lakes, Sylvan and Horse Thief, are not within the boundaries of the area.

So, Mr. Speaker, with these understandings I am pleased to support enactment of H.R. 5487. It is my intent this legislation will close the book on wilderness deliberations in my State. The Beaver Park Area will be maintained in multipurpose management and the Harney Peak Area will be managed in a fashion only slightly more restrictive than at present. No further areas in South Dakota are, in my view, suited to wilderness designation; and I would expect to oppose any such proposals.

My constituency may be assured I will continue to work to achieve a greatly increased degree of development of the vast natural resources of South Dakota, but the conclusion is inescapable that the highest and best use of the Harney Peak Wilderness is now and will continue to be to preserve it in the most natural state possible. I am delighted to be associated with this important legislative effort, and I am anxious to see it concluded successfully. The Harney Peak Wilderness will be a credit to the Wilderness System, and it represents a fitting legacy for the future of the Black Hills ecosystem.

Mr. JOHNSON of Colorado. Mr. Speaker, in closing, I would like to congratulate the gentleman from Colorado (Mr. KOGOVSEK) for the fine work he has done on this bill. He has actually a larger portion of acreage involved than I have, and I think that the dedication and hard work that he has brought to this bill are indications of the quality of representation that his constituents receive on a daily basis.

Mr. UDALL. Mr. Speaker, I yield 4 minutes to the gentleman from Colorado (Mr. KOGOVSEK).

● Mr. KOGOVSEK. Mr. Speaker, H.R. 5487 is the culmination of 11 months of intensive work by the gentleman from Colorado (Mr. JOHNSON), the gentleman from Ohio (Mr. SEIBERLING), and myself. This piece of legislation is not just a conservationist bill. It is the product of compromise among the grazing industry, mining industry, timber industry, the State, counties, and conservation groups. So precise was this compromise, that there was not one interest group in the State of Colorado that did not have input into this legislation. We felt the Forest Service did a good job in setting the groundwork for RARE II wilderness legislation. They provided the foundation for the decision we are making today.

H.R. 5487 represents a model for the accomplishments that can be achieved by working closely with various constituencies, and in many cases, having the constituencies work closely among themselves. Yet, it most importantly represents decisions made by the people of Colorado, the people that will be living near these areas. What the gentleman from Colorado and I have proposed is a balance. We have made boundaries with a fine razor edge. The economies will be protected for local communities, industry interests have been addressed, and most important, this bill still designates 1.3 million acres of wilderness for the State of Colorado.

I believe we have a major accomplishment before Congress today. This legislation will double the amount of wilderness in our state, and at the same time, not adversely affect anyone in Colorado. It does not go as far as the administration would have liked. Its position is in support of something in excess of 2 million acres for the State. I think we have taken a closer look than the Forest Service in recommending wilderness without adversely affecting local economies.

I want to thank the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL) for his patience and his help in getting this bill passed. I also want to thank the gentleman from Ohio (Mr. SEIBERLING) for his great interest in this legislation. The gentleman from Colorado is correct when he says the gentleman from Ohio took a good portion of his vacation time this past summer to come out and look at these areas in Colorado, so that he would have a better idea as to what should and should not be designated wilderness. Congressman SEIBERLING's patience and direction was the key factor in reaching the compromise that produced this fine piece of legislation.

Third, I would like to commend the gentleman from Colorado (Mr. JOHNSON) for taking time from his vacation to walk the areas in his district which were proposed for wilderness. I strongly commend him for seriously taking the initiative with this bill.

Finally, we owe a commendation to the people of Colorado. For this is their bill. They in essence wrote it, and, if not for their hard work and willingness to compromise, we wouldn't have a bill today. This is an act by the people of Colorado for the people of Colorado.●

● Mr. SEIBERLING. Mr. Speaker, by passage of H.R. 5487, the House can take a most significant step toward the full protection of some of the West's and the Nation's most priceless wilderness assets.

This bill, which represents the bipartisan efforts of our colleagues from the Third and Fourth Districts of Colorado (Mr. KOGOVSEK and Mr. JOHNSON) and the Second District of South Dakota (Mr. ABDNOR) would designate for inclusion in the national wilderness preservation system, 19 areas in the national forests of Colorado and 1 area in the Black Hills National Forest in South Dakota. The Colorado areas taken together amount to about 1.3 million acres of national forest lands; the South Dakota area is about 10,000 acres.

The bill comes to the floor of the House today upon the unanimous favorable vote of the Committee on Interior and Insular Affairs, and after an earlier unanimous vote in the Subcommittee on Public Lands. The immediate catalyst for our subcommittee's consideration of the wilderness designations contained in this bill was the transmittal to the Congress of the President's recommendations arising from the so-called RARE II (second roadless area review and evaluation) examination of parts of our national forests which remain roadless and possessed of wilderness qualities. However, the subcommittee and committee also drew upon the administration's 1974 recommendations for wilderness in and adjacent to the Wilson Mountains and Uncompahgre Primitive Areas in southwestern Colorado, and earlier reviews by our committee of other wilderness proposals in Colorado. Thus, we are today proposing to the House the wilderness designation be extended to a number of highly qualified areas whose consideration has been too long deferred.

Mr. Speaker, I do not believe that it is necessary for me to take the time of the House to describe each of the areas which this bill would designate for inclusion in the wilderness preservation system, especially since our committee's report does discuss each in some detail; however, I think I should point out that the Subcommittee on Public Lands made a field inspection of all the Colorado wilderness proposals last August, and at that time we were able to see for ourselves that these roadless and untrammeled parts of the great Rocky Mountain chain are without doubt among the most magnificent remnants of the Nation's wilderness heritage, and are possessed of splendid scenic, wildlife, watershed, and other values.

One area in particular does deserve special mention, Mr. Speaker, and that is the so-called Wheeler Geologic Area located in the Rio Grande National Forest in southcentral Colorado. This is an area of unusual geologic structures which has been recognized since the days of Theodore Roosevelt as possessing high scientific, scenic, and other qualities; but the particular terrain involved, the fragility of the geologic structures and management difficulties, have over the years resulted in some uncertainty about the best way to administer this resource. Therefore, the bill provides for a 1-year study by the Secretaries of Agriculture and the Interior, leading to recommendations concerning the land management options and the desirability of permanent or temporary road or other mechanized access, especially as concerns access by the elderly and handicapped. Such a study provision was strongly suggested by some of the county and other local authorities when the subcommittee visited Colorado, and I believe that it is a desirable procedure for moving toward a sound decision on future management of these lands.

Also, Mr. Speaker, I believe that I should mention section 5 of the bill, which would require that the Secretary of Agriculture make a review of all that Department's policies, practices, and regulations regarding livestock grazing in national forest wilderness areas in order to insure that those policies, practices, and regulations are in accord with the intent of the Congress. Of course, section 4(d)(4)(2) of the Wilderness Act is quite clear in stating that livestock grazing can continue in an area designated as wilderness, if that use was established at the time of wilderness designation.

However, in the 15 years since the enactment of the Wilderness Act, our committee has become increasingly aware that the Forest Service's policies for administering the wilderness areas within the national forests have been subject to varying interpretations in the field and in some instances have included pronouncements at variance with the Wilderness Act's clear statement of policy. We believe that the language of the Wilderness Act, which is broad language, is sound and should not be amended—rather, the land managers should be carrying out the policy of the Wilderness Act and the intent of the Congress. Therefore, we have included in this bill a requirement for a review of these policies, practices, and regulations; and in the committee's report on this bill, we have gone to considerable lengths to provide guidance to the Secretary of Agriculture about the significance of that review and the meaning of the Wilderness Act as it relates to established grazing uses.

Mr. Speaker, in the course of the subcommittee visits last summer to Colorado and to many roadless areas in the national forests in other States, we frequently had informal meetings with local representatives of various interest groups concerned about the issues involved in the RARE II process. These included representatives of conservation groups, the timber, mining and oil and gas industries, ranchers, power companies, off-the-road-vehicle users, hunters, local public officials, and citizen organizations. Wherever the opportunity presented itself, I urged these groups to try to get together to work out their differences and, in collaboration with their Representatives in Congress, to attempt to reach a consensus on national forest wilderness legislation.

Of course, consensus usually means compromise, and compromise is not always possible. This bill, however, is the fruit of such a process. While it does not represent 100 percent agreement among all of the interests involved, it is about as close to a complete consensus as one can expect in the normal course of things.

The lion's share of the credit for achieving this outstanding result must go to the two coauthors of this bill, our colleagues from Colorado, RAY KOGOVSEK and JIM JOHNSON. We are indebted to them not only for a balanced bill but for having demonstrated that the process of consultation and accommodation can produce outstanding results.

Mr. Speaker, H.R. 5487 is a bipartisan bill. It is a sound, balanced bill. It received the unanimous endorsement of the Public Lands Subcommittee and the Committee on Interior and Insular Affairs, and I urge the full House to pass it with the same strong showing of deserved support.●

● Mr. CLAUSEN. Mr. Speaker, the legislation before us, H.R. 5487, is a combination of two proposals considered by the Public Lands Subcommittee. The first, sponsored by the gentlemen from Colorado (Mr. JOHNSON and Mr. KOGOVSEK), in whose districts the areas are located, designates 11 new wilderness areas and 8 additions to existing wilderness areas. It contains 1.3 million acres located in 10 national forests in Colorado. The bill encompasses approximately half of the RARE II recommendations of the administration, yet it doubles the amount of wilderness in the State.

The second proposal designates an area in the Black Hills National Forest of South Dakota as the "Harney Peak Wilderness." It is identical to the wilderness recommendation made by the administration for this area and identical to the separate bill authored by the gentleman from South Dakota (Mr. ABDNOR) in whose congressional district the area is located.

The ease with which this legislation cleared the subcommittee and the full House Interior and Insular Affairs Committee and the degree of support exhibited here today are a credit to its sponsors.

The gentleman from South Dakota (Mr. ABDNOR), with whom I serve on the Public Works and Transportation Committee, worked closely with the committee and staff to advance his proposal. I know of no opposition to it.

The fine tuning which was required on the Colorado proposal was accomplished due to the diligence of the gentlemen from Colorado (Mr. JOHNSON and Mr. KOGOVSEK) who carefully addressed the concerns expressed by those most directly affected. As a result, it has the support of virtually all interested groups and individuals in their congressional districts and statewide.

The bill also contains important language concerning grazing of livestock in wilderness areas. It directs the Secretary of Agriculture to undertake an intensive review of the present policy to insure that it conforms with the intent of Congress when the Wilderness Act of 1964 was enacted. The committee report accompanying the bill also contains significant guidelines for the review.

I would like to commend the distinguished chairman of the subcommittee, the gentleman from Ohio (Mr. SEIBERLING) for the many hours and days he devoted to this legislation and for his fairness in listening to those Members in whose districts the wilderness areas are located.

Having traveled with the chairman of the subcommittee in California, I can attest to the thoroughness with which he inspects each area and his willingness to listen to concerns expressed by local citizens, local government bodies, businesses and other interested groups.

There exists a real need to preserve certain areas while not overlooking the economic needs of our communities and the Nation as a whole. I firmly believe that this legislation strikes such a balance and is deserving of our full support.●

Mr. UDALL. Mr. Speaker, I urge support of the bill, and I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 5487, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to designate certain national forest system lands in the States of Colorado and South Dakota for inclusion in the national wilderness preservation system, and for other purposes."

A motion to reconsider was laid on the table.

BISCAYNE NATIONAL PARK

Mr. PHILLIP BURTON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5926) to establish the Biscayne National Park in the State of Florida, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5926

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—BISCAYNE NATIONAL PARK

SEC. 101. In order to preserve and protect for the education, inspiration, recreation, and enjoyment of present and future generations a rare combination of terrestrial, marine, and amphibious life in a tropical setting of great natural beauty, there is hereby established the Biscayne National Park (hereinafter referred to in this title as the "park") in the State of Florida. The boundary of the park shall include the lands, waters, and interests therein as generally depicted on the map entitled "Boundary Map, Biscayne National Park", numbered 169-90,002, and dated November 1979, which map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register, not more than one year after the date of enactment of this Act, a detailed description of the boundary established pursuant to this section. Following reasonable notice in writing to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his intention to do so, the Secretary may make minor revisions in the boundary of the park by publication of a revised boundary map or other description in the Federal Register.

SEC. 102. (a) Within the boundary of the park the Secretary is authorized to acquire lands, waters, and interests therein by donation, purchase with donated or appropriated funds, or exchange, except that poverty owned by the State of Florida or any political subdivision thereof may be acquired only by donation, and subject to such reservations and restrictions as may be provided by Florida law. Lands, waters, and interests therein such boundary which are owned by the United States and under the control of the Secretary are hereby transferred to the administrative jurisdiction of the National Park Service to be managed for the purposes of the park. Any federally owned lands within the park which are not under the control of the Secretary shall be transferred to his control of purposes of the park at such time as said lands cease to be needed by the agencies which currently control them.

(b) It is the express intent of the Congress that the Secretary shall substantially complete the land acquisition program authorized herein within two complete fiscal years from the effective date of this Act. Any owner of property within the park may notify the Secretary of the desire of such owner that his property be promptly acquired, and the Secretary shall give immediate and careful consideration, subject to the availability of funds, to the prompt acquisition of such property.

SEC. 103. (a) The Secretary shall preserve and administer the park in accordance with the provisions of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), as amended and supplemented. The waters within the park shall continue to be open to fishing in conformity with the laws of the State of Florida except as the Secretary, after consultation with appropriate officials of said State, designates species for which, areas and times within which, and methods by which fishing is prohibited, limited, or otherwise regulated in the interest of sound natural ecosystem conservation to achieve the purposes for which the park is established: *Provided,* That with respect to lands donated by the State after the effective date of this Act, fishing shall be in conformance with State law.

(b) The Biscayne National Monument, as authorized by the Act of October 18, 1968 (82 Stat. 1188; 16 U.S.C. 450qq), as amended, is abolished as such, and all lands, waters, and interests therein acquired or reserved for such monument are hereby incorporated within and made a part of the park. Any funds available for the purposes of such monument are hereby made available for the purposes of the park, and authorizations of funds for the monument shall continue to be available for the park.

SEC. 104. Within three complete fiscal years from the effective date of this Act, the Secretary shall review the area within the park and shall report to the President and the Congress, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the park for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 105. Within two complete fiscal years from the effective date of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, a revised comprehensive general management plan for the park consistent with the provisions of this title and pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.).

SEC. 106. In addition to the sums previously authorized to be appropriated for Biscayne National Monument, there are authorized to be appropriated such sums as may be necessary for the administration of the park, and not to exceed $8,500,000 for the acquisition of lands and interests therein, as provided in this title. Notwithstanding any other provision of law, no fees shall be charged for entrance or admission to the park.

TITLE II—FORT JEFFERSON NATIONAL MONUMENT

SEC. 201. The Congress recognizes the need for stabilizing and protecting the masonry fortifications at Fort Jefferson and for protecting and interpreting a pristine natural environment including the entire Dry Tortugas group of islands and their associated marine environments, significant coral formation, fish and other marine animal populations, and populations of nesting and migrating birds, all of which are located within Fort Jefferson National Monument, Florida (hereinafter referred to in this title as the "monument"). The monument and its boundaries, as established in Proclamation Numbered 2112, dated January 4, 1935 (49 Stat. 3430), are hereby ratified and confirmed. In furtherance of the purposes of the monument the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized to accept gifts of funds which may be donated for any purpose, but particularly for stabilizing the historic structures within the monument.

SEC. 202. Within three complete fiscal years from the effective date of this Act, the Secretary shall, after consultation with the Governor of the State of Florida, develop and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a comprehensive general management plan for the monument consistent with the provisions of this title and pursuant to the provisions of section 12(b) of the Act of August 18, 1970 (84 Stat. 825), as amended (16 U.S.C. 1a-1 et seq.).

SEC. 203. Within three complete fiscal years from the effective date of this Act, the Secretary shall review the area within the monument and shall report to the President and the Congress, in accordance with subsections 3 (c) and (d) of the Wilderness Act (78 Stat. 890), his recommendations as to the suitability or nonsuitability of any area within the monument for designation as wilderness. Any designation of any such areas as wilderness shall be accomplished in accordance with said subsections of the Wilderness Act.

SEC. 204. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Notwithstanding any other provisions of law, no fees shall be charged for entrance or admission to the monument.

TITLE III—VALLEY FORGE NATIONAL HISTORICAL PARK

SEC. 301. The Act entitled "An Act to authorize the Secretary of the Interior to establish the Valley Forge National Historical Park in the Commonwealth of Pennsylvania, and for other purposes", approved July 4, 1976 (90 Stat. 796), is amended (1) in subsection 2(a) by changing "dated February 1976, and numbered VF–91,000," to "dated June 1979, and numbered VF–91,001,"; (2) in section 3 by adding the following sentence at the end thereof: "In furtherance of the purposes of this Act, the Secretary is authorized to provide technical assistance to public and private nonprofit entities in qualifying for appropriate historical designation and for such grants, other financial assistance, and other forms of aid as are available under Federal, State, or local law for the protection, rehabilitation, or preservation of properties in the vicinity of the park which are historically related to the purposes of the park."; and (3) in subsection 4(a) by changing "$8,622,000" to "$13,895,000".

TITLE IV

SEC. 401. Authorizations of moneys to be appropriated under this Act shall be effective on October 1, 1980. Notwithstanding any other provision of this Act, authority to enter into contracts, to incur obligations, or to make payments under this Act shall be effective only to the extent, and in such amounts, as are provided in advance in appropriation Acts.

The SPEAKER pro tempore. Is a second demanded?

Mr. SEBELIUS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. Phillip Burton) will be recognized for 20 minutes, and the gentleman from Kansas (Mr. Sebelius) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. Phillip Burton).

Mr. PHILLIP BURTON. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill under consideration, H.R. 5926.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PHILLIP BURTON. Mr. Speaker, H.R. 5926, authored by the gentleman from Florida (Mr. Fascell) would expand the existing Biscayne National Monument in Florida and redesignate the area as a national park, ratify the boundaries of the Fort Jefferson National Monument in Florida and provide for the acceptance of donations of funds for the purposes of the monument, and expand the boundaries of the Valley Forge National Historical Park in Pennsylvania.

I would like to call the attention of my colleagues to the longstanding efforts of Representative Fascell to protect the remarkable natural resources of the south Florida area. A little over 11 years ago, on September 16, 1968, the House of Representatives passed H.R. 551, legislation authored by Congressman Fascell to authorize the Biscayne National Monument. Now his leadership affords this body the opportunity to greatly enhance the protection of this unique area and raise it to full national park designation. Again, we are considering an initiative of the gentleman from Florida. His is a record of continuing concern for conservation that reflects great credit on both the gentleman himself and the people of the district he represents.

Mr. Speaker, in 1968, Congress authorized the Biscayne National Monument in the State of Florida. The national monument, located some 25 miles south of Miami, protects about 104,000 acres of prime coastal waters, keys and coral reefs. The area contains a remarkably diverse assemblage of tropical and subtropical plant and animal life, and is geologically significant as well.

Enactment of H.R. 5926 would include an additional 71,000 acres within the boundaries of the monument. The additions would greatly enhance the resources to be protected in this area. The northernmost extension of the series of keys which are within the existing boundary would be included. The northern additions would also complete the protection of the coral heads and shoal areas that are an important feature in this area. Finally, the addition of the coastal mangrove areas along the western boundary of the monument would provide protection for this major nutrient for the marine life of the area.

The legislation also addresses certain needs at another south Florida area, Fort Jefferson National Monument. This area contains remarkable marine and wildlife resources, as well as the largest of the 19th-century American coastal forts. Specific authority is given to the Secretary of the Interior to accept donations for the purposes of the monument. The boundaries of the monument, which were established by Presidential proclamation, are ratified. While Fort Jefferson National Monument will not be an area of high visitation due to its isolated location, H.R. 5926 affords an opportunity for the Congress to further the protection of this unique area.

Finally, the committee has incorporated in H.R. 5926 as reported the text of language passed by the House in November 1979 which provides for the addition of some 682 acres of lands to the existing Valley Forge National Historical Park, which was first authorized by Public Law 94–337. Subsequent to the establishment of the historical park, the National Park Service conducted a study of the boundary and the surrounding lands, and identified a number of properties which are desirable for addition to the area. Addition of these areas would permit the acquisition of scenic easements over some 149 acres to retain the character of the area surrounding the park, provide for fee simple acquisition of some 482 acres which will improve the management of visitor use activities and protection of historic properties, and incorporate some 51.4 acres of State and county owned lands which would be acquired only by donation.

Mr. Speaker, in considering this legislation, I would also like to point out the particular contributions made by the State of Florida and Dade County in this effort. Most of the existing area of Biscayne National Monument is composed of submerged lands which were generously donated by the State of Florida. In the expansion of the area which we are now considering, the vast majority of the area is again intended to be acquired by donation from the State. Therefore, our Federal dollars will only be spent to acquire the additional keys and shoreline areas which will complete the park.

Mr. Speaker, I urge my colleagues to join in support of this measure.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. Fascell).

Mr. FASCELL. Mr. Speaker, I thank the chairman for yielding to me.

Mr. Speaker, I want to commend the gentleman from California (Mr. Phillip Burton) and his subcommittee, and also the full committee, for the attention which they gave this matter with regard to the Biscayne National Park.

Mr. Speaker, I rise in support of H.R. 5926, a bill to redesignate the Biscayne National Monument, in south Florida, as a national park. The bill also expands the boundaries of the present monument to take in approximately 71,000 additional acres, most of which are water.

The redesignation as a national park is important primarily as a public information device. The present name of "Biscayne National Monument" has been confusing ever since its establishment 11 years ago and has led to a serious misconception of what the area actually is. It is a park in every sense of the word and a most beautiful and ecologically valuable one. The National Park Service is in the process of implementing its development plan which, when completed, will provide facilities for boating, swimming, fishing, hiking, picnicking, nature trail exploration, and all the other things one thinks of as comprising the ingredients for a national park. Many of these activities are already available and are residents and visitors alike.

Even more visitors will be attracted to the park if they are not misled into believing that all there is there is a big stone statue or monument rising from the depths of Biscayne Bay.

The expansion of the boundaries is designed to include within the park contiguous islands and water areas which share the ecological fragility of the present monument and which are in danger of destruction if left open for possible development. This expansion includes the six Ragged Keys immediately north of the present boundaries and Soldier Key, just north of the Raggeds. It would also extend the western boundary close to the shore to a point already established by Dade County as a "development line." This area consists primarily of mangroves and is very delicate environmentally.

In addition, the new boundary would swing north to include what is locally known as the safety valve area. There are a number of "stilt houses" located in this area which are used as recreational homes. The owners of these homes would continue to be able to use them subject to their current leases from the State of Florida.

It is important to emphasize that redesignation as a national park will in no way change the operations of the area as they are now, nor will it subject the area to any more or less stringent environmental controls than those that are presently in effect.

All of the State-owned bay bottoms located within the proposed boundaries will be donated to the Federal Government. The Florida cabinet has already endorsed this donation, which is subject to final action by the legislature. All fishing rights will remain within the jurisdiction of the State, since this is a statutorily mandated condition for transfer of State-owned lands.

It is estimated that acquisition of the privately owned lands will cost approximately $10 million. Since $1.6 million remains available from the original Biscayne National Monument authorization, H.R. 5926 authorizes an additional $8.5 million for acquisition. The bill also mandates that the privately owned lands be acquired within 2 fiscal years from the date of enactment so that the property owners can be promptly paid for their land.

The measure also legislatively establishes the Fort Jefferson National Monument in the Dry Tortugas. Fort Jefferson has important historical significance as the place where Dr. Samuel Mudd was incarcerated following his treatment of John Wilkes Booth after the assassination of President Lincoln. It is also environmentally valuable as a nesting ground for sea birds. Originally established by Executive Proclamation in 1935, this bill simply reaffirms legislatively the intent to preserve and protect it as part of the National Park System.

In addition, H.R. 5926 provides for the addition of 680 acres to the Valley Forge Memorial Park in Pennsylvania. The House already approved this acquisition last month and this reaffirms our intention that this acreage should be acquired.

I urge our colleagues to support the very basic environmental and historical considerations inherent in this legislation.

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Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. SEBELIUS. Mr. Speaker, I support the bill now under consideration, H.R. 5926, which deals with three existing units of our National Park System—Biscayne National Monument—to be changed to a national park—Fort Jefferson National Monument, and Valley Forge National Historical Park.

I want to stress the importance the committee attaches to the use of the park designation for Biscayne. The national park label is the pinnacle of designation to denote superlative quality for units of our national park system. I have had some reservation about the upgrading in designation of this area from monument to park. I believe it is warranted only if the National Park Service makes a supreme and persistent effort to guard the natural resource qualities of the park area and to be ever-vigilant to identify and repel extraneous influences which may tend to work toward the degradation of the park's natural resource qualities. To this end, the committee recognizes this issue in various references in the committee report.

The National Park Service is requested to conduct professional natural resource evaluations, beginning immediately and continuing for a 10-year period, and to submit its findings to the relevant congressional committees. This is intended as a monitoring device, and one upon which later recommendations and decisions can be formulated for enhancing the protection of the park's natural resources, with particular emphasis to be placed on aquatic components. These study evaluations are to apply similarly to both Biscayne and Fort Jefferson.

Wilderness studies are to be conducted for both Biscayne and Fort Jefferson, with the expectation that the National Park Service will take a creative and innovative approach in its analysis of wilderness potential for these principally aquatic resource areas, and submit findings from this effort in a timely manner.

It is most important that in the revision of general management plans for these two Florida areas, the National Park Service pay particular attention to the development of visitor use carrying capacities.

Finally, Mr. Speaker, title III deals with addition of lands to the Valley Forge National Historical Park in Pennsylvania. An identical measure has been adopted by the House previously as title II of H.R. 4308.

Valley Forge was made a new unit of our national park system on July 1, 1976, appropriately on the occasion of our Nation's 200th birthday. Prior to that time, the area was owned and managed by the State of Pennsylvania. After the National Park Service took over the area, they were able to evaluate the current boundaries of the park in view of their adequacy for their management needs, and with a particular awareness that adjacent suburban development was fast encroaching upon the park.

This evaluation led to the conclusion brought forth in the bill before us, advancing the urgent necessity of some further boundary additions. Most of the lands to be added will help protect the integrity of the current historical lands by buffering them from adverse adjacent development. The additions will also offer expanded management flexibility to channel much of the current nonconforming recreational use within the park from the areas of major interest. It is most important that the National Park Service keeps this issue in the forefront of all its planning and management efforts.

The committee, when it authorized this new area in 1976, saw this issue as one of very high concern—the segregation of recreational use from the prime parts of the historical resource, and the altogether eventual complete elimination of some aspects of recreational use.

Mr. Speaker, this completes my comments on this bill, and I urge its favorable approval by my colleagues.

● Mr. COUGHLIN. Mr. Speaker, I rise to speak on H.R. 5926, a bill to establish the Biscayne National Park and to add 682.4 acres to the Valley Forge National Historical Park, Pa. The Valley Forge section was originally H.R. 4762, an individual bill I introduced on July 12, 1979. Subsequently, it was passed as title II of H.R. 4308, the Legionville National Historic Site bill. Let me take a moment to compliment the distinguished chairman, Mr. PHILLIP BURTON of California, and ranking minority member, (Mr. KEITH SEBELIUS of Kansas, of the Interior Subcommittee on National Parks and Insular Affairs for their swift consideration and support of the Valley Forge land acquisition.

As students of American history know, Valley Forge was the site of the encampment of General George Washington's Continental Army during the bitter winter of 1777–78. While the temporarily victorious British army was comfortably billeted in Philadelphia, General Washington and his 11,000 battle-weary men set up camp 20 miles to the west. Against overwhelming odds, the Continentals not only survived, but emerged as a disciplined and proficient military force. The Valley Forge story is truly one of the most inspired and patriotic chapters in the history of the United States.

In recognition of this, and with the assistance and support of the House Interior and Insular Affairs Committee, a bill establishing the Valley Forge National Historical Park was passed in 1976 (Public Law 94–337). At that time, the committee recognized:

First. The rapidly increasing development around Valley Forge as pressure for usable land in the Greater Philadelphia urban area has grown.

Second. The national character and historic significance of the park; and

Third. The need for continuing protection and management by the National Park Service.

These considerations are applicable, today, to the 682.4 acres which the pending bill would add to the existing 2,450-acre park. Most of the land is in Lower Providence Township, Montgomery County, with about 60 acres in Tredyffrin and Schuylkill townships, Chester County. Acquisition of this new acreage would be a major development in preserving a beautiful section of the Schuylkill River Valley.

It is important that the Federal Government move immediately to obtain these valuable lands. All of the property to be acquired in fee, except for one parcel, is slated for purchase or development by private individuals. There is the real danger that these tracts will be lost, unless the Park Service is able to act in the next few months. It is my understanding that informal agreements exist between the National Park Service and landowners, that the Government would have the opportunity to purchase the land by the end of the year. Unless the property, most of which is raw land, is acquired now, it will not be feasible to purchase it in the future. Higher costs are certain when compensation for development and displacement is included.

Within the proposed acquisition is Fatlands, the historic building and property in Lower Providence north of the Schuylkill River, which is owned by the famous, former Philadelphia Democratic Chairman Peter J. Camiel. The 155-acre property is slated for development, Mr. Camiel previously announced, unless arrangements for Federal acquisition are completed. A historic structure, vintage 1740, is situated on another tract, also to be acquired. Park officials say the building, in good condition, served as commissary headquarters for General Washington and his Army during the encampment.

The 1976 House Interior Committee report (H. Rep. 94–1142) expressed the expectation that the park would be managed "with increased emphasis on the restoration and maintenance of the historic scene. Non-conforming recreational uses are to be phased down or relocated." Recreational activities currently provided in the park are restricted. Intense uses, such as marathons, are forbidden. Although there is historical justification for buying property north of the river—Washington and his troops also camped on that side and used the ford—the land would be valuable primarily for recreational purposes. Biking, hiking, jogging, and horse trails, and picnic groves could be shifted and expanded from the current park area to accommodate the 4 million annual visitors. New acreage would be a link with the Audubon Wildlife Sanctuary, the Evansburg State Park and planned recreational trails. Such uses conform with township, county, and regional planning, and enjoy strong local support.

Plans also call for obtaining scenic easements on about 130 acres of developed land in Montgomery and Chester counties. Agreements would ensure that land only be used for private homes, preventing high-rise and/or commercial development. Not only would there be no displacement for the 30 owners involved, but vista access across the Schuylkill River would be preserved without buying land out to the horizon.

For historical purposes, recreational use, and vista protection, I urge the House to accept the recommendations of the Parks Subcommittee and the full Interior Committee and pass this bill. Unless action is expeditiously taken, much of this land will be lost to other uses. I am confident that the House will continue to protect America's valuable resources.●

Mr. PHILLIP BURTON. Mr. Speaker, I have no further requests for time. I urge approval of the resolution, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. PHILLIP BURTON) that the House suspend the rules and pass the bill, H.R. 5926, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SEBELIUS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kansas?

There was no objection.

YAKIMA RIVER BASIN WATER ENHANCEMENT PROJECT STUDY AUTHORIZATION

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2757) to authorize the Secretary of the Interior to engage in a feasibility study, as amended.

The Clerk read as follows:

H.R. 2757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Department of the Interior is authorized and directed to conduct a feasibility study of the Yakima River Basin Water Enhancement Project, which shall include an analysis by the United States Geological Survey of the water-supply data for the Yakima River Basin. The Secretary is authorized to accept moneys from the State of Washington or other persons or entities, public or private, to assist in the financing of the feasibility study.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes and the gentleman from Kansas (Mr. SEBELIUS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 2757.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2757 is a bill to authorize the Secretary of the Interior to engage in a feasibility study of the proposed water resource project in the State of Washington known as the Yakima River Basin water enhancement project. I emphasize, this is only a feasibility study done at the request and instance of the distinguished gentleman from Washington (Mr. MCCORMACK).

Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, as the chairman has pointed out, this legislation calls for a feasibility study of a proposal to develop a systemwide enhancement project for the Yakima River system. If the proposal for which this feasibility study becomes a reality, it will create a long-range, comprehensive program for river development and water management along the entire Yakima River system. It would include five additional reservoirs and a program to assure all users of water in the valley that they will have an optimum opportunity of obtaining water in the future. At the same time, the proposal would protect and enhance the flow of the Yakima River. Thus, it is a legitimate and meaningful environmental protection plan that would significantly enhance anadromous fish runs in the river.

Mr. Speaker, the Yakima River enhancement proposal has been worked out by the Governor of the State of Washington, the Honorable Dixy Lee Ray; the Yakima Indian Tribal Council, led by Chief Watson Totus; and the House Interior Committee. I know of no opposition to the proposal or to this bill. The feasibility study which is called for in this bill will be partially funded by money that has already been provided by the State of Washington. The total cost of the study is estimated by the Congressional Budget Office to be less than $2 million.

I urge support for this bill.

Mr. SEBELIUS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill and commend my colleague, the gentleman from Washington, for his initiative in this far-reaching solution.

● Mr. KAZEN. Mr. Speaker, H.R. 2757 is a bill to authorize the Secretary of the Interior to engage in a feasibility study of a proposed water resource project in the State of Washington known as the Yakima River Basin water enhancement project.

While the Secretary can conduct preliminary studies, designated reconnaissance level studies, and basin surveys without congressional approval, under existing law, he cannot conduct the more detailed feasibility study without such approval.

Drought conditions in recent years have focused attention on the need for expanded and assured water supplies in many areas of the Western States, including the Yakima River Basin.

The primary objectives of the Yakima River Basin water enhancement project are to provide supplemental water to presently irrigated lands, provide new water to lands in the Yakima Indian Reservation, provide water for increased instream flows for the benefit of aquatic life, and develop a comprehensive plan for the basin to enable efficient management of existing water supplies.

The proposed project is multipurpose, providing increased storage of water for irrigation, fish and wildlife conservation, flood control, and additional hydroelectric generating capacity.

The estimated cost of the feasibility

study authorized by H.R. 2757 is $2 million. As amended, the bill authorizes the Secretary of the Interior to accept money from the State of Washington or other private or public entities to assist in financing the study. It is the understanding of the committee that the State of Washington has agreed to provide half of the amount required for the study.

As introduced, H.R. 2757 provided that any money contributed by the State would be credited to the total amount of cost to be borne by the State as a contribution to the cost of the project should it be authorized and constructed. The committee amendment deleted this provision, it being the judgment of the committee that a decision on whether or not such a credit should be allowed ought to be deferred until such time as authorizing legislation for construction is considered.

Mr. Speaker, I believe that the study authorized by H.R. 2757 is necessary in order that a determination may be made as to how best to manage and conserve a most important resource in the Yakima River Basin, and I urge approval of the bill, H.R. 2757, as amended.●

Mr. UDALL. Mr. Speaker, I urge support of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 2757, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill (S. 585) to authorize the Secretary of the Interior to engage in a feasibility study of the Yakima River Basin water enhancement project, a bill similar to the bill just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 585

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Department of the Interior is authorized and directed to conduct a feasibility study of the Yakima River Basin Water Enhancement Project. The Secretary is authorized to accept moneys from the State of Washington or other persons or entities, public or private, to assist in the financing of the feasibility study. If moneys are so provided by the State of Washington, and Congress thereafter authorizes and appropriates funds for the construction of the Yakima River Basin Water Enhancement Project, the moneys so provided by the State shall be credited to the total amount of any costs required to be borne by the State as contributions toward or repayment for costs of the project.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out all after the enacting clause of S. 585 and to insert in lieu thereof the provisions of H.R. 2757, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill (H.R. 2757) was laid on the table.

AIR TRAFFIC CONTROLLERS TRAINING AMENDMENTS

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5870) to amend title 5 of the United States Code to improve the second career training program for air traffic controllers, as amended.

The Clerk read as follows:

H.R. 5870

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3381 of title 5, United States Code, is amended to read as follows:

"§ 3381. Training

"(a) Subject to the following provisions of this section, an air traffic controller is entitled to training under a program approved under this section, if the controller—

"(1) is not a supervisor (as defined in section 7103(a)(10) of this title);

"(2) has completed not less than 8 years of service as a controller;

"(3) is not eligible for immediate retirement under section 8336 of this title;

"(4) is to be removed as a controller because the Secretary of Transportation has determined that—

"(A) the controller is medically disqualified for duties as a controller;

"(B) the controller is unable to maintain technical proficiency as a controller; or

"(C) the removal is necessary for the preservation of the physical or mental health of the controller;

"(5) within 30 days after receipt by the controller of notice of the Secretary's determination under paragraph (4) of this subsection (or if a reconsideration is requested under section 3383 of this title, within 30 days after receipt of the findings of the board of review under subsection (c) of section 3383), has submitted to the appropriate regional review board written notice of the controller's intention to apply for training under this section;

"(6) submits to the appropriate regional review board an application—

"(A) which sets forth a proposed program for training of the controller under this section, and

"(B) which is accompanied by a certificate of a physician, selected from a list maintained under subsection (d)(4), which states that the physician has conducted a medical examination of the controller and the examination did not reveal any medical reason why the controller would not be able to complete the proposed training program; and

"(7) within 15 days after receipt by the controller of notice of approval of a training program for the controller, submits to the Secretary of Transportation written notice of the controller's intent to participate in the approved training program.

"(b) During a period of training under this section, a controller shall be—

"(1) retained at his last assigned grade and rate of basic pay as a controller;

"(2) entitled to each increase in rate of basic pay provided under law; and

"(3) excluded from staffing limitations otherwise applicable.

"(c) The Secretary of Transportation shall designate employees of the Department of Transportation to serve as regional career counselors—

"(1) who shall be responsible for providing assistance to controllers in developing proposed training programs under this section, and

"(2) who are qualified on the basis of knowledge, training, and experience to provide that assistance.

"(d)(1) For purposes of this section, the Secretary of Transportation shall establish regional review boards. Each board shall be composed of three members, as follows:

"(A) an employee of the Department of Transportation, designated by the Secretary of Transportation;

"(B) an employee of the Department of Labor experienced in vocational counseling, designated by the Secretary of Labor; and

"(C) a representative of the exclusive representative (as defined in section 7103(a)(16) of this title) of the controller, designated by the exclusive representative.

Members of each board shall receive no additional pay by reason of their service on the board. The amount of time spent by an employee serving as a board member shall be considered as spent in the performance of the employee's official duties.

"(2) Each board shall promptly consider any application for training submitted to it and approve the application if the board determines the training program proposed in the application provides training objectives and courses of study reasonably likely to result in—

"(A) successful completion of the training program by the controller, and

"(B) appropriate job placement of the controller upon the completion of that program.

If the board finds that the proposed training program does not meet the requirements of subparagraphs (A) and (B), the board (in consultation with the controller) shall modify the proposed training program to the extent necessary to permit the board to find that those requirements are met, and shall approve the proposed training program as modified. The board shall promptly provide the Secretary and the controller written notice of its approval, together with any modifications of the training program.

"(3) The board may not approve any training program the duration of which exceeds two years.

"(4) Each board shall maintain a list of not fewer than five physicians who the board considers qualified to make the certification required under subsection (a)(6) of this section.

"(5) As soon as practicable after the board receives notice by any controller under subsection (a)(5) of this section of the controller's intention to apply for training under this section, the board shall notify the Secretary of Labor of that action and request that the Secretary expedite any determination regarding any award of compensation under section 8124(a) of this title for which an application by the controller has been or may be made.

"(e) Upon completion of training under this section, a controller—

"(1) may be assigned to other duties in the Department of Transportation;

"(2) upon the controller's request, shall be accorded appropriate assistance for placement in vacant positions in other Executive agencies; or

"(3) may be involuntarily separated from the service.

The involuntary separation of a controller under this subsection is not a removal for cause on charges of misconduct, delinquency, or inefficiency for purposes of section 5595 or section 8336(e) of this title.

"(f) The Secretary, without regard to section 529 of title 31, shall pay, or reimburse a controller for, the necessary expenses of training approved under this section, including expenses authorized to be paid under chapter 41 and subchapter I of chapter 57 of this title, and the costs of other services or facilities directly related to the training of a controller.

"(g) Except as provided by subsection (f) of this section, the provisions of chapter 41 of this title, other than sections 4105(a), 4107 (a) and (b), and 4111, shall not apply to training under this section.

"(h) The provisions of this section shall not otherwise affect the authority of the Secretary to provide training under chapter 41 of this title or under any other provision of law.".

SEC. 2. (a) Section 3882 of title 5, United States Code, is amended by striking out the last two sentences.

(b) Section 3383(a) of title 5, United States Code, is amended by striking out "3381(a)" and inserting in lieu thereof "3381(a)(4)".

SEC. 3. All regulations which have been issued by the Secretary of Transportation under section 3384 of title 5, United States Code, and which are in effect immediately before the date of the enactment of this Act shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law or by operation of this Act or any other law.

SEC. 4. (a) The amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) The amendments made by this Act shall not apply with respect to individuals receiving training under subchapter VII of chapter 33 of title 5, United States Code, on or before the effective date of this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. COURTER. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. COURTER) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on this bill, H.R. 5870.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am handling this bill today at the request of the gentleman from New York (Mr. HANLEY), chairman of the Committee on Post Office and Civil Service, who is unable to be here today. This bill revises the second career training program for air traffic controllers. Last year, after several years of unhappy experience with the program, the Committee on Appropriations cut out all funding for fiscal year 1979. Adverse reports were received from the GAO and the FAA about the program and the Committee on Appropriations recommended substantial modifications.

Mr. Speaker, this program was created in 1972 so the controllers who were over the hill could continue to receive pay for 2 years and undertake training for some new occupation. The principal weakness has been withdrawal from the program because controllers go out on disability retirement or workmen's compensation.

Mr. Speaker, H.R. 5870 makes six basic changes in the existing law.

First. Employees eligible to retire under civil service retirement cannot receive second career training;

Second. Review boards will be established in each region to review applicants for training and generally monitor the program;

Third. A physician will have to certify an applicant medically able to enter and complete a second career training program;

Fourth. First line supervisors will no longer be eligible for second career training;

Fifth. A minimum number of years of service as a controller for entry into the program is increased from 5 to 8 years; and

Sixth. The FAA will have to provide more effective counseling and supervision of the program. At the present time no counselor in the program is professionally qualified for this kind of work.

If enacted, H.R. 5870 would reduce the cost of the second career training program from about $27 million to $22 million a year.

Mr. Speaker, I reserve the balance of my time.

Mr. COURTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5870, a bill to improve the air traffic controller second career training program.

In 1972, the Congress approved comprehensive legislation, Public Law 92-297, to provide needed reforms to the air traffic controller program. Specifically, the law provides eligible air traffic controllers the opportunity for early retirement and up to 2 years of federally supported academic or on the job training at full salary.

However, from all reports it appears the "second career training program" has been badly administered. According to the GAO, FAA failed to properly counsel controllers on the second-career program and little effort was made to relocate controllers within the Government.

Because of this report and other investigations, the Congress for the past 2 years has not appropriated any funds for this program. Early this year, the House Committee on Appropriations indicated the current status of the program would remain in effect until such time as a substantially modified program is enacted by Congress.

H.R. 5870, I believe, will satisfy the legitimate concerns of the Appropriations Committee.

This bill specifically changes the law by requiring the Secretary of Transportation to designate employees to serve as career counselors to controllers eligible for second career training; establishes regional boards, and requires these boards to work with controllers to develop acceptable training programs; certificates of medical fitness for training must be obtained from physicians approved by the regional training boards; and the boards must notify the Secretary of Labor when a controller applies for second career training and to request expedition of workmens' compensation determinations.

Mr. Speaker, these important changes in the law will correct many of the deficiencies cited in the various negative reports on the second career training program. Further, they will provide the necessary mechanisms to management to properly administer a much needed second career program to those who no longer can efficiently function as air traffic controllers.

I urge prompt enactment of this legislation.

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Mr. Speaker, I yield back the balance of my time.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BENJAMIN).

Mr. BENJAMIN. Mr. Speaker, I congratulate Chairman HANLEY and the Committee on Post Office and Civil Service for its development of H.R. 5870, a major improvement on Public Law 92-297. Hopefully, should H.R. 5870 become law, many of the abuses, if not outright fraud committed through the operation, or inoperation of Public Law 92-297 will be corrected.

Today, because of the unavoidable absence of Chairman DUNCAN of the House Subcommittee on Transportation Appropriations, I rise to question whether the second career training program for air traffic controllers should be continued or whether, in fact, this body should be repealing and not modifying section 3381 of title V, United States Code, as recommended by the General Accounting Office on June 29, 1978.

By 1977, more than $76 million had been spent on the operation of Public Law 92-297 which was enacted May 10, 1972, to provide that an air traffic controller who is medically disqualified or unable to maintain technical proficiency is eligible for 2 years of approved training (at no cost to the controller) to prepare for a career in another line of work. While in training, he continues to receive full pay.

The legislation was based on the premise that air traffic control is a young's man's work and that in the pursuit of such a career an individual acquires few, if any, transferable skills. Accordingly, the objective of the program was to ease the transition over to a new career for controllers who burned-out early of the skills and energies necessary to efficient operation in air traffic work.

In the fiscal year 1978 appropriations bill, the program was reduced by $3 million because a controller who is eligible for retirement could avail himself of second career opportunities and collect an additional 2 years pay plus additional retirement credit. The subcommittee anticipated legislation to remedy the situation and indicated that the legislation should be enacted.

In the fiscal year 1979 appropriations, the subcommittee noted that the Appropriations Committee investigative staff had reviewed the Federal employees compensation programs (OWCP) of the Department of Labor and the second career training program of the FAA. That review concluded that the second career program should be discontinued—a finding similar to that of the Comptroller General.

The investigative staff found that more than $100 million had been appropriated for the program although the GAO found that only 7 percent of the eligible controllers in the three regions covered by its report had used or would use the program to enter a new career. The remaining 93 percent either declined training, withdrew before completion of training or could not be expected to find employment after training.

The GAO had also noted that if the second career program is discontinued, 98 percent of the controllers could have their needs met by income security and training benefits available from other Federal programs. The GAO concluded that the remaining 2 percent could be employed within Federal Government.

Because of these findings and the supporting testimony of the FAA, the subcommittee recommended for fiscal year 1979 and 1980 that the program be limited to personnel in the program and that new applicants not be admitted unless substantial program modifications were enacted by Congress.

The real issue is whether H.R. 5870 includes modifications that would cure the abuses noted to date and effectuate sufficient cost savings to meet the original intent of Public Law 92–297.

Earlier this year, the FAA testified regarding recommended changes to Public Law 92–297. That testimony follows:

> Requires that as a condition of entry into a second career training program that the employee provide a statement from his attending physician stating that, in the physician's opinion, the employee is medically suited for entry into and completion of the training.
>
> Estimated cost implications: None.
>
> Comment: If there were to be a second career program, we would agree with the idea that a disqualified controller's physician should certify to his/her medical suitability for training. This, coupled with advice from the FAA medical staff, could help insure against many training problems resulting from illness.
>
> Requires that employees meeting the age and service requirements which would entitle them to retirement on immediate annuity be restricted from entering the second career training program.
>
> Estimated cost implications: Savings $2,100,000.
>
> Comment: In January 1977, legislation was proposed to eliminate training for all disqualified controllers eligible for optional Civil Service retirement. FAA would continue to support this position if a second career training program were reinstated.
>
> Treats training costs incurred by participants in the second career training program with the same tax status as those afforded training under the Federal Employees' Compensation Act.
>
> Estimated cost implications: None.
>
> Comment: We believe that the Tax Reform Act of 1978 has liberalized considerably training benefits from taxable income and that second career training costs would not be taxable. However, IRS would have to rule specifically on this issue.
>
> Requires that the office of workers compensation programs recognize second career training under Public Law 92–297 as valid rehabilitation training programs for the purpose of determining compensation levels for those employees entitled to benefits under the Federal Employees' Compensation Act.
>
> Savings—Minimal.
>
> Estimated cost implications: Additional cost—None.
>
> Comment: We propose that FAA training should not be provided to persons who are eligible for compensation (including rehabilitation training) under the Federal employees' compensation program. Since compensation from OWCP is tax free (and continued salary from FAA during training is not), most second career participants have opted for coverage under OWCP as soon as they were determined eligible. Thus, there is no need for FAA to continue the expense of any training program for this group of people.
>
> If FAA were to continue a training program for all disqualified controllers, we agree that it should be recognized by the OWCP as valid training for compensation determination purposes. FAA training and salaries costs still would not vary appreciably from the present situation. The effect would be to reduce our annual chargeback from OWCP cost. However, the amount would depend upon whether the controller complete the training, the marketability of the skills after training, the local labor market, the controller's health status, etc. We doubt that the net savings to FAA would be much greater than currently possible under the OWCP's authority to reevaluate one's loss of wage earning capacity.
>
> Require the agency to use either the services of other State or Federal vocational counseling offices, or the service of private counselors who are professionally trained in the field.
>
> Estimated cost implications: $430,000 additional cost.
>
> Comment: FAA has tested the use of an outside vocational counselor in New York and the use of the Georgia State Vocational Counseling Service. In both cases, our evaluations indicated that there were: (A) no significant differences in the training objective selected: (B) no differences in training completion rates: and (C) no differences in the post training employment rates. Also, the Georgia State Vocational Service felt that controller income levels from either office of personnel management disability retirement or OWCP, removed the incentive for positive rehabilitation to occur.
>
> Alternate proposal: create a national level tripartite board of review to review training programs.
>
> Estimated cost implications: $259,000 additional cost.
>
> Comment: In our opinion, the establishment of a national board would create considerable delays in approval of training programs and would not be responsive to individual needs or local employment market conditions.
>
> Extend the current 5-year eligibility requirement to 5 years at or above grade GS–10.
>
> Estimated cost implications: Savings $1,100,000.
>
> Comment: FAA agrees that eligibility for second career training should be restricted and requiring 5 years at or above GS–10 is a reasonable criteria. In addition, we strongly believe that a disqualified controller should have attained the full performance level at least in one facility. This would assure a degree of personal investment in the air traffic profession before the controller could receive future benefits.
>
> Restrict entitlement to second career training to those air traffic controllers actively engaged in the control and operation of aircraft.
>
> Estimated cost savings: $2,000,000.
>
> Comment: Due to operational requirements, supervisors are required to meet the same medical and operational standards as journeyman controllers. In the event they become disqualified, it would be illogical to deny them retraining benefits.

Quite frankly, H.R. 5870, will effectuate some cost savings. However, the GAO, in proposing discontinuance of the program, concluded that the 2 percent that would need assistance could be employed by the Federal Government, including other FAA assignments, such as FSS specialists.

In the investigative staff's opinion, the cost of second careers were prohibitive for the results being achieved. This view was shared by a number of FAA officials, one of whom suggested that Government's interest would be better served if controllers were just carried in pay status for 2 years after removal (or until picked up by OWCP) and the rehabilitation program under second career were dropped.

Another suggestion was made for integrating the two programs so that a controller eligible for OWCP would not be eligible for second career. Implementation requires legislation and the resolution of many procedural problems, but the staff believed the idea had merit. Second career was conceived at a time when the OWCP alternative was not so readily available, and a program was needed to take care of controllers who had burned out. By the time the legislation was enacted, OWCP was taking a more liberal approach to adjudicating stress related claims and fulfilling this need. Now, the controller often has access to both programs and, in some ways, they are highly duplicative. Both, for example, are premised on the need for rehabilitative service and training, and there are no safeguards to preclude a controller from taking a full 2 years of training (possibly with different career objectives) under both programs, the first 2 years at full salary and the next 2 at 75 percent of pay, tax free.

H.R. 5870, while curbing some of the abuses, does not go far enough in certain instances, namely the continuation of seniority for retirement and coordination with OWCP to prevent duplication. On the other hand, it does continue aspects of a program which has proven extremely costly over the past 7 years.

I, for one, do believe that we have a responsibility to our air controllers because of overriding interest in air safety. We do not want controllers who are "burned out" and do not want to encourage, even indirectly, the continuance in office of a controller who cannot perform. On the other hand, all reviews of this program point to an excessive cost which is not remedied here.

On behalf of Chairman Duncan, I ask that this measure be reconsidered—possibly with a year's guarantee of salary and commitment of the FAA to place all physically able controllers within that agency at a much less sensitive post and comparable pay until such time as the controller is eligible for retirement. Certainly, this alternative will cost far less than the $22 million annual price tag of this bill—and probably do much more for our professional air controllers.

Mr. UDALL. Mr. Speaker, just in brief response, this program has been widely criticized and I think there has been some justification.

The committee had two options; one was simply to kill the program and the other was to work out the bugs and see if we could go around and make it perform satisfactorily at this time.

The Appropriations Committee will have another whack at it when we reach the budget process, the appropriation process next year.

I hope that we would pass the legislation, take a look at it. The Appropriations Committee can do as they did a couple years ago and deny funds, or it can restrict the amount of funds; but I think we owe it to these second career air traffic controllers, who have a very difficult and successful job, to at least leave this program open for further refinement.

Mr. Speaker, I yield back the balance of my time and ask support for the bill.

● Mr. DOWNEY. Mr. Speaker, the debate today on the second career training program for air traffic controllers is of great importance, not only to the controllers but also to the vast majority of Americans who have or will someday use our Nation's airways. I am sure my colleagues are aware of the incredible physical and mental stresses and strains of an air traffic controller's job. Because of the nature of their work, controllers deserve special consideration when they later change to another form of employment which is less mentally demanding. Currently, controllers often find themselves in the position of being highly skilled in an extremely technical area, but with skills and experience which are not easily transferable to other fields. It is for this reason the Government must provide an efficient and practical program of retraining for these men and women who have served the American public in an absolutely essential occupation. Without it, we may never be able to attract the type of high quality individuals to this profession that we so desperately need.

The specific requirements for entry into a second career training program that have been worked out by the Post Office and Civil Service Committee lays the necessary groundwork for addressing this situation. I congratulate the committee on their efforts and offer my full support for the commitee bill. I sincerely hope that the Congress and the administration will not allow too many more months to pass before the Nation's air traffic controllers have the second career training program they fully deserve and need.●

● Mr. DERWINSKI. Mr. Speaker, I support enactment of H.R. 5870, which makes necessary changes in the second career program for air traffic controllers.

Although the FAA was charged with responsibility to administer the second-career program established in 1972, it has failed miserably. Too often second-career benefits have been abused, and the effectiveness of the program to prepate controllers for a new career has been at best questionable.

The failings of the program were emphasized in a 1978 General Accounting Office report, which said:

> FAA had not adequately administered the second-career program to assure its proper use and maximize program success because controllers were not properly counseled and no appreciable effort was made to find employment for controllers within FAA or other Federal agencies.

While there is little disagreement that air traffic control is a highly stressful occupation, there remains a question as to the future of air traffic controllers who burn out at a young chronological age. Although these skilled employees are no longer able to handle air traffic, they still are capable of contributing usefully in other areas of the labor market.

Therefore, I endorse the concept of second-career training and feel that a properly administered program can have positive results. The hearing record is replete with evidence showing air traffic controller skills are not transferable to other occupations.

H.R. 5870 brings together the loose ends of second career training left behind by FAA bureaucrats who did not know how to run the program. The bill provides for regional training boards and requires the boards to work with controllers in developing acceptable training programs. It requires the Secretary of Transportation to designate employees to be career counselors to controllers qualifying for second career training, and requires 8 years of service for eligibility into the program.

Mr. Speaker, H.R. 5870 is sound legislation which will make second career training a workable, well functioning reality. It is a good program which should be continued.●

● Mr. EDWARDS of Alabama. Mr. Speaker, I rise in opposition to the bill H.R. 5870, which would have the effect of amending Public Law 92-397, the law which provides for second-career training for air traffic controllers removed from duty for various medical reasons.

The purpose for which this program was created is well established. In the interest of aviation safety, air traffic controllers who are no longer able to perform their highly specialized duties must be removed. Because few employment opportunities exist outside the Government for controllers' skills, Congress established a second-career training program in 1972 for controllers so removed by the Federal Aviation Administration.

However, the program has been fraught with problems since its inception. The General Accounting Office as well as our own Appropriations Committee investigative staff have both conducted investigations and as a result criticized this program claiming that as currently organized and managed the program needs to be discontinued. Some of the problems that were outlined and documented were the extremely high average cost of training, poor administration, including ineffective career counseling by the Federal Aviation Administration and abuses of participating employees. The program has been widely criticized because some controllers participate in the second career training program only to maintain their salaries during the lengthy application process for disability compensation and then withdraw their application upon approval. These abuses are well documented.

As a result of the substantial abuses which the program has experienced since its inception, coupled with the extremely high costs associated with the program, as well as the very poor completion rate and employment in the field for which training is received, I feel compelled to cast my vote in opposition to this bill. It was for this reason that many of my colleagues on the Appropriation's Committee felt it necessary to call for substantial modification for this program in the fiscal year 1979 Department of Transportation and related agencies appropriation bill.

The bill we have before us today does not adequately address the problems which this program is faced with. Unless and until we can bring a bill before the House which deals squarely with the failure of this program to achieve its desired goal, I feel its a true waste of the taxpayer's dollar to continue it at this time.

I urge my colleagues to oppose this bill and at this point I would like to insert in the Record a letter the committee received just this morning from FAA's Administrator urging the defeat of this bill.

The material follows:

Department of Transportation,
Federal Aviation Administration,
Washington, D.C., December 7, 1979.

Hon. Robert B. Duncan,
Chairman, Subcommittee on Transportation, Committee on Appropriations, House of Representatives, Washington, D.C.

Dear Mr. Chairman: I am writing to express my concern about the possible enactment of H.R. 5870 which has been favorably reported by the House Committee on Post Office and Civil Service. We have reviewed H.R. 5870 and have concluded that its enactment should be strongly opposed. Though appearing to make changes to the second career training program to reduce costs and to improve its effectiveness, we do not believe that will, in fact, occur. While it is true that program costs could be reduced modestly by tightened eligibility, we nevertheless estimate that the second career program would cost the taxpayer on the order of $26,000,000 annually if H.R. 5870 is enacted and funding for second career training restored.

This proposed legislation is an apparent response to the prohibition against further funding of the second career training program which was initiated by your Subcommittee after reports by the Appropriations General Accounting Office disclosed numerous shortcomings in the program. Those shortcomings were subsequently verified by the Federal Aviation Administration in our reexamination of the second career training program. Among the salient findings, you may recall, was the determination that the cost of the second career training program per successful trainee was nearly $370,000.

Let me discuss for a moment the changes to the program contemplated by H.R. 5870. For one thing, it would exclude from eligibility those controllers who, when disqualified from controller duties, are eligible for voluntary retirement. The bill also requires career counseling for disqualified controllers and placement assistance after completion of training; requires medical certification that a controller does not have a condition which would preclude him from being able to complete training; institutes regional review boards to review proposed training programs; limits eligibility to controllers who have served eight years as a controller contrasted with the five years required in the existing statute; and would no longer permit first level supervisors to undertake second career training.

A number of these changes admittedly have surface appeal; some would apparently reduce program costs by restricting program eligibility—others would raise costs of program administration but seem geared towards improving upon the extremely poor success rate that was experienced with second career training. On further analysis, however, it is clear that many of the root causes of problems which contributed to the failure of the previous second career training program have not been addressed. For that matter, it is not clear to us that the concept of a limited training program such as second career can be made to work.

I'd like to briefly touch upon some of the deficiencies we see with the proposed legislation. One significant problem that has not been adequately addressed by the bill concerns the relationship of second career training and Office of Workers' Compensation Program (OWCP) benefits. As you are aware, OWCP benefits for job related disability are quite high (they can be as much as 75 percent of former salary, tax-free). But it frequently takes a susbtantial period of time before a claim submitted to OWCP is finally approved. Therefore, it was our experience in the past that second career training served merely as a convenient "way station" for many controllers to continue to receive full salary while awaiting approval of their OWCP claims. The proposed legislation does not address this fundamental problem; consequently, it is likely that a number of controllers would enter second career training with no real intent of seeking training for a new career, and would withdraw from training once OWCP benefits were available.

Another deficiency is that the medical certification of disqualified controllers, called for by the bill, relates only to their ability to complete training. Consequently, while a controller might be medically capable of completing training, his medical condition could pose a hurdle for actual work in the occupation for which trained.

Earlier I alluded to the fact that there may be fundamental problems with the concept of second career training itself that cannot really be fully addressed. I believe that a significant problem with the concept of second career training arises from the fact that, for the limited number of controllers who actually complete training, the types of jobs available are, in many cases, insufficient inducement to actively seek employment.

In the Federal sector, for example, two years of academic training are generally qualifying at the GS-4 level. Even if a former controller received qualifications credit for past experience, it would be the exception rather than the norm when such an individual would qualify for Federal employment above the GS-7 level. Considering the low salary ranges at the GS-4 to 7 levels, contrasted with the typically high salary earned by controllers, it is highly unlikely that a controller would waive entitlement to Civil Service disability retirement by accepting a relatively low paying Federal job. In the private sector, too, the limited amount of training provided by a second career training program would generally only entitle an individual to a relatively low paying job. Thus, as in the Federal sector, there is frequently not much of an incentive to seek employment, which fact seems to be borne out by the poor success rate of the earlier program.

In sum, Mr. Chairman, we believe that the proposed legislation will not result in a program which warrants funding by the taxpayer. In fact, we estimate that even if the success rate of a second career training program increased several fold—to a 25 percent success rate—an increase we believe is highly unlikely, the cost per successful program participant would still approximate nearly $325,000. I'm sure you and the Members of your Subcommittee will agree with me that an expenditure of that magnitude should not be allowed.

Though it has been alleged that the FAA's poor administration of the second career training program was responsible for its failure—thus suggesting that modifications to the administration of the program would make it work—I would call your attention to the GAO report, "Second-Career Training For Air Traffic Controllers Should Be Discontinued", which states: "The Federal Aviation Administration could improve program administration, but these improvements are unlikely to noticeably increase the program's success. Controllers' health and age and preferences for the long-term income security and training benefits from other Federal programs provide formidable obstacles to increasing the program's effectiveness."

The Office of Management and Budget advises that the enactment of H.R. 5870 would not be in accord with the President's program.

Thank you for your attention to this matter. I will be pleased to meet with you on this subject, should you desire.

Sincerely,

LANGHORNE M. BOND.●

Mr. HARRIS. Mr. Speaker, I rise to support H.R. 5870, a bill to insure the aviation safety of our Nation. This legislation provides a sound, responsible program to make certain the Government maintains the kind of air traffic controller work force which will provide the optimum standard of safety for our air-traveling public.

Equally important is the fact that this legislation says to air traffic controllers that we—the Federal Government—will not "use them up" and then toss them out with no assistance so that they can continue meaningful, productive lives.

In 1972, Congress recognized the magnitude of the problem of stress on air traffic controllers and enacted Public Law 92-297. This program has been subject to poor administration. The 7 years of experience under the law has pointed to the need for improvement in the program to eliminate certain weakness in the original legislation. H.R. 5870 provides these improvements and its enactment will insure the aviation safety of our Nation and a responsible program for second-career training for our dedicated air traffic controllers. I urge my colleagues to support this important legislation.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 5870, as amended.

The question was taken.

Mr. BENJAMIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of order is considered withdrawn.

EXTENSION OF FEDERAL PHYSICIANS COMPARABILITY ALLOWANCE ACT

Mrs. SPELLMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5015) to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Physicians Comparability Allowance Amendments of 1979".

SEC. 2. Section 5948 of title 5, United States Code, is amended—

(1) in subsection (d) by—

(A) striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1981"; and

(B) striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1983";

(2) in subsection (g)(1) by—

(A) inserting immediately after "physician" the words "or dentist";

(B) redesignating subparagraphs (B) through (G) as subparagraphs (D) through (I), respectively;

(C) inserting after subparagraph (A) the following:

"(B) subchapter VIII of chapter 53 of this title, relating to the Senior Executive Service;

"(C) chapter 54 of this title, relating to the Merit Pay System;";

(D) amending subparagraph (D) (as redesignated by this section) by striking out "5361" and inserting in lieu thereof "5371"; and

(E) amending subparagraph (H) (as redesignated by this section) to read as follows:

"(H) section 1202 of the Panama Canal Act of 1979, relating to the Panama Canal Commission; or";

(3) in subsection (g)(2) by striking out the comma after the word "title" and inserting in lieu thereof ", the Library of Congress,".

SEC. 3. Section 5383(b) of title 5, United States Code, is amended by striking out "and 5384" and inserting in lieu thereof "5384, and 5948".

SEC. 4. Section 3 of the Federal Physicians Comparability Allowance Act of 1978 (Public Law 95-603; 92 Stat. 3018) is amended by striking out "September 30, 1981" and inserting in lieu thereof "September 30, 1983".

SEC. 5. Any service agreement entered into on or after the date of enactment of this Act pursuant to section 5948 of title 5, United States Code, as amended by section 2 of this Act, shall be effective only to such extent or in such amounts as are provided in advance in appropriation Acts.

SEC. 6. The amendments made by this Act shall not be construed to authorize additional or supplemental appropriations for the fiscal year ending September 30, 1980.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Maryland (Mrs. SPELLMAN) will be recognized for 20 minutes, and the gentleman from New Jersey (Mr. COURTER) will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, if I were to ask, "Do we need a quality Federal work force?" I am sure every one of my colleagues, Republican and Democratic, would agree we do. I would hope, therefore, that all my colleagues will join me in supporting H.R. 5015, which is essential if the Government is going to continue to recruit and retain high quality medical people.

The bill extends for 2 years the special allowance program established by the Federal Physicians Comparability Allowance Act of 1978. For the benefit of those not familiar with this act, let me explain that it allowed Federal Government agencies experiencing physician recruitment and retention problems to grant allowances to physicians who agreed to stay on in their agency for an additional period. The allowances could not exceed $7,000 per year for those with less than 2 years of Government service or $10,000 per year for those with more than 2 years of service.

Mr. Speaker, authority to enter into these agreements expired September 30. In addition, under terms of the 1978 law, no agreement with a physician signed before that date can be extended beyond September 30, 1981. The administration feels, and the Post Office and Civil Service Committee agrees, it is in the public interest to extend this program for an additional 24 months. Without such an extension, affected Government agencies are at a serious disadvantage in competing for quality physicians in the labor market.

H.R. 5015 would allow agencies to grant special physicians allowances through September 30, 1981. Agreements signed through that date could not be extended beyond September 30, 1983.

I want to stress that authority to award these allowances would be limited to those Federal agencies in which significant physician recruitment and retention difficulties are being experienced. The bill also extends coverage to include dentists as well as physicians, but it is anticipated that there will be limited use of this provision at this time because few agencies are currently experiencing recruitment or retention problems with dentists. The cost, therefore, would be minimal.

H.R. 5015 also extends the comparability allowance program to physicians employed by the Library of Congress and makes certain other technical changes in the 1978 law made necessary by enactment of last year's Civil Service Reform Act.

I want to stress also, Mr. Speaker, that this bill would not be open ended. The authority to grant these allowances would expire in just 2 years. I want to stress also the fact that there is an urgent need for approval since some agencies are experiencing real problems with recruiting and retaining physicians.

□ 1300

Mr. COURTER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5015, a bill to extend the Federal Physicians Comparability Allowance Act of 1978—Public Law 95-603—for 2 years.

Under the law, the head of any agency has discretionary authority to determine categories of physicians where there is a recruitment and retention problem. If such a problem exists, he or she may pay these employees special allowances. A maximum bonus of $7,000 per year is allowed if they served less than 2 years, and $10,000 per year is allowed for those serving more than 2 years.

This bill affects approximately 2,000 physicians and dentists employed by the United States in the general schedule. Other such professionals in the Government are covered under pay schedules of the uniformed services DOD and the Veterans' Administration.

Extension of this program which is similar to the special pay program established for physicians in the Veterans' Administration, is imperative.

If the Federal Government, the Nation's largest employer, is to be able to compete in the labor market for highly skilled physicians it must have the necessary tools. Quite frankly, one of these tools is pay. It means having the ability to pay a physician with a needed specialty, a bonus. While this bonus, in addition to regular pay, cannot compare with what a physician can earn in private practice, it is, nevertheless, pivotal in many cases in whether a physician elects to enter or stay in Federal service. This is especially true with physicians with young families.

Mr. Speaker, this is no expensive bill. In fact, it is a very small price to pay for a program which provides needed economic incentives to highly skilled physicians and dentists to serve our country.

H.R. 5015 was reported by our committee on a voice vote, and is supported by the minority.

Mr. Speaker, I urge prompt enactment of this bill, and I yield back the balance of my time.

Mrs. SPELLMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Maryland (Mrs. SPELLMAN) that the House suspend the rules and pass the bill, H.R. 5015, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended, and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. SPELLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

DISPUTE RESOLUTION ACT

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 423) to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 423, with Mrs. SPELLMAN in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the Senate bill is dispensed with.

Under the rule, the gentleman from Wisconsin (Mr. KASTENMEIER) will be recognized for 15 minutes, the gentleman from Illinois (Mr. RAILSBACK) will be recognized for 15 minutes, the gentleman from North Carolina (Mr. PREYER) will be recognized for 15 minutes, and the gentleman from New Jersey (Mr. RINALDO) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. KASTENMEIER).

Mr. KASTENMEIER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of S. 423, the Dispute Resolution Act. This legislation which has been jointly processed by the Committee on the Judiciary and the Committee on Interstate and Foreign Commerce, is an important bill to our respective committees, and will be a significant step to improve access to justice for all Americans.

The gentleman from North Carolina (Mr. PREYER) and I will jointly manage the bill. Therefore I will defer to him to explain the structure of S. 423, as amended. I would like to focus on the need for the legislation and its widespread support.

At the outset I would like to explain the legislative history of S. 423. Legislation to improve the resolution of minor disputes was unanimously passed by the Senate during the 95th Congress (S. 957) and this Congress (S. 423). The House would have passed the legislation during the 95th Congress, except that lack of time necessitated the placement of the bill on the Suspension Calendar during the last week of the Congress. It narrowly missed attaining the required two-thirds vote (224–166). There was not even time to process the bill—which was jointly referred to the Committee on the Judiciary and the Committee on Interstate and Foreign Commerce—through the full Judiciary Committee.

This Congress each of our committees made this bill a high priority. As soon as the Senate bill was received we scheduled 4 days of joint hearings on S. 423 and related bills. These hearings, which were held in June, supplemented the 2 days of hearings which each of our subcommittees held separately during the 95th Congress. So in total 8 days of hearings have been held in the House. Each of our committees working cooperatively have developed an amendment in the nature of a substitute to S. 423. Both amendments are substantially identical. The rule will make the Judiciary Committee amendment in order as though the original bill. I will support an amendment to be offered by Mr. BROYHILL to emphasize that one of the priorities of the bill would be consumer dispute mechanisms.

The two purposes of S. 423 are: First, to establish a Dispute Resolution Resource Center; and second, to provide seed money to States, localities, and nonprofit organizations to stimulate and improve the development of dispute resolution mechanisms.

Why is there a need for a dispute resolution program, and what is the role, if any, which the Federal Government can play?

As chairman of the Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, I am well aware of the difficulties encountered by persons seeking access to justice, and have held several hearings on the general subject, as well as on specific proposals to improve justice.

There is a growing recognition that not every conflict requires for its resolution the formality of the traditional judicial system. In many cases there should be alternatives to lengthy and costly litigation—alternatives which can insure the parties a fair, speedy, and inexpensive resolution of disputes. The traditional courts with their formal procedures, high costs, and overloaded dockets are not necessarily the best forum for resolving disputes. Courts are often inaccessible, particularly when a party has neither the time nor the finances to use them, but also when the amount in controversy is seemingly small and the cost of its resolution exceeds that amount. In addition many disputes cannot be adequately resolved in a courtroom setting. Often both sides of a controversy emerge as "losers," and it may be that if anyone is a "winner," it is a well-paid attorney. Unresolved disputes create tensions and frustrations which may even lead to criminal actions. Access to justice must be improved so that those with legitimate claims—small or large—may be heard and receive appropriate action.

One way of increasing access to justice is by improving alternatives to formal courts—that is, informal courts—such as small claims and landlord/tenant courts—as well as by developing alternate procedures—for example, mediation, arbitration, conciliation, and negotiation. Such procedures have been used in many European countries, but persons in the United States have only recently begun experimenting with these alternative dispute mechanisms. Preliminary studies are encouraging, but much more needs to be done. Knowledge we gain from these new dispute mechanisms should be shared with interested persons, as well as State and local governments. New dispute resolution mechanisms need to be developed.

S. 423 sets up a Dispute Resolution Resource Center to function as a clearinghouse, to provide technical assistance and to administer grants. Although the Center will be placed in the Department of Justice, it can contract out many of the Center's functions to appropriate persons with expertise. Initial placement of the program in the Department was acceptable to all the witnesses who testified before us, as an alternative to creating a bureaucracy to administer it. Up to ten Federal employees may be detailed to work at the Center. The Attorney General will be advised by an advisory board composed of nine persons from State and local governments, State courts, business and consumer organizations, the academic or research community, neighborhood and community organizations, and the legal profession.

The role which the Federal Government will play in the resolution of minor disputes is a limited one in terms of time and money. That is the way that it should be. The legislation will be sunsetted after 4 years of grants to States, localities, and nonprofit organizations. These grants will be seed money to stimulate and improve resolution mechanisms. They will diminish over the 4-year period, and special consideration will be given to those programs which are most likely to continue when the Federal Government ends its financial assistance. The legislation envisions an initial partnership between the States and the Federal Government, but does not interfere with the distinctive role that States and their justice systems are assigned in our political system. The program is entirely voluntary: programs can decide whether to seek Federal funding; parties can decide whether to use new forums for dispute resolution.

Support for this legislation has been overwhelming. The wide variety of supporters is worth noting—businesses, consumer groups, public agencies, private organizations and bar associations. It is encouraging to have the Chamber of Commerce and Consumers Union supporting the same bill. I have attached a selected list of supporters for your review.

The cost of the dispute resolution program is modest, and is $20 million less than last year's proposal. The first year up to $3 million can be spent for the Dispute Resolution Resource Center. The Department of Justice has the money and will reprogram it. During the next 4 years, up to $3 million may be spent each year for the Center: this includes money for an information system, technical assistance, and evaluations. Up to $15 million per year may be spent for grants to improve existing dispute resolution mechanisms (including small claims courts and nonjudicial forums) and to develop new ones.

In sum, I would like to emphasize that S. 423 provides a needed program which places the Federal Government in a limited role—a role which is sunsetted after 5 years. The basic thrust of the program is to provide assistance at local and State levels, with the expectation that effective projects will be continued by State and local governments or organizations. Grants are structured to encourage that result.

I urge you to support this modest and exciting program.

Madam Chairman, I include here a list of supporters of this legislation, as follows:

SELECTED LIST OF SUPPORTERS

American Arbitration Association.
American Bar Association.
American Express Company.
American Friends Service Committee.
AUTOCAP.
Center for Community Justice.
Chamber of Commerce of the United States of America.
Citizen Dispute Settlement Program, State of Florida.
Cleveland (Ohio) Center for Dispute Settlement.
Columbus (Ohio) Night Prosecutor's Program.
Community Board Program, San Francisco, California.
Conference of Mayors.
Conference of (State) Chief Justices.
Congress Watch (Public Citizen).
Consumer Electronics Group of the Electronic Industries Association.
Consumers Federation of America.
Consumers Union.
Department of Consumer Affairs, New York City.
Department of Consumer Affairs, State of California.
Dispute Services Project for Services and Research in Dispute Resolution (Oklahoma State University).
Equal Justice Foundation.
Ford Motor Company.
International City Management Association.
League of Cities.
Motor Vehicle Manufacturers Association of the United States.
National Association of Automobile Dealers.
National Association of Counties.
National Center for State Courts.
National Consumers League.
National Home Improvement Council.
National Institute for Consumer Justice.
National Manufacturers Housing Federation, Inc.
National Retail Merchants Association.
National Senior Citizens Law Center.
Neighborhood Justice Center of Atlanta, Inc.
Office of the Public Advocate, State of New Jersey.
Ohio Mobile Home and Recreational Vehicle Association.
Pound Conference Follow-up Task Force.
Santa Clara County Bar Association.
Sears, Roebuck and Co.
Small Claims Study Group.
United States Office of Consumer Affairs.

☐ 1310

Mr. RAILSBACK. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I want to commend the work of the two standing committees that have been involved in drafting this legislation. In addition, I want to express my belief that the Justice Department, particularly under the leadership of Griffin Bell, who, as we all know, has retired, as well as Prof. Dan Meador, who was in charge of the Office for Improvements in the Administration of Justice, did a very fine job in carrying out some recommendations in this area that had been made to them and which they worked on for a long time.

Madam Chairman, I believe that Americans may be reaching a high water mark concerning litigation. People are beginning to realize that hiring a lawyer and going to court is a long expensive process that may be unnecessarily complicated. For many Americans it is no longer economically feasible to hire lawyers and use the traditional litigation process for certain claims. But, it is clear that you do not enter our system of justice successfully without a lawyer.

There are many types of matters that do not need the procedural formalities that accompany a court trial for their resolution. At one time, numerous less formal public and private institutions were used to settle the relatively minor disputes of everyday life. These institutions included justices of the peace, neighborhood policemen, churches, schools, and the family. In contemporary American life, however, the role of these institutions has diminished. As a result, today many minor disputes either go unresolved or else find their way into court. Those that are unresolved often fester into larger controversies that cause anguish to individuals and sometimes lead to violence and criminal activity that can cost society dearly.

The Dispute Resolution Act, which would build upon the Justice Department's Neighborhood Justice Center program, would encourage and provide funding to States and localities for the creation of dispute mechanisms to hear all types of minor disputes.

There is every indication that this act will prove cost effective. Alternative mechanisms that utilize mediation and conciliation are capable of resolving minor disputes at a lower cost than traditional courts. In addition, there is ample evidence that the most successful resolution of disputes have proved to be those in which the parties themselves suggest a solution and agree about what should be done. Mediation and conciliation bring the parties together in a cooperative effort to solve their own problems, instead of placing them in the traditional adversary posture which occurs in adjudication.

I recently had an opportunity to visit the community board program in San Francisco, and was extremely impressed to learn not only that the people who sit in panels of five resolving neighborhood disputes do so for a salary of $10 a month, but that there is a waiting list of people who want to be mediators. There is no enforcement mechanisms, although the agreements are generally written down and about 95 percent of the parties stick to the agreements. By the same token, as a matter of interest, in England there are nearly 20,000 volunteer lay-magistrates which dispose of 97 percent of the English criminal caseload.

It is important to note the widespread support this legislation has attracted. The Chamber of Commerce, the ABA, the Consumers Union, and the Conference of State Chief Justices, as well as approximately 40 other organizations have endorsed the legislation. There is, in fact, no organization that opposes this bill.

In my opinion, what makes this program really different from any of the other Federal programs is that it is a relatively modest experimental effort, rather than any kind of $1 billion massive program without any experimentation. I cannot think of a more constructive or innovative step to take right now than to see if we cannot facilitate experimentation by the States and localities, find out what works, and then try to expand on it in an effort to improve access to justice for all citizens.

Mr. McCLORY. Madam Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Madam Chairman, I want to commend the gentleman from Illinois (Mr. RAILSBACK), the chairman of the Subcommittee on Courts and the chairman and the ranking minority member of the Interstate and Foreign Commerce Committee which has helped produce this piece of legislation.

□ 1320

It seems to me that the Dispute Resolution Act is a very important bill for us to take action on. Now, I am reluctant to support new initiatives, especially ones that will involve new Federal spending. I know we are all very wary of such a process.

On the other hand, it seems to me that when we have an initiative which would provide guidance and direction in an important area and which would enable the American public to save money and bypass much of the circuitous route that is involved in the traditional court system, I think that we have an initiative which we should latch onto and give generous support to.

I am very impressed by the fact that this piece of legislation has the widespread support of the business community, as represented by the U.S. Chamber of Commerce, the Chief Justice, the American Bar Association, and consumer groups as well. The legislation has also received good general public support. I think the Committee on the Judiciary and the Interstate and Foreign Commerce Committee which have worked on this legislation acted very wisely in recognizing that our judicial system and our system of counsel for litigants have their limitations. I am certain that this legislation is before us because there is a national problem with respect to the handling of minor disputes. The need to address the problems of high court costs, long delays, and complex procedures confronting citizens with minor disputes are well documented.

I believe that one of the key features of this legislation that has allowed it to attract such broad-based support is that it has a sunset provision that will terminate the program in 1984. Moreover, the grant program is designed to limit the Federal role to that of assisting States and localities in the initiation of projects without assuming long-term financial responsibility. Federal funding would begin to taper off after the second year and then terminate altogether after the fourth year.

In my opinion, the Dispute Resolution Act represents a worthwhile attempt by the Federal Government to improve the handling of minor disputes. The carefully structured Federal involvement, which is limited in terms of dollars and in terms of time, will better enable the States and localities to handle the responsibility of providing responsive mechanisms for the resolution of minor disputes for all individuals.

I am confident that this legislation is going to be passed overwhelmingly by the Members of the House, and already having passed the Senate, I am sure it is going to become law.

Mr. KASTENMEIER. Madam Chairman, I yield such time as he may consume to the gentleman from California (Mr. DANIELSON), who has made such a great contribution to this legislation.

Mr. DANIELSON. I thank my chairman for yielding. I shall not take a great deal of time.

I wish, first of all, simply to state that I fully endorse and ratify and confirm and adopt the arguments heretofore made by my chairman and the gentlemen from the other side of the aisle. No one could state their argument any better. I shall not attempt to improve upon them.

I would like to point out my own point of view on a couple of points in everyday terms. When we consider the number of disputes that we have in America and the facilities that are available to resolve them, we confirm the statement made by President Carter a couple of years ago when he said, "We appear to be the most overlawyered and under represented country in the world."

While that has a certain dramatic ring to it, it contains a great deal of truth that we have to recognize.

The average dispute that the average person gets into today does not justify, in the number of dollars involved, the employment of professional counsel on both sides and the resort to our very formal though very excellent courts, which are so structured that it takes hundreds of dollars, sometimes thousands of dollars, per day of court time just to have them function.

The average neighborhood or consumer dispute does not require that complex a mechanism for its disposition, yet these disputes require solution.

The Members know that if we do not make justice available to people, we are denying it to them. Justice for a small dispute, a small claim, is just as important as in a large claim, particularly to the person involved, because the most important lawsuit on Earth to a party to a lawsuit is the one that they themselves are in, not the one that someone else may be in.

So, just as we do not send out a hook and ladder truck to put out a small brush fire, as we do not call out the Army to maintain the peace at a parade, as we do not require the intensive care unit in a hospital to take care of a sprained ankle, we should not need to call upon our courts to resolve the everyday disputes which take place between our citizens.

It will be far more wholesome and far more economical if there is a facility available, immediately close to these people, in their neighborhood, where they can be heard without the need for professional counsel and where they can have a fair resolution to their disputes. That is what this bill provides for.

This will not be a budget buster. This will save money in the long run because it will do away with the need for courts in many instances where today we would be required to resort to them. We can do so without denying people access to justice. I urge that everybody support this bill. It is a very forward step in the administration of justice.

I yield back the balance of my time.

Mr. RAILSBACK. Madam Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Madam Chairman, for openers, this legislation would create a brand new Federal program with an authorization of $75 million. It does not sound like a very big figure for those of us around here perhaps, but it does to taxpayers; and remember how the food stamp program started years ago.

I think we ought to look first of all at the debate on this bill as hardly possible today. I have presumably 3 minutes. The principal debate on this bill will take place tomorrow under the 5-minute rule when consideration is continued, at least as the agenda is set up to this point in time.

I would like to raise a word of warning to those 166 who voted in the 95th Congress against this measure, that it is about to be perpetrated upon us again.

Tomorrow when consideration is continued, I think we are going to have to take a much closer look at some of the findings in the bill; for example, I note in finding No. 4 that there is a lack of necessary resources or expertise in many portions of the Nation to deal with these problems. Where is it going to come from? From $75 million? Why cannot the States better accomplish that? I note also in finding No.'s 6 and 7 they refer to neighborhood mechanisms. Who is going to control a neighborhood mechanism? What we are talking about is the potential of developing a kangaroo court in every neighborhood or revolutionary council or whatever you want to call it. It will not be subject to the control of local or State government.

Let us make sure that we understand that it would be subject to the control of the bureaucrats in Washington and that this program would conceivably grow to the point where it adds to the regulatory pollution that the American public is calling upon us to clean up even today.

Yes, this can touch the lives of a great many people. The mechanism is here in this bill, if extended beyond its original 4 years and the original $75 million, to really affect a lot of lives in a very deep way.

Rapid growth is readily predictable for any Federal program, but this one has grown even before leaving the launching pad.

The bill rejected by the House last year and the bill that passed the Senate this year create a program, if the title is any indication, for the resolution of consumer controversies. However, the title of the amendment in the Senate of a substitute to the Senate bill adopted by the House Committee on the Judiciary, broadens this extensively to provide for the resolution of minor disputes.

There is nothing in this legislation that gives any indication as to what a minor dispute may be. In my judgment, if we are going to undertake to enact legislation which so clearly impacts on matters traditionally left to the States, we should provide some more specific guidance as to the problems we are trying to solve. Bear in mind that the assumption of a Federal responsibility is inevitably followed by abdication of State responsibility.

As soon as Federal money becomes available, State funded programs—even previously funded—have a way of drying up. In our zeal to do something about a problem that many States are already addressing, we may wind up with a negative rather than a positive impact from the Federal program. Before we spend $75 million for this program, we should take a look at what the State and local governments are doing in this area.

Dr. Daniel McGillis, research fellow at the Center for Criminal Justice, Harvard Law School, advised that there are presently approximately 100 programs in 28 States attempting to solve disputes. In addition, there are various Federal efforts in the area of minor disputes, such as the Department of Justice's three neighborhood justice centers.

Now proponents of this legislation have stated that the purpose of it is to facilitate experimentation with the handling of minor disputes by the States and local communities. I think it is necessary to stop and ask ourselves, "How much experimentation does the Federal Government need to facilitate on the State and local levels?" The record would seem to indicate that the States and local governments are already responding adequately to the problem without further involvement from the Federal Government. However, there are those that will argue that many States and local communities are not as well off as some of their counterparts, and will require Federal assistance to implement such dispute resolution programs.

Consider how much better off the Federal Government is with a $30 billion deficit than are State and local communities.

Resolving disputes sounds like a good idea, and it may very well be that the traditional procedures could produce workable legislation, but this product falls far short of what it should be. We do not need another $75 million program which the Federal Government can ill afford, and which may well create a separation of powers problem, in an effort to handle matters that the States and local communities are adequately addressing.

I believe that dispute resolution programs are and should be local responses to a problem that is local in origin; furthermore, they can be and should be financed from non-Federal sources.

□ 1330

Mr. KASTENMEIER. Madam Chairman, I yield such time as he may consume to the gentleman from California (Mr. FAZIO).

Mr. FAZIO. Madam Chairman, I had the opportunity as a member of the California State Legislature of authoring legislation to create centers for dispute resolution. We were building on the model of the demonstration projects funded through the Federal Government in Los Angeles and San Francisco.

We based our bill on the success those two agencies had in penetrating local communities, involving those people who live there in the resolution of their own problems, problems that, frankly, would not have been resolved by the legal system, for they are of the magnitude that fall through the cracks.

The gentleman from Ohio was just advocating the need to more precisely define the types of disputes that we should be addressing in this bill. I think that the bill ought to be vague on that point. I think we should give the local entities the opportunity to choose the kinds of disputes they think are best diverted from the judicial system.

We have seen consumer complaints addressed. We have seen school violence adjudicated. We have seen these agencies address kinds of cases the district attorney or city attorney do not have the manpower to take to the courts. We have seen a level of community involvement which is minimal or totally lacking in most of the judicial systems that exist in most of the States. I think we have found here an area where we ought to allow additional experimentation to take place.

We have seen, I think, in this country, as the cost of litigation continues to go up, a tendency for only the wealthy to have the opportunity to take care of their civil matters through the court system. I think that system is inadequate to the needs of many of the people in this country, and I am pleased to see that a committee made up of lawyers dealing with the court system on a full-time basis has been quick to see the need to have this kind of a system put in place at a neighborhood level. We must allow average or below average income individuals to have an alternative to very expensive litigation which, in total, might cost more than the matter to be resolved is worth. We know how important these matters of justice are important to people. We know they sometimes lead to violence, and we know they always lead to a very unhealthy cynicism which is all too pervasive in this country.

Mr. RAILSBACK. Madam Chairman, I yield 2 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Madam Chairman, I rise in opposition to S. 423, the Dispute Resolution Act. The Dispute

Resolution Act represents an unwarranted intrusion by the Federal Government into what has generally been a State and local prerogative—the settling of minor disputes and small claims.

The hearing record is full of testimony from witnesses who were involved in innovative programs at the State and local level to handle the violations of minor disputes. These approaches evolved without the involvement of the Federal Government.

I am afraid that once the Federal Government becomes involved in the resolution of minor disputes, that these innovative approaches will end. As we have seen in so many other cases, once Federal money becomes available to a State for a program, similar programs, previously funded or encouraged by the State have a way of discontinuing.

If there are problems with the handling of minor disputes by State and local authorities, then the solution should be for these authorities to develop more innovative procedures within small claims courts or similar adjudicatory bodies. These procedures could include the use of court personnel, such as clerks, to enter default judgments, appointing arbitrators whose decisions would be subject to confirmation by the court, and so forth. This approach is far superior to the establishment of a new agency within the Department of Justice.

I would also like to express my concern, from practical experience in dealing with court reorganization as a member of the Wisconsin Legislature, that any real and meaningful solution should come from the judicial branch rather than the legislative and executive branches of Government.

In summary, the resolution of minor disputes should not be left up to the Federal Government. These problems should be handled and solved on the local level. Such disputes do not warrant Federal attention.

Mr. RAILSBACK. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from North Carolina (Mr. PREYER).

Mr. PREYER. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I rise in support of S. 423, the Dispute Resolution Act. As acting chairman of the Subcommittee on Consumer Protection and Finance, I and members of our subcommittee joined with Congressman KASTENMEIER and his Subcommittee on Courts, Civil Liberties and the Administration of Justice in extensive hearings on this bill early this year. As a result of these hearings, virtually identical versions of S. 423 were reported out of the full Committee on Interstate and Foreign Commerce and the Committee on the Judiciary with strong bipartisan support. I would like to particularly commend Congressman JIM BROYHILL for his leadership and support in the Commerce Committee.

The resultant bill, in the nature of a substitute to S. 423, is a compromise between the two House versions of the dispute resolution bill, H.R. 3719 and H.R. 2863. The bill as it now stands authorizes the Attorney General to make seed grants to States, localities, and nonprofit organizations to experiment with developing inexpensive, fair, and easy-to-use mechanisms for resolving minor disputes. The money could be used to improve existing forums, such as small claims courts, or it could be used to establish new mechanisms, such as forums for conciliation, mediation, and arbitration. To be eligible for a grant, an applicant must show that its mechanism will comply with criteria in the bill designed to insure that the mechanism will be easy to use and readily accessible to the ordinary citizen.

The bill also sets up a resource center within the Department of Justice to serve as a national clearinghouse on information and experiences relating to formal and informal dispute resolution mechanisms. The resource center is also authorized to conduct research on dispute resolution and provide technical assistance to the States.

The bill authorizes $3 million in fiscal year 1980, 1981, 1982, 1983, and 1984 for the resource center with $15 million a year for fiscal years 1981, 1982, 1983, and 1984 for the seed grants. Federal funding for the seed grants would be decreased over 4 years and local funding would have to take its place. In fiscal year 1980, the administration intends to fund the resource center through $3 million of existing LEAA funds.

The need for this bill is predicated upon the premise that the high cost of litigation in both time and money effectively precludes the present judicial system from providing a practical means for resolving minor disputes. In 1973, the National Institute for Consumers Justice recommended that Federal funds be made available to stimulate State and local governments to establish and improve their small claims courts so that consumers would have access to fair, effective, and inexpensive justice.

Since that time, a number of studies have highlighted the need for new and improved mechanisms for resolving all kinds of minor disputes. For example, in August 1976, the American Bar Association published the report of the Pound Conference Followup Task Force which indicated the need for improved methods for dealing with all kinds of minor civil disputes. A recent report by the Ford Foundation entitled "New Approaches to Conflict Resolution" states, "observers and practitioners agree that the present system of handling individual disputes is too costly, cumbersome, and time consuming." Chief Justice Warren Burger echoed this viewpoint in an address in May 1977 when he noted that—

> There are many conflicts that fall into today's classification of minor disputes, which no one is solving and which ought to be resolved if we are to avoid the frustrations, tensions, and hostilities that often flow from unresolved conflicts.

Essentially, this bill would provide seed grants and technical assistance to States to experiment with procedures to meet these problems over the next 5 years at which time Federal involvement will end.

I believe the bill in this fashion demonstrates a constructive form of federalism, that is, it sets up a completely voluntary program with sufficient flexibility to allow State and local governments and nonprofit organizations to experiment with procedures for solving their own problems. The cost of the seed programs are modest, approximately $300,000 per State assuming every State participates. After the first 2 years, the Federal share will be reduced and after 4 years, the Federal money must be replaced entirely with State and local funding. After that length of time, State and local officials should be able to make a considered judgment as to the cost effectiveness of these programs and the Federal Government will have accumulated and analyzed a wealth of information for future dissemination to interested parties.

The concept of this bill enjoys wide support from such diverse organizations as the Conference of State Chief Justices, the American Bar Association, Chamber of Commerce, Consumers Union and Congress Watch (Public Citizen) and some 35 other national and local organizations. There has been no organized opposition.

Mr. MOORHEAD of California. Madam Chairman, I yield myself such time as I may consume.

I strongly support S. 423, the Dispute Resolution Act, for several reasons. First, I believe that this bill addresses a problem of some magnitude in this country. The problem is this: Small disputes often go unresolved because existing channels for their resolution are either nonexistent on the one hand or time consuming and expensive on the other. As a member of the Commerce Committee and the Judiciary Committee I have been especially aware for some time of the need for dispute mechanisms which address minor disputes arising between business and consumers. Such disputes usually involve a minimal amount of money. In fact, the amount involved may be small enough that the disputant individual, whether businessman or consumer, is effectively deprived of a remedy because the value of the claim is equaled or exceeded by the expense of asserting it. Litigation is so time consuming and costly that it does not represent a reasonable route for most disputants. We need alternative forums for such disputes, forums that are inexpensive, fair, and fast. I view such forums as a far better approach to this problem than a patchwork of remedial provisions in different statutes or a broadening of various agencies' powers with respect to the pursuit of individuals' rights.

In the past, this problem has generated numerous legislative proposals, such as consumer class actions under relaxed procedure standards or the ill-fated Consumer Protection Agency. The class action device has been touted as an effective method of dealing with small individual claims. But no one would be willing to deny that class action litigation is very expensive as well as time consuming. A disputant with a claim could wait years before receiving some relief. Combine this with the fact that that claimant may only recover part of what he lost and it is obvious that this is hardly a realistic remedy for an individual with a small claim. Neither is the establishment of another Federal agency in Washington, D.C., a satisfactory answer to a consumer with a claim against his local auto mechanic or television repair shop. Unlike proposals such as these, S. 423 squarely addresses the problem by providing a 4-year Federal funding program to assist States, localities, and nonprofit organizations in developing new mechanisms for solving individual disputes. These mechanisms must be inexpensive, fast, fair, and easily accessible to everyone. This bill provides for access by the business community, thus assuring that both business and consumers will be able to resolve their disputes in forums which are inexpensive and easy to use. Businesses, particularly small businesses, as well as individual consumers have a great need for such forums. They all stand to benefit if their dispute is resolved quickly and economically. The formalities, delays, and expenses of the court process are hardly a close second to such forums.

It should be emphasized that the program established in the legislation is an experiment and, as such, will expire after 4 years. Federal involvement in the program has been kept to an absolute minimum. The bill leaves to the States and localities the responsibility for developing new mechanisms or improving existing ones in line with criteria in the bill which are designed to insure that the mechanisms are fair, easy to use, and readily accessible to everyone. I am confident that this experimental 4-year program will result in the development of dispute mechanisms across this country that are far more effective in resolving minor disputes than our present system.

□ 1340

Mr. KINDNESS. Madam Chairman, will the gentleman yield for a question?

Mr. MOORHEAD of California. I will be happy to yield to the gentleman from Ohio.

Mr. KINDNESS. Madam Chairman, I thank the gentleman for yielding. The gentleman mentioned the local and State governments' role in the development of programs. Could he tell us about how we are assured that grants would not be made other than through State and local governments, but perhaps directly to a neighborhood group or an informal or ad hoc group?

Mr. MOORHEAD of California. Well, the grant funds, of course, will be controlled by the Attorney General in Washington, D.C. He knows the direction of this legislation and knows the limits that have been set in it as passed through Congress. They will also have a copy of the RECORD and the statements that have been made here. All of which will constitute part of the legislative history. I do not think that it is likely that the money will be diverted.

As the gentleman knows, I would oppose grants to any other type of organization, such as the gentleman would. But, having run a lawyer's reference service and a legal aid clinic for many years, I know that there are just thousands of people out there who do not have the money to go to court, and I know it is a waste of the court's time and money to handle minor disputes.

Yet, if a person with a legitimate claim does not have a place to go, the cost of running the claim through the court system would exceed the cost of the amount of money involved in the claim. If it is not resolved, they feel that they have been deprived of justice, and it is reasonable that they should feel that way. I think we have to look for new ways whereby we can resolve these claims without a lot of expense to the taxpayer. That is the reason I support this legislation.

I do not think the money will go to self-appointed groups who come in and want to get some of this Federal money.

Mr. KINDNESS. If the gentleman will yield for an additional question along that line, I take it from the gentleman's remarks that he would not be averse to the consideration of an amendment which would assure that the purpose of the Congress is made clear, as indicating that there would not be any way in which these funds would be directed to nongovernmental groups, either directly or indirectly.

Mr. MOORHEAD of California. There is a provision making nonprofit organizations who are set up to handle that kind of a claim eligible for funds under this legislation. If the gentleman wanted to remove them for purposes of eligibility, he would have to do it by amendment, obviously.

Mr. KINDNESS. Yes, that was what I had in mind, an amendment.

Mr. MOORHEAD of California. But, I am sure that the types of nonprofit organizations that would receive funds under this act are those which are organized specifically to resolve claims, rather than those that are out to campaign or work for special types of legislation and things of that sort.

Mr. KINDNESS. I thank the gentleman for yielding and for that response, but I have much less confidence in the direction of these programs than he, as in the case of the ACTION program, for example. In some instances and some other areas we have found that the purposes and intent of the Congress have not been carried out in just exactly the same manner as we think of them as we debate these questions. Tightening up that purpose might be very wise, particularly since we are only talking about $75 million, so there is not going to be that much to go around.

Mr. MOORHEAD of California. I personally hope that most of the money goes to local and State governments which, if I had my choice, is where it would all go to, but we do not get our total choice in these matters.

Mr. KINDNESS. I thank the gentleman.

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Madam Chairman, on that point the gentleman is absolutely right. Not only might grants be made to State and local governments, but they might also be made to nonprofit organizations. However, lest the type of forum be something outside that which one would think to be a reasonable recipient, the bill provides under section 8(F), as the gentleman knows, we do notify the attorney general of the State of the application of any group, nonprofit or otherwise, at least 30 days before approval of such application; and the attorney general of the State may respond as to the propriety of such a grant. Those comments have to be taken into consideration by the Attorney General of the United States. That is to guard against the notion that one might have some organization antithetical to the State which would be seeking grants and might be given grants under the program.

I appreciate the gentleman's comments.

Mr. PREYER. Madam Chairman, will the gentleman yield?

Mr. MOORHEAD of California. I yield to the gentleman from North Carolina.

Mr. PREYER. Madam Chairman, I believe the bill also provides, in addition to the attorney general of a State, that both the chief justice of a State and the chief executive officer—the Governor—also must comment on any grant to a nongovernmental body, so that we have a three-way protection there of comments from three very responsible people.

● Mr. SCHEUER. Madam Chairman, I rise in support of S. 423, the Dispute Resolution Act. In doing so, I am reminded of a lecture given by Judge Learned Hand in 1921, entitled "Deficiency of Trials To Reach the Heart of the Matter." In this lecture, Judge Hand, one of the most respected jurists of this century, said:

> I must say that as a litigant I should dread a lawsuit beyond almost anything else short of sickness and death.

I believe this overall problem as perceived by Judge Hand in regard to litigation in the twenties has been compounded since that time, almost in exponential terms when it involves "minor disputes." Essentially, "minor dispute" problems result from the fact that very often the cause of a controversy is of such a relatively small monetary amount that the cost of pursuing litigation in our judicial system ends up being prohibitive. In such a system "access to justice" is nonexistent.

As chairman of the Consumer Protection and Finance Subcommittee, I see this happening all the time whether it be in the auto warranty field or in general consumer complaints. Indeed, in 1978 alone, the New York Department of Consumer Affairs handled over 170,000 complaints from consumers who wanted help in resolving conflicts with merchants. When you consider that most people in this society do not complain to anyone, regardless of the merit of their complaint, the extent of consumer frustration in the United States is likely to be staggering.

Indeed, a study by the Center for Responsive Law published in the Harvard Business Review, states that people actually raise complaints concerning one-third of the problems they perceive, of these only 3.7 percent are referred to third parties, and of these, only 16 percent are referred to local consumer agencies. If you extrapolate this study and the New York situation to the United States as a whole; that is, 170,000 complaints to a consumer agency in New York, the need for alternative dispute resolution mechanisms is obvious.

I further suggest that S. 423, as it has been developed, puts the Federal Government in just the proper position vis-a-vis State and local governments which are primarily responsible for these disputes. The role of the Federal Government in S. 423 is very limited and the parameters of Federal intervention is minimal. The grants involved are merely seed money to State and local entities with Federal support decreasing over 4 years. At that time, the Federal role ends with just an overall evaluation of the process. The program envisions an initial partnership between State and Federal Government, but does not interfere with the State judicial system. And the bottom line is that the program is entirely voluntary. As President Carter has stated:

> This legislation would enable Federal and State Governments to work in partnership to improve the delivery of justice to all the people of the United States.

I join in support of this bill, which is a truly constructive form of federalism.

Further, I want to salute two of my distinguished colleagues, the Honorable RICHARDSON PREYER of North Carolina and the Honorable BOB KASTENMEIER of Wisconsin, for their hard work and persistence for this vital consumer legislation.●

● Mr. RINALDO. Madam Chairman, this bill generally provides States, localities, and nonprofit organizations with financial assistance to develop dispute resolution mechanisms which are effective, fast, fair, and inexpensive. Our hearing record on this subject is extensive. The Subcommittee on Consumer Protection and Finance held hearings last session—July 20 and 21, 1978. This year we held 4 days of joint hearings with the Subcommittee on Courts, Civil Liberties, and Administration of Justice of the Judiciary Committee.

The need for this legislation has been well documented during the course of these hearings. Because of the high cost of litigation in terms of both time and money, our present judicial system provides little effective relief for individuals with minor disputes. As a result, many such disputes are never satisfactorily resolved.

This problem became particularly evident to me during the course of our field hearings on H.R. 1005, the Automobile Warranty and Repair Act in New Jersey and New York. Most auto repair disputes can be resolved far more quickly, cheaply, and effectively by a dispute mechanism than by litigation.

This bill will give the States and localities the needed incentive to look at their existing mechanisms for dispute resolution with an eye to improving them and to developing new mechanisms where appropriate. The intent is to encourage innovation and expansion at the local level so as to assure the development of mechanisms best suited to a given locality's needs.

It is important to keep in mind that this grant program has a 4-year statutory limit, after which the grantees must supply their own funding. Furthermore, the Federal funding in the bill decreases at a specified rate: 100 percent for the first and second years; 75 percent for the third year; and 60 percent for the fourth and final year. This formula has been included in the bill to assure that local funding will take its place once the programs are underway. There is no intention on the part of the bill's sponsors to perpetuate this program at the Federal level.

It should also be noted that this bill is strongly supported by a broad range of groups including the American Bar Association, the Consumers Union, the Chamber of Commerce, the Conference of Chief Justices, the National Association of Counties, the League of Cities, the Motor Vehicle Manufacturers Association—including General Motors, Ford Motor Co., Chrysler Corp., and American Motors—Congress Watch, and Sears, Roebuck & Co. Nor is this list complete; there are more. But these groups who support the bill represent the spectrum of business and consumer interests as well as State, local, and national interests.

Finally, this bill authorizes $15 million per year for 4 years for grant purposes. That sum breaks down to less than $300-000 per State—the District of Columbia and U.S. territories and possessions are eligible for funding. Such a sum is modest. It constitutes, for all practical purposes, "seed money" to enable the States, localities, and nonprofit organizations to move ahead in this area.●

● Mr. RODINO. Madam Chairman, I rise in strong support of S. 423, the Dispute Resolution Act. As chairman of the House Committee on the Judiciary, I continually receive accounts of the difficulties which confront citizens who are seeking redress for their grievances. The fair, speedy, and inexpensive resolutions of everyday disputes—such as complaints by neighbors, customers, tenants, small businessmen, and family members—pose serious problems for society.

Disputes which arise in the course of daily life, if left unresolved, raise frustrations and tensions to a level that can seriously affect public order.

It is evident to me that the problems of cost and delay restrict access to the equal justice that all Americans have a right to expect and that this Congress has an obligation to protect.

When attorneys' fees and costs of litigation are likely to be more than the amount of alleged monetary damages, it is not surprising that individuals do not go to court. In these instances, local dispute resolution mechanisms become crucial to the harmony of our communities, and States have recognized this in seeking the help of the Congress through this legislation.

That is why this legislation is widely supported by organizations representing such a broad range of interests as the U.S. Chamber of Commerce, Congress Watch, the U.S. Department of Justice, the Conference of Chief Justices, the American Bar Association, and the Ford Motor Co.

My home State of New Jersey is a leader in this area, and the State's Attorney General John Degnan and Public Advocate Stanley Van Ness wholeheartedly support this legislation. New Jersey is the only State in the Nation with an office for dispute settlement and the public advocate expects this bill to help the State experiment with new locally based resolution mechanisms.

The fact that New Jersey, as well as other institutions and organizations, has moved forward in this area does not remove the need for this program. On the contrary, it means that their expertise will be helpful in solving unmet needs elsewhere in the country.

What is being debated here is not unique to the United States. Alternatives to court litigation have been used widely in many European countries: Great Britain, France, Poland and Sweden, among others.

The $18 million annual authorization in the Dispute Resolution Act is a modest sum when considering the beneficial effects it will have on our Nation. It is not designed to get the Federal Government involved in resolving minor disputes throughout the country. Rather, it merely creates a resource center in the Department of Justice to serve as a clearinghouse for information, to conduct research and to assist States and localities to create new mechanisms or improve existing ones.

For example, if one State conducts a successful dispute resolution experiment, then the resource center would communicate this to the other States. It would be inappropriate for the taxpayers of the initiating state to take this upon themselves. This legislation will plant seed money in the States and localities to assist their efforts to improve dispute resolution programs.

Madam Chairman, there is a growing need to assure all Americans access to convenient forums in which local disputes can be resolved inexpensively, expeditiously and fairly.

This bill addresses that need in an efficient, intelligent and effective manner, and I strongly urge its adoption.●

● Mr. DODD. Madam Chairman, I rise in support of S. 423, the Dispute Resolution Act, a bill to promote the establishment of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies and other disputes. At a time when we in the Congress have been accused of fostering creeping bureaucracy and overregulation, it is particularly refreshing to find a piece of legislation that seeks to simplify, rather than to complicate, procedures; to expedite, not to impede, solutions; and to encourage flexibility in operational methods rather than to insist on rigid adherence to any one method. I applaud the bill's stress on convenience of location to and accessibility by those people who will be served—an approach at once sound and sensible.

There are two basic provisions of the

legislation: First, the creation of a 4-year Federal grant program to foster the development of dispute resolution mechanisms (small claims or landlord-tenant courts; neighborhood, community, or agency-based nonjudicial forums) to settle minor civil disputes; and second, the establishment of a dispute resolution resource center within the Department of Justice for the purpose of dispersing information, providing technical assistance, conducting research and surveys on the dispute resolution process and the administration of the grant program.

There has long been a need for this kind of program whereby any individual can, fairly and at little or no cost, seek redress and/or remuneration in consumer problems, landlord-tenant disputes, and other civil matters. Many of these kinds of problems cannot be resolved through existing judicial means, due to lack of jurisdiction. Others involve little or no money, so resolving them through the courts costs the consumer so much that it is impractical to seek resolution in that way. The Dispute Resolution Act provides that whatever system is established must be accessible by all segments of the public, including the business community; must be conveniently located; and must be available for use during evening and/or weekend hours as well as weekdays. It encourages voluntary resolution of disputes, before resorting to use of the system. It requires that assistance be provided to both parties in a dispute and that the rules of the forum are fair and easily understandable. And it does not require representation by an attorney. Enactment of this bill will mean that, if the consumer needs to get his money back on $35 worth of paint, it won't end up costing him $135 to do so—no time off from work and no lawyer's fees will be necessary.

The bill encourages experimentation, using existing systems as well as new forums for dispute resolution, and allows the use of various techniques—mediation, arbitration, conciliation—in resolving controversies. This should help insure that whatever forum a locality or nonprofit organization chooses to employ will more likely be responsive to persons in that area than if one method were imposed across the board. This kind of flexibility will, no doubt, result in a greater number of successful programs than would a rigid structure.

The Dispute Resolution Act is legislation that is equally applicable to residents of urban, rural, and suburban areas; it is legislation that encourages the involvement of existing resources and expertise. It calls for the cooperation of Federal agencies with experience in dispute resolution and authorizes the use of personnel from those agencies to staff the Center. It does not create yet another permanent bureaucracy, a fact which will make it possible to easily sunset the program when it terminates in 1984.

This legislation enjoys widespread support and it is worth noting that it has no registered opposition. In addition to the support of the administration, the U.S. Department of Justice, the U.S. Office of Consumer Affairs, and the American Bar Association, the Dispute Resolution Act is supported by many business, consumer, and interest groups, including the Chamber of Commerce of the United States; the U.S. Conference of Mayors, Congress Watch, Consumers Federation of America, Consumers Union, Council of Better Business Bureaus, Inc., National Consumers League, National League of Cities, National Senior Citizens Law Center, and the National Institute for Consumer Justice.

I urge adoption of this bill.●

Mr. MOORHEAD of California. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. PREYER. Madam Chairman, I have no further requests for time, and I yield back the balance of my time.

□ 1350

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Dispute Resolution Act".

Mr. KASTENMEIER. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. DANIELSON) having assumed the chair, Mrs. SPELLMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 423) to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill, S. 423, just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

Mr. MILLER of California. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2977) to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. MILLER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2977, with Mr. FAZIO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from California (Mr. MILLER) will be recognized for 30 minutes, and the gentleman from Colorado (Mr. KRAMER) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, passage of the Domestic Violence Prevention and Service Act, H.R. 2977, has been a top priority for me since I became a Member of this great body almost 3 years ago. As a former child abuse worker, I have witnessed examples of terrible cruelty within the American family. From talking to women's groups and victims themselves, I became aware that battered wives can be found in every economic and social group. Violence in the American home is a quiet epidemic and it is getting worse as our economy worsens.

Consider some of these facts and figures:

The FBI estimates that an American woman is abused every 18 seconds; nearly 5,000 are abused each day.

One in every six American couples will experience a violent episode this year. Serious physical harm occurs each year in nearly 10 percent of all couples in our Nation.

The National Institute of Mental Health has estimated that 1.8 million wives per year are severely assaulted; child abuse is estimated to occur in one-half of these families.

Spouse abuse contributes to one-fourth of all divorces in America.

One-eighth of all murders in the United States are caused by spouses killing their spouses.

More police die answering domestic violence calls than in any other part of their line of duty (the FBI estimates this to be 22.2 percent of the total).

Once it has happened, domestic violence tends to occur again and get more severe each time.

For too long, battered women have had nowhere to go. When they have had the courage to try and stop their beatings, they found a court system that deliberately made it difficult for women to press charges. They found hospital emergency rooms that ignored the real causes of injury and accepted obviously false explanations that let everybody off the hook. They found traditional social services that were not responsive because this was a problem that made everyone uncomfortable.

Into this void, many private, nonprofit community based programs and shelters for battered women have sprung up. Almost every one of my distinguished colleagues has one in his or her district. A shelter is a place where a woman and her family can catch their breath—both physically and psychologically. She is able to realize that violence is not her fault; and that she does not have to submit to it forever. She can get information about community resources and what options are available to her during her short stay. The shelter is an intermediate solution—but an essential one.

These shelters also take in the often battered children of abused parents. The shelters provide counseling for the battered woman, her dependents and often for the abusive husband or boyfriend. Shelters actually serve to strengthen the American family—an institution where spouse beating should have no place.

Unfortunately, these shelters are, without exception, burdened by severe financial problems. Contrary to what opponents of this bill are saying, the money is just not there—on the Federal, State, or local level. The House of Ruth in Baltimore is an exemplary shelter, run by a superb group of committed, concerned Baltimoreans, many of whom are volunteers. But, it just does not have the financial resources to meet the enormous demand for its needs.

From July 1 to October 1, 1979, the House of Ruth provided shelter for 82 women and 65 children, yet they had to refuse admittance for 80 people because of a lack of room and money.

During this 3-month period, 389 women called the House of Ruth's crisis intervention hotline, all needing counseling and many needing shelter.

An additional 459 people called, needing information or referral to family violence community services.

And this is just the tip of the iceberg.

We would never ask the Pentagon to hold a bake sale to build the MX missile; and we do not think that researchers into esoteric diseases should support their laboratories by running thrift shops but that is the advice we have given to women trying to save the lives and health of other women. It is time we provided some short-term support—both technical and financial—to enable these local programs to reach economic stability and self-sufficiency. The battered wife who flees her house in the middle of the night because she is in terror of her life should not have to get to the shelter with her children to find that the doors have been closed because there was no money to pay the rent.

The Domestic Violence Prevention and Services Act is a modest, fiscally reasonable, but essential effort at alleviating this enormous problem. Seventy-five percent of the $65 million authorized over the next 3 fiscal years is distributed to the States to go directly to community based domestic violence programs and shelters. It requires States to develop a long-term plan which will include changing the criminal justice system, social service delivery, and public education. It will not create a whole new bureaucracy in HEW, nor will it cause shelters to become dependent upon Federal aid. Local control will be emphasized. It will change the Government's role from one of benign neglect to one of benevolent nurturance.

In supporting shelters for the victims of domestic violence, we are literally offering refuges to save the lives and health of hundreds of thousands of battered spouses. Surely, there can be no more important priority for Government than this. I strongly urge my distinguished colleagues to defeat all weakening amendments, and vote for final passage of H.R. 2977.

□ 1400

Mr. KRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this legislation, not because I do not recognize the fact that there is a domestic violence problem in this country. I think there is no question but that there is. I agree with the remarks of my colleagues that potentially if a police officer and people in law enforcement go into domestic violence situations it really does present perhaps the most dangerous kind of confrontation that can take place in law enforcement work. However, the question really before us today is not whether or not there is a problem, but whether or not the Federal Government ought to be involved in the solution to that problem, at least on the scale suggested by this bill and at this particular point in time. I would suggest that the answer to that is no. For a few minutes I would like to explore some of the reasoning that I have based my decisions on in reaching that conclusion.

Mr. Chairman, I do not think the bill is necessary. There are already 10 Federal agencies and 32 programs we know of which are providing some kind of Federal assistance to domestic violence victims. In addition, there are untold programs going to domestic violence victims that we cannot actually delineate and ferret out with a dollar amount in a line-item kind of way. But, we know there is over $30 billion—not millions, but billions—in Federal dollars presently allocated to these 10 agencies for which domestic violence programs can compete. There is an additional $7 billion available in State money. This makes an existing present flow of $37 billion out there that domestic violence programs could presently possibly make a claim on and compete for.

This extends all the way from billions of dollars in Social Security Administration and AFDC, in medicaid, in emergency assistance, to programs under Office of Human Development in HEW, to public housing money in HUD of approximately $2 billion, to legal services money, the CETA money, food stamp money, and on and on.

Mr. Chairman, there are only 13 Federal programs which line-item the Federal dollars they expend for domestic violence programs. But of these 13 programs we find no less than a total of $11.5 million went for domestic violence program assistance in fiscal 1979.

Mr. Chairman, this chart I have brought up with me to the podium reflects the ongoing Federal programs already providing Federal domestic violence aid. We can see we have already established for ourselves, on the Federal level, quite a flow chart.

Presently, 6 of the 32 Federal programs in existence do provide money on some basis for shelter care. In addition, title XX, as amended by H.R. 3434, which is presently pending conference, would permit title XX funds to be utilized for emergency shelters. Title XX was funded at $2.5 billion in fiscal year 1979. So, the argument there is nothing available for shelter purposes, per se, is an overgeneralization and oversimplification that is simply not borne out by the statistical evidence.

In addition, Mr. Chairman, we have H.R. 5907 pending which would allow food stamps to be opened up only to people on AFDC, which presently indirectly provides money to income eligible victims of domestic violence but, in addition, to those people who are actually residing in shelters on an emergency basis.

There are only two States in the whole country today that provide no assistance whatsoever to domestic violence victims, and there are only four States in the country that do not have any shelters. There are 274 active operating shelters already established in the United States. There are 204 other service agencies operating some kind of domestic service specifically for domestic violence victims. Additionally the States are moving rapidly on their own initiatives to set up domestic violence programs with a kind of umbrella assistance that would provide the full gambit of services that some of these domestic violence victims truly need.

In addition, Mr. Chairman, let us see what the Federal Government has proposed in the way of initiatives, of recent vintage, to deal with the domestic violence problem. First an Office of Domestic Violence is already operating within HEW to provide a Federal focus for domestic violence programs, a Federal spoke on which the wheels of Federal domestic violence programs can spin around.

Second, a clearinghouse to collect domestic violence information has already been established by HEW. So, in many ways, all this bill really does, is, in fact, reinvent the wheel.

Third, the Interagency Domestic Violence Committee established by the President reported on November 30, with another January meeting scheduled, to consider the question of coalescing and making more efficient are Federal initiatives in the domestic violence area.

Fourth, Mr. Chairman, I would like to point out that this bill, even though it does not contain, by Federal standards, a tremendous amount of funding, is nevertheless inflationary. It does add to Government in times of budgetary crisis, and it does not relieve any of the crunch and pressure so many of us have placed on the Federal budgetary process.

Mr. Chairman, I would point out we already have accumulated for fiscal year 1980, a projected deficit of some $45 billion. We have a $830 billion debt. And, though same of us differ philosophically on what causes the inflation in this country, there are many of us who feel, and I think more Americans increasingly so, that the 14-percent rate of inflation from which we suffer today largely comes as a result of the unrestrained spending policies of this Congress which have, indeed, created that $830 billion debt.

Mr. Chairman, in the last 6 weeks in this House alone we have taken steps, started initiatives, or will start initiatives, that will wind up in a $14.5 billion increase in authorization.

In the Higher Education Act, $2 billion.

In the Welfare Reform Act, $3 billion.

In the economic development assistance, $7.5 billion.

In CHAPS, $2 billion.

We all know these things are likely to become law, if not by the end of the year, certainly shortly thereafter. So, in just a very short period of time we in this House who have started preaching fiscal responsibility have yet to start practicing it.

Between 1968 and 1978 in welfare assistance, cash and noncash programs, we have quintupled spending from $16.1 billion to $83.6 billion. This bill does nothing but precipitate us on a continued course in the same wrong direction.

We have national priorities at stake. Although domestic violence is a problem, I think our primary responsibility is to attack inflation, energy, and our needs in national defense.

☐ 1410

There simply never will be enough money to meet all the compelling requirements or demands that are placed upon this body. Therefore, at some point in time we simply must say, this is our limit. We cannot do all things for all people. There are just some problems in society that we are not capable of solving, and our continuing attempts to do so will literally wreak havoc with the rest of our society in terms of the inflation rate, in terms of budget deficits, and in terms of a government structure that the ordinary citizen is totally overwhelmed with.

Finally, I think that H.R. 2977 is jurisdictionally unwise. Family matters have traditionally been a matter of State concern. There is already in existence a tremendously large flow of untracked Federal dollars actually going out for domestic violence programs; so the remark cannot be made that the Federal Government is not involved in aiding domestic violence victims. But to put the Federal Government into domestic violence assistance as H.R. 2977 does simply will insure for all time that there is a Federal focus in coming to grips with the problems of domestic violence in this country.

Family matters, as I have indicated, have traditionally been rooted in State law. Victims turn to the local police, to local courts, and to local service agencies for help, not the Federal Government. States have taken the initiative.

We can see from the statistics that there is no lack of State programs. I have a list here for anyone who would care to see it about what kind of services are being offered today in each State of our country.

As I indicated before, there are only two States that show no services, and only four States that show the existence of no shelters.

For these reasons and many more it seems to me that it is ill advised to move forward on this program at the present time.

At the very least, we ought to be waiting until all the Federal results are in from all three studies that are presently being undertaken.

Yes; that would mean perhaps a delay of 1 year before a new Federal initiative on domestic violence is started. At least we would be assured if we are going to move forward in this area, that we would be going forward with the latest and most complete data possible which could be accumulated.

For those reasons, Mr. Chairman, I reluctantly ask the Members of this body to oppose this bill at this time. I do not think that the demand for a separate domestic violence program at the Federal level is justified, even though I think that there are those who certainly can make a logical argument that domestic violence is, indeed, a problem. It is simply not a problem that is going to be solved by this bill. It is not a problem which in terms of our national priorities, justifies the Federal focus being transferred from the State level to the Federal level on this issue.

Mr. MILLER of California. Mr. Chairman, I yield 3 minutes to the gentleman from Maryland (Mr. BARNES).

Mr. BARNES. Mr. Chairman, I thank the distinguished gentleman from California for yielding.

Mr. Chairman, violence in the home today is truly "the quiet epidemic" that our colleague from Maryland, BARBARA MIKULSKI, has termed it. Statistics tell us that—in at least one out of six American homes—a woman is abused by her spouse. Probably the true figure is much higher; who knows how many incidents of this sort never get reported?

During periods of high unemployment and economic hardship—such as many people in this country are facing today—the frustration and anger within families become even more intense. And within these violent families, there are shockingly high incidences of spouse abuse, child abuse, criminal activity, even murder. The FBI claims that one-fourth of all police killed in the line of duty are responding to domestic violence calls. And saddest of all, the violent behavior is passed from generation to generation. It is indeed a vicious cycle.

In my own congressional district, in Montgomery County, Md., we have a very constructive abused persons program which, in less than 3 years of operation, has helped several thousand victims of spouse abuse and their children. If any of you have any questions about the need for such a program, I urge you to visit the shelter in Bethesda and see for yourself. You will see the shocking physical abuse, the desperation, the human tragedy. I myself have done this, and can say from a very personal standpoint that I was moved by the experience, and that I came away comforted that such a shelter and such a program exist in my own community because the need is so clearly there. I came away determined to do whatever possible as a Member of Congress to see that this and other shelters exist to aid the persons who need them.

In an average month the Montgomery County program, which at this time is funded through the Montgomery County Department of Health, receives 100 crisis calls over the hotline, offers shelter to at least 65 persons—both women and their children—and will at any given time be servicing between 60 and 80 clients. These services include shelter for up to 3 weeks, information and referral either by phone or face to face, legal advice, counseling, support groups, financial assistance, emergency medical services, child care, even employment assistance. Where the abusive spouse is willing, individual or group marital counseling is offered to work on permanent behavioral changes.

Out of a compassionate and comprehensive program such as this, can come the changes that bring an end to the victim's suffering, sometimes even an end to the violence and the savings of a marriage and a family.

H.R. 2977 is specifically designed to help programs like this exist in communities around the country. The focus would be on the local level—where it belongs. Federal funds would be channeled through the States to local programs, and could not exceed 25 percent of any shelter's annual budget. No single program's grant could extend beyond 3 years, thus insuring that local initiative is maintained.

This legislation will enable the local programs that exist to be more secure; more importantly, it will encourage the establishment of programs in the many areas of the country where no programs now exist; it will coordinate and enhance the efforts at the Federal level. Its cost is modest. Its value in human terms is enormous.

Mr. KRAMER. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, while I support this bill very strongly, I think it is important to stress that this bill is designed not to federalize this activity, but to enhance the State's role, to nurture initiatives by States and local government units and not for profit organizations, to protect victims and their dependents, victims of domestic violence.

We seem to be a culture of victims. I think the funding limitations are modest, if not minuscule. Twenty-five percent of an annual budget or $50,000 a year, whichever is less, is hardly a Federal takeover. This does not institutionalize a new Federal program. I submit it enhances the States and the local governments' role by simply providing guidance and seed money, direction and encouragement, to these local initiatives. Of course, there will never be enough money to do all the good things we want to do.

It is a question of priorities, but I think the law exists to protect the weak from the strong and to protect the vulnerable human beings in our society. Certainly domestic violence creates a whole class of vulnerable people who need immediate help. They need it immediately and it has to be skilled help.

If you have seen families where children have been molested, where women and children have been abused, it is an enormously traumatic event and skilled immediate help is necessary.

This is the kind of a program that gives encouragement and force and momentum to local initiatives to help meet this problem.

I would suggest, even in reading the dissenting views, it is admitted that there is a real need in the area of domestic violence protection and protective services. You can grow old and weary waiting for studies to come back and waiting for other people to do something about it. This is so modest, it does not even make a ripple in the budget and I strongly urge its support.

□ 1420

Mr. MILLER of California. Mr. Chairman, I yield 4 minutes to the gentlewoman from Louisiana (Mrs. Boggs).

Mrs. BOGGS. Mr. Chairman, I rise in strong support of H.R. 2977. I strongly endorse the bill, its concept, and design. I feel that the time is right for passage of this legislation.

I would like to say to the gentleman who preceded me that the focus in Congress, in the last session of Congress, the fact that there was a national problem that demanded a Federal response was the reason that we were able to pass so much legislation and to have so many programs inaugurated in the Federal Government. These programs do help when they are coordinated properly to address the problems of family violence.

It was the emphasis in the Congress and the discussion with the Secretary of Health, Education, and Welfare concerning a domestic violence bill that led to the establishment of a director for these services within the Department. It was the suggestion of the need that led from the clearinghouse concept to the studies concept, and it was certainly the emphasis that was expressed here that led the White House and the President to recognize the problem.

Even though we have had this problem recognized at these levels, there is still a need for the legislation from this body. As a matter of fact, the President has written a letter in strong support of this legislation, saying that—

> Further action is necessary if we are to provide direct, immediate assistance to the victims of this growing national problem. This Act would provide that assistance, effectively and sensitively. I hope it will be passed by the Congress at the earliest possible date.

Mr. Chairman, the time is right, especially now, for this legislation, because the needs of battered spouses and their children and of aged family members are being clarified and understood more and more as victims are willing to share their problems and approach the solutions to them.

H.R. 2977 would provide funding, to be channeled through the States, for support and encouragement of local shelters and their related services. Existing community shelters across the country have developed the expertise which can be used as a model for new shelters and support projects. This bill speaks directly to the problem at hand—the victims of domestic violence.

Those involved are simply human beings faced with the threat of real, physical violence. Studies have found that, in most cases, the victim is female. She is rarely psychotic, alcoholic, or otherwise drug addicted. Threatened with violence, she needs a place to go. She needs a door she can walk through to safety; she needs a shelter, a place to sleep and to eat. With peer support and counseling, she can make a new start.

So, although grassroots shelter programs, such as those funded through religious groups or neighborhood coalitions, have developed expertise their limited resources cannot sustain enough shelters for the millions of victims nationwide. A problem of national proportion, such as this one, requires national support and Federal encouragement.

Because domestic violence is, at heart, a community problem, the legislation we have to consider today pitches a huge portion of its strength to the community levels. As has been pointed out, 90 percent of the funding in this bill applies to State programs. The thinking behind this allocation is that, although Federal dollars are badly needed, the States are much more aware of local needs, local differences in language, perhaps, or culture, and of population size and structure. Also, of course, family law and the responsibility for it is primarily a State responsibility. Therefore, it is up to the States to determine which local public agencies or nonprofit private groups will receive funding.

Many existing shelters, such as the House of Ruth here in Washington, are buttressed by community support. This may come in the form of dollars, or in volunteer aid, or in donations of food, furniture, and clothing. This community base must be held up by Federal funds if such shelters can continue serving people in need. With such additional help, it is possible that other, similar shelters could grow in the community to serve those who cannot be accommodated in a few small shelters.

We should all be encouraged by and thankful to all the people across the country who have determined the need for shelter services, and who have dedicated their time and their own money, in many instances, to assisting others who need immediate help. This is a tremendous sign of hope; that despite pressure to suppress the problem, or to refuse to deal with it in some towns and cities, counseling and shelter and encouragement exist and are struggling to continue in each of our districts.

We should acknowledge the fledgling efforts of small shelters, operating out of borrowed homes. We should acknowledge the year-long efforts of battered women's programs, such as the one coordinated by the YWCA in New Orleans, that bring together a vast network of existing resources—law enforcement agencies, counseling groups, volunteer helpers—to assist victims of domestic violence. And we should acknowledge and meet the need of the as yet unstarted shelters which need seed money and a boost.

Passage of H.R. 2977 would insure that the States would be able to supply existing shelters with support money and technical assistance, if necessary. States could provide these Federal dollars to new shelters, which would raise 75 percent of the needed funding. Existing Federal programs would be analyzed and duplication eliminated through a Federal interagency council, and the dissemination of the information from a national clearinghouse would educate citizens nationwide about the problems, their effects and possible solutions, and methods of prevention.

The complex problem of domestic violence entails many outlets for assistance. Those physically abused by their spouses need refuge, medical attention, counseling, legal advice, and referral to other community services. Emergency shelters are only a part of the projects to aid abused victims. Shelters are an excellent place for the husband or, more frequently, the abused wife to think about their problems and to make decisions about what they want to do.

Domestic violence affects all of us, for when someone is slapped, kicked, beaten, or stabbed each of us loses—loses a confident, healthy, dignified human being. Many times, due to death by violence in the home, our communities lose their citizens not only the warring family members but also oftentime the police officer who must respond to the disturbance. We must vote for H.R. 2977 and make sure that the Federal Government helps us to address this problem by committing funding and education; we must extend this funding to the States which will determine how moneys can best be used on community bases; and we must make sure that we all understand that beating will not go away without our help, and hard work, and concern.

Mr. KRAMER. Mr. Chairman, I yield 3 minutes to the gentleman from Vermont (Mr. Jeffords).

Mr. JEFFORDS. Mr. Chairman, I am pleased to rise in support of this bill on domestic violence, as I have done before.

I want to speak briefly to the Members from my own experience as a law enforcement officer. I served 4 years as attorney general of the State of Vermont. Through this experience, I found that one of the most difficult areas for law enforcement people to handle lies in the area of domestic violence. In fact, oftentimes when the law enforcement officer becomes involved, his presence exacerbates the situation rather than making it better.

For this reason I support this bill as it is time we provide shelters to these people who are in need of more extensive services than the police are able to offer.

I support this bill as it allows us to not only provide these shelters, but equally importantly, to provide counseling and therapy to those involved. To me, if there is one area where we have a great chance of preventing crime, it is in the area of domestic violence.

Through my experience, studies have shown that in most cases, law enforcement officers have been involved in reconciling disputes or problems, prior to the time a real harmful event occurs. The problem families are thus identified, yet there are no available services to deal with these situations H.R. 2977 provides these services. The kinds of programs fostered by this bill, will enable those suffering from domestic violence to seek shelter without having to involve the law enforcement agencies.

Mr. Chairman, I think this is a good bill. It is a responsible one, and it will be very helpful in this area.

Mr. Chairman, I rise in support of Congressman MILLER's bill. The subject we are debating here today is not one that is readily admitted or discussed. For too long, domestic violence has been left a closed subject behind closed doors. Last year, when my distinguished colleague, Mr. MILLER, introduced similar legislation, national attention was drawn to this hidden crisis. I am sure we have all heard the figure as given by the National Institute of Mental Health that speak to the tune of one in every six families experiencing an incidence of domestic violence every year. While this clearly is an alarmingly high ratio, my question to you is: If we have data revealing one in every six families is affected—that is approximately 17 percent of all families—how many more incidences are there that are not reported? I fear the statistics reveal only the tip of the iceberg.

As a cosponsor and ranking member of the Subcommittee on Select Education last year, I rose in support of Congressman MILLER's bill despite some reservations I had. The bill before us today, however, has been greatly strengthened through the help of Members from both sides of the aisle. First, the expense of H.R. 2977 has been reduced by almost 50 percent. Last year's bill authorized $125 million for 5 years, this bill authorizes $65 million for 3 years. Secondly, the role of the State has been greatly expanded. A key example of this is in the channeling of funds. Rather than having HEW award the Federal grants directly to the local programs, this bill authorizes the grants to be given directly from HEW to the States. Ninety percent of the money authorized in the bill goes directly to the States. Each State applying for funds must designate a State agency to administer its programs. Also required from each State are annual reports to be directed to both the State legislature and HEW on the status of the domestic violence programs. The Federal Government is merely offering financial assistance—it is not removing the power from the State in the distribution, administration, maintenance, or evaluation of the program.

H.R. 2977 is fiscally responsible. Programs will be forced to seek additional sources of support, both local and Federal, as the grants awarded by the State are limited to $50,000 or 25 percent of an agency's annual budget. However, for a private nonprofit organization less than 1 year old with community support, grants may cover up to 50 percent. Fairness in the distribution of grants will be assured by the limits of the grants, and by the fact that each State will be entitled to a pool of at least $50,000 in grant funds available for that State. Many small States and rural areas suffer from the effects of domestic violence as much or more than do many urban areas. Moreover, fewer social services generally are available in rural areas, so that domestic violence programs can have a genuine impact. Some degree of local support will be assured by the fact that grants under this bill will be limited to 25 percent of a program's budget.

The treatment programs supported by grants need not be limited to shelters which offer emergency services and housing to the victims of domestic violence, although shelters are currently the most common form of treatment program. Further use of the funds will be for preventive programs, for victims of domestic violence as well as their families.

It is the intent of this bill for the grants to be extended to the whole family. While spousal abuse is the most prevalent, nothing in this bill precludes an elderly parent or child from seeking help from services established within H.R. 2977. The victims of violence are provided with both shelter and counseling, but so too are those who witness the crime. The importance and real necessity of this kind of counseling cannot be underestimated. To provide only shelters in the absense of some kind of counseling or guidance would be a shortsighted mistake. We must not only treat the symptom, but must search the problem deeper to try and find the cause.

As the legislation supports, the State, as a smaller unit of government, is better equipped to distribute the grants for the family violence programs. The State is not only in direct contact with its communities, but is also more accessible. As such, the State is better able to more effectively assist the communities in dealing with the different needs of its constituencies.

The third major area of importance in this year's bill lies in the administrative provisions. No new bureaucracy is created. The bill before us mandates a Federal Interagency Council on Domestic Violence. The Council does not have any budget authority, rather its functions are to coordinate existing Federal programs, and develop program priorities. As the Council is represented by the Federal agencies and departments administering domestic violence programs, this Council to coordinate efforts is essential. If we are to provide services as cost effectively and efficiently as possible, each must know what the other is doing. Also represented on this Council are members of State and local governments, as well as members of the general public.

In a further measure to coordinate efforts, the bill requires HEW to establish an information clearinghouse in conjunction with the existing clearinghouse for child abuse. Under further provisions of this legislation, HEW is required to appoint a coordinator for domestic violence programs. This appointment could easily be coordinated with the Office of Domestic Violence recently created by President Carter as a result of this legislation's introduction.

Mr. Chairman, before closing, I would just like to stress the importance of encouraging further research on the subject of domestic violence. While H.R. 2977 does not authorize funds to be spent on research activities, the committee recognizes the importance of further research in this area. A special responsibility of the Council and the Secretary of HEW will, therefore, be to identify research opportunities throughout HEW. Full advantage must be taken of available research funds which might be used for domestic violence research.

The prevalence of domestic violence is only now beginning to emerge through the back door, yet the crisis has already reached epidemic proportions. When we start talking about 17 percent of all families affected, we have got to look deeper into the problem and find the cause. We must better understand the roots of the problem if we are to effectively combat the rising incidences of domestic violence. We can no longer sit idle. Congress must extend its help if this cancerous problem is to be arrested.

As society becomes more complex, the demands placed upon the family unit will only continue to grow. None of us are immune to domestic violence. It afflicts all members of society, regardless of race, economic standing, or geographic location. We must deal with this crisis in a realistic and forthright manner. We cannot turn our backs and expect the problem to disappear, for I assure you it will not. We must reach these people. Today we have the opportunity to make one of the most significant contributions toward the preservation of the American family. While some of my colleagues will argue that several other Federal agencies and departments already address the issue of domestic violence in one form or another—none, and I repeat—not one, has the authority to fund the operation of shelters or ongoing services for domestic violence victims. In my opinion, this is slanderous, especially when we are talking about a crisis that affects one in every six families. All levels of government must become involved if we are to save the very structure upon which our society is built.

The passage of this bill is imperative. We can no longer delay. I urge you all as Members of Congress, and members of your own families, to support Congressman MILLER's bill.

Mr. MILLER of Califorina. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, this country has built an unprecedented record of humane assistance to people all over the world who are in need. Our recent effort to supply food, medicine, and shelter to suffering Cambodians indicates that we are a caring people. Yet continuing to allow spouses and children in American homes to suffer as a result of domestic violence is not something to be proud of. It is a shameful situation which must be corrected.

There are already a number of programs on hand, including Federal programs, designed to prevent domestic violence from occurring and to treat the victims of assault. Yet these programs are poorly coordinated. They are administered at various levels of government by agencies which do not necessarily consult about their parallel activities. They are administered so unevenly that a victim of domestic violence in one area may receive adequate support while somewhere else victims suffer in fear and shame because they have nowhere to turn. This inconsistent response to one of the most abhorrent of crimes must be remedied.

I support H.R. 2977, and I urge my colleagues to vote in favor of this bill, because it would coordinate Federal and local programs for victims of assault under an Interagency Council on Domestic Violence. I am especially encouraged by the focus of this legislation on prevention. The country is becoming more and more attuned to the fact that preventive programs are in every case ethically and economically superior to treatment. Domestic violence cases are no exception; it is clearly more humane to keep these cases from occurring than to treat victims of physical and emotional assault.

The fact that the proposed legislation will accomplish these goals without infringing on local jurisdictions is important. H.R. 2977 keeps the responsibility for operating domestic violence programs where it should be—at State and local levels. Adequate Federal funds will be provided so that Americans in every area of the country will have a place to turn if confronted with an intolerable home situation. Let us not turn our backs on these people who need our help.

Mr. Chairman, I take the well today to join in support of this legislation. It has broad-based support by Republicans and Democrats, and it is time for us to enact this domestic violence legislation to provide some seeds and catalysts out in the community to take the kinds of responsible actions we need, at the Federal and State and local levels that are necessary in providing help to those who suffer from domestic violence.

I am pleased to see my colleague, the gentleman from Illinois (Mr. HYDE), joining in support of this legislation. As one who stands on the other side of the Hyde amendment on the abortion issue, I think it is responsible for both sides to recognize that the whole question of domestic violence has a lot to do with the whole family structure.

I would like to focus my attention, as the gentleman from Vermont (Mr. JEFFORDS) did, on some personal experiences. From 1968 to 1972 I was a part of a group in the city of Philadelphia called the Police-Clergy Unit. While not serving in law enforcement, I would put on a clerical collar and ride with lieutenants of the police in North Philadelphia, one of the higher crime areas in the Nation. We would ride into gang fights and into taproom holdups and into other scary situations in housing project areas and other places around Philadelphia. It became very troubling and scary at times.

I can recall night after night, while riding with the police, the hesitation on the part of the officers and police lieutenants to go into domestic-related crimes and violence, and the number of calls for help were very high. Many of these policemen failed to really find any ground for enthusiasm in going into a situation where we needed to use all our psychological skills, all our sociological skills, and all our other skills in working with people at all levels.

It was in 1972, with the backdrop of that 4 years of experience, that I helped to open a very small center called the People's Emergency Center. This shelter was a shelter for women and families made homeless on weekends.

One of the things we discovered was that at 5 o'clock on Friday afternoon most social service agencies close, and they are not open again until 9 o'clock Monday morning. In the city of Philadelphia we had three shelters for vagrant males but not one shelter that would take a woman or a family. If there was a utility failure or an accident, or if, as in most cases, there was an argument or fight or some act of domestic violence that left women and families homeless on weekends, those women and families had nowhere to go. If they could not find a relative or friend or neighbor, they simply found themselves huddled in a corner in a police station, huddled in an accident ward, or simply walking the streets through the night or sitting in bus terminals and other places around the city of Philadelphia.

We had hoped that the people's emergency center, which was open only on weekends and which was located in an old, dilapidated church that we renovated to give shelter, clothing, and a little place of rest for women and families, could help 100 families during the course of a year. That shelter helped 2,000 families in the course of the first year.

That center is still open today. It is still open because the public government sector, at the city level, at the State level and at the Federal level, has not been able to use whatever State or local programs have been available today and put the necessary ingredients together to have ongoing programs such as those that would be funded by this legislation.

So, Mr. Chairman, in terms of my own personal experience, I urge my colleagues to support this legislation and recognize that we can make a contribution in the lives of women, in the lives of children, and in the lives of families throughout this Nation.

□ 1430

Mr. MILLLER of California. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maryland (Mrs. SPELLMAN).

Mrs. SPELLMAN. Mr. Chairman, I rise in support of H.R. 2977, the Domestic Violence Prevention and Services Act.

I am proud to say that I am an original sponsor.

Who are these people we are trying to help? Are they the "theys" of the world, faceless people?

They are people all around us, people that we may not even be aware of who have problems like these.

When I was in local government, I found, for instance, that the wife and children of one of our college professors, a professor at a university in this Metropolitan Washington area, lived in terror and would have to lock themselves in the bathroom at night in order to try to feel safe, and there was no place for them to go. No one would open their doors for these folks.

The Department of Labor statistics tell us that each year 1.8 million wives are severely beaten. In one-half of these families the children are also victims of abuse. Annually 60,000 to 100,000 children are victims of sexual abuse in a family. Those are pretty horrible statistics.

I might add to those the fact that 5,000 children die yearly from violent family abuse. This is the United States we are talking about; here in our country these things are happening.

We also have FBI statistics showing perhaps as many as 25 percent of the murders in the United States involve one family member killing another, and one-half of these involve the murder of spouses.

Obviously, domestic violence is a serious, a very serious problem.

Is this bill inflationary? Hardly. The $65 million cost, spread over 3 years, is, and I quote from the dissenting views of the committee report, "substantially lower than many other categorical programs."

The Congressional Budget Office reported to the committee that the inflationary aspects of this legislation, as a part of the Federal budget, would be negligible.

Congress has come under attack recently, as has the whole Federal Government, for enacting programs which are destroying the institution of the family, and in some instances legislation may very well have passed which unintentionally did this.

H.R. 2977, however, could have a very positive effect on families. Domestic violence services, which place an emphasis on family counseling, on outreach, could serve to keep families together.

Opponents of this bill tell us that the Federal Government already provides services in the area of domestic violence. This is only partially so. Certainly, there are some programs providing some necesssary services to victims of domestic violence. But, in a sense, that is the point. H.R. 2977 is needed because it mandates a definite program to combat this problem. It would provide grant moneys for the States to distribute to private and public agencies. It would coordinate Federal efforts in this area by establishment of a clearinghouse on domestic violence.

We all are aware that the administration is backing the measure, as I am sure most of you have received a letter from the President citing the need for direct, immediate assistance in the area of domestic violence prevention and services.

Before I close, let me tell you a little about the Assisi Family Center in my congressional district. This private, nonprofit organization provides services for victims of domestic violence which include, shelter, counseling for women and their husbands, operation of a hotline, and job counseling and placement where necessary. A woman and her children may stay at the center no longer than 1 month, just until she has a chance to get on her feet, or until the domestic situation improves and she may return home.

The biggest problem facing victims of domestic violence is a lack of support which requires the victims stay in the home, instead of being able to be removed from the situation either temporarily or permanently. Over the years, the Assisi Family Center of Prince Georges County, Md., has provided countless victims of domestic violence with important services. It is an invaluable part of the social services in my district. With passage of this legislation similar centers can be established in other areas of the country. Do make this needed aid possible by voting for this bill.

Mr. KRAMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to just mention, in passing, in order to alert the body as to what will be coming up on this legislation when we enter into the 5-minute rule, there are some amendments that we will be offering which we feel will improve the legislation.

As I indicated during the debate on the rule, I thought that the legislation as it presently stood was indeed an improved piece of legislation from what it was when it had been originally introduced, that there were a number of amendments that were added at the committee level that did, I think, help to alleviate, or at least make less severe, some of the problems in the legislation. I think that there are some further amendments that would also be helpful if the committee deemed it appropriate to adopt them. I would just like to briefly mention what those three would be.

No. 1, one of the concerns that I have about this legislation is that, like most Federal grants, or often like Federal grants, especially those in my experience with LEAA, the Federal Government comes in for some period of time, provides the money to allow the programs to become operational, and then pulls out. At that point the choice is either dismantling the program or trying to find some funding source or funding initiative. Oftentimes both happen. I have seen programs disappear. But I have also seen programs being picked up by other funding, and what that other funding almost always entails is State legislative funding. In other words, those who are running the program say that "Federal funds are about to run out and you, State legislature, will have to come in at this point and pick up the pieces."

Because there is a 3-year time limit on this bill, one of two things will happen. Either this bill will continue to be reauthorized beyond the 3-year seed period, which I suspect will happen, or, if it does not occur, what will happen is State legislatures will be asked to pick up where the Federal Government left off. In that light, I think if the State legislatures are going to be asked to do that, in practice, they ought to be in on the funding decisions from the beginning. If they determine that they ought not to be in the position of funding the ongoing domestic violence shelter programs, and so forth, they ought to have that opportunity to express that view from the beginning, rather than being put in a situation where they are put up against the wall with the almost irresistible pressure that will be forthcoming at the time that Federal funding ceases.

In this regard, I would suggest that we add a State legislative veto provision to this legislation. In other words, a veto would be allowed by the State legislatures to terminate the Federal funding under this bill at any time.

The objection was made in committee—and I think a good objection—that State legislative approval prior to the fact would be perhaps somewhat difficult to make this program operational, as that would require a positive act on the part of the State legislature before such funding could be forthcoming. In order to obviate that problem, we have come up with this legislative veto which will allow the funding to move forward but at the same time will allow the State legislatures to say, "Look, we do not feel that this is a proper area for State government to be involved with, and we choose not to accept the Federal funds."

The second amendment that we will offer will require that those who receive the services under this legislation be either related by blood or by marriage. Perhaps the point could be made that for us to try and not have covered by this bill those who are living together and are not married is old fashioned and out of place in light of present day activities. Perhaps that argument indeed can be made. But I would feel that it would be a mistake for the Federal Government to go forward and in effect condone that situation and put its stamp of approval on it.

The way the bill is now structured it would do just that, because it does provide those services—and intentionally it was broadened to do that—for those who are not only married but for those who are living together. Obviously, I think that there are going to be instances where people living together get into combative situations. None of us could probably disagree with that. But where they do not have the bonds of marriage, the simple solution in such cases is really for one party to move, and that should be an acceptable solution. So our second amendment will ask that only those who are related by blood or marriage be included within the scope of coverage of this legislation.

Third, we are going to see if we cannot add some kind of licensure provision so that at least if we are going to have federally funded or Federal participation in shelters, at least they meet certain minimum standards of safety and health and that the people who are involved in providing services to those who are domestic violence victims have some minimal level of training or capability to deal with the problem. There are no provisions of this sort in the bill at the present time. Basically, there are no requirements for health and safety or for minimum capability or educational or some kind of competence level by the staff that will be staffing these shelters, and I think that it is reasonable that if Federal funds are being spent, they are spent in the most meaningful way possible.

□ 1440

Mr. MILLER of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, and members of the committee, the legislation that we are debating today, H.R. 2977, is an effort to have a logical and yet limited response to the problems of family violence in the United States.

Previous witnesses have already spoken about the need in this country for this kind of response—to provide a shelter where an individual, who is in a life-threatening situation or is in danger of physical bodily harm in his or her relationship, can go to temporarily collect her thoughts and decide what alternatives are available to that family, to those children, and to the two married individuals involved.

I would also like to point out that it is not just in the individuals' districts who have spoken today where the demand for services far exceeds the programs available.

The first fully funded shelter in New Jersey opened its doors in 1978, and within several days was filled to capacity.

A shelter in Pittsburgh, Pa., has been receiving 100 calls a day from women seeking shelter from abusive and combative husbands.

A community-based shelter in Orlando, Fla., sheltered 149 women and children and answered 2,700 hotline calls in only a 2-month period in 1978.

I think those situations and the circumstances along those lines that have been described by my colleagues point out why the on-line police officers support this legislation, why the police chiefs' association supports this legislation. Groups such as these support the legislation because the demand for services for diversion of individuals involved in domestic arguments, or involved in violent activity within the family, is too great, and yet the ability to respond is so limited. I would hope that is what Members of the House would consider.

Now, a great deal has been made that there are other Federal programs which address this problem, and somehow the gentleman on the minority side came up with the idea that there is some $37 billion which is at the disposal of people for these programs. That just is not so. It just is not true.

Let us look in fact at what has happened. Certainly the Federal Government has tried to respond in a limited fashion.

I authored the amendment to H.R. 3434, which makes shelters available under title XX to adults as well as to children.

That legislation is yet to be enacted, but even if it were, no new moneys are provided in title XX for that purpose.

When the Department of HUD decided they would provide money for the purposes of renovating shelters, no new moneys were provided. In fact, what they are really saying is that those people who are concerned about battered women and children and husbands can scramble at the local level for the same amount of money that was available last year on all block grants. When they talk about State programs being available, let me tell my colleagues even in the State of California, where they have done a tremendous job to try to meet this problem, what they are really talking about is amending discriminatory laws. They are talking about giving the police more authority. They are talking about giving the courts more ability to prosecute.

What I am suggesting to this House is that by passage of this legislation we could provide the only program, outside of one limited demonstration program last year, for the operation and maintenance of shelters for victims of domestic violence. By the passage of this legislation, in fact, we can put the hub in the wheel of many spokes.

We can coordinate activities, and in fact LEAA can start talking to HUD, and HUD can start talking to CETA and VISTA and these various agencies that do have some resources can, under existing law, make them available; but the problem is today there is no solid, continuous, coordinated activity for those resources at the local level.

A recent audit of LEAA demonstration programs by the URSA Institute of San Francisco has shown exactly this. In its first year report, submitted to the Office of Juvenile Justice and Delinquency Prevention, the evaluators found that where you open shelters, where you provide coordinating services, in fact, they do respond to a community need. These programs provided unique and unduplicated services.

These programs can be run by local people and they do reduce trauma. They provide court alternatives. They provide the police alternatives to the old-fashioned manner of not reporting domestic violence and not responding in a proper way, not having resources to divert people from very dangerous situations. One of my colleagues pointed out that in those situations where homicides have taken place in the home, I think in over one-third of the cases, the police had been there three times or more, but the police did not report it. Thy did not have an alternative to get one of those people out of the home. What happened? A taking of a life.

I think this measure provides us the ability to deal with those problems to a limited extent on a local level. Let me point out to people who talk about this as a State problem, and they talk about not wanting to federalize the problem—let us really understand. We are saying in the limited sense that we will provide up to 25 percent of the shelter's budget not to exceed $50,000, but first they must in fact provide 75 percent of their ongoing support from either State or local governmental or private agencies. In fact, what we are doing is turning this into a local initiative and trying to provide that very limited support that will enable these shelters to take root, because I do not think in fact there are more than 300 shelters throughout the United States. They are not in every community. Every State does not have a program. That is rhetoric that does not hold up under scrutiny and matched against the facts.

The facts are that tens of thousands of individuals every day are finding themselves living in a traumatized situation, where in fact violence takes place between one individual in the family and another, where tens of thousands of children are required to watch it on an ongoing basis, day in and day out, and where tens of thousands of individuals remain in that situation because there is no an alternative for them to live in a safe and sanitary and well-run fashion so that they can make some decisions about their life.

I have spent, as I have told this House before, hours and hours riding with the police, visiting in shelters, talking to the victims of family violence in this country.

The only solution that we can pose to these people is the shelter, that is, a safe haven. If we do not do that, we cannot go back and rhetorically tell people how terribly concerned we are about family violence, about spousal abuse, about child abuse, because in fact, we have not provided that last tool to the law enforcement agencies of this country, to the courts of this country, to the social workers of this country, that enable us to deal with the solution to a problem that is consuming the families of this country.

I ask the members of the committee to support H.R. 2977, to oppose the weakening amendments which in fact will provide more red tape, more governmental intervention, and a greater Federal role than those of us who are seeking a legitimate local solution to this problem wish to have.

Mr. KRAMER. Mr. Chairman, I yield myself 3 minutes.

I would like to briefly respond to the comments of my colleague from California (Mr. MILLER).

He points out a couple of things in rebuttal. One of the reasons we ought to wait on this legislation is we ought to be in a position where we can call for less if we are going to have some Federal initiative, something that is efficient and makes sense.

We already have 32 programs involved in this. Although this bill provides for a coordinating council, it certainly does not in any way make for a legislatively mandated and cohesive Government policy on domestic violence.

If we are going to have one of those things, it seems to me that we ought to have one that is as efficient and has the least amount of possible duplication and wasteful spending as we can possibly have in it.

Second, I would disagree with my colleague when he says there are not other opportunities for shelter services other than that provided for in this bill in one other instance. We do have a chart which I would be happy to share with any of the Members. Time will not allow me to get into the specific Federal and State shares on all these listed, enumerated items.

□ 1450

But, in addition to the title XX money, and provisions for allowing that money to be used for emergency shelter, services have been provided in legislation that has passed both bodies of Congress. So I think one could infer that the area is, indeed, going to be opened up once that conference report has come back to us.

But, in addition, we have community development block grant money that is presently being used for shelters. We have the community action agencies and the Community Services Administration providing funds for shelters. We have VISTA volunteers involved in shelter work. We have Foster Grandparents involved in shelter work. We have block grants from LEAA. In addition, we have CETA workers who are presently working in shelter situations. So it is not, so to speak, that the Federal Government is not involved in any way in shelter activities.

Third, I would take issue that perhaps this does prevent the real issue with the statement from my colleague that there are many communities in this country that do not have shelters and, indeed, I would agree with that remark. But is the intention of this legislation ultimately to make sure that there is, indeed, a federally funded shelter in every community across the country? If that is not the intention, I would suggest that the $65 million that we are starting this bill out with is only the beginning. Where do we go from here? If that is, indeed, the intention, there is no question, I think, that this program will last beyond the original 3 years indicated for the program.

The CHAIRMAN. The time of the gentleman from Colorado has again expired.

Mr. KRAMER. Mr. Chairman, I yield myself 1 additional minute.

Finally, and lastly, I would make this point; yes, some of those areas that the gentleman from California alluded to do not contain new money and they have, in fact, opened up the existing pot to more available competition. I do not feel that is wrong. I feel that is the direction this Congress needs to be traveling in.

I think the problem with the fiscal policies of this Congress has been that over the years every time a good idea or meritorious cause came down the pike we simply funded it and, then, at the end of the year, we added up all of those meritorious causes. That was our budget, and that is the reason we now have $830 billion worth of debt, and that is the reason that we are going to be adding another $45 billion this year. That is why we need to have a mandatory requirement for a balanced budget and for some spending limitations imposed upon this body, to make us choose between those hard priorities that we now can get off the hook by doing, by simply adding in another additional factor, and another additional expense on the debit sheet.

Mr. MILLER of California. Mr. Chairman, I yield myself 2 minutes.

First of all, I would just like to respond to the gentleman that, again, it is quite clear that CETA people are available for this program in shelters as the gentleman pointed out. VISTA volunteers are available. HUD money is available. But the fact is if we do not have a shelter, we have no place to send a CETA worker, and if we do not have a shelter we have no place to send a VISTA volunteer.

I would also remind the gentleman, through his efforts and other efforts, the CETA program has been cut back in this country; the VISTA program has been cut back in this country. I would suggest perhaps we will not be as successful there as we have been in the past.

Someday we have to quit misleading our constituents because it is not enough to say "I share your concern" when we have the ability to deal with the nub of the problem, and the nub of the problem is the shelters. It is fine to say, well, title XX funds will be available, but there are no new title XX funds. That is only a reimbursement. You have to have a shelter to go to before you can get reimbursed by title XX. Title XX, in fact, does not work.

So they are holding out a myth and apparently this is a new Republican response. They say we are open to everybody's problems, we are willing to pass legislation, and we just keep throwing more fish into the fishpond. Someday you have to add more matter or more plantlife, or make the pond larger so the fish can all survive. But if you can go home to your constituents and say, well, there are 32 other programs that will help you when, in reality, none of them will be able to help you, because you lack a key ingredient, then that is fine, you can go along with the response by some on the minority side on this legislation.

But if, in fact, you are truly concerned about battered women, about battered men, about battered children and, in fact, truly concerned about the American family and the ability to cope with this problem, then I suggest what you want to do is vote for this legislation to provide funding of shelters for these people in times of stress.

I urge passage of H.R. 2977.

Mr. KRAMER. Mr. Chairman, I yield myself 1 minute.

I would point out to my colleague from California, No. 1, I am speaking for myself and I am sure that there will be those on this side of the aisle, as many of the speakers on that side of the aisle have eloquently reported time after time, who hold a different view, and this bill does have some bipartisan support. So in enumerating arguments, it is not pitting one party against the other, it is pitting some Members' beliefs against other Members' beliefs.

But I think the important problem in this country is inflation right now on the domestic level, inflation and energy. I think that is where we ought to be directing our attention. And although it is a small ripple, it is a combination of all of these small ripples, the $65 million here and $70 million there, that add up into the torrent that has wreaked a 14-percent rate of inflation in this country. Somewhere, somehow, we have to say "enough" to all of the meritorious causes that are going to be presented to us.

● Mr. DUNCAN of Oregon. Mr. Chairman, I voted for the rule and intend to support H.R. 2977, the Domestic Violence Prevention and Services Act. I do so in spite of the very valid questions that have been raised about the proper allocation of responsibility for economic assistance between Federal, State and local governments.

H.R. 2977 is carefully drafted, however, so that the responsibility for much of the funding is left with the Federal Government. It is designed, more particularly, in the nature of a stimulus to State and local governments to address a problem which is very real and which has only recently received prominence. Lack of prominence, however, should not be mistaken for absence of a problem. The problem of domestic violence has been with us since the beginning of time, but for various reasons has remained largely hidden. As a smalltown lawyer with a mix of cases, some involving domestic violence, I have been aware of the problem for a long time. It was the reason why I sought a solution to this and other domestic relations problems through an interstate compact when serving as speaker of the Oregon House.

It is certainly true that domestic relations have been and should continue to be the proper responsibility of State and local governments, and I do not believe it wise for the Federal Government to intervene substantially in domestic relations situations. We have little evidence that we could effectively do so even were we to try.

H.R. 2977 will provide a modestly funded national program of 3 years duration. The responsibility for programs will remain with the local and State governments, and both public and private efforts are recognized. In short, in my judgment, the bill is justified to focus attention and stimulate action at the local level on a problem which civilized society cannot fail to address.

The federalist system is a key ingredient of a free political system but it must not be used as a reason to refuse to address a problem when a reasonable solution is possible. Problems should be solved at the lowest level of government possible, but we must not be afraid to use the Federal Government when such is the appropriate level. Here we have an appropriate mix.●

Mr. MILLER of California. Mr. Chairman, I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mrs. SPELLMAN) having assumed the chair, Mr. FAZIO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2977) to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes, had come to no resolution thereon.

NEW YORK-NEW JERSEY PORT AUTHORITY COMPACT

Mr. DANIELSON. Madam Speaker, I ask unanimous consent to take from the Speaker's desk the bill (H.R. 4943) granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects, with a Senate amendment thereto, and disagree to the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 43, after line 18, insert:

SEC. 4. Solely for purposes of funding for the fiscal year ending September 30, 1980, the Office of Rail Public Counsel shall be considered to be an office in the Interstate Commerce Commission: *Provided, however*, That nothing in this section shall be construed to detract from the independent responsibility of the Office, pursuant to the provisions of section 1038(a) of title 49, United States Code, to represent the public interest in safe, efficient, reliable, and economical rail transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

A motion to reconsider was laid on the table.

☐ 1500

CONFERENCE REPORT ON S. 241, JUSTICE SYSTEM IMPROVEMENT ACT OF 1979

Mr. KASTENMEIER submitted the following conference report and statement on the Senate bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes:

CONFERENCE REPORT (H. REPT. No. 96-695)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That this Act may be cited as the "Justice System Improvement Act of 1979".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"TITLE I—JUSTICE SYSTEM IMPROVEMENT

"TABLE OF CONTENTS

"Declaration and purpose.

"PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

"Sec. 101. Establishment of Law Enforcement Assistance Administration.
"Sec. 102. Duties and functions of Administrator.
"Sec. 103. Office of Community Anti-Crime Programs.

"PART B—NATIONAL INSTITUTE OF JUSTICE

"Sec. 201. National Institute of Justice.
"Sec. 202. Establishment, duties, and functions.
"Sec. 203. Authority for 100 per centum grants.
"Sec. 204. National Institute of Justice Advisory Board.

"PART C—BUREAU OF JUSTICE STATISTICS

"Sec. 301. Bureau of Justice Statistics.
"Sec. 302. Establishment, duties, and functions.
"Sec. 303. Authority for 100 per centum grants.
"Sec. 304. Bureau of Justice Statistics Advisory Board.
"Sec. 305. Use of data.

"PART D—FORMULA GRANTS

"Sec. 401. Description of program.
"Sec. 402. Eligibility.
"Sec. 403. Applications.
"Sec. 404. Review of applications.
"Sec. 405. Allocation and distribution of funds.

"PART E—NATIONAL PRIORITY GRANTS

"Sec. 501. Purpose.
"Sec. 502. Percentage of appropriation for national priority grant program.
"Sec. 503. Procedure for designating national priority programs.
"Sec. 504. Application requirements.
"Sec. 505. Criteria for award.

"PART F—DISCRETIONARY GRANTS

"Sec. 601. Purpose.
"Sec. 602. Percentage of appropriation for discretionary grant program.
"Sec. 603. Procedure for establishing discretionary programs.
"Sec. 604. Application requirements.
"Sec. 605. Criteria for award.
"Sec. 606. Period of award.

"PART G—TRAINING AND MANPOWER DEVELOPMENT

"Sec. 701. Purpose.
"Sec. 702. Training of prosecuting attorneys.
"Sec. 703. Training State and local criminal justice personnel.
"Sec. 704. FBI training of State and local criminal justice personnel.
"Sec. 705. Criminal justice education program.

"PART H—ADMINISTRATIVE PROVISIONS

"Sec. 801. Establishment of Office of Justice Assistance, Research, and Statistics.
"Sec. 802. Consultation; establishment of rules and regulations.
"Sec. 803. Notice and opportunity for hearing on denial or termination of grant.
"Sec. 804. Finality of determinations.
"Sec. 805. Appellate court review.
"Sec. 806. Delegation of functions.
"Sec. 807. Subpena power; authority to hold hearings.
"Sec. 808. Compensation of Director of Office of Justice Assistance, Research, and Statistics.
"Sec. 809. Compensation of other Federal officers.
"Sec. 810. Employment of hearing officers.
"Sec. 811. Authority to use available services.
"Sec. 812. Consultation with other Federal, State, and local officials.
"Sec. 813. Reimbursement authority.
"Sec. 814. Services of experts and consultants; advisory committees.
"Sec. 815. Prohibition of Federal control over State and local criminal justice agencies.
"Sec. 816. Report to President and Congress.
"Sec. 817. Recordkeeping requirement.
"Sec. 818. Confidentiality of information.
"Sec. 819. Authority to accept voluntary services.
"Sec. 820. Administration of juvenile delinquency programs.
"Sec. 821. Prohibition on land acquisition.
"Sec. 822. Prohibition on use of CIA services.
"Sec. 823. Indian liability waiver.
"Sec. 824. District of Columbia matching fund source.
"Sec. 825. Limitation on civil justice matters.
"Sec. 826. Reimbursement for unused equipment.
"Sec. 827. Prison industry enhancement.

"PART I—DEFINITIONS

"Sec. 901. Definitions.

"PART J—FUNDING

"Sec. 1001. Authorization of appropriations.
"Sec. 1002. Maintenance of effort.
"Sec. 1003. Authorization of appropriations for Office of Community Anti-Crime Programs.

"PART K—CRIMINAL PENALTIES

"Sec. 1101. Misuse of Federal assistance.
"Sec. 1102. Falsification or concealment of facts.
"Sec. 1103. Conspiracy to commit offense against United States.

"PART L—PUBLIC SAFETY OFFICER'S DEATH BENEFITS

"Sec. 1201. Payments.
"Sec. 1202. Limitations.
"Sec. 1203. Definitions.
"Sec. 1204. Administrative provisions.

"PART M—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1301. Continuation of rules, authorities, and proceedings.

"DECLARATION AND PURPOSE

"The Congress finds and declares that the high incidence of crime in the United States is detrimental to the general welfare of the Nation and its citizens, and that criminal justice efforts must be better coordinated, intensified, and made more effective and equitable at all levels of government.

"Congress further finds that juvenile delinquency constitutes a growing threat to the national welfare requiring immediate and comprehensive action by the Federal Government to reduce and prevent delinquency by developing and implementing effective programs to improve the quality of juvenile justice in the United States.

"Congress further finds that there is an urgent need to encourage basic and applied research, to gather and disseminate accurate and comprehensive justice statistics, and to evaluate methods of preventing and reducing crime.

"Congress further finds that although crime is essentially a local problem that must be dealt with by State and local governments, the financial and technical resources of the Federal Government should be made available to support such State and local efforts.

"Congress further finds that the future welfare of the Nation and the well-being of its citizens depend on the establishment and maintenance of viable and effective justice systems which require: (1) systematic and sustained action by Federal, State, and local governments; (2) greater continuity in the scope and level of Federal assistance; and (3) continuing efforts at all levels of government to streamline programs and upgrade the functioning of agencies responsible for planning, implementing and evaluating efforts to improve justice systems.

"It is therefore the declared policy of the Congress to aid State and local governments in strengthening and improving their systems of criminal justice by providing financial and technical assistance with maximum certainty and minimum delay. It is the purpose of this title to (1) authorize funds for the benefit of States and units of local government to be used to strengthen their criminal justice system; (2) develop and fund new methods and programs to enhance the effectiveness of criminal justice agencies; (3) support the development of city, county, and statewide priorities and programs to meet the problems confronting the justice system; (4) reduce court congestion and trial delay; (5) support community anticrime efforts; (6) improve and modernize the correctional system; (7) encourage the undertaking of innovative projects of recognized importance and effectiveness; (8) encourage the development of basic and applied research directed toward the improvement of civil and criminal justice systems and new methods for the prevention and reduction of crime and the detection, apprehension, and rehabilitation of criminals; (9) encourage the collection and analysis of statistical information concerning crime, juvenile delinquency, civil disputes, and the operation of justice systems; and (10) support manpower development and training efforts. It is further the policy of the Congress that the Federal assistance made available under this title not be utilized to reduce the amount of State and local financial support for criminal justice activities below the level of such support prior to the availability of such assistance.

"PART A—LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

"ESTABLISHMENT OF LAW ENFORCEMENT ASSISTANCE ADMINISTRATION

"SEC. 101. There is hereby established within the Department of Justice under the general authority of the Attorney General, a Law Enforcement Assistance Administration (hereinafter referred to in this title as the 'Administration'). The Administration shall be under the direction of an Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate, and such other Deputy Administrators as may be designated by the Attorney General. The Administrator shall have final authority over all grants, cooperative agreements, and contracts awarded by the Administration.

"DUTIES AND FUNCTIONS OF ADMINISTRATOR

"SEC. 102. The Administrator shall—

"(1) provide funds to eligible States and units of local government pursuant to part D;

"(2) recognize national criminal justice priorities established in accordance with parts E and F, inform States and units of local government concerning such priorities and award and allocate funds and technical assistance among the eligible States, units of local government, and public and private nonprofit organizations according to the criteria and on the terms and conditions determined by the Administration to be consistent with parts E and F;

"(3) publish and disseminate information on the condition and progress of the criminal justice system;

"(4) establish and carry on a specific and continuing program of cooperation with the States and units of local government designed to encourage and promote consultation and coordination concerning decisions made by the Administration affecting State and local criminal justice priorities;

"(5) cooperate with and render technical assistance to States, units of local government, and other public and private organizations or international agencies involved in criminal justice activities;

"(6) cooperate with and render technical assistance to States, units of local government, and other public and private organizations or agencies involved in victim-witness assistance activities and the post-arrest identification and prosecution of career criminals;

"(7) provide funds and technical assistance to eligible jurisdictions under this title for the development of operational information and telecommunications systems;

"(8) exercise the powers and functions set out in part H; and

"(9) exercise such other powers and functions as may be vested in the Administrator pursuant to this title.

"OFFICE OF COMMUNITY ANTI-CRIME PROGRAMS

"SEC. 103. (a) There is established in the Law Enforcement Assistance Administration the Office of Community Anti-Crime Programs (hereinafter in this section referred to as the 'Office'). The Office shall be under the direction of the Administrator and shall—

"(1) provide appropriate technical assistance to community and citizens groups to enable such groups to—

"(A) apply for grants which encourage community and citizen participation in crime prevention and criminal justice activities;

"(B) participate in the formula grant application process pursuant to section 402(f) of this title;

"(C) provide program development and encouragement of neighborhood and community participation in crime prevention and public safety efforts; and

"(D) implement programs and projects assisted with grants under subsection (b).

"(2) coordinate its activities with other Federal agencies and programs, including the Community Relations Service of the Department of Justice, which are designed to encourage and assist citizen participation in criminal justice activities;

"(3) provide information on successful programs of citizen and community participation to citizen and community groups;

"(4) review, at its discretion, formula grant applications submitted under section 403 of this title in order to assure that the requirements for citizen, neighborhood, and community participation in the application process have been met; and

"(5) make recommendations, after consultation with citizen, neighborhood, and community organizations, for the designation of effective community anticrime programs for funding as national priority grants under part E and discretionary grants under part F.

"(b) The Administration is authorized to make grants to be administered by the Office of Community Anti-Crime Programs to community and citizens groups, which grants shall be used—

"(1) to enable the community to engage in a process leading to the identification of problems facing that community with respect to crime or conflicts, disputes, and other problems that might lead to crime;

"(2) to provide for the consideration by the community of plans to alleviate such problems with special attention to projects that—

"(A) have been successful in other communities in dealing with the same or similar problems;

"(B) provide alternatives to the criminal justice system in resolving conflicts and disputes and in repairing the injuries suffered;

"(C) promote increased citizen participation and confidence in the processes used to resolve conflicts and disputes; and

"(D) address the social and economic causes of crime.

"(3) to enable community and citizen groups to participate in assistance programs under this title, but no grant under this section may be used principally to seek technical assistance or a grant under this title;

"(4) to conduct training of community groups in the management of grants and such other skills as the Office determines are necessary to enhance the involvement of neighborhoods and citizens in community crime prevention and dispute resolution projects; and

"(5) to carry out projects determined to be likely to alleviate the community's crime problems as identified through the process set forth in this subsection.

"(c) In carrying out the functions under this part the Administrator shall make appropriate provisions for coordination among neighborhoods and for consultation with locally elected officials.

"PART B—NATIONAL INSTITUTE OF JUSTICE

"NATIONAL INSTITUTE OF JUSTICE

"SEC. 201. It is the purpose of this part to establish a National Institute of Justice, which shall provide for and encourage research and demonstration efforts for the purpose of—

"(1) improving Federal, State, and local criminal justice systems and related aspects of the civil justice system;

"(2) preventing and reducing crimes;

"(3) insuring citizen access to appropriate dispute-resolution forums;

"(4) improving efforts to detect, investigate, prosecute, and otherwise combat and prevent white-collar crime and public corruption; and

"(5) identifying programs of proven effectiveness, programs having a record of proven success, or programs which offer a high probability of improving the functioning of the criminal justice system.

The Institute shall have authority to engage in and encourage research and development to improve and strengthen the criminal justice system and related aspects of the civil justice system and to disseminate the results of such efforts to Federal, State, and local governments, to develop alternatives to judicial resolution of disputes, to evaluate the effectiveness of programs funded under this title, to develop new or improved approaches and techniques, to improve and strengthen the administration of justice, and to identify programs or projects carried out under this title which have demonstrated success in improving the quality of justice systems and which offer the likelihood of success if continued or repeated. In carrying out the provisions of this part, the Institute shall give primary emphasis to the problems of State and local justice systems and shall insure that there is a balance between basic and applied research.

"ESTABLISHMENT, DUTIES, AND FUNCTIONS

"SEC. 202. (a) There is established within the Department of Justice, under the general authority of the Attorney General, a National Institute of Justice (hereinafter referred to in this part as the 'Institute').

"(b) The Institute shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. The Director shall have had experience in justice research. The Director shall have final authority over all grants, cooperative agreements, and contracts awarded by the Institute. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Institute makes any contract or other arrangement under this title.

"(c) The Institute is authorized to—

"(1) make grants to, or enter into cooperative agreements or contracts with, public agencies, institutions of higher education, private organizations, or individuals to conduct research, demonstrations, or special projects pertaining to the purposes described in this part, and provide technical assistance and training in support of tests, demonstrations, and special projects;

"(2) conduct or authorize multiyear and short-term research and development concerning the criminal and civil justice systems in an effort—

"(A) to identify alternative programs for achieving system goals, including programs authorized by section 103 of this title;

"(B) to provide more accurate information on the causes and correlates of crime;

"(C) to analyze the correlates of crime and juvenile delinquency and provide more accurate information on the causes and correlates of crime and juvenile delinquency;

"(D) to improve the functioning of the criminal justice system;

"(E) to develop new methods for the prevention and reduction of crime, the prevention and reduction of parental kidnaping, including the development of programs to facilitate cooperation among the States and units of local government, the detection and apprehension of criminals, the expeditious, efficient, and fair disposition of criminal and juvenile delinquency cases, the improvement of police and minority relations, the conduct of research into the problems of victims and witnesses of crime, the feasibility and consequences of allowing victims to participate in criminal justice decisionmaking, the feasibility and desirability of adopting procedures and programs which increase the victim's participation in the criminal justice process, the reduction in the need to seek court resolution of civil disputes, and the development of adequate corrections facilities and effective programs of correction; and

"(F) to develop programs and projects to improve and expand the capacity of States and units of local government and combinations of such units, to detect, investigate, prosecute, and otherwise combat and prevent white-collar crime and public corruption, to improve and expand cooperation among the Federal Government, States, and units of local government in order to enhance the overall criminal justice system response to white-collar crime and public corruption, and to foster the creation and implementation of a comprehensive national strategy to prevent and combat white-collar crime and public corruption.

In carrying out the provisions of this subsection the Institute may request the assistance of both public and private research agencies;

"(3) evaluate the effectiveness of projects or programs carried out under this part;

"(4) evaluate, where the Institute deems appropriate, the programs and projects carried out under other parts of this title to determine their impact upon the quality of criminal and civil justice systems and the extent to which they have met or failed to meet the purposes and policies of this title, and disseminate such information to State agencies and, upon request, to units of local government and other public and private organizations and individuals;

"(5) make recommendations for action which can be taken by Federal, State, and local governments and by private persons and organizations to improve and strengthen criminal and civil justice systems;

"(6) provide research fellowships and clinical internships and carry out programs of training and special workshops for the presentation and dissemination of information resulting from research, demonstrations, and special projects including those authorized by this part;

"(7) collect and disseminate information obtained by the Institute or other Federal agencies, public agencies, institutions of higher education, and private organizations relating to the purposes of this part;

"(8) serve as a national and international clearinghouse for the exchange of information with respect to the purposes of this part;

"(9) submit a biennial report to the President and Congress on the state of justice research. This report shall describe significant achievements and identify areas needing further study. Other Federal agencies involved in justice research shall assist, upon request, in the preparation of this report;

"(10) after consultation with appropriate agencies and officials of States and units of local government, make recommendations for the designation of programs or projects which will be effective in improving the functioning of the criminal justice system, for funding as national priority grants under part E and discretionary grants under part F; and

"(11) encourage, assist, and serve in a consulting capacity to Federal, State, and local justice system agencies in the development, maintenance, and coordination of criminal and civil justice programs and services.

"(d) To insure that all criminal and civil justice research is carried out in a coordinated manner, the Director is authorized to—

"(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(2) confer with and avail itself of the cooperation, services, records, and facilities of State or of municipal or other local agencies;

"(3) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this section, and the agencies shall provide such information to the Institute as required to carry out the purposes of this part;

"(4) seek the cooperation of the judicial branches of Federal and State Government in coordinating civil and criminal justice research and development; and

"(5) exercise the powers and functions set out in part H.

"AUTHORITY FOR 100 PER CENTUM GRANTS

"SEC. 203. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Institute shall require, whenever feasible, as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"NATIONAL INSTITUTE OF JUSTICE ADVISORY BOARD

"SEC. 204. (a) There is hereby established a National Institute of Justice Advisory Board (hereinafter in this section referred to as the 'Board'). The Board shall consist of twenty-one members who shall be appointed by the President. The members shall represent the public interest and should be experienced in the criminal or civil justice systems, including representatives of States and units of local government, representatives of police, prosecutors, defense attorneys, courts, corrections, experts in the area of victim and witness assistance and other components of the justice system at all levels of government, representatives of professional organizations, representatives of the academic and research community, members of the business community, officials of neighborhood and community organizations, and the general public. A majority of the members of the Board, including the Chairman and Vice Chairman, shall not be full-time employees of Federal, State, or local governments. The Board, by majority vote, shall elect from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place of the Chairman in the absence of the Chairman. The Director shall also be a nonvoting member of the Board and shall not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment. The Chairman shall be provided by the Institute with at least one full-time staff assistant to assist the Board. The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, and the Director of the Bureau of Justice Statistics shall serve as nonvoting ex officio members of the Board and shall be ineligible to serve as Chairman or Vice Chairman. Except as otherwise provided herein, no more than one additional full-time Federal officer or employee shall serve as a member of the Board.

"(b) The Board after appropriate consultation with representatives of State and local governments may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assents.

"(c) The term of office of each member of the Board appointed under subsection (a) shall be three years except the first composition of the Board which shall have one-third of these members appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; and any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. Such members shall be appointed within ninety days after the date of enactment of the Justice System Improvement Act of 1979. The members of the Board appointed under subsection (a) shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay then payable in the General Schedule of section 5332(a) of title 5, United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses. No voting member shall serve for more than two consecutive terms.

"(d) The Board shall—

"(1) recommend the policies and priorities of the Institute;

"(2) create, where necessary, formal peer review procedures over selected categories of grants, cooperative agreements, and contracts;

"(3) recommend to the President at least three candidates for the position of Director of the Institute in the event of a vacancy; and

"(4) undertake such additional related tasks as the Board may deem necessary.

"(e) In addition to the powers and duties set forth elsewhere in this title, the Director shall exercise such powers and duties of the Board as may be delegated to the Director by the Board.

"PART C—BUREAU OF JUSTICE STATISTICS

"BUREAU OF JUSTICE STATISTICS

"SEC. 301. It is the purpose of this part to provide for and encourage the collection and analysis of statistical information concerning crime (including white-collar crime and public corruption), juvenile delinquency, and the operation of the criminal justice system and related aspects of the civil justice system and to support the development of information and statistical systems at the Federal, State, and local levels to improve the efforts of these levels of government to measure and understand the levels of crime (including crimes against the elderly, white-collar crime, and public corruption), juvenile delinquency, and the operation of the criminal justice system and related aspects of the civil justice system. The Bureau shall utilize to the maximum extent feasible State governmental organizations and facilities responsible for the collection and analysis of criminal justice data and statistics. In carrying out the provisions of this part, the Bureau shall give primary emphasis to the problems of State and local justice systems.

"ESTABLISHMENT, DUTIES, AND FUNCTIONS

"SEC. 302. (a) There is established within the Department of Justice, under the general authority of the Attorney General, a Bureau of Justice Statistics (hereinafter referred to in this part as 'Bureau').

"(b) The Bureau shall be headed by a Director appointed by the President, by and with the advice and consent of the Senate. The Director shall have had experience in statistical programs. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any other employment than that of serving as Director; nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this Act.

"(c) The Bureau is authorized to—

"(1) make grants to, or enter into cooperative agreements or contracts with public agencies, institutions of higher education, private organizations, or private individuals for purposes related to this part; grants shall be made subject to continuing compliance with standards for gathering justice statistics set forth in rules and regulations promulgated by the Director;

"(2) collect and analyze information concerning criminal victimization, including crimes against the elderly, and civil disputes;

"(3) collect and analyze data that will serve as a continuous and comparable national social indication of the prevalence, incidence, rates, extent, distribution, and attributes of crime, juvenile delinquency, civil disputes, and other statistical factors related to crime, civil disputes, and juvenile delinquency, in support of national, State, and local justice policy and decisionmaking;

"(4) collect and analyze statistical information, concerning the operations of the criminal justice system at the Federal, State, and local levels;

"(5) collect and analyze statistical information concerning the prevalence, incidence, rates, extent, distribution, and attributes of crime, and juvenile delinquency, at the Federal, State, and local levels;

"(6) analyze the correlates of crime, civil disputes and juvenile delinquency, by the use of statistical information, about criminal and civil justice systems at the Federal, State, and local levels, and about the extent, distribution and attributes of crime, and juvenile delinquency, in the Nation and at the Federal, State, and local levels;

"(7) compile, collate, analyze, publish, and disseminate uniform national statistics concerning all aspects of criminal justice and related aspects of civil justice, crime, including crimes against the elderly, juvenile delinquency, criminal offenders, juvenile delinquents, and civil disputes in the various States;

"(8) recommend national standards for justice statistics and for insuring the reliability and validity of justice statistics supplied pursuant to this title;

"(9) maintain liaison with the judicial branches of the Federal and State Governments in matters relating to justice statistics, and cooperate with the judicial branch in assuring as much uniformity as feasible in statistical systems of the executive and judicial branches;

"(10) provide information to the President, the Congress, the judiciary, State and local governments, and the general public on justice statistics;

"(11) establish or assist in the establishment of a system to provide State and local governments with access to Federal informational resources useful in the planning, implementation, and evaluation of programs under this Act;

"(12) conduct or support research relating to methods of gathering or analyzing justice statistics;

"(13) provide financial and technical assistance to the States and units of local government relating to collection, analysis, or dissemination of justice statistics;

"(14) maintain liaison with State and local governments and governments of other nations concerning justice statistics;

"(15) cooperate in and participate with national and international organizations in the development of uniform justice statistics;

"(16) insure conformance with security and privacy regulations issued pursuant to section 818; and

"(17) exercise the powers and functions set out in part H.

"(d) To insure that all justice statistical collection, analysis, and dissemination is carried out in a coordinated manner, the Director is authorized to—

"(1) utilize, with their consent, the services, equipment, records, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

"(2) confer and cooperate with State, municipal, and other local agencies;

"(3) request such information, data, and reports from any Federal agency as may be required to carry out the purposes of this title; and

"(4) seek the cooperation of the judicial branch of the Federal Government in gathering data from criminal justice records.

"(e) Federal agencies requested to furnish information, data, or reports pursuant to subsection (d)(3) shall provide such information to the Bureau as is required to carry out the purposes of this section.

"(f) In recommending standards for gathering justice statistics under this section, the Director shall consult with representatives of State and local government, including, where appropriate, representatives of the judiciary.

"AUTHORITY FOR 100 PER CENTUM GRANTS

"SEC. 303. A grant authorized under this part may be up to 100 per centum of the total cost of each project for which such grant is made. The Bureau shall require, whenever feasible as a condition of approval of a grant under this part, that the recipient contribute money, facilities, or services to carry out the purposes for which the grant is sought.

"BUREAU OF JUSTICE STATISTICS ADVISORY BOARD

"SEC. 304. (a) There is hereby established a Bureau of Justice Statistics Advisory Board (hereinafter referred to in this section as the 'Board'). The Board shall consist of twenty-one members who shall be appointed by the Attorney General. The members should include representatives of States and units of local government, representatives of police, prosecutors, defense attorneys, courts, corrections, experts in the area of victim and witness assistance, and other components of the justice system at all levels of government, representatives of professional organizations, members of the academic, research, and statistics community, officials of neighborhood and community organizations, members of the business community, and the general public. The Board, by majority vote, shall elect from among its members a Chairman and Vice Chairman. The Vice Chairman is authorized to sit and act in the place of the Chairman in the absence of the Chairman. The Director shall also be a non-voting member of the Board and shall not serve as Chairman or Vice Chairman. Vacancies in the membership of the Board shall not affect the power of the remaining members to execute the functions of the Board and shall be filled in the same manner as in the case of the original appointment. The Chairman shall be provided by the Bureau with at least one full-time staff assistant to assist the Board. The Administrator of the Law Enforcement Assistance Administration, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, the Director of the National Institute of Justice, and the Director of the Bureau of Justice Statistics shall serve as non-voting ex officio members of the Board but shall be ineligible to serve as Chairman or Vice Chairman. Except as otherwise provided herein, no more than one additional full-time Federal officer or employee shall serve as a member of the Board.

"(b) The Board, after appropriate consultation with representatives of State and local governments, may make such rules respecting its organization and procedures as it deems necessary, except that no recommendation shall be reported from the Board unless a majority of the Board assents.

"(c) The term of office of each member of the Board appointed under subsection (a) shall be three years except the first composition of the Board which shall have one-third of these members appointed to one-year terms, one-third to two-year terms, and one-third to three-year terms; and any such member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term. The members of the Board appointed under subsection (a) shall receive compensation for each day engaged in the actual performance of duties vested in the Board at rates of pay not in excess of the daily equivalent of the highest rate of basic pay then payable under the General Schedule of section 5332 (a) of title 5 United States Code, and in addition shall be reimbursed for travel, subsistence, and other necessary expenses. No voting member shall serve for more than two consecutive terms.

"(d) The Board shall—

"(1) review and make recommendations to the Bureau on activities undertaken by the Bureau and formulate and recommend to the Director policies and priorities for the Bureau;

"(2) recommend to the President at least three candidates for the position of Director of the Bureau in the event of a vacancy; and

"(3) carry out such additional related functions as the Board may deem necessary.

"(e) In addition to the powers and duties set forth elsewhere in this title, the Director shall exercise such powers and duties of the Board as may be delegated to the Director by the Board.

"USE OF DATA

"SEC. 305. Data collected by the Bureau shall be used only for statistical or research purposes, and shall be gathered in a manner that precludes their use for law enforcement or any purpose relating to a particular individual other than statistical or research purposes.

"PART D—FORMULA GRANTS

"DESCRIPTION OF PROGRAM

"SEC. 401. (a) It is the purpose of this part to assist States and units of local government in carrying out specific innovative programs which are of proven effectiveness, have a record of proven success, or which offer a high probability of improving the functioning of the criminal justice system. The Administration is authorized to make grants under this part to States and units of local government for the purpose of—

"(1) establishing or expanding community and neighborhood programs that enable citizens to undertake initiatives to deal with crime and delinquency;

"(2) improving and strengthening law enforcement agencies, as measured by arrest rates, incidence rates, victimization rates, the number of reported crimes, clearance rates, the number of patrol or investigative hours per uniformed officer, or any other appropriate objective measure;

"(3) improving the police utilization of community resources through support of joint police-community projects designed to prevent or control neighborhood crime;

"(4) disrupting illicit commerce in stolen goods and property and training of special investigative and prosecuting personnel, and the development of systems for collecting, storing, and disseminating information relating to the control of organized crime;

"(5) combating arson;

"(6) developing investigations and prosecutions of white-collar crime, organized crime, public-corruption-related offenses, and fraud against the government;

"(7) reducing the time between arrest or indictment and disposition of trial;

"(8) implementing court reforms;

"(9) increasing the use and development of alternatives to the prosecution of selected offenders;

"(10) increasing the development and use of alternatives to pretrial detention that assure return to court and a minimization of the risk of danger;

"(11) increasing the rate at which prosecutors obtain convictions against habitual, nonstatus offenders;

"(12) developing and implementing programs which provide assistance to victims, witnesses, and jurors, including restitution by the offender, programs encouraging victim and witness participation in the criminal justice system, and programs designed to prevent retribution against or intimidation of witnesses by persons charged with or convicted of crimes;

"(13) providing competent defense counsel for indigent and eligible low-income persons accused of criminal offenses;

"(14) developing projects to identify and meet the needs of drug dependent offenders;

"(15) increasing the availability and use of alternatives to maximum-security confinement of convicted offenders who pose no threat to public safety;

"(16) reducing the rates of violence among inmates in places of detention and confinement;

"(17) improving conditions of detention and confinement in adult and juvenile correctional institutions, as measured by the number of such institutions administering programs meeting accepted standards;

"(18) training criminal justice personnel in programs meeting standards recognized by the Administrator;

"(19) revision and recodification by States and units of local government of criminal statutes, rules, and procedures and revision of statutes, rules, and regulations governing State and local criminal justice agencies;

"(20) coordinating the various components of the criminal justice system to improve the overall operation of the system, establishing criminal justice information systems, and supporting and training of criminal justice personnel;

"(21) developing statistical and evaluative systems in States and units of local government which assist the measurement of indicators in each of the areas described in paragraphs (1) through (20);

"(22) encouraging the development of pilot and demonstration projects for prison industry programs at the State level with particular emphasis on involving private sector enterprise either as a direct participant in such programs, or as purchasers of goods produced through such programs, and aimed at making inmates self-sufficient, to the extent practicable, in a realistic working environment; and

"(23) any other innovative program which is of proven effectiveness, has a record of proven success, or which offers a high probability of improving the functioning of the criminal justice system.

"(b)(1) Except with respect to allocations under subsection (c)—

"(A) for the fiscal year ending September 30, 1980, the Federal portion of any grant made under this part may be up to 100 per centum of the cost of the program or project specified in the application for such grant; and

"(B) for any later fiscal period, that portion of a Federal grant made under this section may be up to 90 per centum of the cost of the program or project specified in the application for such grant unless the Administrator determines that State or local budgetary restraints prevent the recipient from providing the remaining portion.

"(2)(A) The non-Federal portion of the cost of such program or project shall be in cash.

"(B) In the case of a grant to an Indian tribe or other aboriginal group, the Administration may increase the Federal portion of the cost of such program to the extent the Administration deems necessary, if the Administration determines that the tribe or group does not have sufficient funds available to meet the non-Federal portion of such cost.

"(3) Except with respect to allocations under subsection (c), a grant recipient shall assume the cost of a program or project funded under this part after a reasonable period of Federal assistance unless the Administrator determines that the recipient is unable to assume such cost because of State or local budgetary restraints.

"(c)(1) The Administration shall allocate from the grant provided for in subsection (a) $200,000 to each of the States for the purposes of administering grants received under this title for operating criminal justice councils, judicial coordinating committees, and local offices pursuant to part D, and an additional amount of at least $50,000 shall be made available by the Administration for allocation by the State to the judicial coordinating committee. These foregoing sums shall be available without a requirement for match. The Administration shall allocate additional funds from the grant to a State for use by the State and its units of local government in an amount that is 7½ per centum of the total grant of such State. Any of the additional funds shall be matched in an amount equal to any such expended or obligated amount. An amount equal to at least 7½ per centum of the allocation of an eligible jurisdiction as defined in section 402(a) (2), (3), or (4), or of a judicial coordinating committee, must be made available by the State to each such jurisdiction or judicial coordinating committee from these additional funds for purposes set out above. The eligible jurisdiction or combination thereof shall match the amounts passed through in an amount equal to any such amount expended or obligated by the eligible jurisdiction or combination thereof for the purposes set forth above for all Federal funds in excess of $25,000 for each eligible jurisdiction.

"(2) Any funds allocated to States or units of local government and unexpended by such States or units of local government for the purposes set forth above shall be available to such States or units of local government for expenditure in accordance with subsection (a).

"(3) The State may allocate at its discretion to units of local government or combinations of such units which are not eligible jurisdictions as defined in section 402(a) (2), (3), and (4) funds provided under this subsection.

"ELIGIBILITY

"SEC. 402. (a) The Administration is authorized to make financial assistance under this part available to an eligible jurisdiction to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this title. An eligible jurisdiction shall be—

"(1) a State;

"(2) a municipality which has no less than 0.15 per centum of total State and local criminal justice expenditures, and which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration but only if such municipality would receive at least $50,000 for the applicable year under section 405;

"(3) a county which has no less than 0.15 per centum of total State and local criminal justice expenditures, and which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration but only if such county would receive at least $50,000 for the applicable year under section 405;

"(4) any combination of contiguous units of local government, whether or not situated in more than one State, or any combination of units of local government all in the same county, which has a population of one hundred thousand or more persons on the basis of the most satisfactory current data available on a nationwide basis to the Administration but only if such combination would receive at least $50,000 for the applicable year under section 405;

"(5) a unit of local government, or any combination of such contiguous units without regard to population, which are otherwise ineligible under the other paragraphs of this subsection.

"(b)(1) Each State shall establish or designate and maintain a criminal justice council (hereinafter referred to in this title as the 'council') for the purpose of—

"(A) analyzing the criminal justice problems within the State based on input and data from all eligible jurisdictions, State agencies, and the judicial coordinating committee and establishing priorities based on the analysis and assuring that these priorities are published and made available to affected criminal justice agencies prior to the time required for application submission;

"(B) preparing a comprehensive State application reflecting the statewide goals, objectives, priorities, and projected grant programs;

"(C)(i) receiving, reviewing, and approving (or disapproving) applications or amendments submitted by State agencies, the judicial coordinating committee, and units of local government, or combinations thereof, as defined in subsection (a)(5), pursuant to section 405(a)(5) of this title; and

"(ii) providing financial assistance to these agencies and units according to the criteria of this title and on the terms and conditions established by such council at its discretion;

"(D) receiving, coordinating, reviewing, and monitoring all applications or amendments submitted by State agencies, the judicial coordinating committee, units of local government, and combinations of such units pursuant to section 403 of this title, recommending ways to improve the effectiveness of the programs or projects referred to in said applications, assuring compliance of said applications with Federal requirements and State law and integrating said applications into the comprehensive State application;

"(E) preparing an annual report for the chief executive of the State and the State legislature containing an assessment of the criminal justice problems and priorities within the State; the adequacy of existing State and local agencies, programs, and resources to meet these problems and priorities; the distribution and use of funds allocated pursuant to this part and the relationship of these funds to State and local resources allocated to crime and justice system problems; and the major policy and legislative initiatives that are recommended to be undertaken on a statewide basis;

"(F) assisting the chief executive of the State, the State legislature, and units of local government upon request in developing new or improved approaches, policies, or legislation designed to improve criminal justice in the State;

"(G) developing and publishing information concerning criminal justice in the State;

"(H) providing technical assistance upon request to State agencies, community-based crime prevention programs, the judicial coordinating committee, and units of local government in matters relating to improving criminal justice in the State; and

"(I) assuring fund accounting, auditing, and evaluation of programs and projects funded under this part to assure compliance with Federal requirements and State law.

"(2) The council shall be created or designated by State law and shall be subject to the jurisdiction of the chief executive of the State who shall appoint the members of the council, designate the chairman, and provide professional, technical, and clerical staff to serve the council. The council shall be broadly representative and include among its membership—

"(A) representatives of eligible jurisdictions as defined in subsection (a) (2), (3), and (4) who shall comprise at least one-third of the membership of the council where there are such eligible jurisdictions in the State and where they submit applications pursuant to this part;

"(B) representatives of the smaller units of local government defined in subsection (a)(5);

"(C) representatives of the various components of the criminal justice system, including representatives of agencies directly related to the prevention and control of juvenile delinquency and representatives of police, courts, corrections, prosecutors, and defense attorneys;

"(D) representatives of the general public including representatives of neighborhood and community-based, business, and professional organizations of the communities to be served under this part; and

"(E) representatives of the judiciary including, at a minimum, the chief judicial officer or other officer of the court of last resort, the chief judicial administrative officer or other appropriate judicial administrative officer of the State, and a local trial court judicial officer; if the chief judicial officer or chief judicial administrative officer cannot or does not choose to serve, the other judicial members and the local trial court judicial officer shall be selected by the chief executive of the State from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort within thirty days after the occurrence of any vacancy in the judicial membership, additional judicial members of the council as may be required by the Administration shall be appointed by the chief executive of the State from the membership of the judicial coordinating committee or, in the absence of a judicial coordinating committee, from a list of no less than three nominees for each position submitted by the chief judicial officer of the court of last resort.

Individual representatives may fulfill the requirements of more than one functional area or geographical area where appropriate to the background and expertise of the individual.

"(3)(A) Applications from eligible jurisdictions as defined in subsection (a) (2), (3), and (4) may, at the discretion of such eligible jurisdiction, be in the form of a single application to the State for inclusion in the comprehensive State application. Applications or amendments should conform to the overall priorities, unless the eligible jurisdiction's analysis of its criminal justice system demonstrates that such recommended priorities are inconsistent with their needs. Applications or amendments should conform to uniform administrative requirements for submission of applications. Such requirements shall be consistent with guidelines issued by the Administration. Such application or amendments shall be deemed approved unless the council, within ninety days of the receipt of such application or amendment, finds that the application or amendment—

"(i) does not comply with Federal requirements or with State law or regulations;

"(ii) is inconsistent with priorities and fails to establish, under guidelines issued by the Administration, good cause for such inconsistency;

"(iii) conflicts with or duplicates programs or projects of another applicant under this title, or other Federal, State, or local supported programs or applications; or

"(iv) proposes a program or project that is substantially identical to or is a continuation of a program or project which has been evaluated and found to be ineffective under section 404(c)(4).

Where the council finds such noncompliance, inconsistency, conflict, or duplication, it shall notify the applicant in writing and set forth its reasons for the finding.

"(B) The applicant may, within thirty days of receipt of written findings of the council pursuant to subparagraph (A) submit to the council a revised application or state in writing the applicant's reasons for disagreeing with the council's findings.

"(C) A revised application submitted under subparagraph (B) shall be treated as an original application except that the council shall act on such application within thirty days.

"(D) If an applicant states in writing a disagreement with the council's written findings as specified in subparagraph (A), the findings shall be considered appealed. The appeal shall be in accordance with a procedure developed by the council and reviewed and agreed to by the eligible jurisdiction. If any eligible jurisdiction in a State fails to agree with the council appeal process prior to application submission to the council, the appeal shall be in accordance with procedures developed by the Administration. The Administration appeal procedures shall provide that if the council's action is not supported by clear and convincing evidence or if the council acted arbitrarily or capriciously, the council shall be directed to reconsider or approve the application or amendment.

"(E) Approval of the application of such eligible local jurisdiction shall result in the award of funds to such eligible jurisdiction without requirement for further application or review by the council.

"(4) Applications from State agencies and eligible jurisdictions as defined in subsection (a)(5) must be in the manner and form proscribed by the council. Where the council determines under paragraph (1) (C) and (D) that an application or amendment from a State agency or an eligible jurisdiction as defined in subsection (a)(5)—

"(A) does not comply with Federal requirements or with State law or regulation;

"(B) is inconsistent with priorities, policy, organizational, or procedural arrangements, or the crime analysis;

"(C) conflicts with or duplicates programs or projects of another applicant under this title, or other Federal, State, or local supported programs or applications; or

"(D) proposes a program or project that is substantially identical to or is a continuation of a program or project which has been evaluated and found to be ineffective;

the council shall notify the applicant in writing of the finding and the reasons for the finding and may deny funding or recommend appropriate changes. Appeal of the council's action shall be in accordance with procedures established by the council for such matters.

"(c) The chief executive(s) of an eligible jurisdiction as defined in subsection (a) (2), (3), and (4) shall create or designate an office for the purpose of preparing and developing the jurisdiction's application and assuring that such application complies with Federal requirements, State law, fund accounting, auditing and the evaluation of programs and projects to be funded under the application to be submitted to the council pursuant to section 403 of this title. Each eligible jurisdiction shall establish or designate a local criminal justice advisory board (hereinafter referred to in this section as the 'board') for the purpose of—

"(1) analyzing the criminal justice problems within the eligible jurisdiction and advising the council of the eligible jurisdiction on priorities;

"(2) advising the chief executive of the eligible jurisdiction pursuant to this title;

"(3) advising on applications or amendments by the eligible jurisdiction;

"(4) assuring that there is an adequate allocation of funds for court programs based upon that proportion of the eligible jurisdiction's expenditures for correction programs which contributes to the jurisdiction's eligibility for funds and which take into account the court priorities recommended by the judicial coordinating committee; and

"(5) assuring that there is an adequate allocation of funds for correction programs based on that portion of the eligible jurisdiction's expenditures for correction programs which contributes to the jurisdiction's eligibility for funds.

Such board shall be established or designated by the chief executive of the eligible jurisdiction and shall be subject to the jurisdiction of the chief executive who shall appoint the members and designate the chairman. Such board shall be broadly representative of the various components of the criminal justice system and shall include among its membership representatives of neighborhood, community-based and professional organizations. In the case of an eligible jurisdiction as defined in subsection (a)(4), the membership of the board shall be jointly appointed in such manner as the chief executive of each unit of local government shall determine by mutual agreement. Decisions made by the board pursuant to this subsection may be reviewed and either be accepted or rejected by the chief executive of the eligible subgrant jurisdiction, or in the case of an eligible jurisdiction as defined in subsection (a)(4) in such manner as the chief executive of each unit of local government shall determine by mutual agreement. Where an eligible jurisdiction as defined in subsection (a) (2) or (3) chooses not to combine pursuant to section 402(a)(4) and chooses not to exercise the powers of this subsection, it shall be treated as an eligible jurisdiction under subsection (a)(5).

"(d) The court of last resort of each State may establish or designate a judicial coordinating committee (hereinafter referred to in this title as the 'committee') for the preparation, development, and revision of a three-year application or amendments thereto reflecting the needs and priorities of the courts of the State. For those States where there is a judicial agency which is authorized by State law on the date of enactment of this subsection to perform this function and which has a statutory membership of a majority of court officials (including judges and court administrators), the judicial agency may establish or designate the judicial coordinating committee. The committee shall—

"(1) establish priorities for the improvement of the various courts of the State;

"(2) define, develop, and coordinate programs and projects for the improvement of the courts of the State; and

"(3) develop, in accordance with part D, an application for the funding of programs and projects designed to improve the functioning of the courts and judicial agencies of the State.

The committee shall submit its three-year application or amendments to the council. The committee shall review for consistency with the court priorities, applications, or amendments from any jurisdiction which has incurred expenditures for court services from its own sources or from any other jurisdiction which is applying for funds for court services. The committee shall report to the council and the applicant its findings of consistency and inconsistency. The council shall approve and incorporate into its application in whole or in part the application or amendments of the committee unless the council determines that such committee application or amendments are not in accordance with this title, are not in conformance with, or consistent with, their own application made pursuant to section 403 of this title, or do not conform with the fiscal accountability standards of this title.

"(e)(1) The council will provide for procedures that will insure that all applications or amendments by units of local government or combinations thereof or judicial coordinating committees shall be acted upon no later than ninety days after being first received by the council. Final action by the council which results in the return of any application or amendments to an application must contain specific reasons for such action within ninety days of receipt of the application. Any part of such application or amendments which is not acted upon shall be deemed approved for submission to the Administration. Action by the council on any application or part thereof shall not preclude the resubmission of such application or part thereof to the council at a later date.

"(2) The council, the judicial coordinating committee, and local boards, established pursuant to subsection (c), shall meet at such times and in such places as they deem necessary and shall hold each meeting open to the public, giving public notice of the time and place of such meeting, and the nature of the business to be transacted if final action is to be taken at the meeting on the State application or any application for funds or any amendment thereto. The council, the judicial coordinating committee, and local boards, pursuant to subsection (c), shall provide for public access to all records relating to their functions under this title, except such records as are required to be kept confidential by any other provision of local, State, or Federal law.

"(3) The council shall, at a time designated in regulations promulgated by the Administration, submit its application made pursuant to this part to the Administration for approval. Its application shall include funding allocations or applications which were submitted by State agencies, the judicial coordinating committee, and units of local government, or combinations thereof and which were first reviewed and approved by the council pursuant to subsection (b)(3), (b)(4), or (d), as appropriate.

"(f) To be eligible for funds under this part all eligible jurisdictions shall assure the participation of citizens, and neighborhood and community organizations, in the application process. No grant may be made pursuant to this part unless the eligible jurisdiction has provided satisfactory assurances to the Administration that the applicant has—

"(1) provided citizens and neighborhood and community organizations with adequate information concerning the amounts of funds available for proposed programs or projects under this title, the range of activities that may be undertaken, and other important program requirements;

"(2) provided citizens and neighborhood and community organizations an opportunity to consider and comment on priorities set forth in the application or amendments;

"(3) provided for full and adequate participation of units of local government in the performance of the analysis and the establishment of priorities required by subsection (b)(1)(A); and

"(4) provided an opportunity for all affected criminal justice agencies to consider and comment on the proposed programs to be set forth in the application or amendments.

The Administrator, in cooperation with the Office of Community Anti-Crime Programs, may establish such rules, regulations, and procedures as are necessary to assure that citizens and neighborhood and community organizations will be assured an opportunity to participate in the application process.

"APPLICATIONS

"SEC. 403. (a) No grant may be made by the Administration to a State, or by a State to an eligible recipient pursuant to part D, unless the application sets forth criminal justice programs covering a three-year period which meet the objectives of section 401 of this title. This application must be amended annually if new programs are to be added to the application or if the programs contained in the original application are not implemented. The application must include—

"(1) an analysis of the crime problems and criminal justice needs within the relevant jurisdiction and a description of the services to be provided and performance goals and priorities, including a specific statement of how the programs are expected to advance the objectives of section 401 of this title and meet the identified crime problems and criminal justice needs of the jurisdiction;

"(2) an indication of how the programs relate to other similar State or local programs directed at the same or similar problems;

"(3) an assurance that following the first fiscal year covered by an application and each fiscal year thereafter, the applicant shall submit to the Administration, where the applicant is a State, and to the council where the applicant is a State agency, the judicial coordinating committees, a nongovernmental grantee, or a unit or combination of units of local government—

"(A) a performance report concerning the activities carried out pursuant to this title; and

"(B) an assessment by the applicant of the impact of those activities on the objectives of this title and the needs and objectives identified in the applicant's statement;

"(4) a certification that Federal funds made available under this title will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for criminal justice activities;

"(5) an assurance where the applicant is a State or unit or combination of units of local government that there is an adequate share of funds for courts and for corrections, police, prosecution, and defense programs;

"(6) a provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records as the Administration shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds received under this title;

"(7) a provision for the maintenance of such data and information and for the submission of such reports in such form, at such times, and containing such data and information as the Administration may reasonably require to administer other provisions of this title;

"(8) a certification that its programs meet all the requirements of this section, that all the information contained in the application is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with all provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration and shall be executed by the chief executive officer or other officer of the applicant qualified under regulations promulgated by the Administration; and

"(9) satisfactory assurances that equipment, whose purchase was previously made in connection with a program or project in such State assisted under this title and whose cost in the aggregate was $100,000 or more, has been put into use not later than one year after the date set at the time of purchase for the commencement of such use and has continued in use during its useful life.

"(b) Applications from judicial coordinating committees, State agencies, and other nongovernmental grantees do not have to include the crime analysis required by subsection (a)(1) but may rely on the crime analysis prepared by the council.

"REVIEW OF APPLICATIONS

"SEC. 404. (a) The Administration shall provide financial assistance to each State applicant under this part to carry out the programs or projects submitted by such applicant upon determining that—

"(1) the application or amendment thereof is consistent with the requirements of this title;

"(2) the application or amendment thereof was made public prior to submission to the Administration and an opportunity to comment thereon was provided to citizens and neighborhood and community groups; and

"(3) prior to the approval of the application or amendment thereof the Administration has made an affirmative finding in writing that the program or project is likely to contribute effectively to the achievement of the objectives of section 401 of this title.

Each application or amendment made and submitted for approval to the Administration pursuant to section 403 of this title shall be deemed approved, in whole or in part, by the Administration within ninety days after first received unless the Administration informs the applicant of specific reasons for disapproval.

"(b) The Administration shall suspend funding for an approved application in whole or in part if such application contains a program or project which has failed to conform to the requirements or statutory objectives of this Act as evidenced by—

"(1) the annual performance reports submitted to the Administration by the applicant pursuant to section 802(b) of this title;

"(2) the failure of the applicant to submit annual performance reports pursuant to section 403 of this title;

"(3) evaluations conducted pursuant to section 802(b);

"(4) evaluations and other information provided by the National Institute of Justice.

The Administration may make appropriate adjustments in the amounts of grants in accordance with its findings pursuant to this subsection.

"(c) Grant funds awarded under part D shall not be used for—

"(1) the purchase of equipment or hardware except as provided in section 102(7), or the payment of personnel costs, unless the cost of such purchases or payments is incurred as an incidental and necessary part of a program of proven effectiveness, a program having a record of proven success, or a program offering high probability of improving the functioning of the criminal justice system (including bulletproof vests). In determining whether to apply this limitation, consideration must be given to the extent of prior funding from any sources in that jurisdiction for substantially similar activities;

"(2) programs which have as their primary purpose general salary payments for employees or classes of employees within an eligible jurisdiction, except for the compensation of personnel for time engaged in conducting or undergoing training programs or the compensation of personnel engaged in research, development, demonstration, or short-term programs;

"(3) construction projects; or

"(4) programs or projects which, based upon evaluations by the National Institute of Justice, Law Enforcement Assistance Administration, Bureau of Justice Statistics, State or local agencies, and other public or private organizations, have been demonstrated to offer a low probability of improving the functioning of the criminal justice system. Such programs must be formally identified by a notice in the Federal Register after opportunity for comment.

"(d) The Administration shall not finally disapprove any application submitted to the Administrator under this part, or any amendments thereof, without first affording the applicant reasonable notice and opportunity for a hearing and appeal pursuant to section 803 of this title.

"ALLOCATION AND DISTRIBUTION OF FUNDS

"SEC. 405. (a) Of the total amount appropriated for parts D, E, and F in any fiscal year, 80 per centum shall be set aside for part D and allocated to States, units of local government, and combinations of such units as follows:

"(1) The sum of $300,000 to each of the participating States as defined in section 402 (a)(1) and the balance according to one of the following two formulas, whichever formula results in the larger amount:

"(A) Of the remaining amount to be allocated pursuant to this part:

"(i) 25 per centum shall be allocated in proportion to the relative population within the State as compared to the population in all States;

"(ii) 25 per centum shall be allocated in proportion to the relative number of index crimes (as documented by the Department of Justice) reported within the State as compared to such numbers in all States;

"(iii) 25 per centum shall be allocated in proportion to the relative amount of total State and local criminal justice expenditures within the State as compared to such amounts in all States; and

"(iv) 25 per centum shall be allocated in proportion to the relative population within the State, weighted by the share of State personal income paid in State and local taxes, as compared to such weighted populations in all States; or

"(B) The remaining amount to be allocated pursuant to this part shall be allocated in proportion to the relative population within the State as compared to the population, in all States;

except that no State which receives financial assistance pursuant to subparagraph (A) shall receive an amount in excess of 110 per centum of that amount available to a State pursuant to subparagraph (B). Formula allocations under this section shall utilize relative population data only for the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

"(2) If the fund allocation to each of the States pursuant to paragraph (1) results in a total amount in excess of the amount appropriated for the purposes of this part, additional funds shall be allocated by the Administration from part E or F to the States for purposes consistent with those parts so that the total amount equals the total amount allocated under paragraph (1). No State shall receive an allocation pursuant to paragraph (1) which is less than the block grant allocation received by such State for fiscal year 1979 pursuant to parts C and E, except that if the total amount appropriated for part D for any fiscal year subsequent to fiscal year 1979 is less than the total block grant appropriation for parts C and E during fiscal year 1979, the States shall receive an allocation in accordance with paragraph (1)(B).

"(3) From the amount made available to each State pursuant to paragraphs (1) and (2), the Administration shall determine basic allocations to be made available to the State, to eligible jurisdictions as defined in section 402(a) (2), (3), or (4) and to eligible jurisdictions as defined in section 402(a)(5). Such allocations shall be determined—

"(A) by distributing 70 per centum of available funds allocated under paragraphs (1) and (2) to the State and those eligible units of local government within the State as defined in section 402(a) in a proportion equal to their own respective share of total State and local criminal justice expenditures; and

"(B) by dividing the remaining 30 per centum of available funds allocated under paragraphs (1) and (2) and distributing to the State and to those eligible units of local government within the State as defined in section 402(a), in four equal shares in amounts determined as follows:

"(i) for combating crime as specified in section 401(a), a proportion of the available funds equal to their own respective share of total State and local expenditures for police services from all sources;

"(ii) for improving court administration as specified in section 401(a), a proportion of the available funds equal to their own respective share of total State and local expenditures for judicial, legal, and prosecutive, and public defense services from all sources;

"(iii) for improving correctional services as specified in section 401(a), a proportion of the available funds equal to their own respective share of total State and local expenditures for correctional services from all sources; and

"(iv) for devising effective alternatives to the criminal justice system as specified in section 401(a) a proportion of the available funds equal to their own respective share of total State and local expenditures from all sources.

"(4) All allocations under paragraph (3) shall be based upon the most accurate and complete data available for such fiscal year or for the most recent fiscal year for which accurate data are available. Eligible jurisdictions as defined in section 402(a)(4) may not receive an allocation based upon the population of eligible cities and counties as defined in section 402(a) (2), (3), and (5) unless such cities and counties participate in activities under this title as part of a combination of units of local government as defined in section 402(a)(4). In determining allocations for the eligible units as defined in section 402(a), an aggregate allocation may be utilized where eligible jurisdictions as defined in section 402(a) combine to meet the population requirements of section 402(a)(4).

"(5) The amount made available pursuant to paragraph (3) to eligible units of local government within each State, as defined in section 402(a)(5), and to eligible jurisdictions, as defined in section 402(a) (2), (3), or (5) which choose not to combine pursuant to section 402(a)(4) and choose not to exercise the powers of section 402(c), shall be reserved and set aside in a special discretionary fund for use by the council pursuant to section 402 of this title, in making grants (in addition to any other grants which may be made under this title to the same entities or for the same purposes) to such units of local government or combinations thereof. The council shall allocate such funds among such local units of government or combinations thereof which make application pursuant to section 403 of this title, according to the criteria of this title and on the terms and conditions established by such council at its discretion. If in a particular State, there are no eligible units of local government, as defined in section 402(a)(2), (3), or (4) of this part, the amount otherwise reserved and set aside in the special discretionary fund shall consist of the entire amount made available to local units of government, pursuant to this section.

"(b) At the request of the State legislature while in session or a body designated to act while the legislature is not in session, general goals, priorities, and policies of the council shall be submitted to the legislature for an advisory review prior to its implementation by the council. In this review the general criminal justice goals, priorities, and policies that have been developed pursuant to this part shall be considered. If the legislature or the interim body has not reviewed such matters forty-five days after receipt, such matters shall then be deemed reviewed.

"(c) No award of funds that are allocated to the States, units of local government, or combinations thereof under this part shall be made with respect to a program other than a program contained in an approved application.

"(d) If the Administration determines, on the basis of information available to it during any fiscal year, that a portion of the funds allocated to a State, unit of local government, or combination thereof for that fiscal year will not be required or that the State, unit of local government, or combination thereof will be unable to qualify or receive funds under the requirements of this part, such funds shall be available for reallocation to the States, or other units of local government and combinations thereof within such State, as the Administration may determine in its discretion, but all States shall be considered equally for reallocated funds.

"(e) A State may award funds from the State allocation to private nonprofit organizations. Eligible jurisdictions as defined in section 402(a)(2) through (5) may utilize the services of private nonprofit organizations for purposes consistent with this title.

"(f) In order to receive formula grants under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, a State shall submit a plan for carrying out the purposes of that Act in accordance with the provisions of this title and section 223 of that Act. Such plan may at the direction of the Administrator be incorporated into the State application to be submitted under this part.

"(g) Eligible jurisdictions which choose to utilize regional planning units may utilize the boundaries and organization of existing general purpose regional planning bodies within the State.

"PART E—NATIONAL PRIORITY GRANTS

"PURPOSE

"SEC. 501. It is the purpose of this part, through the provision of additional Federal financial aid and assistance, to encourage States and units of local government to carry out programs which, on the basis of research, demonstration, or evaluations by the National Institute of Justice, Bureau of Justice Statistics, Law Enforcement Assistance Administration, State or local governments, or other Federal, State, local, or private organizations or agencies, have been shown to meet the criteria of section 503(a).

"PERCENTAGE OF APPROPRIATION FOR NATIONAL PRIORITY GRANT PROGRAM

"SEC. 502. Of the total amount appropriated for parts D, E, and F in any fiscal year, 10 per centum shall be reserved and set aside pursuant to this part as funding incentives for use by the Administration in making national priority grants (in addition to any other grants which may be made under this title to the same entities or for the same purpose) to States, units of local government, and combinations of such units.

"PROCEDURE FOR DESIGNATING NATIONAL PRIORITY PROGRAMS

"SEC. 503. (a) The Director of the Office of Justice Assistance, Research, and Statistics and the Administrator of the Law Enforcement Assistance Administration shall periodically and jointly designate national priority programs and projects which through research, demonstration, or evaluation have been shown to be effective or innovative and to have a likely beneficial impact on criminal justice. Such national priorities may include programs and projects designated to improve the comprehensive planning and coordination of State and local criminal justice activities. Priorities established under this subsection shall be considered priorities for a period of time determined by such Director and Administrator jointly but not to exceed three years from the time of such determination except in cases of recipients for which State or local budgetary restraints prevent assumption of costs of priority projects. Such priorities shall be designated according to such criteria, and on such terms and conditions, as such Director and such Administrator jointly may determine.

"(b) Such Director and such Administrator shall jointly annually request the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, State and local governments, and other appropriate public and private agencies to suggest national priority programs and projects. Such Director and such Administrator shall jointly then, pursuant to regulations such Director and such Administrator jointly promulgate annually, publish proposed national priority programs and projects pursuant to this part and invite and encourage public comment concerning such priorities. Such priority programs and projects shall not be established or modified until such Director and such Administrator jointly have provided at least sixty days advance notice for public comment and shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments submitted during such period of time, such Director and such Administrator jointly shall establish priority programs and projects for that year (and determine whether existing priority programs and projects should be modified). Such Director and such Administrator shall jointly publish in the Federal Register the priority programs and projects established pursuant to this part prior to the beginning of fiscal year 1981 and each fiscal year thereafter for which appropriations will be available to carry out the program. In the event of a disagreement by such Director and such Administrator as to the exercise of joint functions under this section, the Attorney General shall resolve such disagreement.

"APPLICATION REQUIREMENTS

"Sec. 504. (a) No grant may be made pursuant to this part unless an application has been submitted to the Administration in which the applicant—

"(1) identifies the priority program to be funded and describes how funds allocated pursuant to this part and pursuant to part D will be expended to carry out the priority program;

"(2) describes specifically what percentages of funds allocated for the upcoming year pursuant to part D will be spent on priority programs and projects pursuant to this part;

"(3) describes specifically the priority programs and projects for which funds are to be allocated pursuant to part D for the upcoming fiscal year;

"(4) describes what percentage of part D funds were expended on national priority projects during the preceding fiscal year; and

"(5) describes specifically the priority programs and projects for which funds were allocated pursuant to part D during the preceding fiscal year and the amount of such allocation.

"(b) Each applicant for funds under the part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration.

"(c) Each application must be submitted for review to the criminal justice council in whose State the applicant is located. The council shall have thirty days to comment to the Administration upon the application. Any recommendation shall be accompanied by supporting rationale.

"(d) States and units of local government may utilize the services of private nonprofit organizations for purposes consistent with this part.

"CRITERIA FOR AWARD

"Sec. 505. (a) The Administration shall, after appropriate consultation with representatives of State and local governments and representatives of the various components of the justice system at all levels of government, establish reasonable requirements consistent with this part for the award of national priority grants. Procedures for awards of national priority grants shall be published in the Federal Register and no national priority grant shall be made in a manner inconsistent with these procedures. The Administration in determining whether to award a priority grant to an eligible jurisdiction shall give consideration to the criminal justice needs and efforts of eligible jurisdictions, to the need for continuing programs which would not otherwise be continued because of the lack of adequate part D funds, and to the degree to which an eligible jurisdiction has expanded or proposes to expend funds from part D or other sources of funds, including other Federal grants, for priority programs and projects. No jurisdiction shall be denied a priority grant solely on the basis of its population.

"(d) Grants under this part may be made in an amount equal to 50 per centum of the cost of the priority program or project for which such grant is made except allocations made pursuant to section 405(a)(2), which may be made in an amount equal to 100 per centum of the cost of the funded program. The remaining costs may be provided from part D funds or from any other source of funds, including other Federal grants, available to the eligible jurisdiction. The Administration may provide technical assistance to any priority program or project funded under this part. Technical assistance so provided may be funded in an amount equal to 100 per centum of its cost from funds set aside pursuant to this part.

"(c) Amounts reserved and set aside pursuant to this part in any fiscal year, but not used in such year, may be used by the Administration to provide additional financial assistance to priority programs or projects of demonstrated effectiveness in improving the functioning of the criminal justice system, notwithstanding the provisions of subsection (b).

"(d) The Administration may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to this part may be extended or renewed by the Administration for an additional period of up to two years if an evaluation of the program or project indicates that it has been effective in achieving the stated goals or offers the potential for improving the functioning of the criminal justice system. A recipient shall assume the cost of any program assisted under this part after the period of Federal assistance unless the Administrator determines that the recipient is unable to assume such cost because of State or local budgetary restraints. The Administration shall assure that the problems and needs of all of the States are taken into account in distributing funds under this part among the States.

"PART F—DISCRETIONARY GRANTS

"PURPOSE

"Sec. 601. It is the purpose of this part, through the provision of additional Federal financial assistance, to encourage States, units of local government, combinations of such units, or private nonprofit organizations to—

"(1) undertake programs and projects, including educational programs, to improve and strengthen the criminal justice system;

"(2) improve the comprehensive planning and coordination of State and local criminal justice activities especially coordination between city and county jurisdictions;

"(3) provide for the equitable distribution of funds under this title among all segments and components of the criminal justice system;

"(4) develop and implement programs and projects to redirect resources so as to improve and expand the capacity of States and units of local government and combinations of such units, to detect, investigate, prosecute, and otherwise combat and prevent white-collar crime and public corruption, to improve and expand cooperation among the Federal Government, States, and units of local government in order to enhance the overall criminal justice system response to white-collar crime and public corruption, and to foster the creation and implementation of a comprehensive national strategy to prevent and combat white-collar crime and public corruption;

"(5) to support modernization and improvement of State and local court and corrections systems and programs;

'(6) to support organized crime programs, programs to prevent and reduce crime in public or private places and programs which are designed to disrupt illicit commerce in stolen goods and property; and

"(7) to support community and neighborhood anticrime efforts.

"PERCENTAGE OF APPROPRIATION FOR DISCRETIONARY GRANT PROGRAM

"Sec. 602. Of the total amount appropriated for parts D, E, and F in any fiscal year 10 per centum shall be reserved and set aside pursuant to this part in a special discretionary fund for use by the Administration in making grants (in addition to any other grants which may be made under this title to the same entities or for the same purposes) to States, units of local government, combinations of such units, or private nonprofit organizations, for the purposes set forth in section 601 of this title. The Administrator shall assure that funds allocated under this subsection to private nonprofit organizations shall be used for the purpose of developing and conducting programs and projects which would not otherwise be undertaken pursuant to this title, including programs and projects—

"(1) to stimulate and encourage the improvement of justice and the modernization of State court operations by means of financial assistance to national nonprofit organizations operating in conjunction with and serving the judicial branches of State governments;

"(2) to provide national education and training programs for State and local prosecutors, defense personnel, judges and judicial personnel, and to disseminate and demonstrate new legal developments and methods by means of teaching, special projects, practice, and the publication of manuals and materials to improve the administration of criminal justice. Organizations supported under this paragraph shall assist State and local agencies in the education and training of personnel on a State and regional basis;

"(3) to support community and neighborhood anticrime programs;

"(4) to stimulate, improve, and support victim-witness assistance programs; and

"(5) to improve the administration of justice by encouraging and supporting the development, dissemination, implementation, evaluation, and revision of criminal justice standards and guidelines.

"PROCEDURE FOR ESTABLISHING DISCRETIONARY PROGRAMS

"Sec. 603. (a) The Director of the Office of Justice Assistance, Research, and Statistics and the Administrator of the Law Enforcement Assistance Administration shall periodically and jointly establish discretionary programs and projects for financial assistance under this part. Such programs and projects shall be considered priorities for a period of time not to exceed three years from the time of such determination.

"(b) Such Director and such Administrator shall jointly annually request the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, State and local governments, and other appropriate public and private agencies to suggest discretionary programs and projects. Such Director and such Administrator shall jointly then, pursuant to regulations, annually publish the proposed priorities pursuant to this part and invite and encourage public comment concerning such priorities. Priorities shall not be established or modified until such Director and such Administrator jointly have provided at least sixty-days advance notice for such public comment and such Director and such Administrator jointly shall encourage and invite recommendations and opinion concerning such priorities from appropriate agencies and officials of State and units of local government. After considering any comments submitted during such period of time and after consultation with appropriate agencies and officials of State and units of local government, such Director and such Administrator jointly shall determine whether existing established priorities should be modified. Such Director and such Administrator shall jointly publish in the Federal Register the priorities established pursuant to this part prior to the beginning of fiscal year 1981 and each fiscal year thereafter for which appropriations will be available to carry out the program.

"APPLICATION REQUIREMENTS

"SEC. 604. (a) No grant may be made pursuant to this part unless an application has been submitted to the Administration in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to this part;

"(2) describes the services to be provided, performance goals and the manner in which the program is to be carried out;

"(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals and agrees to conduct such evaluation according to the procedures and terms established by the Administration; and

"(4) indicates, if it is a private nonprofit organization, that it has consulted with appropriate agencies and officials of the State and units of local government to be affected by the program and project.

"(b) Each applicant for funds under this part shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this title and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Administration.

"CRITERIA FOR AWARD

"SEC. 605. The Administration shall, in its discretion and according to the criteria and on the terms and conditions it determines consistent with this part, provide financial assistance to those programs or projects which most clearly satisfy the priorities established under section 603. In providing such assistance pursuant to this part, the Administration shall consider whether certain segments and components of the criminal justice system have received a disproportionate allocation of financial aid and assistance pursuant to other parts of this title, and, if such a finding is made, shall assure the funding of such other segments and components of the criminal justice system as to correct inequities resulting from such disproportionate allocations. Federal funding under this part may be up to 100 per centum of the cost of the program. In distributing funds under this part among the States, the Administration shall assure that the problems and needs of all of the States are taken into account and shall fund some programs and projects responsive to each type of section 402 eligible jurisdiction.

"PERIOD FOR AWARD

"SEC. 606. The Administration may provide financial aid and assistance to programs or projects under this part for a period not to exceed three years. Grants made pursuant to this part may be extended or renewed by the Administration for an additional period of up to two years if—

"(1) an evaluation of the program or project indicates that it has been effective in achieving the stated goals or offers the potential for improving the functioning of the criminal justice system; and

"(2) the State, unit of local government, or combination thereof and private nonprofit organizations within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from part D funds or from any other source of funds, including other Federal grants, available to the eligible jurisdiction. Funding for the management and the administration of national nonprofit organizations under section 602(1) of this part is not subject to the funding limitations of this section.

"PART G—TRAINING AND MANPOWER DEVELOPMENT PURPOSE

"SEC. 701. It is the purpose of this part to provide for and encourage training, manpower development, and new personnel practices for the purpose of improving the criminal justice system.

"TRAINING FOR PROSECUTING ATTORNEYS

"SEC. 702. (a) The Administration is authorized to establish and support a training program for prosecuting attorneys from State and local agencies engaged in the prosecution of white-collar and organized crime. The program shall be designed to develop new or improved approaches, techniques, systems, manuals, and devices to strengthen prosecutive capabilities against white-collar and organized crime.

"(b) While participating in the training program or traveling in connection with participation in the training program, State and local personnel may be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

"(c) The cost of training State and local personnel under this section shall be provided out of funds appropriated to the Administration for the purpose of such training.

"TRAINING STATE AND LOCAL CRIMINAL JUSTICE PERSONNEL

"SEC. 703. (a) The Administration is authorized—

"(1) to assist in conducting local, regional, or national training programs for the training of State and local criminal justice personnel, including but not limited to those engaged in the investigation of crime and apprehension of criminals, community relations, the prosecution, defense, or adjudication of those charged with crime, corrections, rehabilitation, probation, and parole of offenders. Such training activities shall be designed to supplement and improve rather than supplant the training activities of the State and units of local government and shall not duplicate the training activities of the Federal Bureau of Investigation. While participating in the training program or traveling in connection with participation in the training program, State and local personnel may be allowed travel expenses and a per diem allowance in the same manner as prescribed under section 5703 of title 5, United States Code, for persons employed intermittently in the Government service;

"(2) to carry out a program of planning, development, demonstration, and evaluation of training programs for State and local criminal justice personnel;

"(3) to assist in conducting programs relating to recruitment, selection, placement, and career development practices of State and local law enforcement and criminal justice personnel and to assist State and local governments in planning manpower programs for criminal justice; and

"(4) to carry out a program of planning, development, demonstration, and evaluation of recruitment, selection, and placement practices.

"(b)(1) The amount of a grant or contract under this section may be up to 100 per centum of the total cost of a program, but the total financial support may not exceed 80 per centum of the total operating budget of any funded institutions or programs.

"(2) Institutions funded under this section shall assure that to the maximum extent feasible efforts shall be made to increase the non-Federal share of the total operating budgets of such institutions or programs with the objective of becoming self-sustaining.

"(3) To the greatest extent possible funds appropriated for the purposes of this section shall not be utilized to provide per diem or subsistence for State and local officials receiving such training.

"FBI TRAINING OF STATE AND LOCAL CRIMINAL JUSTICE PERSONNEL

"SEC. 704. (a) The Director of the Federal Bureau of Investigation is authorized to—

"(1) establish and conduct training programs at the Federal Bureau of Investigation National Academy at Quantico, Virginia, to provide, at the request of a State or unit of local government, training for State and local criminal justice personnel;

"(2) develop new or improved approaches, techniques, systems, equipment, and devices to improve and strengthen criminal justice; and

"(3) assist in conducting, at the request of a State or unit of local government, local and regional training programs for the training of State and local criminal justice personnel engaged in the investigation of crime and the apprehension of criminals. Such training shall be provided only for persons actually employed as State police or highway patrol, police of a unit of local government, sheriffs, and their deputies, and other persons as the State or unit may nominate for police training while such persons are actually employed as officers of such State or unit.

"(b) In the exercise of the functions, powers, and duties established under this section the Director of the Federal Bureau of Investigation shall be under the general authority of the Attorney General.

"CRIMINAL JUSTICE EDUCATION PROGRAM

"SEC. 705. (a) Pursuant to the provisions of subsections (b) and (c), the Administration is authorized, after appropriate consultation with the Commissioner of Education, to carry out programs of academic educational assistance to improve and strengthen criminal justice.

"(b) The Administration is authorized to enter into contracts to make, and make payments to institutions of higher education for loans, not exceeding $2,200 per academic year to any person, to persons enrolled on a full-time basis in undergraduate or graduate programs approved by the Administration and leading to degrees or certificates in areas directly related to criminal justice or suitable for persons employed in criminal justice, with special consideration to police or correctional personnel of States or units of local government on academic leave to earn such degrees or certificates. Loans to persons assisted under this subsection shall be made on such terms and conditions as the Administration and the institution offering such programs may determine, except that the total amount of any such loan, plus interest, shall be canceled for service as a full-time officer or employee of a criminal justice agency at the rate of 25 per centum of the total amount of such loan plus interest for each complete year of such service or its equivalent of such service, as determined under regulations of the Administration.

"(c) The Administration is authorized to enter into contracts to make and to make payments to institutions of higher education for tuition, books, and fees, not exceeding $250 per academic quarter or $400 per semester for any person, for officers of any publicly funded criminal justice agency enrolled on a full-time or part-time basis in courses included in an undergraduate or graduate program which is approved by the Administration and which leads to a degree or certificate in an area related to criminal justice or an area suitable for persons employed in criminal justice. Assistance under this subsection may be granted only on behalf of an applicant who enters into an agreement to remain in the service of a criminal justice agency employing such applicant for a period of two years following completion of any course for which payments are provided under this subsection, and in the event such service is not completed, to repay the full amount of such payments on such terms and in such manner as the Administration may prescribe.

"(d) Full-time teachers or persons preparing for careers as full-time teachers of courses related to criminal justice or suitable for persons employed in criminal justice, in institutions of higher education which are eligible to receive funds under this section, shall be eligible to receive assistance under subsections (b) and (c) as determined under regulations of the Administration.

"(e) The Administration is authorized to make grants to or enter into contracts with institutions of higher education, or combinations of such institutions, to assist them in planning, developing, strengthening, improving, or carrying out programs or projects for the development or demonstration of improved methods of criminal justice education, including—

"(1) planning for the development or expansion of undergraduate or graduate programs in law enforcement and criminal justice, and for law enforcement related courses in public schools;

"(2) education and training of faculty members;

"(3) strengthening the criminal justice aspects of courses leading to an undergraduate, graduate, or professional degree; and

"(4) research into, and development of, methods of educating students or faculty, including the preparation of teaching materials and the planning of curriculums. The amount of a grant or contract may be up to 75 per centum of the total cost of programs and projects for which a grant or contract is made.

"(f) The Administration is authorized to enter into contracts to make and to make payments to institutions of higher education for grants not exceeding $65 per week to persons enrolled on a full-time basis in undergraduate or graduate degree programs who are accepted for and serve in full-time internships in criminal justice agencies for not less than eight weeks during any summer recess or for any entire quarter or semester on leave from the degree program.

"PART H—ADMINISTRATIVE PROVISIONS

"ESTABLISHMENT OF OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

"SEC. 801. (a) There is established within the Department of Justice, under the general authority and policy control of the Attorney General, an Office of Justice Assistance, Research, and Statistics. The chief officer of the Office of Justice Assistance, Research, and Statistics shall be a Director appointed by the President by and with the advice and consent of the Senate.

"(b) The Office of Justice Assistance, Research, and Statistics shall directly provide staff support to, and coordinate the activities of, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration.

"CONSULTATION; ESTABLISHING OF RULES AND REGULATIONS

"SEC. 802. (a) The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, and the National Institute of Justice are authorized, after appropriate consultation with representatives of States and units of local government, to establish such rules, regulations, and procedures as are necessary to the exercise of their functions, and as are consistent with the stated purpose of this title.

"(b) The Law Enforcement Assistance Administration shall, after consultation with the National Institute of Justice, the Bureau of Justice Statistics, State and local governments, and the appropriate public and private agencies, establish such rules and regulations as are necessary to assure the continuing evaluation of selected programs or projects conducted pursuant to parts D, E, and F, in order to determine—

"(1) whether such programs or projects have achieved the performance goals stated in the original application, are of proven effectiveness, have a record of proven success, or offer a high probability of improving the criminal justice system;

"(2) whether such programs or projects have contributed or are likely to contribute to the improvement of the criminal justice system and the reduction and prevention of crime;

"(3) their cost in relation to their effectiveness in achieving stated goals;

"(4) their impact on communities and participants; and

"(5) their implication for related programs.

Evaluations shall be in addition to the requirements of sections 403 and 404. In conducting the evaluations called for by this subsection, the Law Enforcement Assistance Administration shall, when practical, compare the effectiveness of programs conducted by similar applicants and different applicants, and shall compare the effectiveness of programs or projects conducted by States and units of local government pursuant to part D with similar programs carried out pursuant to parts E and F. The Law Enforcement Assistance Administration shall also require applicants under part D to submit an annual performance report concerning activities carried out pursuant to part D together with an assessment by the applicant of the effectiveness of those activities in achieving the objectives of section 401 of this title and the relationships of those activities to the needs and objectives specified by the applicant in the application submitted pursuant to section 403 of this title. The administration shall suspend funding for an approved application under part D if an applicant fails to submit such an annual performance report.

"(c) The procedures established to implement the provisions of this title shall minimize paperwork and prevent needless duplication and unnecessary delays in award and expenditure of funds at all levels of government.

"NOTICE AND HEARING ON DENIAL OR TERMINATION OF GRANT

"SEC. 803. (a) Whenever, after reasonable notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration finds that a recipient of their respective assistance under this title has failed to comply substantially with—

"(1) any provision of this title;

"(2) any regulations or guidelines promulgated under this title; or

"(3) any application submitted in accordance with the provisions of this title, or the provisions of any other applicable Federal Act;

they, until satisfied that there is no longer any such failure to comply, shall—

"(A) terminate payments to the recipient under this title;

"(B) reduce payments to the recipient under this title by an amount equal to the amount of such payments which were not expended in accordance with this title; or

"(C) limit the availability of payments under this title to programs, projects, or activities not affected by such failure to comply.

"(b) If a State grant application filed under part D or any grant application filed under any other part of this title has been rejected or if a State applicant under part D or an applicant under any other part of this title has been denied a grant or has had a grant, or any portion of a grant, discontinued, terminated or has been given a grant in a lesser amount that such applicant believes appropriate under the provisions of this title, the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration, as appropriate, shall notify the applicant or grantee of its action and set forth the reason for the action taken. Whenever such an applicant or grantee requests a hearing, the National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, or any authorized officer thereof, is authorized and directed to hold such hearings or investigations, including hearings on the record in accordance with section 554 of title 5, United States Code, at such times and places as necessary, following appropriate and adequate notice to such applicant; and the findings of fact and determinations made with respect thereto shall be final and conclusive, except as otherwise provided herein.

"(c) If such recipient is dissatisfied with the findings and determinations of the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, following notice and hearing provided for in subsection (a), a request may be made for rehearing, under such regulations and procedures as such Administration, Bureau, or Institute, as the case may be, may establish, and such recipient shall be afforded an opportunity to present such additional information as may be deemed appropriate and pertinent to the matter involved.

"FINALITY OF DETERMINATIONS

"SEC. 804. In carrying out the functions vested by this title in the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, their determinations, findings, and conclusions shall, after reasonable notice and opportunity for a hearing, be final and conclusive upon all applications, except as otherwise provided herein.

"APPELLATE COURT REVIEW

"SEC. 805. (a) If any applicant or recipient is dissatisfied with a final action with respect to section 803, 804, or 815(c)(2)(G) of this part, such applicant or recipient may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which such applicant or recipient is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the action. A copy of the petition shall forthwith be transmitted by the petitioner to the Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, as appropriate, and the Attorney General of the United States, who shall represent the Federal Government in the litigation. The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, as appropriate, shall thereupon file in the court the record of the proceeding on which the action was based, as provided in section 2112 of title 28, United States Code. No objection to the action shall be considered by the court unless such objection has been urged before the Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, as appropriate.

"(b) The court shall have jurisdiction to affirm or modify a final action or to set it aside in whole or in part. The findings of fact by the Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, if supported by substantial evidence on the record considered as a whole, shall be conclusive, but the court, for good cause shown, may remand the case to the Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the National Institute of Justice, or the Bureau of Justice Statistics, to take additional evidence to be made part of the record. The Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, may thereupon make new or modified findings of fact by reason of the new evidence so taken and filed with the court and shall file such modified or new findings along with any recommendations such entity may have for the modification or setting aside of such entity's original action. All new or modified findings shall be conclusive with respect to questions of fact if supported by substantial evidence when the record as a whole is considered.

"(c) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Office of Justice Assistance, Research, and Statistics, the Law Enforcement Assistance Administration, the Bureau of Justice Statistics, or the National Institute of Justice, or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certifications as provided in section 1254 of title 28, United States Code.

"DELEGATION OF FUNCTIONS

"SEC. 806. The Attorney General, the Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration may delegate to any of their respective officers or employees such functions as they deem appropriate.

"SUBPENA POWER; AUTHORITY TO HOLD HEARINGS

"SEC. 807. In carrying out their functions, the Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration, and upon authorization, any member thereof or any hearing examiner or administrative law judge assigned to or employed thereby shall have the power to hold hearings and issue subpenas, administer oaths, examine witnesses, and receive evidence at any place in the United States they may designate.

"COMPENSATION OF DIRECTOR OF OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS

"SEC. 808. Section 5314 of title 5, United States Code, is amended—

"(1) by adding at the end thereof—

" 'Director, Office of Justice Assistance, Research, and Statistics.'; and

"(2) by striking out—

" 'Administrator of Law Enforcement Assistance.'.

"COMPENSATION OF OTHER FEDERAL OFFICERS

"SEC. 809. Section 5315 of title 5, United States Code, is amended—

"(1) by striking out—

" 'Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration.' and

" 'Deputy Administrator for Administration of the Law Enforcement Assistance Administration.'; and

"(2) by adding at the end the following:

" 'Administrator of Law Enforcement Assistance.

" 'Director of the National Institute of Justice.

" 'Director of the Bureau of Justice Statistics.'.

"EMPLOYMENT OF HEARING OFFICERS

"SEC. 810. The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration may appoint such officers and employees as shall be necessary to carry out their powers and duties under this title and may appoint such hearing examiners or administrative law judges or request the use of such administrative law judges selected by the Office of Personnel Management pursuant to section 3344 of title 5, United States Code, as shall be necessary to carry out their powers and duties under this title.

"AUTHORITY TO USE AVAILABLE SERVICES

"SEC. 811. The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized, on a reimbursable basis when appropriate, to use the available services, equipment, personnel, and facilities of Federal, State, and local agencies to the extent deemed appropriate after giving due consideration to the effectiveness of such existing services, equipment, personnel, and facilities.

"CONSULTATION WITH OTHER FEDERAL, STATE, AND LOCAL OFFICIALS

"SEC. 812. In carrying out the provisions of this title, including the issuance of regulations, the Attorney General, the Director of the Office of Justice Assistance, Research, and Statistics, the Administrator of the Law Enforcement Assistance Administration, and the Directors of the National Institute of Justice and the Bureau of Justice Statistics shall consult with other Federal departments and agencies and State and local officials.

"REIMBURSEMENT AUTHORITY

"SEC. 813. (a) The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration may arrange with and reimburse the heads of other Federal departments and agencies for the performance of any of their functions under this title.

"(b) The National Institute of Justice, the Bureau of Justice Statistics, the Law Enforcement Assistance Administration, and the Office of Justice Assistance, Research, and Statistics in carrying out their respective functions may use grants, contracts, or cooperative agreements in accordance with the standards established in the Federal Grant and Cooperative Agreement Act of 1977 (41 U.S.C. 501 et seq.).

"SERVICES OF EXPERTS AND CONSULTANTS; ADVISORY COMMITTEES

"SEC. 814. (a) The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration may procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates of compensation for individuals not to exceed the daily equivalent of the rate then payable for GS–18 by section 5332 of title 5, United States Code.

"(b) The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to appoint, without regard to the provisions of title 5, United States Code, relating to appointments in the competitive service, technical or other advisory committees to advise them with respect to the administration of this title as they deem necessary. Members of those committees not otherwise in the employ of the United States, while engaged in advising them or attending meetings of the committees, shall be compensated at rates to be fixed by the Offices but not to exceed the daily equivalent of the rate then payable for GS–18 by section 5332 of title 5, United States Code, and while away from home or regular place of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title 5 for persons in the Government service employed intermittently.

"(c) Payments under this title may be made in installments, and in advance or by way of reimbursement, as may be determined by the Administration, and may be used to pay the transportation and subsistence expenses of persons attending conferences or other assemblages notwithstanding the provisions of the joint resolution entitled 'Joint resolution to prohibit expenditure of any moneys for housing, feeding, or transporting conventions or meetings', approved February 2, 1935 (31 U.S.C. 551).

"PROHIBITION OF FEDERAL CONTROL OVER STATE AND LOCAL CRIMINAL JUSTICE AGENCIES

"SEC. 815. (a) Nothing contained in this title or any other Act shall be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over any police force or any other criminal justice agency of any State or any political subdivision thereof.

"(b) Notwithstanding any other provision of law, nothing contained in this title shall be construed to authorize the National Institute of Justice, the Bureau of Justice Statistics, or the Law Enforcement Assistance Administration—

"(1) to require, or condition the availability or amount of a grant upon the adoption by an applicant or grantee under this title of a percentage ratio, quota system, or other program to achieve racial balance in any criminal justice agency; or

"(2) to deny or discontinue a grant because of the refusal of an applicant or grantee under this title to adopt such a ratio, system, or other program.

"(c)(1) No person in any State shall on the ground of race, color, religion, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under or denied employment in connection with any programs or activity funded in whole or in part with funds made available under this title.

"(2)(A) Whenever there has been—

"(i) receipt of notice of a finding, after notice and opportunity for a hearing, by a Federal court (other than in an action brought by the Attorney General) or State court, or by a Federal or State administrative agency, to the effect that there has been a pattern or practice of discrimination in violation of paragraph (1); or

"(ii) a determination after an investigation by the Office of Justice Assistance, Research, and Statistics (prior to a hearing under subparagraph (F) but including an opportunity for the State government or unit of local government to make a documentary submission regarding the allegation of discrimination with respect to such program or activity, with funds made available under this title) that a State government or unit of local government is not in compliance with paragraph (1);

the Office of Justice Assistance, Research, and Statistics shall, within ten days after such occurrence, notify the chief executive of the affected State, or the State in which the affected unit of local government is located, and the chief executive of such unit of local government, that such program or activity has been so found or determined not to be in compliance with paragraph (1), and shall request each chief executive, notified under this subparagraph with respect to such violation, to secure compliance. For purposes of clause (i) a finding by a Federal or State administrative agency shall be deemed rendered after notice and opportunity for a hearing if it is rendered pursuant to procedures consistent with the provisions of subchapter II of chapter 5 of title 5, United States Code.

"(B) In the event the chief executive secures compliance after notice pursuant to subparagraph (A), the terms and conditions with which the affected State government or unit of local government agrees to comply shall be set forth in writing and signed by the chief executive of the State, by the chief executive of such unit (in the event of a violation by a unit of local government), and by the Office of Justice Assistance, Research, and Statistics. On or prior to the effective date of the agreement, the Office of Justice Assistance, Research, and Statistics shall send a copy of the agreement to each complainant, if any, with respect to such violation. The chief executive of the State, or the chief executive of the unit (in the event of a violation by a unit of local government) shall file semiannual reports with the Office of Justice Assistance, Research, and Statistics detailing the steps taken to comply with the agreement. These reports shall cease to be filed upon the determination of the Office of Justice Assistance, Research, and Statistics that compliance has been secured, or upon the determination by a Federal or State court that such State government or local governmental unit is in compliance with this section. Within fifteen days of receipt of such reports, the Office of Justice Assistance, Research, and Statistics shall send a copy thereof to each such complainant.

"(C) If, at the conclusion of ninety days after notification under subparagraph (A)—

"(i) compliance has not been secured by the chief executive of that State or the chief executive of that unit of local government; and

"(ii) an administrative law judge has not made a determination under subparagraph (F) that it is likely the State government or unit of local government will prevail on the merits; the Office of Justice Assistance, Research, and Statistics shall notify the Attorney General that compliance has not been secured and caused to have suspended further payment of any funds under this title to that program or activity. Such suspension shall be limited to the specific program or activity cited by the Office of Justice Assistance, Research, and Statistics in the notice under subparagraph (A). Such suspension shall be effective for a period of not more than one hundred and twenty days, or, if there is a hearing under subparagraph (G), not more than thirty days after the conclusion of such hearing, unless there has been an express finding by the Office of Justice Assistance, Research, and Statistics, after notice and opportunity for such a hearing, that the recipient is not in compliance with paragraph (1).

"(D) Payment of the suspended funds shall resume only if—

"(i) such State government or unit of local government enters into a compliance agreement approved by the Office of Justice Assistance, Research, and Statistics and the Attorney General in accordance with subparagraph (B);

"(ii) such State government or unit of local government complies fully with the final order or judgment of a Federal or State court, or of a Federal or State administrative agency if that order or judgment covers all the matters raised by the Office of Justice Assistance, Research, and Statistics in the notice pursuant to subparagraph (A), or is found to be in compliance with paragraph (1) by such court; or

"(iii) after a hearing the Office of Justice Assistance, Research, and Statistics pursuant to subparagraph (F) finds that noncompliance has not been demonstrated.

"(E) Whenever the Attorney General files a civil action alleging a pattern or practice of discriminatory conduct on the basis of race, color, religion, national origin, or sex in any program or activity of a State government or unit of local government which State government or unit of local government receives funds made available under this title, and the conduct allegedly violates the provisions of this section and neither party within forty-five days after such filing has been granted such preliminary relief with regard to the suspension or payment of funds as may be otherwise available by law, the Office of Justice Assistance, Research, and Statistics shall cause to have suspended further payment of any funds under this title to that specific program or activity alleged by the Attorney General to be in violation of the provisions of this subsection until such time as the court orders resumption of payment.

"(F) Prior to the suspension of funds under subparagraph (C), but within the ninety-day period after notification under subparagraph (C), the State government or unit of local government may request an expedited preliminary hearing on the record in accordance with section 554 of title 5, United States Code, in order to determine whether it is likely that the State government or unit of local government would, at a full hearing under suparagraph (G), prevail on the merits on the issue of the alleged noncompliance. A finding under this subparagraph by the administrative law judge in favor of the State government or unit of local government shall defer the suspension of funds under subparagraph (C) pending a finding of noncompliance at the conclusion of the hearing on the merits under subparagraph (G).

"(G) (i) At any time after notification under subparagraph (A), but before the conclusion of the one-hundred-and-twenty-day period referred to in subparagraph (C), a State government or unit of local government may request a hearing on the record in accordance with section 554 of title 5, United States Code, which the Office of Justice Assistance, Research, and Statistics shall initiate within sixty days of such request.

"(ii) Within thirty davs after the conclusion of the hearing, or, in the absence of a hearing, at the conclusion of the one-hundred-and-twenty-day period referred to in subparagraph (C), the Office of Justice Assistance, Research, and Statistics shall make a finding of compliance or noncompliance. If the Office of Justice Assistance, Research, and Statistics makes a finding of noncompliance, the Office of Justice Assistance, Research, and Statistics shall notify the Attorney General in order that the Attorney General may institute a civil action under paragraph (3), cause to have terminated the payment of funds under this title, and, if appropriate, seek repayment of such funds.

"(iii) If the Office of Justice Assistance, Research, and Statistics makes a finding of compliance, payment of the suspended funds shall resume as provided in subparagraph (D).

"(H) Any State government or unit of local government aggrieved by a final determination of the Office of Justice Assistance, Research, and Statistics under subparagraph (G) may appeal such determination as provided in section 805 of this title.

"(3) Whenever the Attorney General has reason to believe that a State government or unit of local government has engaged in or is engaging in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in an appropriate United States district court. Such court may grant as relief any temporary restraining order, preliminary or permanent injunction, or other order, as necessary or appropriate to insure the full enjoyment of the rights described in this section, including the suspension, termination, or replacement of such funds made available under this title as tne court may deem appropriate, or placing any further such funds in escrow pending the outcome of the litigation.

"(4) (A) Whenever a State government or unit of local government, or any officer or employee thereof acting in an official capacity, has engaged or is engaging in any act cr practice prohibited by this subsection, a civil action may be instituted after exhaustion of administrative remedies by the person aggrieved in an appropriate United States district court or in a State court of general jurisdiction. Administrative remedies shall be deemed to be exhausted upon the expiration of sixty days after the date the administrative complaint was filed with the Office of Justice Assistance, Research, and Statistics or any other administrative enforcement agency, unless within such period there has been a determination by the Office of Justice Assistance, Research, and Statistics or the agency on the merits of the complaint, in which case such remedies shall be deemed exhausted at the time the determination becomes final.

"(B) In any civil action brought by a private person to enforce compliance with any provision of this subsection, the court may grant to a prevailing plaintiff reasonable attorney fees, unless the court determines that the lawsuit is frivolous, vexatious, brought for harassment purposes, or brought principally for the purpose of gaining attorney fees.

"(C) In any action instituted under this section to enforce compliance with paragraph (1), the Attorney General, or a specially designated assistant for or in the name of the United States, may intervene upon timely application if he certifies that the action is of general public importance. In such action the United States shall be entitled to the same relief as if it had instituted the action.

"REPORT TO PRESIDENT AND CONGRESS

"SEC. 816. (a) On or before March 31 of each year, the Administrator of the Law Enforcement Assistance Administration shall report to the President and to the Committees on the Judiciary of the Senate and House of Representatives on activities pursuant to parts D, E, F, and G during the preceding fiscal year. Such report shall include—

"(1) a description of the progress made in accomplishing the objectives of such parts;

"(2) a description of the national priority programs and projects established pursuant to part E;

"(3) the amounts obligated under parts D, E, and F for each of the components of the criminal justice system;

"(4) the nature and number of jurisdictions which expended funds under part D on national priority programs or projects established pursuant to part E, and the percentage of part D funds expended by such jurisdictions on such programs or projects;

"(5) a summary of the major innovative policies and programs for reducing and preventing crime recommended by the Administration during the preceding fiscal year in the course of providing technical and financial aid and assistance to State and local governments pursuant to this title;

"(6) a description of the procedures used to audit, monitor, and evaluate programs or projects to insure that all recipients have complied with this title and that the information contained in the applications was correct;

"(7) the number of part D applications or amendments approved by the Administration without recommending substantial changes;

"(8) the number of part D applications or amendments in which the Administration recommended substantial changes, and the disposition of such programs or projects;

"(9) the number of programs or projects under part D applications or amendments with respect to which a discontinuation, suspension, or termination of payments occurred together with the reasons for such discontinuation, suspension, or termination;

"(10) the number of programs or projects under part D applications or amendments which were subsequently discontinued by the jurisdiction following the termination of funding under this title; and

"(11) a description of equipment whose cost in the aggregate was $100,000 or more that was purchased in connection with each program or project assisted under part D, and the current use status of such equipment.

"(b) Not later than three years after the date of enactment of the Justice System Improvement Act of 1979, the Administrator of the Law Enforcement Assistance Administration, after consultation with the Director of the National Institute of Justice, the Director of the Bureau of Statistics, and the Administrator of the Office of Juvenile Justice and Delinquency Prevention, with respect to the receipt and compilation of evaluations, statistics, and performance reports required by this title, shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report. The report shall set forth comprehensive statistics which, together with the Administrator's analysis and findings, shall indicate whether grants made to States or units of local government under parts D, E, and F have made a reasonably expected contribution toward—

"(1) improving and strengthening law enforcement agencies, as measured by arrest rates, incidence rates, victimization rates, the number of reported crimes, clearance rates, the number of patrol or investigative hours per uniformed officer, or any other appropriate objective measure;

"(2) improving the police utilization of community resources through support of joint police-community projects designed to prevent or control neighborhood crime;

"(3) disrupting illicit commerce in stolen goods and property;

"(4) combating arson;

"(5) developing investigations and prosecutions of white-collar crime, organized crime, public-corruption-related offenses, and fraud against the government;

"(6) reducing the time between arrest or indictment and disposition of trial;

"(7) increasing the use and development of alternatives to the prosecution of selected offenders;

"(8) increasing the development and use of alternatives to pretrial detention that assure return to court and a minimization of the risk of danger;

"(9) increasing the rate at which prosecutors obtain convictions against habitual, nonstatus offenders;

"(10) developing and implementing programs which provide assistance to victims and witnesses, including restitution by the offender, programs encouraging victim and witness participation in the criminal justice system, and programs designed to prevent retribution against or intimidation of witnesses by persons charged with or convicted of crimes;

"(11) providing competent defense counsel for indigent and eligible low-income persons accused of criminal offenses;

"(12) developing projects to identify and meet the needs of drug dependent offenders;

"(13) increasing the availability and use of alternatives to maximum-security confinement of convicted offenders who pose no threat to public safety;

"(14) reducing the rates of violence among inmates in places of detention and confinement;

"(15) improving conditions of detention and confinement in adult and juvenile correctional institutions, as measured by the number of such institutions administering programs meeting accepted standards;

"(16) training criminal justice personnel in programs meeting standards recognized by the Administrator;

"(17) revision and recodification by States and units of local government of criminal statutes, rules, and procedures and revision of statutes, rules, and regulations governing Stato and local criminal justice agencies; and

"(18) developing statistical and evaluative systems in States and units of local government which assist the measurement of indicators in each of the areas described in paragraphs (1) through (17).

Such report shall identify separately, to the maximum practicable extent, such contribution according to the parts of this title under which such grants are authorized and made.

"(c) Not later than two hundred and seventy days after the date of enactment of the Justice System Improvement Act of 1979, the Administrator of the Law Enforcement Assistance Administration shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a plan for the collection, analysis, and evaluation of any data relevant to measure, as objectively as is practicable, progress in each of the areas described in subsection (b). In developing such plan, the Administrator of the Law Enforcement Assistance Administration shall consult with the Director of the National Institute of Justice, the Director of the Bureau of Justice Statistics, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, and the Committees on the Judiciary of the Senate and the House of Representatives. After such consultation and at any time prior to the submission of such plan as required by this subsection, the Administrator may recommend to such committees reporting areas in addition to those described in subsection (b). Such plans shall include the Administrator's recommended definitions of the terms 'comprehensive statistics' and 'reasonably expected contribution' as used in subsection (b), which take into account the total amount of funds available for distribution to States and units of local government under parts D, E, and F, as compared to the total amount of funds available for expenditure by States and units of local government for criminal justice purposes. Such plan shall be used by the Administrator in preparing the report required by subsection (b).

"(d) The report required by subsection (b) shall address whether a reasonably expected contribution has been attained in the areas described in subsection (b) and any area added by the Administrator under subsection (c).

"(e) To the maximum extent feasible, the Administrator shall minimize duplication in data collection requirements imposed on grantee agencies by this section.

"RECORDKEEPING REQUIREMENT

"SEC. 817. (a) Each recipient of funds under this title shall keep such records as the Office of Justice Assistance, Research, and Statistics shall prescribe, including records which fully disclose the amount and disposition by such recipient of the funds, the total cost of the project or undertaking for which such funds are used, and the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

"(b) The Office of Justice Assistance, Research, and Statistics or any of its duly authorized representatives, shall have access for purpose of audit and examination of any books, documents, papers, and records of the recipients of funds under this title which in the opinion of the Office of Justice Assistance, Research, and Statistics may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

"(c) The Comptroller General of the United States or any of his duly authorized representatives, shall, until the expiration of three years after the completion of the program or project with which the assistance is used, have access for the purpose of audit and examination to any books, documents, papers, and records of recipients of Federal funds under this title which in the opinion of the Comptroller General may be related or pertinent to the grants, contracts, subcontracts, subgrants, or other arrangements referred to under this title.

"(d) Within one hundred and twenty days after the enactment of this subsection, the Office of Justice Assistance, Research, and Statistics shall review existing civil rights regulations and conform them to this title. Such regulations shall include—

"(1) reasonable and specific time limits for the Office of Justice Assistance, Research, and Statistics to respond to the filing of a complaint by any person alleging that a State government or unit of local government is in violation of the provisions of section 815(c) of this title, including reasonable time limits for instituting an investigation, making an appropriate determination with respect to the allegations, and advising the complainant of the status of the complaint; and

"(2) reasonable and specific time limits for the Office of Justice Assistance, Research, and Statistics to conduct independent audits and reviews of State governments and units of local government receiving funds pursuant to this title for compliance with the provisions of sections 815(c) of this title.

"(e) The provisions of this section shall apply to all recipients of assistance under this title, whether by direct grant, cooperative agreement, or contract under this title or by subgrant or subcontract from primary grantees or contractors under this title.

"(f) There is hereby established within the Law Enforcement Assistance Administration a revolving fund for the purpose of supporting projects that will acquire stolen goods and property in an effort to disrupt illicit commerce in such goods and property. Notwithstanding any other provision of law, any income or royalties generated from such projects together with income generated from any sale or use of such goods or property, where such goods or property are not claimed by their lawful owner, shall be paid into the revolving fund. Where a party establishes a legal right to such goods or property, the Administrator of the fund may in his discretion assert a claim against the property or goods in the amount of Federal funds used to purchase such goods or property. Proceeds from such claims shall be paid into the revolving fund. The Administrator is authorized to make disbursements by appropriate means, including grants, from the fund for the purpose of this section.

"CONFIDENTIALITY OF INFORMATION

"SEC. 818. (a) Except as provided by Federal law other than this title, no officer or employee of the Federal Government, and no recipient of assistance under the provisions of this title shall use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

"(b) All criminal history information collected, stored, or disseminated through support under this title shall contain, to the maximum extent feasible, disposition as well as arrest data where arrest data is included therein. The collection, storage, and dissemination of such information shall take place under procedures reasonably designed to insure that all such information is kept current therein; the Office of Justice Assistance, Research, and Statistics shall assure that the security and privacy of all information is adequately provided for and that information shall only be used for law enforcement and criminal justice and other lawful purposes. In addition, an individual who believes that criminal history information concerning him contained in an automated system is inaccurate, incomplete, or maintained in violation of this title, shall, upon satisfactory verification of his identity, be entitled to review such information and to obtain a copy of it for the purpose of challenge or correction.

"(c) All criminal intelligence systems operating through support under this title shall collect, maintain, and disseminate criminal intelligence information in conformance with policy standards which are prescribed by the Office of Justice Assistance, Research and Statistics and which are written to assure that the funding and operation of these systems furthers the purpose of this title and to assure that such systems are not utilized in violation of the privacy and constitutional rights of individuals.

"(d) Any person violating the provisions of this section, or of any rule, regulation, or order issued thereunder, shall be fined not to exceed $10,000, in addition to any other penalty imposed by law.

"AUTHORITY TO ACCEPT VOLUNTARY SERVICES

"SEC. 819. The Office of Justice Assistance, Research, and Statistics, the National Institute of Justice, the Bureau of Justice Statistics, and the Law Enforcement Assistance Administration are authorized to accept and employ, in carrying out the provisions of this title, voluntary and uncompensated services notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b)). Such individuals shall not be considered Federal employees except for purposes of chapter 81 of title 5, United States Code, with respect to job-incurred disability and title 28, United States Code, with respect to tort claims.

"ADMINISTRATION OF JUVENILE DELINQUENCY PROGRAMS

"SEC. 820. (a) All programs concerned with juvenile delinquency and administered by the Administration shall be administered or subject to the policy direction of the office established by section 201(a) of the Juvenile Justice and Delinquency Prevention Act of 1974.

"(b) The Director of the National Institute of Justice and the Director of the Bureau of Justice Statistics shall work closely with the Administrator of the Office of Juvenile Justice and Delinquency Prevention in developing and implementing programs in the juvenile justice and delinquency prevention field.

"PROHIBITION ON LAND ACQUISITION

"SEC. 821. No funds under this title shall be used for land acquisition.

"PROHIBITION ON USE OF CIA SERVICES

"SEC. 822. Notwithstanding any other provision of this title, no use will be made of services, facilities, or personnel of the Central Intelligence Agency.

"INDIAN LIABILITY WAIVER

"SEC. 823. Where a State does not have an adequate forum to enforce grant provisions imposing liability on Indian tribes, the Administration is authorized to waive State liability and may pursue such legal remedies as are necessary.

"DISTRICT OF COLUMBIA MATCHING FUND SOURCE

"SEC. 824. Funds appropriated by the Congress for the activities of any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia may be used to provide the non-Federal share of the cost of programs or projects funded under this title.

"LIMITATION ON CIVIL JUSTICE MATTERS

"SEC. 825. Authority of any entity established under this title shall extend to civil justice matters only to the extent that such civil justice matters bear directly and substantially upon criminal justice matters or are inextricably intertwined with criminal justice matters.

"REIMBURSEMENT FOR UNUSED EQUIPMENT

"SEC. 826. The Law Enforcement Assistance Administration may require a State council, a grantee, or other recipient of assistance under this title to reimburse the Administration for the federally assisted part of the cost of any equipment whose purchase was in connection with a program or project assisted by such Administration under this title and which cost in the aggregate $100,000, or more, if such equipment has not been placed in use one year after the date set at the time of purchase for the commencement of such use, or has not continued in use during its useful life. In lieu of requiring reimbursement under this section, such Administration may require that the State council, a grantee, or other recipient of assistance under this title take appropriate measures to put such equipment into use.

"PRISON INDUSTRY ENHANCEMENT

"SEC. 827. (a) Section 1716 of title 18, United States Code, is amended by adding thereto a new subsection (c) as follows—

"'(c) In addition to the exceptions set forth in subsection (b) of this section, this chapter shall also not apply to goods, wares, or merchandise manufactured, produced, or mined by convicts or prisoners participating in a program of not more than seven pilot projects designated by the Administrator of the Law Enforcement Assistance Administration and who—

"'(1) have, in connection with such work, received wages at a rate which is not less than that paid for work of a similar nature in the locality in which the work was performed, except that such wages may be subject to deductions which shall not, in the aggregate, exceed 80 per centum of gross wages, and shall be limited as follows:

"'(A) taxes (Federal, State, local);

"'(B) reasonable charges for room and board as determined by regulations which shall be issued by the Chief State correctional officer;

"'(C) allocations for support of family pursuant to State statute, court order, or agreement by the offender;

"'(D) contributions to any fund established by law to compensate the victims of crime of not more than 20 per centum but not less than 5 per centum of gross wages;

"'(2) have not solely by their status as offenders, been deprived of the right to participate in benefits made available by the Federal or State Government to other individuals on the basis of their employment, such as workmen's compensation. However, such convicts or prisoners shall not be qualified to receive any payments for unemployment compensation while incarcerated, notwithstanding any other provision of the law to the contrary;

"'(3) have participated in such employment voluntarily and have agreed in advance to the specific deductions made from gross wages pursuant to this section, and all other financial arrangements as a result of participation in such employment.'.

"(b) The first section of the Act entitled 'An Act to provide conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (49 Stat. 2036; 41 U.S.C. 35), commonly known as the Walsh-Healey Act, is amended by adding to the end of subsection (d) thereof, before '; and', the following: ', except that this section, or any other law or Executive order containing similar prohibitions against purchase of goods by the Federal Government, shall not apply to convict labor which satisfies the conditions of section 1761(c) of title 18, United States Code'.

"(c) The provisions of this section creating exemptions to Federal restrictions on marketability of prison made goods shall not apply unless—

"(1) representatives of local union central bodies or similar labor union organizations have been consulted prior to the initiation of any project qualifying of any exemption created by this section; and

"(2) such paid inmate employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services.

"PART I—DEFINITIONS

"DEFINITIONS

"SEC. 901. (a) As used in this title—

"(1) 'criminal justice' means activities pertaining to crime prevention, control, or reduction, or the enforcement of the criminal law, including, but not limited to, police efforts to prevent, control, or reduce crime or to apprehend criminals, including juveniles, activities of courts having criminal jurisdiction, and related agencies (including but not limited to prosecutorial and defender services, juvenile delinquency agencies and pretrial service or release agencies), activities of corrections, probation, or parole authorities and related agencies assisting in the rehabilitation, supervision, and care of criminal offenders, and programs relating to the prevention, control or reduction of narcotic addiction and juvenile delinquency;

"(2) 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands;

"(3) 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, an Indian tribe which performs law enforcement functions as determined by the Secretary of the Interior, or, for the purpose of assistance eligibility, any agency of the District of Columbia government or the United States Government performing law enforcement functions in and for the District of Columbia;

"(4) 'construction' means the erection, acquisition, or expansion of new or existing buildings or other physical facilities, and the acquisition or installation of initial equipment therefor but does not include renovation repairs or remodeling;

"(5) 'combination' as applied to States or units of local government means any grouping or joining together of such States or units for the purpose of preparing developing or implementing a criminal justice program or project;

"(6) 'public agency' means any State unit of local government combination of such States or units, or any department, agency, or instrumentality of any of the foregoing;

"(7) 'correctional institution or facility' means any place for the confinement or rehabilitation of offenders or individuals charged with or convicted of criminal offenses;

"(8) 'comprehensive', with respect to an application, means that the application must be based on a total and integrated analysis of the criminal justice problems, and that goals, priorities, and standards for methods, organization, and operation performance must be established in the application;

"(9) 'criminal history information' includes records and related data, contained in an automated or manual criminal justice informational system, compiled by law enforcement agencies for the purpose of identifying criminal offenders and alleged offenders and maintaining as to such persons records of arrests, the nature and disposition of criminal charges, sentencing, confinement, rehabilitation, and release;

"(10) 'evaluation' means the administration and conduct of studies and analyses to determine the impact and value of a project or program in accomplishing the statutory objectives of this title;

"(11) 'neighborhood or community-based organizations' means organizations which are representative of communities or significant segments of communities;

"(12) 'chief executive' means the highest official of a State or local jurisdiction;

"(13) 'municipality' means—

"(A) any unit of local government which is classified as a municipality by the United States Bureau of the Census; or

"(B) any other unit of local government which is a town or township and which, in the determination of the Administration—

"(i) possesses powers and performs functions comparable to those associated with municipalities;

"(ii) is closely settled; and

"(iii) contains within its boundaries no incorporated places as defined by the United States Bureau of the Census;

"(14) 'population' means total resident population based on data compiled by the United States Bureau of the Census and referable to the same point or period in time;

"(15) 'Attorney General' means the Attorney General of the United States or his designee;

"(16) 'court of last resort' means that State court having the highest and final appellate authority of the State. In States having two or more such courts, court of last resort shall mean that State court, if any, having highest and final appellate authority, as well as both administrative responsibility for the State's judicial system and the institutions of the State judicial branch and rulemaking authority. In other States having two or more courts with highest and final appellate authority, court of last resort shall mean the highest appellate court which also has either rulemaking authority or administrative responsibility for the State's judicial system and the institutions of the State judicial branch. Except as used in the definition of the term 'court of last resort' the term 'court' means a tribunal recognized as a part of the judicial branch of a State or of its local government units;

"(17) 'institution of higher education' means any such institution as defined by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), subject, however, to such modifications and extensions as the Administration may determine to be appropriate;

"(18) 'white-collar crime' means an illegal act or series of illegal acts committed by nonphysical means and by concealment or guile, to obtain money or property, to avoid the payment or loss of money or property, or to obtain business or personal advantage;

"(19) 'proven effectiveness' means that a program, project, approach, or practice has been shown by analysis of performance and results to make a significant contribution to the accomplishment of the objectives for which it was undertaken or to have a significant effect in improving the condition or problem it was undertaken to address;

"(20) 'record of proven success' means that a program, project, approach, or practice has been demonstrated by evaluation or by analysis of performance data and information to be successful in a number of jurisdictions or over a period of time in contributing to the accomplishment of objectives, or to improving conditions identified with the problem, to which it is addressed; and

"(21) 'high probability of improving the criminal justice system' means that a prudent assessment of the concepts and implementation plans included in a proposed program, project, approach, or practice, together with an assessment of the problem to which it is addressed and of data and information bearing on the problem, concept, and implementation plan, provides strong evidence that the proposed activities would result in identifiable improvements in the criminal justice system if implemented as proposed.

"(b) Where appropriate, the definitions in subsection (a) shall be based, with respect to any fiscal year, on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget available ninety days prior to the beginning of such fiscal year. The Administration may by regulation change or otherwise modify the meaning of the terms defined in subsection (a) in order to reflect any technical change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

"(c) One or more public agencies, including existing local public agencies, may be designated by the chief executive officer of a State or a unit of local government to undertake a program or project in whole or in part.

"Part J—Funding

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 1001. There is authorized to be appropriated to carry out the functions of the Bureau of Justice Statistics $25,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; $25,000,000 for the fiscal year ending September 30, 1982; and $25,000,000 for the fiscal year ending September 30, 1983. There is authorized to be appropriated to carry out the functions of the National Institute of Justice $25,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; $25,000,000 for the fiscal year ending September 30, 1982; and $25,000,000 for the fiscal year ending September 30, 1983. There is authorized to be appropriated for parts D, E, F, G, H, and J, for the purposes of carrying out the remaining functions of the Law Enforcement Assistance Administration, other than part L, $750,000,000 for the fiscal year ending September 30, 1980; $750,000,000 for the fiscal year ending September 30, 1981; $750,000,000 for the fiscal year ending September 30, 1982; and $750,000,000 for the fiscal year ending September 30, 1983. Funds appropriated for any fiscal year may remain available for obligation until expended. There is authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part L.

"MAINTENANCE OF EFFORT

"Sec. 1002. In addition to the funds appropriated under section 261(a) of the Juvenile Justice and Delinquency Prevention Act of 1974, there shall be maintained from appropriations for each fiscal year, at least 19.15 per centum of the total appropriations under this title, for juvenile delinquency programs, with primary emphasis on programs for juveniles convicted of criminal offenses or adjudicated delinquent on the basis of an act which would be a criminal offense if committed by an adult.

"AUTHORIZATION OF APPROPRIATIONS FOR OFFICE OF ANTI-CRIME PROGRAMS

"Sec. 1003. There are authorized to be appropriated for the purposes of carrying out the functions of the Office of Community Anti-Crime Programs $25,000,000 for the fiscal year ending September 30, 1980; $25,000,000 for the fiscal year ending September 30, 1981; $25,000,000 for the fiscal year ending September 30, 1982; and $25,000,000 for the fiscal year ending September 30, 1983.

"Part K—Criminal Penalties

"MISUSE OF FEDERAL ASSISTANCE

"Sec. 1101. Whoever embezzles, willfully misapplies, steals, or obtains by fraud or endeavors to embezzle, willfully misapply, steal, or obtain by fraud any funds, assets, or property which are the subject of a grant or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Law Enforcement Assistance Administration, the National Institute of Justice, the Bureau of Justice Statistics, or whoever receives, conceals, or retains such funds, assets or property with intent to convert such funds, assets or property to his use or gain, knowing such funds, assets, or property has been embezzled, willfully misapplied, stolen or obtained by fraud, shall be fined not more than $10,000 or imprisoned for not more than five years, or both.

"FALSIFICATION OR CONCEALMENT OF FACTS

"Sec. 1102. Whoever knowingly and willfully falsifies, conceals, or covers up by trick, scheme, or device, any material fact in any application for assistance submitted pursuant to this title or in any records required to be maintained pursuant to this title shall be subject to prosecution under the provisions of section 1001 of title 18, United States Code.

"CONSPIRACY TO COMMIT OFFENSE AGAINST UNITED STATES

"Sec. 1103. Any law enforcement or criminal justice program or project underwritten, in whole or in part, by any grant, or contract or other form of assistance pursuant to this title, whether received directly or indirectly from the Law Enforcement Assistance Administration, the National Institute of Justice, or the Bureau of Justice Statistics shall be subject to the provisions of section 371 of title 18, United States Code.

"Part L—Public Safety Officers' Death Benefits

"PAYMENTS

"Sec. 1201. (a) In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of $50,000 as follows:

"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse, to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding $3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code; or

"(2) payments authorized by section 12 (k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

"LIMITATIONS

"SEC. 1202. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

"DEFINITIONS

"SEC. 1203. As used in this part—

"(1) 'child' means any natural, illegitimate, adopted, or post-humous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(i) eighteen years of age or under,

"(ii) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(iii) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(3) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

"(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(6) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and

"(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or a fireman.

"ADMINISTRATIVE PROVISIONS

"SEC. 1204. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"(b) In making determinations under section 1201, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration.

"PART M—TRANSITION—EFFECTIVE DATE—REPEALER

"CONTINUATION OF RULES, AUTHORITIES, AND PROCEEDINGS

"SEC. 1301. (a) All orders, determinations, rules, regulations, and instructions of the Law Enforcement Assistance Administration which are in effect on the date of the enactment of the Justice System Improvement Act of 1979 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President or the Attorney General, the Office of Justice Assistance, Research, and Statistics or the Director of the Bureau of Justice Statistics, the National Institute of Justice, or the Administrator of the Law Enforcement Assistance Administration with respect to their functions under this title or by operation of law.

"(b) The Director of the National Institute of Justice may award new grants, enter into new contracts or cooperative agreements, or otherwise obligate previously appropriated unused or reversionary funds for the continuation of research and development projects in accordance with the provisions of this title as in effect on the day before the date of the enactment of the Justice System Improvement Act of 1979, based upon applications received under this title before the date of the enactment of such Act or for purposes consistent with provisions of this title.

"(c) The Director of the Bureau of Justice Statistics may award new grants, enter into new contracts or cooperative agreements or otherwise obligate funds appropriated for fiscal years before 1980 for statistical projects to be expended in accordance with the provisions of this title, as in effect on the day before the date of the enactment of the Justice System Improvement Act of 1979, based upon applications received under this title before the date of the enactment of such Act or for purposes consistent with provisions of this title.

"(d) The Administrator of the Law Enforcement Assistance Administration may award new grants, enter into new contracts or cooperative agreements, approve comprehensive plans for the fiscal year beginning October 1, 1979, and otherwise obligate previously appropriated unused or reversionary funds or funds appropriated for the fiscal year beginning October 1, 1979, for the continuation of projects in accordance with the provisions of this title, as in effect on the day before the date of the enactment of the Justice System Improvement Act of 1979 or for purposes consistent with provisions of this title.

"(e) The amendments made to this title by the Justice System Improvement Act of 1979 shall not affect any suit, action, or other proceeding commenced by or against the Government before the date of the enactment of such Act.

"(f) Nothing in this title prevents the utilization of funds appropriated for purposes of this title for all activities necessary or appropriate for the review, audit, investigation, and judicial or administrative resolution of audit matters for those grants or contracts that were awarded under this title. The final disposition and dissemination of program and project accomplishments with respect to programs and projects approved in accordance with this title, as in effect before the date of the enactment of the Justice System Improvement Act of 1979, which continue in operation beyond the date of the enactment of such Act may be carried out with funds appropriated for purposes of this title.

"(g) Except as otherwise provided in this title, the personnel employed on the date of enactment of the Justice System Improvement Act of 1979 by the Law Enforcement Assistance Administration are transferred as appropriate to the Office of Justice Assistance, Research, and Statistics, the National Institute of Justice or the Bureau of Justice Statistics, considering the function to be performed by these organizational units and the functions previously performed by the employee. Determinations as to specific positions to be filled in an acting capacity for a period of not more than ninety days by the Administrator and Deputy Adminstrators employed on the date of enactment of the Justice System Improvement Act of 1979 may be made by the Attorney General notwithstanding any other provision of law.

"(h) Any funds made available under parts B, C, and E of this title, as in effect before the date of the enactment of the Justice System Improvement Act of 1979, which are not obligated by a State or unit of local government, may be used to provide up to 100 per centum of the cost of any program or project.

"(i) Notwithstanding any other provision of this title, all provisions of this title, as in effect on the day before the date of the enactment of the Justice System Improvement Act of 1979, which are necessary to carry out the provisions of the Juvenile Justice and Delinquency Prevention Act of 1974, remain in effect for the sole purpose of carrying out the Juvenile Justice and Delinquency Prevention Act of 1974, and the State criminal justice council established under this title shall serve as the State planning agency for the purposes of the Juvenile Justice and Delinquency Prevention Act of 1974.

"(j) The functions, powers, and duties specified in this title to be carried out by State criminal justice councils or by local offices may be carried out by agencies previously established or designated as State, regional, or local planning agencies, pursuant to this title, as in effect before the date of the enactment of the Justice System Improvement Act of 1979, if they meet the representation requirement of section 402 of this title within two years of the date of the enactment of the Justice System Improvement Act of 1979.

"(k) Notwithstanding the provisions of section 404(c)(3), any construction projects which were funded under this title, as in effect before the date of the enactment of the Justice System Improvement Act of 1979, and which were budgeted in anticipation of receiving additional Federal funding for such construction may continue for two years to be funded under this title.".

And the House agree to the same.

PETER W. RODINO,
BOB KASTENMEIER,
GEORGE DANIELSON,
LAMAR GUDGER,
R. L. MAZZOLI,
SAM B. HALL,
ROBERT MCCLORY,
HENRY J. HYDE,
Managers on the Part of the House.

EDWARD KENNEDY,
JOSEPH R. BIDEN,
DENNIS DECONCINI,
MAX BAUCUS,
HOWELL HEFLIN,
STROM THURMOND,
PAUL LAXALT,
THAD COCHRAN.
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 241) to restructure the Law Enforcement Assistance Administration, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

The Senate bill proposed the short title "Law Enforcement Assistance Reform Act of 1979." The House bill proposed the title "Justice System Improvement Act of 1979." The conference substitute adopts the House title.

DECLARATION AND PURPOSE

The Senate bill made findings that victims of crime should be a more integral part of the criminal justice system; that crime is a community problem as well as a State and local problem; that assistance should be made available for community-based as well as State and local efforts; and that public law enforcement and the private security industry should be encouraged to coordinate their efforts. The Senate bill would also set forth the following purposes: support of victim/witness efforts; provision of financial assistance to survivors of public safety officers killed in the line of duty; support of total resource-oriented approaches to the problems of courts and the criminal justice systems; and encouragement of programs to educate the public in the areas of civil, criminal and juvenile law and criminal justice operation.

The House bill did not include these additional findings and purposes.

The conference substitute adopts the House position.

ESTABLISHMENT OF LEAA

The Senate bill required that the Law Enforcement Assistance Administration (LEAA) be established within the Department of Justice with the Administrator reporting to the Director of the Office of Justice Assistance. Research and Statistics (OJARS).

The House bill required that LEAA be established within the Department of Justice under the direct authority of the Attorney General.

The conference substitute provides that LEAA is to be under the authority of the Attorney General, and that OJARS will coordinate the activities of and provide direct staff support to LEAA, NIJ, and BJS.

LEAA AUTHORITY

The Senate bill specified that the provision of technical assistance is a function of LEAA.

The House bill contained no such specific reference to technical assistance.

The conference substitute adopts the Senate position.

The Senate bill authorized LEAA to cooperate with and render technical assistance to victim/witness assistance activities and career criminal programs.

The House bill did not include similar provisions.

The conference substitute adopts the Senate provisions.

The Senate bill specifically authorized technical assistance in connection with the development of operational informational and telecommunications system.

The House bill contained no specific reference to technical assistance.

The conference substitute adopts the Senate version.

The House bill authorized technical assistance for program development and community participation in crime prevention and public safety efforts and to implement programs and projects assisted with community anti-crime grants.

The Senate bill had no similar provision.

The conference substitute adopts the House provisions.

The Senate bill included authorization for the Administrator to make grants administered by the OCAC for: (1) The encouragement of neighborhood and community participation in crime prevention and public safety efforts and for program development and technical assistance; (2) the development of comprehensive and coordinated crime prevention programs; and (3) encouragement of neighborhood and community participation in crime prevention educational and public safety efforts.

The House bill included authorization for the OCAC to make grants: (1) To enable the community to identify problems it faces with respect to crime or conflicts, disputes and other problems that might lead to crime, for plans to alleviate community problems with special attention to: (*a*) projects successful in other communities; (*b*) providing alternatives to criminal justice systems in resolving conflicts and dispute; (*c*) promoting increased citizen participation; and (*d*) addressing social and economic causes of crime. The House bill provided that grants were to be used to conduct training of community groups in management of grants and to carry out projects which could alleviate the community's crime problem. The House bill prohibited a grant from being used principally to seek technical assistance or a grant.

The conference substitute adopts the Senate provision that the Administration is authorized to make grants to be administered by OCAC and adopts the House provision on all other differences.

PART B—NATIONAL INSTITUTE OF JUSTICE

Purpose

The Senate bill authorized the National Institute of Justice (NIJ) to encourage research to improve civil, administrative, regulatory, and legal education.

The House bill did not include this authorization and in section 825 excluded any involvement with the civil justice system, civil disputes, or civil matters.

The conference substitute authorizes research and development concerning the civil justice matters to the extent that the matter in question bears directly upon criminal justice matters or is necessarily intertwined with criminal justice matters.

The Senate bill requires the Institute to give primary emphasis to problems of State and local justice systems and to balance applied and basic research.

The House bill did not include similar provisions.

The conference substitute adopts the Senate bill.

The Senate bill states as an express function of the National Institute of Justice the conduct of research to identify programs of proven effectiveness, programs with a record of proven success, and programs which have a high probability of improving the criminal justice system.

The House bill did not include a similar provision.

The conference substitute adopts the Senate provisions.

The House bill made one of the express functions of the Institute the conduct of research for the purpose of the improvement of efforts to detect, investigate, prosecute and otherwise combat and prevent white-collar crime and public corruption.

The Senate bill did not contain a similar provision.

The conference substitute adopts the House position.

The Senate bill specifically authorized research into police-minority relations and problems of victims and witnesses.

The House bill had no such provisions.

The conference substitute adopts the Senate version.

The Senate bill excepted certain laws pertaining to official publications.

The House bill had no similar provisions.

The conference accepts the House position.

Establishment

The Senate bill established the Institute within the Department of Justice reporting to the Director of OJARS.

The House bill placed the Institute under the direct authority of the Attorney General.

The conference substitute provides that NIJ is to be under the authority of the Attorney General, and that OJARS will coordinate the activities of NIJ, LEAA, and BJS.

Authority

The Senate bill authorized the Institute to conduct research in civil, administrative, regulatory, and legal education matters; to identify alternative programs for achieving goals and analyze correlates of crime, and conduct research into improvement of police and community relations and into problems of victim/witnesses of crime, preconviction and postconviction of crime; and to evaluate, where the Institute deems appropriate, programs and projects and disseminate results to units of general local government and other public and private organizations and individuals.

The House bill did not include this authority but did include authority to conduct research to combat white-collar crime and public corruption, and to make recommendations to the Attorney General regarding National Priority grants and DF grants.

The conference substitute contains a compromise which authorizes research and development concerning the civil justice system, improvement of police community relations, and victim/witness problems. The conference substitute authorizes NIJ to make recommendations concerning National Priority grants and Discretionary grants.

The Senate bill required a biennial report to Congress. The House bill provided for an annual report.

The conference substitute will adopt the Senate position.

NATIONAL INSTITUTE OF JUSTICE BOARD

The Senate bill established an Advisory Board to NIJ appointed by the President.

The House bill established a Policy Board appointed by the Attorney General.

The conference substitute adopts the Senate provisions.

The Senate bill required the Board to be established within 90 days of the enactment of legislation. Non/voting membership was provided for the Directors of the NIJ and the Bureau of Justice Statistics (BJS), and the Administrators of LEAA, and the Office of Juvenile Justice and Delinquency Prevention (OJJDP). The Board would be initially established by making appointments one-third for one year, one-third for two years, and one-third for three years, with three-year appointments thereafter.

The House bill gave the LEAA, NIJ, BJS, and OJJDP members voting status and specified that no member serve more than two years. A non-specific staggered system of appointment was established.

The conference substitute adopts the Senate provisions.

The Senate bill specifies that Board membership should include experts in victim and witness matters, persons experienced in civil justice, regulatory and administrative law and legal education.

The House bill requires that the Board membership include representatives of professional organizations and the business community.

The conference substitute adopts both the House and Senate provisions except that Board membership need not include those experienced in regulatory law, administrative law, and legal education. However, it is not intended that professional organizations nominate such representatives for the Board.

The Senate bill provided that a majority of the Board, including the Chairman and Vice-Chairman, could not be full-time employees of Federal, State or local governments and limited the total number of full-time Federal employees who could serve on the Board.

The House bill did not contain similar provisions.

The conference substitute adopts the Senate provisions.

The Senate bill provided that the Board develop in conjunction with the Director the policies and priorities of the Institute.

The House bill provided that the Board recommend to the Director policies and priorities of the Institute and create where necessary formal peer review procedures over selected categories of grants.

The conference substitute adopts the House provisions.

PART C—BUREAU OF JUSTICE STATISTICS

The purpose of the Bureau of Justice Statistics

The Senate bill authorized the development of statistical systems to improve the operation of civil justice systems and to better understand the problems of civil disputes.

The House bill in Sections 825 and 305 excluded any involvement in the civil justice system, civil disputes, or other civil matters.

The conference substitute authorizes the BJS involvement in civil justice statistics, to the extent that the matter in question bears directly upon criminal justice matters or is necessarily intertwined with criminal justice matters.

The House bill specifically authorized the collection of statistical information concerning white-collar crime, public corruption, and crime against the elderly.

The Senate bill did not contain a similar provision.

The conferees adopted the House provision.

The Senate bill required the Bureau of Justice Statistics to give primary emphasis to the problems of State and local justice systems and to utilize to the extent feasible, State criminal justice statistics gathering and analysis systems.

The House bill did not contain a similar provision.

The conference substitute adopts the Senate provision.

Establishment of BJS

The Senate bill established BJS within the Department of Justice (DOJ) reporting to the Director of OJARS.

The House bill established BJS within the Department of Justice under the direct authority of the Attorney General.

The conference substitute establishes BJS under the general authority of the Attorney General, with OJARS having coordination authority over LEAA, NIJ, and BJS.

The conference substitute adopts the Senate position.

The Senate bill authorized BJS to collect statistics concerning impact of pre-conviction and post-conviction crimes on victims of crime and allowed publication without regard to 44 U.S.C. 111.

The House bill did not have similar provisions but authorized BJS to collect statistics on crime against the elderly and to establish a system to provide State and local governments with access to Federal informational resources.

The conference substitute adopts the House provisions.

The Senate bill provided that the BJS was to "establish" national standards for justice statistics.

The House bill used the verb "formulate".

The conference substitute provides that BJS "recommend" standards.

Bureau of Justice Statistics Advisory Board

The Senate bill included as members of the Board experts in victim/witness assistance.

The House bill included members of the business community and representatives of professional organizations.

The conference substitute adopts the Senate provision concerning experts in victim/witness assistance and the House provision concerning members of the business community and representatives of professional organizations. However, it is not intended that professional organizations nominate such representatives for the Board.

The Senate bill limited full-time Federal employee membership, and made the heads of NIJ, BJS, LEAA and OJJDP non-voting members of the Board. The bill provided for staggered appointments over the three-year period and limited voting members to no more than two terms.

The House bill placed no limits on full-time Federal employee membership, made the heads of NIJ, BJS, LEAA and OJJDP voting members of the Board and provided that no member could serve more than two terms.

The conference substitute adopts the Senate position.

Limitations on use of collected statistics

The House bill prohibited the use of statistical data collected by BJS for any purpose relating to a particular individual other than a statistical or research purpose.

The Senate bill did not have similar provision.

The conference substitute adopts the House position.

PART D—FORMULA GRANTS

The Senate bill limited funds to programs of proven effectiveness, programs which have a record of proven success or programs which offer a high probability of improving the functioning of the criminal justice system. The Senate bill identified 22 specific programs which could be funded.

The House bill was less restrictive in the range of programs which could be funded. Grants were authorized for: combating crime, improving court administration, prosecution and defense; victims of violent crime, victim/witness programs; effective alternatives to the criminal justice system; combating organized crime, arson, public corruption, white/collar crime, fraud against the government.

The conference substitute adopts the Senate provision as to the kinds of programs eligible for funding with the addition of qualifying language to the effect that the programs funded be "innovative".

The Senate bill allowed 100 percent funding but required an assumption of cost after a reasonable period of Federal assistance.

The House bill required a 10 per centum match and had no assumption of cost provision.

The conference substitute adopted the Senate "assumption of cost" provision and a compromise in which 100 percent funding was allowed for fiscal year 1980 and a 10 per centum cash match would be required thereafter, with provision for waiving the match requirement for Indian tribes and hardship cases.

Planning fund distribution

The Senate bill permitted administrative funds to be taken from the Part D award to each State.

The House bill had a separate allocation for administrative funds.

The conference substitute adopts the Senate provision providing funds for administrative costs to be made available from the State's Part D allocation. In doing so, it was intended that the use of the Federal anticrime funds for administrative costs be minimized.

Section 401(c) provides that a total of $250,000 plus 7.5 percent of the State's total allocation may be used in the State for administrative costs. Of this amount, the State criminal justice council may use up to $200,000 on a match free basis, any additional amounts requiring a 50/50 match; the judicial coordinating committee is entitled to at least $50,000 on a match free basis plus at least 7.5 percent of this entitlement to be matched on a 50/50 basis; local jurisdictions which are receiving entitled funding may use up to 7.5 percent of their entitlement for administrative costs, $25,000 of which may be expended on a match free basis, any remaining amounts to be matched on a 50/50 basis.

It is the intent of the Conferees that funds used for administrative costs be made available from allocations that are made to State agencies and local governments under the distribution formula set forth in section 405(a)(3) of the legislation. Expenditures of the State criminal justice council, the judicial coordinating committee, and any regional planning units should be made available on a proportionate basis from the allocations to the State agencies and the nonentitled local jurisdictions. Funds for administrative costs expended by entitled jurisdictions should be made available from their own entitlements. The Conferees expect that the state will provide administrative services or support to non-entitlement local jurisdictions

Direct entitlement jurisdictions

The Senate bill would limit direct entitlement jurisdictions to counties and combinations with population of 250,000, or cities of 100,000. The House bill would increase entitlement counties and combinations to those of 100,000 population.

The House bill had a special eligibility provision for the largest city in any standard metropolitan statistical area, regardless of population.

The Senate bill provided that jurisdictions with less than 0.15 percent of total state and local criminal justice expenditures are not eligible, regardless of population.

The House bill provided that combinations must be contiguous if not located in the same county, and that contiguous units need not be in the same state; Senate bill does qualify the term "combination".

The conference substitute adopts the following provisions:

Accept the House 100,000 population threshold for all units and combinations, but limit mini-block participation to jurisdictions which will receive at least $50,000 formula funds in the year in question;

Delete the House provision relating to the largest SMSA cities;

Accept the Senate provision relating to a required minimum percentage of expenditures for eligibility; and

Accept the House provisions relating to which jurisdictions may form combinations.

Criminal Justice Councils

The Senate bill required that the Criminal Justice Councils (CJC's) provide funding incentives to units of local government which combine or coordinate activities with other units.

The House bill did not have a similar provision.

The conference substitute adopts the House position.

The Senate bill provided that Council membership include representatives nominated by entitlement jurisdictions.

The House bill only provided that the Council include representatives of entitlement jurisdictions and gave the authority to the Chief Executive of the State to select and appoint the representatives of the entitlement jurisdictions.

The conference substitute adopts the House position.

The Senate bill provided that the representatives of the entitlement jurisdictions should include law enforcement and correctional personnel exercising authority in the entitlement jurisdictions.

The House bill did not have a similar provision.

The conference substitute adopts the House provision.

Applications for funds

The Senate bill required that applications of localities conform to uniform administrative requirements established by the State and that applications from local entitlement jurisdictions be acted upon within 60 days.

The House bill provided that the Council act within 30 days and did not specify adherence to uniform administrative requirements.

The conference substitute adopts the Senate provision on uniform administrative requirements and the House provision for action within 30 days.

The Senate bill required a hearing and appeal process in accord with procedures developed by the Council. If procedures were not agreed to by an eligible jurisdiction, the Senate bill authorized an appeal in accordance with procedures developed by the Administration.

The House bill provided that a disagreement between the State Council and the entitlement jurisdiction be submitted to binding arbitration.

The conference substitute adopts the Senate provision.

The Senate bill provided that an eligible jurisdiction must make an adequate allocation of funds for correctional programs; that the Judicial Coordinating Council must review applications from any jurisdiction which is applying for funds for court services; and that the State Council would provide that at least $50,000 of Federal funds be made available to the JCC.

The House bill did not contain these provisions.

The conference substitute adopts the Senate provision.

The Senate bill throughout Section 403–405 used the term "program."

The House bill used the terms "program or project."

The conference substitute adopts the Senate provisions which better reflects the reduced application submission and review requirements of the new Part D.

The House bill required that equipment purchased for more than $100,000 must be in use no later than one year after purchase.

The Senate bill did not have a similar provision.

The conference substitute adopts the House provision.

The Senate bill did not require applications from judicial coordinating committees, State agencies and nongovernmental grantees to include a crime analysis, but allowed those applications to rely on the analysis prepared by the Council.

The House bill had no such provision.

The conference substitute adopts the Senate provision.

The House bill provided that subsequent to the approval of an application or an amendment, the amount of the grant may be adjusted by the Administration.

The Senate bill did not have a similar provision.

The conference substitute adopts the House provision.

Limitations on use of funds

The Senate bill permitted equipment, salary and construction projects to be funded without limitation in energy impact areas.

The House bill did not contain a similar provision.

The conference substitute adopts the House version.

The House bill would permit use of funds for bullet proof vests and information and telecommunications systems notwithstanding the equipment limitations.

The Senate bill did not contain a similiar provision.

The conference substitute adopts a modification of the House position.

The Senate bill authorized use of funds to construct prisons or jails where advanced techniques in design are used.

The House bill prohibited funding of construction programs.

The conference substitute adopts the House provision, but the managers note that the definition of construction in section 901(a)(4) of the conference substitute would allow the renovation of prisons and jails.

The Senate bill provided that programs which have demonstrated a low probability of improving the criminal justice system cannot be funded.

The House bill provided that ineffective programs cannot be funded.

The conference substitute adopts the Senate provision.

The Senate bill provides for the disapproval of applications by "mini-block" eligible jurisdictions for programs or projects which have been evaluated and found ineffective.

The House bill contains no similar provision.

The conference substitute adopts the Senate provision.

Fund distribution

The Senate bill allocated formula funds among the States by first allocating to each State $300,000 and then allocating the available balance according to one of two formulas. The Virgin Islands, Guam, American Samoa, Trust Territories of Pacific Islands, and Northern Mariana Islands were defined as States for allocation purposes. Allocation to these entities was based on population data only.

The House bill would immediately allocate all funds according to the two formulas except that prior to initial allocation to States no more than $300,000 would be allocated among American Samoa, Trust Territories of Pacific Islands, and Commonwealth of Northern Mariana Islands.

The conference substitute adopts the Senate provision.

The Senate bill had funds distributed in States according to the criminal justice expenditures of all jurisdictions.

The House bill distributed funds in States according to criminal justice expenditures of all jurisdictions from all sources.

The conference substitute adopts the Senate provision.

The Senate bill considered all States equally in the reallocation of unused funds.

The House bill did not contain similar language.

The conference substitute adopts the Senate position.

The Senate bill required that regional planning units use to the maximum extent feasible the boundaries of and organizations of existing general purpose regional units.

The House bill would permit such use but not require it.

The conference adopts the House position.

In Section 405(a)(3)(B), the House bill allocated the remaining 30 percent formula funds into four equal shares based on expenditures for police, courts, corrections and total expenditures to be used for police, courts, corrections, and alternatives to the criminal justice system, respectively.

The Senate bill provides only for the allocation into four equal shares, with no mention of the purposes for which the funds are made available.

The conference substitute adopts the House provision.

PART E—NATIONAL PRIORITY GRANTS

The Senate bill authorized funding of National Priority grants based on evaluations of programs by NIJ, BJS, LEAA, by State or local governments, or by other Federal, State or local organizations. In addition, National Priority programs must be programs shown to be effective or innovative and to have a likely beneficial impact on criminal justice.

The House bill had National Priorities based on evaluations by NIJ, by State or local governments or by other public or private organizations. In addition, National Priority programs must be programs shown to be effective in improving and strengthening the criminal justice system.

The conference substitute adopts the Senate version.

Under the Senate bill the Director of the Office of Justice Assistance, Research and Statistics was required to establish National Priority programs.

The House bill would require the Attorney General to establish National Priority programs.

The conference substitute provides for the joint establishment of priorities by the heads of OJARS and LEAA, with resolution of differences between them by the Attorney General.

The Senate bill provided that such programs would remain National Priorities for a reasonable period of time, after which recipients must assume costs of the program.

The House bill limited programs to three years of funding, with a two-year extension authorized for programs shown to be effective.

The conference substitute adopts the House version, with a modification permitting an extension of priority status and LEAA funding in hardship cases.

The Senate bill required that: (1) In establishing National Priorities, OJARS must give special emphasis to; correctional programs; organized crime programs; court programs; victim/witness programs; community anti-crime programs; career criminal programs; (2) The Director of OJARS must furnish information for inclusion in Federal Assistance Program Retrieval System; and (3) National Priorities must include some programs responsive to each type of jurisdiction eligible to receive formula funds.

The House bill did not contain similar provisions.

The conference substitute adopts the House provisions.

The Senate bill authorized: (1) State CJC to comment on National Priority grant applications within 30 days; (2) State and local governments may use nonprofit organizations; (3) National Priority funds to pay 100 percent of costs of any additional funds given States under two-part formula grants.

The House bill did not contain similar provision.

The conference substitute adopts the Senate provisions.

The House bill authorizes "match free" technical assistance.

The Senate bill has no similar provision.

The conference substitute adopts the House provision.

PART F—DISCRETIONARY GRANTS

The Senate bill authorized discretionary grants to fund Sting projects, support community and neighborhood anti-crime efforts, and support victim/witness assistance programs.

The House bill did not contain similar provisions but authorized grants to support white-collar crime efforts and the development of criminal justice standards and guidelines.

The conference substitute adopts both the Senate and House positions on additional grant authority.

Under the Senate bill the Director of the Office of Justice Assistance, Research and Statistics was required to establish priorities for discretionary programs.

The House bill would require the Attorney General to establish such priorities.

The conference substitute provides that the priorities are to be established jointly by the Director of OJARS and the Administrator of LEAA with any disagreement between the two resolved by the Attorney General.

The Senate bill provided that discretionary grants may be up to 100 percent of program costs.

The House bill provided a maximum of 90 percent of costs.

The conference substitute adopts the Senate provision.

The Senate bill required that all discretionary grant applications be reviewed by the appropriate State criminal justice council.

The House bill had no such provision.

The conference substitute adopts the House version.

The Senate bill required the Director of OJARS to furnish information to the Federal Assistance Program Retrieval System.

The House bill did not have a similar provision.

The conference substitute adopts the House position.

The Senate bill provided that in distributing discretionary funds, needs of all States must be taken into account, that there must be programs or projects responsive to needs of all jurisdictions, and that time limitations in Section 606 do not apply to funding management and administration of national nonprofit organizations.

The House bill did not contain similar provisions.

The conference substitute adopts the Senate provisions.

PART G—TRAINING AND MANPOWER DEVELOPMENT

The House bill provided for the reauthorization of the Law Enforcement Education Program (LEEP). One of its provisions provided for the transfer of the program to the Department of Education.

The Senate bill contained authorization for LEEP within LEAA, but had no transfer provision.

The conference substitute adopts the Senate position.

A provision similar to the House transfer provision is contained in Section 305 of the Department of Education Authorization Act. (Public Law 96-88, approved October 17, 1979.) Section 305 provides for the transfer, upon the establishment of the Department of Education, of the programs "authorized by subsections (b), (c), and (f) of Section 406 of the Omnibus Crime Control and Safe Streets Act of 1968." These subsections are to be subsequently reenacted in Section 705 (b), (c), and (f) of the conference substitute. These provisions authorize the Administrator of LEAA to conduct these law enforcement education programs, and, upon enactment, the conference substitute will constitute legislative action subsequent to the Department of Education Authorization Act. The conferees are of the opinion that the cumulative effect of reenactment of the LEEP programs within LEAA and the deletion of any reference in this legislation to transfer of the programs will have the effect of retaining these LEEP programs within LEAA.

The House bill authorized the payment of travel and per diem expenses of State and local law enforcement personnel attending training programs at the FBI Academy.

The Senate bill had no such provision.

The conference adopts the House provision.

PART H—ADMINISTRATIVE PROVISIONS

The Senate bill established in the Department of Justice an Office of Justice Assistance, Research and Statistics under the general authority and policy control of the Attorney General. The Directors of the NIJ and BJS and the Administrator of LEAA are to report to the Director of this Office under the Senate bill and the Director of the Office is responsible for coordinating the activities of, setting broad policy guidelines, and providing staff support to NIJ, BJS and LEAA. The Office also had an Advisory Board.

The House bill does not provide for an Office of Justice Assistance, Research and Statistics. The House bill has the Directors of NIJ, BJS, and LEAA under the direct authority of the Attorney General. The House bill requires the Attorney General to select grant activities for funding under the National Priority Program and the Discretionary Grant Program.

The conference substitute establishes OJARS with responsibility to provide direct staff support to and authority to coordinate the activities of the LEAA, NIJ, and BJS. These three units are placed under the general authority of the Attorney General. Inasmuch as OJARS is to provide these support and coordination functions, and not policy direction and control, the conferees determined that no Advisory Board to OJARS is needed.

It is the intention of the conferees that, under this structure, policy setting for the LEAA, NIJ, and BJS will be the responsibility of the appropriate Director or Administrator of the program in question. The coordination authority of OJARS will include authority to resolve differences between the LEAA, NIJ, and BJS in carrying out their respective functions. The conferees also agreed that OJARS should be adequately staffed to provide these coordination and support functions. All are under the general authority of the Attorney General.

In view of the allocation of jurisdiction among these agencies, it is implicit that the Attorney General not exercise his delegation powers in a manner that would frustrate congressional intent in the allocation of such jurisdiction.

The Senate bill required submission within four years of a report by OJARS analyzing the contribution made by the LEAA programs in 18 specific areas. The report would be considered by the President and Congress in determining whether to continue the program.

The House bill did not contain a similar provision but would require LEAA to evaluate programs and projects under Parts D, E, and F.

The conference substitute adopts a modified 18-item report requirement, deleting specific reference to the significance of the report's findings in the continuation of the LEAA programs.

The intent of the conference is that LEAA itself will be responsible for an independent, data oriented analysis and evaluation of the effects, in the 18 specific areas, of LEAA funded programs. While the report will be based, in part, on comprehensive statistics submitted by State and local governments in support of the requirements of subsection (a) of this section and on other evaluations, it should not be merely a summation of these and other reports.

In order for this report to be a meaningful comparison and evaluation of LEAA funded programs throughout the country, the plan submitted 270 days after enactment of this Act by the Administrator of LEAA in accordance with subsection (c) of this section should set forth the types of data to be submitted by grant recipients in support of this report requirement and should provide uniform definitions for these types.

The conferees recognize that severe limitations exist on the capacity of these federal programs to show quantifiable contributions in the areas in question. One, the federal funding has dropped to the point where it represents only about 2 percent of total State and local criminal justice expenditures. Two, eighty percent of these funds are formula grant funds, over which LEAA has little control in the selection of projects to be funded. This federal control and influence will be even less under this new legislation. Three, improving the criminal justice system—which is the principle objective of this legislation—does not necessarily result in statistical improvements in crime control.

Nonetheless, the conferees believe that a realistic assessment of what can be expected of the LEAA program, and detailed evaluation over a number of years in achieving those objectives, is long overdue.

The Senate bill provided for final action without right to a hearing in all denials of applications except under Part D.

The House bill provided for full hearing and appeal rights.

The conference substitute adopts the House position.

The Senate bill would provide for an executive level position for the Director of OJARS.

The House bill contained no similar provision.

The conference substitute adopts the Senate position.

The Senate bill would waive 31 U.S.C. 551 re prohibiting expenditures for housing, transporting and subsistence expenses, and allow payment in advance or by reimbursement.

The House bill did not contain a similar provision.

The conference substitute adopts the Senate position.

The Senate bill provided that the report to the President would include a description of all National Priority programs or projects providing financial or technical assistance to victims or witnesses.

The House bill had no similar provision but would require the inclusion in the report of description of equipment costing in the aggregate of $100,000 under Part D and current status of equipment.

The conference substitutes adopts the House provisions.

The Senate bill authorized the Director of OJARS to withhold funds payable under Part D in order to recover funds spent in violation of the Act or conditions of assistance.

The House bill did not contain a similar provision.

The conference substitute adopts the House position. The conferees are of the opinion that authority for such withholding is already provided by Section 803(a).

The Senate bill established a revolving fund for "Sting" projects.

The House bill did not have a similar provision.

The conference substitute adopts the Senate position.

The Senate bill contained language amending the Demonstration Cities Act.

The House bill did not contain a similar provision.

The conference substitute adopts the House position since this amendment has been codified in the Demonstration Cities and Metropolitan Development Act of 1966.

The House bill provided that intelligence systems funded through Part D of this Act require adherence to policy standards set by OJARS.

The Senate bill did not contain a similar provision.

The conference substitute adopts the House position.

The House bill prohibited use of funds for lobbying State legislatures regarding any legislation or appropriation.

The Senate bill did not contain a similar provision.

The conference substitute adopts the Senate position.

The House bill prohibited any involvement with civil justice by any agency or entity established by Title I.

The Senate bill did not have a similar provision.

The conference substitute permits involvement in civil matters to the extent that the matter in question bears directly upon criminal justice matters or is necessarily intertwined with criminal justice matters.

The conferees recognized that there are instances where civil and criminal justice improvement programs cannot be easily severed. Civil and criminal matters frequently do not involve two clearly separate systems with identifiable boundaries, rather there are common overlapping elements with research findings in the civil area frequently having applicability in the criminal area. The areas of dispute resolution, domestic violence, white collar violations, and court delay, all can impact on the criminal justice system in the manner required under this Section, and to the extent they and other similar activities do, are eligible program activities. In addition, general court improvements can be funded when they will lead to improvement in handling criminal matters and have the potential for freeing up resources to more effectively deal with criminal case loads.

The Senate bill requires NIC to coordinate activities with NIJ, BJS, and LEAA and prohibits the duplication of their efforts.

The House bill does not contain a similar provision.

The conference substitute adopts the House position.

The House bill authorized LEAA to require grantees to make reimbursement for equipment costing over $100,000 not put into use within one year.

The Senate bill did not contain a similar provision.

The conference substitute adopts the House provision.

The Senate bill would establish seven pilot projects for prison industries.

The House bill did not contain a similar provision.

The conference substitute adopts the Senate position.

PART I—DEFINITIONS

The Senate bill definitions of "criminal justice" "comprehensive," and "combination," differed from the House bill definitions. In addition, the Senate bill contains definitions of "proven effectiveness," "record of proven success," and "high probability of improving the criminal and juvenile justice system."

The House bill did not contain these definitions but did define "white-collar crime."

The conference substitute adopts the House definitions of "criminal justice" (to include juvenile justice) and "comprehensive", the Senate definition of "combination", and includes the additional definitions in both the Senate and House bills.

PART J—FUNDING

The Senate bill authorized a five-year program and authorized appropriation for NIJ of $28 million and for BJS of $27 million per year.

The House bill authorized a three-year program (except for Community Anti-crime, four years) and combined the authorization for NIJ/BJS at $50 million.

The conference substitute adopts a four-year authorization and $25 million per year for each of NIJ and BJS.

The Senate bill provided that 19.15 per centum of the total appropriation should be maintained for juvenile delinquency programs.

The House bill provided that such maintenance of effort shall be used for juvenile delinquency programs with primary emphasis on programs for juveniles convicted of criminal offenses.

The conference substitute adopts the House position.

PART L—PUBLIC SAFETY OFFICER'S DEATH BENEFITS

The Senate bill provided that PSOB payments are effective only to the extent provided for in advance by the Appropriation Acts.

The House bill did not have a similar provision but added rescue squad members as eligible Public Safety Officers.

The conference substitute adopts the House portion with regard to PSOB payments and the Senate position excluding survivors of rescue squad members from eligibility for benefits. The managers intend that payments will, however, be subject to the availability of appropriated funds.

PART M—TRANSITION

The Senate bill provided authority for the LEAA, BJS, and NIJ to award prior year funds in accordance with the provisions of the prior Act, or for purposes consistent with the present Act.

The House bill provided similar authority but different statutory language.

The conference substitute adopts the Senate language.

The Senate bill authorized the Attorney General to appoint current LEAA appointees to fill acting positions under the new Act.

The House bill did not contain a similar position but provided that transfer not cause employees to be separated or reduced in grade.

The conference substitute adopts the Senate position with regard to the transfer and authorizes the acting appointments for a period not to exceed 90 days.

The Senate bill authorized ongoing construction project funding to continue for two years.

The House bill did not contain a similar provision.

The conference substitute authorizes such continuation funding for previously funded construction projects which were budgeted in anticipation of additional federal funding.

Peter W. Rodino,
Bob Kastenmeier,
George Danielson,
Lamar Gudger,
R. L. Mazzoli,
Sam B. Hall,
Robert McClory,
Henry J. Hyde,
Managers on the Part of the House.
Edward Kennedy,
Joseph R. Biden,
Dennis DeConcini,
Max Baucus,
Howell Heflin,
Strom Thurmond,
Paul Laxalt,
Thad Cochran,
Managers on the Part of the Senate.

THE NUCLEAR NAVY—ANSWER TO TURMOIL IN OIL

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RUDD. Mr. Speaker, I was most privileged on Saturday last to attend the launching of the nuclear attack submarine *Phoenix* in Groton, Conn.

Highlighting the launching of this nuclear vessel was a forceful and inspiring address by our distinguished minority leader, John Rhodes, who emphasized the essential importance of a first class U.S. defense capability, and of nuclear powered naval vessels, if we are to survive the military and economic forces arrayed against our country.

Mr. Speaker, John Rhodes is a great leader.

He is a man who knows from the experience of more than 27 years in the Congress that our Nation and the free world are in real trouble unless we stop cutting into the muscle of our defense budget, and unless we take every opportunity to utilize technological progress in the nuclear area.

His insights deserve to be read by all, and I would like to include his forceful remarks at dedication ceremonies for the nuclear attack submarine *Phoenix* at this point in the Record:

The Nuclear Navy: Answer to Turmoil in Oil

(Remarks of Hon. John J. Rhodes)

It is, indeed, a signal honor for Betty and me to represent here today the City of Phoenix, and our great State of Arizona, as this vessel takes the first step toward joining the fleet.

The name Phoenix has a naval history as old as our Nation, beginning with a Continental packet in 1778. The light cruiser Phoenix served with distinction in World War II, especially in the operations off Leyte. We are proud that another Phoenix will carry on that tradition of service.

Much has occurred since the day two years and three months ago when we were last here at the keel-laying ceremonies. Certainly, the world has become a more perilous place. The issues have become more confused. The need for a strong defense should have become more obvious.

Since seventy-five percent of the world's surface is covered by oceans, our navy has become America's first line of defense. This applies not only to tactical military strategies, but to our presence needed to keep the sea lanes open. We are dependent to an alarming degree on a very long, very thin line of oil tankers, that bring us eight million barrels of oil a day. We also are dependent on ocean commerce for a wide range of raw products, especially strategic minerals.

The launching of this attack submarine, at a time when our oil supplies appear in possible jeopardy, emphasizes the need for a nuclear navy.

When oil supply lines may be impossible to maintain, and shore bases subject to damage, our nuclear navy can patrol the seas, free from dependence on petroleum. Unfortunately, we are not alone in realizing this concept, and in fact, due to political manipulations, indecision, and general unawareness of the importance of a nuclear navy, there is doubt that we are any longer ahead.

I would like to take this opportunity to compliment the navy, General Dynamics, the skilled workers who have built this ship, and the top-notch crews who run the nuclear sector of our sea forces. At a time when civilian nuclear power is under attack, and has shown the need for further safeguards to operate with ultimate safety, the Navy has compiled a consistent record of safe and steady operation of nuclear-powered vessels. I congratulate you on this achievement.

Whenever debate in the Congress over construction of nuclear defenses comes up, whether for propulsion or weaponry it invariably focuses on cost. Technology never comes cheap. But, with oil prices escalating, and when the cost in effectiveness that a cutoff of oil supplies would create is factored in, a nuclear navy becomes eminently practical—as well as strategically necessary.

Perhaps one of the most quoted philosophies is that of George Santayana, who warned that "Those who disregard the past, are destined to repeat it." A more up-to-date version goes, "The only thing we learn from experience, is that we do not learn from experience."

So, it is not unexpected that in the Congress there is another fierce debate going on over defense expenditures. A few years of relative peace dulls the edge of national zeal for preparedness. The lessons of the past seem forgotten. History is replete with failures of nations, due to miscalculations. In olden times, there was a city-nation that believed it could avoid war by dis-arming. It believed that establishing trade relations with its powerful neighbor, making concessions, conducting negotiations, and unilaterally setting a peaceful example by beating its swords into pruning hooks, was the way to capitalize on peace, thus it avoided the budgetary drain of a military establishment. The sad fate of Carthage, which fell to Rome, should have shown us that weakness is a temptation to the aggressive-minded, not a deterrent to war.

Just yesterday, we observed the 38th anniversary of an event that pointed out our own failure to learn from history. Another great ship from my home State, the battleship Arizona, was sunk in the sneak attack on Pearl Harbor. Today it is a monument to unpreparedness, a reminder that diverting defense dollars to other programs can be a terribly costly venture, as long as there are warlike nations in the world.

Yet, that is the crux of the defense debate in the Congress today. Some see the defense budget as a kind of grab-bag, a bonanza that can be raided for more politically-rewarding income support programs, or housing projects, or any of a host of other federal projects. It would be tragic were we to attempt to substitute subsidy for security. The 1980 budget carries a presidental request for an increase. But, is it enough?

Preliminary expenditure estimates were based on a a projected six percent inflation rate. Certainly with inflation running double that rate, and prospects for a precipitious decline being somewhere between zero and zilch, more money will be needed to close the inflationary gap. Nearly one dollar in ten will go to pay for past military service, some $10 billions in pensions.

Inflation mandates increased manpower costs, as the military must compete with the private sector, under the voluntary service approach. OPEC is forcing fuel prices onward and upward. Repairs and routine maintenance reflect escalating costs of services and equipment. The proposed increase may cover most of those expenses, but it will not leave much for new hardware. The navy shipbuilding program seems to have been one of the sacrifices made on the altar of inflation. Our Nation may well have cause to regret this lapse in future years.

In these days when we talk of nuclear weapons, lasers, satellites and other assorted technological wonders, it must be apparent that our margin for error has been drastically reduced. In World War II we recovered from attack, mobilized our economy, beefed up our military, and went on to win in Europe and Asia. Can anyone believe that we could have any such opportunity in the event of a nuclear Pearl Harbor?

Over the past two decades, our defense posture has been one of fits and starts. We have had weapons programs cancelled, or delayed. Allies have deprived us of bases and observation posts. Negotiations have necessitated reshuffling of priorities. During most of this time, we were the undisputed world's leader in nearly every aspect of military power. We could afford those setbacks, and still recoup our clout. Today, we enjoy no such luxury. Miscalculation now can do irreparable damage to our future military capabilities.

But what of our potential foe? The Soviet Union is steaming ahead, building a huge, well-equipped, largely nuclear-powered navy. While we negotiate the fine points of SALT II, they pour twice as much of their gross national product into military preparations as we do. While the Congress chips away at proposals for nuclear carriers, many regarding them as some kind of floating boondoggle, the United States Navy League estimates that the Russians will have eight carriers sea-ready in a little more than five years. It is clear that the Soviets have a high regard for naval forces, and intend to become the strongest power on the oceans of the world. We cannot, in safety, allow that to happen.

I am disturbed as I hear some of our national officials, past and present, solemnly declare that the American people have lost their will. They claim we are more interested in creature comforts, and federal largesse than in national security. There is evidence that this feeling does exist among misguided people. But I do not believe that patriotism is dead, nor that the demand for the strongest defenses in the world has been abandoned by the majority of the American people.

Despite the sophistry and seduction of the argument that conflict today is unthinkable, I believe most Americans realize that we are engaged in a world-wide struggle, the age-old fight between freedom and tyranny.

It may be natural to wish that it were not so, that talking things over could settle world differences. Reality, and experience tell us that it takes two honest sides to settle disputes by negotiation. As long as Communism regards treaties as weapons, and negotiations as a form of warfare—we cannot risk belief in the idea that they have abandoned their often-stated goal of installing their form of government everywhere.

It would be a mistake to regard the Soviet Union as a backward nation, because they do not have the consumer-oriented economy we enjoy in the United States. It would be equally wrong to regard them as being ten feet tall. What we must do as a Nation is to face the reality of their dedication to spreading totalitarianism, and to renew our own determination to keep the free world free.

Today, we are dedicating this submarine to preservation of our strength on and under seas, strength that will go a long way toward preserving peace. Betty and I are proud to be a part of this ceremony, and wish the Phoenix and her crew every success, and many happy voyages home.

HUMAN RIGHTS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. MAGUIRE) is recognized for 60 minutes.

Mr. MAGUIRE. Mr. Speaker, December 10 marks the day for the worldwide celebration of human rights. This is a day which has been set aside annually, for the past 31 years, since the Declaration of Human Rights by the United Nations. This historic document elaborated special rights which each individual was entitled to enjoy regardless of the form of government under which he lived. The freedoms of speech, travel, immigration; the freedom to feel safe in the home; the rights to a fair trial and to just punishment, were all declared to be the universal inheritance of mankind.

Until recently, we Americans took these rights for granted. For us, the denial of human rights was all too often an abstraction. What we failed to realize was the possible ramifications for us of the violations which were taking place abroad. This has taken on a special meaning for Human Rights Day, and is also the 37th day of captivity for those 50 brave Americans held hostage in our Embassy in Tehran.

On this solemn occasion, Americans are asking why the concepts of diplomatic immunity and the protection against illegal detention seem to have been purged from the Persian vocabulary. These are questions which Americans will ask each day until we have won the freedom of our hostages. But, at that moment, these questions will not lose their relevance.

Thirty-one years after the Declaration of Human Rights, the violations in Iran are not isolated. Rather, they are a part of a pattern of abuses which occur daily in all four corners of the globe. Until the rights contained in that document are universally realized our inquiry into the condition of liberty in the world must never cease. For this reason, I have asked our colleagues to join with myself and BOB EDGAR of Pennsylvania, who has also asked for time under a special order, for a colloquium to observe this day.

As the great moral philosopher Reinhold Neibur said—

> Man's capacity for justice makes democracy possible, but man's inclination toward injustices makes democracy necessary.

That is why Congress has always sought to exert leadership in the area of Human Rights; through legislation funding refugee assistance and through this kind of colloquium, to state without equivocation our commitment to the universal rights of man. We must remind the world of the shelter the recognition of Human Rights affords. As the keeper of these values, and as concerned men and women, we must remember the admonition in Romans XII:

> Rejoice with those who rejoice; weep with those who weep; live in harmony with one another. If possible, as far as it depends on you, live peaceably with all.

This passage asks that men share in the burdens of the downtrodden. And so, through the direct ties of relation or through the bonds of affection, our colleagues have gathered here out of a feeling of kinship with particular peoples or regions of the world. Each Member who joins us in the colloquium today will doubtless focus on his or her areas of concern. To the extent that we can help, we would wish that our words would shine into dark prisons, remove the shackles from helpless hands, and deliver the deprived to havens of freedom. But, if we do not infuse our speech with specific policy actions, we will never restore these individuals to their inheritance: The realization of their human rights.

For my part, I would like to discuss some examples of how we have failed to make our policies match our rhetoric, where we have so far at least neglected opportunities to use our leverage on behalf of significant change. I plan to talk about Cambodia, about the Soviet Union, about South Africa, and some other areas.

Mr. Speaker, at this time I would be delighted and happy to yield to Members participating with us today.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I thank the gentleman for yielding. The gentleman in the well, I think, has articulately described the reasons for celebrating a Human Rights Day. He points out the tenor of the times, given the fact that today is the 37th day of the captivity of 50 of our citizens being held hostage in Iran. The gentleman, I think, has lifted up a number of adequate quotes that describe our concern for human rights around the world, whether it is in Ireland, Iran, the Middle East, Cambodia, Vietnam, Laos, or other nations of the world.

I think it is difficult for those of us who have 2-year and 6-year mentalities to focus on some of the major pictures that we see in the world society. It is difficult for us to look up from our legislative agendas and see what in fact is happening in the world in the area of human rights. I think it is appropriate for us today to not only set forth examples as the gentleman intends to do, but to be ever vigilant every day and every way in whatever capacity we have here in Congress and in the world about us to search out those areas where there is repression, where there are violations of human dignity taking place.

I am particularly concerned about the problems that we face in Cambodia. The fact that 50,000 to 60,000 persons are dying each week of starvation; the need for 30,000 tons of food to be delivered to people who are in real need, who are caught in the political balance between the United States and Russia, between China and Vietnam, between opportunities to escape possibly over a border into a camp, or to take refuge in a boat out at sea. People are in need throughout the world for our concern and for our commitment.

I would hope that the State Department and the President of the United States would redouble their efforts to try to provide some aid to the hungry and starving in Cambodia, and maybe as a symbolic act prior to Christmas make some attempt to alleviate some of the immediate pain in that part of the world, and to realize that it will not go away overnight, but it is long term; but the starvation we see in Cambodia, while it is in other parts of the world, is strategic beyond dimension.

I know we have other colleagues who have taken the time to go and visit the camps and see the people and agonize over the lifeless forms that they have seen. I would just like to underscore my commendation for the gentleman in the well for drawing our attention today to Human Rights Day and to pledge my support to him and other colleagues who will say to the President, "Be vigilant," who will say to the United Nations, "Be vigilant," who will say to all people of good will throughout the world, "Notice the stains when people get spilled on, and recognize the admonition that is in the New Testament that what you have done to the least of these, my brethren, you have done unto me."

I think we try to do that in our daily work, but sometimes we forget. Hopefully, by today's recognition, the opportunities we have will help us never to forget that there are needs and there are people who are in dire straits today and in the future who need our care and our compassion.

Our prayers go out to the hostages; our prayers go out to the starving; our prayers go out to all people around the world who are suffering repression of any kind. I celebrate with the gentleman in the well this Human Rights Day.

Mr. MAGUIRE. I thank the gentleman for his words and for the extraordinary contribution that he has made and continues to make in this Congress and in our country in his advocacy and leadership on human rights issues.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I would be delighted to yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank my colleague for yielding. I, too, would like to commend our colleague for bringing this day to the attention of the House. Indeed, the Cambodian tragedy is very much in our minds. There we see one of the ugliest things of which mankind is capable—the lust for power, the desire so strong for power that nothing stops them, with no concern for who is going to suffer in this march toward power. That is their only concern.

There is a nation that has holed up in one area, the Cardamon Mountains, a despot still hoping to return to power, Pol Pot, and a very fanatic Communist despot he is.

There in the old capital of Phnom Penh is a puppet regime set up by an army of 200,000 Vietnamese soldiers marching across the country, mining the rice fields, forbidding the people to fish in the rivers, dropping poison gas from Russian Mig planes. The shells and mortars that they drop on the camps are clearly of Russian origin. What does the nation do in the face of such cruelty? The so-called government in Phnom Penh is perfectly happy to let those people die. They will not let that food go out under the distribution and supervision of foreigners because they want to control it.

The French are reporting that the food is being stored in warehouses in Phnom Penh while the people are starving in the countryside. Food, they say quite candidly, is a weapon of war, and they are determined to keep their seat of power and count on the Vietnamese Army to keep them there. Now with the dry season, a new offensive has begun. There may be another 300,000—some say 600,000—refugees pressed across the border into Thailand, which is a poor country and not able to support them. The Government of Thailand has to pay compensation to those farmers who are dispossessed for these enormous camps, and it is a great strain.

I would like to suggest to this House that we urge the establishment of a demilitarized zone within Cambodia itself under the supervision of the United Nations, a zone in which every refugee who comes without arms is to be fed and given medical care. If we do not, as Father Charlebois, who is head of Catholic Relief Services, has clearly stated, among those few children between 1 and 5 years old who survive we will have a generation of mental retardates deprived of proper food in the most important formative years of their very early childhood.

It cannot continue like this. There should be a demilitarized zone. I wish that were my idea. It is not. It was proposed by Dr. Jean E. Carlin, M.D., Ph. D., at the University of California at Irvine. I think it is one hopeful and concrete suggestion, because there is no use in believing that it is going to be easy to persuade the Vietnamese Army to withdraw, if all of Indochina is convinced they are on the march and wish to take over the whole of that peninsula.

We know it is not going to be easy to believe that we can persuade Russia to stop sending the Migs, the trucks, the shells, and the guns, or that we can persuade China—which some people suspect, and I am not sure it is true, is still supplying the Pol Pot regime in the Cardamon Mountains. Who else, if it is not China?

I think there is no hope except to have the United Nations move for some kind of demilitarized zone on Cambodian soil so that these people would not be in a foreign country and subject to some of the hostility which the poor peasants of Thailand are beginning to feel against these people for whom their fields have been taken, and sometimes homes, too.

It is a very difficult situation, and I do not see any way out of it except through the United Nations. I hope that our Government will move. I intend to go back to my office now—and I read this article only this morning—and call Mr. Palmyeri, who is the head of our refugee operation; now that Ambassador Clark has left, Ambassador Palmyeri has taken over—and perhaps also Mrs. Carter who has shown the most consistent and intelligent concern, I think, for this whole area which she also visited.

I thank my colleagues. I thank them for this opportunity. I am happy to join with those who are here in this expression of concern.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

I would like to commend the gentlewoman from New Jersey (Mrs. FENWICK) for her comments. I think that each day we should focus some attention on the issue of Cambodia. The gentlewoman from New Jersey has spent a great deal of time helping me and other colleagues to understand the human tragedy that is being played out in Cambodia. I commend her for her actions.

Mrs. FENWICK. If the gentleman from New Jersey (Mr. MAGUIRE) will yield further, I thank my colleague, the gentleman from Pennsylvania (Mr. EDGAR). I would like to say this, that just as we see in Cambodia the operation of the ugliest of all human ambitions that lust for power, so we see in those camps the finest exhibition of compassion and devotion that one could possibly want to see—volunteers from every nation and of every religious persuasion. It is a marvelous thing. Religion and race and creed and color have separated people, but how careless they are over all those superficial differences. We see the marvelous outpouring of the spirit, regardless of any of these emotions which have divided people in the past, and sometimes even caused bloodshed themselves.

Here now we see them from every nationality, these wonderful volunteers standing in that tremendous heat hour after hour. There was one volunteer who had, her boss told me, worked for 10 months with only 5 days off. That is the level of devotion that we see, with the sweat pouring down them in the terrible stench and heat and the terrible sorrow of these people.

I thank my colleague.

Mr. MAGUIRE. I thank the gentlewoman for her leadership.

Mr. JEFFORDS. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Vermont.

Mr JEFFORDS. I thank the gentleman for yielding.

Mr. Speaker, I certainly want to commend the gentleman for having this special order today, and the speakers who have come before me previously.

I also would like to take a little bit different tack. We have been talking, and we should rightfully so, about the breaches of human rights which are in the headlines today. And we are talking about Iran and Cambodia. But I would also like to remind us that this day it is important also to remember those who have faded from the headlines and yet who are still in prison and whose rights have been jeopardized and taken away.

In particular I would like to remind the body that not too long ago the name of Ginzburg was in the headlines and world attention was focused on the plight of the family. A swap agreement was made between the Soviet Union and the United States for the exchange of people held in this country whereby the family of the Ginzburgs would be released.

Notwithstanding that agreement, Sergio, who is a foster child—still as innocent as he is and as unfit as he is to serve in the military service of the Soviet Union—was whisked away on a technicality up to the north reaches of Siberia where he still languishes. The family in desperation, the grandmother and mother and other children, are waiting and hoping to stay there, feeling by their presence in the Soviet Union they may somehow make it easier for their foster son to leave the Soviet Union with them.

□ 1520

I raise Sergio's problem as only a symbol of the thousands and millions of others who are not in the headlines, who we have a tendency to forget, who yet are suffering as much or worse than some of those we have mentioned today. I think it is just as important on Human Rights Day that we take time to remember them so that they are not forgotten, at least on this one day, as they have faded from the headlines, for it is they that we need more action on, probably today than those who are in the headlines.

I now would like to review the history of this day. In August 1975, leaders of 35 countries gathered in Helsinki for the Conference on Security and Cooperation in Europe and solemnly placed their signatures to a lengthy document, some 40,000 words in length, called the Final Act.

In October 1977, the Belgrade Conference was held to examine and conclude how much progress had been made in compliance with the Final Act.

In November 1980, in Madrid, another meeting will take place, demanding an accounting at that time of the compliance or noncompliance with the Final Act.

The issue of human rights represents the biggest gap between the ideals and practices of East and West.

In the world there are about 40 countries that are truly free, about 60 countries that, unfortunately are not free and about 50 countries that are partly free and partly not free.

The real test of commitment to human rights by a nation or an individual is not how strongly that nation or individual attacks the human rights transgressions of its adversaries, but how strongly that nation or individual seeks to correct the human rights transgressions of itself and its friends. A self-serving invocation of human rights is not a genuine concern at all.

We are convinced that there is a consensus taking form among the people of the world that the time has come for all of us to move toward the attainment of a common dignity, a commonsense of man's heritage, and a commonsense that the degradation of one human being degrades all humankind.

The doctrine of human rights is present in U.S. foreign policy because our Government and our people see no other way in which the community of nations can take form and be sustained. We seek to establish a common bond of understanding and respect upon which nations can find a new kind of relationship—a relationship in which the common goal is the cooperative pursuit of the betterment of the human condition, a better life for all people.

The concept of human rights is not of course an invention of President Carter; it has been an essential element of continuity in the policies and writings of our outstanding Presidents all the way back to Jefferson and Lincoln and carried into this century by Wilson, Roosevelt, Eisenhower, and Kennedy.

Over 100 years ago President Lincoln said "A nation cannot exist, part slave and part free." Under his leadership, America abolished the institution of slavery. A similar statement might well be made today with regard to the community of nations. A community of nations cannot exist, part respecting fundamental human rights and part denying them.

If human rights are to become universally accepted and universally applied, they must be defined. President Carter has said that they are—

> To speak without fear, to have a chance to express one's political belief, to seek different employment without interference by government, not to be dominated by officials who have power, not to be imprisoned without adequate charge and not to be tortured.

Secretary of State Vance has said—

> Man has a right to be free from government's violations of the integrity of the person, the right to the fulfillment of such vital needs as food, shelter, health care and education and the right to enjoy civil and political liberties.

Our strength as a nation, it seems to me, is rooted in the shared philosophy of the nature of humankind and the purpose of government which inspired our Founding Fathers in the creation of the Republic 200 years ago. These remarkable personalities asserted that the principles of self-government and human liberty are the birthright of "all people" everywhere.

Because we are free, we can never be indifferent to the fate of freedom elsewhere.

It is obvious that the United States cannot impose freedom by military force on the countries that are not true democracies. What we can do and we are doing is to try to use our influence—political, economic, and moral to persuade countries to grant more human rights to their citizens.

Our interest is global.

Today we need to focus sharp attention into the world's corners of repression.

Peace and security, economic and social development, and human rights are three interrelated and essential elements in the triangle of world order. In the absence of any one of these, the triangle is incomplete.

As Walter Lippmann once put it:

> The deepest issue of our time is whether the civilized people can maintain and develop a free society or whether they are to fall back into the ancient order of things, when the whole of men's experience, their consciences, their science, their arts, their labor, and their integrity as individuals were at the disposal of the state.

This is the central question that faces all of us, as nations and individuals.

Mr. MAGUIRE. I thank the gentleman for his significant contribution and for the leadership that he has given the Congress in these matters over the years.

Mr. Speaker, I yield to the gentleman from Texas.

Mr. LELAND. Mr. Speaker, I really appreciate the opportunity the gentleman from New Jersey has given me to express myself. I think it is significant not only in the opportunity here, given by the gentleman, but I would also like to take this opportunity to thank the Speaker and the leadership of the House for facilitating an opportunity that is an historic opportunity in modern times for we who are Members of the U.S. Congress to stand up and express ourselves about things such as human rights in a body where, in many countries of the world, they are not allowed this opportunity.

Mr. Speaker, the United States views itself as a protector of human rights both at home and throughout the world. U.S. blacks are particularly aware of the importance of and struggles undertaken to realize these ideals. From the time of the U.S. Civil War on, we have continually fought for the ideals embodied in the U.S. Constitution. My own political involvement began with the civil rights struggles of the 1960's and the black's, brown's, and all poor people's efforts to obtain their rights to minimal standards for shelter, diet and employment opportunities. Yet, our ideals remain unrealized and unfulfilled.

It is supremely unjust that within this country which possesses such vast material wealth that the basic needs for so many remain unfulfilled. In some cities and rural areas of this country infant mortality surpasses that of many Third World countries. Unemployment in central cities is also greater than that of many so-called under-developed countries. Housing conditions for many are deplorable and many people's diets do not even achieve minimal standards. Our sense of justice and commitment to our own Constitution and the Universal Declaration of Human Rights require that we address and remedy these and other violations of basic human rights within our own country.

We must also realize that human rights' problems do not end at our borders. In every hemisphere, on every continent, individuals and groups continue to be persecuted and denied their political freedoms and economic rights. I would like to draw attention to only one case—that of Haiti—a special concern of mine and the other members of the Congressional Black Caucus.

Haiti is the poorest country in the Western Hemisphere and has rightfully received generous amounts of foreign aid from the United States and other sources. Yet, because of an extraordinarily repressive, intransigent political leadership, scarcely any of this aid has trickled down to the masses.

In spite of our good intentions at promoting basic human needs in Haiti, the vast majority of Haitians have been denied both political and economic human rights. Over 8,000 Haitians have been forced to flee their homeland in precarious boat trips analogous to the Indochinese refugees. Many seek refuge in the United States hoping to receive treatment equal to other refugees. While we have generously welcomed Indonesian, East European, Cuban, Nicaraguan, and other refugees, black Haitians are coldly turned away from our shores.

There is currently a claim to the inter-American Human Rights Commission against the United States for its treatment of Haitian refugees. I, and the other members of the Congressional Black Caucus, feel Haitian refugees should be extended the same human rights granted to other refugee groups fleeing political and economic persecution.

We must work toward not only an extension of rights to Haitian refugees, but also toward an increased respect for human rights within Haiti. The refugee problem can be best solved by extending political and economic rights to people in their own homeland. We must not fear that promoting rights abroad might damage diplomatic relationships. To the contrary, human rights issues in Cuba—the releasing of political prisoners and reuniting of families—are our best hope for normalizing relationships with what once was considered the greatest threat to U.S. interests in the Western Hemisphere.

I firmly believe that a commitment, and not simply a political posturing, toward universal human rights is in the self-interest of everyone—both within the United States and worldwide. Our human rights policy abroad profoundly affects domestic concerns in every congressional district in terms of everything from social programs to defense spending. As a black American I feel the United States needs to reaffirm its commitment to universal human rights. World peace is only conceivable once both political and economic rights are universally applied. I would hope that all of my colleagues and all Americans recognize the importance of universal human rights and take positive steps to achieve them at home and abroad.

Mr. MAGUIRE. I thank the gentleman for his very significant contribution and his leadership on this and other areas concerning human rights in this country and around the world.

Mr. Speaker, I yield to the gentlewoman from Louisiana (Mrs. BOGGS).

Mrs. BOGGS. I thank the gentleman for yielding. I rise to compliment the gentleman from New Jersey on holding this special order, in perfect tradition of what the gentleman has always stood for. It certainly comes from the depths of his understanding, from his very splendid service in the United Nations where he was nurtured by our good and wonderful friend, Ambassador Goldberg.

Think of the excitement that surrounded the first Human Rights Day that we celebrated 31 years ago, where we really had the great hope that having a worldwide commitment to human rights, that we would be willing to work together as an interdependent world to bring about the rights of all human beings elsewhere.

Mr. Speaker, I hope that the gentleman's special order of this day and the remarks of all the people who will be included, will give us a spark of that same kind of enthusiasm to know that we can indeed, if we are gathered together with firm resolve and with great hope in the future, do something as compassionate and understanding people.

Mr. Speaker, I would also like to commend the gentleman for bringing forth this special order at this special time when so many of our Americans are being held hostage in Iran.

If I may be allowed a personal reference, I would like to tell you how encouraging it is when you have a loved one who is in an uncertain condition and you are so worried not only about their physical well-being but that indeed they may despair, which would be the worst of all curses, that you have the support of families and of other persons and particularly of the leaders of your country.

Mr. Speaker, I think that the gentleman in having these orders today, has extended that kind of encouragement to our American hostages and to their families. Believe me, in the long search for Hale and Nick Begich and their companions, it was the families of the POW's and the families of the missing in action who gathered around us to give us hope and sustenance.

It was the fact that our Government, our country, was doing everything in its power to find those persons and to make certain that they were well.

□ 1530

I do thank so much my good colleague, the gentleman from New Jersey, for having these orders and for saying to the people around the world who have families in positions where they are uncertain about their conditions that the gentleman is giving solace and comfort and encouragement and we are very grateful to the gentleman.

Mr. MAGUIRE. Well, Mr. Speaker, I want to express my deep gratitude for the gentlewoman's moving contribution to the discussion and for her participation and leadership in these areas.

Mr. EDGAR. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Speaker, I apologize for taking the floor one more time, but as part of this day unfolds and each person takes a focus on a particular part of the human rights question that they want to analyze, I would like to share with my colleagues and ask unanimous consent to include in the body of the RECORD a document entitled, "Missing Or Dead in Argentina," which appeared in the New York Times magazine recently and provided a cataloging of some very serious human rights violations which I would like to share with the Members of the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. EDGAR. The New York Times article is as follows:

Missing or Dead in Argentina

(By Paul Heath Hoeffel and Juan Montalvo)

On the hot summer afternoon of Dec. 24, 1975, Dr. Laura Bonaparte, a psychologist in Buenos Aires, received an anonymous telephone call. She was told that her daughter Noni, 24, had been picked up by an army patrol in the slum area outside the city, where the young woman worked as a teacher. Dr. Bonaparte was alarmed because on the night before the army base of Monte Chingolo, near the same slum, had been attacked by urban guerrillas, and a fierce battle had taken place. News reports acknowledged that more than 100 persons had been killed.

Dr. Bonaparte went immediately to the slum, where frightened residents recognized her because of her strong resemblance to Noni. They described how soldiers in an army jeep had stopped Noni, apparently in a routine identity check, as she left a student's home. They decided to detain her.

Dr. Bonaparte then embarked on a Kafkkaesque search for her daughter. She filed a writ of habeas corpus without results. She traveled each day from Buenos Aires to the provincial capital, La Plata, 35 miles south, to press the courts for news of her daughter. That failing, she enlisted the help of a national senator, also a family friend, who approached the army command directly. He was informed by a colonel that there was no possibility of discovering the whereabouts of Noni. She had become one of the desaparecidos.

Desaparecido is one of the more familiar terms of a new Argentine argot, a strange, forbidding vocabulary invented by an underworld of military and police personnel in their extralegal duties. The literal translation into English has a curiously passive sense to it: "to be disappeared." It disguises the ugly reality of clandestine abduction, torture and execution affecting tens of thousands of Argentines in recent years.

The desaparecidos are persons who, usually after being detained by teams of well-armed men, vanish without a trace into a world beyond all legal and human rights. They represent a broad cross section of Argentine society which opposes the right-wing military regime. The targeted victims are leftist extremists and their sympathizers, suspected of abetting the guerrilla violence against the regime. Others are innocent professionals, clergy, housewives, students and children unlucky enough to be caught up in a vast dragnet against subversion.

One of the most recent and visible examples of the ongoing terror is Jacobo Timerman, the 57-year-old newspaper publisher expelled from the country by the military junta last month. For many Americans, his plight dramatizes the issue of human rights in Argentina. Timerman, accused of subversion as editor of La Opinión, a Buenos Aires newspaper, suffered arrest, brutal torture and prolonged detention despite his acquittal by court investigators. Because of the complete breakdown of Argentina's judicial system in the area of human rights, only enormous international pressure—including appeals from President Carter and Secretary of State Cyrus R. Vance—saved him from the common fate of the desaparecidos.

Since the military government of Gen. Jorge Rafael Videla took power in March 1976, Argentine and international human-rights organizations have accused the Government of the disappearances of thousands of persons. Amnesty International estimates the number of desaparecidos at 15,000, a figure which high United States and Argentine Government officials acknowledge privately. Publicly, however, the Argentine Government denies any responsibility for the disappeared persons. Although in recent months it has acknowledged the existence of 5,000 such cases, it claims to know nothing about them.

What is the truth about the desaparecidos? Is it possible that the military government has an unwritten policy of eliminating its enemies, real or potential, simply by causing them to disappear? The Argentine Government is under growing domestic and international pressure to clarify the status of the disappeared persons. Because of its reluctance to do so, many observers now fear for the worst.

The summer of 1975 was the last for both Noni Bonaparte and the Government of 43-year-old Maria Estela Martinez de Perón, better known as Isabel. It marked yet another stage in the bitter struggle between Argentina's main seats of power: the armed forces and Peronism, which have taken turns abusing popular mandates almost continually for the last 35 years.

After an 18-year exile, the aging Juan Domingo Perón wrested power from a military dictatorship through national elections in 1973, sharing the Presidential ticket with his third wife, Isabel. Perón promised to continue his populist policies of state capitalism, introduced when he ruled with his charistmatic second wife, Eva Perón, Argentina's unofficial patron saint and the inspiration for his most progressive social and labor reforms.

When Perón died in 1974, Isabel became Latin America's first female chief of state. Her shrill efforts to duplicate Eva's popular appeal barely concealed the takeover by extreme right-wing Peronists in her Government. Government corruption and erratic economic policies quickly alienated all but the most fervent adherents to the working-class movement. The leftist Perónists, led by the Montonero guerrillas, who had harassed the previous military government for Perón's ill-fated return, resumed their attacks, this time directed at her increasingly violent regime.

Unable to control the nation by normal constitutional means, Mrs. Perón declared a state of siege in November 1974, handling over considerable power to the armed forces. Despite the growing temptation to restore order, the generals were in no hurry to take over the Government again. They had been humiliated by Perón's return and were determined to see the Government itself discredit Peronism once and for all.

The military also wanted to destroy the highly organized guerrilla groups, the leftist Peronist Montoneros and the Marxist People's Revolutionary Army, or E.R.P., largely inspired by the ideas of Ché Guevara, an Argentine who had gone elsewhere to make revolution. By this time, the insurgent groups were reeling from intelligence operations by the military. In an effort to demonstrate its continuing military capacity, the E.R.P. mounted a full-scale assault against the army base of Monte Chingolo. The guerrillas made their move after dark, but because of a leak to army intelligence, they were the ones caught by surprise. The rout went on much of the night. Helicopter gunships equipped with searchlights and rockets hovered over the nearby slum area where Noni Bonaparte was later picked up, while troops made house-to-house searches for fleeing guerrillas.

Though Dr. Bonaparte knew that many people had died at Monte Chingolo, there was no reason for her daughter to have been killed, especially since she had been picked up the day after the raid. Dr. Bonaparte continued her search. On Dec. 30th, through another army contact, she was told to check the cemetery of Avellaneda, a major industrial area nearby. "I started out to the cemetery to see if my daughter was on the list of dead, but I didn't dare go beyond three or four blocks of the cemetery because the stench of the bodies in decomposition was truly terrible. I couldn't continue. I was very scared and everything seemed so unbelievable and so horrendous."

On Jan. 8, a judge in La Plata told her that it would be necessary to sign a statement saying that Noni had died in the battle of Monte Chingolo. "I refused to sign it," Dr. Bonaparte remembers. "The judge told me that if I didn't, I wouldn't be able to retrieve my daughter's body. I demanded that they prove to me that she was dead. He told me that he had a paper with a number of a jar and that in that jar were the severed hands of my daughter, her identification."

At another point in her search, a local chief of police who had seen Noni's body told her: "But, Señora, you couldn't even call what was turned over to us a body." Finally he told her where Noni was: grave No. 28 in the Avellaneda cemetery, assuring her that all the dead were in individual coffins with crosses and identified by name. The following day she went to the cemetery with an armful of carnations. "It was horrifying what I saw. There were no crosses, no separate graves. There was an area about 18 feet square, the earth recently turned, covered with a pool of green water. I asked the undertaker: why the pool? He told me that it came from a depression made by the weight of the bodies, which had been brought in with power shovels and dumped there until the grave was dug. Then they were all thrown in at the same time. The undertaker wanted to count out 28 steps but only reached 16, stopped and said, 'Here it is.' I was shaken to see him walk over the grave. It was as if he were walking over my own body, as if I were buried underneath him, his steps hurt me so." Laura Bonaparte and her husband filed suit against the army for Noni's murder, a move which the authorities cautioned her against.

That March, the military moved to fill the vacuum of power created by Mrs. Perón. The economy was a shambles, with inflation out of control, reaching an annual rate of 330 percent. It was a long-awaited, bloodless, calculated coup. The military had considerable support to restore law and order. Order arrived—the law got lost in the shuffle. A few days before the military junta officially deposed Isabel Perón, Noni's husband, Adrian Saidon, also 24 years old, was gunned down in the street when he did not obey the command to halt. His body was never recovered.

Dr. Bonaparte decided to leave for Mexico. For her, the coup had brought no relief. In June, her husband, from whom she was separated, Dr. Santiago Bruchstein, 59, was abducted from his apartment in downtown Buenos Aires. A nurse who witnessed the raid told Dr. Bonaparte that the kidnappers were furious about the murder charges that the

Bonapartes had filed. "How could a rotten Jew dare accuse the military of assassination?" one abductor yelled at him. Dr. Bruchstein was taken to one of the vehicles used to cordon off the street for the raid. He has not been heard from since that day. The apartment, as is customary in such cases, was looted. The property of the *desaparecidos* is considered war booty, a considerable incentive in the abductors' work.

On May 11, Dr. Bonaparte learned in Mexico City that army personnel had made a predawn raid on her daughter Irene's apartment, where she lived with her husband, Mario, an architect, their daughter, Victorita, and Noni's orphaned son, Hugo. At 6 A.M. the security forces left with Irene and Mario. The two children were found in the lobby of the building with the address of their paternal grandparents pinned to their clothing. Irene and Mario have not been heard from again. Dr. Bonaparte continues to live in Mexico City without any word concerning her family's "disappearances."

Political violence during the Peronist period had reached unprecedented levels, yet in comparison with the past three years there was something curiously reassuring about it. The bloodletting between 1973 and 1976 was public, explicit and somehow comprehensible to most Argentines. Even the most sinister death squads, the Argentine Anti-Communist Alliance (A.A.A.), dedicated to the elimination of leftists, intellectuals and politicians, carried out their executions with chilling but open efficiency, often telephoning the news agencies to explain their actions. Bodies were dynamited, mutilated or *carbonizados*—burned beyond recognition. But there were funerals, there were mournings. The Government death squads' unmarked Ford Falcons parked in front of the presidential palace were a national disgrace, but everyone knew where they stood.

The Marxist guerrillas, the E.R.P., and the Montoneros, numbered perhaps 8,000 at their peak in 1975, with as many as 50,000 sympathizers drawn mostly from working-class and middle-class youth. They represented one of the largest guerrilla forces ever assembled in Latin America. Once on the defensive, their violence lost its theatrical quality and acquired a ghoulish edge of vengeance which finally degenerated into terrorist killing.

Toward the end of 1976 military clashes with the E.R.P. and the Montoneros had virtually ceased, while the number of reported disappearances had risen to an average of 15 a day. Soon it became clear that only the Government's security forces could carry out such flawless, elaborate operations.

The experience of 31-year-old Estrella Iglesias, a worker at the Squibb pharmaceutical plant outside Buenos Aires, is special because she is one of the disappeared who has reappeared after a year afuera de la sociedad, "outside of society," as it is put. Her release last May was a condition set by the Spanish Government for King Juan Carlos's state visit to Argentina earlier this year. Miss Iglesias, who had come to Argentina as an infant, technically remained a Spanish national. Aside from her release, her experience is typical of the desaparecidos.

In August 1978, 12 heavily armed men with a police dog came to her high-rise apartment and detained her for suspected connections with a small illegal Maoist group. Her abductors pushed her into one of several waiting cars. Familiar with the area through which they drove, Miss Iglesias realized that she was being taken to La Tablada Infantry Regiment, an army installation on the outskirts of Buenos Aires.

"When they took me from the car, they led me through a series of rooms until we reached one where, hitting and pushing me, they removed my clothes and tied me to a table. They began to torture me with applications of electric current to my genitals, breasts, toenails, mouth and gums; stretching my arms, mostly my right arm until they dislocated it; putting rats on my face and between my legs. All this was accompanied by questions as to my political activity, and my knowledge of other political groups and activists."

Torture and summary execution are policies which make "disappearances" necessary in the first place. Such activity must be untraceable, beginning with illegal abductions and the use of clandestine detention centers, usually at military installations.

Invariably, the clandestine centers described in scores of testimonies have torture areas, or, using the slang, quirófanos ("operating rooms"). The picana, or electric cattle prod, is the most common means of torture after beatings and psychological abuse. Another readily available method is the submarino—nearly drowning victims in vats of filthy water. The torture and the interrogation are methodically coordinated.

Prisoners are almost always chained and encapuchados, forced to wear tightly fitting hoods which serve the dual purpose of disorienting the prisoners and preventing them from identifying their surroundings and their torturers.

After three days of torture, Miss Iglesias lost track of time. Between session she, was taken to another building within the army base and shackled half-naked to a wall. She repeatedly witnessed uniformed officers in the area. The officer who took charge of her transfer from la izquierda a la derecha—from illegal detention to legal status in a Federal prison—was a lieutenant colonel in the army.

While Miss Iglesias "was disappeared," her family's writ of habeas corpus, filed on her behalf, was rejected by the courts. A letter from the Ministry of the Interior in response to their inquiries assured them that she was not being held in any state facility. Not until Miss Iglesias was transferred to a Federal prison was she put in touch with her family. Charges against her were then dismissed by a court martial of four air-force officers and she was flown out of the country last spring.

Confronting the charges that the military is directly responsible for the disappeared persons and their fate, spokesmen for the Videla Government claim that the few legitimate cases which do exist represent excesses by groups "beyond its control." As Gen. Roberto Viola, army commander in chief and intimate of President Videla, has repeatedly claimed to visting Americans, the human-rights organizations' lists of the disappeared largely comprise subversives killed in clashes with security forces who remain unidentified. Others on the lists, according to official explanations, are subversives killed as traitors by fellow guerrillas, and persons who have gone underground or who have slipped out of the country.

The lists compiled by human-rights groups, such as the Permanent Assembly for Human Rights in Argentina, Amnesty International and the Argentine Information Service Center in the United States, all politically independent organizations, are dismissed by the same Argentine officials as inflated and inaccurate. Yet, according to one Western diplomat who has carefully monitored the existing evidence: "The lists are assembled on the basis of different criteria—some are based on more concrete documentation than others. Whatever inaccuracies there are, they represent a tiny fraction of the total number of desaparecidos on the lists."

The Government's "out of control" hypothesis was widely accepted until well after the coup. The efficiency with which the E.R.P. and the Montoneros were brought under control, however, left little doubt that no unofficial group, left or right, remains capable of the type of paramilitary operations involved in thousands of disappearences.

The "out of control" theory, furthermore, presupposes a breakdown in the traditional military hierarchy where captains and colonels would exercise more authority than generals. Many observers reject this possibility as an intolerable situation which would pose a far greater threat to national security than any insurgent group might. According to the same diplomat cited above: "I think it would be more accurate to say that these groups are out of command, not out of control. Everyone is following orders there."

There is, however, evidence of a real breakdown in the traditional system of accountability in the Argentine military. The crisis is among the military commanders themselves rather than between senior and junior officers. Within the army, the central branch of the armed forces, the splits are between the so-called duros, or hard liners. and the blandos, those led by Videla and Viola, who recognize the limits of military power in Argentina. The duros, who maintain that subversion should be wiped out at any cost, see their more politically oriented peers as orchestrating their own demise.

The conflicts over command are reflected in the very structure of the Videla Government, which is considerably different from its numerous military predecessors. Notably absent is the traditional caudillo, the army commander with sufficient charisma to forge some unity within his government. President Videla is an upright officer with considerable political talents, but he is no caudillo. His overriding concern is to lend his Government some semblance of stability, particularly to investors abroad.

Videla's power as President ranks below that of the junta, whose power, also for the first time, is equally divided among the three branches of the armed forces. Today, the real power lies in the hands of the junta's commanders in chief, and especially in the four corps commanders of the army.

The disappearance of Héctor Hidalgo Solá illustrates how the power struggles within the junta have begun to overshadow the military campaign against the Argentine left. Ambassador Solá, one of the key financial backers of the centralist Radical Civic Union Party, was pressed by President Videla to accept the post of Argentina's Ambassador to Venezuela. In Caracas, Solá spoke frequently about Argentina's imminent return to democratic rule. He was instrumental in arranging President Videla's state visit to Venezuela in May 1977. It is said that a Venezuelan condition for Videla's image-boosting visit to one of the few democratic states left in South America was the release of an ex-Radical Party senator, Hipólito Solari Yrigoyen, a critic of the regime who had been disappeared by the army in August 1976. Villas, commander of the Fifth Army Corps in the Southern city of Bahía Blanca, Solari Yrigoyen was reluctantly returned to society.

In July 1977 Ambassador Solá returned to Buenos Aires for his daughter's wedding. On the morning of July 18, he was driving through the intersection of Libertador Avenue and Pueyrrdon Avenue, a fashionable area of the city, when armed men in several vehicles stopped his car and abducted him. The ensuing diplomatic uproar over Solá's disappearance caused considerable embarrassment to President Videla, as was intended. One hypothesis is that Solá's kidnapping was an action by the duros as a warning to President Videla for having obliged the security forces to release Solari Yrigoyen. Since the incident (Solá is presumed dead), neither the President nor other blandos in the Government have seriously challenged the duros over the release of disappeared persons.

A more recent disappearance of a diplomat caused considerable alarm among well-born

Argentines who thought that for the time being their problems were over. Forty-eight-year-old Elena Holmberg, who had recently returned from a diplomatic assignment in the Argentine Embassy in Paris, was driving her Fiat in Buenos Aires last Dec. 20 when a car with three men forced her off the road and abducted her at gunpoint. Miss Holmberg, a friend of President Videla's, had expected to dine that evening with Argentina's Ambassador to France.

On Jan. 11, Miss Holmberg's decomposed body was found floating in the Luján River. Unlike most of the 45 bodies which had washed up along the coast the month before, her body was identifiable because her head and arms had not been severed.

She had been an outspoken duro on the subject of wiping out subversion in Argentina. This fact fueled the concern of Government supporters that internal military fueds were deepening. Although Miss Holmberg's murder remains an official mystery, it is well known that she had denounced suspect financial dealings by naval officials who were working in Paris. More serious, she had reported the well-publicized meetings between navy strongman Adm. Emilio Massera and Montonero guerrilla leaders in Paris.

Aside from the economic headaches inherited by the junta, the disappeared person remains the central issue eroding the credibility and viability of military rule in Argentina. Since Government officials declared their total victory over armed insurgents nearly two years ago, popular pressure has steadily mounted for clarification of the status of the desaparecidos. As Patricia Derian, Assistant Secretary of State in charge of President Carter's human rights policy and central target of the Argentine junta's complaints against the United States, requested recently: "If only for humanitarian reasons, tell the families of the living where they are, tell the families of the dead what they need and deserve to know." The junta has remained silent.

The only military commander clever enough to get political mileage out of the issue is Adm. Emilio Massera, former chief of the navy and a member of the junta until last October. Massera, a duro turned blando, is precisely the man who would be caudillo had he chosen an army career. Ruggedly handsome, articulate, at ease in the labyrinthian world of Argentine politics, Massera has, since his retirement, stepped up contacts with the Peronists in an aggressive campaign to present himself as a populist Presidential candidate. His break with junta policies has earned him the enmity of anti-Peronist army officers, as well as more than one assassination attempt.

Admiral Massera took his campaign one dangerous step further by proposing to the junta that it make public the lists of the disappeared. He offered the navy's lists on the condition that the army and the air force submit theirs. His proposal, which found some echo among the blandos, was to end speculation about the disappeared once and for all, providing the next Government with a clean slate. "He sees the issue as a time bomb," explains a Massera intimate. "As the political situation gets more complicated, time is running out for the junta. Eventually the lists will surface and it's better for the military to release them now than have them fall into the wrong hands in several years."

Official rejection of the Massera proposal lent credence to many observers' worst suspicions—that the majority of the disappeared have been executed. The high cost of such an admission remains out of the question for much of the military. The same Massera intimate, when asked about the possibility of mass executions, responded: "There's no way you can hide 10,000 or 15,000 persons—even satellites would detect them. No, I wouldn't count on seeing them again."

In his Army Day speech last June, General Viola made an ominous reference to los ausentes para siempre—those who are gone forever—a term which was widely interpreted as a message about the disappeared. When human-rights groups requested a clarification of his term, Viola indicated that this was as far as the Government would go on the subject of the disappeared persons.

At the same time, word began to circulate in foreign embassies that those disappeared who had not already been eliminated by the duros were being executed in preparation for the investigation by the Organization of American States' Inter-American Committee on Human Rights, which arrived in September. A form of elimination repeatedly reported is the injection of curare into unsuspecting prisoners, causing death by suffocation. The bodies are then loaded onto aircraft and their bellies slit before being dumped into lakes or the ocean so they will sink permanently. Comida para los pescados—fishfood—is what they call the corpses.

When Bruce Alan Kiernan, the human-rights coordinator for the American Association for the Advancement of Science, visited Argentina last year, senior advisors to President Videla acknowledged the executions: "They told me that many persons in military custody were thrown out of helicopters into rivers and lakes, a tactic learned, they claimed, from the American experience in Vietnam."

A number of the more notorious torture centers have been closed down in recent months, causing more alarm as to the fate of their former inmates. The Navy Mechanics School in Buenos Aires, described in some detail in a number of testimonies, has been reconverted so that "even the Ping-Pong tables in the officers' lounge are back in place" according to one diplomatic source.

The visit last month by the O.A.S. mission is cited for this flurry of activity which reached a feverish pitch last summer. In August federal police raided the offices of four human-rights organizations including the Permanent Assembly the group working closely with the O.A.S. investigators.

Orville H. Schell attorney for Aleksandr Godunov and chairman of the New York City Bar Association's mission to Argentina last April characterized the break-ins as "a crude attempt by the Argentine Government to intimidate these groups from providing important information to the Human Rights Commission of the Organization of American States."

A State Department spokesman Tom Reston indicated that the American Embassy in Buenos Aires had been ordered to investigate charges of alleged secret detention centers and alleged execution of prisoners prior to the September O.A.S. investigation.

Shortly after the raids on human-rights offices the junta passed a law designed to relieve pressure around the issue of the disappeared without actually acknowledging it. It reduces to a few months the period of time necessary for a disappeared person to be declared legally dead. Those affected would be the disappeared persons formally reported by their families in the period between the declaration of a state of siege in 1974 and the promulgation of the law. Significantly the law empowers the Government to initiate this process thus short-circuiting the legal options of families in their search for disappeared relatives. The bill represents an indirect acknowledgement that the disappeared are indeed *ausentes para siempre*.

While recognized as a concrete improvement, the law remains a half measure.. Washington's Patricia Derian says: "Because it does not deal with the central problem—accounting for the disappeared—it is only a Band-Aid which will eventually generate even more legal problems." Former Federal District Court Judge Marvin Frankel, who was a member of the New York City Bar Association mission to Argentina last spring, maintains: "This law represents a ghoulish evasion of Government responsibility. The Government is manipulating the relatives and the courts to avoid facing the issue of the disappeared."

The terror which the disappearances have produced is at once calculated and incalculable. The disappearance of a relative or friend has a different impact from that of a legal arrest or even an outright death. The families, often directly terrorized in the initial raid, live in fear that the abductors will return. Any protest, even the filing of a writ of habeas corpus, could destroy the chances of the disappeared person's release. Not only is the disappeared person taken fuera de la sciedad, but fear effectively neutralizes those close to the victim.

Alicia, a 34-year-old Argentine now living anonymously in New York with her 5-year-old son, fled Argentina two years after her husband, Daniel, was taken away and disappeared. She is still tormented by not knowing what happened to him: "My entire family has been paralyzed since Daniel was abducted. The authorities told us to wait, not to make any trouble. That would be the best insurance for his return."

While they are detained, there is clear effort to dehumanize the prisoners—in part to punish them, in part to break the societal bonds which control human exchange. A person who has been reduced to crazed incoherence by torture and deprivation makes continued neglect, abuse and eventual elimination much easier.

Evidence exists that the instillment of terror has not been completely effective in crushing the junta's opposition. The most dramatic example of the mobilization which the desaparecidos have inspired is the phenomenon of Las locas de Plaza de Mayo—the so-called Mad Women of Plaza de Mayo.

In April 1976, scarcely a month after the military coup, the mothers of disappeared persons began gathering every Thursday in the plaza in front of the Presidential palace. The women stood in silent vigil waiting for news of their children. The gathering soon became a defiantly public protest against the Government for its refusal to release names and information about the disappeared. Last October, Bruce Alan Kiernan asked the head of the Human Rights Working Group in the Argentine Foreign Ministry about the mothers. He was told, "Out of more than 200 mothers, only 25 are legitimate; the rest are crazy. They're mad women who don't even have children." Mr. Kiernan, however, reports, "Having personally interviewed about 70 women, I can categorically state that his assertion is not true. One cannot," he continues, "but feel insulted by these kinds of statements, which are such obvious distortions of the facts."

As the numbers of mothers grew (they have recently been nominated for a Nobel Peace Prize by the Spanish Socialist Party), so did Government harassment. On Dec. 8 and 9, 1977, 13 women and men, including two French nuns, were abducted during raids on meetings of mothers and supporters of desaparecidos. French reaction to the disappearances of 60-year-old Sister Léonie Duquet and Sister Alice Domon marked a turning point in international concern over the Argentine situation.

The nuns' abductors made a crude attempt to attribute the kidnappings to the Montonero guerrillas. A communiqué, supposedly from this organization, with a picture of Sister Alice and Sister Léonie sitting under their banner was sent to news agencies, only to be disclaimed by the Montoneros in a cable to United Press International a few days later. Even personal inquiries by President Valéry Giscard d'Estaing could not effect the reappearance of the nuns or the mothers. Privately, Admiral Massera acknowledged to Emilio Mignone—of the Permanent Assembly for Human Rights and parent of a disappeared daughter—that the nuns had been executed. This, presumably, has also been the fate of the nine mothers and two men.

The unending police raids and the reports of new disappearances have been sufficient warning to Argentines that no immediate changes are in store. From the hard liners' point of view, the tactic of making people disappear has been too successful to abandon under pressure. They are willing to pay the relatively high price of becoming international pariahs, along with Chile and South Africa, in order to purge the nation of what they see as godless subversives. Their policies, however, may be counterproductive in the long run. By trying to eliminate the threat of subversion through these violent means, they may actually be encouraging it. Nobel Peace Laureate Mairead Corrigan's words may very well prove to be prophetic. "I am afraid," she said, "that with each disappearance the Government has planted the seeds for future violence."

Mr. BAILEY. Mr. Speaker, will the gentleman yield?

Mr. EDGAR. I yield to the gentleman from Pennsylvania.

Mr. BAILEY. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I want to add my compliments to the gentleman for organizing this special order.

I suppose to me as a person who has had occasion to spend time overseas and see firsthand, I think, the kind of tyranny which can arise from political differences, or at least as the result of one group of people who will sometimes try to impose by force their views on others, nothing has more concerned me than those things that we call human rights; although, I sometimes wonder and disagree with many Members of this body if we could not at some time perhaps come up with a specific definition of just what that term means.

To me, essentially, I suppose it means a finite and relatively small group of principles, most of which I think, many of which or all of which this Nation stands for, has stood for and I hope will continue to stand for, however imperfectly practiced.

It is very, very sad for me and it has been to listen to much of the rhetoric on the floor of the House from those who consider or call themselves liberals, I suppose, and become preoccupied with the totalitarianism of the right, and totalitarianism of the right is somehow separated from that authoritarianism which emanates from the left. The right gets up and those conservatives criticize the type of authoritarianism for some reason as if it is a little different, I suppose, when it comes down on someone's head, that we see, say in Cuba or in the Soviet Union or in Southeast Asia, while leftists have a tendency to concentrate on those problems as we see them practiced in Chile or in Argentina, or make frequent reference to rhetorical use of the history of Nazi Germany; but at some point there has got to be a common ground.

I would hope, and I have been meeting and intend to continue meeting with a group of people who I hope can realize that the Earth and our nations, especially the Western democracies, have got to take a new direction. That direction is, I hope, to begin an international involvement, political involvement, by persons who are interested in fundamental political freedoms and will make efforts to extend them in countries all around the world and to add to them, as the gentleman from Texas, I think, so rightfully and properly addressed the issues of other human needs, such as economic and social needs.

Mr. Speaker, again I would like to compliment the gentleman for organizing this special order and thank the gentleman once again for his efforts in that behalf.

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman from Pennsylvania for his very important and appropriate remarks.

We are gathered here today to talk about human rights issues wherever they may arise, whether in regimes of the right or of the left or of the center or, indeed, as the gentleman from Texas has quite correctly pointed out, within the confines of our own country; so I thank the gentleman from Pennsylvania for his remarks.

Mr. Speaker, in early November, the gentleman from Pennsylvania (Mr. EDGAR) and I organized a meeting at the State Department with a number of our colleagues on the Cambodian matter. We wanted to know what kind of assistance the Cambodian refugees were receiving and what the United States was doing to speed its way and to quell the hunger and disease which afflict these starving people as a result of the brutal conflict and repression in that country.

We went to the State Department to demonstrate in no uncertain terms that we believed that the United States was obligated to assume leadership in the relief efforts. At that time we assured Under Secretary Christoper, and through him we promised the President of the United States, that we would actively support any supplemental request for assistance that the administration made; but we also pledged to monitor the adequacy with which the administration fulfills the commitments that it makes on behalf of these efforts.

In each of the 8 legislative days before this special order, I and 13 other Members from both sides of the aisle took to this well to report to the House on the status of the administration's relief efforts. While we admire and support the official commitment of nearly $100 million for hunger relief, we have been immensely troubled by the disarray that is readily apparent in our relief efforts. The various refugee relief efforts in Washington are in a shambles, reflecting uncertain lines of authority, overlooking bureaucratic constituencies, and sometimes unclear administration goals.

Representatives from Food for Peace, the State, Treasury and Agriculture Departments, even OMB are involved; but out of this clutter of activity no central figure has been named or has stepped forward to coordinate the operation. This vacuum has prevented us from making essential changes in our policy toward the government in Cambodia and building upon the successful efforts of private relief organizations.

Our reluctance to acknowledge the Vietnamese sponsored government and our persistence in clinging to the belief that Pol Pot is still ruling Kampuchea is preventing us from using the regime in power to distribute food, or at lease preventing us from doing that as effectively as possible.

This, despite the warm welcome which the American Friends Service Committee Operation California flight received when it landed in Kampuchea, our Government is still not directly coordinating an expanded airlift food and medical supplies to Phnom Penh.

This is particularly disturbing, because international relief organizations have indicated that of the 30,000 tons of rice needed to sustain the refugees, less than half that amount is getting through. This is weeks after we joined in a committed effort to make sure that those amounts would be significantly increased.

Surely, a nation which can sell 45 million tons of wheat to the Soviet Union can redouble its efforts to curb the hunger of those in Cambodia and the Cambodian refugees who have fled the country.

Obviously, the first order of business is for the administration to sort out who should be involved in the relief efforts and who is going to be empowered with the authority to direct them.

Second, as William Lewis, a senior associate with the Carnegie Endowment has suggested, we must take active steps in the world community to see our distribution efforts through.

At present, food shipments into Cambodia are being taxed by the Vietnamese. Food is being stockpiled in Phnom Penh, instead of being sent into the countryside.

As our colleague, the gentleman from New York (Mr. SOLOMON) pointed out in his "Dear Colleague" letter this morning, the Soviets must do their part to exert pressure on the Heng Samrin government to get this aid out.

The same type of efforts that Secretary Vance is pursuing with respect to the hostages in Iran can equally be applied here. Perhaps as Mr. Lewis suggests, an embargo on multilateral assistance ought to be applied to any rogue government which will not cooperate in the distribution of food to starving millions of people.

Unless the international community acts and acts more decisively than it has done thus far, we will lose the moral and legal initiative. We certainly must take a more activist approach to getting assistance to Cambodia.

Mr. Speaker, I would like to turn now to some comments on another place where we need to more actively use our leverage to achieve change—the Soviet Union.

What we are lacking is not a framework for transferring our knowledge about the human rights situation there into an actual policy toward the Soviet Union, such a strategy seemed to emerge in the context of the Trade Act of 1974 with the discussions then of the Jackson-Vanik amendment.

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We have tried to develop some kind of creative interplay between human rights issues and economic policy through a discussion of most-favored-nation trade status. But what has actually come to pass?

This year some 50,000 people were allowed to leave the Soviet Union. Thus the extension of MFN to the Soviets would certainly arise as an issue based on the recent record. But can we rely on these numbers as a true alteration in Soviet policy? I think not.

A careful analysis of the coincidence of political events with their emigration policies in the past has led me to believe that the number of visas issued related directly to the possibility that trade liberalizations might be imminent. It did not signal the kind of free emigration contemplated in the Helsinki Accords.

Negotiations on mutually granting MFN status began in 1971 and resulted in the signing of two agreements in 1972, both providing for reciprocal granting of MFN status. It was not known until late 1974 or early 1975 that the agreements would not enter into force.

Let us look at the emigration data. In 1971 emigration increased 40 percent over the entire previous decade's total. In 1972 it was up another 125 percent over the 1971 total. Yet in 1973, the year after the signing of the agreements on the MFN, the increase in emigration amounted to only 6.3 percent. In 1974 emigration decreased 38.2 percent. It certainly appears that the increases in visas issued by the Soviet Union signaled its desire to reach an accord on trade. Conversely, the decrease can only be explained by their misreading of the political scene here in 1974 that they need do no more since a trade agreement was at hand.

Thus we have allowed the lever of trade on the Soviet emigration policies to slip from our grasp. Instead, emigration is being used by the Soviet Union to manipulate us toward a negotiation for a liberalization of trade.

Now, with the issuance of 50,000 visas, we might run the risk of being deceived. I suggest that we should stand firm and continue to use the possibility of expanded trading status to bring about permanent changes in Soviet emigration policies and press the Soviet Union to recognize free emigration as a legal obligation they must respect as a matter of international law.

Mr. Speaker, South Africa is another place where we have done much less than we could have. From time to time we have given some thought to the value of tougher policies toward South Africa, but again we really have not followed through. U.S. policy for years has consisted almost exclusively of a willingness to condemn apartheid. There have been some modest changes along the way which should not be ignored. History does move.

There is an arms embargo in which we have participated. In the 1960's some U.S. citizens demonstrated in front of banks which made loans to South Africa, and now, nearly 20 years later, the Chase Manhattan Bank and the First National City Bank have decided not to increase their loan exposure in South Africa's government-owned corporations.

Some U.S. corporations have adopted the Sullivan principles which have proved only incrementally effective in raising salaries, opening middle-level supervisory positions and the like. Despite this movement, despite the commitments made by all other nations on Earth, South Africa has declared its position time and again. Three million whites will continue to rule 20 million blacks and coloreds harshly.

Our careful, patient efforts to encourage gradual movements from the "racial stone age" to an incipient renascence of greater equality have been rebuffed by intransigence. Do what we will, the world has been told, whites will not cease dominating blacks in South Africa.

In the summer of 1978, I traveled to South Africa, and the many moving personal experiences I encountered during this trip strongly reinforced my belief in the centrality of the day-to-day need for support for human rights in every aspect of American foreign policy.

During my visit, I talked with a boy who was perhaps 13 years old during the riots in Soweto. In a demonstration against the order that Afrikaans be used as the language of instruction in the nonwhite schools, a girl—and there were many others, by the way, by the time this was all over—was shot dead in the street by the police. Everyone in the crowd of several hundred ran, of course, but this boy remained. He was concerned about the body. He went to the police station to ask whether the body should be taken home or to the police station or what? He was thrown in jail and kept there for days.

He recounted the story to me of being taken out of his cell by a policeman whenever a new truckload of bodies had been brought in containing children who had been shot down by the police. He was told, "That's what white power does to black power."

I went to Crossroads just outside of Cape Town, where 20,000 people live in a squatter town because they are forbidden to live elsewhere. Under South African law the workers are supposed to live away from their families, who are supposed to remain in the remote, jobless Homelands.

Crossroads was the imaginative, self-created response of people who refused to accept this official policy of destruction of the family and segregation of the races. They have turned what started as a defiant collection of squatters into a true community with school and health facilities and a genuine mutual human commitment. To the South African authorities the community symbolized a threat to the repressive order of things. It declared the community illegal and stated that the people must be disbanded and the village itself destroyed.

In September 1978 the community faced imminent destruction. Bulldozers were deployed, ready to plow Crossroads under. At that time, 18 Congressmen joined together, both Democrats and Republicans, to call upon the South African Government to halt the destruction. It was a fairly unprecedented step because we were acting before a possible atrocity, not waiting to wring our hands afterwards.

But we will have to do more than stopgap measures to affect meaningful change in South Africa. The concurrent resolution we introduced may have delayed the destruction of Crossroads for awhile, but now it seems, scarcely 1 year later, that the Director of the Ministry of Cooperation and Development intends to uproot all or most of the residents.

Mr. Speaker, I see that the gentleman from Ohio (Mr. SEIBERLING) has joined us, and I wonder if he would like me to yield to him?

Mr. SEIBERLING. Yes, Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I certainly will yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I certainly would like to join in commending the gentleman from New Jersey (Mr. MAGUIRE) for having taken this time to call our attention again to the importance of human rights as an issue for the American people, for the Congress, and for the world.

It seems to me that a great many of the difficulties that we find ourselves in around the world, whether it be the fact that we now have and have had for 20 years a Communist dictatorship in Cuba, whether it be the terribly close shave we had in Nicaragua—and the outcome of that is not clear yet—whether it be the potential problems that we are experiencing in other parts of the world such as the Philippines, or whether it be recent experience with South Korea, are attributable in great measure to the fact that we have not always as a government insisted, in dealing with other countries, that they give some attention to basic principles of human liberty and decency in the treatment of other people.

It seems to me that when we are in alliance with another country or when we extend economic or military aid to another country, then we ought to use that leverage in order to obtain the minimum recognition of minimum norms of human decency and human liberty, or at least we ought to try to push the regimes in those countries in that direction. Instead, very often in the past, as in the case of Battista in Cuba, for example, or Somoza in Nicaragua, the people who administer our Government have found it all too convenient simply to deal with the existing regime and put no pressure on the people in that regime.

I think our troubles in Iran are another example of that syndrome. Had we begun very early in the game and continued thereafter to insist that the Shah, whom we helped bring back to power in 1953, observe the minimum norms of civilized and humane conduct, we might not now be confronted with an uncivilized and inhumane response on the part of those whom the Shah for so many years oppressed, and oppressed using military and economic materials that we had supplied.

So, Mr. Speaker, it does seem to me that what the gentleman from New Jersey (Mr. MAGUIRE) is saying is very timely, and I am happy to take part with him in this very, very important debate.

Mr. Speaker, I have joined the gentleman, and I am sure he himself has joined many times, in letters to the rulers of the Soviet Union urging them to free certain refusniks or to cease persecuting people for their religion or their dedication to a measure of human freedom in the Soviet Union or to cease oppressing the Estonians or other occupied countries. It seems to me that, while that is very important, it is also very frustrating. Of course, we supply the Soviet Union, on a buyer-seller basis, with grain and some commercial products and technology, and we and the Soviet Union have a mutual interest in not destroying each other through nuclear war. But apart from that, we do not have any very strong, direct leverage over the Soviet Union. Nevertheless, it is absolutely right that we use what opportunities we have to continuously rub the noses of the leaders of the Soviet Union in the fact that they are not conforming to even the most elementary considerations of human decency in many, many respects.

But how much more do we have an obligation and duty to speak out and to use our influence where we are supporting various countries, where we are giving aid to their governments, where we are allied with them or are allowing our business interests to invest in their economies. These are countries like South Africa that have traditions and institutions of parliamentary democracy. How important it is that we say to them that they cannot, in Abraham Lincoln's words, remain half slave and half free. Either they will extend their democracy to all of the people within their borders or else the dominant groups will in the end be destroyed and all of their institutions along with them.

So I think that it is terribly important that we continue to do what the gentleman is doing and remind both our friends and our opponents that we all are brothers and sisters and we all must treat each other as such.

Mr. MAGUIRE. Mr. Speaker, I thank the gentleman from Ohio (Mr. SEIBERLING) for his comments and for his leadership in the field of human rights, and we appreciate his participation today in this special order.

□ 1550

Mr. LELAND. Mr. Speaker, will the gentleman yield?

Mr. MAGUIRE. I yield to the gentleman from Texas.

Mr. LELAND. Mr. Speaker, I would like to further impose on the time of the gentleman from New Jersey (Mr. MAGUIRE) to enter that it is important to note that every year in Houston at the Rothco Chapel under the aegis of the Menil Foundation and the leadership of Mrs. Dominique Menil, colloquia are held to celebrate the anniversary of the U.N. Declaration of Universal Human Rights. These colloquia serve as forums for discussions by renowned intellectuals in the world community versed in the various aspects of human concern.

I would like to encourage all Americans to join with all of us at this time each year to reflect on the many problems of human rights in the world community and pray for their solutions.

Mr. MAGUIRE. I thank the gentleman for his comments.

Mr. Speaker, I would like to conclude my remarks on South Africa by noting that at least 50 people have died while in police custody since 1963. The latest victim was a 17-year-old cousin of Zulu leader Gatsha Buthelezi who died in Durban last month. The government continues to deny responsibility for these deaths. In a case currently before the Supreme Court, the widow of Black Consciousness leader Mapetla Mohapi is contesting the police claim that Mohapi hung himself only hours after his arrest in August 1976. The police base their case on a suicide note scrawled on a piece of toilet paper which was suddenly produced 3 months after Mohapi's death. Experts have testified in court that the note is a forgery.

At this point in the RECORD I include some remarks that I made on the subject of the situation in South Africa and U.S. policy toward South Africa last March 2, at Amherst College:

REMARKS OF CONGRESSMAN ANDREW MAGUIRE AT AMHERST COLLEGE, MARCH 2, 1979

Over the past thirty years, South Africa has declared itself again and again. Three million whites mean to defy the rest of the world by ruling 20 million blacks and coloureds harshly. Our careful, patient attempts to encourage gradual movement from the racial stone age to incipient renascence have been rebuffed by intransigence and antagonism. "Do what you will," the world has been told, "Whites will not cease dominating blacks in South Africa."

Indeed, the measures of accommodation which were once promised by leading South Africans are no more in the perspective of today than what might be called the outriders of a continued repression. Mr. Vorster asked the world to give him six months, and we gave him twenty-four. Foreign Minister Botha promised Americans that South Africa would move away from discrimination with some deliberate speed. Instead, South Africa has moved backward to increased repression.

One of South Africa's leading prisoners thinks that the government is trying to kill blacks one by one. Certainly if that is not the case, it is the government's intention to annihilate all organized opposition. The brutal killing, and I use the word advisedly, in police custody of Steve Biko, South Africa's most charismatic young black moderate, shows how a police state operates at the individual level. Biko, of course, was not the first. He was the twenty-first black political detained to die in custody in eighteen months, and the forty-third in ten years, under conditions of detention without any recourse to a judicial process. And others have died since Biko died under circumstances which most generously can be described as extremely suspicious. Many have supposedly jumped from the upper floors of interrogation centers where the windows are usually barred and are supposed to be barred. Some have been said to have slipped on soap and plunged down stairs. Some have somehow managed to bang their heads on chairs and thus have committed suicide.

The catalog of human misery in South Africa is long and revolting, as I know you know. Through personal intimidation South Africa can extend its tyranny over blacks very cheaply. It does so through the daily inequities of the pass laws, blacks being arrested nightly for not having their identity documents in order. It does so by shipping Africans without urban jobs to the rural areas. It does so by leveling the shacks of the poor. It does so by segregation, by routine distinctions between who can eat, walk, sleep and dress in particular places. The best jobs are reserved legally for whites. No trade unions are effectively allowed for blacks, and certainly no black labor representatives have any real bargaining power. In a daily, as well as a monthly and yearly sense, South Africa is a police state as far as blacks are concerned. The rule of law in any way that we would understand it has for years not existed. There is no habeas corpus. About 700 Africans are being held in solitary confinement without bail. Most trials are but a mockery. For ordinary blacks South Africa is little better than the Haiti of Duvalier or the Uganda of Amin.

We hear talk once again—as we have so often in the past—of differences within the South African ruling elite, of moderating influences allegedly beginning to assert themselves. You will know that the "verligte" are supposed to be the enlightened ones and the "verkrampte" are supposed to be the hardliners within the Nationalist political establishment. I met with representatives of both mockery. For ordinary blacks South Africa is I have to report to you that apart from differences of style—the verligtes will tell you the same things with a smile that the verkramptes will tell you without one—there does not seem to be a penny's worth of difference in their views on the basic issues confronting South Africa. For all the talk about distinctions and moderation, South Africa has moved more dramatically into tyranny in even just the last 18 months.

In October 1977, the country's only widely read newspaper for blacks in English was banned and an editor, a smiling moderate who recently spent a year at Harvard, was detained without trial under provisions of the so-called Terrorism Act. Neither Percy Qoboza nor the sixty-nine other blacks detained at the same time, wrenched as they were from their houses and families in the night, are by any stretch of the imagination terrorists. At least ten had been trying for months to prevent anarchy in the one-million strong black city of Soweto, which abuts Johannesburg. And at the same time as these leading blacks were arrested, all of their important political, social, and cultural organizations were banned. Religious organizations were brought to heel as well. These were the bodies working for peaceful change. They were critical of the government but they were non-violent. Had the government listened, personal bridges of reconciliation might have been fashioned.

Now, I believe, all that is lost. Moreover, as you know, the government banned and therefore made into a non-person, confined to his house, Donald Woods, South Africa's most outspoken white newspaper editor, a moderate in an increasingly immoderate situation. It also shut down groups like the lonely Christian Institute led by Beyers Naudé, a man who can only be described, I think, as an intellectual giant and a saintly Afrikaaner. Both black and white voices have therefore been lost, voices of charity capable of understanding the Afrikaaner dilemma. These were the voices that have long said that the road to reconciliation is not by violence. They have understood the fears of South Africa's white population, and this is terribly important to any resolution of South Africa's problems. Whites fear being swamped, fear that blacks will do unto them what they have done unto blacks for at least 100 years. So bridges of reconciliation across racial lines are hopeful, essential elements in change, but apparently the government decided this itself was to be feared.

For a year or so it looked as if the Nationalist government of South Africa might be moving, at least it was thought that they might be moving, however, glacially toward some kind of accommodation with the forces of change. They were not ready of course for one man, one vote, but all that Vice President Mondale and Ambassador Young requested in exchange for continued U. S. friendship was some evidence of movement in the right direction, hardly an unreasonable request. Almost any indication, no matter how incremental might have sufficed. Possibly we would have been content with the release of a few prisoners or the repeal of racially discriminatory legislation. What we wanted most of all however was the beginning of a dialogue between black and white over the country's future. That after all was all that people like Steve Biko, Percy Qoboza, Donald Woods, and Beyers Naude wanted. All of this promise has been destroyed by South Africa's draconian assault on human sensibility.

Regardless of our individual views on what we should be doing as individuals or as institutions or as a government about South Africa, I hope we can agree at least that these opening comments are an accurate description of the facts in South Africa.

What does all this repression mean in individual human lives? I visited South Africa this summer and talked with a young man, perhaps 13 or 14 years of age at the time of the Soweto uprising in 1976. He along with hundreds and hundreds of other students objected to the imposition upon their schools and their classrooms of Afrikaans as the medium of instruction. Not the teaching of Afrikaans as a language, mind you, but the use of Afrikaans as the medium of instruction for all other subjects. He was standing with some other children in the middle of this monstrous series of events. A girl standing next to him was shot down by the police, shot dead in the street. He was concerned about what to do about the body. Everybody ran of course, but he remained. He didn't know what to do so he went to the police station to ask whether the body should be taken home or to the police station or what. He was thrown into jail, was kept there for days. He recounted the story to me of being taken out of his cell by a policeman whenever a new truckload of bodies of children was brought in who had been shot down by the police and he was told "that's what white power does to black power."

I was present at the beginning of a trial last summer of 11 young people, representatives of the Soweto Student Representative Council, the group that had held meetings, elected officers, distributed leaflets against the government language policy. These were the ones who had been the leaders. What they had done would have been fully protected in the United States by our Bill of Rights, by our laws, by our traditions. Today, right as we are talking here, they are on trial. All of these kids were under 20, they were junior high school and high school students. They are on trial today for their very lives, for capital crimes. Their lives can be taken under cover of law for acts which are defined in the law as crimes because they might lead to racial hostility, or might embarrass the government. It is going to be the task of a courageous lawyer for these children to prove to the court and the state that nothing that they said or did could possibly have led to feelings of hostility or embarrassment. I ask you what kind of a chance have they got?

The Biko inquest was very instructive. There were some of us in Congress and many around the world who called upon the South African government to make a thorough investigation of the facts and circumstances surrounding Mr. Biko's death while in police custody. The result of that inquest was the finding that nobody was responsible. Outside observers from the United Kingdom and the United States, distinguished lawyers and jurors who attended the trial have written categorically that the evidence could lead to no other conclusion than that Mr. Biko was assaulted by the police while in custody between the hours of such-and-such and such-and-such and that he was killed by that assault.

I went to Crossroads, 20,000 people living in an area after they had been kicked out everywhere else, told by the local government to go to this place where they could live, where they could build their homes, where they could have their families. Crossroads was not destroyed by bulldozers by the end of last year, though the government had said it would be. But Crossroads' fate is still undetermined. We cannot take premature credit for keeping Crossroads in existence because the policy of that government still is that the whole western Cape is not an area in which people of this color will be permitted to live and work. Instead, these people are supposed to be living in some homeland hundreds and thousands of miles away. They are, therefore, illegal and the community will therefore be disbanded in some way at some time.

I talked with Percy Qoboza, with Bishop Mkatchwa, with Peter Randall, with Beyers Nandé, all newspaper and religious leaders who were either detained or banned. Peter Randall cannot even visit his kids at school because he can't be with more than one person at a time. Bishop Mkatchwa, one of South Africa's leading members of the clergy, cannot even leave his room at the mission.

I talked with people who had been recently tortured, who came out of confinement embittered; people who had been subjected to the kind of cruelty which you don't really want to hear me describe; people who had been told that they had the option of either talking or jumping out of the window; people who had been physically beaten, shocked with electric shocks, smothered by wet towels; people who when they were detained under these incredible circumstances couldn't even contact their family, let alone a lawyer. Nobody knew where they were. They were just picked up in the dead of night. Some were held for as long as a year, two years, under the Terrorism Act. These are people who had done nothing but share their ideas for the future of their country.

One detainee was very ingenius. He refused to sign a confession until finally the guard wrote out on a little piece of paper what he was supposed to write. Finally under tremendous physical duress, he wrote out what he was supposed to write but he managed to get his hand on the piece of paper on which the guard had written and he produced it in court later. He was then acquitted on the charge, but then immediately rearrested and subsequently convicted on a charge of stealing government property.

Now, that seems ridiculous, even laughable, but it is an illustration of the utter absurdity of the situation with which we are dealing.

I return to the point that South Africa has no rule of law as we would understand it. There is no rule of law in any sense other than that a law is a law, is a law because there is no social compact, there is no legitimacy, there is no independent judicial process, there are no reference points apart from what the legislature decides is the law that it wants to pass to do whatever it wishes with whatever persons in the population it wishes to do it to. And, of course, the legislature, which represents only a tiny fraction of the population in any case, is controlled from the top down by the Nationalist party and by a very small group of individuals within the Nationalist party who make the decisions.

So it is manifestly not anything like the struggle for civil rights in the United States and anyone who makes that analogy to the situation in South Africa, I think, is making a very misleading analogy. In the United States the effort was to bring reality into conformity with the laws and the Bill of Rights and the commitments in this country for equality within our democratic system. In South Africa the issue is not that at all. The issue is the distribution of political power—who makes the laws on the basis of what principles—and who is going to participate in what fashion in the political process.

There are those who say in Congress and in any discussion anyone ever has with anybody on the subject: "Why pick out South Africa?" Why, indeed. South Africa is the only nation on the face of the earth which institutionalizes racism in every element of the society. In that respect, it is unique and it is also so monstrous in its very nature and so fraught with dangerous implications not only for Africa but for the peace of the world that I believe it demands our attention. And to those who say, let us not provoke violence, let us not be unruly in South Africa, let us not take steps that will set person against person, I say to those people that what we have in South Africa is institutionalized violence.

Now, I came back from South Africa deeply pessimistic about its future. I wish I could stand here and tell you I thought there were some things that we could do together or some things that could be done inside South Africa that would result in significant changes within some foreseeable time frame. I am unable to tell you that I believe that is the case. People of all races in South Africa are deeply troubled about the situation. I have met and talked with those people. But I return to the point that there isn't a penny's worth of difference between the verligtes and verkramptes on the key, underlying fundamental political issues in South Africa. There is no one in power who's prepared even to begin a consultative process that has any status or formality to it, certainly not one that will deal with the fundamental issues in the society. What we have is the imposition therefore of a police state on twenty million people of color. The objective is to suppress all black leadership and to use whatever means are necessary including the most vile kind of torture—and if you will informal executions—of people in government custody.

The government's representatives respond very strongly to that. They say, "We don't do that. Those are unfortunate incidents that take place in individual cases. Those policemen shouldn't be doing those things. We have judges who have been appointed to go into the prisons and make sure everything is just so."

I visited a prison. Everything looked just so. You know, people were just sitting at desks, with papers and phones, in uniforms; it looked just so. But when you examine the facts of individual prisoners and the history as Amnesty International and others who have looked into this have put it together, you have to conclude that the government's posture with respect to those incidents in prison is tantamount in effect to a government policy of selected execution of people in prison.

So I am deeply pessimistic. There is no consultative process. There is a repressive structure of institutionalized racism which uses any means whatsoever to suppress black leadership and criticism of government policy from the white community as well as the black community. There is no willingness to look at the fundamental issue of power in the society.

I am not saying that it is easy to do that. We can all rehearse at great length all of the circumstances of South Africa's history and populations and development—and all that is unique and interesting. But the difficulty is that there is no will and there are no resources that are deployed in South Africa in any meaningful way to challenge the principles of apartheid. People are being told now that they will not be citizens of South Africa. The homelands are being created and people are being de-nationalized in the process. They will not be citizens now or in the future. The final blow to me was at the end of the one-hour discussion with an important Minister, Mr. de Klerk, one of the leading so-called verligte. We asked him some very tough questions about the gap between what they said was going on and what was actually going on in the country. He told us that all we had to do was look at the smiling faces on the streets of Johannesburg to know that things were O.K.

The discussion, too, about eliminating discrimination in this or that theater, about desegregating the rest rooms of people who work in this or that plant, has to be understood, I think, in perspective. As someone very aptly put it, that kind of activity, laudible as it may be in a limited context, is in relation to the problems South Africa confronts, the equivalent of moving deck chairs around on the Titanic.

Now, where does this take us? U.S. policy under Presidents Kennedy and Johnson and for years before that was, of course, always characterized by the willingness to condemn apartheid, to express abhorrence of apartheid. I did that too. I did that with great flair when I was with the U.S. delegation to the United Nations in the late 1960s. There was nobody who could express that abhorrence more forcefully than myself. The difficulty was that we couldn't do anything about it because our policy didn't permit it. Now, of course, there have been some modest changes along the way and I don't think we should ignore those. People demonstrated in front of the big New York banks in the early 1960s because they were propping up the South African government and economy after Sharpeville. Now such august organizations as even the First National City Bank and the Chase Manhattan Bank have decided that they are not going to increase their loan exposure. Of course, they have noticed there are certain economic difficulties that may lie ahead as the result of the current political situation, but nevertheless these moves are to be welcomed. The fact of the matter is that for all those years we did the minimum that we could get away with doing. Yes, there was something of an arms embargo but it wasn't easy to keep it firmly in place. Yes, we decided not to allow our Navy ships to call.

When I was in the State Department in the late sixties, it was really something if you could get a decision that said, no, the Navy ship will not call at the Simonstown Naval Base. And we took great encouragement from being able to work on the "grey area" sales question—for example to hold the line against the export of Cessna Aircraft or parts that could be used by a quasi military or police force to reinforce apartheid. And we did phase out direct loans under the export/import bank. While our policy was still mainly a declaratory one, we did pretty well on some of the minor issues during those years.

Then we went backwards, under Nixon and Ford and Henry Kissinger, who decided with his usual flawless sense of timing that the Portuguese were going to be in Africa a very, very long time and that, therefore, it was incumbent upon us to make our accommodations more open and more apparent with the existing white governments in South Africa. Then the Portuguese suddenly weren't staying. We keep learning this lesson over and over again, whether it is Iran or Chile or wherever. At any rate our policy toward South Africa went backwards a good deal during those years.

President Carter came in, and Andy Young and Mondale, and Vance and Don McHenry. Now let me say a word about Don McHenry, who is one fantastic and remarkable guy. He is going to be here tomorrow. He and I worked together on South Africa policy with the State Department. He was in Washington; I was in New York in the late 1960s. His is a very creative mind. He has done most of the work on Namibia in the last two and a half years, and is one of the real experts on South Africa. Perhaps he won't be able to tell you tomorrow quite all of the things he is trying to do. But in any case, Don McHenry is very, very worth while and I urge you to come and hear him.

But this whole new group, with the help of Dick Clark and others in the Senate and the House, re-defined our posture in relation to South Africa and Africa generally. The essence of this was that not every issue was going to be decided on the basis of a struggle with the Communists, real or alleged, that not every issue was going to be decided on the basis of a narrow economic interest or because we have done it such-and-such a way in the past or because the *status quo* is such and such. There was some very creative work done on Namibia and Zimbabwe. Of course, thank goodness, we decided not to go into Angola militarily. I think that I began to feel for the first time that I could really believe that our government would not intervene on behalf of the white minority government in South Africa if push came to shove. I hadn't felt that confident about that before.

Unfortunately, there has been almost no progress on South Africa policy itself even under this administration and that I find enormously discouraging because I had high hopes. Partly it is because we have Namibia and Zimbabwe, we are told. Or there are crises around the world. Or we don't want the Executive branch to get too far ahead of the Congress. You know all the arguments. I was actually told that we don't want to take additional steps towards South Africa only when there is a crisis; we want to show we really mean it and that means we should take some tougher steps when there isn't a crisis. Well, why don't you do them, I asked? Well, we never get around to it, I was told, when there isn't a crisis!

Then, of course, there are always the pressures from the powerful forces in our society that do in fact have some impact on South Africa decision-making in Washington. I'm talking about our corporations and our banks with interests in South Africa who by and large would be delighted to continue to do business in South Africa for as long as possible. They will often tell you about the distinction between economic issues on the one hand, and political issues on the other, and they will tell you they don't think it is their job to assess political situations; that their job is to go into an economic situation and attempt to get a return on an investment. That's their responsibility to the shareholders.

They are very uncomfortable with this whole business of the interrelationships between economic and political issues, particlarly questions of what to do about particularly difficult situations like South Africa. So, of course, even when the State Department wanted to move forward on a series of things, they've gotten a lot of drag not only from the Defense Department but from the Commerce Department reflecting those interests and it's always been very difficult to move forward.

The Congress is an interesting case. Until recently South Africa has always been able to count on the Congress. There wasn't really any constituency in the Congress for some of the things I think we share by way of concerns and hopes for our country and its role in the world. There was for a time a reversal of the commitment to Rhodesia sanctions. As you know, we did turn that around and I think some of the newer members in the Congress, with newer attitudes on Africa, are beginning to get a bit of leverage that hasn't been there before. And there have been some encouraging developments. We didn't intervene in Angola. We turned the Rhodesia sanction thing around. Now we face another crisis with the efforts in the Senate to legitimize the Rhodesia government's elections in the hopes that something good may come of it. That is a whole other subject and I am not going to address that tonight; I think it would be a terrible mistake to legitimize those particular elections and I hope that we don't pass that resolution. I hope we can block that in the House.

But there have been some encouraging developments. The Ad Hoc Monitoring Group on South Africa which some of us formed after the death of Steve Biko and the October arrests and banning has been active. We said here we are United States Congressmen, some of us do care about Africa, we are not involved in it every day but people like Biko are being killed and we are doing nothing about it. Maybe Biko would be alive if we had such a group to focus attention on what's going on in South Africa's prisons and to try to bring the matter to the public's view in this country and around the world.

The *ad hoc* monitoring group met with the Ambassador of South Africa to the United States. Some of us subsequently went to South Africa. We wrote letters on the Terrorism Act and on the prison situation inquiring about specific cases and individual prisoners. We worked on a resolution to further limit Ex/Im Bank exposure. It seemed to me that right after the October developments even more than after Biko's death, it was essential for our government to finally do something. I was involved in conversations pleading with the State Department and the Executive Branch to at least take one concrete action by bringing our Ambassador home for consultation. Even if they couldn't figure out what the next policy step ought to be I felt it was essential that we show something other than just verbal response in that situation. And we did it.

I introduced the Ex/Im Bank resolution which everbody said was hopeless. Congress would never do anything, certainly not an economic step. Never had Congress taken an economic step against South Africa and it certainly wouldn't in this instance. After we managed to get it through subcommittee, people said it would never get to the full committee. It went through the full committee by even a larger margin. You will never get it passed on the floor, they said.

It was passed on the floor, in modified form mind you, and I regretted having eventually to vote for what I thought was a very watered-down version. But I did vote for it because it was the first time the Congress of the United States had ever taken specific economic action with respect to a step of increased pressure on South Africa. So, we did that. And Paul Tsongas and Tom Evans played an especially significant roll, as did Steve Solarz.

I was in South Africa at the time that the Ex-Im Bank resolution conference report finally went through. It was big news. One of the things which struck me was that South Africa in spite of all of their blustering about how they don't care what we say or do, is very much affected and concerned about the posture of the United States and they tend to interpret what we do in terms that are more exaggerated even than what we in reality do. That gives us, perhaps, more leverage than we think we have—an interesting lesson.

We got some money appropriated for the U.N. Trust Fund for South Africa, $200,000 this year. The U.S. hadn't contributed since 1969 to the U.N. Trust Fund and at that time we gave a whopping $10,000. So there is a little progress there. We got eighteen Congressmen, key leaders on both the Democratic and Republican side, to stand up and say the Crossroads situation was outrageous and we introduced a resolution which was fairly unprecedented. It called upon the South African government not to do something that they had announced they were going to do. Fairly unique. Usually what we do is wring our hands and condemn people afterward. But we don't try to influence the course of events in advance and in this case we departed from that and we did try to influence events in advance and to some degree I think we have at least changed the time schedule and perhaps the means by which they are going to deal with the Crossroads situation.

We have had the very excellent report by Dick Clark clearly stating what I think is an absolutely incontestable fact: that our economic involvement in South Africa at critical times in the 1960s and 1970s and again now props up a government which has used all of that propping up over thirty years not to change gradually for the better, which is what we are constantly being told is supposed to be the end result of this kind of involvement in South Africa, but to tighten the screws of repression. We give them the respite, the support, the financial backing to do that. If you look at the history of the development of South African law over the thirty year period, if you look at what has happened with respect to the activities of the government, even the ideology, in terms of separate development and so on, you come to the inescapable conclusion, as Clark did, that we have helped them maintain and consolidate their apartheid system. You can't be neutral about this. Either you're there participating in it or you're not, and the fact of the matter is that we have been there and we have been participating in it and our hands are very bloody.

Now, what is to be done? I am of the opinion that government action and financial support which tends to support apartheid can no longer and should no longer be tolerated. I believe that it undermines our own policy which has been stated as "progressive transformation" toward full participation in the political process. Because we are not going to do it all in one fell swoop, I would argue that we need to develop a set of graduated steps of pressure and of disengagement. This is not a unique idea, it has been advanced by many thoughtful people. Now it may be that we want the President of the United States to have one more conversation with the top leadership of South Africa and point out that since the Mondale meeting things have gone badly. Of course, we would say that we are always willing ultimately to redirect our policies if the conclusions we have drawn from the last thirty years and from the last two years specifically prove to be wrong, but the conclusion we have reached is that we are going to proceed on a set of graduated steps and increase pressures.

Yes, we would be hoping that there would be some changes in South Africa, but basically we would do this because our own interest demands it. Because it is in our own interest to embark on this policy. And then to embark on it.

Those of you who have studied the history of international relations in this century and before, know about all the great foreign policy debates about morality and power politics. You get into trouble if you make legal agreements based on moralisms that nobody can count on in the real world. The Japanese still build their ships and prepare for World War II. Then, learning that lesson, we decide to be tough guys and we're going to protect the interests of the United States wherever and whenever and you get into the pattern of military security as the only value. Hopefully, I think we can all recognize that at some deeper level, U.S. interests are only going to be protected over time to the extent that we are, and that we are seen to be, on the right side of issues that cut to the very fundamental principles for which we stand as a country and as a people.

So, even if you want to argue that by taking specific graduated steps with respect to South Africa we will not materially affect the situation there, I would say to you that for the future of our relations with South Africa, including whether we're going to get their minerals; for the future of our relations with the continent of Africa, our relations with the third world, and our relationship to questions of peace and security throughout the world, as well as our ability to live with ourselves, that it is manifestly in our interest to adopt this kind of a policy toward South Africa now.

As difficult as it is to see how change is going to occur, and I am very pessimistic about it, I don't think we should dismiss altogether the possibility that actions that we would take might have some impact. I do think it is true that governments do not change fundamentally anywhere, anytime, in the world until there is a combination of internal and external pressures, and the mix of internal and external may differ in one place or another. Obviously, in Iran, the pressures were essentially internal. I think in the case of South Africa they will still be mostly internal. There is a lot of activity internally and externally after Sharpeville, or after Soweto; the internal and external pressures work very closely together. South Africa may demand more external pressure than has been the case in some other places. Even though it is going to be difficult, even though it is going to be tough to see how any action that one might take might effect the situation in a concrete way, it is nevertheless the case that the prospects of isolation from the United States is something that the South African leadership is more concerned about than they would be prepared to admit. We are the leader of the free world. We are the most powerful country in the world. They are desperately afraid of Communism and I simply think it is a fact that what we do has impact beyond the dollar signs and the numbers and percentages which anybody who wants to argue against doing anything with respect to South Africa will inevitably trot out to convince you that we are only a small part of the total picture.

Actually, if you look at some of the figures, they may be a bit surprising. While we may have just a few percentage points of the total investment picture of South Africa, listen to these figures: The U.S. is South Africa's first and most important trading partner in terms of total dollars. We are the second biggest foreign invester. We provide almost one-third of South Africa's foreign credit. Foreign investment has been roughly 11% of the total in South Africa since World War II, so foreign investment is very significant to South Africa; and foreign liabilities today incurred by South Africa amount to 69% of the gross domestic product. That was in 1976. The U.S. has somewhere between five and six billion dollars of exposure in South Africa, ten times what it was in 1960, and we provide something like 20% of the total foreign investment in South Africa which is double in percentage terms what we provided in 1960.

So when we talk about the private sector, if we look at the numbers in a certain way they are impressive. And if we look at where the money is going, we are struck by the fact that it is primarily into things like computers, transportation, energy and steel—key sectors in the economy and sectors which obviously have some importance in military and police state terms, as well as simply the benign economic development side.

The Sullivan Principles, famous as they are, seem to me to be peripheral in their importance in the context of what I have been talking about here tonight. That is not to say that it isn't nice to employ a few more people. It is not to say that it isn't nice if people are actually paid a better salary; that it isn't nice if people can go to the same bathroom facility. What I am saying is that if there are people who want to work on the Sullivan principle, and they are not willing to work on more significant things, then let them go ahead and work on these. Even if the principles could be fully applied, I don't think they will be. A minority of companies have subscribed to them. They are very difficult to monitor and they don't address fundamental issues even within the economic realm. The most serious shortcoming of Sullivan Principles is that they misunderstand the basic problem and therefore may ultimately be a distraction and therefore be negative on the balance sheet of our thought processes and our commitments about what needs to be done in South Africa and what we need to do in relation to South Africa.

An indication of this weakness of course is that the South African government has embraced The Sullivan Principles with great enthusiasm. The fact of the matter is that U.S. corporations, and all corporations in South Africa, have worked well within the framework of apartheid and have done precious little to provide any meaningful pressures for fundamental political changes or even for changes that would be meaningful within an economic context. The behavior of U.S. corporations certainly would not be changing now except for the fact they are under a lot of pressure. Maybe now that they are under a lot of pressure the situation will improve.

I visited Ford, one of the biggest U.S. companies in South Africa. I was told that Ford had been in the leading position with respect to bringing black Africans into training programs, management possibilities, etc. I met with the top executives of Ford. We had lunch and they showed me a piece of paper. It showed all the non-whites that are employed. We set the wage employees aside and I looked at the non-whites that are employed in management. They explained that they were just about to promote somebody from grade 8 to grade 9. And I said what does grade 9 do? Well grade 9 supervises some people in the computer room, or on the floor of the plant. I said there must be some management categories above that. This sheet of paper they showed me only went up to grade

8 and they made the mistake of mentioning grade 9 which wasn't on the sheet. So I then said, "What else is there other than grade 9 that isn't on the sheet?" It turned out that there were about 400 employees in management grades of 6, 7 and 8. But it turns out there was also grade 9, grade 10, grade 11, grade 12, grade 13 and grades 14, 15 and 16. Grades nine through sixteen had 1,150 of the 1,600 management employees. How many of the 1,150 do you think were non-white? Zero. So much for Ford's leadership.

I visited one of the deep mines and was told that there was going to be a major increase in the amount of housing that was going to be available for families working at the mine. I asked, how much, and it turned out the increase was going to be from 1% to 2%.

I asked the members of the American Chamber of Commerce in Johannesburg if they were concerned about the Terrorism Act and if they felt it was within the purview of their possible concerns and interests in South Africa to make some representations to the government on the subject of the Terrorism Act as it might affect some of their employees and certainly affected the basic environment in which they operate. They said they preferred to stick to economic issues.

Now when we get to what steps do you take, there is a whole long laundry list. If anybody here hasn't read the Foreign Affairs piece by Cotter and Ferguson, read it. It is very instructive. There are a lot of good ideas there, forty-one steps we can take, short of mandatory sanctions, short of ending trade, or withdrawing existing investment on giving direct support to liberation movements. There are many steps we can take that don't get us into those things.

So what do we do if we're serious about bringing some additional pressure on South Africa? Maybe we bring our commercial attache home. Maybe we say that the U.S. government should not be putting itself in the position on behalf of the people of this country, of encouraging trade or applications of additional credit or capital to the South African situation. In other words, just stepping back from encouragement would be a first step, would be an improvement. Maybe we say, let's stop the Commodity Credit Corporation from dealing in sugar. Instead of not encouraging or discouraging investment, maybe we should discourage investment, or better yet say no more investment. There is a bill in the Congress now that would do that. The Scandinavians have suggested that at the United Nations. Perhaps we should bar any additional loans to governments or government corporations. If the Chase Manhattan Bank and First National City have done it surely we can do it as a matter of national policy. Yet the Carter administration is not yet to the point where they will accept even that modest step.

Perhaps we should say that U.S. companies should forego their tax credits if they contribute in any way to projects related to apartheid, or if they don't fully report on their application of a modified and toughened up Sullivan code. Should we have nuclear sharing arrangements with South Africa? Should we be selling them uranium? Should we be sharing military and intelligence information? I would suggest that if we want seriously to match our actions with our rhetoric about apartheid that the answer has to be no.

Should we perhaps move in the U.N. to declare that South Africa and the internal situation there is a threat to the peace. We have already taken a step by saying the sale of arms is a threat to the peace. But declaring the internal situation a threat would be another important step. At any rate, these are some ideas. You don't do them all at once. You say, in four months we are going to do this; in six months we are going to do that; and in eight months we are going to do that. You let them know what is coming down the pike as you move to protect U.S. interests and hopefully get some changes, at least of perception, in South Africa.

What about universities? I happen to think that institutions cannot easily be interpreted as single purpose entities—in this case let us say the role of the institution is to educate—that do not become inextricably intertwined with relationships with power and, therefore, with questions of political importance. There are always those who would say that the university should not be at the forefront of the civil rights struggle, should not get involved in the Viet Nam debate, should not take action in relation to South Africa. I think that's a short sighted and rather narrow view of a university.

Let me just quickly give you some arguments that were made recently to me by a college president and my answers to them.

With regard to the agreements that the role of an educational institution is to educate and not get involved in every issue that comes down the pike, I would suggest that what an institution stands for is also important.

Well, what we would do at a university would not be effective inside South Africa, it wouldn't make any meaningful impact on the situation there, it is said. I've already argued that we ought to do it in pursuit of our own national interests and I would say that to universities as well as to our government. Besides there is reason to hope that an accumulation of pressures might assist change.

People say certainly we won't have any leverage if we take our dollars out; after they're out, you don't have any leverage, by definition. That's a good debating point. But the fact of the matter is that you can exert leverage sometimes by getting out.

There are those who say there are better ways, better things to do, that students are simply picking the nearest target which happens to be the trustees. Why don't the students get involved instead with what the Congress should do? My answer is that we all pick targets where we can and why should anybody be excluded from pressure if some increment of movement can be achieved?

We are told that the matter is really for the government to decide and other institutions should not be put in the position of having to make those decisions. I would agree that it would be best if our government would make those decisions, but if it doesn't, then is it not our responsibility to ask the institution with which we are associated to behave in ways that we think are in our interest and that are, at their base, moral?

I am told that people have rights as individuals, if, for example, they serve as directors on the boards of companies which have interests in South Africa. I would say O.K., of course, people have rights as individuals, but a college president or a member of the Board of Trustees is by virtue of that position more than an individual.

So I would say that a university does have a responsibility to talk within itself—students, faculty, trustees—about these issues; that a university ought to vote on proxies that come before it in its role as an owner of a company; that it ought to assist in framing the issues that come before the corporations with which it is associated; and finally that it ought to be willing to evaluate against some set of criteria the results of actions that are taken with respect to the South African question and act according to a deliberate set of criteria when those results either are or are not achieved.

It's interesting to look across the country at places like Stanford, Yale and Harvard and others that have had committees that have made reports on what ought to be done on South Africa. Distinguished people have been pulled together to make recommendations and, of course, some institutions are doing some things, including Amherst, which has taken some steps which only a few years ago would have been absolutely incomprehensible. Nobody would ever have expected that any dollars would have been withdrawn, or that any criteria would have been established.

But , interestingly, again and again, you find institutions don't take anything like the steps that are advocated by those thoughtful, expert committees that are established to study the question. And sometimes it even appears as if there is some feeling that the thoughtful committees somehow aren't really all that thoughtful, that they don't understand adequately the real world, and so on.

I would close by quoting from the words of one truly thoughtful committee person at one well known university: "I believe it is an integral function of a university to transmit values as well as knowledge—values such as the pursuit of wisdom is a worthy end, that justice is better than injustice, that man and society are ennobled by living in conformity with ethical principles, that an individual's humanity is to be respected and not crushed by violence, intimidation and exploitation. If universities, particularly great universities like Amherst, do not nurture, preserve and transmit such values, those values will not long survive. They will be displaced by other expedient principles of action and future generations will be the less for that loss.

"Now rational men and women like, of course, to think that significant policy decisions such as taking more far-reaching steps on the South Africa question will be efficacious. We all want what we do to be efficacious, to have some demonstrable impact. Perhaps a policy of what we would call progressive divestment would have its primary impact on the univeristy itself and on the community's opinion of itself and of its leadership. It may touch the sensibilities of some corporate executives, but it is not likely to affect corporate withdrawal. To the extent that it gives a measure of hope to black South Africans, it might even reduce the violence bred by utter hopelessness. And if it shocks some white South Africans, it may induce them to examine more closely the injustice and official violence around which South Africa society is organized.

"But are these consequences sufficient? Perhaps the answer can be found in an address which Robert Kennedy delivered at the University of Cape Town on June 6, 1966, when he said: it is from numberless diverse acts of courage and belief that human history is shaped. Each time a man stands up for an ideal or acts to improve the lot of others or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current which can sweep down the mightiest walls of oppression and resistance."

So with respect to South Africa and elsewhere, we need a policy, a human rights policy, which looks further forward and anticipates these crises before they begin. We need a policy which states clearly our position against these violations and which promises action if they persist, as the gentleman from Ohio has so cogently pointed out.

With respect to South Africa, we should stop encouraging trade, we should urge the Commodity Credit Corporation to stop dealing in sugar, we should promote a policy of no investment, we should bar loans to government corporations. If Chase and First National City can do it, surely our Government can do it as a matter of national policy.

Such actions would give black South Africans a glimmer of hope and might well induce white South Africans to reexamine the injustice and official policy of violence around which South Africa is organized.

Consistency, certainty and patience are all critical components of a successful human rights policy. For where we do hold firm, where we are vigilant, we as a nation committed to freedom can function as an agent of moral change. We have produced stunning successes in the area of human rights. By keeping the pressure on in Africa, in Eastern Europe, and the Iberian peninsula, the cause of human rights has been immeasurably furthered.

During the last year the empires of Idi Amin and Emperor Bokassa have crumbled. Because of a mixture of outside intolerance by the world community and pressures mounted from within, two of the most terroristic regimes in the world finally fell. In Spain and Portugal over the last years, rightist military regimes gave way to impressive democratic states. In Portugal the revolutionary government which replaced Salazar has itself been replaced by a centrist government established through plainly constitutional elections.

With respect to Eastern Europe, Poland has made incremental movements toward liberalization. The Polish People's Republic ratified the United Nations covenant on civil and political rights in 1977. A number of human rights organizations have since become active. The Polish Government, however unwillingly, is permitting some limited degree of dissent, and the door was opened in June 1979 for the first Polish-born Pope to return to his homeland for a brief visit. As a result, the Catholic church is once again at the forefront of the liberation movement behind the Iron Curtain.

I should note, as well, that we are within days, perhaps hours, of final agreements on Zimbabwe-Rhodesia. After months of tortuous and difficult negotiations the stand that many of us took here, which was that the political and human rights issues at stake in Zimbabwe-Rhodesia were of such importance as to require that we continue a policy of sanctions until the outstanding issues were resolved, that approach appears now to have borne important fruit.

But the achievements that we can point to are still the exceptions and not the rule in our world today. The universal rights of man, enjoying to various extents a renewed appreciation in Poland, the Central African Republic, Uganda, Spain, Portugal and Zimbabwe-Rhodesia, are increasingly on the decline the world over. Before November 4, Americans accepted and understood this, but somehow often many of us did not feel it strongly enough. Now we do. Now we know.

On this Human Rights Day, which is marked in the United States with such a heightened feeling of pain and urgency, it is most appropriate for the Congress to be devoting these hours to a colloquim in honor of these transcendant beliefs. It is an integral function of Congress to transmit values as well as laws—values such as that justice is better than injustice; that man and society are enobled by living in conformity with ethical principles; that an individual's humanity is to be respected and not crushed by violence and intimidation. We must function as a forum for the encouragement of these ideals.

In conclusion, Mr. Speaker, I would like to thank the gentleman from Pennsylvania (Mr. EDGAR) for joining with me in this special order and express on his behalf and on my own behalf our thanks for all of the Members who participated in this special order.

● Mr. DERWINSKI. Mr. Speaker, in any discussion of human rights, attention is usually given to the violation of human rights, as well it should. Attention normally is also drawn to current and dramatic violations. We might then tend to ignore the longstanding, although less noticeable, patterns of large scale human rights violations. I would like, therefore, to point to the victimization of the people of entire countries as a priority subject for examination in the human rights context. Of all the captive nations in the Soviet grasp, there is a special category of national tragedy; I refer, of course, to the Baltic States of Estonia, Latvia, and Lithuania.

Soviet annexation of the Baltic States in 1940 was an international outrage, and Soviet policy today toward these States continues to be reprehensible. The Latvians, Lithuanians, and Estonians are distinct national peoples with cultural, linguistic, and religious traditions markedly distinct from the Great Russians who dominate Soviet cultural life and national politics. Soviet policies toward the Baltic States are especially harsh against the Lithuanians. Soviet occupation of Lithuania has been characterized by brutal measures to eradicate the Lithuanians as a distinct people, to destroy their language, their religion, their customs, and their culture. Lithuanian dissidents have been jailed, tortured, and sentenced to Soviet labor camps and psychiatric wards.

Historically, Soviet occupation of the Baltic countries stems from the agreement on September 23, 1939, known as Ribbentrop-Molotov Pact, between Germany under Adolf Hitler and the Soviet Union under Josef Stalin. This treaty divided Poland, permitted the Soviet Union to attack Finland, and gave Nazi Germany a free hand, after its conquest of Poland, to concentrate its forces in the West, conquer France and unleash the Battle of Britain. Hitler and Stalin are dead and repudiated by the entire world including their own peoples and their subsequent governments. Yet the impact of their infamous agreement is still felt; Soviet armies continue to occupy the Baltic States without legal or moral justifications.

Thus the human rights of millions of Baltic persons have been systematically violated for decades on a very profound and personal basis. Beyond this, however, one of the most fundamental of human rights, that of national self-determination, has been consistently repressed.

Our attention and that of the other free nations of the world should be directed to this special pattern of systematic and gross violation of human rights on the part of the Soviet Union.

House Concurrent Resolution 200, passed by the House on November 13, 1979, by a vote of 390 to 0, and now under consideration in the Senate, calls the Soviet Union to account on this issue. The United States has never recognized the illegal Soviet occupation of Estonia, Latvia, and Lithuania. Thus, the resolution reiterates the U.S. commitment to the principle of self-determination and seeks to have the Soviet Union implement principle VIII of the Helsinki Final Act and restore equal rights and self-determination to the Baltic people through free elections.

In addition, the resolution calls upon the President to bring the matter of the Baltic States to the attention of all nations and seek their cooperation in the realization of independence of the Baltic States.

In this connection, although not in the same category as the Baltic States, another country where the systematic Russification of an entire society has taken place, is the Ukraine. The Ukrainian people, distinct in their culture, have long been subjected to great Russian domination and repression.

Documents circulating in the "samvydav" in the Ukraine, attest to the current disappearance of the Ukrainian intellectuals. The great Russian administrators for the Ukraine, it would seem, are using even the weapon of contrived disappearance against Ukrainian cultural figures. A composer and a philosopher, for example, have disappeared recently. The spirit, physical health, and even the lives of these disappeared minority peoples are stifled and even smothered in the psychiatric hospitals of Russia and the Siberian forced labor camps.

We should speak out once again on behalf of these tragic figures, the millions of victims of systematic and gross violations of their human rights. They are victimized as individuals, as peoples, and indeed as entire nations.●

● Mr. BRODHEAD. Mr. Speaker, I am pleased to join with my colleague, Congressman ANDREW MAGUIRE, in the observance of Human Rights Day, which has been designated by the United Nations to help promote and secure basic human and political rights for all the peoples of the world.

It is often difficult for Americans to comprehend and appreciate the gross abuses of human rights throughout the world and the terrible effect these abuses have on people's lives. We enjoy an unprecedented level of freedom in this country to worship as we wish, say what we believe, and live where we choose to live, without fear of Government intimidation or reprisals. Scores of countries have followed the example of our Constitution and the Universal Declaration of Human Rights and have included strong, written safeguards for human rights in their laws.

Unfortunately, some nations pay only lipservice to the rights of their citizens. The gross abuses against the rights of Ethiopians, Argentine, Soviet Jews, and Evangelical Christians; the "trial" and summary executions which have occurred in Iran; and the illegal and inhumane imprisonments in Northern Ireland have outraged the world. Organizations such as the Nobel prize-winning Amnesty International have been very effective in documenting these cases and in bringing them to public attention. The word is out; and we as a nation cannot ignore it.

While the United States cannot mandate the policies of other nations which ignore basic human and political rights, we also cannot condone them. The President and the Congress must use every means at our disposal to foster the principles of the U.N. Declaration of Human Rights. The position of our country should be made clear to all at every opportunity, for we must never appear to condone by our silence policies which debase human dignity.●

● Mr. OTTINGER. Mr. Speaker, it is essential that we join in raising our voices today on Human Rights Day, for this day affords us the opportunity to reflect on the basic rights we as Americans enjoy—freedom of speech, religion, travel, emigration, the right to a fair trial. While we often take our freedom for granted, recent events in Iran remind us of how vulnerable liberty is. We cannot forget the Americans who are held hostage, nor the millions of individuals around the world who are denied these rights which are so essential to human dignity.

In 1975, 35 nations of the world joined as signators of the Helsinki Final Act, thereby agreeing to "respect human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief without distinction as to race, sex, language or religion." The accord also stated:

> Every one has the right to leave any country, including his own and to return to his country.

This accord which set an international precedent, however, remains an allusion, blatantly disregarded by the Khomeini regime, as well as by the Soviet Union—one of the signators of the act. The Soviet Union continues to persecute their Jewish citizens and other minorities, denying them the right to emigrate, the freedom to pursue their religious faith, and the opportunity to apply their professional training. We who have the liberty to speak out must persist in letting Iran, the Soviet Union, and all other nations that do not recognize the sanctity of individual freedom, know that we cannot tolerate their abuses of human rights.

I would therefore like to use this occasion to speak out on behalf of my prisoner of conscience, Amner Zavurov. Zavurov is a victim of the same "Catch 22" which entraps so many other Soviet Jews. Unable to tolerate constant anti-Semitic acts against him and his family, he applied to emigrate to Israel. As a result of his visa application he had to relinquish his internal passport. Upon being denied a visa, he refused to take back his passport because by doing so would have voided his visa application. Without a passport he could not get a job and was subject to arrest. He was tried without a defense attorney, a right guaranteed by Soviet law, and charged with parasitism, malicious hooliganism, and violations of passport regulations. Zavurov, a radio technologist, now 29 years old, married and a father, was sentenced to 3 years imprisonment and is currently serving his sentence. Twenty-six of my colleagues joined me in writing to Premier Brezhnev on Zavurov's behalf. We have yet to receive a response, nor do I expect one.

But I know our protests are being heard. Just this past April my prisoner of conscience, Vulf Zalmenson, was released 1 year before his term expired and was allowed to emigrate to Israel. While we should be encouraged by Zalmenson's release and the significant increase in the number of visas being granted by the Soviets over the past year, we cannot let these numbers distract us from reality. As the number of visas increase, the persecution of the leaders of the refusenik movement intensifies. Furthermore, we cannot allow those who seek to emigrate to be used as pawns in the Soviet's efforts to gain their international political and economic objectives: most-favored-nation status, international credit, and SALT II.

With the 1980 Winter Olympics approaching, I am especially concerned about the fate of the leaders of the refusenik movement. There is clear evidence of the Soviet's campaign to "sanitize" its cities of dissidents to prevent possible "embarrassment." We too would be embarrassed if our most talented and educated citizens sought to leave our country, but had to be restrained by physical force and mental abuse. But so long as the Soviet Union continues to harass, persecute and oppress those who desire their basic rights, they will remain an embarrassment to the world community that recognizes human rights as inviolable, especially to the signers of the Helsinki Final Act and the Declaration of Human Rights.

In observance of this day let us remember our responsibility to the courageous individuals who have chosen dissent in the face of severe consequences. Let us reaffirm our commitment to these determined individuals and rededicate our efforts on their behalf by continuing to let the Soviet know that we will persist until all individuals are granted the liberty to enjoy their rights which are essential to the dignity of mankind.●

● Mr. OBERSTAR. Mr. Speaker, the rights enjoyed by Americans are rights denied to the majority of our fellow human beings. As a nation founded upon the principle that all persons have certain inalienable rights, we cannot remain silent in the face of the overwhelming violation of those rights throughout the world. We are fortunate to live in a nation with a strong democratic tradition and with the military and economic strength and the will to sustain that tradition.

Our good fortune carries with it the inescapable responsibility to work for the extension of human rights throughout the world.

If the United States does not speak out against the violation of human rights no matter where they occur, then we cannot expect any nation to speak out.

If this Congress is not a forum for human rights, then no legislative body need be.

While we will not impose a commitment to human rights on the governments of the world, we cannot remain silent and insular. Democracy is a tradition, a right, a privilege and a responsibility.

In this country, every day must be Human Rights Day, a celebration of our rights as Americans and a commitment of ourselves to the extension of those rights.

The fundamental ideology of democracy, self-determination, and of human rights is far more powerful than the weak ideology of totalitarian regimes which must use coercion and terror to impose their denial of the individual's rights.

The natural superiority of a system based on the freedom of the individual must be augmented by the coherent, sustained and forceful commitment of democracies throughout the world.

The people of this Nation have that commitment. As their Representatives, we must make every effort to insure that the actions of this body and of this Government demonstrate that commitment and contribute to the greater enjoyment of human rights worldwide.●

● Mr. KEMP. Mr. Speaker, on this Human Rights Day 1979 it is crucially important that the Congress recognize one of the most glaring examples of religious and political abuse in the world today—that of the Communist oppression of Christians behind the Iron Curtain. Literally hundreds of Christian political prisoners have been incarcerated for expressing their religious or political beliefs in ways that have officially been sanctioned by the Helsinki accords.

I have long supported the efforts of the National Council on Soviet Jewry and other groups like it to secure the release of Soviet Jews persecuted because of their faith. Now I believe it is time to launch a companion effort to aid those persons in the Christian community who have also been persecuted for their faith or for their political beliefs.

Today I am joining my colleagues in the Senate, Senator Roger Jepsen and Senator David Boren, and my colleague in the House, Representative James Howard, in introducing two companion bills whose purpose is to launch a major national effort to release Christian political prisoners behind the Iron Curtain.

The first bill, House Concurrent Resolution 222, gives the names of several persons of many different ethnic heritages who have been persecuted by the

Soviet Government or its satellite Communist governments, in the hopes that focusing attention on these persons will emphasize the strong need for the reestablishment of standards of human rights outlined in the Helsinki accords and subsequently ignored by the Soviet Union.

The second bill, House Concurrent Resolution 223, initiated by Senator JEPSEN, expresses the sense of the Congress that the President should reaffirm the commitment of the United States to the provisions of the Helsinki accords, communicate to the Government of the Soviet Union in the strongest terms the disapproval of the United States of religious harassment of Christians and of the restrictions on the freedom of such Christians to emigrate, and advise the Soviet Government that the United States expects the Soviet Union to honor its commitments under the Helsinki accords.

We can no longer ignore the magnitude of the problem that exists for Christians who live in constant fear behind the Iron Curtain. I urge my colleagues to support this effort, and to make known to the Soviet Union their concern for the welfare of these innocent people.●

● Mr. HARRIS. Mr. Speaker, there are many throughout the world who will never know that December 10 is the day picked for the worldwide celebration of human rights. Some are in prisons on trumped-up charges, some are starving to death while war ravages their homes, some are in cities far away from their families and loved ones, and some are on boats floating helplessly at sea.

Those of us who are free to speak our minds must use this forum, and any others available, to raise human rights concerns. We must raise the priority accorded to human rights at the same time we recognize the human rights violations throughout the world, which are of the gravest nature.

The rights we are promoting here today are not parochial American values we are forcing on others. They are standards first laid down in the Universal Declaration of Human Rights. They speak to the basic dignity of human beings and are the product of three decades of international consensus. Briefly stated they are:

The right to be free from governmental violation of the integrity of the person;

The right to fulfillment of such vital needs as food, shelter, health care, and education; and finally,

The right to enjoy civil and political liberties; freedom of thought, religion, assembly, speech, and the press; freedom of movement; and freedom to take part in government.

Regretfully, these rights are not granted or guaranteed in many parts of the world. Although emigration figures from the Soviet Union indicate that more individuals have been allowed to leave Russia, during the last year, there are still many "refusenik" families who are being denied their basic human right of being able to choose where they will live. There are the prisoners-of-conscience who are either in prisons or in areas far from their homes—sent there because they committed the crime of expressing their wishes to move to Israel. On this Human Rights Day, I will take the opportunity to stress to the Soviet Union the deep concern felt on this issue by the American public, Congress, and the administration.

In other parts of the world we have similar situations. The refugee crisis we are faced with today must be coupled with an examination of human rights issues. It is very possible that if all governments faithfully observed the precepts set forth in the United Nations Charter and the Universal Declaration of Human Rights 1948—in particular those sections dealing with the integrity of the person and political freedoms—we would have no refugee problem.

The pictures on our television sets or in the newspapers of faces of people suffering, of an anguished Cambodian child, of an overturned Vietnamese fishing boat, indicate the need to set aside a day to speak of human rights. These human beings cannot speak out for themselves and we must. At this time, we must also speak out for the 50 Americans who are being held and silenced against their wills. We hope they will be home soon.●

● Mr. SOLARZ. Mr. Speaker, 31 years after the Universal Declaration of Human Rights, the Republic of South Africa continues to systematically exclude nonwhites from the social, economic, and political life of their country solely because of the color of their skin. As we enter the last two decades of the 20th century, apartheid stands in stark contradiction to the fundamental principles of human dignity and individual liberty which we are celebrating today.

The people and the Government of the United States must remain vigilant in our efforts to change the apartheid system. We cannot bear silent witness to the day-to-day discrimination and deprivation which beset 18 million nonwhite South Africans. While taking note of the encouraging progress which has been made by the South African Government over the course of the last year, as well as an emerging recognition on the part of the National Party leadership that meaningful political, social, and economic changes must be made, we must continue to insist that the South African Government move more quickly in the direction of fair and reasonable power sharing arrangements for all the people of that nation.

The prospects for peaceful change in South Africa will depend primarily on the people of South Africa themselves, but the international community in general and our own country in particular have an important role to play as well. For that reason, the efforts of the Ad Hoc Monitoring Group on southern Africa are particularly important. Certainly Congressman MAGUIRE, Congressman DOWNEY, and their colleagues in the monitoring group have served an enormously useful purpose in educating much of the Congress and the country about human rights violations in South Africa.

As chairman of the House Foreign Affairs Subcommittee on Africa, I believe the struggle for human dignity and justice in the Republic of South Africa poses one of the most significant moral issues of our time. The time has come for the United States to match its rhetorical sorties against South Africa with a responsible and realistic program designed to distance ourselves from the apartheid system and aline ourselves with the forces seeking a peaceful transition to equitable power-sharing arrangements in that nation. Next spring the Africa subcommittee will hold extensive hearings on U.S. policy toward South Africa. Mindful of our unshakeable commitment to the Universal Declaration of Human Rights, we will consider various legislative proposals premised on our abhorrence of the apartheid system. In the meantime we will be carefully watching the political situation in South Africa, hoping that the rulers of that country understand the need to develop a political dispensation for their country which includes all of the people of South Africa and which is based on genuine participation rather than being arbitrarily imposed.

The National Party came to power in South Africa in 1948—the same year the Universal Declaration of Human Rights was adopted. Since that time, the National Party has been speeding forward on a collision course with a growing worldwide appreciation of the value of human rights. The South African Government's strategy of cosmetic and seductive modifications of apartheid, now semantically upgraded to "separate development," has exhausted the patience of international observers. We must insist that black, colored, and Asian South Africans are treated, in the words of the late Dr. Martin Luther King, Jr., not by the color of their skin, but rather by the content of their character. In so doing, we will aid the peaceful struggle for justice in South Africa, while reaffirmour devotion to the highest democratic ideals of our own Nation.●

● Mr. BIAGGI. Mr. Speaker, I join with my colleagues in observing a most important national and international event—Human Rights Day. Clearly, since the time that Jimmy Carter has been President there has been an unprecedented level of attention being focused on human rights—a development that can only be considered good.

According to the President, human rights is the very "cornerstone" of U.S. foreign policy. This has translated into a renewed interest and advocacy in the cause of human rights and has restored morality to foreign policy.

As we observe Human Rights Day, we continue to be agonized over the deprivations of human rights being directed against our fellow Americans held hostage in Iran. The Government of Iran has demonstrated its complete disregard for all precepts of international law and basic morality. The denial of physical freedom is as basic a violation that could be directed against a person. For those 50 Americans, their freedoms have been denied since November 4. Iran is on the verge of adding to its unenviable record, procedures which threaten to violate the civil rights of Americans—

namely their imminent "trials for spying."

I serve as chairman of the Ad Hoc Congressional Committee for Irish Affairs, an organization which has 130 of my colleagues as members. In the 2 years that the committee has been in existence, we have raised the Irish issue from a position of relative obscurity to one which now enjoys national and international visibility.

Perhaps the one issue which has helped raise the Irish question to the level of world attention it has enjoyed, has been the issue of human rights. My involvement with the Irish issue stretches back almost one full decade. When—I was speaking about human rights violations in the North of Ireland, I was criticized and my opponents said it was not in issue. Today—10 years later—I find myself in agreement with these individuals. Human rights violations in Ireland are no longer in issue—they are a confirmed fact.

Let us review the record. In 1976, the United Kingdom which has direct rule over Northern Ireland was brought before the European Commission on Human Rights charges that they regularly practiced inhumane policies against prisons and prison suspects in the north. In 1977 these charges became convictions before the European Court of Human Rights and subsequent to that, the United Kingdom in fact admitted their guilt.

In 1978, the Nobel Peace Prize winning organization Amnesty International cited British Government security forces for inhumane treatment of prisoners and prison suspects—practices which Great Britain pledge to end. This evoked worldwide concern and the British Government, in an effort to discredit the findings of Amnesty, created a commission to verify the Amnesty claims. This Commission known as the Bennett Commission did not repudiate Amnesty's findings—they confirmed them.

Since that time I have been leading the effort in Congress to have Great Britain improve on its human rights record in Northern Ireland. In May I introduced House Concurrent Resolution 122 which calls upon Great Britain to embark on a new peace initiative for Northern Ireland, one which promotes self determination and restores all lost human and civil rights of the people of Ulster. The legislation enjoys the cosponsorship of 81 of my colleagues, not to mention widespread support throughout the Irish American community.

The human rights issue in Ireland was the subject of an important debate in this House on July 12. The issue was an amendment I had sponsored to the Department of State's fiscal year 1980 budget bill prohibiting the use of any funds for the sale, export, or transfer of defense articles to Great Britain for use in Northern Ireland. This amendment was offered in response to a decision made in Janaury of 1979 by our Department of State to send 3,500 weapons made in the United States to the Royal Ulster Constabulary, the main Northern Ireland police force. I protested this sale on the basis that it violated the terms of section 502(b) of the Foreign Assistance Act which prohibits the sale of U.S. arms to any nation or organization with a proven record of human rights violations. The RUC had been specifically cited in the Amnesty International and Bennett Commission findings. Following an assurance which I received from Chairman ZABLOCKI of the House Foreign Affairs Committee, that his committee would conduct a full invesitgation, I withdrew my amendment.

Just 2 weeks later, a hearing was held and out of it came a decision by the Department to suspend all further license applications or sales of defense articles to the RUC. This suspension was pending a full review of U.S. policy on Ireland. The review and therefore the suspension continues today. The issue was raised and ultimately decided on human rights grounds and the longer the suspension remains in effect, the more recognition there is in the State Department about the human rights problems in Northern Ireland.

Unfortunately, the human rights problems in Ireland are not restricted solely to the North or to the British Government. Amnesty International has in the past also cited the Dublin government on human rights charges and very recently the Irish National Caucus, one of this Nation's most outspoken human rights advocate organizations, published its third annual report on human rights violations in the Republic of Ireland. Those of us concerned about human rights view the change in Government in the Republic of Ireland with strong optimism. The new Prime Minister, Charles Haughey has demonstrated an interest and commitment to the cause of peace and justice for Ireland.

Finally it should be noted that just today, Amnesty International has published its 1979 annual report. I wish to quote from their press statement:

> Amnesty International submitted reports on the ill-treatment of individuals in police custody in Ireland and the United Kingdom to the governments of those countries.

The ultimate success of this nation's human rights policy rests in its application. To be of maximum value, we should articulate our concern wherever a documented problem is shown to exist. Ireland has clearly met this criteria and the issue must be raised.

Prime Minister Thatcher is scheduled to meet with the President on December 17. It is my fervent hope that the human rights problems in Northern Ireland can be discussed with an eye toward resolution. It is clear to me as a long time observer of the Irish issue that a cessation of human and civil rights deprivations could lead to a substantial diminution of violence.

Mr. Speaker, the Ad Hoc Congressional Committee for Irish Affairs is totally committed to peace and justice with respect for human rights for all of Ireland. The Governments of the United Kingdom and the Republic of Ireland have joined us in ratifying all major human rights treaties and covenants. However, when it comes to the North of Ireland, they choose to ignore that which they have agree to in these treaties. The cause of human rights is a noble one and needed for our world. Nations which advocate the pursuit of this policy are themselves of high virtue and moral character. It behooves these nations to set an example for the rest of the world.

On the Human Rights Day of 1979, let us take a moment to pause and think of those citizens in other countries which do not enjoy the many freedoms which we often take for granted. As a moral world leader, this Nation has an obligation to continue to work to insure that human rights not become a mere stylish phrase and cause, but an integral part of the foreign and domestic policy of every country in this world. As chairman of the Ad Hoc Congressional Committee for Irish Affairs, I pledge my unqualified support of this goal.●

● Mr. DODD. Mr. Speaker, in December of 1948, the United Nations adopted a Universal Declaration of Human Rights which is considered to be the definitive international standard on human rights. Included in the U.N. Declaration was a day set aside each year to reaffirm the document's principles of "universal respect for and observance of freedoms."

Today, countries all over the world will be celebrating the 31st Human Rights Day and reflecting on not only the progress that has been made in promoting individual freedoms but also the violations of human rights that are still being perpetrated.

America's democratic principles of life, liberty, and equality are universally recognized but not universally shared. Our human rights policy is based on the need to disseminate our humanitarian ideals and to voice our opposition to the actions of those nations that disregard the fundamental rights to which every man and woman is entitled.

To turn our backs on the suffering of others would be the same as rejecting the traditional tenets that our Constitution propounds. To remain indifferent to the plight of Cambodian refugees or Soviet refuseniks would be a crime not only against American society but all of mankind.

Human Rights Day provides an international forum for communication on human rights goals and a chance to strengthen the resolve of nations to take concerted action against the kind of pernicious disregard for human rights that is still occurring.

We, as individuals, have a responsibility to respect the rights of others. As a Nation, we have a mandate to work for global compliance with international human rights agreements. As members of a world community, we must all recognize that human rights form the common ground that unites us all and provides a hope for world peace.●

● Mr. LENT. Mr. Speaker, it is a privilege to join with so many of my colleagues in this observance of Human Rights Day. The magnificent support for human rights evidenced here in the House of Representatives should impress upon those in the world who trample on the rights of others the unity and strength in the U.S. Congress against such oppression.

It is particularly fitting, Mr. Speaker, that we join here in support of human rights while 50 Americans are held prisoners, deprived of all rights in the U.S. Embassy in Tehran. This flagrant violation of solemn international treaties and agreements is repugnant to every person concerned with human rights. We all pray for success of the efforts of our President in securing the release of our unfortunate countrymen and women, and pledge our support for those efforts.

The violation of human rights in Iran is only the latest in a long and tragic history of man's inhumanity to man. There are some who feel that this pattern of oppression and brutality is on the increase throughout our world today. But as one who has worked for the cause of human rights in both hemispheres of the world, I see some welcome evidence of growing strength in our cause.

This is true even in the Soviet Union, one of the most flagrant violators of human rights. Despite the still persistent persecution and oppression of Soviet Jews, the Communist rulers of Russia have, with increasing frequency, acknowledged the weight of world opinion. More and more Soviet Jews have been permitted to achieve their desire to practice their own religion in the country of their choosing by emigrating to Israel. This has been true even of some of those who have been imprisoned for their efforts to win freedom in Israel.

I can cite a dramatic example of one such success for the cause of human rights in the person of Hillel Butman. In 1975, at the request of Lynn Singer, president of the Long Island Committee on Soviet Jewry, I adopted Hillel as the Fourth Congressional District's prisoner of conscience. He had been imprisoned in 1970 for his efforts to leave the Soviet Union to join his wife and children in Israel.

Each week, for 4 years I wrote letters to high Soviet officials demanding Hillel's release. Each week I wrote a letter of encouragement to Hillel and his courageous wife in Israel. I brought Hillel's case before the Belgrade Conference on the human rights provisions of the Helsinki Accords, signed by the Soviet Union in 1975. At my urging the U.S. Department of State discussed Hillel's case with Soviet diplomats at every opportunity.

In all of the 4 years, I received no acknowledgement of my efforts from any Soviet official. Yet, in April of this year came word that Hillel had been released from prison and had been permitted to join his family in Israel.

A short time later, I received a tape recording from Hillel Butman, expressing in his own voice his thanks for my efforts in his behalf. I found Hillel's words, recorded at his new home in Israel, deeply moving. Let me share them with you. Hillel told me:

> I'm 46 already. And one year is 8,760 hours, irretrievable hours. Each of those hours is full with the sun of my Motherland, with its air, with the smell of blossoms and the plantation where I work now. These hours are full with the laughter of my youngest daughter who was accustomed that her father was only a piece of cardboard on the wall.

Those words of joy and fulfillment from Hillel Butman brought tears to my eyes and to my staff who had worked on the Butman case for 4 long years.

Those words of Hillel Butman brought a new resolve to my heart: To redouble my efforts on behalf of the thousands of Soviet Jews who still seek the free air of their Motherland, Israel, and the laughter of their children in Israel's sunshine.

I repeat Hillel's words here today in the hope that they will serve as an inspiration to you, also my colleagues. Hillel's happiness can be shared by many more Soviet Jews if we continue to bring to bear upon the rulers of Russia the pressure of world opinion. There are many who seek freedom still. I have intervened personally in recent weeks in behalf of Anatoly Sheharansky, Lev Blitshtein, the Alexander Paritsky family, the Jews of Ilyenka, and our Fourth Congressional District's new prisoner of conscience, Ida Nudel.

I urge you, my colleagues, to join in personal intervention for these and other Soviet Jews seeking freedom. Let the Kremlin leaders know of your personal concern that these victims of Soviet violations of the Helsinki Accords deserve the human rights pledged to them by the Soviets when they signed the accords.

I am convinced that our efforts will achieve success. I am convinced that, however painfully slow, we are making progress. If we continue our support of human rights we can, stone by stone, build a foundation for a better world.

Our presence here, in observance of Human Rights Day, and our words in support of the great cause for which we labor, reflect our pledge to continue our struggle for freedom for every human being until we achieve that great goal.●

● Mr. DRINAN. Mr. Speaker, I take this opportunity to join with many of my colleagues in calling attention to the observance of Human Rights Day, 1979. As a fundamental concern of all Americans, the treatment of individuals by others has become an issue of primary importance to our Government as we look at the nations of the world, and here at home.

Observance of fundamental human rights requires that individuals be guaranteed freedom from Government violations of the integrity of the person, that is to be free from the threat of torture, cruel or degrading treatment or imprisonment. Human rights demands the fulfillment of basic needs such as food, shelter, health care, and education; and the right to enjoy civil and political liberties such as freedom of thought, freedom of speech, and freedom of the press. These tenets should not be a matter of privilege, but rather of institutionalized right.

Human rights is not a new issue, nor is it any less important today than in times past. This Nation has witnessed many struggles for human rights in its history, from the American Revolution to the women's suffrage movement, from the Civil War to the civil rights movement of the 1960's. In each case, the Nation has moved forward to a better consensus of the national will and toward fuller participation in the American political and economic system.

The United States has supported international treaties, conventions, and institutions which emphasize the importance of observing acceptable standards of human rights. The United Nations Charter states that the U.N. is charged with the responsibility of achieving "* * * international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion. * * *" As a forum for the community of nations, the United Nations has repeatedly renewed its commitment to work toward the principles of human rights, beginning with the Universal Declaration of Human Rights.

Today there are many examples which can be used to illustrate the success of this Nation's interest in the human rights records of other countries. In the past year, for instance, significant steps toward the transfer of power from military to civilian democratic rule took place in the Dominican Republic, Ghana, Nigeria, and others. In Bangladesh, Sudan, Nepal, and Paraguay, large numbers of political prisoners were released. In Eastern Europe and the Soviet Union, the record has not been so bright, but even there some positive signs are evident such as prisoner releases in Poland and Yugoslavia, and greater tolerance for dissent in Hungary and Poland.

Many unacceptable violations of human rights persist across the globe. Through our words and actions we will persevere in our efforts to improve these situations.

The Congress has played an active role in this area by mandating that human rights considerations be taken into account in decisions to provide aid to some countries and deny it to others. Our foreign assistance programs are an essential tool in promoting internationally recognized human rights.

There is, of course, a great deal more that can be done. Numerous international convenants have yet to be ratified such as the Genocide Convention. We must continue to carefully scrutinize aid programs to countries which may be in violation of our human rights policy. And we must continue to make our views about the conduct of other nations known at every possible opportunity.

I commend the gentleman from New Jersey (Mr. MAGUIRE) for taking this opportunity to speak on the importance of this day. Together we can insure that human rights remains an issue of primary importance in the years ahead.●

● Mr. PEPPER. Mr. Speaker, I am pleased to join my colleagues in observing today's worldwide celebration of human rights. It is noteworthy at the outset, that we live in an age which has placed concern for human rights at the very forefront of public attention and concern, yet one which has seen these rights trampled and abused throughout the world.

Rights which we Americans all too

often take for granted, freedoms which were enshrined in our Constitution nearly two centuries ago, remain little more than a dream for the citizens of most of the world's nations. Respect for these fundamental rights signifies an even deeper respect for humanity itself. They provide the foundation on which a free society can be based, one in which individuals are allowed to grow and think creatively. Without such freedom a society becomes closed, stagnant, and unimaginative; unable to permit those with the ability to find solutions, however unconventional, to the serious problems which all nations face. The only alternative to a free and open society is tyranny, a tyranny which may come in many guises and span the ideological spectrum from communism to fascism, yet remains pure and simply, tyranny.

These basic human rights we so cherish must be constantly maintained by a civilized people, steeped in respect for one another, for differing points of view and for the consensus required to act as one from time to time, when that is necessary, as during the present crisis in Iran. Those in the minority at any given time, those who are weak must be assured by those in power that their freedom is as sacred as their own. Only in this way will the rights of everyone in society be honored and foster the free productivity of a people allowed to make free choices and pursue their individual happiness.

The right to speak freely, especially in opposition to the established government, must be protected if a truly secure nation is desired. The right to move about freely is essential if people are to remain happy wherever they are. The right to emigrate, to seek a new life in a new land, is cherished by a nation secure and confident in its attractions. The right to a fair trial is a cornerstone of social dispute and equitable treatment for all members of our society. The right to worship respects the dignity of anyone's beliefs and peaceful thoughts about our universe and the meaning of human existence. These rights are self-evident, basic to human liberty, and universal in their validity. It is important that we who enjoy these freedoms work to safeguard them in our country while doing everything we possibly can to encourage respect for these basic human rights where they are systematically and massively violated. Our Nation and our humanity will never be fully secure until all men and women of every race, creed, and age share in our human heritage of reason and human dignity.

I would like to bring to the attention of my colleagues several bills which I have introduced or cosponsored which I believe are examples of the efforts we can make to encourage respect for human rights in other countries. House Concurrent Resolution 71 expressed the concern of Congress regarding the harassment of Soviet Jews and other minorities and House Concurrent Resolution 121 condemned threats to religious minorities in Iran. In both instances, members of groups which hold beliefs that are historically unpopular in their native lands suffer from persecution, are denied fair hearings of their grievances, and even face the danger of physical attack.

House Concurrent Resolution 200 signifies the commitment of the United States to the principle of self-determination. The resolution called upon the Soviet Union to recognize this principle and permit the peoples of the Baltic States to reassert their independence. Denying these people their political freedoms contributes to instability and insecurity. I hope that in time Russia will see the wisdom of permitting these courageous peoples their right to self-determination.

Perhaps the greatest crime ever committed against the human race was the cold blooded destruction of 6 million Jews in Nazi Germany. House Concurrent Resolution 106, which I cosponsored, expressed our commitment to the continued prosecution of Nazi criminals responsible for these crimes under West German law. I was very pleased when West Germany decided to abolish the statute of limitations previously in effect and to cast my vote in support of increased funding for these types of cases in the United States.

Mr. Speaker, earlier this year I introduced House Concurrent Resolution 103. This resolution urges the Government of the Soviet Union to honor the Charter of the United Nations and its Declaration of Human Rights to which it is a signatory, "in promoting and encouraging respect for human rights and for fundamental freedom for all without distinction as to race, sex, language, or religion."

Specifically, this resolution calls upon the Russians to permit the resurrection of churches and religious freedom in the Ukraine. The Soviet Government has actively sought the actual physical extinction of churches. There are many Ukrainian Orthodox, Catholic, Jewish, Pentecostal, Baptist, and Seventh Day Adventist believers among the Ukraine's 45 million people, who were long an independent nation. Now they are suffering systematic and persistent intimidation and the closing of their churches. By passing House Concurrent Resolution 103, the Congress will call upon the Government of the Union of Soviet Socialist Republics to permit the rebuilding of their churches and the revitalization of those positive faiths in the physical and spiritual sense.

Thirty-five of my colleagues have already joined in support of this bipartisan effort, which I am backing with my colleague, the Honorable William Broomfield from Michigan. I hope that many more of our colleagues will see fit to lend their support to this effort and I urge that House Concurrent Resolution 103 be passed by the House at the earliest possible date.●

GENERAL LEAVE

Mr. MAGUIRE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the subject of my special order on today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

□ 1600

HUMAN RIGHTS DAY

The SPEAKER pro tempore (Mr. Danielson). Under a previous order of the House, the gentleman from Pennsylvania (Mr. Edgar) is recognized for 60 minutes.

(Mr. EDGAR asked and was given permission to revise and extend his remarks.)

Mr. EDGAR. Mr. Speaker, I thank the gentleman from New Jersey (Mr. Maguire) for his state of the world address on human rights.

I associate myself with those remarks.

Mr. Speaker, on behalf of Andy Maguire and myself, I would like to insert into the Record a regional review of the status of human rights in the world today:

Human Rights in Asia

The human rights performance in the countries of Asia can be considered to fall broadly into three categories: First, those nations that are free or are presently liberalizing restraints on the freedom of their citizenry; second, those nations with a mixed performance on human rights issues; and third, those nations that chronically violate human rights—whose governments violate the integrity of the person and or usurp most political and civil liberties. These aspects of human rights are included by the U.S. State Department in its annual evaluation of human rights in nations receiving U.S. aid.

In the first category, Japan, India, and Sri Lanka remain flourishing democracies in Asia. Malaysia and Singapore also have open electoral processes, and what harsh criminal penalties and press restrictions exist in these nations are defended on the grounds of combating communist insurgency and communal violence. Thailand has made significant progress in the attempts to gradually transfer the government from military to a parliamentary system with civilian and military representation. The press and labor organizations have been accorded more freedoms in the last year, and the first national elections since the military coup in 1976 were held in April 1979. In Bangladesh, 4 years of "emergency" rule were officially terminated on November 28, 1979, and 730 political prisoners were released.

The Philippines, Taiwan, Pakistan and the Republic of Korea are under some form of martial law and thus fall under the second category of human rights maintenance. In the Philippines, U.S. pressure may have contributed to limited improvements in human rights conditions and to the release of some political prisoners according to the State Department. Few steps have been taken to return the country to the democratic system that was replaced by martial law in 1972, and allegations of fraud have surrounded all referenda elections. In October 1979, the Philippine government began its largest crackdown on students since the institution of martial law. Twenty-four persons have been arrested as agitators, activists, or members of the outlawed Philippine Communist Party. Most observers feel that human rights remains a serious concern in the Philippines.

In Pakistan, elections that were originally to be held in 1977, were again postponed in October of this year and the imposition of martial law continued. Some 50,000 political prisoners were believed to have been detained by the Bhutto administration, ousted in 1977, and thousands of these have been released. Military courts, however, have recently replaced civilian ones, and public flogging has been instituted as a step toward "Islamic justice."

In Taiwan, martial law has been in effect since 1948, although cases of torture, arbitrary arrest and invasion of the home have considerably declined since then, according to the Department of State. Freedom of the press and freedom of speech are limited. Democratic institutions exist at the local and provincial level; but on the national level there remains, in effect, only one party. There have been no general elections for the National Assembly or the Legislative Yuan since 1948.

The Republic of Korea has been under martial law since the assassination of President Park Chung Hee in October 1979. Several mass arrests of students and religious groups took place in November of this year, although the present government has indicated that the dictatorial constitution operative during the Park regime will be revamped. The opposition parties have been invited to participate in redrafting the constitution, although no timeline for the process has been announced.

Nepel remains a monarchy with a very restrictive constitution, which states that the Royal Family is above criticism. Some political prisoners have been released since 1977, but Amnesty International reports that many remain incarcerated.

In Indonesia, the release of thousands of political prisoners, some arrested in 1965, coincided with new restrictions of press freedom. Amnesty International calls the human rights situation in the country "one of the most serious in the world" (*Amnesty International Report, 1978*, p. 162), as thousands of prisoners remain incarcerated who have never been charged or tried. Other observers strongly disagree with Amnesty's view and believe the government is acting in good faith in the release of political prisoners. In East Timor, a former Portuguese colony annexed by Indonesia in 1975, the population faces endemic famine and disease. More than 100,000 of the pre-1975 population of 622,000 are thought to have died of malnutrition and illness to date.

In the third category of nations fall Asia's communist governments. North Korea remains closed to the outside world, and life is strictly regimented for the citizenry there. The media in North Korea are totally controlled by the government as are personal travel, education, employment and expression, according to a report prepared for the House Committee on International Relations in 1977. In the People's Republic of China, there has been a relaxation of the policies prohibiting criticism and discussion of official policy, although most other civil and political liberties remain restricted.

Reports of severe repression have emanated from the nations of Indochina and Burma. The Vietnamese, with Soviet support, have driven their Chinese population out of the country by boat. The government of Laos seeks to pacify its Mhong minority with troops and reportedly through the use of poison gas. The Mhongs have never accepted the Communist government that came to power in 1975. The present Cambodian regime and its Vietnamese allies are ineffectually responding to the continued warfare and massive starvation that threatens 2½ million Khmers and that has driven 200,000 of them across the Thai border. Under the former Pol Pot regime in Cambodia, it is estimated that one to three million people died between April 1975 and December 1979. Over 100,000 Burmese Muslims have taken refuge in Bangladesh, according to the State Department.

The overall picture for human rights in Asia is an uneven one. Millions of people live under the free governmental systems in Japan, India and Sri Lanka. But the nations that have made steps toward liberalization, Thailand, Malaysia and Singapore, feel threatened by the influx of Chinese, Vietnamese, Laotian and Khmer refugees who place additional strains on their precarious racial balances. The success with which Vietnam's brand of communism has been exported to Laos and Cambodia also encourages Southeast Asian nations to guard more thoroughly and more repressively against internal communist groups. In Afghanistan, Burma, Cambodia and Laos, the opposition shows no sign of dissipating, while the Philippines and Taiwan give no indication of ending martial rule. Even in China, the Western media reports that the authorities in Peking are reviewing the policy of allowing critical posters to appear on "democracy wall."

Human Rights in Eastern Europe

This memorandum is in response to your recent inquiry on the present state of human rights in Eastern Europe. The present political situation in the region as a whole will be discussed, followed by a micro-analysis of each country.

While Communist parties maintain strong government control throughout Eastern Europe, the currents of change are challenging the grip of Soviet domination. Cultural and economic intercourse between Eastern and Western Europe have increased during the decade. Significant political, social, and cultural liberalization has occurred in the region, especially in Poland and Hungary. Along with Yugoslavia, the governments of Poland and Hungary have introduced the most far-reaching changes. The Kadar leadership in Hungary has won popular support for its economic policies (especially as they relate to consumer demands); its expansion of cultural and trade relations with the West; and its loosening of travel restrictions. The Gierek government in Poland has achieved modest success in a weaker position, especially in view of the potency of public opinion and its impact on the longevity of past governments. The Catholic Church in Poland remains a powerful force, with support from over 90% of the population. This was clearly visible during Pope John Paul II's visit in June 1979. While organized churches in the rest of East European countries are weaker, religion is nonetheless a potent force in the region. Pope John Paul II (the first Polish-born Pope) has given inspiration and hope to many behind the Iron Curtain. The Warsaw Pact invasion of Czechoslovakia in August 1968 reversed the political reforms of the Dubcek government. Under Gustav Husak, the government has maintained strict political control which parallels the Soviet political model; both the G.D.R. and Bulgaria also follow the Soviet model. Albania's political and economic orientation is strictly Stalinist, with an emphasis on central Communist Party control over the country's economic and social life. For more than a decade, Romania has exercised independence from Moscow's dictates in foreign and economic policy, but significant internal economic and political reforms are absent in Romania.

The rest of this memorandum addresses the current state of human rights in each of the aforementioned countries.

CZECHOSLOVAKIA

Citizens seeking to exercise civil and political rights in ways disapproved of by the Government remain liable to prosecution in Czechoslovakia. At the January 1978 session of the United Nations Commission on Human Rights the representatives of the Government, Dr. Otto Kunz, said with regard to the implementation in Czechoslovakia of Article 19 of the International Covenant on Civil and Political Rights (guaranteeing freedom of expression) that the freedom had to be "consistent with the interests of the working people. The Czechoslovak judicial authorities have taken the same position when dealing with political dissent.

According to Amnesty International, active supporters of human rights face constant harassment, arrests, and imprisonment. Despite this, the Czechoslovak human rights movement (Charter 77) remains strong. Dissidents issued numerous documents on violations of the International Covenant on Civil and Political Rights, both of which have been ratified by the CSSR and which are part of the law. In October of this year, six Czechoslovak human rights activists were convicted of "subversion of the state." Playright VacLaw Havel was sentenced to 4½ years in jail; economist Peter Uhl was given 5 years; spokesperson Vaclav Benda of the Charter 77 human rights movement was sentenced to 4 years; former television commentator Jiri Dienstbrier and journalist Otta Bednarova were given 3-year sentences; and Dara Nemcova, a Roman Catholic dissident was given a suspended 2-year sentence. Charter 77 spokesperson, Jaroslav Sabata, was sentenced on January 11, 1979, to 9 months imprisonment for insulting a public official. The charges stemmed from an incident in October 1978, when police prevented a meeting betwen Czechoslovak and Polish dissidents.

POLAND

The Polish People's Republic ratified the United Nations Covenant on Civil and Political Rights in 1977. A number of human rights organizations are active in Poland. The Polish government has generally been more tolerant of dissent than the Czechoslovak government. Yet over the last year several notable human rights cases have caught the West's attention. Kazimierz Switon, a civil rights and labor advocate from Katowice, was beaten by plainclothes police in October 1978 when leaving church with his family. He was jailed and charged with assaulting a police officer, an offense punishable by 8 years of imprisonment.

When tried in March this year, he was convicted of a lesser offense and sentenced to a year in prison. He has appealed the sentence and has been released pending a decision on the appeal. In Gdynia, Poland, a military court sentenced a junior Naval officer, Henryk Jagiello, to one year in prison for possession of two unofficial samizdat publications. He was charged with "disseminating false information which could cause significant damage to the Polish People's Republic." Polish dissidents have continually voiced their support for Czech dissidents.

ALBANIA

Albania's isolation in the world community, the lack of relevant information in the Albanian media or from Government sources and the scarcity of recent emigrants from the country who might be able to give personal testimony make it difficult to analyze human rights violations in Albania, but the Albanian government is thought to be the most repressive in Eastern Europe. In 1978, Albania reaffirmed its official restrictions on citizens' rights as set out in the Universal Declaration of Human Rights.

BULGARIA

A number of articles of the Bulgarian Penal Code make people liable to imprisonment if they exercise their human rights by publicly criticizing the countries economic and social system or its political leadership. Open dissent is rare in Bulgaria. According to Amnesty International there are two notable cases of interest. Wladimir Gusenko was sentenced in January 1977 by the district court of Sofia to one year's imprisonment for "anti-state agitation." Eugenii Galabov was sentenced in January 1977 by the district court of Sofia to one year's imprisonment for "anti-state agitation" and "dissemination of untruthful statements."

ROMANIA

During the last year, Romanian political leaders on several occasions reiterated Romania's adherence to international human rights covenants. The Couasescu government has been intolerant of dissent from within or outside the Communist Party. The authorities have reacted harshly to dissident activity, such as the formation of the Workers' Free Union (SLOMR). The union's founder, Dr. Ionel Cana, and his deputy, economist Cheorghe Brasoveanu, were arrested in early March of this year. Other SLOMR members have reportedly been arrested or harassed by police. Authorities also arrested a dissident Romanian Orthodox priest, Gheorge Calciv-Dumitreasu, and continue to place heavy restrictions on neo-Protestant religious denominations. The Romanian government has come under western criticism for its treatment of national minorities.

GERMAN DEMOCRATIC REPUBLIC

Human rights advocates' principal concerns in the GDR continue to be the existence of legislation which contravenes the Universal Declaration of Human Rights and the United Nations International Covenant on Civil and Political Rights (ratified by the GDR), the frequent arrest and imprisonment of people for their non-violent exercise of human rights and the retention of the death penalty. Earlier this year, authorities expelled dissident Frank Schoene to West Germany. Prominent author Stefan Heym was barred from accepting a lecture invitation in West Germany, charged with currency violations, and fined $4,500 after publication in West Germany of his new novel Collin, which presents a critical view of the GDR. A positive development in the GDR was the cessation in early May of the house arrest under which prominent East German physicist Prof. Robert Havemann had been living since late 1976. Religious freedom no less than political expression continues to be severely restricted in spite of the Helsinki accords. Thousands of East German citizens have been imprisoned for trying to flee the country.

HUNGARY

Hungarian authorities have introduced certain legislative changes which make for better implementation of international human rights standards. Open dissent in Hungary has been rare in recent years and the government has been relatively tolerant. After the October 1979 conviction of the Charter 77 dissidents in Czechoslovakia, more than 250 intellectuals, sociologists, and cultural figures have signed a series of letters to their comrades in Prague jails but also to Communist Chief Kadar calling on him to seek their release. The situation has created a dilemma for Kadar, who is widely respect in Hungary for his skill in avoiding sharp confrontations within the Soviet Bloc that could threaten his country's liberalism.

HUMAN RIGHTS IN LATIN AMERICA AND THE CARIBBEAN

Latin America has become a major area of human rights concern because of the nature of many governments in the area. Basic freedoms that we take for granted such as freedom of the press, speech, and assembly have been widely violated and suppressed. In some countries, excesses and abuses against the individual in the form of torture and imprisonment for political reasons have become widely practiced.

The recent period, however, gives cause for some optimism however, since some of these governments are moderating human rights violations and are staying strong on the path to returning power to civilians and taking steps toward more open and responsive forms of government. An important example of progress in this endeavor is Ecuador. Its young president assumed office after 7 years of military rule. The Peruvian military, although in power for 11 years, and under tremendous economic and political pressures, plans to turn the country over to an elected president in 1980. At this very moment a freely elected Constituent Assembly is preparing a new constitution. In Bolivia serious efforts are being made to maintain a civilian government on the face of military pressures for the restoration of a more authoritarian system.

There is cause for cautious optimism, as well, as a result of the overthrow of the dictatorial Somoza regime in Nicaragua. While it is much too early to assess the new government, those in power have taken care to protect basic and individual rights and have not waged a vindictive campaign against the former National Guard. The recent changes in the military government in El Salvador may well moderate the serious human rights abuses that had been taking place there.

Changes have also been taking place in some of those countries that have been principal violators of the human rights of their citizens. The Brazilian government under its new president, for example, is demonstrating a liberalism unprecedented in the 15 years of military government. Even in Chile, violations involving torture, disappearances, and political prisoners seem to have been reduced. The release by the Cuban government of some 3,500 political prisoners is yet another positive development.

The democratic governments of Latin America and the Caribbean remain strong and vibrant with Venezuela, Colombia, and the Dominican Republic among the prime examples.

A significant source of support for human rights considerations is the Inter-American Commission on Human Rights of the Organization of America States (OAS) which recently has been given the mandate to exercise the authority given to it in 1959 when it was created. The Commission conducts on site investigations of charges of human rights violations in OAS member states and presents annual reports to the OAS General Assembly meetings.

While there have been significant improvements recently in human rights conditions in Latin America, there remain many situations in which serious issues remain. Chile, Paraguay, and Uruguay were singled out in the Commission's report to the OAS General Assembly Meeting in LaPaz, Bolivia in late October but human rights abuses continue to be reported in other countries of the region. Guatemala was recently cited by Amnesty International for widespread political violence against opponents of the rightist military government. The Argentine military still maintains a highly authoritarian regime. The problem of the thousands of Argentine citizens who have disappeared with no acknowledgement by the government that they are in prison or killed remain acute. Reports of human rights violations are also coming out of some of the newly independent states of the Caribbean are disturbing.

HUMAN RIGHTS IN AFRICA

The following report is a summary of the major human rights problems on the African continent. As the African continent encompasses many diverse countries, the information given here can be but an introduction to some of the more significant cases. It by no means should be taken to adequately identify all the human rights violations on the African continent. Amnesty International, in a report to the House of Representatives Committee on Foreign Affairs in October of this year, identified four areas of major concern: detention without trial; torture; extreme use of the death penalty; and poor prison conditions. Restrictions on free speech and political activity in some African countries are another important human rights issue. Despite the violations of human rights that occur in Africa, the conclusion of this report will note that significant progress toward freedom has been made in the past year.

Detention without trial can be defined as a government's decision to circumvent legal procedures and detail real or perceived opponents without respect for due process of law. Whether by statute law (as in Rhodesia, South Africa and Kenya, as well as other countries), by emergency decree (as in some French speaking states), or by political decision (as in Ethiopia), detention without trial is used in a significant number of African countries. Recent cases of short-term detention have occurred in the Sudan, where 400 people were arrested after protesting government economic policies, and Zaire in February where students were arrested after a strike at a university campus. About 200 officials of the Haile Selassie government, and their wives and children, have been held in Ethiopia since 1974, and the total number of untried prisoners in Ethiopia is thought to be in the thousands.

Long-term detentions often are accompanied by harsh prison conditions. Short-term detentions often correlate closely with interrogation and torture. The clearest example of legislation which all but encourages this abuse is section 6 of the South African Terrorism Act. This act empowers detention incommunicado by the police until—in the opinion of the police—a prisoner has replied "satisfactorily" to questions.

Reports of torture and ill-treatment of prisoners are frequent. In Ethiopia torture was widely used during the period of the "Red Terror" in 1977–78 and reports of torture continue. There have been some cases where those accused of using cruel measures of punishment have been brought before the law, but these cases are rare. In Zambia the appeals court has on several occasions granted damages to alleged torture victims, but without them bringing criminal proceedings against those responsible.

Most African legal systems provide for the use of the death penalty, although the frequency with which it is inflicted, and for what reasons, varies considerably from country to country. Most commonly the death penalty is imposed for violent criminal offenses, such as murder or rape, but it may also be applied for a whole range of other offenses which might be regarded as relatively minor in other situations. In Ethiopia and Uganda, for example, two countries that have experienced severe economic difficulties, the death penalty was introduced for certain "economic crimes," such as hoarding grain or consumer goods, embezzlement, fraud and dealing in illegal currency. The death penalty has also been used for political purposes. In Rhodesia the Smith regime is reported to have attempted to use the death penalty to intimidate the African civilian population into betraying the whereabouts and activities of nationalist guerrillas. In Ghana, eight military officers, including three former heads of state, were executed following the June 1978 coup.

In many countries of Africa, prison conditions for political prisoners fall far below the basic standards set in the U.N. minimum standard rules. Sentenced political prisoners on Robben Island in South Africa have received no remission of sentence, unlike convicted criminal prisoners. In many countries prisons are severely overcrowded, have low standards of hygiene and sanitation, as well as inadequate medical facilities. However this is not a universal picture. In some countries—Lesotho, Tanzania, and Swaziland—proper prison regulations exist and are generally observed.

A number of African countries use legislation which lends itself to limiting political freedom of expression. The Terrorism and International Security Acts of South Africa, and the Law and Order Act in Rhodesia are clearly examples of laws which circumscribe freedom of political expression and so provide a legal basis for imprisonment of dissidents. Other African countries, especially with one party states and/or military governments have similar restrictions.

Although human rights abuses exist in a number of African countries, the past year has witnessed a significant improvement in human rights standards. In Ghana and Nigeria military governments gave way to the election of civilian ones, though one should be cautious about their futures. In Uganda and the Central African Republic leaders known for their violent regimes were overthrown and there is reason to hope that the new regimes will be more tolerant. Meanwhile, in London, an agreement has been reached for the peaceful transition to a constitutional government for Rhodesia-Zimbabwe, based on the principle of one man, one vote.

SPEECH OF HON. BILL ALEXANDER BEFORE ARKANSAS MUNICIPAL LEAGUE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas (Mr. ALEXANDER) is recognized for 15 minutes.

● Mr. ALEXANDER. Mr. Speaker, yesterday the Washington Star reprinted excerpts from a speech I recently made before the Arkansas Municipal League. The focus of my remarks was what is becoming known as the "Second War Between the States." This is a troublesome issue which merits increasing interest and concern. I appreciate the attention the Star has given it and my comments.

As the demography of the Nation changes and people move away from the traditional political power centers in the North and East to the South and West the politics of change will cause this issue to resurface with each Federal budget. In order that the thoughts I expressed at the meeting of the Arkansas Municipal League may be fully available to my colleagues I insert the speech and its accompanying data in the CONGRESSIONAL RECORD:

SPEECH BY HON. BILL ALEXANDER BEFORE THE ARKANSAS MUNICIPAL LEAGUE, NOVEMBER 6, 1979

We are standing on the edge of an old decade looking toward a new one. We are coming over the horizon to the 21st Century in which our Nation can round out 300 years of progress. From the winds of change that have swept across the cities and the country, the factories and the fields, alike, our Nation appears to be headed off-course. If we consciously choose to follow this direction our sail into the future will not be guided by the same beliefs and principles that have brought our people to the position of respect in which other nations on the globe hold us.

Our national beliefs in unity of purpose, fairness of laws and justice are on trial. In the 1980's this testing of our fundamental doctrines may well prove to be as important as two earlier ordeals we have had at the forge of democracy.

The Revolutionary War of the 1770's established the United States' right to exist as a separate, free and democratic republic.

In the 1860's War Between the States our unity of purpose was torn by differing interpretations of what is fair and what is just. That bloody and bitter internal strife ended with the United States intact as a single nation, but the ruthless exercise of power by the victors helped to strangle our growth and development for many decades.

Among our legacies from the War Between the States are the terms "carpetbagger" and "scalawag", meaning people who attempt to enrich themselves by taking unfair advantage of a situation.

It has only been in recent years that the States of the South and West have made real progress toward economic equality with the Midwest and Northeast. We find evidence of this change in a number of areas.

While too many of our people are still poorly educated, in 1976 the educational level in the Sunbelt had risen almost to the national average. The percentage of our people living in poverty is dropping closer to the national average. Our housing is improving so that the substandard housing statistics are nearer the national average.

Even as the Southern and Western states make progress the brutal lessons of the first War Between the States and its shameful aftermath seem to have been forgotten by some of our leaders. They appear to be following the philosophy of grabbing off the most federal dollars for their states or districts and the national interest be damned.

We find ourselves faced with what is being called the Second War Between the States. It is being waged on Southern and Western states, the Sunbelt, by the Midwestern and Northeastern states, the Snowbelt. It is a war over economics, over which regions get the most federal dollars.

This is not a war of the Sunbelt's making. But, it is one which, as leaders of our communities, our districts and our states, and, in a larger sense, our Nation, we cannot afford to ignore or lose.

This is a war being fought in the halls of Congress, the corridors of the Executive Branch, and in organizations like the National League of Cities, the U.S. Conference of Mayors and the National Governors Association.

The Snowbelt is frantically using its majority in the Congress to manipulate legislation and federal programs in its favor. As the Sunbelt grows in population the Snowbelt fears the loss of its voting power. Next year's census is expected to begin a shift of seats in the House because of the changes in where people live.

It is estimated that more people already live in the Sunbelt than in the Snowbelt. Of the 200 largest cities in the Nation more than half are Sunbelt cities.

The tactics being used against the Sunbelt violate the fairness, unity and justice principles on which our Nation was built.

For the "New South" members, like myself, this situation has painful irony. We came to Congress having been taught that abuses of power were the result of an impoverished, ignorant and rural society. We set about helping reform the rules of Congress to dilute the concentration of power and its abuse. Now, to our astonishment, we are witnessing exhibitions of bigotry, prejudice and the merciless use of power by representatives of a society that perceives itself to be sophisticated, educated, and which is indisputably wealthy.

While the Nation was celebrating its 200th birthday in 1976 the leaders of the Northeast and Midwest were setting up the coalition of the Snowbelt and firing the opening rounds of another war between the states.

The Snowbelt coalition's first major victory came in 1977 when they managed to rewrite the funding allocation formula for the multi-billion dollar community development block grant program operated by the U.S. Department of Housing and Urban Development. They made the amount of housing built in 1939 or earlier an important criteria for receiving money. This automatically favors the Snowbelt as the oldest, thickly settled part of the Nation. This measure was added to the law even though it is not a reliable measure of either economic need or substandard housing.

If over-crowding in housing had been used instead of age the Sunbelt would have gotten fairer treatment. The over-crowding in housing in the Sunbelt is at least as serious as it is in the Snowbelt. This fact was available to the Congress through the U.S. Bureau of the Census data at the time of the change in the law.

But, age was used and the data of the Census Bureau clearly showed that this was one criteria that was sure to direct the most money into the Snowbelt.

This year has been punctuated with efforts of the Snowbelt to channel greater and greater shares of the federal dollars into their states. Some of the efforts have had success. Others have not.

In September the Snowbelt tried and failed to abolish a 25-year-old provision in the Department of Defense Appropriations law. The provision is known as the Maybank Amendment. It blocks the DOD from paying a higher price on contracts for products and services in order to maneuver those contracts into the Snowbelt.

Had the effort been successful, an Administration that wanted to pour money into the Snowbelt could have paid more to get the work done there even though it would have been cheaper to get the job done in the Sunbelt.

A part of the struggle over national energy policy is also a part of the Sunbelt-Snowbelt war. Two recent developments in the Congress leave us in no doubt about that.

Late last month the House was making its decision to provide more money to help people who will have serious problems this winter in paying their home heating bills. During the debate the strategy in this ugly, divisive Second War Between the States was blatantly revealed.

Because Snowbelt Congressmen wanted more of the money in their states they used their voting margin to double the importance given heating costs and downgraded poverty as a measure of need. During consideration in the Committee on Appropriations of the formula change I blocked its adoption by unanimous consent. The Snowbelt then won on a vote that followed my objection.

At the same time the House was taking its action a Senate Committee was deciding how to divide up what it expects to be a $2 billion pot for helping poor people pay their fuel bills. I understand that the formula finally picked was chosen specifically for the size of the share of the money that would go to Snowbelt states. This was done despite the fact that the Sunbelt has almost five million more people living in poverty than does the Snowbelt. Even when considering only those persons 65 years old and older the Sunbelt has 700,000 more senior citizens living in poverty than does the Snowbelt.

The battle lines in this vicious regional war over federal bucks are clearly drawn. Such callous manipulation of federal programs on behalf of the Snowbelt may be in their short-term, politically-expedient interest. But, it is not in the best national interest. And, if the shift in Congressional representation feared by the Northeasterners and Midwesterners takes place, this is a losing battle for the Snowbelt. Time is on the Sunbelt's side.

We can not wait for the 1980 census results. I challenge you, as leaders in the Sunbelt, to unite with me to persuade the Snowbelt to stop the war before it is too late.

Note: The term "Snowbelt" is generally applied to states in the Northeast Census Region and the Northcentral (Midwest) Census Region. The term "Sunbelt" is applied to states in the South Census Region and the West Census Region.

The following list shows the states in the Sunbelt and the Snowbelt by census region:

SUNBELT

South census region

Alabama, Arkansas, Delaware, District of Columbia, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, West Virginia.

West census region

Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming.

SNOWBELT

Northeast census region

Connecticut, Massachusetts, Maine, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont.

Northcentral (Midwest) census region

Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin.

Note: As with any attempt to divide a nation into regions, there are anomalies involved in using census regions in preparing data comparisons for the Sunbelt and Snowbelt on some issues.

EDUCATIONAL ATTAINMENT OF PERSONS 18 YR OLD AND OVER: 1970 AND 1976

	United States	Snowbelt	Sunbelt	Arkansas	Tennessee	Mississippi
Total population in study:						
1970	133, 384, 000	69, 663, 000	63, 720, 000	1, 265, 000	2, 592, 000	1, 368, 000
Percent of U.S. total in region		52.2	47.8	0.9	1.9	1.0
1976	146, 349, 000	73,532, 000	72, 816, 000	1, 473, 000	2, 921, 000	1, 527, 000
Percent of U.S. total in region		50.2	49.7	1.0	2.0	1.0
Years of school completed:						
Elementary school: 0 to 8 yr:						
1970	32, 581, 000	16, 541, 000	16, 040, 000	445, 000	902, 000	466, 000
Percent of U.S. total in region		50.8	49.2	1.4	2.8	1.4
Percent of regional population	24.4	23.7	25.2	35.2	34.8	34.1
1976	25, 549, 000	12, 057, 000	13, 491, 000	368, 000	808, 000	421, 000
Percent of U.S. total in region		47.0	52.8	1.4	3.2	1.6
Percent of regional population	17.4	16.4	17.6	25.0	27.7	27.6
High school: 1 to 4 yr:						
1970	70, 461, 000	37, 985, 000	32, 476, 000	617, 000	1, 234, 000	646, 000
Percent of U.S. total in region		53.9	46.1	0.8	1.7	0.9
Percent of regional population	52.8	54.5	50.9	54.0	47.6	42.3
1976	76, 033, 000	39, 927, 000	36, 106, 000	746, 000	1, 414, 000	724, 000
Percent of U.S. total in region		52.5	47.5	1.0	1.8	0.9
Percent of regional population	51.9	57.3	49.6	58.9	54.5	52.9
College: 1 or more years:						
1970	30, 341, 000	15, 137, 000	15, 206, 000	202, 000	457, 000	257, 000
Percent of U.S. total in region		49.9	50.1	0.7	1.5	0.8
Percent of regional population	22.7	21.7	23.9	15.9	17.6	18.8
1976	44, 767, 000	21, 547, 000	23, 220, 000	309, 000	699, 000	382, 000
Percent of U.S. total in region		48.1	51.9	0.7	1.6	0.8
Percent of regional population	30.5	29.3	31.9	21.0	23.9	25.0
Median years completed:						
1970	12.2	12.2	12.1	11.1	11.4	11.2
1976	12.5	12.5	12.5	12.2	12.2	12.1

Source: Demographic, Social, and Economic Profile of States: Spring 1976; U.S. Bureau of the Census.

Note: Percentages may not total 100 due to rounding.

PERSONS WITH INCOMES BELOW POVERTY LEVEL

	United States	Snowbelt	Sunbelt
Total population:			
Number	211, 308, 000	105, 758, 000	105, 550, 000
Percent		50.0	50.0
All persons with incomes below poverty level	23, 991, 000	9, 672, 000	14, 318, 000
Percent U.S. population below poverty level in region		40.3	59.7
Percent total regional population below poverty level	(11.3)	9.1	13.6

	United States	Snowbelt	Sunbelt
Persons 65 yr old or older	21, 721, 000	11, 214, 000	10, 505, 000
Percent U.S. population 65 yr old or older in region		51.6	48.4
Percent regional population 65 yr old or older	(10.3)	10.6	9.9
Persons 65 yr old or older with incomes below poverty level	3, 049, 000	1, 176, 000	1, 873, 000
Percent U.S. population 65 yr old or older with incomes below poverty level in region		38.6	61.4
Percent regional population 65 yr old or older with incomes below poverty level	(14.0)	10.5	17.8

Note: Percentages may not total 100 due to rounding.

Source: Demographic, Social, and Economic Profile of States, Spring 1976. U.S. Bureau of the Census.

DATA ON HOUSING CONDITIONS AND HOUSING BUILT IN 1939 AND PRIOR YEARS

	United States	Snowbelt	Sunbelt
All occupied housing	77, 553, 000	38, 073, 000	39, 480, 000
Percent of U.S. total in region		49.9	50.1
More than 1 person per room	3, 600, 000	1, 436, 000	2, 119, 000
Percent U.S. total in region		41.1	58.9
Percent of total regional housing	4.6	3.8	5.4
Lacking some or all plumbing	2, 706, 000	1, 022, 000	1, 684, 000
Percent U.S. total in region		38.8	62.2
Percent of total regional housing	3.5	2.7	4.3

	United States	Snowbelt	Sunbelt
Lacking a complete bathroom or sharing a bathroom	2, 975, 000	1, 177, 000	1, 798, 000
Percent U.S. total in region		39.6	6 2.4
Percent of total regional housing	3.8	3.1	4.5
All year-round units built in 1939 or earlier	26, 877, 000	17, 977, 000	8, 889, 000
Percent U.S. total in region		66.9	3 3.1
Percent of total regional housing	34.6	47.2	22 .5

Note: Percentages may not total 100 due to rounding.

Source: Data From Annaul Housing Survey: 1975, U.S. Bureau of the Census.

ESTIMATES OF POPULATION: INSIDE METROPOLITAN AREAS, OUTSIDE METROPOLITAN AREAS

	United States	Snowbelt	Sunbelt	Arkansas	Tennessee	Mississippi
Inside metropolitan areas:						
Apr. 1, 1970:						
Number	150, 291, 000	82, 141, 000	68, 149. 000	734, 000	2, 497, 000	542, 839
Percent of U.S. metro population in region		54.6	45.3	0.4	1.7	0.4
Percent regional population in metro areas	(73.9)	77.7	69.8	38.2	63.2	24.5
July 1, 1976:						
Number	157, 504, 000	82, 464, 000	75, 040, 000	809, 700	2, 658, 000	623, 000
Percent of U.S. metro population in region		52.3	46.6	0.5	1.7	0.4
Percent regional population in metro areas	(73.4)	76.9	69.8	38.4	63.2	24.5

ESTIMATES OF POPULATION: INSIDE METROPOLITAN AREAS, OUTSIDE METROPOLITAN AREAS—Continued

	United States	Snowbelt	Sunbelt	Arkansas	Tennessee	Mississippi
Outside metropolitan areas:						
Apr. 1, 1970:						
Number	53, 013, 000	23, 512, 000	29, 502, 000	1, 189, 252	1, 428, 000	1, 674, 158
Percent of U.S. nonmetro population in region		44. 3	55. 5	2. 2	2. 7	3. 3
Percent regional population in nonmetro areas	(26. 1)	22. 2	30. 6	61. 8	36. 1	75. 5
July 1, 1976:						
Number	57, 155, 000	24, 779, 000	32, 377, 000	1, 299, 600	1, 566, 200	1, 731, 000
Percent of U.S. nonmetro population in region		43. 3	56. 6	2. 3	2. 7	3. 0
Percent regional population in nonmetro areas	(26. 6)	23. 1	30. 1	61. 6	36. 9	73. 5
Total population:						
Number, 1970	203, 304, 000	105, 653, 000	97, 651, 000	1, 923, 322	3, 952, 000	2, 216, 994
Percent in region		52. 0	48. 0	0. 9	1. 9	1. 1
Number, 1976	214, 660, 000	107, 243, 000	107, 417, 000	2, 109, 300	4, 241, 000	2, 354, 000
Percent in region		50. 0	50. 0	1. 0	2. 0	1. 1

Note: Percentages may not total 100 because of rounding.

Source: U.S. Bureau of the Census.

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STRUCTURAL REFORM: ECONOMICS FOR THE 1980'S

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. REUSS) is recognized for 20 minutes.

● Mr. REUSS. Mr. Speaker, today I addressed the Women's Economic Round Table at the Woldorf-Astoria Hotel in New York on the subject of reform of our Nation's economic structure. My remarks follow:

Our macroeconomic fiscal and monetary policies are obviously not working. Joint inflation and recession are a national disgrace.

Sensible, restrained macroeconomic policies are always in order. But macroeconomic measures alone can no longer reach to the heart of our inflation-recession problem. On both the up side and the down side, there are difficulties.

MACRO POLICIES DON'T CONTROL UNEMPLOYMENT

A general macroeconomic increase in demand—via tax reduction or extra spending, or easier money—is no longer an effective way to end unemployment. Rising demand often translates into higher prices rather than more jobs.

Easier fiscal and monetary policies, by themselves, fail to combat stagnation and recession for several reasons:

1. *Bottlenecks*. As demand increases, we develop bottlenecks in our supply network for key domestic natural resources; wood and aluminum are recent examples. The prices of such resources rise sharply, and the physical expansion of activities that use them is constrained.

2. *Imports*. We are now importing a larger share not only of our oil, but also of our manufactured goods, than ever before, especially from strong-currency countries like Japan. At full employment demand, our trade deficit would be huge, our dollar would sink, import prices would rise, and our inflation rate would soar. In today's world, macroeconomic measures to fight domestic unemployment are likely to have their greatest effect, ironically, in fighting unemployment outside our borders.

3. *Labor Market Rigidities*. A substantial fraction of our unemployed labor-force is not within the reach of traditional demand-induced increases in employment.

In part, this is because we have neglected a whole generation of teenagers and young adults, who are undereducated, undermotivated, conditioned by experience to expect the worst from private employers, and in any case living in decayed urban centers unconnected by mass transit to the suburban sources of good, regular jobs.

In part, this is because middle-aged or older workers in obsolescent industries, perhaps with equity in a hard-to-sell home, cannot afford the costs of adjustment and retraining when their steel mill or auto plant goes broke and shuts down.

In part, this is because our new jobs, mostly service-oriented, are being created very largely in small business, which cannot afford the on-the-job training that so many younger job-seekers need.

In part, this is because our new manufacturing industries are locating in the South and West, away from the unemployed of the Northern cities, but within reach of millions of immigrant workers from Mexico and Central America. We are, increasingly, importing our marginal workers, while bypassing the unemployed we already have.

All of these sources of structural unemployment undermine the effectiveness of an expansionary macroeconomic policy in lowering the unemployment rate and combatting recession.

MACRO POLICIES LIKEWISE AREN'T MUCH HELP IN FIGHTING INFLATION

Macroeconomics is equally unsuccessful in combatting inflation. Attempts to end inflation by reducing demand, whether by fiscal or monetary means, don't seem to work either. Three reasons why:

1. *Administered Prices and Wages*. About one-half of our gross output is generated by 1,000 large firms. In this sector, which comprises manufacturing, mining, and some services, inflation is nearly fore-ordained, and proceeds on a schedule determined by long-term collective bargaining agreements and rising raw materials and production costs. Restrictive macroeconomic policies can cut the output of this sector. But they do not lower prices. Indeed, firms seek to maintain their gross profits by raising prices when output falls.

2. *Consumer Tolerance of Debt*. In recent years we have seen a fundamental change in American attitudes toward going into debt. It used to be, when hard times threatened, that households would cut back their spending and consumption. Now many merely raise their credit balance, or take out a new mortgage. Under these conditions, raising the interest rate on borrowing only raises costs and prices to consumers, and has little effect on demand. Where tight money has the additional effect of curtailing the supply of construction loans, the resulting smaller supply of housing combines with unrelenting demand to push housing prices up still further.

3. *Restricting Investment Worsens Inflation*. Tight credit and restrictive demand policies do effectively persuade business to cut back on new investment. Older plants are used more intensively to meet existing demand, productivity increases slow down, and the result is a dilapidated capital stock producing inferior products at too-high costs and prices. When the next cycle of demand expansion returns, this stock of capital proves no match for the modern output of newly-industrialized or more sensibly managed economies, and our trade position gets even worse.

THE MARPLOT? BOLLOXED-UP STRUCTURE

If sensible macroeconomic policies aren't enough to fight inflation and recession adequately, what are we left with? Is economic policy but vanity and vexation of spirit?

Not necessarily. The increasingly ramshackle structure of our economy, in my judgment, is largely responsible for why traditional macroeconomics can no longer cope with inflation and recession.

Threfore, what the United States needs, now and for the 1980's, is a structuralist economic approach: a fundamental commitment to rebuild our economic base—our productive capacity, our cities which house those capacities, and our transportation networks which service them. Only with a reformed structure can sensible fiscal and monetary policies hope to bring about full employment without inflation.

On both the unemployment side and the inflation side, structural reform is urgent.

On the unemployment side, discrimination by age, sex, and race, inadequate educational opportunities, jobs located too far from potential workers, insufficient support for job-creating small businesses, make it impossible to get to full employment by macroeconomic expansion alone.

On the inflation side, we have an increasingly obsolescent industrial plant. We concentrate on too many low-productivity industries, while leaving high-productivity subcompact autos, mopeds, consumer electronics, light rail passenger equipment, color television, and so on, to foreign producers.

Our railroads and mass transit systems are a mess.

Our food costs could be lowered if farm policy concentrated on assuring a decent income for the family farmer, rather than on raising food prices by production controls and import restrictions. Our methods of delivering health care are too high-cost and archaic. Our housing industry is threatened by exorbitant land costs and astronomic interest rates. We continue our disastrous drift to more imported oil.

Our federal, state and local governments are overlapping, duplicative, and inefficient.

What can we do about it?

THE GERMANS AND THE JAPANESE: TEAMWORK, PLANNING, PROBLEM-SOLVING

For starters, we might look at the Germans and the Japanese. Thirty-five years ago, we defeated both countries in war, leveled their cities, smashed their factories, and dismantled their systems of government and their economic institutions. It turns out that this was a great favor. Today, Germany and Japan are the world's two miracles; politically stable, democratic, and prosperous.

Why?

I believe that Germany and Japan are successful today, in part, because they believe in cooperation among government, business and labor: in the application of team spirit to economic planning and structural problem-solving.

Let me recall a couple of examples.

As of the mid-1960's, the Germans faced a serious problem of labor shortage. Two decades of high investment and booming export demand had created more job opportunities in Germany than German workers could fill. So German business, labor, and government got together and instituted a policy of admitting foreign workers, from Portugal, Italy, Greece, Turkey, and Yugoslavia, where underemployment was rife, to fill the gap. And this was not done on the sly, as it is in this country with illegal immigrants, evasion of social security payments by employers, and the undermining of fair labor standards.

Rather, the guest workers were incorporated into the German economy on the same basis as native workers, with the same wages, benefits and protections. It was good for the German economy, it was good for the German worker, and today—although net immigration has leveled off—on many a Turkish and Yugoslav hearth there roasts a lamb purchased with the D-marks earned by a husband or sibling in Frankfurt or Berlin.

Another example. Four or five years ago, the Japanese realized that their textile industry, long a mainstay of their economy, was fast succumbing to competition from newly-industrializing Taiwan, Korea, Singapore, and Hong Kong. The Japanese government-business-labor team responded, not by imposing protectionist barriers to trade, but with a deliberate decision to get out of textiles and into up-and-coming electronics. So now, when an obsolete Japanese textile plant accepts the inevitable and closes down, the worker walks right across the street and gets a new, better-paying job wiring circuit-boards.

More, the Germans and Japanese have shown some ability to export their talent for cooperative decision-making and productivity-enhancing innovation.

The fourth largest and fastest-growing American automaker is now Volkswagen, turning out made-in-USA Rabbits in Pennsylvania. Waiting lists for the VW Rabbit diesel are long. American labor, American consumers, and American gasoline conservation are all advantaged.

The Japanese, specifically the Sony Corporation, have recently taken their teamwork approach to Dothan, Alabama. The plant makes Betamax video recorders, and productivity is booming. Sony also recently set up a new electronics plant over in Wales. After a few weeks, the Japanese manager of the new plant there reported that productivity had passed the levels attained even in Japan, and that the Welsh girls were sturdier, harder working, and required fewer work breaks than their Oriental counterparts! Asked how this mini-miracle had been accomplished, he offered two broad philosophical principles:

First, enlarge the executive cafeteria and allow everyone to eat there!

Second, enlarge the executive washroom—and allow everyone to use it!

ALL IS NOT LOST IF AMERICA WILL RECAPTURE OUR ABILITY FOR COOPERATIVE PLANNING AND PROBLEM-SOLVING

In the United States, the principle of cooperation goes back a long way: to the Midwest barn-raising and the New England town meeting. Our first political party, after all, was the Democratic/Republican party. In those days the great promoter of industry and banking, Alexander Hamilton, worked hand in glove with Thomas Jefferson, apostle of agriculture.

Several lifetimes later, we had the moon shot. One may quibble, as I do, with the importance of the objective. But the systems approach and the team spirit among business, labor and government that exemplified that effort give us a hint about what we truly can accomplish in this country if we put our hearts into the task.

Suppose that in the 1970's we had used this method of combatting our bolloxed-up economic structure with the government-business-labor team approach?

In 1974 and 1975, the government would have sent an action team, headed by a Felix Rohatyn, a Ben Heineman, a Jim Rouse, or a Father Hesburgh, to Detroit. Its make-up would have included business and labor (though not GM and the UAW). They would have seen that Detroit was not responding in a timely way to the huge run-up of oil costs, and that there was a grave risk that the market for subcompact cars would be lost to foreign producers. They would have recommended incentives to get General Motors, Ford, and Chrysler into super energy-saving cars without delay. If the major automobile companies still had not responded, then there could have been a stick in addition to the carrot: a large government purchase order to American Motors, to establish it as the premier automotive company of the subcompact era! Either way, we would have avoided the mess we're in today. We wouldn't have Chrysler on our hands now, and we would be substantially freer to tell the Ayatollah what to do with his oil.

For another example, take our midwestern railroads, which carry the freight on which our agricultural and industrial heartland depends. Five years ago the collapse of the Penn Central should have given fair warning that railroads all across the country were deteriorating and in bad need of structural attention. Suppose we had sent a government-business-labor team to look at the Midwestern rail scene, particularly the Rock Island and the Milwaukee Road.

They would have discovered that there exists no fewer than seven separate main lines between Chicago and Kansas City, all under-utilized and under-maintained. They would have discovered thousands of miles of uneconomic track, pushed through to the Pacific 70 years ago, hanging like a millstone about the Milwaukee Road's neck and threatening to bring the whole network to a halt.

The team would also have discovered that the government, in the ponderous person of the ICC, had been torturing the invalids by refusing to allow abandonment of redundant lines or consolidation of duplicating lines. A comprehensive plan to rationalize the Midwestern roads could have been constructed before the Milwaukee and the Rock Island collapsed.

A third example: American cities in the past decade have spent billions on new underground subway systems—in Washington and San Francisco, for example—and on upgrading the expanding old lines, as in Boston. Plans for new subways are on the boards in such places as Los Angeles and Atlanta. Existing systems, such as the grand-daddy of them all here in New York, could use additional billions to modernize. But through all of this, the Federal government has failed to provide a guiding hand. If a team had been looking at urban mass transit problems five or ten years ago, it would surely have insisted on a standardized rail car, which could have been produced en masse at lower unit costs than the made-to-order items that subway authorities now buy.

Perhaps even more important economies can be realized in the next decade as regional mass commuter rail transit comes to the rescue of our medium-sized cities. Around scores of these cities there exists to this day a network of sturdy railroad track that could be transformed into light-rail commuter systems. Here again, a cooperative approach could have the Federal government itself creating a market for light rail commuter cars, contracting with domestic producers to manufacture them, reselling them to local transit authorities. The savings, especially over the gargantuan cost of underground systems or brand-new over-the-ground rights of way, could run to the billions. And, particularly if commuter rail were electrified, the savings on imported crude oil would be equally dramatic.

There are many, many more examples, big and small, of where the team approach could reform our raggedy economic structure. Each day's newspaper turns up another:

In steel, we waited too long before retiring our obsolescent, World War I-vintage mills. As a result, we now face a drastic retrenchment, while increasing the fraction of our vital specialty steels that we must import. And we do nothing about the thousands of human beings who are left high and dry when a steel plant closes.

In food, we have foolishly subsidized prices for inefficient producers of sugar beets, tomatoes, beef and other items, while keeping more efficient foreign producers away from our markets. We should instead be subsidizing the incomes of our family-size ranchers and farmers, and encouraging them to seek out the most profitable crop in a market where world prices prevail. We did this with milk producers in Wisconsin during World War II, and it worked very well.

In health care, we are the only industrial democracy in the world without a national system of health insurance. We are also completely without the coordinated planning of health care delivery that would contribute to keeping health care costs under control.

Yet as we sound the trumpet for the onslaught against rickety economic structure, we are met by the ancient do-nothing cry: Now is not the time. You have been listening to this bilge for years as you sought leadership for women in government, business, and labor. By happy chance, you here today could be precisely the right combination of government, business, and labor to begin the team approach to structural planning and problem-solving. Properly summoned, you could start now.●

FUTURE COMPENSATION FOR AMERICAN HOSTAGES IN TEHRAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Bingham) is recognized for 5 minutes.

● Mr. BINGHAM. Mr. Speaker, I have today introduced House Concurrent Resolution 221 which aims at awarding our hostages, as soon as they are safely released and returned, appropriately generous, increased compensation for the unprecedented hardship, danger, and deprivation they have suffered. This resolution, which is cosponsored by Foreign Affairs Committee Chairman Zablocki and Ranking Minority Member Broomfield and by International Operations Subcommittee Chairman Fascell and Ranking Minority Member Buchanan is aimed at correcting the disgraceful situation where our prisoners in Vietnam, military and civilian alike, received only $5 a day in extra compensation during their imprisonment.

The barbaric imprisonment of our diplomatic mission personnel in Tehran subjects the hostages and their families to untold suffering for which we can never fully compensate them. But it is our duty as a Nation to tangibly register our gratitude, to the extent we can, for the sacrifice our hostages have and are making. The resolution also calls for steps to prevent the hostages' future career prospects from being impaired by the physical and psychological mistreatment they have suffered at the hands of their captors.

I intend to ask the Committee on Foreign Affairs to approve this resolution tomorrow, clearing the way for passage before the House adjourns for the holidays. It is the least that we who are safe at home can do for the hostages whose lives are imperiled in serving their country in Iran.

It seems clear to me that legislative action of the kind contemplated by this concurrent resolution should be taken promptly after the crisis is resolved and the hostages are released. The hostages should not have to wait through the long, complicated and uncertain process that would be required to obtain such compensation from frozen Iranian assets.

In recent weeks numerous bills have been introduced to impose additional economic sanctions upon Iran and to mandate liquidation of Iranian assets to pay for debts and damages growing out of Iran's holding of American hostages and statements that it will refuse to honor certain financial obligations to the United States and to American firms. Many of these proposals have been referred to the Committee on Foreign Affairs, and to the Subcommittee on International Economic Policy and Trade, which I have the honor to chair.

I can well understand Members' concerns about our economic relations with Iran, and I personally share those concerns.

The International Economic Emergencies Act, under which Iranian assets have been frozen, does not provide authority to take or liquidate those assets for payment of American losses. Such authority would have to be provided in separate legislation. As long as the assets remain frozen, however, there is no need to rush to such a decision. That can be decided after release of the hostages. Only when the current crisis is resolved, in fact, will we know the full extent of American damages and losses.

With respect to additional economic sanctions, the International Economic Emergencies Act gives the President full authority, without need for prior congressional action, to impose a broad range of economic sanctions, extending even to a total economic embargo of Iran. Any decision to use that authority prior to the release of the hostages, however, should be made by the President. It is not necessary, and indeed it would in my view be inappropriate and dangerous, for the Congress to impose such sanctions by legislation.

It is my intention, as chairman of the Subcommittee on International Economic Policy and Trade, to give formal consideration to these various legislative proposals at the earliest opportunity after the problem of the hostages is resolved.

In the meantime, it is my hope that the House and the Senate will demonstrate their concern for the hostages' present and future welfare by adopting the concurrent resolution I have introduced today.

The text of the resolution follows:

H. Con. Res. 221

Whereas, more than 60 official American personnel assigned to the United States' diplomatic mission in Teheran have been siezed and held hostage and in most cases imprisoned for more than a month in violation of the most fundamental principles of international law and practice; and

Whereas, this attack subjects the hostages and their families to suffering and anxiety which is beyond compensation but should be accounted for; and

Whereas, the ordeal of the hostages and their families has been unique and unparalleled even for the members of the Foreign Service who regularly accept risk as a part of their profession and have seen 46 of their colleagues killed in the performance of duty since 1965: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress

(1) declares its deep concern for the welfare of the hostages and expresses to the hostages and their families profound sympathy for the suffering to which, through no fault of their own, they have been subjected;

(2) is determined that no effort should be spared to maintain the honor of the United States and achieve the release and safe return of the hostages;

(3) believes that after the immediate crisis is resolved consideration should be given to appropriate compensation of the hostages for the hardship, deprivation and danger they have endured during their imprisonment;

(4) intends that all possible steps be taken to ensure that the hostages' future career prospects not be impaired by the physical and psychological mistreatment they have suffered.●

HANDGUN CRIME CONTROL ACT MERELY IMPEDES LAWFUL HANDGUN OWNERSHIP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. Foley) is recognized for 5 minutes.

● Mr. FOLEY. Mr. Speaker, the ominous growth of violent crime in the United States, up 13 percent in the first half of 1979 alone, is undeniably a problem of the highest order and one which must be addressed by the Congress.

While a reduction in crime is the laudable intent of the authors of H.R. 5823, the Handgun Crime Control Act of 1979, I do not believe that this legislation would be of any real assistance in achieving this goal. Instead, in the name of combating violent crime, it would, for the most part, merely succeed in impeding lawful handgun ownership, adding to the already excessive regulatory burden of our Nation's law-abiding gun owners and subjecting them to possible criminal charges for the pursuit of their hobby.

Specifically, H.R. 5823 attempts to dictate to all Americans, law-abiding as well as lawless, not only when they might buy a handgun but how many and which ones they might buy. Under its provisions, most Americans would have to wait 21 days to buy a handgun so that their identity might be verified. Further, if they wished to buy more than three such guns in any one year, they would have to obtain special permission from the attorney general. Unfortunately, while already law-abiding gun enthusiasts might submit to such a time consuming process, it is doubtful that, with or without such a law, criminals would go through the formality of seeking Government approval for the acquisition of their weapons.

The regulatory system created under H.R. 5823 would even invade the area of private, noncommercial dealings between friends by establishing specific conditions under which one person could loan a handgun to another by mandating that such a loan could only occur in the presence of the owner or on his premises.

Do we in the Congress actually want to expand the Government's regulatory system to the point that it, and it alone, can decide when and where an individual can lend his or her personal property to another? I sincerely believe that the vast majority of Americans, if polled, would vehemently oppose this unprecedented intrusion into the disposition of private property and relationships between friends.

In addition to my concerns over the intrusive and cumbersome new regulatory system this legislation would create, I am troubled that H.R. 5823 raises the possibility that innocent citizens will be faced with fines or criminal prosecution for doing nothing more serious than failing to report the loss or theft of a handgun, which they legally own, within a period of 24 hours. It strikes me that these potential penalties are more likely to make criminals out of innocent citizens than to have any real effect on reducing crime.

I strongly reject this attempt to dictate the conditions under which millions of honest citizens may pursue legitimate, time-honored leisure activities. I am convinced that the conditions and restrictions contained in this legislation fall heavily on many of our Nation's most lawful and patriotic citizens while leaving the lawless unhampered.

THE PRESIDENT ON NUCLEAR ENERGY

(Mr. PRICE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. PRICE. Mr. Speaker, the President announced on Friday his decision on the investigation of the Three Mile Island nuclear reactor accident. His decision to support the use of nuclear energy is to be lauded.

His analysis reflects the facts we must face. Nuclear energy is an option we fortunately have and is an option we must utilize to get control of the energy problem. The control of this problem is absolutely vital to our welfare and national security. The President's decision fully reflects the consideration and comprehension of these facts.

His decision is a courageous one since there is, in many quarters, a highly emotional but uninformed campaign against nuclear energy. The President, in a coldly logical way, considered the facts stripped of the emotion and provided us with the leadership-type of decision we need. Now we must move out and utilize the only two practical and significant sources of energy we have to decrease our dependence on our fragile oil supplies—nuclear and coal.

I would like to include the text of the President's statement of December 7 at this point in the RECORD:

STATEMENT BY THE PRESIDENT, DECEMBER 7, 1979

I have reviewed the Report of the Commission I established to investigate the accident at Three Mile Island nuclear power plant. The Commission, chaired by Dr. John Kemeny, found very serious shortcomings in the way that both the government and the utility industry regulate and manage nuclear power.

The steps I am talking today will help ensure that nuclear power plants are operated safely. Safety has always been, and will remain, my top priority.

As I have stated before, in this country, nuclear power is an energy source of last resort. By this I meant that as we reach our goals for conservation, direct use of coal, development of solar power and synthetic fuels and enhanced production of American oil and natural gas, we can minimize our reliance on nuclear power.

Many of our foreign allies must place greater reliance than do we on nuclear power, because they do not have the vast natural resources that give us many alternatives. We must get on with the job of developing alternative energy sources—by passing the legislation I proposed to the Congress, and by making an effort at every level of society to conserve energy.

We cannot shut the door on nuclear energy.

The recent events in Iran have shown us the clear, stark dangers that excessive dependence on imported oil holds for our Nation. We must make every effort to lead this country to energy security.

Every domestic energy source, including nuclear power, is critical if we are to free our country from its overdependence on unstable sources of high-priced foreign oil. We do not have the luxury of abandoning nuclear power or imposing a lengthy moratorium on its further use. A nuclear plant can displace up to 35,000 barrels per day.

We must take every possible step to increase the safety of nuclear power production. I agree fully with the spirit and intent of the Kemeny Commission's recommendations, some of which are within my power to implement, others of which rely on the Nuclear Regulatory Commission or the utility industry itself.

To get the government's own house in order I will take several steps. First, I will send to Congress a reorganization plan to strengthen the role of the Chairman of the NRC and provide this person with the power to act on a daily basis as the chief executive officer, with authority to put needed safety requirements and procedures in place. The Chairman must be able to select key personnel, and act on behalf of the Commission during an emergency.

Second, I will appoint a new Chairman of the NRC—someone from outside that agency, in the spirit of the Kemeny Commission's recommendation. In the meantime, I have asked Commissioner Ahearne, now on the NRC, to serve as Chairman. Dr. Ahearne will stress safety and the prompt implementation of the needed reforms. In addition, I will establish an independent advisory committee to help keep me informed of the progress the NRC and the industry are achieving in making nuclear energy safer.

Third, I am directing the Federal Emergency Management Agency to head up all off-site emergency activities, and complete a thorough review of emergency plans in all states with operating reactors by June.

Fourth, I have directed NRC and other agencies to accelerate our program to place a resident federal inspector at every reactor site.

Fifth, I am asking all revelant government agencies to implement virtually all of the other recommendations of the Kemeny Commission.

A detailed fact sheet is being issued to the public, and a more extended briefing will be given to the press.

With clear leadership and improved organization, the Executive branch and the NRC will be better able to act quickly on the critical issues of improved training and standards, safety procedures, and the other Kemeny Commission recommendations.

But responsibility to make nuclear power safer does not stop with the federal government. In fact, the primary day-to-day responsibility for safety rests with utility company management and suppliers of nuclear equipment. There is no substitute for technically qualified and committed people working on the construction, operation and inspection of nuclear power plants. Personal responsibility must be stressed. Some one person must always be designated as in charge both at the corporate level and at the plant site. The industry owes it to the American people to strengthen its commitment to safety.

I call on the utilities to implement the following changes:

First, building on the steps already taken, the industry must organize itself to develop enhanced standards for safe design, operation, and construction of plants.

Second, the nuclear industry must work together to develop and to maintain in operation a comprehensive training, examination and evaluation program for operators and supervisors. This training program must muster with the NRC through accreditation of training programs.

Third, control rooms must be modernized, standardized and simplified as much as possible to permit better informed decision-making during an emergency.

I challenge our utility companies to bend every effort to improve the safety of nuclear power.

Finally, I would like to discuss how we manage the transition period during which the Kemeny recommendations are being implemented. There are a number of new nuclear plants now awaiting operating licenses or construction permits.

Licensing decisions rest with the NRC and, as the Kemeny Commission noted, it has the authority to proceed with licensing these plants on a case-by-case basis, which may be used as circumstances surrounding a plant dictate. The NRC has indicated, however, that it will pause in issuing new licenses and construction permits in order to devote its full attention to putting its house in order. I endorse the approach the NRC has adopted, but I urge the NRC to complete its work as quickly as possible, and in any event no later than six months from today.

Once we have instituted the necessary reforms to assure safety, we must resume the licensing process promptly so that the new plants which we need to reduce our dependence on foreign oil can be built and operated.

The steps I am announcing today will help assure our country of the safety of nuclear plants. Nuclear power has a future in the United States—it is an option that we must keep open. I call on the utilities and their suppliers, the NRC, the executive Departments and agencies, and the State and local governments to assure that the future is a safe one.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. GINGRICH (at the request of Mr. RHODES), for today and tomorrow, on account of a death in the family.

Mr. MURPHY of Illinois (at the request of Mr. WRIGHT), for the remainder of the first session, on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member (at the request of Mr. CHENEY), to revise and extend his remarks, and to include extraneous matter:)

Mr. JEFFORDS, for 10 minutes, today.

(The following Members (at the request of Ms. MIKULSKI) to revise and extend their remarks and include extraneous material:)

Mr. ALEXANDER, for 15 minutes, today.

Mr. REUSS, for 20 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BRODHEAD, for 60 minutes, on December 19, 1979.

(The following Member (at the request of Mr. JEFFORDS) to revise and extend his remarks and include extraneous material:)

Mr. MCKINNEY, for 5 minutes, today.

(The following Members (at the request of Mr. LELAND) to revise and extend their remarks and include extraneous material:)

Mr. FOLEY, for 5 minutes, today.

Mr. DODD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CHENEY) and to include extraneous material:)

Mr. KEMP.

Mr. CLINGER.

Mr. PHILIP M. CRANE.

Mr. DERWINSKI in two instances.

Mr. CARTER.

Mr. MCCLORY.

Mr. MICHEL in three instances.

Mr. MARKS.

Mr. HYDE in two instances.

Mr. WYDLER.

(The following Members (at the request of Ms. MIKULSKI) and to include extraneous matter:)

Mr. MAZZOLI in two instances.

Mr. BAILEY.

Mr. COELHO in two instances.

Mr. DE LA GARZA in 10 instances.

Mr. MICA.

Mr. ANDERSON of California in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Ms. HOLTZMAN in 10 instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. ROSENTHAL in two instances.

Mr. MCDONALD in five instances.

Mr. FLORIO.

Mrs. BOGGS.

(The following Members (at the request of Mr. LELAND) and to include extraneous matter:)

Mr. LONG of Maryland in two instances.

Mr. MCCORMACK.

Mr. JOHN L. BURTON.

Mr. SOLARZ.

Mr. CONYERS.

Mr. DRINAN.

SENATE BILLS AND CONCURRENT RESOLUTION REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2069. An act to authorize the Architect of the Capitol to contract for personal services with individuals, firms, partnerships, corporations, associations, and other legal entities; to the Committee on Public Works and Transportation;

S. 2096. An act to provide for a study by the Secretary of Health, Education, and Welfare of the long-term health effects in humans of exposure to dioxins; to the Committee on Interstate and Foreign Commerce; and

S. Con. Res. 48. Concurrent resolution providing for the acceptance of a statue of Mother Joseph of the Sisters of Providence presented by the State of Washington for the National Statuary Hall collection, and for other purposes; to the Committee on House Administration.

SENATE ENROLLED BILLS SIGNED

The SPEAKER on the following dates announced his signature to enrolled bills of the Senate of the following titles:

On December 4, 1979:

S. 901. An act to amend the Clean Water Act of 1977 to extend the moratorium on industrial cost recovery;

S. 1491. An act to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kans., as the "Henry D. Parkinson Federal Building"; and

S. 1655. An act to designate the building known as the Department of Labor Building in Washington, District of Columbia, as the "Frances Perkins Department of Labor Building."

On December 5, 1979:

S. 1788. An act to amend the National Consumer Cooperative Bank Act to provide for a small business representative on the Bank's Board.

On December 6, 1979:

S. 1535. An act to designate the Federal Building in Rochester, N.Y., the "Kenneth B. Keating Federal Building."

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee on the following dates had examined and found truly enrolled bills and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

On December 4, 1979:

H.R. 4732. An act to fix the annual rates of pay for the Architect of the Capitol and the Assistant Architect of the Capitol.

On December 5, 1979:

H.R. 4259. An act authorizing the President of the United States to present a gold medal to the American Red Cross; and

H.J. Res. 448. Joint resolution proclaiming the week of December 3 through December 9, 1979, as "Scouting Recognition Week."

On December 10, 1979:

H.R. 3892. An act to amend title 38, United States Code, to extend the authorizations of appropriations for certain grant programs and to revise certain provisions regarding such programs, to revise and clarify eligibility for certain health-care benefits, to revise certain provisions relating to the personnel system of the Department of Medicine and Surgery, and to assure that personnel ceilings are allocated to the Veterans' Administration to employ the health-care staff for which funds are appropriated; to require the Veterans' Administration to conduct an epidemiological study regarding veterans exposed to agent orange; and for other purposes;

H.R. 5163. An act to authorize the sale to certain foreign nations of certain excess naval vessels; and

H.R. 5651. An act to establish by law the position of Chief of the Capitol Police, and for other purposes.

BILLS AND A JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on December 7, 1979, present to the President, for his approval, bills and a joint resolution of the House of the following titles:

H.R. 4259. Authorizing the President of the United States to present a gold medal to the American Red Cross;

H.R. 4732. To fix the annual rates of pay for the Architect of the Capitol and the Assistant Architect of the Capitol; and

H.J. Res. 448. Proclaiming the week of December 3 through December 9, 1979 as "Scouting Recognition Week."

ADJOURNMENT

Mr. LELAND. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 2 minutes p.m.), the House adjourned until tomorrow, Tuesday, December 11, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2980. A letter from the President of the United States, transmitting requests for supplemental appropriations for fiscal year 1980 (H. Doc. No. 96-237); to the Committee on Appropriations and ordered to be printed.

2981. A letter from the General Counsel, U.S. General Accounting Office, transmitting a report on the release of certain budget authority, the rescission of which was proposed by the President and not approved by the Congress; to the Committee on Appropriations.

2982. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

2983. A letter from the Administrator, General Services Administration, transmitting a draft of proposed legislation to amend chapter 23 of title 44, United States Code, to reconstitute the membership of the National Archives Trust Fund Board, and for other purposes; to the Committee on Government Operations.

2984. A letter from the Clerk, U.S. Court of Claims, transmitting a copy of the award by the Indian Claims Commission in docket No. 326-K, *The Western Shoshone Identifiable Group Represented by the Temoak Bands of Western Shoshone Indians, Nev.* v. *The United States*; to the Committee on Interior and Insular Affairs.

2985. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

2986. A letter from the Under Secretary of the Treasury, transmitting reports on various investigations of allegations of violations and waste of funds at the Miami District Office of the Bureau of Alcohol, Tobacco and Firearms, pursuant to 5 U.S.C. 1206 (b)(5)(A); to the Committee on Post Office and Civil Service.

2987. A letter from the Acting Secretary of Commerce, transmitting a report on the effects of pollution control costs on international trade, pursuant to section 6(b) of Public Law 92-500; to the Committee on Public Works and Transportation.

2988. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Railroad Revitalization and Regulatory Reform Act of 1976 to authorize additional appropriations for the Northeast Corridor Improvement Project and for other purposes; to the Committee on Interstate and Foreign Commerce.

2989. A letter from the Executive Director, U.S. Metric Board, transmitting a report on the need to provide an effective structural mechanism for converting customary units to metric units in statutes, regulations, and other laws at all levels of government, pursuant to section 6(11) of Public Law 94-168; to the Committee on Science and Technology.

2990: A letter from the Comptroller General of the United States, transmitting a report on needed improvements to housing rehabilitation assistance provided by the Department of Housing and Urban Development, (CED-80-19, December 7, 1979); jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

2991. A letter from the Comptroller General of the United States, transmitting a report on current trends in U.S. petroleum and natural gas production (EMD-80-24, December 7, 1979); jointly, to the Committees on Government Operations, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

(Pursuant to the order of the House on December 6, 1979, the following reports were filed on December 7, 1979)

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4370. A bill to provide certain authorities for the Secretary of the Interior to permit rights-of-way for purposes of certain pipeline transportation systems; with an amendment (Rept. No. 96-692, pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 5926. A bill to establish the Biscayne National Park in the State of Florida, and for other purposes; with amendments (Rept. No. 96-693). Referred to the Committee of the Whole House on the State of the Union.

[Submitted Dec. 10, 1979]

Mr. BROOKS: Committee on Government Operations. The Department of the Air Force's phase IV program should be redirected (Rept. No. 96-694). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO: Committee of conference. Conference report on S. 241 (Rept. No. 96-695). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of Rule X and clause 4 of Rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. FOLEY:

H.R. 6070. A bill to provide for multiple-use management under the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, of national forest lands not included in the National Wilderness Preservation System; jointly, to the Committees on Agriculture and Interior and Insular Affairs.

By Mr. ANDERSON of Illinois:

H.R. 6071. A bill to amend the Internal Revenue Code of 1954 to impose a 50 cent excise tax on gasoline and special motor fuels, to provide that revenues from the tax shall be used for a reduction in social security taxes, and for other purposes; to the Committee on Ways and Means.

H.R. 6072. A bill to amend title II of the Social Security Act to provide a flat increase of $10 a month in the amount of the benefits for which a retired or disabled worker is otherwise eligible, with proportionate increases in any benefits payable to the worker's dependents and survivors, in order to reflect the rising cost of gasoline (particularly the portion of such cost which is attributable to higher Federal excise taxes); to the Committee on Ways and Means.

By Mr. BAUMAN:

H.R. 6073. A bill directing the President to take certain actions with respect to any country which engages in certain hostile actions against property of the United States or U.S. officers or employees assigned to duty abroad; to the Committee on Foreign Affairs.

By Mr. BREAUX (for himself, Mr. Murphy of New York, and Mr. Eckhardt):

H.R. 6074. A bill to provide additional funds for certain projects relating to fish restoration, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Ways and Means.

By Mr. LEVITAS (for himself, Mr. Abdnor, Mr. Atkinson, and Mr. Albosta):

H.R. 6075. A bill to amend the Public Buildings Act of 1959, to authorize the Administrator of General Services to issue obligations for the construction and acquisition of public buildings, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PRICE (by request):

H.R. 6076. A bill to amend title 10, United States Code, to aline the Reserve Forces of the Armed Forces with active duty forces so as to provide for the national security on a more effective, efficient, cost-effective, and representative basis, and for other purposes; to the Committee on Armed Services.

By Mr. CHARLES H. WILSON of California (for himself and Mrs. Spellman):

H.R. 6077. A bill to provide a prepaid dental care program for Federal employees; to the Committee on Post Office and Civil Service.

By Mr. YOUNG of Florida:

H.R. 6078. A bill to amend title II of the Social Security Act to reaffirm the fact that benefits payable thereunder are exempt from all taxation; to the Committee on Ways and Means.

By Mr. LEVITAS (for himself and Mr. Johnson of California):

H.J. Res. 462. Joint resolution expressing the sense of Congress concerning the White House Preservation Fund; to the Committee on Public Works and Transportation.

By Mr. BINGHAM (for himself, Mr. Zablocki, Mr. Broomfield, Mr. Fascell, and Mr. Buchanan):

H. Con. Res. 221. Concurrent a resolution to ensure appropriate financial recognition for the hostages in Tehran; to the Committee on Foreign Affairs.

By Mr. KEMP (for himself and Mr. Howard):

H. Con. Res. 222. Concurrent resolution to express the sense of the Congress that the leaders of the Communist nations in Eastern Europe should release certain Christian political prisoners who have committed no crimes against the state according to the provisions of Basket I of the Helsinki Accords; to the Committee on Foreign Affairs.

H. Con. Res. 223. Concurrent resolution expressing the sense of the Congress with respect to the treatment of Christians by the Union of Soviet Socialist Republics, and for other purposes; to the Committee on Foreign Affairs.

By Mr. STENHOLM:

H. Con. Res. 224. Concurrent resolution expressing the sense of the Congress that the American people should immediately send Christmas cards to the hostages being held in the U.S. Embassy in Tehran as an indication of our concern for their welfare and our support for the Government of the United States as it seeks to secure their release; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. SAWYER introduced a bill (H.R. 6079) for the relief of George Herbert Weston and Mabel Gregson Weston; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 135: Mr. Murphy of New York.

H.R. 1290: Mr. Weaver.

H.R. 4960: Mr. Hagedorn, Mr. Santini, Mr. Cavanaugh, Mr. Akaka, Mr. Mica, and Mr. Weiss.

H.R. 5626: Mr. Cleveland, Mr. Railsback, and Mr. Roe.

H.R. 5771: Mr. Hughes, Mr. Oberstar, Mr. Lagomarsino, Mr. Sebelius, Mr. Lowry, Mr. Leach of Louisiana, and Mr. Cavanaugh.

H.R. 6021: Mr. Charles Wilson of Texas, Mr. Rinaldo, Mr. Levitas, Mr. Murphy of New York, Mr. Lehman, Mr. Mollohan, Mr. Preyer, Mr. Jenrette, and Mr. Lowry.

H. J. Res. 372: Mr. Simon, Mrs. Spellman, Mr. Richmond, Mrs. Chisholm, Mr. McHugh, Mr. Akaka, and Mr. Ireland.

H. J. Res. 458: Mr. Minish.

H. Con. Res. 219: Mr. Dodd, Mr. Moakley, Mr. Roybal, Mr. Albosta, Mr. Weiss, Mr. Oberstar, Mr. AuCoin, Mr. Drinan, Mr. Kostmayer, Mr. Edwards of California, Mr. Dicks, Mr. Panetta, Mr. Moffett, Mr. Leach of Iowa, Mr. McHugh, and Mr. Seiberling.

H. Res. 491: Mr. Young of Florida.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2816

By Mr. SENSENBRENNER:

—Page 26, strike out lines 21 through 23 and insert in lieu thereof the following: dence—

"(1) shall not in any of the first three quarters of any fiscal year exceed a total of 26½ percent of the number determined under paragraph (2), and

"(2) shall not in any fiscal year—

"(A) before fiscal year 1982, exceed 270,000, and

"(B) after fiscal year 1981, exceed 270,000, less one-half of the number (if any) by which the number of refugee admissions under section 207 in the previous fiscal year exceeded 50,000.".

Page 28, after line 9, insert the following new paragraph:

(7) by striking out "section 201(a)" in subsection (a) and inserting in lieu thereof "section 201(a)(2)" each place it appears.

Page 28, line 10, strike out "(7)" and insert in lieu thereof "(8)".

Page 28, line 12, strike out "(8)" and insert in lieu thereof "(9)".

Page 30, line 21, strike out "203(c)(8)" and insert in lieu thereof "203(c)(9)".

SENATE—*Monday, December 10, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. RUSSELL B. LONG, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Blessed be Thy name, O Lord, who hast brought us to the beginning of this new day. Invest each hour with a sense of Thy nearness. Endow us with wisdom beyond ourselves and support us in every righteous endeavor.

We remember before Thee this day our fellow countrymen held as hostages. Grant that, by drawing near to Thee, we may be drawn nearer to them in faith and love. Imbue them with grace and strength to endure separation and privation. Grant, O Lord, to their keepers the spirit of compassion and the universal laws of humanity. Keep alive in them and in us the truth of the invincibility of goodness and the everlasting care of the heavenly Father. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 10, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID L. BOREN, a Senator from the State of Oklahoma, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BOREN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore (Mr. BOREN). Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

U.S. INTERNATIONAL POLICIES IN THE 1980'S

Mr. ROBERT C. BYRD. Mr. President, events of recent months have underlined the need for serious attention to key elements of U.S. economic, defense, and foreign policy.

Three major issues have been dominant during this period—the energy problem, the SALT II treaty, and the current crisis revolving around the takeover of the U.S. Embassy and the holding of American hostages in Iran.

All three of these issues have a very direct bearing on this Nation's future international posture and policies. We are facing decisions which will significantly affect our international position in the 1980's.

This decade began with the United States still seriously entangled in Southeast Asia. In addition to having greatly drained our human and material resources, the legacy of that experience has weighed heavily on our national psyche.

Another traumatic experience of the 1970's, having international as well as domestic reverberations, was the Watergate crisis. The collective impact of "Vietnam" and "Watergate," the capsulized titles we apply to those momentous occurrences, did much to shatter foreign notions about American power and purpose, and led to an era of uncertainty at home.

While we were in the process of coming to terms with those trying episodes, significant developments were taking place elsewhere in the world which have had a major effect on the security and well-being of the United States.

Although relations between the two most powerful nations in the world, the United States and the Soviet Union, have improved in some respects in recent years, despite some notable zigs and zags, it has been a period marked by significant growth in Soviet military capability, in both strategic and conventional categories. The Soviets have developed and deployed military forces far beyond those needed for their own security. The United States was not standing still during this period, but, in comparative military terms, the steady and significant movement has been on the Soviet side.

There have also been portentous developments in the energy-economic sphere, where this country has become increasingly and dangerously dependent on foreign oil. This serious diminution in our ability to control our own economic destiny represents a major change, particularly for a nation that is the dominant force in the world economy. This dependency not only has damaging economic consequences, but serious ramifications for our national security as well. We must confront this vulnerability in the energy area and minimize the degree to which we are dependent on the whims of other nations and on developments which may be beyond our control.

These developments in world affairs, with their considerable direct significance for the United States, occurred against a background of shifting economic strength and altered political alliances. The nations which were vanquished in World War II rose to the rank of economic superpowers. The Japanese yen and the West German mark became more stable than the long-dependable dollar.

The term, "Third World," became more than a sociological one and "interdependence" more than academic jargon. The less developed nations have sought to assert themselves, and the resource-rich among the Third World countries have not hesitated to exploit their economic clout.

Our foreign policy has long been plagued by our inability to come to terms with nationalism in other countries. Nationalism remains an incredibly powerful force and one that can be tragically and dangerously misdirected. There is a strong current of sentiment in the Third World which is suspicious of and antagonistic toward the Western industrial powers—this country being the ultimate symbol of modernization and high technology. In some of these countries fundamental societal and cultural values have been badly shaken by external influences. Now in some areas we are witnessing a kind of delayed reaction to these political and cultural cross-currents and to what some would brand as economic colonialism.

This has been a period in which we have been buffeted by the waves of uncertainty and economic instability. Nonetheless there have been important and positive developments which have bolstered our foreign policy. The steadily improving relationship with China; the Panama Canal treaties; the Camp David agreements and the subsequent Egyptian-Israeli Peace Treaty; and the important steps toward the revitalization of the North Atlantic Treaty Organization (NATO) are notable examples.

MOVING ON TWO FRONTS

I am convinced that if we will move ahead as we have the opportunity to do, we can significantly strengthen our international posture as we enter the 1980's. In my view, the two key steps that are necessary at this time are the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

enactment and implementation of a vigorous and broad-based energy program and the ratification of the SALT II treaty. The Senate has under consideration important energy-related legislation and two other major energy bills are now in conference. In January or early next year, certainly, we shall debate the SALT II treaty. That will be my top priority for early next year.

I believe that the events in Iran and other recent international turmoil provide compelling reasons why we need to move on both of these fronts—SALT and energy.

The pitfalls of our overdependence on energy from abroad are all too apparent. The Iranian crisis and the threat of instability in the Middle East dramatize this. We simply must not allow ourselves to remain in this extremely vulnerable position.

As for SALT II, I see the experience in Iran, coupled with the possibility of other localized confrontations or regional conflicts where U.S. interests may be involved, as all the more reason that we should proceed with the treaty.

SALT II applies to the area of strategic armaments. Through the SALT process, we have an opportunity to impose some controls, some boundaries on strategic weaponry, and, therefore, to have some predictability in the strategic field.

During the hearings on the treaty, Secretary of Defense Harold Brown repeatedly emphasized the value of the predictability that would result from the treaty. He said:

> It is probable that without SALT II we would enter into an era of greater uncertainty . . . that would result in increased strategic forces on both sides, as hedges against that uncertainty. This would mean less rather than more security for the United States—and for the Soviet Union too.

The Joint Chiefs of Staff have frequently spoken of the advantages for our overall defense posture that the treaty would bring. Gen. David Jones, chairman of the Joint Chiefs, points out that the various limitations in the treaty will enhance the predictability of the range of Soviet force developments, thus assisting us in our force planning.

Gen. Robert Barrow, Commandant of the Marine Corps, notes that without SALT II we would probably have less resources available "for our equally important general purpose forces."

The fact is that, with SALT II, we will be in a better position to allocate both resources and planning. We will be in a better position to strengthen our conventional capabilities, having a much more certain knowledge of our strategic needs. We will be in a better position to deal with the smaller scale but potentially serious problems which are likely to persist in the coming years.

There is, in my view, a highly persuasive case for strengthening our conventional military capability, including rapid deployment forces, and upgrading our communications and logistical support. In no way would SALT II prevent the United States from taking these steps to boost our nonnuclear capabilities. On the other hand, it would, indeed, enhance our taking such steps.

The SALT II treaty deals only with strategic nuclear weapons and delivery systems—those systems which we fervently hope will never have to be used; those systems which are capable of wreaking massive devastation and incalculable destruction.

The events in Iran do not undercut the basis for ratifying SALT II; indeed, they strengthen the case for proceeding with ratification.

We have generally tended to gear our thinking toward crises arising from the long-term East-West conflict—what we once referred to as the cold war.

Our concentration on "superpower" issues directs our attention and planning away from the exigencies that may occur in troubled regions of the world.

Nuclear deterrence and strategic capability may have little impact on the kind of political and/or economic conflicts we are experiencing and are likely to experience in the Middle East, for example, and in the belt of instability which runs from the Horn of Africa through to Pakistan. We face the possibility of situations where our interests and those of nations with which we are allied may be directly or indirectly threatened. We must utilize our resources in such a way as to be able to respond to such problems.

To emphasize the importance of being prepared for such contingencies is not to suggest that the United States should be concentrating on an "interventionist" strategy. I am somewhat troubled by the manner in which that term has been bandied about lately. What I am suggesting is that we need to be able to be in a position to protect our interests and to cooperate with friendly nations in avoiding situations where our interests may be threatened—in some cases through "unconventional" warfare, through terrorism, sabotage or severe resource shortages. We do need to improve the capability to rapidly deploy forces, for example, and I am pleased to see the inclusion in the proposed fiscal year 1981 budget of initial funding for a long-distance transport plane, designated the CX. We need that airlift capacity. And, I repeat, we must improve other logistical and communications systems.

It is neither wise nor necessary to sketch out all the possible scenarios—and there are certainly some we could not reasonably foresee—but there are a variety of circumstances in which terrorism, or localized or regional conflicts or uprisings could create explosive conditions which would threaten our interests in some manner. As we must now recognize, such situations can be created by demogogic manipulation of nationalist or religious sentiment.

Economic analyst Robert J. Samuelson has pointed out—

> As countries become more subject to outside influence, they seek to deny the intrusion by resurrecting history.

Samuelson comments—

> We are being thrown into contact and conflict with peoples whose histories and motivations we hardly understand at all.

Efforts at "creating stability" can, in fact, contribute to further instability. We need not to overreact; we need to be able to react.

This is a turbulent time and events can take highly unexpected turns. Yet, we need to be prepared to protect our interests. Let me reiterate that what I am referring to is a protective capability—not interference in the internal affairs of another nation.

We need to minimize our vulnerability, without withdrawing from the world. Indeed, it would be impossible to withdraw in this interdependent age.

NONPROLIFERATION

I want to mention one further area where I believe the approval of the SALT II treaty has important international ramifications. I have made this point previously, but it is worth repeating. I refer to the example which the treaty sets for nuclear limitations, and, in turn, for nuclear nonproliferation.

Failure to approve SALT II would seriously undermine our efforts to encourage nonproliferation. Article VI of the Treaty on Nonproliferation of Nuclear Weapons (NPT), to which the Senate gave its advice and consent on March 13, 1969, commits all parties to the treaty to good faith efforts on measures relating to cessation of the nuclear arms race at an early date.

Under this treaty, 106 nonnuclear-weapon states have pledged not to acquire nuclear weapons or nuclear explosive devices, and to demonstrate their compliance with the treaty by placing all their peaceful nuclear facilities under the safeguards system of the International Atomic Energy Agency.

An NPT review conference will be convened next June to review the progress that has been made under the nonproliferation Treaty. It can be anticipated that the degree to which the nuclear weapon states have lived up to our obligations under the treaty will be a major issue. Failure to ratify SALT II will weaken our hand in efforts to influence other nations to remain nonnuclear.

This is a matter of extremely serious consequence, because the world is poised on the threshold of a rapid proliferation of nuclear weapons.

Let me quote the Director of the Arms Control and Disarmament Agency, Gen. George Seignious:

> Such proliferation would create a security nightmare for all nations. A world with many nuclear powers would face much greater risks of nuclear blackmail, nuclear terrorism, nuclear insurrections, and regional conflicts which might involve nuclear weapons. These conflicts could escalate rapidly to threaten the security of every American. I can think of no more unstable world than one with growing numbers of nuclear weapons states.

I will not elaborate on this issue of nonproliferation further, except to say that the point should be ominously obvious to us all. The dangers of nuclear weapons falling into the hands of a Khomeini or an Amin are apparent.

STRENGTHENING OURSELVES

The stakes involved in the issues I have been discussing are extremely high. International order and the security and well-being of this Nation are involved directly. As we move beyond the seventies, which have seen dramatic changes on the international scene, we must act to strengthen ourselves in the interrelated areas of the economy, energy, and national security.

Specifically, I am advocating implementation of a comprehesive national energy policy with greater emphasis on conservation and on diversification of energy sources; and approval of the SALT II treaty, combined with a prudent, balanced modernization of our overall defense capability, and more thorough preparation for the contingencies of this turbulent time.

If we will take these essential steps, I am convinced that we can move into the 1980's with renewed strength and a sound international position.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the minority leader, the Senator from Alaska, is recognized.

ANN STEVENS MEMORIAL RED CROSS BUILDING

Mr. STEVENS. Mr. President, first, let me thank my good friend from West Virginia, the majority leader, for the remarks he made on the floor of the Senate Friday morning concerning the Red Cross memorial ball that was held in Anchorage on Thursday evening. That ball was held to raise funds for a building which is to be named after my wife.

The majority leader not only made remarks here on Friday morning, but he also sent a telegram which was a very moving message to that gathering. It was read and very much appreciated, not only by me, but by all those in attendance who had participated in the fundraising effort for the Ann Stevens Memorial Building.

I also thank my good friend from Texas (Mr. TOWER) who acted for me and for the minority leader on Friday, not only for what he did that day, but also for his comments that were made at the same time.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. STEVENS. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for his remarks anent the Ann Stevens Memorial. I regret that I could not attend that very important event. I had planned to be present, as the distinguished acting Republican leader knows. I wanted very much to go, and we had discussed it for a good many weeks prior to last Thursday evening. As the distinguished acting Republican leader has graciously indicated, it was not possible for me to attend.

I shall watch with great interest the progress that is made in connection with the Ann Stevens Memorial. I truly hope that there will be a future time when I can go to Alaska to be present at a dedication exercise or some such occasion, because I certainly want to show the people of Alaska my respect not only for the distinguished acting Republican leader but also for his late, devoted, and lovely wife.

SALT II

Mr. STEVENS. Mr. President, I have listened with interest to the statement of the majority leader. I have discussed the SALT treaty with him very often.

I think the Senate knows my deep affection for the majority leader, and it is at his request that I have stayed uncommitted on this matter.

I have been meeting with members of the administration. I met the other day with the President's Counsel, Lloyd Cutler, to discuss some of my concerns about the SALT treaty.

But I must say that when I was home over the weekend I received some news that, if it has been in the press here, has missed me. That was the news that Russia has 30 armed battalions stationed 40 miles from the Iranian border. The troops are viewed by those who have business connections in Iran to be stationed there to provide moral support to the ayatollah.

Also, the Russians did, at least for a while, participate by giving support to the ayatollah through their clandestine radio activities.

I believe that latter matter was in the paper here at the beginning of the Iranian crisis.

The indications I had from my discussions in Alaska over the weekend, all indicate to me that they become involved again.

I say to my good friend from West Virginia that I hope the administration is prepared to give the Senate a detailed explanation of what the Russian activities have been in the Iranian crisis before we debate and vote upon the SALT II treaty. If the Russians have, in fact, moved to give solace and support to those holding our embassy employees hostage and have moved to give moral support to the ayatollah by stationing 30 armed battalions near the border at a time when the world knows that the ayatollah's control over his country is very shaky, then, for myself at least, I believe we have to take a very long look at entering any other long term arrangement with Russia with regard to the limitation of strategic arms.

It does seem to me that as one of the leading nation's of the world, Russia, above other nations, ought to understand the necessity of honoring international commitments and honoring international law with regard to the safety and freedom of diplomatic personnel. And the protecting of diplomatic premises.

As I indicated, I was most disturbed by the reports, again over the weekend, from people in Alaska who do have and have had in the past, business and industrial connections in that area.

It is my hope that before we begin debate on the SALT II treaty, the hostages will have been released in Iran. I do not believe that we should necessarily set that as a condition for that debate, but I think all Members of the Senate hope that the consideration of SALT II will not be clouded by the continued holding of our personnel who were lawfully in Iran and who have been held hostage contrary to all concepts of freedom in the world.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I share the viewpoint of the distinguished Senator from Alaska in expressing the hope that the situation involving the American hostages in Iran will be resolved quickly.

I also share his observation that the Soviets are in a position to be helpful there. It has not escaped my notice—nor the notice of other Americans, I am sure—that the Soviets gave support to the resolution that was adopted unanimously by the Security Council in the U.N., but I hope the Soviets can do more.

I imagine that the presence of Soviet divisions on the Iranian border is nothing new. I can only assume that those divisions are maintained there regularly.

The radio broadcasts, as the distinguished acting Republican leader has said, were toned down considerably or stopped entirely. Whether or not they have resumed, I do not know.

I am aware of the Pravda editorial, but I hope the Soviets will give their support and assistance to our country; because—who knows?—they may be caught in the same vise someday.

It should be recognized that the actions that have been committed by the militants—I am not one of those who refer to them as "students" any more—constitute a violation of international law and international order. So, in my judgment, it is a crime against the international community and not just against the United States. All civilized nations should condemn the actions of those who are holding Americans hostage, and such condemnation should be consistent and unrelenting.

The ACTING PRESIDENT pro tempore. The time of the minority leader has expired.

Mr. STEVENS. I thank the Senator from West Virginia.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin (Mr. PROXMIRE) is recognized for not to exceed 15 minutes.

S. 2105—TRANSFER OF AUTHORITY TO ALLOCATE MASS TRANSIT FUNDS

Mr. PROXMIRE. Mr. President, I send to the desk a bill and ask for its appropriate reference.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

Mr. PROXMIRE. Mr. President, I am introducing legislation this morning to take from Secretary of Transportation Goldschmidt, authority to allocate $1.4 billion a year in discretionary mass transit money. The legislation is cosponsored by Senator ADLAI STEVENSON and Senator JOHN HEINZ.

Mr. President, 2 hours of cross-examination of Secretary Goldschmidt before the Senate Banking Committee last week convinced me that Mr. Goldschmidt has used and will continue to use the discretionary fund to punish political adversaries of the administration and reward its political friends. This action is necessary to restore public confidence that Federal transportation funds will not be used to buy the nomination.

Mr. President, the transfer of authority to allocate discretionary money to the newly appointed Urban Mass Transit Administrator Theodore Lutz is appropriate for another reason. Mr. Lutz came before our committee with outstanding qualifications for his job. He has served in the Transportation Department for several years and with continuous distinction. He has repeatedly won awards for his ability and integrity.

As a matter of fact, I think he has won four awards as an outstanding member of the Department of Transportation.

Members of the committee questioned Mr. Lutz at length on his attitude in allocating discretionary funds. His answers were direct and reassuring. It was clear that Mr. Lutz would allocate funds strictly and solely on merit and without any political consideration. More important, Mr. Lutz has a long and distinguished career in Federal transportation policy, during which he has displayed precisely the kind of fairness and scrupulous exclusion of political considerations that is needed in allocating this huge amount of discretionary Federal money.

Mr. President, consider this Chicago fiasco. Mayor Byrne indicated that one reason she endorsed Kennedy was that an Illinois poll pitting Carter against Kennedy indicated Carter could not win in Illinois in a primary against Kennedy. Kennedy was reported to have led Carter by better than two to one in the poll.

That was in October. It was followed by a Mayor Byrne endorsement of KENNEDY. Now, what happened to the Carter-KENNEDY support in Illinois after the Mayor withdrew her support of the President and endorsed the Senator? Did KENNEDY pick up steam and move even further ahead of Carter as might be expected if the Mayor's endorsement was worth very much?

No. The latest Illinois poll between Carter and KENNEDY shows precisely the reverse effect. Not only has Carter reduced KENNEDY's lead in Illinois. This most recent poll shows Carter actually leading KENNEDY by a substantial margin in Illinois.

I do not mean to imply that the Mayor's switch from Carter to KENNEDY caused Illinois voters to switch the other way. What obviously happened was that the President's handling of the Iranian crisis has overwhelmed everything else. President Carter has won predominant approval in this international crisis. His press conference on Iran, carried on all three networks in prime time was superb, probably the best of his administration and one of the best by any President on any subject.

On the other hand, Senator KENNEDY's posture in the Iranian crisis has probably cost him popular support, which these Illinois polls reflect.

The point is that the endorsement of a Presidential candidate by any elected official is overwhelmed by national and international events, how the President handles those events, and how the President's opponents react to the events and the President's handling of them.

Endorsement of a Presidential candidate by a mayor, a U.S. Senator, a Governor has the force that emerges from a delicate, undersized, feeble, starving butterfly when it hiccups into a tornado.

It is not that people do not trust elected officials from their State or city. It is that the activities of one office in this Nation are fully reported to the people by newspaper, by radio, by television. And that is the Presidency.

Studies have shown that half of the American people do not even know who their Senator is. Many do not know their Governor or mayor. But the President they know. He is their constant companion. It is a rare evening television network news program that does not have at least one story, and usually there are several about the President. He dominates radio news. And it is an unusual front page in any daily newspaper in the country that does not have at least one story featuring the President every single day of every week, 52 weeks a year.

The second focus of interest is the candidate who challenges the President, particularly if he is TED KENNEDY. Americans know far more about the Kennedy family, its tragedy and triumphs, than they know about any other family in America with the possible exception of the Carters. They have watched Senator KENNEDY often on television. They have read about him frequently in newspapers.

So both these men are far more familiar to the vast majority of voters than any one of us in the Senate is to our own constituents in our own States. The typical voter knows Carter and KENNEDY far better than he knows his Governor, Senator, or his mayor.

For one of us as elected officials to tell a voter in our own State to vote for KENNEDY or Carter under these circumstances may seem to the voter as presumptuous as telling a woman whether she ought to approve or disapprove her husband or her sister. Chicagoans probably feel they know as much about Carter and KENNEDY, their strengths and weaknesses, as their mayor knows. And they probably do.

This is why the Goldschmidt policy of refusing to deal with Mayor Byrne in the allocation of transportation money is politically stupid. The mayor's defection from President Carter to Senator KENNEDY has cost the President nothing. But the Goldschmidt policy of treating the mayor of Chicago as a leper when it comes to allocating Chicago's share of the $1.4 billion of transportation money may not hurt Mayor Byrne, but it is certain in the long run to cost President Carter support and it should.

What this Goldschmidt-Byrne episode really discloses is a serious error in political judgment on the part of the Carter administration as well as a woeful lack of simple integrity in handling the public money.

Goldschmidt was also reliably reported to have indicated that his allocation of transit funds to Philadelphia would depend on the position Mayor-Elect Green takes in the Carter-KENNEDY contest for the Democratic nomination.

There were Secretary Goldschmidt's widely reported comments that he would look for opportunities to deny Federal funds to Chicago, and what he reported to say was reliably reported by the New York Times and by a number of other top papers. Those reporters were present at the breakfast where this episode took place. Secretary Goldschmidt's widely reported comments that he would deny Federal funds to Chicago in the aftermath of Mayor Jane Byrne's endorsement of Senator KENNEDY and Secretary Goldschmidt's continued indications in testimony before the Senate Banking Committee last week that he would refuse to deal with Mayor Byrne because of a personal problem he has with her, have removed all confidence that he can administer the discretionary mass transit program in an impartial manner, without political favoritism.

Allocation of funds under this program must be based on merit and need. The suggestion that whom a mayor might endorse for President might have any bearing on how the Department of Transportation might deal with a city is an outrageous abuse of Federal power.

In response to a question at last week's hearing, Secretary Goldschmidt stated that neither the President nor the Vice President had criticized him for his November 20 statement to reporters. And while the Secretary said he believes he can still deal with Chicago through other channels, his continued indications that he will not deal with the city's elected mayor demonstrates his continued insensitivity to the appearance and effect of his statements.

The bill I am introducing today would reduce the threat of political blackmail in the use of section 3 discretionary mass transit funds during the Presidential campaign. After 1 year, the authority would be returned to the Secretary. During this interim period, Congress can consider permanent legislation to build safeguards into the program designed to prevent it from being used for political purposes.

There is an unfortunate cynicism in the political community that accepts the Goldschmidt approach as politics as usual. This cynicism is based on the belief that other administrations did the same thing in the past without talking about it. According to this theory the only fault committed by the Carter administration in this case is blunt honesty.

Whatever the faults of past administrations may or may not be in this respect it would be a grievous error to permit such a corrupt use of the taxpayer's money to become an acknowledged, and accepted part of our system.

With billions of dollars in discretionary funds available to the administration and the amount increasing with every passing year, this is a corruption that cannot and should not be smiled at, winked at, or in any way condoned or accepted.

And when the realpolitik boys pony up to the bar and laugh about stealing the nomination, they should recognize in what a feeble cause the taxpayer's money is being wasted. The fact that neither mayors nor other public officials these days can deliver votes to Presidential candidates. All of us who occupy public office are paper tigers in this Presidential contest. Regardless of our past election record, we cannot deliver even a small handful of votes to a Presidential candidate. If we are honest we will admit it, and if the candidates have any smarts they know it.

THE CHRYSLER CORP.

Mr. PROXMIRE. Mr. President, in a few days I expect that the majority leader will call up the Chrysler loan guarantee bill for consideration by the Senate. I feel very strongly about that bill.

I was most impressed by an article in the Washington Post yesterday relating to the bill. It was written by a young Republican Congressman named Dave Stockman. I shall read three or four paragraphs from that article because these are paragraphs that Members of the Senate should ponder as they consider this Chrysler guarantee proposal which we will act on.

Mr. Stockman is a Congressman from Michigan, which is Chrysler's home State, of course, and he writes this:

> It is not the Chrysler Corp. that needs saving. It is the nation that needs to be spared the heavy economic and political burdens the bailout portends.
>
> The bailout plan marks not only an appalling escalation of narrow, self-pleading politics, but the introduction of a baleful new political economy based on the illusions of single-entry bookkeeping. Nothing could be more inimical to reviving our ailing economy or to wise congressional policy leadership in the future.
>
> Out of a faltering economic network—Chrysler and its suppliers, unions, dealers, creditors and a handful of cities—there has emerged a prototype political strike force seeking an extraordinary legislative license. It wants authority to pirate massive credit resources from healthy sectors of the economy in order to preserve a collapsing production chain of foundries, assembly plants, dealerships and work forces that are no longer generating products consumers want to buy, at prices that will return a profit.
>
> The rationalizations used to justify this unprecedented economic coup d'etat are embarrassing. The essential contention is that if Congress refuses Chrysler a loan guarantee, the whole Chrysler network would disappear down an economic drain: Plants would be scrapped, weeds would sprout in dealer lots, and 500,000 employees would become wards of this state.

Mr. Stockman goes on to point out what nonsense that is and does so with great logic and force.

Mr. President, I ask unanimous consent that the full article be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

Let Chrysler Go Bankrupt

(By Dave Stockman)

It is not the Chrysler Corp. that needs saving. It is the nation that needs to be spared the heavy economic and political burdens the bailout portends.

The bailout plan marks not only an appalling escalation of narrow, self-pleading politics, but the introduction of a baleful new political economy based on the illusions of single-entry bookkeeping. Nothing could be more inimical to reviving our ailing national economy or to wise congressional policy leadership in the future.

Out of a faltering economic network—Chrysler and its suppliers, unions, dealers, creditors and a handful of cities—there has emerged a prototype political strike force seeking an extraordinary legislative license. It wants authority to pirate massive credit resources from healthy sectors of the economy in order to preserve a collapsing production chain of foundries, assembly plants, dealerships and work forces that are no longer generating products consumers want to buy, at prices that will return a profit.

The rationalizations used to justify this unprecedented economic coup d'etat are embarrassing. The essential contention is that if Congress refuses Chrysler a loan guarantee, the whole Chrysler network would disappear down an economic drain: Plants would be scrapped, weeds would sprout in dealer lots, and 500,000 employees would become wards of the state.

Fortunately, the economy actually operates on a double-entry bookkeeping system. Product brands, plant assets, supplier orders and payroll slots that regularly disappear from one side of the ledger almost always reappear in new, and usually more productive, forms on the other side. Abandoned gas stations become pizza parlors; electronics suppliers that once made TV components now make automotive parts; 80,000 former W. T. Grant employees now punch the clock at K-Mart and Woolworth's.

While larger than the usual case, the $15 billion Chrysler employment and production network still represents only 0.6 percent of our gross national product. Even a "worst case" outcome—the total liquidation of the Chrysler corporate structure—would not add appreciably to the normal adjustment of resources in a $2.5 trillion economy, nor measurably reduce national employment and production after a relatively brief transition.

There are two reasons why this is so. First, it is final vehicle demand that drives the level of economic activity—components production, assemblies, dealer operations, and employment levels—in the auto sector. There is no evidence that total sales would be affected. Chrysler or no Chrysler. Second, the preponderent share of Chrysler-related production and employment would be shifted to other domestic suppliers and dealers.

Nearly a fifth of the Chrysler network's activity, for example, takes place after vehicles leave factory gates. Regardless of whether Dodges are replaced by Chevvys or Toyotas, they would still be shipped, sold and serviced by U.S. workers and firms.

Similarly, 15 percent of Chrysler's 1978 U.S. sales were imports, principally Japanese-made cars and trucks. Regardless of future sales arrangements, a Chrysler collapse couldn't cause any loss of U.S. employment in this area. Another 55 percent of Chrysler's domestic production consisted of trucks, recreation vehicles, vans, and medium- to luxury-sized cars—a market sector where there is minimal competition. Even in the small car market, which is heavily penetrated by imports, Ford, AMC, GM and Volkswagen North America could be expected to absorb 50 to 60 percent of Chrysler's domestic production initially and even more eventually.

Indeed, if the small-car boom continues, GM undoubtedly will find ways to make more "X-cars." Similarly, Ford is likely to accelerate introduction of its new 1981 front-wheel drive-compact, and Volkswagen is certain to keep shipping the 300,000 Omni-Horizon engines it currently makes for Chrysler to someone—possibly even to Volkswagen North America. Overall, then, not more than 20 percent of the Chrysler network's domestic output would be captured by foreign producers even in the initial period.

Thus the single-entry bookkeeping logic advanced by the Chrysler coalition cannot possibly enhance the national economic welfare. The true aim of the bailout plan is far different anyway—and far narrower.

Rather than maintaining or adding to the nation's GNP, its major effect would be to prevent financial losses to components of the Chrysler network itself—while also preventing gains, naturally, to the many who would benefit on the other side of the ledger. But dragging this unending struggle over equities and income shares among regions, firms, workers and investors into the national political arena for ad hoc adjudication can only engender wildly inflated claims and essentially arbitrary indemnities.

The major permanent capital losses would accrue to holders of financial assets—bankers, stockholders and dealer franchise owners. Yet thousands of similar investors write down billions each year in assets gone sour. Why should this particular set be singled out for indemnification?

Similarly, some suppliers would be hurt, but many have customers outside the auto sector and most do business with other domestic auto manufacturers. Indeed, Chrysler's third largest supplier is GM, and Chrysler orders account for less than 5 percent of the total business volume of its other major suppliers.

The scrappy firms that produce foundry products and electronic components understandably desire surcease from their constant hustle for new orders. But their capacity to survive and drum up new business is also well demonstrated.

Even at the dealer level, the loss would not be total. A significant portion of Chrysler dealers handle other makes; most, along with their employes, are presumably skilled at selling and servicing cars regardless of brand name; and a high fraction own valuable commercial real estate entirely separable from the franchise.

The longer-term prospects for Chrysler's 120,000 direct employes are not entirely bleak either. Nearly two-fifths are white-collar, supervisory or skilled production workers with strong prospects for re-employment. Another 22,000 are employed at modern, efficient plants like Belvidere or New Process Gear, or at strategically located plants like Newark, with good prospects for a new owner. Even the 50,000 hourly employes in the Detroit area represent less than 20 percent of total auto employment in the metro area—or about 30 months of normal auto plant turnover due to quits and retirements.

To be sure, during the transition period there would be substantial temporary unemployment within the Chrysler network. And after the shake-out, there would be thousands of permanently "orphaned" workers formerly employed at Chrysler plants for which the economy could find no alternative productive use—as in the case of Youngstown's Campbell Works closure.

But nearly every Chrysler facility has already been certified for the full trade adjustment assistance package. This will guarantee every production worker 95 percent of after-tax take-home pay for a year, free retraining benefits, and 80 percent of any job search or relocation expenses.

Vested pension rights, of course, are also protected by the federal pension guarantee program. In short, the support system goes about as far as possible in protecting worker equities—short of freezing the economic system into lifetime employment guilds.

Ironically, in yet a further twist of single-entry bookkeeping, the prospective costs to these support systems are offered as justification for the bailout. But with 137,000 auto workers already on lay-off, it would be fatuous to count Chrysler benefit payments as a net cost to the government. The shift of billions worth of Chrysler production to other U.S. firms obviously would cause reemployment and benefit cost reductions elsewhere.

Moreover, our basic labor market shock absorbers—unemployment insurance, job training and adjustment assistance—were created for just these situations out of a recognition that it is more cost-effective to help workers find new jobs than to prop up old ones. Each year hundreds of thousands of employes faced with permanent job losses due to plant closures, bankruptcies, production curtailments and import competition use these systems. Indeed, the temporary unemployment resulting from just six better-known bankruptcies of recent years—including W.T. Grant, Food Fair, American Beef and United Merchants and Manufacturers—exceed the entire Chrysler payroll.

Perhaps recognizing their weak economic logic, Chrysler advocates have also resorted to a stupendous series of nonsequiturs. For example, they point to the $362 billion in existing federal loan guarantees, as if to suggest they are proposing "nothing new." Eighty five percent of that total, however, represents *housing guarantees designed* to enhance consumer access to ownership, not to bail out faltering lenders or builders.

This merely hints of the potential for debasing the legislative process implicit in corporate bailout politics. Indeed, much of the selling job has consisted of contradictory appeals to wholly extraneous ideological sympathies of the left and right.

For conservatives, there is the reminder of "regulatory overkill." Yes, pending safety, emission and fuel-economy requirements will add upwards of $1,000 per car by the early 1980s for what many of us consider modest social benefits. But that figure represents the total sticker price add-on to the consumer, not the extra cost to Chrysler vis-a-vis its competitors.

Chrysler's smaller size is only a disadvantage in pure research and development overhead, where roughly equal costs must be spread over smaller volumes. But most of the actual compliance price tag is accounted for by manufacturing costs—labor, materials and capital amortization—items on which the nation's 14th largest corporation should be competitive, if it's still viable.

At best, Chrysler's true regulatory compliance disadvantage is not likely to exceed $70 per car even during the peak years. This cannot begin to account for its nearly $700 per vehicle loss this year. Nor does it explain why, with its cash registers having wrung up $65 billion in sales since 1974, its cumulative bottom line is a net loss of nearly $650 million.

Liberals are implored to vote for the loan because Chrysler employes 50,000 workers in Detroit, 50 percent of whom happen to be black. Chrysler's survival as a full-line auto maker thus becomes a major "urban issue." Needless to say, though, at the new contract's $25,000 total annual compensation level, these workers are not exactly among the normal poverty constituency.

The more important point is that the potential demise of Chrysler jobs in Detroit constitutes only a modest footnote to a pervasive, seemingly irreversible economic trend that is progressively extinguishing heavy industrial jobs in the older central cities. Neither a Chrysler bailout nor a dozen future ad hoc corporate bailouts would alter the underlying competitive disadvantages—obsolete multi-story plants, high tax, pollution control and land costs, inadequate transportation facilities—or slow the march of heavy industry away from central urban areas.

What those areas really need is help in attracting jobs outside the heavy manufacturing sector. And if federal resources are to be committed, they would be far better spent on helping low-income workers acquire access to new manufacturing jobs in growth areas rather than on indemnifying high-income investors in declining areas.

When all else fails, the Chrysler sales pitch finally comes down to a dare: After the "success" of Lockheed, why not roll the dice again? Never mind that the entire capital market has already voted "no" on Chrysler's survivability as presently constituted. This includes the bond market, which has dropped Chrysler to its lowest rating; the huge money center banks with high-risk loans all over the globe and into Chrysler for $1.5 billion already; the big insurance companies holding huge additional loans; and the commercial paper market, which won't buy at any price.

All these institutions live or die by their capacity to assess credit worthiness. Yet assurances that Chrysler's Lee Iacocca is a management dynamo or that Chrysler's pending "K-body" vehicle will be a smash hit—when most of us wouldn't recognize a K-body if we saw it nude—are supposedly enough for the "standby banker" on Capitol Hill.

Unfortunately, this "get them over the hump" assurance fails to note what lies on the other side: a radically transformed and fiercely competitive auto market in which the globe rather than the continent will be the stage. Rising fuel prices and federal standards are forcing down the size, weight and horsepower dimensions of the U.S. fleet, while rising incomes abroad are increasing the demand for traditional U.S. styling and accessories. From this convergence is coming the so-called "world car," of which the Ford Fiesta, GM Chevette and Volkswagen Rabbit are the prototypes.

Moreover, this prototype world car is inexorably generating a prototype worldwide auto firm: a far-flung multinational enterprise with plants in many countries, worldwide sourcing of increasingly standardized components, and the ability to spread design and marketing overhead over huge international sales volumes.

Ford, the acknowledged leader in this process of global integration, already sells more cars in Europe than Chrysler does in total. GM is racing to catch up overseas, and Volkswagen is already turning out 1,000 cars a day here and looking for a second plant. Nissan is expected to announce shortly a similar intent to seek North American production, and Toyota can't be far behind.

That the major capital market institutions have pulled the plug on Chrysler may well reflect these emerging trends. With no remaining overseas operations and most of its production concentrated in one U.S. metropolitan area, in plants built more than 40 years ago, Chrysler is simply not well positioned to survive the automotive major league of the 1980s.

In the final analysis, the Chrysler loan guarantee must be rejected because the era of bailout politics it would inaugurate is thoroughly incompatible with an effective national program for reindustrializing America's faltering economy.

Recent irreversible worldwide developments have dealt our economy successive shattering blows. The oil price revolution has drastically reduced the productivity of much of our energy-intensive industrial plant. In the last decade, better than 90 percent of new steel, aluminum and other basic industrial capacity has been built outside America. Since 1968, the combined GNP of the nine most vibrant economies of the Far East has risen by a staggering $1 trillion, unleashing a flood of auto, steel and textile exports on the world market.

The fundamental "retooling" our economy needs to meet these challenges will require both a drastic increase in the rate of capital investment and maximum efficiency in its allocation. There simply isn't enough to squander on the walking wounded in this case—or for the scores of future claimants it would generate.

HUMAN RIGHTS DAY

Mr. PROXMIRE. Mr. President, today is "Human Rights Day" and the beginning of "Human Rights Week." On December 10, 1948, the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights. Today, as we mark the 31st anniversary of that event, let us reflect on the importance of this international standard for human rights.

Since its inception, the Declaration of Human Rights has become one of the best known and most influential documents of all time. Its provisions have been cited as justification for actions taken by the United Nations and other international organizations and have inspired other international human rights agreements including the Genocide Convention. Its principles have been incorporated in national constitutions, municipal laws and court decisions. The declaration is a yardstick by which the civilized world measures respect for human rights.

Is the observance of Human Rights Day a time for celebration of the progress that has been made in human rights around the world since 1948? Or is this an occasion for lament over the horrible abuses of these rights that continue to this day? Mr. President, the fight for human rights is neither won nor lost. It continues. We must not let our past successes or present failures obscure the real question: What can we do today? The answer is simple: We can ratify the Genocide Convention.

For as long as the Universal Declaration of Human Rights has been in effect, the Genocide Convention has languished in the Senate. Human Rights Day and Week are a time for the United States to step back and take stock of our contributions to the struggle for basic rights. In keeping with this, President Carter has again asked the Senate to ratify the human rights treaties now before it.

He asked for this ratification four times in his relatively brief term in office, and every President, from President Truman onward, President Truman, President Eisenhower, President Kennedy, President Johnson, President Nixon, President Ford, and President Carter have all asked us to ratify the Genocide Convention. Only the Senate has to act. The House of Representatives does not have to act. And we fail to do so.

The right to live is the most basic right. Genocide is the most heinous crime. I urge my colleagues to ratify the document, making it an international crime, the Genocide Convention.

Mr. President, I yield to the majority leader the remainder of my time if he wishes to use it for any purpose.

Mr. ROBERT C. BYRD. Mr. President, the Senator is very thoughtful and considerate, I shall avail myself of that opportunity.

RECOGNITION OF SENATOR LEVIN

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Michigan (Mr. LEVIN) is recognized for not to exceed 15 minutes.

THE GENOCIDE CONVENTION

Mr. LEVIN. Mr. President, first, I wish to compliment my friend from Wisconsin for his continuing steadfast effort to bring the Genocide Treaty before the Senate.

There is not a day when he speaks in this Chamber that he does not remind us and prick our conscience for our failure to have ratified that treaty by now.

We are one of the few countries in the world that has not ratified it, and it is about time that we do.

I commend him and associate myself with his remarks relative to the Genocide Convention.

I was going to first comment on his comments on Chrysler, but when he again got up in this Chamber and reminded us about what we have not done with the Genocide Convention, it melted my heart and I decided to leave my comments relative to Chrysler to some other day so I could commend him totally for his commitment to that cause.

THE SALT II TREATY

Mr. LEVIN. Mr. President, when I was elected to the Senate last year, I suspected that the most important issue I would confront would be the SALT II treaty. Accordingly, when I arrived here, one reason I sought a seat on the Committee on Armed Services was that I believed that it would afford me an opportunity to thoroughly study that treaty and its implications for our national security in the 1980's.

As comprehensive as our hearings were, I knew I would need additional preparation if I were going to be in a position to fully understand the treaty. I knew I had to study the capabilities of the various weapon systems we have, I had to study the plans we have made in the event we ever needed to use them, I had to study the geopolitical environment which would make their use even thinkable. In that process I have spent time with Secretary of State Vance and Secretary of Defense Brown. I have gone to the Strategic Air Command Headquarters in Omaha and questioned the operational commanders there. I have visited an ICBM launch control center in North Dakota and a B-52 bomber/tanker base in the Upper Peninsula in my own State of Michigan. I have gone to Europe and had meetings with the key defense people of several allied nations. And I have gone to Russia to talk with their leaders about SALT II and other issues of concern.

That educational process provided me with some insights about the substance of and prospects for arms control which I did not expect. I went into it expecting that the SALT treaty would sharply reduce existing levels of nuclear weapons; I came out of it hoping that the treaty could constrain the rate of growth. I went into it thinking that even our adversaries shared some common goals and perceptions with us; I came out of it saddened by how little agreement there seems to be. I went into it hoping that the very horror of nuclear war was sufficient to prevent it; I came out of it knowing that nuclear war is thinkable for military planners, that destruction is possible, and that a strong deterrent is necessary.

But some things did not change in that process.

I did not change my belief that arms limitation and a strong national defense are compatible. In fact, everything I learned, everyone I talked to, every document I read tended to reenforce that belief. Given the constrained reality of our economy and the multiple demands made on our limited revenues, I am convinced that these two goals are more than compatible—they are totally consistent. Indeed, it may well be impossible to achieve one without the other.

I also did not change my belief that the Soviet Union is not to be trusted. I realize that no treaty can guarantee Soviet compliance, but any treaty we sign must be capable of adequate verification through our own independent means. I do not believe that we can stake our Nation's future on the voluntary compliance of the Soviet Union.

I also did not change my belief that we are a strong Nation. I know that the Soviets have an advantage in certain static strategic force measures such as throw-weight and megatonnage. But I also know that when you look at more valid and compelling measures of strength—such as deliverable warheads and accuracy of weapons—then the United States still enjoys an advantage at this time. I know the Soviets have achieved what some consider to be an advantage in the area of heavy missiles. But I find this to be of only dubious theoretical value and of even less practical importance. I reached this conclusion only after hearing the Joint Chiefs of Staff repeatedly testify that this Nation had long ago decided that we did not want to build missiles that large. Our strategy and superior technology had resulted in a different force structure—a more balanced Triad. Given our balanced deployment of strategic forces—and the Soviet imbalances—the fact that we do not have the heavy missiles the Russians have does not mean we are inferior. It simply means that we have charted a difference course. The Joint Chiefs have confidence in that course. They have consistently said that they would not trade our strategic force structure for the Soviet force structure.

The course we have chosen does not, however, automatically lead us to the goals of security and peace and stability. It is a path which can lead us to dangerous detours and dead ends. Of course we may need to make necessary improvements in our defense posture in the coming decade. I recognize that and I stand ready to support those steps which are needed to improve our defense and protect our security. But I do not believe that if we faithfully follow the strategic course we have set out on that we will become either vulnerable or weak.

These general beliefs became the base for my study of SALT II. And the more I looked at the treaty, its companion documents and history, the more I realized that the answer to three questions would determine how I would vote.

First, does it enhance our national security, now and during the life of the treaty? I believe the answer to this question is "yes," for two reasons.

First, the treaty retains an adequate balance in strategic power. Contrary to what some people contend, this treaty does not codify U.S. inferiority. Rather it establishes a framework which permits both sides to maintain an adequate balance in strategic nuclear power. In that sense, it is true that this treaty does not give the United States unquestioned control over the nuclear future. But no treaty—and no action by the United States acting alone—can accomplish that. No treaty signed by two parties should be expected to cede unilateral superiority to the other. All we can ask is that the balance of deterrence is not upset by the treaty, that it allows us to maintain our strength sufficient to convince the Soviets that there is no acceptable outcome for them from any nuclear exchange, limited or otherwise. This treaty, by placing upper limits on Soviet nuclear expansion, helps maintain that balance. The treaty has, after all, in the words of General David Jones, Chairman of the Joint Chiefs of Staff, "a number of important restrictions—which operate primarily to our advantage."

Among these important restrictions which operate in our favor are: an overall, equal aggregate ceiling on strategic nuclear delivery vehicles which will force the Soviets to dismantle 250 older but powerful launchers while we dismantle none; a fractionation limit on the number of warheads which has the effect of neutralizing the Soviet throweight advantage to our benefit; a ban on the testing, production and deployment of the Soviet SS-16 mobile ICBM: and restrictions on militarily significant modernization of their missiles.

Additionally, the ceilings of the treaty delay any possible Soviet breakthroughs in nuclear numbers which might make our quantitative and qualitative strength less effective as a deterrent. This treaty retains an adequate balance of strategic power.

Thus, far from giving the Soviets an advantage, I believe this treaty significantly strengthens America's comparable power.

But there is a second reason to believe that the treaty protects our national security. There is nothing in the treaty which prevents us from deploying any strategic system we are capable or interested in deploying during the life of the treaty. Under SALT II we can develop a new ICBM; we can continue to modernize our submarine launched ballistic missile forces; we can upgrade the air breathing leg of our TRIAD through air, sea, and ground launched cruise missiles or a new bomber; and we can continue to work on the mobile basin modes for it if we wish. We can do all these things under the terms of SALT II. We can do whatever we believe we need to do to protect ourselves under the term of SALT II.

This point is absolutely critical. I asked many of the witnesses who appeared before the Armed Services Committee what systems we wanted to build which we could not build under the terms of the treaty. Some pointed to systems which we had already unilaterally decided not to build, others pointed to systems which we would not be able to deploy during the life of the treaty and its protocols because of our own development timetables and not because of treaty or protocol constraints. Most said they knew of no system which we wanted and which we were denied by the treaty. Representative of this response was the answer of Henry Kissinger who said that if we clarified certain issues—which have since been clarified by the Foreign Relations Committee—then "we can proceed with other programs within the framework of the SALT agreement."

We were never told during the hearings what weapons we wanted and were able to deploy that the treaty denied us. And I ask opponents that same question on the floor today: What programs which we would want and are able to deploy are we prohibited from deploying during the life of this treaty?

I am going to repeat that question because I have not heard an answer yet from an opponent, although we have asked and asked again during the hearings on this treaty: What programs which we would want and are able to deploy are we prohibited from deploying during the life of this treaty?

Until a specific answer to that question is provided, there can be no claim made that SALT places us in an inferior strategic posture. SALT gives us the right to improve that posture. And it establishes a better environment in which to make those improvements—an environment which limits Soviet nuclear growth and channels it into more predictable patterns.

After concluding that this treaty protects our national self interest, I then asked a second question: Is SALT adequately verifiable?

We must be sure that we can detect any cheating before it becomes significant in a military sense. A treaty is adequately verifiable if we can discover and correct any violations before they threaten us.

SALT is adequately verifiable. The Senate Select Committee on Intelligence spent 2 years studying this issue and they concluded that:

> Overall, the Committee finds that the SALT II treaty enhances the ability of the United States to monitor those components of Soviet strategic forces which are subject to the limitations of the treaty. . . . In the absence of the SALT II treaty . . . the Soviets would be free to take more sweeping measures, which could make monitoring these strategic forces still more difficult.

Because of the importance of this issue, and the impact of the loss of our monitoring capabilities from Iran, I was particularly concerned about the continued confidence that our military leaders had about our abilities in this area. I raised the issue with General Jones and he testified that "we would be able to determine what they were doing, if they are cheating, to do it in time, and to do something about it before it has any substantial impact on the overall strategic equation." Just to be sure, I specifically asked him if held to that conclusion in spite of the loss of the listening posts in Iran and his response was unequivocally "yes."

Not only is SALT adequately verifiable, but as I have indicated before, the ability to monitor Soviet behavior under specific limits allows us to make our own strategic decisions within a more secure framework.

And that led me to my third question: What sorts of strategic decisions does SALT imply? Does it contribute to real arms limitation in the future? Does it really accomplish anything in the area of reducing nuclear weapons?

Here the answer is more mixed. SALT does not prevent nuclear war. It leaves both sides with high levels of weaponry. But it does accomplish some things. Personally, I feel better about living in a world which limits the Soviets to 2,250 launchers rather than allowing them to construct the 3,000 launchers most informed sources estimate they would have without SALT. Personally, I feel better living in a world which limits the Soviets to 1,200 MIRVed missiles rather than allowing them to have the 1,800 most informed sources say they will have without SALT. Personally I feel better about living in a world which limits the Soviets to 10 warheads on their SS–18's rather than the 20 or 30 most informed sources say they could otherwise have. Personally I feel better about living in a world which limits the Soviet production of Backfire bombers to 30 a year rather than letting them produce more than that, which they have the capability to do. Personally I feel better about living in a world which at least puts a lid on growth rather than living in one which allows the arms race to just continue to escalate without limits.

After 7 long years of negotiations, putting a lid on growth seems like precious little to get. One hoped for so much more. But SALT is not a product of hope—it is a product of negotiations. And in any bargains which involve the national security of the parties, we have learned that progress is much slower than we might have hoped. Still, even with its limited successes in this area, SALT is better than no SALT. You have to stop a train before you can throw it in reverse. SALT does not stop the nuclear train, but at least it slows it down. And we have to begin to slow down. We cannot go on this way. SALT at least lets us slow the train down without throwing it off the tracks. And I fear that if we do not board that train now, then its acceleration will increase.

When I was in Russia I was struck—physically struck—by the fact that the Soviet leaders we have dealt with are old men. They will be gone soon and new leaders will replace them. If the railroad track of détente accepted by that leadership ends with the rejection of SALT, then in what direction will the new leaders point the engine of state? What sorts of policies ought we to anticipate from them? What sorts of signals will we have sent them? What sorts of signs will we have given them?

SALT II protects our national interest, it is adequately verifiable, it makes progress toward real arms reductions in the future. It is, as has often been said, "a modest but useful step." It is a step I want to take. It is a treaty I will vote for when it reaches the Senate floor.

Despite the fact that there is a widely shared belief that SALT, as a treaty, is on balance a plus for America, there is no doubt that this treaty faces a difficult road. No one can say with any certainty what its fate will be when it reaches the Senate floor. All we can say is that if a vote were taken today, the treaty would probably fail.

It would fail, I suspect, because the treaty is no longer the focus of our concerns. Instead, the debate has shifted from a consideration of the treaty and to other policy issues. Several of my colleagues, for whom I have the greatest respect, have indicated that they are willing to risk the treaty in order to achieve other objectives. Very few Senators say they will vote against SALT because they believe that the treaty is, in and of itself, deficient. But many Senators are willing to vote against SALT for other reasons. Some of these Senators say they will vote against SALT unless the defense budget is increased by 5 percent or unless they have a guarantee that the MX will be deployed. Others say they will vote against SALT unless we mandate real reductions in arms by 1982 or unless we renounce plans to deploy the MX.

I cannot join in these efforts to link the treaty to other issues.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The time of the Senator from Michigan has just expired.

Mr. ROBERT C. BYRD. Mr. President, I have an order, do I not?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. ROBERT C. BYRD. And some additional time?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. LEVIN. I wonder if I might have 5 more minutes.

Mr. ROBERT C. BYRD. I am glad to yield the Senator 5 minutes.

Mr. LEVIN. Mr. President, I cannot join in these efforts to link the treaty to other issues.

If SALT is in our best interests as a Nation, then we should support it. If it is not in our best interests, then we should reject it. I do not believe the intrinsic value of the treaty should be determined by factors outside the treaty itself.

Let me illustrate the problem I see in this approach. Arms control advocates are disappointed in SALT, as I am, because it does not accomplish more. But some are also willing to say, as I am not, that unless ratification commits us to real reductions by a time certain in the future, they are willing to reject the limited good that SALT does offer.

Frankly that does not square with the logic we learned in the depression: Half a loaf is better than none. Nor does it square with my vision of SALT as making a small but real contribution to slowing the arms race. Nor does it square with the fact that without SALT, the Soviets will surely increase their nuclear forces.

But this same "linked logic" also motivates those who want to use SALT as a way of increasing defense expenditures. They see America as a land which is growing progressively weaker militarily. And while they usually acknowledge that the SALT process did not cause that weakness and while they usually concede that SALT II does not add to that weakness, they want to use SALT as a way of making us stronger.

So, as I have indicated, they link their support for SALT to increases in defense spending.

I believe that we should do what is needed to retain a strong defense—no less and no more. We can do that with SALT as well as without it.

I do not understand what logical connection SALT has to the decision to increase military spending if that is needed. Do proponents of this form of linkage believe that ratification will prevent us from doing what is needed? Do they believe that if SALT is rejected we will then, and only then, do what is necessary for our own defense? Since a reason they would offer for rejecting SALT is a failure to increase defense spending, the rejection of SALT would mean we had not—in their opinion—adequately funded our defense needs. And having made that decision, why in the world would we reverse our course and increase spending after SALT is rejected?

We should pursue the other goal, whatever it is, whether or not SALT is ratified. There is no logic that I can see to reject SALT unless the other goal is achieved.

In all the lore of linkage, I have not seen a persuasive answer to those questions, and until I do, I cannot accept the logic which compels some to link SALT with other policy issues.

I hope others will reject the appeal of linkage as well. If we reject linkage, then I believe we will surely accept the treaty. And we should accept it because it is in our national interest to do so.

That does not mean the treaty is perfect or that there are not ways to improve it on the Senate floor, just as it has been improved in the Foreign Relations Committee. My review of the amendments already submitted indicates there are some excellent changes already proposed. Indeed, I am considering offering some additional understandings myself when debate on the treaty begins.

But even before the Senate begins floor consideration, I believe that the treaty, as it comes to us, is in the best interests of the United States.

I hope the Senate will give its advice and consent to its ratification.

I thank the Chair, and I thank the majority leader for yielding me additional time.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. LEVIN. I do yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I congratulate the distinguished Senator for having delivered a very fine address on the SALT treaty, and I congratulate him on his decision to support the SALT treaty.

The Senator is a member of the Commitee on Armed Services, and, therefore, I think, brings to this debate a perspective, a voice, and a viewpoint which will be cogent and lucid, and which will have an impact on the outcome of the debate. It is obvious from his speech today that he engaged in extensive preparation, not only for the speech but also in the study that led him to the decision that he has made to support the treaty.

I wish to comment on just one or two points the Senator made in his speech. There are many on which I could comment, but he has said it all well, and I cannot improve upon it.

However, he has made a couple of points in particular that I do wish to make some comments on. For one, he has said that he does not believe that there should be linkage with an increase in defense spending, and I agree with that. He has said that there are those who want to use SALT as a way of making us stronger.

Mr. President, the SALT debate, in committees and out of committees, has already made a very clear contribution to making our national defense stronger, because it has increased the perception, on the part of Senators and on the part of the American people, I think—certainly, it has done so with me—of the need to improve the Nation's conventional capabilities.

The debate has increased the perception of the growing Soviet superiority in terms of theater nuclear forces in Europe and in terms of conventional forces there. It has made it very clear, in my judgment, that there is a need for this country to spend more—but to spend it prudently—for national defense. And it has also made indubitably clear the fact that, with or without SALT, this country is going to have to spend more money on strategic central nuclear delivery systems, but that without SALT this country will be forced to spend more, for strategic central nuclear delivery systems than it will have to spend if the SALT treaty is approved.

Because the Soviet Union already has the momentum, it has developed a trend in these long lead turn items that require 5, 10, 15 years from the drawing board to planning to testing to developing and to deployment.

And so the United States will, if this treaty is rejected, be forced, in my judgment, to develop momentum which it does not now have and engage in what will be an arms race in the field of strategic nuclear weapons that could pale in significance anything that we have seen thus far in that race. As a matter of fact, it is not much of a race at this point. The country has lost the momentum it once had, although it has made some steps forward and it has been developing and improving some weapons systems. But the Soviets have developed a momentum that by far exceeds any momentum that this country now has.

Now, we head into the dangerous 1980's which, in my judgment, will be the most dangerous decade in this century for the world and for the United States, in particular, because of many problems—for example, energy problems, inflation problems—these are worldwide problems—and because of the growing superiority of the Soviet Union in the area of strategic forces, the area of theater nuclear forces, in the area of conventional forces, and the mobility of those conventional forces.

So, Mr. President, what we are seeing happen around the world today in connection with events in Iran and elsewhere should persuade us to understand that this country needs to improve its conventional capabilities to deal with localized and regionalized situations that could impinge upon our national security interests and which otherwise, if allowed to expand, could result in nuclear exchange, which we all want to avoid.

Mr. President, for those who want to see the national defense of this country strengthened—and count me one of those—let us not forget that SALT is in the direction of improving our national defense, because, for one thing, it will enable us to spend a greater percentage of our total defense dollar on conventional forces.

We only have so much of the total budget that we can spend on defense. Mr. President, if we can spend a greater proportion of that total defense dollar on conventional forces, then this country will be better prepared to deal with the localized and regionalized situations that we are possibly going to be confronted with in the years ahead.

It should be obvious to everyone that we cannot use the Minuteman in dealing with the Iranian situation, or with localized or regionalized threats to national security. What we need is the conventional force to allow us to act in a firm but restrained and controlled way to deal with situations to keep them from getting out of hand. We are never going to resort to an all-out nuclear exchange in dealing with a localized situation.

Mr. President, I just cannot understand the logic of any who would say, "Well, if we do not get more for defense, we will not get the SALT treaty." We need both, because both strengthen, in the long run, our conventional forces; the SALT treaty indirectly, but very effectively and surely. It is like saying, "Well, I am for national defense, but if you do not give me this, I will not do this," when both will contribute to stability and security. Both are necessary, in my judgment.

I think the distinguished Senator is right. I, too, want more money for national defense. I am not going to hold the SALT treaty hostage. The only linkage I would see is that the SALT treaty is a link in the chain of improving our conventional capabilities. A link in the chain. I must say, in deference to the views of others, that to link SALT to an increased defense budget is one way of getting the administration's attention, and to that extent it has been beneficial.

The distinguished Senator has performed a service in making his decision and in speaking out thereon.

Mr. LEVIN. Will the majority leader yield on that point?

Mr. ROBERT C. BYRD. Yes.

Mr. LEVIN. I happen to agree very fully with the Senator's assessment of the linkage situation. I also want to thank the Senator for his comments about my remarks. They are very much appreciated.

I think the point which the Senator is making is critical: that the SALT treaty debate has, in fact, increased the perception of a number of needs that we have in the defense budget. In particular, I happen to agree with the Senator's assessment of some conventional weaknesses. I think there are some weaknesses which we must repair in the conventional area.

The point that these remarks intend to make is, even if we were so foolish as not to perceive that need and to act on it, that the SALT treaty, in and of itself, would have value to this country. I think we are wise enough to act on it and I think the SALT treaty has helped us to sharpen the perception of that need and has had a value in that respect.

But even if this Senate ignores everything that we have learned about some weaknesses in the conventional area, the SALT II treaty still, on its own merits, would be a contribution to the defense and the security of this country. I do not believe we are going to ignore that. I think we are going to act on it. But I also think that we should take a look at the treaty in its own four corners for the value that it has for us.

Mr. ROBERT C. BYRD. And the Senator from Michigan has done that. He has done it in a comprehensive way that is most persuasive—most persuasive—in my judgment.

Mr. President, finally, again from the standpoint of building up our defense, SALT will help us in that direction.

SALT does not run counter to our achieving that very goal.

Mr. President, I realize that many of us find it very difficult to be convinced that we will indeed move in the direction of improving our conventional capabilities. We do not need the rejection of SALT to shock the Nation into moving in that direction. What we need is leadership, and it is up to me and all of us who believe that this Nation's defense capabilities need to be improved, to help to lead the American people in that direction. We cannot let down our efforts if and when the SALT II treaty is approved.

But we all have a responsibility for leadership. Not only for following, not only for representing the people, but also to lead this country in the direction of a stronger national defense. So part of the responsibility will be on my shoulders and the shoulders of every other Senator who believes that this country needs to improve its defense capabilities.

Mr. President, the SALT treaty will be top priority, certainly my top priority, the beginning of next year. There are those who think, apparently—if I read the press and interpret the media correctly—that the reason the SALT treaty will not come up this year is because the majority leader does not have the votes.

Mr. President, there were days, many days, during the debate on the Panama Canal treaties that we did not have the votes. We did not know exactly what the vote would be until the final vote occurred. There are always one or more surprises in those highly controversial votes when the roll is called. So we may never know whether we have the votes "until the roll is called up yonder."

The same thing was said about the natural gas bill, that it was dead. The same thing was said about the Panama Canal treaties, that they were dead. The same thing was said about the excess profits tax bill, that it was dead before it was ever sent up to the Hill. Of course, we have heard that about the SALT treaty.

I said to President Brezhnev and to Foreign Minister Gromyko, that if the vote were held today this treaty would not be adopted. The Senator is absolutely correct. But I have no reluctance to bring the treaty before the Senate simply because we cannot count the votes for it, because it is in the crucible of debate where final decisions can often be hammered out.

Many Senators will not really focus on this treaty until the time comes that it is before the Senate because they have so many demands upon their limited time. But we are going to have to showdown one of these days, and we are going to showdown on the treaty. I do not know whether it will be rejected or approved. But, Mr. President, if this treaty is rejected, those who vote against it will have to answer the questions in the days, months, and years ahead. It is a very heavy burden for any Senator to cast a vote against this treaty. It is also a heavy burden for those of us who will vote for it.

Mr. President, I did not reach my decision on the treaty lightly, and I am sure the distinguished Senator from Michigan has not reached his decision lightly. He has reached it only after great study. I am confident that he will be able to stand on the position that he has taken, explain it, and defend it.

Mr. LEVIN. If the majority leader will yield one more moment before we leave the subject, I want to add my voice to those who see his leadership efforts here as one of the most extraordinary sagas the Senate has seen in years and years. The Senator is willing to take the mantle of leadership on this. Those of us who have studied the treaty have gone back and talked to people back home and know how controversial it can be.

The Senator has shown tremendous logic, tremendous strength, I think tremendous courage, in his willingness to say that this treaty is in our interest and he is going to take a leadership role in it, that he is going to show the logic of it in terms of the strength of this country, the defense of this country, and regardless of what the hazards may be, the difficulties may be, in that effort. The Senator is willing to shoulder that leadership role, which I think is going to be an important chapter in the saga of this body.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator.

VITIATION OF ORDER FOR RECOGNITION OF SENATOR TOWER

The PRESIDING OFFICER (Mr. EXON). Under the previous order, the Senator from Texas (Mr. TOWER) is recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I have been informed that Mr. TOWER does not wish to address the Senate at this time, and that I may vitiate the order. I therefore make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the majority leader for any further comments he may have.

Mr. ROBERT C. BYRD. I thank the Chair for his kindness. I have nothing further to add at this point.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 3919, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed consideration of the bill H.R. 3919.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, not to exceed 10 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO CONVENE THE SENATE AT 10 A.M. ON DECEMBER 11 THROUGH DECEMBER 15, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate daily this week stand in recess at the close of each day and convene the following morning at 10 a.m., with the exception of Sunday.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

Mr. ROBERT C. BYRD. Mr. President, under the orders that have been entered thus far, I believe Mr. Dole and Mr. Jackson were to bring up plowback amendments, if they have such. Also, Mr. Stevens and Mr. McClure were entitled to bring up their amendments today. Mr. Stevens has one on Cook Inlet, perhaps one on plowback, and I believe Mr. McClure had one on plowback.

That being the case, I ask unanimous consent that Mr. Stevens be recognized to call up his Cook Inlet amendment and that following that, either he or Mr. McClure be recognized to call up a plowback amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 733

(Purpose: To reclassify Cook Inlet oil as tier 2 oil)

Mr. STEVENS. Mr. President, I call up my amendment No. 733.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Alaska (Mr. Stevens), for himself and Mr. Gravel, proposes an amendment numbered 733:
>
> On page 40, line 24, delete the word "or" and insert in lieu thereof a comma and insert between the second word "oil" and the parenthesis the words, ", or effective October 1, 1980, Cook Inlet oil".
>
> On page 41, line 9, delete the word "or" and insert in lieu thereof a comma and insert between the second word, "oil" and the period the words ", or effective October 1, 1980, Cook Inlet oil, other than oil produced from a stripper well property".
>
> On page 66, between lines 6 and 7, insert a new subsection (h) as follows:
>
> "(h) Cook Inlet Oil.—For purposes of this chapter the term 'Cook Inlet oil' shall mean oil produced from properties located in the Cook Inlet of Alaska.".

Mr. STEVENS. Mr. President, the Senator from Illinois (Mr. Percy) has asked that his name be added as a cosponsor of the amendment, and I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, this is an amendment that is fairly simple, but it has a most profound impact upon the production of oil from the Cook Inlet.

Under the bill before the Senate, Cook Inlet oil is tier 1. It is my understanding that tier 1 oil would be taxed, under this bill, at the rate of 75 percent of the amount in excess of $6.00.

This oil is produced in the Cook Inlet from platforms. There are 13 oil producing platforms offshore in the inlet, which is in the south central portion of Alaska. Anchorage is on the Cook Inlet, and all of these platforms are visible to a person who arrives by air as he approaches the Anchorage International Airport.

That inlet is subject to annual ice flows. It has tides which average 35 feet, and the current there runs at approximately 8 knots.

It is an interesting sight to stand on one of the platforms and watch the legs of that platform crush the ice as the tide brings the ice in or takes it out during the wintertime. Those platforms are subject to ice problems about 9 months out of the year. The oil from these platforms is collected by pipeline which runs about 42 miles along the west bank of the Kenai Peninsula. There is some difficulty involved in this collection. Though the inlet transportation system is short, the cost of transporting per barrel for Cook Inlet oil even at only 42 miles is $1.25 a mile; whereas, the cost of transporting oil from the North Slope 800 miles is $4.50 a barrel.

It is readily apparent that the problems of maintaining the transportation system for this oil from the platforms is most difficult.

But the worst problem that this area faces is the increasing cost of production. We are informed that the field will require in excess of $500 million between now and 1986 to keep the field operational. The cost of just lifting this oil is $2.26 a barrel now. That does not include State and Federal taxes. That compares with an average cost of production for the rest of the United States of about a dollar per barrel for all producing wells.

Treating Cook Inlet as tier 1 creates a problem as there is no increased flow of revenue to meet the increased cost of maintenance and workovers on the existing wells.

I believe that this matter was discussed in the Finance Committee and the bill before us mandates tier 1 treatment for this oil. After the bill came out of the committee, the producers of the oil came to my office and informed me that unless this oil receives tier 2 treatment they will have no alternative but to initiate abandonment of these platforms which are producing an average of 125,000 barrels per day.

It is my hope that the Senate will understand the problem and will allow this oil tier 2 treatment. That would result in, as I understand this bill, a loss of approximately $200 million.

The oil that will be lost if these wells are abandoned, I am informed, will amount to about 120 million barrels.

It is my feeling that this oil should be treated the same as North Slope production. North Slope production is tier 2 in this bill and I think was rightfully given at least that treatment because of transportation of North Slope oil.

But here we have a field which, unless permitted an increased price to meet the increased cost of maintaining it, will be abandoned. The net result will be that California, which receives this oil, will have to replace the oil on the spot market. That is, it will have to import oil. That oil is going to cost considerably in excess of the $13 a barrel that would be available under tier 2 treatment. I think it would be a severe loss, economically, to the country if that were to happen.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. STEVENS. I am happy to yield.

Mr. LONG. Can the Senator tell me how many wells are producing in Cook Inlet?

Mr. STEVENS. There are about 13 platforms and on those platforms there is an average of six to seven wells. I cannot tell the Senator today exactly how many wells are producing because I understand that several of the wells have been shut down because of increased costs. There is water flooding going on there now in order to maintain production, and the costs of that are extremely great.

Mr. LONG. Can the Senator tell me further at least how thick, on the average, is the oil produced from the sand under those wells? I am curious how one gets so much production out of those wells when it is necessary to water flood.

Mr. STEVENS. I must tell the Senator I did not anticipate this amendment up right now. I can get him the answer to that question from my office.

I have just made an error and I want to correct that. It is a water intrusion problem that has caused difficulties in recovery. We are informed, for instance, that Union Oil Co., the owner of some of these platforms, will phase out their production unless they have the revenue necessary to drill new wells to avoid the water interface coming about as a result of the water intrusion in their wells.

Mr LONG. I thank the Senator.

Mr. President, in the committee such an amendment was offered. The amendment failed by a vote of 7 yeas and 10 nays. I was among those who voted for the amendment. The yeas were Senators Long, Talmadge, Gravel, Boren, Dole, Wallop, and Durenberger. The nays were Senators Ribicoff, Nelson, Bentsen, Matsunaga, Moynihan, Baucus. Bradley, Danforth, Chafee, and Heinz.

I thought that the amendment was a good one, but a majority on the committee did not agree with it, so the committee position would have to be stated as being in opposition even though I personally voted for the amendment, and I expect to vote for it again.

Mr. STEVENS. I thank the Senator from Louisiana.

Mr. President. I have sent a letter to each Member of the Senate. This is a very specific amendment. It covers one situation that exists in one field in my State. We only have two producing areas, the south central area, which is the full Cook Inlet Basin, and the other is the North Slope. This amendment applies only to the Cook Inlet crude which is produced offshore. The other production is 1,350,000 barrels per day, and this amendment will touch but 125,000 barrels of that, as I indicated, which is, under the bill, currently classified as tier I.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. STEVENS. I would be happy to yield.

Mr. DOLE. I think it is well to point out that since the amendment was offered in the committee we have increased the tax rate to 275 percent. The Senator from Kansas offered the amendment in the Senate at which point the tax rate on tier 2 was 60 percent. So I think it strengthens the position of the Senator from Alaska on the Senate floor that there would still be some improvement as far as Cook Inlet oil, but not as much as the Senator from Kansas and six others sought in the committee itself because on the floor with the so-called Bradley-Chafee amendment we have increased the tax rate from 60 to 75 percent on so-called tier 2 oil.

I think—particularly for those who have not followed the debate that closely—that they should be reminded of this when they vote on this amendment and, as indicated by the Senator from Alaska, this is high-cost recovery. We are talking about not a lot of oil, 105,000 to 125,000 barrels per day, but I would like to put in the RECORD the economics of the so-called Cook Inlet oil.

If you count the operating expense, maintenance, State taxes, overhead, and Federal income taxes, you have about $1.24 remaining, so it seems to this Senator this amendment should be adopted.

We are talking about preserving that much production, and if we do not permit some profit in these high-cost areas they are not going to produce it. They are going to produce some newly discovered oil where we do not have any tax.

It just seems to the Senator from Kansas, particularly in this critical period now, that we had better preserve every barrel we can and preserve all the production we can.

So I suggest that this amendment makes a great deal of sense.

I ask unanimous consent to have printed in the RECORD some information concerning upper tier treatment for all Alaskan oil, including those who control the so-called Cook Inlet production, and there are a number of companies: Union, Marathon, Arco, Chevron, Mobil, Shell, Amoco, Phillips, Getty, Texaco, and Superior. I thank the Senator.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

UPPER TIER TREATMENT FOR ALL ALASKAN OIL

1. In addition to the 1,500,000 barrels per day of oil produced on the North Slope, Alaska produces approximately 125,000 barrels a day of oil in the Cook Inlet. The cost of production for this oil is greater than the cost for any other domestically produced oil.

2. In the Trading Bay Unit, Cook Inlet, Alaska, the total cost of each barrel of oil is $4.57—$2.26 in production costs and $2.31 in State and Federal taxes. This oil sells for $5.81, leaving a net cash flow to the producers of $1.24. (See Attachment A.)

3. In comparison, production costs are less than $1 a barrel an average for all U.S. oil wells. North Slope oil costs approximately 20 cents to 30 cents a barrel to produce.

4. Cook Inlet oil is produced offshore in a severe climate, and its production costs continue to rise. It has increased 20 cents per barrel in the last two years. Needed well work-overs, better maintenance, more infield drilling, etc., are needed, and this $4.57 cost will continue to increase. When the positive cash flow from the fields is exhausted, the fields will be abandoned. Industry projections indicate that it will cost in excess of $500 million between now and 1986 just to keep these fields operational.

5. For price regulations, North Slope oil is treated as upper tier, which means that the selling price is about $13 per barrel—more than twice the regulated price allowed for Cook Inlet oil. Certainly if any Alaskan oil deserves upper tier treatment, Cook Inlet oil does.

6. North Slope oil is treated for entitlement purposes as if it were foreign oil which offsets the pipeline tariff for that oil. Cook Inlet oil, on the other hand, is treated as domestic lower tier oil. This means that refiners must pay a fee of $18 per barrel for the Cook Inlet oil that they run, but no entitlement fee for North Slope oil. The result is that Cook Inlet oil—theoretically price controlled at lower levels, costs a refiner several dollars per barrel more than North Slope oil—it is less desirable to purchasers.

7. Due to the small quantity, the revenue loss to the U.S. government if Cook Inlet oil is placed in Tier II would be minimal. The joint tax committee estimates $110 million over a ten-year period; Union believes that the loss would be approximately $105 million.

8. It should be remembered that under the decontrol program and at the 75 percent tax rate the added revenue for a barrel going from Tier I to Tier II is only 12½ percent to the producer. Because of this treatment, these fields are candidates for premature abandonment. It is estimated that there are 600,000,000 barrels of oil in the Cook Inlet recoverable at lower tier prices. If the oil is raised to upper tier, 720,000,000 barrels would be recovered.

Union Oil Company—Economics of Trading Bay Unit, Cook Inlet, Alaska

[1st half 1979]

Items:	*$/Bbl*
Revenue	$5.81
Operating expenses	1.21
Maintenance	1.00
State taxes	0.61
Overhead	0.05
Federal income taxes	1.70
	4.57
Net Cash Flow After Tax	$1.24

DATA ON COOK INLET OIL

1. There are 13 oil producing platforms set in the Cook Inlet. The average well in the Cook Inlet produces approximately 431 barrels of oil per day.

2. Cook Inlet has an ice problem for approximately 9 months. The tide is 35 feet on an average, and the current is 8 knots.

3. The oil is collected by pipeline which runs for 42 miles to a spot on the west bank of the Kenai Peninsula.

4. The oil from the Kenai Peninsula is 36 gravity, .2 sulphur. This contrasts with North Slope oil which averages 26 gravity, 1.2 sulphur.

5. In Cook Inlet there are approximately 245 producing oil wells. The July production was 105,967 barrels per day. Additionally, there is approximately 20,000 b/d of oil produced in the Swanson River field which is on shore of the Kenai Peninsula.

Cook Inlet (Alaska) crude oil production

[1979 MB/D]

Companies	MB/D (Incl. royalty oil)	Percent
Union	35.3	28.7
Marathon	33.9	27.6
Arco	21.9	17.8
Chevron	11.4	9.3
Mobil	4.1	3.3
Shell	3.3	2.7
Amoco	3.9	3.2
Phillips	3.9	3.2
Getty	3.9	3.2
Texaco	.5	.4
Superior	.5	.4
	123 MB/D	

Mr. STEVENS. I thank the Senator from Kansas. This amendment has been costed out, I am informed, not at the $200 million I said it was, but $110 million with respect to the windfall profit tax. With additional wells, there are an estimated 720 million barrels that could be recovered. Only about 600 million barrels will be recovered unless these additional wells are drilled, so that the minimum loss we are looking at is 120 million barrels of oil. That is over the same period of time.

We are looking, then, at a situation where, in order to maintain production, it is going to cost less than $1 a barrel, and yet to replace that production, if it is lost, the United States will have to pay in excess of $30 a barrel for imported oil. If you go to the spot market, the price is in excess of $40 a barrel.

It seems to me that this amendment makes economic sense. It says to the industry involved that they will have the cash flow to continue the maximum recovery of oil from this field that has been producing over a period of years. It was our second producing field in Alaska, and it should be maintained at maximum production as long as it is possible.

Tier 1 treatment will just not permit the companies involved sufficient revenues after the tax is imposed by this bill, to drill these very expensive wells in order to continue the maximum recovery of the oil.

I do not want to mislead anybody. The Inlet oil production is declining. It will continue to decline over a period of years. But the original estimates for recovery may be maintained if this production can continue by virtue of drilling these additional wells.

The result of this, as I have said, is that the industry will continue to drill the wells, they will maintain this production, if they are given tier 2 treatment.

The revenue that is added per barrel by going from tier 1 to tier 2 is 12½ percent to the producer, and premature abandonment which will take place if it is not given tier 2 treatment.

I am hopeful that the Members of the Senate will support this amendment and will permit the producers to continue the work that is necessary to maintain this production.

I believe the Senator from Kansas has placed into the RECORD the figures he presented at the time it was considered by the Finance Committee, which shows the breakdown by the companies involved in the 13 platforms and at a producing rate of 123,000 barrels a day.

If any Senator has questions, I will be pleased to try to answer them.

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER (Mr. Levin). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I would think that some Senators would like to be heard to speak against the amendment. As I say, I have no objection to the amendment personally, even though a majority of the committee voted against it. I was among those who voted for the amendment that was offered by the Senator from Kansas (Mr. Dole) when it was before the Committee on Finance.

I hope anyone who wants to speak against the amendment will come to the floor and make himself heard. In order to afford them that opportunity, Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, will the Senator withhold?

Mr. LONG. Yes.

Mr. STEVENS. As has been pointed out to me by the Senator from Kansas, when this matter was before the committee the tax rate on tier 2 was 60 percent.

It is now 75 percent, as it is on tier 1; so the costing out of this amendment is different. It is indicated that the cost of this amendment is now placed at $110 million over the whole period of the bill, as opposed to a figure of $200 million. Consequently, the Senator from Kansas has corrected my figures.

At any event, it is less costly now than when it was before the committee, because of the change in the tax rate respecting tier 2.

However, as I mentioned, the problem here is the possibility of abandonment of these wells.

Who in his right mind would drill a new well in the inlet to get tier 1 oil, when he can go somewhere else and drill a new well to get oil exempt as new oil? It is a problem of maintaining revenues as well as maintaining production as originally contemplated from the field as a whole.

I hope the Senator will permit us to recover the full amount of 720 million barrels from this field.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Louisiana was very gracious in putting in a quorum call so that Senators who may oppose this amendment can come to the floor and do so. I am in no position to speak for it or against it, but I would hope that any Senators who wish to make a presentation against the amendment will come to the floor quickly; otherwise a rollcall vote could occur on the amendment.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. DOLE. We will contact those who we think might be against it on our side, but the effect of the amendment has changed substantially since it was offered in the committee, because of the tax rate increase on the floor, which reduces the revenue loss; and maybe those who were opposed at a 60-percent rate, plus the fact that now it does not take effect until September 1980, and that also reduces the cost of the amendment, no longer oppose it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PERCY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Mr. President, I rise to support my distinguished colleague from Alaska and his amendment with respect to changing the tax status of Cook Inlet oil.

We are all aware of the present and expected continued decline of domestic oil production. The President began the process of decontrol in early June in an attempt to curb long term decline and free the United States from its debilitating dependence on foreign imports. In view of the increased uncertainty of the Iranian oil supply, as well as that of the entire Mideast, we must insure that we do not discourage production of domestic oil from known domestic resources.

In this regard, I note that there are old oil resources that are disadvantaged because of both economic and geographic conditions. In particular, the Cook Inlet of Alaska has resources which will be prematurely abandoned unless corrective action is taken to modify present economic disincentives.

Approximately 1,625,000 barrels of oil per day are produced in Alaska. With only one exception, existing Alaskan crude is treated as tier 2 oil under the Finance Committee bill. Tier 2 oil has a base price of $13 per barrel and is subject—in accordance with the Bradley amendment—to a 75-percent windfall profit tax on the difference between the base price and selling price.

Cook Inlet crude is the exception to the rule. There are approximately 125,000 barrels per day of Alaskan crude produced from Cook Inlet which are classified as tier 1 oil. This oil has a base price of approximately $6 per barrel and, as it is gradually decontrolled, is subject to a windfall profit tax of 75 percent on the difference between base price and market price.

This is a flaw in the tax bill which will have a negative impact on our domestic oil supply unless corrected. The average per barrel cost of producing Cook Inlet crude is higher than any other field in the United States, including Alaska. The oil that is produced in the Cook Inlet comes from 13 oil producing platforms off-shore in the Cook Inlet itself. The inlet has an ice problem for approximately 9 months of the year. The platforms are constantly buffeted by tides in the inlet which average 35 feet with a current of 8 knots.

Despite the fact that the oil from the Cook Inlet is better oil, this is not entitled to as high a price as the remainder of Alaskan oil. Yet the cost of producing this oil averages $2.26 per barrel excluding State and Federal taxes as compared with an average production cost of less than $1 per barrel for all U.S. oil wells.

The production costs have increased 20 cents per barrel in the last 2 years and continue to escalate. The field is in need of additional maintenance which will cost in excess of $500 million between now and 1986 just to keep the field operational. Unless something is done to improve the cash flow from these fields, they will be subject to premature abandonment.

If this oil were treated as tier 2 oil and allowed to receive a base price of $13 per barrel with a tax rate of 75 percent, the revenue loss would be minimal. It is estimated that an additional 120 million barrels of oil, which would otherwise be lost, can be recovered from this field.

Accordingly, Mr. President, I strongly urge my colleagues to support this amendment which will be a positive action to assist the United States in its oil supply.

Certainly, Mr. President, we do not need to be convinced that we need to take every possible step to lessen our dependence on foreign oil. Every day it is becoming more apparent that this is an urgent need for our national security as well as our national economy. Whenever an amendment like this can provide encouragement to recover known oil reserves that would not otherwise be recovered, it is the better part of prudence for us to support it.

I urge my colleagues to approve the amendment of the Senator from Alaska (Mr. Stevens).

Mr. STEVENS. Mr. President, I am grateful to the Senator from Illinois for cosponsoring the amendment and for the statement he has made. I am delighted to have his support at all times. I certainly agree with him concerning this amendment.

Let me point out again that amendment is different from the amendment presented in the Finance Committee in the sense that it now addresses a situation wherein the tax rate is the same on tier 2 as it is on tier 1 and the revenue loss computations have been changed.

It is my hope that because of the particular circumstances involved in this field, we will have a favorable vote on the amendment.

Mr. President, I will suggest the absence of a quorum and would like to have an agreement for a time certain to vote on this amendment, if we can. I know a number of Senators have indicated that they intend to go out of the building for lunch. I would like to have the vote occur before lunch, if that is possible.

Mr. NELSON. Will the Senator first yield?

Mr. STEVENS. I yield.

Mr. NELSON. Mr. President, I am advised that the administration does still continue to oppose the pending amendment, even though it has been modified rather significantly. When it was voted upon in the Finance Committee, the cost was about $200 million. Now the rate has been raised to 75 percent and the cost is about $110 million. I cannot speak for those on the committee who took the position against the proposal at that time as to whether or not they now would change their mind, but in my judgment it is time to vote on the amendment in any event.

Mr. STEVENS. Vote.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum only for the purpose of alerting Senators that there will be a vote very quickly.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. GLENN), the Senator from Alaska (Mr. GRAVEL), the Senator from Alabama (Mr. HEFLIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Vermont (Mr. LEAHY), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Illinois (Mr. STEVENSON) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) is absent on official business.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Maine (Mr. COHEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Kansas (Mrs. KASSEBAUM), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 61, nays 19, as follows:

[Rollcall Vote No. 465 Leg.]

YEAS—61

Armstrong
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Cochran
Danforth
Dole
Domenici
Durenberger
Exon
Ford
Garn
Hart
Hatch
Hayakawa
Helms
Hollings
Huddleston
Humphrey
Inouye
Javits
Jepsen
Johnston
Laxalt
Levin
Long
Lugar
McClure
McGovern
Mathias
Matsunaga
Melcher
Morgan
Packwood
Pell
Percy
Pryor
Randolph
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—19

Biden
Bradley
Burdick
Chiles
Cranston
Culver
DeConcini
Durkin
Jackson
Magnuson
Metzenbaum
Moynihan
Muskie
Nelson
Proxmire
Sarbanes
Stewart
Stone
Weicker

NOT VOTING—20

Baker
Baucus
Bayh
Chafee
Church
Cohen
Eagleton
Glenn
Goldwater
Gravel
Hatfield
Heflin
Heinz
Kassebaum
Kennedy
Leahy
Nunn
Pressler
Ribicoff
Stevenson

So Mr. STEVENS' amendment (No. 733) was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the next amendment is either that of the Senator from Alaska or that of the Senator from Idaho on the plowback provision.

Mr. BUMPERS. Will the Senator from Idaho yield for a unanimous-consent request?

Mr. McCLURE. Mr. President, I am happy to yield briefly to the Senator from Arkansas for a unanimous-consent request.

Mr. BUMPERS. I thank the Senator very much.

Mr. President, the Saudi Arabians produce 9½ million barrels of oil a day, and all but 300,000 barrels per day of that oil has been jointly owned since 1974 by the Saudi Government and four American companies—Exxon Corp., Texaco, Inc., Standard Oil Com. of California, and Mobil Corp.

The Saudis have complained that American oil companies are reaping unwarranted profits from low-priced Saudi oil. The Saudis are charging $18 a barrel for their oil. Most other OPEC members charge at least $23.50 a barrel.

The principal question is to what extent the oil companies have taken advantage of the high-priced European market by diverting Saudi oil, which could have been refined in the United States.

There was an interesting article on this subject in yesterday morning's New York Times entitled "White House Still Studying Saudi Criticism of Oil Companies in the United States."

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

WHITE HOUSE STILL STUDYING SAUDI CRITICISM OF OIL COMPANIES IN U.S.

(By Steven R. Weisman)

WASHINGTON, December 8.—Two weeks after Saudi Arabia complained that American oil companies were reaping unwarranted profits from low-priced Saudi oil, the Carter Administration has failed to reach a conclusion on whether there was some basis for the Saudi complaints.

Administration officials acknowledged that there was widespread disagreement among them over the accuracy of the Saudi views, as well as uncertainty over what could be done even if they were true.

The issue is critical, energy officials said, because of both domestic and international politics.

Domestically, the Administration has been accused of adopting policies that hand big profits to the oil companies at the expense of consumers. Internationally, the Saudis have threatened to support higher price increases later this month when the Organization of Petroleum Exporting Countries meets in Venezuela.

MILLER GOT SAUDI COMPLAINT

Underscoring the politically sensitive nature of the Saudi accusation, which have been heatedly denied by the oil companies is the fact that Treasury Secretary G. William Miller, who told reporters about the charges after meeting with Saudi leaders last month, has emphasized that he did not necessarily agree with them.

Other officials said, however, that they believed the Saudi leaders were correct in asserting that American oil companies had failed to pass the full benefits of low Saudi prices to American consumers. But they added that there was no complete documentation yet to prove that the oil companies have taken advantage of the Saudi price policy.

Saudi Arabia sells most of its oil to four American compañies—Exxon, Mobil, Texaco and Standard Oil of California—for $18 a barrel. Most other OPEC members charge at least $23.50 a barrel. The price of a barrel of oil on the spot market, which handles oil not covered by long-term contracts, is $36 or more.

Under pressure from the United States, Saudi Arabia agreed early this year to keep its prices lower than those of other oil-producing nations in an effort to curb inflation.

LARGE PROFIT INCREASES REPORTED

The four companies, which are partners in the Arabian American Oil Company, or Aramco, have recently reported profit increases substantially larger than those of most other oil companies.

Critics of the four companies maintain that their retail prices are not appreciably lower than those of other companies. The Aramco partners insist that they are not making extra profits on Saudi oil, and say most of the improved profits comes from overseas operations.

Most industry analysts agree that one reason for the recent surge in profits for the Aramco partners is that they have sold Saudi oil for the highest possible markups in Western Europe, where there are no controls on oil prices.

Some Administration officials have said privately that the oil companies have taken advantage of the high-priced European market by diverting low-cost Saudi oil, which might otherwise have been refined in the United States, to refineries in Europe. The oil companies deny this.

Even if this was going on, however, some Administration officials concede that they could not do much to prevent it.

"You're talking about companies operating in jurisdictions that go beyond the United States boundaries," one official said. "This is something that is not readily subject to control by one particular country."

But other Administration officials disagree. "It's true, there's no ready documentation of this," said Stuart E. Eizenstat, President Carter's adviser on domestic affairs. "But if it were true, we could certainly bring the oil companies in and sit them down to talk about it. We could ask for our fair share of Saudi oil."

Administration officials reported that a number of internal investigations have begun to look into the general pricing situation. Preliminary results may become available in the next few weeks.

WAITING FOR DETAILED AUDITS

"One thing is clear to us," said John C. Sawhill, Deputy Secretary of Energy. "The four Aramco partners generally underprice their competitors in the United States. What isn't clear is whether they have done so to the full extent of the differential in their costs. Until we get more detailed audits, we don't really know."

Given the sensitive and potentially explosive nature of the charges, some officials said it was unusual that no hard information had been developed by the Administration and that no position had been developed by the President's advisers.

At the White House, responsibility for the investigation of the oil-pricing situation has been given to Alfred E. Kahn, chairman of the Council on Wage and Price Stability and special assistant to the President on inflation. Mr. Kahn's staff is known to be leaning toward the theory that the Saudis are correct, but officials at the Department of Energy are known to be leaning the other way.

"The battle hasn't really been joined," an Administration official said. "There is some disagreement on a staff level. It makes sense for us to put together some information so we don't leap to conclusions."

"WINDFALL" PROFITS TAX STRESSED

"Maybe we should have been working on this before now," the official conceded, "but our dominant focus has been to try to get the "windfall" profits tax out of Congress. When we're done with that, we can look at this situation."

Administration experts said one obstacle to the investigation is the difficulty of interpreting the numbers and information generated by the oil companies.

Saudi Arabia produces 9.5 million barrels a day of oil, but the United States imports only 1.5 million barrels of this, according to Mr. Sawhill.

"An awful lot of Aramco crude is being sold outside the United States," he said. "Should we be critical of companies trying to maximize their profits by selling crude into those markets where they can obtain the best prices"

AMENDMENT NO. 588

(Purpose: An amendment in the nature of a substitute to title I of H.R. 3919, as reported by the Committee on Finance)

Mr. McCLURE. Mr. President this amendment is the amendment I had offered over a week ago and I then withdrew it because the Senate was then involved in the consideration of the Bradley-Chafee amendment and the substitutes for it. It was thought my amendment was interfering with the progress on that amendment. Rather than have mine involved in any parliamentary debate or any thoughts concerning the procedures, I did withdraw the amendment and got unanimous consent that it be considered at a later time. Now it is that time.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk so it can be stated?

Mr. McCLURE. It is amendment No. 588.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McClure), for himself and Mr. Cochran, proposes an amendment numbered 588.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

H.R. 3919 is hereby amended by striking title I and inserting in lieu thereof the following:

Section 1. Part II of subchapter A of chapter 1 of the Internal Revenue Code of 1954, as amended (relating to corporation income taxes), is amended by adding after section 12 a new section as follows:

"Sec. 13. Excess Petroleum Profits Tax.

"(a) In General.—Notwithstanding other taxes imposed by this subtitle, an excess profits surtax is hereby imposed on the taxable income of all petroleum industry corporations for each taxable year beginning after December 31, 1978. The surtax shall be equal to the surcharge as computed under subsection (b).

"(b) Surcharge.—The surcharge is equal to 90 percent of the amount by which the taxable income exceeds the surcharge exemption for the taxable year. Section 11 shall only apply to that amount of taxable income which does not exceed the surcharge exemption for the taxable year.

"(c) Surcharge Exemption.—For the purposes of this section, the surcharge exemption for any taxable year shall be the percentage rate of a return, on the capital investment of a petroleum industry corporation, equal to the average rate of return on capital investment for all manufacturing corporations for that taxable year. Determination of the average rate of return on capital investment, by industry and for all manufacturing corporations, shall be made by the Federal Trade Commission and submitted in its quarterly financial reports for manufacturing corporations, beginning with the quarter following enactment of this bill. The Commissioner is further directed to compile and publish the rate of return on capital investment, by industry and for all manufacturing corporations, starting with the first quarter of 1979 and extending through the quarter in which this bill is enacted.

"(d) Exemptions.—

(1) Small corporations.—This section shall apply to all petroleum industry corporations having an invested capital structure exceeding $2,500,000.

"(2) Set-aside fund.—The corporation may establish a special fund to be used according to subsection (f) in which yearly income, subject to the surcharge, may be set aside without surcharge consequence. However, such set-aside funds which are not properly invested within 5 years of the taxable year in which they were earned shall be subject to the surcharge with no further exceptions.

"(e) Definitions.—

"(1) Petroleum industry corporation.—For purposes of this section the term 'petroleum industry corporation' means any corporation engaged in the exploration, extraction, refining, transportation, distribution, manufacture, production, and/or sale of any petroleum product as its principal business.

"(2) Taxable income.—For purposes of computation of the surcharge imposed by this section, taxable income shall be computed without regard to any deductions allowed by reason of the carryback or carryover of any loss.

"(f) Special Deduction.—In computing the surcharge imposed by this section, there shall be excluded from income, subject to the surcharge, an amount equal to the investment made in the taxable year or as authorized under subsection (d) (2), for the following purposes:

"(1) exploration or development of new domestic fuel;

"(2) increased domestic productive capacity;

"(3) research and development of new domestic energy sources, fuels, or uses;

"(4) research and development of energy technology affecting:

"(A) location,
"(B) production,
"(C) transportation,
"(D) conversion,
"(E) processing,
"(F) utilization,
"(G) pollution abatement, or
"(H) conservation; or

"(5) other investment reasonably calculated to increase the domestic energy supply or the more efficient use of such energy supply.".

Sec. 2. (a) Section 48(a) of the Internal Revenue Code of 1954, as amended (relating to investment tax credits), is amended by inserting at the end of clause (1) (B) (iii) the following:

"(iv) constitutes a domestic research and development facility for new or expanded energy sources, or

"(iv) constitutes tangible property specifically invested in to increase the domestic energy supply or its more efficient use, or".

(b) Section 48 of such Code is amended by redesignating subsection (k) as (l), and by inserting subsection (j) the following:

"(k) New or Expanded Energy Sources.—

"(1) New energy sources.—This term shall include (but not be restricted to) oil shale, tar sand, coal liquefaction, coal gasification, geothermal, solar, hydrogen, and magnetohydrodynamics energy.

"(2) Expanded energy sources.—This term shall include (but not be restricted to) the energy sources in (1), plus petroleum, coal, hydroelectric, and atomic energy sources.".

Sec. 3. (a) The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this Act, except as provided for in section 3(b).

(b) The Commissioner of the Federal Trade Commission shall prescribe such regulations and procedures as are necessary to carry out the compilation and publication of rate of return data as directed in section 1(c) of this Act.

Sec. 4. The amendments made by this Act shall become effective with respect to taxable years beginning after December 31, 1978.

Mr. McCLURE. Mr. President, I ask unanimous consent that Senator Jepsen and Senator Garn be added as cosponsors of the amendment.

The PRESIDING OFFICER (Mr. Huddleston). Without objection, it is so ordered.

Mr. McCLURE. Mr. President, as I said, this amendment has already been before the Senate and was subject to some detailed and lengthy debate concerning the details of the amendment.

In very brief terms, this is a genuine windfall profit tax. As distinguished from the tax that has been voted out of the Finance Committee and all the permutations, exceptions, exemption, additions or subtractions from that tax measure which, without exception, had nothing to do with profits, this bill has to do with profits.

The bill that has been reported is an excise tax on domestic oil production. It has nothing to do with foreign oil. It has nothing to do with the profits of domestic companies in foreign operations or foreign companies in their foreign operations. It has only to do with a taxation on the production of oil within the United States, its territories, or its possessions.

It is a misnomer to call it an excess profits tax, because it does not have anything to do with whether there are profits—indeed, whether they are excess or not. It is taken somewhat as given in the public debate that the tax relates to excessive profits by oil companies, and everybody reading the popular press is certain that oil companies have made profits which are excessive and that we do not need to talk about that. We simply are going to tax the illusion which has been created.

It is interesting to note that at least the hearings before the Committee on Finance are entitled "Crude Oil Tax," and that is more accurate than the title of the bill.

However, my amendment is a tax on profits, and it is a tax on profits that are excessive. How do we define what is an excessive profit? How much somebody else made, or how much we made, or just how much the oil companies made?

As a matter of fact, an oil company producing oil, even though it were losing money, would be taxed on its production. Even if the tax on its production drove it from a marginal profit to a marginal loss, that tax still would be levied.

So this tax has nothing to do with the income of oil companies. It has nothing to do with the profits of the oil companies. It has to do with production of oil.

I cannot imagine anything that is more devastating or more detrimental to the production of the energy we have to have in this country than to tax the production, irrespective of profit.

Let us stop for a moment to look at perhaps what we should be doing in terms of excess profits of oil companies and the so-called windfall that will come because of the world adjustment of price because of an OPEC cartel, a cartel that has been effective because Congress for too often has inhibited the production of domestic energy sources and subsidized the production of imported oil.

Time after time after time, the laws we have passed have had the effect of making domestic production more expensive in order to pay money to people who import more oil. We can show provision after provision in law as well as in regulations that have the effect of strengthening the OPEC cartel at the expense of the American people.

If we really want to know why the American people today are paying the price for oil that they are, let us look for a moment at what we have done in Congress and in the administration to strengthen the OPEC cartel rather than weaken it by increasing production here.

Nothing could be more counterproductive than taxing the weak, taxing those who, in the margins of production in this country, do not have excessive profits, in order that we have enough money to subsidize the importation of oil from outside this country, without respect to what that oil costs. It is a prescription, an invitation, to the OPEC cartel to raise the price of oil and increase the cost to the American consumer.

Unlike that approach to the problem, my amendment would undertake to define what is an excessive profit and tax it. I do not know what an excessive profit might be, but I know one thing it cannot be. There cannot be an excessive profit if, as a matter of fact, there is no profit. If there are producers who make nothing because their costs of operation are marginal, they cannot possibly have an excess profit if they have none. If they have a little profit, maybe we will say that is excessive. Maybe they make 1 percent on investment. Maybe they make 2 percent on sales. Maybe they make 3 percent on equity. Maybe they make some other figure less than the average rate of return on investment capital and, by definition, we would call it excessive, therefore a profit, and therefore it should be taxed.

Of course, it will be taxed under the ordinary income tax laws of this country as well as the State in which the company is located. But how in the name of fairness or good Government policy can we undertake to tax without regard to whether it has a profit?

I do not know what is an excessive profit. It could be anywhere in a whole scale. But let us make one arbitrary choice, recognizing that capital will flee the areas where it is taxed or is nonproductive. If people who have money to invest have a choice between investments and if in one area they can invest the money and make a little, they might invest the capital there. If they are denied that choice, they will go somewhere else and invest the capital in some other operation, in some other business venture; and the area that is taxed or limited on its profits or cannot make a profit will find itself unable to raise risk capital.

So I have defined in my amendment the average rate of return on investment for all industries in the United States as an arbitrary point of departure—arbitrary because it simply chooses one figure or one measurement and says that it cannot be an excessive profit if you are not making any more money there than in the average of all other industry in the United States, and arbitrarily say that anything above the average rate of return is an excessive profit.

I happen to believe that is a little counterproductive, because there should be some margin to do a little better than average. But the climate being what it is, I did not even do that. I just said that the average rate of return is what you are entitled to in the oil business; and if you get above the average rate of return, it is excessive.

As a matter of fact, if we are going to attract capital that is necessary to meet our energy needs in the Western industrialized world, we will have to attract capital in massive quantities.

The best estimates I have seen over the last several years as to what is required in the investment of capital for energy production is that we must be investing, over the next 10 years, $1.6 trillion in energy production.

That is at the rate of $160 billion a year. If we do not invest $160 billion a year, on the average, over the next 10 years, we will not have enough energy to meet our needs.

What happens if we do not have energy? Industry begins to slow. Other countries that have sufficient quantities of energy begin to become more economically competitive. We will not be worrying, 10, 15, or 20 years from now, about the intrusion of the Japanese producer into the TV markets or the home appliance market. I think we are all familiar with what has happened in the last several years with respect to foreign production of most home appliances and television and electronic components in the United States.

Most of them are produced overseas. But we will not be worrying about that and we will not be worrying about whether or not Chrysler is in business or not. We will be worried about whether Ford can survive and we will be worried about what happens to General Motors as foreign manufacturers, with a greater and a cheaper supply of energy than we have and a more sufficient supply of energy, become more competitive in the world markets in the production of basic commodities.

It is not a question, then, just of steel mills in Youngstown closing or whether or not Chrysler is bankrupted and the employees of Chrsyler have to find other jobs somewhere else. We will be worried about whether or not the American industrial capacity can meet the competition of the remainder of the world that has not been hamstringing themselves in energy production as we seem bent on doing.

Certainly we cannot get out of the capital markets such a larger percentage of capital as is required by an investment of $1.6 trillion, which is a large proportion of the total available capital for investment, unless that capital investment has the promise of yielding returns that are at least as good as the opportunities on the average throughout the economy.

So if we want to move our available capital into tax free shelters, municipal bonds, nonproductive enterprises, and away from energy, we better be able to say to them that the opportunities for return on investment are at least as great in the energy field as they are in other industrial enterprises.

If we do under my amendment decide they are entitled to an average rate of return, then what will we do about that which we then define as excessive rate of return?

I propose that we tax the rate above the average rate of return at 90 percent but with a provision that in order to meet our needs they can escape that taxation if, but only if, they put that money back into the production of energy.

If the American people are to be confronted with ever escalating prices for energy, they should at least know that the money they pay for the energy they consume will be devoted to producing the next unit of energy they want to consume. They want to know that next year there will be gasoline to run their automobiles, or gas to heat their homes, or electricity to run all of the things that electricity does for us today. They should be able to say, "When I consume that energy now what I pay for that energy will be devoted to making certain that tomorrow and next year I have more energy to consume at reasonable prices, at prices as reasonable as the world energy markets will permit us today."

Let us look for a moment at some of the figures, and I do not mean to use again all of the data that I put in the RECORD a week ago last Thursday when this was debated the first time, but I think it is instructive to look at least a little at the comparisons between this industry and other industries.

A study was done, at my request, with respect to the financial data on 25 largest U.S. petroleum companies. I believe, after having listened to the debates with respect to stripper wells, small producers, and independents, that we are probably talking about less than the largest 25 oil companies at the worst, and certainly having considered the 25 largest I have covered all of those that we are really talking about. The table that I had printed in the RECORD includes the total revenues of the largest U.S. petroleum companies in millions of dollars for each year starting in 1968 through 1976.

The total revenues for the 25 largest U.S. petroleum companies has risen from $61 billion in 1968 to $273 billion in 1978. These figures that I have just given are in constant dollars.

The net income figures, which are included in that table, are not measured in constant dollars. And they rose from net income in 1968 of $5.8 billion to $13.2 billion in 1978. Incidentally, that $13.2 billion net income in 1978 is slightly less than the amount of money we have appropriated for the Department of Energy in the United States, to give some benchmark for comparison of the size of net revenues that we are talking about.

The net income in constant dollars, that is adjusted for the inflation over the period, with 1968 as a base year shows that net income has risen from $5.8 billion in 1968 to $7.2 billion in 1978. During that same period of time taxes paid by the industry have risen from $8.7 billion in 1968 to $37 billion in 1978.

So where has the windfall already gone? The windfall profit is already a windfall to the Government. Taxes have risen from $8.7 billion to $37 billion, over four times, a 400 percent increase in 10 years in tax revenues to Government. Net income as a percentage of total revenues has dropped over that period of time from 9.5 percent in 1968 to 4.8 percent in 1978. Net income as a percent of total revenues has been cut in half. Taxes as a percent of net income have risen from 151 percent of net income in 1978 to 282 percent of net income in 1978.

As a percentage of total revenue, taxes have decreased slightly. After having risen during the middle of the decade from 14.3 percent in 1968, they went to a high of 17.5 percent in 1973 and have since dropped to 13.7 percent in 1978.

But let us look for a moment at the net income as a percentage of stockholder's equity, which is not exactly the same measurement as is included in the amendment which I have introduced. Again this is on the 25 largest petroleum companies.

In 1968 it was 12.6 percent. In 1978 it was 13.6 percent for an average over the period of 12.9 percent, over the period 1968 to 1978.

If you will look at the figures used by the City Bank Petroleum Group in 1968 the net income as a percent of stockholder's equity was 13.1 percent. In 1978 it had risen to 14.3 percent for an average over that decade of 13.7 percent.

The Chase Petroleum Group, which is a slightly different grouping of companies, showed a net income as a percent of stockholder's equity in 1968 of 11.7 percent, dropping through 1972, and then with a sudden surge of the world price at the end of 1973 and early 1974 when it went up in 1973 and 1974, dropped back in 1975 to a 1978 average of 13.2 percent, and an average over that period 1968 through 1978 of 11.7 percent.

But now let us take a look at what other manufacturing has done in the United States. In 1968, again the City Bank index shows the 1968 average, excluding petroleum, of 13.4 percent as against the same index used by City Bank on their petroleum group of 13.1 percent in 1968, and the average of all industrials, not including petroleum, has risen from that 13.4 percent to 16.5 percent in 1978 as contrasted with 14.3 percent for their petroleum group.

So the figures would indicate that over the decade or in 1978 oil revenues as a percent of stockholder's equity is running slightly behind the average rate of return for all industrials.

Now, that ought to tell us something, and I think it is fair to note also that just as during any period of rapid inventory change, price change, prices rise suddenly, and we saw that in 1974 as the inventory value doubled on the shelves, and it is again now during this current price rise of petroleum, that the oil companies' profits have risen during the last three quarters, and the figures show that very clearly.

But, as was the case in 1971, it is a temporary adjustment period, and they probably will drop off again unless there is a continued escalation of world prices due to OPEC pricing practices largely, and that the average rate of return in the last three quarters for petroleum groups so measured has run slightly ahead of the rest of industry.

If that trend continues they would be subject to taxation for 90 percent of that excess under my amendment. We would not see any more buying retail stores or bidding for circuses, as they have been criticized in the past for doing. Under my amendment they would take that money and put it back into energy production which, I think, is exactly what we wish they would do.

I am always amazed when we debate this to find that there is opposition to doing what the title of the bill says and what the public has been led to believe. We say they have excess profits and that we are going to tax those excess profits. The bill instead taxes without regard to whether they have excess profits or indeed if they have profits at all, and my amendment would do exactly what the title says. It would tax excess profits only. They would have to have profits. They would have to be above the average rate of profit, and it would be taxed unless it is put back into energy production.

Mr. President, it is puzzling to me that we get to the point where in our emotion to somehow react against those who are hurting us, and the consumer is being hurt by energy prices, in our reaction against those who are hurting us, we want to penalize somebody, and we cannot reach the OPEC cartel, and so we are going to whack the energy sellers as though they are the cause of the problem.

Let us look for a moment where the industrial group profits lie. The first on the list—and this list comes from the First National City Bank statistics, the first on the list—alphabetically is autos and trucks whose 1978 profits as a percent of net worth were 17.2 percent; petroleum production and refining was 14.3 percent, running substantially behind autos and trucks. But we are going to tax the oil producers and refiners and we are going to bail out Chrysler. Yet the average rate of return in the auto production is higher than it is in the petroleum field.

Well, we obviously say we are not going to put an excise tax on the production of each unit of automobiles of, say, $1,000 or $400 or $500 per automobile, and soak it to Chrysler. We might say that we will soak it to General Motors, but we are not going to soak it to Chrysler because they do not have profits. They are going broke.

But we are afraid to apply the same kind of yardstick to the energy industry. Why? Because we have been hurt by energy price increases and, as a nation, we want to strike back at those who hurt us. It is a little bit like shooting the messenger who brings bad news. He may not be the source of the bad news, but you did not like the news, so he is shot. We do not like the news of price increases, so we are going to take it out on those who provide the energy.

Let us go down the list—I will not read the entire list—but let us go down the list and look at a few of the others: Drugs and medicine 21.5 percent; office equipment, computers 22.5 percent; soap and cosmetics 20.8 percent; electric equipment and electronics 18 percent; auto parts 17.8 percent; chemical products 15 percent; household appliances 15.7 percent; aerospace 19.7 percent; soft drinks 22.8 percent. Have you thought about an excess profits tax on Coke? They are making more than the petroleum industry is, making 20.1 percent.

Let us take a look at machinery, 17 percent; printing and publishing 18.4 percent. Let us have an excise tax on the newspapers because they are making more than the oil industry is.

Well, I could go on down the list, but I will not read all of them. I might just look at the total manufacturing average net income as a percent of net worth, which is 15.9 percent, and if you exclude petroleum would be 16.5 percent, while that on petroleum production and refining is 14.3 percent, according to the First National City Bank figures.

Mr. President, it seems to me that if we are going to break the hold of the cartel that now dictates prices to us, we are going to do it through domestic production that provides the needs for our people instead of depriving them of their needs.

We are pursuing a policy of penalizing the industry that holds the promise of providing the needs to our people, and nothing would delight the OPEC cartel more than to just keep our industry weak, force capital investment into other areas, and outside of the United States, force the increases of energy production into foreign countries, and diminish the amount that is produced in the United States, and by that you could do nothing that would strengthen the OPEC cartel more.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. McCLURE. Yes, I would be happy to yield to the distinguished chairman of the Finance Committee.

Mr. LONG. Mr. President, I am advised that the fashion in which the Senator's amendment is drafted makes it subject to an objection under the budget law, and I would think the Senator might want to modify his amendment. It could be modified to meet the objection. That would require unanimous consent, but I have no objection, and I have sought to advise the staff people of the Budget Committee that I propose to give unanimous consent for that.

If the Senator would like to modify his amendment to conform with the budget law, I would be glad to agree to a unanimous-consent request.

Mr. McCLURE. I would say to the distinguished Senator from Louisiana that under the unanimous-consent agreement entered into such an objection would not lie because there is a unanimous consent that this would not be subject to amendment. There would be an up-or-down vote, and that the Senate has already entered into such a unanimous-consent agreement.

Mr. LONG. Well, I do not believe that an agreement that an amendment can be offered, or even an agreement to vote on an amendment, can waive the provisions of the budget law, unless it was agreed to knowing that to be the case. That being the case, I would think the Senator would want to modify his amendment to conform to the budget law.

Mr. McCLURE. Let me just say to the Senator that in spite of that possibility, it has been my feeling that the unanimous-consent agreement probably took care of that.

The PRESIDING OFFICER. The Chair would advise——

Mr. McCLURE. If I may, let me just say that I am perfectly willing to make the small change that is necessary to render the argument moot. I ask unanimous consent that section 4 of the pending amendment be perfected by striking "December 31, 1978" and in lieu thereof inserting "December 31, 1980".

Mr. BRADLEY. Mr. President, reserving the right to object, what was the unanimous-consent agreement as it pertained to further modification? It is my understanding that the agreement as propounded by the Senator from Idaho was that no amendments, motions to table, or modifications would be in order.

Mr. McCLURE. It does not say "modifications," I will say to the Senator.

The PRESIDING OFFICER. The Chair would clarify the situation as follows: The agreement provided that no motion and no amendment would be in order. However, that agreement constitutes Senate action on the amendment, and thereby the right to modify the amendment was lost.

Mr. McCLURE. Was lost?

The PRESIDING OFFICER. That is correct.

Mr. LONG. Mr. President, the point I have in mind is that if the Senator's amendment should be stricken down on a point of order, and if he feels strongly about it, and I am sure he does, all he has to do is make a little technical changing of the amendment and come back, then the time we have spent on the amendment would be wasted. In order to get on with the business, it would seem to me that, first, we should not waive the budget provision of the law, but, second, we ought to let the Senator conform to it. Failure to conform to it would just make us go through the motions if those who want to insist on the budget process are successful. All that would do is displace the Senator's amendment, then he could make a few technical changes to comply with the budget process, come back, and we would have to go through the whole process all over again. That is what I call wasting time.

It seems to me all we have to do is point out to the Senator that the amendment is subject to a budget objection, let him modify his amendment to take care of the matter, and then proceed to vote on the amendment. That way, we will save a lot of time here that would be wasted if we proceeded to strike down the Senator's amendment on point of order. We would be wasting time not only for the Senator, but for ourselves.

Mr. BRADLEY. I understand what the distinguished chairman has said. My question really relates to the unanimous-consent agreement that we entered into and that the Senator from Idaho was aware of prior to submitting his amendment. If we permit him to modify, my question is, would he then allow a motion to table the modified amendment?

Mr. LONG. Mr. President, I do not think that is necessary. It seems to me that, when we had an agreement that the Senator would offer his amendment, it was expected that it would be voted on. I do not feel like arguing about it, but one could contend that when we agreed to vote on the amendment, we agreed to waive the point of order that can be made under the budget law. But I do not think we ought to get involved in all that. It just seems to me that in the spirit of good will and cooperation, we ought to recognize that the Senator had the right to offer his amendment. He would have the right to come back and offer a subsequent amendment that would be modified, and rather than spending a lot of time fighting about a technicality, we would do better to get on with the question itself, and that is whether he had enough votes to justify offering his amendment. If he does, the amendment would be added to the bill. If he does not, it would not. I am positive that would all be worked out. So, rather than cover the ground twice, I think we should cover it one time. We should give the Senator unanimous consent to modify the amendment, and we can bypass all the other technical problems and just vote.

Mr. BRADLEY. This Senator proposed this amendment another time, and there was an amendment to that amendment and he chose to withdraw it. If he desires not to waste the Senate's time, I am sure he wan withdraw his amendment now, rewrite it properly, and have it come up after this unanimous consent agreement is concluded.

Mr. McCLURE. Mr. President, let me just say to the Senator from New Jersey, he not having been on the floor when we started debating the amendment today, that the reason that I withdrew the amendment earlier was to expedite what I thought might readily be later presented by getting some of the other amendments up and disposing of them while you were trying to consult on the Bradley amendment. Instead of expediting procedures, I ended up getting involved in a parliamentary situation not of my making or my desire. In order to take my amendment out of that hassle and to expedite the amendment of the Senator from New Jersey at that time, I withdraw my amendment. Now he finds some reason to believe that because I was trying to expedite the vote on his amendment, I have now prejudiced the Senate. I would hope the Senator does not find it necessary to object.

Mr. LONG. Mr. President, I think the whole matter can be worked out by permitting the Senator to go ahead with his amendment.

Mr. McCLURE. I thank the Senator, Mr. President, I withdraw my request at this time.

The PRESIDING OFFICER. The request is withdrawn.

Mr. McCLURE. Mr. President, I think the Senator from Louisiana was correct when he said that the question ultimately revolves around whether there are enough votes to pass the amendment or not. If there are enough votes, it will become a part of the bill; or if there are not, it will not. That is the way, I think, to get things done in the Senate, if we are trying to finish this bill sometime before Christmas.

Mr. President, for a more complete explanation the amendment and the statistical data which support it—I have hit the high points here today—I inserted certain matters in the RECORD on November 29, when we were debating this amendment the first time, before, as I say, I got involved in a parliamentary situation not of my own desire or making and withdrew the amendment. That debate appears in the CONGRESSIONAL RECORD of November 29, starting at page S17485 and continuing for several pages thereafter. For those who would like to know in greater detail some of the answers on capital investment, capital expenditures, and various measures of return on investment and properties, I would refer them to the tables and the data that were printed in the RECORD at that time, and I will not ask that the material be printed in the RECORD again at this time.

Mr. President, I think that the distinguished Senator from Mississippi, a cosponsor of this amendment who has been invaluable to me in furthering the amendment and has expressed great interest in it since I introduced it first as S. 89, of which he was then a cosponsor as well, has indicated that he would like to speak to this amendment, and at this time I yield the floor to him.

Mr. COCHRAN. Thank you, Mr. President.

I thank the distinguished Senator from Idaho for yielding to me. I first of all wish to compliment him on the thoroughness and eloquence and directness of the statement he has made in support of the approach that is being recommended in this amendment in the nature of a substitute, for the tax ought to be imposed by the committee's bill.

Mr. President, when we look at the background of this entire chain of events, which has culminated in the recommendation to the Senate and to the other body by the administration that we impose a so-called windfall profit tax on oil producers or oil companies, we find that one of the reasons for the administration and some of the leaders in Congress recommending this as a course of action is that we are going to decontrol, relax Government control and regulation over the price of petroleum energy production in this country.

For what purpose? For the purpose of creating some incentives that are necessary to guarantee that enough capital and enough effort is put into the production of energy that we will be able to meet the growing and increasing demand throughout this country for increasing energy

And why are we interested in that? We are interested in that because we do not want to be so dependent, to the tune of a half of all of our energy needs, on foreign suppliers. Events of the recent past clearly illustrate why it is not in the United States best interest to be dependent in such large measure on these foreign suppliers.

But what have we done, in fact, or what have we seen recommended, in fact, as the answer to helping us achieve this kind of independence and in creating the kind of incentives that are necessary to get the additional production of energy that we need to meet these growing demands? We find that one of the key points, the cornerstone, the central piece in the energy package, ends up being a tax; a tax on so-called profits.

But when we look at the legislation that really comes out of the committee, we find that there is no tax on profits recommended. And to see the newspapers and to see the politicians around the country and in this town continue to talk about the windfall profit tax is the telling of the biggest lie in town. This tax does not have anything to do with profits.

The figures cited by the distinguished Senator from Idaho indicate pretty clearly that there may not even be, in fact, profits being made in energy production that are excessive to the extent that they exceed the average rate of return on investment for manufacturing companies generally in the United States.

But what of the argument that deregulation, decontrol, is going to result in the future in excess or windfall profit? Well, if that assumption is correct, then let us design a package that imposes a tax on that excess.

This legislation before the Senate does not do that. And now it does not even pretend to do that, because the name of the bill has been changed from a windfall profit tax to a crude oil tax, because it is, in fact, an excise tax instead of an excess profit tax.

I am cosponsoring this amendment with the distinguished Senator from Idaho because, Mr. President, it is the only proposal that has been made in this Congress that is, in fact, in reality, an excess profit tax. It imposes a tax of 90 percent—90 percent—on profits made in excess of the average rate of return on investments for manufacturing generally throughout the United States.

How else could you measure excess profits? This is a formulation of national policy that will force, in order to gain an exemption from this tax, businesses engaged in energy production to plowback, to reinvest, profits derived from oil production, the energy business, into further exploration and production of energy. That is the national goal. Everybody agrees with it.

This is the approach that will guarantee that that kind of an investment by American business and industry is made to help us meet the demands that we see coming in the future for energy supply.

Some Senators may say, "Well, what is wrong with just putting a tax on the crude oil production as it is, without regard to profit, as recommended by this committee?" What you are doing is taking capital out of the production of energy. You are diverting resources of the country that would ordinarily be committed to the production of energy away from the production of energy into the coffers of Government, without sufficient commitment by the administration or language in the bill which identifies the use of moneys that will be coming into the Government as a result of this tax.

I am suggesting that one reason why we see less inclination to identify what the money will be used for once it comes to Washington is that it is going to be used to help balance the budget. Is the emphasis going to be placed on identifying and eliminating waste or misuse of Government funds now in existing programs, trying to identify those areas where, maybe, the Government is trying to do too much, and reduce the expenditures where we can to streamline Government? That is not the emphasis.

The emphasis is in more money for Washington. And this bill, we hear, now has developed a following that says we can raise $185 billion to $200 billion—billions of dollars—as a result of this one piece of legislation.

My suggestion, Mr. President, is that we take a very careful and deliberate look at the suggestion that is being made to the Senate by the committee and that we opt, instead, for supporting a piece of legislation offered as a substitute, which is, in fact, an excess profit tax, which will focus the attention of the business community on the need to reinvest proceeds derived from energy production and marketing into additional production of energy.

Again, Mr. President, I compliment the distinguished Senator from Idaho on his initiatives in developing this approach, which I think makes a great deal of sense. It is consistent with administration policy. It will not result in unnecessary tax burdens being imposed on business enterprises without regard to profit. And it will not achieve, in my judgment, what the bill before us necessarily will achieve in practice, and that is higher energy prices with shorter supplies, to boot. What worse situation could we have?

For those reasons, Mr. President, I am enthusiastically supporting this substitute. I urge my colleagues to look very carefully at this as a more sensible approach, a better approach, to solving this very serious problem.

I thank the distinguished Senator from Idaho.

Mr. McCLURE. Mr. President, I thank the Senator from Mississippi for his eloquent statement, as well as for his cosponsorship of this amendment, which is offered as a substitute for title 1 of the pending bill.

He touched on one point that I think needs to be underscored: It is consistent with the administration's announced policy and objectives. The President is quoted in a publication of November 12, quoting from his statement of last August, as having said this—this is a quotation from the President's statement:

> "If the oil companies take the profits and invest them back in the exploration and production of additional oil and gas in our country, then I have no objection to their profits being made," he said last August.

> "But what they've done in the past is buy restaurants and motel chains. They tried to buy circuses. They bought department stores. They've taken profits out of oil and not put them back in the ground to develop more energy for you and me."

Mr. President, regardless of how we might feel about directing investment in this country, this amendment is consistent with that statement of the President. It does direct that the profits that are made go back into the production of energy; at least to the extent that those profits are excess, we may have some right to say so. That is what this amendment attempts to do, to say that the money that is generated from the sale of that energy must go back into energy.

Mr. President, you do not have to be a sophisticated economist to know that if people who are selling something do not generate enough money out of the sales to put it back on the shelves, you are not going to be able to buy it. If you go down to the store and buy a can of peaches at the grocery store and the grocery selling that can of peaches does not get enough money out of it to put another can back on the shelf, you will not be able to buy another can of peaches the next time you go there. That is all in the world, in very simple terms, that is required in investment back into the business of producing more energy. If you do not put it back in, the energy is not going to be there.

That is particularly true as the cost for the exploration and production of energy gets more costly. As the cheap and easily found has already been found and produced and consumed, that which is to be found and produced and, we hope, consumed in the future is going to cost more to find it, produce it and market it, it is going to cost us more to consume. But there had better be somebody out there investing money to put it back on the shelf to buy it or that can of peaches will not be there when we are hungry for some peaches.

As a matter of fact, if the next generation wants to have energy that is not produced by the OPEC cartel and sold to us at whatever price they want to sell it, political or economic, we had better get at the business of putting that energy back on the shelf, ready for our consumers to have and to use pursuant to the conservation rules that we are trying to get into effect and pursuant to the kind of energy mix we are trying to stimulate and produce in this country.

I thank the Senator from Mississippi for his contribution and I hope the Senate will give this serious, thoughtful consideration. Maybe, as I have said to one of my friends, this is a proposal too logical to have any chance. I hope that is not true.

Mr. President, I ask unanimous consent that the distinguished Senator from Minnesota (Mr. Boschwitz) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, this amendment would impose, for taxable years beginning after 1978, a 90-percent surcharge on taxable income of any petroleum company with $2.5 million in invested capital. For this purpose, the company's taxable income would be reduced by an amount equal to the average rate of return on capital investment as determined by the FTC for all manufacturing corporations. The surcharge would be reduced to the extent that the company's profits were plowed back into energy areas.

Mr. President, there are a number of reasons that this is not a wise course for the Senate to take. One of those reasons is that the Committee on Finance met for nearly 29 days considering windfall profit legislation. They had a very full and lengthy debate, considered every possible approach to taxing of windfall profit that accrue to oil companies as a result of the combination of decontrol and OPEC oil increases, and came up with the formula that is before the Senate now in the form of the windfall profit tax. What this amendment says is that all those deliberations were unnecessary or wrong and that what the Senate should do is adopt this so-called excess profit tax.

Mr. President, I suggest that this amendment is simply one large plowback provision. The amendment would complicate the tax system by requiring numerous producers to file returns and recompute returns for surcharge and plowback purposes.

For example, if a company made $200 million in profit in a particular year and had invested a capital asset worth a billion dollars, assuming the average rate of return—not for energy industries, not for any particular kind of industry, but for the entire manufacturing sector. Say that rate of return was about 15 percent. Then you would take 15 percent of the billion dollars of invested capital and reduce that from the profit before you even determined what was the taxable income. In this case, the profit of $200 million, with a 15 percent rate of return on invested capital of a billion dollars, would reduce the taxable income from $200 million to $50 million.

Of course, under the amendment, all of that would be deductible on a dollar-for-dollar basis if the company chose to put any of that $50 million or up to $50 million back into energy investment.

Mr. President, the amendment would allow companies to avoid the tax on windfall profits by engaging in activities which they probably would not undertake in the absence of a plowback. I suggest that the determining factor for energy investments in this country, particularly in the oil industry, is the expected rate of return on that investment, and the prime factor in the rate of return is the expected world price of oil. I suggest that if you look prospectively at a world oil price of $40, $50, $60, or even higher per barrel, you are going to find sufficient capital available for investment. Again, I make the point that, under the present bill that is before the Senate, assuming the windfall profit tax that came out of the Committee on Finance, the oil companies would have over $300 billion over a 10-year period for reinvestment. Assuming they invest at double the present rate, which is now about $15 billion or $16 billion a year for exploration and development, they would have sufficient funds for doubling this investment.

So, Mr. President, I suggest that this amendment is just another attempt to gut the windfall profit tax. The more modest proposals for plowbacks were to gut specific categories. This, I grant the Senator from Idaho and the Senator from Mississippi, is a more ambitious plan in that it is an attempt to gut the entire tax and, basically, provide the oil companies with no taxes as a result of the increase in profits, increase in revenues, really, that derive from that combination of decontrol plus OPEC price increases.

Mr. President, finally, I say that there is no real way to determine the breadth of the plowback investments allowed by the amendment. It could equate, in fact, to the Government's subsidization of the oil industry in other areas. I think when we reach that point, it is at least a legitimate question to ask, on the basis of Government expenditures being done in the best way, that we weigh what that expenditure for oil exploration would produce in energy terms versus what it would produce in energy terms in investment in other forms of energy, be it coal or solar or cogeneration or garbage-to-energy, or even conservation.

I suggest, in the short term, that the best return on investment of subsidized capital—which this is—would be in the form of conservation.

For all these reasons, Mr. President, I urge the Senate to reject this amendment and proceed with the business of writing a windfall profit bill that addresses the real problem, which is the increase in company revenues that are the result of the combination of decontrol and the OPEC price increases that prospectively will become even greater with each passing year.

Mr. McCLURE. Mr. President, I have just a couple of observations I might add for the record at this point in response to what the Senator from New Jersey has said.

Obviously, there is a very clear distinction and approach between that which he espouses and that which I advocate. But, certainly, the way to guarantee that OPEC prices will go up to $40, $50, or $60 a barrel, the way to make that most certain to happen, is to minimize the production of energy in this country.

If we really want to serve the OPEC cartel, depress domestic energy production; if we really want to drive prices up, and minimize the opportunities for investment in energy production in this country; if we really want to soak it to the American consumer; just keep on doing what we are doing and inhibiting energy production in this country—I will guarantee that will have this effect.

If, on the other hand, we want to minimize those price increases, we want to minimize the impact upon the consumer, then do what we can to stimulate the production of energy in this country, along with the conservation which we can and ought to be doing.

If, as a matter of fact, the price goes up in spite of what I say or in spite of what we do to the $40, $50 or $60 a barrel range, and I do not think that is necessary that it should, but if it should happen, that is precisely when my tax would come into play and tax them at 90 percent.

The Senator from New Jersey is a piker. He wants to exempt new production. I want to tax it at 90 percent of excess profits. He wants to exempt categories from taxes. I want to subject them to a tax of 90 percent whenever there is a profit.

It seems to me that is what we ought to be doing, if, as a matter of fact, we are concerned about investment, if, as a matter of fact, we are concerned about excess profits to the oil companies and not just excess windfall revenues to the Federal Government.

Mr. President, I ask unanimous consent that I may be permitted to modify the amendment on page 1 by striking the language before section 1, referring to "striking title I and inserting in lieu thereof the following 'by substituting,' adding after line 23 on page 90 the sentence: 'The amendments made by this section shall cease to apply after September 30, 1980.' "

Mr. President, that would be the effect of making this, as an amendment, to become effective in 1980, leaving title I to be in effect until 1980.

The **PRESIDING OFFICER**. Is there objection?

Mr. **BRADLEY**. This is a modification the Senator was speaking of prior, or has he changed that?

Mr. **McCLURE**. And on page 5 of the amendment, line 23, and section 4, strike the words "This act," and substituting "Section 1," striking on line 24 and line 25, "December 31, 1978," and substituting "September 30, 1980."

The **PRESIDING OFFICER**. Is there objection?

Without objection, it is so ordered.

Will the Senator send the modification to the desk?

The amendment, as modified, is as follows:

H.R. 3919 is hereby amended by adding after line 23 on page 90 the sentence "The amendments made by this section shall cease to apply after September 30, 1980." And by adding at the appropriate place in the amendment, the following:

Section 1. Part II of subchapter A of chapter 1 of the Internal Revenue Code of 1954, as amended (relating to corporation income taxes), is amended by adding after section 12 a new section as follows:

"Sec. 13. Excess Petroleum Profits Tax.

"(a) In General.—Notwithstanding other taxes imposed by this subtitle, an excess profits surtax is hereby imposed on the taxable income of all petroleum industry corporations for each taxable year beginning after December 31, 1978. The surtax shall be equal to the surcharge as computed under subsection (b).

"(iv) constitutes tangible property specifically invested in to increase the domestic energy supply or its more efficient use, or".

(b) Section 48 of such Code is amended by redesignating subsection (k) as (l), and by inserting after subsection (j) the following:

"(k) New or Expanded Energy Sources.—

"(1) New energy sources.—This term shall include (but not be restricted to) oil shale, tar sand, coal liquefaction, coal gasification, geothermal, solar, hydrogen, and magnetohydrodynamics energy.

"(2) Expanded energy sources.—This term shall include (but not be restricted to) the energy sources in (1), plus petroleum, coal, hydroelectric, and atomic energy sources.".

Sec. 3. (a) The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this Act, except as provided for in section 3(b).

(b) The Commissioner of the Federal Trade Commission shall prescribe such regulations and procedures as are necessary to carry out the compilation and publication of rate of return data as directed in section 1(c) of this Act.

Sec. 4. The amendments made by section 1 shall become effective with respect to taxable years beginning after September 30, 1980.

Mr. **DOLE**. Mr. President, the Senator from Kansas indicates there is a considerable amount of recent interest in the plowback concept. A couple of years ago, the industry thought a plowback would answer some of the questions raised by critics of the industry if, in fact, they would plow back their profits.

For some unknown reason, the industry in testimony this year before the Senate Finance Committee indicated the plowback would not work. They were opposed to a plowback.

So, there was very little sentiment for any kind of a plowback in the bill. Of course, none is in the bill reported by the Senate Finance Committee.

In the last few days, it seems to this Senator that there has been more interest expressed on the Senate floor, on both sides of the aisle, and some in the industry. Certainly, it is something that the American taxpayer and the American consumer understand because they may not like oil company profits, and it is hard to understand the reason for some of the profits because they are very high, particularly on foreign oil, or foreign operations. But most Americans understand that if they are required to put back the profits into more production or more exploration or development, that they will try to find more energy.

In the long run, it will help this country and the consumer and taxpayers.

So this Senator has long felt some plowback would be beneficial. It would sort of keep the feet of the oil companies to the fire and say that if they do not plow back their profits, we will take them away in taxes. That makes some sense.

There is no reason to discriminate against the oil industry. But, on the other hand, this is a national and international problem. It has been heightened in recent days by developments in Iran and other countries.

It seems to many of us in this Chamber that it is time we passed some legislation to encourage more production, to encourage independence, not to punish those who produce in this country, or somehow provide disincentives through the tax system for production of oil or gas.

Mr. President, Senator McClure would substitute his own version of a windfall profit tax. Under this version, the "windfall" to be taxed is the excess of taxable income of oil companies over the average rate of return on capital investment for all manufacturing corporations. In other words, the windfall is measured by comparing the profit performance of oil companies with the profitability of the average manufacturing company. Ninety percent of the difference in profits would be taxed. An exemption would be provided for small corporations. Oil companies could exclude from taxable income their investments in domestic energy exploration, research, and development.

Mr. President, the amendment proposed by the Senator from Idaho (Mr. McClure) raises an interesting point, because it dramatizes the fatal flaw underlying the concept of an excess profits tax on the domestic oil industry. The flaw lies in the assumption that there are excess profits, that the oil companies will do, and have done, everything they can to squeeze the last penny of profit from the American consumer.

Certainly, that is the view that is widely held by the American consumers, and this Senator does not believe that the oil companies have been very successful in rebutting the claim that many have made.

I have no desire to defend the profits of the oil companies, or of any other companies. The most recent profit figures show the oil companies doing very well indeed. But facts have a way of undermining popular myths, and I would like to mention a few facts that the McClure amendment brings to mind.

The facts are these:

Over the last decade, the oil industry's return on stockholders' equity averaged 13.9 percent compared with a 13.7-percent return for all manufacturing companies—and this includes the abnormal years 1973 and 1974 when oil companies' rate of return rose sharply. The oil industry's rate of return was below that of total U.S. manufacturing in 5 of the 10 years. Oil companies were below nonoil companies in each of the last 3 years.

The Treasury Department's own testimony to the Finance Committee confirmed that the oil industry profits have not been extraordinarily profitable and generally have been slightly below nonoil manufacturing corporations. For example, the Treasury Department pointed out that in 1977, while all nonoil companies sampled had an after-tax rate of return of 14.8 percent, oil extraction companies earned slightly less, 14.7 percent, and integrated oil and refining companies still less, 13.5 percent.

During the first 9 months of 1978, the return on stockholders' equity for 25 top oil companies trailed investment returns in other U.S. industries. The oil companies' return was 13.3 percent last year compared to a 16.1-percent return for the nonoil companies. In the current year's 9-month period, the oil companies' return rose above that of nonoil companies. The return on stockholders' equity for the 25 oil companies was 21.3

percent compared with 16.8 percent for 77 leading nonoil companies.

A Citibank analysis of industries with a high return on net worth in 1978 demonstrated that the oil industry's profitability is far below a number of other industries.

Mr. President, I ask unanimous consent to have printed in the RECORD a table in this connection.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Industry	*Return on net worth (percent)*
Oil	14.3
Soft drinks	22.8
Office equipment, computers	22.5
Building, heating, plumbing equipment	21.8
Drugs and medicine	21.5
Soap, cosmetics	20.8
Baking	20.1
Tobacco products	19.8
Lumber and wood products	19.7
Cement	19.7
Aerospace	19.7
Instruments, photographic goods	19.1

Mr. DOLE. Mr. President, foreign operations have been the principal source of oil industry earnings growth. Oil company earnings in the United States compared with their earnings abroad show that domestic operations are relatively less profitable this year. A detailed analysis on 12 large oil companies indicated that nearly 80 percent of profit growth in the third quarter of 1979 was derived from foreign operations.

In other words, a tax on the excess of oil company profits over average industry profits, such as that proposed by the Senator from Idaho (Mr. MCCLURE), is not likely to raise revenues. By most standards of measurement, the profit performance of the oil industry has not been out of line with the average for domestic industries. If the profits of oil companies are not really excessive, the McClure amendment has no profit base to tax.

I note that the McClure amendment includes an incentive for oil companies to invest in new domestic energy development, through exploration, research, development of new technologies, and what have you. I applaud the Senator from Idaho for this feature of his amendment, because it is an idea I have long supported.

Mr. President, some may argue that decontrol will change the profit picture of oil companies relative to that of other corporations. That remains to be seen. It depends in part on how much is invested in developing new domestic energy sources, and profit measurement can be a complicated matter. But if the proponents of the windfall tax thought profits were sure to rise, why did they not propose a tax on profits? Instead they proposed an excise tax on domestic production, and that is what we will have. There should be a fair tax, but the McClure amendment points up the fact that, when we talk of a windfall profit, we are deceiving the American people. That is what concerns the Senator from Kansas.

So I suggest that the Senator from Idaho has done a service in calling this to our attention. Certainly, the oil industry is probably the best whipping boy we have had in Washington for years. Until Khomeini came along, it was probably the favorite sport to pick on the oil industry. I think Khomeini is in first place, and the oil industry is in second place. When Khomeini is gone, or something happens, the oil industry will be back in first place.

By the nature of its business, the oil industry is hard to defend. They do not do a good job of defending themselves. They make a profit and have millions of stockholders.

It is hard to stand up and single out oil or some other energy source as making an excess profit. There will be an effort later today or tomorrow, I assume, to impose a minimum tax on all those exempt categories. So, after weeks and weeks and months and months of debate and discussion, we have decided, in the interest of this country and in the interest of producing energy, that we should exempt certain categories of oil, whether heavy oil, as recommended by President Carter, whether tertiary oil, as recommended by the Senator from Texas, whether it be so-called thousand-barrel exemption, or whether it be all newly discovered oil. There probably is going to be an effort, now that we have done all that, to come back and say: "There is no reason for any more taxes, but we would like to raise another $20 billion or $30 billion or $25 billion; and to do that, we are going to impose a minimum tax across the board on all these exempt categories to raise $25 billion over the next 10 years."

There is no need for that, except that it has been said that we should come out of the Senate with a higher figure for some reason, that we should go to conference and make the figure even higher, and that would indicate to the American people that are doing something about energy. It probably would indicate to the American people that we in Congress are good so far as increasing taxes is concerned, whether it is their taxes or the tax on the industry—which, sooner or later, is going to be passed on to the consumers.

We are talking about a so-called windfall tax which, after the conference completes its work this year or next year or some time, probably will be in excess of $200 billion, by an increase in income taxes and Federal royalty payments, and another $300 billion. That is in excess of $500 billion over the next 10 years.

So I hope that, if and when the so-called minimum tax is offered by whoever will offer it, those who will be voting on the minimum tax will understand that those categories of oil which are now exempt from tax were exempt for a purpose and for a reason. The reason was that the committee felt or the Senate itself felt that we might increase production, we might preserve more oil, if we had certain exempt categories—high cost, for the most part, or newly discovered oil. It made a great deal of sense that they should not pay any tax.

That still leaves the tax enough to raise $156 billion, if we did nothing else on the Senate floor. We would have imposed a tax of $150 billion on the oil industry in the next 10 years and $300 billion in extra income taxes, increased revenues and Federal royalty payments. That would make $450 billion to $460 billion.

So the Senator from Kansas suggests that we could finish work on this entire bill—maybe not today, but tomorrow or Wednesday—if those who want to tax more decide that it is in the interests of this country to start concerning ourselves with production of oil and gas and more production and independence, rather than more taxes.

If a decision is made not to offer the minimum tax amendment, we can vote on the Danforth proposal. So far as this Senator knows, that would pretty much take care of it.

There are a lot of other amendments which are not germane. At least 135 amendments are pending. I assume that most of them could be disposed of very quickly. Some duplicate other efforts.

In any event, if there should be a minimum tax imposed, and the Senator from Kansas would hope that does not happen, then I would also suggest at that time that we take a look at maybe some other version of a plowback that might apply just to the minimum tax.

But in the final analysis it seems to me that the Senator from Idaho has at least demonstrated some of the facts. There should be a fair tax. There will be a tax. The industry does not want any tax. But on balance there should be a tax. There will be a tax. It is this Senator's judgment that taxes we have now imposed in the Chamber and in the Finance Committee which add up to $156 billion over the next 10 years should be an adequate tax.

We have never been told for certain how the money will be spent. We provide for tax credits, business credits, and individual tax credits for conservation of $30 billion over the next 10 years. We take about $70 billion over the next 10 years for low-income assistance, as we should, because their energy costs are going up and we have an obligation to help them meet that added cost. And then there is about $14 billion set aside for mass transit, and there have been other amendments adopted of a few billion dollars. A few billion dollars is a lot of money, but when you talk about this bill a few billion is a very small percentage of the total take.

So I support the distinguished Senator from Idaho and commend him for at least getting this all in proper perspective. The Senator serves on the Energy Committee and understands some of the problems.

It just seems to the Senator from Kansas that we should move on with this bill and we can move on unless there is an effort to impose a minimum tax. Then the Senator from Kansas suggests to those of us who are concerned about the energy problem, to those of us who see it differently than others who want to impose more taxes, it is not going to be possible to move very quickly on this measure, and it is my hope that we could table any minimum tax amendment; failing that, that we could discuss it at length and even longer than that if necessary.

Mr. McCLURE. Mr. President, I thank the Senator from Kansas for his remarks. I find myself, of course, in agreement with them.

One of the things which I think we should put into perspective is what happens to the American consumer when we fail to reduce at the margin the demand on imported energy. It is not that we have a tremendous worldwide shortage of energy. It is that we have a marginal shortage of energy. If we just had a million barrels a day more of domestic production, or that equivalent, there would be no shortage. The OPEC cartel would lose their ability to dictate price.

So, for the shortage of 1 million barrels a day in the United States we can see the price increase on oil that we produce and oil that we import in the tens of dollars per barrel. It is not just a small price increase. Remember that in 1973, prior to the Middle East war, oil was landed on the east coast of the United States at less than $2 a barrel. Now the cost of production in those OPEC countries has not gone up dramatically. It still costs on the order of 15 cents a barrel to get it out of the ground and onto the ship in countries like Kuwait where the oil fields are very, very productive, and they are very close to the water.

There is one statistic that Senators might be interested in as a means of comparison of the productivity of these oil fields in foreign countries. We have somewhat over 600,000 producing oil and gas wells in the United States onshore and offshore, big producers and small producers, something over 600,000 such wells. We produce about 9 million barrels a day out of those 600,000 wells. In Saudi Arabia alone they have a production rate now of 9½ million barrels a day, which is in excess of what we produce out of our 600,000 wells and they produce it out of 613 wells, not 613,000, 613 wells.

Obviously their cost of production has nothing to do with the price that is charged. Their cost of production has nothing to do with what we pay. We are paying based upon the fact that we consume more than we can produce and that—not the Saudis in this instance—the total world supply is able to be manipulated by events, or otherwise to produce a marginal shortage, not a large shortage, a marginal shortage.

When Iran's production was cut off last December, just about a year ago now, because of the overthrow of the Shah and the unrest in that country, at that time about 10 percent of the world's oil supply was removed. And immediately there was a marginal shortage. It was not totally removed, because in short order the 7½ million barrels a day that they had produced was restored to about 3½ million barrels a day and that difference, 3½ or 4 million barrels a day out of the total world consumption of less than 60 million barrels a day was enough to convert world oil supply from about a 2- or 3-percent surplus to a 2- or 3-percent shortage, and that 2- or 3-percent shortage drove the price from what it had been at relatively high levels to exorbitantly high levels as the price moved from 1973 at $1.90 a barrel landed on the east coast of the United States to $12 a barrel, to $25 a barrel, and the spot market prices on the order of $35 to $45 a barrel.

That was not because there was a tremendous shortage of energy.

If we had been able to produce that energy in this country in the United States alone the world supply would have been in relative balance and the price that we would be paying would still be that which was prior to the 1978 overthrow of the Shah in Iran.

How much are we paying as a result? How much are the consumers of the country paying as a result of our failure to balance our own energy books, to do our own bit in conservation and production in this country? Let me use one little rule of thumb which is pretty easy. For every 1 million barrels a day, a $10 a barrel price increase amounts to $3.65 billion a year. If the price of oil goes up $20 a barrel for every 1 million barrels the consumers are paying at the rate of an additional $3.6 billion for every 1 million barrels a day, and we consume 19 million barrels a day.

(Mr. BRADLEY assumed the chair.)

Mr. McCLURE. Not all of that is imported, and not all of that is decontrolled, so not all of it receives that price increase, but it averages about half of that.

So for every $10 increase the American consumer is paying about $34.5 billion a year, and we are pursuing policies that guarantee that 2- or 3-percent shortfall, and driving up prices that penalize the American consumer at the rate of $34.5 billion a year.

Then we stand around here and quibble about whether some company or other is making too much out of it. We will not even confront the fact that we are talking about a tax on production, not a tax on profits.

All we want to do is soak it to them. I will tell you who is getting soaked; it is the American consumer who is getting soaked by this policy. It is the American consumer who is paying through the nose for the energy supplies he is consuming today. It is not the evil oil companies that are causing that. It is blind politicians who are causing that. It is people who will not look at the facts in the production of oil and energy in this country and conservation of energy consumption in this country who are causing the American consumer to spend billions of dollars extra.

Then to cover up our own failures in the political process we say we are going to tax production in this country, put it into the public sector, and build more big Government.

I cannot imagine any single policy of Government that I have seen in my lifetime that is less defensible than the idea of creating exorbitantly high prices to be paid by the consumers of this country, and then, under the guise of the thing we have created, increasing the tax burden on the American public by the largest single tax increase in the history of the country.

This bill, if passed as the House had it, would increase the tax revenues to the Federal Government alone over the next 10 years, total revenues, equal to all other taxes, all of the revenue of the Federal Government, from 1789 through World War II, the most massive tax increase in the history of this country in the guise of energy policy.

Mr. President, it seems to me we ought to stop for a moment and look at what it is we are doing to the American economy, the American working man and woman who are gradually being forced to pay more and more for energy, forced to pay more and more taxes as a result of it, forced to become less and less competitive, and find their jobs more and more threatened by foreign competitors because the United States is moving in the wrong direction in energy policy.

We will not be debating the luxury of trying to save Chrysler Corp. in a few years from now. It will be industries across this country, as a combination of governmental policies that has priced us out of the world market, and energy policies is one of them.

In the meantime, back at home, politics as usual will be telling them, the American consumer, "It is not our fault that energy prices are high, that is OPEC's; it is not our fault that energy supplies are low, that is the energy companies'; it is not our fault that American industry is no longer competitive, that is management's fault."

At some time the American public is going to turn back and look at the people who made American policy during this period of history and say, "You are the ones who destroyed the American economy, you are the ones who made the French worker more productive than the American worker, you are the ones who drove American producers out of business, you are the ones who priced American products out of the reach of the average working man and woman, and you are the ones who destroyed the security of the future of the American people."

What we are saying here in energy happens to be a large part of, a very large part of, that extremely inward looking, and backward, and perverted public policy.

We have a chance in this amendment to reverse that trend for a moment, not to cure all our problems but to avoid making them worse. It is not a panacea in terms of energy production, but at least it is a step toward more energy production, not less, at least a step toward refusing to take the step of massive tax increases, hoping maybe the American public, the long-suffering taxpayer in this country, might find some relief from taxes as a result of good economic policy, not the certainty of increased taxes that is implicit in this bill if my amendment is not adopted.

Mr. President, I hope people do not bypass the opportunity to look seriously at the economic and energy affects of the legislation that is pending and the opportunity to do something better with the amendment which I have offered.

(Mr. ZORINSKY assumed the chair.)

Mr. BRADLEY. Mr. President, the distinguished Senator from Idaho has provided the Senate with one perspective, the long-view perspective, and I feel it is important that all views be considered. But I would suggest to the Senate, in response to both the Senator from Kansas and the Senator from Idaho, that what we are up against is a dependence upon not only foreign oil but finite fossile resources in this country and, in particular, oil.

I would suggest that if anyone would like to peruse any of the studies that have been done about the potential oil production domestically that is possible that, given the present production now of about 10 million barrels a day, by 1990 it is unlikely that we will produce 10 million barrels a day domestically. In fact, we will probably never be at the level of 11.4 million barrels of domestic production which occurred last in 1971. Therefore, what seems to be very clear is that we have to develop other forms of energy, and we have to do it in a very short period of time.

The best way to develop other forms of energy is to stimulate the consumption of those forms of energy. One of the ways we do that is through this windfall profits tax, through saying to oil companies that have benefitted from the combination of OPEC price increases and decontrol, that we want them to have sufficient revenues for investment in exploration and development of oil resources domestically, and in this bill we provide them with the opportunity to double their present investment over the next 10 years in exploration and development.

But, Mr. President, we are also saying that some of the revenues that accrue to those companies as a result of decontrol and OPEC price increases should be diverted to more cost-effective forms of energy.

If we just take the next decade and block off the next 5 years, where do we get the greatest energy relief from our dependence not just on oil but our dependence on insecure oil, Persian Gulf oil, that we now depend on for 25 percent of all of our consumption? We get that from conservation, Mr. President; from conservation, not as a sacrifice, but conservation that means applying technology to the very real problem of reducing that dependence on insecure sources. Conservation does not happen overnight; energy efficiency does not happen overnight, whether it be in the residential sector, in the commercial sector, or the industrial sector, or in the transportation sector.

Mr. President, I believe it is Government's proper role to attempt to encourage conservation investment in this country, and that is what we are doing with some of the revenues in the windfall profit tax bill.

I believe it is the proper role of Government to encourage renewable energy resources, to encourage our coal development, even to encourage to a certain extent the development of synthetic fuels, liquid fuels, made from coal and oil shale. This seems the long view that has a role for many different kinds of energy.

It is true that this is a very large tax increase, a very large revenue flow, and that is precisely the reason why we must use it effectively, so that 5 years from now or 10 years from now we will not be in the same position as we are today. In fact, Mr. President, without a dramatic move to conservation and renewable energy sources, over the next 5 or 10 years we will be even more dependent than we are today on insecure foreign oil sources. Given a projected growth of 3 to 4 percent over the next 10 years, if we do not bring those other sources of energy on line, we could be dependent, not for 8 million barrels a day on foreign sources, but for as much as 10 million barrels, 12 million barrels, or 14 million barrels a day. That is not what I want to see happen, Mr. President, and I do not think it is what the American people want to see happen.

This type of opportunity, as the Senator from Idaho points out, does not come along every year. We should make use of the opportunity to stimulate other forms of energy, to give this country independence from other insecure foreign sources of oil.

The distinguished Senator from Kansas has read into the RECORD several times the profit figures of the various oil companies and their return on investment. Mr. President, I would point out to the Senate that all of these figures are figures from 1977 and before, that are not directly related to what this legislation addresses, which is the precipitous increases in prices that are the result of OPEC, and, prospectively, could be just as precipitous or even more so, given their vise-like grip on the energy future of this country.

I think the Senator correctly points out that the Iranian shortage of late 1978 created shortfalls in the world, and that those marginal shortfalls created a dramatic increase in the spot market price, which led to an increase in the OPEC price in their spring meetings. Mr. President, I would suggest that we do not break that vise-like grip by simply eliminating a significant tax on oil companies, but we break that vice-like grip by very specific policies that are directed at that grip. First, we have to build a strategic petroleum reserve. We have to do it immediately. We have only 94 million barrels in storage today, and we should have a billion by 1985—a billion barrels that could cushion this country in the event of a decrease in supplies from the Persian Gulf markets.

Second, we have to diversify our sources of supply. We have to recognize there is a difference in sources of supply even though they are foreign. The oil that comes from the Persian Gulf is much more insecure than the oil that comes from Mexico, Venezuela, or the Western Hemisphere. We have to break that vice-like grip by becoming serious about energy insufficiency in this country, by insisting that the transportation sector and the automobile industry become serious in their efforts to develop more fuel-efficient cars, by providing more moneys for mass transit, and by assuring that homeowners in this country have the incentives and the information to lead to more energy efficiency in the residential sector.

These are the policies that will, in the short term, over the next 5 or 10 years, break that dependence on Persian Gulf oil.

It is not simply a dramatic transfer of revenues to the oil companies of this world that will assure a reduction of that dependency. Mr. President, I reiterate that this amendment is a very clear attempt to gut the efforts of the Finance Committee over its 29 days of deliberations. It is a simple plowback amendment that, in fact, the oil companies of this country have not suggested and have opposed in hearings before the Energy Committee. The American Petroleum Institute, the Independent Petroleum Association of America, the Mid-Continent Oil and Gas Association, the Rocky Mountain Oil and Gas Association, the Western Oil and Gas Association, Sohio, Exxon, Arco, Gulf, Marathon, all oppose the idea of a plowback. Mr. President, I realize that what we have here is a very simple plowback arrangement, that says simply we will not tax profits, we will not have an excise tax, we will in fact have an excess profits tax, but an excess profits tax that taxes a fraction of the income that accrues to the oil companies.

Mr. McCLURE. Mr. President, will the Senator yield for a moment?

Mr. BRADLEY. For a question, surely.

Mr. McCLURE. I do hope the Senator from New Jersey will repeat that list of people who are opposed to my provision when his colleagues are on the floor. I cannt imagine anything to get my amendment more votes than that list of opponents.

Mr. BRADLEY. Unfortunately, I say to my distinguished colleague from Idaho, the Finance Committee did not have the benefit of his proposal when these entities came before it to testify.

I would simply say the testimony was against the concept of a plowback; and although this masquerades as an excess profits tax, it is indeed a form of plowback.

Mr. McCLURE. Will the Senator yield further?

Mr. BRADLEY. Surely.

Mr. McCLURE. It is not that the Finance Committee did not have the advantage of this proposal, because this proposal was introduced as S. 890 on April 5 of this year. I had introduced it in 1977, and I had introduced it in 1975. So it is not something that has not been discussed before. It is not something new that has been thrown out here without warning. And if, as a matter of fact, all of these producers the Senator is talking about came in and opposed a plowback, they did it with clear knowledge of this proposal.

Mr. BRADLEY. I would suggest to the Senator that in the 29 days of markup and the great number of days of hearings I did not see the Senator come before the Finance Committee to advocate his position. I am sure that it would have been an enlightening session.

Mr. McCLURE. The Senator must surely know that the bill was referred to the Finance Committee.

Mr. BRADLEY. Of course.

Mr. McCLURE. When it was introduced.

Mr. BRADLEY. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. JEPSEN. Mr. President, will the Senator from Idaho yield for a question?

Mr. McCLURE. I am happy to yield to the Senator from Iowa.

Mr. JEPSEN. Does the Senator recall what the price of gasoline was some 6 or 7 years ago, just prior to the Government getting involved with the control and regulating of gasoline?

Mr. McCLURE. Well, prior to the Middle Eastern war in the fall of 1973, the prices were in the 35- to 45-cent range in this area, I believe, per gallon.

Mr. JEPSEN. In my area they were about 27 cents. In any event, is the Senator aware that for nearly half a century of the rise of the automobile, from the beginning to the early 1970's, in our Nation the price of gasoline rose all of 10 cents, when no price protection was provided?

Mr. McCLURE. If I recall the figures correctly, up until 1974 the price of gasoline at the retail pump had risen only to the extent of the taxes imposed directly upon its consumption, and that the actual price of the gasoline to the consumer before taxes was lower in 1973 than it was in 1923.

Mr. JEPSEN. Those were the days when you would drive into a gasoline station and they would give you prizes for filling up your tank, like a whole set of tumblers, towels, and gifts. We had all the energy we wanted.

Mr. McCLURE. And those were the days when they competed for your business by washing your windshield, checking your tires and your oil, and a number of other services which they found necessary in order to compete for your business.

Mr. JEPSEN. Then what happened, chronologically? The Government then got involved and starting doing what? Allocation?

Mr. McCLURE. The event that triggered it all was the Middle Eastern war that causes an embargo of oil shipments to the United States. OPEC, the Organization of Petroleum Exporting Countries, had been in existence for a number of years, but when the war caused the embargo to the United States, and there was then a shortage of supply in the United States, the Government got involved in all kinds of allocation schemes, and we began legislating, and have been ever since.

I say to the Senator that perhaps one of the worst things that has happened to us in recent years was the 1954 Supreme Court decision that said that the Federal Power Commission had not only the authority but the congressional mandate to regulate the price at the wellhead of natural gas. And in doing that, they set a price ceiling to a large proportion of the energy within this country and began a massive shift in consumption patterns within this country that led us to start overconsuming natural gas and start underinvesting in alternatives. So ever since 1954, because of Government policy, we have been building toward this crisis.

Mr. JEPSEN. With this windfall profits tax—that is the name that is given to this bill—will it, in fact, be possible, under the thrust of this bill, to take money away from organizations, companies, firms that are producing oil, even though they may be doing so at a loss?

Mr. McCLURE. The Senator is correct. This has nothing to do with profits. This is an excise tax on the production of oil.

It is kind of analogous to putting a $500 dollar a car excise tax on the production of automobiles and slapping it on Chrysler now to help them.

Mr. JEPSEN. Is the Finance Committee, in the Senator's opinion and judgment, aware of this situation?

Mr. McCLURE. I would say that the Finance Committee is certainly aware that this is not a tax on profits; that it is an excise tax on production.

Mr. JEPSEN. I thank the Senator.

Mr. President, I rise in support of this amendment. In fact, I am a cosponsor. Indeed, I rise in strong support of the McClure amendment.

If we must have a windfall profit tax it seems to me that the McClure approach is vastly preferable to the bill we are presently working on. The McClure amendment would substitute a 90-percent tax based on true oil company profits. They would pay a 90 percent tax on the difference between the return on stockholders' equity for oil companies compared to the return on stockholders' equity for all industrial corporations, subject to the provision that all money reinvested in domestic energy production will be exempt from tax.

Mr. McCLURE. Will the Senator yield?

Mr. JEPSEN. Yes, certainly.

Mr. McCLURE. It would be exempt from the excess profits tax, not exempt from all tax under my proposal.

Mr. JEPSEN. Exempt from the excess profits tax, that all money reinvested in domestic energy production, that part, but all the other taxes still apply.

Mr. McCLURE. The Senator is correct.

Mr. JEPSEN. And still would be forthcoming.

It seems absurd to me that the bill we are considering is grossly misnamed a windfall profit tax, because it is not based on profits at all.

Mr. McCLURE. The Senator is correct.

Mr. JEPSEN. It is an excise tax which must be paid by oil companies whether they make any profit or not. Furthermore, it imposes a burden on oil companies at precisely the time when we are most interested in encouraging new domestic production. The McClure amendment would insure that the tax only captures true windfalls while still giving the maximum encouragement to domestic production.

And that is what I thought we started discussing here in this august body earlier this year. If we have an energy problem, we should solve the problem. If we have an energy shortage, then to solve an energy shortage, we should solve the problem in a manner which creates more energy, simultaneously conserving and making better and wiser use of the energy that we have. That all goes together.

And to do that, to sum it up in a few words, the people of the United States of America, as they have always done, if you give them the facts, tell them the truth, they will come up with the right decisions and they will support whatever is needed. But you must have some leadership to do it.

We talk about solving an energy problem—which we have gotten clearly away from—instead we have a windfall profit tax.

It is a political year coming up. I understand that a windfall profit tax was not the name of this original legislation at all, except somebody in the administration said, "Well, politically we have to name it something else: a windfall profit tax."

Then they started badmouthing the big, bad oil companies. By the way, all those big, bad oil companies are owned by millions of Americans, many retired and dependent upon the dividend income to continue to live independently, keep their homes, heat their homes, pay their bills, and buy their food. The corporations do not pay taxes, people do.

Windfall profit tax. Tax those big, bad oil companies. Tax those big, bad oil companies—the companies that have the expertise, and know-how, and wherewithal to solve our energy problem. So we are now talking about raising taxes, taxing the big, bad oil companies; 99 percent of this is political. All the rest has no resemblance to anything that is rational.

We are solving the energy problem by taxing those who produce; taking away all the risk capital; discouraging any of the expertise and the investment—in fact, taking away everything that they will have to invest to solve the problem and produce more energy—and then passing some kind of Christmas political grab bag over here, where we are going to give money to all kinds of people for all kinds of things and subsidize them to consume.

So we end up, simply stated, solving the energy problem in this country by strangling and stifling production and subsidizing consumption.

I have reflected on this. It is unbelievable. It is inane. It makes no fiscal sense, historical sense, or economic sense.

As I said, the fact of the matter is that our Nation's present energy policy consists of discouraging production while, again, I will repeat, subsidizing consumption. The windfall profit tax will not aid in reversing this situation but will merely substitute an explicit tax for the de facto tax presently caused by price controls.

There is absolutely no doubt in my mind, and I think no doubt in the minds of the American people, that we are going to have less production if we pass this windfall profit tax. We are going to be more dependent on undependable foreign sources of oil, and we are going to end up spending billions of unnecessary dollars on synfuels to compensate for our mistake—synfuels that have not yet been developed, that are going to take some time down the road to produce, sources of energy that should be explored, certainly. The oil companies, which have been producing energy ever since there has been energy of this type, or any other type in this country, would develop synfuels if we encouraged them to. They have the expertise to do it.

Yes, we are going to end up spending all kinds of money to encourage consumption.

But the McClure amendment makes the issue clear: Are we in favor of a true windfall profit tax, or do we just want to grab a few billion dollars of revenue to squander away on more useless programs under the guise of a windfall profit tax? Do we really want to encourage domestic production? Do we really want to have a free enterprise economy based on profits, or are we going to place additional burdens on the very people we must depend on to find and produce more energy as an excuse to expand Government?

The answer is clear: If we continue in the direction of supporting and adding and amending and, ultimately, if it is the goal of this administration, this body, to pass a windfall profit tax, we are going to discourage production. We are going to encourage consumption. We are going to have more and more Government; the same Government that gives us swine vaccine to take care of our health; the same Government that gives us the postal system that cannot get a letter across my town in less than 6 days.

Now we want the Government to come in and solve our energy problem. This country is hampered and hamstrung by the Government. It got into the business of allocating and trying to tell people what they should do with every drop of gas, from the time it was refined, through the distribution system, all the way down to the corner gas station and into someone's tank. And we all know what happened. Farmers ended up not being able to plant their crops because they could not get gas. We had people sitting in long gas lines.

I had a member of my staff who was sitting in a gas line. Someone's temper got short. And he was punched out because he got tired while waiting and fell asleep. He was punched right through the window. This is the type of thing which results from Government handling our energy. Wonderful.

It just seems to me that the bill we are considering has gotten as far as it has because it has been misnamed a windfall profit tax. But I want to make this point very clear in closing: it is not based on profits at all. If, indeed, there are some windfall profits in some particular instances—to go along with the phrase that has been coined here to describe the bill—there may be some justification for a tax. But if we want to encourage production, we should take that money and plow it back, as I am sure the major energy companies in this country already do. Not only they are doing it, but they would be willing to do it on a greater scale that is commensurate with their ability to pay to do so and, at the same time, maintain some basic profit, which is not a dirty word. Profit is what has brought us all the abundance and good things of life that we have in this country.

If we want to really solve the energy problem, let us vote for the McClure amendment, which says to the energy-producing companies, we will tax you on 90 percent of your profits, not the 65 or 70 or 50 or whatever has been politically thrown around and talked about here, but 90 percent of your profits unless you join the team, join hands, lock arms and go down the road with everybody working together in this Nation, and create more energy of all kinds.

This is a most sensible, commonsense amendment. It is very simple. It is easy for the public to understand that we are going to tax the industry, very simply, 90 percent of its profits unless it plows back the money that it makes on decontrol and puts it into creating more energy. That is not too great a distinction. That is the amendment we should have. We should quit trying to fool the public with all this rhetoric. Vote for the McClure amendment. Then we can get to a final vote on this whole windfall profit tax yet, maybe this afternoon, and then get about the business of doing something else.

I thank the Senator.

Mr. McCLURE. Mr. President, I thank the Senator for his remarks. I appreciate his cosponsorship of the bill and of the amendment.

Mr. President, we have all been looking at ways in which we can more efficiently use the energy that we now consume in this country. I agree wholeheartedly with the idea of increasing efficiency in consumption.

Mr. President, one company, in the process of the research they were doing with a hybrid vehicle, one that would use both internal combustion and electricity as a mode of propulsion for that vehicle, developed a new system of conversion of electrical energy for electrical motors. They call it the alternating current synthesizer. They desire to invest millions of dollars in the production of electric motors using this new system. They are prepared to invest that money and it is their estimate that if all electric motors in the United States were today converted to the use of that system, it would save the equivalent of several million barrels of oil per year. They are prepared to invest their millions of dollars in the production of that motor. In the effort to produce it, they desire to buy an existing electric motor company, convert its facilities, and use it for the production of the new motor. And guess what? The Federal Government said, "No, you cannot do that."

Are we serious? Are we really serious about converting to more efficient means of energy consumption, or are we more determined than ever to inject Government into the control of what happens in the energy field?

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. RIEGLE). The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Ohio (Mr. GLENN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. NUNN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Massachusetts (Mr. TSONGAS) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. COHEN), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 29, nays 56, as follows:

[Rollcall Vote No. 466 Leg.]

YEAS—29

Armstrong
Bellmon
Boren
Boschwitz
Byrd, Harry F., Jr.
Cochran
Dole
Domenici
Garn
Gravel
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—56

Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Exon
Ford
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Leahy
Levin
Long
McGovern
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Stafford
Stennis
Stewart
Stone
Talmadge
Weicker
Williams

NOT VOTING—15

Baker
Baucus
Bayh
Church
Cohen
Eagleton
Glenn
Goldwater
Hatfield
Heinz
Kennedy
Nunn
Pressler
Stevenson
Tsongas

So Mr. McClure's amendment (No. 588) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 712

(Purpose: To create exploration, development, and production incentives by allowing a tax credit for windfall profit taxes expended on qualified oil and gas development costs in Alaska)

Mr. STEVENS. Mr. President, I call up my amendment No. 712.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. Stevens) proposes an amendment numbered 712.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 66, between lines 6 and 7, insert a new section as follows:

"Sec. 4992. Tax Credit for Qualified Expenditures in Alaska.

"(a) Commencing October 1, 1980, a credit up to the amount of tax imposed by section 4986 shall be allowed as a reduction of the tax imposed by section 4986 to the extent that such moneys are expended on qualified development costs in Alaska, including frontier areas, or on the transportation of oil or natural gas produced in Alaska, including frontier areas, to consumers in other 49 States or Alaska. For purposes of this Act, the term 'qualified development costs' includes but is not limited to the construction and transportation of depreciable assets used for the exploration, development, production, or transportation of oil or natural gas, gas conditioning facilities, lease equipment, and other costs for drilling and equipping wells, intangible drilling expenses, and geological and geophysical costs."

Renumber the existing sections accordingly.

Mr. STEVENS. Mr. President, having spent the weekend up in Alaska in a different climate, I find that I am losing my voice because of a cold. I apologize to the Senate for that, as I wish I could be heard by everyone.

This amendment is designed to offer incentives to the full development of Alaska's potential.

In a very timely report the United Press has just put out on its bulletin at 2:41 p.m. today they made mention of a GAO study which discusses the steady decline of domestic petroleum production.

It says:

Production in the 1990's could stabilize and perhaps begin to grow slightly because of new Alaskan and Outer Continental Shelf production along with a significant growth of new enhanced oil recovery output.

The study concluded that:

Any policy designed to encourage oil and natural gas production must offer incentives to explore the most promising areas, Alaska and the Outer Continental Shelf.

Let me repeat that.

The GAO has concluded that:

Any policy designed to encourage oil and natural gas production must offer incentives to explore the most promising areas, Alaska and the Outer Continental Shelf.

That is precisely what my amendment does. It covers Alaska and the frontier areas which, as we all know, are the Outer Continental Shelf areas.

The impact of this amendment would be that revenues from Prudhoe Bay, the largest producing field in the United States today, would be plowed back into the development of those very promising areas of Alaska.

These areas are the old Naval Petroleum Reserve, which we now call the National Petroleum Reserve, the Arctic Wildlife Range when it is open, the Beaufort Sea, the Chuckchi Sea, the Bristol Bay, and the Gulf of Alaska.

The Prudhoe Bay field itself is not fully developed. Fantastically high investment amounts are required to complete development of that field.

Contrary to what has been reported, this field is not excessively profitable. Even with no windfall profit tax and at the full upper tier price of $13 per barrel, only a 15-percent rate of return in 1979 dollars is expected from that field.

Mr. President, discriminatory tax treatment could adversely affect a future investment decision regarding the Sadlerochit, the first producing area of the Prudhoe Bay field.

As I pointed out in the Chamber the other day, it costs 10 times as much to lift a barrel of oil on the western portion of that formation as it does to lift the first production on the eastern portion of that formation.

At risk, in terms of failure to produce all of the recoverable oil there is 700 million barrels of oil. The Sadlerochit Reservoir contains nearly 25 billion barrels of oil in place and it is anticipated that the ultimate recovery will be somewhere around 10 billion barrels for the whole field.

A small percentage of increase in the recovery would add a large volume to the reserves. An additional recovery of 5 percent from the Prudhoe Bay area would add 1.25 billion barrels of oil to our reserves. A plowback, as I propose, would add encouragement to develop new processes and new projects to enhance the recovery of this area.

There are other frontier, high-risk areas in my State, as I mentioned.

I expect that we will see substantial debate on this amendment because it does amount to granting a plowback of the moneys received in excess of $13. That is the tier 2 minimum figure as I understand it.

We want to see the cash flow from the first part of this enormous area put back in the pool to insure the total development of the Prudhoe Bay resources. The construction of additional facilities is necessary to carry those resources to market.

It just so happens that this field has associated gas and, as we produce the oil, we produce the gas. Unless we produce the gas, the time is going to come when we will not be able to produce the oil.

One of the ancillary benefits of this amendment, is that it will provide the mechanism for the financing of the Alaska Natural Gas Transportation System which was selected by the President. That system will cost, according to current estimates, including the western and eastern legs of the line, a total of $15 billion.

Let me go through some of these figures, which are startling considering that they apply just to one area. In order to bring about the full development of the Prudhoe Bay field, which includes the additional well sites, the low pressure system, the water injection facilities, the gas injection facilities, and the total development of the west end of the field, it will cost $15 billion to finish the development of this field.

The expansion of the trans-Alaska pipeline system would be required to carry full production from Prudhoe. It is now operating at approximately 1.3 million barrels a day. To get it up to designed capacity of 2 million barrels a day, will involve additional costs for pump stations and new tanks and facilities at the terminal. This means another $1 billion. Because this field is located so far from other production, a gas conditioning plant must be constructed for this field alone, and that gas conditioning plant is absolutely essential for the safe transportation of this gas. The heavy liquids must be taken out of it before it can be transported. The gas conditioning plant in 1978 dollars is estimated to cost $2 billion.

As I said, the entire gas pipeline will cost $15 billion and the construction of an east-west oil pipeline, that is, a pipeline such as the Northern Tier pipeline to take our oil from the west coast to the east, will cost approximately $1 billion. In other words, there is a cash flow requirement for the Prudhoe area, alone, between now and 1990 of $35 billion to complete the production facilities for this field.

These figures are not speculative. They apply to a reservoir whose potential is proven. We know what the estimates are for recovery, and we know that recovery could be enhanced.

The requirements to complete transportation facilities to take the oil and gas to market are known. The problem is locating the money. In any traditional situation the first revenue from a field would be used to complete its development. Unfortunately, the windfall profits tax now will take roughly $30 billion in a period between now and 1990, from the revenues of the Prudhoe field—from that first producing area $30 billion will go to the Treasury of the United States, rather than into the development of this field.

It will delay the development of the Prudhoe Bay field excessively, and it will probably increase the cost of this oil and gas to the consumers of the country because if the industry is to develop this field it will have to go out and borrow money at excessively high interest rates. Instead of having invested after-tax dollars and developed the depreciable assets needed to fully produce the Prudhoe Bay area, the company will have to borrow money.

I think the Senate would be remiss if it did not recognize that my State offers the sole chance for us to be at all near to self-sufficient in the near term. The companies involved will move, to develop these facilities as rapidly as they get the money to do so.

However, their plans are subject to the availability of money, the returns from the sale of the Prudhoe Bay production that is going to market now at the rate of 1.2 million barrels per day.

In addition to that, if the Kapurak Reservation in Prudhoe Bay is to be developed, an additional $0.34 billion plus, must be found.

The exploration of the Arctic Wildlife Range, which would be authorized by the Alaska land bill reported from the Senate Energy Committee, would cost $0.8 billion. Beyond that, the development costs alone in the Arctic Wildlife Range will, I am told, approach $20 billion.

Exploration of the national petroleum reserve in Alaska, the old naval petroleum reserve—upon which the President and Secretary of Interior announced plans to permit for the first time private exploration and development—will be very expensive.

Exploration alone is estimated at $1.7 billion. The development costs there will be about $15 billion.

The exploration of the Beaufort Sea—and tomorrow the bids will be open for the joint Federal-State lease sale—exploration alone is estimated at $5 billion.

The Chuckchi Sea, north of the Bering Sea, is another one of the very promising areas. Our Nation's potential for the development of oil and gas in that area is estimated to cost $5 billion for exploration and development costs.

Now, if we look at the projection of the need for capital to pursue the program the GAO has outlined for us, in these, the most promising areas, we must provide a mechanism to continue assured cash flow.

My amendment offers that in terms of a tax credit. It is only a tax credit against the windfall profit tax for qualified expenditures, and those qualified expenditures are investments in depreciable assets used for exploration, development, production, or transportation of oil or natural gas, gas conditioning facilities, lease equipment, and other costs for drilling and equipping wells, and the normal depreciable costs involved in the exploration and development of new prospects for production of oil and gas.

It has been suggested to me that I limit this to a percentage of the amount that would be plowed back in. I have discussed that with the distinguished manager of the bill, and I intend to so amend this amendment before it is voted upon to meet his suggestion to allow a credit for up to 50 percent of the amount expended for these qualified development costs.

It is my understanding that thus limited, the cost of this amendment would be $6 billion, although committee staff inform me their estimate would be $10 billion at 50 percent. My information from the people in my State was $6 billion. In any event, the impact of it would be to provide a credit for 50 percent of the money actually put into development of additional facilities for production of known resources.

That is the real point of all this. The money otherwise going to Treasury during the period of this tax will be put into the development of a known area—the major producing area of the United States. There is no reason, Mr. President, why we should not attempt to recover that production, and see that the Prudhoe gas is taken to market.

Mr. President, when it begins to be delivered, the Prudhoe Bay gas alone will back out the equivalent to, in terms of barrels of oil, the amount of oil we imported from Iran. The reserves constitute 13 percent of the known supply of natural gas in the United States. The producers are presently reinjecting this gas instead of selling it to customers in the United States, who are vitally in need of it in places where curtailment is taking place, and who could be served in a very short time if financing was available to build a pipeline to get it to them.

To take the revenues from the production of our first major oilfield in Alaska and put the money into the Treasury instead of allowing industry to put it into production of more oil and gas is a policy that is not going to result in the production of any additional supplies.

I hope every Member of the Senate will read the very timely report from the United Press which outlines the necessity for a policy which is designed to give incentives to production.

I do not know what better offer there could be for the industry to produce additional supplies. If it puts its money into the ground in Alaska, it will not be subject to the windfall profits tax to the extent of 50 percent of the investment in the depreciable facilities. I am hopeful that the Senate will study the matter.

I have agreed to yield to my good friend from Delaware so that he might offer an amendment that he wishes to pursue.

It is my hope, before I yield, because I know my friend will take some time on his amendment, and others may want to comment on it, too, that if there is a motion made concerning the Senator from Delaware's amendment, it will be solely to his amendment to my amendment. I hope it will not be to my amendment to carry his amendment because I would like to have a chance for the Senate to decide whether it should follow the advice in the GAO report.

Today it has given us its advice, to design a policy to encourage oil and gas production, and that policy must offer incentives to explore the most promising areas, which it lists as Alaska and the Outer Continental Shelf.

My amendment is designed to that end. It is not designed to allow just any expense incurred by the oil industry to be written off against the tax. This amendment requires that the investment must be in depreciable assets associated with the exploration and development of new natural gas or oil from Alaska or from the Outer Continental Shelf.

I ask unanimous consent to have printed in the Record an article from the Oil Daily, of Monday, November 12, 1979.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Oil Daily, Nov. 12, 1979]

Atlantic Richfield's Spending Intimately Tied to Alaskan Oil

Los Angeles.—Just as the Aramco partners are securely linked to Saudi Arabian oil, Atlantic Richfield Co. is linked to Alaskan oil—and the company's proposed capital spending plans for 1980 clearly illustrate this link.

But Claude Goldsmith, Arco vice-president for financing and tax, is quick to point out that the capital spending budget proposed for next year rests heavily on the windfall profits tax and crude oil decontrol programs now being thrashed out in Congress.

Other companies, while recognizing the serious problems of the windfall tax idea, have said 1980 capital spending is not closely linked to the outcome of Congress' debate. They note that the tax will hurt them down the line, rather than next year.

"This is uniquely not the case with Arco," Goldsmith told The Oil Daily. "The windfall profits tax is the major element of influence that will dictate our 1980 budget."

WINDFALL TAX FACTOR

Goldsmith said Arco will have a huge capital spending budget between $2.5 billion and $3 billion—but it will only be that large if the windfall tax aims for the smaller end of the revenue generation scale—that proposed by the Senate Finance Committee.

That budget dwarfs the anticipated $1.8 to $1.9 billion capital spending program of 1979.

The largest single item in the proposed 1980 budget is $400 million for further development of North Slope oil fields. Arco proposes $150 million in 1980 for transportation projects—most of which will be eaten up paying for two Alaskan trade tankers and the ongoing expansion of the Alaska pipeline.

Of the proposed $2.5 to $3 billion budget, up to $1.6 is set aside for domestic exploration and development. The exploration portion alone may approach $600 million—about 20 percent of which will be devoted to exploration in Alaska. This is the percentage to be generally followed in Arco's five-year exploration plans, said Goldsmith.

He noted another important Alaskan connection for Arco—current bills.

BIG BORROWER

"During 1973 to 1977, we and Sohio were among the largest borrowers in the world," he said, referring to capital commitments to the pipeline and Prudhoe Bay development.

"The large quantity of debt limits what we can borrow," he explained, adding that this means there may be strings attached to income other than where it should be spent. Though servicing of Alaska projects debt is not part of the capital expenditures budget, the presence of the debt creates a need for caution—particularly when one considers the uncertainty of the windfall tax outcome.

Arco adopted a similarly cautious stance during 1977 and 1978, said Goldsmith. During 1975, when revenues were $7.75 billion, Arco's capital expenditures were $1.75 billion. In 1976, when revenues were $8.9 billion, capital expenditures were only $75 million greater than in 1975. Revenues reached $11.4 billion in 1977, but capital spending dropped down to less than $1.7 billion. Capital spending dropped again in 1978, when revenues were $12.7 billion and spending was $1.36 billion.

BUDGET SLOWS

Goldsmith said Arco's budget during that time slowed in large part because the potential for profitable investment in domestic exploration and development seemed poor. Government policy influenced decisions heavily.

As recently as June, Arco's concern about government interference showed up when the company committed practically nothing to Outer Continental Shelf lease Sale No. 48, Southern California, where Chevron USA, Phillips, and Exxon made heavy capital commitments.

The difficulty of developing offshore California projects is familiar to Arco. The company had to wait a long time to run a pipeline to shore from its existing Santa Barbara Channel platform.

In yet another example of Arco's concern about the windfall profits tax outcome, the company has budgeted no money for 1980 to start a major carbon dioxide injection project in its West Texas field. That field is Arco's largest domestic producer outside Alaska—yet without regulatory reform, this $300 million project won't produce an acceptable rate of return, Goldsmith noted.

SPECIAL ATTENTION

The carbon dioxide project would not necessarily be started next year, but Goldsmith confirms that it typifies projects in need of special attention from government tax policy.

"If they do the right things with decontrol and the windfall tax, I think you'll see a lot more secondary and tertiary projects," he said. "We're very bullish on that CO–2 project."

Goldsmith said Arco will continue to be active in U.S. Gulf lease play, noting that the company only spends more for leases in Alaska.

Arco differs from other majors in its relatively small international exploration and development commitment. Goldsmith said about $142 million is set aside in the proposed 1980 budget.

RESPONSE TO TAX

This situation underscores the importance of favorable domestic oil policy to Arco—which leads Goldsmith to remark, "We have decided that capital spending will be lowered in response to the windfall tax bill."

On other fronts, the proposed 1980 budget includes $400 million for refining, marketing and transportation. Part of this will be committed to a $100 million fluid cracking unit to upgrade Arco's Philadelphia refinery, a 185,000-barrel capacity plant.

Exploration in the Rocky Mountains will continue at a vigorous pace, being less likely to be impacted by the windfall tax.

Goldsmith felt compelled to comment on the relationship between Arco's net income and it's plans for finding and developing new petroleum and energy reserves.

A quick calculation showed Arco's net income to be just over $1 billion for the 12 months September 1978 to September 1979. The capital expenditures budget for 1980, given the proper regulatory and tax environment, would be three times that amount.

Mr. NELSON. I wonder if the Senator will yield for a question before yielding the floor.

Mr. STEVENS. I will be happy to do that.

Mr. NELSON. Since there are one or more Senators on our side who wish to address this question, does the Senator from Alaska have some notion about how much more time his side will be taking?

Mr. STEVENS. It is my intention that I yield to the Senator from Delaware, in order for him to bring up his amendment, get a vote on it, and then come back to a discussion of my amendment.

Mr. NELSON. I wonder if the Senator from Delaware could advise about how much time he intends to spend on his amendment.

Mr. ROTH. Mr. President, I would hope we would complete action within, say, 30 minutes.

Mr. BRADLEY. Mr. President, reserving the right to object, since I was out of the Chamber, what is it that the Senator proposes to order?

Mr. STEVENS. I had agreed to yield to the Senator from Delaware to offer an amendment to my amendment. Then I assume there would be a motion to table his amendment—there have been motions to table similar amendments in the past—and then we would come back to the discussion of my amendment thereafter, I hope.

Mr. BRADLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BRADLEY. Is this amendment amendable under the unanimous-consent agreement?

Mr. STEVENS. I sought an agreement——

The PRESIDING OFFICER. The Chair is advised that the amendment of the Senator from Alaska is open to amendment.

Mr. STEVENS. I sought that it not be subject to amendment, and was unsuccessful. May I inquire, before I yield to the Senator from Delaware, does he have a substitute for my amendment?

Mr. ROTH. Yes.

Mr. STEVENS. If that is tabled, we can still come back to the discussion of my amendment, assuming there is a motion to table. I do not want to predict defeat for my friend's amendment, but should this occur I would like to return to my amendment. Mr. President, I yield to the Senator from Delaware.

Mr. BRADLEY. Mr. President, has there been a unanimous-consent request made?

Mr. STEVENS. It does not require unanimous consent.

Mr. ROTH. It does not require unanimous consent.

The PRESIDING OFFICER. Just to clarify, the Senator from Alaska has proposed a unanimous-consent request. He has now concluded that is not necessary.

Mr. STEVENS. No, Mr. President, it was my intention to yield to the Senator from Delaware for the purpose of offering a substitute for my amendment. It is my hope that after he does that, he will agree to a time limitation on his amendment, so that we might pursue my amendment when that is completed.

I yield to the Senator from Delaware for the purpose of offering a substitute amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. BRADLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator yield for a parliamentary inquiry?

Mr. STEVENS. I have yielded to the Senator from Delaware.

Mr. BRADLEY. Can the Senator from Alaska yield to the Senator from Delaware for the purpose of offering an amendment?

The PRESIDING OFFICER. Not if there is an objection.

Mr. STEVENS. Then this establishes a precedent that if a Senator requests another Senator to yield for a specific purpose, the Senator may not do so. That was my intention, to yield to the Senator from Delaware for a specific purpose, as he requested me to do. That was for the purpose of his offering an amendment to my amendment. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

UP AMENDMENT NO. 873

(Purpose: To limit total budget outlays to certain percentages of the gross national product)

Mr. ROTH. Mr. President, I send my substitute amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. Roth) for himself, Mr. Stone, Mr. Domenici, Mr. Danforth, Mr. Dole, Mr. McClure, Mr. Wallop, Mr. Proxmire, Mr. Warner, Mr. Armstrong, Mr. Simpson, Mr. Cochran, and Mr. Garn offers an unprinted amendment numbered 873 as a substitute for the Stevens amendment.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

Mr. BRADLEY. I object, Mr. President. Please read the amendment.

Mr. NELSON. Mr. President, just for clarification, a parliamentary inquiry.

The PRESIDING OFFICER. Objection is heard. The amendment will be read.

Mr. NELSON. I have a parliamentary inquiry. Has the Senator from Alaska yielded the floor?

The PRESIDING OFFICER. The Chair would advise the Senator from Wisconsin that objection was heard to the unanimous-consent request to dispense with the reading of the amendment, so the amendment now must be read, unless there is a unanimous-consent agreement to vitiate the need to read the amendment.

Mr. NELSON. Mr. President, that was not my inquiry. Did the Senator from Alaska yield the floor to the Senator from Delaware?

Mr. ROTH. That is correct.

Mr. STEVENS. The Senator was going to offer an amendment.

Mr. ROTH. My amendment has been offered.

Mr. STEVENS. I yielded to him for the purpose of offering an amendment. Go ahead and continue to read the amendment.

Mr. EXON. Mr. President, a point of order.

The PRESIDING OFFICER. The Chair would advise the Senator that we are still discussing the previous parliamentary inquiry, and as soon as we handle that matter, we will certainly respond to the Senator from Nebraska.

Mr. ROTH. Regular order, Mr. President.

The PRESIDING OFFICER. The Chair would advise that we are following the regular order at the present time.

Several Senators addressed the Chair.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

Mr. STEVENS. Mr. President, either I have the floor or the Senator from Delaware has the floor.

Mr. ROTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROTH. Mr. President, if I may recall what has transpired, I was recognized, I sent my amendment to the desk the clerk began reading it, and I asked unanimous consent that we dispense with the reading of the amendment. Objection to that request was heard.

Mr. STEVENS. That is correct.

Mr. ROTH. So it would seem to me that the regular order at this time would be the reading of the amendment.

The PRESIDING OFFICER. The Senator is correct, although a separate question was raised as to whether or not we had proceeded in the proper fashion; so an effort was made to reconstruct, to see if the rules had been followed, so the discussion that has been ensuing was to retrace the steps that had been taken to see if in fact we had proceeded in the proper fashion. That is the occasion for the delay.

Mr. ROTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROTH. What is the pending amendment?

The PRESIDING OFFICER. Well, assuming that we have followed the proper order, it would be the amendment of the Senator from Delaware.

Mr. BRADLEY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Chair would advise that the amendment offered by the Senator from Delaware (Mr. ROTH) is the pending order of business. A unanimous-consent request that the reading of the amendment be dispensed with was objected to. Therefore, the amendment is in the process of being read and now will be read.

Mr. NELSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NELSON. Mr. President, this Senator is not trying to delay things. I would be prepared to vote on the amendment of the distinguished Senator from Alaska (Mr. STEVENS) and the distinguished Senator from Delaware (Mr. ROTH) at any time. I thought I had heard a unanimous-consent request, or a request made to yield to the Senator from Delaware for the purpose of introducing an amendment, without the Senator from Alaska losing his right to the floor. I do not believe that that is permissible under the rules.

Was that the request?

Mr. STEVENS. Mr. President, I made no such request.

Mr. NELSON. Then my parliamentary inquiry was: Did the Senator from Alaska give up the floor and does the Senator from Delaware have the floor?

The PRESIDING OFFICER. The Chair would advise that the Senator from Alaska (Mr. STEVENS) surrendered the floor. The Chair would further advise that even though the Senator from Delaware was recognized and offered the amendment being read, upon conclusion of the reading of the amendment it is not necessary that the Senator from Delaware will gain the floor, though he is free to seek it. He, in turn, lost the floor when he offered the amendment.

The clerk will read the amendment.

The assistant legislative clerk read as follows:

> The Senator from Delaware (Mr. ROTH), for himself, Mr. STONE, Mr. DOMENICI, Mr. DANFORTH, Mr. DOLE, Mr. MCCLURE, Mr WALLOP, Mr. PROXMIRE, Mr WARNER, Mr. ARMSTRONG, Mr. SIMPSON, and Mr. COCHRAN, proposes an unprinted amendment numbered 873.
>
> In lieu of the language proposed to be inserted by the Senator from Alaska (Mr. STEVENS) insert the following:
>
> SEC. LIMITATION ON BUDGET OUTLAYS
>
> For each fiscal year ending after September 30, 1980, the total budget outlays of the Federal Government shall not exceed an amount equal to the following percent of the estimated gross national product for such fiscal year:
>
> 21.0 percent in fiscal year 1981.
>
> 20.5 percent in fiscal year 1982.
>
> 20.0 percent in fiscal year 1983.
>
> 19.5 percent in fiscal year 1984 and thereafter.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. PRYOR). The Chair recognizes the Senator from Nebraska (Mr. EXON).

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROTH. Mr. President, in order to allow a vote on this amendment, I move, in accordance with section 904(b) of the Congressional Budget Act of 1974, to waive the provisions of titles III and IV of that act with respect to the pending amendment.

Mr. President, the amendment I am proposing sets limits on the total amount of Federal spending as a percent of the GNP. Specifically, this amendment limits Federal outlays to 21 percent of the projected GNP in fiscal 1981, 20.5 percent in fiscal 1982, 20 percent in fiscal 1983, and 19.5 percent in fiscal 1984.

This amendment sets the same limits on Federal spending as adopted by the Senate last year on a 65 to 20 vote under the Nunn-Chiles-Bellmon-Roth amendment.

I am offering this amendment in order to meet the concerns of those Senators who opposed my amendment last week to limit total budget receipts. A number of Senators voiced their concerns that a limit on tax revenues would result in budget deficits if Federal spending was not limited.

Therefore, I am today offering this amendment to limit Federal spending as a percent of GNP.

Despite all the talk about fiscal austerity and responsibility, Federal spending, as a percent of GNP, will actually increase in fiscal years 1980 and 1981 over fiscal 1979 levels.

Over the last 25 years, spending as a percent of gross national product has averaged 19.9 percent. Yet spending is projected to be 21.9 percent of GNP in fiscal year 1980, 21.4 percent in fiscal 1981, 20.6 percent in fiscal 1982, 20.4 percent in fiscal 1983, and 20.2 percent in fiscal 1984.

In a $2.5 trillion to $3 trillion economy, every percentage points equals $25 billion to $30 billion.

Federal taxes are projected to increase as well, reaching 21.9 percent of GNP in fiscal year 1981, the highest level ever reached in this country's history.

Mr. President, we must not allow spending and taxes to increase unchecked. We must put the Senate on record now in support of less spending, lower taxes, and a balanced budget in fiscal 1981, and beyond.

By making a commitment now to limit spending levels to 21 percent of GNP in fiscal 1981, we will be setting a spending target of approximately $589 billion. This spending limit of $589 billion for fiscal 1981 will put the Senate on record in support of a $12 billion spending reduction from the levels established by the second budget resolution.

Mr. President, I emphasize that this amendment is directly related to the windfall profit tax bill.

Two weeks ago, on the Senate floor, the chairman of the Budget Committee made a long speech urging the Senate to increase the windfall profit tax. In his speech, the chairman of the Budget Committee did not discuss the impact of the windfall profit tax on energy policy. In fact, his statement had little to do with energy. His entire speech was on the need to raise more taxes in order to enable Congress to continue to expand Federal spending programs.

Mr. President, the windfall profit tax will be more than just an energy bill. It is one of the largest tax increases ever enacted by the U.S. Senate, which, in the final analysis, will be paid for by the American people; and the disposition of the revenues raised by the bill is totally related to the bill itself.

I, for one, do not believe that the windfall profit tax should be used to fuel an expansion of Government spending programs. I do not believe the windfall profit tax should be used to expand the size of Government.

By placing limits on Federal spending, we will insure that the additional tax revenues raised by the bill are not used on Federal spending.

Specifically, this amendment would reduce Federal spending by approximately $12 billion in fiscal year 1981. Under current revenue projections, it would result in a budget surplus of about $25 billion which would be available for either tax cuts or a reduction of the national debt.

Mr. President, my amendment is not a partisan amendment. In the House, the same legislation has been introduced by Representative Jim Jones of Oklahoma, and it has widespread support.

In addition, President Carter is firmly committed to reducing spending as a percentage of GNP to below 21 percent by fiscal year 1981; and the distinguished Senator from Massachusetts (Mr. Kennedy) said recently that he was in favor of reducing Federal spending to 18.9 percent of GNP.

Mr. President, there will be those who will argue that the Federal Government's budget needs are so great that we cannot limit Federal spending. But instead of worrying so much about the demands for more Federal spending, I believe we must direct our thinking and start worrying about the needs of the private economy.

Rather than allowing spending to increase unchecked every year, we must examine and eliminate inefficient and duplicative Federal spending programs. Rather than spending billions of dollars a year on unemployment and welfare programs, we must increase economic growth to create enough real jobs to reduce the need for these spending programs.

As I said, this amendment sets the same limits on Federal spending as the Nunn-Chiles-Bellmon-Roth amendment did last year. I hope the Senate will have the wisdom to reaffirm that decision.

I believe that the state of our economy has made it essential, even more essential, that we bring some certainty into the economic picture by mandating where we plan to go.

As I pointed out, similar legislation is being offered, in a bipartisan approach, in the House. It is sponsored by Representative Jones of Oklahoma, as well as Mr. Frenzel of Minnesota. I am pleased to say that on this side, a principal cosponsor is the distinguished junior Senator from Florida.

As I pointed out last week, when I attempted to cap revenue, our economy is in a most serious plight. We are seeing plants being closed down, employees laid off. As a matter of fact, two of the most important industries of the American economy, the steel industry and the automobile industry, are in deep trouble.

It is no secret here that we will have to deal with the Chrysler emergency before we go home, if that organization is to continue as a viable automobile manufacturer and provide jobs for well over 100,000 people.

It is no secret that the U.S. steel industry is no longer competitive in many areas of steel and fabricated steel products, with their foreign competition, whether it be that of Japan or Western Europe or the developing countries.

It is no secret that if this country is to continue to discharge its responsibility as a world leader, if it is to continue to be a strong nation which will be listened to carefully, we cannot afford to have these industries become second best.

Mr. President, it is no secret that one of the principal reasons we are in such difficulty is that because this country has become an all-consuming Nation and not a saving Nation, we do not have the funds to invest in plant and equipment which are needed to modernize our industry, whether it be steel, automobiles, chemicals, or some other area.

I think it is most important that we take steps now—not next year, for the convenience of the politicians, but now—that will help provide the kind of certainty that will encourage the individuals in the private sector to take the steps that will again get this country moving upward.

At this time, Mr. President, I am happy to yield to the distinguished Senator from Florida.

Mr. STONE. I thank the distinguished Senator from Delaware.

Mr. President, I am pleased to join Senator Roth in offering this amendment to limit Federal spending as a percentage of the gross national product. While I am principal cosponsor, along with Senator Heinz of Pennsylvania, of a constitutional amendment to limit Federal spending and am working hard toward the adoption of this amendment, I believe that the Congress must take immediate and effective action to impose a limit on Federal spending.

The amendment we offer today is nearly the same as H.R. 5371, introduced in the House of Representatives by Representative Jones of Oklahoma. It would limit Federal outlays as a percentage of the projected gross national product—starting at 21 percent in fiscal year 1981, 20.5 percent for fiscal year 1982, 20 percent for fiscal year 1983, 19.5 percent for fiscal 1984 and thereafter. The President and Congress, by a special procedure, can suspend this limitation when appropriate.

The simple historical facts point to the need for the adoption of this amendment. Federal spending as a percentage of GNP has risen from a 12 percent to 16 percent range during the peace years following World War II to the current range of 20 percent to 22 percent in the years following American withdrawal from the Vietnam war. In 1947—the first post-World War budget—the Federal Government's budget was $29.5 billion. The fiscal year 1980 Federal budget is estimated to be $548 billion. This kind of continuing growth is unacceptable.

Mr. President, I believe that the continuing, high level of Federal spending is one of the primary reasons underlying the inflation which eats away at every American's pocketbook and it can be reduced without adversely affecting any necessary Government program or service. Government waste alone, if eliminated, could save the American taxpayer billions of dollars each year.

Mr. President, since coming to the Senate I have supported a variety of approaches to reduce Federal spending. I have supported a series of across-the-board percentage reductions to individual appropriation bills—several of which were adopted—amendments to reduce the total outlay figure in the Senate's budget resolution, and most recently I have introduced and am working for the adoption and the submission to the States for ratification of a constitutional amendment to limit Federal spending. Indeed, Mr. President, believe that Federal spending is such a serious problem that the adoption of a constitutional amendment is necessary to solve the problem. Nevertheless, I strongly support the pending amendment because I believe it is a movement in the right direction and will contribute greatly to the restoration of fiscal integrity to the Federal Government.

I commend my colleagues on the Senate Budget Committee who continue to work diligently to implement the Budget Act of 1974 which encouraged the Congress to consider budget requests within overall budget targets. Because of the Budget Act, the Congress has improved its ability to consider requests for money in the context of an overall Federal budget policy. Unfortunately, however, the budget process alone cannot cure the spending habits of the Federal Government. Adoption of this amendment will improve the discipline of the Congress to deal with Federal spending. Federal spending would be appropriately tied to the productivity of our Nation, making sure that the Federal Government does not discourage economic growth in the private sector by taking too large a share into the Federal Treasury.

Mr. President, there are some who criticize this amendment and other similar efforts to bring Federal spending under control as too rigid and severe. I respectfully suggest that recent history demonstrates that the time has arrived when the Congress must adopt rigid and tough measures to bring Federal spending under control. Until it is brought under control, inflation will continue to undermine the well-being of our citizens and discourage investment in our economy. Controlling Federal spending offers the responsible road toward tax reduction and a balanced budget. It is not a shortcut to these goals, but it is the way which will put our economy back on the right track and will restore the confidence of our people in their economic future.

Mr. President, I ask unanimous consent that the table on spending limitation which I have be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

ROTH-STONE-DOMENICI-DANFORTH-DOLE SPENDING LIMITATION AMENDMENT

The amendment would limit Federal outlays to 21 percent of the projected GNP in fiscal 1981, 20.5 percent in fiscal year 1982, 20 percent in fiscal 1983, and 19.5 percent in fiscal 1984. The amendment sets the same limits on Federal outlays as adopted last year under the Nunn-Chiles-Bellmon-Roth Amendment.]

	Fiscal years—			
	1981	1982	1983	1984
Second Budget Resolution outlays	601	653	707	762
Percent of GNP under Second Budget Resolution	21.4	20.6	20.4	20.2
Percent limitation on outlays under proposal	21.0	20.5	20.0	19.5
Outlays under proposal	589	651	693	736
Spending restraint	−12	−2	−14	−26
Budget surplus available for tax cuts and/or reduction of national debt	+25	+24	+34	+54

Mr. STONE. Mr. President, in conclusion, I simply say that the value of our dollar, which is eroding away through inflation, should be seen as being backed by national production. It has been a long time since we had a gold standard. The value of our dollar is the value of our national production. When the Federal Government spends more than the national production increases that is the measure of inflation.

This amendment, as well as the constitutional amendment to which I referred, would make the appropriate linkage so that without a too rigid or too severe restraint we would attain balanced budgets and attain a reasonable value for our dollars so that they will buy about as much next month as they buy in the current month. That is the appropriate goal for us to seek in handling our budget policy in Congress.

I support this amendment and I urge its adoption.

I thank the Senator from Delaware for yielding to me.

Mr. ROTH. Mr. President, I am happy to yield to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, I thank the distinguished Senator from Delaware (Mr. Roth) for once again setting forth a proposal that would bring sound sense to the management of the Nation's economy. Senator Roth's amendment would limit Government spending as a percentage of GNP. The limitation would be 21 percent of GNP in fiscal 1981, 20.5 percent in fiscal 1982, and 20 percent in fiscal 1983, and 19.5 in fiscal 1984. The Roth amendment would be implemented by reference to the projected GNP for each fiscal year. The amendment would not shrink the size of the Federal Government, nor would it hamstring policymakers in Congress or the Executive. All it would do is stabilize the size of Government so that Government will not continue to grow at the expense of the private sector.

Mr. President, I support the Roth amendment. Like the Roth Tax Limitation Amendment, which the Senate considered last week, the Roth Spending Limitation Amendment will stabilize the size of the Federal Government at approximately the level it has been at for the last quarter century. Spending could still rise each year, but only in line with the growth of the economy. The Federal Government would not continue to grow, year after year, at the expense of the private sector. Rather, Government would grow along with the private sector.

I have introduced legislation, S. 13, and a constitutional amendment, Senate Joint Resolution 5, that limit spending to a percentage of GNP. I think it is a sound, commonsense concept. I also believe that it is necessary, although it is unfortunate that such limitations need to be imposed. But Congress has shown its inability to restrain the size of Government, so I conclude that an external discipline must be imposed. Then we will come to grips with the problem as we make our spending decisions. Certainly there can be little disagreement that the perpetual growth of Government cannot go on as it has.

Mr. President, I know that many of my colleagues on the other side of the aisle will say, "This is a delaying tactic," or "This is an attempt to win easy political points." That is not so. Were all my colleagues so attentive to the needs of the Government and the people as is Senator Roth, this kind of effort would not be needed. But Senator Roth is compelled to remind us, as I hope he will again and again, that getting Government off the backs of the people must be our highest priority. The Senate in the past week has declined to plan for further tax limitation, and has declined to eliminate the inflation tax penalty. The Senate has consistently voted for big Government and for evergrowing government.

Thanks to Senator Roth, we have another opportunity to show that we can act responsibly and wisely to set our economic course, and that we do heed the concerns of the American people. I urge my colleagues not to let this opportunity slip by this time. The people of this Nation are watching our efforts closely and with concern, and we should not let them down again. The people want new and sensible ideas, and we are offering them. Sooner or later the Senate will need to respond, and I suggest that it respond now.

Mr. President, I simply again thank the distinguished Senator from Delaware and the Senator from Florida for their efforts for again setting forth the proposal to bring sound sense to the management of the Nation's economy. I think the amendment has been properly and accurately described.

I believe that this is the appropriate time to at least address the issue. Many of us have introduced legislation.

I think it is a sound commonsense concept held by nearly every Member of this body and both parties.

Mr. ROTH. Mr. President, I wish to make it very clear that I do not intend to take a considerable amount of time to bring this to a vote.

I wish to say to our distinguished majority leader, if I could have his attention.

Mr. ROBERT C. BYRD. Is the Senator talking to me?

Mr. ROTH. Yes. I just wanted to point out, I say to the leader, that it is not my intent or those of us who are cosponsors, which include Senator Stone, Senator Domenici, Senator Danforth, Senator Dole, Senator McClure, Senator Wallop, Senator Proxmire, Senator Warner, Senator Armstrong, and Senator Simpson to be irresponsible. I noticed in the Washington Post yesterday that the distinguished majority leader did say that by offering my amendment last week, if I correctly understand the statement, it was somewhat demagogic and irresponsible.

I hope that that was a misquote because, as I pointed out earlier, I feel that when we are talking, as we are on a windfall profit tax, about substantially raising revenue, particularly when it is raised by the chairman of the Budget Committee that we need these funds for future Government spending, it is proper and appropriate for those of us who disagree with that approach that we offer alternatives.

I also point out to the distinguished majority leader that other Senators on both sides of the aisle are offering amendments that would cut taxes. One amendment is being brought back under unanimous consent to deal with a problem of interest, to deal with a problem of promoting savings. So I think if it is appropriate for those from the majority side to raise such issues through amendments it is only proper for the minority side to do the same.

I regret as a practical matter that my amendment was not voted up or down, as I think the Senate should have done, but it was necessary to resort to parliamentary tactics to block a direct vote.

That particular amendment, which would have capped revenue along very much the same lines I am capping spending this year, lost by five votes.

As I pointed out in my earlier statement, several Senators had indicated that they did not like a cap revenue unless something was done on spending. What I am pointing out today is that this amendment we are offering which will cap spending along the same lines of the Nunn-Bellmon-Chiles-Roth amendment of last year does have the effect, of course, of dealing both with spending and revenue.

That is so because any revenue unnecessary for these limits will either have to be returned to the taxpayer in the form of tax relief or can be used to reduce the national debt, both of which I believe are desirable goals.

Mr. President, I am ready at any time for a vote on my motion for a waiver. I yield back the floor.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER (Mr. HEFLIN). The Senator from Maine is recognized.

Mr. MUSKIE. Mr. President, I find it a bit surprising that my good friend from Delaware should look upon the point of order which is enshrined in the Budget Act as somehow a denial of parliamentary rights on the part of Senators to vote on the substance of their amendments.

Mr. President, there is very little discipline or enforcement discipline built into the Budget Act. A majority of the Senate at any time can upset any recommendation of the Budget Committee, any provision of a budget resolution. There is no extraordinary majority required. Indeed, under the first budget resolution, which the Congress approves in the spring, Mr. President, there is absolutely no discipline except the discipline of information that can be brought to bear upon enforcing the targets of the first budget resolution.

The only discipline written into the Budget Act is the point of order against violations of the Budget Act or budget resolutions under that act. What is the point of order? The point of order is a red flag provided for by the Budget Act to put the Senate on notice that the proposition before it is in violation of the congressional budget process.

Now I gather my good friend from Delaware, if he had his way, would abolish the point of order under the Budget Act, and deprive it, denude it, of all disciplinary force at all. If it is not improper somehow, impolite, discourteous to use the point of order when it properly lies with respect to an amendment of my good friend from Delaware, well, surely, it ought to be used. If it is not proper to use it against his amendment then it is not proper to use it for anybody, and what little discipline is left in the Budget Act goes out the window.

So I must say, Mr. President, the distinguished Senator from Delaware was a member of the committee that wrote the Budget Act. We discussed at great length what kind of discipline we could write into the Budget Act, and I recall the distinguished Senator being in the forefront of those who argued that even a point of order was not strong enough discipline.

But when now that anemic kind of discipline is applied to an amendment offered by the Senator from Delaware somehow that is improper. It denies him the right to an up or down vote on his amendment.

Mr. President, the point of order is an anemic enough source of discipline. We ought to protect the budget process against the surge of emotional propositions, popular propositions, created on the threshold of an election year. It is anemic, but we need it. Indeed, stronger discipline than that is needed. I am sorry my good friend from Delaware is all for talking about the need for budget discipline but totally opposed to the procedural safeguards that we have to enforce budget discipline. What is budget discipline if it cannot be enforced?

With respect to the amendment we have before us, let us look to the Nunn-Chiles-Bellmon amendment to which frequent reference has been made over the past couple of weeks, Mr. President.

The distinguished Senator from Delaware refers to my discussion on budget demands of the eighties a few weeks ago as an argument for greater spending in the eighties. I have heard twisted arguments before, but that one beats most of them.

The fact is, Mr. President, that that presentation tested the achievement of Nunn-Chiles-Bellmon goals, which include a limitation of outlays as a percentage of GNP of 19.5 by 1983, and a balanced budget.

The fact is, Mr. President, that the Senate Budget Committee produced a budget resolution for fiscal year 1980 which was completely in line with Nunn-Chiles-Bellmon, completely in line with it. But then what happened on the floor? A proposal was made on the floor to increase defense spending by 3 percent in real growth in fiscal year 1980, 5-percent real growth beyond inflation for fiscal year 1981, and 5 percent in 1982.

The distinguished Senator from Delaware voted for that. The distinguished Senator from Kansas (Mr. DOLE) supported that. The distinguished Senator from Florida (Mr. STONE) voted for that increase, and that blew those targets.

Now, what happened to all this holier-than-thou commitment to outlays as a percentage of GNP? That commitment was not yet a year old when they voted to break it. And yet these three Senators argue today that it is such a simple matter to set a spending percentage and then somehow automatically spending will be reduced.

What is involved is not the merits of defense spending or any other categorization of defense spending. The fact is that at the first opportunity they voted to breach their own ceilings.

Now, 21.0 of GNP is the outlay limit the distinguished Senator from Delaware suggests for fiscal 1981. It is not enough to accommodate the increase in defense spending for which he voted last month. Then the percentages decline to 19.5 percent of GNP in 1984.

What is the situation with respect to the second budget resolution? For fiscal 1981 our outlay ratio is 21.2 percent of GNP, and the pending amendment is 21.0. For 1982 our ratio is 20.4, the pending amendment is 20.5, which is higher. For fiscal 1983 our number is 19.6, the pending amendment is 20.0 which is higher. For fiscal 1984 our number is 18.8, the pending amendment is 19.5 which is higher.

Mr. President, you always know when it is near the end of a congressional session. First, Congress adopts a binding budget resolution for the year. Then a few weeks later someone proposes to rewrite it, and that is what the Roth amendment would do. It is subject to a point of order.

But there is something a little bit different about this attempt to rewrite the congressional budget. The Roth amendment would authorize significantly greater spending than the congressional budget contains. That is right. The Roth amendment would spend $41 billion more than the congressional budget over the next 5 years. I suspect that fact comes as a surprise to the cosponsors of the amendment, but it is a fact, and there is no denying it.

The Roth amendment contains limits on spending higher than those in the congressional budget for 1982, 1983, and 1984. Only in 1981 would the Roth amendment contain lower spending than Congress has already planned, and those reductions would probably have to come out of defense, since that is where the Senate voted the 1981 increase.

This amendment illustrates why the budget act provides a point of order against writing budget resolutions on nongermane bills. These budgeting-on-horseback, shoot-from-the-hip budgets seek to short circuit a year's hard work by Congress on its own budget. Drafted over a weekend, as this one was, their sponsors seem to believe they can see the future and plan for it more clearly from some corner of the Senate cloakroom than the rest of the Congress after thorough debate on two budget resolutions in the course of a full year.

So it should come as no surprise that sooner or later an amendment like this one which purports to cut the budget actually would increase it.

In fact, it might interest Senators to know that the spending limits in this Roth amendment are different from others he proposed last week on December 6 in S. 2090, a separate bill; different from others he proposed 11 months ago, in S. 34; and inconsistent with the tax limitation amendment to the windfall bill he offered last week.

If both the Roth tax limitation and spending limits bills were enacted and followed, the budget would be in deficit in 1981, 1982 and 1983, when taxes under the tax limit bill would fall $14 to $18 billion each year below the spending authorized by the Roth spending limit.

That is what I call consistent budgeting; that is what I call prudent budgeting, when the author of both amendments, a week apart, proposes to write into law budget deficits of that magnitude, in the name of fiscal restraint.

Mr. President, I believe these vigilante attempts to make multi-year budgets on nongermane bills are foolish and destructive. That is why the budget act provides a point of order against them.

I do not question Senator ROTH's desire to cut the budget. But I do question the four contradictory formulas he has introduced this year to do it.

For example, last Wednesday he offered an amendment to limit taxes to 19.5 percent of GNP in 1983 and 1984. The next day he introduced a bill to allow spending to rise to 20 percent of GNP the same years. That would produce a deficit of at least $18 billion in 1983 and at least $20 billion in 1984 compared to his tax limit of the day before. Now, 3 days after that bill, he offers an amendment which would allow more spending than taxes in 1981, 1982, and 1983 than last week's tax limitation. Today's Roth budget would produce deficits of at least $14 billion in 1981, $16 billion in 1982, and $18 billion in 1983, compared to his tax limitation proposal.

The Roth amendment would also allow more spending than the sense of the Congress resolution adopted as part of the Revenue Act of 1978. That 1978 act, in its so-called Nunn-Chiles-Bellmon amendment, calls for a limit on Federal spending $14 to $18 billion lower each year than today's Roth amendment. So the Roth amendment would authorize more spending than either the current congressional budget or the Nunn-Chiles-Bellmon amendment to the 1978 Revenue Act.

I must, however, note one area in which Senator ROTH has outdone the budget process. Congress labors all year long to produce just two budget resolutions, which we hope will help steer a sound and consistent economic course. Senator ROTH has produced three different budgets in 6 days, surely some kind of a record for variety, if not consistency.

So I would say to my fellow Senators, if you like variety, if you love spending, if you want deeper deficits, vote for this week's Roth budget amendment. If you want to uphold the budget process and its lower spending totals, vote against the Roth budget amendment.

And I say to those Senators who vote for the Roth budget, if it loses, do not despair. Congress still has 2 weeks to go, plenty of time to consider several more new budgets.

Mr. President, I would like to state what seems to me to be a very simple fact: These numbers reflecting outlays as a percentage of gross national product area very simple ratio betwen outlays and gross national product. Now, Mr. President, if we should adjourn today without enacting a single additional spending bill, and then in December, or what remains of December and January, the gross national product plunges, as it did in 1974, then spending as a percentage of gross national product would rise. I repeat, without Congress having voted, without a single additional penny appropriated, if gross national product should decline, spending would rise; because, with higher unemployment, the cost of unemployment insurance would rise as an entitlement under existing law.

So you can adopt an amendment calling for a certain level of Federal spending as a percentage of the gross national product, but there is no way for it to hold down the forces of the economy. Indeed, what you really ought to do—and I really recommend this to Senator ROTH, so that he may do the complete job—is, first, write into this bill the unemployment rate that he is going to maintain by law for fiscal year 1981, whatever it is, and the inflation rate.

If he does those things, and manages to write a law that effectively implements those two economic assumptions, and then in addition to that writes into the law money supplies and interest rates in order to reflect monetary policy as well, then he might have some chance of assuring that the GNP, which is the denominator in his equation, would be consistent with his pending amendment.

Mr. President, obviously you cannot write the performance of the economy into a piece of legislation. And apparently Senator ROTH's perception of the economy varies from day to day over a 6-day period, because he has produced three different budgets in that period.

I do not pretend to that kind of expertise. But I know that you cannot do it that way; and I know, finally, Mr. President, that the congressional budget process has done well in limiting spending in the next 4 years, and even better, than the pending Roth amendment.

So, Mr. President, the Roth amendment is as much subject to a point of order as his amendment of last week. In due course, I will make that point of order; but I gather that Senator ROTH intends to move or has already moved to waive the budget process.

Mr. ROTH. I have made such a motion.

Mr. MUSKIE. I take it that will be subjected to a motion to lay on the table, and if the motion to lay on the table carries, I will then make the point of order.

Mr. ROTH. Mr. President, I would like to first make it clear that the Roth-Stone amendment does require additional savings over the second budget resolution.

Using the figures that the distinguished chairman of the Budget Committee used last week in his discussion of the budget and revenue needs, it was pointed out that in 1981 the projected GNP would be $2.8 trillion and under the second budget resolution the percent of outlays of GNP would be 21.4 percent.

What we are proposing for fiscal year 1981 is 21 percent, or a savings of 4 percent which, using those same GNP figures, would amount to $12 billion.

In 1982, the second budget resolution would spend 20.6 percent of the gross national product, whereas, my amendment would only permit 20.5 percent, or a savings of $2 billion.

In 1983—and, again, I emphasize that I am using the same GNP figures that were used last week by the chairman of the Budget Committee—the second budget resolution would provide for 20.4 percent spending for outlays of gross national product, whereas, the Roth-Stone amendment would only permit 20 percent, a savings of .4 percent, or a spending restraint of $14 billion.

In 1984, the second budget resolution provides for outlays of 20.2 percent, in contrast to 19.5 percent in my amendment. That is .7 percent less, or a spending savings of $26 billion.

It is not accurate to say that the second budget resolution provides for less spending than the Roth-Stone amendment. Actually, we would save, in those 4 years, an additional $54 billion.

And I know that Senator Dirksen, years ago, said that a million here or a million there will soon add up to some millions, and maybe that could be said about billions. But $54 billion, even in these days of inflation and trillion-dollar economy, is a tremendous amount of money.

I would just like to underscore what those limitations of the Roth-Stone amendment would mean. It would mean that there would be a budget surplus available, either for tax cuts or reduction of the national debt, of $25 billion in 1981, $24 billion in 1982, $34 billion in 1983, and $54 billion in 1984, which comes up to $137 billion that would be available in that 4-year period, either for tax cuts or for reduction of the national debt.

Mr. President, what we seek to do here is to make these limitations mandatory, to require the Federal Government and Congress to reorder the priorities of spending.

I, for one, think the American people do not expect us to continue all programs now in existence and to permit them to continue to be inflated by the percentage of inflation. There are few American families, working families, who will be so fortunate. Many hard working people, with both the husband and the wife working, in many cases the children working, are finding that they cannot even keep up with the increase in the cost of living. And, if they do, if they are among the fortunate few, then they find that they must pay higher taxes because of the progressivity of the income tax rate.

So the fact of the matter is that it makes no difference, they still have less purchasing power and a diminishing standard of living because of inflation. That is what we are trying to remedy. We are trying to change the direction. We cannot continue and permit every program.

I think most American people feel that we need a stronger defense and, perhaps, in order to do so, we are going to have to hold down another expenditure. I suspect a majority of American people, for example, would say we should spend less for foreign aid and more for defense in the interest of the free world, and that that would be a sensible reorder of priorities.

But I am not here to argue this program or that program, or how we should bring about this reordering of priorities. I am saying, Mr. President, that it is time we set the policy in the spending area in such a manner that we will take steps to again permit the economy to grow, for the standard of living of the American people to go upward and, of course, ultimately that means more income, not only for American people, but for the Government itself.

Mr. President, I yield back the floor.

Mr. EXON. Mr. President, I will ask some questions, once again, to try to untangle the conflict that seems to appear here with the figures in front of us.

The Senator from Delaware knows I did not vote for his amendment that he had on the floor of the Senate last week. And, in my statements at that time, I believe he understood why I did not support him. I did not support him because I was convinced at that time, and I suspect that most people would agree—and maybe the ladies and gentlemen of the press might agree to print it—that had we adopted the amendment that was offered by the Senator from Delaware last week, we would have increased the deficit.

If I understand the Senator from Delaware at this time, and that is why I once again am trying to make a decision on this compatible with my feeling that it is critical that the United States of America balance its budget, his amendment may be in order.

And yet, when I first saw on the news tickers this morning the statement that the Senator was going to offer still a new approach to budgeting, I was very much intrigued with the percentages that he outlined at that time.

The press dutifully reported that the Senator from Delaware said that he will introduce an amendment this week that limits Federal outlays of 21 percent of gross national product in fiscal year 1981; 21.5 percent in fiscal year 1982; 20 percent in fiscal year 1983; and 19.5 percent in fiscal year 1984.

Mr. Roth was quoted in this story as saying, "This would create a budget surplus which could be used either for tax cuts or to reduce the national debt." It went on to say, "By linking the windfall profit tax to a percentage of the Federal expenditures, instead of a percentage of the Federal tax receipts, as he did in his losing effort last week, Roth hopes to gain enough support to win this time."

I say to my friend from Delaware that this is one vote that he has a chance to pick up. But I want to make sure that I understand what we are doing.

After I read this, I started doing a little calculation on the percentages which have been referred to. I listened to our distinguished chairman of the Budget Committee, with whom I have had the great honor of working on the Budget Committee, and, indeed, as the Senator from Maine has said we have worked hard and long on these things. But I certainly want to give credit where credit is due. At least in this instance, it seems to me the Senator from Delaware has backed away from his position I could not support last week because the position he offered to us at that time would have increased the deficit of the Federal Government.

There is not anything very much new about the fact, as has been brought out by the discussion here today, that indeed on our present course we will have budget surpluses that can be used beginning in 1981 to reduce taxes. I was hopeful that when we reached that point and after we reached it, after we were sure that we were not continuing to spend more money than we take in, then certainly that was the time we should reduce taxes.

I think the key and the crux of the discussion here today is whether the amendment offered by the Senator from Delaware this week will indeed do what he maintains it will do, or whether or not it will do what the chairman of the Budget Committee says it will do, which is to simply increase spending.

Certainly, my calculations, after I looked this over, and after I read the usually reliable news report of this morning, would have indicated after my first realization that maybe the Senator from Delaware indeed had something here. I began to compare the figures. It appears to me that if we would adopt the Roth amendment, despite the fact that I share his concern for ever increasing appropriations, it might be that the chairman of the Budget Committee is right. I would hope that before we vote on this we would have a chance for further discussion between my good friend from Delaware and my good friend from Maine, who seem to be telling the U.S. Senate directly opposite stories as it affects spending.

Mr. President, I yield the floor.

Mr. MUSKIE. Will the Senator yield?

Mr. EXON. I yield the floor.

Mr. MUSKIE. Mr. President, the issue being discussed has to do with what assumptions one makes about gross national product and what it will be in years that have not yet occurred. The estimates of what GNP will be in a given year are constantly being revised.

I have before me a table which apparently the distinguished Senator from Delaware used. It had to do with my discussion on budget demands in the eighties a couple of weeks ago which used estimates based on that table. The top line in that table is described as nominal GNP. The numbers for 1980, 1981, and 1982 are the base line assumptions in the budget resolution. The subsequent years in the table for the decade are simply an attempt to establish a trend line, without claiming to have a crystal ball, as to what the actual facts with respect to GNP will be. Economic development is a cyclical thing. It is not a flat line or a straight line through a decade. It has high years and low years.

If you will look at the footnote at the bottom of that table, Mr. President, you will see the following words: Transition to the trend assumption—that is after the three base line periods—might entail a period of above trend growth in nominal GNP followed by a period below it or a gradual decline in inflation accompanied by another transitory phase of slow growth and rising unemployment.

So those numbers are simply an attempt to portray trend lines in order to put the budget picture for the eighties in the clearest perspective possible, taking into account the Nunn-Chiles-Bellmon amendment.

The actual economic projection for the 5-year period that the budget resolution is based upon is somewhat more economically robust than indicated in the table. The table contains the three GNP figures for 1980, 1981, and 1982 from that actual CBO projection. The 1983 and 1984 numbers in the chart and those for the rest of the decade are derived from an assumption that Congress will reach the Nunn-Chiles-Bellmon outlay and balanced budget targets not later than 1988.

If one were to use the actual CBO projections for 1983 and 1984, using the 5-year outlays assumed in connection with the second concurrent resolution, one would then get the GNP ratio like the 20.0 and so on I have previously described, lower than proposed in the pending amendment.

But in the meantime, may I say to the Senator, the Commerce Department revises the Government's GNP statements every year as new data is obtained and analyzed. This year, for example, fiscal year 1978, was revised from the $2,108 billion on which the budget resolution was based, to $2,128 billion. Such reestimates make a difference as to the ratio that you get.

Those numbers were not available at the time the Budget Committee made its report on the budget resolution. They were not available to Senator Roth from that report or the table. I am not questioning his good faith. But they do make a difference to any projection of the ratio between outlays and GNP given the latest data on GNP for those 5 years.

Mr. President, I ask unanimous consent that this memorandum be printed in the Record so that Members may get that much more exposure to this esoteric art if they wish it.

There being no objection, the memorandum was ordered to be printed in the Record, as follows:

COMMITTEE ON THE BUDGET,
Washington, D.C., December 10, 1979.

MEMORANDUM

To Senator Muskie
From Susan Lepper and Cornelia Motheral
Subject Revised Basis for Projected GNP

The projections of GNP used as assumptions by the Senate in the Second Concurrent Resolution for FY 1980 were based on the estimates of 1978 actual GNP that were the latest available in June 1979.

Late in July, the Commerce Department carried out its routine annual revision of GNP data for the three previous years. These revisions incorporate tax return data and more complete surveys of economic activity. The level of current-dollar GNP in calendar 1978 was revised up by some $20 billion or 0.9 percent.

GNP projections are typically made in terms of rates of change rather than levels. The upward revision of the actual base therefore implies a proportional upward revision of projected levels in future years. The table below shows GNP for fiscal years 1979 through 1984 on a revised GNP basis, compared with the economic assumptions used in the SCR.

Estimates of GNP, billions of current dollars

	SCR	Revised basis
CY 1978, actual	2,108	2,128
Projected, fiscal year:		
1979	2,291	[1] 2,313
1980	2,500	2,523
1981	2,806	2,832
1982	3,177	3,206
1983	3,581	3,614
1984	4,009	4,046

[1] Actual.

Mr. MUSKIE. The fact is that the projections of the ratio between outlays and GNP will vary as the economic picture unfolds, as current and historical data are reestimated, as they will be the first of next year. So you will get different projections. That is why it is difficult, may I say to the Senator, to try to control spending by controlling that ratio.

The ratio is not the driving force; the ratio is the reflection of the outlays versus GNP. If either the numerator or the denominator changes, then the ratio will change.

Senator ROTH seeks to keep the numerator constant. That is he wants to keep the outlays constant or at some fixed level. But if, in the meantime, economic forces change the GNP denominator, that is, if the country is more prosperous, you will get a larger denominator, and you will get a lower ratio of Federal outlays to GNP. But if you have a recession, which everyone seems to be predicting, then the GNP denominator is going to shrink and the spending ratio is going to rise.

That is why this approach to controlling spending is simply not realistic. The GNP ratio is a measure of what you are doing or not doing, so it is a valuable guideline to policy, and if it starts escalating, you ought to know why. But the pending amendment is like trying to control sickness by breaking the thermometer. The thermometer does not cause the temperature; it simply measures it. That ratio that the Roth amendment focuses on does not cause the spending, it simply reflects it as a proportion of GNP. As such, it is a very unreliable kind of control measure just as the Nunn-Chiles-Bellmon was this fall, when the Senate sent defense spending up through the roof.

I hope that I have succeeded, at least somewhat, in explaining what I can personally say can be a very confusing issue.

Mr. EXON. Will the Senator yield for a question?

Mr. MUSKIE. Yes, I do.

Mr. EXON. What my friend from Maine has just said about the measuring device that we are using here leads me to believe that the measuring device being used here is just as fragile as the measuring device that was written into that magical bill that I have heard so much about since I came here, known as Nunn-Bellmon.

Mr. MUSKIE. That is right.

Mr. EXON. Yet, it seems that, since I have been here in the U.S. Senate, somewhere along the line, Nunn-Bellmon seems to have been written, a magical scroll, if you will, for spending in the U.S. Senate not unlike the New Testament is to Christianity. That is not necessarily so, if I understand the remarks made by the chairman of the Committee on the Budget.

Mr. MUSKIE. That is correct. I think it is an interesting benchmark to which we ought to do our best to adhere.

Mr. EXON. Does the chairman of the Budget Committee maintain what he said in his original statement, that if we adopt the Roth amendment, we shall be authorizing increases in expenditures over the positions currently taken by the Senate Budget Committee?

Mr. MUSKIE. That is correct, but it is conceivable—I cannot probe Senator ROTH's mind—that if he had had available to him the latest corrections of projected GNP, he might have come up with a different formula. That I have no way of knowing.

In any case, on the basis of the formula he has chosen and on the basis of the latest GNP figures, that is the case.

Mr. EXON. Would it be fair, then, to say that, on what the chairman of the Budget Committee knows now, he can honestly say that the amendment offered by Senator ROTH would then place us in a position not to control spending, but to increase it, if it were adopted?

Mr. MUSKIE. It would be a higher ceiling.

Mr. EXON. I thank the chairman.

Mr. President, I yield the floor.

Mr. ROTH. Mr. President, I point out that the statement that the Roth-Stone amendment will result in more spending is just not true. We took the very figures the chairman of the Budget Committee inserted in the RECORD just 2 weeks ago, on November 27, 1979, at page 33592, the very figures that were adopted in the second budget resolution.

It is perfectly true that the estimates in these outyears are, at best, guesstimates, and you could try to change those guesstimates to make them prove whatever you want to. The fact is that the Roth-Stone amendment, again using the same figures as the second budget resolution, which is what this Congress is abiding by, would require a spending restraint of $54 billion more than the second budget resolution. The mandatory limits that would be imposed by this legislation would be the lowest ever.

The water can easily be muddied when we are talking about hundreds of billions of dollars. You can change the assumptions on which these figures are based and try to prove whatever you want, but the fact is that we are limiting the percentage; by 1984, it will bring it down to 19.5. We feel that by adopting these mandatory provisions, we, first, provide for savings and, second, create certainty in the budget picture.

I yield back the floor.

Mr. MUSKIE. Mr. President, I gather, if I understand what the good Senator from Delaware said, that, once the Budget Committee and the CBO have taken a reading on the state of the economy, that should be it for some indefinite period in the future and we have no right to reestimate and we have no right to make the computations that are necessary to bring our estimates and projections up to date, that we somehow have to be frozen into a period that is convenient for the Senator from Delaware.

Mr. President, let us just look at the ratios that we are talking about. Senator MAGNUSON, last week, proposed spending ratios for 1981, 1982, and 1983 which were 21, 20, and 19 percent, respectively. The Roth amendment, which is before us, has the same ratio for 1981—21—but is higher, at 20.5 percent than MAGNUSON in 1982 and higher by 20 percent to 19 percent than MAGNUSON in 1983.

Then let us take the Jones bill on the House side. The Jones amendment proposes 21, 20, and 20 percent targets. ROTH is 21, 20.5, 20. The budget resolution is 21.2 for 1981, which is higher than ROTH, but then it is 20.4 for 1982 and 19.6 for 1983, which is lower than ROTH.

Is the distinguished Senator from Delaware arguing that I should apply my ratio to a different estimate of GNP than his so that his will result in lower spending, even though his ratio is higher? What kind of logic or nonsense is that?

He says that we should use the GNP figures that were in this 10-year trend chart, which was not a hard data chart for those 10 years; it is a trend chart. He says that he is using those GNP numbers from that chart. Well, if I use the same GNP figures, but if my spending ratios are lower—that is, the congressional budget ratios—then, obviously, they are going to produce less spending. I do not think any kind of twisted logic by the sponsor of this amendment can arrive at a different result.

If, on the other hand, he reserves the right to use his own GNP projection which, applied to his ratio, produces lower spending, then I think we have not an even ballgame. But I think those ratios speak for themselves, Mr. President, and I do not think further discussion is necessary.

Mr. ROTH and Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I shall take just a few moments. I am ready to vote, and I assume everybody else is.

We are talking now about an amendment which has been voted on by this body a number of times, as recently as last week, and defeated. I have generally been sympathetic to amendments which deal with indexing, because I have great empathy for the people of this country, who are losing their disposable incomes and who are not going to sit still forever with their incomes being eroded on the order of 5 and 6 percent per year. But I have never been convinced that indexing is a good solution. It has not worked in those countries which have tried to index inflation, and I am not at all sure it will work in the case of taxation.

Second, I have studied a little economics. As a matter of fact, I had a minor in economics in undergraduate school. One thing I learned was that the determination of the gross national product is a very imprecise science. It has only been a few weeks since the Treasury Department said there are $170 billion of transactions in this country every year which are unreported and on which no taxes are collected. Maybe we have been worrying too much about the low rate of productivity in this country.

Maybe productivity is not that low at all. If we add all that unreported income, it is possible that our productivity rate is equivalent to that of West Germany or Japan, the paragons of productivity.

There is a way to reaffirm the faith of the working people of this country that Congress will not sit idle and see them destroyed.

We are talking about sympathy for the people who are demanding a tax cut, people who are suddenly realizing how onerous the social security tax can be and how onerous it is going to be starting in January 1981.

We are sitting here now debating a bill that is going to levy, in effect, a tax of $100 billion to $300 billion a year on the American consumer, the same people we profess to be so concerned about now.

When the President decontrolled the price of oil, he took an action which, over the next 10 years, will force American people to pay $1 trillion to $3 trillion more for essential energy.

He is my President. I think he does a great job in most areas. I disagree strongly with him on that.

But that decision has been made. The President has asked the U.S. Congress, to keep faith with the American people by recapturing some of this $1 trillion to $3 trillion to alleviate the terrible burden that is going to be placed on them.

And who is it that says the House bill of $270 billion is too much? Who is it that wants to give everything to the oil companies in the name of incentive?

I find it inconsistent to say, "I want more defense, but I want a balanced budget." Those people want more of everything. They want a balanced budget and they want to produce synthetic fuels for millions of dollars, but they will not recapture any of this money, which the American people are paying, in order to balance the budget.

If we want to cut taxes, cut spending, Where are we going to cut it?

There is something inconsistent about this whole process, Mr. President.

Last week a few of us in this body voted against the Helms amendment to reestablish the deduction of the State and local gasoline tax. It was not a very happy vote, not for the Senator from Nebraska, not for the Senator from Maine.

I would love to go home and tell my people that we reinstituted it, even though most people do not itemize and get any benefit from it. But it was $43 billion in lost revenues.

If we want tax cuts and to balance the budget, we have to cut spending.

If we want to cut taxes and lower the social security rate, tell me how to do it.

Do we want the American people to have a tax cut and stand in this body and say in the same breath that we will levy $100 billion to $300 billion more against them?

The Roth amendment would not even begin to give the American people the benefit necessary to balance the burden which we are levying on them here by adopting a weekened, nothing windfall profit tax.

I stood here during the Panama Canal debate. It was not a very happy time for me because I voted for it. What did I hear from all those people opposed to it? "You are breaking faith with the American people. They do not want the Panama Canal Treaty."

Well, Mr. President, every poll I have seen says 80 percent of the American people want the stiffest windfall profit tax we can pass.

Why is it not applicable now? We all know why it is not applicable. We all know production of oil in this country will decline. Even the Senator from Alaska put a UPI story on everybody's desk this afternoon. It says that production will decline steadily between now and 1990, and I agree with that. I have said it all along.

So, Mr. President, I am in wishing to have a tax cut. I may even vote for an irresponsible tax cut one of these days because I want the American people to have it so badly but everybody cannot be irresponsible on the same day around here. So I will have to pick and choose the time. Somebody has got to be concerned about who is keeping the store.

So, tell me where we want to cut the spending. Do we want to take it out of defense?

The President says he wants a 100,000-man strike force that will cost an additional $9 billion over the next 5 years, above that 3-percent to 5-percent increase in real dollars we have been talking about, and I intend to vote for it. I intend to be for it. But I intend to be responsible about where the money is coming from.

Do we want a balanced budget? Then vote to cut spending.

We have to make up our minds. We either raise taxes or raise the deficit, and we cannot cut taxes and raise defense spending all at the same time.

We cannot help the American people when we say we want this tax cut for them and at the same time we wink and say, "But we will lay another hundred billion on you on top of this."

So, Mr. President, nobody in this body derives any pleasure from having to ride home and say to the folks that he voted for the tax increase. Nobody wants to say the social security taxes will go up precipitously in 1981.

If everybody had the good sense to have voted for my amendment the other day, we would not have to say that.

But as long as I feel the absolute necessity to be responsible and consistent about spending and about a balanced budget and defense spending, I must very reluctantly again oppose the amendment of the Senator from Delaware.

I yield the floor, Mr. President.

Mr. ROTH. Mr. President, this Senator is ready for a vote and has been for a considerable period of time.

I know that a number of Senators have other demands on their time. I hope in the interest of expediting whatever other action is going to be taken tonight that we could have an immediate vote.

Mr. President, I ask for the yeas and nays on my motion for the waiver.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. As I say, Mr. President, I yield the floor and am ready for a vote now.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the final disposition of the motion by Mr. ROTH to waive the provisions of the Budget Reform Act that there be a 20-minute time limitation on the amendment by Mr. STEVENS, the plowback amendment by Mr. STEVENS, to be equally divided between Mr. STEVENS and Mr. LONG, if Mr. LONG opposes the amendment, and if Mr. LONG does not oppose the amendment that I be in control of the time.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object——

Mr. ROTH. Mr. President, reserving the right to object, in order to make certain I understand, and I did not intend to object, in the event the waiver is granted, it is my understanding that it would carry over until the time of the motion to reconsider or a motion——

Mr. ROBERT C. BYRD. What I am saying is that upon the final disposition of the distinguished Senator's motion to waive the provisions of the Budget Act, that there then be 20 minutes for debate on the amendment by Mr. STEVENS, the plowback amendment, which is an amendment in the first degree, the time to be equally divided leaving open the right to—well, I see what the Senator is talking about.

If the motion to table the motion by Mr. ROTH to have the Budget Reform Act provisions is successful, that there then be a time limitation for debate on the plowback amendment by Mr. STEVENS limited to 20 minutes, which would leave open the motion to table. It would not waive any right.

Mr. ROTH. If the motion to table is not carried, I ask the distinguished majority leader what would happen then?

Mr. ROBERT C. BYRD. Well, I guess we would recess for the evening. [Laughter.] That is about as close as I can come.

Mr. ROTH. I withdraw my objection.

Mr. DOMENICI. Mr. President, reserving the right to object——

Mr. STEVENS. Mr. President, reserving the right to object—and I shall not object—I did have a modification of my amendment at the desk. As I understand the situation, if the amendment becomes subject to a time agreement I could not modify it without unanimous consent. I will ask if the majority leader will permit me at this time on my reservation to modify my amendment. It would not change the situation with regard to the Senator from Delaware's amendment, but my basic amendment would just be modified.

Mr. DOMENICI. Mr. President, I have been waiting for some percentages so that I could speak for about 2 or 3 minutes on the Roth amendment. If they do not arrive I would nonetheless like to speak for no more than 5 minutes.

As I understand it, you are preparing to lay down the order for the day. Could you provide before the tabling motion that I have 5 minutes?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield 5 minutes, that I may yield the floor for 5 minutes, to Mr. Domenici for the purpose of his making a statement, and then that I may be again recognized for the purpose of moving to table.

The PRESIDING OFFICER. Is there objection? As I understand, the majority leader is withholding his first unanimous-consent request?

Mr. ROBERT C. BYRD. I withdraw the request for the time being.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I would like to get my little old modification. It reduces the credit to 50 percent, and it is drafted so that it applies only to those assets north of the Brooks Range. It is in the Prudhoe Bay area north of the Arctic Circle. It is a much more limited amendment than my basic amendment. I would like to modify that, if I can.

Mr. ROBERT C. BYRD. I personally have no objection, but I do not see any member of the Finance Committee on the floor just now. They are in the area. There is nobody on this side of the aisle, and I would prefer to wait, unless Mr. Dole would change his affiliation and come over to this side of the aisle. Further I ask the distinguished acting Republican leader to withhold his request.

Mr. DOLE. I have no objection.

Mr. STEVENS. Very well. It will come up at the time of the time agreement.

Mr. ROBERT C. BYRD. I yield the floor under the previous understanding.

The PRESIDING OFFICER. Without objection. The Senator from New Mexico is recognized for not to exceed 5 minutes.

Mr. DOMENICI. I thank the majority leader.

Might I say to my good friend from Maine that I was not here today when he made his entire argument, but I certainly would not want the Record to indicate that in supporting a statute, a law, that would mandate 21 percent of all GNP in 1981, 20.5 in 1982, 20 in 1983, and 19.5 in 1984, and I repeat, in voting for a national statute that would mandate that, I would not want anyone to think the Senator from New Mexico was, therefore, voting for more expenditures by the Federal Government rather than less.

I know the Senator clearly believes that is the case. But I would just like to explain to the Senate why I do not believe that is the case.

Mr. MUSKIE. Mr. President, will the Senator yield on that?

Mr. DOMENICI. I have only 5 minutes. I yield for a response. As the Senator understands I have not spoken today.

Mr. MUSKIE. There is no such conclusion. My conclusion is that trying to project GNP is such an imprecise and uncertain science that one cannot be sure as to what would be the result of either policy course. If you make the same assumptions then we can make hypothetical conclusions about which course represents the highest spending level.

Mr. DOMENICI. I thank the Senator from Maine.

Now let me say to the Senate, I recall the argument of the distinguished Senator from Maine with reference to a 1981 budget—and if I have quoted the Senator wrong, I would be delighted to yield the floor, but it seems to me that in past debates on the tax limitation, he indicated that we were mandated to come in with a balanced budget in 1981, and therefore we did. Am I correctly interpreting the remarks that the Senator made?

Mr. MUSKIE. We were mandated by the Long amendment on the debt ceiling legislation to produce two options for a balanced budget. One was a balanced budget for the first time in 1981, the other a balanced budget for the first time in 1982. The second, of course, would have been a more liberal, expanding budget than the first; but both the Senate Budget Committee and the Senate opted for the balanced budget in 1981, and that is what the present budget resolution is based upon.

Mr. DOMENICI. I want to say to the Senate—and I am trying my best to state the law as it is—everyone should know there is no limit on the budget for 1981, 1982, 1983, or 1984 that relates, today, to a percent of the GNP, whether it is the percent that Senator Roth proposes here today, or the percent that Senator Muskie extrapolates as being the Budget Committee's outyear projections. I repeat, there is no statutory mandate as to an exact percentage of the GNP, that expenditures must balance the GNP. There is no mandatory statute.

Mr. MUSKIE. Will the Senator yield?

Mr. DOMENICI. Not at this point.

Mr. MUSKIE. Does not the Nunn-Chiles-Bellmon amendment?

Mr. DOMENICI. Yes, and I will recite that. That is no mandatory statute. It says it is the policy of Congress that that shall be the case. There is no statute on the books that says, "When the Budget Committee goes into conference, here is a law that you measure your performance against, and it is a percentage of the GNP, fixed firmly by law."

It can be argued that the Senate Budget Committee, in its outyear projections, has some kind of percentages in it, and that they are in some way related to Nunn-Bellmon-Chiles. Incidentally, they break Nunn-Bellmon-Chiles in the first year, but nonetheless, there is no statute on the books now.

Mr. MUSKIE. Will the Senator yield?

Mr. DOMENICI. In just 1 moment, I say to the Senator.

Mr. MUSKIE. You have made that point at least six times, and I would like to respond.

Mr. DOMENICI. I want to make the balance of my point, and then you can make yours.

Mr. MUSKIE. I cannot respond in any way when you are making your argument. The Senate Budget Committee produced a budget resolution that tracks Nunn-Chiles-Bellmon all the way through.

The PRESIDING OFFICER. The Senator's 5 minutes having expired, the Senator from West Virginia is recognized under the previous order.

Mr. DOMENICI. I ask unanimous consent, since Senator Muskie has been using part of my time, for 2 additional minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield the floor for 2 minutes for the purpose of a statement by Mr. Domenici, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I thank the distinguished majority leader, and I thank the Chair.

The House does not have any outyear projections in its budget, and it seems to me that if we had a law, it would bind the House as well as the Senate.

Second, the House is considering a percentage limitation. I wonder why they are considering it, if it is totally ineffective.

I would agree with the chairman of the Budget Committee that the GNP varies over the years; there is no question about that. But we are trying to establish by statutory law a percentage of the GNP the Budget Committee can use in the outyears. I do not believe it is fair to say that a statutorily binding percentage is going to cause us to spend more than some outyear goal that is binding on no one, because there is no law to back it up.

That is the only reason why I have taken to the floor. I believe it would be historic, in fact absolutely incredible, in the light of the percentage increases every year with the budget process, if we could come up with 19.5 percent of the GNP, or whatever it is, in 1984, and I do not believe it is fair to find that that is an increase in expenditures, when it is being measured against something that is not a statute, not a law, nothing more than the sense of Congress, followed up by outyear projections of the Budget Committee that are binding on no one.

I yield the floor.

Mr. MUSKIE. Mr. President, will the majority leader yield me 1 minute? I have been patiently listening to this argument, and I would like to respond to it.

Mr. ROBERT C. BYRD. I ask unanimous consent to yield the Senator 1 minute, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MUSKIE. Mr. President, I am not saying that the amendment mandates more spending. It permits more spending. Here is the second concurrent resolution, in support of what I have said.

Moreover, contrary to the Senator's statement, the House has adopted outlay aggregates which reflect a budget limitation.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, this amendment is not germane to the bill. This is not a general revenue bill. I wish it were; I might offer an amendment myself.

The amendment is not only nongermane to the bill, but a point of order would lie against it under the provisions of the Congressional Budget Act. Inasmuch as the Senator from Delaware has moved to waive the provisions of the Budget Act, he concedes that point.

We are going through the same motions as we did last week. It is really a playback. The amendment is slightly changed, but that is the situation we find ourselves in. We vote down a nongermane amendment, and then the authors come back the next day or the next week with more nongermane amendments just slightly changed, until it becomes really dilatory. I am not criticizing the Senator from Delaware for being dilatory, but when these same amendments, same procedures, and same motions come up over and over again, we are not making any progress on the bill itself.

So, with apologies to the Senator from Delaware, I move that his motion be laid on the table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion offered by the Senator from Delaware, pursuant to section 904(b) of the Congressional Budget Act, to waive the provisions of titles III and IV of that act with respect to the amendment of the Senator from Delaware.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second legislative clerk called the roll.

Mr. CHILES (after having voted in the affirmative). Mr. President, on this vote I have voted in the affirmative. If Senator STONE were here, he would vote "nay." Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. NUNN), the Senator from Illinois (Mr. STEVENSON), the Senator from Massachusetts (Mr. TSONGAS), the Senator from Hawaii (Mr. INOUYE), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. COHEN), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The VICE PRESIDENT. Are there any other Senators wishing to vote?

The result was announced—yeas 43, nays 40, as follows:

[Rollcall Vote No. 467 Leg.]

YEAS—43

Bentsen
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Cranston
Culver
DeConcini
Durkin
Exon
Ford
Glenn
Gravel
Hart
Heflin
Hollings
Huddleston
Jackson
Johnston
Leahy
Levin
Long
McGovern
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Pell
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stewart
Weicker
Williams

NAYS—40

Armstrong
Bellmon
Boschwitz
Byrd, Harry F., Jr.
Chafee
Cochran
Danforth
Dole
Domenici
Durenberger
Garn
Hatch
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Magnuson
Mathias
Melcher
Packwood
Percy
Proxmire
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Talmadge
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Chiles, for

NOT VOTING—16

Baker
Baucus
Bayh
Church
Cohen
Eagleton
Goldwater
Hatfield
Inouye
Javits
Kennedy
Nunn
Pressler
Stevenson
Stone
Tsongas

So the motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. MUSKIE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MUSKIE addressed the Chair.

The VICE PRESIDENT. The Senator from Maine.

Mr. MUSKIE. Mr. President, I make the point of order that the Roth amendment is out of order under section 306 of the Budget Act.

The VICE PRESIDENT. The amendment offered by the Senator from Delaware contains matters clearly within the jurisdiction of the Budget Committee in violation of section 306 of the Budget Act. Therefore, the point of order is sustained.

The question recurs on the amendment offered by the Senator from Alaska.

AMENDMENT NO. 712, AS MODIFIED

Mr. STEVENS. Mr. President, I shall be very brief. I have a modification of my amendment at the desk.

The VICE PRESIDENT. The Senate will be in order.

Mr. STEVENS. Mr. President, I have a modification of my amendment at the desk.

The VICE PRESIDENT. The Senator has a right to modify his amendment.

The amendment, as modified, is as follows:

On page 66, between lines 6 and 7, insert a new section as follows:

"SEC. 4992. TAX CREDIT FOR QUALIFIED EXPENDITURES IN ALASKA.

"(a) Commencing October 1, 1980, a credit up to the amount of tax imposed by section 4986 shall be allowed as a reduction of the tax imposed by section 4986 to the extent that such moneys are expended on qualified development costs in Alaska, including frontier areas, or on the transportation of oil or natural gas produced in Alaska, including frontier areas, to consumers in other 49 States or Alaska. For purposes of this Act, the term 'qualified development costs' means 50 percent of costs incurred for the construction, reconstruction, erection or acquisition of depreciable assets used for the exploration, development, production or transportation of oil or natural gas (including gas conditioning facilities) located north of the Arctic Circle, but only if the original use of the asset begins with the taxpayer. In the case of assets used for the transportation of oil or natural gas, qualified development costs shall be limited to pipelines for the transportation of natural gas produced north of the Arctic Circle to the other 49 States.

Renumber the existing sections accordingly.

Mr. STEVENS. The amendment provides that 50 percent of the moneys to develop the Prudhoe Bay area and to provide a gas pipeline to bring Prudhoe Bay gas to the south 48 will be taxed against the windfall profit tax paid on Prudhoe Bay oil.

The effect of that will be that if the industry puts up the $15 billion to carry out this program, there would be approximately a $7.5 billion tax credit against the windfall profit tax to allow them to go into the other areas of Alaska and offshore Alaska.

I point out that Atlantic Richfield announced its spending program for the next year. That spending program of $2.5 to $3 billion for 1 year was announced to be contingent upon the windfall profit tax being along the lines proposed by the Senate Committee on Finance. As we all know, this windfall profit tax is much greater than that. I hope that the Members of the Senate will recognize that if we are to develop the Prudhoe Bay field—we are talking, incidentally, about approximately 6.7 billion barrels of oil that could be recovered. It is in a known area. That oil can be recovered. It is an increase in production from the level we now have of 1.2 billion up to 3½ billion barrels a day. That will bring us 6.7 billion barrels of oil in 8 years. So, roughly, what that calls for is a $1-a-barrel tax credit for the investments required to bring this oil out of the ground and to build a gas pipeline.

Mr. President, Federal assistance is going to be required one way or another to build that gas pipeline. The best way I know is to provide a credit against the windfall profit tax. To the extent that the producers of the Prudhoe Bay oil agree to put money into the gas pipeline, they will get a 50-cent credit for every dollar they put in against the windfall profit tax. I think it is a good amendment and I hope it will be supported.

Mr. MAGNUSON. Will the Senator yield?

Mr. METZENBAUM. Will the Senator from Louisiana yield to me for 1 minute?

Mr. MAGNUSON. Will the Senator from Alaska yield to me?

Mr. LONG. First let me say, Mr. President——

Mr. MAGNUSON. May I ask a question first?

Mr. LONG. Yes.

Mr. MAGNUSON. When the Senator is speaking of gas pipeline, is he speaking of natural gas?

Mr. STEVENS. I am speaking of the natural gas pipeline. That is 10 percent of the known reserves.

Mr. MAGNUSON. Not a crude oil pipeline?

Mr. STEVENS. This is a natural gas pipeline. This amendment as drawn now limits the credit to the cost of pipelines for the transportation of natural gas produced north of the Arctic Circle to the other 49 States.

Mr. MAGNUSON. That is very important to us.

Mr. LONG. Mr. President, I want to take 1 minute.

Mr. President, the committee bill was better to Alaska than was the House bill. We moved up from tier 1 to tier 2, but that was what Atlantic Richfield asked for. They would have liked to have it all be totally exempt. They said they would like to be in tier 2. We gave them that. They have a tremendous amount of new oil to be brought in in Alaska. All that will be exempt. We voted here today to move up from tier 1 to tier 2. If there is going to be a need of putting more money into Alaska, Mr. President, any more tax incentives or more grants, I should think the administration would recommend it one of these days.

This amendment would further reduce the revenue in the bill by $7.2 billion, aimed entirely at Alaska. Mr. President, we on the committee, I believe, were good to Alaska. We were as good as we could be. As a matter of fact, if anything, we have been accused of being too good to the industry. It seems to us we have gone far enough in helping Alaska for the time being.

If there is a problem of building these pipelines or drilling these wells later on, if the administration suggests to us there is a problem, we shall be glad to help. For now, I think this will be $7.2 billion less revenue than we should vote. I think we should stand by the committee's position.

Mr. STEVENS. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska, as modified. The yeas and nays have been ordered. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, this will be the last vote unless it is one of those cliffhangers.

The assistant legislative clerk called the roll.

Mr. BOREN (after having voted in the affirmative). On this vote, Mr. President, I have a pair with the Senator from Nevada (Mr. CANNON). I voted "aye." If Mr. CANNON were here, he would have voted "nay." I, therefore, withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Texas (Mr. BENTSEN), the Senator from Nevada (Mr. CANNON), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. NUNN), the Senator from Illinois (Mr. STEVENSON), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Montana (Mr. BAUCUS) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. COHEN), the Senator from Oregon (Mr. HATFIELD), the Senator from New York (Mr. JAVITS), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The PRESIDING OFFICER (Mr. MATSUNAGA). Are there any other Senators who wish to vote?

The result was announced—yeas 31, nays 51, as follows:

[Rollcall Vote No. 468 Leg.]

YEAS—31

Armstrong
Bellmon
Boschwitz
Chafee
Cochran
Dole
Domenici
Garn
Gravel
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Kassebaum
Laxalt
Lugar
McClure
Magnuson
Mathias
Percy
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Young

NAYS—51

Biden
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Chiles
Cranston
Culver
Danforth
DeConcini
Durenberger
Durkin
Exon
Ford
Glenn
Hart
Heflin
Heinz
Hollings
Huddleston
Jackson
Johnston
Leahy
Levin
Long
McGovern
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Packwood
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stafford
Stennis
Stewart
Talmadge
Tsongas
Weicker
Williams
Zorinsky

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Boren, for.

NOT VOTING—17

Baker
Baucus
Bayh
Bentsen
Cannon
Church
Cohen
Eagleton
Goldwater
Hatfield
Inouye
Javits
Kennedy
Nunn
Pressler
Stevenson
Stone

So Mr. STEVENS' amendment (No. 712), as modified, was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Are there further plowback amendments?

Mr. ROBERT C. BYRD. Mr. President, what is the order now?

The PRESIDING OFFICER. If there are no further plowback amendments, the question recurs on the amendment of the Senator from West Virginia to the amendment of the Senator from New Jersey.

Mr. ROBERT C. BYRD. Mr. President, I understand that the distinguished Senator from Connecticut (Mr. RIBICOFF) and other Senators are ready to offer a minimum tax amendment. If it is agreeable, I think we might as well proceed.

Mr. PACKWOOD. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. PACKWOOD. I have two amendments that I have discussed with the chairman of the Finance Committee and Mr. DOLE, and they are noncontroversial.

Mr. ROBERT C. BYRD. We will come back to those shortly.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DOLE. As I understand the parliamentary situation, the Senator from Kansas and the Senator from Washington have plowback amendments which could be called up at this time.

Mr. ROBERT C. BYRD. Yes.

Mr. DOLE. The Senator from Kansas—I cannot speak for the Senator from Washington—is willing to set aside his amendment by agreement, without losing my right to offer the amendment following the submission of the minimum tax amendment.

Mr. ROBERT C. BYRD. I am willing to ask unanimous consent, but I think that at some point we should know whether or not the distinguished Senator from Kansas is going to offer his plowback amendment. We have been setting it aside. It constitutes a sort of formidable obstacle, sitting out there under the order.

I hope that at some point we either offer it or set it aside; because if we are not going to follow the order, I think the Senator should have his opportunity to offer the amendment. If he is not going to do that, I think the order should be vitiated.

However, for this time, and leaving that question for a later date, I ask unanimous consent that Mr. Ribicoff be recognized to call up a minimum tax amendment and that upon his having done that, Mr. Bumpers then be recognized to call up an amendment to the minimum tax amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Missouri reserves the right to object.

Mr. DANFORTH. I have a couple of amendments which I do not believe the committee will accept. I was wondering when, if ever, I could get them in. It seems to be dragging out longer and longer, and the Senator from Kansas now, apparently, is going to keep his right to offer amendments hanging more or less in perpetuity. It does have a somewhat chilling effect on other Senators who may have amendments to offer.

So I was wondering if there was any effort either to set up some sort of new time agreement or whether this was just going to go on, with the Senator from Kansas and the Senator from Washington forever blocking out other amendments.

Mr. ROBERT C. BYRD. May I say, on behalf of the distinguished Senator from Washington, that he will withdraw his amendment from the order.

Mr. President, I ask unanimous consent that the order with respect to the amendment by Mr. Jackson be vitiated. That leaves only Mr. Dole's amendment as an obstacle.

[Laughter.]

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. DOLE. I view it as an opportunity, not an obstacle.

In any event, I do not think it has been in the way of anything too much. We have been moving along pretty rapidly, and I would be happy to set it aside for the Senator from Missouri. I just want to leave it there in case something happens. I do not know what it could be. I may want to withdraw mine tomorrow or Wednesday. But I do not want to interfere with the rights of the Senator from Missouri.

Mr. STEVENS. Mr. President, reserving the right to object, as I understand the order, plowback amendments still would be in order. There is only one more that has a priority. Is that not correct?

Mr. ROBERT C. BYRD. That is right. There was a sort of general understanding that we would get the plowback amendments out of the way, and we named a series of them, by the authors we tried to protect at the time. I think that was a sort of understanding. It was not an order of the Senate, however.

Mr. STEVENS. I hope I can make the record plain—reserving the right to object—that I may still try some combination that would get my good friend from Louisiana on my side so far as plowback is concerned.

The House bill treated Alaska Sadlerochit-Prudhoe Bay oil as old oil, postulated at $30 a barrel, with a 50 percent tax. The tax is $11.25. The Senate has been so generous that we have given tier 2 treatment, but taxed at 75 percent. The tax on Prudhoe Bay oil is $12.75 a barrel. So in our love and kindness for Prudhoe Bay oil, we have stretched out the development period.

We have not gotten any incentive at all toward the development of the one last known reserve we have. I hope that sometime I can convince my good friend from Louisiana that I am not going too far to at least get the treatment in terms of the tax dollars that the House had so far as Alaska oil is concerned.

I do intend to try to offer an amendment again to deal with this subject, if I can.

Mr. ROBERT C. BYRD. Mr. President, I renew my request with respect to the Senator from Connecticut and the Senator from Arkansas.

Mr. DANFORTH. Mr. President, reserving the right to object, I inquire of the majority leader whether or not there is going to be any sort of agreement or attempts to reach an agreement with respect to subsequent amendments and the order of calling up such amendments; also, what plans, if any, the majority leader has with respect to filing a cloture motion.

Mr. ROBERT C. BYRD. I said on Friday that I was going to file a cloture motion that day. But at the request of the then acting Republican leader, Mr. Tower, I said I would refrain from doing so until today. So I am prepared to offer one today.

Mr. DANFORTH. Is that the plan?

Mr. ROBERT C. BYRD. Yes.

Mr. DANFORTH. To offer one today?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. We could not vote on it today, without unanimous consent.

Mr. ROBERT C. BYRD. We could not vote on it.

Mr. DANFORTH. So it would be voted on——

Mr. ROBERT C. BYRD. The day after tomorrow.

Mr. DANFORTH. The day after tomorrow.

I wonder if I could inquire further——

Mr. ROBERT C. BYRD. The amendment of the distinguished Senator from Missouri would be germane even if cloture—one of his amendments, I am told, would be germane.

Mr. DANFORTH. Yes.

Mr. President, I was hoping to preserve an option with respect to both.

Mr. ROBERT C. BYRD. That can be done only by unanimous consent. Otherwise, a cloture motion under rule XXII would obtain.

But if the minimum tax amendment is disposed of in the meantime the Senator could call up his nongermane amendment. If he could get a vote on it before cloture is invoked that would be to his credit. Otherwise it would fall if the point of order were made under rule XXII once cloture is invoked if it is not germane. But I understand one of his amendments would be germane in any event.

Mr. DANFORTH. Yes. That is my understanding also.

Is there any effort in the majority leader's unanimous-consent request to have a time limit on the amendment to be offered by Senator Ribicoff?

Mr. ROBERT C. BYRD. There is not at the moment. It may very well be we could get a time agreement tomorrow or perhaps even dispose of an amendment tomorrow. There will be several Senators who want to speak on it. So I do not want to attempt to get an agreement on it this evening.

Mr. DOLE. If the Senator will yield, could we get a time agreement on the motion to table at 11 o'clock on Wednesday?

Mr. LONG. Mr. President, assuming that the Ribicoff amendment is laid down, after the amendment has been debated long enough so everyone understands what it is—at the moment we do not understand it—if someone does not move to table, I would move to table. Because if it had not come to a vote after a reasonable amount of debate, I would feel compelled as manager of the bill to move to table to see where the votes are and to get on with the business.

As I say, I do not plan to debate the amendment at length. But some others may.

If the debate drags on, I hope to have a test of strength, to see where the votes appear to be, by making a motion to table. If the motion to table is carried, of course that settles it. If it fails then, of course, it is within the right of anyone to debate the amendment if he wants to, but we would see where we stand then.

Mr. DOLE. If the Senator will yield further, we will have a little test with a cloture motion being filed. That will come on Wednesday. I thought this would fit right in with that.

Mr. LONG. I hope we would have a vote on the amendment up or down before the cloture motion is voted on. But, of course, if not, that will be that.

Mr. RIBICOFF. If the Senator will yield, I have no desire to stretch out the time on this amendment. As far as I am concerned, we can set a time certain. I do not know about the opposition.

Mr. ROBERT C. BYRD. May I say, Mr. President, to the distinguished Senator from Kansas, I am not interested in delaying the Senate. After reasonable length of time, like the distinguished Senator from Connecticut (Mr. Ribicoff), I am willing to have a vote and see where the Senate stands on the minimum tax, and I am sure the other cosponsors will be willing, also.

We will be the last to enter into any cabal to delay action on this bill. That will never be the case on this side.

Mr. LONG. Mr. President, if the Senator will yield, I get weary of delay, especially when my side is prevailing, but I hope the Senator will not refer to those who happen to be debating at length against something as a cabal. It seems to me as though the Senator himself, our great majority leader, has participated in some rather extended debates on occasion that would reflect even on him to suggest it is something unworthy for someone to exercise his right to debate something at length.

I hope we can pass this bill this week and settle the whole thing and lay the bill on the President's desk long before Christmas. At the same time, I do not think that we should reflect on someone who exercises his right to debate, at considerable length, an amendment that involves many billions of dollars in taxes.

I hope my distinguished leader would not suggest that because one never can tell where that ball will bounce.

Mr. ROBERT C. BYRD. Mr. President, I had no realization whatsoever that I was implying that anyone was entering into any cabal to delay action on this bill. The last would be Mr. LONG. He is attempting every way he possibly can to expedite action on the bill. He is committed to placing a bill on the President's desk that the President would be "pleased to sign." And I know that Mr. LONG would be the last man around here to break his commitment.

I simply said what I said to assure the distinguished Senator from Kansas that there is not going to be any disposition on the part of any of us who are supporting the minimum tax amendment to delay the Senate, and if any Senator inferred otherwise I apologize to that Senator and say I assure him I meant to cast no reflection on any Senator.

Mr. DOLE. If the majority leader will yield, I am not sure we will give the same assurance on those opposed to the minimum tax, but certainly we will give a test on a motion to table, and the cloture will be filed, and whatever happens I guess will happen, but I think it does do some good to have this little plowback hanging out there. It may shut off some nongermane amendments in the process until we get cloture, so I may be doing the majority leader a service.

Mr. ROBERT C. BYRD. It may be a blessing in disguise.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Alaska reserves the right to object.

Mr. STEVENS. I wish to have the request stated if I may.

The PRESIDING OFFICER. The request is that the Senator from Connecticut and the Senator from Arkansas be allowed amendments.

Mr. ROBERT C. BYRD. Or someone.

Mr. RIBICOFF. Senator BRADLEY is in that, also.

Mr. ROBERT C. BYRD. Mr. BRADLEY in Mr. BUMPER's stead.

Mr. STEVENS. Is there a time agreement involved in the request?

The PRESIDING OFFICER. There is no time agreement.

Mr. STEVENS. Does the request in any way prevent the offering of the plowback amendment of the Senator from Kansas?

Mr. DOLE. My rights are preserved.

The PRESIDING OFFICER. Not if made subsequent to the three amendments to be offered.

Mr. DOLE. Three amendments or two?

The PRESIDING OFFICER. Two amendments.

Mr. STEVENS. Two.

Mr. DANFORTH. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Missouri reserves the right to object.

Mr. DANFORTH. It seems to me the problem with this procedure, given the fact a cloture motion is going to be filed, given the fact that we have, as I understand it, an amendment in the second degree and then Senator DOLE has a plowback amendment, and there may be other plowback amendments that would be offered, the problem with this procedure, as I understand it, is that the likelihood of anything else coming up between now and Wednesday afternoon is fairly close to zero.

Mr. ROBERT C. BYRD. Not necessarily. Mr. LONG has indicated that after a reasonable time for debate if no one else moves to table he will and he may consider tomorrow afternoon would be a reasonable time for debate or in the meantime we may agree to a vote.

Mr. LONG. I am happy to see the Senate agree to a vote on the Ribicoff amendment. But I think it should be debated. I do not think we should just take anything for granted before understanding the amendment. It is a significant amendment. The Senator should explain it and we should have a chance to hear some of the arguments on both sides. But as far as I am concerned, I think that this Senator would be willing to enter an agreement to vote on it. But I cannot speak for others, Mr. President.

Mr. ROBERT C. BYRD. This is the type of amendment that all Senators may want to be notified about. Who knows, perhaps we can reach an agreement tomorrow to vote early Wednesday morning.

Mr. LONG. This much I know, to ask for a unanimous-consent agreement on the Ribicoff amendment at this moment would be a waste of time. The Senator ought to explain it first, have some debate, and then see where we go from there.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Mr. President, further reserving the right to object, I do not want to be a hindrance to the majority leader, and I have told him that, I think, several times.

Mr. ROBERT C. BYRD. The Senator has.

Mr. DANFORTH. A week or so ago.

Mr. ROBERT C. BYRD. As a matter of fact, he offered to bring up this amendment this evening, but unanimous consent would be required.

Mr. DANFORTH. Yes. But I would very much like to see this bill moved along and I do not want to be an unnecessary hindrance. But, frankly, I cannot understand how it could be to my interests to go along with this particular unanimous-consent request unless there could be some provision for my bringing up my amendment and getting a vote on it before there is a vote on cloture.

Mr. ROBERT C. BYRD. It would be perfectly agreeable with me if that be done.

Mr. LONG. Mr. President, if it is the amendment I think it is I am not going to agree to vote on it. I might be agreeable to vote on a motion to table after the amendment has been discussed long enough for Senators to begin to understand what it is all about. But I am not willing to agree to vote on the Danforth amendment at this point. Any Senator who is opposed to it has a right to move to table the amendment, and I would think after it has been debated for a while a motion to table will be made.

I am not seeking to deny the Senator an opportunity to explain the merits or discuss his amendment, but I am not ready to vote on the Danforth amendment at this time just as some Senators are not willing to vote on the Ribicoff amendment at this point. It is all right with me to agree after the Ribicoff amendment is disposed of that the Danforth amendment be the next in order. I have no objection to that.

Mr. DOLE. It would be in order in case of cloture.

Mr. DANFORTH. Yes.

Mr. LONG. I am not willing to agree that a nongermane amendment would be germane after cloture is invoked, Mr. President. The Senator has an amendment with which I am familiar that is germane to the bill, I am opposed to it, but it is germane, and we would have a right to vote on it after cloture. If he has one that is not germane, I am not willing to agree to vote on it, if it is what I think it might be. If the Senators shows it to me, and I agree that it should be considered germane, that would be different, but I am not ready to agree to it now.

Mr. DANFORTH. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Mr. President, I do not yield the floor for that purpose.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I wonder if I could yield for the moment to Mr. PACKWOOD and let him dispose of his amendments which he has indicated he thinks would be acceptable?

The PRESIDING OFFICER. Does the Senator from West Virginia withdraw his unanimous-consent request?

Mr. ROBERT C. BYRD. I withdraw the request for the moment in the interest of making some progress on the bill.

AMENDMENT NO. 746

(Purpose: To modify the energy tax credit for cogeneration)

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I call up amendment 746.

The PRESIDING OFFICER. The clerk will report.

Mr. ROBERT C. BYRD. That would require unanimous consent also, would it not?

The PRESIDING OFFICER. The Senator is correct. Is there objection?

Mr. STEVENS. Reserving the right to object, I want to know what the procedure is here now?

The PRESIDING OFFICER. There is a pending amendment of the Senator from West Virginia to the amendment of the Senator from New Jersey, and in order to have it set aside and offer another amendment it would take a unanimous-consent request.

Mr. PACKWOOD. I so ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Yes, with the understanding that there be a time limit thereon of not to exceed 6 minutes equally divided, and in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, further reserving the right to object, it does not disturb the Senator from Kansas' amendment?

The PRESIDING OFFICER. Yes. The Chair was not reminded of that fact, but that is so.

Mr. STEVENS. Mr. President, reserving the right to object——

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is a yielding here for the purpose of offering an amendment, two amendments, and considering them. Who has the floor when that is over?

The PRESIDING OFFICER. The unanimous-consent request is merely to have the Senator from Oregon offer his amendments with a time limitation of 6 minutes on the first one.

Mr. STEVENS. I understand the majority leader had the floor coming back to him after this is over?

Mr. ROBERT C. BYRD. I am yielding the floor. I am asking unanimous consent for Mr. PACKWOOD with 6 minutes on his amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an amendment numbered 746.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 114, strike beginning with line 15, down through line 19, page 114, and insert in lieu thereof the following:

"Equipment installed in connection with a boiler or burner which uses oil or natural gas as a fuel in significant quantities, other than a boiler or burner (or a replacement for such a boiler or burner) which as of January 1, 1980, used natural gas as a fuel in significant quantities, shall not be treated as cogeneration equipment for purposes of this paragraph. For purposes of this paragraph, the term 'significant quantities' means more than 25 percent, determined on the basis of annual Btu input of fuel from all sources.".

Mr. PACKWOOD. Mr. President, in the bill is a provision for tax credit for certain cogeneration. In it we made a mistake, and, in essence, we said if any oil or natural gas was used, the business would not be eligible for the cogeneration credit. Even if it is totally using oil now and reduces its oil use of 30 percent, and 70 percent of the other Btu energy is nonnatural gas or nonoil, they would still not be eligible for the credit.

A number of industries have to use some slight natural gas or oil either for startup or to stabilize the temperature of the flame even when they are reducing the oil and even when they are cogenerating, so this amendment would simply define as a significant use of oil or gas 25 percent or over determined on the Btu input of the fuel from all sources.

I have checked it with the majority, with Senator LONG, and with Senator DOLE, and with the Treasury Department, and there is no objection to the amendment.

With that I yield the floor, and if there is no other discussion, I ask for a vote.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I have no objection to the amendment.

Mr. DOLE. The Senator from Kansas has no objection.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

AMENDMENT NO. 747 (AS MODIFIED)

(Purpose: To make certain State alternative energy programs eligible for industrial development bond financing)

Mr. PACKWOOD. Mr. President, I ask unanimous consent at this time to call up amendment No. 747. I would again agree to 3 minutes on a side.

Mr. ROBERT C. BYRD. Mr. President, I am sure the Senator has already indicated it would be accepted, but I think for the RECORD I would have the duty to inquire as to what it does before I agree to a time limit.

Mr. PACKWOOD. Yes. This is an amendment with respect to the fact that the State of Oregon will have on the ballot for May bonds which the State will issue where they will make loans for wind energy, solar energy, and geothermal energy. I am sure the bonds probably qualify as industrial revenue bonds, but the amendment would make it clear that they are, and they would be treated as industrial revenue bonds for that purpose.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. I have no objection.

The PRESIDING OFFICER. Without objection, the unanimous-consent request is agreed to.

Mr. ROBERT C. BYRD. Under the same conditions.

Mr. PACKWOOD. Mr. President, I would like to modify the amendment and send to the desk a slightly altered version. I will assure the majority when I explain what it is it is a very minor alteration to make sure there is no revenue loss.

Mr. ROBERT C. BYRD. I have no objection.

Mr. PACKWOOD. I send to the desk a modified version of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD), for himself and Mr. HATFIELD, proposes an amendment numbered 747, as modified.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At page 136, between lines 18 and 19, insert the following:

(c) RENEWABLE ENERGY PROPERTY.—Section 103, relating to interest on certain governmental obligations, is amended—

(1) by adding at the end of paragraph (6) of subsection (b) the following:

"(7) RENEWABLE ENERGY PROPERTY.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any obligation issued as part of an issue substantially all the proceeds of which are to be used to provide renewable energy property, so long as—

"(i) the obligations are general obligations of a State, and

"(ii) the authority for the issuance of the obligations requires that taxes be levied in sufficient amount to provide for the payment of principal and interest on such obligations.

"(B) RENEWABLE ENERGY PROPERTY DEFINED.—'Renewable energy property' means any property used to produce energy (including heat, electricity, and substitute fuels) from renewable energy resources (such as wind, solar, geothermal, biomass, waste heat, or water)."; and

"(C) Interest paid pursuant to bonds qualified under this paragraph may not be taken into account for purposes of withholding, estimated tax payments, or any other purpose under the Internal Revenue Code of 1954, prior to October 1, 1980."

(2) by redesignating subsections (7) and (8), as (8) and (9).

Mr. PACKWOOD. As I explained, there will be in May on the ballot a provision for the State to be authorized to issue bonds for the purpose of making loans to small business for geothermal energy, solar energy, and wind energy. I am quite sure these probably now qualify as industrial bonds, but to make sure there is no problem with that qualification, this amendment would clarify that.

The alteration I made in it was to say that any interest anybody might receive on these bonds, if they receive it prior to October 1, 1980, they cannot declare it on their quarterly return so it would cause a revenue loss in fiscal 1981.

I am prepared to vote on the amendment.

The PRESIDING OFFICER. Is there further debate?

Mr. LONG. I have no objection.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PACKWOOD. I yield back my time.

The PRESIDING OFFICER. All time being yielded back, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I renew my request anent Mr. Ribicoff and Mr. Bradley.

Mr. STEVENS. Mr. President, reserving the right to object, as I understand, that means that we will have the minimum tax amendment laid down, with an amendment to that submitted by the Senator from New Jersey. Is that the request before us?

Mr. ROBERT C. BYRD. That is correct.

Mr. STEVENS. There is no time agreement on it?

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Alaska reserves the right to object.

Mr. STEVENS. I do not object, Mr. President.

Mr. DOLE. Mr. President, reserving the right to object, do I preserve my rights under this request?

The PRESIDING OFFICER. The Senator from Kansas reserves the right to object.

Mr. DOLE. No; do I preserve my right under this request?

Mr. STEVENS. To call up his plowback amendment.

Mr. DOLE. To call up my plowback amendment.

The PRESIDING OFFICER. The Senator from Kansas would preserve his right.

Is there objection to the request of the Senator from West Virginia?

Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 776

(FORMERLY UP AMENDMENT NO. 874)

(Purpose: Providing a graduated tax on certain oil)

Mr. RIBICOFF. Mr. President, in behalf of myself, Mr. Leahy, Mr. Nelson, Mr. Moynihan, and Mr. Jackson, I send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. Ribicoff), for himself and others, proposes an unprinted amendment numbered 875.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, between lines 14 and 15, insert the following:

"Sec. 4993A. Special Rules for Certain Oil.

"(a) Taxable Crude Oil.—Notwithstanding the provisions of section 4988(a) (1), (2), or (3), newly discovered oil (other than newly discovered oil produced north of the Artic Circle), incremental tertiary oil, qualified stripper oil and heavy oil shall, subject to the provisions of this section, be treated as taxable crude oil which is tier 3 oil.

"(b) Rate of Tax.—Notwithstanding the provisions of section 4987(a)(2), the amount of the tax imposed by section 4986 with respect to any barrel of crude oil treated as taxable crude oil under subsection (a) shall be—

"(1) 20 percent of the windfall profit on such barrel in the case of incremental tertiary, newly discovered oil, qualified stripper oil and heavy oil.

"(c) Base Price.—In the case of newly discovered oil, qualified stripper oil, incremental tertiary oil, and heavy oil, the base price shall be determined by substituting '16.30' for '15.30' in section 4990(e) the inflation adjustment for any calendar quarter under section 4990(b) shall be determined by substituting for the implicit price deflator referred to in section 4990(b)(1)(A) an amount equal to such deflator multiplied by 1.005 to the nth power where 'n' equals the number of calendar quarters beginning after March 1979 and before the calendar quarter in which the oil is removed (or deemed removed) from the premises.

AMENDMENT NO. 777

(FORMERLY UP AMENDMENT NO. 875)

(Purpose: Providing a graduated tax on certain oil)

Mr. BRADLEY. Mr. President, in behalf of myself, Mr. Robert C. Byrd, Mr. Bumpers, Mr. Ribicoff, and Mr. Stewart, I send to the desk an amendment to the amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Jersey (Mr. Bradley) for himself and others, proposes an unprinted amendment numbered 875 to unprinted amendment No. 874.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 79, between lines 14 and 15, insert the following:

"Sec. 4993A. Special Rules for Certain Oil.

"(a) Taxable Crude Oil.—Notwithstanding the provisions of section 4988(a) (1), (2), or (3), newly discovered oil (other than newly discovered oil produced north of the Arctic Circle), incremental tertiary oil, and heavy oil shall, subject to the provisions of this section, be treated as taxable crude oil which is tier 3 oil.

"(b) Rate of Tax.—Notwithstanding the provisions of section 4987(a)(2), the amount of the tax imposed by section 4986 with respect to any barrel of crude oil treated as taxable crude oil under subsection (a) shall be 20 percent of the windfall profit on such barrel in the case of incremental tertiary oil, newly discovered oil, and heavy oil.

"(c) Base Price.—In the case of newly discovered oil, incremental tertiary oil, and heavy oil, the base price shall be determined by substituting 16.30 for 15.30 in section 4990(e) and the inflation adjustment for any calendar quarter under section 4990(b) shall be determined by substituting for the implicit price deflator referred to in section 4990(b)(1)(A) an amount equal to such deflator multiplied by 1.005 to the nth power where 'n' equals the number of calendar quarters beginning after March 1979 and before the calendar quarter in which the oil is removed (or deemed removed) from the premises.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a cloture motion. I do this because I said on Friday I would file cloture motion on Monday.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the reported amendment in the nature of a substitute to H.R 3919, an Act to impose a windfall profit tax on domestic crude oil.

Robert C. Byrd, Bill Bradley, Edmund S. Muskie, Gaylord Nelson, Richard Stone, Alan Cranston, John A. Durkin, Paul Sarbanes, Claiborne Pell, Henry M. Jackson, John Glenn, George McGovern, Daniel Patrick Moynihan, J. James Exon, Carl Levin, Edward Zorinsky, and Donald Stewart.

Mr. ROBERT C. BYRD. Mr. President, I offer this cloture motion on behalf of myself and the other Senators whose names have been read. I think it is incumbent upon the Senate to proceed as expeditiously as possible with this bill. If cloture is invoked, nongermane amendments would be ruled out of order, and that, for the most part, is really one of the basic reasons why I have requested that cloture be invoked.

The Senate is now in its fourth week on this bill, and I think a good many Senators have had an opportunity to call up their nongermane amendments. The Senator from Kansas attempted the other day to obtain unanimous consent that there be no further nongermane amendments, and that request was objected to. I thought it was a very reasonable request.

So I hope Senators will proceed now to call up their germane amendments once the minimum tax amendment is disposed of one way or the other, and the Senate may then proceed to invoke cloture, and thus preclude the further offering of nongermane amendments.

We have seen nongermane amendments offered; we have seen them defeated, and we have seen them changed slightly and reoffered, and I would hope the Senate would have done with the offering of nongermane amendments and get on with final action on the bill.

Mr. President, today is the 10th of December, and if the excess profits bill and the conference report thereon and the Chrysler legislation and any conference report thereon are not disposed of by December 21, then the Senate will go out until December 27, 2 days after Christmas, and return for consideration of those measures; and, of course, if they are not disposed of then, by the 31st, the Senate would go over until after the first of the year and would come back in on the 3d, 4th, 5th, or 7th, or along there

I have not fully decided—I suggest it would be, perhaps the 7th—and would continue until action on those two measures has been completed. If action can be completed by the 21st or certainly no later than the 22d, on those two measures and the conference reports thereon, then the Senate could go out for the Christmas holidays without having to return until after the first of the year; and then, in the light of the Iranian situation, it would be my intention to proceed as I stated on last Friday, to keep the Senate in a position to call itself back in the event that the international situation requires.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, I would just say to the distinguished majority leader that I certainly hope we can finish action on this bill this week. If the motion to table the so-called minimum tax proposal carries, of course, that would speed up action on the bill. Even if the motion to table carries by a bare margin, it might speed up action on the bill. It is not the intent of anyone on this side of the aisle, that the Senator from Kansas is aware of, to frustrate the efforts of the distinguished majority leader. Many of us are opposed to the minimum tax. In fact, I do not know of any Republican who is for the minimum tax. That does not mean that in the final analysis they might not support some compromise or combination of a tax with the windfall plowback provisions, which is one reason why the Senator from Kansas would like to keep his plowback in the picture.

I think it does another thing also. It serves to negate a lot of nongermane amendments. I do not know of any other nongermane amendments that can be brought up without unanimous consent, with that amendment pending, and that might be helpful until cloture is invoked.

Mr. ROBERT C. BYRD. It has not been too helpful thus far, but it could have been if objections had not been made.

Mr. DOLE. On this side, we have been encouraging Senators not to offer nongermane amendments.

Mr. ROBERT C. BYRD. The only problem was, the amendment in the first degree was agreed to, and then there came along another amendment in the second degree, with last week revisited.

Mr. DOLE. That is not going to be possible any more now, with the Senator from Kansas' amendment; so I would hope we would not have any more nongermane amendments, though I know there are some. I know the Senator from North Carolina would like to bring up some modification of the gasoline tax exemption.

So we would hope we might reach some agreement on voting on a motion to lay on the table. Maybe that can be agreed upon tomorrow.

Mr. ROBERT C. BYRD. I would hope that on tomorrow we could agree to a vote on disposing of the minimum tax amendment. I would hope we could have an agreement which would allow Senators who may be away from the Senate an opportunity to come and vote on that amendment.

Mr. DOLE. That is why, if we would reach some agreement tonight to vote on Wednesday, it would give everyone an opportunity to be here.

Mr. ROBERT C. BYRD. It is perfectly agreeable to me, if it is to the manager of the bill, to reach such an agreement.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. Is that on the motion to table the amendment, or on the amendment itself?

Mr. DOLE. On the motion to table.

Mr. ROBERT C. BYRD. The motion to table.

Mr. LONG. Mr. President, I want to make it perfectly clear that as far as I am concerned, it would be all right with me to vote on the pending amendment itself. I think I understand it, and I am willing to enter into a unanimous-consent agreement to vote on it. Why does the Senator not ask, and see if he can get unanimous consent? If he can get consent, fine. Otherwise we can proceed without consent, and that would mean someone could make a motion to table.

Mr. ROBERT C. BYRD. All right. I thank the distinguished manager of the bill. I think that is a reasonable position.

I ask unanimous consent that the vote occur at 11 a.m. on Wednesday on the amendment by Mr. BRADLEY, and others.

Mr. DOLE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOLE. The Senator from Kansas could now move to table the tax amendment. We might get an agreement on that.

Mr. STEVENS. Will my friend yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. It is my understanding that we have a problem on agreeing tonight, because of the absence of Senators who did not realize we would have an agreement on voting on the amendment.

We would have no trouble in agreeing to a vote to table the motion on Wednesday.

Mr. LONG. Mr. President, it does not require an agreement for someone to move to table. But I would be willing to agree with the majority leader that either I, or whoever wants to do so, would move to table the pending amendment, either in the first degree or second degree, at whatever time tomorrow the majority leader might suggest.

Mr. ROBERT C. BYRD. Mr. President, as the distinguished manager of the bill has said, any Senator, at any time he can get recognition, may move to table the amendment. It does not require an agreement as to a time certain to vote on the tabling motion. But I think it would be beneficial for Senators to know when such tabling motion would be made.

I, therefore, ask unanimous consent that Mr. LONG, or his designee, be recognized at 11 a.m. on Wednesday to make the tabling motion.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I thank the majority leader. I hope that this would give us an opportunity for the managers of the bill to set this amendment aside temporarily during the day tomorrow, if possible, and take up other amendments that might be disposed of prior to the time of the cloture petition.

Mr. ROBERT C. BYRD. Mr. President, I join in that hope.

Mr. STEVENS. Mr. President, reserving the right to object, there is one other question about this, and that is this vote would be scheduled to take place at the same time the cloture vote would take place under the petition that has just been filed. I wonder if we might clarify that, as far as the majority leader is concerned.

Mr. ROBERT C. BYRD. Yes; I would ask unanimous consent that the vote on the motion to table occur at 10:30.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. LONG. Mr. President, on Sunday December 9, 1979, an article bearing the headline: "Senator LONG: 'If Missouri Succeeds in Taxing Louisiana, I'll Get Back at Missouri'," appeared on page A3 of the Washington Post and was distributed nationally.

I wish to clarify any misconception that may have arisen from this article.

First of all, the article contains a misquote. I did not say "If Missouri succeeds in taxing Louisiana, I will get back at Missouri." What I said was "If the Senator from Missouri succeeds in taxing Louisiana, if I can find a way to do it, I shall surely tax Missouri. I just do not see the point." The correct quote can be read on p. 35082 of the RECORD of Friday, December 7, 1979. Just to be certain that I was being fair, I went back and checked the original transcript of my comments with the Office of the Senate reporter. The original transcript of the Senate reporter's notes shows the quote exactly as it appears in the RECORD.

What concerns me is that this article makes it appear as if I would be vindictive toward the fine State of Missouri and toward that State's honorable Senator, JOHN DANFORTH, if Senator DANFORTH's amendment were to succeed. This is certainly not the case and I hope Senator DANFORTH and the people of Missouri understand this.

The Danforth amendment seeks to tax the States in an unprecedented method. If the amendment were successful, there would be little or no immunity left a State from Federal taxation. Under those circumstances all States would eventually feel the burden of Federal taxation.

I do not have in mind any proposal to tax the State of Missouri. But, even so, I should think that eventually Missouri would suffer along with the other 49 States if what little immunity that exists for the States is stripped away.

WINDFALL PROFIT TAX

● Mr. GARN. Mr. President, on October 30, 1979 I wrote to Treasury Secretary Miller requesting an official departmental response by November 5, 1979 to important questions concerning the merits of passing a windfall profit tax. The discourteous, condescending reply I received from Assistant Secretary for Tax Policy, Donald Lubick, arrived 2 weeks late. While such behavior is unbecoming, and I trust uncharacteristic, the content of the letter finally in my possession should be of considerable interest to my colleagues as we continue our debate on passing a windfall profit tax.

The evidence that crude oil price decontrol will not lead to a massive infusion of cash into integrated oil company coffers continues to mount. The reality is that prices paid by American consumers for refined products already reflect OPEC pricing; yet the Treasury Department gamely insists on maintaining an increasingly untenable position.

Mr. Lubick argues that prior to the imposition of price controls on crude oil, spot prices for gasoline sold in New York City were higher than those prevailing in Rotterdam. Since they are now equal, as many observers have pointed out, this is the best evidence he can cite that price controls on crude oil keep prices at the pump down.

A moment's reflection shows that U.S. refined product prices cannot exceed those charged abroad. If domestic prices do, or ever did, exceed those charged elsewhere, then the big oil companies are not as good at taking advantage of profit opportunities as is commonly believed. With no risk, they could simultaneously buy refined products on the European spot markets and sell them at a profit in the New York market. And they could repeat this very profitable, risk-free exercise indefinitely.

Yet, if American consumers are paying world prices for refined products and domestic prices cannot be higher than prices prevailing on the world market, how will decontrolling the price of crude oil, only one input in the production process, lead to significant additional funds for integrated oil companies? If the industry is already charging top dollar, then industry revenue will not go up due to decontrol, simply because market forces—the laws of supply and demand—will prevent such an occurrence.

However, a windfall profit tax will definitely increase industry costs. Any attempt to pass on these costs in today's market will fail. Consequently, industry profitability will decline.

Currently, the industry's rate of return is a very attractive 23 percent. The windfall profit proposal will likely reduce this figure to 10 percent or less, below the return available for investing in Treasury securities. As a result, domestically refined product production will decline, at a time when we need desperately to expand domestic refining capacity.

Substantially lower industry profits will mean a weaker U.S. economy. To finance the exploration and development of additional energy sources, integrated oil companies will rely more heavily on the credit markets since their other source of financing drastically shrinks. The inevitable result will be the crowding out of other investments needed to raise productivity and slow inflation.

More pressure on the credit markets will drive interest rates higher, further delaying recovery of a housing industry already reeling from record interest rates.

At this point I would like to insert in the RECORD my original letter to Secretary Miller and the reply from his designated correspondent Assistant Secretary Lubick.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 30, 1979.

Hon. G. WILLIAM MILLER,
Secretary of the Treasury,
Washington, D.C.

DEAR SECRETARY MILLER: If the Windfall Profit Tax bill recommended by the Senate Finance Committee is passed by Congress and the President's phased decontrol program continues, then the financial incentives facing independent oil producers will improve while the financial incentives for refiners and integrated producers will fall. In many cases, the rate of return for refiners and integrated producers may fall below that available for investing in comparatively risk-free U.S. Treasury Securities now yielding 13 percent. This raises the serious question of whether the Senate Finance Committee tax will prove counterproductive.

Since the overall rate of return for refiners and integrated producers is the relevant factor in determining whether cash raised from operations is reinvested in oil production and refinement or used to purchase financial securities, a precipitous drop in the consolidated reward from producing and refining crude oil is likely to result in less domestic crude oil and refined product availability after this tax and decontrol program than under a continuation of present policy. The reduction in domestic oil supplies may prove severe if integrated companies, who supply 75 percent of domestically produced crude oil, are forced by profit considerations to allocate their capital elsewhere, like Treasury securities.

The conclusion that refiners and integrated producers will find the rate of return unattractive after the Senate Finance Committee windfall profits tax is applied against company revenue, even after decontrol, rests on the case that their ability to "pass through" high domestic crude oil costs from decontrol have been overstated. U.S. refiners and integrated producers must operate in a world marketplace they do not dominate; their share of the world market is too small. Any attempt to sell refined products in the U.S. at prices higher than those prevailing worldwide, net of transportation costs, will result in losing sales to foreign firms. The "law of one price" is operative worldwide as the table below shows and places tight constraints on any cost pass through attempt by U.S. companies.

AVERAGE ANNUAL WHOLESALE PRICES FOR REGULAR GASOLINE ACROSS CONTINENTS

[In cents per gallon]

Year	New York Harbor spot price	Rotterdam, Holland spot price	Average U.S. dealer tank-wagon price (excluding tax)
1975	33.5	32.6	35.8
1976	35.5	37.1	39.0
1977	38.4	36.4	42.5
1978	42.8	42.6	43.7

Source: Data from the Platts Oilgram Service.

Future OPEC price increases, since they will affect the costs of all foreign refiners and integrated producers, will be passed through, but higher costs from decontrol, which are unique to U.S. companies, cannot be passed through. Under decontrol, and the WPT, refiners and refiner subsidiaries of integrated companies will find their profit margins sharply eroded because of the inability to "pass through" higher costs due to foreign competitive pressure. Refiners will have to absorb the entire cost of higher domestic oil from decontrol.

Integrated producers would be largely unaffected by decontrol only if there were no Windfall Profit Tax. Any reduction in income from their refining subsidiaries caused by higher domestic crude oil prices would be captured by their producing subsidiaries which supply them. The damage done to integrated company incentives will occur because the WPT will be levied on intercompany transfer payments, and it will flow through to the bottom line of these companies.

Unless it can be shown that revenues raised by the WPT will be used to raise energy availability through synfuels production and conservation by an amount greater than a reasonable estimate of reduced oil production caused by the tax, then a vote in favor of it is not in the interest of national security.

These qualitative conclusions follow from representative financial statements drawn up to cover likely profitability of independent producers and integrated oil companies under a continuation of existing policy and under immediate decontrol, coupled with the Senate Finance Committee WPT proposal.

By November 5, 1979, I would appreciate receiving any thoughts on this matter that the Department of the Treasury may have in determining whether more or less energy availability will result from passage of a Windfall Profit Tax. In responding, please direct your energies toward the financial economics facing individual companies, as I have done, to determine the loss of domestic production caused by a tax.

To determine the amount of energy availability increased by the tax, please show how the specific revenues raised from an individual integrated oil company will be used and document the specific energy increase by source these new funds will purchase.

Sincerely,

JAKE GARN.

BALANCE SHEET—ABC INDEPENDENT OIL CO.

Assets:	
Cash	$1,000,000
Equipment	6,000,000
Land and leasehold interests	1,000,000
Oil and gas reserves	6,000,000
Total	14,000,000
Liabilities:	
Bank loans	4,000,000
Paid-in capital	10,000,000
Total	14,000,000

Notes to ABC Independent Oil Company Income Statements:

CASE 1

(1) Sales Revenue consists of $1,300,000 from natural gas sales, and $5,340,000 from selling to a U.S. refinery 201,000 tier 1 barrels, 210,000 tier 2 barrels, and 56,000 tier 3 barrels.

CASE 2

(2) As before 467,000 crude oil barrels are produced, but now they are sold at $23.50 per barrel. Natural gas revenues remain at $1,300,000.

(3) Windfall profit tax liability is $8.35 per barrel.

INCOME STATEMENT—ABC INDEPENDENT OIL CO.

Case 1. Continued price and no windfall tax.

Sales revenue	$6,640,000
Operating costs	2,000,000
Royalty payment	800,000
Amortized equipment expense	1,200,000

INCOME STATEMENT—ABC INDEPENDENT OIL Co.—Continued

Exploration and development	500,000
Severence and property taxes	800,000
Profit	1,340,000

Pre-tax rate of return on shareholders equity: 13.4 percent.

Case 2. Immediate price decontrol and senate financing committee version of windfall profit tax.

Sales revenue	$12,300,000
Operating costs	2,000,000
Royalty payment	1,500,000
Amortized equipment expense	1,200,000
Exploration and development	500,000
Severance and property taxes	1,400,000
Windfall profit tax	3,900,000
Profit	1,800,000

Pre-tax rate of return on shareholder's equity: 18.0 percent.

BALANCE SHEET—INTEGRATED PETROLEUM, INC.

Assets:	
Cash & Marketable Securities	$700,000,000
Equipment & Buildings	2,000,000,000
Land & Leasehold Interests	300,000,000
Oil & Gas Reserves	1,000,000,000
Total Assets:	4,000,000,000
Liabilities:	
Loans	$1,800,000,000
Paid-in capital	2,200,000,000
Total Liabilities	4,000,000,000

Notes to Integrated Petroleum, Inc. Income Statements:

CASE 1

(1) Producing subsidiary revenue consists of $108,000,000 from natural gas sales, and $345,000,000 in crude oil sales to the refining subsidiary. Crude oil production equals 13.1 million tier 1 barrels, 13.6 million tier 2 barrels, and 3.6 million tier 3 barrels.

(2) Refining subsidiary revenue assumes refinery runs of 151.5 million barrels, which produce 147 million barrels of product sold at $28.50/barrel, generating $4,120,000,000.

(3) Cost of refining a barrel of oil is $3.51.

(4) Refinery mix of imported and domestic oil causes entitlement payments and credits to net to zero.

CASE 2

(5) Assumptions in Case 2 are the same as for Case 1, except that producing subsidiary now sells its crude oil to the refining subsidiary at $23.50/barrel and pays a windfall profit tax averaging $8.35 per barrel.

Case 1: Continued price controls and no windfall tax

Producing subsidiary:	
Sales revenue	$453,000,000
Operating costs	184,000,000
Royalty payments	57,000,000
Amortized equipment expense	78,000,000
Exploration and development	32,000,000
Severence and property taxes	52,000,000
Subsidiary profit	50,000,000
Refining subsidiary:	
Sales revenue	4,120,000,000
Cost of transferred oil	345,000,000
Cost of imported oil	2,850,000,000
Cost of refining oil	520,000,000
Cost of entitlement tickets, net	0
Subsidiary profit	405,000,000
Consolidated profit	455,000,000

Pretax rate of return on shareholders' equity: 20.7 percent.

Case 2: Immediate Price Decontrol and Senate Finance Committee version of Windfall Profit Tax

Producing Subsidiary:	
Sales Revenue	$820,000,000
Operating Costs	184,000,000
Royalty Payments	103,000,000
Amortized Equipment Expense	78,000,000
Exploration and Development	32,000,000
Severence & Property taxes	94,000,000
Windfall Profit Tax	253,000,000
Subsidiary Profit	76,000,000
Refining Subsidiary:	
Sales Revenue	4,120,000,000
Cost of Transferred Oil	710,000,000
Cost of Imported Oil	2,850,000,000
Cost of Refining Oil	520,000,000
Subsidiary Profit	40,000,000
Consolidated Profit	116,000,000

Pre-tax Rate of Return on Shareholder's Equity: 5.3 percent.

DEPARTMENT OF TREASURY,
Washington, November 19, 1979.

Hon. E. J. GARN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR GARN: This is in further response to your letter of October 30 to Secretary Miller, concerning the windfall profits tax.

In your letter, you suggest that while the windfall profits tax, as reported by the Finance Committee, will improve the financial incentives for independent oil producers, financial incentives for refiners and integrated producers may fall to levels even below those attainable from investment in U.S. Treasury securities yielding 13 percent. In the event this occurs, you conclude that integrated companies "who supply 75 percent of domestically produced crude oil" will abandon the oil business for investment opportunities elsewhere. The basis for your inference of these dire effects is a numerical example involving a hypothetical integrated oil company which experiences a drop in return on shareholders' equity, from 20.7 percent under present controls to 5.5 percent under decontrol and the windfall tax. This is compared with an example of a hypothetical unintegrated oil producer whose pre-tax rate of return on equity increases from 13.4 percent under controls to 18.0 percent under decontrol and a windfall tax.

Before I discuss the economics by which your example concludes that integrated companies are disadvantaged by price decontrol and the imposition of a windfall profits tax, it is useful to consider whether there is any relationship between increases in cash flow from existing oil properties and investment in additional oil production. For this purpose, two different classes of investment outlays need to be distinguished. First, there are investment projects that enhance the productivity of existing oil fields themselves. On the other hand, there are those investment projects that aim to discover and develop new oil fields. While both kinds of projects increase future output and are therefore equally valuable from the point of view of national policy, it is only with respect to investment in existing fields that the change in the present owners' profitability is directly relevant.

So long as the profitability of existing fields increases under decontrol, as your examples demonstrate will be the case, investment in enhanced recovery from such fields, will continue to occur. You appear to agree that decontrol, even when combined with the windfall tax enhances the profitability of present investments in oil productive capacity. The oil field output mix of the integrated oil company in your example benefits more from decontrol plus windfall tax than does the unintegrated oil company's output: the before-tax return to the integrated firm on its currently owned properties is increased by 54 percent, whereas the unintegrated firm achieves an immediate boost in earnings of only 34 percent.

Obviously, if the combination of decontrol and windfall profits taxes make the operation of existing fields more profitable, it becomes more worthwhile to make those oil investments which will either absolutely increase the rate of oil flow, or retard the rate of decline that would otherwise be experienced in those fields. The most obvious investors in projects for the enhancement of output from existing fields are clearly the present owner-operators. However, the amounts invested by present owners in such projects are in no significant way limited or determined by the current cash flows from these fields.

For any owner of a productive asset, his additional investment in that asset is an option he must compare with other options open to him. For any of the options, the owner's current cash flow is but one source of finance. In addition, if some change has occurred that has caused his existing assets to "throw-off" more cash flow, as is the case with the OPEC windfall, then these assets themselves become the basis for obtaining additional external financing. The owner may borrow more with the enhanced collateral, or he may sell additional shares in the increased real value of his assets without diluting the value of his own share. In either case, he will not lack for capital with which to invest. Whether he will invest depends upon the price he will receive for his oil.

Thus, the significance of decontrol (even when reduced by the windfall profits tax) for future production of domestic oil is not that it puts more cash into the hands of oil companies who drill for oil. Rather, it simply demonstrates that additional investment in existing fields will be profitable and worth the investment risk.

With respect to investment in new fields, the cash flow from existing fields is, of course, irrelevant. Under the Finance Committee version of the windfall tax, new oil is exempt from tax. Thus, there is neither a price control nor tax restraint on investment decisions with respect to these projects.

Whoever undertakes the risk of discovery and development obviously must be able to command resources—his own, or those of creditors or others. In a system based on private rights in property, it is presumed that the resources used in investment projects are the enterprisers' own disposable resources, obtained by dint of their own efforts fairly rewarded in markets. It is a matter of indifference to the system whether the funds come from existing oil companies (integrated or not), or from insurance companies, chemical or tobacco manufacturers (all of which, incidentally, have recently been sources of funds tapped to exploit offshore leases in the United States). Funds to finance investment in new field capacity will come from the private sector through capital markets as it did at the birth of the oil business in the United States and through the years of its great expansion, and as it has for every other prominent industry sector. Current cash flow may be a determinant of the resources directly available to particular companies in an industry, but it is not a determinant of the total resources available to these companies indirectly, or to new entrants.

This analysis of the relation between price decontrol plus windfall profits taxation, and the likely rate of investment in maintaining or increasing domestic oil supplies, is nothing more than an application of standard, textbook investment decisionmaking theory that underlies thoughtfully constructed financial analyses of firm and industry investment behavior. The naive "cash flow" theories of investment behavior which have been employed by opponents of any windfall tax to demonstrate there will be a "shortfall" of investible funds due to the effect of the tax on "oil companies," without exception imply irrational decisionmaking by oil company management, and others. This is a view that is without logical or empirical foundation and deserves to be dismissed in any serious evaluation of proposed energy policy.

If it is agreed that decontrol, when combined with a windfall profits tax, enhances both the current and prospective profitability of operating old and new fields, then the foregoing analysis suffices to answer your closing question concerning the effects of the Finance Committee bill on energy availability. The tax will not deter domestic oil production.

However, because the integrated oil company example you present, which was also uncritically used by the editors of the Wall Street Journal ("An Obscene Tax," November 12, 1979), suggests that an integrated company is disadvantaged by the Senate bill, I now turn to a discussion of the issues it raises.

The indicated decline in profitability of the integrated oil company in your example is purely the outcome of your assumptions: (a) that you have demonstrated price controls don't work; and (b) that the oil field investment projects of integrated oil companies depend on the profitability of their refinery operations. The evidence you have cited does not demonstrate that price controls don't work. Furthermore, even if they don't work, oil field investments of integrated companies are not contingent on the profitability of their refinery operations.

Your example aims to show that oil price controls have failed to keep refinery product prices at a level which just reflects the lower average acquisition costs of crude oil resulting from control of domestic oil prices. Therefore, decontrol will reduce refinery margins (a point both you and the Wall Street Journal neglected to note), so that after allowing for the windfall tax on that company's decontrolled production, decontrol will drive the consolidated company rate of return below the yield on Treasury bonds. This, presumably, will induce the integrated company to divert its resources to virtually anything but oil production.

Thus, the example raises two issues: (1) Have price controls failed to keep domestic oil product prices below the level they would otherwise have attained? (2) Is the consolidated rate of return of an integrated oil company a determinant of its investment in either oil productive or refining capacity?

In support of the assumption that price control administration has been an abject failure, both you and the Wall Street Journal cite comparisons between "spot prices" in Rotterdam and New York, and national average tankwagon prices of gasoline. Generally, the three sets of prices reported are within a penny or two of each other. This is taken as a demonstration that U.S. refinery product prices already reflect world oil prices. This "demonstration" fails on two counts. First, "spot price" series may be compared with tankwagon price series only with severe restrictions. "Spot prices" are quotations; they are not derived from actual exchanges. It is not known what quantities, if any, were exchanged at the reported "quotations." Moreover, in order to make comparisons of spot price quotations with tankwagon prices, one needs to standardize for quality—octane rating and lead content—of the "product" priced in the different markets. Secondly, if comparisons are made of the Rotterdam "spot price" and U.S. tankwagon prices in pre-price control periods (and due allowance is made for the effects of mandatory import quotas then in effect), it will be found that the U.S. price was consistently above the Rotterdam price by amounts far larger than could then be accounted for by transport costs. Thus, if the U.S. price in the absence of price controls would be higher than the Rotterdam price, their present apparent equality suggests that price controls do seem to work. If so, or to whatever degree they work, the example grossly overstates the decline in refinery margins resulting from decontrol.

Suppose, however, that price controls are not working. This means that controls are providing a windfall to refiners in the United States and that decontrol will simply reallocate this windfall. According to the example, this windfall arising from the existence of controls is being realized by the integrated company's refinery (and other refineries as well), so that decontrol simply reallocates the windfall to the producer level where, after windfall tax, it leaves the production division better-off. If enjoyment of this windfall has caused either exceptional returns to refineries or encouraged them to adopt wasteful production and marketing methods, then decontrol by itself would require adjustments in refinery operations to achieve greater efficiency—certainly a desirable result.

But let us further suppose that the net effect on integrated companies like that in the example will be a reduction in cash flow. Under this highly unlikely set of assumptions that price controls don't work and that the resultant profits from decontrol show up in the accounts of refiners rather than producers you and the Wall Street Journal conclude that integrated companies would reduce their investment in oil productive capacity. However in order that this conclusion hold it is necessary that investment in U.S. oil productive capacity be strictly complementary to the capacity of U.S. refineries. Under your example the investment of $1 in enhanced recovery from the company's existing oil fields or in the discovery and development of new oil fields, must be strictly related to the company's refinery operations, either for technological or economic reasons, i.e., there must be a fixed relationship between an "integrated" company's oil field and refinery operations. If this assumption holds, then the unit of investment of the "integrated" company is not simply oil field capacity but oil field pus refinery capacity, in which case the overall profitability of the company's two divisions determines investment in either.

But this assumption is patently untenable. If "independent" companies survive and thrive on the basis of oil field investment alone and if refining companies such as Ashland Oil survive and thrive solely on the basis of refining and marketing investment then it is clear that no "integrated" company is driven to invest complementarily in both oil production capacity and refining. That this must be the case is evident from arrays of "self-sufficiency" ratios (ratio of U.S. crude oil production to U.S. refining capacity) of so-called "integrated" companies, which clearly show wide variation between companies in any year and great changes from one period to another. (See enclosed table.) Moreover, even in the cases of those companies which happen to possess ratios near unity in any year, the fraction of their own oil processed in their own refineries rarely exceeds 50% or 60%. The rest is sold on the market or exchanged for crude oil more convenient to their refinery locations.

Clearly, if there is no fixed technical or economic relation between the separate divisions of a multi-product company, its investment in any one division is not contingent on the overall profitability of all divisions. More will be invested in the profitable divisions (oil production in your example), and less or nothing in the unprofitable divisions.

Our analysis of the data you have supplied leads to the conclusion that the Finance Committee bill will not cause integrated oil companies to abandon oil exploration for alternative investment opportunities. On the contrary, the currently high world price of oil which, unfortunately, may be raised even higher by the OPEC cartel, will spur domestic exploration not only by independent producers, but by major integrated companies as well. This will occur even if the House-passed windfall profits tax, which the Administration supports, is enacted.

Sincerely,

DONALD C. LUBICK,
Assistant Secretary (Tax Policy).

Mr. GARN. Mr. President, I want to expand further on my analysis of Mr. Lubick's contention that delivered, refined energy prices in New York can differ significantly from global market prices. If a meaningful difference exists then an astute individual needs only a telephone, an office, and about a 1-month period of time to make himself into a multimillionaire. Prior to price controls, it would have been a simple thing to place an order to buy in Rotterdam, where according to Mr. Lubick, the prices were significantly below New York. Then, after terminating the call overseas, this astute operator would turn around and sell the volume purchased at a discount price in Rotterdam for a premium price in New York.

The reality is that prices reflect cost differentials and market forces, the interaction of gasoline supplies with demand for the product. Any U.S. attempt to control prices in its markets has little bearing on global supplies and demands. Given the current global market situation, U.S. decontrol will not lead to significant price increases, and the resultant windfall profits. The price of gasoline sold domestically at the pump is currently several cents below the ceiling in many locations. That indicates a global market in which supplies are so plentiful that markets are cleared at levels below control prices.

Decontrolling wellhead oil prices does not change that situation. If domestic refineries were able to pass through the higher cost of crude oil to gasoline consumers, the price of domestic products would rise substantially above the European price. That is what Mr. Lubick tells us would happen.

If Mr. Lubick is so naive and misinformed about the real world operation of markets that he believes in his analysis, then our energy policy is being piloted by the crew of the Titanic. If Mr. Lubick believes that markets really operate in the way described in his response, he should resign tomorrow and set himself up in business as "King of the Oil Swappers." I would gladly furnish him the numbers of 10 New York and Rotterdam oil exchanges, and pay his first month's phone bill and office rent in exchange for half the profits.

At this point I would like to insert in the RECORD two editorials from the Wall Street Journal and an article from same by Mr. Craig Paul Roberts. These items develop in detail the weaknesses of this windfall revenue, excise tax measure.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 28, 1979]

RESCUING SAVINGS

Late in the day, the Senate has begun to worry about the damage the proposed "windfall profits tax" on oil could do to national savings. Corporate profits, after all, are a major source of economic savings, meaning money set aside to expand and replenish the nation's productive capital.

So this week the Senate Finance Committee is trying to agree on a savings amendment to the windfall bill. This late rider is at least as important as the main body of the bill because it could determine the tax treatment of savings over the next 10 years and hence bear heavily on the future productivity of the U.S. economy.

The saving rate in the U.S. is very low. Of the total amount of savings generated, a chunk is taken off the top to finance the government's budget deficit. Most of what's left goes to replace worn out plant and equipment. Of the funds remaining for net investment, practically every dollar is needed to equip the growing labor force so that productivity per worker doesn't decline. Steve Entin of the Joint Economic Committee staff has calculated that in 1977–78 there was less than $5 billion left with which to meet mandated spending on environmental and safety equipment and to finance real economic growth. Little wonder U.S. productivity growth is so low.

Now enter the "windfall profits" tax. It's going to reduce the oil industry's cash flow and ability to finance investment internally. That means a decline in total savings, a decline that Donald Lubick, Assistant Secretary of the Treasury for Tax Policy, acknowledges when he says that "funds to finance investment in new field capacity will come from the private sector through capital markets as it did at the birth of the oil business."

Of course, if oil industry revenues were to balloon with decontrol, the tax would not be at the expense of the current retained earnings of the industry. But we have explained in previous columns why crude oil price decontrol is unlikely to significantly increase oil industry revenues, and Mr. Roberts brings these points up to date elsewhere on this page today. Members of the Finance Committee themselves are beginning to wonder how oil industry revenues can rise when consumers are already paying the world price for refined products. However, they are still determined to take advantage of the public ire toward oil companies induced by years of demagogy, and lay on a big new tax.

They are frightened, though, by recognition of what their bill will do to savings, investment, productivity and growth. So they are fishing around for some way to offset the effect on savings. If the Senators are intent on passing this destructive bill to begin with, we suppose it's good that they want to rescue savings. So they could do a lot worse than to hook on to the approach that Senator Roth and Representatives Bud Brown and John Rousselot have been working on.

These lawmakers have figured out that there's a difference between giving a tax break on existing savings and encouraging new, additional savings. An interest deduction from taxable income doesn't affect the tax rates; it just excludes a fixed amount of interest income from tax, and once the exclusion is used up any new saving is taxed at the existing high rates.

At the present time savings income (interest and dividends) is stacked on top of wages and salaries for tax computation. In other words, wages and salaries enter the tax brackets at a rate that begins at 14% and runs up to 50%. Savings income then enters the tax brackets at a rate that begins at the highest marginal rate applicable to the taxpayer's wage or salary income and runs from there up to 70%.

What Senator Roth and Representatives Brown and Rousselot want to do is to treat savings income the same as wage and salary income by splitting it out and taxing it at the same 14–50% rates. By eliminating the tax discrimination against savings income, this approach significantly lowers tax rates and provides an incentive to every earner to save more of his income.

In addition to encouraging more savings, the Roth-Brown-Rousselot approach would pull a lot of savings out of tax shelters and add to the economy's productivity.

But whether the Finance Committee goes with this particular approach or not, we hope the Senators have learned enough supply-side economics to recognize that if they are serious about savings, they must increase the after-tax rate of return to new savings.

For our part, we will be holding our breath. Any Congress that can come up with a piece of legislation as obscene as the "windfall profits" tax can come up with an awful savings amendment as well.

[From the Wall Street Journal, Dec. 3, 1979]

Costly Catharsis

As readers of this page know, we have disputed from the beginning the belief that higher domestic crude oil prices from decontrol can be passed through to consumers who are already paying the world price for refined products. If the prices cannot be passed through, then there can't be any windfall revenues and the tax cut will be paid out of the industry's current profits.

Now a high administration official, R. Robert Russell, Director of the Council on Wage and Price Stability, says as much. He told the Joint Economic Committee last Tuesday that the "windfall profits" tax "is a tax on capital."

It seems to us that Mr. Russell's remark is a pretty straightforward admission that there aren't going to be any "windfall" profits to tax. If the cost of higher priced crude oil were simply passed along in higher prices to consumers, the tax would fall on consumption, not capital.

Taxes on capital get passed along in another way, and Mr. Russell, to the great credit of his professional honesty, pointed out the route it takes. A tax on capital inhibits "investment in capital, and insofar as it does that it can in the long-run have inflationary impact by lowering productivity." In other words, it's a route to less economic growth and lower real incomes.

While the JEC was pondering the revelation that the "windfall profits" tax is going to be passed through to the consumer in lower living standards, Budget Committee chairman Muskie was on the Senate floor pressing to increase the tax.

The challenge of the 1980s, said Sen. Muskie, is to develop more ways to redistribute the wealth, which is to say, to tax capital. Besides, we need the money to balance the budget: "We have mortgaged our future. Without a more productive windfall profits bill, we just can't make the payments."

Having been the first to note way back then that the "windfall profits" tax was just another revenue measure to pay the spending bills, we don't fault the Senator for unabashedly treating it as such. But Sen. Muskie acknowledged so many "hard realities" about the perilous state of the budget in the absence of an even higher tax that he left many of his colleagues wondering about the budget process.

Senator Long noted that the Congress, by its own count, was staring in the face $446 billion in unanticipated revenues from the windfall profit and income taxes on the oil industry. Yet, Senator Long continued, the Budget Committee chairman was standing there saying that "all is lost, we are gone, because the $446 billion that we were not counting on will not be enough."

"All I can say," said Mr. Long, "is that those on the spending end have some very ambitious plans indeed. They had not anticipated the $446 billion and we had not anticipated their imagination in spending it. All I can say is that it just proves what I have said—it is beyond the capability of those on the Finance Committee to recommend tax increases as fast as somebody on some other committee can think of some way to spend them." The spending proclivities of the Congress, concluded Sen. Long, are sufficient to guarantee a budget deficit no matter how many taxes are laid on—or how few.

The problem is that the spenders are running out of things to tax and are resorting now to spending the seed corn by directly taxing capital itself, in addition to the income from capital. Of course, Senator Muskie's budget economists are telling him that he can spend our way to prosperity if he will just try hard enough. It is this atavistic policy advice, and not profitable oil companies, that is the real threat to the economy.

Just as grass-roots pressure and intellectual arguments for controlling spending and lowering taxes were beginning to take hold, along came a manufactured "energy crisis." The big spenders seized their opportunity and laid the groundwork for a big new tax by stirring up the public against the oil companies with the crudest kind of demagogy. Now they have their tax, and the spenders are off the hook for a while longer. Even with the tax, says Senator Muskie, given the Congress's likely spending plans the budget will continue in deficit until 1988. The economy has lost another round.

Oh well, gorged on demagogy perhaps the country needs the catharsis of venting its emotions on the oil industry—just as long as everybody knows that there's no such thing as a free catharsis.

[From the Wall Street Journal, Nov. 28, 1979]

Political Economy

(By Paul Craig Roberts)

THE WINDFALL ILLUSION

Congress expects oil industry revenues to increase dramatically when prices are decontrolled and is counting on a hearty share to pay the bills it's running up in energy tax credits and synfuel programs. According to two congressional staffers, Spencer Reibman and Stewart Sweet, Congress is in for a big shock.

The way Congress figures it, domestic oil revenues will greatly expand when $6 tier-1 oil and $13 tier-2 oil move to the world price. But the way Messrs. Reibman and Sweet figure it, U.S. consumers are already paying the world price for refined products such as gasoline and fuel oil. Therefore, decontrol of domestic crude oil prices will not produce a big windfall in new revenues; it'll just shift revenues about within the industry from refiners to producers.

Look at it this way. A refiner importing $23 a barrel OPEC crude oil sells the product he makes out of it at the same price as the refiner using controlled $6 domestic crude oil. If that's all there was to it, the price controls on domestic crude oil would amount to an enormous subsidy to the profits of domestic refiners at the expense of domestic crude oil producers.

That's where the entitlements come in. The refiner using $6 domestic oil has to pay the one using the $23 foreign stuff. So the price of domestic oil to the one refiner is $6 plus the entitlement payment, and the price of OPEC oil to the other becomes $23 minus the entitlement.

Under this system large integrated oil companies that both produce and refine and have both domestic and foreign oil end up having entitlements to themselves. That way the money stays in house, and the revenues that price controls cost their domestic oil production operations are gained back in the refining division. For non-integrated operations, the system transfers revenues from domestic crude oil producers to domestic refiners of OPEC oil.

When the controls come off, the entitlements go, and all that happens is a shift in revenues from refining back to producing operations.

For total oil industry revenues to go up, U.S. refiners today would have to be selling their product for less than the world price. But the two staffers examined data from the Platts Oilgram Price Service and found that the wholesale price of regular gasoline is the same in New York as in Rotterdam. The reason gasoline costs, say, the German motorist, $2.12 a gallon is that he is paying a tax of $1.08 per gallon at the pump. Net of the tax, which goes to the German government and not to the oil companies, the German motorist is paying the same $1 a gallon to the oil companies that the U.S. consumer is paying.

Since the oil industry's revenues and profits are not going to balloon like Congress thinks, what is the "windfall profits" tax going to be paid out of? The only possibility is existing revenues. It looks like the tax is going to capture more or less what the domestic industry currently pays itself in entitlements.

That means the profitability of the domestic oil industry is about to be driven sharply down. Mr. Sweet believes that oil industry rate of return in the short term will be below the Treasury bill rate. Earnings will head back up as OPEC pushes up the world price. But whether and how soon earnings will get back to a normal rate of return are questions that never occurred to the Senate Finance Committee or its staff. Before the "windfall profits" tax busts the government's budget along with the oil companies, the Senate might inquire if those entitlement revenues are large enough to cover all the tax credits and synfuel boondoggles.

The oil industry shied away from the results of Messrs. Reibman and Sweet's investigations. And it's not hard to see why. If the U.S. consumer is paying the world price for refined products, demagogic politicians have "evidence" that the oil companies have evaded the price controls. So the oil industry has fought the tax by trying to get exemptions for various categories of oil.

But Senator Jake Garn (R., Utah) realized the real meaning of the evidence: The U.S. government cannot control the world price of a finished product by controlling the price of part of the raw material used in its manufacture. On October 30 he raised these points with Treasury Secretary Miller and other high administration officials. He has yet to receive a satisfactory answer. The administration seems unaware that higher domestic crude oil prices can't be passed through to consumers who are already paying the world price for refined products—unless the government embargoes the import of refined products.

It seems clear that the "windfall profits" tax is going to reduce the profitability of domestic refiners. And that's going to play into the hands of OPEC, says G. H. M. Schuler of Conant and Associates in Washington, by helping OPEC entice refining operations abroad.

The oil companies are already having their arms twisted to build refineries for OPEC in exchange for the right to buy OPEC crude. OPEC cannot move into downstream operations, says Mr. Schuler, without serious implications for our national security and balance of payments.

The oil companies still have a bargaining position with OPEC because they control the refining and marketing of the finished product. But once OPEC has substantial refining capacity, it can push the companies out of the picture and gain control over refined products too. In today's prices that means instead of paying OPEC $22 a barrel for the raw material and manufacturing it at home into a finished product, we would be paying OPEC $40 a barrel for refined products.

It's ironic that the "windfall profits" tax, heralded as a step toward energy independence, is destined instead to make us more dependent on OPEC.

Mr. GARN. Mr. President, what the Congress is doing on windfall profits would be amusing if the consequences for the United States were not so dire. The discussion and debate on this gigantic excise tax program has moved from the elaborate but tortured exercise displayed in Mr. Lubick's letter to a crasser but more honest level. The advocates of this scheme now talk mainly about the revenue implications. They have discovered that public antipathy toward oil companies is a great way of levying the largest tax increase in the country's history. Instead of all of this money going to greedy oil, let us capture it, through the Federal Treasury—all for the public good, of course—and we will have a way of keeping the budget deficit within tolerable limits without having to cut Federal spending. It is no longer a matter of windfall profits. This has now become the mechanism by which the Congress can appear fiscally responsible without actually having to be fiscally responsible.

And all at no cost to our constituents. They were going to get gouged anyway. But this is where we miscalculate by our shortsighted actions. All these revenue projections are rooted in the fallacious assumption that production will simply roll along regardless of what taxes we levy. But this is a fantasy and evasion. The disincentive impacts of this excise tax will be quickly evident. Domestic production will decline, and the revenue windfall to the Federal bureaucracy will manifest itself as the old tried and failed effort to obtain something of value without intelligence, planning, and hard work.

Nowhere will the longrun consequences be more noticeable than in the resultant decline in domestic refining. Currently the OPEC nations must rely on the international oil corporations to refine and distribute their crude. The long-range goal of OPEC is to achieve complete control of integrated operations, including refining and distribution. The United States needs to expand its refining capacity, if only for national security purposes. The windfall profit tax will be levied not on a real increase in profits, but on the transfer of funds from the production division to the rerefining operation in an integrated oil corporation.

Integrated companies will continue to run their refineries here as long as variable revenues cover variable costs. But the incentive to build additional domestic refining capacity will be gone because the windfall excise tax will make such investment unprofitable. As existing refining capacity depreciates and wears out, as rising variable costs overtake revenues, and as the global demand for oil continues to expand, oil companies will find it more profitable to build new refining capacity outside of the United States. This will strengthen OPEC's bargaining position in its efforts to force the oil companies to build refineries in OPEC countries. This will dramatically accelerate the strength of the cartel, and end our ability to bargain on any level short of a resort to arms.

The Congress, by levying this hidden tax on the American people, will insure a future of escalating energy prices and continued shortages and disruptions. The irresponsibility being exhibited by the Congress is the kind of shortsightedness displayed by the two-bit hustler who believes that chickens never come home to roost and that reality can continually be evaded. The costs of Government interference in the economy are manifestly apparent in our energy crisis. Yet the Congress is unwilling to face up to its past mistakes, and instead seeks to deny past errors by enacting a measure which is the worst proposal to date. I suppose that the Congress will still be blaming the oil companies even when these devastating measures have reduced our economy to ruins.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for transaction of routine morning business, not to exceed 15 minutes and that Senators may speak therein for 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PUBLICATION OF FEDERAL OPEN MARKET COMMITTEE MINUTES

Mr. ROBERT C. BYRD. Mr. President, at the request of Senator PROXMIRE, I ask unanimous consent that the Senate proceed to consideration of Calendar Order No. 453.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4998) to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis.

There being no objection, the Senate proceeded to consider the bill.

UP AMENDMENT NO. 876

(Purpose: To authorize temporarily the automatic transfer of funds, remote service units, and share draft accounts, and for other purposes)

Mr. PROXMIRE. Mr. President, I send to the desk an amendment in the nature of a substitute and ask unanimous consent that Senators CRANSTON, GARN, and TOWER be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE), for himself, and Senators CRANSTON, GARN, and TOWER, propose an unprinted amendment numbered 876.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

TITLE I—CONSUMER SERVICES AND USURY

SEC. 101. (a) Section 19(i) of the Federal Reserve Act (12 U.S.C. 371a) is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, a member bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board.".

(b) Section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828(g)) is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) Notwithstanding the provisions of paragraph (1), an insured nonmember bank may permit withdrawals to be made automatically from a savings deposit that consists only of funds in which the entire beneficial interest is held by one or more individuals through payment to the bank itself or through transfer of credit to a demand deposit or other account pursuant to written authorization from the depositor to make such payments or transfers in connection with checks or drafts drawn upon the bank, pursuant to terms and conditions prescribed by the Board of Directors.".

SEC. 102. Section 5(b)(1) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464 (b)(1)) is amended by adding at the end thereof the following: "This section does not prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board.".

SEC. 103. (a) Section 101 of the Federal Credit Union Act is amended—

(1) by inserting before the semicolon at the end of paragraph (5) the following: ", and such term also includes a share draft account";

(2) by striking out "and" at the end of paragraph (8);

(3) by striking out the period at the end of paragraph (9) and inserting in lieu thereof "; and"; and

(4) by adding at the end thereof the following:

"(10) the term 'share draft account' means an account on which payment of interest may be made on a deposit with respect to which the credit union may require the member to give notice of an intended withdrawal not less than thirty days before the withdrawal is made, even though in practice such notice is not required and the member is allowed to make withdrawals by negotiable or transferable instrument for the purpose of making payments to third persons or otherwise. Such account shall consist solely of funds in which the entire beneficial interest is held by one or more individuals, or by an organization operated primarily for religious, philanthropic, charitable, educational, or other similar purpose and not for profit.".

(b) Section 107 (6) of such Act is amended by inserting before the semicolon at the end thereof the following: ", and to issue, deal in, and accept share drafts as orders of withdrawal against shares, subject to such terms, rates, and conditions as may be prescribed by the Board".

SEC. 104. The amendments made by sections 101 through 103 of this title shall take effect on December 31, 1979, and shall remain in effect until the close of March 31, 1980.

SEC. 105. (a) (1) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is—

(A) secured by a first lien on residential real property or by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage or advance is used to finance the acquisition of such stock;

(B) made after the date of enactment of this Act; and

(C) described in section 527 (b) of the National Housing Act, except that the limitation described in section 527 (b) (1) that the property must be designed principally for the occupancy of from one to four families shall not apply, the requirement contained in section 527 (b) (1) that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation, and for the purpose of this section, the term "lender" in section 527 (b) (2) (A) of the National Housing Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act.

(2) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. As used in this paragraph, the term "depository institution" means—

(A) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(B) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(C) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

(D) any member as defined in section 3 of the Federal Home Loan Bank Act;

(E) any insured institution as defined in section 408 of the National Housing Act; and

(F) any insured credit union as defined in section 101 of the Federal Credit Union Act;

(b) The provisions of subsection (a)(1) shall apply to loans, mortgages, and advances made in any State unless and until the State adopts a provision of law (within two years after the date of the enactment of this Act) limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance, except that at any time after the date of enactment of this Act any State may adopt a provision of law placing limitations on discount points or such other charges on any such loan, mortgage, or advance.

(c) The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

(d) The provisions of subsection (a)(1) apply to any loan, mortgage, or advance described in subsection (a)(1) for the duration of such loan, mortgage, or advance if it is made during the two year period beginning on the date of enactment of this Act pursuant to a commitment issued during the six-month period beginning on such date of enactment.

(e) For the purpose of this Act and any amendment made by this Act, the term "State" includes the several States, Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, and the Virgin Islands.

SEC. 106. The President shall convene an interagency task force consisting of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Federal Home Loan Bank Board, the Board of Governors of the Federal Reserve System, the Board of Directors of the Federal Deposit Insurance Corporation, the Comptroller of the Currency, and the National Credit Union Administration Board. The task force shall conduct a study to determine the difficulties faced by depository institutions which have sizable portfolios of low-yield mortgages. In carrying out such study, the task force shall solicit the views of, and invite participation by, consumer and public interest groups, business, labor, and State regulators of depository institutions. Not later than 45 days after the date of enactment of this Act, the task force shall transmit to the President and the Congress its findings and recommendations for such action as it deems appropriate.

TITLE II—INTEREST RATE AMENDMENTS REGARDING STATE USURY CEILINGS ON CERTAIN LOANS

SEC. 201. Section 5197 of the Revised Statutes, as amended (12 U.S.C. 85), is amended by inserting in the first and second sentences before the phrase "whichever may be the greater", the following: "or in the case of business or agricultural loans in the amount of $25,000 or more, at a rate of 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located.".

SEC. 202. The Federal Deposit Insurance Act (12 U.S.C. 1811–1831) is amended by inserting after section 23 the following new section:

"SEC. 24. (a) In order to prevent discrimination against State-chartered insured banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank would be permitted to charge in the absence of this subsection, a State bank may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the bank is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such State bank would be permitted to charge in the absence of this paragraph, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than is allowed by subsection (a) when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the State bank taking or receiving such interest.".

SEC. 203. Title IV of the National Housing Act (12 U.S.C. 1724–1730f) is amended by inserting after section 411 the following new section:

"SEC. 412. (a) If the applicable rate prescribed in this section exceeds the rate an insured institution would be permitted to charge in the absence of this section, such institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidence of debt, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the institution is located, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt has to run.

"(b) If the rate prescribed in subsection (a) exceeds the rate such institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate of interest than that prescribed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of the interest paid from the institution taking or receiving such interest.".

SEC. 204. Subsection (h) of section 308 of the Small Business Investment Act of 1958 is amended to read as follows:

"(h) (1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans and equity funds to small business investment companies to small business concerns.

"(2) In the case of a business loan the principal amount of which is $25,000 or more, the small business investment company making such loan may charge interest on such loan at a rate which does not exceed the lowest of the rates described in subparagraphs (A), (B), and (C).

"(A) The rate described in this subparagraph is the maximum rate prescribed by regulation by the Small Business Administration for loans made by any small business investment company (determined without regard to any State rate incorporated by such regulation).

"(B) The rate described in this subparagraph is the maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(C) (i) The rate described in this subparagraph is the higher of the Federal Reserve rate or the maximum rate authorized by applicable State law (determined without regard to the preemption of such State law).

"(ii) For purposes of clause (i), the term 'Federal Reserve rate' means the rate equal to the sum of 5 percentage points plus the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which the principal office of the small business investment company is located.

"(iii) The rate described in this subparagraph shall not apply to loans made in a State if there is no maximum rate authorized by applicable State law for such loans or there is a maximum rate authorized by an applicable State law which is not preempted for purposes of this subsection.

"(3) A State law shall be preempted for purposes of paragraph (2)(B) with respect to any loan if such loan is made before the earliest of—

"(A) in the case of a State statute, July 1, 1980;

"(B) the date, after the date of the enactment of this paragraph, on which such State adopts a law stating in substance that such State does not want this subsection to apply with respect to loans made in such State; or

"(C) the date on which such State certifies that the voters of such State, after the date of the enactment of this paragraph, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in this subsection.

"(4)(A) If the maximum rate of interest authorized under paragraph (2) on any loan made by a small business investment company exceeds the rate which would be authorized by applicable State law if such State law were not preempted for purposes of this subsection, the charging of interest at any rate in excess of the rate authorized by paragraph (2) shall be deemed a forfeiture of the greater of (i) all interest which the loan carries with it, or (ii) all interest which has been agreed to be paid thereon.

"(B) In the case of any loan with respect to which there is a forfeiture of interest under subparagraph (A), the person who paid the interest may recover from a small business investment company making such loan an amount equal to twice the amount of the interest paid on such loan. Such interest may be recovered in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the most recent payment of interest.".

SEC. 205. (a) In order to prevent discrimination against any financial institution chartered pursuant to the statutes of the United States with respect to interest rates, if the applicable rate prescribed in this section exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, the federally chartered financial institution may in the case of business or agricultural loans in the amount of $25,000 or more, notwithstanding any State constitution or statute, which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any loan, interest at a rate of not more than 5 per centum in excess of the discount rate on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the federally chartered financial institution is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such federally chartered financial institution would be permitted to charge in the absence of this section, and such State fixed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the federally chartered financial institution taking or receiving such interest.

SEC. 206. If any provision of this title or the application of such provision to any person or circumstance shall be held invalid, the remainder of the title and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.

SEC. 207. The amendments made by this title and the provisions of this title shall apply only with respect to loans made in any State during the period beginning on the date of enactment of this Act and ending on the earliest of—

(1) in the case of a State statute, July 1, 1980;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title and the provisions of this title to apply with respect to loans made in such State; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act, have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which prohibits the charging of interest at the rates provided in the amendments made by this title and the provisions of this title.

SEC. 301. Section 19 of the Federal Reserve Act (12 U.S.C. 461 et seq.) is amended by inserting after subsection (j) the following new subsection:

"(k) No member bank or affiliate thereof, or any successor or assignee of such member bank or affiliate or any endorser, guarantor, or surety of such member bank or affiliate may plead, raise, or claim directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member bank or affiliate or to any other person.".

SEC. 302. Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by inserting after subsection (j) the following new subsection:

"(k) No insured nonmember bank or affiliate thereof, or any successor or assignee of such bank or affiliate or any endorser, guarantor, or surety of such bank or affiliate may plead, raise, or claim, directly or by counterclaim, set off, or otherwise, with respect to any deposit or obligation of such bank or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such bank or affiliate or to any other person.".

SEC. 303. Section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) is amended by inserting after subsection (d) the following new subsection:

"(e) No member or nonmember association, institution, or bank or affiliate thereof, or any successor or assignee, or any endorser, guarantor, or surety thereof may plead, raise, or claim, directly or by counterclaim, setoff, or otherwise, with respect to any deposit or obligation of such member or nonmember association, institution, bank, or affiliate, any defense, right, or benefit under any provision of a statute or constitution of a State or of a territory of the United States, or of any law of the District of Columbia, regulating or limiting the rate of interest which may be charged, taken, received, or reserved, and any such provision is hereby preempted, and no civil or criminal penalty which would otherwise be applicable under such provision shall apply to such member or nonmember association, institution, bank, or affiliate or to any other person.".

Sec. 304. The amendments made by this title shall apply only with respect to deposits made or obligations issued in any State during the period beginning on the date of the enactment of this Act and ending on the earliest of—

(1) in the case of a State statute, July 1, 1980;

(2) the date, after the date of the enactment of this Act, on which such State adopts a law stating in substance that such State does not want the amendments made by this title to apply with respect to such deposits and obligations; or

(3) the date on which such State certifies that the voters of such State, after the date of the enactment of this Act have voted in favor of, or to retain, any law, provision of the constitution of such State, or amendment to the constitution of such State which limits the amount of interest which may be charged in connection with such deposits and obligations.

Sec. 401. Effective at the close of the day preceding the date of enactment of this title, the Act entitled "An Act to authorize on a temporary basis certain business and agricultural loans, notwithstanding interest limitations in State constitutions or statutes, and for other purposes" (Public Law 96–104), and the amendments made by such Act, are repealed, except that—

(1) the amendments made by title I of such Act and the provisions of such title shall apply to any loan made in any State on or after November 5, 1979, but prior to such repeal; and

(2) the amendments made by title II of such Act shall apply to any deposit made or obligation issued in any State on or after November 5, 1979, but prior to such repeal.

Sec. 402. Notwithstanding any other provision of title II or III of this Act, subject to sections 207 (2) and (3) and 304 (2) and (3) of this Act and section 308(h)(3) (B) and (C) of the Small Business Investment Act of 1958, the provisions of titles II and III of this Act shall continue to apply until July 1, 1981, in the case of any State having a constitutional provision regarding maximum interest rates.

Mr. PROXMIRE. Mr. President, H.R. 4998 requires the Federal Reserve to maintain detailed records of open market committee meetings and to publish them on a deferred basis. I favor this legislation because it is in the public interest to require the Federal Reserve to keep such minutes.

There is some controversy—which I hope can be cleared up in the future—over the question of the timing of the release of the minutes. Because this matter cannot be settled today, I propose to strike all but after the enacting clause of H.R. 4998 and to substitute for the House passed bill provisions—that is what the amendment does, and it is imperative that we act on this and act on it promptly—which will extend for 90 days the authority of credit unions to offer share drafts, savings and loan associations to operate remote service units and banks to offer automatic transfers from savings to checking.

Mr. President, all of these services are meritorious and consumers overwhelmingly support them. Indeed, the Senate authorized these services in H.R. 4986, the Depository Institutions Deregulation Act, on November 1, 1979 by a vote of 76 to 9.

Unfortunately, the House conferees state they need time to address the Reg Q issue in hearings in February. Therefore, no resolution of H.R. 4986 can be arrived at by the end of this year. Without this legislation the authority of financial institutions to offer these services will terminate.

With the passage of this legislation Congress is on record as favoring share drafts, automatic transfers from savings to checking and remote service units for savings and loan associations. The regulatory agencies therefore should take no action to terminate the ability of financial institutions to offer these services.

The substitute will also provide the usury preemption provisions respecting business and agricultural loans and home mortgage loans which have been previously passed by the Senate. Each one of these preemption provisions is for a limited duration: Until July 1, 1980 for State laws applicable to business and agricultural loans; until July 1, 1981 for State constitutional provisions applicable to business and agricultural loans; and 6 months for home mortgage loans.

I hope my colleagues will support this legislation which will maintain the existing situation until the conferees can arrive at a constructive solution to overall financial deregulation.

Mr. GARN. Mr. President, I support this legislation. It would extend the date imposed by the U.S. Court of Appeals in the case involving automatic transfers from savings accounts to checking accounts at commercial banks, remote service units at savings and loan associations and share drafts at credit unions. The court had ruled last April that the bank regulatory agencies had no authority to approve these financial services in the absence of Federal legislation. The court gave Congress until January 1, 1980 to authorize these services in the Federal statutes. This legislation extends that date to March 31, 1980.

It is unfortunate that we are considering this legislation at this time. I had hoped that the House and Senate conferees to H.R. 4986 could have reached agreement on that bill and that a more comprehensive piece of legislation, such as that approved by the Senate earlier, could now be sent to the President for his signature. Unfortunately, the conferees have been unable to agree on the fundamental issue of phasing out regulation Q interest rate ceilings. The provision phasing out regulation Q is a very important feature of H.R. 4986, as passed by the Senate, and without agreement on this provision I do not believe it is possible to obtain agreement with the House on the other important features contained in that bill.

The House conferees have indicated that they need more time to consider regulation Q before agreeing to phasing it out. The temporary extension of the date in the court case will give them an adequate amount of time to hold hearings on this issue. In fact, the House conferees have agreed to hold hearings early next year. The temporary extension of the court-imposed date will give them the time they need to hold those hearings and allow them to return to the conference so that the issues in H.R. 4986 can be resolved early in the next session of Congress. In the meantime, the temporary extension of the date in the court case will allow the financial institutions involved to continue offering these financial services to the public until March 31, 1980.

I want to make it clear that I do not believe that an extension of the court date beyond that would be warranted. Both the House and the Senate have considered regulation Q many times in the past, and it is very clear to me that it is time for Congress to decide its future. The case for retaining regulation Q is not a very strong one. For one thing, it is amply clear that regulation Q does not work. Regulation Q ceilings cause disintermediation whenever market interest rates rise above those ceilings, resulting in a loss of funds to depository institutions and the customers they serve. In particular, those institutions are losing funds to the unregulated sectors of the financial system, such as the money market funds. And, unless Congress is willing to impose rate ceilings on those sectors of the financial system, a step I certainly would not support, the Nation's depository institutions will continue losing funds to those unregulated sectors of the financial system whenever interest rates rise. In addition, the interests of small savers are not being served by regulation Q, which prevents them from earning a market rate of interest on their savings at the depository institutions which operate under those ceilings. Finally, the other types of financial powers which depository institutions need to remain competitive in today's economy cannot be extended to them until the regulation Q issue has been resolved. To do so would violate the principle that all institutions offering similar types of financial services to the public should compete on the same equitable basis.

I am also disappointed that the Senate has not yet had the opportunity to consider the so-called Fed membership issue in this session of the Congress. The House has a provision dealing with this issue in its version of H.R. 4986, but the Senate does not. The Senate Banking Committee held one day of markup on this issue, but it has failed to complete its consideration of that issue. It is evident to me, based on that one day of markup, that there is a great deal of sympathy for a solution to the Fed membership issue which retains the existing voluntary system of Federal Reserve membership. Such a solution is contained in S. 353, a bill proposed by Senator Tower. Nevertheless, I am hopeful that the committee will consider this issue early next year, and I believe that Chairman Proxmire is prepared to hold additional hearings on the Tower bill and proceed with a markup on that legislation at the earliest possible date.

This legislation would also override State usury laws as they apply to mortgage loans and business and agricultural loans in excess of $25,000. The Senate has already approved on a rollcall vote of 73 to 13, such an override in the case of agricultural and business loans as part of H.R. 4986. This was pursuant to an amendment sponsored by Senator COCHRAN as modified by Senator EXON. I am always reluctant to override State laws in any form, but in both cases this legislation is temporary and gives the States the opportunity to overturn this legislation if they so desire. In addition, it is clear that extraordinary circumstances presently exist in financial markets, and presently high interest rates are resulting in distortions in the flow of credit in those States where usury ceilings apply. For those reasons, I reluctantly support those provisions overriding these State usury laws.

I would only add that I hope the House would act expeditiously on this to alleviate the fears of many of the savings and loans, particularly the credit unions and the share drafts, of worrying about this deadline on January 1. It would cause some severe problems. I hope the House of Representatives would act rapidly on this, so that those fears can be alleviated.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin (Mr. PROXMIRE).

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, when the Senate Banking Committee and the full Senate in October considered H.R. 4986, legislation which substantially reforms the financial institution framework in the United States, I voted against the bill because it was too sweeping, and its direct and indirect consequences were not fully understood.

I also believed that it would be virtually impossible to reach agreement with the House on all the thorny issues raised by the Senate bill—thus raising the specter of an impasse on those issues which Congress must resolve this year.

So I am pleased the House-Senate conferees have recommended this approach which avoids revamping, in the closing hours of this session, the Nation's financial institutional structure without benefit of consulting those most affected by the changes.

There are many provisions in the original Senate bill which merit serious consideration. In the next 3 months, I look forward to working with the House and Senate conferees in writing a final bill.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time and passed.

The title was amended so as to read:

An act to authorize temporarily the automatic transfer of funds, remote service units, and share draft accounts, and for other purposes:

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. GARN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, have any orders been entered in the RECORD for recognition of Senators tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10 o'clock tomorrow morning. After the two leaders have been recognized, under the standing order, the Senate will then resume consideration of the unfinished business, and rollcall votes are expected.

The PRESIDING OFFICER. Without objection, it is so ordered.

A SPECIAL SENATE BIRTHDAY GREETING

Mr. ROBERT C. BYRD. Mr. President, even in the close fellowship that the Senate often affords, it is possible that important events in the life of an individual Senator may slip past his colleagues unheralded. This is regrettable, for it is good, I believe, that we take note and mark the festive occasions in the lives of our friends.

Today, for example, I want to call attention to the fact that December 10 is the birthday of our distinguished colleague from New Jersey, Senator HARRISON "PETE" WILLIAMS. Senator WILLIAMS is, in my opinion, one of the outstanding Members of this body, and I think that it is appropriate that the Senators know that this is an auspicious day for him, and that we have an opportunity to extend him the warm greetings he deserves.

Senator WILLIAMS is serving his fourth term in the Senate. Before being elected Senator from New Jersey in 1958, he was a Member of the House of Representatives. I served with Senator WILLIAMS in the House of Representatives on the Foreign Affairs Committee of that body.

If one examines his legislative record since entering the Senate, one may find there perhaps one of the most enviable and sensitive lists of accomplishments among us. Senator WILLIAMS has authored or sponsored legislation concerning labor, occupational safety, transportation, education, housing and community development, the elderly, urban problems, and many other vital issues. Throughout his career, he has shown a deep interest in solving the problems of contemporary America, and in adopting legislation to the needs of all our citizens across this country.

He earned academic degrees at Oberlin, Georgetown, and Columbia.

I have served in the Senate with Senator WILLIAMS since 1958, and as I said, before that, we worked together in the House. I want to let him know that I count it a privilege to have enjoyed his friendship all these years, and that I am sure I speak for every Senator in wishing him the happiest birthday possible and many more just like it in the years to come.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. Mr. President, I might add to the statement of my good friend from West Virginia that we were notified that there was going to be a party held for Senator WILLIAMS which he was not aware of, a surprise party. Many of us would have liked to have gone, but we were busy here on the floor. I join with the Senator from West Virginia. I am sorry I was not able to attend that party for our good friend from New Jersey.

I have traveled many times with him and his good wife Jeanette. They are close personal friends of all of us without regard to politics.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for calling attention to the surprise party, organized by Senator WILLIAMS' lovely wife Jeanette. I, too, wish I had been able to attend but, because of the floor situation, that was not possible.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Chair wishes to exercise the prerogative of the Chair. I join the Senator from West Virginia in wishing the Senator from New Jersey birthday greetings in Hawaiian: Hauole la hanau.

THE CHRYSLER BILL

Mr. METZENBAUM. Mr. President, within the next few days, the Senate will begin consideration of legislation designed to help put the Chrysler Corp. on a sound financial footing.

I do not argue with those who believe that, in return for this assistance, Congress has a right to expect from Chrysler the highest standard of managerial and financial responsibility.

I do not argue with those who call for sacrifice on the part of all who want the corporation to survive.

But, Mr. President, I do argue strongly with those who propose to use the Chrysler legislation as a vehicle for inflicting harsh, unfair, and wholly unwarranted punishment upon the rank-and-file union members employed by that ailing corporation.

Last week, the Senate Banking Committee reported a bill which will allow Chrysler to raise $4 billion in new capital. Most experts agree that our third largest auto maker needs this huge amount to survive.

As a Senator from Ohio, where up to 60,000 jobs depend on Chrysler, I know full well the damage and hardship a Chrysler shutdown would cause in my

State and elsewhere. As a businessman, I know that the company desperately needs an infusion of new capital to regain its profitability.

But, unfortunately, the Senate Banking Committee has seen fit to throw a wholly unnecessary provision into the vital financial aid package.

The bill, as reported by the committee, conditions $1.25 billion in Government loan guarantees upon the willingness of those parties who have a direct interest in Chrysler to do some sacrificing too.

That makes sense. If the Government and, thereby, the taxpayers are expected to guarantee over $1 billion in loans to the company, then Chrysler creditors, stockholders, employees, dealers, and suppliers should also be ready to pitch in. That is only fair.

What is not fair is the fact that the Banking Committee's bill places the brunt of the sacrifice squarely on the shoulders of Chrysler workers. According to the committee's scheme, Chrysler employees would be required to forego any salary or benefit increases over the next 3 years in order to save Chrysler an estimated $1.32 billion.

This requirement is unfair, illogical, and unnecessary.

A 3-year wage freeze would cost Chrysler workers about one-sixth of their present purchasing power each year if inflation stays at the current rate. If the inflation rate escalates, as predicted, then Chrysler employees' purchasing power will be even more sharply curtailed.

A 3-year wage freeze would mean that by 1982, Chrysler employees would be making approximately two-fifths less than workers performing similar jobs for other companies.

A 3-year wage freeze would drive highly skilled employees out of Chrsyler and into the employ of Chrysler's competitors. The bill encourages a brain drain. That is not good business sense if our major purpose is to keep Chrysler above water.

The 3-year wage freeze is unnecessary.

The workers, through the recently negotiated UAW/Chrysler contract, have shown that they are ready to make major sacrifices to keep Chrysler operating.

For the first time in the UAW's history, the union negotiated a contract which will give Chrysler workers less than what was agreed upon for workers employed by the other two major auto manufacturers.

The UAW contract will save the Chrysler Corp. $203 million by foregoing certain wage increases for the next 2 years. Under the negotiated contract, Chrysler wages will only be brought in line with those wages paid by the other auto companies during the third year, a time when Chrysler says it will be able to absorb the costs because it will once again be turning a profit.

The Senate Banking Committee's proposal, on the other hand, does not ask for reasonable sacrifices from Chrysler workers. Rather, it punishes them for Chrysler's current financial plight. It provides Chrysler workers with conflicting and ironic messages. It says to them if they want to keep their jobs, then they had better be prepared to take food out of the mouths of their families. And it says to them, Mr. President, that the Senate of the United States is requiring the working men and women of Chrysler to foot the bill for management's past mistakes.

To me, that is unacceptable logic. When the Chrysler package comes before the Senate, I hope that my colleagues will be amenable to an alternative approach.

AFFIRMATIVE ACTION VERSUS EQUAL PROTECTION—I

Mr. HATCH. Mr. President, early this summer, the U.S. Supreme Court announced that racial discrimination was legal. That, in essence, was the meaning of the 5-to-2 decision in the case of Kaiser Aluminum against Weber. Brian Weber, you will remember, had been denied admission to a training program to which his seniority entitled him, because his employer and his union had decided that a certain proportion of the places should be reserved for blacks. Weber was clearly being discriminated against by reason of his color, contrary to the provisions of the 1964 Civil Rights Act, and most specifically contrary to the meaning of the act as defined in the colloquy on the floor of the Senate at the time of its passage. The lower courts upheld his suit. But the Supreme Court reversed them, in a decision that I believe was at once momentous and profoundly, tragically, mistaken.

The Weber case, and the whole issue of affirmative action, has many ramifications. With the indulgence of my colleagues, I propose to explore them over the course of this session. But first I want to say a word about the deafening silence that has greeted this issue from those of us who are elected officials.

We all know that from a political point of view, critcizing affirmative action is thankless. Its partisans are militant, and its opponents—I should more properly say victims—are confused, intimidated, and unaware.

But I believe the reason for our relative quiescence on this issue is more subtle. I think there are many in this Chamber, in the country at large, who have still not realized that affirmative action has nothing to do with the hallowed cause of civil rights. It is not a matter of making a more perfect Union, by extending the benefits of equality before the law to all. It is exactly and precisely the contrary. It is a radical departure from the spirit and genius of the American Constitution, because it denies that all are entitled to the equal protection of the laws, and says instead that what you get depends on who you are.

Mr. President, many states in history have operated upon this principle. Perhaps the most spectacular example in recent times was the Lebanon before the civil war. There, the fruits of office were divided according to a minute calculation of the relative weights of the state's component ethnic and religious factions. Notoriously, the system proved fatally inflexible and unjust. But it was an open and honest attempt to deal with the problem of a heterogeneous population.

However, and this is the point I wish to stress, it is not the American way. Historically, we have believed, in the last analysis, in equality of opportunity and in the workings of freedom to resolve our conflicts. This principle is intrinsic to our law, as well as to our legislation; it is part of our cultural heritage.

What the Supreme Court has done is to begin us upon an entirely different road, one which will lead to the Lebanonization of America, the intrusion of the politics of quotas into every aspect of life, and ultimately to the end of liberty.

This is a grave charge. I make it deliberately. It is incumbent upon us all to think more seriously about the issues raised, be it ever so delicately, in the Weber decision and others like it.

One man who has thought about it, and who has spoken out with exemplary courage, is George Will. Mr. Will is deservedly regarded as the most brilliant entry into the ranks of America's columnists in this generation. Directly after the Weber decision. Mr. Will wrote an essay which succintly made the crucial legal point.

It appeared in the Washington Post on Sunday, July 1.

When the Supreme Court ruled against Weber, Will says, it was ruling against both the literal wording of the 1964 act, and against express commitments made on the floor of the Senate. It was also, of course, ruling against substantial precedent.

As George Will puts it, with his customary restraint:

> The pertinent question is not whether this is a "conservative" or "liberal" court, but whether this is, properly speaking, a court at all.

I commend his article to my colleagues and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, July 1, 1979]

Civil Rights Turned Inside Out

(By George F. Will)

The Supreme Court's 5-to-2 decision in the *Weber* case completes the process of turning the civil-rights impulse inside out, and standing the 1964 Civil Rights Act on its head. The decision affirms, resoundingly, the right to discriminate racially.

Under federal pressure, Brian F. Weber's union and Kaiser Aluminum and Chemical Corp. designed a reverse discrimination plan to eliminate "racial imbalances" in Kaiser's craft work force. The plan reserved for blacks 50 percent of the places in certain training programs. Blacks with less seniority received preference over Weber, who charged that this violated Title VII of the 1964 act, which says:

"It shall be an unlawful employment practice for an employer . . . to discriminate against any individual . . . because of such individual's race . . . to limit or classify his employees . . . in any way which would . . . adversely affect, any individual . . . because of . . . race. . . ."

Having won in two lower courts, Weber lost in the Supreme Court, where the majority argued, incredibly, that a liberal reading of

Title VII must be inappropriate because it conflicts with what the majority insists is the "spirit'" of the act. And because Title VII says it shall not be construed to "require" reverse discrimination, the majority says, against an ocean of contrary evidence that Congress must have meant to "permit" such discrimination.

Justice Rehnquist's dissent, with Chief Justice Burger concurring, relentlessly demonstrates that the majority does violence to the court's previous construction of, and the unambiguous legislative history of, Title VII.

In 1971 in its first construction the court held that "discriminatory preference, for any group, minority or majority, is precisely and only what Congress has prescribed." In 1978, in its most recent construction, the court said: "It is clear beyond cavil that the obligation imposed by Title VII is to provide an equal opportunity for each applicant regardless of race, without regard to whether members of the applicant's race are already proportionately represented in the work force."

Rehnquist demonstrates that what the court previously called Title VII's "uncontradicted legislative history" is unambiguous and contradicts the majority's bizarre contention that Congress intended to "permit" reverse discrimination.

Rep. Emanuel Celler (D-N.Y.), who introduced the 1964 act in the House, said it would "prevent . . . employers from discriminating against or in favor of workers because of race." In 83 days of Senate debate, supporters of the act took pains to refute all other interpretations.

Sen. Hubert Humphrey (D-Minn.), the prime mover, said Title VII forbids actions "based on race." It "provides that race shall not be a basis for making personnel decisions." It "would prohibit preferential treatment for any particular group."

Sen. Thomas H. Kuchel (R-Calif.) said: "Employers and labor organizations could not discriminate in favor of or against a person because of his race . . . The bill . . . is color-blind."

Sens. Joseph S. Clark (D-Pa.) and Clifford P. Case (R-N.J.), floor managers for Title VII: ". . . any deliberate attempt to maintain a racial balance, whatever such balance may be, would involve a violation of Title VII because maintaining such a balance would require an employer to hire or to refuse . . . to hire on the basis of race."

Sen. Harrison A. Williams (D-N.J.): "Both forms of discrimination are prohibited by Title VII. . . . "

Sen. Leverett Saltonstall (R-Mass.): Title VII "provides no preferential treatment for any group of citizens. In fact, it specifically prohibits such treatment." And so on.

Reverse discrimination may be the most direct way of building a black middle class. A black middle class is devoutly to be desired. Nevertheless, it should be promoted lawfully.

Perhaps the court majority has expressed what Congress should have intended in the 1964 act; or what Congress somehow "really" intended but for some reason gave no evidence of intending; or what Congress would intend were it to pass the 1964 act in 1979. But Justice Rehnquist's dissent is unanswerable on what is, or should be, the central point: What does the language of the act and the record of the debate show that Congress actually intended?

Neither the words of the statute, nor words said about it, sustain the majority's social preferences. So the majority baldly asserts that the "spirit" of the act permits what the letter of the act forbids.

The majority opinion is reasoned, but there is precious little judicial reasoning in it. There is reasoning about social justice and how best to achieve it; there is the reasoning of well-intentioned legislators. But the reasoning is not discernibly grounded in a judicial responsibility.

The *Weber* decision suggests that the pertinent question is not whether this is a "conservative" or "liberal" court, but whether this is, properly speaking, a court at all.

THE STRUGGLE FOR RELIGIOUS FREEDOM

Mr. JACKSON. Mr. President, today marks the 31st anniversary of the Universal Declaration of Human Rights, that outstanding pioneering document that spells out a "Bill of Rights" for the human family.

I wish to take the occasion of this anniversary to say a special word on behalf of the countless Christian believers of all denominations who have been suffering for their convictions under tyrannical modern regimes.

The arrival of Pastor Vins and his family dramatized for us all what Baptists may suffer in the U.S.S.R. if they resist Kremlin domination of their congregations.

Nor is the Russian Orthodox Christian exempt. Igor Ogurtsov is now near death. Alexsandr Solzhenitsyn warned this past June:

> During the current months Igor Ogurtsov, a prominent son of the Russian People who sought the development of Russia by Christian means, is irreversibly approaching death. He has already served more than 12 years of uninterrupted severe imprisonment under a merciless regime—and still 8 more years loom before him, a term he will not be able to survive.

Andrei Sakharov has called Igor Ogurtsov "a symbol throughout the world of the struggle for human rights against arbitrariness and illegality."

Today, many thousands of Russian Pentecostals have concluded they cannot carry on what they believe are Christian lives in their motherland—because of educational and professional discrimination, brutal beatings and imprisonment for their faith. Two Pentacostal families—the "Embassy 7" who have been claiming a grudged sanctuary in the American Embassy in Moscow for over a year now—testify to the desperation of many. This spring the U.S. Commission on Security and Cooperation in Europe published the names of 10,000 Soviet Pentecostals who are seeking to emigrate, some even formally renouncing their Soviet citizenship when their applications to emigrate are refused.

Reports indicate that there is a new wave of repression, an increase in persecution, sweeping over believers in the Soviet Union and in parts of Eastern Europe.

In the Soviet Union, recent cases include the arrest of three more Baptists, as reported by Pastor Vins' mother Lidia Vins—apparently because they led a camp for children of imprisoned Baptists. Two Baptist pastors, members of the executive body of unregistered Baptist churches in the U.S.S.R., have just been arrested, Ivan Antonov for so-called "parasitism" and Nikolai Baturin on unknown charges. Pastor Baturin has already served 16 years in labor camps because of his religious activities.

Leading Orthodox activist Father Gleb Yakunin, who has been barred from officiating as a priest since 1965, was arrested November 1, the same day that the homes of five of his colleagues in the Christian Committee for the Defense of Believers' Rights were aggressively searched—one for 6 hours. Two weeks before, 20 KGB officials searched the Moscow apartment of Father Dimitri Dudko, a well-known and popular priest.

In Romania, particularly distressing is the martyrdom of Gheorghe Calciu, an Orthodox priest who was cruelly beaten during 4 months of solitary confinement. He was sentenced this summer to 10 years imprisonment for "transmitting documents to the West" and for his "association with the Free Trade Union of Romanian Workers." This new sentence follows 16 years in prison after the Communist takeover in 1948. In Romania, as in the Soviet Union, Baptist and Pentecostal pastors and activists are the chief sufferers—dozens have been arrested and interrogated this year, others beaten, subjected to economic and educational discrimination or deprived of their churches.

In Czechoslovakia, 11 Catholics have been arrested and are awaiting trial—most of them in connection with clandestine publications, or, like theologian Dr. Josef Zverina, S.J., charged with "obstructing state supervision of the church and religious associations."

In Bulgaria, there are signs of a vigorous religious revival which the Government is meeting with repression. Five Pentecostals active in the distribution of Bibles have just been given heavy fines and 3- to 6-year prison sentences.

The bright promise of the Universal Declaration of Human Rights has not been realized. Abuses of human rights form a sad, continuing chronicle of injustice, stupidity, and suffering. If the U.S. Government and its people do not stand up for human rights, there is little prospect that nations whose governments are based on the denial of key rights will make even a minimal effort to comply with internationally recognized standards, including the right to religious freedom.

We in the Congress have particularly emphasized the right to emigrate—the lifesaving liberty of last resort, which is at the heart of the Universal Declaration of Human Rights.

The Jackson-Vanik amendment—with 72 cosponsors—passed the Senate as title IV of the Trade Act of 1974. The amendment supports the right to emigrate without regard to race, faith, or destination. It was designed in part to provide an escape route for Christians and Jews and others who can no longer tolerate, or are not tolerated by their own governments.

Romania, Hungary, and the People's Republic of China have accepted the terms of the Jackson-Vanik initiative. It has been a factor in the successful emigration of thousands and thousands who felt obliged to leave their homelands. And in the case of the Soviet Union, which has not met the requirements of the law, the amendment is proving indispensable leverage in the ongoing bargaining for freer emigration.

The struggle for elementary personal

rights goes on. In this struggle, all Americans can play a part.

On this 31st anniversary of the Universal Declaration of Human Rights, I recall the wise words of Valery Chalidze, who was himself summarily exiled from the Soviet Union. Chalidze said he could not be sure what steps would be most helpful to those striving for their basic freedoms. But, he added, "I only know that they will not be helped by silence."

FEDERAL RESERVE BOARD ACTION INSUFFICIENT

Mr. HELMS. Mr. President, the recent action of the Federal Reserve Board to slow the rate of money supply growth is obviously necessary if inflation is to be stemmed.

However, it is also obvious that politicians who say they are against inflation must back up their words with actions. That is, they must stop voting for massive deficits our Federal Government is incurring, and they must support monetary reform to prohibit the monetary authority from monetizing growing debts.

Recently Elgin Groseclose, a renowned economist and scholar, wrote a letter to the editor of the New York Times. Unfortunately, the editors of that newspaper declined to publish the Gloseclose letter. Nevertheless, I feel that its truth should be a matter of record.

Therefore, I ask unanimous consent that the letter be printed at this point in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Institute for Monetary Research, Inc.
Washington, D.C., October 17, 1979.

The Editor,
Letters to the Editor,
The New York Times,
New York, N.Y.

Dear Sir: The government's efforts to contain the inflation are like a man carrying a torch and a water bucket through a field of standing grain. With one hand he sets the field afire, with the other he attempts to douse it from his bucket.

The response to the Federal Reserve's actions to curtail the supply of bank credits has been a rise of interest to unprecedented levels the result of which will be inflationary on all prices, since in our credit-debt economy, interest is a significant factor at every stage in the costs of production.

If a home developer has to pay 12 per cent for his construction loan he must price the finished house at a figure that will cover his increased interest cost. All the elements of the house are similarly affected. Since it takes time to grow the timber, to harvest it, to mill it into planks, a money cost accumulates at the going interest rate, and rising interest rates have a compounding effect on the end cost. For industry with a long time lag in the production process, the interest cost can be substantial—as in the case of public utility generating plants or a Washington subway system.

Credit contraction will no doubt deter, or prohibit, some business activities, particularly the less efficient, but with a double consequence. In one case a reduction will follow in the market supply—houses for example—with scarcity developing, and bidding up of prices from unsatisfied demand. This effect occurs particularly with items of necessity—housing to provide for an increasing population, public utility expansion, energy, and public services. Thus, while contracting business will lower or eliminate the income of many wage earners, salaried persons and business owners, it will force upward the cost of living.

Meanwhile government itself pushes interest rates higher by its insatiable demands on the market to finance its chronic deficits. Like the biggest porker at feeding time, once a week in its bill offerings the Treasury pushes weaker risks—and not so weaker, like IBM—to the far end of the credit trough while it gobbles up the available supply.

At the same time, government pushes general prices higher by its own deficit spending, which bears primarily on the consumption sector while the productive sector is being squeezed by high interest rates.

The correct cure for inflation is first to curtail government spending by relieving the demand both for goods and services and for credit. Beyond that a fundamental monetary reform is required—the cessation of monetizing the public debt through the Federal Reserve. The Federal Reserve, or any agency of government, should be prohibited from issuing paper currency against Treasury obligations, and the Federal Reserve should be returned to its original function of financing only short term, self-maturing credit needs of the market. The Federal government should be forbidden, as are the states by the Constitution, to "emit bills of credit, or to make anything but gold and silver coin a tender in payment of debt".

The correct principle was stated in 1877 by the government of India in resistance to efforts to introduce paper money into India and to suspend the free coinage of silver rupees that for centuries had been the media and standard of deferred payments, and store of value:

"A sound system of currency must be automatic or self-regulating. No civilized government can undertake to determine from time to time by how much the legal tender currency should be increased or decreased, nor would it be justified in leaving the community without a fixed metallic standard of value, even for a short time."

Regrettably, the British government did not accept this standard of integrity; it began the issue of paper currency, a process which was a major influence in the break-up of the British overseas empire—as it has already proved to be a cause of decay of U.S. economic power and political influence.

Sincerely,

Elgin Groseclose.

RECENT MARINE CORPS PARTICIPATION IN HUMANITARIAN ACTIVITIES AND DISASTER RELIEF

Mr. HELMS. Mr. President, there is no need for me to reemphasize the importance to the security of the United States and its allies of the Caribbean Sea and the Antilles. A single glance at the map is sufficiently convincing that they command the Atlantic approaches to the Southeastern coast of the United States, the Gulf of Mexico, the Panama Canal and the sea lanes to and from South America.

Already some of these islands and surrounding land masses have come under the influence, if not the domination, of a power hostile to the United States. Obviously, the geopolitical consequences engendered by this shift in the balance of power in that area are too serious to be dismissed as only a minor nuisance created by a Soviet surrogate in search of adventure.

Mr. President, what was once considered to be a focal infection point of subversion in Latin America has now developed into a cancerous growth which has spread down the islands fringing what was once considered to be an American lake. The belated show of strength in the area ordered by the President does not alter the fact that the bastion of the continent has been breached. And it will take more than a token demonstration of resolve to restore the balance and security that the area had enjoyed for several centuries.

While I am sure that my distinguished colleagues are very much aware of the developments in the Caribbean and the amphibious landing exercise conducted by the Marines at Guantanamo, I doubt whether many are aware of the role played by other components of the 2d Marine Division, based at Camp Lejeune, N.C. It was this role which contributed in a decisive, albeit self-effacing way to the thwarting of Cuba's carefully orchestrated plans tc gain ascendancy in some of the island ministates of the Antillean chain.

Just for openers let me state that the Cuban Ambassadors to Jamaica, Grenada and Nicaragua are veteran and skilled intelligence officers identified by witnesses who appeared before the now defunct Subcommittee on Internal Security of the U.S. Senate Judiciary Committee.

Mr. President, in order to get a better grasp of the prevailing mood of the few friends the United States has left in the area, let me quote from an editorial which appeared in the Bridgetown, Barbados Advocate News on October 13, 1979:

> We are going to become a full scale ideological battleground between the advocates of the Soviet-Cuban system of human domination and the supporters of the American or Western leadership in private enterprise and personal liberties. Thus the Soviet presence in Cuba and the appearance of Russian trained intelligence agents in the islands not far from Barbados are harbingers of things to come; sad events which will affect the lives of us in due course.
>
> In the meantime let us not sit back in complacency and view the recent pronouncements by President Carter on Soviet troops in Cuba and the establishment of an American special task force to monitor this development as insurance against further Soviet-Cuban penetration of the region. Let us not forget that we are a long way from Key West and lots of things can happen under the guise of indigenous "Peoples' Revolution" where Uncle Sam would be reluctant to intervene in the absence of visible Soviet troops in situ.

Mr. President, the sad thrust of this editorial is not merely a plea to the United States; it is also a clear warning. We cannot and should not abandon an area where there remains a genuine respect for the United States, respect which is based not on force but the concern shown by this country to the plight of small and impoverished islands which cherish their newly won independence but most of all cherish their human freedoms as we have known them since our own independence.

The aftermath of Hurricane David showed that ill winds are not necessarily the result of nature's forces.

Cuba's new ally, Grenada, was quick in running interference for its mentor when Grenadian Prime Minister Maurice Bishop, escorted by a team of Cuban "advisers" landed in hurricane-devastated Dominica and offered a promise of $5 million in assistance from Havana. To his surprise he was greeted by scores of American flags flying from the few surviving buildings. Tangible and immediate U.S. aid had brought about this rare occurrence, but what really must have galled Bishop and his Cuban friends, upon landing from their floating Trojan horse, was the sight of scores of U.S. Marines, members of a special team of the 2d Marine Division, engaged in what the Marine Corps laconically described as:

> On 1 September, Disaster Area Survey Teams (DAST) were deployed to the island republic of Dominica and the Dominican Republic. The Marine Corps was tasked with providing logistics support to the joint effort of USMC, USN and USAF Forces to restore communications, distribute potable water, evacuate personnel from flood stricken areas and provide helicopter support for medical purposes in addition to assisting reconstruction efforts of bridges and roads.

These operations were supposed to have been completed by November 29, 1979.

One immediate result of our concern in offering immediate aid to Dominica was that its Prime Minister, Oliver Seraphin, not only rejected the blandishments of Cuba's client Grenada to form a coalition of ministates in that area of the Antilles, but ousted two of his Cabinet members who showed pro-Cuban sympathies. In addition to Dominica, Grenada's new dictator Bishop, was wooing neighboring Saint Lucia where leftist Deputy Prime Minister, George Odlum, has repeatedly expressed his disenchantment with the free enterprise system and Western style democracy. It is only a matter time before Mr. Odlum realizes that Cuban bearers of aid are not like the marines. Once the Cubans establish a foothold in foreign soil, no matter under what pretext, they seldom, if ever, leave of their own free will.

The aid to the Dominican Republic had an even more poignant twist, because the Cuban Politburo saw an excellent opportunity to use aid as a way to expand its propaganda offensive in the Caribbean. In a case of overkill, the Cubans sent only token medical supplies to the Dominican Republic. The medicines were accompanied by no less than two ministers, Fernando Vecino Alegret, Minister of Higher Education, and Jose Gutierrez Muniz, Minister of Health. Fernando Vecino Alegret is actually a major general of the Cuban Army and was in command of troops both in Angola and Ethiopia, and had just returned from a survey of "educational" problems in the northern provinces of Nicaragua. General Vecino is the point man of Havana's brand of imperialism and his real mission in the Dominican Republic had nothing to do with aid to the victims of Hurricane David.

It is to credit of Dominican President Antonio Guzman that he saw through the machinations of the Cubans and promptly invoked an article of the Constitution which requires the President's authorization before any foreign aid can be accepted by any political organization. As a result of President Guzman's statement, General Vecino departed disillusioned at the failure of his mission which was, according to official Cuban sources, to "arrange the establishing of an air bridge with the Dominican Republic to facilitate more shipments."

Meanwhile, Mr. President, the U.S. Marines and other U.S. service personnel delivered vast amounts of aid both in terms of food, drugs, and emergency equipment in the communications field. Their helicopters flew hundreds or even thousands of missions, reaching areas where thousands of people were going hungry because the high level of the waters had rendered roads impassable.

Mr. President, the genuine concern of the United States for disaster victims is well known—the countless instances where prompt and substantial aid contributed to the immediate relief of entire populations. Yet I feel obliged to state that seldom, if ever, does the United States receive the recognition its generosity deserves. It is usually the efficient propaganda machine of the Soviets or the Cubans which manages to grab the headlines of the local media after having made just a token gesture of aiding a stricken country.

For this reason I believe it is important to call to the attention of the American people another instance where the Marines landed, not as the invaders portrayed by the Soviet-Cuban propaganda, but as truly concerned human beings ready to help, with their tools and knowhow, in fields far removed from that of combat for which they had been trained.

Jamaica is another example where the Marines sent a bridge company of the 8th Engineer Support Battalion of the 2d Marine Division as part of a joint Marine-Navy Seabee force deployed to Jamaica on August 30, 1979, for reconstruction/disaster relief in the aftermath of Hurricane David. The joint force was tasked to repair and restore bridges, roads, water supplies and various flood control construction projects. The Marine unit was scheduled to depart on or about November 30, 1979 when these projects are completed.

The Jamaican ruling party has very strong ties with Cuba; relations between the two countries are, for all practical purposes, those of client state where Jamaica is concerned. There are Cubans by the hundreds in Jamaica claiming to be advisors in the medical and construction fields. The basic difference between the Marines and the Cubans is that the Marines went to Jamaica with their identity well known while the Cubans prefer to disguise their military background by posing as medics or construction workers. The fact of the matter is that the Cubans are graduates of special military schools geared to train "technicians" for export purposes.

The Cuban Technological Institute "Martinez Villena" which prepares the type of "expert" to be found in the Caribbean, is a typical example. When 100 students graduated after having studied soil conservation, their graduation exercises consisted of giving a demonstration of dexterity in handling Soviet-made multiple rocket launchers. This was done in the presence of Fidel Castro himself who congratulated the graduates for their military aptitude.

Mr. President, because of the Cuban-Jamaican relations, it was typical that not a single word was heard about the presence of our Marines on the island. Yet I am quite sure that, had the Marines been dispatched to Jamaica under different circumstances, the protests and demonstrations against the United States would have been deafening.

Incidentally, Mr. President, in addition to the relief operations that I just mentioned, the Marines provided 20 3,000-gallon water storage tanks to provide water for the Kampuchean refugees in Thailand.

Mr. President, as is customary, the Marines maintained their high standards of readiness even while diverting personnel to assist victims of disasters and, while they are justly proud to show their fighting spirit whenever the need arises, they are just as modest when their humanitarian good deeds are involved. It is for this unassuming quality that I proudly and gratefully commend them—particularly the 2d Marine Division of Camp Lejeune—and call attention to the contribution they have made in the name of the humanitarian principles of the United States.

MESSAGES FROM THE HOUSE

At 3:29 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 5079) to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes, requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. ZABLOCKI, Mr. FOUNTAIN, Mr. FASCELL, Mr. BINGHAM, Mr. BONKER, Mr. PEASE, Mr. BARNES, Mr. WOLPE, Mr. BROOMFIELD, Mr. LAGOMARSINO, Mr. FINDLEY, and Mr. GILMAN were appointed as managers of the conference on the part of the House.

The message also announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4943) granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects.

ENROLLED BILLS SIGNED

The message further announced that the Speaker has signed the following enrolled bills:

H.R. 3892. An act to amend title 38, United States Code, to extend the authorizations of appropriations for certain grant programs and to revise certain provisions regarding such programs, to revise and clarify eligibility for certain health-care benefits, to revise certain provisions relating to the personnel system of the Department of Medicine and Surgery, and to assure that personnel ceilings are allocated to the Veterans' Administration to employ the health-care staff for which funds are appropriated; to require the Veterans' Administration to conduct an epidemiological study regarding veterans exposed to agent orange; and for other purposes;

H.R. 5163. An act to authorize the sale to certain foreign nations of certain excess naval vessels; and

H.R. 5651. An act to establish by law the position of Chief of the Capitol Police, and for other purposes.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 934. An act for the relief of Brian Hall and Vera W. Hall (Rept. No. 96-471).

H.R. 4612. An act to amend title XVI of the Social Security Act to maintain for an additional three years the current program of preventive services, referral, and case management for disabled children receiving SSI benefits (Rept. No. 96-472).

By Mr. BUMPERS, from the Committee on Energy and Natural Resources, with amendments:

S. 1850. A bill to authorize the conveyance of lands in the city of Hot Springs, Ark. (Rept. No. 96-473).

CHANGE OF REFERRAL—S. 2101

The Committee on Labor and Human Resources was discharged from the further consideration of S. 2101, a bill to authorize the use of certain mail for the transmission or service of matter which, if mailed, is required by certain Federal laws to be transmitted or served by registered mail, and for other purposes, and the bill was referred to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WEICKER (for himself, Mr. HAYAKAWA, Mr. SCHMITT, and Mr. PRESSLER):

S. 2104. A bill to increase export opportunities for small businesses; to the Select Committee on Small Business and, if and when reported, to the Committee on Banking, Housing, and Urban Affairs, by unanimous consent.

By Mr. PROXMIRE (for himself, Mr. STEVENSON, and Mr. HEINZ):

S. 2105. A bill to delegate the functions of the Secretary of Transportation under section 3 of the Urban Mass Transportation Act of 1964 to the Urban Mass Transportation Administrator; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. LONG:

S. 2106. A bill for the relief of Mrs. Stella Marie Deignan; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 2107. A bill for the relief of Estefania Tolentino; to the Committee on the Judiciary.

S. 2108. A bill for the relief of Sushma Sidh; to the Committee on the Judiciary.

S. 2109. A bill for the relief of Suresh Sidh; to the Committee on the Judiciary.

S. 2110. A bill for the relief of Sushant Sidh; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WEICKER (for himself, Mr. HAYAKAWA, Mr. SCHMITT, and Mr. PRESSLER):

S. 2104. A bill to increase export opportunities for small businesses; to the Select Committee on Small Business and, if and when reported, to the Committee on Banking, Housing, and Urban Affairs, by unanimous consent.

SMALL BUSINESS EXPORT DEVELOPMENT ACT OF 1979

● Mr. WEICKER. Mr. President, today I am introducing the Small Business Export Development Act of 1979 to encourage and assist small businesses to become active in export markets. Today only 250 firms account for 85 percent of all U.S. exports; yet the Department of Commerce estimates that 20,000 firms have the potential to export successfully. Of these companies with export potential, 18,000 are small and medium-sized firms.

There is an increasing awareness in this country that the answers to many of our economic problems lie with a successful and competitive small business sector. Yet, although small business accounts for 43 percent of the gross national product, virtually all new private sector employment, at least 50 percent of all major innovations, and are recognized to be the most productive sector in our economy, they still account for no more than 10 percent of U.S. exports.

Hearings held by the Senate Small Business Committee in September provide a clear picture of the frustrations encountering small businesses that attempt to gain entrance to export markets. They are confronted by a government uninterested and unable to provide small businesses the very basic tools necessary to a successful export operation. Not only do they meet obstacles at every turn, they are confronted with export "assistance" programs that fail to provide needed assistance.

The September hearings of the Small Business Committee on small business and exports pointed out that one of the most pressing problems facing small businesses is access to accurate and complete export information.

Currently, the Department of Commerce is the Federal clearinghouse for export information. However, many small businesses are not even aware that information and assistance is available. Small businesses that are aware such information exists have experienced great difficulty in obtaining the information in a readily usable form.

In addition, the Small Business Administration, whose statutory mission is to assist small business, is unfortunately of little use to those small firms endeavoring to market their products internationally.

In fiscal 1979, SBA employed only two full-time experts and spent less than $200,000 or approximately one-tenth of 1 percent of its total salary and expense budget to promote small business exports.

Because of these inadequacies, a small business person who today goes to SBA for export information usually gets no answers to his questions and, more often than not, is simply referred to another agency—referred and put off and given useless pamphlets and made a victim of our Government's inability to place an appropriate emphasis on export promotion.

Mr. President, section 101 of this bill amends the Small Business Act to substantially upgrade the export promotion activities of the Small Business Administration.

Through its network of 110 field offices, SBA has the capability to provide localized assistance to small businesses. Section 101 will establish within the SBA the newly created position and function of the export development specialist, who will be assigned to each of the agency's regional offices. The role of these specialists will be to counsel these businesses on exporting procedures and problems, assist these businesses in their dealings with other Federal agencies and advise them concerning available export programs and resources. With these personnel in the field, SBA's field office network can be used effectively for the delivery of export information.

Section 101 would also expand SBA's central office function by increasing the authorization for the Office of International Trade to $1.5 million. This represents a 600-perecnt increase over the resources currently being devoted to this function. Yet, the dollar figure is not that great. With this additional funding SBA can effectively improve the delivery of export information and assistance to the small business sector.

It should be emphasized that SBA's efforts can only be successful if there is greater cooperation between that agency and other Federal departments and agencies, especially the Department of Commerce. I do not expect SBA to duplicate efforts of the Commerce Department in collection of export information. However, I do expect the Commerce Department to cooperate with SBA in making information available to small businesses through SBA's network of field offices. Through such cooperation small businesses will gain increased access to vital information without which a successful export effort is impossible.

Mr. President, title II of this bill deals extensively with the role of commercial attachés and other overseas personnel in the collection of export information. Unlike most established U.S. exporters with large overseas marketing staffs and established relationships with international financial institutions that provide information on overseas marketing conditions and the creditworthiness of potential overseas buyers, smaller firms just beginning their efforts to export cannot afford in-house personnel to perform similar functions. They must rely on the Government. The commercial attachés are these small businesses "eyes and ears" overseas.

The President's trade reorganization plan, recently approved by the Congress, takes a major first step in insuring greater responsiveness from commercial attachés and other overseas export oriented personnel, by transferring them from the Department of State to the Department of Commerce. This transfer means that for the first time, domestic and overseas staffs responsible for export promotion will be located in the same department.

At present, information provided by attachés is often unresponsive, untimely and inaccurate. The American exporter who enters into a sales agreement without the benefit of complete and timely information on market conditions, economic climate and the general commercial standing and credit-worthiness of the overseas buyer, is taking a substantial risk. This business would never take such a risk selling domestically, and should not be expected to take such a risk when he sells internationally.

Under title II attachés and other overseas personnel involved in export promotion would be required to participate in extensive training prior to assignment overseas. This training would include a period when attachés would be assigned to regional offices of the Commerce Department to work with businesses needing export assistance. In addition, the Secretary of Commerce is authorized to reassign attachés to duty posts in the United States for a period of up to 3 years. By requiring such training, and authorizing reassignment domestically, commercial attachés will be given a better understanding of the role they play in developing exports of U.S. businesses.

In addition, title II requires attachés to file semiannual reports with the Secretary of Commerce concerning economic and marketing conditions in the countries to which they are assigned. This will provide a consistent system to insure the regular flow of information to U.S. businesses. These reports will include information concerning:

Trade opportunities on an industry-by-industry basis;

Opportunities for exporting under provisions of multilateral and bilateral trade agreements;

Specific industry and commodity conditions; and

Foreign law and business practices.

Commercial attachés will also be required to maintain and make available current data on the commercial capacity and capabilities of foreign firms.

Mr. President, section 102 of title I of this bill amends the Small Business Act to give SBA the authority to make grants to States or other qualified applicants to establish small business export development programs. States, which are more localized in their approach to problem-solving than Federal programs, are in many instances, more sensitive to the economic needs of their area and of businesses within them. Accordingly, it makes sense for States to play a greater role in providing export assistance.

Under this program, grants would be made on a 50 to 50, Federal/State match basis; in no case would the Federal share exceed $150,000.

Based on the highly successful program of the Massachusetts Port Authority, developed in conjunction with the Smaller Business Association of New England, these programs would provide qualified small businesses with a broad-range of services. Assistance would be provided in the following areas:

Determining a small business' export potential through market identification and analysis;

Counseling small businesses in export pricing, financing, insurance, shipping, documentation and foreign business customs;

Identifying and contacting potential foreign customers and distributors for a small business' products; and

Arranging and sponsoring foreign trade missions for participating small businesses to meet with potential buyers, distributors, sales representatives and organizations interested in licensing and joint ventures.

In order to fully evaluate the appropriate role for States and other more localized entities in this Nation's export promotion efforts, SBA is required to report on the success of these programs in increasing small business exports. Until the programs are evaluated, and the report complete, grants will be limited to 10 programs, one located in each of SBA's 10 regions.

Title III establishes within the Executive Office of the President a National Export Council. This advisory committee would take the place of the current President's Export Council and would be the primary advisory committee on export matters and Government export promotion efforts.

If small businesses are to export successfully, they must have a voice in developing export policies and programs. Therefore the membership of the National Export Council will include at least five small business persons who have actively participated in exporting. In addition, together with other heads of Federal departments and agencies, the Administrator of the Small Business Administration will be a member of the Council.

Mr. President, according to a recent survey conducted by Egon Zehnder International, a major international consulting firm, the United States is rated as one of the countries doing the poorest job of promoting its exports. When asked to identify the two countries which did the worst job in export promotion, 57 percent of the respondents named the United States as one of their choices, a larger percentage than any other country. The second most often cited country was the Soviet Union mentioned by 41 percent of these international executives. These are certainly not comforting statistics.

In the past, U.S. domestic markets were sufficiently large to accommodate business expansion, and our healthy economy did not require a consistent export promotion effort. However, since World War II, an increasing amount of U.S. dollars have been going overseas. The most obvious example of this trend is U.S. purchases of foreign oil which sent $42 billion overseas in 1978 alone and contributed to a $28.5 billion trade deficit.

This deficit, coupled with a domestic economy characterized by lagging productivity, increased economic concentration, and ever-increasing inflation, have forced the U.S. Government to reevaluate its trade promotion efforts. This reevaluation is healthy, but we must recognize that trade promotion cannot be based on cyclical economic factors. This country needs a consistent, systematic and permanent export promotion policy—a necessity for our continued economic growth and our position in world leadership.

Small businesses can account for a large part of U.S. exports and play a major role in improving economic conditions in our country. The contributions of small business to our economy are well documented. If we, as a nation, want this contribution to continue, we must provide small businesses with the tools necessary to successfully compete against larger established businesses. The Small Business Export Development Act will significantly increase small businesses' ability to compete in overseas markets, and in turn, aid the domestic economy through increased employment and productivity.

Mr. President, I ask unanimous consent that the text of the bill to be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2104

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Small Business Export Development Act of 1979".

SEC. 2. (a) The Congress finds and declares that—

(1) a strong export policy is essential to the health and well being of the United States economy;

(2) exports of goods and services, which will surpass $250 billion in 1979 account for one out of every six jobs in the manufacturing sector and ten percent of the gross national product;

(3) every billion dollars in new exports is estimated to provide 40,000 jobs;

(4) there is increased and fierce competition in international markets to United States goods and services;

(5) small businesses, which account for 43 percent of the gross national product, account for no more than ten percent of all United States export sales;

(6) federal government programs are not responsive to the needs of small business for export education and development of overseas marketing opportunities necessary to insure that small businesses realize their potential; and

(7) it is in the national interest to systematically and consistently promote and encourage small business participation in international markets.

(b) It is therefore the purpose of this Act to encourage and promote exporting by small businesses by—

(1) providing educational and marketing assistance to small businesses;

(2) insuring better access to export information and assistance by upgrading and expanding the export development programs of the Small Business Administration;

(3) upgrading and expanding the export development services of the Department of Commerce, making them more responsive to the needs of small businesses; and

(4) establishing a National Export Council which shall advise the President and the Congress on matters of export trade and make recommendations for expanding United States exports.

TITLE I—SMALL BUSINESS ADMINISTRATION EXPORT DEVELOPMENT PROGRAMS

SEC. 101. OFFICE OF INTERNATIONAL TRADE.

The Small Business Act is amended by redesignating sections 16 through 21 as sections 17 through 22, respectively, and by inserting after section 15 the following new section:

"SEC. 16 (a) There is established within the Administration an Office of International Trade, which shall implement the programs pursuant to this section.

"(b) This office shall promote sales opportunities for small business goods and services overseas. To accomplish this objective the Office shall—

"(1) provide small businesses with access to current and complete export information by—

"(A) making available, at the Administration regional offices, through cooperation with the Department of Commerce, export information, including, but not limited to, the World Information and Trade System and World Trade Data Reports;

"(B) preparing and publishing quarterly reports concerning market conditions, sources of financing, export promotion programs and other information pertaining to the needs of small exporting firms. These reports shall be made available to all Administration field offices for distribution to small businesses;

"(C) maintaining a current list of financial institutions that finance export operations; and

"(D) compiling a current directory of all federal, regional, state and private sector programs that provide export information and assistance to small businesses.

"(2) provide assistance to states and other entities through the small business export development grant program authorized under section 7(d)(3);

"(3) promote through cooperation with the Department of Commerce, greater small business participation in trade fairs, shows, missions and other domestic and overseas export development activities of the Department of Commerce; and

"(4) provide technical advice to Administration personnel involved in granting loans, guarantees and providing other forms of assistance to small businesses engaged in exports.

"(c) To facilitate delivery of export information and assistance to small businesses, export development specialists shall be assigned to each Administrative regional office. Such specialists shall—

"(1) assist small businesses in obtaining export information and assistance from other federal departments and agencies;

"(2) maintain a current directory of all programs which provide export information and assistance to small businesses within the region;

"(3) encourage financial institutions to develop and expand programs for export financing; and

"(4) counsel small businesses interested in pursuing export sales, including the providing of information concerning available financing, credit insurance, tax treatment, export duties, potential markets and marketing assistance, and other pertinent information.".

SEC. 102. SMALL BUSINESS EXPORT DEVELOPMENT GRANTS.

Section 7(d) of the Small Business Act is amended by adding at the end thereof the following new paragraph—

"(3)(A) The Administration is authorized to make grants to any State government or other entity (herein referred to as the "applicant") to assist in establishing and operating small business export development programs. These programs shall provide information and assistance to small businesses concerning export financing and credit insurance, marketing, management companies, export associations, trading companies, tariff barriers, duties, licensing, overseas buyers and foreign travel. The Administration shall require as a condition to any grant made pursuant to this paragraph that the applicant has already established an overseas office which shall provide the necessary coordination and assistance to successfully operate a small business export development program.

"(B) Grants made pursuant to this paragraph shall not exceed 50 percent of the total cost of a small business export development program, and in no case shall exceed $150,000 in any one year. During the two fiscal years immediately following enactment of this paragraph, the Administration shall limit grants hereunder to one applicant located in each of their ten regions.

"(C) An applicant may apply to participate in the program by submitting to the Administration for approval a plan which shall include—

"(i) the geographical area to be served by the program;

"(ii) the number of firms to be assisted;

"(iii) the domestic and overseas staff required to administer the program;

"(iv) a description of other existing export programs and resources available to the applicant and their proposed utilization in establishing the program; and

"(v) procedures for accomplishing the following:

"(1) determining a small business' export potential through market identification and analysis;

"(2) counseling small business in export pricing, financing, insurance, shipping, documentation and foreign business customs;

"(3) identifying and contacting potential foreign customers and distributors for a small business' products; and

"(4) arranging and sponsoring foreign trade missions for participating small businesses to meet with potential buyers, distributors, sales representatives and organizations interested in licensing and joint ventures.

"(D) The Administration shall develop a plan to evaluate programs approved under this paragraph which shall—

"(1) determine the impact of small business export development programs on small business;

"(2) determine the amount of export sales generated by small business export development programs;

"(3) make recommendations concerning continuation and/or expansion of the program and possible improvements in the program structure.

For the purpose of this evaluation, the Administration is authorized to require any small business export development program or party receiving assistance under this paragraph to furnish it with such information as it deems appropriate. Such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by October 1, 1982.

"(E) The authority under this section expires on October 1, 1983.".

SEC. 103. AUTHORIZATIONS.

Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections—

"(h) There are authorized to be appropriated to the Administration $1,500,000 for each fiscal year 1981, 1982 and 1983 to carry out the program provided for in section 7(d)(3) of this Act.

"(i) There are authorized to be appropriated to the Administration $750,000 for fiscal year 1980 and $1,500,000 for each fiscal year 1981, 1982 and 1983 for the purpose of carrying out the programs authorized by section 16 of this Act.

TITLE II—COMMERCIAL MINISTERS, COMMERCIAL COUNSELORS AND COMMERCIAL ATTACHÉS.

SEC. 201. GENERAL PROVISIONS.

In order to develop, maintain, and expand international markets for the products and services of the United States; to insure the promotion and protection of United States trade and commercial services abroad for United States trade and commercial interests around the world; to provide trade and commercial services abroad for United States firms and businesses and trade and commercial organizations; and to secure trade and commercial information useful for the expansion of exports of United States products and services, the Secretary of Commerce (hereinafter referred to in this title as the "Secretary") is authorized to appoint such commercial ministers commercial counselors, and commercial attachés, who shall be employees of the Department of Commerce (and who shall report to the Under Secretary for International Trade), as the Secretary determines to be necessary to carry out the purposes of this title and to assign such commercial ministers, commercial counselors and commercial attachés to service abroad.

SEC. 202. TRAINING OF COMMERCIAL ATTACHÉS

Upon appointment, commercial attachés shall participate in training sessions designed by the Secretary, in cooperation with the Department of State, the Foreign Service Institute, and other Federal agencies, to study export and import programs and to examine the needs of United States businesses for export information and assistance. As part of this training program the Secretary shall assign each attaché to a field office of the Department to work in conjunction with the Department's field personnel responsible for implementation of export programs.

SEC. 203. RANK AND PRIVILEGES.

Commercial ministers, commercial counselors, and commercial attachés assigned to posts abroad shall be accorded the same rank and privileges as those of other ministers, counselors, or attachés in United States embassies and consulates.

SEC. 204. RELATIONSHIP TO DIPLOMATIC MISSION

Upon the request of the Secretary, the Secretary of State shall regularly and officially attach the commercial ministers, commercial counselors, and commercial attachés appointed and assigned hereunder to the diplomatic mission of the United States in the country in which such commercial ministers, commercial counselors, or commercial attachés or other personnel are to be assigned by the Secretary, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

SEC. 205. FUNCTIONS AND DUTIES.

Commercial ministers, commercial counselors, and commercial attaches appointed and assigned abroad by the Secretary under the title, and other personnel employed under their direction, in furtherance of the purposes set forth in section 201 and in accordance with regulations prescribed by the Secretary, shall have the following functions and duties:

(a) trade and commercial services, including, but not limited to—

(i) protection and promotion of United States trade and commercial interests and investments, including industrial property rights, within their districts;

(ii) current market oriented assistance to United States firms and businesses visiting or operating within their districts;

(iii) appointments and introductions for United States business persons visiting within their districts;

(iv) assistance in pursuing trade opportunities;

(v) assistance, when appropriate, in the adjustment of trade and commercial disputes involving United States firms or commercial and financial interests; and

(vi) assistance to other United States Government agencies or State agencies, and to firms and businesses with respect to trade missions, trade fairs, and other international trade and commercial exhibitions.

(b) export promotion, including, but not limited to—

(i) the promotion of United States exports and commercial interests in their districts; and

(ii) the creation, within the scope of their duties and as appropriate, of a demand for United States products and services in such districts.

(C) semiannual reports to the Secretary including, but not limited to, the following information—

(i) market conditions, commercial developments and economic climate within their districts, emphasizing changes between reports;

(ii) implementation of and compliance with the provisions of multilateral and bilateral trade agreements with the United States by the government, agencies, or instrumentalities of the country to which they are assigned;

(iii) specific industry and commodity conditions;

(iv) foreign law and business practices affecting United States trade and commercial interests; and

(v) trade opportunities on an industry by industry basis.

(d) maintain and make available current data on the commercial standing and capacity of foreign firms within their districts.

(e) other functions and duties as the Secretary determines to be necessary and proper for achieving the purposes of this title.

SEC. 206. ASSIGNMENT TO UNITED STATES.

Any officer or employee appointed and assigned to a post abroad pursuant to this title may, in the discretion of the Secretary, be assigned for duty in the continental United States, without regard to the civil service laws (and without reduction in grade if an appropriate position at the employee's grade is not available in any agency of the Department of Commerce) for a period of not more than three years.

SEC. 207. OFFICE SPACE, EQUIPMENT, AND ADMINISTRATIVE AND CLERICAL PERSONNEL.

The Secretary of State, upon request of the Secretary, shall provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the performance of the functions and duties of the commercial ministers, commercial counselors, and commercial attaches appointed and assigned abroad under this title, and other personnel employed under their direction, appropriate to Foreign Service officers or other personnel of the same rank and salary. The Secretary is authorized to reimburse or advance funds to the Secretary of State for such services. The Secretary is authorized, in accordance with applicable laws and regulations prescribed by the Secretary to employ locally such United States nationals or other personnel, as the Secretary deems necessary to further the purpose set forth in section 201 of this title or to the exercise and carrying out of the functions and duties of the commercial ministers, commercial counselors, and commercial attaches and other personnel appointed and assigned abroad under this title.

SEC. 208. AGENCY SERVICES, PERSONNEL, AND FACILITIES.

Upon the request of the Secretary of Commerce, each Federal agency may make its services, personnel, and facilities available to the commercial ministers, commercial counselors, and commercial attaches appointed and assigned to a post abroad under this title in the performance of their functions and duties. The Secretary is authorized to reimburse or advance funds to any such agency for such services, personnel, and facilities so made available.

SEC. 209. PERFORMANCE OF FUNCTIONS IN FOREIGN LOCALITIES.

Each commercial minister, commercial counselor, or commercial attache appointed and assigned under this title to a United States diplomatic mission abroad, may carry out the functions and duties authorized hereunder in such other nations as the Secretary, in consultation with the Secretary of State, may determine to be necessary and proper in order to carry out the purposes of this title.

SEC. 210. REPORTS AND DISPATCHES—AVAILABILITY TO INTERESTED GOVERNMENT AGENCIES.

The reports and dispatches prepared by the commercial ministers, commercial counselors, or commercial attaches appointed and assigned abroad under this title shall be made available to the Department of State, the Small Business Administration and to other interested agencies of the Government.

SEC. 211. REPRESENTATIVE ALLOWANCES.

Any commercial minister, commercial counselor, or commercial attache appointed and assigned by the Secretary to a post abroad under this title, under regulations prescribed by the Secretary, may be authorized to receive a representation allowance in an amount to be determined by considering—

(1) the extent to which such commercial minister, commercial counselor, or commercial attache can effectively use such funds to further the purposes of this title;

(2) travel and entertainment expenses customary in the private trade for persons of comparable rank and salary; and

(3) the customs and practices in the nation to which he or she is assigned.

SEC. 212. ALLOWANCES AND BENEFITS.

The Secretary may, under such rules and regulations as may be prescribed by the President or his designee, provide to the commercial ministers, commercial counselors, and commercial attachés appointed and assigned under this title, allowances and benefits similar to those provided by title IX of the Foreign Service Act of 1946. Leaves of absence for commercial ministers, commercial counselors and commercial attachés appointed and assigned under this title shall be on the same basis as is provided for the Foreign Service of the United States by the Annual and Sick Leave Act of 1951.

SEC. 213. ADVANCE PAYMENT FOR RENT AND OTHER SERVICE: FUNDS FOR COURTESIES TO FOREIGN REPRESENTATIVES.

In any foreign country where customs or practices require payment in advance for rent or other service, such payment may be authorized by the Secretary in accordance with regulations prescribed by the Secretary, upon consultation with the Secretary of State. Funds available for the purposes of this subchapter may be used for extending courtesies to representatives of foreign countries, when so provided in appropriation or other law.

TITLE III—NATIONAL EXPORT COUNCIL

SEC. 301. ESTABLISHMENT AND MEMBERSHIP.

(a) There is created in the Executive Office of the President a National Export Council (hereinafter referred to as "the Council"). The Council shall be composed of the following members:

(1) (A) the President;

(B) the Secretary of State;

(C) the Secretary of the Treasury;

(D) the Secretary of Agriculture;

(E) the Secretary of Commerce;

(F) the Secretary of Labor;

(G) the United States Trade Representative;

(H) the President and Chairman of the Export-Import Bank of the United States;

(I) the Administrator of the Small Business Administration;

(2) three members of the United States Senate, designated by the President of the Senate and three members of the United States House of Representatives designated by the Speaker of the House;

(3) no more than fifteen private citizens representing business and industry, agriculture and labor to be appointed by the President, including at least five small business persons who are actively involved in export trade; and

(4) three Governors of States or territories, designated by the President.

(b) The President shall be the Chairman of the Council and shall preside over the meetings of the Council. In his absence he may designate a member of the Council to preside in his place.

(c) The Secretary of Commerce, with the concurrence of the Chairman, shall appoint an Executive Director.

SEC. 302. FUNCTIONS.

(a) The Council shall serve as a national advisory body on matters relating to United States export trade. In carrying out such functions, the Council shall—

(1) survey and evaluate the export promotion and development activities of the communities represented by the membership;

(2) identify and examine specific problems which business, industrial, and agricultural practices may cause for export trade;

(3) examine the needs of business, industry, and agriculture to expand their efforts; and

(4) recommend specific legislative and administrative solutions to these problems and needs.

(b) The Council shall—

(1) act as liaison among the communities represented by its membership and may provide a forum for those communities on current and emerging problems and issues in the field of export promotion and development, and

(2) encourage the business, industrial and agricultural communities to enter new foreign markets and to expand existing export programs.

(c) The Council shall provide advice on Federal plans and actions that affect export promotion and development policies which have an impact on those communities represented by its membership.

(d) The Council may establish an executive committee and such other subordinate committees it considers necessary for the performance of its functions. The Chairman of a subordinate committee shall be designated by the Chairman of the Council from among the membership of the Council. Members of subordinate committees shall be appointed by the Chairman.

Sec. 303. Administrative Proceedings.

(a) The Secretary of Commerce shall provide the Council, including its executive and subordinate committees, with administrative and staff services, support and facilities as may be necessary for the effective performance of its functions.

(b) Each member of the Council, including its executive and subordinate committees, who is not otherwise paid a salary by the Federal Government, shall receive no compensation from the United States by virtue of their service on the Council, but all members may receive the transportation and travel expenses, including per diem in lieu of subsistence, authorized by law.

Sec. 304. Annual Report.

The Council shall transmit, not later than March 31 of each year, to the Congress, a full report on its activities.

Sec. 305. Authorizations.

There are authorized to be appropriated such sums as may be necessary to carry out this title.●

● Mr. HAYAKAWA. Mr. President, I am pleased to join my distinguished colleague, Senator Lowell Weicker, as an original cosponsor of the bill he is introducing today—the Small Business Export Development Act of 1979.

In September of this year the Senate Select Committee on Small Business held 2 days of hearings to examine how the Federal Government can assist small businesses to enter the export market. We received excellent testimony from knowledgeable witnesses who described the problems they face in the export market and how the Government can contribute to a more active role for small businesses in foreign trade. The bill introduced today is a result of the hearings.

Compared to other industrial nations, our country is in the position of playing "catch-up." Historically, American business has not been aggressive in seeking foreign markets, and this is especially true of small businesses. We are known throughout the world for our marketing skills, our advertising techniques, and our delivery system—but only for our own domestic market.

When domestic consumption cannot sustain our industrial capacity, we face expanding competition with other nations for sales. The multilateral trade agreements have opened the door to new opportunities. American business must join the competitive world market, and we must continue to study ways by which our Government can help.

We know that small businesses face many problems in trying to exist here in America, so it may seem to some that to take up the question of exporting is too ambitious. But I believe that small businesses can and should join in the search for foreign markets.

California businesses are the largest exporters in the country, so foreign trade is extremely important to our State. Nationwide, small businesses, which account for 43 percent of the gross national product, account for no more than 10 percent of all U.S. export sales.

I would like to see that 10 percent increased substantially in the future, and I believe this bill provides some of the assistance needed if small businesses are to participate more actively in exporting their products.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill introduced by Mr. Weicker, the Small Business Export Development Act of 1979, be referred to the Select Committee on Small Business and, if and when the bill is reported, then to the Committee on Banking, Housing, and Urban Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. PROXMIRE (for himself, Mr. Stevenson, and Mr. Heinz):

S. 2105. A bill to delegate the functions of the Secretary of Transportation under section 3 of the Urban Mass Transportation Act of 1964 to the Urban Mass Transportation administrator; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. Proxmire when he introduced the bill appear earlier in today's proceedings.)

ADDITIONAL COSPONSORS

S. 1480

At the request of Mr. Stafford, the Senator from Pennsylvania (Mr. Heinz) was added as a cosponsor of S. 1480, the Environmental Emergency Response Act.

S. 1692

At the request of Mr. Melcher, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of S. 1692, a bill to amend the Federal Mine Safety and Health Act of 1977.

S. 1925

At the request of Mr. Williams, the Senator from Iowa (Mr. Jepsen) was added as a cosponsor of S. 1925, the Savings of Income for Retirement Act, a bill to amend the Internal Revenue Code of 1954 to stimulate savings of income for retirement, and for other purposes.

S. 2072

At the request of Mr. Bellmon, the Senator from Oklahoma (Mr. Boren) was added as a cosponsor of S. 2072, a bill conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma.

SENATE JOINT RESOLUTION 119

At the request of Mr. Mathias, the Senator from Wyoming (Mr. Simpson), the Senator from Colorado (Mr. Armstrong), and the Senator from New Mexico (Mr. Schmitt) were added as cosponsors of Senate Joint Resolution 119, authorizing the Vietnam Veterans Memorial Fund, to construct a memorial in the District of Columbia in recognition of the men and women who served in the Vietnam war.

AMENDMENT NO. 746

At the request of Mr. Packwood, the Senator from Florida (Mr. Stone) was added as a cosponsor of amendment No. 746 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE CONCURRENT RESOLUTION 60 AND SENATE CONCURRENT RESOLUTION 61—SUBMISSION OF CONCURRENT RESOLUTIONS RELATING TO THE TREATMENT OF CHRISTIANS BY THE SOVIET UNION

Mr. JEPSEN (for himself and Mr. Boren) submitted the following concurrent resolutions, which were referred to the Committee on Foreign Relations:

S. Con. Res. 60

Whereas the Union of Soviet Socialist Republics and the United States were the principal signatories of the Final Act of the Conference on Security and Cooperation in Europe (also known as the Helsinki Accords);

Whereas in signing the Helsinki Accords the Union of Soviet Socialist Republics promised to recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or beliefs, in accordance with the dictates of his own conscience.

Whereas despite the Helsinki Accords millions of Americans have had to work together to relieve the suffering and secure the emigration of an untold number of Russian Jews;

Whereas these efforts on behalf of the Russian Jews must continue as they have produced some success;

Whereas the suffering of Russian Christians has been equally great and their needs remain equally desperate;

Whereas for Christians of conviction, simple but persistent public declarations of faith have provoked harsh retaliation, including public humiliation, social ostracism, and isolation inside concentration camps and so-called psychiatric hospitals;

Whereas the United States authorities are aware of this problem and know that some 20,000 Russian Christians have decided to risk the worst by sending their names to the Supreme Soviet, asking for permission to emigrate;

Whereas the current attitude of the United States Government has been one of virtual silence; and

Whereas freedom loving people all over the world look to the United States as the leader of the free world to take up their cause of basic human rights: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President, acting through the Secretary of State or any other appropriate officer of the executive branch, should—

(1) reaffirm the commitment of the United States to the Final Act of the Conference on Security and Cooperation in Europe (also known as the Helsinki Accords);

(2) communicate to the Government of the Union of Soviet Socialist Republics in the strongest terms the disapproval of the United States of religious harassment of Christians in the Union of Soviet Socialist Republics and of the restrictions on the freedom of such Christians to emigrate;

(3) advise the Government of the Union of Soviet Socialist Republics that the United States expects the Union of Soviet Socialist Republics to honor its commitments under the Helsinki Accords and other international law, including its commitments regarding

the rights of Christians to practice their religion and to emigrate without government interference.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

S. Con. Res. 61

Whereas principle VIII of the Declaration of Principles in Basket I of the Final Act of the Conference on Security and Co-Operation in Europe, signed August 1, 1975, and hereinafter referred to as the Helsinki Accords, states that "by virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social, and cultural development"; and

Whereas the Soviet Union, Bulgaria, Poland, Yugoslavia, and Romania were signatories of the Helsinki Accords; and

Whereas numerous Christian persons living in these countries have been incarcerated in violation of their basic human rights according to the provisions of the Helsinki Accords; and

Whereas the Soviet Government has imprisoned Balys Gajauskas, Algirdas Zipre, Petras Plumpa, Vladas Lapienis, and Viktoras Petkus, all of Lithuanian heritage, for conduct protected under the Helsinki Accords; and

Whereas the Soviet Government has imprisoned Maris Tilgalis, Janis Tilgalis, and Zanis Skudra, all of Latvian heritage, for conduct protected under the Helsinki Accords; and

Where the Soviet Government has imprisoned Igor Ogurtsov, Vladimir Osipov, Nadezhda Usoyeva, Maria Semenova, Sergei Adamovich Kovalev, Sergei Soldatov, Larissa Zaitsev, and Alexander Ogorodnikov, all of Russian heritage, for conduct protected under the Helsinki Accords; and

Whereas the Soviet Government has imprisoned David Koop, and Ludmilla Zaitsev, all of Estonian heritage, for conduct protected under the Helsinki Accords; and

Whereas the Soviet Government has imprisoned Mykola Rudenko, Oleksiy Tykhy, Vasyl Romaniuk, Yuriy Shukhevych, Oles Berdnyk, and Levko Lukyanenko, all of Ukrainian heritage, for conduct protected under the Helsinki Accords; and

Whereas the Bulgarian Government has imprisoned Ljubomir Sobadschiev for conduct protected under the Helsinki Accords; and

Whereas the Yugoslavian Government has imprisoned Davor Aras, Josip Bilusic, Nikola Novakovic, Miljenko Pehar, and Mato Rajic, all of Croatian heritage, for conduct protected under the Helsinki Accords; and

Whereas the Yugoslavian Government has imprisoned Adem Demaci, Skender Kastrati, Hasan Dermaku, Osman Dumosi, Fatmir Salihu, Dzavid Dermaki, and Hilmi Ramadani, all of Albanian heritage, for conduct protected under the Helsinki Accords; and

Whereas the Romanian Government has imprisoned Ghejan Titu and Ion Gabriel, for conduct protected under the Helsinki Accords; and

Whereas the Romanian Government has persecuted and harassed Karoly Kiraly of Hungarian heritage, for conduct protected under the Helsinki Accords; and

Whereas the Polish Government has increased its harassment of certain citizens in violation of the guarantees of freedom of speech and thought contained in the Helsinki Accords: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that

(1) the leaders of the Soviet Union, Bulgaria, Yugoslavia, and Romania are urged to release the aforementioned political prisoners;

(2) the leaders of the Soviet Union and its satellite nations are urged to halt the practice of incarceration for noncriminal acts as defined in the Helsinki Accords; and

(3) the leaders of the Soviet Union and its satellite nations are urged to halt the official harassment of individuals who wish to practice their religion, observe their cultural traditions, or express political opinion according to the provisions of the Helsinki Accords.

CAMPAIGN TO HELP FREE CHRISTIAN DISSIDENTS

Mr. JEPSEN. Mr. President, today has been designated International Human Rights Day.

Today, my friend and distinguished colleague from Oklahoma, Mr. Boren, is joining me in submitting two companion resolutions expressing the sense of Congress that a campaign on behalf of Christian dissidents in Russia and Eastern Europe be instituted and that numerous Christian persons imprisoned by those countries in violation of their basic human rights according to the provisions of the Helsinki accords be released.

Two of our colleagues in the House, Representative Jack Kemp and Representative James Howard, are joining Senator Boren and myself today in introducing these two companion resolutions. We all have supported at every opportunity the National Council of Soviet Jewry and other groups like it to secure the release of Soviet Jews persecuted because of their faith. This work will continue as it must.

Our purpose then is to launch a major national effort, similar to the one which is ongoing on behalf of Russian Jewish dissidents, aimed at releasing Christian dissidents now imprisoned behind the Iron Curtain and securing the rights of these people and other Christians to emigrate freely.

The first of these resolutions expresses the sense of Congress that the President and any other appropriate official within the executive branch make it known to the Soviet Union in unequivocal terms that this country strongly disapproves of the religious harassment of Christians and of the restrictions on the freedom of such Christians to emigrate. It further states that the United States expects the Soviet Union to honor its commitments under the Helsinki accords.

The second resolution, first introduced by Representative Kemp on July 13, gives the names of several persons of many different ethnic heritages who have been persecuted by the Soviet Government or its satellite Communist governments, in the hopes that focusing attention on these persons will emphasize the strong need for the reestablishment of standards of human rights outlined in the Helsinki accords and subsequently ignored by the Soviet Union.

Mr. President, the plight of the Russian Jews has generated a human rights cause celebré. The world community has focused its attention on basic human rights violations in the Iron Curtain countries and particularly the Soviet Union. As a result of a decade and more of hard work, an untold number of Russian and Eastern bloc Jews have been relieved of suffering and have been allowed to emigrate. And while that campaign has obviously not been a total success, and must be both sustained and intensified, it has produced results—during 1979, a projected 50,000 Jewish dissidents will be permitted to leave the Soviet Union.

Recently, however, religious freedom and the right to emigrate free from government interference has become an issue for Christians, too. To date though their campaign for basic human rights has not reached proportions anywhere near that of the Jewish campaign. That is tragic, for their suffering has been equally great, and their needs remain equally desperate.

Orthodox Christians, Baptists, Lutherans, Pentecostals, Catholics, and countless other Christians belonging to unregistered churches face widespread persecution because they reject laws that prohibit them from teaching their children about God and taking them to church before they are 18 years old. For Christians of conviction, simple but persistent public declarations of faith can provoke harsh retaliation—public humiliation, social ostracism, and in some cases torture in the form of starvation diets, druggings, beatings, and constant isolation inside concentration camps and so-called "psychiatric hospitals."

Mr. President, such persecution not only violates specific guarantees set down in the constitutions of the various Communist countries, but mocks the spirit of the Helsinki accords and contradicts the very essence of civilized society.

American authorities are aware of this problem. They know, for example, that some 20,000 Russian Christians have decided to risk the worst by sending their names, ages, and addresses to the Supreme Soviet, asking for permission to emigrate. But to date, the attitude of our Government has been one of near silence, even passive acquiescence. The case of the seven Pentecostals held up in our embassy in Moscow is a glaring example of this.

Letters from Russian Christians to the White House pleading for help have not been answered. The State Department has promised the Tolstoy Foundation to look into the matter of the Christian dissidents in view of possibly taking official action. That promise has not materialized.

Hopefully today will mark the day when we can all look back 10 years from now and feel satisfied that real progress has been made on behalf of Christians behind the Iron Curtain. And there is good reason to be optimistic.

Spurred by reports of religious persecution in the Soviet Union and other Eastern bloc countries, liberal and conservative Christians in the United States, along with Jewish organizations, have begun a campaign to support Christians who want to emigrate.

In different ways and without any central coordination, church leaders and a number of organizations, some of them newly formed, are working to help some of those 20.000 Christians who sent their names to the Supreme Soviet requesting permission to leave because of religious persecution. Over the last

3 years, the New York City based Tolstoy Foundation, probably the most active organization, has helped process more than 800 official invitations that are required by the Soviet governments before anyone can apply for an exit visa.

So where do they go from here, Mr. President? To the American people and those of us here in Washington who represent the American people. Together we can make a difference. And perhaps only we can make a difference.

A massive outpouring of public indignation from millions of Americans and their leaders is urgently needed. Such a campaign requires that Americans from all walks of life join together to condemn these atrocities, call a halt to the persecution, and demand the release of those who wish to leave the Soviet Union and its satellite countries.

Mr. President, it has to be a campaign from the grassroots, and one that persists until those in Washington and Moscow understand that they dare not ignore the will of the people. It is not going to be easy. In fact, it will undoubtedly prove to be a difficult struggle. Given the inevitable resistance such a campaign is bound to provoke, it could mean years of sacrifice. But it is clear that we must act now.

I urge my colleagues to make a personal commitment to get involved. I urge them to speak with their families, their friends, their church and their States and ask that they get involved. As leader of the free world we all can and must do much, much more to stop this persecution of Christians and Jews.

AMENDMENTS SUBMITTED FOR PRINTING

ENVIRONMENTAL EMERGENCY RESPONSE ACT—S. 1480

AMENDMENTS NOS. 771 AND 772

(Ordered to be printed and referred to the Committee on Environment and Public Works.)

Mr. STAFFORD (for himself, Mr. CULVER, Mr. RANDOLPH, and Mr. BAKER) submitted two amendments intended to be proposed by them, jointly, to S. 1480, a bill to provide for liability, compensation, cleanup, and emergency response for hazardous substances released into the environment and the cleanup of inactive hazardous waste disposal sites.

Mr. STAFFORD. Mr. President, I am pleased to submit with Senators CULVER, RANDOLPH, and BAKER certain amendments to S. 1480, the Environmental Emergency Response Act. The Subcommittees on Environmental Pollution and Resource Protection are in the midst of markups on S. 1480 and these amendments represent substantial progress in perfection of the bill.

The amendments were developed in cooperation with representatives of the Fertilizer Institute to assure that S. 1480's provisions do not inadvertently disrupt or damage the fertilizer industry. The purpose of S. 1480 is to require those who damage human health or the environment through the release of poisons to pay for the costs caused by these releases. The bill is not designed to extract costs from innocent third parties or for the release of benign substances. The amendments clarify this objective with respect to the fertilizer industry.

Quite aside from their substantive significance, the amendments are important for another reason. They illustrate the kind of progress which can be made in the development of legislation when responsible industries have legitimate complaints and are reasonable in their demands. Although the fertilizer industry recognized the vital importance of legislation such as S. 1480, its members had legitimate criticisms of the bill's provisions. Rather than stridently opposing the legislation—and thus creating ill will and suspicion on all sides—the industry was open and above board. Representatives described and justified their problems and conceded that with these corrected S. 1480 was a good bill.

Given that kind of attitude of cooperation, I am pleased to introduce the amendments and, when the proper time arrives, will seek their adoption.

I ask unanimous consent that the text of the amendment and an exchange of letters accompanying them to be printed in the RECORD at this point.

There being no objection, the amendments and letters were ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 771

Modify applicable fee provisions as follows:

"(3) (A) Within twelve months after enactment of this Act, and annually thereafter, the Secretary of the Treasury shall revise the fee structure, if necessary, to assure that—

"(1) Feedstocks supplied to industries which do not cause or contribute signficantly to releases requiring compensation from the Fund are exempted from payment of a fee; and

"(3) (B) For purposes of the initial rules or regulations relating to the amount and collection of fees—

"(1) the fertilizer production industry shall be conclusively presumed exempt pursuant to clause (c) (3) (A) (1) above.

AMENDMENT NO. 772

On page 7, after line 12, insert the following new paragraph and renumber succeeding paragraphs accordingly:

(16) In the case of a hazardous substance which has been accepted for transportation by a common or contract carrier (A) the term "owner or operator" shall mean such common carrier or other bona fide for hire carrier acting as an independent contractor during such transportation, (B) the generator of such hazardous substance shall not be considered to have caused or contributed to any discharge or release during such transportation which resulted solely from circumstances or conditions beyond his control."

COMMITTEE ON ENVIRONMENT
AND PUBLIC WORKS,
Washington, D.C., November 14, 1979.

Mr. EDWIN WHEELER,
The Fertilizer Institute,
Washington, D.C.

DEAR MR. WHEELER: This is to confirm recent discussions regarding certain proposed amendments to S. 1480.

As we have indicated, a fundamental purpose of S. 1480 is to encourage a higher standard of care in the manufacture and handling of hazardous substances by imposing legal responsibility for the damages which they cause. Your testimony and subsequent communications have clearly conveyed your belief that current language of S. 1480 would go beyond this desired result. Specifically, you believe the language would create liability in situations where a shipper cannot exercise control; and, you believe that the fee-fund provisions would impose a great financial burden on fertilizers, which you believe are essentially benign substances. In addition, you are greatly concerned by the so-called "release concept" and fear that it could ban the normal application of fertilizers.

We believe a series of amendments which would correct these perceived deficiencies in S. 1480 could be acceptable to many of the parties concerned with this legislation. Your staff has indicated that if these amendments were adopted the Fertilizer Institute would find S. 1480 acceptable and, indeed, support it. Since we are now planning to introduce these amendments in the near future, we would like to confirm the Institute's position so that we can affirm in floor remarks that we have reached an accommodation. That is the purpose of this letter.

Attached you will find two amendments which we have agreed will accommodate the concerns of the Fertilizer Institute. There is yet a third amendment which you have suggested for purposes of clarifying the impact of the "release concept" on fertilizer applications, but we believe that will be unnecessary since it is our intention to seek a broader and more comprehensive clarification.

This more comprehensive clarification would have the same effect on fertilizer applications as your narrower amendment. That is, it would exclude normal applications of fertilizer from the class of prohibited releases.

As soon as we receive your confirmation of this understanding we will, without delay, introduce the amendments and urge their adoption during markup of S. 1480.

Truly,

JENNINGS RANDOLPH,
Chairman.
ROBERT T. STAFFORD,
Ranking Minority Member.

THE FERTILIZER INSTITUTE,
Washington, D.C., November 27, 1979.

Hon. JENNINGS RANDOLPH,
Chairman, Committee on Environment and Public Works, Washington, D.C.
Hon. ROBERT T. STAFFORD,
Ranking Minority Member, Committee on Environment and Public Works, Washington, D.C.

DEAR CHAIRMAN RANDOLPH and SENATOR STAFFORD: Reference is made to your letter addressed to me dated November 14, 1979, relating to S. 1480.

Your letter concisely and correctly captures the concerns of our industry. We are in agreement that the two proposed amendments, attached to aforesaid letter, are straightforward and do much to cure our concerns. We strongly support their adoption.

We think you may find helpful the enclosures herewith. In essence, we have returned the amendments and language we believe will be helpful to be included in the report of the Committee which would ordinarily accompany this bill. This suggested language has been carefully drawn to reflect the background of negotiations and circumscribe the extent of the amendments.

As to the "release concept" or the so-called third amendment, we concur that it is unnecessary, if, as we are confident you will cure this problem by "a broader and more comprehensive clarification" (last line, pg. 1, your letter of November 14, 1979). Your staff and mine seem to be on the way to laying this issue to rest and I am confident this will soon be accomplished.

The high degree of concern and skill of the Staff as well as your own in trying to solve a serious and vexatious national problem is to be commended. Frankly, the compromise and agreements are a reflection of the highest legislative skill that I have seen in many years.

We find that as amended, S. 1480 is acceptable to the nation's fertilizer industry and this letter may be used in Committee and made a part of the floor remarks to demonstrate an accommodation has been reached.

Respectfully,

Edwin M. Wheeler.

Proposed Legislative History

There is some possible lack of clarity in the Committee's use of the phrase "fertilizer production industry" in connection with the exemption proposed in revised section 5(c) (3) (B) (1). To avoid any possible misunderstanding the following legislative history language is suggested:

The Committee intends that the term "fertilizer production industry" as used in section 5(c) (3) (B) (1) to read to include those activities and products as are described and set forth in the Standard Industrial Classification Manual (OMB, 1972 Edition) and identified therein as SIC Code Numbers: 1474, 1475, 2873, 2873112, 2874, 2874185, 28193, 2819922 and 2819331.

Legislative History

During the course of transporting hazardous and toxic materials, accidents occur when the circumstances were beyond the control of the owner of the substance involved. The most common example of such incidents is a railroad derailment resulting from tracks which are inadequate for the loads being shipped over them or through the negligence of railroad personnel. Since such circumstances are clearly beyond the control of the owner of the product, the owner should not be held liable.

However, in those cases where the product owner does exercise control over the condition which resulted in the release, then liability should be imposed. It is intended that liability be imposed on the product owner only where there has ben some culpability and reasonale action on the part of said product owner would have prevented the release.

● Mr. CULVER. Mr. President, we have seen that the disastrous leakage of chemicals in such dumps as the La Bounty Site in Charles City, Iowa, or the Love Canal in New York, can cause premature death and irreversible damage to the health of an unsuspecting public. And, in other cases, such as the contamination of Lake Erie with the insecticide Mirex, and the release of polychlorinated biphenyls (PCB's) into the Hudson River, we have seen that the economic losses from a single release can add up to tens of millions of dollars, or even hundreds of millions of dollars, very quickly.

As part of the Resource Protection Subcommittee's review of proposals to help clean up these and other abandoned dumpsites and protect the public from hazardous wastes, the subcommittee, which I chair, is considering S. 1480, which I sponsored along with several other members of the Public Works Committee.

As you may know, this legislation includes a fund to minimize damage and to compensate those who suffer losses from dumpsites of hazardous wastes, and sets new, tougher standards of liability for those who manufacture, transport, use and dispose of toxic chemicals.

However, certain parts of S. 1480 need to be clarified. Various agricultural organizations, including the fertilizer industry and the Iowa Farm Bureau Federation, have expressed concern that this legislation would have an unintended effect on the normal, everyday use of commercial fertilizers and farming.

The use of fertilizer for agriculture is, of course, of critical importance to Iowa, and I want the record to indicate that it is not the intent of S. 1480 to affect normal commercial fertilizer use. In order to clarify any misunderstandings, therefore, I join with my colleagues today in sponsoring two amendments to emphasize this point. A further amendment, which will be made in redrafting this bill for consideration next year, will make it clear that farmers will not be liable for normal field application of fertilizer.

The first of these amendments concerns the fee imposed on industries under S. 1480. There is no fee on farminng, but a fee would be imposed on several industries that produce or use chemicals. These fees are intended to provide the money that would pay for cleanup and compensation costs resulting from a spill or dumpsite leakage. These fees would be used to pay only those victims who cannot obtain compensation from the parties responsible for the chemical release.

It is not the intention of this legislation to force responsible firms and industries to pay for those who handle their products irresponsibly. For this reason, this amendment would initially exempt fertilizers from the proposed fee system. Fertilizer producers and users would remain exempt as long as they maintain a good record. This is not intended to ignore the fact that fertilizer chemicals can be hazardous if spilled. However, the fertilizer companies and farmers themselves have a good record in responding promptly and effectively to spills. As long as this remains the case, there will be no need for Government intervention and no need for a fee on fertilizers.

The second amendment clarifies the intent with regard to liability for an accident during transportation of fertilizers or any other potentially harmful substance. This amendment makes it clear that if a manufacturer exercises good care, and if an accident is caused by events wholly outside the manufacturer's control, then the manufacturer would not be liable for damage caused by a spill. However, if a manufacturer fails to exercise due care (such as by failing to properly label or properly package) and if that failure contributes to damage, then the manufacturer could be held liable.

In closing, Mr. President, I want to acknowledge the comments provided by Mr. Edwin Wheeler, president of the Fertilizer Institute; Winton Etchen, executive vice president of the Iowa Fertilizer & Chemical Association, Inc.; and Dean Kleckner, president of the Iowa Farm Bureau Federation. Their views were most helpful, and I believe these proposed amendments will be fully considered as the subcommittee continues to develop legislation which will effectively address our hazardous waste problems.●

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENTS NOS. 773 THROUGH 775

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted three amendments intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 776

(Ordered to be printed.)

Mr. RIBICOFF (for himself, Mr. Nelson, Mr. Moynihan, Mr. Jackson, and Mr. Leahy) proposed an amendment to H.R. 3919, supra.

AMENDMENT NO. 777

(Ordered to be printed.)

Mr. BRADLEY (for himself, Mr. Bumpers, Mr. Robert C. Byrd, Mr. Stewart, and Mr. Ribicoff) proposed an amendment to H.R. 3919, supra.

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of a public hearing before the Select Committee on Indian Affairs. The hearing will be held on December 21, 1979, beginning at 10 a.m. in room 5428, Federal Building, 316 N. 26th Street, Billings, Mont.

The purpose of the hearing is to review certain expenditures made during the past several years in the Billings Area Office of the Indian Health Service.

For further information regarding the hearing you may wish to contact Max Richtman of the committee staff at 224–2251.●

SELECT COMMITTEE ON INDIAN AFFAIRS

● Mr. MELCHER. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Select Committee on Indian Affairs.

The hearing is scheduled for January 30, 1980, beginning at 10 a.m. in room 5110, Dirksen Senate Office Building. Testimony is invited regarding S. 2055, a bill to establish a reservation for the Confederated Tribes of Siletz Indians of Oregon.

For further information regarding the hearing you may wish to contact Susan Long of the committee staff on extension 224–2251. Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Select Committee on Indian Affairs, U.S. Senate, Washington, D.C. 20510.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a markup session on S. 685, the Nuclear Waste Policy Act and other pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet during the session of the Senate today to hold a hearing on S. 1464, a bill acquiring certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, December 12, bginning at 1 p.m., to consider pending nominations.

Th PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON LIMITATIONS OF CONTRACTED AND DELEGATED AUTHORITY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Limitations of Contracted and Delegated Authority of the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, December 12, beginning at 2 p.m., to discuss the issuance of a subpena to the Commodities Futures Trading Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE DEATH OF SALT?

● Mr. HUMPHREY. Mr. President, temporary loss of perspective is a common human experience. Sometimes one cannot see the forest for the trees.

The following editorial in the Wall Street Journal of December 7, 1979, addresses the issue of SALT II, especially the Backfire bomber aspect, with remarkable incisiveness. I ask it may be printed in the Record for the benefit of Members and other readers.

The editorial follows:

THE DEATH OF SALT?

Senate Majority Leader Robert Byrd said this week that because of the Iranian crisis he is postponing consideration of the Strategic Arms Treaty until January. In the cloakrooms his announcement inspired the following:

Knock-knock.
Who's there?
Khomeini.
Khomeini who?
Khomeini votes y'got?

In fact, even without the Iranian crisis raising alarms about the military balance, the Senate clearly has been moving toward rejection of SALT. Even in the favorable arena of the Foreign Relations Committee, the treaty was approved only by a 9–6 vote, less than the two-thirds majority needed for ratification on the floor. At that, the majority report was loaded with conditions and qualifications, including for example more study of a penetrating bomber like the B–1 so recently scuttled by the Carter administration.

A majority of the Armed Services Committee, meanwhile, favors a negative recommendation, and is likely to vote out its report over the objections of Chairman John Stennis. The Pentagon is embroiled in a controversy over the firing or at least threatened firing of a civil service lawyer who contributed some technical advice to the testimony of General Edward L. Rowny, former Joint Chiefs representative to the talks—a tribute to the devastating nature of General Rowny's remarks. The tide against the treaty is strongest among those most familiar with its provisions.

This is probably best understood through a detailed look at only one of the many controversial issues, the Soviet Backfire bomber. The Backfire is a modern swing-wing bomber about four-fifths the size of our aging B–52s. It quite clearly has the capability to attack the United States and land in a third country like Cuba, but under SALT it is not counted as a strategic weapon.

Estimates of the Backfire's range vary, but the following is typical. Assuming a five-ton bomb load and a high-altitude mission, it would have a combat radius (flying out and returning to the same base) of about 5,700 kilometers. On a one-way mission, it could fly some 10,600 kilometers. The official SALT definition of intercontinental range for ballistic missiles is 5,500 kilometers. These estimates make no provision for air-to-air refueling, through the Backfire has this capability.

All of our B–52 force is included under the SALT ceilings; indeed some old mothballed planes will have to be destroyed. Donald Brennan of the Hudson Institute pointed out that about 80 of our active inventory of about 350 B–52s are the B–52D. This model has a range of about 5,580 kilometers radius or 10,380 kilometers one-way—that is, less than usual estimates for the Backfire. Later model B–52s have ranges up to 14,400 kilometers one way. But because of heavy Soviet air defenses, they would have to fly much of their missions at very low altitudes, so even they do not have an effective range exceeding the Backfire's. Plans for B–52s have never included radius missions but have always contemplated recovery in a third country. None of the B–52s has supersonic dash capability, though the Backfire does.

Finally, it would be perfectly feasible to extend the range of the Backfire. The draft report of the Armed Services Committee takes note of Soviet announcement of new fuel-efficient jet engines.

How, in the face of all these facts, did we come up with a treaty that counts all of the B–52s as strategic weapons and excludes the Backfire entirely? Well, the Soviets insisted on it, blandly contending the Backfire is solely a theater weapon. In the face of this insistence, the U.S. compromised, compromised and compromised, finally settling for the following assurances:

When the treaty was signed in Vienna it made no mention of the Backfire, but Soviet Chairman Brezhnev handed President Carter an unsigned statement specifically on the bomber. The statement promised not to give the Backfire "intercontinental" capability, not to increase the current production rate and not to increase its "radius of action" to allow it to strike the U.S. Mr. Brezhnev confirmed that the production rate is not more than 30 a year. A State Department summary of the record adds, "President Carter made clear that any significant upgrade in the range/payload capability would be inconsistent with the Soviet Backfire assurances. The Soviets responded that they would not be bound by U.S. unilateral interpretations of their statement."

In short, we were satisfied to have the Soviets promise not to give the Backfire capabilities it already has. The Soviets have promised not to build a total of more than 380 to 400 Backfires by the end of the treaty, a force larger than our B–52 squadrons. The Soviets have in effect declared they intend significant improvements in Backfire range. Without violating the treaty or even their unsigned assurances, they are allowed to build a bomber force equal or superior to ours. The only difference is that our bomber force will be counted against the totals the treaty allows, while their bomber force will be in addition to those totals.

This is the sort of thing the Senate is discovering as it explores the text of the treaty. The merits of the agreement are responsible for the trend against SALT and for the perhaps permanent delay in bringing it to the floor. The Iranian crisis does not help its prospects, but is far from the basic explanation for its decline. It would be closer to the mark, indeed, to say that the kind of flabby American postures revealed in the arms negotiations explain why we face a crisis in Iran.●

THE SALT II TREATY

● Mr. HAYAKAWA. Mr. President, like most of my colleagues, I have been receiving thousands of letters from my constituents in opposition to SALT II. There are few pieces of correspondence which expresses a position as succinctly and persuasively as the attached letter from a young California attorney, Mr. Michael M. Moore. The letter also underlines the important objections to SALT II raised before the Senate Foreign Relations Committee by Lt. Gen. Edward L. Rowny. I believe Mr. Moore's evaluation ought to be brought to the attention of a wide readership and I, therefore, ask that it be printed in the Record.

The letter follows:

MICHAEL M. MOORE,
San Francisco, Calif., November 21, 1979.

Hon. S. I. HAYAKAWA,
U.S. Senator,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: The press has reported your opposition to the proposed SALT II Treaty. Because the Senate is rapidly moving toward its vote on the SALT II Treaty, it is time that I as one of your constituents express my support for your position. I believe that the proposed treaty should not be ratified because it is deficient on three vital points:

1. It fails to count the Soviet Backfire bomber, a plane that clearly has an intercontinental capability;
2. It allows the Soviets the added "throw weight" of their 308 heavy missiles; and
3. For the above and other reasons, it permits the Soviets to maintain a *qualitative* edge in their forces under a pretense of equal quantitative limits.

Accepting a treaty with such major deficiencies, it seems to me, will send the wrong signal to the Soviets. It is bad enough that the Soviets are about to achieve an edge in strategic forces under current trends. It seems much worse to sanctify such superiority with this treaty. Their efforts to fan the flames in Iran and other places will only be encouraged.

There is another reason for my view that the present treaty should not be ratified. During my tour of duty in the Army in the late 1960's, I served as Chief Administrative Assistant to Ed Rowny. I came to know that he is both an exceptionally competent military man and an exceptionally clear and wide-ranging thinker. He also believes strongly in the wisdom of arms control. His comments on SALT II should give any thoughtful Senator great pause before voting to accept this treaty without reservation. I also believe that Rowny's assessment is sound that the Soviets would accept a more balanced treaty. First, they know they got a good deal here. Second, they want better trade relations with the U.S. Third, they want a SALT treaty because it would make a significant contribution to their detente policy, which they view as a means to restrain the U.S. from more forceful opposition to Soviet expansion and trouble-making abroad.

For these reasons, I would urge that you continue your opposition to the draft treaty, and support efforts to fashion a face-saving way for the Soviets to accept a more balanced treaty. As I understand it, there are now a series of proposed "category three" reservations which address the key problems in the draft treaty. Such reservations, or a similar face-saving device, would appear to be a sensible approach for cleaning up the serious problems in the present treaty.

Thank you for your attention.

Sincerely,

MICHAEL M. MOORE.●

THE PROPOSED FEDERAL BAILOUT OF CHRYSLER CORP.

● Mr. WEICKER. Mr. President, as I have made clear on numerous occasions on the floor of the Senate, I am unequivocally opposed to the Federal bailout of private enterprise. The Federal Government simply is not in the business of correcting the mistakes of private enterprise.

I objected to Federal assistance to the Lockheed Corp. I objected to Federal assistance to the Wheeling-Pittsburgh Steel Corp. Likewise, I will strenuously object to a Federal bailout of Chrysler Corp.

Proponents of aid to Chrysler talk about what effects its collapse, if indeed one would occur, would have on the economy.

I am certainly concerned about saving jobs, but concentration on that aspect obfuscates the ultimate question of the price that must be paid. A benign Government that is so concerned about jobs that it will bail out a company for bad management must also live with the consequences of mediocrity. Excellence becomes a forgotten standard. A bailout for bad management means a reward for the unproductive. It means higher prices and wages with less productivity. With such action by Government, should we wonder why are we plagued with inflation?

Congress long ago recognized the possibility of the failure of a large, uncompetitive business like Chrysler. Under the Trade Act of 1974, special aid can be given to American workers who, in the opinion of the Department of Labor, have become unemployed or whose employment has been interrupted due to imports. These workers are eligible for numerous benefits, including payment of 95 percent of their aftertax takehome pay for 1 year, free job training, and 80 percent of their relocation costs.

Nearly 50,000 Detroit area workers who have been laid off by Chrysler have already been certified eligible for Federal aid under the Trade Act. Thousands of workers in Chrysler plants in five other States have also been declared eligible.

Mr. President, Congress will not throw people out into the cold if there is no Federal bailout of Chrysler. Programs such as the trade adjustment assistance program have been established to provide for employees who are laid off as a result of the failure of a private enterprise.

Mr. President, I ask that the Department of Labor announcement describing the successful petition of Chrysler workers for trade adjustment assistance, and an article from Saturday's New York Times which discussed this matter, be printed in the RECORD.

The material follows:

TRADE ADJUSTMENT ASSISTANCE APPROVED FOR 36,000 CHRYSLER AUTOWORKERS IN MICHIGAN, MISSOURI, OHIO, INDIANA, ALABAMA, AND DELAWARE

Approximately 36,000 workers at 27 Chrysler Corp. plants in six states have been certified by the Labor Department as eligible to apply for trade adjustment assistance. Department investigations have indicated that the workers have been or may become unemployed as a result of increased imports of compact, intermediate, and standard size passenger size cars as well as pick-up trucks, general utility vehicles, and utility vans.

Following are the locations of the 27 Chrysler facilities whose workers have been certified with the estimated number of eligible workers and impact dates. Petitions for adjustment assistance were filed with the Labor Department by the United Automobile Workers Union (UAW) on Aug. 28, 1979, on behalf of workers and former workers producing passenger cars, trucks, and components for cars and trucks at 29 Chrysler assembly plants and auxiliary plants. Decisions are pending on the remaining two auxiliary plant cases (the New Process Gear Plant in East Syracuse, N.Y., and the Van Wert Complex in Van Wert, Ohio). The following criteria were met in the case of each group of certified workers: there were (1) increased imports of competitive products, (2) significant layoffs or threatened layoffs or underemployment, and (3) a decline in the facility's sales or production, and (4) increased imports contributed importantly to the job losses at the facility.

NAME AND LOCATION OF PLANT, NUMBER OF WORKERS, AND IMPACT DATE

Chrysler Assembly Plants:

Hamtramck Assembly Plant, Hamtramck, Mich., 3,200 workers. August 28, 1978.

Lynch Road Assembly Plant, Detroit, Mich, 2,400 workers. January 20, 1979.

Jefferson Assembly Plant, Detroit, Mich., 2,400 workers. May 1, 1979.

Warren Truck Assembly Plant, Warren, Mich., 4,300 workers. August 28, 1979.

St. Louis Assembly Plant, Fenton, Mo., 2,100 workers. August 28, 1978.

Newark Assembly Plant, Newark, Del., 1,500 workers. August 28, 1978.

Missouri Truck Assembly Plant, Fenton, Mo., 2,100 workers. May 1, 1979.

Chrysler Auxiliary Plants:

Detroit Forge Eldon Ave. Axle, Detroit, Mich., 2,100 workers. August 28, 1978.

Mound Road Engine, Detroit, Mich., 2,100 workers. August 28, 1978.

Eight-Mile & Outer Drive Stamping, Detroit, Mich., 800 workers. August 28, 1978.

Mack Ave. Stamping, Detroit, Mich. 1,600 workers. August 28, 1978.

Detroit Trim, Detroit, Mich. 400 workers. August 28, 1978.

McGraw Glass, Detroit, Mich. 250 workers. August 28, 1978.

Trenton Engine Chemical Div., Trenton, Mich. 80 workers. August 28, 1978.

Huber Foundry, Detroit, Mich. 525 workers. August 28, 1978.

Sterling Stamping, Sterling Heights, Mich. 800 workers. August 28, 1978.

Introl Div., Ann Arbor, Mich. 425 workers. November 1, 1978.

Warren Stamping, Warren, Mich. 1,100 workers. January 1, 1979.

New Castle Machining and Forge, New Castle, Ind. 1,400 workers. August 28, 1978.

Indianapolis Foundry, Indianapolis, Ind. 700 workers. August 28, 1978.

Indianapolis Foundry, Indianapolis, Ind. 1,000 workers. August 28, 1978.

Kokomo Transmission, Kokomo, Ind. 1,650 workers. November 1, 1978.

Kokomo Casting, Kokomo, Ind. 275 workers. November 1, 1978.

Fostoria Foundry, Fostoria, Ohio 275 workers. August 28, 1978.

Toledo Machining, Perrysburg, Ohio 650 workers. August 28, 1978.

Twinsburg Stamping, Twinsburg, Ohio 1,600 workers. November 1, 1978.

Huntsville Electronics, Huntsville, Ala. 400 workers. January 1, 1979.

The Trade Act of 1974 provides that workers who believe they have been or will become totally or partially separated from employment as a result of increased imports may petition the Secretary of Labor for certification of eligibility to apply for adjustment assistance.

Assistance to workers under the Trade Act may include cash trade readjustment allowances, training, employment services (counseling, testing, and job placement services), job search grants, and relocation allowances.

The cash trade readjustment allowances amount to 70 percent of a worker's average weekly wage, not to exceed the national average weekly manufacturing wage, for up to 52 weeks. Generally the amount of the trade readjustment allowance is reduced by the amount of the unemployment insurance the worker receives. Workers may receive up to 26 additional weeks of allowance to complete approved training. Workers aged 60 or older when separated from their last job may receive up to 26 additional weeks of allowances. No workers may receive more than 78 weeks of allowances.

Workers separated on or after the impact date are eligible to apply for trade adjustment assistance under the Trade Act of 1974. Workers are not eligible for assistance if their last separation from adversely affected employment occurred before the impact date specified in the certification.

Payments of trade readjustment allowances, training, employment services, job search grants, and relocation allowances will be administered primarily through the state employment security agencies (Michigan Employment Security Commission, Missouri Division of Employment Security, Ohio Bureau of Employment Services, Indiana Employment Security Division, Alabama Department of Industrial Relations, and Delaware State Department of Labor) with funds provided by the Federal Government.

To be eligible, a worker must have been employed at the affected facility for at least six months out of the year prior to layoff.

[From the New York Times, Dec. 8, 1979]

LAID-OFF WORKERS AT CHRYSLER GET AID—IMPORTS' HARM CITED BY UNITED STATES

(By William Serrin)

DETROIT, December 7.—Some 50,000 workers in the Detroit area who have been laid off by the Chrysler Corporation will be eligible for special Federal grants, which could total $17 million, available to workers made jobless by imports.

Beginning Monday, the grants will provide increased unemployment compensation and will help workers seek job retraining or new employment. In some cases, the grants will be in addition to regular unemployment compensation or supplemental unemployment benefits.

The grants will be made under the Trade Act of 1974, which allows special aid to American employees who, in the view of the Labor Department, have become unemployed or whose employment has been interrupted because of imports. Chrysler employees form the largest group of workers who have been certified for assistance under this law, according to the department.

Marvin Fooks, a trade adjustment official, said in Washington that automobile imports from Europe, Japan and Canada were involved in the department's decision, made last month. Whether poor management, not merely foreign competition, may have been a factor in Chrysler's financial plight is not a consideration under the Trade Act, he said.

STIMULUS FOR DETROIT AREA

S. Martin Taylor, director of the Michigan Employment Security Commission, said the grants would not only help Chrysler workers but also stimulate the economy of the Detroit area.

Mr. Taylor said that, regardless of whether economists think the nation is in a recession, the Detroit area has been in a recession since last summer. If the Chrysler Corporation closes up because Congress does not approve proposed Federal loan guarantees for the company, he said, the Detroit area "will be in a depression like 1929."

In a continuation of recent bad news for auto workers, Chrysler announced today that it would close its assembly plant in Hamtramck, a city enclosed by Detroit, on Jan. 4 instead of next July, as had been scheduled. Because of the automobile industry's "severe downturn in retail sales," the company said, "the production capacity at the Hamtramck plant is no longer needed."

The company said that many of the 2,475 hourly and 450 salaried workers at the Hamtramck plant, generally known as the Dodge main plant, probably could find employment at other Chrysler operations in the area.

NEWS A SHOCK TO MAYOR

But William Kozerski, the Mayor of Hamtramck, said the announcement was a shock, particularly coming at the Christmas season. He said he did not believe the United Automobile Workers, which opposes the closing of the plant, would be able to sway the company's position.

Marc Stepp, U.A.W. vice president who is director of the union's Chrysler department, said at a news conference today that the union was saddened but not surprised by the early closing of the Hamtramck plant. "We've been hearing rumors for several months," he said, "We got the official word a few days ago."

Mr. Stepp said the union was trying to persuade Chrysler to "mothball" the assembly plant rather than abandon it. He also said the impact of the Hamtramck closing on Detroit's economy provided a "real-life example" of what would happen nationwide if Chrysler's request for Federal loan guarantees was rejected by Congress.

SIXTEEN PLANTS ARE INVOLVED

The commission is establishing special centers for Chrysler workers. They will represent 16 plants in the Detroit area, including the Hamtramck plant.

Under the Trade Act, a laid-off Chrysler employee—production or salaried—will be eligible for readjustment allowances of up to 70 percent of the worker's regular pay. The maximum benefit is $250 a week for 52 weeks, with possible extensions for older workers or workers in state-approved training programs.

State unemployment or supplemental unemployment benefits, which are paid by the company, will be counted in the grants. For workers who are not receiving money from these two programs, Federal payments will pay the entire 70 percent.

Workers are now eligible for 26 weeks or 39 weeks of state compensation, depending on their status. The Chrysler supplemental unemployment fund has been virtually exhausted for some time, and only workers with more than 10 years' seniority are receiving this aid.

Under the Federal program, workers also will be eligible for as much as $500 to travel to another area to seek work and up to 80 percent of relocation costs. Awards can be retroactive to August 1978, and workers can receive payment for time lost from work even if they now have new jobs.●

PRAVDA ON THE IRANIAN CRISIS

● Mr. **HAYAKAWA**. Mr. President, during the recent hearings on SALT II we have been told by supporters of the treaty that its rejection would end "détente," the current peaceful cooperation with the Soviet Union and the friendly spirit of SALT II. For those who have endorsed or accepted this kind of reasoning a recent article in Pravda on the Iranian crisis will make interesting reading. Pravda is of course an official mouthpiece of our friends in the Kremlin who are most anxious to have SALT II ratified. It is not difficult to imagine what kind of Russian cooperation the United States can expect once SALT II has been approved by the Senate.

I request that the Pravda piece may be printed in the RECORD.

The article follows:

DISPLAY PRUDENCE AND RESTRAINT

Moscow, December 5.—Pravda today publishes the following article by Aleksey Petrov on American-Iranian relations:

Tensions in American-Iranian relations are growing. The latest actions taken by the United States show that Washington, by all accounts, has decided to increase the tension (nakal) in the crisis and turn it into one of the serious international conflicts of postwar times.

The anti-Iranian campaign has taken on an unprecedented scale in the U.S. press. Statements and calls, one more warlike than the other, can be heard on the pages of the American press and from the rostrums of Congress. Demands to "punish," energetically "chastise" and "teach a lesson" to Iran are gushing forth. Some Congressmen suggest presenting Iran with an ultimatum, the refusal of which would become the signal for initiating military actions. Others demand a review of American diplomacy regarding countries in that part of the world and urge a return to the notorious "big stick" invented at the beginning of the present century by Theodore Roosevelt.

White House statements speak more and more rarely about intentions of seeking peaceful ways of resolving the present American-Iranian crisis, and "other alternatives of actions" to which the United States will allegedly be forced to resort are cropping up with increasing frequency.

The diplomatic steps being taken by American representatives in the UN security council or at the international court, as the United States itself admits, must first and foremost convince American and international opinion that the United States has, as it were, "exhausted" peaceful means of settling the conflict and has no way out of the situation which has come about, other than through the use of force.

There are more than enough facts showing that preparations are underway for the use of force. In the area of the near and middle east, directly adjoining Iran, American naval, air force and landing forces are drawn up. As the Washington Post states, not once since World War II have such heavy U.S. naval forces been concentrated in waters near Iran. Fighter-bombers—of which are over 350—on American aircraft carriers are, as is stated, capable of hitting "the most varied targets in Iran." A bombing strike from these aircraft, the paper writes, could be made either using atom bombs powerful enough to hit major areas such as oil deposits or using special bombs which could knock out individual oil-refining enterprises.

There are reports that the Pentagon, in mounting operations against Iran, is intending to rely on Israel and to use bases in Egypt and in the Indian Ocean. Israel has already itself publicly proposed its services to Washington in this matter.

Be that as it may, there is direct evidence of crude military-political pressure on Iran from one of the mightiest states, militarily speaking, in the world.

An alarming and dangerous situation is arising. The United States, which is a permanent member of the security council and shares, together with its other members in accordance with the U.N. charter, chief responsibility for maintaining peace, is essentially resorting to blackmail vis-a-vis another sovereign state. Instead of setting an example of restraint, responsibility and coolness in the situation which has come about, and redoubling efforts in the search for a reasonable way out of the situation which has arisen, not allowing emotions to boil over, certain U.S. circles are increasingly shifting the emphasis on force.

It is asserted that this is happening in response to holding hostage, contrary to the norms of international law, the staff of the U.S. embassy in Tehran. It is beyond dispute that the seizure of the American embassy is, of itself, not in accordance with the international convention on respect for diplomatic privileges and immunity. However, this act should not be taken out of the general context of American-Iranian relations, nor should the United States' actions with respect to Iran, which in no way accords with the rules of law and morals, be forgotten.

For was not international law also flouted by the actions of the U.S. Special Services, which in 1953 organized the overthrow of the legitimate government in Iran and foisted the shah's arbitrariness and lawlessness on the Iranian people for a quarter of a century afterwards? And does the position of those Washington circles which reject the demands of the Iranian people for handing over the shah, and the return to the country of billions worth of wealth plundered by him, really have much in common with international law?

In his interview on San Francisco television, Senator E. Kennedy said: "The shah was at the head of one of the most violent regimes in the history of mankind. How can the United States be justified in taking in a man who wanted to come here and remain here with his countless billions of dollars stolen from Iran?" "The United States is harboring a murderer and robber," stated A. Young, the former U.S. Representative at the United Nations. "It is therefore logical that the Iranian people are demanding the extradition of the shah from the United States to put him on trial for the crimes he has committed."

The nonextradition of the shah has been declared by some in the United States as practically a "matter of National Honor."

However, the harboring of a criminal by no means enhances the honor and prestige of the country.

International law, like any law in general, does not recognize double standards. The indisputability of the principle of the inviolability of diplomatic missions cannot serve as a justification, nor even less as a pretext, for the violation of the sovereignty of an independent state—another principle forming the core of all international law.

The present attempts by the United States to blackmail Iran, having drawn up its forces towards Iran's borders, and to dictate to it by force its line of conduct, is a crude violation of international legal norms.

It is inadmissible that the incident with the American embassy which, of course, must find a just solution on a basis acceptable to both sides, has become a prologue for a dangerous military provocation threatening international peace.

Our country comes out, as comrade L. I. Brezhnev has stressed, "against interference from the outside in Iran's internal affairs by whoever, in whatever form and on whatever pretext." This stand by the Soviet Union remains unaltered because only by the strict observance in practice by all states, big and small, of the principle of respect for the sovereignty of other countries, noninterference in their internal affairs, of generally accepted norms of international contact and a thorough search for peaceful solutions to any controversial issues, will make it possible to preserve peace between peoples and to strengthen international security.●

PETTING THE DRAGON

● Mr. **HAYAKAWA**. Mr. President, the present crisis in Iran illustrates the danger and futility of attempting to appease a revolutionary force—in this case the Ayatollah Khomeini and his "Islamic" revolution.

One of the chief characteristics of a revolutionary power is its refusal to accept the validity of the existing world order and the laws and institutions which accompany it. Iran's opposition to the United States is based as much on our position as a mainstay of the current international system as on our decision to allow the Shah into this country for medical treatment. The seizure of American diplomats in Tehran violates every principle of international law and centuries-old diplomatic practice. These rules and constraints work for the benefit of all, and Iran's rejection of them affects not only the United States but the entire community of civilized nations. In the end, however, it will be Iran herself who suffers.

I strongly support the President's efforts to gain the release of the hostages through peaceful means. At the same time, the events in Iran demonstrate once again the need for a drastic revision of our global policies. Since Vietnam we have indulged ourselves in an orgy of self-analysis and recriminations regarding America's role in world affairs. These doubts have been reflected in our overall posture, to the dismay of our friends and allies and the rejoicing of our adversaries. In Angola, in Ethiopia, and now in Afghanistan, the United States has remained silent in the face of Soviet-backed aggression. Our attempts to conciliate the revolutionaries in Iran have only added to their perceptions of our impotence. That this impression is not confined to Iran can be seen by the attacks on our embassies in Libya and Pakistan.

The United States is not weak, however, nor are we lacking in will, as the firm stand we have taken in recent weeks have shown. It is vitally important that we do not allow the events in Iran to establish a precedent, that kidnaping and extortion by governments do not become the symbols of the 1980's in the way in which terrorism has become that of the 1970's.

In this context, I call to the attention of my colleagues an editorial in the Washington Star on November 9, 1979, entitled "Petting the Dragon," and I ask that it be printed in the RECORD.

The editorial follows:

[From the Washington Star, Nov. 9, 1979]

PETTING THE DRAGON

Former U.S. Attorney General Ramsey Clark, who was once "deeply impressed" by prospects for a "new freedom" in Iran under the Ayatollah Khomeini, is perhaps the right man to try to negotiate the release of U.S. embassy personnel now held in Tehran by Khomeini's bully-boys.

But the fate of the mission—Mr. Clark and a fellow emissary, also a former admirer of the Islamic revolution, have been denounced as "dirty characters" and left to cool their heels in Istanbul—may convince Mr. Clark that benign illusions have little effect on rude reality.

Ramsey Clark is a compassionate and public-spirited man. He is also conspicuous among those who were slow to learn that theocratic revolutionaries must sometimes be taken at their word. Last winter, when the shah's regime was tottering and some of its American critics, including Mr. Clark, could hardly wait for it to fall, there was plenty of evidence that the Ayatollah Khomeini ("the spirit of God," as he calls himself) would replace the shah's regime with an authoritarian, anti-Semitic, dictatorial and rabidly anti-American order. You only had to take at face value what the ayatollah was saying from his exile in France, and had earlier written in various godly screeds.

The course of events following his return—the mob rule, the intimidation and humiliation of Iran's Western-oriented middle class, the subordination of women, the kangaroo courts and firing squads, the inability of civil government to control the street mobs or mullahs, the harassment of Tehran's ancient Jewish community—followed plausibly from the ayatollah's clear intentions. He had proclaimed his policies; he kept his word.

Yet Americans are ever anxious to believe that revolutionaries simply *can't* mean what they say, if it jars with what we believe to be wise, right or decent. Some thought that this benighted atavar of medieval bigotry could be wooed from his fundamental character. So it pleased many Americans—not Ramsey Clark alone, by any means—to speak of the ayatollah as if he combined the best traits of George Washington and Mohandas Gandhi (Andrew Young called him a "kind of saint"), and to view his program as a benevolent blend of the Americans for Democratic Action and the Southern Christian Leadership Conference. Those who ventured to doubt this interpretation were sternly reminded that it would be parochial of Americans to sit in judgment of "Islamic" thought.

What evolved from all this was, in fact, a policy of dragon-petting, with the aim of domesticating the dragon.

As recently as a couple of months ago, the State Department was encouraging American businesses to return to Iran as tokens of U.S. respect and esteem for the Islamic revolution. There was pressure to appoint a new ambassador and to expand the embassy staff, now hostage to the ayatollah's rage to execute the shah. Meanwhile, the U.S. sought to ingratiate itself by cold shouldering the shah and pretending (as if this would make it true) that an intimate friendship with him over several decades had never existed or, at least, meant nothing.

When the crisis is over and the embassy personnel are freed—as surely they will be, eventually, unless the international community has lost all ability to enforce the basic diplomatic civilities—it may finally be clear that the ayatollah has no interest in a decent and civil relationship with this country. A lesson in the futility of dragon-petting has been learned: Benevolent words and benign gestures cannot appease a revolutionary force animated by the illusion of special godliness.

And another lesson, a continuing one, is the folly of our foreign oil dependency. That oil has been the chief reason for the dragon-petting policy is surely no secret to the ayatollah and his rowdies. The appeasement has succeeded so far. But the safety of the oil supply is as dependent as the security of our embassy personnel on the whim of the ayatollah. It is only a matter of time before an embargo, touched off by a sudden rage, drives that point home.

Beginning in 1973, the U.S. has received one strong signal after another that we must take whatever measures are necessary, however drastic they may be, to free our diplomacy from the hackles of foreign oil dependency. We are far from doing so, and dragon petting is no substitute. The dragons refuse domestication. In Iran, they are more hostile than ever.●

THE ENERGY MOBILIZATION BOARD

● Mr. **MUSKIE**. Mr. President, the issue of energy independence has been in the forefront for many months. The Congress will soon be confronted again with a proposed solution to our energy problems, when the Senate is asked to approve a conference report creating an Energy Mobilization Board.

I have strong reservations that the legislation passed by the Senate will contribute to our objective. As I stated during the debate on that bill, I do not believe that the unprecedented intrusions into Federal, State and local prerogatives to protect public health and safety are necessary to achieve energy independence. Nor do I believe that the new bureaucracy contributing more red-tape, not less, to the approval process for energy facilities.

The legislation approved by the House of Representatives contains similar flaws, but makes even more serious intrusions into our ability to protect our health and safety from yet unknown and uncontrolled impacts of energy facilities.

I hope that the members of the conference committee will carefully consider the potential consequences of their decisions.

Mr. Anthony Lewis has written a thought-provoking article on this subject. I commend his analysis to my colleagues as the time approaches for a decision on the merits of an Energy Mobilization Board and request that it be printed in the RECORD.

The analysis follows:

[From the New York Times, Dec. 6, 1979]

Act Now, Pay Later

(By Anthony Lewis)

Of all the energy bills sought by President Carter since last summer, one is approaching the end of the legislative process. That is the bill to create an Energy Mobilization Board with broad power to hasten the approval of energy projects. The legislation has passed both House and Senate, and conferees have been appointed to work out the differences.

Speeding the way for new energy facilities sounds like a simple, straightforward idea. In fact, the legislation is dauntingly complex. The House and Senate versions differ in dozens of significant ways. The whole thing is an example of how, on many issues, the public discussion that in our democratic theory is supposed to shape government policy has become despairingly difficult.

But the attempt has to be made. For the Mobilization Board legislation may have a very large impact on the quality of life in this country. And it is a significant test of the trust that can be placed in Jimmy Carter as a politician.

The Energy Mobilization Board, under both bills, would designate "priority energy projects"—not just a few, but as many as it wants. Those projects would get a "fast track" schedule for action by state and Federal agencies. If any agency failed to act on time, the E.M.B. could step in and make the decision itself.

That is great power for the board, and extremely centralized power by American standards. For Washington officials to have the right to pre-empt the functions of local zoning or health or safety boards from Maine to Texas is novel, to put it mildly. But that is by no means the limit of what the legislation does.

The Senate and House bills, with somewhat different mechanisms, also allow the E.M.B. to put aside any laws or regulations that went into effect after an energy project got under way. That sounds simple enough, but again it is not.

Suppose, for example, that scientists believe a proposed synthetic fuel plant would create massive toxic wastes: Love Canal on a large scale. Congress has passed the Toxic Substances Control Act to deal with such problems. But the necessary regulations under the act have not yet been written. If the synthetic fuel project was under way before the regulations came out, the E.M.B. could exempt it from the rules.

Or suppose one of the Western states decided that it needed new legislation to reserve a certain amount of the water flow in its rivers for fishing or recreational use. If the state passed that law after an energy project was in its earliest stages, the E.M.B. could order that the project get as much water as it needed despite the state law—even if the effect was to dry up the rivers for miles around.

The House version of the legislation gives the E.M.B. a further and much more drastic power. It could recommend the waiver of any Federal law that would interfere with a priority energy project. And the President could then order the waiver if he found that it would not "unduly" endanger the public health or safety.

The waiver would be subject to approval by both houses of Congress, but under rules that make that protection of dubious value. The resolution approving each waiver could not be amended in committee or on the floor; there would be an up-or-down vote, at an early date.

For Congress to consider a complicated set of issues in such a hasty, narrow way would be a dangerous change in the legislative process.

It would invite log-rolling. All the interests in favor of a single project would concentrate their lobbying, while the more general concerns of health and the environment would be dispersed. It would be the Tellico Dam affair again and again: The interests would always find an ambitious little Howard Baker to carry the ball.

One of the curiosities of this legislation is that it has had so little attention from conservatives. They should be shocked at the concentration of power that is envisaged: power for a few men in Washington to override state and local authority. They should be troubled, too, at the idea of a hasty process putting aside carefully considered Federal laws to keep our air and water clean, to protect us from toxic substances, to keep wilderness areas undisturbed.

Jimmy Carter has a personal stake because his White House lobbyists have played a big part in shaping the legislation. They've said all along that they would work to remove the dangerous clauses later in the legislative process. Will they really do so now? Or will they leave, as the legacy of an environmentalist President, a statute that would let future Administrations despoil the country?

No Washington board can magically make it easy to locate energy facilities. The decisions are hard because the issues are hard. Mistakes, which last a long time, may be worse than delay. The Mobilization Board can do some modest good, but that should not be at a disproportionate price.●

ILLEGAL ALIENS TAKE 2 MILLION AMERICAN JOBS

● Mr. HUDDLESTON. Mr. President, a great deal of controversy has been raging around the issue of illegal aliens for several years. Conflicting views on the number of illegal aliens and their impact on the United States have made this debate often less than enlightening. However, there is gradually emerging out of this swirl of opinions and conflicting statements a strong indication that the presence of large numbers of illegal aliens in this country is imposing a heavy cost upon our economy and society.

Secretary of Labor Ray Marshall stated in an interview appearing in the December 2, 1979, Los Angeles Times that the unemployment rate in the United States could be reduced to less than 4 percent if illegal aliens were not present in the United States since our unemployment rate is now 6 percent, this would mean 2 million or more citizens or legal residents could be gainfully employed. The significance of this will be even greater in 1980 during which many economists are predicting an unemployment rate as high as 8 percent.

Secretary Marshall's assessment is clearly supported by the Interagency Task Force on Immigration Policy which issued its staff report in March 1979. This report found that:

> If immigration occurs near the bottom of the business cycle, when many U.S. workers are unemployed, it is unlikely to produce any significant benefits and it clearly will exacerbate unemployment or lower relative wages of low-skilled workers or both.

The significance of this loss of employment to illegal aliens can be translated to direct costs to American taxpayers. The Director of the Congressional Budget Office, Alice M. Rivlin, recently testified before congressional committees that every percentage point of unemployment cost the Federal Treasury between $18 and $20 billion on an annual basis. This cost is attributable to higher outlays and lower tax receipts. By reducing our present unemployment level to 4 percent, we could conceivably cancel out the deficit for fiscal year 1980—a savings which could be passed on to the already overburdened taxpayer.

Admittedly, there would have to be an adjustment made in the above revenue figures because some illegal aliens have taxes withheld. However, there is growing evidence that these withheld taxes do not cover total tax liabilities of illegal aliens. A recent report by an Internal Revenue Service study team designated in the spring of 1978 to evaluate unreported income problems found that most are nonfilers and many work completely off-the-books. Although based on incomplete data, this report states that the income of illegal aliens who are nontax filers amounts to $5 to $6.6 billion annually. These figures support an IRS test program in 1974 which indicated a high frequency of tax noncompliance among apprehended illegal aliens.

There are also indirect costs that are associated with high levels of unemployment. The Joint Economic Committee held a hearing on October 26, 1979, to examine the social costs of unemployment and Congressman MITCHELL, who chaired the hearing stated:

> Unemployment increases generate a physical and mental pathology that serves as a burden on society. The trauma of unemployment increases homicides, suicides, drug related crimes and the incidence of admissions into state mental hospitals and prisons. These are real costs that must be considered when discussing the issues of unemployment.

I believe that it is time we recognize that our "do nothing" policy on illegal aliens does contribute significantly to unemployment and that such unemployment has substantial direct and indirect costs for our society.

Mr. President, I ask that the article on Secretary Marshall's interview be printed in the RECORD.

The article follows:

[From the Los Angeles Times, Dec. 2, 1979]

Illegal Aliens Cost U.S. Jobs—Marshall

(By Harry Bernstein)

Secretary of Labor F. Ray Marshall insists that illegal aliens are taking jobs away from U.S. citizens and legal aliens, and says this country could reduce its unemployment to less than 4 percent if it were not for the illegals.

Marshall, a key Carter Administration figure in setting immigration policies, said in an interview that the impact of illegal aliens on U.S. workers is generally underestimated and the Administration is working to get a consensus for legislation to deal with the problem.

Marshall said he wanted to "speak out now on the problem of illegal immigration, which I have studied for a quarter of a century, because many of the arguments in the debate over this issue are patently false."

The secretary stressed that he is not advocating mass deportation of illegal aliens.

"The main concern is not necessarily on the immediate impact of illegal aliens on the present levels of unemployment, but to provide a just and humane solution to a complex problem before it does reach crisis proportions," he said.

He voiced his views on this volatile issue in an extended interview, responding orally and in writing to a series of questions:

Q. There is a widespread belief that illegal aliens are helpful and even essential to this country because they are willing to take jobs citizens or legal aliens will not perform. Do you agree?

A. It is false to say American workers cannot be found for all of the jobs filled by undocumented workers. The truth is that there are millions of American workers in all of these low-paying occupations already. The job market in which they (the illegal aliens) compete is highly competitive, with a surplus of people vying for a shortage of jobs, no matter how undesirable the jobs may be.

Q. Have you made any estimates of the impact of illegal aliens on U.S. employment?

A. One of the lowest estimates of the number of illegal workers in the United States is 4 million. If only half, or 2 million, of them are in jobs that would otherwise be held by U.S. workers, eliminating this displacement would bring unemployment down to 3.7 percent, which is below the 4 percent full-employment target set by the Humphrey-Hawkins Act.

The real tragedy of this displacement is that its burden falls on the most vulnerable people in our society: minority teen-agers, women who head families and older workers. Their high rates of unemployment are public record. They will continue to suffer if high levels of illegal immigration continue.

Q. Do you not worry about creating an "anti-alien" climate of opinion that will harm aliens here legally as you warn about the dangers of the illegal aliens?

A. Those of us concerned about the implications of continued illegal immigration believe we can have a just and humane solution to this problem if we act before it becomes a crisis instead of ignoring it. This is far from a hysterical fear about an "alien invasion," a challenge to our cultural purity or even the fear of overloading our welfare system.

I have become concerned recently that people are beginning to say there is no problem, and the illegal worker is a positive benefit for us. That is a narrow and short-sighted view.

Q. Is there a problem now of illegal aliens overloading our welfare system?

A. Undocumented workers may use few public services today, but those who settle here permanently will increasingly rely on them. As they establish families and grow older, they will be less able to compete with the newer undocumented workers. Compete they must, and compete fiercely. They may be healthy today, but they will age, and their endurance will fade. Once they falter on the job, younger illegal workers will take their place.

Q. Do you see any advantage to the competition provided by the illegal aliens?

A. No. If we were a country that acquiesces to all economic forces, perhaps we could expect disadvantaged American-born and legal immigrant workers to compete with illegal workers. We could expect them to forget about earning decent wages, safe and healthy conditions or the chance for advancement. We could expect older workers and women to compete with younger, stronger, male undocumented workers.

But we have come too far in this century to turn back the clock. Long ago, we decided to improve the working conditions and pay for all workers. We enacted standards for employers, and we must enforce them. It is repugnant that millions of workers in America are in a lifelong second-class status, without legal protections or civil liberties. It is not only repugnant; it is dangerous to our society and a problem which can come back to haunt us with a vengeance.

Q. Are you talking about reactions among illegal aliens now here as a future problem for the United States?

A. Yes. Undocumented workers may be desperate and fearful enough to endure this today. But what about 10 years from now? And what will their children be willing to endure? Is there any doubt that their children will be disadvantaged because of the extralegal status of their parents? I am convinced we are sowing the seeds of a second future civil rights struggle, and we would be better off if we were to confront it now.

Q. Aren't illegal aliens here better off than in their own countries where their income and working conditions are often even worse than in the jobs they find in the United States?

A. It is true that most illegal immigrants come from developing nations with generally very low standards of living, high population growth rates and many more workers than job opportunities. Probably 60 percent of them come from Mexico.

They are mostly men in their prime working years, poorly educated, most have about half the years of education of American workers, and few speak English. Because they are here illegally, they work in the shadows of our society. They earn less money than just about everyone else. They endure poor and unsafe working conditions, high turnover and little chance for advancement.

Employers often shamelessly exploit them, paying less than the minimum wage, cheating them and sometimes even arranging raids by immigration officers on the day before payday. Even when paid minimum wage or higher, comparable U.S. workers might earn more.

In short, the illegal immigrant often works hard and scared, and that is nothing to cheer about in a nation that has struggled for two centuries to achieve dignity for its citizens and a decent reward for work.

Q. But still, aren't the illegals here often better off than in their home countries?

A. I see no rationalization for arguing that people should be here illegally. As a labor economist, I have studied the problem of illegal immigration for a quarter-century and know how deep and complex the problem is. The illegal immigrants are exploited by employers here. But don't forget the other end of this illegal labor market. The ample supply of docile, illegal workers perpetuates an underclass of dirty, unsafe, inefficient jobs. It removes the incentive to design work that is more efficient.

Q. Do we really know the extent of the problem?

A. We know it is very serious, and has a severe negative impact on employment in this country. We don't know the magnitude of the problem, and we need more data. For example, estimates of the number of illegal immigrants range from 4 million to 12 million. Few students of the problem believe the number is as high as 12 million.

But even if it is "only" 4 million, that is about 4 percent of our work force, which means it is a massive problem even based on the lowest of estimates.

Q. What do you want to do about the problem, and how far along is the Carter Administration in proposing new legislation to deal with it?

A. Congress did not act last year on President Carter's immigration proposals, although a Select Commission on Immigration and Refugee Policy is now studying the problem.

We need not wait for the commission to see the urgent need to protect the rights of undocumented workers already settled here permanently, to penalize employers who hire illegal immigrants, to improve enforcement and to promote closer cooperation with the countries of origin.

To be concerned about the consequences of illegal immigration on this country does not mean we must be unfeeling about the plight of immigrants and millions like them in the countries of origin.

But we should not allow the costs of the aid to those countries to be borne primarily by low-wage U.S. workers who have limited economic or political power to protect themselves.

Q. Do we need any other system to enforce the proposed laws to punish employees who hire the illegal aliens, and if so, what will it cost?

A. Yes, we need an identification system which would apply to all workers. Initially, at least, a noncounterfeitable Social Security card could be issued to all workers changing jobs and to all newly hired persons, and that could be done for under $200 million, a far cry from the earlier estimates that it would cost $500 million.

I want to emphasize that I, like many critics of the identification system, am concerned about civil liberties. But the fears of such a system are exaggerated, because all workers would be covered, not just Hispanics or some other group. It would not impair anyone's liberty.

I have been concerned about civil liberties all of my professional life.

Q. Should we increase the number of legal immigrants, especially those coming from Mexico?

A. Yes, and the exact amount of the increase should be a matter for negotiations with Mexico and other governments. But we should remember that the United States today continues to admit more immigrants than any other nation in the world—some 400,000 a year in addition to large numbers of refugees.

We may need foreign workers, but they should only be allowed to work here legally, under the protection of our laws.●

HUMAN RIGHTS DAY

● Mr. GLENN. Mr. President, December 10 marks a special anniversary that holds great meaning to all freedom-loving individuals the world over.

Thirty-one years ago the United Nations General Assembly adopted the Universal Declaration of Human Rights, and we note the event with a spirit of solemnity and hope.

Despite the important goals incorporated in that document, and many other constitutions and government instruments, true respect for human rights and self-determination remains unrealized by many millions of people around the world.

This anniversary receives only token notice in the United States, a land that quite properly prides itself on its efforts to achieve a society free of discrimination and oppression. Though we have strides to take before achieving that objective, America truly stands as a beacon to the rest of the world, a beacon shining by example. How apt it is that the symbol that greets newcomers to this Nation is a torch held high by a Statue of Liberty.

The Universal Declaration of Human Rights holds its greatest meaning in lands that have been denied freedoms which we consider so routine in America. It is known, for instance, that human rights activists throughout the Iron Curtain countries honor this anniversary and use it to rally their countrymen for freedom.

The prison camps cannot snuff out

these aspirations, and it would be tragic if we in the Congress did not take note that throughout the world, and particularly in the Baltic and Eastern European states, millions of individuals are praying that human rights statements come to mean more than pieces of paper. By their courage and unwillingness to surrender to totalitarianism, these citizens of the world community display the ultimate in courage. Their resolute belief in freedom will someday be rewarded, and in the meantime it is up to all of us to work in their behalf in every realistic way.

Thomas Brazaitis, Washington bureau chief for the Cleveland Plain Dealer, wrote a column in today's edition of that newspaper which captures the meaning of this day very well. Mr. Brazaitas, who is of Lithuanian ancestry, presents a message that should be noted by every American who believes in human rights.

I request that Mr. Brazaitis' column be printed in the RECORD.

The article follows:

FREEDOM LIVES IN THE MINDS OF LITHUANIANS THE WORLD OVER

(By Thomas J. Brazaitis)

WASHINGTON.—Today is Human Rights Day, marking the 31st anniversary of the day the General Assembly of the United Nations adopted the Universal Declaration of Human Rights.

It is a good day to ask you if you have ever heard of a place called Lithuania? Can you find it on a map? Who is its president? What is its capital?

If you are not sure of the answers, I am not surprised. To many Americans, Lithuania is a name they have heard, but can't place, except, perhaps, "somewhere near Europe, isn't it?"

On the face of it, Lithuania does not exist anymore, not since 1940, when it was occupied by force by the Soviet Union. Its capital, Vilnius, is now just another city in the U.S.S.R. Its last president, Antanas Smetona, died in Cleveland shortly after he escaped to the U.S.

But Lithuania, which was an independent country from 1918 to 1940, lives on in the minds and hearts of Lithuanians and their descendants.

My grandparents on both sides were native Lithuanians, who came to this country before World War I. Growing up, I was taught that Lithuanians traced their ancestry to before the time of Christ and their language to Sanskrit. The lessons were always punctuated with a pronouncement that some day Lithuania would be free again.

When the Russians took over, they sent about 350,000 Lithuanians to labor camps in Siberia for their political beliefs or for resisting Soviet rule. They have tried to force Lithuanians to speak Russian. Above all, they have tried to stamp out religion.

The Soviet Union signed the Universal Declaration of Human Rights in 1948 that says, "Every person has the right to freedom of thought and religion; this includes the right to change one's beliefs and the freedom to profess one's religion or beliefs, either privately or in assembly with others . . ."

But statistics speak louder than words.

Before the Soviet Union annexed Lithuania, 84 percent of three million Lithuanians were Catholic. Last year, 75 percent were Catholics. The number of Catholic churches dropped from 717 to 628, priests from 1,450 to 711 (their average age is 60), seminarians from 549 to 56 (all that are allowed by the government).

In 1972, about 17,500 Lithuanians petitioned the United Nations for help in restoring religious freedom. Many students and young workers demonstrated against the Soviet government's intolerance and several people burned themselves to death in protest.

Freedom of religion is guaranteed in the Soviet Constitution and in the Helsinki agreement of 1976, signed by the Soviets. But an underground newsletter, "Chronicle of the Catholic Church in Lithuania," reports constant harassment, interrogation and arrest of believers.

The Chronicle recently published excerpts of letters from Ona Pranckunaite, a Lithuanian political prisoner. Having learned in prison of her mother's death, she was grief-stricken, but resolute when she wrote this:

"Today, the believer must suffer many difficult calvaries for his beliefs: He is slowly killed in deadly security-police cellars at terrifying transfer points, stifled in a rail-car cells, and, in the end, he and his love for Christ cooled in the snows of Siberia.

"And some take fright at this calvary, this slow death. It is very painful when an occasional son of our nation allows himself to be wooed by unscrupulous "fairies" who promise freedom, guarantees his life and silver coins.

"The 'freedom' once promised me by the security police does not gladden me. What good is such freedom if I will always be persecuted by an angry, suspicious eye, will be under surveillance everywhere, will always be under scrutiny. Such would be my future freedom.

"Silver coins . . . What good are they? Today we no longer need the potter's field to bury strangers. Strangers have conquered us and they will bury us where it pleases them.

"For us, who have the hope of eternal life, it is not so important under what conditions the days of our life end, where the mounds of our graves will be located. It is important for us that our fellow countrymen, carrying Christ's teachings and light and standing on the mounds of their ancestors, feel nobler, stronger and bolder. For we will be held responsible for not preserving and not handing down the light of the Redeemer's teachings . . ." ●

CHEMICAL POISONS: ITEM NO. 1, TORONTO, CANADA

● Mr. MUSKIE. Mr. President, on November 12 a train derailed near Toronto, Canada, releasing chlorine and other gases into the atmosphere. Nearly a quarter of a million Canadian citizens had to be evacuated from their homes in what could have been a catastrophic episode.

Such an incident could easily have occurred in this country. In fact, on a smaller scale it did—twice in the same week as the Canadian accident. In Florida, 200 residents had to leave their houses because three propane tank cars derailed and began burning. A tanker in Michigan carrying toxic hydrogen fluoride also derailed, causing 1,000 others to evacuate their homes.

Every month, and practically every week, a new incident involving the release, in some form, of dangerous chemicals into the environment makes its way into the news media.

We are all aware of the most infamous chemical incidents—Love Canal, the Valley of the Drums, Montague, Mich. But there are also the smaller cases which are no less serious to the victims involved.

The Nation cannot and must not get used to the news of chemical contamination and become numb to the warnings that new chemical pathways are leading poisons into our food chains, our drinking water supplies, and other elements of our environment.

The Committee on Environment and Public Works is in the process of developing legislation to deal with the problems created by dangerous chemical emergencies. As we proceed to mark up legislation to solve some of these problems, we must clearly state our goals and boundaries.

Do we provide protection for third-party damages? Or do we reject economic aid to damaged parties?

Do we concentrate on abandoned hazardous waste sites in the legislation? Or do we provide protection against other releases of poisons into the environment that are just as harmful?

We will experience many more incidents of environmental damage caused by chemical poisons around the country. As these are brought to the attention of my colleagues, I hope the full ramifications and breadth of the dangers will become more apparent.

Mr. President, I ask that the following Washington Post editorial, "Everyday Risks," of November 26, be printed in the RECORD.

The editorial follows:

EVERYDAY RISKS

A quarter of a million Canadians were evacuated from their homes two weeks ago because of a train derailment that released deadly chlorine and phosgene gases. The story made front-page news for one day and was quickly forgotten—which illustrates the strange and often perplexing ways in which society responds to the myriad risks of industrialized living. One can only imagine how bleak the future of nuclear power would be if 250,000 people had had to be evacuated from the vicinity of a nuclear reactor.

What accounts for the phenomenon that produces yawns over chemical accidents and instant headlines about even the hint of a nuclear danger? It is not a reaction to the ghostly qualities of radioactivity, though that is a part of it. Radioactivity can kill you without your ever having seen, smelled, heard or felt it. But there are also many chemicals—carbon monoxide, for example—that are colorless, odorless, tasteless and deadly. Nor is the difference simply that nuclear energy is relatively new and unfamiliar. Commercial nuclear power has been around for two decades now, and that is substantially longer than, for instance, people have recognized the relationship between chemicals and cancer.

Society, in other words, reacts differently to risks that a mathematician would say were equally grave. Coal, for example, is almost certainly more dangerous than nuclear power if the combined risks of mining accidents, black lung, air pollution, acid rain and carbon-dioxide buildup are considered. But Jane Fonda, et al., have yet to hold an anti-coal rally. We live happily with one technology, the automobile, that causes 50,000 deaths a year—an astronomical figure. And of course there is smoking. The death rate of smokers is double that of non-smokers, regardless of age. And smoking also increases the danger from a variety of other sources: asbestos workers who smoke, for example, get lung cancer at nearly 100 times the rate of their non-smoking coworkers.

People are naturally more willing to accept the risks of a voluntary activity—especially one from which they receive a direct and obvious benefit—than the risks of an involuntary one. But a larger part of the explanation lies in a general public confusion. Recently it has begun to seem as though just about everything is dangerous to your health—nuclear power, chemical wastes, pesticides (which DuPont now advertises as "crop protection chemicals"), occupational hazards, antibiotics in animal feed, air pollution and on and on. Just about everything seems to cause cancer—what you do, what you eat (or don't eat), where you live. In the face of such a systems overload, it is difficult to be very rational.

Are the risks of ordinary living really increasing, or are they merely being advertised better? The answers aren't clear. We are running out of empty space where wastes can be dumped and forgotten. We are also able to measure tiny amounts of chemicals and traces of pollution that would have been undetectable only a few years ago. We have a slightly better understanding of which substances are likely to be carcinogenic, and a much improved appreciation of how closely various parts of the environment interact. In short, we are much more aware of risks that have been around for some time. But it may also be true that, because of more people, more industrial activity and declining natural resources, new dangers are now being generated faster than ever before.

A central theme of the 1980s will be coping with the discrepancy between the technical capacity to generate, detect and measure risks, and our much more rudimentary social abilities to control, accommodate and manage them.●

DRAFT STATEMENT: NUCLEAR POWER

● Mr. BELLMON. Mr. President, the Kemeny Commission—the panel that was asked by President Carter to probe the Three Mile Island incident—has completed its work and sent recommendations to the White House. The President has now acted on those recommendations.

It is always a pleasure for the Senator from Oklahoma to have occasion to praise President Carter for his actions. Whenever the President has asked my advice, I have steadfastly maintained that if he truly wants to reduce this Nation's dependence upon foreign sources of oil, he is going to have to take hard—and unpopular, in the short run—decisions.

He made one of those hard decisions when he allowed the price to start rising of domestically produced oil to the world price. I applaud that long overdue decision and I intend to do what I can to help out by preventing the so-called windfall profit tax bill from reinstituting those price controls by the taxman.

Now, he has made another of those hard decisions. He has rejected the Kemeny Commissions' recommendation that the Nuclear Regulatory Commission be abolished. Furthermore, he has gone out of his way to reaffirm his administration's commitment to nuclear power as a key energy source in the future. "We cannot," President Carter said, "shut the door on nuclear energy." He then went on to urge the NRC to resume issuing nuclear power plant licenses no later than May.

I applaud this courageous decision by the President. Some candidates for his office are getting applause around the country by vowing to kill nuclear power. Candidates that take that position either do not understand the situation we are in, or they are demagoguing.

President Carter cannot be accused thus far of being pronuclear by anyone who knows the true story. His refusal to build the Clinch River breeder reactor cannot be pronuclear. His decision not to allow reprocessing of nuclear fuel elements cannot be considered to be pronuclear. His appointments to the Nuclear Regulatory Commission cannot be considered to be pronuclear.

President Carter's decision to urge the NRC to resume licensing of nuclear powerplants has not resulted from any advice by pronuclear lobbyists. His decision has not come because he has been a closet pronuclear advocate all the time. His decision has come because he has had to face reality.

As he said in his news conference the other day—

> We do not have the luxury of abandoning nuclear power or imposing a lengthy moratorium on its further use.

Mr. President, that is what I call facing reality. That is what I call making a hard decision. I congratulate President Carter. I pray that he, having taken this action, will stick to it. I trust that those in his administration that have the responsibility for carrying out his policies will listen to what the President has said, and act accordingly.●

LEGISLATIVE SCHEDULE

Mr. ROBERT C. BYRD. Mr. President, for the record, at the close of the day let me say again, in order that our colleagues may be informed, that in the event action has not been completed on the unfinished business and on the Chrysler legislation, including conference reports thereon, by the end of next week the Senate will come back on the 27th, 2 days after Christmas, and renew it labors.

I am not saying this by way of any criticism or complaint because I think I have to say that the distinguished chairman of the Finance Committee, the other members of the committee, and the ranking minority member, have worked diligently on the floor here. This is a difficult bill. I think much credit is due to the chairman and the ranking minority member for the work that was done within the committee. It was a very complicated task, but they were able to bring the bill to the floor.

I want to say that no inferences can be drawn from what I have said that would indicate what I have stated is in criticism of any Senator. I feel that it is incumbent upon the Senate to respond to the needs of the hour. I believe the American people expect the Congress to complete its work on the Chrysler legislation and on the excess profits legislation before Congress goes out for any lengthy recess that would not bring the Congress back until the latter part of January.

In the event action is completed on these two measures and on the conference reports by the end of next week, then I should think that the Senate would be able to go out until the 22d or 23d of January, but on the basis that the Senate would call itself back in the event of an international crisis that would require our presence here. The President would not have to call the Senate back; the leaders of the Senate would do that.

But in the event, as I say, that action is not completed on these two measures, I regret to say that I think it is our duty to come back immediately after Christmas and work on whatever remains to be done in connection with either of these two measures.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow.

The motion was agreed to; and the Senate, at 8:18 p.m., recessed until Tuesday, December 11, 1979, at 10 a.m.

EXTENSIONS OF REMARKS

HUMAN RIGHTS: HOW BEST DO WE DEFEND THEM?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. MICHEL. Mr. Speaker, the Carter administration has boasted of its efforts to speak out in favor of human rights around the world. But after 3 years of this campaign, serious questions have to be asked about its efficacy. Aside from the rhetoric it has generated, what has the Carter human rights program done to actually foster the human rights of millions around the world? Equally important, what has this campaign done to enhance the national security of our own Nation?

Columnist Jeffrey St. John has called the Carter human rights approach "metaphysical madness." By this he means that the Carter administration's denunciations of human rights in the Iran of the Shah, in Rhodesia and South Africa, in Nicaragua and El Salvador and in South Korea has resulted in a lessening, not a strengthening of human rights in those nations.

We are never faced with a choice be-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

tween a government that has human rights violations and an opposition that would, if in power, eliminate human rights violations. We are faced, instead, with the unpleasant but often necessary obligation to support governments that, despite their violations of human rights; are not linked with the Soviet Union or Cuba. Is there one nation in the world of which it can be said that a Communist or pro-Communist government that replaced a non-Communist government had a better long-range record of protection of human rights? Of course not.

At this time I wish to insert in the RECORD, "The Rights Noose," by Jeffrey St. John, the New York Times, December 7, 1979:

THE RIGHTS NOOSE

(By Jeffrey St. John)

WASHINGTON.—The collapse of Western collective security before World War II sealed the fate of European Jews and led to genocide in Nazi Germany. The collapse of collective security after the United States abandoned Southeast Asia to the Soviet and Chinese struggle for spheres of influence has produced the genocide campaign against the Cambodian people.

The Administration's human-rights crusade has played a critical role in weakening Western collective security in the Middle East, Africa, Asia and Latin America. In Iran the Carter human-rights activists gave a powerful push to the Shah's opponents that has now led to the unhinging of the collective security of the non-Marxist Middle East. Ignoring the long-standing Soviet goal of destroying Western collective security by seeking to disrupt its access to oil, the Administration put pressure on the Shah to seek exile in the name of resolving a crisis it helped to create.

The Administration's appeasement of Khomeini regime included a moral moratorium on human rights when the regime murdered hundreds of its opponents, gagged the press and brutally suppressed the Kurdish uprising. Is it any wonder that having pursued a policy of mass murder and disregard for human life, the regime would seize Americans and hold them hostage?

In Rhodesia and South Africa, the human-rights campaign has successfully clouded the real objectives of the Soviet-Cuban effort in Africa: weakening of Western collective security by direct or indirect seizure of the vast mineral resources of Southern Africa. The chairman of the House Subcommittee on Mines and Mining, James D. Santini, Democrat of Nevada, in a recent series of hearings that were ignored by the news media, has argued that the vast mineral resources of Southern Africa are under seige by the Cubans and Russians while the Administration has blindly ignored the consequences to both Western collective security and its impact on the nation's economy.

In Nicaragua and El Salvador, the human-rights crusade not only played a critical role in overthrowing two longtime anti-Marxist Governments but also there is a substantial case to be made that the White House and State Department engaged in the very kind of secret campaign to destabilize friendly anti-Marxist governments in this hemisphere that liberals in Congress decried as criminal and immoral when carried out by the Nixon Administration against Chile before the military coup there in 1973. This accusation can be substantiated by the Administration's policy of ending all military and economic aid to Nicaragua, including the unprecedented and dangerous step of trying to persuade the International Monetary Fund to withhold a loan due to the now-ousted Somoza Government. Today, both Nicaragua and El Salvador have pro-Marxist elements within their Governments. Are we to accept the fiction that the Soviet troops in Cuba are not in this hemisphere to guard the strategic gains made by the Soviet proxies in both Central American states as well as in Panama and Fidel Castro's successful efforts to install pro-Marxist governments in the Caribbean as part of a strategic game of chess to deny us access to oil moving through the Panama Canal to strategic oil anchorage and refinery facilities in the Caribbean?

The assassination of the South Korean President, Park Chung Hee, has struck a severe blow to collective security in Asia. The murder of Mr. Park came after the White House and State Department pursued its deadly rights policy, which only emboldened Mr. Park's political enemies who called for his violent ouster. Since first coming to office, the Administration has weakened Asian collective security by proposing the withdrawal of our troops and nuclear weapons and seeking to establish diplomatic relations with North Korea. As with the Kennedy Administration's sanction in 1963 of the violent overthrow of South Vietnam's President Ngo Vanh Diem, the Carter Administration has sacrificed collective security for slogans and moralizing. The consequences of Mr. Park's murder may be as far reaching as was America's sanctioned murder of Mr. Diem.

The Administration's human-rights campaign, therefore, is a form of metaphysical madness that has gravely weakened Western security and may well go down in history as the "hangman" of genuine human rights and the most deadly slogan since Prime Minister Neville Chamberlain's "peace in our time." ●

WITHDRAW SALT II AGREEMENT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. McDONALD. Mr. Speaker, I am today sending a letter to President Carter suggesting that he withdraw the SALT II agreement from further consideration by the United States Senate.

We have watched the dreary spectacle of Communist expansion since the Bolsheviks illegally seized power in 1917. Since that date the Soviet Union has spread war, revolution, sabotage, subversion, and starvation. The goals of international Communism have never changed.

During World War II, as we all recall, we were allies of the Soviet Union. Our "arsenal of democracy" poured food, raw materials, and military equipment into the Soviet Union. The Red army took the offensive against Nazi Germany in American trucks and jeeps. However, the war ended on a somber note as the Red army and the NKVD crushed all non-Communist political parties and the heavy weight of the Iron Curtain descended on Eastern Europe.

Since that time we have had the Berlin airlift, war in Greece, the Korean war and Communist inspired insurrections in the Philippines and Malaysia. At the same time, Communist China, then a faithful ally of the Soviet Union, seized Tibet and invaded India.

In the sixties the fighting started up in earnest in Indochina and we had a missile crisis in Cuba. In fact at nearly every point wherein it seemed to be possible to reduce our expenditures for defense, the Soviet Union would create some new crisis.

Today we have an even worse situation with much of Africa and the Middle East dominated by Communist regimes. In addition we have rampant Cuba acting as surrogate aggressor for the Soviet Union all over Africa as well as behaving with renewed arrogance in Central America.

Mr. Speaker, it is high time we recognize there is no détente, except in Washington, and that we stop the pretense that SALT II will somehow help the cause of peace. Withdrawal of the agreement would be one method of letting the Soviet Union know we are tiring of her speaking out of both sides of her mouth and that we recognize her for the bloody aggressor she is. My hope is that other Members of this House will also be inclined to echo my sentiments and let the President know how they feel.●

WHERE TO GO

HON. LINDY BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mrs. BOGGS. Mr. Speaker, I would like to insert for publication in the RECORD the following article on battered women that was published in the New Orleans Times-Picayune on November 18, 1979.

The article, featured in the Sunday magazine supplement, "Dixie-Roto," is an overview of two local programs of aid for battered women. One program is administered by the New Orleans YWCA; the other Crescent House, is coordinated by Associated Catholic Charities.

The article follows:

WHERE TO GO? WHAT TO DO?

(By Millie Ball)

"One of the ideas that goes along with taking care of women is that it's okay to punish them when they do something wrong," said Jan Logan, who was quick to say not all traditional macho men beat their wives, of course. But she does know a lot about those who do because of her job as director of the Young Women's Christian Association's Battered Women's Program since it was started in December, 1977.

"It's sort of an ownership theory. He takes care of her, and marriage gives him the right to punish her too. Also, if he owns a person, he wants to control her, and he does that through physical force and verbal abuse," said Ms. Logan.

"So often, he has unrealistic expectations of marriage, and of what his spouse can do for him. Chances are he went into it thinking she could do more for him, that she could make him happy, and then, if he's not happy, he decides it's her fault. When things go bad for him, he blames her."

There are thousands of these men in the New Orleans area, and most go undetected. One of the reasons has been that the women had nowhere to go. The YWCA was the first to look to their needs, to offer free counseling and help in getting jobs and gaining confidence, but until this past spring, there was no place just for them, where they could physically pack up and head off for, baggage and children in tow.

Now there's the Associated Catholic Charities' Crescent House, as in Crescent City. Its location has been a big dark secret since it opened March 8. There's no charge for staying there, but there is a contract that must be signed by women who live there. Rule 1. "I agree to keep the location of Crescent House known only to myself, and I further agree to give the telephone number only to those persons on whom I can rely to maintain a high standard of security."

Rule 2. "In order to ensure the confidentiality of Crescent House, I agree to meet any visitors at a location other than the shelter." There are a bunch of other rules, such as helping around the house, but those two and the ones forbidding alcohol, drugs, and weapons are the only ones that never are even slightly bent.

Director Jace Schinderman explained the reason for the secrecy is that it's vital to these women to feel safe from the men who have been abusing them, physically and emotionally. Two men have found the house, but neither made trouble, and both left without seeing the women they sought.

Not all are married. Some have been living with explosive men. Others who seek help have left, many even have divorced, but their previous partners won't leave them alone. "They've had no place to go for protection," said Ms. Schinderman. "Most people—family, friends relatives—don't want to get involved. Until a couple of years ago, it was considered a family matter between husband and wife."

To get into one of the 21 beds set up for women and children at Crescent House, a woman must be referred there by another agency. Many desperate victims call the YWC's 24-hour line at 486–0377. If there is room in Crescent House (as many as 63 women and children have been turned away for lack of space in a single month), and if they have no place else to go, Crescent House could become home for a while.

Once there, the women and their offspring are given two or three days "to get the feel of the place," said Ms. Schinderman. They talk with a social worker to figure out their needs and to set up a target date to leave. Most stay anywhere from 14 days to about a month. After settling in, residents are expected to pitch in with chores, and to attend afternoon rap sessions and semi-weekly group therapy meetings.

"These women are no different from you and me," said Ms. Schinderman. "It's easy to say, 'Oh, poor things. They're so different.' They're not." There have been welfare mothers in the house, but there also have been nurses, an attorney, a professor's wife, and the wife of a man who makes $100,000 a year.

"It's not only a problem of the lower classes," said Ms. Schinderman. "It's just that it's more visible there, because the upper classes can buy more privacy with their money."

Credit for the existence of the house should at least start with Barbara Songy, who for six years was state regent of the 13,000 Catholic Daughters of America in Louisiana. She in turn credits Pat Evans, director of the Louisiana Bureau for Women, who told her of the need for such a home.

Mrs. Songy convinced the archbishop to give a building, the governor to get the state to grant $100,000 to get it going, and the head of Associated Catholic Charities to make it a special project. "We could open six more and still not reach everybody," she said.

The YWCA leaders would agree with that. "We now are seeing 150 to 200 cases each month," said Jan Logan, director of the Battered Women's Program of the Y. "We think that's just a small percentage of the people involved. We consider it the most unreported crime in the nation." Municipal Court, in January, 1979, a sample month, handled 153 arraignments for cases of domestic violence.

In its first year-and-a-half, the Y helped more than 1,800 women. Leaders tried to follow up on 176 "closed" cases. They couldn't find 86 of the women. Of the 90 they could, 77 percent said the situation either had improved or had been eliminated, and 23 percent reported no change.

"We wanted to break down the myth that women don't want help," said YWCA counselor Deb Henson. "It shows when women do have support, they will do something about it."

The Y offers group counselling, one reason being that these women feel so isolated and guilty. "They feel they are bad," said Ms. Henson. "It helps them to hear other women talk."

For those who want to press charges against their husbands, the Y will send someone with them to court. "If he follows her and bothers her, what's she going to do?" asked Ms. Henson. "She has few options. If the violence is severe enough, yes, I would encourage her to press charges."

Legal options are to press criminal charges of simple battery, or, if he uses a weapon, aggravated battery, which is a felony, said Ms. Henson. Civil Court cases filed by battered wives usually involve separation, divorce, or child custody. Sometimes women will combine civil and criminal charges, she said.

"These women usually don't have much of a sense of themselves, an identity of their own. They have tried really hard to please their husbands so he won't abuse them," said Ms. Henson. This can be the wrong tactic, especially the first time it happens.

University of California sociologist Mildred Daley Pagelow studied the situation, and concluded, "The woman's response to the first battering incident is crucial. In one study, the women who reported one incident of abuse and no more, responded to the violence by either leaving the relationship or retaliating physically. Decisive behavior of this sort is necessary so as not to reinforce the violent behavior. Some things that reinforce the violent behavior are the man's increased sense of power and control, and the woman's increased efforts to please and placate him. Unless the first battering is dealt with effectively, battering will not only continue, it will escalate in frequency and severity."

Of course, as time goes on, hitting back could be dangerous, warned the Y women. A sense of independence may make things initially worse, but should help in the long run, they said.

Both men and women in these relationships usually have very traditional views of the male-female roles, they said. Many come from homes where wife beating was accepted behavior.

"Maybe 90 percent of the men who abuse their wives were abused themselves as children or watched their mothers being abused," said Ms. Logan. In at least 80 percent of the cases, the men drink heavily.

"I think often their self-esteem is lower than the woman's," said Ms. Henson. "They feel inadequate, so they blame their spouse for not making them feel better." But they also tend to rely heavily on their wives. "If she leaves, he'll go bananas, and do all he can to find her, because she takes care of him."

But he almost always can't talk about his feelings toward her, or about anything personal, she said. There tends to be a lot of denial of the seriousness of the problem by both man and woman, with both blaming alcohol, job pressures, family pressures, and the woman, saying she deserved it.

"He's often jealous of her friends and family," said Ms. Henson. "So the more he can keep her isolated and alone, the more control he feels."

Added Ms. Logan, "It's so hard for others to understand why a woman wouldn't know ahead of time a man was going to be like this. That's why there's the myth she likes it. But these women don't know what to look for in a relationship."

Chances are the man who can talk about his feelings, who has respect for his wife's part in the relationship, who talks with her about decisions to be made, who doesn't drink too heavily and doesn't anger too readily is a pretty good bet.

Not to say those who don't fit that profile aren't. But the odds are those who come near to it will be able to ride a white horse better than those who don't.

It's just that for too many women, that information is a little late.●

HONORING THE AMERICAN NOBLE LAUREATES IN SCIENCE

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. McCORMACK. Mr. Speaker, today, the 1979 Nobel Prizes in Science are being formally presented in Stockholm.

I know my colleagues will want to join me in congratulating those American scientists who have won Nobel Prizes in 1979. The prize in medicine was awarded to Dr. Allan M. Cormack of Tufts University for his role in the development of the imaging technique known as computed tomography. The prize in physics was divided among three theoreticians. The two Americans are Drs. Sheldon L. Glashow and Steven Weinberg of Harvard University. They received the award for their contributions to the theory of the unified weak and electromagnetic interaction between elementary particles. The prize in chemistry was awarded to Dr. Herbert C. Brown of Purdue University for his contribution to the development of the use of boron- and phophorous-containing compounds, respectively, into important reagents in organic synthesis. The prize in economic sciences went to Sir Arthur Lewis of Princeton University and Theodore W. Schultz of the University of Chicago, two economists noted for their work on the problems of underdeveloped countries.

The Nobel Prize Awards Ceremony is a fitting occasion for the Subcommittee on Energy Research and Production, which I chair, to join with the Subcommittee on Science Research and Technology, chaired by my good friend from California, Mr. BROWN, to assemble a distinguished group of Nobel laureates in science to honor American science and to explore issues surrounding the health of the American scientific research.

Last night, several Members of Congress and many distinguished members of the scientific community met at the Great Hall of the National Academy of

Sciences to pay tribute to the 1979 Nobel Laureates, now in Stockholm, and to the ten American Laureates of past years who joined us for a reception and banquet. It was a festive occasion.

Today the two subcommittees held a joint hearing on "Destinies for American Research." The Nobel laureate panel included: Dr. Burton Richter, of Stanford University. He is an elementary particle physicist who won the Nobel Prize in physics in 1976 for his discovery of the Psi of J particle. This was a key step in verifying the so-called quark theory of matter.

Dr. Melvin Calvin, of the University of California, Berkeley: He is a chemist who won the Nobel Prize in chemistry in 1961 for his research on assimilation of carbon dioxide in plants. More recently, he has been doing pioneer work in the development of energy-producing plant life.

Dr. Rosalyn Yalow, of the Veterans' Administration Hospital, in the Bronx, N.Y.: She is a medical physicist who won the Nobel Prize in medicine in 1977 for her research on hormones in the human body, and the use of radioimmunoassay techniques.

Dr. Paul Samuelson, of the Massachusetts Institute of Technology: He is an economist who won the Nobel Prize in economics in 1970 for his work which raised the level of scientific analysis in economic theory.

Our second panel, the research coordination panel was composed of: Dr. Philip Handler, President of the National Academy of Sciences. Dr. Handler is a distinguished biochemist, and

Dr. William O. Baker, chairman of the board, Bell Telephone Laboratories. Dr. Baker is a research chemist.

Both of these gentlemen have led active careers in both science research and in formulating this Nation's science policies.

During the hearing a number of critical issues were explored that bear on the potential for future support of scientific research and its application to new technology. Issues discussed include productivity, industrial innovation, and scientific manpower needs.

These subcommittee events were so successful and so enlightening that we propose to make the reception, banquet, and hearing a special celebration on the day of the formal Nobel Prize awards in December of each year in the future.●

CITIZENSHIP, THE CONSTITUTION, AND PUBLIC ISSUES

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. LONG of Maryland. Mr. Speaker, I welcome 39 students and Mr. Sidney Chernick, chairman of the social studies department, from the Pikesville Senior High School in Pikesville, Md.

My constituents are visting the Capitol in connection with a course entitled, "Citizenship, the Constitution, and Public Issues." They will see Congress in action and tour the FBI Building.

Today will, I am sure, be memorable and interesting. I am pleased to meet with my friends from Pikesville.

The students are: Jon Adleburg, Maurice Aiken, Dana Becker, Michael Bernstein, Elise Burgin, Glori Cohen, Julian Cohen, Richard Frank, Sari Friendlander, Charles Glass, Lisa Glickman, Jon Greenblatt, Mark Heatfield, Michael Grossfeld, and Irving Klein.

Julie Lapides, Harry Lasover, Sharon Martin, Vicky Meier, Keith Mottus, Harold Murveit, Lisa Pickus, Andrew Pollekof, Troy Powers, Laurie Pondfield, Michael Quartner, Michael Radinsky, Jeffrey Ross, Robert Roth, John Scher, and Leslie Schreiber.

Dawn Shuster, Elizabeth Sultan, Wendy Serpick, Ann Unekis, Michelle Uszerowicz, Bonnie Walpert, Harriet Wilder, and Debbie Windesheim.●

THE REAL MEANING OF CHRISTMAS

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. HYDE. Mr. Speaker, there is a lot of gloom overhanging our land this Christmas, with our hostages still imprisoned and the economy in precarious shape.

The enclosed newspaper article from the Chicago Tribune of December 6, 1979 caught the eye of Nancy Short, one of my most valuable staff members (and who is every bit as sentimental as I am) and I would like to share its warm and wonderful Christmas message with my colleagues.

The article follows:

[From the Chicago Tribune, Dec. 6, 1979]

THEY KNOW REAL MEANING OF CHRISTMAS

(By Dave Schneidman)

Adolph Sorensen was grinning like crazy Wednesday, despite being sick, broke, and only partially sighted.

Sgt. John Motzny of the Town Hall police district was also grinning, and, so it seemed, were the 20 stuffed toy animals that would brighten the Christmas season for at least some not-so-fortunate children.

For the seventh consecutive year, the 54-year-old Sorensen was delivering his donations to the annual Town Hall police Christmas party. Sorensen, a short gregarious pink-cheeked man with a mane of silver hair, saves money from the small Social Security check he and his sister, Margaret, 63, live on, to buy toys for the police Christmas party.

Motzny, who had come to the apartment the Sorensens share at 3653 N. Ashland Av., to pick up the stuffed animals, is a big Sorensen fan.

"These people live on a pension so small—I wouldn't embarrass them by telling you how small it is," Motzny said. "Yet, every year they donate these stuffed animals to us. And they don't want anything. Nothing. They're just good people in the real sense of the word good."

Sorensen, a diabetic who has lost the sight in his right eye and is fast losing the sight in the left, blushed at Motzny's praise.

"It isn't anything like that," he protested. "What happened was, one day about eight years ago, I was walking by the Town Hall station when they were having the Christmas party—that was when I had full sight—and I saw this little girl, maybe 4 or 5 years old, walking out with a big smile on her face, clutching a little toy animal.

"So, when I got home I said to my sister, 'That's what it's all about. I'm gonna put some smiles on faces too.' So after that, we've been donating the stuffed animals."

Christmas has always meant a lot to the Sorensens. "Our father, Christ Sorensen, was a Santa Claus on State Street before he died about 23 years ago," Miss Sorensen said. "He could speak about eight different languages, so the kids would come up to him and he'd start talking to them in Polish or Italian or German or whatever, and the kids would turn to their parents and say, 'He's the real Santa Claus,' and everybody would feel a little better for it."

Sorensen remembered the candy store he and his sister owned before he became to ill to work. "I remember the first customer I had. She was a little girl and she walks in and orders two of everything. You know, it was just one of those penny candy stores, so she's ordering jaw breakers and licorice sticks and candy dots, and I am thinking to myself, "This place is a gold mine. She's already ordered $1.08 worth of candy.' So then she gives me a penny and asks if she gets any change."

So you took the candy back, right?

"Naw, I didn't have the heart," he admitted. "I took her penny and let her keep the candy. But I didn't give her any change."●

NEED FOR AN INTERNATIONAL CONFERENCE TO FIND POLITICAL SOLUTION FOR CAMBODIA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. SOLARZ. Mr. Speaker, Senator KENNEDY and I introduced a concurrent resolution (H. Con. Res. 219) calling on the President to work with other world leaders to convene an international conference on Cambodia that would work to prevent the destruction of the Cambodian people and the establishment of a neutral Cambodian state. Eighteen Members of the Congress have joined me in sponsoring this resolution.

As press reports have indicated, the continuing conflict between the Vietnamese-backed Heng Samrin forces, Pol Pot's army, and the various free Khmer anti-Communist military groups, has severely hampered the international effort to prevent the death by starvation and disease of the remaining people of Cambodia.

Despite the increased willingness of the Heng Samrin regime in Phnom Penh to allow relief supplies into the country, thousands of hungry and disease-wracked refugees continue to cross over each day into Thailand fleeing the war, famine and disorder which has continued to plague their homeland.

More needs to be done to insure that the needed food and medical supplies reach these desperate people. We commend our colleagues who have worked hard to improve the humanitarian relief operation, and particularly those who traveled to Cambodia to personally intercede with the authorities in Phnom Penh to give greater access to the relief shipments, and to broaden the distribution beyond the Phnom Penh area.

But we are convinced that only a political solution will insure the survival of the Khmer race and the existence of a Khmer nation. Despite the presence of between 150,000 and 200,000 Vietnamese troops in Cambodia, the prospects for a protracted guerilla war seem certain, particularly with China and other nations continuing to support Pol Pot. For while such a war proceeds, the suffering of the Khmer people will continue, and the threat to the peace and stability of the entire region is magnified.

To seek a permanent peaceful solution to the fighting and suffering in Cambodia, we urge the convening, as soon as possible, of an international conference, which could be held under the auspices of the United Nations, to bring together all of the various parties claiming to represent the Cambodian people with other concerned nations, to examine the various factors which are increasing tensions and threatening the peace in Southeast Asia. Such a conference would work to develop a political solution that would lead to the establishment of a neutral, nonaligned Cambodian state that posed no threat to the security of any other nation in the region, and also provide the people of Cambodia an opportunity to freely determine their own future.

Ten months ago in February, eight of my colleagues, Messrs. SEIBERLING, BEDELL, PEASE, DODD, BARNES, WOLPE, LAGOMARSINO, and HYDE, joined me then in writing to the President to urge U.S. support for the convening of an international conference to seek a political solution in Cambodia that might defuse regional tensions and prevent the needless deaths of thousands of Cambodians who had already endured 4 years of terror under the murderous Pol Pot regime. Unfortunately, at that time the administration indicated that the political climate was not right for such a conference, and that there would be insufficient support at the United Nations for such an initiative.

Three weeks ago it was clear the climate had changed dramatically with the United Nation's General Assembly voting 91-21 in support of an ASEAN resolution condemning the Vietnamese invasion of Cambodia and the obstruction of the relief effort. The General Assembly urged the secretary general to take an active role in seeking a peaceful solution to this conflict and to explore the possibility of an international conference on Cambodia.

Obviously the road to a peaceful solution in Cambodia and to reduce regional tensions will not be an easy one. But unless world leaders make a serious attempt soon to seek such a solution, hundreds of thousands of additional Cambodian refugees will flee into Thailand, while thousands of others will perish in the fighting and continued famine. The ancient Khmer race and nation may disappear, a victim of a regional power struggle.

No responsible nation can refuse to participate in such an international diplomatic effort to reach a negotiated settlement to prevent the ultimate destruction of the Cambodian people and to avoid another conflagration between Vietnam and China.

The generous response of the American people to the international Cambodian relief appeal, and the strong support by the Congress of U.S. participation in this effort indicates, to me, a deep commitment by our citizens to all reasonable efforts to prevent the destruction of this tiny nation and to cooperate in efforts to rebuild this shattered land.

I hope that other Members of the House will join me in cosponsoring this resolution as an indication of the strong Congressional support for the convening of an international conference on Cambodia.•

CRS REPORT ON WOMEN AND RETIREMENT INCOME

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

• Mr. JOHN L. BURTON. Mr. Speaker, I would like to call my colleagues' attention to a recent publication of the Select Committee on Aging's Subcommittee on Retirement Income and Employment, which I chair. At our request the Congressional Research Service wrote a report entitled "Women and Retirement Income Programs: Current Issues of Equity and Adequacy." Because of the importance of this issue, this report is now available from the subcommittee.

CRS has done an outstanding job of analyzing the important issues of adequacy and equity of retirement incomes programs available to women, including social security, private pensions and the major Federal retirement systems. The adequacy of older women's incomes is a particularly critical issue.

Women are, and will continue to be, the majority of our elderly population and they are disproportionately poor. The poverty rate for elderly women is 60-percent higher than that for men. The number of elderly women who are poor is more than double the number of elderly poor men. Obviously we will not end poverty among the elderly unless we know more about the income problems facing women.

CRS has reviewed the pending questions of women's social security coverage and the proposed reforms, such as earnings sharing or a double-decker system of wage- and nonwage-related benefits. The report also examines flaws in private pensions' coverage from the point of view of women workers and women who are dependents or survivors of men with pension coverage. Many of the circumstances that cause women workers to be disadvantaged in the pension system—such as a pattern of interrupted work histories or the tendency to work in jobs that do not have pension coverage—are circumstances shared by minorities. Pension reforms to meet women's new needs are likely to benefit many other disadvantaged groups.

As the CRS report shows, the inadequacies in retirement income programs are not deliberate. Most occur because programs have not changed to reflect the changing roles and responsibilities of women in American life. Women represented nearly three-fifths of the increase in the labor force in the last decade. The majority of women working do so because of economic need, in many cases a result of divorce which is, regrettably, rising at alarming rates. Unfortunately, women's work patterns and job choices still limit the pension coverage they are likely to receive. The number of families in which both husband and wife must work is also increasing, yet private and public pension systems still base benefits on the one-wage-earner family model.

Correcting the way in which social security and public and private pensions protect women workers and dependents will be among the major issues before the Congress in the next few years. Already the Ways and Means Committee has begun hearings on the social security system's coverage of women. The adequacy of private pension coverage for women will be one issue before the Education and Labor Committee as it considers possible improvements in the Employee Retirement Income Security Act next session. This outstanding CRS report will be a valuable source of information when we address reforms in retirement income programs and I hope my colleagues will have the opportunity to review it.•

A KENTUCKIAN'S NETWORK CAREER

HON. TIM LEE CARTER

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

• Mr. CARTER. Mr. Speaker, recently the Louisville Courier-Journal printed an article on Mr. Julian Goodman, former president of the National Broadcasting Co.

Mr. Goodman is a native of Glasgow, Ky. His father was born near Fountain Run, in Monroe County. It has been my pleasure to know Julian many years, and during those years he has been thoughtful and kind enough to visit my office. I was pleased to be a guest when NBC of Washington gave a party for him at the Washington Hilton.

Julian attained his high position by hard work and dedication. He is truly one of our greatest Kentuckians. I include for the perusal of the Members an article by Tom Dorsey, entitled, "A Kentuckians' Network Career."

A KENTUCKIAN'S NETWORK CAREER

(By Tom Dorsey)

NEW YORK.—Julian Goodman, the former president of NBC, is spending a leisurely afternoon—unlike the hurried and harried pace of the past decade when he captained the NBC television ship through troubled network waters. He's out of it now. NBC's waters became too treacherous. Retired from the company, the press releases politely put it.

He doesn't seem much the worse for the ego-bruising blow, not in his conversation, which still shows traces of his Western Kentucky accent. He's a Glasgow, Ky., native. But he's taken a shine to the bright lights in the two decades he's lived in New York City.

He is having a quiet lunch at The Board Room, an exclusive Manhattan club at the top of the Bankers Trust Building on Park Avenue. He ushers his guest from one window of the dining room to the other, pointing out notable landmarks along the skyscraper canyons. He proudly saves the best view for last. It's from the men's washroom.

Goodman is at home in the executive washroom, just as he is at ease among The Board Room diners, titans of industry who occupy plush corporate head offices in the glass and granite boxes. For a dozen years he was the man at the top of one of America's most powerful businesses—a radio and television network. In a business where tenures are now marked in months, that was a marathon stint. His NBC career took him from overnight news rewrite man to the top of the news division. After that it was a rocket ride to the network presidency—all in less than 20 years.

It's a long way from the top of the Bankers Trust Building down to Glasgow, Ky. And miles aren't the measure for Goodman.

He began his journey as a newspaperman—stealing stories from broadcasting. "I used to work for the Glasgow Daily News when I was in high school," says the 57-year-old Goodman, a grin coming to his face as he remembers. "They were a poor newspaper. Could only afford to pay me $3 a week. They couldn't afford a wire service so I used to listen to WHAS. I'd get the ball scores and whatever little bits of news I could gather, and I'd write it down, and they'd put it in the paper."

He fondly recalls his greatest broadcasting theft in the service of print journalism. "It was the day Jean Harlow died. I got the flash on the radio and ran it down to the paper to write it up. They put it in a little box right on the front page."

The front page was still uppermost in his mind when he began his freshman year at Western Kentucky University. He majored in English and still has a soft spot for the woman who taught him how to write.

"That would be Miss Francis Richards," he says, "a great journalism instructor." But the year was 1939 and the clouds of war were gathering even though the storm had not yet broken. Goodman was sure war was imminent.

"I left school and volunteered. Serial No. 15315032," he says with a quickness to his voice as though he were still answering the Army bugle at Fort Benjamin Harrison in Indiana. "I got pneumonia, and they overdosed me on some medicine. They apparently thought I was going to die and wanted to get rid of their mistake, so they discharged me right away."

But he was determined to stay with the coming war effort in some way. He moved to Washington where he found himself heading an office of 19 women at the War Combined Production Board. "The idea was to combine the resources of Canada, the U.S. and Great Britain and then give it all away to Great Britain."

One of the women at the board was Betty Davis of Dawson Springs, Ky. And as it turned out, the two Kentuckians came all the way to Washington to meet and combine their own resources into 33 years of marriage and four children. But back in those World War II days his only responsibility was writing and rewriting bureaucratic memos.

"There was this one 150-page report on the requirements for postwar electricity in Italy that was sent back. I'm sure I'm the only person who ever read it. I boiled it down to two pages. So whatever electricity the Italians are enjoying today they owe to me," he says with a laugh.

But when the lights came on again all over the world, including Italy, Goodman was suffering from a serve case of writer's cramp. The government was cramping his style. He got out and pursued his first love—writing the news. The good newspaper jobs were going to the veterans so Goodman, recalling his prior source of news, tried radio. NBC was willing if he wanted to work nights.

"I replaced David Brinkley on the night desk as my first job," Goodman says, sounding even today like the kid who talks of wearing Babe Ruth's number. A decade later he would be Brinkley's boss as president of NBC news. But he still ranks Brinkley high on the list of the most impressive people he met on his way to the top.

"Brinkley will be ranked with the greats of broadcasting, and it's because of his writing. He not only shaped NBC's style of writing and delivery, he changed the whole concept of network news reporting. He has an incisive ability to bluntly sum up a story quickly in a way that others can only imitate," Goodman says. "Brinkley is one of the smartest, ablest people who has ever appeared on television."

If Goodman's description would turn Brinkley's head, then Johnny Carson ought to blush bright red at Goodman's undisguised admiration for the "Tonight" show host: "Carson is the consummate broadcasting professional. He's the best I've ever seen. People told me he wouldn't last out the first year. They said that with less conviction the second and third years he was on. Now 17 years later you can't get them to admit they ever said it at all.

"He is a true child of the television age. He knows what television is. He's studied it and mastered it like no one else has. He has quickness, wit, intelligence, and he works awfully hard. But it's timing that is most important. You see, Johnny knows when to keep his mouth shut."

Goodman sat in on Carson's contract renewals over the years as the salary figure mounted from thousands to millions. "I nostalgically look back to the days now when we were only paying him a million. But he has never been overpaid." Carson makes $3 million a year, but his show is seen by 15 million people nightly and brings in $130 million for NBC yearly. "Both NBC and Johnny came out very well over the last 17 years," Goodman reflects.

"I know people say, "Oh why does he take so much time off?' But they have no idea how hard he works to be as good as he is when he is on the show. They'll find out how good he was when they have to replace him."

There's talk that NBC will replace Bob Hope's specials with something else next season. The talk is that the 75-year-old Hope has worn out his TV welcome. Goodman would object to this view if he were still running things. "Look at George Burns and Jack Benny," says Goodman, making his case that comedians age like wine—not milk. "It's hard to bring up new, young comedians these days. The old guys like Hope learned their trade on the vaudeville circuits playing towns all over America. People ought to be glad Hope still wants to work."

One of the things that Goodman likes about Hope is that he is his own man. "He had lots of assistants and a big company behind him, but Bob always made his own decisions."

A man of decision is how Julian Goodman would like to think of himself. And he had plenty of chances to hone that cutting edge at a television network where decisions were demanded with almost every sweep of the second hand on the clock. Some of the toughest ones had to do with the White House. "Each president I saw used the power of TV differently, but every one used it."

Earlier Presidents Roosevelt and Truman only had access to radio. Goodman can still remember the day the maverick Truman broke the rule about never allowing a presidential news conference to be recorded. Goodman was sent to do the job because he was the only one who knew how to work the apparatus. "Truman was the easiest president I ever dealt with."

Later he watched as Eisenhower became the first president to allow filming of a news conference. Goodman also dealt with Nixon but won't say how he was. "I have to save something for the book I'm writing so people will think it's worth the $12.95 price tag," he says. He does recall the heat he felt when he was producing the famous Nixon-Kennedy debates of 1960.

"CBS was responsible for the first debate in Chicago, and I was watching because I was going to do the second one for NBC. The first thing I noticed was that Nixon was sweating heavily." That was to become a key image factor in many people's minds. The trickle of sweat made Nixon look nervous no matter how cooly he fielded the questions. Goodman decided that the heated issues and not the thermostat should decide the outcome of the next debate.

"When our turn came, I told the technicians to cool the studio all day and keep it at 72 degrees. Nixon couldn't help it that he perspired more than Kennedy, and I wanted to be fair." But the Kennedy-campaign people had a different idea, according to Goodman. "They arrived at the studio early and when they found out we had cooled it down they demanded the heat be turned on. His sweat was their political advantage and they knew it." But Goodman kept it cool.

Goodman may have regretted his good sportsmanship 15 years later when he faced down Nixon's attorney general, John Mitchell, who wanted reporter's notebooks. "The greatest threat to the free press since the Sedition Acts of 1798," Goodman angrily retorted at the time. That's another presidential encounter he's hoarding for that book.

But if Nixon was his nemesis, he found dealing with Kennedy nothing but cordial. If Johnny Carson was the consummate child of the TV age, Jack Kennedy was its finest presidential practitioner in Goodman's mind.

"He has a sharp sense of humor and an uncanny ability to read his audience." Goodman thinks that Kennedy's use of television during the Cuban missile crisis after the Bay of Pigs may have been the most dramatic use of the medium in broadcasting history. It was a scary moment and the first time television had been used as a diplomatic weapon in an international crisis.

"Kennedy came on TV and admitted his mistake and then sent a message to Khrushchev by television." One head of state had never ignored diplomatic channels to deliver an ultimatum to another by television. "It was dramatic, striking, and it had an impact on Khrushchev that a private letter never could have had," Goodman says.

Kennedy had an impact on network presidents, too. "But he never called me up to complain. Bobby Kennedy would call. He was more volatile than his brother. Jack always did it through his news secretary, Pierre Salinger."

That wasn't Lyndon Johnson's style, however. "He watched all three network newscasts at the same time every evening on a set that we built for him. Sure he'd call me up and bawl me out. Somebody always heard from him after the evening newscast." Goodman wants to leave the specifics for that book, but he did tell about one of the most interesting calls. "He called me up after he heard one of our reporters saying he was meeting with the Russans: 'It's a lie. No truth to it.' The next day he met with them."

Every president uses television. They use it most when they're trying to get elected. Early in their administrations you see a lot of them on the tube. But when the going gets tough, as it has for Carter, they begin retreating from the tube—especially from those live news conferences. That's when they decide to use TV to take their case to the public, Goodman thinks.

"They try to go over the heads of Congress and around the polls to reach the people directly, as Carter did in Bardtsown. The last four presidents have all done something like this. They come to the conclusion that the press is against them because the press won't write what they want to read or hear. They think they can go straight to the people. It never works. Substance is the only thing that matters. If they have something of substance to offer they can go through the press or to the people directly and it doesn't matter which."

But Goodman is convinced that the tube acts as a presidential lie detector. "You can't fool it—no way they can fool it. Television has made every American a political expert at reading character. If you have character it comes across on TV. If you don't, that comes across even stronger."

And contrary to the widely held belief, Goodman argues that TV by itself cannot elect a slick, good-looking fraud to office. "I reject that theory and I don't think you have to be pretty to use television in your campaign. I think Lincoln would do very well on television. His sincerity and honesty would come through, and besides that he had something to say."

Goodman had his say on issues over the years and sometimes he was in spots as hot as the president. One painful date sticks in his mind. "It was Dec. 17, 1968, I believe," he says, like a man still trying to erase a lipstick smear that won't go away from his shirt collar. It will be forever remembered in the halls of NBC, like Pearl Harbor. Actually it was just a pro-football game between the Oakland Raiders and the New York Jets. And the Raiders were getting beat 32 to 29. Less than a minute remained.

As the clock closed in on 7 p.m. the director assumed the game was over. Millions of children were tuned in waiting for the network's presentation of "Heidi." The decision was to kill the last few seconds of the game in favor of the kids. Millions of fans almost murdered NBC.

"The Raiders came back to score two touchdowns in nine seconds and win the game," Goodman recalls, still wincing as if it were yesterday. "The whole press department was off at a meeting somewhere. Reporters started calling me. I explained how reasonable the decision seemed at the time. They weren't buying."

Every television director knows that tale. They all remember it whenever they get an itchy finger. Of course, they don't remember it as well as Julian Goodman does—and no one ever will.

But Goodman isn't reluctant to discuss his mistakes. "When you make decisions all the time, you make some wrong ones." His staff saved him from a bad one in a midnight coast-to-coast conference call.

"When I saw the first episode of the 'Flip Wilson Show,' and he came out dressed like a woman, playing Geraldine, I thought, 'Oh no.' I got on the phone to my people in California. I told them it was terrible, in bad taste—that people would be offended. They finally argued me out of it. The show went on. We never got that first peep of protest."

He and other NBC executives watched CBS's "All in the Family" birth with indecision. "We decided it would either be the biggest hit or the greatest failure," Goodman recalls. But he isn't jealous over its success. "I'm glad CBS did it. You have to try new things—you have to fail in TV to succeed."

He thought ABC's "Mork and Mindy" would fail. "I never saw it coming." People constantly ask him when more shows such as "Little House on the Prairie" are coming. "You can't duplicate success. We've tried. Everybody's tried. I'll bet you there have been a hundred attempts to copy 'Laverne and Shirley.'"

You won't catch Goodman putting down the girls from Milwaukee. "There's a place for 'Laverne and Shirley' on TV. People pay $20 to see a Neil Simon play on Broadway that isn't all that far from TV situation-comedy. Don't knock it. It's the culture of our times."

Sports takes up the next biggest block of TV time and Goodman has doubts about that. "I think the networks have overdone sports. It appears to be getting worse, not better," Goodman says flatly. But he attacks the widely held belief that television was much better once upon a time.

Time and again Goodman hears that The Golden Age of Television was better than today's bill of fare. "People think the 'Studio One' sort of thing was great, and it was in its time. But it can't compare to the best dramas on TV today. The Golden Age of TV is an illusion. It couldn't live up to its reputation if we showed it now."

He doesn't think NBC lived up to its reputation when it moved "Centennial" from night to night on the schedule last year. "That was a strong series. The scheduling was one of the more embarrassing insanities I can recall, and all for the shading of a rating point."

If you expect the former head of a TV network to defend those ratings, Goodman isn't your man. "It's meaningless whether a program is No. 1 or last if you like it." Does he think press attention to TV ratings creates the problem? "No, the problem is the network's slavish devotion to them. That's what's so wrong."

But Goodman admits to having been a prisoner of those rating and the huge profits that they can mean for a network. "I'm not blaming the ratings. There's no excuse for it."

In a rare confession for a TV executive, Goodman denounces the system that made tens of millions of dollars for NBC. "Competition is good . . . for instance in news . . . but in the world of entertainment the competition for the greatest audience is a serious deterrent to quality programming."

It was quality, innovative programs that Goodman pledged himself and NBC to when he took over the top job 20 years ago. How much quality was he able to bring to the home screen? "Not nearly enough," he sighs.

"And that was because of pressures I put on myself. Nobody put them on me. The incentives to do better commercially are far greater than the rewards for doing a good program. That's unfortunate."

He also promised himself and his family when he took the job that he was not going to move to the office as so many other top executives do. "As it turned out I worked 18 hours a day, seven days a week. If I'd been in the laundry business, as I once was with my brother, I would have worked just as hard."

He pauses to reflect on the breakup of marriages and poor health that are often the consequences to men like himself. He escaped those divorce and death sentences that come with corporation life.

Goodman is still married to his wife of 33 years and his daughter has made him a grandfather. His three sons are nearly grown and out on their own. And now as he approaches 60, he's out on his own once again, too.

It's no secret that the new broom that whisked Fred Silverman into office at NBC swept a lot of top executives out. Goodman was one of them. "I'm not bitter. Broadcasting appears more bitter because it's a visible industry. We alone of all American industry go into every home in the country.

"So people are more interested in what happens to us. I'm sure that diamond business is as cutthroat, but you don't know about it. We in television are very highly paid. It's very enticing. The stakes are high. So are the risks."

Television, also unlike other industries, make exiles of the corporate executives it fires. And performance is not the reason many are let go. Arthur Taylor was the boy genius of CBS when board chairman William Paley hired him. Taylor's reign at CBS was during its heyday of situation-comedy successes and huge profits. Then suddenly one day Paley fired him. "It's his candy store," Taylor said as he left.

Now Taylor can be found at the same club where Goodman eats lunch this day. "I see him for lunch over here occasionally," Goodman muses. "He has an office somewhere. He's on committees. He seems to accept it quite well."

Baseball and football managers are fired with about the same rapidity as TV executives, but they almost all show up heading some other team. In broadcasting fired executives are lepers. No one will touch them. Most end up going into private consulting or forming their own production firms.

"I have no thought of leaving the communications business," Goodman says. He doesn't know exactly how he'll remain in it though. He's going to write that book first, then set up an office probably somewhere in Manhattan. After that, well, he'll just have to see.

Moving into the executive suite changes people though. When Goodman moved up, he told a reporter that he'd always be just as happy back on the night news desk where he started in broadcasting in 1945. But you can't go back.

"No, no," he says. "I couldn't do that now. Oh, I think I could still write stories, but no, I couldn't go back again."

He's decided instead to take a page out of his father-in-law's paper, The Dawson Springs Progress.

"W.T. Davis was a good newspaper editor, and when he left us at 80 recently he said he wasn't ready to go—that he still had things to do that he hadn't done. So do I." ●

RENAISSANCE AT THE REGENCY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. ROSENTHAL. Mr. Speaker, at a time when rental housing throughout the country is threatened by abandonment and decay, the case of the Regency Apartments, a large apartment building in my district, should be of interest to all of us.

The last 10 years had seen a sharp decline in conditions at Regency Apartments. Vandalism was rampant, garbage littered the halls and public drinking and drug transactions in the lobby were commonplace. Tenants suffered from lack of heat, hot water and other essential services. At one point, there were over 100 outstanding violations on the property. As a result, many moved out, leaving behind a building which was an eyesore to the surrounding community.

It would appear from the above description that there was little hope for the future of this building. However, in the past year, a remarkable transformation has taken place at Regency Apartments. The new owner, Jerome Belson

Associates, began to make major repairs soon after the building was purchased. It is interesting to note that the initial renovations were carried out by 10 CETA workers, who are now, as a result of the training they received, employed by a private firm. In addition, management worked closely with the Regency's tenants organization and even encouraged residents to join.

The spirit of cooperation shown by all parties involved in the rebirth of Regency Apartments demonstrates that landlords and tenants can work together to overcome even the most difficult of obstacles. I commend their efforts and hope that their success will provide a model for others to follow.●

TRIBUTE TO A DEDICATED PUBLIC SERVANT

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. COELHO. Mr. Speaker, I would like to share with my colleagues a biographical tribute to Dr. Carl Sharsmith, who has served for nearly half a century as a naturalist-botanist in the Yosemite National Park area, which I represent. Dr. Sharsmith has been heralded by the National Park Service and by innumerable comments from individuals who have visited the High Sierra. I believe that it is fitting that this body likewise express its gratitude to this gentleman who continues to serve the public.

It is not easy to construct a brief biography on Dr. Carl Sharsmith. To state simply that he started his career as a Sierra Nevada botanist in 1930 and has been pursuing this as a naturalist with the National Park Service over the following 49 years would represent a half-told story and would preclude a subjective assessment of the knowledge, joy, and the deep impression he has made on an estimated 400,000 visitors to Yosemite and the Sierra Nevada.

Carl Sharsmith received his A.B. in botany in 1931 from the University of California, Berkeley, and his Ph. D. from the same institution. His dissertation was entitled, "A Contribution to the History of the Alpine Flora of the Sierra Nevada," a subject fitting for a man who was to become perhaps the most revered and respected of the State's botanists and ecologists.

His first acquaintance with the Sierra Nevada came in early teens when he worked as a logger at a time when, he says, "loggers knew trees, not machinery."

Sharsmith's association with Yosemite and the National Park Service began in 1930 with the Yosemite Field School of Natural History, which had been started by Stephen T. Mather, the first National Park Service Director, to train "Nature Guides." The following summer was his first season as a ranger-naturalist. The summers spent at Tuolumne Meadows in Yosemite were continuous with three exceptions. In 1941 he served as a naturalist in the newly created Kings Canyon National Park. In 1957 he was commissioned to conduct a meadow ecology study in Sequoia-Kings Canyon National Park. His findings of heavy overuse provoked park managers to impose restrictions which would reduce impact and promote restoration of the fragile environment.

Two years later he conducted a similar survey in Yosemite's high mountain meadows. Then, in 1970, the U.S. Forest Service engaged Sharsmith to direct visitor impact studies in a particularly choice area of the Sierra Nevada in Inyo National Forest.

The Yosemite years continued, and Sharsmith's unique presence became legendary among high-country visitors. Carl fascinated avid mountain enthusiasts on his week-long hikes and casual visitors at his evening campfire programs.

It is safe to say that no one ever forgot Carl Sharsmith. In 1956, Sharsmith was given the National Park Service's Meritorious Service Award. In the presentation, Park Supt. John C. Preston stated:

> In his 23 summers of duty, Dr. Sharsmith has been an inspiration to younger men in the National Park Service, both permanent and seasonal. His comprehension of the aims and ideals of the Service is combined with an ability to impart this to others, both visitors and co-workers. Without reservation, we can say that the interpretive program—nature walks, hikes, and campfires—conducted by this ranger-naturalist could be cited as an example of the ideals for which the Service should strive. At least two generations of park visitors at Tuolumne Meadows have enjoyed the friendly teachings of an outstanding educator and a great naturalist.●

MR. RICHARD HERRMANN RECEIVES INDIVIDUAL OF THE YEAR AWARD

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. HYDE. Mr. Speaker, one of my constituents, Mr. Richard T. Herrmann of Franklin Park, Ill., was recently awarded his community's Chamber of Commerce and Industry's "Individual of the Year" award. Mr. Herrmann received his award at the chamber's 33d annual installation dinner dance which was held on November 29.

Because Mr. Herrmann has long been involved in public service activities in his community, I feel his recent honor deserves mention in the CONGRESSIONAL RECORD, and I am including portions of a news article about him which appeared in the Suburban Progress newspaper on November 21.

I know my colleagues join me in congratulating Mr. Herrmann on this recent honor, and in wishing him continued success.

The article follows:

INDIVIDUAL OF THE YEAR

> The Franklin Park Chamber of Commerce & Industry this week announced their choice for the 1979 "Individual of the Year" award. That honor goes to Richard T. Herrmann of Franklin Park. The Chamber award is presented once a year "for outstanding service in and for the Village of Franklin Park."
>
> In announcing their selection, Chamber spokesmen said, "Mr. Herrmann is well known here for his unending contribution to the community as co-ordinator of the Kiwanis Blood program in Franklin Park as well as for insuring its continued success. He is also active in other Kiwanis community service activities, and with his church."
>
> Dick and his wife, Hilde, without whom, he freely admits, he "could not have been so honored," have resided in Franklin Park for 31 years, and have had four sons complete their education in local schools. A past commander of Franklin Park Post 974, American Legion, Dick joined Kiwanis in 1970, and was its president in 1974–75. In 1973 he was named to introduce a blood program as a club project. With the help of Carol Grabowski of Michael Reese Blood center and fellow Kiwanians, following guidelines set up by Kiwanis International, he surveyed the Village to begin what became a work of love for countless individuals who are involved in the 'Plan.' From telephone solicitors to nurses, to ancillary help, to donors, all have felt enrichment through the program, which is considered one of the finest in the State of Illinois.
>
> In initiating the 'Plan,' Herrmann recalls, it was necessary to contact virtually every religious, social, and service organization in the Village. How do you find them, and identify their officers? Two organizations solved that problem. The Franklin Park Chamber of Commerce and the Franklin Park Journal.
>
> Their assistance he says made what seemed a hopeless task one of comparative ease. With a lot of brainstorming and a lot of leads eventually 20 groups joined the 'Plan,' which is about to complete its sixth year.
>
> Dick and Hilde are active in St. Maria Goretti church, where he is organist and choir director. He serves on the Career Education Advisory council for the Leyden high schools, is bulletin editor for Kiwanis, and owns and operates a machine shop in the City, joined by his two oldest sons, Dick and Bob, Son Carl works on the Soo Line, and Eric is a graphic arts student at Arizona State university.
>
> While Dick is very proud of this new honor, all he will say is, "I didn't do it alone." ●

DRINAN BILL CALLS FOR TWICE-A-YEAR INCREASES IN SOCIAL SECURITY BENEFITS

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. DRINAN. Mr. Speaker, in January of this year I introduced H.R. 294, a bill which calls for twice-a-year rather than once-a-year cost-of-living increases in social security benefits. I was pleased to see that the Advisory Council on Social Security, in its recent report to the Congress, has recommended such action.

When Congress provided an automatic cost-of-living increase in social security, the intent was to make benefits "inflation proof." That intent, however, has not been accomplished because of the spiraling rate of inflation. This year alone inflation will exceed 11 percent. Older citizens and other beneficiaries who rely on social security as the mainstay of their budgets cannot wait until next July for an increase in their payments.

Each month their expenses rise as food, medicine, housing, and utility costs escalate. The lag between the rise in costs and the actual increase in benefits results in a loss of purchasing power.

In recognition of this fact, Congress provided Federal retirees with a twice-a-year increase in their benefits, and the same recognition should be extended to social security beneficiaries. Under my bill cost-of-living increases, based on the rate of inflation, would be received twice a year, better enabling beneficiaries to keep pace with inflation. I invite my colleagues to join with me in this effort.●

NATIONAL SOLAR HEATING AND COOLING INFORMATION CENTER

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. FLORIO. Mr. Speaker, in 1976, Philadelphia's Franklin Institute was the successful bidder on the contract to operate the National Solar Heating and Cooling Information Center—and, since its inception, people at the center have answered more than half a million questions about solar energy.

At a time when many governmental institutions have difficulty maintaining credibility with the public, the National Solar Heating and Cooling Information Center has maintained an inevitable level of acceptance with the consumer. The center's toll-free hotlines handle some 3,000 calls per week from every State in the Union—from people in every walk of life.

Trained solar analysts staff the phones from 9 a.m. to 8 p.m. E.S.T., Monday through Friday so that callers in any of the 50 United States can call during regular business hours.

Callers to the center speak to a trained person to help them frame their guidelines. They get answers, often immediately on the phone, and where research is required, the answers are sent by mail. The center provides a one-to-one contact with citizens interested in solar energy.

In a real sense, NSHCIC wrote the book on solar. Actually, many books ranging from highly technical reports and manuals for designers and installers of solar systems to publications for consumers. To date, 15 million pieces of material have been distributed by the center.

The public, the media, and agencies of government see NSHCIC as the disseminator of unbiased and accurate information about America's most abundant renewable resource. Since the start of the contract in May 1976, both HUD and DOE have expanded the center's role and funding, so that today NSHCIC serves many of the functions outlined in section 605 of S. 932, the bill now before the house which would expand the center's responsibility to encompass all forms of renewal energy and include conservation information as well. Although the National Solar Heating and Cooling Information Center is not specifically mentioned in the bill—the energy committee report suggests that the new National Solar Energy Information Center—be a continuation of the existing NSHCIC. Quoting from the committee reports:

> The Secretary is required to establish a National Solar Energy Information Center. This Center is viewed as a continuation of the existing National Solar Heating and Cooling Information Center (NSHCIC) funded by the Department of Energy and managed by HUD. Existing legislation authorizes specific statutory funding for this Center only through fiscal year 1979.

I would like to see the recommendation of the committee written into the bill itself. So often, new institutions are created to serve functions already well performed by existing organizations. The Nation's need for immediate and accurate information to ease our dependence on foreign fuel is too great to allow ourselves the wasteful luxury of reinventing the electric light bulb.

Franklin Research Center has done a good job—HUD thinks so, DOE thinks so, and I think so as well. Let us build on an already firm base. I ask my fellow Members to retain and expand section 605 of S. 932 so that we do establish a National Solar Energy Information Center with the National Solar Heating and Cooling Information Center as the core, operated by the Franklin Research Center.●

NATIONAL FOREST MULTIPLE-USE MANAGEMENT ACT OF 1980

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. FOLEY. Mr. Speaker, I am today introducing the National Forest Multiple-Use Management Act of 1980, a bill to assure multiple-use management under the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, of national forest lands examined during the roadless area review and evaluation process (RARE II) and not included in the National Wilderness Preservation System.

In taking this action, I am seeking to bring to a final resolution the controversy surrounding the management of the roadless and undeveloped areas within the National Forest System.

The bill is an outgrowth of the roadless area review and evaluation process (RARE II), which was initiated by the Department of Agriculture in June 1977, and consisted of a comprehensive review and evaluation of over 62 million acres of roadless and undeveloped areas which were identified by the Department as having the potential for wilderness designation.

It is important, I believe, to note the stated purpose of the RARE II process as set forth in the letter from Secretary Bergland to the Speaker dated May 2, 1979, and transmitting the results of the RARE II process to the Congress. Secretary Bergland points out that RARE II was undertaken as an effort with full public participation to determine which lands should be recommended for wilderness, which lands require further planning, and which lands should be managed for uses other than wilderness.

I wholeheartedly support the administration's efforts in this connection and believe that it is important to recall President Carter's statement in his announcement on the results of the roadless area review and evaluation:

> This decision also meets two major Administration goals. First, the recommendations fulfill the pledge in my May 23, 1977, Environmental Message to enlarge the nation's treasury of wilderness resources. And second, by releasing some of the land for uses other than wilderness, we respond to our urgent need for energy, wood products, livestock, forage, minerals and a broad array of recreational opportunities. In sum, our recommendations are vital to the effort to reduce inflation, control unemployment and encourage energy development.

I personally recognize and support the legitimate interest in congressional action to complete a sound wilderness component of the National Forest System. On the other hand, I am convinced that it is absolutely necessary that Congress move to assure that lands within the National Forest System that have not been designated by Congress for inclusion in the National Wilderness Preservation System, reserved by Congress for wilderness study, or set-aside by Congress for special management purposes shall be managed for multiple use purposes other than wilderness.

In taking this latter step, Mr. Speaker, we will be reducing and ultimately eliminating the uncertainty that has plagued that segment of our society because of the inability to resolve issues relating to management of these roadless areas. By assuring the American people that they will continue to have access to these resources and uses of the lands within the National Forest System, we will, as the President points out, reduce inflation, control unemployment, and encourage energy development. This will have direct benefits to the Nation as a whole, but is absolutely essential to the economic stability of local communities in my congressional district and in many of the congressional districts of the West and Pacific Northwest.

I believe that it is important to point out that the bill which I am introducing reaffirms the President's RARE II decisions by assuring the continued management for uses other than wilderness of lands allocated to nonwilderness purposes by the administration in its final determination following completion of RARE II. This bill will not preclude the agency from considering the wilderness option whenever National Forest plans developed under the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, are revised as required under the act. This bill does not seek to preclude this or any future President from submitting recommendations to Congress identifying lands which in the opinion of the administration should be designated by Congress as wilderness.

What this bill seeks to do is to reaffirm existing statutes that require congressional action to place lands within the National Wilderness Preservation System, that until and unless Congress acts to designate National Forest system lands as wilderness, they should be managed for uses other than wilderness.

Because I recognize the magnitude of the wilderness proposals that have been submitted by the administration following the RARE II process, the bill which I am introducing provides that lands which have been recommended for wilderness designation may be protected and managed as wilderness—without congressional action—until January 1, 1984. Under the terms of this bill, failure by Congress to act prior to that date will cause these lands or any portion thereof to be returned to nonwilderness, multiple use management.

This legislation directs the Department of Agriculture to reach a final land allocation decision by January 1, 1985, for all of the areas identified by the RARE II process for further study. It is my intention, Mr. Speaker, that the Department proceed as expeditiously as possible to complete the land management plans for these areas in accordance with regulations inmplementing section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended. Should a determination be made by the Department through this planning process that certain of these areas be released to nonwilderness, multiple-use management, this bill affirms that decision and requires that the lands forthwith be managed as such.

In the event that Congress receives prior to January 1, 1985, a formal recommendation from the administration identifying certain of these areas for consideration by the Congress for possible wilderness designation, this bill provides that they may be managed as wilderness—without an act of Congress—until January 1, 1987. Failure by the Congress to act by that date on such recommendations will automatically trigger a return of these lands to management for uses other than wilderness.

This bill seeks to handle the primitive areas of the National Forest System in a similar manner. Thus, if the administration has proposed to terminate the designation of these lands as primitive and return them to nonwilderness, multiple-use management, this bill affirms that recommendation. On the other hand, if the Administration has proposed that certain of these primitive areas be designated as wilderness, then Congress is given until January 1, 1984, to dispose of these recommendations.

Mr. Speaker, this is a moderate and reasonable bill that reaffirms provisions of existing law. It is one that provides adequate time to the Congress to act on pending wilderness recommendations. It does, however establish certain deadlines for action which will, in my opinion, provide sufficient opportunity to Congress for careful examination of all of the complex issues involved in the establishment of wilderness areas.

It is important to note that nonwilderness, multiple-use management does not necessarily result in maximum commodity production. Under provisions of existing law, these lands will be managed for uses other than wilderness in accordance with comprehensive land management plans developed by interdisciplinary planned teams under existing regulations and only after full public participation. Thus, these lands could be subject to a wide range of management direction under the general meaning of multiple-use, including but not limited to backcountry or research area designations, visual resource management, management to protect and enhance wildlife habitats, limited access management, designation as historic sites, or management to encourage dispersed recreation opportunities.

Mr. Speaker, I am committed to moving forward with this legislation in this Congress so that we can address the problems resulting from the uncertainty about the management of lands within the National Forest System. Multiple-use of these lands is, I believe, essential to the maintenance of the quality of life that we have come to enjoy in this country.

I urge my colleagues to join with me in this effort to affirm the RARE II process and get on with the business of managing our public lands in a way that will insure that they play a vital role in reducing inflation, controlling unemployment, encouraging energy development, and meeting the needs of our people for all of the resources and uses of these lands.●

RESEARCH INTO FIRE ANT CONTROLS

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. MARKS. Mr. Speaker, I recently voted against lifting the Environmental Protection Agency's ban on the use of the pesticide Mirex, as did the majority of my colleagues. My reasons for voting to maintain the ban were reflected by the many, eloquent statements made on the floor by opponents of committee amendment No. 2.

It is not my intention on this day, however, to discuss the drawbacks of utilizing Mirex to eradicate, or to control the spread of, fire ants. Now that we, in the House, have denied these nine Southern States one possible fire ant control device, it is incumbent upon us to monitor the activities of the EPA and the U.S. Department of Agriculture to insure they are doing all that can be done to develop other fire ant controls. I am certain that it is the desire of all Members for the EPA and the USDA to cooperate and, when appropriate, act together to further the research into eliminating this pernicious problem.

Today, I would like to call the attention of my colleagues to a highly insightful article from the Georgia Gazette and Journal Record entitled "Mite Work." In this article, Charles Flowers, who has conducted exhaustive research on this subject, outlines the very type of bureaucratic territoriality and pettiness that we must seek to eliminate if the fire ant problem is to be controlled. He also discusses the use of a possible alternative to Mirex—a solution which would be much safer for human beings—a method to control fire ants without chemicals.

I would encourage further investigation into this type of research. The article is intriguing and I commend it to my colleagues.

[From the Georgia Gazette and Journal Record, Apr. 30, 1979]

MITE WORK

(By Charles Flowers)

A method developed by a pair of Savannah scientists to control fire ants without chemicals has failed to gain the support of the U.S. Dept. of Agriculture. Meanwhile, U.S. Rep. H. Dawson Mathis of Albany has introduced a bill that would lift the federal ban on the controversial fire and pesticide Mirex.

William A. Bruce and George LeCato performed experiments using tiny so-called straw itch mites to parasitize fire ants in their nests. Bruce claimed "70 percent success" with the experiments, but he was unable to secure any funding from the USDA for additional experiments.

"I'm not saying I've got a way to control fire ants," Bruce said from his tiny office in the Stored Products Lab on Edwin Avenue where he and LeCato do research for USDA on insects that infest stored grains. "But we've developed a method that's as good as any method I know of, and it's a biological control with none of the chemical side effects of Mirex, which isn't all that successful anyway."

The USDA said the research was unauthorized and that the department had put a great deal of money into fire ant research and did not believe the itch mite showed enough promise to fund a continuation of the local scientists research.

Bruce, president of the board of the Savannah Science Museum, and LeCato said they started their fire ant research three years ago out of curiosity. They often work with the mites, which are parasites of other stored grain pests, like cigarette beetles. First the scientists hatched mites on pupa (an intermediate stage of an insect between larva and adult) of the cigarette beetles, then spread the mixture on fire ant nests collected from the grounds near the Southside lab.

ANTS PARALYZED

"Within an hour the ants were paralyzed," Bruce said. With that success the pair moved to two experimental sites. Last fall (*Gazette* 11/27/78) they announced their results, hoping to get "a few grad students and some money to continue the study." What they got instead was a stern warning from the USDA not to meddle in research they had not been assigned.

Under pressure from Georgia farmers, Rep. Mathis introduced a bill last week in Congress that seeks to repeal the 1978 ban on Mirex, which environmentalists say causes more harm to other species than it does to fire ants. Other Georgians, insisting that the government help them get rid of the pesky ants that infest nine Southern states, want Mirex or something stronger.

"I've used vinegar, ammonia, black pepper like my grandmother used to use on other ant nests. I mow them down with a fury with my lawnmower and it won't be three days till they're back," said Nina Zipperer, wife of former state Sen. Sen. Ed. Zipperer. "There's no way except Mirex."

Bruce and LeCato did the major part of their research with mites as an ant control at the Zipperers' 2,000-acre farm in southern

Chatham County. Of 19 fire ant nests treated with mixture of mites and immature carpet beetles on which the mites were feasting, 10 were rendered inactive.

"It was extremely successful," said Nina Zipperer. "But they (the USDA) won't let them continue. They'll investigate whether elephants have ivory tusks, but they won't do anything to help the farmer."

Bruce said he was not sure why his fire ant research was not allowed to continue.

The Georgia Conservancy, pressing the USDA for an explanation, received a letter earlier this month which gave a breakdown of the agriculture department's nearly $1 million annual fire ant research budget. Much of it was devoted to research for a stronger, yet safer chemical agent.

The letter, to Conservancy director Robert Kerr from USDA staff scientist D. A. Lindquist, said:

"At the present time and based on the data available we do not believe that the itch mite shows much promise as a biocontrol agent for the imported fire ant." Lindquist said the USDA had not requested additional funding to conduct research on the mites for the next fiscal year.

MIREX DOESN'T WORK

Lindquist said the budget is used to fund research at labs in Gainesville, Fla. and Gulfport, Miss. One source close to the subject who declined to be identified said, "The problem is that Bruce made the right discovery at the wrong lab. These scientists are very jealous of research money."

The Conservancy's Kerr said, "If it (the Bruce-LeCato research) is as promising as I've been led to believe it is, then I will definitely put pressure on the USDA to continue funding the research." Kerr added that he is assembling all the information on the Savannah scientists' research, and hopes to meet with representatives of the American Farm Bureau and Rep. Mathis.

"There's a lot of informed scientific opinion that Mirex doesn't control the ants," said Kerr. "So why visit upon the environment all the damages of Mirex if the ants come back to the same nests?"

Bruce said his research had shown no reinfestation of nests eradicated with mites. And as for the mites themselves, they die out in a few days when they lose large numbers of insects to prey on.

"One mite is capable of paralyzing and parasitizing the queen of an ant colony," Bruce said. "And when the queen's dead, it's only a matter of time before that nest will die out."

Bruce explained that fire ants, imported from South America through the port of Mobile, Ala., earlier this century, breed in early spring in this part of Georgia. The ants sprout wings and mate in the air. The queen burrows into the ground and lays her eggs, sometimes hatching out a society of 250,000 individuals from her cave six inches to three feet below ground. As fast as the ants breed, the mites breed even faster. A single female mite can produce 100 offspring, 95 of which are female. With its short, four-day life cycle, if the insects are plentiful enough the mites can produce 10,000 trillion creatures in a month.

"If you could release these mites at the time of (fire ant) swarming, I'm convinced you could reduce new populations of fire ants," Bruce said.

ANTS MISUNDERSTOOD

Bruce said he did not believe fire ants could be completely eradicated by any method, and said he was not sure it would be a good idea if they were wiped out.

"You hear about all the damage the fire ant does, but it's also reduced the numbers of other pests like ticks and boll weevils," he said. "I attended a symposium where a scientist from Texas A&M gave a talk called, "Is the Fire Ant a Problem?' You can imagine how popular he was."

"The much-publicized case of four-year-old Michael Lollis of Johnson's Corner, near Vidalia, has given the fire ant a reputation that is hard to shake. The Lollis boy is allergic to fire ant bites, and is receiving treatment from Donald McLean of the Peachtree Allergy Clinic in Atlanta after being severely bitten last week.●

ECONOMIC SLUMP FORECAST FOR WORLD ECONOMY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. CONYERS. Mr. Speaker, In These Times, an independent socialist weekly newspaper published in Chicago, has maintained throughout its 3 years of publication a consistently high quality of economic news reporting and analysis. An example of this is an excellent interpretive article written by John Judis, entitled, "Economic Slump Forecast for World Economy," that appeared in the September 12, 1979 issue.

The article examines the theory of "surplus capacity" and its implications for the economies of industrialized nations, and relates this worldwide phenomenon to the conditions of stagflation in the United States. I urge my colleagues to read it. The article follows:

Economic Slump Forecast for World Economy

Capitalist economies cannot escape the ups and downs of recovery and recession. There have been six recessions since World War II, and the U.S. is now entering a seventh.

The promise of postwar capitalism rested on its ability to limit, not to avoid, recessions. But the depth of the 1974–'75 recession and the shallowness of the subsequent recovery suggests that this promise cannot be kept.

The 1974–'75 recession was more serious than past recessions (8.9 percent unemployment). It was accompanied by double-digit inflation and rather than occurring in one capitalist country at a time (and permitting them to pull each other out), it occurred in all simultaneously.

During the alleged recovery, unemployment finally dropped to 5.8 percent in 1978, roughly the level of which unemployment peaked in the 1949, 1954, and 1970 recessions. In the European Common Market countries, unemployment has averaged 5.1 percent the last five years, twice the average of the previous five. And new industrial investment has increased an average of 1.5 percent a year during the last five years, compared to 5.6 percent for the previous five.

These dry but depressing figures have suggested to some economists that the capitalist world is not merely going through a recession/recovery cycle, but that it is also experiencing a longrun downturn, which will lead to steeper recessions and shallower recoveries.

Jay W. Forrester, an economist at the Massachusetts Institute of Technology, has revived Russian economist Nikolai Kondratieff's theory of long waves, according to which world capitalism goes through 50-year cycles of boom and depression. According to Forrester, the world capitalist economy goes through 30-year expansions followed by 10-year plateaus, 10-year depressions, and 30 years of recovery. He dates previous transition points in 1814, 1870, and 1920, and he speculates that 1970 was the beginning of another plateau, which will be followed by 10 years of depression.

Ernest Mandel, the Belgian Marxist economist, has also resurrected a version of the long wave theory. In The Second Slump (Schocken, 1978), an analysis of the 1974–75 recession, Mandel argues that its depth was caused by the coincidence of a business cycle downturn and a more longrun downturn.

Both Mandel and Forrester point to the development of surplus capacity in industry as a key factor in the longrun slump. As a result of the long postwar boom, they argue, capitalist firms can no longer market at acceptable rates of profit all the electrical appliances, automobiles, steel, textiles, and other commodities that they are able to produce.

Mandel finds the situation similar to the 1930s, except in one important respect—the greater strength and organization now of the labor movement and working class parties in Europe—and to some extent, in Japan and North America as well. This greater strength of organized workers prevents the fascist "solutions" to the 1930s crisis attempted in Germany, Italy, Spain, and Japan.

Mandel and Forrester's speculations have been supplemented by several empirical studies. One such study was published this summer by a British economist, Susan Strange, in International Organization, a journal dealing with international relations. In an essay entitled "The Management of Surplus Capacity," Strange documents the capitalist logjam that has occurred within textiles, steel, and shipping.

BANKRUPTCIES AND MERGERS

In the last 30 years, there has been a persistent problem of surplus capacity in agriculture and some raw materials, which has largely been met by national or regional restrictions on production and by producer cartels. But in the 1970s, the problem has spread to processing and manufacturing industries.

The problem of surplus capacity is peculiar to capitalism. In pre-capitalist or planned economies, surpluses can either be prevented, or if they occur, they can be eliminated by distribution according to need. Capitalist surplus capacity is too many goods, not relative to people's needs, but to their ability to buy at prices satisfactory to corporate producers.

The current problem of surplus capacity arose from the rapid reconstruction of Western Europe and Japan, which fuelled the postwar boom, but has now led to massive duplication of effort and the threat of a trade war, and the recent industrialization of the Third World, which has poured more goods onto the world market without providing a corresponding increase in world demand.

The three industries Strange discusses typify the problem. Textile production has spread to Brazil, Colombia, Hong Kong, Singapore, Macao, Malaysia, Taiwan, and Eastern Europe. Brazil and South Korea have their own steel and shipbuilding industries. West Germany and Japan have supplanted the U.S. in steel production. And Japan has challenged Europe's supremacy in shipbuilding.

There have been several immediate consequences of surplus capacity:

Firms have tried to cut wages and costs, but to the extent they have been unable to, there has been a general decline in profitability. Each industry's weaker firms have faced bankruptcy. In steel producing, Spain's Empressa Nacional Siderurgica and Italy's

Italsider; in autos, the British Leyland Co. and Chrysler Corp.

Corporate managers in industries that are suffering from surplus capacity have used their profits to diversify rather than expand production or increase efficiency. U.S. Steel now gets 43 percent of its profits outside of steel. RCA, which used to be known for its innovations, recently spent $1.3 billion to purchase CIT Financial Corp.

Firms have fled to low-wage areas both in the Third World and within their own countries.

Overall industrial investment has declined.

And, as Strange documents, a host of protectionist measures have been erected, particularly in the U.S. and Western Europe, to keep out less expensive imports in steel, textiles, and other commodities.

REMEDIES FAIL

The immediate remedies attempted by corporations and governments have only made things worse. The flight of firms to the Third World and the build-up of industrial capacity in Third World countries has occurred within the framework of world imperialism—the Brazilian auto or textile industries or Taiwan's television industry manufacture for export—and not for an internal market. Industrialization in these countries is invariably based on the general impoverishment of the people, which it perpetuates. It has led to an influx of new goods on the world market without a substantial increase in demand.

Government creation of "orderly marketing agreements," import quotas, or special pricing agreements to protect domestic industries has probably prevented layoffs, but it also has encouraged domestic inflation and raised the spectre of a trade war.

And government deficit financing, which has been used to maintain demand, ease the crunch of unemployment, and subsidize ailing industries, has also encouraged inflation by infusing credit into an economy unwilling to expand fast enough to absorb it. The result has been simultaneous unemployment and inflation.

THE OPEC DETONATOR

In contrast to most economists, Mandel de-emphasizes the role of the energy crisis in the 1974-'75 slump and in the subsequent flagging recovery. The rise in oil prices, according to Mandel, "intensified trends that were already inherent in the cycle." Mandel cites American economist William Nordhaus' study of postwar rates of profit, which showed a decline beginning in 1966, well before the onset of the energy crisis.

This decline Mandel traces to surplus capacity and a working class powerful enough to gain wage and benefit increases for itself. The energy crisis was merely the "detonator" of the 1974–'75 slump, a role it is also playing in the 1979–'80 slump.

Neither Mandel nor Forrester expect the kind of crash that occurred in the 1930's. But Mandel warns that it could occur in the event of a major bank crisis, the bankruptcy of a heavily indebted Third World country like Peru or Zaire, or the collapse of the dollar as an international currency.

Forrester sees a solution to the depression of the '80s in a new wave of technological innovation, which will provide both an area of investment and a source of greater productivity and lower costs. In a Business Week interview, Forrester speculates that the new innovations could be biological in origin.

Mandel thinks that an upturn is impossible "without a very severe political and social defeat for the proletariat of the imperialist countries, the colonial revolution and/or the bureaucratized workers' states." Such a defeat could provide capital with new profit margins and new markets.

Mandel expects battles between labor and capital comparable in their scope and intensity to the battles of the '30s and '40s. He warns that workers could once again be facing a choice between "socialism and barbarism."

On the basis of his optimism and his belief that workers are in a much stronger position now than they were at the beginning of the '30s, Mandel thinks that this time the West may opt for the former rather than the latter.●

SINAI BASES COULD GUARD U.S. INTERESTS THROUGHOUT REGION

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. ROSENTHAL. Mr. Speaker, the crisis in Iran and other recent events throughout the Middle East have illustrated some of the problems we have in reacting to threats to vital American interests in that volatile part of the world.

The logistics of sending aircraft to a hot spot are enormously complex, and the planes have no assured operations base once they arrive. Fleet aircraft and ships are often precious days away.

One proposal that has been put forth to deal with this problem calls for the United States to lease the two major air bases Israel built in the Sinai. Under its peace treaty with Egypt, Israel will be pulling out of these bases, considered among the finest of their kind anywhere in the world today, over the next 2 years. Treaty terms presently require the bases be used only for civilian purposes after they are handed over.

U.S. officials reportedly have expressed an interest in leasing the bases. There is some doubt about whether Egypt is ready to agree, although Israel is believed to support the idea.

The Soviets already have bases at the tip of the Arabian Peninsula and, "Whether we in the United States like it or not, there can be no dispute that Soviet strategic influence in this region is increasing," according to Senator RICHARD STONE, chairman of the Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs.

"We need both naval and air facilities in the Middle East to provide notice to all that we consider the stability of the region and the continued supply of oil to be in our vital national interest, and that we are in a position to respond quickly from nearby to any request for assistance from our friends there," Senator STONE writes in an article published in the December 2, 1979, Washington Star.

He puts forth a concise, articulate, and persuasive argument in support of U.S. leasing of the Sinai air bases. I am inserting his article in the RECORD at this point:

SINAI BASES COULD GUARD U.S. INTERESTS THROUGHOUT REGION

(By RICHARD STONE)

Our embassy in Tehran is seized. Our embassy in Islamabad is burned. The United States is falsely accused of complicity in the attack by Moslem extremists on the Grand Mosque at Mecca. Does this not reveal the inability of the United States to protect its vital interests in the Middle East?

When the shah's regime collapsed, both regional stability and non-political delivery of oil collapsed. An Iran that all recent U.S. administrations could rely on has been replaced by an Iran that is itself a source of regional instability and the political use of oil. Thus, the vital interests in the Middle East of the United States and the entire civilized world are challenged and we find it difficult to respond.

Last summer the administration began to address the obvious need for the United States to bolster its presence in the area to fill this security vacuum. The decision was taken to increase the number of ships in our Middle East force from three to five, and to increase naval task force visits to the area from three to four times a year. In times of crisis, the United States is to rely on "surge forces" based in Europe, Asia, or the United States which, in theory, could be rapidly moved to the region.

Unfortunately the recent series of Middle East crisis indicates that such half-measures have not sufficiently increased our ability to react quickly. The recent deployment of the Navy's Kitty Hawk force from the Pacific to the Persian Gulf took seven to ten days, a delay which could prove disastrous in some conflict situations. Fortunately, in this instance, the delay was not harmful.

But on two other occasions, our inability to respond quickly to a Middle East situation lessened the effectiveness of our actions.

Last February a deployment of F–15 fighters to Saudi Arabia designed to reassure our friends that we had the ability to come to their aid created as much misgiving as reassurance. Numerous air-to-air refuelings were needed. We had great difficulty in finding a transit base.

The deployment of only one squadron (24 planes) took nearly a week. Moreover, we had to move more than 250 ground personnel to Saudi Arabia and 24 air tankers were needed to support transoceanic flights. Once again, time could have been a critical factor.

During last February's occupation of the U.S. Embassy in Tehran we had to search for allies willing to assist in the movement of airplanes and Marines to possible staging areas. Fortunately, that occupation was short lived, but it is obvious that this problem will continue. To use "surge" forces, we have to depend on the cooperation of other nations in Europe or Asia. Therefore, our ability to act becomes dependent on political considerations and on pressures felt by other governments.

Whether we in the United States like it or not, there can be no dispute that Soviet strategic influence in this region is increasing. The Soviets have just concluded a long-term friendship and cooperation pact with South Yemen which solidifies a Soviet air and naval presence with Soviet bases at the tip of the Arabian Peninsula. The Soviets have been operating from their own home bases to these facilities in South Yemen and to bases in Ethiopia and Iraq in a pattern of military supply maneuvers throughout the region. They also supply Iraq, Syria, Libya, North and South Yemen, Ethiopia, the Polisario and the PLO with large quantities of sophisticated weaponry.

The time has now come for the United States to be able to protect its interests promptly without having to rely on the case-by-case permission of others. In the Middle East, a standing American military presence appears to be the only way to resolve this problem. We need both naval and air facilities in the Middle East to provide notice to all that we consider the stability of the region and the continued supply of oil to be in our vital national interest, and that we are in a position to respond quickly from nearby to any request for assistance from our friends there.

TWO USEFUL BASES

There are several possible locations for such bases. Most, however, would require prohibitive construction and political costs.

The most advantageous places for our naval and air facilities in the region would be at the existing Sinai bases at Etzion and at Sharm Al Sheikh (Ophira). The Etzion facility has been rated by our own experts as the finest tactical air base in the world. At Sharm Al Sheikh on the Straits of Tiran there are both air and naval facilities which can handle and service all American fighter and supply aircraft as well as naval vessels—including carriers.

This territory is close enough to Middle Eastern areas of strategic interest, yet far enough from population centers to avoid many of the political liabilities facing other potential locations. These particular bases offer ready-made, sophisticated, strategic staging platforms with no construction costs.

Both bases, under the final Camp David agreement, will be located in the United Nations patrolled zone after 1982, where neither Israeli nor Egytian troops can be present.

Egypt will undoubtedly be criticized by its adversaries for establishing such a close relationship with the United States. President Sadat, however, has never bowed to such criticism when Egyptian national interests are preserved.

Egypt has much to gain. It can obtain substantial long-term rent for allowing us to use these bases. In this way, the American taxpayer also gains tangible returns from our foreign assistance and will be reciprocally supportive of Egypt in the future. Egypt, at the same time will not be giving up its sovereignty over the area.

CHANGED CONDITIONS

Last January, when the first signs of Arab concern following the fall of the shah became evident, I took this Sinai base proposal to President Carter who received it with interest. I then discussed it in detail with Secretary of Defense Brown, who posed it in his trip to the Middle East in February. At that time, Egypt was not prepared to agree. However, this was nine months ago. Events in the region have become such that all our friends in the region must consider how best their own collective security can be served.

The bases at Etzion and Sharm al Sheikh can be leased now from Israel over the short time they have left to possess the bases, and then from Egypt in a long-term arrangement. If it should be determined that other base locations in the region should be added, the precedent will have been established.

Some among our adversaries will object, challenging our motives. But trying to appease implacable foes who wish us ill will does not safeguard our true goals of peace and stability in the Middle East.

The Middle East is important to the United States not only for oil, but because it is made up of nations which share our interests and are endangered by those opposed to us all. I see no greater challenge emerging before us today than to identify where our interests lie in the Middle East and to take immediate tangible steps to insure them.●

IS NATO PREPARED FOR THE NEXT WAR—OR THE LAST WAR?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. MICHEL. Mr. Speaker, in his recent news conference, November 28, 1979, President Carter made reference to NATO. He stated that NATO "has a new spirit, a new confidence, a new cohesion * * * much more able to withstand any threat from the east * * *."

Since this curious assessment totally contradicts assessments of NATO's capabilities made by experts, we can only wonder on what reports the President bases his optimistic opinions.

Be that as it may, the question of NATO's ability to resist armed aggression from Soviet forces is a serious one. One of the ironies of the situation is that urban sprawl, that phenomenon of affluence and growth we usually associated with the Northeast section of our own Nation, may well have transformed Europe to such a degree that the classic tank attacks that marked World War II will not be possible. But is NATO aware of this? It would seem not. Drew Middleton, military writer for the New York Times has recently written that—

> The Russians seem more aware than NATO of the changes forced on tactics by urbanization and of the need to train troops for operations in urban areas.

At this time, I wish to insert in the RECORD, "In Case Nuclear Combat Erupts in Europe" by Drew Middleton, the New York Times, December 6, 1979.

IN CASE NUCLEAR COMBAT ERUPTS IN EUROPE

(By Drew Middleton)

How many Europeans would be killed—10 million, 50 million or 100 million? Would tens of millions of refugees make Atlantic alliance defense impossible? Is the urbanization of Western Europe a barrier or an advantage to attacking Soviet armies? Could the North Atlantic Treaty Organization withstand the strains that would result from a Soviet threat to use nuclear weapons?

These are some of the questions that lie behind the phrase "theater nuclear war." They have not come to the surface, except among specialists, in a debate on both sides of the Atlantic over plans to deploy medium-range ballistic missiles and cruise missiles in Western Europe.

Some experts contend that no war between NATO and the Warsaw Pact can be localized. But American strategy emphasizes "Europe first." The Carter Administration's efforts to win acceptance of the new missiles demonstrates the continuing importance of Europe in defense planning.

The weapons would be deployed to deter the use of similar Soviet missiles. The threat of nuclear war could raise appalling problems for NATO.

The governments and peoples of the NATO countries are highly sensitive to the casualties and physical destruction that would result from a Soviet nuclear attack.

VULNERABLE TO COERCION

They would be, as Paul Bracken of the Hudson Institute has pointed out, "especially vulnerable to political-military coercion by manipulation of massive civilian damage to Western Europe."

The issue is as old as NATO. Since the Russians achieved nuclear capability, every NATO military commander has had to take into account the possibility that strains in the alliance arising from the threat of nuclear attack might lead some governments to declare neutrality or, if war began, to accept a negotiated and unfavorable settlement once Soviet nuclear weapons had been launched.

Nuclear war raises unanswerable questions, unanswerable because no nation has had experience with that sort of war.

A primary factor that would influence thinking in governments and among the people in Western Europe is "collateral damage," a euphemism for civilian casualties and destruction of nonmilitary structures and facilities.

The main NATO armies and air forces are based in West Germany, which is about the size of Oregon but has a population density twice that of the Northeast in the United States. There are no proven guides on what collateral damage would be in West Germany in a nuclear war.

1.5 MILLION "DEAD" IN 1955 WAR GAME

In 1955, NATO carried out the Carte Blanche war game in which 355 nuclear weapons were "exploded" in West Germany in a simulated exercise lasting 48 hours. Civilian casualties were estimated at 1.5 million to 1.7 million dead, and 3.5 million wounded.

Soviet nuclear weapons then were much less powerful than they are today. Herbert F. York, writing in the Bulletin of Atomic Scientists in 1976, calculated that Soviet medium and intermediate-range ballistic missiles available at that time would kill more than 100 million people.

One argument against the possibility of such a nuclear "apocalypse" is that an attack of this scale would increase the probability of an American nuclear strike against the Soviet Union.

Analysts say that Soviet tactics in war could follow a number of courses:

The Russians might decide to inflict heavy "collateral damage" on West Germany at the outset, believing this might move Bonn to sue for peace to avoid further destruction and death.

Or Soviet nuclear strikes might be directed at military targets in the hope of reducing collateral damage. A devastated and radioactive Ruhr industrial region would be no prize for the conquerors.

NATO planning often appear to assume that in a war the Russians would do what NATO hopes they would do—for instance, that the Soviet advances would avoid cities and suburban areas and thus expose the attack spearheads to maximum Western counterattack by conventional and nuclear weapons.

Nothing in published Soviet military doctrine supports this. On the contrary, the Russians seem more aware than NATO of the changes forced on tactics by urbanization and of the need to train troops for operations in urban areas.

Urbanization of Western Europe since 1945 has greatly altered the options open to both defense and offenses. It has also increased the probability of widespread collateral damage, even when missiles are targeted solely on military objectives.

Ten large urban areas have emerged in West Germany alone. The most important is the Rhine-Ruhr district, which is moving toward convergence with the Randstad urban area of the Netherlands.

For NATO, urban sprawl could be an advantage. As open space gives way to cities and suburbs, the area suitable for massive Soviet armored attacks shrinks. The prospect of a Soviet tank force sweeping across plains has been reduced.

West Germany, to protect its territory and people, has urged a NATO doctrine of forward defense. And the alliance has accepted it.

The reality, as seen by many officers, is that under present circumstances NATO will be unable to maintain a forward defense against an enemy superior in manpower, tanks, aircraft and guns, forces that are now qualitatively equal to those of the defenders.

RUSSIANS REMEMBER STALINGRAD

Soviet doctrine, influenced by the lesson of Stalingrad in World War II, holds that under present conditions, "combat action in a city will be a frequent occurrence." The Russians expect to fight in cities.

Do more accurate Soviet missiles, such as the SS–20, preclude heavy damage to cities. With the urbanization of West Germany, many targets are now within or just outside city boundaries. Much of the American Seventh Army's military supplies are based in or around heavily built up areas west of the Rhine.

Mr. Bracken of the Hudson Institute points out that "a single stray SS–20 warhead could easily inflict 50,000 civilian casualties." ●

WHAT PRICE DEFENSE?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. MICHEL. Mr. Speaker, there is a question as to whether the Duke of Wellington ever really said that "the battle of Waterloo was won on the playing fields of Eton." But there can be no question that future battles of our Nation may already be lost in the cost accounts of today.

By this I mean that inflation is as great a threat to our national defense as any other we face. In a sense we are always dealing with two realities when it comes to funding our defense forces. One is the reality of the budget figures and the other is the reality of what that money can really buy in an inflated economy.

We have to come to grips with the insidious and destructive effect of inflation on our national security. One way to begin is to have realistic estimates—and not fantasies—about how much weapons systems will cost.

Inflation has forced the Marines to cut back by 5,000 men. Inflation is making the Air Force cut back on maintenance, one of the key factors for any defense force depending on highly sophisticated technological weapons systems.

At this time I wish to insert in the RECORD "Military May Be Losing War on Inflation; Critics Blame Pentagon Mismanagement" from the Wall Street Journal, December 7, 1979:

MILITARY MAY BE LOSING WAR ON INFLATION; CRITICS BLAME PENTAGON MISMANAGEMENT

(By Kenneth H. Bacon)

WASHINGTON.—The Marine Corps has cut its strength by 5,000 people. The Air Force can't afford to stockpile enough spare aircraft parts for wartime operations. The Army trimmed planned purchases of antiaircraft missiles even as it was complaining of inadequate air-defense protection.

These reductions are signs that the generals and admirals charged with preparing to fight future wars are losing today's battle against a persistent enemy—inflation. Rapidly rising prices are making it harder for the military to buy, maintain and operate weapons that it says it needs.

Consequently, as President Carter considers the possible use of force in response to the Iranian crisis and as Congress worries about increasing Soviet strength, Pentagon officials say overall military readiness is suffering. To match the growth of Soviet forces and to protect American interests around the world, Defense Secretary Harold Brown says the U.S. must overcome problems in three areas—"strategic forces, conventional forces and inflation."

Critics contend that Pentagon mismanagement, as well as inflation, causes cost overruns on some weapons programs. But rising costs clearly mean that the Pentagon will get a greater share of future federal budgets. And the Pentagon's share probably will be further increased by public and congressional demands for a stronger U.S. military—demands that have been sparked by the debate over the Strategic Arms Limitation Treaty, the Soviet combat brigade in Cuba and instability in the Mideast.

President Carter is preparing to propose a defense-spending increase of about $15.6 billion, or 12 percent to about $143 billion for the fiscal year beginning next Oct. 1. This will produce "real" spending growth of 3.5 percent above projected inflation in fiscal 1981, followed by real increases of 4 percent or more in later years. The Pentagon plans to use the increased funds to buy new strategic weapons, to expand capacity for deploying conventional forces to distant trouble spots, and to improve the readiness of forces that it already has.

Because of inflation, "just to stand pat on our major commitments is a major problem now," a White House official asserts. Several months ago, for instance, the Pentagon asked Congress to add $2.3 billion to the defense budget for the current fiscal year so the U.S. could meet its commitment to European allies to increase defense outlays by 3 percent above inflation.

NO "REAL" INCREASE

These additional dollars won't buy one new plane or pay one more soldier; they merely maintain the purchasing power that the Pentagon requested last January. Then, the administration assumed a 6.7 percent inflation rate in the year begun Oct. 1. Last summer, it raised the inflation estimate to 9.3 percent.

The higher inflation assumptions similarly will push up long-range defense outlays. Last January, the Pentagon laid out a five-year defense plan calling for total outlays of $722.5 billion in fiscal years 1980 through 1984. But based on the adminisration's increased inflation estimates for that period, the Pentagon figures it will need about $50 billion more to meet the plan's goals—even before President Carter's additions.

"The new inflation rates reprice our programs," says Brig. Gen. Roger Peterson, an Air Force procurement officer. "We end up with prices that are significantly higher" for planes and missiles, he says. Mainly because of inflation, F15 fighter jets that the Air Force in 1970 estimated would cost $9.8 million each now cost $17.8 million. And that doesn't include the latest inflation adjustments.

MAINTENANCE CUTBACKS

To compensate for higher costs, the services frequently curtail other programs, such as military operations and maintenance. "When you have inflation during the year, much of it tends to be taken out of readiness," says Gen. David Jones, chairman of the Joint Chiefs of Staff. "You cut back on flying hours. You cut back on small purchases" that tend to affect readiness, he says. "We have a backlog of maintenance at our bases and facilities, on ship repairs and aircraft overhauls."

Sometimes, such cuts can go too deep. Several years ago, the Air Force made a conscious decision to keep certain aircraft-procurement programs on schedule by moving money out of maintenance and flight operations, says Gen. Lew Allen, the Air Force chief of staff. But readiness deteriorated more rapidly than anticipated as inflation sapped maintenance dollars, and now the Air Force is trying to restore the balance.

Nevertheless, last year the service could afford to run only seven of the 11 major tactical air-combat exercises that it had scheduled. And it slighted plans to increase wartime reserves of aircraft space parts in order to get enough parts to support day-to-day flight and training operations.

The most painful choice is to cut personnel. Last year, the Marine Corps reduced its 190,000-member force by 5,000 people to channel a higher proportion of its budget into weapons procurement and maintenance. "Inflation was killing us," a Marine official explains.

REDUCING THE NUMBERS

Cutting the number of weapons in a program is a common way of holding down its total cost when prices are rising. For example, in 1972 the Army planned to buy 240 Patriot air-defense missile units, each of which includes 20 missiles and related equipment. The total cost was to be $5.24 billion, or $21.8 million a unit. But now the Army plans to purchase only 103 units for $5.63 billion, or $54.7 million each.

"Because the U.S. must live with a relatively fixed defense budget (after adjusting for inflation), major cost increases contribute to the procurement of far fewer units of weapons than our military leaders say we need to maintain an adequate defense," says Jerome Stolarow, a procurement expert at the General Accounting Office, an arm of Congress.

But Mr. Stolarow thinks the Pentagon is often too quick to charge cost increases to inflation in instances where management foul-ups are more to blame. The effect of inflation on weapons programs, "while substantial," he asserts, isn't as great as the Defense Department would lead you to believe.

COMPLICATED PROBLEM

"Cost growth of weapons systems is a highly complex and multifaceted problem involving economics, military judgment and politics," he says. "Human nature plays a roll" as well, he contends, particularly in the early stages of a weapon's development when its military backers and contractors hold down the price projection to make the program more acceptable to the Defense Department and Congress.

"They tend to be highly optimistic with respect to costs, technical developmental problems and operational characteristics" in an effort to show that "the proposed weapon will do wonders at a very low cost," Mr. Stolarow explains. The difference between estimated costs and actual expenses can be substantial. Since the Army began its Roland air-defense missile program in 1975, its projected cost has risen to $2.39 billion from $1.12 billion, with $694 million of the increase attributed to underestimated costs beyond inflation. The GAO also contends that the weapons often turn out to be more costly because they are too complex.

Milton Margolis, a Pentagon cost analyst, agrees that unrealistically low cost estimates have been common: "There's no question that the advocates want to keep the cost down—both to win support within the building and in Congress. It's the camel's-nose-under-the-tent philosophy."

ANNOYED CONGRESSMEN

The philosophy angers some members of Congress. "I think the Congress and perhaps even the administration are sold a bill of goods by the services," Sen. William Proxmire says. "They say they can develop a weapons system for a certain price. We make the commitment, and we go ahead." Then comes the surprise, the Wisconsin Democrat complains: When "we have a lot of money in the pot," and the project has support in Congress, industry and the Pentagon that makes it difficult to kill, Congress learns that it will "cost 50 percent more. 100 percent more".

The House Government Operations Committee, after hearings on the estimation of weapons-system costs, recommends that the Pentagon should give Congress a range of projected costs and improve its cost-analysis techniques.

But without better inflation projections—something that economists, let alone generals, seem unable to produce—the chance of major improvements in estimating weapons costs appears slight. As of Sept. 30, the Pentagon projects that it will cost $235.08 billion to develop and purchase the 51 major weapons systems currently under way. When it began the systems, the Pentagon projected a bill of $139 billion.

That's a cost rise of $96.08 billion. However, $32.79 billion, or about 34 percent of the increase, reflects decisions to expand the number of weapons in some programs. About $23.55 billion, or about 25 percent, reflects unanticipated inflation.

The Pentagon does hope to improve its management of two areas of cost growth: scheduling changes and cost estimates. Overall, about 15 percent of the cost growth in weapons programs results from longer-than-expected development and production schedules. This can reflect technical difficulties—not uncommon in complex weapons—or management problems. To hold down costs, the Pentagon is trying to shorten procurement cycles and increase competition for weapons contracts.

Another 10 percent of the total cost increase results from what the Pentagon euphemistically calls "estimating error" in forecasting a weapon's cost. To deal with this problem, the Defense Department is paying more attention to sniffing out unrealistically low cost estimates.

But the hard truth is "they've got to kill a number of programs in each of the services to fit within their budget restraints," even with Mr. Carter's higher spending plans, says Dale Church, a deputy under secretary of defense. He concedes this will be painful: "We haven't hung very many medals on program managers who have stepped up and said, 'My program is a disaster—kill it.' " ●

MAYOR WALTER DOLLMAN—OUTSTANDING LEADER

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. BAILEY. Mr. Speaker, it is a pleasure for me to bring to your attention and the attention of our colleagues a very fine mayor from the municipality of Murrysville, Walter Dollman. He has shown outstanding leadership qualities as mayor, guiding the community through a tenuous period of boundary and governmental structure changes.

We are saddened to learn that Mayor Dollman has decided not to accept reelection to the mayor's office because of a recent promotion at his place of employment. While we congratulate him on his advancement, we regret that he has had to resign as mayor.

In his letter of resignation he stated:

> With the additional demands of my new position, I will be unable to devote adequate time to the Mayor's office. It would be improper to accept another term knowing my involvement will be insufficient to maintain my current performance level. This would be unfair to the Municipality and its people.

We admire him for honesty and, at the same time, thank him for the unwaivering support he provided for the community to insure its growth and prosperity. He is a superior leader of unquestionable integrity and trustworthiness.

The municipality of Murrysville is fortunate to have benefited by his leadership. On behalf of the residents of Murrysville and myself, I wish him continued success in all his endeavors.●

VOLUNTARY SCHOOL PRAYER: A STATE ISSUE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. PHILIP M. CRANE. Mr. Speaker, the framers of the Constitution recognized that the Federal judiciary could move beyond its role of settling specific disputes to enunciating broad legislative policies. Accordingly, they incorporated a provision into the Constitution, article 3, section 2, giving Congress power to restrict Federal court jurisdiction. Thus, Congress, in which "all legislative powers" are vested under article I, can prevent the judiciary from usurping the legislative province.

The Founding Fathers also realized that Supreme Court pronouncements would apply nationwide. Sensitive moral questions should not be settled on a national level. Each community and locality should be able to translate its own values into policy. Article 3, section 2, provided a check on court instrusions into questions better reserved for local decisionmaking.

This provision has been used on occasion to protect some of the prerogatives of Congress or localities. For instance, the Norris-LaGuardia Act restricted Federal court jurisdiction over labor disputes. In fact, the Supreme Court itself in the case of Ex Parte McCardle upheld the power of Congress to limit Federal court jurisdiction.

Current conditions call once again for the use of the article 3 power. The Supreme Court has deprived States and localities of the freedom to reaffirm fundamental values in volntary classroom prayers. By ruling against school prayer, the Court has denied the right of communities to decide for themselves whether educational curricula should contain a reverent affirmation that we are indeed "one Nation under God." We should restore that right.

I have launched a discharge petition that would call for an immediate vote on S. 450 which limits Supreme Court jurisdiction over school prayer questions. Your signature on discharge petition No. 7 would do much to reestablish a proper balance between the courts and Congress as well as between Federal and local authority.

I also call attention to the Reader's Digest article, which I shall include with my remarks. It restates the position of the American people on this question:

Should Prayer Be Restored to Our Public Schools?

(By Eugene H. Methvin)

(The Supreme Court has said no. Yet three out of four Americans favor voluntary school prayer—and the remedy is in Congress's hands.)

In 1962 the U.S. Supreme Court ruled by a six-to-one vote that voluntary prayers said in public-school classrooms violated the U.S. Constitution. Few Supreme Court decisions have stirred such public controversy and outrage, encountered such open disobedience* or stimulated such sustained efforts for reversal.

Public-opinion polls have shown that a stable majority of about 75 percent of Americans favors restoring public-school prayer. Last April the U.S. Senate, by a 51–40 vote, approved legislation introduced by Sen. Jesse Helms (R., N.C.) that would restore voluntary prayers to the classrooms. And once again the issue has touched off a torrent of mail to Capitol Hill, this time to the House of Representatives, whose members may soon consider the question.

The Senate's action would largely restore the situation that existed before the 1962 Supreme Court opinion: decisions would be left to the states or to local authorities, and justices in Washington would be out of the business of refereeing local arrangements for voluntary classroom prayer. Which is precisely the way the Founding Fathers, who wrote the First Amendment guarantee of freedom for religion, wanted it.

The First Amendment says: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof." Those words, known as the establishment and free-exercise clauses, were meant to guarantee that religious matters would be decided at the local level.

The record leaves no doubt. When the First Amendment was presented to Congress in 1789, five states had established churches; others had recently disestablished or refused to establish churches. A major purpose of the amendment, as James Madison assured Congress, was to provide that the national government would have no power to disturb these local arrangements. It clearly forbade federal interference either for or against community decisions.

No one would have been more astonished at the Court's 1962 interpretation than the framers of the First Amendment. The same day in 1789 that Congress approved the Bill of Rights, the legislators asked President George Washington to proclaim "a day of public thanksgiving and prayer to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God." Washington thereupon issued the first Thanksgiving Day proclamation—an act that by the Warren Court's logic violated the First Amendment while its ink was still wet.

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*Many schools simply disregarded the Supreme Court's ruling and continued to conduct prayers, freely excusing those who did not wish to participate.

The more obvious conclusion is that it was the 1962 justices themselves who trifled with the Constitution. Said Harvard Law Dean Erwin Griswold: "We have a spiritual and cultural tradition of which we ought not to be deprived by judges carrying into effect . . . absolutist notions not expressed in the Constitution itself and surely never contemplated by those who put the constitutional provisions into effect. To say that they require that all trace of religion be kept out of any sort of public activity is sheer invention."

Yet that is precisely what the Warren Court decided in 1962, when the justices decided the Supreme Court's first prayer case. The New York State Board of Regents, in consultation with the clergy of Protestant, Catholic, Jewish, Greek Orthodox and other faiths, had developed this nonsectarian prayer: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country." Local school boards, decided whether to use the prayer, and individual students could excuse themselves from participation if they wished. The Warren Court found this a violation of the establishment clause

To reach its result, the Court had to ignore the First Amendment's clause forbidding the federal government to interfere in the "free exercise" of religion and adopt a new theory advanced by Justice Hugo L. Black. He contended that the establishment clause forbidding Congress to establish a religion had been applied to the states through the Fourteenth Amendment clause which says that no state shall "deprive any person of life, liberty, or property without due process of law." That language, the Court decided, somehow requires Washington—in the form of the justices—to maintain a "wall of separation between church and state," and strict "neutrality" between religion and irreligion.

Potter Stewart was the only justice to dissent: "With all respect, I think the Court has misapplied a great constitutional principle. I cannot see how an 'official religion' is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish of these schoolchildren to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our nation.

The Warren Court's coupling of the First and Fourteenth Amendments was a bold new seizure of authority from both Congress and grassroots institutions. Other decisions followed: The justices ruled against a Maryland law that provided for the reading of a chapter of the Bible and/or recitation of the Lord's Prayer in schools. When the Netcong, N.J., board of education voted to permit students to come to school early for a "period for free exercise of religion" under the expressed First Amendment authority, the state court refused to allow it. This court even refused to permit schoolchildren to read the daily prayer of the House or Senate chaplain as printed in the Congressional Record. By not accepting the case on appeal, the Supreme Court justices let the state decision stand.

These anti-prayer decisions set off a wave of protest that has not stopped. At first, Capitol Hill opponents backed an amendment to the Constitution that would revise the Supreme Court's interpretation of the Fourteenth and First Amendments. In 1966, the Senate voted 49–37 to submit such an amendment to the state legislatures for ratification, but the vote was nine short of the constitutionally required two-thirds majority. In 1971, responding to a nationwide drive sparked by Ohio housewife Louise Ruhlin, the House voted 240–162 for an amendment, 28 short of the necessary two-thirds. In each case, many legislators balked for fear that the wording of such an amendment might be interpreted to do harm to other First Amendment provisions regarding freedom of speech and the press.

But today the outlook for prayer proponents is brighter. In the years since 1962, both the makeup of the Supreme Court and opinion about the limits on its powers have changed. The current Chief Justice, Warren E. Burger, has led this different Court in a substantial federalist restoration, curtailing some of the more ambitious activist claims of judicial power of the 1960s, pointing out, among other things, that Congress has remedies against such claims of amending the Constitution. In fact, the Constitution provides two clear ways to limit the Supreme Court's role in the interpretation of our constitutional rights:

1. Article III, which created the Court, empowers Congress to make "exceptions and regulations" to the Court's appellate jurisdiction. Thus, by a simple majority, legislators can vote to take whole classes of cases away from the Court's jurisdiction.

2. The Fourteenth Amendment, under which the Court claims authority to impose its interpretations of the Bill of Rights on the states, specifically provides: "The Congress shall have power to enforce, by appropriate legislation," the rights the amendment creates. So if the legislators disapprove of the Court's rulings, presumably they can pass statutes—again by simple majority—substituting their own rules.

For three decades the nation has seen decisions and responsibilities transferred from local communities to Washington, thus steadily eroding the federalist concept of our government. When Senator Helms introduced his legislation last April, he emphasized the significance of his proposal in maintaining the Constitution's original plan of a divided and carefully limited power: "Congress must not yield its responsibility under the Constitution to ensure that the freedoms protected by the First Amendment are not undermined by actions of other institutions."

That is why many legal and editorial commentators welcome the Senate move to moderate the harsh anti-prayer rules adopted by the Warren Court. Says columnist James J. Kilpatrick: "When Senator Helms undertakes to restore the possibility of truly voluntary prayer, he merits the support of all those who believe that, while governmental establishments of religion must be resisted, the free exercise of religion should be encouraged. The Constitution expressly authorizes Helms' approach as a form of restraint upon the judiciary short of a constitutional amendment."

Regardless of our views on voluntary classroom religious exercises, all Americans—Christian, Jew, atheist, agnostic, whatever—have cause for alarm when a group of officials in Washington claims the right to dictate radical changes in our lives without consulting us. By debating and deciding such matters locally, we actually strengthen our democratic traditions of tolerance and liberty.

In taking such decisions away from the people, the 1960s-era justices pushed the Court far along the road to a more sweeping tyranny than any that might result from a local excess of religious zeal. As Harvard law professor Raoul Berger says in his recent book Government by Judiciary, "A democratic system requires adherence to constitutional limits, by courts no less than presidents. Respect for the limits on power is the essence of a democratic society." ●

NATIONS REJECT U.S. BID TO LIMIT NUCLEAR POWER OPTIONS

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. WYDLER. Mr. Speaker, the bankruptcy of the Carter administration policy on nuclear energy development, based solely on nonproliferation concerns, has been acknowledged as a failure for over 2 years. This view recently received strong confirmation with the news of the report to be released on the international fuel cycle evaluation study. This exercise to review the pros and cons of alternative nuclear technologies aimed at reducing proliferation risk was organized by the United States in October 1979.

It appears now that the summary of the conference will spell out the fact that the United States has not pursuaded any of the developed nations of the wisdom of its nuclear opinions.

I am including excerpts from the Washington Post article dated December 3 on the international nuclear fuel cycle evaluation report for the information of my colleagues.

NATIONS REJECT U.S. BID TO LIMIT USE OF PLUTONIUM

(By Milton R. Benjamin)

The Carter administration has failed in a major two-year effort to persuade the rest of the world to halt construction of advanced nuclear facilities likely to greatly increase the availability of plutonium suitable for use in fabricating atomic bombs.

A 20-page draft summary of the conclusions of the 63-nation International Nuclear Fuel Cycle Evaluation conference, which the U.S. organized in October 1977 as the cornerstone of its effort to prevent nuclear proliferation, began circulating among the participating countries several days ago.

The summary backs the European and Japanese view that advanced facilities—fast-breeder reactors and plutonium reprocessing plants—will be needed to meet the world's future energy needs.

It also takes such a bullish view in the future of nuclear power that some U.S. sources say the Carter administration is seriously considering a formal dissent on this point at the final INFCE meeting in Vienna next February.

The summary, according to an authoritative source who has seen it, spells out the consensus of the participants in the conference "in a way that is most negative to U.S. policy—no ban on reprocessing, no ban on the breeder."

"We certainly did not persuade the rest of the world of the wisdom of our opinions," one of the Carter administration's top nuclear negotiators acknowledged in an interview. "If this was the criteria, we'd rate a D-minus."

To the surprise of few experts, the INFCE conference failed to realize Carter's hopes that it would find new "safer" technologies that could be developed in the next decade to reduce the proliferation risk inherent in a world where nuclear power plants produce large quantities of plutonium as part of their burned-up fuel.

The plutonium can be separated out of the waste by a country that has a reprocessing facility, and used either as new fuel for power plants or in the manufacture of atomic bombs.

"We discovered no technical fixes," a U.S. official said. "People who thought that we would—their hopes were exaggerated. Whether we like it or not, there is going to be a certain amount of plutonium floating around the world in the future."

The draft summary also distresses many U.S. experts by forecasting construction of hundreds of new atomic power plants around the world in the next two decades—a project that even most European experts now consider too high.

"The estimates were made in 1977," one U.S. official said. "The report doesn't reflect the changes since. The estimates of growth are outrageously high."

But while conference sources express dismay at the possibility that the United States may decide to jeopardize the consensus it has been trying to build in nuclear issues by publicly dissenting from the report, they say the projections on the future of nuclear power will not be revised downward.

"There's no way that is going to be changed," a conference source said. "Anybody who is for plutonium recycling for breeders needs those numbers. The Americans can say whatever they want in the plenary, but the numbers stay in the report."

One reason that some administration officials see a need to put distance between President Carter and the study he commissioned is that they view it as a political embarrassment that belies the fact that a generally more favorable nonproliferation climate exists today than two years ago.●

WELCOMING PATAPSCO SENIOR HIGH SCHOOL STUDENTS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. LONG of Maryland. Mr. Speaker, I welcome 47 students and Mr. Thomas Dessecker from the Patapsco Senior High School in Dundalk, Md. This is a special pleasure because one of the students, Jim Panowski, recently served as my page.

My constituents are visiting the Capitol in connection with a course entitled, "Citizenship, the Constitution, and Public Issues." They will attend House committee meetings and observe floor action. They will also tour the FBI building.

I appreciate this opportunity to meet with my friends from Patapsco Senior High.

The students are:

Thomas Dessecker, teacher; Leslie Backof, Morgan Goff, Dan Stoneham, Rick Cantalupo, Pam Creevey, Dave Modeski, Corry Sweringer, Terri Knight, Ken Ricketts, Chris Sokolis, Sam Baker, Ron Barkhorn, Jeff McMillian.

Rita Kutrick, Sandy Musser, Jim Thompson, Sharon Salger, Dawn Willet, Greg Hershey, Joe Kessler, Greg Chafin, John Der, Tracy Dawson, Jacki Kahl, Janis Capo.

Bill Montgomery, Dan McShane, Steve Rehak, Carol Rippel, Don Stone, Tony Ghouralal, Jim Rose, David Hollifield, Jim Sieling, Sherri Isenhardt.

Stephanie Samuels, Amilo Woodin, Tom Scheidt, Randy Sullivan, Mark Thorton, Marcie Wiland, Douglas Rothenbach, David Knapik, Jim Panowski, Richard Rosso, Mark Cooper, Charles Duncan.●

THE MAN WITH THE SPYGLASS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. DERWINSKI. Mr. Speaker, Members of the House can take pride in the knowledge that a resolution the House passed not long ago has been duly noted and reviewed by the Soviet Union. The resolution, House Concurrent Resolution 200, passed 390 to 0 on November 13, condemned Soviet occupation of the Baltic States and the new Soviet citizenship law. On November 15, the very next day, Moscow World Service radio noted that the "peoples of the Baltic States made their decision long ago * * * when they revolted and established their own Soviet governments." These governments, the speaker pointed out, "were crushed by foreign intervention and local counterrevolution" * * * but later they "reinstituted Soviet government and through their parliaments expressed their wish to join the U.S.S.R. * * *. That is history," the speaker says.

Obviously, we here in this country do not see history quite the way the Soviet Union does. This is one of many cases. The executive branch and the House agree that as a consequence of the infamous Ribbentrop-Molotov pact of 1939, an agreement between Hitler and Stalin, the Soviet Union invaded Estonia, Latvia and Lithuania, and set up pro-Soviet governments in those countries. That is history as we see it in this country. What Moscow World Service radio says, is history as distorted in the Soviet Union.

The Soviet broadcaster believes the House is behind the times with its Baltic States resolution. To illustrate its point, he cites a clever anecdote about "the man with the spyglass." The fact is that the House is catching up with the times by passing its Baltic resolution and, for what it is worth, I always somehow think of a Soviet official when I hear of a man with a spyglass.

Soviet broadcasters also interviewed Lithuania's minister of justice on the radio program and suggests that "the honorable Congressmen" would be "surprised Lithuania even has a Minister of Justice." I, for one, am not surprised, actually, to know that Lithuania has a Minister of Justice. The Ministry of Justice and the Ministry of Interior are among the first bureaucracies set up by the Soviets, along with the secret police, when they take over a foreign country. I am a little curious, however, to know how they got a Lithuanian to take the job.

The text of the Foreign Broadcast Information Service transcript of the Soviet broadcast in question follows:

CONGRESS RESOLUTION ON SOVIET BALTIC STATES CRITICIZED

(Viktor Petrov commentary)

On 13 November the House of Representatives of the U.S. Congress adopted a resolution which, according to a Voice of America broadcast, calls attention to the occupation of the Baltic states by the Soviet Union.

It also expresses concern for ex-Soviet citizens who might be persecuted or arrested when in Moscow during the 1980 summer olympics. Radio Moscow observer Viktor Petrov has the following comment:

I have heard it said that while strolling along the white cliffs of Dover one may encounter a quaintly-dressed gentleman who looks out over the sea through an ancient spyglass. He is a government employee and holds one of the most ancient posts in England. His first predecessor was appointed at the beginning of the last century to warn of a French invasion. Although Napoleon is long gone, the post remains—an absurd and yet touching example of England's love for tradition.

The House of Representatives resolution is somehow remindful of the man with the spyglass though it is hardly touching. The peoples of the Baltic states made their decision long ago, in 1918 to be exact, when they revolted and established their own soviet governments. These were crushed by foreign intervention and local counterrevolution. But a scant 20-odd years later the people of Estonia, Latvia and Lithuania reinstituted Soviet government and through their parliaments expressed their wish to join the USSR as constituent republics, a wish that was granted 39 years ago. That is history, well-documented history for that matter. Of course you can refuse to accept reality, you could make believe things never happened, or did not happen the way they actually did. It is a game anyone can play. But it is about as useful as the man who keeps a sharp eye out for Napoleon's fleet off England's shores.

As for ex-Soviet citizens and hazards that await them in olympic Moscow, I decided to get an official opinion of that. I phoned Pranas Kuris, the minister of justice of the Lithuanian Soviet Socialist Republic, roughly the equivalent of attorney general for that republic, and I asked him what, if anything, ex-Soviets coming here had to fear. Here is the taped answer:

[Kunis, speaking in Lithuanian, fading into English translation] In my opinion they have nothing to fear at all. Simply someone in the United States would like to scare off people from coming to the Soviet Union to the Olympics. I see no legal grounds for the persecution of the ex-Soviets, now U.S. citizens, as long as they commit no crimes while in this country.

That was Pranas Kuris, Lithuania's minister of justice. I suggest the honorable congressmen who voted for the resolution take heed. They will probably be surprised Lithuania even has a minister of justice. But it's never too late to learn, is it? ●

FORMER TOP AND DISTINGUISHED LEADERSHIP OF THE DEPARTMENT OF DEFENSE ANALYZE FLAWS IN THE SALT II TREATY

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, December 10, 1979

● Mr. KEMP. Mr. Speaker, the SALT II treaty was under negotiations for 7 years under the leadership of three Presidents. Until the final text of the SALT II treaty emerged, it had been widely expected that most of the former senior officials of the Nixon and Ford administrations would be supporting the agreement. When the terms of the agreement finally emerged, however, many former senior defense officials were astounded by the radical departure the incumbent administration had made in the content of the agreement.

In one of the most remarkable examples of a loss of consensus for an arms control agreement, the former Secretary of Defense, the Deputy Secretary of Defense, and the Secretaries of the Army, Navy, and Air Force, all supporters of SALT I and the Vladivostok accords have indicated their opposition to SALT II as currently drafted.

The statement of these former officials is testimony to how far the Carter administration has strayed from the American consensus on arms control in its efforts to reach a SALT II agreement before the 1980 Presidential election campaign. The agreement reached reflects the haste for agreement—any agreement, but in doing so has caused supporters of the SALT process to reject the agreement now before the Congress. The statements offered by Secretaries Rumsfeld, Hoffman, Reed, and Middendorf, and Deputy Secretary Clements reinforces the view that SALT II should be rejected by the Senate, and sent back for renegotiation.

Donald Rumsfeld, as Secretary of Defense (with William Clements as Deputy Secretary of Defense) presided over the first period of real growth in the resources made available to the Department of Defense since the 1950's (excluding Vietnam related operating expenditure)—an example which the Carter administration has encountered great difficulty in following. Moreover, he has provided a splendid example of a Defense Secretary who has a grasp of the political-military realities of America's role in the world. Recognizing that "weakness is provocative," he led the fight to persuade the Congress that a decade or more of neglect of our defense posture could have serious consequences for every aspect of American life in the next decade if the deficiencies in our defense posture were not quickly remedied.

Martin Hoffman, William Middendorf and Thomas Reed provided outstanding leadership and managerial expertise in their respective roles as Secretaries of the Army, Navy, and Air Force. They have provided a collective example of how the Department of Defense and the Armed Forces should be led. The Nation could do no better than to heed their leadership on the crucial national security questions we will have to face in the years ahead.

The statement follows:

A Statement on the SALT II Accords

This week the question of ratification of SALT II may reach the floor of the United States Senate. The five of us, as the senior civilians in the Department of Defense, were responsible to the President for national security matters until January 20, 1977. As a result, we feel that the Senate and the American people should have our considered views of the pending SALT II proposals.

Each of us was involved in the arms limitations considerations having spent hundreds of hours grappling with these complex issues. All of us hoped the SALT process would bring forth a suitable treaty. We hoped an agreement could be achieved about which we could be as confident that the U.S. security would be enhanced as the Soviets appear to believe that the pending agreement will increase theirs.

We have considered the treaty as it finally emerged, examined the changing strategic balance, and made our individual views known to the Senate and the American people in some detail. Copies of our statements are available here this morning.

In summary, it is our unanimous view that the pending SALT II Treaty, the Protocol, and the various "understandings" do not merit Senate approval. The proposed bargain is a bad one for the United States—and by a significant margin.

We believe that in the mid-seventies the United States could have achieved a treaty comparable to that now before the Senate. It was our view then that such a treaty would not be in the best interests of the United States. It is even more our view today.

A number of able individuals have agreed that this is not a good treaty, but they have taken the position that this treaty, despite its defects, is better than none at all. We strongly disagree.

This is the time to face up to reality, to face the facts of our military posture vis-a-vis the Soviet Union. We are convinced that ratification of SALT II will postpone that reckoning, and that the reckoning, whenever it occurs, is bound to have an impact on U.S.-Soviet relationships whether or not SALT II has been ratified. Whenever the Soviets come to understand that their 15-year military buildup will no longer be abetted by U.S. force reductions and weapons cancellations there is bound to be a debate on that hard fact. Better to face that reality now, while the Soviets are gaining the upper hand, than after several more years when that Soviet upper hand has grown to an iron fist.

Our Nation's situation is more dangerous today than it has been any time since Neville Chamberlain left Munich setting the stage for World War II.

Since World War II, the U.S. has successively moved from exclusive control of nuclear weapons to overwhelming superiority to essential equivalence and now to certain vulnerability by the early 1960's. The massive shift in power—strategic, theater nuclear, conventional and naval—in having the inevitable effect of injecting a fundamental instability into the world equation.

I. SALT II IN RELATION TO NATO

(Donald Rumsfeld)

Several arguments have been put forward by the present Administration in their efforts to gain support for SALT II. A recent claim is that Senate defeat would disrupt, if not destroy, the NATO Alliance. Having dealt with NATO in a variety of capacities, beginning in 1973 as U.S. Ambassador to NATO, I find such a foreboding forecast irresponsible.

Our NATO allies have consistently looked to the United States for leadership on nuclear matters, particularly on U.S.-Soviet strategic arms. Since the current Administration is so vigorously supportive of this SALT II agreement, it comes as no surprise that European officials have followed suit publicly. Nonetheless, many knowledgeable Europeans are concerned about SALT II and what it portends for future arms agreements. This agreement would be an unattractive stepping off point for SALT III negotiations.

I have more confidence in NATO as an institution and in our allies as members than do those alleging that NATO would unravel in the wake of a Senate decision that SALT II should be renegotiated. The Alliance is not that fragile.

I believe this Administration has used NATO recklessly in its efforts to sell a bad treaty. If our allies foresee an era of continuing erosion of U.S. strength relative to the Soviet Union, that will contribute to a loss of confidence. What is needed instead is U.S. leadership and strength.

II. SALT II AND THE GRAY AREA SYSTEMS

(Martin R. Hoffman)

Our European allies have reason to be concerned, since we have displayed an uncharacteristic disregard for their and our interests. The treaty is casual about "gray area" systems (Backfire and the SS–20) which this Administration claims do not pose a threat to the U.S. They represent a very real challenge to western Europe. At the same time, the U.S. has compromised its cruise missile advantages. The strategic arms agreement reached at Vladivostok by President Ford was superior to that concluded in Vienna by President Carter in these regards.

Vladivostok left open the matter of the Backfire bomber for further negotiations *in tandem* with negotiations on cruise missiles. At that time, the Backfire was just coming into operation and there was debate within the U.S. Government as to its capability. Now most agree that Backfire has intercontinental range. Nonetheless, it is left outside the legal SALT II package, while cruise missiles are included. Air-launched cruise missiles, a new American technology, would be restricted in both deployment and payload characteristics. The Protocol obviously will be a precedent with SALT III, and under it sea-launched cruise missiles would be restricted in their nuclear and in their conventional or non-nuclear role. Ground-launched cruise missiles, left open at Vladivostok, would also be restricted, in both nuclear and conventional roles, to the disadvantage of the U.S. and our allies.

In short, the SALT II package creates an unprecedented situation in European security affairs by limiting NATO's Europe-related military capabilities—cruise missiles—to accommodate Soviet arms control pressures. SALT II and the Protocol would: a) place into question the ability of the U.S. to help the Europeans modernize their nuclear and conventional forces; b) possibly limit the U.S. ability to modernize our own defense forces in and around Europe; and c) leave the Soviets' Euro-strategic nuclear forces—primarily the mobile SS–20 missiles and the Backfire bombers—unconstrained by the documents.

III. AMERICAN DEFENSE CAPABILITIES THEN AND NOW

(Thomas C. Reed)

In January of 1977 the United States at least enjoyed something called essential equivalence as President Ford had commenced rebuilding our strategic forces:

The TRIDENT submarine and missile programs were well under way, with an operational first boat expected this year.

The B–1 had been committed to production. The first production aircraft would have been delivered to the Air Force last summer. The first two wings would have been operational by 1982 with the entire force delivered and deployed by 1985.

The cruise missile had been reinvented with modern technology. Air and sea launched versions were to have been deployed two months from now.

The ICBM assembly lines and industrial base had been kept open.

Guidance system improvements and a new, higher yield warhead had been ordered for Minuteman.

The Air Force seriously addressed the need for ICBM modernization and settled on a design, known as M–X. By January of 1977 there were no technical uncertainties to preclude immediate full scale development and production of a 100-ton M–X that would fit in the Minuteman silo, but with ten times the destructive power of that aging missile. The budget submitted to Congress in January of 1977 called for initial operational deployment of M–X in 1983, with means to accelerate that to 1982 if desired. More importantly, the budget submission of January 1977, envisioned the maintenance of essential equivalence at the very least. But in that month there arrived a new and different view of national security.

The Carter Administration recommended immediate cuts in defense programs. Over the four year life of this Administration they would constitute a $50 billion reduction from plans that were in place when they took over. Consider:

The first TRIDENT submarine will not be operational until 1981 and there is no program for deployment of the TRIDENT II missile in that boat.

The B–1 program has ceased to exist, and the Administration has yet to announce how it plans to get the so-called replacement weapon system—cruise missiles—off the ground, away from ground zero, and somewhere near the Soviet Union in the event of surprise attack.

The cruise missile program itself has been delayed at least two years—to the end of 1982.

ICBM production lines have been closed and key personnel have scattered.

M–X has been studied to death, with an initial operational capability delayed to 1986, and a complete force not available until 1990.

On the average, the strategic programs of the United States will have slipped three years during the four years of this Administration. Not a brilliant record. Yet this Administration now is seeking a vote of confidence in these strategic arms policies by proposing a SALT II treaty.

These policies if pursued will be catastrophic for the United States. They have set the stage for the politico-military inferiority of the United States in the early to mid-1980's. They do not deserve a vote of confidence, and the SALT II treaty should not be ratified as proposed.

IV. TRIDENT, SEA CONTROL, AND THE TRANQUILIZER EFFECT

(J. William Middendorf)

This Administration has placed great weight on the Submarine Launched Ballistic Missile as a guarantor of stability. Even in this critical area the Carter Administration is ignoring reality.

The Poseidons are old. They are confined to areas of the ocean that will sooner or later make them susceptible to detection. Yet the TRIDENT submarine program has been reduced. The TRIDENT II missile program with its improved range, payload accuracy—which would have vastly expanded the operational areas of the TRIDENT submarine—has been prostponed indefinitely. And this neglect is only one example of what has happened to the United States Navy.

The Navy shipbuilding program has been emasculated. We worked for three years to bring forward a Navy shipbuilding program that would, by 1990, give us a "sea control Navy" of 580 ships. Despite the vast Soviet naval build-up, this Administration's current program will have the effect of cutting the Navy to about 300 ships in 1990, a cut of more than half in terms of capability.

These reductions are part of a dangerous pattern, in some respects arising from the SALT process itself. This process has had the effect of lulling the American people into believing that an agreement in itself—rather than the real relative capabilities—can assure U.S. national security. Our proper goal should not be an arms agreement per se, but rather peace and the preservation of freedom. To the extent that such an agreement can contribute to that goal—and to that extent alone—it is desirable. I do not believe SALT II as drafted so contributes.

Rather, I believe it contributes to a dangerous tranquilizing effect—a feeling that all is well because the Administration has said so.

V. THE SALT PROCESS AND SOME CONCLUSIONS

(William P. Clements)

This combination of induced public tranquility, determined Soviet progress, and a casual attitude by the U.S. Government toward defense, these factors have all combined to bring us to the brink of mortal peril. During my four years as Deputy Secretary of Defense, I was a member of the National Security Council and was also a member of all of the subcommittees.

The record is clear that over that four year period I supported a proper SALT treaty. My colleagues and I are all in favor of nuclear arms limitation treaties. I was also a strong advocate of the Vladivostok accords. And I strongly advocated "equal aggregates with freedom to mix". But SALT II as it has emerged does not represent a net improvement over the Vladivostok accords. On the contrary, the contentious issues of Backfire and cruise missiles have been resolved in ways largely unfavorable to the U.S., while problems involving verification, survivability of U.S. missiles, and the preponderance of Soviet throw weight have been left to haunt us in the future.

This treaty should not be ratified. Any new treaty must cover the inequities generated by the Soviet "heavy ICBMs", must clarify U.S. rights to build the appropriate mobile ICBM system, must recognize that Backfire is a strategic system, must resolve ambiguities and limitations on U.S. cruise missile technology, and must assure verification.

At the same time, the Congress and the Administration must support immediate defense investment to recover from the false economies of recent years. The widely discussed 5 percent real increase represents roughly $6.5 billion per year. This figure falls far short of meeting the true defense needs of the country. It has taken several years to create this problem, and it will now require a real increase in defense spending of $20 to $25 billion per year with emphasis on strategic systems to have any hope of recovery by the late 1980's.

We all want peace and security for our Nation. The question is how to assure that peace and security.

Leadership and determination are required. We could have had this SALT II agreement years ago. It was not acceptable then. We do not recommend its ratification now.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, December 11, 1979, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

DECEMBER 12

9:00 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings on the scope of laser research and technology, focusing on the principal applications of lasers and future expectations from lasers.
235 Russell Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings to examine the size, nature, and economic impact of profits made from illegal narcotics trafficking.
3302 Dirksen Building

9:30 a.m.

Judiciary
Limitations of Contracted and Delegated Authority Subcommittee
To resume oversight hearings on Title III, providing assistance for specific academic, administrative, and student service programs, of the Higher Education Act.
1202 Dirksen Building

Select on Small Business
To continue hearings on the structure of the solar energy industry.
424 Russell Building

10:00 a.m.

Banking, Housing, and Urban Affairs
International Finance Subcommittee
To hold oversight hearings to review international monetary policy relative to the Eurodollar currency.
5302 Dirksen Building

Conferees
On H.R. 2440, to provide assistance to airport operators to prepare and carry out noise compatibility programs, to provide assistance to assure continued safety in aviation, and to provide assistance to aircraft operators to aid them in complying with noise standards.
Room to be announced

Energy and Natural Resources
Energy Conservation and Supply Subcommittee
To hold hearings on S. 1829, to establish a community energy efficiency program.
3110 Dirksen Building

Environment and Public Works

Water Resources Subcommittee

To continue markup of S. 703, to provide for the study, advanced engineering, and design and/or construction of certain public works projects for navigation and flood control on rivers and harbors in the U.S. and trust territories.

4200 Dirksen Building

Rules and Administration

Business meeting, to resume consideration of S. Res. 281 and S. 2018, measures to simplify and clarify the system by which Senate committees are provided funds for their operating expenses, including staff salaries; S. Res. 293, increasing the limitation on expenditures by the Committee on Finance for procurement of consultants; S. Res. 297, authorizing the Department of Health, Education, and Welfare to determine whether any Senate employees are indebted to the U.S. for defaulted student loans; S. Con. Res. 56, authorizing the reprinting of the committee print entitled "Synthetic Fuels"; S.J. Res. 116, to establish a Special Joint Committee on the Centennial of the Birth of Franklin D. Roosevelt; and other legislative and administrative business.

301 Russell Building

1:00 p.m.

Judiciary

To hold hearings on the nominations of Charles B. Renfrew, of California, to be Deputy Attorney General, Department of Justice; Dorothy W. Nelson, of California, to be U.S. Circuit Judge for the Ninth Circuit; Terry J. Hatter, Jr., to be U.S. District Judge for the Central District of California; and Edward D. Price, to be U.S. District Judge for the Eastern District of California.

2228 Dirksen Building

2 p.m.

*Judiciary

Limitations of Contracted and Delegated Authority Subcommittee

Business meeting, to discuss subcommittee business.

Room to be announced

3 p.m.

Select on Intelligence

Closed business meeting.

S-407, Capitol

DECEMBER 13

8:00 a.m.

Appropriations

District of Columbia Subcommittee

To resume oversight hearings to review the District of Columbia 1979 Summer Youth Program.

1114 Dirksen Building

8:30 a.m.

Energy and Natural Resources

Energy Resources and Materials Production Subcommittee

To hold closed hearings to review the current status of the strategic petroleum reserve program.

S-407, Capitol

9:00 a.m.

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine the size, nature, and economic impact of profits made from illegal narcotics trafficking.

6226 Dirksen Building

9:30 a.m.

Banking, Housing, and Urban Affairs

Housing and Urban Affairs Subcommittee

To hold hearings on the relationship of energy to community planning and development.

5302 Dirksen Building.

Governmental Affairs

To resume oversight hearings on the Federal Energy Regulatory Commission, Department of Energy.

3302 Dirksen Building

Judiciary

Administrative Practice and Procedure Subcommittee

Business meeting, to mark up proposed legislation proposing regulatory reform to coordinate and oversee Federal policy.

4200 Dirksen Building

10 a.m.

Armed Services

To receive a briefing on estimated budget proposals for fiscal years 1981 through 1986, for the defense establishment.

318 Russell Building

Labor and Human Resources

Business meeting, to mark up S. 1386, authorizing funds through fiscal year 1985 for the National Endowment for the Arts, National Endowment for the Humanities, and the Institute for Museum Services, and S. 1429, authorizing funds through fiscal year 1982 for programs under the Museum Services Act.

4232 Dirksen Building

10:30 a.m.

Energy and Natural Resources

Business meeting on pending calendar business.

3110 Dirksen Building

DECEMBER 14

9:00 a.m.

Commerce, Science, and Transportation

Science, Technology, and Space Subcommittee

To resume hearings on the scope of laser research and technology, focusing on the principal applications of lasers and future expectations from lasers.

235 Russell Building

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine the size, nature, and economic impact of profits made from illegal narcotics trafficking.

3302 Dirksen Building

9:30 a.m.

Labor and Human Resources

To hold hearings on the nomination of William A. Lubbers, of Maryland, to be General Counsel of the National Labor Relations Board.

4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To resume oversight hearings to review international monetary policy relative to the Eurodollar currency.

5302 Dirksen Building

Foreign Relations

Arms Control, Oceans, International Operations and Environment Subcommittee

To hold hearings on S. 1450, to improve and simplify the personnel system of the foreign service by linking the granting of career tenure, promotions, compensation and performance pay more closely to the quality of performance; by creating a Senior Foreign Service; by limiting foreign service career status to those who accept the discipline of service overseas; by reducing the number of personnel categories; and by establishing a Foreign Service Labor Relations Board and a Foreign Service Impasse Disputes Panel.

4221 Dirksen Building

10:30 a.m.

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

DECEMBER 17

10:00 a.m.

*Energy and Natural Resources

Energy Regulation Subcommittee

To receive testimony on the current price and supply situation for petroleum fuels.

3110 Dirksen Building

Select on Indian Affairs

To hold hearings to determine whether the April 1, 1980, statute of limitations deadline should be extended for commencing actions on behalf of an Indian tribe, band or group by the Federal Government.

1202 Dirksen Building

DECEMBER 18

9:30 a.m.

Judiciary

Business meeting, to consider pending legislation and nominations.

2228 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation

To hold hearings on the nomination of James V. Day, of Maine, to be a Federal Maritime Commissioner.

318 Russell Building

JANUARY 15, 1980

10:00 a.m.

Banking, Housing, and Urban Affairs.

International Finance Subcommittee

To hold hearings to examine U.S. trade and technological competitiveness with other industrialized countries, focusing on a report by the International Trade Commission on international trade in integrated circuits relating to the electronics industry.

5302 Dirksen Building

JANUARY 30

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 2055, to establish a reservation for the confederated tribes of Siletz Indians of Oregon.

5110 Dirksen Building

CANCELLATIONS

DECEMBER 13

10:00 a.m.

Banking, Housing and Urban Affairs

International Finance Subcommittee

To continue oversight hearings to review international monetary policy relative to the Eurodollar currency.

5302 Dirksen Building

DECEMBER 14

2:30 p.m.

Labor and Human Resources

Business meeting, to consider the nomination of William A. Lubbers, of Maryland, to be General Counsel of the National Labor Relations Board.

4232 Dirksen Building

SENATE—*Tuesday, December 11, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. HARRY F. BYRD, JR., a Senator from the State of Virginia.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

O God, light of the minds that see Thee, life of the souls that love Thee, and strength of the thoughts that seek Thee, increase the power of our minds and the strength of our hearts that we may worthily serve Thee by service to this Nation.

Look upon this world given to man for a home, created to be a garden of love and beauty, now tarnished by man's sinfulness, selfishness, and greed. In compassion, forgive and redeem the world from its own folly and self-destruction. Deliver the nations from cruelty, vindictiveness, fear, and injustice. Establish the nations under the law of love that, in one comity of peoples, we may dwell evermore in the fellowship of the Prince of Peace, in whose name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 11, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable HARRY F. BYRD, JR., a Senator from the State of Virginia, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. HARRY F. BYRD, JR. thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

JAPANESE ACTIVITIES UNDERMINE U.S. EFFORTS TO FREE HOSTAGES

Mr. ROBERT C. BYRD. Mr. President, the American people want to see the crisis in Iran resolved promptly and peaceably, with the 50 hostages safely returned to this country.

Most of the nations of the world have joined us in denouncing the action of the Iranians in taking over the U.S. Embassy and holding the hostages since November 4, 1 month and 7 days ago. At the United Nations Security Council and in various other international forums, there has been strong support for upholding international law. The vote by the Security Council in the United Nations was unanimous. It is imperative, however, that action not be limited to pronouncements in international meetings. Nations, and particularly those nations with which we are closely allied, must be willing to take positive steps to back up those pronouncements.

Secretary of State Vance's meeting with Japanese Foreign Minister Okita emphasized the importance of concerted action by the world community. Inasmuch as this is a critical issue, the action of the world community should be as one—as one.

It would be a mistake to consider the situation in Iran as merely a threat to the interests of the United States. It is a threat to the world community. It is a violation of every international principle, every international law, a violation of international order. Such irresponsibility cannot be considered in a vacuum. It is a threat to the responsible world community when one member takes on the characteristics of an outlaw among nations. It is a threat to every country. It is a threat to Japan.

There is a certain standard of decency and understanding that must be maintained by all responsible nations; otherwise, we have international chaos.

It is a disappointment to read that Japan is undercutting the effort of the administration. It is disturbing to hear that Japan—a friend, an ally, a nation that this country helped put back on its economic feet—has undercut the efforts of this country to use economic pressure to obtain the release of the 50 American hostages. It is deplorable that Japanese companies are rushing to buy Iranian oil and that Japanese banks are, according to some reports, bending every effort to help Iran respond to the American freeze on their assets.

It is not enough to call a piranha a piranha among nations if, on the other hand, a responsible nation such as Japan feeds the appetite of this international outlaw. Such activities on the part of the Japanese can only undermine the efforts of the American Government to free American hostages unlawfully being held, being abused, being mistreated, being withheld from the view of the representatives of other countries so that this country—the families that are involved and the American people—can be assured, indeed, that the hostages are well, that they are receiving adequate medical treatment.

Such activities can only add to the danger faced by the hostages. Such activities on the part of the Japanese Government condone, if not actually reward, the illegal, the immoral actions taken by the Government of Iran against American citizens.

I hope and I strongly urge the Japanese Government, a government with which we have a very close relationship, to act in solidarity with the United States and other governments in severely restricting economic relations with Iran, to take steps to bring to a halt all activities which undermine, undercut, and weaken American efforts to bring about the return of the hostages quickly and safely.

We must insist that the Japanese act in concert with us, because who knows when it will be Japanese who are being held hostage in contravention of international law, of international justice, and of international order? I would be speaking out just as strongly if the American Government were acting in selfish economic interest to undercut and undermine the efforts of the Japanese Government to secure the freedom of Japanese if they were being held hostage and if the shoe were on the other foot.

Any action—such as the buying of excess Iranian oil, originally intended for the United States, by the Japanese—detracts from this international effort and seriously undercuts its potential effectiveness. The Japanese have a responsibility to join with us and with the other nations of the world in upholding the principles of international law and civilized relationships between nations.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. Yes. I will yield shortly.

Mr. President, there is evidence that Japanese banks have aided Iran, at least indirectly, in overcoming the economic squeeze which resulted from the freezing of Iranian assets in U.S. banks.

Secretary Vance will be meeting this week with the leaders of a number of allied nations to explore the possibilities of coordinated international economic

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

action if Iran continues to hold the hostages.

If we are to see this matter resolved successfully and peacefully, it is in the interest of Japan, it is in the interest of all nations, to join together in coordinated action to bring pressure on the Government of Iran.

Now I yield to the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, is it not true that the United States has a large Army, Navy, and Air Force, which Japan does not, and that if Japan is to be defended from tyranny throughout this world it needs the help of the United States?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. And it behooves Japan to cooperate in bringing about ways that nations can peaceably, with methods short of warfare——

Mr. ROBERT C. BYRD. Absolutely.

Mr. LONG. Short of killing someone to settle the issue, bring pressure upon people to abide by an honest and honorable international code of conduct.

Now, if Japan is to be the cheater in this undertaking, which I hardly believe any responsible Japanese leader could advocate, then does it not follow that Japan in the future will find itself in greater peril than the United States, because if we must resort to warfare in order to settle our disputes, Japan is not in nearly as good a position to do it as is the United States?

Mr. ROBERT C. BYRD. Mr. President, may I say to my distinguishd Senator friend from Louisiana, that far short of resorting to warfare, if the United States should ultimately be forced to blockade the ports of Iran, the Japanese would feel it. They would feel the effects of that blockade because the oil which they get from Iran would be impossible or at least very difficult to ship over land, I should think. I should think the Japanese then would really feel the pinch.

They must understand that this country is dedicated to securing the freedom of Americans who are being held hostages.

Many of us, and I would hope the American people, unifiedly look upon this with abhorrence—the action of the Japanese. Look at the market this country provides for Japanese goods—bicycles, motorcycles, radios, automobiles, and one could go on and on.

I thank the distinguished Senator from Louisiana.

Mr. LONG. Mr. President, I agree with the Senator's argument.

I hope the United States will not have to take actions that would prejudice the good relations between the United States and Japan. But that has to be a two-way street. I think the Senator has very well made the point, that Japan will have to be a responsible member of the world community if it expects to get the benefits of responsible international law.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

MOTHER TERESA AWARDED NOBEL PRIZE

Mr. STEVENS. Mr. President, now is that time of the season when store windows are ablaze with lights and Christmas decorations. The gift-giving season is in full swing with children everywhere busily preparing their lists for Santa Claus. It is the holiday season when families are reunited and joy abounds.

At least for most people. Not everyone is fortunate enough to be in step with the season. There are millions around the world whose loneliness and suffering will only be more painful at this time of celebration and cheer. Few of us like to think of the old man or woman without family or friends who will go hungry at a time when others will be sitting down to an expansive holiday meal. Or the child who will know no laughter, receive no gifts.

It is fitting, then, that Mother Teresa who has made it her life's goal to aid and care for the destitute should be awarded the Nobel Prize for Peace. This loving woman has turned down the traditional awards dinner so that the money, $6,000, could be spent to further her cause.

In her acceptance speech Mother Teresa said:

> Our poor people are great people, a very lovable people. They don't need our pity and sympathy. They need our understanding love and our respect. We need to tell the poor that they are somebody to us, that they, too, have been created by the same loving hand of God, to love and be loved.

I hope that all of us will keep her words and example in mind as we begin the celebration of this holiday season.

TRIBUTE TO SENATORS LONG AND DOLE FOR EFFORTS ON WINDFALL PROFIT TAX LEGISLATION

Mr. STEVENS. Mr. President, last evening the majority leader was commending the distinguished Senators from Louisiana and from Kansas. I did not do so because of the temporary absence of the Senator from Kansas. But now they are both here and I want to reiterate what the majority leader said last night. We are both grateful to them for the time they spent in trying to work out a most difficult bill.

Tax bills are always difficult bills and were it not for the good humor and the ability to continue in spite of crisis after crisis, I doubt we could get tax bills through as fast as we do.

Sometimes I think it is like that slow train through Arkansas to try to get a tax bill through the Senate.

But we are grateful to them, and grateful to them for their patience with others.

That does not mean I am trying to rub the fur of the Senator from Kansas, because I will be roughing it up a little bit more today, later on.

Mr. DOLE. Mr. President, if the Senator will yield briefly, I appreciate the comments made by the distinguished acting minority leader (Mr. STEVENS).

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, the Senator from Colorado sought some time, and the Senator from Kansas would also like some time. How much time does the Senator from Colorado need?

Mr. ARMSTRONG. Mr. President, if the Senator from Alaska could yield me 3 or 4 minutes, that would be plenty, I think, for me at this moment.

Mr. STEVENS. Since the Senator from Kansas wishes to depart soon, would the Senator mind if I yield to him?

Mr. ARMSTRONG. No.

Mr. STEVENS. How much time do I have remaining, Mr. President?

The ACTING PRESIDENT pro tempore. Seven minutes.

Mr. STEVENS. I yield half to each, the Senator from Kansas and the Senator from Colorado.

JAPAN

Mr. DOLE. Mr. President, I wish to associate myself with the remarks of the distinguished majority leader with reference to Japan. There should be no doubt that this is a bipartisan or nonpartisan effort.

I suggest, as the ranking Republican on the Finance Committee, that I share the views expressed by the distinguished majority leader and by the distinguished chairman of the Finance Committee.

SENATE RESOLUTION 306—SUBMISSION OF A RESOLUTION RELATING TO U.S. PERSONNEL HELD HOSTAGE IN IRAN

Mr. DOLE submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 306

Resolved, that it is the Sense of the Senate that—

(1) the Secretary of State shall exercise his authority under Sec. 451 of the Foreign Service Act of 1946 as amended to pay special allowance to foreign service officers held hostage in Iran;

(2) any hostage held in Iran who is an employee for purposes of Chapter 51 and subchapter III of Chapter 53 of Title 5, U.S.C. should be entitled to an appropriate differential under Sec. 5545(d) of such title; and

(3) the President should designate the U.S.

Embassy in Tehran, Iran for purposes of entitling enlisted members of a uniformed service held hostage there entitled to basic pay to a special rate of pay under Sec. 305 of Title 37, U.S.C.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the Secretary of State, the Office of Management Personnel and the President.

PROVIDING FOR THE AMERICAN HOSTAGES IN TEHRAN

Mr. DOLE. Mr. President, there is no doubt about it, the crisis in Iran dominates everything. It dominates the news. It dominates what is happening, not only in Government, but in the private sector. It dominates America.

It is hoped that very soon there will be some resolution of this crisis. There are some of us who believe the fuse is getting shorter by the day. I hope those in authority in Iran will come to understand that.

Mr. President, the Senator from Kansas has previously spoken about the plight of the American hostages held in our Embassy in Tehran, and urged that the United States immediately take all actions possible short of military force to facilitate their release. The longer they are held captive, the more precarious their fate becomes. The prospect of show trials, either by a so-called international tribunal or by some other kangaroo court, for supposed espionage crimes does not seem to me to be a face-saving exercise for Iran, that will result in the safe expulsion of the hostages. Spy trials represent a grave danger to future American interests in propaganda-vulnerable areas of the Third World. But if there are any who believe that such trials, so damaging to the United States, will in any way alleviate the suffering of the hostages or herald their quick repatriation, I fear they are sadly mistaken.

For almost a month and a half our diplomatic personnel have been held captive in the most trying and degrading conditions. Treated much as the barbarians of centuries ago did with their prisoners, the hostages have been isolated, prevented from any form of communication with their fellow prisoners or the outside world, bound hand and foot and even prevented at first from cleaning themselves, and now subjected to an interrogation procedure by professionals that sounds suspiciously like Marxist brainwashing techniques. If spy trials occur the pressure on the militant radicals holding the Embassy will be great indeed to come up with some coerced "confessions" by some of the hostages. The physical and mental safety of our people are in mortal peril.

THE MISSING HOSTAGES

We saw some indication of that last night when NBC television aired an interview with Lance Corporal William Gallegos, one of the 50 hostages. It must have been a difficult decision for young Gallegos to make, whether or not the limited insight he could give on the situation of some of the hostages was worth getting out to his government or to remain silent except for the traditional name, rank and serial number. His somewhat ingenious interview revealed that the majority of the hostages are being detained without extraordinary duress, except for their fettered condition and prohibition against talking. Nevertheless the missing 20 hostages that he did not see may be in considerably more danger.

What we heard on television last night does not square with all of the facts we already have. We know professional interrogators have been called in to "question" some of the hostages. We know that some questions were accompanied by threats with a gun, we know the militants holding the hostages have not allowed phone calls or letters from the hostages despite assertions to the contrary. We have the testimonies of thirteen released hostages as to what occurred while they were still in captivity. It may seem to be in the interest of their captors to try and "break" a selected few of the hostages, to further their propaganda campaign and to use as confessions in possible show trials.

A STATE OF WAR

Mr. President, a state of war in all but the formal, declared sense exists between the authorities in Iran and the American people. Under such conditions, the United States has traditionally granted its soldiers hazardous duty pay, more in recognition of the hardship and danger they must undergo to defend American principles than in direct recompense for the losses or sacrifices they are asked to give for their country.

Today, our diplomats in Tehran are the advance guard of the United States, captured by an act of war, an invasion of our sovereign soil in the Tehran Embassy. They are our "soldiers", lost to us in a battle we did not seek and now suffering a fate they do not deserve. In recognition of their sacrifice, the Senator from Kansas urges the adoption of a resolution granting all the hostages a special allowance for hazardous duty pay retroactively to November 4 when the Embassy was stormed.

Last year the Congress took special note of the perilous and trying circumstances under which foreign service officers are often asked to perform their duties. As part of the foreign relations authorization act which became law on October 1, 1978, section 451 of the Foreign Service Act of 1946 was amended to allow the Secretary of State to pay at his discretion a special allowance for, among other things, service under "dangerous and harsh conditions." The House Foreign Affairs Committee report specifically cited such conditions as warranting the Secretary's consideration. Senate action on this resolution would support this hazardous duty allowance for all the hostages, military or civilian, from the highest level held by chargé Lanigen to the lowest position.

The Senator from Kansas feels a sense of the Senate resolution, urging the Secretary of State to take this action under his discretion, is entirely appropriate. Such a special allowance for these unique and trying circumstances in addition to their present rate of pay, is a small but symbolic act of appreciation by the American people. It is certainly the least we can do at this grave moment of crisis.

MEDIA MANIPULATORS?

The Senator from Kansas is of two minds about what he heard on the television last night. On the one hand it seems imperative to gain as much knowledge as we can about the situation inside the Embassy. Yet could anything we learn from such an interview change the basic facts in this case, or alter the responsibility of the President and the U.S. Government? The central fact remains that the Iranian authorities have endorsed the invasion of American soil, the Tehran Embassy, and the seizure of our diplomatic personnel against all canons of international law, diplomatic tradition, simple justice, and religious scruples. What the Iranians want—namely, the Shah—is secondary, and irrelevant to the fact that the balance of law and order must first be restored. So on the other hand, the television network did a disservice to U.S. policy goals by providing a prime time soapbox for the position of the so-called students, and their demands for the extradition of the Shah. Such exposure encourages the terrorists in their hardline, no-negotiation position. Two foreign ministers have fallen already in Iran when they showed slight signs of moderating.

It seems to me that media events such as the one we witnessed last night are an overindulgence in our electronic capabilities and our greed to satisfy a morbid public curiosity. Just as some of the yellow press will print gossip, scandal, and innuendo, or show photographs of bloody murders and tragic accidents, so perhaps last night we intruded past the barriers of good taste and commonsense in the name of freedom of the press and the people's right to know. It is a difficult, judgment call. Nevertheless I am certain of one thing today. Foreign Minister Ghotbzadeh will not be more willing to compromise after last night than he was before. President Carter's task will not be any easier today than it was yesterday. As Tom Shales says in the following Post article: "In this age of instant communication (television) exposure is power and access (to air time) is politics." Mr. President, I ask that this article from the Washington Post of December 11, 1979, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Dec. 11, 1979]

THE IRANIAN AIR OF AUTHORITY: IT'S CALLED TERRORVISION

(By Tom Shales)

CBS News correspondent Tom Fenton was finishing his stand-up report near the American Embassy in Tehran when demonstrators began crowding around the camera crew. He thought things might get out of hand when suddenly a demonstrator rushed forward to ask him, "CIA?"

"No," Fenton replied quickly. "CBS!" He and the demonstrator, and many in the crowd, broke up laughing.

It was another little irony in a situation riddled with paradox. The capture of American hostages in Iran has moved well into its second month and become television's first, live, Global Crisis Mini-Series. Depending on its outcome, it may be anything but the last.

NBC News president Bill Small says one of his producers recently moaned, "I look forward to the day when our lead is not Iran," but no one knows how far off that day is. The sight of chanting, fist-waving mobs has become part of the fabric of everyday lives for millions of Americans through TV, and one can't be blamed for wondering if some dank new age has now been ushered in—an age of Terrorvision, in which the term "air power" takes on an entirely different meaning.

Last night's NBC News interview with Marine Cpl. William Gallegos of Pueblo, Colo., taped earlier in the day at the U.S. Embassy, may have been the most powerful broadcast yet out of the heavily televised trouble spot. It was the first chance for American viewers to see one of the hostages in captivity, and it made an uncommonly compelling 18 minutes of grim reality television.

Although Gallegos did not appear visibly traumatized, the sight of him suddenly personalized the story as it had not been previously. "The students here have been really good to us; it's hard to believe, I know," Gallegos told two NBC reporters in an embassy room dominated by a poster of the ubiquitous Ayatollah Khomeini.

The Iranians were operating the cameras, which occasionally panned to lingering shots of anti-shah posters, particularly during a five-minute harangue by a spokesman identified only as "Mary."

NBC News could have edited the interview, a spokesman insisted last night, but chose, on the advice of correspondents in Tehran, to run it in its entirely. This left the natural tense rhythms of the session intact and made the broadcast all the more gripping, if all the more bizarre, a spectacle.

The network had planned to air the interview at 9 p.m., and promoted it heavily with the sensationalistic title: "Hostage! The First TV Interview." But at the appointed hour the spectre of debacle loomed; correspondent John Chancellor told viewers the satellite feed from Iran was delayed because of technical difficulties."

He also said the difficulties could be "not technical but political," and that Iranian authorities might have decided they didn't want the interview seen. But it finally came on the air at 9:46.

An NBC News spokesman said immediately after the broadcast ended at 10:14 that there was no evidence of sabotage and that it was being assumed the problems were accidental. Chancellor was quick to point out to viewers, following the interview, that it left many questions unanswered and contained contradictions and inconsistencies with what had previously been learned about the hostages and their treatment.

But as is so often the case with television, it was not so much what was said as what was seen and perceived that gave the interview its impact.

NBC News officials defended concessions they made to the Iranians, in order to get the interview, with remarkable consistency. An NBC News spokesman said yesterday that the statement made by "Mary" helped demonstrate the "intensity and depth" of Iranian feeling. Later, Small said the statement would show the "intensity and depth" of Iranian feeling.

And finally, on the telecast itself, Chancellor spoke of the "intensity and depth" evident in the statement.

Newspapers are certainly represented in Iran as well, but television and its dramatic pictures have brought the living story into the American living room. The White House and State Department aren't seeing a lot of this stuff even one instant before it is made available to millions of American viewers.

What viewers often see are huge crowds of Iranians demonstrating their hatred for the United States, and yet if there weren't official Iranian cooperation with U.S. TV networks, those pictures might never cross the Atlantic. And network news personnel stationed in Iran, for the most part, felt little threat to their own safety.

"I wouldn't rate it as a very dangerous story," says Fenton, now in London after three weeks in Iran. "It's a problem of the cultural gap. Americans don't realize it's just Persian hyberbole when the crowds chant 'Death to Carter.' They're not ready to slit the throats of Americans by any means.

"At the same time, the Iranians don't understand Americans. They have absolutely no idea how furious Americans get when they see their flag burned or their president hanged in effigy."

The Iranians are, literally, sending out a signal, one that literally goes over the heads of official diplomats—by satellite. Each day the networks get 2½ hours of satellite time via the state-controlled VBIR, "Revolutionary Broadcast Center." With some exceptions, this operation has been running along swimmingly.

"They have been edgy and shoved some people around," says Ernest Leiser, CBS News vice president, "but they are dying to get their message across." In this age of instant communication, exposure is power and access is politics.

The Iranian television show isn't being produced purely for the consternation of Americans, either. Demonstrations are also covered by Iranian TV. Not for nothing was Sadegh Ghotbzadeh promoted from head of the Iranian television authority to foreign minister—a move roughly comparable to a U.S. president naming Fred Silverman secretary of state.

Yesterday in Tabriz, pro- and anti-Khomeini forces battled for control of a central power source: the television station.

Meanwhile, how do the American networks know they aren't being used by the media-hip Iranians? "We don't want to be used by them, but we still want to get every tidbit we can about everybody," says Robert Siegenthaler, director of special events for ABC News.

"These people are tremendously media-conscious," Siegenthaler says. "The Revolutionary Council are like cheerleaders with bullhorns, and they bring out the demonstrators—truck drivers one day, ladies and self-flagellators the next—and so we try to keep using words like 'orchestrated' and 'well organized' so that we're not being a kind of mindless mirror. We are trying not to be victimized."

The object all sublime is to get on television, to make that direct entry into American—and Iranian—homes and minds. No one in TV journalism quarrels with the idea that the Iranians are trying to use the press—only with the suggestion that they are succeeding. Some of the attempts at manipulation are as rude as this: ABC News personnel have been approached by strangers claiming to have secret tapes of the hostages taken inside the embassy and offering them for sale. It's on a level with the porno trade and "no one has bought the Brooklyn Bridge yet," says Siegenthaler.

Fenton says the students are getting so "savvy" about TV exposure that they have offered him "secret government documents" in exchange for "five minutes of unedited air time. Time may be money, but Air Time is power.

Finally, this weekend, after two more offers the networks all felt they could refuse NBC News came up with a counteroffer; they got the Gallegos interview in return for giving a militant Iranian a few minutes to state their case on prime-time television. At CBS News, NBC's move was looked down upon as capitulation to manipulation.

But NBC's Small said, "If I were at one of the other networks, I would like to have this myself. We think it is a terribly important public service to present the first interview with a hostage in the embassy. I'd hate to think someone got so righteous as to say we shouldn't do this. We need all the insights into this situation that we can possibly get."

Small said that although Iranian representatives were present when the tape was edited in Tehran, they had no say over how it was edited. The "Tonight Show" was canceled and a one-hour late-night analysis scheduled, Small said, to make it clear what the circumstances of the broadcast were. "I don't think our viewers are going to be fooled," he said.

As usual, pro-Khomeini Iranians in the United States were undoubtedly monitoring the NBC newscasts and reporting their reactions to the folks back home. Let's say the Iranians are very image-conscious—so much so that CBS News was briefly denied access to the satellite on Friday because Iranians here took offense at remarks made earlier in the week by writer Carl Rowan on WDVM-TV, the CBS affiliate in Washington.

CBS was about to send back a report on anti-Khomeini demonstrations in Tabriz when the Iranians pulled the plug on the satellite. It took "hours" of haggling to get back the bird, a CBS News source says.

By insider's estimates, each network has already spent between $500,000 and $750,000 covering the Iranian crisis. Expenses in Tehran alone amount to $75,000 a week for each network. Unanimously, network news executives say the public is rewarding this effort with lavish attention. ABC News, which has been the leader in the amount of Iranian coverage broadcast, has found that its late-night reports have on occasion outrated entertainment programs on other networks, including NBC's Tonight Show."

Even if State Department spokesman Hodding Carter III hadn't brought it up—and infuriated the networks—with his recent remarks, the question of where coverage ends and participation begins would naturally have arisen during this story. No one complained much when it appeared that Barbara Walters had helped talk Sadat and Begin into a powwow for peace during the media blitz on the Mideast in 1978.

But in a situation as fraught with potential calamity as the Iranian crisis, there is natural concern that TV's penchant for participatory journalism could endanger lives or prolong the ordeal.

Ed Fouhy, Washington bureau chief for

CBS News, thinks such talk is just idle steam. "That 'TV diplomacy' stuff is nonsense," Fouhy says. "It's untrue. It's a base canard, I'm inclined to use the old Fred Friendly answer: Colonials threw tea into Boston Harbor, and there weren't any cameras there."

"We are not negotiating—far from it," says Fenton of CBS. "But we are looking for anything that might be an opening. You couldn't help feeling that if there was anything that looked like a possible compromise, it was worth promoting."

ABC's Siegenthaler rejects Hodding Carter's notion about the ayatollah allegedly hardening his line during the network interviews: "I don't go for that at all." But Siegenthaler did say that covering a situation in which hostages have been taken does bring up its own set of problems—a set of problems the world may see a great deal more of in the electronic '80s.

"In the mid-'70s, when we had the Moluccans and the Hanafis, we went through a whole set of jazz about how do you deal with a hostage situation," Siegenthaler says, "Deejays were calling the Hanafis inside the buildings they'd taken over, and all that. The thing is, no general set of rules applies to every situation.

"We can't consider suppressing the news, or lying doggo, or only reporting what the police tell you. It's a terrible, thin line to walk, and sometimes, I guess, we stray."

"One of the most disturbing things to the press over there is when correspondents are accused of trying to negotiate," says Walt Garrity, an NBC News unit manager who just returned after 15 days in Iran. "It's an injustice. Because they ask a question doesn't mean they're negotiating. The government emissaries couldn't get in, anyway."

This line, however, leads inevitably to other conjecture: Would the tactics being used by the Iranians ever have been considered if television's global link-up weren't there to beam the message back to Americans? If TV strategy is part of the Iranian plan, isn't television a participant no matter how hard it tries not to be?

"The funny thing is, we had so much trouble getting into Iran a year ago, and you couldn't even get near that TV station," says Burton Benjamin, director of news for CBS News. "But now there's no trouble. Obviously they want their message to get out."

And NBC's Garrity says, "We had a nice relationship with Iranians. They like Americans over there. The people feel wronged by the United States and various administrations, and they'll shake their fists and shout 'Death to Carter' at you, and then they'll smile and tap you on the shoulder. They have an honest liking for the American people, and some of them are damn decent to talk to."

News executives will not talk on the record about how this attitude might change should worse, as it has throughout world history, come to worse. There is talk of a civil war in Iran that might endanger the press along with every other American. Privately, government sources note that even if there were a way to free the hostages, that would still leave 100 American journalists now headquartered at the Intercontinental Hotel, which militant students roam at will.

"No one wants to think what would happen if there were a rescue attempt or some kind of punitive action taken," Siegenthaler says.

It's ABC that has played this story the heaviest, with more hours of special reports than the other two networks combined. ABC has even prepared a fancy electronic logo for each report: "America Held Hostage," the program is called. All three networks are now ballyhooing their coverage with promotional announcements, each implicitly claiming that the bad news is better on one network than the others.

In addition to the overseas crews, network news departments are maintaining 12-hour shifts of crews at the White House, State Department and, now, at the temporary residence of the shah in Texas.

There is no sign that the American people are tiring of the coverage. "The only way we have to measure that is audiences," says Leiser of CBS, "and ours and ABC's are huge. We're getting a 13 rating at 11:30 at night and that's only a couple of points behind the evening news."

ABC has promised nightly reports as long as the situation in Iran "remains critical." At the other networks, this is quietly considered more a matter of showmanship than journalism.

"There's not a story to do every night, no," says Fouhy of CBS News. "To commit in advance, not knowing what the news will be is obviously overkill."

If ABC's approach may be unprecedented, so is the news story. Even if there were no other positive side to the crisis, Americans are learning more about the temperaments, politics and geography of the Islamic world than they have ever had a chance to learn before.

"We're getting very good feedback," says ABC's Siegenthaler. "There's a technical crew in Detroit that stays on after the local news at the affiliate there just to watch our Iran shows. To know as much as possible can only be good for people. If they see the situation reported with all its nuances, I think there is less tendency toward jingoism and xenophobia."

And Iranians on the streets of Teheran seem determined that Americans will know "as much as possible" about their side of the stalemate. Fenton says it was not uncommon for Iranian passers-by to offer him and his crew advice on camera angles, help set up the tripods, even help plug in the video cameras. "We are part," he says, "of their game."

SENATE SCHEDULE

Mr. ARMSTRONG. Mr. President, I shall take a moment to express my interest and my concern about a statement which appears in the Record of last night.

At that time, the distinguished majority leader commented on the potential schedule of the Senate. The majority leader is in the Chamber, and I wonder whether I might seek to clarify that a bit, because his remarks prior to the adjournment last night bring into perspective a concern that is felt by me and many others.

I am not referring, as the majority leader might suspect, to a concern about being in session Christmas week, although I will say that that would be an inconvenience for me and for many other Senators. That is not the nature of my concern. Indeed, the personal schedule and vacation time, and so forth, of all Senators is secondary to the transaction of the Senate's business.

The majority leader's statement reminds me that on some occasions in the past, the last day or two of a session has been a time in which a torrent of legislation has come to the floor and a time, frequently, when bills have been brought before the Senate without the kind of procedural safeguards that permit Senators to know what business is being transacted.

I say to the distinguished majority leader that my concern is that if it is his intention and the intention of the managers of the windfall profit tax bill and the Chrysler bill, and perhaps other bills that were not mentioned in the statement, to complete work on those items before we adjourn for the year or before we go into pro forma sessions for the year, I am wondering whether arrangements have been made whereby we could have notice prior to bringing up conference reports on these bills.

Has the distinguished majority leader made any plans in that respect? Perhaps there has been discussion of that matter that I am not aware of.

Mr. ROBERT C. BYRD. Mr. President, it is my hope that the Senate can complete action on the excess profits tax bill and on Chrysler—by that I mean final action; I mean the conference reports, if there be such, on both—by the end of next week. Of course, whether or not this is possible, I do not know. However, I have had some indications from the distinguished chairman of the Finance Committee that he feels that the conference on the excess profits tax bill could be disposed of within a week after the bill is passed by the Senate.

So it seems to me that if that goal is a reasonable one, the Senate could complete action, with the hope that the House is able to proceed in like manner on both bills, by the 22d of December, which is Saturday of next week. I hope it can be done by the 21st. These are the two main issues that I feel are achievable and can be done.

I am not sure that I have answered the distinguished Senator's question. Will he state the question again? In the event we do not complete action by the end of next week—I suppose that is where we go now.

CONFERENCE REPORTS

Mr. ARMSTRONG. No. I say to the majority leader that, at the moment, I am not raising a concern about being in session Christmas week. That would be a horrible inconvenience to me, but that is clearly unimportant in the larger scheme of things.

My concern—and something that I think is important to the Senate and to the country—is the question of whether or not we are going to face a large number of conference reports in the closing hours of this session.

I went down the list of bills which are in conference, and it is an enormous number of bills that actually or potentially might be brought to a head next week and come whistling through this Chamber like a hurricane, as has happened sometimes in the closing hours of sessions in the past.

If the Senate can meet the schedule the majority leader has suggested, of handling both the Chrysler and the windfall profit measures next week, it seems to me that that would be a major and substantial accomplishment. But if that is accompanied by 5, 6, 10, or a dozen other major conference reports, it seems to me that it would be almost impossible for a Senator to know exactly what business was being transacted and to consider responsibly the effect of it.

I am thinking, for example, of the Energy Security Corporation bill, which is in conference, and a number of others. I suppose there are two or three dozen bills now in conference.

The related question I was asking is this: May we have some assurance that if the windfall profit tax conference report comes back and the Chrysler Corp. conference report comes back, we will have a day or two of notice and a printed conference report, so that we will not be in the position of voting on something that we had not had an opportunity to study?

That is what concerns me, particularly as to the major bills—that we might find ourselves, at the last minute, perhaps on the evening of the 21st or 22d, without a printed conference report, without adequate time to study in advance the content of the agreement reached by the committee of conference, and then be forced to vote. up or down, without really knowing what we were voting on.

Can some arrangements be made so that we will have 48 hours' notice and a printed report, or some arrangement of that kind?

Mr. ROBERT C. BYRD. Mr. President, I cannot give the distinguished Senator assurance that he will have 48 hours' notice with respect to any conference report.

He is quite correct in saying that in the closing days of sessions, many conference reports are brought back and adopted during those busy hours. Conference reports are privileged.

I can only say that as much advanced notice as is possible will be given. Certainly, if we came to the 21st or 22d and had a conference report on excess profits tax or Chrysler, if any Senator were disposed to delay the action on either of those measures, he could. But we would be back then on the 27th, which would give a Senator at least 4 days in the meantime to conduct a study of the conference report.

I am simply saying that if we do not finish on the 21st or 22d, then we will be back on the 27th. If we do not finish on the 27th, we will be back on the 28th. If we do not finish on the 28th, we will be back on the 29th.

So no conference report can be rammed through in the space of a few minutes, if a single Senator hopes to delay that conference report for a reasonable length of time. I can understand how the distinguished Senator feels that there would be justification for at least some time to consider what is in a report. I find no difference of opinion with him in that regard.

Mr. ARMSTRONG. Mr. President, I very much appreciate the observation of the distinguished majority leader and particularly his understanding that a Senator might in that circumstance very well seek to delay hasty action or action on a conference report that had not had an opportunity to be fully studied by the Senate.

By the same token, let me respond in kind to the majority leader. Were I to wait until Thursday or Friday of next week to express this concern then at the very last minute in the closing hours of the session, when conference reports began to be called up, to begin to object to them and to drag it out, and so on, I would feel somewhat like a dog in the manger to try such a tactic, although, as the majority leader has pointed out, I understand that it is the right of a Senator, but I would feel uneasy to do that. I would feel I was not being fair to my colleagues had I not expresed in advance that concern.

The reason I raised it today, and perhaps I could offer some specific suggestions on another occasion, was that I am confident that if the majority leader would join me in expressing this concern, or perhaps to put it in a proper perspective if I might join the majority leader in expressing this concern to conferees and floor managers of these important bills, we could perhaps work out some ground rules so that we would have at least minimal notice on these important bills.

My purpose is not to delay action on any legislation, certainly not on these important bills. Certainly it is not my purpose to interrupt anyone's Christmas hodiday or to force the Senate to come back in session after Christmas, but only to safeguard the rights of all Senators to know what is being voted on.

I thank the majority leader and at another time, perhaps tomorrow, I might return with a specific suggestion, but I do appreciate the majority leader's indulgence and his understanding of the problem which prompted me to come to the Chamber at this time.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator. He has been of service in making a statement.

I suggest that it would be helpful in getting a conference report back as quickly as possible if the Senate would complete action on the bill as early as possible and send it to conference.

This coming Thursday the Senate will have completed 4 weeks on this bill and the sooner the bill gets to conference, the sooner the conference can begin its work.

The Senate does not have control over the conference insofar as the House conferees are concerned. I do not know what the problems will be in respect to having conferences.

The Speaker and I have discussed this matter, and the House of Representatives disposed of this bill early on, I think way back in June perhaps. I think the House of Representatives is to be complimented for having done that.

Of course, a tax bill has to originate in the House of Representatives. So the House of Representatives under the Constitution has that advantage, if one calls it an advantage. The Senate cannot act until the House of Representatives sends something over here.

The Finance Committee, I think, did a remarkable piece of work in even getting a bill out. I compliment the chairman, the ranking minority member, and the members of the Finance Committee for even getting a bill on this subject to the Chamber.

I just hope that the Senate will expedite action on the bill now and send it to conference.

I do not know what problems will be encountered in conference. I am not a conferee. I will not be one.

But the sooner this bill gets to conference the better, and as soon as the Senate disposes of this bill the Senate will take up the Chrysler matter. The sooner that bill is disposed of the sooner we will be able to consider other business.

But let me reiterate that the leadership is only attempting to do its duty as it sees its duty and that is keeping the Senate here until it completes its work on the two major bills that have been mentioned.

Senators have been informed, I hope in due time, so that they can arrange their schedules accordingly and as far as I personally know I have heard no criticism of this effort by the leadership to proceed in this fashion.

Again, I have to say I do not know what the situation will be in conference or whether the other body will be in a position to have its conferees available in the event we do go into the Christmas week, but I should think that if conferees are available our conferees would certainly be available if we can dispose of the bill in time and, as I say, if Senator LONG is right in his feeling that the conference should not last long, it may be that everything will be over by the end of next week. I hope that is the case.

The ACTING PRESIDENT pro tempore. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I share the view just expressed by the majority leader.

It seems to me there may be or probably will be some staff exploration into the areas we can agree on that will not be in conference. I assume some of that may be going on or at least could be going on.

We will pass, at least I trust we will pass, a so-called windfall profit tax proposal. Hopefully we can resolve the remaining issues this week. It should not take all that long in the conference.

They have a little different mix than the Senate has. They have a little more than the Senate has. I assume most of those figures will be compromised. We have tax credits; they have none. I assume that will be a basic decision. They will be willing to go along with any tax credits, I think, by and large. It should be hopefully disposed of quite rapidly.

Mr. ARMSTRONG. Mr. President, will the Senator yield to me just a minute?

Mr. DOLE. I yield the floor.

Mr. ARMSTRONG. I really just wanted to direct a question to the Senator from Kansas.

As the ranking minority member of the Finance Committee and as the Republican manager of this bill, I wonder if the Senator would agree with the thesis I was advancing a few minutes ago, that it would be unwise for this bill to come back from conference, after working out the problems that the Senator has referred to, without Members of the Senate having at least a couple of days to read the printed conference report before we are asked to vote on it.

Would the Senator be sympathetic to that point of view?

Mr. DOLE. The Senator would be sympathetic. I think there would be some alternatives. We would be glad to furnish a daily summary. If all the Senator wants is information, we could expedite that on a daily basis. We could agree to see that those were made available to Senators on an informal basis so that Senators are not in the dark when we finally have a conference agreement. I think that would be satisfactory.

Mr. ARMSTRONG. That would be a very helpful suggestion, and I look forward to working with the Senator on that idea.

(During the foregoing colloquy an order was entered for the transaction of routine morning business so that Senators might be allotted time to make statements. By unanimous consent, the order is set forth below so as not to interrupt the remarks of Senators.)

ORDER FOR ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of routine morning business, for not to exceed 15 minutes, and that Senators may be permitted to speak therein up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 3919, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

The Senate resumed consideration of the bill H.R. 3919.

Mr. LONG addressed the Chair.

Mr. DOLE. Mr. President, will the Senator yield briefly?

The ACTING PRESIDENT pro tempore. Who yields time? Does the Senator from Louisiana yield to the Senator from Kansas?

Mr. LONG. Yes.

OPPOSITION TO A MINIMUM TAX ON EXEMPT CATEGORIES OF OIL

Mr. DOLE. Mr. President, I strongly oppose any move to impose additional taxes on the categories of oil that were exempted from the tax by the Finance Committee. Such a move would be a giant step backward in America's struggle for energy independence. It would cause billions of barrels of U.S. oil to be left in the ground and would result in a greater dependence on uncertain foreign sources of petroleum.

Mr. President, the Senate Finance Committee approached the windfall profit bill not strictly as a tax bill, but as an energy bill. Accordingly, throughout its deliberations, the Finance Committee attempted to structure the tax in a way that would do the least damage to the production response that decontrol will stimulate. I personally think the committee did an outstanding job in balancing the revenue and production sides of the energy equation. Oil industry experts now estimate, based on the committee's current oil pricing assumptions, that the Finance Committee bill will generate 1 million barrels per day of oil production more than would be generated if the House bill were enacted.

This additional production is the direct result of the very exemptions that would be attacked by the proposed minimum tax. Indeed, the proposed minimum tax is nothing more than an attempt to repeal the exemptions provided in the Finance Committee bill. Thus, it is important that this body clearly understands the rationale for each of these exemptions before any "minimum tax" is seriously considered.

Obviously, the most important and most costly exemption in the bill is the newly discovered oil exemption. There was almost universal agreement in the Finance Committee that newly discovered oil should not be subjected to the windfall excise tax. This exemption was supported by liberals and conservatives; by producing State senators and Senators from consuming States. The committee votes 18 to 1 to exempt newly discovered oil. There were two fundamental reasons that the newly discovered oil exemption has such broad appeal.

First, the exemption will produce more oil for America. Although they disagree about the numbers, all sources—the Department of Energy, CBO, and oil industry experts—agree that the newly discovered oil exemption will induce a significant supply response. It was recognized by the committee that increasing oil supplies will be good for all segments of the country and is vital to the national interest. Second, the committee believes that taxing new discoveries would be contrary to the underlying theory behind the so-called windfall profits tax. The proposed windfall tax is an excise tax that is intended to reduce any inventory profits generated by decontrol and OPEC price increases. Regardless of what one thinks about this basic rationale, it is clear that the rationale does not apply to newly discovered oil. How can one have an inventory profit on oil which has not yet been discovered? Obviously; there can be no inventory profits under those circumstances and it makes no sense to impose any form windfall profit tax on such discoveries.

Similarly, it makes no sense to impose a minimum tax on incremental tertiary production. The Finance Committee recognized that tertiary or enhanced oil recovery projects can contribute significantly to our effort to increase domestic oil production. The Office of Technology Assessment has estimated that with oil priced at $22 per barrel, tertiary methods could add between 25 billion and 42 billion barrels of oil to existing domestic reserves. This would translate into an additional 900,000 to 1.3 million barrels per day by 1985 and between 1.8 and 2.8 million barrels per day by 1990. America needs this additional production. The Finance Committee recognized that tertiary recovery methods are extremely costly and involve relatively unproven technologies. If additional taxes are imposed on tertiary projects, they simply will not be initiated and America will lose a significant portion of what would otherwise be a significant petroleum resource.

Imposing a minimum tax on heavy oil would similarly undercut the production incentives contained in the Finance Committee bill. Heavy oil was exempted from the tax at the request of administration. The administration argued that decontrol coupled with exemption from the tax would enable the production of 500,000 barrels per day of heavy oil by 1990. It is estimated that the United States has over 10 billion barrels of heavy oil reserves.

As I have just reviewed, there are valid and convincing justifications for each of the exemptions contained in the Finance Committee bill. Those justifications are still valid. Accordingly, I urge my colleagues to firmly reject the proposed amendment to repeal these exemptions by imposition of a minimum tax. Certainly, this bill is already complex enough without adding a new minimum layer of taxation.

Mr. President, much will depend on what happens as far as the minimum tax is concerned. That seems to be the last large issue. I just hope that the Senate in its wisdom does not impose a minimum tax. There was confidence in the Finance Committee. We spent a lot of time trying to figure out how we could bring on more production, and we did exempt certain categories and we increased the exemption on the stripper production to 1,000 barrels per day for independents, all with the thought of increasing production.

If we turn around and say instead of production we need $25 billion more or $30 billion more as the Ribicoff-Bradley-Bumpers amendment raises, this Senator feels it is a step backward.

The Senator from Kansas has made a statement in opposition to the minimum tax indicating that we had gone to great pains to exempt certain categories to increase production. Now we should not go spending any great amount of time trying to undo that. We just ought to table the minimum tax amendment and that would resolve the issue. Then I believe we could go to conference and, hopefully, even have a conference report to vote on, give the President the windfall profit tax that he has so yearned for all these months, and he can have that as a Christmas present if everything goes well tomorrow.

The ACTING PRESIDENT pro tempore. Who yields time? The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, we will be hearing considerable discussion before the conclusion of debate on this tax on the subject of taxing State governments.

Mr. President, I have had occasion to do my homework, at least more of my homework, on this matter since I discussed it the first time, and I believe I could persuade any Senator who either is a lawyer or has the credentials to be one, the potential of being a lawyer, that Mr. DANFORTH's amendment clearly would be unconstitutional if applied to the committee amendment that is before us.

Let me just refer to the high water mark, Mr. President, the case which is the high water mark for Mr. DANFORTH's argument. That would be the case of New York against United States. Now, in that case the Court held that a tax could be levied on bottled water, that is on softdrinks and bottled water. It held that an excise tax applying to all taxpayers, could be collected against the State of New York.

There was a dissent saying that it could not be—the dissent was by Mr. Douglas and Mr. Black, but the opinion that spoke for the majority in this case was that of Chief Justice Stone, and in that case the Chief Justice said that while you could tax on a uniform basis this particular function, a tax to apply to a State government had to meet certain other tests, and he set forth his first test, Mr. President, which no one had ever argued about in the history of the country, to my knowledge. I know I have never seen any statement in any opinion, and I challenge anybody to present it, by any justice who ever served on the Supreme Court or, for that matter I would doubt, and I would be curious to see, whether anybody representing the United States in the Court ever contended for the contrary position.

I will read this one sentence:

> Concededly a Federal tax discriminating against a State would be an unconstitutional exertion of power over a coexisting sovereignty within the same framework of government.

Now, what he is saying there is that if you levy a tax on a State government, the tax must apply to all taxpayers. It cannot be a tax that applies to the State where private citizens are not affected by it or can escape it. That was the kind of tax that was being discussed in that case of New York against United States, the high water mark for taxing State governments.

In that same case, Mr. President, there was an opinion by Justice Frankfurter in which he was joined by Justice Rutledge, and in that case some people, including apparently Mr. Mundheim down at the Department of Treasury, mistakenly have assumed that this opinion by Justice Frankfurter was the majority opinion. It was not a majority opinion, Mr. President, unless two Justices can be regarded as the majority of eight, because eight Justices participated in that case. Maybe I should go back to the second grade in grammar school or even the first grade and learn how to add, but if what I have learned in 61 years is correct, two is not a majority of eight.

So that here the high water mark of any Justice on the Supreme Court ever speaking in favor of permitting the Federal Government to tax a State was Mr. Justice Frankfurter in this same lawsuit.

Let me refer to what Mr. Justice Frankfurter said at 326 U.S. 575, the last line:

> Thus, for Congress to tax State activities while leaving untaxed the same activities pursued by private persons would do violence to the pre-suppositions derived from the fact that we are a nation composed of States.

Mr. President, there is the paragon for those who want to tax the State governments saying if you are going to tax them at all you have to tax all private citizens the same way you tax the State.

This Senate has voted to exempt over 95 percent of all the independent oil and gas producers. It has voted to say that all the independents are exempt, and that includes more than 95 percent of them, it includes all but a few large companies, about 20 in number.

Congress has also voted to exempt the royalty owners, the landowners, if their land has been drilled by independent producers. They would not be exempt, Mr. President, if their land had been drilled by others.

So the exemption applies to independent producers, and it applies to royalty owners under the wells drilled by the independent producers.

There is also an exemption, Mr. President, for charity, for certain charities, for universities, and for Indian tribes. The State would be taxed in some situations, and it would not be taxed in others. It is a discrimination permitted under the Constitution applied to individual citizens or to corporations.

But such a discrimination, Mr. President, has never been contended for by anyone who ever spoke for the U.S. Government, and it has never been contended for by the courts. So, Mr. President, I would have to submit there is no basis—you need not go to the other tests by which there might be some dispute about which Mr. Justice Frankfurter might not agree—you can stop right there. As long as you have got an exemption for the independent producers, as long as some people pay the tax and some people do not, there is no justice whoever served on the Supreme Court who can be quoted anywhere for the principle that you can put a tax on the State governments that certain private citizens do not pay. I would submit, Mr. President, that that ought to be enough to settle the issue of whether you can tax a State government.

Chief Justice Marshall, that great Justice from the State of Virginia, whose statue is on the west side of the Capitol Building, right in front and center, you might say—because that was originally supposed to be, as I recall it, the front side of the building—it was that great Chief Justice from Virginia who said that the power to tax involved the power to destroy. It was his view, at a time when the Federal Government was young and relatively weak, while he conceded that the States could destroy the Federal Government, or if the Federal Government grew stronger perhaps it might destroy the States, that neither should have the power to destroy the other; that those who framed this Constitution intended for this Government to survive, and that, therefore, neither should the State governments have the power to destroy the Federal Government, nor the Federal Government have the power to destroy the State governments.

That document has survived to this very day. But I can only say that those who are interested in the survival of any element of State sovereignty should view with great concern the idea that the Federal Government could levy a discriminatory tax against State governments—not just a tax, but a discriminatory tax. And, Mr. President, I think any Senator who has had any background in law will not contend that the Senate should break new ground by accepting a clearly unconstitutional tax upon State governments.

Mr. President, I yield the floor at this time.

The ACTING PRESIDENT pro tempore. What is the will of the Senate?

Mr. LONG. Mr. President, I personally would be willing just to vote on the amendment, but I would assume that other Senators wish to be heard; so I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, it is anticipated that a motion to table the pending amendment will be made tomorrow. That being the case, we will not be able to consider other amendments except by unanimous consent. I would anticipate that I will be asked to give unanimous consent that certain amendments that are not germane and, therefore, cannot be voted on if cloture is agreed to on tomorrow, can be considered today.

I personally would be willing to give unanimous consent for some of those amendments, but rather than get involved in lengthy discussions, I would like to, here and now—and I ask unanimous consent that this be agreed to—propose that when we agree that an amendment be considered by unanimous consent, we agree that the amendment can be considered only in the first degree.

I say that, Mr. President, because if we want to let someone offer an amendment and vote on it here which is not germane to the bill, there should be a limit to how far afield we go. If someone wants to amend it, he can discuss it at that point and suggest what amendment he would like to offer; but if I am going to give consent to vote on something, I would like to know what I am consenting to vote on.

It is easy enough to look at an amendment and see what it is, but you cannot anticipate what the second degree amendments might be. So I would just like us to agree that unless we agree otherwise, we are agreeing only as to first degree amendments, and we will not consent to amendments to the amendments unless we give consent for that in each case.

Mr. President, I will not push for that agreement at this particular point; it has not been cleared with the majority leader. But when it has been cleared, I would like to make it clear that that is what I intend.

The ACTING PRESIDENT pro tempore. The Senator is not now asking unanimous consent to that effect?

Mr. LONG. Not at this point. I will renew that suggestion. Unless someone should object to it, if Senator Jones wants to bring up an amendment, and we have no objection to its being considered, then, if Senator Smith wants to bring up something that is sort of a horse of a different color as an amendment to the one we were considering, it would not be in order unless the Senate agrees that it be in order by unanimous consent.

I do not want to give consent to something where I do not know what I am consenting to.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, at the desk I have an amendment numbered 734. I realize we are operating under a unanimous-consent agreement now, but I ask unanimous consent, Mr. President, that the pending business before the Senate be set aside for not more than 1 hour, that amendment No. 734 be brought up for consideration and disposition, and that the time be allocated one-half hour in favor to be controlled by the Senator from Arizona and one-half hour by opponents.

Mr. LONG. Mr. President, reserving the right to object, I believe the majority leader may object to the request. I personally have no objection, but the majority leader may have an objection. He is supposed to be in the Chamber in a moment or two. I would urge the Senator from Arizona to discuss his amendment with the majority leader as soon as he enters the Chamber and perhaps the matter can be worked out. As far as I personally am concerned, I do not object to him proceeding. As the Senator knows, I have discussed it with him several times. I would like to cooperate with him. But I am informed that the majority leader may object. It may be that when he discusses the matter with the Senator from Arizona he will not object.

Mr. DECONCINI. Is the majority leader available?

Mr. LONG. It is my understanding that he will be in the Chamber very shortly.

Mr. DECONCINI. Then, Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I ask unanimous consent that I be recognized to speak against the Bradley amendment.

Mr. LONG. Will the Senator yield?

Mr. BENTSEN. I yield

Mr LONG. Rather than leave it in doubt, I should object to the unanimous-consent request of the Senator from Arizona and I do. I urge the Senator to present his request after he discusses the matter with the majority leader. I would be glad to give consent if the majority leader will give consent.

Mr. DECONCINI. How long does the Senator from Texas wish to speak?

Mr. BENTSEN. I have recognition, as I understand, and I am allowed to speak to the Bradley amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Mr. President, there seems to be some kind of magic about the number insofar as the amount of money raised by the House.

We are talking about $277 billion now. Originally we had a House bill that came over on the order of $140 billion. That was supposed to be fine. That was supposed to take care of everything that the administration wanted to do. But then when they found that the price of oil went up and we changed the assumptions, all of a sudden they are talking about $277 billion. That was great. That was what they had to raise. Anything that was less than that was a giveaway, something that was given to the oil companies. It was a ripoff.

What they really ought to be thinking about is the ripoff that is happening in the Middle East, countries like Iran, the export of billions of dollars of U.S. currency and the further depletion in the value of that currency, reaching the point now that the Middle East countries are even questioning whether they are going to take U.S. dollars, whether they go to a basket of currencies.

Mr. President, in any analysis of our energy crisis, the point is frequently made that we now import almost 50 percent of the oil we consume. This growing reliance on imports is a dangerous dependence and places a very heavy strain on our economy. Less frequently noted is the fact that we produce almost half of the oil in this country. One does not have to be an energy expert to understand it is clearly in our national interest to produce more domestic oil.

The question is, What kind of a price incentive do you have to have? If we are talking about tertiary recovery, we are talking about a very expensive process. We are talking about having to take pure carbon dioxide developed in New Mexico and transporting it hundreds of miles into west Texas, into Kansas, to try to bring about tertiary recovery.

We are talking about developing chemicals that have to be pumped into the ground to bring about tertiary recovery.

Increased production in this country is perhaps the most immediate, the most effective, and the simplest step we can take to reduce our energy dependence and stem the hemmorhage of dollars we send abroad to pay for energy. Increased domestic production does not require long leadtimes or massive capital expenditures. Every additional barrel of oil produced in America means one less barrel of oil imported from abroad.

Incentives for domestic energy production must be an integral part of any comprehensive national energy plan. Our ability to increase domestic production will be a significant factor in the short run—over the next decade—until we can develop alternative sources of energy for the future. But if we can accomplish it, we are talking about doubling the oil reserves of this country. At the present time, we have about 30 billion barrels of known recoverable reserves. Tertiary recovery says that we shall bring about 60 billion barrels of known recoverable reserves. It says that by the year 1990, we shall have over 2 million barrels a day that will be developed by tertiary recovery. How does it make any sense now to say that we are going to put a 20-percent penalty on developing that kind of oil?

The logic of the incentives for domestic production ought to be apparent to every Member of this body. You do not have to be from Texas, Wyoming, Montana, Alaska, or Louisiana to understand that it makes no sense to let American oil remain in the ground in this kind of critical situation. The only point at issue, Mr. President, is the extent to which the incentives we provide are adequate and appropriate.

It is an indisputable fact now that the world price of oil has gone to $28 a barrel and they are sure not having any trouble selling it. The spot price has gone even higher. That price is artificially high and it is higher than any price we would like to pay. But if you want a barrel of oil these days, you are going to pay $28. If you do not develop it in this country, you are going to pay it to the Middle East.

As we considered the windfall profit tax, the Finance Committee gave careful consideration to the question of incentives for increased domestic production. Recognizing that there is no incentive like profit, we identified four types of domestic production that ought to be exempt from the so-called windfall profit tax—completely, totally exempt.

Now, all of a sudden, we are seeing a change of attitude, because they are going toward some illusory goal of increasing substantially the amount of money that is going to be raised by a bigger tax, less incentive, more disincentive, because the House has something called $277 billion.

A second category was heavy oil. On that issue, there should not be any dispute, since the administration is the one that came in saying that ought to be exempt. Can anyone tell me if the administration is now supporting a minimum tax on heavy oil? Can the manager of the bill, the Senator from Louisiana, the chairman of the committee—can he advise me, is the administration now proposing a minimum tax on heavy oil when, before our committee, it was advocating that there be no minimum tax on heavy oil, that that is definitely something that should have no disincentive, that should be exempt?

Mr. LONG. It is my understanding that the administration does support the amendment.

Mr. BENTSEN. Is it not true, I ask the chairman, that they came to our committee and proposed that that be exempt?

Mr. LONG. That is right.

Mr. BENTSEN. That they thought this is something we could produce in our country if the full incentives were there and could help us on our deficit in trade, on the further depletion of the dollar?

I do not understand this change of position, I say to the chairman, and I think this body ought to see that they are consistent on it and they ought to vote for the continued exemption.

Another category exempted was newly produced oil—oil produced from properties not drilled in 1978. It seems to me, Mr. President, that any new oil we can produce in this country at world market prices is a windfall not for the producer, but for the United States of America. The money we would spend for a barrel of newly produced American oil does not go into the OPEC coffers, it remains in this country. It pays wages in this country; it pays dividends in this country; it contributes to our economic well-being. The single most effective way to encourage domestic production in America is to pay world prices for the product—the so-called replacement price. Any tax on newly found oil is a disincentive to production.

We are debating something called the windfall profit tax. "Windfall" by any definition is an unexpected piece of good fortune. The wind comes along, blows the fruit off the tree, and all of a sudden, you get to harvest it with much less time and effort.

There are thousands of wells in this country that have been producing oil for years, that have been making a profit for years under controlled prices, while world prices have gone through the roof because OPEC has decreed it. With the decontrol of domestic prices, the value of the product will increase enormously and I concede that there is an element of windfall involved. You have a going profitable enterprise that stands to benefit excessively from OPEC control of the world market. But the concept of windfall profit simply does not apply to newly discovered oil.

There is a situation down there in Louisiana, where they are drilling to incredible depths today. I ask the Senator from Louisiana how deep some of the wells are.

Mr. LONG. Some of the gas wells go as deep as 20,000 feet.

Mr. BENTSEN. Mr. President, did the manager hear the Senator from Alaska talking the other day about one well, just the cost of the well—not talking about leases, just the cost of the well? And it was a dry hole; $42 million, he said that well cost.

How are we going to figure the value on a barrel of oil when there are those kinds of risks invloved? Anything we do to put a further disincentive on it means they are not going to take those incremental risks. It means they are going to take their money and invest in other types of industry because the reward is not there.

We are trying to stimulate production by providing an incentive, and that incentive is the replacement or world market price. We are saying to our people: "If you can find a barrel of oil, that is a barrel we will not have to buy from OPEC, and we will pay you the going rate for it. Make your investment decisions on the prevailing world market prices, and go out and find all the oil you can."

The proposal to establish a minimum tax of 20 percent on price over $16 a barrel makes no sense. It will discourage new drilling and exploration at precisely the time we seek to encourage it. Let us assume, for example, that the world price of oil is $28 per barrel. The domestic producer who goes out and finds a new field—under the proposed minimum tax—would not receive $28 for his product. He would receive $25.60, and the Government take would be $2.40.

The extent to which this disincentive to production would diminish our ability to find and market new oil has yet to be determined. But I defy anyone in this Chamber, Mr. President, to demonstrate, or seriously suggest that we will produce more new oil at $25.60 than at $28 per barrel. And how will we cover the shortfall between the new oil we would produce at world market prices and that we would produce under provisions of the minimum tax?

I will say how: By importing more oil from OPEC at $28 per barrel—that is how. And if there was ever a proposal that makes no sense, no sense at all, there it is: pay $28 for OPEC oil but deny the American producer the same price for new supplies. A minimum tax on new oil can have only one result, and that is to increase our dependence on foreign sources of supply.

Mr. WALLOP. Will the Senator yield for a comment?

Mr. BENTSEN. I am delighted to yield.

Mr. WALLOP. I find it almost inconceivable that we are faced with the minimum tax argument on the heavy oil or the new oil. One of the things that is so amazing, is that nobody is looking at the potential for windfall losses. The $42 million dry hole the Senator from Alaska spoke of was somewhat more spectacular than a small company in Wyoming with a $27 million dry hole. That is a lot of money in terms of windfall loss.

One of the effects of all this, is that the small producers of the country that take those kinds of risks and fail get absorbed by bigger companies who can finance their production equipment and go on with their leases. By adding further disincentives through this tax we are concentrating the production capability of the country in the hands of the very people who we say do not handle it correctly. I share the Senator's frustration about not having any luck where the administration now comes in, having arrived at somebody's symbol.

They are no longer interested in production, they are interested in achieving revenue, windfall to the Treasury. They are not interested in achieving what the country needs in terms of energy.

I would not mind losing a minimum tax debate if we could debate it on the terms the Senator is trying to do here, in terms of a commonsense tradeoff between billions of dollars in tax or millions of barrels of production. That is not the debate any more. We are debating around the symbol of $155 billion. It has nothing to do with production any more.

Mr. BENTSEN. I would say the Senator is right. Now they are going to try to interpret it as a victory or a failure, depending on whether they reach that kind of goal in the way of a tax, which is the biggest tax that has ever been put on any industry in the history of this country, at the same time that we find ourselves in a critical situation, almost a crisis, with what is happening to our dollar. The biggest contributor to the devaluation of that dollar, of course, is the incredible importation of oil taking place by this country.

I do not know any other country in the world that would say, in a time of such trouble, that the way to meet it is to put a tax on production when people are trying to meet the problem in this country.

Mr. WALLOP. The amazing circumstance is that while our oil dependence grows daily, our dollar becomes more and more dependent on developments over which we have no control. By the imposition of this tax, we are still making it much more attractive to explore for and produce overseas. To bring foreign oil into the country is a much more attractive business than it is to worry about a government that seeks to punish you for producing American oil.

Mr. BENTSEN. Let us take a look again at some of the numbers. If they are talking a 20-percent tax and you have oil at $28 a barrel, you are talking about a tax of $2.40. That means that then, instead of $28, they would get $25.60 without giving credit for all the other taxes they have to pay.

Mr. WALLOP. Which are considerable.

Mr. BENTSEN. If the fellow is an individual entrepreneur, he is subject to a 70-percent income tax.

Can anyone in this Chamber tell me that we are going to produce more oil in this country if we cut the price from $28 to $25.60? Is that the way to produce more, by paying them less?

Mr. WALLOP. As the Senator points out, that is not the only dollar involved. The other dollar is the windfall loss, the dry hole you have to cover some other place to make that risk worth taking off a known 7 cents on a dollar. It is not really worth it to risk losing $20 million or $30 million on a dry hole unless you know you have at least that much coming in.

Mr. BENTSEN. The testimony we had

before our committee says that two-thirds of all the oil discovered in this country is left in the ground. That is the testimony we had before the committee. According to the Department of Energy—I am not talking about the oil companies and what they have to say, because obviously, they are suspect. They are subject to a bias; they are prejudiced. So let us go to the Department of Energy, who has not exactly been a big advocate of oil. What do they say?

Their testimony is that between 25 billion and 45 billion barrels of oil in America can be produced, additional barrels can be produced, if we go to tertiary recovery, and, again, 2 million barrels a day by 1990.

When we drill a hole, when we drill an oil well and hit a major field, the oil sometimes gushes to the surface as it does in the movies. We extract the oil from that well, the pressure subsides, we have to then pump the oil out. The next thing, we come along and do water flooding. That is a more expensive process.

Finally, we go to the tertiary recovery, the exotic chemicals, and some things that call for extraordinary investments.

I know of one tertiary recovery process they are talking about putting in now where they will make a major capital investment of over $400 million and not start recovery for 2 or 3 years.

It does not make sense to put a disincentive on that, to try to turn them off on that, put a tax on them for trying to do that.

Mr. WALLOP. The most incredible part of it is that under any other set of circumstances where logic held sway, we would find this kind of question answerable.

Unfortunately, when the argument turns on symbols, it becomes something over which we have little control.

Mr. BENTSEN. Mr. President, when you drill an oil well, and you hit a major field, the oil sometimes gushes to the surface as in the movies. As you extract more oil from the well, the pressure subsides and you have to pump the oil out. When you have pumped as much oil as possible, that is the end of primary production. If you want more oil from that field, you have to inject water into the well, forcing the oil to the surface. The injection of water is known as secondary production.

On the average in this country, primary and secondary recovery methods combined bring to the surface about 35 percent of the oil in any given reservoir. The remaining two thirds of the deposit stays underground.

With the emerging technology of tertiary production, however, it is becoming possible to tap these vast reservoirs of petroleum which previously defied exploitation. Tertiary recovery involves exotic, expensive methods which are still at the outer limits of our technology. It involves finding the right mix of expensive chemicals to pump into reservoirs such as the old Bradford field on the Pennsylvania-New York border. It may involve finding CO_2 gas in its natural state in Colorado and building pipelines to transmit it to fields in Texas, Oklahoma, and New Mexico. It involves the installation of generators costing millions of dollars each to force hot steam into reservoirs in California, Louisiana, and Mississippi.

Mr. President, let us understand one thing: if we want more domestic production from tertiary recovery, we are going to have to pay for it. You are not going to get cheap tertiary oil.

Last year the Office of Technology Assessment did a study on tertiary recovery and found that it would take price levels of $28 per barrel to bring on 1.8 to 2.8 million barrels per day of tertiary production by 1990.

The OTA went on to say—

> Enhanced oil recovery investments will have to compete for funds with other investment opportunities. Enhanced oil recovery processes are relatively new, and the investment risk is high compared to more familiar oil exploration and production methods. The oil industry may therefore be reluctant to invest large amounts of capital in EOR processes in the next few years, which would delay the production of oil by means of enhanced recovery methods.

Mr. President, we really have a very basic question here. Do we or do we not wish to encourage incremental tertiary recovery in this country? Do we want to produce an additional 2 million barrels of oil a day from our own resources by the end of the next decade?

If we slap a minimum tax on tertiary oil, we are not going to get the production. It is as simple as that.

Sure, we are going to hear talk about "rip-off." And people will say that the oil companies are already making too much money. It is a relatively simple matter in this body to vote against anything that provides incentives for greater domestic production. People can go back home and say "I voted against the oil companies. I'm tired of this rip-off. I'm all for the consumer. I'm against higher oil prices."

Well, that is great as far as it goes. I am against high oil prices too. I would love to return to the day when we could buy oil for $3 a barrel and get all we want at that price. But those days are long gone. The era of cheap fossil fuel is over and done with.

Like it or not, Mr. President, there is some simple economics in this question. Incremental tertiary production will increase with the cost of oil. The higher the price, the more attractive it becomes to utilize tertiary recovery techniques.

I am not suggesting that we pay a premium from tertiary oil. I would however, suggest that we not tie our hands and turn our backs on this important energy asset by placing a minimum 20 percent tax on expensive tertiary oil. Let us instead produce what it is economic to produce at world prices at the competitive prices we are facing, that we have to pay. To the extent we hold it artificially low in this country through a minimum tax, we will decrease tertiary production to whatever percentage that is, and we import more oil from abroad at world market prices. In my opinion, Mr. President, that is the ultimate rip-off for the American consumer.

Mr. President, as we look at our energy problems and the options for the future, it quickly becomes apparent that increased domestic production of energy over the next decade is an essential ingredient of any comprehensive national energy strategy. To the extent that we ignore our energy assets we increase our costly and dangerous dependence on OPEC.

The question now before the Senate is whether we should encourage or retard new recovery techniques like heavy oil and teriary production that could add billions of barrels to our reserves during the life of this legisation the administration said they were for exempting.

They came to our committee and said, "Don't put tax on it, exempt it." Now they say, "Put the tax on it because we have this goal."

Suddenly, we will raise substantially more than we were ready to accept in the beginning.

Are we prepared to pay the replacement price for new oil, heavy oil, tertiary oil from America? Or would we prefer instead to tax that oil here in the United States where it creates the jobs, and people pay taxes here, and diminish production potential, and go hat in hand to OPEC to make up the difference?

The choice, Mr. President, is clear and compelling. The most effective way to encourage increased domestic production of energy involving new and expensive technology is to offer the replacement cost for American production. We are not going to get heavy or tertiary oil at bargain prices. Hold the price artificially low through a minimum tax and the inevitable result will be decreased production of American energy at a time we most need it.

Mr. President I urge the defeat of this amendment.

Mr. WALLOP. Mr. President, will my colleague yield?

Mr. BENTSEN. I am delighted to.

Mr. WALLOP. An important point the Senator brought up is that there are those who have made the decision in their own mind that we have discovered the last barrels of oil and gas. If that is the case, then there is really absolutely no justification whatsoever for a windfall profit tax.

But if, on the other hand, we believe, as I do and I believe the Senator from Texas does, that there are frontiers to explore and there are barrels of oil to produce that we cannot get by conventional means, then it really makes absolutely no sense to impose a disincentive on them to the extent that it still becomes more attractive to perpetuate our drastic and severe dependence on unstable supplies overseas.

We either ought not have any facts, as the committee's position was on these barrels of oil, or we ought to throw in the towel, that we have found all there is, we know where it all is, and it is in the national interest that the Government take it all, because only then will we be able to parcel it out in total social justice.

We have been told all through this debate how we can get by with less and get by with more discomfort, and increase everything but our production. The one option we never looked at is our capacity to produce.

I compliment my friend from Texas. I hope people are listening. I sometimes despair when we get in the process of arguments dealing in symbols that anybody would ever listen to an intellectual argument.

Somebody can refute it. I would be happy to hear it. But I doubt we will. But in order to preserve the honor of the Senate we will get a punitive tax bill. I think it is unfortunate.

Mr. DECONCINI. Will the Senator yield?

Mr. WALLOP. I am happy to.

Mr. DECONCINI. I thank the Senator.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I renew my unanimous-consent request that the present amendment be set aside for not more than 1 hour, that amendment No. 734 be brought up, that the time be divided equally between proponents and opponents, and it be disposed of.

I have discussed it with the majority leader. He says it is up to the manager.

Mr. BENTSEN. I cannot hear.

Mr. DECONCINI. He said it is up to the manager of the bill.

Mr. BENTSEN. Well, I reserve the right to object because the manager of the bill just stepped out. I would have to clear that with him.

Mr. DECONCINI. Is the Senator objecting?

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mr. DECONCINI. Is the Senator from Texas objecting?

Mr. BENTSEN. Yes. I am reserving the right to object.

As I stated, I would have to confer with the chairman of the committee who is managing the bill.

It is my understanding from what the Senators stated that the majority leader deferred to the manager of the bill.

I am in the same position. So I would have to object.

Mr. DECONCINI. The problem we had is that the manager of the bill expressed to me that it was all right.

Mr. BENTSEN. The manager of the bill has just walked out.

Mr. WALLOP addressed the Chair.

Mr. BENTSEN. He would like to be conferred with concerning any of these amendments, and that is where I am. Personally, I have no objection to the Senator's amendment.

Mr. WALLOP. Mr. President, may I also advise the Senator that the Senator from Alaska (Mr. STEVENS) wanted to be on the floor when that consent request was propounded because he wanted the right of Senators on our side to bring up a certain amendment, as well. He did not want to give unanimous consent for only one amendment and then be blocked out.

Mr. BENTSEN. Mr. President, may I further comment to my friend from Arizona, as I recall, the manager of the bill also stated he had no objection to his amendment by itself. It was if it was not subject to amendment.

Is that correct?

Mr. DECONCINI. My understanding is that that is correct. In other words, no other amendments that might be floating around—just as to my amendment.

Mr. BENTSEN. My objection stands, unless we can get unanimous consent that it would be the amendment of the Senator from Arizona, that it would not be subject to amendment, and that we have a time limitation.

I think the Senator is asking for 30 minutes to a side.

Mr. DECONCINI. I would be glad to make my amendment an amendment to the Ribicoff amendment, which would make it nonamendable. I would ask unanimous consent.

Mr. BENTSEN. I would have to object to that.

Perhaps we could have unanimous consent that the amendment of the Senator from Arizona be proposed and not be subject to amendment and that the amendment before us be set aside temporarily.

Mr. DECONCINI. I make such a request.

Mr. METZENBAUM. Mr. President, reserving the right to object, I will object, unless some understanding can be reached that we have not invoked cloture at this point.

What has occurred is that a cloture motion has been filed. It is a motion that I am prepared to support. But I do not understand that we invoke cloture prior to the time we have arrived at cloture.

What has occurred is that a unanimous-consent agreement has been reached that the Ribicoff amendment, as amended by BRADLEY, or BRADLEY as amended by RIBICOFF—I am not sure which—will not be voted on until tomorrow. During that period, no other amendment can be offered unless unanimous consent is obtained.

When this matter was brought up for unanimous consent, none of us knew, none of us was apprised of the fact that we were going to be foreclosed, prior to cloture being invoked, from offering any nongermane amendments. In fact, the acting minority leader stated in the debate yesterday as follows:

> Mr. President, reserving the right to object—and I shall not object—I thank the majority leader. I hope this would give us an opportunity for the managers of the bill to set this amendment aside temporarily during the day tomorrow, if possible, and take up other amendments that might be disposed of prior to the time of the cloture petition.

To that, the majority leader responded:

> Mr. President, I join in that hope.

The implication of that is that during this day, anyone who wanted to bring up a nongermane amendment or any other kind of amendment would not be precluded from doing so by reason of the fact that the Ribicoff-Bradley amendment has been laid over until tomorrow, and at that time the cloture motion would be voted upon shortly thereafter.

Under those circumstances, I have no objection whatsoever to the DeConcini amendment, and I would not intend to be on the floor to object to any amendment, provided some understanding is reached that any and all amendments may be called up until cloture is invoked and that we will not have anticipatory cloture invoked on the floor of the Senate without the Members having an opportunity to be apprised that that is what is about to occur. That is the situation in which we find ourselves.

In order to protect my own position, to be able to call up an amendment which has good cosponsorship and which has considerable support in this body, I find no alternative but to object to the DeConcini amendment, although, as I say, I have no objection to it. I just want some assurance that the rest of us who have amendments we want to call up prior to the invoking of cloture will have an opportunity to do so.

I state for the record that I am prepared to agree to any time limitations whatsoever in connection with the amendment I want to call up, provided only that I have a rollcall vote and that there be no amendments to my amendment in the second degree.

Mr. DECONCINI. Mr. President, will the Senator from Ohio yield?

Mr. METZENBAUM. I yield.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. METZENBAUM. I have an objection.

The PRESIDING OFFICER. Objection is heard.

Mr. DECONCINI. I ask the Senator from Ohio whether he will reconsider his objection. It seems to me that it makes some sense, finding ourselves in the position we are in, to consider each amendment on its own basis, rather than to compound this particular problem by objecting to the amendment of this Senator, who appears to have concurrence of the manager of the bill to permit this amendment to come under unanimous consent, to be considered, even though it could not be amended.

Mr. METZENBAUM. I would like to accommodate my good friend from Arizona. I really have no quarrel with him.

Frankly, I hope that by some discussion with the majority leader—I have attempted to see him, but he has been in conference—perhaps we can work out this matter.

I do not believe we should have a situation on the floor of the Senate whereby some amendments can be called up and others cannot be called up before cloture has been invoked.

It is in that respect that I object—not to the amendment of the Senator from Arizona; but I object to the fact that we have closed down the floor without the Members of the Senate being apprised of the fact that it was being closed down.

Mr. DECONCINI. Is it not possible for the Senator, in the next 12 to 20 hours, to work out some arrangement by which he may be able to bring up his amendment and therefore not have to object to mine?

Mr. METZENBAUM. I ask my friend from Arizona—and I do not wish to get into a disagreement with him on this—to withhold his calling up the amendment until we have had an opportunity to discuss the matter with the majority leader.

Mr. DECONCINI. I have no alternative, inasmuch as the Senator from Ohio has objected.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. DECONCINI. I yield.

Mr. STEVENS. Perhaps the Senator from Arizona, the Senator from Ohio, and others of us who have amendments might get together and present a list of amendments we would like to call up, and see what we can work out in terms of the number of amendments and time frames for each. I think it could be an orderly schedule, if the manager of the bill is willing to set this matter aside temporarily to take up a few of these amendments.

Mr. METZENBAUM. I commend the Senator from Alaska. I think it is a salutary suggestion.

Mr. DECONCINI. I thank the Senator from Texas for agreeing to take up my amendment without further amendments, even though we have objection.

Mr. BENTSEN. I understand that the Senator from Ohio is objecting to that request. Is that right?

Mr. METZENBAUM. I do.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS—AMENDMENT NO. 777

Mr. BRADLEY. Mr. President, I ask unanimous consent that the names of Senator MOYNIHAN from New York and Senator LEAHY from Vermont be added to the amendment that I introduced last night on behalf of the majority leader and other Senators as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MUSKIE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 777

Mr. MUSKIE. Mr. President, what is the pending business?

The PRESIDING OFFICER. Amendment No. 777 offered by the Senator from New Jersey (Mr. BRADLEY).

Mr. MUSKIE. I thank the Chair.

Mr. President, I rise today to support the pending amendment of my colleagues, Senators BRADLEY and ROBERT C. BYRD. This amendment, if accepted, will help us meet the budget demands of the next decade, as well as the current fiscal year.

First, the adoption of this amendment will bring this bill into compliance with the second concurrent resolution, which was adopted by the Congress 3 weeks ago. The Bradley-Byrd amendment would raise $312 million in fiscal year 1980. Net revenues generated by the bill would rise to $2.5 billion—a bare $100 million more than assumed in the second concurrent resolution.

Mr. President, this amendment is also a constructive response to the budget demands of the 1980's outlined in my speech 2 weeks ago. In that speech, I focused on the problems facing the budget for the next 10 years. Failure to enact a responsible windfall profit tax could create deficits through much of the 1980's—unless the tax cuts mandated by Nunn-Chiles-Bellmon are forgone, or the energy initiatives dictated by the same events that create windfall profit are not to be undertaken, or the defense targets adopted by this Senate are reneged upon or we fail to enact other legislation, welfare reform for example.

The Bradley-Byrd amendment will generate $30.8 billion from 1980 to 1990—an important step in meeting the budget demands of the 1980's. Budget restraint will still be necessary and should be observed. But with this amendment we can recycle to the American consumer an appropriate part of the higher prices they will pay for oil in any event.

May I emphasize, Mr. President, as I read it, this is the last clear chance to add to the revenues of the pending bill.

I do not believe this amendment will discourage the production of significant quantities of oil. CBO has estimated the production of oil, by tier, under a scenario of continued controls and a scenario of decontrol with no windfall profit tax. The results are interesting: 63 percent of the heavy oil which we could expect to be produced from 1980 to 1990 would have been produced under continued controls; 67 percent of all newly discovered oil, we could expect, would have been produced under continued controls; similarly, 90 percent of expected tertiary production would occur under continued controls.

The additional oil we can expect to be produced under decontrol—with an appropriate windfall tax applying much lower rates to new and high cost oil than to other types—is important to our quest for energy independence. But, Mr. President, I believe these statistics indicate that this proposed minimum tax would not significantly reduce the production of oil. Furthermore, I believe the producers of this oil will receive a true windfall because of decontrol. Granted, this oil has not yet been produced—but much of it would be produced even in the absence of decontrol.

It is reasonable, therefore, Mr. President, to impose a tax on such oil, given decontrol and oil prices set by a cartel. That cartel can be expected to increase world oil prices, by whim. The last few months indicate the rapidity with which oil prices can rise. In June of this year the Ways and Means Committee of the House assumed a $16 price per barrel for costing their bill. In September, when the Finance Committee began deliberations, a price of $22.50 was deemed appropriate. However, that price assumption was increased to $30 per barrel before the bill was reported. And in last Sunday's Post, Virginia stripper oil producers were quoted as receiving $32.50 per barrel of oil. Mr. President, that represents a doubling of oil prices in just 6 months.

With the cartel controlling prices, and instability in the Mideast, it is only reasonable to expect this precipitous increase to continue. This amendment will insure that a portion of the true windfall revenues will be recaptured for public use: Public uses such as encouraging conservation, the production of alternative fuels, helping people meet their heating bills, and giving the American public well deserved tax cuts when we can do so at a fiscally prudent time. So, Mr. President, I urge my colleagues to support this amendment, and I yield the floor.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, last evening I vitiated that part of the order which had previously placed Mr. JACKSON in a position behind Mr. DOLE with respect to the offering of plowback amendments. I ask unanimous consent that Mr. JACKSON be restored to that position which he held ab initio.

Mr. STEVENS. Mr. President, reserving the right to object, it was my understanding that was one amendment and that Senator JACKSON followed Senator DOLE.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. The Senator from West Virginia (ROBERT C. BYRD) is correct that we assumed that that had Senator JACKSON's approval. If it did not, I think Senator JACKSON is entitled to be restored to his position following Senator DOLE.

Mr. WALLOP. Mr. President, reserving the right to object, and I shall not object, I just wanted to make sure that that does not do anything to Senator DOLE's own position.

Mr. ROBERT C. BYRD. It does not.

Mr. WALLOP. He is protected, as he was?

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BRADLEY). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, is amendment No. 777 the amendment that presently stands in the second degree to the amendment offered by Mr. RIBICOFF and other Senators?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may withdraw amendment No. 777 and immediately send another amendment to the desk.

Mr. WALLOP. Mr. President, reserving the right to object, I assume by "another one" he would describe it as the same amendment——

Mr. ROBERT C. BYRD. I ask unanimous consent to withdraw the amendment and send another amendment to the desk, which I shall do immediately.

The PRESIDING OFFICER. Without objection, it is so ordered.

Amendment No. 777 was withdrawn.

AMENDMENT NO. 794

(Purpose: Providing a graduated tax on certain oil)

Mr. ROBERT C. BYRD. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for himself, Mr. Bradley, Mr. Bumpers, Mr. Stewart, Mr. Ribicoff, Mr. Moynihan, Mr. Leahy, Mr. Muskie, and Mr. Durkin, proposes an amendment numbered 794:

In lieu of language proposed to be inserted by amendment No. 776, insert the following:

"Sec. 4993A. Special Rules for Certain Oil.

(a) Taxable Crude Oil.—Notwithstanding the provisions of section 4988(a) (1), (2), or (3), newly discovered (other than newly discovered oil produced north of the Arctic Circle), incremental tertiary oil, and heavy oil shall, subject to the provisions of this section, be treated as taxable crude oil which is tier 3 oil.

(b) Rate of Tax.—Notwithstanding the provisions of section 4987(a) (2), the amount of the tax imposed by section 4986 with respect to any barrel of crude oil treated as taxable crude oil under subsection (a) shall be 20 percent of the windfall profit on such barrel in the case of incremental tertiary oil, newly discovered oil, and heavy oil.

(c) Base Price.—In the case of newly discovered oil, incremental tertiary oil, and heavy oil, the base price shall be determined by substituting "$16.30" for "$15.30" in section 4990(e), and the inflation adjustment for any calendar quarter under section 4990 (b) shall be determined by substituting for the implicit price deflator referred to in section 4990(b) (1) (A) an amount equal to such deflator multiplied by 1.005 to the nth power where "n" equals the number of calendar quarters beginning after March 1979 and before the calendar quarter in which the oil is removed (or deemed removed) from the premises.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I hope that Senators who have speeches to make on the minimum tax will come to the floor and make those speeches at this time. The motion to table will occur tomorrow morning at 10:30 under the order previously entered. The distinguished chairman of the committee, who will make that motion, has been very realistic and reasonable in stating on yesterday that he had no desire to make a motion to table peremptorily. He thought that Senators ought to have an opportunity to make speeches. I have one that I am ready to make, but I was seeking to encourage other Senators who have statements to make on this subject to do so now.

This is a good time to make them. Perhaps later in the afternoon, we can set the amendment aside by unanimous consent and take up other amendments, if it is agreeable with the distinguished chairman. Right now is a good time to have statements in support of the minimum tax—or against it, for that matter.

Mr. President, I yield the floor.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Larry Groner of my staff be granted the privilege of the floor during debate and votes on H.R. 3919, the bill on the windfall profit tax.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TARIFF RATE ON UNWROUGHT LEAD

Mr. NELSON. Mr. President, as Senators know, the United States and 99 of our trading partners recently completed the multilateral trade negotiations, the results of which were embodied in H.R. 4537, the Trade Agreements Act of 1979.

As part of the MTN, signatories agreed to change many tariff and nontariff practices as to further limit distortions in international trade.

I would like to address one such change by the United States.

The United States agreed at the MTN to change the computation of the tariff rate on unwrought lead (TSUS 624.03). Effective January 1, 1980, the United States will compute the tariff on an ad valorem, instead of a specific duty rate.

At about the time this change was negotiated, however, unwrought lead prices increased precipitately. The unintended result is that actual tariffs paid by lead consumers in the United States have virtually doubled.

This, of course, imposes a heavy burden on American lead importers and, ultimately, lead consumers. The increased tariff will not only cause the price of imported lead to increase correspondingly, but will also have the effect of causing the price of domestically-produced lead to rise to an equivalent level. The total adverse impact on U.S. lead consumers has been estimated at in excess of $30 million annually, based on the effective equivalent of an additional 1-cent-per-pound increase in U.S. tariff rates and applying that increase to all lead consumed in the United States.

Mr. President, I have written the U.S. Trade Representative, Reuben Askew, urging him to consider revising the lead tariff to bring it closer to the current level of 1.0625 cents per pound.

The U.S. Trade Representative has administrative authority to adjust the tariff rate until January 1, 1980. After that date, legislation is required. Because of the urgency of the situation, I intend to propose an amendment to H.R. 3919, to defer until January 1, 1982, the change in the lead tariff computation from specific rate to ad valorem.

I would like to ask the manager of the bill, the distinguished Senator from Louisiana, if he has had an opportunity to look at this amendment and whether he could advise me of his position on it.

REVISION OF TARIFFS ON UNWROUGHT LEAD

Mr. LONG. I am familiar with the problem which has just been described by the Senator from Wisconsin. During the multilateral trade negotiations which were recently concluded, the duties on some 500 selected items were converted from a specific or compound rate of duty to ad valorem rates. It is my understanding that these conversions were not intended to significantly increase the amount of duty collected by the U.S. Customs Service.

However, in the case of the ad valorem duty on unwrought lead which is scheduled to go into effect January 1, 1980, the conversion represents a substantial increase in the amount of duty that will be collected. This is because the price of lead has more than doubled within the last year. In fact, quoted New York spot prices indicate that in August of 1978 lead was selling for approximately 33 cents a pound whereas in September of 1979 lead was selling from between 63 cents and 67 cents a pound. This dramatic increase in the world price of lead means that duties collected on an ad valorem basis will be significantly higher than they otherwise would have been under the current specific rate.

I would hope the Senator from Wisconsin could agree that this windfall tax bill is not the proper place for the amendment he intends to propose. It is my understanding that similar legislation has been or will soon be introduced in the House of Representatives.

The Senate Finance Committee will be conducting hearings on tariff and trade bills next year, and I assure Senator Nelson that the committee will give his proposal expeditious consideration at that time.

Mr. NELSON. Mr. President, I respect the manager's position in opposition to attaching this amendment to the windfall profit tax bill.

In view of the assurance of the chairman of the Finance Committee that there will be a forum for hearings in the committee at which this issue can be considered, I would then withhold calling up an amendment to this bill. I would hope we could have witnesses at the appropriate time before the Finance Committee on this issue.

Mr. LONG. Mr. President, I think that

is fair enough. I am glad to cooperate with the Senator.

Mr. NELSON. I thank the Senator.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. DECONCINI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. Mr. President, once again I am going to ask unanimous consent that the present amendment be set aside and that amendment No. 734 be taken up and not be amendable, and be disposed of within 1 hour, equally divided.

Mr. LONG. Mr. President, reserving the right to object, if that were given, I would have to insist it be agreed that this amendment be considered in the first degree only, that it not be subject to amendments.

Mr. DECONCINI. I understand.

Mr. SCHMITT. Mr. President, reserving the right to object, without having this considered in the context of other nongermane amendments on both sides of the aisle, I am afraid I would have to object to that unanimous-consent request, and I do object.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIBICOFF. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BOREN). Without objection, it is so ordered.

Mr. RIBICOFF. Mr. President, I rise in support of the Byrd substitute.

This amendment would impose a low level of tax on those categories of oil which the Finance Committee previously exempted, including heavy oil, newly discovered oil, and incremental tertiary oil. It would impose a very low level of tax, less than one-third the amount raised by the House bill, and have negligible production effects. Whereas the House bill raises a total of $110 billion in taxes on these categories of oil, the 20 percent amendment would raise $31 billion, less than one-third that of the House bill.

The Finance Committee decisions on tax levels for various categories of oil were made with production response in mind. Those categories of oil production which are particularly sensitive to financial incentives were given favorable treatment. If there was a substantial probability that a tax would impede additional production, we reduced the taxing treatment of the House. On the other hand, in the case of categories of oil where the investment should bring high profitability, a stiff tax was in order. In general, the full Senate has followed the same principle.

However, both the committee and the full Senate have been only partially successful in meeting this goal of stimulating additional oil production while simultaneously raising the revenue for these other purposes. A mark of the frustration experienced by the committee in attempting to arrive at the correct balancing point is the unusual set of additional views, signed by a majority of the committee, which ask the Senate to reconsider the revenue-raising aspects of the bill.

We differed on just how the revenue problem should be resolved, which exemptions should be allowed, how the phaseout should work, and exactly what percentage tax should be levied on each tier. But it is clear there is ample opportunity to raise substantial new sums while doing no damage to the production incentives.

Several special exemptions are allowed which are unjustified because they do not enhance production and because they significantly reduce badly needed revenue.

The committee exempted stripper production by independents, worth $16 billion, and voted to allow for percentage depletion on the windfall amount, worth $14 billion. Further, we exempted State-owned land, nonprofit organizations, and Indian tribes, worth another $11 billion. This totals $41 billion, to which the full Senate added $9 billion in exemptions for independents. This brings the total to about $50 billion, besides totally exempting heavy, new, and tertiary categories.

Mr. President, I was one who agreed in the Finance Committee to exempt the full amount of production of newly discovered, heavy and incremental tertiary oil from the tax. But, in addition to that $110 billion exemption, we have chosen to reduce the revenues raised by this bill by $50 billion, a revenue loss which cannot be justified by production effect.

It is clear from every index we may use, be it cash flow, return on investment, equity capital considerations, production costs, or any other factor, that the oil industry is booming. It will continue to boom under the very minimal tax on those categories of oil which I mentioned.

We will need to find somewhere between the equivalent of 5 to 10 million barrels per day by 1990 to get out from under our dangerous dependence on foreign oil.

The concept of a minimum tax is not unique. Congress has levied a minimum tax in order to insure that taxpayers who take advantages of many tax preferences pay some tax. It is a measure of fairness. It is an approach which still provides generous exemptions to producers to produce and find these categories of oil, but provides that at least a minimum amount will be available for the other energy-related purposes of this legislation.

How much would a 20-percent tax on tertiary, heavy, and newly discovered oil actually take from producers of oil?

Let us take the case of production of 5,000 barrels per day by a major oil company and an independent oil company. If a major oil producer lifted 5,000 barrels per day of new oil, he would gross over $54 million per year, based on $30 per barrel, and he would pay about $5 million in windfall profit taxes. The 20 percent on these categories is about the same as the severance taxes which the producer pays to the State governments for this oil.

Of course, the preincome tax to the producer is reduced by several factors. First, his preincome tax is reduced by the amount of the windfall tax, then he deducts intangibles and all business expenses, and then finally the major producer pays a 46-percent corporate tax. He also deducts the State severance taxes on both his gross income and his windfall profit. In the case of tertiary and heavy oil, this is old oil already being produced and there is no uncertainty about finding it.

Although we call this a 20-percent tax, in reality the producer is paying only about 10 percent of his gross income in the form of windfall taxes.

In the case of independent producers, even less tax is paid. First, the independent does not pay any tax on the first 1,000 barrels of oil he produces. He gets what the market will bear.

I have assumed in these figures that the price is $30 per barrel, which is the assumption that the Finance Committee assumed in this bill. If the price rises faster than the assumptions provide, the tax will be even less as a percentage of gross income.

For an independent producer who produces 5,000 barrels per day, his gross income will be $54.7 million yearly, on which he would pay only $3.8 million in windfall taxes for newly discovered, tertiary, heavy or any combination thereof. This in reality is less than 10 percent of gross income. Again it is about the same as the State governments would get from the companies. The independent still does not pay any tax on his first 1,000 barrels of production. This means that the minimum tax will fall primarily on the major oil companies, and that most independent production will be exempt anyway.

Again, the independent's pretax income is reduced by the amount of the severance taxes, by the windfall tax itself, and by percentage depletion, as well as intangibles and business expenses, all before he pays his corporate or individual income tax. I ask unanimous consent that the breakdown of tax effects on a representative major producer and independent be reprinted in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXAMPLE—20-PERCENT MINIMUM TAX ON TERTIARY, HEAVY, AND NEWLY DISCOVERED OIL

	Daily	Annual
MAJOR PRODUCER (5,000 bbl/d)		
(a) Taxable barrels	5, 000	1, 825, 000
(b) $30 price	$150, 000	$54, 750, 000
(c) 5-percent severance tax	7, 500	2, 737, 500
(d) $16.30 base price	81, 500	29, 747, 500
(e) Windfall profit (b)—(d)	68, 500	25, 002, 500
(f) Severance tax deduction on (e)	3, 425	1, 250, 125
(g) Taxable windfall profit (e)—(f)	65, 075	23, 752, 375
(h) 20-percent tax	13, 015	4, 750, 475
(i) Net to producer (preincome tax) (b)—[(c)+(h)]	129, 485	47, 262, 025

EXAMPLE—20-PERCENT MINIMUM TAX ON TERTIARY, HEAVY, AND NEWLY DISCOVERED OIL—Continued

	Daily	Annual
INDEPENDENT PRODUCER (5,000 bbl/d; 1,000 exempt)		
(a) Taxable barrels	4,000	1,460,00
(b) $30 price	[1] $120,000	[2] $43,800,000
(c) 5-percent severance tax	6,000	2,190,000
(d) $16.30 base price	65,200	23,798,000
(e) Windfall profit (b)—(d)	54,800	20,002,000
(f) Severance tax deduction on (e)	2,740	1,000,100
(g) Taxable windfall profit (e)—(f)	52,060	19,001,900
(h) 20-percent tax	10,412	3,800,380
(i) Net to producer from taxable barrels (preincome tax) (b)—[(c)+(h)]	103,588	37,809,620
(j) Net to producer from exempt barrels (less severance tax)	28,500	10,402,500
(k) Total	132,088	48,212,120

[1] Gross sales price from all 5,000 bbl would be $150,000.
[2] Gross sales price from all 1,825,000 bbl would be $54,750,000.

Source: Joint Committee on Taxation, Dec. 10, 1979.

Mr. RIBICOFF. What do the macro effects of the minimum tax look like? Decontrol will have the effect of increasing revenues to oil producers, according to the Congressional Budget Office of about $800 billion, and all levels of Government will take $427 billion, or 54 percent. This minimum tax would add about $31, which is 4 percent of total additional revenues, still leaving 42 percent, or $342 billion for the oil producers over that currently being received.

It is very likely that these figures are conservative, that the amount left with the producers will be substantially more than 42 percent. Testimony before the Finance Committee by the Treasury Department is that the oil industry has paid a tax rate on domestic income of about 20 percent. Nevertheless, even if the CBO estimate is accurate, production should not be adversely affected.

Which producers will bear most of this tax?

RELATIVE IMPACT ON INDEPENDENTS VERSUS MAJORS OF THE 20-PERCENT MINIMUM TAX

Because we exempted the first 1,000 barrels per day produced by independents, the Treasury estimates that most of the effect, in fact about 90 percent of it, will be borne by the majors.

Specifically, first, about 10 percent of a tax on newly discovered oil is attributable to production by independents, 90 percent by majors, with both percentages including royalty interests. Second, the shares of a tax on heavy oil would be approximately the same, that is 90 to 10. Third, the tax on tertiary production, virtually all would be paid on oil produced by majors.

According to this breakdown then, the 20-percent minimum will take about $3 billion from the independents and $27 billion from the majors. Surely this is not any bite from the independents in that they are generally exempt from any windfall tax at all.

What is the real effective tax rate on producers?

THE EFFECTIVE TAX RATE ON PRODUCERS—MOST RECENT DATA

According to the Treasury Department, Office of Tax Analysis, the effective tax rate on all producers, including majors in recent years, has been about 30 percent, measured on the basis of economic income in the national income accounts.

Looking specifically at the majors, based on tax return data, domestic income is taxed at about 35 percent and worldwide income is taxed at about 20 percent, according to data through 1977.

What is the effective tax rate of some of the American major producers in 1977 and 1978?

And, Mr. President, I ask unanimous consent that material on this matter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EFFECTIVE FEDERAL INCOME TAX RATES ON DOMESTIC INCOME FOR SOME OF THE LARGEST OIL PRODUCERS

[In percent]

	1977	1978
Exxon	21.8	(*)
Standard Oil of Indiana (Amoco)	32.8	(*)
Mobil	10.8	25.1
Arco	1.7	(*)
Texaco	15.2	14.1
Gulf	20.5	5.1
Conoco	25.9	20.0
Getty	32.2	27.4
Marathon	15.9	14.8
Weighted average	20.4	18.8

Source: All rates computed by the Tax Reform Research Group based on 1978 SEC 10-K reports except Exxon and Amoco, which are based on the average of figures in Congressman Vanik's Corporate Tax Study for 1977 and the June 12, 1978 Tax Notes, and Arco, which is from the Vanik study.

Mr. RIBICOFF. I point out that certain companies like Texaco had an effective Federal income tax rate of 15.2 percent in 1977 and 14.1 percent in 1978; Gulf, 20.5 in 1977 and 5.1 percent in 1978; and Marathon, 15.9 percent in 1977 and 14.8 percent in 1978.

Let us turn to the different categories of oil.

First, let us look specifically at heavy oil.

HEAVY OIL

The minimum tax would total $4.1 billion in receipts from heavy oil.

Heavy oil currently is produced exclusively by the majors and almost all in California.

About 250,000 barrels a day are produced by four companies: Chevron, Getty, Union, and Belridge. Belridge was just bought by Shell for $3.6 billion, one of the largest corporate takeovers in history in terms of price paid.

As of last July, Chevron produced 55,000 barrels per day of heavy oil. According to the Oil & Gas Journal of August 27, 1979, of that 55,000 barrels per day, 15,000 was classified at tier I oil, which sold profitably at about $5 per barrel; 14,300 was classified as tier II oil, which sold profitably at about $11.50 per barrel; 25,500 was classified as uncontrolled stripper at about $15 per barrel.

Getty produces 60,000 barrels per day, and breaks down as follows: 47,400 at lower tier, profitably at $5; 11,300 at upper tier, profitably at $11.50; 2,400 at uncontrolled stripper, profitably at $15.

Thus a substantial portion of this oil sold profitably at rather low prices.

According to the Department of Energy, we will get an additional 250,000 barrels per day by 1990 regardless of whether the oil is exempt or not.

The oil will be continued to be produced by the same producers because it takes special technology already in these companies' hands.

Chevron has announced that it will double its production from 55,000 to 100,000 barrels per day by the year 1990. This production was made on the basis of prices at $15 per barrel and below.

Mr. President, on the basis of the economics of the heavy oil producers, we would have to conclude that a 20-percent minimum tax above a $16.30 base price will simply bring us an additional $4 billion in revenues and have no production effect.

Second, what is the situation regarding tertiary oil?

TERTIARY OIL

According to the Congressional Budget Office, the production response with no tax is not very different than with a tax.

According to table 8 of the report, the average daily difference in production between the House bill, which taxes at a 60-percent rate, and the Senate bill, which does not have any windfall tax, is 47,000 barrels per day.

It is logical on the face of these small figures, the difference between a 60-percent rate and a 0-percent rate will not change in any significant way if the 0-percent rate is increased to 20 percent, which is on a base of $16.30.

Thus the Senate tax will be less than one-third of the House tax on this category of old oil, already being profitably produced. We will get essentially the same production given the current and projected price of oil.

(According to the Joint Tax Committee, the gain to the Treasury is $12.0 billion.)

Third, what would be the effects on newly discovered oil?

NEWLY DISCOVERED

The Senate exempted newly discovered oil while the House taxed it at a $17 base and a 60-percent rate. The cost of the Senate exemption is $71 billion over the 1980–90 period. The Congressional Budget Office production response estimate is 264,000 additional barrels per day over the House bill. As the chairman of the Senate Budget Committee, Senator MUSKIE, has pointed out in this debate, the per barrel cost is about $86. This is in comparison to the House bill.

Although a minimum tax of 20 percent is estimated to have negligible production effect, it would raise almost $15 billion in revenues from the bill.

This could finance our entire mass transit program over the 10-year period. Or it can be more efficiently invested in other energy sources. For example, as Senator MUSKIE has pointed out, coal liquefaction and gasification can produce domestic oil at a cost of $45 to $50 per barrel. Oil shale can do it at $28 per barrel—solar and wind power investments displace foreign oil at a cost of $25 per barrel—biomass programs at $15 to $21 per barrel—cogeneration at $16 per barrel—conservation programs, $15 per barrel—heat pump installation, $14 per barrel—and promotion of existing hydroelectric projects, $6 per barrel.

This minimum tax makes sense. It does

not hurt our production, and it produces sorely needed revenue.

Mr. President, I urge adoption of the Robert C. Byrd-Bradley substitute, and I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I rise in support of the pending amendment before the Senate, and I ask the Senate to consider its implications in energy terms, not just in oil terms.

This is a 20-percent tax on three exempt categories of oil: new oil, tertiary oil, and heavy oil. Independents are exempt from the tax. The tax applies only to the 20 percent of the difference between $17 and the world price. If the world price is $30, as it is today, the producers still get about $25 even with the tax.

Mr. President, this is almost double what newly discovered oil, heavy oil, and tertiary oil were getting just this time last year. Moreover, as world prices increase the producers' revenues will rise commensurately. Indeed, one of the most compelling arguments for this tax is that it affords us some long-term protection against the continuing escalation of OPEC prices.

Having a minimum tax in place will enable the Government to capture some share of future OPEC price increases. In other words, Mr. President, if the price of oil today is $30 in the world market, and the same thing happens next year as happened this year, which is about a 60-percent increase, with the price then at $45, the American consumer will recoup 20 percent of that rise through this minimum tax and, thereby, be able to obtain revenues to generate more energy through the development of alternate sources of energy, such as solar, such as coal, such as cogeneration and, most effectively, conservation.

Mr. President, without a minimum tax we are acquiescing in the spiraling of prices that will be the result of decisions taken on the other side of the world by a few people without any democratic review and without any control over our energy security.

At the same time, I would suggest that there will be a negligible supply response effect from this tax. According to DOE it will be about 150,000 barrels a day loss; according to CBO, even less than that, about 75,000 barrels.

The reasons why production will not be substantially impaired are several: First of all, investment in oil production is made on the basis of return on investment expected, and the key factor in the return on investment is the world price of oil.

I would suggest with an oil price now at $30 and prospectively much higher, prospectively much, much higher, that there are sufficient revenues for investment in domestic production to produce sufficient amounts of oil in this country. Under the Finance Committee's bill, which has practically, in its present form now being considered by the Senate, over $300 billion accruing to the oil companies in the next 10 years, it would allow the oil companies, if they chose to, to double their present investment in exploration and development.

Last year they were spending about $15 billion to $16 billion a year on exploration and development. A $300 billion figure would allow them to double that if they chose to do that.

I would also suggest that the structure of the present windfall profit tax, including the minimum tax that we are now considering, provides relatively greater incentives for newly discovered, heavy, and tertiary production than for production from known reserves. The tax rate we are suggesting today is about 25 percent on tier 1, and on tier 2 oil it is 75 percent. Clearly there is a greater incentive to go out and search for new domestic sources of oil under this bill.

Mr. President, I also suggest that this tax is not an exorbitant tax. It is less in taxation of oil production than exists in countries such as England or Norway. I suggest, Mr. President, also that it is time this country faced up to the fact that the fossil fuel potential of our Nation is limited and that we must begin now to plan for the time when we will no longer have such fossil fuels available for consumption.

Presently we are producing about 10 million barrels of oil domestically. 1971 was the peak production in this country, which was about 11.4 million barrels a day. Estimates from sources as diverse as Harvard Business School, in its very thorough study about the energy future in this country, concluded that we will never again be at the 11.4 million barrels per day production, and their reasoning went as follows: Of the 9 million to 10 million barrels of production that are presently in existence in this country, by the late 1980's and early 1990's only 5 million of those 9 million to 10 million barrels will still be in production.

If we decontrol, which the President has done, and put a windfall profits tax on we can expect only about 4 million barrels of additional production, assuming a million barrels from tertiary and very high technology methods of recovery, and we are still at only 10 million barrels of production by 1990, which is our present level of domestic production.

Mr. President, I think it is also important that we recognize that the critical issue here is not simply price but energy security. The country is perilously dependent not just on foreign oil but on insecure foreign oil; namely, Persian Gulf oil. Twenty-five percent of all the oil we consume in this country comes from the Persian Gulf area. One need only reflect on the last month or the last year to emphasize the vulnerability of that supply to this country.

Clearly a policy that recognizes that fact must include an emphasis on the strategic petroleum reserve, in building it; an emphasis on diversification of our foreign oil as well as domestic sources of oil; a serious effort at improved energy efficiency in our homes and transportation systems; and also, Mr. President, a concerted effort to develop alternate sources of energy in this country, sources such as our coal reserves, sources such as solar energy, such as cogeneration and, most importantly, Mr. President, the use of conservation and energy efficiency.

In the next 5 years that is the place where the money should be put to get the greatest return on invested dollars.

Mr. President, I would only cite the work done in the Finance Committee by the distinguished Senator from Oregon (Mr. PACKWOOD) who time and time again cited the cost of producing a barrel of oil equivalent from solar, geothermal, hydroelectric, and cogeneration, and cited continually that those figures for production dramatically undercut the cost of producing oil in a world where the price will be controlled by an OPEC cartel.

I would further suggest, Mr. President, that the revenues derived from this minimum tax would add approximately $31 billion to the total windfall profit tax that the Senate has considered.

Mr. President, that would bring the total windfall profit tax in the Senate to about $185 billion or $186 billion. That figure is considerably less than what the House of Representatives passed. Their bill would tax the oil companies at about $276 billion over 10 years.

I would suggest to the Senate that this might be the last opportunity for the Senate to get a strong windfall profit tax from our consideration of this legislation. In some senses, Mr. President, this might be the last train out of the station, for the entire Senate to recognize the need to balance production of oil and the incentive that we must provide for the oil industry to produce domestically and internationally in a diversified manner.

We must weigh those against the cost and the potential of producing other forms of energy, and the need to cushion the impact of those much higher energy prices on the poor and the middle class of this country who have, in effect, a serious tax placed on them, not by the Congress of the United States, their elected representatives, but by the OPEC oil ministers, who will raise the price of oil and take money out of their pockets at a whim, in a decision that would be taken without scrutiny or significant input by the U.S. Government or its representatives.

So, Mr. President, I urge the adoption of this minimum tax. It is timely. It gets the revenues provided by the Senate bill to a level where we can make an impact on alternative energy sources, and I urge that the Senate adopt the amendment.

Mr. SCHMITT. Mr. President, I have listened with considerable interest to the remarks of the Senator from New Jersey, and in particular when he got down to what he referred to as "facts" with respect to the potential for domestic production of crude oil and other related energy sources.

As is so often the case on this floor, I am afraid that the Senator from New Jersey has confused facts with self-fulfilling prophecies. Because it is a fact that for 25 years this country has not been systematically exploring in all those areas where it could explore, which are potentially productive with respect to crude oil.

It is just not true that we cannot produce a great deal more crude oil in this country, and in fact become a potential threat to foreign sources. Not only do we have Alaska and the offshore regions yet to be fully or even partially explored in many cases, but we have got new places to look in areas where we have already explored, or where we have been restricted from exploring because of unfortunately restrictive Federal land policy.

If the Senator would substitute the words "self-fulfilling prophecy" for "fact," I could go along with most of what he has said. If it were absolutely true that there were no significant potential for new domestic production, I think the present occupant of the chair (Mr. BOREN) and I would agree that decontrol did not make any sense whatsoever. Obviously, decontrol, if valid at all, is based on the assumption that there is a great deal more oil and gas to be found, and more to be discovered in existing fields, both by secondary and tertiary means; that heavy oil represents a tremendous potential resource for North America; and that if you add to that gas products, which in many cases are a substitute for crude oil products, this country could become energy self-sufficient in a relatively short time—if we decide that is what we want to do. But apparently we are determined not to do it.

All the ideas the Senator from New Jersey has mentioned with respect to conservation, greater self-sufficiency, research and development into solar, and hopefully incentives for use of solar energy, are all very good; but the one thing repeatedly left out in litanies of that nature is the time perspective for what we have to do. For 3 years in this body, I and others, including the distinguished occupant of the chair, have been trying to bring this time perspective into consideration, and it appears to be almost impossible to do so.

The short-term energy economy of this country is dependent on oil and natural gas. There is no alternative to that. If we are ever going to remove the threat to our national security that comes from an overdependence on foreign supply, a dependence for our essential supply on foreign countries, we must produce domestic oil and gas as rapidly as we can; at least we must become a threat to produce it, and we certainly are not a threat today to produce our essential supply. And we are not going to be after the bill we are discussing becomes law.

At the same time that we recognize our short-term energy dependency on oil and gas, we must realize that, as a transition into some more optimum energy future where truly renewable energy sources form the base of our economy, we have coal, we have uranium, we have in some areas geothermal, we can increase the use of passive and semiactive solar systems, and, maybe most importantly, we can apply our technology capability to increased efficiency in the conversion of energy from one form to another.

But, again, that is something that takes time. We cannot become independent of the Middle East of any other part of the world for oil imports unless we have built in a short-term security blanket for oil and gas, while at the same time investing both public and private money, with appropriate incentives to do so, in these transition energy sources.

There is no question in this Senator's mind but that, again, if we put our minds to it, already in the next century we can begin to replace existing energy plants dependent on fossil fuels and fission as a nuclear energy source with energy plants that are truly based on renewable or essentially renewable energy supplies: nuclear fusion, solar, even hydrogen as a supportive fuel, produced by the decomposition of water; probably those would be the three essential elements of that futuristic energy economy.

But again I submit to the Senator from New Jersey, first, that what he calls facts about present geological parameters of fossil fuel supply are not the facts, and have certainly not proved to be the facts, but have become a self-fulfilling phophecy for at least 25 years.

Second, without the proper time perspective for all of those great ideas he has brought out, we will not reach any of them at the time we need them.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. I have been trying for some time to assess the rationale behind the minimum tax. Basically, all I can come up with is that we are launched on a punitive expedition, the kind that Presidents of the United States and rulers of foreign countries used to do for areas in the world that were not living up to the foreign policy expectations.

In this instance, we are taking it out on an industry and its producers, without regard to the public interest and, by device, trying to make the public interest the amount of money that would be raised by the tax. We are ignoring the public's real interest as to whether or not it gets something in return for that money or whether that money could be better spent in the production of oil.

Mr. President, if you take a rational look, on an intellectual basis and not an emotional basis, at what is implied here, if you buy the theory of the Senator from Arkansas (Mr. BUMPERS) and the distinguished chairman of the Senate Energy Committee (Mr. JACKSON) that there is no more oil to find, that we found the last barrel and it is just a question of producing it and we are on the way out, then there is no way morally in which you can justify the decision to decontrol.

If we know where the last barrel of oil is, if we know that we have reached that moment in time where its existence is known to us and we have but to produce it, then, indeed, there is no justification for doing anything except increasing the controls and producing oil in the public interest for as long a period of time as we can, and in the greatest economic interest of the Nation.

But if, as I believe and a good many others believe, there is oil in the ground right now, the existence of which is known to us but the technical ability to produce it is not yet known to us, then there can be absolutely no justification for a minimum tax on the enhanced recovery oil.

If, also, as I believe and many others believe, we have only explored 5 percent of the publicly owned lands of this country—and a good many private lands are yet to be explored, a good deal of the lands offshore of this country have yet to be explored, and a good deal of energy lies out there waiting to be discovered, there can be no rational sense to attach a windfall to something whose costs of production are yet unknown to us.

It just makes no sense that there would be a tax on newly discovered oil on that basis, on the basis of a minimum tax, without regard to whether or not there is a profit attendant to it.

To that extent, lifting the oil in the ground that we can lift and that we know about provides the financing to explore for and produce that oil whose existence we suspect but know not yet to what extent and where it all is.

Indeed, if there is no new oil to be found, as has been suggested by some Senators, then there is no threat to us in having no tax on newly discovered oil because there will not be any exemption because we will not have any that we have discovered. But if that oil exists in deep canyons off the coast of Maryland, in deep structures in the Rocky Mountains called the Overthrust Belt, in far off places in Alaska where wells are extraordinarily expensive to build and technically difficult to achieve because of environmental restrictions that God, not the EPA, laid down, then it seems to me that there is no rational purpose in assessing a national tax on those before at least we have come to a conclusion that there is indeed some kind of a windfall on them.

Mr. LONG. Will the Senator yield at that point?

Mr. WALLOP. I will be happy to yield.

Mr. LONG. I can recall the time when people used to say in Louisiana that there was no oil to be found in the southern part of the United States east of the Mississippi River. I can recall oil and gas people in Louisiana used to say, "Do not go to Mississippi. All you will do is lose your money. There is no oil or gas to be found in Mississippi."

Of course, since that time people have found a lot of it.

My hometown is in East Baton Rouge Parish, the State capital, but it adjoins Livingston Parish. Livingston Parish is to the east. I have known many, many people to go there and drill wells in Livingston Parish and they were uniformly unsuccessful. So the slogan grew that there is no oil to be found and no gas to be found in Livingston Parish. Anybody who drills over there is either an idiot or a fool.

It went along that way for a long time until someone drilled down very deep, down below 15,000 feet, and brought in the so-called Tuscaloosa sands. Those just happen to be the most productive gas wells anywhere in Louisiana. The production of those deep wells is so fantastic that I fear to state the exact amount. But anyone can check it. They are probably the best gas wells in the lower 48 States.

People have their orders in line to get more drilling rigs because it takes big, heavy drilling rigs to drill down below 15,000 feet.

Everyone is enthusiastic about it. There is a whole region there, a whole tier of parishes across Louisiana, where everyone assumed there was no oil and no gas to be found. Of course, that trend continues on across and out into the gulf. I suppose that the Tuscaloosa name probably is applied because the first indication of that geological formation was found somewhere over near Tuscaloosa, Ala.

But there is a fantastic amount of gas that will make a great contribution toward solving our energy problem. This gas would not have been found unless someone had decided to spend a lot more money, drill a lot deeper, and take a bigger chance. In doing so, they found this big amount of gas being developed in Louisiana today.

Mr. WALLOP. Incidentally, they did that because they had a free market in which to operate. That was in the days when the State's own gas was not subject to price control. The intrastate market was not a controlled market at that time.

Mr. LONG. And even now there are some producers who have indicated to me that, in view of the fact that they will have the dead hand of Federal regulation on them, short of 15,000 feet they will be controlled but not below 15,000 feet, they are drilling now without any intention of finding anything on the way down to 15,000 feet. They are not interested in producing or even finding anything. Presumably, they might even drill through it without coring for it on the way down on the theory that that is not what they are looking for. They are looking for gas they can sell at a deregulated price.

Mr. WALLOP. There are those in this body who will claim that is a plot. It is difficult for someone to drill something that he knows will not produce money.

Mr. LONG. I have a chart which has been made available. It is published by the National Petroleum Council and the American Association of Petroleum Geologists. It indicates that 98 percent of the prospective sediment basins that exist in this country are still untouched by drilling. In some cases I am sure these would be locations below those that have already been drilled. For example, I know in the text on the chart it refers to deep geological basin areas where the largest reserves of natural gas have long been expected to come from depths below 15,000 feet, and it mentions that in 1978 only 463 such deep wells were drilled or 1½ percent of the total of 49,900 wells. Roughly, out of 50,000 wells only 1 percent were drilled down below the 15,000 foot depth. It is expensive to drill down there, but there is an enormous amount of energy to be found, as the experience of Louisiana will indicate.

In addition to that, of course, there are all sorts of frontier areas.

Mr. WALLOP. While there are all sorts of energy to be found, and many of us realize that, there are also all sorts of energy not to be found but just expenses incurred in search for it.

Mr. LONG. Yes, in many cases just a huge amount of money to be spent.

Mr. SCHMITT. The normal ratio of a producer to a dry is 1 to 9. For every producing well you get, you drill nine dry wells. That is part of the game. The whole history of economic geology, of which this is a part, is one that attracts the risk taker. If they were not in geological searching, they would be in other things, farming, ranching, or Las Vegas. But you take away their incentive if you say, "No, we will not let you look where you might get some." That would happen in Louisiana and everyplace else. When we talk about frontier areas, and this has just come to light in the last 10 or 15 years, one thing we have to remember is that almost all oil and gas produced in this country or anywhere else has been produced because we discovered a structure. The Senator from Wyoming referred to a deep structure.

Those are folded rocks, a type of structure which has acted as a trap for oil and gas in these porous sands, permeable sands, in limestones, and it was discoverable by geophysical means.

We have just recently found out that there are other ways in which you can trap that without any kind of definable structure. We have just gotten the technology in low-noise electronics and analytical techniques, using computers, to begin to sort out geophysical data from some of these other clues, and they are beginning to find oil at very shallow depths. Before, we just ignored those, because we did not know about them.

The frontier for oil and gas production is at least as much as Mr. Pitts puts in that diagram. I believe it is Mr. Pitts' diagram for the NPA.

Mr. LONG. Yes.

Mr. SCHMITT. It shows the favorable basins where we have yet to explore. For us to be here, in the U.S. Congress, doing everything we can, by tax and regulation, to discourage exploration in those frontier areas is almost unbelievable. Almost unbelievable, but not quite.

Mr. LONG. It really is tragic when you think of the tremendous need we have and of how the Nation is suffering right now. Much of the trouble we are having with our people being held hostage over there in Iran is that they think they have a lot of leverage on us and on the rest of the world.

Mr. WALLOP. One has only to look at the behavior of the Japanese to know how much leverage they have. We find them, at least as of this morning, unwilling to help us because of their thirst for that resource. They are buying the part that we gave up. Nevertheless, our dependence did not diminish; we just shifted it to another source.

Mr. LONG. I notice here, perhaps the Senator knows more about this than I do, that one of the areas mentioned is the so-called overthrust belt, an overthrust belt at 25,000 feet. Does that mean that the production is regarded as being 25,000 feet in depth?

Mr. WALLOP. It goes down to 25,000 feet. That is the well of which I spoke this morning, which is the deepest test well yet drilled in the world, which was just under 20,000 feet. They explored, on the way down, some 14 or 15 different zones and found nothing—nothing producible economically.

Mr. LONG. Here is another very large basin which appears to be out in the State of Nevada and also in the State of Utah: "Great basin, 40,000 feet." Does that mean that the production there might be 40,000 feet down inside——

Mr. WALLOP. That is right. That is a structure which they expect will yield as has the overthrust belt. The interesting thing is that the overthrust belt does not show on that map, but they have drilled some 367 dry holes in that area—it is much like an area in Mississippi and Louisiana that the Senator was talking about—where it appeared to be favorable. Logic told geologists that there was oil-bearing structure there, but they could not find the key, could not unlock it. They tried and tried, 367 wells before they discovered it. Now, with some of the new seismic techniques, their average in there is not the kind of average Senator SCHMITT has talked about, one to nine. It has dropped a little bit there because they know how to approach it.

It is extremely tricky to find the folds.

What is meant by the overthrust is just that. Geological pressures in the past pushed up over the top, locking this oil in pools—not in great formations like the big Texas fields or the earlier Salt Creek field in Wyoming, or some of those in the gulf of the Senator's State, but little pools in the overthrust. They are numerous, but they do not follow the geologic precision that old oil fields used to have, where you would line things up on a section line and go 8 or 10 miles this way with offsets on both sides.

On these, you might have one here, one less than a quarter of a mile away, one might be a mile and a quarter away. They are not contiguous pools.

That is part of the expense that is attendant on this kind of exploration. Yet many people think from what has been discovered to date that this has the potential of exceeding, I say to my friend from Alaska here, the discoveries in Prudhoe Bay. Yet we may not see if that gets discovered in this century. We may see it, but it seems a shame to put off for that time while we are going through the transition of these rather extraordinary synthetic fuel programs, the problems of which are not all yet known to us. Whatever they do, they do not take care of us between now and

1990. It is going to take a little time for us to get on line with those things. That is the nearest-term answer we have.

Mr. LONG. This Senator was told, and I have no reason to think otherwise, that in seeking energy in the North Sea, there were about 400 wells drilled out there, maybe more, before anyone ever found enough oil and gas in paying quantities to make people think that this was really worth the risk. Prior to that time, whatever they had found had so little potential——

Mr. WALLOP. And was so expensive.

Mr. LONG (continuing). That it had little meaning. It would be what you would regard as petrochemicals, but not in commercial quantity, so it would not justify the expense of drilling.

In the Atlantic today, there is a huge area out there. Conceivably, it might very well provide all our energy needs, but so far, all they have found is some indication, just enough of a showing of gas that they know there are hydrocarbons to be found beneath the Atlantic. Whether there is enough out there to justify drilling, one does not know. There have been quite a few wells drilled. Really, to do it right, it would seem that perhaps a thousand wells, at least, should be drilled out there. But it cannot be done quickly.

Mr. WALLOP. Without capital. The rate of capital will dictate the rate of exploration, for sure.

Mr. LONG. Yes.

Mr. WALLOP. The other point that we have to make with regard to tertiary recovery is that it is the greatest potential for near-term supply response between now and the middle of the next decade, the mideighties.

We have an area in Wyoming called the Dobytown. They have spent a considerable amount of money developing a well down there. They come to find out, having done that, that they are being told they are going to be allowed that well but they cannot drill for any more, because that is in the so-called wilderness review area. The Bureau has already made that well uneconomical by not realizing that what is important in a test well is just that: You spend a lot of money trying to develop information about the surrounding ground, only to find out that, having gotten that well, that is all you are going to be allowed.

It is uneconomical as a venture for them. The well itself will probably pay itself back, but the venture itself is lost until the Bureau of Land Management can make up its mind.

These deep wells do not get punched down in a matter of 6 to 8 weeks, like the old 4,000 foot wells. In Wyoming, at the beginning of the last decade, the beginning of the seventies, the average well in the State was 3,700 feet deep. Now that has moved up to 9,400 feet, the average new discovery, which is, obviously, accelerating. One of the things does not necessarily happen, that you get economies of scale by cheapening drilling costs for longer distances. They go up a good deal higher, obviously.

The question of the heavy oil has to come as the most puzzling kind of position on the part of the administration, because the President himself said, out in California, that it was in the national interest not to tax heavy oil. He made that recommendation. The chairman, acting on the President's own specific recommendation, made that recommendation to us in the Committee on Finance. The committee voted in favor of that amendment unanimously.

As we go down and look to the future, I guess we would have to say that there is no risk in not taxing newly discovered oil, because we are not going to find any. There is not going to be any tax advantage accruing to anybody, if the country is going to take any risk on anything right now to get out of this peculiar pickle that we are in, where people who have no interest in democracy, no interest in the world's economic structure, no interest in manufacturing, no interest in our foreign policy interest, have the power to drive our decisionmaking.

That is what is puzzling to me. The country is really taking a risk that gives it an opportunity to do something, to explore the frontiers we have without penalty; and, second, to explore the frontiers of production of quantities of oil.

(Mr. HEFLIN assumed the chair.)

Mr. BOREN. Will the Senator yield?

Mr. WALLOP. I am happy to.

Mr. BOREN. Mr. President, I compliment the Senator from Wyoming for the remarks he is making. I want to associate myself with them.

When we talk about whether or not the Senate will look responsible or not in the eyes of the public, I think we ought to, again as the Senator indicated, think about what it is we are trying to do.

We are trying to look after the national security interests of the United States, to make sure we produce enough energy here at home that we do not find ourselves as an entire nation literally the hostages of the Khomeinis of this world. We are trying to make sure we will not leave the American consumers, in general, forever dependent upon the price machinations of OPEC or other energy-producing groups that might be formed in the future.

The only way we can assure that the American consumer will not remain totally at the mercy of these groups is to produce enough energy here in the United States, that we have the power here at home to meet the needs of the people without being so dependent they can set the price.

Mr. WALLOP. Would my friend agree that the basic job of the Senate is not to look responsible, but to act responsibly and be respectable?

Mr. BOREN. The Senator is absolutely right.

I think what we are seeing is putting politics and political perceptions in the short run, not the long run, but in the short run, ahead of what is best for the United States of America.

I do not want to have to answer 5 years or 10 years from now when the people see the full implications of what is being done, the question of why we did not do something back in 1979 when we had an opportunity to produce more energy at home, why we left the country continually dependent upon overseas sources for the energy we need.

I do not want to have to answer that question. I want to be in a position to say as one Senator, "I did everything that I could to encourage additional production of energy here in this country."

Those who are supporting this so-called minimum tax know the figures as well as I. They know the experts have said, in terms of newly discovered oil, if we exempt it from the tax completely we can probably produce a million barrels a day of additional petroleum in this country. They know the Office of Technology Assessment itself has said that from tertiary oil and enhanced recovery projects that we have enough oil at $30 a barrel or less, from that source to produce a million barrels a day every day for the next 50 years.

That is not the focus here. It is not a matter of what is best for this country. It is a matter of what might look good in the short run to those who do not fully understand what this issue is all about. It is all about going up 4 or 5 or 10 points in the polls.

I suggest we not only have a shortage of domestically produced energy in this country, but a shortage of statesmanship.

If there is any institution to blame for what has happened in this country over the past few years, it is the Congress of the United States. The people should hold this Congress responsible for what has happened when we have continued controls on the prices of domestically produced products and encouraged the export of American jobs and American capital to other countries to produce the energy there instead of producing it here at home.

I know it is popular. It is popular to say that we are not responsible and that controls are not responsible. It is popular to say that the "big oil companies" are responsible for the crisis we now face.

Mr. WALLOP. Popular, if my friend will yield, to indulge in the sort of political machoism, flex our muscles and say, "I was bold and independent enough to kick big oil," when, indeed, we have had a hard time on this floor getting people to understand that this, practically speaking, is not a major tax on big oil, but on small oil, the ones that provide us the supply.

Mr. BOREN. The Senator is absolutely correct.

I heard Senators on this floor getting up and crying tears about the profits of the big oil companies and what they are making overseas.

Mr. WALLOP. And then unwilling to tax or even approach them.

Mr. BOREN. The Senator is absolutely correct.

Show me in this bill where one penny of tax is being levied on the oil produced overseas by the big companies or marketed overseas or refined overseas. There is not one penny of tax, not one penny being levied in this bill against the companies on what they are doing overseas. Every single cent collected from this tax is collected on the oil produced in the United States of America.

All so we can say that we are kicking the big oil companies. We are kicking the best interests of all the people of the United States.

Mr. WALLOP. Does it surprise my friend, in light of what he just said, that the Saudis expressed an interest in having the Senate of the United States pass the windfall profit tax?

It makes us a good deal more dependent on them.

Mr. BOREN. The Senator is absolutely correct.

It would be just like I pointed out the other day, if I were a car manufacturer overseas in some country selling automobiles in the United States and the people of the United States were upset because so many of the automobiles they were using were coming from overseas and their domestic industry was in trouble, as it is, as we well know right now, it would be just like putting a tax of $5,000 on all automobiles produced in the United States to get back at the automobile manufacturers in the foreign countries and not taxing them at all.

If I were a manufacturer in another country, just like the Saudi Government today, saying, "Put on the windfall profit tax," I would be laughing up my sleeve if that were offered as the solution to the problem.

I am sure there are those all around the world who know and marvel at the sense of economics in this country when we could be producing more at home and we need to be conserving and we subsidize our consumption and continue to tax our domestic production.

As the Senator from Wyoming knows, this term "minimum tax" is very much a misnomer.

I heard the Senator from New Jersey and the Senator from Connecticut arguing, saying that we need more money for conservation in this country. They cited the Harvard energy study.

I agree with that study. I agree with many of its conclusions. We need more money for conservation. We need tax credits to encourage conservation. We need to finance them. Perhaps we do need to collect some revenues to make those credits possible, and I voted for that. I voted for those tax credits.

We do need aid to help the elderly and those on fixed incomes who have no way of adjusting to this period of transition in which energy prices are approaching their real costs instead of artificial costs. I have supported that, and I have supported the revenues that are necessary for those purposes and to develop synthetic fuels and other sources of energy. But how much is enough?

From decontrol itself, the companies will pay 60 percent of every dollar derived as a result of the decontrol order.

In addition to the 60 percent, this tax bill, as it is now written, will levy another 20 percent. So before this amendment is even considered, 80 percent will be paid by the producers. This so-called minimum tax would be on top of an 80-percent tax. Is 80 percent not minimum enough? Another 10 percent, on top of the 80 percent—90 percent?

We finally have reached the point at which decontrol will become a farce, if we tax 90 percent, 95 percent, 100 percent of all the revenues as a result of decontrol. The whole purpose of decontrol is to derive and produce and generate the capital necessary to dig the coal mines and drill the oil and gas wells and build the solar energy panels and the synthetic fuel corporations necessary to get the energy this country needs, to move us toward the road to energy independence.

If we turn around, after decontrolling, and take back everything that has been generated to solve the energy problems of this country, we will have no result at all, except this result: We will have left a political charade. Those who want to practice the art of demagoguery—and it is not unknown in this city—will be able to stand up and say, "As the energy prices are going up, as gasoline is going up at the pump, who is to blame? Not Congress. Not your Government. It is the big oil companies. They are to blame because, remember, the prices were decontrolled."

So we will have a scapegoat. Even though we may have a tax which seems bent on rapidly approaching 100 percent of everything the producers get, even though we will have taken back virtually everything that has resulted as a result of decontrol, we will have someone to blame. We will not have any more energy produced, not a bit. We will have the Government coffers overflowing with the largest single tax increase ever put on the backs of the American people—not on the oil companies, on the backs of the American people. We will have higher energy prices, and we will have a scapegoat, someone to blame for it all, and that is the oil industry of this country.

I know there are people in the oil industry just like everywhere else. Some of them are good. Some of them are patriotic. Some of them are operating in the public interest. Some are not.

I think it is a disservice to the American people to play this kind of game, to come forward with this kind of charade. It is the easy road, but it will not solve our problem.

As the Senator from Wyoming has said, it is high time we stopped worrying about how we look, whether or not we look respectable, whether or not we can say to the American people, "Look, we came out with a bill and taxed it all." Maybe that would make us look better than anything else to the American people. "We took away every penny that the oil companies have ever generated." Maybe that would make us heroes, every last one of us.

But how are we going to answer 5 years from now, when no more energy has been produced, when the American consumer remains a prisoner of OPEC, and when American citizens around the world remain hostages, economic hostages, of any irresponsible regime in any country that produces the energy we buy? How will we look then?

Mr. LONG. Mr. President, will the Senator from Oklahoma yield for a question at that point?

Mr. BOREN. I am glad to yield to the distinguished chairman.

Mr. LONG. Does not the term "minimum tax" suggest that that is the only tax somebody might be paying?

Mr. BOREN. I think so. One would think, to hear this 10 percent or 15 percent discussed, that that is all that is paid. No one says anything about the 8-percent tax already being collected.

Mr. LONG. Running through my mind are the various taxes that are paid.

Assuming that one starts out paying a 12.5-percent severance tax, as in Louisiana or Alaska, after that he would have 87.5 percent remaining. After he pays the corporate income tax, assuming he is in the 46-percent bracket—and those who are to be affected by the Bradley amendment would be substantial corporations—he would have 47.3 percent remaining after taxes.

Then he would pay an 8-percent State income tax on what he had remaining. That would get him down to about $39 out of $100. Then, assuming that the Federal Government gets to him for a 70-percent tax—if this is a successful person who made more than $100,000 income, he would pay a tax of 70 percent—that would leave him $11.

This is not the end of it. The State would come at him for about another 8 percent, perhaps, and that would get him down to about $9.

If he is paying a series of taxes which take 91 percent of his income, does the Senator really think there is any basis to say that that taxpayer has been permitted to get away with something?

Mr. BOREN. The Senator from Louisiana has made a very excellent point. I agree with his figures completely. The total tax burden would be around 91 percent.

As I listened to the Senator recite those figures, I thought about this: If the Senate is shortsighted enough and if Congress is shortsighted enough to pass a bill which will levy an effective tax rate of 91 percent on all the revenues earned as a result of decontrol, perhaps we should put another provision in the bill.

Perhaps we should require this, so that the American public would know the truth: Maybe we should require that a big sign be put up in every filling station in America, and a big sign on every gas pump in America, so that when the American motorist pulls in and pays $1.50 or perhaps $2 for a gallon of gasoline—a year or two down the road from now—he would read: "Dear Citizen, Dear Motorist: You have just got through paying an extra dollar a gallon for your gasoline. We are happy to tell you, and we know you will be glad to learn, that you just sent 91 cents of that extra dollar to the Federal Government or to some other unit of government in taxes so that they can spend that, and only 9 cents of that dollar was used to help you get more energy so that you would not experience these shortages in the future."

I think we should do that. Maybe we should put at the bottom of the sign, "Compliments of—" and list the name of every Member of Congress who voted to take that 91 cents out of that dollar away from the American motorist and generously give it to the tax collector, so that the American public will know whom to thank for what has been done for them and for their interests. Maybe that would be a good thing to do.

Mr. President, I yield the floor.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I wish to take this time to respond to a few of the points that were made in the course of the last hour by the opponents of this amendment.

One charge was that it would produce no new oil and that we say there will be no new oil produced in this country. The point is that we have to produce 4 to 5 million new barrels of oil a day between now and 1990 to be at the same point we are today with the production of about 10 million barrels a day. So the Finance Committee and I think the entire Senate, certainly this Senator, was very sensitive to the whole supply response that might be the result of our actions here on this windfall profit bill.

In fact, we structured the bill, and I include this amendment as part of that structuring, in a way that would benefit certain types of oil over other types of oil. The structure of the tax is designed to give relatively greater incentives to such things as new oil, tertiary oil, and heavy oil, because we recognized that there is a supply response to those greater incentives.

Mr. President, there is a great dispute in the body as to what the supply response is, and we have heard a number of quotes from various studies on heavy oil, tertiary, and new oil. So in that spirit we simply also cite the CBO report that said that if there were no tax and if we had decontrol, we would be producing only 150,000 more barrels of oil a day by 1990, not 2 or 3 million above 10 million barrels a day but only 150,000. In fact, the combination of decontrol and some tax, not an excessive tax but some tax, a minimum tax, will generate sufficient revenues to produce that 4 to 5 million barrels of new oil between now and 1990.

We have heard the distinguished chairman and my esteemed colleague from Oklahoma state how it is a 91-percent tax.

Mr. President, there are two questions to be raised. The 91-percent tax of what taxable income? I suggest that if we look at what is deducted from taxable income, the windfall profit tax itself, tangible drilling cost, business expenses, State severance taxes, we find that there is a revenue flow to the oil companies that can be utilized for investment in exploration and development. In fact, that revenue flow with a stronger windfall profit tax will amount to over $300 billion between now and 1990.

Mr. President, what is the present investment by oil companies in exploration and development? Their present investment annually is about $15 to $16 billion a year. So with this tax that is characterized in my view incorrectly as excessive, the oil companies would still have sufficient revenue to double their present investment in exploration and development.

Mr. President, I think that what is at stake here is a question of gradation, a question of how much is too much to obtain a supply response.

Certainly, members of the committee and Members of the Senate would say that there is a difference between a 1-percent tax and a 100-percent tax.

I suggest that a 20-percent minimum tax is a sufficient tax that would obtain revenues that the Senate can use to develop alternate sources of energy and that that amount of revenue——

Mr. LEAHY. Mr. President, will the Senator yield?

Mr. BRADLEY. I am pleased to yield. Does the Senator desire the floor to make a statement or a unanimous-consent request?

Mr. LEAHY. Mr. President, I tell my friend from New Jersey I wish to speak in favor of the pending minimum tax amendment.

Mr. BRADLEY. The Senator wishes to make his speech. Will the Senator give me 3 additional minutes?

Mr. LEAHY. I am enjoying listening to my colleague from New Jersey and am perfectly willing to wait until he is finished.

Mr. BRADLEY. I will do my best, Mr. President, to wrap the remarks up so we can hear the Senator from Vermont.

When he suggested his contribution to the debate was timely what I was saying was that indeed what we have here is a question of a time factor and how much is too much. Is 20 percent too much or 1 percent or 100 percent?

What I wish to say is that I believe that the 20 percent tax will generate $30 billion extra in revenues, that that $30 billion can be more productively used in the production of energy if we use it to produce other forms of energy that are less expensive than oil that has to be drilled at a 40,000-foot depth. Indeed, there probably are hydrocarbon resources in the world as well as in the country that are obtainable but, as the chairman has said many times, at what price? And as soon as we raise the question of what price we have to also ask what are the alternatives.

I suggest, Mr. President, that the alternatives would produce significantly larger quantities of energy because at this very time they are significantly cheaper. A barrel of oil equivalent of cogeneration is about $16, solar about $20, and hydro at about $6. And it is important that we recognize also that a form of production of energy and oil in this country in large part is conservation. We have to make that investment in energy efficiency in our homes, businesses, and transportation systems because then and only then will we lend substance to the claim that we have heard so often in this body, that indeed if we save a barrel of oil it is as good as producing a barrel of oil.

Mr. President, this amendment and the windfall profit tax in general gives us an opportunity to lend substance to that claim, to take resources that would be spent for oil development producing a marginal increase in oil production and investing them in other forms of energy that would produce a significantly greater quantity of energy which, in my view, is in the interest of this country and in the interest of this body.

Mr. President, one final statement before I yield to the Senator, and that is if we have a minimum tax, what we are doing is saying to OPEC that they cannot increase the price in an open-ended manner without the American public sharing in some of that increase. What this says is if OPEC increases the price next year to the level they did this year, which is a 60-percent increase, which means the price of oil would be $45 a barrel and not $30 a barrel, this minimum tax would take some of that money and use it for the production of alternate sources of energy, which is critical in the energy future of this country.

Mr. President, for all of those reasons I hope that the Senate will follow the debate and continue to listen to those advocates of this amendment.

I am pleased to yield the floor at this time to my distinguished colleague from Vermont.

Mr. LEAHY. Mr. President, I am pleased to join in sponsoring the pending substitute minimum tax amendment as I did the original amendment.

I might say on a personal note, Mr. President, that I am extremely pleased to have been able to follow the lead on so many of these amendments of my distinguished colleague from New Jersey (Mr. BRADLEY) who has done yeoman service on this matter over the past several weeks on the floor, and for weeks and weeks before that in committee and among his colleagues.

Mr. President, the amendment before us would impose a low-level, minimum tax on newly discovered oil, heavy oil, and incremental tertiary oil. It would impose a tax that would raise less than one-third the amount raised by the House bill from these categories of oil, categories of oil that will be totally exempt from the Senate tax unless this amendment is adopted.

Mr. President, this amendment would raise an estimated $31 billion in revenue over the next 10 years, revenue that is sorely needed for our Nation's many energy-related needs. It recognizes the need to stimulate increased domestic oil production on the one hand, and to capture revenues to promote energy conservation and alternative energy production, and to provide assistance to the poor, on the other hand.

It is clear that efforts to expand domestic oil production must be intensified if we are to have any hopes of reducing our Nation's excessive dependence on foreign petroleum supplies.

With world oil prices soaring past the $30-per-barrel mark, I am confident that the incentive to expand oil exploration and production will indeed be far greater than at any time in our recent history—notwithstanding the minimum tax proposed by this amendment.

Mr. President, as urgent as the need to encourage domestic oil production may be, increased petroleum production, by itself, cannot hope to solve our Nation's energy problems. Increased domestic oil production, by itself, cannot hope to usher us into a new era of energy self-sufficiency.

We must move swiftly and in a big way to look for other energy sources, and to encourage Americans and American businesses to conserve energy—energy that, no matter what we do in the Senate here today—will be more and more expensive, and less and less convenient to produce and transport in the decades ahead.

If the Senate continues on its present course, this windfall profit tax will not raise sufficient revenues to bring about the conservation and alternative production that must take place if we are to achieve energy independence.

The Senate bill, as it now stands, would raise in the neighborhood of $120 billion less than the House-passed tax.

We have provided generous exemptions for newly discovered oil, for heavy oil, and for incremental tertiary oil. We have added to that an exemption for 1,000 barrels per day of independent production, at a cost of more than $20 billion, and have voted to allow still another $14 billion in additional percentage depletion subsidies for the same independent producers. On top of all this, we have provided $11 billion in exemptions for State-owned oil, and oil produced by Indian tribes and nonprofit organizations.

Mr. President, quite frankly, enough is enough. This amendment would still allow generous exemptions to producers to produce and find these categories of oil, but would raise at least a minimum amount of revenue for the other energy-related needs of this country.

By the most conservative estimates, this amendment would still leave oil producers with more than $340 billion in increased revenues over the next decade.

By all measurable standards, investment opportunities in oil production will be more attractive in the next decade than at any time in history. Oil will be found and oil will be produced—produced in quantities that will approach the limits of our domestic production potential.

This is not an amendment that will hamper domestic production. It is not an amendment that will leave the oil companies powerless to fulfill their national energy production mandate. It is not an amendment that will thwart our national efforts to achieve greater energy self-sufficiency.

It is an amendment that will increase the revenue raised by this tax to a level that begins to do justice to this country, to the people who live here, and to the efforts we must make if we hope to achieve greater energy independence.

If this amendment is defeated, this bill could turn into an embarrassment to the U.S. Senate.

So, Mr. President, I am pleased to join in sponsoring this amendment, and would urge that my colleagues in the Senate give it their full and fair consideration.

As I said on the floor of the Senate earlier, Mr. President, after weeks and weeks of debate in an effort to pass what might rightly be called a windfall profit tax, let us not fool the American people by passing a windfall giveaway. More and more, as amendments that could strengthen the windfall tax are defeated, we run the risk in the Senate of passing a windfall giveaway rather than a windfall tax, and I, for one, would find it impossible to vote for such a final package. I rather suspect that would be the case with a number of my colleagues.

Mr. President, I firmly believe that if Congress is unable to pass a well-balanced, fair windfall profit tax, the public clamor is going to be so great that some of these same groups and companies that lobbied against even a modicum of equity in this tax are going to be faced with the overwhelming wrath of the American people. The same groups that have lobbied against the amendments of Mr. BRADLEY, my own and those of others, may find themselves faced with legislation even less to their liking than the rather modest windfall profit tax we have been debating here.

If a realistic windfall profit tax is not passed, if indeed the efforts of some prove successful and a windfall giveaway is instead enacted, then we may find that a large majority of those elected to the next Congress are going to come here with a mandate to pass what will be truly a punitive tax on oil production. I think the specter of everything from punitive taxation to nationalization will be facing these opponents of fair tax policies, and will be facing them with the support of a majority of those who will be elected to the next Congress.

Mr. President, I yield back to my distinguished colleague from New Jersey.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, as I remarked on the opening day of debate on the windfall profit tax, it has become abundantly clear that this bill is purely a tax bill, not an energy bill. It appears that Senators are driven now solely by considerations of revenue, and have lost sight of the chief problem at hand: insufficient incentives to produce more crude oil.

The whole point of exempting certain categories of oil, as the Finance Committee correctly observed, was to remove the discriminatory tax burden that would otherwise impede the search for certain categories of oil needed today. Only if market forces are allowed to operate freely, unencumbered by unnecessary taxes, can this objective be met.

If the proponents of a "minimum" tax have their way, we will not have more oil, but we will have more taxes. We also will have a tax bill that flies in its own face, by giving special consideration to hard-to-recover categories of oil, but then by slapping a tax on them anyway just to make sure that this bill will yield the maximum revenues possible for the Federal Treasury.

Like many other Senators, I was always under the impression that the purpose of the "windfall profit tax" bill was to capture for the Government the alleged "windfalls" of added revenue generated by decontrol of oil prices. Yet the bill has now evolved into a bill much larger in scope, by taxing the most sensitive categories of oil in terms of production response. We have drifted away from the concept of "windfall" and are now taxing merely for the sake of taxing.

The amendment offered by the Senators from New Jersey and Arkansas, as I understand it, would place a 20-percent levy on certain categories of oil purposefully exempted from the windfall tax because of their extreme production sensitivity to an additional, unwarranted cost of production. I might add that the Federal excise tax now under consideration is in addition to Federal income taxes, State income taxes, State severance taxes, and royalty payments that must be made to lessors of oil producing properties, including State and Federal governments.

The "minimum" tax would apply to newly discovered oil. But may I ask, just where is the "windfall" on production from a well not yet drilled? The minimum tax says there is one, because it would stretch the definition of "windfall" to include a meaning never before given it—an unexpected "gain" on oil not yet produced, on property not even purchased, the cost of which cannot even be accurately predicted!

The "minimum" tax proposal would tax it, nevertheless, by killing the current exemption for newly discovered oil. The minimum tax would also reverse the Finance Committee's best effort to provide the greatest incentive for the production of oil from enhanced recovery projects and heavy oil. These exemptions were adopted on their merits, in the correct belief that additional taxes on their production would result in more oil staying where it is right now—thousands of feet down in the ground, with no cost-effective means of getting it out.

One thing that alarms me about this bill that its proponents and those who want to place the maximum tax on the industry seem to place a higher premium on that than they do on recovery of very difficult sources of oil. In fact, they would see us cap wells and leave oil in the ground that will never be recovered, just for the sake of imposing a tax.

It is absolutely nonsensical to reduce the potential supply response gained from exempting high-cost, high-risk tertiary projects from the windfall tax by imposing a minimum tax of 20 percent. Denying ourselves this additional domestic production means that this amount must be obtained from foreign sources, which have already demonstrated their total unreliability well enough.

In addition, a "minimum" tax would merely carry over the regulatory morass in which the production of crude oil has been for years and which the President's phased decontrol plan was intended to eliminate.

Mr. President, I would like to add another significant aspect to this debate that has heretofore received scant attention by the Senate. That is the administration's weak-kneed reluctance to pursue technological advances that would obviate any further discussion of punitive taxation—of which the "minimum" tax is the latest variety—on a single industry.

I speak of the EPA's refusal to relax, even temporarily, the rules limiting the additive "TEL"—tetra-ethyl lead—for use in leaded gasoline. If these regulations were suspended even for a year or two, refiners would be given more flexibility to increase the output of gasoline by 350,000 or more barrels per day.

My point is that in addition to increasing output of unleaded substantially, the use of even a modicum of TEL in leaded gasoline would save each year millions of barrels of crude oil—and it will be crude oil which will be the most worrisome oil problem within the next year if OPEC further reduces output. Yet the EPA steadfastly ignores the savings in crude which would result from even slightly more lead in leaded gasoline.

The answer, of course, is to relax excessively stringent environmental regulations. Further, the administration should decontrol the price of gasoline. This too would have a pronounced effect on our shortage of crude oil. Permitting gasoline prices to rise with crude prices would do more to cut the demand for gasoline than any other step the Government could take.

One can see that if prudent action is taken, we need not be in this Chamber debating any "minimum" tax ideas. Such talk would be irrelevant, because the object of such a proposal—more energy supplies—would already be an accomplished fact.

This is not a time for poltroonery and fear of political fallout from doing what is necessary to lick our energy problem. It is high time for the administration to get its act together, by making a comprehensive effort to assure a more abundant energy supply in the years to come. That will certainly not occur by the ill-considered "minimum" tax amendments.

The oil ministers from abroad must be jumping for joy over our efforts here in the Senate to stifle our own production capabilities, so that we can instead play into their hands by buying their oil according to their rules.

A "minimum" tax on exempted categories can be supported neither by facts nor logic. It would, however, make it clear to those who do not understand already that the "windfall profit tax" bill is not a bill to promote maximum exploration and development of domestic resources. It is a bill that creates a new tax altogether, and the proponents of the "minimum" tax—driven by considerations of revenue, not oil production—want to make sure that its tax bite is the broadest, but its production is the narrowest.

Mr. President, again let me express regret that we consider it far more important to levy a tax on the industry than we do to gain a greater degree of independence from external sources for our energy requirements. I hope that sometime the American people will get the message that what we are doing here is not designed to produce more energy for the American people. Its ultimate result will be to produce less energy. But, by George, we will punish the oil companies. We have laid a tax on them.

In the meantime, we will continue to enrich the oil barons of the OPEC countries. We will talk about conservation, but do we have the guts to relax unreasonable environmental standards so that we can achieve savings in energy consumption?

Let the American people understand they are not getting an energy policy. They do not have one. What policy they have is one that is aimed at punishing those that produce energy, forcing waste in energy usage through unreasonable environmental restraints, and denial of incentives to produce more. That is what we are engaged in here; let nobody understand otherwise.

I have heard the distinguished Senator from Arkansas talk about demagoguery. I assure him that demagoguery is the opposite of what I have said, because indeed what I have said is true.

I can remember, about 10 years ago, when we were trying to prevent the raising of the quotas on imported oil, the same people here today who want to impose—or many of the same people; there are a lot of new folks around—some of the ones who, at that time wanted to raise the import quotas, did not care what happened to the domestic industry then. Arab oil was a dollar a barrel—a buck a barrel. Was that not wonderful? Domestically produced oil was $3 a barrel.

So we shut down wells in Texas, Louisiana, and Oklahoma. We stopped exploration and drilling. And there was a depletion in the oil industry in this country, because we could not wait to get our hands on that cheap Arab oil. We got it. The very people that want to punish the industry today, many of them, are the same people who reduced us to a status of dependency on external sources by insisting that we shut down domestic production to bring in the Arab oil at a buck a barrel. Boy, we got it.

For anyone around here who remembers, a few of us said, "You better see the handwriting on the wall, because, once you get reduced to a state of dependency on this source, once you develop a thirst for this Arab oil, the price is going up." And it has gone up.

The thrust of this bill is, again, going to be to discourage domestic production. There is going to be more money lining the pockets of the OPEC countries. Make no mistake about that.

Yes; we are punishing these wicked oil barons in the United States. At the same time, we are enriching the oil barons of the OPEC countries—make no mistake about that—to the tune of maybe having to eventually import an additional half million to a million barrels a day. That is the thrust of what we are doing here.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. PRYOR). Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, it seems it might even be an appropriate time to have a light insurrection on the floor, since there is no one here except my freshmen colleagues. But, of course, I will defer that privilege, I assure you.

I want to commend Senator DOLE and Senator WALLOP for their untiring and unflagging effort in this particular legislation.

Mr. President, there is an underlying and quite logical purpose to the Finance Committee's decision not to impose an additional tax of any kind on heavy crude oil, incremental production from enhanced recovery projects, and newly discovered oil. I think we should be mindful of this reasoning before we start imposing additional taxes on these costly categories of U.S. oil production.

I do not think that any of us need to be reminded that our dependence on foreign oil is risky business. This fact is becoming clear as we see the developments in Iran. We simply cannot be as complacent as we used to be about where our oil is coming from. It must come from the United States. We must become more self-reliant. We must not only reach energy self-sufficiency, but we must attain energy security. That is the key.

And now to place a minimum tax on newly discovered oil or oil from enhanced recovery projects or on heavy crude oil would be to totally ignore this reasoning. Indeed, it would do the opposite. It would encourage oil companies to expand their operations on foreign soils, encourage imports from foreign sources, and discourage exploration and production of our domestic petroleum resources.

As far as newly discovered oil is concerned, any additional tax on oil that has yet to be discovered would surely discourage domestic production. Any oil which is left in the ground must be replaced by imported oil. On the other hand, by exempting newly discovered oil from the restraints of a minimum tax, U.S. production can be expected to increase by as much as 1.5 million barrels a day by 1990.

In talking about new discoveries, Mr. President, I refer to oil that was first produced from a profit after the first of this year. The whole rationale for having any windfall profit tax, if I actually can understand it, has been that it would be a tax on investor profits. But how can there be any windfall profit on oil that has not yet been discovered? It does stretch the point a bit, does it not?

Mr. President, I cannot stress enough the importance of exempting from any additional tax newly discovered oil as a means of increasing domestic production. It is really perhaps the most significant production oriented provision in the Finance Committee's bill. The accounting firm of Peat, Marwick, Mitchell & Co. did a study on the supply response coming from the newly discovered oil exemption. The study concluded that the exemption for newly discovered oil would result in about 765,000 barrels per day more domestic production in 1990 than would occur under the House bill.

The study also predicts that such an exemption would result in an additional 2.2 to 6.9 billion barrels of crude reserves.

I submit, Mr. President, that the Nation's energy future will be more closely assured if we allow the energy industry the incentive needed to find high cost, newly discovered oil. I urge my colleagues not to place roadblocks in the way of discovering and producing new reserves of oil. That would be a critical mistake.

How do we cut our reliance on foreign sources of oil? The Finance Committee also agreed to exempt from additional taxation incremental tertiary oil production. This oil, extracted from the ground through expensive and often sometimes novel oil recovery techniques, plays a vital role in our total domestic energy picture. We know the oil is there. The problem is that conventional drilling methods are not always able to extract this oil from beneath the ground. Expensive, advanced recovery methods must be used. Unless it is an attractive investment, that oil, too, shall remain in the ground, adding further to our dependence on unreliable foreign oil and to this Nation's trade deficit.

With proper economic incentives it is possible to more than double our current domestic reserves, through enhanced recovery techniques, within a relatively short period of time.

The Department of Energy estimates that as much as 45 million barrels of oil may be recovered through tertiary recovery methods. That is equivalent to 15 years worth of our voracious appetite for foreign oil imports at the current rate at which we are importing. This production-oriented action taken by the Finance Committee will foster these recovery techniques, assist in producing oil that has been locked in the ground for years because it was too expensive to extract, and reduce our dependency on oil from the troubled and turbulent Middle East.

The minimum tax that is now being proposed, layered on top of existing taxes, would defeat the very purpose of the basic concept of the exemption. Such a tax is neither warranted nor logical nor needed.

And as for heavy oil, we are all well aware that President Carter himself in August of this year issued an executive order exempting heavy crude oil production from price control. The Finance Committee continued to acknowledge and affirm the importance of the President's action by exempting heavy crude from the windfall profit tax.

The committee understood, among others, that this difficult-to-produce oil would only remain in the ground if it were to be subjected to additional taxes. Wisely, the committee has determined to allow the heavy crude oil produced to be free of any additional tax burden. Let us not slap those back on now. Heavy oil, Mr. President, will make a substantial contribution toward increased U.S. oil production. As much as 200,000 barrels a day of heavy crude may be produced by 1985, and an estimated 500,000 barrels a day by 1990. That would begin to match our current imports from Iran.

Is there any doubt in the mind of anyone in this Chamber which source of the product we should prefer?

To sum up, Mr. President, we cannot afford the temptation to place any sort of minimum tax on these exempt categories if our goal is really to increase domestic production of oil and gas. And that surely must be—and is stated as—our goal, clouded at best.

Any new tax nullifies the essential market price incentive that will maximize the production of energy in this country. A new tax on these categories of oil would force us only to continue our current system of paying the foreign producers much more for imported crude oil than we permit the U.S. producer to receive for domestic oil. It is tough to fathom how we continue to do that to ourselves, but we are adept at it. To maintain the exemption for these crude oil categories will be to allow producers to furnish us with substantive additional amounts of oil that we must have.

There is really not much more to it than that. Of course, it may have a ring in it, I hope, of commonsense, and I think that often is a foreign commodity itself in this Chamber.

So I hope we would stop pilloring big oil and let it produce. Let us stay away from emotion and stay with reason. I again would leave you with that adage, emotion will always triumph over reason but reason will always persist. I feel that reason will persist in this arena. This would be the most crippling type of thing we could do when we are trying specifically by exemption to get the hardest oil to produce, to have it produced, to reduce our dependency on foreign oil and foreign countries who have no interest in our welfare whatsoever, and which has been so carefully proven in past weeks. Thank you, Mr. President.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I ask unanimous consent to temporarily lay aside the pending business and call up an amendment which I have as a substitute to the bill, to limit any amendments to that amendment, to limit the debate with respect to that amendment to a period not to exceed one-half hour, 15 minutes to a side, and at the appropriate time I will ask for a rollcall vote.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, the Senate finds itself in a very unusual position and one that the Senate should never be in. That is that the Senate has invoked cloture without the Members of the Senate having been given an opportunity to protect their position on the floor, without any prior notice.

What has actually occurred is that an amendment has been called up and set down for a vote tomorrow, and at the time it was done there was an understanding that Mr. Long would have the right to make a tabling motion on that pending amendment at 11 o'clock tomorrow.

At the same time, the acting minority leader indicated——

Mr. LONG. Will the Senator indicate the page he is referring to?

Mr. METZENBAUM. Congressional Record, December 10, 1979, p. 35259.

Mr. LONG. I thank the Senator.

That discussion took place as follows:

Mr. METZENBAUM. That discussion took place as follows:

> Mr. Robert C. Byrd. I would hope that on tomorrow we could agree to a vote on disposing of the minimum tax amendment. I would hope we could have an agreement which would allow Senators who may be away from the Senate an opportunity to come and vote on that amendment.
>
> Mr. Dole. That is why, if we would reach some agreement tonight to vote on Wednesday, it would give everyone an opportunity to be here.
>
> Mr. Robert C. Byrd. It is perfectly agreeable to me, if it is to the manager of the bill, to reach such an agreement.
>
> Mr. Stevens. Mr. President, will the Senator yield?
>
> Mr. Robert C. Byrd. Yes.
>
> Mr. Stevens. Is that on the motion to table the amendment, or on the amendment itself?
>
> Mr. Dole. On the motion to table.
>
> Mr. Robert C. Byrd. The motion to table.
>
> Mr. Long. Mr. President, I want to make it perfectly clear that as far as I am concerned, it would be all right with me to vote on the pending amendment itself. I think I understand it, and I am willing to enter into a unanimous-consent agreement to vote on it. Why does the Senator not ask, and see if he can get unanimous consent? If he can get consent, fine. Otherwise we can proceed without consent, and that would mean someone could make a motion to table.
>
> Mr. Robert C. Byrd. All right. I thank the distinguished manager of the bill. I think that is a reasonable position.
>
> I ask unanimous consent that the vote occur at 11 a.m. on Wednesday on the amendment by Mr. Bradley, and others.
>
> Mr. Dole. I object.
>
> The Presiding Officer. Objection is heard.
>
> Mr. Dole. The Senator from Kansas could now move to table the tax amendment. We might get an agreement on that.
>
> Mr. Stevens. Will my friend yield?
>
> Mr. Robert C. Byrd. Yes.
>
> Mr. Stevens. It is my understanding that we have a problem on agreeing tonight, because of the absence of Senators who did not realize we would have an agreement on voting on the amendment.
>
> We would have no trouble in agreeing to a vote to table the motion on Wednesday.
>
> Mr. Long. Mr. President, it does not require an agreement for someone to move to table. But I would be willing to agree with the majority leader that either I, or whoever wants to do so, would move to table the pending amendment, either in the first degree or second degree, at whatever time tomorrow the majority leader might suggest.
>
> Mr. Robert C. Byrd. Mr. President, as the distinguished manager of the bill has said, any Senator, at any time he can get recognition, may move to table the amendment. It

does not require an agreement as to a time certain to vote on the tabling motion. But I think it would be beneficial for Senators to know when such tabling motion would be made.

I, therefore, ask unanimous consent that Mr. LONG, or his designee, be recognized at 11 a.m. on Wednesday to make the tabling motion.

Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I thank the majority leader. I hope that this would give us an opportunity for the managers of the bill to set this amendment aside temporarily during the day tomorrow, if possible, and take up other amendments that might be disposed of prior to the time of the cloture petition.

Mr. ROBERT C. BYRD. Mr. President, I join in that hope.

Mr. STEVENS. Mr. President, reserving the right to object, there is one other question about this, and that is this vote would be scheduled to take place at the same time the cloture vote would take place under the petition that has just been filed. I wonder if we might clarify that, as far as the majority leader is concerned.

Mr. ROBERT C. BYRD. Yes; I would ask unanimous consent that the vote on the motion to table occur at 10:30.

The PRESIDING OFFICER. Is there objection? Without objection, it is ordered.

Mr. President, it is obvious from that colloquy that what had occurred was that there were some Members of the Senate who would not be able to be present and there was an effort to be fair. I gather that the Senator from Louisiana and Mr. DOLE indicated that they would like to protect the position of those Senators and give them an adequate amount of time to be present on the floor of the Senate. I well respect that. The fact is that the understanding was that it could be set aside and that other amendments could be brought up.

As the Senator from Ohio has indicated, I do not care how much time is allotted, I do not care whether or not it comes up now or 15 minutes from now or an hour from now. What we have done is preclude any Member of the Senate from bringing up an amendment without ever having given the Members of the Senate an opportunity to know that that is what had occurred. That is not right.

I respect the question of cloture and I had intended to vote for cloture and I still hope to be able to do so.

Mr. President, I feel I have a right—there are five other cosponsors on this amendment with me. That includes Senators RANDOLPH, HEINZ, SCHWEIKER, HUDDLESTON, and STEWART. I believe that we have a right to call up an amendment and have the pending business set aside. I do not believe it is right to foreclose us from having the opportunity to call up an amendment before cloture has been invoked. I think it violates the spirit of what was agreed upon.

There are alternatives available. I do not wish to explore those alternatives, but it is obvious we can force a vote on this measure on the pending business at the moment on a motion to table. That would be unreasonable and unfair, because it has been especially set for tomorrow at 11 o'clock, and that is fine with me. But I do not think it is fair to keep any of us—Senator DOMENICI has an amendment he wants to bring up or has already brought up, I am not certain. There are others who want to bring up amendments. I am perfectly agreeable to providing time limits. But I think to preclude us from bringing up an amendment at this time and then to set the other matter for a vote and have cloture occur immediately thereafter is unreasonable. It is unfair.

I want to be cooperative, Mr. President, but I do not believe the Senate is proceeding in a fair and equitable manner to all of its Members. We were not placed on notice with respect to this unanimous-consent request.

Mr. LONG. Mr. President, I have been in the Senate now for more than 30 years. Parliamentary situations occur all the time in which someone cannot offer an amendment because somebody else's amendment is pending. There is nothing new about that, Mr. President. It happens all the time.

The Senator from Connecticut (Mr. RIBICOFF) offered an amendment; then the Senator from New Jersey (Mr. BRADLEY) offered an amendment to the amendment. Both of those Senators agree. Their position is not really any different; I think we all understand that. But the effect of that is that nobody can offer an amendment in the second degree.

I suppose that the Senator from Ohio probably agrees with the Bradley amendment and more power to him. But until we vote on the amendment, we just cannot amend the amendment, because that one has not been voted on.

It was not my idea for the majority leader (Mr. ROBERT C. BYRD) to offer his amendment. Someone offered an amendment and then he offered an amendment to the amendment on the bill. That was not my idea. I did not ask them to offer that. But it is there. That being the case, we cannot vote because of that. At such time as they are disposed of, others can be voted on.

When the Senator said here that Mr. STEVENS said that he thought that we should be able to set this matter aside during the day so that other amendments could be voted on, he had in mind that Stevens amendment. He had in mind an amendment that Mr. STEVENS of Alaska would like to offer. I do not know, Mr. President, whether it would be a good idea to take that amendment up or not, but that is what he was talking about at that point.

I did not agree to anything, Mr. President. All I agreed to was that on tomorrow, someone could make a motion to table and we would put everybody on notice about the time that it would occur. There are a lot of amendments here, Mr. President, that I have no objection whatever to voting on.

For example, I had no objection to having somebody offer an amendment here that would provide a tax advantage for putting an energy-saving device on an automobile or truck. That was discussed with me previously. If consent can be gained that we can proceed to consider that, I would have no objection. But if someone wants to put the Chrysler bill on this amendment, I am going to object, because we will be bogged down forever with amendments like that and we ought to settle this bill before we go to the Chrysler bill.

The Senator is not proposing to offer the Chrysler bill, but he has a broad amendment that relates to a program to save the whole steel industry, which may very well be a good idea, so far as I know.

But, Mr. President, it is far afield from what we are trying to do in passing this energy bill.

When we vote cloture, if the Senate sees fit to do that on tomorrow, that is a very limited rule under the Senate traditions and it should be adhered to.

There are all kinds of amendments that have to do with energy that are, in a more general sense, very relevant to this bill. These will be out of order under the germaneness rule under which the Senate has proceeded during the years with regard to cloture. There are a lot of them.

In other words, the germaneness rule is a very limited rule. One of the best examples of that occurred when we had the bill before us that had to do with depletion on oil. Someone wanted to offer an amendment on depletion for coal.

The language in the Internal Revenue that had to do with coal and oil were the two succeeding words. Yet it was ruled, and I think properly, that this was a bill that had to do with depletion on oil, that nothing in the bill had to do with depletion on coal, and, therefore, even though they were both in the same section of the code, the two words side by side, and both basically the same kind of material, both hydrocarbons, that an amendment having to do with one was not germane to an amendment having to do with the other.

When the Senator got up and said something yesterday to the effect that he thought other amendments could have been offered, as far as I am concerned, that, to me, meant other amendments could be offered, if the Senator from Louisiana would be willing to see them legislated on on this bill.

But, Mr. President, I am not in favor of adding a spending limit to the bill. Some Senator are. I am not. I voted against that because at some point we will have to decide whether we are going to try to legislate on the entire Internal Revenue Code, then on the entire outdoors, or are we going to legislate on this windfall tax.

Mr. President, I personally am not willing to agree to keep loading this bill down with things that have nothing whatever to do with energy. Because, generally speaking, what that means is that we are wasting a lot of time arguing about things that have nothing to do with the bill. First, we spend all that time arguing about things not in the bill then we have to go back and talk to the House and they will refuse to take them. Then we will have to spend as much time arguing about taking them back off as we did putting them on.

There will be other bills before the Senate on which the Senator can offer an amendment. As far as I am concerned, we will have some other revenue bills.

I would like the Senator from Ohio to hear this.

As far as I am concerned, Mr. President, we will have some other revenue bills on which the Senator can offer his amendment.

For that matter, if the Senate fails to vote cloture on tomorrow, he can offer an amendment on this bill, even though I hope he will not. I wish he could be persuaded not to do so, but he would have that privilege.

But, Mr. President, nothing whatever is new about the parliamentary situation in which an amendment has been offered in the first degree and another in the second degree and Senators cannot offer another amendment because it would be in the third degree. The rules do not permit that. It applies equally to all of us.

I had said sometime ago, and perhaps in a weaker moment, that if the Senator from Arizona wanted to bring up something that had been discussed before in the Senate—something I agreed with—I would have no objection to his bringing it up provided we did not do it late in the game, so we would not add a lot of other irrelevant things on the bill.

The Senator from Ohio has objected to the Senator from Arizona bringing his amendment up, and he has that right. I am not here to quarrel about that. He can offer his amendment. Each can offer their amendments on something else.

But, Mr. President, I probably should not have agreed to go along with any amendment not germane to the bill.

That being the case, perhaps the Senator would have no basis to feel irritated with the manager of the bill.

But I regret to say, Mr. President, that if we are going to include everything anybody has in mind on the bill, the Senators are wasting their time seeking to amend it at all because the bill will not become law. We will just spend a great deal of time adding everything we can think of, and by the time we get through loading it down with everything the mind of man can conceive of having to do with taxes, we will wind up with absolutely nothing, nothing achieved.

That being the case, Mr. President, I feel I have no choice but to object, insofar as I can, to things being added to the bill that have absolutely nothing to do with it.

If I gave the Senator consent, we would have to debate then the merits of something totally irrelevant and not germane, which has no place on the bill we are considering here.

Mr. President, I suggest the absence of a quorum.

Mr. METZENBAUM. Mr. President, I object.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. METZENBAUM. Objection.

Mr. LONG. The Senator can object, but the clerk will call the roll, whether he objects or not.

The PRESIDING OFFICER. The Senator mav not object to a quorum call.

Mr. METZENBAUM. The Senator from Louisiana is correct.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. METZENBAUM. Mr. President, I have listened to the Senator from Louisiana. I have a lot of respect for him. I consider him unquestionably one of the smartest men in the Senate, one of the ablest.

I also consider him a man of high integrity and one of the Senate's finest.

What I am really saying here does not have to do with the merits of the argument the Senator from Louisiana made. The Senator from Louisiana is addressing himself to the question of whether or not a nongermane amendment belongs on this bill. Substantively, I understand that argument.

My contention is that this was not the intent of the Senate when it entered into this agreement—Senator STEVENS made that very clear by his comment—and that there is an element of unfairness in getting a unanimous-consent agreement with respect to setting a matter for a vote at a time certain and using that for the purpose of precluding other amendments being offered.

I recognize that the Senator from Louisiana is within his rights to do so. But I speak to him as one who also knows that it is not only the written word or the spelled out specific, but it is also the intent that means something in dealing with each other on the floor of the Senate.

There never was any intent, as far as I can determine, to use the setting of a specific time on the Bradley-Ribicoff amendment to preclude other amendments from being offered.

It is on that basis I say to my friend from Louisiana that technically he is correct. I am not even certain but that he has much merit arguing against adding nongermane amendments.

But there is a time and place in the procedure in this body to keep nongermane amendments from coming onto a bill by cloture, and that motion has already been filed by the majority leader.

I am saying to the Senator from Louisiana that he can win the battle, or maybe he will even win the war, as far as this is concerned. It does not mean he has to take every one and all.

The fact is that the amendment I have called up, tried to call up, is not a surprise to him. His staff has been aware of it. He has been aware of it for some days.

The fact is that it has been urged upon us prior to this point that this kind of amendment be held back so that there might be disposition made of certain other amendments, such as half a dozen plowback amendments.

So I say to my friend from Louisiana that he can win, he can prevail, and he can have his way. But in doing so, I think he is violating what was intended, and it comes about without any prior notice to any Member of this body.

Therefore, I hope the Senator from Louisiana will see fit to open the door wide enough so that the DeConcini amendment, my amendment, and such other amendments as may be called up can be disposed of within a limited period of time, with a time certain set for debate and to be brought to a vote.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the colloquy which was read into the RECORD by Mr. METZENBAUM a little while ago—I listened to it—clearly indicates that it was the hope that other Senators would be able to call up amendments during the day today, in the event that Senators did not want to take the floor to speak on the pending minimum tax amendment.

The objection to taking up a nongermane amendment is perfectly within a Senator's right. As a matter of fact, a Senator can object to taking up an amendment at this time that is germane.

I hope that Senators who have amendments that are nongermane or germane will be able to call up those amendments today, if no Senator seeks recognition to speak on the pending amendment.

I certainly sympathize and support the distinguished chairman in his efforts to keep nongermane amendments off this bill. He asked unanimous consent of the Senate a few days ago—I believe it was last week—that no nongermane amendments be in order. I wish the Senate had granted that request.

That is one of our problems here, in bringing out a bill. The committee reports a bill; and unless it is an appropriations bill, there is no rule of germaneness, until such time as cloture may be invoked. That is why we have all these amendments called up and voted upon repeatedly, on all kinds of subjects—abortion, busing, budget balancing, you name it. We have to vote repeatedly, scores of times, on certain subjects here, simply because there is no rule against nongermane amendments, except on appropriations bills; and ways have been found to thwart that rule.

So I sympathize with and support the chairman in opposing nongermane amendments. Nongermane amendments have been one of our problems on this particular bill. I have made a few statements on the floor to that effect.

I do not know what the amendment involves that the Senator from Ohio wishes to offer. I am not too familiar with the amendment that the distinguished Senator from Arizona (Mr. DECONCINI) wants to offer.

I do not find any fault with the chairman, who is attempting to keep nongermane amendments off the bill. I do see the validity of the argument that has been made by the distinguished Senator from Ohio, also. As long as we do not have cloture, he feels that he has the right to call up nongermane amendments. Ordinarily, that would be true. He has that right now, except for the fact that any Senator can object, because there are two obstacles to calling up any amendment right now, even a germane amendment.

It could not be called up, except by unanimous consent, because under the order that was entered several days ago, there still are two plowback amendments that are in order, one by Mr. Dole and one by Mr. Jackson. It would require unanimous consent to get an amendment up ahead of either of those.

Also, under the precedents, amendments to the House bill have precedence over amendments to the committee substitute. So we have the Bradley amendment to the House bill, and we have the amendment which I offered on behalf of Mr. Moynihan and others, Mr. Bradley and others, as an amendment in the second degreee to that amendment.

So that whole line of amendments to the House bill, which has precedence, stands there; and without unanimous consent, nobody can call up an amendment to anything.

There are two roadblocks to the calling up of any amendment, whether it be nongermane or germane.

I always try to keep in mind that the manager of the bill is the man who has conducted the hearings, who has conducted the markup, and who has stood on the floor and taken on the burden of protecting the bill, dealing with amendments, and I have great reluctance to attempt in any way to do anything other than support the manager of the bill.

That generally has been my rule, because I think that if we are going to have a structure to the organization of our committee system and our legislative process, the leadership, as much as it can, should support the man who is managing the bill, whether it is Senator Williams or Senator Ribicoff or Senator Randolph or Senator Long who is the chairman of the committee.

After all, I do not conduct the hearings; I do not conduct the markups. I have some responsibilities when measures come to the floor.

I hope it will be possible for the Senator from Ohio to have his amendment called up. I hope Mr. DeConcini can call up his amendment. But I certainly cannot be critical of any Senator who objects, because an objection is within the right of any Senator.

The colloquy last night was clear. I had hoped that Senators would be able to bring up amendments. I have no objection to a nongermane amendment, but the manager of the bill has to fight the amendment—it is not I—and I am not going to find fault with the chairman.

At the same time, I hope it might be possible during the afternoon for the Senator from Ohio to bring up his amendment. But I can understand the chairman's reasoning there, because he feels that if one nongermane amendment is allowed, that puts him in a difficult position to object to another Senator who wants to bring up another nongermane amendment, and then to the next one.

I hope, at least, that Senators who have germane amendments will come to the floor and offer them. They still would have to have unanimous consent to get them up. We have a whole afternoon. No one is here at this time wanting to speak on the pending amendment. If there are Senators who have germane amendment, I hope they will come to the floor, and perhaps the chairman will have no objection to those amendments.

It seems to me that Senators should at least bring up their germane amendments, amendments that would be germane under cloture, so that we can expedite the conclusion of this bill.

Mr. PERCY. Mr. President, will the majority leader yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. PERCY. Mr. President, the Senator from Illinois supports a strong windfall profit tax.

Ordinarily I would vote for cloture. But I am now in a position where I will have to vote against cloture, simply because several so-called nongermane amendments in my judgment are very pertinent to this bill.

I cannot conceive of any amendment more important and more germane to this bill than the amendment the distinguished Senator from West Virginia, Mr. Randolph, put in on my behalf this morning. That amendment calls for an extra 10-percent tax credit for any industry boilers converting to coal. We know the credits under the present law are not working. We have to expedite conversions, and we know this would do exactly that.

This is a windfall profit tax bill. We are dealing with how much money we are going to receive and how we are going to spend this money. This amendment, which I know the Senator from Ohio would be most interested in—and which Senator Huddleston, Senator Heinz, and Senator Randolph are cosponsoring—is backed by the members of the President's Coal Commission, and would dramatically move us toward more coal use. More quickly, in fact, than anything else I know.

Is that not a matter that should be dealt with in this bill?

Mr. ROBERT C. BYRD. Mr. President, let me answer that question. The Senator has directed the question to me. I am very much in support of the Senator's amendment, but that is not a matter that should be dealt with on this bill.

I stand with the chairman in opposing nongermane amendments to this bill. I said that last week; I say it again. We have spent all too many hours and too many days in dealing with nongermane amendments. Yesterday we had last week revisited because we defeated a nongermane amendment last week and it came back yesterday in slightly different form still nongermane, and we had to go up the Hill again and delay the Senate. I had to count votes here and I had to hold off the votes until I felt I had the votes because there was a nongermane amendment hanging around here.

So I am not making the plea now for nongermane amendments. All I am saying is that the manager has a point. He has justification. At the same time the distinguished Senator in reading the colloquy of last night has good reason to feel that he should be able to bring his amendment up because it was an understanding that hopefully this amendment could be set aside today and we could get on with other amendments.

Mr. PERCY. May I ask another question?

Mr. ROBERT C. BYRD. I have to say that in the interests of getting this bill through. While I sympathize with the feelings of the Senator from Ohio, who feels that if we did not have this agreement with this amendment up he could bring his amendment up, in truth he could not do so without unanimous consent because there are two other roadblocks.

I have to say for the chairman and in the interests of getting this bill to conference that I certainly can understand and I too am opposed to nongermane amendments. That has been the basis of my whole argument when I stood up here time and time in this debate. Now I cannot fly in the face of my own argument and say yes. I favor the Senator's amendment. I hope I will be a cosponsor to that amendment but not to this bill.

Mr. PERCY. Mr. President, I have to say to the majority leader that what we had a vote on yesterday seems to have had no relationship to this.

On the amendment we are talking about—my coal conversion tax credit amendment—I am willing to enter into a 30-minute time agreement and bring it up immediately. It is so simple to understand that 15 minutes is all that it would take to finish it. We should have a similar time agreement on the amendment of the distinguished Senator from Ohio.

The Senator from Illinois has now another amendment that we are all familiar with in principle. We passed it a year ago. It would merely set aside money for States which might otherwise be lost through declines in highway revenues resulting from conservation. There is presently a disincentive for the Governors of our States to save energy. It costs them 8 cents a gallon every time they do, and their costs are going up. We have to give them an incentive for conservation.

This amendment, too, goes absolutely to the heart of what this bill is all about. We cannot get an appropriation for it, but we can get a diversion of the windfall profit tax revenues. This is the best possible place from which to take that kind of money.

We have two simple, vitally important coal amendment, one highway amendment, and we could finish them all in less than 1 hour. But, instead, we are going to just waste that time this afternoon.

Mr. ROBERT C. BYRD. If the amendment is germane—I have not seen it—it can be called up after cloture. If it is not germane——

Mr. PERCY. I think in strict interpretation of what germane is, these probably would be ruled nongermane. But they are pertinent, very pertinent. They go to the heart of the bill. They say what we should do with the money that we raise and that has been the whole argument all along.

Mr. ROBERT C. BYRD. I yield the floor.

Mr. LONG and Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER (Mr. STEWART). The Senator from Louisiana.

Mr. LONG. Mr. President, I wish to direct the Senator's attention to a sheaf of paper we have here of amendments to be considered. Let me ask Senators to look at page 19 and just look at one little item there that is waiting on our attention. This is item 135.

What we are talking about here now are amendments being offered to this bill and presumably each Senator puts these amendments in because he thinks they should be agreed to.

This is list item No. 135. It refers to amendment No. 735. Why does it refer to amendment No. 735? That is because there were 734 amendments out there when this one was sent to the desk. So, at this rate we will soon have 1,000 amendments sitting out there.

Let us take this one little amendment, which is amendment No. 735.

Mr. President, to save the Senate's time, I ask unanimous consent to print in the RECORD the list of all the cosponsors of amendment No. 735.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Bentseen, Percy, Talmadge, Dole, Gravel, Danforth, Moynihan, Chafee, Matsunaga, Durenberger, Baucus, Wallop, Boren, Packwood, Church, Roth, Prvor, Heinz, DeConcini, Tower, Morgan, Cochran, Domenici, Humphrey, Stafford, Ford, Weicker, Johnston, Baker, Stone, McClure, Hollings, Cohen, Stewart, Hayakawa, Durkin, Thurmond, Huddleston, Pressler, Cranston, Helms, Leahy, Lugar, Riegle, Javits, Simpson, Biden, Schweiker, Stevens Laxalt, Hatfield, McGovern, Warner, Kassebaum, Nunn, Armstrong, Jepsen, Goldwater, and Inouye.

Mr. LONG. Mr. President, I am afraid that I must be embarrassed to mention that my name is not listed as one of the cosponsors. I think I shall have to try to get unanimous consent somewhere along the line to be so listed because it is a popular amendment. The public likes the idea. It will cause great joy among many taxpayers of the country if the amendment becomes law.

This is an amendment to provide tax exemption for interest earned on savings accounts.

If one reads on down he will find it also provides an additional tax break for divided income.

Mr. PERCY. Is that the Bentsen-Percy amendment?

Mr. LONG. It is the Bentsen, Percy, Talmadge, Dole, Gravel, Danforth, Moynihan, Chafee, Matsunaga, Durenberger——

Mr. PERCY. That is Senator DURENBERGER.

Mr. LONG. I do not want to leave anyone out—Baucus, Wallop, Boren, Packwood, Church, Roth, Pryor, Heinz, DeConcini, Tower, Morgan, Cochran, Domenici, Humphrey, Stafford, Ford, Weicker, Johnston, Baker, Stone, McClure, Hollings, Cohen, Stewart, Hayakawa, Durkin, Thurmond, Huddleston, Pressler, Cranston, Helms, Leahy, Lugar, Riegle, Javits, Simpson, Biden, Schweiker, Stevens, Laxalt, Hatfield, McGovern, Warner, Kassebaum, Nunn, Armstrong, Jepsen, Goldwater, Inouye amendment.

I will try to find some way to get my name on it because if it is going to become law before it is voted on I wish to be listed as a cosponsor.

Mr. PERCY. Mr. President, I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. I am pleased that I was given consideration. I made it.

Mr. President, when that subject matter first came up the Senator from Louisiana engaged in some dilatory tactics to keep Mr. BENTSEN from bringing this amendment up. He was satisfied that if we got involved in all this—at that time we were just talking about interest; now we are talking about interest plus dividends—it would lead us into a great number of other areas and there would be other amendments offered that were not germane to the bill so that we would spend a great deal of time, conceivably, voting on this and this would be subject to amendment. It would open up the bill to amendments relevant to this. So we would be subject to a great deal of legislation that would take time and all the the time that that took would delay action on the windfall profit tax.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PERCY. The Senator can guarantee that the Republican side of the aisle will agree to a 15-minute time limitation. Out of 41 Republican Senators there are 41 Republican cosponsors of that amendment. There will be no dilatory tactics or delay of any kind.

Mr. LONG. Mr. President, I do not believe we can vote on this amendment in 15 minutes because there will be at least 60 Senators who will wish to make a speech so they can tell their constituents that their speech was the one that persuaded the Senate to vote for the amendment. But this amendment, when it is before the Senate may very well lead to a lot of other amendments, and for all we know this could lead to a great deal of debate. It took a lot of time to persuade the Senate not to get us off into this area until we could hold a hearing and let the committee pass judgment on it and see what we thought about it. So here it is.

Now, that is just one, Mr. President, that opens up a great deal of the area of interest and a great number of other matters that can be voted on.

The Senator from Louisiana would hope that we would not be involved in all of this and, if we pass such an amendment, that it be on some other bill. It could pass on some minor House bill, on which we could add this as a rider and get action.

I can understand the Senators' feelings that they want it on this bill because they are afraid the President might veto it if it went down on some other bill, and there would not be time for the Senate to act on the veto. That is just one example of how far astray we can go with this precedent.

Mr. President, this is not the only thing that is not germane. I might say it was not my idea but we have something here to repeal the carryover basis. That would be great good news to all the people who own timberland around the country, to people who have substantial estates, or people who have inherited property from their parents or grandparents, great good news to the bankers and all who are in favor of it. That is such good news that I would say anybody who is planning to speak to a civic club between now and the next election will be sure to bring up the carryover basis. That is in this bill. That is strongly opposed by the administration, but we will again have the opportunity to explain our views and we believe the windfall tax is such an important matter that we can probably prevail in spite of that.

Those are just two items, Mr. President, that will be voted on, and that can be amended even after cloture is voted. They are not germane to the bill; that is, they are not germane to the windfall profit tax bill. But to the extent that this has been agreed to be voted on, and to the extent that we voted the other into the bill that opens the bill up to amendments in that area.

Now, Mr. President, there have been a lot of other amendments added to the bill that tend to broaden it, an amendment by Mr. ROTH, very meritorious amendment, which says we ought to call off the increase in the social security tax schedule come January 1, 1981, call off that big tax increase and earmark some of this money or at least lay claim to it to use that to help pay the money for the social security tax that goes into effect, next January 1. So that is in. All the time, Mr. President, the Senator from Louisiana has been pleading with people to please try to keep this bill limited to something that is relevant and germane.

I applaud the Senator from Ohio. He is sincere, he is dedicated, and he is seeking to look after his people. I would like to cooperate with the Senator, and to the extent I honestly feel I can, I will cooperate with him.

But, Mr. President, his amendment is an $800 million program to help communities and help citizens who are getting the worst of it because the steel industry is suffering. I am for helping the steel industry. But, in the main, Mr. President, what the Senator has in mind is not within the jurisdiction of the Committee on Finance. We are not the experts on it.

If we get into it, we are trespassing

on the jurisdiction of other committees. Ordinarily one would think that the authorizing committee, which I am led to believe in this case it would be the Committee on Banking, Housing, and Urban Affairs, would have the responsibility, I do not know why, Mr. President, the Senator from Louisiana has to stand here and try to defend the Banking Committee. The Banking Committee ought to be here to defend itself.

I can recall a time when we put an amendment on one of these energy bills that had to do with trust funds falling properly within the jurisdiction of the Banking Committee. The chairman of that committee, Mr. PROXMIRE, and his group met and they were very upset about the matter and insisted that we strike it from the bill. So we did.

We had something in there that trespassed on the jurisdiction of the Energy Committee, so we took that off. Mr. President, we have been subject to criticism because in trying to provide an answer for something sometimes we do come up with an answer that involves the jurisdiction of another committee.

If we wander so far afield, Mr. President, that we just get involved in everything, I do not see how in the world we will ever pass this bill. If we are to take the Senator's amendment, it would not take much of a modification of the Chrysler bill, which is waiting its turn in line. All one has to do is to say, "Let us take some of the windfall profit tax money and use it to save the Chrysler Company." There is plenty of money, enough to take care of it. If that is what the Senate wanted to do, you could then follow the same procedure, and so piggy-back the Chrysler bill on top of this bill. So it goes.

Mr. President, as one who is hoping to pass the bill, I just believe it is not a good idea for us to wander that far afield. I do not see how, as the manager of the bill, I can agree to accept amendments of that sort without getting into the position of being more or less obliged to go along with just anything people want to offer to the bill.

We will vote on cloture tomorrow. One advantage of cloture, whether we want to vote for it tomorrow or not, is it gives us a germaneness rule. It is a very strict germaneness rule, and it will at least limit the breadth of the things that can be considered.

As I say, Mr. President, I asked for a germaneness rule sometime back just for that reason, because I would like to try to confine the bill to something that is as near as can be to what we set out to do. I am personally convinced that if we broaden this bill much more, a single amendment in some cases, it could keep us here until Christmas, and that would not count all the others.

So if you hope for the bill to pass, I would hope the Senator would be willing to help us limit the bill, and that is what I am trying to do.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, the Senator from Louisiana is very persuasive, and has a very good argument. If I thought, in looking back over his many years of distinguished service in the Senate he had never voted for a nongermane amendment or never in the future intended to vote for a nongermane amendment and would never participate in the acceptance of a nongermane amendment to any measure he is handling on the floor, then I would be more persuaded as to the validity of his position.

But the fact is that he and I and others all have voted for nongermane amendments. We raise the germaneness issue when we do not want to accept an amendment. As a matter of fact, I do not know of anybody who is more familiar with the whole plethora of amendments that can be offered to a bill, and I would say that the Senator from Louisiana is the author, the expert, the king of the hill, when we talk about the so-called Christmas tree bills and Christmas tree amendments because more than once we have accepted amendments all over the lot having to do with a host of subjects. That is all in accordance with Senate procedure, and I do not fault him on that. I respect him for it. Some of those I may have supported and some I may have opposed.

But in this instance the issue before us is not whether or not we ought to accept or reject a germaneness amendment. The issue has to do with the element of fairness. The fact is that once cloture is invoked, we have no right to offer or to have accepted nongermane amendments. What happened was that in this instance, a motion was made absent the knowledge of any of us—some of us had indicated our concern and indicated we wanted to be on the floor if such a limiting motion were to be made or a request, and we were not aware of it.

Now, in all fairness, I do not fault the majority leader with regard to that, because I do not think that he intended this unanimous-consent request about setting the amendment for a vote at 11 o'clock tomorrow to preclude any additional amendments. He so indicated on the floor a few minutes ago, and in the colloquy yesterday.

I would say to the Senator that maybe the Senate ought to change its rules entirely, and adopt a rule—which I would be in favor of and would cosponsor—that at no time could any Senator offer a nongermane amendment. But that is not the rule of the Senate. That is only the rule of the Senate after cloture has been invoked.

Under the circumstances, what I am saying is, "Well enough, if cloture is invoked, then you have a right to raise that issue." But I am told that even Senator JACKSON, who has a germane amendment, is prepared to come to the floor at this time, and he is told he will find opposition to it if he does.

So what we find is that yesterday we participated in many hours of discussion over bringing this bill to a conclusion, and now we will have spent 2 days in debating absolutely nothing at all, and not being able to bring this amendment to a vote.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. METZENBAUM. Yes; without losing my right to the floor.

Mr. LONG. Let me just say to the Senator that it may very well be that the Senate will not vote cloture on tomorrow. It may be there will be an opportunity to present the amendment after the motion to table is made, between then and the time of the cloture vote. Let us assume, for the sake of argument, that cloture is not voted. The Senator might go ahead and make his speech now, and explain his argument so everyone will have it in the RECORD. Furthermore, Mr. President, if he just insists on offering his amendment on a revenue bill, we hope to bring up about three more of them, and those of us on the Finance Committee, in the main, have been holding our amendments off this bill and have sought to amend three other bills that we have reported out of the committee, so that Senators will have other bills on which the amendments can be offered.

Let me say to my good friend from Ohio that nobody is more diligent, more determined, or works harder in trying to represent his people than does the Senator from Ohio.

Mr. METZENBAUM. Thank you.

Mr. LONG. But let me just say to the distinguished Senator that when he invokes the expression "Christmas tree bill," I was around when we had the first so-called Christmas tree bill. In fact, on that occasion I was the assistant majortiy leader and also the acting chairman of the Finance Committee, and I was asking Senators to hold off their amendments until we got some of the principal parts of President Johnson's program, which had also been part of the Kennedy program, passed.

I promised them that we would afford them an opportunity to offer their amendments on some bill we thought the President would like to sign. And they were very cooperative; they held back and waited, and withheld their amendments for about a year, and then we finally brought up a bill the administration wanted passed; it was the interest equalization tax, an administration-sponsored bill recommended by the Secretary of Treasury, and at that time we had about 25 or more amendments, and some reporter from the Washington Post said, "When the bill hit the floor, it lit up like a Christmas tree"—at that time it was about December 15. We had taken care of the problems the committee was familiar with, that Senators had asked about; and then Senators came in with at least 50 more amendments, which very much broadened the scope of that bill. And the bill became law. It did become law, and most of those amendments, especially those that had the most merit, I think the majority of those amendments, became law.

We did as much as we could on that bill. If we had put those amendments on some of the other bills we were passing, they would not have passed.

Mr. METZENBAUM. The Senator has persuaded me to speak to the issue itself, which I will do, because I have the feeling that I will be so totally persuasive that the Senator from Louisiana will change his point of view. But I gather that the Senator from Illinois wishes to speak on other matters; so, without losing my right to the floor, I yield to the Senator from Illinois.

Mr. PERCY. Just for a question. Mr. President, the Senator from Illinois came to the floor at 1 o'clock this afternoon to offer a couple of amendments. I was willing to enter into a time limitation. I checked with the floor manager of the bill (Mr. LONG) at that time, and I was told to return at 3:30.

I did, I have been here 45 minutes now.

I base my ability to offer these amendments on the following legislative history, in connection with the unanimous-consent request yesterday:

> Mr. STEVENS. Mr. President, reserving the right to object, and I shall not object, I thank the majority leader. I hope that this would give us an opportunity for the managers of the bill to set this amendment aside temporarily during the day tomorrow, if possible, and take up other amendments that might be disposed of prior to the time of the cloture petition.
>
> Mr. ROBERT C. BYRD. Mr. President, I join in that hope.

There were the majority leader and the acting minority leader giving assurances to Senators that the pending amendment would be set aside for the purpose of doing business today—or so I thought.

We are not talking about amendments that have nothing to do with this bill. We are not talking now about the kind of amendments we are all so enthusiastic about—carryover and investors' incentives. We are talking about amendments that go to the heart of this bill.

What do we do with all this money? The Senator from Illinois supports a strong windfall profits tax, because it is in the national interest to have available money for conservation, coal conversion, solar—for everything that we need—new oil exploration incentives, tertiary recovery, et cetera. If we cannot offer amendments to do this—if we are spinning our wheels, doing absolutely nothing right now—the majority and minority leaders really misled the Senate. Not intentionally of course, but they did mislead the other Senators. I certainly would have objected to the unanimous-consent request yesterday if it had been felt that we were foreclosed from bringing forward pertinent amendments to this bill, amendments we have discussed with the manager of the bill since it first came on the floor.

If we can do something by unanimous consent one day, why can we not just list certain amendments that the floor managers agree go to the heart of this legislation, and have unanimous consent that those amendments now be in order for discussion, prior to a vote at 10 or 11 o'clock tomorrow? Is that a possibility?

Mr. LONG. Well, Mr. President, regretfully I say that as much as I sympathize with the distinguished and able Senator from Illinois, who fights diligently and with all the intelligence and vigor that any Senator could muster to look after the needs of his people and others in similar situations, the amendment sponsored by Mr. METZENBAUM and others is far afield from the bill before us. The Senator from Illinois (Mr. PERCY) has some proposals—I am not familiar with all of them, but I know that some of them are relevant to the purposes of the bill. The Senator well knows how tight the germaneness rule is. There are all kinds of amendments you can offer that are relevant to what we are trying to do here, but under the germaneness rule and the Senate precedents they would not be ruled germane to the bill, and that is what the Senator is talking about.

There are a lot of amendments of that sort, that I did hope to bring in here. But any time you have something that requires unanimous consent, any Senator has a right to object—every Senator here—and I can understand and fully appreciate and do not quarrel at all with the strong feeling of the Senator from Ohio that, in view of the fact that the same concern was not given to bringing up his amendment, he objects to other people's amendments being brought up.

And I just have to live with that. There is not much I can do about it.

It is all right with me to consider some amendments, but not those that would be so far afield from what we are talking about here that it just turns the bill into a Christmas tree; just a complete Christmas tree.

Mr. PERCY. May I ask one more question of the Senator? Is the Danforth amendment, about which the distinguished Senator from Louisiana (Mr. LONG) feels so strongly, germane under this bill?

Mr. LONG. Well, certainly, one of the Danforth amendments is germane to the bill. The Senator had another amendment that I have not had a chance to carefully read to be able to know what it does do or what it does not do. I just had a chance to glimpse at it just to see a few words on it. It may or may not be germane to the bill.

The Senator from Missouri (Mr. DANFORTH) seems to feel that one of his amendments would not be germane, and the reason that might be the case is something the Senator from Louisiana just does not know. I am not that familiar with the amendment. It has not been printed, may I say. If it had been printed perhaps I could tell the Senator from Illinois.

Mr. PERCY. Certainly, the Senator from Illinois has been soul searching on that and other amendments.

We have all dealt openly with each other on what was going to happen. Yet most of us had no concept that by the unanimous-consent agreement yesterday, we would be precluded from bringing up amendments that we considered went to the heart of this bill. Coal conversion should be one of the most important single purposes of the use of windfall profits. It would do more to arrest importation of oil than anything I can imagine or design. And this bill was designed exactly for that purpose. Yet I am being precluded from bringing up my coal conversion amendment.

Mr. President, I would like to ask unanimous consent that the Percy amendment, sponsored by three other Senators, dealing with industry coal conversion, the Jennings Randolph amendment dealing with utility coal conversion, and the amendment dealing with turnbacks to States for their conversion efforts, be considered in order and be eligible for immediate consideration by the Senate, so that we can get about doing some business today.

Mr. LONG. Mr. President, reserving the right to object, I will be glad to take a look at the amendments. They are not printed, but they have been typed. I will be glad to look at the amendments and see to what extent I would be disposed to consent.

May I say to the Senator from Illinois that when Senator STEVENS spoke yesterday, I know the particular amendment he had in mind. And, as far I am concerned, it is just something we can legislate on. But someone else may object.

Any time you are in a situation where it requires unanimous consent, as the Senator well knows, 100 Senators can object and they can object for a variety of reasons.

Mr. PERCY. Well, Mr. President, I just served notice that I would ask for such unanimous consent. I want to give adequate notice to anyone who may want to object and would want to protect their rights. But the rights of this Senator were not protected yesterday, because he went on the representations that were made by the acting minority leader and the majority leader that we would spend our time today bringing up amendments that could be voted on.

Mr. LONG. Mr. President, that would depend on whether unanimous consent can be obtained. I do not think anybody suggested that we were going to give unanimous consent to bring up everything that somebody wanted to bring in here.

I can understand how a Senator feels when he finds an objection is made to considering a matter that he had in mind. I cannot quarrel with that. I just say it is a fact.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio (Mr. METZENBAUM) still has the floor.

Mr. McCLURE. Mr. President, I wonder if the Senator from Ohio, before continuing with the description and discussion of the amendment he would like to offer, if he had the opportunity to offer it, will yield to the junior Senator from Idaho for about 4 minutes?

Mr. METZENBAUM. I yield to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for his courtesy.

Mr. President, while the Senator from Illinois is on the floor, let me say that I was distressed to hear him say that, in his opinion, he supports a windfall profit tax because we need the money so we can spend it.

It seems to me that it was not long ago I remember seeing the Senator from Illinois on television and saying to the voters of Illinois: "I got the message." It seems to me that now he must have lost the message.

But, aside from that issue, whether or not we are going to have increased spending, I think the Senator from Ohio should be—and I know he is—aware that the blockade of the amendments is not something that has been hastily arrived at, nor simply contrived by a colloquy yesterday.

It was a week ago last Thursday that the junior Senator from Idaho offered an amendment to H.R. 3919 and immediately started a procedural nightmare on the floor, which was not my intention at the time. The majority leader and the Senator from New Jersey (Mr BRADLEY), immediately recognized that the amendments in the first degree and second degree that were then pending were not the only amendments that could be offered. It was not my intention to supplant their amendment. It was a situation almost precisely like this one, where I thought we would bring an amendment up and get it disposed of.

But the effect immediately was to stimulate the desire on the part of the Senators on the other side of the issues that are involved in this bill to make certain that this did not happen. They immediately blocked my amendment by offering a second degree amendment which was identical to the other pending amendment on the Senate substitute.

And so, for nearly 2 weeks now, we have been on notice that this was going to happen. It is not something that just happened now. And we have those two amendments. After I withdrew my amendment to the House bill, they immediately offered a first degree and second degree amendment to the House bill, which are identical to what the Senate has already voted on, on the Senate substitute.

And they still remain pending there for no reason under the Sun, other than to block the possibility that the Senator from Ohio, or the Senator from Idaho, or the Senator from Illinois, or any other Senator may offer an amendment. I think the Senate has been on notice for nearly 2 weeks now that that is what was going to happen.

I am concerned, however, that my friend from Ohio, in responding to that issue, would jump to the conclusion that we ought to do away with nongermane amendments in all instances. I think if we are to do that, we are going to have to substitute some other means by which the Senate can work its will on legislation that has not proceeded through an authorizing committtee.

One of the difficulties we have with the measure before us is one that has been growing over the years. With the advent of tax credits and inversion tax credits in large fields, and with a tremendous quantity of money involved in here that can be used across a whole realm of Federal programs—some of which the Finance Committee voted to use and others of which they did not—we have, in effect, created a situation in which almost anything that the Federal Government can do is in some way related to or germane to the tax code or a credit against the tax code or an inversion tax credit, which is really a payment from the Treasury, from a Finance Committee measure, particularly when you have got a spot of $280 billion that is potentially there to be divided up for all kinds of Federal programs.

So I think we have built ourselves gradually into this condition. I hope we will not now react to that by saying we will do away with the rule in the Senate, or create a rule in the Senate that makes germaneness a prerequiste for every amendment that comes down the pike. It seems to me if we are going to do that, we have to balance it with some kind of rule that allows us to look at whether or not an authorizing committee has done its work, at least to the satisfaction of the majority if not a substantial minority of the Senate.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. McCLURE. Will the Senator from Ohio yield another 2 minutes without losing his right to the floor? I ask unanimous consent that he may do that.

Mr. METZENBAUM. Without losing my right to the floor, I will yield 2 additional minutes.

Mr. McCLURE. I thank the Senator. Did the Senator from Louisiana want to respond or ask a question?

Mr. LONG. Mr. President, I have not contended we should have a germaneness rule in all cases. I just feel that now and then we ought to be able to bring up a bill as a good example and say, "We want to act on this bill," and without having to move for cloture, simply move for germaneness. As the Senator knows, when you move for cloture, you do get germaneness. That is in the cloture rule. But if you ask by a vote of 60 percent of the Senate, as it would be in cloture, if you simply ask for a germaneness rule, a lot of Senators might be willing to agree to a germaneness rule who might not agree to a limitation on debate.

Once we had a limit on germaneness, that would keep us from straying too far afield and hold us pretty strictly to the bill before us. That would expedite the passage of the bill. There have been occasions when the Senator from Louisiana has filed a cloture petition and has gotten the Senate to vote cloture just to get the germaneness rule.

That does limit Senators more than necessary. If Senators find a bill is very obnoxious after it has been modified and changed, by rights they should be willing to debate it at length, not just 1 hour.

That is what I would advocate, not to say in all cases to require germaneness, but to say when the Senate decides it wants to get on with its business, it ought to have more than one option, it seems to me. One of the options ought to be just to vote for the germaneness rule and not just for the 1-hour limitation.

Mr. McCLURE. I understand what the Senator has said. Of course, the Senator is aware that the cloture rule has been changed so that the invocation of cloture does apply to the germaneness requirement. Prior to that, they only had to be lodged at the desk prior to voting for cloture. Whatever is done in the cloture rule, it is a question of balancing the rights of individual Members in one setting as against a set of rights that they might exercise or which would be removed from them in a different setting.

Mr. LONG. If the Senator will yield——

The PRESIDING OFFICER. The 2 additional minutes have expired.

Mr. LONG. The amendment——

Mr. McCLURE. Will the Senator yield additional time?

Mr. METZENBAUM. The Senator from Ohio wants to be very considerate of his friends from Louisiana and Idaho. Can I propose yielding an additional 2 minutes without losing my right to the floor? I hope this will be the last 2 minutes.

Mr. McCLURE. I thank the Senator. I only ask so that I can assure the Senator from Louisiana that I am as concerned as he about the germaneness rule. I am also concerned about the balance of rights that are granted or withheld from Members of the Senate under cloture circumstances. I understand the frustrations we must feel at a time like this when somehow the bill has to be brought to close. I am not critical of these efforts here today or over the past week.

I wanted to say to my friend from Ohio that regarding concern over the question of germaneness, the only way to answer that is not simply in dealing with a rule that says that amendments must be germane under all circumstances.

I appreciate the remarks of the Senator from Louisiana.

Again I thank the Senator from Ohio for his courtesy in yielding.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. I would like to now make a sufficiently persuasive speech so that our friend from Louisiana will permit us to consider the amendment I have attempted to call up.

Mr. President, the week before last, the United States Steel Corp., the Nation's largest steel manufacturer and the 15th largest industrial company, dealt a crushing blow to 16 communities when it announced a decision to close down plants employing more than 13,500 workers in 8 States.

That corporate decision will have a lasting impact on all those communities. But no community will be harder hit than Youngstown, Ohio, a steel town that has already been dealt a series of body blows.

Just 2 years ago, the Lykes Corp. closed down its Campbell works, a move that put 4,100 steel workers out of jobs. The community is still reeling from that plant closing.

Now United States Steel has announced its decision to close down the Ohio and McDonald works which will lay off another 3,500 steelworkers.

And the Jones and Laughlin Steel Corp. has announced that it will close its Brier Hill works after Christmas, which will mean layoffs for yet another 1,400 workers. Great Christmas news for those 1,400 workers who will be laid off.

Unless the Federal Government steps in, these most recent plant closings may well be the knockout punch for a community that has already suffered severe damage.

The amendment I tried to offer today is cosponsored by Senators RANDOLPH, HEINZ, HUDDLESTON, SCHWEIKER, and STEWART. And I know it has other broad-based support because the steel plant closings will affect the States of Connecticut, California, Pennsylvania, Alabama, Illinois, New York, and soon Utah, all in addition to Ohio. In short, the amendment would give the Government the tools necessary to help save Youngstown and other communities that have been affected by steel plant closings. It also assists coal communities that have suffered from mine closings. The purpose of this amendment is to set aside $800 million from the windfall profits tax to bring in new companies that will employ workers and diversify the economy of those areas. This fund would be administered under the Commerce Department's EDA program to help those communities.

This money is not intended to be used for any other purpose.

It is not intended to replace funds that have already been administratively committed to those steel and coal communities.

It is intended, pure and simple, to give those communities a hand—and to give it now.

It is comparable to the disaster relief funds that we have oftentimes passed here on the floor of the Senate. It is comparable to the kinds of appropriations that we make when we have great droughts out in the farm areas of the country.

Mr. President, it is almost impossible to imagine the full impact that plant closings of this magnitude will have on the city of Youngstown. According to the State of Ohio, unemployment in Youngstown will double in the next few months to more than 13 percent. The total number of unemployed workers will swell to over 15,000. That includes the steelworkers and 1,400 employees of the General Motors Corp., who have just been laid off at the nearby Lordstown plant.

These closings will have a devastating impact on the community and throughout northeastern Ohio—an area that has not even been able to fully absorb last year's layoffs at the Campbell Works.

It has been estimated that only one-fourth of those steelworkers found jobs that are comparable to their old ones.

Another one-fourth of those workers found employment that was below their former jobs and are considered underemployed.

Another quarter moved out of the area. And the remaining one-fourth of those workers remain unemployed to this day.

High as those numbers are, the unemployment figures do not reflect the true extent of problems in that area.

Many laid off steelworkers have used up all of their unemployment benefits, have not found new employment, and thus are not in the labor pool. And the situation would obviously be much worse if many of the workers and their families had not been forced to leave the area to find new jobs.

The situation in Youngstown can only worsen in the next few months.

Many employees from the Campbell Works were eligible for extended benefits under the trade readjustment assistance program, because that plant closing was at least partly due to unfair imports. But the Department of Labor has already refused, on three separate occasions, to certify that the United States Steel facility in Youngstown is threatened by the imports of foreign steel. As a result, those 3,500 employees will receive only a minimal amount of assistance.

We must provide immediate assistance to the steelworkers in Youngstown.

That is the reason it is so important that we have an opportunity to bring this amendment up today, not some time in the near distant future or far distant future. It is important not only to the steelworkers in Youngstown, it is important to those who are being laid off in other communities as well. But our primary efforts must be directed to reviving the communities themselves and to preventing more plant closing in the months ahead.

The funds made available by this amendment will be used for that purpose.

With the $800 million set-aside by this amendment, the Economic Development Administration will be able to assist new businesses that need technical and financial assistance to locate in hard-hit communities like Youngstown. It would also be used to assist existing steel facilities that are threatening to close in the near future unless preventive action is taken. This type of assistance may be necessary in the major steel communities of Chicago and Birmingham, where United States Steel has indicated it may close plants that now employ 8,000 and 4,000 workers, respectively.

Mr. President, I emphasize that the types of assistance that would be available with these funds will not establish a new category of programs. Such financial assistance to communities and to businesses is a well-established part of the EDA program. We are simply raising the funding level for existing programs that are administered by EDA, a program created and structured by the distinguished senior Senator from West Virginia (Mr. RANDOLPH) to help individual companies and local communities that have relied on the steel and coal industries for decades to begin to diversify their economy, so that local citizens can find new employment in healthy, thriving firms. Special emphasis should be on bringing in companies or expanding existing plants to provide at least 150 new jobs.

We must also acknowledge that there will be a tremendous cost if we refuse to take any action at all. These plant closings will have a devastating cost, both in economic terms and in human terms. The closing of the United States Steel Corp. plant alone means that the city of Youngstown and many outlying communities will have a major part of their local tax base drastically reduced. City and school employees will be laid off and city services will decline.

At the same time, local businesses will be severely harmed by the unemployment that will soon reach depression levels. One analyst has estimated that there will be an actual cash outlay of $780 million for pension and benefit costs alone due to the United States Steel closings around the Nation. That figure does not take into account the cost of unemployment compensation, welfare assistance and the negative impact on the local economies in each area where the plants are being closed. Surely, it is far better to assist those communities, to get them back on their feet, than to stand idly by and take no action at all.

This amendment would also provide funds, as has been urged by the distinguished Senator from West Virginia (Mr. RANDOLPH), to communities that have been impacted by the closing of coal mines, which is a critical problem in many communities throughout Appalachia.

In my own State of Ohio, the Nation's fifth largest coal producer, we have seen thousands of coal miners thrown out of work due to overall market conditions and due to the fact the major utilities have decided to switch to low-sulfur coal supplies in order to meet Federal air pollution standards. As a matter of fact, many of them have switched to low-sulfur coal and have switched to coal imported from Western States for no other purpose than the fact that they own the coal mines out there. As a consequence, the Ohio coal miners have suffered and they continue to suffer unemployment.

According to a preliminary estimate by the Environmental Protection Agency, more than 5,300 coal miners will be thrown out of work in Ohio because Ohio utilities have decided to stop burning over 16 million tons of Ohio coal. In addition, major utilities in Michigan and other States have stopped burning Ohio coal, resulting in thousands more layoffs.

Unfortunately, many of the mineworkers in those Ohio high-sulfur coal fields will not easily find new employment. Many of those mines will be forced to close permanently, because there is a limited market for the high-sulfur coal due to the environmental restrictions. Some counties in southeastern Ohio—an area just south of the Youngstown region—are already experiencing unemployment levels of over 13 percent, more than twice the national average. Those mine layoffs will impact on every school, every town, every business throughout that part of the region. According to the preliminary EPA figures, that one part of Ohio will lose more than $400 million annually from the economy. More than 15,000 people will be laid off as the mine closings ripple through the economy. The funds under this amendment are intended to help such communities bring in new industries and new companies. This amendment will get people back to work in stable, productive jobs, jobs that are less subject to the boom-and-bust cycles that have for so long affected those communities.

Mr. President, it is time to place the blame for this unemployment in the steel communities where it belongs—on United States Steel and the other steel companies that are closing down these huge plants. In its announcement of the plant closings, United States Steel attempted to make the Federal Government the scapegoat for unemployment. It blamed the Government for what it called excessive environmental regulations, for restrictive Government policies, and for not providing enough protection against foreign imports.

United States Steel has blamed everyone but itself.

But, in fact, only one of the 16 plants to be closed has been cited by the EPA for environmental violations, and that plant in Youngstown was determined to be unproductive under current management practices as long ago as 1976.

But United States Steel did not tell us that. Nor did the company point out that it has, in recent years, invested a growing percentage of its capital in nonsteel activities, such as chemicals, rather than making the necessary investments to remain competitive in the international steel market.

United States Steel takes the attitude that it can do what it pleases, regardless of the social impact. Unfortunately, as we are learning again today, the people who must pay the price for those corporate decisions are the steelworkers and the communities who play no part in making them.

The people of Youngstown are bitter. I believe they have a right to be. The actions by United States Steel are just another example of the kind of corporate arrogance that has brought the business community into such low esteem.

But we must deal with the facts as they are. It is very unlikely at this point that those particular facilities in Youngstown will be kept open by United States Steel or by Jones & Laughlin. We must direct our attention and our efforts to the future, to saving what we can and to creating a local economy that will never again be forced to live and die at the whim of a huge, impersonal corporation, headquartered far away.

Mr. President, we are facing an extraordinary situation that demands an extraordinary response. We cannot ignore the thousands of men and women who have seen their lives change on a day's notice because of the closing of a steel plant or a coal mine. Federal assistance is needed to diversify local economies, to attract new businesses and to restore communities to strong economic health. It is an investment in the people of America—the best investment that we can make. I urge adoption of the amendment.

Mr. President, the amendment that I propose to offer, if I am permitted to do so under the rules, would not only affect the States heretofore mentioned but would have an impact on the States of Delaware, South Carolina, Texas, and Mississippi.

Mr. President, having addressed myself to the issue, I sincerely hope that the distinguished Senator from Louisiana will relent. I again ask unanimous consent to be permitted to call up my amendment; that it not be subjected to any further amendment; and that debate on it be limited to 10 minutes on a side.

Mr. LONG. Mr. President, reserving the right to object, I should like to know what the views happen to be of the chairman of the Committee on Banking, Housing, and Urban Affairs on this subject, because the program at least falls within the jurisdiction of that committee.

I hope the chairman of that committee (Mr. PROXMIRE), the ranking member, will come to the floor and let me know what he thinks about this situation.

Mr. PERCY. Mr. President, I wish to put in a couple of statements on my amendments so that I can at least have them printed. Is that all right?

Mr. LONG. With the understanding that I reserve my right to object, that is, object to the request.

Mr. CHAFEE. Mr. President, as I understand it, the Senator from Ohio has asked unanimous consent to go to his amendment. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. I would like to reserve my right to object to that, too, to that request.

The PRESIDING OFFICER. The Senator reserves the right to object.

Mr. LONG. Does the Senator want to make a statement?

Mr. PERCY. I have two statements.

IN SUPPORT OF AMENDMENT 682

Mr. President, I propose today an amendment to H.R. 3919 that would use a portion of the windfall profit tax revenue to fund a declining, 5-year program of block grants apportioned to States to help offset State transportation revenue losses resulting from the decontrol of oil prices and other Federal energy conservation measures.

An objective of our national energy policy is the conservation of oil. The decontrol of domestic crude oil prices will permit prices to rise to world (OPEC) levels and will result in reduced consumption. To the extent that this policy is successful, there will be relatively less gasoline consumed by automobiles.

This will have a serious, negative impact on State transportation finances, however, since gasoline taxes are a major source of State revenue, particularly for highway programs. This growth of State fuel tax revenue has already greatly declined as a result of Federal conservation efforts, such as auto fuel economy standards and 55 mph speed limits. In addition, the cost of highway projects has risen dramatically, especially the cost of road repair and maintenance work, which use petroleum-based materials such as asphalt.

An efficient, properly maintained transportation system is essential to maximizing transportation energy conservation. Yet, States are no longer able to maintain their systems in such condition, much less to make transportation improvements which could further facilitate fuel conservation. Losses in anticipated State fuel tax revenues, if unchecked, could lead to serious disruptions in State highway programs. These disruptions would have a negative effect on construction employment at a time when private construction work is declining, as a result of the slowdown in the economy and high interest rates.

To mitigate the severe consequences to State highway financing of decontrolling domestic oil prices and other Federal conservation efforts, I propose an amendment to H.R. 3919 to use a portion of the windfall profit tax revenue for a declining, 5-year program of block grants to the States to help offset the loss of fuel tax revenue. This would give the States time to adjust their revenue structures to accommodate their transportation funding needs. This program would not require additional revenue increases; it would be financed entirely from the windfall profit tax under consideration today. The authorizations would be $500 million the first year, $500 million the second year, $400 million the third year, $300 million the fourth year, and $200 million the fifth year. The funds would be distributed to the States based on an average of major noninterstate highway apportionment factors (FAP, FAS, FAU, HBRRP). The resultant factors are shown in a table I will include in the RECORD. The strength of this formula is is that it is based on existing and accepted distribution criteria.

This proposal is similar to a provision I proposed in 1977 which was adopted by the Senate during consideration of earlier energy legislation. Under the provision, the States would have been apportioned $400 million per year for 4 years. However, unlike the earlier Senate provision, this new proposal would require that funds be used for energy conserving projects and projects would be so certified to the Secretary of Transportation.

Mr. President, overall this is a program of short duration, requiring no additional funding increases, limited to energy-conserving projects, and easing for States the financial disruption caused by the decontrol of oil prices and other Federal energy measures. I urge my colleagues to support it.

IN SUPPORT OF AMENDMENT 798

Mr. President, in our debates here on the Senate floor over the windfall profit tax, we have discussed providing incentives to increase the development of nearly every type of domestic energy source—crude oil, solar power, conservation. But one vital energy source, I am afraid, has gotten a terribly short shrift in this bill up until now. I urge the Senate to consider doing something about our oversight today. The energy source to which I refer is coal.

The amendment I am offering would do much to encourage America's industries to stop burning oil and natural gas in their heating boilers, and burn coal instead. The amendment would extend the existing 10 percent energy investment credit we provided to industries in the Energy Tax Act of 1978 to the end of 1990. Presently, it is due to expire at the end of 1982. And because of the vast potential for oil savings we can realize through additional coal use, the amendment would also increase the energy investment credit another 10 percent for coal burning equipment.

While this 10 percent increase may seem like a lot, I would like to remind the Senate that it is exactly the same increase the Finance Committee gave in H.R. 3919 to industries for purchase of solar, wind, geothermal, ocean thermal, small-head hydro, and biomass property. In addition, coupled with the regular 10 percent investment tax credit all businesses now take for investments, my amendment would give a 30-percent tax credit for the purchase of coal burning equipment, an amount that has been cited by industry and independent analysts as one sufficient to spur significant industry conversions to coal. My amendment could lead to oil savings of 270,000 barrels by 1990. The Joint Committee on Taxation has placed the 10-year cost of my amendment at $5.89 billion, or roughly $590 million annually.

Of course, Mr. President, if industries find the cost of converting to coal to still be too expensive for them, they will not take advantage of the credit, and the Government will spend nothing. That appears to have happened with the existing 10-percent energy investment credit, which has had almost no takers since it went into effect last year.

But before we decide that my amendment is too expensive, I think we should look at how its adoption might improve the overall economy of the Nation. I think the Senate will see that bearing an immediate cost now to restore vitality to America's coal industry is a small price to pay indeed.

It is news to no one that, despite the ever-rising price of oil, America's coal industry today is in a desperate struggle for survival. The Carter administration had hoped that, by doubling the output of coal by 1985, it could become a practical, cheap alternative to oil and natural gas everywhere.

But coal today supplies about 18 percent of our energy needs, a scant 1 percent increase since the 1973 Arab oil embargo. As many as 20,000 miners sit unemployed nationwide today—about 10 percent of our total. There is almost no market for their product.

One obstacle is to blame for this tragedy: Cost. A ton of coal contains nearly the same energy content as four barrels of oil, and at about $25 a ton for long-term contracts it is about a quarter as expensive.

But for many industrial plant managers, these savings are completely offset by the enormous expense that must go into the transporting and burning of the coal, especially by the multi-million dollar scrubbers that are required to comply with the Environmental Protection Agency's stringent environmental regulations. Whereas a manufacturer can purchase an average size oil boiler of 200 million Btu's an hour today for about $500,000, a comparable coal boiler, with the necessary crushing and hauling equipment, and air pollution control devices, can cost 30 times that amount.

To date, Mr. President, that legislation we have passed in Congress to get industries and utilities to convert to coal simply has not been effective. We passed both the Energy Supply and Environmental Coordination Act of 1975 and the Powerplant and Industrial Fuel Use Act of 1978 to mandate coal use by utilities and industries. But both pieces of legislation allowed exemptions wherever the cost of burning coal could be seen to be significantly more expensive than oil or gas. As a result, to date far more exemptions have been issued than conversion orders. The one tax incentive plan we have legislated to overcome this obstacle—the 10-percent energy investment credit I mentioned before—has been nearly ignored to date. In fact, the Treasury Department has never even issued its regulations regarding implementation of the credit.

Last summer, the President's Commission on Coal, of which I am a member, warned President Carter that unless a new aggressive coal conversion program was created in the near future—one "without exemptions, extensions, exceptions or waivers"—our chances of reversing America's growing energy crisis were slim to none. The administration now, I understand, is about to respond with legislation pertaining to utilities that will require substantial conversions to coal. The plan includes about $12 billion in grant moneys for conversions, and a system whereby utilities will only be able to burn oil or natural gas through the obtaining of "consumption rights" tickets.

This may be a major step in the right direction for utilities, Mr. President, but it does not do a thing to speed industry's conversion to coal. Indeed, it is quite clear that at this point it simply is not practicable for industry to increase substantially its use of coal. We have known for years that industry should be relying more on coal—witness the legislation we have passed—but have done next to nothing to effect a real change.

When President Carter proposed his "National Energy Plan" in April 1977, the administration estimated that industry's use of coal in 1985 would be 2½ times 1976 levels. However, the most recent data from the Department of Energy indicate that industry coal consumption in 1979 is nearly the same as 1975–76 levels. According to DOE, the industrial sector consumed about 20 percent of the oil used in the United States in 1978, 42 percent of the natural gas, and about 12 percent of the coal. Not counting coal used for coke in steelmaking, coal is now used for only about 5 percent of the energy used in industry.

How much of an additional tax credit does industry need to overcome its reluctance to switch to coal? There is really no way to know, but a recent book by Charles Mann and James N. Heller—"Coal and Profitability, An Investor's Guide," published by McGraw-Hill, suggests that a 30-percent total tax credit could be enough. These authors estimate that with a 30-percent credit—which is what we would be offering should my amendment pass—could cause industry to increase its use of coal by 13 million tons per year in 1985, from an estimated 105 millions tons to 118 million tons. If this increased coal use substituted for imported oil, we would be able to reduce foreign oil purchases by nearly $2 billion in 1985 alone. At the same time, we would be increasing domestic production of coal and putting our unemployed miners back to work.

If these gentlemen are anywhere close to being right, the future of America's coal industry, and our balance of payments, could be greatly affected by the action the Senate takes today. Without additional tax incentives, it is highly likely that our industries are going to continue to defer decisions on whether to make modifications of existing oil or natural gas boilers. They are going to continue to ask for, and receive exemptions from the Fuel Use Act.

We need to provide a significant incentive now to industry to overcome the logjam that is preventing increased use of coal and less reliance on imported oil and on natural gas by our Nation's industrial sector. I think my amendment goes far in this direction. I urge the Senate to adopt it.

Mr. President, I also want to add that Senators RANDOLPH, HUDDLESTON, and HEINZ are cosponsors of my amendment. I want to thank them generously for their support in my efforts.

Mr. RANDOLPH. Mr. President, I am in support of the proposed amendment. Senator PERCY and I, with Senator HUDDLESTON, who is necessarily absent today, have intently studied the energy crisis.

Over the past year as members of the President's Commission on coal, we have been diligent in advocating the use of coal.

The Commission's interim report, submitted to the President this past July, reveals that currently, an estimated 100 million barrels of oil and natural gas are burned under large industrial boilers. This amendment will provide an impetus to industry to accelerate replacement of existing oil fired boilers with coal fired boilers.

Coal fired boilers which, and I stress, will be in compliance with the environmental safeguards set forth in our clean air act.

The Coal Commission has projected a savings of 150,000 barrels per day of oil if this amendment, which I cosponsor, is enacted. This computes to a decrease of oil use of over 54 million barrels per year by 1990.

Our national effort to decrease our dangerous dependence on costly imported oil can not be limited to one, or two, initiatives. We must conduct an comprehensive effort to utilize many initiatives, the Senator from Illinois' amendment provides a cost-effective means to assist our effort.

QUORUM CALL

Mr. LONG. Mr. President, I suggest the absence of a quorum.

Mr. DURKIN. Will the Senator yield so I can add a statement along the lines of Senator PERCY.

Mr. LONG. Reserving the right to object——

Mr. DURKIN. May I just get this in?

The PRESIDING OFFICER. Does the Senator from Louisiana withhold his request for a quorum?

Mr. LONG. Mr. President, to be on the safe side, I better object, and I suggest the absence of a quorum. I would like the Senator from Wisconsin (Mr. PROXMIRE) to come to the floor to inform me what his views are on this subject happen to be because he is chairman of the committee that, logically, would have jurisdiction over a subject of this sort.

So I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. CHAFEE. Wait a minute.

Mr. LONG. I object.

The second assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 11 Leg.]

Byrd,
Harry F., Jr.
Byrd,
Robert C.
Chafee
Cohen
Durkin
Jackson
Jepsen
Levin
Long
McClure
Metzenbaum
Randolph
Stennis
Stevens
Stewart
Weicker

The PRESIDING OFFICER. A quorum is not present.

Mr. LONG. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri (Mr. EAGLETON), the Senator from Kentucky (Mr. FORD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Maryland (Mr. SARBANES), and the Senator from Florida (Mr. STONE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), and the Senator from Oregon (Mr. HATFIELD) are necessarily absent.

I also announce that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

The PRESIDING OFFICER. Is there any other Senator in the Chamber wishing to vote?

The result was announced—yeas 80, nays 3, as follows:

[Rollcall Vote No. 469 Leg.]

YEAS—80

Armstrong
Baucus
Bellmon
Bentsen
Boren
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Domenici
Durenberger
Durkin
Glenn
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Hollings
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—3

Boschwitz
Exon
Weicker

NOT VOTING—17

Baker
Bayh
Biden
Bradley
Church
Dole
Eagleton
Ford
Garn
Goldwater
Hatfield
Huddleston
Inouye
Kennedy
Magnuson
Sarbanes
Stone

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. I understand that the senior Senator from Ohio (Mr. METZENBAUM) wanted to engage in a colloquy. Is that correct?

Mr. METZENBAUM. The Senator is correct. The Senator from Ohio has attempted to call up for several hours this afternoon an amendment to the windfall profit tax bill which is cosponsored by Senators RANDOLPH, HEINZ, SCHWEIKER, HUDDLESTON, and STEWART. It is directed to the problems of closed steel plants and the impact that has had not only in Youngstown, Ohio, but in Connecticut, California, Pennsylvania, Alabama, Illinois, New York, Utah, and even Delaware, South Carolina, Texas, and Mississippi.

The amendment provides $500 million with respect to steel plant closings and $300 million with respect to coal mine closings, which have also been very seriously hit by reason of a number of factors.

I have been unable to call it up because it requires unanimous consent in order to do so in view of the pending matter with the parliamentary situation of the moment. The distinguished Senator from Louisiana, the chairman of the Finance Committee, has indicated some concern about the fact that this matter has not gone through the normal procedures before the Banking Committee.

The question for the Senator from Wisconsin is, if this matter is not permitted to be attached to the windfall profit tax bill, would the Senator from Wisconsin be able to assure the Senator from Ohio that there would be prompt and speedy hearings in connection with separate legislation on this subject?

Mr. PROXMIRE. Yes. I am very grateful to the Senator from Ohio for asking for this. It is within the jurisdiction of the Committee on Banking, Housing, and Urban Affairs. As the Senator knows, we have already acted on the EDA bill providing total guarantees of $1.8 billion, with direct loans of $150 million, interest subsidies of $50 million, a total of $2 billion altogether in the package. We should, on a matter of this size, certainly have the advice of the administration, the steel industry, and other interested parties.

I can tell the Senator that two of his cosponsors, Senator STEWART and Senator HEINZ, are members of the Banking Committee and obviously very much in favor of this legislation.

I can assure the Senator that there will be a sympathetic and a prompt hearing on it if he will give us a chance to make a record. I will be happy to assure him of that.

Mr. METZENBAUM. I am grateful to the Senator from Wisconsin, the chairman of the Banking Committee. With that in mind I will advise the Senator from Louisiana I will not make a further effort to have this amendment added to the bill. I thank the Senator from Wisconsin.

AMENDMENT NO. 736

(Purpose: To qualify a low intensity infrared radiant heating system for the residential and business energy tax credits)

Mr. MATHIAS. Mr. President, I call up an amendment, amendment numbered 736 to the windfall profit tax bill.

The PRESIDING OFFICER. It will take unanimous consent to call up the amendment.

Mr. MATHIAS. I ask unanimous consent that I may call up the amendment.

Mr. LONG. Mr. President, reserving the right to object, I have no objection provided the Senator will amend his request to state that it will not be subject to amendment in the second degree.

Mr. MATHIAS. I am happy to accept that.

Mr. STEVENS. Reserving the right to object, can we learn the subject matter of the amendment?

Mr. MATHIAS. It is to provide a residential energy credit and a business energy investment credit for low intensity infrared radiant heating systems suitable for retrofit residential zone control installation or retrofit spot heating installation.

Mr. DECONCINI. Will the Senator consider expanding that unanimous-consent request to include amendment No. 734 to follow the Senator's amendment, that it be taken up next with a 1-hour limitation on debate?

Mr. MATHIAS. I personally would have no objection. I would be strongly influenced by the views of the distinguished senior Senator from Louisiana.

Mr. LONG. Mr. President, I have no objection, provided we have the same agreement, that it is not subject to amendment in the second degree.

Mr. DECONCINI. That is fine.

Mr. CHAFEE. What does the Senator from Arizona propose?

Mr. DECONCINI. Amendment No. 734, amending section 6103 of the Internal Revenue Code, which was amended in 1976. The cosponsors are Mr. NUNN, Mr. CHILES, Mr. SCHMITT, and Mr. DOMENICI.

Mr. CHAFEE. I have no objection.

Mr. DECONCINI. I ask that the unanimous-consent request of the Senator from Maryland be expanded to include my request.

Mr. MATHIAS. It is all right with me.

Mr. STEVENS. Reserving the right to object, it sounds to me——

Mr. MATHIAS. I can tell the Senator from Alaska that I will be not more than 60 seconds.

Mr. DECONCINI. And I want 1 hour, to be equally divided.

Mr. JEPSEN. What is the subject before the Senate now?

The PRESIDING OFFICER. Will the Senator from Maryland restate the unanimous-consent request?

Mr. MATHIAS. It was my unanimous-consent request that we take up amendment No. 736. What is the number of the amendment of the Senator from Arizona?

Mr. DECONCINI. 734.

Mr. JEPSEN. My question was before that. Were we on the minimum tax on oil? Was that the subject?

The PRESIDING OFFICER. That is why the unanimous-consent request was required.

Mr. JEPSEN. I expect to have about 4 minutes of comments on the minimum tax if we get back to it.

Mr. STEVENS. Does the Senator from Maryland want a rollcall vote?

Mr. MATHIAS. No.

Mr. STEVENS. I will inquire whether the Senator from Arizona will want a rollcall vote.

Mr. DECONCINI. Yes, Mr. President.

Mr. WALLOP. Is it part of the unanimous-consent agreement that the amendment not be subject to amendment?

Mr. DECONCINI. That is correct.

Mr. JEPSEN. Mr. President, I respectfully object only because I want 4 minutes on the minimum tax.

The PRESIDING OFFICER. Objection is heard.

Mr. MATHIAS. Will the Senator withhold his objection?

Mr. LONG. We can take these one at a time. It is all right with me, so far as I am concerned, to consider both amendments.

Mr. DECONCINI. Will the Senator yield? I would be more than happy to include in the unanimous-consent request that following the disposition of the amendment of the Senator from Maryland, 4 minutes be given to the Senator from Iowa.

Mr. MATHIAS. If that is agreeable to the Senator from Iowa, I will be only about 1 minute in disposing of my amendment. Would the Senator like 4 minutes?

Mr. JEPSEN. This Senator would like about 8 minutes.

Mr. LONG. Mr. President, I will agree that the amendments can be considered but they cannot be amended in the second degree.

Mr. STEVENS. Mr. President, are the amendments subject to tabling motions?

The PRESIDING OFFICER. They are. Without objection, it is so ordered.

AMENDMENT NO. 736

The clerk will state the amendment of the Senator from Maryland.

The assistant legislative clerk read as follows:

The Senator from Maryland (Mr. MATHIAS) proposes an amendment numbered 736.

Mr. MATHIAS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 100, line 17, strike out "or".

On page 100, line 20, strike out the closing quotation marks and both periods and insert in lieu thereof ", or".

On page 100, between lines 20 and 21, insert the following:

"(xii) a lightweight, self-contained, low density radiant heating panel suitable for retrofit residential zone control installation.".

On page 112, line 3, strike out "or".

On page 112, line 5, strike out the closing quotation marks and the period and insert in lieu thereof "or".

On page 112, between lines 5 and 6, insert the following:

"(N) a lightweight, self-contained, low density radiant heating panel suitable for retrofit spot heating installation,".

Mr. MATHIAS. Mr. President, the amendment that I have introduced would provide a residential energy credit and a business energy investment credit for low intensity infrared radiant heating systems suitable for retrofit residential zone control installation or retrofit spot heating installation.

A major component of the energy policy that Congress has been shaping over the past several weeks has been conservation—a reduction in the waste of our current energy sources. Conservation is the most important step that this country can take immediately to reduce our staggering dependence on foreign sources of oil.

But, as my colleagues know, certain conservation measures and the development of alternative energy sources can be very costly, and therefore, are not easily available to the American public. That is why the Finance Committee has wisely included various items in the Tax Code that would be eligible for tax credit treatment. These credits provide a great incentive to the people of this country to use available conservation equipment and alternative energy sources, and could translate into nationwide action to reduce dependence on foreign oil sources.

Mr. President, I have learned of another conservation tool developed by a company from my State of Maryland. This product—Energy Kote—is a lightweight, self-contained low density radiant heating panel. It makes efficient use of an extremely basic form of energy—radiant energy.

Energy Kote has been thoroughly evaluated by such organizations as Energy Power Research Institute, Kansas State University, Thermotest Corp (a subsidiary of Elizabeth City Gas Corp.), ITE (Instrumentation Technology and Engineering), and numerous real estate development corporations. Test data show that this type of radiant heating system is at least as energy efficient as the products already covered by the Tax Code as energy conserving and therefore worthy of tax credit assistance. The most significant testing of the product has been performed by the National Bureau of Standards of the U.S. Department of Energy:

> . . . [The] new test data tends to substantiate our earlier findings that this panel has characteristics that are unique among infrared radiant heater panels . . . If the main heating system (presumably gas or oil fired) can be supplemented by these panels, . . . significant energy and perhaps dollar savings, could accrue.

In its final technical review transmitted to the Department of Energy, the National Bureau of Standards stated further:

> . . . Tax credits should not be forthcoming if the entire dwelling is heated by electric resistance heating, even if the subject invention is used. However, consideration seems warranted for those cases wherein significant fossil fuel (or central electric resistance) heating savings can be made using moderate amounts of spot heating. Potential DOE support could include positive interaction with the Internal Revenue Service to determine feasibility of such actions.

Mr. President, my proposal would amend section 44C(c)(4) and 42(1)(5) of the Internal Revenue Code. Section 44C(c)(4), defining "Other Energy-Conserving Components" eligible for residential credits would be amended to include radiant panels—such as Energy Kote—suitable for retrofit residential zone control installation. Section 48(1)(5), which defines "Specially Defined Energy Property" eligible for business credits would be amended to include radiant panels suitable for retrofit spot heating installation.

Mr. President, the Joint Committee on Taxation has reviewed my proposal and estimates that inclusion of this product as eligible conserving equipment in the Tax Code would result in less than a $21 million decrease in Treasury receipts over the next 7 years. I believe that this is a very small cost to our Government for such a revolutionary product and the great energy savings it promises. I therefore urge my colleagues to approve this amendment.

Mr. LONG. Mr. President, this amendment adds radiant heating panels for retrofit residential zone control to those energy-saving devices that can have a tax advantage. It is estimated that the revenue expense of the amendment will be $20 million over the 1979 to 1985 period. I personally have no objection.

Mr. MATHIAS. I thank the Senator from Louisiana.

The PRESIDING OFFICER (Mr. BAUCUS). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. MATHIAS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 8 minutes.

MINIMUM TAX

Mr. JEPSEN. Mr. President, I rise in strong opposition to imposition of a minimum tax on oil currently exempted from tax under the Finance Committee bill. This would be counterproductive to everything we have done thus far to provide some incentive for new production. Frankly, we would be better off just leaving the controls on the price of oil and continue as we have for the past several years.

It is really getting beyond my compresion how we can sit here and vote more and more taxes on the oil industry while continuing to profess a goal of energy independence. My colleagues behave as though the oil industry operates in a manner exactly opposite to that of every other business. Instead of discouraging production, taxes will somehow stimulate production. Obviously, this is nonsense. When you put a tax on something, you get less of it. This tax will mean less oil production, and passage of a minimum tax will mean still less production.

I cannot get away from the absurdity of our actions. Here we have hostages being held by Iranian radicals and, as a result, we have had to place a self-imposed embargo on the importation of Iranian oil. How quickly we forget that it was the cut-off of Iranian oil earlier this year that led to long gas lines, the rapid escalation of oil prices, and great hardship for all Americans. Instead of working toward a situation in which this is less likely to happen, we are putting ourselves onto a path which will make things worse. We are going to be more dependent on overseas oil, we are going to be more vulnerable to price increases, we are going to be in greater danger of unexpected oil cutoffs, and we have no one to blame but ourselves—not student radicals, not fanatical religious leaders, not cold-hearted Arab shieks.

We have the power to control our own destiny, and instead we are cutting off our nose to spite our face. The windfall profit tax bill would be more accurately name as Forbes said on December 10, "The OPEC Act of 1979."

The ultimate absurdity of this misnamed as Forbes said on December 10, impact only on domestic production. We are not taxing Arab oil, we are taxing American oil. The result must inevitably be that we will have more imports.

To my way of thinking, if we want to be less dependent on overseas oil, if we want to be able to stop sending billions of dollars overseas every year to pay for oil imports, if we want to enhance our national security, stabilize energy prices, and once again control our own destiny, then I think we ought to be offering more incentives for production, eliminating regulations, opening up Federal lands for oil exploration, and encouraging the oil companies to find more domestic oil, not placing additional burdens upon them.

It is so easy to be a demogogue, to cast the politically popular vote, to go along with the crowd. Let us face it, the oil companies are the bad guys and the politically expedient thing to do is slap a tax on them. The hard vote is the vote against a minimum tax, against higher tax rates, for production incentives, for energy independence.

Personally, I do not think we ought to cast our votes on the basis of having some personal dislike for a particular industry. We ought to be doing what is right for the country. And the right thing to do is to adopt policies which will produce more energy, not more taxes. We do not need more taxes, we have too many already. We need energy and we ought to have the guts to do what we need to do to get it and not worry about being called pawns of the oil industry by President Carter, a nice man personally but one whose administration has no more idea what constitutes a rational energy policy than the man in the Moon. When it comes to energy issues this administration just does not have any idea what they are talking about.

The truth is that this windfall profit tax is nothing more than a money grab by the U.S. Government. The bottom line is that all the beneficiaries of Government handouts just want the money.

This is obvious from the fact that the Senate twice voted down amendments offered by Senator ROTH to hold taxes and spending to specified percentages of gross national product. They were voted down, because a majority of Senators want to be able to tax more, spend more, and expand the size of government without constraint.

Furthermore, the vote on the McClure amendment yesterday proves that a majority of Senators are not really concerned about windfall profits. Senator McCLURE': amendment would have imposed a 90-percent tax on excessive oil company profits. It would have been a true windfall profit tax, based on actual profits—unlike the present bill, which imposes an excise tax—with an exemption for money reinvested in domestic energy production. If we must have a windfall profit tax to satisfy some insurmountable political necessity, then this is the kind of tax we should have, not the misnamed monstrosity we are working on now.

Why are we so concerned about raising the maximum amount of revenue? Why is all the discussion about the minimum tax, the Danforth amendment, and other so-called toughening amendments always based on their revenue-raising potential? Do we really believe that the oil industry will pay this tax no matter how big it is? Are we totally unconcerned about the incentive to produce oil, the risk associated with oil production, and the massive capital investments needed to produce more oil? Is our faith in Government so great that we want to give it the responsibility for producing our energy instead of entrusting it to the private sector?

Well, I think we are in for a big surprise. I think this tax is going to significantly reduce oil production in the United States. I think that, within a short time, the American people will realize what a con job this whole thing is; that they, not the oil companies, are paying this tax.

The fact is that this tax never would have gotten off the ground if there were not such a gross misunderstanding about the incidence of the tax and its ultimate burden. It is obvious that taxes are not necessarily paid by those upon whom the tax is placed. To determine who actually pays the tax, we must look beyond the statutes to the way people alter their behavior because of the tax. This involves two considerations. First, it must be recognized that in the end, all taxes are borne by individuals. As Prof. Richard Musgrave of Harvard put it in his book, "Public Finance in Theory and Practice:"

> Though taxes may be collected from business firms, their ultimate burden must be traced to individual households in their capacity as owners of the firms, as employees, or as consumers of their products.

Second, the burden may not necessarily fall upon those who are assumed to pay the tax. In this case, we are increasing taxes for corporations. Yet, as Dr. Joseph A. Pechman of Brookings has written in his book, "Federal Tax Policy:"

> Despite its prominence in the federal revenue system, the corporation income tax is the subject of considerable controversy. In the first place, there is no general agreement about who really pays it. Some believe the tax is borne by the corporations and hence by their stockholders. Others believe it depresses the rate of return to capital throughout the economy and is therefore borne by the owners of capital in general. Still others argue that the tax is passed on to consumers through higher prices, or may be shifted back to the workers in lower wages. Some believe that it is borne by all three groups—stockholders, consumers, and wage earners—in varying proportions.

The point I am returning to is that the windfall profit tax represents a general tax increase on the American people. In one way or another, we are all going to end up paying it, whether it is through lower wages for oil company employees, lower dividends for oil company stockholders, higher gasoline prices for consumers, or in reduced availability of energy, slower economic growth, and reduced national security.

I can only assume that my collegaues who have been voting to impose this tax and make it tougher must somehow believe that we are getting a free lunch—hundreds of billions of dollars of tax revenues to enact new programs and buy votes with. Unfortunately, as we all know, there is no such thing as a free lunch and the oil companies are not going to just give us this money for nothing any more than the tooth fairy will. We are imposing an enormous burden not only on the oil industry, which we need desperately to produce the oil we need, but on the economy as a whole. This massive tax burden, coming on top of the legislated social security tax increase and the automatic tax increase caused by inflation pushing people into higher tax brackets, may be all it takes to send our economy right into a tailspin. As a result of our actions, we are not only going to have less domestic energy but higher inflation, higher unemployment, slower economic growth, and a reduced standard of living for all Americans.

Mr. President, I ask unanimous consent to have printed in the RECORD some articles and editorials which amplify the points I have raised.

There being no objection, the material

was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, Nov. 11, 1978]

THE WINDFALL ILLUSION

(By Paul Craig Roberts)

Congress expects oil industry revenues to increase dramatically when prices are decontrolled and is counting on a hearty share to pay the bills it's running up in energy tax credits and synfuel programs. According to two congressional staffers, Spencer Reibman and Stewart Sweet, Congress is in for a big shock.

The way Congress figures it, domestic oil revenues will greatly expand when $6 tier-1 oil and $13 tier-2 oil move to the world price. But the way Messrs. Reibman and Sweet figure it, U.S. consumers are already paying the world price for refined products such as gasoline and fuel oil. Therefore, decontrol of domestic crude oil prices will not produce a big windfall in new revenues; it'll just shift revenues about within the industry from refiners to producers.

Look at it this way. A refiner importing $23 a barrel OPEC crude oil sells the product he makes out of it at the same price as the refiner using controlled $6 domestic crude oil. If that's all there was to it, the price controls on domestic crude oil would amount to an enormous subsidy to the profits of domestic refiners at the expense of domestic crude oil producers.

That's where the entitlements come in. The refiner using $6 domestic oil has to pay the one using the $23 foreign stuff. So the price of domestic oil to the one refiner is $6 plus the entitlement payment, and the price of OPEC oil to the other becomes $23 minus the entitlement.

Under this system large integrated oil companies that both produce and refine and have both domestic and foreign oil end up paying entitlements to themselves. That way the money stays in house, and the revenues that price controls cost their domestic oil production operations are gained back in the refining division. For non-integrated operations, the system transfers revenues from domestic crude oil producers to domestic refiners of OPEC oil.

When the controls comes off, the entitlements go, and all that happens is a shift in revenues from refining back to producing operations.

For total oil industry revenues to go up, U.S. refiners today would have to be selling their product for less than the world price. But the two staffers examined data from the Platts Oilgram Price Service and found that the wholesale price of regular gasoline is the same in New York as in Rotterdam. The reason gasoline costs, say, the German motorist $2.12 a gallon is that he is paying a tax of $1.08 per gallon at the pump. Net of the tax, which goes to the German government and not to the oil companies, the German motorist is paying the same $1 a gallon to the oil companies that the U.S. consumer is paying.

Since the oil industry's revenues and profits are not going to balloon like Congress thinks, what is the "windfall profits" tax going to be paid out of? The only possibility is existing revenues. It looks like the tax is going to capture more or less what the domestic industry currently pays itself in entitlements.

That means the profiability of the domestic oil industry is about to be driven sharply down. Mr. Sweet believes that oil industry rate of return in the short term will be below the Treasury bill rate. Earnings will head back up as OPEC pushes up the world price. But whether and how soon earnings will get back to a normal rate of return are questions that never occurred to the Senate Finance Committee or its staff. Before the "windfall profits" tax busts the government's budget along with the oil companies, the Senate might inquire if those entitlement revenues are large enough to cover all the tax credits and synfuel boondoggles.

The oil industry shied away from the results of Messrs. Reibman and Sweet's investigations. And it's not hard to see why. If the U.S. consumer is paying the world price for refined products, demagogic politicians have "evidence" that the oil companies have evaded the price controls. So the oil industry has fought the tax by trying to get exemptions for various categories of oil.

But Senator Jake Garn (R., Utah) realized the real meaning of the evidence: The U.S. government cannot control the world price of a finished product by controlling the price of part of the raw material used in its manufacture. On October 30 he raised these points with Treasury Secretary Miller and other high administration officials. He has yet to receive a satisfactory answer. The administration seems unaware that higher domestic crude oil prices can't be passed through to consumers who are already paying the world price for refined products—unless the government embargoes the import of refined products.

It seems clear that the "windfall profits" tax is going to reduce the profitability of domestic refiners. And that's going to play into the hands of OPEC, says G.H.M. Schuler of Conant and Associates in Washington, by helping OPEC entice refining operations abroad.

The oil companies are already having their arms twisted to build refineries for OPEC in exchange for the right to buy OPEC crude. OPEC cannot move into downstream operations, says Mr. Schuler, without serious implications for our national security and balance of payments.

The oil companies still have a bargaining position with OPEC because they control the refining and marketing of the finished product. But once OPEC has substantial refining capacity, it can push the companies out of the picture and gain control over refined products too. In today's prices that means instead of paying OPEC $23 a barrel for the raw material and manufacturing it at home into a finished product, we would be paying OPEC $40 a barrel for refined products.

It's ironic that the "windfall profits" tax, heralded as a step toward energy independence, is destined instead to make us more dependent on OPEC.

[From the Wall Street Journal, Nov. 12, 1978]

AN OBSCENE TAX

Say that last year widget-makers sold 100 red widgets and 100 green widgets. Then say that Congress decided to slap a big tax on red widgets but not on green widgets. Do you think that the next year sales of red widgets with the tax would go up to 110 and sales of green widgets without the tax would go down to 90?

You don't think that, but in its wisdom the U.S. Congress does. So for that matter does the U.S. administration. To protect us from buying too much imported oil, they are slapping a big excise tax on domestic oil.

Naturally, Congress and the administration don't want this understood, even by themselves, so they are filling the air with dust. First they call the new excise tax a "windfall profits tax," though it has nothing to do with profits and though it's most doubtful that decontrol of wellhead prices will be any "windfall" to the oil companies. Next, they throw around a lot of fictitious numbers, with President Carter talking about "a $1 trillion giveaway" and Senator Kennedy suggesting even higher figures. Congress, meanwhile, is counting its chicks before they're hatched, actually voting to spend the huge sums it estimates the new tax will raise.

To instill a little realism into these proceedings, start with a few envelope-back calculations. The average domestic price of crude oil is now about $13, and the uncontrolled stripper price is $33. About three billion barrels of oil are produced a year. So if the wellhead price were suddenly decontrolled and everything went to the uncontrolled price overnight, producers would get extra revenues of $20 a barrel times three billion barrels, or $60 billion a year. Of this present taxes already take 60%, leaving the oil industry with $24 billion.

This is a far cry form $1 trillion, even over a number of years. But the oil industry won't get the $24 billion, because no one (except us) is talking about yanking off wellhead controls overnight. The actual calculations of a "windfall" are far more complex, taking into account the phasing out of controls. The people we most trust within the industry put it at something like $6 billion a year.

This is the windfall for production. The real issue is whether this $6 billion "windfall profit" at the production level will be offset by a $6 billion "windfall loss" at the refining and marketing level. After all, the money to pay the new excise tax has to come from somewhere. Either it has to come out of profits the oil industry is making at present retail prices, or it has to come out of higher retail prices. If prices at retail already reflect the world price of crude oil, there is no windfall to tax.

Some readers may recall the extended discussion on this page when two Rand Corp. economists contended that the wellhead price controls do not affect the U.S. retail price, but merely shift revenues around within the oil industry. As a matter of economic theory, their argument is simple: The price is set by the marginal unit, and the marginal barrel of oil is imported at the world price. Retail prices will reflect this, and if you control domestic wellhead prices, the profits have to be collected somewhere else.

Everyone knows, of course, that retail gasoline prices in Europe are around $2 versus around $1 here, but this difference is an artifact of European tax policies In deciding whether U.S. retail prices reflect world crude prices, you have to deal in pretax prices.

When you do, you find powerful support for the Rand thesis. European gasoline is made entirely from world-price crude, but the average wholesale spot price for regular gasoline was 42.6 cents in Rotterdam during 1978, compared with 42.8 cents in New York. In 1977, Rotterdam 36.4 cents, New York 38.4 cents. In 1976, Rotterdam 37.1 cents, New York 35.5 cents. In 1975, Rotterdam 32.6 cents, New York 33.5 cents.

Now, under these circumtsances how can the market adjust to a huge new tax on domestic oil but not on foreign oil? First, by driving down the profits of the oil industry; by some estimates returns on oil would fall below returns on Treasury Bills. This would of course drive down investment in looking for new energy. Second, by changing the mix away from taxed domestic oil and toward untaxed foreign oil. And third, to the extent more imported oil is thus demanded by the U.S., by putting upward pressure on the world price.

Less investment to produce energy, more imported oil and higher world prices—a fine lot of accomplishments for U.S. energy legislation, but quite consistent with nearly all our energy legislation since 1973. Howard Jarvis was in Washington the other day on behalf of independent oil producers fighting the tax. With his usual keen eye, he denounced the "windfall" legislation as an "obscene tax."

[From the Wall Street Journal, Apr. 17, 1979]

A REVENUE MEASURE

While President Carter has proposed decontrolling oil prices, he talks as if the only result of his proposal is likely to be excess profits in the pockets of greedy oil millionaires. This talk is likely to get worse soon when first quarter oil profits are announced. Volume is up considerably over the first quarter of 1978 and OPEC price increases will create phantom inventory profits. The two together will give the President a big number that he can wave about.

Before the President continues to undercut support for his decision to decontrol, we wish he would ask his staff to find out what the oil industry does with its profits. He could learn from the lowliest analyst in DOE, to say nothing of the Secretary himself, that the oil industry not only reinvests its profits but has been going deeper in debt by investing borrowed funds as well.

Between 1968 and 1976 total U.S. domestic exploration and development expenditures increased by 273%, and that of the independents by 454%. This was a period during which the major oil companies' net income as a percent of total revenue declined by one-half, dividends declined as a percent of after-tax profits, and taxes increased four times faster than net income.

In its study of the 27 largest oil companies the Chase Manhattan Bank reports that two-thirds of 1977's profit increase of $4.1 billion "was absorbed by higher income taxes. The group's total direct tax bill in 1977 amounted to $38 billion, an effective tax rate of 72%." Earnings came to "only 4.5 cents out of every dollar." Although the $14.4 billion in after-tax profits of the group sounds like a lot, when related to volume it comes to about 3 cents a gallon.

Although much has been made of Mobil's purchase of Marcor and Arco's purchase of Anaconda, analysts estimate that even in those years no more than 8% of the oil companies' capital expenditures were used to diversify their assets. In comparison, for the same years the additions to the long-term borrowings of the oil companies came to 28% of after-tax profits and 15% of total capital expenditures.

Why then is oil being demagogued and treated differently than every other industry? Is it ignorance or mischief that is afoot?

It could be, of course, that the President doesn't recognize where his own interests lie. He could have a good thing going by simply keeping quiet, proceeding with administrative decontrol, and letting Congress talk the windfall tax to death. He would then have the economic advantages of decontrol and Congress would have to shoulder any political blame for oil company profits. Conceivably the President is diverted from this opportunity because he really believes the rhetoric he has been uttering.

The rhetoric can be axplained even better, though, by envisioning the President's opportunity in mischief. He is caught between public wrath at high taxes and the inexorable pressures from organized spending constituencies. Even the automatic tax increases generated as inflation pushes everyone into highed tax brackets do not supply enough money to solve the dilemma. To pay off all the promises, another hidden tax is needed. If only you can find a sector of society with both high cash flows and enough popular mistrust, you can try to make it even more unpopular than government and then use it as a tax collector. What could be more logical than demagoguing the oil industry?

The danger is that Congress, which faces the same dilemma, will come to the same conclusion. But in a real sense you have not decontrolled the oil industry if you expropriate the profits that justify and finance capital investment. To understand the windfall profits tax, you have to see it as a revenue measure in disguise. And the rhetoric surrounding it as a diversion, telling you the oil companies are about to get away with something, and trying to keep you from noticing that the politicians are grabbing a bigger share of the nation's purse.

[From the Wall Street Journal, May 21, 1979]

THEY'VE DONE IT AGAIN

In energy circles an apocryphal story is going around about George Washington at Valley Forge. Brigadier Pulaski comes up to him and complains that the troops are almost out of firewood. Washington ponders, and then exclaims, "I've got it! Let's slap on a big firewood tax."

The point, of course, is that General Washinton would never have been so silly. As a matter of historical record, unhappily, this overestimates the wisdom of the Founding Fathers. Washington's miseries at Valley Forge were in fact exacerbated by precisely the same sorts of policies that exacerbate our energy problems today—see Notable & Quotable on the page opposite. But at least the Founding Fathers were capable of learning from their mistakes. Our present leaders seem to learn nothing from their own errors, let alone historical ones.

The Carter administration was bloodied in public debate and in the Congress when its first energy program proposed to solve the so-called crisis by slapping heavy taxes on energy. It did learn something from the experience, and has now proposed to gradually remove the price controls that in any event expire in 1981. But, it says, this must be accompanied by a big new tax on energy. They've done it again.

This time, indeed, the administration has outdone itself. Its OPEC tax—a 50% tax on any future increases in the real price of energy—carries a double whammy. First, it converts controls that expire in two years into a permanent tax. Second, as our Paul Craig Roberts has demonstrated, it falls most heavily on oil that has not yet been discovered. It not only drains revenues from the oil business, but dampens the incentive to find new energy.

"Incentives" to produce oil exist when the price is large enough to cover the costs of finding and producing it, including the kind of cost called "profit," which pays the price of capital and risk. Oil is getting harder to find and more expensive to produce. So much is recoverable at $16, more at $18 and still more at $20. But to cover the costs, these prices must go to the producer. So if the government takes 50% of any price increase above $16, the $18 oil cannot be recovered until the price reaches $20, the $20 oil cannot be recovered until the price hits $24, and so on. All in the name of producing more energy.

It's hard to see so perverse a proposal could come from folks who say they want to solve an energy crisis. But look at it this way: With the OPEC tax, the U.S. government is dealing itself in as a member of OPEC. As the price of oil soars, so will its revenues, just like the other members of the cartel. The government already reaps automatic profits from inflation, which pushes taxpayers up into higher brackets on the progressive income tax even if their real income is unchanged. Now it wants to work the same deal with the energy problem.

Even though it applies to not-yet-discovered oil, administration semanticists are peddling the OPEC tax as a tax on a "windfall." The whole notion of a "windfall" is suspicious enough to start with; the logic suggests, for example, that if you sell your house at a gain without making improvements the "windfall profit" belongs to the government. But surely if "windfall" means anything it applies to gain on selling already discovered oil at a higher price; Mobil Oil makes a good deal of sense in suggesting that it's willing to give up any actual windfall if only the government will leave future oil alone.

The administration apparently wants to propose some kind of tax, simply for fear of being mugged by Ralph Nader, James Flug and Toby Moffett. If there must be a tax it ought to meet two criteria: First, it ought not to penalize the production of new oil. Second, it ought not to be a revenue measure disguised as an energy proposal. A reasonable proposal would be a dollar-amount excise tax per barrel of oil, offset by permanent reductions in the personal income tax, preferably on the present super-rates on investment income. This would promote energy conservation and offset any resulting drag on the economy through new incentives for investment and growth.

While such tax changes would stimulate the economy generally, even they would give no special boost to energy production. For that you need simple decontrol with no tax, which might happen in 1981, depending on the political fortunes of Nader, Flug, Moffett and Co. For our part, we would rather fight it out in the 1980 elections than take an earlier phased decontrol package that carries the price tag of letting Mr. Carter join OPEC.

[From the Wall Street Journal, May 30, 1979]

WINDFALLS FOR THE OIL GIANTS

We doubt that Toby Moffett and his House energy crusaders see their efforts to preserve crude oil price ceilings as a way to make more windfall profits for the oil giants. Indeed, they presumably intend just the opposite.

But the world is full of perversity and never more so than when politicians tinker with complex market forces. People like Mr. Moffett and his consumerist colleagues have been tinkering with the energy market for nearly eight years and one effect, aside from gasoline lines, is to make a lot of money for people who produce oil outside the United States. The U.S.-based international oil companies, as it happens, do produce a lot of their oil outside the U.S. and have had every incentive these last eight years to produce even more there.

Despite this, we doubt that the oil giants welcome Mr. Moffett's favors. They make it generally clear that they would readily forgo some of the windfalls that the energy crusaders have generated, just to be free of some of the political pressures that afflict them both here and abroad. Yet we suppose that in their heart of hearts, there are some oil men who have not found controls so onerous.

To understand this, it is necessary to know that the oil industry is one of the least monolithic of our major industries, again contrary to what the energy crusaders claim. In the 1960s there was a constant battle between the companies which had developed large overseas crude resources and those who were primarily domestic producers, over the issue of oil import quotas.

The dichotomy still exists, except that the international companies have had all the best of it in the 1970s. Wellhead price controls have burdened domestic producers, which includes the hundreds of independents who account for most of the oil discovered in the U.S. But these controls, along with environmentalist assaults on the U.S. energy industry in general, have helped reduce domestic competition against imported oil. Imports, and the price of imported oil, have soared.

The international companies would have fared even better in all this had not the countries where they operate become more politically sophisticated and grabbed much of the loot for themselves. The Arabs have been the biggest windfall recipients.

But the American-based internationals have not suffered. Mr. Moffett and his friends are upset because the 23 leading oil companies showed a 58% gain in nominal-dollar profits in the first quarter over the year before. But some two-thirds of the gain was attributable to international operations, according to the American Petroleum Institute. Needless to say, the economics of the oil industry under the present system of controls heavily favor overseas development. The oil companies know, better than anyone else, that these are not healthy circumstances, profits or not. The Iranian disruption shows, for example, what can happen to overseas supplies.

Their problem and the country's problem would be solved by decontrol. But during eight years in which the domestic price has been held down and world price has shot up, a windfall potential has developed. The politicians fear that if they take off controls, the domestic price will shoot up and the companies will reap a windfall.

Without a doubt, domestic oil wells that have been pumping $6 oil would show a windfall. But, as the importance of foreign earnings demonstrates, that is but one corner of the oil business. Large, integrated oil companies also make profits on refining and retailing. So their profits depend not on wellhead prices but on retail prices, many of which are already decontrolled. Even controlled gasoline prices are reacting to market pressures, though in capricious ways dictated by the allocations system. (For a prime retail outlet, the profit-maximizing price may be higher under allocations than in a free market.) Also, with controls comes the "entitlements" system for refiners, which nearly everyone now recognizes as a scheme to tax domestic oil and subsidize imported oil. With all of these complications, any industry-wide windfall from decontrol would be problematical at best.

But as long as decontrol of the domestic industry is postponed, the world price will rise faster than necessary. The international companies and the Arabs will take windfalls. They should erect a monument to Mr. Moffett and his crusaders—in Riyadh.

[From the Wall Street Journal, June 22, 1979]

The Great Oil Robbery

We have said from the first that the President's "windfall tax" proposal was a revenue measure in thin disguise. This week the House Ways and Means Committee underlined the point with a vengeance, voting by 20–16 to raise the marginal tax on newly discovered oil to 70% instead of the 50% proposed by the President. The committee also amended the President's proposal in specific ways designed to squeeze more tax revenues out of Alaskan oil, marginal wells and old oil. All in all the committee's bill amounts to an additional tax of $28 billion on domestic energy production over the next five years—a marvelous disincentive to the oil companies to reduce our dependence on OPEC oil, and a marvelous new slush fund for buying votes.

The men in Washington have made it clear that what comes first with them is not to solve the country's energy problems, but to profit by them. The tax is designed to make the U.S. government a beneficiary of all future OPEC price increases. And combined with the huge subsidies for synthetic fuel also rolling through Congress, it will come close to nationalizing the energy industry, reducing the oil companies to two roles: marketing OPEC oil and performing contractual services for the U.S. government. Investment in energy development will flow not to the cheapest alternatives, but to those that spread government largess to the widest number of congressional districts.

The tax will simultaneously discourage U.S. oil exploration and deprive the industry of the revenues necessary to establish itself in new technologies and energy sources. U.S. oil will be sold at the OPEC price, but U.S. producers will not receive that price. A benchmark price for U.S. oil is established, and the government takes 70% of the excess. The higher the OPEC price rises above the benchmark, the higher the government take, and the lower the incentive to recover oil from increasingly expensive environments.

Meanwhile, numerous bills have been introduced to give some of this money back to the oil companies to develop even more expensive energy, making synthetic fuels. For example, in the Senate there is legislation afoot to establish a Synthetic Fuels and Alternative Fuels Production Authority to the tune of $75 billion. In the House there is legislation to establish a government-owned Synthetic Fuels Reserve Corporation. According to Rep. Toby Moffett, who has played a leading role in creating the energy problem, "The synthetic fuel thing is greased. You've never seen such a locomotive."

There are no economic or energy reasons for discouraging the domestic production of relatively cheap natural fuels and establishing the government in the business of funding the development of relatively expensive synthetic fuels. But there are plenty of political reasons for doing so. Politicians can curry favor with voters by punishing oil companies for the gasoline lines caused in fact by DOE regulations, and they can use the multi-billions of dollars in new tax revenues to hand out favors. Foremost of all is the additional power that accrues to government from control over the production and allocation of energy. Who can afford not to "cooperate" with Washington when he needs a government energy allocation before he can produce a product, offer a service or build a plant?

Some oil companies, especially those with little or no U.S. oil, might look forward with relief to becoming government contractors. There's nothing like cost-plus contracts to remove the risk from new ventures and untried technologies—or to balloon the cost of energy to the consumer. Many of the companies have already been trained to this role by the foreign governments who expropriated their equity and transformed them from owners to contractual marketing agents.

Faced with de facto nationalization of their energy activities, the oil companies naturally will try to protect the private equity they retain by diversifying into new lines of activity, limiting their energy role to no-risk government contracts. Having lost their property rights in oil abroad, they are now undergoing a full-fledged attack on them at home. The U.S. government is not yet expropriating department stores or electrical equipment manufacturers, so private capital seeks safety in these investments.

The future currently being sketched out in Congress is cushy for the politicians, and perhaps comfortable enough for some of the oil giants. But it is also a prescription for permanent and mounting energy problems. Do we really want energy provided in the same manner as mail and rail services, at the same expense as defense-cost overruns, and by the same people whose energy policies have given America the only gasoline lines in the world?

[From the Wall Street Journal, Aug. 24, 1979]

Stop Windfall Profits!

A Barron's story this week reminded us we meant to come out against windfall profits. One of the big problems with the President's latest energy plan is that it would create too many of them.

Roscoe Born of Barron's found a perfect illustration, detailing the gasohol plans of Publicker Industries Inc. Publicker is one of the wonders of the business world, the wonder being how it stays in business. It lost money in eight of the last 10 years, and dropped more than $23 million cumulatively over 1976–1978. It sticks around by peddling its remaining assets into stronger hands, as for example the recent sale of its Inver House Scotch label to Standard Brands. But some of Publicker's industrial distilleries are such white elephants no one is likely to want them.

Enter the energy crisis, with Publicker volunteering to help. Why not gin up a distillery to make fuel alcohol to add to gasoline? Publicker has just the right distillery standing idle in Philadelphia, where it was built under a World War II crash program. And why not make the alcohol out of the sugar surplus, taking sugar the government bought from farmers at 15 cents a pound to support prices, and selling it to Publicker at 8 cents a pound to produce energy? So far the Department of Energy is dragging its heels, presumably boggling at Publicker's request for an allocation of nine units of gasoline for each unit of alcohol it produces. But the idea is picking up steam, winning consideration in the Agriculture Department and strong backing from Senator Richard Stone (cane) and Senator Frank Church (beets).

The proposal gives you a hint of how things will probably work under the new energy plan. President Carter proposes to slap a big "windfall profits tax" on Exxon, Mobil and the other oil folks who actually succeed in bringing energy to market. Part of the proceeds will go to the poor, and the rest will be distributed in contracts and tax credits to companies with bright ideas that might produce energy, but don't. Gasohol, maybe.

DOE will, of course, try to direct investment funds into the most promising alternatives, but that is not so easy. You don't know whether a decision is right for 10 or 15 years, and DOE's top personnel will turn over every three or four years. Even the best analysts make mistakes, and it's not wise to bet everything on one man's choices.

There is, happily, one ingenious way around these problems:

DOE ought to set up a whole series of independent think tanks, each separately studying where to put energy investment. They could hire permanent personnel, and there would be competing answers rather than one official one. Thus informed, DOE's 18,000 employees could vote among the alternatives, distributing funds in proportion to votes. The best alternatives would get the most money, but all would get some. Then, if you wanted to get really serious, you could have the DOE bureaucrats play with their own money.

The think tanks already exist, of course, with names like Morgan Stanley or Dillon, Read or Merrill Lynch. The votes are counted every day at Broad and Wall. Experience shows that this method provides investment funds for a promising technology, as in the early days of computers, even before it turns a profit. The process helps shape internal corporate investment as well. It is a far-fetched notion that these allocations are going to be outguessed by a few $30,000-a-year bureaucrats with Senator Stone and Senator Church looking over their shoulders.

Profits are the way we keep score. They are important in generating funds for future investment and rewarding past investment, mostly in the form of pension benefits. But they are vital in showing which investments have been the good ones. With this guideline, the capital markets will naturally keep the economy moving up the curve of next-least-expensive energy sources. If for national security reasons the government prefers domestic sources, it needs to face up to keeping domestic energy prices above world energy prices (which Mr. Carter's proposals would do), and within that parameter decontrol prices and profits to let markets work (which Mr. Carter's proposals would not).

Govenment can paralyze the whole capital allocation process, though, by deciding that profit is illegitimate for some alternatives but legitimate for others. If it clamps a lid on the price of natural gas or taxes away the returns on oil, the market cannot efficiently allocate capital to these energy sources. But it will not fully make up for this by allocating more capital to other sources, because there is the artificial risk that these investments may be suddenly undercut if politically blocked alternatives are ever released.

So it seems to us that a "windfall profit" is one that results from doing something inefficient, from exploiting more expensive energy alternatives rather than less expensive ones, from an activity that capital markets would not support on their own. The "windfall profits tax" is aptly named—not because it will take windfall profits from the likes of Exxon, but because it will finance windfall profits for the likes of Publicker.

[From the Wall Street Journal, Oct. 19, 1979]

Scrap the "Windfall Profits" Tax

When Congress passed the Natural Gas Policy Act with its 23 natural gas categories, we thought the lawmakers had reached the limit in unbelievable complexity and bad law—an "unintelligible piece of legislation that will generate tons of regulatory paperwork and litigation." That was before we observed the Senate Finance Committee at work on the oil "windfall profits" tax.

In principal a windfall profits tax is simple enough. First you apply the income tax to profits, and then you apply the windfall profits tax to what is left—a straightforward procedure that ordinary humans can understand. In fact, it's so simple you wouldn't believe what webs of bafflement the Finance Committee can weave with it in practice.

Begin with an ordinary category that people can comprehend—oil producers. Differentiate them into different categories so they can be treated differently. Then do the same thing to oil. And—presto—depending on who they are and what kind of oil they own you can tax them differently.

As the web is now woven domestic oil producers each face a different bite from the tax spider. They may pay a tax of 50%, 60%, 75%, or escape altogether, on a multiplicity of crude oil categories arbitrarily base-priced at six (or more) levels ranging between $7.50 and $17 a barrel. And if that's not enough complexity to feed a jillion lawyers, accountants and bureaucrats, the tax on "upper tier" and "lower tier" oil is variable and changes monthly during the first two years.

Now imagine thousands of producers, independents and multinationals tracking these categories through crude oil gathering, storage and pipeline systems in order to report accurately to their various customers and the IRS the precise amounts of oil in each of the multiple categories that are mixed together in a common stream. Then tell us it is possible for the government to monitor this system for compliance.

The political process has not created a windfall profit tax but what the Independent Petroleum Association calls a "mecca for manipulators seeking to gerrymander categories to beat the tax." It offers greater rewards to people adept at changing oil from higher taxed to lower taxed categories than it does for finding new oil. By creating artificial distinctions that make it profitable to cheat, the tax begets years of scandal, corruption and litigation.

These costs must be set against the revenues raised, and there are other costs as well. One is the cost of removing future energy development from efficient private hands to inefficient government hands. Another is the cost of rending the fabric of property rights by confiscating oil owners' equity. Then there is the cost of the enormous increase in the regulatory burden that comes with the Finance Committee's bill. The "regulatory tax," already running at over $100 billion a year, is a senseless tax that raises costs and discourages output without rationing a cent in revenues.

Moreover, by adding to the regulatory morass it will add to the difficulty people already face in going about their business without being vulnerable to the charge that they are violating some law or regulation. It will make it easier for government to bring charges of wrong-doing, making it more costly for private business to resist Washington's will.

When all these costs are taken into account, the cost of this tax is going to be greater than any benefits from the revenues it raises. At this point the best thing that can be done with the tax is to scrap it. Congress should be content with the vast windfalls in additional income tax revenue that it can reap just by decontrolling the price of oil. The Congress's own Joint Committee on Taxation says that simple act alone will bring in $148–275 billion in new revenues over the coming decade. And if that's not enough largess for the proteans on the Hill to rain on their constituents, they can draw on the $1 trillion in new tax revenues that the Joint Committee on Taxation forecasts over the next decade from existing tax law.

You can tax an activity to death or you can regulate the life out of it. Before Congress does both to the oil industry, it should back off and take a fresh look at the "windfall profits" tax.

[From the Wall Street Journal, Oct. 25, 1979]

The Big Oil Rip-Off

Motorists fumed over gasoline lines in the summer, fuel prices soared, filling station service deteriorated—and now, Exxon reports its third quarter profits were up 119 percent from a year before. If the oil politicians had written the scenario for piling new taxes on the oil industry they couldn't have planned it better.

Indeed, Herblock had an anti-oil cartoon in the Washington Post the very morning of the Exxon announcement; Jimmy Carter said the big oil profits aren't "fair to the American people" and James G. Archuleta, of the Oil, Chemical and Atomic Workers Union called the Exxon profits "pornographic," which presumably is even worse than obscene. And yesterday the House reversed its previous decision to end gasoline price controls and allocations, apparently in the belief that keeping controls would punish the oil companies for their success.

To start to put this in perspective, you have to ask who gets these profits. Not Exxon's hired managers, as well compensated as they surely are. The profits go instead to shareholders, either directly as dividends or indirectly through share appreciation if profit is reinvested within the business. So who are these shareholders now so widely accused of greed?

Some 65 percent of Exxon's shares are held by institutions. These are pension funds, insurance companies, mutual funds and other mechanisms for small savers to pool their resources. Plus charitable and educational foundations, colleges and universities and the like. Employe pension funds alone own 28 percent of Exxon. Just what does Herblock have against retired people?

The question is even more pertinent if you notice that most of Exxon's profit gains were overseas, while most of the shareholders are Americans. If you insist on seeing profits as an income transfer, they were a transfer from European consumers to America's social welfare institutions for the retired aged. Hardly a cause for yelling or screaming on the New Jersey Turnpike; maybe so on M1 to London.

But anyone who might wish to rise above penny dreadful analysis has to ask about the origin of these profits. Why are the oil companies making so much money? In fact, the companies themselves have little control over most of the variables—prices, exchange rates, taxes, Iranian politics—that govern their profit rates. They really do not even have the option of trying to lower their profits by cutting prices, since in the short run only so much oil is available, and since prices below market-clearing levels would leave them swamped with orders they could not fill. Gas lines and the like would return; this is also likely to be the actual effect of yesterday's House vote.

In any industry, when prices rise faster than the overall rate of inflation, as oil product prices did this last year, it reflects, in simplest terms, diminished competition. The diminished competition in the oil industry this past year resulted not from a lack of competitors—there are 28 sizable oil companies—but the political restraints that have been applied to the energy industry, including all the products that compete with oil.

The Natural Gas Act crimped domestic drilling of natural gas, which was rising healthily before the act was passed. Environmental laws have curtailed coal use and expanded demand for unleaded gasoline, which requires more crude oil to produce than leaded gasoline. Pressures from the "No More Nukes" Yippees have stalled nuclear power development.

All of this is now to be remedied by piling still more burdens on domestic energy production. The windfall profits tax, which has gotten such a marvelous boost from the Exxon numbers, will further discourage U.S. oil production, reducing the total world supply of oil and practically guaranteeing that world prices and the overseas profits of the major oil companies will continue to rise. This will bring more screaming and yelling and more Herblock cartoons from Washington. And with the screaming and yelling will come new regulation, new taxes, new restrictions on domestic energy production.

Oil industry executives, many of whom would probably like nothing better in this poisoned political environment than to report a 1-percent profit decline, will continue to be benumbed by all the political and legal pressures that interfere with their fundamental goal of finding, producing and selling fuel.

The oil politicians, gearing up to run next fall on how forcefully they have championed the interests of the consumers, couldn't have written a better scenario. We wonder, however, if there won't come a point when the consumers and voters will begin to ask if they really need friends like these.

[From Forbes, Dec. 10, 1979]

Helping OPEC

(By M. S. Forbes, Jr.)

The windfall profits tax should be labeled "The OPEC Aid Act of 1979." To most Americans, the levy will merely siphon off for the government some of the cash flooding into oil company coffers. We're going to pay a price for that kind of thinking.

The windfall profits tax is actually an excise or sales tax on U.S. crude oil revenues. It has nothing to do with profits. It sharply reduces the price crude oil producers will get for pumping oil. Is that the way to encourage more production, more exploration?

Another disincentive is the legislation's mind-numbing complexity, with numerous categories of oil, each subject to a different tax. Confusion, mammoth under the existing set of convoluted rules, will grow ever more. Litigation will increase.

Even without the windfall tax, federal, state and local governments would receive from 50 percent to 60 percent of any rise in wellhead crude oil prices through existing taxes.

There are a number of myths that are fueling public support for the windfall profits tax, which was originally proposed to take away "excess revenues" that would accrue to oil companies as a result of President Carter's program to gradually free oil prices by late 1981.

The lion's share of new, producing oil and gas wells are drilled in this country by independents and wildcatters, most of them marginal, not by oil giants.

The bulk of oil company profits has been reinvested in energy. *Capital expenditures by the oils have exceeded the industry's after-tax profits for decades.* Since 1973, for instance, capital outlays averaged 1.8 times earnings. In the first half of this year, when reported profits were surging, capital spending exceeded earnings by more than 50 percent. That's why oil companies' indebtedness has gone up, not down, in recent years.

Given the enormous surge in the cost of drilling and exploration, taxing away capital from the oil industry is self-defeating to our goal of less dependence on OPEC.

Decontrol will raise consumer prices hardly at all. We have already been paying world market prices for gasoline, heating oil and other refined products despite restrictions on crude oil charges. The wholesale price of gas in New York and in Rotterdam is almost identical. Gasoline costs much more in Europe and Japan because they have significantly higher gasoline taxes.

Controls have transferred revenues from oil producers to oil refiners, dealers, brokers and others in the distribution chain. The net profits of the whole U.S. oil industry will not be much changed by decontrol. There would simply be more revenue for producers, less for refiners and distributors. The windfall profits tax would intercept that intra-industry transfer, reducing overall profitability.

U.S. gasoline and heating oil prices have surged because OPEC has been relentlessly jacking up the cost of oil. The rise in domestic oil earnings is a one-shot inventory profit. In 1974, when OPEC quadrupled oil prices, the return on equity for American oil companies almost doubled to 23 percent. A year later, the return on equity plunged to around 13 percent.

The windfall profits tax should be killed by Congress, if irresponsible political demagoguery doesn't make them chicken. Otherwise, we're going to help OPEC tighten its grip on our independence.

Mr. DeCONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 734

Mr. DeCONCINI. Mr. President, I ask that my amendment at the desk be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arizona (Mr. DeConcini), for himself, Mr. Nunn, Mr. Chiles, Mr. Schmitt, and Mr. Domenici, proposes a printed amendment numbered 734.

Mr. DeCONCINI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

Sec. . Disclosure of Tax Information to Law Enforcement Agencies.

(a) Subsection (i) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure of tax returns and return information) is amended by striking out paragraphs (1), (2), (3), and (4) and inserting in lieu thereof the following:

"(1) Nontax criminal investigation.—Upon written request from the head of a Federal agency authorized by regulation promulgated by the Attorney General, the Inspector General for such agency, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, an Assistant Attorney General or a United States Attorney, the Secretary shall disclose information described by 6103(b) (1), (2) and (3) of this title to officers and employees of such agency personally and directly engaged in, and solely for their use in preparation for any administrative or judicial proceeding, or investigation which may result in such a proceeding, pertaining to the enforcement of any specifically designated Federal criminal statute constituting a felony. Such request shall set forth—

"(A) the name and address of the taxpayer with respect to whom such information relates;

"(B) the taxable period or periods to which the information related;

"(C) the statutory authority under which the proceeding or investigation is being conducted; and

"(D) the specific reason or reasons why such disclosure is or may be relevant to the proceeding or investigation.

However, the Secretary shall not disclose any information under this paragraph if he determines that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(2) Disclosure of information described in subsection (1) concerning possible criminal activities.—The Secretary shall report to the appropriate Federal agency whenever he has reasonable cause to believe that information within his control may indicate a violation of any Federal criminal law constituting a felony. Such report shall be in sufficient detail to enable the agency to seek disclosure of pertinent information pursuant to the procedures of subsection (1).

"(3) Use in judicial or administrative proceeding.—Any information obtained under paragraph (1) or (2) may be entered into evidence in accordance with the Federal Rules of Evidence in any administrative or judicial proceeding pertaining to enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or any agency described in paragraph (1) is a party. However, any information under paragraphs (1) or (2) shall not be admitted into evidence in such proceeding if the Secretary determines and notifies the Attorney General or his delegate or the head of such agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation. The admission into evidence of any information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in such proceeding.".

(b) Reletter the remaining sections accordingly.

(c) The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

Mr. DeCONCINI. Mr. President, the amendment I have sent to the desk is meant to correct an overly broad provision in the Internal Revenue Code that has become an increasing problem to law enforcement agencies in their efforts to combat white collar criminals and organized crime. The amendment has two purposes.

The amendment which I am offering today would revise section 6103 (i) by deleting subsections (1) through (4) and inserting, in lieu thereof, three new subsections. The proposed new section 6103 (i)(1) would authorize disclosure of any tax information held by the IRS upon the written request of the head of a Federal law enforcement agency as designated by the Attorney General, or an Inspector General for such agency. Law enforcement agencies would include the Secret Service, the Customs Service, the Bureau of Alcohol, Tobacco and Firearms, the Postal Service, HEW and the SEC. Justice Department officials authorized to request tax information include the Attorney General, Deputy Attorney General, an Assistant Attorney General, or a U.S. Attorney. Such requests for tax information must set forth detailed information including:

First. The name and address of the taxpayer with respect to whom such information relates;

Second. The taxable period or periods to which the information relates;

Third. The statutory authority under which the proceeding or investigation is being conducted; and

Fourth. The specific reason or reasons why such disclosure is or may be relevant to the proceeding or investigation.

This new section 6103(i)(1) would replace existing section 6103(i) (1) and (2) and eliminates the wasteful court order requirement. The new section 6103 (i)(1) properly protects taxpayer privacy interests by requiring detailed documentation of every transfer of tax information for use in a nontax criminal investigation as well as approval by a high-level Federal officer. Any abuse of this procedure would subject the approving officer to civil liability under 26 U.S.C. 7217 and almost certain removal from Government office as the officers authorized to approve requests are appointed officials not protected by civil service regulations. As a further protection of taxpayer information, the new section 6103(i)(1) would limit requests to Federal felony investigations. In other words, this procedure could not be used in investigations dealing with civil, regulatory, or criminal misdemeanor laws.

The proposed new section 6103(i)(2) would place an affirmative duty upon tax officials to notify the appropriate law enforcement agency whenever their review of any tax information gives them reasonable cause to believe that the information may reflect a violation of any Federal criminal law constituting a felony. This does not authorize the IRS to initiate wholesale disclosures of tax records; rather, it requires the IRS to notify the appropriate Federal tax agency of the suspected offense in sufficient detail so that law enforcement authorities can then request disclosure of the actual records pursuant to the procedures of the new subsection 6103 (i)(1) which, again, requires detailed documentation and approval by high-level law enforcement authorities.

The new section 6103(i)(3) is essentially a reenactment of existing section 6103(i)(4), reflecting minor changes necessary to conform to the new subsections (1) and (2).

The law enforcement community has struggled for 3 years trying to adapt to the restrictive provisions governing exchange of tax information. The idea of amendments to the Tax Reform Act to ease the flow of information is not a new idea but has been the subject of debate at the Department of Justice, the FBI, the Drug Enforcement Agency, and other agencies with law enforcement responsibilities; however, they have constantly been frustrated in their efforts to bring about needed reform. Law enforcement officials from around the country have approached me and asked if there was not something that could be done to reopen executive branch channels to allow for greater exchange of information.

Mr. President, I submit this amendment as a measure to strengthen law enforcement efforts against fraud, organized crime, narcotics trafficking and public corruption. Prosecution of all these varieties of white-collar crime requires access to tax and financial information. I also offer this amendment as a measure to relieve the burden upon our Federal judicial system. There are more than enough judicial matters for our courts to hear without saddling them with what is, in essence, the burden of supervising executive branch officials in the performance of their law enforcement duties. Finally, I offer this amendment as an effort to reduce the incredible amount of needless paperwork required by existing section 6103(i).

In recent weeks, the Subcommittee on Improvements in Judicial Machinery, which I chair, has conducted several days of hearings on the general subject of bankruptcy fraud. Over and over we heard that one of the major reasons for inability to counteract bankruptcy fraud schemes and, more broadly, organized crime, was the adverse impact of the Tax Reform Act's restrictive disclosure provisions.

In response to my question concerning the effect of the Tax Reform Act on law enforcement, Mr. Oliver Revell, Assistant Deputy Director of the FBI, replied:

> The Tax Reform Act is a very definite deterrent to mutual cooperation between the FBI and the IRS. In essence we get extremely limited information from the IRS, and cases that we should be working jointly, we have a very difficult time doing. So, very candidly; yes, sir, the Tax Reform Act is an impediment to effective law enforcement, when we are talking about high echelon organized crime and high echelon white collar crime.

In response to a similar question to Mr. Jeremiah O'Sullivan, attorney in charge of the Boston field office, Organized Crime Section, Department of Justice, more commonly known as the New England Strike Force, he was most emphatic in replying:

> I find the Tax Reform Act and interpretations that have been put on the Tax Reform Act by the IRS have devastated us in our efforts to conduct financial investigation. * * * I think for the record it has been the worst thing that ever happened to law enforcement.

For years IRS investigations have been among the most successful in the entire law enforcement community. Their expertise in complex financial investigations is conceded to be without peer. Yet, under the interpretations that the IRS has placed on the Tax Reform Act, the role of the IRS has been gutted in cooperating with other agencies and as participants in strike forces. Again, let me quote Mr. O'Sullivan:

> As you know, most Strike Forces have Strike Force representatives, each agency sends a representative to the Strike Force meetings. The purpose being to exchange information, to determine the state of organized crime in that particular area, to generate investigations targeted to particular industries or problems.
>
> The Internal Revenue Service representative of the Strike Force is a passive participant. He cannot contribute any information at all. Basically, the [IRS] people would say that that is the intent of the Tax Reform Act.
>
> IRS has taken it to such a degree that they interpret the disclosure provision to mean that if my Strike Force representative, who is also an IRS criminal investigation agent, is out talking to a police department about corruption in a particular investigation, and a police officer tells him something about an organized crime figure—let's say this organized crime figure just moved into our community—the IRS interprets the provisions of the Tax Reform Act to prevent the IRS agent from disclosing this information to the Strike Force. Let's say at the next Strike Force meeting there is a question about where this organized crime individual is, what he is operating on, and he is not the subject of the IRS case, and my IRS agent got this information when he was out talking to the police chief—talking about something independent. The IRS agent, under IRS interpretation of the disclosure section of the Internal Revenue Code, cannot contribute the fact that this individual is now operating in that particular town and he heard that from a police officer. They consider that to be tax information and prohibited disclosure.
>
> In effect, the IRS agent on the Strike Force has no active role at all. When you have one man sitting there and all other agents are contributing, they wonder what the IRS guy is doing there, and why he should be there in the first place. I think it [the disclosure provision] has been devastating.

I believe the record now shows that Congress overreacted to Watergate-related abuses that led to the restrictive provisions on information exchange in the Tax Reform Act of 1976. And the subsequent narrow interpretation on congressional intent regarding privacy that the IRS has applied to the Tax Reform Act has had dire effects, and leads me to question the intent of the policymakers at the Internal Revenue Service. I do not know if their interpretations stem from a distaste for dirtying their hands by possibly becoming involved in a noncriminal investigation or whatever, but it is clear to me that the only clear beneficiaries of the Tax Reform Act and IRS interpretations have been white collar criminals and organized crime. When reporting information to a law enforcement agency it is also mandatory that the IRS act with all the speed that is reasonable under the circumstances.

I would like to quote from the testimony of another witness that appeared before the subcommittee, Mr. Nick Ackerman, presently an assistant U.S. attorney in the southern district of New York, who was in charge of certain of the tax aspects of the Watergate investigations under Archibald Cox, Leon Jaworski, and Henry Ruth, and which investigative findings were, in large part, the basis that led to enactment of 26 U.S.C. 6301(i). The former Watergate prosecutor feels the legislation not only totally missed its target, but far from falling innocently to the ground, hit and damaged practices, procedures, and areas of the law in which there had never been a documented problem. I quote from his testimony:

> I can tell the Committee that many of these [tax disclosure] abuses were overblown and that the legislation that was passed did nothing to remedy the particular abuses but, in fact, made it easier for white collar criminals to get away with the crimes that they have been committing. In effect, it [the Tax Reform Act] has been legislation that has helped the white collar criminal.

Mr. Ackerman was in charge of the recent successful prosecution of a number of white collar criminals and members of organized crime in the Westchester Premier Theater case. Although successful on several counts, I know from speaking with him that he would have been greatly assisted in effectively and thoroughly preparing the case if he had had access to tax information on the defendants.

In a recent letter to me, Mr. Ackerman reiterated his earlier testimony:

> As I testified before your Subcommittee last month, before becoming an Assistant United States Attorney in the Southern District of New York, I was an Assistant Special Watergate Prosecutor under Archibald Cox, Leon Jaworski and Henry Ruth. One of my prime responsibilities during the two and a half year tenure with the Watergate Special Prosecution Force was to investigate the allegations surrounding the Nixon Administration's misuse of the Internal Revenue Service and its compilation of an enemies list to harass opponents of the Administration through the IRS.
>
> Unfortunately, the reform legislation which the Congress enacted to remedy these abuses and to prevent them from reoccurring was overly broad and has resulted in severely impeding effective criminal investigations by federal law enforcement officials. This post-Watergate reform legislation unwittingly created two major problems for the federal prosecutor:
>
> First, it has made the securing of federal tax returns so cumbersome and enmeshed with red tape that it has hampered the Government's ready access to these returns in investigations where speed can make the difference between success or failure.
>
> Second, in a number of instances where tax returns would assist a criminal investigation, the Government has not been able to obtain returns because of the restrictions imposed by the Act.
>
> Obviously, the reforms aimed at curing the Watergate abuses did not contemplate the impeding of legitimate law enforcement goals.
>
> In that connection, federal tax returns are an extremely invaluable investigative tool in prosecuting crime and are particularly useful in ferretting out complicated business and financial crimes. By impeding the federal prosecutor's access to tax returns, this reform legislation of 1976 has ironically made it more

> difficult for the Government to prosecute the very kind of white collar criminal which was so successfully prosecuted by the Watergate Special Prosecution Force. Your narrowly drafted amendment to that legislation would remove the benefits presently enjoyed by the white collar criminal while at the same time maintaining those reforms which were designed to protect the privacy of law abiding citizens.

For years now, we have had the Attorney General appear before Congress and testify that his top priority was fighting white-collar crime and organized crime. DOJ recognizes the pernicious evil of this type of crime, the American public recognizes it, yet we, the Congress, have set up the most effective roadblock imaginable to combating that problem when we adopted the restrictive disclosure provisions of the Tax Reform Act. I am committed to pulling out the stops in the fight on organized crime and a good place to begin is with reasonable modification of these disclosure provisions through which we unwittingly provided a "safe harbor" for white-collar criminals and organized crime figures.

A report by the GAO (GGO–78–110) issued on March 12, 1978, concerned the disclosure and summons provisions of the 1976 Tax Reform Act. The report concluded that the disclosure provisions have adversely affected coordination between the IRS and other law enforcement agencies. Although the GAO found that many of the problems were minor, they also reported that it now takes more time to respond to Department of Justice requests for access to tax information, yet concluded that that was not unreasonable. The Department of Justice strongly disagreed with the latter conclusion.

The GAO report found that coordination problems between law enforcement agencies were, in fact, troublesome. The coordination problem arises when the IRS has criminal tax information on an individual which can be useful to a U.S. attorney or a strike force attorney, but the affected attorney does not know the IRS has the information. In this regard, the Tax Reform Act prohibits the IRS from initiating discussion with Justice attorneys about a person's criminal tax affairs until the IRS officially refers its case to Justice for prosecution. As a result, Justice attorneys believe the Tax Reform Act has adversely affected their ability to properly carry out their duties as Federal prosecutors and law enforcement coordinators. The GAO report notes that neither IRS nor Justice had any overall statistics to indicate how often coordination problems arise or the magnitude of the problem, although GAO was supplied cases which provide examples of how coordination problems arise.

In response to GAO's conclusion that the need for amendments to section 6103 has not been substantiated by statistics, I would like to quote from a letter from Kevin Rooney, Assistant Attorney General for Administrators, to Allen Voss, Director, General Government Division of the GAO, dated November 13, 1978:

> The Department agrees that enactment and implementation of the revised Code Section 6103 have had an adverse impact on law enforcement and have damaged the coordination between the IRS and other law enforcement agencies. The Department takes issue with GAO, however, as to the extent of the adverse effects of the 1976 Act upon law enforcement. In this regard, there is one very important point: the adverse effect of disclosure limitations upon law enforcement is not susceptible to direct statistical measurement.
>
> Disclosure restrictions deny prosecutors access to tax information which has long been used in complex criminal cases, more often for investigative than trial purposes. In the absence of the information, it is virtually impossible to demonstrate what that information, if available would have shown. GAO, in seeking to document the effect of disclosure limitations, is attempting to prove the extent of a negative. Because there is little or no statistical information upon which to base a conclusion as to severity of the impact of disclosure restrictions upon law enforcement, the Department feels that the GAO report should take fuller account of the opinions of experienced prosecutors. Our own sounding of such opinion is that the effect has been much more severe than portrayed in the GAO report, particularly with respect to complex criminal prosecutions. Several facts support this view.

Another indicator of the adverse impact of the Tax Reform Act is the IRS' participation in strike force activities. The Government's chief weapon against organized crime is the Federal Strike Force. Although IRS special agents have proven to be valuable strike force participants due to their expertise in investigating financial matters, their participation has declined since the disclosure provisions of the Tax Reform Act became effective on January 1, 1977. Internal Revenue Service officials provided the following nationwide statistics:

Fiscal year:	*Number of strike force cases initiated by IRS*
1974	620
1975	547
1978*	221

*October 1, 1977 to June 30, 1978.

While not attributing the entire decline in strike force participation to the Tax Reform Act, IRS officials have cited the act as a definite contributor.

I referred earlier to testimony we received from the head of the New England Strike Force that their IRS-attached agents were "bumps on a log"—too restricted to meaningfully participate. The problem, far from abating, is continuing.

Along similar lines, it is clear that utilization of tax information by the Department of Justice has dropped to a fraction of its pre-1977 levels. For example, during fiscal year 1975, before the effective date of the act, 6,535 tax returns were inspected by the Justice Department in connection with nontax (title 18) cases. By way of comparison, IRS figures show that disclosure of approximately 900 returns was authorized by Justice-initiated court orders under code section 6103(i)(1) during the post-act period of August 1 to December 31, 1977. This translates to an annual rate of 2,160, or about one-third the preact rate. The Department feels that the Tax Reform Act is primarily responsible for this reduced access.

Another major problem documented by GAO was the delay in obtaining tax information. It is the cumulative effect of delay that can be particularly detrimental. Because prosecutors are aware of the time required to obtain disclosure, they are often reluctant to seek access to tax information if time is of the essence. I trust the IRS will read the clear intent of Congress in making this amendment as to, among other purposes, streamline the time it takes the IRS to process a disclosure request.

Concerning time, an indirect effect of requiring court orders has been the use of a significant amount of Federal judge time. This is time that, in my judgment, is ill spent and could be better devoted to reducing the massive backlogs prevalent in too many of our courts today. Of the 6,535 tax returns inspected by the Department of Justice alone in 1975, before court orders were necessitated, I do not know of any documented abuses. The abuses that led to the 1976 Tax Reform Act disclosure provisions did not involve the law enforcement agencies—but were almost exclusively limited to abuses by the White House staff.

Mr. President, as I mentioned at the opening of my remarks, the purpose of my amendment is to make the exchange of tax information between Federal law enforcement agencies easier, hopefully resulting in more successful prosecution of white-collar criminals. The Attorney General is given the power to not only receive tax information, but he is also designated to promulgate regulations governing the access of other Federal agencies to tax information. I anticipate that the regulations set by the Attorney General will be sufficiently broad to permit all agencies who have a reasonable need, access to this tax information.

Adequate civil remedies exist under present law to compensate anyone victimized by an improper disclosure of a return or return information; 26 U.S.C. 7217 provides that a taxpayer may bring a cause of action against any person who knowingly or negligently discloses return information in violation of the provisions of section 6103. Upon a showing that the disclosure was willful or the result of gross negligence, an award of punitive damages is authorized.

In addition, an aggrieved taxpayer may bring a civil action against a Federal employee based on the common law right to sue for damages for a violation of constitutional rights recognized in Bivens against Six Unknown Named Agents of the Federal Bureau of Narcotics, 403 U.S. 388 (1971). The Court in Bivens held that Federal agents are not cloaked in immunity protecting them from suits charging violations of constitutional rights.

Furthermore, to escape liability for an invasion of constitutional rights, the agent would have to show not only that he believed, in good faith, that his conduct was lawful, but also that his belief was reasonable, in conjunction with the available criminal sanctions for improper disclosures, these civil remedies should suffice to alleviate concern that tax return information will be utilized for any improper purposes.

Mr. President, the problems faced by law enforcement agencies I have outlined regarding the disclosure provisions of the Tax Reform Act are not unique to that act. The fight against white collar crime and organized crime has also been severely impeded by certain aspects of the Bank Privacy Act and the Freedom of Information Act. Although I praise these pieces of legislation for their overall goal of maintaining privacy for the general citizenry, it should not necessarily follow that the statutes also provide a "safe harbor" for criminals to shield their illicit activities. In the months ahead I shall take a close look at these statutes and offer amendments to them as needed to assure that law enforcement is not stifled at every turn through an overzealous desire to protect privacy.

I will also personally attempt to assure that careful oversight of tax disclosure information is maintained.

Passage today of this amendment to 26 U.S.C. 6103(i) will mark a moderate but significant step forward in the fight against white collar and organized crime. I urge my colleagues to support the amendment.

Mr. President, I ask unanimous consent to have printed in the Record appendix A on tax disclosure procedures; appendix B, a memorandum; and appendix C, a letter from the Department of Justice dated November 13, 1978.

There being no objection, the material was ordered to be printed in the Record, as follows:

APPENDIX A—TAX DISCLOSURE PROCEDURES PURSUANT TO 26 U.S.C. 6103(I) (1) AND (I) (2)

Disclosure of returns and taxpayer return information pursuant to 26 U.S.C. 6103(i) (1) requires the obtaining of an ex parte court order, the application for which must be authorized by the appropriate Assistant Attorney General. The procedure is initiated by a federal prosecutor (assistant U.S. Attorney, Strike Force Attorney, Criminal Division section Attorney, or task force Attorney), perhaps at the request of a DEA or FBI agent. The federal prosecutor prepares an Application and proposed Order which is sent directly to the Criminal Division's office of Legal Support Services which, since the reorganization of the Criminal Division in February 1979, has supervision and review responsibilities over all tax disclosure requests sent to the Assistant Attorney General for approval. The Office of Legal Support Services (OLSS) prepares the necessary documentation and submits it to the Assistant Attorney General (AAG) for his signature after reviewing and approving the request. Once the AAG signs the letter of authorization for the Application for an ex parte order, the letter is mailed immediately to the requesting federal prosecutor and IRS is immediately notified by letter of the impending disclosure Order. The above-described procedure, from the time the Criminal Division (i.e., OLSS) receives the (i) (1) disclosure request until the AAG authorizes the Application, averages about one week.

Once the federal prosecutor receives the letter of authorization, he attaches it to the Application and proposed Order which are then submitted to the appropriate U.S. District Court for approval. The prosecutor then sends the ex parte court order to IRS headquarters in Washington where the Order is received pursuant to the provisions of 26 U.S.C. 6103(i) (1). From the time the AAG authorizes the Application until IRS in Washington authorizes the disclosure of returns and taxpayer return information, by the appropriate IRS district disclosure office, there elapses a time period of approximately 32 calendar days. Depending upon the number of taxpayers and taxable periods named in the Order, there is an additional delay of anywhere from 10 to 45 days until the federal prosecutor receives the disclosed materials from the IRS District Disclosure Officer. On the average, therefore, the entire disclosure process under 26 U.S.C. 6103(i) (1) takes approximately two or three months.

Disclosure of return information, other than taxpayer return information, pursuant to 26 U.S.C. 6103(i) (2), requires the AAG to submit a written request to IRS for such disclosure. Under this procedure, the prosecutor submits a proposed written request to OLSS which reviews same, prepares additional documentation, and submits the "(i) (2) package" to the AAG for his approval and signature. As soon as the (i) (2) written request is signed by the AAG, it is hand-delivered across the street to IRS headquarters. An average of 23 calendar days will then elapse before IRS authorizes its appropriate district disclosure officer to disclose the requested return information to the federal prosecutor. At that point, as under the 6103 (i) (1) procedure, another 10 to 45 days may elapse until such time as the information is retrieved and provided to the prosecutor by the IRS officer.

A combined request for disclosure under 26 U.S.C. 6103(i) (1) and (i) (2) follows the same procedure, but simultaneously, as described above. The average time for a combined 6103(i) (1) and (i) (2) authorization, i.e., from the time the AAG signs the necessary authorization and request letters until the time IRS headquarters authorizes the combined disclosure, is approximately 32 calendar days. Again, however, 10 to 45 days may elapse until the materials are retrieved and disclosed by the IRS district disclosure officer.

APPENDIX B

Prior to the enactment of the Tax Reform Act of 1976, federal law (26 U.S.C. 6103(a) (1) provided that tax returns were "public records" which could be disclosed "upon order of the President and under rules and regulations prescribed by the Secretary [of the Treasury] or his delegate [the Commissioner of Internal Revenue] and approved by the President." [Explanatory information added.] While rules were evolved over the years which came to be somewhat similar to the restrictions in my proposed amendment, there were no statutory safeguards for tax information.

The Tax Reform Act of 1976 moved us from this concept of tax information as public records subject to disclosure at the whim of the Administration in power to a system set out in current Section 6103(i) which, in effect, requires what amounts to a search warrant in order for law enforcement authorities to obtain taxpayer information for a legitimate law enforcement investigation. Actually, the burden which Section 6103(i) imposes upon reviewing courts is even more substantial than that involved in a determination upon an application for a search warrant as the legislative history of the Tax Reform Act of 1976 seems to imply that the court must conduct an in camera review of the complete tax file disclosing only such items as are relevant to the law enforcement investigation for which the information is sought. It is small wonder that, in actual practice, most courts grant Section 6103(i) court orders without going through the time-consuming process of reviewing all of the various returns, schedules and other information that make up a tax file. Courts realize when they have been assigned what is really an administrative and not a judicial function.

From the standpoint of Federal law enforcement agencies, the Section 6103(i) court-order requirement is also more burdensome than obtaining a search warrant as Section 6103(i) (1) now requires that all applications for such court orders be approved by the Assistant Attorney General of the Criminal Division here in Washington, Before the United States Attorney in Hawaii can even go to court to seek a Section 6103 order, therefore, he must first request authorization from Washington. The delay and paperwork involved in this exercise can jeopardize important criminal investigations and wastes all too scarce prosecutorial resources.

Mr. President, the search warrant model which was chosen as a pattern for existing Section 6103(i) (1) seems an extremely inappropriate condition precedent for a transfer of information from the Internal Revenue Service to the Department of Justice. While it is true that the Fourth Amendment does protect privacy rights, the primary reason the Founding Fathers required a judicial order for searches and seizures is that such searches and seizures would otherwise constitute a trespass and theft, that is, entry into a person's home or business premises and seizure of personal property. To require a prior judicial order for an interdepartmental transfer of information lawfully in the possession of the government seems to reflect a very low opinion of the value of prosecutorial and judicial time and effort.

While existing Section 6103(i) (2) does permit the IRS to disclose non-taxpayer information at the request of the head of an agency, such requests, like court-order applications, must be routed through Washington resulting in needless delay and paperwork. Actually, to the extent that non-taxpayer information is concerned, it would seem that any restrictions upon interagency transfer are difficult to justify; at the very least, such transfers to United States Attorneys, who are appointed by the President with the advice and consent of this body, should not require approval in Washington.

Finally, current Section 6103(i) prohibits IRS from notifying the appropriate law enforcement authority of non-tax criminal offenses that are revealed by taxpayer information. In a report earlier this year by the General Accounting Office, it was revealed that existing Section 6103(i) resulted in the following situations:

"In the following situations, IRS was not able to disclose information on its own initiative because the information was obtained from the taxpayer, his records, or his representative or because the information related to a non-tax violation of a State law:

"IRS' audit of corporate records indicated that a Federal employee had accepted a bribe from the corporation and canceled a planned regulatory investigation. IRS could not disclose this information.

"A taxpayer imported antiques and declared a value of $5,000 for Customs purposes. During the tax investigation, IRS obtained documents which indicated that the antiques were valued at $300,000. IRS could not disclose this evidence of a potential Customs violation.

"During an audit, IRS' analysis of corporate records revealed that the corporation had made political contributions which constituted a potential violation of the Corrupt Practices Act. IRS could not disclose this evidence to the Attorney General."

In addition, the Subcommittee has recently learned of an incident that is truly shocking in its implications. It seems that during an IRS tax audit, the agents were given permission by the taxpayer to take a file containing records and documents of the taxpayer back to the IRS office for further review. As the agents went through the file they discovered several packages of heroin. Under IRS interpretations of 6301(i) (3) the agents could not reveal to other law enforcement agencies what they found since it arose during a tax investigation.

It seems to me inexcusable that IRS employees, who one would expect to support and defend the Constitution and laws of the United States, are prohibited by law from reporting violations of federal criminal laws that come to their attention. In the absence of Section 6103, such conduct might constitute a misprison of felony contrary to 18 U.S.C. 4, itself a felony statute.

APPENDIX II

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., November 13, 1978.

Mr. ALLEN R. VOSS,
Director, General Government Division, U.S. General Accounting Office, Washington, D.C.

DEAR MR. VOSS: This letter is in response to your request for comments on the draft report entitled "Disclosure and Summons Provisions of 1976 Tax Reform Act—Privacy Gains With Unknown Law Enforcement Effects."

The draft report generally reviews the law enforcement impact resulting from implementation of Sections 1202 and 1205 of the Tax Reform Act of 1976 which, respectively, amended Code Section 6103 (relating to confidentiality and disclosure of tax information) and enacted Code Section 7609 (relating to summonses issued to banks and certain third party recordkeepers). GAO does not recommend amendment of Section 6103 of the Code, but suggests that Congress may wish to consider whether the coordination problems are tolerable and whether to modify Code Section 6103 in light of the coordination problems. As for Code Section 7609, the GAO contends that the information available does not warrant amendment at this time.

DISCLOSURE PROVISIONS

The draft report discusses Code Section 6103, along with its legislative history, in some depth and concludes that implementation of that provision has caused coordination problems between the Internal Revenue Service (IRS) and other law enforcement agencies. GAO sees the loss of coordination as resulting from the fact that IRS cannot always disclose information about non-tax criminal offenses and cannot alert the Department of Justice (Department) to seek disclosure of criminal tax information in many instances. GAO notes that this has resulted in a number of parallel, duplicate investigations. In addition, GAO concludes that participation by the IRS in strike force activities has declined, at least in part, because of the implementation of amended Code Section 6103.

The Department agrees that enactment and implementation of the revised Code Section 6103 have had an adverse impact on law enforcement and have damaged the coordination between the IRS and other law enforcement agencies. The Department takes issue with GAO, however, as to the extent of the adverse effects of the 1976 Act upon law enforcement. In this regard, there is one very important point: the adverse effect of disclosure limitations upon law enforcement is not susceptible of direct statistical measurement.

Disclosure restrictions deny prosecutors access to tax information which has long been used in complex criminal cases, more often for investigative than trial purposes. In the absence of the information, it is virtually impossible to demonstrate what that information, if available, would have shown. GAO, in seeking to document the effect of disclosure limitations, is attempting to prove the extent of a negative. Because there is little or no statistical information upon which to base a conclusion as to severity of the impact of disclosure restrictions upon law enforcement, the Department feels that the GAO report should take fuller account of the opinions of experienced prosecutors. Our own sounding of such opinion is that the effect has been much more severe than portrayed in the GAO report, particularly with respect to complex criminal prosecutions. Several facts support this view.

First, it is clear that the Department's utilization of tax information has dropped to a fraction of pre-1977 levels.[1] The 1976 Act, with its new, unfamiliar and cumbersome procedures, is primarily responsible for this reduced access. The civil sanctions are troublesome to prosecutors and investigators who are keenly aware that most criminal defendants are alert to and will seize upon any available means of delaying law enforcement investigations and proceedings or of harassing law enforcement officials. Indeed, this dilatory and harassment potential accounts for the longstanding and continued vitality of the doctrine that prosecutors are generally immune from tort liability. While it is true that few civil suits have been filed for unauthorized disclosure of tax information, the potential for such suits has an in terrorem effect including, we suspect, an impact on the willingness of IRS to initiate permissible disclosures. Consequently, the Department continues to agree with the Privacy Commission, "Personal Privacy in an Information Society: The Report of the Privacy Protection Study Commission," p. 560, that when an unauthorized disclosure is made, the governmental unit, rather than the prosecutor or investigator, should be liable for any resulting damages. See also the Right to Financial Privacy Act, Title XI of H.R. 14279, which contains such a provision.

Even more disruptive than the chilling effect of the civil and criminal sanctions are the very substantial procedural obstacles placed in the path of disclosure. Before deciding to incur the rigors of paperwork and delay inherent in the Act, a prosecutor must determine that the answer to three questions is affirmative:

(a) Will the Departmental request be approved and complied with, or will the court order be granted?

(b) If so, will it result in securing information that will significantly assist the investigation or prosecution?

(c) If so, will the information be obtained within a timeframe that will permit its effective utilization?

Anything less than a clearly affirmative answer to all of the three questions will likely persuade a prosecutor that he should not gamble scarce attorney and clerical resources by seeking disclosure. With respect to the question whether a court order can be obtained, we believe GAO does not fully appreciate the difficulty in making the required three-part showing, particularly in the early stages of an investigation.[2]

The significant decline in access to evidence of criminal activity demonstrates the severe adverse impact of the Act upon law enforcement when considered in light of the major role which tax information has historically played in prosecutions of white-collar and organized crime, public corruption, and narcotics trafficking.[3] It is unavoidable that reduced access to tax information impedes law enforcement effectiveness in controlling these high priority areas of law enforcement.

Second, GAO has documented the delay involved in obtaining disclosure during the course of investigations and is also aware that there are severe time limitations upon prosecutors both in terms of statutory limits (the various statutes of limitations) and in terms of practical considerations (witnesses' memories are dimmed by time, stale cases have little jury appeal, and delay allows criminals to continue their unlawful enterprises). The Act is especially troublesome when the need for records arises after a trial has begun.

It is the cumulative effect of delay which can be particularly detrimental. In complex investigations, tax information once obtained may inculpate others with the result that an investigation of one complex scheme may suffer from multiple delays as prosecutors follow a paper trail that requires access to tax information pertinent to first one and then another of several conspirators. Because prosecutors are aware of the time required to obtain disclosure, they are reluctant to seek access to tax information if time is of the essence.

As to the average period of delay, this may indeed be subject to control to the extent that administrative procedures can reduce time required to process requests for non-return information. We are currently reviewing a number of proposals to minimize administrative delay, but we see little possibility of expediting court orders for return information or for reducing other court delays. In fact, at least one court concluded that it was bound to conduct an in camera review of taxpayer information prior to release to prosecutors, *United States* v. *Praetorious, et al.*, 78 CR 135. If other courts follow that decision, delays of several months (as experienced in the cited case) may become more common.

Third, GAO has documented numerous cases where disclosure restrictions have prevented IRS from informing the Department of clear criminal violations where information was based on taxpayer return information. These examples likely represent only a small portion of the total number of such instances as IRS understandably does not accumulate statistics on the number of crimes it discovers about which it can do nothing. In addition to such cases of clear criminal activity, there are also probably many cases where IRS information is, in itself, only mildly suspicious but which, taken together with information developed by the Department, would clearly evidence criminal conduct.

Fourth, GAO has documented the sharp decline in IRS strike force participation, a decline the Department believes has had an effect upon the national law enforcement effort against organized crime. We disagree, however, that the 1976 Treasury-Justice agreement was responsible for the decline in IRS strike force activity. If anything, the statistics cited by GAO show that it was the Tax Reform Act which contributed to the decline. GAO figures reveal that IRS strike force participation was higher in FY 1976 than in FY 1975 although the agreement was in effect during almost half of FY 1976. It was in FY 1977, when the Tax Reform Act went into effect, that the sharp drop occurred.

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[1] During FY 1975, before the effective date of the Act, 6,535 tax returns were inspected by the Justice Department in connection with non-tax (Title 18) cases. By way of comparison, IRS figures show that disclosure of approximately 900 returns was authorized by Justice-initiated court orders under Code Section 6103(i)(1) during the post-Act period of August 1 to December 31, 1977. This translates to an annual rate of 2,160, or about one-third the pre-Act rate.

[2] Regarding restrictions on information obtained by IRS from third parties, the Department is unable to appreciate the justification for such limitations, particularly as to information voluntarily disclosed to IRS by third parties.

[3] In this connection, complex crimes are difficult even to detect as there are seldom any innocent bystanders to witness the offenses and the victims, who may comprise a significant sector of the population, are usually unaware that they have been victimized. Tax information is crucial, therefore, to establish that a crime did occur. Yet the Government must demonstrate reasonable cause to believe a crime occurred to satisfy the first part of the three-part showing necessary to obtain a court order authorizing disclosure.

Fifth, GAO observed that the Act has had an adverse effect upon coordination between IRS and Justice. In our view, the initial effect of the Act—with its civil and criminal sanctions, its stringent restrictions, and its new procedures—was to cause a virtual collapse in coordination. While the situation has improved somewhat with experience, coordination between IRS and Justice is and will continue to be greatly diminished as compared to coordination before the Act.

GAO could have devoted more attention to two aspects of reduced coordination: (1) other law enforcement agencies have less access to IRS expertise in the analysis of financial records so crucial to complex prosecutions, and (2) IRS is deprived of leads that could assist it in enforcement of the tax laws. On this latter point, while IRS doubtlessly is notified of clear tax violations, it is not always informed in a timely manner about the white-collar and public corruption cases which so often involve elements of tax evasion.

Sixth, letters from United States attorneys state that there have been numerous cases of duplication resulting from uncoordinated, parallel IRS-Justice investigations. Because both IRS and Justice resources are finite, this duplication—largely attributable to the 1976 Act—clearly has an adverse impact upon law enforcement. In addition to wasting resources, parallel investigations result in duplicative questioning of witnesses and duplicative requests for information which tend to harass and alienate prospective government witnesses. The only existing vehicle for coordination of non-tax cases with tax investigations is the authorization in Section 6103(h)(2) of the Code, as interpreted by Treasury Regulations Section 404.6103(h)(2)-1(b) (43 Fed. Reg. 29115, July 6, 1978), for the conduct of joint tax/non-tax investigations in cases involving tax administration. This vehicle, while cumbersome and inefficient, is helpful. It does not permit the broad coordination of criminal justice efforts possible prior to the Act, however, since it applies only when adequate information of criminal tax violations is available, the matter has been referred to the Department of Justice by IRS, and the tax and non-tax offenses arise out of the same facts and circumstances. As a result, the IRS is not permitted to disclose tax information for purposes of selecting targets of a Strike Force investigation, and unless or until a tax case is referred to the Department, tax information is available to the Department only under section 6103(i).

The Department believes that any one of the above effects would demonstrate a serious impact upon law enforcement. Taken together, the detrimental effect can be extreme. The primary effect that we perceive is in the quality of complex criminal prosecutions, rather than in quantity. In fact, it is unlikely that the effect of the Act will ever be clearly revealed by gross statistics on criminal prosecutions or prosecution success rates. In this regard, we have more investigative leads than we can properly pursue and more than enough cases to litigate. It is well known that a high percentage of criminal cases are disposed of by plea agreement. Because the Department has given priority attention to white-collar and organized crime, public corruption, and narcotics trafficking, even statistics on these complex cases may not decline. More likely, a decline will be experienced in really significant cases—those involving the largest number of victims, those directed against the most sophisticated criminal operators, and those having the greatest deterrent effect. As the quality of criminal prosecutions is so difficult to assess, we may never be able to prove satisfactorily, i.e., with direct statistical data, that quality has actually declined.

GAO concludes that the adverse effect of disclosure restrictions, as GAO assesses that effect, is balanced by privacy gains. The Department contends, however, that the full extent of the adverse effect upon law enforcement has not been placed in this balance. Giving sufficient weight to the public interest in effective prosecution of high-priority crimes might result in a different conclusion than the one reached by GAO.

In conclusion, while we agree with GAO's determination that the new disclosure restrictions have had an adverse impact on coordination of investigative activities between IRS and other law enforcement agencies, we believe that the impact is more severe than portrayed in the draft report. The Department is not convinced that a proper balance between privacy and law enforcement was struck in the Tax Reform Act. GAO suggests in its report that Congress may want to consider whether the coordination problems identified are tolerable. The Department endorses GAO's suggestion to reexamine the means by which the privacy of tax information can be protected without unnecessarily hampering law enforcement.

We appreciate the opportunity to comment on the draft report. Should you desire any additional information, please feel free to contact us.

Sincerely,

KEVIN D. ROONEY,
Assistant Attorney General
for Administration.

● Mr. DOMENICI. Mr. President, enactment of this amendment will greatly assist law enforcement officials in New Mexico in their efforts to eliminate organized crime.

My concern for the apparent signs of increased organized criminal activity in New Mexico, spurred principally by the enormous illegal profits from drug trafficking, led in 1978 to my requesting Attorney General Benjamin, then Assistant Attorney General, to assess the scope of organized crime in New Mexico.

His report concluded that while there was no apparent evidence of the national crime syndicate moving to New Mexico, there was a great increase in the sophistication and size of local criminal populations. There definitely exists a local organized crime problem which occasionally even works with the national syndicate. It was recommended that the most effective law enforcement tool would be agent auditors who could detect criminal activity from increases of unexplainable income by the criminals themselves.

This amendment would further increase the capabilities of law enforcement agencies in identifying and prosecuting members of organized crime in New Mexico and help stop drug smuggling. It makes possible the investigation of every member of the crime organization and greatly increases the odds of being caught and convicted.

I compliment Senator DECONCINI for his vigorous efforts in the arena of law enforcement. It is only through new initiatives that we will be able to stop the modern criminal.●

Mr. DECONCINI. Mr. President, I ask unanimous consent that Senator THURMOND be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DECONCINI. I reserve the remainder of my time, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the reported amendment in the nature of a substitute to H.R. 3919, an Act to impose a windfall profit tax on domestic crude oil.

Robert C. Byrd, Bill Bradley, Edmund S. Muskie, Gaylord Nelson, Richard Stone, John A. Durkin Alan Cranston, Paul Sarbanes, Claiborne Pell, Henry M. Jackson, John Glenn, George McGovern, Daniel Patrick Moynihan, J. James Exon, Carl Levin, and Max Baucus.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, I yield the floor, for the time being.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I ask unanimous consent that Senator LONG be added to amendment No. 735 as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, who has the allocation of time?

The PRESIDING OFFICER. The Senator from Texas has the floor.

Mr. BENTSEN. Would the Chair advise the manager of the bill the division of the time?

The PRESIDING OFFICER. The Senator from Texas has approximately 28½ minutes remaining. The Senator from Arizona has approximately 25 minutes remaining.

Who yields time?

If neither side yields time, the time runs equally against both sides.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I yield 10 minutes to the Senator from Connecticut (Mr. Weicker).

Mr. WEICKER. I thank the distinguished Senator from Texas.

Mr. President, I ask unanimous consent that Mr. Michael Haynes and Mr. Tim Keeney, of my staff, have the privilege of the floor during the course of the debate on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, first, I indicate I am upset at a unanimous-consent agreement to which I clearly had expressed to the leadership on my side of the aisle my opposition, insofar as this amendment is concerned. I understand that it is under a 1-hour limitation, which I never would have agreed to. I understand that it is not amendable, which I also never would have agreed to.

I suppose what bothers me is that this goes to amending that portion of the law which was finally put into place after 4 years of hard work on both the House side and the Senate side. This law is a direct result of Watergate and a direct result of abuses by the IRS, the Justice Department, and the White House. It was a tax privacy issue and one that was gone over with a fine-tooth comb during hearing after hearing on both the House and Senate sides, during debate on this floor. It was amended in a regulatory way through agreement by the Justice Department, and now here is a simple amendment to tear the whole structure down and go back to square one.

I have 20 or 25 minutes to sum up, if you will, to voice my opposition to legislation which was introduced initially in 1975 and was accepted in 1978. There were roughly 3 years of factfinding, 3 years of hearings, 3 years of debate; finally putting into place the safeguards which would have prevented the abuses which occurred during Watergate. Now, as a nongermane rider to this bill, it comes under a 1-hour limitation because of a screwup by the leadership on my side. I cannot believe it.

In any event, let me specifically say that the reason why the law is as it reads today is to prevent the Internal Revenue Service from becoming a lending library to every other institution of Government. I do not have to sit here and recite the litany of Watergate abuses and access to the IRS by the executive branch. Not just the White House—by the Justice Department, by the Agriculture Department. The Agriculture Department was brought into the act by the investigations of the now-deceased Representative from Missouri, Jerry Litton, where it was found that IRS information was used on a wholesale basis as it pertained to farmers.

Between Mr. Litton's investigation into the abuse of IRS information on the agricultural scene, and mine on the Watergate scene, the law was put on the books which at least would guarantee some safeguards to the individual's privacy.

I am to testify before the Investigations Subcommittee tomorrow on this very issue. All the evidence, all the moaning, and groaning, and complaining, that has been heard from the Justice Department is a matter of record before Sam Nunn's subcommittee, but nobody has addressed the issue as to whether those complaints are legitimate.

In effect, the way the law reads today, before you go racing willy-nilly over to the IRS, you have to get an ex parte order from a judge. It is not a matter that the information is denied the Justice Department, but there has to be an unbiased buffer. Prior to the legislation being on the books, Justice could go to IRS. Anybody could get that information, not just on a potential defendant or not just on a potential wrongdoer. You could get IRS information on the jurors, on the witnesses. Never mind the political aspects of that IRS information.

So the law we put on the books tried to take into consideration the abuses that had transpired in the past and at the same time not deny to the Justice Department information where it could be proved information was necessary.

It is my understanding that because of the internal machinations of the IRS, they have been rather loath to go ahead and impart any information. That is an administrative matter, and one which I think could be cleared up with the proper legislation. Indeed, I was prepared to support part of the amendment of the Senator from Arizona, but not that part of the amendment substituting the Secretary of Treasury for a judge in the independent judicial system. If I had the opportunity to amend, I would so amend, and not ask to defeat what the Senator from Arizona is trying to achieve.

There is a valid gripe, in my mind, as to the time it takes for the Internal Revenue Service to get information to Justice, once they have gone through the ex parte proceedings and have gotten the judicial order. That is fair enough. What is not proper is to put into the hands of the Secretary of the Treasury the duties now held by the courts of this Nation, and purposely so, as a protection for each of us.

I recall 2 years ago when we had the Tax Reform Act, and Senator Long was out here indicating that I was aiding organized crime, narcotics, and all the rest.

Yet, in the testimony before the subcommittee of the Senator from Georgia, one of the most successful narcotics prosecutions out on the west coast used the system in place today, and it worked.

Mr. NUNN. Mr. President, will the Senator yield briefly?

Mr. WEICKER. I yield.

Mr. NUNN. We have had an instance where it did work, and occasionally it does work, but in the great majority of cases it has not worked.

We have had a flood of testimony, if the Senator has watched the hearings, and we are going to have a lot more, showing that, basically, this has been one of the largest impediments to law enforcement that has come down the pike in many, many years.

Mr. WEICKER. I suggest to the Senator, in the course of the argument concerning why he thinks the legislation is an impediment, I sat here 4 years and counted the horror stories for 4 years before that, and that showed why we needed the legislation.

The standards of proof to get the ex parte order are even far less than they are to get a search warrant, but there has to be a buffer, and you do not disregard the abuses——

Mr. NUNN. I say to the Senator——

Mr. WEICKER. I have the floor.

I was scheduled to appear before the Senator's committee tomorrow to testify on this subject, but apparently he has already formulated his conclusion in the form of an amendment. Tell me what the sense of that is; I have been here longer than the Senator from Georgia, and I understand what those abuses are. The Senator can drag in a few disgruntled law enforcement officials who cannot go running across the street and obtain their convictions in an easy way. I am far more interested in the civil and constitutional rights of every citizen, not the alacrity with which convictions can be obtained by the Justice Department.

Mr. NUNN. Mr. President, will the Senator yield?

Mr. WEICKER. No, I do not yield. The Senator can get his own time.

If I seem exercised I apologize to the distinguished Senator from Georgia. It is only because I see a life's work assaulted here in the Chamber. I have seen the pictures of money stacks on the table and I have seen all the big headlines. It just makes great reading. But I suggest to the Senator that the same sensitivity to the constitutional rights and civil rights should be present in this Chamber today to the same degree that all this was disregarded 6 years ago.

Fine. The Internal Revenue Service has been overly long in processing the ex parte orders, and let us so arrange the administrative process so there is a 90-day period or 60-day period when the information has to be forthcoming.

But I do not think it is too much to expect that there will be an independent buffer, not someone from the executive department who is asking for the information in the first place. It does not impress me that the Attorney General wants the information and the Secretary of the Treasury is going to pass upon it.

I would be far more impressed if an independent court sat there and, as I say, examined the applications with judicial standards. If I am not mistaken, when making applications for a search warrant, there has to be probable cause; in the case before us there need only be reasonable cause.

The standard of proof required to get the order is far lower; but there is a minimal standard that must be proved before one goes nosing around in the business of people's tax returns.

And for those who say, "Well, this should not be the case insofar as any potential defendant we are going after," I point out to the Senator that if we adopt this amendment, they can get tax information on jurors, they can get tax information on other witnesses, and there is no limitation except the unbridled discretion of the Secretary of the Treasury.

The IRS was a lending library for all too long to anyone who wanted it.

Talk about an exercise in hypocrisy. Here is a committee holding hearings, and they have not even finished their hearings, not even issued their report, and they are out here in the Chamber with an amendment. Nifty.

I yield the floor at this time.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. DECONCINI. Mr. President, I think it is important that we look back at some of the Watergate people who were involved in the actual prosecution of those cases, people who were in the trench, people who felt that there may be need in the investigation and prosecution of the Watergate offenses to change the Internal Revenue Code in order that abuses would not be rampant as they were.

The Judicial Machinery Improvement Subcommittee has held hearings on organized crime involvement in bankruptcy. In the course of those hearings, we have discovered some very, very significant information. I wish to go into a little bit of it.

Mr. Ackerman is presently assistant U.S. attorney in the southern district of New York. He was in charge of certain of the tax aspects of the Watergate investigation under Archibald Cox, Leon Jaworski, and Henry Ruth, which investigative findings were, in large part, the basis that led to the enactment of 26 U.S.C. 6301(i). The former Watergate prosecutor feels that legislation not only totally missed its target but far from falling innocently to the ground it hit the wrong target.

I shall quote from his testimony before my subcommittee of just a matter of weeks ago, and I quote from Mr. Ackerman:

> I can tell the Committee that many of these [tax disclosure] abuses were overblown and that the legislation that was passed did nothing to remedy the particular abuses but, in fact, made it easier for white collar criminals to get away with the crimes that they have been committing. In effect, it [the Tax Reform Act] has been legislation that has helped the white collar criminal.

Mr. Ackerman was in charge of the recent successful prosecution of a number of white collar criminals and members of organized crime in the very, very famous Westchester Premier Theater case. Although successful on several counts, I know from speaking with him and other people who testified before our committee regarding the Westchester Premier case that this particular provision in the existing act has hampered law enforcement from making better cases and perhaps getting even more convictions.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. DECONCINI. I yield.

Mr. WALLOP. This is for a clarification.

I understand that the hearings the Senator had indicate in his mind a need to proceed with this. In the hearings was the opposition side ever permitted an opportunity to testify, or was that to have been the hearings that were scheduled tomorrow?

Mr. DECONCINI. No. The purpose of the hearings was to delve into the involvement of organized crime in using the Bankruptcy Act and how they did it, what the schemes were, and what the procedures were.

In the course of many hours of hearings this testimony came out from Mr. Ackerman who was explaining how organized crime used the Bankruptcy Act in the Premier case.

Mr. WALLOP. Was the other side heard?

Mr. DECONCINI. No. Excuse me.

In addition, the GAO came forward with a report indicating that this was one of the five most necessary changes in their estimation of how to combat organized crime involved in narcotics. They did an investigation. They said that they talked to many individuals about it, and I did not hold hearings on that particular issue.

The Senator from Georgia is a cosponsor of this amendment and has been involved in it and is holding hearings today on it.

Mr. WALLOP. I do not question anyone's motives. But I think it is unfortunate that the charge the Senator from Connecticut levied in the Chamber has not essentially been answered through the hearing process. I only express this Senator's request, because I worked with the Senator from Arizona, as he well knows, on his subcommittee last year, and I have high regard for his legal mind and sense of purpose in the conduct of the fight against white collar crime. I find it very unsettling the words of the Senator from Connecticut as to the abuses that otherwise exist, and sometimes one has to worry about throwing babies out with the bath water. In this instance I am unsettled enough that I think that the babies perhaps are more important.

Mr. DECONCINI. The Senator raises a point and I wish to address it again. I think one misconception maybe is that with the law being repealed, tax information can be developed and solicited by other than law enforcement agencies. This amendment is very, very strict. It sets forth four distinct criteria that must be included in the request. It even sets forth what agencies would have the authority to make such requests in felony criminal investigations only.

So we are not opening the door to misuse. We are providing that in the event the district attorney wants the information, he must do four things.

He must set forth the name and address of the taxpayer with respect to whom the information relates; second, the taxable period or periods to which the information relates; third, the statutory authority under which the proceedings or investigation is being conducted so he has to set forth that he has an investigation under consideration at the time, and that is the purpose for it; and fourth, the specific reason or reasons why such disclosure may be relevant to the proceedings under investigation.

If those criteria are not met, the IRS obviously would be in violation of this statute in turning over any information.

Mr. WALLOP. Mr. President, will the Senator yield for one more question to enlighten the Senator from Wyoming? Do those four criteria have to be universally met or can they be singly met?

Mr. DECONCINI. They must all be met before the Internal Revenue under this amendment, if it became law, could turn over the tax information as requested here.

Mr. WALLOP. There would actually have to be an investigation with criminal prosecution in mind?

Mr. DECONCINI. That is right, and citing the particular statute that the alleged or potential defendant may be charged with. So you cannot just make an inquiry that "We would like to know about some individual's income tax over some period of time." You are going to have to be specific, and this is what law enforcement has demonstrated time and time again, that the 1966 Reform Act went too far. It was needed, and I can understand why it was put into the books. But I think now is the time to help the Federal Government law enforcement agencies combat organized crime.

Mr. WALLOP. May I ask the Senator one other question? In the event a prosecutor decided not to bring charges, is the target of that investigation then informed of the fact that his tax returns were turned over to the prosecuting attorney?

Mr. DECONCINI. He would not be, nor could the prosecutor disclose that information.

Mr. WALLOP. Even to the target of the investigation?

Mr. DECONCINI. Even what?

Mr. WALLOP. Even to the target, the subject, of the investigation?

Mr. DECONCINI. You mean the individual?

Mr. WALLOP. Yes.

Mr. DECONCINI. That is correct. They could not do that under present law now.

Mr. WALLOP. Therein, it seems to me, is one of the worries that echos in the chambers of my mind. From the things the Senator from Connecticut brought out you can have a charge, and the statute, with the four criteria, and have no real intention of bringing a prosecution, they find what they want and then they back off.

Mr. DECONCINI. Of course, that is the way it is now in an ex parte order where the individual is never notified. It takes months on the average to get such an order, and in the process of investigating organized crime months can mean a difference. So even today if you do successfully get an order, an ex parte order, where the potential defendant or individual is not notified, never told and never knows, the IRS takes a certain amount of time, sometimes weeks and sometimes months, to be sure they should comply with the order, and then issues the information and gives the information over to the Justice Department or law enforcement agency, and even then if no conviction arises the potential defendant is never notified.

Mr. JEPSEN. Mr. President, will the Senator yield for a question?

Mr. DECONCINI. Yes.

Mr. JEPSEN. Is it not true under the legislation of recent vintage the Justice Department must make inquiries and investigate any publicity or charges that anyone might make of anyone who holds public office or is appointed to high public office? Is that not a generally true statement at this time?

I will be more specific.

Mr. WEICKER. I am sorry, I did not hear the Senator.

Mr. JEPSEN. I will ask this question of anyone. Is it not true that the Justice Department is charged solely with the responsibility, if anyone makes any accusation of any kind about any person elected to public office or holding high public office or if there is excess newspaper publicity, they are bound, duty-bound, responsibility-wise bound, to start an inquiry; is that correct?

Mr. DECONCINI. No.

Mr. JEPSEN. That is what they told me.

Mr. DECONCINI. My information is, and I cannot name the authority, but it is my understanding that that applies to the executive branch of Government, and the Justice Department is required to or the Attorney General is required to make a preliminary investigation as to whether or not to proceed with a formal investigation on the matter of a complaint filed against a public official in the executive branch.

I am sorry I cannot tell the Senator precisely what the statute is.

Mr. JEPSEN. For the record, I think this is very important. Senator WEICKER made a very important point, and I think it is very important to the security of and privacy of the people of this country. Personally this year I did have an experience where someone did, for political reasons, make some false accusations.

Mr. DECONCINI. Mr. President, will the Senator yield for just a minute so far as parliamentary inquiry is concerned as to time?

The PRESIDING OFFICER. The Senator from Arizona has 11 minutes and 28 seconds; the Senator from Texas has 14 minutes and 4 seconds remaining.

Mr. DECONCINI. I ask the Senator from Iowa to take the time out of the time of the Senator from Texas.

Mr. BENTSEN. Is the Senator speaking in opposition to the amendment?

Mr. JEPSEN. The Senator from Iowa will ask the Senator from Texas if he could have a few minutes.

Mr. BENTSEN. I would be glad to yield 2 minutes to the Senator from Iowa.

Mr. JEPSEN. I would like for the record to advise of a personal experience this year that because my election last year had disturbed some very ultraliberal people in this country, since I have been in office there have been charges that were made against me by an unknown person or a person I never heard of, a woman right here in Washington, D.C., working for some human rights, one of these millions of boards, bureaus, and commissions they have got here.

I was investigated by the Justice Department and the FBI.

When I called and asked them why, they said, "We cannot tell you." I said, "I do not know anything." I said, "I understand from what I read in the papers now that South Africa financed my campaign." I said, "I live in Davenport, and nobody in Davenport thought I could win, and I could not get money from Davenport, let alone South Africa."

They said, "Some person made some charges." I asked, "Who?" They said, "We cannot tell you." I said, "I am John Doe, so forget about the fact that I am some Senator. I will find out why I cannot find who my accuser is in this country. What is going on here?"

This is for real. It is all documented. I have copies of everything in my desk, in my file.

You know what then happened? I said I wanted letters, I want to know who the accuser is, where the charges come from.

I extracted a letter from the Justice Department that they sent me with the detail of who made this charge. It was this person, and the charges she made were based on what she read in the papers, and on the basis of what she said she had read in the paper, the FBI poured through the State of Iowa and I got word—mother practically was put in the hospital. The Justice Department was going through, the FEC pulled their files, all on the basis of rumor, slander, and for politically vindictive reasons.

So if you think I can support an amendment that says that just because somebody has a reason to believe someone may be doing something in this very politically charged atmosphere, with the people who are involved in the number of bureaus, boards, and commissions in this place, it will be one cold day somewhere before I support that, and I hope it is defeated something like 99 to nothing.

Mr. WEICKER. Mr. President, will the Senator from Texas yield 5 minutes?

Mr. BENTSEN. I am pleased to yield.

Mr. WEICKER. In direct response to the distinguished Senator, under the DeConcini amendment, his tax returns on the basis of such an allegation would be made available to the Justice Department.

The distinguished Senator from Arizona is going to say, "But there is a check, the Secretary of the Treasury."

If I am not mistaken the Attorney General and the Secretary of the Treasury are usually one and the same party. So as far as I am concerned that is no check.

Let us understand very clearly what is being done here by this amendment. First, you are replacing a court, a judge, with a political appointee to make the decision, and then the very three central criteria which are in the law at the present time, one, that there is reasonable cause—it is not probable cause but reasonable cause—to believe, based upon information believed to be reliable, that a specific criminal act has been committed; second, there is reason to believe that such return or return information is probative evidence—probative evidence—of a matter in issue related to the commission of such criminal act; and third, the information sought to be disclosed cannot reasonably be obtained from any other source, unless it is determined that, notwithstanding the reasonable availability of the information from another source, the return or return information sought constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act. All those criteria are just eliminated. You read now what it says here and none of those criteria are used at all. The Secretary of the Treasury is to make the determination.

What really is sad, gentlemen, is that we hear buzz words: "organized crime", "narcotics"—words to get us all emotionally charged, to the exclusion of our concern for people's constitutional rights.

To that list may I add a few others? Actors and actresses. Clergymen. Politicians. The whole list.

In other words, these also should be included in the list of the distinguished Senator from Arizona. All of them have had these abuses perpetrated on them during past administrations, Republican and Democratic alike.

There is no greater success story in the area of self-enforcement than our tax code. 99 percent of our citizens take it upon themselves to report honestly. When they do, they in effect give up some of their fourth and fifth amendment rights to enforce the law on themselves.

Indeed, the testimony given before the Finance Committee at this time—I am talking now about before the distinguished Senator from Arizona or the distinguished Senator from Georgia were here—was that the degree of confidentiality was related directly to the amount of collections. In other words, if that confidentiality was destroyed, then collections would go down.

That is the job of the IRS, to collect taxes, and if indeed there is an ancillary purpose which none of us know about when we fill out our returns, then at least there ought to be the protection of a court, not just an administration.

To those who think Watergate was the story of Richard Nixon, I say forget about it. I am talking now both to the press and to my colleagues on the floor. Watergate was Government run amuck.

This amendment puts us right back to square one, where those abuses took place wholesale under the former law.

If there is an administrative hangup here, I stand to be corrected, but at least afford to Senator JEPSEN and myself and all the rest of the people, afford us the protection of the courts, for whatever reason, for our opposition to the Government. The author of the amendment can express himself, but I say at least give us a good reason before you look into my tax return, and do not have the validity of that determined by the Attorney General and the Secretary of the Treasury.

Mr. President, I hope this amendment

is defeated, and soundly defeated. It deserves to be.

Mr. JEPSEN. Mr. President, will the Senator yield?

Mr. CHAFEE. Will the Senator yield? May I have some time from the opposition time? How much time do we have in opposition?

The PRESIDING OFFICER. The Senator has 6½ minutes remaining.

Mr. BENTSEN. I yield the Senator 2 minutes.

Mr. CHAFEE. I wonder if the Senator from Arizona would respond briefly to this question. On this side, there was a problem that came up in that the opposition of the Senator from Connecticut to this proposal was not noted in time, and thus the amendment was proceeded with under limitation.

My question of the Senator from Arizona is, while I am sympathetic to his amendment, at the same time I think the Senator from Connecticut has a good point, and apparently in the hearings that the Senator from Arizona conducted, the opposition was not heard.

It seems to me that this is a matter that ought to come up in due course, not tagged on to a windfall profit tax bill. What would prevent its coming up in the regular order of business, rapidly, when we reconvene next year?

Mr. DeCONCINI. First of all, Mr. President, on November 26, this Senator sent out a "Dear Colleague" letter setting forth the need for this measure, setting forth some evidence that had been raised, and indicating that it was my intent to bring it up on the windfall profit tax bill.

Mr. CHAFEE. I am not criticizing——

Mr. DeCONCINI. To answer precisely why I brought it here, I do not think it is just buzz words, "crime" and "narcotics," but something has to be done today. I wish it had been done last year, or last week. I think the sooner the Senate goes on record, the better. That is why I am offering it today.

We have had hearings, and heard the testimony, which all has been to the effect that we need some way to correct the overkill of the 1976 Tax Reform Act.

Mr. CHAFEE. I am not critical of the Senator's amendment at all. My question is, could it not come up early next year? Is there objection to that?

The PRESIDING OFFICER. The Senator's time has expired. Does anyone yield further time?

Mr. CHAFEE. May I ask for 1 minute more?

Mr. BENTSEN. I yield the Senator 1 more minute.

Mr. DeCONCINI. The answer to your question is, it has taken me 9 days now to get this up on the floor, and I do not have the faith that I can be successful in getting it up in January or February, or whenever. I understand how this institution moves, and it is important, in this Senator's mind, that we move forward on this now, at least to the point of having a vote on whether or not we want to strike a blow against organized crime.

That is no buzz word; that happens to be a fact. So who is succeeding by the overkill in the 1976 Tax Reform Act?

Mr. CHAFEE. I thank the Senator.

Mr. DeCONCINI. Mr. President, let me go to another problem that needs to be raised. First, regarding the concern of the Senator from Iowa, I do not care if it is the Senator from Arizona or the Senator from Iowa, if the U.S. district attorney is willing to put in writing to the Internal Revenue Service that I have violated some criminal law, committed a felony, and in sustaining that burden he wants to look at my income tax returns to see whether I violated that law, he ought to have the right to do so. He cannot do so now; he has to go before the court.

Second, the present section 6103(i) prohibits the Internal Revenue Service from notifying the appropriate law enforcement authority of nontax criminal offenses that are revealed by the taxpayer's information.

Let me give you a true example: Internal Revenue goes in on a regular audit, noncriminal, and in the course of that audit, the taxpayer says, "Here take my files and go through them, and do whatever you want, and we will discuss it at the conference."

In the course of that audit, three packets of heroin are found in those files. The present law prohibits Internal Revenue from turning that evidence over to law enforcement officials to do anything. They are prohibited from enforcing the law because of the overkill of the 1976 act. This would permit Internal Revenue to go to the FDA or the FBI, or whoever they think proper, and say, "Here, this is the evidence. You do your investigation."

This is the kind of problem that has been created here, well intended and motivated, in an effort to do something about abuses that existed before.

The White House would not be able, or any other agency, to summarily request someone's income tax returns; it would have to be as a part of a criminal investigation, citing the specific felony statute that the investigation follows.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President, how much time does the Senator from Texas have?

The PRESIDING OFFICER. The Senator has 4½ minutes remaining. The Senator from Arizona has 8 minutes and 43 seconds.

Mr. BENTSEN. Mr. President, I yield myself 1 minute. I would like to ask the Senator from Arizona a question, because this concerns me.

It is my understanding that you had 1 day of hearings, and a second day of hearings is scheduled for tomorrow; is that correct? And this is also something that would have to come before the Finance Committee, where we have considered legislation requiring very detailed procedures for applying for tax information in this kind of situation.

Mr. DeCONCINI. The Subcommittee on Judicial Machinery has set 1 day of hearings. The permanent subcommittee has had at least 2 days, if not more than that, on this particular subject matter.

If the Senator cares to call any law enforcement official, I daresay he will get a response that something needs to be done regarding these overcorrective measures. I think you can call any FBI agent, or agent of the Alcohol, Tobacco, and Firearms Service, and they will tell you that.

Mr. BENTSEN. I understand their attitude toward enforcement, and I respect their attitude, but they also come from the prosecutorial side.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BENTSEN. Mr. President, I yield 1 minute to the distinguished Senator from Maine.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator from Maine (Mr. COHEN) is recognized for 1 minute.

Mr. COHEN. Mr. President, I think the Senator from Arizona makes a valid point when he suggests that perhaps we passed a law which went to an extreme.

I stated before the committee the other day that history does swing the arc of the pendulum and perhaps we went too far in one direction. But I also suggest that we should not take this measure up tonight with a half hour debate and swing the pendulum to the other extreme and abolish those safeguards that were written into law, perhaps, because they came up on the eve of Christmas, on a tax bill which Members did not fully contemplate what the consequences would be.

The Senator from Arizona makes a valid point. There are some prohibitions and impediments in securing convictions through this procedure.

Of course, I make the argument that our constitutional system is designed not to make convictions necessarily easy or easier, but make them easier provided they comport with our notion of due process. And I am not satisfied, as an individual Member, that we ought to proceed on this floor with a half hour of debate to resolve that kind of issue when, in fact, the consequences are so serious.

I would like to see us continue with our hearings before the permanent Subcommittee on Investigations to allow witnesses to testify and to resolve the issue, make amendments, and somehow——

The PRESIDING OFFICER. The Senator's 1 minute has expired.

Mr. WEICKER. Will the Senator yield me a minute to respond?

Mr. BENTSEN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 15 seconds.

Mr. BENTSEN. Mr. President, I yield the balance of my time to the Senator from Connecticut.

Mr. WEICKER. I thank the distinguished Senator from Texas.

In response to the question that the Senator posed, 1 day of hearings has been held and 5 days of hearings are still scheduled. The Senator from Georgia asked, as I understand it—and the Senator from Georgia can speak for himself—that this amendment not be brought up at this time, so it could go through the entire range of hearings. And, indeed, to throw away these guarantees on a nongermane amendment at the last minute, on 1 day's worth of hearings, regardless of which side of the issue you are on does not make sense. For heaven's sakes, the individual constitutional rights of Americans are far more important than the difficulties of law enforcement.

Mr. PERCY. Will the Senator yield?

Mr. WEICKER. I yield back the balance of my time.

Mr. BENTSEN. I would like to make the point that I understand that Treasury has opposed this particular amendment.

Mr. PERCY. Will the Senator yield for a question?

Has the Justice Department, as we asked in the hearings the other day, stated an official position as to whether or not they would oppose or support or take no position on this amendment? Have they put forward any specific recommendations of their own?

Mr. DECONCINI. As the Senator from Illinois is well aware, Mr. Bensinger said he supported the amendment; that it was very important. The representative from the Criminal Division of the Justice Department said he supported the amendment; that it was very important.

I think it is fair to clear something up. To my knowledge, Senator NUNN has not asked me to put this off. As a matter of fact, he is a cosponsor of it. He has been extremely supportive of having this amendment brought up, because of the compelling reasons that something should be done today to attack the problem.

It is going to take some time. This is a well-guarded protection of individual rights, citing that the law enforcement officials, the Attorney General, the district attorney who makes such requests, must specifically cite a statute that the investigation is being conducted under.

I think it does protect the individuals, or I would not be here to offer it. And I think it is in their best interest that we move forward now, soon, to do something to reverse what has happened in the 1976 Tax Reform Act.

Mr. PERCY. Mr. President, may I ask the Senator, Do I understand you to say that the Justice Department has not taken a formal position on this amendment yet? Is that correct?

Mr. DECONCINI. The answer is just what I said. Mr. Bensinger of the DEA, a part of the Justice Department, said he supported it and the head of the Criminal Division said he supported it. If you want to know whether the head of the FBI supports it, no, I do not know whether he supports it.

Mr. PERCY. I thank my distinguished colleague.

Will the Senator managing the bill, Senator BENTSEN, yield for a question?

Mr. BENTSEN. I do not have any time remaining.

Mr. PERCY. The Senator from Illinois, since 1 o'clock——

The PRESIDING OFFICER. All time of the Senator from Texas has expired.

Mr. PERCY. Mr. President, may I have unanimous consent for 1 additional minute?

The PRESIDING OFFICER. The Senator from Arizona has the balance of the time. Does the Senator from Arizona yield to the Senator from Illinois?

Mr. DECONCINI. Yes, I yield.

Mr. PERCY. The question the Senator from Illinois would like to put to the floor managers of the bill is this: Since 1 o'clock, the Senator from Illinois has been trying to send to the desk two amendments. Would it be possible to set a time either tonight or tomorrow, by which we could take up my two amendments, one on coal conversion and one on the turnback of funds to States because of conversion?

Mr. BENTSEN. Mr. President, I told the distinguished chairman of the committee that I would not agree to any further amendments being brought up tonight without clearing it with him and with the leadership.

Mr. PERCY. Would it be possible to ask for unanimous consent that they be the pending business, either tonight or tomorrow?

Mr. BENTSEN. Mr. President, I would have to reserve the right to object, until I have checked with the manager of the bill.

Mr. PERCY. All right.

Mr. MATHIAS. Vote.

The PRESIDING OFFICER. Does the Senator from Arizona yield back his time?

Mr. NUNN. Will the Senator yield?

Mr. DECONCINI. I yield to the Senator from Georgia.

Mr. NUNN. Mr. President, I support this amendment.

I would like to say to my friend from Connecticut (Mr. WEICKER)—he did not see fit, which is his privilege, to yield me time a few minutes ago—that we are delighted that he is going to appear tomorrow morning and discuss his position on this subject and on the overall subject of the Internal Revenue Service and overall law enforcement efforts. And I hope he will appear, because I think we can go into detail on this amendment about his feelings and some of the testimony we have brought up. I hope, at that time, we will be able to get into this further.

I support the amendment. I would like the Senator from Connecticut to know that I have not pushed the amendment on the floor at this time. I found out it was coming up a few minutes ago. But it is Senator DECONCINI's amendment and he has been working on it and, of course, the question of timing is his judgment.

I think that there is a very serious problem in law enforcement. I think we have got the most serious narcotics problem we have ever had. It is getting worse. We really have the Internal Revenue Service in a position where they can virtually do nothing, in terms of assisting other law enforcement agencies.

I do think it is a very important subject. I hope that the Senate will approve the amendment. I do think that if there was a reasonable way to bring about a unanimous-consent request to vote on this at a later date this week, while this bill is still pending, then I would be in favor of that. But, of course, that is up to the Senator from Arizona.

I certainly do not think it is an amendment that anyone should be cut off on, because it is extremely important. But I do want to reiterate that I do think that the Senate should pass this amendment.

Mr. President, I ask unanimous consent that Marty Steinberg, LaVern Duffy, Jerry Block, and Bill Goodwin, of the Permanent Subcommittee on Investigations staff, be accorded privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Does the Senator from Arizona (Mr. DECONCINI) yield back the remainder of his time?

Mr. DECONCINI. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. Mr. President, I move to table the amendment of the Senator from Arizona (Mr. DECONCINI). I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Arizona (Mr. DECONCINI).

The clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, this is the last rollcall vote for tonight.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. BRADLEY), the Senator from Florida (Mr. CHILES), the Senator from Idaho (Mr. CHURCH), the Senator from Missouri, (Mr. EAGLETON), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Hawaii (Mr. INOUYE), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Kansas (Mr. DOLE), the Senator from Utah (Mr. GARN), the Senator from Oregon (Mr. HATFIELD), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Wyoming (Mr. SIMPSON), the Senator from Vermont (Mr. STAFFORD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that that the Senator from Arizona (Mr. GOLDWATER) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The PRESIDING OFFICER. Are there any Senators still desiring to vote?

The result was announced—yeas 65, nays 8, as follows:

[Rollcall Vote No. 470 Leg.]

YEAS—65

Armstrong
Baucus
Bellmon
Bentsen
Boren
Boschwitz
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Cochran
Cohen
Cranston
Culver
Danforth
Durenberger
Durkin
Exon
Glenn
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Javits
Jepsen
Leahy
Levin
Lugar
McClure
McGovern
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Packwood
Pell
Percy
Pressler
Pryor
Randolph
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Stevens
Stewart
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Zorinsky

NAYS—8

DeConcini
Domenici
Ford
Hollings
Jackson
Nelson
Nunn
Proxmire

NOT VOTING—27

Baker
Bayh
Biden
Bradley
Chiles
Church
Dole
Eagleton
Garn
Goldwater
Hatfield
Huddleston
Inouye
Johnston
Kassebaum
Kennedy
Laxalt
Long
Ribicoff
Sasser
Simpson
Stafford
Stennis
Stevenson
Stone
Talmadge
Young

So the motion to lay on the table Mr. DeConcini's amendment (No. 734) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PERCY. Mr. President, I am becoming more and more convinced that the Tax Reform Act of 1976 went too far in keeping the Internal Revenue Service out of the fight against organized crime. The Permanent Subcommittee on Investigations is right now in the midst of 5 days of hearing on this very subject. While I believe that we need to make some changes in the law, I want to wait until I have heard all the testimony before deciding upon the specifics of those changes.

I applaud the efforts of the Senator from Arizona, and also our distinguished chairman of the subcommittee (Senator Nunn) for bringing this vitally important issue to the entire Senate's attention. I support the concept of this amendment. But, we were told just last Friday that the administration is actively reviewing the measure and will come forward with specific recommendations of its own. This coming Friday, the subcommittee will hear from the head of the IRS. Therefore, I will hold off in supporting this amendment until our hearings are completed and all views have been heard.

AMENDMENT NO. 719

(Purpose: To allow the energy investment tax credit for fuel efficient aerodynamic devices)

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate move to consideration of printed amendment No. 719, which I understand will be acceptable to the managers. This amendment has been offered by myself and Senator Percy.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. Levin), for himself and Mr. Percy, proposes an amendment numbered 719.

Mr. LEVIN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

Sec. . Credit for Fuel Efficient Aerodynamic Devices.

(a) In General.—Section 48(1) (3) (A) (relating to alternative energy property), as amended by section 232(a) (2), is amended—

(1) by striking out "and" at the end of clause (viii),

(2) by striking out the period at the end of clause (ix) and inserting in lieu thereof a comma and the word "and", and

(3) by adding at the end thereof the following new clause:

"(ix) fuel efficient aerodynamic equipment.".

(b) Technical and Conforming Amendment.—Section 48(1), as amended by section 232, is amended by adding at the end thereof the following new paragraph:

"(16) Fuel efficient aerodynamic equipment.—

"(A) In general.—The term 'fuel efficient aerodynamic equipment' means any wind deflector or similar equipment which—

"(i) is placed on the top of the cab or side of the trailer of an existing truck which is primarily engaged in the trade or business of the transportation of property, and

"(ii) is specifically designed to reduce energy consumption.

"(B) Efficiency standards.—Any standards prescribed under paragraph (9) with respect to fuel efficient aerodynamic equipment shall be made after consultation with the Director of the Joint Government Industry Voluntary Truck and Bus Fuel Economy Improvement Program.".

Mr. LEVIN. Mr. President, this amendment, which is being introduced on Senator Percy's behalf and on my own behalf, would make available the business energy tax credit, already in the bill for other types of energy-saving equipment, for the purchase of wind deflections for tractor-trailers. These aerodynamic devices, mounted on the cab or upper front of the trailer, improve the aerodynamic design of the vehicles and cut the power needed to move the truck through the air. Since the aerodynamic drag increases rapidly as speed increases, the horsepower saved in highway operations means less fuel burned

It is estimated that in 1978, 20 billion gallons of fuel were consumed by commercial motor vehicles over 10,000 pounds. Here is an area where fuel economy can have a significant impact on domestic fuel consumption.

The potential energy savings of aerodynamic devices are impressive. In 1978, the number of new trucks equipped with aerodynamic devices was only 12 percent, but these alone saved 75 million gallons of diesel fuel. If all eligible tractor-trailers—those with trailer height exceeding that of the tractor in combinations engaged in long haul routes—were equipped with these fuel efficient devices, approximately 1 billion gallons of diesel fuel could be saved per year.

Aerodynamic devices for trucks are mounted on top of the cab or in front of the trailer. These devices improve the aerodynamic design of tractor-trailers thereby reducing wind resistence. At 55 miles per hour, aerodynamic drag accounts for more than half of the power consumption of a tractor-trailer. Reduction of the aerodynamic drag has significant impact on fuel consumption.

The Federal Government has initiated a joint Government-industry voluntary truck and bus fuel economy improvement program. The program's voluntary conservation efforts aimed at the Nation's truck and bus manufacturers and operators have been largely successful. However, of the energy saving components currently in use for trucks, fuel efficient aerodynamic devices have not recorded the growth rates associated with variable flan clutches, radial tires, and other fuel-efficient truck components. While these components produce at least equal fuel saving averages—some users and manufacturers of aerodynamic devices report averages double those for other components—utilization rates for aerodynamic devices consistently lag behind.

The cost of wind deflectors for tractor-trailers amounts to approximately $300 per vehicle. The high cost and limited utility of this device coupled with the fact that its only function is energy conservation have been obstacles to the increased use of wind deflectors. While its use is restricted to long haul tractor-trailer combinations, it is estimated 70 percent of the 1.3 million tractor-trailer combinations in use in 1978 could have utilized these devices effectively. The business energy tax credit in this amendment would provide additional incentive for truckers to make this initial investment. In this way, significant fuel savings can be achieved at minimal cost to the Federal Government.

The Joint Committee on Taxation has estimated that cost of the tax credit will average $10 million per year over the next 10 years, or $100 million. The credit would take effect beginning in fiscal year 1981.

Mr. President, as I said, it has been estimated that if all trucks that could use this device would put them on, we could save up to 1 billion gallons of gasoline per year on the highways of this country. This amendment would give an incentive to those devices being installed.

● Mr. PERCY. Mr. President, I rise as a cosponsor of Senator Levin's amendment to speak to the importance of this measure. The commercial trucking industry is vital to the business of America. In 1977 alone, intercity freight transported by trucks amounted to 561 billion ton-miles. It is estimated that in 1978, 20 billion gallons of fuel were consumed by commercial motor vehicles over 10,000 pounds. The skyrocketing costs of fuel place a tremendous burden on this industry—a burden borne by virtually every business in America.

The American trucking industry has demonstrated its commitment to conserving energy. Truckers all over the country have installed variable fan clutches, radial tires, and other energy-saving devises with impressive results. The energy-savings from the use of wind deflectors, or "aerodynamic devices" as they are called, are at least as promising.

The Department of Transportation reports that with only 12 percent of new trucks equipped with these devices in 1978, the resulting fuel savings in that year alone were over 75 million gallons. It is estimated that 70 percent of tractor-trailers over 33,000 pounds could effectively use wind deflectors. And the average fuel saving from this energy-efficient component is as much as 10 percent. Some trucking firms report savings of 20 percent. If all eligible tractor-trailers—those with trailer height exceeding that of the tractor in combinations engaged in long-haul routes—were equipped with these fuel efficient devices, approximately 1 billion gallons of diesel fuel could be saved per year.

The cost of wind deflectors for tractor-trailers amounts to approximately $300 per vehicle. The high cost and limited utility of these devices, coupled with the fact that their only function is energy-conservation, have been obstacles to the increased use of wind deflectors. The tax credit in this amendment would provide additional incentive for truckers to make the initial investment in aerodynamic devices. In this way, significant fuel savings can be achieved at minimal cost to the Federal Government. And I wish to emphasize, Mr. President, that these are savings which will benefit not only the commercial trucking industry, but the entire business community—all those businesses which are directly or indirectly dependent upon the shipment of goods by truck.

The cost of this credit is minimal—less than $5 million in 1980, 100 million over the 10-year period—and the savings would be substantial. Thus, I strongly urge my colleagues to support this measure.●

Mr. LEVIN. Mr. President, I understand this amendment may be accepted by the managers of the bill.

Mr. BENTSEN. Mr. President, the amendment as suggested by the Senator from Michigan is something that will contribute to a better air flow for a truck, for a trailer, and obviously will save energy and be a substantial contributor to that.

In addition to that, it certainly would be removing one of the problems we have in driving down some of our interstate highways today and passing major trucks and trailers. If we can get better air flow around those, we will not have nearly as much buffeting as we attempt to pass them.

So in talking to the manager of the bill, the Senator from Texas has no objection to the amendment and is willing to accept it.

Mr. CHAFEE. Mr. President, I yield 2 minutes to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I say that I have no objection to the amendment. But I would point out to the Senate that these devices have often by themselves become economical with the high price of gasoline and diesel fuel that now exists.

It is in that area of incentives that our public cost for something is to the benefit of the owner or operator of the vehicle to install on his own by virtue of operating costs. That would be economical.

On the other hand, the Senator from Michigan makes the point that in spite of the fact they are economical, some people need a little extra urging.

I hope this does not exist for too long a period of time as an incentive because, as the price escalates ever more, it obviously will be in the interest of anybody to put it on, with or without incentive.

Mr. LEVIN. If the Senator will yield on that point, I thank him for his statement.

One would think that after a period of time the incentives would be sufficient. What has happened, however, is that the use of these devices has risen up to a point where it is now 12 percent and that curve has flattened off, whereas use of such devices as radial tires, which is also energy-saving, has continued to rise where it is now over 30 percent.

So I agree with the Senator that this line continues to rise, the line of use, despite the incentives of high gasoline cost, flattened off in the last couple of years to 12 percent. This, I think, will be helpful to again increase the use of the device.

Mr. CHAFEE. Mr. President, I point out that the Senator from Wyoming has raised a problem we struggle with whenever we deal with tax credits, particularly in connection with the energy matter. Always, the feeling is that, in giving a credit, we will eventually save fuel, therefore, why give the credit?

We have to balance. This is a 15-percent credit. In the judgment of this side, it is worthwhile going forward with, so we have no objection.

Mr. LEVIN. I thank the Senator.

I have one footnote, the Senate did pass this in 1977. It was not accepted in conference. I failed to mention that in my statement.

I thank the managers.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 719) was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

● Mr. MOYNIHAN. Mr. President, on November 27, during the Senate's debate on Senator BENTSEN's amendment to exempt independent producers from the first 1,000 barrels a day of oil production, several Senators took to the floor attempting to accurately describe the so-called "independent" oil producers.

Not surprisingly, Alan Emory, the dean of the New York State press delegation, has done just that in his penetrating essay, "From Washington—'Independent' Doesn't Mean Tiny" which appeared in the Friday, November 30, edition of the Watertown Daily Times. I ask that it be printed in the RECORD for the benefit of my colleagues.

The essay follows:

FROM WASHINGTON—"INDEPENDENT" DOESN'T MEAN TINY

(By Alan Emory)

The "independent" oil producers for whom the Senate voted a $9 billion windfall tax exemption are not exactly Mom and Pop operations.

More than that, as Sen. Daniel P. Moynihan, D-N.Y., points out, one-third of that money will go to persons whose only interest in the oil wells is in royalties. They don't discover oil, they don't produce it, bear the cost of production or development.

An "independent" producer is one who owns oil fields, but not refineries. The bill approved by the Senate Finance Committee relieved those producers who produced fewer than 1,000 barrels a day from the windfall tax—a matter of $16 billion.

Then along came Sen. Lloyd M. Bentsen, D-Tex., with an amendment adding the exemption to the first 1,000 barrels produced by all independents, even if they produced a lot more, oilmen described by Sen. Harrison Schmitt, R-N.M., as "smaller, truly American Davids" as compared with the Goliaths like Exxon, Gulf and Texaco.

Even Mr. Schmitt's figures, though, raise questions about the need for the new exemption, which Senator Bentsen claims will add lots of oil at less than $10 a barrel. Right now, Senator Schmitt says, there are more than 350 applications for permits to drill, and that is an increase of nearly 50 per cent in the last nine months.

Senator Moynihan says about one-third of the newly discovered oil over the next decade—oil that is free from the windfall tax—will be produced by the independent oil companies. He thinks a broader exemption is "not a good idea, not wise, not necessary" and will produce no new oil.

Here are some of the profits associated with independents: Superior Oil Co., $48.6 million, up 111 per cent for the first-quarter of 1979 over 1978; Enserch Corp, $25.3 million, up 248 per cent; Apache Corp., $10.4 million, up 1,453 per cent; Louisiana Land Offshore Exploration Co., $970,000, up 373 per cent; Pauley Petroleum, Inc., $2.9 million, up 3,820 per cent.

The general impression, says Sen. Abraham A. Ribicoff, D-Conn., is that the independents are "small companies who are scratching out a living from the soil," but, in truth, they are not small business.

Independents can still use depletion allowances to reduce their taxable income. For 1980 this figure is estimated at $700 million for just the independent producer, who can also write off intangible drilling costs in a single year, rather than having to spread them out over the life of the investment. That amounts to a 1980 tax break of more than $2 billion.

Mr. Ribicoff, a member of the tax-writing Senate Finance Committee, points out that when his panel started working on the windfall tax the price of oil was about $19 a barrel. During committee deliberations that climbed to $23, and now it is about $30. Mr. Ribicoff sees it soon at $40 and, in a year, $50 a barrel.

"The time has come," he says, "for the people in other sections of the country producing oil to do their share and not expect the burden to be borne by every one else in the country except them."

The picture that evolves from Senate actions is one of a country fighting not only a greedy Organization of Petroleum Exporting Countries (OPEC), but greedy American oil companies, too.

It is true that the number of independent producers has dropped from 20,000 to 12,000, and that their costs are rising. As Senator Bentsen argues, it is a matter of high technology rather than coming out of a garage with a divining rod and finding oil in the backyard.

But the Senate's generosity expands from $2.1 billion to $5.1 billion the bonanza for royalty owners who simply lease oil rights and get a check in the mail, and tosses in $6 billion for independents who produce more than 1,000 barrels a day by knocking out the tax on the first 1,000.

The House didn't vote that. The Senate Finance Committee didn't vote that. But the full Senate did.

That's oil, folks.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, for not to exceed 15 minutes, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there morning business?

Mr. ROBERT C. BYRD. Yes, Mr. President, there will be.

AFFIRMATIVE ACTION VERSUS EQUAL PROTECTION—II

Mr. HATCH. Mr. President, when the Supreme Court earlier this summer held that Brian Weber had not been unlawfully discriminated against in being denied because he was white a position to which seniority would normally entitled him, it took a giant step toward enshrining racial discrimination in our society. Its decision was plainly at variance with the wording of the 1964 Civil Rights Act. It contradicted explicit assurances on the subject given on the floor of the Senate of the act's passage. It represented a startling and ominous departure from the constitutional principle of equal protection, in addition to the principle of the separation of powers.

An insidious social philosophy lies behind this unfortunate judgment. It is rarely openly expressed, but it is nevertheless apparently universal among the bureaucratic elite to whom we have surrendered so much of our lives today.

This philosophy has been ably pinpointed by George F. Will in a column he wrote in Newsweek after the court first began to show signs of knuckling under, and placing it above the law. He describes it as a "drive to transform the core concept of American justice from 'equal opportunity for individuals' to 'statistical parity for government-approved groups.' "

Reverse discrimination, as George Will accurately says, "is a betrayal, not a fullfillment, of American values."

I commend his article to my colleagues, and ask unanimous consent that it be printed in the Record.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From Newsweek, July 10, 1978]

Reverse Discrimination

(By George F. Will)

"You cannot spill a drop of American blood without spilling the blood of the whole world," Herman Melville wrote in 1849. ". . . Our blood is as the flood of the Amazon, made up of a thousand noble currents all pouring into one. We are not a nation, so much as a world." But government policy has been, increasingly, to divide the majestic national river into little racial and ethnic creeks. If that policy succeeds, the United States will be less a nation than an angry menagerie of factions scrambling for preference in the government's allocation of entitlements.

That policy was endorsed by the Administration's brief against Allan Bakke, a brief which urged that the nation should cultivate "race consciousness." The brief did not suggest how the government will decide, someday, that persons who have been "victims," personally or through "their forebears," have been "restored"—a strange choice of verb—"to the position they would have occupied" but for discrimination. The Bakke decision pleases the Administration.

Bakke won because a medical school, with no record of discrimination to rectify, adopted a numerical quota for certain minorities, and admitted some who were dramatically less qualified than he was. The Bakke decision has made little law. Therefore, most existing policies will continue, so the law can be riddled with racial considerations. With regard to higher education, the decision suggests broad tolerance for reverse-discrimination policies that are less raw than that which excluded Bakke. And Justice Powell's opinion for the Court can be read plausibly as somewhat permissive regarding considerations of race and ancestry in the allocation of other government benefits generally.

'SUSPECT' DISTINCTIONS

The opinion says racial and ethnic distinctions are "suspect" and require "exacting judicial examination." But when state distribution of benefits "hinges" on race or ethnicity, the racial and ethnic classifications are acceptable if they are "necessary" to promote a "substantial" state interest, such as diversity in enrollments. Four Justices even assert the constitutionality of programs like the one that excluded Bakke, programs that do not just use "minority status as a positive factor," but that "set aside a predetermined number of places" for minorities. These Justices say, not groundlessly: "For purposes of constitutional adjudication, there is no difference between the two approaches."

Powell says that the "equal protection" clause precludes "recognition of special wards entitled to a degree of protection greater than that accorded others"; he rejects a "two-class theory" of equal protection. But then he says there can be compelling state interests served by constitutional forms of discrimination which disadvantage whites for the benefit of preferred minorities. This necessarily means distinguishing two classes of citizens.

Powell says there is a distinction of constitutional dimension between an "explicit racial classification" that "totally" excludes members of some groups from full participation in a program, and "properly devised" racial considerations that are "flexible" in treating race or ancestry as a "plus." But this can be a distinction without a signficant difference. For most professional schools, the pool of qualified minority applicants is shallow. Schools that dip too deeply will produce striking disparities between the test scores and academic records of minorities and whites they accept. At some point such disparities must be *prima facie* evidence of a quota, whether it is acknowledged or surreptitious.

'STATISTICAL PARITY'

The Bakke decision does not necessarily mean the Court will say that reverse discrimination in employment and awarding contracts is "necessary" to a "substantial" state interest. But the Court may not seriously impede the bureaucratic drive to transform the core concept of American justice from "equal opportunity for individuals" to "statistical parity for government-approved groups." There is, indeed, a substantial state interest in broadening membership in the middle class, and especially in professions. But the Fourteenth Amendment guarantees equal protection to "persons," and any reverse discrimination grants special entitlements to preferred groups. Nevertheless, the Bakke decision will leave unscathed an array of programs by which the government encourages or compels public and private institutions to consider ethnic quantities more, and individual qualities less, when conferring benefits.

In 1954, the Court seemed on the way to saying what Congress subsequently seemed to say in the 1964 Civil Rights Act: race is an inherently unacceptable basis for state action. But now, in the Bakke case, the Court has refused to find that principle in the 1964 act, and the Court rejected that principle in cases before Bakke. For example, it held that states can tailor redistricting plans racially to create or preserve legislative districts that enhance the electoral power of preferred minorities (in the particular case, black and Puerto Ricans). The plan in question diluted the electoral strength of Hassidic Jews who do not enjoy government preference.

WARDS OF THE STATE

Reverse discrimination began as a means of ameliorating the condition of blacks, but it was quickly claimed as a "right" by groups defined by race, ancestry or sex. It is demanded in spite of the fact that it devalues the achievements of its beneficiaries and stigmatizes them as wards of the state, unable to compete. This taint is not disguised by tactical euphemisms, such as saying that employers must "differentially validate" employment tests when thy are required to set lower passing scores for preferred minorities than for whites. Whether called "affirmative action" or (as in the 1976 Democratic platform) "compensatory opportunity," reverse discrimination, and the quest for statistical parity for "underrepresented" groups, involve what Prof. Ben. L. Martin calls the "sensory" theory of representation: "only personal qualities crude enough to be obvious to sense perception, such as skin color, language, or sex, are acceptable bases of representation." Martin explains reverse discrimination in terms of "the foot-race analogy":

"In a fair race, none is disadvantaged at the starting line. But if all begin with equal advantage, then all should finish together, because contemporary liberalism leaves virtually no personal quality—not character, personality, motivation, self-discipline, or any other personal trait—as the responsibility of the individual."

The premise behind reverse discrimination is this: an unfair start can be inferred from an unequal outcome. The traditional American premise is this: the equal status of citizenship is the basis on which a structure of inequality should be built by a population in which talents are neither equally distributed nor equally rewarded. Reverse discrimination is a betrayal, not a fulfillment, of American values.

JUDGE JAMES T. GILES

Mr. TSONGAS. Mr. President, the Senate confirmed the nomination of James T. Giles as U.S. district judge for the eastern district of Pennsylvania on November 26. That vote of confidence and confirmation was very satisfying to me. As a former classmate of Judge Giles at Yale Law School, I know firsthand his strong qualifications for the Federal bench, which my distinguished colleagues approved without dissent.

Judge Giles' standing in the legal profession and his record as a concerned, involved member of his community indicate that he should be an outstanding district judge. I would like the record to indicate some of the aspects of his involvement. Currently he is a director of the following nonprofit, charitable corporations: the Children's Aid Society, Philadelphia Alternatives for Rehabilitation, the Crime Prevention Association, the Housing Association of Delaware Valley, Safe Streets, and Gaudenzia (a drug rehabilitation organization).

Judge Giles has demonstrated a clear commitment to equal justice under the law. He has represented disadvantaged persons referred by the Lawyers' Committee for Civil Rights. On many occasions, he has represented inner-city juveniles without fee. He has given free legal counsel in cases of sex and race discrimination in employment and housing, and in cases of housing unfit for human habitation.

Through the Philadelphia School District, Judge Giles has participated in educational programs for disadvantaged inner-city youth. He has counseled students one-on-one, conducted legal education courses for students, and spoken at churches on individual and civil rights.

Mr. President, I congratulate Judge James T. Giles and his family, and offer my sincere best wishes for a long and outstanding judicial career.

THE FTC NEEDS HELP

Mr. METZENBAUM. Mr. President, in recent years the Federal Trade Commission has come under fire from many quarters for a reason relatively uncommon among Federal regulatory agencies. Simply stated, the FTC has been doing its job too well. Sadly when that happens in Washington, it draws the fire of lobbyists and the next thing we know, it is translated into punitive action by the Congress.

At the moment, we are on the verge of gutting the FTC by a bevy of proposals that would effectively tie the hands of the agency in its efforts to protect the American consumer from some of the questionable practices that exist in the marketplace.

And, Mr. President, these lobbyists are powerful, let us make no mistake about that. Frankly, the only way to counter their efforts is through an outpouring of response from consumers across the Nation.

Syndicated columnist Jane Bryant Quinn has properly recognized this need in a recent column entitled "Help to Save Embattled FTC" which appeared in the November 30, 1979, edition of the Cleveland Press, as well as other newspapers around the Nation.

Ms. Quinn has summed up the problem well. She writes:

> On issues like this fought out on bureaucratic turf, Congress usually hears mainly from industry lobbyists and a few, standard consumer groups. The average voter doesn't know what he's losing until it's all over.

Summing up the problem, Ms. Quinn adds:

> The FTC is not always just and wise. But if Congress doesn't like a specific action, both Houses should challenge it, after holding public hearings so that everyone could have his say. Instead, they're holding an undisclosed, high-priced funeral for the commission itself. If consumers don't speak up, it will be their loss.

Mr. President, if anything, Ms. Quinn has understated the case. Time is of the essence and I urge the consumers of the Nation to flood our offices here with their protests against the emasculation of the Federal Trade Commission.

I ask unanimous consent that the article be printed in its entirety in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD as follows:

HELP TO SAVE EMBATTLED FTC

(By Jane Bryant Quinn)

The Federal Trade Commission is fighting for your money and your right to honest advertising in the marketplace, and it badly needs your help.

Congress, stuffed to the gills with pleas and threats from lobbyist and campaign contributors, is on the verge of killing the FTC's 41-year-old right to prohibit unfair sales claims and practices. They're also trying to cut other aspects of the FTC's consumer-protection authority off at the knees.

On issues like this, fought out on bureaucratic turf, Congress usually hears mainly from industry lobbyists and a few, standard consumer groups. The average voter doesn't know what he's losing until its all over.

But you can make a difference. The battle is boiling to a head. Your elected representatives really can be moved by a lot of letters from constituents. Call your congressman or senator; write to him at his home office or at the House or Senate in Washington. Also, write to the architect of the most damaging proposals, Sen. Wendell Ford (D-Ky.), chairman of the Consumer Subcommittee of the Committee on Commerce, Science and Transportation, U.S. Senate, Washington, D.C. 20510.

Here's a partial list of what legislation pending in the House or Senate would do:

Eliminate the proposed FTC rule that requires funeral homes to disclose prices and prohibits them from charging you for services that you don't want.

Prevent the FTC from looking into whether large farmers' cooperatives keep food prices unreasonably high. In a precedent-setting move, Congress would stop a case, now in litigation, against the Sunkist Corporation, which the FTC says controls 75% of the Western citrus crop.

Eliminate the right of the FTC to police unfair sales practices, a right it has had since 1938. This rules out the kind of marketplace policing that benefits consumers most.

Prevent the FTC from setting trade rules in the area of anti-trust. The target here is the standard-setting procedures of various industries, that determine which products can or can't be used. In the building industry, for example, concrete pipes may be the reigning standard for outside drains. When effective, and less costly, plastic pipe comes along, the concrete-pipe manufacturers could use their influence to keep the plastic out. The result is much higher building costs.

Institute a legislative veto of everything the FTC does. Just one house of Congress could, by majority vote, overturn any consumer-protection action taken by the FTC.

The FTC is not always just and wise. But if Congress doesn't like a specific action, both houses should challenge it, after holding public hearings so that everyone could have his say. Instead, they're holding an undisclosed, high-priced funeral for the commission itself. If consumers don't speak up, it will be their loss.

THE DEATH OF SALT

Mr. THURMOND. Mr. President, the SALT II agreement, which will face this body in the near future, has some serious flaws. In my judgment, it is a poorly negotiated document in many respects.

For example, why should we allow the Soviet Union 308 heavy missiles, each with 10 warheads, while the United States is allowed none? Even our light missiles are permitted to carry only one-half the number of warheads allowed the Soviets.

Further, the Backfire bomber, the most sophisticated in the world, is not included in the treaty even though it clearly has strategic capabilities. On the other hand, the United States is forced to count all of our old B-52's, even some which have been cannibalized for spare parts. This is an appalling disparity, and one which is well illustrated in an editorial in today's Wall Street Journal.

Mr. President, in order to share this editorial with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE DEATH OF SALT?

Senate Majority Leader Robert Byrd said this week that because of the Iranian crisis he is postponing consideration of the Strategic Arms Treaty until January. In the cloakrooms his announcement inspired the following:

Knock-knock.
Who's there?
Khomeini.
Khomeini who?
Khomeini votes y'got?

In fact, even without the Iranian crisis raising alarms about the military balance, the Senate clearly has been moving toward rejection of SALT. Even in the favorable arena of the Foreign Relations Committee, the treaty was approved only by a 9-6 vote, less than the two-thirds majority needed for ratification on the floor. At that, the majority report was loaded with conditions and qualifications, including for example more study of a penetrating bomber like the B-1 so recently scuttled by the Carter administration.

A majority of the Armed Services Committee, meanwhile, favors a negative recommendation, and is likely to vote out its report over the objections of Chairman John Stennis. The Pentagon is embroiled in a controversy over the firing or at least threatened firing of a civil service lawyer who contributed some technical advice to the testimony of General Edward L. Rowny, former Joint Chiefs representative to the talks—a tribute to the devastating nature of General Rowny's remarks. The tide against the treaty is strongest among those most familiar with its provisions.

This is probably best understood through a detailed look at only one of the many controversial issues, the Soviet Backfire bomber. The Backfire is a modern swing-wing bomber about four-fifths the size of our aging B-52s. It quite clearly has the capability to attack the United States and land in a third country like Cuba, but under SALT it is not counted as a strategic weapon.

Estimates of the Backfire's range vary, but the following is typical. Assuming a five-ton bomb load and a high-altitude mission, it would have a combat radius (flying out and returning to the same base) of about 5,700 kilometers. On a one-way mission, it could fly some 10,600 kilometers. The official SALT definition of intercontinental range for ballistic missiles is 5,500 kilometers. These estimates make no provision for air-to-air refueling, though the Backfire has this capability.

All of our B–52 force is included under the SALT ceilings; indeed some old mothballed planes will have to be destroyed. Donald Brennan of the Hudson Institute pointed out that about 80 of our active inventory of about 350 B–52s are the B–52D. This model has a range of about 5,580 kilometers radius or 10,380 kilometers one-way—that is, less than usual estimates for the Backfire. Later model B–52s have ranges up to 14,400 kilometers one way. But because of heavy Soviet air defenses, they would have to fly much of their missions at very low altitudes, so even they do not have an effective range exceeding the Backfire's. Plans for B–52s have never included radius missions but have always contemplated recovery in a third country. None of the B–52s has supersonic dash capability, though the Backfire does.

Finally, it would be perfectly feasible to extend the range of the Backfire. The draft report of the Armed Services Committee takes note of Soviet announcement of new fuel-efficient jet engines.

How, in the face of all these facts, did we come up with a treaty that counts all of the B–52s as strategic weapons and excludes the Backfire entirely? Well, the Soviets insisted on it, blandly contending the Backfire is solely a theater weapon. In the face of this insistence, the U.S. compromised, compromised and compromised, finally settling for the following assurances:

> When the treaty was signed in Vienna it made no mention of the Backfire, but Soviet Chairman Brezhnev handed President Carter an unsigned statement specifically on the bomber. The statement promised not to give the Backfire "intercontinental" capability, not to increase the current production rate and not to increase its "radius of action" to allow it to strike the U.S. Mr. Brezhnev confirmed that the production rate is not more than 30 a year. A State Department summary of the record adds. "President Carter made clear that any significant upgrade in the range/payload capability would be inconsistent with the Soviet Backfire assurances. The Soviets responded that they would not be bound by U.S. unilateral interpretation of their statement."

In short, we were satisfied to have the Soviets promise not to give the Backfire capabilities it already has. The Soviets have promised not to build a total of more than 380 to 400 Backfires by the end of the treaty, a force larger than our B–52 squadrons. The Soviets have in effect declared they intend significant improvements in Backfire range. Without violating the treaty or even their unsigned assurances, they are allowed to build a bomber force equal or superior to ours. The only difference is that our bomber force will be counted against the totals the treaty allows, while their bomber force will be in addition to those totals.

This is the sort of thing the Senate is discovering as it explores the text of the treaty. The merits of the agreement are responsible for the trend against SALT and for the perhaps permanent delay in bringing it to the floor. The Iranian crisis does not help its prospects, but is far from the basic explanation for its decline. It would be closer to the mark, indeed, to say that the kind of flabby American postures revealed in the arms negotiations explain why we face a crisis in Iran.

NOMINATION OF JUDGE SHIRLEY HUFSTEDLER AS SECRETARY OF THE DEPARTMENT OF EDUCATION

Mr. THURMOND. Mr. President, as one who is concerned about the growth of Federal control of public education in this country, I submitted several questions to Judge Shirley Hufstedler, President Carter's nominee as the first Secretary of Education.

Judge Hufstedler responded promptly to my questions, although her lack of experience in education prevented her from giving substantive answers in many respects.

However, I believe she did make various statements of importance in response to my questions, and for that reason I ask unanimous consent that these questions and the answers be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Responses of Shirley Mount Hufstedler to Senator Strom Thurmond's Questions

Q1. The Conference Report on the Department of Education Organization Act states that parents have the primary responsibility for the education of their children, and States, localities and private institutions have the primary responsibility for supporting that parental role. How would you insure the rights of parents in this regard?

A1. Several Federal education programs now have provisions for parental involvement and the protection of parent rights. I intend to assure that these provisions are implemented effectively. Moreover, parents can be assisted, as we have done with some of our programs in knowing how they can help their children learn both at home and in school.

Q2. The Conference Report also states that the purpose of the Act is to increase the accountability of Federal education programs to the President, the Congress, and the public. A 1977 study by the National Institute of Education states that the U.S. Office of Education provides little clear guidance or supervision in administering the nation's largest program of federal aid to education and that auditors have become so discouraged with the infighting and failure to enforce federal laws that they are now reluctant to audit school aid programs. This situation has not improved since that time, and I would like to know how you will remedy the problems of accountability in the grants program.

A2. I agree with the Conference Report. The Act does increase the accountability for administering Federal education programs. This accountability is clearly focused on the Secretary of Education. I have not studied the National Institute of Education report which is referenced. As to the question of audits, I will review the situation to see that audit problems are resolved in a timely and correct fashion.

Q3. How do you reconcile the concept of local control of schools with the National Diffusion Network, whereby the government awards grants for developing curriculums (or "treatments"), evaluates them, lists those deemed to be "successful" in the book, "Educational Programs that Work," publicizes them around the country, and even funds State Facilitators to promote the programs and materials to the local school systems? Would you classify this whole program as "federal control?"

A3. I have not been informed about the existence of the practices cited. Until I am informed, I cannot reliably give a reasoned response.

Q4. Would you comment on the National Education Association's statement that: ". . . the American family has joined the list of institutions that are no longer able to fulfill their traditional roles in the lives of young people. As a result, the school—not by consent, not by decision, but by default—has been, for an increasing number of children, the only institution that provides for orderly socialization and maturation. Please note that the statement did not say "some" families, but the American family as an institution.

A4. The family plays and should continue to play a central role in the socialization of American youth. I welcome greater parental involvement in the schools so that the role that the families and schools play in socialization and maturation will be consistent and mutually reinforcing.

Q5. Do you believe in the use of behavior modification techniques in the schools, such as pre- and post-testing of students for attitudinal change? Do you feel this should be done without parental knowledge or consent?

A5. Behavior modification is an ambiguous phrase that has many meanings. In general, however, subtle and coercive behavior modification techniques have no place in public education, especially where parents are unaware of their application. It may be appropriate to use pre- and post-test measures of learning when the topic being learned is clearly specified and is consistent with the publicly stated goals of the school.

Q6. Are you familiar with and do you support Sidney Simon's "Value Clarification" strategies which are being interspersed in all subjects in school throughout the country? This approach states that values are acceptable if they have been chosen freely, affirmed, and acted upon. In other words, there is no right or wrong, no legal or illegal acts. Simon states that young people who have been raised by moralizing adults are not prepared to make their own responsible choices. Do you agree with this view and the use of Values Clarification in the classroom?

A6. I am not familiar with Sidney Simon's approach to "value clarification." I am a strong supporter of law-related education and this includes having students gaining a greater understanding of the difference between legal and illegal acts.

Q7. How do you feel generally about the trend in the schools toward invasion of privacy by the use of techniques that cause students to reveal their attitudes, and their innermost thoughts, their feelings about home and family, etc.?

A7. Schools have a responsibility to respect the individual rights of students and their families. One of the most important rights all Americans should enjoy, regardless of their age, is the right to privacy. As I understand it the Privacy Act does prevent such invasion of privacy.

Q8. Do you feel there is a conflict of interest in your being on the Board of the Aspen Institute of Humanistic Studies, since they deal with educational programs? Dr. Francis Keppel, its Director of Education for a Changing Society, has written a paper, "Educational Policy in the Next Decade," (1976) which deals with world interdependence (as opposed to American independence). Do you support one-world government?

A8. Since I have resigned from the Board of the Aspen Institute, no question of conflict is presented. I do not support one-world government.

Q9. In 1973 Congress passed the Educational Professions Development Act to assist higher education by training teachers. As implemented by HEW, it became a program whereby 21 institutions of higher education around the country trained persons to become "change agents." Change agents are those persons who attempt to bring about social change without the awareness of the persons to be changed. What is your view on change agents and how would you take precautions to avoid a future distortion of the intent of a law as passed by Congress?

A9. I have no information about the program described. I am skeptical about the ability of anyone to change the ideas or behavior of persons about whom the "reformer" is not thoroughly informed.

FAILURE TO BALANCE BUDGET THIS YEAR REPRESENTS DISMAL FAILURE IN ECONOMIC FORECASTING

Mr. PROXMIRE. Mr. President, the dismal failure of both the President and Congress to balance the budget this year was highlighted by the 5.8-percent unemployment figure announced last Friday. Both missed a golden opportunity to fight inflation in a year when prices rose to the double digit level while unemployment was at 6 percent or below in every month of the year.

As chairman of the Senate Banking, Housing, and Urban Affairs Committee, which exercises the oversight function for monetary policy, and as a member of both the Senate Appropriations Committee and the Congressional Joint Economic Committee, I am both concerned and alarmed at what happened in this most recent fiscal year.

It was a profound mistake to end the year with a massive deficit at a time of record employment and stable or falling unemployment.

FAILURE TO FIGHT INFLATION—THE NO. 1 ENEMY

Instead of acting on the facts, both the President and Congress and their economic advisers have acted on assumptions which have failed to come about. The routine predictions that we were in or were going to have a recession prevented both the President and Congress from acting forthrightly to fight America's No. 1 problem, raging inflation.

Instead we fought a nonexistent recession at a time when unemployment remained stable or dropped, prices rose to double digit levels, and both the number of people in the labor force and the percentage who held jobs were at record levels.

The President and Congress blew it. If there was ever a year when the budget should have been in balance, indeed in surplus, this was it. But because of false and misleading predictions, forecasts, and estimates of a pending recession, both groups fought the wrong enemy and provided us with a budget which is about $300 billion in the red.

Carlyle was right. Economics is the "dismal science." Economists as forecasters and prognosticators have a dismal record with equally dismal results.

CONSTRUCTIVE ALTERNATIVE

There is an alternative to basing policy on computer predictions where "garbage in" is "garbage out." The President should send to Congress each year a budget which would be in balance if the real growth of the economy was at or near its historical average of about 3 percent.

If the economy grew at 3 percent, the budget would be in balance as it should be.

If there were a recession, a negative growth rate, and unemployment, a deficit would automatically come about.

In each case, the proper fiscal policy for the economic circumstances would come about, a surplus or a deficit or a balanced budget depending upon the facts.

After this year's disastrous experience of providing a big deficit at a time of unprecedented inflation, both the President and Congress should change their ways.

Instead of a fiscal policy which has provided a deficit in 16 of the last 17 years, we must turn to a budget and fiscal policy which functions according to the facts rather than the forecasts of future events.

I call upon both the Congress and the President to act on the budget amendment I have proposed which would do precisely that.

EVENTS IN CAMBODIA REMIND US OF THE NEED FOR RATIFICATION OF THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, over the past year I have spoken time and time again, regarding the tragic events in Kampuchea, better known by its former name, Cambodia. The brutality of the Pol Pot regime is now part of history. Hundreds of thousands—even millions—of people died during his bloody rule.

But even now Cambodia is reaping the harvest of those dark days. Millions are homeless. Many lay dying, from starvation and disease.

Unfortunately, the human impact is too often lost in this electronic age. There is no Anne Frank to tell us of the terror, the helplessness, the eternal waiting. There is no Rudi Weiss, whose struggles and moral dilemmas we can share.

No. The only way we can put this carnage in perspective is through the eyewitness accounts of Americans who have been there. Several of my colleagues have shared their observations and I discussed them several weeks ago. Today, I would like to discuss a newsletter I recently received from the Friends Committee on National Legislation, an arm of the Quakers.

It was written by an old Washington hand, Ed Snyder, the executive director of the committee. Reporting on his September trip to Cambodia, he tells a grisly tale.

He reports:

> Everyone is hungry. Most people are malnourished, including 80 to 90 percent of the children. Hundreds of thousands have died from starvation and disease. Children in the vulnerable age below 5 years have been especially hard hit.

He goes on to describe a country still desperately seeking to bring order out of chaos. Nothing is working. Hospitals, schools, orphanages, transportation, basic utilities all must be restored:

> Yet this Herculean task has fallen to a tiny group of educated and trained Khmer survivors, still traumatized by their experience, who are willing to work with their ancient foes, the Vietnamese, to rebuild their country.

Mr. President, this report brings home the human anguish that underlies the often-meaningless statistics and body counts. It reminds us of the need for bringing to an end these senseless actions, many of near-genocidal proportion. We must do everything we can to end this wanton violence.

There is something we can do, Mr. President. An action that is long overdue. We have before us a major human rights treaty, the Genocide Convention, that will take the first step toward establishing the right to live as the cardinal human right.

Ratification of this treaty will help put all dictators of the world on notice that these actions will never be acceptable. Never be tolerated. Never be permitted again.

Mr. President, I urge my colleagues to join me in seeking prompt ratification of the Genocide Convention.

EXIMBANK PRENOTIFICATION OF FINANCING OF AIRCRAFT SALES TO MIDDLE EAST AIRLINES

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2 (b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct credit of $343,327,750 to assist the export of eight new medium-range, wide-bodied, commercial jet aircraft, engines, related spare parts and services to Middle East Airlines (MEA) in Beirut, Lebanon, a privately owned enterprise which serves as the Lebanese flag carrier. Total export value will be $403,915,000. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans and financial guarantees in an amount of $100,000,000 or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct credit to cover 85 percent of the jet aircraft transaction as well as issue a preliminary commitment of $610,642,550 to MEA for an additional 11 aircraft to be purchased over the next 10 years. The Eximbank credit will bear interest at the rate of 8¾ percent per annum and be repayable in two schedules of 20 semiannual installments each to coincide with the various delivery dates of the aircraft. When the preliminary commitment is converted to a loan application, it will bear interest at the appropriate Exim rate at that time and be repayable in the same manner as the direct credit.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., November 8, 1979.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the

Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

H. K. ALLEN.

Enclosure.

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C., November 8, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Lebanon:

A. Description of Transaction:

1. Purpose:

Eximbank is prepared to make a credit of $343,327,750 available to Middle East Airlines (MEA) to facilitate the purchase in the United States by MEA of eight new medium-range, wide-bodied commercial jet aircraft, spare parts and related equipment and services. The total U.S. export value for this transaction is estimated to be $403,915,000. The U.S. aircraft in competition are the 767–100 jet aircraft manufactured by The Boeing Company of Seattle, Washington; the L–1011–500 manufactured by the Lockheed Corporation of Burbank, California; and the DC–10–10 manufactured by McDonnell Douglas Corporation of Long Beach, California.

There is also intense competition for this sale from Airbus Industries; both the A–300 and A–310 manufactured by Airbus are well suited for MEA's route structure. The Airbus offer is supported by subsidized export credits from government sources. As of this date, MEA has not made a decision which aircraft it will purchase, but has informed us of its intention to replace its current fleet of aging Boeing 707's and 720's over the next ten years.

In addition to the eight aircraft to be financed by the proposed direct credit, Eximbank is prepared to issue a preliminary commitment to MEA indicating the terms and conditions under which it will be prepared to extend a direct credit of $610,642,550 to assist MEA in the purchase of an additional eleven new medium-range wide-bodied aircraft.

The total U.S. export value for the additional purchase is estimated to be $718,403,000. We are advising you at this time of the financing contemplated by the preliminary commitment because, if MEA determines to purchase the additional aircraft in the U.S., the financing terms we propose to offer for the additional aircraft will be substantially on the same terms as we propose offering for the eight aircraft and because we view the entire transaction as one package.

2. Identity of the Borrower:

MEA, the flag carrier of Lebanon, is a privately owned airline with equity participation by Intra Investment Company of Beirut (63 percent), Air France (28 percent), MEA's employees (5 percent) and various private Lebanese interests (4 percent). Its route structure comprises the major cities of Western Europe, the Middle East and, to a lesser extent, North and West Africa. MEA has no present plans for a new route structure. The location of its operational and maintenance centers are in Amman, Jordan and Frankfurt, West Germany, respectively. Eximbank has made two loans previously to MEA and repayments have been made on a timely basis.

MEA's principal offices are in Beirut, Lebanon, but because of the political turmoil in that country certain steps are taken by MEA's management to reduce the airline's involvement in Lebanon. Eximbank has been informed by MEA's management that almost all of the company's bank balances are kept outside Lebanon, and that its operating rules provide that no more than one scheduled aircraft can be in Beirut at one time and never at night.

3. Nature and Use of Goods and Services:

The principal goods expected to be exported from the United States at this time are eight new medium-range, wide-bodied commercial jet aircraft to be delivered during the period 1983–1985. The additional eleven jet aircraft contemplated by the preliminary commitment, if purchased in the United States, will be exported during the period 1986 through 1990 to complete the replacement process.

In the event the Boeing 767–100 is selected, most of the airframe components will be manufactured in the Seattle-Renton-Everett area by The Boeing Company of Seattle, Washington. If the McDonnell Douglas DC–10–10 is selected, most of the airframe components will be manufactured in California and Ohio by the McDonnell Douglas Corporation and its sub-suppliers. If the Lockheed L–1011–500 is selected, most of the airframe components will be manufactured in California by the Lockheed Corporation.

Potential engine manufacturers are the Pratt and Whitney Aircraft Division of United Technologies Corporation of Hartford, Connecticut and the General Electric Company's jet aircraft engine division in Cincinnati, Ohio. In addition, it is expected that other U.S. firms will furnish spare parts.

B. Explanation of Eximbank Financing:

1. Reasons:

Eximbank's financing support for the export of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80 percent of the world market for commercial jet aircraft. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40 percent of total U.S aircraft sales. Over the next two to three years several large foreign airlines will be undertaking major procurement programs, and most airlines choosing a particular aircraft type will continue with future purchases of the same models to maintain fleet continuity. During these next few years there will be intense competition from foreign aircraft and engine manufacturers who will be supported by subsidized export credit from government sources. Eximbank believes it must be sensitive to purchasers' needs during this period of new product selection to insure that U.S. aircraft and engine manufacturers are able to offer attractive financing, thereby helping the aircraft industry to sustain its position as a leading U.S. export sector.

Eximbank is prepared to extend financing to MEA for 85 percent of the U.S. costs of the aircraft in order to meet government-supported subsidized financing offered in support of the competing European Airbus proposal.

The estimates by each airframe manufacturer of the U.S. employment impact are as follows:

(a) Boeing 767–100—870,000 man/hours per aircraft.

(b) McDonnell Douglas DC–10–10—585,000 man/hours per aircraft for McDonnell Douglas' operations, and 660,000 man/hours per aircraft for its subsuppliers.

(c) Lockheed L–1011–500—600,000 man/hours per aircraft for Lockheed's operations, and another 600,000 man/hours per aircraft for its subsuppliers.

Additional benefits which will flow to the United States from the transaction include sizeable follow-on exports of spare parts, ground support and other related equipment.

2. The Financing Plan:

The financing plan for the U.S. procurement proposed to be supported by Eximbank is as follows:

(a) Financing for Eight Aircraft, which are the subject of the direct credit:

	U.S. cost Percent of	Amount
Cash payment	15	$60,587,250
Eximbank credit	85	343,327,750
Total	100	403,915,000

(i) Eximbank Charges.—The Eximbank credit will bear interest at the rate of 8¾ percent per annum. A commitment fee of ½ of 1 percent per annum will also be charged on the undisbursed portion.

(ii) Repayment Terms.—Aggregate disbursements under the Eximbank credit will be repaid by MEA in two repayment schedules of 20 equal semiannual installments each, beginning July 15, 1984, with respect to aircraft to be delivered in 1983 and 1984, and beginning March 15, 1986 with respect to aircraft to be delivered in 1985.

(b) Financing for Eleven Aircraft, which are the subject of the preliminary commitment:

	U.S. cost Percent of	Amount
Cash payment	15	$107,760,450
Eximbank credit	85	610,642,550
Total	100	718,403,000

(i) Eximbank Charges.—The interest rate will be the appropriate Eximbank rate in effect at the time the preliminary commitment is converted to a loan application. A commitment fee of ½ of 1 percent per annum will also be charged on the undisbursed portion of the Eximbank credit.

(ii) Repayment Terms.—Aggregate disbursements under the Eximbank credit would be repaid by MEA in three repayment schedules of 20 equal semiannual installments each, beginning July 15, 1987 with respect to aircraft to be delivered in 1986 and 1987; beginning July 15, 1989 with respect to aircraft to be delivered in 1988 and 1989; and beginning July 15, 1990 with respect to aircraft to be delivered in 1990.

Sincerely,

H. K. ALLEN.

EXIMBANK PRENOTIFICATION OF FINANCING OF AIRCRAFT SALES TO CANADA

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed direct credit of $42,660,000 to CP Air, a wholly-owned subsidiary of Canadian Pacific, Ltd., to assist the export from the United States of one new McDonnell-Douglas DC–10–30 and two new Boeing 737–200 jet aircraft, spare engines and related spare parts and services for a total export value of $71,100,000.

In addition to the aircraft proposed for sale in this transaction, Eximbank has issued a preliminary commitment to CP Air in which it has indicated the terms and conditions under which it will be prepared to extend up to $989,600,000 of additional financing to assist the purchase of up to 16 Boeing 767–200, 6 Boeing 737–200, and 9 McDonnell-Douglas DC–10–30 jet aircraft. The total U.S. export value for these additional purchases is estimated to be $1,387,000,000.

Furthermore, CP Air has indicated plans to purchase 6 additional Boeing 737's with an estimated U.S. export value of $88,700,000 for which it intends to submit an application to Eximbank for a preliminary commitment in 1980. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans and financial guarantees in the amount of $100,000,000 or more at least 25 days of continuous session of the Congress prior to the date of approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct credit to cover 60 percent of the aircraft transaction. The Eximbank credit will bear interest at the rate of 8.5 percent per annum and be repayable in two schedules of 20 semiannual installments beginning May 15, 1980, with respect to the aircraft delivered in 1979 and beginning November 15, 1980, for those delivered in 1980. The interest rates and repayment schedules for the preliminary commitments will be appropriate to delivery dates and Bank rates at the time the loan applications are consummated.

Mr. President, I ask unanimous consent that the letter from Eximbank pertaining to this transaction be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C., November 9, 1979.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In accordance with Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, I have reported to the President of the Senate and the Speaker of the House of Representatives on an application currently pending consideration by the Bank. I am taking the liberty of providing you with a copy of this statement.

Sincerely,

H. K. ALLEN.

Enclosure.

EXPORT-IMPORT BANK OF THE
UNITED STATES,
Washington, D.C., November 9, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
U.S. Capitol,
Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Canada:

A. DESCRIPTION OF TRANSACTION

1. Purpose.—Eximbank is prepared to make a credit of $42,660,000 available to CP Air to facilitate the purchase in the United States by CP Air of one new McDonnell Douglas DC-10-30 and two new Boeing 737-200 jet aircraft, spare engines and related parts and services. The total U.S. export value for this transaction is estimated to be $71,100,000.

In addition to the aircraft proposed for sale in this transaction, Eximbank has issued a preliminary commitment to CP Air in which it has indicated the terms and conditions under which it will be prepared to extend up to $989,600,000 of additional financing to CP Air to assist it in the purchase of up to 16 Boeing 767-200, 6 Boeing 737-200 and 9 McDonnell Douglas DC-10-30 jet aircraft to meet its needs for increased traffic on its transcontinental routes and replacement of its aging fleet. The total U.S. export value for these additional purchases is estimated to be $1,387,000,000. Furthermore, CP Air has indicated plans to purchase 6 additional Boeing 737's with an estimated U.S. export value of $88,700,000 for which it intends to submit an application for a commitment to Eximbank in 1980.

The Eximbank Credit for this transaction, together with the Eximbank financing contemplated in the preliminary commitment, would fall within the purview of cases to be referred to Congress under Section 2(b)(3)(i) of the Eximbank Act.

2. Identity of the Borrower.—CP Air, a wholly-owned subsidiary of Canadian Pacific Limited, was established in 1941 to provide airline service within Western Canada. Its routes are now worldwide, the principal routes being to the Orient, the South Pacific and to Hawaii, in addition to extensive operations throughout Canada. Eximbank has previously made 12 loans to CP Air and repayments have been made on a timely basis.

3. Nature and Use of Goods and Services.—The principal goods to be exported from the United States at this time are three commercial jet aircraft to be used by CP Air in its expanded operations resulting from the recent deregulation of transcontinental routes within Canada. The additional commercial jet aircraft contemplated by the preliminary commitment will be exported under various schedules during the period 1980-1986 and will be used to handle increased traffic on CP Air's transcontinental routes and to replace its aging fleet of aircraft.

The airframes for the 737's will be manufactured in the Seattle-Renton-Everett area by the Boeing Company of Seattle, Washington. Approximately 67 percent of the DC-10 production will be carried out in California and Ohio by the McDonnell Douglas Corporation and its subsuppliers. The engines for the 737's will be manufactured by the Pratt and Whitney Aircraft Division of United Technologies Corporation, while the engines for the DC-10 will be provided by the General Electric Company. In addition, other U.S. firms will furnish spare parts.

B. EXPLANATION OF EXIMBANK FINANCING

1. Reasons.—Eximbank's financing support for the export of U.S. aircraft has assisted U.S. aircraft manufacturers in obtaining approximately 80 percent of the world market for commercial jet aircraft. Through 1990, aircraft purchases by foreign airlines are expected to account for approximately 40 percent of total U.S. aircraft sales. Over the next two to three years several large foreign airlines will be undertaking major reequipment programs, and most airlines choosing a particular aircraft type will continue with future purchases of the same models to maintain fleet continuity. During these next few years there will be intense competition from foreign aircraft and engine manufacturers and they will be supported by subsidized export credit from government sources. Eximbank believes it must be sensitive to purchasers' needs during this period of new product selection to insure that U.S. aircraft and engine manufacturers are able to offer attractive financing which helps them to sustain their position as a leading U.S. export sector.

Eximbank is prepared to extend financing to CP Air for sixty percent of the U.S. costs of the DC-10 and Boeing 737 aircraft and for eighty percent of the U.S. Costs of the Boeing 767 aircraft in order to meet government-supported subsidized financing offered in support of a competing European Airbus proposal.

Boeing estimates that the export of the two 737 aircraft will provide 807,800 man/hours of work for Boeing and its subcontractors and McDonnell Douglas estimates that the export of one DC-10 jet aircraft will provide 294 man/years of work for McDonnell Douglas and its subcontractors. Additional benefits which will flow to the United States from the transaction include sizeable followon exports of spare parts, ground support and other related equipment.

2. The Financing Plan.—The financing plan for the total U.S. procurement supported by Eximbank is as follows:

(a) Present Sale of 3 Aircraft:

	Percent of U.S. costs	Amount
Cash payment	20	$14,220,000
Private financing	20	14,220,000
Eximbank credit	60	42,660,000
	100	$71,100,000

(i) Eximbank Charges.—The Eximbank credit will bear interest at the rate of 8.5 percent per annum.

(ii) Repayment Terms.—Aggregate disbursements under the Private Financing and Eximbank Credit will be repaid by CP Air in 2 repayment schedules of 20 equal semiannual installments each, beginning May 15, 1980 with respect to aircraft to be delivered in 1979, and beginning November 15, 1980 with respect to aircraft to be delivered in 1980. The Private Financing will be repaid from the first 5 installments of each schedule and the Eximbank Credit will be repaid from the last 15 installments of each schedule.

(b) Preliminary Commitment:

(1) Boeing 767 Aircraft:

	Percent of U.S. costs	Amount
Cash payment	20	$157,400,000
Eximbank credit	80	629,600,000
	100	$787,000,000

(i) Eximbank Charges.—The Eximbank Credit will bear interest at the rate of 8.7 percent per annum.

(ii) Repayment Terms.—Disbursements under the Eximbank Credit will be repaid by CP Air in 4 repayment schedules of 24 semiannual installments each, beginning approximately 6 months after the end of each aircraft delivery schedule during the period 1983-1986.

(2) DC-10 and Boeing 737 Aircraft:

	Percent of U.S. costs	Amount
Cash payment	20	$120,000,000
Private financing	20	120,000,000
Eximbank credit	60	360,000,000
	100	$600,000,000

(i) Eximbank Charges.—The Eximbank Credit will bear interest at the rate of 8.5 percent for disbursements through 1982 and 8.75 percent for disbursements during the period 1983-1984.

(ii) Repayment Terms.—Aggregate disbursements under the Private Financing and Eximbank Credit will be repaid by CP Air in 5 repayment schedules of 20 semiannual installments each, beginning approximately 6 months after the end of each aircraft delivery schedule during the period 1980-1984. The Private Financing will be repaid from the first 5 installments of each schedule and the Eximbank Credit will be repaid from the last 15 installments of each schedule.

Sincerely,

JOHN L. MOORE, Jr.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

THIRD NATIONWIDE OUTDOOR RECREATION PLAN—MESSAGE FROM THE PRESIDENT—PM 141

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

It is with pleasure that I transmit the third Nationwide Outdoor Recreation Plan to the Congress of the United States, as required by P.L. 88–29 (16 U.S.C. 4601–1(c)). This Plan has been prepared by the Department of the Interior to address a number of current recreation issues, and assess the existing supply, demand, and opportunities associated with outdoor recreation in America.

The Plan was derived from a new planning process which maximizes public involvement and leads to specific actions. The rivers and trails directives issued in my 1979 Environmental Message are among the major decisions which originated with this Plan. Also included in the Plan are specific actions related to Federal land acquisition policy, environmental education, recreation access for the handicapped, and energy conservation. The Urban Parks and Recreation Recovery Program, which I proposed as one of my urban initiatives, is already helping to enhance close-to-home recreation opportunities, conserving energy while meeting basic recreation needs.

The challenge of enhancing recreation opportunity cannot be met by government action alone. New partnerships among all levels of government and the private sector will be required. New ways of combining resources from a variety of existing programs must be tested to meet our Nation's recreation needs.

JIMMY CARTER.

THE WHITE HOUSE, *December 11, 1979.*

MESSAGE FROM THE HOUSE

At 5:45 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, with amendments in which it requests the concurrence of the Senate:

S. 585. An act to authorize the Secretary of the Interior to engage in a feasibility study of the Yakima River Basin Water Enhancement Project.

The message also announced that the Speaker has appointed Mr. LEATH of Texas, Mr. BONIOR of Michigan, and Mr. CLEVELAND as additional managers in the conference on the part of the House on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 914) to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for multistate regional development commissions to promote balanced development in the regions of the Nation.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4084. An act to provide for a cooperative agreement between the Secretary of the Interior and the State of California to improve and manage the Suisun Marsh in California;

H.R. 4887. An act to authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes;

H.R. 4889. An act to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge; and

H.R. 5015. An act to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 4084. An act to provide for a cooperative agreement between the Secretary of the Interior and the State of California to improve and manage the Suisun Marsh in California; to the Committee on Energy and Natural Resources and the Committee on Environment and Public Works, jointly, by unanimous consent.

H.R. 4887. An act to authorize appropriations for the San Francisco Bay National Wildlife Refuge, and for other purposes; to the Committee on Environment and Public Works.

H.R. 4889. An act to extend the authorization period for the Great Dismal Swamp National Wildlife Refuge; to the Committee on Environment and Public Works.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read by title and ordered placed on the calendar:

H.R. 5015. An act to amend title 5, United States Code, to extend the Federal Physicians Comparability Allowance Act of 1978, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–2613. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Improving the Effectiveness Of Joint Militray Exercises—An Important Tool For Military Readiness"; to the Committee on Armed Services.

EC–2614. A communication from the Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a report concerning the proposed letter of offer by the Air Force to Saudi Arabia for defense articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–2615. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Millions Of Dollars For Rehabilitating Housing Can Be Used More Effectively"; to the Committee on Banking, Housing, and Urban Affairs.

EC–2616. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Analysis Of Current Trends in U.S. Petroleum And Natural Gas Production"; to the Committee on Energy and Natural Resources.

EC–2617. A communication from the Director of the Office of Hearings and Appeals, Department of Energy, transmitting, pursuant to law, the quarterly reports on private grievances and redress, for the second, third, and fourth quarters of fiscal year 1979; to the Committee on Energy and Natural Resources.

EC–2618. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the annual report on the Department of the Army's administration of title I of the Marine Protection, Research, and Sanctuaries Act for calendar year 1979; to the Committee on Environment and Public Works.

EC–2619. A communication from the Administrator of the National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the Federal plan for ocean pollution, research, development, and monitoring, fiscal years 1979–1983; by unanimous consent, referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works.

Mr. **ROBERT C. BYRD**. Mr. President, I ask unanimous consent that a communication transmitted by the Administrator of NOAA, relative to the Federal plan for ocean pollution research, development, and monitoring, be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

EC–2620. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Minimum Social Security Benefit: A Windfall That Should Be Eliminated"; to the Committee on Finance.

EC–2621. A communication from the President of the United States, transmitting, pursuant to law, a report setting forth the determination of the President that import relief for the U.S. anhydrous ammonia industry is not in the national economic interest, and the reasons for such determination; to the Committee on Finance.

EC–2622. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to December 6, 1979; to the Committee on Foreign Relations.

EC–2623. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Flexibility—Key To Administering Fulbright-Hays Exchange Program; to the Committee on Foreign Relations.

EC-2624. A communication from the Under Secretary of the Treasury, transmitting, pursuant to law, a copy of the summary report of investigation requested by the Special Counsel to the Merit Systems Protection Board on August 23, 1979; to the Committee on Governmental Affairs.

EC-2625. A communication from the District of Columbia Auditor, transmitting, pursuant to law, four reports of the District of Columbia Auditor; to the Committee on Governmental Affairs.

EC-2626. A communication from the Administrator of the National Aeronautics and Space Administration, transmitting, pursuant to law, the semiannual report of the Inspector General of the National Aeronautics and Space Administration for the period ending September 30, 1979; to the Committee on Governmental Affairs.

EC-2627. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending the deportation of certain aliens under section 244(a)(2) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-2628. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of reports suspending the deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-2629. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports on certain aliens whose petitions have been accorded third and sixth preference classification under section 204(d) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-2630. A communication from the Administrator of the Veterans' Administration, transmitting, purusant to law, a report on the nature and disposition of all cases in which an institution, approved for veterans benefits, utilizes advertising, sales or enrollment practices which are erroneous, deceptive, or misleading, either by actual statement, omission, or intimation; to the Committee on Veterans' Affairs.

EC-2631. A communication from the General Counsel of the United States General Accounting Office, transmitting, pursuant to law, a report on the status of certain budget authority of the International Communication Agency, proposed, but rejected, for rescission; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget, the Committee on Appropriations, and the Committee on Foreign Relations.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-514. A resolution adopted by the senate of the State of Pennsylvania; referred to the Committee on Foreign Relations:

"RESOLUTION

"Whereas, The Ayatollah Khomeini of Iran has caused the seizure and virtual imprisonment of innocent American citizens as hostages; and

"Whereas, The seizure of United States Embassy personnel violates every diplomatic custom and tradition among civilized nations; and

"Whereas, We share the outrage of the American people at the illegal and unjustified detainment and treatment of our Embassy personnel in Iran; therefore be it

"Resolved, That the Senate of Pennsylvania hereby condemns the Khomeini regime as terrorist outlaws and further urges that this extortion be totally rejected; and be it further

"Resolved, That the Senate of Pennsylvania calls upon the Congress and the President to stand firm in their resolve to demand the release of all Americans in Iran; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States and the presiding officers of the United States Senate and the United States House of Representatives and each United States Senator and Member of Congress from the Commonwealth of Pennsylvania."

POM-515. A resolution adopted by the Legislature of the State of Pennsylvania; to the Committee on Finance:

"HOUSE RESOLUTION No. 36

"Whereas, The United States is in the midst of a severe energy crisis; and

"Whereas, To resolve this crisis our country must not only increase our commitment to energy conservation but also expand our indigenous energy sources; and

"Whereas, Our country's most abundant energy source is coal; and

"Whereas, Incentives should be provided to those industrial users of oil and natural gas to convert their boilers to coal, thus reducing our dependence on oil and gas while increasing our reliance on a plentiful domestic fuel source; therefore be it

"Resolved (the Senate concurring), That the General Assembly of the Commonwealth of Pennsylvania memorialize the Congress of the United States to grant tax deductions and/or credits to industrial users of oil or natural gas who convert their boilers to coal."

POM-516. A resolution adopted by the Municipal Council of the City of Jersey City, N.J., supporting Congressman FRANK GUARINI in his proposal to create an Oil Utilities Commission; to the Committee on Governmental Affairs.

POM-517. A petition from a private citizen relating to the equal rights amendment; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 288. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1648.

S. Res. 300. A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3398.

S. Res. 303. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2094.

By Mr. LONG, from the Committee on Finance, with an amendment:

H.R. 3122. An act relating to the tariff treatment of certain articles (Rept. No. 96-474).

By Mr. LEVIN, from the Committee on Governmental Affairs, with an amendment and an amendment to the title:

H.R. 3951. An act to amend the National Capital Transportation Act of 1969 to authorize additional Federal contributions for the cost of construction of the rapid transit system of the National Capital Region, to provide an orderly method for the retirement of bonds issued by the Washington Metropolitan Area Transit Authority, to authorize a Federal contribution to such Authority to provide assistance in meeting expenses of operation and maintenance of such system in order to reflect the special Federal relationship in such system, and for other purposes (together with minority and additional views) (Rept. No. 96-475).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Special Report Pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 96-476).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 1442. A bill to authorize the documentation of the vessel, *Sara*, as a vessel of the United States with coastwise privileges (Rept. No. 96-477).

S. 1863. A bill to authorize the Secretary of Commerce to charter the nuclear ship *Savannah* to Patriots Point Development Authority, an agency of the State of South Carolina (Rept. No. 96-478).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committes were submitted:

By Mr. RIBICOFF, from the Committee on Governmental Affairs:

Henry Harold Kennedy, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia.

Frank Ernest Schwelb, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. TALMADGE:

S. 2111. A bill to incorporate the National Federation of Music Clubs; to the Committee on the Judiciary.

By Mr. THURMOND (for himself and Mr. HOLLINGS):

S. 2112. A bill to amend the Surface Mining Control and Reclamation Act of 1977 relating to maps and plans of lands to be mined; to the Committee on Energy and Natural Resources.

By Mr. THURMOND (for himself and Mr. STEWART):

S. 2113. A bill to incorporate United Service Organizations, Inc.; to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 2114. A bill to authorize the transfer to the Oglala Sioux Tribe certain mineral rights of the United States; to the Committee on Energy and Natural Resources.

By Mr. JOHNSTON:

S. 2115. A bill to establish the Bogue Chitto National Wildlife Refuge; to the Committee on Environment and Public Works.

By Mr. MATHIAS (for himself, Mr. GOLDWATER, Mr. CHAFEE, Mr. STEVENSON, and Mr. DURENBERGER):

S. 2116. A bill to authorize the establishment of a Senior Cryptologic Executive Service and Pay and Awards Systems within the National Security Agency and to make necessary amendments to title 5, United States Code; to the Committee on Governmental Affairs.

By Mr. ARMSTRONG:

S. 2117. A bill to authorize certain additional measures to assure accomplishment of the objectives of title II of the Colorado River Basin Salinity Control Act; to the Committee on Energy and Natural Resources.

By Mr. CANNON (for himself and Mr. MAGNUSON) (by request):

S. 2118. A bill to implement the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from

Ships, 1973, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. TSONGAS (for Mr. Kennedy (for himself, Mr. Magnuson, Mr. Tsongas, Mr. Williams, Mr. Bradley, Mr. Hatfield, Mr. Cohen, and Mr. Weicker)):

S. 2119. A bill to protect the fisheries resources on the Georges Bank, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

By Mr. McCLURE:

S.J. Res. 124. Joint resolution to authorize and request the President to designate the week of June 16 through June 22, 1979, as "National Oldtime Fiddlers Week"; to the Committee on the Judiciary.

By Mr. SASSER:

S.J. Res. 125. Joint resolution designating the "square dance" as the national folk dance of the United States of America; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THURMOND (for himself and Mr. Hollings):

S. 2112. A bill to amend the Surface Mining Control and Reclamation Act of 1977 relating to maps and plans of lands to be mined; to the Committee on Energy and Natural Resources.

SURFACE MINING CONTROL AND RECLAMATION ACT

Mr. THURMOND. Mr. President, today I am introducing a bill to amend the Surface Mining Control and Reclamation Act of 1977, relating to maps and plans of lands to be mined.

The purpose of this bill is to reinstate the professional surveyor in his traditional role of preparing accurate plans, maps, and cross-section maps that are required under law for all surface mining and reclamation operations. The bill makes it clear that land surveyors, in addition to engineers, will be able to perform land surveys and make maps of parcels of property. A brief review of the legislative history of the Surface Mining Control Act will help clarify the problem.

When the legislation that eventually became the Surface Mining Act was first introduced in the 94th Congress, both the House and Senate bills (H.R. 25 and S. 7) provided that such plans and maps should be prepared by or under the direction of and certified by a registered professional engineer, or registered land surveyor and a professional geologist—when specific subsurface information is deemed essential and requested by the regulatory authority. The identical provisions appeared in H.R. 2 and S. 7 of the 95th Congress.

S. 7 of the 95th Congress was amended to provide that such maps and plans should be prepared by a registered professional engineer, with assistance from experts in related fields, such as land surveying, landscape architecture, and geology. The significance of this amendment was that the surveyor was transferred from an equal status position with the engineer to a position of assistance. H.R. 2 was not amended with respect to this provision.

During the closing minutes of the conference on the Act, it was suggested that the act should be amended in order to include the geologist on an equal status with the engineer. As a result the act was amended to provide that the maps and plans should be prepared by engineers or geologists instead of only engineers as contained in the provision of S. 7. What is ironic about the change that was made is that the services prescribed in the act are specific functions which are granted exclusively to the surveyor or the engineer by various State licensing statutes and which the geologist, in most cases, does not have statutory authority to perform, nor in fact, does he wish to perform.

The amendment proposed by this bill would not constitute a substantive change in the act. The purpose of this amendment is to permit the professional land surveyor to perform the services he is qualified to do in the field of his expertise, which services he has ably performed prior to the adoption of the act.

The amendment will not compromise the objectives of environmental protection or the public health and safety, nor will it grant the authority to the surveyor to extend his activities into the areas of engineering, design or geology beyond the limits presently prescribed by State authority, control and supervision. This is another example of State primacy which is intended in the act.

The States which have gained valuable experience in processing surface mine permits are better able to judge the individuals who are best qualified to perform professional services. Without this proposed amendment, the States will be deprived of this right and the existing conflict between Federal and State statutes will continue, to the detriment of the surface mining industries and the Nation.

Mr. President, the distinguished junior Senator from South Carolina (Mr. Hollings), has asked that he be added as a cosponsor to this bill.

Mr. President, I ask unanimous consent that a letter from Ferrell Prosser of the South Carolina State Board of Engineering Examiners and the bill being introduced be printed in the Record.

There being no objection, the bill and letter was ordered to be printed in the Record, as follows:

S. 2112

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 507 (b) (14) of the Surface Mining Control and Reclamation Act of 1977, as amended (30 U.S.C. 1257), is amended (1) by inserting immediately after "qualified registered professional engineer" the words "or land surveyor"; and (2) by deleting "land surveying and".

S.C. State Board
of Engineering Examiners,
Columbia, S.C., September 24, 1979.

Hon. Strom Thurmond,
Senate Office Building,
Washington, D.C.

Dear Senator Thurmond: Your assistance and support of an amendment to Surface Mining Control and Reclamation Act of 1977 is needed desperately.

Under the laws of South Carolina an Engineer cannot perform land surveys or make maps of parcels of property. Only under the seal and signature of a Registered Land Surveyor can such maps be recorded.

If this amendment does not pass South Carolina will be in a very serious position. The Federal law is requiring a survey and map to be made by a person not qualified to do so. We have a great deal of surface mining going on in this State. The rock quarries, gravel mines, sand pits, and clay pits are a few of the mining operations taking place in South Carolina. Since the original Licensing of Engineers and Land Surveyors in 1922 only Land Surveyors have been able to make surveys.

I would appreciate your reading the enclosure and taking what positive steps you think necessary to insure its passage.

Should you have any questions, please feel free to give me a call.

Sincerely,

Ferrell J. Prosser.

Amendment to Surface Mining Control and Reclamation Act of 1977

"Section 507(b)(14) of the Act is amended by inserting after the phrase "registered professional engineer," the words "registered land surveyor".

STATEMENT IN SUPPORT OF AMENDMENT

Since the adoption of the Surface Mining Control and Reclamation Act of 1977, the registered land surveyor, has made a diligent effort to seek a technical amendment to the Act. The professional surveyor today finds himself in a unique and unfortunate position due to a decision made by a Congressional conference which summarily removed the surveyor from serving in his traditional role in connection with the surface mining program under Public Law 95–87. This preemption of the surveyor creates a grave direct and indirect impact on his profession, on the mining industry and on the economy and welfare of the nation.

To identify the problem, all surface coal mining and reclamation operations must be conducted only under permits which contain certain technical information such as accurate plans, maps and cross-section maps.

Since the first introduction of the Surface Mining Act, H.R. 25 and S. 7 of the 94th Congress provided that such plans and maps should be prepared by or under the direction of and certified by a registered professional engineer, or registered land surveyor and a professional geologist (when specific subsurface information is deemed essential and requested by the regulatory authority). The identical provisions appeared in H.R. 2 and S. 7 of the 95th Congress.

S. 7 of the 95th Congress was amended to provide that such maps and plans should be prepared by a registered professional engineer, with assistance from experts in related fields, such as land surveying, landscape architecture and geology. The significance of this amendment was that the surveyor was transferred from an equal status position with the engineer to a position of assistance. H.R. 2 was not amended with respect to this provision. During the closing minutes of the conference on the Act, it was suggested that the Act should be amended in order to include the geologist on an equal status with the engineer. As a result the Act was amended to provide that the maps and plans should be prepared by engineers or geologists instead of only engineers as contained in the provision of S. 7. What is ironic about the change that was made, is that the services prescribed in the Act are specific functions which are granted exclusively to the surveyor or the engineer by various state licensing statutes and which the geologist, in most cases, does not have statutory authority to perform, nor in fact, does he wish to perform. The legislative history and conference report are silent with respect to such a drastic action. Not one word of explanation of justification appeared in any report or statement pertaining to this provision. As a result of this unexplainable substitution of the geologist for the surveyor, the Office of Surface Mining initiated a study to determine the impact upon the registered surveyor's profession as a result of the requirement of Public Law 95–87. In this connection, OSM entered into a contract with the Oak Ridge Associated Universities to conduct this study.

One of the findings of the Oak Ridge report is that:

"Congress apparently lacked some of the necessary information about the surveying profession and gave little attention to the possible impacts of the Act upon surveyors."

Another point brought out by the Oak Ridge Study was that Congress apparently was concerned with the health and safety in surface mining operations. Again we quote from the report:

"Congress was convinced, in view of such disasters as Buffalo Creek, that only individuals with lengthy, specialized training in mine-related design skills and able to meet state licensing requirements should be permitted under federal law to perform the functions investigated in this report."

No evidence has been found that surveyors were preempted for any established lack of confidence, experience or training. In addition, what seems to have happened is that Congress may have followed their impressions of what a surveyor is qualified to do, rather than ascertain the state licensing and registration requirements for the profession of surveying. It takes an educated and experienced professional to compute, interpret, translate and graphically communicate data into the final product—the maps and plans indispensable to the surface mining industry. To accomplish this task, today's modern surveyor must obtain the expertise to work with electronic measuring equipment, laser beams, computers, sophisticated technological equipment, and even space satellites.

In support of the recognition of the professional status of the licensed surveyor, all 50 states license land surveyors as a separate profession, with 11 states providing for separate registration boards and the other 39 states operating a joint board to examine and register both engineers and surveyors. On the other hand, only six states require registration of geologists. In this connection, we would like to again quote from the Oak Ridge report:

"The Act, for reasons that are not stated nor readily apparent, authorizes qualified professional geologists to certify mine maps or plans. Since this group is unregulated and untested in all but a few states (none in the Appalachian coal regions), it thus opens the door to an entire undefined class of professionals whose competence is unknown. . . . The blanket inclusion of geologists without a mechanism to establish competence while excluding surveyors seems, on its face, to be inconsistent treatment in the pursuit of optimum manpower utilization."

A very practical problem exists since state statutes provide that only those persons who possess the qualifications as prescribed by the state statute, and who are registered by the appropriate state board, may engage in the practice of land surveying. The Act, as written creates a serious conflict, since some state statutes limit the preparation of maps and plans to be performed by surveyors only while the Act provides that only engineers or geologists must perform such work. This dilemma can only be corrected by the timely amendment to the Act.

It should be understood that the professional surveyor does not wish to challenge the right of the engineer or geologist to perform professional services, but only that such persons should not be designated as the sole source to provide such services and especially in view of the state and federal statutory conflict. It is only the desire of the professional surveyor to establish an equal right and opportunity to perform such services, which right is based on the surveyor's qualifications and experience that has been acquired in performing such functions in the past under appropriate state licensing requirements.

The best example of the need for this amendment is in the State of West Virginia, where 194 professionals are approved by the Department of Natural Resources to prepare surface mining permit applications, of these, 78 of such individuals, or 41%, are licensed surveyors. In view of the preemption of the licensed surveyor, serious concern about the potential availability of qualified professionals has been expressed by reclamation officials, coals operators, and surveyors in West Virginia and elsewhere.

Although at first glance the problem we describe may appear to be insignificant, and even unrelated to the issue relative to coal production, it cannot be overlooked however that the processing of a surface mining permit is the starting point for coal production. Any unnecessary costs, delay or inefficiency at this stage of production will only compound other problems and result in a significant increase in the cost of coal production.

To best appreciate the problem, it should be mentioned that prior to the Act, it was the implicit policy of the federal government to leave to state authorities the specification of professional personnel qualifications and expertise needed for certifying mine plans. The states developed and implemented a variety of approaches to suit local policies, economics, and social practice.

State surface coal mine policies vary widely with the notable exception of maintaining the legal right of surveyors to survey mine maps and plans. An examination of the laws of the 12 leading surface coal mine states reveals that this legal right exists in all but one state. Only in Kentucky has the legal right to certify mine maps and plans been restricted to professional engineers, however, of the 1988 registered professionals in the state, 1316 are individuals with combined engineer and surveyor registration.

Participation by surveyors as lead (certifying) professionals in permit preparation range from a low of 12 percent of all 1977 permits in Tennessee to a high of 85 percent in Ohio. In the six Appalachian states where surveyors can practice independently, they prepare an average of 44 percent of all permits recorded. The Appalachian states of Alabama, Tennessee, Kentucky, Virginia, West Virginia, Pennsylvania, and Ohio account for 92 percent of all surface coal mines and 56 percent of all surface coal mine production in 1977.

The states have been most diligent in their effort to assure that qualified professionals perform the services prescribed within the surface mining permit process. For instance, Appalachian states generally have not been indiscriminate in screening professional qualifications for preparing mine permits. Five of six states in the region specifically test in the topics of mine surveying or official map preparation on surveyor licensing examinations. For example, Ohio's surveyor licensing test routinely holds applicants responsible for knowledge of mine surveying. West Virginia has gone further than any other state to certify mine maps and plans. In West Virginia, licensed surveyors are required to pass a specific surface mining test before they are approved by the state's Department of Natural Resources to certify surface mine permits. Out of 580 licensed surveyors in West Virginia in 1977, only 79 had been tested and are approved. Similarly, only 115 registered engineers out of a total of 4,550 are approved.

The amendment does not constitute a substantive change in the Act. The purpose of this amendment is to permit the professional land surveyor to perform the services he is qualified to do in the field of his expertise, which services he has ably performed prior to the adoption of the Act.

The amendment will not compromise the objectives of environmental protection or the public health and safety, nor will it grant the authority to the surveyor to extend his activities into the areas of engineering, design or geology beyond the limits presently prescribed by state authority, control and supervision. This is another example of state primacy which is intended in the Act. The states who have gained valuable experience in processing surface mine permits are best qualified to judge the individuals who are best qualified to perform professional services. Without the proposed amendment, the states will be deprived of this right and the existing conflict between the Federal and the state statutes will continue to the detriment of the coal industry and the nation.

In conclusion, failure to amend the Act will result in consequential damages never intended by the Act. Although we are deeply concerned with the resulting economic and professional damage to the professional surveyor, in connection with surface mining, what is more troublesome, is the legal precedent that the Act in its present state could establish. There is even a more grave problem in the future, since one of the purposes of the Act is to develop data and analyses necessary to establish effective and reasonable regulations of surface mining operations for "other minerals" which include clay, stone, sand, gravel, etc. If and when "other mineral" regulations are promulgated, we know that the provisions of such regulations will have to be consistent with the OSM regulations pertaining to surface mining and therefore the surveyor will also be preempted from participating in permits for sand and gravel pits, etc.

The conclusion contained in the Oak Ridge report states:

". . . it appears that the professional surveyor was unjustly preempted to perform services under the Act and that the Act be amended to give state governments the power to determine the professional qualifications necessary for certifying surface mining permit applications in their own states."

By Mr. THURMOND (for himself and Mr. Stewart):

S. 2113. A bill to incorporate United Service Organizations, Incorporated; to the Committee on the Judiciary.

UNITED SERVICE ORGANIZATIONS, INC.

Mr. THURMOND. Mr. President, I introduce today, along with the Senator from Alabama (Mr. Stewart), legislation that would grant a Federal charter to the United Service Organizations, Inc.—the USO.

USO is a private, voluntary, civilian organization devoted solely to meeting the needs of members of our Armed Forces and their families. This organization now consists of nearly 40,000 volunteers who serve in 62 USO facilities in the United States and 55 facilities overseas. For almost 40 years the USO has served Americans in uniform by providing a broad range of programs and services unique to servicemen and women, such as referral services to assist with travel, housing and emergency problems, involvement of military personnel within their communities, and, of course, the free, live entertainment to remote military bases worldwide.

The unique aspect of USO and its work is the fact that it receives no direct appropriations from Congress, although some "in kind" support is provided through the Department of Defense. The major funding source of USO has been the United Way campaigns. In recent years, however, income from this source has decreased. In 1973, United Way support was $4 million. In 1977 it had dropped to $1.5 million. Much of this decrease can be attributed to widespread misconception about the role of the USO during peacetime.

Mr. President, as a senior member of both the Senate Armed Services Committee and the Veterans' Committee, I can vouch for the fact that the need for keeping morale of military personnel high during peacetime is as strong as during wartime. Our experience with the All-Volunteer Army and the problems of servicemen and women stationed in Western Europe indicates quite clearly, in my opinion, that the needs of military personnel and their dependents during peacetime is real. USO has been meeting this need in the past, but is threatened with a possible cutback in services if it cannot keep a steady funding source.

This legislation would not appropriate any funds for USO. It would simply grant a Federal charter to the organization, similar to ones now held by the Red Cross, the Boy Scouts of America, and others. A charter would strengthen fund-raising efforts. It would strengthen the USO's working relationships with other Government agencies and foreign countries. The USO needs the credibility, support and prestige that is provided by enactment of a Federal charter by the Congress.

An identical bill, H.R. 600, has passed the House and is now before the Senate Judiciary Committee. I am introducing a comparable Senate bill in hopes of getting a broad base of support for this legislation that will allow for prompt action by the Senate. The House has already agreed to the merit of granting a Federal charter to USO and I would hope the Senate will concur.

By Mr. JOHNSTON:

S. 2115. A bill to establish the Bogue Chitto National Wildlife Refuge; to the Committee on Environment and Public Works.

BOGUE CHITTO REFUGE

• Mr. JOHNSTON. Mr. President, I am pleased today to introduce legislation to establish the Bogue Chitto National Wildlife Refuge in St. Tammany and Washington Parishes. This refuge will consist of 40,000 acres of predominantly bottomland hardwoods and is only one-half mile from the 20,700-acre, State-owned Pearl River management area, making this potentially one of the largest such habitats still available for preservation.

The lower Bogue Chitto-Pearl River area contains an excellent habitat for many species of wildlife and may be the most diverse drainage system in Louisiana. Primarily due to fertile alluvial soils and the mild subtropical temperature of this area, an impressive sampling of flora many of which are unique to Louisiana, thrive throughout the area. Over 36,000 acres of forested land remain, consisting of cypress-tupelo swamps on poorly drained land and red gum-mixed hardwoods, including overcup oak, bitter pecan, ash, elm, and hackberry, on higher lands. This region also supports an abundant variety of animals. Over 150 birds use this area for breeding and wintering, including the rare peregrine falcon, and 1 of the 12 known bald eagle nests is located here. Remnants of Louisiana once abundant black bear population roam throughout the basin and recent cougar sightings have been reported. More plentiful are large populations of bobcat, the American alligator, wild turkey, and the ringed sawback turtle. Moreover, the 120 freshwater fish species abundant in the Bogue Chitto Basin make it a true sportsmen's paradise.

The proposed refuge is only 30 miles north of New Orleans, Louisiana's largest metropolitan area, and would provide desperately needed recreation opportunities for many urban residents. St. Tammany Parish, in which the largest portion of the refuge is located, is one of the fastest growing areas of Louisiana, experiencing a 64.5-percent population increase between 1960 and 1970. The area would also be accessible to at least nine other cities in Louisiana and six cities in Mississippi, all of which expect population increases to continue throughout the next decade. Despite its proximity to urban areas, most of the land in the proposal lies in a floodplain which overflows regularly and thus would not be suitable for permanent residential or industrial development. However, the valuable timber stands are threatened as the demand for timber products increases and a real threat of conversion to agricultural land is present. Fee acquisition is the most suitable means of preserving this area for the enjoyment of many who live close by and need open space for leisure activities.

A significant portion of the area has not been fully researched. For example, although this part of Louisiana is known to have been inhabited by Indians of the Poverty Point culture (6500 B.C. to 700 B.C.), as well as later groups in the Archaic phase including Tchefuncte, Marksville, Troyville-Coles Creek, and Mississippian cultures, only sporadic explorations have taken place. In fact, there is one reported site within the proposed refuge which has not yet been mapped. This is just one example of the many possibilities the project area holds for further scientific exploration and research, with much work remaining on mammal and bird classifications and other wildlife research.

Finally, Mr. President, I would only add that the proposed refuge enjoys widespread support from numerous local officials and a majority of local groups, including environmental associations, sportsmens clubs and other community based organizations. The Louisiana Department of Wildlife and Fisheries supports this addition to the Federal refuge system and Federal support for it was evidenced in last year's budget request for acquiring the first 18,000-acre parcel, the so-called Thomas tract.

If we fail to act, this area could well be lost by conversion to high-grade logging and seasonal home development. Furthermore, if we postpone acquisition, the future acquisition costs will be even higher than now expected. I hope this will not happen and that this refuge will be quickly authorized and funding for the initial purchase approved in fiscal year 1981. It would be a travesty for future generations if we allowed the alteration or destruction of up to 40,000 acres of this unique and nationally significant area and urge the Senate to act expeditiously to prevent an irreversible loss from occurring.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2115

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DECLARATION OF FINDINGS AND PURPOSE

SECTION 1. (a) The Congress finds that—

(1) Thousands of acres of bottomland hardwoods are being cleared each year in the Mississippi River delta;

(2) These forested wetlands represent one of the most valuable and productive wildlife habitat types in the United States and have extremely high recreational value for hunters, fishermen, birdwatchers, nature photographers and others;

(3) The Bogue Chitto area is a bottomland hardwood swamp which harbors over 150 species of birds and many types of other wildlife, including several species imperiled with extinction.

(b) The purpose of this Act is to establish the Bogue Chitto National Wildlife Refuge.

DEFINITIONS

SEC. 2. For purposes of this Act—

(1) the term "refuge" means the Bogue Chitto National Wildlife Refuge;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "selection area" means those lands and waters near the juncture of the Pearl River and its tributary, the Bogue Chitto, in St. Tammany and Washington Parishes, Louisiana, and Pearl River County, Mississippi, depicted on the map entitled "Bogue Chitto National Wildlife Refuge, Selection Area," dated and on file at the United States Fish and Wildlife Service.

ESTABLISHMENT OF REFUGE

SEC. 3. (a)(1) Within one year after the date of the enactment of this Act the Secretary shall—

(A) designate approximately forty thousand acres of land and water within the selection area as land which the Secretary considers appropriate for the refuge; and

(B) publish in the Federal Register a detailed map depicting the boundaries of the land designated under subparagraph (A), which map shall be on file and available for public inspection at offices of the United States Fish and Widlife Service.

(2) The Secretary may make such minor revisions in the boundaries designated under paragraph 1(B) of this subsection as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(b) The Secretary shall acquire (by donation, purchase with donated or appropriated funds, or exchange) lands, waters, or interests therein, within the boundaries designated under subsection (a)(1)(B).

(c) The Secretary shall establish the Bogue Chitto National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, whenever sufficient property has been acquired under this section to constitute an area that can be effectively managed as a refuge.

ADMINISTRATION

SEC. 4. The Secretary shall administer all lands, waters, and interests therein, acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as he deems appropriate to carry out the purposes of this Act.

AUTHORIZATION OF APPLICATIONS

SEC. 5. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.●

By Mr. MATHIAS (for himself, Mr. GOLDWATER, Mr. CHAFEE, Mr. STEVENSON, and Mr. DURENBERGER):

S. 2116. A bill to authorize the establishment of a Senior Cryptologic Executive Service and Pay Awards systems within the National Security Agency and to make necessary amendments to title 5, United States Code; to the Committee on Governmental Affairs.

SENIOR CRYPTOLOGIC EXECUTIVE SERVICE ACT OF 1979

Mr. MATHIAS. Mr. President, I am today introducing, for myself, Mr. GOLDWATER, Mr. CHAFEE, Mr. STEVENSON, and Mr. DURENBERGER, the Senior Cryptologic Executive Service Act of 1979. This act would authorize the establishment of a Senior Cryptologic Executive Service and Merit Pay and Awards system within the National Security Agency and would make the necessary amendments to title 5, of the United States Code.

PURPOSE OF THE LEGISLATION

When the Civil Service Reform Act of 1978 (Public Law 95-454) was passed, the National Security Agency, together with other intelligence agencies, was excepted, quite rightly, from coverage under title IV, Senior Executive Service. This exception was made because of security considerations and problems of integrating personnel of an intelligence agency with those of other executive agencies. The effect of this exception, however, was to deprive the National Security Agency of the many advantages of a Senior Executive Service, a useful administrative tool for the staffing and effective management of senior executive positions. My proposal would remedy this situation and avert any adverse impact on the National Security Agency of having an executive personnel system at significant variance with the majority of the executive branch.

The Senior Cryptologic Executive Service Act would provide to the Secretary of Defense, or his or her designee for this purpose, the authority to establish, within necessary security constraints, a Senior Cryptologic Executive Service and a Merit Pay and Awards systems. Both would be comparable to the Senior Executive Service and merit pay and cash awards system established for other executive agencies by the Civil Service Reform Act of 1978. Such provisions are required to insure that treatment of executive personnel of the National Security Agency is equivalent to that of other executives within the executive branch having comparable responsibilities.

Implementation of this system within the National Security Agency would conform, within appropriate security constraints, to the provisions governing the Senior Executive Service in title 5 of the U.S. Code, including those provisions relating to basing compensation and retention on individual and organizational performance, establishing comparable performance awards and ranks, permitting the granting of sabbaticals, authorizing early retirement and removing the limitation on the accumulation of annual leave. The Agency would provide for an election period, similar to the period provided under section 413(c) of the Civil Service Reform Act, during which any employee serving in a position designated for the Service could decide whether to accept or decline conversion.

The Civil Service Reform Act recognized the benefits of rewarding excellence and discouraging lackluster performance through the use of merit pay and cash award system. This act would provide to the Secretary of Defense, or his or her designee for this purpose, the authority to establish a comparable system within the National Security Agency. The National Security Agency recognizes such a system, along with the Senior Executive Service, as an effective management tool and wants to make maximum use of these provisions within the National Security Agency personnel system.

Mr. President, this bill touches on important issues that affect the performance and effectiveness of the National Security Agency. In the weeks ahead, I hope that early hearings and considerations of this bill can be arranged.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis be printed at this point in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2116

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Senior Cryptologic Executive Service Act of 1979".

TITLE I—SENIOR CRYPTOLOGIC EXECUTIVE SERVICE

SEC. 2. The Secretary of Defense (or his designee) may establish a Senior Cryptologic Executive Service within the National Security Agency comparable to the Senior Executive Service established in title IV of the Civil Service Reform Act of 1978. Under the authority of the Secretary of Defense, the Director of the National Security Agency, is authorized to adopt administratively those provisions of title 5, United States Code, contained in title IV of the Civil Service Reform Act of 1978 that the Director, National Security Agency, considers necessary to administer the Senior Cryptologic Executive Service, to appoint without regard to the civil service laws individuals to positions established within the Senior Cryptologic Executive Service and, notwithstanding any limitation on compensation set out in any other law, to pay individuals so appointed in relation to the pay prescribed under title 5, United States Code, for the Senior Executive Service. Any provisions so adopted shall be subject to the same limitations imposed with respect to the comparable provisions of title 5, United States Code, including the limitation in section 5383(b) of title 5 on aggregate pay. Notwithstanding any of these provisions so adopted, the Director, National Security Agency, may detail or assign individuals appointed to the Senior Cryptologic Executive Service to serve in non-Senior Cryptologic Executive Service positions in which the appointee's expertise and experience can be of benefit to the National Security Agency or another Government agency and the appointee shall not lose thereby any of the entitlements or status associated with the appointment in the Senior Cryptologic Executive Service.

AWARDING OF RANK IN THE SENIOR CRYPTOLOGIC EXECUTIVE SERVICE

SEC. 3. (a) During any fiscal year, the President, based on the recommendations of the Secretary of Defense, may, subject to subsection (b) of this section, award to any Senior Cryptologic Executive Service appointee the rank of—

(1) Meritorious Cryptologic Executive, for sustained accomplishment, or

(2) Distinguished Cryptologic Executive, for sustained extraordinary accomplishment. A Senior Cryptologic Executive Service appointee awarded a rank under paragraph (1) or (2) of this section shall not be entitled to be awarded that rank during the following four fiscal years.

(b) During any fiscal year—

(1) the number of Senior Cryptologic Executive Service appointees awarded the rank of Meritorious Cryptologic Executive may not exceed 5 per centum of the Senior Cryptologic Executive Service; and

(2) the number of Senior Cryptologic Executive Service appointees awarded the rank of Distinguished Cryptologic Executive may not exceed 1 per centum of the Senior Cryptologic Executive Service.

(c)(1) Receipt by a Senior Cryptologic Executive Service appointee of the rank of Meritorious Cryptologic Executive entitles such individual to a lump sum payment of the amount specified in section 4507(e)(10) of title 5, United States Code, in addition to the basic pay or any performance awards paid to the Senior Cryptologic Executive Service appointee.

(2) Receipt by a Senior Cryptologic Executive Service appointee of the rank of Distinguished Cryptologic Executive entitles such individual to a lump sum payment of the amount specified in section 4507(e)(2) of title 5, United States Code, in addition to the basic pay or any performance awards paid to the Senior Cryptologic Executive Service appointee.

SEC. 4. The Director, National Security Agency, may grant a sabbatical to any appointee to the Senior Cryptologic Executive Service in accordance with the provisions of section 3396(c) of title 5, United States Code.

SEC. 5. Annual leave accrued by an individual while serving in a position in the Senior Cryptologic Executive Service shall not be subject to the limitation on accumulation imposed by section 6304 of title 5, United States Code.

SEC. 6. (a) Section 8336 of title 5, United States Code, is amended by redesignating subsection (i) as subsection (j) and inserting immediately after subsection (h) the following new subsection:

"(i) A member of the Senior Cryptologic Executive Service who is removed from the Senior Cryptologic Executive Service for less than fully successful performance after completing twenty-five years of service or after becoming fifty years of age and completing twenty years of service is entitled to an annuity.".

(b) Section 8339(h) of title 5, United States Code, is amended by striking out "section 8336 (d) or (h)" and inserting in lieu thereof "section 8336 (d), (h) or (i).".

SEC. 7. Section 2108 of title 5, United States Code, is amended by—

(a) striking the period at the end of paragraph (3) and inserting, in lieu thereof, a semicolon; and

(b) adding at the end of paragraph (3) the following: "but does not include applicants for, or members of, the Senior Cryptologic Executive Service".

Sec. 8. The National Security Agency will submit to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence of the Congress at the time the budget is submitted by the President to the Congress during each odd-numbered calendar year, a report on the respective Senior Cryptologic Executive Service. The report shall include—

(a) the percentage of senior executives at each pay rate employed at the end of the preceding fiscal year;

(b) the number, distribution, and amount of performance awards paid during the preceding fiscal year; and

(c) the number of individuals removed from the Senior Cryptologic Executive Service for less than fully successful performance.

TITLE II—MERIT PAY AND CASH AWARDS

MERIT PAY AND CASH AWARDS

Sec. 9. Notwithstanding any limitation on compensation in any other law, the Director, National Security Agency, is authorized to establish a merit pay and cash awards system for employees of the National Security Agency comparable to that system established in chapter 54 of title 5, United States Code, and is authorized to adopt those provisions of chapter 54 of title 5, United States Code, which the Director, National Security Agency, considers necessary to establish such a system.

Sec. 10. This Act takes effect on the date of enactment.

Sectional Analysis

Section 2. This Section authorizes the Secretary of Defense (or his or her designee for this purpose), to establish a Senior Cryptologic Executive Service, to appoint individuals to positions within such a Service and to pay individuals so appointed in relation to the pay established by Title 5 of the U.S. Code for the Senior Executive Service to include appropriate performance awards. These appointments are to be made without regard to the provisions of Sections 2102 and 2103 of Title 5 of the U.S. Code. The intent of this section is to provide the authorization necessary to establish, within security constraints and the existing personnel system, a senior executive system for the National Security Agency. It is fully intended that the system adopted by the Agency will conform as near as possible, within these constraints, to the Senior Executive Service established under Title IV of the Civil Service Reform Act of 1978 (P.L. 95–454). The system to be established will be subject to the same limitations on pay and bonuses as those established for the Senior Executive Service. Further, individuals now holding positions established pursuant to Sections 2 and 4 of Public Law 86–36, or other authority, eligible to convert to the Service, would as appropriate, be given an opportunity to convert to the Service in the same manner as conversions to the Senior Executive Service. Initially the size of the Cryptologic Service will not exceed the number of eligible positions existing on the date of enactment. Subsequently, the number of positions established within the Senior Cryptologic Executive Service shall be controlled by the Secretary of Defense in the same manner as the Secretary has historically controlled the number of supergrades at the Agency. This legislation is not intended to supplant the normal budgetary process on the limitation of supergrades.

Section 3. This Section provides the authorization necessary to award ranks to appointees in the Senior Cryptologic Executive Service comparable to the ranks available to appointees in the Senior Executive Service.

Section 4. This Section provides the authorization necessary for the Director, National Security Agency, to grant sabbaticals to appointees in the Senior Cryptologic Service to the same extent as is available to appointees in the Senior Executive Service.

Section 5. This Section removes the current limitation on accumulation of annual leave for appointees in the Senior Cryptologic Executive Service as such limitation was removed for appointees in the Senior Executive Service.

Section 6. This Section provides for early retirement for those removed from the Senior Cryptologic Executive Service for less than fully successful performance, similar to provisions for the retirement of Senior Executive Service appointees. Those who do not meet the age or service requirements for early retirement would be reassigned to another Senior Executive position or moved to a non-Senior Cryptologic Executive Service position elsewhere in the Agency at a level equivalent to GG–15 or above. These alternatives would be available through the adoption of the provisions of the Senior Executive Service under Section 1 of this Act.

Section 7. This Section amends Section 2108 of title 5 of the U.S. Code to exclude from the definition of "preference eligible" applicants for, or members of, the Senior Cryptologic Executive Service.

Section 8. This Section because of security restraints provides for reports to the respective intelligence committees of Congress concerning the Senior Cryptologic Executive Service similar to that information reported to the Congress by the Office of Personnel Management for the Senior Executive Service.

Section 9. This Section authorizes the Director, National Security Agency, to establish a merit pay and cash awards system comparable to that established in Section 5403 of Title 5 of the U.S. Code for employees paid under the General Schedule. The criteria and other procedures necessary for the implementation of the merit pay and cash award system would follow as closely as possible the criteria and procedures established pursuant to the Civil Service Reform Act.

By Mr. CANNON (for himself and Mr. Magnuson) (by request):

S. 2118. A bill to implement the protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes; to the Committee on Commerce, Science, and Transportation.

ACT TO PREVENT POLLUTION FROM SHIPS

● Mr. CANNON. Mr. President, I introduce on behalf of myself and Senator Magnuson, by request of the Department of Transportation, a bill to implement the protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes.

Mr. President, I ask unanimous consent that the text of the bill and the letter of transmittal be printed in the Record.

There being no objection, the bill and letter were ordered to be printed in the Record, as follows:

S. 2118

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Act To Prevent Pollution from Ships".

Sec. 2. Unless the context indicates otherwise, as used in this Act—

(1) "MARPOL Protocol" means the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, done at London on February 17, 1978. This Protocol incorporates and modifies the International Convention for the Prevention of Pollution from Ships, 1973, done at London on November 2, 1973;

(2) "convention" means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I and II attached thereto;

(3) "discharge" and "harmful substance" and "incident" shall have the meanings provided in the convention;

(4) "marine environment" means the high seas and all waters subject to the jurisdiction of the United States;

(5) "owner" means any person holding title to, or in the absence of title, any other indicia of ownership of, a ship or terminal, but does not include a person who, without participating in the management or operation of a ship or terminal, holds indicia of ownership primarily to protect a security interest in the ship or terminal;

(6) "operator" means—

(a) in the case of a ship, a charterer by demise or any other person, except the owner, who is responsible for the operation, manning, victualing, and supplying of the vessel, or

(b) in the case of a terminal, any person, except the owner, responsible for the operation of the terminal by agreement with the owner;

(7) "person" means an individual, firm, public or private corporation, partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body;

(8) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(9) "ship" means a vessel of any type whatsoever operating in the marine environment, including hydrofoils, air-cushion vehicles, submersibles, floating craft whether self-propelled or not, and fixed or floating platforms; and

(10) "terminal" means an onshore facility or an offshore structure located in the navigable waters of the United States or subject to the jurisdiction of the United States and used, or intended to be used, as a port or facility for the transfer or other handling of a harmful substance.

Sec. 3. (a) This Act applies to—

(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

(2) a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, while in the marine environment, except while on the high seas; and

(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section.

(b) This Act does not apply to—

(1) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

(2) any other ship specifically excluded by the MARPOL Protocol.

(c) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol while in the marine environment, except while on the high seas, to ensure that their treatment is not more favorable than that accorded ships of parties to the MARPOL Protocol.

(d) The heads of Federal departments and agencies shall prescribe standards applicable to ships excluded from this Act by subsection (b)(1) of this section and for which they are responsible. The Secretary shall prescribe standards applicable to ships excluded from this Act by subsection (b)(2) of this section. Standards prescribed under this subsection, applicable to ships excluded from this Act by subsection (b), shall ensure, so far as is reasonable and practicable without impairing the operations or operational capabilities of such ships, that such ships act in a manner consistent with the MARPOL Protocol.

SEC. 4. (a) Unless otherwise specified herein, the Secretary shall administer and enforce the MARPOL Protocol and this Act. In administering and enforcing the MARPOL Protocol and this Act, Annexes I and II of the MARPOL Protocol shall be applicable only to seagoing ships.

(b) The Secretary shall prescribe any necessary or desired regulations to carry out the provisions of the MARPOL Protocol or this Act.

(c) The Secretary may utilize by agreement, with or without reimbursement, personnel, facilities, or equipment of other Federal departments and agencies in administering the MARPOL Protocol, this Act, or the regulations thereunder.

SEC. 5. (a) The Secretary shall designate those persons authorized to issue on behalf of the United States the certificates required by the MARPOL Protocol. A certificate required by the MARPOL Protocol shall not be issued to a ship which is registered in or of the nationality of a country which is not a party to the MARPOL Protocol.

(b) A certificate issued by a country which is a party to the MARPOL Protocol has the same validity as a certificate issued by the Secretary under the authority of the MARPOL Protocol.

(c) A ship required by the MARPOL Protocol to have a certificate—

(1) shall carry a valid certificate on board in the manner prescribed by the authority issuing the certificate; and

(2) is subject to inspection while in a port or terminal under the jurisdiction of the United States.

(d) An inspection conducted under subsection (c)(2) of this section is limited to verifying whether or not a valid certificate is on board, unless clear grounds exist which reasonably indicate that the condition of the ship or its equipment does not substantially agree with the particulars of its certificate. Subsection (c)(2) of this section shall not limit the authority of any official or employee of the United States under any other treaty, law, or regulation to board and inspect a ship or its equipment.

(e) In addition to the penalties prescribed in section 9 of the Act, a ship required by the MARPOL Protocol to have a certificate—

(1) which does not have a valid certificate on board; or

(2) whose condition or the condition of its equipment does not substantially agree with the particulars of the certificate on board;

shall be detained by order of the Secretary at the port or terminal where the violation is discovered until, in the opinion of the Secretary, the ship can proceed to sea without presenting an unreasonable threat of harm to the marine environment. The detention order may authorize the ship to proceed to the nearest appropriate available shipyard rather than remaining at the place where the violation was discovered.

(f) If a ship is under a detention order under this section, the Secretary of the Treasury, upon the request of the Secretary, may refuse or revoke—

(1) the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91); or

(2) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. 313) or section 442 of the Tariff Act of 1930, as amended (19 U.S.C. 1443).

(g) A person whose ship is subject to a detention order under this section may petition the Secretary, in the manner prescribed by regulation, to review the detention order. Upon receipt of a petition under this subsection, the Secretary shall affirm, modify, or withdraw the detention order within the time prescribed by regulation.

(h) A ship unreasonably detained or delayed by the Secretary acting under the authority of this Act is entitled to compensation for any loss or damage suffered thereby.

SEC. 6. (a) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall establish regulations setting criteria for determining the adequacy of reception facilities of a port or terminal and shall establish procedures whereby a person in charge of a port or terminal may request the Secretary to certify that the port's or terminal's facilities for receiving the residues and mixtures containing oil or noxious liquid substance from seagoing ships are adequate.

(b) In determining the adequacy of reception facilities required by the MARPOL Protocol at a port or terminal, the Secretary may consider, among other things, the number and types of seagoing ships using the port or terminal, including their principal trades.

(c) If, upon inspection, reception facilities of a port or terminal are adequate to meet the requirements of the MARPOL Protocol and the regulations established hereunder, the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant. A certificate issued under this subsection—

(1) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and

(2) shall be available for inspection upon the request of the master, other person in charge, or agent of a seagoing ship using or intending to use the port or terminal.

The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by him in the manner prescribed by regulation.

(d) The Secretary shall periodically cause to be published in the Federal Register a list of the ports or terminate holding a valid certificate issued under this section.

(e) Except in the case of force majeure, the Secretary shall deny entry to a seagoing ship required by the convention to retain on board while at sea, residues and mixtures containing oil or noxious liquid substances, if—

(1) the port or terminal is one required by the MARPOL Protocol or regulations hereunder to have adequate reception facilities; and

(2) the port or terminal does not hold a valid certificate issued by the Secretary under this section.

(f) The Secretary is authorized to conduct surveys of existing reception facilities in the United States to determine measures needed to comply with the MARPOL Protocol.

SEC. 7. (a) As soon as he has knowledge of an incident, the master or other person in charge of a ship shall report it to the Secretary in the manner prescribed by Article 8 of the convention.

(b) Upon receipt of the report of an incident involving a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the Secretary shall take the action required by Article 8 of the convention.

SEC. 8. (a) It is unlawful to act in violation of the MARPOL Protocol, this Act, or the regulations issued thereunder. The Secretary shall cooperate with other parties to the MARPOL Protocol in the detection of violations and in enforcement of the MARPOL Protocol. To that end, the Secretary shall use all appropriate and practical measures of detection and environmental monitoring, and shall establish adequate procedures for reporting violations and accumulating evidence.

(b) Upon receipt of evidence that a violation has occurred, the Secretary shall cause the matter to be investigated. In any investigation under this section the Secretary may issue subpoenas to require the attendance of any witness and the production of documents and other evidence. In case of refusal to obey, a subpoena issued to any person, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance. Upon completion of the investigation, the Secretary shall take the action required by the MARPOL Protocol and whatever further action he considers appropriate under the circumstances. If the initial evidence was provided by a party to the MARPOL Protocol, the Secretary, acting through the Secretary of State, shall inform that party of the action taken or proposed.

(c) While at a port or terminal subject to the jurisdiction of the United States, a ship to which the MARPOL Protocol applies may be inspected by the Secretary—

(1) to verify whether or not the ship has discharged a harmful substance in violation of the MARPOL Protocol or this Act; or

(2) to comply with a request from a party to the MARPOL Protocol for an investigation as to whether the ship may have discharged a harmful substance anywhere in violation of the MARPOL Protocol. An investigation may be undertaken under this clause only when the requesting party has furnished sufficient evidence to allow the Secretary reasonably to believe that a discharge has occurred.

If an inspection under this subsection indicates that a violation has occurred, the investigating officer shall forward a report to the Secretary for appropriate action. If a report made under this subsection involves a ship, other than one of United States registry or nationality or one operated under the authority of the United States, the Secretary shall undertake to notify the master of the ship concerned and, acting in coordination with the Secretary of State, shall take any additional action required by Article 6 of the convention.

(d) Remedies and requirements of this Act supplement and neither amend nor repeal any other provisions of law, except as expressly provided in this Act. Nothing in this Act shall limit, deny, amend, modify, or repeal any other remedy available to the United States or any other person, except as expressly provided in this Act.

SEC. 9. (a) A person who knowingly violates the MARPOL Protocol, this Act, or the regulations issued thereunder shall, for each violation, be fined not more than $50,000 or be imprisoned for not more than five years, or both.

(b) In addition to any other penalty prescribed by law, a person who—

(1) violates the MARPOL Protocol, this Act, or the regulations issued thereunder is liable for a civil penalty of not more than $10,000 for each violation; or

(2) makes a false, fictitious or fraudulent statement or representation in any matter in which a statement or representation is required to be made to the Secretary under the MARPOL Protocol, this Act, or the regulations thereunder, is liable for a civil penalty of not more than $1,000 for each such statement or representation.

(c) The Secretary may assess any civil penalty incurred under this section and may in his discretion remit, mitigate, or compromise any penalty. A penalty shall not be assessed hereunder unless the alleged violator is given notice and the opportunity to be heard on the alleged violation. Upon the failure to collect a civil penalty assessed under this section, the Secretary may request the Attorney General to institute a civil action in a U.S. District Court to collect the penalty.

(d) A ship operate in violation of the MARPOL Protocol, this Act, or the regulations thereunder is liable *in rem* for any pecuniary fine or penalty incurred under this section, and may be proceeded against in the U.S. District Court of any district in which it may be found.

(e) If any ship subject to the MARPOL Protocol or this Act, its owner, operator, or person in charge is liable for a penalty under this section, or if reasonable cause exists to believe that the ship, its owner, operator, or person in charge may be subject to a penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall refuse or revoke—

(1) the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91); or

(2) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. 313) or section 443 of the Tariff Act of 1930, as amended (19 U.S.C. 1443).

Clearance or a permit to proceed may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

(f) Notwithstanding subsections (a), (b), or (d) of this section, if the violation is by a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, the Secretary, acting in coordination with the Secretary of State, may refer the matter to that country for appropriate action, rather than taking the actions required or authorized by this section.

SEC. 10. (a) A proposed amendment to the MARPOL Protocol received by the United States from the Secretary-General of the Inter-Governmental Maritime Consultative Organization pursuant to Article VI of the MARPOL Protocol, may be accepted on behalf of the United States by the President following the advice and consent of the Senate, except as provided for in subsection (b) of this section.

(b) A proposed amendment to Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol, received by the United States from the Secretary-General of the Inter-Governmental Maritime Consultative Organization pursuant to Article VI of the MARPOL Protocol, may be the subject of appropriate action on behalf of the United States by the Secretary of State following consultation with the Secretary, who shall inform the Secretary of State as to what action he considers appropriate at least 30 days prior to the expiration of the period specified in Article VI of the MARPOL Protocol during which objection may be made to any amendment received.

(c) Following consultation with the Secretary, the Secretary of State may make a declaration that the United States does not accept an amendment proposed pursuant to Article VI of the MARPOL Protocol.

SEC. 11. (a) Except as provided in subsection (b) of this section, any person having an interest which is, or can be, adversely affected, may bring an action on his own behalf—

(1) against any person alleged to be in violation of the provisions of this Act, or regulations issued hereunder;

(2) against the Secretary where there is alleged a failure of the Secretary to perform any act or duty under this Act which is not discretionary with the Secretary;

(3) against the Secretary of the Treasury where there is alleged a failure of the Secretary of the Treasury to take action under section 9(e) of this Act.

(b) No action may be commenced under subsection (a) of this section—

(1) prior to sixty days after the plaintiff has given notice, in writing and under oath, to the alleged violator, the Secretary concerned, and the Attorney General; or

(2) if the Secretary has commenced enforcement or penalty action with respect to the alleged violation and is conducting such procedures diligently.

(c) Any suit brought under this section shall be brought—

(1) in a case concerning an onshore facility or port, in the United States district court for the judicial district where the onshore facility or port is located;

(2) in a case concerning an offshore facility or offshore structure under the jurisdiction of the United States, in the United States district court for the judicial district nearest the offshore facility or offshore structure;

(3) in a case concerning a ship, in the United States district court for any judicial district wherein the ship or its owner or operator may be found;

(4) in any case, in the district court for the District of Columbia.

(d) The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to any party including the federal government, whenever the court determines such an award is appropriate.

(e) In any action brought under this section, if the Secretary or Attorney General are not parties of record, the United States, through the Attorney General, shall have the right to intervene.

SEC. 12. On the effective date of this Act—

(a) the Oil Pollution Act, 1961, as amended (75 Stat. 402, U.S.C. 1001 *et seq.*) is repealed. Any criminal or civil penalty proceeding under that Act for a violation which occurred prior to the effective date of this Act may be initiated or continued to conclusion as though that Act had not been repealed; and

(b) the Oil Pollution Act Amendments of 1973 (87 Stat. 428, P.L. 93–119) are repealed.

SEC. 13. (a) Section 4417a of the Revised Statutes of the United States, as amended (46 U.S.C. 391a), is further amended as follows—

(1) by amending subparagraph (c) of paragraph (2) by deleting the word "or" in clause (ii); by deleting the period at the end of clause (iii) and inserting "; or"; and by adding a new clause (iv) as follows:

"(iv) designated as a noxious liquid substance under Annex II of the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973."

(2) by amending subparagraph (E) of paragraph (3) to read as follows:

"(E) which is constructed or adapted to carry, or which carries, oil or any hazardous materials in bulk as cargo or in residue."

(b) The Federal Water Pollution Control Act, as amended is further amended in the first sentence of subsection 311(b)(3) by striking the phrase "the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, as amended" and inserting in lieu thereof the phrase "the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973".

SEC. 14. (a) Except as provided in subsection (b) of this section, this Act is effective upon the date of enactment, or on the date the MARPOL Protocol becomes effective as to the United States, whichever is later.

(b) The Secretary and the heads of Federal departments, shall have the authority to issue regulations, standards, and certifications under subsections 3(c), 3(d), 4(b), 5(a), 6(a), 6(c) and 6(f) effective on the date of enactment of this Act. Subsection 13(a) (2) is effective upon the date of enactment of this Act.

(c) Any rights or liabilities existing on the effective date of this Act shall not be affected by this enactment. Any regulations or procedures promulgated or effected pursuant to the Oil Pollution Act, 1961, as amended, remain in effect until modified or superseded by regulations promulgated under the authority of the MARPOL Protocol or this Act.

THE SECRETARY OF TRANSPORTATION,
Washington, D.C. April 20, 1979.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the President, there is transmitted herewith a draft of a proposed bill

"To implement the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and for other purposes."

This legislative proposal is an integral part of the President's program to control oil pollution in the marine environment. It implements the basic articles and other provisions of the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973, signed at London on February 17, 1978, and repeals or amends existing law made obsolete by, or which conflicts with, the 1978 Protocol.

This legislation was introduced as S. 2346 and H.R. 10330 in the 95th Congress to implement the 1973 Convention for the Prevention of Pollution from Ships (MARPOL). As a result of the February 1978 Tanker Safety and Pollution Prevention (TSPP) Conference the international legal status of the 1973 MARPOL Convention has been altered. The 1973 Convention is incorporated into the 1978 MARPOL Protocol, subject to the modifications contained in the Protocol. Thus, ratification of the 1978 MARPOL Protocol rather than the 1973 MARPOL Convention is being requested by the Administration. Similarly, certain provisions of the implementing legislation must be altered to conform to the revised international legal status of the 1973 MARPOL Convention.

The 1978 Protocol evidences an international acceptance of the Tanker Safety and Pollution Prevention proposals advocated by the President in his message to Congress of March 17, 1977. Although the Protocol does not in every respect adopt the President's proposal, on balance it is felt that the Protocol achieves the objectives of those proposals. The Protocol also permits delay in implementation of mandatory Annex II to the 1973 MARPOL Convention for three years.

This Annex would strictly regulate the carriage of various noxious liquid substances in bulk, and would require each government party to the Convention to ensure adequate reception facilities for the needs of bulk chemical carriers facilities for the needs of bulk chemical carriers calling at their ports. The obligation to provide reception facilities for residues of over 200 noxious liquid substances carried in bulk has presented severe technical problems. Because Annex II is a mandatory annex under MARPOL 1973, the inability of nations to assure compliance with Annex II requirements has delayed the implementation of Annex I (oil pollution) by discouraging ratification.

It was the feeling of the United States delegation at the TSPP Conference (including representatives of the EPA and of private environmental groups) that the substantial positive impact of Annex I should not be delayed by the difficulties of implementing Annex II. The 1978 MARPOL Protocol, therefore, allows delay for three years of the implementation of Annex II, though it remains a mandatory annex. Though the discharge limitations and reception facility requirements of Annex II will be delayed, the United States has already implemented part of Annex II by adopting rules based on the IMCO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk. These rules are contained in 46 CFR 153 and became effective April 12, 1978.

They established improved safety and vessel construction standards for vessels transporting the majority of the products on the noxious substances list. Additionally, the improved vessel construction standards of Annex I will apply to vessels which carry other noxious liquid substances as well as oil.

To accomplish the purposes of the 1978 Protocol, the references in the bill to the 1973 MARPOL Convention have been amended to refer to the new 1978 MARPOL Protocol. In addition, this bill has been revised by adding a new subsection (f) to Section 6, authorizing the Secretary to survey existing waste reception facilities to determine the extent to which the United States will have to upgrade its facilities to comply with the 1978 MARPOL Protocol.

The 1973 Convention as incorporated in the 1978 Marpol Protocol requires that new and existing tankers be fitted with equipment intended to ensure conformance to its requirements. Examples of the items made mandatory by the 1973 Convention include oil discharge monitoring and control systems, slop tanks, and piping and pumping arrangements for all tankers in excess of 70,000 deadweight tons, if contracted for after December 31, 1975, or delivered after December 31, 1979. Certificates issued to vessels which fully comply with applicable requirements of the 1973 Convention are to be recognized by all parties to the 1973 Convention. The 1978 MARPOL Protocol adds to existing international standards stringent equipment requirements for segregated ballast and crude oil washing.

The 1973 Convention, as incorporated in the 1978 MARPOL Protocol, includes provisions designed to prevent discharges into the marine environment. This is an extension of the prohibition in the Internatonal Convention for the Prevention of Pollution of the Sea by Oil, 1954, against discharges into the sea. The term "marine environment" was not defined by the conference due, in large part, to the fact that the issue of the extent of a nation's maritime jurisdiction is one of the basic questions to be resolved by the Law of the Sea Conference.

The approach taken in the implementing legislation is to define the term "marine environment" in a manner which gives the maximum possible application to the 1978 MARPOL Protocol. This approach is clearly consistent with the intent of the conference, with our national goals, and with our world leadership responsibilities. However, the intent of the conference that Annexes I and II of the 1973 Convention, as incorporated in the 1978 MARPOL Protocol, are to be applied only to sea-going vessels is also clear.

Therefore, this limited application is provided for in the proposed legislation and, when deposited, our instrument of ratification will be accompanied by a memorandum of understanding to that effect. The proposed legislation does not include application of the optional annexes, Annexes III (pollution of sea by packaged or containerized material), IV (sewage pollution), and V (garbage pollution). If at a later time those annexes are determined to be acceptable to the United States, they will be the subject of an amendatory legislative proposal.

The 1973 Convention, as incorporated in the 1978 MARPOL Protocol, provides for an innovative amendment procedure to make possible the rapid updating of technical provisions without requiring the traditional, but more cumbersome, treaty revision process. The rapid amendment process will be used to reflect new technological developments and, therefore, is necessary to ensure the most effective control of pollution from ships operating in the marine environment.

In addition to implementing the basic provisions of the 1973 Convention, as incorporated in the 1978 MARPOL Protocol, the draft bill imposes criminal and civil sanctions of sufficient magnitude to ensure compliance with the mandates of the 1973 Convention as incorporated in the 1978 Protocol, and the implementing legislation and regulations. Finally, the remaining applicability of the implementing legislation for the 1954 Convention for non-parties to the 1978 MARPOL Protocol is minimal. Therefore, that legislation would be repealed by this proposal. Conforming amendments have also been made to the Federal Water Pollution Control Act, as amended, and to the Tank Vessel Act, as amended by Section 5 of the Port and Tanker Safety Act of 1978 (P.L. 95-474).

This is not a major legislative proposal within the meaning of Executive Order 11821. The vessel construction standards which will be necessary to implement Annexes I and II of the Convention are being promulgated under the Tank Vessel Act, as amended. The requirements for reception facilities will depend on the extent of the implementing regulations and the outcome of the survey authorized by subsection 6(f) of the draft bill.

Enactment of this legislative proposal will result in additional monetary requirements for the Federal Government as follows:

FY 1	$350,000
FY 2	350,000
FY 3	350,000
FY 4	350,000
FY 5	350,000

It is recommended that the proposed legislation be enacted by Congress.

The Office of Management and Budget has advised that this proposed legislation is in accord with the Administration's objectives.

Sincerely,

Brock Adams.

By Mr. TSONGAS (for Mr. Kennedy) (for himself, Mr. Magnuson, Mr. Tsongas, Mr. Williams, Mr. Bradley, Mr. Hatfield, Mr. Cohen, and Mr. Weicker):

S. 2119. A bill to protect the fisheries resources on the Georges Bank, and for other purposes; to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources, jointly, by unanimous consent.

GEORGES BANK PROTECTION ACT

Mr. TSONGAS. Mr. President, for Mr. Kennedy, I am introducing legislation, along with Senators Magnuson, Williams, Bradley, Hatfield, Cohen, Weicker, and myself, which will impose specific safeguards on oil and gas drilling on Georges Bank.

I ask unanimous consent that a statement by Senator Kennedy, who could not be here today, together with the text of the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENT BY SENATOR KENNEDY

Today I am introducing legislation along with Senators Magnuson, Tsongas, Williams, Bradley, Hatfield, Cohen, and Weicker, which will impose specific safeguards on oil and gas drilling on Georges Bank. Such safeguards are necessary if we are to avoid unnecessary damage to the invaluable fisheries resource there.

Today, few tasks present greater challenges to us as public servants than balancing the oft-conflicting objectives of increasing our nation's energy supply and protecting our priceless natural resources. Oftentimes policy decisions must be made on the basis of very little hard information. And oftentimes very little is known about consequences of those decisions.

Sadly, this is the context in which we approach the beginning of offshore oil and gas activity on Georges Bank. Indeed, we have just begun to gather information about the complex eco-system of Georges Bank. And we can only guess what the effects of oil and gas activity will be on this fishery—one of the most productive in the world.

But we in New England accept those risks. We do so in accepting the responsibility to do our share to relieve our dangerous dependence for energy on a relatively few politically unstable nations half a world away. What we are unwilling to accept, however, is that offshore oil and gas activity must go forward on Georges Bank without all available safeguards in place. This, unfortunately, is the course the Administration has chosen. It is irresponsible and ill-advised.

For those of us from New England, Georges Bank holds special meaning. Our beautiful shoreline looks out on the ocean which surges over this unique Outer Continental Shelf area. Our tourist and recreation industry depends on it for revenue. Our fishing industry is supported by its fantastic resources.

But Georges Bank is not just a resource of local value. It supplies the world with a significant portion of the fish consumed each year. It feeds families in California in addition to those in Massachusetts. And it is a renewable resource. For over 300 years it has provided the nation with its riches.

It appears, however, that future generations may be unnecessarily deprived of this valuable fishery resource. For some of the precautions which are available to us to minimize the risks inherent in oil and gas exploration and development have not been taken.

The recent blowout of an exploratory oil rig in Campeche Bay, Mexico, serves to remind us that oil and gas activity anywhere carries with it the potential for disaster. As long as we continue to exploit the resources which are buried beneath the ocean floor, such disaster remains a possibility. We can, however, minimize the chances that similar catastrophes will occur. It is in this spirit that we are today introducing "The Georges Bank Protection Act."

This legislation would impose several new requirements with respect to oil and gas activity on Georges Bank. First, the bill would require that certain by-products of drilling, drill muds and drill cuttings, be barged off-site unless the Secretary of the Interior in conjunction with the Administrator of the National Oceanic and Atmospheric Administration, determines that meteorological conditions make such removal more hazardous than on-site dumping, that on-site dumping would have no significant detrimental effect on the resident biological populations, or that a method less detrimental than barging should and will be used.

According to the National Oceanic and Atmospheric Administration, the agency charged with protecting our fishery resources, both drill muds and drill cuttings can be toxic to the biological populations with which they come into contact. Because of the peculiar nature of Georges Bank, these substances pose special dangers. The strong tidal mixing and nutrient upswelling characteristics which make the Bank such a productive fishery, virtually guarantee these substances exposure to the biological populations at the dumping site and in surrounding areas.

Secondly, the bill creates a task force to monitor the effects of oil and gas activity on Georges Bank, and to make recommendations to the Secretary of the Interior with respect to the protection of its biological populations. It is modeled after a similar body set up by agreement between DOI, NOAA and the Environmental Protection Agency, but unlike its model, it cannot be abolished, it incorporates a representative of the New England fishing industry to be appointed by the New England Fisheries Management Council, and its recommendations cannot be rejected unless the Secretary of the Interior shows cause.

Third, the bill requires the President to direct the appropriate agencies to expedite the promulgation of regulations pursuant to the Outer Continental Shelf Lands Act Amendments which are directly pertinent to oil and gas exploration and development.

Finally, the bill requires the President to direct the appropriate agencies to expeditiously complete and submit to Congress and the Biological Task Force two reports relating to at-sea spill clean-up and mitigation. The first is a Coast Guard interim report on the causes and effects of the Campeche Bay blowout, and the second, a Coast Guard report on oil pollution response. This information will better enable Georges Bank to avoid a catastrophe such as the one which occurred in Campeche Bay, Mexico.

Mr. President, three years ago we enacted the Fisheries Management and Conservation Act establishing the 200-mile zone. We did so in part to give our domestic fishing industry a new chance. We did so in order to turn back the trend of recent years and create a trade surplus in fisheries products, rather than a deficit. Today, the future of Georges Bank, probably this nation's greatest fisheries resource, stands unnecessarily jeopardized, and with it, the aspirations of all those who believed that the enactment of the 200-mile zone legislation would bring new life to a beleaguered industry.

The legislation we are introducing today will not postpone Lease Sale 42, nor will it postpone the commencement of oil and gas activity on Georges Bank. It will, however, reduce the danger to this fisheries resource inherent in such activity. As responsible public servants, we can do no less.

S. 2119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Georges Bank Protection Act".

SEC. 2. (a) With respect to any oil or gas activity in or on the area known as Georges Bank (on the Outer Continental Shelf) the following requirements are imposed:

(1) All drill muds and cuttings shall be removed to dumping sites approved by the Environmental Protection Agency unless the Secretary of the Interior, in conjunction with the Administrator of the National Oceanic and Atmospheric Administration determines in writing that—

(A) meteorological conditions make such removal more hazardous than on-site dumping; or

(B) on-site dumping would have no significant detrimental effect upon biological populations at such site or in adjacent areas; or

(C) another method of disposal should and will be used which is less hazardous to the biological populations at such site or in adjacent areas than barging.

(2) Formation waters shall be reinjected unless the Secretary of the Interior in conjunction with the Administrator of the National Oceanic and Atmospheric Administration determines in writing that—

(A) the absence of such action will have no significant detrimental effect upon biological populations at such site or in adjacent areas; or

(B) another method of disposal should and will be used which is less detrimental to the biological population at such site or in adjacent areas than reinjection.

(3) (A) A Biological Task Force shall be appointed to monitor the effects of oil and gas activity on biological populations. Such task force shall consist of:

(i) one member appointed by the Fish and Wildlife Service;

(ii) one member appointed by the United States Geological Survey.

(iii) one member appointed by the Bureau of Land Management;

(iv) one member appointed by the National Oceanic and Atmospheric Administration;

(v) one member appointed by the Environmental Protection Agency; and

(vi) one representative of the New England Fishing Industry appointed by the New England Fisheries Management Council.

(B) the Biological Task Force shall make recommendations with respect to the protection of biological populations of the Georges Bank, to the Secretary of the Interior, and such recommendations shall be implemented by the Secretary of the Interior, unless, and to the extent that, the Secretary of the Interior makes a written determination that—

(i) such recommendations should not be implemented on account of an overriding national interest; or

(ii) adequate protective measures have been taken to ensure the protection of the biological populations of the Georges Bank.

(C) The biological task force shall exist so long as there is oil and gas activity on Georges Bank.

(4) The President shall direct the appropriate agencies to expedite the promulgation of the following regulations:

(A) Safety regulations under section 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347).

(B) Enforcement regulations under section 22 of such Act (43 U.S.C. 1348).

(C) Fishermen's Contingency Fund regulations under title IV of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1841-1847).

(b) The President shall direct the appropriate federal agencies to expeditiously complete, and submit to Congress and the Biological Task Force, those reports relating to at-sea spill clean-up and mitigation, mandated by the requirements of the National Oil and Hazardous Substances Pollution Control Plan (40 CFR 1510) and requested by the Senate during its consideration of H.R. 4440, the Department of Transportation and Related Agencies Appropriation Act, 1980.

Mr. COHEN. Mr. President, today Senator TSONGAS is introducing the "Georges Bank Protection Act." He does so on behalf of Senator KENNEDY, who bears primary responsibility for the measure's language, and on behalf of Senator WEICKER and myself, who have worked closely with Senator KENNEDY in developing a realistic legislative approach which acknowledges both our national petroleum needs and the value of the threatened fisheries resources.

I am most gratified that our efforts are being recognized as responsible attempts to sensibly resolve the concerns which knowledgeable people have expressed since the drilling on Georges Bank was first proposed. We appreciate the support which the present list of cosponsors represents and we urge those of you who have not indicated your support to review what we are—and are not—proposing in this important legislation. We believe that after such a review, you will accept our contention that this bill is a good faith effort to accommodate the diverse energy, economic, and environmental concerns which have been raised. We hope that many of you will join us by backing this bill.

The point which we wish to make, first and foremost, is that the passage of this act will not in any way prevent the presently scheduled sale of Georges Bank leases from taking place later this month. Delay of the lease sales is not the goal of this legislation and will not, in our judgment, be an indirect result of any of its provisions.

Moreover, we do not, in this legislation, seek to prevent the Secretary of the Interior from exploiting our Outer Continental Shelf oil and gas resources and from integrating an expanded OCS program into a national production effort.

What we do propose is that our Government, in seeking to maximize the energy production potential of Georges Bank, also seek to minimize the possibility of environmental damage which could have a devastating impact on an important and expanding source of food, and on coastal communities in the Northeast.

Reasonable men and women obviously can differ on a subject as technologically complex as protection of the marine environment. The Secretary of the Interior adamantly maintains that the precautions to which he has committed his agency are sufficient. Some of the environmental technicians and marine biologists agree with the Secretary, but others most emphatically do not. This bill, "the Georges Bank Protection Act," is submitted to the Senate in the belief that when the world's most productive fishing grounds may be at stake, it is better to err on the side of caution.

Accordingly, the bill we have introduced would require that certain environmentally protective actions be taken with respect to the toxic byproducts of the drilling process (drill muds, cuttings, formation waters), unless the Secretary of the Interior determines, in writing, that the marine environment can be better preserved without such actions, or by alternative means. In other words, under this bill, the Secretary of the Interior retains the ultimate authority to determine what precautions will be taken. This measure merely establishes that the known renewable fisheries resource will be a predominant consideration in determining the methods by which the required finite resources—oil and gas—will be exploited.

Our measure also builds upon one of the Secretary of the Interior's own creations, "The Biological Task Force."

In response to comments submitted by the fishing industry and environmental groups, the Secretary announced that he would establish such a group to provide him with advice as to how the marine environment could be preserved while drilling occurs. His task force would consist of three members from the Department of the Interior, one from the Environmental Protection Agency, and one from the National Oceanographic and Atmospheric Administration.

The supporters of the measure being submitted today concur with the Secretary that the creation of a task force is necessary if marine environmental concerns are to be given paramount consideration, but we would strengthen the task force's role. We believe we have done so without usurping the authority with the Secretary of the Interior needs to promote an effective drilling program.

Under our bill, we would establish the task force by statute and add an additional representative, to be chosen by the New England Fishery Management Council. We would require that the Seccretary implement the recommendations of the task force unless, once again, he determined, in writing, that the activity was required by overriding national interest or that adequate measures have been taken to insure the protection of the biological resources of the bank.

The third portion of our bill concerns the Outer Continental Shelf Lands Act Amendments (OCSLAA), which were enacted last year. Contacts made by my staff indicate that many Members of the Congress incorrectly believe that the mechanism contained in the amendments for weighting environmental and energy concerns on Georges Bank is already in operation. Unfortunately, it is not. Many important sections of OCSLAA remain unimplemented and, hence, will not apply to the Georges Bank tracts, the drilling rights of which will be auctioned this month.

Several proponents of this bill advocated delaying the Georges Bank lease sales until such time as the OCSLAA were fully implemented through appropriate regulations. However, we have been told by numerous parties that such an approach would be perceived as obstructionist. Since we do not want to be an obstacle to the cautious exploitation of our shelf resources, we are including a provision which directs the President simply to expedite the promulgation of those OCSLAA regulations which are not yet in place.

Finally, the bill directs the President to complete and submit promptly to Congress and the Biological Task Force, those reports relating to spill clean-up and mitigation which have previously been requested. In this regard, our colleague from Connecticut, Senator WEICKER, deserves special recognition. He has been most instrumental in highlighting the fact that our national capability to respond effectively to oil spills is not acceptable and needs to be improved. I support him fully in his efforts to seek the information necessary to build an adequate policy in this area. We must look to the OCS spills which have occurred in the past for lessons. We must use these lessons to insure that in the future, serious spills are avoided.

Mr. President, the bill which has been introduced is the result of considerable research, lengthy discussions and careful drafting. We believe we have a measure which will resolve the Georges Bank controversy and should be acceptable to the administration. We urge all our colleagues to study our proposals and to give the possibility of their cosponsorship serious thought.

On November 12, an informative editorial relating to the Georges Bank problem appeared in the Maine Sunday Telegram. I ask unanimous consent that this article be printed in the RECORD. I commend it to my colleagues.

There being no objection, the article was ordered to be printed in the RECORD as follows:

DRILLING AND FISHING

The court-ordered decision delaying the sale of oil leases in the Georges Bank area off the New England coast is an exercise in reasonable caution; to permit drilling without first assuring adequate safeguards could imperil one of the world's richest fishing grounds.

The Carter administration's decision to move forward with the sale of leases prior to establishing firm standards for the drilling can't be defended on any grounds, least of all U.S. energy self-sufficiency.

The best available estimate—and it is admittedly a shaky one—is that there may be 123 million barrels of oil in the area.

At the current rate of U.S. consumption that's enough oil to fuel America's needs for six and a half days.

It would be folly to sell leases to find that amount of oil without first developing rigid guidelines assuring maximum protection of an area which provides nearly 15 percent of the world's fish catch.

Yet that's precisely what the Interior Department wants to do. Left to its own devices the department would sell the leases now, and then early next year announce criteria and guidelines for oil exploration.

Small wonder that the states of Maine and Massachusetts, supported by U.S. Sen. William S. Cohen and other regional congressmen, moved into court to block the sale. From their standpoint, and ours too, the administration's timing is exactly backwards. The standards ought to be established before the leases are sold.

Congress, concerned over the adequacy of oil exploration safeguards on the Atlantic's Outer Continental Shelf, passed a series of amendments aimed at upgrading the old 1953 drilling law—but largely left the implementation of the standards to the Interior Department. In rushing to sell the leases before establishing drilling standards, Interior would seem to do violence to the clear intent of Congress.

We're not opposed to oil exploration off the Atlantic coast. If there is oil and gas under the sea the national interest demands that it be recovered. But strong environmental safeguards to protect fragile and vital fishing grounds must be in place before the drilling begins.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by Mr. TSONGAS (for Mr. KENNEDY) relating to the Georges Bank be referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Energy and Natural Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. McCLURE:

S.J. Res. 124. Joint resolution to authorize and request the President to designate the week of June 16 through June 22, 1979, as "National Oldtime Fiddlers Week"; to the Committee on the Judiciary.

● Mr. McCLURE. Mr. President, I am today introducing a joint resolution to proclaim the week of June 16 through June 22, 1979, as "National Oldtime Fiddlers Week." During this week, fiddlers from all over America and Canada will gather in Weiser, Idaho, to compete in the annual National Oldtime Fiddlers' Contest and Folk Music Festival. The original and continuing purpose of the fiddle contest is to help perpetuate the oldtime fiddling and folk music of pioneer America; to help develop a more genuine audience appreciation, understanding and participation; to preserve the oldtime fiddling and folk music tunes; to develop and encourage local, regional, and State oldtime fiddlers' and folk music jam sessions, gatherings, and festivals; to permanently record and display the history, relics, and mementos of past oldtime fiddlers' and folk music art, and acknowledge the present day oldtime fiddlers and folk music artists who are helping to preserve the traditional expressions.

The people of Weiser are to be congratulated for their encouragement of authentic, traditional music of America. I am delighted to join them in inviting music lovers to catch "fiddling fever" in Weiser, Idaho, the "fiddling capital of the world." ●

By Mr. SASSER:

S.J. Res. 125. Joint resolution designating the "square dance" as the national folk dance of the United States of America; to the Committee on the Judiciary.

● Mr. SASSER. Mr. President, today I am introducing legislation to designate the square dance as the national folk dance of the United States. A similar resolution in the House already has 80 cosponsors, evidencing the broad support for this legislation.

Square dancing, Mr. President, is a form of dance as old as America itself. From its first recorded use in 1651—just 31 years after the landing of the Pilgrims at Plymouth Rock—to the present, the square dance has been an expression of our national character. The dance is a simple salute to life in early America, and a continuing tribute to the American way of life.

Square dancing had a unique meaning to the early American farmers. Square dances were held on the occasion of husking bees—before the invention of the combine—whenever corn was ready to be harvested. The dance highlighted community gatherings, gatherings which often cut across social and economic ties. It is significant that square dancing still serves this function in many communities.

Mr. President, square dancing also promotes good fellowship and provides healthful exercise and is enjoying a rebirth of interest. Through its international congresses, it promotes international understanding and brotherhood. And throughout its long history, square dancing has provided a rich source of inspiration for countless artistic professionals.

The national and international status of the square dance would be heightened by the adoption of my resolution. Due to its rich and long love affair with the American people, the square dance deserves the designation of "National Folk Dance of the United States of America." I urge the adoption of the resolution by the Senate, and I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 125

Whereas love of country and professions is enhanced by traditions that have become a part of our way of life and the customs of the American people; and

Whereas we have distinctive and meaningful symbols of our ideas in our Nation's flag, our national anthem, and in many cultural endeavors, but no official designation of a national folk dance; and

Whereas the square dance, which was first associated with the American people and recorded in history since 1651, has consistently been the one dance traditionally recognized by the American people as a dignified and enjoyable expression of American folk dancing; and

Whereas official recognition of the square dance will enhance the cultural stature of the United States both nationally and internationally; and

Whereas national and international prestige is the best interest of all Americans; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the dance known as the square dance is designated the national folk dance of the United States of America.●

ADDITIONAL COSPONSORS

S. 969

At the request of Mr. THURMOND, the Senator from Nevada (Mr. CANNCN) was added as a cosponsor of S. 969, a bill to authorize the construction and maintenance of the Gen. Draza Mihailovich Monument in Washington, D.C., in recognition of the role he played in saving the lives of approximately 500 U.S. airmen in Yugoslavia during World War II.

S. 1108

At the request of Mr. SASSER, the Senator from Kentucky (Mr. HUDDLESTON) was added as a cosponsor of S. 1108, a bill to amend the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

S. 2083

At the request of Mr. THURMOND, the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2083, a bill to amend title II of the Social Security Act to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test.

AMENDMENT NO. 735

At the request of Mr. BENTSEN, the Senator from Nebraska (Mr. ZORINSKY), the Senator from Nevada (Mr. CANNON), the Senator from Montana (Mr. MELCHER), the Senator from Utah (Mr. HATCH), and the Senator from Nebraska (Mr. EXON) were added as cosponsors of amendment No. 735 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 307—SUBMISSION OF A RESOLUTION RELATING TO THE AMERICAN HOSTAGES HELD IN IRAN

Mr. ROTH (for himself, Mr. RIBICOFF, Mr. STEVENS, Mr. DANFORTH, Mr. DURENBERGER, Mr. GLENN, Mr. WALLOP, Mr. SCHMITT, Mr. STEVENSON, Mr. BENTSEN, Mr. LONG, and Mr. METZENBAUM) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 307

Whereas fifty Americans are being held hostage in Iran in contravention of international law and civilized diplomatic practice, and

Whereas the Security Council of the United Nations has unanimously supported the release of the American hostages, and

Whereas the United States has prohibited oil imports from Iran and frozen Iranian assets in the United States, and

Whereas such economic measures to help achieve the release of the hostages can be strengthened by international cooperation, and

Whereas Secretary of State Cyrus Vance is currently seeking greater help and cooperation in seeking the release of the hostages from the allies of the United States, and

Whereas certain Japanese companies are reportedly increasing their purchases of Iranian oil and providing the Iranian authorities with financial help and advice, and

Whereas such activities on the part of Japanese firms and institutions weaken the effect of American economic actions against Iran and are not consonant with the close relations between the United States and Japan,

Now, therefore, be it resolved that the Senate:

(a) Firmly supports the efforts of the Secretary of State to secure greater cooperation from other governments in securing the safe and expeditious release of the hostages,

(b) Expresses appreciation for those actions already taken by foreign governments and the international community to secure the release of the hostages,

(c) Strongly deplores the activities of any companies or financial institutions seeking to profit by American economic measures against Iran, and

(d) While recognizing the total dependency of Japan on foreign sources of oil, strongly urges the Government of Japan to take affirmative measures to support American economic actions against Iran and prohibit the activities of Japanese firms and financial institutions which weaken the impact of economic sanctions against Iran.

● Mr. ROTH. Mr. President, I rise to submit a resolution for consideration by the Senate, dealing with the reported activities of certain Japanese companies attempting to take advantage of U.S. economic steps against Iran. These steps are designed to secure the release of our hostages in Tehran and to demonstrate that the United States is not vulnerable to terrorist blackmail.

According to reports this morning in the Washington Post—reports that I have independently confirmed—some Japanese firms have been buying massive quantities of Iranian oil that had originally been destined for the United States. These purchases have been at astronomical prices. This, despite already high oil reserves in Japan and despite guarantees by the International Energy Agency to share available oil supplies with any member in distress. In some instances, I understand, oil so purchased has actually been resold on the spot market.

Mr. President, as my many Japanese friends are aware, including Foreign Minister Okita, I am fully appreciative of the fact that Japan must import 99 percent of its oil to survive economically. I am also aware that many of the Japanese contracts with Iran are due to expire in January.

But, Mr. President, with 50 American citizens being illegally and barbarically held hostage in effect by the governing authorities of Iran itself, I must deplore the actions of these Japanese companies. They are nothing more than blatant profiteering.

Now is the time for our friends and allies to stand together in the face of a threat to the international system itself. Now is not the time to send ambiguous signals to Iran—or to the world.

Now is the time for the American government and the American people to demonstrate unswerving solidarity for the efforts of the Secretary of State to secure the cooperation of our friends and allies in obtaining the release of the hostages.

Mr. President, the actions of these Japanese firms are reprehensible in the extreme and the resolution here submitted strongly calls upon the Government of Japan to take immediate and affirmative steps to halt their activity.

It is in times of trouble that one discovers who one's true friends really are. I personally have no doubt that Japan is one of America's most steadfast of friends. Our friendship has been tested too many times; we have traveled too many rocky roads together for me to doubt its depth and solidity.

We must not allow the actions of a few irresponsible firms to undermine the good will we have so laboriously built up between our two great nations.

Therefore, today I call upon the Government of Japan to affirm its good will by positive action.

The 50 American hostages in Tehran are waiting. America is waiting.

And I know that the Government of Japan will not allow our relations to deteriorate. We share too many broader interests to sit back and watch this vital relationship slip into distrust and fraction.●

SENATE RESOLUTION 308—SUBMISSION OF A RESOLUTION RELATING TO PARITY FOR WOMEN'S TRACK AND FIELD EVENTS IN THE 1984 OLYMPIC GAMES

Mrs. KASSEBAUM (for herself, Mr. BAUCUS, Mr. BAYH, Mr. MCGOVERN, Mr. DANFORTH, Mr. SARBANES, Mr. TSONGAS, Mr. MELCHER, and Mr. CULVER) submitted the following resolution, which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 308

Whereas the longest Olympic race for women is currently only one metric mile;

Whereas, if technical requirements of the International Olympic Committee were met prior to 1984, longer distance running events for women could be scheduled in the 1984 Olympic Games;

Whereas empirical medical studies have shown women are both physiologically and psychologically fit to run the marathon and other long-distance races;

Whereas thousands of women all over the world have successfully completed the 26 mile, 385 yard course, and scores of female runners, from at least 15 countries, have achieved finishing times under 2 hours, 55 minutes—world-class time under that of many male competitors; and

Whereas the numbers of female competitors increase daily and the proficiency of the female long-distance runner is increasing dramatically, as witnessed by the facts that in just 15 years the woman's world record marathon time has dropped one hour, and the current world record time (2:27:33 set by Grete Watiz in the 1970 New York City Marathon) would have beaten half of all previous male Olympic marathon winners: Now, therefore, be it

Resolved, That the United States Senate encourages the Amateur Athletic Union of the United States, the USA member of the International Amateur Athletic Federation, and other appropriate groups, to help fulfill technical requirements of the IOC so parity for women's track and field events can be achieved prior to 1984 and the marathon and other long-distance events for women can be scheduled for the 1984 Olympic Games in Los Angeles.

● Mrs. KASSEBAUM. Mr. President, on behalf of Senator BAUCUS and myself, I am today submitting a resolution to encourage parity for women's track and field events in future Olympic games.

The top five women marathon runners in the world—Grete Watiz from Norway, Crista Vahlensieck from West Germany, Joan Benoit from the State of Maine, Chantal Langlace from France, and Julie Brown from the State of California—will not be competing in the Olympic games in Moscow in 1980. Neither will the top women 5,000-meter runners or the top women 10,000-meter runners.

These women, and scores of women runners like them, are excluded from Olympic competition not because they are not world-class athletes, but because Olympic tradition bans long-distance running events for women.

Women were not allowed to attend the early Olympic games, either as contestants or spectators. The only woman present at the Greek games at Olympia was a priestess who presided over the altar of Demeter, Mother Earth. And the eyes of the priestess were closed to the action of the games as she chanted her prayers. The taboo against women at Olympia was strict; the penalty for an offense was death, the transgressor being thrown off a huge rock in the vicinity into the gorge below.

There was a tremendous uproar in one of the early games when it was discovered that the mother of a winning runner was in the stadium and watching the race. The boy's father had died while training him for the games and his mother took charge of the training and attended the race in disguise. Her joy was so great at his victory, however, that her disguise was detected. Because this woman was the mother, sister, and daughter of Olympic victors, the penalty was not inflicted.

Eventually, women were admitted to the Olympic games as spectators and, then, on to the field as contestants. But progress for women's parity in Olympic competition has come slowly.

Mr. President, it is too late to do anything about the 1980 Olympics in Moscow, but there is now an effort underway to fulfill the technical requirements of the International Olympic Committee so long-distance running events for women can be scheduled for the 1984 Olympic games in Los Angeles.

I heartily support such efforts and would like to add my name to those who believe it is time to see a women's marathon and other long-distance running events in Olympic competition and other international meets. With this resolution I offer today, Senator BAUCUS and I are providing a vehicle for the expression of Senate support for parity in the 1984 games.●

AMENDMENTS SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 778

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

● Mr. GRAVEL. Mr. President, earlier this year the Senator from Oregon (Mr. PACKWOOD) introduced a bill to encourage the development of alternative sources of energy. Part of that legislation, S. 1760, which I am proud to say I cosponsored along with 15 of my colleagues from the Finance Committee, would have allowed homebuilders a credit for active solar equipment installed by the builder in new homes. The provision gave the homebuilder the option of taking the credit himself, thus improving his cash flow from the construction project, or passing the credit through to the buyer of the new home.

If I may quote from my friend, Mr. PACKWOOD's, statement on introduction of S. 1760:

> Last year, California enacted a similar law. It has been partially responsible for the dramatic increase in sales of solar equipment in California. With this provision, we hope to extend that growth throughout the country. S. 1571 contained an identical provision.
>
> In Energy Future, Robert Stobaugh points out at page 168 that:
>
> Traditionally, the purchase price of a house, rather than that price plus operating cost, has been the chief concern of builder, buyer, and financing institution. Two-thirds of all the new single-family homes in 1971, for instance, were built for speculative sale. The builder was therefore interested in keeping the selling price down, and worried much less about longer term energy costs.
>
> California's boom in new residential solar installations is due in part to the enthusiastic response of builders to the 55-percent credit, according to a recent California Energy Commission analysis. It has helped lead to the fact that 5,000 new solar subdivision homes were begun or completed by builders between January and mid-1979. Some builders take the credit themselves, and others chose to pass it through to the customer as a selling point.

Mr. President, this meritorious provision was dropped from the Finance Committee substitute for H.R. 3919 because of a misapprehension that it would result in additional revenue costs in the bill. It was alleged during consideration of the legislation that the provision might allow a double credit for active solar installations. This is not the case. Regardless of whether the credit is used by the builder of the new home or the initial buyer, it may not be taken twice. As such, this provision would have no revenue effect since it provides only a choice with respect to who gets the credit.

I believe that this provision has considerable merit and that it rightfully belongs in the tax credit portion of H.R. 3919. Therefore, I intend to offer this provision as an amendment to that bill and hope that my colleagues who joined me in cosponsoring S. 1760 will support such an amendment.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follow:

AMENDMENT No. 778

Page 98, line 6, after the word "Landlords", and immediately before the semicolon insert "and Builders".

Page 98, line 11, after the word "Lessors" and immediately before the period insert "and Builders".

Page 98, strike out lines 12 to 22 inclusive and insert in lieu thereof the following:

"(A) LESSORS AND BUILDERS.—Notwithstanding any provision of this section requiring the taxpayer to use a dwelling unit as a residence or to be the original user of any item—

"(i) LESSOR.—If an individual who is the lessor of a dwelling unit which constitutes the residence of the lessee makes expenditures which, but for such provisions, constitute energy conservation or renewable energy source expenditures, then, for purposes of this section, the lessor shall be treated as having made energy conservation or renewable energy source expenditures in connection with such dwelling unit.

"(ii) BUILDERS.—If, in connection with the construction or reconstruction of a dwelling unit which is to be originally used as a residence by an individual, a person (other than such individual) makes expenditures which, but for such provisions, constitute renewable energy source expenditures, then, for purposes of this section, such person shall be treated as having made renewable energy source expenditures in connection with such dwelling unit.

"(B) ORIGINAL USER AND LESSEE.—For purposes of subsection (b)(3), the individual with respect to whom the original use of the constructed or reconstructed dwelling unit begins shall be treated as having been allowed a credit under this section with respect to such dwelling unit for a prior taxable year in an amount equal to the amount of the credit allowed the person described in subparagraph (A)(ii) for any taxable year with respect to such dwelling unit.

"(C) NOTICE TO ORIGINAL USER.—A person allowed a credit under subparagraph (A) shall provide a written notice to the individual described in subparagraph (B) containing information with respect to—

"(i) the nature and amount of the expenditures for which a credit was allowed, and

"(ii) the amount of the credit allowed such person by reason of subparagraph (A)."

Page 98, line 23, strike out "(B)" and insert in lieu thereof "(D)".

Page 99, line 10, strike out "(C)" and insert i nlieu thereof "(E)".●

AMENDMENT NO. 779

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

PRODUCTION CREDIT FOR BIOMASS

● Mr. GRAVEL. Mr. President, I would like to introduce an amendment to H.R.

3919 extending the production credit to steam produced from biomass fuels, and to expand the definition of "biomass" to include derivatives of municipal waste. The amendment would apply the production credit for production of fuels from nonconventional sources to a developing major potential fuel source, steam from biomass. Municipal waste, a form of biomass, represents an enormous potential for energy production, perhaps as large as the equivalent of 500,000 barrels of oil per day. Other forms of biomass could also create significant amounts of steam for the production of electricity throughout the Nation. Applying the production credit to such nonconventional sources of energy would provide a needed incentive to accelerate development of plants, which require a huge capital outlay and several years of operation with little or no profitability.

As currently drafted, the production credit is unnecessarily narrow. It does not cover plants which produce steam from biomass, and does not include within the definition of "biomass" derivatives of municipal waste which are produced and used as boiler fuel. We should not discourage the production of waste-derived fuels while encouraging the mass burning of municipal waste as a boiler fuel, thereby destroying the recycling value of several common components of municipal garbage such as glass, iron, and aluminum. The proposed amendment would rectify this problem by broadening the definition to include derivatives of municipal waste within the definition of "biomass," and by extending the production credit to steam produced from biomass.

As with any amendment which broadens the production tax credit, this amendment could have some revenue effect. However, it must be emphasized that any revenue effects from this amendment will occur only in the event that additional sources of energy are developed and produced. The production credit is based on a per-barrel equivalent of alternative energy actually produced. Each such alternative energy barrel equivalent will replace a barrel of imported oil at a significant cost savings to our Nation over the $3 credit.

In order to encourage this new source of energy in the United States, I believe it necessary to extend to energy produced from biomass this new credit. Production of energy from biomass should be one of our highest priorities because it helps to solve not only our difficult energy problems, but eases a growing crises in the disposal of solid wastes from our cities. I would encourage the Senate to adopt this amendment and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 779

On page 43, lines 11 and 12, delete the words "solid agricultural byproducts" and insert in lieu thereof the word "biomass", and.

On page 143, line 14, delete the word "and" and insert in lieu thereof the words "waste (or derivatives thereof)" and

On page 143, line 25, delete the words "solid agricultural byproducts" and insert in lieu thereof the word "biomass",

On page 148, line 17, delete the words "solid agricultural byproducts" and insert in lieu thereof the word "biomass".●

AMENDMENTS NOS. 780 AND 781

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted two amendments intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 782

(Ordered to be printed and to lie on the table.)

Mr. TALMADGE submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 783

(Ordered to be printed and to lie on the table.)

Mr. METZENBAUM (for himself, Mr. RANDOLPH, Mr. STEWART, Mr. HEINZ, and Mr. HUDDLESTON) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NOS. 784 AND 785

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH submitted two amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 786 THROUGH 788

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted three amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 789 AND 790

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH (for himself, Mr. HUDDLESTON, Mr. PERCY, Mr. WARNER, and Mr. HEINZ) submitted two amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 791

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN (on behalf of the Committee on Finance) (for himself, Mr. PERCY, Mr. TALMADGE, Mr. DOLE, Mr. GRAVEL, Mr. DANFORTH, Mr. MOYNIHAN, Mr. CHAFEE, Mr. MATSUNAGA, Mr. DURENBERGER, Mr. BAUCUS, Mr. WALLOP, Mr. BOREN, Mr. PACKWOOD, Mr. CHURCH, Mr. ROTH, Mr. PRYOR, Mr. HEINZ, Mr. DECONCINI, Mr. TOWER, Mr. MORGAN, Mr. COCHRAN, Mr. DOMENICI, Mr. HUMPHREY, Mr. STAFFORD, Mr. FORD, Mr. WEICKER, Mr. JOHNSTON, Mr. BAKER, Mr. STONE, Mr. MCCLURE, Mr. HOLLINGS, Mr. COHEN, Mr. STEWART, Mr. HAYAKAWA, Mr. DURKIN, Mr. THURMOND, Mr. HUDDLESTON, Mr. PRESSLER, Mr. CRANSTON, Mr. HELMS, Mr. LEAHY, Mr. LUGAR, Mr. RIEGLE, Mr. JAVITS, Mr. SIMPSON, Mr. BIDEN, Mr. SCHWEIKER, Mr. STEVENS, Mr. LAXALT, Mr. HATFIELD, Mr. MCGOVERN, Mr. WARNER, Mrs. KASSEBAUM, Mr. NUNN, Mr. ARMSTRONG, Mr. JEPSEN, Mr. GOLDWATER, Mr. INOUYE, Mr. HART, Mr. HEFLIN, Mr. GLENN, Mr. MATHIAS, Mr. HATCH, Mr. GARN, Mr. SCHMITT, Mr. BOSCHWITZ, Mr. BELLMON, Mr. YOUNG, Mr. ZORINSKY, Mr. CANNON, Mr. EXON, Mr. SASSER, and Mr. MELCHER) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 792 AND 793

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted two amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 794

(Ordered to be printed and to lie on the table.)

Mr. BRADLEY (for himself, Mr. ROBERT C. BYRD, Mr. BUMPERS, Mr. STEWART, Mr. RIBICOFF, Mr. MOYNIHAN, Mr. LEAHY, Mr. MUSKIE, Mr. DURKIN, and Mr. NELSON) submitted an amendment intended to be proposed by them, jointly, to amendment No. 776 proposed to H.R. 3919, supra.

AMENDMENT NO. 795

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 796

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 797 AND 798

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH (for Mr. PERCY) (for himself, Mr. HEINZ, and Mr. HUDDLESTON) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 799

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to amendment No. 735 intended to be proposed by Mr. BENTSEN to H.R. 3919, supra.

AMENDMENT NO. 800

(Ordered to be printed and to lie on the table.)

Mr. CHAFEE submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 801

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 802

(Ordered to be printed and to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 803 THROUGH 805

(Ordered to be printed and to lie on the table.)

Mr. GRAVEL submitted three amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 806 THROUGH 808

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted three amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 809

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 810

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 811 AND 812

(Ordered to be printed and to lie on the table.)

Mr. NELSON submitted two amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 813 THROUGH 815

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH submitted three amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 816

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH (for himself, Mr. RIBICOFF, Mr. CHAFEE, and Mr. DURENBERGER) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENTS NOS. 817 AND 818

(Ordered to be printed and to lie on the table.)

Mr. MATSUNAGA (for himself and Mr. NELSON) submitted two amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 819

(Ordered to be printed and to lie on on the table.)

Mr. MATSUNAGA (for himself and Mr. NELSON) submitted an amendment intended to be proposed by them, jointly, to amendment No. 768 intended to be proposed to H.R. 3919, supra.

AMENDMENT NO. 820

(Ordered to be printed and to lie on the table.)

Mr. PACKWOOD (for himself, Mr. JACKSON, Mr. MAGNUSON, and Mr. HATFIELD) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 821

(Ordered to be printed and to lie on the table.)

Mr. PACKWOOD submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 822 THROUGH 828

(Ordered to be printed and to lie on the table.)

Mr. JAVITS (for himself and Mr. NELSON) submitted seven amendments intended to be presented by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 829

(Ordered to be printed and to lie on the table.)

Mr. TOWER (for himself, Mr. JOHNSTON, Mr. DOMENICI, and Mr. HELMS) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 830

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 831

(Ordered to be printed and to lie on the table.)

Mr. STEVENSON submitted an amendment intended to be proposed by him to H.R. 3919, supra.

Mr. STEVENSON. Mr. President, I submit an amendment that would produce swift energy conservation and signal U.S. determination to act on the energy crisis.

This amendment would impose a 50-cent per gallon Federal excise tax on gasoline. Commercial, including agricultural, users of gasoline would be exempt from the tax. It would not apply to diesel fuel because of problems posed by the interchangeability of distillates. This amendment would produce substantial revenues without imposing a drag on the economy, and it would save substantial amounts of petroleum. Because of its exemption for commercial uses of gasoline, it would add little to the cost of producing goods and services. Its long-term implications are both deflationary and expansionary.

The Congressional Budget Office estimates that this tax would produce $39.6 billion in revenues in 1980 and similar amounts in succeeding years.

Mr. President, the revenues, produced by this amendment would be unencumbered by trust funds, reserve accounts, and similar mechanisms which preordain patterns of Federal spending. Two weeks ago today the Senate spoke clearly on this issue when it voted, 81 to 14, to adopt an amendment offered by the distinguished chairman of the Appropriations Committee, Senator MAGNUSON. His amendment eliminated the low-income energy assistance and transportation trust funds from the pending windfall profit tax legislation. By its action, the Senate decided that the future should not be presumed, that congressional authorizing and appropriating committees should not be precluded from adjusting priorities to changed circumstances. Inflexibly earmarking revenues for today's priorities prevents reasoned debate on tomorrow's choices.

Though my amendment does not earmark funds for particular purposes, many needs could be addressed by revenues from this 50-cent-per-gallon tax on gasoline. An obvious and important need is to help two groups that would be particularly affected by higher gasoline costs: the poor and residents of rural areas. These groups—one handicapped by poverty, the other by distance—will be forced to bear higher gasoline expenses in order to find or retain employment. But without such action as this they and all others will be compelled to pay higher energy prices and, with continued stagflation, a higher price for the Nation's economic decline and insecurity in an unstable, violent world. By the means I propose, the country will pay the tax into the Federal Treasury, not into Middle East coffers. By this measure, alternative energy sources could be financed, the trade deficit will be diminished, the dollar strengthened, inflation abated, and the national security will be enhanced by a significant reduction of our dependence on undependable foreign sources of energy.

This amendment would have an initial inflationary effect, for the most part nonrecurring. The President's Council of Economic Advisers has calculated that a 50-cent tax might add 2 or 3 percent directly to the Consumer Price Index, and another 1 or 2 percent indirectly. However, this analysis assumes that businesses and farms would be subject to the tax, and would pass forward resultant fuel-cost increases to consumers. Since this amendment exempts gasoline used for commercial purposes, the inflationary effects of the tax would be much smaller than those estimated by the council. This amendment adds nothing directly to the cost of producing goods and services. Indeed, by suppressing noncommercial demand for gasoline, it would act to soften the prices to commercial users, and assure the availability of their gasoline supplies.

The short-term inflationary results are limited to a one-time effect in the Consumer Price Index and a modest indirect effect caused by the CPI's effect on indexed wages. No precise calculations are possible. But some evidence, such as this, of decisive action at long last by the United States would have a stabilizing effect on prices. The dollar which took another beating yesterday would firm up, reducing the cost of all imports, which in turn would reduce domestic prices. The inflationary consequences of a declining dollar would be reversed by the immediate psychological impact upon a world which doubts our resolve—and by the effect of reduced oil imports on the balance of payments.

A judicious use of revenues generated by the tax would reverse any adverse effect of higher gasoline prices. These revenues could be used to reduce payroll taxes. They could be used to stimulate capital formation and improved productivity through tax cuts for business. They could be used for mass transit, the rehabilitation of railroads and for aid to States and localities. They could be used to finance relief for the poor and to increase energy supplies through production and conservation efforts. If the Congress did nothing, the budget would be in surplus. This tax would relieve the pressures on the Federal Reserve Board to pursue a harsh monetary policy which threatens recession.

Mr. President, the United States consumes over 17 million barrels of oil per day, of which about 8 million barrels are imported. We burn about 7 million barrels per day as gasoline, which exceeds that burned by all other non-Communist nations combined.

This amendment is no panacea, but it would produce an immediate and significant reduction in the consumption of gasoline.

The Congressional Budget Office conservatively estimates that this tax would immediately save 272,000 barrels of oil per day, an amount that is of critical importance in today's uncertain and unstable petroleum market. A tax could be constructed that would yield greater savings. But this amendment minimizes the inflationary and recessionary consequences of gas taxes and hits gasoline consumption where it is most wasteful, nonproductive and most sensitive to increases in gasoline prices. It produces substantial energy savings without damage to the economy. The Congressional Budget Office figures conservatively that the near-term price elasticity of gasoline used for primarily noncommercial, nonfarming purposes is −0.15. That is, for each percentage increase in the price of gasoline, noncommercial consumption of gasoline is estimated to decline by 0.15 percent. Commercial uses decline at substantially lower rates. I understand that administration projections assume a short-term price of elasticity of –0.2 percent for commercial and noncommercial uses, an assumption in line with findings compiled by the American Petroleum Institute. If the administration's assumption is correct, the tax I propose would conserve substantially more oil than the 272,000 barrels a day which I mentioned.

While price elasticity data differ, it is clear that this amendment would curtail wasteful burning of significant quantities of gasoline. Long-term savings would be more dramatic because increased gasoline costs would stimulate increased use of mass transportation, more rational residential patterns and accelerated development and use of fuel-efficient vehicles.

Finally, Mr. President, rationing is difficult and expensive to administer. This tax is not. This 50-cent per-gallon tax could be implemented almost immediately because it would be levied in largely the same manner as the 4-cent tax imposed by current law. Collection procedures would be the same, except that receipts from the 50-cent tax would be placed in general revenues. Farmers who burn gasoline for farming purposes would continue to enjoy a full exemption from gasoline excise taxes. Other commercial users would be exempt from the 50-cent tax, and this exemption would be provided in the same fashion now used to implement the farming exemption: initial payment of the tax followed by a dollar-for-dollar rebate. "Commercial uses," as defined in the amendment, would be uses that qualify as deductible business expenses for Federal income tax purposes. No deduction would be provided for payment of the 50-cent tax; the deductibility criterion would merely establish, in a tried and tested way, the perimeters of the commercial exemption.

Mr. President, the world watches as America procrastinates in the face of a darkening energy crisis. It is a world accustomed to paying much more for its gasoline than we do, and, it seems, a world more accustomed to confronting new rigors head-on. The French pay gasoline taxes of $1.69 per gallon, while the West Germans pay $1.15.

With an election approaching, this will not be a popular proposal with elected officials. But they may underestimate the intelligence of the people. I sense, Mr. President, that the public is impatient with a Government that fails to act even in the face of clear and present danger. And there is no action it could take that would have a more decisive effect on the energy crisis than that which I have proposed.

AMENDMENTS NOS. 832 AND 833

(Ordered to be printed and to lie on the table.)

Mr. BRADLEY submitted two amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 834 THROUGH 836

(Ordered to be printed and to lie on the table.)

Mr. BRADLEY (for himself, Mr. Bumpers, Mr. Robert C. Byrd, Mr. Stewart, and Mr. Ribicoff) submitted three amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 837

(Ordered to be printed and to lie on the table.)

Mr. MAGNUSON (for himself, Mr. Young, Mr. Muskie, Mr. Proxmire, Mr. Garn, Mr. Stennis, Mr. Stevens, Mr. Cannon, Mr. Hatfield, Mr. Chiles, Mr. Schweiker, Mr. Hollings, Mr. McClure, Mr. Inouye, Mr. Weicker, Mr. Sasser, Mr. Laxalt, Mr. Burdick, Mr. Schmitt, Mr. Leahy, Mr. Domenici, Mr. DeConcini, Mr. Armstrong, Mr. Durkin, Mrs. Kassebaum, Mr. Exon, Mr. Boschwitz, Mr. Hart, Mr. Cochran, Mr. Pryor, Mr. Bayh, Mr. Hayakawa, Mr. Eagleton, Mr. Bumpers, Mr. Humphrey, Mr. Morgan, Mr. McGovern, Mr. Kennedy, Mr. Biden, and Mr. Percy) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 838

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself, Mr. Leahy, Mr. Stafford, Mr. Cohen, Mr. Tsongas, Mr. Nelson, and Mr. Dole) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENTS NOS. 839 THROUGH 841

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself, Mr. Leahy, Mr. Stafford, Mr. Cohen, Mr. Tsongas, and Mr. Nelson) submitted three amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENTS NOS. 842 AND 843

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself, Mr. Stafford, and Mr. Hatfield) submitted two amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

HYDRO REPAIR ALLOWANCE

● Mr. DURKIN. Mr. President, today I am submitting an amendment to H.R. 3919, the Windfall Profit Tax Act, to increase the annual repair allowance in the tax code for small-scale hydroelectric property.

I want to thank my colleagues, Senators Hatfield and Stafford for joining me as cosponsors.

The amendment I propose will increase the repair allowance for small hydroelectric facilities to 5 percent. This increase will put the repair allowance for small hydro property on par with the current allowance for other types of utility property, such as electric utility steam production plants. Since the majority of existing small dams suitable for producing electricity were built in the 19th and early 20th century require considerable maintenance and repair, it seems appropriate that these facilities should be given the same—if not higher—repair allowance of other utility properties.

Mr. President, the time is long overdue to bring small hydroelectric facilities back into service, especially in New England where we are at the expensive end of the energy pipeline. We must now stop relying on costly imported oil to take care of our future energy needs. In the rural areas of New Hampshire and New England—areas that have probably suffered the most at the hands of rising energy costs—there is a good mine of power freely flowing through our rivers and streams every day. We have an absolute responsibility to harness that power and bring it to the persons who need it the most.

I urge passage of this bill which will speed the development and repair of small-scale hydroelectric power.●

AMENDMENTS NOS. 844 THROUGH 847

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself, Mr. Stafford, and Mr. Hatfield) submitted four amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

HYDRO INVESTMENT TAX CREDIT

● Mr. DURKIN. Mr. President, I am submitting today an amendment to H.R. 3919, the Windfall Profit Tax Act, which would provide a 5-percent increase in the tax credit for small hydroelectric property.

I want to thank my colleagues, Senators Stafford and Hatfield for joining me as cosponsors.

The amendment I propose would increase the total tax credit available for small hydroelectric property from 20 percent to 25 percent. The increased tax credit will directly reduce the capital cost of repairing and reconstructing hydroelectric facilities, many of which were abandoned in New England earlier in this century. The tax credit, as the New Hampshire Energy Law Institute has indicated, will stimulate an increase in construction of small hydro facilities by 33 percent.

In talking about small-scale hydro electric power, the most important thing to bear in mind is that this is a technology of today. We are not talking about a power source for the next century. Hundreds of dams in New Hampshire, New England and across the Nation have the capability of reducing the absolute dependence we now have on imported oil to supply our energy needs. We have the technology of reducing this dependence almost immediately, not 10 or 20 years in the future.

Because of my belief in small-scale hydropower, I have long supported Federal initiatives to encourage development of this power source. As my colleagues are aware, two provisions which I authored for developing small-scale hydroelectric became law last year as part of the National Energy Act. One authorizes $30 million for feasibility studies on small damsites, and the other authorizes $300 million for a construction loan fund to build the hydro facilities.

Mr. President, I again come before the Senate to plead the case for small hydroelectric development. If my amendment is adopted, small-scale hydroelectric facilities will be more quickly developed, and the Nation's reliance on imported oil will decrease. I strongly urge passage of this amendment.●

AMENDMENTS NOS. 848 THROUGH 850

(Ordered to be printed and to lie on the table.)

Mr. DURKIN submitted three amendments intended to be proposed by him to H.R. 3919, supra.

WOOD FUEL CREDIT

● Mr. DURKIN. Mr. President, I am submitting today an amendment to H.R. 3919, the Windfall Profit Tax Act, which would provide a tax credit for residential users of wood fuel.

My amendment would afford the hardworking homeowner a 30-percent tax credit, up to $250, for the cost of wood fuel. The credit expires January 1, 1984, and applies to residential users of wood fuel.

Because of anticipated shortages of home heating oil this winter, the woods in my home State and throughout the Nation have been subject to heavy cutting. The price of cord wood has skyrocketed. Homeowners have been forced to pay outrageous prices, sometimes exceeding $150 a cord.

Over half of New Hampshire's homes use wood as an energy source. A large portion of those homes rely on wood to provide the primary source of their heating and cooking needs. Many of the individuals and families burning wood cannot afford the price increases in cord wood that they have witnessed in the last year. For these reasons, Mr. President, I urge that the Senate adopt my amendment.●

AMENDMENTS NOS. 851 AND 852

(Ordered to be printed and to lie on the table.)

Mr. DURKIN submitted two amendments intended to be proposed by him to H.R. 3919, supra.

SOLAR FUEL DEDUCTION

● Mr. DURKIN. Mr. President, I am submitting today an amendment to H.R. 3919, the Windfall Profit Tax Act, which would allow a "solar fuel tax deduction" for businesses converting to solar energy.

The amendment I propose would eliminate inequities in current tax law which discriminate against the use of solar energy by business. Under present law, any taxable business which burns fuel may deduct the cost of that fuel from its taxable income, thus lowering its tax liability. However, if the same business installs a solar system which displaces fuel, the business deduction for the value of the fuel is lost and the firm's tax liability is increased. Because solar energy is not eligible for this important tax deduction much of the financial incentive to use solar is negated.

A solar fuel deduction will enable firms using solar equipment to deduct from their taxable income an amount equal in dollar value to the fuel replaced by using solar. In short, businesses would be able to take fuel tax deductions for solar energy in the same way they now write-off the expense of conventional fuels.

If this amendment is adopted, it will be a tremendous boost to business. It will give businesses the economic incentive to convert to solar rather than continuing to use costly imported oil. One DOE report indicates that this tax deduction will result in saving the equivalent of 73 million barrels of oil per year in 1985, or at least $2 billion in imports.

At the same time, this tax deduction would stimulate the development of the solar industry, simply by giving it the same tax treatment that conventional energy sources now receive. Solar energy is clean, sane, renewable and nonpolluting. The time to develop it is now.

I urge passage of this amendment, which will hasten the development of solar energy and reduce our reliance on imported oil.●

AMENDMENTS NOS. 853 THROUGH 856

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself and Mr. STEWART) submitted four amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

WOOD GASIFICATION

● Mr. DURKIN. Mr. President, I am submitting today an amendment which would extend the alternative energy production credit to gas from biomass and wood which is produced and used on-site, and which is not sold during the taxable year.

I want to thank my colleague Senator STEWART, for joining me as cosponsor.

The amendment we propose would allow a tax credit for the domestic production of gas from wood. The credit would be nontaxable and nonrefundable. It would be equal to $3 for the production of an amount of energy equivalent to that contained in a barrel of crude oil. In other words, a $0.50 per million BTU credit would be allowed for the production of gas from wood. The Senate Finance Committee has already included a similar credit in H.R. 3919. However, the credit in the Finance Committee version only applies to "gaseous fuels or qualifying processed wood fuels produced from wood" which are sold during the taxable year.

In fact, for the most part, gas produced from wood will be produced and used on-site in the industrial sector. Because of the technological nature of wood gasification, rarely will it be the case that wood gas is stored, transported, or sold. As an arm of the Department of Energy, the Solar Energy Research Institute, has stated in a recent report, wood gas "while not suitable for pipeline distribution, can be used in retrofitting existing boilers now using oil or natural gas, as well as to drive engines for transportation or power generation." The DOE report went on to say that "we (DOE) recommend immediate commercialization" of wood gasification.

Our amendment alters the Finance Committee version so that the alternative energy production credit applies to these kinds of gasifiers. Our amendment does not, I believe, alter the intent of the Finance Committee. The amendment allows that wood gas which is used by the taxpayer in his trade or business shall be treated as being sold by the taxpayer. The amendment allows the same treatment for wood gas as which was allowed by the Finance Committee for "steam produced from solid agricultural byproducts." "Qualifying processed wood fuel," such as wood pellets, must still be sold in order to be eligible for the credit.

Mr. President, when the Senate Finance Committee expanded the 20 percent energy tax credit to apply to biomass property, it did not allow wood-biomass property to be eligible for the full 20 percent tax credit. The committee did not allow the full credit for wood energy property because, according to the committee, a production credit for this kind of property is already provided for in other parts of H.R. 3919. However, this kind of property is not eligible for the production credit. Certain wood energy equipment which is used on-site is not eligible for the production credit. This amendment would rectify this.●

AMENDMENT NOS. 857 AND 858

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself and Mr. STEWART) submitted two amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

WOOD FUEL AND FOREST MANAGEMENT

● Mr. DURKIN. Mr. President, today I am submitting an amendment to H.R. 3919, the Windfall Profit Tax Act, to provide tax incentives to increase the production of cord wood and wood products used for fuel.

I would like to thank my colleague, Senator STEWART for joining me as cosponsor.

My amendment provides incentives to increase the availability and decrease the price, of wood products and wood fuel. The amendment allows a 10 percent tax credit on the first $15,000 of "qualified wood energy expenditures," plus a 7-year amortization of such expenditures. "Qualified wood energy expenditures" eligible for the credit include wood fuel production, reforestation costs, and timber stand improvement investments.

The need for passage of this amendment is great. This Nation is moving into an era of both severe oil and timber shortages.

In my home State of New Hampshire, our predicament is particularly serious because we rely so heavily on the automobile for transportation and oil for heating our homes.

The energy situation in New Hampshire would be even graver were it not for the abundance of unused natural resources which have the potential of decreasing our dependence on costly imported foreign oil. Small-scale hydroelectric, wood, wind, and solar power all hold significant promise for making New Hampshire more energy independent. Of these energy sources, wood may hold the most promise.

New Hampshire is almost 90 percent forested, and the wood harvested from my home State on a sustained yield basis has the ability to save hundreds of millions of gallons of home heating oil.

Because of anticipated shortages of home heating oil this winter, the woods in my home State and throughout the Nation will be subjected to heavy cutting pressures. It is absolutely essential that we meet this demand for firewood with a sound program of forest management. It is also vital that we aid the small woodlot owner and wood distributor—who will play a pivotal role in keeping people warm in New Hampshire—in their business endeavors so that they will be able to harvest and deliver their product efficiently, reliably, and at a reasonable cost.

The beauty of wood energy use is that it can decrease our reliance on imported oil while actually increasing the availability and productivity of our forests. For this reason I strongly urge that my amendment be adopted.●

AMENDMENTS NOS. 859 THROUGH 862

(Ordered to be printed and to lie on the table.)

Mr. DURKIN (for himself and Mr. Stewart) submitted four amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

INDUSTRIAL WOOD ENERGY CREDIT

● Mr. DURKIN. Mr. President, I am submitting today an amendment to H.R. 3919, the Windfall Profit Tax Act, to provide a tax credit for industries investing in wood energy equipment.

I want to thank my colleague, Senator Stewart for joining me as cosponsor.

The amendment I propose would effectively increase the tax credit available to industrial wood energy property to 22 percent. The credit would be available to industries which invest in equipment to burn wood or a solid fuel derived from wood biomass.

The industrial sector now uses wood to displace about 700,000 barrels of oil daily, or almost 2 percent of this country's energy consumption. With the tax credit I propose, an even larger number of industries would convert to wood. Since industrial wood energy equipment typically requires two to three times more capital than conventional oil or gas burning systems, the tax credit is particularly needed.

Mr. President, I would like to read to you an excerpt from a recent Department of Energy report assessing the feasibility of industrial wood energy use. The report says:

> Restrictions on the future use of oil and gas prevent consideration of constructing new capacity industrial plants which are totally dependent on these fuels. Thus, wood-fired plants must be compared to coal-fired plants, with substantially higher capital costs for wood plants due primarily to the larger boilers required and the higher cost of preparation, storage, and handling of wood fuels. The possible higher perceived risk and higher capital cost of the wood-fired systems may increase the cost of debt financing or make it less readily available for industries.
>
> The same factors apply for gasification and cogeneration from wood rather than coal. In addition, for cogeneration the decision to purchase electricity rather than generate it is less likely unless the period to pay back on the incremental cost is relatively short.

The DOE report goes on to conclude:

> Financial incentives that reduce the in-house expenditure of capital are apt to be most effective. These include investment tax credits larger than that provided under the National Energy Act and accelerated depreciation schedules which permit a tax life of perhaps ten years.

In short, Mr. President, even the Department of Energy—never known for its aggressive support for alternative energy systems—has endorsed the concept for increasing the tax credits available for industrial wood energy systems.

For these reasons, Mr. President, I strongly urge my colleagues to support my amendment.●

AMENDMENTS NOS. 863 THROUGH 868

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted six amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 869

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 870

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG submitted an amendment intended to be proposed by him to amendment No. 869 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 871 THROUGH 876

(Ordered to be printed and to lie on the table.)

Mr. HART submitted six amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 877

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted an amendment intended to be proposed by him to amendment No. 767 intended to be proposed to H.R. 3919, supra.

AMENDMENT NO. 878

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted an amendment intended to be proposed by him to amendment No. 776 intended to be proposed to H.R. 3919, supra.

AMENDMENT NO. 879

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 880 AND 881

(Ordered to be printed and to lie on the table.)

Mr. BAUCUS (for himself, Mr. Hart, Mr. Glenn, Mr. Ribicoff, Mr. McGovern, Mr. Bentsen, Mr. Simpson, Mr. Chafee, and Mr. Laxalt) submitted two amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENTS NOS. 882 AND 883

(Ordered to be printed and to lie on the table.)

Mr. BAUCUS (for himself, Mr. Hart, Mr. Glenn, Mr. Ribicoff, Mr. McGovern, Mr. Bentsen, Mr. Simpson, Mr. Chafee, and Mr. Laxalt) submitted two amendments intended to be proposed by them, jointly, to an amendment intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 884 AND 885

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted two amendments intended to be proposed by him to amendment No. 735 intended to be proposed to H.R. 3919, supra.

AMENDMENT NO. 886

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted an amendment intended to be proposed by him to amendment No. 836 intended to be proposed to H.R. 3919, supra.

AMENDMENT NO. 887

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted an amendment intended to be proposed by him to amendment No. 735 intended to be proposed to H.R. 3919, supra.

AMENDMENT NO. 888

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 889 AND 890

(Ordered to be printed and to lie on the table.)

Mr. EXON (for himself, Mr. Dole, Mr. Bayh, Mr. Packwood, Mr. Talmadge, Mr. Percy, Mr. Church, Mr. McGovern, Mr. Stewart, Mr. Baucus, Mr. Nelson, Mr. McClure, and Mr. Morgan) submitted two amendments intended to be proposed by them, jointly, to amendment No. 837 intended to be proposed to H.R. 3919, supra.

AMENDMENT NO. 891

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG submitted an amendment intended to be proposed by him to amendment No. 591 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 892 AND 893

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN (for himself, Mr. Bradley, Mr. Leahy, Mr. Nelson, Mr. Ribicoff, and Mr. Stewart) submitted two amendments intended to be proposed by them, jointly, to amendment No. 776 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 894 AND 895

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN (for himself, Mr. Bradley, Mr. Leahy, Mr. Nelson, Mr. Ribicoff, and Mr. Stewart) submitted an amendment intended to be proposed by them, jointly, to an amendment intended to be proposed to H.R. 3919.

AMENDMENT NO. 896

(Ordered to be printed and to lie on the table.)

Mr. MOYNIHAN (for himself, Mr. Leahy, Mr. Nelson, and Mr. Ribicoff) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENTS NOS. 901 AND 902

(Ordered to be printed and to lie on the table.)

Mr. JAVITS submitted two amendments intended to be proposed by him to H.R. 3919, supra.

AIRPORT AND AIRWAY SYSTEM DEVELOPMENT ACT OF 1979—S. 1648

AMENDMENT NO. 897

(Ordered to be printed and to lie on the table.)

Mr. SASSER (for himself, Mr. Javits, Mr. Moynihan, Mr. Tsongas, Mr. Boren, Mr. Williams, Mr. Hatch, Mr. Bradley, Mr. Levin, and Mr. Baker) submitted an amendment intended to be proposed by them, jointly, to S. 1648, a bill to provide for the improvement of the Nation's airport and airway system, and for other purposes.

U.S. INTERNATIONAL TRADE COMMISSION AND U.S. CUSTOMS SERVICE AUTHORIZATIONS, 1980—S. 1132

AMENDMENT NO. 898

(Ordered to be printed and to lie on the table.)

Mr. DeCONCINI (for himself, Mr. Nunn, Mr. Chiles, Mr. Schmitt, and Mr. Domenici) submitted an amendment intended to be proposed by them, jointly, to S. 1132, a bill to authorize appropriations for the U.S. International Trade Commission and the U.S. Customs Service, and for other purposes.

ADJUSTMENT ASSISTANCE FOR WORKERS AND FIRMS—H.R. 1543

AMENDMENT NO. 899

(Ordered to be printed and to lie on the table.)

Mr. DeCONCINI (for himself, Mr. Nunn, Mr. Chiles, Mr. Schmitt, and Mr. Domenici) submitted an amendment intended to be proposed by them, jointly, to H.R. 1543, an act to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974.

MEAT IMPORT ACT OF 1979—H.R. 2727

AMENDMENT NO. 900

(Ordered to be printed and to lie on the table.)

Mr. DeCONCINI (for himself, Mr. Nunn, Mr. Chiles, Mr. Schmitt, and Mr. Domenici) submitted an amendment intended to be proposed by them, jointly, to H.R. 2727, an act to modify the method of establishing quotas on the importation of certain meat, to include within such quotas certain meat products, and for other purposes.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Committee on Energy and Natural Resources on the nomination of Mr. Thomas E. Stelson to be Assistant Secretary for Energy Conservation and Solar Applications of the Department of Energy.

The hearing is scheduled for Monday, December 17, 1979, beginning at 9 a.m. in room 3110 of the Dirksen Senate Office Building.

Those wishing to testify or who wish to submit a written statement for the hearing record should write to the Committee on Energy and Natural Resources, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510. For further information regarding the hearing you may wish to contact Jessie Mackenzie of the committee staff on extension 47147.●

SUBCOMMITTEE ON RURAL HOUSING AND DEVELOPMENT

● Mr. MORGAN. Mr. President, I wish to announce that the Subcommittee on Rural Housing and Development of the Committee on Banking, Housing, and Urban Affairs has scheduled a hearing concerning energy conservation, rural housing, and the use of urea-formaldehyde foamed-in-place insulation.

The hearing will be held on Wednesday, December 19, 1979, beginning at 10 a.m. in room 5302 Dirksen Senate Office Building.

Anyone wishing further information should contact Mr. Robert Malakoff of the subcommittee staff at 224-7391.●

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on Thursday, December 13, 1979, to receive from Secretary of Defense Harold Brown, a preview briefing on highlights of the overall military budget proposal for the 5-year period beginning fiscal year 1981.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

AMERICA MOVES TO OUST KHOMEINI

● Mr. STEVENSON. Mr. President, Tad Szulc has written an article which was published in the December 10, 1979, issue of New York magazine on the significance of the disorders in the Islamic world.

The article is well worth the attention of the Members, and so, Mr. President, I ask that it be printed in the Record.

The article follows:

[From the New York magazine, Dec. 10, 1979]

America Moves To Oust Khomeini

(By Tad Szulc)

"What you must comprehend is that Ayatollah Khomeini is going for broke."

The man speaking was an experienced Western European diplomat based in Washington, concerned, as are so many in the international community, that Iran's religious leader has simply become a clear danger to world peace and the world economy. "You must see the historical dimension of what is occurring," he continued. "Khomeini is determined to push for the fullest confrontation possible. He wants to push President Carter into military action—he is baiting him. He wants to draw everybody, Islam and the infidel West, into a bloody battle. He is a fanatic, but he has coldly thought out his moves. He is playing on anti-American and anti-Western sentiment in the Arab world and everywhere in the Third World. He thinks that time is on his side, that the Third World is with him, and he's not afraid of a bloodbath. This is Carter's terrible dilemma."

The acceptance of this view has only come recently to the Carter administration. Indeed, it actually followed Khomeini's threat to try the 49 hostages held in Tehran, the attack on the Great Mosque in Mecca, and the anti-American rioting—inspired by the ayatollah—which ensued in Pakistan. But even before these occurrences, the administration had concluded that Khomeini was a "cancer," as one official put it, to be removed before it spread. It was at that point, around November 18, just two weeks after the embassy seige began, that the Carter administration began studying a mix of possible military action and CIA-managed subversion to remove the ayatollah from power by any means possible. Indeed, the U.S. government concluded that removing Khomeini was in the national interest.

Although senior administration officials would not publicly discuss the likelihood of direct application of United States power, overt and covert, toward the ouster of the ayatollah and his regime—particularly while the hostages were still in danger—top-priority studies are now under way in the National Security Council, the Central Intelligence Agency, the Pentagon, and other government organs. Indeed, it was only concern for the hostages that prompted the president to veto a secret plan to drop weapons and possible American agents into the oil fields of Khuzistan, where Iranian Arabs are strongly opposed to the ayatollah.

The American hope in removing the ayatollah is that he can be replaced by a more moderate leadership, perhaps one including former Prime Minister Mehdi Barzargan and military commanders not tainted by close relations with the former shah. The U.S. government thinks that a favorable climate for Khomeini's removal might be created in time—despite his popular support—if Iran falls into further internal chaos.

Yet the view that the ayatollah "must go" does not stem from a desire to punish him for the capture of the embassy in Tehran—and the threat to try the hostages still under detention on espionage charges. The concern over Khomeini's continuation in power goes much deeper in terms of fundamental American strategic considerations in the Middle East: Iran under the ayatollah's sway is seen as a formidable threat to the stability of the whole region. What the seizure of the embassay and its aftermath accomplished was to convince the administration beyond any doubt that normal dealings with Khomeini were no longer possible and that, therefore, drastic steps were justified to hasten his departure from power.

"The eighties will be the crucible of intense crisis for the United States," a respected diplomat said last week. "You Americans are the target. And no matter what happens, the Middle East and the world won't ever be the same again. A historical line has been crossed, and you lack power to draw new lines."

In recent private discussions, several senior adminstration officials have recognized that the United States may have been inexorably damaged by Khomeini's politics and posturing. Indeed, the Iranian crisis has precipitated the sudden unraveling of the basic American relationships in what has been called the "arc of crisis," the immense Islamic swath of the world extending from North Africa to Pakistan and possibly to Indonesia and the Philippines.

The process of unraveling, in turn, now threatens to undermine and destroy the policies and relations painstakingly built by the United States in the Middle East and in the Third World generally. It touches on the menace of a partial or complete cutoff of oil to the United States (notably if there is military intervention in Iran), on Arab-Israeli peace prospects, and on continued American influence in Middle East politics.

While Khomeini's Iran was the flash point of this crisis of "historical proportions," senior administration analysts now acknowledge that the explosion might have occurred elsewhere sooner or later. Ruthless and reckless as the old ayatollah's challenge to the established world order has been, it nevertheless symbolizes the essential conflict between the North and South, between the affluent, industrialized West and destitute Third World, between producers and consumers of raw materials, and between two sets of cultural values separated by a vast chasm. The explosion was perhaps inevitable, though America never really believed it. And, in the case of Iran, it was enormously aggravated by religious fanaticism so dexterously exploited by the ayatollah and by the oil weapon he wields.

It is now evident that the Carter administration—and the West—misunderstood and underestimated the true meaning of the student takeover of the Tehran embassy, its origins, and its consequences. This presumably explains policy errors committed before and after the occupation of the American compound. The first miscalculation was clearly the decision to admit the shah for medical treatment in the United States, humanitarian as the motives may have been. To say this is not simply hindsight: Classified messages between the State Department and the embassy in Tehran, found and publicized by the Islamic students, show that the administration was fully aware that the shah's entry into the United States might well trigger violent adverse actions by the Iranians. But it is equally clear that the administration had minimized the inherent dangers, and, above all, failed to place them in the historical context of the runaway Iranian religious revolution.

Once the embassy was seized, the administration committed a second error stemming from the original misjudgment. It thought that the situation was negotiable through diplomatic channels, and that, with patience, it would be resolved. This led President Carter to decide from the very outset to rule out military action in Iran, a decision which subsequent and inevitable events in Iran forced him to reconsider sixteen days later, when it finally dawned on the administration—after Khomeini threatened to try the embassy hostages for espionage—that the conflict with the ayatollah transcended the fate of the shah. As a Washington intelligence expert remarked privately that week, "You must never rule out anything, because you don't know what is going to happen next."

Though there is general approval in Washington of Carter's handling of the crisis—his coolness and prudence—the view was developing among many administration officials and foreign diplomats that the White House did not fully understand the situation until quite late in the crisis. Khomeini's rejection of mediatory attempts by the Palestine Liberation Organization, despite his closeness to the PLO, and by Pope John Paul II, a fellow religious leader, should have convinced the administration that the ayatollah was—and would remain—totally uncompromising. There was no reason to believe that wildly punitive actions such as the ban on imports of Iranian oil and the freezing of official Iranian assets in the United States and in U.S. banks abroad, required as they evidently were to satisfying American public opinion, would sway Khomeini.

Overall, the growing conviction in Washington is that Khomeini's attitude and the ongoing confrontation with Iran have already wrought irreparable damage to the United States in the Middle East, and that it will worsen progressively.

Thus administration analysts see the Middle East already greatly destabilized. The attack on the mosque in Mecca has visibly shaken Saudi Arabia, creating new fears of moves by Muslim fundamentalists and other radicals of the left or the right. These fears in a country with a large foreign work force, including Palestinians and Pakistanis, may be affecting the Saudis' oil and foreign policies. Whereas the Saudis had raised their production by a million barrels a day, over 10 percent, to make up for the post-revolutionary shortfall in the Iranian output, Treasury Secretary G. William Miller, visiting Saudi Arabia late last month, was unable to obtain assurances that the high production level will be maintained.

The Saudis, according to some Washington officials, may not wish to appear to their own population or fellow Muslims, regardless of sect, to be excessively pro-American. A reduction by the Saudis may be imitated by other Persian Gulf and Arab producers, who are inclined, in any event, toward conservation for political reasons. Most of them disapprove of the ayatollah, but, given rising internal pressures, they may be wary of antagonizing him. Khomeini has already urged them to withhold oil from the United States, and, analysts say, there are signs that the Middle East understands the "historical dimensions" he has unveiled.

A reduction, let alone a suspension, of Middle Eastern oil production would have catastrophic consequences for the United States, which imports one half of its petroleum consumption, and for Western Europe and Japan—particularly with the onset of winter It could throw their economies into a tailspin.

Built into Middle Eastern oil strategies are other political considerations as well. These add to new dangers in the stalemate in the negotiations between Egypt and Israel over the ultimate fate of the West Bank and Gaza. Saudi Arabia is opposed to the Egyptian-Israeli peace treaty, and it has been hinting it will use the "oil weapon" if Israel fails to make basic concessions to the Palestinians.

In the context of a generalized Middle Eastern turmoil resulting from the Iranian crisis, the Palestinian deadlock may force the Saudis' hand. Iraq, a radical Arab state, has again been urging the application of this "oil weapon" against the United States if Israel remains intransigent. Thus far the Iraqis have failed, but the situation could well change overnight. To persuade Israel to return oil fields in the Sinai to Egypt under peace-treaty provisions, as the Israelis did late in November, the United States had committed itself to provide it with alternate petroleum at tolerable prices. But this could become impossible, reopening the full question of the peace treaty.

Likewise, Washington analysts say the United States can no longer under-estimate Khomeini's impact on Islamic countries. Pakistan has apologized for the burning of the Islamabad embassy, but, at the same time, it has warned the United States against the use of force in Iran. The Pakistan military regime, dominated by Islamic fundamentalists and facing serious internal stresses, is portrayed as being torn between old loyalties to the United States and new loyalties to Khomeini. In a crunch it would certainly turn against America.

Intense anti-American sentiment growing in the Middle East could also be reflected in a variety of political reactions, threatening United States interests Khomeini may capitalize on it to expand his influence and to sway Bahrain, a Persian Gulf state, which has been traditionally pro-American but where the ayatollah's Shiite followers are strong. Existing contingency plans in Washington call for assistance to Bahrain, but American resources are limited if the Khomeini "cancer" spreads in the area.

Unrest in the Middle East is seen as carrying a long-term threat to the survival of President Anwar el-Sadat in Egypt. He has been isolated by all his fellow Arabs, and the increasingly powerful PLO is working in tandem with Khomeini, who has called for Sadat's ouster In the volatility of Egyptian politics, American analysts say, no "worst case" situation can be ruled out at this point.

Rightly or wrongly, the United States recently decided to supply weapons to Morocco, a friendly state, in its war with the Algerian-supported Polisario guerrillas in the former Spanish Sahara. The Sahara conflict is growing in scope, creating serious instability in North Africa. The Carter administration's decision to support Morocco may embroil it in tensions with Algeria as well as Libya, a fundamentalist Islamic country, which is being heavily armed by the Soviet Union with the most modern equipment. Both Algeria and Libya are important oil producers, and they may react to the arming of Morocco with the denial of petroleum to the United States. Washington regards the survival of the moderate Moroccan monarchy as vital to its interest, and it fears that the loss of the Sahara war could cause the fall of King Hassan. Thus the United States faces another dilemma in the Islamic "arc of crisis."

The position of Middle Eastern oil producers in terms of supply and price is expected to be clarified to some extent at the ministerial conference of the Organization of Petroleum Exporting Countries—OPEC—opening in Caracas, Venezuela, on December 17. With the world oil markets already in considerable chaos, the expectation is that OPEC will decide to encourage curtailment of production, allegedly for conservation reasons, while raising the prices by at least 10 percent. In the present climate, the United States is powerless to stop these trends. As one diplomat remarked, Khomeini's influence will hover over Caracas like "Banquo's ghost."

November 1979 is thus likely to be remembered as a time fitting Sir Winston Churchill's concept of the "hinge of fate," an extraordinary historical turning point. Such moments of truth occur rarely: The Second World War and its multifarious consequences, changing the face of the globe, was the last comparable moment of this kind. And 40 years from the start of that war, the world seems to be in for another radical face-lift. Even if the administration succeeds in removing the ayatollah, the events he has set in motion may only be forestalled, not arrested. Indeed, considering the problems created for America through destabilizing regimes elsewhere, the removal of the ayatollah could portend unforeseen difficulties: Some experts feel the Soviet Union could be the ultimate beneficiary of a change of regime. But no matter how the Iranian crisis itself is resolved, the conclusion in Washington is that not Iran, nor the Persian Gulf, nor the Middle East, nor much of the Third World will ever be the same again.●

IRAN

● Mr. YOUNG. Mr. President, recently there has been deep concern and anger expressed by the people of the United States, and especially of the Congress, concerning the deplorable, illegal, and unprecedented holding hostage of our Embassy staff in Iran.

It is most encouraging to note in the Fargo, N. Dak., Forum an editorial expressing deep appreciation to the Canadian Government for the strong and aggressive support they are giving us in our tragic situation in Tehran. This is an act on the part of the Canadian Government that the people of the United States will never forget.

Mr. President, I ask that this editorial be printed in the Record as part of my remarks.

The editorial follows:

[From the Fargo (N. Dak.) Forum, Dec. 11, 1979]

Canada Has Taken Steps To Help U.S. in Crisis Over Hostages in Iran

The holding of U.S. hostages in Iran is such a deplorable act that it would seem to be almost devoid of positive effects, or "silver linings."

But there have been some good results, tentatively counted as the country suffers through anxiety until the hoped-for release of the hostages.

We have experienced a new unity in this country as people join in backing every step taken to pressure Iran into a settlement that will permit the embassy staff to come home.

Internationally, the U.S. has received support, grudging though it may be from some quarters, in its protest of the violations of international law by the Iranians. Even Russia voted for the United Nations Security Council resolution calling for an end to the crisis through the release of the hostages.

We have not heard much about it, but our neighbor to the north, Canada, has gone to bat for the U.S. with the vigor which neighbors often display in time of need. The Canadian embassy in Iran moved into early leadership in bringing together other countries represented in Iran for a united protest. In one case, the Canadian embassy aided some 60 Americans in their departure from Iran.

Besides protesting directly to Iran the seizure and imprisonment of the hostages, Canada moved quickly to maximize diplomatic pressure on the Iranian government. On Nov. 27, the Canadian secretary of state for external affairs urged French-speaking countries with which Canada is associated, including many African countries, to call on the Iranians publicly to free the hostages. The same day, as a result of a Canadian initiative, representatives of the 42-member Commonwealth of Nations meeting in London, overwhelmingly adopted a statement describing the taking of hostages as a violation of international law.

On Dec. 1, Prime Minister Joe Clark announced that representatives of the Canadian government had met informally with representatives of Cuba to seek that country's intercession and that Canada was encouraging Czechoslovakia and the Soviet Union to join in condemning the taking of hostages.

Last week, Clark said Canada would be prepared to consider, in concert with other nations, the possibility of making available to the U.S. some additional oil supplies to offset the loss of Iranian oil and also to consider the possibility of ending Canada's reliance on importation of Iranian oil.

Canadian and American interests do not always coincide (the best of neighbors have their disagreements), but in time of deep trouble, there is a bond between the two countries that has the quality of transcendence.●

EDISON REVISITED AND REVIVED

● Mr. DOLE. Mr. President, a centennial celebration of Thomas A. Edison's invention of the electric light was recently observed at the Patent and Trademark Office in Arlington, Va. This is an anniversary that did not receive much media attention or hoopla. It was, rather, an occasion to remember, an event of real contribution and historical significance.

The Honorable Howard T. Markey, Chief Judge of the Court of Customs and Patent Appeals of the United States, spoke in eloquent terms about Edison, modern America, and his hopes for the future. Judge Markey displays a good deal of insight about the problems we face today as Americans and as participants in a world society.

Mr. President, I ask that the judge's remarks be printed in the Record.

The remarks follow:

Edison Revisited and Revived

It would be great if we could actually revisit Edison; if we could stand beside him and watch him thinking and working; if we could walk with him down the many long paths strewn with failures and disappointments; if we could share with him the joy and excitement when finally those paths led to success. Though Edison made well over 1,000 inventions and patented most of them, we celebrate today his achievement as the first man who truly saw "light at the end of the tunnel."

Though forced to view Edison through History's eye, it is more important that we do so today than ever in our history. As Mr. Lincoln told us, we cannot know where we are going if we know not where we have been. And never before have the American people known less of where we are going. Grist for the doomsayers' mill is all about us. Our growth rate of productivity is virtually zero, producing a potentially fatal inflation. Problems of energy, pollution, and population stare us in the face, while cries of modern Luddites against all technology fill our ears. We seem to have forgotten the great lesson Edison taught us—that technology is man's servant—to be kept in hand, yes, but never to be killed.

I will never understand how it is that a man will ride in a jet airplane at 600 miles per hour at 35 thousand feet in perfect pressurized comfort to reach a college where he lectures for an hour on the evils of all technology and we pay him for it.

If we are to revisit Edison, we should do so for a purpose beyond nostalgia. That purpose must be to see what might be done to revive Edison, to open doors now slammed against today's "Edisons". For unless we find and encourage new Edisons, who can be sanguine about man's future on this planet of expanding population and finite resources? When whale oil grew scarce Edison invented the electric light. Now, when we are paying over $60 million a day for imported oil, where, oh where, is our Edison of the 80's?

We cannot, of course, recreate Edison's world of a century ago in its entirety. But wisdom consists in extracting the good from the new and the old. We would not want much of Edison's world. Political corruption and market manipulation were rampant and widespread beyond anything we have seen in our day. Disease and desperation characterized the lives of most working people. Crime, violence, and working children characterized our factories. Manual labor farms struggled to feed a growing population.

Edison changed all that. His communications inventions vastly reduced the opportunity for political corruption and market manipulation. His electrical inventions were the foundation for radio, movies, television, automation, atomics, and electronics, all of which have served to lift the lives of millions of workers beyond a mere effort to survive, and have helped turn farming from a back-breaking struggle into a success story.

Yes, Edison, and others who built on his inventions, have given us solutions to a myriad of problems faced by our progenitors. But the game is not over! It isn't even half-time! This whole country is not even four times my age! There are new and wonderful worlds to conquer. And conquer we must. And conquer we can.

To do that, we need to revive Edison by reviving not his world but the things of his world that produced him. We must return our tax and judicial and regulatory environment to one of encouragement for inventors and investment. Above all, we must revive the hope, the curiosity, the faith in man and his future, the optimism, and, especially, the incentives.

We must turn the same deaf ear to our doomsayers that Edison literally turned to his. We must encourage our dreamers and ignore our cry-babies. We must, like Edison. view every failure as something learned. We must begin to view inventors once again, not as naughty "monopolists" but as the benefactors they are, and as more valuable to our children than sports stars and movie actors. We must, in essence, once again make dreaming and hoping popular. For all progress comes from hopes and dreams, and great hopes and great dreams are the uniforms of heroes.

If we do that, then 100 years from now our children's children will hold a gathering like this. They will be celebrating the 200th anniversary of Edison's light—and they will be celebrating our Edisons who gave them the cure for cancer; who gave them total elimination of hunger from the world; who gave them abundant new forms of energy; who gave them a pollution-free productive planet; who gave them a world no longer needing to fight over food or riches; who gave them a world, finally, at peace.●

AMERICA: WORLD'S NO. 1 SPY TARGET

● Mr. HUMPHREY. Mr. President, for some time I have been concerned by reports of increased intelligence activities by foreign agents in this country. U.S. News & World Report recently published an article on this important subject and I request that this report be printed in the Record.

The article entitled "America: World's No. 1 Spy Target" outlines succinctly the breadth and depth of foreign espionage activities in the United States. Particularly shocking is the report's claim that a phenomenal growth has been detected in the cadre of Russian KGB officers residing in the United States. More than 500 have been identified at official missions in Washington, D.C., New York, and San Francisco, twice the figure of 10 years ago. Equally disturbing is the FBI's confession that it cannot possibly monitor all 65,000 Soviet bloc nationals entering the country each year. According to FBI Director William Webster, the exact number of spies hidden in this group is unknown but in Webster's words: "You may be sure the number is greater than the number of (FBI agents) assigned to foreign counterintelligence efforts."

Mr. President, the U.S. News & World Report article raises a variety of very disturbing questions about foreign intelligence networks in this country. To what extent, for example, has détente facilitated foreign espionage activities by the Soviet Union and its East European allies? What handicaps are imposed on U.S. counterintelligence activities and how can we square the basic need to protect our own civil rights with the need to meet the threat posed by the influx of foreign spies into this country? Finally, to what extent have the revelations about our intelligence agencies over the last several years impacted on our ability to cope with this problem? I urge my distinguished colleagues to read this article and give serious thought to constructive measures for revitalizing our intelligence community.

The report follows:

AMERICA: WORLD'S NO. 1 SPY TARGET

An army of foreign agents, engaged in clandestine operation on an unparalleled scale, has turned the U.S. into the world's prime target of international spying.

U.S. counterintelligence officials face not only a wide-ranging espionage offensive by the Soviet Union and other unfriendly powers, but embarrassing and at times lethal spying operations by friendly nations and even allies.

Sensitive political considerations and the sheer numbers of foreign agents pose growing challenges for an American intelligence community still grappling to regain its own equilibrium after four years of scandal and controversy.

Accentuated by a rash of recent incidents involving the Soviet KGB, the espionage threat from hostile governments is today being compounded by a stepped-up assault on American secrets by China, Vietnam and Eastern Europe.

"Never," says an authoritative intelligence source, "have we had foreign operatives coming into this country in such numbers. It's a totally new phenomenon."

The principal target of agents from Communist nations has been classified information of a political nature. But the emphasis lately has shifted to secrets of the U.S. military-scientific establishment—especially its increasingly sophisticated satellite technology and communications systems.

In a major espionage coup, Moscow obtained a classified manual exposing details of the top-secret KH-11 reconnaissance satellite last year from William P. Kampiles, a low-level watch officer at the Central Intelligence Agency headquarters in Langley, Va. In an earlier episode, the KGB successfully penetrated TRW Systems Group, Inc., a California defense contractor, obtaining secrets involving U.S. communications processes. Christopher John Boyce, a former TRW employe and associate Andrew Daulton Lee both were convicted of working with the Russians.

INDUSTRIAL SECRETS—HIGH-PRIORITY TARGETS

Soviet-bloc agents are also concentrating increasingly on the theft of industrial secrets. Recent advances in computers, lasers, microelectronics and production techniques—areas where Communist economies lag far behind the West—are particularly valuable.

In one recent case, an American worker was offered $200,000 by a Rumanian intelligence officer anxious to obtain a company's plans for a patented glassmaking process. An Eastern European defector has told the Federal Bureau of Investigation that his espionage agency devoted an entire year to the theft of codes used to gain access to a sophisticated computer "brain" in the United States. American intelligence officers also know of KGB efforts to find firms near bankruptcy that could be recruited into spy work.

There is mounting evidence, too, that even some of this country's closest friends have not been above the practice of espionage, intimidation and assassination while operating with a virtually free hand in the United States. The most recent example: Allegations that Israel spied on former U.N. Ambassador Andrew Young's meeting with a Palestine Liberation Organization envoy.

Such developments have ignited a controversy within the government over how best to combat the threat of foreign espionage. Moreover, the growing dangers of clandestine efforts directed from abroad are beginning to overshadow Washington's fears of giving this country's own intelligence agencies too much power. A drive to impose tight legal restraints on the FBI and CIA is running out of steam.

What is causing the greatest concern among officials is an undeniable rise in what the FBI considers the most serious spy activity in the U.S. that of the Russian KGB network and its Eastern European surrogates.

A phenomenal growth has been detected in the cadre of Russia's KGB officers residing in the United States. More than 500 have been identified at official missions in Washington, D.C., New York and San Francisco, twice the figure of 10 years ago.

Even that is only part of the picture. The FBI says that it cannot possibly monitor all 65,000 Soviet-bloc nationals entering the country each year. The exact number of spies hidden in the group is unknown, but Director William H. Webster has claimed: "You may be sure the number is greater than the number of [FBI agents] assigned to foreign counterintelligence work."

HOW DETENTE PROMOTES ESPIONAGE

A prime reason for the influx of spies is the thaw in relations with Moscow during the past decade. From only 800 officials based in the U.S. in 1966, the Eastern-bloc presence has mushroomed to more than 1,900, ostensibly to staff an expanded diplomatic and trade effort. About 40 percent are considered full-time espionage operatives.

About 20,000 Soviet sailors come ashore each year as a consequence of the opening of 40 U.S. ports to Eastern-bloc merchant vessels in 1972. More than 30,000 Russian scientists and other visitors entered the U.S. in official delegations last year—with the KGB believed to be heavily represented. As one U.S. expert put it: "Détente does not serve the purposes of American intelligence agencies."

A claim by Arkady N. Shevchenko, Moscow's top U.N. diplomat who defected to the U.S. last year, that half of Russia's 300-member delegation at the U.N. are spies came as no surprise to American counterintelligence. Soviet officials prowl the halls of the world forum, avidly picking up bulletins, reports and political gossip.

In 1978 Valdik A. Enger and Rudolf P. Chernyayev, both Soviet U.N. employees, were convicted of espionage. A third official, Vladimir P. Zinyakin, was forced to leave the U.S. in the same affair. A year earlier, Yevgeny P. Karpov was recalled from his U.N. post after Ivan Rogalsky, a Soviet citizen who had been residing in the U.S., was arrested for spying.

Sarkis O. Paskalian, another emigré living in New York, confessed in 1975 to obtaining a classified Pentagon report for the KGB. Named as coconspirators were three Soviet U.N. officials, who subsequently left the country.

Capitol Hill is now another high-priority open target for foreign agents. Suspected KGB officers, posing as diplomats or journalists, routinely visit congressional offices, attend public hearings and solicit reports—especially those dealing with military hardware and planning. In the recent controversy over a Russian brigade near Havana, the Russians asked numerous questions about Cuba. Congress was deluged with KGB agents late last year when political normalization with China was in the wind.

A major reason for increasing Soviet-bloc spying activity on Capitol Hill: The rise in classified information handled by congressional committees. Selected panels, such as the Senate Foreign Relations Committee, receive copies of the CIA's national-intelligence digest that is prepared for the President. At least one listening device, a remote-controlled microphone, was discovered in a hearing room that is regularly used for closed-door meetings.

Experts view physical security as secondary to the recruitment of staffers on Capitol Hill. At least three serious efforts are known to American counterintelligence.

Perhaps the most bizarre case involved James Frederick Sattler, a U.S. citizen who sought a staff position with the House Foreign Affairs Committee. An FBI background check sent up red flags, and in 1976 he voluntarily registered with the government as an agent of East Germany. Over the years, he acknowledged, he had received $15,000 and an East German medal for documents he had procured as a foreign-policy analyst in Washington.

Eastern European officials often have an easier time in Congress than those from Russia. To quote one top Senate official: "Some of our people who would never go to lunch with someone from the Russian Embassy would talk openly with a Rumanian, because they're our friends."

The establishment of full diplomatic ties with the world's other Communist giant, China, has introduced a new dimension into American efforts to counter "hostile" intelligence activities. Handicapped for more than 20 years by a lack of official representation in the U.S., China since 1971 has opened a permanent U.N. mission in New York as well as diplomatic establishments in Washington, Houston and San Francisco. Intelligence officers already have been detected within China's official contingent.

As with Moscow, the numbers are significant. After opening its liaison office in Washington in 1973 with a mere 10 officials, Peking is now planning a full embassy staff of 400. The FBI's Webster already is sounding the alarm about strains this influx is placing on his bureau.

Apart from the increase in China's official representatives, American counterintelligence officials are concerned about the rising number of Chinese students. Some 700 to 1,000 are expected in American universities this year, most in departments specializing in science and technology.

Because of its backward economic condition, Peking is thought to place heavy emphasis on industrial espionage. Suspected Chinese agents, for example, are known to be active in heavily ethnic areas of West Coast cities. A prime target area: The so-called Silicone Valley in California, a concentration of think tanks and defense contractors in the San Francisco vicinity. "Out there, the Chinese are talent spotters, looking for that guy they can use in the future," a knowledgeable expert explains.

American officials say the Chinese expend a great deal of energy probing what the U.S. knows about the Soviet Union. No scrap of information is considered too trivial by the Chinese when it comes to their archadversary. Long before the U.S. gave its approval for Moscow to engage in massive wheat purchases this year, the Chinese were busily collecting information about the deal. One persistent query: What price were the Russians willing to pay?

REFUGEE FLOOD POSES NEW THREAT

Another component in the "hostile" espionage campaign is the flood of exiles and refugees reaching American soil. One recent spy prosecution resulted in the conviction of a Vietnamese expatriate, David Truong, together with Ronald Humphrey, a U.S. Information Agency official recruited to steal classified documents. The chief envoys of Communist Vietnam at the U.N., Dinh Ba Thi, who controlled this espionage operation, was expelled.

American officials believe that Vietnamese agents are planted among the flood of boat people arriving in the U.S. from Southeast Asia. There are also reports of espionage activities among other refugee groups.

Miami police say that Cuba's intelligence agency—DGI—is active in the South Florida exile community of nearly 750,000 Latins. The FBI reportedly has discovered Soviet agents among Jewish émigrés leaving Russia. Several have been "doubled," or persuaded to work as counterspies.

Although American counterespionage agencies concentrate on the Communist-bloc threats, they also are concerned about the wide-ranging operations of intelligence agencies of friendly nations.

A Senate Foreign Relations subcommittee chaired by Senator George McGovern (D-S.D.) reports evidence of brutality and even political murder by agents of authoritarian regimes such as Chile, and Iran under the Shah.

One active espionage agency that McGovern's panel and other U.S. officials have been reluctant to discuss, at least publicly: Israel's Mossad. A former U.S. official recalls that Israel's spies once obtained secret American reports on Arab military strengths. During the 1970s, FBI agents received much of their information on possible Arab terrorists from Israel's officials based in New York. Some U.S. intelligence agencies suspect Mossad was behind the disappearance of bomb-grade uranium from an Apollo, Pa., nuclear facility during the 1960s. Israel denies any role in that incident, which remains unsolved.

American agents speak of Mossad with awe, and its network of contacts within the official circles of Washington is unsurpassed. Mused one counterintelligence expert: "They have no need for blackmail or bribery to get what they want. Over a cup of coffee or a steak dinner, God knows what is passed to them."

If caution has characterized Israel's operation here, officials who have seen the McGovern panel's report say it outlines a far different pattern of behavior on the part of other allies or neutralist powers such as Yugoslavia.

Dragista Kashikovich, a Serbian émigré editor known for his denunciations of the Tito regime in Belgrade, was shot to death in Chicago two years ago. Senate probers found that the CIA may have had indications he was a target of Yugoslavia's secret service, the UID. But no conclusive link could be uncovered, and the case remains unsolved.

The McGovern study claims that Savak, the Shah's secret police, once plotted the assassination of Nassr Afsher, an American of Iranian origin who infuriated the monarch with his vocal criticisms. Partly because the potential assassin got cold feet, the plot was aborted.

In 1976, former Chilean Ambassador Orlando Letelier was killed in a Washington car bombing, leading to the indictment early this year of Manuel Contreras Sepulveda, a former head of Chile's DINA agency.

According to the McGovern study, the main goal of allies seems to be to control their own nationals living in this country. Often foreign agents simply monitor students or dissidents living in the U.S., taking photographs and keeping track of their movements. McGovern's report claims Taiwan enlisted four prominent Sino-American professors to observe Nationalist Chinese students. The study said that Iran's Savak also maintained an extensive network of informers on American campuses.

At times, the U.S. stumbles across Western European intelligence services. One case involved a NATO country that had planted illegal listening devices throughout a diplomatic mission in New York. "It was too confidential to surface it," a former U.S. agent recalls. "It was operating for a certain duration; then it ended. We never let on."

KID-GLOVE TREATMENT FOR "FRIENDLY" SPIES

What are counterintelligence agencies doing about spying activities in this country by friendly countries?

Critics allege that the FBI and CIA ignore allied spy services of friendly nations, because of concern about political or operational repercussions in their countries. In cases involving intelligence activities by nations such as Israel, they claim, the American government is loath to crack down for fear of jeopardizing cooperation arrangements. Israel is a valuable source of Mideast intelligence, while Iran allowed the U.S. to operate vital electronic-monitoring stations near the Soviet border until early this year. McGovern's subcommittee notes that on frequent occasions the Shah conveyed warnings that any crackdown on Savak operations could lead to reprisals against CIA activities in Iran.

In September, Assistant Atty. Gen. Philip B. Heymann rejected a Republican congressman's appeal for an investigation into whether Israel's Mossad used illegal electronic surveillance in the Andrew Young-Palestine Liberation Organization affair. He explained that there were "no specific facts" of Israeli wrongdoing to warrant such a probe.

American intelligence experts chafe under the accusation that certain foreign agents are allowed to run roughshod on U.S. territory. Raymond Wannall, former chief of FBI intelligence operations, who retired in 1976, claims transgressions of friendly nations are punished in a different way. "If there is a violation of law, we wouldn't ignore it. We made cases on some of our best friends. But in those cases the State Department would just ask them to leave. It's all handled very quietly, with no announcement made."

A different array of problems is undercutting FBI efforts to deal with the KGB and other hostile services. These efforts are especially handicapped by breaches of security that have become commonplace among Americans in sensitive government agencies.

Kampiles, the CIA watch officer who sold a stolen KH-11 satellite manual to the Russians, possessed a top-secret clearance at the time he smuggled the document from the agency's headquarters. Eugene Lee Madsen, a Pentagon security official with a high security clearance, was arrested last August after he walked out of the building with classified military documents tucked into his pants.

At the top of U.S. security worries, however, is the extraordinary prospect of Soviet penetration at the highest levels of Washington's own spy apparatus. "Moles" buried deep in the CIA and FBI have become a source of continuing fascinated speculation in Washington, despite disclaimers by authoritative intelligence figures.

One case study comes from William Sullivan, the late chief of FBI counterintelligence, in a book published posthumously. He claims that a major FBI effort against the KGB came apart because of a security leak that was never found. "At the time I left the FBI in 1971," Sullivan asserts, "the Russians still had a man in our New York office and none of us knew who he was."

Precise figures on money and manpower assigned by the FBI to combatting foreign spies are classified, but one former bureau official says that historically about 22 percent of all special agents are on the counterintelligence staff—or about 1,670 today. Frequently, it takes 10 men to shadow a single KGB officer, making it impossible to fully cover every potential agent. In 1977, Enger and Chernyayev—the two Soviet U.N. employees—were arrested after an investigation employing dozens of agents, aerial reconnaissance and closed-circuit television.

HOW PAST SCANDALS HAMPER SPY CHASERS

More difficult to measure are the handicaps imposed on U.S. counterintelligence activities by the battering taken by the CIA and FBI in the past five years. A frequently mentioned example is the CIA's counterintelligence unit, which critics considered a lair of almost obsessive anti-Soviet zeal when it was headed by James Angleton. Angleton left in 1974, but even those who disagreed with his approach worry about what has happened to his antispy bureau.

"Counterintelligence is like good health care," says one retired CIA official, who is no friend of Angleton's. "There are lots of germs around.

"On the other hand, you can become a hypochrondriac. But right now I'd have to say the place is in a shambles."

At the FBI, once a treasuretrove of detailed and even trivial data on alleged subversives, extensive files no longer are maintained. An FBI official recently testified that under current policy the bureau could not read and collect material published by avowedly violent domestic groups with suspected foreign ties.

Since 1976, when Atty. Gen. Edward Levi issued executive guidelines for counterintelligence operations, most wiretaps on foreign nationals have involved judicial warrants. Such surveillance on U.S. citizens has been virtually nonexistent, authorities say.

While counterespionage officials disagree on the pros and cons of these new rules, they are nearly unanimous about the damaging effect of the Freedom of Information Act. They complain of a deep reluctance by Western European intelligence services to cooperate with their American counterparts for fear the names of informants or sensitive espionage techniques might eventually be disclosed as a result of this law.

The threat posed by foreign operatives now is giving rise to concern about the effectiveness of this country's counterspy organizations and the danger of weakening them further. Still, any drive to revitalize. American counterintelligence faces formidable roadblocks. One of the chief problems—a lack of trained, experienced agents—cannot be solved overnight even with unlimited funds.

While no one is predicting a return to the days of unrestrained intelligence agencies, the tide has turned against further curbs. Years of preoccupation with abuses of civil rights by the FBI and CIA are giving way to a new concern with the threat posed by foreign spies in the U.S.—and the need to combat them with effective domestic agencies.●

BUDGET WAIVER FOR CHRYSLER BILL

● **Mr. HART.** Mr. President, I wish to present my views concerning my vote today in the Senate Budget Committee concerning a proposal for Federal assistance to the Chrysler Corp. The issue in the Budget Committee was whether a waiver of the Budget Act should be granted in order to bring up this proposal for consideration on the Senate floor. The debate in the Budget Committee was on the merits of waiving the Budget Act and not on the merits of the Chrysler proposal.

I voted in favor of the waiver to bring up the Chrysler bill for two reasons. First, the Senate Banking Committee could not have foreseen Chrysler's economic circumstances last spring and therefore could not have reported legislation by the deadlines in the Budget Act. Second, since the Chrysler Corp. is in economic difficulties, Federal aid to the Chrysler Corp., if it is to be given, would need to be given before the first budget resolution for 1981.

In other words, I voted for the budget waiver because the Senate should consider whether Federal aid should be given to the Chrysler Corp. and that consideration should be given in time to help the corporation if indeed that is the Congress' decision.

Mr. President, I am strongly inclined against a Federal loan guarantee to the Chrysler Corp. Therefore, my vote for this budget waiver should not be interpreted as a signal of my eventual vote on the merits of the Banking Committee proposal. Over the next several days I will study in detail the merits of Federal aid to the Chrysler Corp., and will make my final decision based on that further study.●

FISHERY DEVELOPMENT ACT

● **Mr. WEICKER.** Mr. President, I have made frequent statements concerning the need for developing our commercial fisheries to meet the growing demands of the future. Several of my bills dealing with fishery development have been around for almost 4 years.

I am pleased that the Senate has finally addressed the subject by passing S. 1656, the Commercial Fisheries Development Act, on December 5. S. 1656, will give a proper home to the Saltonstall-Kennedy funds.

I am particularly pleased that the Committee on Commerce, Science, and Transportation has included two of my amendments to add fishery facilities, such as: Docks, processing plants, holding and freezing facilities, to the Government's obligation guarantee loan program and Capital Construction Fund. Both of these programs are presently administered by National Marine Fisheries Service for fishing vessels only. The Fisheries Conservation and Management Act of 1976, which established the 200-mile limit, gave U.S. fishermen and processors a preferential right to all fishery resources within this new zone. However, the nation has not been able to realize the tremendous economic value of those resources.

Several studies have identified the positive growth of fishing facilities as the key to the overall health and growth of the entire fishing industry. My amendment will stimulate this growth by extending existing incentive programs to fisheries facilities.

Several months ago I added the same amendments to S. 640, the maritime authorization bill. It passed the Senate but was dropped in conference due to a technicality.

Fish imports impose a tremendous strain on the dollar. This year alone the trade deficit for fishery products will reach $2.5 billion. This bill will go a long way to cut the deficit down considerably.

Mr. President, I urge the full support of S. 1656 by my colleagues in the House and of the President. Once this legislation becomes law, the future of our fishing industry will be greatly enhanced.●

DAVENPORT GROUND TRANSPORTATION CENTER

● **Mr. CULVER.** Mr. President, the fiscal year 1980 budget provides $80 million for the Urban Mass Transportation Administration's (UMTA) urban initiatives program. This innovative measure seeks to encourage urban renewal by providing grants to construct projects which combine public transportation with private development of downtown districts.

City officials in Davenport, Iowa, have developed an imaginative plan which is precisely the type of project the urban initiatives program was designed to encourage. The Davenport plan calls for the construction of an intermodal (bus and taxi) ground transportation center to provide citizens with convenient access to the central downtown area. Coupled with the transportation facility will be private development of a 230-room hotel with associated retail office space. Also included in the terminal design are new offices, classrooms, and laboratory facilities for Scott Community College. I am particularly pleased that the college facility will include a CETA career assistance center to enhance the educational and career opportunities of the underprivileged in the Quad Cities area.

The estimated total project cost for the Davenport ground transportation center is $40 million. Davenport and other State and local sources have committed $12 million. The city is seeking the joint participation of several Federal agencies—including the Economic Development Administration (EDA), the Department of Housing and Urban Development (HUD), and UMTA—for additional capital. It has already applied for a $2.6-million UMTA grant in fiscal year 1980, which would enable officials to complete all necessary acquisition, relocation, architectural and engineering activities on schedule. This minimum commitment by UMTA would insure a private commitment of $17 million by area developers.

This project has the full support of the Davenport community and, when completed, will be a major addition to the urban downtown environment. I served as a conferee on the 1978 Surface Transportation Assistance Act which authorized the joint development program, and I believe that this is the type of creative cooperative effort between the public and private sectors that was envisioned for the urban initiatives program. I congratulate those Davenport citizens who have worked on this proposal, and will make every effort to help Davenport officials secure the necessary Federal commitment needed to make the project a reality.●

CIA REVEALS CLASSIFIED INFORMATION DESIGNED TO EXAGGERATE U.S. SALT VERIFICATION CAPABILITIES

● **Mr. HUMPHREY.** Mr. President, the Sunday, December 9, 1979, Washington Post magazine, Potomac, carried a cover story entitled "How We Spy on the Russians and Monitor SALT," by Nicholas Daniloff. This article revealed classified information on a large scale, and the article clearly left the impression that it was extracted from a briefing of the author at the CIA. Indeed, much of the information must have originated from the CIA.

Mr. President, it appears that the CIA is selectively releasing classified information for political purposes. It appears that someone at the CIA is trying to bolster the Carter administration's arguments in favor of the SALT II treaty by trying to demonstrate how great U.S. intelligence and verification capabilities are. Such CIA breaches of national security are unconscionable. Who gave the CIA the right to publicly reveal our most vital intelligence sources and methods and secrets?

Second, Mr. President, the article gives an unsophisticated reader a wholly misleading impression of how good U.S. verification capabilities may be. In fact, the publicly known track record of CIA on Soviet strategic activities is rather dismal. The CIA has a well-documented track record of underestimating for over a decade both the quantity and quality of Soviet strategic forces, as well as the level of Soviet defense expenditures.

The CIA is also capable of overestimating Soviet forces on White House command to show how SALT agreements ostensibly constrain the Soviets. Further, the CIA's failure to anticipate a Soviet SS–11 replacement ICBM as large as the SS–19, and the CIA's failure to project a long-range Soviet SLBM such as the SS–N–8, were both massive U.S. intelligence failures as significant as the continuously worsening underestimates of Soviet strategic deployments during the 1960's.

Moreover, it is indisputable but not yet well known that CIA miscounted the Soviet ICBM total twice during SALT I. CIA erroneously counted the first 11 so-called "IIIx" launch control silos within the original Soviet ICBM total of 1,618, but CIA failed to count 18 SS–9 Fractional Orbital ICBM's which the Soviets maintained as a part of their operational ICBM force for the duration of SALT I. In addition, the CIA reportedly lost track of one Soviet H class nuclear submarine—a rather large object—for about 15 years, thereby miscounting the Soviet SLBM total under SALT I.

This scandalous track record should affect CIA's credibility regarding how SALT II "constrains" Soviet programs, and also U.S. verification capability.

A further example of the CIA's difficulty in verifying SALT II is the 5-percent limit on variances in certain missile characteristics. Assuming that we had agreed baseline data with the Soviets, from which to measure, which we do not, we need to have complete confidence in the accuracy of this baseline data. But published reports of our knowledge of the SS–19 ICBM's volume and throwweight indicate that this missile is 40 to 50 percent larger and heavier than the SS–11. This suggests that the CIA only knows the volume and throwweight of the SS–19 to within 10-percent certainty. How can the CIA measure 5-percent variances from a baseline which it only knows to within 10 percent?

It is now well known that it took CIA about 2½ years to determine the characteristics of the SS–19 with sufficient confidence to question the Soviets about its large size. Yet at that time, CIA reportedly did not have to deal with Soviet encryption of their ICBM telemetry signals, CIA had the Iranian intercept sites, and one of CIA's major satellite signal collectors had not been compromised by Soviet espionage. If it took CIA over 2½ years to determine the characteristics of the SS–19 to within 10 percent confidence in these easier circumstances, how well will CIA do with allowed Soviet telemetry encryption, no Iranian sites, and compromised satellite systems? ●

THE CHANGING AMERICAN PRESIDENCY

● Mr. PELL. Mr. President, the Presidency of the United States is a constantly evolving institution. The powers and responsibilities of the Presidency have been viewed differently by each succeeding President, and the Office itself has changed immensely since the days of our first President in response to the extraordinary growth of the Nation and the role of the United States in world affairs.

The Presidency is still evolving, and recently Jack Valenti, an old friend of many of us in the Senate and an acute observer of the Presidency, offered a cogent analysis of the challenge that will confront American Presidents during the coming decade and his recommendations on how future Presidents can retain and strengthen the essential leadership functions of the Office.

I believe his analysis, presented at a recent meeting of the Union Society of Cambridge University, will be of interest to my colleagues, and I ask that it be printed in the RECORD.

The analysis referred to follows:

THE CHANGING AMERICAN PRESIDENCY

It was after midnight in the early weeks of 1966. President Johnson and I were sitting wearily on the second floor of the Mansion (the living quarters of the president and his family).

I was going over with him a pile of memoranda which needed his judgment before I moved them to the rest of the staff and the cabinet officers involved.

It had been an exhausting day, unusually so. The president had taken a ceaseless battering in the press, mostly on Vietnam, vilified on the network news shows, sliced up (happily in graceful pose) by the Washington Post and the New York Times; in brief, not a particularly exalting time in the life of the chief executive.

I looked at him curiously, sympathetically. His face was abnormally gray. He was tired.

"It strikes me, Mr. President," I said, "as damn strange why anybody would really want this job. Why should anyone have to submit to this kind of treatment?"

The president smiled, the first time any kind of smile had crossed his face all day. "Well, Jack", he said, "if this job was easy you wouldn't need a president. You could run the country with a part-time committee of ———kickers."

The president's comment is a fixed truth. More than any other element it makes visible the endless fascination of the presidency, the power of one man, the power of solitary decision-making authority, the power that intrigues, puzzles and mesmerizes all who contemplate it, the possibilities of large triumph and tidal applause, as well as equally spacious defeat. There is about the presidency the aroma of tragedy. Hegel defined tragedy as a spiritual struggle in which both sides lay claim to our sympathy. There is much fact in the Hegelian measure. But it is the dazzle of power, awesome, dominant, imperial that draws historians, students and professional politicians, as well as the common citizen, to the scrutiny of this uniquely American invention: a single person chosen by all the people to be their national captain.

As of 1980 thirty-eight men have been president of the United States: we have had thirty-nine presidents.

The youngest man to be president was Theodore Roosevelt at 42 and the youngest to be elected was John F. Kennedy at 43.

Seven became president in their forties, 25 in their fifties and seven in their sixties. Eight have died in office, four by violence. One has resigned. Fourteen men have been president in this century and four of them never finished their allotted term.

When the first president took office the population of the nation was 3,800,000 and when Jimmy Carter became chief executive the population was some 220,000,000. Our gross national product in 1788 was an estimated $100 million and in 1980 it will be over two trillion dollars.

Few of us are so seasoned in danger that we can, with calm repose, confront the political Grendels who threaten us. We are ready to turn over that task to someone who will stride without hesitation to wherever it is that the savage is ready to spring. We are, subconsciously perhaps, eager for someone to lead us, defend us, command us and eventually to inform us that the danger has passed and we are for the moment secure.

Instinctively we are reaching out for an executive of clear eye and plain good sense who is called into service when the enemy's face is blurred, when we journey down unlighted passageways whose contour and formation are unknown to us. This kind of leader must, as Walter Bagehot put it: "Be concerned with far-seeing regulation of future conduct as well as limited management of the present." In these sullen days he must explain, educate, soothe, make the dull understandable and the knotty seem ready to uncoil. Moreover, he must so inspire that when he summons the people to follow him to the mountaintop, they will do just that, even though they are not clear as to how hard the journey will be nor the view available to them when they arrive. If they arrive.

We in America are searching for the kind of president most suitable to us in the years ahead. We will be facing a future mottled and scratchy with a variety of torment given neither to long-ago clarity nor readily accessible to equations that once we so confidently respected. The future will be a dustbin into which will be swept things that concern inflation, global fears, food, education, environment, medical bills, race, scarcity, resource limits, jobs, fiscal riddles, all so terribly tangled, so resistant to solution, so tedious, that unless we find some practical solutions, we will soon find ourselves ready to sit on our haunches and examine the entrails of a pig for signs of redemption.

It is to such an enterprise that the American president will be called to command, and it is to the equipment, physical, spiritual, and intellectual he carries with him that will allow him, or not, to observe and understand how few are the alternatives he will be offered, and how meager the opportunities to enlarge them.

In the last 15 years the modern U.S. presidency has changed radically. It is not now what the founding fathers in 1787 intended, and it is even revised drastically from what Presidents Truman and Eisenhower believed it to be.

The spur to that change (which is equally applicable to all western democracies) is instant communications, the narrowing decision alternatives available to the chief executive, and the breakdown in discipline within and between the various parts of the government and the country. The deadly finality of the weaponry of war and the growing obscurities of economics have, together, distorted the lines of presidential persuasion, giving rise to a steadily spreading laxity in the reins of government. In short, being president in these times is tougher than it used to be, and responses once adequate and usable to a president are no longer sufficient.

A question that must be asked—and answered—is: Given these slippages in discipline, the erosion of once-held sturdy beliefs, and the telescoping of time and crisis, how is the president to manage, direct, inspire and finally to decide?

Over the next twenty years, the U.S. president will have to convert the traditional presidency into something more adaptable to the perilous fragility of the national and international community.

The president must change the presidency because of:

a. Obscurity of the issues. There are no longer any readily identifiable arch-demons presiding over easily recognizable barriers. There are no clearly defined targets. Now we are immersed in the bloated complexities of SALT II, inflation, snakes, floats, money velocity, monetary fluctuations, resource shortages, deficit balances of trade, interest rates, etc., none of which is easily comprehended and all of which require difficult sacrifices.

There is an instructive scene in a Robert Redford movie called Three Days of the Condor in which the veteran chief of the CIA, a spy pioneer with the OSS in World War II, discusses current problems with his young aide. The aide (Cliff Robertson) asks the old spy captain (played by John Houseman) if he has any nostalgia for the "good old days" of the late war. "Not really", replies the CIA director, "except I do miss the clarity."

If there is one omission in the process of national governance it surely is clarity. No longer are there any long, straight lines. All now is shaky, winding, wreathed in smoke. Instead of definition there is only imprecision, a deadly ailment when one is trying to get a fix on the solution.

It is this dimly lit design which constricts the president's responses and muddles the public's perception of both the president's strategy and his aim.

b. Fragmentation and balkanization of the Congress. There are no centers of congressional power any more with whom a president can deal and negotiate, and then count on the leadership to deliver the votes required. Congress is fractured into subcommittees with a total breakdown in party loyalty, with maverick self-interest and constituency concerns in its place.

The members of the Congress today are no less wise or honorable or loving of country than their predecessors of earlier years. In fact, they may be smarter and more literate. What has changed, though, are the rules of the congressional game. That is the major difference.

c. Instant communications. The collapse of restraints over what is and is not printed in the press and displayed on video is a spike in the heart of the presidency. Venom is telescoped and so is time. We are dealing with an era of the abnormal presidency in which there is a "billyclub the leader" syndrome, where the game is to wound him, bleed him, and bring him down. Hedged in by what Mr. Churchill once called the "naggers and the snarlers," the president's expected tenure is now suitably described in Hobbes' famous words: "nasty, brutish, solitary, and short." This is one reason why I, and others who have been intimate observers of the presidency, advocate a single six-year presidential term with no re-election eligibility.

d. A leakage of belief by the public in the ability of the government, particularly the president and the Congress, to make beneficent changes in the quality of their lives. The murder of a young president, the squalid behavior of the Nixon gang, the blight of Vietnam, the failure of old economic formulas in which we once had previously trusted have all conspired to shatter the public's confidence in, as John Milton put it, "a government that is not beneath the reach of any point the human capacity can soar to."

e. The one durable asset that remains, curiously intact, and which no future president ought disturb or demean is the lore, the mystique, the magic of the office.

Because the chief executive is both head of government and chief of state, and because, unlike parliamentary systems, he springs from the voting choice of the entire country, he reigns almost as a monarch, and yet rules at the whim of the public. It is a juxtaposition of opposites. His time is limited and so, in truth, is his real power, but there is a larger embrace that fixes itself in the mind of the president. It is the heritage of the office that is very much alive, a continuous line that stretches back to the first day of the Republic. No president, even if he chooses to admit it, can unfasten himself from the lineal moorings that are there. Totalitarian countries, communist-dominated societies, have no kinship with this.

They are anchored by force and fear which have no mysticism to give them spirit. It is this abstraction, this ancestral tie, that is in and of the presidency. And the nature of the presidency must be viewed in this light if one is to lay claim to any knowledge of how a future president acts.

What then is the major change in the conduct of the future presidency?

It is the role of the president as Educator-Communicator.

This means lessened emphasis on managerial, administrative roles and concentration on being teacher/inspirer of the public. This also means a compact White House staff, professional, able, knowledgeable. The president has to select a few issues, the ones that cut to the bone of the nation and concentrate on them, think hard about them, devise solutions. Then he must go to the people on television, again and again, to explain simply, lucidly, clearly and possibly eloquently what the problem is, why it is important to the people, and what he needs them to do to help solve the problem. He leaves to his Cabinet officers the daily management of the government, under his stated policy, and concentrates with his staff, with experts, with his Cabinet on how to formulate solutions and how to communicate them to the people.

There are really only three basic issues that go to the heart of the future. They are:

1. The family pocketbook, the issues of food, housing, health, education, the stuff of daily living to which every family directs its attention and with which every family is rightly concerned. Unless the president presides over a robust economy, all else that he tries to do will fail. This is to say that if a president does his best, if he is admirable in his performance and in the efforts he makes to lift the quality of life in the nation, but cannot deliver what he has promised and what the people expect because the economy has faltered, he will be judged harshly even though there is no specific rupture to which his critics can point. No adventure, domestic or foreign, can be proclaimed and acted on unless the president has taken care to build a solid economic base. It is the one element without which no president can lay claim to greatness.

2. He must resolve the energy problem. The president must be prepared to put to hazard his political claims on the people's affections in order to design long-range energy production and conservation programs with definable and achievable goals. The time will surely come, unless presidents in the future recognize the alien and unforgiving nature of bad judgment, when other countries swimming in hydro-carbons will submit the United States to the bleakest kind of blackmail unless we have in place alternative supplies of energy without which the nation's industrial armory will wither and possibly expire.

3. He must achieve an absence of war. He must do this in a widening ownership of nuclear weapons and the contagion of terrorism. And yet when the U.S. president goes to the summit, gathering the chieftains from the chancelleries of the world, the rostrum from which he speaks has to be so sturdy that his word and his pledges are redeemable.

But only a strong U.S. economy and a commitment of national will and resolve will give the president a place to stand.

These are the prime issues. All else are tracings on dry leaves in the wind.

But if the president is to accept the challenge of Educator-Communicator, he must have the ability, to speak his cause lucidly, believably, even eloquently, with that mystical emotional rising through language, poise and rhythm without which he can only perform beneath greatness. With television really the only source of person-to-person communication between the leader and the people, the skill to lead is tied tightly to the ability to speak and inspire.

In the English-speaking democracies over the last forty years the three leaders who by some magical linkage connected the people to their dreams were Churchill, Roosevelt and for a brief moment, Kennedy. The constant in each man was a vision mounted on voice and prose. Could Clement Attlee have summoned the British to courage matching the crisis as Churchill did? Could Tom Dewey have steered the nation through dangerous years as Roosevelt did?

Therefore the dominant role of the future president is that of a teacher.

He must do what every great teacher does. He must gain our confidence so that we believe he knows what he is talking about. He must explain to us what it is he wants us to know and do it in that special way that clears our mind and satisfies our curiosity, as well as depleting our suspicion. He must inspire us to follow him to that distant place where what he has conveyed to us has a meaning and a purpose. We must be ready to accept his summons and his reasoning even though we have no measure of what yet lies in store for us. It is that connection between people and president that is analogous to Walter Bagehot's description of cabinet government in Great Britain, "the hyphen that joins, the buckle that fastens."

Is it then possible that given the re-shaping of the presidency we in America can sort our problems and find a way out of our current anxieties?

Can we repair the breakage of civic trust? Can we re-insert in the political compact a sense of civility that once we admired and now we ignore? Is it possible for a free and generous society to so manage its economic affairs that we are able to guarantee to every man and woman a choice of life course, to care deeply about those pressed to the wall because of circumstances beyond their control, and warrant for all to witness that the democratic strands that bind the Republic are not woven out of a defunct mythology?

I believe that the answer we are searching for is to be found in the national leadership of the president as educator-communicator. is part of the myth-gathering property that belongs to the man, as Lord Macaulay said of young William Pitt, who thinks himself worthy of great things. It springs, said Macaulay, from a consciousness of great powers and great virtues and is never so conspicuously displayed as in the middle of difficulties and dangers which would unnerve and bow down any ordinary man.

Macaulay's design for leadership is what is required by the United States in the years ahead, so full of bitter choices to be faced. The future presidents of our Republic have to understand the changing environment of their duties and to reshape their obligation to the people they have by solemn oath sworn to serve.●

MARY DOBKIN—BALTIMORE'S LIVING LEGEND

● Mr. MATHIAS. Mr. President, on December 5 a nationwide television audience had the opportunity to watch a dramatization of the life of Mary Dobkin, a remarkable human being who has been an inspiration to Baltimoreans for more than half a century.

"Aunt Mary," as she is affectionately known, is a living legend. She has devoted her life to the children of Baltimore. During her 77 years, Miss Dobkin has been a dedicated baseball fan and her life's dream has been to see that all the children in Baltimore who want to play baseball can have the opportunity to play. The other night the entire Nation had a chance to learn how this indomitable woman made her dream come true.

The road to Mary Dobkin's goal was strewn with obstacles. When she integrated her baseball league in 1955, she was harassed and her property was attacked. When she wanted uniforms and equipment for her children, funds were scarce. Nonetheless, Miss Dobkin persevered. She raised funds. She fought bigotry. And, in her later years, she has accomplished her goals from a wheelchair. Baltimore is a far better city because of Mary Dobkin and the world a better place.

On December 6 an article on Mary Dobkin appeared in the Baltimore Evening Sun and on December 7 an editorial appeared in the Baltimore Sun on her.

I request that both the article and the editorial be printed in the RECORD.

The articles follow:

[From the Baltimore Sun, Dec. 7, 1979]

AUNT MARY

Mary Dobkin has been Guardian Angel of East Baltimore for three decades, a one-woman recreation and youth services department, a helpful fund-raiser, organizer and coach to hundreds through her Dobkin Athletic Club and Dobkin Children's Fund, and a profoundly positive influence on many vulnerable young lives.

For the second time she has become a national television celebrity for her radiance of good works oblivious to infirmity and poverty. The first was a half-hour program called "End of the Rainbow," with Ralph Edwards as host, in 1958, which showered her with baseball equipment. The second was the two-hour television drama Wednesday night, produced by one of her old Dobkin Dynamites, starring Jean Stapleton as Aunt Mary and Los Angeles as the East Baltimore setting of her life.

Whatever the artistic merit of the presentations, the tributes are important, not merely to praise Aunt Mary at 77, but to focus attention on the need to carry on her contributions. There are other people, less well known, who do what they can to improve the quality of the life around them. How much better our world is for their presence in it.

"THIS IS ALL REAL," SAYS "AUNT MARY" AS SHE WATCHES "REPEAT" AT HOME

(By Michael Wentzel)

The living room in Mary Dobkin's small home on Sinclair Lane in East Baltimore was crowded as her life.

No one could make a move without stepping around two of her friends.

The room, the knocks on the front door, the telephone calls—even the telegram from Mayor Schaefer—revolved around Mary Dobkin and the television screen that last night gave the nation a look at "Aunt Mary," the woman on crutches and in a wheelchair who has coached kids in baseball for decades.

"I wanted to watch this with close friends," Mary said. "That's my cousin. My lawyer. That's Ralph Katz. I used to go fishing with him when he was just a boy. This is Aunt Leona. How old are you Aunt Leona?"

"I'm over 21," she said.

"She's 82," Mary said. "I've known most of these people before they were born."

And Mary got one of her first laughs.

She had seen the film twice before last night's 9 p.m. showing on Channel 2, but her rules were firm: Everyone had to be quiet and no one was allowed through the front door while the movie was on.

"My producer in Hollywood says all the papers in Boston, New York, L.A. love it," she explained. "Jean Stapleton is fabulous. You know, I hope the show is No. 1. I think she deserves the Emmy."

"You like being No. 1, don't you?"

"I sure do," she laughed from her wheelchair.

"You know, I told my producer I wasn't going to watch the movie because it was all a repeat. I was there.

"Write that down; that's funny."

The film, based on a story by Ellis Cohen, a former catcher with the Dobkin Dynamites, has been a few years in the making. The producers gave Mary $10,000 for the rights to dramatize her life.

"I gave $5,000 to the Mary Dobkin Children's Fund," she said. "I gave scholarships to two of my boys and I threw a party. There went $10,000."

The small apartment in a housing project was warm before the film started. Television crews dragged in electric cords and lights. Mary kept checking her watch.

"Before the movie starts, someone here tonight is having a birthday," Mary said. "Let's all sing 'Happy Birthday' to Diane."

The chorus finished as the Hallmark Hall of Fame credit flashed on the screen.

"Shhhhhhh," Mary said loudly.

The command brought a quick silence and the world of film and the world of Mary Dobkin's apartment seemed to touch.

The television apartment is cluttered with dolls, toys and minatures. All available space in the real apartment on Sinclair lane has a doll or a toy. Mary's apartment has the trophies won by her teams after the period covered in the movie.

The heroine watched from her wheelchair, motionless except for the sudden rubbing of her head and clutching of her white, curly hair—a movement echoed by Jean Stapleton's Mary.

There were the ever-present crutches.

"This is all real," she said during a commercial. She would say it often during the film.

"Nicholas, the tough one in the movie. The real one stopped in earlier to say hello. He's an engineer now.

"I didn't care to be famous; I wanted to be with the kids. I was shocked that they'd ever name a ballfield after me, a living person. That's the top thing in my life. And now a movie. Fantastic.

"It's all for real. I can just see it in my mind as it was when it really happened. I'm 77 and I feel like I really accomplished something. I can see it and I tingle all over."

Mary Dobkin, who believes she's coached about 10,000 children, integrated her baseball league in 1955, arousing anger, bitterness and attacks on her home.

Watching the scene portraying a rock smashing through a window into her living room, Mary Dobkin pointed to the television screen with a crooked finger, shut her eyes and shuddered.

"That is for real," she said again.

Later, Jean Stapleton's Mary Dobkin answers an obscene, racist telephone call with a hearty blow on her coach's whistle into the phone mouthpiece.

"I still do that," Mary shouted. "I keep the whistle right by my bed. After the movie, I'll show everyone." ●

ALASKA LANDS—A DIFFICULT COMPROMISE

● Mr. PELL. Mr. President, I have agreed to add my name as a cosponsor of Amendment 626 to H.R. 39, legislation introduced by Senator TSONGAS of Massachusetts as a substitute for the Energy and Natural Resources Committee's Alaska lands bill.

I devoted considerable study and thought to my colleague's substitute, which I believe represents an acceptable compromise between our need to preserve Alaska's unique wilderness heritage and our growing need for energy and raw materials.

As one of those who encouraged President Carter to use the Antiquities Act to safeguard Alaska lands and as an original cosponsor of S. 222, legislation which strongly emphasizes conservation of Alaska's priceless wilderness, I do not take this step lightly.

Throughout the continuing discussion of Alaska lands, it has been my view that there is ample land for all interests. After all, my own State of Rhode Island—including our beautiful Narragansett Bay—would fit within the bounds of a single glacier tucked in by the southwest edge of the Yukon Territory.

We are talking about a vast land, where acres become almost meaningless measurements—since they are counted in thousands and millions. If we must err, and surely we will with such a complex and mammoth land, I have always felt we should err on the side of caution and conservation.

It is obvious, but it bears repeating, that once we have destroyed a wilderness, it is gone forever. The species that rely upon the lost wilderness are not expendable. When they pass, our esthetic, genetic and environmental heritage is impoverished. We cannot call them back by an act of Congress.

The same does not hold true, however, if we err on the side of caution and conservation. If we are concerned about adverse environmental impacts, then let us stay with what we know is safe. The forests, the energy, and the raw materials will wait for our decision.

Critics may charge that even this compromise "locks up" millions of acres in Alaska. That criticism, as far as it goes, is correct. This compromise, however, opens up millions of acres currently locked up under the Antiquities Act and makes vast areas available for responsible exploration and development.

It is with admiration for the enthusiasm of those who would develop the frontiers and with caution about the irreversible effects of rapid development, that I have decided to cosponsor Senator TSONGAS' substitute Alaska lands bill as an acceptable compromise.

Frankly, I would have preferred stricter legislation as embodied in S. 222 but the compromise my colleague has proposed combines the major thrust of legislation emphasizing conservation with many of the specific proposals embodied in the bill that resulted from the hard work of the Energy and Natural Resources Committee.

This compromise is necessary because, despite the need to conserve Alaska's wilderness heritage, we have an urgent need to develop and exploit more of that vast land's untapped wealth of forest, energy, and raw materials.

Much of this wealth, although far from all of it, currently is "locked up" for safekeeping while we debate. That precautionary step, which I support, should be only an interim measure to buy us time to make wise decisons.

I urge my colleagues to support Senator TSONGAS' substitute as an environmentally sound compromise that will let us unlock a large portion of Alaska's vast potential.●

SOVIET FORGERIES, THE NEUTRON BOMB, AND EUROPEAN PUBLIC OPINION

● Mr. HUMPHREY. Mr. President, Soviet attempts to sway West European public opinion against the neutron bomb are well documented. It is not commonly known, however, that the Soviets have used forgeries of official NATO documents to influence public opinion on this important issue. The technique used was similar to that I have outlined in the past with respect to Soviet forgery of U.S. documents in Greece and the Middle East. A DIA study concerning Soviet forgeries notes:

> A Soviet ploy to damage U.S./NATO relationships and to dissuade the U.S. from production of the Neutron Bomb surfaced on or about 8 June 1978 when photocopies of a forged letter allegedly signed by NATO Secretary General Luns and addressed to U.S. Ambassador to NATO, W. Tapley Bennet were received by a number of Belgian newspapers. The forged letter alleged that the Belgian Ministry of Defense was preparing a list of journalists opposed to the Neutron Bomb. The implication of the forgery was that journalists whose names were included on the list could expect to receive official harassment of some sort.
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> NATO authorities immediately disclaimed the letter and publicly labeled it as a forgery. On 9 June 1978, the Atlantic News printed an article which presented the NATO position on the Luns forgery. However, on 28 July 1978 the Belgian De Nieuwe published a copy of the Luns letter with an accompanying article but did not mention that the letter has been officially identified as a forgery. On 3 August 1978, De Volkskrant replayed the De Nieuwe article for its Belgian readership.

The motive behind the forgery was, of course, to stir up antineutron bomb sentiment in the West European press. The obvious question now arises whether or not, or more likely to what extent, the Soviets are using forgeries in Western Europe or even in this country to mold public opinion on SALT II. In short, Mr. President, the DIA is investigating Soviet forgeries and DIA employees have been warned to keep a keen eye for future Soviet forgeries. For some time now I have been urging that the administration reveal the extent to which the Soviet Union is currently employing forgeries to promote their objective worldwide. It is my firm opinion that the administration must come clean on this issue, particularly given the fact that we are about to be asked to cast our vote on SALT II. When many of us consider SALT II our thoughts eventually turn to whether or not we can trust the Soviets to adhere to the treaty. A detailed answer from the administration on Soviet forgery activities will help many of us make up our minds on the issue of Soviet trustworthiness and SALT II.●

PAN AM WORLD AIRWAYS

● Mr. JOHNSTON. Mr. President, in the last several years, I have called upon private sources to help provide quick assistance during emergencies. Today, I want to single out one such company which has willingly given help, Pan Am World Airways, which has flown millions of miles and carried countless tons of supplies and hundreds of personnel in the effort to relieve human suffering during its 50 years of operation.

Two times in the last month Pan Am has responded quickly in times of need. With a horrified world standing by, millions of Cambodians face almost certain death from starvation in one of the most appalling human tragedies of this century. Many private companies and individuals have expressed a willingness to help, and Pan Am once again was at the forefront. In conjunction with the efforts of the Krause Milling Co., which donated several tons of desperately needed protein-rich corn soy milk and the Yellow Freight System, Inc., which provided free of charge domestic transportation, Pan Am's free transportation of the CSM from San Francisco to Bangkok has helped provide 40,000 starving Cambodians with a nutritious meal.

At almost the same time, the siege of the U.S. Embassy in Pakistan required an urgent airlift of more than 300 Americans. Pan Am quickly agreed to supply a 747 to evacuate the Americans, marking the second time this year that a Pan Am airlift helped evacuate Americans from danger overseas. Earlier this year, some 4,000 Americans were airlifted from strife-torn Iran. In all, ten 747 flights, staffed with voluntary supervisory cockpit crews and flight attendants, helped with the Tehran evacuation. Typical were the comments of Pan Am pursers Zita Valduga and Pat King, when asked why they volunteered, "Somebody had to do it," said Valduga, Brazilian-born but now a U.S. citizen. "I don't want to sound corny, but I think I wanted to prove something to myself about being an American."

King was not new to volunteering in times of crisis, having worked many of Pan Am's rest and rehabilitation flights during the Vietnam conflict. The R. & R. program was established to give weary fighting men brief leaves in Hong Kong, Tokyo, Honolulu, and other Asian cities. Pan Am offered to provide the transportation for a token payment of $1 per month.

Mr. President, I could go on and on outlining Pan Am's contributions. Every single year since the company was founded in 1927, Pan Am aircraft have accomplished missions of the type I have described. Faded newspaper clippings tell stories of such shipments as 11 cases of insulin carried to Lisbon in 1941; relief supplies rushed to earthquake victims in Chile in 1939 and in Argentina in 1944, and much, much more.

When the Korean War started, Pan Am was called upon to assist the U.S. military transport services. For over 3 years, Mr. President, Pan Am operated a cargo and personnel shuttle service between the U.S. west coast and Tokyo, during which time over 100,000 passengers and 23 million pounds of cargo were flown across the Pacific.

And just a few years earlier, Pan Am went to the rescue of West Berlin by participating in the Berlin airlift. Adding its planes and crews to those of the U.S. military, it helped save the city from starvation by making more than 2,000 flights carrying food and other supplies from West German.

Who can forget the famous "Cannonball" route which Pan Am established during World War II. Stretching 11,500 miles from Miami to South America, across the Atlantic to Africa, and from there to India, it was the longest, fastest, big-scale air transport route in history—an important supply line for the entire Far East. Pan Am's Africa-Orient Division also flew supplies to China over the Himalayas, a route known as the Hump—one of the wildest, most rugged areas on Earth. The entire World War II era is replete with Pan Am's efforts to serve the Nation.

Mr. President, Americans take pride in rising to meet the crisis of the day. Many companies have donated goods and services to help meet these needs, willingly and expeditiously. All too often, these efforts go unrecognized. I think we can be proud of these companies, including Pan Am, for doing their part.●

KISSINGER ON THE CONTROVERSY OVER THE SHAH

● Mr. HARRY F. BYRD, JR. Mr. President, at the request of the Washington Post, former Secretary of State Henry Kissinger wrote a commentary which the Post published on November 29 concerning allegations that Dr. Kissinger pressured the administration to permit the Shah to enter our country.

Dr. Kissinger's detailed account of his activity seems to set the record straight.

I ask that Dr. Kissinger's statement be printed in the RECORD.

The statement is as follows:

[From the Washington Post, Nov. 29, 1979]

KISSINGER ON THE CONTROVERSY OVER THE SHAH

Only the president of the United States can solve the present crisis, and I believe all Americans, of whatever party or persuasion, owe him our support and our papers.

I have made no criticism of the president's handling of the crisis. My public comments in New York on Nov. 7, in Dallas on Nov. 10 and in Los Angeles on Nov. 11 all called for national unity behind the president. A senior White House official told me at breakfast on Nov. 21 that, on the basis of fragmentary news ticker reports, remarks I had made in Austin on the foreign policy challenges of the 1980s were subject to misinterpretation. I offered to put out an immediate clarifying statement expressing support for the president in this crisis and calling for unity. (Indeed, I suggested that Jody Powell draft it.) The offer was ignored.

Since then I have read and heard myself described by high White House officials as acting deviously and dishonorably; as advising the shah—strangely enough—to seek the advice of our government about whether to stay or leave this country; and as having exerted pressure to get him here in the first place.

This campaign struck me as all the more remarkable against the background of a call by me on the first day of the crisis to Deputy Undersecretary of State Ben Read in which I told him that I would not criticize the administration for its handling of the crisis either during its course or afterward; it could be sure that I would do my utmost to keep the crisis and its aftermath insulated from partisan controversy. The administration was well aware that from the first I have been calling congressional and other leaders urging restraint in comment. In short, it is not I who has been courting controversy in the middle of a national crisis.

As for my own involvement in recent events, ironically it began at the administration's initiative. In the first week of January 1979, a senior official of the State Department asked my help in finding a residence for the shah in the United States. Our government had concluded, I was informed, that the shah must leave Iran if the Bakhtiar government were to survive the efforts of Ayatollah Khomeini to obtain total power. If I could find a suitable domicile in America, the shah might overcome his hesitation and hasten his departure. I doubted the analysis but acceded to the request. I called David Rockefeller for help. Mr. Rockefeller expressed his personal sympathy for the shah but also his reluctance to become involved in Chase Manhattan Bank's financial relationships with Iranian governmental or quasi-governmental organs. I then appealed to his brother Nelson; with his help, a suitable residence was located. A week later the shah left Iran. Two weeks afterward Nelson Rockefeller died.

Thus David Rockefeller's later role was hardly spurred by economic considerations as has been alleged; it ran, in fact, contrary to his commercial interests. He was motivated by his desire to carry out the legacy of his late brother and his devotion to the principle that our nation owed loyalty to an ally who had been loyal to us. This was my view as well, and remains so.

Less than two months later—in mid-March—another senior official of the Department of State urged me to dissuade the shah, who had spent the intervening period in Morocco, from asking for a U.S. visa until matters settled down in Tehran. I refused with some indignation; David Rockefeller was then approached. He too refused. When Rockefeller and I inquired whether our government would help the shah find asylum in another country, we were told that no official assistance of any kind was contemplated.

This I considered deeply wrong and still do.

Every American president for nearly four decades had eagerly accepted the shah's assistance and proclaimed him as an important friend of the United States. President Truman in 1947 awarded the shah the Legion of Merit for his support of the Allied cause during World War II and in 1949 praised him for his "courage and farsightedness" and his "earnestness and sincerity in the welfare of his people." President Eisenhower in 1954 paid tribute to the shah for his "enlightened leadership." President Kennedy in 1962 hailed the shah for "identifying himself with the best aspirations of his people." President Johnson in 1964 lauded the shah as a "reformist 20th-century monarch" and in 1965 praised his "wisdom and compassion . . . perception and statesmanship." President Nixon in 1969 declared that the shah had brought about "a revolution in terms of social and economic and political progress." President Ford in 1975 called the shah "one of the world's great statesmen." President Carter in 1977 praised Iran as "a very stabilizing force in the world at large" and in 1978 lauded the shah for his "progressive attitude" which was "the source of much of the opposition to him in Iran." Such quotations could be multiplied endlessly.

And they were correct. In my own experience the shah never failed to stand by us. In the 1973 Mideast war, Iran was the sole American ally adjoining the Soviet Union which did not permit the overflight of Soviet transport planes into the Middle East. In 1973–74, Iran was the only Middle East oil-producing country that did not join the oil embargo against us; it continued to sell oil to the U.S., to Israel and to our other allies. Iran kept its oil production at maximum capacity (thus helping stabilize the price) and never used oil as a political weapon. The shah was a source of assistance and encouragement to the forces of moderation in the Middle East, Africa and Asia; he used his own military power to ensure the security of the Persian Gulf and to discourage adventures by radicals. He firmly supported the peace process that culminated in the Egyptian-Israeli treaty; he was a defender of President Sadat against radical forces in the area. After his initial advocacy of higher prices in 1973, he used his influence to keep the prices steady so that the real price of oil actually declined over the period from 1973 to 1978 (due to inflation).

The crisis we face in 1979—the 65 percent hike in oil prices, the cutback of Middle East oil production, the radical challenges to the peace process and the rise of anti-American fanaticism in the whole area—is the price we are paying for the absence of a friendly regime in Iran. The conclusion is inescapable that many of the shah's opponents in Iran hate him not only for what he did wrong, but also for what he did right—his friendship for the United States, his support for Mideast peace, his rigid modernization, his land reform, his support for public education and women's rights; in short, his effort to bring Iran into the 20th century as an ally of the free world.

I do not doubt that wrongs were committed by the shah's government in his long rule; the question is how appropriate it is to raise them, after four decades of close association, in the period of the shah's travail. I have been deeply worried about the foreign policy consequences of spurning him. What will other friends of the United States in the area, in comparably perilous situations and perhaps even more complex domestic circumstances—leaders essential for a moderate evolution of the whole region—conclude if we turn against a man whom seven American presidents had lauded as a loyal ally and a progressive leader?

My conviction that on the human level we owed the shah a place of refuge had nothing to do with a scheme of restoring him to power. I have stated publicly that we should seek the best relations possible with the new authorities in Tehran. I simply assert that it is incompatible with our national honor to turn our back on a leader who cooperated with us for a generation. Never before have we given foreign governments a veto over who can enter our country as a private citizen.

Between early April and early July, I put these considerations before three senior officials in phone conversations. And I called twice on Secretary of State Vance in the same period. The upshot was a refusal to issue a visa explained by the tenseness of the situation in Iran. In April I delivered a public speech stating that I thought it morally wrong to treat the shah as a "flying Dutchman looking for a port of call."

In other words, I made five private approaches on this subject to the government—none after July. Such was the "obnoxious" pressure, as George Ball has called it, to which our government was subjected.

When it became apparent that our government would not help the shah and that he was unable to stay any longer in Morocco, David Rockefeller and I did what we could to find him a place of refuge. David Rockefeller was able to arrange a temporary stay in the Bahamas. In April and May, I appealed to the government of Mexico. To its enormous credit, it had the courage to extend a visa even though—as one official pointed out to me—Mexico was being asked to run risks on behalf of a friend of the United States that we were not willing to assume ourselves.

Once the shah was in Mexico, David Rockefeller, John McCloy and I tried to be helpful with private matters on a personal basis. The education of the shah's children in America was the principal issue. We did our best to find appropriate schooling; this raised the issue of visas. Contacts with our government were handled by Mr. Rockefeller's assistant, Joseph Reed, and John McCloy. Mr. McCloy repeatedly urged the Department of State to designate an official with whom the shah's entourage could communicate on such matters without using our group as intermediaries. Such a contact point was never established.

This was the state of affairs when the shah fell ill early in October. As it happened, I was out of the country from Oct. 9 to Oct. 23 and had no communication with any level of the government about the matter. While in Europe, I kept in touch with the Rockefeller office but did not intercede personally with any official or agency of the government—though I would have had it been necessary. My understanding is that Joseph Reed presented the medical records to Undersecretary Newsom and on the basis of those records the administration admitted the shah for treatment. I am not aware that there was any hesitation. To the administration's credit, no pressure was needed or exercised; I gather that the medical facts spoke for themselves. All of us conceived that the reaction in Tehran would have to be evaluated by the administration which alone had the relevant facts.

As for advice to the shah about whether or not to leave—the subject of other strange stories—the situation was as follows. With conflicting threats emanating from Tehran as to the impact on the safety of the hostages of a movement by the shah, Rockefeller, McCloy and I concluded that it was inappropriate for us to advise the shah. Rockefeller called the president on Nov. 15 to ask once again for the designation of an individual who could accurately convey the government's recommendations to the shah's entourage. McCloy stressed the need for this to the deputy secretary of state on Nov. 20; I repeated it to a senior White House official on Nov. 21. We were told the administration agreed with our approach. No such point of contact has yet been established. We were given no guidance; therefore we made no recommendations to the shah as to what he should do when and if his medical condition permits him to leave the United States.

I reaffirm my support for the effort to assure a measure of decency toward a fallen friend of this country. The issue of the shah's asylum goes not only to the moral stature of our nation but also to our ability to elicit trust and support among other nations—especially other moderate regimes in the area. I do not condone all the practices of the shah's government, though they must be assessed by the standards of his region and, even more, the practices of those who will sit in judgment. Yes, we must seek the best relations which are possible with the new dispensation in Iran. But we shall impress no one by engaging in retrospective denigration of an ally of a generation in his hour of need. We cannot always assure the future of our friends; we have a better chance of assuring our own future if we remember who our friends are, and acknowledge what human debts we owe those who stood by us in our hours of need.

I hope this ends the controversy. I think it is imperative that all Americans close ranks. Nothing will more strengthen the president's hand in pursuit of an honorable outcome than a continuing demonstration of national unity now and in the aftermath of the crisis. I shall do all I can to contribute to this end.●

THE CIRCLE OF KNOWLEDGE

● Mr. PELL. Mr. President, on Thursday, December 6, a dinner at the Library of Congress marked the opening of an exhibition, "The Circle of Knowledge." On this occasion the Librarian of Congress, Daniel J. Boorstin, announced the formation of a Council of Scholars at the Library of Congress. As chairman of the Joint Committee on the Library, I request that remarks made by Dr. Boorstin and those by Jaroslav J. Pelikan, Sterling Professor of History and Religious Studies, Yale University, be printed in the RECORD.

The articles follow:

THE MIDAS-TOUCH AND THE CIRCLE OF KNOWLEDGE

(By Daniel J. Boorstin)

"In much wisdom is much grief," the Book of Ecclesiastes warns us, "and he that increaseth knowledge increaseth sorrow." The whole Bible is, of course a parable of

Adam's disobedience of that simple precept. Or, as the Puritans' New England Primer said, "In Adam's Fall we sinned all." Every library, every university, every research institute brings us the rewards—and the penalties—of Adam's sin.

The progress of science and technology has given new dimensions to the Biblical parable. We are no longer simply inheritors of Adam's—and Eve's—offense of discovering knowledge. A new curse has fallen upon modern man. I call it the Curse of Midas.

The Curse of Midas, like the Sin of Adam, was only a consequence of human desires. As we recall, Midas, King of Phrygia, having done a favor for Silenus, a companion of Dionysius, was given a wish. He asked that everything he touched should turn into gold. Only too late he discovered that he could not be nournished because every morsel that he tried to eat became inedible gold in his mouth.

By the late twentieth century we have unwittingly, if not unwillingly, acquired the Midas-Touch. Every new technology creates new vehicles of knowledge, new forms of knowledge. The printing press enlarged the narrow trickle of manuscript books, of handwritten bulletins and town-crier announcements, into floods of printed matter to enrich and delight—and engulf—the millions. The telescope pierced the heavens to reveal an infinity of data. The microscope distilled every drop of water into a new universe of minutiae. Our spaceships make the very surface of the moon into a clutter of facts.

These are all products of our Midas-Touch—glittering fragments in quantity and in kinds never before imagined. But, unlike Midas, we dare not wish to be cured of our magical power. What we want is to reduce our bewilderment. We must transform our puzzlement into curiosity, our confusion into awe and delight. Here in the Library of Congress, of all places on earth, we must deal with the products of our Midas-Touch.

We are, then, the authentic United States Treasury. In our own way, we, too, suffer the perils of inflation. Yet the increase of our treasure need not reduce the value of each item. Knowledge—our precious metal—has the peculiar feature that it is nondepletable. It actually increases by diffusion.

To manage this treasury we cannot view our great Library as a Collection of Collections. We must recognize that what we have here is the world's grandest Multi-Media Encyclopedia. We must grasp our unique opportunity to reveal the whole Circle of Knowledge.

The opening of the James Madison Memorial Building in the next months invites us to reorient all our buildings and our staff and our collections on Capitol Hill into a new coherence. In consultation with the Joint Committee on the Library and the Architect of the Capitol, we have worked long to shape a legible scheme. The Madison Building offers incomparable facilities for our "special collections"—maps, manuscripts, motion picture films, photographs, art prints, and musical recordings—those which require special atmospheric and shelving conditions.

This desperately needed space will help us provide a new accessibility, unity, and visibility for all our collections. At long last we will restore the whole Library of Congress to the dramatic encyclopedic grandeur which was expressed in this first Library of Congress Building.

The Main Reading Room of this building will be our elegant index into the Circle of Knowledge. Here and in the Thomas Jefferson Building we will rearrange our collections into a more convenient, more economical, and more functional unity. Each of our reading rooms will be focused on a particular discipline—or a particular civilization. The related collections will be placed adjacent to each of these reading rooms.

Our admirable staff will use our latest (but surely not our last!) technology—the computer and the cathode ray tube—along with older technologies—the card catalogs, the book catalogs—to help citizens find their way. The people of the Congress and the nation—all who explore and work in this Library—are, of course, the proper destination of our efforts. Just as here we become the constituency of the whole past, so our constituency today includes the generations of the future. For all of them we must seek, describe, and vivify the Circle of Knowledge.

As the Library of Congress has grown, our services to the Congress have become more demanding, better administered, and better focused. Still our relations to the world of scholarship have not been as intimate or as explicit as they might be. To open these avenues we now fulfill our promise to create a Council of Scholars in the Library of Congress. These scholars will help us keep our collections preeminent, help us avoid superfluity and waste, and encourage the timely and comprehensive growth of our collections. They will help our nation discover the state of our knowledge—or our ignorance. They will help us provide access to the Circle of Knowledge.

Men and women, of the highest attainment, statesmen of the Republic of Letters, representing all fields of knowledge, will join the Council. Some, supported by private funds, will be in residence; others will come occasionally as a public service to help us assess the state of scholarship and of our collections. They will confer about the relations between the fields of knowledge, will see where no-trespassing signs must be removed, will replace them by signs of welcome. They will discover new areas of scholarly extraterritoriality.

The assessments by the Council of Scholars will be published, to alert the nation's and the world's scholars to needs and opportunities. The meetings and the reports of our Council then will provide an ongoing inventory of the state of our knowledge.

We will open the avenues between the world of scholars and this great Library. We will increase the traffic and make the traveling pleasant and more productive.

In all these ways we will take up our assignment from modern times—to ensure that our Midas-Touch is not a curse but a blessing—to prevent our collection from becoming a glittering chaos of clutter. We dare not postpone our efforts. Every second of the working day we receive, from all sources, one and one-half new pieces of material: 10 million items each year. Out of these, we select annually for the Library's collections upward of 300,000 books; 1,500,000 issues of periodical titles—about 120,000 individual serials; more than 2,000 motion picture titles; 42,000 sound recordings; 20,000 photographic negatives, prints, and slides; 22,000 maps; a million manuscripts; and many other kinds of library materials. Every year we also receive 1,600 individual newspaper titles amounting to some 577,000 separate issues. We collect, too, in all the written languages we can find—at least in 468 of them!

The technology which floods us with collectibles also, by a remarkable province in our time, provides fantastic means of storage and retrieval. Yet these means can never give our knowledge meaning. That can come only from our active, reflective, questing human intelligence.

When Midas was finally granted his second wish—to be freed from his Midas-Touch—he was ordered to bathe in the River Pactolus. Which, of course, explains why the sands of that river thereafter always glittered. Our nation's Library is our own golden River Pactolus, our grand Circle of Knowledge, which glitters while we keep our Midas-Touch.

The Circle of Knowledge in Historical Perspective

(By Jaroslav Pelikan)

The metaphor of knowledge as a circle, together with the underlying picture of the cosmos as a circle, is the etymological origin of the word "encyclopedia" and may be the key to the architectural design of the Library of Congress. It is also one of the most profound and most persistent concepts in the history of ideas, at least as important as the cognate, but quite distinct, idea of "the great chain of being," even it has yet to find its Lovejoy.

Unlike the great chain of being, moreover, the circle may lay claim to ancestry in both of the spiritual sources of our culture, in Jerusalem as well as in Athens. The transcendent vision of God and the universe in the fortieth chapter of the Book of Isaiah depicted the Lord as sitting "above the circle of the earth" (Isa. 40:22); the celebration of the personified wisdom of God in the eighth chapter of the Book of Proverbs, which has probably been more prominent in the subsequent history of cosmological speculation than even the first chapter of Genesis has, spoke of when the Creator "drew a circle on the face of the deep" (Prov. 8:27); and the prophet Ezekiel not only "saw the wheel, way up in the middle of the air," as the spiritual says, but even "a wheel within a wheel" (Ezek. 10:10).

The Plato of the *Timeaeus* (*Tim*. 38b-d) likewise represented the vault of the heavens and the orbits of the planets as circular but saw this as an indication that the universe was "framed after the pattern of the eternal nature." If, in this as in other respects, time was the visible manifestation of an eternal and unchanging reality, then not only the cosmos but also human history must follow this pattern: Aristotle reported it as "a common saying that human affairs form a circle," "for even time itself is thought to be a circle" (*Phys*. 223b 24–30). That outlook also underlay the thoughts of historians like Herodotus, who quoted Croesus as asserting that "there is a circle on which the affairs of men revolve" (*Hist*. 1.207).

When the Hebraic and the Hellenic traditions were brought together into the uneasy synthesis of patristic and medieval thought, the metaphor of the circle came in for critical review but, in a revised form, also for restatement. A Christian Hellenist of the late second and early third centuries, Clement of Alexandria, developed a system that can be characterized as "the circle of eternity," but his greater pupil Origen, while no less a Greek in his basic intuitions, recognized that as a metaphor for time and history the circle was quite unsatisfactory. For if, as his opponent Celsus maintained, "it is inevitable that in the period of mortal life according to the determined cycles the same things always have happened, are now happening, and will happen," then it was also inevitable that Socrates would drink the hemlock over and over again and that the exodus of Israel and the crucifixion of Jesus would have to be repeated an infinite number of times (*Cels*. 4.67). The coup de grace to the view of the circle of history was administered by Augustine's *City of God*.

But the idea of the circle of knowledge lived on, becoming, if anything, stronger than ever. Dionysius the Areopagite, the enigmatic sixth-century mystic whose thought was so important for the transmission of the idea of the chain of being, described the movement within the nature of God as "according to a circle" (*Cel. hier*. 9.9); therefore the angelic powers surrounding God in "the celestial hierarchy" also had to be arranged in a circle (*ib*. 7.4), and "the movement of the soul" in its contemplation of this truth was no less "circular" (*ib*. 4.9). The adoption of these Dionysian ideas by Thomas Aquinas (e.g., *S.Th.* 2.2.180.6) assured them a continuing place in Western thought.

Now if knowledge is a circle because the cosmos is a circle, even though time and history are not cyclical but linear, it would seem to follow that there can be linear movement and progress in the history of knowledge, but that each such line of our individual or corporate knowledge is in fact ultimately an arc, whose curvature, ever so slight though it may be, shows it to be part of the circle. Or, at the very least, the metaphor of "the circle of knowledge" may serve us as a guiding vision, as a "lure" in Whitehead's sense of that word, which we follow *als ob*, as though it were true, even if we are not altogether sure whether it is or not. For in so doing, we will not only find ever new knowledge but will make more sense of the old knowledge. As our principal repository of the old knowledge and simultaneously as our most exciting laboratory of the new knowledge, the Circle of Knowledge that is the Library of Congress can be, and can continue to become, our unique resource in this unending quest.●

DICTATORSHIPS AND DOUBLE STANDARDS

● Mr. MOYNIHAN. Mr. President, in the past few years, the phrase "human rights" has become conspicuous in discussions of U.S. foreign policy. There can be little doubt that the United States—the proper custodian of human rights in principle and practice among the two great powers of today—can have in hand a powerful instrument for protecting and advancing the interests of the world's democracies. And, yet the position of those provocative terms in world politics has become ambiguous in our time. As often as not, the vocabulary of human rights has become part of the totalitarian assault on democracy. And thus there is a question: to what extent has the conduct of a "human rights" policy by the United States contributed to unwelcome and, increasingly dangerous, trends in world affairs?

In an important sense, this question forms part of the background of a truly remarkable article about the current condition of American foreign policy which appeared in Commentary in November. It is the work of Jeane Kirkpatrick, leavy professor of political science at Georgetown University, who has established herself as one of most astute observers of domestic and foreign politics. There are times when an outstanding essay seems to crystalize experience in a way which alters fundamental perceptions about the condition it describes. I am inclined to think that Professor Kirkpatrick's article will be remembered as one of these. It is more than brilliant; it is seminal.

I ask that the text of Professor Kirkpatrick's article be printed in the RECORD.

The article follows:

DICTATORSHIPS AND DOUBLE STANDARDS

(By Jeane Kirkpatrick)

The failure of the Carter administration's foreign policy is now clear to everyone except its architects, and even they must entertain private doubts, from time to time, about a policy whose crowning achievement has been to lay the groundwork for a transfer of the Panama Canal from the United States to a swaggering Latin dictator of Castroite bent. In the thirty-odd months since the inauguration of Jimmy Carter as President there has occurred a dramatic Soviet military build-up, matched by the stagnation of American armed forces, and a dramatic extension of Soviet influence in the Horn of Africa, Afghanistan, Southern Africa, and the Caribbean, matched by a declining American position in all these areas. The U.S. has never tried so hard and failed so utterly to make and keep friends in the Third World.

As if this were not bad enough, in the current year the United States has suffered two other major blows—in Iran and Nicaragua—of large and strategic significance. In each country, the Carter administration not only failed to prevent the undesired outcome, it actively collaborated in the replacement of moderate autocrats friendly to American interests with less friendly autocrats of extremist persuasion. It is too soon to be certain about what kind of regime will ultimately emerge in either Iran or Nicaragua, but accumulating evidence suggests that things are as likely to get worse as to get better in both countries. The Sandinistas in Nicaragua appear to be as skillful in consolidating power as the Ayatollah Khomeini is inept, and leaders of both revolutions display an intolerance and arrogance that do not bode well for the peaceful sharing of power or the establishment of constitutional governments, especially since those leaders have made clear that they have no intention of seeking either.

It is at least possible that the SALT debate may stimulate new scrutiny of the nation's strategic position and defense policy, but there are no signs that anyone is giving serious attention to this nation's role in Iranian and Nicaraguan developments—despite clear warnings that the U.S. is confronted with similar situations and options in El Salvador, Guatemala, Morocco, Zaire, and elsewhere. Yet no problem of American foreign policy is more urgent than that of formulating a morally and strategically acceptable, and politically realistic, program for dealing with non-democratic governments who are threatened by Soviet-sponsored subversion. In the absence of such a policy, we can expect that the same reflexes that guided Washington in Iran and Nicaragua will be permitted to determine American actions from Korea to Mexico—with the same disastrous effects on the U.S. strategic position. (That the administration has not called its policies in Iran and Nicaragua a failure—and probably does not consider them such—complicates the problem without changing its nature.)

There were, of course, significant differences in the relations between the United States and each of these countries during the past two or three decades. Oil, size, and proximity to the Soviet Union gave Iran greater economic and strategic import than any Central American "republic," and closer relations were cultivated with the Shah, his counselors, and family than with President Somoza, his advisers, and family. Relations with the Shah were probably also enhanced by our approval of his manifest determination to modernize Iran regardless of the effects of modernization on traditional social and cultural patterns (including those which enhanced his own authority and legitimacy). And, of course, the Shah was much better looking and altogether more dashing than Somoza; his private life was much more romantic, more interesting to the media, popular and otherwise. Therefore, more Americans were more aware of the Shah than of the equally tenacious Somoza.

But even though Iran was rich, blessed with a product the U.S. and its allies needed badly, and led by a handsome king, while Nicaragua was poor and rocked along under a long-tenure president of less striking aspect, there were many similarities between the two countries and our relations with them. Both these small nations were led by men who had not been selected by free elections, who recognized no duty to submit themselves to searching tests of popular acceptability. Both did tolerate limited opposition, including opposition newspapers and political parties, but both were also confronted by radical, violent opponents bent on social and political revolution. Both rulers, therefore, sometimes invoked martial law to arrest, imprison, exile, and occasionally, it was alleged, torture their opponents. Both relied for public order on police forces whose personnel were said to be too harsh, too arbitrary, and too powerful. Each had what the American press termed "private armies," which is to say, armies pledging their allegiance to the ruler rather than the "constitution" or the "nation" or some other impersonal entity.

In short, both Somoza and the Shah were, in central ways, traditional rulers of semi-traditional societies. Although the Shah very badly wanted to create a technologically modern and powerful nation and Somoza tried hard to introduce modern agricultural methods, neither sought to reform his society in the light of any abstract idea of social justice or political virtue. Neither attempted to alter significantly the distribution of goods, status, or power (though the democratization of education and skills that accompanied modernization in Iran did result in some redistribution of money and power there).

Both Somoza and the Shah enjoyed long tenure, large personal fortunes (much of which were no doubt appropriated from general revenues), and good relations with the United States. The Shah and Somoza were not only anti-Communist, they were positively friendly to the U.S., sending their sons and others to be educated in our universities, voting with us in the United Nations, and regularly supporting American interests and positions even when these entailed personal and political cost. The embassies of both governments were active in Washington social life, and were frequented by powerful Americans who occupied major roles in this nation's diplomatic, military, and political life. And the Shah and Somoza themselves were both welcome in Washington, and had many American friends.

Though each of the rulers was from time to time criticized by American officials for violating civil and human rights, the fact that the people of Iran and Nicaragua only intermittently enjoyed the rights accorded to citizens in the Western democracies did not prevent successive administrations from granting—with the necessary approval of successive Congresses—both military and economic aid. In the case of both Iran and Nicaragua, tangible and intangible tokens of U.S. support continued until the regime became the object of a major attack by forces explicitly hostile to the United States.

But once an attack was launched by opponents bent on destruction, everything changed. The rise of serious, violent opposition in Iran and Nicaragua set in motion a succession of events which bore a suggestive resemblance to one another and a suggestive similarity to our behavior in China before the fall of Chiang Kai-shek, in Cuba before the triumph of Castro, in certain crucial periods of the Vietnamese war, and more recently, in Angola. In each of these countries, the American effort to impose liberalization and democratization on a government confronted with violent internal opposition not only failed, but actually assisted the coming to power of new regimes in which ordinary people enjoy fewer freedoms and less personal security than under the previous autocracy—regimes, moreover, hostile to American interests and policies.

The pattern is familiar enough: an established autocracy with a record of friendship with the U.S. is attacked by insurgents, some of whose leaders have long ties to the

Communist movement, and most of whose arms are of Soviet, Chinese, or Czechoslovak origin. The "Marxist" presence is ignored and/or minimized by American officials and by the elite media on the ground that U.S. support for the dictator gives the rebels little choice but to seek aid "elsewhere." Violence spreads and American officials wonder aloud about the viability of a regime that "lacks the support of its own people."

The absence of an opposition party is deplored and civil-rights violations are reviewed. Liberal columnists question the morality of continuing aid to a "rightist dictatorship" and provide assurances concerning the essential moderation of some insurgent leaders who "hope" for some sign that the U.S. will remember its own revolutionary origins. Requests for help from the beleaguered autocrat go unheeded, and the argument is increasingly voiced that ties should be established with rebel leaders "before it is too late." The President, delaying U.S. aid, appoints a special emissary who confirms the deterioration of the government position and its diminished capacity to control the situation and recommends various measures for "strengthening" and "liberalizing" the regime, all of which involve diluting its power.

The emissary's recommendations are presented in the context of a growing clamor for American disengagement on grounds that continued involvement confirms our status as an agent of imperialism, racism, and reaction; is inconsistent with support for human rights; alienates us from the "forces of democracy"; and threatens to put the U.S. once more on the side of history's "losers." This chorus is supplemented daily by interviews with returning missionaries and "reasonable" rebels.

As the situation worsens, the President assures the world that the U.S. desires only that the "people choose their own form of government"; he blocks delivery of all arms to the government and undertakes negotiations to establish a "broadly based" coalition headed by a "moderate" critic of the regime who, once elevated, will move quickly to seek a "political" settlement to the conflict. Should the incumbent autocrat prove resistant to American demands that he step aside, he will be readily overwhelmed by the military strength of his opponents, whose patrons will have continued to provide sophisticated arms and advisers at the same time the U.S. cuts off military sales. Should the incumbent be so demoralized as to agree to yield power, he will be replaced by a "moderate" of American selection. Only after the insurgents have refused the proffered political solution and anarchy has spread throughout the nation will it be noticed that the new head of government has no significant following, no experience at governing, and no talent for leadership. By then, military commanders, no longer bound by loyalty to the chief of state, will depose the faltering "moderate" in favor of a fanatic of their own choosing.

In either case, the U.S. will have been led by its own misunderstanding of the situation to assist actively in deposing an erstwhile friend and ally and installing a government hostile to American interests and policies in the world. At best we will have lost access to friendly territory. At worst the Soviets will have gained a new base. And everywhere our friends will have noted that the U.S. cannot be counted on in times of difficulty and our enemies will have observed that American support provides no security against the forward march of history.

No particular crisis conforms exactly with the sequence of events described above; there are always variations on the theme. In Iran, for example, the Carter administration—and the President himself—offered the ruler support for a longer time, though by December 1978 the President was acknowledging that he did not know if the Shah would survive, adding that the U.S. would not get "directly involved." Neither did the U.S. ever call publicly for the Shah's resignation. However, the President's special emissary, George Ball, "reportedly concluded that the Shah cannot hope to maintain total power and must now bargain with a moderate segment of the opposition . . ." and was "known to have discussed various alternatives that would effectively ease the Shah out of total power" (Washington Post, December 15, 1978). There is, furthermore, not much doubt that the U.S. assisted the Shah's departure and helped arrange the succession of Bakhtiar. In Iran, the Carter administration's commitment to nonintervention proved stronger than strategic considerations or national pride. What the rest of the world regarded as a stinging American defeat, the U.S. government saw as a matter to be settled by Iranians. "We personally prefer that the Shah maintain a major role in the government," the President acknowledged, "but that is a decision for the Iranian people to make."

Events in Nicaragua also departed from the scenario presented above both because the Cuban and Soviet roles were clearer and because U.S. officials were more intensely and publicly working against Somoza. After the Somoza regime had defeated the first wave of Sandinista violence, the U.S. ceased aid, imposed sanctions, and took other steps which undermined the status and the credibility of the government in domestic and foreign affairs. Between the murder of ABC correspondent Bill Stewart by a National Guardsman in early June and the Sandista victory in late July, the U.S. State Department assigned a new ambassador who refused to submit his credentials to Somoza even though Somoza was still chief of state, and called for replacing the government with a "broadly based provisional government that would include representatives of Sandinista guerillas." Americans were assured by Assistant Secretary of State Viron Vaky that "Nicaraguans and our democratic friends in Latin America have no intention of seeing Nicaragua turned into a second Cuba," even though the State Department knew that the top Sandinista leaders had close personal ties and were in continuing contact with Havana, and, more specifically, that a Cuban secret-police official, Julian Lopez, was frequently present in the Sandinista headquarters and that Cuban military advisers were present in Sandinista ranks.

In a manner uncharacteristic of the Carter administration, which generally seems willing to negotiate anything with anyone anywhere, the U.S. government adopted an oddly uncompromising posture in dealing with Somoza. "No end to the crisis is possible," said Vaky, "that does not start with the departure of Somoza from power and the end of his regime. No negotiation, mediation, or compromise can be achieved any longer with a Somoza government. The solution can only begin with a sharp break from the past." Trying hard, we not only banned all American arms sales to the government of Nicaragua but pressured Israel, Guatemala, and others to do likewise—all in the name of insuring a "democratic" outcome. Finally, as the Sandinista leaders consolidated control over weapons and communications, banned opposition, and took off for Cuba, President Carter warned us against attributing this "evolutionary change" to "Cuban machinations" and assured the world that the U.S. desired only to "let the people of Nicaragua choose their own form of government."

Yet despite all variations, the Carter administration brought to the crises in Iran and Nicaragua several common assumptions each of which played a major role in hastening the victory of even more repressive dictatorships than had been in place before. These were, first, the belief that there existed at the moment of crisis a democratic alternative to the incumbent government: second, the belief that the continuation of the status quo was not possible; third, the belief that any change, including the establishment of a government headed by self-styled Marxist revolutionaries, was preferable to the present government. Each of these beliefs was (and is) widely shared in the liberal community generally. Not one of them can withstand close scrutiny.

Although most governments in the world are, as they always have been, autocracies of one kind or another, no idea holds greater sway in the mind of educated Americans than the belief that it is possible to democratize governments, anytime, anywhere, under any circumstances. This notion is belied by an enormous body of evidence based on the experience of dozens of countries which have attempted with more or less (usually less) success to move from autocratic to democratic government. Many of the wisest political scientists of this and previous centuries agree that democratic institutions are especially difficult to establish and maintain—because they make heavy demands on all portions of a population and because they depend on complex social, cultural, and economic conditions.

Two or three decades ago, when Marxism enjoyed its greatest prestige among American intellectuals, it was the economic prerequisites of democracy that were emphasized by social scientists. Democracy, they argued, could function only in relatively rich societies with an advanced economy, a substantial middle class, and a literate population, but it could be expected to emerge more or less automatically whenever these conditions prevailed. Today, this picture seems grossly oversimplified. While it surely helps to have an economy strong enough to provide decent levels of well-being for all, and "open" enough to provide mobility and encourage achievement, a pluralistic society and the right kind of political culture—and time—are even more essential.

In his essay on Representative Government, John Stuart Mill identified three fundamental conditions which the Carter administration would do well to ponder. These are: "One, that the people should be willing to receive it [representative government]; two, that they should be willing and able to do what is necessary for its preservation; three, that they should be willing and able to fulfill the duties and discharge the functions which it imposes on them."

Fulfilling the duties and discharging the functions of representative government make heavy demands on leaders and citizens, demands for participation and restraint, for consensus and compromise. It is not necessary for all citizens to be avidly interested in politics or well-informed about public affairs—although far more widespread interest and mobilization are needed than in autocracies. What is necessary is that a substantial number of citizens think of themselves as participants in society's decision-making and not simply as subjects bound by its laws. Moreover, leaders of all major sectors of the society must agree to pursue power only by legal means, must eschew (at least in principle) violence, theft, and fraud, and must accept defeat when necessary. They must also be skilled at finding and creating common ground among diverse points of view and interests, and correlatively willing to compromise on all but the most basic values.

In addition to an appropriate political culture, democratic government requires institutions strong enough to channel and contain conflict. Voluntary, non-official institutions are needed to articulate and aggregate diverse interests and opinions present in the society. Otherwise, the formal governmental institutions will not be able to translate popular demands into public policy.

In the relatively few places where they exist, democratic governments have come into being slowly, after extended prior experience with more limited forms of participation during which leaders have reluctantly grown accustomed to tolerating dissent and opposition, opponents have accepted the notion that they may defeat but not destroy incumbents, and people have become aware of government's effects on their lives and of their own possible effects on government. Decades, if not centuries, are normally required for people to acquire the necessary discipines and habits. In Britain, the road from the Magna Carta to the Act of Settlement, to the great Reform Bills of 1832, 1867, and 1885, took seven centuries to traverse. American history gives no better grounds for believing that democracy comes easily, quickly, or for the asking. A war of independence, an unsuccessful constitution, a civil war, a long process of gradual enfranchisement marked our progress toward constitutional democratic government. The French path was still more difficult. Terror, dictatorship, monarchy, instability, and incompetence followed on the revolution that was to usher in a millennium of brotherhood. Only in the 20th century did the democratic principle finally gain wide acceptance in France and not until after World War II were the principles of order and democracy, popular sovereignty and authority, finally reconciled in institutions strong enough to contain conflicting currents of public opinion.

Although there is no instance of a revolutionary "socialist" or Communist society being democratized, right-wing autocracies do sometimes evolve into democracies—given time, propitious economic, social, and political circumstances, talented leaders, and a strong indigenous demand for representative government. Something of the kind is in progress on the Iberian peninsula and the first steps have been taken in Brazil. Something similar could conceivably have also occurred in Iran and Nicaragua if contestation and participation had been more gradually expanded.

But it seems clear that the architects of contemporary American foreign policy have little idea of how to go about encouraging the liberalization of an autocracy. In neither Nicaragua nor Iran did they realize that the only likely result of an effort to replace an incumbent autocrat with one of his moderate critics or a "broad-based coalition" would be to sap the foundations of the existing regime without moving the nation any closer to democracy. Yet this outcome was entirely predictable.

Authority in traditional autocracies is transmitted through personal relations: from the ruler to his close associates (relatives, household members, personal friends) and from them to people to whom the associates are related by personal ties resembling their own relation to the ruler. The fabric of authority unravels quickly when the power and status of the man at the top are undermined or eliminated. The longer the autocrat has held power, and the more pervasive his personal influence, the more dependent a nation's institutions will be on him. Without him, the organized life of the society will collapse, like an arch from which the keystone has been removed. The blend of qualities that bound the Iranian army to the Shah or the national guard to Somoza is typical of the relationships—personal, hierarchical, non-transferable—that support a traditional autocracy. The speed with which armies collapse, bureaucracies abdicate, and social structures dissolve once the autocrat is removed frequently surprises American policy-makers and journalists accustomed to public institutions based on universalistic norms rather than particularistic relations.

The failure to understand these relations is one source of the failure of U.S. policy in this and previous administrations. There are others. In Iran and Nicaragua (as previously in Vietnam, Cuba, and China) Washington overestimated the political diversity of the opposition—especially the strength of "moderates" and "democrats" in the opposition movement; underestimated the strength and intransigence of radicals in the movement; and misestimated the nature and extent of American influence on both the government and the opposition.

Confusion concerning the character of the opposition, especially its intransigence and will to power, leads regularly to downplaying the amount of force required to counteract its violence. In neither Iran nor Nicaragua did the U.S. adequately appreciate the government's problem in maintaining order in a society confronted with an ideologically extreme opposition. Yet the presence of such groups was well known. The State Department's 1977 report on human rights described an Iran confronted with a small number of extreme rightist and leftist terrorists operating within the country. There is evidence that they have received substantial foreign support and training . . . [and] have been responsible for the murder of Iranian government officials and Americans. . . .

The same report characterized Somoza's opponents in the following terms:

"A guerrilla organization known as the Sandinista National Liberation Front (FSLN) seeks the violent overthrow of the government, and has received limited support from Cuba. The FSLN carried out an operation in Managua in December 1974, killing four people, taking several officials hostage, . . . since then, it continues to challenge civil authority in certain isolated regions."

In 1978, the State Department's report said that Sandinista violence was continuing—after the state of siege had been lifted by the Somoza government.

When U.S. policy-makers and large portions of the liberal press interpret insurgency as evidence of widespread popular discontent and a will to democracy, the scene is set for disaster. For if civil strife reflects a popular demand for democracy, it follows that a "liberalized" government will be more acceptable to "public opinion."

Thus, in the hope of strengthening a government, U.S. policy-makers are led, mistake after mistake, to impose measures almost certain to weaken its authority. Hurried efforts to force complex and unfamiliar political practices on societies lacking the requisite political culture, tradition, and social structures not only fail to produce desired outcomes; if they are undertaken at a time when the traditional regime is under attack, they actually facilitate the job of the insurgents.

Vietnam presumably taught us that the United States could not serve as the world's policeman; it should also have taught us the dangers of trying to be the world's midwife to democracy when the birth is scheduled to take place under conditions of guerrilla war.

If the administration's actions in Iran and Nicaragua reflect the pervasive and mistaken assumption that one can easily locate and impose democratic alternatives to incumbent autocracies, they also reflect the equally pervasive and equally flawed belief that change per se in such autocracies is inevitable, desirable, and in the American interest. It is this belief which induces the Carter administration to participate actively in the toppling of non-Communist autocracies while remaining passive in the face of Communist expansion.

At the time the Carter administration came into office it was widely reported that the President had assembled a team who shared a new approach to foreign policy and a new conception of the national interest. The principal elements of this new approach were said to be two: the conviction that the cold war was over, and the conviction that, this being the case, the U.S. should give priority to North-South problems and help less developed nations achieve their own destiny.

More is involved in these changes than originally meets the eye. For, unlikely as it may seem, the foreign policy of the Carter administration is guided by a relatively full-blown philosophy of history which includes, as philosophies of history always do, a theory of social change, or, as it is currently called, a doctrine of modernization. Like most other philosophies of history that have appeared in the West since the 18th century, the Carter administration's doctrine predicts progress (in the form of modernization for all societies) and a happy ending (in the form of a world community of developed, autonomous nations).

The administration's approach to foreign affairs was clearly foreshadowed in Zbigniew Brzezinski's 1970 book on the U.S. role in the "technetronic era," *Between Two Ages*. In that book, Brzezinski showed that he had the imagination to look beyond the cold war to a brave new world of global politics and interdependence. To deal with that new world a new approach was said to be "evolving," which Brzezinski designated "rational humanism." In the new approach, the "preoccupation" with "national supremacy" would give way to "global" perspectives, and international problems would be viewed as "human issues" rather than as "political confrontations." The traditional intellectual framework for dealing with foreign policy would have to be scrapped:

"Today, the old framework of international politics . . . with their spheres of influence, military alliances between nation states, the fiction of sovereignty, doctrinal conflicts arising from 19th-century crisis—is clearly no longer compatible with reality."[1]

Only the "delayed development" of the Soviet Union, "an archaic religious community that experiences modernity existentially but not quite yet normatively," prevented wider realization of the fact that the end of ideology was already here. For the U.S., Brzezinski recommended "a great deal of patience," a more detached attitude toward world revolutionary processes, and a less anxious preoccupation with the Soviet Union. Instead of engaging in ancient diplomatic pastimes, we should make "a broader effort to contain the global tendencies toward chaos," while assisting the processes of change that will move the world toward the "community of developed nations."

The central concern of Brzezinski's book, as of the Carter administration's foreign policy, is with the modernization of the Third World. From the beginning, the administration has manifested a special, intense interest in the problems of the so-called Third World. But instead of viewing international developments in terms of the American national interest, as national interest is historically conceived, the architects of administration policy have viewed them in terms of a contemporary version of the same idea of progress that has traumatized Western imaginations since the Enlightenment.

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[1] Concerning Latin America, Brzezinski observed: "Latin American nationalism, more and more radical as it widens its popular base, will be directed with increasing animosity against the United States unless the United States rapidly shifts its own posture. Accordingly, it would be wise for the United States to make an explicit move to abandon the Monroe Doctrine and to concede that in the new global age geographic or hemispheric contiguity no longer need be politically decisive. Nothing could be healthier for Pan-American relations than for the United States to place them on the same level as its relations with the rest of the world, confining itself to emphasis on cultural-political affinities (as it does with Western Europe) and economic-social obligations (as it does with less developed countries)."

In its current form, the concept of modernization involves more than industrialization, more than "political development" (whatever that is). It is used instead to designate ". . . the process through which a traditional or pre-technological society passes as it is transformed into a society characterized by machine technology, rational and secular attitudes, and highly differentiated social structures." Condorcet, Comte, Hegel, Marx, and Weber are all present in this view of history as the working out of the idea of modernity.

The crucial elements of the modernization concept have been clearly explicated by Samuel P. Huntington (who despite a period at the National Security Council, was assuredly not the architect of the administration's policy). The modernization paradigm, Huntington has observed, postulates an ongoing process of change: complex, because it involves all dimensions of human life in society; systemic, because its elements interact in predictable, necessary ways; global, because all societies will, necessarily, pass through the transition from traditional to modern; lengthy, because time is required to modernize economic and social organization, character, and culture; phased, because each modernizing society must pass through essentially the same stages; homogenizing, because it tends toward the convergence and interdependence of societies; irreversible, because the direction of change is "given" in the relation of the elements of the process; progressive, in the sense that it is desirable, and in the long run provides significant benefits to the affiliated people.

Although the modernization paradigm has proved a sometimes useful as well as influential tool in social science, it has become the object of searching critiques that have challenged one after another of its central assumptions. Its shortcomings as an analytical tool pale, however, when compared to its inadequacies as a framework for thinking about foreign policy, where its principal effects are to encourage the view that events are manifestations of deep historical forces which cannot be controlled and that the best any government can do is to serve as a "mid-wife" to history, helping events to move where they are already headed.

This perspective on contemporary events is optimistic in the sense that it foresees continuing human progress; deterministic in the sense that it perceives events as fixed by processes over which persons and policies can have but little influence; moralistic in the sense that it perceives history and U.S. policy as having moral ends; cosmopolitan in the sense that it attempts to view the world not from the perspective of American interests or intentions but from the perspective of the modernizing nation and the "end" of history. It identifies modernization with both revolution and morality, and U.S. policy with all three.

The idea that it is "forces" rather than people which shape events recurs each time an administration spokesman articulates or explains policy. The President, for example, assured us in February of this year:

"The revolution in Iran is a product of deep social, political, religious, and economic factors growing out of the history of Iran itself."

And of Asia he said:

"At this moment there is turmoil or change in various countries from one end of the Indian Ocean to the other; some turmoil as in Indochina is the product of age-old enmities, inflamed by rivalries for influence by conflicting forces. Stability in some other countries is being shaken by the process of modernization, the search for national significance, or the desire to fulfill legitimate human hopes and human aspirations."

Harold Saunders, Assistant Secretary for Near Eastern and South Asian Affairs, commenting on "instability" in Iran and the Horn of Africa, states:

"We, of course, recognize that fundamental changes are taking place across this area of western Asia and northeastern Africa—economic modernization, social change, a revival of religion, resurgent nationalism, demands for broader popular participation in the political process. These changes are generated by forces within each country."

Or here is Anthony Lake, chief of the State Department's Policy Planning staff, on South Africa:

"Change will come in South Africa. The welfare of the people there, and American interests, will be profoundly affected by the way in which it comes. The question is whether it will be peaceful or not."

Brzezinski makes the point still clearer. Speaking as chief of the National Security Council, he has assured us that the struggles for power in Asia and Africa are really only incidents along the route to modernization:

". . . all the developing countries in the arc from northeast Asia to southern Africa continue to search for viable forms of government capable of managing the process of modernization."

No matter that the invasions, coups, civil wars, and political struggles of less violent kinds that one sees all around do not seem to be incidents in a global personnel search for someone to manage the modernization process. Neither Brzezinski nor anyone else seems bothered by the fact that the political participants in that arc from northeast Asia to southern Africa do not know that they are "searching for viable forms of government capable of managing the process of modernization." The motives and intentions of real persons are no more relevant to the modernization paradigm than they are to the Marxist view of history. Viewed from this level of abstraction, it is the "forces" rather than the people that count.

So what if the "deep historical forces" at work in such diverse places as Iran, the Horn of Africa, Southeast Asia, Central America, and the United Nations look a lot like Russians or Cubans? Having moved past what the President calls our "inordinate fear of Communism," identified by him with the cold war, we should, we are told, now be capable of distinguishing Soviet and Cuban "machinations," which anyway exist mainly in the minds of cold warriors and others guilty of oversimplifying the world, from evolutionary changes, which seem to be the only kind that actually occur.

What can a U.S. President faced with such complicated, inexorable, impersonal processes do? The answer, offered again and again by the President and his top officials, is, not much. Since events are not caused by human decisions, they cannot be stopped or altered by them. Brzezinski, for example, has said "We recognize that the world is changing under the influence of forces no government can control. . . ." And Cyrus Vance has cautioned: "The fact is that we can no more stop change than Canute could still the waters."

The Carter administration's essentially deterministic and apolitical view of contemporary events discourages an active American response and encourages passivity. The American inability to influence events in Iran became the President's theme song:

"Those who argue that the U.S. should *or could* intervene directly to thwart [the revolution in Iran] are wrong about the realities of Iran. . . . We have encouraged *to the limited extent of our own ability* the public support for the Bakhtiar government. . . . How long [the Shah] will be out of Iran, we have no way to determine. Future events and his own desires will determine that. . . . It is impossible for anyone to anticipate all future political events. . . . Even if we had been able to anticipate events that were going to take place in Iran or in other countries, obviously our ability to determine those events is very limited (emphasis added)."

Vance made the same point:

"In Iran our policy throughout the current crisis has been based on the fact that only Iranians can resolve the fundamental political issues which they now confront."

Where once upon a time an American President might have sent Marines to assure the protection of American strategic interests, there is no room for force in this world of progress and self-determination. Force, the President told us at Notre Dame, does not work; that is the lesson he extracted from Vietnam. It offers only "superficial" solutions. Concerning Iran, he said:

"Certainly we have no desire or ability to intrude massive forces into Iran or any other country to determine the outcome of domestic political issues. This is something that we have no intention of ever doing in another country. We've tried this once in Vietnam. It didn't work, as you well know."

There was nothing unique about Iran. In Nicaragua, the climate and language were different but the "historical forces" and the U.S. response were the same. Military intervention was out of the question. Assistant Secretary of State Viron Vaky described as "unthinkable" the "use of U.S. military power to intervene in the internal affairs of another American republic." Vance provided parallel assurances of Africa, asserting that we would not try to match Cuban and Soviet activities there.

What *is* the function of foreign policy under these conditions? It is to understand the processes of change and then, like Marxists, to align ourselves with history, hoping to contribute a bit of stability along the way. And this, administration spokesmen assure us, is precisely what we are doing. The Carter administration has defined the U.S. national interest in the Third World as identical with the putative end of the modernization process. Vance put this with characteristic candor in a recent statement when he explained that U.S. policy vis-a-vis the Third World is "grounded in the conviction that we best serve our interest there by supporting the efforts of developing nations to advance their economic well-being and preserve their political independence." Our "commitment to the promotion of constructive change worldwide" (Brezinski's words) has been vouchsafed in every conceivable context.

But there is a problem. The conceivable contexts turn out to be mainly those in which non-Communist autocracies are under pressure from revolutionary guerrillas. Since Moscow is the aggressive, expansionist power today, it is more often than not insurgents, encouraged and armed by the Soviet Union, who challenge the status quo. The American commitment to "change" in the abstract ends up by aligning us tacitly with Soviet clients and irresponsible extremists like the Ayatollah Khomenini or, in the end, Yasir Arafat.

So far, assisting "change" has not led the Carter administration to undertake the destabilization of a *Communist* country. The principles of self-determination and nonintervention are thus both selectively applied. We seem to accept the status quo in Communist nations (in the name of "diversity" and national autonomy), but not in nations ruled by "right-wing" dictators or white oligarchies. Concerning China, for example, Brzezinski has observed: "We recognize that the PRC and we have different ideologies and economic and political systems. . . . We harbor neither the hope nor the desire that through extensive contacts with China we can remake that nation into the American image. Indeed, we accept our differences." Of Southeast Asia, the President noted in February:

"Our interest is to promote peace and the withdrawal of outside forces and not to become embroiled in the conflict among Asian nations. And, in general, our interest is to promote the health and the development of individual societies, not to a pattern cut exactly like ours in the United States but tailored rather to the hopes and the needs and desires of the peoples involved."

But the administration's position shifts sharply when South Africa is discussed. For example, Anthony Lake asserted in late 1978:

". . . We have indicated to South Africa the fact that if it does not make significant progress toward racial equality, its relations with the international community, including the United States, are bound to deteriorate.

Over the years, we have tried through a series of progressive steps to demonstrate that the U.S. cannot and will not be associated with the continued practice of apartheid."

As to Nicaragua, Hodding Carter III said in February 1979:

"The unwillingness of the Nicaraguan government to accept the [OAS] group's proposal, the resulting prospects for renewal and polarization, and the human-rights situation in Nicaragua . . . unavoidably affect the kind of relationships we can maintain with that government." . . .

And Carter commented on Latin American autocracies:

"My government will not be deterred from protecting human rights, including economic and social rights, in whatever ways we can. We prefer to take actions that are positive, but where nations persist in serious violations of human rights, we will continue to demonstrate that there are costs to the flagrant disregard of international standards."

Something very odd is going on here.

How does an administration that desires to let people work out their own destinies get involved in determined efforts at reform in South Africa, Zaire, Nicaragua, El Salvador, and elsewhere? How can an administration committed to nonintervention in Cambodia and Vietnam announce that it "will not be deterred" from righting wrongs in South Africa? What should be made of an administration that sees the U.S. interest as identical with economic modernization and political independence and yet heedlessly endangers the political independence of Taiwan, a country whose success in economic modernization and egalitarian distribution of wealth is unequaled in Asia? The contrast is as striking as that between the administration's frenzied speed in recognizing the new dictatorship in Nicaragua and its continuing refusal to recognize the elected government of Zimbabwe Rhodesia, or its refusal to maintain any presence in Zimbabwe Rhodesia while staffing a U.S. Information Office in Cuba. Not only are there ideology and a double standard at work here, the ideology neither fits nor explains reality, and the double standard involves the administration in the wholesale contradiction of its own principles.

Inconsistencies are a familiar part of politics in most societies. Usually, however, governments behave hypocritically when their principles conflict with the national interest. What makes the inconsistencies of the Carter administration noteworthy are, first, the administration's moralism—which renders it especially vulnerable to charges of hypocrisy; and, second, the administration's predilection for policies that violate the strategic and economic interests of the United States. The administration's conception of national interest borders on doublethink: it finds friendly powers to be guilty representatives of the status quo and views the triumph of unfriendly groups as beneficial to America's "true interests."

This logic is quite obviously reinforced by the prejudices and preferences of many administration officials. Traditional autocracies are, in general and in their very nature, deeply offensive to modern American sensibilities. The notion that public affairs should be ordered on the basis of kinship, friendship, and other personal relations rather than on the basis of objective "rational" standards violates our conception of justice and efficiency.

The preference for stability rather than change is also disturbing to Americans whose whole national experience rests on the principles of change, growth, and progress. The extremes of wealth and poverty characteristic of traditional societies also offend us, the more so since the poor are usually very poor and bound to their squalor by a hereditary allocation of role. Moreover, the relative lack of concern of rich, comfortable rulers for the poverty, ignorance, and disease of "their" people is likely to be interpreted by Americans as moral dereliction pure and simple. The truth is that Americans can hardly bear such societies and such rulers. Confronted with them, our vaunted cultural relativism evaporates and we become as censorious as Cotton Mather confronting sin in New England.

But if the politics of traditional and semitraditional autocracy is nearly antithetical to our own—at both the symbolic and the operational level—the rhetoric of progressive revolutionaries sounds much better to us; their symbols are much more acceptable. One reason that some modern Americans prefer "socialist" to traditional autocracies is that the former have embraced modernity and have adopted modern modes and perspectives, including an instrumental, manipulative, functional orientation toward most social, cultural, and personal affairs; a profession of universalistic norms; an emphasis on reason, science, education, and progress; a deemphasis of the sacred; and "rational," bureaucratic organizations. They speak our language.

Because socialism of the Soviet/Chinese/Cuban variety is an ideology rooted in a version of the same values that sparked the Enlightenment and the democratic revolutions of the 18th century; because it is modern and not traditional; because it postulates goals that appeal to Christian as well as to secular values (brotherhood of man, elimination of power as a mode of human relations), it is highly congenial to many Americans at the symbolic level. Marxist revolutionaries speak the language of a hopeful future while traditional autocrats speak the language of an unattractive past. Because left-wing revolutionaries invoke the symbols and values of democracy—emphasizing egalitarianism rather than hierarchy and privilege, liberty rather than order, activity rather than passivity—they are again and again accepted as partisans in the cause of freedom and democracy.

Nowhere is the affinity of liberalism, Christianity, and Marxist socialism more apparent than among liberals who are "duped" time after time into supporting "liberators" who turn out to be totalitarians, and among Left-leaning clerics whose attraction to a secular style of "redemptive community" is stronger than their outrage at the hostility of socialist regimes to religion. In Jimmy Carter—egalitarian, optimist, liberal, Christian—the tendency to be repelled by frankly nondemocratic rulers and hierarchical societies is almost as strong as the tendency to be attracted to the idea of popular revolution, liberation, and progress. Carter is, par excellence, the kind of liberal most likely to confound revolution with idealism, change with progress, optimism with virtue.

Where concern about "socialist encirclement," Soviet expansion, and traditional conceptions of the national interest inoculated his predecessors against such easy equations, Carter's doctrine of national interest and modernization encourages support for all change that takes place in the name of "the people," regardless of its "superficial" Marxist or anti-American content. Any lingering doubt about whether the U.S. should, in case of conflict, support a "tested friend" such as the Shah or a friendly power such as Zimbabwe Rhodesia against an opponent who despises us is resolved by reference to our "true," our "long-range" interests.

Stephen Rosenfeld of the Washington *Post* described the commitment of the Carter administration to this sort of "progressive liberalism":

"The Carter administration came to power, after all, committed precisely to reducing the centrality of strategic competition with Moscow in American foreign policy, and to extending the United States' association with what it was prepared to accept as legitimate wave-of-the-future popular movements around the world—first of all with the victorious movement in Vietnam.

" . . . Indochina was supposed to be the stage on which Americans could demonstrate their "post-Vietnam" intent to come to terms with the progressive popular element that Kissinger, the villain, had denied."

In other words, the Carter administration, Rosenfeld tells us, came to power resolved not to assess international developments in the light of "cold-war" perspectives but to accept at face value the claim of revolutionary groups to represent "popular" aspirations and "progressive" forces—regardless of the ties of these revolutionaries to the Soviet Union. To this end, overtures were made looking to the "normalization" of relations with Vietnam, Cuba, and the Chinese People's Republic, and steps were taken to cool relations with South Korea, South Africa, Nicaragua, the Philippines, and others. These moves followed naturally from the conviction that the U.S. had, as our enemies said, been on the wrong side of history in supporting the status quo and opposing revolution.

One might have thought that this perspective would have been undermined by events in Southeast Asia since the triumph of "progressive" forces there over the "agents of reaction." To cite Rosenfeld again:

"In this administration's time, Vietnam has been transformed for much of American public opinion, from a country wronged by the U.S. to one revealing a brutal essence of its own.

"This has been a quiet but major trauma to the Carter people (as to all liberals) scarring their self-confidence and their claim on public trust alike."

Presumably, however, the barbarity of the "progressive" governments in Cambodia and Vietnam has been less traumatic for the President and his chief advisers than for Rosenfeld, since there is little evidence of changed predispositions at crucial levels of the White House and the State Department. The President continues to behave as before—not like a man who abhors autocrats but like one who abhors only right-wing autocrats.

In fact, high officials in the Carter administration understand better than they seem to the aggressive, expansionist character of contemporary Soviet behavior in Africa, the Middle East, Southeast Asia, the Indian Ocean, Central America, and the Caribbean. But although the Soviet/Cuban role in Grenada, Nicaragua, and El Salvador (plus the transfer of MIG-23's to Cuba) had already promoted resumption of surveillance of Cuba (which in turn confirmed the presence of a Soviet combat brigade), the President's eagerness not to "heat up" the climate of public opinion remains stronger than his commitment to speak the truth to the American people. His statement on Nicaragua clearly reflects these priorities.

"It's a mistake for Americans to assume or to claim that every time an evolutionary change takes place in this hemisphere that somehow it's a result of secret, massive Cuban intervention. The fact in Nicaragua is that the Somoza regime lost the confidence of the people. To bring about an orderly transition there, our effort was to let the people of Nicaragua ultimately make the decision on who would be their leader—what form of government they should have."

This statement, which presumably represents the President's best thinking on the matter, is illuminating. Carter's effort to dismiss concern about military events in this specific country as a manifestation of a national proclivity for seeing "Cuban machinations" under every bed constitutes a shocking effort to falsify reality. There was no question in Nicaragua of "evolutionary change" or of attributing such change to Castro's agents. There was only a question about the appropriate U.S. response to a military struggle in a country whose location gives it strategic importance out of proportion to its size or strength.

But that is not all. The rest of the President's statement graphically illustrates the blinding power of ideology on his interpretation of events. When he says that "the Somoza regime lost the confidence of the people," the President implies that the regime had previously rested on the confidence of "the people," but that the situation had now changed. In fact, the Somoza regime had never rested on popular will (but instead on manipulation, force, and habit), and was not being ousted by it. It was instead succumbing to arms and soldiers. However, the assumption that the armed conflict of Sandinistas and Somozistas was the military equivalent of a national referendum enabled the President to imagine that it could be, and should be, settled by the people of Nicaragua. For this pious sentiment even to seem true the President would have had to be unaware that insurgents were receiving a great many arms from other non-Nicaraguans; and that the U.S. had played a significant role in disarming the Somoza regime.

The President's mistakes and distortions are all fashionable ones. His assumptions are those of people who want badly to be on the progressive side in conflicts between "rightist" autocracy and "leftist" challenges, and to prefer the latter, almost regardless of the probable consequences.

To be sure, neither the President, nor Vance, nor Brzezinski desires the proliferation of Soviet-supported regimes. Each has asserted his disapproval of Soviet "interference" in the modernization process. But each, nevertheless, remains willing to "destabilize" friendly or neutral autocracies without any assurance that they will not be replaced by reactionary totalitarian theocracies, totalitarian Soviet client states, or worst of all, by murderous fanatics of the Pol Pot variety.

The foreign policy of the Carter administration fails not for lack of good intentions but for lack of realism about the nature of traditional versus revolutionary autocracies and the relation of each to the American national interest. Only intellectual fashion and the tyranny of Right/Left thinking prevent intelligent men of good will from perceiving the facts that traditional authoritarian governments are less repressive than revolutionary autocracies, that they are more susceptible of liberalization, and that they are more compatible with U.S. interests. The evidence on all these points is clear enough.

Surely it is now beyond reasonable doubt that the present governments of Vietnam, Cambodia, Laos are much more repressive than those of the despised previous rulers; that the government of the People's Republic of China is more repressive than that of Taiwan, that North Korea is more repressive than South Korea, and so forth. This is the most important lesson of Vietnam and Cambodia. It is not new but it is a gruesome reminder of harsh facts.

From time to time a truly bestial ruler can come to power in either type of autocracy—Idi Amin, Papa Doc Duvalier, Joseph Stalin, Pol Pot are examples—but neither type regularly produces such moral monsters (though democracy regularly prevents their accession to power). There are, however, systemic differences between traditional and revolutionary autocracies that have a predictable effect on their degree of repressiveness. Generally speaking, traditional autocrats tolerate social inequities, brutality, and poverty while revolutionary autocracies create them.

Traditional autocrats leave in place existing allocations of wealth, power, status, and other resources which in most traditional societies favor an affluent few and maintain masses in poverty. But they worship traditional gods and observe traditional taboos. They do not disturb the habitual rhythms of work and leisure, habitual places of residence, habitual patterns of family and personal relations. Because the miseries of traditional life are familiar, they are bearable to ordinary people who, growing up in the society, learn to cope, as children born to untouchables in India acquire the skills and attitudes necessary for survival in the miserable roles they are destined to fill. Such societies create no refugees.

Precisely the opposite is true of revolutionary Communist regimes. They create refugees by the million because they claim jurisdiction over the whole life of the society and make demands for change that so violate internalized values and habits that inhabitants flee by the tens of thousands in the remarkable expectation that their attitudes, values, and goals will "fit" better in a foreign country than in their native land.

The former deputy chairman of Vietnam's National Assembly from 1976 to his defection early in August 1979, Hoang Van Hoan, described recently the impact of Vietnam's ongoing revolution on that country's more than one million Chinese inhabitants:

"They have been expelled from places they have lived in for generations. They have been dispossessed of virtually all possessions—their lands, their houses. They have been driven into areas called new economic zones, but they have not been given any aid.

"How can they eke out a living in such conditions reclaiming new land? They gradually die for a number of reasons—diseases, the hard life. They also die of humiliation."

It is not only the Chinese who have suffered in Southeast Asia since the "liberation," and it is not only in Vietnam that the Chinese suffer. By the end of 1978 more than six million refugees had fled countries ruled by Marxist governments. In spite of walls, fences, guns, and sharks, the steady stream of people fleeing revolutionary utopias continues.

There is a damning contrast between the number of refugees created by Marxist regimes and those created by other autocracies: more than a million Cubans have left their homeland since Castro's rise (one refugee for every nine inhabitants) as compared to about 35,000 each from Argentina, Brazil, and Chile. In Africa more than five times as many refugees have fled Guinea and Guinea Bissau as have left Zimbabwe Rhodesia, suggesting that civil war and racial discrimination are easier for most people to bear than Marxist-style liberation.

Moreover, the history of this century provides no grounds for expecting that radical totalitarian regimes will transform themselves. At the moment there is a far greater likelihood of progressive liberalization and democratization in the governments of Brazil, Argentina, and Chile than in the government of Cuba; in Taiwan than in the People's Republic of China; in South Korea than in North Korea; in Zaire than in Angola; and so forth.

Since many traditional autocracies permit limited contestation and participation, it is not impossible that U.S. policy could effectively encourage this process of liberalization and democratization, provided that the effort is not made at a time when the incumbent government is fighting for its life against violent adversaries, and that proposed reforms are aimed at producing gradual change rather than perfect democracy overnight. To accomplish this, policy-makers are needed who understand how actual democracies have actually come into being. History is a better guide than good intentions.

A realistic policy which aims at protecting our own interest and assisting the capacities for self-determination of less developed nations will need to face the unpleasant fact that, if victorious, violent insurgency headed by Marxist revolutionaries is unlikely to lead to anything but totalitarian tyranny. Armed intellectuals citing Marx and supported by Soviet-bloc arms and advisers will almost surely not turn out to be agrarian reformers, or simple nationalists, or democratic socialists. However incomprehensible it may be to some, Marxist revolutionaries are not contemporary embodiments of the Americans who wrote the Declaration of Independence, and they will not be content with establishing a broad-based coalition in which they have only one voice among many.

It may not always be easy to distinguish between democratic and totalitarian agents of change, but it is also not too difficult. Authentic democratic revolutionaries aim at securing governments based on the consent of the governed and believe that ordinary men are capable of using freedom, knowing their own interest, choosing rulers. They do not, like the current leaders in Nicaragua, assume that it will be necessary to postpone elections for three to five years during which time they can "cure" the false consciousness of almost everyone.

If, moreover, revolutionary leaders describe the United States as the scourge of the 20th century, the enemy of freedom-loving people, the perpetrator of imperialism, racism, colonialism, genocide, war, then they are not authentic democrats or, to put it mildly, friends. Groups which define themselves as enemies should be treated as enemies. The United States is not in fact a racist, colonial power, it does not practice genocide, it does not threaten world peace with expansionist activities. In the last decade especially we have practiced remarkable forbearance everywhere and undertaken the "unilateral restraints on defense spending" recommended by Brzezinski as appropriate for the technetronic era. We have also moved further, faster, in eliminating domestic racism than any multiracial society in the world or in history.

For these reasons and more, a posture of continuous self-abasement and apology vis-à-vis the Third World is neither morally necessary nor politically appropriate. No more is it necessary or appropriate to support vocal enemies of the United States because they invoke the rhetoric of popular liberation. It is not even necessary or appropriate for our leaders to forswear unilaterally the use of military force to counter military force. Liberal idealism need not be identical with masochism, and need not be incompatible with the defense of freedom and the national interest.●

JUSTICE SYSTEM IMPROVEMENT ACT OF 1979—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, I submit a report of the committee of conference on S. 241 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 10, 1979.)

Mr. JAVITS. Mr. President, I would like to be heard on the conference report.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, first, let me congratulate the original managers of the bill, Senators KENNEDY and THURMOND for having brought the legislation to its successful conclusion.

Second, Mr. President, I express a concern which I have based on a situation which developed in Syracuse, N.Y., with respect to the administration of this program, and which I am very pleased to state to the Senate is now in the process of being considered by the Law Enforcement Assistance Administration. My concern relates to the ability of the LEAA to review and challenge those programs supported by Federal block grants which may prove to be inappropriate for the purposes of the program, which is to improve the criminal justice system, or which may be carried out inappropriately to attain the same purpose.

Before I refer to the specific situation in New York that deals with this point; I would point out that there is no argument about the fact that where criminal prosecution is deserved, it should be had, whether it is generally a State prosecution or a Federal prosecution, and that the LEAA is not designed simply to finance local criminal prosecutions. It is designed to do major things to improve the administration of the criminal justice system.

The situation in New York is as follows:

On December 6, 1976, Peter Andreoli was appointed special prosecutor at the request of Governor Carey to investigate what was described then as "widespread corruption" in the political leadership of Onondaga County, N.Y.

After almost 3 years and the expenditure of $1.5 million in LEAA funds which went to the State by the formula grants program, the Andreoli investigation has failed not only to turn up evidence of widespread political corruption but has also raised questions about the effective administration of the LEAA formula grant program. The record in Onondaga County in this respect is open and public.

Mr. President, I ask unanimous consent to have printed in the RECORD, at the conclusion of my remarks, various newspaper stories and editorials on the subject.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JAVITS. Mr. President, the special prosecutor was initially funded in 1976 by approximately $80,000 in State funds, but continued funding was denied by the State legislature. Subsequently the Governor, who has the power, allocated approximately $500,000 per year of LEAA funds for the past 3 years to support the investigation.

The net result, after 3 years, is the following: While there have been more than 30 indictments of Republican politicians and their business associates, there have been only two misdemeanor convictions and five pleas of guilty to misdemeanors. Fines have been imposed of between $1,100 and $11,100 in those cases.

One person has been acquitted, and five are now being tried for conspiracy to violate the State civil service and election laws, violations clearly within the jurisdiction of the Onondaga County district attorney to prosecute.

The prosecutor obtained one felony conviction, but that investigation was initiated by the local district attorney and concerned conduct unrelated to the other indictments to which I have referred.

Our State law provides that complaints of this kind are to be investigated initially by the independent and bipartisan State board of elections, but in this case, this channel was bypassed. Despite these circumstances, the LEAA funds have continued to be used to support the special prosecutor's office.

I am pleased to report to the Senate that in response to my concerns the LEAA has now sent a team to Syracuse to monitor the expenditures of these funds, and it will be very useful to get the report of these monitors. Generally, it is called an audit when the investigation is a formal answer to a complaint; but where it is done not in answer to any formal complaint, it is called a monitoring, although it seeks to elicit the same information.

I will be sure to call to the attention of the Senate, when it comes along, the report of the agency in this respect.

Mr. President, I recognize and support the principle of this bill that prohibits Federal interference with or control of local criminal justice matters, but I believe, also, that the Federal Government has the obligation to see that Federal funds are not used for purposes duplicative of local law enforcement and that funding is not continued indefinitely for a program which makes no material contribution to the improvement of the criminal justice system and cannot show results commensurate with the level of fiscal support which is given to it.

As is often true in American political life, there is an allegation of partisan advantage where Federal funds given to the State for the purpose which these are given are used in this way.

The newspapers in Syracuse have been very outspoken about this matter. Voters, by the way, have now voted; and they have reelected the officials who were under attack in this way. I think, therefore, that it is most fitting that the LEAA is going to have a look at this matter and give us a report as to what is the real situation.

I spread these facts upon the RECORD because I believe that it is a useful case in point with respect to our duty of oversight, through the appropriate committee and by the Senate itself, of how Federal funds are used.

I do not either criticize or charge anything, Mr. President. I simply elucidate the facts which, it seems to me, speak for themselves. The press reports upon those facts state my approval of the policy of the law which is now being followed through, through the action of the LEAA in monitoring this particular situation, which has been the subject of considerable complaint to me from Syracuse.

I assure the Senate that I will follow the matter through further, as soon as this report is available.

I have no objection whatever to the approval of the conference report, which I hope is approved.

EXHIBIT 1

EXPENSE OF ANDREOLI PROBE FOR THREE YEARS TOPS $1.7M

(By Kenn Peters)

The political corruption probe of state special prosecutor Peter D. Andreoli which is three years old this month, has cost state taxpayers approximately $1.7 million.

And in those three years, the investigation has resulted in 29 indictments of local political figures and businesses, ranging on charges from conspiracy to bribery and extortion.

There have been rumors that the only investigation of its type ever to be witnessed in Central New York is winding down, that the state has broken its lease with the Marine Midland Bank where Andreoli and his staff have offices, and that Andreoli, himself, is ready to leave Syracuse because he now has vested rights in the state pension plan.

The facts are: the lease between the state and Marine Midland Bank hasn't been terminated, and is scheduled to expire in March 1982; Andreoli's salary has increased from $47,771 to $51,115, and he is still in the New York City pension plan.

The lease calls for the state to pay Marine Midland $37,500 annually. Thus, by March 1980, the state will have paid the bank $112,500. The state, however, does have a clause in the lease which allows it to break the agreement with 60 days notice.

A bank spokesman explained that normally the landlord originates lease documents, but when dealing with the state, landlords must accept the "standard" five-year lease agreement including the 60 day notice clause.

The lease cost, Andreoli's salary and the salaries of his staff of 19 people is included in the $1.7 million cost of the probe.

Andreoli refused to provide The Herald-American with cost figures of his investigation, saying there have been so many rumors about the cost, he would prefer the figures came from the state Law Department.

A department spokesman fixed the figures at $1,309,675.67, all of which has been paid out of federal Law Enforcement Assistance

Administration grants, administered in New York by the Crime Control Planning Board of the Department of Criminal Justice. Another $292,085.23 is figured in as "fringe benefits" for Andreoli and his staff.

Not included, however, is "something less than $100,000," the spokesman said was the amount the Law Department paid from January 1, to March 31, 1977, before the first LEAA grant was secured. The spokesman was unable to determine the exact amount because of the holiday weekend and unavailability of records, but emphasized the figure is less than $100,000.

Taking into account the LEAA money, the fringes, and the amount contributed by the Law Department early on in the investigation, the total tops the $1.7 million mark.

On a technical basis, there are other costs associated with the investigation which are being charged directly to county taxpayers, but many of them haven't been, or can't be broken out yet.

Chief Charles Gabriel, of the county Sheriff's Department, said it has cost the department $50,353 in salaries, vehicle costs, overtime and fringe benefits for deputies assigned to the office, since Andreoli came to Syracuse early in 1977.

Unknown are the costs, if there are any, for the Department of Law, the district attorney's office, and the Commissioner of Jurors.

Some spokesmen have said it would be difficult to break-out these figures since they might be normal staff costs, but in the case of Russell Mangicaro, county commissioner of jurors, it would take several days to determine how much it has cost to seat three grand juries, pay jurors' salaries and mileage.

Other unknown costs are what the break-out would be for tying up the Jefferson Street Armory where Andreoli's grand juries have taken testimony, one part of Supreme Court in the Onondaga County Courthouse, where Justice Lyman H. Smith has presided over the trials, the costs of bailiffs, stenographers, and clerks.

Other unknown costs are the amounts of money consumed by staffs of the state Senate and Assembly which spent considerable time evaluating the budgets Gov. Hugh L. Carey proposed for Andreoli.

Some argue the salaries of these people would be paid anyway regardless of the type of work they did, while others have said these people could be put to better uses.

It also isn't known if the Sheriff's Department or State Police have assigned Andreoli confidential investigators.

The first LEAA grant actually wasn't obtained until July 1977, but was retroactive to April 1.

Still undetermined is whether a fourth LEAA grant will be sought. Andreoli said he personally doesn't make the applications, but state Atty. Gen. Robert Abrams must apply. If Andreoli's investigation continues past March 1980 when the present grant expires, it is thought his office will require another grant since state Legislature Republicans have three times refused to allow the state to fund the probe.

Andreoli won't be pinned down on how much longer he expects to be in Syracuse, but said Wednesday he hopes to be able to finish: "maybe in a few months."

If application is made for a third grant, it appears likely it will be approved. In Syracuse Monday, Frank Fogers, commissioner of the Department of Criminal Justice Services, indicated he would look favorably upon such a request.

Information about the residences of Andreoli and his staff isn't public because his office is termed a "police agency," and under the state Freedom of Information Law, such requests don't have to be honored.

Andreoli, however, is from Westchester, and it is known his Syracuse residence was, and probably still is, the Hotel Syracuse.

Andreoli was appointed on Nov. 26, 1976, by then state Atty. Gen. Louis Lefkowitz, who was acting on orders from the governor. Carey issued the order after receiving a report from a Manhattan grand jury which indicated there was evidence of alleged political corruption in Onondaga County.

Andreoli planned to be in Syracuse during the first week of January, 1977, but was delayed two weeks by work he had to finish in his former capacity as chief of the Frauds Bureau of the district attorney's office in New York County.

Seven of the political figures indicted thus far have gone to trial or pleaded guilty to the charges specified in multi-count indictments. The remainder are pending, or being tried as in the cases of county Executive John H. Mulroy, state Sen. Martin S. Auer, county GOP Chairman Richard J. Hanlon, Ephraim E. Shapero, former chairman of the county Legislature, and Leonard P. Markert, treasurer of the county Republican Committee.

The trials brought to conclusions were those of:

Richard G. Sheeran, county deputy comptroller who was found guilty of several charges and was fined $2,700. There is still one conspiracy charge pending against Sheeran.

Ralph I. Greenhouse, former county attorney, who plead guilty and resigned. He was fined $11,100, and was given a year's probation on several counts of the indictment.

Former District Attorney Jon K. Holcombe, who plead guilty and was fined $1,400.

County Purchasing Director John J. Bachman, who was found guilty and was fined $2,100.

Former county Elections Commissioner Frederick K. Buchanan, who was found guilty and was fined $1,350.

Former Sheriff's Lt. Francis "Mugsy" McGraw, who was found guilty and fined $1,100.

Former Salina Town Supervisor Clifford F. Hart, who was found guilty and ordered to pay restitution and a fine of $1,805.

Andreoli pointed out that in the confessions of the people who decided to plead guilty, other county employees were implicated in what he said was a "scheme" to get funds for support of the Republican Committee, and they admitted to the scheme.

Still pending are indictments and court cases against Timothy Hayes, former Salina Town building inspector, Joseph A. Lupia, an assistant district attorney, John P. Wegerski, a former assistant district attorney; Charles Sherman Wiley, vice president of Empire White Truck and Equipment Corp., and Empire White Truck; George Schunck; Roger Moreland, and Ellis Moreland & Ellis Insurance, the Young Insurance Agency, Syracuse Supply, and Steward Davis, president of the firm.

Marsh & McLennan Inc., a New York City based insurance brokerage firm with a Syracuse office, pleaded guilty to a conspiracy charge in Supreme Court without an indictment having been returned. Smith imposed a $5,000 fine on the insurance firm which agreed to make restitution to the county in the amount of $30,000. Through attorney Paul Shanahan, the firm admitted participating in an insurance fee splitting system. Andreoli and a grand jury have been investigating since September 1977.

[From the Syracuse Herald American, Nov. 4, 1979]

INDICTABLE IN ONONDAGA BUT OKAY IN ALBANY

On the eve of the election, it is important to put the events of the last couple of years into proper perspective.

As that picture comes into focus, it is apparent there is a determined and persistent effort to destroy County Executive John H. Mulroy, his administration and his political associates. If in the process the Republican Party can be shattered, then the victory will be complete.

How else can the three-year, $2.5-million Andreoli investigation into Onondaga County political affairs be explained?

On Dec. 6, 1976, Peter D. Andreoli was appointed special prosecutor at the request of Gov. Carey to investigate what was dedescribed then as "widespread corruption."

The governor said the request came from a Manhattan grand jury which had been checking into misconduct in the attorney general's office.

It is worth noting that the request came before the election of a district attorney but no action was taken until after the election in which Richard Hennessy defeated his Democratic opponent, Edward Kearse.

It is also worth noting that the Manhattan grand jury had suggested a similar investigation in Albany County. There the matter was turned over to the district attorney and disposed of in a couple of months.

Here, however, the probe has dragged on for 35 months and the "widespread corruption" has generally proved to be the sale in public office buildings of clambake tickets, soliciting political contributions and meeting in public buildings to discuss political strategy and fund raising.

On anyone's scale of crime these activities rank somewhere in seriousness between spitting on the sidewalk and vagrancy.

Investigator Andreoli would have the people believe he is on to galloping corruption but the fact is that a man who has progressed through the rough and tumble of New York City politics is knowledgeable enough to lead with his biggest and best . . . and so far that has been mostly the sale of clambake tickets.

John Mulroy was indicted along with Sen. Martin Auer, former County Legislature Chairman Ephraim Shapero, County Republican Leader Richard Hanlon and Leonard Markert Jr., one-time chairman of a Republican finance committee, on Oct. 4, 1978. Yet they were not brought to trial until a year later.

Andreoli can say that legal motions made by the defendants delayed their trial, but the last of these came in February and seven months were allowed to elapse before their cases were called—coincidentally in the heat of Mulroy's re-election campaign.

The probe has cast a pall over the county which has been unfairly pointed to as corrupt and sinful. The lives of a number of persons whose most serious transgression has been the violation of an obscure section of the civil service law have been marred and a heavy-handed penalty plus great legal expenses have imposed a punishment on them and their families far beyond anything they deserved.

No one suggests that crime should be condoned or that criminal conduct should be punished, but we ought to get away from the idea that a course of conduct is a crime only in Onondaga.

A year ago last May, Gov. Carey's supporters—many of them on the state payroll—put the arm on state employees to buy tickets for a $150-a-plate fund raiser for the governor. Much of the soliciting was done in state office buildings and news services carried stories pointing this out.

When the governor was asked about it, he said no one had asked him to investigate (a pointed reference to the Manhattan grand jury's request for an investigation in Onondaga) so he wasn't going to do anything about it.

A crime indictable in Onondaga, routine business in Albany?

Two weeks ago another of Andreoli's grand juries returned an indictment against a Syracuse company and its president, charging, among other things, bid rigging, kickbacks to the Republican Party and buying advertisements in political party journals for a price equal to a percentage of the cost of projects awarded to the company.

In a modern version of the Chinese water torture, Andreoli's office indicated some Onondaga officials were involved but they would not be named until later.

When will he drop the other shoe? After the election?

It is interesting to note that even as the Syracuse firm was being named in an indictment the Gannett News Service reported that $250 million worth of no-bid state contracts were awarded to companies that had been heavy contributors to Gov. Carey's campaign for re-election last year.

Even though a spokesman for the governor admitted that it was "unrealistic and illegal" to award contracts solely on the basis of political contributions, he conceded contributions "can be considered helpful in letting your case be heard and not get lost in the shuffle."

Among beneficiaries of the "contribute and collect" policy in Albany listed by Gannett was the engineering firm of Andrews & Clark Inc., which received more than $3 million worth of contracts after contributing $3,000 and the New York City engineering firm of Madigan-Praeger Inc., which contributed $3,400 and also received more than $3 million in contracts.

Indictable in Onondaga, but okay in Albany!

Or how about the revelation by the same news service of the $54-million in state leasing contracts given largely to firms that were heavy contributors to political campaigns and some of whom chose to hide behind names like "Globe Mills," "Joint Venture" and "Siam Corp. in care of Contesa"?

The state pays more than $250,000 in annual rents to the "oft-investigated state Teamsters Union Pension Fund in Utica." The Albany leasing firm of John, Bernard and Michael Picotte, big contributors, collects over $3 million a year. A select group of real estate investors who gave heavily to the Carey campaign were given more than $6 million in leases. These are the people who don't want anyone to know who they are.

Indictable in Onondaga, but fine in Albany!

Or how about the most recent development in the case of Anthony M. Scotto, the International Longshoremen's Association general organizer on trial in New York City on charges of extorting $300,000 from businessmen on the Brooklyn waterfront?

Gov. Carey appeared as a character witness for Scotto in federal court and testified that Scotto was "trustworthy, energetic, intelligent, effective and dedicated." Scotto, the governor went on, "has a rare quality about him. He chooses a course of conduct based on his conscience for what is right and not what is popular. . . . We have a cose relationship."

Well, as it develops, Scotto testified he raised about a million dollars for Carey's election campaign in 1974. Here is the testimony:

"Did you raise substantial dollars for that election?"

Scotto: "Yes, I did. I was told I accounted for almost a million dollars."

And Scotto also testified he gave $50,000 in cash to Mario Cuomo's mayoral campaign in New York City in 1977 and another $25,000 in cash to Gov. Carey's campaign for re-election last year. Cuomo is now Carey's lieutenant governor.

It is against the law for anyone to give or for anyone to receive more than $100 in cash as a political contribution. Scotto testified he did not know that and the governor agreed that not everyone could be expected to know the law and therefore should not be judged too harshly.

However, in respect to the $25,000 cash contribution, the governor says there is no record of such a contribution and therefore it could not have been made.

But the governor says Scotto is an honorable man and Scotto says he made the contribution—$25,000 in cash.

Scotto, the governor says, is an honorable man, and Scotto says he gave $50,000 in cash to Cuomo's campaign. Cuomo doesn't want to comment until he sees the trial transcript. Scotto says he gave the money to Louis Valentino, now commissioner of labor affairs in the State Department of Labor, who was an official in Cuomo's mayoral campaign in 1977.

Albany could perhaps make use of Andreoli to see if Scotto is indeed an honorable man and what happened to the $75,000, but apparently in Albany selling clambake tickets ranks higher on the list of crimes than a mysterious $75,000 cash political contribution.

We've recited these matters at this length because there seem to be two standards of conduct in this state.

In this county men are being put on the rack for conduct which appears to be accepted behavior in Albany and New York City.

We simply hope that the people on Tuesday will not permit John Mulroy to be destroyed as the three-year campaign against this county and its officials seems designed to do.

Mr. STEVENS. Mr. President, I ask unanimous consent to have printed in the Record a statement by Senator Dole.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Dole

The Senate today is taking final action on legislation to reauthorize and extend the programs of the law enforcement assistance administration. This legislation is the culmination of a lengthy congressional oversight and review process, but it is the beginning of a new era for Federal assistance to hard pressed State and local criminal justice agencies. It could not come at a more appropriate time. Crime indicators report significant increases in serious crime after two years of levelling off. The administration's efforts seemed to have gone stale with few new initiatives and facing severe budgetary restraints.

The bill we send to the President today, S. 241, should have great potential to get the Federal program back on its feet and off of dead center.

First, we have provided for a four-year authorization, the longest in LEAA's history. This should provide program continuity and allow truly intelligent and meaningful criminal justice planning.

With one glaring exception, the agency's existing programs have been continued. The glaring exception is the demise of the part E program. This comes at a time when State and local correctional administrators are faced with rising inmate populations and costs and increasing judicial involvement in their programs. I was pleased, however, that at least authority is retained for LEAA to support "advanced practices" for construction projects for corrections. This should allow a technical assistance capability to continue and at the same time fund a few projects designed to deal with correcting constitutional deficiencies of existing institutions.

S. 241 continued the law enforcement education program in LEAA. This is based on a strong record in the Senate Reauthorization Hearings in which criminal justice educators testified unanimously in support of retention of the program in LEAA. In doing so, we overturn earlier action by the Congress which transferred the program to the new Department of Education. The House-passed version of the LEAA bill concurred with the previous action Congress took in establishing the new department. The conferees have rejected this view and have retained LEEP in LEAA as was provided in the Senate bill.

One of the main criticisms levelled at the agency in recent years has been concern about red tape and bureaucratic delays. Hopefully, the new authority will allow a streamlining of the agency's activities by putting the comprehensive planning process on a three-year cycle and allowing more direct funding of regional and local criminal justice programs.

A new structure has been created with the research and statistics functions of LEAA being separated out in the new National Institute of Justice and Bureau of Justice statistics. All three agencies would be under the coordination of a new management tool, the Office of Justice assistance, research, and statistics (OJARS). It is our intent that OJARS act as a coordinator and facilitator to expedite delivery of federal criminal justice assistance and not to serve as an insulating bureaucratic layer. Under the new structure the attorney general still retains general authority over all these agencies, but LEAA, NIJ and BJS retain day-to-day responsibilities for the conduct of their programs and final grant sign off authority. The Attorney General's role is that of setting broad policy and reconciling differences and disputes among the line agencies.

Although NIJ and BJS assume new authority for research and evaluation in federal criminal justice areas, their primary responsibilities still lie in the state and local area. In my view, their resources should be divided roughly along the lines of the comparative expenditures of the Federal Criminal Justice system as opposed to state and local systems. Ordinarily this would mean the federal share would be limited to about 10 percent of each agency's resources.

New action fund formulas have been devised according to a four-track formula. I suspect that after all the computers have stopped calculating there will be very little difference in fund allocation according to the new formulas in contrast to the old, which was simply based on population alone.

One of the most important strengths of the LEAA program, criminal justice planning, will be retained, although the funding will be potentially reduced somewhat with more emphasis going on "action" projects. This may or may not prove to be a worthwhile change. Too many federal assistance dollars have been dumped out to the states and localities in other areas without meaningful planning. This has resulted in untold billions being wasted or not put to their best use. We do not want LEAA to fall into the same trap.

One feature of the revised comprehensive planning schemes deserves particular comment because it directly affects my state. Section 401(c) authorized a federal payment of $50,000 to support state court coordinating and planning committees. However, there are fourteen states including Kansas in which these committees have not been established. In those circumstances it is my clear understanding that as a result of the conference action, these funds can be utilized by the state planning agency to support planning functions for the courts.

One of the important priorities of the Senate version which was not agreed to in the conference, was the emphasis placed on private security in the findings and declaration of purpose to the Senate-passed bill. Although this language was dropped in conference, I share the view of others that this is still a matter of priority attention for the LEAA. The private security resources in terms of funds and personnel are roughly equivalent to that in the public sector police functions. It is imperative that there be close cooperation and coordination between these two segments and that the work of the private security task force of the criminal justice standards and goals effort and other similar programs be continued.

Another feature of this bill addresses the oft repeated and largely baseless charge that LEAA funds have been spent overwhelmingly on police hardware, such as tanks, assault weapons and heavy riot gear. Nothing could be further from the truth.

In its existence, less than 10 percent of ACTION funds have been spent on items of equipment that could be remotely described as police hardware. Most of these funds have gone for communications and information systems items such as portable radios, telecommunications terminals, computers and the like. Yet the adverse image has persisted from the earliest days of the LEAA program. The conference has agreed to language which restricts the use of funds for "police hardware" and places the limitation that hardware can be purchased only as part of an overall program for improvement.

I understand this to mean that it would not be necessary, if a police department wanted to purchase $10,000 worth of hardware to do a $100,000 fancy planning job with built-in evaluation components and all the other red tape, simply to acquire the hardware, rather the hardware should be related to an overall master plan for the improvement and modernization of a police department's long range planning, if the department is of a size to justify such an effort. Systems designed to improve reporting and communications are authorized in a number of provisions in our bill and would not come under the police hardware limitation simply because the police department was the intended beneficiary. The same items of equipment could be used with courts and corrections systems and, therefore, have a much broader application than so-called police hardware.

The conferees did not see fit to include rescue squads into the coverage of the public safety officers' benefit program, although this had been a feature of the House version of the bill. It was agreed that firefighters who are presently covered would not lose their eligibility if they were on a rescue mission. It was felt that this expanded coverage for rescue squads would set a precedent which could easily expand the coverage to totally unrelated areas.

One of the most important features of the new authorization is the retention of the matching requirements for ACTION funds. This will insure that the federal crime fighting dollars will go farther, but more importantly, it will ensure closer scrutiny and involvement at the state and local level by the executive and legislative branches in the LEAA program and will also mean a higher degree of accountability.

The Senator from Kansas was pleased to be a conferee on this bill and in closing, would like to pay tribute to the leadership of the senior senator from Massachusetts (Mr. Kennedy) and the senior senator from South Carolina (Mr. Thurmond) and their staffs for the hard work and dedication displayed in processing this legislation.

Mr. THURMOND. Mr. President, I join the majority managers of this legislation in recommending Senate adoption of the conference report on S. 241, the Justice System Improvement Act of 1979.

As it has been explained by the Senator from Alabama (Mr. HEFLIN), the original conference report was adopted by the Senate on November 20, 1979. But as a result of several clerical errors made in the House during consideration there, it was necessary to recommit the legislation to conference to correct these mistakes. That has been done and the measure will now be returned to the House for final action.

Mr. President, my complete statement today expresses my views in greater detail on the entire bill. Further, I would like to reiterate what I believe is the intent of the conferees on several specific items.

The first is the transfer of the law enforcement education program (LEEP) from the Law Enforcement Assistance Administration to the new Department of Education. Even though the conferees were aware that other legislation had been passed to make this transfer, the conferees expressly intended that LEEP remain in LEAA and the U.S. Department of Justice.

Second, the conferees in restructuring the Office of Justice Assistance, Research, and Statistics (OJARS) from its creation originally in S. 241 as introduced, sought to make it simply a management tool that would function in only carefully defined areas, such as coordination, staff support, and joint responsibility for setting broad program objectives. OJARS should be supportive of and coordinating with LEAA, BJS, and NIJ on a daily basis, but should not become an overall policy-setting or program-directing agency over those sister agencies.

Finally, there has been some question raised since the adoption of the original conference report about the ability of LEAA to audit and take corrective action with regard to LEAA formula grant funds.

There is no intent in this legislation to inhibit LEAA's ability to take such steps, including fund cutoff, to require conformity with the requirements and statutory objectives of the Justice System Improvements Act. Section 404(b) specifically authorizes the LEAA to suspend funding of any program that in the Administrator's opinion is inconsistent with the act's objective, duplicates existing State or local programs, or is a project being used for purely partisan political ends. In the opinion of the managers of the bill, such abuses would not be an effective use of LEAA funds and any further funding should be suspended. Such action would be taken, of course, in accordance with the provisions of section 803 regarding notice and hearing requirements.

Mr. President, I urge the adoption of the conference report on S. 241, the Justice System Improvements Act of 1979.

Today we are acting on legislation which will help the Federal Government meet its primary responsibility—to assist State and local law enforcement agencies in the fight against crime. The Federal leadership and assistance provided in the conference report on S. 241, the Justice System Improvement Act, continues a promise that was made over 10 years ago, but which is as relevant now as it was in 1968. Crime continues to rank high among the concerns of Americans. This year, after 2 years of little or no increase, suddenly we are facing a dramatic spurt in incidents of serious crime with a 9-percent increase reported for the first 6 months of 1979.

For 10 years, the Law Enforcement Assistance Administration has been the only major Federal assistance program for State and local law enforcement and criminal justice agencies. It concerns me deeply that the Federal Government expends more annually for waste treatment than crime control. There must be a balance of priorities. The Federal Government, through this legislation, is not trying to take control over which is and must remain a local matter, to be dealt with by State and local governments. Instead, we are providing leadership in the form of financial and technical assistance and development of innovative approaches which will assist States and localities carry out this all important responsibility. Criminal justice in America has changed dramatically in the last 10 years, thanks in no small part to the implementation of improved practices with LEAA support. This is a program which has received intensive scrutiny over its brief history. Not only has it survived, but the legislation which we are considering builds upon the past successes of LEAA. Most of what I believe have been the positive aspects of the program have been retained.

I also hope that some of the myths about the LEAA program have been put to rest as a result of the careful review in which we have been engaged over the past 15 months. The entire LEAA program cannot be evaluated on the basis of less than a dozen well-publicized projects of questionable merit. Instead, we should look at the entire effort. The fact that an overwhelming majority of the more than 100,000 projects started with LEAA funds have been continued with local resources is the proper standard for judgment. Finally, LEAA is not to be burdened with the responsibility for reducing the crime rate.

Crime control remains the primary responsibility of State and local government. The Federal role including that of LEAA is a limited one to provide financial assistance, not to dictate, not to dominate or control, but to assist. Criminal justice is preventive, but also responsive to crime after it occurs. The causes of crime are diverse, and we should not saddle this small program with such an awesome task.

Mr. President, the House and Senate conferees are to be commended for reaching an accord on a complex piece of legislation. I believe we have streamlined the program while making it even more responsive to the needs of governments it assists. In many ways, we are undoing some of the damage which we have done to the program in the past by ending confusion as to the purpose of the program, cutting some of the strings attached to LEAA funds, simplifying application procedures, and emphasizing a process that communicates what works and what does not work.

When S. 241 first came before the Senate last May, I reviewed a number of the major features of the legislation and our understanding as to how certain provisions would be implemented. In order to further assist those involved with LEAA in the transition from the current program, I believe it would again be appropriate to review a few key issues in light of conference action.

PERIOD OF AUTHORIZATION

The Senate approved a 5-year reauthorization for the program, while the House agreed only to a 3-year term. The conferees decided to compromise on 4 years. The nature of programs ultimately funded by the States will be determined by the length of the reauthorization period. Four years will give time for a transition period, than a full 3-year application cycle. This will allow comprehensive planning to include long-range implications. I am happy that we settled on a period which will not be disruptive of effective planning. Although the 5-year term would have been preferable, the 4-year compromise should provide sufficient time for program continuity and for meaningful evaluation of successes and failures.

LEAA AND OJARS

Last May, I expressed concern about the relationship between LEAA, the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS), and a newly established "superagency" called the Office of Justice Assistance, Research, and Statistics. I felt that the Senate bill confused lines of authority and installed a new layer of bureaucracy which could harm the program. For this very reason, the House overwhelmingly agreed to an amendment on the floor which completely deleted OJARS and placed LEAA, BJS, and NIJ all under the authority of the Attorney General.

OJARS was the most difficult issue to be resolved in conference. While we could certainly not reestablish the scheme rejected by the House, we also did not want the Attorney General to be too directly in control of State and local law enforcement. It was also important that we not create duplicative bureaucracies in LEAA, NIJ, and BJS. Thus, we agreed on a compromise which retains OJARS, but it is an OJARS which is only a shadow of its former self.

S. 241 now establishes OJARS, LEAA, NIJ, and BJS, all under the general authority of the Attorney General. This is different than the "general authority, policy direction, and general control of the Attorney General," where LEAA has previously been placed. It is also different than the "direct authority of the Attorney General" proposed by the original S. 241. Of course, the Attorney General retains ultimate authority over and responsibility for these functions, as he does for all activities of the Justice Department; but it would be highly inappropriate for the Attorney General to get involved in the day-to-day operations and funding decisions of these grant-making agencies. This not only insulates the granting agencies but it also insulates the Attorney General from the political pressures that sometimes are attracted to Federal aid programs.

The Office of the Attorney General in recent years has sought to insulate itself from political partisanship. To my knowledge, Attorney General Levi set a high standard in this regard and refused to intervene or express interest in any pending LEAA grant no matter how meritorious he or his office might have considered the proposal to be. Any inquiries were routinely referred to LEAA.

The role of OJARS is, except in carefully defined situations, one of coordination and providing staff support for LEAA, NIJ and BJS. OJARS would resolve differences between the three in those rare instances where differences could not be worked out by themselves. In addition, LEAA and OJARS would jointly set broad program objectives for the discretionary and national priority programs. If they could not agree, then the Attorney General could intervene. OJARS has no other programmatic policy authority.

LEAA, NIJ, and BJS are given final sign-off authority over the award of grants. Action taken by the heads of LEAA, NIJ and BJS may not be altered or undone by the OJARS Director or Attorney General except on such extraordinary grounds as illegality. There is no authority for outside control of the day-to-day operations of LEAA, NIJ, and BJS.

OJARS will necessarily have to interrelate with LEAA, NIJ, and BJS in order to provide support services in the most efficient manner. Although the heads of LEAA, NIJ, and BJS may have to report to the Director of OJARS, reporting does not mean supervision. All Federal agencies report to Congress on their activities, but Congress does not execute the laws, it oversees implementation. The reporting relationship of S. 241 is analogous. As the chief Federal law enforcement official, the Attorney General should not be too intricately involved in the administration of a program of assistance for States and localities, lest Federal and State interests become confused. LEAA, NIJ, and BJS will retain the semiautonomous relationship with the Justice Department now enjoyed by LEAA.

Although the Attorney General is spared the responsibility of involvement in day-to-day activities of these programs, it is not my intent that the remaining overall policy direction be taken lightly or delegated by the Attorney General elsewhere in the Department of Justice or even to other Federal departments or agencies. The compromise language of S. 241 reaffirms what I stated should be the case last May:

> The role of the Director of OJARS will largely be one of coordination and facilitating communication among the three bureaus, not the setting of policy regarding the award of grants or development of programs. OJARS is most properly viewed as a management tool.

ACTION FUND FORMULAS

The House and Senate provisions for distribution of funds among the States were quite similar. The conference report on S. 241 provides for allocation according to population, with each State and territory receiving a minimum of $300,000. If the LEAA budget increases, however, a four-track formula comes into play which will give some States extra funds on account of their high crime rate, level of criminal justice expenditures, and level of taxes. Within each State, we have essentially agreed to the House formula providing entitlements for cities, counties and combinations of contiguous jurisdictions with a population of 100,000 or more. These areas must, however, expend at least 0.15 percent of the State's total criminal justice expenditures and must receive at least $50,000 in a year from LEAA in order to qualify. Another formula is used to determine how much entitlement jurisdictions will receive. Further calculations are necessary to decide how much is to be used for planning and administration.

This is a brief summary of lengthy provisions which I previously described as a "field day for statisticians." However, it remains my view that when the computers have stopped calculating and time has come for implementation, things will not have changed as much as it appears. The following views which I expressed last May are still pertinent to the conference report:

> Instead of State planning agencies, there will be State criminal justice councils. These councils will analyze criminal and juvenile justice problems, set priorities and objectives, review applications, and award funds. These are all items SPA's must do now.
>
> States now have the option of establishing regionally planning units and making miniblock grants to larger jurisdictions. The new bill encourages regional and cooperative planning, and encourages larger jurisdictions to go off on their own by entitling them to a share of the States' funds. These provisions have been written into S. 241 because only 42 of 331 eligible "miniblock" jurisdictions were found to participate in this program. S. 241, however, will probably not have its intended effect in this regard.
>
> State councils establish statewide goals, objectives, priorities, and projected grant programs. Larger entitlement jurisdictions may ignore these priorities, though, if they are inconsistent with the localities' needs. This will result in a great deal of intergovernmental friction, not only between the larger localities and the States, but among large areas, States and smaller areas. These nonentitlement jurisdictions will see the large areas "doing their own thing," so to speak, while they must do what the State council wants.
>
> Another factor inhibiting full implementation of this bill will be the increased responsibilities placed on larger localities as a cost of their receiving an entitlement. They will have to establish their own criminal justice advisory boards to do for themselves what the State used to do. Not only will they have to perform their own analysis of problems, but they will have to exercise the administrative functions and follow the guidelines of LEAA which used to be handled for them. To function effectively, new layers of bureaucracy must be established, thus diverting badly needed action funds to overhead. While it is the intent of the committee that entitlement jurisdictions will be subjected to less red tape, local governments will have to follow closely Federal and State guidelines and will be held accountable for the performances of the new duties which they may undertake.
>
> Another problem I foresee is that of meeting the special needs of larger jurisdictions. If an area receives an entitlement, but then experiences a serious problem, extra funding will be requested from the State. The State, however, may resist this request because the area is already getting a "fair share." State programs and smaller jurisdictions will certainly not want to see their share diminished. Thus, there will be more intergovernmental friction.
>
> The Justice System Improvement Act does not force large jurisdictions to take their entitlement. They have the option of throwing in with the State and operating under what

> is essentially the current system. Given the limited amount of entitlement funds many jurisdictions will get, the reduced administrative requirements, and the increased flexibility, I believe that most areas will stay with the status quo. After 10 years of experience, this is a familiar process. Cities and counties have developed comfortable working relationships with the States and know that they will be treated fairly. We will be looking closely at how these provisions work, especially the intergovernmental relationships which develop.

I am pleased, Mr. President, that conferees agreed to include a requirement that jurisdictions seeking to combine for the purposes of receiving entitlement funds from LEAA within the same county or contiguous. The combination language will assure that diverse geographical locations will not form compacts and may not become a combination solely for the purpose of receiving an entitlement. It is intended that funds will be provided to combinations of jurisdictions which share criminal justice services and conduct joint or common functions, which historically under the LEAA program has been subject to State law. Where appropriate, it is expected that all entitlement jurisdictions will undertake total resource planning and provide legislative and administrative support service.

REPORTING REQUIREMENTS

I was concerned last May by the reporting requirements of section 802(b) and section 816 of S. 241. They seem duplicative and burdensome for State and local personnel. I am, therefore, quite pleased that the conferees agreed to consolidate the two reports and eliminate duplicative requirements, and reduce some of the current reporting.

The revised amendment still identifies priority areas on which Congress wishes LEAA to focus. The required report will allow a continuing, adequate, and reliable assessment of the contribution of its programs to the improvement of law enforcement and criminal justice and ability of LEAA efforts to achieve stated goals. LEAA must be able to answer the questions of greatest interest to principal policymakers and decisionmakers.

It is intended that the selection of performance measures to be developed and statistics to be collected shall be made with an eye toward the practicability and ease of implementation by the States. The Director of OJARS shall consult with representatives of State and local units of government in developing the 270-day plan. When at a later time any performance measure or date element selected for the 270-day plan proves to be unworkable in application, the Director shall return to the House and Senate Judiciary Committees with suggestions to modify or eliminate such measures and data from the 3-year report.

The combined report is still intended to overcome another difficulty with which LEAA has been faced over the years. While Congress has been demanding accountability from LEAA and more accurate and reliable data, the Office of Management and Budget has prohibited LEAA from developing a system capable of tracking funds allocated and awarded through block grants to both the subgrant award and expenditure stages. The agency's requests to include subgrant information in the LEAA grant program file (PROFILE) system have been rejected on the basis that this does not comply with the requirements of OMB Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments." Without this information, the reporting requirements of S. 241 will be meaningless. It is, therefore, our specific intention that these provisions of Circular A-102 not be applied to the LEAA program.

STATE PLANNING

I am pleased that State planning will continue to be one of the strengths of the LEAA program under S. 241. My comments from last May, as follows, continue to apply to the conference agreement:

> Before 1968 it was unlikely that different agencies representing components of the criminal justice system would talk to each other about mutual problems, let alone sit down at the same table to plan constructively to deal with identified problems. Now it is recognized that what one component does will affect the others. Not only are they talking, but they are working together with an eye toward future needs. This has set LEAA aside from other programs.
>
> As introduced, S. 241 would have almost totally eliminated the central role of the States in comprehensive criminal justice planning. As reported, however, at my initiative, the committee continues to encourage the type of total resource planning that would not have been possible without LEAA assistance. Language has been added to S. 241 to assure that planning continues to receive significant emphasis under the LEAA program.
>
> The Agency is specifically authorized to make grants for the purpose of coordinating the various components of the criminal and juvenile justice system. Each State must have a criminal justice council for the purpose of analyzing problems, establishing statewide goals, objectives, priorities, and grant programs and providing financial assistance. The council will also be expected to be the responsible State agency for such items as civil rights compliance under the LEAA program, audit, administration, and evaluation. In sum, these are functions which are quite similar to those exercised by State planning agencies under current law.
>
> The importance of planning is also recognized in part F of S. 241, where it is stated that a purpose of the discretionary grant program is improvement of comprehensive planning and coordination of State and local activities, especially coordination between city and county jurisdictions. All of these provisions are outgrowths of innovations under the current LEAA program. The activity should not be downplayed in any way.
>
> Section 401(c) of S. 241 gives the States the option of using a sum equal to 7½ percent of their formula grant allocation for planning and administrative functions. We will look very closely at the exercise of this option by States as well as localities. These functions are too important for the participating jurisdiction not to give them adequate attention. Match for administrative activities is 50 percent. It is expected that planning and administration will continue to receive adequate support, for without them the program will certainly fail.
>
> Under paragraph 401(c) the administration is required to distribute from the overall State allocation specified sums of money to States, entitlement jurisdictions and judicial coordinating committees from formula funds. Since the Council provides planning and administrative support for State agencies, entitlements and courts, it is not intended that these administrative funds be made available from the portion of Part O funds available for State and private nonprofit agencies.
>
> A State criminal justice council shall receive $200,000 match free and an additional amount of 7½ percent of its formula award matched on a dollar-for-dollar basis. The State shall make available $50,000 match free to the Judicial Coordinating Committee for Judicial Administration and Planning. It is intended that the Judicial Coordinating Committee need not receive more than that amount. In the instance that a State does not have a Judicial Coordinating Committee or the Judicial Coordinating Committee chooses not to receive or use its allocation, then the $50,000 match free funds may be used by the criminal justice council for purposes of performing court planning and administration. The State shall make available to entitlement jurisdictions an amount equal to 7½ percent of their formula awards for administration. Up to the first $25,000 received by the entitlement jurisdictions shall be provided without a matching contribution while additional funds above this amount must be matched dollar for dollar. Money allocated for administration may be used for purposes set forth in section 401(a) (1)-(9). If money is used for those purposes, then no match for those funds is required.

It will be the responsibility of the State coordinating council to assure that State, entitlement and nonentitlement funding is the subject of proper fund accounting, auditing, and evaluation. While the act increases the local authority and role of entitlement jurisdictions, these jurisdictions are accountable to the council acting as the agent of the administration. State councils have the authority to promulgate administrative requirements to be implemented by the entitlements so the council can feel able to make the necessary assurances. In this and other paragraphs of the bill the phrases "State law," "State requirements," "State regulations," and "State law and/or regulations" are used interchangeably. These phrases are to be construed as "State requirements" in the same sense as the words "Federal requirement" are used. It is both stated and implied that both the Federal and State governments are granted the authority by this act to establish appropriate requirements for carrying out the purposes of the legislation. It is my understanding that such requirements be designed and implemented so as to reduce redtape.

A feature of the act as agreed upon is that an eligible jurisdiction will be permitted to submit a single application to the council at the entitlement's discretion. But the council shall prescribe uniform administrative requirements for the format of and procedures for submission of all entitlement applications. The council must have the authority to require from the entitlement jurisdictions the relevant programmatic and financial information so that the council can make decisions not only related to the LEAA grant program but for other Federal and State grant-in-aid programs in which it might be involved. One purpose of the act and a reason for the foregoing State authority is the promotion of total resource planning.

POLICE PROGRAMS

The conference report on S. 241 precludes the use of grant funds awarded under part D for the purchase of equipment or hardware, or the payment of personnel costs unless "incurred as an incidental and necessary part of a program of proven effectiveness, a program having a record of proven success, or a program offering high probability of improving the functions of the criminal justice system." This is Senate language which is less restrictive than that approved by the House.

These provisions meet the criticisms of the LEAA program for funding too much police hardware. While these criticisms are highly exaggerated, they have greatly harmed the image of the agency. Thus, we have developed language which focuses on the positive aspects of Federal funding for equipment. We intend to prevent a subsidy of operational budgets, while still recognizing that equipment itself can be the essence of a program or project.

CORRECTIONS

Corrections is one area where I wish the conferees had been able to provide more assistance to meet a desperate need. While specific authorization is given to LEAA to make grants for developing and implementing programs and projects designed to improve correctional services and practices, the separate planning requirements and funding emphasis given the field by LEAA has been dropped. I deeply regret the demise of part E of current law, through which LEAA provided national leadership in developing modern correctional facilities and programs.

Corrections has been one of the most neglected areas of State and local criminal justice activities. Without the part E program, it may be impossible to institute important reforms. I am not just talking about the construction of facilities, but bringing existing facilities up to constitutional standards, encouraging community-based facilities, establishing drug and alcohol treatment programs in jails, and modernizing probation and parole.

LEAA-funded programs have worked as a catalyst for change in the field of corrections. We have eliminated new construction except in limited instances in this bill, but I hope alternative forms of assistance will become available. We will carefully scrutinize the use of LEAA resources under this new legislation to assure that funds are allocated to the corrections area and help insure more humane jails and prisons.

At the same time as the part E program is being abolished and the special LEAA funding source discontinued, that sought specifically to rectify deplorable conditions, the Congress is rushing toward the enactment of S. 10. This bill would give the Attorney General broad new authority to initiate or intervene in suits attempting to correct constitutional deficiencies in State and local correctional institutions. Already 10 percent of the Nation's jails are under Federal court order. In the next 3 to 4 years reliable estimates suggest that up to one-half of our jails may be in a similar situation. We are on one hand taking away the "carrot" or incentive of Federal financial and technical assistance to help improve prison and jail conditions and on the other hand arming the Federal Government to comply with Federal court imposed standards for improvements.

I was able to salvage a small remnant of the part E authority which authorizes LEAA to provide assistance for correctional renovation projects involving "advanced practices." This is a carry forward of the part E authority. It is expected that LEAA will continue efforts like the National Clearinghouse of Criminal Justice Planning and Architecture to provide meaningful technical assistance to State and local governments.

NATIONAL INSTITUTE OF CORRECTIONS

Conferees on S. 241 agreed to the Senate amendment which retains the National Institute of Corrections as a separate entity, rather than incorporating it into the National Institute of Justice. My May statement explained the role of NIC and reported the reasons which it is important that its identity be retained.

COURTS

The conference report on S. 241 retains the emphasis on judicial planning and coordination which was written into the LEAA authorization in 1976. This is particularly important because of the independent role of the judiciary relative to other components of the criminal justice system. We are retaining and building upon a successful effort. As I previously indicated, we also expect that LEAA will continue prior activities under its discretionary program included in S. 241. LEAA's funding assistance to State courts has gone primarily for criminal court improvements and reforms. The "civil side" of courts received LEAA funding only if there was a significant criminal court involvement. The conferees agreed that this same relationship should continue.

AREA OF SPECIAL EMPHASIS

Last May, I highlighted provisions in the Senate version of S. 241 which gave special recognition to programs to combat organized crime, the "sting" and "career criminal" programs of LEAA, and the important role of the private security industry in combating crime. It is very satisfying that the conferees agreed to retain all of these provisions, including the special revolving fund to support antifencing programs. I expect that the people at LEAA will, as indicated to me earlier, correct the underutilization of this revolving fund.

INFORMATION SYSTEMS AND COMMUNICATIONS

I reported earlier, Mr. President, that the conferees agreed to House language authorizing LEAA to fund operational information and telecommunications. This reinforces my May statement that specific roles are envisioned for LEAA and BJS in the field. National efforts to collect, analyze and disseminate criminal justice statistics and assist State efforts to derive statistics from operational information systems will be the responsibility of BJS. Development, testing, evaluating, and transferring knowledge regarding information and communication systems which hold potential for improving the efficiency and effectiveness of criminal justice operations should remain with LEAA. Of course, cooperation between BJS and LEAA will be essential.

LAW ENFORCEMENT EDUCATION PROGRAM AND PUBLIC SAFETY OFFICERS' BENEFITS

Conferees have explicitly rejected transfer of the law enforcement education program (LEEP), notwithstanding language in the legislation creating the Department of Education which calls for such a transfer. It is our specific intent that this subsequent action take precedence over the prior, ill-advised provision. LEEP is more than just an educational assistance program. LEAA has been using it as a manpower development tool. It is our expectation that positions and administrative funds taken from LEAA in anticipation of the program's transfer will be restored now that the prior action has been reversed.

The Senate Judiciary Committee last February received testimony from criminal justice educators and State and local officials who were knowledgeable and experienced in the activities and operations of LEEP. It was their unanimous consensus that the program should be retained in LEAA and the conferees have reaffirmed that record, as did the Senate version of the LEAA reauthorization. It is expected that sufficient positions and administrative and program funds will be made available so that this highly successful program can be continued.

We have rejected an amendment which would have added rescue squad members to the public safety officers' benefits program. This is not an indication of lack of appreciation for the public service performed by rescue squad personnel, but an effort to restrict the growth of the program beyond its original scope; action which could lead to further exceptions.

While the conferees did not add rescue squad members to the PSOB, we did not intend that firefighters who are now covered would be excluded simply because they are on rescue missions at the time of death or disablement.

NONSUPPLANTATION AND ASSUMPTION OF COSTS

The conference report on S. 241 retained what I feel are important provisions requiring participating jurisdictions to assume the costs of projects after a reasonable period of time, unless the Administrator of LEAA finds that a recipient is unable to assume the costs because of budgetary restraints. It was the consensus of the conferees that this match waiver authority be exercised very sparingly by the LEAA Administrator and only in the case of extreme hardship. This will serve to continue development of new methods for the prevention and reduction of crime. Federal funds are to be used to support innovative efforts which could not otherwise have been attempted. For this same reason, language is included in S. 241 which assures that Federal funds supplement rather than supplant State or local efforts already underway.

MATCHING SHARE

Mr. President, last May I expressed concern because the Senate version of S. 241 reduced the occasions when a matching share would be required from participants in the LEAA program. The House agreed to a floor amendment which restores the requirement for match. The maximum Federal contribution would be 90 percent of the cost of a project. Conferees agreed that match was important. It was agreed that a maximum Federal contribution of 90 percent was appropriate for formula grant projects, but that up to 100-percent funding could be provided for discretionary programs. We also felt that in the transition year, the 10-percent match requirement should be waived so as not to harm those jurisdictions which had already made the commitments based on 100-percent funding.

Requiring States and localities to contribute to projects receiving Federal assistance serves four important purposes. First, State and local legislative oversight is insured, thus guaranteeing some degree of political control over federally assisted programs. Second, matching requirements bring into play State and local fiscal controls to minimize the chances of waste. Third, the commitment of participating jurisdictions to fighting crime and improving the criminal justice system is underscored by their willingness to contribute to improvements which are mainly federally supported. Finally, where a jurisdiction is required to assume the cost of projects after a reasonable period of time, participation of the benefiting government from the start of a program will ease the integration of activities into the normal operational budget. I am pleased that conferees on S. 241 felt that these considerations were valid as related to the LEAA program.

NATIONAL INSTITUTE OF JUSTICE

S. 241 authorizes the National Institute of Justice to conduct research in the area of civil justice as well as criminal justice where the two are interrelated. This is a recognition that criminal justice improvement cannot be considered in a vacuum. However, the major focus will remain on criminal justice matters bearing on State and local functions.

It is expected that NIJ expenditures on State and local matters would bear the same ratio as overall State and local expenditures bear in relationship to Federal expenditures for criminal justice. Thus in a recent year if the State and local governments spent approximately $22 billion on criminal justice and the Justice Department spent about $2½ billion, it would be reasonable to expect that NIJ expenditures on Federal lines of research not exceed more than 10-percent of the total funds available.

This ratio should not include the line of Federal criminal justice research already in progress in the Office of the Attorney General but this line should be combined with and folded into the new National Institute of Justice.

MAINTENANCE OF EFFORT

In choosing the House maintenance of effort language, the conferees intended that the Director of the Office of Justice Assistance, Research, and Statistics utilize his discretion in deciding upon the minimum level of funding of the Law Enforcement Assistance Reform Act money that must be utilized for juvenile delinquency program funding, but the minimum maintenance level established shall not exceed 19.15 per centum of the total appropriations under this title. In making this decision, the Director shall consider the level of funding appropriated for the Juvenile Justice and Delinquency Prevention Act, the fund flow of juvenile delinquency dollars, the relative effectiveness of juvenile delinquency programs, and the long-range goals of the Office. The Director shall apply this requirement in the aggregate.

Individual States shall not be required to expend 19.15 percent of their funds for juvenile delinquency programs unless the aggregate totals for NIJ, BJS and LEAA including all categorical and formula programs will not meet the established ceiling. In totaling the funds directed to juvenile delinquency programs, the Director shall include the pro rate share of funds allocated to programs in such areas as crime prevention, police, courts, corrections, victim-witness, restitution, and information system development which affect juveniles, juvenile delinquents, the juvenile justice system or agencies dealing with the foregoing.

Mr. WALLOP. Mr. President, I rise to express my very real disappointment at the decision of the conferees on the Justice Improvement Act to delete an important provision in the Senate-passed version of S. 241 which specifically recognized the law enforcement, criminal and juvenile justice needs of energy-impacted communities.

Many areas throughout the country, and particularly in the Rocky Mountain West, are experiencing uncontainable increases in population due to intensive energy development. Existing services and programs within these communities, including the law enforcement, juvenile and criminal justice systems, are though struggling, failing to keep pace with the influx of people and the increased incidence of crime. LEAA formula grant money is badly needed to build up the law enforcement, criminal and juvenile justice systems to deal with the problems facing these boomtowns; money is needed for hardware, additional personnel, and for the construction of facilities to house courts, jails and other law-enforcement activities.

The Senate agreed to an amendment I offered to S. 241 to ease the growing pains in energy impacted communities. The provision in the Senate bill would have allowed the expenditure of formula grant funds in energy impact areas for hardware, personnel, and construction so long as both the State Criminal Justice Council and the Administrator of LEAA determined that such expenditures were necessary to develop criminal and juvenile justice programs which would offer a high probability of improving the functions of the justice system in that State.

The House bill did not include a comparable energy impact provision. Unfortunately, the energy impact language was dropped in conference.

I think that decision was a mistake. Notwithstanding some of the general provisions of the bill which will be of assistance to impacted communities, it is my belief that Congress is ignoring a responsibility it has to the very communities it is making greater demands upon all the time for increased energy production. We should be taking specific steps to deal with the unique criminal and juvenile justice problems that energy development is leaving in its tracks—not treating the problems of boomtowns in the same vein as all others.

My efforts to gain specific recognition of, and attention to, the needs of energy-impacted communities will continue despite this (hopefully temporary) setback. In the meanwhile, on behalf of all the energy impacted communities which are eagerly awaiting the enactment of the express energy impact assistance language in the Senate bill, I should conclude my remarks with some optimistic comments. Although the legislation retains the prohibition on the use of formula grants for construction of law enforcement and juvenile related facilities, there are several general provisions in the bill which have the potential for aiding impacted communities.

For example, section 404 (c) (1) will allow the use of part D funds for the purchase of equipment or hardware and the payment of personnel costs if the cost of such purchases or payments is incurred as an incidental and necessary part of a program offering high probability of improving the functioning of the criminal justice system. Section 401 (a) (17) will allow the use of funds to improve conditions of detention and confinement in adult and juvenile correctional institutions. Finally, section 102 (g) will also allow the expenditure of funds to provide technical assistance for the development of operational formation and telecommunications systems.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSE BILL JOINTLY REFERRED

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a bill (H.R. 4084) received from the House of Representatives earlier today, relative to an agreement between the Secretary of the Interior and the State of California to improve and manage the Suisun Marsh in California, be jointly referred to the Committees on Energy and Natural Resources and Environment and Public Works.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE ON H.R. 5015 PLACED ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a message from the House on H.R 5015 be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Nos. 486, 489, 490, 491, 494, and 495.

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

MUNIR P. BENJENK

The bill (S. 1227) for the relief of Munir P. Benjenk, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America assembled, That, for the purposes of the Immigration and Nationality Act, Munir P. Benjenk shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to deduct one number from the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationality Act or, if applicable, from the total number of such visas and entries which are made available to such natives under section 202 (e) of such Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–453), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the bill is to grant the beneficiary permanent residence in the United States as of the date of its enactment upon payment of the required visa fee. It would also direct that a visa number deduction be made.

The beneficiary, Munir Benjenk, was born June 12, 1924 in Turkey and is a citizen of that country. He resides in Washington, D.C. where he is employed as Vice President of the World Bank for Europe, the Middle East and North Africa, earning $53,000 per year. He reports assets of $290,000 in personal property. He received a Bachelor of Science Degree in economics with a specialty in development banking at the University of London in June 1948. He is single, his widowed mother lives in Belgium and he has no siblings or relatives in the United States.

The beneficiary has no ties in his native country and he has resided in the United States since 1963. He wishes to retire from the World Bank and remain in the United States. He desires to have his status adjusted in preparation for retirement and he appears eligible to apply for nonpreference status but visa numbers are currently unavailable in that category.

CAROLINE M. BABCOCK

The bill (H.R. 1616) for the relief of Caroline M. Babcock, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–456), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the proposed legislation is to relieve Caroline M. Babcock of liability of $8,000 due the United States for funds that were taken by another person from a safe for which the claimant was responsible while in the employ of the United States.

The Department of Transportation in its report to the committee states that it has no objection to the bill.

Caroline M. Babcock is a supervisory accounting technician and section chief (GS–7) employed in the accounting branch of the 12th Coast Guard District, San Francisco, Calif. On November 8, 1973, the account branch of the 12th Coast Guard District was extremely busy closing out certain accounts. Mrs. Babcock, as a section head, was involved with a number of responsibilities in this regard. In addition to these normal duties, Mrs. Babcock was substituting for the regular cashier, who was absent due to illness. As part of her duties as substitute cashier, was to lock the safe at the end of the day. This safe contained locks both on the outer door as well as to its inner door. Mrs. Babcock at the end of the day, properly locked the inner door to the safe, and closed its outer door, but she failed to spin the combination dial to lock on the outer door; thus leaving the safe unlocked.

On the morning of November 9, 1973, $8,000 was discovered missing from the above described safe. There is no information evidencing fraud, collusion, larcency or any other intentional wrong doing on the part of Mrs. Babcock. No part of the money has been recovered nor is there any information as to the identity of the thief. The $8,000 was assessed against Mrs. Babcock as she was the person responsible for the safe.

The committee has concluded that the circumstances of this case are such that legislative relief is merited. The facts indicate that although the failure to lock the outer door was serious, it did not make the contents accessable to the casual thief. The inner door of the safe was locked, the safe was in a locked room, and it was in a government building with controlled access. Further, although Mrs. Babcock was familiar with the duties of cashier and was aware of the required security procedures, she did not act in this capacity often enough to acquire routine security habits. Finally, the committee considered the fact that Mrs. Babcock has been a loyal, dependable and dedicated public servant for over 24 years, and had, up to this incident, an exemplary record. For all of these reasons, it is recommended that the bill be considered favorably.

KENNETH AND JACQUELINE TRAYLAR

The bill (H.R. 1888) for the relief of Kenneth and Jacqueline Traylar, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–457), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of this bill, as amended, is to facilitate the admission into the United States of the adopted children of citizens of the United States. The bill has been amended in accordance with established precedents.

The beneficiaries of this bill are 15- and 10-year-old natives and citizens of Jamaica who are brother and sister. They have been adopted by citizens of the United States, their aunt and uncle, in Jamaica on March 26, 1975.

The adoptive parents of the beneficiaries have no natural children. Their natural parents and five siblings reside in Jamaica.

NAOMI CHEN

The bill (H.R. 1889) for the relief of Naomi Chen, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96–458), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of this bill is to facilitate the admission into the United States of the adopted child of lawful permanent residents of the United States.

GENERAL INFORMATION

The beneficiary of this bill is a 3-year-old native and citizen of Taiwan who resides in that country with her natural parents and 4 siblings. She has been adopted by lawful permanent residents of the United States.

GAIL WILLIAMSON

The bill (H.R. 2532) for the relief of Gail Williamson, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96-461), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of the proposed legislation is to allow a claim to be filed in behalf of Gail Williamson against the United States for injuries sustained in an accident on November 12, 1972, on Government property notwithstanding the fact that the statute of limitations has run out on said claim.

On November 12, 1972, Gail Williamson, the then 7-year-old daughter of a civilian employee of the Department of the Navy, was playing near her home on the grounds of the Naval Weapons Center in China Lake, Calif. At approximately 4 p.m. on that date, Miss Williamson tripped and fell forward striking her head on a piece of rigid wire. Apparently part of a fence, the wire penetrated approximately five-sixteenths of an inch into the left temporal lobe of her brain. As a result of this accident, Miss Williamson suffered partial paralysis, speech defects, certain mental disabilities, and lateral vision impairment. She has needed and continues to require, special education and treatment. There has been no action filed in behalf of Miss Williamson, either by way of an administrative compensation claim with the Navy or a suit under the Federal Tort Claims Act.

An action under the Federal Tort Claims Act is now barred by 28 U.S.C. 2401 which sets a 2-year statute of limitations for tort claims against the United States. Further, present law also requires that a claim such as this must be first filed with the appropriate Federal agency before any other action may be instituted. (28 U.S.C. 2675.)

The amended bill would waive applicable limitations as they apply to Gail Williamson and allows the filing of an administrative claim. Upon final denial of the administrative claims, as would have been permitted under the tort claims provision of title 28,[1] the bill would authorize a suit to be filed by her in the Federal District court for the eastern district of California.

The committee feels that as a minor, Miss Williamson could not be personally responsible for the failure to take appropriate action within the time provided in the above quoted statutes. In view of her age, it is unfair to deny her the right to her day in court because of the inaction of her parents. Therefore, despite the fact that the departmental reports appended to this report question relief on policy grounds, the committee feels that these equitable considerations, as well as the apparent serious nature of the injuries incurred by Miss Williamson,[2] require as a matter of fairness that she should be allowed to litigate this matter. It should be noted that the government would not be prejudiced by the filing of an action under this bill since, while several years have passed since the date of the accident, the evidence of the incident appears to be readily ascertainable by all the concerned parties at this time. Accordingly, the committee recommends that the bill be considered favorably.

LUNETTE JOYCE CLARKE

The bill (H.R. 2594) for the relief of Lunette Joyce Clarke, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the Record an excerpt from the report (No. 96-462), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the Record, as follows:

PURPOSE

The purpose of this bill is to facilitate the adjustment of status to permanent residence of the adopted child of a citizen of the United States.

Legislation for the relief of the same person passed the House of Representatives during the Ninety-fifth Congress. Since that time the beneficiary has been granted humanitarian parole and has been permitted to join her adoptive mother in the United States.

The following information is reprinted from House Report No. 95-1711:

The beneficiary of this bill is a 16-year-old native and citizen of Jamaica. Her adoptive mother, a U.S. citizen, assumed financial responsibility for the beneficiary from the time of her birth and adopted her in Jamaica on January 21, 1976.

EXTENSION OF PERIOD OF REFERRAL ON S. 1691

Mr. ROBERT C. BYRD. Mr. President, S. 1691, a bill to change the structure and administration of Federal tax courts, was reported by the Judiciary Committee and referred to the Finance Committee for a period not to extend beyond December 31, 1979.

I ask unanimous consent that the period of referral to the Finance Committee be extended to March 31, 1980.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 717.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 717) entitled "An Act to extend the Federal Insecticide, Fungicide, and Rodenticide Act, for one year," do pass with the following amendments:

Strike out all after the enacting clause, and insert: That section 31 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136y), is amended by inserting at the end thereof the following: "There are hereby authorized to be appropriated to carry out the provisions of this Act for the period beginning October 1, 1979, and ending September 30, 1980, such sums as may be necessary but not in excess of $60,-250,000, and an additional amount not in excess of $6,000,000 for the Administrator to provide the States for the conduct of applicator training and certification programs.".

Sec. 2. Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding the following new paragraph at the end thereof:

"(4) Rule and regulation review.—

"(A) Congressional review.—Notwithstanding any other provision of this Act, simultaneously with promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subparagraph (B), the rule or regulation shall not become effective; if—

"(i) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule or regulation promulgated by the Administrator of the Environmental Protection Agency dealing with the matter of   , which rule or regulation was transmitted to Congress on   ', the blank spaces therein being appropriately filled; or

"(ii) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(B) Effective date.—If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subparagraph (A).

"(C) For the purposes of subparagraphs (A) and (B) of this paragraph—

"(i) continuity of session is broken only by an adjournment of Congress sine die; and

"(ii) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.

"(D) Effect of congressional inaction.—Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.".

Sec. 3. The Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof the following new section:

"Sec. 32. Sunset Provision.

"All authorities granted under this Act shall be effective only through September 30, 1985.".

Amend the title so as to read: "An Act to extend the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, for one year; and for other purposes.".

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate disagree to the House amendments and agree to the conference requested by the House on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. Talmadge, Mr. Stone, Mr. Leahy, Mr. Stewart, Mr. Dole, Mr. Lugar, and Mr.

Cochran conferees on the part of the Senate.

PUBLICATION OF A NOTICE FROM THE SENATE LEGAL COUNSEL

Mr. ROBERT C. BYRD. Mr. President, the joint leadership group has received a notification from the Senate Legal Counsel that, in his opinion, it is in the interest of the Senate to intervene in League of Women Voters against Federal Communications Commission, a case pending in the U.S. District Court for the Central District of California. The reasons for the recommendation are set forth in the Counsel's notification.

I ask unanimous consent that the notification be published in the Congressional Record, in accordance with section 706(b) of the Ethics in Government Act of 1978.

Mr. STEVENS. Mr. President, I reserve the right to object.

The PRESIDING OFFICER. The Senator from Alaska reserves the right to object.

Mr. STEVENS. It is my understanding that this will merely print in the Record the notification that is received.

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. And we are not taking any action on any recommendations of the legal counsel.

Mr. ROBERT C. BYRD. The able acting Republican leader is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The notification is as follows:

Notification to Joint Leadership Group From Senate Legal Counsel in Respect to League of Women Voters v. Federal Communications Commission

This notification is submitted pursuant to Section 706(b) of the Ethics in Government Act of 1978, Pub. L. 95–521. That section directs the Senate Legal Counsel to notify the Joint Leadership Group when he concludes that the Senate should intervene in a case which places in issue the powers and the responsibilities of the Congress under the Constitution. The statute provides that the Joint Leadership Group shall cause the notification to be published in the Congressional Record.

The Senate may then direct the Counsel, pursuant to Sections 703(c) and 706(a) of the Act, to intervene in the name of the Senate. Section 711 of the Act establishes procedures for the consideration of a resolution to direct the Counsel to appear on behalf of the Senate. A motion to proceed to the consideration of the resolution is privileged and not debatable.

This case challenges the constitutionality of an Act of Congress. The Department of Justice has declined to defend the statute, which raises the danger that the Act may be nullified in court without the arguments in its favor having been heard. In my opinion it is in the interest of the Senate to intervene in defense of this Act of Congress.

The plaintiffs are the League of Women Voters of California, the Pacifica Foundation, and Representative Henry Waxman of California. On April 30, 1979, they filed a suit challenging the constitutionality of section 201(8) of the Public Broadcasting Act of 1967, 47 U.S.C. § 399(a). The purpose of this statute is to prevent publicly assisted broadcasters from endorsing or opposing candidates for political office or from engaging in other editorializing. The plaintiffs argue that this statute directly restrains public broadcasters in the exercise of their First Amendment right to endorse candidates and to editorialize. They further argue that there is no compelling justification for the statute, and that, in any event, it is overbroad in respect to broadcasters who receive no federal funding.

This section of the statute was an important part of the Public Broadcasting Act of 1967. In the enactment of the 1967 Act, many steps were taken to protect against concerns. expressed by a number of congressmen, that public broadcasting would become a federally-financed propaganda network for the administration, similar to a patronage machine. One main element of the protection against such a danger was the creation of the Corporation for Public Broadcasting, to insulate public broadcasters from direct governmental control of financing. An important additional element was the ban in 47 U.S.C. § 399 (a) on candidate endorsement or opposition and on editorializing. This ban eliminates much of the incentive for political interference with public broadcasting and prevents the harm that could result from such interference.

After internal deliberations, the Department of Justice has decided not to defend this suit. This decision was communicated to Senator Byrd by a letter from the Attorney General on October 11, 1979. The Attorney General states in the letter that the ground for decision was the Justice Department's belief that the statute could not be defended successfully in court. It is probably also relevant that President Carter sought unsuccessfully last year to repeal part of 47 U.S.C. § 399(a).

If the Senate does not intervene, it is most likely that no one will appear to defend 47 U.S.C. § 399(a) and that it may be declared unconstitutional by default. This would have two unfortunate consequences. First, the precedent would be established that when the Executive Branch does not agree with legislation, and yet cannot persuade Congress to repeal it, it can nullify such legislation through a default in court. Such a precedent would undermine the Constitution, which envisaged that the Executive may veto laws with which it disagrees, but cannot single out particular provisions for veto, and that the Congress may override vetoes by a two-thirds majority vote of both Houses. Part of the reason for the establishment of the Office of Senate Legal Counsel was to prevent the Executive from undermining the powers and responsibilities of Congress in this manner.

Moreover, this particular statute has considerable support, both in terms of its value as a law, and in terms of its constitutionality. By shielding public broadcasting from partisan interference and politicization, it aids public broadcasting in its important mission of presenting controversial issues to the public by balanced programming. While in the short run some public broadcasters might like to endorse political candidates, in the long run such politicization of broadcasting would impair the credibility of all public broadcasting's programming. This is of particular concern because as a very young medium which is heavily subsidized by the government, public broadcasting requires all of our attention to insure that it develops the kind of independence from political control that the private print media have developed in the past two centuries.

In terms of its constitutionality, the approach used by 47 U.S.C. § 399(a) is consistent with other efforts of Congress to keep government funding, and government control, out of the realm of one-sided partisan advocacy. These include the Hatch Act, whose implementing regulations ban paid political advertisements by federal employees; the various provisions of the Internal Revenue Code which deny tax subsidies for certain political activities; and the law forbidding domestic dissemination of Voice of America broadcasts. The courts have upheld the Hatch Act and the Internal Revenue Code provisions, recognizing the strong First Amendment interest in keeping government influence and subsidies out of the political process.

The consequences of a court ruling which prohibits Congress from preventing the creation of government-financed and government-controlled media are sufficiently grave that no such ruling should occur by default, without a defense of the statute at issue.

Pursuant to the directive of the Joint Leadership Group in matters such as this, we have consulted with the Chairman and the Ranking Minority Member of the committee that has legislative jurisdiction in this area, the Subcommittee on Communications of the Committee on Commerce, Science and Transportation.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in at 10 a.m. tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the Senate will proceed with debate on the motion to invoke cloture or on the motion which will be made to table the minimum tax amendment where by unanimous consent other business could be brought up during that time.

However, a motion to table the minimum tax amendment will be made at 10:30 a.m. Mr. Long will probably make that motion to table.

That will be a rollcall vote. Following that vote there will be circa 15 minutes between that particular vote during which debate could further occur on the motion to invoke cloture or other business would ensue.

But at 11 a.m. the Senate will proceed under the rule to establish a quorum and upon the establishment of a quorum the Senate will then vote on the motion to invoke cloture on the excess profit tax bill.

Other rollcall votes will occur throughout the day tomorrow.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 a.m. tomorrow morning.

The motion was agreed to; and the Senate, at 7:53 p.m., recessed until Wednesday, December 12, 1979, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate December 11, 1979:

Department of State

Sidney Anders Rand, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Norway.

Department of Housing and Urban Development

Victor Marrero, of New York, to be Under Secretary of Housing and Urban Development, vice Jay Janis.

Department of Commerce

Philip M. Klutznick, of Illinois, to be Secretary of Commerce.

In the Air Force

The following named officers for promotion in the U.S. Air Force, under the appropriate provisions of chapter 839, title 10, United States Code, as amended:

DENTAL CORPS

Lieutenant colonel to colonel

Adan, Cirilo L., Jr., [redacted].
Andrus, Clair W., [redacted].
Arnold, Ralph M. [redacted].
Aussiker, William H., [redacted].
Baer, Marvin L., [redacted].
Bigbie, John D., [redacted].
Bloss, James L., [redacted].
Bock, Joseph F., Jr., [redacted].
Boyle, William D., Jr., [redacted].
Brandt, Robert L., [redacted].
Brown, Garth W., [redacted].
Brown, Leo M., [redacted].
Bump, Robert L., [redacted].
Chalfin, Charles W., [redacted].
Cooper, John T., [redacted].
Davis, Jerry N., [redacted].
Depew, Theodore E., Jr., [redacted].
Dix, Robert L., [redacted].
Dohaney, Martin J., Jr., [redacted].
Forgach, John J., [redacted].
Foulke, Clark N., [redacted].
Gough, Robert, W., [redacted].
Gray, Gary G., [redacted].
Green, Paul F [redacted].
Gulaltt, Theodore, Jr., [redacted].
Halliday, Donald G., [redacted].
Hammer, Wayne S., Jr., [redacted].
Hartman, Kenton S., [redacted].
Herbold, Edward T., [redacted].
Hoffman, David L., [redacted].
Holgate, Robert S., [redacted].
Hope, Gary B., [redacted].
Hubbuch, Behrle W., Jr., [redacted].
Killingsworth, Charles R., [redacted].
Kirby, David B., Jr., [redacted].
Knowles, Kenneth I., [redacted].
Lee, Kenneth E. [redacted].
Lundgren, Richard P., [redacted].
Masi, Victor A., [redacted].
Maust, Jay R., [redacted].
Mead, John H., [redacted].
Meyer, Asher M., [redacted].
Moore, John N., Jr., [redacted].
Osburn Richard C., [redacted].
Pixley, Phillip J., [redacted].
Plies, Stanley M., [redacted].
Rivard, Rodney A., [redacted].
Salzmann, Jacob A., [redacted].
Scholes, Edwin Jr., [redacted].
Shibuya, Francis S., [redacted].
Smith, Howard E., [redacted].
Sorensen, Donald C., [redacted].
Stamps, John T., [redacted].
Strosnider, Roger K., [redacted].
Todaro, Michael J., [redacted].
Treloar, Thomas J., [redacted].
Wampler, Henry W., [redacted].
Wasserman, Sheldon, [redacted].
Willsey, Dean B., [redacted].
Wilson, Theodore T., [redacted].

DENTAL CORPS

Major to lieutenant colonel

Abrahams, Lewis J., [redacted].
Altschuler, Bruce R., [redacted].
Antolin, Carlos M., [redacted].
Berkley, Thomas S., [redacted].
Boggs, David E., [redacted].
Booker, Brooks W., III, [redacted].
Cable, Steven G., [redacted].
Crittenden, Richard A., [redacted].
Deemer, James P., [redacted].
Farr, Stephen C., [redacted].
Frostad, Kenneth B., [redacted].
Hawley, Richard J., [redacted].
High, Curtis L., [redacted].
Hurd, Joseph J., [redacted].
Jamsky, Robert J., [redacted].
Joyner, Harry N., III, [redacted].
Knight, James S., III, [redacted].
Kubinski, Eddie A., [redacted].
Landers, Robert R., [redacted].
Leifeste, Ronald E., [redacted].
Loeckel, Richard E., [redacted].
Marx, Robert E., [redacted].
Matis, Bruce A., [redacted].
Matsumoto, Terry S., [redacted].
Messersmith, Robert P., [redacted].
Murray, Gary H., [redacted].
Neale, William S., Jr., [redacted].
Nealis, Michael F., [redacted].
Ness, Charles F., [redacted].
Nilsson, Dennis E., [redacted].
Peluso, Joseph R., [redacted].
Pillsbury, James S., [redacted].
Regent, Howard S., [redacted].
Robison, Stephen F., [redacted].
Ruemping, Dale R., [redacted].
Sarg, Ronald G., [redacted].
Staab, Robert G., [redacted].
Stewart, Edward A. [redacted].
Sykes, Norman J., Jr., [redacted].
Tebrock, Otto C., [redacted].
Theobald, William D., [redacted].
Thomas, Lloyd G., Jr. [redacted].
Tobias, Richard T., [redacted].
Warnick, John G., [redacted].
Watkins, John F., III, [redacted].
Wilmert, Wilbur J., [redacted].
Wyand, Anthony J., [redacted].

MEDICAL CORPS

Acevedo, Carlos E., [redacted].
Anderson, John D., [redacted].
Anderson, John R., [redacted].
Anthracite, Raymond F., [redacted].
Antonio, Melvin Q., [redacted].
Aportela, Sinesio Z. [redacted].
Araozfraser, Gonzalo, [redacted].
Arnold, Fredrick S., [redacted].
Attar, Nasseem A. [redacted].
Audije, Doroteo C., [redacted].
Beck, William R., [redacted].
Bedford, Alfred J. M., [redacted].
Beezley, Michael J., [redacted].
Bloom, John D., [redacted].
Bocian, Edward S., Jr., [redacted].
Boike, David E., [redacted].
Borthwick, Thomas R., [redacted].
Boswell, Richard N., [redacted].
Bottene, Carlos A. D., [redacted].
Brothers, Lyman R., III, [redacted].
Burch, Francis X., [redacted].
Cabal, Eustaquio V., Jr., [redacted].
Calderon, Daniel A., [redacted].
Caravello, Peter M., [redacted].
Carlton, Paul K., Jr., [redacted].
Carter, Thomas E., [redacted].
Cates, Robert G., III, [redacted].
Caven, Robert E., [redacted].
Chaves, Ignacio A., [redacted].
Chilton, Robert J., [redacted].
Clarke, William R. [redacted].
Clarkson, James E., [redacted].
Coffey, Maurice E., [redacted].
Colimon, Jean, [redacted].
Collier, James R., [redacted].
Corman, Larry I., [redacted].
Corrales, Consuelo L., [redacted].
Cox, Rex A., [redacted].
Crawford, George E., [redacted].
Creech, George R., [redacted].
Daimler, John C., II, [redacted].
Dallas, John G., [redacted].
Dapremont, Edgar M., Jr., [redacted].
Dealdayflores, Ruby, [redacted].
Dellinger, Richard P., [redacted].
Derick, Dale E., [redacted].
Desadier, Bennett B., [redacted].
DeSantis, James P., [redacted].
DeSilva, Sunsil R., [redacted].
Dightman, Lowell R., [redacted].
Dobbs, Larry C., [redacted].
Elshammaa, Nabil A., [redacted].
Frank, Denis J., [redacted].
Frischer, Robert, [redacted].
Gage, Ralph W., [redacted].
Gale, Tristan M., [redacted].
Garcia, John M., [redacted].
Garvin, Dennis D., [redacted].
Gaver, William R., [redacted].
Gebhart, Ronald J., [redacted].
Gee, Oliver W., [redacted].
Gehling, Gerald F., [redacted].
Gens, John P., Jr., [redacted].
Gillis, Howard II, [redacted].
Ginsberg, Harold N., [redacted].
Girard, Charles M., [redacted].
Greenman, John J., [redacted].
Gross, LeRoy P. [redacted].
Hallett, John W., Jr., [redacted].
Hanes, Verna E., [redacted].
Harbrecht, David J., [redacted].
Hazen, Gale A., [redacted].
Hinman, Craig G., [redacted].
Hobbs, Edmund R., [redacted].
Homa, Daniel J., [redacted].
Howard, William R., [redacted].
Hughes, Eugene F., Jr., [redacted].
Jaeger, Warren P., [redacted].
Jenkins, Stephen W., [redacted].
Jernigan, John G., [redacted].
Joganic, Edward F., Jr., [redacted].
Jones, Edward R., [redacted].
Kercher, Delores F., [redacted].
Kimbrough, John L., [redacted].
King, William J., [redacted].
Kinnison, Michael G., [redacted].
Kronberg, Gregory M. [redacted].
Landry, Roger F., [redacted].
Laws, Harry F., II, [redacted].
Leach, Christopher L., [redacted].
Lee, Susan C. [redacted].
Legrand, Daniel R., [redacted].
Leibrecht, Murl E., [redacted].
Leonor, Crisanto O., [redacted].
Lepage, John C. [redacted].
Lewis, James M., [redacted].
Lobritz, Richard W., [redacted].
Love, Lawrence L., [redacted].
Luff, Ronald D., [redacted].
Lugger, Jerry, [redacted].
Mack, John W., Jr., [redacted].
Maden, Larry G., [redacted].
Marks, James G., Jr., [redacted].
Martin, Michael E., [redacted].
Mays, Denton L., [redacted].
Mays, Steven C., [redacted].
McCarthy, John P., [redacted].
McDonald, Stephen D., [redacted].
McGinn, Richard C., [redacted].
McKeown, Craig A., [redacted].
McNish, Thomas M., [redacted].
Menon, K. P. S., [redacted].
Mikelatos, Spyridon H., [redacted].
Moore, George W., [redacted].
Mroz, Frank M., [redacted].
Myers, Joseph W. [redacted].
Nash, Peter R., [redacted].
Naval, Icarangal A., [redacted].
Ong, Soon C. S. [redacted].
Paul, David F., [redacted].
Perocieraguirre, Camille, [redacted].
Perucca, Philip J., [redacted].
Peterson, Charles D., [redacted].
Policastro, Anthony M., [redacted].
Potts, David W., [redacted].
Price, Fred D., [redacted].
Protzman, Stewart B., [redacted].
Pueblatarilonte, Jose L., [redacted].
Randolph, Leonard M., Jr., [redacted].
Rayfield, Morton M., [redacted].
Rebstock, Hansjuergen, [redacted].
Rivera, Pedro N., [redacted].
Rogers, Ronald A., [redacted].
Rojas, Jose E., [redacted].
Romberg, Gary P., [redacted].
Royal, Louis R., [redacted].
Rubiano, Remigio C., [redacted].
Rupert, Edward G., [redacted].
Sabrin, Russell L., [redacted].
Sarmiento, Cesar F., [redacted].
Seaman, John M., [redacted].
Shah, Chandrakant P., [redacted].
Sievert, Jose L. [redacted].
Skumatz, Primus J., Jr., [redacted].
Slack, Robert G., [redacted].
Smalley, James R., [redacted].
Smith, Frank L., [redacted].
Smith, Gary L., [redacted].

Springberg, Peter D., [redacted]
Staten, James R., [redacted]
Sterner, Paul E., [redacted]
Stoller, Richard H., [redacted]
Stratton, Richard M., [redacted]
Suchoski, John P. [redacted]
Swiney, Merrill F., [redacted]
Teears, Robert J., [redacted]
Tengco, Gregory S. [redacted]
Trujillo, Joel, [redacted]
Uhl, Gregory S., [redacted]
Ursano, Robert J., [redacted]
Vanmeter, Francis M., Jr., [redacted]
Vieras, Frank, [redacted]
Villarin, Alfredo C., Jr., [redacted]
Villasis, Felipe C., [redacted]
Wade, Billy K., [redacted]
Washington, James A., [redacted]
Wetzler, Harry P., [redacted]
Whitehurst, Fred O., [redacted]
Whiteley, Andre B., [redacted]
Wiedeman, Geoffrey P., Jr. [redacted]
Williams, Josie R., [redacted]
Williams, Michael H., [redacted]
Wisdom, Randall T., [redacted]
Yerger, David H., [redacted]
Yoder, James E. [redacted]
Zajac, John J., [redacted]
Zimmerman, Robert G., [redacted]
Zimmermann, Gloria B., [redacted]

The following officers for appointment in the Regular Air Force, in the grades indicated, under the provisions of section 8284, title 10, United States Code, with a view to designation under the provisions of section 8067, title 10, United States Code, to perform the duties indicated, and with dates of rank to be determined by the Secretary of the Air Force:

MEDICAL CORPS

To be captain

Borthwick, Thomas R., [redacted]
Burch, Francis X., [redacted]
Crawford, George E., [redacted]
Gens, John P., Jr. [redacted]
Gross, Leroy P. [redacted]
Hanes, Verna E., [redacted]
Landry, Roger F., [redacted]
Paul, David F., [redacted]
Peterson, Charles D., [redacted]
Policastro, Anthony M., [redacted]
Rayfield, Morton M., [redacted]
Smith, Frank L., [redacted]
Washington, James A., [redacted]

DENTAL CORPS

To be first lieutenant

Booker, Brooks W., III, [redacted]

HOUSE OF REPRESENTATIVES—*Tuesday, December 11, 1979*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Let us pray in the words of St. Francis:
"Lord, make us instruments of Thy peace,
Where there is hatred, let us sow love;
Where there is injury, pardon;
Where there is doubt, faith;
Where there is despair, hope;
Where there is darkness, light; and
Where there is sadness, joy.

"O Divine Master, grant that we may not so much seek to be consoled as to console;
To be understood as to understand;
To be loved as to love,
For it is in giving that we receive;
It is in pardoning that we are pardoned.
And it is in dying that we are born to eternal life. Amen."

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and a joint resolution of the House of the following titles:

On November 28, 1979:

H R. 2282. An act to amend title 38, United States Code, to provide a cost-of-living increase in the rates of compensation paid to veterans with service-connected disabilities and in the rates of dependence and indemnity compensation paid to survivors of veterans, to modify certain veterans' life insurance programs, and to exempt Veterans' Administration home loans from State antiusury laws; to provide for certain assistance in locating individuals who were exposed to occupational hazards during military service; and for other purposes; and

H.R. 4167. An act to amend section 201 of the Agriculture Act of 1949, as amended, to extend until September 30, 1981, the requirement that the price of milk be supported at not less than 80 per centum of the parity price therefor.

On November 30, 1979:

H.R. 4391. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; and

H.R. 4440. An act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1980, and for other purposes.

On December 5, 1979:

H.R. 1885. An act to amend Civil Service retirement provisions as they apply to certain employees of the Bureau of Indian Affairs and of the Indian Health Service who are not entitled to Indian employment preference and to modify the application of the Indian employment preference laws as it applies to those agencies; and

H.R. 4483. An act for the relief of Jung-Sook Mun.

On December 7, 1979:

H.J. Res. 448. Joint resolution proclaiming the week of December 3 through December 9, 1979 as "Scouting Recognition Week."

AMERICAN HOSTAGES CANNOT BE CONSIDERED WELL TREATED UNTIL THEY ARE RELEASED

Mr. WRIGHT. Mr. Speaker, one of the saddest and most cynical things involved in the capture of U.S. hostages in Iran was the attempted use last evening of an unfortunate and well-meaning American boy, illegally seized and held hostage by his captors, to characterize the relative degree of mistreatment of those American hostages.

I believe that I speak the undivided sentiment of this Congress and of the American people in saying that any time any innocent American citizen is captured and held against his or her will by any foreign power, and tied, even loosely, and held incommunicado, prevented from communication with his fellow Americans, then that American citizen is being mistreated.

Those American hostages will not be, nor can they be, characterized as being well treated until they are released and given the freedom to which they were born and to which they are entitled.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I am glad to yield.

Mr. BRADEMAS. Mr. Speaker, I want to compliment the distinguished majority leader for what he has had to say on this matter and to associate myself with his remarks.

GENERAL LEAVE

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the matter addressed by the majority leader.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

PERMISSION TO HAVE UNTIL TOMORROW, DECEMBER 12, 1979, TO FILE CONFERENCE REPORT ON H.R. 5359, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, December 12, 1979, to file a conference report on the bill (H.R. 5359), making appropriations for the Department of Defense for the fiscal year ending December 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

MAKING IN ORDER CONSIDERATION OF CONFERENCE REPORT ON H.R. 5359, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980, ON ANY DATE AFTER FILING

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that it be in order on any date after the conference report is filed to take up the conference report on the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980.

The SPEAKER. Is there objection to

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.
● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

the request of the gentleman from New York?

There was no objection.

HOUSE SHOULD SUPPORT BILL TO REFORM SECOND CAREER TRAINING PROGRAM FOR AIR TRAFFIC CONTROLLERS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, in a few minutes, we will be voting on H.R. 5870, a bill to reform the second career training program for air traffic controllers. I want to clear up some misunderstandings which may have resulted from yesterday's debate.

First, the Federal Aviation Administration (FAA) opposes this program because there are other benefit programs, like worker's compensation and disability retirement, to support an air traffic controller who is no longer able to control aircraft. This is true, but I would rather train these burnt-out controllers to become productive members of society, rather than forcing them to live off the public for the rest of their lives. Besides, if we push these controllers into disability or OWCP, rather than second career training, we will not be saving the Government any money.

Second, opponents claim that this bill does not go far enough to prevent controllers from using second career training as a bridge to OWCP benefits. I agree; the jurisdiction of the Committee on Post Office and Civil Service does not extend to reform the OWCP program. We went as far as we could. Nevertheless, controllers who have served their country in this highly stressful and debilitating job should not be denied retraining because the Department of Labor cannot run OWCP efficiently.

Third, FAA claims that no second career training can work. I do not believe them. I do not believe that we ought to put healthy, intelligent, and willing employees out to pasture because they are no longer capable of performing one of the hardest jobs society has to offer.

Rather, I think the problem with the program in the past was that FAA did not try to run it effectively. I think their opposition now is because they do not want to make the program work in the future.

FAA does not want to take responsibility for the lives of air traffic controllers after they cease to be useful to FAA. Well, I believe we are responsible for these men and women. That is why I support H.R. 5870 and urge my colleagues to do the same.

HOUSE SHOULD SUPPORT BILL TO REFORM SECOND CAREER TRAINING PROGRAM FOR AIR TRAFFIC CONTROLLERS

(Mr. JOHN L. BURTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN L. BURTON. Mr. Speaker, I would like to associate myself with the remarks of the gentlewoman from Colorado. An air traffic controller is one of the most difficult jobs that one can imagine. Every minute that they are on the jobs their decisions are life and death decisions. They have a job where, if they have a headache or a cold and take an aspirin or a Contact they are not even able to go to work because the medication could affect their judgment, whereas the rest of us could be able to go to work.

To show the type of pressure they are under, minute after minute, day after day, in their job, an air traffic controller in Hawaii told me once that he would become a millionaire if he could open up any type of business, whether it be an ice cream fountain, a beer place, a grocery store, or a department store and just name it "Some Place Else," because everyday, when they would get off work and someone would say where do you want to go, why don't we go here, the other controller would say let us go some place else. They make so many life and death decisions that when they are through their day's work they just do not have enough energy in them to make anymore decisions.

This second job program is a necessity and a savings to the taxpayers. Let us not punish these controllers because the FAA happens to be the most incompetent agency in the Federal Government.

HOUSE CONCURRENT RESOLUTION 224

(Mr. STENHOLM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STENHOLM. Mr. Speaker, as the days of the imprisonment of American hostages has lengthened, we are witnessing a growing sense of frustration in the American people. A frustration borne by the lack of positive recourse to show concern for the hostages themselves and support for the actions of the U.S. Government attempting to secure their release. This frustration has been met to some degree by ringing of church bells, turning on auto lights, and letter writing campaigns to the Iranian Embassy here in D.C.

As the Christmas season nears and we all begin to think of home and families, I urge all of us to think of those illegally held so far from their homes and families. I urge you to support and speedily pass House Concurrent Resolution 224 to encourage your constituents back home to send a Christmas card to the Iranian hostages being held in Iran.

We would hope that the Iranian Government would show compassion and deliver the cards to the prisoners to brighten their holiday. However, if not, the cards themselves will serve as a strong indication to the Iranian Government of the support and unity of spirit of the American people.

□ 1210

NBC USED FOR PROPAGANDA PURPOSES BY IRAN

(Mr. BAUMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BAUMAN. Mr. Speaker, I want to endorse the statement made by the majority leader a few moments ago regarding the broadcast last night on the NBC television network of the statement of the young marine being held hostage in Tehran. Lord only knows the pressure he is under. Perhaps NBC should be nominated for the "Benedict Arnold Award for Broadcast Journalism" for allowing themselves to be used for propaganda purposes by the Ayatollah Khomeini. CBS and ABC are to be commended for their outright rejection of this blatant proposal.

Mr. Speaker, since the takeover of our Tehran Embassy I have been concerned about the role of the news media as an instrument of foreign policy, but I also believe in the first amendment and the right of the people of the United States to know the truth. I do not think the right to broadcast includes the right to allow oneself to be a propaganda front for the lies of a foreign government doing everything it can to destroy the United States.

Mr. Speaker, I urge every one of our colleagues to communicate their views to NBC.

TRAVEL EXPENSES FOR MEMBERS OF ARMED SERVICES STATIONED OVERSEAS

(Mr. HILLIS asked and was given permission to addres the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIS. Mr. Speaker, today I am introducing legislation which will provide a tax deduction for travel expenses on a trip to and from the United States for members of the Armed Forces who are stationed overseas without their families.

As a member of the Armed Services Committee, I have been disturbed for the past several years about the many problems our military personnel must endure to provide for the defense of this Nation, particularly those personnel assigned overseas.

I think all of the Members of the House have heard and read a great deal about the economic difficulties many of our military personnel are encountering when stationed overseas. Less visible, but also of concern, are the family hardships which result from assignments overseas without the family accompanying the military member. It is my hope that providing a tax deduction to an individual who is stationed overseas to permit him or her to deduct the expenses for traveling to and from the United States to see his or her family once during an assignment will alleviate a part of the burden of these assignments.

Mr. Speaker, I wish I could say this legislation was fully my idea, but, in fact, it was a suggestion of one, a fellow Hoosier, Mrs. Betty J. Packard of Speedway, Ind., who is a military dependent as well as a journalist. Mrs. Packard met with me recently and made the suggestion. I think it is an excellent one.

I hope the House will recognize the difficulties military personnel endure in our behalf when assigned overseas and provide this assistance.

LIGHTING CEREMONY FOR NATIONAL CAPITOL CHRISTMAS TREE

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, the lighting ceremony for the National Capitol Christmas tree will take place tomorrow on the Capitol Grounds. I am pleased that the tree this year comes from Nicolet National Forest which is located in my district in Wisconsin. Last week I had the honor of presenting the tree to the U.S. Capitol Architect when it arrived here from Wisconsin.

The National Capitol Christmas tree symbolizes good will, peace, and unity throughout the Nation. It is particularly appropriate to reflect on such thoughts at this time when our Nation is experiencing a very difficult international crisis in the Middle East. We can only hope that the hostages being held in Iran are aware that our Nation has not forgotten them and have a unified resolve to free them safely.

The National Capitol Christmas tree also symbolizes the community effort put forth by the people of Wisconsin in presenting this gift to the Nation for all our citizens to enjoy. The tree was planted by the Civilian Conservation Corps in the 1930's and then in 1979 shipped to Washington free of charge to the taxpayers through contributions by various civic groups and private businesses in Wisconsin.

I look forward tomorrow in participating in the lighting ceremony.

SEND HOLIDAY GREETING CARDS TO AMERICAN HOSTAGES

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, I would like to take this time to commend one of my hometown newspapers, the Columbus Citizen-Journal, for its suggestion that the people of America send holiday greeting cards to the American hostages in Tehran. It is important that the hostages know that we miss them and that we are deeply concerned for their welfare at this otherwise joyous time of the year. If the public feels as I do, then they will certainly want to participate in this public affirmation of solidarity with our countrymen in Iran.

I am certainly pleased to thank the Columbus Citizen-Journal and its editor, Dick Campbell, for spearheading this effort in central Ohio. Maybe, with God's help, these cards will reach the hostages so that they may be encouraged to have some holiday spirit.

GASOLINE DECONTROL FAVORED 3 TO 1

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, having just finished tabulating my fall district questionnaire, I wanted to share an interesting result I got to a major question. The question was: "Would you favor decontrol of the price of gasoline?" The result: 78.2 percent of my constituents answered "yes," 21.8 percent answered "no." This is living proof of the commonsense of the residents of the Third Congressional District of Texas. Last year, my city had the longest gasoline waiting lines in the country. Concerned people anywhere should be 3 to 1 for deregulation.

Price controls have never worked during peacetime. They only create shortages. As long as controls remain on domestic oil and gas, America will experience a shortage of these commodities. Because of price controls, domestic crude oil production since 1973 has declined from 9.2 million barrels per day to 7.6 million barrels per day.

The decline in domestic energy production has left the United States increasingly dependent on foreign oil. Six years ago we were importing $3 billion of foreign oil, last year we imported $45 billion of oil, this year it will be $60 billion, and next year we will import $70 billion. As long as we continue to send billions of dollars abroad to purchase foreign oil, we are undermining the security of our country and its economic stability.

My home district understands the need for the United States to become energy self-sufficient. They also know that the way to this independence is through deregulation of energy, from crude oil to gasoline.

"NO" VOTE URGED ON CAREER TRAINING PROGRAM FOR AIR TRAFFIC CONTROLLERS

(Mr. EDWARDS of Alabama asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Alabama. Mr. Speaker, shortly we will be voting on the second career training program for air traffic controllers. I think that we need to do all we can for these folks who have a real problem, but the bill that is before us is not the answer to the problem. We tried to resolve this; we tried to find an answer in training these folks back in the early 1970's. We spent about $100 million in 4 years in this program, and we found that only about 7 percent of the eligible controllers used the program to enter into a new career.

There are other programs that are available to them. We are looking at the possible cost of some $26 million a year for this program, which is an estimated $325,000 per successful trainee in the program. We believe, on the Appropriations Subcommittee on Transportation, that there is a better way to go. We quit funding this program because of these problems. The House Appropriations Committee's investigative staff has recommended that it be terminated; the General Accounting Office has recommended that it be discontinued, and I would urge a "no" vote on the bill today.

APPOINTMENT OF ADDITIONAL CONFEREES ON S. 914, NATIONAL PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1979

Mr. JOHNSON of California. Mr. Speaker, I ask unanimous consent that the Speaker be authorized to appoint three additional conferees on the Senate bill (S. 914) to extend the Appalachian Regional Development Act and title V of the Public Works and Economic Development Act of 1965 and to provide for multistate regional development commissions to promote balanced development in the regions of the Nation.

The SPEAKER. Is there objection to the request of the gentleman from California? The Chair hears none, and appoints the following additional conferees: Messrs. LEATH, BONIOR, and CLEVELAND.

DON'T BUY JAPANESE

(Mr. LATTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATTA. Mr. Speaker, it has been reliably reported that during this period of crisis which the United States is having with Iran over the holding of U.S. citizens as hostages, one of our friends and allies, Japan, is continuing to conduct business as usual with Iran, including the purchasing of all available oil. The administration has taken note of this fact, and I am certain has noted its objections to Japan.

Unless Japan halts its present practice forthwith, the American people can show their disapproval by ceasing to buy Japanese products during this period. Japan should be aware of this alternative and I would suggest that our friend take note of this possibility before it becomes evident in the marketplace. The Americans want to bring these hostages home and will not look too kindly toward making purchases from countries delaying their return in anyway whatsoever. If the American people just stop buying Christmas presents made in Japan, our friend would soon see the folly of its present policy toward purchases of oil from Iran.

REQUEST FOR COMMITTEE ON JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. MAZZOLI. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be permitted to sit tomorrow, December 12, 1979, while the House is reading four amendments under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ASHBROOK. Mr. Speaker, reserving the right to object, it is my understanding that we have some very important business tomorrow. I think I would be constrained to object. I hope my friend would not ask for this.

Mr. MAZZOLI. Mr. Speaker, would the gentleman yield?

Mr. ASHBROOK. Yes.

Mr. MAZZOLI. I would like to mention that these are antitrust improvement bills, a series of bills to improve the antitrust law.

Mr. ASHBROOK. I am well aware of that. That is the reason I am objecting.

The SPEAKER. Is there objection to the request of the gentleman from Kentucky?

Mr. ASHBROOK. Mr. Speaker, I object, and pending that I make the point of order that a quorum is not present.

PARLIAMENTARY INQUIRY

Mr. ASHBROOK. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ASHBROOK. Mr. Speaker, I assume the rules which require 10 Members to object would not require that with only 15 Members present?

The SPEAKER. Objection is heard.

(Mr. ASHBROOK, Mr. BAUMAN, Mrs. HOLT, Messrs. WYLIE, DEVINE, DORNAN, CLAUSEN, ROTH, CHENEY, and QUILLEN objected.)

The SPEAKER. A sufficient number has objected.

Objection is heard.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to clause 3, rule XXVII, the Chair will now put the question de novo on the motion on which further proceedings were postponed.

☐ 1220

AIR TRAFFIC CONTROLLERS TRAINING AMENDMENTS

The SPEAKER. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5870, as amended.

The Clerk read the title of the bill.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the bill, H.R. 5870, as amended.

The question was taken.

Mr. BENJAMIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 200, nays 180, not voting 53, as follows:

[Roll No. 711]

YEAS—200

Abdnor
Addabbo
Alexander
Ambro
Anderson, Calif.
Annunzio
Bailey
Beilenson
Bereuter
Bingham
Blanchard
Boggs
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Clausen
Clay
Coleman
Collins, Ill.
Conyers
Corman
Courter
D'Amours
Danielson
Dannemeyer
Daschle
Davis, S.C.
Derwinski
Dickinson
Diggs
Dixon
Dodd
Donnelly
Downey
Eckhardt
English
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Frost
Fuqua
Garcia
Gilman
Gonzalez
Goodling
Gramm
Gray
Hagedorn
Hall, Ohio
Hall, Tex.
Harris
Harsha
Hawkins
Heckler
Heftel
Holland
Hollenbeck
Holt
Horton
Howard
Huckaby
Hughes
Jeffords
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kildee
Kogovsek
Kramer
Lagomarsino
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Loeffler
Long, La.
Lowry
Lujan
Luken
Lundine
McCloskey
McCormack
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Marks
Marlenee
Mathis
Matsui
Michel
Mikulski
Mineta
Mitchell, Md.
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Nedzi
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Pashayan
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Price
Pursell
Quillen
Railsback
Rangel
Reuss
Rinaldo
Roe
Rose
Rostenkowski
Rousselot
Roybal
Royer
Scheuer
Schroeder
Sebelius
Seiberling
Simon
Smith, Iowa
Snowe
Snyder
Solarz
Spellman
Stack
Staggers
Stark
Steed
Stenholm
Studds
Swift
Synar
Taylor
Thompson
Traxler
Udall
Van Deerlin
Volkmer
Walgren
Wampler
Waxman
Weaver
Weiss
Whitehurst
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Yatron
Young, Mo.
Zablocki

NAYS—180

Andrews, N.C.
Anthony
Applegate
Archer
Ashbrook
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Boland
Bowen
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Campbell
Carter
Cheney
Cleveland
Clinger
Coelho
Collins, Tex.
Conte
Cotter
Coughlin
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Davis, Mich.
de la Garza
Deckard
Derrick
Devine
Dingell
Dornan
Drinan
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Emery
Erlenborn
Fenwick
Findley
Fithian
Forsythe
Fountain
Fowler
Frenzel
Giaimo
Gibbons
Ginn
Goldwater
Gore
Gradison
Green
Grisham
Guarini
Gudger
Hamilton
Hansen
Hefner
Hightower
Hillis
Hinson
Holtzman
Hopkins
Hubbard
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Kastenmeier
Kazen
Kelly
Kemp
Kindness
Kostmayer
LaFalce
Latta
Leath, Tex.
Lewis
Livingston
Lloyd
Long, Md.
Lott
Lungren
McClory
McDonald
McEwen
Markey
Martin
Mavroules
Mazzoli
Mica
Miller, Calif.
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Natcher
Neal
Nelson
Nichols
Ottinger
Panetta
Paul
Petri
Preyer
Quayle
Ratchford
Regula
Rhodes
Richmond
Ritter
Robinson
Roth
Rudd
Runnels
Sabo
Satterfield
Sawyer
Schulze
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Solomon
Spence
St Germain
Stangeland
Stanton
Stewart
Stockman
Stratton
Stump
Symms
Tauke
Trible
Ullman
Vander Jagt
Vanik
Vento
Walker
Watkins
White
Whitley
Whittaker
Whitten
Wylie
Yates
Young, Fla.
Zeferetti

NOT VOTING—53

Akaka
Albosta
Anderson, Ill.
Andrews, N. Dak.
Ashley
Atkinson
Bedell
Biaggi
Chappell
Chisholm
Conable
Corcoran
Dellums
Dicks
Dougherty
Duncan, Oreg.
Edwards, Calif.
Edwards, Okla.
Flippo
Flood
Gaydos
Gephardt
Gingrich
Glickman
Grassley
Guyer
Hammerschmidt
Hance
Hanley
Harkin
Jenrette
Leach, Iowa
Marriott
Mattox
Murphy, Ill.
Murtha
Myers, Pa.
Perkins
Pritchard
Rahall
Roberts
Rodino
Rosenthal
Russo
Santini
Stokes
Thomas
Treen
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Winn
Young, Alaska

☐ 1230

The Clerk announced the following pairs:

On this vote:

Mr. Dougherty and Mr. Gingrich for, with Mr. Williams of Ohio against.

Mr. Pritchard and Mr. Young of Alaska for, with Mr. Guyer against.

Until further notice:

Mr. Akaka with Mr. Grassley.
Mr. Chappell with Mr. Thomas.
Mr. Russo with Mr. Leach of Iowa.
Mr. Atkinson with Mr. Andrews of North Dakota.
Mr. Hanley with Mr. Conable.
Mr. Murphy of Illinois with Mr. Edwards of Oklahoma.
Mr. Murtha with Mr. Winn.
Mr. Santini with Mr. Hammerschmidt.
Mr. Rodino with Mr. Anderson of Illinois.
Mr. Myers of Pennsylvania with Mr. Mattox.
Mr. Flippo with Mr. Bob Wilson.
Mr. Biaggi with Mr. Albosta.
Mr. Edwards of California with Mr. Bedell.
Mrs. Chisholm with Mr. Corcoran.
Mr. Gaydos with Mr. Duncan of Oregon.
Mr. Glickman with Mr. Marriott.
Mr. Ashley with Mr. Gephardt.
Mr. Jenrette with Mr. Hance.
Mr. Dellums with Mr. Harkin.
Mr. Stokes with Mr. Perkins.
Mr. Roberts with Mr. Dicks.
Mr. Rahall with Mr. Charles H. Wilson of California.
Mr. Rosenthal with Mr. Flood.

Mr. ERDAHL and Mr. LEHMAN changed their votes from "nay" to "yea."

Messrs. AUCOIN, STOCKMAN, GUDGER, MARKEY, BAFALIS, and RITTER changed their votes from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

☐ 1240

PERMISSION FOR AD HOC SELECT SUBCOMMITTEE ON MARITIME EDUCATION AND TRAINING OF THE COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT DURING 5-MINUTE RULE

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent that the Ad Hoc Select Subcommittee on Maritime Education and Training of the Committee on Merchant Marine and Fisheries be allowed to sit when the House is in the Committee of the Whole under the 5-minute rule today.

The SPEAKER pro tempore (Mr. BOLLING). Is there objection to the request of the gentleman from Oregon?

There was no objection.

THIRD NATIONWIDE OUTDOOR RECREATION PLAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and together with the accompanying papers, without objection, referred to the Committee on the Interior and Insular Affairs:

To the Congress of the United States:

It is with pleasure that I transmit the third Nationwide Outdoor Recreation Plan to the Congress of the United States, as required by P.L. 88-29 (16 U.S.C. 4601-1(c). This Plan has been prepared by the Department of the Interior to address a number of current recreation issues, and assess the existing supply, demand, and opportunities associated with outdoor recreation in America.

The Plan was derived from a new planning process which maximizes public involvement and leads to specific actions. The rivers and trails directives issued in my 1979 Environmental Message are among the major decisions which originated with this Plan. Also included in the Plan are specific actions related to Federal land acquisition policy, environmental education, recreation access for the handicapped, and energy conservation. The Urban Parks and Recreation Recovery Program, which I proposed as one of my urban initiatives, is already helping to enhance close-to-home recreation opportunities, conserving energy while meeting basic recreation needs.

The challenge of enhancing recreation opportunity cannot be met by government action alone. New partnerships among all levels of government and the private sector will be required. New ways of combining resources from a variety of existing programs must be tested to meet our Nation's recreation needs.

JIMMY CARTER.

THE WHITE HOUSE, *December 11, 1979.*

CHILD HEALTH ASSURANCE ACT OF 1979

Mr. WAXMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 4962) to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. WAXMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 4962, with Mr. VENTO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Thursday, December 6, 1979, section 4 had been considered as having been read and open to amendment at any point.

Are there any further amendments to section 4?

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The remainder of the bill reads as follows:

CHILD HEALTH ASSURANCE PROGRAM

SEC. 5. (a) Title XIX is amended by adding at the end thereof the following new section:

"CHILD HEALTH ASSURANCE PROGRAM

"SEC. 1913. (a) A child health assurance program under this section must assure the availability to each individual who is under the age of 21 and who is eligible under the State plan to receive medical assistance—

"(1) child health assessments in accordance with subsection (b),

"(2) the services prescribed by section 1902(a)(13)(iii), and

"(3) to the extent practicable, continuing care in accordance with subsection (c).

"(b)(1) Child health assessment under a child health assurance program shall include such services and procedures at such periods as the Secretary determines appropriate to determine the health status and identify the health problems of the individual being assessed. A child health assessment may be considered as provided under this section only if the assessment was provided by (A) a physician or other health care provider who enters into a written agreement (described in paragraph (2)) with the single State agency responsible for administering or supervising the administration of the State plan under this title (hereinafter in this section referred to as the 'State agency'), (B) a physician who does not enter into such an agreement but who certifies, in a claim made for the assessment, that the assessment was provided in accordance with the applicable requirements of paragraph (2) and that reasonable provisions have been made to meet the other requirements of such paragraph, or (C) a continuing care provider.

"(2) The written agreement referred to in paragraph (1) must provide, in accordance with standards established by the Secretary, that the provider agrees as follows:

"(A) To provide timely and appropriate child health assessments to individuals under the age of 21 and eligible under the State plan to receive medical assistance (such individuals hereinafter in this section referred to as 'eligible individuals').

"(B)(i) To provide directly to eligible individuals whom it has assessed such basic diagnostic and treatment services (including immunization against childhood diseases) as the Secretary shall specify in regulations, or

"(ii) to provide to eligible individuals whom it has assessed timely referral to other health care providers for the provision of the basic diagnostic and treatment services referred to in clause (i), and to (I) provide to such individuals followup services which (except with respect to followup services provided by physicians) insure the timely and appropriate provision of the services for which such a referral has been made, (II) enter into agreements with appropriate public agencies and nonprofit community-based agencies for the provision of such followup services, or (III) furnish to the State agency such information as that agency determines to be necessary to allow followup on the provision of needed services.

"(C)(i) To provide directly to eligible individuals routine dental care (as defined in section 1905(a)(4)(B)(v)), or

"(ii) To provide to eligible individuals whom it has assessed referral to a dentist, from a list provided by the State agency of dentists participating in the child health assurance program.

"(D)(i) To refer eligible individuals to appropriate providers for any corrective treatment the need for which is disclosed by an assessment but which is not available directly from the provider, and (ii) to (I) provide to such individuals followup services which (except with respect to followup services provided by physicians) insure the timely and appropriate provision of the treatment for which such a referral has been made, (II) enter into agreements with appropriate public agencies and nonprofit community-based agencies for the provision of such followup services, or (III) furnish to the single State agency that administers, or supervises the administration of, the State plan such information as that agency determines to be necessary to allow followup on the provision of needed corrective treatment.

"(E) To take responsibility for the management of the medical care of each eligible individual whom it has assessed and to assure that child health assessments are performed on a timely and periodic basis.

"(F) To be reasonably accessible on an ongoing basis to eligible individuals whom it has assessed in order to provide continuing medical care or to assure the continuing availability of medical care and services.

"(G) To make such reports (i) to the State agency as the agency determines to be necessary to assure compliance with the requirements of the agreement, and (ii) to the Secretary as he determines to be necessary to assure compliance with the requirements of the agreement.

"(3) As used in this subsection and section 1902(a)(42), the term 'health care provider' includes a physician, public health department, community health clinic or center, primary care center, migrant health center, facilities delivering ambulatory health services and operated by the Indian Health Service, health maintenance organization, day care or headstart program, rural health clinic, maternal and child health center, school system, and such other providers as may be specified by the Secretary by regulation.

"(4) Payment may be made under a State plan to a health care provider for the provision of child health assessments, and other medical care and services to children, under an agreement described in paragraph (2) notwithstanding the fact that the provider does not ordinarily bill other third-party payers for the provision of such assessments, care, and services.

"(c)(1) Continuing care services are the services described in subparagraphs (A), (B)(i), (C), (D), (E), (F), and (G) of paragraph (2) and primary and preventive care (including such care and services as the Secretary may specify by regulation). For purposes of this section a 'continuing care provider' is a health care provider who enters into an agreement with the State agency to provide, in accordance with regulations of the Secretary, continuing care services to a specific individual on a continuing basis.

"(2) States shall make payments for continuing care services in accordance with methods and standards meeting such requirements as the Secretary may by regulation prescribe. The Secretary may establish minimum reimbursement levels (which may be uniform nationally or may vary by State or region), may permit payment based on a prospectively determined capitation rate, and payment on a periodic basis, and may permit or require other payment incentives.

"(d) In carrying out a child health assurance program under this section, the State agency (1) shall enter into arrangements with health maintenance organizations to provide services to individuals under that program who choose to have such services provided by such organizations, and (2) shall make payments to such organizations for such services at a rate not less than an amount determined by the Secretary to be 95 percent of the average expenditure for medical assistance to individuals under the age of 21 in such State.

"(e) The State agency shall prepare and keep current a list of dentists who agree to receive payment for services under the State plan approved under this title and shall provide to each health care provider who has entered into an agreement under subsection (b) or (c) the names of such dentists practicing in the area in which the provider is practicing.

"(f) The State agency shall assure the compliance of health care providers who have entered into agreements under subsection (b) or (c) or who have made a certification under subsection (b) with the terms of such agreements or certification.

"(g) The Secretary may by regulation require that all providers of child health assessments and other ambulatory health care services under this title to individuals under the age of 21 (or all providers within reasonable classifications of such providers) submit uniform reports and use uniform claim forms.".

(b) Section 1902(a) (as amended by section 3(e)(2)) is amended—

(1) by striking out "and" at the end of paragraph (40);

(2) by striking out the period at the end of paragraph (41) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(42) provide that the State will develop, with substantial public input, a plan for the implementation of a child health assurance program described in section 1913 which will meet the minimum level of acceptable performance established under section 1903 (r) and which will (A) identify and make provision for agreements with all qualified health care providers willing to enter into agreements described in subsection (b) or (c) of section 1913, (B) make provision for such terms (including terms of prompt payment and adequate reimbursement) as may reasonably be expected to elicit the involvement of health care providers in the child health assurance program, (C) assure coordination between State and local agencies participating in such program and other federally funded programs in the State providing health care services to children, (D) assure (through the allocation of a reasonable percentage of program funds and through the use, whenever possible and in accordance with regulations of the Secretary, of nonprofit community-based organizations) the provision of outreach to individuals and the provision of followup on the provision of needed care and services and scheduling for and provision of subsequent periodic child health assessments, unless the child health assessment provider or continuing care provider has assumed such responsibility, and (E) describe measures to be taken to reduce duplication of the well-child services provided by other than a health care provider with an agreement under subsection (b) or (c) of section 1913 with those services provided under such program.".

TREATMENT OF COPAYMENTS FOR CHILD HEALTH ASSURANCE PROGRAM CHILDREN AND MOTHERS

SEC. 6. Section 1902(a)(14)(A) is amended by inserting ", individuals described in clause (ii) or (iii) of paragraph (10)(A)," before "and individuals with respect to whom there is being paid".

CONTINUATION OF ELIGIBILITY

SEC. 7. Section 1902(e) is amended—

(1) by striking out "because of increased hours of, or increased income from, employment, shall, while a member of such family is employed, remain eligible" and inserting in lieu thereof "because of increased income or resources or increased hours of employment shall remain eligible",

(2) by inserting "(1)" after "(e)", and

(3) by adding at the end thereof the following new paragraphs:

"(2) Notwithstanding any other provision of this title, each State plan approved under this title must provide (A) that any individual under the age of 18 (or, at State option, any individual under the age of 19, 20, or 21) who becomes ineligible because of increased resources or income for medical assistance under the State plan shall, nonetheless, remain eligible for all medical assistance provided under the State plan to individuals under such age who are otherwise eligible for such assistance until the end of the 4-calendar-month period beginning with the month following the month in which the individual became ineligible or, in the case of any such individual with a condition which cannot be corrected through treatment but which can be controlled or stabilized through treatment, until the end of the 12-calendar-month period begining with the month in which the individual became ineligible, and (B) in the case of such an individual—

"(i) who, as certified by a physician or other qualified provider and additionally certified by another physician or other qualified provider, has a medical condition which existed on the date the child would but for this paragraph be ineligible for medical assistance and which can be corrected through treatment, and

"(ii) for whom a plan of treatment, including an estimate of its duration, has been submitted by the provider making the initial certification to the single State agency which administers or supervises the administration of the State plan,

for continuation of eligibility for medical assistance until such condition is corrected.

"(3) Notwithstanding any other provision of this title, each State plan approved under this title must provide that any pregnant woman who is eligible, has applied for, and has received medical assistance under this title and who becomes ineligible for such assistance because of increased income or resources shall, nonetheless, remain eligible for all such medical assistance provided under the State plan until the end of her pregnancy or if the pregnancy terminated as a result of a birth, miscarriage, or an abortion performed to save the life of the mother or to terminate a pregnancy resulting from rape or incest until the end of the 60-day period beginning on the date of the termination of her pregnancy and that any child born as the result of such pregnancy shall remain eligible for such assistance until the end of such period.".

FEDERAL MATCHING FOR CHAP PROGRAM

SEC. 8. (a) Section 1903(a) is amended—

(1) by inserting "subject to subsection (r)," in paragraph (2) after "(2)";

(2) by inserting "subject to subsection (r)," in paragraph (3) after "(3)";

(3) by inserting "subject to subsection (r)," in paragraph (6) after "(6)";

(4) by inserting "subject to subsection (r)," in paragraph (7) after "(7)";

(5) by redesignating paragraph (7) as paragraph (8); and

(6) by inserting after paragraph (6) the following new paragraph:

"(7) an amount equal to 75 per centum of sums expended during such quarter which are attributable to outreach and followup services provided in accordance with paragraphs (41) and (42) of section 1902(a); plus".

(b) Section 1905(b) is amended—

(1) by striking out "(b) The term" and inserting in lieu thereof "(b)(1) Except as provided in paragraph (2), the term";

(2) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, and

(3) by adding at the end the following:

"(2) The Federal medical assistance percentage for child health assessments and for ambulatory services provided to an individual under the age of 21 with a current health assessment under a child health assurance program under section 1913—

"(A) in the case of child health assessments and such services provided to such an individual who is covered under an agreement described in section 1913(c)(1), is the lower of—

"(i) the Federal medical assistance percentage determined under paragraph (1) increased by 30 percentage points, or

"(ii) 95 percent; and

"(B) in the case of child health assessments and such services provided to such an individual who is not covered by such an agreement, is the lower of—

"(i) the Federal medical assistance percentage determined under paragraph (1) increased by 25 percentage points, or

"(ii) 90 percent."

(c) Section 1903 is amended by adding after subsection(q) the following new subsections:

"(r)(1) The amount required to be paid to the State pursuant to paragraphs (2), (3), (6), (7), and (8) of subsection (a) for administration of the State plan shall be adjusted as follows: For each two percentage points by which the level of performance of the State in implementing its child health assurance program under section 1913 exceeds the reasonable level of performance established under subsection (s)(1)(C) such amount shall be increased by 1 percent, except that such amount may not be increased by more than 25 percent. The Secretary shall by regulation provide for a procedure whereby a State agency may demonstrate to the satisfaction of the Secretary, with respect to any period, that it has achieved a performance level which entitles it to a higher amount than the amount determined by the Secretary.

"(2)(A) If the Secretary determines that a State has failed to have a child health assurance program which meets the minimum level of performance established under subsection (s)(1)(B), the Secretary shall notify the State of such failure and of the fact that the amount required to be paid to the State, with respect to each fiscal quarter beginning after the date of the notification, pursuant to paragraphs (2), (3), (6), and (8) of subsection (a) for administration of the State plan shall, except as provided in subparagraphs (B) and (C), be reduced by 20 percent of that amount until the State shows to the satisfaction of the Secretary that the failure with respect to which the reduction applies has been corrected.

"(B) If a State demonstrates to the satisfaction of the Secretary that the State intends to correct a failure established under subparagraph (A), he may withhold the imposition of a reduction under such subparagraph for a period of time (not exceeding six months) to allow the State to fully achieve the minimum level of performance. If, at the end of the period, the Secretary determines that the failure has been corrected, he may waive the imposition of the reduction in whole or in part with respect to the period.

"(C) Any State dissatisfied with a determination of the Secretary under subparagraph (A) may, not later than 60 days after the date it was notified of the determination, file a petition with the Secretary for a review of the determination in accordance with procedures established by the Secretary. Such procedures shall provide that such review shall be conducted by an impartial party and shall be completed, and findings and a final determination made, not later than 180 days after the date the State filed its petition for such review.

"(s)(1)(A) The level of performance of a State in implementing a child health assurance program under section 1913 is measured by the ratio of—

"(i) the individuals under the age of 18 in the State who were covered under an agreement under section 1913(c) for the provision of continuing care services and who received, during the period under review, all necessary care and services covered under such agreement, and

"(ii) the individuals under the age of 18 in the State who were not covered under such agreement but who—

"(I) received, during the period under review, a timely child health assessment in accordance with section 1913(b) and received in a timely manner after such an assessment (as specified by the Secretary by regulation) any necessary medical care or treatment for conditions found during such assessment, or

"(II) were not due for an assessment and did not neet treatment for conditions found during an assessment,

to the total number of individuals under the age of 18 in the State during such period who were enrolled to receive medical assistance under the State plan approved under this title. In determining such ratio, a value of 1.2 shall be given to each individual in the State described in clause (i) and a value of 1.0 shall be given to each individual in the State described in clause (ii).

"(B) The minimum level of performance of a State in implementing a child health assurance program under section 1913 is a ratio (as determined under the last sentence of subparagraph (A)) of individuals in the State described in clauses (i) and (ii) of subparagraph (A) to the total number of individuals under the age of 18 in the State who were enrolled to receive medical assistance under the State plan approved under this title which is not less than 25 percent.

"(C) The reasonable level of performance of a State in implementing a child health assurance program under section 1913 is a ratio (as determined under the last sentence of subparagraph (A)) of individuals in the State described in clauses (i) and (ii) of subparagraph (A) to the total number of individuals under the age of 18 in the State who were enrolled to receive medical assistance under the State plan approved under this title which is at least 50 percent.

"(2) A determination of the level of a State's performance in implementing a child health assurance program under section 1913 shall be (A) conducted at least twice a year, and (B) determined on a random, statistically valid sample. The first sample shall be taken from data from the first 6 months of a State's implementation of section 1913. Each State will cooperate with the Secretary to provide access to documentation needed to make the sample.

"(3) The Secretary will annually report to Congress the actual level of performance (as measured under paragraph (1)(A)) of each State in implementing a child health assurance program under section 1913.".

(d)(1) The Secretary of Health, Education, and Welfare shall, on a continuing basis, make a study, on a State-by-State basis, of the ratio of individuals under the age of 21 enrolled to receive medical assistance under a State plan approved under title XIX of the Social Security Act to the number of individuals under the age of 21 in families whose income is not above the applicable nonfarm income official poverty line, as defined by the Office of Management and Budget and in effect under section 624 of the Economic Opportunity Act of 1964.

(2) Not later than eighteen months after the effective date prescribed by section 16 (a)(1) of this Act, the Secretary shall report to the Congress (A) the results of the study under paragraph (1) of the first twelve months after such date, and (B) as determined by such results, the effectiveness of the performance standards prescribed by section 1903(s) of the Social Security Act as an appropriate measure of the performance of a State in providing necessary health care to individuals under the age of 21.

(3) If on the basis of the study under paragraph (1), the Secretary determines that the ratio of the number of individuals under the age of 21 enrolled in a State to receive medical assistance under a State plan approved under title XIX of the Social Security Act to the number of individuals under the age of 21 in families in that State whose income is not above the applicable nonfarm income official poverty line referred to in paragraph (1) is signficantly less than the average ratio of such individuals in all the States, the Secretary shall—

(A) require the State to submit a plan for outreach (as defined in section 1905(n)(1) of the Social Security Act), and

(B) if the State does not submit and implement a plan for outreach satisfactory to the Secretary, provide outreach (as so defined) in the State and deduct from payments to be made to the State pursuant to paragraphs (2), (3), (4), and (8) of section 1903(a) of the Social Security Act for administration of the State plan under title XIX of such Act 50 percent of the cost of providing the outreach.

(e) Any individual under the age of 21 who has been screened pursuant to section 1905(b)(4)(B) of the Social Security Act (as in effect on the date of the enactment of this Act) on a date before the effective date of the amendments made by this section shall, for purposes of section 1905(b)(2) of the Social Security Act (as amended by this Act), be deemed, in accordance with regulations established by the Secretary, to have had a child health assessment (as defined in section 1913 of the Social Security Act, as amended by this Act) on that date.

STATE MAINTENANCE OF EFFORT REQUIREMENT

SEC. 9. Section 1903 is amended—

(1) by striking out "(1) an amount" in subsection (a) and inserting in lieu thereof "(1) except as provided in subsection (t), an amount", and

(2) by adding after subsection (s), as added by section 8(c), the following new subsection:

"(t) If the Secretary determines that a State has taken an action, during a quarter beginning during the four-year period beginning on the date of enactment of the Child Health Assurance Act of 1979, which—

"(1) reduces the standard of income or resources for eligibility for medical assistance for individuals under the age of 21 below the applicable standards in existence on the date of the enactment of such Act, or

"(2) reduces the amount, duration, or scope of medical assistance (other than inpatient care and services) made available to individuals under the age of 21 below the applicable medical assistance available on such date of enactment,

the Federal medical assistance percentage for such State for child health assessments and for ambulatory services provided to an individual under the age of 21 with a current health assessment under a child health assessment program under section 1913 shall for such quarter be determined under section 1905(b)(1).".

CHANGE IN EFFECTIVE DATE OF AID TO FAMILIES WITH DEPENDENT CHILDREN PENALTY

SEC. 10. (a) No reduction in the amount payable to States pursuant to section 403(g) of the Social Security Act shall be made with respect to any quarter beginning before the effective date of final regulations pursuant to such section 403(g) published after January 1, 1979.

(b) Effective the first day of the first calendar quarter beginning at least six months after the date of the enactment of this Act, such section 403(g) is repealed.

(c) Section 402(a) is amended by adding after paragraph (16) the following new paragraph:

"(17) provide that the State agency shall inform all families in the State receiving aid to families with dependent children of the availability of child health assurance services under the plan of such State approved under title XIX;".

CLARIFICATION OF MEDICAID RESIDENCY REQUIREMENT

SEC. 11. (a) Section 1902(a)(16) is amended by striking out "who are residents of the State" and inserting in lieu thereof "who are determined to be living in the State".

(b) Section 1902(b)(2) (as amended by section 3(b)(2) of this Act) is amended by striking out "resides in the State" and inserting in lieu thereof "lives in the State (in accordance with standards established by the Secretary)".

(c) Section 1902(b)(3) (as amended by section 3(b)(2) of this Act) is amended to read as follows:

"(4) any citizenship requirement which excludes—

"(A) a citizen of the United States, or

"(B) an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law (including any alien who is lawfully present in the United States as a result of the application of the provisions of section 203(a)(7) or 212(d)(5) of the Immigration and Nationality Act)."

STUDY OF DUPLICATION OF SERVICES UNDER CHILD HEALTH PROGRAMS

SEC. 12. The Secretary of Health, Education, and Welfare (hereinafter in this Act referred to as the "Secretary") shall make a study to determine the extent to which Federal programs directly provide, or assist in meeting the cost of providing, to children and pregnant women the health services provided under title XIX of the Social Security Act. The Secretary is to complete the study and make a report to Congress not later than two years after the date of enactment. In the report the Secretary shall—

(1) specify the extent of the duplication between the programs under title V and XIX of the Social Security Act, make recommendations respecting the coordination and integration of services to children and pregnant women under such titles, and make recommendations for legislation to eliminate unnecessary duplication; and

(2) specify the extent of duplication between the program under title XIX of the Social Security Act and programs under other Federal laws, make recommendations for actions that should be undertaken by the States and the Federal Government to improve the coordination and integration of health services for children and pregnant women provided under such programs, and make recommendations for legislation to eliminate unnecessary duplication.

This section does not authorize the enactment of new budget authority.

STUDY AND DEMONSTRATION PROJECTS ON PROVIDER PARTICIPATION IN CHILD HEALTH ASSURANCE PROGRAM

SEC. 13. (a) The Secretary, directly or through grants to or contracts with public or private agencies or organizations, shall study and, to the extent he determines to be necessary, conduct demonstration projects in order to evaluate (1) the participation of health care providers in the child health assurance programs established pursuant to section 1913 of the Social Security Act, and (2) methods of improving their level of participation in such programs, especially programs in areas where there is a shortage of health care providers.

(b) The Secretary, directly or through grants to or contracts with public or private agencies and organizations, shall develop and carry out experiments and demonstration projects designed to determine the effect of payment on a capitation basis for child health assessments and other services provided under child health assurance programs established pursuant to section 1913 of the Social Security Act upon the level of participation and performance of such providers in these programs.

(c) In the case of projects under this section, the Secretary may waive compliance with the requirements of title XIX of the Social Security Act, including those requirements which relate to methods of payment for services provided, to the extent and for the period he finds necessary to enable States, agencies, or organizations to carry out such projects. Costs incurred in such projects in excess of those which would otherwise be reimbursed or paid under such title may be reimbursed or paid to the extent that such waiver applies to them (with such excess being borne by the Secretary, under such terms and conditions as he may establish). Grants and payments under contracts made for such projects may be made in advance or by way of reimbursement, and in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this section.

(d) The Secretary shall submit to Congress, not later than October 1, 1983, a report on the studies and projects conducted under this section, including such findings, conclusions, and recommendations as he deems appropriate.

(e)(1) The authority by the Secretary to enter into contracts for studies, demonstration projects, and experiments under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

(2) This section shall take effect on October 1, 1980.

STUDY AND REPORT ON EFFECTIVENESS OF HEALTH ASSURANCE PROGRAM

SEC. 14. (a)(1) The Secretary shall conduct or arrange (through grants or contracts) for the conduct of an ongoing study of the effectiveness of the child health assurance program under section 1913 of the Social Security Act. Not later than two years after the effective date prescribed by section 16(a)(1) and each two years thereafter, the Secretary shall report to Congress the results of the study and include in the report (1) the effect of preventive and primary care services on the health status of individuals under the age of 21 assessed under such program, (2) the incidence of the various disorders identified in assessments conducted under the program, and (3) the costs of identifying, in such program, such disorders.

(2) The authority of the Secretary to enter into contracts under paragraph (1) shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriations Acts.

(b) For the fiscal year ending September 30, 1981, and for each fiscal year thereafter there are authorized to be appropriated for purposes of carrying out subsection (a) an amount equal to one-eighth of 1 percent of the amount appropriated in the preceding fiscal year for payments to States under title XIX of the Social Security Act for the provision of ambulatory services for individuals under the age of 21.

CONTINUING MEDICAID ELIGIBILTY FOR CERTAIN CHILDREN PLACED IN CERTAIN JUVENILE INSTITUTIONS

SEC. 15. (a) Section 1905(a) is amended by inserting "and in subsection (o)" after "except as otherwise provided in paragraph (16)" in the matter before subdivision (A).

(b) Section 1905, as amended by section 3(e)(1) of this Act, is further amended by adding after subsection (n) the following new subsection:

"(o)(1) Notwithstanding subdivision (A) of subsection (a), a State may include, in its plan for medical assistance under this title, payments with respect to care and services for an individual under 21 years of age while the individual is an inmate of a public institution for juveniles if—

"(A) the individual, on the day before he became an inmate of the institution, was eligible for medical assistance under the State's plan, or

"(B) the family which the individual resided (on the day before he became an inmate of the institution) was eligible for medical assistance under the State's plan or would be eligible for medical assistance under the State's plan if the individual was still residing with the family.

"(2) Notwithstanding paragraphs (10) and (14) of section 1902(a), an individual for whom payment for care and services is provided under paragraph (1) shall be treated under the plan, with respect to the amount, duration, and scope of medical assistance and to fees, premiums, deductions, cost sharing, and other charges—

"(A) in the case described in paragraph (1)(A), in the same manner as the individual was treated on the day before he became an inmate of the public institution, or, in the case of such an individual who was eligible for but not provided medical assistance on that day, would have been treated if provided medical assistance on that day, and

"(B) In the case described in paragraph (1)(B), in the same manner as the individual would otherwise be treated if still residing with his family.".

EFFECTIVE DATES

SEC. 16. (a)(1) Except as otherwise provided in this section, the amendments made by this Act shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter beginning at least six months after the date of the enactment of this Act or July 1, 1980, whichever comes later.

(2) In the case of any State plan, for medical assistance under title XIX of the Social Security Act, which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(b) The amendment made by section 3(b)(1)(E) (relating to establishing eligibility for hard-to-adopt children) shall only apply to individuals placed for adoption on or after the date of enactment of this Act.

(c)(1) Subsection (r)(1) of section 1903 of the Social Security Act (as added by section 8(c) of this Act) shall take effect with respect to the first calendar quarter beginning at least fifteen months after the date of the enactment of this Act.

(2) Subsection (r)(2) of section 1903 of the Social Security Act (as added by section 8(c) of this Act) shall take effect with respect to the first calendar quarter beginning at least twenty-seven months after the date of the enactment of this Act.

(d) The amendments made by sections 11 (relating to clarification of medical residency requirement) shall take effect on the date of the enactment of this Act.

(e) The amendments made by section 15 shall apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, on and after the first day of the first calendar quarter beginning at least six months after the date of the enactment of this Act.

(f) The Secretary shall first establish final regulations to carry out the amendments made by this Act not later than six months after the date of the enactment of this Act.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 40, after line 16, insert the following new section and renumber the remaining section accordingly:

"SEC. 16. Title XIX of the Social Security Act is amended by adding at the end thereof the following new section:

" 'PROHIBITION

" 'SEC. 1914. None of the funds authorized to be appropriated under this title shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term: *Provided however*, That nothing in this title shall be construed to require any State funds to be used to pay for any abortion.' "

Mr. BAUMAN. Mr. Chairman, the amendment now pending before us simply extends to the whole of title XIX the so-called Hyde amendment language which was earlier adopted in the committee considering this bill as it pertained to the provisions of the CHAP program. It also very importantly negates certain lower Federal court decisions which have taken the position that the Hyde amendment language attached to HEW appropriation bills somehow should serve as a prohibition against the various States of the Union enacting more restrictive language regarding abortions. In a number of these cases, the courts have simply said that the Hyde amendment serves as a Federal restriction only and, in effect, the States must provide more liberal funding because of other requirements in title XIX.

I would call attention, for instance, to the case of Planned Parenthood against Rhodes handed down in September of this year ruling on that title of the Social Security Act in which the court said about the Hyde amendment language on the HEW appropriation bill:

The amendment states that "none of the funds provided for in this paragraph shall be used—

Meaning Federal funds—

to perform certain abortions; nothing more or less is done than to forbid the Secretary of HEW to use the Federal funds so appropriated for those abortions."

Then the court presented the problem:

> There is no hint in this language that the obligations of the states under title XIX has been changed.

I can attest as one of those supporting the Hyde amendment language throughout its deliberations and adoption in recent years that the intention has been from the beginning to restrict Federal funding and not in any way to place burdens upon the rights of the States; so the amendment that I am presenting today to title XIX of the medicaid statute simply is a States' rights amendment. It does not in any way say that the States may not permit abortions. If I had my own way, I would present such language and would hope that it would be passed, but I doubt seriously that it would but what the amendment does say that any State that wishes to curtail the funding of abortions with their own funds may have the right to do so under the title, notwithstanding the decisions of these courts.

I would hope that the gentleman from California (Mr. Waxman) and other members of the committee could support this, because only last week when the gentleman from California (Mr. Dannemeyer) offered an amendment that dealt with parental consent, the gentleman from California pointed out that he was opposed to that amendment and the gentleman gave this reasoning:

> This is a matter that is now left to state government decision in decision-making. Different states have decided to emancipate minors at different levels and under different circumstances. I think it is presumptuous of us here in Washington to tell each state what they ought to have as the age of emancipation.

Well, that is the same argument that I am making. I think it is presumptuous of the lower Federal courts to misinterpret the intent of Congress in such a way as to prevent State legislatures from enacting restrictive language against abortions.

I would point out that there are numerous cases now covering various States of the Union, in California, Georgia, Illinois, Massachusetts, Minnesota, New Jersey, Ohio, Virginia, and West Virginia, that have already been passed upon and then have misinterpreted the law.

This amendment will offer a clear chance for the House to both reaffirm its support for the principle that no Federal funding of abortions should occur, as well as for the support of the principle that each State may make its own decision and if they decide not to fund abortions, that is their absolute right.

I urge support for the amendment.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, contrary to the expectations of the gentleman from Maryland, I do oppose this amendment and I do not find that position inconsistent with my views on the rights of the States to act where it is appropriate for them to act.

I, however, do believe that there are some areas where government, State or Federal, ought not to interfere and one of those areas is the medical decision that is the province of the physician and the physician's patient. For that reason alone I would oppose the amendment; however, I also have some questions about why we need this amendment in light of the amendment sponsored by Mr. Volkmer that we adopted when the bill was last in the Committee of the Whole. If I might I would like to address some questions to the gentleman from Maryland, so I might have a clarification of what the gentleman's amendment does.

If the gentleman would respond to me, I would like to know what the language means that says:

> *Provided, however,* That nothing in this title shall be construed to require any State funds to be used to pay for any abortion.

□ 1250

I would like to have an explanation of what that means. Does that mean, for example, that a State could not be required to pay for an abortion where the life of the mother is endangered?

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield, it means that each State of the Union would have the independent power through its legislature to determine what rules would in fact apply to abortions within that State. That, as I indicated in my remarks in support of the amendment, is the concern I addressed since several Federal courts have called this right into question.

If the State legislature wished to pass a ban against all abortions, including even the life-of-the-mother language, it would be the right of that State to do so. I am not aware of any State when an absolute ban has so far been adopted.

Mr. WAXMAN. In other words, then, this goes beyond even what the Hyde amendment would have had us require?

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield, it does not necessarily go beyond the Hyde amendment. It allows the States to enact more restrictive language if they wish. It does not mandate it.

Mr. WAXMAN. Mr. Chairman, if I may reclaim my time, the amendment offered by the gentleman from Missouri (Mr. Volkmer) that we adopted provided that Federal funds could not be used under the medicaid program for abortions except abortions to save the life of the mother. Now the gentleman is saying that even though the medicaid program might provide Federal matching funds to pay for an abortion under those very limited circumstances, a State still may not go along with that policy, and could pay for no abortions under their medicaid program at all.

That is what the gentleman's amendment language would add to that amendment, is it not?

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield, I am not saying the States should not have to go along with the Federal requirement. I am saying they would have a right to enact the Federal requirement as their State rule or a more restrictive reouirement—or they might also pass a much more liberal law for abortion funding.

Mr. WAXMAN. Mr. Chairman, reclaiming my time, let me say to the members of the committee that I think this amendment is superfluous, unnecessary, and potentially harmful.

We have already adopted an amendment which I vigorously opposed—it was adopted nevertheless by the House—to restrict Federal payment for medicaid abortions only to save the life of the mother, and for no other reason. As I understand it, that is what we have done in our action in the last meeting when we met in the Committee of the Whole.

I think for us now to go beyond that is unnecessary and contrary to the basic purpose of the medicaid law, which is to take care of the medical problems of poor people. The medically necessary problems may under certain circumstances be such as to require an abortion to save the life of the mother, and a State could prohibit what would otherwise be funded under the law.

So, Mr. Chairman, I urge the Members to oppose this amendment.

Mr. CARTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I strongly oppose this amendment. The first part appears to be redundant because the Volkmer amendment was adopted, and I see no use in our going down this road again.

Further, it seems to me that the gentleman intends that the States should not pay for necessary medical abortions to save the life of the mother. That seems to be the intention, not to save the life of the mother if it would be endangered if she carried the fetus to term.

I cannot go along with that, and I do not believe many Members of this House can either.

Furthermore, the language of the bill regarding abortion has been made too restrictive already, and this would make it even more so.

Mr. Chairman, I ask the House to use its own good judgment and to vote down this amendment.

Mr. HYDE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I would point out to my brother, the gentleman from Kentucky, that this amendment does not impose an obligation on the States to fund abortions or not to fund abortions. It frees up the States.

This amendment says that what we do here now does not mandate that the States do anything. If the States want to fund abortions on demand, they may do so insofar as this amendment is concerned.

This is a States' rights amendment. This is an amendment that says to the States, "You are free to legislate in this area and not be bound by what the Federal Government has done."

I should think that anyone who believes in our Federal system would resent what the Federal courts have been doing in imposing duties on States to fund abortions because of something we have done here. This eliminates that ambiguity. This eliminates the imposition of a Federal standard on States.

I am for States' rights, and I think this is a necessary amendment because it reverses what I preceive to be a misinterpretation of legislative intent.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I have asked the gentleman to yield only so I can get his comment as the author of the original Hyde amendment language.

As the gentleman knows, I refer to a number of Federal court cases that have been handed down in the last year, particularly one in Ohio, in which the courts interpreted the Hyde language to restrict the right of the States to pass antiabortion language that is stricter in content than the Federal law.

I will ask the gentleman, was that in fact ever the intention of that language?

Mr. HYDE. Certainly not.

Mr. BAUMAN. In other words, it was, as I understood it, the intention of the language to permit States to enact legislation consistent with their own wishes, whether more or less restrictive, to govern the funding of abortions?

Mr. HYDE. Absolutely. It seems to me the Federal legislative process ought to control the Federal purse strings, and the State funds ought to be controlled by the State legislatures.

For the courts to say that, when the Social Security Act was passed or this title was passed, in 1963 or 1965, and since in the preamble the words, "medically necessary," are found at a time when abortions were a crime in most of the States of this country at the time that this basic statute was passed, somehow or other that mandates the States to fund abortions, even though we in the Federal Government have said we will fund no abortions except to save the life of the mother, is ridiculous.

So, Mr. Chairman, this amendment offered by the gentleman from Maryland (Mr. BAUMAN) clarifies this issue and says we are not imposing on the States any mandate on the issue of abortion.

Mr. BAUMAN. Mr. Chairman, if the gentleman will yield further, I just want to answer one point made by my colleague, the gentleman from Kentucky (Mr. CARTER).

This amendment in no way negates the exception for abortion in a case where the life of the mother is endangered. That is not the intention.

I have supported the life-of-the-mother concept since the Hyde amendment was first adopted.

Mr. Chairman, that is a misinterpretation of my intent in offering the language. It simply allows the States to use their own judgment.

Mr. HYDE. Mr. Chairman, I think if the Members will read the language of the amendment, they will find that is eminently clear.

Mr. MARKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr MARKS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I thank the distinguished gentleman for yielding.

If I misinterpreted the remarks of the gentleman from Maryland (Mr. BAUMAN), it certainly was unintentional. However, I believe that it should be plainly understood that this amendment would permit States not to pay for medically necessary abortions to save the life of the mother.

I am strongly opposed to abortion on demand, and I would call attention to the recent Supreme Court decision. I do not agree with it, and as a physician I never engaged in abortions.

But in many cases abortion becomes necessary. I would present this circumstance to the gentlemen in this area—and I would direct this to the gentlewomen of the House—and I would say this: "If you had a daughter who was a victim of rape, I know exactly what you would do." And I do not exclude my congenial brother, the gentleman from Illinois.

I say this: "I believe you would take her right to a doctor and have a saline solution injected to stop the possibility of pregnancy."

Mr. HYDE. Mr. Chairman, will the gentleman yield to me on that point?

Mr. CARTER. Mr. Chairman, it is not my time, but if the distinguished gentleman would answer the question, I would ask my good friend, the gentleman from Pennsylvania (Mr. MARKS), to yield.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MARKS. I am pleased to yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I appreciate the gentleman's yielding.

Mr. Chairman, I would say to my dear friend, the gentleman from Kentucky, that I would hope to Heaven that I am never in that situation, but if my daughter were to be raped and were not to report it promptly, as I would wish she would, and were to consult me, I would hope to be supportive and not kill her unborn child, no matter how tragically the circumstances of its being placed there were. I say that because I do not believe two wrongs make a right.

I would hope that that would be my attitude, and I would just suggest that the gentleman is on unsure ground when he predicts how I would act under the circumstances.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MARKS. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I would say in answer to that that I certainly do not condone killing in any manner.

I do believe that it is necessary at times to permit abortion in the case of saving the life of the mother or in the case of incest or rape. I make no excuse for saying that, not at all.

Mr. Chairman, I strongly oppose the present amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MARKS. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I thank the gentleman for yielding, and I wish to make just one final comment on this very difficult subject.

Ethel Waters, a great lady of the theater, recently died when she was in her eighties. In her autobiography, "His Eye Is on the Sparrow," she points out that she was conceived by an act of rape when her mother was 12 years old. "And," she said, "they are naming a park in Pennsylvania after me today."

So, Mr. Chairman, I simply suggest to the gentleman that even out of that great tragedy some good did result.

☐ 1300

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MARKS. I yield to the gentleman from Kentucky.

Mr. CARTER. I say that that might occur one out of a million times. But I want to say distinctly that it is my strong belief that the vast majority of the Members in this House, if they were confronted with such a situation, in which one of their daughters was raped, then they would immediately take that child to a physician and have her treated so that she would not bear an unwanted child.

Mr. WAXMAN. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from California (Mr. WAXMAN) is recognized for 5 minutes.

There was no objection.

Mr. WAXMAN. Mr. Chairman, the only thing this amendment adds to what we have already adopted in the Committee of the Whole is to provide for the possibility of States to not even provide for abortions to save the life of the mother.

The last time we met, the proponent of the Hyde amendment, the gentleman from Illinois, suggested that there is a justification in his mind for abortion for the very narrow purpose of saving the life of the mother, because then it is a question of one life as opposed to another life.

But now what we are being told is that we are going to leave open the possibility that a State will not pay for the abortion to save the life of the mother, even. I think we ought to realize that that is how far we are going in adopting this extra amendment over and above the Hyde amendment.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Chairman, I assert in the strongest possible terms that that is not the intention of the amendment offered by the gentleman from Maryland. If you read the amendment carefully, it just says what we do here does not mandate the States to pay for abortion.

Mr. WAXMAN. Mr. Chairman, if I may reclaim my time, there is language that says that nothing in this title shall be construed to require any State funds to pay for any abortion.

If the gentleman from Maryland were willing to say that States would not be required to pay for any abortion except where the life of the mother is endangered, then we would be in a situation where the States would be paying for at least those necessary abortions, and that would be a way of putting us to where we were when the Hyde amendment was adopted on this bill.

But I think when we say "shall not require the States to use funds to pay for any abortion," we are saying that the State may choose not to even pay for an abortion to save the life of the mother.

Mr. HYDE. If the gentleman will yield further, I would suggest that if a sovereign State, one of the 50 sovereign States of this country, wants to so legislate, we should give them the freedom to do so and let the courts handle questions of constitutionality. We should not impose standards on the States.

Mr. WAXMAN. Reclaiming my time, I think that this is a harmful amendment, it ought to be defeated, and I urge my colleagues to vote against it, even my colleagues who feel that we ought to have the Hyde amendment in the law, which is a belief contrary to my own feelings. For those colleagues who want this right-to-life amendment in the law, you have it in the law now by virtue of the action already taken last week. Let us not take away this additional protection for saving the life of the mother and have the State take away the opportunity for a woman to have an abortion even under those narrow circumstances.

Mr. BAUMAN. Mr. Chairman, I ask unanimous consent to speak again on the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The CHAIRMAN. The gentleman from Maryland is recognized for 5 minutes.

Mr. BAUMAN. Mr. Chairman, I do not want to prolong this debate, but I will not permit a misinterpretation of my amendment under the guise of trying to defeat it.

The amendment is very clear. It restates the Hyde amendment language including the life-of-the-mother exception, as it governs Federal funding of abortions. It then says that each State has the right to act for itself and impose any restrictions that it may wish, whether it wants to pay for all abortions or to pay for no abortions. That should be the right of the State.

This amendment grows out of a whole series of recent Federal lower court decisions that have misinterpreted the Hyde amendment to say that the States have no right to determine how they shall spend money for abortions, that they must in fact fund all medically necessary abortions, many more than the Hyde amendment permits.

So this is in no way more restrictive. It prevents wholesale abortions now occurring under lower court Federal edicts, and that is the only issue.

Mr. Chairman, I would hope that the amendment would be adopted.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I in no way want to misinterpret the gentleman's amendment. I think his statement about what his amendment does is correct. I think that is why we ought to defeat it. I think it takes away the right of a woman whose life may be saved by an abortion from requiring the State to have that procedure go forward under the medicaid program. The gentleman wants that. I do not. I would think that we have already spoken to the question of the right to life.

Mr. BAUMAN. Mr. Chairman, the gentleman from Maryland will state, and I do not know how many times I have to state this to the gentleman, that I do not wish to impose on any State a law that says the life of the mother shall not be an exception when abortion money is available. I think that is a situation in which a life versus a life. That is perfectly correct in order to save the mother's life. I am not arguing that. The gentleman keeps repeating his version of my intent in the amendment. My only intent is to reverse the court decisions that are misinterpreting Federal law and are permitting wholesale abortions because they wiped out all restrictions the States placed on abortion funding with their own funds, and that simply is what my amendment does.

The gentleman from California has been proabortion from the beginning, and frank about that, and that is his position. I have been for the right to life from the beginning, as the majority of this House has.

Mr. WAXMAN. If the gentleman will yield, the gentleman is prochoice, not proabortion.

Mr. BAUMAN. When an unborn child is being killed, abortion is not much of a choice for the child, I will say.

Mr. WAXMAN. If the life of the mother is being sacrificed, then it is no choice either.

Mr. BAUMAN. The gentleman from Maryland has made his position clear on that exception as well.

The issue is clear: proabortion or prolife. Those who support the right to life should vote for this amendment so that the same right-to-life protection will be provided at the State level as we have at the Federal level.

Mr. Chairman, I urge a vote for the amendment.

Mr. PEYSER. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the thing that I find hard to understand in the debate that is going on here now is that I guess what is being suggested is that the States would basically have the right of denying something that the Federal law that we have enacted in this House, the Hyde amendment—which I also oppose but which nevertheless has been approved by the House—the State shall have the right of reversing the Hyde amendment. It seems to me, if we are going to apply this to the abortion issue, then perhaps all of the legislation that we pass that gives States or directs that certain programs take place should then be put up to one more vote in each State to say, "Then the State would have the right of either doing what the Federal Government has suggested or what the Congress has enacted, or not doing it."

I would suggest that if we follow this procedure in all of the legislation, we are going to end up with no laws at all that are workable, and we are going to end up in a perfectly horrible situation.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. PEYSER. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, the gentleman from New York makes a good point, but it does not apply to this situation because the amendment that I am offering only goes to the expenditure by the States of their own funds for abortions. It would not in any way change the Hyde amendment restrictions for Federal funding of abortions. That is the distinction that has to be made.

Mr. PEYSER. Mr. Chairman, I appreciate the gentleman's statement. It sets in motion and sets in being in this House a whole new method of looking at legislation, and I would think that this would be, no matter how you stand on abortion, if you support the Hyde amendment, then I would vote against this amendment, because I think this amendment runs counter to what the House has expressed before in supporting the Hyde amendment. It is an amendment that sets a precedent in giving States additional rights dealing with Federal legislation, which I think is a total mistake, and let us defeat the amendment.

Mr. GREEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

Mr. Chairman, in response to my friend, the gentleman from the great State of Maryland, I want to say that I am prolife. I am prolife of the mother. In cases where the mother's life is threatened, then we have no choice. All my life we have been faced with propositions such as this. It was brought up as a religious matter years and years ago, as to whether the mother's life should be saved or whether the fetus would be sacrificed. That is a regrettable choice. I certainly do not like the language which says that you are killing someone, or something of this nature. It is regrettable. It is awful that abortion is necessary sometimes. But sometimes, to save the life of the mother, it is absolutely necessary. I think that this should be followed in every State in our Union.

□ 1310

Really I go further than some of them. I believe strongly, as I said before, that in case of incest or rape I would not require a young child to carry her child to term. In the case of incest, this is a secret kept tightly in the closet. These young women go around bowing closely, as I have often seen and as my good friend over here has seen them, keeping this a secret, that they have been violated by someone within their own family. When it comes time that this situation is found out—something must be done.

I stick by my position. I strongly oppose the amendment of the distinguished gentleman from Maryland. I believe that these cases should be certainly reported to authorities as quickly as possible, and really, this is not viable from conception to 3 months. I strongly oppose the amendment.

Mr. GREEN. I want to thank the distinguished ranking minority member for his contribution to the debate. I believe that the House should listen to the experience of the ranking minority member, because he has had to face these kinds of issues professionally; and I think there is a great deal of learning to be gained from his experience.

I believe it is most regrettable that those who seek to impose their wills upon the poor women of this nation have used CHAP as a vehicle to restrict further the availability of medicaid-funded abortions.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. GREEN. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

I agree. There is a great deal to be learned from the experience of the gentleman from Kentucky (Mr. CARTER), or the experience of the gentleman from Texas (Mr. PAUL), who takes an opposite position from the gentleman from Kentucky (Mr. CARTER.)

But I simply say that under the amendment of the gentleman from Maryland, a State is free to pay for abortions on demand. A State would be free to pay for abortions on request, and so the amendment is being totally misread. I hope not intentionally.

Mr. GREEN. I reclaim my time, and yield to the gentleman from Kentucky (Mr. CARTER.)

Mr. CARTER. I would say this is simply a facade that has been placed up by some of our good friends, who for some reasons oppose abortion even to save the life of the mother.

Mr. LUNGREN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think there is a lot of confusion concerning the debate of this particular amendment. The fact of the matter is that the reason we have this amendment is that the courts have done for a long period of time what they ought not to do. They have tortured the language of the legislation passed in this House to say that it does something that we never intended it to do. That is the precise reason for this amendment. It is because the courts have previously taken it upon themselves to interpret the Hyde amendment to suggest that somehow that amendment put restrictions on States in making the decisions as to how they should spend their funds. That is the sole purpose of this amendment.

Look at the amendment. Read the language. It does nothing whatsoever to restrict the expenditure of Federal funds which are covered by the language that we have already placed in the bill.

Someone suggested at the beginning of this debate that this amendment was redundant. It would be redundant if we did not have the track record, the experience of Federal courts going in and saying because the Federal Government has spoken with respect to the way Federal funds should be spent, that therefore means that the States are precluded from speaking as to how State funds should be spent. It is a complete distortion of the Federal process. It is a complete distortion of federalism. It totally ignores any semblance of States' rights, and that is all this amendment responds to.

To suggest that this amendment precludes the expenditure of Federal funds for the performance of an abortion to save the life of the mother is to misread the amendment totally and is to unconsciously misinterpret the effect of this amendment.

If we truly believe that States have any right to say how their funds ought to be spent, then this amendment is not extreme. This amendemnt is necessary only to undo what the Federal courts have been doing, in what amounts to an unconstitutional fashion. The previous court actions have truly interfered with the right of legislators to represent the people who have elected them and to spend the funds that the legislatures receive as a result of their own taxation. That is it simply.

Let us not have the confusion of the issue to say that this somehow undoes what we have already done by accepting the Volkmer amendment. It goes to a different point, a point required because of the action of the Federal courts in recent years.

Mr. PAUL. Mr. Chairman, I rise in support of the Bauman amendment.

Mr. Chairman, I would like to address a few of the comments from my doctor colleague from Kentucky.

It has been mentioned many times on the floor about the need for doing abortions in order to save the life of the mother.

I believe I am even more qualified than the gentleman from Kentucky (Mr. CARTER), having been an obstetrician and gynecologist in private practice for more than 12 years and having delivered thousands and thousands of babies. I had a large practiced and am quite familiar with this problem.

During this time in private practice, I never had a patient come to me who required an abortion for the purpose of saving the life of the mother. This does not mean that theoretically and under some rare circumstances, for instance a woman with cancer that needs to be treated, that such would not be the case. But this amendment does not preclude that kind of treatment. I think that using the argument that the life of the mother has to be preserved to defeat this amendment does not make any sense at all.

During this same 12 years in practice, I never had a patient who was pregnant by incest or by rape. This does not mean, of course, that it does not happen, but it is very, very rare; to establish law based on this infinitesimally small number and to use this to give an endorsement to wholesale abortion, I think, is very wrong.

The other thing is that those individuals who do come for abortion for rape and incest, and if these are legitimate cases, they will arrive in the doctor's office shortly after the episode. Usually they can come, or there is no reason in the world why they cannot come, within hours or days, and medications or a D and C can be used to prevent the pregnancy from occurring.

Therefore, I do not see the justification for wholesale abortions based on these few rare examples. They are nothing but concocted reasons to justify wholesale abortions.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Kentucky.

Mr. CARTER. I thank the gentleman for yielding.

The gentleman stated that he would condone dilatation and curettage of the womb. The gentleman mentioned that, I believe. That ın itself in an abortion when there is a fertilized ovum in the womb.

Mr. PAUL. No. If I may reclaim my time, because I do not think that——

Mr. CARTER. Did the gentleman say it?

Mr. PAUL. If the gentleman is going to get into why there are delays in seeing an M.D. only, that is a different story. Immediately after intercourse, with given medication such as estrogens, prevention of implantation can be accomplished. There is no way there can be an implanted pregnancy at this time.

Therefore, one is not doing an abortion.

I think the gentleman is picking on wild little details that just are not true. I see no reason in the world why we cannot endorse and pass the Bauman amendment.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. PAUL. I yield to the gentleman from Maryland.

Mr. BAUMAN. I want to make one additional point that apparently perhaps has been neglected.

The Federal courts in these recent rulings have not just said their interpretation of the Hyde amendment is the standard to be applied to the States. They have gone further. They have looked to other language in title XIX that says the State must supply medically necessary services and interpreted that together with the Hyde amendment as saying the State must in fact provide funding for all abortions, even if the Federal Government does not.

They have misinterpreted the law in the proabortion direction. So this amendment is an attempt to prevent what is obviously a complete distortion of congressional intent.

Mr. PAUL. I think our main problem when we examine this problem of abortion is that we always look at it and deal with it as if we were considering only the day after conception. It should always be looked at and considered as the day before birth. None of us here in the Congress condones infanticide. We do not condone the killing of a new infant, yet abortion the day before birth is the same principle as early abortion, because all the time, every day of our lives, as doctors we are learning new and better techniques for keeping the premature babies alive; so whether or not we deal with it, that day before birth, is permanent. This is what we should really be concerned about; whether or not we believe in protecting the life of an infant the day before birth.

□ 1320

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. PEYSER and by unanimous consent, Mr. PAUL was allowed to proceed for 2 additional minutes.)

Mr. PEYSER. Will the gentleman yield to me further?

Mr. PAUL. I yield to the gentleman.

Mr. PEYSER. One thing the gentleman said I find hard to really believe he means; he said there is so little rape and incest that we are making all of these changes just to satisfy an infinitesimal percentage, I think that is the language the gentleman used. I would hope that is not the basis of the gentleman's thinking though, because for those very few that may be involved, and whether nationally it runs into thousands a year, I have no idea, but there is nothing that could be more important to the survival of those young people, if there are children that are involved, than having that right at least of the choice and not having it denied by the States or the Federal Government.

Mr. PAUL. My point is that I think there is less sincere concern for the victims of rape and incest than there is a desire to have wholesale abortion.

Mr. DANIELSON. Mr. Chairman, I move to strike the last word.

I wonder if the distinguished gentleman from Kentucky, Dr. CARTER, would be willing to respond to some inquiries?

Mr. CARTER. I am happy to do so.

Mr. DANIELSON. A little bit ago when the last gentleman was in the well. I heard the gentleman say, in substance and effect, that if a young lady were to come to a doctor within a few hours or few days that there could be some treatment by medication or by a DNC. I am a layman. I do not know what that means. The gentleman is a distinguished medical doctor. Would he be kind enough to explain to me and perhaps to some of my colleagues what this procedure of medication would be, and what in the world is a DNC. It is not the Democratic National Committee, I know that.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. DANIELSON. I yield to the distinguished gentleman.

Mr. CARTER. The latter is a D. & C., which is a dilation and curettage, which is nothing more than abortion when a women has been impregnated. That is exactly what it is.

Mr. DANIELSON. It is sort of a soft way of saying abortion?

Mr. CARTER. It is nothing but an abortion. I would say to my good friend that I certainly am not for wholesale abortion.

Mr. DANIELSON. What would be the purpose of giving a young lady a medication a few hours or few days after the impregnation?

Mr. CARTER. This would be to cause her to expel the fertilized ovum from the uterus.

Mr. DANIELSON. Some people would call that a miscarriage, I assume. Is that right?

Mr. CARTER. Yes, sir.

Mr. DANIELSON. If induced externally, could that be characterized as an abortion?

Mr. CARTER. That is exactly right. I would answer my good friend and say that he is correct.

Mr. DANIELSON. If the gentleman would be kind enough to respond again, I believe I heard the last gentleman in the well make frequent references to wholesale abortions. Again. I am a layman. I know the difference between retail and wholesale when it comes to buying things like shoes and ice skates and the like. But what in the world was the gentleman talking about when he referred to wholesale abortions in his recent argument?

Mr. CARTER. I was not referring to myself. I have never supported abortions except to save the life of the mother, or in cases of incest or rape.

Mr. DANIELSON. Wholesale is sort of cheaper by the dozen; is that the idea?

Mr. CARTER. I should think they would be.

Mr. DANIELSON. I am glad the gentleman has explained it, and I will take back my time.

Mr. CARTER. If the gentleman will yield further——

Mr. DANIELSON. I will yield further.

Mr. CARTER. I would say by the dozen they are much cheaper if they are performed by certain gentlemen.

Mr. DANIELSON. I see. Did the gentleman have anything further he wished to say at the time his time ran out a moment ago, or has he covered the subject pretty well?

Mr. CARTER. I think we have covered it fairly well.

Mr. DANIELSON. I thank the gentleman for his response and yield back the balance of my time.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 20 seconds each.

The Chair recognizes the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, I think the final thing for the Members to keep in mind is that we are setting a precedent here, we are saying to State legislators you can take your own choice of what you want to do with Federal laws and Federal regulations and then act accordingly.

(By unanimous consent, Messrs. DOUGHERTY, DORNAN, TAUKE, PETRI, DANNEMEYER, ROUSSELOT, and HOPKINS yielded their time to Mr. HYDE.)

The CHAIRMAN. The Chair recognizes the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I rise in support of the amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. HYDE).

Mr. HYDE. Mr. Chairman, I think the gentleman from California has somewhat unintentionally trivialized this issue, which is a very serious one. If we want to get into semantics, wholesale refers to 300,000 abortions a year paid for by the taxpayers of this country out of the HEW appropriations. Wholesale means over a million abortions a year performed in this country. That is what we are talking about.

A D. & C. performed on a woman before implantation has occurred, I suggest, is not an abortion. You cannot abort until a pregnancy exists. It takes some time after the act of rape or intercourse has occurred for conception, fertilization, and still later, implantation. So the gentleman did not speak accurately when he said that every D. & C. is an abortion.

To the gentleman from Texas (Mr. LELAND) I would suggest nobody is in favor of wholesale abortions in this House that I am aware of.

Mr. LELAND. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Texas.

Mr. LELAND. The gentleman from Texas clearly stated that the gentleman from Kentucky was in favor of wholesale abortion.

Mr. HYDE. I did not hear the gentleman say that, but anybody that supports language that permits wholesale abortions ought to know what he is supporting.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman.

Mr. CARTER. Mr. Chairman, I just want to say that I never did abortions; I do not approve of them except to save the life of the mother or in case of incest and rape. I do not deny that. I think anyone who denies it has not had it happen in his own home.

Mr. HYDE. I thank the gentleman. No one ever accused Dr. CARTER, who has voted for my amendment, without rape and incest exceptions, many times, but I would think someone from Kentucky would want States rights to have some new life in this Congress, and that is all this amendment does. It says to the State legislatures to legislate the way they want, we are not telling them what to do.

□ 1330

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to my friend from New Jersey.

Mrs. FENWICK. Mr. Chairman, I think any definition of rape must be left to the only doctor in this House.

Mr. HYDE. We have a gynecologist here, Dr. PAUL.

Mrs. FENWICK. He has not pronounced himself, so I am referring to the doctor who has.

Mr. Chairman, I determined never to speak again on this subject, but I cannot stay silent.

You do not stop abortions by laws. You merely drive it somewhere else, and this has been proved in country after country. You are not going to stop it.

Mr. HYDE. If I may reclaim my time, another lady——

The CHAIRMAN. The time of the gentleman from Illinois has expired.

The Chair recognizes the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Chairman, in response to the gentlewoman's suggestion, you may not stop abortions by laws, but you certainly can encourage them. I think this Government has encouraged them by Federal laws.

Mr. Chairman, I am in strong support of the Bauman amendment which is necessitated by court decisions which have misinterpreted the congressional intent, and required States to fund abortions of various types.

I quote the second proviso of this amendment which is most important:

Provided however, That nothing in this section shall be construed to require any State funds to be used to pay for any abortion.

This would restore the right of the State to liberalize or restrict with the use of State funds. It was not the congressional intent of medicaid abortion legislation to govern State policies.

The principal effect of the amendment therefore is to prevent the courts from forcing States to fund abortions, in the name of Federal legislation. The Federal legislation was intended to limit abortions, not to extend them.

As to the first part of the amendment, it is simply a restatement of congressional policy.

First and foremost, it is essential to focus on just what an abortion is: The killing of human life. If I believed that the unborn was less than human, that the fetus was some sort of tumor, a collection of randomly multiplying cells, then all the reasons for killing it would make some sense. But medical science tells us indeed the unborn is human life.

The argument is often made that the Hyde amendment denies to poor women the ability to obtain an abortion readily available to the middle-class and wealthy women. The ability of wealthy women to pay for their abortions does not make the killing of their preborn children any more proper. The real question is, shall the taxpayers pay for the killing?

There are many operations wealthy women can afford, cosmetic surgery for example, but ought the taxpayers pay for it? We all have the right of free speech, but must the taxpayers purchase a printing press for everyone who can not afford one? The real issue is not whether some women can afford an abortion or not. The issue is whether the killing of innocent preborn human life is the sort of activity the Federal Government ought to pay for.

Abortion is violence. There ought to be human answers to the human problems of unwanted pregnancies. The women's "right to choose" ought to remain fully valid until she conceives and then there is a victim whose "right to life" deserves consideration.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BAUMAN. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count.

Mr. BAUMAN. Mr. Chairman, I withdraw my point of order of no quorum.

A recorded vote was ordered.

The vote was taken by electronic device, and there were ayes 235, noes 155, not voting 43, as follows:

[Roll No. 712]

AYES—235

Abdnor
Albosta
Ambro
Annunzio
Applegate
Archer
Ashbrook
Aspin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Boggs
Boland
Boner
Bonior
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Burgener
Byron
Campbell
Carney
Cavanaugh
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Conte
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dodd
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fish
Fithian
Florio
Fountain
Fuqua
Gaydos
Gephardt
Gibbons
Ginn
Goldwater
Goodling
Gore
Gradison
Gramm
Grisham
Gudger
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harsha
Heckler
Hefner
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jones, N.C.
Jones, Okla.
Kazen
Kelly
Kemp
Kildee
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Lott
Lujan
Luken
Lungren
McClory
McDade
McDonald
McEwen
McHugh
McKay
Madigan
Markey
Marlenee
Martin
Mathis
Mavroules
Mazzoli
Michel
Miller, Ohio
Minish
Mitchell, N.Y.
Moakley
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Pashayan
Paul
Petri
Price
Quillen
Railsback
Regula
Rhodes
Rinaldo
Robinson
Rodino
Roe
Rostenkowski
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snyder
Solomon
Spence
St Germain
Stangeland
Stanton
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Wilson, Bob
Wright
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—155

Addabbo
Anderson, Calif.
Andrews, N.C
Anthony
Ashley
AuCoin
Barnes
Beilenson
Bingham
Blanchard
Bolling
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Carr
Carter
Chisholm
Clay
Cleveland
Coelho
Collins, Ill.
Conyers
Corman
Danielson
Davis, S.C.
Derrick
Diggs
Dingell
Dixon
Downey
Drinan
Edgar
Evans, Del.
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Garcia
Giaimo
Gilman
Gonzalez
Gray
Green
Guarini
Hall, Ohio
Harris
Hawkins
Heftel
Holland
Hollenbeck
Holtzman
Horton
Howard
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kogovsek
Kostmayer
Lehman
Leland
Levitas
Lloyd
Long, Md.
Lowry
Lundine
McCloskey
McCormack
McKinney
Maguire
Marks
Matsui
Mica
Mikulski
Miller, Calif.
Mineta
Mitchell, Md.
Moffett
Mollohan
Moorhead, Pa.
Nolan
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Pursell
Rahall
Rangel
Ratchford
Reuss
Richmond
Ritter
Rose
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Slack
Smith, Iowa
Snowe
Solarz
Spellman
Stack
Staggers
Stark
Steed
Stewart
Stockman
Stokes
Studds
Swift
Synar
Thompson
Udall
Ullman
Van Deerlin
Vanik
Walgren
Waxman
Weaver
Weiss
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Yates

NOT VOTING—43

Akaka
Alexander
Anderson, Ill.
Andrews, N. Dak.
Atkinson
Bedell
Biaggi
Chappell
Conable
Corcoran
Dellums
Dicks
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Edwards, Okla.
Flippo
Flood
Gingrich
Glickman
Grassley
Guyer
Hance
Hanley
Harkin
Jones, Tenn.
Leach, Iowa
Marriott
Mattox
Murphy, Ill.
Myers, Pa.
Perkins
Pritchard
Quayle
Roberts
Rosenthal
Russo
Thomas
Treen
Williams, Ohio
Wilson, C. H.
Winn
Young, Alaska

☐ 1340

The Clerk announced the following pairs:

On this vote:

Mr. Atkinson for, with Mr. Edwards of California against.

Mr. Williams of Ohio for, with Mr. Dellums against.

Mr. Hanley for, with Mr. Anderson of Illinois against.

Mr. Guyer for, with Mr. Thomas against.

Mr. Russo for, with Mr. Rosenthal against.

Mr. PEASE and Mr. GUARINI changed their votes from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. LUNGREN

Mr. LUNGREN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUNGREN: Section 16 of H.R. 4962 is amended as follows: On page 42, beginning with line 11, delete all on lines 11 through and including line 13, and add the following new section:

CONGRESSIONAL REVIEW OF RULES AND REGULATIONS

SEC. 17. (a) The Secretary shall first establish final regulations to carry out the amendments made by this Act not later than six months after the date of the enactment of this Act: *Provided*, That notwithstanding any other provision of this Act, simultaneously with promulgation of any rule or regulation under this Act, the Secretary shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in subsection (b), the rule or regulation shall not become effective if—

(1) within 90 calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the Secretary of the Department of Health and Human Services dealing with the matter of , which rule or regulation was transmitted to Congress on ," the blank spaces therein being appropriately filled; or

(2) within 60 calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(b) If at the end of 60 calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation, and neither House has adopted such a resolution, the rule or regulation may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than 90 calendar days of continuous session of Congress after its promulgation unless disapproved as provided in subsection (a).

"(c) For the purposes of subsections (a) and (b)—

"(1) continuity of session is broken only by an adjournment of Congress sine die; and

"(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60 and 90 calendar days of continuous session of Congress.

"(d) Congressional inaction on or rejection of a resolution of disapproval shall not be deemed an expression of approval of such rule.

Mr. LUNGREN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

☐ 1350

Mr. LUNGREN. Mr. Chairman, about a year ago, the Secretary of HEW was asked to decide who was a handicapped person for the purpose of enforcing equal employment opportunity laws.

In consultation with the Justice Department, the Secretary of HEW decided that persons addicted to alcohol and drugs were handicapped. This made alcoholics and drug addicts eligible for protection of legislation intended to redress past employment discrimination against the handicapped.

This development was alarming to a number of people—not the least of which was the chain drugstore industry which envisioned itself having to hire drug addicts to work its warehouses.

This is an extreme case of the perversion of congressional intent by bureaucratic regulations. But it is just one example of the mischief HEW can make when it gets into the business of promulgating regulations.

Today, I am introducing a legislative veto amendment to this bill because CHAP deals with the sensitive subject of health care for children and pregnant women.

It is one thing for bureaucrats to regulate commerce. It is quite another for them to be granted sweeping regulatory powers over something so personal as when and where to have health checkups.

I think there are too many places in this bill where we delegate too much authority to the Secretary of HEW.

I counted 22 places in this bill where we leave the details of one particular provision or another up to the discretion of the Secretary of HEW. That is 22 places in a 42-page bill—more than one mention of the Secretary of HEW on every other page.

Here are just some of the details—but no means all—we leave up to the Secretary of HEW in this bill:

First. On page 10, we give the Secretary of HEW authority to decide which nonprofit, community-based organizations can be reimbursed for providing care under this program.

Second. On page 12, we give the Secretary of HEW say over which community mental health centers are eligible to participate in this program.

Third. On page 14, the Secretary is left to decide when and what tests children will be given under this program to assess their general health.

Fourth. On page 15, the Secretary has authority to decide what diagnostic tests and immunizations shall be required of all persons participating in this program.

Fifth. On page 18, the Secretary of HEW determines what primary and preventive care shall be given to pregnant women and their babies.

Sixth. On the same page, lines 23 and 24, the Secretary sets reimbursement levels for those providing care in this program.

Seventh. On page 19, we give the Secretary authority to require every provider in the program to standardize their forms and reports to conform with Washington.

Eighth. On page 26, the Secretary is given the power to reduce reimbursement to any State CHAP program that does not meet her/his standards.

Ninth. On page 30, we ask the Secretary to report annually to Congress on how each State is doing under this program.

Tenth. On page 33, lines 8 to 9, and 19 to 20, we ask the Secretary to look into the ratio of those enrolled in this program versus the number of poor children in each State.

Eleventh. On page 31, we give the Secretary authority to force States to set up an outreach program for CHAP, if he/she decides the State does not have enough people in the program, based on a study of the ratios.

Twelfth. On page 34, we allow the Secretary of HEW to determine who is a resident of a State for purposes of eligibility for this program.

Thirteenth. On page 35, we ask the Secretary to determine if this program duplicates the services of any other program.

Fourteenth. On page 37, we give the Secretary all kinds of vague authority to contract out for studies of this program.

Fifteenth. On page 38, we give the Secretary a mandate to tell us if this program has preventive care value.

Sixteenth. And on page 42, we give the Secretary final, blanket authority to make up any regulations deemed fit to enforce this program, if we have left anything out.

Now some of these delegates of authority are appropriate.

For instance, the Secretary should report to the Congress annually on the progress of CHAP.

The Secretary should be required to evaluate the effectiveness of this program.

But should not the Congress determine the overall rate of reimbursement for providers of care—as we have done in financing kidney failure treatment—not the Secretary of HEW?

Should not the States determine who are their residents for purpose of inclusion in this program—not the Secretary of HEW?

How can we ask the Secretary of HEW to determine waste and duplication in this program, when she/he has little incentive to do so. Previous Secretaries of HEW have not been able to find $1 million worth of waste in HEW, as the minority whip's amendment last year asked them to.

And why should HEW determine which community organizations should be reimbursed under this program, when we have had such bad luck with other agencies on this score. ACTION, for example, cannot tell the difference between a charitable and a political organization.

But more importantly, we need to look at the overall question this bill evokes, which is who should decide what care is best for children and pregnant women: The individual in consultation with a physician, or HEW?

We are giving HEW blanket authority in this bill to determine when a child should have dental checkups, what shots he should have, whether or not he gets glasses, and if he should be given psychiatric care.

I can think of no worse place to substitute the decisions of a bureaucracy for that of an individual than in these instances.

What checks are there against bureaucratic arrogance in this bill?

How can we expect HEW to be sensitive to the needs of individual children and mothers, when they cannot even be responsive to Members of Congress—who have control over their budget?

I have here a copy of a recent letter circulated by my colleague, Pete McCloskey, another member of the California delegation.

It details the run-around members of the California delegation have gotten while trying to get HEW to pay attention to our complaints about section 223 of their cost control standards.

Thirty-five of us—Republican and Democrats alike—signed a letter to the Secretary of HEW on June 20, 1979 asking that HEW look into these regulations which are blatantly unfair to California hospitals.

Five months went by without a reply.

We were completely ignored.

We were not asking for much—just some kind of directive from HEW on whether or not it would change the regulation before the vote on hospital cost containment came up on November 15.

HEW told us they thought we were too impatient—asking for adjustment and explanation of such a complex regulation in just 5 months. But as my colleague from California said in his letter to the health care financing administrator—no regulation can be that complex.

We still await the adjustment of that regulation by HEW.

This is a perfect example of what happens when the bureaucracy feels it can do whatever it wants. It promulgates regulations, and then ignores both congressional intent and congressional protestations all too often.

This is exactly what my amendment is designed to correct.

My legislative veto amendment is the same language that we recently attached to the FIFRA bill, which passed the House overwhelmingly, 278 to 121.

It says that a rule or regulation shall not become effective if both Houses of Congress adopt a concurrent resolution of disapproval within 90 calendar days after the date of promulgation.

Additionally, if one Chamber of the House passes a resolution disapproving a regulation within 60 days of the promulgation of that regulation, and the other Chamber does not object within 30 days after transmittal, the regulation does not become effective.

If you have any doubts about the potential for perverseness in HEW regulations—just remember, these are the same people who once tried to outlaw father-son sports banquets in the name of equal educational opportunity.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. John L. Burton, and by unanimous consent, Mr. Lungren was allowed to proceed for 5 additional minutes.)

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. Mr. Chairman, the gentleman is well intentioned and he is, in fact, concerned about agencies that make regulations that might not make a lot of sense as in the case the gentleman just cited. I wonder if the gentleman has thought about the difference between having this Congress act on regulations of a broad policy nature, such as in the case of the Federal Trade Commission where the Congress decided that those matters should come back, and the day-to-day functioning of a program and the regulations that are required on a day-to-day basis, once policy decisions have been made. That is really the case that we have here.

Mr. Chairman, the gentleman's amendment, as I understand it, would get us involved every single time, or potentially get us involved every single time the agency made any of these numerous moves that it has to make to implement a program which, if this passes, we will have already agreed upon and the policy issues will be agreed upon and there will be no further policy issues for this Congress to review.

Has the gentleman contemplated the difference between those two types of cases?

Mr. LUNGREN. Yes, I have, Mr. Chairman. Had we not had the track record of HEW in terms of administering its programs dealing with health-care providers especially in terms of the resistance we, as members of the California delegation, have received from the Secretary of HEW, in attempting to have an explanation of cost-reimbursement regulations dealing with hospitals and how they adversely impact on Californians and the hospitals which serve them, I would perhaps have a better feel for what the gentleman is saying. Unfortunately, that has not been the case.

I do not believe this Congress is so insensitive to the fact that certain regulations must be promulgated in order that a program can come on line, that we will take and attempt to nitpick at every single regulation that comes on line.

Mr. Chairman, the fact of the matter is, without this sort of reference point, we will continue to have what we have at HEW, which is an absolute stonewalling against the attempts of Members of Congress just to get an explanation of regulations, and absolute studied ignorance of anything we have attempted to do in terms of making these regulations more usable and more consistent with the intent of the legislation that we have passed.

Mr. MAGUIRE. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New Jersey.

Mr. MAGUIRE. We have a new Secretary of HEW.

Mr. LUNGREN. I understand that. I would rather not prejudge the new Secretary of HEW, but based on her track record we have had at HUD, I am not that well disposed to say we will have any better results.

The fact of the matter is, we still have not gotten a reply to our request from the California delegation from the current Secretary of HEW. Just a note to us telling us we are impatient in asking for an explanation after 5 months.

□ 1400

The CHAIRMAN. The time of the gentleman from California (Mr. Lungren) has expired.

(At the request of Mr. Maguire and by unanimous consent, Mr. Lungren was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. Mr. Chairman, would the gentleman permit and yield further?

Mr. LUNGREN. I yield to the gentleman.

Mr. MAGUIRE. Mr. Chairman, I thank the gentleman for yielding further.

The problem with the gentleman's amendment is that we are going to be taking over the actual administration of programs if we adopt the gentleman's amendment. I think that is unthinkable. I would urge my colleagues to vote against it.

Mr. LUNGREN. Mr. Chairman, I would suggest that the gentleman's characterization is not correct, and also suggest that this amendment would not be necessary if it were not for the past track record that we have seen. There has been abuse after abuse after abuse, in refusing to recognize what the intent of Congress was and has been in already existing legislation in this field.

This is an extremely sensitive subject in terms of the health care of pregnant women and of young children.

Based on what we have seen in the past, if we do not give ourselves the tools to have input on a regular basis we are not going to have any control over this program, as we seemingly have no control over programs already in existence.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, we have heard the case for a one-House veto made many times on this House floor, particularly when it deals with a regulatory agency or some regulatory function that is being accomplished by the executive branch; but this is not a regulatory bill. This is legislation that would set forth guides to the States within which to manage their own CHAP programs. A one-House veto under these circumstances, I think, would only accomplish the purpose of delaying the regulations and would not give us that needed check that we ought to be exercising through diligent oversight.

We will have regulations. Why delay them when the regulations, at least in these circumstances, are only implementing a bill that provides a framework for the States to run a program that will extend to children who are not now covered under certain medical services and to improve coverage for those who are now covered under the program.

I do not think the amendment will do a tremendous amount of harm. But it will mean delay. And I think it is really unnecessary. I think it has more to do with the objection of my colleague, the gentleman from California, on some other issue that he has with HEW than with the CHAP legislation. I do not think it is a good idea to put one-House veto language in a bill that is not even regulatory in nature; so I would urge that we defeat it.

Mr. LELAND. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment offered by my colleague, the gentleman from California (Mr. LUNGREN), proposing a legislative veto provision for CHAP. There are several reasons why this amendment is unnecessary and inappropriate.

First, the bill already provides for tight congressional control over HEW activities. There are comprehensive requirements for the Department to carry out precise, congressionally defined objectives. Annual congressional oversight is also already mandated. In short, CHAP is not legislation which allows the Secretary great discretion in implementation; CHAP is not an open statutory grant of power, like the FTC authorization, which allows the agency to define its own scope of action. This legislation does not need the safeguard of a legislative veto to preserve our congressional intent, because we have defined precisely our intent in the statute itself.

The legislative veto is a mischievous amendment. It suggests that we have time to reflect on every regulation promulgated by the Secretary and to decide whether or not to veto each one. My colleagues, I suggest that if we do our job properly, conduct oversight of this program as required in the bill, that we do not need this additional workload.

Finally, and more important, what effect would a veto provision have on implementation of CHAP? While the Secretary—and the children of America—wait, we could well have to find time in our already overcrowded schedule to deliberate the propriety of many regulations. We do not need to do this. We do not have time to do this. We should not do this. For every day that CHAP is not implemented, we deny critical health care to millions of poor children.

My colleagues, for all these reasons, vote "no" on this amendment.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. LELAND. I would be glad to yield.

Mr. SYMMS. Mr. Chairman, I thank the gentleman very much for yielding.

In light of the gentleman's statement of position, would the gentleman then favor a sunset provision in the bill at some time out in the future so that the Congress could overview the entire program, instead of just on regulation by regulation?

Mr. LELAND. At this point, I would not like to answer the question in the affirmative. I have no problems with sunset provisions. I do not recall the question being addressed during the hearings. Therefore, I have not really scrutinized the proposal.

Mr. SYMMS. Mr. Chairman, would the gentleman yield further?

Mr. LELAND. I would be glad to yield further.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for his answer, but I wonder if the Congress is too busy to oversee these programs, does the gentleman think there may be some point where we are starting too many programs?

Mr. LELAND. I think that the gentleman should address that question overall in terms of all the activities of the bureaucracies that administer the programs that we legislate for.

I would not like to single out this particular program at this time in terms of the sunset provision, primarily because I feel it seriously encumbers at this moment in our time as we consider the CHAP bill from proceeding to establish what it is the intent the legislation represents.

Mr. WAXMAN. Mr. Chairman, would the gentleman yield?

Mr. LELAND. I would be glad to yield to my chairman.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding.

I think a one-house veto is an excuse to not do the oversight work that is mandated to the Congress. I think people think if they adopt a sunset provision or a one-house veto that that means there is going to be oversight.

But I think it ends up by being an excuse for why the Congress did not do the oversight work. It is a hard, serious time-consuming job of looking to see how the executive agencies are functioning.

I do not think we need this one-house veto proposal. And if a sunset provision is offered will also oppose that.

I wanted to share my views with the gentleman.

Mr. LELAND. Mr. Chairman, I certainly associate myself with the wisdom of my chairman.

I thank the gentleman very much.

Mr. DOUGHERTY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I will be brief. It seems to me that those of us in this body who are frustrated with the bureaucracy have an opportunity on this amendment to send a signal to them that we expect a greater response to our concerns. All we are doing in the Lungren amendment, from what I understand, is requiring that before the regulations would be implemented, they would be reviewed by Congress.

If the regulations are OK, if there is no problem, nothing would happen, they would be implemented; however, if a sufficient number of Members of this body or of the Senate had a problem with the regulations, we could deal with them up front, rather than going through the bureaucracy and trying to resolve what many of us consider very serious problems.

I think it is very simple. If you think the bureaucracy is running the programs to your satisfaction, then you would want to vote no; but if you think the bureaucracy is not doing the will of Congress, that indeed they are enacting regulations which are not either in the intent or the best interests of the congressional point of view, then I think you should support the Lungren amendment.

I would, therefore, urge my colleagues to join those of us who are frustrated with the bureaucracy and vote to accept this amendment.

Mr. LELAND. Mr. Chairman, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from Texas.

Mr. LELAND. Mr. Chairman, I, too, am very frustrated with the problems of the bureaucracy as they proceed to implement programs similar to the CHAP program; but I do not think this is the appropriate time for us to deal with this. CHAP is a very serious program that deals with the involvement of more poor children in a very, very necessary health program. To pick on CHAP to signal HEW it seems to me is somewhat nonsensical at this time.

Mr. DOUGHERTY. Mr. Chairman, if I could respond to the gentleman, it is my time, I am one of the three Republicans who voted "aye" on the last budget resolution; so I have some concern for the social needs of poor children and other people, including urban societies.

Mr. LELAND. And I love the gentleman for that.

Mr. DOUGHERTY. But the fact of the matter is that this is one instance and hopefully as other bills come along dealing with the bureaucracy, we will also be able to put an oversight amendment on Government regulations.

Mr. JOHN L. BURTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if I could address a question to the author of the amendment, my good friend, the gentleman from California (Mr. LUNGREN).

How is this going to work, procedurally?

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Chairman, procedurally, it is the same thing we had in other legislation. The regulations would come before the House.

Mr. JOHN L. BURTON. How do they come before the House? I am serious now.

Mr. LUNGREN. I believe it is within 90 days that we must act after they have been submitted for our review. We have a certain period of time in which to review the regulations.

Mr. JOHN L. BURTON. How do we review it? Is it referred to the committee?

Mr. LUNGREN. It is referred to the committee.

Mr. JOHN L. BURTON. The committee would either approve or disapprove and then send it to us?

Mr. LUNGREN. Mr. Chairman, if they approve it, we, in the full House, would not consider it. It comes before the House only under certain circumstances. If both Houses act in 90 days to disapprove, the regulations do not go into effect.

If one House disapproves of it within 60 days and then sends it to the other House and the other House does nothing on it within 30 days after transmittal, then that essentially is a one-House veto.

Mr. JOHN L. BURTON. Mr. Chairman, I would just submit, first that it seems rather burdensome, if we are dealing with the health of children, to impose the veto restriction on this.

Second, I am wondering if maybe someday some Member on that side of the aisle could come up with some way—and that would be good; maybe the distinguished minority whip, the gentleman from Illinois (Mr. MICHEL), could do it for us—to find out how much it would cost the taxpayers for us to engage in these vetoes in consideration of measures.

We are here almost the whole year doing a great deal of the people's work, and maybe we could set aside a "legislative veto month."

Has the gentleman given any consideration to the fact that this program—and I am serious—may not really be the proper place to tie it down with that type of procedure by which we would want to hamstring HEW?

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I will yield to my distinguished friend, the gentleman from California, and then I will yield to the distinguished "Senator" from Idaho.

Mr. LUNGREN. Mr. Chairman, because of the experience we have had in HEW with similar type programs for health care that are administered by the States with funding through the Federal Government, because of the lack of response we have had, because of the unnecessary regulations that have been imposed, and because of the additional expense in administration that has been imposed and concurrent siphoning of money away from those to whom we wanted to give the benefits, I would think we would want to have the legislative veto in this particular program. This veto power would seem to be particulary in order if we feel this bill is the proper vehicle to provide those services that some people think are absolutely necessary for pregnant mothers and for young children in certain categories.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. JOHN L. BURTON. I am happy to yield to my friend the gentleman from Idaho.

Mr. SYMMS. Mr. Chairman, I thank the gentleman for yielding.

Mr. JOHN L. BURTON. I would like to commend the gentleman on his necktie, by the way.

Mr. SYMMS. I appreciate that very much. It is in the spirit of the Christmas season that I wear it.

Mr. Chairman, there is one other factor, and that is that if we have a legislative veto, then the Members of this body must take responsibility to their constituencies and accept the fact that they are in fact responsible for the bureaucracy in Washington, because the same Congress that grants authority can also take it away. I think this is the underlying fact.

I think this is the real concept of the legislative veto, so that Congressman can no longer go home and say, "Yes, we passed that law, but we did not intend that the people would be subjected to these regulations."

Mr. JOHN L. BURTON. Mr. Chairman, would my friend not agree that there may be an easier way to take authority away from the bureaucracy?

Mr. SYMMS. Yes, I do. We might not enact the program in the first place. We could return the revenues to the States where they belong.

Mr. JOHN L. BURTON. The gentleman is not suggesting a return to the almshouse; is he? He does not think we ought to reinstitute the workshops of Oliver Twist for our sick children; does he?

Mr. SYMMS. Mr. Chairman, what I would recommend is that we return both the responsibilities and the revenues and the right to assume the responsibilities and use the revenues back to the States and let them take care of solving these problems.

Mr. JOHN L. BURTON. Mr. Chairman, I hope the gentleman will be supporting us in the countercyclical program that will be returning revenues to the States and cities.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. LUNGREN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYMMS: Page 40, after line 24, insert the following:

"(2) Notwithstanding any other provision of this section, this Act shall not apply after September 30, 1984, and the amendments made by this Act shall not apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act, after September 30, 1984."

Page 41, line 1, strike out "(2)" and insert in lieu thereof "(3)".

Mr. SYMMS. Mr. Chairman, I rise today to offer an amendment to H.R. 4962, the Child Health Assurance Act, which will impose a sunset provision on the bill in 1984.

I believe on Thursday of last week, we debated a similar issue when considering the Stockham amendment. However, it is vitally important that the Congress impose some control on this legislation which will insure that once instituted, the individuals who are supposed to be served are actually being helped.

By 1984, the States should have had adequate time to install viable programs and at that point the Congress should review the progress of these programs to determine if CHAP has been cost effective and achieved the laudable goals it was supposed to have reached. All too often, as you know, many of the moneys authorized and appropriated by this body are funneled off moneys lost due to human error, mismanagement, graft, and so forth. And, it seems that moneys funding social services programs oftentime dissipate at a higher rate as they filter through the layers of bureaucracy than other programs which we fund. Therefore, it is necessary that we install a mechanism which will force Congress to be responsible for the viability of the programs it establishes.

I doubt that most Members here today would argue against the cost effectiveness of preventive health care, however, I would hope that we, in passing this legislation, would want to insure that the best program possible is implemented. If we who are instituting the program are not willing to take the responsibility of controlling and overseeing its effectiveness, who, may I ask, should?

My amendment will not in any way affect the authorizing level of funding for the program, the authorization levels are equal to the amounts which CBO estimates it would take to fund the program.

Presently, uncontrollable spending constitutes 76 percent of all Federal outlays, and three-fourths of them are entitlements. Now, I am sure that the intentions of the Congress in establishing these programs were good, however, experience should have taught us that establishing programs is only doing half the job. We must also insure that the programs we establish are effective. We do not help anybody by simply doling out money and not making sure that the money is put to best possible use. The medicaid program alone loses approximately 10 to 15 percent of its funding annually. That figure, in itself, should encourage us to institute measures in this program which will provide incentives to be more cost efficient.

If we are serious about controlling spending and insuring that we are getting the most for our money, it is incumbent upon us to adopt this measure which will provide for a review of the program we are establishing.

Mr. WAXMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, unlike the last amendment, which I did not think was necessary but which probably will not do a lot of harm, this amendment could do a great deal of harm. Therefore, I want to oppose it quite vigorously and urge my colleagues to join me in defeating the amendment. If we have a sunset provision in a bill to encourage the States to reach out and bring children into a program to be screened for medical services and then to have followup services, we would give incentives to the States to do this job on the one hand, but at the same time there would be a signal by virtue of the sunset provision that the Federal commitment to assist in funding this program might not continue.

This could inhibit State action to seek out new eligibles and bring them into the program. It could deter effective implementation, which is the very purpose of this bill. If a program contains a sunset provision and it is not renewed, or if sometimes a renewal is just delayed for some reason or another, many children who had finally started receiving medical services would become ineligible for those services.

Mr. Chairman, this could cause severe problems for both the States and the Congress, and it could cause serious problems for those people who are going to lose out on those benefits.

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Mr. SYMMS. Mr. Chairman, will the gentleman yield on that point?

Mr. WAXMAN. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding.

Mr. Chairman, I think if the program is operating as the goals are set out for the program, there should be no problem in having Congress renew the program.

If the distinguished chairman is fearful that the program is not going to be working out as it is, then it could be that some delay might come about. I would agree.

But how else will the Congress actually control and be careful in their analysis of how well the program is working?

Mr. WAXMAN. If I could just reclaim my time, if we had sunset provisions in all bills, and had to reexamine all of the legislation that is on the books, we would end up doing it without even looking at them and doing the oversight work that is necessary, because we would have no time. I am convinced we would be renewing programs without doing the job that I know the gentleman wants us to do, and that is the oversight work.

Sunset provisions may be appropriate when the content of the program is experimental or if it is totally new. But this is not a new program. It is not an experimental program. It is building on an operational program. It provides prenatal and preventive services which have proved their value.

The gentleman, in proposing the amendment, suggested that we could determine the cost effectiveness of the program after a 5-year period. To some extent, we will be able to do that. But I believe that the real cost effectiveness in a program like this comes over a period of years, when we treat children at an early age so that we can avoid the problems that, when a child is at a much more advanced age, will be far more costly.

I do not know that we are going to have this information in a 5-year period. If the idea is that we are automatically going to renew a program because it is a good one, then I expect that we will be renewing this program. But I would hate to see the uncertainty this brings, and any gaps in time that might occur when children would not be covered. I hate to see that we think we are really doing something on oversight just because we put a sunset provision in this bill, because that just means that we are adopting an excuse for not doing oversight. To do oversight, we do not need a sunset provision in the law.

Mr. SYMMS. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from Idaho.

Mr. SYMMS. I thank the gentleman for yielding, and I would just say to the chairman that if this Congress had sunset provisions coming up on all of the programs that have been passed by the Congress in, say, the last 40 years, we would be busy reviewing some of the mess that we have created throughout the country. I think it might be very healthy for the country if the Congress did that instead of always spending time coming up with new schemes. We debate issues in this House day after day after day on new ideas.

Mr. WAXMAN. If I may reclaim my time, I agree that the Congress has often failed in its oversight responsibility. I think in some cases we can do more good by oversight than we can by adopting new legislation and new programs. But this is not a new program; it is an extension of an existing one. It makes changes that were discovered to be needed through various oversight activities.

Mr. SYMMS. I understand.

Mr. WAXMAN. But I think if we have so many items on our agenda to renew or have the legislation expire, what we would end up doing, as a practical matter, is just churning out renewals of legislation without giving it the oversight perspective that we ought to get into.

Mr. SYMMS. The way it is today, we get no time on it at all, I say to the chairman.

Mr. WAXMAN. We ought to be doing oversight. If the department that is in charge of this proposal does not do its job appropriately, we now have a one-house veto to correct the regulations. We should be doing oversight throughout the program. I think that we run a danger in having a sunset provision that could mean that the program could terminate and the children will be without services, and that could adversely affect vigorous State implementation of the program.

Mr. MAGUIRE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I could, I would like to engage mv colleague, the gentleman from Idaho (Mr. SYMMS), in colloquy, in consideration of some of the points that have just been discussed. Is the gentleman aware that the committee has in fact spent the last 3 years evaluating, overseeing the EPSDT program, the early periodic screening, diagnostic, and treatment program for the delivery of preventive health care services to poor children, and that this bill that is before us today is in fact the result of that oversight effort?

Mr. SYMMS. If the gentleman will yield, I laud the committee for its oversight effort. I am not taking anything away from the committee or the gentleman from New Jersey or the gentleman from California in their efforts in this.

The fact is that mv amendment would not stop this program. This amendment would merely state unequivocally that the Congress will come back and reappraise the situation in 1984, and that will be ample time for these programs to be in place. We very simply will have an oversight of it. We will be forced to have an oversight of it, very much as this committee has had today, because we will have to go back and examine what has happened, what was intended to happen, and what you foresee to happen in the future, and it will be a positive wav for Members of Congress to see that the program is carried out the way those who here todav intended it to be.

Mr. MAGUIRE. Mr. Chairman, I hesitate to ask the gentleman this question, because I am afraid that I may know what the answer is, but would the gentleman take the same approach on medicaid or medicare or social security?

Mr. SYMMS. I think that it would be very worth while for the Congress to examine all Government activities, with the intention of whether or not they are achieving the goals that Congress originally intended.

Mr. MAGUIRE. Would the gentleman put a sunset provision on medicare or on the social security bill, for example?

Mr. SYMMS. The social security bill goes back even before the gentleman and I were born, so it may be that it is a little late for that. But I think we are starting now. The gentleman is comparing apples with oranges.

Mr. MAGUIRE. No.

Mr. SYMMS. We are talking about starting a new entitlement. Why not examine what we have done? That is part of the reason why we cannot get the budget in balance.

Mr. MAGUIRE. If I could correct the gentleman somewhat, this is a continuation of an existing entitlement program in improved form.

Mr. SYMMS. It is going to be an expansion of an entitlement program, is it not?

Mr. MAGUIRE. It is going to be a much more effective and cost effective program as a result of changes that result from the 3 years of oversight that we have done.

But let me ask the gentleman this, since he has not directly answered the question on social security or medicare. That does give me some hope that perhaps the gentleman would not be rushing in to suggest a sunset provision for those kinds of programs, which I think would be unwise. I have voted for sunset provisions on other kinds of programs, and there are places where I think it makes sense. But here we are talking about a children's program which depends for its cost effectiveness on reaching out and knowing that when children will be brought into the program they will be served. If the gentleman is not emphatic in favor of such a sunset provision for medicaid, covering adults, or for medicare, covering senior citizens, why is the gentleman selecting out children now for this particular amendment at this particular time?

Mr. SYMMS. Because we have the entitlement program before us here today, that is all. I think the philosophy behind the sunset provision is nothing new. As a matter of fact, it was Justice Douglas who was, at the time when the New Deal started, trying to put the sunset provision on most of the agencies that F. D. R. himself asked the Congress to pass during the 1930's. He told him at the time that they should have sunset provisions. So this is not a new concept, and the gentleman from Idaho is not the originator of the idea of a sunset provision. It just seems to me that it makes a lot of sense, in dealing with the bureaucracies that come from Government programs, where it is very hard for the people we want to help, the needy children, when they oftentimes get lost in the shuffle and the bureaucracy gets the money. With a sunset provision, I think this Congress can insure that the needy children will get the money and get the help and get the medical care that is intended through this legislation and not layer upon layer upon layer of bureaucracy.

Mr. MAGUIRE. Mr. Chairman, is the gentleman planning to vote for the bill if his amendment passes?

Mr. SYMMS. No.

Mr. MAGUIRE. So the gentleman is opposed to the bill, whether or not his amendment passes?

Mr. SYMMS. The gentleman from Idaho believes that the proper way to approach the problem is to return the revenues and the rights for those revenues and the responsibilities back to the people in the respective 50 States and allow them the privilege of taking care of their own needy children. I think that would be a much more humanitarian approach than to try to have some massive Federal program, which all too often we end up with high, laudable goals, but the people who need the help are the last ones to get the help at the bottom end of the spectrum. I would say to the gentleman that it would make the bill much more agreeable to the gentleman from Idaho if the sunset provision is in it.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. MAGUIRE) has expired.

(By unanimous consent, Mr. MAGUIRE was allowed to proceed for 1 additional minute.)

Mr. MAGUIRE. Mr. Chairman, I would just say to the gentleman that the very inequality of treatment under the current program between States is one of the major reasons for the amendments that we have before us in this bill to improve the existing program.

I would plead with my colleagues to keep in mind that the gentleman is opposed to the entire bill here. In fact, the amendment he is proposing would be terribly harmful to the objectives of the bill, and just at a time when we are starting to realize the cost savings under this program, it would be just at that time when the whole program would be placed in jeopardy and we would not be able to plan properly.

Mr. Chairman, I urge that the gentleman's amendment be defeated.

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Mr. CARTER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I strongly oppose this amendment to add a sunset provision to the CHAP program. There is no such arbitrary expiration date on the rest of medicaid so I would urge my colleagues to reject this amendment.

Moreover, the intent of this amendment can be achieved without amending the bill. Our committee already has jurisdiction over medicaid—and we can conduct oversight hearings at any time. I can assure my colleagues that we will be following implementation of this legislation very closely and that we can consider the need for legislative action at any time rather than at some arbitrary time.

In addition, the effect of an expiration date on this program could have a disastrous effect on the CHAP program. It would bring a great deal of uncertainty to the operation of CHAP and States would be reluctant to seek out additional poor children because of the possibility that the program might be terminated if Congress failed to act. Poor children are likely to be denied needed services.

In addition, this amendment would terminate the program at the very time when CHAP is bringing in the additional poor children it is intended to serve.

Even though 5 million additional would become eligible for medicaid under this bill, it will take many years to actually reach and provide services to the majority of these children. In fact, according to the Congressional Budget Office, by the fifth year of the program only about one-third of the eligible children would be served by CHAP. This amendment would have CHAP expire at that time, unless Congress acts promptly to renew it.

In summary, the basic intent of this amendment can be achieved without altering the legislation while adoption of the amendment would have a far-reaching and undesirable impact on the success of CHAP.

I urge defeat of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Idaho (Mr. SYMMS).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 18, noes 21.

RECORDED VOTE

Mr. SYMMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 226, noes 162, not voting 45, as follows:

[Roll No. 713]

AYES—226

Abdnor
Albosta
Andrews, N.C.
Anthony
Applegate
Archer
Ashbrook
Ashley
Atkinson
Badham
Bafalis
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bevill
Boland
Boner
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dodd
Donnelly
Dornan
Dougherty
Duncan, Tenn.
Early
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Findley
Fish
Fithian
Foley
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gephardt
Gibbons
Gilman
Goldwater
Goodling
Gore
Gradison
Gramm
Grisham
Guarini
Gudger
Hagedorn
Hall, Tex.
Hammerschmidt
Hefner
Heftel
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kindness
Kostmayer
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Levitas
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Markey
Marlenee
Martin
Mathis
Mavroules
Mazzoli
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Nelson
Nichols
O'Brien
Panetta
Pashayan
Paul
Petri
Pursell
Quayle
Quillen
Ratchford
Regula
Rhodes
Rinaldo
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stockman
Stratton
Stump
Symms
Synar
Tauke
Taylor
Traxler
Trible
Udall
Ullman
Vander Jagt
Walker
Wampler
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Wolff
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Young, Mo.

NOES—162

Addabbo
Alexander
Ambro
Anderson, Calif.
Annunzio
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beilenson
Bingham
Blanchard
Boggs
Bolling
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Danielson
Davis, Mich.
Derrick
Diggs
Dingell
Dixon
Downey
Drinan
Edgar
Ertel
Fary
Fascell
Fazio
Ferraro
Fisher
Florio
Ford, Mich.
Ford, Tenn.
Frost
Garcia
Gaydos
Giaimo
Ginn
Gonzalez
Gray
Green
Hall, Ohio
Hamilton
Harris
Harsha
Hawkins
Heckler
Holland
Hollenbeck
Holtzman
Horton
Howard
Jeffords
Johnson, Calif.
Kastenmeier
Kildee
Kogovsek
LaFalce
Lederer
Lehman
Leland
Lloyd
Long, La.
Lowry
Luken
Lundine
McClory
McDade
Maguire
Marks
Matsui
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Neal
Nedzi
Nowak
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Preyer
Price
Rahall
Railsback
Rangel
Reuss
Richmond
Rodino
Roe
Rose
Rostenkowski
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Simon
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Studds
Swift
Thompson
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Weiss
Williams, Mont.
Wilson, Tex.
Wirth
Wolpe
Wright
Yates
Zablocki
Zeferetti

NOT VOTING—45

Akaka
Anderson, Ill.
Andrews, N. Dak.
Bedell
Bethune
Biaggi
Cavanaugh
Chappell
Conable
Dellums
Dicks
Duncan, Oreg.
Eckhardt
Edwards, Calif.
Edwards, Okla.
Flippo
Flood
Gingrich
Glickman
Grassley
Guyer
Hance
Hanley
Hansen
Harkin
Leach, Iowa
Lent
Marriott
Mattox
Murphy, Ill.
Murtha
Myers, Pa.
Nolan
Perkins
Pritchard
Roberts
Rosenthal
Russo
Stenholm
Thomas
Treen
Watkins
Wilson, C. H.
Winn
Young, Alaska

☐ 1450

The Clerk announced the following pairs:

On this vote:

Mr. Hansen for, with Mr. Edwards of California against.

Mr. Thomas for, with Mr. Dellums against.

Mr. Guyer for, with Mr. Myers of Pennsylvania against.

Mr. Lent for, with Mr. Rosenthal against.

Mr. Marriott for, with Mr. Akaka against.

Messrs. TRAXLER, SHARP, and FITHIAN changed their vote from "no" to "aye."

Mr. BLANCHARD and Mr. MOFFETT changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. WAXMAN. Mr. Chairman, I ask unanimous consent that all debate on the bill and all amendments thereto close at 3:15 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Chairman, reserving the right to object, could the Chair tell us how many amendments are at the desk?

The CHAIRMAN. There is one technical amendment at the desk.

Mr. BAUMAN. And there are no other substantive amendments?

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. All debate on the bill and all amendments thereto will cease at 3:15 o'clock.

AMENDMENT OFFERED BY MR. WAXMAN

Mr. WAXMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. WAXMAN: Page 34, line 14, strike out "(4)" and insert in lieu thereof "(3)".
>
> Page 42, line 1, strike out "sections" and insert in lieu thereof "section".

The CHAIRMAN. Members standing at the time the unanimous-consent request was granted will be recognized for 4 minutes each.

The Chair recognizes the gentleman from Pennsylvania (Mr. WAXMAN) for 4 minutes in support of his amendment.

Mr. WAXMAN. This amendment, Mr. Chairman and Members, is solely a technical amendment. On page 34, line 14, we are striking "4" and inserting in lieu thereof the number "3".

On page 42, line 1, we strike out the word "sections" and insert in lieu thereof the word "section".

Mr. Chairman, I know of no opposition to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. WAXMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PHILIP M. CRANE

Mr. PHILIP M. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. PHILIP M. CRANE: On page 38, following line 15, insert the following new subsection:
>
> (2) (a) No officer, employee, or agent of the Federal Government or of an organization conducting medical reviews for purposes of carrying out the study provided for in subsection (a) (1) of this section shall inspect (or have access to) any part of an individually identifiable medical record (as described in subsection (c)) of a patient which relates to medical care not provided directly by the Federal Government or paid for (in whole or in part) under a Federal program or under a program receiving Federal financial assistance, unless the patient has authorized such disclosure and inspection in accordance with subsection (b).
>
> (b) A patient authorizes disclosure and inspection of a medical record for purposes of subsection (a) only if, in a signed and dated statement, he—
>
> (1) authorizes the disclosure and inspection for a specific period of time;
>
> (2) identifies the medical record authorized to be disclosed and inspected; and
>
> (3) specifies the agencies which may inspect the record and to which the record may be disclosed.
>
> (c) For purposes of this section:
>
> (1) The term "individually identifiable medical record" means a medical, psychiatric, or dental record concerning an individual that is in a form which either identifies the individual or permits identification of the individual through means (whether direct or indirect) available to the public.
>
> (2) The term "medical care" includes preventive and primary medical, psychiatric, and dental assessments, care and treatment.

Mr. WAXMAN. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois (Mr. PHILIP M. CRANE) is recognized for 4 minutes in support of his amendment.

□ 1500

Mr. PHILIP M. CRANE. Mr. Chairman, a recent edition of State Legislatures in April of 1978 reported that an OMB study confirmed that Federal agencies maintain an average of 18 files on every man, woman, and child in these United States. It seems to me that we have witnessed, with the general growth of our Federal Government, a growth of the invasion of the right to privacy that should be a fundamental right enjoyed by all American citizens.

What my amendment would do, Mr. Chairman, is to guarantee confidentiality in this critical area of medical records. The reason it is needed is because we have very recently in our experience witnessed an event that involved the invasion of a man's rights by an illegal break-in to a psychiatric office and the public dissemination of that kind of information.

What we are potentially doing here, it seems to me, is to make this legal and authorized under legislation designed with the best of intentions but which has the unfortunate potential consequence of permitting a violation of the sanctity of medical records.

A 1977 National Bureau of Standards study primarily conducted by Dr. Alan Westin of Columbia University, established that once the records were allowed to fall into the hands of a bureaucrat, they were no longer confidential. Dr. Westin said his studies confirmed that potential employers often use evidence of the treatment of mental stress as a criterion for screening out potential employees. Will attempts to get help for a child actually complicate his life by foreclosing future employment opportunities if we do not support this amendment?

Dr. Alfred Freedman, past president of the American Psychiatric Association, says forthrightly:

> I think this threat to privacy is going to be steadily accelerated as we move into the direction of national health insurance.

He went on to say:

> We all need to be constantly aware of the delicate complex balances which must be struck between the patient's right to privacy and the society's need for information.

I would urge, Mr. Chairman, support for this amendment which serves, I think, the interest not only of the affected potential patients coming under the jurisdiction of this bill, but I think it certainly serves the long-term ideals of all of us as people who have profited by growing up in the freest of societies, but one of the corollaries of living in a free society, it seems to me, is to be guaranteed the sanctity of one's medical records, amongst other things, in short, a guarantee of one's right to privacy. This amendment is designed to achieve that end.

Mr. Chairman, I yield back the remainder of my time.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from California (Mr. WAXMAN) insist upon his point of order?

Mr. WAXMAN. I would like a clarification, Mr. Chairman, if I might, before I pursue whether I have a point of order.

The CHAIRMAN. The gentleman from California reserves his point of order, and the gentleman is recognized for his remaining time under the allocation.

Mr. WAXMAN. I would like to make an inquiry of the gentleman from Illinois (Mr. PHILIP M. CRANE) who has offered the amendment, if I might. The section (2) (a) on page 38 following line 15 as it would be inserted by this amendment says:

> No officer, employee, or agent of the Federal Government or of an organization conducting medical reviews for purposes of carrying out the study provided for in subsection (a) (1) of this section shall inspect (or have access to) * * *.

Is this a parenthetical clause: "Or of an organization conducting medical reviews for purposes of carrying out the study provided for," or are we also referring only to the officers, employees, or agents of the Federal Government who are conducting medical reviews for purposes of carrying out the study?

Mr. PHILIP M. CRANE. If the gentleman will yield, the reason for the seeming redundancy of language was to guarantee that there would not be any commission or what I would classify as an agent, but which might be open to some debate, or group of private individuals performing a function under the auspices of the Federal Government. I would define that as an agent and, therefore, that language would be, then, redundant to that extent. My concern is quibbling over fine points of definitions, and to the extent that there is a potential here for some private group with the full authority of the Federal Government to conduct these kinds of studies, I want to make sure that those do not in any way have the possibility of falling into the hands of Government officials without the written consent of the patient involved.

Mr. WAXMAN. If I might further inquire, is it fair to say that the limitation, "No officer, employee, or agent of the Federal Government" pertains specifically to the carrying out of the study provided for in subsection (a) (1)? Is it specifically addressed to carrying out that study?

Mr. PHILIP M. CRANE. In the process of carrying out the study, my understanding is there is a potential for examination, obviously, of medical records, and to the extent there is, then I think if they are identifiable medical records, the potential exists for those to come into the hands of Government officials unbeknownst to the patient.

Mr. WAXMAN. But I am trying to ascertain whether it is limited to carrying out the study provided for in subsection (a) (1) and the medical records are viewed only for the purpose of carrying out that study.

Mr. PHILIP M. CRANE. Does the gentleman mean is it confined to that?

Mr. WAXMAN. Yes.

Mr. PHILIP M. CRANE. No, it is not. That would not be my understanding of the amendment.

The CHAIRMAN. Does the gentleman from California (Mr. Waxman) insist on his point of order?

Mr. WAXMAN. Mr. Chairman, I am going to pursue my point of order, then.

The CHAIRMAN. The gentleman will state his point of order.

Mr. WAXMAN. Mr. Chairman, as I read this section without the limitation that I tried to determine was included there, I believe it is overly broad and, therefore, not germane, and I make a point of order of the fact that it is not germane to the bill before us.

The CHAIRMAN. Does the gentleman from Illinois (Mr. Philip M. Crane) wish to be heard on the point of order?

Mr. PHILIP M. CRANE. I do, Mr. Chairman. I think it is, indeed, germane because, Mr. Chairman, the language of the amendment, I think, addresses the specific narrow concern that the Chairman has upon which he bases his point of order, but, on the other hand, there are implications in the language of the bill that I think this additional language in this paragraph addresses, and that is the potential to go beyond those narrow constraints that I think the gentleman, the Chairman, would presume exist within this legislation.

I am less sure and less confident that those restraints are there. I would argue that the specificity of the first part of this sentence that "No officer, employee, or agent of the Federal Government or of an organization conducting medical reviews for purposes of carrying out the study provided for in" that subsection indicated is language narrow enough to be germane to the intent of the bill.

The CHAIRMAN (Mr. Vento). Are there further Members who wish to be heard on the point of order? If not, the Chair is prepared to rule.

The Chair, in listening to and weighing the arguments, finds that the point of order is well taken. The argument seems to establish that the amendment offered by the gentleman from Illinois (Mr. Philip M. Crane) could go to confidentiality of other medical records that would not otherwise be covered by the pending legislation and as such represents, then, too broad an amendment. The records could deal with additional information that would usually be under the confidentiality of physician-and-patient relationship, that would be outside the services rendered through this program if the conduct of Federal officers is not to be confined to the carrying out of the study in section 14. Therefore, the Chair states that the point of order is well taken.

Mr. PHILIP M. CRANE. Mr. Chairman, may I direct a question to the chairman of the committee?

The CHAIRMAN. The point of order is sustained. The amendment is ruled out of order.

The Chair recognizes the gentleman from Missouri (Mr. Volkmer).

Mr. VOLKMER. Mr. Chairman, I rise in strong support of the legislation before us and ask all Members to vote for it.

I can well remember earlier this year debate on behalf of foreign assistance, economic assistance to foreign countries. Many times I heard during that debate that we should take care of our own people first and that we should not be spending the money overseas. I point out to everyone here right now that this is their opportunity to take care to a great extent of the health care of people who really need it—many of the poor. Also one thing I like in this bill is the provisions we now have incorporated in the bill to provide for precare treatment and diagnostic services so that we can have preventive care for our children and bring them up healthy and also for pregnant women.

I wish to congratulate the chairman and also the ranking minority member for the legislation.

Mr. Chairman, I yield back the remainder of my time.

□ 1510

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Dannemeyer).

Mr. DANNEMEYER. Mr. Chairman, perhaps some of the Members have seen a book written by Martin Anderson entitled "Welfare, the Political Economy of Welfare Reform in the United States." This book came out last year and in chapter 1 the author stated:

> The "war on poverty" that began in 1964 has been won. The growth of jobs and income in the private economy, combined with an explosive increase in government spending for welfare and income transfer programs, has virtually eliminated poverty in the United States. Any Americans who truly cannot care for themselves are now eligible for generous government aid in the form of cash, medical benefits, food stamps, housing, and other services.

Then Anderson goes on to point out that the estimated cost of fighting World War II was $288 billion. By comparison, since 1964 when this "war on poverty" began, we have spent over $300 billion. There are some 90-odd social welfare programs providing for the people of this country. In 1978 alone, the Federal Government will spend over $190 billion on top of the 12 income-transfer welfare programs.

Yet, here we are debating yet another program at a time when we are $40 billion in the red. It just does not make sense to enact yet another program on top of a war that has been won.

What war are we pursuing now? Is Martin Anderson right when he says the war is not poverty any more, it is the war on inequality?

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey (Mr. Maguire).

Mr. MAGUIRE. Mr. Chairman, I also want to praise the ranking minority member, the gentleman from Kentucky (Mr. Carter), for the extraordinary work he has done on this legislation over a 3-year period. We are going to miss Dr. Carter and I hope that we can give him a sendoff with a tremendous vote in favor of this bill which is very much his bill. And I also would compliment the gentleman from California (Mr. Waxman), who has done an extraordinary piece of work on this legislation.

I have 2 points: First, this bill is the result of 3 years of careful work on how to make an existing program function more effectively. You could not have a better example of the Congress buckling down to the task of oversight and figuring out how to tune up and make effective an existing program.

Second, it is one of the most cost-effective things that we can ever do, to provide preventive-care services for health, because the data show we will save as much or more than 40 percent of our health-care dollar if we take this kind of approach.

Mr. Chairman, let us do this with children under the existing medicaid program. Let us pass this bill today.

● Mr. FLORIO. Mr. Chairman, I rise in support of the Child Health Assurance Act of 1979 (H.R. 4962). I am proud to have both served on the committee which developed this legislation for a child health assurance program and cosponsored the legislation when it was first introduced. The merits of CHAP are many and I urge my colleagues to join me in support of this bill which will make sorely needed changes in our federally supported health care program for low-income children and pregnant women.

Our current federally supported health care system for low-income children does not go far enough. These programs alone are not sufficient to respond adequately to the health care needs of poor women and children. There are two basic reasons for this shortcoming. Current programs fail to cover many low-income children and pregnant women and fail to place enough emphasis on preventive care.

Medicaid is essentially a payment program. It assures eligible persons that when health care is needed, the bill will be paid. In 1967, Congress, recognizing the need to do more for children than insure financial access, enacted the early and periodic screening diagnosis and treatment program as part of medicaid specifically to meet the health care needs of children, including Outreach and health status monitoring.

However, the program has been fraught with serious shortcomings. While children represent over 40 percent of our medicaid-eligible population, they account for a relatively small proportion of medicaid expenditures—just over 15 percent. Medicaid fails to cover many low-income children and pregnant women in the first place. Although 11 million children are eligible for medicaid, another 7 million children who live in families with incomes below the Federal poverty level are not covered. Some of them are ineligible because they live in two-parent families, others because their family income is slightly above restrictive State welfare standards. Further, over 250,000 pregnant women with incomes below the poverty level are not covered because either they live in two-parent families or have income just above State welfare standards.

Moreover, some essential child health services are severely restricted at State discretion. Current law requires States to provide dental, hearing, and vision services only to children screened under EPSDT. Other children may be denied these vital services. Further, treatment for mental illness is often so limited that only minimal levels, if any, are provided. Inpatient and outpatient medical services may be limited as to amount, duration, and scope; clinic services need not be provided.

CHAP, as pointed out several days ago by my colleague from New Jersey (Mr. MAGUIRE), would not create an entirely new system. Rather it sets to right many of the wrongs inherent in the existing EPSDT program.

By focusing Federal efforts on preventive and comprehensive health care for all eligible children under 18 who are members of families whose income is less than either two-thirds of the poverty level or the applicable State medicaid standard, we can assure, through CHAP, that this Nation's neediest children have access to health care. By mandating a greater number of services to be provided, and at the same time increasing the Federal share of funds for each State, we can assure that children in one State are not suffering from lack of needed services, and others in a different State receiving a fair share. By providing prenatal and neonatal care to the low-income pregnant woman, we can help assure that her offspring are born, and born without many of the heartbreaking effects of poverty—malnutrition and birth defects.

Many of my colleagues have cited the actual cost savings which will accrue as the result of CHAP's implementation—the effects of early diagnosis and treatment. New Jersey can have as much as $2.2 million in State costs in CHAP's first year. However, it is equally important to speak of the savings in terms of human suffering and loss of productivity. I am thinking particularly of the child who under EPSDT would have been labeled mentally ill, mentally retarded, or developmentally disabled and who, more likely than not, would not have received treatment. Such children could carry that stigmatizing label for life, limiting their chance for a productive future. But CHAP offers treatment—treatment not hitherto mandated under medicaid; treatment which can make the difference between a life of dependency and independence.

This is just one group of many who will benefit from CHAP. Our future is in the hands of our Nation's children, our healthy children. Let us not damn the low-income child twice, once by the poverty into which he or she has been born and once again by physical or mental disability.

In this last month of the International Year of the Child, I can think of no greater fitting tribute than to pass this critical legislation. Therefore I urge my colleagues to vote for and support passage of the child health assurance program, H.R. 4962.●

● Mr. MARKEY. Mr. Chairman, the quality of our children's health care is of the utmost concern to all of us. The Child Health Assurance Act (H.R. 4962) (CHAP) addresses this concern in a very positive way. For the first time, millions of low-income children would receive badly needed basic health care.

There are many features of this legislation that deserve special mention. For example, CHAP would extend medicaid eligibility to children who are not presently on medicaid but whose families cannot afford basic health care; for example, children in low-income, intact families. CHAP would establish a national minimum standard for access to health care services for children and pregnant women. Further, a child health assurance program would replace the underfunded early screening program (EPSDT).

CHAP is consistent with Congress concern for containing spiraling health costs. Indeed, its emphasis on preventive and primary care is the essence of cost containment. Numerous studies have shown that savings of up to 40 percent in health bills are attainable for children who receive preventive and primary care.

In my home State of Massachusetts, CHAP would provide 300,000 children, up to age 18, with greater access to more medical care and followup services. CHAP would allow a shift of emphasis from treatment to prevention services for these children. CHAP would provide Massachusetts with an additional $6 to $8 million to improve existing programs and establish new ones. For example, the particular needs of a group of needy children; namely adolescents, would now be addressed. Each year in Massachusetts, 3,000 to 5,000 teenage girls give birth. CHAP would improve both prenatal and postnatal care for these girls and their newborn babies.

For these and many other reasons, I am a cosponsor of this legislation. I wish to commend and applaud the efforts of Mr. MAGUIRE, the sponsor of H.R. 4962, and the work of Mr. WAXMAN and his subcommittee for the excellent job they have done on this legislation.

CHAP would improve the effectiveness of the medicaid program in relation to children and pregnant women. Its passage is crucial to the well-being of millions of poor children who now suffer needless and costly pain. If we are serious about containing costs and insuring the health of American children and families, CHAP must be passed.●

● Mr. FRENZEL. Mr. Chairman, as an expansion of the early periodic screening and diagnosis and treatment program, the Child Health Assurance Act will extend coverage under the medicaid program to additional low-income children and pregnant women. In essence, it assures that medical care will be availabel to those individuals and familes who are unable to afford such care.

In my own State of Minnesota, the EPSDT program was most successful, but was not without problems. The majority of those problems, access to medicaid recipients for outreach purposes and providing adolescents with prenatal care, will be alleviated with this legislation. Further, H.R. 4962 permits States to allow nonmedicaid poor individuals and families to qualify for the program, as Minnesota has done on a reduced-fee basis. Finally, CHAP encourages the participation of health maintenance organizations (HMO's) in the program to enable beneficiaries to have their health care delivered in an HMO setting.

While I intend to support the bill, I feel that its primary shortcoming is the greatly expanded entitlement program it authorizes. I share Mr. STOCKMAN's concern that this program ought to be subject to an annual review of these ever increasing Federal expenditures. As the committee report specifies a study of the duplication of existing programs of services, there is even further justification for an annual review. Therefore, I intend to support Mr. Stockman's amendment and urge my colleagues to join me.

This is a good bill and I hope it will be passed by this body, but without the entitlement provisions.●

● Mr. DOWNEY. Mr. Chairman, I want to express my strong support for the Child Health Assistance Act.

This bill will guarantee poor children the right to preventative health care. It comes at a time when national focus is turning to proposals for health insurance for all Americans. Children currently receive health care under medicaid, but only by virtue of their relationship to an entitled adult, or because they are disabled.

Under CHAP, children will become entitled to good health care in their own right. Whether they have two parents, one parent, are in foster care, or adopted—variables in family size and circumstance will not determine their entitlement. In essence, the child remains the beneficiary of the program, rather than the adult who is responsible for the child. This new emphasis would insure uninterrupted care.

This program rewards individual States which do a good job identifying and delivering health care to healthy children. On the other hand, it penalizes States which do not. Financial incentives to carry out the mandate of the Child Health Assurance Act are built in, and while the numbers of children enrolled in this new program is expected to grow, in the long run, many costly, disabling diseases will be prevented.

I am convinced that the Child Health Assurance Act is a moral and legal obligation of all of us to the children of this Nation.●

The CHAIRMAN. All time has expired.

Are there further amendments to the bill? If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. VENTO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4962) to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes, pursuant to House Resolution 487, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. DANNEMEYER. Mr. Speaker, I am opposed to the bill.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows: Mr. DANNEMEYER moves to recommit the bill, H.R. 4962, to the Committee on Interstate and Foreign Commerce with instructions to report the bill back to the House forthwith with the following amendment:

On page 13, after line 9, insert the following new subsection:

"(2) Section 1905(a)(4)(C) is amended by adding at the end thereof the following: '*Provided*, That, such services and supplies made available to minors pursuant to this subsection shall only be provided upon the consent of the parent or legal guardian of said minor;' ".

On page 13, line 10, strike "(2)" and insert in lieu thereof "(3)".

Mr. DANNEMEYER. Mr. Speaker, this amendment was offered last Thursday by this Member. There was a division asked for and a rollcall asked for. Needless to say, the rollcall was not achieved. That it was not is one of the reasons this Member has elected to pursue the motion to recommit to give the Members of our body the opportunity of voting on a very important feature of this legislation that I think deserves the close attention of each and every one of us.

Mr. Speaker, specifically this proposed motion to recommit will entail a philosophical concern over who really controls family life in this country. Do parents control the education their children will receive in the area of sex education and family planning, or is that activity, like so many others in our culture, to be taken over by the States.

The language of the motion makes very clear that, insofar as family planning services and supplies furnished directly to individuals of childbearing age—including minors who can be considered to be sexually active, who are eligible under the State plan, and who desire such services and supplies—are concerned, those services and supplies can only be rendered to minors only on the consent of the parent or legal guardian of the minor.

Mr. Speaker, the philosophical question at the bottom of this whole issue is a confrontation between the philosophy of permissiveness, on the one hand, and the philosophy of parental consent, on the other. Earlier today, this House considered the subject of abortion and the degree to which the Federal Government can dictate to the States, and we decided that the Federal Government should not so dictate. Now, we are facing an extension of the same question; to what extent should the Government have control over the lives of the people it governs. Or, to put it another way, if we believe in limited Government as the vote on the Bauman amendment would seem to indicate, is it not logical to require that Government provision of family planning services and supplies for minors who are sexually active be tempered by the requirement that the parents or guardians, who are legally responsible for said minors, must give their written consent? If such consent is not required, then we are saying that the power of Government takes precedence over the rights of parents and, by extension, the family.

□ 1520

Any Member in this Chamber who has strong feelings about the stability of the family as the basis of our society, I believe is going to be compelled to vote for this motion to recommit, because it is appropriate for us in this forum to say to any government in this country that we believe that the basis of our society is the family unit and that, when it comes to the subject of reproduction, such a question involves moral choices which should be the sole prerogative of the parents of minors in that unit.

Moral choices are subjects that parents should be talking about with their children, not the State.

Mr. Speaker, the issue is a simple one, as I have stated. We can give respect for the family unit by indicating that, these sensitive areas of family planning and services are, and should be, the sole prerogative of parents.

Mr. Speaker, I ask for an "aye" vote on the motion to recommit.

Mr. WAXMAN. Mr. Speaker, I rise in opposition to this motion to recommit.

The gentleman suggested that we ought to give the committee opportunity to consider this issue. The proponent of this motion is a member of the subcommittee and the full committee. The gentleman did not propose it in either place. It was proposed when we were in the Committee of the Whole. It was defeated. We ought not now to adopt this motion to recommit, when it has already been disposed of.

The question of parental consent is a very complex question from State to State. What is the age of majority? Different States adopt different laws. It is their prerogative to adopt those laws. If we now adopt this motion to recommit, we are saying that children who are on medicaid are going to have a certain standard of age of majority and we are going to require them to get parental consent when they are minors, where other children in the same State who under State law could go get family planning services and not have their parents consent under State law.

Let us let the State handle it. It belongs at the State level. That is where we ought to leave it. That is why we defeated this motion to add this to this bill when it was in the Committee of the Whole and we ought to defeat this again and adopt the bill.

I urge a "no" vote.

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. WAXMAN. I yield to the distinguished Republican member of the subcommittee.

Mr. CARTER. Mr. Speaker, I thank the distinguished chairman for yielding.

Mr. Speaker, I oppose this motion to recommit this bill and urge that this motion be defeated. We have gone over these arguments already, and this amendment was defeated last week. I would urge its defeat again.

Actually, of the youngsters in our country who are 15 years old and younger, about one-fifth of them are sexually active. To prevent them from getting needed contraceptives beggars the imagination. Defeat of this amendment would save these children from unwanted pregnancies. It would save the country from unnecessary abortions which might occur as well.

At this time I would like to commend several members of our subcommittee who have worked so long and so hard to develop the CHAP bill and to make it what it is today. First, I would like to commend my distinguished chairman, the Honorable HENRY A. WAXMAN, who has strongly supported this legislation and under whose excellent leadership this bill has been successfully guided through the legislative process. In addition, I would like to commend my distinguished colleague, Mr. ANDREW MAGUIRE, who has been a vital and active proponent of this legislation and who has been working on this legislation with me for 3 years. I also want to commend my good friends RICHARDSON PREYER and MICKEY LELAND as well who know how important this legislation is and who have spoken so strongly and articulately in support of its enactment. And I would like to give special recognition to the distinguished chairman of the Committee on Interstate and Foreign Commerce, Mr. HARLEY STAGGERS, who has long been a proponent of the CHAP bill and who has always supported efforts to improve the health of our people.

Mr. Speaker, it has been my pleasure and my good fortune to work with my distinguished colleagues on this legislation including GEORGE DANIELSON. I share their commitment to improving the health of our children. As I said before I believe this CHAP program is the best piece of health legislation for poor children and poor women ever to be considered by the House. I urge enactment of this legislation and defeat of the motion to recommit this bill.

Mr. WAXMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. DANNEMEYER) there were—ayes 27, noes 93.

Mr. DANNEMEYER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Pursuant to the provisions of clause 5, rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the passage of the bill. Members will record their presence by electronic device.

The pending vote on the motion to recommit will take 15 minutes. The vote on final passage of the bill, if ordered, will take 5 minutes.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 163, nays 225, not voting 45, as follows:

[Roll No. 714]

YEAS—163

Abdnor
Andrews, N.C.
Anthony
Applegate
Archer
Ashbrook
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bevill
Bouquard
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Burgener
Byron
Campbell
Carney
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Donnelly
Dornan
Dougherty
Duncan, Tenn.
English
Erlenborn
Evans, Ga.
Evans, Ind.
Fountain
Gephardt
Goldwater
Goodling
Gramm
Grisham
Gudger
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Hefner
Heftel
Hightower
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffries
Jenkins
Jones, N.C.
Kazen
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McClory
McDade
McDonald
McEwen
McKay
Madigan
Marlenee
Martin
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Moorhead, Calif.
Mottl
Murtha
Neal
Nelson
Nichols
O'Brien
Pashayan
Paul
Petri
Preyer
Quillen
Regula
Ritter
Robinson
Rose
Roth
Rousselot
Royer
Rudd
Runnels
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Skelton
Smith, Nebr.
Solomon
Spence
St Germain
Stangeland
Stanton
Stump
Symms
Tauke
Taylor
Trible
Vander Jagt
Volkmer
Walker
Wampler
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Wilson, Bob
Wilson, Tex.
Wyatt
Wydler
Wylie
Young, Fla.
Young, Mo.
Zablocki

NAYS—225

Addabbo
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beilenson
Benjamin
Bereuter
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Butler
Carr
Carter
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Derrick
Diggs
Dingell
Dixon
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
Erdahl
Ertel
Evans, Del.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Gaydos
Giaimo
Gibbons
Gilman
Ginn
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Hall, Ohio
Hamilton
Harris
Hawkins
Heckler
Hillis
Hinson
Holland
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jacobs
Jeffords
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McCloskey
McCormack
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Natcher
Nedzi
Nowak
Oakar
Oberstar
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Peyser
Pickle
Price
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Reuss
Rhodes
Richmond
Rinaldo
Rodino
Roe
Rostenkowski
Roybal
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa
Snowe
Snyder
Solarz
Spellman
Stack
Staggers
Stark
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Walgren
Waxman
Weaver
Weiss
Whitten
Williams, Ohio
Wirth
Wolff
Wolpe
Yates
Yatron
Zeferetti

NOT VOTING—45

Akaka
Anderson, Ill.
Andrews, N. Dak.
Bedell
Bethune
Biaggi
Chappell
Conable
Dellums
Dicks
Duncan, Oreg.
Edwards, Calif.
Edwards, Okla.
Flippo
Flood
Garcia
Gingrich
Glickman
Grassley
Guyer
Hance
Hanley
Harkin
Leach, Iowa
Marriott
Mattox
Mitchell, N.Y.
Murphy, Ill.
Myers, Pa.
Nolan
Obey
Perkins
Pritchard
Roberts
Rosenthal
Russo
Shuster
Stenholm
Thomas
Treen
Watkins
Wilson, C. H.
Winn
Wright
Young, Alaska

☐ 1540

The Clerk announced the following pairs:

On this vote:

Mr. Chappell for, with Mr. Russo against.

Mr. Myers of Pennsylvania for, with Mr. Hanley against.

Mr. Stenholm for, with Mr. Wright against.

Mr. Guyer for, with Mr. Anderson of Illinois against.

Mr. Shuster for, with Mr. Thomas against.

Until further notice:

Mr. Akaka with Mr. Leach of Iowa.

Mr. Murphy of Illinois with Mr. Winn.

Mr. Obey with Mr. Mitchell of New York.

Mr. Roberts with Mr. Young of Alaska.

Mr. Biaggi with Mr. Charles H. Wilson of California.

Mr. Edwards of Oklahoma with Mr. Garcia.

Mr. Rosenthal with Mr. Pritchard.

Mr. Dellums with Mr. Conable.

Mr. Edwards of California with Mr. Bethume.

Mr. Duncan of Oregon with Mr. Andrews of North Dakota.

Mr. Bedell with Mr. Marriott.

Mr. Dicks with Mr. Flood.

Mr. Flippo with Mr. Grassley.

Mr. Glickman with Mr. Gingrich.

Mr. Harkin with Mr. Mattox.

Mr. Nolan with Mr. Perkins.

Mr. Watkins with Mr. Hance.

Messrs. LEACH of Louisiana, HEFTEL, HUCKABY, BREAUX, PREYER, McDADE, ROYER, HAGEDORN, and COLEMAN changed their votes from "nay" to "yea."

Mr. MURPHY of New York, Mr. PATTEN, and Ms. FERRARO changed their votes from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

AUTHORIZING CLERK TO MAKE TECHNICAL CORRECTIONS IN ENGROSSMENT OF H.R. 4962

Mr. WAXMAN. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill, the Clerk be authorized to make such technical corrections as may be necessary to reflect the actions of the House in amending the bill, H.R. 4962.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 5359, DEPARTMENT OF DEFENSE APPROPRIATION ACT, 1980

Mr. ADDABBO submitted the following conference report and statement on the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

CONFERENCE REPORT (H. REPT. NO. 96–696)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 16, 17, 21, 30, 36, 54, 59, 60, 61, 62, 67, 68, 69, 70, 71, 72, 73, 74, 78, 79, and 80.

That the House recede from its disagreement to the amendments of the Senate numbered 7, 20, 22, 25, 26, 28, 32, 35, 39, 40, 41, 46, 48, 49, 50, 58, 63, 64, 76, 82, 84, 87, 88, 89, and 91, and agree to the same.

Amendment numbered 1: That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,668,819,000"; and the Senate agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,857,256,000"; and the Senate agree to the same.

Amendment numbered 3: That the House recede from its disagreement to the amendment of the Senate numbered 3, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,089,457,000"; and the Senate agree to the same.

Amendment numbered 5: That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$606,400,000"; and the Senate agree to the same.

Amendment numbered 6: That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$88,100,000"; and the Senate agree to the same.

Amendment numbered 8: That the House recede from its disagreement to the amendment of the Senate numbered 8, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$867,250,000"; and the Senate agree to the same.

Amendment numbered 9: That the House recede from its disagreement to the amendment of the Senate numbered 9, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$9,915,368,000"; and the Senate agree to the same.

Amendment numbered 10: That the House recede from its disagreement to the amendment of the Senate numbered 10, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$13,272,245,000"; and the Senate agree to the same.

Amendment numbered 11: That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$802,046,000"; and the Senate agree to the same.

Amendment numbered 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$10,459,750,000"; and the Senate agree to the same.

Amendment numbered 13: That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$3,528,214,000"; and the Senate agree to the same.

Amendment numbered 14: That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$420,644,000"; and the Senate agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$396,436,000"; and the Senate agree to the same.

Amendment numbered 24: That the House recede from its disagreement to the amendment of the Senate numbered 24, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,140,800,000"; and the Senate agree to the same.

Amendment numbered 29: That the House recede from its disagreement to the amendment of the Senate numbered 29, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$1,435,410,000"; and the Senate agree to the same.

Amendment numbered 33: That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$772,600,000"; and the Senate agree to the same.

Amendment numbered 34: That the House recede from its disagreement to the amendment of the Senate numbered 34, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$34,600,000"; and the Senate agree to the same.

Amendment numbered 37: That the House recede from its disagreement to the amendment of the Senate numbered 37, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$6,571,850,000"; and the Senate agree to the same.

Amendment numbered 38: That the House recede from its disagreement to the amendment of the Senate numbered 38, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$2,590,056,000"; and the Senate agree to the same.

Amendment numbered 43: That the House recede from its disagreement to the amendment of the Senate numbered 43, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$7,965,240,000"; and the Senate agree to the same.

Amendment numbered 51: That the House recede from its disagreement to the amendment of the Senate numbered 51, and agree to the same with an amendment, as follows: In lieu of the sum proposed by said amendment insert "$280,185,000"; and the Senate agree to the same.

Amendment numbered 57: That the House recede from its disagreement to the amendment of the Senate numbered 57, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment insert "$1,037,022,000"; and the Senate agree to the same.

Amendment numbered 66: That the House recede from its disagreement to the amendment of the Senate numbered 66, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 752. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1979, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision.

And the Senate agree to the same.

Amendment numbered 75: That the House recede from its disagreement to the amendment of the Senate numbered 75, and agree to the same with an amendment, as follows: In lieu of the section number in said amendment, insert 761.

And the Senate agree to the same.

Amendment numbered 77: That the House recede from its disagreement to the amendment of the Senate numbered 77, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

SEC. 762. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service;

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

And the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change the section number from section 769 to section 767.

And the Senate agree to the same.

Amendment numbered 86: That the House recede from its disagreement to the amendment of the Senate numbered 86, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change the section number from section 770 to section 768.

And the Senate agree to the same.

Amendment numbered 90: That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment, as follows: Restore the matter stricken by said amendment, amended to change the section number from section 774 to section 769.

And the Senate agree to the same.

The committee of conference report in disagreement amendments numbered 4, 18, 19, 23, 27, 31, 42, 44, 45, 47, 52, 53, 55, 56, 65, 81, 83, and 92.

J. Addabbo,
Robert N. Giaimo,
Bill Chappell,
Bill D. Burlison,
J. P. Murtha,
Norman D. Dicks,
Jamie L. Whitten,
Jack Edwards,
J. K. Robinson,
Jack F. Kemp,
Silvio O. Conte,
Managers on the Part of the House.
John C. Stennis,
Warren Magnuson,
Bill Proxmire,
D. K. Inouye,
Ernest F. Hollings,
Tom Eagleton,
Lawton Chiles,
Walter D. Huddleston,
Birch Bayh,
Milton R. Young,
Ted Stevens,
Richard S. Schweiker (except amendment No. 77),
Henry Bellmon,
Lowell P. Weicker, Jr. (except amendment No. 77),
Jake Garn,
Managers on the Part of the Senate.

Joint Explanatory Statement of the Committee of Conference

The Managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5359), making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the Managers and recommended in the accompanying conference report:

Title I—Military Personnel

The following items addressed by the Conferees apply to more than one appropriation. Specific dollar amounts by military service will be reflected under each summary appropriation table.

Up-or-out Moratorium.—The Conferees agreed to the House reduction of $22,700,000 but also agreed to permit current guidelines to remain in effect with the following exception: Those individuals with the rank of O-3 or O-4 who have specialty skills in shortage areas may be selectively retained on active duty until eligible for retirement or until the skill area is otherwise fully staffed.

Physician Assistants.—The Conferees agreed that each military service will be free to designate the appropriate rank for physician assistants with the stipulation that such designation will not include commissioned status. The Conferees further agreed that currently commissioned physician assistants may retain their commissions, but at no rank higher than O-4. Additionally, existing contracts which guarantee commissioned status after appropriate training may be honored.

Recruiting Access to Local Schools.—The Conferees direct the Department of Defense to increase its effort to enlist the help of Guard and Reserve units in arranging access to local high schools and colleges for recruiting personnel. Guard and Reserve members are well known and respected in their communities and can make a positive contribution in getting community support for the military services' recruiting. Such cooperative efforts would prove helpful to the Guard and Reserve units as well as the active services.

Military Veterinary Services.—The Conferees agreed to a reduction of $3,895,000 and a realignment of the military veterinary structure as proposed by the House.

Management Headquarters.—The Conferees agreed upon a reduction of $24,050,000 instead of $51,000,000 as recommended by the House in order to permit functional transfers and to reduce only program growth. The Conferees expect the Department to properly identify personnel assigned to management headquarters and to ensure that the budget justification material for fiscal year 1981 clearly distinguishes between functional transfers and program growth.

Army Guard and Reserve Full-Time Manning.—Both the House and Senate recognized the need to increase the full-time manning support for Army Guard and Reserve units. The House, however, recommended that half of the $12,300,000 increase requested could be obtained by elimination of documented inefficiencies in the Army Reserve component management structure. The Conferees agreed to provide $17,200,000 as provided by the Senate, instead of $11,100,000 as provided by the House, to fully fund this program. The Conferees also agreed that significant savings should be available beginning in fiscal year 1981 from elimination of unproductive management layers in the Army Reserve component support structure. The Conferees request that no later than September 30, 1980 such a realignment be initiated and that no later than March 31, 1980 a report be made available identifying planned improvements.

Army Recruiting Organization Structure.—The Conferees agreed to provide the $5,250,000 deleted by the House. The Conferees also agreed that, in lieu of the reorganization proposal suggested by the House, the Army should proceed with implementing its own reorganization plan which the Army has indicated will exceed the economies desired by the House and can be initiated no later than October 1, 1980.

Consolidation of Undergraduate Helicopter Pilot Training (UHPT).—For a number of years the Defense proposal to consolidate Navy UHPT with Army helicopter training has been the subject of considerable Congressional deliberation. The issue has occupied many hours of Congressional hearings and debate on the floor, and has filled hundreds of pages of testimony and data in the Congressional Record. Without exception, each year the Congress has denied the consolidation request. To avoid starving the UHPT program and to accede to the Congressional mandate, positive action should be taken to include funds for necessary Navy assets in the FY 1980 supplemental, the FY 1981 budget and subsequent budget requests.

Additional Language Items.—The Conferees agreed that certain differences in report language should be resolved as follows: The Conferees accept as a part of the statement of managers the Senate report language addressing "Unit Rotation", "overseas nonsponsored dependents," "Space Available Travel," and "Flight Training Test"; and the House report language addressing "Language Training".

MILITARY PERSONNEL, ARMY

Amendment No. 1: Appropriates $9,668,819,000 instead of $9,668,294,000 as proposed by the House and $9,719,853,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Up-or-out	10, 400	0	10, 400	0
Severance pay, unfitness	4, 350	4, 000	4, 350	4, 350
Veterinarians	22, 000	19, 800	22, 000	19, 800
Army reception stations	7, 900	1, 800	5, 800	5, 800
Recruiting organization structure	99, 100	95, 600	99, 100	99, 100
Management headquarters	131, 900	130, 700	131, 900	131, 300
Authorization adjustments	0	−30, 900	0	−15, 400
Do-it-yourself (DITY) moves	149, 000	139, 000	147, 000	147, 000
Naval Reserve strength financing	0	−13, 000	0	−13, 000
Subsistence budget procedures	242, 100	234, 100	240, 600	240, 600
Household goods movement	73, 000	58, 000	67, 200	58, 000
Public Health Service (PHS) reimbursement	0	0	−853	−853
Fines and forfeitures	0	0	−800	−800
Intelligence programs	202, 800	202, 800	203, 162	202, 928
Cost-of-living allowances	74, 000	74, 000	37, 600	37, 600
Items not in conference	8, 832, 350	8, 752, 394	8, 752, 394	8, 752, 394
Total, military personnel, Army	9, 848, 900	9, 668, 294	9, 719, 853	9, 668, 819

MILITARY PERSONNEL, NAVY

Amendment No. 2: Appropriates $6,857,256,000 instead of $6,809,305,000 as proposed by the House and $6,863,834,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Man-year adjustments	0	−25, 200	−16, 400	−16, 400
Up-or-out	2, 400	0	2, 400	0
Graduate education for officers	670	0	670	0
American Forces Radio and TV Service (AFRTS) personnel	6, 600	6, 250	6, 600	6, 600
Recruiting and advertising growth	69, 300	66, 200	69, 300	69, 300
Management headquarters	141, 600	132, 600	141, 600	137, 100
Authorization adjustments	0	−29, 100	0	0
Do-it-yourself (DITY) moves	184, 400	178, 400	183, 400	183, 400
Naval Reserve destroyer manning	0	11, 500	0	11, 500
Naval Reserve strength financing	0	−9, 200	0	−9, 200
Subsistence budget procedures	212, 700	205, 700	211, 200	211, 200
Household goods movement	22, 000	14, 800	15, 900	14, 800
Public Health Service (PHS) reimbursement	0	0	−1, 749	−1, 749
Budget error	0	0	−4, 800	−4, 800
Substandard basic allowance for quarters (BAQ)	4, 600	4, 600	2, 700	2, 700
Intelligence programs	0	0	258	50
Items not in conference	6, 270, 230	6, 252, 755	6, 252, 755	6, 252, 755
Total, military personnel, Navy	6, 914, 500	6, 809, 305	6, 863, 834	6, 857, 256

MILITARY PERSONNEL, MARINE CORPS

Amendment No. 3: Appropriates $2,089,457,000 instead of $2,093,100,000 as proposed by the House and $2,074,757,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Man-year adjustments	0	−15, 800	−52, 543	−35, 043
Management headquarters	37, 000	36, 100	37, 000	37, 000
Do-it-yourself (DITY) moves	29, 700	27, 700	29, 200	29, 200
Naval Reserve strength financing	0	−2, 800		−2, 800
Subsistence budget procedures	36, 100	34, 100	35, 600	35, 600
Japanese import restrictions	1, 000	0	1, 000	1, 000
Permanent change of station (PCS)	100, 400	100, 400	107, 800	107, 800
Reenlistment bonus	16, 000	16, 000	19, 300	19, 300
Items not in conference	1, 914, 800	1, 897, 400	1, 897, 400	1, 897, 400
Total, military personnel, Marine Corps	2, 135, 000	2, 093, 100	2, 074, 757	2, 089, 457

MILITARY PERSONNEL, AIR FORCE

Amendment No. 4: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $7,863,817,000 instead of $7,873,500,000 as proposed by the House and $7,905,275,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Up-or-out	13, 500	3, 600	13, 500	3, 600
Severance pay for unfitness	150	0	150	150
Veterinarians	7, 500	5, 800	7, 500	5, 800
Graduate education for officers	300	0	300	0
AFRTS personnel	7, 600	7, 250	7, 600	7, 600
Recruiting and advertising growth	39, 900	38, 800	39, 900	38, 800
Management headquarters	324, 200	322, 700	324, 200	323, 450
Panama deployment	24, 000	22, 500	24, 000	23, 250
Authorization adjustments	14, 400	0	6, 400	0
Household goods	80, 000	63, 700	67, 500	63, 700
Do-it-yourself (DITY) moves	0	−9, 000	−1, 500	−1, 500
Excess trailer allowance	0	0	−200	−200
Maintenance, air launched missile	12, 500	7, 500	12, 500	7, 500
Naval Reserve strength financing	0	−10, 500	0	−10, 500
Reimbursements from Iran	0	16, 000	9, 000	9, 000
Interceptor detachments	500	0	500	500
Intelligence programs	4, 000	0	4, 690	4, 432
Intelligence related activities (PARCS)	500	0	500	500
Subsistence budget procedures	0	−3, 000	−1, 500	−1, 500
Japanese import restrictions	1, 000	0	1, 000	1, 000
Man-year adjustments	0	0	−12, 000	−12, 000
PHS reimbursement	0	0	−790	−790
Fines and forfeitures	0	0	−125	−125
Cost of living allowances (COLA)	52, 800	52, 800	43, 800	43, 800
Air passenger terminals	88, 000	85, 000	88, 000	87, 000
Items not in conference	7, 296, 050	7, 270, 350	7, 270, 350	7, 270, 350
Total, military personnel, Air Force	7, 966, 900	7, 873, 500	7, 905, 275	7, 863, 817

RESERVE PERSONNEL, ARMY

Amendment No. 5: Appropriates $606,400,000 instead of $591,300,000 as proposed by the House and $606,700,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Full-time manning	8, 300	5, 500	8, 300	8, 300
Overstrength units	600	0	600	300
Pay group F	32, 300	32, 300	44, 300	44, 300
Items not in conference	556, 400	553, 500	553, 500	553, 500
Total, Reserve personnel, Army	597, 600	591, 300	606, 700	606, 400

RESERVE PERSONNEL, MARINE CORPS

Amendment No. 6: Appropriates $88,100,000 instead of $88,400,000 as proposed by the House and $87,800,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Training participation	0	600	0	300
Items not in conference	87, 000	87, 800	87, 800	87, 800
Total, Reserve personnel, Marine Corps	87, 000	88, 400	87, 800	88, 100

RESERVE PERSONNEL, AIR FORCE

Amendment No. 7: Appropriates $214,400,000 as proposed by the Senate instead of $213,500,000 as proposed by the House.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
ROTC scholarships	7, 900	7, 300	7, 900	7, 900
Reserve incentives	400	400	2, 200	700
Technician conversion	2, 600	2, 600	1, 100	2, 600
Items not in conference	203, 800	203, 200	203, 200	203, 200
Total, Reserve personnel, Air Force	214, 700	213, 500	214, 400	214, 400

NATIONAL GUARD PERSONNEL, ARMY

Amendment No. 8: Appropriates $867,250,000 instead of $859,430,000 as proposed by the House and $867,700,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been addressed elsewhere. The agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Full-time manning	11, 900	5, 600	8, 900	8, 900
Overstrength units	900	0	900	450
Transfer overseas travel to O&M	4, 070	0	4, 070	4, 070
Items not in conference	857, 330	853, 830	853, 830	853, 830
Total, National Guard personnel, Army	874, 200	859, 430	867, 700	867, 250

TITLE III—OPERATION AND MAINTENANCE

The following items addressed by the conferees apply to all Operation and Maintenance appropriations of the Department of Defense.

Creation of a Defense Traffic Management Agency

The Senate agreed with the House recommendation that the Department of Defense proceed to develop a plan for consolidating the Military Sealift Command (MSC) and the Military Traffic Management Command (MTMC) and/or create a single traffic management agency. However, the Senate cautioned against precipitous action that would result in consolidating inland traffic functions and MSC/MTMC command and regional headquarters at this time. In conference, it was agreed that the Senate language did not preclude any consolidation or elimination of duplicative functions within these commands that could be accomplished immediately in the interest of economy and cost effectiveness.

Transportation industrial funds

The House receded to the Senate position with respect to the continued operation of the transportation industrial funds during FY 1980. In addition, the conferees agreed that the Defense Department should submit all justification data in support of the FY 1981 requests in two formats, one which will reflect continued operation of the MTMC and MSC industrial funds in FY 1981 and a second format converting all transportation costs including airlift activities to direct funding. An explanation of all "paperwork" changes resulting from disestablishment of the Transportation Industrial Funds should also be provided in conjunction with the FY 1981 budget submission. This explanation should cover both internal DoD transactions (e.g., Army buying airlift services from MAC) and external transportation such as that purchased from a commercial trucking firm.

Visibility of intransit cargo

The conferees agreed that funding for the Visibility of Intransit Cargo System should continue as proposed by the Senate pending consolidation and coordination of various transportation/supply management systems in the Department of Defense.

Service support contracts

The House reduced the request for contract studies and analyses/management and engineering support and consulting services by $300.0 million, of which $271.6 million was deleted from the Air Force Operation and Maintenance request. The Senate made a similar reduction of $100.0 million but allocated the reduction to the Operation and Maintenance appropriations as follows: Army, —$25.0 million; Navy —$35.0 million; Air Force, —$35.0 million; and Defense Agencies, —$5.0 million.

The conferees agreed to a total reduction of $150.0 million allocated as follows: Army, —$25.0 million; Navy, —$35.0 million; Air Force, —$85.0 million; and Defense Agencies, —$5.0 million.

In reaching agreement on this issue, the conferees reemphasize the need for the Department of Defense to attempt to negotiate all contracts of this type (those involving mostly personnel services) within the Administration's wage and price guidelines. Also, the Department should proceed with issuing of implementing instruction for OMB Bulletin 78–11, "Guidelines for the Use of Consulting Services" issued May 5, 1978. There appears to be a need to establish guidelines for the contracting of management and engineering services separate from commercial and industrial activities where very detailed federal instructions (OMB Circular A–76) are in existence. There is a need for the Department to reduce the number of level-of-effort type (cost reimbursable) contracts in which the contractors are only tasked to provide an estimated number of labor hours to meet the performance requirements of the contract; that is, contracts which do not include specifications and/or instruction with enough clarity for the contractor to complete the job without further direction or continued supervision or "shared" work arrangements with government personnel.

The conferees further agreed that the Defense Department can allocate a portion of this reduction to other appropriations contained in the bill, if necessary and justified. All such allocations will be considered by the Congress under established reprogramming procedures.

Finally, the conferees request a special report, in conjunction with the fiscal year 1981 budget, which outlines the actions the Department of Defense has taken in this area, pursuant to the direction contained in this report, and the manner in which the $150 million reduction has been allocated by appropriation.

Foreign national employee pay raises

The House deleted approximately $8,600,000 of the $43,849,000 requested to provide pay raises for indirect hire foreign nationals. The amount deleted represented an estimate of the amount by which the request provided pay raises in excess of seven percent. The House bill also contained a general provision (Section 772) limiting foreign national pay raises to seven percent, the same limitation placed on U.S. employees of the federal government. The Conferees retained the reductions made by the House to encourage the Department to attempt to negotiate these increases downward in order not to have to reduce other programs in order to make funds available to provide raises in excess of seven percent. The general provision (Section 772) was deleted from the bill. The recommendations of the conferees are in conformance with the action taken by the Congress earlier this year on H.R. 4392, the appropriations bill for the Department of State.

Factory training

The House transferred all funds budgeted for factory training which had not previously been requested in the Operation and Maintenance appropriation to these appropriations. The conferees agreed that future requests for factory training should be funded in the Operation and Maintenance appropriation and separately identified. The conferees also agreed to restore $1.0 million to the Army appropriation because the House deleted this amount from the procurement estimate but did not make the necessary addition to the Operation and Maintenance appropriation.

Panama deployment

The conferees agreed that the helicopter gunship mission should be transferred to the Army in view of the need to operate both services' helicopter assets from the same installation. There is no need for each service to operate a helicopter maintenance activity at the same location. The conferees also agreed that one-half of the reduction of 300 Air Force military and civilian personnel recommended by the House should be carried out by the end of Fiscal Year 1980.

Panama Canal medical operations

The conferees agreed to the House proposal for recovering costs associated with the transfer of medical activities in Panama from the Panama Canal Company to the Department of the Army. The Department of Defense is directed to make the necessary changes in rates charged for in-patient and out-patient services (use of the same rates as the Canal Company used plus inflation in lieu of lower DOD rates) and to make the necessary changes in reimbursement policy to preclude the need for additional appropriations.

American Forces Radio and Television Service (AFRTS)

The Conferees agreed to the House direction which recommends the consolidation of management of the AFRTS under the Director of American Forces Information Service. The House also recommended a reduction of 100 military personnel and 50 civilian foreign national employees of the AFRTS to encourage the Department of Defense to effect consolidation of management functions supporting the American Forces Radio and Television Service. The Conferees agreed to restore the military personnel positions deleted from the Navy and Air Force request. The Conferees further agreed to a reduction of 25 foreign national employees of the Army on the basis that these positions could be filled by military personnel at less cost if the AFRTS determines that the positions must be filled to meet operating requirements.

OPERATION AND MAINTENANCE, ARMY

Amendment No. 9: Appropriates $9,915,368,000 instead of $9,791,832,000 as proposed by the House and $10,006,355,000 as proposed by the Senate.

Luxembourg Storage Facilities.—The conferees agreed to continue funding for this project with the understanding that operation and maintenance funds were not to be used to amortize or otherwise directly or indirectly pay for any construction or real estate costs, including interest payments which are eligible for NATO infrastructure financing. A total of $9,800,000 is made available for this purpose. The House had deleted the entire request of $23,600,000 while the Senate recommended an appropriation of $11,900,000.

Combat Helmets and Vests.—The conferees agreed to provide $9,400,000 as recommended by the Senate to purchase approximately 30,000 each Kevlar helmets and fragmentation vests with the understanding that this procurement will be made using fully competitive procurement procedures. Such competition will obtain contract prices that both include and exclude the use of government furnished material and production equipment.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, ARMY

[In thousands of dollars]

Item	Budget	House	Senate	Conference
Payroll allotment program	3, 400	0	3, 400	3, 400
Overtime pay	80, 400	60, 985	71, 855	71, 855
Panama Canal medical operations increase	14, 700	0	9, 700	0
Army specialized skill training	20, 000	11, 600	20, 000	15, 800
Increased Europe/Conus travel for training	1, 700	0	1, 400	700
Graduate education for officers	3, 847	2, 747	3, 847	3, 847
Tuition assistance	12, 000	9, 000	12, 000	12, 000
Mail order catalogs	500	0	400	0
Nonappropriated fund support (AFRTS)	0	−1, 000	0	0
American Forces Radio and TV personnel	6, 500	6, 150	6, 500	6, 350
Recruiting organization structure	82, 680	80, 930	82, 680	82, 680
Management headquarters	293, 188	288, 188	293, 188	290, 688
Army Air defense battalion phase down	7, 800	0	5, 900	3, 000
European support and base operations	27, 740	640	25, 540	13,050
NORTHAG planning staff	2, 300	300	2, 300	1, 300
Panama, helicopter deployment	0	500	0	500
Authorization adjustments	0	−24, 500	−4, 000	−15, 000
Luxembourg storage facilities	23, 600	0	11, 900	9, 800
Creation of single traffic management agy	270, 000	247, 200	270, 000	258, 600
Property disposal activities/materiel returns	0	−10, 000	0	−10, 000
Disposal in lieu of reloading ammo	12, 172	7, 772	12, 172	9, 972
Collecting contract admin svcs on FMS contracts	0	−4, 000	−6, 000	−6, 000
Army supply activities	260, 000	248, 300	270, 000	267, 000
Single manager for ammo	(27, 400)	(37, 400)	(37, 400)	(37, 400)
Logistical administrative support	(221, 500)	(202, 800)	(221, 500)	(221, 500)
Rocky Mountain Arsenal	(11, 000)	(8, 000)	(11, 000)	(8, 000)
Army Latin American activities	722	422	722	522
Contract stds and analysis, mgt spt and consulting svs	395, 200	387, 800	370, 200	370, 200
Naval Reserve strength financing	0	−13, 300	0	0
Long-distance calls	0	−2, 500	−1, 000	−1, 800
Foreign national pay raise	34, 571	31, 860	34, 571	31, 860
Recruiting	153, 600	143, 700	152, 400	149, 400
Disability retirement and assoc sick leave	0	−33, 300	−6, 660	−19, 980
Natick Lab	9, 718	7, 118	9, 718	8, 418
Organizational effectiveness training	6, 800	6, 800	3, 600	3, 600
Computer technology training	2, 700	2, 700	0	2, 700
Combat helmets and vests	0	0	9, 400	9, 400
Military construction support	13, 971	13, 971	13, 232	13, 232
Reserve personnel admin center	6, 500	6, 500	3, 500	3, 500
Public Health Service (PHS) reimbursements	0	0	8, 669	8, 669
Intelligence programs		0	−28	−144
Factory training, procurement appropriations	1, 000	0	0	1, 000

OPERATION AND MAINTENANCE, NAVY

Amendment No. 10: Appropriates $13,272,245,000 instead of $13,134,875,000 as proposed by the House and $13,317,224,000 as proposed by the Senate.

Supervisor of Shipbuilding.—The conferees agreed to provide the full budget amount ($83.0 million) for the Supervisor of Shipbuilding as proposed by the Senate, with the understanding that the Navy will not request further personnel increases for this organization pending full implementation of an effective work measurement/manpower documentation program for the organization.

Support of Navy Carrier Based Aircraft.—The House directed the Navy to test a new concept for supporting modern aircraft deployed aboard carriers, following a Defense Resource Management study which detailed significant cost savings and readiness improvements from application of new organizational and logistical concepts. The Senate agreed with the need for a test but believes that the Navy cannot be ready to begin the test in FY 1980. The conferees accepted the Senate direction which would have the Navy formulate a test plan between now and February 1980 and actually test the concepts beginning in FY 1981.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, NAVY

[In thousands of dollars]

	Budget	House	Senate	Conference
Payroll allotment program	1, 400	0	1, 400	1, 400
GSA directed manpower computer system replacement	2, 500	0	1, 900	1, 900
Overtime pay	255, 200	179, 246	222, 142	222, 142
Navy civilian personnel offices	8, 900	4, 800	7, 000	7, 000
Navy specialized skill training	64, 700	40, 700	64, 700	64, 700
Tuition assistance	9, 200	6, 900	9, 200	9, 200
Mail order catalog	0	−500	−100	−500
Recruit and advertising program growth	68, 338	66, 638	70, 538	68, 338
Management headquarters	282, 398	262, 698	282, 398	272, 548
Trident support	191, 700	171, 900	191, 700	181, 800
Authorization adjustments	0	−6, 000	−4, 000	−4, 000
Creation of single traffic management agency	0	−9, 800	0	−4, 900
Log Air and Quicktrans	19, 472	15, 672	19, 472	15, 672
Property disposal activities/material returns	0	−10, 000	0	−10, 000
Collecting contract admin. services on FMS contract	0	−6, 000	−9, 000	−9, 000
Supervisor of shipbuilding	83, 045	80, 045	83, 045	83, 045
Contract studies and analysis, management support and consulting services	260, 600	240, 000	225, 600	225, 600
Naval Reserve strength financing	0	−17, 200	0	0
Computer aided ship design	285	0	285	0
Excess computer capacity, Great Lakes	0	−115	0	0
Long-distance calls	0	−1, 500	−500	−1, 000
Foreign National employee pay raises	11, 126	8, 478	11, 126	8, 478
Disability retirement and assoc. sick leave	0	−30, 500	−6, 100	−18, 300
Industrial mobilization support	11, 800	11, 800	0	11, 800
Hurricane Frederick damage	0	0	10, 000	10, 000
Intelligence programs	0	0	240	144
PHS reimbursements	0	0	8, 565	8, 565

OPERATION AND MAINTENANCE, MARINE CORPS

Amendment No. 11: Appropriates $802,046,000 instead of $797,881,000 as proposed by the House and $802,726,000 as proposed by the Senate.

Marine Corps Recruiting.—The conferees agreed to provide $35.7 million as provided by the House instead of $32.7 million as provided by the Senate. The conferees further agreed that the Marine Corps could reassign up to 350 additional personnel above the level in the budget request to recruiting duties in order to enable the Marine Corps to meet its fiscal year 1980 strength goal.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, MARINE CORPS

[In thousands of dollars]

	Budget	House	Senate	Conference
Payroll allotment program	400	0	400	400
Overtime pay, direct only	2, 599	0	1, 455	1, 455
Tuition assistance	0	−200	0	0
Management headquarters	18, 673	16, 673	18, 673	18, 673
Property disposal activities/materiel return	0	−3, 000	0	−3, 000
Naval Reserve strength financing	0	−900	0	0
Disability retirement and assoc sick leave	0	−1, 700	−340	−1, 020
Foreign national pay raise	6, 650	6, 650	5, 180	5, 180
Recruiting and advertising, program adjustment	0	0	−3, 000	0

OPERATION AND MAINTENANCE, AIR FORCE

Amendment No. 12: Appropriates $10,459,750,000 instead of $10,190,580,000 as proposed by the House and $10,564,409,000 as proposed by the Senate.

Air Passenger Terminals.—The conferees restored $9,000,000 of the $12,000,000 reduction made by the House and agreed with the Senate position on the air passenger terminals. The Department should proceed with the phase down of military air passenger terminals wherever reduced workload and availability of alternative commercial facilities indicate that it is cost effective. However, any diversion of military passengers to commercial facilities should give first consideration to airports that are adjacent or nearest to existing military terminals.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, AIR FORCE

[In thousands of dollars]

	Budget	House	Senate	Conference
Payroll allotment program	1, 400	0	1, 400	1, 400
Overtime pay	32, 296	23, 900	28, 006	28, 006
Medical program, capitation budgeting adjustment	4, 647	0	4, 647	0
ROTC scholarship requirement	15, 477	13, 777	15, 477	15, 477
Europe/CONUS travel for training	1, 500	0	1, 300	650
Graduate education for officers	18, 384	18, 234	18, 400	18, 234
Tuition assistance	7, 200	5, 400	7, 200	7, 200
Mail order catalogs	500	0	400	0
Recruit/advertising prog growth	32, 136	29, 036	32, 136	29, 036
Management headquarters	234, 159	228, 059	234, 159	231, 109
Air Defense, DEW and PAVE PAWS radars	82, 080	78, 999	80, 999	78, 999
KC–135 deployment to Europe	7, 500	2, 600	6, 000	6, 000
Panama deployment Air Force	18, 700	17, 200	18, 700	17, 950
Interceptor detachments	1, 300	0	1, 300	1, 300
Authorization adjustments	0	−6, 000	−4, 000	−4, 000
Readiness reporting	3, 000	0	3, 000	0
Creation of single traffic management agency	0	−7, 700	0	−3, 850
Log air and Quicktrans	56, 200	50, 200	56, 200	50, 200
Space available mail (Sam)	0	−5, 000	0	0
Property disposal/exchange sales/materiel returns	0	−10, 000	0	−10, 000
Collecting contract admin svcs on FMS	0	−10, 000	−13, 000	−13, 000
Air Force supply operations	103, 237	98, 437	100, 237	98, 437
Strategic missile maint data collect sys	0	−1, 000	0	−1, 000
Fire protection	86, 000	80, 000	86, 000	83, 000
Air Force test and training ranges	270, 000	265, 000	270, 000	270, 000
Contract studies and analyses, management support and consulting services	1, 816, 736	1, 545, 136	1, 781, 736	1, 731, 736
Naval Reserve strength financing	0	−13, 600	0	0
Long-distance calls	0	−3, 500	−1, 500	−2, 500
Intelligence programs	252, 194	248, 694	247, 319	246, 666
PARCS	7, 111	11	7, 111	7, 111
Foreign national pay raises	252, 400	249, 391	252, 400	249, 391
Disability retirement and assoc sick leave	0	−24, 000	−4, 800	−14, 400
Hurricane Frederic damage	0	0	7, 700	7, 700
Base realinements	0	0	−5, 000	0
PHS reimbursement	0	0	4, 592	4, 592
Air passenger terminal operation	39, 400	30, 400	39, 400	37, 400

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

Amendment No. 13: Appropriates $3,528,214,000 instead of $3,440,435,000 as proposed by the House and $3,550,197,000 as proposed by the Senate.

Tri-Service Medical Information System (TRIMIS).—The conferees agreed to provide a total of $29,100,000 for this program of which $6,200,000 is to be used for the enrollment/eligibility system. The conferees request that the Department of Defense perform an economic analysis of all current TRIMIS systems. Those systems which are found to be economically justified should be transferred for budgetary support to the military services and those systems which cannot be economically justified are to be terminated. All data accumulated by the economic analyses are to be retained and made available to the General Accounting Office for further audit upon the request of the Appropriations Committees. Also, the conferees believe that any further effort to develop a single integrated TRIMIS system should be done using a single prime contractor who will accept full responsibility for development of an integrated DOD medical information system. The present method of relying on a large number of contractors for management assistance, requirement documentation, and system integration appears to be unworkable.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

[In thousands of dollars]

	Budget	House	Senate	Conference
Payroll allotment program	0	−300	0	0
Overtime pay	22,200	16,283	19,598	19,598
Disability ret and assoc sick leave	0	−8,500	−1,700	−5,100
Tri-Service Med Info Sys (TRIMIS)	41,600	5,329	30,729	29,100
CHAMPUS	754,000	731,410	738,950	831,410
Tuition assistance	0	−700	0	0
Management headquarters	129,900	124,300	129,900	127,100
Authorization adjustments	0	−16,000	−3,000	−3,000
Creation of single traffic management agency	0	−4,900	0	−2,450
Property disposal activities/materiel returns	0	−2,000	0	−2,000
Defense Logistics Agency	1,045,200	1,044,200	1,045,200	1,045,200
Collecting contract admin svcs on FMS contracts	0	−45,000	−4,000	−4,000
Defense Mapping Agency	253,700	252,100	253,700	253,700
Contract stds and analys, mgt supt and consult svcs	174,300	173,900	169,300	169,300
Naval Reserve strength financing	0	−4,800	0	−4,800
Long-distance calls	0	−500	0	−250
Intelligence programs		−389	−2,580	+504
Foreign national pay raise	2,916	2,702	2,900	2,702
Subsistence storage	0	0	−1,100	−1,100
Washington headquarters service	0	0	−1,000	−1,000

OPERATION AND MAINTENANCE, ARMY RESERVE

Amendment No. 14: Appropriates $420,644,000 instead of $419,755,000 as proposed by the House and $421,374,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, ARMY RESERVE

[In thousands of dollars]

	Budget	House	Senate	Conference
Overtime pay	900	715	874	874
Overseas training	0	−1,460	0	−730

OPERATION AND MAINTENANCE, NAVY RESERVE

Amendment No. 15: Appropriates $396,436,000 instead of $434,399,000 as proposed by the House and $347,136,000 as proposed by the Senate.

Naval Reserve Destroyers.—The conferees agreed to provide $34 million to overhaul two additional Naval Reserve Force (NRF) destroyers in fiscal year 1980 and an additional $3 million to conclude the overhauls begun in fiscal year 1979. The conferees agreed to provide $12.3 million above the budget request to continue operating the NRF destroyers in fiscal year 1980. The conferees deleted the rescission of fiscal year 1979 funds related to destroyer overhauls contained in the Senate bill. The conferees also agreed that the Navy should retain 12 of the 20 NRF destroyers programmed to phase out in fiscal year 1980 while a careful review of the feasibility of the program is made.

Amendment No. 16: Deletes the Senate amendment which would have rescinded $30,000,000 of FY 1979 funds approved for overhaul of Naval Reserve Destroyers.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, NAVY RESERVE

[In thousands of dollars]

	Budget	House	Senate	Conference
Overtime pay	226	160	197	197
Ship overhaul and maintenance	26,928	101,928	26,928	63,928
Destroyer operations	8,152	18,152	8,152	18,152
Intermediate and organization maintenance	14,616	16,916	14,616	16,916

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

Amendment No. 17: Appropriates $21,923,000 as proposed by the House instead of $22,003,000 as proposed by the Senate.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

[In thousands of dollars]

	Budget	House	Senate	Conference
Administrative travel	2,072	1,928	2,008	1,928

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

Amendment No. 18: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $429,407,000 instead of $430,225,000 as proposed by the House and $431,107,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

[In thousands of dollars]

	Budget	House	Senate	Conference
Overtime pay	1,323	998	1,180	1,180
Overseas travel	800	600	800	600
Technician conversion	0	0	1,500	0
Recruiting and advertising	0	0	−1,000	−1,000

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

Amendment No. 19: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the Senate amendment with an amendment appropriating $797,150,000 instead of $801,220,000 as proposed by the House and $797,350,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

[In thousands of dollars]

	Budget	House	Senate	Conference
Transfer of overseas travel	0	4,070	0	0
Overseas travel	0	−200	0	−200

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

Amendment No. 20: Appropriates $1,089,687,000 as proposed by the Senate instead of $1,088,007,000 as proposed by the House.

Summary: Items for which the conferees have provided specific guidance have been discussed elsewhere in this report. The conference agreement on items in conference is as follows:

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

[In thousands of dollars]

	Budget	House	Senate	Conference
Overtime pay	1,044	901	981	981
Interceptor detachments phaseout	0	−1,600	0	0

CLAIMS, DEFENSE

Amendment No. 21: Appropriates $98,200,000 as proposed by the House instead of $113,200,000 as proposed by the Senate.

FOREIGN CURRENCY FLUCTUATIONS, DEFENSE

Amendment No. 22: Appropriates $470,000,000 as proposed by the Senate instead of $370,000,000 as proposed by the House.

TITLE IV—PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

Amendment No. 23: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $961,837,000 instead of $982,837,000 as proposed by the House and $1,000,437,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
C–12 aircraft			13,700	13,700
AH–1S Cobra/TOW helicopter		66,300	29,500	29,500
OV–1 aircraft modifications	44,200	40,900	44,200	44,200
RU–21 aircraft modifications	2,400	2,400	14,900	2,400
EH–60A Quick Fix II	14,500	--------	14,500	--------
Airborne avionics	2,900	--------	2,900	--------
Spares and repair parts	71,500	72,500	71,300	71,300
Component improvement	8,700	--------	8,700	--------

TRANSFERS TO RESEARCH AND DEVELOPMENT

The conferees agreed to transfer to research and development the EH–60A Quick Fix II prototype helicopter, development of the antenna coupler for the AN/ARC–114 radio and engine component improvement, as proposed by the House. In making these transfers, the conferees agree that development of modification kits and all engine component improvement efforts are to be funded in the future in the research and development appropriation.

RU-21 AIRCRAFT MODIFICATIONS

No funds are included for the product improvement of the Army GUARDRAIL V program. This authorization add-on was not funded, without prejudice, pending receipt of a budget request or reprogramming. Funding of this program to enhance the Army capability was not requested in the fiscal year 1980 President's Budget.

MISSILE PROCUREMENT, ARMY

Amendment No. 24: Appropriates $1,140,800,000 instead of $1,088,100,000 as proposed by the House and $1,173,200,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
Patriot (SAM-D)	426,000	426,000	396,000	96,000
General support rocket system	61,900		61,900	61,900
Chaparral modifications	16,100	16,100	28,100	16,100
Hawk modifications	44,100	44,100	84,900	64,500
Spares and repair parts	117,500	117,100	117,500	117,500
GSRS spares	(400)		(400)	(400)

The conference agreement includes funds for 155 Patriot (SAM-D) surface to air missiles and 1,764 General Support Rocket System rockets, as well as an additional $20,400,000 for Hawk modifications.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

Amendment No. 25: Appropriates $1,824,100,000 as proposed by the Senate instead of $1,786,600,000 as proposed by the House.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
M-548 carrier	42,100	30,000	42,100	30,000
M-60 series combat tank	216,800		55,000	52,900
XM-1 series combat tank	576,900	576,900	562,700	576,900
M-60 tank modifications	117,400	177,400	162,000	162,000

The conference agreement provides for 296 M548 carriers, 64 new M60 combat tanks, 352 XM1 combat tanks, and 687 M60 tank modifications.

PROCUREMENT OF AMMUNITION, ARMY

Amendment No. 26: Deletes the subtitle "(Including Transfer of Funds)" as proposed by the Senate.

Amendment No. 27: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $1,232,800,000 instead of $1,243,800,000 as proposed by the House and $1,234,100,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
105-mm high explosive antitank ammunition	22,400		22,400	
155-mm area denial artillery munition		26,500		26,500
Electronic time fuze	15,200	30,400	15,200	15,200
Components for prove-out	5,100	15,200	20,600	15,200
SLUFAE rocket motor facility	4,200		4,200	4,200

COMPONENTS FOR PROVE-OUT

The conference agreement provides no funding for components for prove-out for VIPER.

Amendment No. 28: Deletes House language which transferred forward to fiscal year 1980, $52,500,000 from the "Procurement of Ammunition, Army, 1979/1981" appropriation, as proposed by the Senate.

OTHER PROCUREMENT, ARMY

Amendment No. 29: Appropriates $1,435,410,000 instead of $1,379,710,000 as proposed by the House and $1,611,510,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
10-ton cargo truck	23,100		23,100	
Joint Service Tactical Communication (TRI-TAC)	81,300	67,400	81,300	74,400
Base Command (EUCOM) (European Telephone System)	17,500	8,000	17,500	13,000
Teampack AN/MSQ-103	28,000		20,000	20,000
Intelligence data handling system	3,800	2,400	3,600	3,600
Tactical fire direction system (TACFIRE)	94,800		94,800	18,200
MUST components	9,700		9,700	
Universal engineer tractor (UET)	40,400		40,400	
Forklift trucks, 10,000 lb	11,900	3,300	11,900	7,600
General reduction		−47,000	−36,400	−47,000

TEN-TON CARGO TRUCK

The conferees agreed to deny funding for the ten-ton cargo truck without prejudice. If the program can be more thoroughly defined and justified at some future time, the committees will consider a reprogramming proposal from the Army or a subsequent budget request.

JOINT SERVICE TACTICAL COMMUNICATIONS PROGRAM (TRI-TAC)

The conferees agree that no funds are to be expended on procurement of the circuit switch for the Joint Service Tactical Communications Program until the Secretary of Defense has certified that the switch has been satisfactorily tested in an operational mode by the Department of Defense.

BASE COMMUNICATIONS (EUCOM) (EUROPEAN TELEPHONE SYSTEM)

The conferees urge that American manufactured equipment be utilized, when cost effective, in the European Telephone System program.

TACTICAL FIRE DIRECTION SYSTEM (TACFIRE)

The conference agreement of $18,200,000 for TACFIRE provides only for termination of the program.

UNIVERSAL ENGINEER TRACTOR (UET)

The conference agreement to provide no funding for the universal engineer tractor (UET) is made without prejudice to consideration of this item in a future budget request if the Army can provide adequate justification.

Amendment No. 30: Transfers forward to fiscal year 1980 $47,000,000 from the "Other Procurement, Army, 1979/1981" appropriation as proposed by the House, instead of $36,400,000 as proposed by the Senate. The conference agreement transfers forward $10,600,000 in unobligated fiscal year 1979 funding for the universal engineer tractor to offset a general reduction in fiscal year 1980.

AIRCRAFT PROCUREMENT, NAVY

Amendment No. 31: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $4,441,446,000 instead of $4,601,293,000 as proposed by the House and $4,518,000,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
F-14 aircraft	464,700	639,400	569,500	569,500
F-14 advance procurement	115,700	157,200	126,500	126,500
F-18 aircraft	574,600	949,600	890,000	890,000
F-18 advance procurement	91,500	147,900	130,100	130,100
P-3C aircraft	259,600	257,400	244,500	244,500
P-3C advance procurement	58,300	46,600	50,000	50,000
C-9B aircraft			29,500	29,500
A-6 series modifications	81,300	58,374	81,300	58,374
EA-6 series modifications	28,900	28,314	28,900	28,314
A-7 series modifications	75,500	56,640	75,500	72,106
AV-8A modifications	23,700	22,628	23,700	22,628
F-4 series modifications	85,500	85,400	85,500	85,400
F-8 series modifications	1,400	1,095	1,400	1,095
H-46 series modifications	122,700	122,480	122,700	122,480
H-53 series modifications	42,700	42,600	42,700	42,600
H-1 series modifications	36,100	31,318	36,100	31,318
H-2 series modifications	13,600	13,400	13,600	13,400
H-3 series modifications	14,300	14,200	14,300	14,200
P-3 series modifications	65,900	63,888	65,900	63,888
S-3 series modifications	39,200	36,651	39,200	36,651
E-2 series modifications	22,500	20,357	22,500	20,357
C-9 series modifications	2,200	1,784	1,900	1,784
EC-130 series modifications	22,600	12,811	22,600	12,811
C-130 series modifications	19,300	11,640	19,300	11,640
Various modifications	2,200	2,100	2,200	2,100
General reduction			−55,000	
Spares and repair parts	656,600	720,513	703,200	703,200
F-14	(58,000)	(76,100)	(67,000)	(67,000)
F-18	(60,700)	(109,300)	(96,800)	(96,800)
A-7E/HARM	(2,787)		(2,787)	(2,787)
C-9B			(1,500)	(1,500)
Component improvement	73,400		73,400	

The conference agreement provides for 30 F-14 aircraft, 25 F-18 aircraft, 12 P-3C aircraft, and 2 C-9B aircraft. The conferees agreed to transfer training costs to the Operation and Maintenance appropriation and denied factory training costs. In the future funds for these efforts are not to be budgeted in the procurement appropriation. The conferees further agreed to provide $15,466,000 for A-7E/HARM modification kits, and transferred to research and development the $550,000 for development of a prototype kit of the AN/ALQ-162 Clockwise Jammer to be used in the A-7 aircraft.

COMPONENT IMPROVEMENT

In transferring component improvement program funds to research and development, the conferees agreed that future component improvements are to be funded in the research and development appropriation.

WEAPONS PROCUREMENT, NAVY

Amendment No. 32: Appropriates $1,988,214,000 as proposed by the Senate instead of $1,914,014,000 as proposed by the House.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
BGM-109 Tomahawk Missile:				
Antiship version		19,300	9,700	9,700
Antiship advance procurement	3,300	3,300	5,300	5,300
Land attack version		19,400	9,700	9,700
Land attack advance procurement		7,400	5,400	5,400
Classified projects	23,900		23,900	23,900
MK-48 torpedo	46,600	46,600	121,700	121,700
MK-48 torpedo modifications	10,800	10,800	5,300	5,300

BGM-109 TOMAHAWK MISSILE

The conference agreement funds three anti-ship and three land attack versions of the BGM-109 Tomahawk cruise missile, along with advance procurement associated with these missiles.

MK-48 TORPEDO

In agreeing to add $75,100,000 to buy 144 MK-48 torpedoes, as proposed by the Senate, the conferees agreed that this represents a buyout of this torpedo unless unforeseen operational requirements and/or an evaluation of the inventory objective for this torpedo dictate otherwise.

SHIPBUILDING AND CONVERSION, NAVY

Amendment No. 33: Appropriate $772,600,000 for the SSN-688 nuclear attack submarine program instead of $440,300,000 as proposed by the House and $788,400,000 as proposed by the Senate.

The conference agreement provides $696,400,000 for two submarines as proposed by the Senate instead of $364,100,000 for one such submarine as proposed by the House. In addition, the agreement includes $76,200,000 in advance procurement funding as proposed by the House instead of $92,000,000 as proposed by the Senate.

Amendment No. 34: Appropriates $34,600,000 for the T-AGOS SURTASS ship program instead of $104,000,000 as proposed by the Senate. The House had provided no funds for this program.

The conference agreement provides funding for one T-AGOS SURTASS ship, instead of three such ships as proposed by the Senate.

Amendment No. 35: Appropriates $41,000,000 in advance procurement funding for the LSD-41 ship program as proposed by the Senate. The House had provided no funding for this new class amphibious ship program.

Amendment No. 36: Deletes the $49,500,000 proposed by the Senate for the LPH ship conversion program. The House had provided no funds for that program.

Amendment No. 37: Provides $6,571,850,000 for the Shipbuilding and Conversion, Navy, appropriation instead of $6,163,950,000 as proposed by the House and $6,706,550,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
SSN-688 class submarine	385,300	364,100	696,400	696,400
SSN-688 advance procurement	76,200	76,200	92,000	76,200
T-AGOS SURTASS ship	154,000		104,000	34,600
LSD-41 advance procurement			41,000	41,000
LPH conversion			49,500	

OTHER PROCUREMENT, NAVY

Amendment No. 38: Appropriates $2,590,056,000 instead of $2,524,309,000 as proposed by the House and $2,604,456,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
LM-2500 gas turbine engine	15,006	6,006	15,006	6,006
Allison 501K gas turbine engine	1,400	400	1,400	400
Elec. gyro. navigation system	7,400		7,400	7,400
Classic Wizard	2,600		2,600	2,600
AN/SLQ-17(A)	19,267		19,267	19,267
WSQ ( )	65,501	55,501	65,501	61,501
NAVSAT navigation receiver		2,300		1,200
MATCALS Marine air traffic system	15,780		15,780	15,780
TACAN air navigation system	9,373	5,373	9,373	9,373
Medical support equipment	15,660	14,060	15,660	14,060
General reduction		−46,500	−34,700	−34,700

TACAN

The conference agreement provides some funding for continued procurement of replacement equipment for the TACAN system. However, the conferees agree that the Navy should carefully consider the alternative of overhauling rather than replacing this equipment. Furthermore, the conferees are in agreement that the services should make every effort to avoid the procurement of new equipment which will be replaced by the NAVSTAR Global Positioning System (GPS) in the 1980's. A central justification for the NAVSTAR program is the cost avoidance possible by replacing a multitude of current position/navigation systems with a single system. Interim fielding of new equipment whose functions will be provided by NAVSTAR in the mid-1980's can result in unnecessary expenditure, duplication, and a diminished cost/benefit for NAVSTAR.

Amendment No. 39: Transfers forward to fiscal year 1980 a total of $34,700,000 in prior year unobligated balances as proposed by the Senate instead of $46,500,000 as proposed by the House.

Amendment No. 40: Transfers forward to fiscal year 1980 $5,100,000 from the "Other Procurement, Navy, 1979/1981" appropriation as proposed by the Senate instead of $16,900,000 as proposed by the House.

PROCUREMENT, MARINE CORPS

Amendment No. 41: Appropriates $283,785,000 as proposed by the Senate instead of $277,285,000 as proposed by the House.

AIRCRAFT PROCUREMENT, AIR FORCE

Amendment No. 42: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

(Including Transfer of Funds)

In addition to any other funds authorized to be appropriated under this heading, there is hereby authorized to be appropriated during fiscal year 1980 an additional amount of $75,400,000 only for the procurement of F-100 engine initial and replenishment spare parts.

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 43: Appropriates $7,965,240,000 instead of $7,981,300,000 as proposed by the House and $7,941,340,000 as proposed by the Senate.

Amendment No. 44: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate which transfers to fiscal year 1980 the sum of $13,800,000 from "Aircraft Procurement, Air Force, 1979/1981." The amount transferred is from unobligated balances in the fiscal year 1979 A-10 aircraft program.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
A-7K aircraft		92,000	123,350	123,350
A-10 aircraft	803,300	803,300	789,500	789,500
E-3A advance procurement	68,000	68,000	55,000	55,000
C-130H aircraft			77,220	77,220
EF-111 modifications	55,000	142,000	55,000	102,800
KC-135 reengining			15,000	5,000
Classified projects	60,300	41,300	60,300	41,300
Civil Reserve Air Fleet	73,600	73,600		38,600

	Budget	House	Senate	Conference
Spares and repair parts	1,017,800	1,125,400	1,028,770	1,099,670
Classified projects	(4,500)		(4,500)	
F-100 engine initial spares	(102,300)	(171,300)	(102,300)	(156,300)
F-100 engine replenishment spares	(122,900)	(159,900)	(122,900)	(144,300)
A-7K		(6,100)	(8,500)	(8,500)
C-130H			(2,470)	(2,470)
Component improvement	104,400		104,400	
Other production charges	941,500	934,400	931,500	931,500

The conference agreement includes 12 A-7K aircraft and eight C-130H aircraft only for the Air National Guard.

F-100 ENGINE SPARES

The Senate provided the authorized budget request of $225,200,000 for F-100 engine spares. The House added $106,000,000 for the procurement of engine modules and replenishment spares for the F-100 engine used in the F-15 and F-16 aircraft.

The gravity of the F-100 engine situation became fully known after the fiscal year 1980 authorization bill was passed, and no additional funds above the budget request were included in the fiscal year 1980 Department of Defense Authorization Act.

The Chairman of the Senate Committee on Armed Services, following a special hearing by that Committee, requests inclusion of bill language providing additional authorization, and the conferees so recommend. This action is not a precedent since previous emergency situations have resulted in similar actions.

The conferees agreed to authorize and provide an additional $75,400,000 in fiscal year 1980 because of the concern for the poor operational readiness status of F-15 aircraft due to shortage of F-100 engine spares.

KC-135 REENGINING PROGRAM

The conferees agreed to provide $5,000,000 in procurement and $10,000,000 in research and development for the KC-135 reengining program as recommended by the Air Force. This prototype effort should have been funded in the research and development budget, therefore the conferees are not setting a precedent by this decision. Procurement funds are not to be used for normal development and testing efforts relating to this prototype aircraft.

CIVIL RESERVE AIR FLEET

The conferees agreed to provide $38,600,000 for the Civil Reserve Air Fleet (CRAF) modification program based on a lump sum payment at this time. The Air Force should restructure the payment procedures after performing financial analyses employing return on investment and discounted cash flow criteria. The conferees would have no objection to the negotiation of a contract option allowing for additional payments based on abnormal fuel price increases of eight percent or more in any given year. Such additional payments are to be made from fiscal year 1980 Aircraft Procurement, Air Force appropriations during its obligational availability period and thereafter from the "M" account, as appropriate. In the event there are insufficient funds available in this appropriation or in the "M" account at the time the additional payment may be needed, such funding requirements may be budgeted in the Operation and Maintenance, Air Force appropriation. The Air Force also should invite proposals from industry for CRAF through a competitive process whenever possible.

COMPONENT IMPROVEMENT

In transferring component improvement program funds to research and development, the conferees agreed that future component improvements are to be funded in the research and development appropriation.

MISSILE PROCUREMENT, AIR FORCE

Amendment No. 45: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $2,160,385,000 instead of $2,170,485,000 as proposed by the House and $2,175,200,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

Amendment No. 46: Provides $15,000,000 which shall be derived by transfer from "Aircraft Procurement, Air Force, 1977/1979" as proposed by the Senate. The House had proposed $19,300,000 in transfers.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
AIM-7F/M Sparrow missile	144,200	139,900	124,200	124,200
Defense meteorological satellite	27,800	19,000	21,600	21,600
Defense satellite communications system	59,615	6,800	59,615	6,800
Special programs	599,600	567,600	532,600	570,600

DEFENSE SATELLITE COMMUNICATIONS SYSTEM (DSCS)

The Conferees agreed to delete the $52,815,000 requested for DSCS II but agreed the Congress will consider a reprogramming or supplemental in the event DOD feels there will be an urgent national defense need in the DSCS II and/or III program.

OTHER PROCUREMENT, AIR FORCE

Amendment No. 47: Reported in technical disagreement. The managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $2,634,031,000 instead of $2,534,373,000 as proposed by the House and $2,633,731,000 as proposed by the Senate. The managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

[In thousands of dollars]

	Budget	House	Senate	Conference
BSU-49 inflatable retarder	3,600		3,600	3,600
Intelligence data handling system	6,418	2,818	3,018	3,018
Transportable ground intercept facility	35,900		35,900	35,900
Air base defense system	29,594	18,494	29,594	29,594
Combat supply system	5,100		5,100	
Spares and repair parts	73,545	72,645	73,545	73,545
Class IV mods (TACAN)	9,878	8,278	9,878	9,878
Base procured equipment	29,895	21,895	29,895	25,895
Selected activities	1,316,683	1,290,625	1,309,583	1,318,983
General reduction (GBU-15)		−14,000		

GBU-15 GLIDE BOMB

The House version of the bill transferred forward to fiscal year 1980, $14,000,000 in unobligated fiscal year 1978 funding for the GBU-15 glide bomb. The transfer offset a general reduction in fiscal year 1980. The conference agreement deletes this transfer, as proposed by the Senate. The conferees are in agreement that prior to the use of these or any other funds for procurement of the GBU-15, the Secretary of Defense shall again approve this system for production.

Amendment No. 48: Transfers forward to fiscal year 1980 a total of $13,600,000 as proposed by the Senate instead of $38,700,000 as proposed by the House.

Amendment No. 49: Deletes transfer forward to fiscal year 1980 of $14,000,000 from "Other Procurement, Air Force, 1978/1980," as proposed by the Senate.

Amendment No. 50: Transfers forward to fiscal year 1980 $10,600,000 from "Other Procurement, Air Force, 1979/1981," as proposed by the Senate instead of $21,700,000 as proposed by the House.

PROCUREMENT, DEFENSE AGENCIES

Amendment No. 51: Appropriates $280,185,000 instead of $275,685,000 as proposed by the House and $286,185,000 as proposed by the Senate. The conference agreement is explained in the classified annex to this statement.

EXTENDING AVAILABILITY OF FUNDS

The conferees agree with language in the Senate report which stated that transfers set forth in Defense Appropriation Acts which extend availability of funds should be effected by responsible Defense fiscal officials and not by officials of other departments or agencies. The conferees emphasize that they expect such transfers to be promptly made as provided in the Appropriation Acts, except in the most unusual circumstances where anticipated program recoupments cannot be realized. The Department of Defense must make every effort to assure that funds specified for transfer are preserved so that the transfers can be made. Additionally, the conferees direct that the Committees be notified of those instances involving transfers to the fiscal year 1979 Procurement of Ammunition, Army and Other Procurement, Army accounts where the transfers may not be achievable, including a full explanation.

TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

Amendment No. 52: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $2,853,331,000 instead of $2,817,674,000 as proposed by the House and $2,785,309,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

PROCUREMENT PROGRAM

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVALUATION, ARMY				
Defense research sciences	118,680	110,335	114,000	114,000
Communications electronics	13,291	8,000	10,500	10,500
Human performance effect/simulation	3,733	3,383	3,733	3,383
Manpower, personnel and training	5,918	5,418	5,918	5,418
Jt svc food sys tech	7,453	3,858	7,453	5,558
Army support DARPA-HOWLS	1,500		1,500	1,500
Mil infect disease technology	12,212	9,712	12,212	11,000
Mil psychiatry and microwave injury	5,056	4,056	5,056	4,500
Recovery from injury	4,957	4,957	4,500	4,500
Test meas diagnostic equip tech	700	700		
Military energy technology	2,635		1,000	
Terminal homing systems	9,500		9,500	3,000
Adv tech demo of test/measure/diagnostic eq	700	700		
Human factors in tng/oper effect	2,309	1,909	2,309	1,909
Education and training	8,370	7,105	8,370	7,105
Adv dev of automatic test eq/sys	2,800	2,800	1,400	1,400
BMD advanced technology	113,668	120,855	83,355	120,855
Ballistic msl def sys tech	114,784	120,840	83,340	120,840
Surf-to-surf msl rocket sys	72,250	69,250	70,250	70,250
Anti-tank guided msl (ATGM) improvements	12,000		12,000	2,000
Acft surv/ew self-protection	6,995	3,495	6,995	6,995
Tactical operations system (TOS)	36,482	2,482		
Command and control	18,590	15,000	9,000	9,000

PROCUREMENT PROGRAM—Continued

[In thousands of dollars]

	Budget	House	Senate	Conference
Aircraft avionics	756	3,656	756	3,656
Aircraft engine component improvement		8,700		8,700
CH–47 modernization	23,146	23,146	22,500	22,500
Pershing II	144,800	116,000	144,800	144,800
Countermine and barriers	4,593	4,593	3,393	3,393
Tank systems	31,569	63,369	49,569	49,569
Advance diesel engine technology			14,200	14,200
High mobility wpns carrier	2,500		2,500	1,300
Tac data sys interoperability	6,984	6,984	4,984	4,984
Command and control	13,591	4,891	13,591	13,591
Battlefield systems integration	3,300	3,300		
Chapparal	6,052	6,052	10,052	6,052
Classified programs	101,469	110,369	94,569	105,369
Soldier support/survivability	3,415	2,915	3,415	2,915
TRADOC studies and analyses	2,300	2,300	2,200	2,200
TRADOC operational testing	26,935	22,935	24,935	24,935
Theater nuclear force survivability	2,480	2,480		
OTEA operational testing	12,613	10,613	11,613	11,613
Technical info activities	4,890	4,090	3,915	3,915
Classified programs	19,945	19,945	19,445	19,445

JOINT SERVICE FOOD SYSTEMS TECHNOLOGY

The conferees agreed to provide $5,558,000 for the Joint Service Food Systems Technology program instead of $3,858,000 as proposed by the House and $7,453,000 as proposed by the Senate. The conferees understand that irradiated food research is being transferred to the Department of Agriculture beginning with fiscal year 1981, and that the Army will no longer budget funds for irradiated food research.

TACTICAL OPERATIONS SYSTEM

The House recommended $2,482,000 and the Senate recommended no funds for the Tactical Operations System (TOS), which failed authorization. The House receded. The conferees agreed that the Army has a significant shortcoming in automation of tactical command and control which must be overcome rapidly. A major difficulty with the former TOS program was its remaining in an "evolving" state for nearly twenty years, with no clear end system in sight. The conferees expect the Army to structure a new program to meet its needs which will lead to rapid fielding of a final, not interim, system using modern technology. The committees will entertain reprogramming requests which reflect this direction.

ADVANCED DIESEL ENGINE TECHNOLOGY

BACKUP DIESEL ENGINE FOR XM–1 TANK

The conferees agreed to provide $14,200,000, the authorized amount for Advanced Diesel Engine Technology. The conferees agreed that advanced technology work on the AVCR–1360 diesel engine is to be pursued, and denied the DOD request that this program be made the subject of permissive language. The conferees fully endorse the position stated by the Senate in Report No. 96–393, and direct the Army to proceed with the AVCR–1360 program and to complete it without further delay.

SOLDIER SUPPORT/SURVIVABILITY

The conferees agreed to provide $2,915,000 as proposed by the House instead of $3,415,000 as proposed by the Senate. The conferees agreed that the reduction of $500,000 is to apply to nutrition research at Letterman Army Institute of Research, as described in Senate Report No. 96–393.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

Amendment No. 53: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $4,537,433,000 instead of $4,478,081,000 as proposed by the House and $4,536,337,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

PROCUREMENT PROGRAM

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVALUATION, NAVY				
Defense research sciences	204,716	191,000	198,000	198,000
Biomedical technology	11,678	9,178	11,678	10,500
Materials technology	23,597	19,727	23,597	22,000
Energy and environmental protection	11,686	2,400	3,000	3,000
Avionics	10,396	12,896	11,896	11,896
Environmental applications	3,678	3,011	3,678	3,678
Adv arm sys tech	3,513		1,500	1,500
Adv air launched air-to-sur msl sys	6,956	6,956	3,915	3,915
A/A msl adv tech demos	6,883	6,883		
Ship propulsion system	25,439	33,139	25,439	33,139
Adv software/computing tech	4,107	1,000	4,107	2,500
Advanced computer technology			12,000	7,000
Medical development (adv)	7,685	6,185	7,685	7,000
Manpower effectiveness	4,459	2,959	4,459	3,700
Manufacturing tech	5,500	5,500		
Trident II missile sys	40,640	40,640	25,640	25,640
Future attack submarine	10,000	10,000	5,000	5,000
ELF communications	13,494		6,750	
ABN electronic warfare eq	11,854	8,854	11,854	11,854
Tacair IR C/M	3,599	1,799	3,599	3,599
Helicopter IR C/M	3,575	1,775	3,575	3,575
Air ASW	2,854	2,854	12,854	12,854
V/Stol acft dev	16,779		3,000	3,000
Acft survivability/vulnerability	3,753	3,055	3,753	3,753
30mm gun pod			2,000	2,000
Sub ASW standoff wpn	8,049	8,049	7,000	7,000
Air-to-ground standoff weapons	15,844	9,644	30,000	30,000
Air control	2,521	2,521	1,250	1,250
Radar surveillance equip (adv)	13,375	13,375	7,500	7,500
Surface effect ships			45,000	
Sub tactical warfare sys (adv)	42,782	42,782	38,612	38,612
Ship development (adv)	14,219	14,219	27,419	27,419
Hydrofoil craft	442		442	442
Adv design sub nuclear prop	7,854	7,854	5,000	5,000
Combat system integration	12,054	8,692	8,054	8,054
MC grd combat/spt arms sys	1,554	6,115	6,554	6,554
Navy energy program (adv)	17,180	6,100	8,000	8,000
Avionics development/vast	5,881	4,881	4,072	4,072
AV–8B plus			5,000	5,000
P–3 modernization prog	30,626	31,684	30,626	31,684
Tac airborne adaptive ecm sys	1,845	2,395	1,845	2,395
Penguin combat dev	9,284	9,284	8,500	8,500
Air/air msl sys engr	44,711	35,711	32,000	32,000
Close-in wpn sys (Phalanx)	2,114	2,114	1,500	1,500
Point defense improvement	2,121	2,121		
5 in rolling air frame msle	19,051	18,551	19,051	19,051
Computer sys eng dev	1,126	5,000		
Radar surveillance equipment (eng)	14,993	14,993	7,993	14,993
Ship development (eng)	63,953	54,953	59,953	59,953
FCS electro optics	10,875		10,875	10,875
Jt Army/Navy semi-active laser guide proj	22,072		22,072	11,036
Gun system improvement prog	15,170	10,170	15,170	12,670
Major caliber ltwt gun			1,000	
Navy energy program (eng)	9,015	4,000	5,000	5,000
MC comd/cntrl/comm sys	26,037	25,470	26,037	26,037
A–6 squadrons	3,446	1,205	3,446	3,446
Aircraft engine component improvement		60,000		60,000
High speed collision avoidance and navigation system	1,429	2,429	1,429	1,429
Harpoon improvements	7,970	7,970		
Tactical information systems	17,819	17,819	14,519	14,519
Light carrier design			10,000	10,000
Ship systems engineering standards			8,000	8,000
APRAPS			3,100	
Aerial target fund	7,447	7,447	6,500	6,500
Navy Arctic Research Lab	6,117		6,117	6,117
Test and evaluation support	191,516	184,516	187,516	187,516
General reduction			−10,000	−10,000
General reduction, ELF communications		−15,000	−20,000	−15,000

ADVANCED COMPUTER TECHNOLOGY

The conferees agreed to provide $7,000,000 for the Advanced Computer Technology program, instead of no funds as proposed by the House and $12,000,000 as proposed by the Senate. The funds provided are for development of the new Navy computers, the UYK–43 and UYK–44. The conferees considered the $1,500,000 made available for the S–1 computer in the Command and Control Technology program, the full sum budgeted by the Navy, to be sufficient for continuing that research project.

AIRBORNE ELECTRONIC WARFARE EQUIPMENT

The conferees agreed to provide the budget request of $11,854,000 for Airborne Electronic Warfare Equipment as proposed by the Senate. This will permit the Navy to use some equipment developed in the cancelled Tactical Airborne Signals Exploitation System (TASES) in the EP–3 upgrade program. The conferees agreed, however, that this action is not to be interpreted as permitting the Navy to revive the cancelled TASES program.

30MM ANTI-ARMOR AIRCRAFT GUN POD

The conferees concur in the Senate position in providing $2,000,000 for development of the 30mm anti-armor aircraft gun pod. The conferees are also aware of the ongoing development of the 25mm aircraft gun system, and are concerned over the possible proliferation of such systems. For this reason, the conferees direct the Marine Corps to examine the desirability and feasibility of standardizing on one gun system.

P–3 MODERNIZATION PROGRAM ADVANCED SIGNAL PROCESSOR

The Navy requested procurement funds for the AN/UYS–1 advanced signal processor used on the P–3 aircraft which should have been requested in the Research, Development, Test and Evaluation account. The House recommended a reduction of $1,058,000 in Other Procurement, Navy and a corresponding add-on above the budget to the P–3 Modernization Program in the RDT&E account. The conferees agreed to a Navy request that the add-on be made instead to the Advanced Signal Processor program in the RDT&E account.

LIGHT CARRIER DESIGN

The conferees agreed to provide $10,000,000 for Light Carrier Design, with the stipulation that the $10,000,000 provided may not be used for any other purpose than Light Carrier Design.

SHIP SYSTEMS ENGINEERING STANDARDS (SSES) PROGRAM

The conferees agreed to provide $8,000,000 for the Ship Systems Engineering Standards (SSES) program. SSES is one of two elements of the former SEAMOD program, and is planned to develop and validate the surface ship support system interface standards and design criteria in parallel with the Combat Systems Architecture program. The conferees anticipate that this effort will be directly applicable to the DDX modular payload ship, as well as other future ships.

Amendment No. 54: Transfers to fiscal year 1980 from Research, Development, Test and Evaluation, Navy, 1979/1980 $15,886,000 as proposed by the House instead of $20,886,000 as proposed by the Senate.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

Amendment No. 55: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment appropriating $4,941,943,000 instead of $4,913,012,000 as proposed by the House and $4,892,043,000 as proposed by the Senate. The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The conference agreement on items in conference is as follows:

PROCUREMENT PROGRAM

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVALUATION, AIR FORCE				
Defense research sciences	113,184	107,000	110,000	110,000
Very high speed integrated circuits			30,430	30,430
TNG and simulation technology	11,400	11,400	10,500	10,500
Adv avionics for acft	12,000	8,300	12,000	8,300
Advanced simulator development			2,000	2,000
Advanced computer technology	2,700	2,700	4,200	4,200
Penetrating manned bomber	5,000	5,000		
Advanced ICBM technology	5,700		5,700	
WWMCCS architecture	9,000	7,000	9,000	8,000
KC–135 squadrons	11,000	10,500	5,000	15,000
Minuteman squadrons	30,300	30,300	40,300	35,300
SAC communications	18,000	16,000	18,000	17,000
Ballistic msl early wng system	9,000	9,000		
Defense support program	44,400	31,000	44,400	31,000
Advance warning systems			17,000	5,000
AN/ALQ–161 defense avionics system		15,000		
Classified programs	111,000	111,000	126,000	126,000
Combat acft technology	8,000	8,000	2,000	2,000
Night attack aircraft	12,800	12,800	25,300	25,300
Theatre ballistic missile	4,000	4,000	2,000	2,000
Adv attack weapons	35,800	42,000	34,800	34,800
Close air support weapons system	54,000	54,000	60,000	60,000
Tactical protective systems	18,400	16,850	18,400	18,400
Precision location strike system	24,900	24,900	15,000	15,000
F–4 squadrons	500	500	2,000	2,000
Aircraft engine component improvement		80,000		80,000
Enforcer aircraft		6,000		6,000
Adv comm sys	12,000	9,000	12,000	12,000
Special activities	353,139	337,339	349,839	346,839
Development planning	2,100	2,100	1,100	1,100
Adv aerial targets dev	17,500	16,500	17,500	16,500
Mgt HQ (Research and dev)	19,751	17,800	17,751	17,751
Public affairs	300		300	
General reduction			−17,500	−17,500

ADVANCED COMPUTER TECHNOLOGY

The Conferees agreed to provide $4,200,000 for Advanced Computer Technology, an increase of $1,500,000 over the budget request. The increased funds are to be used by the Air Force specifically for research in methods for reducing the high cost of maintaining computer software.

BALLISTIC MISSILE EARLY WARNING SYSTEM

The conferees agreed to the deletion of $9,000,000 requested for Ballistic Missile Early Warning System (BMEWS) improvements. This action delays BMEWS improvements pending review of alternatives (such as phased array radars). The Defense Department should expeditiously evaluate and develop an overall Ballistic Missile Early Warning System plan considering various options including the life cycle cost of each.

The conferees appreciate the age and problems of the computer at Thule, Greenland and, with the prior approval of the Congress, the Defense Department may acquire equipment or spare parts required to keep the current BMEWS operational until decisions on a replacement can be made. This item should in no way influence the decision on BMEWS.

NIGHT ATTACK AIRCRAFT

The House recommended $12,800,000 and the Senate recommended $25,300,000 for Night Attack Aircraft. The House receded. The addition of $12,500,000 is in consonance with authorization action taken for the purpose of a competition for the selection of a laser designator-equipped pod for the F–16 and other aircraft. The Department of Defense has stated its intention of competing ATLIS II, a French-built system already in development, and LANTIRN, a recently proposed concept not yet in development. The conferees agreed that competition is required in order to ensure the best capability at the lowest cost. In addition to the two systems named, the conferees agreed that other candidate systems either in being or in development are also to be included in the competition.

Amendment No. 56: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

None of the funds appropriated under this paragraph to continue development of the MX Missile may be used in a fashion which would commit the United States to only one basing mode for the MX missile system.

In addition to any other funds authorized to be appropriated under this heading, there is hereby authorized to be appropriated during fiscal year 1980 an additional amount of $5,000,000 only for research and development on the Perimeter Acquisition Radar Attack Characterization System (PARCS).

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

PERIMETER ACQUISITION RADAR ATTACK CHARACTERIZATION SYSTEM

The Senate provided $5.0 million of additional research and development funds for the Perimeter Acquisition Radar Attack Characterization System (PARCS). Improvements to this warning capability are underway. The $5.0 million will provide funding to complete this effort during fiscal year 1980. No funds were included in the fiscal year 1980 Department of Defense Authorization Act. The Chairman of the Senate Committee on Armed Services requests additional authorization in the amount of $5.0 million, and the conferees so recommend. This action is not a precedent since previous emergency situations have resulted in similar actions. The conferees agreed to authorize and provide an additional $5.0 million in fiscal year 1980 because of the need to complete the current improvement program of this asset to our warning capability.

ADVANCED WARNING SYSTEMS

The conferees agreed to delete, without prejudice, the remaining $12,000,000 in this line item for Advanced Warning Systems pending completion of the Defense Systems Acquisition Review Council decisions.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION, DEFENSE AGENCIES

Amendment No. 57: Appropriates $1,037,022,000 instead of $1,030,056,000 as proposed by the House and $1,048,322,000 as proposed by the Senate.

The conference agreement on items in conference is as follows:

PROCUREMENT PROGRAM

[In thousands of dollars]

	Budget	House	Senate	Conference
RESEARCH DEVELOPMENT TEST AND EVALUATION, DEFENSE AGENCIES				
Defense research sciences	89,200	75,000	89,200	80,000
In-house lab independent research	1,600		1,600	1,000
WWMCCS ADP–JTSA	4,694		2,614	2,614
Advanced computer networking		4,000		
WWMCCS system engineer	34,166	13,166	23,200	18,000
Laser communications experiments			5,000	5,000
Classified programs	328,015	318,515	313,315	317,015
General reduction, general support for OSO			−5,982	−5,982

RING LASER GYROS

The conferees agreed that the language of House Report No. 96–450 concerning Ring Laser Gyros is not to be construed as Congressional direction for production. The requests of the House that the Secretary of Defense study and evaluate feasibility of Ring Laser Gyro technology stand as written. Results of these studies should be transmitted to the Congress as soon as they are available.

AN/UYK–7 AND AN/UYK–20 COMPUTERS

The conferees continue to consider the expedited development of the Navy Embedded Computer (NEC) to be imperative, and agree with the Navy that NEC has priority over substantial or costly improvements to the older AN/UYK–7 and AN/UYK–20 computers in an effort to modernize them. After competitive contracts for NEC engineering developments have been awarded, if urgent operational requirements exist which can be satisfied only by a performance upgrade to the existing AN/UYK–7 or AN/UYK–20, the Navy may make or buy such upgrades. During the interim, the conferees have no objection to conducting the necessary planning and long leadtime efforts to improve the reliability and maintainability of AN/UYK–7 and AN/UYK–20 computers if urgent operational requirements so dictate when fully substantiated by cost considerations.

GUIDELINES FOR IMPLEMENTING CONGRESSIONALLY DIRECTED PROGRAM CANCELLATIONS

It is the view of the conferees that additional emphasis is required on implementing program cancellations directed by the Congress. Therefore, the following guidelines will be observed in the event of Congressional program cancellations:

Guideline No. 1: Programs which have been cancelled by either the House or Senate should be continued at the minimum feasible level pending final congressional action. Contract extensions, modifications, or changes which increase the scope of work or pace of the program should not be executed. A contract termination plan should be developed for implementation pending congressional action.

Guideline No. 2: Consistent with the termination plan, stop-work orders shall be issued immediately following final congressional action cancelling programs. It is recognized that certain contract phase-out activity will continue beyond the issuance of the stop-work orders. It is also recognized that, with prior approval of the Congressional Committees, certain elements of a program may not be terminated.

Guideline No. 3: Prior year funds for cancelled programs shall be recouped to the maximum extent possible. Prior year funds should not be used to continue programs cancelled by the Congress, but should be recouped for reprogramming or for return to the Treasury.

Guideline No. 4: The Congress shall be notified in writing of any major change in scope anticipated during close-out of a cancelled program. This restriction applies to both current and prior year funds. Such changes which increase the Government's liability should not be implemented without prior approval in writing from the appropriate Congressional Committees.

Guideline No. 5: Requests for proposal (RFP) shall not be issued for programs cancelled by the Congress. If RFP's have been issued prior to cancellation, they should be withdrawn immediately.

Guideline No. 6: The Congress shall be notified in writing in advance if the DOD plans to reactivate programs with the same or similar objectives to programs cancelled by the Congress. Such programs shall not be reactivated until explicitly approved by the appropriate Congressional Committees in writing.

Guideline No. 7: In accordance with the general provisions of the appropriations act, reprogrammings shall not be prepared in the same fiscal year as the program was cancelled. Such reprogrammings are contrary to law, and are improper.

Cancelled programs are programs expressly cancelled by the Congress in either authorization or appropriations actions. Cancelled programs should not be construed to include programs for which funds are denied for a particular year because they are not needed in that year due to availability of prior year funds, lower production rates, or other factors resulting in lower rates of expenditures in a particular fiscal year or programs for which further justification has been demanded prior to funding.

TITLE VII—GENERAL PROVISIONS

Amendment No. 58: The conferees agree to delete language proposed by the House placing certain limitations on civilian tuition assistance.

Amendment Nos. 59 to 62: Restore House language providing that transfer authority shall apply to working capital funds or funds made available in the Act and that transfers may be made during the availability of the appropriation rather than during the current fiscal year. The Senate amendments proposed less restrictive authority which was identical to the provision as it existed prior to fiscal year 1979.

Amendment No. 63: The House receded to the Senate amendment which will exclude covered services of optometrists from the requirement to have a medical doctor (physician) refer the patient. The Conferees agreed that the change in reimbursement authority for optometrists does not expand the medical services that may be provided through CHAMPUS, but allows for alternative direct treatment of vision problems by optometrists as well as by physicians.

Amendment No. 64: The House receded to the Senate amendment which deleted the word "or". This is a technical change made necessary by the insertion of amendment No. 65.

Amendment No. 65: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter inserted by said amendment, insert: or, for the purpose of conducting a test during fiscal year 1980, by a certified psychiatric nurse or other certified nurse practitioner,

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Conferees agreed that the reimbursement authority be extended to cover optometrists (see Amendment No. 63), but modified the Senate language pertaining to psychiatric nurses and other nurse practitioners to allow reimbursement, on a test basis only, during fiscal year 1980. This amendment will permit the Department of Defense to conduct a study to determine whether it is cost effective to allow direct, independent reimbursement to psychiatric nurses and other nurse practitioners as the Senate proposed. In order to assure that a meaningful study can be accomplished, the provision allows the Department of Defense to make direct, independent reimbursement to nurse practitioners in specified locales on a limited test basis. Since the Department has been permitted to make direct reimbursement to nurse-midwives since fiscal year 1979, data pertaining to these nurse practitioners should also be used in the cost effectiveness study. Interim results of the study should be provided to the Committees on Appropriations by August 1, 1980, with a final report provided by June 1, 1981.

Amendment No. 66: The House reduced the number of years that an ROTC unit could be below the minimum enrollment level of 17 students in the junior class from four years, as stipulated in the fiscal year 1979 Defense Appropriation Act, to three preceding academic years. The Senate deleted this section because the provision relies solely on enrollment as a guide to closing ROTC detachments without considering other factors. The amendment adopted by the conferees repeats the language in the Defense Appropriation Act for fiscal year 1979, providing that appropriated funds may not be used to support ROTC units which have not attained the minimum enrollment standard for the four preceding academic years.

Amendment Nos. 67 to 74: The Senate receded from these amendments which restore House section numbers.

Amendment No. 75: The conferees agreed to include language proposed by the Senate prohibiting implementation of the Competitive Rate Program for the transportation of household goods to or from Alaska or Hawaii. A similar provision has been contained in the previous Department of Defense Appropriation Act.

Amendment No. 76: The conferees agreed to delete language proposed by the House placing a limit of 375,000 on the number of military dependents overseas.

Amendment No. 77: The Conferees agreed to include a provision limiting funding for abortions as contained in the current Joint Resolution Making Further Continuing Appropriations for fiscal year 1980. This provision permits federal funding of abortions for victims of rape or incest when reported promptly to a law enforcement agency or public health service.

The use of funds in this bill for federally funded abortions is governed by language identical to that previously adopted by the Congress on November 16, 1979, for the Departments of Defense, and Labor and Health, Education, and Welfare in the Continuing Resolution, H.J. Res. 440, (Public Law 96–123).

SEC. 762. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest when such rape or incest has been reported promptly to a law enforcement agency or public health service;

Nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy.

Amendment No. 78: The Senate receded from this amendment which restores the House section number.

Amendment No. 79: The Senate receded from its amendment which strikes section 764 from the bill. Section 764 requires the Administrator of the General Services Administration to recover a portion of the costs of care and handling of surplus property for donation to the states. Section 203(j) of the Federal Property and Administrative Services Act authorizes the recovery of such costs. The amount and application of the surcharge is left to the discretion of the Administrator, General Services Administration.

Amendment No. 80: The Senate receded from this amendment which restores the House section number.

Amendment No. 81: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate providing authority for funds appropriated by this Act to be available for support under sections 4 and 8 of the Central Intelligence Agency Act of 1949 to certain Department of Defense cryptologic personnel stationed overseas.

Amendment No. 82: The House receded and agreed to strike this provision which prohibited the purchase of fresh fruits and vegetables in Japan when these items could be purchased at less cost in the United States.

Amendment No. 83: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment, as follows:

Restore the matter stricken by said amendment, amended to read as follows:

SEC. 766. None of the funds appropriated by this Act or any other Act appropriating funds for fiscal year 1980 or for subsequent fiscal years shall be available to pay the basic compensation of an individual employed on September 30, 1979, as a teacher or in a teaching position with the Canal Zone Government who is transferred to such a position in the Department of Defense in an amount in excess of the greater of:

(a) the amount of basic compensation an individual with comparable experience and level of education is entitled to receive pursuant to section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)); or

(b) for fiscal year 1980—the amount to which such individual was or would have been entitled to receive based on the established rates of basic compensation in effect on September 30, 1979, for such employees of the Canal Zone Government, plus seven percent of that amount: *Provided*, That this limitation shall not preclude a proportionate adjustment in the basic compensation of such an individual to reflect an increase in the number of working days in the school year as a result of the transfer; or

(c) for fiscal year 1981 and subsequent fiscal years—the amount payable based on the rates of basic compensation in effect (including the limitations contained in this section) on September 30th of the fiscal year preceding the fiscal year for which payment is to be made, plus an amount equal to one-half of the increase in basic compensation for the school year in progress on October 1st in the fiscal year for which payment is to be made compared to the basic compensation for the previous school year, that an individual with comparable experience and level of education is entitled to receive pursuant to section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)).

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate.

The Senate deleted section 767 (now section 766) of the House bill in order to fully discuss all aspects of this House provision which limited pay raises for teachers previously employed by the Panama Canal and transferred to the Department of Defense overseas school system on October 1, 1979. The average pay of teachers employed in Panama is about $6,000 more per year than the rest of the DOD system despite considerably lower cost of living than in Western Europe and Japan where the majority of DOD teachers are employed.

The Department of Defense reached an agreement (referred to as the Blumenfeld-Shanker agreement of May 2, 1979) with the American Federation of Teachers that provided that Canal Company teachers would transfer to the DOD at the wage scale in effect on the effective date of the Panama Canal Treaty. The agreement further provided that these transferees in ensuing years would receive one-half of the DOD teachers' annual raise until the transferees' pay rate was comparable to the DOD teachers' pay rate. Transferees reaching the top step of their grade (and therefore no longer eligible for step increases) would receive the full annual DOD increase until their retirement.

The Panama Canal Treaty Implementing Legislation (P.L. 96-70, Section 1231(c)(1)) could have the effect of rendering the above agreement moot. Therefore the conferees agreed to include a provision similar to the House passed section 767 in order to clarify this situation, move in the direction of pay comparability for DOD teachers, and to preclude Canal Zone teachers from receiving two pay raises in a single year.

The new provision provides all transferred teachers a full pay raise (seven percent) in FY 1980, but precludes their receiving two pay raises in FY 1980 as would have occurred without this provision. These teachers would have received a pay raise based on the District of Columbia school rates effective October 1, 1979 and another raise in January or February under the DOD system also retroactive to October 1, 1979.

Also, by including this section in the bill the conferees reaffirm the intent of the House report that the DOD school teachers in Panama, who were employed in the schools in the Panama Canal Zone prior to October 1, 1979, should after fiscal year 1980 receive one-half the pay raise approved for DOD school teachers until such time as the average rate of pay for Canal Zone teachers transferred to the DOD system is comparable to that of their counterparts in the Overseas Dependents Schools system.

The conferees also agreed that in view of the significant wage differential between these teachers and other teachers in the DOD system it was not equitable or reasonable to provide full pay raises for teachers at the top step of their grade, as the DOD negotiated agreement had stipulated, until pay rates are comparable.

Amendment No. 84: The House receded and agreed to the deletion of the provision which would have restricted the use of Space Available Air Mail as defined in section 3201 of title 39 U.S.C. to fifteen pounds weight and sixty inches in length and girth combined, except where adequate surface transportation is not available. The conferees expect the Department of Defense to propose legislation which will curb some of the abuses cited in the House report.

Amendment No. 85: The Senate receded and agreed to restore the House language which permits supplies purchased through working capital funds (stock funds) to be sold to contractors for use in performing contracts with the Department of Defense.

Amendment No. 86: The Senate receded from its amendment which deleted section 770 of the House passed bill and agreed to its inclusion as section 768. This section prohibits the payment of two disability retired pays (military and civil service) to the same individual when the basis for the payments is the same disability.

Amendment No. 87: The conferees agreed to delete language proposed by the House prohibiting the use of appropriated funds for severance payments for officers separated due to unfitness.

Amendment No. 88: The House receded to the Senate amendment which deleted section 772 of the House passed bill. This section would have limited pay raises to foreign national employees to seven percent during fiscal year 1980. While the conferees agreed to delete the section, the funds provided in the bill specifically for foreign national pay raises are only adequate to provide a seven percent or less increase. This was done to encourage the Department of Defense to negotiate constrained pay raises with the host governments and to encourage the host governments to absorb a portion of the pay raise, if possible.

Amendment No. 89: The conferees agreed to delete House language transferring C-130's to the Navy.

Amendment No. 90: The Senate receded from its amendment which deleted section 774 of the House passed bill and agreed to its inclusion as section 769. This section prohibits use of funds for elective surgery for minor dermatological blemishes and marks.

Amendment No. 91: The conferees agreed to delete the House language which stated there shall be no reduction in United States military capability in Guantanamo Bay, Cuba, below that in effect on September 30, 1979.

Amendment No. 92: Reported in technical disagreement. The Managers on the part of the House will offer a motion to recede and concur in the amendment of the Senate with an amendment as follows:

In lieu of the matter proposed by said amendment, insert:

SEC. 770. The Secretary of the Air Force shall acquire and install, with such funds as may be available to him, a civilian early warning system at each Titan II missile site to the extent found necessary or desirable by the study conducted pursuant to section 813 of the Department of Defense Authorization Act, 1980.

The Managers on the part of the Senate will move to concur in the amendment of the House to the amendment of the Senate. Recent accidents at Titan II missile sites involving the release of toxic gas makes the installation of a warning system desirable.

INTELLIGENCE AND INTELLIGENCE RELATED ACTIVITIES

The conferees agreed to reductions of $58.8 million for intelligence activities instead of reductions of $105.6 million as proposed by the House and reductions of $113.3 million as proposed by the Senate.

For intelligence related activities, the conferees agreed to reductions of $239.5 million instead of reductions of $356.8 million as proposed by the House and reductions of $120.5 million as proposed by the Senate.

The reasons for the reductions and reclassifications, which are spread throughout various appropriations in order to maintain necessary security, are explained in detail in a classified annex to this report.

CONSOLIDATED TELECOMMUNICATIONS, COMMAND AND CONTROL PROGRAMS

For consolidated Telecommunications, Command and Control programs, which are funded in many different appropriations accounts, the conferees have agreed to a net reduction of $196,132,000 instead of reductions of $214,080,000 as proposed by the House and reductions of $134,000,000 as proposed by the Senate.

Among the more significant reductions made in the communications budget this year were the following:

Strategic satellite system	−$51,400,000
Defense satellite communications system II (DSCS II)	−52,815,000
Extremely low frequency (ELF) communications	−13,494,000
Consolidation of communications centers	−10,000,000
WWMCCS system engineering	−16,166,000

Despite the above mentioned reductions, it should be noted that a substantial increase in the procurement accounts was provided in telecommunications in the accompanying bill.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 1980 recommended by the Committee of Conference, with comparisons to the fiscal year 1979 amount, the 1980 budget estimates, and the House and Senate bills for fiscal year 1980 follow:

	Amount
New budget (obligational) authority, fiscal year 1979	$120,889,896,000
Transfer from other accounts, fiscal year 1979	(202,100,000)
Total funding available, 1979	121,091,996,000
Budget estimates of new (obligational) authority, fiscal year 1980	132,320,565,000
Transfer from other accounts, fiscal year 1980	(20,100,000)
Total funding available, 1980	132,340,665,000
House bill, fiscal year 1980	129,523,578,000
Proceeds from foreign sales	(106,000,000)
Transfer from other accounts	(344,486,000)
Total funding available, 1980	129,974,064,000
Senate bill, fiscal year 1980	131,660,759,000
Proceeds from foreign sales	(106,000,000)
Transfer from other accounts	(258,986,000)
Rescission of fiscal year 1979 funds	(−30,000,000)
Total funding available, 1980	132,025,745,000
Conference agreement	130,981,290,000
Proceeds from foreign sales	(106,000,000)
Transfer from other accounts	(264,586,000)
Rescission of fiscal year 1979 funds	
Total funding available, 1980	131,351,876,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 1979	+10,091,394,000
Proceeds from foreign sales	(+106,000,000)
Transfer from other accounts	(+62,486,000)
Rescission of fiscal year 1979 funds	
Total funding available	+10,259,880,000
Budget estimates of new (obligational) authority, fiscal year 1980	−1,339,275,000
Proceeds from foreign sales	(+106,000,000)
Transfer from other accounts	(+244,486,000)
Rescission of fiscal year 1979 funds	
Total funding available	−988,789,000
House bill, new (obligational) authority, fiscal year 1980	+1,457,712,000
Proceeds from foreign sales	
Transfer from other accounts	−79,900,000
Rescission of fiscal year 1979 funds	
Total funding available	+1,377,812,000
Senate bill, new (obligational) authority, fiscal year 1980	−679,469,000
Proceeds from foreign sales	
Transfer from other accounts	(+5,600,000)
Rescission of fiscal year 1979 funds	(+30,000,000)
Total funding available	−673,869,000

J. Addabbo,
Robert N. Giaimo,
Bill Chappell,
Bill D. Burlison,
J. P. Murtha,
Norman D. Dicks,
Jamie L. Whitten,
Jack Edwards,
J. K. Robinson,
Jack F. Kemp,
Silvio O. Conte,

Managers on the Part of the House

John C. Stennis,
Warren Magnuson,
Bill Proxmire,
D. K. Inouye,
Ernest F. Hollings,
Tom Eagleton,
Lawton Chiles,
Walter D. Huddleston,
Birch Bayh,
Milton R. Young,
Ted Stevens,
Richard S. Schweiker (except amendment No. 77),
Henry Bellmon,
Lowell P. Weicker, Jr. (except amendment No. 77),
Jake Garn,

Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 1143, ENDANGERED SPECIES ACT AMENDMENTS

Mr. MURPHY of New York submitted the following conference report and statement on the Senate bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes:

CONFERENCE REPORT (H. REPT. NO. 96–697)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, having met, after full, and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That section 2(a)(5) of the Endangered Species Act of 1973 (16 U.S.C. 1531(a)(5)) is amended by striking out "fish and wildlife." and inserting in lieu thereof "fish, wildlife, and plants.".

SEC. 2. Section 3(11) of the Endangered Species Act of 1973 (16 U.S.C. 1532(11)) is amended by striking out "(A)" and all that follows thereafter and inserting in lieu thereof "violate section 7(a)(2).".

SEC. 3. Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended—

(1) by amending subsection (b)(1) by striking out "him" and inserting in lieu thereof the following: "him after conducting a review of the status of the species";

(2) by amending subsection (f)(2)(B)(i) to read as follows:

"(i) not less than 60 days before the effective date of the regulation, shall publish—

"(I) a general notice and the complete text of the proposed regulation in the Federal Register, and

"(II) if the proposed regulation specifies any critical habitat, general notice of the regulation (including a summary of the text, and a map of the proposed critical habitat) in a newspaper of general circulation within or adjacent to such habitat;";

(3) by amending subsection (f)(2)(B)(iv)(II) by striking out "if requested," and inserting in lieu thereof "if requested within 15 days after the date on which the public meeting is conducted,";

(4) by amending that part of subsection (f)(2)(C) which precedes clause (i) by inserting ", subsection (b)(4) of this section," immediately after "Neither subparagraph (A) or (B) of this paragraph";

(5) by amending subsection (f)(2)(C)(ii)—

(A) by striking out "fish or wildlife," and inserting in lieu thereof "fish or wildlife or plants,".

(B) by striking out "fish and wildlife," and inserting in lieu thereof "fish, wildlife, and plants,".

(C) by striking out "120-day period" each place it appears therein and inserting in lieu thereof "240-day period", and

(D) by adding at the end thereof the following new sentence: "If at any time after issuing an emergency regulation the Secretary determines, on the basis of the best scientific and commercial data available to him, that substantial evidence does not exist to warrant such regulation, he shall withdraw it."; and

(6) by adding at the end thereof the following new subsection:

"(h) AGENCY GUIDELINES.—The Secretary shall establish, and publish in the Federal Register, agency guidelines to insure that the purposes of this section are achieved efficiently and effectively. Such guidelines shall include, but are not limited to—

"(1) procedures for recording the receipt and the disposition of petitions submitted under subsection (c)(2) of this section;

"(2) criteria for making the findings required under such subsection with respect to petitions;

"(3) a ranking system to assist in the identification of species that should receive priority review for listing; and

"(4) a system for developing and implementing, on a priority basis, recovery plans under subsection (g) of this section.

The Secretary shall provide to the public notice of, and opportunity to submit written comments on, any guidelines (including any amendment thereto) proposed to be established under this subsection.".

SEC. 4. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended—

(1) by amending subsection (a)—

(A) by striking out "(a) CONSULTATION.—" and inserting in lieu thereof "(a) FEDERAL AGENCY ACTIONS AND CONSULTATIONS.—(1)";

(B) by striking out the third sentence thereof; and

(C) by adding at the end thereof the following:

"(2) Each Federal agency shall, in consultation with and with the assistance of the Secretary, insure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an 'agency action') is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with affected States, to be critical, unless such agency has been granted an exemption of such action by the Committee pursuant to subsection (h) of this section. In fulfilling the requirements of this paragraph each agency shall use the best scientific and commercial data available.

"(3) Each Federal agency shall confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under section 4 or result in the destruction or adverse modification of critical habitat proposed to be designated for such species. This paragraph does not require a limitation on the commitment of resources as described in subsection (d).";

(2) by amending the last sentence of subsection (b) to read as follows: "The Secretary shall suggest those reasonable and prudent alternatives which he believes would not violate subsection (a)(2) and can be taken by the Federal agency or the permit or license applicant in implementing the agency action.";

(3) by amending each of subsections (b), (c), (d), (e)(2), (f), (g)(1) and (5), (h)(1), and (m) by striking out "subsection (a)" wherever it appears therein and inserting in lieu thereof "subsection (a)(2)";

(4) by further amending subsection (c)—

(A) by inserting "(1)" immediately after "BIOLOGICAL ASSESSMENT.—", and

(B) by adding at the end thereof the following new paragraph:

"(2) Any person who may wish to apply for an exemption under subsection (g) of this section for that action may conduct a biological assessment to identify any endangered species or threatened species which is likely to be affected by such action. Any such biological assessment must, however, be conducted in cooperation with the Secretary and under the supervision of the appropriate Federal agency.";

(5) by striking out "avoid jeopardizing" and all that follows thereafter in subsection

(d) and inserting in lieu thereof "not violate subsection (a) (2).";

(6) by further amending subsection (g) (1) by striking out "may jeopardize" and all that follows thereafter in the first sentence thereof and inserting in lieu thereof "would violate subsection (a) (2).";

(7) by amending subsection (g) (2) (A) by striking out "process." and inserting in lieu thereof "process; or, in the case of any agency action involving a permit or license applicant, not later than 90 days after the date on which the Federal agency concerned takes final agency action, for purposes of chapter 7 of title 5, United States Code, with respect to the issuance of the permit or license.";

(8) by amending subsection (g) (3) by redesignating subparagraph (B) as subparagraph (C), and by inserting immediately after subparagraph (A) the following new subparagraph:

"(B) If biological opinions of both the Secretary of the Interior and the Secretary of Commerce indicate that an agency action would violate subsection (a) (2), such Secretaries shall jointly convene a review board to consider any application for exemption filed with respect to such agency action.";

(9) by further amending subsection (g) (5)—

(A) by redesignating clauses (1) and (2) as clauses (A) and (B), respectively,

(B) by inserting "the Federal agency concerned and" immediately before "such exemption applicant" in clause (B) (as so redesignated),

(C) by redesignating subclauses (A), (B), and (C) as subclauses (i), (ii), and (iii), respectively,

(D) by striking out "will avoid jeopardizing" and all that follows thereafter in subclause (i) (as so redesignated) and inserting in lieu thereof "would not violate subsection (a) (2);", and

(E) by striking out "exemption applicant" and all that follows thereafter in the last sentence and inserting in lieu thereof "Federal agency concerned or the exemption applicant has not met its respective requirements under subclause (i), (ii), or (iii) shall be considered final agency action for purposes of chapter 7 of title 5 of the United States Code.";

(10) by amending subsection (g) (6) by striking out "subparagraphs (A), (B), and (C)" and inserting in lieu thereof "subclauses (i), (ii), and (iii)";

(11) by amending subsection (h) (2) to read as follows:

"(2) (A) Except as provided in subparagraph (B), an exemption for an agency action granted under paragraph (1) shall constitute a permanent exemption with respect to all endangered or threatened species for the purposes of completing such agency action—

"(i) regardless whether the species was identified in the biological assessment; and

"(ii) only if a biological assessment has been conducted under subsection (c) with respect to such agency action.

"(B) An exemption shall be permanent under subparagraph (A) unless—

"(i) the Secretary finds, based on the best scientific and commercial data available, that such exemption would result in the extinction of a species that was not the subject of consultation under subsection (a) (2) or was not identified in any biological assessment conducted under subsection (c), and

"(ii) the Committee determines within 60 days after the date of the Secretary's finding that the exemption should not be permanent.

If the Secretary makes a finding described in clause (i), the Committee shall meet with respect to the matter within 30 days after the date of the finding."; and

(12) by amending the first sentence of subsection (q) to read as follows: "There are authorized to be appropriated to the Secretary to assist review boards and the Committee in carrying out their functions under subsections (e), (f), (g), and (h) of this section not to exceed $600,000 for each of fiscal years 1979, 1980, 1981, and 1982.".

SEC. 5. Section 8 of the Endangered Species Act of 1973 (16 U.S.C. 1537) is amended—

(1) by inserting "and plants" immediately after "fish or wildlife" in subsection (b) (1);

(2) by inserting "or plants" immediately after "fish or wildlife" each place it appears in subsection (b) (3);

(3) by inserting "or plants" immediately after "fish or wildlife" in subsection (c) (1); and

(4) by striking out subsection (e).

SEC. 6. (a) The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is further amended—

(1) by adding immediately after section 8 the following new section:

"CONVENTION IMPLEMENTATION

"SEC. 8A. (a) MANAGEMENT AUTHORITY AND SCIENTIFIC AUTHORITY.—The Secretary of the Interior (hereinafter in this section referred to as the 'Secretary') is designated as the Management Authority and the Scientific Authority for purposes of the Convention and the respective functions of each such Authority shall be carried out through the United States Fish and Wildlife Service.

"(b) MANAGEMENT AUTHORITY FUNCTIONS.—The Secretary shall do all things necessary and appropriate to carry out the functions of the Management Authority under the Convention.

"(c) SCIENTIFIC AUTHORITY FUNCTIONS.—The Secretary shall do all things necessary and appropriate to carry out the functions of the Scientific Authority under the Convention.

"(d) INTERNATIONAL CONVENTION ADVISORY COMMISSION.—(1) There is hereby established the International Convention Advisory Commission (hereinafter in this section referred to as the 'Commission').

"(2) The Commission shall be composed of the following members:

"(A) One member appointed by each of the following Federal officers from his respective agency:

"(i) The Secretary.

"(ii) The Secretary of Agriculture.

"(iii) The Secretary of Commerce.

"(iv) The Director of the National Science Foundation.

"(v) The Chairman of the Council on Environmental Quality.

"(B) One member appointed by the Secretary from among officers and employees of the State agencies having fish and wildlife conservation and management responsibilities.

"(C) The Secretary of the Smithsonian Institution is invited to appoint a member.

"(3) (A) Individuals who are appointed as members of the Commission under paragraph (2) must be scientifically qualified.

"(B) The term of office of a member of the Commission appointed under paragraph (2) (B) is two years and an individual may be appointed under such paragraph for any number of terms; except that an individual may not be appointed under that paragraph for a term that would be a third consecutive term for that individual under that paragraph.

"(C) While away from his home or regular place of business in the performance of services for the Commission, a member appointed under paragraph (2) (B) or (C) shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as the expenses authorized by section 5703(b) of title 5, United States Code, for persons in the Government service employed intermittently.

"(D) Members of the Commission who are full-time officers or employees of the United States shall receive no additional compensation on account of their service on the Commission.

"(4) (A) The Commission shall elect a chairman from among its members. The term of office of the chairman is one year.

"(B) No recommendation referred to in paragraph (5) shall be deemed to be a recommendation of the Commission unless a majority of the members of the Commission vote for that recommendation.

"(5) The Commission shall make recommendations to the Secretary or his designee on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention. The Commission shall include with any such recommendation any written dissenting view made by any member.

"(6) In the discharge of its responsibilities, the Commission shall, to the extent practicable, ascertain the views of, and utilize the expertise of, the governmental and nongovernmental scientific communities, State agencies responsible for the conservation of wild fauna or flora, humane groups, zoological and botanical institutions, recreational and commercial interests, the conservation community and others as appropriate.

"(7) In any case in which the Scientific Authority decides not to accept a recommendation made by the Commission under paragraph (5), the Scientific Authority shall provide to the Commission a written explanation of the reasons for that decision and shall publish the explanation in the Federal Register.

"(8) (A) The Chairman of the Commission, with the concurrence of the Commission, shall appoint an Executive Secretary for the Commission. The Executive Secretary shall carry out such duties and functions as shall be prescribed by the Commission, shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(B) The Secretary shall provide the necessary staff and administrative support for the Commission.

"(e) WILDLIFE PRESERVATION IN WESTERN HEMISPHERE.—The President shall designate those agencies of the Federal Government that shall act on behalf of, and represent, the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere."; and

(2) by amending the table of contents by inserting immediately after the section title for section 8 the following:

"Sec. 8A. Convention implementation.".

(b) Until such time as the Chairman, Members, and Executive Secretary of the International Convention Advisory Commission are appointed, but not later than 90 days after the date of the enactment of this Act, the functions of the Commission shall be carried out by the Endangered Species Scientific Authority as established by Executive Order Numbered 11911, with staff and administrative support being provided by the Secretary of the Interior as set forth in that Executive order.

SEC. 7. Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended—

(1) in paragraph (4), by inserting "unless such exemption is renewed under paragraph (8)" after "certificate" in subparagraph (C); and

(2) by adding at the end thereof the following new paragraphs:

"(8) (A) Any person to whom a certificate of exemption has been issued under paragraph (4) of this subsection may apply to the Secretary for a renewal of such exemption for a period not to exceed three years beginning on the expiration date of such certificate. Such application shall be made in the same manner as the application for exemption was made under paragraph (3), but without regard to subparagraph (A) of such paragraph.

"(B) If the Secretary approves any application for renewal of an exemption under this paragraph, he shall issue to the applicant a certificate of renewal of such exemption which shall provide that all terms, conditions, prohibitions, and other regulations made applicable by the original certificate shall remain in effect during the period of the renewal.

"(C) No exemption or renewal of such exemption made under this subsection shall have force and effect after the expiration date of the certificate of renewal of such exemption issued under this paragraph.".

SEC. 8. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. Except as authorized in sections 6, and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $23,000,000 for each of fiscal years 1979 and 1980, not to exceed $25,000,000 for fiscal year 1981, and not to exceed $27,000,000 for fiscal year 1982 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act;

"(2) not to exceed $2,500,000 for each of fiscal years 1979 and 1980, not to exceed $3,000,000 for fiscal year 1981, and not to exceed $3,500,000 for fiscal year 1982 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act; and

"(3) not to exceed $1,500,000 for fiscal year 1980, not to exceed $1,750,000 for fiscal year 1981, and not to exceed $1,850,000 for fiscal year 1982 to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of terrestrial plants.".

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

JOHN M. MURPHY,
JOHN BREAUX,
JOHN D. DINGELL,
DAVID R. BOWEN,
PAUL N. MCCLOSKEY, Jr.,
EDWIN B. FORSYTHE,
Managers on the Part of the House.

JOHN C. CULVER,
EDMUND S. MUSKIE,
GARY HART,
JOHN H. CHAFEE,
ROBERT T. STAFFORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1143) to extend the authorization for appropriations for the Endangered Species Act of 1973, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Section 1 of the conference report adds "plants" to section 2(a)(5) of the Act to the Congressional finding that to encourage endangered species conservation programs is a key to meeting the Nation's international commitments and to better safeguarding the Nation's heritage in fish, wildlife and plants.

SECTION 2

Section 2 of the conference report adopts the House amendment to Section 3(11) of the Act. This provision conforms the definition of "irresolvable conflict" to the substantive standard of Section 7(a)(2) so that the language of the Act is consistent throughout.

SECTION 3

Section 3(1)

Section 3(1) amends Section 4(b)(1) of the Act to require the Secretary to conduct a review of the status of the species before proposing to list the species as endangered or threatened. Section 4(c)(2) of the Act already requires the Secretary to conduct a "status review" of species identified in petitions to list species. During testimony in oversight hearings, and in its written report entitled *Endangered Species—A Controversial Issue Needing Resolution*, the General Accounting Office (GAO) criticized the Department of the Interior for failing to adequately review the status of species before proposing them for the list. The GAO argued in several instances, that if the Fish and Wildlife Service had conducted status reviews to obtain adequate information on proposed species, including the development of the latest and best available scientific data as required by the Act, the species may never have been proposed in the first place.

Section 3(1) would require status reviews to determine whether enough scientific and biological data exists to warrant proposing a species for listing as endangered or threatened. These reviews may include, as appropriate, communication with experts in the field such as: regional, area and field staff, university professors in the affected area, professional organizations and journals, local citizens, state agencies, as well as concerned Federal agencies, such as the Corps of Engineers, the U.S. Geological Survey, or the Environmental Protection Agency.

Section 3(2)

Section 3(2) amends the public notice provisions of the Act to require the publication of a summary of the text of the regulation in local newspapers, rather than the complete text. The Secretary would be required to include a map of the proposed critical habitat in the newspaper notice. The maps of proposed critical habitats currently published by the Secretary in the *Federal Register* are sufficient to comply with this provision.

Although the conferees believe that it is unnecessary to publish the complete text of critical habitat proposals in local newspapers to give adequate notice to affected communities, the conferees believe that the summary should include sufficient detail to inform local residents of the major elements of the listing proposal. In most cases these elements will include the biological justification for the listing, the justification for the critical habitat designation, and a brief description of the activities that may adversely modify the critical habitat, or may be impacted by the designation of such habitat.

Section 3(3)

Section 3(3) amends Section 4(f)(2)(B)(iv)(II) of the Act to require public meetings and hearings on critical habitat proposals to be held separately. Individuals requesting a public hearing would have to communicate their request to the Secretary within 15 days after the date on which the public meeting was conducted.

The Congress enacted subsection (f)(2)(B)(iv)(II) last year to improve the flow of information on endangered species proposals to the local communities that will be most impacted by the listing and critical habitat designation. A public meeting is intended to be an informal exchange of information on the regulatory proposal. The conferees do not expect or require the Secretary to provide a court reporter at these meetings. The purpose of the public meeting is essentially to provide an opportunity for local citizens to engage in a colloquy with Departmental representatives about the reasons for the listing and critical habitat designation and the potential impact of the listing on activities in the area. The meeting should also provide an opportunity for the Departmental representatives to become more familiar with the concerns of the local community.

The purpose of a public hearing, if requested, is to provide a more formal opportunity for local residents to comment on the listing and designation proposal, after they have had an opportunity to become familiar with the proposal in the public meeting. It is intended that a verbatim transcript of such hearing be made and be available upon request.

The conferees recognize that there will be added costs as a result of the bifurcation of the meeting and hearings. The conferees do not intend to require the Secretary to republish the substance of the regulatory proposal in a local newspaper prior to the public hearing. Obviously, the Department will have to provide adequate notice of the time and place of the public hearing by publication in the Federal Register and a newspaper of general circulation in the local area if such a hearing is requested.

Section 3(4)

Section 3(4) amends the emergency regulation provision of the Act to clarify that the Secretary may list a species and designate critical habitat under this provision without first complying with Section 4(b)(4) of the Act. Section 4(b)(4) requires the Secretary to consider the economic and other relevant impacts of designating an area as critical habitat. This amendment does not absolve the Secretary from complying with Section 4(b)(4) or any other provision of the Act before the species is listed under Section 4(a) of the Act.

Section 3(5)

Section 3(5) amends the emergency listing provision to include plant species in addition to fish and wildlife. It also extends the emergency time period to 240 days. Currently, actions under this section are limited to 120 days. The conferees recognize that the 1978 Amendments added substantially to the procedural requirements of the Act. Since all of the requirements of the Act must be complied with prior to listing under Section 4(a), the time during which an emergency regulation can remain in effect must be significantly increased.

Section 3(6)

Section 3(6) requires the Secretary to establish agency guidelines to insure that the purposes of section 4 of the Act are achieved efficiently and effectively. The GAO report on the Endangered Species Act criticized the Department of Interior for failing to formulate and publish guidelines and procedures to govern the implementation and administration of the Act. The GAO noted that petitions filed with the Department had been misplaced and that the Department failed to adequately implement any of the many listing and recovery priority systems. The conferees believe that the Department is well on its way toward resolving these problems. This amendment is intended to insure that these procedures are adequately developed and implemented. The House amendment required the development of these precedures by regulation. The conferees believe that the formal regulatory process may inhibit the effective implementation of necessary amendments to these procedures. The conference report merely requires that the procedures be developed by guidelines. It does require, however, the Secretary to make the proposed procedures public and to provide an opportunity for comment on them.

Although Section 3(6) requires the development of a listing and recovery priority system, it does not require the listing of species and the implementation of recovery efforts to be suspended pending the development of the guidelines. The conferees note that these systems have already been developed by the Department of the Interior for internal guidance. The Secretary is merely required to publish the details of the systems and solicit comment on them.

SECTION 4

Section 4(1)

The conference report adopts the language of the House amendment to Section 7(a) pertaining to consultation by Federal agencies with the Fish and Wildlife Service and the National Marine Fisheries Service. The amendment, which would require all Federal agencies to ensure that their actions are not likely to jeopardize endangered or threatened species or result in the adverse modification of critical habitat, brings the language of the statute into conformity with existing agency practice, and judicial decisions, such as the opinion in *National Wildlife Federation* v. *Coleman*.

Section 7(b) of the Act requires the Fish and Wildlife Service and the National Marine Fisheries Service to render biological opinions which advise whether or not proposed agency actions would violate section 7(a) (2). Courts have given substantial weight to these biological opinions as evidence of an agency's compliance with Section 7(a). The amendment would not alter this state of the law or lessen in any way an agency's obligation under Section 7(a) (2).

As currently written, however, the law could be interpreted to force the Fish and Wildlife Service and the National Marine Fisheries Service to issue negative biological opinions whenever the action agency cannot guarantee with certainty that the agency action will not jeopardize the continued existence of the listed species or adversely modify its critical habitat. The amendment will permit the wildlife agencies to frame their Section 7(b) opinions on the best evidence that is available or can be developed during consultation. If the biological opinion is rendered on the basis of inadequate information then the Federal agency has a continuing obligation to make a reasonable effort to develop that information.

This language continues to give the benefit of the doubt to the species, and it would continue to place the burden on the action agency to demonstrate to the consulting agency that its action will not violate Section 7(a) (2). Furthermore, the language will not absolve Federal agencies from the responsibility of cooperating with the wildlife agencies in developing adequate information upon which to base a biological opinion. If a Federal agency proceeds with the action in the face of inadequate knowledge or information, the agency does so with the risk that it has not satisfied the standard of Section 7(a) (2) and that new information might reveal that the agency has not satisfied the standard of Section 7(a) (2).

The conferees added a new paragraph (3) to Section 7(a). This provision is nearly identical to the House language and requires Federal agencies to confer with the Secretary on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed as endangered or threatened. This language grew out of the recommendations of the General Accounting Office. The GAO suggested that Federal agencies be required to consult on proposed species in addition to those that are formally listed as endangered or threatened.

The intent of the provision is to require Federal agencies to begin informal discussions with the wildlife agencies of the Federal Government about the possible adverse impact of agency actions on proposed species. The informal discussions can be initiated by either the wildlife agency or the action agency.

The new provision, Section 7(a) (3), does not require Federal agencies to enter into formal Section 7 consultation under subsection (a) (1) or (2). Nor does subsection (a) (3) require Federal agencies or permit or license applicants to refrain from making irreversible or irretrievable commitments of resources which have the effect of foreclosing the formulation or implementation of reasonable and prudent alternatives to the agency action. Section 7(d) of the Act does place a limitation on the commitment of resources after the initiation of formal Section 7(a) (2) consultation on listed species, but not species proposed for listing.

The conferees note that the purpose of a listing proposal is to determine whether a species is endangered or threatened and should be listed as such. The protections of Section 7 should not apply until a species has been formally listed. The conferees also note that the Supreme Court made it abundantly clear in *Tennessee Valley Authority* v. *Hill* that the prohibitions of Section 7 apply regardless of the state of completion of the project. 11 ERC 1705, 1717 (1978). Obviously, Federal agencies irreversibly committing resources and foreclosing alternatives to an action that is likely to jeopardize a proposed species do so with the risk that the species will eventually be formally listed and the prohibitions of Section 7 will become applicable. The conferees do not believe that any Federal agency or permittee should make any irreversible or irretrievable commitments of resources for the purpose or with the intent of foreclosing otherwise reasonable alternatives or in order to secure an exemption pursuant to Section 7(h).

Section 4(2)

Section 4(2) makes a technical change in the language of Section 7(b) of the Act to insure that the language of the Act is consistent throughout.

Section 4(3)

Section 4(3) adopts the provisions of the House amendment which make technical changes in a variety of sections of the Act to insure that the language of the Act is consistent throughout.

Section 4(4)

Section 4(4) adopts provisions appearing in both the Senate bill and the House amendment. This section authorizes all persons with standing to file for an exemption to conduct a biological assessment. The conferees adopted the House language which requires the biological assessments conducted under this section to be conducted in cooperation with the Secretary and under the supervision of the appropriate Federal agency.

The existing law requires Federal agencies to conduct biological assessments on major Federal actions initiated after November 10, 1978 and designed primarily to result in the building or erection of dams, buildings, pipelines and the like. The change proposed by Section 4(4) is significant because, for the first time, it authorizes all exemption applicants to receive a permanent exemption. Section 7(h) (2) of the Act identifies the completion of a biological assessment as a prerequisite to receiving a permanent exemption. Biological assessments are designed to assist Federal agencies in determining whether Section 7(a) (2) consultation should be initiated by identifying endangered or threatened species that may be present in the area affected by their proposed project and by identifying the impacts of those projects on such species. Because the exemption may be permanent, even as to those species not identified in a biological assessment, it is important that the assessment be as complete and thorough as possible so that future conflicts can be avoided. Subjecting privately conducted assessments to the supervision and scrutiny of the Federal agency and the Secretary will assist the development of adequate assessments.

Section 4(5)

Section 4(5) makes a technical change in Section 7(d) of the Act to insure that the language of the statute is consistent throughout.

Section 4(6)

Section 4(6) amends Section 7(g) (1) of the Act to conform the language of subsection (g) (1) to the substantive standard of Section 7(a) (2).

Section 4(7)

Section 4(7) of the conference report amends Section 7(g) (2) (A) of the Act to provide that, in the case of an action involving a permit or license applicant, an application for exemption may not be filed until after final agency action for purposes of chapter 7 of title 5 of the United States Code (5 U.S.C. 701–706).

The Senate bill and the House amendment contained essentially similar provisions intended to clarify provisions of existing law with respect to the timeliness of an exemption application where a permit or license application is involved. The conferees adopted the House modification.

The term "permit or license applicant" is defined in the Act to mean any person whose permit or license application has been denied primarily because of the application of Section 7(a) to such agency action. Section 7 (g) (2) (A) of the Act currently requires applications to be filed not later than 90 days after the completion of the consultation process. The existing language of the Act has resulted in confusion in those instances when a biological opinion has been issued although the Federal agency has not taken final action with respect to the permit at issue. The conference report clarifies the intent of the 1978 Amendments by providing that applications for exemptions in these circumstances should not be filed until after final agency action on the permit or license application at issue.

The exemption process was designed to resolve endangered species conflicts after other administrative remedies, including consultation have been exhausted. It makes no sense to initiate an exemption process before it has been determined that there is a need for an exemption in the first place. This provision insures exemption applications will be filed, in cases involving permit or license applicants, when the application is ripe for review.

The term "final agency action" is used in the same sense as it is employed in the judicial review provisions of the Administrative Procedure Act (5 U.S.C. 701–706). Thus, an application for an exemption can be filed at the same time that the action becomes judicially reviewable under 5 U.S.C. 704.

The conferees retained the exemption filing period provided in existing law for agency actions other than those involving a permit or license applicant. Thus, if a Federal agency decides that it cannot comply with the requirements of Section 7 after consultation with the wildlife agency, it can file for an exemption within 90 days of that decision. The conferees retained this provision of the existing law because of the realization that there may be many agency actions not involving a "permit or license applicant". It may be difficult in these instances to determine when the final agency action occurred. The Federal agency should be permitted to file for an exemption only after it has, however, completed consultation with the wildlife agency on the action and decided that it cannot proceed in light of the requirements of Section 7(a)(2).

The conferees note that the definition of "agency action" in the Act could lead to multiple exemption applications for the same project. Federal agencies and permittees should attempt to consolidate all applications which involve substantially similar factual and legal issues.

Section 4(8)

Section 4(8) resolves the problem posed by the division of responsibility over marine and terrestrial species by the Departments of Interior and Commerce. This section requires the Secretaries of Interior and Commerce to jointly convene a review board in those instances where both Departments have issued negative biological opinions for the same agency action.

Section 4(9)

Section 4(9) adopts the House language which clarifies the application of the threshold requirements of Section 7(g)(5) of the Act to the Federal agency and the exemption applicant. Section 7(g)(5) provides that the review board shall make a determination whether the exemption application has (i) carried out its consultation responsibilities, (ii) conducted any biological assessment required of it, and (iii) refrained from making commitments of resources prohibited by Section 7(d). Section 4(9) of the conference report makes it clear that these requirements apply to the Federal agency and the exemption applicant. This is intended to insure that all of the threshold requirements are complied with regardless of the identity of the exemption applicant. The consultation requirement of Section 7(a)(2), for example, only applies to Federal agencies. Federal agencies should not be permitted to avoid their consultation responsibilities by having a permittee apply for an exemption.

The conferees note that the language of Section 4(9) is not intended to add responsibilities to exemption applicants not already required by the statute. For example, the biological assessment requirement of Section 7(c) applies only to Federal agencies. Federal permittees should not be prohibited from seeking an exemption for failing to conduct a biological assessment, although a biological assessment is required of a permittee or licensee in order to receive a permanent exemption under Section 7(h)(2).

Section 4(10)

Section 4(10) makes a technical amendment to Section 7(g)(6).

Section 4(11)

Section 4(11) amends Section 7(h)(2) of the Act to provide that exemptions granted by the Endangered Species Committee shall be permanent with respect to all endangered or threatened species for the purposes of completing such agency action, (i) regardless whether the species was identified in the biological assessment, and (ii) only if a biological assessment has been conducted on the agency action.

The section provides that the exemption will be permanent unless the Secretary finds that the exemption would result in the extinction of a species not the subject of consultation or not identified in any biological assessment, and the Endangered Species Committee determines within 60 days that the exemption should not be permanent. The provision requires the Committee to meet within 30 days of the Secretarial finding.

Section 4(11) is intended to give some certainty and predictability to those exemption applicants that have succeeded in receiving an exemption through the exemption process, if the applicant has conducted a biological assessment under the terms of Section 7(c). This section does allow, however, for a reconsideration of the permanent exemption in the limited instance where the Secretary finds that the exemption will result in the extinction of species that were not identified in a biological assessment or not identified during consultation. Even in this limited instance, however, the Committee must affirmatively vote not to continue the exemption.

The conferees recognize that this provision raises the possibility that an exemption granted for an agency action because of a conflict with one species, will also apply to the same agency action even if a subsequent species is discovered. The conferees note, however, that the language of Section 7(a)(2) will require consultation on any listed species identified in the biological assessment until the time that the Endangered Species Committee grants the agency action an exemption from the requirements of Section 7.

Section 4(12)

Section 4(12) authorizes to be appropriated $600,000 to the Secretary to assist the review boards and the Endangered Species Committee in carrying out their functions during fiscal years 1980, 1981 and 1982.

SECTION 5

Section 5 adopts the House language which authorizes the Secretary to encourage foreign nations to develop programs for the conservation of endangered and threatened plants. This section also permits the Secretary to assign Departmental personnel for the purpose of cooperating with foreign countries and international organizations in the promotion of the conservation of plant species. The conferees recognize that the conservation of endangered and threatened species worldwide often requires the United States to share its expertise in this area with other governments and institutions. The conferees intend this provision to authorize the Secretary to share staff, at his discretion, with such organizations as the International Union for the Conservation of Nature and Natural Resources.

SECTION 6

Section 6 completely repeals Section 8(e) of the Act and replaces it with a new Section 8A. This Section establishes the Secretary of the Interior as the Scientific Authority and the Management Authority for purposes of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. The Secretary is required to carry out these functions through the United States Fish and Wildlife Service.

Under the existing Act, and Executive Order 11911, the Secretary is designated the Management Authority and a seven member inter-agency committee is designated the existing Scientific Authority. Section 6 removes the functions of the Scientific Authority and places them with the Secretary of the Interior acting through the Fish and Wildlife Service. The conferees believe that this arrangement will facilitate the coordinated implementation of the Endangered Species Convention without weakening the United States' important role in the conservation of endangered species worldwide.

Section 6 also establishes an independent advisory commission composed of the following:

(A) One member appointed by each of the following Federal Officers:

(i) The Secretary of the Interior,

(ii) The Secretary of Agriculture,

(iii) The Secretary of Commerce,

(iv) The Director of the National Science Foundation, and

(v) The Chairman of the Council on Environmental Quality.

(B) One member appointed by the Secretary from among officers and employees of State fish and wildlife agencies; and

(C) The Secretary of the Smithsonian Institution is invited to appoint a member.

With the exception of the State fish and wildlife representative, the agencies represented on the advisory commission are identical to the agencies represented on the existing Endangered Species Scientific Authority (ESSA). The State fish and game official essentially replaces the representative of the Department of Health, Education and Welfare on the existing ESSA. The heads of the various agencies represented on the advisory commission are free to appoint the individual now representing them on the ESSA to the Commission, although they are not required to do so.

The conferees established an independent commission to insure that the Scientific Authority receives unbiased scientific advice on those matters within the responsibility of the Scientific Authority from a multi-disciplined group. This should insure that the Scientific Authority receives scientific advice from a wide spectrum of public and private individuals with biological expertise.

Although Section 6 establishes an independent advisory commission, the Section requires the Secretary to carry out his Scientific Authority functions through the Fish and Wildlife Service. Under the existing law, the Secretary carries out his Management Authority responsibilities through the Wildlife Permit Office of the Fish and Wildlife Service. This section requires the Secretary to establish a similar arrangement within the Fish and Wildlife Service for his Scientific Authority responsibilities. The Secretary of the Interior retains the ultimate responsibility to make those decisions required of the Scientific Authority and the Management Authority by the International Convention.

The Section requires the Secretary to provide the necessary staff and administrative support for the Commission. The conferees anticipate that the staff requirements of the Commission should parallel the requirements of the existing ESSA. The conferees suggest that the Commission advise the Secretary on the staff and funding needs of the Commission.

The conferees want to emphasize that the unit of the Fish and Wildlife Service assigned to carry out the responsibilities of the Scientific Authority should not share or exchange staff with the Commission. The purpose of the Commission is to provide independent scientific advice to the Scientific Authority. This purpose would be frustrated by commingling the Commission staff with those of the Fish and Wildlife Service unit assigned by the Secretary to carry out the functions of the Scientific Authority.

Section 6 requires the Commission to make recommendations to the Secretary or his designee on all matters pertaining to the responsibilities of the Scientific Authority under the terms of the Convention. If the Scientific Authority disagrees with any recommendation made by the Commission, he is required to provide the Commission with a written explanation of the reasons for his decision. The Secretary's explanation, along with any findings required by the Convention, should be published in the Federal Register. The Secretary's explanation should be sufficiently detailed to adequately inform the Commission of the nature of the evidence relied on by the Secretary in reaching his decision. The Secretary should provide an opportunity for public comment on all Management Authority and Scientific Authority decisions.

Section 6 designates the Secretary of the Interior as the Management Authority for purposes of the Convention. The conferees note that the Endangered Species Act of 1973 and Reorganization Plan Number 4 of 1970 vests jurisdiction in certain marine species in the Secretary of Commerce. The conferees believe that on any Management Authority action involving these marine species the Secretary should consult with the National Oceanic and Atmospheric Administration within the Department of Commerce and implement the NOAA recommendations in this area.

SECTION 7

Section 7 adopts the House amendment to Section 10(f) of the Act. This amendment will permit the extension of the so-called "scrimshaw" exemption for an additional three years. It will permit the owners of certain whale parts and products which were held in stock prior to 1973 to continue trading such products for an additional three years. The conferees wish to emphasize that this represents the last extension of Section 10(f) of the Act. Three years ago, the holders of these products, primarily scrimshaw artists in New England and the Pacific Northwest, represented to the Congress that they would be able to dispose of their pre-Act holdings within three years. They were wrong. This provision will allow these individuals an additional three years, but no longer, to dispose of these products.

SECTION 8

Section 8 adopts the authorization levels for the Departments of the Interior and Commerce recommended by the Senate. These authorization levels will permit a much needed expansion of the endangered species program budget in the 1981 and 1982 fiscal years.

Section 8 adopts the House amendment authorizing funds to the Department of Agriculture to carry out their functions and responsibilities with respect to the enforcement of the Act and the Convention which pertain to the importation or exportation of terrestrial plants. The evidence presented to the Congress suggests that the Department of Agriculture has failed to adequately regulate trade in endangered and threatened plants because of an absence of sufficient and qualified enforcement personnel. The conferees note that this authorization is limited to the Department of Agriculture's responsibilities for the enforcement of the importation and exportation of plants. It is not intended to restrict the level of funding available to the Department of Agriculture to carry out habitat acquisitions and other programs for the conservation of endangered and threatened species.

John M. Murphy,
John Breaux,
John D. Dingell,
David R. Bowen,
Paul N. McCloskey, Jr.,
Edwin B. Forsythe,
Managers on the Part of the House.
John C. Culver,
Edmund S. Muskie,
Gary Hart,
John H. Chafee,
Robert T. Stafford,
Managers on the Part of the Senate.

DISPUTE RESOLUTION ACT

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 423) to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. Kastenmeier).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill, S. 423, with Mrs. Spellman in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, December 10, 1979, the Clerk had read through line 17 on page 41.

Are there any amendments to section 1? If not, the Clerk will read section 2.

☐ 1550

Mr. KASTENMEIER. Madam Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

Mr. KINDNESS. Madam Chairman, I reserve the right to object.

I would seek to address a question to the gentleman who has made the unanimous-consent request, the gentleman from Wisconsin (Mr. Kastenmeier).

Do I understand his unanimous-consent request is to open the bill to amendment at any point?

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. That is correct.

Mr. KINDNESS. Madam Chairman, I am constrained to object to that procedure. I would suggest that it might be read section by section, with no objection, but I would object to the unanimous-consent request to open the bill for amendment at any point.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk read as follows:

Sec. 2. (a) The Congress finds and declares that—

(1) for the majority of Americans mechanisms for the resolution of minor disputes are largely unavailable, inaccessible, ineffective, expensive, or unfair;

(2) the inadequacies of dispute resolution mechanisms in the United States have resulted in dissatisfaction and many types of inadequately resolved grievances and disputes;

(3) each individual dispute, such as that between neighbors, a consumer and seller, and a landlord and tenant, for which adequate resolution mechanisms do not exist may be of relatively small social or economic magnitude, but taken collectively such disputes are of enormous social and economic consequence;

(4) there is a lack of necessary resources or expertise in many areas of the Nation to develop new or improved consumer dispute resolution mechanisms, neighborhood dispute resolution mechanisms, and other necessary dispute resolution mechanisms;

(5) the inadequacy of dispute resolution mechanisms throughout the United States is contrary to the general welfare of the people;

(6) neighborhood, local, or community based dispute resolution mechanisms can provide and promote expeditious, inexpensive, equitable, and voluntary resolution of disputes, as well as serve as models for other dispute resolution mechanisms; and

(7) the utilization of neighborhood, local, or community resources, including volunteers (and particularly senior citizens) and available building space such as space in public facilities, can provide for accessible, cost-effective resolution of minor disputes.

(b) It is the purpose of this Act to assist the States and other interested parties in providing to all persons convenient access to dispute resolution mechanisms which are effective, fair, inexpensive, and expeditious.

The CHAIRMAN. Are there any amendments to section 2?

Mr. KASTENMEIER. Madam Chairman, I move to strike the last word.

Madam Chairman, I will not take the 5 minutes, but I do think that since the rule was granted on Thursday of last week, and general debate was concluded on yesterday, that the Committee of the Whole may wish to know what the status of the bill before us is. It is our hope that we can conclude consideration of the bill this afternoon.

The gentleman from North Carolina (Mr. Broyhill), has two or three amendments which both sides have agreed to, to make the text of the Committee on the Judiciary substitute and the Committee on Interstate and Foreign Commerce substitute conform. The Members perhaps should understand that two committees, the Committee on Interstate and Foreign Commerce and the committees concluded action was jointly held hearings and processed this bill.

The form of the bill in which each of the committees concluded action was virtually identical. The Broyhill amendment would make them even more so.

There may be several other amendments to the bill, but I think Members should know that the bill was processed last year, was passed unanimously by the other body and was again passed this year by the Senate.

Last year the Committee on Interstate and Foreign Commerce in the last week of the session brought it on the House floor, unfortunately under suspension. It failed narrowly to gain two-thirds. I think the vote was 224 to 166.

We have attempted to improve that bill this year. Both the Committee on Interstate and Foreign Commerce and the Committee on the Judiciary have scrutinized the bill before us today.

Its supporters include a long list of organizations, such as the American Bar Association, the United States Office of Consumer Affairs, the Chamber of Commerce of the United States of America, Ford Motor Co., National Association of

Automobile Dealers, and the Motor Vehicle Manufacturers Association of the United States. Unfortunately, Chrysler Motors is legislatively concerned elsewhere and has not specifically endorsed this bill, but AUTOCAP has. There is no organized opposition to the bill.

Here is a more detailed list of the bill's supporters:

SELECTED LIST OF SUPPORTERS

American Arbitration Association.
American Bar Association.
American Express Company.
American Friends Service Committee.
AUTOCAP.
Center for Community Justice.
Chamber of Commerce of the United States of America.
Cleveland (Ohio) Center for Dispute Settlement.
Columbus (Ohio) Nights Prosecutor's Program.
Community Board Program, San Francisco, California.
Conference of Mayors.
Conference of (State) Chief Justices.
Congress Watch (Public Citizen).
Consumer Electronics Group of the Electronic Industries Association.
Consumers Federation of America.
Consumers Union.
Council of Better Business Bureaus, Inc.
Department of Consumer Affairs, New York City.
Department of Consumer Affairs, State of California.
Dispute Services Project for Services and Research in Dispute Resolution (Oklahoma State University).
Dispute Settlement Program, State of Florida.
Equal Justice Foundation.
International City Management Association.
League of Cities.
Motor Vehicle Manufacturers Assoication of the United States.
National Association of Automobile Dealers.
National Association of Counties.
National Center for State Courts.
National Consumers League.
National Home Improvement Council.
National Institute for Consumer Justice.
National Manufacturers Housing Federation, Inc.
National Retail Merchants Association.
National Senior Citizens Law Center.
Neighborhood Justice Center of Atlanta, Inc.
Office of the Public Advocate, State of New Jersey.
Pound Conference Follow-up Task Force.
Santa Clara County Bar Association.
Sears, Roebuck and Co.
Small Claims Study Group.
United States Office of Consumer Affairs.

We have for the first time both consumers and business organizations supporting what should be a less expensive, more expeditious way of resolving disputes without going to court. That is what the bill is all about. I trust we can get on with the bill this afternoon.

I joint my colleagues, the gentleman from North Carolina (Mr. PREYER), who is comanaging the bill for the Committee on Interstate and Foreign Commerce; the gentleman from North Carolina (Mr. BROYHILL), who is the ranking minority member of the Committee on Interstate and Foreign Commerce; the gentleman from Illinois (Mr. RAILSBACK), who is the ranking minority member of the Committee on the Judiciary, all of whom are instrumental in processing the bill today.

Mr. RAILSBACK. Madam Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding.

I simply want to say that I think that it is very significant that there is such widespread support particularly from the business community, including the National Chamber of Commerce for this bill. I do want to point out to my colleagues on the minority side that the members of the subcommittee that sat and considered the legislation are all supporting it, despite the fact that some of our good friends on the minority side, I believe, may be against it. I think there is good support, and it is bipartisan support.

Mr. KASTENMEIER. I thank my colleague and yield back the balance of my time.

Mr. KINDNESS. Madam Chairman, I move to strike the last word.

Madam Chairman, the Committee of the Whole House has before it a bill spoken about in glowing terms by many who have worked with it. And some regrettably who are not familiar enough with it.

I am not impressed by the fact that the Chamber of Commerce of the United States or some of the other parties who have been suggested as supporting this bill do so. After all, it is quite important for us to make these judgments ourselves and in the interest of our constituents, not on the basis of what the U.S. Chamber of Commerce thinks or any other group.

I believe we ought to think about this bill in terms of what it can do in the communities we represent. This bill provides for the beginning of a program to establish neighborhood kangaroo courts or other mechanisms for resolving disputes among people.

In the old days, this used to be done by the wardheeler. Remember? In the big cities, that is how you resolved disputes among people. Two neighbors had a little fight about something, where the boundary line was between their properties, or whose cat it was, or what have you. You went to the wardheeler or ward boss. He told the parties how they ought to resolve their dispute if they could not resolve it among themselves. We have a mechanism for doing that again in the future if we pass this bill.

We have a mechanism to get moneys out to the communities.

This is just the beginning of a program, of course. It can be expanded upon over the years. This is only a 4-year authorization, of course, but it will be reauthorized and extended undoubtedly in the years ahead, if it once gets in place.

□ 1600

The mechanisms you find already in place to provide for these dispute resolution procedures are community action commission type organizations that are already there, the ACTION: type programs in a lot of communities. I am sure other so-called nonprofit groups can be established to carry out these dispute resolution programs.

It is all well and good if we want to have it that way, but I think we ought to stop and realize this is the kind of mechanism that will be employed in the utilization of the funds under this bill, particularly if one of the amendments I propose to offer, which would cut out nonprofit organizations, is not adopted. The reason I would like to alert the Members of the Committee to the amendment that would eliminate nonprofit corporations from participation in this bill is that I think they ought to think very carefully about their local governments and how they are going to be able to interact with organizations that will receive funds under this bill. If they are part of the local and State governmental agencies or organizations, there are mechanisms in place to do that. If these moneys go to nonprofit organizations, those nonprofit organizations can have such scope of activity as is defined in their charter. That can be very broad. It could be limited to just the purposes of this act, but it probably would not be and very likely would be picked up by some existing community organization. This would be a new program to be funded with Federal funds under their operation.

It might work out all right, and it might work better if we limit it to State and local government organizations alone and leave out the nonprofit organizations. I certainly hope the Committee of the Whole will consider carefully and adopt such an amendment that would take out the nonprofit organizations from coverage of the bill.

We still have with us the problem which was mentioned in debate yesterday of having no definition of what a "minor dispute" is that would be covered by this bill. Consider, if you will, what could happen with an aggressive leadership of a community action commission organization or other nonprofit type of organization in conflict with the local courts and the local government, and no definition of what is a minor dispute. If we define a minor dispute more accurately, maybe we can at least keep that under control.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(By unanimous consent Mr. KINDNESS was allowed to proceed for 3 additional minutes.)

Mr. KINDNESS. Consider, if you will, one of these nonprofit organizations. Let us say it is a community action commission which is in conflict with the local government and courts and seeks to work at odds with them. Consider minor disputes as including anything and everything that might be litigatable in the courts. There is nothing in this legislation to prohibit that or to keep it from occurring or to even assure such a program would not be funded in succeeding years. We have no protections against incursions against local government, in other words, that are contained in the bill. I think it is inviting trouble.

So I will be offering an amendment at the appropriate time to at least provide that local government get notice of these programs or program applications and have the opportunity to comment, just as would the Attorney General of the State and the chief judicial officer of the State and the chief executive officer of the State. It is just as important that those at the local governmental level have an opportunity for some input, at least. I suggest to my colleagues that it ought to be under the control of the local governments and State governments, and that there ought to be at least a reasonably precise definition of minor disputes. I will offer an amendment to define minor disputes. Essentially it would set a level of $300 as a monetary interest involved and would exclude those disputes involving allegations of bodily injury which require complicated proof, or criminal conduct, which belong in the criminal courts, and that would otherwise occur between family members and neighbors, landlords and tenants, consumers and businesses, and buyers and sellers as set forth in the finding of the bill as the purpose of the measure.

I would hope there would be support, particularly for defining what it is we mean by a minor dispute, since that is what the whole bill rests on. If we have not defined what it is we are getting at, then there is no leash on this program and there is every likelihood of it growing that much more rapidly. I would hope we would not set up such a monster in legislative form when it is not necessary to begin with, and the States are approaching this problem, I think, with every bit as much sensibility as the Federal Government, at least as I see this bill.

I would ask the Members of the Committee of the Whole not only to consider these amendments carefully, but to consider that this bill is something we do not really need.

Mr. DANIELSON. Madam Chairman, I move to strike the last word.

Madam Chairman, it may be that this comment is not entirely necessary because, as I look about within the Committee Chamber, I see very few who will ultimately be voting except members of the Judiciary Committee and the Committee on Interstate and Foreign Commerce. I would think that most, if not all of them are already pretty well aware of the valuable purposes of this bill. But I do have the pleasure of seeing, for example, the gentleman from Pennsylvania (Mr. ERTEL) and the gentlewoman from New Jersey (Mrs. FENWICK), who is always in attendance, and a few others of the distinguished Members who may not be entirely aware of the bill. So I want to point out a couple of things.

My distinguished friend from Ohio has just pointed out some of his objections to the bill. I fully respect them. But I want to try to cast the context in which this bill is being considered into a neutral atmosphere rather than one some people might be crass enough to say would be colored by political connotations.

I thought I heard the expression "wardheeler," for example. Goodness gracious, do not tell me we still have wardheelers about in 1979, on the eve of 1980. I just cannot imagine that.

I notice the gentleman's amendment, I read ahead, and the gentleman will offer to strike, and he certainly has every right to do that, and debate in his very, very competent manner for his amendment, but he wants to strike nonprofit organizations. Well, now, what in the world are they? They are not the wardheelers. Have my colleagues ever heard of a wardheeler who did not make a profit? I did not.

I will tell my colleagues the way we used to resolve some of these disputes back in a simpler and happier stage of our society. At that time there might be a political leader. Some people, of course, would say that their political leader is an outstanding citizen, a pillar of the community; and the other fellow's political leader, of course, is a wardheeler, but the point is you might go to such a person and have him straighten out a problem that arises in the community, and that was a benefit to our society because the people did not have to go to court, and they might not erect that spite fence, and they might not get into a case of aggravated assault and battery. It is good to have an end brought to these disputes.

Mr. RAILSBACK. Madam Chairman, will the gentleman yield?

Mr. DANIELSON. I certainly do yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. In that respect, I had a chance to visit a program in San Francisco which was really not run for profit. It was probably the very best program that I saw, where they had literally volunteers and panels of five doing the mediating. Furthermore, they had so many volunteers that they actually have a waiting list of people that are willing to take $10 a month to sit and try to mediate between disputants in an effort to resolve their differences.

□ 1610

Mr. DANIELSON. Those were strictly pro bono publico, for the good of the public, is that not correct? It is correct. In these nonprofit organizations who are a few of the ones whom we would be impacting. Traditionally, if people have a problem they might go to their clergyman, their pastor, their priest, their rabbi, for a settlement of a dispute. You could not do that under this amendment, you know. You could go to him but you could not have him working in one of these dispute resolution centers because those are nonprofit organizations—those are nonprofit organizations.

How about the Salvation Army and the Community Chest, who do so much good helping people in our larger cities? They could not be brought in because they are nonprofit organizations. Take a look at it from another point of view. One of the biggest contributors to these dispute resolution mechanisms has been the Ford Foundation, hardly a "wardheeler." But, nevertheless it is an organization which has been deeply involved in trying to forward the idea of resolving these disputes someplace other than in our courts. Let us settle them in the neighborhood, in the community, by people who care and who are doing it for nothing or practically nothing—$10 a month I am going to equate with nothing. De minimis is the expression we use in court, but $10 a month is not an awful lot of money.

Mr. KINDNESS. Madam Chairman, will the gentleman yield?

Mr. DANIELSON. I will be more than pleased to yield.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. DANIELSON was allowed to proceed for 2 additional minutes.)

Mr. DANIELSON. Madam Chairman, I yield to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. I thank the gentleman for yielding. I thought surely that would be an agreeable possibility after what the gentleman had to say by way of misconstruing what I had had to say earlier. I think the gentleman might like to clarify the point that what was projected was for the future, that the wardheeler type of operation that we have known in the past could occur again under this kind of situation that would be set up under this bill. We have seen that type of occurrence with Federal funds being used in programs that are parcelled out to the communities. That was the point I was trying to make.

Mr. DANIELSON. I will reclaim my time, because the gentleman is repeating his argument made earlier.

I will say this: I do not know whether wardheeler types will or will not be involved. But if wardheeler types can resolve these disputes in our communities and spare people the need of going to court to resolve a dispute, then power to them. Of course, I want to point out, and I am sure the gentleman will agree, neither he nor I know any wardheelers within our respective political parties. Ours are civic leaders. It is only the other guy's person who is a wardheeler. We do not have them in my party anymore, and I am sure the gentleman would not be a member of a party which had them either.

Mr. KINDNESS. The gentleman seeks to obscure reason with humor, and it often works, although there are few of us here to hear it.

I think the point has to be considered as to whether we ought to at least start out with governments at the local and State level utilizing these funds, and let us see how they produce.

Mr. DANIELSON. I think that is a good situation. Let us try it out and see how it works. There is a sunset provision on this bill of 4 years. I regret that, but it is there, and if it does not work in 4 years we can put it to sleep.

Mr. SAWYER. Madam Chairman, I move to strike the last word.

Madam Chairman, I am just addressing the observations made by the gentleman from Ohio as to an inadequate definition of minor disputes. Actually, it is totally unnecessary because this is strictly a voluntary mediation-type proceeding. People should be able to go in with a $100,000 matter and attempt to work it out and come to an agreement if they want to. That is done in lawyers' offices every day without the benefit of courts. In both civil and even in criminal matters, it is a matter of voluntary mediation or negotiation. For every lawsuit that is tried, there are probably at least 15 or 20 that are settled in lawyers' offices, with the lawyers acting as mediators or negotiators, putting an agreement together.

So, while this type of mechanism would naturally be attractive to those with minor disputes because they are the ones that cannot afford the lawyers and the use of the courts. However, I see no objection if people wanted to use it for some bigger matter. After all, a minister or anybody, is entitled to mediate any dispute the people will let him mediate. Therefore, I think the minor dispute resolution is an appropriate name because that is the area that has the crying need that is not being addressed. These other areas have choices.

I might say for those Members who may not totally appreciate the scope of this problem, that when I became prosecuting attorney I discovered a huge lobby full of people every day with minor disputes. We were assigning two young lawyers full time to do nothing but attempt to handle these disputes. They unlovingly called the arrangement, "The bitcher's bench."

It involved everything from disputes with the corner grocery, the neighbor's dog relieving itself on someone else's lawn, somebody dumping garbage on somebody's lawn, somebody's older kid hitting somebody's younger kid, to somebody persisting in parking his car in front of another house.

These things, while they are minor and petty, exist on about every block in every city, and sometimes in multiples. They can get very serious. For these minor disputes often fester and get worse, and can even lead to homicide, assaults, and other very serious crimes.

I had to stop attempting to handle minor disputes because I could not afford to tie up two young lawyers with my staff, who were always the younger lawyers, with the least experience, and the least mature. These are not legal problems. These are social, neighborhood problems. While I agree that this is totally a local matter, this is not a Federal project. This is Federal seed money to try to provide some guidance and format to develop a system to settle disputes. The program has a 4-year limit on it.

I believe that just as we have done in many, many cases of local counsel, we can go in and provide a Federal example as well as a clearinghouse so that those that are meeting with success can provide benefit to those that are not working as well in this area.

Madam Chairman, I strongly support the bill.

Mr. BUTLER. Madam Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Virginia.

Mr. BUTLER. Madam Chairman, I thank the gentleman for yielding. Of course, we appreciate his valuable experience as a prosecuting attorney. It always shocks me to realize that people who talk about the dispute resolution actually are talking about criminal violations, which is the responsibility of a prosecuting attorney. I think our States would be a little bit surprised if they learned that we were about to set up a system of taking over the prosecuting attorney's responsibility in the various Commonwealths and States.

Mr. SAWYER. Some would be delighted, as the gentleman knows.

Mr. BUTLER. If the gentleman would yield further, I want to take note of his statement that this is seed money. We are talking about seed money, from whence trees grow. The seeding process is described on page 54 of the bill, and I would invite the Members' attention to it because 10 pages of this bill are directed to determining the seeding process. There are 10 pages of legislative description.

Now, how many disputes are we going to resolve with 10 pages of legislative description? Then, after that of course is the regulations that the Attorney General and the Department of Justice are going to issue. That, I think, points up the real problem of taking over a State and local responsibility.

The time of the gentleman from Michigan has expired.

(At the request of Mr. BUTLER and by unanimous consent, Mr. SAWYER was allowed to proceed for 3 additional minutes.)

Mr. BUTLER. Will the gentleman yield further?

Mr. SAWYER. I yield to the gentleman.

Mr. BUTLER. I thank the gentleman for yielding, because I think, if I may return to the point, this is a State and a local responsibility. When the Federal Government gets involved in it, then we get all excited and all worked up about writing legislation and regulations, and in so doing, get so far removed from the problems we do not really solve any of the problems at all. I invite the Members to take the time to read the 10 pages of this bill talking about the grant program format.

□ 1620

It starts out:

> The Attorney General may provide financial assistance in the form of grants. . . .

Then on page 55:

> As soon as practicable . . . the Attorney General shall prescribe—

Then we have (1), (2), (3), and (4) conditions and then (i), (ii), (iii), (iv), (v) subconditions. Then we are back to No. (5) and on the following page under (7) we have got more conditions. Then we come down to the bottom of page 57 and we tell how the States will get the money. They have got to set forth the proposed plan demonstrating the manner in which the financial assistance will be used. It never tells us what a minor dispute is, but it tells us about a new dispute mechanism.

Mr. SAWYER. If I may recapture my time, did the gentleman from Virginia support LEAA, the Law Enforcement Assistance Administration?

Mr. BUTLER. From time to time I did, and I certainly do appreciate the fine work they have done in this area. I wonder why we need to duplicate it.

Mr. SAWYER. LEAA is doing everything down to providing second-chance vests for local police.

Mr. BUTLER. Does the gentleman from Michigan subscribe to that? Does he think that is a good use of Federal time, money, talent, and regulation?

Mr. SAWYER. Here we are sowing some acorns to grow into big oaks and, hopefully, this will start them.

Mr. BUTLER. I am awfully afraid these acorns are going to be converted into fertilizer and will never get back into the air.

Mr. SAWYER. I am sure if they are exposed to the air in the chamber they will not survive very long.

The CHAIRMAN. The Clerk will read section 3.

The Clerk read as follows:

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) the term "Advisory Board" means the Dispute Resolution Advisory Board established under section 7(a);

(2) the term "Attorney General" means the Attorney General of the United States (or the designee of the Attorney General of the United States);

(3) the term "Center" means the Dispute Resolution Resource Center established under section 6(a);

(4) the term "dispute resolution mechanism" means—

(A) a court with jurisdiction over minor disputes;

(B) a forum which provides for arbitration, mediation, conciliation, or a similar procedure, which is available to resolve a minor dispute; or

(C) a governmental agency or mechanism with the objective of resolving minor disputes;

(5) the term "grant recipient" means any State or local government, any State or local governmental agency, and any nonprofit organization which receives a grant under section 8;

(6) the term "local" means of or pertaining to any political subdivision of a State; and

(7) the term "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

Mr. KASTENMEIER (during the reading). Madam Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMENDMENTS OFFERED BY MR. BUTLER

Mr. BUTLER. Madam Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. BUTLER: On page 43, strike out lines 18, 19 and 20, and remember the subsections that follow accordingly.

On page 48, beginning on line 7, strike the following: "and a Dispute Resolution Advisory Board."

On page 50, beginning on line 1, strike the following: "after consultation with the Advisory Board" and beginning on line 8, strike "after consultation with the Advisory Board", and beginning on line 13, strike "after consultation with the Advisory Board".

On page 52, beginning on line 15, strike the entire section 7 down through page 54, line 13, and renumber the sections that follow accordingly.

On page 55, beginning on line 13, strike the following: "after consultation with the Advisory Board".

On page 65, beginning on line 14, strike the following: "in consultation with the Advisory Board".

Mr. BUTLER (during the reading). Madam Chairman, I ask unanimous consent that further reading of the amendments may be dispensed with, and that they be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BUTLER. Madam Chairman, I ask unanimous consent that this series of amendments may be considered en bloc, as they are addressed to the one point.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BUTLER. Madam Chairman, this series of amendments is addressed to the Dispute Resolution Advisory Board. I do not want to mislead my friends in the committee. I do not like this bill. I think it is an inappropriate extension of Federal responsibility.

It is a new Federal program that spends $75 million of Federal money unnecessarily to meet problems which the States are undertaking to meet themselves in a very worthwhile and responsible manner. But if we are determined to have this bill, then I really see no reason to encumber it with a lot of extra factors that really do not belong in this sort of legislation.

That is the reason that I trespass on the Members' time for these few moments to ask that they strike out the Dispute Resolution Advisory Board. It appears on page 52 of the bill, if the Members have it before them.

This Dispute Resolution Advisory Board is charged with the responsibility of reporting to the Attorney General. In section 7(a) "The Attorney General shall establish a Dispute Resolution Advisory Board * * *." Then the next several paragraphs are directed to what the Board shall do.

Basically they are going to advise the Attorney General of the United States. There is nothing in the law that says the Attorney General has to have a Board to find out what he needs to know about dispute resolution mechanisms. I think the information is already present there. There is the National Center for State Courts, for example. There are many States experimenting with it, and I see no reason to put a nine-member Advisory Board in this bill to advise the Attorney General.

Nobody really seriously, strongly supported this, as far as I can tell. The Attorney General has the option, of course, of circumventing the Advisory Board if he wants to. If he needs help, he can consult anyone he wants to.

To give the Members an example of how unnecessary it is, even the Senate does not have this Board in its bill. It does not contribute anything to the objectives of the legislation that we could not accomplish without it. But it does burden it, again, with too many words, too many problems, too many areas for argument, too many people to argue about policy. It is just one of those things that we do not need in Federal legislation. If we are determined to implement this program—and I would advise against it—it seems to me we want to do the best we can to get all the money we possibly can zeroed in on the problem of resolving disputes and not waste it on a bureaucracy of creating another Board. It is the kind of Board we have heard Presidential candidates campaign against.

Every time we create a Federal agency, we do not need to have another Advisory Board which serves no useful purpose. For that reason I urge your support of this amendment which would simply strike this excess baggage from the bill.

Mr. SENSENBRENNER. Madam Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. I thank the gentleman for yielding. I would like to commend the gentleman from Virginia for introducing this amendment and urge that the committee support it.

This bill seems to start out a new Federal program in the classical manner by having a relatively small amount of Federal money authorized to establish an Advisory Board and establish an information disseminating center to pump out all kinds of credit material on what a good job this program is doing.

As we know, those kinds of programs build up a clientele so that when the time comes for the program to be authorized, the Members of this House and of the other body are inundated with mail from people who have been the beneficiaries of the largess even in small amounts. I think that the Advisory Board is going to basically become a lobbying operation for the continuation of this program when the time comes for the Sun to set on it.

We need a few less lobbyists in the Federal bureaucracy to ask for additional appropriations, and the way to put a stop to this kind of lobbying activity is to adopt the gentleman's amendment.

Mr. BUTLER. I thank the gentleman.

Madam Chairman, I yield back the remainder of my time.

Mr. McCLORY. Madam Chairman, I move to strike the last word.

Madam Chairman, I indicated yesterday during general debate my general support of this legislation. At the same time I indicated that I am wary of new Federal initiatives, especially those that will cost money and those that might escalate into large sums of money. However, I think for us to abjure all new Federal initiatives would be a disservice and counterproductive. In this case it seems to me that what we are doing is taking a step which can alleviate a lot of the expense and a lot of the burden that is imposed on American citizens who are involved in minor disputes, such as those to which my colleague, the gentleman from Michigan (Mr. SAWYER), made reference.

It seems to me that we are failing to assume a responsibility that we have if we say that we are not going to do anything about this at the Federal level and just leave people where they are.

I think it is rather strange that the U.S. Chamber of Commerce, which is so strongly opposed to Federal regulation and to increased Federal spending, would provide its support for this legislation if it were going to have any of the horrendous implications which some of the opponents of this legislation predict. My prediction is quite the opposite.

The fact that we have imposed a sunset provision on this legislation indicates our determination that it be a temporary program, one which we hope can stimulate and provide the kind of mechanisms and the kind of forums for resolving minor disputes, that are necessary to relieve people of the burden of going to court, of hiring lawyers, and getting into all kinds of controversies that they should be assisted in avoiding.

☐ 1630

I believe that we should give general support to this legislation.

The amendment offered by the gentleman from Virginia may seem not too consequential. However, it seems to me that an advisory board can be useful, in that it can be representative of a broad cross-section of people who can assist the Attorney General and I think that is the intention of it. It is not the intention to create a new bureaucracy. As a matter of fact, the advisory board members will have only their per diem. They are not salaried individuals and it is an opportunity for the people who are part of the public to contribute important information and experience which they have.

Madam Chairman, I hope the gentleman's amendment will not be agreed to and that we can get on to the passage of this legislation. Let us see if we cannot, during the next couple of years, encourage more and more communities, more and more neighborhood groups, to develop the kinds of dispute centers and forums whereby people can resolve their minor disputes in an efficient and economical way with as few financial and time burdens as possible.

Mr. KASTENMEIER. Madam Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Madam Chairman, I do wish to compliment the gentleman from Illinois on the statement just made. I think it is ironic that the gentleman from Virginia (Mr. BUTLER) opposes the Advisory Board. The purpose of it is to provide some guidance for the Attorney General, by bringing in views of the people who really are interested and involved in the dispute mechanisms.

For example, there are nine persons from various backgrounds. These are people from State government, local government, business organizations, academic or research communities, neighborhood organizations, community organizations, consumer organizations, the legal profession, and the State courts.

Madam Chairman, I assume the makeup will be one individual from each of these areas.

Madam Chairman, they will be compensated, as the gentleman from Illinois (Mr. McCLORY) pointed out, on the basis of per diem and travel only. They are not paid a salary. We are trying to have the Attorney General reflect on the views of these nine people. We are attempting, through this Advisory Board, both in terms of the grants and the Resource Center, to have the input of these organizations which may be using new dispute mechanisms, and to have the advantage of their contribution of expertise. May I say, as far as the legislation itself is concerned, it is unsettled as is the Advisory Board. There is no question about it proceeding beyond 1984. The amount each year is fixed in terms of grants: 4 years at $15 million each, it does not escalate or go up and down, it remains at $15 million each year, $3 million for each of 5 years for the center.

Madam Chairman, I urge the membership to reject the amendment.

Mr. BROYHILL. Madam Chairman, will the gentleman yield?

Mr. KASTENMEIER. I will be pleased to yield to the gentleman from North Carolina.

Mr. BROYHILL. Madam Chairman, I want to agree with the statement that has just been made by the gentleman from Wisconsin. I would point out that this is an experimental program. At least on this Member's part, I had no intention, when I cosponsored this bill, to sponsor a permanent program. I think that the permanent financing of mechanisms such as these will have to be decided by the States or the local governments eventually. The purpose of this bill is to provide moneys to help States, local governments, or nonprofit organizations to establish mechanisms to improve these ways to resolve these disputes. It seems to me, the Attorney General in administering the bill, should have the advice of an advisory board that represents a very broad and balanced range of various interests which include not only States and local governments but also business and consumer organizations.

Madam Chairman, I would hope that the committee would reject this amendment so as to have the advice and counsel of people who do have an interest in making these mechanisms work and also, importantly, to make sure that the approaches developed in these experimental programs are brought to the attention of those in other States who are interested in them.

Mr. KASTENMEIER. Madam Chairman, I thank the gentleman for his contribution.

I would only say in conclusion while the gentleman from Virginia (Mr. BUTLER) mentioned the Senate that and it is true, the provision of the advisory board is not in the Senate-passed version but is in the version of the Committee on Interstate and Foreign Commerce and the version of the Commission on the Judiciary. I am confident the Senate did not turn this advisory board down, but never had an opportunity to consider it, and that they will accept it. I am so advised and I think it provides no problem at all for them.

Madam Chairman, I urge rejection of the amendment.

Mr. BUTLER. Madam Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Virginia.

Mr. BUTLER. Madam Chairman, I would like to take some of the gentleman's time to address myself to the question he talked about, the composition of the advisory board. It occurs to me that the responsibility of the advisory board, as the gentleman envisions it, to advise the Attorney General, cannot be carried out very well.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. KASTENMEIER was allowed to proceed for 3 additional minutes.)

Mr. BUTLER. Will the gentleman yield further?

Mr. KASTENMEIER. I do yield further to the gentleman from Virginia.

Mr. BUTLER. It cannot be carried out too well, because if you will look at the composition of the advisory board, there is no one down there on the firing line unless perhaps it is the neighborhood organizations. There are nine members of the advisory board. One comes from State government, one comes from local government, one comes from a business organization, one comes from an academic community, one comes from a neighborhood organization, one comes from a community organization, one comes from a consumer organization, one from the legal profession, and one from the State courts. Now, how are you going to learn how these mechanisms are working if there is no one involved in administering the mechanism who is going to participate on the advisory board.

Madam Chairman, I think the gentleman from Wisconsin (Mr. SENSENBRENNER) makes a very valid point. This advisory board is not going to be advising because they are not really going to be involved in the process. It is window dressing that does nothing except to waste the taxpayers' money flying the members in from California for quarterly meetings when the purpose of the legislation is to resolve disputes, not to run an advisory board around the United States.

Mr. KASTENMEIER. Madam Chairman, I would say in answer to the gentleman from Virginia, the nine people who will ultimately comprise the Advisory Board will be people who do and will know what is going on in this field. These are not just people picked at random. These are people who, as circumstances permit, are professionally aware and informed experts in the area of minor dispute resolution. These are the people the Attorney General will select to aid him in this regard.

Mr. HYDE. Madam Chairman, will the gentleman yield?

Mr. KASTENMEIER. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentleman for yielding.

I support the amendment of the gentleman from Virginia (Mr. BUTLER).

I think the bar associations around the country—of which there are many—would be most qualified to lend advice and commentary on the effectiveness of these various programs which will vary from community to community as the problems of different communities, urban, rural, and suburban, exist. Nine people really are not going to be able to have their finger on the pulse of the operation of this program across America. I would think this would be a most appropriate function for the American Bar Association. Likewise, in my community, the Chicago Bar Association, the Cook County Bar Association and the Chicago Council of Lawyers, all of whom would be delighted to have some input to the Attorney General on how this is working, would be appropriate.

□ 1640

Mr. KASTENMEIER. Madam Chairman, I appreciate the gentleman's comment. Of course, as we know, the American Bar Association supports this legislation vigorously and we have provided one of the nine spots for a bar association representative.

Mr. KINDNESS. Madam Chairman, I move to strike the requisite number of words.

I rise in support of the amendments of the gentleman from Virginia and in opposition, that is, to the concept of an advisory board being included in the bill.

I think the arguments have been well presented on both sides, but I think we ought to just add one other consideration and that is we have such a proliferation of advisory boards and commissions that spend money and do annual reports, that it is really somewhat out of bounds now.

I cannot tell from the arguments either at the committee stage or now in the Committee of the Whole that there is any screaming need for an advisory board. Nobody seems to be able to indicate that with the Justice Department and its functioning and with the Disputes Resolution Center and its functioning that there is really going to be any place for an advisory board to function. I do not note that there is anything that the advisory board is to do in the wording of the bill. For that we may feel blessed, I suppose. It apparently is not to make an annual report. It does not really have the function of advising or doing anything except traveling someplace and meeting, apparently, and that is fine. Maybe it is better that way, but I say from what I can gather in the bill the concept of an advisory board is a fillip that is thrown in there. It does not mean anything. It does not have any function in judgment. It is more waste. I think we might very well just do away with that part of it, at any rate.

If anyone can point out why the advisory board is supposed to be in the bill and what its functions are that are really absolutely necessary, I would be happy to know it, but I do not think they are even enumerated in the bill; so I would urge that the amendment be adopted.

Mr. RAILSBACK. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, last year when the bill was marked up initially, it is my recollection that the members of the so-called advisory board were to be paid at a rate of GS-18. That caused some of us some concern.

I want to point out to the Members that we offered an amendment that would strike that GS-18 salary for the board members and instead substitute simply travel and per diem and it was accepted. My understanding is that the per diem rate is not at a rate of $50 per day. The people that we have on the advisory board are certainly in my opinion not going to get rich.

My feeling is that the advisory board, as has been mentioned by the chairman of the Judiciary Subcommittee is going to provide some outside input at a relatively low cost.

Madam Chairman, I hope we defeat the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Virginia (Mr. Butler).

The question was taken; and on a division (demanded by Mr. Butler) there were—ayes 10, noes 10.

Mr. KINDNESS. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 715]

Abdnor
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carr
Carter
Cavanaugh
Cheney
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Diggs
Donnelly
Dornan
Dougherty
Downey
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hansen
Harris
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McDade
McEwen
McHugh
McKay
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Mathis
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nedzi
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Petri
Peyser
Pickle
Preyer
Price
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Rostenkowski
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1700

The CHAIRMAN. Three hundred and sixty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. Kindness) for a recorded vote.

Does the gentleman from Ohio insist on his demand?

Mr. KINDNESS. Yes, Madam Chairman.

The CHAIRMAN. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 170, noes 208, not voting 55, as follows:

[Roll No. 716]

AYES—170

Abdnor
Alexander
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Bennett
Bereuter
Bevill
Bouquard
Breaux
Brinkley
Broomfield
Brown, Ohio
Buchanan
Burgener
Butler
Byron
Campbell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fenwick
Fish
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Ginn
Goldwater
Goodling
Gradison
Gramm
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Hansen
Harsha
Heftel
Hightower
Hillis
Hinson
Holt
Hopkins
Hubbard
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lungren
McEwen
McKay
Madigan
Marks
Marlenee
Martin
Mathis
Michel
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Myers, Ind.
Nichols
Pashayan
Paul
Pease
Petri
Pickle
Quayle
Quillen
Regula
Rhodes
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Sabo
Satterfield
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Trible
Ullman
Volkmer
Walker
Wampler
White
Whitehurst
Whittaker
Whitten
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Fla.
Zeferetti

NOES—208

Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
AuCoin
Baldus
Barnard
Barnes
Beard, R.I.
Beilenson
Benjamin
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brodhead
Brooks
Brown, Calif.
Broyhill
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Clay
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Diggs
Dingell
Dixon
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Ertel
Fary
Fascell
Fazio
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Gephardt
Giaimo
Gilman
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Harris
Hawkins
Heckler
Hefner
Holland
Hollenbeck
Holtzman
Horton
Howard
Huckaby
Hughes
Jenkins
Jenrette
Johnson, Calif.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lehman
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McHugh
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moorhead, Pa.
Murphy, N.Y.
Murphy, Pa.
Murtha
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Peyser
Preyer
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo

Rodino
Roe
Rose
Rostenkowski
Roybal
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Waxman
Weaver
Whitley
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki

NOT VOTING—55

Addabbo
Akaka
Anderson, Ill.
Andrews, N. Dak.
Bailey
Bedell
Bethune
Biaggi
Brademas
Carney
Chappell
Chisholm
Conable
Dellums
Derrick
Dicks
Dodd
Duncan, Oreg.
Edwards, Calif.
Edwards, Okla.
Flippo
Flood
Gibbons
Gingrich
Glickman
Gonzalez
Grassley
Hance
Hanley
Harkin
Leach, Iowa
Leland
McDonald
McKinney
Marriott
Mattox
Mitchell, N.Y.
Moffett
Murphy, Ill.
Myers, Pa.
Perkins
Pritchard
Roberts
Rosenthal
Runnels
Russo
Shuster
Stark
Stenholm
Thomas
Treen
Watkins
Weiss
Wilson, C. H.
Young, Alaska

Mr. RINALDO and Mr. SYNAR changed their votes from "aye" to "no."

☐ 1710

So the amendments were rejected.

The result of the vote was announced as above recorded.

Mr. LIVINGSTON. Madam Chairman, I move to strike the last word.

(By unanimous consent, Mr. Livingston was allowed to speak out of order.)

DAVID C. TREEN, NEW GOVERNOR OF LOUISIANA

Mr. LIVINGSTON. Madam Chairman, my fellow colleagues, I take great pleasure at this time to announce that our colleague, David C. Treen, has just officially become the next Governor of Louisiana.

AMENDMENTS OFFERED BY MR. BROYHILL

Mr. BROYHILL. Madam Chairman, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. Broyhill: Page 41, line 20, insert a comma after "Americans".

Page 49, line 8, strike out "mechanism" and insert in lieu thereof "mechanisms".

Page 51 line 3 strike out "and"; strike out the period in line 11 on that page and insert in lieu thereof "; and"; and add after line 11 on that page the following:

(10) in awarding such grants and entering into such contracts, shall have as one of its major priorities dispute resolution mechanisms that resolve consumer disputes.

Page 56, insert "and" at the end of line 15 and add after that line the following:

(C) provide that one of the major priorities of the Attorney General shall be the funding of dispute resolution mechanisms that resolve consumer disputes;

Page 57, line 12, insert "the specific" before "criteria".

Mr. BROYHILL (during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered en bloc, and that they be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

Mr. BROYHILL. Madam Chairman, I might point out these amendments have been made available to all of those on the two committees who have been involved in the consideration of this bill.

The first three amendments are technical in nature, correcting some spelling and correction some punctuation.

The other two amendments are clarifying in nature, to spell out and to make it conform with the bill that was reported from the Committee on Interstate and Foreign Commerce, that would spell it out a little more specifically to make sure it is clear that in awarding grants and entering into contracts one of the major priorities in this dispute resolution of consumer disputes.

Also, it would provide that one of the major priorities of the Attorney General in the funding of dispute resolution mechanisms is that it go for those that put emphasis on the resolution of consumer disputes.

I have pointed out, this does conform to the bill that has been reported from the House Committee on Interstate and Foreign Commerce, and I offer it to the bill reported from the Committee on the Judiciary.

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Madam Chairman, I thank the gentleman for yielding.

This will indeed serve two purposes. It will cure three technical imperfections in the bill, and second, emphasize that one of the major priorities will be the resolving of consumer disputes.

This, as the gentleman says, will in fact conform the two bills, the Committee on Interstate and Foreign Commerce bill and the Committee on the Judiciary bill.

I am pleased to accept the amendments.

Mr. BROYHILL. I thank the gentleman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from North Carolina (Mr. Broyhill).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kindness: On page 44, line 22, strike the word "and" and insert in lieu thereof the following:

"(7) the term "minor disputes" means those disputes, not involving allegations of bodily injury or criminal conduct, which occur between family members, neighbors, landlords and tenants, consumers and businesses, and buyers and sellers, where the amount in controversy does not exceed $300, or such disputes as may be defined more specifically by the legislative authority of the State or local unit of general government in which such a dispute resolution mechanism operates; and"

On page 44, line 23, strike "(7)" and insert in lieu thereof "(8)".

Mr. KINDNESS. Madam Chairman, The amendment that is proposed at this point is intended to take care of a problem that this bill has. The bill has been discussed as being one dealing with ways of approaching the resolution of minor disputes.

Yet, there is no definition of minor disputes in the bill.

The purpose of this amendment then is to fill that gap.

I realize that we could have differing views as to what is a minor dispute. This definition that is proposed essentially limits it to those monetary considerations below or up to $300.

It would exclude allegations of bodily injury that are complicated to decide. It would exclude allegations of criminal conduct, and what would be left presumably is the small claims that occur as between landlord and tenant, buyer and seller or business and consumer, and between family members and neighbors, the kind of disputes that I believe are intended to be reached by the programs that would be established and funded under this bill.

If someone has a better idea of what a minor dispute should be or how it should be defined, I am certainly open to other amendments or substitutes for this amendment, but no one seems to have come up with any kind of a definition of a minor dispute.

I think the bill has to have some definition, or else we just do not know what we are dealing with. We do not know what we are spending the taxpayers' money for.

I would urge that the amendment be adopted on that basis.

I would therefore urge my colleagues to adopt the amendment, even though there is still some substantial question as to whether such a bill as this is needed at all.

Mr. PEPPER. Madam Chairman, I move to strike the last word.

Madam Chairman, and members of the committee, all of us know, especially those of us who are lawyers, that the expense of going to the courts and the delay of the law are two of the notorious characteristics of the administration of law.

☐ 1720

I was very glad to receive a letter that I think indicates the highest judicial officers also favor this inexpensive and prompt method of trying to resolve minor disputes in the communities of our country.

I have a letter before me dated November 28, 1979, addressed to me:

State of Florida,
Tallahassee, November 28, 1979.

Congressman Claude Pepper,
Rayburn House Office Building,
Washington, D.C.

Dear Claude: I urge your support for Senate Bill 423, the Dispute Resolution Act. This legislation is important to vast numbers of Floridians, and it is a major step in the improvement of the administration of justice.

Sincerely,
Arthur J. England, Jr.,
Chief Justice, Supreme Court.

I support this bill.

● Mr. DRINAN. Madam Chairman, I wish to commend Mr. Miller, Mrs. Boggs, and Ms. Mikulski who—together with the Committee on Education and Labor—have worked with so much dedication to prepare the Domestic Violence

Prevention and Services Act, H.R. 2977. They present us with a modest and fiscally responsible bill that will go a long ways toward alleviating the problem of domestic violence.

Madam Chairman, I am horrified by the statistics which I hear time and again concerning the frequency of domestic violence in American families: The nearly 5,000 women who are abused each day, the 1.8 million wives assaulted each year, the nearly 1 million families in which children are abused. There is no doubt that efforts must be made to help these victims. Yet, I hear opponents of this bill argue that it will lead to another enormous Federal aid program and that it will lead to unnecessary Federal intervention in what has traditionally been a State responsibility.

Let me emphasize one point. H.R. 2977 was carefully designed to insure that major responsibility remain at the State level. Federal funds for local projects will be channeled through States. Moreover, Federal funds will be limited to a quarter of any local shelter's yearly budget and will be limited to no more than 3 years of funding for any one shelter. Thus, provisions in this bill will insure that local programs will not become permanently dependent on Federal funds. H.R. 2977 was designed to enhance the effectiveness of State and local efforts in domestic violence by providing an opportunity for local projects to get off the ground. Such minimal intervention on the part of the Federal Government will, in the long term, be extremely cost-effective. By supporting preventive efforts to deal with domestic violence through local shelters and support services, we will be serving families when they need help. By assisting families at this critical period, we will ultimately save Federal moneys which would otherwise have to go to pay for hospitalization, institutionalization, foster care, and so forth—services which are far more expensive and certainly far less responsive to the needs of our American families .

I strongly urge my colleagues' support of the Domestic Violence Prevention and Services Act.●

Mr. KASTENMEIER. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GIAIMO) having assumed the chair, Mrs. SPELLMAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 423)—to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes, had come to no resolution thereon.

NATIONAL UNITY DAY

Mr. GARCIA. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from the further consideration of the joint resolution (H.J. Res. 458) to authorize and request the President to issue a proclamation designating December 7, 1979, "National Unity Day"; and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 458

Whereas an Iranian mob has violated international law by illegally seizing the American Embassy in Tehran; and

Whereas American flags prominently displayed on National Unity Day will symbolize our unity and opposition to international terrorism and blackmail; and

Whereas a nationwide demonstration of public support for the hostages is the only way to counter the student demonstrations that are being orchestrated in Tehran for television audiences around the world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That December 7, 1979, is designated as "National Unity Day", and the President of the United States is authorized and requested to issue a proclamation calling upon all United States citizens and organizations to observe that day by prominently displaying American flags.

AMENDMENT OFFERED BY MR. GARCIA

Mr. GARCIA. Mr. Speaker, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GARCIA: Page 2, line 3, strike out "December 7, 1979," and insert "December 18, 1979," in lieu thereof.

Mr. RINALDO. Mr. Speaker, will the gentleman yield?

Mr. GARCIA. I yield to the gentleman from New Jersey.

Mr. RINALDO. Mr. Speaker, I rise in support of House Joint Resolution 458, which calls upon the President of the United States to designate December 18, 1979, as National Unity Day. The resolution further requests the President to urge all U.S. citizens to prominently display American flags on that day in a show of support for the release of the American hostages in Iran.

It has been over a month since the illegal seizure of our Embassy in Tehran. Fifty American citizens are still being held hostage at our Embassy. This action violates every principle of international law, which requires the protection and immunity of diplomatic personnel.

The American people have shown remarkable restraint in the face of this grave situation. They have stood behind the President in his efforts to secure the captives' freedom through diplomacy rather than military action. We must make clear to those holding the hostages, however, that our restraint is not to be interpreted as weakness or lack of national will.

Flying the flag as a nationwide display of public support will show the world that the American people are united in their opposition to international terrorism and blackmail. Thousands of Americans do not march every day outside the Embassy of Iran, but this does not mean we do not care. We do care. We are deeply distressed and disturbed by the mistreatment and abuse of our fellow Americans in Tehran. A national day of unity, with millions of flags flying, will symbolize to the world the American people's solidarity and unyielding commitment to the freeing of the hostages.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. GARCIA).

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended so as to read: "Joint resolution to authorize and request the President to issue a proclamation designating December 18, 1979, 'National Unity Day'."

A motion to reconsider was laid on the table.

PRIVILEGES OF THE HOUSE—SUBPENA DUCES TECUM IN THE CASE ON DONALD GASQUE

Mr. MITCHELL of Maryland. Mr. Speaker, I rise to a question of the privileges of the House.

The SPEAKER pro tempore. The gentleman will state it.

Mr. MITCHELL of Maryland. Mr. Speaker, I have been served with a subpena duces tecum for the circuit court of Anne Arundel County, Md., to appear Thursday, December 13, 1979, in the case of Donald Gasque.

Under the precedents I am unable to respond without the permission of the House and the privileges of the House being involved.

I send the subpena to the desk for such action as the House may take.

The SPEAKER pro tempore. The Clerk will read the subpena.

The Clerk read as follows:

SUMMONS DUCES TECUM

Defendant: Donald Gasque.

Case No. 22,854.

State of Maryland, Anne Arundel County, Sct:

To: Parren J. Mitchell, 1018 Federal Office Building, 31 Hopkins Plaza, Baltimore, Maryland 21201.

You are hereby summonsed to appear before the Judges of the Circuit Court for Anne Arundel County, Court House, Church Circle, Annapolis, Maryland, on Thursday, the 13th day of December 1979, at 1:30 PM, to testify for the Defendant, and to bring with you a report which you have in your possession which outlines and discusses the conditions at the Maryland House of Correction, Jessup, Maryland.

Failure to attend, may result in your arrest.

Witness the Honorable Judges of the Circuit Court for Anne Arundel County, Maryland.

W. Garrett Larrimore, Clerk.

By Donna Heins, Deputy.

Date issued: December 6, 1979.

Requested by:

Name: James D. McCarthy, Jr.

Address: Assistant Public Defender, 60 West Street, Suite 203, Annapolis, Maryland 21401.

☐ 1730

SOME QUESTIONS ON AMERICAN SELF-FLAGELLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 15 minutes.

Mr. PAUL. Mr. Speaker, most of us saw, on television, the Iranians marching on one of their holy days and flagellating themselves with chains to the point of drawing blood. I am sure everyone who witnessed this masochistic fanaticism was astounded as I was. It emphasized the bizarre nature of the people we are dealing with in Iran, and the difficulty we have in finding a common ground.

As I thought more about the spectacle, however, I realized that our country is not immune from self-flagellation. For instance:

Why do we encourage the notion that a no-growth economy is necessary and that lowering our expectations is a rational alternative to new ideas and new production?

Why do we spend $12 billion a year, through the Department of Energy's budget, creating shortages, when the free market could provide all the energy we need?

Why do we destroy the value of our dollar by running the printing presses 24 hours a day, then cry foul when oil prices go up in reaction to this monetary fraud?

Why do we heavily tax those companies that succeed in serving the consumer effectively, and reward the failures with subsidies and guaranteed loans?

Why do we intervene all over the world, pouring billions down foreign ratholes, then skulk away when our people and property are threatened?

Why do we give away strategic waterways and negotiate away use of our defense capability, then purchase the votes to ratify the limitations with more spending on weapons we do not need?

Why do we pretend to help the poor with welfare programs, then allow those programs to sink in a mire of corruption, waste, and fraud?

Why do we make believe that we care about the little guy, promise him everything, and then present him with the bill for higher taxes, more inflation, and less freedom?

Why do we do everything conceivable to increase our dependency on the Arabs by destroying incentives to produce energy in this country?

Why do we orchestrate hostility and envy toward any oil company making 5 percent on its sales, and then deliberately debase our money at a rate of 15 percent?

Why do we print up massive quantities of paper dollars, exchanging a barrel of dollars for a barrel of oil, and then dump our real money, gold, at lower than market prices claiming we do it to support the dollar?

Why do we get involved in supposedly noble wars, squandering our young people's lives and our wealth, with no intention of trying to win?

Why do we pretend to care for the elderly with an insurance program that is not insurance and penalize the retired with a vicious inflation tax?

Why do conservatives and liberals talk of individual freedom while conniving to institute compulsory service, military or civilian?

Why do we allow the Congress to create inflation, then protect ourselves with pay raises?

Why do we talk about freedom as we attempt to control the personal and economic lives of every American?

Why do we watch as politicians and bureaucrats undermine the market and the money with excessive Government, then ask the same people for more Government as a solution?

Why do we ignore the benefits that have flowed from deregulation of the airlines, while pushing for increased regulation of medicine and energy?

Why do we create great prosperity with a free market and individual liberty, then dismantle them and bring on poverty, unemployment, anxiety, inflation, hunger, and domestic strife?

Why do we ignore 4,000 years of experience showing that price controls always produce shortages, by causing shortages in energy with price controls?

Why do we get upset at extinction of the snail darter, while allowing a million unborn children to be killed each year in our own country?

Why do we meddle in the internal affairs of other nations, receiving only condemnation for our sacrifices, and never learn a lesson?

Why do we give foreign aid to our enemies and the OPEC countries, thus increasing the suffering of our own people?

Why do we succumb to the threats of a Torrijos, give away our canal, and then pay the Panamanians to take it?

Why do we engage in wars like Korea and Vietnam on the other side of the world, and allow a Communist conquest 90 miles from our shores?

Why do we put up with the Iranian takeover of our Embassy while continuing to subsidize Iranian students here, train Iranian pilots, allow Iranians to receive welfare, and then watch as our guests condemn America in daily demonstrations?

Why do some of those who create energy shortages—through price controls, allocations, and regulations—claim a 5-percent profit is sinful and hurts the poor, and then turn around and support a 50-cents-per-gallon tax on gasoline?

Why do we build unwieldy offensive weapons like the MX, while ignoring the need to defend American cities?

Why do we tax achievement and productivity at exorbitant rates, while decrying the lack of investment?

Why do we talk about the need for a military petroleum reserve, and then plan to pump oil out of such a reserve in California, transport it at great expense through the Panama Canal, and pour it in the ground again in Texas, without the proven technology to get it out?

In comparison with all of this, beating yourself with chains seems rather benign.

MTN TARIFF RATES ON LEAD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota (Mr. FRENZEL) is recognized for 5 minutes.

● Mr. FRENZEL. Mr. Speaker, today I introduced a bill which would delay the conversion of the rates of duty on unwrought lead other than lead bullion to ad valorem equivalents until January 1, 1982. As you know, during the MTN, many conversions to ad valorem equivalents were made in an effort to further simplify and equalize duty assessments under the U.S. tariff schedules.

Currently, the duty on unwrought lead is 1.0625 cents per pound, which I believe is adequate protection to the U.S. lead-producing industry. I have no problem with the conversion to ad valorem duty equivalents in most cases, but due to the soaring price of lead in the last couple of years, the change to ad valorem equivalent will result in nearly doubled tariff rates on unwrought lead, which to me is contrary to the spirit of the MTN which was to lower tariffs, not raise them. Since the United States is a net importer of lead, this situation will only serve to drive up the price of lead even further.

I believe this 2-year delay would give us enough time to examine the effect of ad valorem conversion with respect to rapidly-escalating prices in the lead, and possibly other commodity markets. It would also provide time for us to discuss with our U.S. trade representatives the need to negotiate lower rates which would correspond to present rates of duty.

I repeat that we are not initiating any kind of tariff cut which would harm the domestic lead producing industry. We are merely insuring that our lead consumers have the opportunity to purchase that portion of their lead needs which cannot be satisfied domestically at the same duty currently paid.●

THE POLYGRAPH IN EMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. McKINNEY) is recognized for 5 minutes.

● Mr. McKINNEY. Mr. Speaker, last week I again sponsored legislation (H.R. 6034) which prohibits the use of polygraphs (lie detectors) in employment. This bill differs from polygraph legislation which I introduced this year in two important ways. First, I am joined today by the distinguished chairman of the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights, Representative DON EDWARDS of California. It is mv hope and expectation that his influential support will encourage serious consideration of this matter in the 96th Congress. Second, this bill covers only private employers. I should make it clear, therefore, that I believe the prohibition of polygraph use should extend to public employers as well, and that I hope this issue will be addressed by the committee or in separate legislation.

For further information on this subject, I urge my colleagues to refer to my statement on page H1655 of the March 26 CONGRESSIONAL RECORD. In addition, I have inserted the following issue brief on the subject which has been prepared by my office:

The Polygraph In Employment

ISSUE DEFINITION

In both the 95th and 96th Congresses, legislation has been introduced in the House and Senate to prohibit the use of polygraphs—or "lie detectors"—in connection with employment. Interest in this issue has been stimulated by (1) reports that such polygraph use constitutes an unwarranted invasion of privacy, and (2) serious questions which have been raised regarding the validity and reliability of such devices.

BACKGROUND

Congress first addressed the issue of polygraphs in 1965, when the House Government Operations Committee issued a report entitled "Use of Polygraphs as 'Lie Detectors' by the Federal Government" (House Report 89–198). It concluded that "There is no 'lie detector,' neither machine nor human" and recommended the prohibition of polygraph use by federal agencies in all but the most serious national security and criminal cases.

In 1976, after further study, the Government Operations Committee recommended that "the use of polygraphs and similar devices be discontinued by all government agencies for all purposes." The Committee concurred with the Department of Justice position that the results of polygraph examinations would not be admitted as evidence in the Federal courts. Finally, the committee report (House Report 94–795) noted "the inherent chilling effect upon individuals subjected to such examinations clearly outweighs any purported benefit to the investigative function of the agency." With regard to the last point, the report referred to the testimony of several witnesses who argued that the polygraph test violated a number of the Bill of Rights amendments to the Constitution, and pointed out that some European countries have long rejected the polygraph as an impermissible police technique.

In July, 1977, the bi-partisan Privacy Protection Study Commission, created by the Privacy Act of 1974, recommended that "Federal law be enacted or amended to forbid an employer from using the polygraph or other truth-verification equipment to gather information from an applicant or employee." The Commission explained that "the main objections to the use of the polygraph in the employment context are (1) that it deprives individuals of any control over divulging information about themselves; and (2) that it is unreliable."

More recently, President Carter endorsed legislation introduced in the House to limit the use of lie detectors in employment. Carter made this statement in his privacy message of April 2, 1979.

Polygraph use was considered again this year by Dr. Alan Westin of Columbia University and Louis Harris and Associates in *The Dimensions of Privacy,* the most comprehensive national opinion research survey conducted to date on privacy in America. The survey yielded the following results: By a 65–30 percent majority, employees believe that asking a job applicant to take a lie detector test should be forbidden by law. A majority of business employers (55 percent) and Congressional respondents (60 percent) shared this judgment.

ARGUMENTS FOR POLYGRAPH LEGISLATION

1. Polygraphs violate civil liberties: Rather than detecting truth or falsehood, the polygraph often serves as a means of intimidation which gives the polygraph examiner the ability to elicit personal and intimate information from the subject. It was reported in 1977 that approximately 90 percent of job applicants rejected after having taken a pre-employment polygraph examination were rejected on the basis of their own admissions, not on the basis of the results obtained from the polygraph test itself (see Barland, G. H. Sceening Utah job applicants: Preliminary results. *Polygraph*, 1977, *6*, 318–324). Job applicants have been questioned on highly personal topics ranging from sexual conduct to religious beliefs to emotional well-being. This is considered to be a violation of the rights to privacy and civil liberties.

2. Polygraphs are of questionable accuracy: There is no scientific data with regard to the accuracy of pre-employment polygraph examinations. Studies conducted to date have aimed to evaluate only the accuracy of polygraphs techniques with criminal suspects. The results of these studies range from almost perfect accuracy (reported by the American Polygraph Association) to no better than chance (reported by the American Civil Liberties Union). Further, proponents of this position concur with the Justice Department opinion that there is no specific physiological reaction indicative of deception. This theory clearly undermines the polygraph concept, which presumes that an identifiable physical reaction can be attributed to a specific emotional stimulus.

3. State laws must be reinforced: At least 16 states have already passed measures prohibiting or restricting polygraph use in employment. A federal statute is needed to establish a uniform code and to prevent employers in states with prohibitions from polygraphing job applicants in states which do not.

BUSINESS AND THE POLYGRAPH

A recently conducted survey, the Dimensions of Privacy, concluded that 55 percent of business employers believe that asking a job applicant to take a lie detector test should be forbidden by law. The Business Roundtable stated in December, 1978, that employers should "ban the use of truth verification devices in the employment process." Nevertheless, some individual businessmen oppose a ban on polygraph testing, arguing that the polygraph is necessary to control employee theft. This issue was raised in the 95th Congress before the Senate Judiciary Committee's Subcommittee on the Constitution. Estimates of employee theft ranged widely from $5 billion to $40 billion per year in the United States.

While this is a subject of great concern, it has been noted by Sen. Birch Bayh (D-Ind.), chairman of the Senate Constitution Subcommittee, that a vast majority of businesses do not use polygraphs, and indications are that they have not been any more hard-hit by pilferage than other businesses. Further, supporters of polygraph legislation emphasize that, when considering the issue, Congress must explore what other methods of management and security are employed that offer reasonable alternatives to the business community. Estimates of the number of polygraph tests administered to employees annually range from 300,000 to 500,000.●

SECOND CAREER TRAINING FOR AIR TRAFFIC CONTROLLERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. Corcoran) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, I would like to express my support for H.R. 5870, Congressman Hanley's bill strengthening the second career training program for air traffic controllers, which is being voted on today under a suspension of the rules.

In the past, the air traffic controllers' second career training program has been poorly administered and subject to abuse. Consequently, Congress prohibited the use of appropriated funds for fiscal year 1979 for new entries into the second career training program. After extensive hearings and careful review, the Committee on Post Office and Civil Service, of which I am a member, determined that while there is need for improvement in the system of second career training, the program should not be abandoned.

In fact, our committee found that such an alternative career program is more than ever necessary as more and more people take to the skies and air traffic volume increases daily. Air traffic control work carries awesome responsibility for human life and requires the ability at all times to make quick life and death decisions. Error in such a job can have devastating consequences and, for the sake of the flying public as well as the controller who works under this stress, we can only afford to have controllers who are capable of working at peak efficiency at all times.

For this reason, we desperately need an effective, fully operational second career training program for air traffic controllers. H.R. 5870 will correct a number of weaknesses in the original legislation creating second career training for air controllers and make this a viable program again.

These necessary changes include: Limiting eligibility to only certain employees; establishing a review board to set eligibility criteria and review applications and ongoing programs; requiring medical certification of ability to complete the program; increasing minimum eligibility to eight years of service as a controller; and creating a qualification standard for career training programs.

I believe that these changes in the structure of the program will solve the problems that led to the lack of financial support this year, and I urge my colleagues to support this bill.●

A TRIBUTE TO DOROTHY S. ROSENBERG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. Levitas) is recognized for 5 minutes.

● Mr. LEVITAS. Mr. Speaker, a distinguished public servant, a lovely lady and a dynamic part of the operations of the Smithsonian Institution will be leaving Government shortly.

Dorothy S. Rosenberg, who has spent some 20 years with the Smithsonian after previous service with the Department of the Interior, will give up her position as Executive Assistant to the Secretary of the Smithsonian Institution, S. Dillon Ripley.

The Committee on Public Works and Transportation, and in particular its Subcommittee on Public Buildings and Grounds, has worked throughout the years with the Smithsonian Institution on many pieces of legislation that have helped develop and make even more effective a very great Institution which is a landmark on the American scene and which yearly serves millions of visitors who come not only from all over the United States but from all over the world.

No small part of the successful operation of the Smithsonian has been the quiet and effective work of Dorothy S. Rosenberg. She has played a major role in the Office of the Secretary whether it involved internal matters and operations of the Institution or whether it concerned legislation that needed attention on the Hill.

On behalf of all of the members of the Committee on Public Works and Transportation and the Members of the House, I salute Dorothy Rosenberg for her great service and wish her happiness and peace in her well-earned retirement.

I include a pertinent article from the Smithsonian Torch, December 1979 issue:

Fond Words as Friend Leaves

Charles Blitzer calls her the unsung "Terry Bradshaw of the Smithsonian."

John James refers to her as "my friend, confidant and advisor for 21 years."

James Bradley says, "She has the ability to anticipate problems and to propose alternative solutions."

Dorothy Rosenberg, the subject of these accolades, disagrees: "It has been my good fortune to associate with people who carried heavy responsibilities and who gave me an opportunity to participate while learning." Typically, she makes no reference to the responsibilities she has carried.

After 21 years at the Smithsonian, the last 6 as executive assistant to Secretary Ripley, Dorothy Rosenberg will retire Jan. 11 and turn more of her attention to her son and daughter and her three grandchildren, one of whom, born recently in California, she has yet to see.

Most of Rosenberg's contributions to the Smithsonian will remain unlisted and unchronicled, but around the Institution she is known as the person "who gets things done and done right," as one admirer said.

The Board of Regents, at its meeting Sept. 17, took note of this quality in a resolution commending Rosenberg for her "exceptional soundness of judgment, resourcefulness, devotion to the ideals of the Institution and, above all, unfailing graciousness."

The resolution came as a surprise to Rosenberg, since her responsibilities normally include the preparation of the Regents' agenda.

Blitzer's comparison of Rosenberg with Terry Bradshaw, the quarterback of the successful Pittsburgh Steelers, was echoed, in a fashion, by Betty Morgan, former assistant treasurer of the Smithsonian and a longtime friend.

"She is a low-keyed dynamo," Morgan said. "She is stubborn but never unreasonable." Morgan spoke of Rosenberg's attention to detail, her ability to forge consensus from disagreement and her dedication to principle. "There have been times when a lesser person would have given in to the pressures, but Dorothy won't," Morgan said.

Dorothy Rosenberg came to the Smithsonian in 1959 from the Department of the Interior where she worked in the Office of the Secretary. At the Smithsonian, she was office manager for Under Secretary Bradley and his successor Robert A. Brooks. In 1973, she assumed her current position as executive assistant.

"I simply can't imagine what the place will be without her," Blitzer said, "but I do know that my life will be more difficult and less pleasant."

"Her perceptive understanding of the unique qualities of the Smithsonian and how its functions have enabled the Institution to achieve many of its objectives," said David Challinor.

Rosenberg, however, speaks of herself as a member of a team. "I'm just one of the many who have contributed," she said. "Because it's a group effort, you feel part of it, even though you don't get your name on anything."

Secretary Ripley simply said, "How do you bestow encomiums on someone who deserves them all? She will be very much missed." ●

GASOHOL USAGE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. Addabbo) is recognized for 15 minutes.

● Mr. ADDABBO. Mr. Speaker, it would seem that gasohol usage can be accelerated much more rapidly, with great advantages to the program to reduce the use of imported oil. It is a well known alternative for automobile use, and there are great quantities of wastes in the farm areas that can be readily converted to alcohol. Also, the mash that is left after corn has been used for alcohol can be fed to livestock with very little change in its food value.

As a generality, each region of the United States needs to make the most of its local energy opportunities. This can avoid needless use of transportation with possible savings, but the population will feel a lot more secure if there are local sources of alternate fuels using local materials, rather than to be excessively dependent on far away sources. The farm areas are particularly fortunate in having large amounts of waste that can be converted into alcohol. In a sense, the alcohol program should go far to make gasoline rationing much less necessary, since the States which have the alcohol alternative readily available will not need as much gasoline. As sources of alcohol there is opportunity to distill various farm wastes, timber waste, municipal garbage, waste paper, and so forth.

The 10-percent alcohol mixture can be used in any ordinary car without modification. The gasohol octane rating is 89, compared with an octane rating of 87 for unleaded gas. It is claimed to give increased mileage—4.5 more miles to a gallon—and better engine performance, and reduced engine deposits. It is estimated by the Department of Energy that present financial incentives could increase this gasohol usage to about 3 percent of the Nation's gasoline consumption within 3 years.

While the Department of Energy reports gasohol to be selling in 800 to 1,000 outlets in 28 States, the concentration is in Mideast with about 500 outlets in Iowa, with additional concentrations in Nebraska and Illinois. Outlets in Iowa alone are selling 6 million gallons per month. The Federal tax exemption to encourage gasohol is due to expire in 1984, and early extension would remove uncertainty with regard to plant construction. There are similar tax exemptions in some States, but those exemptions are probably temporarily due to need to finance road maintenance.

Is there a Federal loan guarantee and rapid amortization of plant cost in existence now, or is that proposed?

Alcohol for gasohol has no "depletion allowance" such as Federal or State income tax law provides for petroleum, nor for crops that go into gasohol through alcohol. A "depletion allowance" approach involves an exemption of part of the sales revenues from taxation. It is possible that the tax approach for gasohol should be similar to the tax approach for petroleum and petroleum-derived products, so that the economics of competitive products can be realistically compared. The alcohol approach to extend liquid fuels has the over-riding advantage of involving renewable resources. It is economically perverse to give more tax breaks to production of nonrenewable resources than to the production from renewable resources. In an agricultural area there is very little shipping cost for either the raw materials or the alcohol product available for local energy uses.

Since gasohol is less polluting than gasoline, wider use of gasohol may enable electric generation to take place with less restriction. The reduction of carbon monoxide emissions from gasohol usage may be as much as 30 percent, a major factor since the auto is the major air polluter. This should also cause the Environmental Protection Agency to be promotional rather than restrictive, since the output of the alcohol plant will enable cleaner auto fuel that can outweigh any pollution that an alcohol plant itself might involve in operation and alcohol plants are of relatively small size whose environmental disturbance would seem to be de minimus. Many communities which resist oil refineries can welcome an alcohol plant, particularly one that can provide waste disposal at the same time.

Recent figures indicate that a rather large gasohol alcohol plant of about 200 million gallons a year capacity, can be built in 18 to 24 months at a cost of approximately $50 million, with a production cost of approximately $1 a gallon of gasohol. Considering the added plant cost that can result from mere delay, it pays to beat the inflation by moving into plant construction as quickly as possible. For gasohol, the alcohol is 200 proof, to avoid water content. To avoid the Treasury alcohol tax, the ethyl or grain alcohol is made unfit to drink, but in any event alcohol for gasohol need not be processed as expensively as alcohol for drinking purposes, thereby saving processing-fuel. In fact, the possibility of incorporating solar-heat for fermentation seems an ideal combination of circumstance. Agricultural areas notably have a good supply of Sun.

Alcohol is an easier form in which to store surplus crops, and this may improve the economics of storage of farm surpluses and this can facilitate acreage control programs. This can apply to various farm crops readily available for alcohol production, such as corn, potatoes, sugar cane and sugar beets, wood wastes, cottage cheese whey, et cetera. Alcohol plants also make good garbage-disposal units. There can also be by-products from an alcohol plant, such as protein feed for livestock, protein flour for human consumption, et cetera. It is reported that after corn is processed for alcohol, the by-product mash has almost all its original value for cattle feed.

Companies that already process crops have been readily attracted to produce alcohol for gasohol, as an added product. The current output of alcohol for gasohol in the United States is about 60 million gallons annually, which is used to provide the autofuel market with about 600 million gallons of gasohol a year.

So, let us look at the possibility of expanding the function of the Rural Electrification Administration (REA) to include a loan program for the production and distribution of alcohol—and possibly of gasohol. The REA is active in 46 of the 50 States, and since there is opportunity to make alcohol from garbage, there are urban areas where an REA alcohol program can provide a major contribution to get rid of mountains of garbage through constructive action that would benefit the Nation's fuel supply at the same time. The REA is a complete ongoing Federal program that already was expanded into rural telephone in 1949. Its function can be readily broadened by adding a rural alcohol program. It could be financing rural plants for turning farm wastes and surpluses into alcohol, for mixtures to be sold as gasohol and perhaps as other waste-and-surplus derived fuels. The REA administrative machinery has the experience to enable results to show much faster than merely waiting for "things to happen." The fast usage of gasohol in rural areas would enable existing gasoline supplies to meet existing demands elsewhere with increased possibility of avoiding gasoline rationing entirely in the Nation.

A brief review of the Rural Electrification Administration is in order in this connection. In the Department of Agriculture, REA is one of the activities under the Assistant Secretary for Rural Development. Also under this Assistant Secretary are the Farmers Home Administration, and the Rural Development Service. The REA was established originally as an emergency program in 1935. Congress enacted the Rural Electrification Act of 1936 (49 Stat. 1363; 7 U.S.C. 901–902) for a lending agency with responsibility to develop a program for rural electrification. In 1949 the act was amended authorizing REA to make loans to improve and extend telephone service in rural areas. In 1973 REA was given authority to guarantee loans made by non-REA lenders. The REA Administrator is appointed by the President, and is subject to Senate confirmation. The REA has been lending from a revolving fund in the U.S. Treasury, generally at 5-percent interest with interest at 2 percent for borrowers meeting specified criteria. The revolving fund is financed through collections on outstanding and future REA loans; through borrowings from the Secretary of Treasury; and through sales of beneficial ownership-interests in borrowers' notes held in trust by REA.

The REA loan guarantees facilitate the obtaining of non-REA financing for large-scale electric and telephone facilities. Such guaranteed loans may be made concurrently with an REA loan, but in any event guaranteed loans are considered if it could have been made by REA under the act. A guaranteed loan may be obtained from any legally organized lending agency qualified to make, hold, and service the loan. All policies and procedures of REA are applicable to a guaranteed loan. In 1974 REA entered into an agreement with the Federal Financing Bank, whereby FFB agreed to purchase obligations guaranteed by REA. All these purchases by FFB are arranged with REA acting as agent for the Federal Financing Bank.

There is a provision for supplemental financing which borrowers meeting specified criteria may be required to arrange from non-REA sources. A substantial portion of such supplemental financing is provided by the National Rural Utilities Cooperative Finance Corporation, Banks for Cooperatives, and other financial institutions.

For electrification, REA is empowered to make loans to qualified borrowers, with preference to nonprofit and cooperative associations and to public bodies. This is for intitial and continued adequate electric service to persons in rural areas.

With regard to the telephone program authorized in 1949, about two-thirds of the telephone systems financed by REA are commercial companies, and about one-third are subscriber-owned cooperatives. The Rural Telephone Bank established in 1971 is a Federal agency, using bank loans in preference to REA loans. The bank is managed by the REA Administrator and a board of directors, six of whom are elected by the bank's stockholders. The bank loans are for the same telephone purposes as loans made by REA but the interest rate is at a rate consistent with the bank's cost of money. In addition, loans may be made to purchase stock in the bank as a condition of obtaining a loan. The bank uses the facilities and services of REA and other Department of Agriculture agencies.

At the REA the Deputy Administrator heads the administrative operations, which comprise the Accounting and Auditing Division, the Management Services Division, and the Personnel Division. There is an Assistant Administrator for Electric, and there is an Assistant Administrator for Telephone. If the alcohol program is added to REA functions, there would presumably be an Assistant Administrator for Alcohol, or perhaps an Assistant Administrator for Alcohol and Solar—if REA handles solar also.

Serving the rural population with alcohol or gasohol from plants processing local wastes and surpluses, would be addressed generally to those already being served with REA-financed power and telephone. At the close of 1977, REA borrowers were serving electric energy to 8.6 million consumers, including 144,000 consumers served by former REA borrowers at the time their loans were repaid in full. During 1977, REA has a net increase in consumers for electric power of 320,000. At the year-end there were 49 borrowers operating generation and transmission facilities exclusively, and 934 borrowers engaging primarily in operating distribution systems. These REA-financed electric systems were in operation in 46 States, Puerto Rico and Virgin Islands. The power supply borrowers sold 87 million megawatt-hours, and the distributor borrowers sold 128 million megawatt-hours.

In summary, I would like to see the Rural Electrification Agency broadened to include co-op and nonco-op plants for converting surpluses and wastes to alcohol. Many of the existing electric plants under REA could be expanded for that purpose, and there is opportunity for new plants to be placed where there is no electric plant. Since there are loads of waste and garbage in urban areas and suburban areas, in some States REA need not be confined for this purpose to the farm wastes. The REA subsidy system seems ideal for such alcohol-producing plants. The output of the plant can also be sold to the same REA customers in each area, since it would be one of their own co-ops in those instances. I think that the population will feel a lot more secure if there are local plants producing alternate fuels using local materials, rather than to be dependent on far away sources.

If the farm areas are in a position to make the most of the alcohol alternative, mixing it with gasoline, et cetera, that would release gasoline for use elsewhere. The alcohol program should go far to make gasoline rationing unnecessary in the United States, since the States which have the alcohol alternative due to REA will not need as much gasoline.

Alcohol mixtures are less polluting also, and in urban centers that might enable more use of coal while maintaining air quality. Any urban area that has substantial use of an alcohol mixture would need less limitation on the electric utilities in the area. The biggest air polluter by far is the auto.

I prefer to see the primary responsibility for the alcohol program shifted to REA—Agriculture Department, REA can also be instrumental in furthering solar applications in rural areas.

TESTIMONY OF TOM McCALL, FORMER GOVERNOR OF OREGON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 60 minutes.

● Mr. AuCOIN. Mr. Speaker, today before the Banking Subcommittee on the City, I had the honor of introducing the Honorable Tom McCall, Oregon's forward looking Governor. It was a particular pleasure for me because the Governor was here to testify about a State policy that is the heart of the Oregon story—its progressive land use plans and guidelines.

It was during Tom McCall's term as Governor—and during my tenure in the State House of Representatives that the State legislature first adopted statewide land use policies designed to contain urban sprawl and to conserve farmland. More than anyone else in the State, Tom McCall is responsible for the adoption of those policies.

The purpose of the hearings, which continue tomorrow, is to explore how sprawl can be contained to minimize service costs and save energy. Without objection, I would like to have Governor McCall's statement printed in the RECORD and I commend it to the attention of my colleagues.

TESTIMONY OF TOM MCCALL OF PORTLAND, OREG. (GOVERNOR OF OREGON, 1967–75)

Chairman Reuss and members of the Subcommittee:

You couldn't be engaged in a more meaningful activity, as far as I am concerned, than the hearings you are conducting here today and tomorrow.

Nor would it have been possible to get a more germane and cheering picture of effective sprawl control than Oregon is able to speak to from actual experience.

You might lay that enthusiasm at the doorstep of an excusable bias on the part of a governor who signed Oregon's present land use planning program into law in 1973 and who has battled to implement it as both public official and television commentator since that time.

The word "battle" is used advisedly, for three ballot measures have been aimed at emasculation or repeal of the program (Senate Bill 100), and, in as many statewide elections these attacks have been repelled by ever-increasing margins. One such statewide measure was defeated, 61–39, November 8, 1978. However, the recall of two county commissioners over land use planning is at stake today in a special election in Oregon's fastest growing county, Deschutes.

Thus far, every attack—whether at the polls, in the courts or before the State Land Conservation and Development Commission—has left the program stronger than before.

That this maturing program is growing in effectiveness—and fame—is hardly beyond dispute when you consider:

1. Its evaluation by legal scholars as the "most advanced" land use planning act in operation anywhere in the U.S.

2. Its drawing power in bringing here, not only American land planning analysts, but those from foreign countries, i.e., a September tour by 31 members of the West German Farm Federation who, beginning to experience urban sprawl at home, came to see how Oregon, finally, was beginning to apply brakes to it.

3. Its evaluation in a soon-to-be-published analysis by the National Academy of Public Administration that "there are pitfalls that may undermine the effort, but the prospects seem bright that Oregon's SB 100 goals can and will mature into the nation's most complete and effective state urban strategy."

The trouble with talking about it around the country, however, is that our program was beyond ordinary perceptions when it was enacted—and the comprehension gap is widening as most other jurisdictions fiddle and fret over sprawl antidotes that never will work.

The saddest aspect of the whole dilemma is that when the light dawns, "the ruination of our cities and countryside"—mourned by Chairman Reuss—may be almost total. And the late-starters will be where Oregon was 12 hard-fought years ago when the State Senate Interim Committee on Agriculture began examining the idea of land use planning done at the local level but homogenized and upgraded by state guidelines which every local comprehensive plan was required to meet.

That was Senate Bill 10, which was improved on with money and technical advice (which SB 10 had lacked) by passage of Senate Bill 100 in 1973, and by adoption of the first 19 state goals by the newly created State Land Conservation and Development Commission in 1974.

Fifty of the 277 counties, cities and other jurisdictions have completed comprehensive plans that have met the state guidelines. That leaves an uphill 227 to go before the 1981 deadline for securing compliance statewide.

Even so, Senate Bill 100 is taking hold everywhere to a degree that allows us to give a confident affirmative answer to Chairman Reuss's topic for Panel 1 of these four-panel hearings, "Has Sprawl Been Tamed."

Yes, it has in Oregon—more effectively than in any other state.

You see, 42 states have farm-use taxation (as versus market or development value taxation), but it is relatively puny against sprawl except in Oregon alone where it is combined with exclusive farm use zoning to keep millions of acres at work in crop and livestock production.

4. Another question in Chairman Reuss's hearing outline was, "Can we afford the drain on prime agricultural land and the added consumption of energy caused by sprawl?"

A rhetorical question, obviously, perhaps calculated to stir up the troops, for America's farmland reserve is less than half the amount thought to be available only a few years ago and America is losing farmland five times more rapidly than we believed we were earlier in the 1970's.

Chairman asks, "Do containment policies boost costs of land and housing?"

The whole question of the effect of urban growth boundaries in Oregon (UGB's are Oregon's line of containment) has been debated in our state ever since the mechanism was propounded in the legislature.

No question, though, that it is key to a process at the heart of Oregon's program. The process involves classification of land in three categories:

URBAN: existing built-up areas.

URBANIZABLE: land surrounding the existing built-up areas—land needed for projected development over the next 20 years and which is eligible to be provided with services.

RURAL: land with no public services and not needed for urban use during the life of the long-term projection—essentially all cultivable lands for farming which the counties are required to preserve by means of exclusive farm use zoning (EFU).

5. The UGB describes the outer limits of the urbanizable land, separating it from rural land and holding against sprawl by requiring all new urban growth to occur inside the boundary, on urban and urbanizable, not rural, lands.

Even some experts are tempted to conclude on the basis of rudimentary economics that by making land for development scarcer the process increases focused demand and drives up prices.

Oregon's experience scotches that conclusion. The reason why is that the Urban Growth Boundary is not the villain in escalating costs of housing lots; rather, the UGB helps ensure that a city does not have to spend more than is necessary for development services.

This is so because the UGB causes development to happen compactly, keeping it from fanning out, haphazardly, destroying farmland and requiring cities to install twice as much infrastructure.

It is not how much empty land there is, but how much *serviced* vacant building land is available. There is the meat of the coconut.

This is a point that must be labored to be understood. Within the urban growth boundary of the Portland area, there are 75,000 acres of vacant land. Most of it is planned or zoned for residential use, but land use maps show that most of this land is unsewered.

6. If you doubled the vacant land to 150,000 acres, piecemealing additional valuable farmland, the price of lots wouldn't come down one penny because the lots, being unserviced, would not be "active" in the housing market.

However, there is a way to get nearly twice the present mileage out of *sewered* lots within the UGB. Since the average minimum lot size on vacant land in the Portland area is 12,000 square feet, the obvious answer is to reduce the lot size.

By upzoning that land to 7,000-square-foot minimum lot sizes, local governments can nearly double the potential reservoir of lots in the urban area.

Of course, I am not recommending that this be done because variety is desirable. But research by 1,000 Friends of Oregon, a land use monitoring public interest law firm, does show graphically that smaller minimum lot sizes can cut high housing costs resulting from inadequate lot supply.

Nearly 83% of all vacant land in the 32-city Portland metropolitan area zoned for single family dwellings is zoned for 10,000-square-foot lots or larger, compared with the average size of a developed single family lot in Portland today of 5,500 square feet.

There is an $8,000 to $10,000 difference for the cost of the lot alone, between the two sizes.

A May 1978 HUD study of why housing costs are rising so fast concluded that outmoded land use practices are a major cause. This is confirmed in spades by the 1,000 Friends Portland-area study.

7. Oregon's answer to this problem speaks dramatically to Chairman Reuss's concern that "the poor and minorities (might be) further disadvantaged by growth-management strategies." Not only does SB 100 and the associated goals work to keep costs down, but they regard housing construction as a social plus.

LCDC's Goal 10, Housing, far from condoning exclusionary zoning, requires local officials to ascertain the housing needs in their communities and, if indicated, to change their plan and zoning ordinances to effectuate a mix that better meets housing needs.

8. In sum, a major explanation for the national significance of Oregon's land use program is that Oregon was the first state to pass laws prohibiting zoning that "frustrates needed levels of housing and zoning that needlessly raises the cost of housing."

The reason those thoughts are in quotes is that they came from the lips of Henry Richmond, executive director of 1000 Friends of Oregon who ought to be introduced to you now as a co-founder with me of that unique organization in 1974.

One Thousand Friends is so singular because it is the only public-interest law firm I know of that rides herd on just one law. Their body, soul and bounden duty belong to the complete appropriate implementation of Senate Bill 100.

One Thousand Friends has been responsible for nearly all the major land use rulings to come from Oregon courts and the State Land Conservation and Development Commission in the last five years. The nonprofit corporation provides attorneys at no cost to handle land issues of statewide importance. Its attorneys also work to ensure that local officials comply with statewide goals covering everything from saving deer habitat to rescuing pressured close-in urban area farmlands from the bulldozer.

9. "Without 1000 Friends' vigilance," says Henry Richmond, "Oregon's land use program would have been 'interpreted' quietly into oblivion."

(The story of the existence of 1000 Friends is quite literally the story of land use planning evolvement in Oregon, and is told in the green booklet, "1000 Friends of Oregon" which I have distributed to members of the subcommittee. I respectfully urge you to give it careful study.)

9a. Moving on, what you, Mr. Chairman, refer to as "creeping suburbanization" does affect industrial patterns. In our older cities—and even in Portland—elderly industrial plants are jammed together. Their easiest recourse as they expand is to flee to the suburbs, draining the city of its tax-and-job base and resulting in energy-transportation waste as many employees continue to live in the city and drive to their new plants in suburbia.

Oregon's Energy Conservation Goal (Goal 13) was one of the original statewide planning goals adopted by the State Land Conservation and Development Commission in 1974. It runs to Chairman Reuss's concern that urban sprawl, besides hiking building costs, is energy-inefficient.

Goal 13 requires that "land and uses of the land shall be managed or controlled so as to maximize the conservation of all forms of energy based on sound economic principles."

Examples of implementation are energy conservation standards for new housing, provisions for solar orientation, requirements for urban densities, allowances for mixed uses and encouragement of mass transportation.

9b. You ask, "To what extent does land speculation prevent in-fill in cities and towns?"

I believe, Mr. Chairman, you posed this with the thought of getting opinions on whether too-low property taxation rates allowed speculators to hold on to developable land, waiting for an inflated market and a killing that would be bound to be reflected in even higher lot prices.

We have this problem in Oregon as well. Regrettably, our property taxation laws are not fully coordinated with our land use laws. A 1978 study of industrially zoned vacant land in Oregon's second largest city, Eugene, showed that a significant percentage of such land is being taxed for its present use—farming—rather than the industrial use for which it is zoned and being held.

Such subsidies should be ended. But I recommend caution in the use of punitive tax rates, particularly when applied to residentially zoned. The "flushing out" of such speculators through this mechanism would seem to me to add to their cost of doing business, hence to the price tag on their lots. Moreover, I am not sure that many localities have the expertise to evolve such a mechanism or accurately monitor its effects on the land market.

9c. As to why speculation is more prevalent in some areas than others, it's obvious, looking from Oregon, that some areas encourage speculation by having no restrictions on where development might occur.

You also ask, Mr. Chairman, "What is the best mix of incentives and market forces to contain sprawl?"

Our incentives include upzoning land from the existing low-density residential designations found in most suburban zoning codes, to allow vacant, serviced land to be used more efficiently. Further, Oregon's planning policies prohibit the use of excessive red tape in the housing development approval process. Cities are required to estimate their needs for all housing types, and to zone enough vacant land to meet those needs—in advance of a specific application. Cities are prohibited from using vague standards and unnecessary hearings to slow a project or reduce its density. Inside the UGB's, we try to facilitate the land development market. Outside the boundary, of course, it's an entirely different story.

10. Still another important question raised in the tentative hearing outline is, "What are the political, institutional and legal barriers that impede implementation of effective growth controls?"

There are no constitutional barriers to the firm, comprehensive land use planning laws that are needed—Oregon is proving that. But imagined legal barriers are kept in place by anachronistic thinking that is nurtured as a negative factor by political and institutional forces.

The May 1978 HUD study I mentioned recommended that minimum standards be set to serve as guides for local governments to reform outdated housing and zoning policies. Setting such standards is precisely what Oregon—but no other state—has done.

This merges into another outline question, "What federal, state and local actions are needed?"

For 10 years now, I have pushed for a sandwich approach to land use—treating with it the federal, state and local government levels, with a fourth layer constituted of citizen involvement, both group and individual.

It has to be a "fluid sandwich" because responses of all levels are so unpredictable.

11. My last previous appearance before Congress on land use planning was in the heyday of Representative Sam Steiger of Arizona. I was testifying before an Interior subcommittee on the need for a muscular federal land use planning act, and Mr. Steiger stopped me, asking, "Why, if Oregon's law is so good, are you seeking federal legislation?"

The answer I gave was that if only five or six states follow Oregon's lead, then it's only a matter of time in our nomadic society before the five or six are inundated by fugitives from all the other states that let their great land bases go to pot.

I simply have assumed always that the job has to be done, and, to the degree one level fails to do it, then another level must take responsibility.

Now that we're in the top half of the tenth of a nine-inning game, I'm more than ever convinced that such a format has to become operative.

Now, I don't mean that this nation go to compensatory zoning. It would cost trillions of dollars and put the government further into our lives. I do mean that the only effective course is to pursue Oregon's legal approach—a balanced approach to land use which the state requires to localities, and one that supports necessary development just as energetically as it prevents sprawl and protects farm and forest lands.

12. We of 1000 Friends are puzzled. As Henry Richmond stated it in The Oregonian the other day,

"In the face of the obvious problems caused by poor local performance in the area of housing, it is surprising that neither Congress nor any other state has ever created standards to limit the wide open discretion that local officials have traditionally enjoyed in the area of land use and housing.

"All federal programs are voluntary, and the states generally have left undisturbed the nearly total delegation of authority state legislatures gave to local governments several decades ago.

"Coupled with this inaction by legislative branch, the courts have ruled almost uniformly that local zoning policies (even those discriminating against the poor) cannot be challenged in court.

"Local officials all over the country have adopted a kind of we-know-best law for housing. Why, then, aren't local officials being thrown out of office? Because the home-buying public hasn't yet made the connection between local zoning and high housing prices."

In summary, then, a presidential candidate once had as a strong campaign plank the conservation of our most precious resource, our farmland. The candidate urged, therefore, that Congress stop muddling on the problem and get to mending. That was Alf Landon speaking . . . in 1936 . . . and, thank heaven, Mr. Chairman and members, you're making another great effort, as belated as it is, to achieve this long, long overdue mending.●

AGRICULTURAL TRANSPORTATION AND DISTRIBUTION OF AGRICULTURAL COMMODITIES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from South Dakota (Mr. DASCHLE) is recognized for 5 minutes.

● Mr. DASCHLE. Mr. Speaker, I am today introducing a bill on the subject of agricultural transportation and distribution of agricultural commodities.

Agriculture is the most basic and the largest industry in this country; and if agriculture is the lifeblood of the country, transportation is its circulatory system.

American consumers spend about $218 billion annually for food. Of this total, less than a third goes to producers, with two-thirds going for marketing and distribution. Transportation alone constitutes the third largest component of this cost spread between producers and consumers, now approaching 10 percent or more than $11 billion a year.

Our modern agriculture requires the use of every means of transportation to move large volumes of commodities economically, while at the same time allowing for considerable flexibility and ready response to market demands. Agriculture is one of the biggest customers of the transportation industry, shipping about 425 million tons each year—the equivalent of 7 million railcars; plus transportation to farms and ranches of about 100 million tons of production inputs—an equivalent to another 2 million railcars.

Agriculture's demand for transportation service has been increasing rapidly, and is expected to be more than 428 million tons from production sites by next year, which is about 21 percent over the average for 1970–71. The Agricultural Marketing Service, USDA, has projected an even more rapid increase in the years ahead. Some predict a doubling of transportation demand by the year 2000.

Agriculture depends upon all of the modes of transportation. Farm commodities make up some 17 percent of all rail tonnage, producing more than 20 percent of rail freight revenues. When farm input items are included, nearly 23 percent of total rail traffic is agriculturally related. Barges moving on the inland waterways are primarily haulers of grain and other bulk commodities, with nearly 20 percent of all grain moving on the waterways.

In recent years, agricultural freight has made a dramatic shift to trucks, now hauling some 80 percent of all agricultural tonnage and some 65 percent of ton/miles moved.

Unfortunately, Mr. Speaker, at a time when agriculture's need for transportation services is increasing at a rapid rate, the Nation's transportation system is experiencing increasing difficulties. Congress is currently taking an in-depth look at the economic regulation of the railroads and motor carriers, and it is important that we consider as part of that effort ways of improving the transportation situation for agriculture.

The Agricultural Transportation Improvement and Regulatory Reform Act of 1979 is concerned with motor carrier transportation, particularly with the transportation of agricultural commodities. The proposed amendments to the Interstate Commerce Act provide a logical approach to gradual deregulation of the trucking industry by further expansion of existing exemptions now provided in the act for agricultural trucking.

First, the bill deletes a subparagraph in section 10526(a)(5)(A) of the act to remove the present restrictions on farmer-owned trucking cooperatives, which provides that such cooperatives shall not conduct more than 15 percent of their annual business with nonmembers. The deletion of this restriction would leave farmer-owned trucking cooperatives under the same Federal laws as all other cooperatives, such as the Agricultural Marketing Act and the Capper-Volstead Act, both of which require that an agricultural cooperative may not conduct more than half of its annual business with nonmembers. The removal of the 15 percent restriction in the Interstate Commerce Act will reduce empty backhauls and make it easier for such cooperatives to arrange for backhaul movements.

Second, the bill expands the present agricultural commodity exemption in the act to include "uncooked meat" and bananas. Poultry meat has been exempt from ICC regulation for many years due to a favorable court ruling, and bananas are about the only fresh fruit not now exempt.

Third, the bill expands the agricultural exemption to include the major farm inputs purchased by farmers and used in agricultural production. This would make it possible for the independent, unregulated truckers to return-haul these items that generally move in the opposite direction of farm-produced commodities, and would greatly assist owner-operators in finding backhaul traffic.

Fourth, the bill provides that after an agricultural motor carrier has transported an unregulated agricultural commodity, he may, within a week, make a subsequent haul of any commodity at any rate satisfactory to a shipper and trucker. To participate in such traffic, however, an agricultural motor carrier would be required to file an annual notice with the Interstate Commerce Commission, agree that no more than half of such carrier's annual tonnage would consist of regulated commodities, and make an annual report to the Commission for purposes of enforcing the restriction.

This section of the bill will make it possible for the independent owner-operators to find return hauls without having to resort to trip leases from truck brokers or certified carriers who normally retain at least 20 percent of the freight bill. Agricultural shippers believe they are now paying more than their fair share of the round trips because of the present ICC restrictions on return-hauls.

Mr. Speaker, some 55 percent of the truck tonnage is already deregulated through the agricultural exemption. It is estimated that the provisions of this bill, in expanding the present exemptions, will deregulate at least another 10 percent of the total tonnage. This can be accomplished in an orderly manner without any major disruption of the motor carrier industry.

Mr. Speaker, I insert the text of the bill in the RECORD:

H.R. 6087

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the "Agricultural Transportation Improvement and Regulatory Reform Act of 1979".

SEC. 2. (a) Section 10102 of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(29) 'motor agricultural carrier' means a person providing motor vehicle transportation, other than—

"(A) a motor carrier which holds a certificate, permit, or license issued under subchapter II of chapter 105 of this title, and

"(B) a motor private carrier which is not a farmer, a cooperative association (as defined in section 1141j(a) of title 12), or a federation of cooperative associations if the federation has no greater power or purposes than a cooperative association.".

(b) Section 10526(a)(5)(A) of title 49, United States Code, is amended—

(1) in clause (i) by inserting "and" after the semicolon,

(2) by striking out clause (ii), and

(3) by redesignating clause (iii) as clause (ii).

(c) Section 10526(a)(6) of title 49, United States Code, is amended—

(1) in subparagraph (A) by inserting "or the uncooked meat of ordinary livestock" before the semicolon,

(2) in subparagraph (C)—

(A) by striking out "bananas,", and

(B) by striking out "and" the last place it appears therein, and

(3) by adding at the end thereof the following new subparagraphs:

"(E) feed for ordinary livestock or for poultry, agricultural or horticultural implements, or agricultural or horticultural machinery;

"(F) seeds, plants, chemicals, soil conditioners, or petroleum products, for use in agricultural or horticultural production; or

"(G) parts, supplies, or accessories for agricultural or horticultural implements, for agricultural or horticultural machinery, or for motor vehicles operated primarily in agricultural or horticultural production;".

(d) Section 10526(a) of title 49, United States Code, is amended—

(1) in paragraph (8) by striking out "or",

(2) in paragraph (9) by striking out the period and inserting in lieu thereof "; or", and

(3) by adding at the end thereof the following new paragraph:

"(10) transportation by a motor agricultural carrier if the transportation commences not later than 7 days after the motor agricultural carrier transported property as provided in paragraph (6) and occurs from the place to which and to the place from which the property was so transported, except that—

"(A) the total of the transportation in each fiscal year may not exceed 50 percent of the total transportation, measured by tonnage, by the motor agricultural carrier during that fiscal year; and

"(B) the motor agricultural carrier shall, if the Commission so requires, notify the Commission annually of its intent to provide the transportation.".

SEC. 3. (a) The first sentence of section 11144(c) of title 49, United States Code, is amended to read as follows: "The Commission, or an employee designated by the Commission, may, during normal business hours, inspect and copy—

"(1) any record related to motor vehicle transportation of a cooperative association or federation of cooperative associations required to notify the Commission under section 10526(a)(5) of this title; and

"(2) any record related to the tonnage of property transported by a motor agricultural carrier required to notify the Commission under section 10526(a)(10) of this title.".

(b) The last sentence of section 11144(c) of title 49, United States Code, is amended by inserting "or by a motor agricultural carrier" before the period.

SEC. 4. The amendments made by this Act shall take effect 90 days after the date of the enactment of this Act.

SECTION-BY-SECTION ANALYSIS

Sections 2(b). This subsection deletes from the Interstate Commerce Act the subsection which prohibits an agricultural cooperative from transporting more than 15 percent of its total transport tonnage for persons who are not members of such cooperative. This would have the effect of placing agricultural transportation cooperatives on the same basis as other agricultural cooperatives, which are subject to a rule that no agricultural cooperative shall conduct more than half its business with nonmembers.

Sections 2(c)(1) and 2(c)(2). These subsections add uncooked meat and bananas to the list of exempt agricultural commodities presently contained in the Interstate Commerce Act. These amendments would eliminate two of the many anomalies contained in the exempt agricultural commodity list, adn provide better service at a lower cost for the transportation of meat and bananas. Poultry meat has been exempt for many years due to court interpretation. Most fresh fruits and vegetables have always been exempt from ICC regulation.

Section 2(c)(3). This subsection provides for the expansion of the list of agricultural commodities exempt from ICC regulation by adding major agricultural production input items, such as feeds, seeds, fertilizers, chemicals, fuels, farm tractors, implements and other farm machinery parts, supplies and accessories for such machinery and motor vehicles used in farming operations. This provision will not only reduce the cost of transporting such goods by motor carrier, but will permit noncertificated truckers to transport such goods on backhaul movements.

Section 2(d). This subsection provides authority for nonregulated motor carriers to backhaul any commodity, subsequent to the movement of an exempt argicultural commodity no more than half of such carrier's annual tonnage transported may consist of ICC-regulated freight.

This subsection will provide much greater freedom for nonregulated agricultural motor carriers, who now face the problem of arranging for backhauls to agricultural production areas usually through lease arrangements with certificated carriers.

Section 3. This section provides for reasonable enforcement procedures by the ICC and extends the definition of "motor private carrier" in the Act to include unregulated carriers of exempt agricultural commodities.

Section 4. Provides that the effective date of the Act shall be 90 days after enactment.●

POLYGRAPH CONTROL AND PRIVACY PROTECTION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. EDWARDS) is recognized for 5 minutes.

● Mr. EDWARDS of California. Mr. Speaker, the President, on April 2, 1979, transmitted to the Congress his message on privacy. I was pleased to introduce, along with Congressman STEWART MCKINNEY, H.R. 6034, legislation that would implement the President's recommendation regarding polygraphs and other truth verification devices. This bill would not affect any segment of the intelligence community or any Federal, State, or municipal agency. This legislation, as introduced, would prohibit employers from requiring, as a condition of employment, continuing employment or promotion, any polygraph or similar honesty test of any employee. Experts place the number of examinations given each year at about 500,000.

The most fundamental question in this controversy is its effect on the individual's rights and privacy. Clearly, lie detectors attack one of our most precious legal tenets, innocent until proven guilty. Just as clearly, the use of lie detectors raises some very substantial constitutional rights questions regarding self-incrimination, unreasonable search and seizure, and the right to confront one's accusers. These rights are fundamental to basic human dignity.

The requirement that an individual submit to this privacy invasion and the results, as Business Week accurately points out:

> . . . range from loss of privacy to loss of a job. Decline, and you could get fired from a job or turned down as an applicant.

The polygraph's psychological effect on applicants is best demonstrated by the fact that fully 90 percent of the recommendations by examiners not to hire an applicant come from information the person revealed during pre-test questioning; not what the polygraph or lie detector test tells the examiner. People were so intimidated by the polygraph examination that they revealed irrelevant but prejudicial information and this information was used to disqualify them from job consideration.

Perhaps the most glaring abuse of polygraph examinations was exposed in testimony in 1978 before the Subcommittee on the Constitution of the Committee on the Judiciary, U.S. Senate, where a former manager of a retail chain testified that a preemployment polygraph test was used as a means of discriminating against black applicants for employment. The chain did not hire blacks and used the polygraph to "legitimize" this practice. While this is a blatant misuse of the polygraph, it is by no means an isolated case. Workers are frequently questioned on extremely personal matters. They are quizzed on their feeling toward their parents, spouses, and children, their religious and political beliefs, union activities, and sexual behavior. Surely, Mr. Speaker, there exist many less intrusive and more reliable means of checking applicants for employment other than subjecting them to the indignities of a polygraph test.

While "honesty tests" take a variety of forms, the polygraph is by far the most common. Very simply, the polygraph measures certain physiological changes that are assumed to constitute evidence of dishonesty.

These physiological changes, shown as a graph by the machine, are then interpreted for dishonesty by the operator or examiner. The assumption of the existence of a direct relationship between physiological changes and dishonesty is fundamental to the polygraph, as well as all "honesty tests," although the existence of any direct relationship between physiological changes and dishonesty has never been firmly established.

The most definitive study of the reliability of "truth" verification" devices was commissioned by the U.S. Army Land Warfare Laboratory. This study, conducted by Dr. Joseph Kubis of Fordham University and released to the public in 1974, reported that experienced polygraph examiners achieved 76-percent accuracy. When other examiners rated the same polygraph charts, without having seen the subjects being tested, accuracy dropped to between 50 and 60 percent.

It should be noted that virtually every study on polygraph accuracy was conducted in a criminal context. The irony of using studies on polygraph accuracy conducted in the criminal context to substantiate accuracy claims in the employment sector is that criminals cannot be convicted with a polygraph yet workers can be denied employment by this same device.

I have talked mostly about polygraphs but there are other more intrusive "honesty tests,"—the psychological stress evaluator (PSE) and the voice stress analyser (VSA), both of which measure microtremors in the human voice. Without comparing accuracy, the only difference between these "honesty tests" and the polygraph is that the PSE and VSA can be used without the subject's knowledge or consent. As one manufacturer of the VSA noted in Esquire magazine,

> Pretty soon people are going to be afraid to open their mouths.

The important point to remember is that there are firms that require "honesty tests" as a condition of employment. The applicant has committed no crime, nor is he accused of a crime, but in order to secure employment he must submit to this fishing expedition. The securing of employment should not rest on the ability to pass an "honesty test" regardless of its accuracy.

There are enough pieces of contradictory evidence to cast substantial doubt as to the accuracy of these devices, and as they are used in the employment sector today, they are obviously a threat to individual rights and a blatant invasion of employees' privacy.

The Subcommittee on Civil and Constitutional Rights will make a serious effort in the upcoming session to help resolve the troubling questions raised by these devices.●

REMARKS OF THE HONORABLE CLAUDE PEPPER ON SALT II

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, recent events around the world have demonstrated the great disservice and ill effects produced when important issues that require calm and careful analysis are exploited for political ends through the rhetoric of alarmist militancy and all forms of immoderate speech. While we, in the United States, may consider ourselves immune to the forms of public hysteria witnessed in some other countries, yet we have allowed ourselves to be drawn into unreasonable positions on some very sensitive issues. In the instance of the Panama Canal Treaty the Senate in its vote of ratification, and the House in its support for the implementing legislation firmly resisted the tide of exaggerated claims of threat to national security. I am beginning to wonder if that unique quality, the strength to resist jingoistic excitation, will prevail in the national debate on the ratification of SALT II.

What is perhaps most disillusioning is the effort some ad hoc organizations are now launching to convince an unsuspecting public that the proposed treaty requires the United States to abandon its commitment to the national defense and to trust the Soviet Union in matters of our national security. The SALT II treaty includes no clause that requires the United States to accept the Russians' say-so on anything. Even those Senators on the Committee on Foreign Relations who have traditionally opposed improving relations with Moscow did not voice that argument. Mr. Paul Nitze, the most ardent skeptic of all, rejected that approach as irrelevant.

Another more explicit fanning of irrationality comes in the form of a mailer under the label, "National Security Information Enclosed." The enclosed instructions direct the recipient to indicate his/her opposition to the SALT II treaty by pasting an enclosed label in the configuration of an American flag on a response card to be mailed to the Senate. Those who believe that the treaty is a crucial step toward limiting the possibility of nuclear holocaust are also provided with a stick-on label. It is the flag of the Soviet Communist state. This suggestion of treason is the affront reasonable Americans are being sent through the orchestrated efforts of a very well-funded organization, The Conservative Caucus, Inc. which hopes to stampede the citizens of our country through sensationalist misinformation toward a future with no achievable arms restraint.

I sincerely hope that the levelheaded majority of Americans will resist such attempts to turn legitimate concerns about national defense into a panicked rejection of a treaty that will enhance the military security of our beloved country. I am confident that when SALT II has been ratified we will be able to look back with pride to a time when calm judgment finally prevailed and a secure peace was maintained.

I wish to commend my colleague, the chairman of the Members of Congress for Peace Through Law SALT II Task Force, DON PEASE of Ohio, who has done much to foster a climate in which the treaty can be discussed in a calm manner. If the MCPL effort is successful our national interests will have been well served.●

REPEALING INCREMENTAL PRICING PROVISIONS OF NATURAL GAS POLICY ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. PREYER) is recognized for 5 minutes.

● Mr. PREYER. Mr. Speaker, an important bill has recently been introduced by Mr. STOCKMAN and myself. That bill, which has been referred to the House Committee on Interstate and Foreign Commerce, is H.R. 5862.

In our view, the enactment of H.R. 5862 would make a major contribution toward the alleviation of our Nation's energy problems. It would do so by repealing the incremental pricing provisions of the Natural Gas Policy Act of 1978 (NGPA).

These incremental pricing provisions, which are embodied in title II of the NGPA, were enacted in an effort to protect residential energy consumers from the impact of rising natural gas prices at the wellhead. Under incremental pricing, the costs of purchasing numerous categories of relatively expensive natural gas are singled out for processing in a complicated regulatory mechanism. All of the money which an interstate pipeline pays for such gas—above certain specified "threshold" price levels, which vary from gas category to gas category and change from month to month—must be assigned to a special account. Then, when the interstate pipeline bills its customers, all of the costs assigned to this account must be added together to form a special incremental pricing surcharge.

Following this step, the surcharge is divided among the pipeline's distribution company customers—through a formula which takes the size of each distributor's industrial load into account. A gas distributor is then required to allocate its share of the pipeline's incremental pricing surcharge among certain industrial gas users which are served by that distributor.

However, the allocation of this surcharge cannot operate to bring an industrial user's monthly gas bill above parity with the cost of fuel oil. At the moment, under current Federal Energy Regulatory Commission (FERC) regulations, the average regional price of high-sulfur No. 6 fuel oil subject to a slight downward adjustment factor, is the standard for determining when price parity has been reached.

The range of industrial users which are subject to incremental pricing is designed to expand in two stages. Under the first incremental pricing regulation (rule 1), only industrial boilers are subject to incremental pricing. This regulation is now in effect. By May 9 of 1980, the FERC must issue a second rule (rule 2) which covers other industrial users—and, at the same time, the FERC is required to narrow some of the exemptions which are now available. The FERC has recently proposed that rule 2 should extend incremental pricing to all industry users which are not specifically exempted.

The incremental pricing mechanism is indeed complex, but in theory it is designed to insure that residential and commercial gas users are sheltered from bearing the costs of relatively expensive categories of natural gas. Unfortunately, if incremental pricing is judged in light of the objective which it was designed to serve, its retention cannot be justified. The evidence is mounting that incremental pricing is not merely ineffective—but actually counterproductive—in protecting consumers from the inflation of energy prices. The evidence is also mounting that incremental pricing is encouraging an increase in the Nation's demand for oil—at a time when the reduction of oil consumption has become not merely a national priority but a national necessity.

Let me cite briefly some of the problems associated with incremental pricing:

First. As incremental pricing reduces—and finally eliminates—the industrial market price gap between natural gas and oil, natural gas will lose much of its attractiveness to industrial energy users. As a result, many industrial users will shift from natural gas to oil contrary to national energy policy.

Some observers might expect that, if price neutrality is established between natural gas and oil, most industrial gas users will still prefer to retain their reliance upon natural gas for reasons of supply security and environmental concern. However, since industrial gas users are assigned a low priority under the current curtailment system, and since the oil allocation system does not place comparable restrictions upon industrial oil use, oil is—ironically—a more secure fuel for industry than natural gas. In this regard, it should be noted that the upgraded curtailment priority for agricultural users—under section 401 of the NGPA—has recently resulted in a further downgrading of the curtailment priority status of industrial users. In numerous instances, particularly in the case of boilers, a technical capability to use either fuel already exists—with the result that conversions from gas to oil would be swift and uncomplicated for many industrial energy users.

At a time when the Federal Government is utilizing a variety of mechanisms to encourage the displacement of oil with natural gas, a policy which encourages reverse oil displacement stands in conflict with both governmental policy and the national interest. In addition to the obvious negative effects of increased industrial oil demand—such as the impact on national security and America's balance of payments—it should also be noted that increased competition for scarce oil supplies will surely bid up the already high price of home heating oil. In addition, industrial user shifts from natural gas to oil will have an adverse impact upon air pollution levels in many areas of the country.

Second. Although incremental pricing is intended to protect residential gas users from inflated energy prices, in practice it will actually result in higher costs for all consumers.

To cite one factor, the rationale for incremental pricing overlooks the effect of declining industrial gas use upon residential gas bills. Since the fixed operating costs of the natural gas industry are high, residential gas users benefit when large-volume industrial users share the burden of these fixed costs. As incremental pricing encourages such industrial gas users to convert to oil, there will be an inevitable increase in the proportion of fixed operating costs which is borne by residential gas consumers. In some cases, this increase in the allocation of fixed costs can erode significantly—or even overshadow—the reduction of the rates which residential users would, in the absence of incremental pricing pay for the gas itself. The regulated gas industry calls this effect the erosion of load balancing benefits.

To cite another factor, the rationale for incremental pricing overlooks the impact of artificially increased industrial energy costs upon the price of goods produced by industry. Industrial users cannot escape these artificially increased energy costs. If incrementally priced users shift to oil, their energy prices are tied to the whims of OPEC. If the same industrial energy users retain their reliance upon natural gas, their energy prices are still tied to the whims of OPEC—since incremental pricing indexes maximum industrial gas costs to whatever heights may be reached by fuel oil.

Obviously, these increased operating costs for industry will not simply disappear. They will be borne, in the form of higher product prices, by all consumers—not only those consumers who are theoretically protected by incremental pricing.

In this regard, it is contemplated that the passthrough of industrial gas price increases could be up to 50 percent or more—with even larger increases ahead as industrial gas prices follow the steep upward curve of fuel oil prices. Bear in mind as well that the hidden costs of incremental pricing will be borne by all consumers, including the oil and electricity consumers who do not enjoy the modest offsetting benefits that are provided for residential and commercial gas users.

A recent study by the Wharton Economic Forecasting Associates (WEFA) sheds some disturbing light upon the true cost of incremental pricing to the residential energy consumer. This study was performed under contract to the American Gas Association (AGA) but conducted under the independent auspices of WEFA. In its study, WEFA focused upon the different impacts of relatively narrow incremental pricing (limited to boilers) under rule 1 versus comprehensive incremental pricing (covering 90 percent of all industry) under rule 2.

The WEFA study found that rule 2 incremental pricing would result in smaller residental gas price increases than would occur under rule 1. However, the study also found that this reduction in potential residential gas prices would not be large enough to offset the large increase in prices paid by consumers for nonenergy goods. Those consumers who live on fixed incomes would be affected to the greatest extent by this adverse development, but even the average household would face a loss of purchasing power. The study estimates that, by 1990, average household purchasing power would decline by $92—in constant 1972 dollars. Households that do not consume natural gas would face an even larger decline, while households which use natural gas—the supposed "beneficiaries" of incremental pricing—would still suffer a net decline of $65.

Third. Other adverse consequences of incremental pricing also merit careful consideration. As even the hardiest supporters of incremental pricing will admit, incremental pricing is an enormously complicated mechanism. It imposes massive administrative burdens upon interstate pipelines, local gas distribution companies and industrial gas users; the costs of compliance with this mechanism along with the costs generated by increased industrial gas prices, will ultimately be borne by the Nation's consumers.

The impact of this artificially created cost burden will extend beyond the inflationary effects that I have mentioned. The negative impact will include further erosion of the already endangered ability of American industry to compete with foreign corporations. The negative impact will also include increased unemployment, since the additional dollars which industry must devote to energy costs will be paid with dollars which—in many cases—would have been devoted to capital investment and payrolls.

The WEFA study has estimated the size of this negative impact upon industry. In another comparison between narrow incremental pricing (under rule 1) and broad incremental pricing (under rule 2), the WEFA study concluded that broadly based incremental pricing will have the following effects:

The cumulative GNP deflator (that is, inflation) would be 2 percent higher in 1989 than would be the case under narrowly based incremental pricing;

The real dollar GNP (in 1979 dollars) would be $22 billion lower; 600,000 fewer workers would be employed; and gross private investment would be $4.7 billion less (in 1979 dollars).

WEFA has not yet conducted a study comparing broad and narrow incremental pricing to no incremental pricing at all but such a study is in progress. Based upon both commonsense and the economic analysis conducted to date, I can speculate that the results will not be supportive of incremental pricing retention.

In the meantime, Mr. Speaker, I urge prompt and favorable action upon H.R. 5862. Every day that we delay is a day on which a cumbersome and unjustified regulatory mechanism is contributing to inflation, a sluggish economy and increasing dependence upon foreign oil.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. Akaka (at the request of Mr. Wright), for today, on account of official business.

Mr. Dellums (at the request of Mr. Wright), for today, on account of illness.

Mr. Weiss (at the request of Mr. Wright), after 4 p.m. today, through Friday, December 14, on account of illness in the family.

Mr. Young of Alaska (at the request of Mr. Rhodes), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Clinger) to revise and extend their remarks and include extraneous material:)

Mr. Paul, for 15 minutes, today.

Mr. Frenzel, for 5 minutes, today.

Mr. McKinney, for 5 minutes, today.

Mr. Corcoran, for 5 minutes, today.

(The following Members (at the request of Mr. Fazio) to revise and extend their remarks and include extraneous material:)

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Levitas, for 5 minutes, today.

Mr. Addabbo, for 15 minutes, today.

Mr. AuCoin, for 60 minutes, today.

Mr. Daschle, for 5 minutes, today.

Mr. Van Deerlin, for 5 minutes, today.

Mr. Edwards of California, for 5 minutes, today.

Mr. Pepper, for 5 minutes, today.

Mr. Mavroules, for 60 minutes, on December 18, 1979.

Mr. Albosta, for 5 minutes, today.

Mr. Preyer, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Clinger) and to include extraneous matter:)

Mr. Brown of Ohio.

Mr. Collins of Texas in three instances.

Mr. Robinson.

Mr. Rousselot.

Mr. Green in two instances.

Mr. Frenzel in five instances.

Mr. Evans of Delaware.

Mr. Clausen.

Mr. Wydler.

Mr. Dornan.

Mr. Dannemeyer.

Mr. Young of Florida.

Mr. Derwinski in two instances.

Mr. Ashbrook in three instances.

Mr. Lagomarsino.

Mr. Moore.

Mr. Lewis.

Mr. Findley in two instances.

(The following Members (at the request of Mr. Fazio) and to include extraneous material:)

Mr. Howard in two instances.

Mr. Gudger.

Mr. Coelho in two instances.

Mr. Mazzoli.

Mr. Vento.

Mr. Hamilton.

Mr. McDonald.

Mr. Mineta.

Mr. Wolff.

Mr. Hance.

Mr. Santini

Mr. Ertel.

Mr. Dodd in two instances.

Mr. Bonker.

Mr. Daschle.

Mr. Pease.

Mr. LaFalce.

Mr. Maguire in two instances.

Mr. Markey in two instances.

Mr. Rosenthal.

Mr. Ambro.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2076. An act to require the President to terminate sanctions against Zimbabwe-Rhodesia under certain circumstances; to the Committee on Foreign Affairs.

A BILL PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on December 10, 1979, present to the President, for his approval, a bill of the House of the following title:

H.R. 3892. To amend title 38, United States code, to extend the authorizations of appropriations for certain grant programs and to revise certain provisions regarding such programs, to revise and clarify eligibility for certain health-care benefits, to revise certain provisions relating to the personnel system of the Department of Medicine and Surgery, and to assure that personnel ceilings are allocated to the Veterans' Administration to employ the health-care staff for which funds are appropriated; to require the Veterans' Administration to conduct an epidemiological study regarding veterans exposed to agent orange; and for other purposes.

ADJOURNMENT

Mr. FAZIO. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 38 minutes p.m.) the House adjourned until tomorrow, Wednesday, December 12, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

2992. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a cumulative report on rescissions and deferrals of budget authority as of December 1, 1979, pursuant to section 1014(e) of Public Law 93-344 (H. Doc. 96-240); to the Committee on Appropriations and ordered to be printed.

2993. A letter from the Director, Defense Assistance Agency, transmitting a report on the impact on U.S. readiness of the Air Force's proposed sale of certain military equipment to Saudi Arabia (Transmittal No. 80-24), pursuant to section 813 of Public Law 94-106, as amended; to the Committee on Armed Services.

2994. A letter from the Executive Director, Presidential Commission on World Hunger, transmitting the commission's preliminary report on world hunger; to the Committee on Foreign Affairs.

2995. A letter from the Secretary, U.S. Consumer Product Safety Commission, transmitting notice of a proposed new records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

2996. A letter from the Administrator, National Aeronautics and Space Administration, transmitting the semiannual report of the Inspector General of NASA for the period ended September 30, 1979, pursuant to section 5(b) of Public Law 95–452; to the Committee on Government Operations.

2997. A letter from the General Counsel, Department of Energy, transmitting notice of a meeting relating to the international energy program to be held on December 18, 1979, in Paris, France; to the Committee on Interstate and Foreign Commerce.

2998. A letter from the Director, Office of Hearings and Appeals, Department of Energy, transmitting the quarterly reports on private grievances and redress for the second, third and fourth quarters of fiscal year 1979, pursuant to section 21(c) of Public Law 93–275; to the Committee on Interstate and Foreign Commerce.

2999. A letter from the Secreary, Interstate Commerce Commission, transmitting notice that the Commission will be unable to render a final decision in Investigation and Suspension Docket No 9222, ConRail Surcharge on Pulpboard, within the specified 7-month time limit, pursuant to 49 USC 10707(b)(1); to the Committee on Interstate and Foreign Commerce.

3000. A letter from the Acting Secretary of the Interior, transmitting the annual report of the Fish and Wildlife Service on the administration of the Marine Mammal Protection Act of 1972, covering the year ended March 31, 1979, pursuant to section 103(f) of the act; to the Committee on Merchant Marine and Fisheries.

3001. A letter from the Administrator of Veterans Affairs, transmitting the annual report for fiscal year 1979 on the nature and disposition of all cases in which an institution approved for veterans benefits utilizes advertising, sales or enrollment practices which are erroneous, deceptive, or misleading, either by actual statement, omission, or intimation, pursuant to 38 USC 1796(d); to the Committee on Veterans' Affairs.

3002. A letter from the President of the United States, transmitting his determination that import relief for the U.S. anhydrous ammonia industry is not in the national economic interest, pursuant to section 203 (b)(2) of the Trade Act of 1974; to the Committee on Ways and Means and ordered to be printed.

3003. A letter from the Chairman, National Transportation Safety Board, transmitting a copy of the Board's letter appealing the Office of Management and Budget's budget allowance for fiscal year 1981, pursuant to section 304(b)(7) of Public Law 93–633; jointly, to the Committees on Appropriations, and Public Works and Transportation.

3004. A letter from the Comptroller General of the United States, transmitting a report on the management of the process for participation in the Fulbright-Hays exchange program (ID–80–3, December 10, 1979); jointly, to the Committees on Government Operations, and Foreign Affairs.

3005. A letter from the Comptroller General of the United States, transmitting a report on needed reforms of the social security minimum benefit provision (HRD–80–29, December 10, 1979); jointly, to the Committees on Government Operations, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. NICHOLS: Committee on Armed Services. S. 1454. An act to amend the Act of August 10, 1956, as amended; section 716 of title 10, United States Code; section 1006 of title 37, United States Code; and sections 8501(1)(B) and 8521(a)(1) of title 5, United States Code; with amendments (Rept. No. 96–539, pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. ADDABBO: Committee of conference. Conference report on H.R. 5359 (Rept. No. 96–696). Ordered to be printed.

Mr. MURPHY of New York: Committee of conference. Conference report on S. 1143 (Rept. No. 96–697). Ordered to be printed.

Mr. BROOKS: Committee on Government Operations. H.R. 5980. A bill to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes; with an amendment (Rept. No. 96–698). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. SANTINI (for himself, Mr. Udall, Mr. Symms, Mr. Runnels, Mr. Young of Alaska, Mr. Murphy of Pennsylvania, Mr. Marriott, Mr. Rahall, Mr. Whittaker, and Mr. Huckaby):

H.R. 6080. A bill to amend the Geothermal Steam Act of 1970 to accelerate the priority development of geothermal energy in the United States; to the Committee on Interior and Insular Affairs.

By Mr. ZABLOCKI (for himself, Mr. Fascell, Mr. Hamilton, Mr. Bingham, Mrs. Collins of Illinois, Mr. Solarz, Mr. Studds, Mr. Wolpe, and Mrs. Fenwick):

H.R. 6081. A bill to amend the Foreign Assistance Act of 1961 to authorize assistance in support of peaceful and democratic processes of development in Central America; to the Committee on Foreign Affairs.

By Mr. JOHN L. BURTON:

H.R. 6082. A bill to amend section 5702 of title 5, United States Code, to increase the maximum rates for per deim and actual subsistence expenses of Government employees on official travel; to the Committee on Government Operations.

By Mr. ALBOSTA:

H.R. 6083. A bill to discontinue or amend certain requirements for agency reports to Congress; to the Committee on Government Operations.

By Mr. BOLAND (for himself, Mr. Quayle, Mr. Derwinski, Mr. Lungren, Mr. Wolff, and Mr. Hutto):

H.R. 6084. A bill to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers, agents, informants, and sources; to the Permanent Select Committee on Intelligence.

By Mr. PHILIP M. CRANE:

H.R. 6085. A bill to amend the Internal Revenue Code of 1954 with respect to the deduction of charitable contributions to organizations from which the taxpayer or a member of his family receives services; to the Committee on Ways and Means.

By Mr. DANIELSON (for himself and Mr. Moorhead of California):

H.R. 6086. A bill to provide for the settlement and payment of claims of civilian and military personnel against the United States for losses in connection with the evacuation of such personnel from a foreign country; to the Committee on the Judiciary.

By Mr. DASCHLE:

H.R. 6087. A bill to amend title 49, United States Code, to exclude from the jurisdiction of the Interstate Commerce Commission certain transportation of property used in agricultural or horticultural production, in connection with the transportation of exempt property; to the Committee on Public Works and Transportation.

By Mr. DOWNEY:

H.R. 6088. A bill to amend the Federal Water Pollution Act to require the United States to pay for certain lateral sewer connections for low-income elderly persons; to the Committee on Public Works and Transportation.

By Mr. FRENZEL (for himself, Mr. Gibbons, Mr. Moore, and Mr. Vento):

H.R. 6089. A bill to prohibit until January 1, 1982, the conversion of the rates of duty on certain unwrought lead to ad valorem equivalents; to the Committee on Ways and Means.

By Mr. GRAMM:

H.R. 6090. A bill to amend the Safe Drinking Water Act, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GUDGER:

H.R. 6091. A bill to call for multi-agency cooperation in developing a plan for a Mountain Experience Center in Western North Carolina to serve as a model for similar tourist information projects nationwide; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

By Mr. HILLIS:

H.R. 6092. A bill to amend the Internal Revenue Code of 1954 to allow members of the Armed Forces who are stationed overseas without their families a deduction for travel expenses back to the United States; to the Committee on Ways and Means.

By Mr. HOLLENBECK:

H.R. 6093. A bill to amend the Internal Revenue Code of 1954 to allow certain elderly or disabled individuals a refundable income tax credit for a certain portion of the property taxes paid by them on their principal residences; to the Committee on Ways and Means.

By Mr. LUKEN (for himself and Mr. Gramm):

H.R. 6094. A bill to amend the Safe Drinking Water Act to provide that the underground injection of natural gas for purposes of storage will not be regulated by the act; to the Committee on Interstate and Foreign Commerce.

By Mr. MARLENEE:

H.R. 6095. A bill to amend title II of the Social Security Act to make it clear that social security benefits are and will continue to be exempt from all taxation; to the Committee on Ways and Means.

By Mr. MOTTL:

H.R. 6096. A bill to amend the Immigration and Nationality Act to make certain nonimmigrant aliens subject to deportation if convicted of a crime; to the Committee on the Judiciary.

By Mr. PRICE (for himself and Mr. Bob Wilson) (by request):

H.R. 6097. A bill to amend title 10, United States Code, to establish a nutritionally adequate, consumer-acceptable ration for the Armed Forces, to authorize the issuance and sale of rations, to prescribe special rations, and for other purposes; to the Committee on Armed Services.

H.R. 6098. A bill to amend title 10, United States Code, to authorize training of personnel of the armed forces of NATO member countries; to the Committee on Armed Services.

By Mr. RODINO (by request):

H.R. 6099. A bill to amend the Military Personnel and Civilian Employees' Claims Act of 1964, as amended, with respect to the settlement of claims against the United States by members of the uniformed services and civilian officers and employees for damage to, or loss of, personal property incident to their service; to the Committee on the Judiciary.

By Mr. ST GERMAIN (for himself, Mr. Reuss, Mr. Annunzio, Mr. Barnard, Mr. Stanton, and Mr. Wylie):

H.R. 6100. A bill to authorize automatic transfer accounts at commercial banks, remote service units at Federal savings and loan associations, and share draft accounts at Federal credit unions during the period beginning on December 31, 1979, and ending on April 1, 1980; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SAWYER:

H.R. 6101. A bill to amend the Internal Revenue Code of 1954 to provide that certain restrictions applicable to industrial development bonds shall not apply to bonds the proceeds of which are to be used in any trade or business carried on by any person certified as being a financially distressed person; to the Committee on Ways and Means.

By Mr. STAGGERS:

H.R. 6102. A bill to amend the Internal Revenue Code of 1954 to reduce individual income taxes; to the Committee on Ways and Means.

By Mr. VAN DEERLIN:

H.R. 6103. A bill to amend the Communications Act of 1934 to provide that any use of a broadcasting station by candidates for the office of President or Vice President without the payment of any charge shall not be subject to the requirements of section 315 of such act relating to equal broadcasting opportunities for political candidates; to the Committee on Interstate and Foreign Commerce.

MEMORIALS

Under clause 4 of rule XXII, a memorial of the following title was presented and referred, as follows:

327. By the SPEAKER: A memorial of the Legislature of the State of Wisconsin, relative to ratifying an amendment to the U.S. Constitution, relating to treating the District of Columbia as a State for the purpose of congressional representation; to the Committee on the Judiciary.

328. By the SPEAKER: A memorial of the Legislature of the Commonwealth of Pennsylvania, relative to tax deductions and/or credits to industrial users of oil or natural gas who convert their boilers to coal; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. HEFTEL:

H.R. 6104. A bill for the relief of George A. Albert; to the Committee on the Judiciary.

By Mr. NELSON:

H.R. 6105. A bill for the relief of Lee R. Gilbert; to the Committee on the Judiciary.

By Mr. ST GERMAIN:

H.R. 6106. A bill for the relief of Mrs. Samuel (Edys) Markovitz; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 294: Mr. Pepper.

H.R. 2279: Mr. McCloskey, Mr. Duncan of Tennessee, Mr. Dixon, Mr. Lloyd, Mr. Young of Alaska, Mr. Davis of Michigan, Mr. Cleveland, Mr. Robert W. Daniel, Jr., and Mr. Royer.

H.R. 3427. Mr. Walgren, Mr. McCormack, and Mr. Gilman.

H.R. 3986: Mr. Barnes, Mr. Frenzel, Mr. Howard, Mr. Murphy of New York, Mr. Yatron, Mr. Maguire, and Mr. Weaver.

H.R. 4025: Mr. Stack.

H.R. 4359: Mr. Leach of Louisiana, Mr. Wyatt, Mr. Roe, Mr. Montgomery, Mr. Davis of South Carolina, and Mr. Coelho.

H.R. 4647: Mr. Leach of Louisiana, Mr. Baldus, Mr. Kazen, Mr. Pepper, Mr. Buchanan, Mr. Harris, and Mr. Davis of South Carolina.

H.R. 5165: Mr. Rousselot, Mr. Dornan, Mr. Bafalis, Mr. Grassley, and Mr. Atkinson.

H.R. 5222: Mr. Derwinski, Mr. Pepper, Mr. Florio, Mr. Santini, Mr. Weaver, Mr. Hughes, Mr. Charles H. Wilson of California, Mr. Fazio, Mr. Corcoran, Mr. Gray, Mr. Courter, Mr. Kramer, Mr. Lloyd, Mr. Zablocki, Mr. Conte, Mr. Lungren, and Mr. Grassley.

H.R. 5409: Mr. Abdnor, Mr. Anderson of Illinois, Mr. Barnes, Mr. Bedell, Mr. Biaggi, Mr. Blanchard, Mr. Buchanan, Mrs. Byron, Mr. Carr, Mr. Coelho, Mr. Conyers, Mr. Corrada, Mr. Dan Daniel, Mr. Daschle, Mr. Diggs, Mr. Fisher, Mr. Forsythe, Mr. Frenzel, Mr. Glickman, Mr. Goldwater, Mr. Grassley, Mr. Gray, Mr. Grisham, Mr. Guarini, Mr. Harkin, Mr. Harris, Mr. Hawkins, Mr. Heftel, Mr. Holland, Mrs. Holt, Mr. Howard, Mr. Hughes, Mr. Hyde, Mr. Jeffords, Mr. Kildee, Mr. Kramer, Mr. LaFalce, Mr. Lagomarsino, Mr. Lederer, Mr. Lloyd, Mr. Long of Maryland, Mr. Lujan, Mr. Mazzoli, Mr. McDade, Mr. McKinney, Mr. Miller of California, Mr. Mineta, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Motti, Mr. Murphy of Pennsylvania, Mr. Myers of Pennsylvania, Mr. Neal, Mr. Nolan, Ms. Oakar, Mr. Ottinger, Mr. Panetta, Mr. Patten, Mr. Pepper, Mr. Rahall, Mr. Regula, Mr. Richmond, Mr. Rodino, Mr. Roe, Mr. Rousselot, Mr. Scheuer, Mr. Seiberling, Mrs. Snowe, Mr. Solarz, Mr. Stack, Mr. Stockman, Mr. Tauke, Mr. Walgren, Mr. Whittaker, Mr. Ford of Tennessee, Mr. Williams of Montana, Mr. Winn, Mr. Yatron, Mr. Young of Florida, Mr. Downey, Mr. Duncan of Tennessee, Mr. Edgar, Mr. Erdahl, Mr. Ertel, and Mr. Fazio.

H.R. 5571: Mr. Corcoran and Mr. Ottinger.

H.R. 5715: Mr. Brown of California and Mr. Lundine.

H.R. 5752: Mr. Neal and Mr. Nolan.

H.R. 6006: Mr. Atkinson.

H.R. 6008: Mr. Markey, Mr. Ottinger, Mr. Whitehurst, Mr. Florio, Mr. Charles Wilson of Texas, Mr. Pepper, Mr. Anthony, and Mr. McHugh.

H.J. Res. 161: Mr. Hutto, Mr. Corcoran, Mr. Roybal, Mr. Roe, and Mr. Stark.

H.J. Res. 307: Mr. Guyer, Mr. Whitehurst, Mr. Davis of South Carolina, Mr. White, Mr. Flood, Mr. Young of Alaska, and Mr. Murphy of New York.

H. Con. Res. 71: Mr. Beard of Rhode Island.

H. Con. Res. 98: Mr. Grassley, Mr. Beard of Rhode Island, and Mr. Ottinger.

H. Con. Res. 219: Mr. Wolpe, Mr. Lundine, Mr. Williams of Montana, Mrs. Schroeder, Mr. Mineta, Mr. Bingham, Mr. Daschle, and Mr. Mitchell of Maryland.

H. Res. 446: Mr. Rose.

PETITIONS, ETC.

Under clause 1 of rule XXII, the following petition and papers were presented and referred as follows:

246. By the SPEAKER: Petition of the Chinese Culture Association, Kowloon, Hong Kong, relative to the imprisonment by the People's Republic of China of Wei Chingsheng; to the Committee on Foreign Affairs.

247. By the SPEAKER: Petition of Paul Axel-Lute, South Orange, N.J., and others, relative to nuclear power; to the Committee on Interior and Insular Affairs.

248. By the SPEAKER: Petition of City Council, Jersey City, N.J., relative to the proposed creation of an Oil Utilities Commission; to the Committee on Interstate and Foreign Commerce.

249. By the SPEAKER: Petition of Medford School Committee, Medford, Mass., relative to flying all flags in the Medford Public School system at half mast until all hostages in Iran have been released; to the Committee on the Judiciary.

250. By the SPEAKER: Petition of Bernard Meade, Baltimore, Md., relative to redress of grievances; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5860

By Mr. MAGUIRE:

—On page 32, section 10, insert after line 14, to following,

(c) The Secretary of Transportation shall conduct a study to determine the feasibility of federal, state, and local governments, and private corporations contracting over the next three to five years with the Chrysler Corporation or any other manufacturer or group of manufacturers for the purchase of advanced alternatives to existing automobiles which can be manufactured at reasonable cost with the best conservation, safety, and environmental characteristics of the experimental motor vehicles designed by the National Highway Traffic Safety Administration. The purpose of the study would be to assess the feasibility of manufacturing advanced automobiles which would be available for a broad market beginning with Federal, state, and local government procurement and corporate fleet purchase in order to:

1. Substantially advance innovative automobile safety technology and fuel efficiency;

2. Reduce the Nation's dependence on imported oil;

3. Protect the Nation against trade and balance of payments deficits incurred by excessive domestic sales of imported automobiles;

4. Enhance and facilitate competition in advanced development and production techniques, including the use of quality control circles, in the automotive industry;

5. Provide increased opportunities for employment within the United States; and

6. Assure that safety needs are met at the same time that automobiles become smaller and lighter to assure fuel efficiency.

The Secretary shall report the results of his study to Congress, with his recommendations, not later than six months after the date of enactment of this Act.

(d) The Secretary of Transportation, after consultation with the Secretary of Energy, shall submit to the Secretary of the Treasury and to the Congress as soon as practicable, but not later than six months after the date of enactment of this Act, an assessment of the long-term viability of the Corporation's viability of the Corporation's involvement in the automobile industry. The study shall assess the impact of likely energy trends and events on the automobile industry, including long-term capital requirements, rate of technological change, shifting market characteristics the capability of the industry as a whole to respond to the requirements of the 1980's, and shall evaluate the adequacy of the industry's existing structure to make necessary technological and corporate adjustments.

(e) The Secretary of Transportation shall prepare and transmit to the Congress annual comprehensive assessments of the state of the automobile industry and its interaction in an integrated economy. Each annual assessment shall include, but not be limited to, issues pertaining to personal mobility, capital and material requirements and availability, national and regional employment, trade and the balance of payments, the industry's competitive structure, and the effects of utilization of other modes of transportation.

(f) The Secretary shall take the results of the study and each annual assessment into account when examining and evaluating the Corporation's financing plan and operating plan.

By Mr. PATTERSON:

—Page 32, after line 14, insert the following new subsection:

(c) The Secretary of the Treasury in consultation with the Secretary of Defense shall conduct a study regarding the possibility of establishing the Tank Division of the Chrysler Corporation as an independent corporation which is not financially dependent upon the Chrysler Corporation. Such study shall consider the potential advantages and disadvantages which establishing such a corporation would have on the tank production of the United States Army and the operation of the Chrysler Corporation. Not later than 180 days after the date of the enactment of this Act, a report shall be transmitted to the Congress containing the findings and conclusions of such study and such recommendations regarding the establishment of such corporation as the Secretary of the Treasury and the Secretary of Defense consider appropriate.

EXTENSIONS OF REMARKS

VETERANS PROGRAMS EXTENSION AND IMPROVEMENT ACT

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. DASCHLE. Mr. Speaker, I would like to address the following comments on the House and Senate passage of H.R. 3892, the Veterans Programs Extension and Improvement Act of 1979.

I am pleased to support this legislation which addressed some of the more pressing medical and health care issues facing our veterans today. The conference report the House passed last week was an acceptable compromise that incorporates many of the better positions of each legislative body.

One of the more significant provisions in this legislation is one that assists our World War I veterans. These veterans have for too long been ignored in their claim for more comprehensive health care coverage in the VA system. H.R. 3892 will now authorize outpatient care for any World War I veteran in need, similar to the same benefits accorded Spanish-American War veterans. Most importantly, this outpatient care can also be contracted out. This is a very important clause. Many of our World War I veterans are increasingly immobile and unable to obtain transportation to VA facilities. Now, in many cases, this outpatient care can be obtained in a private health facility right in their own community. This provision will especially benefit many of the World War I veterans in South Dakota where the population is relatively dispersed, often times many miles from the nearest VA facility.

I am also very satisfied that the conferees adopted a provision requiring the Director of the Office of Management and Budget to comply with congressional intent with regard to appropriations for staffing levels. With strict oversight provided by the Comptroller General, future problems relating to funds appropriated by the Congress for staffing levels and OMB's interpretation of how those funds will be used should be eliminated.

The continuation of Federal/State matching grants to State veterans homes for construction or remodeling is a wise move that will enable those institutions to stay abreast of the increasing patient load most veterans hospital facilities are now facing. Considering the present backlog of $33 million in construction projects, this funding is urgently needed. A 15 percent per diem increase in payments to State homes remains a cost-effective program that is also continued in this legislation.

The conferees have taken a step in the right direction by directing the VA to do an epidemiology study concerning the biological effects of agent orange exposure on our Vietnam veterans. Up to this point, very little concrete evidence is available. Hopefully, this study can open-up the mysteries of agent orange so the thousands of Vietnam veterans who may have been exposed to agent orange can rest assured that their Government is really trying to help and not brush them aside.

Finally, Mr. Speaker, I wish to congratulate the subcommittee chairman, Mr. SATTERFIELD, for his work and efforts on this legislation and the other distinguished Members of the House and Senate who combined to make these significant medical and health care improvements.●

NUCLEAR MORATORIUM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. FRENZEL. Mr. Speaker, during the debate on the authorization for the NRC, Congressman MARKEY of Massachusetts presented an amendment instituting a temporary moratorium on the licensing of new nuclear powerplants. I was not able to vote on that amendment. Had I been present, I would have voted against the Markey amendment.

America cannot foreclose on the nuclear alternative. My home State of Minnesota relies on nuclear power for 35 percent of its electricity. Nuclear power must play a significant role in a broad based energy program. It is part of our defense against the policies of the oil cartel.

The Kemeny Commission in its report on the accident at Three Mile Island did not recommend abandoning nuclear power. The Markey amendment is only a symbolic gesture which is the first step in process aimed at stopping the development of nuclear power. There already is a de facto moratorium on the licensing on new plants imposed by the Nuclear Regulatory Commission. We do not need a blanket moratorium, but a more careful analysis of each application.

Safety, quite obviously, must be our first priority. The Markey amendment, however, does not make nuclear power any safer. Worse, it does not even address the issue of safety at existing plants.

The Kemeny Commission has presented its recommendations. Many of its proposals should be put into effect. Stronger and tougher guidelines are needed both when licensing new plants, and for regulating operating plants. The nuclear industry, however, has a history of safety as good as any other industry in the country. It causes no black lung disease, no acid rain, and no oil spills. It is, in fact, safer than any form of energy now widely used.

At some time the hazards of nuclear power may require a moratorium. For the present, however, this country should proceed with nuclear development, but with great care.●

THE RUSSIANS ARE COMING ON THE ENERGY FRONT

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. WYDLER. Mr. Speaker, I recently received an interesting document from the Institute of Gas Technology which contains energy statistics for the various nations. There are two interesting aspects of these statistics which I thought should be brought to the attention of my colleagues. Both of these items touch on the comparative energy production capability of the United States and the Soviet Union.

First. U.S. oil and gas production has remained nearly level and, in the case of natural gas, U.S. production is still almost twice that of the U.S.S.R. and nearly 15 percent greater than all the European countries combined, including the United Kingdom contribution. The news is not as encouraging in the case of crude oil production where the U.S. production has dropped by roughly 5 percent since 1973 whereas the U.S.S.R. has increased production nearly 40 percent since 1973, that is, to 35 percent greater than U.S. production level now whereas in 1973 the U.S. actually produced 10 percent more crude oil than the U.S.S.R.

Second. In the electrical sector the U.S.S.R./U.S. comparison is also very interesting In the period 1973–76—no figures for 1977 and 1978 for U.S.S.R.—the electrical production in the Soviet Union jumped by 22 percent; over the same period U.S. electrical production increased by only one-third of that figure or 7½ percent. The separate figures on the nuclear components are not available but I believe the nuclear surge by the U.S.S.R. is chiefly responsible for the growth rate in their electrical production in this period. When I met with officials of the U.S.S.R. State Committee on Atomic Energy last year they were very frank about their ambitious plans for nuclear development.

I think it is important to note that the U.S.S.R., even though it has sufficient amounts of fossil energy, is moving ahead boldly on the nuclear front to satisfy electrical and industrial process heat requirements. At the same time we are backing away from the nuclear option and yet our prospects for oil and gas production are not as attractive as those of the Soviet Union while we have growing environmental concerns about the extent to which we can burn our vast coal reserves.●

ANTARCTICA FORELAND NAMED FOR DR. GROVER MURRAY

HON. KENT HANCE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. HANCE. Mr. Speaker, I wish to take 1 minute today to speak about a close friend who has accomplished a great deal in the field of geology. Dr. Grover E. Murray of Lubbock, Tex., has achieved a reputation worldwide for his contributions to geological research, especially in the Antarctic region.

I mention this today because the National Science Board has announced that a foreland in the Antarctic has been named in honor of Dr. Murray. Dr. Murray is the former president of Texas Tech University and currently holds the rank of a university professor there. During his tenure at Texas Tech, he has brought worldwide attention to the university, and to the United States, for his distinguished work under the U.S. Antarctic research program.

I feel Dr. Murray deserves the highest honor for his work in research in the Antarctic region, and is to be commended by Congress for his untiring devotion to the advancement of geological studies by the United States.

I request an extension of my remarks to include a background of Dr. Murray and his credentials.

The background follows:

BACKGROUND OF DR. GROVER E. MURRAY

Dr. Norman Hackerman, Chairman of the National Science Board (NSB), announced that a foreland in Antarctica had been named in honor of Dr. Grover E. Murray, Vice Chairman of the Board, and an internationally known geologist. Dr. Murray was honored because of his interest in Antarctica and his contributions to geological research there.

A foreland is a promontory of land projecting into the sea. Murray Foreland is a prominent ice-covered land area located about 750 nautical miles from the geographic South Pole on the northern end of the Martin Peninsula on the coast of Marie Byrd Land. It is about 20 nautical miles long and 10 nautical miles wide and projects into the Amundsen Sea at 74°00′ South Latitude and 114°30′ West Longitude.

The NSB is the policymaking body of the National Science Foundation (NSF). Among its functions, NSF funds and manages the United States Antarctic Research Program. NSF support of U.S. research in Antarctica has been the source of a large portion of present knowledge of the continent and its surrounding seas.

Murray Foreland is on the eastern edge of the Getz Ice Shelf which fringes the coast of Marie Byrd Land. Getz Ice Shelf, discovered in 1940 by the U.S. Antarctic Service (USAS), was named for Mr. George F. Getz who helped furnish the seaplane for the expedition. Murray Foreland is a part of the Martin Peninsula, also first seen by the USAS in 1940, and named for Colonel Lawrence Martin, USA (Retired), an American geographer and authority on the history of Antarctic exploration. The area was first mapped by the U.S. Navy Operation Highjump in January 1947.

Murray Foreland is the western of two promontories which arc northeastward from the Martin Peninsula. The name of the eastern one, also announced today, is Slichter Foreland in honor of the late Dr. Louis Byrne Slichter, a distinguished geophysicist and Director of the Institute of Geophysics and Planetary Physics at the University of California from 1947 to 1962 and Professor of Geophysics Emeritus at the University of California, Los Angeles, 1962–1978.

Dr. Murray is currently President of the Association of Professional Geological Scientists and Vice President and President-elect of the American Geological Institute. He has served as Editor and President of the Society of Economic Paleontologists and Mineralogists and Editor and President of the American Association of Petroleum Geologists. He is a Distinguished Alumnus of the University of North Carolina and a member of the Board of Directors of Ashland Oil, Inc.

Dr. Murray is presently University Professor, Texas Tech University Complex, having recently completed ten years as President of that institution and five years as President of the Texas Tech University School of Medicine. During that period Texas Tech University fielded a number of geological parties in Antarctica under the U.S. Antarctic Research program. From 1948 to 1966 Dr. Murray served on the faculty and in various administrative positions at Louisiana State University, completing his service there as Vice President for Academic Affairs of the LSU system.

Dr. Murray was born in Maiden, North Carolina. He received his A.B. degree from the University of North Carolina and his Ph.D. from Louisiana State University. Dr. and Mrs. Murray, former Nancy Beatrice Setzer, reside at 4609 10th Street, Lubbock, Texas. They have two daughters, Martha (Mrs. Wiley Poag) and Barbara Elizabeth Murray, M.D. (Mrs. Kenneth Lefner).●

RING THE BELLS FOR FREEDOM

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. ROBINSON. Mr. Speaker, if there can be said to be any national benefit being derived from the tragic events taking place in Iran, it must surely lie in the renewed sense of national unity binding Americans together in common determination to secure the safe release of 50 of our fellow citizens being held captive in the U.S. Embassy in Tehran.

Indicative of the thousands of patriotic appeals issued by public and private organizations and individuals in furtherance of this objective is an editorial recently aired by radio station WSVA in Harrisonburg, Va., in the Seventh Congressional District that I represent. I am privileged to request its insertion in the RECORD at this point in my remarks.

The editorial follows:

RING THE BELLS FOR FREEDOM

President Carter has endorsed the suggestion of one of the Americans held hostage in Tehran—that church bells ring out across America each day at noon until the hostages are released. The President has also urged that citizens write Iran's U.N. mission demanding the release of the hostages. The underlying reason for such a show of national unity is clear: The Ayatollah Khomeini and his fanatical followers must be shown, clearly and without reservation, that America will not tolerate international blackmail. There can be no room for miscalculation of our resolve to secure the safe return of those 49 Americans to our soil. But more than that, the President's request gives every American a chance to do something to help . . . a chance to overcome the frustration of knowing how limited our maneuvering room has been, in a situation where a small group of wild-eyed fanatics has perverted the letter and the spirit of both international law, and their own religious heritage. We support President Carter's cool, thoughtful, and dedicated efforts to resolve the Iranian crisis. We urge that every church bell in the Shenandoah Valley ring out for our countrymen held hostage in Iran . . . and with each toll of the bells, we send Khomeini a message: We stand united . . . and you taunt the American eagle at your peril.●

CARRYING ON FOR "CANTALOUPE" SMITH

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. COELHO. Mr. Speaker, the following article, which appeared in the Modesto Bee newspaper, recently, tells a story of how hard work and perseverance can pay off. "Cantaloupe" Smith came to Turlock, Calif., and built a family business, the Turlock Fruit Co., from nothing. Eventually his son, Donald Smith, took over for "Cantaloupe" and he has transformed the company from a modest family-owned business to a thoroughly integrated melon growing, packing and distributing operation. I think my colleagues will be most interested to read about this family and their great contributions to our economy and our community.

The article follows:

CARRYING ON FOR "CANTALOUPE" SMITH

(By Tony Walker)

Donald J. Smith stepped into some pretty big shoes left by his father, the late James H. "Cantaloupe" Smith, founder and patriarch of the successful Turlock Fruit Co.

"Dad wouldn't even recognize the business today because it's changed so much," said Smith, who assumed the title of company president when the family-owned operation was incorporated less than a year ago. "It's a whole new ball game."

Among other things, Smith said the firm is in the truest sense a "farming company" with a thoroughly integrated melon growing, packing and distributing operation.

Not long ago, the firm relied heavily on other area growers for the melons it marketed nationwide through jobbers and wholesalers. But, no more.

"My business is to put up the fanciest box of melons I can and to get the best price I can get," Smith explained.

In order to accomplish this, Smith said in recent years the firm quit buying melons from independent growers and began growing all of its own to maintain quality control.

In addition, he said he now deals almost exclusively with the chain stores, shipping directly to their warehouses for distribution to supermarkets.

Smith said the company's volume has more than doubled in the past 15 years with shipments to the Orient accounting for a large part of the growth.

Although he was reluctant to discuss exact figures, Smith said "several hundred thousand boxes of melons" are shipped out of his Turlock packing sheds annually.

As well as the lucrative Los Angeles and New York markets, Smith said there is a big demand for his melons in Florida, Hawaii and Alaska and growing markets abroad in Canada, Japan, Singapore and Taiwan. Hong Kong is the company's single largest export site.

'"The Orient is a very viable market for us, one that has developed within the last 8 or 10 years," Smith said. Particularly popular in the Orient are "green-meated honeydew melons.

The honeydew is one of five major varieties grown on the company's farms on the west side of the valley near Patterson, Vernalis and Westley. Others harvested off the 1,700 acres of land are crenshaws, Casabas, Persians and the subtle tasting Juane Canari melon.

Ironically, Smith said his firm no longer handles cantaloupes, the melon firm which his father derived his nickname and which helped firmly root the business in the Turlock area.

In fact, said Smith, only casabas and watermelons are grown in the immediate area with any commercial success, the cantaloupe and the others falling victim to lowering water tables.

Smith, 49, was born and raised in Turlock and attended local schools until his graduation from Turlock High School in 1947. He attended Menlo Junior College for two years and in 1952 obtained a bachelor's degree in economics from the College of the Pacific in Stockton.

"Up to that time I had three things I wanted to do," Smith reflected. "I either wanted to be an attorney, an automobile salesman or a radio sports announcer, but not necessarily in that order."

However, when the opportunity presented itself, he joined in a partnership with his father and brother-in-law, John W. Palmer, who now serves as corporate treasurer and handles all field operations.

"The business was much smaller then and I took advantage of the opportunity my father gave me and I've been forever thankful," Smith recalled. "After all, I was married then and had to decide how I was going to make my living."

Smith's father, who continued working until a few days before his death in 1959, was orphaned as a small child in England. He ran away from an orphanage in hopes of finding his sister and traveled to Canada in the late 1800s, but failed to locate her. Sometime later, "Cantaloupe" Smith boarded a train and wound up in the Imperial Valley in Southern California where he worked picking melons.

Following the crops, he arrived in Turlock, where he was married and eventually began growing melons of his own on rented property near the Denair Cemetery.

In 1920, the elder Smith started buying and shipping melons from his original packing company in Denair, moving it to Turlock six years later.

The original Turlock packing shed on South Broadway burned to the ground in 1964, a week before the harvesting season, young Smith remembers.

"We set up a makeshift operation in Westley, but we were able to save the crop under real adverse conditions. The following spring we moved into our present location and we've doubled in size since."

Donald and his wife, Wendy, also are the parents of a married daughter, Sally Robinson of Walnut Creek, and a 20-year-old son, Stuart, a junior at the Southern Methodist University in Dallas, Texas.●

50,000 VISAS STILL NOT ENOUGH

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. MAGUIRE. Mr. Speaker, in a concerted effort to improve emigration for Soviet dissidents and refuseniks, many of my colleagues and I have been drawing attention to individual cases of Soviet Jews being denied permission by their government to join their families in either Israel or the United States. Every single case is a tragic story and for us, who often take human rights for granted, it is somehow difficult to imagine what it actually means to live under a restrictive system; to experience the denial of basic human rights each day.

We hear increasingly about the liberalization of Soviet emigration policies—about 50,000 visas which are expected to be issued in 1979—and some of us might believe that the Soviet Union is actually granting free emigration to Soviet Jews. However, for every single visa being granted, there are, at the same time, innumerable applications being refused. Now, in these discussions about human rights, we are concerned about the cases where basic human rights are denied. Human rights are either granted or not granted; as long as they are applied selectively they simply do not exist. Instead, they are liberties used as tools of oppression. As long as a citizen must depend on a highly restrictive and arbitrarily selective administration, we will not be able to seriously talk about free emigration in the Soviet Union.

Today I would like to present the story of the denial of human rights of Gregory Gimpelson. I was earnestly moved when I talked to his former wife, Bronislava Tonkonogaya, who came to see me asking for support in obtaining freedom for her husband Gregory Gimpelson. The story of the Gimpelson family is one of years of long sufferings, of desperate attempts to escape from the Soviet system, a story that is still going on and is likely to continue to be a tragic one unless we speak out concertedly against the inhumane way the Soviet Government is treating this family.

Gregory Gimpelson decided to emigrate with his family in 1972. Until then he had had access to classified information at the Central Research Institute for Ship Automation. Since he would not be eligible for emigration for another 5 years, the Gimpelson family waited until 1977 to file their application. But even after 5 years, during which time he had had no access to secrets, they were still denied emigration for security reasons. This put them in a desperate situation; if they had to wait for another year or even longer their son, Alexander Gimpelson, would have been drafted for military service. This would have postponed their emigration for almost another decade. There was only one way out of this vicious circle. Bronislava Tonkonogaya and Gregory Gimpelson decided to divorce, and soon after that Bronislava Tonkonogaya and her son Alexander were granted emigration visas.

That was in 1977. Since then, Gregory Gimpelson has been applying for emigration to join his family. So far he has been refused three times.

He has been informed, through unofficial sources, that he will not be allowed to emigrate until 1990 because of his prior access to security information. His former employer, the Central Research Institute for Ship Automation in Leningrad, for unknown reasons has submitted false information on his access to classified information to the local OVIR office. Gregory Gimpelson has not had any access to classified information since 1972. He has not been working with the Central Institute for Ship Automation since 1973. Yet Gregory Gimpelson's hands are bound. He cannot ask for reinvestigation of his case; he cannot prove the truth. All he can do is wait, not for a fair consideration of his case, but for a purely arbitrary decision that grants him the highly desired visa enabling him to join his wife and his son after years of painful separation, the separation they have had to experience from day to day.

It is for the sake of these individual cases that we have to continue to speak out against the violation of human rights by the Soviet Union—that we have to talk about human rights in absolute terms rather than in terms of specific numbers.●

THE FLAP OVER CHAP

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. DANNEMEYER. Mr. Speaker, today, the House of Representatives will again consider H.R. 4962, the child health assurance program. Unfortunately, the title of the bill is a misnomer a more appropriate designation would be Kiddicaid 79; the Federal Child Health Care and Control Act.

As has been brought out in the course of previous debate, there are all kinds of problems with this bill that are only now beginning to receive the attention they deserve. Several of these were discussed in some detail last week in an excellent editorial which appeared in the Richmond News-Leader. For the benefit of my colleagues that may not have seen it, I insert the December 6, 1979 editorial from the Richmond News-Leader in the Record at this time.

Medicaid Madness

In 1965 the bill creating the Medicaid program slipped through Congress without much fanfare as a companion to the Medicare bill. It was a "sleeper" measure that most people thought would be a nickel-and-dime program of modest range and cost.

Time and experience have proved the error of that view. The Medicaid program now covers 22 million persons at a cost of $12 billion to the federal government and $10 billion to the states. The program has been rife with fraud, abuse, and outright theft. But instead of considering ways of strengthening the program, the Senate Finance Committee currently is discussing expansion of Medicaid benefits to mililons of new patients at a cost of billions.

This expansion would be implemented through one of those bills that promises something for everyone. The primary object of the measure is to establish a catastrophic health insurance program for all working Americans—a program under which no family would have to pay more than $3,500 a year in medical costs. Medical payments for families earning $14,000 or less would be limited to one-quarter of their annual income. This insurance would be compulsory, with employers picking up three-quarters and employees one-quarter of the cost. Taxpayers chafing under huge increases in Social Security taxes hardly will be overjoyed at the prospect of yet another payroll tax.

The Medicaid expansion means an even larger and more costly federal intrusion into medical services. States currently set their own standards for Medicaid eligibility, but this measure would tie Medicaid eligibility to the proverty index, which rises with inflation. At least 10 million more Americans thus would be brought under the Medicaid umbrella—increasing Medicaid costs by 40 per cent, or $9.3 billion a year. That likely is a conservative estimate.

Another provision in the bill would extend Medicaid services to 2 million children and 230,000 pregnant women. The program now covers mostly children from broken homes and pregnant women eligible for Aid to Families of Dependent Children benefits. This Child Health Assurance Program (CHAP) also would specify what medical services states must provide, ranging from routine dental care to inpatient mental health care. The program would add $2 billion a year to Medicaid costs.

This measure has two major flaws: (1) It would bring the nation one step closer to national health insurance, and (2) it would add yet another entitlement program whose costs would be uncontrollable. Entitlement programs already have reached the budget-breaking stage, for Congress refuses to reduce costs or participation in a welfare program once it has begun. And when Congress sets open-ended-standards and levels of services, states are unable to budget sensibly. Higher payroll taxes, of course, mean added inflation, for increased overhead will be reflected in price hikes.

By entertaining such a proposal, Congress shows that it does not understand—or care—much about rising medical costs. The expanding role of the third party is one of the major causes of higher medical bills. When a third party—whether government or private insurer—covers the costs, neither provider nor recipient of medical services has much incentive to keep costs down. An expanded Medicaid program would encourage greater use of existing services, and thus higher costs for everyone.

A Machiavellian mind might suspect that Congress is doing its best to sabotage the nation's medical services by subjecting them to unbearable pressures. If federal programs guarantee "free" medical care to an ever larger number of Americans, the health care system could collapse. Then Congress could point to that failure as a justifiable cause for federal assumption of all medical services through national health insurance. Of course, such a step could bankrupt the taxpayers, but that never has been one of Congress' major concerns.●

NO PLO HELP IN IRANIAN CRISIS

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. GREEN. Mr. Speaker, the terrible events in Iran which occupy our thoughts constantly these days highlight the intricacies of international relations and the history of diplomacy among nations and peoples. As the United States attempts to bring international pressure on the Iranian Government to release our hostages, we are more mindful than ever before of the complicated nature of these international arrangements.

In the beginning of this crisis we witnessed an intervention by the PLO in efforts to release our hostages, an effort that was aborted shortly after it began. The efforts by the PLO to deal with the Iranian Government were loudly trumpeted, and may well in fact be recalled by some in the context of ongoing peace efforts in the Middle East. On December 6, 1979, a letter written by Arnold Forster, general counsel of the Anti-Defamation League of B'nai Brith, was published in the New York Times and reviewed the role which the PLO actually played in this rescue effort. Mr. Forster makes the point that:

> The PLO is still not our friend, and no one should be misled by the part it has pretended to play in our behalf in Iran.

I believe that Mr. Forster's letter is of particular interest to all of us concerned about a peaceful resolution in the Middle East.

It is for this reason that I hereby place a copy of it in the Record for the benefit of my colleagues:

P.L.O. 2d Thoughts On Saving Hostages

(By Arnold Forster)

To the Editor:

In the commotion surrounding our thus far futile effort to save our American diplomatic staff trapped by Khomeini followers in the U.S. Embassy in Teheran, the precise role played by the Palestine Liberation Organization must be carefully understood and remembered. The P.L.O. is still not our friend, and no one should be misled by the part it has pretended to play in our behalf in Iran.

Keep in mind that Khomeini's street army was initially trained by P.L.O. experts who volunteered their services and their weapons to overthrow the Shah. No need to document this; the P.L.O. still boasts of it, and the Ayatollah paid off for the help, among other ways, by seizing the privately owned Israeli Embassy in Teheran and turning it over to the P.L.O. delegation for the terrorists' headquarters.

When Khomeini's "student" hordes took our embassy people hostage, the P.L.O. opportunistically announced to the West that it was dispatching its military operations chief, Abu Waled, to Iran in an effort to arrange the release of the Americans. The White House quickly but naïvely expressed its gratitude while most of our press, radio and television, with a straight face, readily reported the P.L.O.'s purported rescue effort. All of them seemed pleased with the evidence at hand; it proved that the P.L.O. is a reasonable group that can be friendly and helpful if only we'd let it. Unspoken but clear was the implication that the Palestine Liberation Organization could be accepted as a negotiating partner in the Mideast.

But while this P.L.O. voice was reaching the West, another P.L.O., in Teheran, was avowing absolute loyalty to the aims of Iranian terrorism against its American victims. When the Imam expressed annoyance at the momentary impartial stance of the P.L.O., Arafat's organization quickly closed ranks in a pledge of full support of the embassy takeover. Our press thereupon dropped the rescue story like a hot grenade.

To eliminate any doubt of its fealty to Iran, the P.L.O. then issued a sharp criticism of our U.S. naval force stationing itself "near Iranian territorial waters," and it called President Carter's freeze of Iran's assets dangerous and illegal.

Arafat himself made clear the P.L.O.'s pro-Iranian position wtih a communiqué emphasizing that his organization stands "at Khomeini's side" and that he never thought of becoming an impartial mediator between Washington and Teheran. Next, the P.L.O. sponsored an Iranian delegation to the Arab League conference, seeking its backing against the United States. From Paris, P.L.O. spokesman Ibrahim Souss declared: "We are allies of the Iranian revolution. It is a strategic alliance . . ." The short-lived posturing of the P.L.O. had come to a speedy end; when the chips were down, the P.L.O. chose Khomeini against us.

Let's keep these facts in mind when the Iranian crisis finally subsides and the P.L.O., with the support of some Americans, renews its campaign for an American hand of friendship and recognition.●

DELAWARE WINS NATIONAL CHAMPIONSHIP

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. EVANS of Delaware. Mr. Speaker, I would like to take this opportunity to congratulate the new NCAA Division II National Football Champions: The University of Delaware Blue Hens. Their 38–21 victory over a tough Youngstown

State University team this past Saturday culminates for coach "Tubby" Raymond, his staff, team and Blue Hen faithful the most successful season in the school's history.

The Delaware Blue Hens have one of the winningest and most well respected gridiron programs in college football today. Their recently completed 13–1 national championship season is their best ever, and marks the fifth time Delaware has been represented in the football championships since the playoff system was created 7 years ago. All of us from Delaware are proud to be associated with this outstanding group of people, and think it only fitting that our Nation's first State has a football team that's first rate.●

THE 1980 BUDGET—NO JUSTIFICATION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. DORNAN. Mr. Speaker, the House and Senate conferees have agreed that the Government should spend $547,600,000 this year. We are told this represents austerity. Actually, it represents an unwillingness by the majority of Congress to balance the budget, much less reduce the Federal deficit.

When revenues unexpectedly rise, does the Budget Office or the appropriate committees seek to apply that extra money to reduce the deficit for this year? Of course not. Spending escalates and the public is then told that the yearly budget is austere because the Nation's debt increased again by only $29,000,000,000.

It seems the budget planners are trapped in a "deficit justifying" frame of mind. Noted economist Paul Craig Roberts, of the Wall Street Journal, accurately summarizes this mentality as follows:

> Recessions justify deficits to get the economy moving again; recoveries justify deficits to keep the recoveries going; good times justify deficits to ward off the downturn that is predicted to be around the corner. Signs can be found upon which to predict a recession.

In short, our budget planners simply do not want to balance the budget. They want to spend any amount that can be "sold" to the public. Fortunately, the public is not buying. The following editorial by the South Bay Daily Breeze expresses the feelings of millions across the Nation who are demanding restraint in spending. I strongly urge my colleagues to examine these words carefully.

The editorial follows:

No Justification

A Senate and House conference committee has reached agreement on how much the federal government should spend during the current fiscal year.

The amount is $547.6 billion. If that figure is hard to visualize, try one that goes with it.

Because the government expects to borrow about $29 billion to cover another deficit in its budget, the national debt is expected to reach $880 billion by the middle of next year.

Dollars in those amounts are beyond any frame of reference in our daily lives. But the federal budget and its deficit are pertinent nonetheless to what is going on in our own pocketbook, where we pull out a $20 bill today to buy groceries that cost $10 barely a decade ago.

Economists generally agree that the only way to bring inflation under control is through monetary and fiscal restraint.

The Federal Reserve Board is practicing monetary restraint with its high interest rates and other steps to limit growth in the money supply. Fiscal restraint is up to the president and Congress—and their claim to be practicing it in the current budget is chicanery.

When President Carter was campaigning against Washington's big spenders in 1976, he talked about balancing the budget by 1980. His economic policies as president have been a string of rationalizations.

By last January, when he offered a budget of $532 billion for fiscal 1980, with a deficit of $29 billion, he was arguing that spending any less would do more harm than good.

By July, inflation and brisk economic growth had produced such a promising outlook for tax collections in 1980 that the administration discovered it could spend $542 billion without pushing the deficit past $29 billion. By October there was enough money in sight for a $547.6 billion budget—still with a deficit of only $29 billion.

The "restraint" we are supposed to see in this exercise is that the deficit for 1980 is only a couple of billion dollars greater than the one for 1979.

We are supposed to overlook the fact that if Mr. Carter had stuck to his January spending estimates, the deficit might be down to $15 billion—some restraint worthy of the name.

In the depth of the Depression, when Franklin Roosevelt's New Deal was trying to prime the economic pump with government-spending programs, the biggest deficit ever approved by Congress was $3.5 billion, in 1936. Applying the inflation factor, that would amount to only $17.5 billion today.

Mr. Carter has been enthralled by New Deal economics since he entered the White House.

But even taking a leaf from FDR's book, what is the justification for a $29 billion deficit at a time of rampant inflation when unemployment is relatively low and the government is banking on only a mild turndown before the Fed's tight money policy is relaxed?

The answer is that there isn't any.●

TELEVISION DIPLOMACY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. LAFALCE. Mr. Speaker, the interview with the young marine corporal in Tehran once again demonstrates that the Ayatollah Khomeini and his Iranian followers have abandoned the normal channels of diplomacy for a new technique of diplomacy by television.

This new technique, which in many respects is merely an updated version of Joseph Goebbels' manipulation of the radio during Nazi Germany, is a highly dangerous method, because it removes diplomacy from the traditional and universally recognized conduct of diplomatic relations between sovereign countries. The Iranians' contemptible disregard for international law, existing diplomatic agreements, the sacred precepts of the Koran, and world opinion is only matched by their skillful manipulation of television.

The American people should have a clear understanding of exactly how the Ayatollah Khomeini and his supporters are using television for their own purposes. Without that firm understanding, it could be forgotten that the Shah is not the issue, that President Carter is not the issue, and that the only real issue is the illegal and immoral holding of U.S. diplomatic personnel as hostages in Tehran. In order to help reinforce that understanding, I want to direct my colleagues' attention to two excellent articles: one in today's Washington Post by Jonathan C. Randal, and the other in today's New York Times by Steven R. Weisman.

The articles follow:

Captors Are Adept Media Manipulators

TEHRAN, December 10.—Iran's revolutionaries proved again last night that they have become masters of manipulating the best of 20th century technology to spread their message of 7th century Islam.

Their revolution has been fed by tape cassette, by direct-dial telephone systems and increasingly by the omnivorous demands of American television, which tonight broadcast an interview with Marine Cpl. William Gallegos, one of the 50 U.S. hostages inside the American Embassy here.

Excerpts of the interview appeared on NBC's evening news and a half-hour version scheduled for 9 p.m. was screened after a delay that the network said was the result of technical difficulties.

The militants holding the hostages have played off three American networks against each other from the beginning. NBC proposed the interview with the hostage, and quickly agreed to the counterdemand of the Iranian hostage-takers that they be allowed to argue to American viewers their case for Islamic fundamentalism and for the return of the deposed Shah to face trial.

The students insisted that an Iranian cameraman film the proceedings and arranged the satellite transmission so that the film could not be edited in New York. NBC executives said that although Iranian representatives were present when the tape was edited in Tehran, the Iranians had no role in the editing.

A guard was stationed outside the Tehran transmission station to make sure the students' message went on the air without tampering from political foes.

NBC interviewers were reportedly ordered by the students not to ask the hostage political questions and not to ask about "security" matters.

The students' message was dull television by the standards of American networks.

But for the students, the broadcast represented their major effort to foreswear the more inflammatory language they have been using and to sell the line that the American public should force Washington to extradite the shah.

Children of Marshall McLuhan's global village, they have little time for those journalists who remember what the students and government officials said two weeks, five days, or three hours earlier and want them to justify transparent contradictions.

Moreover, their control is complete. Television coverage by satellite can be stopped by the flick of a switch.

These latter-day messengers of a higher truth have found a ready and willing television world with which to deal.

One British television company brought in three British Moslems to smooth their way and produce a sympathetic view of the students' case.

Other journalists have described themselves as anti-imperialists to achieve the access they sought.

This is impressive homage for a revolutionary movement that has achieved much of its success due to modern technology paradoxically left in place by the much reviled Shah Mohammad Reza Pahlavi.

From January on, the direct-dial telephone, functioning for both domestic and international calls, allowed revolutionaries to communicate with each other without fear of effective secret police eavesdropping.

As soon as Ayatollah Ruhollah Khomeini left Iraqi exile for France in October 1978, his daily comments on events were recorded on cassettes. They were then phoned to the faithful of Iran thanks to the automatic dial system.

Once here, cassette copies were made and widely distributed throughout the country.

The media has been of crucial importance to this revolution. Within weeks of the revolution's triumph in February, the radio and television monopoly started censoring local news.

Azerbaijani rebels seized the radio and television stations in their capital of Tabriz to disseminate the communiques of their leader, Ayatollah Kazem Shariatmadari, who had been kept off the air recently by the central government.

The hard-pressed revolutionaries have only recently carried their uses of television to artful heights after seizing the embassy on Nov. 4.

Intent on controlling every step of the television process, the student captors now have three cameras and a microwave dish inside the embassy compound so that the film can be transmitted directly to the main television station by satellite instead of being driven across town through Tehran's endless traffic jams.

The captors also keep up with the product of their labors. CBS has been in the doghouse of late, apparently because of a Carl Rowan commentary that touched some raw Iranian nerves.

With tens of thousands of Iranians living in the United States, the students receive nearly instantaneous telephone reports on how the three networks play the day's events.

Rightly or wrongly, Iranians think the embassy seizure has provoked more concentrated television coverage—with the networks each maintaining five or six correspondents and crews—than did the turmoil of the previous two years, during the fall of the monarchy and the revolution's early months.

The students' sophistication is evident. The other night, for example, they put on a professional performance in producing a faked Belgian passport allegedly used by a member of the U.S. embassy.

The faked passport was shown next to a real Belgian passport and the camera showed the different stamps and how they were used.

U.S. AIDES, SHUNNED IN IRAN, COMPLAIN OF TV DIPLOMACY

WASHINGTON, December 10.—Day after day, Foreign Minister Sadegh Ghotbzadeh of Iran is interviewed on American television by American reporters. Day after day, State Department officials acknowledge they have been unable to establish direct contact with Mr. Gotbzadeh or others in the Iranian Government.

As a result, the Carter Administration has been subject to rising frustrations lately over what a senior official has termed the "television diplomacy" in the Iranian crisis.

Last week, for instance, Hodding Carter 3d, a State Department spokesman, commented privately before a group at Princeton that the recent television interviews with Ayatollah Ruhollah Khomeini might well have rhetorically boxed the revolutionary leader into a corner on the subject of possible trials of the hostages held in Teheran. Pressed by interviewers, the Ayatollah said the hostages would definitely go on trial.

The interviews, Mr. Carter said, "put into concrete what could have been dismissed as a muttering behind closed walls." Later Mr. Carter said he had been speaking personally, "off the record" and not in his official capacity as spokesman. But he acknowledged he felt that, from the Iranian perspective, the interviews made the trials almost inevitable.

DISPUTED BY NETWORK EXECUTIVES

Mr. Carter's views were disputed by the chief executives of all three television networks. William Leonard, president of CBS News, said he found it "most difficult to believe" that "had the networks not interviewed the Ayatollah, he would not have made statements" about possible trials.

Nonetheless, Administration officials continued to maintain privately that some of the questions aimed at Iranian officials had been "soft" and perhaps overly deferential. One official expressed annoyance that Mr. Ghotbzadeh, for example, had not been pressed harder about the condition of the 50 Americans being kept at the embassy, where neutral observers had not seen them for some time.

In interviews today, the network news executives disputed this criticism as well. "I'm sure the people at the State Department wish they were doing the interviews," William Small, president of NBC News, said, "But we're not going to go out of the business of informing the American people. Our guys are not there to debate the Iranians. They're there to elicit information."

Officials at both the networks and in Washington agreed that the Carter Administration's frustrations stemmed from various sources. Not the least of these is the highly unusual fact that virtually every night Iran's leaders are on television with appeals to the American people at a time when United States diplomats have been frustrated in their attempts to make their own contacts.

DIFFERENCE IN PERSPECTIVE

Some officials noted that the coverage of the Iranian crisis reflected a classic difference in perspective between government and journalism. State Department aides are interested in keeping Iran's positions ambiguous or fluid, so that either they or other diplomats could negotiate. Journalists, on the other hand, tend to ask questions with the aim of eliminating ambiguities, which might make bargaining more difficult.

Several times recently, for example, journalists asked the Iranians on television whether executions of the hostages were possible. The question made State Department officials cringe.

The networks, however, are not entirely insensitive to the complaints that television offers a ready propaganda forum for the Iranians. Today, for example, two networks, CBS and ABC, said they had declined to air an interview tonight with one of the American hostages—the first such interview since the crisis began six weeks ago.

In the interview, a Marine corporal, William Gallegos, said the hostages had been treated well, the cleanliness had been "really great," and the captors had been "really good" toward the Americans. President Carter has asserted that the hostages have been bound and psychologically abused.

WE DIDN'T WANT TO BECOME A TOOL

"The Iranian students offered us a broadcast with a hostage of their choosing, shot by their cameras, to be played in its entirety or not at all and to be aired in prime-time or not at all," said Mr. Leonard of CBS. "We turned that down flat. We asked for something less than that but didn't get anywhere. We didn't want to become a tool for them, much as we wanted an interview."

A spokesman for ABC said it was not viewed as "appropriate" to provide an "unedited, prime-time platform for the captors."

A spokesman at NBC, however, said the interview had been taped in Teheran without the precondition that it be run in full However, he said NBC would air it tonight for the full 18 minutes that it lasted.●

TRADE PROBLEMS: RECOMMENDATIONS FOR ACTION (PART 3)

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. ROUSSELOT. Mr. Speaker, on December 5 I indicated my intention to highlight the testimony received by the Subcommittee on Trade during hearings in San Jose, Calif. The subject of these hearings was the competitive position of the American semiconductor industry. Hopefully, my colleagues have been following this series and have taken the time to make note of the recommendations for action which the Semiconductor Industry Association submitted during the hearings.

Today, I continue this series with a repeat of the industry recommendations and the testimony of Mr. Earl Rogers, president, Precision Monolithics, Inc. Mr. Rogers' statement is especially important for the comparison it contains of the Japanese "free enterprise" system and the American "free enterprise" system. In every instance, the Japanese integrated circuits market is protected and promoted by the Japanese government through its trade and investment policies. This statement is not an advocation for a similar posture by the American Government, but simply points out that further action is necessary on the trade front by our representatives as an "equalizer" of sorts. The testimony and recommendations follow:

RECOMMENDATIONS FOR ACTION BY THE U.S. CONGRESS

(Presented by the Semiconductor Industry Association)

RECOMMENDATIONS

Our suggested remedies for the trade problems outlined here today fall into four basic categories:

(1) Meaningful remedies for disruptive imports and artificial pricing by the Japanese.

(2) Tax and financial incentives designed to keep the U.S. industry on a parity with the Japanese firms.

(3) Improved access to the Japanese market.

(4) Guidelines for investments by the Japanese firms in the United States.

(1) Japanese Imports: The key issue is artificial pricing. If the Japanese firms persist in disrupting free market forces in the U.S. market, our government must take steps to resolve the artificial pricing effects which will injure the U.S. industry by diluting our capital formation potential and learning curve benefits.

(2) Tax Incentives: Congress should establish a policy for the United States which provides incentives and other stimuli for those industrial sectors which we can reasonably expect to contribute disproportionately to the productivity, research strength, and trade strength of the national economy. Integrated circuits and computers would place high in this list. The incentives would relate to such parameters as innovation, exports, value added, employment (both qualitative and quantitative) and would stimulate intensified R&D and capital investment in the leading industries.

Specifically, we recommend the following:

Tax credits for year-to-year increases in research expenditures by fast growth, high technology firms;

Rollover provisions—capital gains tax deferral for reinvestment in new securities issues;

Liberalized depreciation, the net effect of which would be a three year write-off of equipment with a commensurate investment tax credit period;

Jointly funded cooperative research on university campuses in high technology areas; and

Tax credits for corporate contributions to universities, not to exceed 10% of total R&D expenditures by the corporation.

(3) Access to Japanese Market.

Our government should negotiate with Japan for immediate implementation of the MTN tariff cuts, inclusion of Nippon Telephone and Telegraph under the Government Procurement Code, and strict enforcement of the other non-tariff barrier codes.

Japan must immediately eliminate all discrimination against foreign-owned companies with respect to equal access to financing, research and customers.

The Japanese government must also cease all restrictive patent practices and allow foreign-owned companies to acquire Japanese semiconductor patents as freely and openly as the Japanese firms acquire American patents.

(4) Japanese Investments in the U.S.: Congress should consider legislation which would tax U.S. operations of foreign-owned firms in an amount necessary to offset the structural advantages which they derive from foreign government target industry programs. If Japanese trade practices conducted from plants within our borders disrupt our markets or threaten the U.S.-based industry, appropriate steps must be taken to correct the situation.

STATEMENT OF MR. EARL ROGERS, PRESIDENT, PRECISION MONOLITHICS, INC.

My name is Earl Rogers. I am President of Precision Monolithics, Inc., a small company with annualized integrated circuit sales of $25 million and 500 employees, all in the United States.

We have grown rapidly in the last seven years by selecting a narrow segment of the market, and if I may say so, doing a top notch job of serving that market. We tried to find a niche where we could be a bigger fish in a small pond. We manufacture only linear integrated circuits and concentrate on the higher performance, higher accuracy linear circuits which can command higher than the industry average selling prices.

Mr. Chairman, the Japanese companies are using the same strategies as my company by concentrating on a very narrow market segment—the high performance LSI and VLSI parts such as the 16K RAM. Thus, while their total shipments to the U.S. of all integrated circuits is small, their percentage of their targeted market segment is quite large. What is surprising about the Japanese strategy is their pricing policy. When my company makes a high performance product, I charge as high a price as the market will bear, in order to maximize the return to my investors and to raise capital from earnings for further expansion. As Chuck Harwood explained, the Japanese semiconductor companies seem to have a different pricing strategy which yields after tax earnings of less than 2 percent of sales. If I had elected to follow such a pricing strategy by pricing my products to yield earnings at 2 percent of sales, then my company could not have achieved its past growth record in our free market economy.

The following analysis shows the importance of earnings in financing future growth.

The U.S. semiconductor industry has an average asset turnover of 1.5. This means that $1.00 of total assets will generate $1.50 of sales. If a company can earn an after tax profit margin equal to 5 percent of sales, then on $1.50 of sales, the earnings would be 7½ cents. This is only 7.5 percent of the $1.00 assets employed. The profits add to the retained earnings of the company, and can be used to finance future growth.

The point is, that the ratio of sales to assets in an industry is relatively constant. Therefore, a 7.5 percent increase in assets can only produce a 7.5 percent increase in sales. In other words, internally funded growth rate is limited to the rate of return on assets:

7.5% ROA=7.5% per year growth

But the integrated circuit market demand is growing at three times that rate. Thus, unless return on assets can be increased, the only other option is to obtain external financing. In this case, the required external financing is two times the amount generated by earnings. Part of this is generated somewhat automatically by depreciation deductions and increased accounts payable. For moderate growth industries, this may even be sufficient. However, in a high growth industry, external financing is mandatory, and there are only two sources:

Equity (by selling stock).

Debt (borrowing from a bank).

In either case, the potential investor or lender will make an investment or loan only if:

(1) Profit margins are healthy by U.S. standards (5% on sales after tax is considered acceptable); and

(2) Ratio of total company debt to total net worth is reasonable (1:1 is preferred).

Using the above example, if the after tax return on assets is 7.5 percent, we can probably raise another 3–5 percent through depreciation and increased accounts payable. This would still leave a balance sheet strong enough to obtain the additional debt equity required to grow 20–25 percent per year.

However, if our profit margins on sales were limited to 2 percent, our return on investment would only be 3 percent. If the market grows 24 percent per year, we would need $7.00 of external financing for every dollar of earnings. In our free capital markets, with such a low profit margin, it would be impossible to sell stock. Furthermore, raising the money by debt would result in an unacceptably high debt-to-equity ratio. So our banks would decline to participate.

A U.S. bank might be willing to loan a lesser amount, but in any event, the company's growth is forced to be lower than the market demand. This means the company starts losing market share, and falls behind on the experience curve. This results in higher costs than competition, even lower profit margins, and the eventual demise of the company.

Now if the government would guarantee the loans at very low interest rates, the company is back in business. Furthermore, if repayment of the loans would be deferred indefinitely, the company could reduce prices even more to grow even faster, because earnings would not be needed to finance growth. Eventually, this company and its "partner" with unlimited resources, could buy enough market share to be absolutely dominant in the market. At that point, prices can be arbitrarily raised and profits increased sufficiently to pay off the debt.

In comparison, the short-term debt of one large Japanese firm is $1.1 billion or 33 times its annual after tax earnings. Even with adding depreciation, their cash flow is only one-sixteenth the amount of this short-term debt. In the United States, short-term debt is defined as being due and payable within one year. One must ask where the Japanese firms will get the money to repay such large indebtedness.

Let me compare for you, Mr. Chairman, the features of the Japanese structure as compared to the U.S. structure, as seen through the eyes of a small U.S. businessman:

1. Financing: Japan: Unlimited bank borrowings at 2 percent interest. United States: Equity, with some small borrowings at double digit interest rates.

2. Profits: Japan: Low, because not needed to finance growth. United States: 10 percent or higher to satisfy stockholders and to raise growth capital.

3. Import Treatment: Japan: Protectionist. United States: Open.

4. Export Treatment: Japan: Subsidized by the government. United States: Government is neutral, or frustrates exports.

5. Industry Cooperation: Japan: Cartels are o.k., antitrust exemptions; formal technology sharing. United States: Antitrust laws prohibit joint efforts.

6. Foreign Investment in Home Market: Japan: Tough anti-investment stance; a few joint ventures are permitted, but seldom succeed. United States: Easy and open to all foreigners.

The basic differences, as is readily apparent, are structural.

I note a recent quote from an article in Forbes Magazine, November 26, 1979, titled "The Micro War Heats Up:"

"The Bank of Japan, Japan's central bank, was unofficially committed to making sure that no big electronic company would go bankrupt. The firms were therefore able to borrow heavily from Japan's commercial banks, running up huge debt/equity ratios in the process. The significance of these high debt/equity ratios can't be overstated. Japanese companies do not have to show high profit since they have a close relationship with their banks (and therefore to Bank of Japan) and do not have to raise capital in competitive markets—where even IBM had recently to pay 9⅞ percent. NEC's net for fiscal 1979 constituted a return on sales of only 1.2 percent. The U.S. figure is 6 percent to 7 percent."

As you can see, Mr. Chairman, the U.S. semiconductor firms face a formidable challenge.●

ALL AIRLINES ARE NOT NOISY

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. MINETA. Mr. Speaker, there has been a concerted effort by some airlines to get this Congress to reverse the Federal commitment to reduce jet noise impact and to roll back existing noise regulation of the jet fleet.

Unfortunately the flying and taxpaying public, which is threatened with losing one of the few cost-efficient means for dealing with the very costly problem of jet noise impact if this lobbying effort succeeds, may not appreciate the fact that all airlines are not alike with respect to jet noise.

Some airlines fly quiet fleets; some fly noisy fleets. Some are making good faith efforts to bring their fleets into compliance with noise standards within the mandated time frames of 1983 and 1985; some are "playing chicken" with the deadlines, doing nothing and hoping the deadlines will go away. Some are opposing any legislative attempt to roll back the existing jet noise rules; some are neutral and uninvolved; some are actively urging the rollback.

The public should refrain from tarring all airlines with the same brush.

The FAA will soon require, through rulemaking, that each airline inform the FAA of the noise-compliance status of its fleet and of the airline's plan for bringing its fleet into compliance by the mandated dates. This information would then be updated annually. In this way the public will know who is noisier and who is quieter, and who is making serious efforts to come into compliance.

But the FAA-required data will not be available for several months.

In the growing debate over jet noise, none of us would want any airline to suffer in the public esteem for the actions, or inactions, of other companies. In the hope that each airline would be judged on its own, rather than by any broad generalization of what is a highly varied industry, and in the absence of the better data which will be available in several months, I would like to make available to my colleagues the best and most recent fleet data I have been able to find. Since this data is several months old and may not be perfect, I invite any airline which is not accurately represented to correct me, and I will make that correction available to my colleagues.

None of the four-engine narrow body aircraft (707, 720, and DC-8) in the list now comply with the noise standard. American, TWA, and United now operate the largest noncomplying four-engine fleets. Some airlines have made sizeable reductions in their noncomplying four-engine fleets (note Northwest, Pan Am, and Western among the trunk carriers), while others have actually increased the size of their noncomplying fleets in the period since the fleet noise rule has gone into effect (note Braniff, Airlift International, Evergreen International, and Flying Tiger). Three of the airlines (Delta, United, and Flying Tiger) have recently contracted to re-engine many of their DC-8's, which will both bring the aircraft into noise compliance and make them significantly more fuel-efficient.

Among the two- and three-engine jets (727, 737, DC-9, BAC-111), critical because they constitute 70 percent of the noncomplying fleet, there is wide divergence among airlines. The quietest of the trunks are American, Delta, Braniff, and Western; the noisiest are National and Pan Am. Among the other carriers, the quietest are Federal Express, Hawaiian, and Southwest, and the noisiest are Airlift International, Air California, Evergreen International, and US Air.

It should be noted that some airlines have entered into contractual commitments to extensively quiet their noncomplying fleets. Those generally mentioned in this regard are Continental, Delta, Northwest, and PSA. Others expect to meet the compliance deadlines largely through retirement or replacement of noncomplying aircraft.

And, finally, totaling up the overall fleets of each airline, we find that the quietest of the major carriers are Braniff, Delta, Northwest, and Western. The major carriers operating fleets with the lowest percent of compliance with the noise standards are United, National, Eastern, and TWA.

Among the nontrunk carriers, the quietest are Federal Express, Hawaiian, Southwest, and PSA. Those with zero compliance are Aeroamerica, Airlift International, Air California, Capitol International, and US Air.

	4-engine narrow bodies	Percent reduction January 1977	2- and 3-engine narrow body			Wide body		Fleet totals		
			Complying	Noncomplying	Percent complying	Complying	Noncomplying	Complying	Noncomplying	Percent complying
Trunk U.S. air carriers:										
American	73	18	103	42	71	30	0	133	115	54
Braniff	16	[1]33	64	30	68	6	0	70	30	70
Continental			12	43	22	15	0	27	43	39
Delta	22	29	110	48	70	30	0	140	70	67
Eastern		[2]100	47	161	23	30	0	77	161	32
National			0	40	0	16	0	16	40	29
Northwest		[3]100	23	42	35	45	0	68	42	62
Pan Am	29	59	0	13	0	46	0	46	42	52
TWA	72	28	44	47	48	35	0	79	119	40
United	69	31	47	170	22	44	11	91	250	27
Western	12	48	38	21	64	9	0	47	33	59
Other U.S. Air carriers:										
Aeroamerica	4	50						4	4	0
Airlift International	10	[1]25	0	1	0			0	11	0
Air California			0	10	0			0	10	0
Air Florida			3	5	38			3	5	38
Alaska			2	8	20			2	8	20
Aloha			3	6	33			3	6	33
Capitol International	8	33						0	8	0
Evergreen International	6	[1]100	0	3	0			0	9	9
Federal Express			11	0	100			11	0	100
Flying Tiger	21	[1]31				7	0	7	21	25
Frontier			15	21	42			15	21	42
Hawaiian			10	0	100			10	0	100
Hughes Air West			26	21	55			26	21	55
Ozark			14	20	41			14	20	41
PSA			24	6	80			24	6	80
Piedmont			3	27	10			3	27	10
Republic			24	44	35			24	44	35
Seaboard World	3	75				4	0	4	3	57
Southwest			15	1	94			15	1	94
Texas International			10	19	34			10	19	34
Trans International	9	18				3	0	3	9	25
US Air			0	86	0			0	86	0
Wien			4	4	50			4	4	50
World	5	0				6	0	6	5	55

[1] Increased. [2] Was 2. [3] Was 8.

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PROLONGED ORDEAL FOR PARENTS OF A CHILD BORN TO DIE—A CASE FOR EXPANDING FEDERAL REIMBURSEMENT FOR ABORTION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. SEIBERLING. Mr. Speaker, today I am submitting for the RECORD an article which appeared in the Washington Post some months ago, and which recently came to my attention in relation to the House debate on the Department of Defense appropriations bill.

The article describes the emotional and psychological ordeal of a U.S. military husband and wife when they discovered that the woman was pregnant with an anencephalic child—a child with no brain or skull or spine or a chance to live outside the womb—and had no recourse but to bear that child because the military appropriations bill forbids reimbursement for abortion unless the woman's life would be endangered if the fetus were carried to term, or in cases of rape or incest.

Although this young couple knew that the pregnancy would end in death for the fetus, they were forced to see it through because they had no health insurance outside of the military plan, and no resources to fund the procedure on their own. Congress is directly responsible for forcing this agonizing ordeal on this young couple, and others like them.

I urge my colleagues to read this article, and to reflect on whether we have the right to impose such suffering on people who are victims only because they cannot afford the rights enjoyed by those with financial resources.

The article follows:

ABORTION IS JUSTIFIED FOR CHILD BORN TO DIE

(By Judy Mann)

"I cannot give you a fancy speech," Navy gunfire technician Denny Edwards, 22, told a congressional subcommittee this spring, "because I am just a simple man who is trying to do a job and provide a living for my family. All I can do is tell you what has happened to us, and pray you'll understand and try to do something so that we or anyone else will not have to go through the same type of ordeal again."

Denny Edwards and his wife Donna, 25, came from their home in Virginia Beach to Washington to implore Congress to ease its restrictions on the use of federal funds for abortions of military patients. "I am not a pro-abortionist, but neither am I anti-abortionist," Edwards told the House Appropriations subcommittee on defense. "I believe that each case should be judged on its own merit. The best way I have to show you that belief is to let you know what my family and I have been through."

Then he told the subcommittee the story of how his wife was forced to carry to full term and give birth to an anencephalic daughter, a child born without a brain or skull or spine, a child born to die. Donna Edwards was forced to continue the pregnancy after the fetus was diagnosed because language in the Defense Department appropriations bill restricts federal funds for military abortions to cases in which the mother's life is in danger, or to pregnancies that result from rape or incest, or to ectopic (tubal) pregnancies.

Doctors suspected around the fourth month of the pregnancy that the fetus might be deformed and began conducting tests. By the 29th week of the pregnancy, the tests showed conclusively that the child was an anencephalic who could never live. Abortions that late in a pregnancy are very expensive, Denny Edwards found out. And he found the military health coverage he had as a Navy man would not cover abortions of deformed fetuses. He and his wife had no other health insurance. He got estimates from doctors that it would cost him anywhere from $2,000 to $5,000 to terminate the pregnancy in a civilian hospital. The Edwards did not have that kind of money.

"What a couple of doctors would have done was to take Donna, put her in the hospital, run their own tests and then induce birth over a period of days, running into money for the hospital stay, doctors' bills, tests and operating room expenses. That's why the amount would have been so exhorbitant."

Denny Edwards appealed the Navy's refusal to do the abortion to the Navy surgeon general, to his senator, to the president. The answer he got from Assistant Secretary of Defense Vernon McKenzie was: "I am sorry for your situation but there is nothing I can do to help you."

"Do any of you have any idea as to the pain and hell that a pregnant mother goes through when she feels her child move and kick inside her and knowing all the time that there is no hope for her child and that child will die?" Edwards asked the subcommittee. "Let me tell you, I have seen that pain on my wife's face and seen that pain almost kill her. And I pray that no other woman in the world has to go through it."

"I had an idea of what she was going through," Edwards said last week. "I knew that in order to keep her from breaking up, I had to remain strong. We concentrated all our efforts into writing congressmen and Senators to draw it out: how can you people let this happen?" It gave direction to their torment.

"I relied on my husband an awful lot," says Donna Edwards. "The doctors gave me sleeping pills, but I didn't want to take them because I have a 3-year-old who might wake up and need me during the night. I did a lot of praying and a lot of hoping that maybe the doctors were wrong after all.

"I guess what consoled me is that, when she was born, she wouldnt' be going through anymore. It would be over for her. Every day (of the pregnancy) was like years. When I went into labor I just felt subconsciously I didn't want to admit it was labor because I didn't want her to die that way. I didn't want to go into labor. I knew she was able to live inside of me but I knew she couldn't live outside."

Their daughter, Patricia, was born Dec. 22, 1978. "I cannot describe to you what I saw when I went to her side after death," Denny Edwards told the appropriations subcommittee. "Let me just say Patricia was my daughter, and I love her very much . . . but seeing her there with a perfectly formed face but no brain was a very grotesque and terrifying sight.

"The autopsy report showed afterward that not only did she not have a brain, skull, or spine but that her pelvis was separated into two separate pieces, she had bad kidneys, and some of her other organs were not completely formed. So you see, she never even had the slightest chance for survival."

Donna and Denny Edwards have been told by their doctors that the longshot odds of having an anencephalic child are now, for them, 1 in 20. It is a chance they are unwilling to take. "How can we possibly try to have another child knowing that if the next one is an anencephalic that we will be forced to carry it to full term, again knowing the baby will die, simply because the government will not allow money for military doctors to take the baby in a case like this?" asks Denny Edwards.

Capt. Peter Flynn of the Defense Department estimates that some 350 babies (out of 160,000) born to military parents each year have serious birth defects. He says there are now about 70 such serious defects that can be detected well before birth. The Defense Department does not want restrictions on the use of money for abortions in military patients, and the appropriations bill sent to Congress by the administration has no such restrictions.

This is policy that Congress decided on last year, and there is every reason to believe antiabortion forces in Congress will introduce restrictions this year as they did last year. Already, the House last week adopted the Hyde amendment restricting the use of Medicaid funds to cases in which the life of the mother is endangered.

The stage is set for another fight between the House and the more liberal Senate over restricting federal funds for abortions in both the Health, Education and Welfare appropriations bill and the Defense Department bill.

There is a strong argument that can be made for restricting federal funding of abortions. A large segment of the taxpaying American public cannot tolerate the moral implications of terminating a pregnancy. That segment has every right to try to prevent its tax dollars form being spent on actions it views as morally reprehensible.

Yet there are points within this emotional controversy in which the pro- and antiabortion forces can find common ground. Donna Edwards was carrying a fetus that had absolutely no chance to survive. It was conclusively diagnosed as a fetus that would be born to die. There is no issue here of the sanctity of human life and no issue here of survival.

This is the kind of case in which there is no moral justification for forcing the mother to complete the pregnancy. There is very humane consideration for allowing the use of government funds to help her terminate it.

"I am not here to change every mind on the issue of abortion," Denny Edwards testified. But he asked the subcommittee members to review their feelings, to place themselves "in our place . . . I beg of you to convince your colleagues that in the issue of abortion if there are exemptions allowed then certainly there should be language that would protect families such as mine."●

AT LEAST ONE BUSINESS PAC DOES NOT SUPPORT BOTH SIDES

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. ASHBROOK. Mr. Speaker, one of the complaints many of us have about Political Action Committees (PAC's) is that many business PAC's tend to give to friend and foe alike. Never let it be said that the labor/left activist PAC's do that—they give to those who support their aims and vote for their proposals. Who can object to that? They certainly have a right to do so and at least deserve some respect for having the fortitude to fight those they disagree with and support those who vote according to what they determine to be the right position.

All too many business PAC's remind

me of the man who kept feeding the alligator on the theory he would be the last to be eaten. They give to those who vote for every manner of socialized anti-business scheme which comes along.

Recently I ran across correspondence from one PAC which indicated that at least one group is adhering to some principle in their support of a candidate. The crass argument of many business groups that they must contribute to liberals because they are on a committee which deals with their industry is so often heard around Washington that it is becoming bedrock. At last one PAC blew that canard.

Wall and Ceiling PAC, known as WAC/PAC has an outstanding American, Joe Baker, as its treasurer here in Washington. Here is a letter he sent to a consortium of business leaders and PAC's who were putting on a fundraisng effort for one of the Senate's more liberal Members. Congratulations, Joe and WAC/PAC. Maybe a few weak-kneed business PAC's will get the gumption to follow your lead. The letter follows:

Wall and Ceiling/
Political Action Committee,
Washington, D.C., October 29, 1979.

Mr. Philip P. Friedlander, Jr.,
Executive Vice President, National Tire Dealers and Retreaders Association, Washington, D.C.

Dear Phil: I am surprised and saddened that you would lend your name as a sponsor of a fund-raiser for Sen. Gaylord Nelson's upcoming reelection campaign.

This to me is the problem with business and association-sponsored political action committees today: They cannot see the importance of a candidate's overall voting posture as long as he is on "their" congressional committee.

Gaylord Nelson may be the Chairman of the Select Committee on Small Business, but he is anything but a friend to the free enterprise system and to America's dwindling defense posture.

His American Conservative Union rating is one of the lowest in Congress:

FOUR PERCENT!

He is an open supporter of SALT II with no reservations about the treaty, the Backfire Bomber issue, or other important matters: Pass the treaty endorsement and forget the consequences.

He strongly supported the Panama Canal giveaway.

He voted against business on Rule 22 in the Senate earlier this year.

He voted against continuation of the Taiwan defense obligations of the United States.

He voted to oppose the Dole amendment to require balanced budgets . . . certainly anti-business.

He has voted consistently against tax reductions and federal budget reductions.

He voted to support not only the creation of the multi-billion dollar Department of Education, but also to kill an effort to require Senate debate on protection of a teacher's right not to join a union.

He voted against reduction of the food stamp boondoggle.

He voted against exemption of the Tellico Dam project from the Endangered Species Act. Yes, he voted for the Snail Darter and against business.

Should I continue?

Should I mention that he strongly supported the so-called "Labor Law Reform" bill last year and situs picketing, and that he now supports continuation of Davis-Bacon? Should I mention that he is a darling of organized labor?

I hope you will reconsider your position in allowing your name to be used to help fund this man's re-election efforts.

Or perhaps you can enlighten me as to just where he has helped free enterprise?

Being on the Small Business Committee does not make a Senator necessarily on the side of small business nor of the free enterprise system.

We would be better off if the voters in Wisconsin decided to retire Mr. Nelson.

I am sorry I cannot be with you on the 7th of November, but our PAC supports only those candidates who support America.

Sincerely,

Joe M. Baker, Jr.,
Treasurer.●

COSTLY, EMPTY PIPELINE

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. BONKER. Mr. Speaker, add Robert Walters' name to the long list of columnists and editorialists in the Northwest who oppose the Northern Tier pipeline project. As we near the day when President Carter is to designate one or several pipelines required by law, Mr. Walters cautions the President to not "succumb" to the so-called All-American line. He also correctly notes there is not enough demand on either end of the pipeline to justify its construction at this time.

The article is timely and persuasive:

Nation Could Be Stuck With Costly, Empty Pipeline

(By Robert Walters)

Billings, Montana.—Every red-blooded American cherishes the dream of "energy independence"—but a consortium of major corporations based here is abusing that concept to promote construction of an unnecessary new oil pipeline.

"The All-American Pipeline," proclaims the Northern Tier Pipeline Co., advertising its project as "a major link in the energy security of the United States" that will provide "a safeguard for the national defense."

The owners of the pipeline company include the U.S. Steel Corp., Westinghouse Electric Co., Burlington Northern Railroad and Chicago, Milwaukee, St. Paul and Pacific Railroad.

If the necessary state and federal permits are granted, the "embargo-proof" pipeline will have the capacity to carry 709,000 barrels of crude oil daily from a harbor northwest of Seattle to a small Minnesota community where the oil could be distributed to Midwest refineries.

Behind that bold rhetoric, however, there lies a very serious drawback: The prospects for securing the petroleum needed to fill the proposed pipeline are exceedingly dim.

The leading candidate among four contenders competing for federal approval of a new west-to-east pipeline system, Northern Tier is relying heavily upon the assumption that massive amounts of crude oil will continue to flow from the Prudhoe Bay field on Alaska's North Slope.

That field has been producing about 1.2 million barrels of oil per day. Of that total, approximately 300,000 barrels of oil are shipped to Gulf Coast refineries by way of the Panama Canal and Cape Horn at the southern tip of South America.

The remaining 900,000 barrels have been landed on the West Coast, where Northern Tier claims there is an "oil glut" and "a burgeoning surplus of crude oil from Alaska."

But a study of the Prudhoe Bay reserves commissioned by Alaska's state government shows that North Slope production probably will peak at 1.5 million barrels daily during the 1980-to-1985 period, when the pipeline is expected to being operating, then begin a precipitous decline.

Unless there are major new discoveries, Alaskan production will be down to 1.1 million barrels daily in 1990 and will sink to 200,000 barrels per day in 1995, according to the study.

In addition, Sen. Henry M. Jackson, D-Wash., chairman of the Senate Energy Committee, has just completed a survey indicating that even now there is no "West Coast oil glut."

The western states' demand for Alaskan oil will exceed 930,000 barrels daily by next month and will grow to more than 950,000 barrels per day by the middle of next year, according to Jackson.

Northern Tier officials also claim their pipeline can be used to transport crude oil imported from Indonesia, but much of that nation's petroleum has a high paraffin content that requires shipment through specially heated pipelines.

Northern Tier promoters also note that it is cheaper to transport Middle East crude oil to the Pacific Northwest than to the Gulf Coast, where much of the nation's refinery capacity is located.

What they don't mention is that pipeline shipping charges from the Northwest to refineries in either the Southeast or Midwest add so much to the cost that the scheme is economically infeasible.

The demand for Northern Tier's oil is as questionable as the supply. With the exception of relatively small shortages of crude oil projected for Montana and eastern Washington, there are few shortfalls predicted for the region the pipeline will serve.

In that case, most of the crude oil will be delivered to refineries in Illinois, Michigan and Indiana, claim the pipeline backers. But those facilities have only a limited capacity to process the high-sulfur "sour crude" from Alaska.

If President Carter succumbs to the "All-American" propaganda and approves the project, the country could be stuck with an expensive but empty pipeline.●

THE CONGRESSIONAL WIVES TASK FORCE REPORT ON THE PROBLEMS OF OLDER AMERICANS

HON. JAMES J. HOWARD

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. HOWARD. Mr. Speaker, the Congressional Wives Task Force is a bipartisan organization of 72 women who are wives of Members of the House and Senate. In the past, the group has issued two in-depth reports on the impact of television on children and society and one on the status of nutrition policy in this country. Because my wife, Marlene, is a member, I have followed the activities of the Congressional Wives Task Force with interest.

I include for the Record the congressional wives' most recent study of the problems of older Americans in our society. This far-reaching report is the result of a year-long examination of the greatest concerns of senior adults. It is based on surveys conducted in many of our districts as well as the testimony of experts and relevant source materials.

Because I think the study will be most helpful to us as we handle legislation affecting older Americans, I hope my colleagues will take the time to read it carefully:

THE CONGRESSIONAL WIVES TASK FORCE REPORT ON THE PROBLEMS OF OLDER AMERICANS

The Congressional Wives Task Force is a bipartisan organization, composed of seventy women who are wives of Members of the U.S. House of Representatives and the U.S. Senate. The purpose of the group is to examine an issue in depth and offer specific recommendations for public discussion. To date, the group has issued three reports: two on the impact of TV on children and society and one on the status of nutrition policy in the United States.

This year, the Congressional Wives Task Force has explored the problems of the elderly. We have listened to a wide range of experts, geriatric professionals and older people themselves describe current problems and projected needs in the future.

Over the summer months, a number of our members completed a survey of elderly people in their respective states to find out what their priorities were. Inflation and the potentially disastrous cost of medical care topped the list.

Right now, over twenty-three million people are 65 or older. But America is facing an explosive demographic revolution in the population of older people. Because of a reduction in maternal and childhood mortality, and because of improved medical technology, people are living longer. At age 65, a man can expect to live 14 more years, a woman 18. The birth rate is declining, reducing the younger population and profoundly altering the economic and social picture of the future and presenting society with a major challenge. By the year 2000, 32 million people will be 65-plus. There will be two workers for every one retiree and one-half million "new" older people each year. And soon after the turn of the century, the post war "baby boom" of the late 40's and early 50's will become a geriatric mushroom cloud.

Clearly then, the amount of attention paid to the needs and concerns of the elderly must increase. Yet America's attitude toward her older people remains deplorable. Everyone "wants to live a long time, but no one wants to grow old." (Dr. Richard C. Greulich; see Speaker's Appendix.)

Our Madison Avenue culture seems geared to a cult of eternal youth which perpetuates an unrealistic and distorted reality where older people occasionally appear on television to discuss denture adhesive. There is a tendency to perceive the elderly as if they were another species. We forget that being an elderly person is just one facet of everyone's life. Aging is "continuing and gradual. Nothing happens abruptly at age 65." (Dr. Beth Soldo) Our language is replete with cruel terms supposedly descriptive of older people. Television, part of our national diet, most often portrays the elderly as "eccentric, stubborn, non-sexual, ineffectual and often silly." (Kernan, Washington Post; 9-18-79) We discriminate against them based on unfair stereotypes of our creation. Where there should be sympathy, there is indifference. Where there should be respect, there is ridicule. We waste a vast national treasure in our older people—yet they represent a stable resource that will increase dramatically in size. Americans who have worked hard to build this nation deserve to grow older with dignity. In many ways, it's time for America to come of age.

Because we have been youth-oriented, we have failed as a society to adequately prepare for the future. We have no clear, defined, integrated national policy on aging or retirement problems. We have not dealt with the economic, social and psychological aspects of aging in an overall sense.

We would like to say a special word about the dilemma of elderly women in our culture because their lot is much harder than that of males. Poverty is higher among elderly women than any other population category. Sixty per cent of widows live at or below the poverty line. (Butler)

In 1975, widows had an average weekly income of $88, compared to $119 for widowers. Women who have been paid lower wages than men while they worked continue to be victimized when they reach retirement age. Their social security benefits are likely to be lower than men's because of lower pay and fewer work years. They are less likely than men to qualify for pensions, yet they need an income much longer.

We are concerned and troubled about the plight of homemakers who do not qualify for social security benefits. American women have been and still are penalized for becoming homemakers, raising children, being married and working because the Social Security system, designed in the far different world of 1935, has failed to keep pace with the changing roles of women. In 1977, married women comprised forty-seven per cent of the labor force, as compared to seventeen per cent in 1940. It is projected that women will comprise sixty-seven per cent of the labor force by 1990. In 1978, eight million women were classified as heads of households and over two million were widows with 660,000 children under the age of 18. The divorced woman has little or no Social Security protection in her own right, and widows under 60 years with no entitled children or no disability receive no benefits. Clearly, the inequities in the system must be removed and the system must better serve women in a rapidly changing world.

There are several major areas of concern that affect the elderly and require increased attention. These areas were ranked by the elderly in our survey in the following order: 1.) Inflation 2.) Health Care 3.) Transportation 4.) Housing 5.) Public Safety.

INFLATION

Inflation is the number one concern of older Americans, many of whom live on fixed incomes. A Lou Harris poll (1975) shows that 97 per cent of the American public believes that Social Security payments to the elderly should increase with rises in the cost of living. Rising costs for basic needs—shelter, food, medical care, hospitalization, dental care, clothing, home care, taxes, recreation, and transportation—go up while incomes in the majority of cases remain locked into unrealistically low levels.

Rents and utility costs go up, and often rental units are converted into condominiums at prices impossible for the low-to-moderate-income tenants to meet. Those who own their homes upon retirement find maintenance costs and taxes becoming excessively high.

As grocery bills mount, the quality of diet suffers. Most frightening of all to the elderly is the high cost of medical care and hospitalization. Care in the home, which most would prefer, is nearly impossible to obtain except at exorbitant costs. Nursing homes are even more costly in circumstances where patients are unable to qualify for medicare, or who do not have adequate health insurance.

There are no obvious or easy solutions to these problems. Monetary and fiscal policy must continue to bear down on causes of inflation and seek to stabilize the dollar. Local, state, and federal governments should develop more flexibility in dealing with older citizens and not build up barriers between them and the services they need.

Private and public agencies with a heart should cooperate rather than compete in their work. Hospital cost containment should be pursued despite special interest pressures against it. Home nursing care should be encouraged with training and referral services. Volunteers should be encouraged to assist with transportation, home services, recreation, and educational activities. Many older people themselves make excellent volunteers and have wisdom and skills of a lifetime to offer.

HEALTH CARE FOR THE ELDERLY

There is a desperate need for a more comprehensive health care system. The elderly person lives in dread of becoming ill and destitute. Any hospitalization threatens economic ruin.

Medicare and medicaid are grossly inadequate and terribly costly to administer. Medicare, which was meant to serve the medical needs of the elderly, was set up as if its recipients were 25 years old.* The most pressing medical need of the elderly is for care of long-term chronic illness, yet medicare has set arbitrary limits to the length of time it will pay. After that, patients are on their own. Furthermore, there is no limit on what doctors can charge and hospitals are paid on a cost-plus basis—a method that encourages extravagance! Medicare, while helpful to some, is not available to all who need financial assistance in meeting costs for doctors, nursing care, treatment, therapy, and medicine. Red tape and restrictions prevent a sizeable portion of older people from getting the care they need.

Elderly people who make up eleven percent of the population take one-fourth of all the drugs, yet drugs are tested on people 35 years old or younger. A series of tests at the National Institute on Aging in Baltimore show that kidney and liver function in a healthy older person is slower; therefore, metabalization of drugs slows as we age. Older people often have multiple medical problems requiring multiple drugs, yet adequate testing has not been done to show how these drugs interact in an elderly person's system.

Neither medicare nor Blue Cross pays for routine physical check-ups. A person has to be sick to get paid, which again adds to costs in the long run. One suggested alternative are health maintenance organizations. These prepaid group practices would include preventive medicine leading to a healthier old age and thus cost savings over the long run. Medicare does not pay for prescription drugs or prosthetic devices such as hearing aids, dentures, and eyeglasses, or for visits to a podiatrist.

Primitive health problems like malnutrition are widespread partly because many older people are too poor to feed themselves properly and partly because loneliness, disability, depression, or fear of crime may keep them from shopping for or cooking food.

Finally, geriatric medicine has not been recognized as a specialty in the United States even though forty percent of the average internist's patients are 65 or older and he spends sixty percent of his time with them.

We recommend legislation to establish outpatient clinics specializing in geriatrics and to explore the use of mobile health units. A geriatric speciality should be added to the curriculum in medical schools in the U.S.

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* Dr. Robert Butler's testimony to Congressional Wives Task Force, March 7, 1979.

TRANSPORTATION

Elderly people have a special need for inexpensive coordinated transportation—primarily to get food and medical care. America needs a community-sponsored effort to locate the elderly who are in need of transportation services in cities and rural areas where they would otherwise be stranded. Thirty-one percent of the elderly live in rural areas. The Surface Transportation Act of 1978 provides funds for grants to operate more buses in these areas, and has taken into account the needs of the elderly for ramps, moving sidewalks, and lower steps into buses and vans.

We recommend more reduced-fare programs and tax deductions to promote volunteer drivers and tax-exemptions to provide non-profit transportation for the elderly. We recommend reduced air fares for the elderly, and hope the Senate will act favorably on the House-passed bill. We would like to see innovative use of the 200,000 school buses and vans that stand idle a good part of the day and year.

HOUSING

Sixty per cent of the elderly own their own homes. It is increasingly difficult for them to retain ownership in the face of high taxes, high utility bills, and increased maintenance costs. We recommend legislation to help the elderly retain their property through Homestead Exemption Laws and other property tax relief.

The elderly prefer to avoid dependence on anyone. Most dread the thought of being in an institution, and one-third of them live alone. Only six per cent live in nursing homes, but these numbers will increase and there will be a need for more and better nursing homes.

We recommend stricter standards—guaranteeing the rights of patients and authorizing grants and loans for sprinkler systems since only one-half of the nation's nursing homes have sprinklers. The elderly want alternatives to institutional living. Our survey showed that the elderly prefer to live in a community of mixed age groups. We recommend tax breaks for families that care for their elderly relatives. Legislation is needed that would expand home health care benefits.

PUBLIC SAFETY

The elderly in our society are increasingly concerned over their public safety. Considered easy prey, "old people are victims of violent crime more than any other age group." (Butler) Their concern and fear have led them to social and personal isolation, with many being afraid to leave home or even answer the door.

Although the elderly are victims of crime, this fear makes a bad situation worse. Here again, television has had a significant impact. When they see themselves robbed, mugged, and beaten daily, it is easy to understand their fears. We recommend that Congress enact legislation that would give assistance to states to operate programs to compensate elderly victims of crime, particularly the low-income elderly. We encourage the use of existing local-level resources to be even more responsive to the needs of the elderly in time of crisis.

SPEAKERS APPENDIX

Mr. David Affeldt. Chief Counsel, Special Committee on Aging, U.S. Senate.

Ms. Lenore E. Bixby. Former Director of Division of Retirement and Survivors Studies, Bureau of Labor Statistics.

Dr. Robert N. Butler. First Director of National Institute on Aging, National Institutes of Health, Author, *Why Survive, Being Old in America*.

Mr. Nelson Cruikshank. Counselor to the President on Aging. Chairman of the Federal Council on the Aging.

Dr. Ruth Glick. Director of the Institute for Retirement Studies, Case Western Reserve University. Member, Board of Directors, National Council on the Aging, Inc.

Mr. Edward F. Howard. General Counsel to the Select Committee on Aging, U.S. House of Representatives.

Ms. Helen Kelly. Director of Older Americans Program, ACTION.

Mrs. Frances Klafter. Gray Panthers, National Task Force on Health.

Dr. Beth Soldo. Senior Research Scholar, Center for Population Research, Kennedy Institute, Georgetown University.

Mrs. Marie Maquire Thompson. Former Commissioner for U.S. Public Housing.

Mr. Robert E. Vagley. Counsel for U.S. House Education and Labor Committee.

Dr. Elizabeth Welch. American Associaiton of Retired Persons.

FIELD TRIPS

Roosevelt Hotel (for senior citizens), Washington, D.C.

Culpepper Gardens Retirement Home, Arlington, Virginia.

"Lab" day at National Institute on Aging, Bethesda, Maryland. Host, Dr. Richard C. Greulich, Director.●

ESTABLISHMENT OF THE SCHOOL OF PROFESSIONAL PSYCHOLOGY AT WRIGHT STATE UNIVERSITY

HON. CLARENCE J. BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. BROWN of Ohio. Mr. Speaker, today I take pleasure in bring to the attention of my colleagues the establishment of the first school of professional psychology in the State of Ohio, located at Wright State University in Dayton.

The school was mandated by the Ohio General Assembly in May 1977, after considerable effort on the part of the Ohio Academy for Education and Research in Professional Psychology and the Miami Valley Psychological Association. Under its mandate the school is charged with paying special attention to the recruitment and retention of ethnic and other minorities as part of its primary mission of graduating doctor of psychology candidates.

The school began its first full week of classes on September 17, 1979. Ronald Fox is dean of the school. Also serving as administrative officers are Allan Barclay, Russell Bent, Duke Ellis, Martin Moss, and James Webb.

On September 14, 1979, a founding convocation for the Wright State University School of professional psychology was held. Delivering the keynote address at the convocation was the Honorable DANIEL K. INOUYE, U.S. Senator from the State of Hawaii and longtime champion of psychologists. Also on hand for the convocation ceremonies, during which the 27-member charter class was introduced, were Nick Cummings, president of the American Psychological Association, and Mike Pallak, APA's new executive officer.

In commemoration both of the founding of the new school and the centennial of American psychology, Governor James A. Rhodes declared September 14, 1979, "Psychology Day" in Ohio. The text of the "Psychology Day" proclamation is as follows:

PROCLAMATION IN RECOGNITION OF PSYCHOLOGY DAY

Whereas, the years One Thousand Nine Hundred and Seventy Nine and One Thousand Nine Hundred and Eighty have been designated as the Centennial of American Psychology; and

Whereas, numerous activities are planned in celebration of this centennial year, including the striking of a centennial medallion; and

Whereas, American psychology has manifested remarkable growth and development as a science and as a profession since its inception; and

Whereas, the State of Ohio has recognized the needs for both the scientific aspects of psychology in the study of human behavior as well as recognizing the need for the professional application of this knowledge base for the improved treatment of behavioral problems; and

Whereas, a school of professional psychology has been established at Wright State University for the purpose of training students in the field of professional psychology and its cognate areas:

Now, therefore, I, James A. Rhodes, Governor of the State of Ohio, do hereby proclaim September 14, 1979, as Psychology Day in the State of Ohio in commemoration of the Centennial of Psychology as a science and as a profession, and in celebration of the founding convocation of the first school of professional psychology in the State of Ohio.

I am confident that the new school of professional psychology at Wright State University will prove of great benefit to the citizens of Ohio and that my colleagues in the U.S. Congress share my very best wishes for the future of the school.●

SEAMAN JILL JONES GRADUATES TOUGH SCHOOL—WITH HONORS

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. LAGOMARSINO. Mr. Speaker, Seaman Jill Jones is a 20-year-old woman from Santa Barbara, Calif., who has achieved a rather unique position in the U.S. Navy. Miss Jones has graduated from the Navy Helicopter Rescue School, Helicopter Training Command, North Island, San Diego, Calif. This by itself is an achievement; it is a tough school. The attrition rate is about 50 percent.

However, even more unique, she is only the third Navy woman to graduate from the rescue school, and the only woman to have done so with honors. Jill Jones will now return to her unit where she will fly helicopter rescue missions as a rescue swimmer.

Because of this outstanding achievement, and because of her dedication to the U.S. Navy, I ask the Members of the House to join with me, her parents, and her friends in extending congratulations to Jill Jones.●

THE CASE FOR A STIFF WINDFALL TAX GROWS STRONGER

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. MAGUIRE. Mr. Speaker, 8 months ago, the President announced the beginning of his decontrol program. An essential component of his decision to permit prices on domestic crude to rise to world levels involved the enactment of a stiff windfall profit tax. During consideration of the President's tax measure, the Ways and Means Committee reworked the President's figures and came up with a bill with an effective tax rate of 51 percent. It was not punitive; rather, it attempted to reflect a balance between recouping some of the enormous windfall profits on the one hand, and stimulating increased oil company production on the other.

This effective balance was disturbed on June 28, 1979, when the House rejected the committee bill in favor of the Jones/Moore compromise. The proponents of this measure, which substantially lowered the effective tax rate to 52 percent, were successful in arguing that the House should consider the bill solely on its own merits without paying the Senate any mind at all. In fact, Representative Moore asked permission to read from a letter that he received from the chairman of the Senate Finance Committee, Senator Russell Long.

The letter said, in part,

> My name has been used . . . in the context of suggestions by some members that the House should pass a higher tax than it might otherwise do on the theory that Senators like me would surely reduce it . . .
>
> I wish to suggest very strongly that no House member should vote for a tax which is any higher than he wants to see become law. When the Senate votes on this measure, the mood at that time might cause the Senate to vote for an even higher tax than the one passed by the House.

The House listened.

But that of course is not what happened. The Senate has incorporated credits, plowbacks, plowunders—all heralded as production incentives—and has slashed the effective tax rate of the House bill in half. Their work has been predicated on the assumption that the more money the major oil companies have, the more production will naturally ensue.

Ross Evans, in an article published yesterday in the Washington Star, presents compelling evidence that Congress has proceeded under the wrong assumption. In fact, his figures indicate that the oil companies have stepped up their rate of investment in nonenergy concerns and that their cash reserves have snowballed, growing at an annualized rate of 42 percent this year, three times the rate of 1978. By contrast, outlays for the costs of finding and developing successful wells and the construction of such facilities as refineries and pipelines have declined 15 percent since 1974. And dividends distributed to stockholders have declined from 44 percent of profits in 1975 to a low of 31 percent this year.

As we move toward a conference with the Senate on the windfall profit tax bill, I would urge my colleagues to review Mr. Evans' article. The House should hold firmly to its already too much weakened provision and resist all attempts to further water down our bill to the level of the Senate's.

OIL COMPANIES' COFFERS OVERFLOW AS CASH SURGE OUTRUNS SPENDING

(By Ross Evans)

Major U.S. oil companies, flush with cash from higher prices, profits and tax breaks, are collecting money faster than they can spend it—although they have been spending more and more.

Industry officials say, however, that the current explosion in prices eventually will spur a new increase in what they reinvest in their businesses, just as the 1973–74 price rise fueled a boom.

Nevertheless, an examination of published financial data for 15 major oil firms shows that over the past five years they have fallen behind in the percentage of available cash plowed back into their businesses.

In 1974, for example, they had $21.7 billion in available cash and reinvested $19.3 billion, or 89 percent. In 1978 they had $27.9 billion in available cash and reinvested $23 billion, or 82 percent.

By the end of the first nine months of 1979, a somewhat different measure shows that the gap has widened this year. Out of $26.3 billion in cash on hand during the first three quarters of this year (the equivalent of $35 billion for the full year), they had reinvested only $15.6 billion (the equivalent of $20.8 billion annually).

By this measure, which is not directly comparable to the 1974–78 figures because complete information is not yet available, the companies reinvested 59 percent of their cash. Using this same measure, last year's reinvestment would have been about 75 percent of cash on hand.

The downward trend in percentages has occurred despite the fact that the companies have been increasing their reinvestment in actual dollars. Their total reinvestment grew from a low of $18.7 billion in 1975 to $23 billion last year.

Of the money the companies have reinvested, the financial reports show, a growing proportion has been spent on developing their oil and gas reserves in the United States.

As for other uses of the companies' funds, their financial reports show:

The 15 firms have not shared their higher profits fully with the stockholders in the form of higher dividends. Still, dividends have taken a relatively stable portion of the companies' available cash.

The amount of cash spent by the oil companies to buy other firms—principally smaller energy companies, but also including some non-energy concerns—apparently has increased.

From 1974 through 1978, major cash acquisitions reported by the companies totaled $2.9 billion. During the first nine months of 1979, just three of the 15 firms announced $5.5 billion in major acquisitions for cash.

As the companies have devoted proportionately less of their money to reinvestment, they have substantially increased their cash reserves. These holdings of cash and and short-term liquid assets such as U.S. Treasury bills make up corporations' internal savings accounts, money left over after paying stockholders or reinvesting in the business.

From the beginning of 1974 through Sept. 30, 1979, these cash reserves almost doubled, to a total of $18 billion.

These are among the trends that stand out in an analysis of financial statements, other published data and independent industry studies covering the 15 companies which are the largest oil producers in the continental United States.

Included in the study were Atlantic Richfield, Cities Service, Conoco, Exxon, Getty, Gulf, Marathon, Mobil, Phillips, Shell, Standard Oil of Indiana, Standard Oil of California, Sun, Texaco and Union.

Public attention to industry investment has been sharpened by announcements of record profits for oil firms this year. Defending their earnings in the face of political criticism, oil companies have stressed that they reinvest more than they make in profits.

That claim is true, as far as it goes.

The 15 firms' financial statements show that not only have their investments exceeded their profits, but by considerable and growing margins. Their total reinvestment grew from 162 percent of their profits in 1974 to 194 percent in 1988.

But profits, in the opinion of financial analysts, are not always the best measure of an industry's ability to finance its investments. Analysts also look at other sources of cash.

All corporations, for example, set aside cash on their books to cover depreciation of their plants and equipment. Corporations also "charge" themselves on paper for taxes which technically are owed but on which the government allows payment to be deferred, in effect permanently, in many cases.

Together with profits, such paper charges comprise a corporation's total available cash. For expenditures beyond this cash supply, companies must borrow money or sell new stock.

The analysis of 15 oil companies, examining their available cash as well as their total reinvestments since 1974, shows:

From 1974 to 1978, the firms had a total cash supply of $117.8 billion.

Of that, a steadily growing share came not from profits but from deferred taxes. Treasury Department officials say this growth reflects the firms' increased expenditures for oil and gas exploration, which qualify for special tax treatment.

Such tax breaks—which are not included in the profits figure—provided the firms with $644 million, 3 percent of their available cash, in 1974. The figure grew steadily to $2.6 billion, 9 percent of the firms' cash supply, in 1978.

REINVESTMENT

During the 1974–78 period the companies reinvested a total of $101.1 billion. Such spending did not keep pace with their growing cash supply.

The proportion of available cash reinvested reached a peak of 92 percent in 1975. After that the proportion declined to 82 percent.

There were diverse trends, however, between the types of reinvestment that do not receive favored treatment under the tax laws and those that do.

Outlays that don't qualify for special tax benefits include principally the costs of finding and developing successful wells and the construction of such facilities as refineries, pipelines and service stations. These have fallen steadily, from 76 percent of available cash in 1974 to 66 percent in 1978.

The tax-preferred category includes the costs of geological and seismic work and the drilling of wells that turn out to be dry. Expenditures here remained essentially stable for the 1974–78 period, at 16 or 17 percent of available cash.

Within the tax-favored category of exploration expenses, the U.S. share of the companies' spending worldwide has increased.

Figures from an independent study of the same 15 companies by the brokerage firm of Smith Barney Harris Upham & Co. show that such expenses, as a share of the companies' world total, rose from 46 percent in 1974 to 55 percent in 1978.

Such exploration expenses, which do not include all the money the companies spent looking for oil, also commanded a growing share of the firms' available cash. That share rose from 6 to 9 percent during the same period.

During the first nine months of 1979, for which complete information about cash and investments is not available for all the 15 companies, a somewhat different measure in their financial reports reveals a sharp decline in the reinvestment rate.

The firms reported "funds from operations"—an approximation of their available cash—grew much faster than their reinvestment in the business between 1978 and 1979.

Swollen by high profits this year, "funds from operations" grew at an annual rate of 42 percent, compared to a 13 percent annual increase in reinvestment.

During the nine months, the firms reported that their "funds from operations" were $26.3 billion, while they spent $15.6 billion on capital investments. The 1979 figure excludes some expenditures for exploration, so both totals would actually be higher by about the same amount.

DIVIDENDS

Dividends paid to the oil corporations' stockholders, measured in the conventional way as a percentage of profits, swung widely from year to year. Dividends were 31 percent of profits in 1974, 44 percent in 1975, 40 percent in 1976 and 43 percent in 1977 and 1978.

As profits shot up sharply in the first nine months of 1979, dividends did not keep pace. As a percent of this year's profits, dividends were 31 percent.

Measured as a percent of available cash, dividend payments remained relatively stable, at about 18 percent, from 1974 through 1978. Complete figures for 1979 are not available.

ACQUISITIONS

From 1974 to 1978 the firms paid at least $2.9 billion in cash for acquisitions of other companies, according to data compiled by the Senate Judiciary Committee and the Federal Trade Commission.

During the first nine months of 1979, the price of just three large cash acquisitions that received widespread publicity totaled $5.5 billion, or nearly twice the outlays for major acquisitions in the previous five years combined.

The mergers that make up the 1979 total are Exxon's $1.17 billion acquisition of Reliance Electric, Mobil's $763 million purchase of General Crude Oil and Shell's pending $3.65 billion purchase of the Belridge Oil Co.

Most of the acquisitions since 1974 have been purchases of energy-related firms, but there have been some notable exceptions.

For example, Mobil paid more than $800 million in cash in 1974 as part of its $1.8 billion purchase of Marcor, the parent company of Montgomery Ward department stores and Container Corp.

Atlantic Richfield paid $264 million in cash, together with $420 million worth of its own stock, to acquire Anaconda Co., a mining firm in 1977.

Gulf spent $455 million in cash in 1977 to buy Kewanee Industries, primarily a chemical and dye company.

The Sun Oil Co. paid $293 million in cash for 34 percent of Becton, Dickinson & Co., a manufacturer of health care equipment, in 1978.

CASH RESERVES

From the beginning of 1974 through Sept. 30, 1979, the firms added $8.8 billion to their cash reserves, almost doubling these reserves during the period to a total of $18 billion.

Since 1974 the companies have added to their total reserves in every year but 1977 when they withdrew $2.3 billion.

Within the total of reserve accumulation for all 15 firms, the trend has varied widely from company to company.

For example, during the first nine months of this year Texaco added $730 million to its cash reserves—63 percent of its profits for the period. Exxon, meanwhile, drew down its cash reserves by $766 million, reflecting that firm's purchase of Reliance Electric.

During the first nine months of 1979, when all 15 firms spent $15.6 billion on capital reinvestments, they added $2.2 billion to their cash reserves, thus in just nine months increasing their cash stockpiles by 14 percent, on top of a $2.4 billion increase in 1978.●

TELL IT TO THE AYATOLLAH

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. YOUNG of Florida. Mr. Speaker, somehow the Ayatollah Ruhollah Khomeini and the anti-American terrorists who are holding our fellow countrymen hostage have gotten the idea that American public opinion is swinging to their side over the current crisis. We all know that nothing could be further from the truth, and in fact every day those criminals continue this unconscionable act, Americans become more united in their resolve to stand up for their country and resist this attempt at blackmail.

The Evening Independent newspaper from St. Peterburg, Fla., began a campaign last night to allow their readers to let the ayatollah and his revolutionary council know what they think of his barbaric behavior.

They have printed forms for their readers to use in expressing their views. I commend the Independent on their efforts and am proud to participate with them in this endeavor. A column by editor Bob Stiff explaining the campaign and a copy of the form are submitted for the RECORD:

TELL IT TO THE AYATOLLAH

(By Robert Stiff)

I have felt helpless for 37 days, I cannot remember a more frustrating period in my life.

A group of young Iranians still occupies the U.S. Embassy in Tehran where 50 of our fellow Americans have been held hostage since Nov. 4.

Even worse, these students do so with the full support of the Ayatollah Ruhollah Khomeini and his unstable Iranian government.

Whether the ayatollah is permitting this incredible violation of international law because he agrees totally with the students or because he must do so for his own internal political reasons matters little.

What does matter is that 50 Americans are being held hostage in a small Mideast country known more for its oil wells than its military might and the world's most powerful country is made to seem powerless.

I have done the only two things my government has asked of me. I have cut back on my gasoline consumption and I have reacted to this Iranian outrage with restraint.

Most of you have done these two things, too. But I'm sure you want to do more.

The Evening Independent today offers you an opportunity to be collectively effective in trying to change events in Iran so every American hostage is released without harm.

We want you to Tell It To The Ayatollah. A form you can use is provided below. The form will run for several more days on our Opinion Page unless the hostages are released.

Even though we expended a lot of effort last week arranging for your letters to reach Iran, I came to work this morning hoping the hostages would be free and our Tell It To The Ayatollah campaign could be scrubbed before it began.

Unfortunately, armed Iranians still hold the Americans in our embassy today and the situation becomes more tense each day with the ayatollah's intemperate remarks.

The idea for this campaign came from Margaret Richardson, wife of Associate Editor Mike Richardson. Ruminating about the Iranian situation last week, she said, "I think we should just write the ayatollah and tell him how we feel."

Richardson repeated the conversation to me and I suggested he pursue it with U.S. Rep. C. W. Bill Young, R-Treasure Island, a member of the House Foreign Affairs Committee.

Young found a way we could get your letters sent directly to two members of the Iranian Revolutionary Council that the ayatollah has praised for the embassy takeover.

We didn't want our idea to endanger the lives of the hostages. Young was told Thursday by Secretary of State Cyrus Vance that your letter-writing would in no way interfere with any State Department negotiations.

So we offer you this opportunity to Tell It To The Ayatollah. I hope many other newspapers take up our idea and inundate Iran with letters of concern that can help that country better understand our culture and our determination.

If the ayatollah thinks Americans will become weary and will capitulate to his demands if he holds out long enough, your letters can set him straight.

I have not agreed with everything the Carter Administration has done in its three years, but I support it fully in this crisis. I think it has shown superb restraint. It is doing everything possible to find a peaceful solution to this problem that has its beginnings in the meddling earlier U.S. administrations did in Iran's internal affairs.

No matter what the shah may have done, we cannot be blackmailed into sending him back to Iran. That would make us as cruel and inhuman as the ayatollah.

We pray that the hostages will be home with their families for Christmas, this nation's most important religious holiday when we celebrate the birth of Christ.

Iranians celebrated their own religious holidays by invading our embassy and taking American hostage at gunpoint.

I think it is time Americans speak directly to the Iranians and tell them what is in our hearts. I hope you will show your country's spirit, and Tell It To The Ayatollah.

Yes, write Khomeini!

Tell him what you think of his holding Americans hostage in Tehran, pushing nations to the brink of war.

If Khomeini thinks Americans will weary and capitulate if he holds out long enough, you can set him straight.

The Evening Independent has made arrangements to deliver your letter to members of the Iranian Revolutionary Council, Khomeini's ruling board of advisers. First, we will accept your letter for publication. But promptly your letter will be forwarded to U.S. Rep. C. W. Bill Young's office in Washington. Then it will be bundled with others from here and forwarded to two members of the Revolutionary Council in Tehran.

We will pay postage costs from this office to Tehran.

So address your letter to Tell It To The Ayatollah c/o The Evening Independent, P.O. Box 1121, St. Petersburg, Fla. 33731.

Or hand deliver your letter to the Evening Independent offices in St. Petersburg at 490

First Avenue S or in Clearwater at 710 Court Street.

The AYATOLLAH,
Ruhollah Khomeini,
Tehran, Iran.
DEAR SIR:

Signed:
Address:
City: ●

MARIJUANA ALERT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. McDONALD. Mr. Speaker, the Reader's Digest has recently performed a very excellent public service, in my view, with the publication in its December 1979 issue of "Marijuana Alert." These two short articles, which, incidentally, mention the good work of the Select Committee on Narcotics Abuse and Control, and its distinguished chairman, Representative LESTER WOLFF, condenses into a few short pages the mounting evidence of serious and permanent damage that heavy marijuana smokers are doing to themselves. Contrary to alcohol, the article points out, the effects stay with the body long after the smoking stops. To those of my colleagues who feel that marijuana is just a minor item on the drug market, they should read this item.

The material follows:

MARIJUANA ALERT

Scientists from around the world are sending warning signals to the millions who smoke marijuana: mounting evidence indicates that pot smokers may be unwittingly damaging their brains, and decreasing their chances of conceiving and producing completely healthy offspring.

These warnings have emerged from recent gatherings of scientists reporting on their latest research. In July 1978, at the International Symposium on Marijuana held in Reims, France, some 50 researchers from 14 countries presented new studies about marijuana's injurious effects on reproduction, lungs, cellular metabolism and the brain. In March 1979, at a conference in Virginia sponsored by the National Institute on Drug Abuse, investigators revealed more evidence of marijuana's harmful effects on the reproductive system. Three months later, at a conference at New York University Medical School, scientists and psychiatrists added to the growing list of dangers caused by chronic smoking of marijuana.

Responding to the startling evidence, the House of Representatives Select Committee on Narcotics Abuse and Control began hearings on the health hazards of marijuana in July. Rep. Lester Wolff (D., N.Y.), chairman of the committee, said: "The United States is the most pervasive drug-abusing nation in history. And our most pervasive illegal drug of abuse is marijuana." Citing the latest (1978) national drug-abuse survey, Wolff noted that one in nine high-school seniors was smoking pot on a daily or near-daily basis, an almost 80-percent increase in three years' time; that pot smoking is now common among junior-high students; that evidence indicates pot smoking amoung 8- to 12-year-olds is increasing.

BUMMED OUT

Of all the effects of marijuana, its impairment of the brain and its harm to the reproductive system pose the greateest threats. Pot has an *effinity* for the brain and the sex organs. Marijuana's 61 cannabinoids, substances found exclusively in the cannabis plant, are soluble in fat. They are attracted to the body's fatty organs, where they remain, only gradually clearing from the body. As one researcher put it, "When the high is gone, the pot is not."

The principal psychoactive, or mind-altering, cannabinoid is delta-9-THC. It has been traced radioactively, and it takes five to eight days for just half the THC in a single marijuana buildup in these organs do?

One organ that contains a large amount of fat is the human brain. The testes and ovaries also have high fat contents. What does marijuana buildup in these organs do?

One psychiatrist researching this area is Dr. Robert C. Gilkeson of Cleveland, Ohio. In 1976, a tall, handsome teen-ager came into his office. Formerly a good student, Steven complained of poor grades and difficulties in concentration and memory. "Everything I used to like has become a drag. Even chicks. I feel bummed out all the time."

Dr. Gilkeson discovered reversed d's and b's in the young man's handwriting—a classic finding in learning disabilities. He suggested an electroencephalogram (EEG), a brain-wave test. The report came back: "Abnormal EEG. Diffuse encephalopathic process (brain impairment). Markedly immature for age." His brain-wave readings were typical of those of a 6- to 8-year-old.

Steven had admitted being a chronic (usually defined as daily or near-daily) pot smoker. The psychiatrist advised him to give up pot for two months. Steven was so shaken that he agreed.

In eight weeks his EEG was notably better, though not yet normal. "But," said Dr. Gilkeson, "there was real improvement in Steven's grades, in his mood, memory, humor and speech patterns." Encouraged, Steven agreed to go for another two potless months—after which the EEG report read: "Within normal limits for age."

Because of his work with Steven, Dr. Gilkeson embarked on a study that is still in progress. He has thus far given EEGs to 43 "typical" teenagers, who had been high at least twice a week for the previous four months, but who had not smoked pot for 48 hours preceding the test. The results: all 43 EEGs, like Steven's, were "markedly immature" and indicated diffuse brain impairment.

STRIKING CHANGES

Dr. Robert Heath, chairman of the department of neurology and psychiatry at Tulane Medical School, showed the Reims symposium slides of magnified brain cells from the limbic area of Rhesus monkeys. (The limbic area—directly involved in control of sex drives, appetites, emotions—is very similar in man and Rhesus monkeys.) These monkeys had been exposed to the smoke of two to three "monkey-sized" marijuana cigarettes (one-fourth of an average human joint) a day at three-percent THC. ("Good pot" sold on the street today has three- to six-percent THC.) Said Dr. Health, "The smoke of one monkey-sized joint produces the same blood level of THC in the monkey as a human gets in his blood after smoking a 'human-sized' joint of the same THC strength. By checking blood levels, researchers can ascertain so-called 'human equivalency doses' for monkeys and for all other animals."

Result: the monkeys' brain cells showed striking structural changes, including abnormal deposits of opaque material in—and a widening of—the synaptic cleft between neurons. "This," said Dr. Heath, "may cause a slowing down or interruption in the movement of brain messages." There was also an abnormal clumping of the small sacs in the endings of nerve cells that contain the chemical activators of the brain, plus a significant increase of foreign matter in the nerve-cell nuclei. All of these conditions are associated with brain impairment.

At an earlier conference, Dr. Heath noted the rapidity of these changes: "Clinical observation indicates that people might drink for years before serious brain damage occurs. But it would seem from the monkey studies that you have to use marijuana for only a relatively short time in moderate to heavy use before evidence of brain damage begins to develop."

One of the symptoms reported by chronic pot smokers is impairment of short-term memory. Neurologist William H. Stuart of Atlanta, Ga., reports the case of a 28-year-old building subcontractor who smoked pot daily (but took no other drugs and drank only beer). After five years, he would look at a blueprint, walk over to his workmen and forget what to tell them. "He stopped smoking pot two years ago," says Dr. Stuart. "But his short-term memory has not improved at all. He has lost his business. And now he's working for another subcontractor—hammering nails."

Clinicians who see human results like this are as concerned as the researchers. Dr. Mitchell Rosenthal, president of Phoenix House Foundation (which runs a residential-treatment program for drug abusers), represents the findings of many drug therapists when he says: "Most of the time, when kids stop smoking pot, they will regain what short-term memory they have lost. But I've also seen cases of kids who were chronic users, or who combined pot with another drug, where there was no subsequent improvement."

EFFECTS ON SEX

Perhaps the most important structure in the limbic area is a small lump of tissue in the center of the brain: the hypothalamus. Hanging from this is a still smaller lump: the pituitary. As little as a billionth of a gram of THC affects the hypothalamus, which, in turn, affects the pituitary, which regulates endocrine function and the hormones controlling sex and reproduction.

In November 1978, Drs. Joan Bauman and Robert Kolodny of the Masters & Johnson Institute in St. Louis reported on their study of 26 women, ages 18 to 30, who smoked pot three times a week or daily for at least six months prior to the study. Thirty-one percent of the menstrual cycles of the pot-smoking women showed a shortened luteal phase, compared with 9.7 percent of the cycles of the non-pot-smoking women. A shortened luteal phase could mean that a growing embryo might not be properly nourished. The women also had decreased prolactin, a hormone important in milk production.

Another survey by Dr. Kolodny, of 500 men, ages 18 to 30, who had smoked pot for six or seven years, showed statistically significant lower rates of sexual activity and fewer orgasms. Dr. John Hall, chairman of the department and medicine at Kingston Hospital in Jamaica, reports that 20 percent of his male patients who have smoked for five or more years complain of impotence.

Research studies on animals seem to indicate that cannabinoids result in lowered sperm count and in a greater number of abnormally shaped sperm. These findings were replicated in humans using high marijuana dosages by Dr. Wylie Hembree of Columbia University College of Physicians and Surgeons. Dr. Hembree also found a statistically significant decrease in sperm mobility.

GENETIC ROULETTE

Since men constantly produce millions of sperm, the formation of sperm probably returns to normal when pot smoking is stopped. But the effect on women could be lasting. Dr. Akira Morishima of Columbia University says: "A human female is born with about 400,000 eggs. If they are injured, there's no way to repair that damage. And it has been proven, by radioactively tagging the THC, that it accumulates in the ovaries, as well as in other organs."

Dr. Morishima gave 150 "teenaged" mice very high doses of THC daily. "All the mice were mated, and were sacrificed when the fertilized egg had multiplied into four cells. In the control group, very few of the fertilized eggs were abnormal. But in the THC group, about half the eggs were dying or had died. Of those that had lived, 20 to 30 percent looked unhealthy."

At the California Primate Research Center of the University of California at Davis, Rhesus monkeys, whose reproductive systems closely resemble those of human females, were given raisin cookies spiked with milligram amounts of THC—the monkey equivalent of a human smoking one to two joints. The monkeys received this dose every day for three years. Result: 44 percent of the pregnant "THC mothers" produced dead or dying offspring, compared to 12 percent, a normal birth loss, in the control group. Although all of the dead babies of the THC-drugged monkeys looked normal, a pathologist did microscopic evaluations of tissues and organs from each. He found subtle developmental abnormalities in various tissues and organ systems of the THC-exposed offspring, which were not present in the dead offspring of the undrugged mothers.

Says Dr. Ethel Sassenrath, who conducted the study: "The THC-exposed babies that survived acted differently from the others. They didn't seem to have normal 'brakes' on behavior. They showed deficits in attention. This kind of subtle behavioral difference is characteristic of marginal brain damage in early development."

An agent capable of affecting sex function, sex cells (sperm and egg) and fetus must be regarded as a source of possible congenital damage in those offspring that do survive. In 1974, Dr. Gabriel Nahas of Columbia University College of Physicians and Surgeons, a pioneer in marijuana research, discovered that THC exposure diminished the capacity of individual cells to orchestrate life according to the genetic plan built into cellular molecules. THC inhibits formation of DNA (the genetic material essential for proper cell functioning and division) in cells, resulting in cellular death and abnormality. Dr. Nahas's finding has since been replicated by other scientists from 12 research groups here and abroad. Dr. Nahas warns: "Today's pot smoker may not only be damaging his own mind and body, but may be playing genetic roulette and casting a shadow across children and grandchildren yet unborn."

WARNING SIGNALS

Some pot smokers discount findings about marijuana's possible genetic effects with the comment: "Pot smokers have perfectly healthy babies." However, as pointed out by Dr. Robert Peterson of the National Institute on Drug Abuse: "Despite thousands of years of alcohol consumption, not until recently did doctors discover that not very large quantities of alcohol can cause the fetal alcohol syndrome which results in abnormal babies. Therefore, pregnant marijuana smokers would be wise to heed the present warning signals before all the definitive findings are in."

Dr. Robert DuPont, former director of the National Institute on Drug Abuse, puts it this way: "In all of history, no young people have ever before used marijuana regularly on a mass scale. Therefore, our youngsters are, in effect, making themselves guinea pigs in a tragic national experiment. Thus far, our research clearly suggests that we will see horrendous results."

Anyone who says "pot" is harmless will get an argument from me. It hasn't been harmless for any of the nearly 3000 young people I've worked with as a specialist in adolescent medicine. Virtually all who became addicted to hard drugs started with marijuana, which distorted their judgment and put them into the drug scene. But I've learned that marijuana by itself is bad enough—its effects too often subtle and insidious, with longrange damage difficult to calculate.

One morning the police referred to me a 15-year-old youth who, after smoking marijuana, had used the family car to tear up some neighborhood lawns. The boy was brought in by his serious, well-groomed older brother, an outstanding student and athlete. It turned out that the younger boy had never used pot before, and had been so frightened by his experience that he never wanted to use it again; he was no problem.

The problem was his older brother, though it would not be apparent for some time. Dynamic, self-possessed, he confided to me that he himself had been smoking pot, cautiously but regularly two to five times a week, enjoyed getting moderately high and had suffered no untoward effects. He felt fine, his grades remained well above average, he was captain of the soccer team and had been accepted at an Ivy League college.

How often we hear of such over-achieving easy riders among our middle-class friends nowadays. I tried to warn him about the gradual, long-term changes I had seen in other outstanding young people, but nothing would dissuade him from continuing his "moderate" marijuana use. I saw him again late that summer, just before he left for college. He was slovenly, unkempt, apathetic, slow. He admitted that he had been smoking pot heavily during summer vacation. I pleaded with him to get off it, but he ignored my advice.

He was home by December, having been asked to leave college. By then, he was a typical heavy user. He didn't care about anything except getting high every day. His parents brought him to me. Eventually he began to perceive what marijuana had done to him and decided he had to kick the habit.

It wasn't easy—it rarely is. I used to think that marijuana created only a psychological dependence, without physical addiction. But now I am persuaded otherwise. I have seen too many youngsters suffer the terrible anxiety, the sleeplessness, the sweating, the lack of appetite, the nausea and the general malaise of withdrawal. Fortunately, my patient had enough fortitude left in him to do it.

He's back in college now, doing okay. His academic performance is acceptable, if mediocre—it's the best he can do, but it isn't close to the promise he once showed. He has not regained that sharp edge, that quality of drive, spirit and capability that once made him a standout. I am not optimistic that he will ever regain it. From what I have seen, there is no question that marijuana wreaks a havoc in the body, brain and psyche that can't be entirely undone.

I know a lot of young people who have broken the pot habit and seem to be doing well, but who are not likely ever to realize the rich potential that once was theirs. For example, another outstanding student-athlete became my patient after marijuana had all but ruined his relationship with his parents and caused him to be dropped from sports participation. He graduated from high school only by the skin of his teeth. He felt terribly, physically and emotionally, but was determined to recover. He got off the stuff and began doing a really good job of pulling his life together.

He then decided, however, that he could handle marijuana. He would smoke it only at parties and on special occasions; it would never get out of hand again. His attitude was not untypical; recovering youngsters often develop this sense of confidence and it's hard to convince them that they haven't a chance against this stuff. I argued and pleaded to no avail. He stopped coming in. Then, in the fall, he came back. He was smoking pot regularly again, and feeling bad. He agreed that he couldn't control it, wanted to get straight again. We're working on it.

Right now, millions of our young people are marijuana users who are performing well and are very sure that they are in firm control of themselves. But as they continue using pot, a gradual deterioration will set in for many of them—in *all* phases of their lives. Grades will slip, athletic prowess will diminish and there will be trouble at home, all of this compounded by an increasing, witless apathy.

For each young pot user who goes straight, there will be many who won't They won't know where or how to find help, and most won't want help. They will drop out, from school and life. They will simply lose themselves in that frightful marijuana-induced lethargy.

The most unfortunate ones will become victims of cannabis psychosis, serious mental illness resulting from heavy marijuana use. I have seen young people in the grip of it. Many of the victims land in psychiatric hospitals, are discharged, but never fully recover.

Take the case of one ninth-grader I knew, a good student and baseball player, a gifted artist, a really dynamic youngster who had a substantial contribution to make to the world. Some friends got him to try marijuana. He enjoyed the high it produced. Soon, he was a heavy user. He lost interest in everything else, literally stopped functioning to the extent that in the middle of his tenth-grade year he was expelled from school. He didn't care; all he wanted to do was smoke pot all the time.

When his parents objected, he left and just wandered, for months. His father finally found him and placed him in a psychiatric institution in the hope he could be straightened out. But he didn't improve. After six months, the hospital discharged him. That was ten years ago. He's still wandering. He has no contribution to make now, and nothing to look forward to.

I have seen too many kids wander away like that, never to recover from the damage they have inflicted on themselves. It is heartbreaking.

With 16 million Americans currently using marijuana, imagine the enormity of the destruction that is taking place in this generation. Yet today no fewer than 11 states have already decriminalized marijuana and there is a drive to make the ruinous junk legal.

Of course, most people who use pot are not criminals, any more than those millions of us who violate traffic laws are criminals. But even those of us who violate traffic laws understand that we must have such laws, that to abolish them would be to descend into chaos.

We need equitable laws dealing with marijuana, not a legal market for the stuff. For if we legalize marijuana, the human suffering that will ensue will surely lead us one day to repeal such a law. And, by that time, there won't be much we can do to help the victims of our folly.●

INNOVATION AND THE AMERICAN ECONOMY

HON. ALLEN E. ERTEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. ERTEL. Mr. Speaker, the spirit of innovation has long been one of America's greatest assets, but like many of our other "natural resources," innovation is becoming a scarce commodity in this country. In the early 1950s, the vast majority of new inventions brought to market here was American; now we can claim barely half. Innovation is critical to maintaining a strong American economy because it breeds new industry, new jobs, and increased productivity.

On November 29 and 30, the Fourth Franklin Conference, cosponsored by the Franklin Institute and SmithKline Corp., examined this problem. The conference was entitled, "Innovation and the American Economy: An Issue for Action," and was held at the Franklin Institute in Philadelphia. Our own distinguished colleague, the Honorable Don Fuqua, chairman of the Committee on Science and Technology, was among an eminent gathering of speakers. At the conference luncheon, he gave an eloquent speech in which he stated the urgency of the issue and reviewed the challenge facing the administration, the Congress and business and industry to work in partnership to reestablish America's leadership in technology.

Inasmuch as I believe the benefit of Mr. Fuqua's thoughts on this subject should not be confined to those fortunate enough to attend the conference, I insert his remarks at the Franklin Conference in the Record. Similarly, I believe we can all benefit from the provocative presentation of Mr. Robert F. Dee, chairman of the board and chief executive officer of SmithKline Corp., cosponsor of the conference. I insert Mr. Dee's remarks, entitled "Musical Glasses and the Milky Way," also in the Record.

Mr. Fuqua's and Mr. Dee's presentation follow:

Hon. Don Fuqua Remarks Before the Franklin Institute November 30, 1979

It is an honor to be here today at one of America's oldest institutions, established in memory of one of Americas most honored and revered citizens, Benjamin Franklin. It seems both fitting and proper to be assembled at the Franklin Memorial and Institute to discuss "innovation", for there are few people who have sparked our history with such an innovative spirit as Benjamin Franklin.

In reading the text of one of the previous Franklin Conferences, I came across a statement by James Ronaldson, the first President of the Franklin Institute. He wrote in 1833, nine years after the Institute's birth, "The objects of the Franklin Institute are to develop the resources of our country; to throw all the light possible on the processes of industry, and to make the bringing of the products into market as simple as the nature of the case will admit. . . ." To my mind, that is exactly what we have come here today to do in our exploration of "Innovation and the American Economy." It is not a new inquiry, but one seemingly more urgent today

Innovation is a process both elusive and persuasive. Analyzing it is a little like a doctor trying to treat a patient for loss of appetite. The reasons are often complex and intangible while nevertheless affecting the patient in very specific ways.

Although there is no way to precisely measure the "rate of innovation" in American industry, there are several indicators which, viewed collectively, point to a disturbing trend. These include R&D funds as a portion of the Gross National Product, our increasing trade deficit, the decline in patents issued to U.S. citizens coupled with a doubling in the number of patents issued to foreign residents, our diminishing rate of productivity and others.

Questions are still being raised as to whether or not the trends in these indicators are necessarily rooted in our inability to innovate. However, I do not feel it is fruitful to belabor this issue ad infinitum in lieu of taking positive steps to reverse the trends.

Whether or not it is specifically our innovation that is ailing also seems incidental to the fact that many now perceive it as ailing and that perception can effectively create a self-fulfilling prophesy. Such a perception presently seems to prevail among much of the business-industrial community.

The Administration has just completed an eighteen month Domestic Policy Review on Innovation, the results and recommendations of which were just conveyed to a joint convocation of four Congressional committees, including the Science and Technology Committee, on October 31. The Committee on Science and Technology has itself worked on selected aspects of innovation and productivity for a number of years and has launched a major program in this Congress under the leadership of Congressman George Brown.

Since there is now a massive and ever-growing collection of treatises, speeches, studies, and commentary available on the subject of innovation, I would like to center my remarks today on a few initiatives of the Science Committee, a few comments on the Domestic Policy Review, and some of my own personal perceptions.

As I mentioned a moment ago, the Science Committee has launched a major program in this Congress to study the diverse facets of the innovation-productivity relationship. These efforts have been centered in our Science, Research and Technology Subcommittee since June of this year and since September with the collaboration of our Investigations and Oversight Subcommittee. Twenty hearing sessions were held to explore R. & D. and inflation, the Engineering Perspective of Government and Innovation, the relationship of federal laboratories with universities, industry, state and local government, the private sector view of government and innovation, federal patent policy and others.

In our investigations many of the same issues have surfaced time and again. The need for regulatory reform, tax incentives, special attention to small business R. & D. firms, better cooperation between universities and government, between industry and universities, these are all "givens" at this point. However, one overriding commentary on the entire scene is always the impediment produced by our spiraling rate of inflation. It seems logical that if we could control inflation we would undoubtedly see an improvement in innovation. But on the other hand, we could unquestionably slow the escalating inflation if we could improve our innovative capacity and increase our productivity rate.

However, innovation by its very nature involves risk for it deals with what is new and untried. Thus, it can only be encouraged in an environment which is inspirational to risk-taking. That environment, I believe, can be one of either extreme economic stability where a risk is taken with a sense of confidence and surety or it can be an environment of urgency where a risk is taken in spite of unfavorable odds or dismal economic conditions. Although this involves greater chance, it often marks a critical turning point in a stalled situation.

At the moment, I think we generally lack the sense of urgency to risk, to innovate, to test the waters in the face of all odds. We can always wait for a more perfect future or we can actively carve that future.

This certainly does *not* suggest that there are not positive steps the government can take to improve the atmosphere for innovation, especially if these steps are initiated in a working partnership with industry, which is what the Science Committee is attempting and I believe succeeding in doing.

At our hearings, witnesses representing the broadest spectrum of the industrial-technology sector, from the research divisions of major corporations to small R&D entrepreneurs, have testified. Through this process we have elicited information about how various government practices, policies and regulations have inhibited business and industry from moving innovative proposals out of the idea stage into the marketplace.

We also know that what is of special benefit to a large firm is often of specific detriment to a small firm. This means that changes in existing policies and all future policy and practice should be made on the basis of this heightened understanding so that we do not in the future negate our legislative or regulatory intentions with regard to a segment of the targeted community.

At the moment the Science Committee is also considering legislation that would authorize the support of Centers for Industrial Technology by NSF and the Department of Commerce and would establish an "Office of Industrial Technology" in the Department of Commerce. The National Science and Technology Innovation Act of 1979 will likely see some kind of forward thrust in this Congress because the concept that it promotes has subsequently been suggested in the Administration's Domestic Policy Review.

In addition, our Subcommittee on Science, Research and Technology, which has had a long history of interest in Federal patent policy, is carefully studying the three patent bills under serious consideration in the Congress, one from the Science Committee, and is awaiting the Administration's patent reform legislation mentioned in the Domestic Policy Review.

Although the Administration's Innovation Review was comprehensive in its inquiries, the final recommendations can only be considered a first step in what is hoped will be a continuing series of initiatives to further address the innovation issue. The President's recommendations all seem to be steps in the right direction although they could have been more forceful steps. There are also critical areas which have not as yet been addressed.

The tax area is one in which we know there is considerable potential to change the environment in favor of investment in innovative technologies. I hope that the President will address this issue on a broad scale very soon because big and small business alike have identified possibilities here. When the Science Committee held its initial oversight hearings on the Federal R&D budget last spring, Congressman Jake Pickle of the Ways and Means Committee testified on some general modifications he was proposing to the Tax Code that would enhance the climate for small business R&D. In our hearings just completed the first of this month, our Committee in conjunction with both House and Senate Small Business Committees heard testimony from four different panels on small business. One discussed "The Importance of National Policy to Encourage Small, New Technology Firms". Another gave testimony on the "Experiences of Small Business". The third panel was concerned with "Venture Capital" and the fourth "NSF and NASA Interaction with Small New Technology Firms." Taxes and regulatory procedures were mentioned in almost all of the panel reports.

I introduced a tax bill in September entitled the Capital Cost Recovery Act of 1979 (H.R. 5331) which is designed to amend the Internal Revenue Code of 1954. It provides a system of capital recovery for investment in plant and equipment and encourages economic growth and modernization through increased capital investment.

I believe the environment is ripe for substantial tax revision and I would like to see the Administration provide strong leadership in the tax area as soon as possible.

I was pleased to see a recommendation in the Domestic Policy Review for a Presidential Award recognizing Technological Innovation. As a matter of fact, the co-sponsor of this Conference today, the Smithkline Corporation, won the prestigious Queen's Award in England for technological innovation in 1978 and for export and enhancing Britain's trade situation in 1979. This was called to my attention by Board Chairman, Robert Dee, and as a result I wrote a letter to President Carter suggesting that the United States institute a similar award. In the letter I stated, "I . . . propose that you give appropriate Presidential recognition to inventions and other innovative efforts that advance technology, bolster productivity, increase national and foreign markets for American goods and services, and create new job opportunities. I propose that we create a series of Presidential Awards for Distinguished Achievement in Technological Innovation. . . . As is the practice in Britain, our award would be given not to individuals but in the name of corporations or laboratories and all of their people whose efforts deserve to be recognized for the work that was done." I'd like to think that my letter influenced the President in his recommendation of such an award as one of the Domestic Policy Review initiatives.

Incidentally, my congratulations to Smithkline for its outstanding work.

In broad generalization, America seems to have evolved into a nation specializing in leading-edge technology. This is for all practical purposes our "technological frontier". In fact, the presence or conception of a frontier has shaped our history since the beginning. For roughly the first 100 years, we had the geographical frontier of uncharted, unsettled land toward which we stretched our most daring dreams and adventures. With the close of this frontier, the energy and imagination which took us 3000 miles across the land broke out in a new direction.

The second 100 years of our history was marked by unprecedented scientific, industrial and technological expansion. Since World War II, the pace of this expansion has actually catapulted us beyond the planet Earth. All frontiers are typified by high risk and this "technological frontier" which we have pursued is not only accompanied by high risk, but also by high costs for expensive equipment implicit in necessary trials and errors.

The environment to take these risks, be it one of stability and surety or one of urgency, seems to have prevailed throughout our history. We have time and again propelled America ahead of all other nations. The world had not only come to expect this of us but we had come to expect it of ourselves. However, the competition among industrial nations is very keen today and in the global marketplace we as a nation are losing out. Other nations such as Japan, with fewer resources—both natural and human—are forging ahead.

If we are to recapture America's prominence we must all make this nation's welfare our overriding concern. We must act out of a sense of urgency and venture some chances in light of this. Frontiers are not reached nor prizes awarded to those who stand and wait but to those who outrun all others.

The role of government should be to put up only those gates and traffic signals which truly serve the interests of the nation and the people. The challenge for the Congress and the Administration is to work in partnership to smooth a track favorable for running. The challenge for business and industry is to run a hard, steady race despite the many impediments.

MUSICAL GLASSES AND THE MILKY WAY

(Remarks by Robert F. Dee, Chairman of the Board and Chief Executive Officer Smith-Kline Corp.)

I think many of you know that the main business of Smith-Kline Corporation is innovation. It is at the heart of everything we do. We are among the top U.S. corporations in our annual expenditures for research and development.

I must emphasize that I speak as a businessman—not a scientist—although I work with the achievements of science every day.

I would like to cover three points.

The first deals with the meaning of innovation. The second with the environment in which it can be expected to flourish. And the third with the state of innovation in the United States today.

First—the meaning of innovation.

For the business world, innovation is the cornerstone of a sound economy. Through innovation we are able to have increased industrial output and productivity. Increased output gives us lower costs and lower prices for products and services.

Increased productivity can drive down inflation, make U.S. products competitive in world markets, reduce our balance of payments deficit, boost the value of the dollar, and create more work—and more jobs.

The business world has never forgotten one obvious lesson of history. Had it not been for the innovation leading to the Industrial Revolution there would be no business world in the modern sense.

Had there been no Industrial Revolution the headlines of our newspapers would not be announcing air, water and nuclear pollution—that is true. But very close to 99 percent of the ads for products and services that we read each day would be inconceivable—except as science fiction.

Astronomers and astrophysicists have another view of innovation.

Carl Sagan in his best-seller "Broca's Brain" says that our galaxy, the Milky Way, very likely contains one million civilizations at least as technically advanced as our own.

That suggests that living creatures will innovate—no matter where they are.

The human race got where it is by innovation. And the human race can only get where it is going by more innovation. In other words, if we don't want to derail the express train of biological evolution we must continue to innovate. Innovation is our destiny.

Of course, one can ask the question: Are we destined to fulfill our destiny?

And I think that is precisely the question we are asking by holding this conference.

My second point relates to the kind of environment in which innovation can flourish.

Let me get to that point by saying that we are fortunate indeed to be able to meet here in the Franklin Institute. We all know that the Institute is one of America's most highly respected centers of science and technology.

But—that we are able to meet here is no accident. It is the direct consequence of a series of cause and effect relationships.

The first cause is that our country was founded by great innovative minds.

In Philadelphia in June of 1776 Thomas Jefferson drafted a superb piece of innovation—The Declaration of Independence.

But Benjamin Franklin seems most perfectly to exemplify the spontaneity of the creative mind. The Franklin Institute is a living memorial to his genius.

Among his inventions—most of them practical—there is one somewhat impractical gadget. It demonstrates another cause and effect that makes it possible for us to meet here this evening.

I am speaking of Franklin's musical glasses. These were graduated in size and revolved on an axis in a tank of water. When touched, the glasses emitted eerie musical tones. Both Beethoven and Mozart composed for this instrument, although it is forgotten today.

The lesson of Franklin's musical glasses is that the freedom to invent—with imagination—is indispensable to innovation.

Creative freedom—even if the results are not always practical—is another link in the chain of events that enables us to meet here.

Creative freedom has given us—in large part thanks to Mr. Franklin and Mr. Edison—the electricity that lights this room . . . and amplifies my voice.

That freedom has given us—in large part thanks to Mr. Bell—the telephone with which arrangements were made for this meeting.

And finally—but certainly first in order of priority,—that freedom has given us the right to assemble . . . the right to speak our minds openly . . . and even the right to criticize our government.

Two thirds of the world's population do not have those rights.

So we are here this evening, enjoying each other's company, for two main reasons—

First, because human beings instinctively want to create new ideas and new things.

And, second, because we live under a form of government that for two hundred years has assured us of life, liberty and the pursuit of happiness.

For both of those I am grateful.

Another reason for our being here—which I would be unwise to overlook—is that the Franklin Institute exists.

It has existed since 1824. The Institute has a history of notable accomplishments. There is one, however, that I want to single out for special mention.

It is the fact that, in 1830—the year SmithKline was founded, by the way—the Institute received the first research grant ever given by the United States government to a private scientific institution.

That first grant was to enable the Institute to study the causes of steam boiler explosions.

(Not a very grand project—but probably on a par at that time with the problems we have with Three Mile Island.)

The lesson of that grant is that the private sector—not government—is where America turns when it needs answers to questions.

That has always been true. And it continues to be true. But for the private sector to perform to full capacity it must be free to create—and not tied into knots by government regulations.

And that brings me to my third point. America's innovative state of health today.

What has happened is this:

Research spending in the United States hit a peak in 1968. Since then, it has flattened out at a level far below what we must have for national economic growth.

Simultaneously, the country has experienced a serious decline in productivity growth. Today, the United States lags behind every other industrial power in the rate of increase in productivity. The effect is felt by American workers, whose average buying power is no better today than it was a decade ago.

There is no debating the fact that fewer U.S. dollars are pursuing fewer basic research objectives.

And there is no debating the fact that those fewer dollars that are pursuing basic research are buying less—almost hourly—because of inflation.

The ultimate observation to be made about this state of affairs—and many people flinch from saying it—is that our present technology lag has been engineered in large part by government.

It has been engineered by government through poor fiscal policy—you can't buy as much with the inflated dollars the government printing presses have been churning out.

It has been engineered by government through bad regulations—too many, too broad, too rigid and too insensitive to the needs of today's technology.

It has been engineered by government through government's failure to update an outdated patent policy.

But in addition to negative actions of government, innovation in the United States has been discouraged by a lack of positive federal support.

Innovation is the result of risk-taking. It demands strong financial incentives—the possibility of big rewards for big risks.

In the 1950's, before government had loaded the dice against risk-taking, innovation in America was spurting ahead.

But in the 60's and 70's we were struck by the full impact of bad government policy in three critical areas of our economy—

One, savings. The United States has the highest per capita income in the world and the lowest rate of savings of any industrial country. Yet two-thirds of the financial capital used for investment in economic growth in this country comes from personal savings. Nearly every U.S. law affecting saving is negative and actually discourages thrift.

Two, regulations. Government regulation now costs business and consumers upward of $130 billion a year. Today, there are 55 regulatory agencies employing about 80,000 people on a budget more than double what it was in 1974. The burden of regulation has made it impossible—literally impossible—for many small innovative businesses to launch new creative ideas. It has also brought hardship to many large companies.

Three, taxation. High taxation is leeching the life blood from American innovation. Our tax code favors consumption, discourages investment, prevents capital formation. There are no real incentives for ventures involving a high spend on research and development. Investors may invent but cannot find investors to bring their inventions to the market. Taxation at all levels—on income, capital gains, personal savings, dividends—must be reduced.

I submit that we do not have now—indeed, have not had for decades—a government that is deeply concerned about the innovative needs of America.

In the national assignment of values, innovation has been given a low priority.

And that brings me down to 1979.

More than a year ago, President Carter set up a task force to look at how federal policy discourages or encourages innovation.

I supported the President's action. In fact I wrote and sent to 65,000 American business leaders two company statements complimenting him on his initiative.

The Task Force included hundreds of experts from government, industry and consumer groups. They submitted recommenda- s for basic changes in federal policy to ulate innovation by industry.

I have seen the recommendations, and they are constructive.

Earlier this month, President Carter sent a message to Congress asking for action on some of the 41 recommendations made by his task force. I am disappointed that he was not able to support more of them—but we now at least have a beginning.

Unfortunately, Mr. Carter put off tax, capital investment and depreciation incentives for business until he submits his fiscal 1981 tax package. I would have preferred to see them acted upon separately because they may be lost in debate over a general tax bill.

But tax incentives for business are absolutely necessary if innovation is to flourish. Government is often afflicted with tunnel vision. It seems to believe that it can force industry to invent by more and more directives. But it cannot.

Directives and regulations and restrictions do not stimulate—they bind. What we need from government is peripheral vision. A willingness to relax the tight grasp it has on innovation and to look at far-off horizons. If it does that, it will see that fewer controls and more incentives will lead to more innovation.

Instead of endorsing the task force recommendations to stimulate the private sector, the President emphasized the creation of new government programs.

But we do not need more government intervention. I say that the sole role for government in the business of innovation is to encourage and protect the inventors—not to browbeat them with regulations and to bind them with red-tape.

Thomas Jefferson, a close compatriot of Ben Franklin, said in his first inaugural address in 1801:

". . . a wise and frugal government is one which shall restrain men from injuring one another, but which shall leave them otherwise free to regulate their own private pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned. This is the sum of good government. . . ."

I was disappointed that the President did not choose to support truly substantial changes in the patent system. Those he chose to support were no important departures from previous recommendations for change.

I can put the Administration's recommendations in perspective for you by saying that SmithKline's budget for research and development next year will be double what the President asked for to stimulate innovation throughout the entire United States.

The Administration and Congress must act on many more of the recommendations in the task force report. The President's beginning cannot be an ending.

To sum up—

First, innovation can solve America's fundamental economic problems. Coupled with reduced unproductive government spending, it is a sure cure for inflation, for a poor balance of trade, for a weak dollar and for unemployment.

Second, the environment for innovation must be healthy. Government has made it unhealthy. That condition must be rectified.

Third, innovation in the United States is moving into a downward trend. The trend must turn upward if we are to survive and prosper in a multinational world where there is fierce competition for ideologies, power and economic superiority.

U.S. capitalism enables less than 5 percent of the world's population to create 27 percent of the total production of the human race.

The great contribution to world survival will only be possible in the future if America increases its capacity for innovation.

U.S. capitalism has given our people a standard of living nearly 500 percent higher than the world average.

The great contribution to the wealth of American citizens will only be possible in the future if our government encourages innovation—and that encouragement must come in the form of bold measures to increase private incentives.

Here is a cause that we can understand—a cause that we can unite around—a cause that we can act upon.

Our action must be to speak up—to use our personal influence by writing and speaking to our Representatives and Senators to convince them that they must move to save the American inventive spirit now—or not expect to receive our votes in the future.●

FIRST-TIME HOMEBUYERS—THE AMERICAN DREAM IS FADING

HON. S. WILLIAM GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. GREEN. Mr. Speaker, the Urban Policy Task Force of the House Republican Research Committee which I chair recently issued a report on the problems confronted by first-time homebuyers and possible Government responses to ameliorate the situation. I would like to insert the report at this time. I am also inserting a letter I received from my distinguished colleague from New York (Mr. HORTON) that proposes additional measures to respond to the problem of first-time entry into the world of homeownership.

The material follows:

First Time Homebuyers—The American Dream Is Fading

AN URBAN POLICY TASK FORCE REPORT

(By Bill Green)

The possibility of homeownership has always been a basic tenet of what one may call the "American Dream". Yet, the United States is in an era when ownership of single family homes, cooperatives, and condominiums is increasingly beyond the financial means of young families and other first-time homebuyers; the nature of the problem is so self-reinforcing that the cycle may not be broken for quite some time. Witness:

The prime rate, the rate banks charge their best business customers is over 15 percent;

Since October, mortgage interest rates nationwide have risen from an average of 11¼ percent to 13½ percent;

For every percentage-point increase in mortgage interest rates, economists estimate that 1.7 million families are pushed out of the housing market.

Roughly less than 15 percent of potential buyers today can afford the price of the average single family home and the percentage is dropping;

Ten years ago, people were spending 16–20 percent of their family income for housing; today, many are spending over 35 percent, sometimes as high as 40–50 percent; and

Government experts estimate housing starts will decline from 1.7 million units this year to 1.4 million in 1980.

"It's not really a gloomy picture—it's a rotten picture," said Michael Sumichrast, economist for the National Association of Home Builders. He thinks that there will be only 1.1 million to 1.3 million housing starts in 1980.

This has particularly hurt first-time purchasers. Until the 1970s, real family incomes rose faster than the increasing costs of homes. However, as a 1977 Congressional Budget Office study revealed:

"First-time purchasers of homes (about half of all homebuyers in a given year) on average suffered substantial declines in affordability between 1970 and 1975, with their costs for median new homes rising almost twice as fast as their income, and their costs for existing housing rising one-and-one-half times as fast as income."

This report will examine the problems of first-time homeownership in an inflation-racked economy and the many factors involved in this self-reinforcing economic phneomenon. Many solutions have been proposed to deal with this problem and this report will review the spectrum of proposals currently before the Congress. Any government action must address the long-term as well as the short-term economic problems because steps that might bring short-term relief, could potentially institutionalize inflation and thus create long-term problems. As one banker told the House Banking Committee Task Force on Homeownership, "We talk about the dangers of inflation and our goal is to curb it, but some of these plans are predicated on inflation. If there is none, the homeowner and the lender are in trouble."

HOME-BUYING PROBLEMS

Inflation cripples the ability of families to buy a home. It affects the cost of materials, labor, land development, and all the components of a house. Further, it affects the costs of other necessities such as food, health care, and education.

A study completed by Dr. Kenneth T. Rosen of Princeton University in the spring of 1977 showed that the cost of homeownership rose from 1970 to 1977 at an annual rate of 8.3 percent compared to an overall rate of change in the consumer price index of only 7.7 percent. By 1986 the median priced new home is projected to sell for approximately $90,000 with the average required downpayment approaching $23,000. The costs of existing housing will keep pace with these costs. The report predicts that, "This forecasted cost and price explosion will in turn make it impossible for nearly 2.5 million of the 7.1 million young family households to buy their homes."

Many potential homeowners, especially first-timers, are being priced out of the market. Consequently many homebuilders are aiming at higher income brackets, building larger and more expensive structures. As Steven Fallender, representing the Home Builders Association of Greater Indianapolis, told the House Banking Committee Task Force on Homeownership in February, 1979:

"Because a substantial portion of the potential buyers for a moderately priced house are unable to meet cash down payment requirements and family income requirements, builders have shifted their emphasis to larger, more expensive homes. These larger homes reach a market of move-up buyers who have equity in their present homes."

The director of housing and community development for the city of Baltimore, Maryland reinforced this, testifying, "homebuilders tell us that most of them are building for second-time homeowners."

The struggle for first-time home-ownership is also very severe in the condominium and cooperative market. When a rental unit is converted, the inhabitants face all the problems encountered by potential homebuyers. Moreover, their situation is further complicated because if they cannot afford to buy, they are forced to vacate their residence.

MORTGAGE MARKETS

The housing mortgage market, the largest capital market in the United States, is severely affected by inflation. Inflation causes the cost of borrowing money to increase. Mortgage money is also affected and generally lags a few points behind the prime interest rate. As other sources of investment become more attractive, the supply of mortgage money decreases. These two factors work against new home purchasers, because not only must they pay higher interest rates, but they also must make higher downpayments. Moreover, existing housing is also adversely affected by the unavailability of mortgage financing and high interest.

Since lenders have less money with which to operate, they prefer a larger percentage downpayment in order to spread out their limited funds. This hurts the first-time homebuyer the most, since they typically have no source of established equity.

Potential purchasers turning to federally-supported Federal Homeowners Association (FHA) insured, or Veterans Administration (VA) guaranteed mortgages will find a severe shortage of funds also. Since the rates on these mortgages do not change as swiftly as the prime interest rate, these mortgages are even less appealing to investors. This is evidenced by the poor showing at recent auctions held by Government National Mortgage Association (GNMA), where government sells its loans on the secondary market. In the face of a 15 percent plus record prime interest rate, the 11 percent guaranteed FHA-VA mortgages cannot attract investors. Moreover, the red tape involved in processing federal mortgage insurance is more costly and more time consuming; this also discourages investors.

CONSTRUCTION COSTS

Inflation also reduces the supply of funds and increases the interest costs for construction loans. The interest rate on construction loans is now hovering around 20 percent. Both these factors work to increase the selling price for homes that have been built or are being built during periods of high inflation.

On the local level, established groups that desire to protect the character of their towns and neighborhoods have become mature, strong political forces that effectively restrict the growth of those communities. One offshoot of this phenomenon has been restrictive zoning requirements that often, in effect, prohibit the construction of moderately priced housing. Acreage minimums and other specifications increase the cost of housing lots, which adds significantly to total housing costs.

Building codes are determined by local and/or state bodies, can vary a great deal and can increase the cost of building a home. For example, a building code may require the installation of copper piping, an expensive item, over other materials. Often the suppliers of materials or craft unions have input into this decision-making process, whereas the interests of the consumer may not always sufficiently be represented.

DEMAND

The cost of new housing has increased the demand, and subsequently the price, for existing housing. Another major cost-raising factor in housing demand is the market's present encounter with the post World War II and Fifties "Baby Boom" that has produced a great influx of potential first-time homebuyers. Since the 1957 peak annual birth rate of 4.3 million births was relatively constant through 1961, this factor will stay with us at least for another decade.

Rental housing cannot be ignored in any look at the demand for homeownership. In the United States, rental housing is very scarce. The nationwide vacancy rate for rental housing is a very low 5 percent. As one housing expert recently noted, "That 5 percent mainly represents apartments being painted before a new tenant arrives. A 95 percent occupancy rate is tantamount to a 100 percent rate." This shortage of available rental housing has forced many potential renters to buy, thus increasing the demand for homeownership and increasing the price of available homes.

Our present tax code has changed the relative costs of ownership versus renting, forcing potential renters into the home-ownership market. Most of the Internal Revenue Code is predicated on normal rates of inflation (less than 5 percent) as well as having only one wage earner per family. As inflation pushes middle income families into higher percentage tax brackets (a phenomenon known as taxflation), and the number of 2 income families increase, the tax advantages available for homeowners become more attractive. In a memo to the Federal Housing Commissioner, Larry B. Simons, former Secretary of HUD, Patricia Harris noted rental housing is experiencing, "the loss of middle income renters to the homeownership market because of the increasing tax benefits and the expectation of appreciation."

POLICY OPTIONS

While the solution to inflation would solve many of the problems associated with first-time homebuyers, the suggested actions that follow deal with the more specific issues of increasing the ability of young families to afford initial downpayments and monthly payments. Possible federal government actions to increase this ability are:

More Graduated Payment Mortgages (GPM): Many first time homebuyers can't afford the first years of their payments under a standard fixed-payment mortgage in which monthly payments are constant throughout the life of the mortgage. Various alternatives to this standard mortgage have been proposed and studied.

One of these, the GPM, specifically addresses the needs of young families who currently have modest capacities to handle monthly payments. The GPM's allow the mortgage payments for the first years to be lower than a standard mortgage, while the payments increase over the life of the mortgage. The underlying rationale is the that the ability of homebuyer to make payments will increase over time. While the overall cost is greater over the life of the mortgage, the GPM does facilitate payments when the potential homeowner's ability to pay is at its lowest. GPM's are currently insured by HUD under Section 245 of the National Housing Act, and have been expanded in scope by the Congress this year. The newly amended program allows the outstanding loan value to rise above the original purchase price of the home; this is essential if a substantially lower monthly payment is to be realized in the early years of the mortgage. These new GPM's are restricted to people who have not owned a home for three years and cannot otherwise afford a home under other FHA mortgage insurance programs.

Establish Individual Housing Accounts: Patterned after tax breaks for retirement purposes, this form of government assistance would offer people incentives to save for their down-payment. It would allow first-time homebuyers to accumulate equity by depositing a certain amount. One proposal authored by former Senator Brooke of Massachusetts set the amount at $2,500 a year to a maximum of $10,000. The money would be deductible from income for income tax purposes and the interest also would be exempt from taxation. Part of the revenue loss to the government could be recaptured upon the sale of the home through capital gains tax. This would be accomplished by reducing the exemption on the house at the time of the sale by the amount of the down payment which was derived from the individual housing account. The higher tax obligation at the sale of the house would not be an undue burden on the seller whose greatest financial needs would be in raising the initial down-payment.

A proposal to institute Individual Housing

Accounts has been introduced by Senator John H. Chafee, and this bill, S. 98, is presently pending action in the Senate Banking Committee.

Develop Tax-Exempt Mortgage Revenue Bonds: Local and municipal governments issue tax-exempt bonds; the proceeds from the bonds are used to finance mortgages. This financing measure has proliferated in use recently, and many policy-makers are trying to have this means of financing entirely prohibited. However, targeting of this subsidy could assist the first-time homebuyers by providing mortgages to them at several points below the market interest rate. The House Ways and Means Committee is considering legislation on this issue.

In the event that all these bonds are prohibited, there is an inactive portion of the Housing Act of 1974, Section 802, that provides federal subsidies to make up the difference between taxable and tax-exempt housing bonds. To activate this program funds would have to be restored that the Administration has rescinded.

Increase FHA and VA Interest Rates: The Administration has the authority to raise or lower the acceptable limit on interest on mortgages that can be insured by the FHA or the VA. When the limit is many interest points below the market rate, lenders require the payment of "points" to cover the loss of interest which results in a larger downpayment that makes these mortgages unusable. At the present time, the FHA and VA limit is too low (11 percent) in the face of a 15 percent plus prime interest rate.

Pre-empt State Usury Limits: Twenty-four states have usury laws that restrict certain high interest loans. In times of rapid inflation, these limits have made mortgage money virtually unavailable in certain states. The Federal government should either pre-empt these ceilings or encourage their repeal by the states that have instituted them. Pre-emption of state usury laws for government assisted programs has been provided for in the Housing and Community Development Amendments of 1979. This legislation allows the states to reenact these ceilings.

Make FHA Mortgage Limits More Responsive to Market Conditions: FHA mortgage ceilings for single-family homes were increased in the 96th Congress to make the mortgages allowed under this program reflect the actual costs of homes. The cost of homes had risen 30 percent since the previous increase in 1976 and such delays in "fine-tuning" reduce the overall effectiveness of the program. As the Senate Banking Committee noted in its report accompanying the Housing and Community Development Amendments of 1970, "FHA single-family mortgage loans have declined from approximately 15 percent of the housing market in the mid-1960s to about 5 percent today. This decline appears due in part to a long-term trend in which increases in FHA mortgage limits have not kept pace with rising costs." One possible way to tie FHA mortgage ceilings to a consistent formula (as opposed to the legislative horsetrading that goes on presently) would be to institute a pilot project in which FHA mortgage costs were bound to actual construction costs. Such a system is currently used to set ceilings for public housing costs. HUD, as well as several Congressional committees, is presently studying this and other alternatives to this problem.

Expansion of the Government National Mortgage Association (GNMA) Tandem Financing: This program has proven to be a valuable tool to assist individuals purchase homes at a relatively minor cost to the government. GNMA purchases mortgages that have below-market interest rates (at above-market prices) on the condition that the lenders who sell the loans make the money available to homebuyers. GNMA then sells the mortgage to the Federal National Mortgage Association (FNMA) at market prices. The difference represents a federal subsidy for the housing. A similar GNMA program assists multifamily housing. Expansion of these programs might be a vehicle for meeting housing needs, and they could be further targeted to the first-time homebuyer.

Encourage the Construction of Less Expensive Housing: The GNMA Tandem program can also be targeted to provide below market rate mortgages for "no-frills" housing. This plan, the Basic Home Program, was recommended by former Secretary of HUD, Carla Hills. One example of a house built under this program would be one with an unfinished second floor. As the owner's income and housing needs increased, the second floor could be completed.

Improve the Rental Housing Situation: By bringing rental housing back to health, pressure will be taken off the ownership market that will benefit those acquiring their first home. Not only does this entail construction of new rental housing, but it also means balancing the relative tax costs of ownership versus renting. Almost 20 bills have been introduced in the House that would implement some measure of equity into our tax laws with respect to renters. To date, no action has been scheduled by the Ways and Means Committee on this matter.

Institute Uniform Building Codes: Building codes are traditionally a state and local matter. However, prior to the 1974 Housing and Community Development Act, a community had to have a HUD-approved "Workable Program for Community Improvement" to receive urban renewal aid. HUD required communities to bring their building codes into conformity with one of a number of model codes developed by organizations of building code officials as part of their Workable Programs. This requirement disappeared when the Urban Renewal program was folded into the Community Development Block Grant program for the 1974 legislation. Renewed federal efforts to eliminate excessive requirements in local codes could help reduce housing costs.

CONCLUSION

Obviously, inflation is the primary catalyst for this self-reinforcing chain reaction, and coming to grips with inflation would ameliorate many of the problems mentioned in this report as well as a myriad of America's other social and economic problems. While awareness of the importance of inflation is an important first step, the end of inflation is not in sight. Therefore, government must address the specifics of the problem of first-time entry into the world of homeownership to ensure that the American dream of homeownership does not become the American fantasy.

House of Representatives,
Washington, D.C., December 4, 1979.

Hon. William Green,
Chairman, Urban Policy Task Force, House Republican Research Committee, Washington, D.C.

Dear Bill: I have had an opportunity to review the Urban Policy Task Force Report on First Time Homebuyers and want to bring to your attention some of my thoughts in this area.

First, I want to inform you of a program recently funded by a UDAG to the City of Rochester for a Mortgage Investment Program. This program is designed to stimulate the residential mortgage market by establishing a lower interest rate and downpayment from that which is presently required. More specifically, the UDAG dollars will be used for mortages for single and double, owner-occupied structures of moderate price within the City of Rochester. These mortgages will have an interest rate of up to 1 percent below that being charged for conventional mortgages. Local banks, through an agreement with the City, will process mortgage applications from eligible persons. At the mortgage closing, the City will advance the bank the amount of the mortgage and the bank will promptly purchase the rollover mortgage from the City at a discounted rate.

I am a strong advocate of increased funding for the Section 312 Rehabilitation Program. In my opinion, a home which needs some rehabilitation is many times an excellent first buy for young people. They can often get these homes for a smaller down payment than would be required for new construction and through the Section 312 program they can rehabilitate them which in the long run will help revitalize our Cities.

As a member of the Subcommittee on Housing and Community Development, I am sure you are aware that for the Section 312 program, the Administration requested for fiscal year 1980, over $100 million less than for fiscal year 1979. Although the figure finally appropriated for this program by the Congress was $5 million more than the Administration requested, this reduction in appropriated funds coupled with a miscalculation of recaptured authority and carryover funds has meant a cut by many cities, including Rochester, in their Section 312 program.

In talking with the Rochester Community Development staff, I have been informed that during the budget year 1978–1979, the City issued $1,432,000 in loans in the Section 312 single family program. The current case load is 149 cases of which 122 are awaiting funding and 27 are under construction. Of the 122 awaiting funding, approximately 100 are single family applications. Using an average cost per property the City would need $3.5 to $4 million to serve the pending 100 single family applications.

The tentative funding application for single family purposes for the City of Rochester for fiscal year 1980 is $770,000—some $100,000 less than for fiscal year 1979. This will not begin to cover the approximately 100 single family applications which are pending.

The City of Rochester does not depend solely on the Section 312 program for rehabilitation. Out of the City's Community Development Block Grant, it runs 10 rehabilitation programs totalling just over $3 million.

I feel that these are the type programs which should be included in your report. I would welcome the opportunity to talk personally with you about these programs.

With kindnest personal regards,

Sincerely,

Frank Horton.●

TEEN ACHIEVERS

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. COLLINS of Texas. Mr. Speaker, a recent survey of attitudes of high achieving teens has just been released by Who's Who Among American's High School Students. These attitudes of the leading teens reflect dramatic improvements during the 1970's.

Let us compare 1970 and 1979.

First. Teens favoring living together before marriage: 47 percent, 1970; 8 percent, 1979.

Second. Teens using marijuana: 21 percent, 1970; 8 percent, 1979.

Third. Teen members organized religion: 72 percent, 1970; 86 percent, 1979.

Fourth. Teens favoring death penalty: 29 percent, 1970; 63 percent, 1979.

Then we take the current review of issues in 1979. When they ask what do you believe the Federal Government's top priority should be, they listed: First. Energy, 74 percent; second, fight inflation, 44 percent.

The most disturbing question was, "Are you in favor of wage and price controls to halt inflation and rising living costs?" The answer was 80 percent yes, and 20 percent no.

History has proved that price control in peacetime has never worked in 4,000 years of history. It is like putting an ice pack on an inflamed appendix.

We see the youngsters growing more conservative in their basic sense of values. Unfortunately, they are not being taught basic economics, because if the smartest teenagers believe by a vote of 4 to 1 that price controls are the answer, they have had no training or basic understanding in economics.

We all should know that where we have 13 percent inflation, that salaries will go up 13 percent and the cost of materials will go up 13 percent, so prices must also go up 13 percent, or the business is going broke. But, 4 to 1, these leading teenagers believe in price control, so we need to be teaching their school teachers the basic facts.

What teachers should explain is the cause of inflation. We all know that excessive Government spending with printed money to pay the deficit brings on inflation. Teach youngsters to not expect the Government to do all things for all people.●

THE 38TH ANNIVERSARY OF THE U.S. CIVIL AIR PATROL

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. WOLFF. Mr. Speaker, December 1, 1979 marked the 38th Anniversary of the U.S. Civil Air Patrol.

The Civil Air Patrol is a volunteer civilian auxiliary of the U.S. Air Force. Its primary mission is search and rescue operations, flying 75 percent of all such missions flown in the United States. In 1978 this amounted to 24,000 flying hours and 91 lives saved. These emergency service missions flown by the CAP have saved the U.S. Government millions of dollars annually. More importantly, these missions have saved the lives of hundreds of American citizens over the past 38 years.

The dedication and bravery of the members of the Civil Air Patrol are matched only by their selfless commitment of their own time, money, and energy in the service of others. CAP members receive no compensation for their invaluable services, and the CAP is not reimbursed for any costs except fuel and lubricant expenses incurred on authorized Air Force missions. The organization is supported primarily by contributions from members themselves.

Today I call upon each of my colleagues to recognize the courage, the fortitude, and the invaluable service to America which each member of the CAP performs. Many have risked their lives to save the lives of total strangers—and most have succeeded. It is my belief that the repayment of such a debt is not possible. However, we must attempt to appreciate the outstanding service that the men and women of the Civil Air Patrol have performed over the past 38 years. Thus, it is my honor to call the attention of my colleagues to these most exemplary Americans and their service to America. Moreover, it is my privilege to extend my most sincere appreciation and thanks to the Civil Air Patrol and its members.●

MODEL TOURIST EXPERIENCE CENTER

HON. LAMAR GUDGER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. GUDGER. Mr. Speaker, today I have introduced the "Model Tourist Experience Center Act of 1979." The introduction of this bill follows and builds upon a tremendous cooperative effort displayed by local, State, and Federal officials in western North Carolina.

The State of North Carolina, U.S. Department of Agriculture (National Forest Service), U.S. Department of Interior (National Park Service-Blue Ridge Parkway), Tennessee Valley Authority, and the Appalachian Regional Commission are cooperatively developing and intend to contribute funds jointly to achieve a complex in a single location to provide tourists entering Appalachia from its eastern gateway near Asheville, N.C., with a central depository of information concerning all recreation facilities available. In addition to this, this one location would offer visitors a chance to learn about North Carolina's first State park, Mount Mitchell, the Great Smoky Mountains National Park, and the activities and overlooks along the beautiful Blue Ridge Parkway, and the recreational opportunities available in the Nantahala and Pisgah National Forests. Also, the center would contain a directory of all campsites, motel and hotel accommodations, fish and wildlife resources, and other national, State, and local attractions which are geared to meet the needs of the traveling public.

In addition to its visitor information services, the center will provide an environmental education function and will serve as an archeological, geological, historical, and cultural center. As presently envisioned, the environmental education component would acquaint visitors and area residents with the natural resources of this mountain region and how to enjoy and properly manage them without depleting or destroying their capability to provide the raw materials so vital to our industrial society.

The cultural center would provide historical and cultural information relating to the mountain people of western North Carolina, including artifacts representative of the way of life of the early settlers.

Mr. Speaker, as some of you here may know, the motto of the city of Asheville is "Give us men to match our mountains." This same city is considered by many to be the eastern gateway and point of approach into the vast recreation area contained in that portion of the Appalachian Mountains located where North Carolina, South Carolina, Georgia, Tennessee, and Virginia come together. Surely the spirit of cooperation and leadership displayed by the local, State, and Federal officials who were party to this agreement is a testament to the fact that we do indeed have men and women in western North Carolina of such caliber.●

TOM CLAY IS GONE: A LEGEND IS LOST

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. SANTINI. Mr. Speaker, the world will never see or know the likes of Tom Clay again. For me and many, that is a loss. His life spanned two centuries. His careers were as diverse and encompassing as his mind. Whether as a lawyer, journalist, or rancher, he left his indelible and inimitable mark.

As Nevada's Congressman, I have known both his biting pen and his supportive friendship. One of the collateral rewards of repersenting our extensive State comes from meeting and getting to know some of the exceptional people that reside in the large cities and small towns of our great State. Tom Clay was such a man.

I shared a special affection and award with him. "Curmudgeon" was the descriptive and distinguished title conferred: "ker-'mej-en—a crusty, ill-tempered, and usually old man" described part of Tom Clay. But he was so much more. He was a feisty jostler with life—all his life he loved a challenge and pursued each challenge with vigor and dedication.

Who could forget a conversation with Tom Clay? As he railed against the evils of demon rum he would reach for his 17th cigarette of the day. He had a keen sense of justice and morality that carried his own special brand.

No other editor in our State had the audacity to challenge the propriety of our State's No. 1 industry—gambling. No other editor invested his newspaper with such a personal outpouring of his heart, soul and mind.

I loved his eccentricity, his individuality, and his sense of total commitment to his convictions; his community and his State.

His hero was Abraham Lincoln. There were some parallels in their lives—from humble beginnings through a legal education and career to a culminating devotion to country and community.

For these and many more reasons, I will miss the grand curmudgeon.

The Lincoln County Record summary on this remarkable man follows:

THOMAS L. CLAY

Quietly in the early morning hours of Friday, November 16, Thos. L. Clay passed away in the Grover C. Dils Medical Center in Caliente. His more than 97 years of hard constant work had slowed his pace recently and he had been keeping company with the staff at the Medical Center since early September.

Many are the things I could tell you of him and his accomplishments. Some of them were mentioned in the article in the October 10 issue of Lincoln County Record regarding the celebration of his 97th birthday.

Tom began life in a sod farm house in Nebraska on a rainy day. His family moved to Los Angeles where he passed newspapers, worked for the L.A. Times, and was athletic director at USC.

World War I came along just as Tom was beginning his business life. He promptly volunteered and was sent to France to help with the Red Cross services.

He was a farmer of the first order, having worked at this in Imperial Valley, Riverside, and Caliente, growing sugar beets, hay, grain, and championship appaloosa horses.

He spent many years in Los Angeles, and Riverside in the legal profession. Several years running he was awarded the "Best Dressed Lawyer" title by the Riverside area folks in the profession.

He retired from active law in about 1950. Many of his friends of recent years can remember his stories of his love for the legal profession.

Tom was patriotic to the core. He had a great love and acquaintance with our Founding fathers, Webster, and Lincoln. His "creed" was to make this world a better place because he had been here.

Since about 1972 he had been publisher and editor of the Lincoln County Record newspaper. Some of his "campaigns" were unpopular but this never swayed Tom's determination or drive.

The flag he loved so much will be flown at 1001 today in his honor. He was a man of many facets. Kind, gruff, tolerant, and stern, and above all loveable.●

JOPPATOWN HIGH SCHOOL VISITORS

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. LONG of Maryland. Mr. Speaker, I welcome 60 seniors and 2 faculty members, Mr. Lance Ledebur and Mr. Michael Bamford, from Joppatown High School in Harford County, Md.

The students are visiting the Capitol today in connection with a course entitled, "American Government." They will tour the Congress and observe House committee meetings and floor action.

I appreciate this opportunity to meet with my friends from Joppatown. The students are:

Randall Ails, Gordon White, Mike Bright, Eric McClellan, Mike Panowicz, Walt Ruth, George Springfield, Drew Steinmiller, Gregg McDonald, Mary Defrank, Renai Denton, Amy Evans, Lori Fonzi, Donna Hayhurst.

Debbie Hicks, Tracy King, Joann McDermont, Paulette McGill, Carla Myers, Chris Opalka, Pam Peterson, Patty Sacco, Barbara Samborsky, Kathy Shiller, Lori Rutherford, John Farley, Leslie McCarthy, Joyce Harper, Isabelle Boof.

Kevin Allenbaugh, Craig Chaney, Jay Dockter, Steve Douglas, Claude Ellis, Phillip Guthrie, Danny Wooden, Doug Knowles, Jack Mathison, Ray Nelson, Eddie Rogers, Mike Schlothaver, Terry Wooden, Mike Strittmatter, Doug Wardrope.

Chuck Wellington, Bobby Hartman, Jeannie Badard, Beth Beyer, Lucy Choi, Peggy Eithel, Brenda Coleman, Christine Colombo, Karen Gregory, Diana Sebula, Melody Lake, Cathy Hollinshead, Liz Tucker, Linda Martin, Margaret Fitzgerald.●

NICARAGUA—PART V: ANTI-AMERICAN RHETORIC

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. HAMILTON. Mr. Speaker, on September 6 directorate and junta member Daniel Ortega spoke to delegates to the sixth summit conference of nonalined nations at the Palace of Conventions in Havana, Cuba. Because he was representing the government of national reconstruction before an international body that Nicaragua had just joined, it was with considerable disappointment that Americans received his strident anti-American rhetoric.

For the most part, Mr. Ortega's speech was a hyperbolic, bombastic condemnation of "Yankee intervention" in Nicaragua. Events dating back more than 120 years were described in great detail to illustrate the alleged bankruptcy of American foreign policy. Occurrences in the early part of this century were offered as evidence of contemporary American attitudes. The one-sided history lecture was interlarded with swipes at the U.S. presence in many parts of the world. The return to Cuba of the military base at Guantanamo, solidarity with imprisoned "representatives" of the Puerto Rican people, and withdrawal of American forces from South Korea were just a few of the things Mr. Ortega called for.

Moreover, he characterized Israel as an "instrument used by imperialism" in Nicaragua, excoriated the United States for proposing an "invasion" of Nicaragua in June of 1979, and accused "reactionary circles" here of plotting to deny Nicaragua much needed aid. To aggravate matters further, Mr. Ortega made many of the same statements 3 weeks later in a September 28 address to the General Assembly of the United Nations in New York City.

Members of the congressional mission to Nicaragua were aware of the tone and content of these and other instances of anti-American rhetoric emanating from spokesmen in high positions in the new government. As in other circumstances where frankness was required, we did not hesitate to confront our Nicaraguan hosts with our concerns. In the context of suggestion that continued verbal antagonism could be counterproductive for both parties, Congressman MATTHEW McHUGH pressed especially hard for an explanation in various meetings. Junta member Sergio Ramirez responded by emphasizing Nicaragua's aspiration for stable and normal relations with the United States.

He added that Nicaraguans were trying to leave the past behind, but that it was a difficult task. Directorate member Jaime Wheelock, also in answer to Mr. McHUGH, stressed Nicaragua's pleasure at our desire for friendship. He asserted that there was no prejudice against the United States, but that Nicaraguans still thought of the past. On other occasions, Nicaraguan leaders parried the request for an explanation by advising us to judge them by their actions rather than their words. They did not say why their words were not also important.

I have found the anti-American rhetoric of the new government very disturbing. It has not been explained to my satisfaction. Moreover, if it is taken seriously then it must be seen as inconsistent with the claim that Nicaragua desires cordial relations with the United States. Condemnations, after all, are not cordial, especially when the the condemned party has manifested its hope for cordial relations in a very tangible way. These observations notwithstanding, there are factors in Nicaraguan-American relations that should not be overlooked as we try to understand the anti-American rhetoric. Each of these factors is deserving of at least brief consideration.

First, some Nicaraguan leaders are angry with the United States. They regard us as the sponsor of an oppressive regime which they threw off only at great cost in lives and property. It should be pointed out, however, that Nicaraguan anger has been held well within civilized bounds. Americans in Nicaragua were not harassed during the belligerency, nor has any provocative action been taken against Americans since that time. By joining with other Latin American nations in seeking the release of the American hostages in Iran, Nicaragua has displayed every intention of abiding by the rules and principles that govern affairs in the international community.

Second, anti-American rhetoric is not the only problem to be addressed. Many public officials in the United States have fired a barrage of criticism at the new government in Managua. The Nicaraguans read words of praise for former President Somoza; they believe that what they regard as the excesses of the former government are glossed over by some Americans; they see their motives questioned; they think that many of their economic, social, and political initiatives are cast in the worst possible light. I submit that inflammatory rhetoric is something that should not be indulged in on either side. It is certainly true that both sides have not done enough to dampen it.

Finally, members of the congressional

mission heard little if any anti-American rhetoric from Nicaraguan leaders. In all situations, the courtesy of our hosts was flawless, their adherence to amenities exact, and their emphasis on friendship consistent. I did not regard such conduct as deceitful, but rather came away with the impression that many of our hosts were simply not inclined to give vent to anti-American feelings.

An argument for active American participation in Nicaragua suggests itself immediately: economic assistance, largely to the private sector, might strengthen moderate voices in Nicaragua to the detriment of those who seek to mobilize the country through anti-American rhetoric. If we participate, we may help to shape new attitudes and build new relationships. If we do not, moderate forces will suffer and anti-American forces will gain ground.●

LIRR STRIKE NEEDS FEDERAL FACT-FINDING

HON. JEROME A. AMBRO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. AMBRO. Mr. Speaker, at midnight last Saturday, conductors on the Long Island Railroad struck that commuter line in a labor dispute with the railroad and the Metropolitan Transportation Authority, the LIRR's governing agency.

Yesterday morning, the 140,000 Long Islanders who depend on the railroad for daily transportation to and from work were left with no commuting alternative but the car, a dismal option as anyone who is familiar with Long Island's major roads during rush hour will tell you.

I wrote to the President immediately asking him to appoint a fact-finding panel which would have the effect of imposing a 60-day cooling off period and a return to work by the striking employees. The President has refused to act, at least as of this time, and I can only presume that he has accepted Labor Secretary Ray Marshall's view that the impact of the strike tends to be exaggerated.

Newsday, Long Island's award winning daily newspaper, published the following editorial in today's edition, and I think it very clearly rebuts the administration's notion that this strike is an insignificant event with little impact and its contents, reprinted here, succinctly outlines the case for Presidential action.

[From Newsday, Dec. 11, 1979]

CARTER COULD HALT THE LIRR STRIKE NOW

Halting the Long Island Rail Road strike, which was too long an hour after it started, is now up to President Carter. The administration could have acted sooner by appointing an emergency fact-finding board. That would have suspended the strike for at least 60 days.

But even now, while highways clog with cars wasting precious gasoline, Washington is still stalling.

Last Friday, Secretary of Labor Ray Marshall declined to recommend emergency action, saying that the impact of a strike "tends to get exaggerated." Exaggeration is not the issue now. Some 140,000 daily riders are scrambling for transportation. The line's freight operations are stopped. Gasoline consumption on the Island could increase by about 50.000 gallons a day if only 10 percent of LIRR riders use their cars instead of the train.

Prudently anticipating this, Albany is holding available 5 million gallons of the State's monthly emergency gas reserve for distribution on Long Island. They may have to move quickly; with consumption suddenly up, there is a real possibility of shortages and gas lines.

But the prime responsibility remains Washington's.

Appointment of an emergency board will get the railroad running again almost immediately. The panel would not interfere with negotiations. The Metropolitan Transportation Authority and the LIRR's 17 unions would be free to bargain—and settle—while the board looked into the issues of the dispute.

Governor Hugh Carey, Senator Jacob Javits and MTA chairman Richard Ravitch have appealed to the White House to name a board. Tens of thousands of LIRR riders would welcome this Federal move. It could help promote a settlement and it would be consistent with the administration's energy conservation policies.

The strike is likely to be painfully long unless a board is appointed at once. Further White House delay would be difficult either to explain or to defend.●

REV. NORBERT C. MUELLER

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. LEWIS. Mr. Speaker, I would like to take this opportunity to recognize Rev. Norbert C. Mueller, who has dedicated the past 42 years to serving God and his community. He will be retiring this January from his duties as pastor of Immanuel-Prince of Peace Lutheran Church in Twentynine Palms, Calif.

Born in Michigan and educated at Concordia Seminary, Reverend Mueller's ministry began in Omaha, Nebr., and has taken him throughout California, beginning missionary churches which, through his leadership and guidance, have all become self-supporting congregations.

In 1975, when Pastor Mueller was installed as missionary-at-large at Immanuel-Prince of Peace Church, there were merely 95 members in his congregation. Today, as a result of Pastor Mueller's efforts, the congregation now has over 140 members and is still growing. During Pastor Mueller's ministry, the mission subsidy has been substantially reduced and the congregation is looking forward to being self-supporting. Plans for the addition of an educational unit-parish hall, are now being finalized and this building is to be erected in early 1980.

Pastor Mueller and his wife, Alice, have been married since 1940 and have four children, Martin, Joan, Marion, and Alan. Mr. Speaker, I commend to the House of Representatives Pastor Mueller, for his contributions to Twentynine Palms and I know he will not rest on his laurels, but will go on to new and greater challenges.●

ARE THERE LIMITS?

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. COELHO. Mr. Speaker, refugees tug at our hearts. The Vietnamese and Cambodians have our continuing concern. Their very existence demands that Americans respond, do something, do anything. We have rushed a bill to the House floor, H.R. 2816, the Refugee Act of 1979, that will do something about the boat people. But pressed by the urgency of need of the Indochinese, we have not paused to consider the other implications of the refugee bill, and we have not faced what the bill will do besides provide some immediate relief for the Indochinese.

When H.R. 2816 was first proposed, it was believed that there would be about 50,000 refugees a year needing shelter in the United States. Today, a few months later, there are already hundreds of thousands of refugees, and the United States is pledged to take 14,000 a month for an indefinite period.

The rest of the world, today almost completely closed to immigrants in general, is responding in a grudging and inadequate way. Japan plans to take no more than a hundred in total. France, England, the rest of the world including South America and Africa, will take several thousand people, no more. There would be problems, these nations say, in accepting refugees. And they all look to America. America is the land of the refugee, says the rest of the world, and the large majority of the boat people say they want to go to America.

In Vietnam, America learned that it cannot be the world's policeman. From the Vietnamese, we also have to learn that we cannot be the world's refuge. The problem is too big. Aside from the boat people, the United Nations has determined that there are 14 million refugees in the world today. Freedom House lists 630 million people with a national consciousness who have no nation of their own; 117.5 million of them have a high national consciousness and live in nations that are not free. They are part of the potential refugees of tomorrow, part of the millions that we can predict with certainty will be homeless as Asian, African, and Latin American countries abuse their minorities and expel them as scapegoats for the failures of totalitarian regimes. And where will most of these people want to go? They will want to come to us.

How does H.R. 2816 respond to these pressures? By ignoring them. On top of the 500,000 legal immigrants the United States takes every year—several times the number of any other nation on Earth takes—on top of the million illegal immigrants to the United States every year—whom we are making no serious effort to stop—the Refugee Act of 1979 proposes that the ceiling be lifted within the bill to accommodate more refugees, that the President have the power to lift the ceiling again at the beginning of every calendar year to take more refugees, and that the President be empowered to raise the ceiling again a third time if he determines that there is an emergency.

While the number of all other classes of immigrants will remain the same, the number of refugees will essentially be set by Presidential fiat, and all refugees will be added on top of other immigration quotas. The President is mandated to consult with Congress about his decision, but the consultation process would more properly be called an information process: The President makes his decision and then tells Congress what it is.

I trust that we can all agree that President Carter can and should be trusted to determine how many Indochinese refugees should come to our country. But what do we know about the next President, what his or her policies will be; how many refugees fit into the next President's program? What do we know about the next wave of refugees; from where will they come, and in what numbers? Will the next President commit us to take all of the next wave of refugees: If Congress abrogates its power now, it has no control then.

The American people are generous, open hearted, and touched by the boat people. We want to help. But we do not want to give up the power to determine how many new Americans there will be each year. We have lowered our birth rate significantly, in large part because of our concern for America, our feeling we were growing too rapidly, overpopulating our part of the Earth. Must all of our efforts to be responsible in our population growth come to nothing because the rest of the world will not face up to its responsibility to share the refugee flow?

We need not raise the ceiling on immigration continually, and the Congress need not cede to the President its power to set the immigration ceiling in accordance with the wishes of the American people. I intend to support three amendments to H.R. 2816, when it is taken up on the House floor later this week: The first would require that refugee admissions above 50,000 be subtracted from our overall immigration quota for the following year on a 2-for-1 basis. In other words, for every two refugees admitted over 50,000, one number would be deducted from our regular immigration quota.

The second amendment would put a sunset clause on the President's power to raise the immigration ceiling. If there is an emergency which will last only 1 or 2 years, we do not need to give the President power for all the years to come to add thousands to our immigration. The third amendment, would require the Judiciary Committees of the House and Senate to hold hearings on proposed admissions over 50,000 and to require a report to completely and totally inform the Congress on proposed increases. A similar amendment was added to the Senate refugee bill, S. 643.

If by passing H.R. 2816 without these amendments in the rush to aid the boat people, we abandon our ability to set effective limits on immigration to the United States, we find the tide of refugees deeper and stronger than we now envision, how can we turn back? In the future, facing the tide, we may give ourselves the old sailor's prayer we now offer for the boat people: "Dear Lord be good to me. The sea is so wide, and my boat is so small."

Certainly we can discharge our moral obligation toward the world's homeless without accepting unlimited numbers of new immigrants each year. We will do what we can, where we can—as we have always done—in a spirit of good will toward mankind. But we can do nothing to help anyone if our own land and environment are demolished and our social system is in ruins.●

KUDOS TO CARRINGTON

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. FINDLEY. Mr. Speaker, the British Foreign Minister, Lord Peter Carrington, has achieved a momentous agreement between the Salisbury parties and the Patriotic Front to settle the conflict in Zimbabwe-Rhodesia.

Agreement has now been reached on a constitution, transitional arrangements leading to elections, and a cease-fire. Negotiations have been arduous, at times nearly breaking down. But by artful diplomacy, which occasionally has involved a skilled use of brinksmanship, Lord Carrington has persuaded the diverse factions that peace, rather than war, is in their best interests. Much credit goes to Bishop Muzorewa and to Patriotic Front Joshua Nkomo and Robert Mugabe who have made the compromises necessary to reach a peace package. Had they not dedicated themselves to a peaceful settlement, recognizing that it is in the best interests of the people they represent, an agreement would not have been possible.

In the near future, the British will send a Governor to Zimbabwe-Rhodesia and will then lift sanctions. I presented my views on U.S. sanctions against Zimbabwe-Rhodesia to the Subcommittees on Africa and International Organizations of the Foreign Affairs Committee on December 5. In my statement I said that the United States should lift its sanctions against Zimbabwe-Rhodesia when the British terminate theirs. In support of this course of action, there are compelling arguments:

First. The British will lift their sanctions against Zimbabwe-Rhodesia when a British Governor arrives in Salisbury and assumes his duties there.

During a transition period, the governor will exercise executive authority in Zimbabwe-Rhodesia. He will be assisted by perhaps 200 British civil servants in overseeing Salisbury's administration of public services, the police, and the armed forces. All public authorities will be required to comply with the Governor's orders. The Governor will have the power to make laws by ordinance. Legislative authority will not be exercised by any other body. In addition, the British will help make and supervise arrangements for the general elections to be held within a few months time. Once the Governor has arrived in Salisbury and his authority has been accepted, Rhodesia will have returned to lawful government. The reason for imposing sanctions will then no longer exist.

In brief, British authority will replace Zimbabwe-Rhodesian authority in Salisbury until a newly elected government is installed.

For the United States to maintain sanctions after the arrival of the British Governor would, thus, put this country in the position of enforcing sanctions against Great Britain.

It would be unfortunate should the United States enforce these sanctions against Great Britain—a close friend and ally. Such sanctions would be particularly unfortunate, given the British role in promoting a peaceful settlement to the conflict in Zimbabwe-Rhodesia. The British Foreign Minister, Lord Carrington, has obtained agreement by all parties to a constitution and to transitional arrangements leading to elections and the installation of a democratic, majority-rule government. Only the arrangements for a cease-fire remain to be worked out with the Patriotic Front throwing up obstacles to an agreement in the final moments of the conference at Lancaster House.

It would be an unfortunate demonstration of lack of confidence in British efforts to date or to come should the United States maintain sanctions beyond the arrival of the British governor in Salisbury. In consideration of the monumental British effort which has succeeded despite overwhelming odds, the United States should reinforce British determination to push its initiative to a successful conclusion.

Second. But beyond the bonds of friendship, there are ties of self-interest which point to a U.S. lifting of sanctions when the British do.

To maintain U.S. sanctions while the British governor is in place would signal to the various parties in Zimbabwe-Rhodesia that the United States has no expectation of a successful establishment of a democratic majority government. We would, in fact, be inviting individual factions to obstruct the process toward elections and a new government. United States leverage would thus have a negative impact on the prospects for peace and democracy in Zimbabwe-Rhodesia.

I have spoken of the success and determination of the British Government in its diplomatic initiative at Lancaster House, but much credit must also go to Bishop Muzerowa and to the Patriotic Front's Nkomo and Mugabe. The United States should now encourage these leaders along the path to which they have collectively committed themselves. They have agreed upon a constitution and transitional arrangements leading to elections. We should now support the compromises they have made and signal to them, by lifting sanctions, our conviction that progress toward a settlement must be ineluctable.

Therefore, should the British not achieve a ceasefire agreement with the Patriotic Front, but nevertheless send a governor to Salisbury, I would still urge the United States to lift sanctions. Like the British, we should not permit any one party to exercise a veto over final arrangements. I would certainly expect that Great Britain would take such a step only as a last resort, when all other alternatives have failed. I hope that it is President Carter's intention to follow this course and would like Mr. Moose to clarify this point for us in his testimony.

The British feel confident of European community support for their efforts in Zimbabwe-Rhodesia. Commonwealth states—such as Australia—have already announced that they will lift sanctions when Great Britain does. The British should feel confident of U.S. support as well.

The situation in Zimbabwe-Rhodesia calls for the close cooperation of the West. The West has much at stake here and it is, indeed, in our interests to work together to achieve peace and stability in Zimbabwe-Rhodesia in a democratic framework.

There is the possibility that the momentum toward a settlement will break down and the agreement come undone. It would, of course, then be within the authority of the President, or the Congress, to reimpose sanctions should circumstances dictate it.

But to keep sanctions in place in anticipation of faliure would not be in U.S. interests or in the interests of peace and democracy in Zimbabwe-Rhodesia.

My bill, House Concurrent Resolution 217, embodies the approach I have outlined.

Also, I have had the opportunity to review Secretary Vance's December 3 letter to Senator Helms and the bill introduced by Senator Javits which has been reported out of the Senate Foreign Relations Committee. I understand that the administration would not disapprove this legislation if it is approved by Congress. It would be very useful to have a precise statement by the administration on whether or not it would lift sanctions when the British do—namely, when a British governor arrives in Salisbury and assumes his duties.

I find the phrase "and the electoral process begins" in regards to the termination of U.S. sanctions to be confusing and disquieting. What, precisely, does this mean? Does it mean, as some assert, that elections must have been held prior to our termination of sanctions? What constitutes the beginning of the electoral process in Zimbabwe-Rhodesia?

Secretary Vance's letter states:

> If an agreed settlement is not reached at the Conference, we will consult with the respective committees of the Senate and the House regarding the course of action which best serves the national interest.

Does this mean that if a British governor goes out to Salisbury in the absence of a cease-fire, the United States would not lift sanctions? Would the administration lift sanctions once the British do whether or not a cease-fire agreed to by all parties is in place?

The answer to these questions will be helpful to us all, I believe, in making our final decision on how best to approach the termination of U.S. sanctions against Zimbabwe-Rhodesia.●

GOVERNMENT AND FAMILY CHOICE OF SCHOOLS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. DERWINSKI. Mr. Speaker, Dr. Frank Brown, an old friend and valued constituent of mine, is a professor of economics at DePaul University in Chicago and chairman of the National Association for Personal Rights in Education (NAPRE). He recently addressed the White House Conference on Families on behalf of NAPRE, which is an organization of parents now in its 21st year whose objective is to have Government make available programs of parental grants or vouchers through which parents, if they choose, can direct an equitable share of the education taxes to schools, public or private, of their choice. Dr. Brown's remarks follow:

Government and Family Choice of Schools

In addressing itself to the impact of government activity on the family, the White House Conference on Families should give the highest priority to the examination of the role of government in assisting parents in their pressing need to obtain quality education for their children.

American governments—local, state, and federal—maintain that they are meeting their responsibilities to parents in this matter by using a monopoly of the education taxes to finance a system of public schools, but this system is doing little, if any, good for many families.

Some families enrolled in the public schools, both inner-city and elsewhere, are not receiving quality education. Others, contending that the academic level and life values in the public schools do not constitute a legitimate offer of educational opportunity, are seeking quality education elsewhere, but thereby suffer the loss of a share of the education taxation, including their own.

The public schools strongly defend their tax monopoly, but in view of widespread parental dissatisfaction and many damaging reports, including the recent statement of the Carnegie Council on Policy Studies in Higher Education that one-third of America's youths are "ill-educated, ill-employed, and ill-equipped to make their way in American society," the conclusion is inescapable that some new government policy must be adopted to give families, not just another reshuffled public school, but greater freedom and capacity to seek out quality education.

In this respect high priority should be given to the enactment of programs of parental grants or vouchers, through which parents, if they choose, can direct an equitable share of the education taxes to schools, public or private, of their choice. Other vehicles for parental preference could be tax exemptions, credits, and deductions.

One advantage of the parental grant would be the restoration of the balance of education power to parents. Parents generally enjoyed such power in the early schools of this country and even in earlier forms of the state public school, but, with the states and now the federal government assuming more control over education, parents have had their influence considerably diminished. Despite some claims that parental power can be effective in the public system, parents cannot in general make too much of an impact in the face of the armies of teachers, administrators, counselors, and assorted state and federal educational bureaucrats who believe that it is they, and not the parents, who know the best interests of the children.

A second advantage would be the stimulation of competition for ideas and quality education. How children should be educated is much too important and too complex a question to be solved by giving a monopoly of the education tax to government schools, whether or not families enroll their children therein. Here it should be noted that the other democracies of the West generally direct the education taxes to the schools, public or private, which parents choose.

A third advantage of the parental grant would be the economic equipping of families to provide a quality of education that will enable their children to rise above the personal tragedies and social costs of unemployability, crime, and welfare. Thus the parental grant would more than pay its way.

The public schools protect their preferential status with nostalgia, hard politics, and an array of timeworn arguments, but they seemingly rely most heavily on church-state issues to block tax equity not only to families in church-related schools but also to those in other private schools. This approach both obscures the rights of parents and distorts the constitution.

Thus, in the clamor of the public school that parental grants to parents who choose church-related schools violate what it terms "separation of church and state," many Americans have lost sight of the fact that these parents and their children have—through their personal constitutional rights to academic freedom and religious liberty—a claim to an equitable share of the education taxes that may not be diminished by reason of relationship between government and any church or school.

In addition, the U.S. Supreme Court decisions blocking tax equity to parents in church-related schools—on which the public school monopoly relies so heavily—are based not on sound constitutional analysis but on gross misapplication to the distribution of the education taxes of two documents, the Remonstrance of James Madison and the Bill for Establishing Religious Freedom of Thomas Jefferson, which were rather directed to outlawing public taxation for the monopolistic support of the ministers and churches of a preferred church or religion.

Even worse, in an unforgivable lapse in scholarship, the Court in these decisions has not provided, as Donald Manzullo has pointed out in his book Neither Sacred Nor Profane, a thorough discussion of the most valuable historical source in this matter, namely, the debates in the 1st Congress on the religious clauses of the 1st amendment.

The White House Conference on Families should reexamine the relationship of the government to families in the field of education. It should know that many legislatures have enacted various forms of parental choice programs. It should consider that the Supreme Court, with many of its members steeped from childhood in public school mythology, has done irreparable harm to millions of American families by overriding all but a trickle of these legislative efforts. Finally, it should recognize that the present chief executive is bogged down in public school propaganda.

This conference may be confronted with no more pressing and far-reaching family problem than that of securing worthwhile education for children. Hopefully, while recommending improvement in all aspects of education, public and private, the conference will particularly endorse tax-supported parental grants as a long step toward the attainment of a quality of education that may well be the most effective remedy for many of the evils threatening American families.●

LOSS OF MEXICAN CRUDE OIL—A COST OF MR. SCHLESINGER'S CANCELLATION OF THE ORIGINAL MEXICAN GAS AGREEMENT

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. ROSENTHAL. Mr. Speaker, 2 years ago Secretary of the Department of Energy James Schlesinger, acting for the administration, abruptly torpedoed the original Mexican natural gas exportation agreement concluded between U.S. companies and Mexico. The resultant cost in terms of goodwill and economic loss between the United States and Mexico is incalculable. Now, 2 years later, the newly negotiated Mexican natural gas agreement only goes a little way toward rectifying the situation.

The original gas deal contemplated that Mexico would export 2 billion cubic feet per day (bcfd) of gas in contrast to the maximum 300 million cfd which has now been agreed to, for a loss of 1.7 bcfd. Placed in perspective, the 300 million will be a tiny fraction of total U.S. natural gas consumption which is roughly 53 bcfd including 2.6 bcfd of imports. The 300 million cfd is approximately one-eighth of the amount of natural gas imported from Canada. Current Algerian LNG imports are slightly less than the expected imports from Mexico but Algerian gas has been purchased at a higher price than even the price originally cited for Mexican gas.

At least $400 million in U.S. industrial export sales were irretrievably lost with the failure of the original deal. The Eximbank had authorized a line of credit in the amount of $340 million to finance most of Pemex's cost in purchasing pipe and facilities related to an 850-mile pipeline to the U.S. border. The sales went to European and Japanese competition. Also, compressors will now not be needed in view of the failure of plans to sell large gas quantities to the United States. Rather than creating a need for a new pipeline, the 300 million cubic feet of the present gas agreement can be sent through existing, connected pipelines to Texas. Thus, the compressor business has also been lost to U.S. firms. The manufacture of compressors is a labor-intensive endeavor, so there has probably also been a cost in jobs and some exacerbation of the U.S. employment problem.

The impact of the original cancellation, further, forced Mexico to convert to using its own natural gas and to attempt to achieve more diversification in its trade relations. Accordingly, other nations have rushed in in order to obtain oil supplies and to trade with Mexico.

On November 4, Mexico's Foreign Minister announced it will sell 100,000 barrels of crude oil daily to France beginning in 1980. Mexico, in making such an agreement, expressed the view that it considers France an important source of investment and technological innovation and is interested in strengthening its relations with French nationals through coinvestment agreements.

Mexico, previously, stated that it intended to decrease the percentage of its export of crude oil to the United States so that in 1980 the United States will receive no more than 60 percent of the total of Mexico's crude oil exports rather than the 85 percent the United States has been receiving in 1978 and 1979. At present Mexico exports 670,000 barrels of crude daily, of which 565,000 goes to the United States, 60,000 to Spain and 45,000 to Israel. Currently, Mexico's oil production is 1,817,000 barrels or more than double Mexico's December 1976 production of 907,000 barrels.

Mexico also announced that it will sell more crude oil in 1980 to Spain, Japan, France, Yugoslavia, Brazil and Nicaragua. Mexico has ongoing talks as to nation-to-nation crude oil agreements with Canada, Sweden, West Germany, Costa Rica, and Haiti. Other nations are interested to make agreements with Mexico in order to continue to diversify their sources for crude oil and lessen their dependence on OPEC producing nations and the multinational oil corporations. In the meantime the amount of crude oil we will obtain from Mexico will not increase and, in fact, the commitments to the Mexican Government are such that the amount the United States will receive will decrease. On November 15, Mexico announced that "Mexico is not in a position to supply the United States with larger quantities of crude oil beyond the amount contracted." Mexican production through 1980 has been sold in its entirety. This fact picture will result in the United States becoming more dependent on OPEC sources, where the multinational companies traditionally obtain their supplies of crude oil and enjoy large vested interests. Thus, we will continue to be the only industrialized consumer nation of the western world that, since 1974, has become more dependent on OPEC crude oil rather than less. The present world events continue to highlight the problem.

Because the action of former Secretary of Energy Schlesinger in abruptly and rudely torpedoing the original Mexican gas deal incurred the ire and displeasure of Mexico, it turned to the rest of the world to market its crude oil and to trade with rather than the United States.●

AVOIDING THE CONSTANT MILITARY BUILDUP

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. PEASE. Mr. Speaker, the question of whether this Nation possesses sufficient military strength to protect its citizens in the event of a third world war is being debated heatedly at this time in Congress and by the public. Against the backdrop of the recent assaults on American embassies in the Near East and of the American hostages in Tehran, this question looms exceedingly large. I am submitting the following Washington Report that I wrote to my constituents on November 26 because it addresses the question of how can the United States and the Soviet Union avoid the continuing buildup in military weapons that threatens the futures and the people of both of our countries.

Not only is the security of this country from attack of crucial importance but every dollar that we spend as a nation to finance military weaponry and preparedness represents one less dollar that is available for us for such areas as capital formation, education, health, et cetera.

In recent months, Congress has debated this country's spending priorities for the 1980 fiscal year. This year's budget is distinguished by a virtual absence of new spending programs; however, the defense portion of our budget is $129.9 billion—10.4 percent over 1979, enough to permit real growth (after inflation) of 1.8 percent. In contrast, that portion of the budget for which spending is controllable—only about 25 percent—grew less than the rate of inflation for almost all programs. Most of the spending for these programs comes under the category "education, training, employment and social services." The final figure for this category approved by Congress was $31 billion.

Obviously, the $129.9 billion figure for defense versus the $31 billion figure for our largest human service programs reveals a lot about this country's priorities, particularly at a time when inflation is soaring and straining the pockets of not only low- and moderate-income families but the middle-class family as well.

The article follows:

WASHINGTON REPORT

(By DON J. PEASE)

The recent visit of five top Soviet leaders (all members of the Supreme Soviet) to Congress gave me an opportunity to pursue directly with them a concern which I have been raising in recent months with U.S. diplomatic and military officials.

The question is whether there is any way to head off an impending mutual escalation of the arms race between the U.S. and the U.S.S.R.—an escalation which will not make either side more secure but will cost both sides many billions of dollars.

The immediate matter at hand is the soon-to-be-made decision of the U.S. and its NATO (North Atlantic Treaty Organization) allies to station U.S.-made Pershing II medium-range missiles and Cruise missiles in Europe. NATO ministers will probably decide in December to go ahead with that move.

The underlying question is whether the U.S. and its NATO allies are roughly equivalent in strength to the U.S.S.R. and its Warsaw Pact allies, or whether there is some imbalance which needs to be redressed.

In terms of the European theater, U.S. strategic planners have told me earlier this year that there is rough equivalence. Actually, they say that they certainly would not want to trade U.S.-NATO strength for present U.S.S.R.-Warsaw Pact strength, thus implying that we are in a superior position. But U.S. strategic planners worry about the upward trend of Soviet military expenditures in Europe, and they worry in particular about the Soviet SS–20 medium-range missile which can reach European targets from missile launchers in the Soviet Union. The U.S. and its allies do not have anything stationed in Europe which is quite comparable to the SS–20.

To close that specific gap, the U.S. and its NATO allies are about to decide to station on the soil of four or five European nations the American Pershing II medium-range, ground-based missile system and also, later, the medium-range Cruise missile. Both would be able to hit the Soviet Union from their bases in Europe.

The U.S.-NATO idea is that the Pershing II and Cruise missiles will offset the advantage which they now see the Soviets as having with the SS–20.

That's how our strategic analysts view the situation. But how do the Soviets view it?

I put that question directly to the Soviet visitors in an informal two-hour meeting where the five of them were on one side of the table and four members of Congress were on the other side. Their answer was that they consider Soviet-Warsaw Pact strength to be roughly equal to U.S.-NATO in strength in Europe at the present time. Clearly, they want to keep it that way. They quoted a recent statement by Soviet chief Leonid Breshnev to the effect that deployment of the U.S. Pershing II and Cruise missiles would upset the current balance and require the Soviet Union to take additional steps to meet the challenge of the Pershing II and Cruise missile deployment.

But what, I asked, about the present imbalance in medium-range missiles in Europe? You have the SS–20, I told them, but NATO does not have a comparable medium-range missile aimed at the Soviet Union. In their reply, the Soviet leaders cited our submarine systems stationed just off the shores of Europe. (Note: I argued back that our submarine-based missiles should not count, as they are intercontinental missiles subject to the SALT II treaty, whereas medium-range missiles are not subject to the SALT II limitations.)

Further, the Soviet leaders called my attention to a geographic consideration which strongly influences the situation from their point of view. The SS–20 Soviet medium-range missiles stationed in the U.S.S.R. are a threat to our NATO allies in Europe, but they are not a threat to the United States itself. The range of the SS–20 is not long enough. On the other hand, the Soviets point out, Pershing II and Cruise missiles stationed in Europe definitely would be a threat not only to the Warsaw Pact nations of Eastern Europe but also to the Soviet Union itself. Thus, in the event of World War III, the U.S. would have aimed at it only the Soviet intercontinental missiles, whereas the Soviet Union would have aimed at it an equal number of U.S. intercontinental missiles plus the medium-range Pershing II and Cruise missiles which we propose to station in Europe.

I wish very much that the U.S. and the U.S.S.R. could sit down and agree whether there is presently a balance or an imbalance in our respective military forces. If we could agree upon the point at which our forces are in balance, then perhaps we could agree that neither side would upset the balance and that, indeed, we could work toward mutual reductions which would maintain the balance at a lower, less costly and less dangerous level.

What worries me is this likely scenario. The U.S. and NATO will station Pershing II and Cruise missiles in Europe to redress what we feel is an imbalance created by the Soviet SS–20 missile system. In Soviet eyes, that will upset the balance which the Soviets feel now exists, and they will take steps to deploy newer, bigger and more missiles to bring the situation back into balance from their point of view. Of course, from our viewpoint, that will again upset the balance which we thought we created with the Pershing II and Cruise missiles, so we will have to take steps to redress that imbalance. And so on and on.

The U.S. and U.S.S.R. are bitter rivals on the world scene, and we will be for years to come. But both sides should be able to see the wisdom of not spending billions of dollars for new weapons systems if those weapons will not actually contribute to the overall security of either side. That's just plain common sense.

And the starting point is negotiations to reach agreement as to where the balance point lies in the military strength of the two nations.●

SISCO ON THE MIDDLE EAST

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. FINDLEY. Mr. Speaker, Joseph Sisco, President of American University and former Undersecretary of State for Political Affairs, maintains an informed and active interest in the Middle East. Dr. Sisco's concern for continued progress toward a Mideast peace has led him to propose an important approach for breaking the current impasse in negotiations. It is noteworthy that Dr. Sisco states within this context that "the PLO issue will have to be faced up to and resolved" though election year complications will mean, in his estimation, that it will be 1981 before this occurs.

I believe that Joseph Sisco's comments on the Middle East in his December 2, 1979 Washington Star guest opinion merit the attention of my colleagues.

HOPES FOR MIDEAST PEACE GO ON "HOLD" UNTIL 1981

(By Joseph J. Sisco)

Current conventional wisdom on Mideast diplomacy is that no progress can be made at this stage unless the PLO is brought into the negotiations. The PLO issue will have to be faced up to and resolved, but it cannot be dealt with effectively before 1981, at best.

There are two tracks underway today toward resolution of the Arab-Israeli dispute. The first is implementation of the Egyptian-Israeli treaty. It is going well. Both sides are reasonably satisfied as they move toward phased Israeli withdrawals, resumption of diplomatic relations and establishing bases for mutual cooperation. Neither President Sadat nor Prime Minister Begin is likely to be diverted from this process, scheduled to be completed within two years in accordance with the treaty.

The second track is the Egyptian-Israeli West Bank-Gaza autonomy talks, which are marking time. They are not dead in the water, even though there is a yawning chasm between Sadat's and Begin's views.

The reason for the confusion of the last several months is that we have seen a needless flirtation with a third track—the PLO track. It was foredoomed to fail because it was undertaken at the wrong time and at the wrong place—the U.N. Security Council, where the views of Arab radicalism are predominant and there is present the extraneous, unhelpful role of the Soviet Union.

It is true that the United States faced a tactical situation in the Security Council, emanating from a Kuwaiti initiative. But there can be no progress on the PLO issue over this next year, regardless of the political move made by Arafat to be helpful on getting the hostages out of Iran. The reason is that none of the principal parties on the Middle Eastern scene is in a position at this juncture to alter long-held positions on the PLO issue.

The PLO is unable, at this point, to change its covenant which includes the objective of destroying Israel.

Sadat has given clear evidence in recent months that while paying lip service to the PLO issue, he does not want to be diverted from the Egyptian-Israel peace treaty track for one overriding reason: total Israeli withdrawal from his territory will not be completed for another two years.

At the same time, Begin is totally dug in on the PLO issue, and his weak political position in any event precludes change, even if he wanted one, which he does not. Dayan's resignation has increased Begin's reliance on the 12 votes of the hawkish National Religious Party and, on the left, on Deputy Prime Minister's Yadin's Liberal Party with about 15 votes.

And President Carter, weak at home politically, battered by problems of inflation, trade imbalance, energy dependence and violent revolution in Iran, has lost his clout to press major new initiatives in an election year.

A PATH FOR 1980

What is possible in these circumstances?

The only feasible course for the United States for the next year is to encourage Sadat and Begin to strike a deal first between themselves, without trying to bring in either the Palestinian Arabs of the West Bank, Gaza or the PLO at this stage. They can offer any agreement on autonomy achieved between them to the Palestinian Arabs after the deal is struck. This approach takes into account the political realities each leader faces at home.

We are in a position to encourage the parties to come to some understanding on elections and an autonomous council in the West Bank and Gaza, which would leave open a future exercise of self-determination by the Palestinians. But we are in no position to insist upon it at this time.

Whether the Palestinian Arabs in the West Bank and Gaza would ultimately agree to participate, and whether PLO leaders will allow them to participate, will depend on what kind of elections are held, whether the instruments of self-government are broad enough to give them something more than garbage collection as their principal function, and whether the exercise of self-determination in the future is not foreclosed.

Is it possible we could see a repeat of 1976? At that time, Israel held municipal elections in the occupied territories. The PLO opposed the elections publicly, but behind the scenes quietly told its Palestinian

Arab supporters and sympathizers to run for these offices. They did so.

Israel has even more serious long-range problems than the West Bank negotiations. The Egyptian-Israeli treaty has altered fundamentally the military balance in the Middle East. War is not a viable Arab option as long as Egypt is out of the fray. Israel, with its overwhelming military strength, is not under any serious military threat. A one-front war on the eastern flank by Syria against Israel, even if a number of other Arab nations joined, would likely result in an overwhelming Arab defeat. President Assad of Syria, a tough, shrewd nationalist, knows this very well and is not likely to be so foolish, particularly at a time when he is beset by internal opposition.

But the tragedy is that Begin has not drawn the principal conclusion from the Egyptian-Israeli treaty: that the major threat to Israel today is primarily political, namely the eroding support of American and Western European public opinion.

Begin's settlement policy is a serious liability politically for Israel in this country. Begin has no overall strategic concept regarding the settlements other than to pursue this policy in order to keep his splintering domestic coalition together. A basic reassessment is long overdue, but unfortunately it is not in the offing because of the political limitations in domestic Israeli politics as well as Begin's adamancy against change.

In these circumstances, support for Israel's position in the United States will continue to be weakened.

Moreover, Begin's autonomy plan appears to many to be only a facade for annexation of the West Bank and Gaza. The majority of the Israeli people, including the Labor Party, have been filling to support autonomy as an interim arrangement which leaves to a later date the final questions of borders, security arrangements and sovereignty. But many Israelis do not agree with Begin that autonomy is the final solution. They fear, and rightly so, that adding over a million Arabs to a unitary Israeli state will alter fundamentally the Jewish character of Israel.

OPPOSITION'S VIEWS

Begin's view of autonomy "for the people" is contrary to Israel's long-term interests. The ultimate solution in the West Bank and Gaza has to be territorial, as the Labor Party in Israel maintains. This will be their approach if they get back into power when elections are held in Israel in 1981 or sooner.

Complex, confusing, difficult as is the Middle East today, the important fact is that the focus of all parties is on peace and how to achieve it, not war. The process towards peace which has developed in light of three shuttle diplomacy disengagement agreements, Camp David, and the Egyptian and Israeli treaty, remains irreversible.●

VOTE ON H.R. 4962

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. MOORE. Mr. Speaker, the bill H.R. 4962, the Child Health Assurance Act of 1979, passed today on final passage by voice vote. I use these means to have the RECORD indicate that I was on the floor of the House at the time of this voice vote and voted "aye."●

ADDITIONAL OBSERVANCES OF CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. DERWINSKI. Mr. Speaker, my attention was recently directed to some additional observances of Captive Nations Week this past July. Mr. Tedis Zierins, a leading member of the Chicago Captive Nations Committee, is quite active in the Chicago suburban area in the fight for freedom of those held captive of Communism. He recently displayed his opposition to the Soviet-imposed restrictions on religion in his native land of Latvia at Pope John Paul II's mass in Chicago.

This was the subject of an article appearing in the Daily Illina, of Urbana, Champaign, Ill., which I wish to insert following my remarks. Additional observances of Captive Nations Week which follow include: First, an inscription which was displayed by Illinois State Representative Penny Pullen in her office during Captive Nations Week; second, a letter to the editor appearing in the Park Ridge Advocate, Park Ridge, Ill., and third, a proclamation by Mayor Martin J. Butler, of the city of Park Ridge, Ill.

[From Daily (Ill.) Illina, Oct. 9, 1979]

LATVIAN PAIR CELEBRATE MASS, ANNIVERSARY OF FREEDOM FLIGHT

(By Dan Corkery)

As Tedis Zierins of Chicago and Janina Babris of Arlington Heights stood among the 1.5 million people at the papal Mass in Chicago's Grant Park Friday and prayed along with the Holy Father, they were celebrating the most important day of their lives.

It was on that day 35 years ago that they fled from the Communist invasion of their homeland of Latvia—a small Eastern European country which, as they said, is "occupied by the Soviets."

The large sign Zierins was holding high above the massive crowd expressed their plea to bring Christianity to the Eastern bloc countries.

Before Hitler's invasion in 1941, Latvia was under the Stalin regime's control.

"We have lived under Communism and we want everyone to know they (the Soviets) get away with restricting all kinds of freedoms like religion," Zierins explained in an enthusiastic discourse that he has used to defend the human rights of all faiths. Among his many marches for freedom, he has protested, along with Jewish organizations, against the American Socialist Workers Party.

With the memories of present-day Communism still vivid from her recent visit to Latvia, Babris said Soviet law forbids religious education and church attendance for children under 18 years old.

Bibles are outlawed throughout the Communist countries, she said, but many people manage to smuggle some past customs officials. Despite such acts, Bibles are still scarce and therefore in underground markets cost 300 rubles, one to two weeks' wages.

Babris said she could only obtain a visa to Riga, the Latvian capital, and could go nowhere else. To further restrict her movements, authorities would not allow her to stay with relatives or friends; she stayed in hotels.

Of all her kin, only her in-laws still live in Latvia. The rest of her family were sent to Siberia, where "they died as martyrs," she said.

Both exercise their rights of religious freedom and free speech actively and promote the saints. Zierins wrote a letter in 1973 that appeared in the Chicago papers and the Congressional Record that called on all Chicagoans to daily live the example of St. Patrick. Although St. Patrick is identified as Irish, Zierins said, he was taken away from his country and made a slave. "St. Patrick did not become bitter, but through his example, he converted the pagan country to Christianity."

Babris said she firmly believes Communism will eventually fall and Latvia liberated. And Zierins added, ". . . only with God's help."

Pope John Paul II can help the people of Eastern Europe, she said, because he knows the Communists and "can fight them on the same grounds."

Zierins agreed, but added, not "by bomb . . . but by the spiritual message will people be freed."

As a philosopher, poet, leader and warm-hearted man, Babris said (she is an author and editor of books), John Paul has been a great inspiration to her. "He's a great man because he says he is your friend. I have written him twice and he has answered both times." He wrote the letters himself, she added.

[From the Park Ridge (Ill.) Advocate, July 26, 1979]

LEST WE FORGET

State Representative Penny Pullen's office on Main street displayed this message in observance of Captive Nations Week, July 15 to 21. The inscription follows:

"In observance of Captive Nations Week we join with all those enslaved by Godless Communism in praying and demanding national, human and religious rights for all people."

[From the Park Ridge (Ill.) Advocate, July 12, 1979]

CAPTIVE NATIONS

DEAR EDITOR: When according to U.S. congress public law 86–90 July 15–21 is proclaimed as Captive Nations week to remember all nations who have lost their freedom under Godless Communism, I would like to appeal through the Advocate to our churches for prayers.

I admire Jews who in their Synagogues pray and plan how to help the persecuted Jews in Communist Empire. And at the same time I wonder about the deafening silence in almost all our Christian Churches concerning our fellow Christians suffering under the same Red tyranny

I think it would be very nice if on Sunday July 15 beginning of Captive Nations week in every Church prayers were offered for all who are enslaved under Godless Communism. Christians in the Roman Empire prayed for persecuted fellow Christians and we should do likewise.

Let's show our support for all freedom loving people enslaved under Red Nazism-Communism by starting the Captive Nations week with prayers in our churches and closing the week by attending the captive Nations rally on Daley Plaza in Chicago Saturday July 21 at noon to demand national human and religious rights for all captive nations —TEDIS ZIERINS.

[From the Park Ridge (Ill.) Advocate, July 12, 1979]

PROCLAMATION

Whereas, Captive Nations week was inaugurated in 1959 by a joint resolution of the United States Congress; and

Whereas, the cause of human rights remains a universal aspiration, yet, in much of the world the struggle for freedom and independence continues; and

Whereas, it is vital to the national security for the United States and other free nations that the desire for liberty on the part of the peoples of all conquered nations be kept alive; and

Whereas, each year Captive Nations week has provided a fitting opportunity for the American people to show their concern for those whose governments do not permit the same freedoms taken for granted by so many of us:

Now, therefore, I, Martin J. Butler, mayor of the City of Park Ridge, do hereby proclaim the week of July 15 to 21, 1979, as Captive Nations week and urge all citizens to support this annual observance of the desire of oppressed peoples to regain their freedom.

In witness whereof, I have hereunto set my hand and caused the seal of the city of Park Ridge to be affixed this fifth day of July, 1979.

MARTIN J. BUTLER,
Mayor.●

TEAMSTERS' CENTRAL STATES PENSION FUND (INSTALLMENT NO. 3)

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. PICKLE. Mr. Speaker, in my RECORD statement of December 5, 1979, I described the March 1978 resolutions of the trustees of the Teamsters' Central States Pension Fund which signalled their attack on the independence of the investment managers who were brought on by agreement with the Government to reform the past investment practices of that pension fund. The "independent" investment managers were the Equitable Life Assurance Society of the United States ("Equitable") and Victor Palmieri and Co. ("VPCo").

I also noted the lack of any real Government response to the fundamental challenges to the key reform of independent investment management of the fund assets. This reform was instituted under March 1977 agreement between the fund and the Department of Labor and Internal Revenue Service (see my RECORD statement of December 4, 1979). The independent investment management agreement was formally spelled out by the IRS, Chicago District, as a condition of its April 1977 restoration of the fund's tax exemption:

> The Trustees placing all Fund assets and receipts, including funds derived from liquidation of existing investments (except funds reasonably retained by the Fund for (a) payment of plan benefits and (b) payment of administrative expenses), under direct continuing control of independent professional investment managers as defined by Section 3 (38) of ERISA. The Trustees will adopt appropriate amendments to the trust agreement to accomplish this condition and will expeditiously transfer the assets to the investment managers.

Unfortunately, Mr. Speaker, that attack by the fund trustees on the independent investment managers has greatly intensified since the March 1978 resolutions put the handwriting on the wall. Predictably, in my opinion, the Labor Department and the IRS now face the consequences of their earlier failure to take forceful action.

Since March 1978, those consequences have included: First, the continued harassment by the trustees and their lawyers of the investment managers, paid for out of plan assets; this has included the second guessing of the managers' every move and, in my view, has gone far beyond the trustees' legal duty to monitor the performance of the managers; second, the formal challenge by the trustees of real estate management fees which had been expressly spelled out and agreed upon in the elaborate investment management contracts signed by those same trustees in October, 1977; third, the trustees' formal challenge to the contractually agreed start-up fees and to legal fees incurred by the investment managers in the proper performance of their contractual duties, etc.; fourth, the trustees' passage, in August 1979, of a resolution withholding from VPCo its contractually agreed payments for its services—an action which followed VPCo's hard bargaining with some of the unsavory characters who control certain Las Vegas casinos financed by the Central States Fund; fifth, the reported preparation of complaints against the independent managers, and VPCo in particular, which, according to the trustees, would be the jsutification for firing one or both of the investment managers; sixth, the trustees' continuation of the March 1978 resolutions, one of which purports to remove the Labor Department's veto power over the firing of the trustees; seventh, the maintenance by the trustees of their own internal asset management staff despite their also paying millions of dollars each year for top notch independent professional investment management services; eighth, a truly mind-boggling attempt in October 1979, by the trustees to funnel $92 million of Fund assets into the hands of disreputable and untruthworthy gambling interests, as a settlement of an outstanding lawsuit, without even notifying the independent investment managers in advance; ninth, the trustees attempt to make the $92 million loan by using a loophole in the investment management contracts which allows the trustees the unlimited right to expend Fund assets by calling them "administrative expenses" rather than "investment assets"; tenth, the trustees' refusal to allow Equitable to take control of the lawsuit which is the vehicle, as described above, for the return to the abusive investment practices of the past; and eleventh, in accordance with another of their March 1978 resolutions, the trustees' prevention of communication between Equitable and the Labor Department with regard to their legal position on the above-mentioned $92 million loan.

Mr. Speaker, the intent of the current "reform" trustees of the Teamsters' Central States Pension Fund is clear: to engineer a return, sooner or later, to the freewheeling days of the past. To accomplish this, they are doing their level best to induce the independent managers to resign. Failing that, they are laying the groundwork for firing one or both of them, preferring to put the investment managers on the defensive and to tie up the whole asset management process in the courts.

In his recent book, The Teamsters, author Steven Brill graphically recounts one of the many examples of the good old days, before the enactment of the Employee Retirement Income Security Act (ERISA):

> On May 29, 1974, the Fund approved a loan of $62,700,000 to Allen R. Glick to purchase the Stardust and Fremont hotel-casinos in Las Vegas. Eventually . . . the Fund would back Glick up to $160 million. Glick obtained that May 29 loan nine days after he applied for it and without filing a personal financial statement. Technically the money went to a corporation, Argent, that he owned. Had he filed a personal statement it would have shown that he had four and one-half years of business experience and that he had been a $200-a-week real estate salesman in 1970.

As one might suspect, Allen Glick is widely considered by knowledgeable sources to be a front man for organized criminal interests. I submit that the prevention of loans like this one, made just 3 months before the enactment of ERISA, is what the independent investment management requirement is all about.

I am informed that the Labor Department is at long-last looking specifically at the actions of the current trustees rather than assuming that they would be a break with the sordid past. This is commendable. But my basic concern remains that Government efforts to achieve real reform have been too feeble to be effective against an aggressive adversary.●

DOMESTIC VIOLENCE BILL AN ASSAULT ON THE TAXPAYER AND THE FAMILY

HON. JOHN M. ASHBROOK

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. ASHBROOK. Mr. Speaker, the House is considering establishing yet another program that sounds noble on the surface, but, after some analysis, is both unnecessary and potentially harmful. The problem of domestic violence in America is well documented and does need to be addressed. Local governments, churches, and private organizations have taken great strides to assist abused spouses and to establish counseling programs to mediate domestic problems. The Federal Government has also begun to address this matter through existing social service programs. Yet, before us now is a bill that takes these good intentions and uses them to create one more categorical grant and provide yet another vehicle for Federal bureaucrats to enter the homelife of the Nation.

In reading over the bill there are a number of provisions that could create either unnecessary Federal intervention or governmental growth into family life in America. The first such indication is the vague usage of linking words around the definition of domestic violence. On page 27 of the bill we have the grant application process include "examining and evaluating other Federal, State, and local programs providing services in the State which are or could be used in conjunction with programs for the prevention of incidents of domestic violence." Later, on page 38 the report of the Secretary includes the examination of assistance that has "served as a catalyst for State and local community involvement and support—for projects relating to domestic violence."

We have all seen how such linkage words as "conjunction with" and "relating to" have been abused in the name of the International Women's Year and the International Year of the Child. An incredible array of programs including arms control and the end to nuclear power have been linked by such words. While I hope my colleagues agree that the scope of this bill is a limited one, I do think that the bureaucracy has shown a tendency to wander off in new directions when Congress does not explicitly rule those directions out. Passage of this bill with its existing vagueness may not cause HEW to start listing nuclear power as an indirect link to domestic violence, but we may see abortion, day care, food stamps, and other pet programs being given a new rationale through the Secretary's report or through requirements for State grant proposals.

In addition to the potential expansionism by definition there is the possibility that the bill already is stacking the deck for future Federal intervention. In my reading of the bill there are some passages that belie the seed money nature of the bill being fostered by its proponents. On page 42 the Interagency Council is supposed to identify Federal programs which assist other programs relating to domestic violence, "for the purpose of encouraging the continuation and expansion of Federal support for such programs." There is a growing concern in this Nation that the Federal Government is trying to supplant the family and the local governments in being responsible for America's youth. I once said that the social engineers in the bureaucracy are trying to "Sovietize" America's young people. When I read sections of the bill like this one I start to see this vision taking shape.

The more the Federal Government calls the shots on various programs, the more likely it is that the nationalization of all social services will be at hand. This can only happen by the steady erosion of the family as an autonomous and sovereign unit as well as the disappearance of local government as a buffer to Federal tyranny. I do not think this is what the Congress has in mind. But as we continue to pass bills with noble sounding goals but with subtle expansionist mandates we are building momentum for that eventuality. It is a point to ponder now before it becomes too late.

Turning to the actual program elements of the bill I have a number of objections.

Currently, there are 19 federally funded programs which provide some known form of domestic violence assistance to victims. In fiscal year 1979 alone, the amount which flowed either to victims or to service programs assisting victims was over $11.5 million.

In addition there are at least 12 other Federal programs which were funded at a fiscal year 1979 level of $30 billion which provide assistance to victims of domestic violence, but because of the nature of the programs, it is impossible to determine the exact amount going to such persons. These programs include the National Center on Child Abuse; title XX—Social Security Act; aid to families with dependent children; medicaid; title IV—Social Security Act (emergency assistance); low-rent public housing (HUD); section VIII—low-income housing assistance (HUD); legal assistance (LSC); CETA, titles II-D and VI; the women, infants and children supplemental food program; food stamp program; and the Bureau of Indian Affairs' social service division.

What we are considering today in H.R. 2977 is typical of many of the bills that have come before this Congress. Often our response to real needs is to create a new categorical program without looking at what services actually exist. This is exactly what the Domestic Violence Prevention and Services Act is—another categorical program which is not needed. There is no evidence if enacted and funded, domestic violence would be any less severe a problem because of the services that H.R. 2977 would provide.

In addition, there is evidence to suggest that we are putting the proverbial cart before the horse in considering this bill prior to receiving recommendations from several studies and task forces that are currently evaluating the Federal role in domestic violence assistance.

In April, 1979 President Carter established an Interdepartmental Committee on Domestic Violence which consisted of representatives from 10 Federal agencies. This group was commissioned to conduct a thorough study of existing services available to victims of domestic violence in federally funded programs. Each agency was required to report to the Office on Domestic Violence by November 30, 1979—just a few weeks ago. These results will be summarized and circulated in final form in early spring 1980. The survey is expected to show what existing programs are available to victims, whether or not there is need for coordination/consolidation of any of these programs, and whether or not there is additional need for new legislation.

In addition to the Interdepartmental Committee on Domestic Violence, the Civil Rights Commission began a study of services available to victims of domestic violence in January 1978. The Commission's study is more comprehensive than what is now being conducted by the Office of Domestic Violence, in that the Commission will attempt to get field reaction to the availability and accessibility of federally assisted programs, in addition to Washington, D.C. input. The Commission will be looking at 20 major Federal programs that offer some support for victims of domestic violence and will attempt to determine to what degree existing programs meet the needs and what improvements need to be made. Scheduled completion for this project is July 1980.

Finally, the office of Assistant Secretary for Planning and Evaluation in the Department of Health and Human Services is conducting a survey with operating officials in all 50 States and 100 communities in 15 States to determine the effectiveness of 10 Federal programs providing assistance to victims of domestic violence. The final report will attempt to show in a systematic way what problems exist in getting support to domestic violence victims; that is; lack of funding, need for technical assistance to States, and so forth. Scheduled completion for this project is October 1980.

What is clear from these studies is that no one in the Federal Government knows what specific needs there are for victims of domestic violence, what existing programs are or can do for the victims and where there is need for additional assistance. And so I ask, what is the hurry when we know that the most exhaustive evidence on the subject will be forthcoming in a few short months. The hearing record is clear in this aspect that we do not have all the data to show in what ways the Federal Government is involved or should be involved in providing domestic violence services.

Is this responsible legislating?

In addition to these existing services, there is legislation pending in at least two committees in the House and Senate that, if enacted, would provide additional support to victims of domestic violence. H.R. 3434, provides for an amendment to title XX of the Social Security Act, allowing funds to be used for temporary emergency shelter for adults. Children are eligible now for temporary emergency shelter under title XX. Shelter services cannot exceed 30 days in each 6-month period under the bill, but it would provide the needed expansion of current title XX services. Both the House and the Senate have adopted this legislation and conference is pending. H.R. 5907, an amendment to the Food Stamp Act, would allow victims of domestic violence which are residing in emergency shelters to be eligible for assistance under the food stamp program. These two examples demonstrate the need for cautious restraint until we can understand where we are going and what we are doing. H.R. 2977 would only add to the confusion if enacted before we understand what existing services are available or could be available shortly through other legislation.

Another argument supporters of H.R. 2977 have used to demonstrate the need for considering this legislation is the lack of available shelters for victims of domestic violence. In June 1979, the Center for Women Policy Studies published a handbook entitled "Programs Providing Services to Battered Women." In a State-by-State breakdown, there were 274 available and operating shelters for victims of domestic violence and an additional 204 available and operating service agencies which provide various types of aid including legal aid, counseling, referral, telephone hot line, housing and child care. Every State in the Nation, with the exception of two—New Hampshire and Wyoming—have operating shelters which provide emergency assistance to victims of domestic violence.

Although the administration testified in July that an official departmental position on H.R. 2977 would be forthcoming, it was as late as December 6 that President Carter issued a letter in support. It is known that the administration supports amending the existing title XX of the Social Security Act to allow those funds to go to emergency shelters, such as H.R. 3434 would provide. The administration's lengthy silence on this piece of legislation can only be interpreted as half-hearted support for it.

Finally I would like to discuss the weaknesses in this legislative proposal. Although somewhat of an improvement over the last legislative proposal presented on this subject, H.R. 2977 has several obvious weaknesses which I plan to address with amendments to the bill. First, H.R. 2977 would create an Interagency Council on Domestic Violence which is nearly identical to that which President Carter established last April and which will be reporting soon on its findings and recommendations. Seven of the departments and agencies included in the Interagency Council on Domestic Violence in H.R. 2977, were participants in President Carter's Interdepartmental Committee on Domestic Violence. This duplication is unnecessary and exemplifies how H.R. 2977 attempts to address needs which either in part or nearly in whole have already been addressed.

Second, H.R. 2977 provides that 15 percent of the funds appropriated under the bill would go to pay States to apply for domestic violence funds, to cover State administration costs, to provide technical assistance within the State and to enhance the State's media campaign which would be directed at providing information to individuals throughout the State. We are in a period of limited funds and we are talking about money to States so that they can apply for no strings attached money from the Government. This is ridiculous. In addition, if a State cannot come up with the money to administer a program that has no strings attached, it is questionable whether or not that State should receive money. Technical assistance has been provided through the Legal Services Corporation and the ACTION Agency. There is no need for additional support in this area. Finally, the Federal Government should allow States, at their own expense, to inform their residents of available services within the State. Limited Federal funds should not be used for informational sources.

I say we need to reevaluate our patterns of giving all to everyone. We have seen enough examples in this country of limited resources—in energy, raw materials, and other goods. The projected combined off-budget, on-budget Federal deficit now stands at $45 billion. Ours is an economy of unlimited need, but one of limited resources. In light of the existing Federal role in providing services to domestic violence victims and their dependents, I believe we must put these needs into the broader perspective of the whole. On one hand, we are faced with the desire to respond to the very real and devastating needs of victims of domestic violence. But on the other, we realize that we do not have the comprehensive data needed to draft sensible and responsible legislation.

Victims of domestic violence first turn to local authorities and then to the State for assistance in meeting their needs. The Federal response surely must be a compliment to the foundation of support which emanates from the State and local governments. To create any other program would not be of benefit to the person whose needs we are trying to serve. There is no way that the Federal Government can successfully alleviate the problems of domestic violence single-handedly. The seed money which the Federal Government has provided in existing programs has given the States enough impetus to begin their own programs in domestic violence prevention and service.

In addition to the broad range of existing services within the States, nearly every State in the Nation has or is involved in developing legislation which would deal with civil remedies, shelter services, data collection, police training, criminal statutes and proceedings, or other forms of legislation to assist in alleviating the problems of domestic violence. The Federal Government is far past the seed money stage in providing support for programs to victims of domestic violence. We need to stop, look and listen to what we already have before we add another categorical program. I urge my colleagues to oppose this legislative measure on the grounds that we will be receiving shortly information that could change the picture of what our real focus should be for this program.●

THE RETIREMENT OF JIM MARSHALL

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. VENTO. Mr. Speaker, it is with deep regret that I note a passing of an era in professional football—the retirement of Jim Marshall.

Amazing Jim, who will turn age 42 on December 30, has been the cornerstone of the Minnesota Vikings' famed "Purple People Eaters" defense for 19 years. The defensive end has never been sidelined by injury or sickness and by next Sunday he will have started all 270 games of the Vikings existence.

Jim, the NFL's only grandfather, is the only lineman to ever play the game for 20 years. During that time, Marshall set the NFL record for consecutive regular-season games played, which including this Sunday's game will be 282, a feat that will be difficult to match. He also holds the NFL mark for recovering 29 opponents' fumbles.

In the defensive captain's final game at Metropolitan Stadium last Sunday, Jim logged his first two quarterback sacks of the season as the Vikings defense dominated the high-powered offense of the Buffalo Bills. He played the final series as an offensive tackle and the Vikings' leader left the field on the shoulders of his teammates.

Throughout his many years in Minnesota, Jim has shown leadership on and off the field. He has been active in many charities including the Courage Center for handicapped individuals and the Vikings' Children Fund. Last week, Jim donated his game jersey which was auctioned off for $2,200 with the proceeds going to the Children Fund.

Jim Marshall will be leaving the Vikings with dignity, pride, and esteem. He is truly one of the few living legends in Minnesota. It has been both inspiring and pleasing to watch Jim play football, and I wish him the best of luck in his future endeavors.

At this time, I would like to bring to my colleagues' attention an article from the Minneapolis Star December 5, 1979, written by Bob Fowler:

AN END TO A GREAT STORY

(By Bob Fowler)

There is the Jim Marshall we see during Viking games—fighting opponents, playing with pain, applauding teammates, giving his all. Others know another side of the man, a side they see off the field.

And no two men know that Jim Marshall better than Fred Zamberletti and Stubby Eason, Zamberletti has been the team's trainer and Eason its equipment manager since 1961, when the franchise originated.

They became the last of the original Vikings when Marshall, the defensive end who has started every regular and post-season game for the team, announced his retirement Tuesday. He invited those long-time friends to his press conference.

"His streak amazed me because, during our early years, we didn't have winning teams," Zamberletti said. "It would have been easy for him to miss a game in those times. But he had fun in football.

"Once, he suffered a separated shoulder and we went toe to toe on the sideline. I wanted him out but he wanted to keep playing. And it was only an exhibition.

"He'd limp daily in practice and bounce on Sunday. He was like a thoroughbred getting excited before a big race.

"But twice he came close to dying. Once when we trained in Bemidji he was flipping grapes into his mouth and one stuck in his throat. They tried to remove it for 30 minutes at the hospital. Finally, the doctor said he'd try one more time and, if he didn't get it, he'd perform a tracheotomy. You should have seen the look on Jim's face when the doctor showed him the equipment for that operation. Before he could reach in a final time that grape popped out.

"Then during the off-season in 1969, he had a tonsillectomy with Mick Tingelhoff. Mick was up and about in two days. But Jim's throat kept bleeding. We almost lost him, but a doctor operated 3½ hours and stopped it."

"The first time I saw him I guessed he had a 34 waist," Eason recalled. "He said he wore a 32 regular. He was right and his pants are still that size.

"Once, he was going to parachute with

his uniform on and land on the practice field in Bemidji. I even sent his uniform to Minneapolis. But someone heard about that and stopped him.

"When I had my leg amputated, he was up the next day with the other team captains and gave me a color TV. You don't forget friends like that."

Zamberletti added, "He's the last of the old-time Vikings. Those guys went through a lot of adversity together and developed character.

"Jim was the leader. He'd go through drills in training camp and the rookies, with their tongues hanging out, would look at him in amazement. And he probably was doing it on four hours sleep.

"Whenever there was a party, Jim picked up the check. If the team wasn't going good, he'd have all the players over to his house for a party. Every Thanksgiving he had several black athletes to his home for dinner. I felt there was a lot of Jack Daniels consumed then and I once suggested we relax on that holiday and watch football on television. He said, 'Fred, you can't stop me from giving thanks to the Lord on Thanksgiving.'

"Carl Eller was his buddy. When Moose was a rookie, he got into a poker game and had a big pile of lettuce in front of him. Jim walked into the room, saw that money and got Moose out of the game right away. He wanted to protect Carl and the money for another party."

Like fans, Zamberletti and Eason vividly recall Marshall's wrong-way run with a fumble recovery in 1964.

"We were in San Francisco," Zamberletti said. "Jim was pursuing the quarterback who completed a pass. Then he chased the receiver, who fumbled the ball. That was how he got turned in the wrong direction. If he hadn't made a super play, if he hadn't been trying so hard, that run wouldn't have happened.

"Four or five days before, Marshall was telling Fran Tarkenton about the time he intercepted a pass for Ohio State and returned it for a touchdown. He said, 'Fran, there were 83,000 screaming cats in the stadium.' Well, Tarkenton was standing next to me and as we watched Jim running the wrong way he said. 'No one is going to catch him today, either; he's hearing those 83,000 screaming cats again.' "

"In 1968, there was a team meeting to split the playoff money," Eason said. Jim stood up and argued for Fred and me to get a share. Some objected. One said, 'Let's vote a share to Hugh McElhenny, too,' and another said, 'Give a share to the secretaries.' But Jim was very persuasive and very generous and we got shares.

"When he told us last week that he was going to retire, I wanted to cry. We'll never have another one like him." ●

TOWARD FREER POLITICAL DEBATE

HON. LIONEL VAN DEERLIN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 11, 1979

● Mr. VAN DEERLIN. Mr. Speaker, I am today introducing legislation to reform "equal time" provisions of the Communications Act as they apply to candidates for President and Vice President.

In recent years, broadcasting has become one of the most powerful forums for political discourse in this country—a vital link between the candidates and the voters. At no time is that link more critical than now, as the American people are about to perform their most important political act: the selection of a President and Vice-President.

To act responsibily, the public must have maximum information about the Presidential candidates and their positions on the issues. And yet our existing laws discourage, if they do not actually restrict, special campaign news coverage.

The legislation I am proposing removes those restrictions and encourages broadcast journalists to provide the maximum coverage that is so important for robust, wide-open political debate.

Section 315 of the 1934 Communications Act requires broadcasters to make available equal amounts of time at equivalent rates to all candidates for public office. Thus, if a station sells "spot time" to one candidate, it must sell comparable time to all other candidates for that office. If a station airs a special news documentary on one candidate, it must provide equal coverage to all other candidates for that office.

Unfortunately, equal time has come to mean minimal time. Clerks in broadcast stations keep meticulous accounts of the minutes sold to one candidate or another. Broadcast newsmen are often reduced to performing the same tedious exercise.

Let the accountants keep accounts. But let the news people cover news, especially during a Presidential campaign. In order to accomplish this, I am proposing legislation which would partly repeal section 315.

The legislation is limited to broadcast time that is not paid for by the candidate, and applies only to Presidential and Vice-Presidential candidates. It maintains broadcasters' equal-time responsibilities for other Federal, State, or local candidates. Section 315 requirements for paid political broadcasts would also remain in effect.

The bill should have several important consequences. For the first time, broadcast journalists would have the freedom to produce special documentaries, interviews and debates with no other restrictions than their editorial judgment. In other words, they would have—for the first time—full editorial parity with their colleagues in the print media.

Broadcast journalists enjoy some freedoms today. They can cover bonafide news events, such as press conferences and debates, without fear of triggering the equal-time requirements of section 315. Regularly scheduled news programs are also exempt. But the present law is so narrowly written that journalistic freedom is checked. For example, a regularly scheduled news program cannot deviate from its format or time slot without triggering equal opportunity requirements. The producers of "Meet the Press" could not plan a special prime-time edition with the front-running candidates without triggering section 315. The legislation I have introduced today would give broadcast journalists that freedom.

One of the most important goals of the first amendment is to insure full, free discourse during national campaigns. By partly repealing section 315, Members of Congress would cast their vote for improving the democratic process during its most critical hour.●

HOUSE OF REPRESENTATIVES—*Wednesday, December 12, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Hear my prayer, O Lord; give ear to my supplications. In Thy faithfulness answer me, in Thy righteousness.—Psalms 143: 1.

O Lord, You have promised to hear our prayer and heed our petition. In this moment of solitude we place before You our deepest concerns. We open our hearts to Your grace and commend to You our worries and fears, our anxieties and apprehensions, even our lack of belief. Strengthen our faith and make us stronger people.

Be with those with any need this day, the sick and infirm, those who do not have the freedom they deserve, with those who are alone or afraid or who are hungry and forgotten. In Your faithfulness, O Lord, hear our prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H.R. 1616. An act for the relief of Caroline M. Babcock;

H.R. 1888. An act for the relief of Kenneth and Jacqueline Traylar;

H.R. 1889. An act for the relief of Naomi Chen;

H.R. 2532. An act for the relief of Gail Williamson; and

H.R. 2594. An act for the relief of Lunette Joyce Clarke.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 241) entitled "An act to restructure the Fed-

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

eral Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4998. An act to amend the Federal Reserve Act to require that detailed minutes of Federal Open Market Committee meetings shall be published on a deferred basis.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 717) entitled "An act to extend the Federal Insecticide, Fungicide, and Rodenticide Act, for 1 year," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TALMADGE, Mr. STONE, Mr. LEAHY, Mr. STEWART, Mr. DOLE, Mr. LUGAR, and Mr. COCHRAN to be the conferees on the part of the Senate.

TO REESTABLISH THE RECONSTRUCTION FINANCE CORPORATION; TO MEET THE CHRYSLER AND SIMILAR PROBLEMS

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, for some years now we have been faced with the demand, and probably the need, to consider special legislation to meet various individual financial problems. Lockheed, the railroads, and New York City are major examples. Before us now is the need for loan guarantees to Chrysler. Do not pass judgment on that issue at this point.

What I would like to say is that I have studied this matter for many years and have had some experience here to know from the testimony which comes before our Committee on Appropriations that billions of dollars in guarantees and other obligations have been granted by various departments and agencies. In fact, the U.S. Government has committed more than $500 billion in guarantees, contracts, and treaties, which fall on top of the already massive $800 billion national debt.

It becomes apparent in most cases that neither the Government's agencies and departments, nor the Congress has the information essential to determining the ability to repay nor to take proper security, nor really to see that such huge commitments are handled in the best interest of the Government or even of the recipients. The Congress itself lacks the tools and personnel experienced in such matters to deal effectively with these problems in such a manner as to help each recipient—individual, small business, or large business—to get its financial affairs in order.

When we realize that through the Farmers Home Administration and the Small Business Administration by acts of Congress we made these guarantees without authority to get the required information or to give supervision, or to see that these problems are straightened out, it is obvious that improvements must be made. I have gone back and brought forth a law with which I have had some familiarity when I practiced law—the Reconstruction Finance Corporation.

After holding hearings previously in connection with this Corporation, I introduced on November 16, H.R. 5920, a bill to reinstate a Reconstruction Finance Corporation-type of Government Corporation. I address this subject in the CONGRESSIONAL RECORD, November 16, 1979, p. 32862. I call this to the Members' attention because I am convinced that we should move now to have a Corporation which would have the right of information and also the right of inspection, the right of requiring certain commitments, the power to accept mortgages, to assess the value of assets, and so forth. We have had experience with the Reconstruction Finance Corporation in its latter days, the Commodity Credit Corporation, and the Export-Import Bank. All of those were designed to be positive solutions to difficult business-economic problems.

So far as bookkeeping is concerned, it is deceptively simple for the Government to guarantee a loan. I am convinced that we must do better than just continuing to guarantee loan after loan without any mechanism to look at the problem in its entirety.

Mr. Speaker, may I say now is the time to do it and establish this $5 billion Corporation, which I would propose that we reinstitute so that we may prevent problems instead of having to try to bail out after it is too late.

I am calling my colleagues' attention not specifically to the Chrysler situation, but to the general pattern of bailouts and our limited abilities to deal with them through existing institutions. I am thoroughly convinced that only by creating a Government Corporation somewhat similar to the RFC can we adequately meet the national interest in Chrysler-type problems in a positive, aggressive manner.

My purpose today is to urge my colleagues to give consideration to this comprehensive approach. I recognize that the time remaining to act on Chrysler is growing short. However, we should be careful not to commit the United States on an indefinite basis to the problem now being faced by Chrysler nor should we operate forever in such matters on the basis of Government guarantees.

CLARIFICATION OF IMMIGRATION AND NATIONALITY ACT AS IT AFFECTS NONIMMIGRANT ALIEN STUDENTS IS IMPERATIVE

(Mr. HIGHTOWER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HIGHTOWER. Mr. Speaker, clarification of the Immigration and Nationality Act as it affects nonimmigrant alien students is imperative in light of yesterday's district court ruling declaring the administration's nationwide check on visas of Iranian students unconstitutional.

The bill I introduced on November 7, H.R. 5813, would clarify the issue. The bill, which now has 67 cosponsors, would provide for the deportation of nonimmigrant alien students who knowingly participated in a violent political demonstration or otherwise participated in activities inconsistent with the terms of their admittance to the United States. It should be emphasized that the bill would apply equally to all nonimmigrant alien students.

I have written to the chairman of the House Judiciary Committee asking that he commence hearings on the bill. The opinion seemed to be that such hearings should be postponed until the tragic hostage situation is resolved, and I had concurred with those feelings. However, yesterday's ruling casts a different light on the subject, and I believe hearings would offer the best and most immediate forum for clearing the air on this admittedly complex issue and could lead to formulation of amendments to the Immigration and Nationality Act that could eliminate the prolonged uncertainty of continued litigation.

□ 1010

DEMONSTRATION OF ELECTRONIC IDENTIFICATION DEVICE

(Mr. PASHAYAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PASHAYAN. Mr. Speaker, recently technology has been developed to provide quick and reliable positive verification of a person's identity.

Through the use of this new invention, an inexpensive and portable system is now available. This system works in conjunction with an identification card bearing an individual's fingerprint. A person presents a card at the point where he wishes to gain access to a given location or obtain a particular service. The system operator then takes an onsite fingerprint of the bearer, using a simple, fast, inkless process. The machine compares the two. If the prints do not match, the machine will so indicate in roughly 10 seconds or less, putting the operator on notice that he is dealing with an imposter.

The machine's inventor is here to demonstrate the capability of the electronic machine for the Members of the House and staff. Any who would like to view this device may do so today between 1:30 and 2:30 p.m. in room 1310 of the Longworth House Office Building.

GENERAL LEAVE

Mr. ADDABBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter and tabulations on the conference report, H.R. 5359, making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

CONFERENCE REPORT ON H.R. 5359, DEPARTMENT OF DEFENSE APPROPRIATIONS, 1980

Mr. ADDABBO. Mr. Speaker, pursuant to the unanimous-consent request granted yesterday, I call up the conference report on H.R. 5359, making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from New York?

Mr. ICHORD. Mr. Speaker, I reserve the right to object.

The SPEAKER. The gentleman from Missouri reserves the right to object to the reading of the statement in lieu of the report.

Mr. ICHORD. Reserving the right to object I would like to direct an inquiry to the chairman of the committee. This is a Defense appropriations bill, is that correct?

Mr. ADDABBO. That is correct.

Mr. ICHORD. I just walked in and I did not understand what was the parliamentary situation.

Mr. Speaker, I direct the attention of the gentleman to amendment 56 which follows an unusual procedure both authorizing and appropriating in an appropriations bill. The gentleman reports it to be in technical disagreement.

Mr. Speaker, is the gentleman from New York going to insist that that amendment be adopted?

Mr. ADDABBO. That will be a House position in lieu of the conference we had with the Senate and insistence by the Senate.

PARLIAMENTARY INQUIRY

Mr. ICHORD. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ICHORD. Amendment 56 reported in technical disagreement contains an unusual procedure of authorizing and appropriating in this appropriation bill. It is my intention to raise a point of order. At what particular point in time should the point of order be raised? I would ask the Chair.

The SPEAKER. After the adoption of the conference report and when the gentleman from New York makes the motion concerning Senate amendment 56.

Mr. ICHORD. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of December 11, 1979.)

Mr. ADDABBO (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The gentleman from New York (Mr. ADDABBO) will be recognized for 30 minutes, and the gentleman from Alabama (Mr. EDWARDS) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New York (Mr. ADDABBO).

Mr. ADDABBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the conferees on the Department of Defense appropriations bill for fiscal year 1980 have completed their deliberations and have filed a conference report. The conferees considered some 900 individual line items which were in conference. The sheer magnitude of evaluating the House and the Senate positions on this many items is tremendous. In my first experience as chairman of the House conferees on the Defense appropriations bill, I much appreciated the untiring efforts of the chairman of the Senate conferees, Mr. STENNIS of Mississippi, and his unflagging efforts to reach compromises on many difficult items and the cooperation of our House conferees.

The conference agreement provides new obligational authority for the Department of Defense totaling $130,981,290,000. This amount is $1,339,275,000 less than the total requested by the President The conference agreement is $1,457,712,000 above the bill as passed the House and $679,469,000 under the Senate bill. The amount provided for fiscal year 1980 is over $10 billion more than the amount provided to date for fiscal year 1979 and we anticipate additional supplemental requests for fiscal year 1980 next year.

In addition to the new obligational authority provided, the Defense Department is given authority to use funds from foreign sales and funds transferred from other accounts totaling some $370,000,000 for a total funding availability of $131,351,876,000.

The distribution by military service is as follows:

[In billions of dollars]

Army	$ 31.7
Navy	44.2
Air Force	38.1
Defense agencies	5.5

The bill carries $11.5 million for retired pay for military personnel.

□ 1020

Quite frankly I had hoped that we could agree on appropriating a lesser amount for the Defense Department. I think that the Department of Defense would be quite adequately funded with considerably less money if those funds were properly applied and if waste and mismanagement could be reduced. I believe the conferees were concerned over the situation in Iran and where that might lead, over the recent revelation that there are Soviet combat troops in Cuba, and the Senators were especially concerned over issues arising out of the debate on the strategic arms limitation talks.

I believe that Members can generally support the bill. Those who favor reductions in defense spending will be pleased by the $1.3 billion reduction which has been achieved in spite of unrest in many parts of the world. Those who believe in an increase in defense spending can look at the more than $10 billion increase over the previous fiscal year with promises of more to come. I think that all Americans can see in this appropriation of $131 billion the continuing determination of the United States to defend itself, to play its proper role in world affairs, and to not be intimidated by any other nation or group of nations. We have taken some major steps forward in providing new modern equipment for our military forces, and emphasis on modernizing and improving our National Guard and Reserve Forces. Mr. Speaker if this conference report is not adopted defense spending will be reduced to the 1979 level for at least half of fiscal year 1980 under the continuing resolution.

I will review some of the highlights of the agreements reached in conference. The conference report itself is quite detailed and I shall not dwell at length on those details.

Under permission granted, I submit a summary tabulation of the agreements reached and a detailed discussion of the various titles of the bill.

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	1979 enacted	1980 estimates	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
RECAPITULATION									
Title I—Military personnel	$28,609,541,000	$29,096,400,000	$28,710,231,000	$28,853,721,000	$28,768,901,000	+$159,360,000	−$327,499,000	+$58,670,000	−$84,820,000
Title II—Retired military personnel	10,268,500,000	11,451,500,000	11,451,500,000	11,451,500,000	11,451,500,000	+1,183,000,000			
Title III—Operation and maintenance	37,885,815,000	42,710,571,000	41,031,759,000	41,945,195,000	41,713,497,000	+3,827,682,000	−997,074,000	+681,738,000	−231,698,000
Rescission of fiscal year 1979 funds				(−30,000,000)					(+30,000,000)
Title IV—Procurement	31,601,116,000	35,420,200,000	34,941,741,000	35,998,808,000	35,528,139,000	+3,927,023,000	+107,939,000	+586,398,000	−470,669,000
Proceeds from foreign sales			(106,000,000)	(106,000,000)	(106,000,000)	(+105,000,000)	(+106,000,000)		
Transfer from other accounts	(187,100,000)		(282,600,000)	(192,100,000)	(202,700,000)	(+15,600,000)	(+202,700,000)	(−79,900,000)	(+10,600,000)
Title V—Research, development, test, and evaluation	12,354,262,000	13,571,000,000	13,318,553,000	13,341,741,000	13,449,459,000	+1,095,197,000	−121,541,000	+130,906,000	+107,718,000
Transfer from other accounts	(15,000,000)	(20,100,000)	(61,886,000)	(66,886,000)	(61,886,000)	(+46,886,000)	(+41,786,000)		(−5,000,000)

	New budget authority					Conference compared with—			
	1979 enacted	1980 estimates	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
Title VI—Special foreign currency program	$14,362,000	$6,667,000	$6,667,000	$6,667,000	$6,667,000	−$7,695,000			
Working capital funds	100,800,000					−100,800,000			
Title VII—General provisions (additional transfer authority, sec. 734)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
Title VIII—Related agencies	55,500,000	64,227,000	63,127,000	63,127,000	63,127,000	+7,627,000	−$1,100,000		
Total, Department of Defense (NLA)	120,889,896,000	132,320,565,000	129,523,578,000	131,660,759,000	130,981,290,000	+10,091,394,000	−1,339,275,000	+$1,457,712,000	−$679,469,000
Proceeds from foreign sales			(106,000,000)	(106,000,000)	(106,000,000)	(+106,000,000)	(+106,000,000)		
Transfer from other accounts	(202,100,000)	(20,100,000)	(344,486,000)	(258,986,000)	(264,586,000)	(+62,486,000)	(+244,486,000)	(−79,900,000)	(+5,600,000)
Rescission of fiscal year 1979 funds				(−30,000,000)					(+30,000,000)
Total funding available	121,091,996,000	132,340,665,000	129,974,064,000	132,025,745,000	131,351,876,000	+10,259,880,000	−988,789,000	+1,377,812,000	−673,869,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
Distribution by organizational component:									
Army	30,298,771,000	32,872,600,000	31,430,949,000	32,048,385,000	31,724,306,000	+1,425,535,000	−1,148,294,000	+293,357,000	−324,079,000
Transfer from other accounts	(70,000,000)		(113,600,000)	(50,500,000)	(61,100,000)	(−8,900,000)	(+61,100,000)	(−52,500,000)	(+10,600,000)
Navy	41,072,304,000	43,573,613,000	43,579,717,000	44,393,724,000	44,181,149,000	+3,108,845,000	+607,536,000	+601,532,000	−212,575,000
Transfer from other accounts	(15,000,000)		(146,886,000)	(140,086,000)	(135,086,000)	(+120,086,000)	(+135,086,000)	(−11,800,000)	(−5,000,000)
Rescission of fiscal year 1979 funds				(−30,000,000)					(+30,000,000)
Air Force	34,266,732,000	38,686,800,000	37,722,712,000	38,174,922,000	38,086,390,000	+3,819,658,000	−600,410,000	+363,678,000	−88,532,000
Proceeds from foreign sales			(106,000,000)	(106,000,000)	(106,000,000)	(+106,000,000)	(+106,000,000)		
Transfer from other accounts	(117,100,000)	(20,100,000)	(84,000,000)	(68,400,000)	(68,400,000)	(−48,700,000)	(+48,300,000)	(−15,600,000)	
Defense agencies/OSD	4,928,089,000	5,671,825,000	5,275,573,000	5,529,101,000	5,474,818,000	+546,729,000	−197,007,000	+199,245,000	−54,283,000
Retired military personnel	10,268,500,000	11,451,500,000	11,451,500,000	11,451,500,000	11,451,500,000	+1,183,000,000			
Related agencies	55,500,000	64,227,000	63,127,000	63,127,000	63,127,000	+7,627,000	−1,100,000		
Total, Department of Defense NOA	120,889,896,000	132,320,565,000	129,523,578,000	131,660,759,000	130,981,290,000	+10,091,394,000	−1,339,275,000	+1,457,712,000	−679,469,000
Proceeds from foreign sales			(106,000,000)	(106,000,000)	(106,000,000)	(+106,000,000)	(+106,000,000)		
Transfer from other accounts	(202,100,000)	(20,100,000)	(344,486,000)	(258,986,000)	(264,586,000)	(+62,486,000)	(+244,486,000)	(−79,900,000)	(+5,600,000)
Rescission of fiscal year 1979 funds				(−30,000,000)					(+30,000,000)
Total funding available	121,091,996,000	132,340,665,000	129,974,064,000	132,025,745,000	131,351,876,000	+10,259,880,000	−988,789,000	+1,377,812,000	−673,869,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				

MILITARY PERSONNEL

There are few areas of the defense bill more important than those that fund people-related programs. The conferees worked diligently to insure an equitable balance between the package of benefits promised to our servicemen and women and the need to provide these benefits at the lowest possible cost to the taxpayer.

This bill provides $40,220,401,000 for active, Reserve, and retired military pay. This is a reduction of $327,499,000 to the budget request, compared with a reduction of $386,169,000 proposed in the House-passed bill and a reduction of $242,679,000 as proposed by the Senate-passed bill.

The House version of this bill placed certain restrictions on the numbers of military dependents permitted to be overseas in the event of war. Since the House first considered this bill, the Department of Defense has gotten the message and greatly improved their evacuation planning. I have personally met with our overseas commanders and enlisted personnel and their families and discussed the evacuation problem. Additionally, the fiscal year 1980 armed services authorization bill addressed this area. I am convinced that the conferees on this bill acted wisely in removing the restrictive House language.

In other personnel programs, we provide for: reorganization of the Army recruiting structure; realinement of the defense veterinary medicine functions; selective retention of qualified twice-passed-over officers with skills in shortage areas; extending from 3 years to 4 years the length of time that an ROTC unit may be below required enrollment before being disestablished; and continued the prohibition included last year on expanding competitive rate program to Alaska and Hawaiii.

GUARD AND RESERVE FORCE

In recent years, increased emphasis has been placed on improving our Guard and support available to Army Guard and Reserve forces. This bill is no exception. Funds are included to keep the Navy Reserve strength at 87,000 and to retain 20 Navy Reserve destroyers in fiscal year 1980. An increase of $12.3 million is included to expand the amount of full-time support available to Army Guard and Reserve units. At the same time, the conferees agreed that the various overlapping and inefficient management layers in the Army reserve component structure should be realined to a considerable savings over the next few years. Additionally, this bill provides for the procurement of two C–9B aircraft for the Navy Reserve airlift mission; 15 AHJ1S Cobra/Tow helicopter gunships for the Army Guard; and 8 C–130 and 12 A–7K to enhance the airlift and attack capability of the Air Guard.

OPERATION AND MAINTENANCE

The conferees agreed on a total of about $41.7 billion for the numerous items contained in the bill for operation and maintenance. This is about $682 million more than the House had provided and $232 million less than the Senate had provided. The amount provided is some $3.8 billion more than the amount provided for fiscal year 1979 and we still have civilian pay raises to finance next spring. In addition, it is possible that further fuel price increases will also increase the amount required in the supplemental as will the Navy's increased presence in the Persian Gulf. These items remain issues that will have to be resolved next spring through supplementals and reprogramings.

SERVICE SUPPORT CONTRACTS

A major difference between the House and Senate in the operation and maintenance portion of the bill centered on the $300 million reduction made by the House to employ consultants provided for management support contracts and service engineering contracts. The House had allocated most of the reduction about $270 million against the Air Force based upon data provided by the Air Force. The Senate made a reduction of $100 million but allocated it much differently. The conference agreed to a reduction of $150 million for these personnel services allocated as follows:

[*In millions of dollars*]

Army	−$25
Navy	−35
Air Force	−85
Defense Agencies	−5

The House bill recommended major reductions in payments for overtime and the use of sick leave by civilian employees. The House bill had recommended a reduction of $113.1 million in overtime payments. In conference it was agreed to adopt the Senate reduction of $50.0 million, thereby restoring $63.1 million. The conferees also agreed to restore about one-half of the $98.0 million in disability and sick leave pay adjustments made by the House.

FOREIGN NATIONAL EMPLOYEE PAY RAISES

The House passed bill included a section limiting pay raises for foreign national employees to 7 percent. The conferees agreed to delete this section, but did not restore the funds to provide pay raises in excess of 7 percent. This was done to encourage the DOD to negotiate constrained pay raises with the host governments and to encourage the host governments to help offset these pay increases.

FOREIGN CURRENCY FLUCTUATION, DEFENSE

The conferees also agreed to add an additional $100 million to the special fund established to offset the effects of changes in "value" of the dollar versus other currencies. The House had provided $370 million instead of the full $470 million requested and provided by the Senate.

INTELLIGENCE AND INTELLIGENCE RELATED ACTIVITIES

The conferees agreed to reductions of $58.8 million for intelligence activities instead of reductions of $105.6 million as proposed by the House and reductions of $113.3 million as proposed by the Senate. The amounts approved will provide for an adequate intelligence capability—with special emphasis on SALT verification—while deleting or deferring lower priority intelligence activities which are not required at this time.

The conferees agreed to reductions of $239.5 million for intelligence related activities instead of reductions of $356.8 million as proposed by the House and reductions of $120.5 million as proposed by the Senate. The conferees are in agreement that DOD must give greater attention to management of intelligence related activities and have provided personnel and funds above the budget request in order to achieve this objective.

The reasons for the reductions in intelligence and intelligence related activities are explained in a classified annex to the conference report.

During the conference, report language was proposed by a Senate conferee with regard to the use of commercial ships by the Navy. The conference agreed to include the language but it was inadvertently omitted from the printed conference report. That language is as follows:

> The conferees request that the Secretary of the Navy carefully study the concept of using commercial platforms as station ships, shuttle ships and mobile POL depot ships and consider requesting from the appropriate committees of Congress any additional funds that he thinks necessary to test this concept in the near future. The conferees believe that such a test will be helpful to the Congress in determining future funding requirements for Navy tankers and oilers.

PROCUREMENT

The bill contains $35,836,839,000 in total funding available for the procurement appropriations for fiscal year 1980, which is an increase of $4,048,623,000 over the amount made available for procurement in the current fiscal year, and an increase of $416,639,000 over the fiscal year 1980 budget estimate.

The total funding made available for the Army is $6,654,047,000, an increase of $517,388,000 over the current fiscal year and $469,353,000 less than the fiscal year 1980 budget estimate.

The conference agreement includes funds for 10 C–12 aircraft, 15 AH–1S Cobra/Tow gunships, 1,764 rockets for the general support rocket system, 296 M548 carriers, 64 new M60 tanks, 352 XM–1 tanks, and kits to modify and upgrade 687 M60 tanks. We also agreed to provide $18.2 million to terminate the tactical fire direction system (TACFIRE) and deleted the funds for the universal engineer tractor. In addition, the bill contains funding for EH–60A Black Hawk helicopters; Hawk, Roland, Stinger, and Tow missiles; and $225,400,000 to fully fund fighting vehicle systems.

The total funding made available for the Navy is $15,994,551,000, an increase of $1,570,051,000 over the current fiscal year and an increase of $900,651,000 over the fiscal year 1980 budget estimate.

The conferees agreed to fund 30 F–14 aircraft, 25 F–18 aircraft, 2 C–9B aircraft, 3 antiship and 3 land attack versions of the Tomahawk cruise missile, 144 MK–48 torpedoes. 2 SSN–688 class nuclear-powered attack submarines, 1 T–AGOS SURTASS ocean surveillance ship, and advance procurement for LSD–41, a new class amphibious ship. In addition, the bill contains funding for A–6E, EA–6B, E–2C, and UC–12B aircraft and CH–53E helicopters; Trident I, Sparrow, Sidewinder, Phoenix, Harpoon, Standard, and TOW missiles; MK–46 and MK–60 Captor torpedoes, and MK–15 close-in-weapon systems; a Trident submarine, a CVN–71 nuclear-powered aircraft carrier, a DDG–47 AEGIS destroyer, and 6 FFG–7 class frigates.

The total funding made available for the Air Force is $12,908,056,000—including $106,000,000 in proceeds from foreign sales, an increase of $1,955,599,000 over the current fiscal year and a decrease of $844,000 below the fiscal year 1980 budget estimate.

The conference agreement included funds for 12 A–7K aircraft, 8 C–130 aircraft, kits to modify 3 EF–111 aircraft, $5 million in procurement and $10 million in research and development for the KC–135 reengining program, $38.6 million for the CRAF program, and an additional $75.4 million for F–100 engine initial and replenishment spares. In addition, the bill contains funding for A–10, F–15, F–16, KC–10A, E–3A, and TR–1 aircraft; 225 air launched cruise missiles, as well as Sparrow and Sidewinder missiles and various satellite programs.

The bill also contains $280,185,000 for defense agencies, an increase of $5,585,000 over the current fiscal year and a decrease of $13,815,000 below the fiscal year 1980 budget estimate.

RESEARCH, DEVELOPMENT, TEST AND EVALUATION

The bill includes funding for nearly 1,000 individual research, development, test and evaluation (R.D.T. & E.) programs, of which more than 150 were considered in conference. The total funding made available in the bill is $13,511,345,000. This total is an increase of 9.2 percent over the $12,369,262,000 provided last year for R.D.T. & E. It is a decrease of $79,755,000 from the budget request.

Total funding available for Army R.D.T. & E. is $2,855,331,000, an increase of 8.1 percent over the $2,640,864,000 provided last year for this purpose. It is a decrease of $71,669,000 from the budget request. Among the major Army R.D.T. & E. programs funded at the full authorized amounts are ballistic missile defense, advanced attack helicopter, Pershing II, Patriot and general support rocket system.

Total funding available for Navy R.D.T. & E. is $4,553,319,000, an increase of 1.5 percent over the $4,486,871,000 provided last year for this purpose. It is an increase of $69,319,000 over the budget request. Among the major Navy R.D.T. & E. programs funded at the full authorized amounts are fleet ballistic missile system, Lamps MK III, AV–8B, and Tomahawk.

Total funding available for Air Force R.D.T. & E. is $5,023,173,000, an increase of 16.2 percent over the $4,321,040,000 provided last year for this purpose. It is a decrease of $36,927,000 from the budget request. Among the major Air Force R.D.T. & E. programs funded at the full authorized amounts are the M–X missile, air and ground launched cruise missiles, NAVSTAR global positioning system, and very high speed integrated circuits.

Total funding available for defense agencies R.D.T. & E. is $1,037,022,000, an increase of 15.4 percent over the $892,887,000 provided last year for this purpose. It is a decrease of $49,578,000 from the budget request. Of this total, $627,925,000 has been provided for technology base efforts.

Overall, in the technology base area, the services and agencies have been provided an aggregate total of $2,262,921,000, an increase of 14.0 percent over the $1,985,512,000 provided last year. This increased support will allow continuation, and in some cases expansion, of the basic research efforts of the Department.

Mr. EDWARDS of Alabama. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think the conferees have done a credible job. The Members of the House, in my opinion, should be proud of the work that has resulted in this conference report. I urge its adoption.

Mr. Speaker, I have no requests for time.

Mr. ADDABBO. Mr. Speaker, I yield such time as he may consume to the gentleman from Mississippi (Mr. Montgomery).

Mr. MONTGOMERY. Mr. Speaker, I would like to thank the committee on the conference report for giving support that was authorized in the defense authorization bill pertaining to new aircraft for the Air Guard and new helicopters for the Army Guard. As I understand it, these planes were kept in the bill.

I want to compliment the gentleman and the ranking Member on the minority side and other Members of the conference committee for one of the first times moving and giving the Guard and Reserve new aircraft to work with, instead of hand-me-downs.

Mr. ADDABBO. Mr. Speaker, I thank the gentleman for his kind words and I thank the gentleman for all his cooperation and guidance.

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman.

● Mr. WHITTEN. Mr. Speaker, my friend Joe Addabbo has done a good job of reviewing the conference action. I would like to present some views I have developed with regard to our defense structure.

In my opinion, the greatest problem facing the United States is runaway inflation, inflation which feeds on itself in an ever increasing spiral. Other countries have been wrecked by inflation and ours can be too if we do not learn how to live within our means.

One of the greatest drains on our economy is the large standing military force we have had ever since World War II. No nation can forever survive the economic pressures of maintaining very large military forces of the type we have in peacetime. Military spending which does not add to the production of goods and services for the marketplace is basically inflationary.

I know about the Soviet military growth and the threat of world communism. Of course, we must have military forces but they can be of a different mix than our forces today.

It seems to me, that for the long hand, we need to put more emphasis on the citizen soldier, the guardsman and the reservist, and less on the active duty establishment. I have been to the Soviet Union where Army trucks are used for agricultural purposes, where civilian tankers are used to refuel naval ships, and where many other civilian-type efforts are performed by military personnel. Thus, the military make a contribution to the economic life of the country rather than just being a drain.

In our country, this is achieved by the guard and the reserve who work at regular jobs and perform military functions in addition to those jobs.

It has been said that the drilling reservists cost the taxpayer more money than does the active duty member because we have to pay the reservist for a full day's pay when he only works 4 hours, one drill period. Analysis has shown that when you include all the fringe benefits which the active duty members receive and that are not available to the drilling reservist, the reservist costs less than the active duty member on a per hour basis.

Full-time Guard and Reserve personnel are able to accomplish more work for each day's pay than is the Active Force member because the typical technician tends to stay at one job long enough to really know how to do it. The guardsman/technician is not constantly moving from location to location and from job to job. Thus, he tends to be better trained and far more efficient at doing his job.

Our Active Force, in the All-Volunteer Force environment, is spending additional hundreds of millions of dollars annually for such items as contractors to perform KP duties (kitchen police), to provide free baby-sitting services, enlistment bonuses, reenlistment bonuses, special education programs of all types and so forth. Despite all of this, there is considerable uncertainty as to just how well the All-Volunteer Force will perform in a combat situation.

This All-Volunteer Force has a lot of problems in addition to its increased cost. For example, despite the fact that we have more than a division's worth of people (some 20,000-plus) and spend more than three-quarters of a billion dollars each year doing recruiting work for the Active Forces, we must rely heavily on women volunteers to meet recruiting goals. Do not get me wrong, I have nothing against women, but current law does not permit them to be used in combat jobs. This results in the limited number of men who can be recruited having to bear a greater proportion of the less sought after jobs.

In addition, all the military components, including the Reserve and Guard, are having an exceedingly tough time recruiting qualified people. There has been one recruiting scandal after another since the All-Volunteer Force went into effect in 1973. There have been faked high school diplomas, forged documents attesting to general educational development, cheating on entrance exams and innumerable claims by recruits that the promises made by the recruiter were not being honored. The situation has gotten so out of hand that the Marine Corps has to tape interviews with the recruit/applicant to prove that he speaks English since so many men recruits were getting out after a short time on the pretense that they did not speak English.

When we went into this All-Volunteer Force, it was claimed that since the personnel in the active forces would be volunteers they would tend to stay longer and be more dedicated. Well, that has not proved to be the case. Nearly 40 percent of all enlisted volunteers do not complete their first enlistment. This all leads one to ask just what kind of an active military force does the Nation have today? Can it do the job? Weapons, communications and all of the equipment used in combat today is increasingly more complex. When we have a greater number of new recruits without high school degrees and increased loss of our experienced people, we must expect a less effective fighting force.

If you add up the land occupied worldwide by U.S. military facilities, the total reaches approximately 45,000 square miles. Imagine an entire State being turned over to the Department of Defense as a military base and you can get an idea of the land required to support our national Defense effort. The Army's Fort Irwin in California alone occupies an area the size of Rhode Island.

DOD currently has 2 million military personnel on active duty, another 800,000 in the Guard and Reserve, 1 million civil servants, 1,300,000 people drawing military retirement checks, and another 2 million people in private industry dedicated solely to defense contracts. Excluding those people who may fall into more than one of the above categories, there are over 6 million additional people whose pay checks are dependent upon the Department of Defense and, of course, ultimately the taxpayer. That is about twice as many people as in the entire State of Mississippi.

The fiscal year 1980 budget request by the President for National Defense requires about 25 percent, $1 out of every $4 spent by the Federal Government. The question is how much defense do we get for our dollars.

Pay and allowances for one active duty military person costs over $13,000 per man per year. The personnel costs for a single Guard or Reserve member is less than $3,000 per year. When this favorable cost ratio is carried beyond the personnel expenses into the operation and maintenance area, our Guard and Reserve components give us the most bang for the buck. The Congress recognizes this fact and has approved increases in full-time manning support to the Guard beginning this year. Last year, for the first time we appropriated $25 million in enlistment and reenlistment bonuses for the Guard and Reserve components.

Included in the $130 billion plus appropriated this year for the Department of Defense are some $2 to $3 billion to employ Government employees who do not really work for the Government. I am referring to consultants, management service personnel, engineering service personnel, and others who provide personal services. On the surface, it would appear that the numbers of civilian employees of the Department of Defense has declined during the 1970's from about 1,100,000 to 980,000. However, this decline has been more than offset by gains in invisible contract employees.

A recent study concluded that the budget of the largest departments support four Government workers who do not work directly for the Federal Government for everyone who shows up on the payrolls. There is simply no way to gain control of Government spending by reducing the numbers of employees on the payroll and limiting their pay raises while continuing to fund an ever increasing number of invisible Federal employees and give them pay raises via the indirect contract method that are significantly higher than those provided to Government employees.●

Mr. ADDABBO. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 4: Page 3, line 12, strike out "$430,225,000,", and insert "$431,905,275,000".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 4 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$7,863,817,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 18: Page 11, line 8, strike out "$430,225,000,", and insert "$431,107,000,".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 18 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$429,407,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 19: Page 11, line 25, strike out "$801,220,000," and insert "$797,350,000".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 19 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$797,150,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 23: Page 15, line 17, strike out "$982,837,000" and insert "$1,000,437,000,".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 23 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$961,837,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

Mr. ADDABBO. Mr. Speaker, I know of no objection to amendments numbered 27 through 53; so in the interest of time, I would ask unanimous consent that amendments numbered 27 through 53 be considered en bloc.

The SPEAKER. In the opinion of the Chair, a request of that type is not in order, because the motions are not in accord.

The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27: Page 18, line 11, strike out "$1,243,800,000" and insert "$1,234,100,000,".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$1,232,800,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 31: Page 19, line 24, strike out "$4,601,293,000" and insert "$4,518,000,000,".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$4,441,446,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 42: Page 23, line 20, insert:

(INCLUDING TRANSFER OF FUNDS)

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 42 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

"(INCLUDING TRANSFER OF FUNDS)

"In addition to any other funds authorized to be appropriated under this heading, there is hereby authorized to be appropriated during fiscal year 1980 an additional amount of $75,400,000 only for the procurement of F–100 engine initial and replenishment spare parts."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 44: Page 24, line 10, insert "and in addition, $13,800,000, which shall be derived by transfer from "Aircraft Procurement, Air Force, 1979/1981",".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 44 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 45: Page 25, line 16, strike out "$2,170,485,000" and insert "$2,175,200,000,".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 45 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$2,160,385,000".

The motion was agreed to.

□ 1030

The SPEAKER. The Clerk will report the next amendment.

The Clerk read as follows:

Senate amendment No. 47: Page 26, line 17, strike out "$2,534,373,000" and insert "$2,633,731,000,".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 47 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following "$2,634,031,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 52: Page 28, line 1, strike out "$2,817,674,000" and insert "$2,785,309,000,".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 52 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: $2,853,331,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 53: Page 28, line 12, strike out "$4,478,081,000" and insert $4,536,337,000,".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 53 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: $4,537,433,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 55: Page 28, line 24, strike out "$4,913,012,000" and insert $4,892,043,000,".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 55 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: $4,941,943,000".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 56: Page 29, line 7, insert: None of the funds appropriated under this paragraph to continue development of the MX Missile may be used in a fashion which would commit the United States to only one basing mode for the MX missile system.

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert:

None of the funds appropriated under this paragraph to continue development of the MX missile may be used in a fashion which would commit the United States to only one basing mode for the MX missile system.

In addition to any other funds authorized to be appropriated under this heading, there is hereby authorized to be appropriated during fiscal year 1980 an additional amount of $5,000,000 only for research and development on the Perimeter Acquisition Radar Attack Characterization System (PARCS).

POINT OF ORDER

Mr. ICHORD. Mr. Speaker, I have a point of order.

The SPEAKER. The gentleman will state it.

Mr. ICHORD. Mr. Speaker, I make a point of order against the motion offered by the gentleman from New York (Mr. Addabbo) for the reason that this calls for an authorization. The amendment calls for an authorization in an appropriation bill.

For that reason, Mr. Speaker, the amendment is not germane, and I would point out for the edification of the Chair that the authorization for the PARCS radar was rejected by both the Committee on Armed Services of the House and the permanent Select Committee on Intelligence of the House, which are the authorizing committees for this particular weapons system.

Mr. ADDABBO. Mr. Speaker, I wish to be heard on the point of order.

The SPEAKER. The Chair will hear the gentleman.

Mr. ADDABBO. Mr. Speaker, I would hope that the gentleman from Missouri (Mr. Ichord) would not insist on his point of order.

We realize that this is authorization on an appropriation bill, but it is insisted on by the Senate chairman of the conference committee, Senator Stennis of Mississippi, who is also the chairman of the Senate Armed Services Committee. The Senate insisted on this item in the conference. They insisted on the funding.

Senator Stennis, in protecting the authorizing committee, felt that if the Senate was going to insist on this, it should be included in the conference and it should be authorized. Therefore, he insisted on the authorizing language.

So, Mr. Speaker, I do concede the point of order, but I would hope the gentleman from Missouri (Mr. Ichord) would not insist on his point of order.

The SPEAKER. Does the gentleman from Missouri (Mr. Ichord) insist on his point of order?

Mr. ICHORD. Mr. Speaker, I must insist on the point of order.

The SPEAKER. The gentleman insists on his point of order.

Mr. EDWARDS of Alabama. Mr. Speaker, may I be heard on the point of order?

The SPEAKER. The Chair will hear the gentleman.

Mr. EDWARDS of Alabama. Mr. Speaker, I hate to find myself at odds with my subcommittee chairman, but I do not believe that I can concede the point of order.

This is a point of order raised against an amendment brought back in disagreement. It is not a point of order raised to a bill, and my understanding of the rules is that a point of order would not lie to an amendment brought back in disagreement.

The SPEAKER. The Chair will rule that the germaneness point of order is well taken. It is very obvious that the motion is not germane as it relates to the Senate amendment 56, and the Chair sustains the point of order.

The Chair recognizes the gentleman from New York (Mr. Addabbo).

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 56 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 65: Page 53, line 4, insert "certified psychiatric nurse, or other certified nurse practitioner,".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 65 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert "or, for the purpose of conducting a test during fiscal year 1980, by a certified psychiatric nurse or other certified nurse practitioner,".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 81: Page 60, line 12, insert "Further, funds appropriated by this Act shall be available to provide support in accordance with sections 4 and 8 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C., 403e and 403j), to certain Department of Defense cryptologic personnel stationed overseas as designated by the Secretary of Defense.".

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 81 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 83: Page 60, line 24, strike out: Sec. 767. None of the funds appropriated by this Act shall be available to pay the basic compensation of an individual employed on September 30, 1979, as a teacher or in a teaching position with the Canal Zone Government who is transferred to such a position in the Department of Defense in an amount in excess of the greater of:

(a) the amount of basic compensation an individual with comparable experience and level of education is entitled to receive pursuant to section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c));

(b) the amount to which such individual was or would have been entitled to receive based on the established rates of basic compensation in effect on September 30, 1979, for such employees of the Canal Zone Government, plus an amount equal to one half of the increase in basic compensation for the school year 1979 through 1980 compared to the school year 1978 through 1979 that an individual with comparable experience and level of education is entitled to receive pursuant to section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)).

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Addabbo moves that the House recede from its disagreement to the amendment of the Senate numbered 83 and concur therein with an amendment, as follows: Restore the matter stricken by said amendment, amended to read as follows:

"Sec. 766. None of the funds appropriated by this Act or any other Act appropriating funds for fiscal year 1980 or for subsequent fiscal years shall be available to pay the basic compensation of an individual employed on September 30, 1979, as a teacher or in a teaching position with the Canal Zone Government who is transferred to such a position in the Department of Defense in an amount in excess of the greater of:

(a) the amount of basic compensation an individual with comparable experience and level of education is entitled to receive pursuant to section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)); or

(b) for fiscal year 1980—the amount to which such individual was or would have been entitled to receive based on the established rates of basic compensation in effect on September 30, 1979, for such employees of the Canal Zone Government, plus seven percent of that amount: *Provided*, That this limitation shall not preclude a proportionate adjustment of such an individual to reflect an increase in the number of working days in the school year as a result of the transfer; or

(c) for fiscal year 1981 and subsequent fiscal years—the amount payable based on the rates of basic compensation in effect (including the limitations contained in this section) on September 30th of the fiscal year preceding the fiscal year for which payment is to be made, plus an amount equal to one-half of the increase in basic compensation for the school year in progress on October 1st in the fiscal year for which payment is to be made compared to the basic compensation for the previous school year, that an individual with comparable experience and level of education is entitled to receive pursuant to section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c))."

Mr. ADDABBO (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the Record.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from New York (Mr. Addabbo).

The motion was agreed to.

☐ 1040

The SPEAKER. The Clerk will report the final amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 92: Page 64, line 1, insert:

Sec. 763. The Secretary of the Air Force shall acquire and install, with such funds as may be available to him, a civilian early warning system at each Titan II missile site to the extent found necessary or desirable by the study conducted pursuant to section 813 of the Department of Defense Authorization Act, 1980.

MOTION OFFERED BY MR. ADDABBO

Mr. ADDABBO. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. ADDABBO moves that the House recede from its disagreement to the amendment of the Senate numbered 92 and concur therein with an amendment, as follows: In lieu of the matter proposed by said amendment, insert:
>
> "SEC. 770. The Secretary of the Air Force shall acquire and install, with such funds as may be available to him, a civilian early warning system at each Titan II missile site to the extent found necessary or desirable by the study conducted pursuant to section 813 of the Department of Defense Authorization Act, 1980."

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

CONFERENCE REPORT ON H.R. 595, STRATEGIC AND CRITICAL MATERIALS TRANSACTION AUTHORIZATION ACT OF 1979

Mr. MOLLOHAN. Mr. Speaker, I call up the conference report on the bill (H.R. 595) to authorize the Administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes.

The Clerk read the title of the bill.

POINT OF ORDER

Mr. McDONALD. Mr. Speaker, I have a point of order.

The SPEAKER. The gentleman will state it.

Mr. McDONALD. Mr. Speaker, I make the point of order that the matter contained in clause 3 of section 3 of the substitute for the text of the bill recommended in the conference report would not be germane to H.R. 595 under clause 7 of rule XVI if offered in the House and is therefore subject to a point of order under clause 4(a) of rule XXVIII.

The SPEAKER. Does the gentleman from West Virginia (Mr. MOLLOHAN) wish to be heard on the point of order?

Mr. MOLLOHAN. Mr. Speaker, I have no response to the point of order, and I concede the point of order.

The SPEAKER. The point of order is sustained.

MOTION OFFERED BY MR. M'DONALD

Mr. McDONALD. Mr. Speaker, I offer a motion.

The Clerk read as follows:

> Mr. McDONALD moves, pursuant to the provisions of clause 4(b) of rule XXVIII, that the House reject clause 3 of section 3 of the substitute for the text of the bill recommended in the conference report.

The SPEAKER. The gentleman from Georgia (Mr. McDONALD) will be recognized for 20 minutes, and the gentleman from West Virginia (Mr. MOLLOHAN) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. McDONALD).

Mr. McDONALD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in this bill, H.R. 595, to cover some of the background of this bill, the House heard H.R. 595, which deals with the sale of tin from the strategic stockpile. In a separate bill, the House dealt with the sale of industrial diamonds from the strategic stockpile. In a separate bill, the Committee on Armed Services reviewed the sale of 15 million ounces of silver from the strategic stockpile. The subcommittee dealing with strategic materials and seapower, by a one-vote margin, passed the silver sale bill. In the full committee, the silver sale was overwhelmingly rejected.

H.R. 595, dealing with the sale of tin from the strategic stockpile, after passing the Senate, had the additional sales of diamonds and silver added to the bill. With diamonds and silver added, it went to conference, where the sale of silver was reduced from 15 million ounces from the strategic stockpile to 5 million ounces.

It is important that the Members of the House note that the full Committee on Armed Services overwhelmingly rejected any sale of silver from the strategic stockpile, and with good reason.

The element silver is a remarkable element, absolutely essential for the vast majority of forms of photography. Due to a molecular reaction, it is absolutely essential for photography and, in spite of millions of dollars of research that is spent by Eastman Kodak and others, no substitute, no reasonable substitute, has been found. Silver is also absolutely essential for X-rays. No reasonable substitute has been found. Silver is also essential for high quality electronics. It is only exceeded in the quality for high quality electronics by gold. And with gold at $450 an ounce today, I do not believe that many people are willing to say that we should be substituting gold for silver in most high quality electronics. Copper does have excellent properties for electronics. However, the oxidation of copper leading to copper oxide gives you a compound that no longer has high conductive qualities. Silver, however, when it tarnishes, becoming usually silver sulphide, continues a high quality of conductive property. So, therefore, the element of silver is a remarkable one and does not lend itself to substitution.

Now a bit of past history. In World War II, we used approximately 900 million ounces of silver in the war effort. Admittedly, roughly half of that was in the Manhattan project for solid silver electric bars. But the uses of silver since the World War II period have increased rather than decreased. During the Vietnam war, we used roughly 1¼ billion ounces of silver. The stockpile requirements have varied over the years. The estimation of 500 million ounces was reduced to 300 million ounces, more recently 139½ million ounces. The most recent estimate is that we have a zero requirement for the stockpile and, therefore, the sale is coming about being recommended after the concept of a zero requirement by one agency of the Government. This is an amazing statement, in view of the past history of silver usage in World War II, the Vietnam war and with the expanding industrial use—not the shrinking, but the expanding industrial use—of silver today.

I would like to point out that this is also in direct conflict with a Government study released in 1979, by the Bureau of Mines of the U.S. Department of the Interior. In this, on page 24, the estimation of the world's silver supply versus the world's silver usage between now and the year 2000 shows a shortfall or a deficit of approximately 6 billion ounces of silver, an incredible deficit unmatched by any other metal. If you think we have an oil shortage, then the silver problem will cause you to stay up at night. We are now having to import roughly one-half of the new silver because the world is using silver at a rate of approximately 200 million ounces more per year than is able to be mined.

In recent years, we have seen an explosive growth in the price of silver. For decades the Government controlled the price and set the price at roughly $1.29 an ounce. Due to inflation and other factors, and the increasing industrial uses of silver, the Government was unable to maintain that ceiling and in the late 1960's the Government had to get out of the silver business but proceeded to dump over the last 2 decades an incredible hoard, roughly a 2 billion ounce amount of silver, on the market. This suppressed the price for a while, but approximately 4 years ago the price moved between $3 and $4 an ounce, early this year up to $5 an ounce, this morning up to over $20 an ounce. And if you think that is bad—and indeed it is an explosive growth—there is every indication that a year from now the price will be double what it is today.

I would like to point out that the demand for silver and its industrial uses will be inelastic to price. It makes no difference what the price is, you still must have it for photography and X-ray, and the amount of silver per X-ray or per film is a very small amount; so the demand is inelastic to the price. It is an unusual substance in that regard.

It should be noted that the Polaroid Instamatic-type film results in silver which is no longer recovered. It is thrown away in the packet. So that is an expanding use of silver that does not have a recovery aspect to it.

□ 1050

The supply of silver is also relatively inelastic to price. The reason for this is that the surface mines of silver that were so active in the 18th and 19th century have largely now been depleted, so that 75 to 80 percent of the newly mined silver does not come from silver mines, but rather as a byproduct of copper, lead, and zinc mining.

In the past, we have imported much of our silver from India, but the recent Indian policy has been to cut off all exportation of silver this year and last year.

Mexico has been an exporter of silver, but Mexico has also moved to increase its silver coinage and move away from the exportation, and the same with Peru.

The U.S.S.R. mines more silver than does the United States. While the U.S.S.R. has been very active in the exportation of raw materials to gain hard currency, it is interesting to note that the U.S.S.R. has not exported silver in 1978 or 1979.

We need silver today as never before, and indeed, it is madness to be selling it.

Peru, incidentally, if we plan to make the 15-million-ounce sale, gave notice that they plan to make the entire 15-million-ounce buy.

This bill coming from the conference report calls for a 5-million-ounce buy.

I would urge my colleagues to vote for the motion to strike the sale of silver, which has already been rejected by the House committee in the full Committee on Armed Services.

Mr. LLOYD. Mr. Speaker, will the gentleman yield?

Mr. McDONALD. I yield to the gentleman from California, a member of the Committee on Armed Services.

Mr. LLOYD. I thank the gentleman for yielding.

I would remind the gentleman that it was 5 years ago when I was serving on this subcommittee that silver was at $4.50 an ounce and at the time we were again urged to sell off this commodity which we did not need.

If the gentleman will recall, he and I both spoke of this. As a matter of fact, we indicated clearly at that point, why sell because it is going to rise in value. It is one of the few holdings that our Government has wherein we are moving with the inflationary economy, and as a result, we are ahead of the ballgame on that, not to mention the need as far as our military applications are concerned, certainly as far as our own industrial base is concerned. I think it is very important that we retain this basic element.

As a result of this, we are, as the gentleman has indicated, up to $20 an ounce.

As a matter of fact, if I recall, I saw in the paper today that silver has in the last year risen 233 percent. That would indicate that what the gentleman has said is absolutely correct.

I think that it would be foolish and certainly not in the best interest of this Government if we do not do what the gentleman has suggested to us, and I stand absolutely behind what the gentleman is saying. I support his amendment.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. McDONALD. I yield to the gentleman from Arizona.

Mr. RUDD. What is the history of voting on this in the committee?

Mr. McDONALD. In the past, in this Congress, the Committee on Armed Services has rejected any silver sale. I believe it was also rejected in the last Congress.

This did come to the floor, I believe, in the 94th Congress, and the 94th Congress wisely rejected a silver sale at that time.

Mr. RUDD. That has been consistent?

Mr. McDONALD. For the 94th, 95th, and 96th Congresses, we have rejected the silver sale.

Mr. RUDD. I thank the gentleman.

Mr. McDONALD. Mr. Speaker, although many Members may not be aware of the fact, we are running out of silver in this world, and we will run out of it much sooner than we will oil. We still do not have a strategic oil reserve, but we do have a small silver reserve in the strategic stockpile—139.5 million troy ounces, only about a third of the estimated amount needed to fight a 3-year war.

In my strong view, we should be buying silver not selling it. However, not everyone is convinced of that. It should be pointed out that we mine only 23 percent of our consumption. We had 2 billion troy ounces in the strategic stockpile and Treasury at the end of World War II. It has all been sold off except the 139.5 million troy ounces we presently hold. The effect of this proposed sale will have no permanent effect on prices. The argument up until now has been that such sales would be good in order to hold prices down. We are a long ways beyond that point.

The Constitution requires that we provide for "the common defense." In World War II we used over 900 million troy ounces of silver. In the Vietnam war we used over a billion ounces of silver. How can we in good faith then approve the sale of even 5 million ounces from our strategic stockpile? No one is yet certain how much silver our Trident submarines or the MX missiles will require. Nothing has proved more reliable in batteries than silver, in spite of massive attempts to find a substitute.

Another and little-noticed fact is that the Soviet Union sells no silver. It currently produces 4 million ounces a year more than we do, but sells none. Yet the main exports of the U.S.S.R. have traditionally been raw materials that it considers to be in excess of their needs. In these tumultuous times, it is further clear that we cannot depend upon Mexico and Peru to continue to sell us silver in time of war. In point of fact, Peru has offered to buy any silver we dispose of from the strategic stockpile.

There is also the further possibility that we could find ourselves in a temporary situation where the dollar would not be acceptable to certain oil producing nations. What would happen today if OPEC told us we could only buy oil with gold or silver? Or suppose this happened in time of war? What would we do? We would send them boxtops or all special drawing rights from the International Monetary Fund. This is a small amount but this vote is strategic and important for the future course our country will take.

Thank you.

Mr. MOLLOHAN. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I rise in support of the conference report on H.R. 595, and particularly of those provisions relating to U.S. tin disposals and a contribution to the International Tin Buffer Stock.

First, let me compliment the distinguished chairman of the Armed Services Subcommittee on Seapower and Strategic and Critical Materials (Mr. BENNETT), and the distinguished gentleman from West Virginia (Mr. MOLLOHAN) for their able handling of this very important legislation. As I count it, this is the fourth time that the House has had before it the matter or arranging properly to dispose of excess quantities of tin from our strategic stockpile surpluses, and of satisfying a longstanding U.S. commitment to contribute to the Fifth International Tin Agreement. Each time these provisions have enjoyed overwhelming support. On behalf of the Foreign Affairs Committee, I urge my colleagues to approve this conference report which will, among other things, have a very salutary effect on domestic and international tin prices at a time when the world's largest tin consumer, the United States, is bearing the brunt of the highest tin prices in history.

Mr. Speaker, I would like to speak particularly to a provision of H.R. 595 which was added to the bill during its consideration by the House pursuant to an amendment I proposed, and agreed to by the Senate.

This provision earmarks up to 5,000 tons of the tin authorized for disposal under H.R. 595 for the international tin buffer stock. My amendment was requested by the administration and enjoyed the full support of the bill's sponsors, the Foreign Affairs Committee, consumer groups, and the canning and steel industries. The House and Senate passed this provision overwhelmingly in the last session. Unfortunately, it died as a noncontroversial amendment to the sugar bill in the final hours of the 95th Congress.

The purpose of this amendment is to help stabilize world tin market conditions. This would be done without cost to the taxpayer, and in fulfillment of a longstanding U.S. commitment to cooperate in mutually beneficial international commodity agreements to reduce inflation and assure U.S. access to future supplies. This is clearly in the U.S. interest as the world's largest tin consumer. And we should do it as soon as possible to give all consumers a break from today's record high tin prices. Right now prices are over $8 a pound. Three years ago they were $3.50.

What would this language do? It would permit 5,000 tons of the 35,000 released by this bill to go to the International Tin Council. The United States is a member of that organization by treaty. The International Tin Council has an international buffer stock to which many nations contribute, which can be used to buy and sell tin on the world market to keep prices stable. That is what would be done with the tin to be released under this bill from the U.S. stockpile, and that is what would be done with the portion I am proposing to allocate to the International Tin Council.

I want to stress four things about this measure:

First, it will not cost the U.S. Government or the U.S. taxpayer anything. The tin to be transferred, worth about $60 million, will be returned in cash or in kind at the termination of the agreement in 1981. This is explicitly required by article 25 of the treaty. So, I repeat, there is no net cost.

Second, this tin or cash reimbursement will go back into the U.S. stockpile fund, not into General Treasury revenues. So this proposal is consistent with the revolving fund idea for the financing of future stockpiles that has already been approved by the House.

Third, as the world's largest consumer of tin, the United States needs to participate in international efforts to stabilize prices and assure supplies, not just depend upon unilaterial disposals from the U.S. stockpile. That is why the administration wants this amendment.

Finally, a U.S. contribution of 5,000 tons reflects our fair share of the tin buffer stock and will encourage other consumer nations to contribute. All producers have already contributed.

The United States joined the Fifth International Tin Agreement in 1976, under the Ford administration, although we have cooperated with producers and consumers informally for years. The United States has the largest block of votes among the consumer group in the International Tin Council. Through this Council producers and consumers agree on appropriate floor and ceiling tin price limits which the buffer stock is designed to defend. These price limits are not arbitrary. On the contrary, they are adjusted to reflect changes in long-term market trends. These limits do, however, promote a more stable investment climate for producers, most of whom are developing countries highly dependent on tin export earnings. Similarly, these limits protect consumers against inflationary price fluctuations.

But in order to achieve those objectives, the buffer stock must be sufficiently large. Unfortunately, historically this has not been the case, in large part because only producers were expected to contribute. In fact during the Foreign Affairs Committee hearings on this proposal last year, we were told by the Treasury Department that the United States would have saved over $100 million between 1956 and 1973 on tin prices alone, if the buffer stock had had adequate reserves of tin and cash. Total consumer savings could have been closer to $400 million. We have the potential today of maintaining a buffer stock with a purchasing power of over 35,000 tons, compared to previous stocks ranging from 10,000 to 15,000 tons.

A U.S. contribution of surplus tin would therefore serve to increase the buffer stock's reserves at a time when tin is in short supply. It would also serve to encourage other consumers to follow our lead. Producers have already deposited their shares. The Secretary of State recognized these and other potential foreign policy benefits of a U.S. contribution when he first announced his intention to seek congressional approval 2 years ago.

If anything, today's situation argues even more strongly for that contribution. Prices have continued to climb, and Japan and Canada agreed to contribute their shares to the buffer stock in response to the Secretary's announced intentions. My colleagues may wish to see a letter received in March 1979 from the State Department expressing continued strong support for this proposed amendment.

Mr. Speaker, developing countries are looking to the United States for leadership in the commodity trade area where we clearly share their concerns as a major producer and consumer of numerous commodities. And we have an opportunity here to cooperate in a mutually beneficial commodity arrangement, without prejudicing our case-by-case approach to commodity negotiations.

Neither my amendment nor the moderate GSA tin disposal program described in H.R. 595 are panaceas for tin market instability. Nor is market stabilization easily achieved. But at no cost and with immediate benefit to our constituents, we can take a big step in the right direction with these proposals.

In light of these considerations, and the widespread support for both H.R. 595 and the proposed contribution to the ITC, I urge my colleagues to vote favorably on the conference report before us.

Mr. MOLLOHAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Speaker, I would like to review for several minutes the issues under consideration, because it is important that the issues in this measure be considered collectively.

Mr. Speaker, on April 3 the House passed H.R. 595, a bill to authorize the disposal of 35,000 long tons of tin. The bill also authorized a contribution of up to 5,000 tons of this tin to the tin buffer stock established under the Fifth International Tin Agreement.

Six months later, on October 16 the Senate passed the bill as amended by the Senate Armed Services Committee. The amended bill, in addition to the tin disposal, added an authorization provision of $237 million, providing for the proposed acquisition of 20 different, highest priority stockpile materials. Of the 93 materials now in the stockpile, 40 are below stockpile goals. In order to meet these goals we must immediately begin an active acquisition program to acquire needed stockpile materials. This will be the first installment of the stockpile acquisition under the newly enacted legislation that provides funding of needed items from receipts of sales of items not needed in the strategic stockpile.

The Senate also included in the bill the authority to dispose of 15 million troy ounces of silver and 1.5 million carats of industrial diamond stones. For the information of the Members, on September 24 the House passed H.R. 3384, a bill to dispose of 5.5 million carats of industrial diamond stones.

From that sentiment, the conferees agreed on a compromise of 3 million carats. The most difficult issue in the conference concerned the disposal of silver. Silver was not included in the original tin disposal bill (H.R. 595), as passed by the House. However, a separate bill (H.R. 3385), authorizing the disposal of 15 million troy ounces, was considered by the stockpile subcommittee and favorably reported to the full House Armed Services Committee. The full committee, by voice vote, tabled the bill. Therefore, the House has not had an opportunity to exercise its judgment on this issue.

Quite frankly, the Senate conferees were exceptionally adamant on this silver sale issue, and the House conferees were firmly convinced that they had struck the best bargain available at this time by accepting a reduction from 15 million ounces to 5 million ounces in order to break the deadlock that faced the House conferees on the issue of silver.

They have taken into account the very persuasive arguments articulated by my colleague from Georgia (Mr. McDONALD), one of the House conferees, who opposes the disposal of silver. They were still convinced that the release of 5 million ounces of silver is in the best interest of our national defense, because the Department of Defense says there will be ample silver left in the stockpile for defense purposes; and the proceeds of the sales will provide funds for items that are greatly needed and in short supply.

We must bear in mind that the stockpile is not intended, and was never intended, to be the primary source of silver for national security needs. The stockpile is intended to provide the shortfall in silver between national security needs and what can otherwise be relied upon from other sources.

The Department of Defense needs (141 million ounces for the 3-year period 1980–82) can be met entirely from primary and secondary resources within the United States. In fact, in 1978 we produced 132 million ounces and consumed 160 million ounces. Since the current stockpile goal is zero, even with the disposal of 5 million ounces, there still remains in the stockpile approximately 134.5 million ounces, an additional hedge for national security requirements. The fact that silver may go up in price is not pertinent because the stockpile is for defense purposes, and these ounces are surplus. After all, the things that will be bought are greatly needed for defense, and they also go up in value.

With the receipts from the sale of these excess materials, valued at approximately $696 million ($580 million for tin, $80 million for silver, and $36 million for diamonds), GSA can begin its long overdue restructuring of the stockpile. Therefore, it is essential that we begin an orderly disposal and acquisition program to update our stockpile. The approval of this conference report, including silver, will be the first step forward in a long process to complete our stockpile needs.

Mr. Speaker, this briefly summarizes the actions of the conferees. I believe they have obtained the best bill feasible under the circumstances and urge all Members to support the conference report as reported.

If the issue were silver alone, the matter might be different. My colleague from Georgia is a compelling advocate for defense needs, and he also makes a good case on the escalating cost of silver.

□ 1100

Mr. MOLLOHAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Maine (Mr. EMERY).

Mr. EMERY. I thank the Chairman. May I inquire of the Chair if the minority will get the customary 20 minutes of time to be divided on this side? Is it the gentlemen's intention to yield 20 minutes of time to the minority side to divide?

Mr. MOLLOHAN. Mr. Speaker, will the gentleman yield?

Mr. EMERY. I yield to the gentleman.

Mr. MOLLOHAN. Not necessarily so.

Mr. EMERY. I thank the gentleman.

Mr. Speaker, I rise in support of the conference report.

The U.S. Government currently holds approximately 139.5 million ounces of silver in the strategic stockpile. Two studies done by the National Security Council and the GAO established the stockpile requirement at zero ounces of silver. This figure was based on past wartime consumption of silver and the current resources of silver available to the United States from both domestic and foreign sources.

In essence then, if we accept the National Security Council and General Accounting Office conclusions, all 139.5 million ounces of silver presently in the stockpile are surplus to our needs.

While there may be a surplus in silver, there certainly is no surplus in other critical materials, and we do need to begin to purchase quantities of these other substances. When the House passed its version of the stockpile bill it did not provide for the sale of any silver under the stockpile. However, the bill in the other body contained a sale in the amount of 15 million ounces of silver.

The conferees, after much debate and a little compromise, agreed to sell 5 million ounces of silver. I, for one, do not accept the zero requirement establishment for silver by the NSC and the GAO. However, I do believe the sale of 5 million ounces of silver of the stockpile of 139.5 million ounces does not represent any degradation of our silver stockpile, and will not be harmful at all to our security needs.

From the proceeds of this sale other, more critical, materials might be purchased. I believe the compromise reached by the conference committee is fair and reasonable, keeping in mind that the position of the other body originally was a sale of 15 million ounces, which has been reduced in the conference committee to 5 million ounces.

I have a list of other strategic and critical materials which the United States is far more dependent upon than it is on silver from overseas resources. One hundred percent of our columbium, mica, and strontium, 98 percent of our manganese, 97 percent of our tantalum and cobalt, 95 percent of our bauxite and alumina, and 91 percent of our platinum metals, to name a few substances we are far more dependent on overseas resources than we are on silver, on which at the present time we are 41 percent dependent.

We have 139.5 million ounces of silver in our stockpile now. The compromise would reduce this number by a paltry 5 million ounces. With the proceeds we would be able to strengthen our position on several strategic critical materials we are truly in need of.

So I would urge the House to support the position of the conference committee and reject the motion of the gentleman from Georgia (Mr. McDONALD.)

Mr. MOLLOHAN. Mr. Speaker, I yield 1 minute to the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I rise in support of the conference committee report, and in opposition to the motion to strike the provision in the report which allows a modest silver stockpile reduction.

I commend the distinguished members of the conference committee for having fashioned such a carefully constructed piece of legislation, which will serve to enhance the Nation's long-term security needs.

The section of the bill in controversy provides for the sale of 5 million troy ounces of silver from the national strategic stockpile. My colleague from Georgia has argued that the stockpile is sacrosanct, that to take down even an ounce of silver will hurt our defense capacity.

He argues that the stockpile is inadequate—that we in fact face an imminent shortage of silver. And he cites a Bureau of Mines study to carry his contention. But the public record would not be complete without the recognition that a 1979 GAO statement by the Comptroller General on the existing silver stockpiles asserts that "GAO found inconsistency in the development of Bureau of Mines silver supply estimates. Although the inconsistency substantially lowered the silver supply projections, current information indicates that the silver supply exceeds the projected wartime requirements." In other words, the scientific data on which the gentleman from Georgia relies is erroneous. There is no imminent or even potential shortage of silver.

The current national stockpile of silver is 139.5 million troy ounces. The National Security Council has joined the GAO in asserting that the current stockpiles are in excess—let me repeat, in excess—of our defense requirements. And the Federal Preparedness Agency goes further. In that Agency's judgment there is no requirement at all for silver in the strategic stockpile, even considering the eventuality of wartime conditions.

There are sound reasons for such a sanguine assessment of our needs. The United States, Canada and Mexico together produce more than 131 million troy ounces of silver each year. The rest of the Western Hemisphere produces another 50 million troy ounces—for a total of 180 million troy ounces produced each year. All that within our own hemisphere. Considering that the U.S. annual consumption of silver is 160 million troy ounces, it is clear that even in time of genuine emergency, the silver supplies would be readily accessible. And taking the worst possible case—should war itself come—GAO estimates that our supplies of silver would be adequate.

Other stocks of silver would be available to augment and supplement the sources of supply I have cited. The Treasury hold 39 million troy ounces, the industry holds 24 million, the Defense Department holds 7 million, and COMEX and the Chicago Board of Trade warehouses hold another 118 million ounces—all that is entirely separate from the millions of additional silver ounces held by private U.S. citizens.

There is not one stockpile, Mr. Speaker, there are several which adds weight to the arguments which the FPA advances.

But let me take the argument that our national stockpiles are sufficient one step further—in my honest judgment, selling silver from the stockpile would be beneficial to our national security needs.

There is a current deficit in the stockpiles of other strategic materials—such as nickel, irradium, zinc, platinum and cobalt. Under Public Law 96-41, proceeds from the sale of surplus stockpile items, such as silver, could and should be put into a fund with which to purchase such necessary items.

If rather than hoarding a clearly unnecessary surplus, some of our stockpiled silver were sold (and the proposal before us is very modest sale indeed) as the conference reports allows, the revenue generated could be used to procure items intrinsically related to our national defense needs, it would be supportive of our defense requirements. So that the thrust of the gentleman from Georgia's argument that increased silver stockpiling would bolster our defense is not borne out by the facts.

Finally, there are economic reasons for the sale of the silver. As Government silver is made available to the market, it can help to meet our domestic demand, helping to lessen imports of the metal. And additional supplies of silver, from our too great existing supplies would benefit the millions of consumers who use silver—including photographic, electrical, silverware, medical, and dental supplies.

H.R. 595 offers several important steps in meeting the requirements of our national strategic stockpiles. The inclusion of silver stockpile reductions in this conference report serves to augment the goals of reducing unnecessary stockpiles so that vital materials can be procured. For these reasons, I urge my colleagues to vote against the motion to strike the silver stockpile reductions.

Mr. MOLLOHAN. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, I rise in strong opposition to the motion to strike the provisions relating to the release of silver, and urge retention of the language which authorizes the disposal of 5 million troy ounces of silver from the strategic stockpile.

The fact is, as everyone here knows, three administrations, two Republican and one Democrat, have declared all or part of the silver stockpile to be surplus. Another fact is that the Bureau of Mines has in a report that "the total U.S. resource (in silver) is larger than the cumulative demand." Great stress is laid upon the apparently low level of American production of new silver, which is less than total demand. But the new production figure does not take into account recycling or imports from Canada and Mexico, which in total more than meet demand. Furthermore the Bureau of Mines states unequivocably that the total silver resources in this country are more than enough to meet and exceed demand.

The arguments against releasing silver are based upon alleged defense needs. The Members of this body have already heard that the GAO has declared the entire silver stockpile to be surplus to our defense needs. Much is made of the fact that 900 million troy ounces of silver were used during the Second World War. About this, the GAO report states, "Available data shows that silver supply actually exceeded wartime demand during World War II and the Korean conflict." Moreover, most of the silver used during the Second World War was used for coinage and as a substitute for copper in the atomic energy program.

Everyone knows that silver is no longer used in circulating coinage and that the bus-bar usage has been eliminated through changes in technology. The World War II data thus have marginal relevance.

I would like to make clear that I have absolutely no quarrel with the need for a strategic stockpile. As a member this year of the Defense Appropriations Subcommittee, I have heard a great deal about our stockpile requirements for various important metals and materials. Mr. Roy Markon, the Commissioner of the Federal Property Resources Service of the GSA, stated in testimony before the Armed Services Committee that, "there are 18 other metals and materials that are more critical to our needs than silver." Furthermore, due to the provisions of Public Law 96–41, the Strategic and Critical Materials Stockpiling Act, a very worthy piece of legislation introduced by the gentleman from Florida, the chairman of the subcommittee, the proceeds from the sale of this silver, as well as the sale of tin and diamonds, could be used to purchase some of these other, more critical materials. It only seems logical that when the Comptroller General of the General Accounting Office states that "defense tier requirements for silver could be met by U.S. production alone," that we should sell surplus silver—and tin, and diamonds—and purchase more critically needed items.

I would like to point out to this House that the gentleman from Georgia is in the minority in his insistence that the release of silver would be deterimental to our strategic defense needs. In doing so, he ignores the testimony and arguments of the administration, of experts at the Bureau of Mines, of the Senate Armed Services Committee, and of the General Accounting Office. I think though, that this House should know to whom the gentleman from Georgia is listening. At hearings before the Treasury and Postal Services Subcommittee, while trying, and failing I might add, to convince the Appropriations Committee to purchase $513 million worth of silver, which they of course refused to do, the gentleman from Georgia testified on behalf of his proposal in the company of a Mr. Scott Dial, a well-known silver speculator who recently was suspended for 15 days by the Chicago Board of Trade, and who was placed under the strict supervision of that Board for a period of 6 months after that suspension was over. This is the expertise upon which the gentleman from Georgia is relying.

I wonder why the gentleman did not circulate a "Dear Colleague" alerting his fellow Members to the dangers of releasing our tin reserves? As I am sure he is aware, the United States does not have one tin mine, and 63 percent of our tin imports comes from Malaysia and Indonesia, countries that are a great distance away, and from which it could conceivably be very difficult to obtain supplies during a crisis. Silver is an element which we do produce, and any silver imports come from countries with which the United States shares a border. I am certainly not making this point to suggest we should not dispose of surplus tin, but rather because the logistics of tin supply in an emergency are considerably more complex than those of silver.

I believe that on the merits of the issue, there is no question but that the 5 million troy ounces of silver that this bill would release would have no detrimental effect on our defense posture, would signal the beginning of a new and more sensible era in stockpile management, and might help to cool somewhat the volatile silver market. I urge retention of the provision for disposal of silver, and defeat of this motion.

□ 1110

Mr. MOLLOHAN. Mr. Speaker, I yield the balance of my time to myself.

Mr. Speaker, let me sum up by saying that the GSA has testified before our subcommittee, that the administration wants to sell all the silver in the strategic stockpile because there is in fact a zero requirement for it. The Department of Defense testified that the available wartime supply of silver greatly exceeds wartime demand, and there is no inventory goal for it at all. The Department of Defense also has testified that the sale of the silver would provide funds to buy materials that we desperately need to balance our stockpile requirements.

Just last week, an appropriations subcommittee tabled a bill to purchase additional silver because there is no stockpile requirement for it, and because the Department of Defense and the administration want to sell what we have, and certainly do not want to buy more at today's outlandish prices.

Now, this conference report meets the stockpile objectives established by the Department of Defense and approved by the administration.

It represents prudent management of our strategic stockpile, and the disposal action this bill authorizes will allow us to use resources we do not need to buy materials we do need.

Now, where are we on dollars and cents? Since 1971, we have had a stockpile of silver of 139 million ounces. The GSA and the DOD both tell us that we do not need any silver in the stockpile at all. The General Accounting Office has made the same kind of finding, and this has been approved. The same sort of finding has been made by the National Security Council. If we look at this thing as just simply a dollar-and-cents issue, and most assuredly we should not blind ourselves to the economic situation in which we find ourselves, we must realize that on current prices the silver that we have has a total value of $2,790 million, and all of it excess to our needs.

That, ladies and gentlemen, is an annual interest cost to us to maintain this unneeded strategic material of $279 million per year. I urge a vote against the amendment and for the conference report.

Mr. McDONALD. Mr. Speaker, I yield to the gentleman from Idaho (Mr. Symms).

Mr. SYMMS. Mr. Speaker, I thank the gentleman very much for yielding. I rise in support of the McDonald motion. I would just say to my good friend from Massachusetts, who was just speaking in the well, that it is true that I do come from a district in the country where we produce a lot of silver, but the cost to the taxpayers over the last, say 15 years, of silver sales is enormous.

The price of silver is now $20 an ounce. We have had administrations, Democrat and Republican, sell silver, and they have all been wrong. What they have been doing is auctioning off the family jewels to buy a sports car.

So, we sold silver for $1.29 an ounce. That did not do the taxpayers any good, selling silver at $1.29 an ounce. What happens? Now, it is worth $20. Next year it will probably be worth $30. Who knows where it will stop as long as we keep printing money.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. McDONALD. Mr. Speaker, due to the limited time and the already impassioned plea of the gentleman from Massachusetts, I will say that I will yield if there is time.

Mr. CONTE. I just want to correct the gentleman.

Mr. SYMMS. Mr. Speaker, the point, I say to my good friend from Massachusetts, is that on silver sales of 5 million ounces that we are talking about, I agree it is not much. Probably one wealthy Arab will buy it all in one fell swoop and be glad to have it at $20, and offer it back to us next year for $30 or $40 or $50. But, I do think it is very difficult to produce the silver. Coming from a mining district, I know how long it takes to start a mine and get it going.

In the Silver Valley and the Coeur d'Alene there is potential, I agree, where there could be a great deal of silver produced, but the point is that it may take years to get a mine in production.

I would like to ask the gentleman from Georgia if he has any idea how much silver this Government has sold in the last 20 years.

Mr. McDONALD. During the past 20 years the cost to the taxpayer at today's prices has been a windfall to silver users. It has spokesmen even in this House, but it has been a windfall to the tune of $28 billion. Selling the silver out of the stockpile at depressed prices, a critical element which was gobbled up by the silver users, has been a windfall to the silver users to the tune of $28 billion and a loss to the American people of exactly that amount.

Mr. SYMMS. So, in addition, the people who were able to buy the silver and use it were able to buy it under what the market price is?

Mr. McDONALD. Absolutely.

Mr. SYMMS. I thank the gentleman, and I do support the gentleman's amendment.

□ 1120

I might just say, if the gentleman would yield further time, I personally think that from a national security standpoint it is a mistake for us to sell anything out of our strategic stockpiles, or any kind of material, because what we are doing is stockpiling energy, and if we have tin or copper or lead or zinc, or any other nonfuel mineral, what we have is a bar of energy there which is stacked up, and it does not go away, and it is there in time of need.

At this time this country of ours is relying on the African continent for over half of our nonstrategic minerals. I am talking about cobalt, magnesium, and chrome. But in the case of cobalt, our supplies are way down. We should be out getting cobalt in our strategic stockpile. It is essential to build jet engines. But regarding any of these strategic minerals we are selling, whether it be tin or what have you, we need those strategic minerals in the future. If people can put it in perspective, it is just like storing a barrel of oil, because we have it. Whatever it is, it is produced, and I oppose any sales out of the national stockpile in the face of a crisis.

Mr. ICHORD. Mr. Speaker, will the gentleman yield?

Mr. McDONALD. I yield to the gentleman from Missouri.

Mr. ICHORD. I thank the gentleman for yielding. I want to compliment the gentleman from Georgia (Mr. McDonald) for leading the fight against the sale of silver from our stockpile. I think it would be a serious mistake.

I agree with the gentleman from Idaho (Mr. Symms). Perhaps the gentleman from Georgia (Mr. McDonald) now knows that it does take a long time, as the gentleman from Idaho (Mr. Symms) has stated, to open up a silver mine. Although I certainly am not greatly familiar with how silver is produced, I would imagine most silver is produced as a byproduct in the United States.

Mr. McDONALD. That is correct, approximately 75 to 80 percent.

Mr. ICHORD. I would respond to the gentleman from Massachusetts (Mr. Conte) that he is really taking a chance on harming the defense interests of the United States when we only have 139.5 million ounces of silver in the stockpile at this time.

Mr. CONTE. Mr. Speaker, will the gentleman yield?

Mr. McDONALD. The gentleman from Massachusetts (Mr. Conte) does not have the time.

Mr. ICHORD. Nine hundred million ounces of silver were used in World War II. But in Vietnam, use went up to 1 billion ounces of silver. Silver is a very strategic mineral. I would point out again to the gentleman from Massachusetts (Mr. Conte) that the Committee on Armed Services defeated the silver bill by a vote of 16 to 9.

I thank the gentleman again for yielding.

Mr. McDONALD. I thank the gentleman from Missouri.

Mr. MOLLOHAN. Mr. Speaker, will the gentleman yield?

Mr. McDONALD. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. I thank the gentleman for yielding. May I respond to the gentleman from Missouri (Mr. Ichord) by saying to him that we produced in 1978 132,600,000 ounces in the United States alone. That was our domestic production—132,600,000 ounces. The Department of Defense estimates that for the 3-year period 1980–82 they will only require 141 million ounces. So in 1 year we are producing three times as much as they will need during the entire 3-year period.

Mr. ICHORD. If the gentleman from Georgia will yield, let me state to the gentleman from West Virginia (Mr. Mollohan) that I do not know who the spokesman is down at the Department of Defense and who is making those estimates, but the estimates could not have been made in a period of an emergency. That is why we have a stockpile, for emergency war conditions that might exist.

Mr. McDONALD. Mr. Speaker, first I would like to review with my colleagues the matter of the conference report itself. The conference had a single meeting. I was one of the conferees. The other body had one member at the conference. That was the sole meeting. Two Members of the House side did not sign the report, did not agree and sign the report on the reduction even of a 5-million-ounce sale. So the attitude of a unanimous conference report would be in error in this case.

Also in reviewing how the Government reached its figures, the Government did not go to members of industry and experts in silver but did only inhouse studies. In doing that, the Federal preparedness report stated that in the case of a national emergency that could take place, the 118 million ounces in the New York and Chicago Commodity Exchange warehouse would be subject to confiscation as well as the 20 million ounces held by industry. This assumes we do not mind the process or the idea of confiscation, and it also assumes that those ounces in the commodity exchange and warehouses will still be present, which is extremely doubtful by this time even next year.

It should be recognized by the people who work for the U.S. Government that in time of war 76 percent of the current civilian uses of silver have military applications. Therefore, 123 million ounces out of the current 162 million ounces available for civilian use would have to be funneled for military purposes. A 3-year reserve using this parameter would approximate 369.4 million ounces. Thus, if we consider our current stockpile of 139.5 million ounces as a reserve, we would still need an additional 229.9 million ounces that should actually be purchased for the stockpile.

The matter of being able to rely upon Mexico, with the recent changes in Central America—I am referring to Nicaragua and El Salvador, Guatemala, and Honduras—for silver from Mexico is extremely dubious at best. Indeed, Mexico has moved its silver into coinage.

The SPEAKER pro tempore (Mr. Swift). The time of the gentleman has expired.

All time has expired.

Mr. McDONALD. Mr. Speaker, I move the previous question on the motion.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. McDonald).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONTE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 272, nays 122, not voting 39, as follows:

[Roll No. 717]

YEAS—272

Abdnor
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Anthony
Archer
Ashbrook
Atkinson
AuCoin
Badham
Bafalis
Bailey
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Bereuter
Bethune
Bevill
Boggs
Boner
Bonker
Bouquard
Bowen
Breaux
Brodhead
Broomfield
Broyhill
Buchanan
Burgener
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Corcoran
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dixon
Dodd
Dornan
Downey
Duncan, Tenn.
Edwards, Okla.
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fazio
Fenwick
Fish
Fithian
Foley
Fountain
Fowler
Frost
Fuqua
Gilman
Gingrich
Ginn
Goldwater
Goodling
Gore
Gramm
Grassley
Gray
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harsha
Hawkins
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCormack
McDade
McDonald
McKinney
Madigan
Marlenee
Martin
Mathis
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mitchell, N.Y.
Moffett
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, N.Y.
Murphy, Pa.
Myers, Ind.
Neal
Nelson
Nichols
Nolan
O'Brien
Oakar
Panetta
Pashayan
Patterson
Paul
Pease
Perkins
Peyser
Preyer
Pursell
Quayle
Quillen
Railsback
Rhodes
Rinaldo
Ritter
Robinson
Roe

Rose
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solomon
Spellman
Spence
Staggers
Stangeland
Stanton
Stenholm
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Volkmer
Walgren
Walker
Wampler
Waxman
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wyatt
Wydler
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

NAYS—122

Annunzio
Applegate
Ashley
Aspin
Baldus
Beilenson
Benjamin
Bennett
Biaggi
Bingham
Blanchard
Boland
Bolling
Bonior
Brademas
Brinkley
Brooks
Burlison
Cavanaugh
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conable
Conte
Corman
Cotter
Dicks
Dingell
Donnelly
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
Ertel
Fascell
Ferraro
Findley
Fisher
Ford, Mich.
Forsythe
Frenzel
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gonzalez
Gradison
Green
Harris
Heckler
Holt
Holtzman
Horton
Howard
Hughes
Jones, Okla.
Kastenmeier
LaFalce
Lederer
Lehman
Long, Md.
McCloskey
McEwen
McHugh
McKay
Maguire
Markey
Marks
Matsui
Mavroules
Mineta
Minish
Mitchell, Md.
Moakley
Mollohan
Moorhead, Pa.
Myers, Pa.
Natcher
Nedzi
Nowak
Oberstar
Obey
Ottinger
Patten
Pepper
Petri
Price
Pritchard
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rodino
Roybal
Sabo
Shannon
Simon
Snowe
Solarz
St Germain
Stack
Stockman
Stokes
Studds
Swift
Synar
Thompson
Vento
Weaver
Whitten
Wolpe
Wright
Wylie
Yates
Zablocki

NOT VOTING—39

Addabbo
Anderson, Ill.
Andrews,
  N. Dak.
Brown, Calif.
Brown, Ohio
Conyers
Dellums
Diggs
Dougherty
Duncan, Oreg.
Edwards, Calif.
Flippo
Flood
Florio
Ford, Tenn.
Glickman
Hanley
Harkin
Jacobs
Jenrette
Kemp
Marriott
Mattox
Murphy, Ill.
Murtha
Pickle
Roberts
Rosenthal
Rostenkowski
Russo
Sebelius
Stark
Steed
Stewart
Traxler
Treen
Watkins
Weiss
Wilson, C. H.

□ 1140

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Anderson of Illinois.

Mr. Hanley with Mr. Kemp.

Mr. Florio wtih Mr. Watkins.

Mr. Jenrette with Mr. Brown of Ohio.

Mr. Stark with Mr. Andrews of North Dakota.

Mr. Russo with Mr. Dougherty.

Mr. Rostenkowski with Mr. Duncan of Oregon.

Mr. Brown of California with Mr. Marriott.

Mr. Edwards of California with Mr. Ford of Tennessee.

Mr. Flippo with Mr. Conyers.

Mr. Steed with Mr. Dellums.

Mr. Traxler with Mr. Diggs.

Mr. Murphy of Illinois with Mr. Harkin.

Mr. Murtha with Mr. Mattox.

Mr. Pickle with Mr. Weiss.

Mr. Roberts with Mr. Sebelius.

Mr. Jacobs with Mr. Rosenthal.

Mr. Charles H. Wilson of California with Mr. Stewart.

Mr. Glickman with Mr. Flood.

Mrs. COLLINS of Illinois, Mrs. SNOWE, Messrs. OTTINGER, ASHLEY, OBERSTAR, and MINETA changed their votes from "yea" to "nay."

Mr. FISH changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

MOTION OFFERED BY MR. MOLLOHAN

Mr. MOLLOHAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MOLLOHAN moves pursuant to clause 4 of Rule XXVIII and the actions of the House, that the House recede from its disagreement to the amendment of the Senate to the text of the bill and concur therein with an amendment as follows:

In lieu of the matter proposed to be inserted by the amendment of the Senate to the text of the bill insert the following:

That this Act may be cited as the "Strategic and Critical Materials Transaction Authorization Act of 1979".

SEC. 2. There is authorized to be appropriated the sum of $237,000,000 for the acquisition of strategic and critical material under section 6(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e). Before any acquisition using funds appropriated under the authorization of this section may be carried out, a list of the materials to be acquired shall be submitted to the Committees on Armed Services of the Senate and House of Representatives, and such acquisition may not then be carried out until the end of the 60-day period beginning on the date such list is received by such committees.

SEC. 3. The President is hereby authorized to dispose of materials determined to be excess to the current requirements of the National Defense Stockpile in the following quantities:

(1) 35,000 long tons of tin.

(2) 3,000,000 carats of industrial diamond stones.

SEC. 4. Any acquisition using funds appropriated under the authcrization of section 2, and any disposal under the authority of section 3, shall be carried out in accordance with the provisions of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 5. The President, on behalf of the United States, is authorized to contribute (from the amount of tin authorized to be disposed of under section 3(1)) up to 5,000 long tons of tin to the Tin Buffer Stock established under the Fifth International Tin Agreement. Upon the termination of such agreement in 1981, all proceeds generated from such contribution shall be remitted to the National Defense Stockpile Transaction Fund established by section 9 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98th).

Mr. MOLLOHAN (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

The SPEAKER pro tempore. The gentleman from West Virginia (Mr. MOLLOHAN) will be recognized for 30 minutes, and the gentleman from Maine (Mr. EMERY) will be recognized for 30 minutes.

The Chair recognizes the gentleman from West Virginia (Mr. MOLLOHAN).

Mr. MOLLOHAN. Mr. Speaker, the bill as now amended has no objection to it, as far as I know.

Mr. Speaker, I have no requests for time.

Mr. EMERY. Mr. Speaker, I have no requests for time, other than to express my support for the conference committee report, as amended.

The only controversial matter in the conference committee report was the question of silver disposal. That has been resolved. The rest of the legislation is noncontroversial, as previously explained.

Mr. MOLLOHAN. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The motion was agreed to.

MOTION OFFERED BY MR. MOLLOHAN

Mr. MOLLOHAN. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. MOLLOHAN moves that the House recede from its disagreement to the amendment of the Senate to the title of the bill and agree to the same.

The motion was agreed to.

A motion to reconsider the votes by which action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. MOLLOHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from West Virginia?

There was no objection.

□ 1150

DISPUTE RESOLUTION ACT

Mr. KASTENMEIER. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill (S. 423) to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Wisconsin (Mr. KASTENMEIER).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the Senate bill, S. 423, with Mrs. SPELLMAN in the chair.

The Clerk read the title of the Senate bill.

The CHAIRMAN. For what purpose does the gentleman from Ohio (Mr. Kindness) rise?

Mr. KINDNESS. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The Chair will ask that the gentleman withhold his parliamentary inquiry for the moment.

When the Committee of the Whole rose on Tuesday, December 11, 1979, section 3 had been considered as having been read and open to amendment at any point, and pending was an amendment offered by the gentleman from Ohio (Mr. Kindness).

For what purpose does the gentleman from Ohio (Mr. Kindness) rise?

Mr. KINDNESS. Madam Chairman, I move to strike the requisite number of words.

PARLIAMENTARY INQUIRY

Mr. KASTENMEIER. Madam Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. KASTENMEIER. Madam Chairman, has the gentleman from Ohio (Mr. Kindness) not already been recognized to speak for 5 minutes on his amendment? I believe he has already spoken on his amendment during the course of this debate.

The CHAIRMAN. The gentleman is correct.

Without objection, the gentleman from Ohio (Mr. Kindness) is recognized for 5 additional minutes in support of his amendment.

Mr. KASTENMEIER. Madam Chairman, reserving the right to object, I will not make an objection, but I do note that this is the second time the gentleman has spoken on his amendment.

Madam Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Without objection, the gentleman from Ohio (Mr. Kindness) is recognized for 5 minutes in support of his amendment.

There was no objection.

Mr. KINDNESS. Madam Chairman, I thank the Chair, and I thank the gentleman from Wisconsin (Mr. Kastenmeier) for not objecting.

The concern, naturally, that arises when the Committee rises after an amendment has been just introduced and discussed initially is that when the Committee of the Whole resumes its consideration of the bill, no one will have a clear recollection of really what the amendment is that is pending. Therefore, I would just like to take a moment to remind the Committee of the Whole of the nature of the amendment that is pending.

This an amendment which would establish a definition of "minor disputes," which is what this bill is all about.

No place in the bill does there appear a definition of "minor disputes." It will only take a minute to read this, and the definition of "minor disputes" reads as follows:

> The term "minor disputes" means those disputes, not involving allegations of bodily injury or criminal conduct, which occur between family members, neighbors, landlords and tenants, consumers and businesses, and buyers and sellers, where the amount in controversy does not exceed $300, or such disputes as may be defined more specifically by the legislative authority of the State or local unit of general government in which such a dispute resolution mechanism operates;

Madam Chairman, that definition, of course, allows the legislative authority of a municipality, county, or State to define what these minor disputes are that might be resolved through the mechanisms that are set up and funded under this bill. In that manner, the definition of a "minor dispute" gives a little bit more local control or State control as to just what subject matter will be handled in these programs.

Madam Chairman, I would urge that we have to have some definition of "minor disputes." That is what the bill is all about, and I urge the adoption of the amendment.

Mr. BROYHILL. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, this amendment would very effectively gut this entire program. I would emphasize again that this program is an experimental program for the purpose of gaining experience and arriving at some answers as to how we can settle various disputes without going through the time-consuming and costly process of litigation.

The amendment that has been offered by the gentleman from Ohio (Mr. Kindness) would stipulate that no dispute could be submitted to one of these dispute settlement mechanisms that are set up if the amount in controversy is in excess of $300. I think that anyone can see that a dispute, for example, involving an automobile or a major appliance, for instance, can very easily exceed $300.

So what the gentleman has done is to say that one cannot bring a consumer dispute to this particular neighborhood justice center or whatever mechanism is set up, and thus we would effectively bar any consumer or business from having a dispute settled.

Mr. KINDNESS. Madam Chairman, will the gentleman yield?

Mr. BROYHILL. I yield to the gentleman from Ohio in order to get his response.

Mr. KINDNESS. Madam Chairman, I thank the gentleman for yielding.

As I said in discussing the amendment on yesterday when it was first introduced, the $300 figure is not a magic figure. I do not contend that it is the only figure that ought to be considered, and I welcomed at that time any amendment that might be offered to adjust that figure to whatever is a reasonable figure.

But it is clear that there is a need for some definition in this bill of what it is we are talking about.

Mr. BROYHILL. Madam Chairman, I do not think we should have any limitation in this legislation. I want to emphasize again that these are experimental programs we are setting up. I do not think that we should tie their hands to such an extent that we are not going to get experience in the settling of disputes of all kinds.

Mr. RAILSBACK. Madam Chairman, will the gentleman yield?

Mr. BROYHILL. I will be glad to yield to the gentleman from Illinois.

Mr. RAILSBACK. Madam Chairman, the gentleman from Ohio (Mr. Kindness) has some other amendments, and some of them may be meritorious. The gentleman from Virginia (Mr. Butler) yesterday offered an amendment which merits at least were arguable.

This particular amendment completely misses the point of the entire bill, and that is that these disputes are mediated, and it is done voluntarily. The idea is to bring the parties together and get them talking. If they can resolve their dispute, why should they have to go to court? If they do not have to go to court, perhaps they do not need a lawyer, but this particular amendment is designed in my opinion to bring in lawyers. We are trying to avoid that.

The gentleman from North Carolina (Mr. Broyhill) hit the nail on the head. This amendment would effectively destroy the whole thrust of the bill, and it ought to be overwhelmingly defeated.

Mr. BROYHILL. Madam Chairman, I urge a no vote on this amendment, and I yield back the balance of my time.

Mr. BUTLER. Madam Chairman, I rise in support of the amendment.

Madam Chairman, this is the fourth day we have had this legislation under consideration. It has, of course, been a little educational program for the House to explain what all the shortcomings of this legislation are, and I am pleased to note that we are getting more and more of the attention of the membership.

We recognize now that what we are doing is simply creating another Federal program, a new Federal program at a cost of $75 million. It is a program that is already being administered very well in many States. If we give the States a chance, they will come to this.

Madam Chairman, I rise in support of this simple amendment offered by the gentleman from Ohio (Mr. Kindness) which, it seems to me, fills a void in the legislation. It simply tells us what this is all about. It defines a "minor dispute." That is the function of this amendment.

It is true that the gentleman from North Carolina (Mr. Broyhill) has in his infinite wisdom suggested that there might be shortcomings in this amendment, but this is the "only show in town."

☐ 1200

This is the only amendment that tells us what the bill is all about, resolving minor disputes.

The gentleman from Illinois has suggested that, in defining minor disputes, that we are gutting the legislation. And, of course, he misses the point. For what we are doing is setting up another Federal court system without lawyers. Can you imagine that? But, in any event, it seems to me that, without a definition of a minor dispute, we do not know what we are talking about or in what direction this legislation is headed.

I resent the self-righteous attitude of these folks about why we are going to stick a definition in here. Let me tell you some of the other things we define in the bill. On two pages of the bill, for example, we define an advisory board. We define the Attorney General of the United States. We define the center, the Dispute Resolution Center. We define a dispute resolution mechanism. That is a forum with jurisdiction over minor disputes, a forum which provides for arbitration. We define grant recipients. We define local. We define State. We define the obvious in several different places in this bill. But then when we get down to the real nitty-gritty of what we are talking about, when we get down to what is a minor dispute, then we meet resistance.

It is this sort of open-ended foolishness that this legislation is all about. It is this open-ended idea that you do not know a minor dispute until you had one. It is like whether anyone has ever had a minor dispute with his wife. You have difficulty defining it. But you ought to define it before you set up a Federal program; otherwise, you are giving these folks at the Justice Department and all these people, these do-gooders, an open-ended opportunity to do a lot of things that are not provided by this legislation.

Mr. KINDNESS. Madam Chairman, will the gentleman yield?

Mr. BUTLER. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

I somewhat take not just a difference but offense at the concept that we ought not to define minor disputes because we do not know what they are. The arguments made in opposition to this amendment miss the point entirely, in that the taxpayers' dollars are to be used under this bill to be shoveled out to State and local governments and nonprofit organizations. The question is: How much? How much money?

This bill currently provides over a 4-year period for a $75 million authorization. But it can grow and grow, like food stamps or anything else, and, as reauthorized, will grow, I assure you.

In these days of inflation and overspending by this Congress, this is one more mistake that we are making to set up this program in the first place. Why not stop it before it gets out of hand? At least let us define what sort of mechanisms can be set up and funded under this program, that is, mechanisms to resolve minor disputes. We do not want to be funding the American Arbitration Association and all of its functions, obviously. But it could occur if we do not limit the definition of minor disputes.

If someone has something constructive to suggest by way of a figure other than $300, I would be happy to consider changing the figure, but at least the proponents are saying, "Let us try this experimental program." If it is experimental, then let us try it on an experimental level; $300 seems like some kind of a starting level.

Mr. BUTLER. I thank the gentleman for his contribution.

Mr. HYDE. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I agree with much that my colleagues, the gentleman from Ohio and the gentleman from Virginia, have said. I am not a booster of this new Federal program, but at the same time I do not feel that there is too much merit in arbitrarily—and any amount we pick will be arbitrary—defining what a minor dispute is.

If the parties are willing to submit to this procedure, whether it is $5,000 or $500 or 5 cents, why should they be barred? The purpose of this whole procedure is to avoid cluttering up the courts with arguments that are appropriately resolved in the community by some arbitrator that is acceptable to both parties, whether it involves a railroad reorganization or a dispute over the back fence.

The concerns of the gentleman are well taken, that this creates a program that is open ended which we will have to continue to finance. I do not believe so. I do not think we really should go into this program, but if we are going to go into it, we ought to make it work and not hobble it where you are going to have to get lawyers to determine whether or not you fit within the definition of a minor dispute. Anything the parties want to submit ought to be submittable, in my humble opinion.

Mr. KINDNESS. Madam Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding in response to my question, which may have been only rhetorical, but I believe there is an appropriate response.

The question is not limiting what parties may submit to such a dispute resolution mechanism but, rather, who is going to pay for it. Do we want to pay through the taxpayers' dollars for programs to be set up that can be utilized by two millionaires to resolve disputes among themselves, or two large businessmen? Of course not. That is not the purpose. I obviously think there is some place where a description of a minor dispute is necessary.

Mr. HYDE. If I may suggest to my friend, why do we not leave that to the States? The gentleman and I share an affection and a respect for States' rights. Let the legislature—this is a State program, these will be State programs, we are just putting some Federal funding into them—let them define a minor dispute.

I would suggest that a minor dispute in Montana might be quite different from a minor dispute in downtown San Francisco.

Mr. KINDNESS. If the gentleman will yield further, the gentleman is quite correct in his point, and the amendment does indeed do exactly that by stating that more specific definitions by the legislative authority at the State and local level would supersede these.

Mr. HYDE. Why not let them handle it entirely? Small money in Dallas is big money in Chicago.

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Madam Chairman, on this point the gentleman from Illinois (Mr. HYDE) is absolutely correct. Both the Senate and the House committees dealing with this bill considered this question and decided not to try to define minor dispute because we were, in effect, setting Federal jurisdictional amounts and Federal jurisdictional action. That we do not want to do. We do not want to do what the gentleman from Ohio (Mr. KINDNESS) proposes, namely, to say that one of these programs can consider a black and white television set but not a color television set because it is a jurisdictional amount set by the Federal Government. Indeed not. The amendment should be rejected.

Mr. HYDE. I welcome the comments of my friend, the gentleman from Wisconsin, and I also welcome him into the crusade for States' rights.

Mr. ECKHARDT. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I am opposed to both the limitation with respect to amount and to the other limitation in the definition, but I think my colleague, the gentleman from Illinois, has so well stated the case against a limitation of amount that I shall not further address that question. But the question concerning a definition which eliminates from the term "minor dispute" conduct which may also involve some nature of criminal conduct, though that is not the matter remaining in dispute, is an undue limitation on the application of this process.

Suppose, for instance, in connection with the eviction of a tenant, the landlord enters the tenant's' premises without a warrant so to do, and removes the furniture of the tenant, and puts it in storage. The activity may well be illegal, but it may not be the basis of the dispute. The determining fact respecting the jurisdiction of the mediation authority should be whether or not the landlord and the tenant are willing voluntarily to go to a dispute settlement process. Agreeing to the mediation procedure makes the matter cease to have a really criminal nature, though it would be tainted as containing an element which is a violation of criminal law, and therefore would be excluded under the amendment from the dispute settlement process.

The best way to winnow out cases which are essentially criminal in nature is by the provision concerning voluntariness.

☐ 1210

If the parties are actually primarily engaged in criminal activity against each other, it is very doubtful they will agree to go to an amicable settlement through some third party.

For instance, suppose the landlord and the tenant got in a fight. Is it conceivable that with that level of animosity between them they would agree to dispute settlement on a voluntary basis? Well, possibly, perhaps they have gotten over their anger and are willing to litigate the question in the voluntary dispute settlement involving a purely civil question of whether or not the tenancy has ceased or whether or not a deposit which was agreed to be paid back if there were no injury to the property has been properly paid. But there may remain a factual element in the case which partakes of a criminal nature.

The test should be the voluntariness, not an alleged taint of criminal activity.

I suggest that the definition is far too restrictive.

Mr. KINDNESS. Madam Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

I think the point the gentleman makes is certainly one to be considered seriously and it was considered seriously. The intent of the language in the amendment is to avoid the interpretation that the gentleman has placed on the amendment.

The words were chosen to read "not involving allegations of bodily injury or criminal conduct," so as to make it hopefully clear that those allegations involved in the dispute to be resolved would be confined to those issues that would not be tried in a criminal court or the complex issues involved in determining bodily injury and damages therefor.

So I would agree that the gentleman's point, as to the interpretation of the amendment, is one to be considered seriously, but I thought the language avoided his interpretation.

Mr. ECKHARDT. If I may reclaim my time, I do not believe that it does, because the tenant might well want to allege the fact that his furniture was improperly stored or placed in the hall, and this may constitute criminal conduct as well as a civil violation, a violation of his contract and in addition conversion or trespass or some other crime or misdemeanor.

If he alleges that which is criminal, then the dispute may not be properly brought before this tribunal.

I feel that we could refine the language to exclude that situation. I do not think the gentleman has, but I think in the long run, it is a fruitless or improvident effort to attempt to draw such close language in this bill. The real test should be whether or not the parties voluntarily elect to permit the dispute to be settled by this manner.

Mr. SAWYER. Madam Chairman, I rise in opposition to the amendment.

Madam Chairman, I just want to make a couple of observations with respect to this amendment. One is this exclusion of criminal conduct. Most neighborhood disputes that are not consumer oriented probably involve the violation of at least an ordinance, dumping garbage over somebody's fence, letting your dog run loose, turning the hose on a noisy neighbor's kid, all these things would rise to the dignity of some type of criminality.

These are the types of things that prosecutors do not want to prosecute. They are a plague on their houses.

If the people feel like it, they can go file a complaint with the prosecutor. This act does not prevent that.

Second, if the thing is a serious crime, there is nothing here to prevent the prosecutor from filing a complaint or issuing a warrant and proceeding criminally. Where the crime is petty, if at all, and really affects only two people, as opposed to the public at large, this gives them the option, if they feel like it, to voluntarily go to what really is not an arbitration panel. It is a mediation panel. It has no power to issue an order or to resolve the matter, other than to try to bring the two parties into a voluntary agreement that disposes of the matter and whereas the comment was made we do not want to be in the business of providing a forum for millionaires, why not? We do anyway in the public courts.

If we can, through the use of this voluntary mediation, dispose of it, we probably have saved the public a lot of money by avoiding the use of the very expensive public court system, so the idea of putting a limit on what is involved just does not make any sense.

If two people have $100,000 involved, and they prefer to go see their minister, who, if you will, can work out a deal, or their lawyers can work out a deal, or they want to go to a mediation group like this to see if they can work out a deal, why not?

There is no point of any limits. There is nothing that the party did not end up agreeing to, can be enforced by anybody anyway. It is merely the promotion of what the law always favors, namely the settlement of disputes, and nobody needs any special authority. It could ask a neighbor to mediate if the other two were willing, and they could end up in agreement. Nobody has benefited but the public, and nobody is saved expense but the public court system.

Mr. ECKHARDT. Madam Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Texas.

Mr. ECKHARDT. I thank the gentleman for yielding.

The gentleman makes a good point. An excellent example in support of what he is saying is the case of a public nuisance. In most States a public nuisance is a crime or misdemeanor, but it is also a private offense between individuals. There is no way you can separate those allegations in a dispute settlement request.

Mr. SAWYER. I thank the gentleman. That is absolutely correct. Most of these neighborhood disputes, and I have had opportunity to view lots of them during a stint as prosecutor, just involve two people. They fester and grow, and most of them do not like to file a complaint because they are going to have to live with a neighbor, but on the other hand, his kid is creating all kinds of nuisances or his dog is or he is. This is an ideal forum. There is no extension of any jurisdiction. They could opt to go to their friend Joe to have him work it out if he could, because all they end up with is a voluntary agreement.

If there is serious public crime, the prosecutor is totally free, and the police, to proceed criminally if they want to. That is not the kind of thing that causes 99 percent of these neighborhood disputes.

Mr. KINDNESS. Madam Chairman, will the gentleman yield?

Mr. SAWYER. I yield to the gentleman from Ohio.

Mr. KINDNESS. In response to the gentleman's earlier question, why not provide this forum for whatever the value involved might be; the question is, Are we going to pay twice at the Federal level to set up these mechanisms that would be duplicative of what is otherwise available through arbitration proceedings and so on?

Mr. SAWYER. The gentleman is not going to the scope of his amendment. The gentleman's amendment is a limitation. The gentleman is going against the idea of an experimental pilot program funded by the Federal Government. The gentleman may have a legitimate argument, but whether we should provide an experimental program to see if the States and the localities can develop a technique and get interested and take it over and run it, that is one thing, but to try to put a limitation on it by either dollar amount or subject matter, in light of the total mediation's voluntary nature, makes no sense at all.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. KINDNESS).

The question was taken; and on a division (demanded by Mr. KINDNESS) there were—ayes 11, noes 29.

So the amendment was rejected.

☐ 1220

AMENDMENTS OFFERED BY MR. KINDNESS

Mr. KINDNESS. Madam Chairman, I offer several amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read as follows:

Amendments offered by Mr. KINDNESS: On page 44, line 16, strike the comma and all that follows through line 19 and insert in lieu thereof the following: "and State or local governmental agency which receives a grant under section 8;".

On page 57, line 6, strike the comma and all that follows through "tion" in line 8 and insert in lieu thereof the following: "or state or local governmental agency".

On page 60, line 6, insert the word "and" after the semicolon, strike lines 7 through 9, and, in line 10, strike "(G)" and insert in lieu thereof "(F)".

On page 60, line 20, strike the comma and all that follows through the word "organization" in line 21.

Mr. KINDNESS. Madam Chairman, the amendment that is now before us would eliminate from coverage of the bill nonprofit organizations which are currently in the bill in terms of eligibility to receive grants of funds under the program that would be established to be administered under the Department of Justice.

The reason for the amendment is that nonprofit organizations may very well be good mechanisms to employ here, but the program is stated to be experimental in nature, and it is certainly understandable, that we would want to start small.

I think local and State governments ought to have whatever funds are available under this program to establish dispute resolution mechanisms, rather than spreading those funds, presumably spreading them more thinly, and expending some of those funds for programs to be established by nonprofit organizations.

I have some concern that the nonprofit organizations we would fund in some cases, could be in conflict with local governments or even State governments as to the purposes being carried out in the program. I think the experience we have had in some circumstances with community action commissions and in the ACTION program, and the Legal Services Corporation grantee operations in some cases, are such as to tell us that there can be problems developed in programs like this that we do not need to invite.

We might very well start out by operating through State and local governments only, and if it then appears that it is appropriate to expand the program to include nonprofit organizations, and it is necessary to do that, fine. But what we are talking about, I think, are programs that could very well be operated by local governments.

The gentleman from Michigan was talking a little while ago, regarding the previous amendment, about why should we not limit the use of these funds. The reason we ought to limit the use of these funds is if it is such a good idea, and nonprofit organizations are doing it now, and they are being funded somehow, why do we not just leave them alone; why do we kill off the initiative in the private sector that is beginning to do so many things in this area?

You know what will happen when the funds become available from the Federal Government? The private funds will dry up. It has happened time after time.

I think we ought to restrict and limit what we are talking about under this program to State and local government organizations or agencies or entities, and it will not dry up the voluntary funds that could be continuing to the nonprofit organizations that we are receiving funding in this field.

I would, therefore, urge the adoption of the amendment.

Mr. PREYER. Madam Chairman, I rise in strong opposition to this amendment. To knock out the nonprofit organizations as grant recipients would probably knock out more than half of the potential grantees in the program. I am surprised that the gentleman who offers this amendment does not appreciate that by having nonprofit organizations as the mechanism you eliminate the need to create a governmental mechanism. What you are doing is stimulating private initiative in lieu of a governmental mechanism. I would think that would be the line down which the gentleman would want to go.

Let me list some of the nonprofit organizations that would be prohibited from being grantees in this program: local bar associations, and certainly we might want to involve them in the program; organizations like the present Neighborhood Justice Center that is set up in Atlanta and Los Angeles and is an effective program; the San Francisco Community Board program which the gentleman from Illinois (Mr. RAILSBACK) described to us yesterday. That has been an extremely successful program in developing voluntary help for solving a wide range of community problems. That would be eliminated.

There are also many others. All universities, public or private; all church groups; YMCA's and YWCA's, and already in Seattle, Wash., a YMCA family dispute program is going forward. All these professional associations I mentioned, the bar associations, but would also include real estate associations, architectural and engineering associations. Also the Chamber of Commerce of the United States, that has strongly supported this bill and has been very active in this area. Also the American Arbitration Association. In fact, if my colleagues would list the organizations they would like to see involved in this program, then this amendment would effectively eliminate almost all of them.

In sum, many of the more innovative ideas are going to come from nonprofit organizations. The Attorney General should be given the flexibility to allow such groups to submit their applications.

Mr. RAILSBACK. Madam Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Illinois (Mr. RAILSBACK).

Mr. RAILSBACK. I thank the gentleman for yielding. I want to concur in the gentleman's remarks. Also I would just mention another one that would be eliminated is the Boston Urban Court program that started as a nonprofit corporation.

Let me also say I understand that the gentleman has kind of a fallback amendment which would require notification to some of the appropriate State and local officials. That seems to me to make much more sense than what the gentleman is trying to do here, and I think he might have some support for that.

Mr. BROYHILL. Madam Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from North Carolina.

Mr. BROYHILL. Madam Chairman, I concur in what the gentleman from North Carolina has stated. A number of the organizations, such as the local bar association and local civic group associations, the Better Business Bureau and others would be effectively barred from participating in this program if this amendment should pass. If we do that, we are eliminating a very broad range of groups that I think would contribute very significantly to the overall success of this program.

Mr. DRINAN. Madam Chairman, will the gentleman yield?

Mr. PREYER. I yield to the gentleman from Massachusetts (Mr. DRINAN).

Mr. DRINAN. Madam Chairman, I commend the gentleman for his comments and wish to be associated with them.

Let me mention one or two other organizations that also would be excluded. Another is the National Center for State Courts, which is a creative, resourceful entity that should be doing research in this field. A second group is the National Association of Counties that is very close to the particular problems to which the bill addresses itself. I think also the law schools of this country should not be excluded because they, once again, could be creative.

Consequently, I commend the gentleman for his comments.

Mr. PREYER. I thank the gentleman and yield back the balance of my time.

Mr. BUTLER. Madam Chairman, I move to strike the last word and rise in support of the amendment.

Madam Chairman, this amendment would remove the nonprofit organizations from the category of grant recipients. I think it is instructive for us to see just exactly what this does to the whole process that involves the nonprofit organizations which are engaged in this field.

□ 1230

This legislation devotes several pages, four pages, to a discussion of what the grant recipient has got to do. This, in effect, is going to take the Federal Government and remake this whole private sector effort. All the grant recipients, all those people in the private sector, in order to do this thing are now going to give up their private funds and go after the Federal funds. But, when they go after them, they are going to dissipate all their assets in providing the requirements.

In section 4 of this statute it says:

> Any grant recipient which desires to use any financial assistance received under this Act in connection with establishing or maintaining a dispute resolution mechanism shall provide satisfactory assurances to the Attorney General that the dispute resolution mechanism will provide for—
>
> (1) assistance to persons using the dispute resolution mechanism;
>
> (2) the resolution of disputes at times and locations which are convenient to persons the dispute resolution mechanism is intended to serve—

That means that the Federal Government is now going to tell these nonprofit organizations that they must provide—

> (3) adequate arrangements for participation by persons who are limited by language barriers or other disabilities—

That means that every dispute-resolution-funded grant agency in the United States is going to have to take care of all the language problems of any minorities in their areas. There goes some of our money dissipated in bureaucracy and regulation.

In item 4, they have to have provide—

> . . reasonable, fair and readily understandable forms, rules, and procedures, which shall include, where appropriate, those which would—
>
> (A) ensure that all parties to a dispute are directly involved in the resolution of the dispute—

That means that they have to tell everybody that gets a grant that they have got to have a mechanism for doing all these things, and the mechanism has to include everybody who is going to be involved in resolving the disputes.

Then, the resolution has got to be

implemented. That means that the organization has got to come back to Uncle Sam, the Attorney General, and all these people that we are going to employ and tell them how these resolutions are going to be adequately implemented." This, of course, questions the credibility of the gentleman from Michigan who said that you do not have to worry about resolution, but you do if you are going to be a grant recipient.

In another part of the section, it says:

> (B) promote, where feasible, the voluntary resolution of disputes (including the resolution of disputes by the parties before resorting to the dispute resolution mechanism established by the grant recipient);

We have to have rules and regulations for each one of these grant recipients to promote, where feasible, the voluntary resolution of disputes. That means that we have to have rules to do this, including the resolution of disputes by the parties before resorting to the dispute resolution mechanism established by the grant recipient.

Another rule, another regulation imposed on the nonprofit organizations, which are doing a pretty good job already, is to:

> (C) promote the resolution of disputes by persons not ordinarily involved in the judicial system;

Do the Members realize that a nonprofit organization that wants to be a grant recipient now has to have a rule which says that they are going to promote resolution of disputes by persons not ordinarily involved? I do not care whether these are implemented or not. The real question is whether all the money that we are spending by Federal largesse is really going to the institution of these nonprofit organizations. It is never going to get down to the nitty-gritty of resolving disputes. That is the basic problem, I think, with Federal programs.

That is the basic problem with the legislation. There are just some things that the Federal Government should not try to do. It seems to me that resolving minor disputes is one of them, and that is why I am very much opposed to this legislation. That is why I support the amendment of the gentleman from Ohio, because it does take the private sector, at least, out of the bureaucracy, which this legislation would establish. I support the amendment.

Mr. GUDGER. Madam Chairman, I move to strike the requisite number of words, and I rise to speak in opposition to the amendments.

Madam Chairman, I would like first to associate myself with the very thoughtful comments of my colleague from North Carolina, Congressman PREYER. But, I want to take his allusions a little bit further into actual practice.

The LEAA has organized several programs in the United States to experiment with minor dispute resolution. One of these is in Kansas City. The one in Los Angeles is under a nonprofit organization, the bar association of that county. Also, the one in Atlanta is also administered by a nonprofit corporation, and it is called the Neighborhood Justice Center of Atlanta.

I want to talk for just a moment about how that center is functioning in Atlanta. Some 61 percent of the volume of cases handled in mediation, largely by that organization, are referred by the courts. What does this tell us? It tells us that the nonprofit corporation is doing a job that has the respect of bench and bar.

Let me say one other thing about the attitude of the courts. The National Conference of State Trial Judges has adopted as one of its goals this year the support and promotion of the neighborhood justice centers. The organization there in Atlanta is just such a neighborhood justice center.

Now, let me say one other thing: Characteristic of these nonprofit organizations, and indeed characteristic of the one in Atlanta, is the fact that it will use a limited number of mediators. Down there, I think it is some 47. In Atlanta, they receive $15 per day's session, as I understand it, but in so many communities they are volunteers and they receive nothing. They may be retired judges; they may be people having special knowledge and competence.

Finally, there is built into the act protection against the wrong kind of nonprofit organization getting the benefits of a grant. That is contained on page 60 of the Act in the provision which says:

> (f) In the case of an application for financial assistance under this section submitted by a local government or governmental agency, or a nonprofit organization, the Attorney General shall furnish notice of such application to the chief executive officer, attorney general, and chief judicial officer of the State in which such applicant is located at least thirty days before the approval of such application.

Then, it is required that he give attention to their recommendations. What does this mean? It means that if the nonprofit organization does not provide a plan that is satisfactory to the Attorney General of the State, to the Chief Justice of the State, to the chief executive—the Governor of the State—then the plan goes out the window.

Mr. KINDNESS. Madam Chairman, will the gentleman yield on that point?

Mr. GUDGER. I am happy to yield to the gentleman from Ohio.

Mr. KINDNESS. Madam Chairman, I thank the gentleman for yielding. I certainly would not want to leave the record just as the gentleman just did. A careful reading of this language would indicate that the Attorney General only has to "take into consideration" those remarks resulting from State officials reviewing such applications. There is no authoritative voice provided for in this bill for State or local officials. Local officials are not even included in the notice provisions, so that the gentleman's point is perhaps that State officials have an opportunity to speak up on it, but no authoritative voice.

Mr. GUDGER. Well, I find it very difficult to believe that the Attorney General would ignore the comments of the Chief Justice, the comments of the Governor, and the comments of the attorney general of the State when they were speaking against a program submitted, or an application submitted by a nonprofit or a governmental organization.

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. GUDGER. I will be happy to yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Madam Chairman, I appreciate the remarks of the gentleman. At the heart of this is the notion of volunteerism—that not only does the Federal Government not actually run these programs, but that there do not have to necessarily be the State or local governments to run them. All the nonprofit organizations that have been alluded to are the heart of how the program can best be effective. I appreciate the gentleman raising that point. We do not think that it must be government to cure everything.

The amendment of the gentleman from Ohio suggests that only local and State governments can be recipients under this program, and that is entirely in the wrong direction. I commend the gentleman for his remarks. As far as the gentleman is concerned, with respect to the gentleman from Ohio's fallback amendment about notice to local officers, assuming this pending amendment is rejected, I would agree with the remarks that preceded mine, that the notice amendment is acceptable. But certainly this pending amendment would destroy the program.

□ 1240

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. KINDNESS).

The amendments were rejected.

The CHAIRMAN. Are there further amendments to section 3?

If not, the Clerk will read section 4.

The Clerk read as follows:

CRITERIA FOR DISPUTE RESOLUTION MECHANISMS

SEC. 4. Any grant recipient which desires to use any financial assistance received under this Act in connection with establishing or maintaining a dispute resolution mechanism shall provide satisfactory assurances to the Attorney General that the dispute resolution mechanism will provide for—

(1) assistance to persons using the dispute resolution mechanism;

(2) the resolution of disputes at times and locations which are convenient to persons the dispute resolution mechanism is intended to serve;

(3) adequate arrangements for participation by persons who are limited by language barriers or other disabilities;

(4) reasonable, fair, and readily understandable forms, rules, and procedures, which shall include, where appropriate, those which would—

(A) ensure that all parties to a dispute are directly involved in the resolution of the dispute, and that the resolution is adequately implemented;

(B) promote, where feasible, the voluntary resolution of disputes (including the resolution of disputes by the parties before resorting to the dispute resolution mechanism established by the grant recipient);

(C) promote the resolution of disputes by persons not ordinarily involved in the judicial system;

(D) provide an easy way for any person to determine the proper name in which, and the proper procedure by which, any person may be made a party to a dispute resolution proceeding;

(E) permit the use of dispute resolution mechanisms by the business community if State law so permits; and

(F) ensure reasonable privacy protection for individuals involved in the dispute resolution process;

(5) the dissemination of information relating to the availability, location, and use of other redress mechanisms in the event that dispute resolution efforts fail or the dispute involved does not come within the jurisdiction of the dispute resolution mechanism;

(6) consultation and cooperation with the community and with governmental agencies; and

(7) the establishment of programs or procedures for effectively, economically, and appropriately communicating to disputants the availability and location of the dispute resolution mechanism.

Mr. KASTENMEIER (during the reading). Madam Chairman, I ask unanimous consent that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Are there amendments to section 4?

If not, the Clerk will read section 5.

The Clerk read as follows:

DEVELOPMENT OF DISPUTE RESOLUTION MECHANISMS BY STATES

SEC. 5. Each State is hereby encouraged to develop—

(1) sufficient numbers and types of readily available dispute resolution mechanisms which meet the criteria established in section 4; and

(2) a public information program which effectively communicates to potential users the availability and location of such dispute resolution mechanisms.

Mr. KASTENMEIER (during the reading). Madam Chairman, I ask unanimous consent that this section may be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Are there amendments to section 5?

If not, the Clerk will read section 6.

The Clerk read as follows:

ESTABLISHMENT OF PROGRAM; DISPUTE RESOLUTION RESOURCE CENTER

SEC. 6. (a) The Attorney General shall establish a Dispute Resolution Program in the Department of Justice. Such program shall include establishment of a Dispute Resolution Resource Center and a Dispute Resolution Advisory Board and the provision of financial assistance under section 8.

(b) The Center—

(1) shall serve as a national clearinghouse for the exchange of information concerning the improvement of existing dispute resolution mechanisms and the establishment of new dispute resolution mechanisms;

(2) shall provide technical assistance to State and local governments and to grant recipients to improve existing dispute resolution mechanisms and to establish new dispute resolution mechanisms;

(3) shall conduct research relating to the improvement of existing dispute resolution mechanisms and to the establishment of new dispute resolution mechanisms, and shall encourage the development of new dispute resolution mechanisms;

(4) shall undertake comprehensive surveys of the various State and local governmental dispute resolution mechanisms and major privately operated dispute resolution mechanisms in the States, which shall determine—

(A) the nature, number, and location of dispute resolution mechanism in each State;

(B) the annual expenditure and operating authority for each such mechanism;

(C) the existence of any program for informing the potential users of the availability of each such mechanism;

(D) an assessment of the present use of, and projected demand for, the services offered by each such mechanism; and

(E) other relevant data relating to the types of disputes addressed by each such mechanism including the average cost and time expended in resolving various types of disputes;

(5) shall identify, after consultation with the Advisory Board, those dispute resolution mechanisms or aspects thereof which—

(A) are most fair, expeditionus, and inexpensive to all parties in the resolution of disputes; and

(B) are suitable for general adoption;

(6) shall make recommendations, after consultation with the Advisory Board, regarding the need for new or improved dispute resolution mechanisms and similar mechanisms;

(7) shall identify, after consultation with the Advisory Board, the types of minor disputes which are most amenable to resolution through specific dispute resolution techniques, in order to assist the Attorney General in determining the types of projects which shall receive financial assistance under section 8;

(8) shall, as soon as practicable after the date of the enactment of this Act, undertake an information program to advise potential grant recipients, and the chief executive officer, attorney general, and chief judicial officer of each State, of the availability of funds, and eligibility requirements, under this Act; and

(9) may make grants to, or enter into contracts with, to the extent or in such amounts as are provided in appropriation Acts, public agencies, institutions of higher education, and qualified persons to conduct research, demonstrations, or special projects designed to carry out the provisions of paragraphs (1) through (7).

(c) Upon request of the Center, the Community Relations Service of the Department of Justice and the Federal Mediation and Conciliation Service are authorized to assist the Center in performing its functions under this section.

(d) Upon the request of the Attorney General, not more than a total of ten Federal employees from the various executive agencies (as defined in section 105 of title 5, United State Code) may be detailed to the Center to assist the Center to perform its functions under this Act. The head of any such agency, with the consent of the employee concerned, may enter into an agreement with the Attorney General to provide for the detail of any employee of his agency for a period of not more than five years, notwithstanding the time limitation contained in section 3341 of title 5, United States Code. An employee detailed under this section is considered, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed. Such employee is entitled to pay, allowances, and other benefits from funds available to the agency from which such employee is detailed, except that the Department of Justice shall pay to such employee all travel expenses and allowances payable for services performed during the detail.

Mr. KASTENMEIER (during the reading). Madam Chairman, I ask unanimous consent that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Are there amendments to section 6?

If not, the Clerk will read section 7.

The Clerk read as follows:

DISPUTE RESOLUTION ADVISORY BOARD

SEC. 7. (a) The Attorney General shall establish a Dispute Resolution Advisory Board in the Department of Justice.

(b) The Advisory Board shall—

(1) advise the Attorney General with respect to the administration of the Center under section 6 and the administration of the financial assistance program under section 8;

(2) consult with the Center in accordance with the provisions of section 6(b)(5), section 6(b)(6), and section 6(b)(7); and

(3) consult with the Attorney General in accordance with the provisions of sections 8(b)(4) and 9(d).

(c)(1) The Advisory Board shall consist of nine members appointed by the Attorney General, and shall be composed of persons from State governments, local governments, business organizations, the academic or research community, neighborhood organizations, community organizations, consumer organizations, the legal profession, and State courts.

(2) A vacancy in the Advisory Board shall be filled in the same manner as the original appointment.

(3)(A) Except as provided in subparagraph (B), members of the Advisory Board shall be appointed for terms which expire at the end of September 30, 1984.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of the term.

(d) While away from their homes or regular places of business in the performance of services for the Advisory Board, members of the Advisory Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Federal Government service are allowed expenses under section 5703 of title 5, United States Code. The members of the Advisory Board shall receive no compensation for their services except as provided in this subsection.

(e) The Chairman of the Federal Trade Commission may advise and consult with the Attorney General, and may consult with the Center, regarding matters within its jurisdiction.

Mr. KASTENMEIER (during the reading). Madam Chairman, I ask unanimous consent that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Are there amendments to section 7?

If not, the Clerk will read section 8.

The Clerk read as follows:

FINANCIAL ASSISTANCE

SEC. 8. (a) The Attorney General may provide financial assistance in the form of grants to applicants who have submitted, in accordance with subsection (c), applications for the purpose of improving existing dispute resolution mechanisms or establishing new dispute resolution mechanisms.

(b) As soon as practicable after the date of the enactment of this act, the Attorney General shall prescribe—

(1) the form and content of applications for financial assistance to be submitted in accordance with subsection (c);

(2) the time schedule for submission of such applications;

(3) the procedures for approval of such applications, and for notification to each State of financial assistance awarded to applicants in the State for any fiscal year;

(4) after consultation with the Advisory Board, the specific criteria for awarding grants to applicants under this section, which shall—

(A) be consistent with the criteria established in section 4;

(B) take into account—

(i) the population and population density of the States in which applicants for financial assistance available under this section are located;

(ii) the financial need of States and localities in which such applicants are located;

(iii) the need in the State or locality involved for the type of dispute resolution mechanism proposed;

(iv) the national need for experience with the type of dispute resolution mechanism proposed; and

(v) the need for obtaining experience in each region of the Nation with dispute resolution mechanisms in a diversity of situations, including rural, suburban, and urban situations;

(5)(A) the form and content of such reports to be filed under this section as may be reasonably necessary to monitor compliance with the requirements of this act and to evaluate the effectiveness of projects funded under this act; and

(B) the procedures to be followed by the Attorney General in reviewing such reports;

(6) the manner in which financial assistance received under this section may be used, consistent with the purposes specified in subsection (e); and

(7) procedures for publishing in the Federal Register a notice and summary of approved applications.

(c) Any State or local government, State or local governmental agency, or nonprofit organization shall be eligible to receive a grant for financial assistance under this section. Any such entity which desires to receive a grant under this section may submit an application to the Attorney General in accordance with criteria established by the Attorney General under subsection (b)(4). Such application shall—

(1) set forth a proposed plan demonstrating the manner in which the financial assistance will be used—

(A) to establish a new dispute resolution mechanism which satisfies the criteria specified in section 4; or

(B) to improve an existing dispute resolution mechanism in order to bring such mechanism into compliance with such criteria;

(2) set forth the types of disputes to be resolved by the dispute resolution mechanism;

(3) identify the person responsible for administering the project set forth in the application;

(4) include an estimate of the cost of the proposed project;

(5) provide for the establishment of fiscal controls and fund accounting of Federal financial assistance received under this Act;

(6) provide for the submission of reports in such form and containing such information as the Attorney General may require under subsection (b)(5)(A);

(7) set forth the nature and extent of participation of interested parties, including representatives of those individuals whose disputes are to be resolved by the mechanism, in the development of the application; and

(8) describe the qualifications, period of service, and duties of persons who will be charged with resolving or assisting in the resolution of disputes.

(d) The Attorney General, in determining whether to approve any application for financial assistance to carry out a project under this section, shall give special consideration to projects which are likely to continue in operation after expiration of the grant made by the Attorney General.

(e)(1) Financial assistance available under this section may be used only for the following purposes—

(A) compensation of personnel engaged in the administration, adjudication, conciliation, or settlement of minor disputes, including personnel whose function is to assist in the preparation and resolution of claims and the collection of judgments;

(B) recruiting, organizing, training, and educating personnel described in subparagraph (A);

(C) improvement or leasing of buildings, rooms, and other facilities and equipment and leasing or purchase of vehicles needed to improve the settlement of minor disputes;

(D) continuing monitoring and study of the mechanisms and settlement procedures employed in the resolution of minor disputes in a State;

(E) research and development of effective, fair, inexpensive, and expeditious mechanisms and procedures for the resolution of minor disputes;

(F) sponsoring programs of nonprofit organizations to carry out any of the provisions of this paragraph; and

(G) other necessary expenditures directly related to the operation of new or improved dispute resolution mechanisms.

(2) Financial assistance available under this section may not be used for the compensation of attorneys for the representation of disputants or claimants or for otherwise providing assistance in any adversary capacity.

(f) In the case of an application for financial assistance under this section submitted by a local government or governmental agency, or a nonprofit organization, the Attorney General shall furnish notice of such application to the chief executive officer, attorney general, and chief judicial officer of the State in which such applicant is located at least thirty days before the approval of such application. The chief executive officer, attorney general, and chief judicial officer of the State shall be given an opportunity to submit written comments to the Attorney General regarding such application and the Attorney General shall take such comments into consideration in determining whether to approve such application.

(g)(1) Upon the approval of an application by the Attorney General under this section, the Attorney General shall disburse to the grant recipient involved such portion of the estimated cost of the approved project as the Attorney General considers appropriate, except that the amount of such disbursement shall be subject to the provisions of paragraph (2).

(2) The Federal share of the estimated cost of any project approved under this section shall not exceed—

(A) 100 per centum of the estimated cost of the project, for the first and second fiscal years for which funds are available for grants under this section;

(B) 75 per centum of the estimated cost of the project, for the third fiscal year for which funds are available for such grants; and

(C) 60 per centum of the estimated cost of the project, for the fourth fiscal year for which funds are available for such grants.

(3) Payments made under this subsection may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment. Such payments shall not be used to compensate for any administrative expense incurred in submitting an application for a grant under this section.

(4) In the case of any State or local government, or State or local governmental agency, which desires to receive financial assistance under this section, such government or agency may not receive any such financial assistance for any fiscal year if its expenditure of non-Federal funds for other than nonrecurrent expenditures for the establishment and administration of dispute resolution mechanisms will be less than its expenditure for such purposes in the preceding fiscal year, unless the Attorney General determines that a reduction in expenditures is reasonable.

(h) Whenever the Attorney General, after giving reasonable notice and opportunity for hearing to any grant recipient, finds the project for which such grant was received no longer complies with the provisions of this Act, or with the relevant application as approved by the Attorney General, the Attorney General shall notify such grant recipient of such findings and no further payments may be made to such grant recipient by the Attorney General until the Attorney General is satisfied that such noncompliance has been, or promptly will be, corrected. The Attorney General may authorize the continuance of payments with respect to any program pursuant to this Act which is being carried out by such grant recipient and which is not involved in the noncompliance.

(i) The Attorney General, to the extent or in such amounts as are provided in appropriation Acts shall enter into a contract for an independent study of the Dispute Resolution Program. The study shall evaluate the performance of such program and determine its effectiveness in carrying out the purpose of this Act. The study shall contain such recommendations for additional legislation as may be appropriate, and shall include recommendations concerning the continuation or termination of the Dispute Resolution Program. Not later than April 1, 1984, the Attorney General shall make public and submit to each House of the Congress a report of the results of the study.

(j) No funds for assistance available under this section shall be expended until one year after the date of the enactment of this Act.

Mr. KASTENMEIER (during the reading). Madam Chairman, I ask unanimous consent that this section be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN. Are there amendments to section 8?

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kindness: On page 60, line 18, insert "(1)" after "(f)", and, in line 20 strike the comma and all that follows through the word "organization" in line 21.

On page 61, after line 7, insert the following new subsection:

"(2) In the case of an application for financial assistance under this section submitted by a non-profit organization, the Attorney General shall furnish notice of such application to the chief executive officer, attorney general, and chief judicial officer of the State in which the applicant is located and to the chief executive officers of the units of general local government in which such applicant is located at least thirty days before the approval of such application. The chief executive officer, attorney general, and chief judicial officer of the State, and the chief executive officers of the units of general local government shall be given an opportunity to submit written comments to the Attorney General regarding such application and the Attorney General shall take such comments into consideration in determining whether to approve such application."

Mr. KINDNESS (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. KINDNESS. Madam Chairman, the amendment now before us is the amendment to which reference has been made by the gentleman from Illinois (Mr. Railsback) and the gentleman from Wisconsin (Mr. Kastenmeier) which would provide for notice of these programs to be given not only to the chief executive officer of the State and the attorney general and the chief judicial officer of the State, but also to the comparable officials at the local level so that they could have input also with respect to programs to be carried on in their communities.

Mr. KASTENMEIER. Madam Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. I thank the gentleman for yielding. I am familiar with this amendment and, as indicated, believe it adds to the bill. I would be pleased to accept it.

Mr. RAILSBACK. Madam Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding. May I ask a question? In Illinois it will be possible to have a program which is going to be within the confines of a city, but in Illinois there will also be a county with some jurisdiction over the entire county. Is it the intent that in that case where the program would be designed to serve within the confines of, say, one city, it would be the mayor of the city who would be given the opportunity to comment? Is that the intent?

Mr. KINDNESS. That is the intent, and I would hope that the record would so indicate. Provision is also in the amendment that it would be the local governmental unit that is of general governmental jurisdiction.

Mr. RAILSBACK. Will the gentleman yield further?

Mr. KINDNESS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman for yielding. I think that this amendment improves the bill and, as far as I know, there is no opposition to it on our side.

Mr. KINDNESS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Kindness).

The amendment was agreed to.

The CHAIRMAN. Are there additional amendments to section 8?

If not, the Clerk will read section 9.

The Clerk read as follows:

RECORDS; AUDIT; ANNUAL REPORT

Sec. 9. (a) Each grant recipient shall keep such records as the Attorney General shall require, including records which fully disclose the amount and disposition by such grant recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, the amount of that portion of the project or undertaking supplied by other sources, and such other records as will assist in effective financial and performance audits.

(b) The Attorney General shall have access for purposes of audit and examination to any relevant books, documents, papers, and records of grant recipients. The authority of the Attorney General under this subsection is restricted to compiling information necessary to the filing of the annual report required under this section. Such authority shall be exercised with great deference to the privacy rights of all individuals involved.

(c) The Comptroller General of the United States, or any duly authorized representatives of the Comptroller General, shall have access to any relevant books, documents, papers, and records of grant recipients until the expiration of three years after the final year of the recipient of any financial assistance under this Act, for the purpose of financial and performance audits and examination.

(d) The Attorney General, in consultation with the Advisory Board shall submit to the President and the Congress not later than one year after the date of the enactment of this Act, and on or before February 1 of each succeeding year, a report relating to the administration of this Act during the preceding fiscal year. Such report shall include—

(1) a list of all grants awarded;

(2) a summary of any actions undertaken in accordance with section 8(h);

(3) a listing of the projects undertaken during such fiscal year and the types of other dispute resolution mechanisms which are being created, and, to the extent feasible, a statement as to the success of all mechanisms in achieving the purpose of this Act;

(4) the results of financial and performance audits conducted under this section; and

(5) an evaluation of the effectiveness of the Center in implementing this Act, including a detailed analysis of the extent to which the purpose of this Act has been achieved, together with recommendations with respect to whether and when the program should be terminated and any recommendations for additional legislation or other action.

Mr. KASTENMEIER (during the reading). Madam Chairman, I ask unanimous consent that section 9 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

AMENDMENT OFFERED BY MR. KINDNESS

Mr. KINDNESS. Madam Chairman, I offer an amendment to section 9.

The Clerk read as follows:

Amendment offered by Mr. Kindness: On page 65, line 2, strike the sentence beginning with the word "Such" and insert in lieu thereof the following:

"No information revealed to the Attorney General pursuant to such audit and examination about an individual or business which has utilized the dispute resolution mechanism of a grant recipient may be used in, or disclosed for, any administrative, civil, or criminal action or investigation against the individual or business except in an action or investigation arising out of and directly related to the program being audited and examined."

□ 1250

Mr. RAILSBACK. Madam Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Illinois.

Mr. RAILSBACK. Madam Chairman, I have also read the amendment and again I think it is an improvement. I want to commend the gentleman for offering the amendment. I believe it is acceptable to this side.

Mr. KINDNESS. I thank the gentleman.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. Kindness).

The amendment was agreed to.

Mr. BUTLER. Madam Chairman, I move to strike the last word.

Madam Chairman, we are dealing with section 9 of the legislation entitled "Records, audits, and annual report." I simply take these few minutes to point out to the membership that here again we are setting up an expensive, new Federal program at a cost of $75 million. We now have 4 pages of section 9 dealing with records, audits, and annual reports. It is another situation that we ought to call to the attention of the membership, to alert them to all the paperwork that is going to be involved, all the useless exercise that will go into involving the Federal Government in an area which properly belongs with the State and local governments.

Madam Chairman, I just take this time to point out what the legislation would do with the taxpayers' money. Those of us who told our constituents we wanted to be elected in order to cut down on Federal spending, should be embarrassed by this sort of legislation.

Mr. SWIFT. Madam Chairman, I move to strike the last word.

Madam Chairman, I am an advocate of any procedure or mechanism that can encourage the timely and effective resolution of disputes involving our citizens acting collectively or individually. It saves time and it saves money. For this reason, I rise in support of the legislation before us today.

However, in my reading of this bill I am concerned lest the language as proposed could preclude the funding and encouragement of some important innovations in dispute resolution but which address conflicts somewhat broader in context and impact than those characterized under the act as minor disputes.

As you know, disputes evolving around the often conflicting demands of environmental protection and the need for economic and energy development are some of the most devisive and costly which we face. They too often spend long periods of time in our judicial system without resolving or even addressing the real issues. Further, the cost of the judicial proceeding, particularly as an issue moves upward through the judicial system, may often force less affluent groups and individuals on various sides of the issue to "drop out."

There is an organization located in the State of Washington whose services have been made available throughout the Western States and which has developed important and successful experience in the resolution of just such disputes through the mediation process. The Office of Environmental Mediation, presently located at the University of Washington, has successfully resolved conflicts over such diverse sets of issues as flood control and land use planning, port development and estuarine protection, airport expansion, pilot safety and neighborhood protection, and similar apparently irreconcilable sets of values and concerns. Recently, in my own district, they assisted a major Indian tribe and county government in reconciling a long festering dispute over a major parcel of land which the tribe wished to reacquire, but which the county had purchased for a park. Some of the disputes which this organization has resolved were in the courts or other adversary proceedings, while others were headed in that direction.

While the experience of the Office of Environmental Mediation is beginning to gain national notice and there are some fledgling efforts to replicate and expand its experience—notably the environmental mediation project of the Wisconsin Center for Public Policy located in Madison, Wis.—the inclusion of the office and similar efforts through this act could not only assure their continued survival but assure that their experience is available to the proposed Disputes Resolution Resource Center and to the programs which it funds.

To insure that such programs are not inadvertently precluded from consideration for funding under the act, I will request your indulgence in offering assurances on the following questions:

First, is it correct to assume that organizations such as the Office of Environmental Mediation, involved in disputes with relatively broad economic and social impacts such as those I have mentioned above, could be grant recipients under the act, provided that they meet the criteria set forth in section 4 and elsewhere in the act?

Mr. PREYER. The provisions of the act are drafted very broadly and I feel quite confident that organizations such as you mentioned could be grant recipients under the act.

Mr. SWIFT. Is it correct to assume that organizations such as the Office of Environmental Mediation, who are at times involved with issues which are of a regional and interstate nature or which may involve Federal agencies could be grant recipients under the act provided, of course, that they meet other pertinent requirements?

Mr. PREYER. I see no reason why this should not be the case.

Mr. SWIFT. I thank the gentleman from North Carolina for his clarification.

Mr. BUTLER. Madam Chairman, would the gentleman yield, please?

Mr. SWIFT. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for his inquiry. Of course, it does point up what conditions this act places on the receipt of money by the existing agency.

Would the gentleman tell us a little bit more about the agency, the enterprise to which he referred a moment ago? I am not sure I got the name correctly. Tell us how it is presently funded and what it is doing.

Mr. SWIFT. The agency is connected with the University of Washington in Seattle. It has made available professional mediators to deal with issues and disputes that have arisen in which environmental issues are a factor. This is an area of activity that is increasingly at issue, particularly as we try to deal with economic and energy issues which come into conflict with environmental issues.

Madam Chairman, we have found them to be exceptionally effective in being able to resolve issues in a way that is amicable to all parties and not involve them in a costly court process that both puts in jeopardy perhaps the environment as well as sometimes slowing down necessary economic and energy projects. It has been extremely useful not only in our State but throughout the region.

Mr. BUTLER. And how is it funded?

Mr. SWIFT. It is funded through the University of Washington.

Mr. BUTLER. Does the gentleman think it would continue to be funded if we do not pass this legislation?

Mr. SWIFT. It is an underfunded agency at present.

Mr. BUTLER. Does the gentleman know of any agencies that are not underfunded?

Mr. SWIFT. Yes. This is not one of them though.

Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read section 10.

The Clerk read as follows:

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. (a) To carry out the provisions of section 6 and section 7, there is authorized to be appropriated to the Attorney General $3,000,000 for each of the fiscal years 1980, 1981, 1982, 1983, and 1984.

(b) to carry out the provisions of section 8, there is authorized to be appropriated to the Attorney General $15,000,000 for each of the fiscal years 1981, 1982, 1983, and 1984.

(c) Sums appropirated under this section are authorized to remain available until expended.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: On page 66, line 20, strike the amount "$3,000,000" and insert in lieu thereof the amount "$1,000,000".

Mr. BUTLER. Madam Chairman, this is a modest change in the funding amount authorized by this legislation. I do apologize to the House for trespassing on its time for such a modest amount of money but it seems to me that it points up what is the basic fallacy in this legislation. It establishes $3 million for a disputes resolution resource center for each of the 5 years involved in this legislation. This amendment would strike the $3 and make it $1 million. This is basically for the mechanical end of the legislation. This is for the bureaucrats in the Justice Department.

Madam Chairman, we lay this on top of the whole other grant program. It does not resolve a single dispute, does not do a single thing except carry out the provisions of sections 6 and 7.

Madam Chairman, $3 million to set up a Federal resource center in this area strikes me as an excessive amount of money. Given the existence and the capabilities of the office for improvements in the administration of justice, where the Attorney General has indicated this will be located, $3 million a year seems totally unnecessary.

Madam Chairman, I am not a member of the subcommittee so I am not aware of how they arrived at the $3 million figure. I have not come across a detailed explanation or breakdown of why the $3 million is necessary. I suggest that $1 million is appropriate to set up a dispute resolution center. We can compare that to our own legislative offices. We have some 18 places in our own offices costing the taxpayers approximately $1 million a year to fund the operation of our offices. It seems to me those of us who can represent half a million people for $1 million a year ought to be able to conclude that $1 million a year is sufficient to set up a disputes resolution center in the Department of Justice.

Madam Chairman, I therefore urge the adoption of the amendment as an appropriate economy move by this Congress.

Mr. KASTENMEIER. Madam Chairman, I move to strike the last word and rise in opposition to the amendment.

Very briefly, Madam Chairman, this is, as I think the gentleman suggested, the least costly area of this bill; $3 million for each of 5 years to underwrite the Dispute Resolution Research Center.

Madam Chairman, the functions and purpose of this center are well detailed in the bill. I would like to supplement that when we go into the full House, with an even further detailed report from the Department of Justice on the precise allocation of the funds.

☐ 1300

The Center is necessary because there is no comparable facility in America to offer expertise, to serve as a clearinghouse, to make any type of evaluation, to offer technical assistanse on alternative minor dispute resolution mechanisms. Such a facility does not presently exist.

Long after the program is sunsetted, as it is to be in 1984, this center will have had a major role to play with respect to whether or not people in America will have alternative ways—other than going to the courts in expensive litigation—to resolve their conflict.

This, it seems to me, is the most necessary part of the bill. It may not be the most expensive, but it is the most necessary. It is charged with not only serving as a clearinghouse, but also providing technical assistance, conducting research, undertaking comprehensive surveys of State and local dispute mechanisms; it shall identify the effective ones from those that are ineffective and shall make recommendations regarding improving dispute resolution. It shall conduct an information program about the availability of assistance under the act, and also, of course, shall administer grants and contracts.

Three million dollars may or may not be adequate, but one thing is certain, $1 million is not.

Madam Chairman, I urge defeat of the amendment.

Mr. ROUSSELOT. Madam Chairman, I move to strike the requisite number of words. I rise in favor of the amendment of my colleague from Virginia (Mr. BUTLER).

I would like to ask my colleague, the gentleman from Wisconsin, about the National Center for State Courts in Williamsburg, which is engaged in this kind of work. Why would not that be an adequate organization to handle local disputes. They have a substantial budget.

Mr. KASTENMEIER. Madam Chairman, if the gentleman will yield, the National Center for State Courts is involved with State courts and State litigation. This bill does not involve litigation. It does not directly or principally involve courts.

Mr. ROUSSELOT. Why could not the National Center for State Courts encourage State court systems to handle this kind of activity? They are already federally funded. Why could we not channel this effort through that organization, since they are already federally funded? Why do we need a whole new program?

Mr. KASTENMEIER. Because this bill encourages alternatives to courts and to traditional ways of handling litigation. Indeed, State courts and the National Center for State Courts may need help; indeed, to the extent they do get assistance I think it is well spent and will solve problems.

Mr. ROUSSELOT. Did we consult them before we decided to launch this new program?

Mr. KASTENMEIER. Yes; if the gentleman will yield further, we did consult the National Center for State Courts. They do support this bill and the creation of this center. I have no doubt that they could make a contribution.

Mr. ROUSSELOT. They said that they could not do it? Did the gentleman ask them?

Mr. KASTENMEIER. My recollection is that they did not seek to have this particular mission, because the National Center is involved in judicial improvements—court improvements—while this bill is primarily seeking alternatives to courts.

Mr. ROUSSELOT. But they also are partially federally funded. Why could we not work through existing mechanisms?

Mr. KASTENMEIER. As I say, the Center for State Courts has not asked for this authority, because it is not directly in their jurisdiction. It is not directly a problem that affects them. It affects them tangentially. It affects them insofar as existing State and local court systems are unable to resolve disputes.

If the Congress really wanted to add on to that, say that it is not only a center for State courts, but also a center for alternative mechanisms, change their mandate and their jurisdiction, one could do that; but they do not seek that change and we do not impose it upon them.

Mr. ROUSSELOT. Madam Chairman, let me ask my colleague, the gentleman from Virginia, the author of the amendment, was there any attempt to consult with this group to see if maybe they could handle this function?

Mr. BUTLER. Yes. I thank the gentleman for asking me that question. I have the highest regard for the gentleman from Wisconsin and I do have to admire the manner in which the gentleman has made a distinction between State courts and alternative mechanisms.

The truth of the matter, of course, is that the National Center for State Courts was set up for the purpose of working out problems that State courts have on the State level. There is not any question in the minds of those people there that they have the facilities and they have the background, and by the time they get completely organized they will be in a position to suggest just the sort of thing that we have in mind here.

It would surprise me greatly if the Department of Justice does not when it starts contracting out these grant mechanisms does not engage the National Center for State Courts to do much of the work in this area.

Now, the reason I have been reluctant to bring that up until now is because I do not want to jeopardize this situation at Williamsburg, Va., by being in a position to say, "I told you so."

So do not tell the people at the Department of Justice that I think it is going this way, because I do not want to scare them off; but I think that is probably what they have in mind, because there is not any doubt in my mind that the National Center for State Courts at Williamsburg, Va., established with Federal funding, but by all the State courts, was created for just the sort of thing that this would lead to, that is, finding alternatives to the judicial machinery for resolving disputes. That is the thing that has offended me from the first about this whole legislation. We do not really need this in the Federal Government. If we just stay still, the States will solve it, like the gentleman from Washington said, like the center funded by the University of Washington, those things are coming along at a rapid pace in the States. That is the reason we have the haste in this legislation. I suspect that if we do not hurry up and pass this legislation, we will not be able to have any arguments for it at all, because the States are moving in that direction and this is an example.

I think that if we are determined to have it, that $1 million is enough for the Justice Department's involvement in it.

Mr. ROUSSELOT. Madam Chairman, I appreciate the comments of my colleague. I urge my colleagues to vote for Mr. BUTLER's amendments.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. BUTLER).

The question was taken; and on a division (demanded by Mr. BUTLER) there were—ayes 8, noes 12.

Mr. KINDNESS. Madam Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that she will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce that this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 718]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Applegate
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dixon
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
Emery

English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-schmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino

Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McCloskey
McCormack
McEwen
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Montgomery
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo

Ritter
Robinson
Rodino
Roe
Rose
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Symms
Synar
Tauke
Taylor
Thomas
Thompson
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

☐ 1320

The CHAIRMAN. Three hundred and seventy-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. KINDNESS) for a recorded vote.

Does the gentleman from Ohio insist on his demand?

Mr. KINDNESS. I do, Madam Chairman.

A recorded vote was ordered.

The CHAIRMAN. Five minutes will be allowed for this vote.

The vote was taken by electronic device, and there were—ayes 238, noes 156, not voting 39, as follows:

[Roll No. 719]

AYES—238

Abdnor
Albosta
Anderson, Calif.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bowen
Breaux
Brinkley
Broomfield
Brown, Ohio
Buchanan
Burgener
Butler
Byron
Campbell
Carney
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coelho
Coleman
Conable
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dicks
Dornan
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fenwick
Findley
Fithian
Flippo
Foley
Forsythe

Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Giaimo
Gibbons
Gingrich
Ginn
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hall, Tex.
Hammer-schmidt
Hance
Hansen
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Colo.
Jones, N.C.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Long, La.
Long, Md.
Lott
Lujan
Luken
Lungren
McDonald
McEwen
McKay
McKinney
Marks
Marlenee
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.

Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Panetta
Pashayan
Paul
Perkins
Petri
Pursell
Quayle
Quillen
Regula
Rhodes
Ritter
Robinson
Roe
Rose
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Symms
Tauke
Taylor
Thomas
Trible
Ullman
Vander Jagt
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NOES—156

Addabbo
Akaka
Bailey
Baldus
Bedell
Beilenson
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Brademas
Brodhead
Brooks
Broyhill
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Chisholm
Clay
Collins, Ill.
Conte
Corman
Danielson
Daschle
Derrick
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Eckhardt
Edgar
Ertel
Fascell
Fazio
Ferraro
Fisher
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Gilman

Alexander
Ambro
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hamilton
Harkin
Harris
Hawkins
Holtzman
Horton
Howard
Johnson, Calif.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Lehman
Levitas
Lloyd
Lowry
Lundine
McClory
McCloskey
McCormack
McHugh
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Myers, Pa.
Nedzi
Nelson
Nolan
Nowak

Andrews, N.C.
Aspin
Oakar
Oberstar
Obey
Ottinger
Patten
Patterson
Pease
Pepper
Peyser
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Rodino
Roybal
Sabo
Sawyer
Scheuer
Seiberling
Shannon
Simon
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Studds
Swift
Synar
Thompson
Van Deerlin
Vanik
Vento
Volkmer
Waxman
Williams, Mont.
Wirth
Wolff
Wolpe
Yates

NOT VOTING—39

Anderson, Ill.
Andrews, N. Dak.
Barnes
Bouquard
Brown, Calif.
Collins, Tex.
Conyers
Dellums
Duncan, Oreg.
Edwards, Calif.
Fish
Flood
Garcia

Hanley
Hollenbeck
Jenrette
Jones, Okla.
Jones, Tenn.
Kemp
Leland
McDade
Madigan
Marriott
Mattox
Murphy, Ill.
Murphy, N.Y.
Pickle

Roberts
Rosenthal
Rostenkowski
Russo
Sebelius
Traxler
Treen
Udall
Weiss
Wilson, C. H.
Wilson, Tex.
Wright

☐ 1330

Mr. DICKS changed his vote from "no" to "aye."

Mr. VANIK changed his vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BUTLER

Mr. BUTLER. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUTLER: On page 67, line 1, strike the amount "$15,000,000" and insert in lieu thereof the amount "$10,000,000".

Mr. BUTLER. Madam Chairman, I appreciate very much the passage of the earlier amendment, which reduced the funding for the dispute resolution center within the Department of Justice in the amount of $10 million. We are now asking this body to reduce the amount of the grants from $15 million to $10 million a year, a reduction of $5 million for each of 4 years for a total reduction in authorization for grants of $20 million.

This grant program, when it gets to be $15 million a year, would be becoming too much of a permanent funding mechanism. This is supposed to be a pilot program. In my judgment if we are determined to have it, and I think it is a bad idea to begin with, $10 million per year is the very most we ought to be talking about at this stage of the game.

Therefore, I urge the adoption of this amendment which would reduce the grant funding from $15 to $10 million per year for each of the 4 years of the grant program authorized by the bill.

Mr. RAILSBACK. Madam Chairman, I move to strike the last word.

Madam Chairman, even those of my colleagues who have voted to cut the $3 to $1 million dealing with the judicial resource center, I think ought to be very careful about supporting this amendment. This really is the grant part of the bill. It is the seed money that would go to the individual States and to the local governments as well as the not-for-profit agencies that would be experimenting, and conducting programs that I think would have the very desirable effect of providing an alternative means for resolving minor disputes. We are talking about mediation. We are talking about agreements voluntarily entered into.

We are talking about not having to have lawyers litigate. We are talking about forums that would not require you to have to go to court at a great deal of expense. When the members look at the current authorization level, it would break down right now to less than $300,000 per State.

□ 1340

My feeling is that is an absolute minimum amount necessary to get this program off the ground. I hope my colleagues will vote against this amendment.

Mr. KINDNESS. Madam Chairman, I move to strike the last word.

I will not take my 5 minutes, but I think after listening to the list of things we are talking about here we ought to talk about one more thing. What we are really talking about is a new Federal program supposedly starting small with an ill-defined purpose. We do not even have a definition of a minor dispute in the bill. The attempt to do so has been resisted and defeated. Certainly we can at least be sensible in the authorization of funds for this program. We are talking about a bill that would spend too much Federal taxpayers' money, and that is the issue. I think we need to adopt the amendment in order to keep this in some reasonable condition.

Mr. KASTENMEIER. Madam Chairman, I move to strike the last word and rise in opposition to the amendment.

Very briefly, I would like to remind the committee that last year 244 Members of the House voted for an authorization of $20 million a year for the grant program. We have cut the grant section back to $15 million a year.

But more importantly than that, such a reduction to $10 million per year could destroy the grant program. As a matter of fact, the gentleman from Virginia (Mr. Butler) pleaded in a letter to the chairman of the Commerce Committee and reminded him that he had an amendment for $75 million last year, which would have allowed $15 million a year for the grant program.

Mr. BROYHILL. Madam Chairman, will the gentleman yield?

Mr. KASTENMEIER. Yes, I yield to the gentleman.

Mr. BROYHILL. I would agree with the gentleman from Wisconsin, we already have accommodated the views of the gentleman from Virginia. Last year he was objecting to the higher funding level that we had in last year's bill, and we accommodated the gentleman and we included lower funding levels in this year's bill. In other words, we cut over $20 million from the program as it was written last year.

This, of course, was the position of the gentleman from Virginia last year. I do not know what position he will have maybe next week. He might change his mind again.

But I think the important thing is the fact that was brought out by the gentleman from Illinois, and that is that if we are going to have an experimental program like this we are going to have to have adequate funding, and the amounts that we have in this bill break down to less than $300,000 per State. Further reduction of funding levels is going to substantially decrease the chances for an effective program, and also one that can be a geographically diverse program.

Mr. KASTENMEIER. I thank the gentleman.

Mr. BUTLER. Madam Chairman, will the gentleman yield?

Mr. KASTENMEIER. Naturally I will yield to the gentleman from Virginia as his name has been mentioned.

Mr. BUTLER. I thank the gentleman for recalling a correspondence I had last year, and perhaps the gentleman is correct that I was somewhat frustrated in my efforts to get the Judiciary Committee to reduce the funding, and suggested maybe the Commerce Committee would do it.

The gentleman from North Carolina makes the suggestion that I will never be satisfied no matter how much of a reduction in the funding we make. I want to thank the gentleman. I think he is exactly right. I do not think this is a good bill, and I do not think it becomes any better. But at least if we are going to pass it, we have to hold the funding down.

The remarkable thing about it, of course, as the gentleman from Wisconsin will remember, is that the $10 million annual grant funding that I am suggesting in this amendment was suggested to me by the bill introduced by the gentleman from Wisconsin himself this year for the dispute resolution benefit. And at that time $10 million, it was $10 million, satisfied the gentleman from Wisconsin.

What has happened? What has happened here, has inflation done that to us? Really, I suggest to the gentleman that if you are going to be consistent, you should stick with the $10 million in this amendment, which is what the gentleman originally asked for.

Mr. KASTENMEIER. I will say to the gentleman I have bowed to the will of the two committees and the other body on this, and I am pleased to do so. I think it makes a great deal of sense.

In any event, my motives are pure. The gentleman from Virginia's motives are, of course, to destroy the bill, as he clearly acknowledges.

Madam Chairman, I urge the House to vote down this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. Butler).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KINDNESS. Madam Chairman, I demand a recorded vote.

A recorded vote was refused.

So, the amendment was rejected.

The CHAIRMAN. Are there further amendments?

Mr. ROUSSELOT. Madam Chairman, I move to strike the last word.

I take this time to ask some questions of those on the committee. I am surprised that we did not pass the recent amendment which was very much in keeping with what the chairman of the subcommittee (Mr. Kastenmeier) originally recommended, and that was $10 million.

But I would like to ask the committee, anybody on the committee who wants to answer, was any consideration given, when you brought out this legislation, to the fact that it adds to the national debt? I mean, there have been many discussions about adding to the debt, and I know this bill will cost $75 million.

I would ask the gentleman from Virginia, was there any discussion about how this would add to our deficit or did that come up at all?

Mr. BUTLER. Madam Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Virginia.

Mr. BUTLER. I would say to the gentleman that I tried to explain this to the members of the Committee on the Judiciary but I think they were so carried away by the wonderful thing we were doing for all of the people in the country by settling their minor disputes, with all of the barking dogs——

Mr. ROUSSELOT. Barking dog? What was that?

Mr. BUTLER. That is the kind of minor dispute that this bill will settle. I think that judgment as to the value of settling those disputes obscured the effect it would have on the Federal debt.

Mr. ROUSSELOT. Then there was no real discussion in the committee of how much this bill would add to the deficit; is that correct? I mean, is that correct there was no discussion?

Mr. BUTLER. I think that is a fair assumption.

Mr. ROUSSELOT. No discussion about how this would add to the debt? There is already $850 billion of Federal debt, and I know that we used to talk about a billion here and a billion there, but this is only millions, right, 70-odd now. We reduced it a little bit, did we not? We knocked it a little bit down?

Mr. BUTLER. We are now down to $65 million at this point.

Mr. ROUSSELOT. $65 million.

To my colleague from Illinois, a great

champion of this bill, who I know has expressed to me on many occasions his concern for the debt we have, did my colleague bring up this issue in committee?

Mr. RAILSBACK. Mr. Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I thank the gentleman. I even voted for the gentleman's balanced budget.

Mr. ROUSSELOT. And I appreciated that and I express my appreciation again.

Mr. RAILSBACK. And I want to thank the gentleman.

Mr. ROUSSELOT. How do we fit this new program into a balanced budget?

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Mr. RAILSBACK. I want to thank the gentleman for yielding and simply say that the gentleman from Virginia was not on the subcommittee. It was Mr. Moorhead.

Mr. ROUSSELOT. It was discussed in full committee. That is where Mr. Butler brought this matter up.

Mr. RAILSBACK. Mr. Sawyer supports the bill, and I support the bill—will the gentleman yield?

Mr. ROUSSELOT. I will yield if the gentleman will tell me further, was there a discussion in subcommittee about how this would add to the debt? You are not worried about it? Are you going to raise taxes?

Mr. RAILSBACK. There was a discussion about cost effectiveness.

Whether or not we are better off trying to settle disputes through mediation, rather than going to court.

Mr. ROUSSELOT. That is the essential point. How much are we going to save by spending $75 million?

Mr. JOHN L. BURTON. Madam Chairman, will the gentleman yield?

Mr. ROUSSELOT. You are not on the committee. But I will yield after further discussion with Mr. Railsback.

Mr. RAILSBACK. Madam Chairman, will the gentleman yield further?

Mr. ROUSSELOT. I yield to my colleague.

Mr. RAILSBACK. I think maybe the feeling is that if, for example, we get some landlord-tenant cases mediated with very little cost—the legislation will prove to be cost effective.

Mr. ROUSSELOT. And they are going to pay more Federal taxes to cover the cost of this new program?

Mr. RAILSBACK. Maybe we will not have to keep adding more judges that are more costly.

Mr. ROUSSELOT. Are more of these cases taken up in Federal court or in municipal court? I thought these were local, minor disputes. Would these cases go to Federal court?

Mr. RAILSBACK. Not exactly.

Mr. ROUSSELOT. Not exactly; I appreciate that straight answer. So this new Federal program will really save nothing, but just add to burden to the Federal working taxpayers.

Mr. ASHBROOK. Madam Chairman, will the gentleman yield?

Mr. ROUSSELOT. Now, I yield to another member of the committee, the gentleman from Ohio (Mr. Ashbrook).

Mr. ASHBROOK. I wear both committee hats. You know, a few weeks ago we passed the Community ACTION program.

Mr. ROUSSELOT. I remember that. Another very expensive program.

Mr. ASHBROOK. And that is just full of money to fund, the Government will provide the lawyers in the landlord-tenant strike.

Mr. ROUSSELOT. This is a lawyers' bill? Oh, that is all we need, another lawyers' bill, just to keep lawyers busy with Federal funds.

Mr. ASHBROOK. As my colleague well knows, the ACTION programs will go in and have these community activists.

Mr. ROUSSELOT. The Community ACTION program already has programed money for this purpose.

Mr. ASHBROOK. And they will stir them up and get another program to resolve the disputes the Community ACTION people funded by the Government have stirred up.

Mr. ROUSSELOT. So this helps stir up more lawyer work. In one more corner or the Federal Government when the same lawyer work is already funded in other corners.

Mr. ASHBROOK. It makes all kinds of sense.

Mr. ROUSSELOT. That certainly is encouraging to know.

Madam Chairman, I have got to yield to my colleague from California, a distinguished Member who fights hard for a balanced budget.

Mr. JOHN L. BURTON. I will take that dart straight to the heart.

Mr. ROUSSELOT. Not to be confused with Justin Dart.

Mr. JOHN L. BURTON. I thank the gentleman for yielding. I would be gainsaid to say that the National Chamber of Commerce, one of their members said, and I would not quote this——

Mr. ROUSSELOT. Go ahead, give us the name.

Mr. JOHN L. BURTON. That is privileged information, but the reason that the Chamber of Commerce is supporting this is because it will save millions of dollars in tax moneys.

Mr. ROUSSELOT. I did not get that letter.

Mr. JOHN L. BURTON. You will have to take my word for it. The Chamber of Commerce is supporting this because it will save millions of dollars in tax money.

Mr. ROUSSELOT. I did not know you were a major representative of the Chamber of Commerce.

Mr. JOHN L. BURTON. I know the gentleman is.

Mr. ROUSSELOT. Madam Chairman, now I yield to my colleague from Maryland (Mr. Bauman).

Mr. BAUMAN. Madam Chairman, I do not see any reason for order now, this has gone too far. I am surprised to see my good friend, John L. Burton of California, backing the bloated bondholders of the U.S. Chamber of Commerce, those wealthy malefactors who are trying to spend our money, as he usually characterizes them.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. Rousselot was allowed to proceed for 2 additional minutes.)

Mr. BAUMAN. I have listened to this debate on and off for 3 or 4 days—4 days—I said on and off which describes my attention span.

Mr. ROUSSELOT. It has been an on-and-off debate.

Mr. BAUMAN. I have noted that in the debate my colleagues keep referring to barking dog disputes. This reference has inspired the gentleman from Maryland. From time to time I have been characterized in the newspapers as "the watchdog of the House," which is a nice thing for them to say—it may or may not be true. But, if indeed I ever deserved that title, I want to say about this bill—a-r-o-o-o-o. Rarely have I ever seen a bill as miserable as this one. The gentleman in the well is "Mr. Balanced Budget" and I think he has made his case. Reject this bill.

Mr. ASHBROOK. Madam Chairman, will the gentleman yield further?

Mr. ROUSSELOT. I will be glad to yield to my other watchdog friend, the gentleman from Ohio.

Mr. ASHBROOK. Madam Chairman, I want to get back to the point as to whether the U.S. Chamber of Compromisers really support this bill or not.

Mr. JOHN L. BURTON. Would the gentleman yield on that point?

Mr. ASHBROOK. It is certainly the Chamber of Compromisers.

Mr. JOHN L. BURTON. Hilton Davis, vice president——

Mr. ROUSSELOT. I would be glad to yield to the representative of the Chamber of Commerce, John Burton.

Mr. JOHN L. BURTON. The letter follows:

Chamber of Commerce of the
United States of America,
Washington, December 4, 1979.

To: Members of the House.

From: Hilton Davis, Vice President, Legislative and Political Affairs.

Re: Dispute Resolution Act, S. 423.

I understand that the House, later this week or early next week, will consider S. 423, as amended, the Dispute Resolution Act. On behalf of our over 90,000 members, I respectfully urge you to support this legislation.

S. 423, which was passed by the Senate, authorizes the federal government to assist states and local communities establish and improve their informal complaint-handling and small claims court procedures. The purpose of the bill is to provide consumers, business, and the public-at-large with ways for resolving minor disputes effectively, inexpensively, and expeditiously. We expect it will, as intended, provide an incentive for states and local communities to study their existing minor dispute resolution mechanisms, to add new mechanisms, and to change old methods that no longer serve the public as they should.

Unfortunately, for many people, procedures for resolution of minor claims and disputes are unavailable or ineffective. Therefore, development and improvement of informal dispute resolution mechanisms—such as arbitration, mediation and small claim courts—is necessary to encourage people to resolve minor differences quickly and inexpensively, without protracted and costly litigation.

Legislation such as S. 423—supported by the Administration, consumer and business groups, lawyers' groups and representatives of state and local governments—is a significant step in the right direction.

S. 423, as amended, in facilitating establishment and improvement of informal dispute resolution mechanisms and small claims courts, with its careful restraints on federal encroachment on states' rights and its reasonable price tag, ultimately should provide for more effective resolution of consumer and other minor disputes.

Mr. ROUSSELOT. Is Mr. Davis speaking for all the membership of the Chamber?

Mr. JOHN L. BURTON. This is not the time to turn our backs on the business community of America.

Mr. ASHBROOK. Madam Chairman, will the gentleman yield further?

Mr. ROUSSELOT. I think after that statement the gentleman (Mr. ASHBROOK) needs time.

Mr. ASHBROOK. Just to give a little benchmark on the way the Chamber of Compromisers or Chamber of Commerce may poll their members, a couple of months ago I had an amendment up to the foreign aid bill to prevent indirect aid to Communist countries. The Chamber of Commerce came out in favor of that and said that they were speaking for the same members. I personally polled by actual letter 250 assorted members of the chamber, I took them from each county. Not a single one of them supported the U.S. Chamber's position. So, I suppose they are about as right on this as they were on the other.

Mr. ROUSSELOT. I appreciate my colleague's comments.

The CHAIRMAN. The time of the gentleman from California has again expired.

(By unanimous consent Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. I understand that in this bill there is no, I repeat no, definition of "minor dispute," and yet this is supposed to be a bill to help resolve minor disputes. Is there a definition, I ask my colleague who is on the committee, a member of the Judiciary Committee?

Mr. KINDNESS. Lord knows, we tried, but there is no definition.

Mr. ROUSSELOT. There is no definition of what a minor dispute is in this bill, and we are going to spend $75 million to find out what a minor dispute is. It will come from your workers' pockets, Mr. FORD of Michigan, since you said, "Right". My concern is for many people of this country who are saying, "Why does Congress constantly add more and more programs when they already have the mechanism to handle this kind of activity, and yet we just pile more and more on top of each other whether they want it, whether there is a demand for it. Yet again we are going to add one more program that does not even tell us what a minor dispute is.

Mr. KINDNESS. Madam Chairman, will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding. The discussion by the proponents of the bill pointed out that LEAA funds are already being used for demonstration programs in this area. We have got 100 programs around the country now.

Mr. ROUSSELOT. Did I understand there were 100 programs throughout the country started without the Federal Government, is that correct?

Mr. KINDNESS. In 28 States. Some LEAA money is going into some of those.

Mr. ROUSSELOT. They somehow have struggled through and have been able to do this without the Federal Government. Imagine that. They have already started such programs in 28 States, 100 communities, without the Federal Government. But, regardless of that we are going to pile more on top of it.

Mr. ASHBROOK. Madam Chairman, will the gentleman yield further?

Mr. ROUSSELOT. I yield.

Mr. ASHBROOK. Whether we are for or against this bill, every Member of this Chamber has had the same thing in common. We are confronted back home by our constituents who ask us a single question.

The CHAIRMAN. The time of the gentleman from California has again expired.

(At the request of Mr. ASHBROOK and by unanimous consent, Mr. ROUSSELOT was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. If my colleague will yield further, we all have one thing in common. We are all confronted by constituents who look at the growth of the Federal Government, excessive expenditures, taxation and inflation, and say, "How does it happen?"

I do not know what your theory is, but my theory has always been, it is like a ton of concrete. You add a pebble here, a stone there, and once in awhile a boulder. This probably is not a boulder. It may not even be a pebble, but this is one of those little time bombs that the majority of this House has planted in Federal expenditures how many times over the last 20 years? Food stamps were only going to be a couple hundred million dollars.

Mr. ROUSSELOT. That was only going to be for the very poor.

Mr. ASHBROOK. Black lung was only going to be $300 or $400 million. Now it is in excess of $1.5 billion. On and on it goes. We are planting one more little pebble in the ton of concrete that we are putting on the backs of every taxpayer. I think all of us ought to know that is precisely what we are doing today and ask ourselves whether or not it is necessary to do it.

Mr. ROUSSELOT. I urge my colleagues to vote down the unnecessary legislation.

Mr. ASHBROOK. Madam Chairman, it is hard to imagine a more foolish week in Congress than this current one. We are in the process of setting up several more unneeded Federal programs to poke Washington noses into local matters under the guise of resolving minor disputes. What dispute could the Federal Government possibly resolve without a legion of bureaucrats, page after page of regulation and so forth. We all know the pattern. Why go down that track in one more area with one more new program? One year ago candidates for Congress were supposedly listening to public clamor for less government. Voting for this bill will be an indication that the public clamor was forgotten.

After this turkey is off the agenda, we will go into another new program, this time becoming involved in domestic violence. Now that once more is an example of what the Federal Government is woefully unequipped to get involved in.

And if that is not enough, from 5 p.m. to 7 p.m. today I will attend the first meeting of the newly formed Commission on establishing a National Peace Academy. That one has been kicking around for a long time and is a part of this same dispute resolution syndrome. The phrase "minor dispute" is not even defined in this bill.

It is hard to conceive of any more ill-timed, unneeded new Federal programs than minor dispute resolution and domestic violence proposals before us today.

I ask my colleagues to read the minority views that those members of the Judiciary Committee not committed to a Government involved in everything wrote on this bill. I include the minority views at this point and urge the defeat of this bill:

DISSENTING VIEWS OF MR. BUTLER ON S. 423, JOINED BY MESSRS. ASHBROOK, HYDE. KINDNESS, AND LUNGREN

We respectfully disagree with some of my committee colleagues and urge Members not to support the passage of S. 423. A similar bill was soundly defeated last October under suspension of the rules.

For openers, this legislation would create a brand new Federal program with an authorization of $75 million.

The Dispute Resolution Act would establish a 4-year program in the Department of Justice to fund panels which would endeavor to resolve minor disputes between Americans. This money would be used to set up experimental resolution panels to endeavor to resolve disputes among neighbors (so-called "barking dogs" or "noisy air conditioner" problems) between landlord and tenant husband and wife, children and parents, employers and employees, and possible consumer disputes.

We are also told that minor criminal disputes such as misdemeanors, petty theft and simple assault may be subject to Federal resolution efforts under this legislation, but I find it difficult to believe that state and local law enforcement officers are aware of this.

Rapid growth is readily predictable for any Federal program, but this one has grown even before leaving the launching pad. The bill rejected by the House last year and the bill that passed the Senate this year create a program, if the title is any indication, for "The Resolution of Consumer Controversies". However, the title of the amendment in the nature of a substitute to the Senate bill adopted by the House Judiciary Committee, broadens this extensively to provide the ". . . resolution of minor disputes."

Nothing in this legislation gives any indication as to what a "minor dispute" may be. It doesn't have a great deal of significance, of course, except that this provides an index as to how carefully proponents of this legislation have considered what the legislation does. In our judgment, if we're going to undertake to enact legislation which so clearly impacts on matters traditionally left to the states, we should provide some more specific guidance as to the problems we're trying to solve.

This proposal goes the way of most new Federal programs: It has an advisory board!

The bill would establish a Dispute Resolution Advisory Board composed of representatives from nine different groups. The Consumer Union, in its testimony questioning the need for such a Board, pointed out that only three of the representatives on the Board would be from user groups (community, consumer and business organizations). Even the Senate rejected the Advisory Board!

Bear in mind, the Attorney General would be responsible for administering the grant program; and he could ignore, circumvent, or reject the Advisory Board and all its expensive suggestions. If the Attorney General needs help, he ought to be able to consult an expert of his choosing. The Advisory Board would not advance the objectives of the legislation. It would just cost money! It is our intention to offer an amendment to strike the Dispute Resolution Advisory Board from the bill.

We are prepared to acknowledge that somewhere along the line our court system has fallen short of resolving many of the day-to-day problems that exist in the societal relationships of today. The prohibitive costs of going to court and the attendant delay often inhibit many individuals from using the courts for the resolution of their disputes;

We have real reservations, however, about whether setting up the program envisioned by this legislation would solve the problems which cause minor disputes. It's important to recognize that the minor disputes the legislation is attempting to address are manifestations of the times in which we live. Economic woes, excessive leisure time, inadequate recreational facilities are representative of the factors that breed minor disputes, as well as the simple ornery nature of the character of some people.

Conceding that with a properly funded program, with properly trained personnel, many "minor disputes" can be resolved, and acknowledging that there are numerous moderately funded programs across the country that are successful in settling disputes, and even accepting the suggestion that the funding and direction of such program is an appropriate role for State and local government. We cannot accept the view that such a program is an appropriate responsibility for the Federal Government. It's true that the problem has national overtones for the simple reason that there are a lot of people in the United States who at one time or another have been involved in a "minor dispute" of some nature. However, this does not make it a Federal problem. When the Federal Government gets involved at this level of dispute, we have gone beyond the threshold of a reasonable Federal responsibility.

Bear in mind that the assumption of a Federal responsibility is inevitably followed by an abdication of state responsibility. As soon as Federal money becomes available, State-funded programs—even previously funded—have a way of drying up. In our zeal to do something about a problem that many states are already addressing, we may wind up with a negative rather than a positive impact from the Federal program.

The nature of Federal involvement as anticipated by this bill, in state and local matters, may well set a dangerous precedent for Federal-State relationships. During hearings, Robert J. Sheran, Chief Justice of the Supreme Court, State of Minnesota and Chairman of the Federal-State Relations Committee of the Conference of Chief Justices, speaking for the Conference, testified that the manner in which the grant program will be administered gives rise to a "separation of powers" dilemma. Under the bill, the Attorney General, who is charged with administering the grant program, will be making funding decisions that have the potential for affecting policy decisions of the State judiciaries. It is the concern of the Conference that if this occurs, it will result in violations of the Separation of Powers Doctrine, in that State judiciaries should not be subject to directions or oversight by the executive branch, either State or Federal (in this case the United States Attorney General). While the Conference did acknowledge that this program is of limited scope and they testified in support of this legislation "in principle", they were nonetheless "reluctant to endorse a procedure by which the Attorney General of the United States could use program funding decisions to affect policy decisions of State judicial officials."

The bill would provide $3 million each year for the establishment of a Dispute Resolution Resource Center. Why do we need a new Federal resource center to serve as an information clearinghouse for the states, when almost all the information we have about "minor disputes" mechanisms comes from the states?

Attorney General Griffin Bell advised that the program would be set up in the Office for Improvements in the administration of Justice. Why can't we use such an existing agency to compile and disseminate information, rather than establishing a new center at a cost of $3 million per year?

There is no detailed explanation or breakdown as to why $3 million per year is necessary for this purpose. We are confident we could find the talent to spend such an enormous sum, but it is not something that can be accomplished without great effort. It's just too much money! The authorization request for the grant program grew overnight like every other Federal program from $10 million a year when originally introduced and cosponsored by several members of the Judiciary Committee to $15 million per year when it came out of the subcommittee.

We are told that the increase was needed because of the broad scope of the program was expanding along the way. This is not the sort of thing a fiscally responsible Congress should be doing.

Before we spend $75 million for this program, we should take a look at what the State and local governments are doing in this area.

Dr. Daniel McGillis, research fellow at the Center for Criminal Justice, Harvard Law School, advised that there are presently approximately 100 programs in 28 States attempting to solve disputes. These programs range from the small community programs, funded at a cost of $5,000 to $10,000 a year with the local community donating office space, to the much larger programs such as the San Francisco community board program which has a central office and two field sites, funded at a cost of $300,000 a year.

In 1978, the Florida Supreme Court Office of State Courts Administrator prepared a report entitled "Citizen Dispute Settlement Program Development in Florida," to present to the Conference of Chief Justices. The report indicates that in addition to the pioneer program in Miami, county programs were located and fully operational in Orange (Orlando), Duvall (Jacksonville), Broward (Fort Lauderdale), Pinellas, (St. Petersburg/Clearwater), and Polk (Bartow) Counties. Additionally, there were at least two other counties, Palm Beach (West Palm Beach) and Hillsborough (Tampa), that are on the verge of initiating their own programs as well as six other communities which were investigating the potential for the development of CDS programs in their respective jurisdictions. The report indicated that the Miami program operates on a budget of approximately $150,000 per year, while the other programs vary in their fiscal requirements from $40,000 to $130,000 per year.

Similarly, in Massachusetts, six communities: Cambridge ($165,000 a year); Dorchester ($50,000 a year); Framingham ($60,000 a year); Lynn ($55,000 a year); Salem ($33,000 a year); and Tauton ($50,000 a year) have dispute resolution programs.

It is important to note that the Federal Government has already been active in this area, as well as the State and local communities. As most of us are aware, the Department of Justice has established three experimental neighborhood justice centers in Kansas City, Los Angeles and Atlanta, that employ mediation techniques to resolve disputes. These centers are funded through LEAA at a cost of $600,000 a year. The Department of Justice also have a community relations service with a budget of $4.8 million per year that is available to help communities solve civil rights disputes through mediation, conciliation, and technical assistance. ACTION, another Federal Government agency, is about to launch a $5.5 million program with part of its intended purpose being to facilitate the settlement of domestic disputes at the community level. (CETA and LEAA grants have also been used to establish local programs.)

Now, proponents of this bill have stated that the purpose of it is to facilitate experimentation with the handling of minor disputes by the states and local communities.

In light of the aforementioned examples, we think it is necessary to stop and ask ourselves, "How much experimentation does the Federal Government need to facilitate on the State and local levels?" The record would seem to indicate that the States and local governments are already responding adequately to the problem without further involvement from the Federal Government. However, there are those that will argue that many States and local communities are not as well off as some of their counterparts, and will require Federal assistance to implement such dispute resolution programs.

Consider how much better off the Federal Government is, with a $30 billion deficit, than are State and local communities!

Resolving disputes sounds like a good idea, and it may very well be that the traditional procedures could produce workable legislation, but this product falls short of what it should be. We do not need another $75 million program which the Federal Government can ill afford, and which may well create a separation of powers problem, in an effort to handle matters that the States and local communities are adequately addressing. All this leads me to agree with the conclusions of my colleagues on the Commerce Committee who filed additional views on this legislation: "Dispute resolution programs are and should be local responses to a problem that is local in origin; furthermore, they can be and should be financed from non-Federal sources."

M. Caldwell Butler.
John M. Ashbrook.
Henry J. Hyde.
Tom Kindness.
Daniel E. Lungren.

DISSENTING VIEWS OF F. JAMES SENSENBRENNER, JR., TO S. 423, THE DISPUTE RESOLUTION ACT

I did not support S. 423, the Dispute Resolution Act, because it represents an unwarranted intrusion by the Federal Government into what is essentially a State and local prerogative—the settling of minor disputes and small claims.

I do not believe that it is the proper role of the Federal Government to become involved in the settling of disputes at this level.

The responsibility for the settling of minor disputes rests with the State and local governments.

If there are problems with the handling of minor disputes by State and local authorities, then the solution should be for these authorities to develop more innovative procedures within small claims courts or similar adjudicatory bodies. These procedures could include the use of clerical personnel, such as clerks, to enter default judgments, appointing arbitrators whose decisions would be subject to confirmation by the court, etc. This approach is far superior to the establishment of a new agency within the Department of Justice. The establishment of a new agency requires expending unnecessary additional Federal funds.

I would also express my concern, from practical experience in dealing with court reorganization as a member of the Wisconsin legislature, that any real meaningful solution should come from the judicial rather than the legislative or executive branches of government.

F. James Sensenbrenner, Jr.

● Mr. **MAZZOLI**. Madam Chairman, I rise in support of the Dispute Resolution Act. S. 423.

Equal protection under the law necessitates equal access to our system of justice. But, when access to the courts is hindered by high costs of litigation in both money and time due to backlogs, then these obstacles act as disincentives and weaken our judicial process.

The bill before us will establish a Dispute Resolution Resource Center located within the Department of Justice. Further, the bill provides seed money for States, localities, and nonprofit organizations to experiment and develop a wide variety of mechanisms for nonjudicatory settlement of minor disputes.

Community or agency based forums using techniques such as conciliation, mediation, or arbitration. will quicken resolution of minor grievances. Further, the measure encourages improvement of existing dispute resolution forums, such as small claims courts.

Madam Chairman, I want to stress that if practical, affordable means of settling disputes are not readily available to the people, then disputes remain unresolved. This leads to increased tensions and frustrations which, themselves, tend to create additional problems.

This legislation will promote settlement of a variety of civil and minor criminal cases. Such typical areas include housing conflicts, consumer problems, utilities disputes, auto repair misunderstandings, household moving claims, and landlord-tenant grievances, among others.

I am pleased that this proposal has received wide support from the administration, consumer and business groups, lawyers' groups, and representatives of State and local governments. I am confident that with their continued assistance. this legislation will result in the successful establishment of a variety of alternative dispute resolution mechanisms.●

The **CHAIRMAN**. Are there further amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute as amended, was agreed to.

The **CHAIRMAN**. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. Mineta) having assumed the chair, Mrs. Spellman, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 423) to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes, pursuant to House Resolution 488, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The **SPEAKER** pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute, as amended, adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The **SPEAKER** pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BUTLER

Mr. **BUTLER**. Mr. Speaker, I offer a motion to recommit with instructions.

The **SPEAKER** pro tempore. Is the gentleman opposed to the bill?

Mr. **BUTLER**. I most assuredly am, Mr. Speaker.

The **SPEAKER** pro tempore. The gentleman qualifies.

The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. Butler moves to recommit the bill, S. 423, to the Committees on Interstate and Foreign Commerce and Judiciary with instruction to report the same back forthwith with the following amendment: On page 67, line 1, strike the amount "15,000,000" and insert in lieu thereof the amount "10,000,000".

Mr. **BUTLER**. Mr. Speaker, this is the same amendment which was offered earlier on which we did not get a recorded vote. I will not be critical of the Chair. In those circumstances we only found 24 people standing. But this particular amendment would strike the grant funding of $15 million per year for the 4 years and make it $10 million per year for each of the 4 years, a savings of $20 million in the authorization. This is a companion to the earlier amendment which reduced the funding for the authorization for the Center itself in the Department of Justice from $3 million to $1 million for each of the 5 years. I think it is an appropriate extension of the will of the House with reference to funding of this program.

This is supposed to be a pilot or an experimental program. It occurs to me that if this is to be a successful pilot program and not a large program which is going to expand forever, $10 million is entirely adequate to fund the grants which are anticipated under this program. I urge the adoption of the motion to recommit which would reduce the funding for grants from $15 million to $10 million for each of the 4 years.

Mr. **PREYER**. Mr. Speaker, I rise in opposition to the motion to recommit. Mr. Speaker, I strongly oppose this motion. We have already in this bill, before we introduced the bill and before it was reported out of committee, reduced the price tag of the bill from $95 million to $75 million. We did that to meet the objections of the gentleman from Virginia (Mr. Butler).

Now on the floor we have already passed an amendment reducing it from $75 million to $65 million. If we pass this amendment, the bill will be reduced from the original $95 million, which was what it carried in the suspension vote on the bill last year, to $45 million. The gentleman who is offering these amendments is opposed to the bill, and he is nickeling and diming the bill to death. If we are going to support the bill, certainly both committees have been responsible in reducing the price tag from $95 million to $75 million. It is now back down to $65 million, and that is the basic number. I would urge rejection of this motion.

Mr. **BROYHILL**. Mr. Speaker, will the gentleman yield?

Mr. **PREYER**. I yield to the gentleman from North Carolina.

Mr. **BROYHILL**. I thank the gentleman for yielding. I agree with the gentleman from North Carolina (Mr. Preyer) and the remarks that he has just made.

I would point out to the Members for their information that we are talking about $65 million over a 4-year period. I would also point out that when you break this down to a per-State allotment, and if you want to have a program that is diverse from a geographic standpoint, you are only talking about less than $300,000 per State. If you are going to have an effective program, it seems to me that you are going to have to have at least a minimal amount of funding.

A few minutes ago the gentleman from Ohio mentioned that there is a time bomb ticking. I can tell you where there is a time bomb ticking. It is in these clogged court systems that we have where the courts are so clogged with suits, it is becoming so expensive for anybody to go to court and have to hire a lawyer in order to get his dispute settled. What we are trying to do here is to provide for consumers and businesses, particularly small businesses, a more informal, less costly, forum where they can resolve these disputes. So what this bill does is to respond to these legitimate demands and needs of people for alternative dispute resolution mechanisms.

I want also to point out this is an experimental program. It is not intended on the part of this sponsor or other sponsors to make it a permanent program.

Mr. **PREYER**. I thank the gentleman and commend him for his remarks.

Mr. Speaker, I yield back the remainder of my time.

The **SPEAKER** pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The **SPEAKER** pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BUTLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 203, nays 197, not voting 33, as follows:

[Roll No. 720]

YEAS—203

Abdnor
Annunzio
Anthony
Applegate
Archer
Ashbrook
Atkinson
Badham
Bafalis
Bauman
Beard, Tenn.
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bouquard
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Burgener
Butler
Byron
Campbell
Carney
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Cotter
Coughlin
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Donnelly
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Fithian
Flippo
Forsythe
Fountain
Frenzel
Fuqua
Gephardt
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hammerschmidt
Hance
Hansen
Harsha
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McDade
McDonald
McEwen
McKay
McKinney
Madigan
Marks
Marlenee
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Neal
Nichols
O'Brien
Pashayan
Paul
Pease
Petri
Pritchard
Quayle
Quillen
Regula
Rhodes
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Santini
Satterfield
Schroeder
Schulze
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Tauke
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Ohio
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

NAYS—197

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Ashley
Aspin
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Brodhead
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Carter
Cavanaugh
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Corman
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Dicks
Diggs
Dingell
Dixon
Dodd
Downey
Drinan
Early
Eckhardt
Edgar
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Gaydos
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Harkin
Harris
Hawkins
Heckler
Hefner
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jenkins
Johnson, Calif.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCloskey
McCormack
McHugh
Maguire
Markey
Matsui
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Pa.
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Perkins
Peyser
Preyer
Price
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roe
Rose
Roybal
Sabo
Sawyer
Scheuer
Seiberling
Shannon
Simon
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Steed
Stewart
Stokes
Studds
Swift
Synar
Thompson
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki

NOT VOTING—33

Anderson, Ill.
Andrews, N. Dak.
Brown, Calif.
Conyers
D'Amours
Dellums
Dougherty
Duncan, Oreg.
Edwards, Calif.
Fish
Flood
Garcia
Giaimo
Hanley
Jenrette
Kemp
Marriott
Mattox
Murphy, Ill.
Pickle
Roberts
Rodino
Rosenthal
Rostenkowski
Runnels
Russo
Sebelius
Stark
Symms
Traxler
Treen
Udall
Weiss

☐ 1420

The Clerk announced the following pairs:

On this vote:

Mr. Marriott for, with Mr. Hanley against.

Mr. Kemp for, with Mr. Russo against.

Mr. Symms for, with Mr. Edwards of California against.

Mr. Dougherty for, with Mr. Rodino against.

Mr. Andrews of North Dakota for, with Mr. Brown of California against.

Mr. Sebelius for, with Mr. Rostenkowski against.

Until further notice:

Mr. D'Amours with Mr. Anderson of Illinois.

Mr. Murphy of Illinois with Mr. Fish.

Mr. Roberts with Mr. Garcia.

Mr. Udall with Mr. Jenrette.

Mr. Weiss with Mr. Giaimo.

Mr. Rosenthal with Mr. Mattox.

Mr. Pickle with Mr. Runnels.

Mr. Duncan of Oregon with Mr. Stark.

Mr. Dellums with Mr. Conyers.

Mr. Traxler with Mr. Flood.

Messrs. BOWEN, ALEXANDER, and LEVITAS changed their votes from "yea" to "nay."

Messrs. FINDLEY, McDADE, PRITCHARD, ROTH, DANNEMEYER, and GOLDWATER changed their votes from "nay" to "yea."

So the motion to recommit was agreed to.

The result of the vote was announced as above recorded.

Mr. KASTENMEIER. Mr. Speaker, pursuant to the order of the House, on behalf of the Committee on Interstate and Foreign Commerce and the Committee on the Judiciary, I report the bill back to the House with an amendment.

The SPEAKER pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

On page 67, line 1, strike the amount "$15,000,000" and insert in lieu thereof the amount "$10,000,000".

The SPEAKER pro tempore. The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. KASTENMEIER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 207, noes 195, not voting 31, as follows:

[Roll No. 721]

AYES—207

Addabbo
Akaka
Ambro
Anderson, Calif.
Andrews, N.C.
Aspin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bowen
Brademas
Brodhead
Broyhill
Buchanan
Burlison
Burton, John
Burton, Phillip
Carr
Chisholm
Clay
Coelho
Collins, Ill.
Conte
Corman
Cotter
Coughlin
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fisher
Florio
Foley
Ford, Tenn.
Fowler
Frost
Garcia
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hagedorn
Hall, Ohio
Hamilton
Harkin
Harris
Hawkins
Heckler
Hefner
Hollenbeck
Holtzman
Horton
Howard
Hughes
Jenkins
Johnson, Calif.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Lederer
Lehman
Leland
Levitas
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McCormack
McHugh
Madigan
Maguire
Markey
Marks
Matsui
Mavroules
Mazzoli
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Moorhead, Calif.
Moorhead, Pa.
Murphy, N.Y.
Murtha
Myers, Pa.
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Pursell
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Roe
Rose
Roybal
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling

Shannon
Sharp
Simon
Slack
Smith, Iowa
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stewart
Stokes
Studds
Swift
Synar
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Whittaker
Williams, Mont.
Wilson, C. H.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Yates
Young, Mo.
Zablocki

NOES—195

Abdnor
Albosta
Alexander
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Atkinson
AuCoin
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Bouquard
Breaux
Brinkley
Broomfield
Brown, Ohio
Burgener
Butler
Byron
Campbell
Carney
Carter
Cavanaugh
Chappell
Cheney
Clausen
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Ind.
Fenwick
Findley
Fithian
Flippo
Ford, Mich.
Forsythe
Fountain
Frenzel
Fuqua
Gaydos
Gephardt
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hall, Tex.
Hammerschmidt
Hance
Hansen
Harsha
Hightower
Hillis
Hinson
Holland
Holt
Hopkins
Hubbard
Huckaby
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, La.
Leath, Tex.
Lee
Lent
Lewis
Livingston
Lloyd
Loeffler
Lott
Lujan
Lungren
McDade
McDonald
McEwen
McKay
McKinney
Marlenee
Martin
Mathis
Mica
Michel
Miller, Ohio
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Mottl
Murphy, Pa.
Myers, Ind.
Natcher
Nichols
O'Brien
Pashayan
Paul
Pease
Petri
Quayle
Quillen
Regula
Rhodes
Ritter
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Satterfield
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Smith, Nebr.
Snowe
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Stump
Tauke
Taylor
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Winn
Wyatt
Wydler
Wylie
Yatron
Young, Alaska
Young, Fla.
Zeferetti

NOT VOTING—31

Anderson, Ill.
Andrews, N. Dak.
Brooks
Brown, Calif.
Conyers
D'Amours
Dellums
Duncan, Oreg.
Edwards, Calif.
Fish
Flood
Giaimo
Hanley
Heftel
Jenrette
Kemp
McCloskey
Marriott
Mattox
Murphy, Ill.
Pickle
Roberts
Rodino
Rosenthal
Rostenkowski
Russo
Sebelius
Symms
Thomas
Treen
Weiss

☐ 1440

The Clerk announced the following pairs:

On this vote:

Mr. Hanley for, with Mr. Andrews of North Dakota against.

Mr. Russo for, with Mr. Thomas against.

Mr. Edwards of California for, with Mr. Kemp against.

Mr. Brown of California for, with Mr. Marriott against.

Mr. Rodino for, with Mr. Sebelius against.

Mr. Rostenkowski for, with Mr. Symms against.

Until further notice:

Mr. Murphy of Illinois with Mr. Fish.

Mr. Rosenthal with Mr. Anderson of Illinois.

Mr. Roberts with Mr. McCloskey.

Mr. D'Amours with Mr. Mattox.

Mr. Jenrette with Mr. Duncan of Oregon.

Mr. Dellums with Mr. Flood.

Mr. Conyers with Mr. Giaimo.

Mr. Brooks with Mr. Weiss.

Mr. Pickle with Mr. Heftel.

So the Senate bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "An act to provide financial assistance for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution for minor disputes."

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON S. 423

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the House insist on its amendments to the Senate bill, S. 423, and request a conference with the Senate thereon.

The SPEAKER pro tempore (Mr. MINETA). Is there objection to the request of the gentleman from Wisconsin? The Chair hears none and, without objection, appoints the following conferees: Messrs. KASTENMEIER, DANIELSON, MAZZOLI, RAILSBACK, MOORHEAD of California, STAGGERS, SCHEUER, PREYER, BROYHILL, and RINALDO.

There was no objection.

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

Mr. SIMON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 2977) to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. SIMON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the State of the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 2977, with Mr. FAZIO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, December 10, 1979, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Domestic Violence Prevention and Services Act".

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WALKER

Mr. WALKER. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. WALKER: Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited to as the "Domestic Violence Prevention and Services Act".

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) a significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between family members;

(2) the reported number of incidents of domestic violence represents only a portion of the total number of incidents of domestic violence;

(3) domestic violence is a complex problem affecting families from all social and economic backgrounds;

(4) a large part of the inability of the States to deal effectively with domestic violence results from overlapping and duplicative programs administered by the Federal Government; and

(5) if existing Federal programs relating to domestic violence were properly coordinated, there would be no need to establish any additional Federal programs for providing assistance to victims of domestic violence.

(b) It is the purpose of this Act to coordinate and consolidate existing Federal programs which provide assistance to the victims of domestic violence by transferring authority for the operation of such programs to the Secretary of Health and Human Services, acting through the National Clearinghouse on Domestic Violence, and by requiring the Secretary to consolidate such programs into a single block grant program of financial assistance to the States.

TRANSFER OF PROGRAMS

SEC. 3. (a) The authority of Law Enforcement Assistance Administration with respect to—

(1) grant programs which are administered by the Office of Criminal Justice or the Office of Juvenile Justice and Delinquency Prevention for the purpose of providing assistance to victims of domestic violence;

(2) the administration of programs providing block grants to States for the purpose of providing assistance to victims of domestic violence;

is hereby transferred to the National Clearinghouse on Domestic Violence (hereinafter in this Act referred to as the "Clearinghouse").

(b) The authority of the Secretary of Labor to administer any project under the Comprehensive Employment and Training Act which is designed to utilize individuals employed under such Act for the purpose of providing assistance to victims of domestic violence is hereby transferred to the Clearinghouse.

(c) The authority of the Alcohol, Drug Abuse, and Mental Health Administration with respect to programs which are designed to provide assistance to victims of domestic violence and which are administered by—

(1) the Center for Studies of Crime and Delinquency;

(2) the National Center for the Prevention of Rape;

(3) the Center for Mental Health Services, Manpower, Research, and Demonstration; and

(4) the National Institute on Alcohol Abuse and Alcoholism;

is hereby transferred to the Clearinghouse.

(d) The authority of the Administration for Children, Youth, and Families relating respect to the Administration of the National Center on Child Abuse and Neglect is hereby transferred to the Clearinghouse.

CONSOLIDATION OF PROGRAMS; BLOCK GRANT AWARDS

SEC. 4. (a) The Clearinghouse, as soon as practicable after the date of the enactment of this Act, shall consolidate all programs and projects transferred to the Clearinghouse in accordance with section 3. Such consolidation shall be carried out in a manner which facilitates the administration of the block grant program established in subsection (b).

(b)(1) The Clearinghouse shall establish a program for awarding block grants to States under this Act in order to assist such States in providing necessary services and assistance to the victims of domestic violence.

(2) No block grant may be made by the Clearinghouse to any State under this section unless the chief executive officer of the State seeking such grant submits an application for such grant to the Clearinghouse. Such application shall be submitted at such time, in such form, and according to such procedures as the Clearinghouse may require. Each such application shall—

(A) set forth procedures for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under such grant;

(B) specify the State agency to be designated as responsible for the administration of program and activities relating to domestic violence which are carried out by the State in accordance with this Act; and

(C) provide for making such reports at such times, in such form, and containing such additional information, as the Clearinghouse considers necessary to carry out the provisions of this Act, and for keeping such records (and affording such access to such records) as the Clearinghouse considers necessary to assure the correctness and verification of such report.

(c) The Clearinghouse shall approve any application which meets the requirements of subsection (b), and the Clearinghouse shall not disapprove any such application except after reasonable notice, opportunity for correction of any deficiencies, and notice of, and an opportunity for, a hearing.

AUTHORITY OF CLEARINGHOUSE RELATING TO CERTAIN PROGRAMS

SEC. 5. (a) The Secretary of Agriculture shall consult with, and furnish information to, the Clearinghouse with respect to the provision of any assistance to victims of domestic violence in connection with the administration of the women, infants, and children food supplement program and the food stamp program by the Secretary of Agriculture. The Secretary of Agriculture shall administer such programs, to the extent such programs furnish assistance to victims of domestic violence, in consultation with the Clearinghouse. The Secretary of Agriculture shall not have any authority to make any change in the rules or requirements applicable to the provision of assistance to victims of domestic violence unless such change is reviewed and approved by the Clearinghouse.

(b) The Commissioner of Social Security shall consult with, and furnish information to, the Clearinghouse with respect to the provision of any assistance to victims of domestic violence in connection with the administration of the aid to families with dependent children program under title IV of the Social Security Act. The Commissioner of Social Security shall administer such program, to the extent such program furnishes assistance to victims of domestic violence, in consultation with the Clearinghouse. The Commissioner of Social Security shall not have any authority to make any change in the rules or requirements applicable to the provision of assistance to victims of domestic violence unless such change is reviewed and approved by the Clearinghouse.

(c) The Secretary of Housing and Urban Development shall consult with, and furnish information to, the Clearinghouse with respect to the provision of any assistance to victims of domestic violence in connection with the administration of any community development block grant program or any other housing program which provides for the establishment and operation of community shelters. The Secretary of Housing and Urban Development shall administer any such program, to the extent such program furnishes assistance to victims of domestic violence, in consultation with the Clearinghouse. The Secretary of Housing and Urban Development shall not have any authority to make any change in the rules or requirements applicable to the provision of assistance to victims of domestic violence unless such change is reviewed and approved by the Clearinghouse.

(d) The Director of the Community Services Administration shall consult with, and furnish information to, the Clearinghouse with respect to the provision of any assistance to victims of domestic violence in connection with the administration of any community action program under the Economic Opportunity Act of 1964. The Director of the Community Services Administration shall administer such program, to the extent such program furnishes assistance to victims of domestic violence, in consultation with the Clearinghouse. The Director of the Community Services Administration shall not have any authority to make any change in the rules or requirements applicable to the provision of assistance to victims of domestic violence unless such change is reviewed and approved by the Clearinghouse.

TRANSFER OF FUNCTIONS

SEC. 6. (a) All personnel, property, records, obligations, commitments, and unexpended balances of appropriations, authorizations, allocations, and other funds, which are employed, held, used, or available to any agency specified in section 3 in connection with the administration of any program specified in section 3 shall be transferred to the Clearinghouse. The transfer of personnel under this subsection shall be without reduction in classification or compensation for 2 years after such transfer, except that the Clearinghouse shall have full authority to assign personnel during such 2-year period in order to efficiently carry out functions transferred to the Clearinghouse under this subsection.

(b) All orders, determinations, rules, regulations, contracts, and privileges relating to functions transferred in this section—

(1) which have been issued, made, granted, or allowed to become effective by any agency specified in section 3; and

(2) which are in effect on the date of the enactment of this Act and which are not inconsistent with the provisions of this Act;

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Clearinghouse, by any court of competent jurisdiction, or by operation of law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. There is authorized to be appropriated $15,000,000 for each of the fiscal years 1981, 1982, and 1983, to carry out the provisions of this Act.

Mr. WALKER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. WALKER. Mr. Chairman, this particular bill is an attempt to address what I think is a very important subject, the subject of domestic violence across the country.

What my amendment attempts to do—it is an amendment in the nature of a substitute—is to take an approach that the proponents of this legislation have deemed as meritorious in much of what they have written and said about this particular bill.

It is well known that there are about 19 domestic violence programs scattered around the Federal Government. There is a study underway at the present time as to whether or not those programs cannot be better coordinated and used.

What this amendment does is it takes a block grant approach to the whole Federal involvement in domestic violence. It would take steps to immediately consolidate and coordinate the programs, and it would do so at a cost much less than what is in the committee bill.

The committee bill calls for an expenditure of $65 million. This substitute would call for an expenditure of $45 million. The block grant idea, I think, is important as it relates to this program, because what it says is that the Federal Government should not get itself involved in taking a role in marital relationships.

□ 1450

H.R. 2977 is predicated on the notion that government, especially the Federal Government, definitely has a role in marital relationships. What the block grant approach would say is that the States should take the lead role in this area where there are State laws. And we have 43 States that already have taken action of some kind in this area.

This particular amendment which I offer would allow us to move forward with those programs and do so in a way that you take what is being done throughout the Federal Government and focus those activities.

The bill itself, for instance, says nothing about coordinating the programs, even though this is something which proponents have said is necessary.

As I say, coordination is being studied but the committee bill leaves the whole business of coordination up to the bureaucracy.

My amendment at least specifies which programs are to be transferred and where they are to be located under the block grant. Finally, that savings of $20 million to which I referred is important, because we are talking about a program where there are ongoing efforts. If we can combine those efforts, it can be much more efficient, and you can reduce much of the bureaucracy that would be needed at the Federal level under the committee bill.

I think it is an important direction to go, Mr. Chairman, because I think that this particular block grant kind of idea does do exactly what proponents say needs done, and that is focus the attention of the country on the problem and focus it in a way that efficiency and effectiveness are promoted where the Federal Government acts, but without having the Federal Government directly involved in the role of the family.

This amendment is offered in that spirit.

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. MILLER of California. Would the gentleman tell me, and as I understand his substitute, the gentleman would require the transfer of significant portions of various programs to a national clearinghouse for the purposes of making a block grant. The first of the transfers is the authority of the Law Enforcement Assistance Administration with respect to grant programs that it administers. Can the gentleman tell me what programs those are?

Mr. WALKER. I would be glad to tell the gentleman. It would be the programs in the family violence area, in the office of juvenile justice and delinquency prevention and block grants to the States, which are presently being operated under LEAA.

Mr. MILLER of California. Could the gentleman tell me which of those programs provide services to people in shelters?

Mr. WALKER. I would say to the gentleman we are taking a wide variety of programs that are in the Federal Government, and by creating the block grant we would allow the money to be focused for shelters if the State deems so necessary.

Mr. MILLER of California. Can the gentleman tell me if in his amendment as offered to the House it also provides for transference of the operation named the Center for Women Policy Studies?

Mr. WALKER. I would say to the gentleman that if he has a copy of the amendment, which reflects that, that should have been crossed out, because I recognize that is not part of the Federal Government operations. It is private. So the amendment that I submitted does not include that particular program.

Mr. MILLER of California. The gentleman also talks about the Department of Labor. Could the gentleman tell me how he would separate out those functions of the Department of Labor to deal with this?

Mr. WALKER. Precisely, as I understand it, what——

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WALKER) has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 2 additional minutes.)

Mr. WALKER. To continue, Mr. Chairman, I would say to the gentleman that I understand that is a problem, that this is precisely what the studies that are now underway are trying to determine. I would think we could use the recommendations of the study to transfer the amounts of moneys that are being utilized.

I do not have the precise figures, but there are significant sums; and we think that those could be transferred and utilized very well in a focused program.

Mr. MILLER of California. Also, on page 3 of the gentleman's amendment, the gentleman says he would transfer the authority of the Alcohol, Drug Abuse and Mental Health Administration with respect to programs which are designed to provide assistance to victims of domestic violence. Could he tell me what programs those are?

Mr. WALKER. Well, I would say to the gentleman that if he goes on in the amendment, he will see we have a Center for Studies of Crime and Delinquency, the National Center for the Prevention of Rape, Manpower Research and Demonstration, and the National Institute on Alcoholism, and others.

Mr. MILLER of California. If I could say to the gentleman, I understand that those agencies, departments, and bureaus operate within the Federal Government, but I am yet at a loss to understand how they would meet the needs that this legislation is designed to provide, which is the operation and maintenance of shelters for spouses who have been battered by their spouses.

I do not understand, because as far as I know, none of these programs currently is operating such services.

Mr. WALKER. I would say to the gentleman, the advantage of the block grant approach is that it will allow that kind of focus. If I understand what was being said in the committee report and what has been said in the debate throughout this bill, the shelters concept is the one which has a lot of merit to it for future use in this program. This would allow all of the moneys that are now being devoted to domestic violence to be focused and thereby they could be utilized almost totally within a State for shelter programs.

Mr. MILLER of California. If the gentleman would also look on page 7 of his amendment, it talks about the transfer of functions.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WALKER) has again expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. If the gentleman will continue to yield, it says:

> All personnel, property records, obligations, commitments, unexpended balances shall be transferred to this clearing house.

I know the gentleman was involved in the reorganization of the Department of Education and knows how much trouble we had with that. I just wondered, has he talked to people who have legislative and appropriations authority over the Department of Agriculture? Has he talked to the people on the Committee on Ways and Means, because he talks about a transfer there, and consultation with the Social Security Administration? Has he talked to people on the Committee on the Judiciary? Is the gentleman a member?

Mr. WALKER. I am not a member.

Mr. MILLER of California. Has the gentleman talked there about the functions of LEAA, because what I really fail to understand here is how this would take place, when there have been no hearings, and there has been no discussion of it. None of these people have, in fact, been consulted. I just fail to understand how all of these changes in function, transfers of property, of records, of obligations, of liability, how in fact that would take place as we stand here on the floor and simply offer a substitute amendment.

Mr. WALKER. I would say to the gentleman that it is my understanding, and I believe the record would show on H.R. 2977, that part of the intent of that bill, even though the committee bill does not get down to specifics, is to coordinate the programs. This amendment is being offered in the spirit of cooperation and coordination. Moreover, it would allow the States to begin to utilize more effectively the programs that they now have in place.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. WALKER) has expired.

(By unanimous consent, Mr. WALKER was allowed to proceed for 1 additional minute.)

Mr. WALKER. As I say, 43 States already have domestic violence programs to be supplemented with block grant moneys from the Federal Government. Here is our opportunity to step forward and do so at a reduced cost.

I would say to the gentleman that it simply speaks to a direction that the H.R. 2977 indicates is the proper direction for the future. In my opinion we ought to make the future now.

Mr. Chairman, I yield back the balance of my time.

Mr. SIMON. Mr. Chairman, I rise in opposition to the amendment.

I shall try to take less than 5 minutes.

This is precisely the way we should not legislate. We have talked about doing committee work on the floor, and that is what we are doing here, a total substitute that, as chairman of the subcommittee, I saw here 10 minutes ago. We do not know what the implications of this will be on the various agencies, what the budgetary impact would be. We only have the totals.

If saving money were the only aim of this, he could simply amend section 12 of the bill to pull it back to that $45 million total figure for 3 years.

What is its impact otherwise? Does it fill the voids that this legislation aims to fill? We frankly do not know.

I suggest this is not the way to legislate. There are all kinds of questions about this.

We have a carefully crafted bill, thanks to the help of our colleagues from the other side, that I think it merits the support of this House. I hope we reject the amendment.

Mr. GREEN. Mr. Chiarman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. GREEN. I just want to commend the gentleman from Illinois for his statement. I join him in opposition to the amendment.

Mr. Chairman, I am opposed to this amendment, which would seriously weaken the Domestic Violence Prevention and Services Act. I support the Domestic Violence Prevention and Services Act. Domestic violence affects every facet of this society. It does not discriminate between the rich and the poor or urban and rural residents, and, like other forms of violence, its consequences are deadly. The FBI reported that one fourth of all persons murdered in the United States during 1975 were killed by members of their own families. Moreover, half of these individuals were killed by their own spouses. Logic dictates that if we are to avert such tragedies, a program aimed at preventing domestic violence and serving those individuals who have already suffered from it must be established.

The bill under consideration will provide funds to State and local public and nonprofit agencies to stimulate efforts to prevent domestic violence and assist its victims and their dependents. Too often, in communities where such shelters have already been established, inadequate funding has caused a given population to be vastly underserved. For example, in New York City during 1977, over 8,000 persons petitioned for orders of protection with the New York City Family Court. This statistic even excludes the victims of domestic violence who are afraid to bring their grievances before the courts fearing severe reprisals by their spouses. It is astonishing to note that only three fully established shelters exist within the city's boundaries for such a great number of people. These shelters were designed to serve a combined capacity of approximately 114 individuals. Obviously the Federal Government must provide some measure of fiscal relief to the State and local governments if the remaining thousands in New York City, and millions throughout the Nation, are to have any hope at all of finding assistance or shelter at a time when their physical and mental well being is threatened within the confines of their own homes.

I urge my colleagues now, as I did in the 95th Congress when the House considered H.R. 12299, to vote for final passage of this bill. I also urge you to vote for H.R. 2977 without amendment. The Domestic Violence Prevention and Services Act requires the Secretary of HEW to appoint a coordinator of domestic violence programs; authorizes the Secretary to make grants available to the States for distribution to programs of prevention of domestic violence; and authorizes appropriations supported under the act. Since traditional social service agencies are often ill-prepared to aid the victims of domestic violence, I believe this legislation will provide the basis for a sound social policy aimed at coping with this national epidemic.

It is not often that a bill receives the bipartisan support which H.R. 2977 has received, nor is it often that we have the opportunity to promote a social policy directed at alleviating a problem which so directly affects the lives of our citizens. Since coming to the Congress the passage of this legislation has been a priority of mine, and I hope you will join me in supporting this bill.

I believe this amendment will significantly weaken this act, and therefore I urge its defeat.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. WALKER).

The question was taken, and the Chairman announced that the noes appeared to have it.

Mr. WALKER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 722]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, John
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coelho
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Downey
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McDade
McDonald
McEwen
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Martin
Matsui
Mavroules
Mazzoli
Mica
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nichols
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Roe
Rose
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Stark
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zeferetti

☐ 1510

The CHAIRMAN. Three hundred and eighty-three Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Pennsylvania (Mr. WALKER) for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 148, noes 247, not voting 38, as follows:

[Roll No. 723]

AYES—148

Abdnor
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Brinkley
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Campbell
Carter
Chappell
Cheney
Clausen
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin

Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derwinski
Devine
Dickinson
Dornan
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Forsythe
Fountain
Frenzel
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gradison
Gramm
Grisham
Guyer
Hagedorn
Hall, Tex.
Hance
Hansen
Harsha
Hinson
Holland
Hopkins
Hughes
Hutto
Ichord
Ireland
Jacobs
Jeffries
Jenkins
Johnson, Colo.
Jones, Okla.
Kazen
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leath, Tex.
Lee
Livingston
Loeffler
Lott
Lujan
Lungren
McDonald
McEwen
Madigan
Martin
Mathis
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nichols
O'Brien
Pashayan
Paul
Petri
Quayle
Quillen
Regula
Rhodes
Robinson
Roth
Rousselot
Rudd
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Spence
Stangeland
Stenholm
Stockman
Stump
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Williams, Ohio
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.
Young, Mo.

NOES—247

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Buchanan
Burlison
Burton, John
Burton, Phillip
Byron
Carney
Carr
Cavanaugh
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Derrick
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Downey
Drinan
Early
Eckhardt
Edgar
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gonzalez
Gore
Grassley
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hammerschmidt
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hyde
Jeffords
Johnson, Calif.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McDade
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Rahall
Railsback
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Roybal
Royer
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Snowe
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Whitley
Whitten
Williams, Mont.
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Zeferetti

NOT VOTING—38

Alexander
Anderson, Ill.
Andrews, N. Dak.
Brown, Calif.
Crane, Philip
D'Amours
Dellums
Dougherty
Duncan, Oreg.
Edwards, Calif.
Flood
Giaimo
Gilman
Hanley
Hillis
Jenrette
Kemp
McCloskey
McCormack
Marriott
Mattox
Mitchell, Md.
Murphy, Ill.
Nolan
Pickle
Pursell
Roberts
Rosenthal
Rostenkowski
Runnels
Russo
Sebelius
Stanton
Symms
Treen
Weiss
Wilson, C. H.
Zablocki

□ 1520

Mr. ROYER and Mr. BETHUNE changed their votes from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FINDINGS AND PURPOSE

SEC. 2. (a) The Congress hereby finds that—

(1) a significant number of homicides, aggravated assaults, and assaults and batteries occur within the home between adult members of families;

(2) the reported number of incidents of domestic violence represents only a portion of the total number of incidents of domestic violence;

(3) a large percentage of the deaths of law enforcement officers in the line of duty results from intervention by law enforcement officers in incidents of domestic violence;

(4) domestic violence is a complex problem affecting families from all social and economic backgrounds; and

(5) the effectiveness of State laws and State and local programs in reporting and preventing domestic violence and assisting victims and dependents of victims of domestic violence is not readily ascertainable.

(b) It is the purpose of this Act—

(1) to increase the participation by States, local public agencies, private nonprofit organizations, and individual citizens in efforts to prevent domestic violence and assist victims and dependents of victims of domestic violence;

(2) to provide technical assistance and training relating to domestic violence programs to States, local public agencies, private nonprofit organizations, and other interested groups, officials, and persons seeking such assistance;

(3) to establish a Federal interagency council to seek to coordinate Federal programs and activities relating to domestic violence; and

(4) to provide for information gathering and reporting programs relating to domestic violence.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 2 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there amendments to section 2? If not, the Clerk will read.

The Clerk read as follows:

DESIGNATION OF COORDINATOR; ESTABLISHMENT OF PROGRAMS

SEC. 3. (a) The Secretary of Health, Education, and Welfare shall designate an individual with expertise relating to the prevention and treatment of domestic violence to serve as the coordinator of domestic violence programs administered by the Department of Health, Education, and Welfare, including programs established by the Secretary under subsection (b).

(b) The Secretary shall—

(1) establish and maintain a national clearinghouse on domestic violence, in coordination with the information clearinghouse maintained by the National Center on Child Abuse and Neglect under the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.), for purposes of collecting and disseminating information, reviewing Federal, State, and local programs, and compiling and actively distributing information relating to programs for the prevention and treatment of domestic violence;

(2) make legislative recommendations to the Congress, in coordination with the Federal Interagency Council on Domestic Violence, concerning the need for the modification of Federal programs which may affect victims of domestic violence; and

(3) provide for the acquisition of information regarding research projects relating to domestic violence.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 3 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there amendments to section 3? If not, the Clerk will read.

The Clerk read as follows:

GRANT PROGRAMS

SEC. 4. (a) The Secretary shall, in accordance with the provisions of this Act, make grants to States which meet the requirements of subsection (b), in order to assist in supporting the establishment, maintenance, and expansion of programs and projects to prevent incidents of domestic violence and to assist victims and dependents of victims of domestic violence.

(b) No grant may be made by the Secretary under subsection (a) unless the chief executive officer of the State seeking such grant submits an application for such grant to the Secretary. Such application shall be submitted at such time, in such form, and according to such procedures, as the Secretary may require. Each such application shall—

(1) provide that all funds received by the State under a grant made by the Secretary under subsection (a) will be distributed in grants to local public agencies and private nonprofit organizations for programs and projects within such State to prevent incidents of domestic violence and to assist vic-

tims and dependents of victims of domestic violence;

(2) provide, with respect to funds received by a State under such grant for any fiscal year, that—

(A) not less than 75 percent of such funds will be distributed in grants to private nonprofit organizations within the State; and

(B) in the distribution of funds by the State under such grant, the State will give special emphasis to the support of community-based projects of demonstrated effectiveness, particularly projects which operate shelters for victims and dependents of victims of domestic violence;

(3) provide that the State, in the distribution of funds under such grant, will provide reasonable assurances to local public agencies and private nonprofit organizations receiving such grants of the level of future support which each such agency or organization is likely to receive from the State, assuming continuation of an adequate level of Federal assistance under this Act;

(4) set forth procedures designed to assure an equitable distribution of funds received under such grant within the State;

(5) set forth procedures for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under such grant, including such funds distributed by the State to local public agencies and private nonprofit organizations;

(6) specify the State agency to be designated as responsible for the administration of programs and activities relating to domestic violence which are carried out by the State in accordance with this Act;

(7) provide for making such reports at such times, in such form, and containing such additional information, as the Secretary considers necessary to carry out the provisions of this Act, and for keeping such records (and affording such access to such records) as the Secretary considers necessary to assure the correctness and verification of such reports;

(8) provide assurances of, and procedures for, compliance with the provisions of section 8 and provide assurances that the address or location of any shelter for victims and dependents of victims of domestic violence which receives any funds from the State under such grant will, at the request of the person responsible for the operation of such shelter, not be made public;

(9) set forth procedures to assure active citizen participation within the State with respect to—

(A) overseeing the development and implementation of Federal, State, and local programs and projects under this Act, including—

(i) consideration of the extent to which the geographic distribution of funds by the State under such grant is equitable, taking into account the distribution of population within the State; and

(ii) to the extent feasible, examining and evaluating other Federal, State, and local programs providing services in the State which are or could be used in conjunction with programs for the prevention of incidents of domestic violence or for the provision of assistance to victims and dependents of victims of domestic violence; and

(B) the distribution of funds to be made by the State through grants to local public agencies and private nonprofit organizations, and the development of plans for effectively meeting statewide needs;

(10) provide assurances that any project for which funds are provided by the State under such grant will be administered and operated by personnel with appropriate skills and that, where a substantial number of individuals with limited English-speaking proficiency will be served, particular attention will be given to the provision of services which take into account cultural sensitivities and linguistic and cultural differences;

(11) provide that technical assistance will be available to local public agencies and private nonprofit organizations located in the State, in coordination with other Federal, State, and local efforts to provide such assistance, for the purpose of assisting such agencies and organizations in obtaining an adequate level of support from a variety of sources;

(12) provide for submitting annually to the legislature of the State involved the report which such State is required to submit to the Secretary under section 6; and

(13) provide such other assurances and include such other information as the Secretary considers necessary to carry out the provisions of this Act.

(c) The Secretary shall approve any application which meets the requirements of subsection (b), and the Secretary shall not disapprove any such application except after reasonable notice, opportunity for correction of any deficiencies, and notice of, and an opportunity for, a hearing.

(d)(1) The Secretary shall make grants under this subsection to any State which has met the requirements for a grant under subsection (a) for the purpose of paying the costs of—

(A) administering programs and activities relating to domestic violence carried out by such State in accordance with this Act;

(B) developing and implementing the application required to be submitted by such State under subsection (b);

(C) assuring active citizen participation in accordance with subsection (b)(9), and providing technical assistance in accordance with subsection (b)(11); and

(D) developing a media campaign to increase public awareness of the problem of domestic violence and the availability of services for its victims.

(2) No grant may be made under this subsection unless an application is made to the Secretary at such time, in such form, and according to such procedures, as the Secretary may require. Such application shall contain or be accompanied by such information as the Secretary considers necessary to carry out the provisions of this Act.

(e)(1) No grant made to any local public agency or to any private nonprofit organization by any State under subsection (b) for any fiscal year may exceed the lesser of—

(A) $50,000; or

(B) 25 percent of the annual budget of such agency or organization;

except that a grant made to any private nonprofit organization which has not been in existence for more than 1 year at the time of the application for such grant may equal not more than 50 percent of the annual budget of such organization (but in no event more than $50,000) if the State agency specified in subsection (b)(6) has received reasonable assurances of support for such organization within the community to be served.

(2) No local public agency or private nonprofit organization may receive any grant or combination of grants specified in paragraph (1) which have a total duration of more than 3 fiscal years.

(3) The total amount of grants specified in paragraph (1) which may be made to any local public agency or to any private nonprofit organization shall not exceed $150,000.

(f) No funds provided through grants made under this section may be used as direct payment to any victim or any dependent of a victim of domestic violence.

(g) No income eligibility standard may be imposed with respect to any individual seeking assistance or services from any local public agency or private nonprofit organization which receives a grant under this section.

(h) Whenever the Secretary, after reasonable notice and opportunity for hearing to any State which has received a grant under subsection (a) or subsection (d), finds that there is a failure to comply with the requirements of this section in the administration of any such grant, the Secretary shall notify the State that no further payments will be made to the State under this Act (or, in the discretion of the Secretary, further payments to the State will be limited to programs not affected by such failure) until the Secretary is satisfied that there will no longer be any failure to comply. Until he is so satisfied, the Secretary shall make no further payments to such State under this Act (or shall limit payments to programs not affected by such failure).

(i)(1) Any State adversely affected or aggrieved by any action of the Secretary under subsection (c) or subsection (h) may, not later than 60 days after notice of such action, file a petition for review of such action with the United States court of appeals for the circuit in which such State is located. A copy of such petition shall be transmitted by the clerk of such court to the Secretary. The Secretary, after receiving such copy, shall file in such court the record of the proceedings upon which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

(2) The findings of fact of the Secretary, if supported by substantial evidence, shall be conclusive, except that the court, for good cause shown, may remand the case to the Secretary to take further evidence. The Secretary may make new or modified findings of fact and may modify the previous determination. The Secretary shall certify to the court the record of any further proceedings. Such new or modified findings of fact shall be conclusive if supported by substantial evidence.

(3) The United States court of appeals involved shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(j) No funds may be made available under this section to any local public agency or private nonprofit organization unless such agency or organization agrees to seek to recover fees for services provided by such agency or organization to victims or dependents of victims of domestic violence. The amount of such fees shall be based upon the ability of such victims to pay for the provision of such services.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 4 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENTS OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment to section 4. I believe my colleagues on the other side have the amendment. Because it is technical in nature and refers to sections on page 33 through page 45, I ask unanimous consent that the amendment be considered as addressing those sections, even though they are not in section 4.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. MILLER of California. Reserving the right to object, Mr. Chairman, I do not quite understand. Can the gentleman just tell us the pages that the amendment addresses?

Mr. ASHBROOK. If the gentleman will yield, page 31, page 33, wherever section 4(d) appears. If my amendment should pass, I would then not have to offer a conforming amendment on each one of those pages. That is all my amendment does.

☐ 1530

Mr. MILLER of California. So that the unanimous-consent request is to make the technical amendments conform to the main amendment?

Mr. ASHBROOK. To offer my amendment and have them conform at the same time.

Mr. MILLER of California. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. The amendments will be considered en bloc, and the Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. ASHBROOK: Page 29, strike out line 1 and all that follows through line 23 (and redesignate the following subsections accordingly).

Page 31, line 7, strike out "or subsection (d)".

Page 31, line 19, strike out "subsection (h)" and insert in lieu thereof "subsection (g)".

Page 33, beginning on line 3, strike out "and section 4(d)".

Page 34, line 1, strike out "and section 4(d)".

Page 34, line 25, strike out "and section 4(d)".

Page 35, line 10, strike out "or section 4(d)".

Page 36, line 5, strike out "and section 4(d)".

Page 37, line 18, insert "and" after the semicolon.

Page 37, strike out line 19 through line 21, and redesignate the following paragraph accordingly.

Page 45, line 3, strike out "75" and insert in lieu thereof "90".

Page 45, line 4, insert "and" after the semicolon.

Page 45, strike out line 5 and line 6, and redesignate the following paragraph accordingly.

Mr. ASHBROOK (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASHBROOK. Mr. Chairman, the section of this bill that begins on page 29 raises two major concerns. Both of these concerns deal with the use and potential abuse of Federal tax dollars. The only way to address these concerns is to delete the entire subsection which my amendment proposes to do.

My first concern is that of accountability. The only check we have in Government on the level of funds spent on any given program is that those who administer the funds are in some way held accountable by the voters or the Congress. While this has broken down as oversight becomes more complex and more difficult, it is still the only way we have to prevent a flood of wanton spending. In the area of grants one check we have is to make sure the grantees show good faith in the grants they request by matching a portion of the funds asked for with their own resources. This underscores the commitment for the program and brings local officials into accountable positions through the use of local tax money. If the project is a boondoggle they must answer to their local electorate and responsibility is maintained.

We should not let the gravity of domestic violence divert us from the sound logic of participatory grants. Once a local government is released from financial commitment to a grant subsidized program the lid of accountability is taken off and there may be no end to the potential for abuse and overspending. We have seen staggering examples of waste, fraud, and abuse in local CETA programs and in housing projects. We cannot afford to damage what credibility the Federal Government has left be creating one more opportunity for local governments to open the Federal spigots and get off the accountability hook.

My other concern about this portion of the bill is the specific functions these nonparticipatory grants direct the bill's resources toward. The first instance is the actual administration of the programs and activities. The grant does not put a cap on administrative overhead, nor does it include any other safeguards to possible waste. Considering it has been administrative overhead that has been the culprit in ruining so many other programs that started out so noblely this omission is a crucial one. The second function is that of grantsmanship itself. The grant is for developing and implementing the application required to be submitted by such State.

I find this part of the assistance outrageous. The game of grantsmanship has created a whole new job category for local governments. Many people and consulting groups have become very rich off of knowing how to word grant proposals so that they are guaranteed to be signed off on no matter what their merits. Buzz words and jargon hold more sway in the bureaucracy than relative need. This is the ongoing tragedy of expanded Government and the proliferation of categorical grant programs. Since this bill creates yet another categorical grant we should not insure its joining the ranks of other grantsmanship opportunities. That is why this part needs to be deleted. Citizen participation is the next item under this part of the bill. We have seen how citizen participation is a highly relative term subject to many interpretations. We have seen how the Federal Trade Commission and other agencies have used this term to open a new chapter on cronyism through public intervenor funding. We cannot allow this door to open in this bill. Domestic violence deserves a better approach than to make it another forum for ideologies. Without proper safeguards this could spell disaster for the whole concept of Federal support for State efforts.

The final concern under the specific technical assistance is that of creating media campaigns. This was originally going to be national media effort as it was in last year's bill. Making the concept a statewide instead of a nationwide program does not change its merits. There is no control over the content of the media campaign or what it is to advocate with tax dollars. Awareness could come in various forms including the advocacy of various solutions to domestic problems that may not be held by a majority of Americans. State use of Federal funds to promote State programs once again shifts the burden of accountability. This is intolerable and should be deleted from the bill.

The problems of accountability do not need to occur in this bill. The fact that they appear at all, in my opinion, shows the bill was probably hastily drafted.

Mr. Chairman, as we have seen during the general debate there is already an array of Federal programs that address domestic violence and provide assistance to State and local governments. The need for this bill is questionable. The need for this section, in my opinion, is absolutely nonexistent.

Mr. Chairman, I urge my colleagues to join me in voting for this amendment.

Mr. SIMON. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

Mr. Chairman, I would simply point out that what we are talking about, if you follow through—those of you who have copies of the bill—on pages 33 and 45 you are talking about $7,000 per State as the guaranteed amount. You are talking about 15 percent of the total expenditure for bringing technical information and assistance to these local programs. These are programs that are not going to be ongoing programs as far as Federal assistance is concerned. The bill stipulates in 3 years they have to be cut off. They have to be self-sustaining. Therefore, it will take some State technical assistance.

Mr. Chairman, I would point out also, as I think my colleague from Ohio will recall, that the move to make this media campaign a State campaign I believe was an amendment by the gentleman's colleague from Colorado (Mr. KRAMER). I may remember that incorrectly.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I will be pleased to yield to my colleague from Ohio.

Mr. ASHBROOK. I think the gentleman is right on that one and also in the interest of accuracy, the one thing I have always noted about my good friend from Illinois, even when we disagree, the gentleman is usually totally accurate. In saying $7,000 minimum in the States to be spent, would the gentleman correct me, is the gentleman right in saying that? Is that the minimum they can get but not necessarily the maximum?

Mr. SIMON. No, I did not say it was the maximum. That is a guarantee to each State for administering this.

Mr. ASHBROOK. Mr. Chairman. I thank my friend because I think the implication was left we were only talking about $7,000 per State.

Mr. SIMON. Mr. Chairman, I think my

colleague from Ohio would agree that if this is enacted, a large majority of States would get the $7,000 figure.

Mr. ASHBROOK. Some could get more?

Mr. SIMON. Some could get more, and some will get more.

Mr. ASHBROOK. I thank my friend. As usual, the gentleman is totally accurate on that point.

Mr. SIMON. Mr. Chairman, I think this is not an amendment that would be accepted. I think the amendment does serious damage to the intent of this legislation. I hope the amendment will be defeated.

Mr. ICHORD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I did not intend to speak on this legislation but I feel that I must rise in support of the amendment of the gentleman from Ohio striking the grant section of this bill.

I have the greatest respect and admiration for the sponsors of the legislation. I know many of them intimately, and I do not question what they are trying to do.

Mr. Chairman, I realize domestic violence is a national problem.

□ 1540

I know that one-fourth of all persons murdered in the United States are killed by a family member and that half of these are killed by spouses; but I cannot bring myself to believe that this great august body facing all the problems that we face today is going to embark upon another program where we are certainly going to be addressing the problem, and that is all we are going to do is address the problem, but we are never going to solve it.

I remember back some 21, 22 years ago, when I was practicing law before I came to this body, I had a client who was a man of small stature. He was an alcoholic. Every 30 days, I will call him John, got on a drunk and when John got on a drunk, he really threw one. It was usually a 2-day drunk and it was always at the end of the month. Every time at the end of the month John got drunk. He was married. John was slight of stature, weighed only about 125 pounds. He was married to a woman that weighed at least 250 pounds, if she weighed anything at all. His spouse in trying to correct John from his drinking, every time he got drunk she really beat him up. On one occasion I remember she had knocked his teeth out. He usually came at the end of the month with a black eye. He had really been operated upon by this 250-pound spouse.

He did not want a divorce. He wanted me to write a letter to his wife to frighten her so that she would not do it again.

Now, we can visualize what is going to happen out there in this grant field when you put all these grants to the States. They are not going to solve the problem. They are going to study it. They are going to come out and state that if 20 percent of the women who weigh over 250 pounds were reared in a family that beat the husband, or vice versa, they are going to continue to do this.

This is about the only way you can solve this problem, I would say to the sponsors of the bill, on the Federal level. This is not a problem for the U.S. Government to solve. We have State governments. We have the city governments. We have institutions in this society. We have the home and we respect the home. We have the family, which is the beginning of this whole great society of government that we have. We have the churches.

Why cannot we rely upon those existing institutions, instead of embarking on a program that is going to cost what—how much do we have in the bill?

Ms. MIKULSKI. Mr. Chairman, if the gentleman will yield, $15 million.

Mr. ICHORD. Fifteen million, that is just the beginning. We will have $100 million next year and in the year after. This is the thing that concerns me.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to my beloved colleague, the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, I thank the gentleman for yielding.

I would like to assure the gentleman that the gentleman's client would certainly be taken care of under this legislation as well, his former law client. It is a bill that addresses his problems as well as those of women and children.

Mr. ICHORD. I know it happens the other way around, too, with the husband beating the wife. I have had occasion in my law practice to deal with that, I would state to the gentlewoman.

Mrs. BOGGS. I would like to say to the gentleman, if he will yield further, that all the agencies, private, religious, and public, which the gentleman has mentioned are all in favor of this bill and have been sponsoring it and have conducted a great platform for its adoption.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. ICHORD) has expired.

(At the request of Mr. ASHBROOK, and by unanimous consent, Mr. ICHORD was allowed to proceed for 2 additional minutes.)

Mrs. BOGGS. Mr. Chairman, if the gentleman will yield further, they are doing all these things; but they need the help and the impetus that comes from this bill in order to do so and that is why they have backed it so strongly.

Mr. ASHBROOK. Mr. Chairman, will my colleague yield?

Mr. ICHORD. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank my colleague for his statement. From my point of view, the gentleman is completely right.

I just wonder, putting it in perspective, if we recognize in this second week of December what the Congress is doing in this area.

For those who believe that the Federal Government has all the answers, I suppose it is a great week. We just finished a bill by a vote of 207 to 195 that would get the Federal Government into the so-called resolution of minor disputes.

This bill would get us into domestic violence.

From 5 to 7 o'clock today I am supposed to go to the first meeting of the commission that was just set up this year on the peaceful resolution of disputes.

Now, all three of those bills put together would seem to inject the Federal Government in every manner of dispute and I just wonder what is going to be left.

Mr. ICHORD. Mr. Chairman, I agree with the gentleman, as I stated in my remarks. I think we are going to be addressing problems.

I will not use the word on the floor of the House, but I think we are doing, not necessarily in this bill, but in some of the bills that we have been considering, we are considering legislation, in the words of the distinguished mayor of New York City, who was a former Member of this body, we are considering "CRAP."

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I would just simply point out so there is no confusion in anyone's mind, and I can recall when my distinguished colleague was frequently mentioned as a possible candidate for Governor of the State of Missouri, and maybe 1 of these years the gentleman is going to be the Governor of the State of Missouri.

Mr. ICHORD. Let me state that if I were Governor of the State of Missouri, I would say to the Federal Government, "Take your $15 million and balance the budget of the United States Government. Don't send me that $15 million."

Mr. SIMON. Mr. Chairman, if the gentleman will yield further, I would simply point out that what is being passed out by this amendment is not the grant itself, but the money for administering the grant.

Ms. MIKULSKI. Mr. Chairman, I move to strike the requisite number of words. I rise to oppose the amendment.

Mr. Chairman, I will be brief. Like the previous victim that is described, I am under 5 feet tall and weigh less than 125 pounds.

I also will inform my colleagues that I will not trivialize this subject by referring to it in four-letter words, because I happen to believe that this is a subject of great national importance.

In the one day that we have been waiting to debate this bill, 5,000 people will have been victimized in their own homes. On person is victimized every 18 seconds and probably before the week is out, while we are debating this issue, a police officer will be killed in the line of duty answering a domestic violent quarrel situation.

We have carefully crafted this legislation, No. 1, so that it will serve the victims and not study the victims.

No. 2, by this very State program we have set up, we have made sure that the grant junkies do not get into it, but the voluntary agencies who are actually doing the job will be able to benefit from the program.

When we talk about a media campaign, we are not talking about Robert Redford doing a story on this. We are talking about public service announcements throughout a community to talk about the resources that are available. We are talking about the kind of programs that will inform people about the subject it will offer services and resources to deal with it.

Second, we are also trying to decentralize this program and we do not create an enormous bureaucracy.

The whole concept of involving citizens is to craft programs so they are responsive to local needs. We understand that a rural program in the Midwest will be different than an urban program on the east coast which will be different than a suburban program in Colorado.

We also recognize that the kinds of programs you might do in the barrios of Texas are very different than the kinds of programs you would do in Montgomery County. That is the whole point of involving citizens.

Then last, but not at all least, because we want to move these programs, to economic stability and economic self-sufficiency, that is the purpose of the technical assistance provision in here.

So, therefore, I would urge that if you really want this bill to be locally oriented, properly utilized and moved to economic independence and self-sufficiency and refuse to allow this issue to be trivialized, then you will vote down this amendment.

□ 1550

Mrs. HECKLER. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I will be happy to yield to the gentlewoman from Massachusetts.

Mrs. HECKLER. Mr. Chairman, I rise to express my strong support of the gentlewoman's position and commend her for her persistent leadership, as well as that of my colleague, the gentlewoman from Louisiana, Mrs. LINDY BOGGS, on this long overdue legislation.

I think the subject really does not deserve the disput and controversy that has arisen, considering the amount of money involved in the bill.

In the Boston City Hospital, for example 70 percent of the assault victims in the emergency room are women who have been assaulted in their homes. The nationwide dimensions of domestic violence are staggering, with current estimates suggesting that an American woman is abused every 18 seconds.

If this program is going to be effective, it must be well administered. There has to be some kind of seed money made available to see to it that a program is designed that will address the wide spectrum of needs across the whole country—rural, as well as urban. The full recommended budget must be authorized.

So, Mr. Chairman, I commend the distinguished gentlewoman in the well for her commitment to this issue, and I ask every enlightened gentleman in the House to take an enlightened course of action and face up to the statistics on crime in this culture of violence that plagues us and implements some answers to the problem of assaulted wives, husbands, and children.

Ms. HOLTZMAN. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. Mr. Chairman, I want to compliment my colleague, the gentlewoman from Maryland (Ms. MIKULSKI) and my colleague, the gentlewoman from Louisiana (Mrs. BOGGS) for their great leadership in bringing this legislation to the floor.

I oppose this amendment, which is an effort to gut the bill, and I regret the kinds of four-letter remarks that have been made on the floor against the bill.

On this very day, at this very moment, all Americans are agonizing over the fate of 50 American hostages in Iran, and all of us feel, in the depths of our being, concern because of their plight.

This bill deals with 5,000 Americans who are killed each year because of domestic disputes. Can we ignore their plight?

Of course this bill will not solve the entire problem of domestic violence. But what kind of objection is that? How many bills on the floor of the House ever solved any problem completely? This bill will provide a mechanism for beginning to address the problem of domestic violence.

With the bill we can begin to save human lives; we can begin to remedy a problem that disrupts and destroys families.

The CHAIRMAN. The time of the gentlewoman from Maryland (Ms. MIKULSKI) has expired.

(On request of Ms. HOLTZMAN, and by unanimous consent, Ms. MIKULSKI was allowed to proceed for 2 additional minutes.)

Ms. HOLTZMAN. Mr. Chairman, if the gentlewoman will yield further, the opponents talk about the American family. This bill is designed to strengthen the family; we want to preserve human dignity, and we want to preserve human life. We want to deal with the serious problem of violence that can destroy the members of a family and that extends beyond the home and catch others in its grip, such as policemen. (And one fifth of all police fatalities result from intervention in family disputes).

And what about the children if we ignore the problem? How can they possibly survive abuse to themselves or abuse to their mothers? What future do we condemn them—and therefore us—to?

I think this is a very important piece of legislation, and I am very proud to be a cosponsor of it. I am proud of the fact this bill has come to the floor, and I think all Members who vote for it will be proud of having voted for it.

This is a piece of legislation that says a lot about our optimism as Americans. With this bill, we are trying to face up to difficult and ugly problems that exist in our society. Although we know we will not solve them easily, this innovative legislation shows our belief that these problems can be addressed effectively and demonstrate our commitment to do so.

Mr. Chairman, I commend the sponsors of the bill and I hope this amendment is soundly defeated.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not want to criticize any member who has raised questions about the cost of this program or any other program, and I would agree with the statements that were made here that we have a primary responsibility to look to the balancing of the Federal budget and to hold down Federal spending.

With respect to this program, I would say this: It strikes me as being an appropriate area for the Federal Government to involve itself. It is not that the Federal Government is going to undertake to administer a centralized program for controlling and preventing domestic disputes or that we are going to send out any agents from Washington to help families try to get along or to prevent husbands from beating wives and abusing children. It is not that we are putting down all of the crimes that are committed in consequence of domestic violence and domestic disputes.

But this is a national problem. With 20,000 murders occurring in our Nation and, I believe, a fourth of them being the result of family disputes, and with one-half of the murders in households being the result of one spouse murdering the other, I think that we have a problem at the national level which requires our attention.

As I envision this legislation and, as a sponsor of the measure, I think we can give direction and guidance, at the Federal level. In this connection we can give support to the local communities, to private, nonprofit organizations, to undertake the establishment and the administration of crisis centers.

I have two of these domestic crisis centers in my district, and I have visited one of them. I have seen firsthand how they care for the battered wives and how they care for the frightened and sometimes abused children on a temporary basis. These activities are carried on with makeshift operations supported by contributions that are made individually and from local revenue sharing funds and that sort of thing.

It seems to me that if we can expand this opportunity for people to resolve this kind of problem at the local level, we will be making a great contribution toward reducing crime nationally in our country, toward helping families to preserve the family unit, and toward helping children to be restored to a harmonious and peaceful family environment.

It seems to me that in view of this national problem, with the capability at the local level for solving it, it seems entirely appropriate for us to act in this area through a Federal program with a relatively modest Federal authorization.

We have a sunset provision in this measure so that the program will terminate automatically at the end of 3 or 4 years. With this legislation, it seems to me that we are responding to what I envision as part of our responsibility as national lawmakers. We are assisting the States and the local areas through this kind of Federal guidance, this kind of Federal direction, and this kind of constructive program. It seems to me that this is in the interest of all that is good and holy and most cherished in America—the American home, the American family, and the peaceful relationships between husbands and wives and between parents and children.

So, Mr. Chairman, I hope that we defeat this amendment because this amendment would effectively destroy the effect of the bill. I hope that the amendment will be defeated, and that the measure will be passed overwhelmingly by the Members of the House.

Mr. Chairman, this legislation represents a modest attempt by the Federal Government to stimulate State and local efforts for the prevention of domestic violence.

This measure, recommended by the House Education and Labor Committee and sponsored by my Illinois colleagues, Congressmen PAUL SIMON and HENRY HYDE, would authorize the Secretary of Health, Education, and Welfare to make grants to States and local communities, including private, nonprofit organizations, to help fund domestic violence prevention programs. The Federal share is small, representing only 25 percent of the local programs annual budget. The bill would help community programs to become established and to develop support from a variety of funding sources so that the crisis centers will have a secure base when the Federal assistance terminates in 3 years.

Mr. Chairman, at least two such agencies are located in my 13th Congressional District; namely, the Elgin Community Crisis Center, administered by my friend, Mary Berg, and the Lake County Crisis Center for the prevention and treatment of domestic violence. The Lake County organization, headed by Sarah Westgate, was established last year and is scheduled to occupy new quarters beginning January 2, 1980.

These centers are outstanding examples of the kind of community-based crisis centers which can and do serve the needs of battered and abused wives and neglected and endangered children. The Elgin Crisis Center has resolved literally hundreds of critical problems which might otherwise have resulted in prolonged physical and psychic injury or permanent damage.

I am supporting this remedial legislation because of the personal experiences I have had with these community crisis centers. As I have said, I have seen with my own eyes the essential and effective work that is accomplished there.

Mr. Chairman, this legislation has the solid backing of such prestigious organizations as the International Chiefs of Police, the American Bar Association, the National Conference of Catholic Charities, and some 70 other national organizations.

I believe this legislation is "an investment in the American family" and deserves my colleagues' wholehearted support.

Mr. BARNES. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

I will be very brief, Mr. Chairman. We have heard a number of our colleagues very eloquently address the point of the need for a State and local role on this issue rather than a Federal role. I think the authors of the bill are in total agreement with that, and the problem with the amendment before us is that it would strike the State and local ability to affect the problem that our colleague, the gentleman from Illinois (Mr. McCLORY), so eloquently described and that others have so eloquently described.

Most of the concern about this type of legislation has been appropriately the need for local and State roles. This amendment would eliminate the States' ability to carry out their role. The amendment is misguided.

H.R. 2977 does not give States administrative funds to pay employees to run these programs. Rather, the bill provides the States very limited funds, as we heard earlier.

As the gentleman from Illinois indicated, most States receive about $7,000 in order to do some very limited things—to develop reports to keep the State legislature informed as to how the program is proceeding. That provision was put in the bill by a Republican amendment, and it was accepted in the subcommittee markup.

It would also provide limited funds for the implementation and development of State and local programs. It is not a Federal program. It would provide technical assistance to the local programs so that program administrators would be adept at getting other resources, thereby decreasing their dependency on Federal moneys.

Again, let me say that this provision in the bill is a Republican amendment that was accepted at the subcommittee markup.

Those Members who are opposed to this kind of legislation because they believe the Federal Government should not be involved in these kinds of issues ought to oppose this amendment, because this amendment will strike out of this legislation the effectiveness of the State and local role in this very important national issue.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendments were rejected.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

Mr. Chairman, I do not think we are at the appropriate section yet, but it is my understanding that there are no amendments that intercede between my amendment and the other amendments that were previously offered.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: Page 32, after line 24 insert the following new section (and redesignate the following sections, and any references to such sections, accordingly):

VETO OF GRANTS BY STATE LEGISLATURES

SEC. 5. (a) In any case in which the Secretary—

(1) approves an application submitted to the Secretary by a State for a grant under section 4(a) or section 4(d);

the Secretary shall submit written notice of such approval as soon as practicable after the date of such approval to the State legislature for the State involved for review by such legislature in accordance with this section. Such notice shall include such information as the Secretary considers appropriate describing the nature of activities which are proposed in such application and the reasons of the Secretary for approving such application.

(b)(1) If a State legislature, after receiving written notice from the Secretary under subsection (a), disapproves any further disbursement of funds under the grant involved, then the Secretary shall not have any authority to disburse any additional funds after the Secretary is notified by the State legislature that it has voted to cut off funding.

(2) In any case in which a State legislature disapproves any disbursement of funds by the Secretary under this section, the State legislature shall notify the Secretary of such action as soon as practicable after such action is taken.

(3) Any action of disapproval by a State legislature under this section shall be carried out in accordance with such rules and procedures as the State legislature may establish.

(c)(1) If the State legislature for any State disapproves any further disbursement of funds by the Secretary to such State under a grant approved by the Secretary under section 4(a) or section 4(d), then the Secretary shall reallot the funds involved in accordance with section 5(b).

Mr. KRAMER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

□ 1600

Mr. KRAMER. Mr. Chairman, I do not think there is any question but that I have spoken in opposition to this bill for a number of reasons which I do not think need to be reiterated here.

The amendment I offer for the Members' consideration is not one intended to get the bill. It is not one intended to do away with the domestic violence program. In my sincere belief, it is one meant to improve the bill.

What it does is to require that any funds that are distributed under this Federal program, in effect, can be vetoed by a State legislature if they choose to do so.

In committee I offered an amendment which would require State legislative approval before this program could go into effect. Objections were made, and I think good objections, that to do so, because State legislatures meet at odd intervals and at odd times, would really seriously impede the forward progress of this bill.

At the suggestion of the gentleman from Missouri (Mr. COLEMAN), we changed that concept to one of a State legislative veto. In other words, we would not impede the beginning of this program from getting off to a start. What we would do is allow a State legislature to come in, if they decided they wanted to do so, and say, "No more," that they wanted to terminate Federal funding.

What is the reason for this? It is a new precedent that I do not believe has been adopted at this point by Congress, but I think it is appropriate in certain selected cases.

After 3 years when this program terminates, or at least this legislation terminates, one of two things is going to happen: Either the program is going to die and all of the constituencies that have been built out there under the auspices of this legislation are going to come forward and deluge the State legislatures of our respective States with requests to pick up the Federal role and the Federal share of the funding; or, if that does not happen, this program will not be terminated. It will continue on a larger and larger Federal scale, as we have seen other programs do. For example, we saw the food stamp program start out as eight small pilot projects, funded at $13 million, in 1969. It grew to $6.8 billion by fiscal year 1979. Although that magnitude will not happen with this program, I think a similar experience can be anticipated.

I believe an amendment such as this can help in many ways. First of all, it will say to the State legislatures, "Look, you have a role and stake in this thing from the outset. If you do not want to pick up that funding at the end of 3 years, you can avoid all of the problems and the chaos that I, myself, have experienced as a State legislator by saying, 'No,' and cutting it off right at its inception, rather than letting the thing drag out for 3 years and then forcing these constituencies, in effect, out of business when Federal funding ceases."

In addition, I would suggest that if we allow a State legislative veto from the outset, we are putting State legislatures on notice that they may indeed be called upon to pick up the funding that this bill provides for on a Federal basis, and in doing so I think we can minimize the opportunities for not having this program blossom into a full, exploded Federal bureaucracy at the termination of 3 years.

I think either way we win with an amendment of this sort.

We have myriads of examples of amendments providing for a congressional veto at this time. I think the time is ripe, and that this program is an appropriate one to go one step further. Let us allow the State legislatures to have a voice in this program. I think it will be more responsible, more efficient, and it will insure continuity, and certainly I do not think it in any way impedes the progress of getting this program into place to begin with. I would hope that, fiscal restraints as they are, we would like to minimize future Federal involvement. If I believe what the sponsors have told us, that this is indeed a 3-year program, so let us do it with a minimum of displacement. Let us allow the State legislatures a voice in this thing from the beginning.

Some will come back and say, "Look, we have provided for the Governor or a State bureaucracy to submit a State grant plan before Federal funding can take place."

Yes; that is an improvement over the way the bill was when first introduced. But, I would remind the Members, that it is the State legislatures that have to do the funding. It is not a bureaucrat in some executive department in the office of the Governor or some other Federal agency. So I can see no harm, I can see only good, in getting the States involved in the legislative process from the very beginning.

I hope in that spirit, Mr. Chairman, that we can go forward and adopt this amendment.

Ms. MIKULSKI. Mr. Chairman, will the gentleman yield for a few questions?

Mr. KRAMER. I yield to the gentlewoman from Maryland.

Ms. MIKULSKI. I thank the gentleman for yielding.

Mr. Chairman, I can understand the gentleman's point, and I know that in some other legislation the Governor was allowed to veto funding for Federal programs.

The CHAIRMAN. The time of the gentleman from Colorado (Mr. KRAMER) has expired.

(On request of Ms. MIKULSKI and by unanimous consent, Mr. KRAMER was allowed to proceed for 3 additional minutes.)

Ms. MIKULSKI. If the gentleman will yield further, I am trying to understand how this would actually work.

If we give the States legislative veto over this, some legislative bodies only meet every other year and some legislative bodies only meet for 90 days of the year as mine does. What would happen if grants were developed and the funding comes at times other than when the State legislature is in session?

Mr. KRAMER. If I might respond, Mr. Chairman, the reason this is postured as a legislative veto, as opposed to an outright approval from the onset, is to avoid the very problem the gentlewoman is suggesting, and to take into account the various differences in terms of when the State legislatures meet and how long and what items they consider, if they have a general call or a limited call or whatever.

It simply says that at some point in time, if the State legislatures determine that they do not want to receive the Federal funding under this program, they can terminate that Federal funding; but there is no prior approval of any sort whatsoever that would be required under this amendment. In other words, the program would start as normal, could continue as long and until such time as any State legislature vetoed the utilization of these funds.

Ms. MIKULSKI. If the gentleman will yield for another question, would this be done on a grant basis or en bloc? For example, let us say that the House of Ruth in Baltimore applied for funds, but the Salvation Army Shelter in the Eastern Shore was also receiving funds. How would that work?

Mr. KRAMER. It is my intention, and I think the language of the amendment, on page 2, on line 7, corroborates that, basically, any disbursement of funds can be disapproved, which I would take it mean—and it is my intention to mean—can either be done on a piecemeal basis or a total basis. I think that flexibility is in the language of the legislation, and I think it ought to remain that way.

Ms. MIKULSKI. If the gentleman will yield further, I thank the gentleman for answering my questions straightforwardly, but his answers indicate to me that his amendment would really be impractical and it would present innumerable administrative barriers for the people who were administering or receiving the funds. Therefore, I oppose this amendment.

Mr. RATCHFORD. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I spent 12 years in the Connecticut General Assembly, 8 of these in a leadership capacity and 4 as speaker of the house. During that period of time, together with people such as yourself, I was extremely active nationally in trying to advance the staff capacity, the wherewithal, the fiscal accountability of legislatures. In fact, I favor strong legislative involvement on behalf of State legislatures in the whole Federal grant process. I favor at the State level legislative review of grants. Some States are doing so. The State of Pennsylvania, in fact, is doing so already. They are in court as a result of the question of the delegation of responsibility. But the option of whether or not to do so, instead of being set forth in Federal legislation, ought to rest with the States.

The gracious gentlewoman from Maryland alluded to it. But the fact of the matter is, there is a vast difference as far as the quality, as far as the staffing, as far as the timetable, as far as the procedures of State legislatures. Some States only meet 60 days every 2 years. Some meet 90 days every 2 years. Some have a legislative session and a fiscal session. The fact of the matter is, except in those States like California and New York, to a lesser degree like Ohio and Wisconsin, where we approach full-time State legislatures, the States are not equipped to be heavily involved in a grant process.

What does this amendment do? It sets a cloud, it sets a cloud over every grant program funded under this program. Why? Because what the language of the gentleman from Colorado does is to give to the legislature the power to terminate at any point. So a program could start in the first year, the legislature could meet 18 months, 20 months, in some cases almost 2 years later. That program would have run for 2 years, and then the legislature comes in and says, "We disapprove of the grant."

I just think it is unworkable.

The second thing that is unworkable is that there are no timetables in the amendment, no timetables whatsoever.

□ 1610

If a legislature is going to get involved in the grant process, there ought to be rules. There ought to be guidelines. There ought to be timetables, and principally it ought to occur in those States where the legislatures approach full time.

There is a way of doing it. The best way to do it is at the State level. The States have the option right now, but to pick out this program and to say that this program is a struggling program, a program that needs recognition, a program that needs support, a program that has unmet needs around the country, "We are going to start you at the Federal level, but then we are going to put you under a cloud in 50 States," is a mistake.

It does not strengthen the legislative process. It does not strengthen the State. It suggests to the States that they must do it, and to do so, given the diversity, given the uncertainty, given the difference between State legislatures would clearly be a setback for this program and a mistake and something I cannot support.

Mr. SKELTON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Colorado. Having served for 6 years in the Missouri State Legislature, I initially shared my colleague's concern over whether this bill would allow Federal interference in State matters. However, after a careful consideration, I am pleased with the present form of the bill.

I believe that the amendment of the gentleman from Colorado is totally unnecessary and impractical and just would not work.

It is a situation where you get the train rolling down the track, as a result of the Governor, if he should think that this program is a good one for his State, and then when the legislature comes into being in a session some 6 months later or 3 months later or a year later or possibly even 2 years later, they veto it. Think of the wasted time, effort, and most of all, the money. You are cutting the train off halfway down the track.

It is just a waste of effort and taxpayers' dollars.

In section 4 it is clearly stated that no grant may be made by the Secretary unless the chief executive officer of the State seeking the grant submits an application for such a grant to the Secretary.

In other words, the Governor must apply for the grant. Therefore, it is implicit that this bill in no way forces the programs on the State, but merely provides financial and administrative support to those States that choose to participate.

Furthermore, there is absolutely no need to amend the bill to give the State legislature a veto power for this is innate in the budgeting process of the State.

When the Governor brings the suggested budget, which necessarily includes the projected funding for a shelter within the bill's purview, before the State legislature and asks for its approval, those legislators will automatically be afforded the opportunity to censure or to support the program through their votes. The veto power is already built into the system.

Let me also add, Mr. Chairman, that a Governor should take into consideration when he makes that decision some of these facts, that once every 18 seconds a woman is beaten in her own home. These beatings are seldom a onetime occurrence. These beatings become more and more frequent, and each time the violence usually escalates.

One-third of all murders occur within the family. Husband-and-wife killings account for half of these homicides.

A study funded by the Police Foundation found that in 85 percent of the domestic homicides in Kansas City, the police had been called at least once before the fatal incident occurred. In 50 percent of the cases, the police had been called five times or more.

Twenty-three percent of all police deaths and 40 percent of severe police injuries occur during responses to domestic violence calls, Mr. Chairman.

I practiced law for 20 years. The first 4 of those 20 years was as prosecuting attorney of a rural county. I well remember on many Monday mornings the first cases that would be brought to me by the sheriff or the local police involved wife-beating cases.

As time progressed, many of these cases occurred and recurred over and over.

I, of course, would file them if I felt they were proper. Later, the complaining witness, the wife, would come in and say that she and her husband were getting along well, the court costs would be paid, or she would refuse to testify; or in some cases a small fine would be imposed, and then 2 months later they were back.

Where was this wife to go? What could she do? There was no other answer for her. I think that this is a national disgrace.

This is an opportunity. It is not a program we are forcing down any State's throat. It is an opportunity for a State to participate, to say to that woman in many of these areas, "There is an out. You can do something. There is help available, so that you and your children will not be scarred mentally and physically down through the years, so that you can live a better life with a little bit of help."

The CHAIRMAN. The time of the gentleman from Missouri (Mr. SKELTON) has expired.

(At the request of Mr. WALGREN and by unanimous consent, Mr. SKELTON was allowed to proceed for 1 additional minute.)

Mr. WALGREN. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Pennslyvania.

Mr. WALGREN. Mr. Chairman, I want to associate myself with the remarks of the gentleman from Missouri (Mr. SKELTON).

It is often said that too many lawyers are elected to the House of Representatives. One of the spin-offs from this House being filled with lawyers is that almost everyone who has practiced law has been put in the middle of dangerous domestic disputes and appreciates the need of a place to turn to in trying to resolve the kind of disputes that the gentleman has cited. The lawyers in this House would have great difficulty in turning their back on this bill.

The Domestic Violence Act we are considering today would provide needed Federal support to assist local emergency shelters and programs to help family violence victims. This is a response to the tragic situation that has developed in American family life. Instead of using reason, many try to solve problems by resorting to violence. The victim of violence within the family needs somewhere to go. By providing nonthreatening shelters we will save lives and prevent physical and emotional harm to our children.

The American family, its role, and future is presently the subject of the White House Conference on Families. Discussions are focusing on family strengths and special needs. One of the areas identified by this conference is violence within the family. The bill before us would help a great deal and I urge my colleagues to support the passage of this legislation.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. SKELTON) has again expired.

(At the request of Mr. KRAMER and by unanimous consent, Mr. SKELTON was allowed to proceed for 1 additional minute.)

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. SKELTON. I yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I was a director of a mental health facility in my area, and as a State legislator also, I saw program after program after program either disappear or the progam advocates come running to the State legislature asking them to pick up the funding where LEAA pulled out.

I am sure that the gentleman shared that experience also as a State legislator.

Mr. SKELTON. Of course.

Mr. KRAMER. The whole purpose of this amendment is to avoid that happening. If we are going to have a program, let us have one that has an assurance of continuation and some continuity.

The gentleman suggests that perhaps we are getting off the track halfway down the track before we have an opportunity to complete the 3-year cycle. My suggestion is what happens at the end of the 3-year cycle? Either the State legislatures for the first time are confronted with either funding or let it die, or we as a Congress are forced into greatly expanding the existing programs. To me, this makes an awful lot of sense.

The CHAIRMAN. The time of the gentleman from Missouri (Mr. SKELTON) has expired.

(By unanimous consent, Mr. SKELTON was allowed to proceed for 1 additional minute.)

Mr. SKELTON. Mr. Chairman, I think that at the time it expired, if it is working, if it actually helps those particular women who have no place to go, no other person to seek aid from, if it is actually helping, then in the discretion of the legislature they can take that into account and move the program forward. If it is a failure, I have no doubt that the State legislatures will in their own wisdom say it is a failure.

The women, and the men in some cases, who are receiving the violence, are not coming, and are not using it and are not being benefited. It is not worth it. I think it is worth giving them the option. That is all we are doing.

□ 1620

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. KRAMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 142, noes 251, not voting 40, as follows:

[Roll No. 724]

AYES—142

Abdnor
Applegate
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bethune
Bowen
Breaux
Broomfield
Brown, Ohio
Broyhill
Burgener
Campbell
Carney
Carter
Cheney
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
Duncan, Tenn.
Early
Edwards, Ala.
Edwards, Okla.
Emery
English
Erlenborn
Evans, Del.
Evans, Ind.
Fenwick
Findley
Flippo
Forsythe
Gingrich
Goldwater
Goodling
Gradison
Gramm
Grassley
Grisham
Guyer
Hagedorn
Hall, Tex.
Hammerschmidt
Harsha
Hightower
Hinson
Holland
Hopkins
Ichord
Jeffries
Kelly
Kindness
Kramer
Lagomarsino
Latta
Leach, Iowa
Leath, Tex.
Lee
Lent
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McCloskey
McDade
McDonald
McEwen
Madigan
Martin
Michel
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
Nichols
O'Brien
Pashayan
Paul
Petri
Quillen
Railsback
Regula
Rhodes
Robinson
Roth
Rousselot
Royer
Rudd
Runnels
Santini
Satterfield
Sawyer
Schulze
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snyder
Solomon
Spence
Stangeland
Stanton
Steed
Stockman
Stump
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Wilson, Bob
Wolff
Wyatt
Young, Alaska
Young, Fla.

NOES—251

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Brademas
Brinkley
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carr
Cavanaugh
Chappell
Chisholm
Clay
Clinger
Coelho
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Danielson
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Dicks
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Eckhardt
Edgar
Erdahl
Ertel
Evans, Ga.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Glickman
Gonzalez
Gore
Gray
Green
Guarini
Gudger
Hall, Ohio
Hamilton
Hance
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hillis
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jacobs
Jeffords
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Lederer
Lehman
Leland
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
Luken
Lundine
McClory
McHugh
McKay
McKinney
Maguire
Markey
Marks
Marlenee
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Rangel
Ratchford
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Smith, Iowa
Snowe
Solarz
Spellman
St Germain
Stack
Staggers
Stark
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Waxman
Weaver
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolpe
Wright
Wydler
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOT VOTING—40

Anderson, Ill.
Andrews, N. Dak.
Brodhead
Brooks
Brown, Calif.
Burton, John
Clausen
Crane, Philip
D'Amours
Daschle
Dellums
Diggs
Dornan
Duncan, Oreg.
Edwards, Calif.
Flood
Ford, Mich.
Frenzel
Hanley
Hansen
Hollenbeck
Jenkins
Jenrette
Kemp
McCormack
Marriott
Mattox
Murphy, Ill.
Pickle
Roberts
Rosenthal
Rostenkowski
Russo
Sebelius
Symms
Treen
Weiss
Whitten
Wilson, C. H.
Winn

□ 1630

Mr. GUDGER and Mr. FOUNTAIN changed their votes from "aye" to "no."

Mr. BREAUX changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1640

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ALLOTMENT OF FUNDS

SEC. 5. (a) (1) From the sums appropriated under section 12 for grants to States under section 4(a) and section 4(d) for any fiscal year, each State shall be allotted an amount which bears the same ratio to such sums as the population of such State bears to the population of all States, except that—

(A) for purposes of grants made under section 4(a) from sums available under section 12(b)(1), each State shall be allotted not less than the greater of—

(i) one-half of 1 percent of the sums so available for the fiscal year for which the allotment is made; or

(ii) $50,000;

(B) for purposes of grants made under section 4(d) from sums available under section 12(b)(2), each State shall be allotted not less than the greater of—

(i) one-half of 1 percent of the sums so available for the fiscal year for which the allotment is made; or

(ii) $7,000; and

(C) Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-eighth of 1 percent of the amounts available for grants under section 4(a) and section 4(d) for the fiscal year for which the allotment is made.

(2) For purposes of the exceptions contained in paragraph (1)(A) and paragraph (1)(B) only, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(3) For purposes of this subsection, the population of each State, and the total population of all the States, shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(4) If the sums appropriated under section 12 for any fiscal year for grants to States under section 4 are not sufficient to pay in full the total amounts which all States are entitled to receive under this subsection for such fiscal year, then the maximum amounts which all States are entitled to receive under this subsection for such fiscal year shall be ratably reduced. In case additional funds become available for making such grants for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

(b)(1) If, at the end of the sixth month of any fiscal year for which sums are appropriated under section 12, the amount allotted to a State has not been made available to such State in grants under section 4(a) and section 4(d) because of the failure of such State to qualify for such grants, then the Secretary shall reallot such amount to States which are eligible to receive grants under section 4(a). Each such State shall be paid an amount which bears the same ratio to the total amount to be reallotted as the population of such State bears to the population of all such States.

(2) The Secretary may make available for reallotment, in accordance with the provisions of paragraph (1), such amounts made available for any fiscal year in a grant to a State under section 4(a) or section 4(d) as the Secretary determines, after consultation with such State, will not be used by such State during such fiscal year for carrying out the provisions of this Act. Any State with respect to which such a determination is made for any fiscal year shall not be eligible to receive any reallotments under this paragraph or under paragraph (1) for such fiscal year.

(3) Funds made available by the Secretary through reallotment under paragraph (1) or paragraph (2) shall remain available for expenditure until the end of the fiscal year following the fiscal year in which such funds become available for reallotment.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 5 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any amendments to section 5? If not, the Clerk will read.

The Clerk read as follows:

STATE REPORTS

SEC. 6. (a) Each State receiving a grant under section 4(a) shall submit to the Secretary, on or before December 1 of each year, a report providing specific information relating to the implementation of programs and projects under this Act.

(b) Each report required in subsection (a) shall include (both with respect to funds received by the State involved under section 4(a) and section 4(d)) the following information for the most recent fiscal year—

(1) the amount used to administer programs and activities relating to domestic violence carried out by such State in accordance with this Act;

(2) the amount used for assuring active section 4(b)(9), and the amount used for programs and projects to provide training and technical assistance with respect to domestic violence in accordance with section 4(b)(11);

(3) the amount used for services provided and activities conducted, or caused to be provided or conducted, by the State, including the amount used by each agency and the amount used for each type of service and activity conducted or caused to be conducted by each agency;

(4) a list of local public agencies and private nonprofit organizations receiving grants from the State from funds received by the State under a grant made to the State under section 4(a), the number, nature, and amount of such grants made to local public agencies, and the number, nature, and amount of such grants made to private nonprofit organizations;

(5) the number of individuals estimated to have been assisted in projects described in paragraphs (2), (3), and (4), respectively; and

(6) such other specific information as the Secretary considers necessary to carry out the provisions of this Act.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 6 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Are there any amendments to be offered to section 6? If not, the Clerk will read.

The Clerk read as follows:

REPORTS AND EVALUATIONS BY SECRETARY

SEC. 7. (a) For the purpose of furnishing information to aid the Congress in its oversight activities, the Secretary shall prepare and submit to the Congress on or before February 1 of each year a report providing specific information relating to the programs authorized in this Act. Each such report shall include for the most recent fiscal year—

(1) a list of the States receiving grants under section 4(a) and the amount of funds made available in each such grant through allotment or reallotment;

(2) a list of the States receiving grants under section 4(d) and the amount of funds made available in each such grant; and

(3) any recommendations which the Secretary determines to be appropriate for improving the programs authorized in this Act.

(b) The Secretary shall review, evaluate, and report to the Congress, not later than 3 years after the date funds first are obligated for grants under section 4(a) after the date of the enactment of this Act, with respect to the effectiveness of the programs administered and operated under this Act. Such review, evaluation, and report shall be conducted and prepared by persons not directly involved in the administration or operation of such programs. The Secretary, in carrying out such review and evaluation, shall—

(1) examine the extent to which public awareness of the problem of domestic violence has been increased;

(2) examine the extent to which the availability and the effectiveness of services with respect to domestic violence have been increased;

(3) examine the extent to which assistance made available under this Act has served as a catalyst for State and local community involvement and support (including financial support and other types of support) for projects relating to domestic violence;

(4) determine whether limitations established in section 4(e) relating to the amount and duration of grants have provided more opportunities for communities and private nonprofit organizations to establish, maintain, and expand projects under this Act;

(5) determine whether such limitations have resulted in stimulating State, local governmental, and community financial support for projects relating to domestic violence;

(6) examine the extent to which projects assisted under this Act have continued, without assistance under this Act, to provide services relating to domestic violence;

(7) examine the extent to which the Council has assisted the Coordinator in coordinating at the Federal level programs for the prevention of domestic violence and the provision of assistance to victims and dependents of victims of domestic violence; and

(8) examine the extent to which the Coordinator has provided necessary relevant information and assistance with respect to domestic violence to participating and interested States, local public agencies and communities, and private nonprofit organizations.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 7 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

CONFIDENTIALITY OF RECORDS

SEC. 8. The provisions of section 408 of the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1175) shall be applied to the records of any individuals subject to any program, project, or activity assisted under the provisions of this Act.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 8 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

AUDITS

SEC. 9. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the expiration of 3 years after the completion of any program, project, or activity authorized or assisted under this Act, have access, consistent with the provisions of section 8, for the purpose of audit and examination, to any books, documents, papers, and records of any person carrying out such program, project, or activity which, in the opinion of the Comptroller General, after consultation with the Secretary, may be related or pertinent to any grant authorized to be made under this Act.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 9 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

ESTABLISHMENT OF FEDERAL INTERAGENCY COUNCIL ON DOMESTIC VIOLENCE; COORDINATION OF FEDERAL PROGRAMS

SEC. 10. (a) The Secretary shall, not later than 60 days after the date of the enactment of this Act, establish a council to be known as the Federal Interagency Council on Domestic Violence.

(b) The members of the Council shall be appointed by the Secretary. The membership of the Council shall be composed of—

(1) representatives of Federal agencies which have responsibility for programs and activities relating to domestic violence, including representatives of—

(A) the Department of Agriculture;

(B) the Department of Defense;

(C) the Department of Housing and Urban Development;

(D) the Department of Justice (including the Law Enforcement Assistance Administration);

(E) the ACTION Agency;

(F) the Community Services Administration;

(G) the Legal Services Corporation; and

(H) appropriate institutes within the Alcohol, Drug Abuse, and Mental Health Administration;

(2) representatives of State governments;

(3) representatives of local governments; and

(4) not less than 5 members of the general public who have been victims of domestic violence or who have experience in the provision of shelter and other services to victims of domestic violence.

(c) The Secretary shall serve as chairman of the Council.

(d) The Council shall assist the Secretary in coordinating programs and activities—

(1) for the prevention of domestic violence; and

(2) for the provision of immediate shelter and other assistance to victims of domestic violence and their dependents;

administered under this Act with similar programs administered or assisted by other Federal agencies.

(e) The Council shall—

(1) identify, assess, and facilitate the coordination of all Federal programs, projects, and plans for programs and projects providing immediate shelter to victims and dependents of victims of domestic violence, and other services or research support relating to domestic violence;

(2) identify Federal programs which assist, or are capable of providing assistance to, programs relating to domestic violence, for the purpose of encouraging the continuation and expansion of Federal support for such programs; and

(3) make such recommendations as it considers appropriate to the President and the Congress with respect to coordination of policy, the elimination of duplication of Federal programs relating to domestic violence, and development of objectives and priorities for all Federal programs relating to domestic violence.

(f) The Council shall meet at the call of the chairman.

(g) Members of the Council, while serving on business of the Council, shall be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Federal Government service employed intermittently.

(h) The Coordinator, in coordinating programs with respect to domestic violence, providing information, otherwise carrying out clearinghouse functions, and making grants under this Act, shall give particular attention to—

(1) the availability for assignment of VISTA volunteers serving under part A of title 1 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.); and

(2) the availability of assistance through the conduct of, or grants to, special volunteer or demonstration programs under part C of title I of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4991 et seq.), and through grants and contracts made under title II of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5001 et seq.).

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 10 be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. DANIEL B. CRANE

Mr. DANIEL B. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Daniel B. Crane: Page 40 strike out line 13 and all that follows through page 43, line 20 (and redesignate the following sections accordingly).

Page 22, line 25, insert "and" after the semicolon.

Page 23, strike out line 1 through line 3, and redesignate the following paragraph accordingly.

Page 24, beginning on line 2, strike out ", in coordination with the Federal Interagency Council on Domestic Violence,".

Page 33, line 3, strike out "12" and insert in lieu thereof "11".

Page 33, line 9, strike out "section 12(b)(1)" and insert in lieu thereof "section 11(b)(1)".

Page 33, line 16, strike out "section 12(b)(2)" and insert in lieu thereof "section 11(b)(2)".

Page 34, line 12, strike out "section 12" and insert in lieu thereof "section 11'.

Page 34, line 23, strike out "section 12" and insert in lieu thereof "section 11".

Page 44, strike out line 1 through line 3, and redesignate the following paragraphs accordingly.

Mr. DANIEL B. CRANE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DANIEL B. CRANE. Mr. Chairman, in all regards this is a very poorly drafted piece of legislation. One of the best examples is section 10 which establishes an Interagency Council at a time when one already exists. President Carter established an Interdepartmental Committee comprising seven departments and agencies this last April. The mandate for the committee was nearly identical to the Council established by this bill. There are many times when we study an issue to death in this town, but I do not think we need to become a partner for relegating domestic violence to this fate.

I have maintained that we should not be creating a new program for domestic violence only 1 month away from having a major report on this issue in front of us. The Congress should be able to benefit from the extensive review carried out by Presidential mandate before it acts to commit tax dollars to any new effort. In this regard we should delay further consideration of this legislation until the Congress has had a chance to carefully review the work of the Interagency Committee. The last thing we need to do is create an entirely new committee to cover the same ground without knowing the outcome of the current review.

My amendment would delete the section of the bill that creates this new Council. We can always establish such an entity when and if the Congress believes the existing review is inadequate. The voters deserve more than to see this Congress chasing its tail on such an important issue as domestic violence. If we are serious about assisting the victims of spouse abuse, we should not divert scarce Federal resources to redo work that has already been done. A new study would not serve the victims and would not serve the taxpayers. Let us vote to delete this section now and wait to see what the Presidential Interdepartmental Council has to say before we act further.

Another point that can be made is the entire concept of an ongoing Council. I can understand the need for periodic review of programs through interagency means, but to set up a permanent entity is to create just one more committee of bureaucrats talking to one another and, more often than not, accomplishing nothing. If we had good managers in government. They would take it upon themselves to remain aware of other programs and initiate informal, ad hoc contacts across agency lines to make sure that wires are not crossed. If legislative remedies are required, good managers would make sure that the Congress was aware of these through periodic reviews or in oversight hearings. We all know that this rarely happens. Only aggressive oversight by the Congress routs out duplication and waste. Therefore, I urge my colleagues to push for congressional oversight on these matters not to create another group of bureaucrats going through the motions of coordination. I recommend a "yes" vote.

Mr. MILLER of California. Mr. Chairman, I rise in opposition to the amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Mr. Chairman, I rise in opposition to the amendment and in strong support of H.R. 2977, the Domestic Violence Prevention and Services Act. This is not just important legislation, it is urgently needed. Domestic violence is widespread in this country. Each year, 1.8 million wives are severely assaulted by their husbands. One-half of all married women will experience some form of spouse-inflicted violence during marriage.

Domestic violence is not typical of any one socioeconomic group; it touches families in all races, classes, educational and religious backgrounds. It has severe repercussions in society as well as the home. Of the families with known spouse abuse, at least one-half abuse their children as well. Ninety percent of all prisoners have been abused as children. Twenty-three percent of all police deaths and 40 percent of severe police injuries occur during responses to domestic violence calls. One-third of all murders occur within the family and husband-wife murders account for one-half of these killings.

The purpose of H.R. 2977 is to help alleviate the effects of domestic violence by providing funds for shelters where victims can receive treatment and relief. The bill which provides monies where they are needed most and will do the most good—at the local level. Shelters for battered women are usually meagerly and sporadically funded from private grants. This bill would distribute the funding by population and account for no more than 25 percent of any one program's budget. It would strengthen current programs and provide for new ones where necessary. The administration by HEW will insure that this program is effectively coordinated with research, technical assistance, child abuse programs and other similar programs.

Domestic violence is not a friendly pat or a slap on the hand. It is assault, battery, and physical injury which results in concussions, broken limbs, burns, fractures, and death. This bill is not an antifamily bill or one that tears at the institution of marriage. Domestic violence is a violation of the mutual respect upon which a marriage is built. Fear and force dissolve a marriage and permeate every aspect of the family long before legal dissolution occurs. Children are severely affected and it has been shown that they mirror their parents and repeat these violent acts in their later life.

The Domestic Violence Prevention and Services Act should be considered profamily, because I believe it will serve to strengthen marriages and the family.

Too often, domestic violence is considered a private problem that concerns only the spouses involved. But marriage is also a legal institution, recognized by law and society. When the very bases of marriage are violated, society has an obligation to the institution of marriage itself. Not to recognize the problem is tacit approval and the problem will continue to mushroom.

We must address the problem immediately and work to eradicate the root causes of domestic violence. If we succeed, we will be doing a service not only to the family and the marriage, but to society as well.

Mr. MILLER of California. Mr. Chairman, earlier this afternoon we were asked to vote on a substitute which would have coordinated and lumped all together those bits and pieces of various parts of the puzzle dealing with domestic violence, and that was rejected. It was rejected out of hand because we had no understanding of what the amendment would do. But nobody here disagreed with the effort to try to bring some coordination to these programs, to the research, to the legal effort that is going on in this field within the Federal Government. This interagency task force speaks to that coordination. It speaks to that efficiency. The adoption of this amendment, however, would wipe that out and leave this program running all by itself without any understanding of what else is going on in the Federal Government, without trying to coordinate and make the best out of Federal dollars to meet the problems of domestic violence.

I want to say that if the bill as written did all the gentleman who offers this amendment said it did, I doubt we would have the support of HEW. I doubt we would have the support of the President of the United States, who has made every effort to eliminate bureaucratic waste, to consolidate departments and agencies. In fact, they support this legislation, and I would hope that we would reject this amendment, because if we do, we will not go back to the scatter-shot approach that we currently have in the present law. But if we adopt the bill as it is currently written, we will bring some efficiency and coordination to these Federal efforts. I urge a rejection of the Crane amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. DANIEL B. CRANE).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

DEFINITIONS

SEC. 11. For purposes of this Act:

(1) The term "Coordinator" means the cordinator of domestic violence programs designated by the Secretary under section 3(a).

(2) The term "Council" means the Federal Interagency Council on Domestic Violence established by the Secretary under section 10(a).

(3) The term "domestic violence" means any act or threatened act of violence, including any forceful detention of an individual, which—

(A) results or threatens to result in physical injury; and

(B) is committed by a person against another person to whom such person is married or has been married, or with whom such person is residing or has resided.

(4) The term "Secretary" means the Secretary of Health, Education, and Welfare.

(5) The term "State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and, except as otherwise provided, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 11 be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KRAMER: Page 44, line 11, strike out "with whom such person" and insert in lieu thereof "to whom such person is otherwise related by blood or marriage and".

Page 44, after line 12, insert the following new sentence:

The determination of whether persons are married or have been married shall be made in accordance with the laws of the State in which the domicile of such persons is located.

Mr. KRAMER. Mr. Chairman, the way the legislation was originally introduced, it would have only applied to those who were spouses, or to those who were related. The way the bill was amended in Committee it now basically makes eligible for domestic violence assistance those people who are cohabitating together, and who are not married. Before the Members of the Committee scoff at my bringing this amendment before the body, which would, in effect, reinstate the situation the way it was when the bill was originally introduced—in other words, making only those who are related by blood or marriage eligible for assistance—I would just like to point out several things.

□ 1650

No. 1, I think we make a serious mistake if we sanction in law—and to my knowledge, perhaps for the first time—a relationship where people are simply living together without any legal ties, or legal responsibilities. This is not to in any way say this is not happening in our society. It is a fact of life today. But I think what people do, quite frankly, between themselves in their own privacy, as long as no one else is affected by it, is simply nuobody's business but their own.

However, I think it would be a mistake for this Congress to move forward in what I would consider to be a rather radical way and, in fact, give the sanction of this body to those relationships. That is what we will be doing if, indeed, we pass this legislation in its present form.

Mr. Chairman, I think the statistics clearly show that in situations where you are dealing with married persons, married persons are much more likely to need shelter care than persons living together because they have fewer resources than those who are unmarried. Those who are married are also more likely to have children than persons cohabitating together, and it seems to me that the thrust of the bill ought to be toward preserving marriage situations between spouses.

Mr. Chairman, although it may sound harsh to some, it seems to me that the simple solution for those who are not married who have wound up in violent relationships, is for one person to move. There is really no impediment to unmarrieds doing that. They are without the legal ties, without the children, without the legal relationships which characterize marriage, and I think the Federal Government ought not to involve itself in sponsoring and aiding such relationships. The time-honored opportunity to move and change one's quarters, or surroundings, ought to be one way to take care of this situation. Unmarrieds still have recourse to criminal assault laws if legal recourse is necessary. I would suggest that is a much more appropriate disposition for those kind of situations.

Mr. Chairman, I think that we really in effect do, because of the way things in Congress tend to get distorted as regulations are promulgated, and as guidelines come down and interpretations follow, is that within a sum period of time, what we will have done in effect is, I think, legally sanctioned in one way or another that kind of relationship and situation. I do not think this body is ready to move forward on that basis yet. I hope not.

Mr. Chairman, with that thought in mind I would hope we would be able to restore this bill simply to the form that it was in prior to its change being made in the committee. I think the bill as it was introduced only included the spouses and those related. That in my opinion ought to be the form in which the measure should pass the House. With that explanation, Mr. Chairman, I would hope we would adopt this amendment.

Mrs. BOGGS. Mr. Chairman, I move to strike the requisite number of words and will speak in opposition to the amendment.

Mr. Chairman, the States should determine the needs that exist in various areas. This amendment inhibits their ability to serve anyone threatened or injured in a domestic dispute.

In addition to that, I would like to tell the gentleman and other Members of this body how I got so involved in the issue of domestic violence. It came from a recognition that no language in any Federal legislation dealt with homeless and destitute women. We did not believe there was any such category of persons in the United States.

Several years ago Dr. Veronica Maz of Georgetown University and I had been quite concerned about the paper-bag ladies in Washington, the poor women who carry all of their belongings in paper bags and live on the streets.

Mr. Chairman, it was in order to provide a home for these people, most of whom had been deinstitutionalized, that a shelter called the House of Ruth was begun. After leaving institutions some women returned to home situations. Many had no homes, and so they went to the streets. Those able to go home were usually abused and battered by others there.

When we opened the House of Ruth here in Washington, it was for these paper-bag ladies. But the doors were literally pushed in by women and/or their children who had also been abused in espousal situations, in a blood-family relationship.

Mr. Chairman, the bill we consider today was therefore proposed not only to take care of spouses and children in blood relationships but also to serve all family members, and extended family members, and those with emotional or economic ties.

Mr. Chairman, the beating and the abuse of older people in England became such a scandal that they now call it "gram-slamming." There are many people that this bill takes care of. The guidelines written by individual States will accommodate problems in those States, whether or not they are considered spousal, marital situations. I hope that this amendment will be defeated.

Mr. KRAMER. Mr. Chairman, would the gentlewoman yield?

Mrs. BOGGS. I would be glad to yield to the gentleman from Colorado.

Mr. KRAMER. Mr. Chairman, I thank the gentlewoman for yielding.

I would like to point out one thing. Perhaps there is a misapprehension about what this amendment does. It does not limit assistance under this bill to those who are married. It simply says in order to be eligible for assistance you either must be related by blood or by marriage, so it would encompass the extended family situation. The case of the senior people being brutalized, or basically any of those kinds of situations where there was any relationship between any of the parties involved, which I think means domestic violence, those situations would be covered.

The only situation in the language as drafted that would be excluded would be simply people in effect living together as husband and wife who were indeed not married.

Mrs. BOGGS. Mr. Chairman, I do not think the amendment specifically points that out. I would certainly be against the amendment.

Mr. BARNES. Mr. Chairman, will the gentlewoman yield?

Mrs. BOGGS. I yield to the gentleman from Maryland.

Mr. BARNES. I thank the gentlewoman for yielding.

Mr. Chairman, I want to commend the gentlewoman from Louisiana for her leadership on this issue and for her statement.

With respect to the specific amendment before us, my own experience in witnessing the operations of one such center in my own congressional district in Bethesda, Md., suggests that it would be very difficult to operate under this amendment, very difficult to enforce, because as a practical matter what happens is, women and children arrive in the middle of the night. They arrive in a state of fear. They arrive after having been beaten up in the middle of the night after 2 o'clock or 3 o'clock in the morning, and what is being proposed by this amendment is that the people who operate the center must say, "Would you please show us your marriage license?" "Would you please show me some identification that indicates that you are related by blood to the person who beat you up?"

It is absurd.

It is necessary that these centers be able to provide assistance to people who come there needing the assistance. The issue should not be whether they were married to the person who beat them up. The issue should be whether or not they need the assistance and we should be offering that assistance at a time of desperate need.

Mr. Chairman, I thank the gentlewoman for her leadership and I join her in opposition to this amendment.

Mrs. BOGGS. Mr. Chairman, I thank the gentleman for his statement. The gentleman is precisely correct. The centers themselves, the States themselves, the localities themselves have to meet the needs as they exist in their areas. We should not have this inhibiting amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The amendment was rejected.

□ 1700

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment, and I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Colorado?

There was no objection.

The amendment reads as follows:

Amendment offered by Mr. KRAMER: Page 44, after line 14, insert the following new paragraph (and redesignate the following paragraph accordingly):

(5)(A) The term "shelter" means any shelter, facility, or other institution which—

(i) is licensed under any applicable State law to provide, on a regular basis, shelter, meals, and related assistance to victims and dependents of victims of domestic violence; or

(ii) in the case of a shelter, facility, or other institution located in a State which has not established any licensing requirements applicable to shelters, meets such standards prescribed by the Secretary as he considers necessary or appropriate for the proper provision of such assistance.

(B) The term "shelter" also includes any shelter, facility, or other institution which is located on an Indian reservation and is certified by the Secretary as meeting the requirements of subparagraph (A)(ii) and providing the assistance specified in subparagraph (A)(i).

(C) Any standards prescribed by the Secretary under subparagraph (A)(ii) shall take effect not later than one year after the date of the enactment of this Act.

Mr. KRAMER. Mr. Chairman, what this amendment in its new form is designed to do is simply provide that we are going to have a minimum standard for quality in terms of sanitation, health, competency of the staff in shelters funded under this bill. It does this in basically one of two ways. It simply says that for those States that have State licensing of shelter homes, that in order to qualify for Federal assistance this shelter will, indeed, have to be licensed under State law.

Now, in order to avoid the objections that some of my colleagues on the other side have raised with several of the amendments that I have suggested, which are that what we are attempting to do is to put an affirmative burden on the States that do not have licensing procedures to establish such licensing procedures and, thereby, in effect, scuttle the bill in those States that do not have licensing procedures, I am offering a new amendment which would provide that, alternatively, the Secretary of HEW also set these minimum health, safety, and qualified personnel standards. Those States that do not have licensing procedures to license shelter homes, simply meet minimum Federal requirements and qualifications in order to receive Federal funds.

It seems to me that if we are going to go forward with this, we want a shelter that can do what this whole program is designed to do. That is, to combat domestic violence.

I do not think that what we want to do is give money to shelters that cannot meet the needs of their constituents. Therefore, if we fund the money, let us not squander it. Let us not waste it. Let us make sure that those who receive services are going to have a certain minimum standard that the shelters that are providing those services are going to have to meet. It is really as simple as that.

Mr. Chairman, with that explanation, I think that we would be doing a disservice by putting shelters into operation to deal with the problems of our elderly, as the gentlewoman from Louisiana set forth in her statement, without minimum standards for these facilities. If we are concerned about those people, we do not want them to be brutalized. Let us not send them to places with the utilization of Federal dollars that cannot do the job for them.

This amendment, again, in its new posture, is in no way meant to disrupt the start of this program. It is in no way meant to scuttle the program. It simply says that if we are going to have it, let us make sure that the shelters can do at least a minimum job of competency.

I would also point out, Mr. Chairman, that this is not a new precedent. We do have other Federal provisions in our Alcohol and Drug Addict Treatment Centers under the Comprehensive Alcohol and Drug Abuse Treatment Act of 1970, and some other Federal statutes, requirements which require State or Federal licensure of the facilities before funds be distributed to these institutions.

Mr. SIMON. Mr. Chairman, I rise in opposition to this amendment.

This is an amendment we ought to be able to dispose of quickly.

Our roles are now reversed. The gentleman from Colorado wants to impose Federal standards. Now, I would simply suggest to my colleagues who recall—and my good friend, the gentleman from Colorado, was not here then when we had legislation pending here which would have imposed Federal standards on day care centers—and Members can remember the avalanche of mail that we got on that issue.

This is something we ought to leave to the States. The legislation leaves this to the States. It is where it belongs. We should not ask the Secretary of HEW to draft standards for these shelter care homes or places which provide safety for these people.

Mr. Chairman, I hope the amendment is resoundingly defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. KRAMER).

The amendment was rejected.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) There is authorized to be appropriated $15,000,000 for fiscal year 1981, $20,000,000 for fiscal year 1982, and $30,000,000 for fiscal year 1983, to carry out the provisions of this Act.

(b) Of the sums appropriated under subsection (a) for any fiscal year—

(1) 75 percent shall be used by the Secretary for making grants to States under section 4(a);

(2) 15 percent shall be used by the Secretary for making grants to States under section 4(d); and

(3) 10 percent shall be used by the Secretary for the development, operation, and coordination of programs and policies under section 3.

Mr. SIMON (during the reading). Mr. Chairman, I ask unanimous consent that section 12 be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

AMENDMENT OFFERED BY MR. KRAMER

Mr. KRAMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Kramer: Page 45, after line 9, add the following new section:

REPEAL OF ACT

SEC. 13. Effective at the close of fiscal year 1983, the foregoing provisions of this Act are repealed.

Mr. KRAMER. Mr. Chairman, in the absence of the gentleman from Ohio (Mr. Ashbrook), I am offering this amendment on his behalf. It simply basically states in writing what the sponsors of the bill have said all along, that this is going to be a 3-year program. After that there is going to be total Federal withdrawal.

What this amendment does is insure that. My distinguished subcommittee chairman, the gentleman from Illinois, has indicated that this amendment is acceptable to the majority.

Mr. Chairman, with that explanation, I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, this is not the 2-year authorization limitation?

Mr. KRAMER. No.

Mr. SIMON. Mr. Chairman, this amendment is acceptable.

Mr. KRAMER. Mr. Chairman, may I ask the gentleman from Illinois, I do not think we started reading the amendment. Perhaps we ought to make it crystal clear.

PARLIAMENTARY INQUIRY

Mr. KRAMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state the parliamentary inquiry.

Mr. KRAMER. Mr. Chairman, this is the amendment that goes to page 45 after line 9?

The CHAIRMAN. Yes, it does.

Mr. KRAMER. Mr. Chairman, I thank the Chair.

Mr. Chairman, I would say to my colleague, the gentleman from Illinois, that this is the sunset amendment.

Mr. SIMON. Mr. Chairman, this is acceptable. There should be no conflict.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado (Mr. Kramer).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments?

Mr. BAUMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, a few days ago when we considered the rule on this legislation, I took the time to discuss whether or not there was any need for this. I opened my remarks then, and I think it is worth noting today that it is very difficult for a politician, an elected official, a Member of Congress, to vote against a bill such as this and open one's self to be charged with voting for domestic violence. Nobody is for domestic violence, obviously.

The question that arises when this legislation is before us, however, is whether this bill will do anything to achieve the stated goal of its authors, whose motivation is certainly very worthwhile and commendable.

The fact is this legislation in similar form was defeated by a majority of this House last year. That was a different Congress, admittedly, but it was defeated after debate under suspension and it was never brought back on the floor.

One of the reasons was, and I think it is worth noting, that we lived then and now even more in a time of high inflation caused by Government deficits. This bill at $65 million is one of the causes of those Government deficits.

Now, it is not as though the solution to this problem is not being addressed by Federal, State, and local agencies. When this bill was before the Committee on Rules I did some research and discovered that there are now 19 federally funded programs that deal with domestic violence in one way or another. There is some dispute about how much money is totaly available for this, but the best estimate that I could find is at least $11.5 million last year for similar Federal programs already being spent.

The Congressional Research Service did an August 1979 study entitled, "Domestic Violence, The Federal Response." It bears out the fact that there are 460 different types of programs of this nature currently available in the States of the United States.

There are 43 different States already that have these programs or shelters or laws or are considering legislation dealing with domestic violence, including civil remedies, shelter services, data collection, police training and changes in criminal statutes and proceedings.

As was pointed out, and simply rejected by the majority a few months ago, there is already an Office of Domestic Violence in the White House, funded last year at the rate of $360,000 with a projected budget of $1.2 million in the coming year. It serves as the national clearing house for all the programs of this nature.

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Mr. Chairman, we have programs and departments ranging from the ACTION agency to the Department of Agriculture, all dealing with this subject of domestic violence.

I know the sponsors of the bill are sincere, but if this House is going to continue to vote for programs such as the last boondoggle, the dispute resolution program that costs $65 million under that authorization, and now another multi-million dollar program that undoubtedly will be embellished and built upon, I do not know how we are ever going to get the finances of this country in order.

Sure, it is a good idea, it is a great idea. But it is already being done. A lot of money is already being spent. It is being done by Federal agencies, and now we are told once again that the Government must step in further at great cost to the taxpayers.

Mr. Chairman, I hope we will defeat this legislation, just as we defeated it last year. There is no need for it, and I do not believe a vote for it can be justified on fiscal grounds by any stretch of the imagination.

Mr. HYDE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I seldom disagree with my good friend, the gentleman from Maryland (Mr. Bauman), because he is so often correct, but I do respectfully disagree with him on this program.

I would point out that the dissenting views in opposition to this legislation point out the following:

> We concur that there is a real need in the area of domestic violence prevention and protective services.

Many of us come from different types of communities. I come from an urban area containing a lot of people who have a great deal of domestic violence. I have seen with my own eyes people who have been brutalized. I have had mothers come into my district office with three children, with their husbands and children, who have been arrested on the grounds that the mother is molesting the children.

These people need counseling. They need sophisticated counseling, they need spiritual help, and they need some place to go for guidance.

This is not a new Federal program. This simply provides very modest seed money for a program to give some momentum to local community groups to get into this area where the need is so profound.

I heard one esteemed Member of this body from the other side belittle this program by saying that it will never solve the problem. We will never solve the problem of disease, we will never solve the problem of crime as long as we have human nature. We will never solve the problems of narcotics and of war. But we can ameliorate the problems, we can mitigate them, and we can help things along.

As long as this Government spends what it spends on the Government Printing Office, as long as we sent out the blizzard of pamphlets on beekeeping and all sorts of things, as long as we are going to fund the National Endowment of Arts, and as long as we are going to pay for the works of art that decorate—and I use the word with some concern—the fronts of our social security buildings, we can fund this program. We have a three-story baseball bat—and I do not know what the cost of it is—that is in the social security building in Chicago.

As long as we are going to repair the room of the Kennedy Center, can we not also spend a few dollars assisting the local governments and the States in filling this void and filling this need?

I am sure there are programs available. I am sure also that it would take a genius to find them and to put them together and make them work effectively.

Mr. Chairman, the problem is there. This is a modest effort to assist local governments in meeting the problem.

Mr. BAUMAN. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I am pleased to yield to my friend, the gentleman from Maryland.

Mr. BAUMAN. Mr. Chairman, I regret that the gentleman from Illinois (Mr. HYDE) and I have to disagree on this because we do hold many common beliefs. But nothing that the gentleman has said changes my position. In fact, the gentleman has confirmed the statistics and facts I presented, not challenged them.

These programs are already in place, and this bill does add additional spending. My feeling is—and I have researched the question—that this is indeed a serious problem but that solutions are being offered now at the State level and with other Federal programs.

However nice it may be to address a real problem which actually exists with another Federal program, it is precisely this kind of thinking that has brought us to the fiscal dilemma we face. I would say to the gentleman that I respect his support for this legislation, but as to the argument that he presented about artwork, and so on, that argument can be presented in favor of any program. In other words, the argument is that we are spending it here, so, therefore, let us spend it there, too.

Mr. Chairman, somewhere we have to draw the line.

Mr. HYDE. Mr. Chairman, we just passed dispute resolution legislation to resolve neighborhood disputes. These are people who can solve their problems voluntarily.

But these people who are victimized by domestic brutality are involuntary victims. They are confronted with an immediate situation.

Lastly, let me just say that I am happy this legislation has a 3-year sunset provision. This will not go on in perpetuity. This will not be a new program that will multiply and increase as the loaves and fishes did. This has a sunset provision.

Mr. Chairman, I think it is worth the effort, the time, and the modest, if not miniscule, funding that this bill offers.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, H.R. 2977 should be rejected for many reasons. First, there is no money for it. It will only add to the massive budget deficit which is already fueling double-digit inflation.

More importantly, however, we should ask if there is any reliable evidence that this bill will actually result in a net reduction in domestic violence. Furthermore, will the bill actually result in Federal interference with State, local, private, and religious programs in such a manner that causes more, not less domestic violence? I suggest that such an outcome is not only possible, but probable in view of some information that has come to my attention.

In order to understand the direction that this bill would take us, we must look beyond any false reassurances that the programs would be entirely State-controlled. As all past history indicates Federal funding is Federal control. We get a clear indication that the program will be federally controlled in section 4(b) which stipulates that all applications shall be submitted "in such form, and according to such procedures, as the Secretary may require." Again, past history clearly shows that such language always results in extensive Federal regulation, direct and indirect, subtle and not so subtle. These are the classic words used to bring control from Washington.

Inasmuch as the program is going to be federally directed, we should then ask, What kinds of standards does the Federal Government propose to promote? We are given a stark revelation of the prevailing antifamily mentality in a lengthy 700 page report supporting this type of legislation published by the U.S. Commission on Civil Rights. In the report called "Battered Women: Issues of Public Policy," much of the material was devoted to making a mockery of family life. In one instance marriage is compared to slavery and is called "infantilization." The marriage ceremony is particularly subjected to ridicule on page 417. Women who defend the sanctity of the family are accused of "infantilization," arousing "fears and anxieties," and "mendacity" on page 419.

Two recommendations in the report are especially interesting. One reads:

> Gradually eliminate corporal punishment as a mode of childrearing.

Another:

> Eliminate the husband as "head of the family" from its continuing presence in law, in religion, in administrative procedure, and as a taken-for-granted aspect of family life.

This appears on page 479. While we can defend the right of any individual to hold such personal views about the family, we must with equal vigor defend the rights of others who hold the opposite view. Most importantly, we must ask what business it is of Government to promote such changes, especially in religion. Is the Federal Government to rewrite the theology of every religious denomination in America?

I am further concerned about the ideological selectivity employed by the U.S. Commission on Civil Rights in its lists of "Resources for and on Battered Women."

● Mr. DOWNEY. Mr. Chairman, I wish to add my support for passage of the Domestic Violence Prevention and Services Act.

This bill recognizes the pioneer efforts of New York State and particularly, of Suffolk County. The Victims Information Bureau of Suffolk, or VIBS, last year received over 4,000 calls on their hotline from battered spouses seeking advice, solace, and shelter. The Suffolk County Police Department logs over 1,000 calls each month reporting domestic violence from families and neighbors.

Research into this widespread pattern of abuse shows that domestic violence knows no economic boundaries. Rich and poor alike are the abusers and the victims, although careful study of these statistics indicate that lower income families are likely to experience a higher continuing incidence of abuse. Doctors from the National Institute of Mental Health warn that children who are abused within violent homes, later in life become the abusers themselves passing this illness on to their own sons and daughters.

These victims need help. The Domestic Violence Prevention and Services Act will provide money for States to establish shelters for victims of abuse and expand programs for treatment. While available statistics clearly indicate the need for this assistance, experts now tell us that these figures are not telling the whole story. Estimates of the real incidence of domestic violence run as high as 50 percent of all families nationwide. Because of the nature of this problem most victims are too embarrassed to admit that it is happening in their family and so it is never reported.

I strongly urge my colleagues to support this important and much needed legislation.●

● Mr. OTTINGER. Mr. Chairman, as a cosponsor of H.R. 2977, the Domestic Violence Prevention and Services Act, I want to urge my colleagues to support this important measure.

The need for programs and services for victims of domestic violence is overwhelming. Statistics indicate that this is a national problem which affects an estimated 1 out of 6 families in America. Its victims are men and women, children and the elderly, rich and poor, urban and rural.

Some steps have been taken to deal with this crisis. Limited Federal assistance is available for research, publication, technical assistance, and demonstration projects, but no Federal funds are available for emergency shelters or programs that help victims. In addition, some States have initiated programs to help the victims of domestic violence. In fiscal year 1978–79, New York State spent $497,550 to fund 11 projects designed to prevent domestic violence or assist victims of domestic violence. In May 1979, Governor Carey established a task force on domestic violence to study the problem and to recommend ways in which the State could improve its current program to provide legal and financial assistance for treating and preventing domestic violence. The task force will submit these recommendations in January 1980.

More help is needed. H.R. 2977 provides a modest amount of Federal assistance to supplement and stimulate State and local efforts.

H.R. 2977 authorizes grants to States to assist in the establishment, maintenance and operation of programs and projects to prevent domestic violence and assist its victims. The States would distribute at least 75 percent of the moneys to local public agencies and private nonprofit organizations to support programs and projects. This bill keeps the major responsibility at the local level. The bill limits the amount of grants to local agencies to the lesser of $50,000 or 25 percent of an agency's annual budget. Grants to any local program may not be awarded for more than 3 years, and the total amount of grants to any local program may not exceed $150,000. Projects funded under this legislation would make available to the victims of domestic violence, either directly or by referral, comprehensive services, including child care, medical services, emergency shelter, counseling, job training, housing assistance, and legal services.

The bill also provides for the establishment of a Federal Interagency Council on Domestic Violence to be responsible for coordinating programs administered under the act with programs administered by other Federal agencies, making recommendations to Congress to eliminate duplication of programs and to develop priorities.

H.R. 2977 enjoys widespread bipartisan support in the House. It has the backing of dozens of organizations including the National Association of Social Workers, Family Service Association of America, National Council of Churches, Child Welfare League, General Federation of Women's Clubs. The American Jewish Congress, the International Brotherhood of Police Officers, the American Nurses Association, and the American Bar Association. I urge my colleagues to support this desperately needed legislation.●

● Mr. DODD. Mr. Chairman, I rise in support of H.R. 2977, the Domestic Violence Prevention and Services Act, and ask my colleagues to join me in supporting the passage of this important bill.

Mr. Chairman, in March of 1978, the National Commission on the Observance of International Women's Year made its report to the President, the Congress, and the American people on the findings and recommendations of the First National Women's Conference held in Houston, Tex. At that time, domestic violence was targeted as a priority issue and serious problem for women.

The conference called for making the elimination of violence a national goal and specifically called upon Congress to establish a national clearinghouse for information and technical and financial assistance to locally controlled public and private nonprofit organizations providing emergency shelter and other services to battered women and children. Today, we have the opportunity to respond to this call for action.

Domestic violence is a significant, national social problem that is known to seriously damage the lives of countless numbers of women and children. As you know, the information provided to the Committee on Education and Labor estimates that between 50 to 70 percent of American families are affected by domestic violence. It is clear that Federal recognition and support of local and State efforts is needed. We also know that this kind of violence is not peculiar to any particular age group, race, class, or region. An illustration of this point cited by the Women's Commission struck me because the example was taken from my own State of Connecticut: The cases of abuse reported in the white upper-middle class of Norwalk, Conn., was approximately the same as those reported in a West Harlem black working-class neighborhood of equal size.

It is a myth that domestic violence does not happen in nice families or among highly educated people. This bill, in addition to providing funds to States for shelters, would provide funds to develop much needed public awareness campaigns to help dispell this myth and others, such as the shame associated with seeking assistance that some women feel; the fear of reprisals; or the mistaken belief that such behavior is manly or acceptable by some standards. Our support of local initiatives in this area is crucial. This effort in conjunction with the efforts of HEW to gather and disseminate information should greatly assist in first, bringing domestic violence out of the closet and, second, in helping to eliminate the problem.

The designation of an "International Women's Year" or a "Year of the Child" represents a significant recognition of national priority concerns, and such designations are successful in creating a public awareness of the very real problems of our women and children that might otherwise go unnoticed.

But the designation of such years is not enough; without legislative action by this body, the meaning of assigning these years is undercut and the commitment of the Congress understandably called into question. International Women's Year has come and gone, but the concerns of women and our responsibility to address the various issues and problems brought to the fore during that year remain.

In general, I believe that both the States and the Nation as a whole should assess our progress—what we have done, what awaits our attention. Specifically, we have the opportunity to begin to address the problem of domestic violence, which cries out for our immediate attention today. Again, I strongly urge my colleagues to support the passage of the Domestic Violence Prevention and Services Act, H.R. 2977.●

● Mr. HARRIS. Mr. Chairman, as a cosponsor, I rise in support of H.R. 2977, the Domestic Violence Prevention Services Act. Spouse abuse reaches into every corner of our country and spans all socioeconomic classes. While the frequency of domestic violence is appalling (1.8 million wives are severely assaulted by their husbands each year), the lack of services for the victims of this pervasive abuse is equally disturbing. H.R. 2977 would take a much needed first step in the support of local and State efforts to combat this national problem.

Domestic violence is self-perpetuating, and its growth can only be curtailed by the provision of adequate services to its victims. There are only 300 shelters across the country to serve the millions of individuals—men, women, and children whose lives are marred by this devastating violence. For many, because communities often lack the resources for help, the only alternative to continued abuse is to leave home. Some areas, such as Fairfax County in Virginia, have established spouse abuse programs which meet a significant portion of the community's needs by providing a wide range of prevention and crises intervention services. Other communities are not so fortunate; many provide no services at all, and many others are forced to meet only a fraction of the community's needs. It is imperative that all Americans have some place to turn when confronted with spouse-inflicted violence.

Domestic violence has many side effects which should not go unnoticed. Studies indicate a strong correlation between spouse abuse and child abuse, an even more frightening problem due to the inability of children to protect themselves. Studies also show that law enforcement officers responding to domestic violence calls run a high risk of injury and frequently even death. Because of these and other side effects, it is impossible to estimate the actual toll of spouse abuse on the lives of Americans. What is obvious is that not enough is being done to end this tragic cycle of violence.

We can go a long way toward solving this problem simply by recognizing its adverse impact on our Nation. H.R. 2977 will go even further by providing money to the States for distribution to local programs aimed at preventing domestic violence and aiding its victims. I strongly support passage of H.R. 2977.●

● Mr. COTTER. Mr. Chairman, today we have before us the Domestic Violence Prevention and Services Act of 1979, H.R. 2977. I rise in strong support of this much needed legislation which will provide assistance to millions of families in this country, torn apart by domestic violence.

The bill establishes a Federal grant program to provide assistance to States for services and to local projects in domestic violence. In Connecticut, we currently have seven shelters in operation, and according to the Connecticut Task Force on Abused Women, others may be opening in the near future. However, like other shelters and projects across the country, the Connecticut shelters need Federal assistance so that they can become economically self-sufficient.

We have heard firsthand accounts from the victims of domestic violence. We have heard testimony from experts and from our distinguished colleagues who introduced this measure. Now is the time to deal with this widespread problem which cuts across all social and economic lines.

H.R. 2977 is responsible low-cost legislation. To avoid the possibility of dependency on Federal resources and perhaps alleviate some fears, the bill stipulates that grants to any one facility or program will be limited to the lesser of $50,000 in any fiscal year or one-quarter of the applicant's annual budget.

H.R. 2977 is the vehicle the committee chose to combat this social disease. It is a good bill and I am pleased to have my name on it. I wholeheartedly urge my colleagues to act favorably on this measure, which is long overdue.●

● Mr. GRASSLEY. Mr. Chairman, while I share the concern of my colleagues at looking after the well-being of victims of domestic violence and in taking steps to prevent domestic violence from occurring, I believe that this particular measure is both unnecessary and improper.

There are at present no less than 19 Federal programs aimed at research, prevention, and aid to the victims of domestic violence. A partial list of agencies administering such programs includes: the National Center on Child Abuse and Neglect; the Administration for Public Services, which administers title XX of the Social Security Act; programs under aid for families with dependent children; the Department of Health, Education, and Welfare; the Alcohol, Drug Abuse and Mental Health Administration; the National Institute of Mental Health; the National Institute on Alcohol Abuse and Alcoholism; the Department of Housing and Urban Development; the Community Services Administration; ACTION; the Department of Justice Law Enforcement Assistance Administration; the Departments of Labor and Agriculture; and the Bureau of Indian Affairs.

In addition, the House and Senate have both passed H.R. 3434, Social Services and Child Welfare Amendments of 1979, which allows use of title XX funds for the establishment of emergency temporary housing for adults. President Carter has already requested interdepartmental cooperation to determine what Federal agencies and departments are providing domestic violence assistance. This is the so-called Interdepartmental Committee on Domestic Violence and it includes many of the aforementioned agencies. Thus, the two major justifications for the measure before us, to provide coordination of existing programs and to provide "seed money" for local shelters, are already being met under the present system.

In addition to being unnecessary, this measure is improper. The States have traditionally enforced laws on assault, State laws protect family members from violence at the hands of one another, and there are currently over 400 State programs, many of them shelters, which address the needs of victims of domestic violence. I believe that it is important for us here in Washington to retain some sense of perspective of our role. We cannot, nor should we allow ourselves, to pass legislation on every issue that might concern us personally. The strength of our Nation depends on the restraint of the Federal Government, especially where the rights and jurisdictions of the States are concerned.

If there is one concern shared by all Americans, it is the unnecessary increase in Government spending and the dangerous burgeoning of the Federal bureaucracy. H.R. 2977, while accomplishing very little real good, would lead to both higher expenditures and increased Federal bureaucracy.●

● Mr. MAZZOLI. Mr. Chairman, I rise in support of the Domestic Violence Prevention and Services Act, H.R. 2977.

This legislation would provide Federal support for State and local activities to prevent domestic violence.

Specifically, the bill authorizes the Department of Health, Education and Welfare to distribute 75 percent of appropriated funds in grants to States for distribution to local programs. The Federal share of a local program's annual budget cannot exceed the lesser of $50,000 or 25 percent.

I believe that limiting the Federal share of funding will insure State and local commitment to the programs and enhance the possibilities of the programs continuing after Federal funding is terminated at the end of the third year of funding.

This measure also directs 15 percent of appropriated funds to States to administer programs relating to domestic violence, including a public awareness campaign and technical assistance.

Mr. Chairman, in my own district of Louisville, Ky., a Spouse Abuse Center has been operating for over 2 years. This center, located in the city's YWCA, was Kentucky's first domestic shelter program.

The Spouse Abuse Center has sheltered over 1,300 abused women and their children for up to 30 days. The 24-hour hotline has answered more than 6,500 calls, and better than 400 women and men have received walk-in counseling from the center. In addition to these services, the Spouse Abuse Center offers victims child care, linkage to legal help, financial aid, employment, and permanent housing opportunities.

I am proud of the success of this program. However, I realize that my constituents who participate in this program are more fortunate than most. Domestic violence affects an estimated one out of six families in this country. Since no Federal agency presently has the authority to fund the operation of shelters or ongoing services for domestic violence victims, many victimized children and adults have nowhere to turn for help.

I urge my colleagues to study with care the complexities of this widespread problem and join with me in taking a first step toward alleviating domestic violence.●

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. FAZIO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2977) to provide for Federal support and stimulation of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, for coordination of Federal programs and activities pertaining to domestic violence, and for other purposes, pursuant to House Resolution 498, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am unalterably opposed to the bill, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. ASHBROOK moves to recommit the bill H.R. 2977 to the Committee on Education and Labor with instructions to conduct a study to review the need for coordination and/or consolidation of existing Federal programs providing assistance to domestic violence victims by April 1, 1980.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. ASHBROOK) is recognized for 5 minutes in support of his motion to recommit.

Mr. ASHBROOK. Mr. Speaker, let me say to the Members of the House that it will not be necessary to take my full 5 minutes.

I do not usually ask for a study to be conducted, but in this particular case there are studies in place. They represent hundreds of thousands of dollars of taxpayers' money, and some of them are within a month or two of having a report.

It does seem to me that in this case it is questionable, if not foolish, to proceed with a bill such as H.R. 2977 while reports are pending and while studies are being conducted. At this point it would seem to me the better part of wisdom would be at least to wait until these studies have been reported back so that at least what money we have spent on them can result in bringing some report back on which we can probably better legislate in this area. That is why I have used the date of April 1, 1980. Most of the reports should be back by that time.

Mr. Speaker, I believe the motion to recommit with instructions speaks for itself, and I yield back the balance of my time.

The SPEAKER pro tempore. The Chair recognizes the gentleman from California (Mr. MILLER) in opposition to the motion to recommit.

Mr. MILLER of California. Mr. Speaker, let me remind the members of the committee that this is the third year in which I have worked on this problem of domestic violence, on the problems of battered women and children in the homes of America. We do not need to study this problem any longer.

One of the conscientious decisions this committee made was that we would not continue to expend Federal dollars to study this problem but that, in fact, we would spend Federal dollars to provide services to those people in that traumatic situation where their lives are endangered and their well-being is endangered so that they must leave their homes in the middle of the night. That is what this legislation does.

The gentleman from Maryland (Mr. BAUMAN) talked about many of the other programs in other parts of the Government that are addressing themselves to this situation. Let me just say to the Members of the House that CETA will provide a worker, VISTA will provide a volunteer, and HUD will help to renovate one of these shelters, but if there is no shelter, there is no place to go in the middle of the night.

We are asking the Members to spend $15 million a year to help these women, to help these men, and to help these children who are in a life-threatening situation.

☐ 1720

The most recent study is the study by the Inspector General of HEW, and their conclusions are that, in fact, the shelters lead to a better utilization of resources, that the shelters lead to a consolidation of services, that the shelters provide innovative work with these people, but the problem is that the shelters are too few, they are embryonic and they are tenuous. They live day to day, according to what bake sale they can have, out of what good charity they can have.

Mr. Speaker, I ask the Members to reject this motion to recommit and I ask that they vote for passage of the bill.

The SPEAKER pro tempore (Mr. NATCHER). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. SIMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 292, noes 106, not voting 35, as follows:

[Roll No. 725]

AYES—292

Addabbo
Akaka
Albosta
Ambro
Anderson,
  Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bereuter
Bethune
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Buchanan
Burlison
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coelho
Coleman
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Courter
Danielson
Daschle
Davis, Mich.
Davis, S.C.
Derrick
Derwinski
Dicks
Diggs
Dingell
Dixon
Dodd
Donnelly
Dougherty
Downey
Drinan
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
Erdahl
Ertel
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hamilton
Hammer-
  schmidt
Hance
Harkin
Harris
Hawkins
Hefner
Heftel
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Huckaby
Hughes
Hutto
Hyde
Ireland
Jeffords
Johnson, Calif.
Kastenmeier
Kazen
Kildee
Kindness
Kogovsek
Kostmayer
LaFalce
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Lloyd
Long, La.
Long, Md.
Lowry
Lujan
Luken
Lundine
McClory
McCloskey
McDade
McHugh
McKay
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Preyer
Price
Pritchard
Pursell
Quayle
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Ritter
Rodino
Roe
Rose
Roybal
Royer
Runnels
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stanton
Stark
Steed
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vanik
Vento
Volkmer
Walgren
Walker
Waxman
Weaver
White
Whitley
Whittaker
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wright
Wyatt
Wylie
Yates
Yatron
Zablocki
Zeferetti

NOES—106

Abdnor
Alevander
Archer
Ashbrook
Badham
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bevill
Broomfield
Brown, Ohio
Burgener
Butler
Campbell
Cheney
Cleveland
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Devine
Dickinson
Duncan, Tenn.
Edwards, Okla.
English
Erlenborn
Evans, Del.
Evans, Ga.
Evans, Ind.
Findley
Fountain
Giaimo
Gramm
Grassley
Hall, Tex.
Hansen
Harsha
Hightower
Holland
Hubbard
Jacobs
Jeffries
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kelly
Kramer
Lagomarsino
Latta
Leath, Tex.
Livingston
Loeffler
Lott
Lungren
McDonald
McEwen
Martin
Mathis
Michel
Miller, Ohio
Montgomery
Moore
Moorhead,
  Calif.
Myers, Ind.
Nichols
O'Brien
Paul
Quillen
Rhodes
Robinson
Roth
Rousselot
Rudd
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Snyder
Stangeland
Stenholm
Stockman
Stump
Taylor
Trible
Vander Jagt
Wampler
Watkins
Whitehurst
Whitten
Wilson, Bob
Winn
Wydler
Young, Alaska
Young, Fla.
Young, Mo.

NOT VOTING—35

Anderson, Ill.
Andrews,
  N. Dak.
Brown, Calif.
Broyhill
Burton, John
Crane, Philip
D'Amours
Dellums
Dornan
Duncan, Oreg.
Edwards, Calif.
Flood
Frenzel
Hanley
Heckler
Ichord
Jenkins
Jenrette
Kemp
McCormack
Marriott
Mattox
Murphy, Ill.
Murphy, N.Y.
Pickle
Roberts
Rosenthal
Rostenkowski
Russo
Solarz
Symms
Treen
Weiss
Wilson, C. H.
Wolpe

☐ 1730

The Clerk announced the following pairs:

On this vote:

Mr. Frenzel for, with Mr. Philip M. Crane, against.

Mrs. Heckler for, with Mr. Symms against.

Until further notice:

Mr. Solarz with Mr. Anderson of Illinois.

Mr. Weiss with Mr. Broyhill.

Mr. Rosenthal with Mr. Andrews of North Dakota.

Mr. Pickle with Mr. Wolpe.

Mr. Ichord with Mr. Charles H. Wilson of California.

Mr. Jenrette with Mr. Dornan.

Mr. Mattox with Mr. Kemp.

Mr. McCormack with Mr. John L. Burton.

Mr. Murphy of New York with Mr. Marriott.

Mr. Murphy of Illinois with Mr. D'Amours.

Mr. Rostenkowski with Mr. Russo.

Mr. Dellums with Mr. Jenkins.

Mr. Hanley with Mr. Edwards of California.

Mr. Duncan of Oregon with Mr. Brown of California.

Messrs. ALEXANDER, DICKINSON, and FINDLEY changed their votes from "aye" to "no."

So the bill was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SIMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5295, TO AMEND TITLE II OF SOCIAL SECURITY ACT

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96–699) on the resolution (H. Res. 503) providing for the consideration of the bill (H.R. 5295) to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3927, TO AMEND NATIONAL VISITOR CENTER FACILITIES ACT OF 1968

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96–700) on the resolution (H. Res. 504) providing for the consideration of the bill (H.R. 3927) to amend the National Visitor Center Facilities Act of 1968, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5860, CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

Mr. BOLLING, from the Committee on Rules, submitted a privileged report (Rept. No. 96–701) on the resolution (H. Res. 505) providing for the consideration of the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp., which was referred to the House Calendar and ordered to be printed.

□ 1740

PERMISSION FOR SUBCOMMITTEE ON LABOR-MANAGEMENT RELATIONS OF THE COMMITTEE ON EDUCATION AND LABOR TO SIT TOMORROW AND FRIDAY, DECEMBER 14, 1979, DURING 5-MINUTE RULE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Labor-Management Relations of the Committee on Education and Labor be permitted to sit during the 5-minute rule tomorrow and Friday, December 14, 1979.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, my understanding is that we have a lot of important legislation tomorrow. Is this for hearings only?

Mr. THOMPSON. Mr. Speaker, will the gentleman yield?

Mr. ROUSSELOT. I will be happy to yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, this is for the markup of the ERISA legislation by the subcommittee. The gentleman from Illinois (Mr. ERLENBORN), who is immediately behind the gentleman and the ranking minority member, and the gentleman from Ohio have previously agreed to this.

Mr. ROUSSELOT. Further reserving the right to object, I would yield to my colleague from Illinois.

Mr. ERLENBORN. I thank the gentleman from California for yielding. I would agree with the gentleman from New Jersey in asking unanimous consent for the ability of our subcommittee to sit and mark up during the 5-minute rule tomorrow and Friday. This is a very important piece of legislation for the multiemployer insurance portion of our ERISA, and it is going to take quite some time to mark it up. I think it would be helpful if our subcommittee could sit tomorrow and Friday during the 5-minute rule to mark up this legislation.

Mr. ROUSSELOT. I thank the gentleman.

Further reserving the right to object, Mr. Speaker, can the gentleman assure us that no other legislation will be taken up by the subcommittee?

Mr. THOMPSON. Will the gentleman yield?

Mr. ROUSSELOT. I yield to the gentleman.

Mr. THOMPSON. The gentleman will assure his dear friend, the gentleman from California. Of course, that also would exclude any further increases in allowances, and so forth, none of which will be brought up during that time.

Mr. ROUSSELOT. I did not know the gentleman had jurisdiction for that.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATION

Mr. GILMAN. Mr. Speaker, due to an important meeting elsewhere in the Capitol, I was not able to be present for the vote on the Walker amendment in the nature of a substitute to H.R. 2977, the Domestic Violence Prevention and Services Act (rollcall No. 723). I support this bill, and had I been present, I would have voted "no."

PERMISSION TO HAVE UNTIL MIDNIGHT TOMORROW TO FILE CONFERENCE REPORT ON S. 918, SMALL BUSINESS ADMINISTRATION AUTHORIZATION, FISCAL YEARS 1980 AND 1981

Mr. SMITH of Iowa. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tomorrow, December 13, 1979, to file a conference report on the Senate bill (S. 918), providing for administration of the Small Business Administration programs under the authorization for fiscal years 1980 and 1981.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

AMERICA CANNOT AFFORD TO TRANSFER HUGE PORTIONS OF EARNINGS AND WEALTH TO BUY IMPORTED OIL

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANIK. Mr. Speaker, in the last several days, the Carter administration and two Members of Congress, including one Presidential candidate, have recommended a 50-cent-per-gallon tax on gasoline in order to face up to the realities of the energy crisis.

As one actively involved in previous efforts to increase gasoline taxes it is quite apparent that Congress will not increase taxes on gasoline by either 50 cents per gallon, 10 cents per gallon, or perhaps even 1 cent per gallon.

In 1975, right after the oil crisis, I supported a House proposal to put a 23-cent-per-gallon tax on gasoline. This was soundly defeated by a vote of 345 to 72. In August of 1977, the House, by an overwhelming vote of 339 to 82, defeated an increase in the gasoline tax by 5 cents and then immediately afterward defeated an effort to increase the gasoline tax by 4 cents by a House vote of 370 to 52.

Earlier this week, only 48 Senators had the courage to vote against a deduction for gasoline taxes. It is absolutely obvious to those who know the Congress that a massive instant increase in gasoline taxes is not acceptable to either the Congress or the people of America.

Under these circumstances, the only viable alternative is the utilization of a rationing program with the same conservation goals. A rationing program should begin immediately. The President should urge Congress to eliminate the criteria of the trigger.

A rationing program allocating gasoline on an equal basis to each owner of an automobile in America would begin to accustom the American people to the problem and provide each individual American with a conservation goal. While Congress will not authorize a gasoline tax or give the President the arbitrary authority to impose a gasoline tax, it might be willing to establish a system which would make additional supplies of gasoline available through the purchase of an extra gasoline stamp which could be available for purchase at a premium to be determined by the President and ranging from 1 cent a gallon to 50-cents a gallon, based upon available supplies and the progress America makes toward conservation. Rationing coupons should be available only to the registered owners of automobiles with no more than two rations by the same owner. Those who do not drive automobiles should be rewarded by some kind of direct subsidy for utilizing mass transit.

The need for action is imperative. America simply cannot afford to transfer huge portions of its earnings and of its wealth to buy imported oil at the current rate of $60 billion per year. If we do not act on this issue very quickly, we will be trading off the future freedom of our country for the certain enslavement of our people by the greed of oil, both foreign and domestic.

DEBASEMENT

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, the inflation debate rages on. Everyone's against inflation, but that does not do much good unless we can agree on its cause. Those most responsible for it would have us believe there are multiple causes, ranging from consumer greed to Arab oil prices, business profits to union demands. Their insistence on using consumer price levels instead of the value of the currency is the principal source of confusion.

We fail to use one particular word often enough in describing the inflation fraud. That word is debasement. It is to the debasement of the dollar that we should direct our attention, not to the price levels that merely reflect the debasement.

Webster defines debase as: loss of soundness, purity, and integrity through forces that break down, pollute, or destroy; to reduce from a high quality, purity, worth, and value to a lower one; to corrupt, to debauch; moral deterioration by evil influence.

A more descriptive explanation of what we have done to our money could not be given.

To debase the currency is to inflate it. To inflate the currency is to distend, swell, and expand the money supply and thereby destroy its value. To destroy the currency is to undermine and attack freedom. Without a sound and honest money, a free society cannot long exist.

Only one instrumentality is capable of swelling the money supply, and that is the Federal Government. It is on Congress, the Executive, and the Federal Reserve that the blame for inflation must rest, not on consumers, union members, businessmen, or Arabs.

Walter Wriston, chairman of Citicorp, gave a recent speech in which he compared the drive to control prices and wages with Government attempts to suppress the media because politicians do not like the bad news being reported. Rising prices report the bad news of inflation. The answer is not to cut the messenger's head off, and destroy the free market with price and wage controls, but to blame the party responsible for the bad news. To quote Pogo, "the enemy is us." It is Congress that bears the responsibility, under the Constitution, for protecting the soundness of the dollar, and it is Congress which has abandoned that responsibility, with consequences that may be terrifying for the cause of freedom.

REMEMBER PEARL HARBOR

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, the many survivors of Pearl Harbor, and the families and loved ones of those who died there 38 years ago, paused once more last Friday to consider the stark horror of that "day of infamy" when a breakdown in U.S. intelligence and military capabilities resulted in so many tragic American losses. The battleship *Arizona* remains there, a sunken monument to that confusion and tragedy.

At the State Capitol in Phoenix, Ariz., Dr. Daniel J. Condon, Commander USN retired, delivered poignant remarks at the memorial service of the Howard Brannon Chapter of the Pearl Harbor Survivors' Association.

I would like to include those remarks at this point in the RECORD:

REMEMBER PEARL HARBOR—KEEP AMERICA ALERT

(Remarks of Cmdr. Daniel Condon, USN, retired)

Not enough credit has been given to the members of the Pearl Harbor Survivors' Association and the active help of the Fleet Reserve Association in preserving these memorials of death and devastating loss due to a heinous treacherous attack by the Japanese during a time when so-called "negotiations" were in process.

Some thirty-eight years ago to this day; and almost to this hour and minute, those of our members at Pearl Harbor saw a sunken Pacific Fleet burning throughout this date and on into tomorrow and later. All active battleships down by the bow or stern, or both, did, except one, rise again to pursue their mission. Again today we must consider the strength of our Navy; and whether it is now sailing the surfaces of the high seas at peril.

Our motto is "Remember Pearl Harbor—Keep America Alert." It was adopted to prevent a recurrence, ever again, like that catastrophic naval defeat at Pearl Harbor in the Territory of Hawaii. There were 1177 men killed on the USS *Arizona* alone, the greatest loss in U.S. Naval history to that date; and we pray their sacrifice and that of their fellow sailors, marine and soldiers will never be forgotten.

But in this present era there seems a disposition to diminish our defenses; as the Naval Disarmament Treaty of 1922 did by restricting weight which, on the *Arizona*, meant inadequate antiaircraft defense.

General Washington said in a communication to General Lafayette on 15 November 1781:

"Without a decisive Naval force we can do nothing definitive. And with it, everything honorable and glorious".

We who are members of the Pearl Harbor Survivors' Association sense a trend once again toward weakness, indifference and carelessness. In trying to "Keep America Alert" we must recognize, and persuade others, of the truth of our First President's message to the Congress on 8 January 1790:

"To be prepared for war is one of the most effectual means of preserving peace".

In speaking of all our men lost in Hawaii on 7 December 1941, let me say finally, especially to my shipmates still aboard the *Arizona*:

"May God make His face to shine upon them and grant them peace".

ANTI-IRANIAN VIOLENCE

(Mr. SIMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SIMON. Mr. Speaker, my colleagues of the House, all of us join in deploring the mob violence in Iran, but mob violence there and denial of civil liberties there should not lead to mob violence here and denial of civil liberties here.

Mr. Speaker, I would like to insert in the RECORD at this point an article from this morning's Washington Post about anti-Iranian violence that is taking place right in this area. Unfortunately, there has been some in my district and in other areas around this Nation.

ANTI-IRANIAN VIOLENCE—DREAM OF EDUCATION SHATTERED AFTER YOUTH ATTACKED

(By Felicity Barringer)

When Reza Samazat came here from Iran 3½ years ago, he had everything planned: an American high school would prepare him for an American college, which in turn would prepare him for an American medical school. There, he would learn to be an open-heart surgeon.

But two weeks ago, the certainty of the 17-year-old high school senior's plans evaporated. As he walked down a dark street near his Gaithersburg home, Samazat encountered four Americans about his own age.

"When they got up to me, they said, 'Are you Iranian?' I said, 'Yeah, what business is it of yours?' "

They jumped him, and the fight lasted five or 10 minutes. Samazat suffered a black eye, a scratched face and a sprained arm.

But the beating's effect went deeper: It left him wondering if an American education is worth the pain of being an Iranian in America.

"Now when I start studying, I start thinking why it's happened and what's going to happen to me," Samazat said this week. "Here in the United States I'm not going to be what I choose, what I make myself. When people look at me, they'll just think I'm an Iranian."

A minute later, he added, "How can I study when people think about me this way, when they are angry with me just because I'm Iranian? . . . When I see people showing this feeling, I want to go back to my country."

Jane Ghafory, Samazat's aunt and guardian, said that until the fight, the teen-ager got all A's and B's at American schools. "He used to study all the time," she said, "but now he doesn't care."

"Now for three, four hours at a time he watches TV, but he isn't paying attention. He's just watching. He says, 'I don't know what to do. I'm so confused.' He says he doesn't know whether to stay or go home."

Samazat's fight was only one of several sporadic instances of anti-Iranian violence that have occurred around the country since students in Tehran seized the U.S. Embassy there and took Americans hostage.

In the first weeks after the embassy takeover, Iranians in Beverly Hills, Calif., Texas, and Morgantown, W. Va., were beaten, despite President Carter's repeated pleas that Americans restrain their anger.

One South Carolina college tried unsuccessfully to expel all its Iranian students, while a Glendale, Colo., nightclub advertised it would not serve Iranians. On Nov. 27, Attorney General Benjamin R. Civiletti issued a statement calling such discrimination illegal and urging Americans "to honor and respect our laws which protect the rights of persons of Iranian descent as they protect us all."

"I had thought that they might hurt some Iranian people," Samazat said in an interview Monday night. "But I never though it was going to happen to me. . . . Even though I knew I was not going to be free of people, of what they're feeling."

Teen-agers often fight in the malls and subdivisions of the rapidly growing town of Gaithersburg, 20 miles northwest of Washington.

But for Samazat, there was an important difference: the reason that four teen-agers he'd never seen before jumped him. "If they were fighting about soccer or something, that's different, that's not something everybody feels," said Samazat, whose English syntax gets tangled when he tries to express his emotion. "But this happened because I'm Iranian."

Samazat, whose home is in Tehran, came to Gaithersburg High School as a senior this fall after three years at the Pennington School in New Jersey. He had tired of the boarding school regimen there, and wanted to live with the Ghaforys, where he would have more independence.

At Gaithersburg, Samazat found he was one of three Iranians in a student body of about 1,500. He was placed in advanced calculus and phsyics courses, studied hard and was doing well.

Then, with the embassy takeover and the constant news stories about Iranian students in Tehran and in the United States, Samazat found himself the object of more and more curious stares, particularly when he and two other Iranians had lunch at one table in the school library.

"The teachers, they have been very kind to me," said Samazat. "The students—I don't know that many. I usually just study and go home. Some of the students, when I pass by, they say something about 'Iranian' or something, but those in my classes are really friendly."

Other students, he avoids. "Once I talked to one of them and he said, 'I'm pro-shah.' I said, 'Nice to meet you.' He said. 'We don't want you Iranians here, you'd better watch out for yourself.'

"I understand what they're doing," the teen-ager added in a level voice. "I sometimes have the same feelings. But I don't show my feeling. They do . . . They all blame what's happening in Iran on me."

In part because he distrusts some fellow students, in part out of pride. Samazat followed his uncle Farhad Ghafory's advice and told neither police nor school authorities about the fight until nearly two weeks later.

"I never got beat up before," the 6-foot-tall teen-ager said. "That's why I didn't want to tell them . . . I told some people I was painting and fell. I told others that I had a car accident. I never told anyone what happened."

Despite Samazat's assertions, there was one person who coaxed the story out of him—a school bus driver named Jennifer McClead. "He was out for a couple of days, and when I saw him again he was banged up, his arm was in a sling," she recalled.

"I asked him if he was beat up because he was an Iranian. I told him I felt badly if that had happened, because I'm an American and I don't feel that way. He was very bitter. He said he was thinking of going home," McClead recalls.

Since then, other things have upset Samazat and the Ghaforys. Farhad Ghafory, 25, works in the accounting division of the National Institutes of Health and is a student at Montgomery Community College. He drives a Volkswagen van that once had a bumper sticker indicating he was from Iran.

As he drove from work to school along Rockville Pike last week, a group of youths in another van began tailing him, got out of their vehicle and approached him when both vans were stopped at a red light. "I just went, and after that I passed three red lights," said Ghafory, who has had open-heart surgery and is afraid that a blow to his chest could seriously injure him.

"If the police stop me, that's good for me," he added.

The Ghaforys also recently moved from a ground-floor apartment near Gaithersburg to one well above ground level. They said students had pelted their window with rocks.

"I read about the Iranian in Colorado who fired a gun at some kids doing that and killed one, shot him in the head," said Ghafory. "I can get mad. I worried I could do that, I could hurt someone."

Ghafory and his nephew, Samazat, are in America legally. While they have no love for the shah, neither has participated in any demonstrations here, they say, "It's not like Reza's radical, demonstrating all the time," said Jane Ghafory, who is an American. "Why should they pick on someone innocent?"

Samazat, like his uncle, had always planned to go back to Iran but wanted to finish his education first. But now, Samazat says, his plans "depend on what happens to other Iranians, and to me. If everyone's leaving, I couldn't stay."

While he tries to make up his mind, Samazat has changed his habits somewhat. He no longer walks home from school and avoids almost all contacts with American students.

"Now I don't talk to anybody," he said.

"Right now, if they gave me two choices, Iran or here, I would take the first. I would take Iran."

In that same connection, I was pleased, frankly, with the decision handed down by U.S. District Judge Joyce Hens Green, an unpopular, courageous decision—a decision that is constitutionally sound, for we cannot pick out the students from Iran as a separate entity in applying laws and regulations.

Mr. Speaker, whenever we have done that, in World War II with the Japanese and elsewhere, we have violated something fundamental in our system of government.

I would like to read just two paragraphs from that decision:

> To countenance the disparate treatment of Iranian students that the regulation candidly promotes would not only reject the most cherished constitutional precepts applicable to all of us, citizen and alien alike, but would create a precedent of alarming elasticity from which future extreme assertions of executive power could readily springboard.
>
> Constitutional submission to the wash of emotion would eliminate the fair play and equality that is the quintessence of the American way . . ."

I applaud the judge for her decision. Again, we all join in deploring the action of the ayatollah in Iran, the holding of the hostages. But we do not want to follow his example. We do not want to go the way of mob action and denial of civil liberties.

RED McALEECE—END OF A BROADCASTING CAREER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. TAUKE) is recognized for 10 minutes.

Mr. TAUKE. Mr. Speaker, today, a broadcasting legend in Iowa comes to an end. Seventy-five-year-old Gerald "Red" McAleece will officially "sign-off" and turn over the microphone he has brandished for 37 years.

In 1945, just 2 years after radio station KDTH, in my hometown of Dubuque, signed on, Red joined the station. He has been there ever since. For as long as I can remember, our radio at home has been tuned each morning to KDTH and Red McAleece. For thousands of tri-State residents in Iowa, Illinois, and Wisconsin, Red has been a part of our home, a part of our community.

Red has become an institution—an institution that is as much a part of Dubuque as the Shot Tower or the Fourth Street Elevator. And he has come to symbolize much more than they do about Dubuque, because Red represents what is best about Dubuquers.

Without running for office or seeking public recognition, Red McAleece has become Dubuque's first citizen, a man who loves Dubuque and is loved by Dubuquers, a man who is honest and generous and kind and, above all, a friend to everyone. Red has many accomplishments: he helped found Dubuque's recreational sporting activities; he established the first real physical education program in the city's public schools; he helped pioneer live sports broadcasting; he led in the area of wildlife conservation. His enthusiasm and endurance should be an example for us all.

Red McAleece is a shining beacon to our Nation's elderly. So many times, when our Nation's citizens reach their early 60's they see their lives and careers come to an abrupt end—forced to step aside and accept retirement.

But Red kept going. He showed us that age is not a barrier to accomplishing endeavors. He was still broadcasting play-by-play of University of Iowa football games when he was 70. He sold radio advertising until he was 73. And, today, at 75, Red made his own decision to retire. He wasn't told that he could no longer broadcast the sports he so dearly loves or to close the doors of his ever-popular "Trading Post."

No. Red McAleece made the decision on his own. He and his wife, Bertha, along with their doberman, Sadie, will now travel throughout the United States, visiting their 8 children and 33 grandchildren.

But, knowing Red, I would not be surprised to wake up at my home in Dubuque some morning, turn on the radio and hear Red McAleece's voice assure me that this year will be the year for the Iowa Hawkeye.

You see, that is just the way Red is.

Mr. Speaker, I would like to share with my colleagues the following newspaper column by John McCormick which appeared in the Dubuque Telegraph Herald on December 11 outlining the long career of Dubuque's first citizen—Gerald "Red" McAleece:

RED McALEECE—END OF A BROADCASTING CAREER

(By John McCormick)

It's as if KDTH is losing one of its call letters. Gerald "Red" McAleece, whose been with the radio station for all but two of its 39 years, is quitting.

The dean of Dubuque broadcasters will end his career at the microphone tomorrow. He'll start the day with a sports report at 7:15 a.m., then move on at 7:45 to his last rendition of "The Trading Post," a sort of airborne classified advertising section he established in 1946.

"It's time to step aside," he was saying yesterday as he sat in his den, a room so laden with trophies and plaques that it's liable to sink. "I'm 75 years old, I've got eight kids and 33 grandkids scattered all over the place, and it's time to do some visiting."

Longevity, talent and class are combined assets that few people attain in broadcasting, a trade typified by ladder-climbers eternally itching for a shot at the big time. In Dubuque radio history, the list of accomplished veterans is embarrassingly short. McAleece, Vaughn Gayman, Gordon Kilgore, Paul Hemmer and perhaps one or two others who cared enough to stay and to improve.

As for McAleece, those awards weighing down his den tell part of the story. One of them represents his membership in the Iowa Sportscasters Association Hall of Fame. Just two other people have been so honored: Tait Cummins, whose legend was built at WMT in Cedar Rapids, and Ronald Reagan, who worked for WHO in Des Moines before following lesser pursuits.

Other awards tell of Red's conservation work, his youth programs, his teaching and coaching days, his civic-this and community-that. Together, they are an impressive lot, but they'll always be worth just a little less than the guy who earned them.

Red McAleece is one of a rather rare kind. It isn't hard to locate those who've used their talents well in this life. But it is hard to find those who've done it with flair and good humor.

Almost 60 years ago he cut his teeth in the communications business, scribbing play-by-play data at football games for Scoop Wilhelm, then-editor of this newspaper's sports section.

Next came college, and then a decade of teaching and coaching, during which he planted the seeds of Dubuque's city recreation leagues and founded the first genuine physical education program that Dubuque public schools ever offered children.

"World War II changed a lot of things for coaches," he remembers. "During basketball season, I'd go down to the old federal building and sit around for hours waiting for gas coupons. Then we'd have to find some parents who could haul the team to our away games and that wasn't easy, because people couldn't let their tires wear out. You couldn't get new ones, what with the war on."

In 1942, when the war took Sherm Bowen away from his sports director's post at KDTH, Red stepped in on a part-time basis, "just to help out for a while," as he recalls it.

He became one of the broadcasting cowboys who pioneered live sports coverage, standing on the sidelines or on an auto or on a concession stand in all kinds of weather, working with a line-up card in his left hand and a mike in his right, and a sheaf of written commercials jammed under one arm. He called one football game from a vantage point so impossible that he ended up paying two youngsters 15 cents apiece just to stand on the 25-yard lines so he'd at least have a couple of benchmarks by which to judge distances.

He quit teaching, moved to KDTH on a full-time basis, and never departed. His "Trading Post" program, for example, has aired sales pitches for almost 300,000 items—an endless parade of feeder cows and breeder sows and who-knows what all else.

"That thing started out with our morning man playing his guitar and singing, and me reading off a few items people called in to sell," he says. "All of a sudden, we were getting so many calls that we didn't have time for the guitar-playing and the singing. It's never let up, for all these years.

"I used to tell people I'd stand behind anything I'd sell except a manure spreader."

McAleece still was doing play-by-play broadcasts of Iowa Hawkeye football games when he was 70. He sold radio advertising until he was 73. And now, at 75, he's heading home to pester Bertha, his wife of 44 years, and Sadie, his beloved doberman.

Station records show that the old redhead has worked with about 325 other employees since he first same to KDTH. "You'd be surprised at all the guys I went through," he says. "Lots of real nice people. Some of them became real pros."

Some of them, if asked, also will tell you that Red was their professional father figure, guiding them past stutters and slow-wittedness and other obstacles they had to overcome.

Broadcasting is theirs now, and after tomorrow morning, Red will be gone. After his early morning show he'll be asked to stay on into the day, reminiscing about earlier times and listening to accolades. You'll have all of that if you tune-in, so there's no need to steal the thunder by reciting it all today.

The station hopes he'll hang around long enough for a bit of afternoon chat, too. But don't be surprised if Red sounds a little queesy about all that. Yesterday, for the first time, he glanced over a list of all his awards and accomplishments prepared by the station. A wry little smile chiseled its way across his face, and his voice turned half-craggy. "Ah, yes," he muttered, "looks like they're giving me the old spreader-roo."

It was the same voice Dubuque radio listeners have heard so many thousands of times that it seems like part of the furniture. But somehow, yesterday, it sounded like it belonged back atop some old concession stand at a far off football field, with only a line-up card, a microphone and a sheaf of written commercials to get it through the night.

MOTHER TERESA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Rodino) is recognized for 10 minutes.

Mr. RODINO. Mr. Speaker, on Monday of this week Mother Teresa of Calcutta received the Nobel Peace Prize. Since the announcement of the award in October, I have taken the time to reflect on the Nobel Committee's decision in the context of present world conditions, including the Iranian crisis and the refugee problem in Southeast Asia. My view is that the Nobel Committee made an extraordinarily wise decision in recognizing Mother Teresa and her mission on Earth.

In a sense, the award honors all the missionaries of charity. From India to New Guinea, from Tanzania to the south Bronx, these unselfish—and generally unrecognized—individuals unceasingly work each day to find and care for the abandoned and forgotten of the world. Their devotion deserves our prayers and support.

I also am impressed by the principles upon which the prize was premised. The Nobel Committee's announcement stated:

> This year, the world has turned its attention to the plight of children and refugees, and these are precisely the categories for whom Mother Teresa has for so many years worked so selflessly.

By giving the peace prize to Mother Teresa, the committee implicitly awarded it to the people with whom she toils: the children, refugees, sick, dying, poor, and oppressed of the world.

Mr. Speaker, Mother Teresa's life and labor of love have served as an example to all of us in public life. I admire her for the following reasons:

First of all, she has merged herself with the common person, and has identified herself with human suffering and privation. She recognizes the square root of all human existence: birth, life, and death. In this context, all individuals are created equal.

Second, she is a woman of action. As aptly observed by columnist Ellen Goodman:

> Mother Teresa is no statesman who makes a treaty in an air-conditioned chamber and then goes home to a ticker-tape parade. Here is a woman who gets up every morning of her life to tend endless streams of victims of life's largest war of attrition. Without an expectation of victory.

Indisputably, there is constant tension between theory and practice. Individuals who are in a position to mold social events generally tilt toward theory in the hope that their actions will have maximum impact. Mother Teresa gives us hope that personal action—volunteerism as well as self-help—can have a significant effect on human life.

Third, Mother Teresa perceives all people of all countries as being similar. Her love for the poor and powerless, however different they may be in race, creed, and economic status, transforms them into brothers and sisters—a true family of God. In this regard, she is far ahead of laws and constitutions.

Fourth, and in a closely related context, Mother Teresa treats the world as a community. She reminds us that we can no more ignore hunger in India, famine in the Sahel, and refugees in Southeast Asia, than we can ignore a neighbor's burning house.

Fifth, Mother Teresa teaches us that it is by giving that we receive. All of her work revolves around this central thesis. Mother Teresa's own words describe this attitude simply. During George McGovern's visit to India in 1962 when he was Director of the Food for Peace Program under President Kennedy, he quoted her as saying:

> Charity begets charity. Poor people are being helped, but so are rich people who help them. I never feel shy when I ask for something; it helps the giver, too.

The labor of Mother Teresa—and all the Missionaries of Charity—among the poor, sick, abandoned, and dying in India should inspire all of us. But we may not remain conscious of that inspiration for long, for people have short memories. In a time when Americans are increasingly anxious about fuel shortages, heating bills, mortgage rates, and hospital costs, it is difficult to focus on the fact of people dying in the streets of Calcutta. It is extremely hard—with intervening events such as those in Iran which daily dominate the news—to ponder the dedication and love of a person like Mother Teresa several weeks after the Nobel Peace Prize announcement. But Mother Teresa's work goes on; so does the misery and illness and dying in Calcutta.

Finally, I commend to my colleagues the following article from The Washington Post of October 24, 1979, about a Washington woman, Mrs. Kathy Sreedhar, who, with the cooperation of Mother

Teresa, has been responsible for placing almost 600 Indian children in American homes. Mrs. Sreedhar has played a vital role in saving the lives of hundreds of human beings, not to mention providing them with happy environments and the opportunity to pursue their goals in the United States.

One of these children, Anjali Cecile Remington, was abandonded at birth in Delhi, India, to the Missionaries of Charity and then adopted with the assistance of Kathy Sreedhar by one of the counsels to the House Judiciary Committee, Michael Remington, and his wife, Francoise. Anajali, now almost 2, is sometimes seen running through the committee's suite of offices in the Rayburn Building. Mother Teresa's love, philosophy of personal action, and work for peace travel a long way.

Mother Teresa's Mission of Love Nurtures Devotion to Cause

(By Lucy Starr Norman)

Kathy Sreedhar thinks she will die happy. "I don't know what impact anybody's individual life can have, but I can really say that 600 kids have homes," she said.

Because of her work?

"Mine and Mother Teresa's. Start with Mother Teresa," she said firmly.

Seven years ago, Sreedhar began arranging the first adoptions of Indian children by parents in the United States. The children came from homes run by Mother Teresa who last week was named this year's Nobel Peace Prize winner.

Today, Sreedhar continues to be the main connection between hundreds of adoptive parents and orphaned children in India. She gets 10,000 letters a year and sometimes spends $500 a month on phone bills. There are 50 families in the Washngton metropolitan area who have adopted Indian children with her help.

Each year she returns to India and works with Mother Teresa.

But Sreedhar allowed herself only a brief moment of self-congratulations. Mother Teresa, she said, made it all possible.

"Tens of thousands of people's lives were better either for five minutes or for all their lives," she said, because of Mother Teresa and her Missionaries of Charity who run hundreds of homes for the sick, dying, lepers, handicapped and orphaned or abandonded children in India and elsewhere.

In the sunny kitchen of her Northwest Washington home, Sreedhar extracts a grilled cheese from the toaster oven and pours a cup of black coffee.

She is homey, friendly and very open. At 45, she has survived a number of personal tragedies which have made her "tough and practical," she said. She matter-of-factly describes the lives and deaths of hundreds of children—subjects which make most listeners, unused to handling such matters every day, choke with tears.

She turns off the phone, which has been ringing steadily, wipes a lock of short black hair off her forehead and lights a Salem. "I don't know how you go about describing presence and charisma," she said. "It's like the Pope. How do you describe the Pope? When you are with her, you really don't want to leave. You want to sit there and be in her presence.

"She was a European nun, sent to India . . . where she taught wealthy Indian girls and boys in Catholic schools. Most nuns did what they were supposed to do, but she looked out the window and saw the sick and dying on the streets of Calcutta. That's what made her different," Streedhar said. "She sees."

What mystifies Sreedhar are the misconceptions Americans have about the scope of Mother Teresa's work. Most picture the tiny nun day by day tending the sick and dying on the streets of Calcutta. She does that, Sreedhar said, at 5 a.m. every morning, but she also administers an empire of institutions in 60 countries with a budget of millions of dollars.

She is so skilled at politics and administration, Sreedhar said, "she could be president of one of the top Fortune 500 corporations if she had so chosen. She probably could be president of the United States. She knows how to make things work."

Yet, she still preserves a quality of individual loving and caring that has spread her fame, Sreedhar said.

How does it happen that an American woman, born Kathy Fergenson in New York City, came to know Mother Teresa and handle the adoption of hundreds of Indian children in this country?

Sreedhar fell in love with India in the Peace Corps, stayed on to work with the Agency for International Development and eventually married an Indian economist. They moved to Washington when he was assigned to the World Bank.

Wanting children, but unable to conceive, they submitted themselves for medical tests and learned that her husband had cancer and only two months to live. That was in 1967.

Four years later, still wanting a child, Sreedhar decided to try to adopt an Indian child even though she was a widow.

She went to New Delhi, stayed with in-laws and knocked on the doors of government orphanages. None would place a child with an American woman. So she went to see Mother Teresa. The Missionaries of Charity had placed a few children with European families, but no one was placing Indian children with Americans.

"One of the wonderful things about Mother Teresa is that she listens, she is flexible, and she changes her mind when she sees it is in the best interest of her people," Sreedhar said. She was accepted as an adoptive parent.

Sreedhar had one stipulation. "I'll take any child you give me as long as it's not going to die, because I've just been through one death," she told the sisters.

She was given Meera, a 10-day-old baby girl. Ten days later, Meera died of an undetected heart condition.

Sreedhar said the experience just about finished her. "I said I've lost a husband and a kid in India, and that's the end of it," she said.

But a friend went back to the sisters, convinced them to give Sreedhar another child and took her to pick it up.

She got Anita, an 11-month-old, 13-pound baby girl, now an active self possessed eight-year-old. She has another daughter, Suzy, 3.

Acting on her successful exprience, Sreedhar began to help others do the same. Now, after a day on her full-time job with a private international development organization, Sreedhar spends evenings and weekends helping people adopt Indian children. She is not an adoption agency, but rather helps prospective parents wade through state, federal and international bureaucracy for the necessary documents for the adoption.

Two American women in India handle details at the other end.

"As far as I'm concerned, the only motive (for adopting children) I don't like is, 'I'm going to save a child.' "

Because of last week's Nobel prize announcement, Sreedhar has been sought to speak about her work. She read the questions one group asked her to cover in her talk.

" 'Do you consider it practical to support an institution, designed to reform a large part of the world without soliciting donations,' " she read.

The question shows near total misunderstanding of Mother Teresa's work, she said incredulously, because "reforming a large part of the world has nothing to do with Mother Teresa's work."

She continued reading, " 'Wouldn't it be simpler to transport food rather than babies?' "

"That misses the whole thing," Sreedhar exploded. "That would be relief. She's caring for individuals. What good is food? You have to have a home."

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I yield to the gentlewoman from New Jersey (Mrs. Fenwick).

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding.

I would so like to associate myself with his remarks. Not enough is spoken of these wonderful people. The gentleman is right, every corner of the Earth, the poorest of the poor are comforted and solaced and helped by these people. I am so glad that my colleague has brought this to the attention of the House.

Mr. RODINO. I thank the gentlewoman from New Jersey. I know she is motivated always by her great sense of concern for other people, the underprivileged, the deprived, and she has done great work herself in this field. I want to commend her to this body.

Mrs. FENWICK. I thank the gentleman.

KING CRIME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. Gonzalez) is recognized for 15 minutes.

Mr. GONZALEZ. Mr. Speaker, the purpose for my rising is to bring the House up to date on what I have addressed on quite a number of occasions, and that is the yet unsolved assassination of Federal District Judge John W. Wood and the attempted murder of Assistant Federal District Attorney James Kerr last year. The judge was murdered this year on the last day in May or thereabouts.

It has been very difficult because, unfortunately, when you try to exercise some action in this area, nonlegislative action, you have misinterpretations and misunderstandings. One reason that I have not come forth in the last few weeks is that I wanted to make sure that time had been given in order that any kind of misconception that had arisen, that I was attempting to bullyrag or condemn the FBI or the Justice Department generally, would clearly be shown to be a mistaken notion.

□ 1750

In the first place, I consider the present Director of the FBI to be the best man to head that very important office in modern times, not excluding J. Edgar Hoover himself. I think that Judge Webster is the most fortunate choice that President Carter has made. He visited San Antonio just a couple of weeks ago and specifically addressed himself to the John Woods case, which I think is something that deserves our gratitude. He mentioned the fact that nothing really had been resolved, that the case was very difficult, but he did one good thing; that was to reaffirm what I had been told, that is, that the John W. Wood murder is still a priority case.

Unfortunately, how we define that priority may not be the thing that we can agree on, but I do not fault the FBI Director on that. The Justice Department also, in order to continue my effort to update the House, communicated after the letter that I placed in the RECORD on the last occasion of my speech directed to the chairman of the Subcommittee in the Judiciary, the Honorable ROBERT KASTENMEIER, who finally acknowledged my letter and stated that an inquiry would be made.

Obviously he did, because the Justice Department contacted me and said that they would like to arrange a briefing in order to have not only an interchange of ideas and a discussion on the matter, but also to have a thoroughgoing briefing on just what it was that the Justice Department was giving by way of priority to this very terrible crime. However, on the eve of the briefing the wife of the Justice Department representative passed on, and so that briefing was canceled and we have to reschedule it.

Nevertheless, I have considered the general subject matter of crime, and organized crime, the most pressing problem confronting our Nation for some time now, barring none. I do not even consider some of the international problems which are so nettlesome as having the priority that crime—its general situation, its impact on our institutions, particularly the law enforcement; particularly now the judiciary, and particularly the economic life of the country. I do not believe that the continuing power of crime, organized crime if you please, is something that this Nation can long afford to continue to tolerate.

But, the ability to control has either never been obtainable or, if at any point in our history we had it, it has since been lost, and lost completely. I am hoping that in the briefing we can redefine just what priority can be given. I feel that unless this type of crime is given the highest priority, and by highest I mean that complete concentration of effort on the national level, that really as far as our democratic way, as far as our pride in our ability to govern ourselves is concerned, it is one that is at best either lost or certainly downgraded and eroded, because we cannot have the democratic process, we cannot have any pride in our ability to govern ourselves, if crime—organized crime—continues to be the king of events and decisions in our society.

I have pointed out on successive occasions over the course of now 9 years, since 1970 and the so-called Sharpstown scandals, the method and the manner and the extent and the degree to which organized crime has penetrated every layer of government, has penetrated so-called otherwise respectable business all the way from shopping centers to banks and financial institutions. There is the apparent inability to control the pattern of unsolved crimes, such as the dastardly assassination of a Federal judge, unprecedented in our judicial history—we just have not had a Federal judge assassinated under these circumstances, as in the case of John W. Wood. We have had very few attempts, and certainly one is that which remains unsolved, such as the attempt on James Kerr, the assistant Federal district attorney in the same circuit court as Judge Wood.

The other crimes that should be agitating us, the disappearance of Jimmy Hoffa, for example, are still unsolved.

What is it that we are lacking on the part of our law enforcement agencies on the national level that enables this kind of crime to be committed with impunity? I do not really know all of the answers. What I do know, like I know when my watch is out of order, is that it is out of control; that we do not have the ability either on the local, State, or national level, to control it; and that unless we do our days as a free and as a democratic and as a liberty-loving society are numbered.

AN ECONOMIC DEFENSE BOARD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 15 minutes.

● Mr. ADDABBO. Mr. Speaker, the United States had a Board of Economic Defense before the Pearl Harbor attack, and it became the Board of Economic Warfare after Pearl Harbor. The existing export control license program in the Commerce Department is a remnant of that Board.

The Soviet Union is actively engaged in economic warfare called wars of liberation against the free world, by "heating up" any localities which are important to the free world. During the 1930's this was recognized as the "fifth column" activity when it was being done by Hitler Germany. The United States is dependent on risky sources for some vital materials.

The responsibility for stockpiling seems to be in the General Services Administration (GSA), where the auditing has been found deficient by the General Accounting Office (GAO), and at the present time there is too little attention being given to economic defense as a special kind of warfare.

In 1941, the Board of Economic Defense/Warfare was set up as a separate agency under Henry Wallace, who was then Vice President. Legislation to reactivate this function as a separate agency is now overdue. It is especially important with our foreign sources of energy in mind, but the United States is similarly dependent on foreign sources for various important minerals. Some mineral resources are readily available in the United States, but we import them because they are available at lower cost abroad. For these a certain amount of domestic readiness may be necessary because of the time it takes to convert potential resources into reserves, which could become necessary in an emergency. For other minerals the dependency on foreign sources cannot be avoided because of a deficiency of domestic resources.

Some of our military needs can be best evaluated if there is sufficient recognition of what economic needs will require protection. There might, in fact, be instances where for a small difference in market price a disproportionate defense burden may be assumed. It is only in recent years that the preponderance of U.S. oil imports is in the Eastern Hemisphere rather than in the Western Hemisphere.

In recent days James Schlesinger, in his parting address from the Department of Energy, indicated that the United States and others of the free world are critically dependent on Mideast oil, so as to warrant a substantial increase in the U.S. military presence in that area. From the economic defense standpoint, that seems to be a question as to why the Mideast defense burden should be for the United States alone, rather than for NATO as a whole. We need to find out why this is so. There were occasions of danger in the past when United States response was alone rather than in concert.

We are told repeatedly how the price of oil is so much higher in Europe than in the United States. Perhaps the American people are accordingly expected to have the entire defense burden. Perhaps if Mideast profits are "ours," the military burden becomes ours alone?

By saying profits may be "ours," I do not mean that the American public as a whole gets the profits, although it is the American public as a whole that is paying for the defense. We do not know who does own the bulk of the oil company shares at the present time. It is possible that some shares are already held by people in other NATO countries without that being taken into account.

Since almost all NATO countries are dependent on Mideast oil, we can expect all NATO countries to shoulder the cost of the Mideast defense, in money and men and whatever else it takes. It would seem that we could readily expect the NATO countries which get the annual output of Mideast oil to participate proportionately in protection of the Mideast oil sources.

Then there is the problem of reacquisition of U.S. dollars, so vital to support the dollar in international transactions. Internationally, the United States is floating in a sea of speculative dollars entirely apart from the current trade imbalances. Those speculative dollars from past international squandering, both good and bad, have to be brought back into the United States before the dollar can be supported on a lasting basis, our domestic inflation reduced, and our domestic interest rates reduced.

If all the foreign acquisitions of U.S. properties and companies were purchased with the cheaper dollars entirely for cash, the faster return of the speculative dollars floating abroad might be achieved as a contribution to improved stability of the dollar. However, since faster return of speculative dollars from abroad could contribute substantially to increased domestic inflation, a board of economic defense might help direct enough of those funds into increased domestic gross national product. At the same time there could be added public assurance that the foreign absentee acquisition of U.S. properties and companies are not such as to create defense problems under existing or changed international conditions.

If we use a board of economic defense to make our economic defense compatible with our military defense, we should have a far more effective free world defense. We can have pursuit of private gain while fully recognizing the related defense-burdens they involve and taking into account the conditions needed to optimize effective participation of NATO countries in free world defense.

These are matters that require an Economic Defense Board, both for internal free world strength, and to better appreciate and meet efforts of others to weaken the economic position of the free countries.

Besides energy importation, there are other minerals of which we import a major percentage of total U.S. consumption of those minerals. The United States relies on imports to the extent of 100 percent of our consumption of sheet mica, chiefly from India and Brazil; to the extent of 100 percent of our consumption of columbium, chiefly from Brazil and Thailand; and 100 percent of our consumption of strontium, chiefly from Mexico, United Kingdom, and Spain.

We rely on imports for over 90 percent of our consumption of manganese from Brazil, Gabon, and Australia; of cobalt from Zaire, Belgium-Luxembourg, and Finland; of tantalum from Thailand; of chromium from South Africa, U.S.S.R., and Turkey.

We rely on imports for between 80 and 90 percent of our consumption of asbestos, aluminum ores and metal, fluorine, bismuth, and platinum group metals.

We rely on imports for between 70 and 80 percent of our consumption of titanium, tin, mercury, and nickel.

We rely on imports for between 50 and 70 percent of our consumption of zinc, tellurium, selenium, antimony, tungsten, and cadmium and so on.

From the commercial point of view, it is to be expected that locations of sources are chosen on the basis of landed price in the United States. But to a certain extent, it is vital to also evaluate potential sources from the standpoint of economic defense because we cannot become unduly subject to interruptions of supply. At the outset of World War II, the United States suddenly found itself cut off from rubber, which had been coming from Malaysia. It is interesting to note that when gasoline rationing was instituted in World War II, there was no shortage of gasoline. The rationing of gasoline was instituted to conserve rubber, because virtually the entire U.S. inventory of rubber was in the tires which the motor vehicles were riding on. We had to use scrap rubber for war production.

It is also interesting to note that in Bruce Catton's book which was published in 1948 about the governments during World War II, he mentioned that despite the total cutoff of our foreign source of rubber, and in the face of an active war, there were cries questioning "whether the rubber shortage was real." Believe it or not, even under those conditions voices were being heard doubting that the rubber shortage was real. Catton also described another familiar scene where he wrote:

> All the freak inventors in the land were bringing (the rubber chief) processes for making synthetic rubber, and he was referring one and all to the Bureau of Standards, where the processes were tested and without exception were found wanting; but the net result was to bring a storm of criticism on his head and to reveal that a great many people were ready to credit almost any accusation against a dollar-a-year man. Most of the disappointed inventors had access to the public ear, through Congressmen or newspaper columnists or radio commentators.

And in the next chapter Catton wrote:

> They spent the rest of the summer examining witnesses, studying statistics, surveying and analyzing reports and taking counsel of themselves. Finally, in the fall, they produced their report. The rubber shortage, the report found, was not a myth.

That is the end of the quote, but it was not the end of the story, and many chapters follow.

It seems that we cannot avoid the doubts, and the study groups to gather data, and the shakiness of confidence when programs falter, and so forth. It seems we have to go through those steps as fast as possible, so that we do not stall the governmental engines for lack of forward momentum. We accelerated. We expedited. Getting the job done quickly is half the battle. Doing it slowly invites needless headaches.

Another function of an Economic Defense Board would be to prevent the economy from becoming unduly dependent on foreign demand deposits. We cannot allow actual or fancied threats of deposit withdrawals to influence the U.S. political and economic policies. Neither should the issuance of export licenses be located in a department whose major function is the promotion of exports, where defense expertise would not normally be expected.

The citizenry is entitled to feel secure, and there is growing evidence that their sense of security is being needlessly risked. For confidence to exist, confidence must be fully deserved.●

PERISHABLE AGRICULTURAL COMMODITIES ACT AMENDMENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, today I am offering a "study bill" which proposes possible amendments to the Perishable Agricultural Commodities Act. The United Fresh Fruit & Vegetable Association has asked me to introduce this measure which I am pleased to do to encourage discussion and debate of the suggested reforms. While I do not agree with some of their proposed reforms, I hope that every interested party will carefully study the recommendations outlined in the bill which appears here in the RECORD. I look forward to receiving comments and suggestions for improving our efforts in this area.

Text of the Perishable Agricultural Commodities Act amendments follows:

H.R. 6113

A bill to amend the Perishable Agricultural Commodities Act, 1930

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection 6 of the first section of the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. 499a) is amended to read as follows:

The term "dealer" means any person engaged in the business of buying, selling and/or packing in wholesale or jobbing quantities, as defined by the Secretary, any perishable agricultural commodity in interstate or foreign commerce, except that (A) no producer shall be considered as a "dealer" in respect to sales of any such commodity of his own raising if such producer is not also engaged in the packing of such commodity in containers marked in any manner descriptive of the character, kind, grade, quality, size, pack, weight, condition, degree of maturity, or State, country or region of origin of such commodity; (B) et cetera.

SEC. 2. Section 2 of such Act is amended by inserting the words "under such circumstances that such person knew, or should have known, such representations were false or misleading," immediately after the word "deed," in the first sentence of subsection 5.

SEC. 3. Section 2 of such Act is further amended by the addition of subsection 8 as follows:

For any commission merchant, dealer, or broker to unwittingly misrepresent by reason of accepting the mark, label, or representations of the packer or grower of such produce as to grade, quality, quantity, size, pack, weight, condition, degree of maturity, or State, country, or region of origin of any perishable agricultural commodity received, shipped, sold, or offered to be sold in interstate or foreign commerce.

SEC. 4. Section 6(e) of such Act is amended to read as follows: In case a complaint is made by a nonresident of the United States, or the assignee of the claim of a nonresident, the complainant shall be required, before any formal action is taken on his complaint, to furnish a bond in double the amount of the claim conditioned upon the payment of costs, including a reasonable attorney's fee for the respondent if the respondent shall prevail, and any reparation award that may be issued by the Secretary of Agriculture against the complainant on any counterclaim by respondent.

SEC. 5. Section 8(a) of such Act is amended by inserting "(1)–(7)," after "2" in (a).

SEC. 6. Section 8 of such Act is further amended by adding subsection (e) as follows:

Whenever the Secretary determines that any commission merchant, dealer, or broker has violated the provisions of section 2(8) the Secretary may impose a fine up to a maximum of $500 for each such offense which may be recovered in a civil suit brought by the United States. If the party charged with a violation under section 2(8) accepts the Secretary's action the fine shall be paid into the Treasury of the United States as miscellaneous receipts in the same manner as provided in section 2(5).●

HOUSE ADMINISTRATION COMMITTEE PUBLISHES HANDBOOK ON COMMITTEE RECORDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. THOMPSON) is recognized for 5 minutes.

● Mr. THOMPSON. Mr. Speaker, I am pleased to announce to the House the publication of the Committee on House Administration's "Committee Records Guidelines." We are all aware of the vast amount of records we create as we fulfill our various committee duties and assignments. What we may not have thought about is that these records will be the single most important source of information for future historians and scholars to use in evaluating our achievements.

These records, therefore, are of utmost value.

By way of background, let me explain just what is involved here and what the Committee on House Administration has done about it.

The present procedures for handling committee records call for all committees at the end of each Congress to send their records to the Clerk of the House for storage and safekeeping. The Clerk is directed to send the records to the Archives for safekeeping.

This sounds simple enough, but for those staffers who are packing up records to be archived, many questions arise as to which records to send. A survey of House committees undertaken by the former Select Committee on Congressional Operations, chaired by the Honorable Jack Brooks of Texas, found that House committees followed widely varying and inconsistent standards for determining which records should be retired, which should be retained, and which should be disposed of. As a result, valuable records have been lost or destroyed and useless or duplicated materials have occupied valuable space at the Archives.

The House has not given very specific instructions to its committees in this regard. Rule XXXVI orders the clerks of the committees to deliver to the Clerk of the House all bills, joint resolutions, petitions, and other papers referred to the committee, together with all evidence taken by the committee during that Congress. The other papers mentioned may include a multitude of items.

Mr. Speaker, the "Committee Records Guidelines" defines each of these papers and recommends just which file a committee item should be placed in. In an effort to simplify the keeping of records, the booklet divides all committee records into three categories: Legislative, investigative/oversight, and administrative. A fourth category is reserved for items a committee may wish to keep for ready reference. Within these categories, all communiques, memorandums, news releases, studies, investigations, bills, hearings, and so forth, can be filed.

Records which contain evidence of the committee's work have permanent or continuing value and should therefore be kept. For those administrative or housekeeping records that do not have permanent value, a disposal schedule is recommended. This kind of direction is a boon to committee staff directors who had to make decisions on what to retain and what to dispose of without guidelines.

The "Committee Records Guidelines" has been developed by two committee staffers, Robert Cantrell and Edmond Smith, under the direction of our staff director, Bill Phillips.

The staff of the committee has been assisted in the preparation of this handbook by Harold Relyea and his assistant Suzanne Cavanaugh of the Congressional Research Service of the Library of Congress together with Tom Wadlow, Debra Leahy, and Rita Wolfinger of the Records Disposition Division of the National Archives.

The committee's staff also received assistance and cooperation from the Office of the Clerk and especially wishes to express its appreciation to Edmund Henshaw, Raymond Colley, Stanley Brand, Emanual Lewis, Steven Duffy, and John Lawler.

We are also indebted to the personnel of House Information Systems, GPO, and the committee, including Joseph O'Brien, Joseph Simpson, Gail Ridgeway, Doris Ross, and Eugene Romaniello who transformed the drafts into copy.

Finally we wish to express our appreciation to the members and committee staffs of the other standing and select committees who gave of their time and advice when the Committee on House Administartion circulated a draft of the handbook.

As chairman of the Committee on House Administration, I sent a letter to each of the chairmen and staff directors/chief clerks of the standing and select committees of the House in August in order to inform them of the handbook project and to seek their assistance and comments on the effort. The letter follows:

August 3, 1979.

Dear ———: The Committee on House Administration is preparing a Files Maintenance and Records Disposition Handbook for use by staff personnel in order to establish more uniform procedures for the committees of the House in this area.

These guidelines are intended to assist staff members in handling the increasing volume of printed materials by distinguishing between those records of permanent value and those of non-permanent value. It also provides file categories which will aid in archival decisions and in the retrieval of records when needed by Members, committee staffs, and other authorized persons.

Since some committees may have unique or special file categories not listed in this first draft, please have your staff note your committee's particular records practices in these areas. Comments, suggested changes, and evaluations of the Handbook should be sent to Bill Phillips, Staff Director, Committee on House Administration, Room H-326, Capitol, by Friday, August 24, 1979.

Your cooperation with this undertaking is appreciated.

With kind regards,

Cordially,

Frank Thompson, Jr.

The response we received in letters and in telephone conversations indicates that all concerned with the records management area believed that this is a much needed effort. The House Administration Committee staff found a desire to cooperate in this undertaking from everyone they contacted. The following selected comments are illustrative of the replies we received from the other committees.

Chairman Don Fuqua of the Committee on Science and Technology stated:

> The handbook draft which [was forwarded to him] * * * appears to be an excellent approach to the problem of providing guidelines for use by Committees in decisions on what to maintain in files, how long to retain it, and how to dispose of it.

Chairman Edward P. Boland of the Permanent Select Committee on Intelligence wrote:

> This Committee welcomes the publication of this document, which should be a useful tool in managing the collection, organization and archiving of House Records.

Chairman Claude Pepper of the Select Committee on Aging commented:

> He would like to congratulate [the Administration Committee] for the effort you have put into clarifying the House of Representatives file and storage procedures.

Further he held that—

> He has instructed the appropriate Committee to assure that the Select Committee on Aging complies with all of the necessary requirements regarding file storage and elimination.

Chairman Harley O. Staggers of the Committee on Interstate and Foreign Commerce wrote:

> It [the Handbook] is a very thorough and well prepared document.

Chairman Melvin Price of the Committee on Armed Services stated:

> He was pleased to learn of [the House Administration] Committee's work in this long neglected field which seems especially timely given the increasing volume of records generated by expanded committee activities in recent years.

Chairman Price also held that—

> Undoubtedly, the final product will represent an enduring and invaluable contribution to efforts by the House of Representatives to develop rational and efficient records management procedures.

Chairman John M. Murphy of the Committee on Merchant Marine and Fisheries commented:

> In reviewing the proposed handbook, my staff and I are in complete agreement with its contents. Our extensive study of the handbook revealed that all [the] chapters were informative and comprehensive.

The publication of this handbook is the first step in the committee's effort to deal with the problem of records management facing House committees. The increase in volume, type, and form committee records have taken requires this effort and we may anticipate that the changes which will take place in future years will require the updating of the handbook from time to time.

In the near future the committee's staff associated with the project will contact the staffs of the other committees to schedule meetings to discuss the contents of the handbook. The Office of Management Services will include the subject of records management in its seminars. The committee will also be engaging in efforts aimed at dealing with related matters including records management of a Member's office.

Mr. Speaker, it is apparent that much more needs to be done in this area of records management. The Committee on House Administration is seeking to determine its proper role and function in dealing with these matters. We appreciate the assistance received from so many quarters in the present undertaking and we look forward to pursuing the related matters of mutual concern in the same spirit of cooperation that marked the preparation of the handbook "Committee Records Guidelines." ●

STRENGTHENING PRESIDENT'S HAND IN DEALING WITH RELEASE OF HOSTAGES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. Gibbons) is recognized for 5 minutes.

Mr. GIBBONS. Mr. Speaker, 32 members of the House Ways and Means Committee have joined today to cointroduce a bill designed to strengthen the President's hand in dealing with the release of the American hostages in Iran. This legislation gives to the President the authority to increase duties on any goods from any foreign country that does not cooperate with the United States in its diplomatic or its economic initiatives designed to free those hostages.

Mr. Speaker, we hope that this legislation will never have to be enacted, but the vast majority of us on the Ways and Means Committee want to serve notice on the entire world that the Congress is prepared to act in case there is any lack of cooperation on the part of any foreign power.

Mr. Speaker, it is shocking to me that all of the nations of the world—our allies, the neutrals, the Communists, the weak, the strong, have not joined together to help us free these hostages. It is surprising to me, Mr. Speaker, that these nations do not recognize or have not so publicly stated that an assault upon our diplomatic personnel is an assault upon civilization and upon all diplomatic personnel. Certainly, the weak and the small should have a great interest in this, for these are the kind of people who could not defend themselves or who could not retaliate, as we can, in this situation.

☐ 1800

We just want them to know, all nations with malice toward none, that if they do not cooperate, there will no longer be business as usual.

AMENDMENT TO H.R. 5860, THE CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. MOORHEAD) is recognized for 60 minutes.

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, today I am submitting for printing in the RECORD an amendment to H.R. 5860, the Chrysler Corporation Loan Guarantee Act of 1979. This amendment represents a substitute to the committee bill which was reported to the House last week.

I am joined in this substitute by the ranking minority member of the Subcommittee on Economic Stabilization, Representative STEWART MCKINNEY of Connecticut, and by a number of members of the House Banking Committee.

Mr. Speaker, this substitute represents a compromise worked out in a number of discussions with Members who have been most involved in putting the Chrysler legislation together. We are presenting it now so Members will have ample time to read it and familiarize themselves with its provisions before we vote on this matter next week.

Mr. Speaker, I insert a section-by-section summary of the substitute at this point in the RECORD. The amendment will appear in the amendments section of the RECORD.

SUBSTITUTE FOR THE COMMITTEE SUBSTITUTE TO H.R. 5860

SECTION-BY-SECTION SUMMARY

Section 1. Short title

This section provides that the bill is entitled "The Chrysler Corporation Loan Guarantee Act of 1979".

Section 2. Definitions

This section sets forth the definitions used throughout the bill.

The term "Board" means the Chrysler Corporation Loan Guarantee Board established by section 3.

The definition of "borrower" indicates that a loan to a separate entity, not included within the definition of Corporation, may be guaranteed if such separate entity is borrowing funds for the benefit or use of the Corporation.

The term "borrower" may also include an entity which borrows funds for production of transportation or energy equipment which reduces the nation's dependence on petroleum, and which in addition provides employment in areas of Chrysler shutdowns and utilizes Chrysler facilities.

The definition of "Corporation" makes clear that the various conditions set forth in the Act are to be applied to Chrysler Corporation and its subsidiaries and affiliates, considered as a single enterprise.

The term "going concern" gives the Board general guidance in administering the requirement that Chrysler be able to continue as a "going concern" if it is granted federal loan guarantees.

The term "labor organization" has the same meaning as under the Labor-Management Relations Act, 1947.

The definition of "persons with an existing economic stake in the health of the Corporation" is intended to include all those who would be most directly affected by a failure of the Corporation, including but not limited to banks, financial institutions, and other creditors, suppliers, dealers, shareholders, labor unions, employees, State, local and foreign governments.

The definitions section also makes clear that the terms "financing plan" and "op. erating plan" refer to plans required under sections 4(a)(3), 4(a)(4) and 5(a)(4) of the legislation, and that "fiscal year" means the Corporation's fiscal year.

Section 3. Chrysler Corporation Loan Guarantee Board

This section sets up a five-member board to administer the program. The Secretary of the Treasury will chair the board, which will also consist of the Chairman of the Federal Reserve Board, the Comptroller General, and the Secretaries of Transportation and Labor.

Section 4. Authority for commitments for loan guarantees

This section provides the basic authority to guarantee principal and interest on loans to the Corporation and lists the findings the Board must make before making commitments to guarantee loans. These findings are:

An energy-saving program exists which has been developed in consultation with appropriate Federal agencies, which focuses on the national need to lessen U.S. dependence on petroleum, which can be carried out by the borrowers, and which the Board determines is satisfactory.

The commitment is needed to enable the corporation to continue in operation and failure to meet the need would harm the economy or employment of the country or of any region.

The company has submitted an operating plan covering 1980 and the next three fiscal years showing that it can continue as "a going concern in the automobile business" and that it can continue to operate without loan guarantees after the end of 1983. The Board must also have received assurances that the plan is feasible.

The company has submitted a financing plan for meeting its needs for cash as required by the operating plan. The financing plan must include at least $1.830 billion of "nonfederally guaranteed assistance" which may come from several sources:

"Financial commitments or concessions" from persons defined as having an economic stake in the health of the corporation, over and above any commitments or concessions that were in place on October 17, 1979.

New capital to be obtained by the company from merger, sale of securities, or otherwise.

Cash from sale of the company's assets after October 17, 1979; and

Proceeds of sale of stock to the company's employees, of which the company is required to offer $100 million.

That the Board has been assured of the availability of the various commitments under the nonfederal portion and determines that the entire package, including the guaranteed loans, is adequate to meet the company's financial needs as identified in its financing plan.

That the Board has received assurances from existing creditors that they will not exercise any rights they may have under such of these credits which may be in default, unless the Board finds that exercise of these rights would not impair the financing or operating plans of the company.

That no credit which was extended before October 19, 1979 is being guaranteed.

That the financing plan, and the expenditures under it, will contribute to the "domestic economic viability of the corporation," thus emphasizing that the company's domestic operations are the intended beneficiaries of the asssitance.

Section 4(b) provides that deferral of stock dividends not be counted against the $1,830,000,000 non-federal contribution.

Section 4(c) details the following amounts various groups must contribute to the $1,830,000,000 in non-federal assistance:

$400,000,000 from unionized employees of Chrysler;

$500,000,000 from U.S. banks;

$150,000,000 from foreign banks and other creditors;

$300,000,000 from the sale of Chrysler assets;

$250,000,000 from State and local governments;

$180,000,000 from suppliers and dealers; and

$50,000,000 from the sale of additional equity.

Section 4(d) permits the Board, in consultation with the parties listed in subsection (c), to modify the amounts assigned to them, except that the amount assigned to employees may not be modified. The overall total cannot be adjusted.

Section 4(e) authorizes the Board to waive the requirement of a pre-existing energy-saving plan if it determines that guarantees or commitments to guarantee are necessary to preserve the Chrysler Corporation for the development of the plan.

Section 4(f) provides that of the $1.83 billion of nonfederally guaranteed assistance, at least $100 million must come from the sale of newly issued stock to persons defined as having an economic stake in the health of the corporation.

Section 5. Requirements for loan guarantees

Subsection (a) spells out the conditions that must be met before the Board may issue guarantees; after commitments to guarantee have been made pursuant to the preceding section. The Board must make these findings:

Credit is not otherwise available on "reasonable" terms in amounts sufficient to meet the company's financing needs.

There is a "reasonable prospect" that the loans will be repaid.

The interest rate must be "reasonable", taking into account the Treasury's own borrowing rate for obligations with comparable maturities.

The company's operating and financing plans, required under section 4, are continuing to meet the standards of that section and are kept up to date to cover the "then-current four-year period."

The company is living up to its financing and operating plans.

The Board has all the information it needs to check compliance by the company with its plans.

The company has produced updated four-year plans before the beginning of each of its fiscal years and has also produced, within four months of the end of each fiscal year, an analysis showing how its performance matched both the financing and operating plans.

Any borrower is in compliance with the various covenants and other protective provisions required at the time of the issuance of the commitment to guarantee, which are spelled out in Section 8.

Section 5(b) affirms the conclusive nature of the guarantee, once issued.

Section 5(c) requires a guarantee fee of at least one-half of one percent, and requires that the fee be sufficient to compensate the Government for its costs in administering the guarantee program.

Section 5(b) provides that, to the maximum extent feasible, the Board shall insure that the Government is compensated, beyond amounts received from the guarantee fees, for the risk it assumes in making guarantees under the legislation. The section suggests the compensation could be obtained from additional guarantee fees, from gains of the Corporation or its security holders, or from other appropriate means.

Section 5(e) provides that amounts collected by the Board under subsections (c) and (d) shall be deposited in the Treasury as miscellaneous receipts.

Section 6. Employee stock ownership

Section 6(a) provides that no commitments to guarantee may be made or guarantees issued under the Act until the Corporation, in written agreement with the Board which is satisfactory to the Board, establishes an employee stock ownership plan (ESOP) and contributes $150 million in newly issued common stock to the plan over the four-year period of the loan guarantee program. The ESOP as established must comply with applicable requirements of the Internal Revenue Code of 1954 and must satisfy the requirements of the Employee Retirement Income Security Act of 1974 (ERISA), with certain limitations, all employees of the company will participate in the ESOP.

Each participating employee will receive an equal allocation of stock in the Corporation to his ESOP account each year, and each employee will automatically have a 100 percent nonforfeitable interest in these allocations. The voting rights on such stock will flow through to the employee. No guarantee or commitment to guarantee any loan under this Act may be made after the close of the 180 day period following the date of enactment of the Act unless the Corporation has established an ESOP meeting the requirements of this section. Stock contributed or sold to the ESOP under the provisions of Section 6 shall not be deemed to satisfy any sale of equity securities by the Chrysler Corporation provided by any other section of this Act.

Section 7. Limitations on guarantee authority

Section 7(a) limits the outstanding principal amount of loans guaranteed to $1,500,000.

Section 7(b) provides that the Board may issue loan guarantees only in an amount up to the amount of financial commitments and concessions which have accrued to Chrysler.

Section 8. Terms and conditions of loan guarantees

This section contains the provisions regarding the terms and conditions attaching to the loan guarantees. Subsection (a) requires that the maturity date of loans guaranteed shall be no later than December 31, 1990. This subsection also requires that terms and conditions of guaranteed loans shall not be amended or waived without the consent of the Board.

Subsection (b) specifies requirements for any commitment to issue guarantees. Such commitments must contain appropriate covenants and protective provisions, and security to fully collateralize the loans which are guaranteed is required. The security must be valued on the basis of the liquidated value of the property used as collateral.

Subsection (b) also requires that the U.S. have first priority for debts arising under the guarantees in the event of bankruptcy or before. This priority may be waived with respect to state and local governments that lend to Chrysler. It may also be waived with respect to suppliers of Chrysler up to $100,000 per supplier but may only provide that the U.S. and the suppliers will have an equal position.

Section 8(e)(4) prohibits the payment of stock dividends by the Corporation as long as guarantees are outstanding.

Section 8(c) requires the Board to order changes in management of the Corporation if it determines that the failure of management to exercise reasonable business prudence has inhibited its ability to obtain financing.

Section 9. Inspection of documents; audit by the General Accounting Office

This section authorizes the Board to inspect and copy all documents of the Corporation and any borrower whenever an application for a guarantee is pending or a guarantee is outstanding.

The section also requires the Board to investigate allegations of misconduct or mismanagement on the part of the Corporation which would be material to the Corporation's ability to repay the guarantees.

Section 9 also authorizes the General Accounting Office to make such audits of the Corporation or any borrower as the Comptroller General deems appropriate, and requires that the Corporation or any borrower agree to such audits, in writing, before a guarantee may be issued. The section also requires the General Accounting Office to report the results of such audits to the Congress.

Section 10. Protection of Government's interest

This section makes provision for protection of the United States Government's interest in the guaranteed loans. Subsection (a) requires the Board to take appropriate action to enforce any U.S. right. Subsection (b) authorizes the Board to recover from any borrower the amount of any payment made under a guarantee, and extends to the Board any rights the borrower would have had in connection with the loan.

Subsection (c) provides that the Board shall have all other available remedies.

Subsection (d) provides that the Board may bring action in any United States district court or other appropriate court to enforce agreements relating to the commitments of the Board, and grants such jurisdiction.

Subsection (e) prohibits the Board from guaranteeing directly or indirectly any tax exempt securities.

Subsection (f) provides for the severability of any invalid provision or application of the Act so that the remainder of the Act and its application shall not be affected.

Section 11. Long-term planning study

Section 11(a) provides that the Secretary of Transportation, after consultation with appropriate federal agencies shall submit to the Board and to the Congress as soon as practicable, but not later than six months after the date of enactment of this Act, an assessment of the long-term viability of the Corporation's involvement in the automobile industry.

Subsection (b) requires that the Board prepare and transmit to the Congress annual comprehensive assessments of the state of the automobile industry.

Subsection (c) requires the Board to take the results of the study required under subsection (a) and of each annual assessment required under subsection (b) into account when examining and evaluating the Corporation's financing and operating plans.

Section 12. Prohibition on use of the Federal Financing Bank

This section prohibits the sale or other issuance of loans guaranteed under this legislation to the Federal Financing Bank or any other Federal entity.

Section 13. Reports to Congress

This section requires the Board to report to Congress semi-annually during fiscal years 1980 and 1981, and annually every year thereafter as long as loans are guaranteed.

This section also requires that not less than 15 days before any loan guarantee is issued the Board must make a written report to Congress containing the details of the guarantee, assurances received by the Board, and determinations made by the Board.

Section 14. Authorization of appropriations

Subsection (a) authorizes the appropriation and availability without fiscal year limitation, beginning October 1, 1979, of such sums as may be necessary to carry out the provisions of the legislation.

Subsection (b) limits the authority of the Board to make guarantees to the extent of amounts provided in advance in appropriation Acts.

Section 15. Termination

This section provides that the Board's authority to make commitments or to issue guarantees expires on December 31, 1983.●

THE POWER OF THE PRESS: A PROBLM FOR OUR DEMOCRACY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 30 minutes.

● Mr. LAFALCE. Mr. Speaker, one of this Nation's most respected political scientists and practitioners, Max M. Kampelman, recently published an excellent analysis entitled "The Power of the Press: A Problem for our Democracy" in Policy Review. This treatise is so thoughtful that it warrants wider dissemination. Accordingly, I am inserting it in full in the CONGRESSIONAL RECORD following my remarks today.

There are many compelling reasons for airing issues as enduring as those raised in Mr. Kampelman's treatise. But it is especially timely now, at a time when the world's attention is drawn to our television screens as the Iranian Government continues its gross violations of international law and seeks—unsuccessfully, we all hope—to exploit its views through what I have termed "television diplomacy." World war III may well be prevented or, God forbid, precipitated, not only by what is reported on television but by what is done by television news departments.

A word about the author—Max Kampelman is a senior partner in the Washington law firm of Fried, Frank, Harris, Shriver, and Kampelman, where he has served for the past 25 years. Before that he served as legislative counsel to Senator Hubert H. Humphrey. Max obtained his bachelor's degree and his legal education at New York University, as well as both a master's and a doctorate in political science from the University of Minnesota.

But these are only the bare bones of his immensely impressive background. Space and time do not permit me to list each of his many accomplishments, but even a partial listing will demonstrate the impact he has had on our Nation and our Government. In 1966–67 Mr. Kampelman served as the senior adviser to the U.S. delegation to the United Nations. He has taught or lectured at innumerable colleges and universities. He presently serves as chairman or on the board of 10 educational institutions. He has been very active in promoting the National Zoo in Washington. He has authored books and articles on a wide range of international and national issues.

In a word, Max Kampelman comes close to being a 20th century renaissance man.

But my words are inadequate to describe this man and his contributions to our country. Perhaps Max Kampelman can best be described by reprinting Hubert Humphrey's description of his friend and adviser in Humphrey's book, "The Education of a Public Man." Max name arises time after time in that book, and one learns how important a role he played in Mr. Humphrey's long political career, both on his staff and afterward. Following, then, is Humphrey's description of Max Kampelman:

> For almost thirty years, I have benefited from Max Kampelman's friendship and advice. On a different level, but like Fred Gates and Dwayne Andreas, he has been intimately involved in my career. When I first met him, in 1946, he had only recently finished his role as a conscientious-objector subject in starvation-diet experiments and had become an instructor of political science.
>
> He had been a pacifist and socialist, but slowly evolved into a more pragmatic liberal and ultimately an advocate of a strong defense system, as many anti-Communist socialists did. He was a student and scholar and an intellectual with a flair for politics. He had done his Ph.D. thesis on the CIO and Communist infiltration there, and out of that had contacts with the labor movement that became important for me.
>
> After getting his doctorate in political science, he went off to teach at Bennington College in Vermont, but joined me in Washington as my legislative assistant when I was elected to the Senate. He was immensely creative and helpful then in areas of labor law and public welfare, in health care and education, as well as in politics.
>
> He had been active on his own and alongside me in the formative days of the Americans for Democratic Action and later, through his efforts, I became a vice president of the American Political Science Association. It was through him and these groups that I met many liberal intellectuals, particularly in economics and political science.
>
> A man in public life needs people around him with a sense of outreach, someone who can bring in others to implant new ideas, to challenge old ones—simply to stretch one's mind. Max has done that for me better than anyone else during my public career. And he does it to this day.
>
> Though he has long since left my staff (he did so in 1955), he remains a loyal and constant friend. But in neither role—staff nor friend—has he ever let loyalty keep him from arguing with me when he has thought me wrong. He does it diplomatically and without being abrasive, offering as the good lawyer he is, alternatives with the logic for the various positions. He has a crucial talent for separating his own position from the argument, viewing with dispassion other's points of view—in this case, mine.
>
> Max has come in for his share of criticism because the public perception of him is distorted by his success as a lawyer. When a failure or somewhat inadequate person is close to an elected politician not much is said, but when a talented, successful, hard working person is, he invariably is seen as self-serving.
>
> The fact, of course, is that had I left the Senate the same day Max left my staff, he would today be no less successful than he is. His abilities would have carried him just as far.
>
> His interests are broad, his leadership recognized. He helped organize, and was the long-time chairman, of the public television station in Washington, was the first president of the Friends of the National Zoo, an officer of the American Political Science Association, a trustee of a college, and president of the American Friends of Hebrew University.
>
> I marvel sometimes at the willingness of people like Max to devote so much of their time and energy to politicians' lives. Obviously, they love politics and the power to do things as much as politicians themselves, but their motives are always suspect to cynics among the press and public. They are never pure enough and always fair game for darts and gossip. Their mammoth commitment to working for a good society is largely ignored, their flaws magnified beyond reason.

Mr. Speaker, one of the foundations of our democracy is the first amendment and our tradition of a free and vigorous press. America has proved to the world, time and again, how valuable this tradition is in keeping a nation strong and a people free.

But no institution, whether it be the Presidency, the Congress, higher education, labor unions, or any other, should be above analysis and constructive criticism. For this, too, is one of our treasured freedoms and, I believe, one of the contributing factors to our strength. An institution subjected to such analysis should not feel threatened; rather, it should feel complimented that it has achieved the kind of prominence which bring about such analyses.

In his treatise on the power of the media, Max Kampelman has asked some probing questions about our society and relations within it. He has raised issues which will be with us for generations to come. In so doing he has performed a major public service, and no matter how we might view these issues or answer his questions, his analysis is food for thought that should be tasted by all Americans, if possible, and certainly by all in high public office. I commend his article to your attention, Mr. Speaker, and to the attention of all our colleagues:

THE POWER OF THE PRESS: A PROBLEM FOR OUR DEMOCRACY

(By Max M. Kampelman)

Attention to power is indispensable for an understanding of the role of the media in our democratic society. Political scientists have rightfully written for years about the abuses of executive power and congressional power. The critical question for our democracy today, however, is not so much the power of the Presidency, which is restrained by the Congress, the opposing political party, the press and the courts; nor so much the power of the Congress, which is restrained by the President, by partisan politics, by the press and by the courts. The relatively unrestrained power of the media may well represent an even greater challenge to our democracy.

Power itself is not antithetical to a democracy. Power is manageable as long as it is properly restrained. There are, of course, definite restraints on the power of the President and on the power of the Congress. The genius of the American polity, in fact, has been its ability to balance various elements of power. Powerful corporations and unions restrain one another and both are restrained by government and by laws. The American press, however, perhaps the second most powerful institution in the country next to the Presidency, is characterized by few, if any, effective restraints.[1]

PRESS FREEDOM—AN ESSENTIAL LIBERTY

Freedom of the press is essential to political liberty. A society of self-governing people is possible only if the people are informed, hence the right to exchange and print words. Where men cannot freely convey their thought to one another, no freedom is secure. But what if that freedom is used in a vulgar, cynical, immoral, dishonest, libelous, obscene, or seditious manner? Is it not true that no man is free if he can be terrorized by his neighbor? And, is it not possible for words as well as swords to terrorize? Furthermore, can a citizen be truly informed if falsehoods come masqueraded as truths? Is it not true that the abuse of liberty can destroy liberty? And, is a democratic society unable to defend itself against these kinds of threats to its internal welfare and safety."

The First Amendment to the Constitution guaranteeing the rights of free press and free speech, is not exclusive.[2] Rather, it is part of a series of constitutional protections. What happens when these rights conflict with one another? For example, if the right to a fair trial is fundamental to liberty, what happens to it if the press is free to prejudice a fair trial by what it publishes?[3]

The press (both print and electronic) is very jealous of what it asserts as its right to protect its sources of information. At a press conference in Washington, Dan Rather asserted that right was "not for the benefit of reporters. It is for the benefit of listeners and viewers and readers. . . . The cause is America."[4] This is related to a newly-articulated "public's right to know." But what about the public's right to know the sources of news stories? Are the media insisting on a degree of confidentiality which they deny to the government? Does it not seem incongruous for a private, profit-making enterprise, such as the media, to have a greater right of confidentially than a democratically-elected government?

During recent years, the media have been filled with headlines about the alleged misdeeds of the CIA. There are a number of important questions at issue. Are there, for ex-

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ample, too many intelligence agencies functioning and vying for power? How does one balance the competing claims of individual freedom and national security? How is authority to be exercised over intelligence services? How are intelligence operations to be kept nonpolitical? How is freedom of the press to be preserved while preventing irresponsible dissemination of classified information? Indeed, how can a government, be it democratic or not, operate without secrecy?

These serious questions require careful consideration by the press and an informed public as well as by the institutions of government. Headlines and sensational scoops, however, do not, in themselves, contribute to democratic, rational debate, while at the same time they may well serve to damage the nation's intelligence structure. There is a need for some secrecy in government. We would all agree, for example, that troop movements and military installations fall into that category. There are other "secrets" that can perhaps safely be made public. But how are we to recognize which is which? Are the media claiming for themselves the right to decide which leaks are in the public interest and which are not?

Other powerful institutions in our society are required to exercise their power responsibly. Is the press, surely one of the more powerful institutions of our society, not also accountable for what it does? I am reminded here of the statement of Stanley Baldwin, who, as Prime Minister of Great Britain, was vehemently attacked by Lord Rothermere and Lord Beaverbrook, press magnates of that day. Mr. Baldwin replied, "What the proprietorship of these papers is aiming at is power, and power without responsibility—the prerogative of the harlot throughout the ages." [5] Obviously, the awesome power of the press, protected by its constitutional freedom, can be abused: good men may be slandered; justice may be thwarted; base passions may be aroused; people may be misinformed; and government may be weakened.

Felix Frankfurter once wrote, "A free press is vital to a democratic society because its freedom gives it power. Power in a democracy implies responsibility in its exercise." He went on to warn, "Nor can the limits of power which enforce responsibility be finally determined by the limited power itself." [6]

THE PRESS AS A BUSINESS

In addressing ourselves to some of these questions of the media's rights and responsibilities, their power and possible abuse of power, it is important to note that as the media have grown more powerful, they have also become more business and profit oriented. Ben Bagdikian, the distinguished newspaperman and newspaper critic, reports that when he was writing his book on the media industry, he found that average profits for that industry were 76 percent higher than those of all other American industries.[7] The Washington Post has published a financial profile of 13 leading public newspaper firms showing an average 35.8 percent increase in net income from 1975 to 1976.[8]

Profits are not inimical to a democratic society, just as power is not antithetical to a democratic society. But these figures are important and revealing as we note that the press is not only an institution designed to provide the principal means of communication and the exchange of ideas in our body politic, but (unlike almost all universities, for example) it is also an institution of business and profit for those who own newspapers, television stations and so forth. In terms of employment, the newspaper industry today is America's third largest manufacturer, behind only automobiles and steel.[9]

As early as 1920, Walter Lippman wrote of the tremendous power of the press:

> "The news of the day as it reaches the newspaper office is an incredible medley of facts, propaganda, rumor, suspicion, clues, hopes and fears . . . The power to determine each day what shall seem important and what shall be neglected is a power unlike any that has been exercised since the Pope lost his hold on the secular mind." [10]

Indeed, as Douglas Cater has more recently pointed out, those words and events, considered newsworthy by those who have staged them, might as well not have occurred if they fail to get projected and selected by the media.[11]

There was a time when the awesome power of the press faced the restraints of competition. That restraining influence, however, is disappearing. There are, today, fewer than 45 cities with two or more competing dailies and about 1,500 cities with a noncompetitive daily press; and each year more and more noncompetitive dailies are being swallowed up by the large corporate chains. The Washington Post reported in the summer of 1977 that within two decades "virtually all daily newspapers in America will be owned by perhaps fewer than two dozen major communications conglomerates." [12] Today, 72 percent of daily and 80 percent of Sunday newspaper circulation is controlled by companies with two or more dailies.[13] As John B. Oakes, former senior editor of The New York Times observed, "The perception of the press is more interested in private profit than public service is strengthened when it lobbies for special privilege and exemption from, for example, the antitrust laws—as it did in connection with the Failing Newspaper Act a few years ago." [14]

The problem is a real one. Walter Lippmann said, "A free press exists only where newspaper readers have access to other newspapers which are competitors and rivals so that editorial comment and news reports can—regularly and promptly—be compared, verified and validated. A press monopoly is incompatible with the free press." [15] Lippmann's warning is more pertinent now than then. Ninety-six percent of the daily newspaper cities in the country have only one newspaper. In 1910, 100 million Americans were served by 2,400 newspapers; today, 220 million are served by 1,775.[16] Sixty percent of all the individual newspapers in the country are owned by chains, compared to 30 percent in 1960.[17]

And the chains are getting bigger. Today the top 25 chains have more than 52 percent of total press circulation, compared to 38 percent in 1960. It is indeed true that (in the realm of newspaper concentration), "never before has so much been under the control of so few." [18] And now the chains are buying other chains. Most recently, for example, the 30-newspaper Newhouse chain purchased the eight Booth newspapers for $305 million, the largest newspaper transaction in history.[19] On May 8, 1978, Gannett Company and Combined Communications Corporation announced plans to merge in a $370 million exchange of stock, which, if consummated would be even larger. The resulting parent company would be the publisher of 79 daily and 6 weekly newspapers; the owner of 21 radio and television stations, newsprint interests; the polling firm of Louis Harris and Associates; and a major force in outdoor advertising.[20]

Today's press is a far cry from the fragile printing presses that the Bill of Rights was designed to safeguard. The Washington Post Company is a vivid illustration of the change, with its 1977 revenues of $436 million and its until recently five-level presence in the nation's capital—as owner of a newspaper, a radio station, a television station, a national news magazine, and a major news service.[21] CBS, in addition to its radio and television properties, controls 15 to 20 percent of the mass paperback book market. Time, Inc., besides its magazine and book publishing activities, owns a television station and television production company. It is in the process of buying a Denver cable television system for $143 million and the Book-of-the-Month Club for $63 million, and just purchased The Washington Star for $20 million.[22] In sum, today the press is among the most profitable business groups in America, with 15 public companies that own newspapers producing operating revenues of more than $100 million each in 1977, led by the Times-Mirror Company, publisher of The Los Angeles Times, with more than $1 billion.[23]

With competition less of a restraint on the power of the press, what about the courts and libel laws? Libel laws are today much less of a restraint as a result of The New York Times Co. v. Sullivan [24] (a case which was decided in 1964) and its progeny. In Sullivan, the Supreme Court held that public officials should sue and collect for libel only if the libel was uttered "with knowledge that it was false or with reckless disregard of whether it was false or not." [25] This double standard against public officials and in favor of newspapers was further broadened to include "public figures" [26] and then even private individuals who might be involved in "an issue of public or general concern." [27]

Subsequent Supreme Court pronouncements in Gertz v. Robert Welch, Inc.[28] and Time, Inc. v. Firestone [29] refined the libel laws vis-a-vis the press to the point where, in the words of Columbia Law Professor Alfred Hill:

> ". . . at the present time media defendants cannot be held for defamation of public officers or public figures except for misconduct that is willful or reckless (the Sullivan rule); and cannot be held liable for defamation of private persons, or of pubic persons in their private capacities, except upon a showing of "fault," which probably is satisfied by proof of negligence (the Gertz rule)." [30]

Two recent United States Court of Appeals decisions have marked even further expansions of the libel law umbrella offering protection to the press. In Edwards v. National Audubon Society, Inc.,[31] decided on May 25, 1977, the Second Circuit overruled a lower court decision which found a libel had been committed with malice by The New York Times in an article labeling certain scientists as "paid liars." The Court, without challenging the fact that the charge was false and without condoning "the mischievous and unwarranted assault on the good name" of the scientists, ruled that the reporting was justified because the charges were "newsworthy," regardless of their falsity! [32]

The same Circuit Court again reversed a lower court decision on November 8, 1977, in *Herbert* v. *Lando*,[33] in which former Army Lieutenant Colonel Anthony Herbert sued for libel perpetrated in the production and dissemination of a CBS "60 Minutes" episode entitled "The Selling of Colonel Herbert." Notwithstanding the fact that under *Sullivan*, Colonel Herbert carried the burden of proving that the journalists acted with actual malice, the majority of three ruling judges held that Colonel Herbert could not make pre-trial discovery inquiries into the journalists' states of mind. The dissenting judge signed an opinion observing that the "notion that a plaintiff carrying such a burden should be denied the right to ask what the defendant's mental state was is remarkable on its face." [34] The press, not surprisingly, applauded the decision.[35] John P. Roche, however, more a professor than a journalist, summed up the practical result of the decision best when he wrote that it "makes the rule of malice simply a Catch-22, a logical cul-de-sac. If the Supreme Court accepts this weird formulation, public figures will be utterly defenseless." [36] Echoing that sentiment, a federal district judge, in appar-

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ently the first lower court case to rely on *Herbert*, suggested that the decision virtually rules out libel suits brought by public officials and rhetorically asked, "Are men and women of honor who happen to be public figures to right vicious dangers hereafter by resort to fisticuffs or dueling?"[37]

The doctrine of tortious invasion of privacy, closely linked but distinguishable from libel, has also proven to be most accommodating to the press. Reluctance on the part of the courts to restrain the media had its most visible manifestation in the 1975 Supreme Court decision of *Cox Broadcasting Corp.* v. *Cohen.*[38] In this case, defendant Cox Broadcasting published the name of a rape victim determined from examination of a public indictment, although a Georgia statute made it a misdemeanor to effect "public dissemination" of the identity of such a victim. In reversing Georgia's highest state court's determination that a cause of action for invasion of privacy would be appropriate the Supreme Court sweepingly declared the immunity of the media from liability for truthfully reporting that which was available to the public in official court records. Implied in this ruling is the possibility that this policy could be extended to other public records as well.

THE GROWING POWER OF THE PRESS

Ben Bagdikian, in commenting further on the power of the press, pointed out that nobody likes to make an enemy of the town crier. Not only, he said, is the press protected by the Constitution as it is now interpreted by the Supreme Court, but very often it has additional protection as government officials hesitate to apply other laws (such as antitrust laws) to the press. He writes, "The press is traditionally permitted to go further and is reprimanded more gently about corporate transgression than are other enterprises."[39]

What we see in the press is a powerful, evergrowing institution with huge financial resources to supplement the power it wields in its control over the dissemination of news, but with fewer and fewer restraints on that power. What should society do in the face of that power and the dangers arising out of its abuses? Believers in democracy, obviously, understand the dangers to a free society that would arise from attempts to impose government regulations as a method of correcting the abuses. The danger, however, is that unless the abuses are corrected, there may well be increasing demands within society for effective government restraints. What is left to consider, therefore, is whether or not self-restraint by the media is a likely alternative.

Professionalism is a form of self-restraint, particularly when it is accompanied by good intentions. Regrettably, however, we remember Irving Kristol's characterization of journalism as "the underdeveloped profession."[40] It is appropriate to analyze the actual functioning of the media in evaluating the extent of its professionalism.

Criticism of the press have pointed out that the difficulties in accurately presenting information to the body politics begin with the very first principle of modern journalism. Schools of journalism teach that news stories must begin with a "lead," defined as "an attention arresting sentence." It is here that the process of distortion is likely to begin.

In television, this is accomplished by what Walter Cronkite recently called the "hypercompression" of the news. He said: We fall far short of presenting all or a good part of the news each day that a citizen would need to intelligently exercise his franchise in this democracy. So as he depends more and more on us, presumably the depth of knowledge of the average man diminishes. This clearly can lead to disaster in a democracy.[41]

The emphasis on drawing attention in order to sell newspapers, produce profits and gain influence is one of the serious problems faced by modern journalism. A recent issue of the Columbia Journalism Review highlights this troublesome trend with an article by Fergus M. Bordewich, "Supermarketing the Newspaper," that reports a growing emphasis on rapes, robberies and accidents. "Many papers are becoming so breezy you can hear the whistling through the holes where the news might have been,"[42] In a frantic effort to recapture the attention of their readers, the press is now emphasizing what John B. Oakes terms "chewing gum for the brain." Oakes goes on to observe that "To the degree that this tendency downgrades those traditional mainstays of news, information and opinion which the First Amendment was obviously designed to protect, American journalism is weakening its moral if not its legal claim on the public to that special status it has rightly held in our society."[43]

A corollary to this is the editor's love for the "scoop." This adds to an already feverish drive for the sensational story and has a tendency to result in overplays that tend to distort not only the story itself, but the balance of news in our newspapers.

This distortion is also related to the growing importance of investigative journalism. The success of The Washington Post in its Watergate investigation has stimulated other newspapers to set up investigative squads. Inrceasingly it is the investigative reporter who receives the awards that journalists bestow upon themselves.

THE RISE OF THE "NEW JOURNALISM"

In this examination of professionalism and its relation to the press, it is relevant to note the development of what has been called "new journalism," a theory which asserts that the responsibility of the press is "to discover truth, not merely facts."[44] Other variations of this new type of journalism are "advocacy journalism" or "personal journalism."[45] In either variation, the reporter is encouraged to indicate and further his point of view in his news stories. Objectivity is ridiculed as being impossible to attain.

This has just meant that to an unprecedented extent, the media have not just reported events, but have stimulated, sometimes created, and even actively participated in those events.

It is here appropriate to quote a statement of Ben Bradlee, the pragmatic executive editor of The Washington Post, who said, "The press won in Watergate." Bradlee went on to make clear that he understood the implications of that declaration of victory by adding the caveat, "I believe, though that power corrupts. We are in a powerful position and I hope we don't misuse it."[46]

It is understandable that a significant segment of the media has become impatient with its limited information dissemination role. It is not easy and frequently not exciting for an intelligent person simply to report events. The tendency, therefore, has been for imaginative and socially dedicated journalists to go beyond normal reporting in order to seek fuller expression of their talents or social values.

We must not forget, however, that these tendencies to develop a social, messianic role for the media, when added to the already feverish drive for the sensational story and the scoop, lead to further dispositions that should concern us.

Max Frankel, the editorial page editor of The New York Times, admitted the tendency of some journalists, especially the new recruits, to be impatient with standards of objectively or with any standard that would prevent them from placing their own views before the public.[47] Asserting that "the new permissiveness is carried too far," Charles B. Seib, the ombudsman for The Washington Post, recently wrote that "It is a rare day that I don't see a news story that betrays a reporter's feelings in a way an editor of the old school would not have tolerated."[48]

What are those views? Here we have some guidance in the form of the results of a Daniel Yankelovich survey which indicate that there is a serious gap in values between the bulk of journalists and society as a whole.[49]

Journalists are reported to have an instinctive suspicion and distrust of authority, particularly governmental authority. Frank Mankiewicz attributes a cynicism to political journalists, an assumption, for example, that no candidate ever advocates programs for reasons other than to get votes.[50] There are also troublesome signs of a homogeneity of political, social and economic attitudes. Theodore White described national journalists as a "self-selected group"[51] drawn from a social and educational elite affected by what Lionel Trilling termed the "adversary culture."[52]

Increasingly, journalists see it as their function to place before the public the needs of society as they see them. Roger Mudd of CBS stated this clearly, "What the national media, and mainly television, have done is to believe that their chief duty is to put before the nation its unfinished business. . . . The media have become the nation's critics, and as critics no political administration, regardless of how hard it tries, will satisfy them."[53]

This is an interesting development. Traditionally in our democracy, the nation's political agenda was the prerogative of the politician seeking and then elected to public office. Now the media are assuming that role. In addition to looking upon himself as a defender of people, the journalist now looks upon himself increasingly as a spokesman for the people; and yet, as the Daniel Yankelovich survey demonstrates, his values and the values of the society he would speak for are not the same.

The fact is that many reporters tend to think of themselves as representing the people in a disinterested way and with a purity of motive that a self-serving politician selfishly seeking votes cannot hope to duplicate. And yet, it is a strength of democracy that politicians are and should be aware of and responsive to voters. The English observer, Henry Fairlie, asserting that politicians "are the most hopeful messengers of a society's will to improve" and that "the political world is inherently good," complained that:

> "Political journalists have been seduced into believing that politics is probably, if not necessarily, ignoble. . . . It is as if every journalist is afraid that he might be caught in believing in something or in somebody. Yet on the whole, the political world in the past 200 years has accomplished a great deal of good for a vast number of people."[54]

ANALYSES OF POSSIBLE MEDIA BIAS

There is substantial evidence that television became a potent influence in turning public opinion against the Vietnam War. Edward J. Epstein early and conclusively demonstrated that the three television networks all began treating the war negatively after the Tet offensive.[55] Any doubts as to this effect were put to rest with the publication of Peter Braestrup's two-volume study on how the American press and television interpreted the Tet crisis.[56] The American media virtually single-handedly turned a significant victory for American and South Vietnamese troops into a demoralizing defeat, leading the tight-lipped Dean Rusk to ask some journalists, "There gets to be a point when the question is: Whose side are you on?"[57] Analyzing the Braestrup study, John P. Roche recently described this period as "a shameful episode in the annals of the American media."[58]

Dr. Ernest W. Lefever, in his analysis of the CBS Evening News programs in 1972 and

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1973, also produced very impressive data with respect to the media and national defense.[59] He found, for example, that stories on Vietnam that were critical of U.S. policy were aired 651 times in 1972, while stories that supported American policies were aired 153 times. On national defense generally, he found that major policy questions were "almost totally neglected." Nearly two-thirds of the stories that year presented the U.S. military in an unfavorable light, while in only 13 percent was it shown in a favorable light. Statements by newsmakers who were critical of official policies and wanted the U.S. either to get out or cut back in Vietnam were quoted 842 times in 1972, while those who wanted to see the war pursued more vigorously were quoted 23 times that year, a ratio of 36 to 1.

James Reston recognized that reality when he drew the following conclusion: "Maybe the historians will agree that the reporters and the cameras were decisive in the end. They brought the Congress and the courts, and forced the withdrawal of American power from Vienam." [60] And yet it is clear that Robert Bartley of The Wall Street Journal is correct in stating that the essence of "professionalism" is the setting aside of personal attitudes when writing stories or preparing a broadcast.[61]

"SELECTIVE MORALITY" IN THE MEDIA

Personal opinion and bias, however, are not the only ingredients in news selectivity.

According to reliable sources, the death toll in Cambodia from beatings, shootings, starvation and forced labor has reached an estimated 1.8 million to 2.5 million victims since April 17, 1975, when the communists seized control.[62] This plight of the Cambodians has appeared regularly over the French news wire services, dating from the Khmer Rouge guerrillas' capturing of the country. The American daily press, however, until recently, largely ignored the modern-day holocaust in Cambodia. The Wall Street Journal suggested that the horrible crimes of the Cambodian communists had attracted less attention than much smaller crimes in other countries "because they are inflicted in the name of revolution," a view substantiated in part by Anthony Lewis' statement that the reports met with skepticism because they came from "right-wing quarters." [63]

Contrast this, however, with the news from South Africa, Israel, and Panama, now considered to be "hotspots." Every death in South Africa understandably brings with it thorough news and television coverage. Massacres and mass executions in many Third World countries have warranted only a few paragraphs, if anything, but rock-throwing incidents on the West Bank of Israel or a single regrettable killing in Bethlehem have evoked front page news stories and photographs. And, while the Senate debated the Canal treaties, the dozens of newspapers and television correspondents who had descended on Panama in anticipation of "trouble" if the treaties were not ratified, struggled "to find anything to report." The burning of the treaties in front of the United States Embassy, for example, became a major news event. "Sporadic demonstrations by leftist students," according to The New York Times, were "something of a godsend" to the reporters even when there were more journalists present than protesters.[64]

It is ironic that some of this overabundance of coverage is due to the fact that the press can be found only where it is permitted to be. It is difficult to cover the story of a slaughter in Cambodia or the training of terrorists in Libya where no American press is permitted.

Walter Lacqueur's book, Terrorism, points, out that the media act as a selective magnifying glass, enormously attracted to terrorism because of its mystery, quick action, tension and drama. The terrorists in turn depend on that publicity and media attention. As J. Bowyer Bell of Columbia University has pointed out, terrorism and media coverage exist in a symbiotic relationship. Television no longer just responds to a terrorist-event; it becomes an integral part of the event.[65] According to Lacqueur, "The media, with their in-built tendency towards sensationalism, have always magnified terrorist exploits quite irrespective of their intrinsic importance. . . . All modern terrorist groups need publicity; the smaller they are, the more they depend on it, and this has, to a large extent, affected the choice of their targets." [66] The fact is the press and the terrorists feed on each other.

As an example, Lacqueur cites the Algerian rebels of the 1950s who deliberately transferred their struggle from the countryside to the capital, even though they knew they could not win the battle for the capital. One of their leaders is quoted as saying that if there were killings in the countryside, nobody would notice; but that a small incident in Algiers would draw the attention of the international press and give them the publicity they needed. This proved to be true. The rebels were beaten in the capital but won what proved to be the decisive battle for publicity.[67]

The media role in terrorist threats is producing growing concern at home as well. The Son of Sam press coverage led the New Yorker to complain, "By transforming a killer into a celebrity, the press has not merely encouraged but perhaps driven him to strike again—and may have stirred others brooding madly over their grievances to act." [68]

Does the holding of a police captain in Ohio by one man justify banner headlines all over the country? Is our definition of "news" such that individual gunmen or bands of gunmen can command constant and dramatic national media attention? The news director of the CBS affiliate in Cleveland, Virgil Dominic, expressed this concern well when he stated after the fact, "We feel that the coverage we give such incidents is partly to blame, for we are glorifying lawbreakers, we are making heroes out of nonheroes. In effect, we are losing control over our news departments. We are being used." [69]

The dean of The Anenberg School of Communications at the University of Pennsylvania, George Gerbner, is not at all sanguine that these concerns will produce change in behavior patterns of the media, because such stories, he says, "fit exactly into the media pattern" in that they are dramatic and provide good action-filled film. He states, "For the media it's a tremendous competitive situation, and as long as they attract attention and ratings by covering these things, they will." [70] The question posed by A. M. Rosenthal, executive director of *The New York Times*, was "whether we are reporting these things or capitalizing on them." [71]

There are crucial questions concerning international and domestic policy that are crying for public information, discussion and knowledge. But again, it is easier and more rewarding for reporters to be assigned to cover the dramatic scoops and the scandals. Reporters on the diplomatic beat complain constantly that they have inadequate assistance and receive little attention except in cases of crisis.

Detente has been a dominant theme of American foreign policy in the past few years. Senator Fulbright, when he was Chairman of the Senate Foreign Relations Committee, complained that the press was uninterested in the extensive and thoughtful hearings on the subject held by his Committee. At one time, he implied that they had mistakenly held the hearings in the open. It would have been far better, he suggested, to have held the hearings in secrecy and then to have leaked the transcripts. In that way, they would have received generous press attention.[72]

THE PRESIDENTIAL CAMPAIGN OF 1976

Two years ago we were in the midst of a Presidential political campaign. The role of the media in candidate selection merits particular attention in an anlysis of the media's power, responsibility nad professionalism.

The Democratic Party, as part of its reform package, had eliminated the "winner-take-all" concept in state primary campaigns. It had opted for a system of proportionate division within each state, reasoning that the normal, narrow margins in single primary elections are only small indicators of popularity in a multi-contest process. But the media thought otherwise. Roger Mudd, on January 19, 1976, said on the CBS Evening News, "It's not exactly the precise figures that will be important, it's whether or not the media and the politicians agree that this man won and this man lost." [73]

Professor Thomas E. Patterson of Syracuse University, in a paper which he delivered to the American Political Science Association, analyzed the press coverage of the 1976 Presidential primaries and concluded that to the media "only the winner in a state seemed important. No matter how close the voting, the headlines and most of the coverage went to the winner, and he alone. . . . Moreover, the press showed little hesitancy in projecting the results of a single primary." The result was an exaggerated picture of a candidate's national standing, one that the press with its coverage had helped to create.[74]

In the first state to choose delegates, Carter secured 28 percent of the Iowa caucus vote on January 19, 1976. Mudd named him the "clear winner," asserting that "no amount of bad-mouthing by the others can lessen the importance of Jimmy Carter's finish." [75] It is interesting that in this period, the Gallup Polls showed Carter with only a 5 percent national standing, behind six other candidates.[76]

In New Hampshire, Carter was first past the post in the primary with 30 percent of the vote; 60 percent of the state's electorate had voted for one of the four more "liberal" candidates. But, according to Walter Cronkite, the results gave Carter "a commanding head start in the race" and Roger Mudd proclaimed that Carter's victory "was substantial." [77] NBC's Tom Pettit called Carter "the man to beat"; Newsweek declared him the "unqualified winner." Not only did Carter's face appear on the covers of Time and Newsweek, but on the inside pages he received 2,630 lines of coverage, while Udall, the candidate in second place received 96 lines. All of Carter's opponents together received 300 lines. The week after the New Hampshire primary, Carter received three times the television evening news coverage of his major rivals and four times as much front page newspaper coverage.[78]

One week later, Senator Henry Jackson won the much larger Massachusetts primary with 23 percent of the vote. Paul H. Weaver, writing in the New York Times Magazine, pointed out that reporters did like Jackson and that television therefore dismissed his victories as special cases. Whereas Carter's win in New Hampshire was considered a "substantial victory," giving him "a commanding head start," Jackson's vote in a state seven times as large was looked upon only as "a strong finish" that scrambled the race." Carter's 23,000 votes merited a great deal of respectful talk about this momentum; Jackson's 163,000 votes elicited little more than surprise.[79]

When Jackson went on to win in New York (the second largest state), Roger Mudd said that his winning coalition was "peculiar to New York" and Leslie Stahl of CBS News declared that his victory did not give him momentum.[80] In absolute terms, television news coverage of the New York primary was

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only 25 percent of that of New Hampshire. Each New Hampshire vote received 170 times the amount of coverage given a New York vote.[81] It very well may be the case, as Professor Michael J. Robinson of Catholic University concludes, that Senator Jackson was the candidate chiefly "victimized" by the media coverage in 1976: in those six early primary states where Jackson had been a contestant, he had actually beaten Carter by over 300,000 votes.[82]

Professor Patterson's study showed that during the early Democratic primaries, "Carter simply dominated the election reporting. In the critical period between the New Hampshire and Pennsylvania primaries he received 43 percent of the network evening news time given the Democratic contenders, 59 percent of the space in Time and Newsweek, and 46 percent of the newspaper coverage." Jackson and Udall, on the other hand, each received less than 20 percent of this newspaper and television coverage and even less of the magazine coverage. "Moreover," the study continued, "Carter's coverage was more prominent than the others. He was the candidate who was most often in the opening lines of lead stories, the one who got most of the headlines, the one who was pictured and filmed the most," [83] In the week following the January 19 Iowa caucus, Time and Newsweek devoted 725 lines to Carter's candidacy, while the other candidates were granted 30 lines apiece. Carter was the subject of special coverage on the TV news programs, receiving, according to Professor Patterson's analysis, "about five times as much exposure as each of his major rivals. As for the newspapers, Carter received an estimated four times the column inches of his typical opponent." [84]

Presidential primaries attract attention, particularly the one in New Hampshire. In fact, Professor Robinson has formulated what he terms the "dismal" theory that "the key to winning the nomination is merely to be declared the winner by the networks in the New Hampshire primary." [85] It is often "forgotten," for instance that President Johnson received a majority of the votes in the 1968 New Hampshire primary, but Eugene McCarthy was "declared" the real winner by the press. Robinson points out that before the 1976 New Hampshire primary, 11 states held caucuses or conventions and that these states accounted for a total of 587 delegates compared to New Hampshire's 38. Yet, the news stories on those 11 states represented less than 10 percent of the total networks' political news stories compared to 23 percent for New Hampshire alone. Delegate for delegate, that is, New Hampshire received more than 80 times as much coverage as those early non-primary states.[86]

In the three months before the New Hampshire primary, according to Patterson, 54 percent of the campaign news on television and 34 percent of the campaign stories in newspapers were entirely or mostly about New Hampshire. By comparison, the Massachusetts primary, which followed New Hampshire's by a week and in which six times as many delegates were at stake, was the topic of only one in ten news stories.[87] Yet, New Hampshire contributed only 17 of the 3,008 delegates to the Convention, approximately one in every 175.[88]

From all of this media concentration, concludes Patterson, "most people came to know only one of the candidates—Carter." [89] Public recognition of Carter quadrupled.[90] That this proved helpful to Carter is indisputable. The influence of the media in the 1976 nomination process was clear and may well have been decisive.

THE PRESIDENTIAL CAMPAIGN OF 1968

The death of Senator Hubert H. Humphrey and the extensive media attention to it recalls the Presidential campaign of 1968 and the crucial role played by the media, which, in the opinion of many, may have titled that close election toward Richard Nixon.

The Chicago Convention of the Democratic Party and the manner in which it was reported portrayed a party that was unfit to govern and unable to cope with its own internal violence and disruption. Baltimore Sun Washington Columnist, Ernest B. Furgurson, summarized the views of many observers when he wrote that television made Humphrey's nomination "seem worthless" with its "out of balance" reporting, "Television," he wrote, "came to Chicago in a bad mood" as a result of Lyndon Johnson's refusal to accommodate the networks by holding the convention in Miami Beach, the Republican site, which would have saved them millions of dollars. In Chicago, they were harassed by a telephone strike and by Mayor Daley's refusal to exempt their broadcasting trailers from parking regulations around the major hotels.[91]

There was violence in Chicago. There was also, however, violence in Miami Beach during the Republican Convention. In Chicago, sniper fire was reported; there were no deaths; and no curfew was imposed. In Miami, six persons were killed and the riot area was put under curfew. Drew Pearson and Jack Anderson, who had earlier reported in their column that the networks intended to retaliate against the Democrats by focusing attention on "disturbances" at the convention, reported that:

"The networks got their revenge. In Chicago they played up the violence which they had virtually ignored in Miami . . . anyone who watched the two conventions on television might think that Chicago was exploding with violence while Miami was comparatively peaceful. The result was an outrageously biased picture of the events in Chicago." [92]

The networks' presentation of a picture of violence which virtually ignored the fact that the demonstrations had been planned by agitators from all over the country seeking to foment trouble and attract attention through blatant provocations was enhanced further on the second day of the convention after a CBS correspondent, Dan Rather, was punched by a convention security officer. In describing this event, Theodore H. White, in his The Making of the President—1968, writes, "The television networks will avenge him by spending their wrath on every security agent, every policeman, from now to the end of the convention." [93] Furgurson called it "a vindictive near-hysteria on the air" which not only affected the commentators, but also "swept through the off-camera producers and directors who began broadcasting tape as fast as it was received, making it seem that the violence in the streets was simultaneous with the nomination process in the hall—indeed, somehow, that Humphrey was being nominated by the force of police clubs." [94]

Thus, as White reports, when Carl Stokes, the Negro mayor of Cleveland, was about to second Humphrey's nomination at 9:55 P.M., the NBC film of the earlier street bloodshed was aired and "Stokes' dark face is being wiped from the nation's view to show blood—Hubert Humphrey being nominated in a sea of blood." [95]

Writing from personal observation, Pearson and Anderson suggested that the television cameras helped incite the violence. They "found almost no action outside the circle of the TV klieg lights." The networks, they concluded, in an effort to make news, "encouraged dissidents to make inflammatory statements and helped to stir up controversies." [96]

Humphrey was identified by the media with Daley and the police, and, therefore, as "evil" in Furgurson's perception. Network reporters looked for a political alternative and stimulated the creation of a Ted Kennedy for President boomlet, but "long after disorganized conversation among the politicians involved had fadded." [97] Describing this effort of the network reporters, White says, "If the script that night had called for the discovery and dissemination of a Southern revolt or the candidacy of Lester Maddox, the reporters could have delivered that to the nation, too—all carved out of truth from the lips of authentic and honest men on the floor." [98] Reporters proved themselves quite adept at finding delegates to mouth that which they wanted conveyed to the television audience, thus presenting a distorted view of sentiment on the convention floor.

The criticism of the television coverage of the 1968 Democratic National Convention was so strong and overwhelming that the House of Representatives Committee on Interstate and Foreign Commerce ordered a staff investigation and then published a report which, in the main, supported the criticism.[99] It presented specific evidence of distorted film editing, lack of balance, emphasis on violence, deliberate selection of unflattering camera angles in photographing Humphrey, and overall news slanting.

In early January 1969, before Richard Nixon's inauguration as President, a world-famous network correspondent visited Vice President Humphrey in his White House office and tearfully apologized: "We defeated you, Hubert" was the confession.

At the time another friend commented that the press was so hostile to the Vice President that if he had walked across the Potomac, the headline would read "Hubert Cannot Swim."

FALLING CONFIDENCE IN THE MEDIA

It has been said that the media have been acquiring an unwholesome fascination with the singer to the neglect of the song, placing an excess of emphasis on personalities and not enough on policy.[100] The crucial ingredient for gaining press attention seems to be violence and scandal, whether it is corporate, political or personal. As in the days of "yellow journalism," news programs appear to move from one disaster to another: air crashes, earthquakes, floods, sex. In a speech to the Associated Press, then outgoing president, Wes Gallagher warned, "Too many readers are beginning to look upon the press as a multivoiced shrew, nitpicking through the debris of government decisions for scandals but not solutions." [101] Expressing growing concern, The Wall Street Journal's able investigative reporter, Jerry Landauer, warned that as scandals have come to "dominate the news," competitive pressures will be apt to "overshadow fair play, resulting in overstated coverage" until a new "scandal" emerges.[102]

When contrasted with daily newspapers, the sensationalism of television journalism may well be more evident and thus more serious. Since seeing journalists, rather than just reading their stories, makes them appear more credible as well as more familiar, their influence is that much greater. Professor Michael J. Robinson was led to conclude that "the networks produce an image of society that tends to be both melodramatic and probably inordinately negative." [103]

The cumulative effect of these shortcomings is a diminishing of public confidence in journalism and that, in itself, is a danger to democracy. The Harris Poll reports that confidence in television news fell from 35 percent in 1975 to 28 percent in both 1976 and 1977; confidence in the press fell from 26 percent in 1975 to 20 percent in 1976 and to 18 percent in 1977.[104] A nationwide survey conducted through the University of Texas found that 84.4 percent of those responding believed that journalists sometimes slant the news. Indeed, 71.6 percent of the journalists reached the same conclusion.[105]

A. H. Raskin, an editor of The New York

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Times, once said: No week passes without someone prominent in politics, industry, labor or civic affairs complaining to me, always in virtually identical terms: "Whenever I read a story about something in which I really know what is going on, I'm astonished at how little of what is important gets into the papers—and how often even that little is wrong."[106]

As has often been observed, there are two Americas—the America you see on your television screen and the America you see when you walk out your front door.

James Reston recently stated, "The credit of the American newspapers with the American people for accuracy and judgment is not high."[107] It has, of course, from the beginning of our history, never been high with political figures; Spiro Agnew's hyperbole was not unique. Lyndon Johnson's press secretary, Bill Moyers, provided this report of a Cabinet meeting, "The President was much inflamed, got into one of those passions when he cannot command himself, ran on much on the personal abuse which has been bestowed on him, defied any man on earth to produce one single act of his since he had been in the government which was not done on the purest motives . . ."[108] Mr. Moyers was not referring to President Lyndon Johnson, but was quoting Secretary of State Thomas Jefferson describing President George Washington.

At the end of his second term in office, Harry Truman wrote to a friend, "I really look with commiseration over the great body of my fellow citizens, who, reading newspapers, live and die in the belief that they have known something of what has been passing in the world in their time."[109]

On the same theme, Theodore Sorenson, after returning to private life, wrote, "In the White House I felt sorry for those who had to make judgments on the basis of daily newspapers."[110]

IS SELF-REGULATION POSSIBLE?

Whether the media can face up to legitimate criticism is not clear. Raskin himself has expressed doubts on this question, considering "the unshatterable smugness" of the publishers and editors.[111] Lester Market went further, alleging that "the press, pretending to believe that there is no credibility gap and asserting its near-infallibility, countenances no effective supervision of its operation; it has adopted a holier-than-thou attitude, citing the First Amendment and in addition the Ten Commandments and other less holy scripture."[112]

Constitutional protections of the press are an integral part of the maintenance of our society. The dangers of government regulation of the press are clear. Inescapably, however, the power of the press presents a clear problem to our democracy.

Indeed, two Justices of the United States Supreme Court have publicly reached disparate interpretations of how the First Amendment affects the press, an intellectual disagreement that promises to send substantial constitutional ripples when ultimately faced and resolved by the entire Court. In a speech at the Yale Law School in 1974, associate Justice Porter Stewart expressed his view that the free-press guarantee of the Constitution deliberately extends special protection to the publishing business which he claims is "the only organized private business that is given explicit Constitutional protection." Freedom of the press, he argued, means that the press was specially designated in the Constitution to the autonomous of the Government, so that it may provide "organized, expert scrutiny of government." As such it requires special protections to preserve its independence.[113]

Chief Justice Warren Burger, in dictum of his concurring opinion in a recent unrelated case, stated a contrary position. The Chief Justice took issue with the idea that the "institutional press" has any freedom beyond or different from that of the public generally. He asserted that there is simply no historical basis for distinguishing the press in this context. "In short," he concluded, "the First Amendment does not 'belong' to any definable category of persons or entities; it belongs to all who exercise its freedoms."[114] Such an attitude may very well, if manifested in Court decisions, represent a significant restraint on the power of the press.

An important lesson of history is that self-regulation is the best defense against undesirable control by the government. Walter B. Wreston, Chairman of Citicorp and a leader familiar with power, once said of the press, "History teaches that when any sector of our society grows too powerful, it is only a matter of time before that power is curbed."[115] Significantly, Ralph Nader recently released a 90-page manual designed to facilitate citizen groups in their undertaking of extensive studies of their local newspapers in an effort to make them "more accountable to the people they serve."[116] I question whether the Nader approach will prove sufficient for the task, but it may well be a preview of more intensive "consumer movement" attention to the press.

It is time for the press to come up with an initiative of its own to help solve the problems created by its great and growing power. At the present time, the media fall short of professional standards. Professions provide procedures and standards for qualifying and disqualifying their practitioners, lawyers, doctors and all other professionals must reach a level of training and learning before they are admitted. There are no formal standards for admission to the field of journalism.

Although Sigma Delta Phi (the society of professional journalists) has devised an ideal (but non-binding) code of ethics, there is no universally-accepted standard of profession ethics to guide and judge the behavior of newsmen or their editors. There is no procedure, external or internal, to condemn those who do not live up to a pattern of responsible conduct. Stockbrokers who sell securities and even real estate salesmen must first pass an examination to qualify and can be barred from selling their wares to the public in cases of fraud or failure to disclose pertinent data. But a newsman and his editor can inflict with relative impunity greater damage to our society by selling wares that pollute the well of information. Examinations, qualifications, standards, and "disbarments" may or may not be appropriate measures to help journalism establish professional standards for itself, but clearly, in striving for more professionalism in journalism, additional measures of self-correction are required. When the Twentieth Century Fund, on the advice of some leading figures in American journalism and based on the success of the British example, established a Press Council, such leading papers as The New York Times and The Washington Post refused to cooperate with that council.[117] Indeed, the American Society of Newspaper Editors a few years ago voted by three to one against the establishment of even its own internal grievance committee.[118]

An independent press council is necessary to consider and resolve disputes arising out of alleged unfair press treatment.

Major newspapers and television stations should invest their own independent ombudsmen, who are not members of their staffs, with authority to act to redress valid complaints. In a recent exchange, Hugh Sidey of Time reported that his magazine has never allowed a correction to run in its news columns. He suggested the possibility that major errors could and should be corrected in the same space, giving them the same manner of treatment.[119] Sidey makes an important point, because the manner of presenting the correction is just as important as the presence of the correction itself, Charles B. Seib, a worthy prototype in his role of ombudsman for The Washington Post, confirms that view with his observations: "Newspaper corrections traditionally are cryptic and often grudging. The non-correcting correction . . . is not unusual. . . . The problem is that we do not devote a small amount of the enterprise and zeal we show in news-gathering to cleaning up the messes we make. . . . There is a journalistic truth. . . . The correction never catches up with the mistake."[120]

A code of ethics is needed that addresses itself to the problem of personal bias on the part of news writers and editors.

SOME LEGISLATIVE ALTERNATIVES

Legislation is needed that will minimize the inequitable protection now afforded the press in libel litigation and permit public figures to sue for declaratory judgments when they are defamed, even if little or no money for damages is paid. England's democracy has been able to flourish within its legal system of strict libel laws and its other rigid rules on reporting.

It is time to consider seriously antitrust measures to contain the substantial horizontal and vertical growth of communications conglomerates, such as common ownership of book publishing, newspapers, magazines, broadcasting, and paper products. The media as a market are just as subject to monopolistic and anticompetitive practices as is the market for conventional goods and services. While the promises of the First Amendment are essential to our democracy, we must not forget that, in the words of Justice Hugo Black, "That Amendment rests on the assumption that the widest possible dissemination of information from diverse and antagonistic sources is essential to the welfare of the public."[121] The circle of public disseminators of information is not enlarging; instead, each day brings yet another indication that a relatively concentrated core of communications companies are controlling even more sources of our information.

To address this problem, four legislative initiatives should be given serious consideration. A few years ago, Senator Thomas J. McIntyre proposed a bill which would limit the number of newspapers a company can own and prohibit newspaper ownership of television or radio stations in the same metropolitan area.[122] In April 1977, Congressman Morris Udall introduced legislation that would include publishing and communications in the subject matter of a proposed federal commission to look into industrial concentration, saying, "I dread the day when all American newspapers look alike, and read alike, and where there won't be much more difference in the daily papers in Topeka and New York than there is in . . . a Big Mac."[123] In April 1978, Congressman Udall, with 71 other sponsors, introduced another bill which would provide tax incentives to local newspapers so as to protect them from being acquired by chains.[124] Most recently, Congressmen Lionel Van Deerlin and Louis Frey introduced on June 7, 1978, a bill that would overhaul federal communications law by, among other methods, limiting the television networks and other owners of broadcast stations to a maximum of five television and five radio stations although such ceilings would apply only when present owners sold or transferred properties.[125]

The Justice Department and the Federal Communications Commission have suggested or undertaken significant investigations into the possibility of divestiture of network owned-and-operated stations, reductions in the amount of programming networks are allowed to produce in-house, and other measures intended to limit network control over local stations and programming.[126] Further, just recently the Justice Depart-

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ment filed a civil antitrust lawsuit under Section 7 of the Clayton Act against CBS, Inc., asking that it divest itself of Fawcett Publications, Inc. It is also reported that the Federal Trade Commission is looking into the effects of last year's acquisition of the Book-of-the-Month Club by Time, Inc., as well as the proposed merger of Harper & Row Publishers, Inc., with J. B. Lippencott Company.[127] Finally, on June 12, 1978, a unanimous Supreme Court upheld in their entirety regulations issued by the Federal Communications Commission in 1975 to the effect that newspapers can no longer acquire radio or television stations in the same community. Although allowing most existing combinations of newspaper and broadcasting outlets to continue, the Court did require divestiture in 16 "egregious cases" in which, in relatively small communities, newspaper and the sole clear-signal television or radio station.[128]

The tasks required to deal adequately with increasing concentration of power in the press are not simple. A serious professional effort may well require a self-reformation that could take on the characteristics of a self-revolution. The recruitment and training of editors, reporters and the like would require change. News stories would have to be written less hastily. They would probably be longer and in greater depth, possibly at the risk of not being as lively.

The challenge for the media is to come up with their own standards of professionalism and to adapt those standards to the realities of their responsibilities in a free society. There is no further room for complacency and arrogance. In short, the industry must heed the directive of one of its most eminent members. John B. Oakes, when he recently declared. "We of the press have to take much firmer steps than we have taken not only to improve quality and upgrade content but to make ourselves voluntarily more accountable as well as more accessible to the public." [129]

In summation, our country requires a political theory to suit its new role as a world power. We have had a perilously short apprenticeship to shouldering the burdens of that power. We are unfamiliar and morally uncomfortable with our new position. This makes defense policy, foreign commitments and intelligence gathering serious issues to be discussed, debated and understood.

The traditional American political philosophy based on 19th century liberal rationalism is now undergoing serious challenge and reexamination. We need a working political philosophy that will help us to deal effectively with the problems of power. The concept of power has been altered in the modern world by the revolutionary developments in technology and communication.

The intricate relationships that have always existed between freedom and authority are more complex now than they ever have been. It is difficult, but not impossible, for believers in democracy to adapt to the rapidly changing realities of modern technology.

Whether or not our institutions of society and government can work to help us mature to a responsible world power committed to democratic values is what is at stake in this year and in the years to come. The power of the media as it affects and reflects our national interests must be seen within that perspective.

FOOTNOTES

[1] It is interesting that a survey taken in 1974 by *U.S. News & World Report* showed that a cross section of national leaders ranked television ahead of the White House as the country's number one power center. Kevin Phillips, *Mediacracy* (Garden City, New York: Doubleday, 1975) p. 25.

[2] It should be noted that when the framers of the Constitution considered the idea of freedom of the press, they did not envision a press possessed of very nearly unrestrained license. The concept of an unrestrained press was foreign to the liberal philosophers of the 17th and 18th centuries. The idea of freedom without responsibility was also foreign to the experience of the Founding Fathers. When the First Amendment provided that "Congress shall make no law" abridging the stated freedoms, it was clearly intended that it was the national government that would be subject to that prohibition rather than the states. Indeed, Pennsylvania, Delaware and Virginia expressly imposed liabilities for abuses of free speech. Thomas Jefferson explained: "While we deny that Congress have the right to control the freedom of the press, we have ever asserted the right of the states, and their exclusive right to do so." (Letter to Abigail Adams, September 4, 1804.

After the passage of the Sedition Act, however, and with the reaction to it, restraints against the press were gradually removed. The Supreme Court came to interpret the Fourteenth Amendment as extending the rights protected under the First Amendment against restrictions by the states as well as the national government. More recently, court decisions have begun to lessen libel laws as a restraint against the press; and in the Pentagon Papers case, the press was allowed to publish stolen government documents without restraint or liability. (New York Times Co. v. United States, 403 U.S., 1971, p. 713).

[3] As this article was going to press, The New York Times-Myron Farber case, in which the Times reporter and his paper are arguing for First Amendment immunity for the reporter's notes, was being debated.

[4] Tom Bethell and Charles Peters, "The Imperial Press," Washington Monthly, November 1976, p. 29.

[5] Speech by Stanley Baldwin, Westminster, March 17, 1931.

[6] Pennekamp v. Florida, 328 U.S., 1946, pp. 331 and 355–56, (concurring opinion).

[7] Ben H. Bagdikian, The Effete Conspiracy: and Other Crimes by the Press (New York; Harper & Row, 1972) p. 6.

[8] Washington Post, August 3, 1977, p. D13, col. 3.

[9] Washington Post, July 24, 1977, p. G 1, col. 3.

[10] Irving Kristol, "The Underdeveloped Profession," The Public Interest, Winter 1967, pp. 49–50.

[11] Douglass Cater, "Remarks," in G. Will, ed., Press, Politics, and Popular Government (Washington, D.C.: American Enterprise for Public Policy Research, 1972) pp. 33–34.

[12] Washington Post, July 24, 1977, p. G 1, col. 3.

[13] Washington Post, May 9, 1978, p. D 10, col. 1.

[14] John B. Oakes, "Dwindling Faith in the Press," New York Times, May 24, 1978, p. A 23, col. 3.

[15] Donald McDonald, "The Media's Conflict of Interests," Center Magazine, November/December 1976, p. 16.

[16] Ibid., p. 18.

[17] Ben H. Bagdikian, "Newspaper Mergers—The Final Phase," Columbia Journalism Review, March/April 1977, p. 18.

[18] Ibid, p. 19.

[19] Ibid., p. 18.

[20] The Washington Post Company has announced that it plans to sell its Washington AM radio station to the Outlet Company of Providence, Rhode Island, and swap its Washington television station for one in Detroit, Michigan, owned by the Evening News Association. The Federal Communication Commission has approved both transactions, and as of this writing the former swap has been accomplished and the latter sale is imminent. Washington Post December 7, 1977, p. A1, col. 5; Joanne Ostrow. "Ch. 9: Local News Once Removed," Washington Journalism Review, April/May 1978, p. 21; Charles B. Seib, "The First Amendment as Corporate Business," Washington Post, May 26, 1978, p. A21, col. 4.

[22] Address by Marvin L. Stone, Editor, U.S. News & World Report, "Journalism in Chains," 1977 Annual Meeting of the American Association of State Colleges and Universities, in Orlando, Florida, December 6, 1977, pp. 2–3; Joseph Volz, "Star Sold: As Time Goes Buy . . ." Washington Journalism Review, April/May 1978, p. 22.

[23] Seib, *supra* note 21.

[24] 376 U.S., 1964, p. 254.

[25] *Ibid.*, pp. 279–80.

[26] *Curtis Publishing Co.* v. *Butts; Associated Press* v. *Walker*, 388 U.S., 1967, p. 130.

[27] *Rosenbloom* v. *Metromedia, Inc.*, 403 U.S., 1971, pp. 29 and 44.

[28] 418 U.S., 1974, p. 323.

[29] 424 U.S., 1976, p. 448.

[30] Alfred Hill, "Defamation and Privacy under the First Amendment," *Columbia Law Review* v. 76, no. 8, December 1976, pp. 1205 and 1212.

[31] 556 F.2d, 1977, p. 113 (2d Cir.), *cert. denied*, 434 U.S., p. 1002.

[32] 556 F.2d, p. 122.

[33] 46 U.S.L.W. (2d Cir.), Nov. 7, 1977, No. 77–7142, p. 2251, *cert. granted*, 55 L. Ed. 2d, 1978, No. 77–1105, p. 515.

[34] *Herbert* v. *Lando*, No. 77–7142, slip op. Nov. 7, 1977, pp. 264–265 (2d Cir.); *Wall Street Journal*, November 8, 1977, p. 8, col. 2.

[35] *Washington Post*, November 9, 1977, p. A22, col. 1.

[36] John P. Roche, "Libel Rulings Make Public Figures Unfair Game," *Washington Star*, November 23, 1977, p. A9, col. 5.

[37] Jerry Knight, "Judge Says Fighting is Only Libel Remedy," *Washington Post*, November 30, 1977, p. D11, col. 2.

[38] 420 U S., 1975, p. 469.

[39] Bagdikian, *supra* note 7, p. 61.

[40] Kristol, *supra* note 10, p. 36

[41] Address by Walter Cronkite, Radio and Television Directors Association Conference, in Miami Beach, Florida, December 13, 1976.

[42] Fergus M. Brodewich, "Supermarketing the Newspaper," *Columbia Journalism Review*, September/October 1977, p. 30.

[43] Oakes, *supra* note 14.

[44] Paul H. Weaver. "The New Journalism and the Old—Thoughts After Watergate," *The Public Interest*, Spring 1974, p. 67.

[45] U.S. News & World Report, August 2, 1976, p. 24.

[46] Confirmed in telephone conversation with Ben Bradlee, December 5, 1977.

[47] Confirmed in telephone conversation with Ben Bradlee, December 5, 1977.

[48] Charles B. Seib, "The New Reporters: Whistling Advocates," Washington Post, January 13, 1978, p. A13, col. 1.

[49] Confirmed in telephone conversation with James B. Lindheim, Senior Vice President, Yankelovich, Skelly and White, Inc., of New York City, New York, December 6, 1977.

[50] Henry Fairlie, "Press Against Politics," The New Republic, November 13, 1976, p. 14.

[51] Theodore H. White, "America's Two Cultures," Columbia Journalism Review, Winter 1969–70, p. 8.

[52] Lionel Trilling, Beyond Culture (New York; Viking Press, 1968). See Daniel P. Moynihan, "The Presidency and the Press," Commentary, March 1971, p. 43.

[53] Irving Kristol, "Crisis for Journalism: The Missing Elite," in G. Will, ed., Press, Politics and Popular Government (Washington, D.C.; American Enterprise for Public

[54] Fairlie, Supra note 50.

[55] Edward J. Epstein, Between Fact and Fiction; The Problem of Journalism (New York; Vintage Books, 1975), pp. 210–232.

[56] Peter Braestrup, Big Story: How the Amercan Press and Television Reported and Interpreted the Crisis of Tet—1968 in Vietnam and Washington (Boulder, Colorado; Westview Press, 1977).

[57] Tom Wicker, On Press (New York; Viking Press, 1978), p. 11.

[58] John P. Roche, "New Book on Tet Offen-

sive Shows Shameful Behavior of the Press," Washington Star, July 27, 1977, p. A15, col. 5.

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[99] Staff of Special Subcommittee on Investigation of House Committee on Interstate and Foreign Commerce, 91st Cong., 1st Sess., Television Coverage of the Democratic National Convention, Chicago, Illinois 1968, Committee Print, 1969.

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[114] First National Bank of Boston v. Bellotti, 46 U.S.L.W., April 25, 1978, pp. 4371, 4379–81, U.S., No. 76–1172 (concurring opinion); Seib, supra note 21.

[115] U.S. News & World Report, August 2, 1976, p. 23.

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[118] Ibid., p. 265.

[119] H. Purvis, ed., The Presidency and the Press (University of Texas at Austin; Lyndon B. Johnson School of Public Affairs, 1976), pp. 84–85.

[120] Charles B. Seib, "The Case of the Outrageous Headline," Washington Post, April 15, 1978, p. A11, col. 1.

[121] Associated Press v. United States, 326 U.S., 1945, pp. 1 and 20.

[122] S. 3305, 91st Cong., 2d Sess., 1970.

[123] H.R. 6098, 95th Cong., 1st Sess.. 1977; Kevin Phillips, "Busting the Media Trusts," Harper's July 1977, p. 34.

[124] H.R. 12395, 95th Cong., 2d Sess., 1978; Washington Post, May 9, 1978, p. D8, col. 2.

[125] H.R. 13015, 95th Cong., 2d Sess., 1978; Wall Street Journal, June 8, 1978, p. 2, col. 2.

[126] Phillips, supra note 123, p. 32.

[127] Washington Post, June 2, 1978, p. B8, col. 6.

[128] National Citizens Committee for Broadcasting v. Federal Comunications Commission, 46 U.S.L.W., June 12, 1978, p. 4609, U.S., Nos. 76–1471, 76–1521, 76–1595, 76–1604, 76–1624, 76–1685; Morton Mintz, "Press-Broadcast Merging Barred by High Court," Washington Post, June 13, 1978, p. A1, col. 6.

[129] Oakes, supra note 14.

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mr. Pickle (at the request of Mr. Wright), for today, on account of illness.

Mr. Dellums (at the request of Mr. Wright), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Clinger) to revise and extend their remarks and include extraneous material:)

Mr. Tauke, for 10 minutes, today.

(The following Members (at the request of Mr. Anthony) to revise and extend their remarks and include extraneous material:)

Mr. Rodino, for 10 minutes, today.

Mr. Gonzalez, for 15 minutes, today.

Mr. Annunzio, for 5 minutes, today.

Mr. Leland, for 5 minutes, today.

Mr. Addabbo, for 15 minutes, today.

Mr. Panetta, for 5 minutes, today.

Mr. Thompson, for 5 minutes, today.

Mr. Gibbons, for 5 minutes, today.

Mr. Moorhead of Pennsylvania, for 60 minutes, today.

Mr. LaFalce, for 30 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Simon, and to include extraneous matter.

Mr. LaFalce, and to include extraneous material in the body of the Record, notwithstanding the fact that it exceeds two pages of the Record, and is estimated by the Public Printer to cost $2,991.50.

(The following Members (at the request of Mr. Clinger) and to include extraneous matter:)

Mr. Findley.
Mr. Kemp.
Mr. Schulze.
Mr. Symms.
Mr. Campbell.
Mr. Gilman in two instances.
Mr. Wydler.
Mr. Daniel B. Crane.
Mr. Marlenee.
Mr. Young of Alaska.
Mr. Dornan.
Mr. Ritter in two instances.
Mr. Dougherty.
Mr. Rousselot.
Mr. Evans of Delaware.
Mr. Bob Wilson.

(The following Members (at the request of Mr. Anthony) and to include extraneous material:)

Mr. Gaydos in four instances.
Mrs. Schroeder in two instances.
Mr. Guarini in two instances.
Mr. Hamilton.
Mr. Simon in five instances.
Mr. Patten.
Mr. Skelton.
Mr. Brown of California.
Mr. Conyers in two instances.
Mr. Nolan in two instances.
Mr. Coelho in two instances.
Mr. Kogovsek in two instances.
Mr. LaFalce in three instances.
Mr. Pepper.
Mr. Vento.
Mr. Dodd.
Mr. Miller of California.

BILLS PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on December 11, 1979, present to the President, for his approval, bills of the House of the following title:

H.R. 5163. To authorize the sale to certain foreign nations of certain excess naval vessels; and

H.R. 5651. To establish by law the position of Chief of the Capitol Police, and for other purposes.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 p.m.), the House adjourned until tomorrow, Thursday, December 13, 1979, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3006. A letter from the Secretary of Housing and Urban Development, transmitting the first annual report on the Department's congregate housing services program, covering operations during fiscal year 1979 and plans for fiscal year 1980, pursuant to section 408(b) of Public Law 95–557; to the Committee on Banking, Finance and Urban Affairs.

3007. A letter from the Comptroller of the Department of State, transmitting the semiannual report on activities under the international narcotics control program covering the period ended September 30, 1979, pursuant to section 481(b)(2) of the Foreign Assistance Act of 1961, as amended; to the Committee on Foreign Affairs.

3008. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's intention to offer to sell certain defense equipment to Saudi Arabia (Transmittal No. 80–24), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3009. A letter from the Acting Secretary of Commerce, transmitting the semiannual report of the Inspector General of the Department for the period ended September 30, 1979, pursuant to section 5 of Public Law 95–452; to the Committee on Government Operations.

3010. A letter from the Executive Director, Pension Benefit Guaranty Corporation, transmitting notice of a proposed new records system, pursuant to 5 USC 552a(o); to the Committee on Government Operations.

3011. A letter from the Acting Secretary of Energy for Conservation and Solar Energy, transmitting notice of a further delay in the establishment of targets for the utilization of energy-saving recovered materials in 1987 by various industries, required by section 374A(b) of the Energy Policy and Conservation Act, as amended (92 Stat. 3273); to the Committee on Interstate and Foreign Commerce.

3012. A letter from the Director, Office of Management and Budget, Executive Office of the President, transmitting a report covering fiscal year 1979 on expenditures from the President's Unanticipated Needs fund, pursuant to 3 U.S.C. 108(b); to the Committee on Post Office and Civil Service.

3013. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting the first semiannual report on the status of domestic and international evaluations of nuclear fuel cycle systems, pursuant to section 9 of Public Law 95–601; jointly, to the Committees on Foreign Affairs, Interior and Insular Affairs, Interstate and Foreign Commerce, and Science and Technology.

3014. A letter from the Comptroller General of the United States, transmitting a report on the effectivenes of joint military exercises (LCD–80–2, December 11, 1979); jointly, to the Committees on Government Operations, and Armed Services.

3015. A letter from the Secretary of Health, Education, and Welfare, transmitting the reports of the 1979 quadrennial Advisory Council on Social Security, pursuant to section 706 of the Social Security Act, as amended; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. Supplemental report on H.R. 5295. A bill to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test (Rept. No. 96–537, pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. LONG of Louisiana: Committee on Rules. H. Res. 503, Resolution providing for the consideration of H.R. 5295. A bill to amend title II of the Social Security Act to make the monthly earnings test available in limited circumstances in the case of certain beneficiaries, to amend the technical requirements for entitlement to medicare, and to provide that income attributable to services performed before an individual first becomes entitled to old-age insurance benefits shall not be taken into account (after 1977) in determining his or her gross income for purposes of the earnings test (Rept. No. 96–699). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. H. Res. 504, Resolution providing for the consideration of H.R. 3827. A bill to amend the National Visitor Center Facilities Act of 1968, and for other purposes (Rept. No. 96–700). Referred to the House Calendar.

Mr. BOLLING: Committee on Rules. H. Res. 505, Resolution providing for the consideration of H.R. 5860. A bill to authorize loan guarantees to the Chrysler Corp. (Rept. No. 96–701). Referred to the House Calendar.

SUBSEQUENT ACTION ON BILLS SEQUENTIALLY REFFERED

Under clause 5 of rule X.

Referral of H.R. 4685, a bill to provide for the control of the importing into, and the exporting from, the United States of elephants and elephant products, which was referred to the Committee on Foreign Affairs and Ways and Means, extended for an additional period ending not later than December 14, 1979.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII. bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ASHBROOK:

H.R. 6107. A bill to amend the Fair Labor Standards Act of 1938, as amended, to exclude illegal aliens from coverage under the Act; to the Committee on Education and Labor.

By Mr. DOUGHERTY:

H.R. 6108. A bill to amend subpart 1 of part A of title IV of the Higher Education Act of 1965 to provide for basic educational opportunity grants for elementary and secondary school students, and for other purposes; to the Committee on Education and Labor.

By Mr. GIBBONS (for himself, Mr. Frenzel, Mr. Moore, Mr. Brodhead, Mr. Peyser, Mr. Sabo, Mr. Holland, Mr. Bennett, Mr. Jenkins, Mr. Davis of South Carolina, Mr. Rousselot, Mr. Jacobs, Mr. Charles Wilson of Texas, Mr. Mica, Mr. Jones of Oklahoma, Mr. Corman, Mr. Gephardt, Mr. Young of Missouri, Mr. Harris, Mr. Downey, Mr. Rostenkowski, Mr. Gradison, Mr. Duncan of Tennessee, Mr. Martin, Mr. Schulze, Mr. Pickle, Mr. Lederer, Mr. Vander Jagt, Mr. Guarini, Mr. Heftel, Mr. Vanik, Mr. Bafalis, Mr. Conable, Mr. Ford of Tennessee, Mr. Rangel, Mr. Stark, Mr. Fowler, Mr. Ullman, and Mr. Archer):

H.R. 6109. A bill to authorize the President to impose higher or additional rates of duty on the products of any foreign country that does not cooperate with the United States in its diplomatic or economic initiatives to terminate actions by any other foreign country that violate international law with respect to United States diplomatic personnel; to the Committee on Ways and Means.

By Mr. GUARINI:

H.R. 6110. A bill to amend title II of the Social Security Act to provide that wife's or mother's insurance benefits may be paid to an individual, on the basis of having a nondisabled child in care, until such child finishes high school (or attains age 19 while still in school) instead of only until such child attains age 18 as is provided in existing law; to the Committee on Ways and Means.

H.R. 6111. A bill to amend the Internal Revenue Code of 1954 to exclude $9,000 of income from the gross income of each individual who has attained age 65; to the Committee on Ways and Means.

By Mr. MARLENEE:

H.R. 6112. A bill to convey certain lands and to remove certain restrictions from certain previous conveyances of lands in Custer County, Mont.; to the Committee on Interior and Insular Affairs.

By Mr. PANETTA:

H.R. 6113. A bill to amend the Perishable Agricultural Commodities Act Amendments; to the Committee on Agriculture.

By Mr. ROYER (for himself, Mr. McCloskey, and Mr. Grisham):

H.R. 6114. A bill to authorize pursuit by an eligible veteran of flight training outside of a State under limited circumstances, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. SIMON (for himself, Mr. Perkins, Mr. Brademas, Mr. Hawkins, Mr. Stack, Mr. Kramer, Mr. Coleman, Mr. Ford of Michigan, Mr. Buchanan, and Mr. Jeffords):

H.R. 6115. A bill to amend the General Education Provisions Act to extend the authorization of appropriations for the National Institute of Education for five fiscal years; to the Committee on Education and Labor.

By Mr. UDALL:

H.R. 6116. A bill to amend section 202 of the Energy Reorganization Act of 1974 to provide for the licensing of facilities for the disposal of spent nuclear fuel, transuranic wastes, and high-level radioactive wastes; jointly, to the Committee on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. VANDER JAGT:

H.R. 6117. A bill providing that certain foreign losses which were economically incurred before December 31, 1975, will not be subject to the loss recapture of the Tax Reform Act of 1976; to the Committee on Ways and Means.

By Mr. FORSYTHE:

H.J. Res. 463. Resolution designating the week of October 5 through October 11, 1980, as "National Diabetes Week"; to the Committee on Post Office and Civil Service.

By Mr. OTTINGER (for himself, Mr. Fish, and Mr. Peyser):

H. Con. Res. 225. Concurrent resolution expressing the sense of the Congress with respect to taxing Social Security benefits; to the Committee on Ways and Means.

By Mr. STUDDS:

H. Con. Res. 226. Concurrent resolution disapproving the sale of certain defense articles to Saudi Arabia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. PATTERSON:

H.R. 6118. A bill for the relief of John Dimas; to the Committee on the Judiciary.

By Mr. PEPPER:

H.R. 6119. A bill for the relief of Captain Jack Young; to the Committee on Public Works and Transportation.

By Mr. YOUNG of Alaska:

H.R. 6120. A bill for the relief of Master Sergeant Paul D. Camp, Sr., U.S. Air Force (retired); to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 2291: Mr. Beard of Tennessee, Mr. Anderson of Illinois, Mr. Coughlin, and Mr. Edgar.

H.R. 3541: Mr. Fazio.

H.R. 4348: Mr. Moorhead of Pennsylvania, Mr. Bailey, and Mr. Florio.

H.R. 4376: Mr. Beard of Rhode Island, Mr. Cotter, Mr. Dodd, Mr. McKinney, Mr. Emery, Mr. Boland, Mr. Conte, Mrs. Snowe, Mr. Donnelly, Mrs. Heckler, Mr. Markey, Mr. Mavroules, Mr. Moakley, Mr. Studds, Mr. Cleveland, Mr. D'Amours, Mr. St Germain, and Mr. Jeffords.

H.R. 4631: Mr. Donnelly and Mr. Stack.

H.R. 4782: Mr. Corcoran.

H.R. 5062: Mr. Conyers and Mr. Panetta.

H.R. 5071: Mr. Akaka.

H.R. 5308: Mr. Grassley and Mr. Courter.

H.R. 5430: Mr. Weiss and Mr. Edgar.

H.R. 5654: Mr. Lagomarsino, Mr. Andrews of North Dakota, Mr. Roe, Mr. Forsythe, Mr. Whitehurst, Mr. Tauke, Mr. Burgener, Mr. Hughes, Mr. Chappell, Mr. Evans of Georgia, Mr. Donnelly, Mr. Dougherty, Mr. Lungren, Mr. Grisham, and Mr. Jeffries.

H.R. 5772: Mr. Rinaldo.

H.R. 5775: Mr. Lagomarsino, Mr. Markey, Mr. Panetta, Mr. Stanton, Mr. Vento, and Mr. Won Pat.

H.R. 5790: Mr. Staggers, Mr. Van Deerlin, Mr. Murphy of New York, Mr. Ottinger, Mr. Maguire, Mr. Markey, Mr. Walgren, Mr. Gore, Ms. Mikulski, Mr. Forsythe, Mr. Rahall, Mr. Findley, Mr. D'Amours, Mr. Nowak, Mr. Bingham, Mr. Pepper, Mr. Lowry, Mr. Wolff, Mr. Patten, Mr. Edgar, Mr. Goodling, Mr. Gray, Mr. Lagomarsino, Mr. Beard of Tennessee, Mr. Beilenson, Mr. McHugh, Mr. Boland, Mr. Vento, Mr. Moakley, Mr. Barnes, Mr. Jeffords, Mr. Downey, Mr. Dougherty, Mr. Hollenbeck, Mr. Walker, Mr. Bedell, Mr. Yatron, Mr. Solarz, and Mr. Stark.

H.R. 5802: Mr. Mottl, Mr. Bafalis, Mr. McDonald, Mr. Burgener, Mr. Badham, Mr. Bauman, and Mr. Rudd.

H.J. Res. 159: Mr. Patten, Mr. Rinaldo, Mr. Howard, Mr. Florio, Mr. Guarini, Mrs. Fenwick, Mr. Forsythe, Mr. Madigan, Mr. Richmond, Mr. Gilman, and Mr. Lent.

H.J. Res. 416: Mr. Bonior of Michigan, Mr. Cavanaugh, Mrs. Chisholm, Mr. Coelho, Mr. Diggs, Mr. Duncan of Tennessee, Mr. Erdahl, Mr. Fazio, Mr. Florio, Mr. Grassley, Mr. Guarini, Mr. Harris, Mrs. Holt, Mr. Jones of North Carolina, Mr. Leach of Louisiana, Mr. Montgomery, Mr. Van Deerlin, Mr. Wolff, Mr. Frost, Mr. Goodling, Mr. Rinaldo, Mr. Roe, Mr. Blanchard, Mr. Patten, Mr. Lundine, Mr. Hyde, and Mr. Won Pat.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5860

(Amendment in the nature of a substitute.)

By Mr. MOORHEAD of Pennsylvania:

—Page 14, strike out line 10 and all that follows through page 32 and insert in lieu thereof the following:

SHORT TITLE

Section 1. This Act may be cited as the "Chrysler Corporation Loan Guarantee Act of 1979".

DEFINITIONS

Sec. 2. For purposes of this Act—

(1) the term "Board" means the Chrysler Corporation Loan Guarantee Board established under section 3;

(2) the term "borrower" means the Chrysler Corporation, any of its subsidiaries or affiliates, or any other entity the Board may designate from time to time which borrows funds for the benefit or use of the Corporation or which—

(A) produces transportation or energy equipment which meets the goal of lessening the dependence of the United States on petroleum;

(B) provides employment in areas where the Chrysler Corporation has or plans to discontinue operations; and

(C) utilizes facilities presently owned by the Chrysler Corporation;

(3) the term "Corporation" means the Chrysler Corporation and its subsidiaries and affiliates;

(4) the term "financing plan" means the financing plan required pursuant to section 4(a)(4) and revised in accordance with section 5(a)(4);

(5) the term "fiscal year" means the fiscal year of the Corporation;

(6) the term "going concern" means a corporation the net earnings of which, as projected in the plan required under section 4(a)(3), are determined to be sufficient to maintain long-term profitability after taking into account probable fluctuations in the automobile market, and which meet such other tests of viability as the Board shall prescribe;

(7) the term "labor organization" has the same meaning as in section 2 of the Labor-Management Relations Act, 1947;

(8) the term "operating plan" means the plan required pursuant to section 4(a)(3) and revised in accordance with section 5(a)(4); and

(9) the term "persons with an existing economic stake in the health of the corporation" means banks, financial institutions, and other creditors, suppliers, dealers, stockholders, labor unions, employees, management, State, local, and other governments, and others directly deriving benefit from the production, distribution, or sale of products of the Corporation.

CHRYSLER CORPORATION LOAN GUARANTEE BOARD

Sec. 3. There is hereby established a Chrysler Corporation Loan Guarantee Board which shall consist of the Secretary of the Treasury who shall be the Chairperson of the Board, the Chairman of the Board of Governors of the Federal Reserve System, the Comptroller General of the United States, the Secretary of Transportation, and the Secretary of Labor. The Board shall act by affirmative vote of a majority of its members.

AUTHORITY FOR COMMITMENTS FOR LOAN GUARANTEES

Sec. 4. (a) The Board, on such terms as it deems appropriate, may make commitments to guarantee either the principal amount of loans to a borrower or the principal amount of, and interest on, loans to a borrower. A commitment may be made only if, at the time the commitment is issued, the Board determines that—

(1) there exists an energy-saving plan which—

(A) is satisfactory to the Board;

(B) is developed in consultation with other appropriate Federal agencies;

(C) focuses on the national need to lessen United States dependence on petroleum; and

(D) can be carried out by the borrower;

(2) the commitment is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need would adversely and seriously affect the economy of, or employment in, the United States or any region thereof;

(3)(A) the Corporation has submitted to the Board a satisfactory operating plan (including budget and cash flow projections) for the 1980 fiscal year and the next succeeding three fiscal years demonstrating the ability of the Corporation to continue operations as a going concern in the automobile business and, after December 31, 1983, to continue such operations as a going concern without additional guarantees or other Federal financing; and

(B) the Board has received such assurances as it shall require that the operating plan is realistic and feasible;

(4) the Corporation has submitted to the Board a satisfactory financing plan which meets the financing needs of the Corporation as reflected in the operating plan for the period covered by such operating plan, and which includes, in accordance with the provisions of subsection (c), an aggregate amount of nonfederally guaranteed assistance of not less than $1,830,000,000—

(A) from financial commitments or concessions from persons with an existing economic stake in the health of the Corporation in excess of their outstanding commitments or concessions as of October 17, 1979, or from other persons;

(B) from capital to be obtained through merger, sale of securities, or otherwise after October 17, 1979;

(C) from cash to be obtained from the disposition of assets of the Corporation after October 17, 1979; and

(D) from the issuance of $100,000,000 of common stock of the Corporation which shall be made available by the Corporation to its employees and employees representative groups that are parties to collective bargaining agreements with the Corporation;

(5) the Board has received adequate assurances regarding the availability of all financing contemplated by the financing plan and regarding its adequacy (taking into account the amount of loan guarantees to be issued) to meet all the Corporation's projected financing needs during the period covered by the financing plan;

(6) the Board has received assurances from existing creditors that they will continue to waive their rights to recover under any prior credit commitment which may be in default unless the Board determines that

the exercise of those rights would not adversely affect the operating plan submitted under paragraph (3) or the financing plan submitted under paragraph (4);

(7) no credit extended or committed on a nonguaranteed basis prior to October 17, 1979, is being converted to a guaranteed basis pursuant to this Act; and

(8) the financing plan submitted under paragraph (4) provides that expenditures under such financing plan will contribute to the domestic economic viability of the Corporation.

(b) In computing the aggregrate amount of at least $1,830,000,000 in nonfederally guaranteed assistance required to be provided under subsection (a)(4), there shall be excluded the deferral of any dividends on common or preferred stock which is outstanding as of October 17, 1979.

(c) The aggregate amount of nonfederally guaranteed assistance of at least $1,830,000,000 required to be provided under subsection (a) shall include—

(1) at least $400,000,000 from employees of the Corporation represented by a labor organization, including the amount of concessions obtained under the existing labor contract dated October 25, 1979;

(2) at least $500,000,000 from United States banks, financial institutions, and other creditors of which—

(A) at least $400,000,000 shall be new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979; and

(B) at least $100,000,000 shall be concessions with respect to outstanding debt of the Corporation;

(3) at least $150,000,000 shall be from foreign banks, foreign financial institutions, and other foreign creditors in the form of new loans or credits, in addition to the extension of the full principal amount of any loans committed to be made but not outstanding as of October 17, 1979;

(4) at least $300,000,000 shall be from the disposition of assets of the Corporation;

(5) at least $250,000,000 shall be from State and local governments;

(6) at least $180,000,000 shall be from suppliers and dealers, of which at least $100,000,000 shall be in the form of capital as defined in subsection (b)(1)(C); and

(7) at least $50,000,000 shall be from the sale of additional equity securities.

(d) The Board may, as necessary and in consultation with the persons specified in subsection (c), modify the amounts of assistance required to be provided by any of the categories referred to in this subsection (other than paragraph (1)) so long as the aggregate amount of at least $1,830,000,000 in nonfederally guaranteed assistance is provided under subsection (a)(4).

(e) With respect to any borrower other than a borrower under subparagraphs (A), (B), and (C) of paragraph (2) of section 2, the Board may make commitments to guarantee loans and may make loan guarantees under this Act to any such borrower before the energy-saving plan required under subsection (a)(1) is developed if the Board determines that such commitments or loan guarantees are necessary to preserve the Corporation for the development of the plan required under subsection (a)(1).

(f)(1) Notwithstanding the provisions of subsection (a)(4), no loan guarantee may be made under this Act unless—

(A) the Corporation offers for sale not less than $100,000,000 of stock of the Corporation which—

(i) was issued after December 17, 1979; or

(ii) was held by the Corporation as treasury stock of the Corporation after October 17, 1979;

(B) the Corporation secures commitments to purchase not less than $100,000,000 of such stock from persons with an existing economic stake in the health of the Corporation; and

(C) the commitments referred to in subparagraph (B) exceed such persons' outstanding commitments to purchase such stock as of October 17, 1979.

(2) Any financial commitment or concession made under paragraph (1) may be applied toward the requirements of subsection (c).

REQUIREMENTS FOR LOAN GUARANTEES

SEC. 5. (a) A loan guarantee may be issued under this Act only pursuant to a commitment issued under section 4. The terms of any such commitment shall provide that a loan guarantee may be issued under this Act only if at the time the loan guarantee is issued, the Board determines that—

(1) credit is not otherwise available to the Corporation under reasonable terms or conditions sufficient to meet its financing needs as reflected in the operating plan;

(2) the prospective earning power of the Corporation, together with the character and value of the security pledged, furnish reasonable assurance of repayment of the loan to be guaranteed in accordance with its terms;

(3) the loan to be guaranteed bears interest at a rate determined by the Board to be reasonable taking into account the current average yield on outstanding obligations of the United States with remaining periods to maturity comparable to the average maturity of such loan;

(4) the operating plan and the financing plan of the Corporation continue to meet the relevant standards set forth in section 4 and appropriate revisions to such plans (including extensions of such plans to cover the then current four-year period) have been submitted to the Board to meet such requirements;

(5) the Corporation is in compliance with such plans;

(6) the Board has received such assurances as it may require that such plans are realistic and feasible;

(7) the Corporation has agreed for as long as guarantees issued under this Act are outstanding—

(A) to have prepared and submitted on or before the thirtieth day preceding each fiscal year beginning after December 31, 1980, a revised operating plan and financial plan which cover the four-year period commencing with such fiscal year and which meet the requirements of section 4; and

(B) to prepare and deliver to the Board, within one hundred and twenty days following the close of each fiscal year, an analysis reconciling the Corporation's actual performance for such fiscal year with the operating plan and the financial plan in effect at the start of such fiscal year; and

(8) the borrower is in compliance with the terms and conditions of the commitment to issue the guarantees required by the Board pursuant to section 8(b), except to the extent that such terms and conditions are modified, amended, or waived by the Board.

(b) Any determination by the Board that the conditions established by this Act have been met shall be conclusive, and such determination shall be evidenced by the issuance of the guarantee or commitment for which such determination is required. The validity of any guarantee when made by the Board under this Act shall be incontestable in the hands of a holder, except for fraud or material misrepresentation on the part of such holder. The Board is authorized to determine the form in which any loan guarantee made under this Act shall be issued.

(c) The Board shall prescribe and collect no less frequently than annually a guarantee fee in connection with each loan guarantee made under this Act. Such fee shall be sufficient to compensate the Government for all of the Government's administrative expenses related to the loan guarantee, but in no case may such fee be less than one-half of 1 per centum per annum of the outstanding principal amount of loans guaranteed under this Act computed daily.

(d) To the maximum extent feasible, the Board shall ensure that the Government is compensated for the risk assumed in making loan guarantees under this Act, and for such purpose the Board is authorized to—

(1) prescribe and collect a guarantee fee in addition to the guarantee fee required under subsection (c);

(2) enter into contracts under which the Government, contingent upon the financial success of the Corporation, would participate in gains of the Corporation or its security holders; or

(3) use other instruments deemed appropriate by the Board.

(e) All amounts collected by the Board pursuant to this Act shall be deposited in the Treasury as miscellaneous receipts.

EMPLOYEE STOCK OWNERSHIP PLAN

SEC. 6 (a) No guarantee or commitment to guarantee any loan may be made under this Act until the Chrysler Corporation, in a written agreement with the Board which is satisfactory to the Board, agrees—

(1) to establish a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c);

(2) to make employer contributions to such trust in accordance with such plan; and

(3) to issue the additional shares of qualified common stock at such times as such shares are required to be contributed to such trust.

(b) No guarantee or commitment to guarantee any loan may be made under this Act after the close of the 180-day period beginning on the date of the enactment of this Act unless the Chrysler Corporation has established a trust which forms part of an employee stock ownership plan meeting the requirements of subsection (c).

(c) An employee stock ownership plan meets the requirements of this subsection only if—

(1) such plan is maintained by the Chrysler Corporation;

(2) such plan satisfies the requirements of section 4975(e)(7) of the Internal Revenue Code of 1954 (determined without regard to subparagraph (A) of section 410 (b)(2) of such Code);

(3) such plan provides that—

(A) employer contributions to the trust may be made only in accordance with requirements of subsection (d);

(B) each participant in the plan has a nonforfeitable right to the participant's accrued benefit under the plan;

(C) each employer contribution to the trust shall be allocated in equal amounts to the extent not inconsistent with the requirements of section 415(c) of such Code) to the accounts of all participants in the plan; and

(D) distributions from the trust under the plan will be made in accordance with the requirements of section 401(k)(2)(B) of the Internal Revenue Code of 1954; and

(4) such plan benefits 90 percent or more of all employees, excluding the employees who have not satisfied the minimum wage and service requirements, if any, prescribed by the plan as a condition of participation.

(d)(1) Employer contributions meet the requirements of this subsection only if such contributions—

(A) will total not less than $150,000,000 before the close of the four-year period beginning not later than the one hundred and eightieth day after the date of the enactment of this Act;

(B) are made in such amounts and at such times that no time during such four-year period will the amount of employer contributions to the trust be less than the amount such contributions would have been if made in installments of $37,500,000 made at the end of each year in such period; and

(C) are made in the additional qualified common stock which the Chrysler Corporation issues by reason of subsection (a)(3).

(2)(A) In the case of a qualified loan to the trust for the purchase of qualified common stock—

(i) the amount of such stock purchased with the proceeds of such loan shall be treated for purposes of paragraph (1) as an employer contribution to the trust; and

(ii) subparagraph (C) of paragraph (1) shall not apply.

(B) For purposes of subparagraph (A), the term "qualified loan" means any loan—

(i) which may be repaid only in substantially equal installments;

(ii) which has a term of not more than ten years; and

(iii) the proceeds of which are used only to purchase an amount of the additional qualified common stock which the Chrysler Corporation issues by reason of subsection (a)(3).

(e) For purposes of this section, the term "qualified common stock" means stock of the class of common stock of the Chrysler Corporation which is outstanding on October 17, 1979, and which is readily tradeable on an established securities market.

(f) An amount equal to $150,000,000 of the additional qualified common stock issued by the corporation by reason of subsection (a)(3) shall not be treated for purposes of this Act as assistance received by the Chrysler Corporation from other than the Federal Government pursuant to section 4(c).

LIMITATIONS ON GUARANTEE AUTHORITY

SEC. 7. (a) The authority of the Board to extend guarantees under this Act shall not at any time exceed $1,500,000,000 in the aggregate principal amount outstanding.

(b) Subject to subsection (a), the total principal amount of loans which are guaranteed under this Act and which are outstanding at any time shall not exceed the aggregate amount of financial commitments and concessions which have accrued to the Corporation.

TERMS AND CONDITIONS OF LOAN GUARANTEES

SEC. 8. (a) Loans guaranteed under this Act shall be payable in full not later than December 31, 1990, and the terms and conditions of such loans shall provide that they cannot be amended, or any provision waived, without the Board's consent.

(b)(1) Any commitment to issue guarantees entered into pursuant to this Act shall contain all the affirmative and negative covenants and other protective provisions that the Board determines are appropriate.

(2) Each loan guaranteed under this Act shall be secured by sufficient property of the borrower to fully collateralize the loan involved. In determining the amount of property which is needed to fully collateralize any such loan, the Board shall determine the value of such property based upon such property's value in the event that such property is sold in connection with the liquidation of the assets of such borrower.

(3)(A) Notwithstanding any other provision of law and subject to subparagraphs (B), (C), and (D), whenever any person is indebted to the United States as a result of any loan guarantee issued under this Act and such person is insolvent or is a debtor in a case under title 11 of the United States Code, the debts due to the United States shall be satisfied first.

(B) Subject to subparagraphs (C) and (D), the Board may waive the priority established in subparagraph (A) if—

(i) the Board determines that the waiver of such priority is necessary to facilitate the ability of the Corporation or any borrower to obtain financing; and

(ii) the Board determines that, despite such waiver, there is a reasonable prospect of repayment of the loans guaranteed under this Act.

(C) Subject to subparagraph (D), waivers under subparagraph (B) may only be issued—

(i) with respect to any State or local government; and

(ii) with respect to a supplier of the Corporation, except that no supplier of the Corporation may receive waivers under subparagraph (B) with respect to claims of such supplier in an amount of more than $100,000.

(D) A waiver under subparagraph (B) with respect to a supplier of the Corporation may not by its terms subordinate the claims of the United States under this Act to those of any other creditor of the Corporation or of any borrower.

(4) The Corporation may not pay any dividend on its common or preferred stock during the period beginning on the date of the enactment of this Act and ending on the date on which loan guarantees issued under this Act are no longer outstanding.

(c) If the Board determines that the inability of the Corporation to obtain credit without a loan guarantee under this Act is the result of a failure on the part of management to exercise reasonable business prudence in the conduct of the affairs of the Corporation, the Board shall require before issuing any loan guarantee to any borrower that the Corporation make such management changes as the Board deems necessary to give the Corporation a sound managerial base.

(d) In issuing any loan guarantee under this Act, the United States shall be responsible only for the payment of such loan and shall not be responsible for any other liability of the borrower.

INSPECTION OF DOCUMENTS; AUDIT BY THE GENERAL ACCOUNTING OFFICE

SEC. 9. (a) At any time a request for a loan guarantee under this Act is pending or a loan guaranteed under this Act is outstanding, the Board is authorized to inspect and copy all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower requesting a loan guarantee under this Act.

(b) The General Accounting Office may make such audits as may be deemed appropriate by the Comptroller General of the United States of all accounts, books, records, memoranda, correspondence, and other documents and transactions of the Corporation and any other borrower. No loan guarantee may be made under this Act unless and until the Corporation and any other borrower agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of all such audits to the Congress.

(c) The Board is empowered to investigate and shall investigate any allegations of fraud, dishonesty, incompetence, misconduct, or irregularity in the management of the affairs of the Corporaton which are material to the Corporation's ability to repay the loans guaranteed under this Act.

PROTECTION OF GOVERNMENT'S INTEREST

SEC. 10. (a) The Board shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the commitment or issuance of guarantees under this Act.

(b) The Board shall be entitled to recover from the borrower, or from any other person liable therefor, the amount of all payments made pursuant to any loan guarantee entered into under this Act, and upon making any such payment, the Board shall be subrogated to all the rights of the recipient thereof.

(c) The remedies provided in this Act shall be cumulative and not in limitation of or substitution for any other remedy available to the Board or the United States.

(d) The Board may bring action in any United States district court or any other appropriate court to enforce compliance with the provisions of the Act or any agreement related thereto and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

(e) A loan shall not be guaranteed under this Act if the income from such loan is excluded from gross income for purposes of chapter 1 of the Internal Revenue Code of 1954 or if the guarantee provides significant collateral or security to other obligations, the income from which is so excluded.

(f) If any provision of this Act is held to be invalid or the application of such provision to any person or circumstance is held to be invalid by a court of competent jurisdiction, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

LONG-TERM PLANNING STUDY

SEC. 11. (a) The Secretary of Transportation, after consultation with other appropriate Federal agencies, shall submit to the Board and to the Congress as soon as practicable, but not later than six months after the date of enactment of this Act, an assessment of the long-term viability of the Corporation's involvement in the automobile industry. The study shall assess the impact of likely energy trends and events on the automobile industry, including long-term capital requirements, rate of technological change, shifting market characteristics, the capability of the industry as a whole to respond to the requirements of the 1980's, and shall evaluate the adequacy of the industry's existing structure to make necessary technological and corporate adjustments.

(b) The Secretary of Transportation shall prepare and transmit to the Congress annual comprehensive assessments of the state of the automobile industry and its interaction in an integrated economy. Each annual assessment shall include, but not be limited to, issues pertaining to personal mobility, capital and material requirements and availability, national and regional employment, trade and the balance of payments, the industry's competitive structure, and the effects of utilization of other modes of transportation.

(c) The Board shall take the results of the study and each annual assessment into account when examining and evaluating the Corporation's financing plan and operating plan.

PROHIBITION ON USE OF THE FEDERAL FINANCING BANK

SEC. 12. Notwithstanding the provisions of section 6 of the Federal Financing Bank Act of 1973 (12 U.S.C. 2285) or any other provision of law, none of the loans or obligations guaranteed or committed to be guaranteed under this Act shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank or any other Federal agency or department or entity owned in whole or in part by the United States.

REPORTS TO CONGRESS

SEC. 13. (a) The Board shall submit to the Congress semi-annually a full report of its activities under this Act during fiscal years 1980 and 1981, and annually thereafter so long as any loans guaranteed under this Act are outstanding.

(b) Not less than 15 days before the issuance of any loan guarantee under this Act, the Board shall transmit to the appropriate committees of the Congress a written report containing—

(1) the details of such loan guarantee;

(2) the specific assurances received by the Secretary under the provisions of sections 4 and 5; and

(3) the specific determinations made by the Secretary under the provisions of sections 4 and 5.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. There are authorized to be appropriated beginning October 1, 1979, and to remain available without fiscal year limitation, such sums as may be necessary to carry out the provisions of this Act.

(b) Notwithstanding any other provision of this Act, the authority of the Board to make any guarantee under this Act shall be limited to the extent such amounts are provided in advance in appropriation Acts.

TERMINATION

SEC. 15. The authority of the Board to make commitments to guarantee loans or to issue loan guarantees under this Act expires on December 31, 1983.

SENATE—*Wednesday, December 12, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DENNIS DECONCINI, a Senator from the State of Arizona.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Lord God of our fathers, who hast granted unto our country freedom, and established sovereignty by the people's will: We thank Thee for those whom Thou hast raised up for our Nation, to defend our liberty, preserve our Union, and maintain law and order within our borders. We beseech Thee to give to the Republic wise and fearless leaders and commanders in every time of need. Enlighten and direct the multitudes whom Thou hast ordained in power that their counsels may be filled with knowledge and equity and the whole Nation be preserved in peace, unity, strength, and honor. Take under Thy direction and protection Thy servants, the President, the Congress, the lawgivers, the judges, and all who are entrusted with authority; so defending them from all evil and enriching them with all good that the people may prosper in freedom beneath an equal law, and our Nation may magnify Thy name in all the Earth; in Thy holy name we pray. Amen.

—COMMON WORSHIP, adapted.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 12, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DENNIS DECONCINI, a Senator from the State of Arizona, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. DECONCINI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate resumed consideration of H.R. 3919.

Mr. ROBERT C. BYRD. Mr. President, since we have only about 27 or 28 minutes until Mr. LONG will be recognized to make his motion to table, I ask unanimous consent that the time between now and 10:30 be equally divided between Mr. LONG as a proponent of the motion to table and myself as an opponent to the motion to table.

Mr. PERCY. Mr. President, reserving the right to object, I should like to put a question to the majority leader and floor manager of the bill. Would it be in order to bring up any amendment during this half-hour period? As the Senators know, I have been trying since early yesterday to bring up two amendments.

Mr. LONG. Mr. President, from my side I only have 15 minutes. If the Senator brings them up, he will have to use the other side's time, and I would think those who are on the other side will want to use those 15 minutes.

Mr. PERCY. Would it be in order to bring up such an amendment later today then?

Mr. DOLE. If we do not invoke cloture.

Mr. LONG. Depending upon how things go, if cloture is voted they will have to be germane; if cloture is not voted, of course, it is in order. Of course, a motion to table would require consent, but the answer is if they are germane at some point the Senator will be able to bring them up. If they are not germane and cloture is invoked he cannot.

Mr. PERCY. In other words, all of those who feel they have amendments crucial to the purpose and objective of the windfall profit tax, like myself, had best vote against cloture now, even though in principle we would like to bring debate to a close at an appropriate time. We will be foreclosed from offering our amendments involving coal conversion, turn-backs to States, and conservation if cloture is invoked.

Mr. LONG. The Senator can wait and offer them on some other bill, and hope some other bill might reach the President.

Mr. PERCY. It is a high hope.

Therefore, I shall vote against cloture with deep regret.

The ACTING PRESIDENT pro tempore. Is there objection to the unanimous-consent request of the majority leader?

Mr. STEVENS. I understand that means we yield back our leadership time?

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the leadership time on both sides be yielded back.

Mr. STEVENS. I yield it back.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. LONG. Mr. President, I yield to my colleague.

Mr. JOHNSTON. Mr. President, I wish to speak in opposition to the minimum tax. I think of all the amendments, of all the tax increase devices, that have been put forward on the floor of the Senate during this debate, this has to be the most unwise, the most counterproductive, the most clearly wrong of all of these amendments.

The reason is very simple, Mr. President. This is a tax both on new oil and on tertiary oil. Studies done for me last year, Mr. President, by the Department of Energy, done for my Subcommittee on Energy and Water Resources, cataloged all the sources of energy, and put to each of the sources an estimated cost. Mr. President, of all the sources of energy in this country the two cheapest are, first, conservation and, second, recovery of domestic oil both through new oil and through tertiary recovery.

So when we come along, Mr. President, and do anything that runs counter for providing capital for an incentive for development of our domestic resources it is very clearly wrong, and that is precisely what this minimum tax does. It takes away incentive from new oil by putting a minimum tax on new oil. It takes away incentive from tertiary recovery by putting a tax on that tertiary recovery.

Mr. President, it is as clear as the noonday Sun on a cloudless day that this tax is counterproductive to the very serious energy problems we have and, Mr. President, I hope the Senate, in its headlong desire to raise revenue, which all of us would like to do, to spend for other purposes would concentrate on the goal we are trying to achieve, and that is to produce energy.

Again, Mr. President, a minimum tax

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

is a tax on new oil and on tertiary recovery, and whatever else we do we should leave those two sources at maximum incentive levels.

I thank my colleague.

Mr. LONG. Mr. President, I ask unanimous consent that during Senate consideration of H.R. 3919 Paula Porpilia of the Finance Committee staff be permitted on the floor.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand that the order entered yesterday was for Mr. Long to be recognized to table the amendment in the second degree. That was not the intent. The intent was for Mr. Long to be recognized to table the amendment, the basic amendment, if he wanted to move to table that, so that it would carry both amendments.

I ask unanimous consent that that be the order giving him that flexibility.

Mr. STEVENS. That was my understanding, too.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. There is no objection.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Connecticut (Mr. Ribicoff) 5 minutes.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. RIBICOFF. Mr. President, the concept of a minimum tax is true to the philosophy which has generally prevailed in the consideration of the windfall profit tax. Our decisions have had one major goal in mind: to produce and conserve additional energy for America as rapidly as possible.

Clearly we need to increase domestic production of oil. Our problem is that additional oil production is urgently needed but so is additional production of other energy sources as well. Oil cannot do the whole job, and oil substitutes will have to take up the equivalent of at least 8 million barrels of oil per day by 1990. We all recognize the critical importance of eliminating our alarming vulnerability to oil blackmail and oil cutoffs.

The specific question we must address in imposing various levels of tax on categories of oil and in exempting certain people and categories from the tax is this: How can we provide the most incentive for oil production and also raise enough revenue to fund these other sources of energy, accelerate the development of mass transportation and provide short-term relief for poor and working Americans hit hard by the effects of oil price decontrol and OPEC actions?

We have made a good effort, but we have not yet been altogether successful. The Finance Committee experienced considerable difficulty in reaching the correct balancing point between the twin goals of stimulating production and raising revenue. In general, for those categories of oil production particularly sensitive to financial incentives we provided favorable treatment. If there was a substantial probability that a tax would impede additional production, we reduced the tax treatment of the House. On the other hand, in the case of categories of oil where the investment should bring high profitability, a stiff tax was in order. In general, the full Senate has followed this same principle by increasing the tax on Tier II oil and rejecting various weakening provisions.

A mark of the committee's frustration in arriving at an equitable balance is the unusual set of additional views, signed by a majority of the committee, which ask the Senate to reconsider the revenue-raising aspects of the bill. A number of special exemptions were provided by the committee and the full Senate which reduced the revenue effect of the House bill by about $50 billion. These included a total of $39 billion in exemptions for independent producers, and another $11 billion for State-owned lands, Indian tribes, and nonprofit organizations.

The complete exemption for tertiary oil, heavy oil, and newly discovered oil reduced the revenue raised by the House bill by another $110 billion. The question is whether complete exemption from tax is needed to stimulate maximum additional production of these categories of oil.

The minimum tax we propose today would add about $31 billion of additional revenues to the Senate bill, less then one-third that raised by the House. Who would be affected by this additional tax and would this tax significantly impede production from these categories?

It is primarily the major oil producers, the integrated giants, who will pay this tax. Because we exempted the first 1,000 barrels per day produced by independents, the Treasury estimates that most of the effect, more than 90 percent of the effect, will be borne by the majors. Specifically, according to Treasury:

> First, about 10 percent of a tax on newly discovered oil is attributable to production by independents, 90% by majors, with both percentages including royalty interests. Second, the shares of a tax on heavy oil would be approximately the same, that is 90 to 10. Third, the tax on tertiary production, virtually all would be paid on oil produced by majors.

If this is a tax on the majors, we should examine how it would affect their cash flow, their incentive to invest, their rate of return and other economic considerations.

What is the real effective tax rate on the majors? According to the most recent Treasury analysis, tax return data indicates their domestic income is taxed at about 35 percent and worldwide income at about 20 percent. This data is good through 1977. A reliable composite of the effective rates on 9 major producers shows a weighted average effective tax rate of 20 percent in 1977 and 19 percent in 1978. It should be clear from these effective tax rates that a minimum tax cut of 20 percent of the return to the producer above $17 is not a significant tax which will drive investment decisions.

Let us take an example of what such a tax would do to a major producer of 5,000 barrels per day. He would gross over 54 million per year on those 5,000 barrels, based on a price of $30 per barrel, and pay about $5 million in windfall taxes. This amount is about the same as he will pay in taxes to the State governments where he is producing. So he pays something less than 10 percent of his gross revenues with this tax, and then is permitted to deduct the windfall tax, as well as the State tax, his intangibles and all business expenses from his income to arrive at his corporate taxable income.

For an independent producer, the tax is even less. Independents, however, are almost entirely exempt from this 20 percent minimum and should not be a factor in a Senator's decision on this proposal.

What is the situation with these particular categories of oil? First, heavy oil is produced almost exclusively by four major oil companies—Chevron, Getty, Union, and Shell—in California. Getty, for instance, produces about 60,000 barrels per day of the 250,000 barrels of heavy oil we produce daily. As of July 1979, of those 60,000 barrels, 47,000 were already being produced at lower tier prices, that is $5 per barrel—11,000 of those barrels were being profitably produced at upper tier prices, that is $11 per barrel, and about 2,000 of them profitably produced at uncontrolled stripper prices, at $15 per barrel. Even after a 20 percent minimum tax, the producer would receive over $27 per barrel. This oil will continue to produce profitably, and we will be able to increase production by another 250,000 barrels per day, according to the Department of Energy, regardless of whether a minimum tax is imposed or not. The oil will continue to be produced by these same producers because of the special technology involved. On the basis of the economics of the heavy oil industry, it seems clear that the $4 billion in revenue we would raise would have no adverse affect on production.

The situation is similar with tertiary oil. According to the Congressional Budget Office the production effect difference between the House bill, which taxes tertiary at a 60 percent rate, and the committee bill, which taxes at a zero rate, is a small 47,000 barrels per day over 1980–90. It follows that a 20 percent rate would not reduce that production except in the marginal cases of extremely high-priced oil.

Regarding newly discovered oil, the House taxed it at a $17 base and a 60 percent rate. By exempting this category entirely, the Finance Committee reduced the revenues in the Senate bill by $71 billion. A minimum tax would raise about $15 billion, so we are covering only about one-fifth, 21 percent or the revenue the House provides for.

The question is: Is even this small tax justified? We may well lose some very high priced oil. But it would be oil whose per barrel loss to the Treasury would be in excess of $85. Money from such marginally expensive wells can be more efficiently used to generate other sources of energy. That $86 per barrel of marginally expensive oil could get us 14 equivalent barrels of hydroelectric power, 5 equivalent barrels of cogeneration facilities or conservation or heat pumps, or at least twice the energy from synthetic fuels.

What would the producers be left with after this minimum tax? Decontrol will have the effect of increasing revenues to oil producers, according to CBO, of about $800 billion, and all levels of Government would take $427, or 54 percent. This minimum tax would add $31 billion, which is 4 percent of total additional revenues, still leaving 42 percent, or $342 billion for the oil producers over that currently being received. As I indicated earlier, however, the effective tax rate has historically been substantially less than this, 35 percent on domestic operations and 20 percent on worldwide operations.

The minimum tax, then, would make more efficient use of our taxing power to produce energy. Enough money would still be available for all the risk-taking the oil industry would care to engage in. Production of heavy, tertiary, and newly discovered oil will not be impaired. It is a responsible, well-conceived amendment which will give the Senate a better bill.

I urge my colleagues to adopt the Byrd substitute.

Mr. NELSON. Mr. President, will the Senator yield for a question, for clarification?

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Wisconsin.

Mr. NELSON. As I understand the figures, the CBO projects a windfall of, I believe, $831 billion.

Mr. RIBICOFF. The Senator is correct, approximately. A little over $800 billion.

Mr. NELSON. And that projection is based upon an assumption of $30 a barrel oil, plus inflation, with 2 percent over the inflation rate; is that correct?

Mr. RIBICOFF. That is correct. But what is not taken into account is that we all know that oil is going to rise, that OPEC within a week will raise it, and it is anticipated that a year from now it will be a minimum of $40 a barrel, which will substantially increase the profits. I am tying it to $30 a barrel oil, and we know that is not long for existence.

Mr. NELSON. I wanted to emphasize that point, that that is a very conservative figure, and that there are projections now made of from $1 trillion to $1.250 trillion in a 10-year period.

I am glad that the Senator commented on this, because the bill at this stage would take about $150 billion, in round numbers; is that not correct?

Mr. RIBICOFF. That is right. So that we have, even after the windfall tax and all other taxes, is that the big oil producers will have an additional $342 billion in profit, even after taxes, based on $30 oil. So you can imagine what it will be when oil goes to $40 a barrel before another year is up.

Mr. NELSON. I thank the Senator from Connecticut.

Mr. RIBICOFF. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BUMPERS. Mr. President, who controls the time?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia and the Senator from Louisiana.

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has 6 minutes and 33 seconds.

Mr. ROBERT C. BYRD. I would hope that the proponents of the motion would take some time at this point.

Mr. WALLOP. Mr. President, will the manager of the bill yield me 1 minute?

Mr. LONG. I yield 1 minute to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I had a briefing in my office yesterday about the potential that is in this country to produce energy other than oil, that will probably be produced by energy companies. It makes little sense to this Senator to tax the oil companies, run around the corner, and parcel the tax money back to them for synfuel development and other energy projects.

The capital needs, over the same period of time that the Senator from Connecticut is talking about, far exceed the revenues that are coming in from decontrol alone, absent any tax. We will need $1.7 trillion, just to make this country so self-sufficient that we only have to import 13 million barrels a day instead of what we are importing now. This assumes we can get 13 million barrels a day on the world market—a wrong assumption, in this Senator's estimation.

The one thing that we are not doing in any of this conversation is taking a chance. It seems to me the one chance this country takes is on new production, and that chance can only take place in the absence of a punitive tax.

If we are going to put a minimum tax on new production, that does not make any sense at all to me, as I said on this floor yesterday.

An interesting thing is happening. There are some people on this floor, including the Senator from Arkansas and the Senator from Washington, who have more or less made the statement that there is no more oil to be found. If that is the case, under any circumstances decontrol is wrong.

The ACTING PRESIDENT pro tempore. The Senator's 1 minute has expired.

Mr. WALLOP. May I have 1 more minute?

Mr. LONG. I yield the Senator 1 minute.

Mr. WALLOP. If there is a chance to find new oil, nobody knows how much it is going to cost. This Senator thinks there is a great chance to find new oil, if we do not find any, we are not giving a tax break to anybody. If the Senator from Arkansas, the Senator from Washington, and others are right, we are not giving a tax break to anybody, because there will not be any more oil.

Is it not obvious that it is in the best interest of the country to develop new reserves of oil and the other oil that exists that we do not yet know technically how to remove?

This is not a pro-oil or anti-oil vote; it is a proconsumer or anticonsumer vote. It puts us in the position of continuing this disgraceful dependence on foreign oil which has taken our country into this state.

The ACTING PRESIDENT pro tempore. The Senator's additional minute has expired.

Mr. ROBERT C. BYRD. Mr. President, I have repeatedly stated that the windfall profits tax must be fair and equitable to the oil companies but must also raise meaningful revenues for necessary and urgent public purposes. The eyes of the American public are focused on the Senate and it is expected that we will work our will to achieve the greater public good. The startling transfer of wealth from consumers of energy to producers of oil which results from decontrol and skyrocketing world oil prices demands action. We will rightly be accountable if we falter. Additional revenues must be raised if we are to achieve the proper balance between energy production and public needs.

The amendment which I have cosponsored with Senators BRADLEY, MOYNIHAN, RIBICOFF, and others, would impose a minimum tax on certain categories of oil which were exempted by the Finance Committee bill. A 20-percent minimum tax would be levied on newly discovered oil, incremental tertiary oil, and heavy oil. This amendment would raise revenues of approximately $30.8 billion over the 10-year period 1980 to 1990. Such a tax would not impede new exploration and development. Such a tax would not prevent the producers of oil from accumulating the needed capital to finance the development of new resources.

This minimum tax would go far, however, toward furthering the American public's expectation that the extraordinary profits to be derived from decontrol will be used for the development of alternate energy resources and to aid those who suffer the most because of energy shortages and soaring energy prices.

This is not an effort to achieve a symbolic revenue goal for the windfall profit tax. The debate on this bill has focused almost entirely on the production of energy and efforts to turn this legislation into a general revenue bill have been refused at every turn. Our main concern is energy and our dangerous dependence on imported oil is heightened by the presence of 50 hostages being held illegally in Iran.

A minimum tax will not serve as a disincentive to production. The categories of oil to be taxed under this proposal will represent the greatest proportion of domestic production by the end of the next decade. Even with a 20-percent tax, producers of newly discovered oil, incremental tertiary oil, and heavy oil will have substantial new incentives to produce. As world oil prices rise, producers will receive higher prices and will be able to retain substantially greater revenues, presumably to be applied to new production. Current evidence indicates, however, that domestic production will remain static over the next decade and that the resources to be explored may be limited. In that case, the imposition of a minimum tax is the most fair and equitable means of achieving the balance between production and public needs.

The concept of a minimum tax is not unique. Congress has included a minimum tax in the individual income tax law in order to assure that taxpayers who are able to take advantage of numerous tax preferences pay at least some minimum amount of tax. The Finance Committee bill wisely provides special treatment for some categories of oil in order to encourage domestic production. However, a minimum tax to be applied to certain categories of oil is an appropriate means of obtaining the level of fairness which the windfall profits tax must have and which the American people expect.

Mr. President, just a few weeks ago, the oil companies released their third quarter profit statements. We remember the news headlines. Recordbreaking increases were reported by all of the major oil companies. The Nation was stunned to learn that company after company registered increases of 234 percent, 191 percent, 134 percent, 120 percent. And we have not seen anything yet. Wait until the fourth quarter profits are announced.

There has been much talk about the plight of the "overtaxed" and "overburdened" oil companies. It is hard—very hard—to worry about the oil companies as we see the world price of oil approach $50 a barrel. I have no doubt that adoption of this amendment will leave the oil companies with more than enough income for investment in new exploration and development—and a great deal more.

If we do not act today, how will we face the American people? What will we say to the elderly couple, living on social security, who must choose between heating oil and food? What will we say to those who wonder why our plentiful energy resources, such as coal and oil shale, remained locked in the ground without the economic stimulus needed to make alternate fuel development viable? What will we say to those who wonder why we cannot save more energy through conservation methods which require significant investment?

Mr. President, the last train is pulling away from the station. This may be the last chance for the U.S. Senate to equalize the balance sheet.

This minimum tax proposal is a fair proposition. It is fair for the oil companies, but most important, it is fair to the American people.

I urge the Senate to vote down the motion to table the minimum tax amendment.

Mr. BUMPERS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I wonder if the proponents could speak to the issue.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from New Mexico (Mr. SCHMITT).

Mr. SCHMITT. Mr. President, the distinguished majority leader's remarks are a classic argument for this amendment. But the basic problem in this country is that we need to increase domestic production as fast and as much as possible.

This minimum tax on newly discovered oil and on the tertiary oil will eliminate large portions of high risk oil from ever being produced. That is why I have said repeatedly that I find it very difficult to understand why, on this floor, we would argue against production. And that is what you are doing.

The minimum tax will reduce the amount of oil that can be searched for at the margins. And that is where the new, great discoveries will be made is out at the margins of risk taking, the margins of economics.

I thank the Senator for yielding.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Montana (Mr. MELCHER).

Mr. MELCHER. Mr. President, I thank the Senator for yielding to me.

Mr. President, I shall not vote with the majority leader on this motion. I shall vote to table the amendments. I do so after considerable thought of how we are going to set the stage for more domestic oil production.

First of all, this amendment places a minimum tax on new oil that would be applied to the major oil producing companies. There is no question but what they could afford to pay it. It is a question of where they are going to invest their money to explore and develop new oil production.

I think the amendment is another invitation for them to invest their money abroad. Because the taxes that we impose on their U.S. production versus the taxes that they pay abroad is going to be more attractive for their investment abroad.

Second, the minimum tax would be applied to tertiary oil, which will move us another step backward on recovering oil through tertiary means which is——

The ACTING PRESIDENT pro tempore. The Senator's 1 minute has expired.

Mr. MELCHER. I would ask the Senator if I may have another 30 seconds.

Mr. LONG. I yield the Senator another 30 seconds.

Mr. MELCHER. Oil recovered by tertiary technology that is very costly will bring us domestic oil that is in the ground and can be recovered. And we just started now, in the last couple of years, encouraging that production. This, again, would be a step backward to discourage that because it would impose a new 20-percent tax on it, discouraging this means of production of oil not otherwise available.

Third, on heavy oil, which has just been freed-up by the President, we would now impose a 20 percent minimum tax. Again this would be a step backward in the production of the heavy oil that is so important to help us meet our domestic needs. For these reasons I find the amendment damaging to U.S. oil production.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the distinguished Senator from Arkansas (Mr. BUMPERS).

Mr. BUMPERS. Mr. President, there is absolutely no relationship between the cost of finding and producing oil and the price that OPEC may set at any given time.

If we accept the Finance Committee assumption that the price of oil will be $30 per barrel, this amendment we are considering would tax the oil companies $2.60. The oil companies would keep $27.40. If the price of oil increases to $50 per barrel within 24 months—which it most certainly will—the oil companies will be taxed $6.60 and they will retain $43.40. I promise you they will buy every grubbing hoe that every hardware store in the country has.

I did not say that there is no more oil to be found. There is more oil to be found and it is going to be more expensive. But it is not going to cost $43.40 a barrel.

The Washington Post reported this morning that Tenneco, Inc. is buying Southwestern Life Corp., a Texas company with almost $10 billion of life insurance in force. Exxon is in court right now trying to buy Reliance Electric.

The profits reported in the third quarter this year are peanuts compared to what you are going to see. The recent profits reported were not a result of decontrol. Decontrol is just now starting. We are about to reap a whirlwind if we allow those profits to continue.

Mr. President, this body cannot control what OPEC sets as a price on its own product. The American people understand that we have no control over their pricing. They understand that if we buy it, we have to pay whatever price they put on it.

They do not understand, and they will never understand that American oil companies are going to set the price of oil produced in the good, old U.S.A. on our own land with the acquiescence of the U.S. Senate.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. LONG. Mr. President, I yield 2 minutes of the Senator from Kansas (Mr. DOLE).

MINIMUM TAX

Mr. DOLE. Mr. President, this amendment if passed will destroy all of the incentives for energy production in the Finance Committee bill. There is simply no need to impose any tax on the so-called exempt categories of oil. This amendment is unfortunately designed solely to raise revenue. However, if adopted, it will inhibit the production of energy.

Mr. President, I believe the Senate should closely examine this amendment. The Senate should understand the consequences of this vote. The proposal by the Senators from New Jersey and Connecticut will not produce one Btu of energy. Adoption of this amendment is not a step toward energy independence. The amendment will not reduce oil imports. In fact, it will increase imports. The amendment will not provide energy to heat one home this winter. It will not provide any gasoline so a person can drive to work. This amendment is ill-conceived and must be defeated.

Mr. President, the Finance Committee spent weeks in hearings—spent weeks in executive session.

The committee bill provides a balanced approach. The Finance Committee, with only one dissenting vote, reported a bill raising $138 billion in net windfall profit taxes. Both the Senator from Connecticut and the Senator from New Jersey voted to report the bill. Now the bill before the Senate raises almost $160 billion and the Senators want $30 billion more. For what? For social programs? To balance the budget? For defense? Certainly, not for energy.

Mr. President, this amendment is a futile exercise. It completely ignores that newly discovered oil, tertiary oil, and heavy oil are very price sensitive. The equation is simple—more tax, less oil. Anything to decrease the incentive to explore and produce this oil is counterproductive.

Mr. President, oil produced from newly discovered sources along with tertiary or enhanced recovery oil, must shoulder the burden of adding to future domestic supplies. Although there is substantial uncertainty associated with any estimate of future discovery volumes, everyone agrees that the United States still has billions and billions of barrels of reserves. We must go out and exploit those reserves.

Mr. President, everyone knows this bill has no relationship to profits. It is an excise tax. However, even if there was a correlation to profits, I do not know how there is a windfall on oil that has yet to be found.

Experience has demonstrated that oil and gas exploration and development activities and production rates are related to prices. For instance, since the Arab embargo of 1973, improved domestic oil and gas prices have resulted in a dramatic increase in the number of new oil and gas well completions. In 1973 there were 16,000 new oil and gas well completions. In 1978, 31,000 new completions were reported.

Mr. President, the administration recommended to the Finance Committee that heavy oil be exempt from the tax. Now the administration, to quell their unquenchable thirst, has apparently changed their minds. However, I still believe in an exemption for heavy oil. I supported that decision. The production of heavy oil holds great promises for the United States. The United States contains significant quantities of heavy crude oils in shallow geologic formations. A resource base of from 20 to 40 billion barrels of oil-in-place may exist throughout the United States. The action of the President, endorsed by the Senate Finance Committee to exempt heavy oil from the tax is expected to increase domestic oil production by an estimated 500,000 barrels per day by 1990. At current OPEC prices, that means billions of dollars of savings in U.S. oil imports every year.

Mr. President, a tax on incentive oil is tantamount to perpetuating a fraud on the American public. It is most important that everyone recognize that it is very much in our national interest to produce every additional barrel of oil possible. Every barrel of crude oil that we fail to produce domestically will, at the present time, result in the importation of a barrel of foreign crude oil with attendant adverse balance of payment economic growth and national security consequences. The Finance Committee substitute is a carefully balanced approach.

Mr. President, I urge my colleagues to vote for the motion to table. I do not have any quarrel with any of my colleagues on the other side. This has been a tough, long, and frustrating debate in committee and on the floor. We voted in the Finance Committee—with one dissent, to exempt newly discovered oil. Some of those who voted to exempt newly discovered oil are out here on the floor trying to tax new oil.

This is no longer an energy bill. It is a tax bill. Somebody said we ought to raise $185 billion, and so we are all trying to rush around and see how we can raise $185 billion. It has no relationship to energy.

Maybe many of these oil companies are buying other businesses because the Government is driving them out of business. Maybe that is why they are buying insurance companies. I do not know.

But I am willing to vote for a tax—a very heavy tax—on the industry. I think most of my colleagues will vote for a heavy tax on the industry. Maybe the tax is too much; maybe it is not enough. It is a very fine line.

But the Senator from Kansas would just suggest that we have a chance to produce more oil in this country if we just do not tax the incentive categories of heavy oil, which is produced in California; tertiary oil, which is produced in the Mideast and other parts of the country; and newly discovered oil that could be produced anywhere, Arkansas, Nebraska, New Jersey, Connecticut, Louisiana, Kansas, Minnesota, anywhere in this country.

Let us not take away that one incentive we have left in the bill. We will raise the revenue. We will come out of conference with a figure somewhere around $200 billion.

So it would seem to me that this would be a chance to free ourselves from the tax burden and start discussing how we can solve our energy crisis.

Mr. ROBERT C. BYRD. Mr. President, I yield my remaining time to the Senator from New Jersey (Mr. BRADLEY).

Mr. BRADLEY. Mr. President, I urge the Senate to vote against the tabling motion.

Mr. President, the oil companies will have nearly $300 billion between now and 1990 that they can invest in exploration and development, if they so choose. That would double what they have invested just last year on an annual basis, which was $15 billion a year. They have the opportunity to double that with the windfall profit tax.

Mr. President, I would also argue that this vote gives the Senate an opportunity to lend substance to the claim that we recognize we have to move this country to other forms of energy; that we can take this $30 billion and $185 billion that a windfall profit tax would raise and invest it in other forms of energy, which would produce significantly more energy for this country than will ever be obtained by the oil industry alone.

Mr. President, it is true that oil can be gotten in Wyoming at 40,000 feet, or in the Beaufort Sea, or off the coast of this country. At what price, though, Mr. President? And what are the competing forms of energy? Are they more competitive? Mr. President, I believe they are. And I believe some of the revenues from this amendment would help the development of those forms of energy.

Mr. LONG. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 2½ minutes remaining.

Mr. LONG. Mr. President, to see how ludicrous this minimum tax is let us look at it. The tax is not to be on the independents; it is to be on the major companies, who produce about 80 percent of the oil.

All right. To start they will pay about a 12½-percent severance tax to the State. Then they will pay a 46-percent corporate income tax. Then, if a dividend is declared, the shareholder could pay a 70-percent tax. That is all Federal, other than the 12½ percent for severance.

Mr. President, they also will pay an income tax to the State governments, and the shareholder will pay a State income tax on the dividend. By the time they get through paying taxes, without this amendment, the Government will take more than 90 percent. And then they propose to take another 20 percent on top of that.

The Senator says that the companies are expected to invest $300 billion between now and 1990. You ought to want them to invest a trillion dollars between now and 1990. And you ought to have the incentives so the capital will be available.

I am going to move to table this amendment, in due course. I am frank to say that if this minimum tax is not tabled, I will be compelled to vote against cloture, because, in my judgment, we should not rush to judgment to the point that we pass another counterproductive law.

Most of the laws that have been passed since 1973 have been nothing but laws to add taxes, to add regulations, to impede the production of energy and to aid Mr. Khomeini in what he is doing to us right now. That is a very foolish thing to do, Mr. President. We ought to take at least enough time to move this Senate in the right direction for a change. That being the case, I hope very much the Senators will support the motion to table. I yield to the Senator from Texas.

Mr. BENTSEN. I just want to ask a question of the Senator from Louisiana. Did not the administration come to us on the Finance Committee and ask us to exempt heavy oil? Were they the ones asking us to exempt heavy oil?

Mr. LONG. They were for exempting heavy oil and now they are for just the opposite.

Mr. BENTSEN. Did not the Department of Energy say that on tertiary oil we would double the reserves of this country? I am not talking about what the oil companies said they would do. The Department of Energy said we would increase the reserves of this country by twice, from 25 to 50 billion barrels of oil.

Mr. LONG. And the President went on television and said we would get 50 billion additional barrels by exempting heavy oil. Now they are reversing that. Mr. President, it is pretty ridiculous.

SUPPORT FOR THE 20-PERCENT MINIMUM TAX AMENDMENT TO THE WINDFALL PROFIT TAX

● Mr. KENNEDY. Mr. President, I strongly support the amendment offered by the distinguished majority leader to impose a minimum tax of 20 percent on most newly-discovered oil, incremental tertiary oil, and heavy oil. Adoption of this amendment would accomplish three important objectives.

First, it would assure that major producers who benefit handsomely from extraordinary OPEC price increases will pay a nominal tax on their windfall gains. The minimum tax only applies to the difference between the selling price and a base price of $17. Therefore, assuming $30 world oil prices, a producer is left with $27 on the sale of a barrel of oil even after paying this token tax. But even this tiny tax will assure that some portion of every OPEC price rise will be converted to a public purpose.

Second, this minimum tax will restore $30.8 billion to a bill that was reduced by the Senate Finance Committee by $138 billion. In combination with earlier action on the Senate floor, adoption of this amendment will result in cumulative windfall tax revenues over the next 10 years of $185.5 billion. This is just 42 percent of the $443 billion in windfall revenues to the oil companies made possible by the President's unfortunate decision to decontrol crude oil. This can hardly be called a "victory" for consumers already traumatized by energy inflation shocks. But it is an improvement over the $155 billion raised without this amendment.

Third, this amendment provides extremely generous treatment for producers so that production of higher-cost oil can still be maximized. The first 1,000 barrels produced by independents remains exempt. Newly-discovered Alaskan oil remains exempt. And the price per barrel of oil taxed under this provision will still be 100 percent higher than a year ago.

In fact, President Carter's decision to decontrol oil and then to seek a windfall tax—any tax—from Congress is destined to go down in the history of the oil and gas industry as the dawn of a golden decade of undreamed profits. Even if the Senate adopts the pending amendment, this bill will have the effect of granting $260 billion in windfall revenues to the industry during the 1980's—more than twice the amount estimated by Battelle Labs as the value of all the Federal subsidies granted to this industry over the last 70 years.

My repeated public appeals to President Carter to announce his determination to veto an unfair tax and to reimpose controls have gone unheeded. The Senate is on its own. Those of us who are disturbed by the impending outcome must do our best to pass a fair and equitable tax without the President's leadership. This amendment is a necessary step in that direction. I urge my colleagues to support the minimum tax and to defeat the motion to table the amendment.●

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

Mr. ROBERT C. BYRD. Will the Senator allow the Senator from Louisiana to make his motion first?

MOTION TO TABLE AMENDMENT NO. 776

Mr. LONG. Mr. President, I move that the Ribicoff amendment No. 776 be laid on the table.

Mr. ROBERT C. BYRD. I ask for the yeas and nays, Mr. President.

The VICE PRESIDENT. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, tally sheets have been placed on all desks. I ask that the clerk repeat the name of each Senator and the vote he casts.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. DOLE. The Senator from Kansas asks unanimous consent to join in the motion of the Senator from Louisiana.

The VICE PRESIDENT. Without objection, it is so ordered.

The question is on agreeing to the motion to lay on the table the amendment (No. 776) of the Senator from Connecticut (Mr. Ribicoff). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I hope the Chair will keep the well cleared. The clerk is repeating the name and vote, and each Senator has a tally on his desk. We can all keep our own tally.

The legislative clerk resumed and concluded the call of the roll.

Mr. HARRY F. BYRD, JR. (after having voted in the affirmative). Mr. President, on this vote, I have a pair with the distinguished Senator from Florida (Mr. Stone). If he were present, he would vote "nay." I, having voted "aye," withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. Stone) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Iowa (Mr. Jepsen) is necessarily absent.

I further announce that, if present and voting, the Senator from Iowa (Mr. Jepsen) would vote "yea."

Mr. ROBERT C. BYRD. Mr. President, I ask for regular order.

The VICE PRESIDENT. Are there other Senators in the Chamber wishing to vote?

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 471 Leg.]

YEAS—44

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Chafee
Cochran
Danforth
Dole
Domenici
Durenberger
Garn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Heflin
Heinz
Helms
Humphrey
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Melcher
Morgan
Packwood
Pressler
Roth
Schmitt
Schweiker
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—53

Baucus
Bayh
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cohen
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Hatfield
Hollings
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Stennis
Stevenson
Stewart
Talmadge
Tsongas
Weicker
Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Harry F. Byrd, Jr., for.

NOT VOTING—2

Jepsen
Stone

So the motion to lay on the table Mr. Ribicoff's amendment (No. 776) was rejected.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion to table was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

● Mr. JEPSEN. Mr. President, when the vote was taken on a motion by Senator Long to table the minimum tax amendment and was in conference with members of the Subcommittee on Export Expansion. I was discussing proposed legislation introduced by me to assist small and medium-size business firms to develop export opportunities. With 2 minutes remaining for the vote, I left the conference in the Russell Senate Office Building for the Senate Chambers—and my staff advised the Senate Chamber that I was on my way and desired to vote. I was advised that the vote would be held open—which is a customary courtesy procedure in these situations—but upon arrival in the Senate Chamber—the vote was being announced by the Chair. Because of the unusual circumstances I am making this explanation a matter of record.●

Mr. ROBERT C. BYRD. Mr. President, the motion to table was defeated by a decisive vote. I should hope the Senate now would let the Senate vote up or down on this amendment.

Senator Long was willing on yesterday to go with the amendment by Mr. Danforth, but there were others who were opposed to going, others opposed to letting Mr. Danforth call up his amendment until we went with the minimum tax amendment.

So I said, "Well, I think it would be to our disadvantage to go first, but somebody has got to go first," so we went first.

Now, we went first and I got the unanimous-consent order changed this morning so that the mover of the motion to table could table the basic amendment and, therefore, wipe it all out.

So those of us who are proponents of the amendment have gone beyond the last mile.

I should hope that the Senate would vote now on the amendment, and then go on to the Danforth amendment, and then go on to wind up action on this bill.

We will shortly vote on a motion to invoke cloture, but I make that plea to the Senate.

We went first. We would like to have waited, but somebody had to go first. We took our chances. We worked hard. We won in this instance.

I should hope that those who have been saying, "No, we do not want to go first, we want the minimum tax first," would now vote on the minimum tax and let the Senate get on with its business.

I should like to see a vote on this amendment, and I should like to see Mr. DANFORTH be able to call up his amendment and let us have a vote on that. Then I should hope we could dispose of this bill.

Mr. LONG addressed the Chair.

The VICE PRESIDENT. The Senator from Louisiana.

Mr. LONG. Mr. President, we will, of course, vote on the amendment by Mr. DANFORTH in due course. But it brings before the Senate the most important constitutional issue this Senate will vote during this Congress. It should be carefully discussed, and discussion on that ought to take a minimum of several days.

In my judgment, it is highly irresponsible to vote cloture in this measure before it has had a discussion on a proposal which, if extended to its logical conclusion, would destroy what little sovereignty remains in State governments.

Mr. President, I want to be heard on that. I have my speech prepared. Others have their speeches prepared. It cannot be adequately discussed under cloture and I cannot vote for cloture with that amendment pending.

Mr. President, this is the biggest tax ever imposed on any one industry in the history of the United States.

It is proposed to make it still stronger.

In my judgment, it is highly irresponsible to vote cloture on this bill until the Senate has reached its judgment on the two big issues. What is the magnitude of the tax? Is it going to be $155 billion, or $180 billion, or $200 billion? That is No. 1.

Two, what are we going to do about States rights? That is an important issue. It has a lot more to it than anybody here realizes—even me.

Mr. President, those matters should not be discussed under a gag rule in this Senate. Senators should be permitted more than 1 hour, if that is the time, and consider their amendments as the situations develop, as the debate develops on the issues.

I would have to urge every Senator, under these circumstances, to vote against cloture.

I am convinced we can work our will and do whatever we want about this tax. But we ought to do it with free debate. We can do whatever we want to do about what is necessary, but with free debate, not under a gag rule.

Either one of those issues, Mr. President, will sufficiently signify that it is not an adequate excuse to say that we are in a hurry to go home for Christmas.

Several Senators addressed the Chair.

Mr. LONG. I yield to the Senator from Kansas for a question.

Mr. DOLE. Mr. President, I make the same plea to those on this side with reference to the minimum tax.

The Senate has not made any judgment on the minimum tax. We tried on the amendment. We lost on a procedural vote.

We were not willing to offer a 20-percent minimum tax. We did not agree to such a tax in the committee.

Unfortunately we have turned this into nothing but a tax bill, it has nothing to do with energy.

Those who live in nonproducing States apparently want to punish the oil States. That is their business.

It seems to me we should not invoke cloture. We have a lot of time. Chrysler can wait until next year. Those who vote against the minimum tax, or for a minimum tax, can let Chrysler wait. We will take it up next year.

This is a $500 billion bill, the biggest tax bill in history. Let us not destroy the oil industry in the process of politics. It is bad policy. It may be good politics in the short term, but it is bad policy in the long run.

The administration said that they wanted no tax on heavy oil. But I find the Senator from California voting for a minimum tax on heavy oil, which is in fact a heavy tax on heavy oil.

If that is the way we want to go, we can stay here the rest of the year.

Mr. LONG. I yield to the Senator from Missouri for a question.

Mr. DANFORTH. Mr. President, I simply wish to say to the majority leader that I have two amendments, not one. The two amendments both go to the same question; namely, the tremendous flow of severance tax income and royalty income, basically, to four States as a result of decontrol, and the effect that this will have on the economy of the rest of the country.

One of those two amendments, the one relating to severance taxes has, I believe, no real legal argument to be posed against it. I think the chairman of the Finance Committee so stated on Friday.

That amendment, in my opinion, could be disposed of in fairly short order. I think it would take maybe 2 or 3 hours to call it up and debate it very thoroughly.

It simply would raise the economic questions. It would be a matter which I do not think would raise any constitutional precedents at all.

As the majority leader knows, I have been willing to work out any kind of arrangement he cares to make to call up that amendment. I renew that offer now—anything he would like to work out with respect to that second amendment, which I do not think conceivably could go on for days of debate.

Mr. LONG. Mr. President, I am not in a position to pass judgment on the amendments by the Senator from Missouri. I am perfectly content to debate it and let the chips fall where they may.

I do not agree with the position of the Senator from Missouri on the issue; he does not agree with my position. The Senate should hear both sides of the argument and vote, and all I ask is that the Senate hear both sides.

The VICE PRESIDENT. One hour having passed after the Senate has convened, the clerk will call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute, with the understanding that the Senator from Louisiana may also proceed for 1 minute.

The VICE PRESIDENT. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I did not say anything about cloture, except that we were going to vote on it. What I am pleading with the Senate is to let us vote after the cloture vote—let us vote on the pending minimum tax amendment.

There was a vote on the motion to table. We went first. Let us vote on that. Then we will talk about the other amendments. I hope we can get to a vote in due time on the amendments by Mr. DANFORTH. But let us vote on the minimum tax, up or down.

I urge Senators to stay in town. I want us to get a vote on the minimum tax amendment. If that means staying longer than 6 o'clock tonight, let us be around.

Mr. LONG. I am willing to vote on a minimum tax amendment. So far as I am concerned, we can vote any time. But others might want to be heard, and with the gravity of what is involved, I do not think we should invoke cloture.

CLOTURE MOTION

The VICE PRESIDENT. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

> We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the reported amendment in the nature of a substitute to H.R. 3919, an Act to impose a windfall profit tax on domestic crude oil.
>
> Robert C. Byrd, Bill Bradley, Edmund S. Muskie, Gaylord Nelson, Richard Stone, Alan Cranston, John A. Durkin, Paul Sarbanes, Claiborne Pell, Henry M. Jackson, John Glenn, George McGovern, Daniel Patrick Moynihan, J. James Exon, Carl Levin, Edward Zorinsky, and Donald Stewart.

CALL OF THE ROLL

The VICE PRESIDENT. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[No. 12 Quorum Leg.]

Armstrong
Baker
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Kennedy
Laxalt
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
McClure
McGovern
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Talmadge
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams
Young
Zorinsky

The VICE PRESIDENT. A quorum is present.

VOTE

The VICE PRESIDENT. The question is, Is it the sense of the Senate that debate on the bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil shall be brought to a close?

The yeas and nays are mandatory under the rule.

Mr. RANDOLPH. Mr. President, I do not say that the Senate is not in order, but I do suggest that in this rollcall vote, we be in order.

The VICE PRESIDENT. The Senate will be in order.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. Stone) is necessarily absent.

The PRESIDING OFFICER (Mr. Levin). Are there any Senators in the Chamber wishing to vote?

The yeas and nays resulted—yeas 53, nays 46, as follows:

[Rollcall Vote No. 472 Leg.]

YEAS—53

Baucus
Bayh
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Kennedy
Leahy
Levin
McGovern
Magnuson
Mathias
Matsunaga
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Proxmire
Pryor
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stevenson
Stewart
Talmadge
Tsongas
Williams
Zorinsky

NAYS—46

Armstrong
Baker
Bellmon
Bentsen
Boren
Boschwitz
Byrd,
  Harry F., Jr.
Cannon
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Goldwater
Gravel
Hatch
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Melcher
Percy
Pressler
Randolph
Roth
Schmitt
Simpson
Stafford
Stennis
Stevens
Thurmond
Tower
Wallop
Warner
Weicker
Young

NOT VOTING—1

Stone

The PRESIDING OFFICER. On this vote there are 53 yeas and 46 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative the motion is rejected.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, again I urge the Senate to vote on the minimum tax amendment. As I stated earlier, we took our chances, and we can still lose the ball game, but let us have a vote, let us have a vote on the minimum tax.

We stood aside, those who are in favor, we were willing to stand aside and have Mr. Danforth call up his amendment, and Mr. Long was willing to do that, but the objections came, I believe, from the other side of the aisle to letting Mr. Danforth go. They were not formal objections, just small discussions—there may have been a formal objection, I do not recall. Anyhow, Mr. Danforth was not allowed to call up his amendment.

Somebody had to move, else nobody would ever move. The Senate will never move if somebody does not offer to go forward. So we who support the minimum tax said, "OK, we will take our chances." We do not think it is good, we would rather have our votes on Mr. Danforth first, and we think our chances would be better, but we have to get a bill out. We just cannot stay here forever on this bill, so we took our chances.

Mr. President, I am pleading with Senators to let us vote on the minimum tax amendment and then go from there. I think we are entitled to that.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I think we ought not set this amendment aside for other amendments to be called up because if we allow one other amendment to come in by unanimous consent then somebody else is wanting to call up his amendment, and somebody else wants to call up his amendment, and then somebody else wants to call up his amendment, and it becomes difficult to object once a Senator is allowed to set these amendments aside and call up his amendment. He says he has got a little amendment, "I have a little amendment, can't you take mine? You know, Mr. Chairman, you agreed to take mine, how about setting this amendment aside, just let me call mine up, it would only take 5 minutes." And the first thing you know another Senator wants the same thing done, and you see the whole day fiddled away.

So, Mr. President, at this point I want to object to any amendment being called up. I do not want to set this amendment aside now. Let us have a decision on the minimum tax amendment. I urge Senators if they are scheduled out of town to cancel their out-of-town engagements and stay here. The outcome can depend upon one vote. One vote can determine the outcome on a motion, on an amendment, and I hope that Senators will stay in town. If they stay in town we will eventually get out of town ahead of time. We will get out of town earlier than we would otherwise, so I urge Senators to stay around. Just cancel those engagements for this evening. Unless we can work out an agreement during the day that will see us voting, cancel the engagement for this evening, cancel them for tomorrow, cancel them for Friday, cancel them for Friday night.

I am going to have a party for my staff on Saturday, but I will cancel that. We will cancel anything. Stay in town, be here in the Senate, be ready to vote, and we will all get out earlier.

Mr. DURKIN. How about Sunday?

Mr. ROBERT C. BYRD. I yield the floor.

The PRESIDING OFFICER (Mr. Levin). The Senator from Alaska.

Mr. STEVENS. Mr. President, I want to join, and I apologize again for my voice—can you turn that up a little bit, if you will, it sounds better. It sounds better to some people, I am sure.

I want to encourage the people on our side of the aisle to stay in town.

I encourage Senators to make reservations to get back here on the 27th. I want to encourage Senators to make reservations to get home, if they wish, for New Year's, and then get back whatever day the majority leader says.

The way this is presented to us now we have an amendment to an amendment that sets 20 percent. When we were in the negotiations the first time we ever heard of the minimum tax it was 10 percent, it was part of the whole figure which was 10 percent.

When we come out here we are dealing with an amendment that says 20 percent. We have not even got the figures yet or what it means to new oil to put a tax of 20 percent on instead of 10 percent. They just pulled a figure out of a hat.

This is very serious as far as I am concerned. Every barrel of oil we do not produce we are going to import, and the OPEC people have said they are going to raise their prices by 30 or 40 percent. Every barrel that does not come out of the ground in this country is going to take that much money, $30 to $40, out of the country, and we are standing, I think, on a principle that we ought to have the ability to produce to the maximum extent in this country our oil and gas resources.

This minimum tax is going in the other direction. There is no way right now to get to that 20 percent in the amendment to the amendment that is pending, until we can find some way—I hope later on today—to table the amendment to the amendment, and then let us see if we can get to a reasonable figure. We were willing to talk about the 10 percent. The minute we were willing to talk about the 10 percent it became 20 percent.

Mr. LONG. Mr. President, will the Senator yield?

Mr. STEVENS. I yield.

Mr. LONG. Even without cloture the Senator from Alaska has been cut off. In other words, here is an amendment offered on an amendment by someone who is for the amendment. He offered an amendment to the amendment, so it is in the second degree, and meanwhile someone offered an amendment to the bill, and then the majority leader offered an amendment to the amendment, so there is no way the Senator from Alaska can get his amendment before the Senate to moderate it even in the way of compromise.

Mr. STEVENS. I want to repeat what my friend said. I hope people are prepared to stay here. It looks to me, whether we like it or not, that we are going into the filibuster phase during the Christmas season. It is unfortunate. I had planned to go out and spend the time with my father-in-law, who is now 94, and I am going to have to regret very much if I have to leave that old gentleman prematurely, but I will be back here, and we will stay here until this bill makes some sense.

There is no question in my mind that we must hold firm. This cannot turn into a bill that just arbitrarily raises revenue without regard to the productive capacity of the United States.

Mr. DOLE. Mr. President, I hope the Senator from Alaska's voice recovers so that he can participate in extended debate. We are counting on him.

It is the hope of the Senator from Kansas there is still room for discussion and still room for negotiations. We have had a little procedural vote on tabling. As was pointed out, other Senators cannot modify this amendment. We are stuck with the amendment. The amendment contains a higher tax rate than anything which was discussed before.

The Senator from Kansas does not believe that cloture can be invoked unless the Senate can resolve the issue of the minimum tax. I do not believe that cloture can be voted unless we resolve the issue raised by the Senator from Missouri in his amendment, at least making it in order to offer his amendment.

It would be our purpose not to filibuster but to discuss why suddenly we have a reversal on this minimum tax. I would hope that after some 2 or 3 days of discussion, we might be able to understand that there is no need for a minimum tax, that the minimum tax has no bearing on production. It does not produce any oil. It was never intended to produce any oil. We had no hearings on a minimum tax. It was never discussed in the Finance Committee.

We rush out here, and discover a minimum tax proposal on the floor. Why? For one reason, and one only to raise revenue.

If the purpose is simply to raise revenue, maybe we had to make the tax rate a 50 percent revenue. I would hope my Republican colleagues, who always want to cut taxes, would not try to raise taxes on this bill, because I believe the tax would be passed on to the American consumers.

I was never aware that a minimum tax would raise $25 billion; $25 billion was once considered a lot of money, but we now consider $25 billion just a minimum. How much would we reach with a maximum tax? Maybe we should try for a maximum tax.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. DOLE. Yes.

Mr. LONG. May I suggest to the Senator, it is not $25 billion, it is another $31 billion—not some minimum, but $31 billion more.

Mr. DOLE. We just raised it $6 billion in a little conversation.

Mr. LONG. May I say to the Senator, I have checked with the staff and I am right. Even without the independents, it is $31 billion more. Some minimum.

That is on top of what? $31 billion more on top of $155 billion, and that is on top of another $300 billion they are paying under the existing rate.

Mr. DOLE. Well, it has gone up $6 billion just in the little while we have talked. That indicates how fast we take action in this body.

But I would say the debate has become a futile exercise, we have put in a position to say, "the Senate has to have $185 billion for the Senate to look good." Mr. President, I have been out in the country now and then. I sort of sneak out between votes, and rush back so I do not disturb anyone. I do not find anyone out there asking, "How much is the tax going to be in the Senate?"

"Oh, it is going to be $185 billion, but in no event will the tax exceed 100 percent of net income." Try to sell that to anybody in this country.

We have a few little wells in my State, producing an average of 3.4 barrels a day. It is not much. I wish we had more. The industry employes about 10,000 or 11,000 people in Kansas.

I would hope we could start discussing the energy effects of this measure. For 3 or 4 weeks in the Finance Committee we talked about the energy response, then we dropped all that out the window and started talking about revenue.

The majority leader talks about the public purpose. What is the public purpose? We are still waiting to find out what the public purpose is.

There is $70 billion for low income assistance, $30 billion for tax credits to encourage the development of new technologies, $14 billion for mass transit, and $1 billion for railroad improvements.

It just seems to me that we have an obligation to discuss the minimum tax, not too extensively, but at least for a day or two, to enighten those Members who may feel this is something we discussed in the Finance Committee. The Senator from Connecticut voted against a tax on new oil in the Finance Committee, and now proposes a tax on new oil on the floor of the Senate. For what reason? To raise revenue. Not to raise any oil, but to raise revenue.

I do not know how far we can kick the industry around. It is great politics. People applaud when you get up and kick the oil industry; and I assume they probably have the worst public relations of any industry in the country.

They do make big profits, but most of their profits are artificial. We hear they are buying an insurance company. Exxon is trying to buy Reliance Electric. Maybe we are driving them to that. Maybe they have to diversify because they are not certain what is going to happen in Congress.

Mr. LONG. Mr. President, will the Senator yield on that point?

Mr. DOLE. I yield.

Mr. LONG. Exxon contends that if it can buy an appropriate electrical outlet, it can merchandise a new piece of electrical machinery which will save more energy per year than the Alaskan pipeline can carry.

Mr. DOLE. That is true.

Mr. LONG. So it is relevant. If a company can spend some of that money on an alternative use that saves more energy than all Alaska can produce and deliver, it seems to me that would help solve the problem. It is just like having a second Alaskan pipeline or another Prudhoe Bay.

Mr. DOLE. The Senator is correct. But of course that is not good politics, and that is not the stuff that makes headlines. We do not want to talk about energy, we want to talk about raising taxes. I have not heard anybody talking about how much energy we are going to produce; it is how much money we are going to raise. That is what we read in the newspapers and hear about on the radio and television: "Senate votes to increase revenues $22 billion," or "Senate votes not to table minimum tax."

This is the game now: Who can bring up the best number? I believe the best number has been arrived at, $160 billion. We go to conference, and they have about $250 some billion. A compromise between those figures will give us $200 some billion, in the final analysis.

That is only the windfall portion. In other words, there is another $200 billion increase in taxes in Federal royalty payments.

My friend from Illinois apparently voted for a minimum tax. I say to him, we are going to put a tax on newly discovered oil in the State of Illinois and every other State, and discourage production. It is the opinion of this Senator that we ought to encourage production in Nebraska, Colorado, Illinois, Wyoming, and other States.

Mr. PERCY. Mr. President, will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. PERCY. The Senator states that the Senator from Illinois has made a determination to vote for a minimum tax. That is not true. I voted against the motion to lay the minimum tax amendment on the table, but I have not made up my mind; I have not determined what I ought to do on an up or down vote on the measure.

I think we need a debate on it, a thorough debate. I intend to study the minimum tax thoroughly, and I hope we will debate it now.

I would like, since the majority leader is on the floor, to ask this question: We left up in the air yesterday the meaning of the unanimous-consent agreement that was entered into the night before last. In the colloquy, the acting minority leader (Mr. Stevens) is recorded as having said:

> I hope that this would give us an opportunity for the managers of the bill to set this amendment aside temporarily during the day tomorrow, if possible, and take up other amendments that might be disposed of prior to the time of the cloture petition.

The majority leader followed by saying:

> I join in that hope.

Now, as the majority leader knows, there has been almost no opportunity for us to vote on other amendments. Yesterday, in a colloquy on the floor, Senator Long said that he knew some of the amendments I intend to offer were very relevant to the purpose of the bill; and he said:

> It is all right with me to consider some amendments, but not those that would be so far afield from what we are talking about here that it just turns the bill into a Christmas tree; just a complete Christmas tree.

We are now on the minimum tax; it seems to me we ought to dispose of that matter one way or the other, up or down. When it is disposed of, we are still—cloture not having been invoked—under the unanimous-consent agreement, which, again, I would have objected to if I had known the terms under which it was being put forward. We are still under the provision blocking so-called nongermane amendments, even those that pertain directly to the purpose of the bill.

What do we do with the windfall profits? Coal conversion is one of our highest priority items, and I have an amendment that deals with it; there is another comparable amendment that the Senator from West Virginia (Mr. Randolph) is offering.

Then there is an amendment I would like to bring up that would turn back money to the States to compensate them for losing tax revenues because of vigorous conservation measures.

My question is simply this: at what point—and I am willing to stay here right straight through the weekend if necessary—at what point will it be possible to present these amendments that are pertinent to the purpose of the bill?

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. Mr. President, I believe the question was addressed to the majority leader. I yield to the majority leader.

Mr. ROBERT C. BYRD. I thank the Senator from Kansas.

Mr. President, of course, if cloture were invoked and the Senator's amendment were germane, it would be brought up at that point.

I would hope that we could reach an agreement that would allow us to vote on the minimum tax, allow us to vote on the amendments by the Senator from Missouri (Mr. Danforth), and then dispose of such amendments as the Senator from Illinois is talking about.

It could be done by agreement or it can be done by cloture. I hope that this afternoon we can talk about an agreement and see if we can work a way to get these other amendments out of the way and get on with the amendments such as the Senator is talking about and vote on the bill.

I cannot offer the Senator any hope at this moment, because it would take unanimous consent.

Mr. PERCY. The Senator from Illinois is willing to enter into a time agreement at any time on the two amendments that I will be offering.

Mr. ROBERT C. BYRD. I understand that. But we have to dispose of the minimum tax amendment. And, until we do that I am constrained to object to calling up any other amendment, because we need to get by the minimum tax amendment and the amendments offered by the Senator from Missouri (Mr. Danforth).

In any event, it would take unanimous consent to call up any other amendment at that point.

Mr. DANFORTH. Mr. President, I wonder if the majority leader would——

Mr. ROBERT C. BYRD. Mr. President, the Senator from Kansas (Mr. Dole) has the floor.

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Missouri.

Mr. DANFORTH. Mr. President, I thank the Senator from Kansas.

I wonder if I could ask the majority leader if he would consider modifying his position with respect to the standing objection to any other amendment. It appears that we are now in what could be called extended debate on the question of the minimum tax.

There is also another broad issue which is hanging over this bill, which, as I stated in an earlier colloquy, takes the form of two amendments. I think one of those amendments really raises no conceivable legal objection. I might say that I do not think that there is a very sound legal argument against the other one. But one has really no meaningful objections at all.

It would seem to me that that issue is going to have to be faced sooner or later, in any event. And as long as we are—let us face it—more or less killing time around here, it might be advisable to do some business on something which we are going to have to take care of one way or another later on.

Mr. LONG. Will the Senator yield?

Mr. DOLE. The Senator from Kansas is happy to yield to the Senator from Louisiana.

Mr. LONG. Mr. President, may I just say that I am not familiar with these other Danforth amendments and I am in no position to say that those amendments would not be controversial. The Senator is speaking for himself when he says he does not think his other amendments would be controversial. For all I know, they might be extremely controversial. They will just have to be analyzed.

I am in no position to state at this point what the attitude of those of us who oppose the first Danforth amendment would be with regard to the others. I assume we would be against all of them. But I am in no position to say that the Senator has a noncontroversial amendment, when I have not had an occasion to study it. But if it is out there and printed—is the amendment printed now?

Mr. DANFORTH. Yes, it is printed.

Mr. LONG. Mr. President, I will be glad to look at it, study it, and pass judgment on it. But, at this moment, I am not familiar with it.

The Senator showed me something a day or two ago which was typed out, but it was not a printed amendment. But I only got a brief glimpse at it, and I do not read that fast. I am not a speed reader. So that the moment that I had to look at it would not have been adequate enough to tell what the amendment was.

Mr. DANFORTH. Mr. President, I would just say, in responding to the floor manager, that there is no doubt that it is controversial. There is no question about that. This is the amendment which I mentioned on the floor last Friday afternoon, the so-called Danforth 2 amendment.

At the time, the Senator from Louisiana described the Danforth 1 amendment—that is the one with respect to State royalties—as being unconstitutional, but the Danforth 2 amendment as merely being immoral. [Laughter.] And, therefore, it was my hope that the allegedly immoral amendment could be one that could be disposed of.

I am sure that there will be some substantial debate on it. But we could get on with that business at this point. And it would not raise a couple of the problems—which I do not happen to agree with but which have been raised by the Senator from Louisiana—namely, the legal question and the precedential question.

Mr. LONG. Mr. President, having thought about it overnight, I am more inclined to believe that the Danforth amendment might be both immoral and unconstitutional, so that it will require some further thought before I agree to vote on it.

But, in due course, the Senator is entitled to call up his amendment, debate it, and let the Senate decide what it wants to do about it. I respect his right and I want him to have every right I have; no more, no less.

Mr. DANFORTH. Mr. President, I am simply trying, as I hope I often do, to help the majority leader in his task of trying to get the work of the Senate done. I realize that we are late in the year and that we have the Chrysler bill which is still to come up and that that has some controversy attached to it, as well.

I would like to see us move forward.

I was simply suggesting that one way to get off the dime would be to proceed on Danforth 2 at least for sometime, and then the Senator from Louisiana could make a decision on whether he wants to make a tabling motion. Maybe that would dispose of it, I do not know.

But it was simply a suggestion for what we could do to expedite the proceedings of the Senate.

Mr. DOLE. Mr. President, I think it is fair to say that on this side of the aisle there are a number of us who are not certain that we can support the Danforth amendment, but we have agreed that we would like to see him have an up or down vote on it. I do not know for certain what Danforth 2 is, although I think I know what Danforth 2 is. Perhaps this amendment might be part of some agreement, if we could reach it later on.

But it seems to the Senator from Kansas that it is wise not to let other amendments intervene at this time. If you are going to keep the pressure on those of us who are not for the minimum tax, you ought to make us continue to talk. And I am finding it difficult, during the lunch hour, to find anyone who wants to talk. But I assume the Senator from Kansas can do that.

But the longer we discuss this bill, the more turkeys will be offered to this proposal. Some proposed amendments will be good and some will be bad. But if we can discuss it sometime this afternoon, then, perhaps, we could accommodate the Senator from Missouri.

I do not believe the Senator from Illinois (Mr. Percy) had finished his request.

Mr. PERCY. Mr. President, I would like to ask the majority leader for his consideration of this, so we can get off the dime and forge ahead.

I would ask unanimous consent that following disposition—when, if, and ever—of the minimum tax and the Danforth amendments, 1 or 2, that the next pending business be amendment 682, which is the State turnback of funds amendment. Following disposition of that, I would like to ask that the Senate consider either 797 or 798, two different versions of my coal conversion amendment.

I would like to see if we cannot get unanimous consent on those to at least plan to bring them up whenever we dispose of the other two amendments.

Mr. ROBERT C. BYRD. Mr. President, I want to accommodate the Senator in every way I can. But I do not think we ought to start at this point lining up any sequence of amendments to be taken up after the disposition of the minimum tax amendment and the disposition of the Danforth amendments, because I think those are the two primary amendments that are going to have to be disposed of.

Maybe later in the day we can do that. But, at this point, I do not think we can enter into any agreement with respect to the sequence in which other amendments are going to be called up and disposed of. So if the Senator from Illinois (Mr. Percy) would forbear, and if I might have his indulgence, I would say that I do not think that this is the moment to attempt to get any agreement on other amendments.

I am sure that we will have some meetings today. I am going to be talking with the distinguished acting Republican leader, with the distinguished Senator from Kansas (Mr. Dole), the distinguished manager of the bill, and others, in an attempt to see if we can work our way through an agreement that would dispose of the major amendments at this point.

But if we start getting agreements on other amendments, we are going to go on ad infinitum, and I would not like to do that at this point.

Mr. PERCY. The Senator from Illinois was just trying to differentiate between amendments that are totally unrelated to the purpose of this bill and amendments that are pertinent to the bill.

Can the Senator from Illinois be given any assurance that at some time during the proceedings we will really seriously consider these and not just continue to object to them?

Mr. ROBERT C. BYRD. At some point, I do not think there is any doubt.

Mr. PERCY. I appreciate that assurance.

Mr. MAGNUSON. Will the Senator yield?

Mr. DOLE. I will yield the floor to the Senator.

Mr. MAGNUSON. I was just going to suggest that we will have this meeting this afternoon to consider bringing up the gasohol section of the bill, section 2. We temporarily laid it aside based upon the fact that we had some loose ends to pick up. They have all been agreed to.

It is germane to the bill and it should not take 5 minutes. It must be part of the bill and it must move on. A lot of people are asking about this very important subject.

Mr. ROBERT C. BYRD. Mr. President, I am sympathetic with the amendment that the distinguished Senator from Washington is talking about. I am sympathetic with the amendment to a point. But I hope at this time we can avoid asking unanimous consent to set aside pending amendments and take up other amendments. I hope we can work out some kind of an agreement as to the modus operandi before the afternoon is over.

Mr. McCLURE. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLURE. I want to say to the Senator from West Virginia, and I am glad he is here on the floor, that I understand he is anxious to get ahead with these two amendments. There are a number of Senators, not only the Senator from Idaho, who are concerned with how we use unanimous-consent agreements to maintain control, and I understand the duties of the majority leader in this regard. But the Senate has really not had the opportunity to work on other amendments except by agreement. I think under those circumstances it will be perhaps even more difficult to arrive at sequence agreements than perhaps might have been the case otherwise, though I understand exactly how we got here. I wanted the Senator from West Virginia to know about some of the conversations, about what I hear, about what may evolve as an unseen difficulty to the future agreements that we talk about entering into in the event certain other things happen.

Mr. ROBERT C. BYRD. I understand and I thank the distinguished Senator.

Mr. BUMPERS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Is the pending business the Byrd-Bradley-Bumpers, and others amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. No other amendment is in order, then, except by unanimous consent?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Mr. President, I will repeat what the majority leader has already said. At some point the U.S. Senate will have to fish or cut bait on this issue. I think there are a few political realities we need to face and a few parliamentary realities we ought to recognize.

There probably is not going to be a windfall profit tax bill until the Danforth amendment is defeated, and in my humble opinion, there is not going to be a bill until the minimum tax has been approved.

It occurs to me that the best interests of the American people, and certainly the families of Members of the Senate who would like to spend a little time together at Christmas, would be served if we recognized those two facts and get on with the show. It is my belief that the Senator from Missouri does not have the votes for his amendment, and it is also my belief that the minimum tax vote will prevail, admittedly by a very slim margin.

What do we accomplish here by just keeping the Senate in session?

If I were majority leader that is exactly what I would do. I would keep the Senate in session at least until midnight, maybe 24-hours a day, until we break this deadlock.

I am not opposed categorically to the idelogical problems that some Senators have with some amendments to this bill. I certainly understand the position of the Senator from Louisiana about State royalties. He makes a strong constitutional argument that the U.S. Congress does not have the right to tax income of the States. I do not want to get into that argument because there are other issues I want to discuss.

This country is desperately waiting for two events, the freeing of the hostages and a sign from the U.S. Congress that we are going to do something about the energy crisis.

We in the U.S. Senate cannot free the hostages. We can be restrained and sensible in our public comments about it. We can be dedicated and resolved in our support of the President's handling of it. We cannot free the hostages, but we can pass a meaningful windfall profit tax bill. We could get it out in the next 24 hours with a little cooperation, and then consider the Chrysler legislation. I have not taken a position on the Chrysler legislation, but I know that sooner or later I will have to vote up or down on it. I would just as soon do it sooner than later.

This morning just before we voted on the motion to table the Bradley-Byrd-Bumpers amendment, I pointed out that the American people are going to be agitated when they see the quarterly reports of the oil companies' profits.

You should bear in mind that all the profits the majority leader referred to in his statement this morning were announced before the President's order to decontrol oil prices had taken effect. It is now taking place. It is 1½ percent now and on January 1 it will be 3 percent. If, in the unlikely event, oil companies did not raise prices and the OPEC countries did not raise their prices, and the oil companies' percentage of profit remained the same with the added benefit they receive from decontrol, we are going to see continuing announcements of massive increases in profits for the oil companies. We are going to see more and more Exxons and Tennecos building their conglomerates.

The proposal we read in the Washington Post this morning about Tenneco, Inc. announcing plans to buy the Southwestern Life Insurance Co. in Dallas is not peanuts. Tenneco said it would give stock worth $750 million to acquire Southwestern Life. That purchase price is almost as much as Tenneco will spend this year on oil and gas production. For all of those people who say we have to provide incentives for exploration, I will paraphrase the statement of the good Senator from Washington, Exxon drilled until they hit Reliance and now Tenneco is drilling until they hit Southwestern Life Insurance.

So it goes, and it is going to continue.

I remember when Frank Clements delivered the keynote address at the Democratic National Convention in 1956. He was then a young, dynamic orator and Governor of the great State of Tennessee. And I remember his theme in that speech, "How long, America?"

How long is America going to put up with our dependence upon OPEC oil, and, more importantly, our dependence upon OPEC pricing?

The Finance Committee assumes that oil will be priced at $30 a barrel and will only go up in 1980 at a rate of inflation plus 2 percent, and will only go up in 1981 at a rate of inflation plus 2 percent, and this projection continues into the future.

If you think, Mr. President, that oil prices are going to go up only by a rate of inflation plus 2 percent over the next 10 years, let me tell you about the Easter bunny. You and I both know that, this year, 1979, prices at the OPEC level have gone up at least 60 percent.

Mr. DANFORTH. Mr. President, will the Senator yield for a question at this point?

Mr. BUMPERS. I am happy to yield for a question.

Mr. DANFORTH. I was wondering if the Senator from Arkansas, particularly in light of the point he is making right now about the price increases in OPEC, might not be sloughing off, as though it is just incidential and something that we have to get rid of, the whole thrust of the two amendments which I intend to offer. Let me say it for this reason: Given this very modest, conservative assumption of a 2 percent real increase in the price of oil, State and local governments will realize an additional $128 billion of revenue between now and 1990—$128 billion. If the assumptions are wrong, as the Senator from Arkansas is suggesting, if the price does not go up 2 percent after inflation but goes up more than that, the amount that the State and local governments will realize as a result of decontrol from increased severances and from increased royalty receipts will not be $128 billion, but could be many times that. Eighty-three percent of that increased revenue will go to four States: Texas, Alaska, California, and Louisiana.

My question to the Senator from Arkansas is simply this: Is it not an economic problem which boggles the mind if this handful of States is given this quantity of additional resources with which to wage economic war against the rest of the country? Is it not a fact right now that there is tremendous economic pressure placed upon a good portion of America by a handful of States that are relatively well off where, as a result of their economic condition, they are now succeeding in attracting business and industry from the rest of the country into their parts of the country?

And is it not a fact that if we give, say, the State of Texas, more than $3 billion added revenue a year, when the State of Texas now has a substantial surplus, this provides a tremendous economic threat to Arkansas, to Missouri, to Illinois, to Michigan, to Ohio, to the whole rest of the country?

Mr. BUMPERS. I agree with the Senator from Missouri that we can probably double or triple the amount of benefits that Louisiana, Texas, California, and Oklahoma will reap under the Finance Committee bill if you are relying on the assumptions of the Senate Finance Committee because those assumptions are dead wrong.

Obviously, the price of oil is going to go up at an exponential rate in the future. The American people understand that we cannot control the price OPEC sets on their own oil. But for this body to vote the American oil industry a full voting partnership in that conspiracy is literally the U.S. Congress waging war on its own people. I feel stronger about this issue than any that the Senate has considered since I have been in Congress. My State is a poor State. Many people are having a tough time keeping body and soul together. What do we receive in exchange for a trillion-dollar minimum tax on the American people? We will get bigger profits, more acquisitions, and no more exploration. You could not get the oil companies to drill another hole to save your life if oil went to a billion dollars a barrel. They could not do it.

I do not mean to single out Texaco, but their advertisements conclude with that slogan, which I consider offensive, "Texaco is working to keep your trust." I tell you what they and the rest of them are trying to do; Mr. President: They are trying to separate the American people from everything they have in their pockets or in their banks that has written on it "In God we trust." •

Mr. DANFORTH. Let me ask the Senator from Arkansas a question, because I am trying to make a point which, for some reason, I am having a difficult time getting the Senate to focus on. The Senator from Arkansas was the Governor of a State.

He knows how State government works. If the State of Alaska, with a population of 400,000 or so, receives increased revenue from decontrol in the amount of $37 billion over a 10-year period of time, what could they do with that money? I have one thought and it is not my thought; it is a thought that came to me from a well-known economist at Stanford University. They would buy up oil properties—not necessarily in Alaska, but anywhere they wanted to.

What would the State of Texas do with a minimum of $33 billion, under a conservative estimate? Thirty-three billion dollars in the State of Texas, when they already have a surplus on the ledger, no income tax, and no corporate tax. What will they do with an additional $33 billion? I can tell the Senator what they will do, in my opinion. They will package economic incentives—nominal-interest loans, build factories with nominal rentals, various kinds of incentives—and they will go on a raiding party throughout this country, attracting business, industry, industrial plants, job opportunities, jobs from the rest of the country into the State of Texas, into the State of Louisiana, into the State of California.

It seems to me that it is just as obvious as the nose on my face that when this kind of increased revenue goes to just a handful of States, it presents a very severe economic peril for the rest of the country. That is my concern.

My concern is that in connection with this bill, the windfall bill, we seem to be so concerned with what the rate of tax should be on tier 2 oil, whether there should be a minimum tax, this, that, and the other thing—we are already going to finance the full program that the President has asked for for energy.

But we have ignored and are persisting in ignoring this major concern of the transfer of economic power and the kind of economic dislocation that must, as the night and the day, follow this kind of increase in State revenue.

What really concerns me is the kind of thinking, "Well, let us get these amendments out of the way, let us just shove them aside, let us try to forget about them, forget the problem exists."

These two amendments are not going to solve the problem. They might slow it down a bit, but not solve it.

It seems to me, if we are not concerned about jobs, if we are not concerned about the jobs of our people, if we are not concerned about a major economic threat, which unless I am seeing ghosts in the corner somewhere is bound to exist and will increase manifold, $128 billion increased revenue, 83 percent of which goes to four States, that 128 percent, on the assumption of only a 2-percent increase in oil prices, and these four States—Texas, Alaska, California, Louisiana—now account for, today, 50 percent of the aggregate surplus in State budgets.

What are they going to do with that money unless they are going to wreak economic havoc on the rest of the country?

The rest of the country happens to include Arkansas. It happens to include Missouri, Iowa, Rhode Island, Georgia, Wisconsin.

(Mr. NELSON assumed the chair.)

Mr. BUMPERS. The Senator's argument is persuasive.

If I were from Louisiana, I would probably be making, I am quite sure, the same valiant effort that the chairman of the Finance Committee is making to protect that revenue to his State.

It is in the nature of all of us to do that.

I can be fairly statesmanlike about this issue of the exemption for State-owned lands because Arkansas has no State-owned lands from which oil is produced.

However, I understand the politics of that issue, but I have two or three observations. The Senator from Louisiana has the votes to defeat the amendment of the Senator from Missouri. That is the political reality of that issue.

There are enough votes in this body to pass the minimum tax. I think that is a good name for that amendment because, as the Senator knows, I consider it absolutely minimal.

I am not sure I will vote for this bill, incidentally, in the final form, even if the minimum tax passes, because I still think it is a much weaker bill than we ought to be passing.

Be that as it may, the people of this country are waiting, and not very patiently, for us to act. We are not acting. Everybody is ready to vote. Everybody is ready to vote on what he wants, but not what anybody else wants.

The Senate is stalemated. We are on dead center. I do not know what it will take to break the impasse.

I would like to ask the Senator this question. If this really is a ripoff of the other non-oil-producing States, that have no State-owned lands, why is our refusal to levy a good stiff windfall profit tax not also a ripoff, using all those same arguments?

What will the American people get back from the oil companies in exchange for the $1 trillion to $2 trillion they will be asked to cough up and pay over to the oil companies?

Mr. DANFORTH. If I may respond in this way, I think what the Senator from Arkansas has pointed out is that there are two different issues, at least, that are before us.

One of those two issues has received our concentrated attention for 4 weeks now on the floor of the Senate, and before that, for several months in the Senate Finance Committee.

That is the question of how much of the fruits of decontrol will stay in the private sector and how much are going to the Government sector.

That is the issue that is before us in the minimum tax. We have a difference of opinion on that and it has been debated repeatedly, over and over again.

But what I am trying to point out is that there is another question. That is a question which has not been faced by us sufficiently. That is, within the governmental sector, what is the distribution of the increased revenues within the governmental sector?

The point I have been trying to make, until I, at least, feel like I am blue in the face, is that it is not possible to have this tremendous increase in revenues focused on but four States without having the rest of the country be very seriously threatened. Therefore, the issue before us is not what can we do for Alaska, or what can we do for Texas, or what can we do for Louisiana, or what can we do for California. That is not the issue. Those States have done very well with decontrol. They will do fabulously well regardless of what happens to either or both of my amendments when they are finally voted on.

The main question is the rest of the country.

I do not have it out for Alaska. It is a wonderful place and has the best fishing I have ever done in my life. It is beautiful, magnificent. It is like California—a great State.

What I am trying to point out to the Senate, what I have been trying to point out for the Senate repeatedly, is that Arkansas has a stake in this, that Wisconsin has a stake in it, that Missouri has a stake in it, that there is no way we can provide this kind of increased revenue to competitors—and we are all competing for plants, for equipment, for investment—we cannot give competitors that kind of advantage without having it work to the economic detriment of the rest of the country, and that means our constituents.

Mr. STEVENS. Will the Senator yield?

Mr. DANFORTH. Certainly.

Mr. STEVENS. The difference I have with my good friend from Missouri is that the future economy base we need to build is tied to resource development.

We are not building shoe plants. Missouri has them. We are not building all the manufacturing and processing plants. Missouri builds them. No one is planning a labor-intensive industry in Alaska. It is going to be a resource industry based economy.

Industry has to pay $2 billion for the gas-conditioning plants. If Prudhoe Bay were located in Oklahoma, Texas, Louisiana—anywhere—there already are gas-conditioning plants in existence that could take care of that gas. Alaska is just starting out, however.

The Senator from Missouri says he wants to take income from the four oil States and redistribute it. Alaska gets this income because our State constitution says that the subsurface rights belong to all the people of Alaska, and it is State property.

If my friend, the Senator from Missouri's State sold a piece of property, he would object very strenuously if the Federal Government then taxed it. As a matter of fact, most States have objected very strenuously to the Federal Government even thinking about taxing their State bonds. This is State property, and the Senator puts us in the position of being in business.

As a matter of fact, it seems that most Members of the Senate think I am just talking about the major oil industry when I talk about what is necessary for Alaska. I am talking about Alaska. The State of Alaska owns that oil.

As the State allows people to develop it, it gets a royalty for it. That royalty is its income for the sale of State property. It is not its income for being in the oil business.

I do not understand the logic used by the Senator from Missouri when he says he wants to do this. If he does this, I assume he is going to start taxing the royalties that come from coal companies to the coal States. Many States have coal royalties. Many States have timber royalties. Many other States have various forms of property rights that they lease, particularly the coastal States in the United States—the 3-mile limit.

There are leases in these areas; not just oil and gas leases but leases for recreational development as a source of revenue.

The Senator from Missouri says, "Look at all the money you're going to get." The State of Alaska did not raise the price of oil. If anything, it has encouraged the production of more oil to keep down the price. As a matter of fact, I voted with the Senator from Washington to roll back the price of oil. No one likes to see the price of oil go up like this.

I believe that if the Senate would only listen and let the State lease the lands in order to produce the oil that Alaska is capable of producing, OPEC would not have the yoke around the United States that it does.

My State could produce as much as this country imports from the OPEC countries. But our lands are shut off from access. Not one new oil and gas lease has been issued in Alaska since 1965. Many Senators want to shut off more lands and not allow them to be explored and developed. We know the oil is there.

President Harding set aside one reserve, of 25 million acres, in 1925 because oil seeps were visible on the ground to travelers.

The Navy drilled two wells in World War II, and since then the Government has drilled nine wells. Private enterprise has never had an opportunity to develop this area.

The Senator from Missouri has proposed a very discriminatory amendment, which is, in my opinion, steering us on a new course of federalism. It is one in which the Federal Government will start taxing the property of the individual States. If it can tax our oil royalties, why can it not tax Missouri's court buildings? Why can it not tax every single piece of property that States own? It is a States' rights issue.

Alaska temporarily has substantial oil income. But when our oil is gone, what will we have? The State needs that income to build the infrastructure, build the transportation facilities, and try to relate our State and its economy somehow to the rest of the Nation. There will be a period of years during which the State will realize a lot of money and then, suddenly, it will be out of oil.

As a matter of fact, Prudhoe Bay oil production will drop to about 500,000 barrels a day by 1985 unless new production is added. This brings me to the point of much of my debate with respect to this tax. It is discriminatory toward Alaska in the sense that it will slow development, production, and exploration. For new reserves there and now the Senator from Missouri says that because my State owns that property and is willing to have it produced, they will be especially singled out for taxation.

I think that I understand the Senator's fears. But his fear that Alaska is going to take business from Missouri, that somehow the shoe businesses are going to move to Alaska from Missouri, are just groundless. The cost of labor is extremely high there. The only industry that would come to my State would be that which uses resources for very basic manufacturing.

The Senator is setting us off on the wrong trail. I intend to help him get his amendment to a vote, but I long for the day I can cast my vote against it.

I hope my colleagues from other States understand that if they impose a tax on this royalty due the State of Alaska because it sells its oil, the Federal Government can then tax a lot of other things that are owned by and are sources of income to other States.

Mr. DANFORTH. Mr. President, I long to respond to the Senator from Alaska, but I do not have the floor. The Senator from Arkansas has the floor at this point.

Also, my guess is that this matter will be up on another day, and the voice of the Senator from Alaska will be heard.

Mr. BUMPERS. I yield the floor, Mr. President.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, the fear of economic dislocation—that is, jobs moving elsewhere—I have to say, is a much stronger threat for jobs moving to Texas and Louisiana and California, which are the other three States of the big four that are going to benefit as a result of this decontrol of energy. I do not really fear that too many factories will be moving to Alaska, although it is a beautiful place to live.

I am not sure what Alaska is going to do with this increased revenue. I have here an article from the New York Times of Saturday, November 24, 1979. The headline reads: "Alaska Has Problems: $1 Billion Surplus." I will read some excerpts from the article.

> While old industrial cities hover on the edge of bankruptcy and inflation licks at local governments across the land, Alaska's Treasury is bursting with a spare $1 billion.
>
> The unexpected bundle arrived because of Alaska's oil treasure on its North Slope. The price of Alaskan oil is tied to the prices posted by the Organization of Petroleum Exporting Countries, and those prices have risen and risen again. Royalties and severance taxes paid on oil leaving the state account for 70 percent of Alaska's annual revenue.
>
> This year alone, the price increases have been translated into a $1 billion budget surplus. That is enough to pay normal operating expenses and then issue each Alaskan a check for $2,700.
>
> * * * * *
>
> Alaskans have flooded newspapers and politicians with letters suggesting that the money be spent to help the handicapped, built a Swiss-style ski resort at Mount McKinley, develop hydroelectric energy and provide free transportation and free education.
>
> They have suggested construction projects ranging from a natural gas pipeline to a municipal golf course in Anchorage. They want loans given for business, industry, agriculture, tourism and housing.
>
> * * * * *
>
> Not surprisingly, some people are urging the state either to abolish its individual income tax or give citizens tax credits based on length of residence in Alaska.
>
> * * * * *
>
> Gov. Jay S. Hammond favors a system of tax credits in which money would be returned to taxpayers based on length of residence in the state.

The fact of the matter is that, according to this article, the increased revenue in 1979 alone is enough to pay not only the full operating costs of the State but an additional $2,700 for every man, woman, and child in the State of Alaska.

Mr. STEVENS. Mr. President, will the Senator yield right there?

Mr. DANFORTH. I yield.

Mr. STEVENS. I visited with my Governor over the weekend. I am aware of these figures, and we discussed them. We went into debt for $1.5 billion during the 4-year delay caused by the environmental extremists who held up construction of the oil pipeline. I suggested to him that the State use this additional income now to pay off some of those bonds the State had to issue to keep this project going. I also pointed out to him that our municipalities are now paying higher interest rates because they, also, were forced to overbond during the boom that came during the building of the oil pipeline.

I will be glad to open my pockets to the Senator from Missouri to demonstrate that this Senator is not very rich. Alaskans are not very rich. As a matter of fact, they are still paying the highest cost of living of any American. They pay the highest prices for homes. Even though the State is producing oil, that oil produced must be sent down to Long Beach to be refined and then the gasoline shipped back. We are still paying more for gasoline in spite of the fact that we are producing one out of every six barrels of oil in the United States.

Mr. DANFORTH. I am not making the argument about individual wealth. I am making the argument about the wealth of the State governments. That is the issue, the resources available to State government. The fact is that given this very conservative assumption of a 2 percent increase in oil prices, the State of Alaska is going to have an additional $37 billion between now and 1990 as a result of decontrol, $37 billion for the State government.

It is not as though my amendments would strip all of that away from Alaska. As a matter of fact, the so-called Danforth 1, the one relating to State royalties, would probably reduce it. Alaska would still have well over $30 billion of additional State revenues.

My point is very simple, and that is it is bad economic policy. It has side effects which are injurious to the country to have this amount of additional money go to a few States.

I do not know what Alaska would do with an additional $37 billion plus, and probably plus a great deal if oil prices go up as most of us think they will. I do not know. I am not an Alaskan. I can guess. Suppose Alaska goes out and just buys more oil property. The Senator's junior colleague had an amendment which was passed in the 1978 Tax Act to the effect that the State of Alaska was to acquire the pipeline.

There is nothing to prevent, that I know of, the State becoming a major investor in oil properties. Maybe that is what it wants to do. I do not know. I cannot speak for it.

But what I am saying is that when we think about the relationship betwen the private sector and the public sector, when we think about the relative balance within Government, let us not forget the major consequences that are bound to flow when this tremendous increase in economic power is concentrated in just four States.

Mr. STEVENS. I am not worried about it. I merely wish to see some resident capital in Alaska. We have a railroad that is owned by the Federal Government. Missouri's railroads are not owned by the Federal Government. We have an area that is one-fifth the size of the United States to try to provide an economic base for. It is larger than most of the nations of the world. And yet the Senator is objecting that we might end up with a surplus. What about the windfall profit going to the OPEC countries? Would the Senator not rather see some of that money stay in the United States?

My basic point is this: If we start taxing the property of the States which can produce, they are just liable not to produce. Alaska does not have to produce its oil now. Alaska wished to help the country. I believe, if the State was allowed to produce to capacity, it could produce enough to bring the price of oil down.

The State would love to see the price of oil come down because it is at the end of the stream, where the prices are highest.

But the Senator is wrong when he says that the money from oil revenues is any different from the money that comes to New York City because it is New York City or that which comes to Missouri when it was a gateway to the West. The fortunes of Missouri were made in fees that were charged people as they went West.

The principle behind free enterprise is that if you have a piece of property, you have a right to sell it. If it is a piece of State property it should not be taxed by the Federal Government. I say to my friend that I will gladly show him how we are attempting to build an economic base in my State against the time when the oil is gone.

It has not happened so far. During the period of federalism when we were a territory everything produced or made in Alaska was taken outside. We had a copper industry. We had a great gold rush. We had a fishing industry. We cannot find any resident capital left in Alaska from those days. When we became a State we had learned our lesson. We said in our constitution that the subsurface rights in our State belong to all the people in the State. We knew we would build an economic base eventually through that provision.

I also point out to the Senator that we would not even have had Prudhoe Bay except for the State. No Federal land has been available for drilling oil since 1965. The State made its land available for exploration.

We did it again just yesterday, when every other State in the union is not doing it. We leased the Outer Continental Shelf off Alaska. It involves a great deal of environmental risk, but we were willing to take the risk. I do not see the Governor of Delaware taking such risks. I do not see the Governor of California taking the risk.

Yet the Senator wants to penalize the very State that is willing to take the risk. If you are going to get our oil, you are going to pay the same as you pay everyone else. That is the principle.

(Mr. BRADLEY assumed the chair.)

Mr. DANFORTH. No.

First of all, I do not want to penalize the State of Alaska or any other State. I simply want the State of Alaska to be treated like any other owner of oil properties.

Mr. STEVENS. I want the State of Alaska to be treated like any other State.

Mr. DANFORTH. I simply want the State of Alaska to be treated like any other owner of oil property.

Now when the State of Alaska revenues go up annually 300 percent, when the State of Texas revenues go up annually 100 percent—and frankly I have to say to the Senator from Alaska that I am more concerned about Texas, Louisiana, and California than I am about Alaska, for the very simple reason that I think that they will use the funds somewhat differently than Alaska—I am concerned about the attraction by very, very attractive incentive of job opportunities from the rest of the country to this handful of States. I believe that the Senator from Alaska would be equally concerned if he were in my shoes. What is involved here is a very simple matter relating to economics and the job opportunities of the rest of the country. That is the concern.

Mr. STEVENS. On the contrary, if I were the Senator from Missouri, I would be worried about every dollar that went to Kuwait, Saudi Arabia, or the United Arab Emirates, or Libya.

Mr. DANFORTH. I am.

Mr. STEVENS. The money consumers send to Texas, California, Louisiana, or Alaska stays in the United States. It is going to move through our economy. Every dollar that consumers pay us is not paid to them. We are not taxing one of them. There is not one penny going to be charged against any imported oil under this bill, and yet the billions made that brought this bill about were profits from foreign oil. They were not profits from Alaskan oil. Alaskan oil is still $6.50. That is the wellhead price now.

Why the fear exists that it suddenly can go up to these astronomical rates, I do not know. But you are going to force it up because you are going to put such restrictions on it that the producers will have to charge more.

The philosophy has always been to produce more and keep the price down through competition. As a matter of fact, the whole concept of competition in the oil industry gave us for years the cheapest energy per capita that the world has ever known. It brought about the whole industrial revolution in the United States.

How would you like to have been the Senator who represented the State where the cordwood came from when we started producing more coal, or the coal States when we started producing more oil? I remember some of those fights when we had them. You remember those, Senator LONG, when the UMW was really tearing up this country. They fought a hard fight, and I admired them for the fight they put up, but they tried to hold us back.

We initiated an oil import program. Do you know why we initiated it? To protect the oil industry? No, sir, I was with the Secretary of the Interior, and it was John L. Lewis who came to the Secretary of the Interior and asked for that oil import program.

I understand what Veblen calls security sabotage, and that is what you are talking about. You do not want us to move ahead because you fear us. Well, why do you not fear the Arabs? Does this hazel-eyed Arab from the north worry you that much?

I do not agree with this amendment at all. It is going off on the wrong track. Keep the money in the United States. My State will spend it. It will buy new ferries, it will buy new railroad cars, it will buy pipe for new pipelines, it will buy new machinery for gas conditioning plants. And we will buy it in the United States, and we will do our damnedest—pardon me, we will do our very best—to put that money into a new economic base for our State as quickly as possible.

It is a very tough job to move that kind of money into the hands of private enterprise, but we are going to do it somehow. We are going to provide our children's children with the wherewithal so they will not face what we faced. I wish you could have lived the way I lived when I first went to Alaska. I wish some people could see what other people went through with trying to develop that country up there.

We built our own pioneers' homes. We take care of our own people, and we are going to continue to do it. That money is going to be put to good use—not put into the Federal Treasury, that is for sure. We are not going to take State money, State income, and put it into the Federal Treasury just because someone expresses fear that someone else is going to attract business from his State. I say that with all kindness and friendship to my friend from Missouri, but his fear should not be the basis for changing the Federal-State relationship in the United States.

We did not become a State for that purpose.

If we are going to buy out then, then I will ask you how much would you let us buy out for? We will be glad to enter OPEC and let you deal with us as a foreign country. Is that what you want to do, treat us as if we are a foreign country different from the other States? That is not going to happen.

Mr. LONG. Mr. President, will the Senator yield to me?

Mr. DANFORTH. Of course.

Mr. LONG. Mr. President, the Senator is talking about his alternative amendment denying the States the right to collect what they would otherwise under a severance tax.

I think we ought to look at what that threat is insofar as Louisiana is concerned. The Louisiana severance tax was really levied as a Populist effort, and my father back in his day was one of those leading the charge to say we ought to make those big oil companies pay something for taking all our resources so that people can have something, so that they could live a decent life.

In the years that intervened, the State legislature and the people by constitutional amendment dedicated the Louisiana severance tax to education so that the money that the Senator would deny Louisiana is money that under our constitution is dedicated to education, in this case the education of the children, schoolbooks, bus transportation, schoolteachers' pay, whatever it takes to try to educate these children.

There have been articles written, and I will seek to get them and make them available, pointing out that Louisiana only had about 70 percent of the per capita income of the United States, and while we are doing very well right now, and I am not complaining, we are making progress, we anticipate before this gas is exhausted that Louisiana might become the most depressed State in the Nation unless we can find a way to find something else for our people to make a living at.

The oil and gas industry is by far—it is not even close—it is the No. 1 source of income in Louisiana. It accounts for about 40 percent of all industry and commercial activity. It is the prime industry. In other words, it is an industry which creates jobs in other industries. That is so because people have jobs working on oil rigs and building pipelines and installing the compressors and doing the various things, working on the side of the gas crews, working on all that which has to do with oil and gas production, including making the rigs, because we do all that and we have employment for our people.

But everybody knows that our oil is not going to last a great deal longer. The Federal Government muscled us out of the tidelands area. We have a little 3-mile limit. The Federal Government took 140 miles, and we get nothing out of that.

So that looking down the road unless we can find some other jobs that our people can work out as this oil is depleted—and it is not expected to last beyond the next 15 years—the Federal Government is going to have to support us. We will have to all go on the welfare down there because we do not have that with which to support the people.

What can we do to help meet that problem? Well, one of the best things we can do is to give all these youngsters a good education so that when they have to go out and try to find new jobs, try to create new payrolls for them, try to make it somewhere, even if they have to leave Louisiana to try to make a living, they will have some intelligence and some know-how to use their minds and their hands so that they can provide for themselves.

That is what the Senator would take away from Louisiana with his amendment, the resources whereby we would educate these young children so that as the jobs disappear at least they will have the talents and the skills with which to find something else to do.

Goodness knows we have had a tremendous migration of people from Louisiana over to Texas to take jobs. One reason it is that way is because Texas had a right-to-work law and Louisiana did not have a right-to-work law. Finally Louisiana had no choice, Senator, and we just finally concluded that in the main, for example, in my own case as a Senator who had always been supported by labor, I concluded that I had no choice but to make the statement that, if I was a legislator, I would feel compelled to vote for a right-to-work law.

The legislature of the State voted for such a law, not necessarily because of me, but because they analyzed the same problem and concluded they could not compete with Texas, Alabama, Arkansas, and Mississippi while those States had laws that were very attractive from the management point of view, and we did not have laws equally attractive to management.

I understand labor is very much opposed to it, and they succeeded in defeating a right-to-work law in Missouri, and if you can have that, more power to you, but Louisiana had no choice about this matter.

When the Senator seeks to deny the State the income it would take to provide its children an education so that as our resources are depleted the children will have some human talents with which to support themselves, that is very shortsighted. Let us assume that the Senator from Missouri wants to deny Louisiana the use of our natural resources to give our people, especially our young folks, an opportunity, all that could mean—and also he wants to keep us from getting industry down there—all that can mean is Missouri will have to support Louisiana on the welfare because we will have nowhere else to turn.

Now, Mr. President, Louisianians do not care to be welfare clients. We have got too many people on the welfare the way it is now. We want to be hard-working, industrious, striving, intelligent, contributing, taxpaying citizens, not welfare clients. We want to help to carry Missouri's burden. We do not want to be a burden on Missouri. The way to do that, Mr. President, is to let us just use a little of our own resources.

We are exporting 80 percent of it to States like Missouri. I am not complaining about it, but they are hogging it all up the way it is now, and we are asking them just to leave us a little bit with which to operate. Let us have a little of our resources in order to educate our own people.

Mr. President, I do not believe the Senator was in the committee room when we were discussing one of the Mondale amendments that had to do with putting more taxes on the oil industry, but a witness there made a statement which, I think, is apropos of the situation.

He said his father used to keep some bees on the farm, and he would go with his father to take the honey out of the beehives. They would go there about the wintertime, and his father taught him to always leave a little honey there to see the bees through the winter. He said, "If you take care of these bees, these bees will take care of you."

Well, Mr. President, the proposal of the Senator from Missouri would take all the honey out, or so much of the honey out of the beehive, so far as the Senator from Louisiana is concerned, that we would not have what it takes to sustain Louisiana.

Mr. President, all we ask is that people understand the problems of one another. This Senator, up to this point, has been planning to vote to support the Chrysler bill. That does not get any jobs for Louisiana. It was not but within the last 6 months or so that Chrysler closed down the last payroll of any sort they had in Louisiana. They have a few little old dealers that sell some cars. They provide jobs for Missouri, by the way. But the Senator from Louisiana is still planning to vote to save the Chrysler Corp., to save jobs so those people up there in Missouri can sustain themselves. They have two Chrysler plants in Missouri. I do not know how many employees there are. I would like to know.

But this Senator is concerned about every State of this Union, and about a policy that tries to see to it that every State is able to carry its own weight, put its people to work, make a contribution, be a part of this great Union, and help move it ahead.

We cannot do that, Mr. President, with beggar thy neighbor policies, that when somebody finds out Missouri might find something, oh, we are going to take it away from them, or when somebody finds out Louisiana may be getting a little something, we are going to take it away from them.

Under this so-called windfall profit bill, about 25 percent of the money will be left with the industry so that the industry can expand and try to find more energy. About 75 percent will be taken from the industry by the Government, with Uncle Sam taking the lion's share. Then the few crumbs that fall from the table will be left to the States, and bless my hide, the Senator from Missouri finds one of the crumbs will have a little value so he wants to take that one away.

Mr. President, it is difficult for a State that has had the worst of it for a long time to get on its feet and get ahead. I had nothing to do with it; I was not born at that time, but the South was crushed in a civil war that should have been avoided. Mr. President, the record will show that when Sherman's army was defeated at the Battle of Mansfield in Louisiana, they marched southward, and about 15,000 young Louisianians came to join the Federal Army, because of union sympathies in northern Louisiana, where they had no slaves in those red clay hills, and the people were for Lincoln and against slavery. A considerable number; perhaps I have exaggerated, but enough to make a difference.

Mr. President, I believe it is correct—I will be glad to research it—that one of my forebears was in that convention and voted against seceding from the Union. So we had nothing to do with all that. But when our State was overrun and destroyed, our poor souls had to participate in all the tragedy that occurred thereafter: Reconstruction and all the rest of it. We had to suffer from those discriminatory freight rates to keep us from getting any industry, because you had to pay about twice as much to ship anything from the South to the North as it cost to ship it from North to the South. We had the eyeballs taxed off of us to pay pensions to all those Yankee veterans and the widows of those veterans, while our poor Confederates had to scratch together what poor little crusts of bread they could to take care of our own widows and veterans.

So we did what we could to try to hold hide and hair together and survive. Finally it looked like things would get a little better for us. Somebody found out there was oil out in the Gulf of Mexico, and it was possible for Louisiana to get ahead a little. And what happened? The Federal Government came again, and took away 90 percent, maybe 95 percent of it. We were left the 3-mile limit, and they took everything out to the edge of the Continental Shelf and the depth of the Gulf of Mexico. You might say they left the crumbs and took away the rest of it.

Now here comes the Senator from Missouri, finds that the 3-mile limit ought to be worth something, and wants to take that, too.

Mr. President, at some point there ought to be justice among people. How can our poor souls move ahead to help the Nation and make our contribution in taxes if we are going to have it all taxed away from us just because we might be getting somewhere? Mr. President, I hate to think the Senator from Missouri has envy and contempt toward the effort of the State of Louisiana to educate its children. That is where the Senator's amendment would strike.

I favor an amendment, Mr. President, that says that any part of this Nation that is getting the worst of it because it cannot find opportunities for its people ought to have the help of the Central Government. I was proud to vote for the Appalachia program. Louisiana did not get a nickel out of that; all we did was pay our share of the taxes to support it. Virginia, West Virginia, perhaps some parts of Pennsylvania, South Carolina, Georgia, Tennessee—every State that needed it. We were glad to pay our share, because that part of the Nation was suffering, and we wanted every part of this Nation to participate fully in what could be done for America.

It was my privilege to vote to help New York. I was glad to pay our share of the taxes when New York was in a financial tight, to help take care of its problems. I was glad to make a contribution, Mr. President.

Mr. President, I have a number of amendments here I would like to send to the desk. I have signed the first one. Is it necessary for me to sign all these amendments, when I am standing right here on the floor, to send them to the desk?

The PRESIDING OFFICER. No, the amendments will be received.

Mr. LONG. I have a few amendments to send to the desk.

The PRESIDING OFFICER. The amendments will be received and printed.

Mr. LONG. I also have a few more to send to the desk, in the event cloture is moved again, so that they can be considered.

The PRESIDING OFFICER. The amendments will be received and printed.

Mr. LONG. Here, I have a few more, Mr. President, that I would like to send to the desk.

The PRESIDING OFFICER. The amendments will be received and printed.

Mr. LONG. And I would like to send a few more to the desk, Mr. President.

The PRESIDING OFFICER. The amendments will be received and printed.

Mr. LONG. I just do not think it is appropriate, if cloture is voted, that Senators should be denied the opportunity to have their options open to vote on various and sundry suggestions that could be made to this bill, particularly if the Danforth amendment becomes a part of it.

But, Mr. President, to discuss the point I have in mind, what should our policy be about unemployment in Missouri? What should our policy be about unemployment in Louisiana, and New Jersey?

It ought to be that together we are strong. United we are strong; divided we are weak. When one part of the Nation is suffering, we ought to try to go to the aid of that part of the country that is suffering and help it.

And may I say, Mr. President, that while I am proud that I tried to help when New York was getting the worst of it, and tried to help Appalachia, the rest of this Nation has also been good to Louisiana. I can recall when Hurricane Betsy hit down there and did $1 billion of property damage to Louisiana—incidentally, the damage that Hurricane Betsy did to Louisiana, that one hurricane, exceeded the damage that the Danforth amendment would do to us, so it was really some severe damage, about $1 billion of damage, that it did to our State.

And I am pleased to say, Mr. President, that the Senate of the United States was willing to agree to the amendment that I had offered. We said the Federal Government would make some generous loans and even make some grants to some of these low-income people to help them get back on their feet, help them find some housing and hold hide and hair together until they could recover from that devastation. Louisiana appreciates that.

Now, our program should be that when one part of the Nation is suffering, getting the worst of it, the Federal Government, all of us, would pay our share to help that part of the Nation to get on its feet and move ahead. But it should not be a program where they are casting invidious eyes on some State that is doing very well, indeed, and say, "Hold on just a minute. We are going to have to find some way to hold down the State of Wyoming, because it looks like they found some coal out there and they are about to get ahead." Or, "Hold on, here. It looks like the State of Montana is about to get ahead. They are about to make some progress and give these people some opportunities." "Hold on, it looks like they discovered something in Colorado. They have a lot of shale out there. They might make some money. They might have some job opportunities and might even get a plant and a payroll." That is not going to get this Nation ahead.

Mr. WALLOP. Will the Senator yield for a moment on that point?

Mr. LONG. Yes.

Mr. WALLOP. Mr. President, from the beginning of the Senator's arguments against the tax, he has been talking about the depletable resources and what that means to a State. That is a State's bank account.

When that is gone, the Senator is quite right, one only has to point to Appalachia and this whole eastern coal belt to know what happens when the country runs out of a need for the thing they have to sell. They write books about it. They pass laws to take care of it. They do everything else, but nothing helps. The country stays in misery.

What troubles me about what the Senator from Missouri (Mr. DANFORTH) is trying to do is to follow a track that is all too common in this country, which is to ignore the forces of geography, as though God did not intend to have certain things take place when he laid things down.

My county is Sheridan. God surely knew where He put that line down when we got that. Right across from us is Campbell County, which used to be the poorest county in the State of Wyoming. The rest of the State did not mind coming into Campbell County with funds trying to hold those children to the minimum level of education.

Along came some fellow who found oil, the Bitter Creek oilfield. The oil boom took off and unleashed the oil of the Bitter River Basin. Campbell County was wealthy enough to put the schools that it had into a shape acceptable for the children.

Then, along comes coal. And the coal gets big and comes back to life as the mineral resource in this county. Campbell County is suddenly extraordinarily wealthy. Unfortunately, there is only a little bit of coal in Sheridan County, Wyo., and no oil in Sheridan County, at least none anybody has been able to find yet.

Now, it is not really appropriate for us to go into Campbell County and try to pull all that money out.

But the same thing takes place all over this country. The Corps of Engineers is assigned by Congress to make a seaport out of Oklahoma City. That is not done with Oklahoma's oil revenue. That is public revenues. And that has, probably, a relationship to old Senator Kerr. I suspect he had more than a little bit of a hand to do with that. The Senator's State has a mighty river running through it. But it is not a navigable river, in terms of commerce, without money from the rest of the country to keep locks and dams and other things alive and functioning. That is all part of the forces of geography around here and around this country.

California has a unique circumstance in this country. They assume that all the geography of the rest of the West belongs to them, in terms of trying to take water from Wyoming and the Colorado River Basin. They assume that Los Angeles has the right to go in excess of any of the reasonable boundaries that God put down when he laid that basin down there.

So they take river waters that head up in Wyoming and they take the Feather River waters that head up into Wyoming and they take the Feather River and dam it all up and do not even let it go to the ocean any more. They run it all down to Los Angeles.

This is an extension of the same kind of logic the Senator from Missouri seeks to apply, but, in this instance he is taking it out of our bank account, our future, because, while we are going to be asked in Wyoming and in Louisiana to accelerate the production and accelerate the expenses on our economy to hold the country secure until we find some shifting means out of the energy dependence that we have created for ourselves, while we are doing that, we are being asked—as we have asked our friends from the Southeast to do—to deplete their resources faster than they want as if it were in the own best interest of the State of Wyoming.

Wyoming does not need a million and a half people in the next 15 years, when there are only 400,000-some people there today. But that appears to be what is happening to us, as we try to accommodate the influx of people there with energy-related causes.

Now, I assume that there is no constitutional way that they could get at the moneys that are going to Louisiana, Texas, California or Alaska without also getting at the same time the moneys that are going to the State of Wyoming.

Mr. President, I would just ask anybody to pause for a minute and think about what it would mean to anybody's State to have a 300- to 500-percent increase in population in 15 years.

Wyoming has been held up on CBS–TV as a center for boomtowns and disruptive growth. The stresses in some places such as—Rock Springs, Wyo., became a national symbol of the problem of impact. Gillette, Wyo., was bandied about in newscasts and newspapers. All those developments have been recognized by everybody, including the people of Wyoming who do not want to suffer these changes in their environment.

Now, I think the figure of the Senator from Missouri (Mr. DANFORTH) is that Wyoming would get $3.5 billion over the decade.

Mr. DANFORTH. $3.5 billion.

(Mr. EXON assumed the chair.)

Mr. WALLOP. Well, at the same time, $3.5 billion is not going to do very much about providing roads, hospitals, schools, new police, and basic human services. In fact, one of the things it is not going to do is it is not even going to buy the land from the Federal Government. The Federal Government is going to have another windfall, because it owns all the land where people can live around our towns. So we are going to have to buy land from them in order for people to have any kind of habitat.

We are going to have to build aluminum trailers from one part of the State to the other to accommodate the rest of the country for energy. That $3.5 billion is not going to take care of the housing for these people coming to Wyoming, let alone all the other services that we are going to have to have.

I do not want my State coming here, hat in hand, to ask the rest of the country to take care of those kinds of problems. We may have to anyway. But we will be guaranteed our trip to Washington if they start taking away that kind of resource. It just does not make sense. You are asking the State to become an energy hostage of the country, just like hostages in the Embassy in Iran.

You are going to ask us to produce, where we are producing now 75 million tons of coal a year, 675 million tons of coal annual production by the mid-1990's.

Mr. DANFORTH. Will the Senator yield just for a minute?

Mr. WALLOP. Yes.

Mr. DANFORTH. The figure of $3.5 billion, which was the figure that I had on their increased revenue, the projections that I have before me would indicate that, as a result of decontrol, there would be increased revenues of about 207 percent. It would be about a 207-percent increase. So, given the size of Wyoming and given the number of people in it, that is quite a substantial amount of money.

It looks as though it is about a 200-percent increase in revenues by virtue of decontrol and the effect that that has on severance taxes.

Mr. WALLOP. A 207-percent increase is not going to deal with the population increase of between 300 and 500 percent.

Mr. DANFORTH. Well, where are these people coming from?

Mr. WALLOP. Somebody is going to have to mine your coal and the need to build more plants in Louisiana and the need for more people to come into Wyoming.

Mr. DANFORTH. Where are they coming from?

Mr. WALLOP. We do not need them. You need them. We do not want another 1 million people in Wyoming. If I had my way, we would not have such disruptive, rapid growth in Wyoming.

We do not want that kind of growth in the West, but that is where the coal liquefaction and the oil shale is. That is what God put down there. Those are the forces of geography I am talking about. If we had our way, we surely would not be mining 600 million tons of coal annually by 1995.

Mr. DANFORTH. I am talking about increases from royalties on oil. I am not talking about additional severance taxes or anything else, any additional revenues Wyoming might get from other taxation that they would extract from other businesses which presumably would be profitable to Wyoming. I am just talking about the increased oil revenues.

Mr. WALLOP. I do not think the Senator comtemplates what it is to have the kind of growth we are looking at there. A city the size of New Orleans in a 10-year period could easily absorb an additional 100,000 people without major stress on their systems of government. But if you take an area of 15,000 square miles, which is a likely area for oil shale development, which probably has no more than 1,500 people in it and give that a population of 270,000 over the course of a decade and a half, you are really talking about things that tax the imagination of man just to stay civilized.

You will have an increase in alcoholism, an increase in crime, an increase in vandalism, child beatings, wife beatings, stresses that come from people living too close together. Among the other things, our friendly Uncle Sam will not give us the land for people to build decent, legitimate housing developments on.

I do think the Federal Government still does not have any regulation, after the passage of the BLM Organic Act, which permits them to make a decision to free up some land for sale for development just to provide a place for people to live. They are squeezing them into these little pockets of deeded land that came with the railroad crossing there, the Union Pacific Railroad, or other kinds of little pieces of deeded land.

We are making it impossible for those communities in any way to make a logical plan for the extension of their community boundary and, therefore, their city services, such as sewer, water, other utilities. They cannot plan for those developments because the Government will not let them plan. These are all kinds of things that we are going to have to take care of by ourselves. We also do not fit any of the formulas that are contrived in here because right at this moment we happen to have 2.9-percent unemployment. I do not complain about that. Nobody in Wyoming complains about that. But the fact is that you cannot get money to build sewer systems from anywhere except internally, because we do not fit the formula. And people in this Senate last year, when we were passing the amendments to the Clean Water Act, said, "Lord, Lord, no. You cannot provide Federal money for the extension of sewer systems. All you are doing is making people rich in their development."

Well, that may be true in an area of stable population where you are seeking commerce and progress. But there is a difference between that kind of growth that you are actively out pursuing with your chambers of commerce, State Governors, and everybody in businesses trying to make an attraction, with that kind of an extension, and the kind that is just rolling on you, that it is coming whether you want it or not. The only thing we can do is stay out of the way and do something responsible about it.

There is impact legislation that the Senator from Colorado has proposed and which the Energy Committee will be working on. If I do not miss my recollection, that talks about $120 million to deal with the kind of impact we are talking about. Frankly, it is symbolism, much like this legislation is symbolism; $120 million will not do any good. It will not do any harm, but it will cost the Government more than it is worth to provide it. They would be better off to just let us have what we have.

Mr. LONG. Let me just say this, if I may, and I agree with what the Senator has been saying. Mr. President, to hear the Senator from Missouri discuss it, one would think that controls were the ordinary way of living and that the free enterprise system was the extraordinary way of life. Actually, the facts are the other way around. One reason we have all this mess, one reason we are having so much trouble with the Ayatollah Khomeini, one reason that the whole world is suffering from this energy shortage, is all of these confounded controls.

At the time this crisis hit, Richard Nixon, to tell you the truth, bless his heart, had the right idea. He called in the people from the energy industry and asked, "How long would it take you to restore America's energy independence?" They said, "It will take us 7 years." Mr. Nixon said, "All right, that is it. In 7 years we will be energy independent. You can tell people"—like Ayatollah Khomeini—"after 7 years that they can take a bath in that or drink it if they want it, because we will not need it here in the United States."

I regret to say that in the Democratic Caucus it did not go well at all. Some said, "That would mean that the price of oil would go up and we could not have anything like that. That means that consumers in New England will have to pay more for fuel. It might mean that some of these partnerships overseas might cost a little more. And in world trade, our products might tumble more than in the past. We cannot do that. We must not have any rise in the price. We have to have our own program."

I have heard Senators speak on the

floor, and I think they ought to identify themselves, "Why can we not have this great democratic program?" Some have suggested that.

They appointed an ad hoc committee, and the ad hoc committee suggested more taxes, more controls, more Federal interference with the industry.

So it was a case of roll back the price, reduce the prices for the industry, have a big increase in industry taxes, and wrap them up in control until they could not move. They would hardly breathe let alone move.

Mr. WALLOP. If the Senator will yield, at the same time we were just beginning to talk about exploration for oil on the offshore east coast of America. At that same time a Labor government, believe it or not, in England made the decision that they would open up the North Sea. They invited the companies in. They said, "Let's get to business."

They appointed a very canny Scot in charge of that. At the same time, in that 12 years, England has achieved energy independence and next year will be an exporter and we still do not have anything in production on the east coast of the United States. We have not done it.

Mr. LONG. If we had done what should have been done, Mr. President, people in the business would have made a profit. There is no doubt about it, they would have made a lot of money. What would they have done with their money? I will tell you right now, anybody in the oil and gas business, and I know a lot of them in Louisiana, is putting it back and getting more oil and gas.

Mr. President, they tell the story, and I am sure it is true, about the oil man who died and applied at the pearly gates to go to heaven. He got up there and was told there was no room, that they had had a population explosion. A lot of nice people had headed up there and they did not have enough room to accommodate him. He would have to go below.

He asked St. Peter if he could go inside and look around a little bit to see what the place was like before he went down to the fiery furnace.

He maneuvered around the streets, down those golden streets inside those pearly gates, and started spreading the rumor that oil had just been discovered in hell. Well, immediately, all the wildcatters packed up and headed out.

In short order, here go the guys in the seismograph crews and here go the title busters and here go the lawyers; here go all the people who make a profit getting involved with those people. All headed out, just a big procession on the way.

After a while, here comes this fellow headed out, with his bag packed to go down below. St. Peter said, "Hold on just a minute, old friend. We have plenty of room for you up here. We have just had an exodus. You don't have to go."

The guy said, "I know, St. Peter, but with all those people headed down there, there might be something to the rumor."

When folks see somebody making a profit at something, they get all excited.

Mr. President, I had a friend who was a young lawyer. He told some people he wanted to take his fee as an equity interest in a well. They put him in for something of it and they brought in a little well up there in north Louisiana. He charged out to the sludge pit and shouted, "It's gold, black gold; we're rich, we're rich." His beautiful blond wife was near the sludge pit and he pushed her beautiful head down there and said, "Get some of that black gold on that beautiful golden hair."

After he got through with this thing, the next day, the producer went back to him and said, "We need a little more money."

He said, "What more money? I thought we were rich the way it is now."

The guy said, "Unfortunately, the salt water came up from the bottom and the salt water has gotten into the well and we will have to do a little squeeze job. We will have to put some cement down into the bottom of the well to keep the salt out. Your part will be $500."

So they did the squeeze job. About a week later, this fellow, the producer, was back there, saying, "We need some more money."

He said, "What is this?"

"Well," he said, "the squeeze job didn't work. We are going to have to try squeezing it again. So we want another check for $500."

After a while, he said "Look, you are not squeezing the well, this is me you are squeezing. This is your friend, Alan, who is being squeezed."

In due course, the well did not make any money. They lost about 10 times what he hoped to make. But that still did not keep this fellow from going, when he saw another opportunity, and trying to get in on another oil well somewhere. When people get the bug, when they get the fever, they have the hope that, at some point, they are going to make money and they do not know of anything better to put it into.

That is where the money would have gone, Mr. President. It would have gone into finding more production, more oil, more gas, and the problem would have solved itself. Instead, we had the controls, we had the rollback in the price, we had all these taxes heaped on the industry. So no progress has been made. We are in worse shape now than we were then.

Back at that time, we were importing about 25 percent of our oil. Now we are importing between a third and 50 percent of our oil. The situation has gotten worse, rather than better because this Nation did not see fit to give people an incentive.

Part of the incentive, if all these controls had not been heaped on the industry and on the States, would have been the incentive to the States. Where Louisiana owns land, Mr. President, if anybody wants to drill it, he can just go out there, get himself a lease, just ask that it be put up for bid. The State will advertise it for him. Anybody who wants to bid can come bid on it. He can get his permit to start drilling the same day he gets the lease. In about less than half the time it takes to produce on Federal land, he is bringing in production, and there it is, serving the Nation's needs.

In the Federal area, Mr. President, you would think it would take a special dispensation from the Vatican to ever get permission to drill out there. They just go on and on forever.

I worked out a chart that I put on the wall of the Committee on Finance. It went half the length of the whole room of the committee, all the steps you have to go through, about 48 steps, to get a permit to drill, 48 months to 5 years is par for the course just to get the permit to drill to bring in the oil. In Louisiana, left alone, Louisiana would give the permit the same day you got the lease.

The State is doing more than that. The State is riding herd on those leases and checking to see that these people who bought the leases and paid big money for them are out there drilling on them. They do not want the lease just to sit there because somebody paid them. That is not adequate. They want them to be drilling it.

The Federal Government does not pursue it that way, Mr. President. The Federal Government has all these environmental and various other considerations that impede someone from doing something even after he finds the lease. When the cash incentive is denied the States, they will not have the same interest in pushing someone to drill.

Let us see what Danforth 2 would do. The Senator would say that unless a State like Louisiana amends its law so that it will not collect the taxes that its law would otherwise allow it to collect, the producers will be clobbered in that State. For example, if they find new oil, they would pay a 60-percent windfall tax on the new oil. Tertiary and heavy oil are very expensive oil to recover. The Senator himself voted to exempt the independents, exempt the tertiary, exempt the heavy oil. He would put a 60-percent tax on them just because the Governor and the State legislature did not pass the kind of law the Senator would like to see them pass to reduce the revenue of the State government.

Mr. DANFORTH. Mr. President, if the Senator will yield, I should be happy to explain the amendment to him. I really do not believe that that is a reasonable characterization of it.

Mr. LONG. Mr. President, if I am in error, I would be delighted to find the amendment is not as bad as I think it is. I would be pleased for the Senator to explain it.

Mr. DANFORTH. The so-called Danforth 2 amendment is as follows: Many Senators from oil-producing States have spoken before the Committee on Finance, they have spoken on the floor of the Senate about the fact that certain kinds of production are price-sensitive, they are cost-sensitive, they are sensitive to taxation. Therefore, the point was made repeatedly on the floor of the Senate, "Let us exempt independent producers up to so much a day; let us exempt the stripper wells; let us exempt tertiary recovery; let us exempt newly discovered oil from the windfall tax.

Mr. LONG. Mr. President, is that the amendment? Is the Senator explaining the amendment or is he explaining what the Senator from Louisiana thinks? I thought he was explaining his amendment.

Mr. DANFORTH. I am trying my best to explain the amendment.

Mr. LONG. I wish the Senator would get around to it, then. So far, he seems to be explaining what I think. I would like him to explain what the amendment would do.

Mr. DANFORTH. The amendment would provide, very simply, that if all those arguments are correct, if all these exemptions from the windfall tax that we have provided in our bill are correct, then the States, at the very least, should not increase their taxation on exactly the same barrel of oil. That is what the amendment provides.

Mr. LONG. Now, Mr. President, let us examine the facts. Louisiana and Alaska have severance taxes that provide that about 12.5 percent of the revenue must be paid to the State government. The States have no plans to raise the tax at this moment. I am aware of no plans to raise it. But as the price goes up, the States would receive more revenue because the price went up. 12½ percent of $20 is more than 12½ percent of 12, or 12½ percent of 30 is twice as much as 12½ percent of 15. So if the price went up, the States would receive more revenue.

The way this amendment has been explained to me, if that were the case, then the Danforth amendment would be triggered, if it became law, and a tax would then be imposed on the producer—not the State, in this case, but on the producer. Is that right?

Mr. DANFORTH. That is absolutely correct, but it would be entirely up to the States. If the Federal Government is to forbear from taxing this oil, why should the States increase their per-barrel tax on exactly the same barrel of oil? It does not make any sense at all.

Mr. LONG. Mr. President, the State would not be increasing its tax; the State would be just leaving it the way it was. It is a 12½ percent tax; you owe us 12½ percent if you produce oil in Louisiana. So when the price goes up, if you pay it at $10, 12½ percent of that is $1.25. But if the price goes up to $20, then you owe us $2.50.

Mr. DANFORTH. Mr. President, when an oil producer, and these are the people the Senator from Louisiana is so concerned about and so am I, reaches in his pockets to pay over something to government, whether it is State government or Federal Government, he is not pulling percentage points out of his pocket, he is pulling dollars out of his pocket.

The issue is, how many dollars does he have to pay up, whether it is to the Federal or State government. It does not seem to me to be at all unreasonable for us to say in the Congress that if the economic arguments that have been made with respect to oil production and the sensitivity to taxes of oil production are correct, then they are equally correct if that tax is imposed by a State government as by a Federal Government.

If it is the national policy to increase the production of oil, as I believe it is the national policy, and as the Senator from Louisiana most certainly believes is the national policy, then the least we can expect the States to do is to be part of this national policy which is getting us out of this dependence on foreign oil.

Mr. LONG. Mr. President, we can differ about what States ought to do, but Louisiana had policies that made it the number one oil producer, in one sense.

Louisiana produces more oil for the size of the State that any State in the Nation. It exports about 80 percent of what it is producing, so that in terms of policies, they help solve the energy problem.

I do not know what policy can be better than to produce more than any State in the Nation in terms of what we have to work with, by outdoing the entire United States in producing it.

Absent the kind of help we get out of Washington, we would have solved this energy problem. If States like Texas, Alaska, Oklahoma, and Colorado had just been left alone, if we had not had Uncle Sam's helpful suggestions, his tax add-ons, his price controls, his environmental controls, and every other kind of control the mind of man can think of, if we had not had all Uncle Sam's consideration out of Washington, this problem would have been solved a long time ago and energy would be in surplus supply in this country.

Mr. President, we can thank those in Washington who raised the tax, rolled back the price, tied the hands up in so much redtape it cannot breathe, much less move for the energy crisis. And it keeps getting worse, Mr. President. Congress passes more laws to make it worse.

Who is it that thinks that by putting more taxes on the producers we will get more energy? Who really thinks that? Does anybody think by putting on more taxes on the producers we will get more energy? I do not know of anybody who thinks that.

Mr. DANFORTH. Mr. President, if I may respond to that point, I absolutely cannot understand how the argument can be made so repeatedly on the floor of the U.S. Senate that the Federal Government should forebear from taxing one kind of oil or another, the Federal Government should not tax the independent, should not tax the strippers, and so on, and so on, because if we tax these people, then oil production will go down.

The same people then turn around and and say, "Oh, by the way, let me tell you what State governments are going to do, let me tell you what the State governments are going to do by way of their taxes."

On who? On the producers of oil.

I will say, Mr. President, what the State governments are going to do at the same time that they tell the Congress "No tax" on this kind of oil or that kind of oil, no minimum tax, and so on, much of which I agree with the Senator from Louisiana, much of which I agree with him on.

But at the same time, they are saying, "Let us not have the Federal Government impose this kind of tax burden."

The State governments, given this modest assumption of a 2 percent increase in the price of oil, are going to have their severance and other taxes go up by $95 billion over a 10 year period of time, and their royalty income, again extracted from the same producers of oil, go up an additional $33 billion, a grand total of $128 billion taken by State governments out of oil producers.

All I am saying, Mr. President, is a very simple point. If they are correct in their argument, then let us supply exactly the same reasoning to the State governments as we apply to the Federal Government.

If they are correct in their reasoning, and I believe they are in very large part, and I voted with them in very large part, not entirely, but, by and large, I have.

But if it is true we cannot just sock it to the oil producers and get out of this energy jam, then let us, at the very least, not have the States reach into the pockets of the oil producers up to their elbows.

That is what the Danforth 2 is all about. What Danforth 2 says is the States can go ahead and tax the oil producers, the States can go ahead and tax the oil producers up to the base price provided in the bill at the same rates they are taxing them now with no consequences whatever, that the State governments can continue to tax all the types of oil not included in these specific exemptions, which is newly discovered, incremental, tertiary, heavy oil, independent producers, and strippers, they can tax these types of production at any rate they want, and that is well over half of the oil they get, and for these exempt types of oil, they can tax them at the same rate up to the same base they have been taxing them all along.

But on the exempt types of oil, the heavy oil, the independent producers, the strippers, the newly discovered, on those kinds of oil, if the Federal Government is to forebear from any tax at all in the name of production, let us at least have some cooperation from the State governments so they do not extract more taxes on exactly this kind of oil.

Mr. President, we have had eloquent oratory on the floor of the Senate to the effect that I am going to, if I succeed, bring chaos to these four States. That is not the case.

The so-called Danforth 1 amendment, the amendment relating to State royalty incomes, would reduce State revenues from $128 billion down to $117.5 billion over this 10-year period of time, a reduction of less than 10 percent.

That is not going to bring economic ruin to the State of Wyoming, or the State of Louisiana, or anyone else.

It is to simply say, almost in symbolic terms, as a matter of fact, that if we have a national energy problem, we have to deal with it as a national problem, that all States have to participate in solving it and that we are going to have proven economic consequences for all Americans.

If this increased revenue goes to a handful of States, we are not stripping them of their resources.

There is going to be a fabulous increase in revenue of oil-producing States, no matter what we do.

It is simply to say that enough is enough, the sky is not the limit. There has to be some restrictions, even modest restrictions, on this excessive windfall which is happening to a handful of States.

Mr. President, I will raise a couple of other points, and that will suffice, at least for now.

First of all, with respect to Danforth 2, how it works, as I have explained, is that the exemptions we have provided from the windfall tax in the bill, exemptions for four different categories of oil, would be conditioned, barrel by barrel, on the State not increasing its severance tax on the same oil. Is that outrageous? I do not believe so. I think it is reasonable for us to say that if we are going to forbear, then we want the States to show some cooperation and follow the same policy we are following.

I might add that the increased severance taxes for the States has consequences which I do not think have received very much attention at all. One is this: That as these oil-producing States increase their severance tax revenues, at the same time, their share of revenue sharing is going to be increased.

The way that works is this: Revenue sharing is a fund of money, and it is a finite fund of money. It is allocated among the States based on a formula, one portion of which is total tax effort. Severance taxes are included in calculating total tax effort. So as these oil-producing States have their tax revenue from severance taxes go up, their share of the revenue-sharing fund also will go up. The rich will get richer, and the poor will get poorer.

These States which will do so well over a short period of time will also receive a greater proportion of revenue sharing, by virtue of the way revenue sharing is computed.

The second point is right to work. I have not brought up right to work on the floor of the Senate. Right to work has been brought up several times by the floor manager of the bill.

It is quite true that it is an issue which has been discussed on and off the floor of the Senate. It is a very volatile issue, to say the least. It is an issue on which many people feel strongly. My constituents in Missouri voted a year ago that they did not want right to work in in our State of Missouri.

It is true that two of the States that will do the best under decontrol, Texas and Louisiana, are right-to-work States. I am not sure that the Federal Government should get in the business of, in effect, subsidizing the accelerated flow of jobs to two right-to-work States. I believe this is getting very close to involving ourselves in a business—the Taft-Hartley Act—in which we decided we would not get involved and which we would leave to the State governments.

I believe that if we accelerate the movement of jobs and job opportunities and factories and economic strength to these two States, we, in effect—unwittingly, perhaps, but very really—will be further subsidizing the cause of right to work.

Finally, Mr. President, this is something that has not exactly been sneaking up on us in the Senate, but it certainly was made very clear as the Senator from Louisiana was speaking, and that is the two threats that have been used against this amendment.

One is the holding of the bill as a whole as a hostage: "Defeat the Danforth amendments, or else, and here is a stack of amendments I am sending to the desk." It is the old "kill the bill if I do not get my way on these two amendments."

The second, using the Chrysler bill as a hostage to kill these amendments.

Mr. President, I think it is regrettable that this has been done. It is regrettable that for the sake of $10.5 billion to States which already are getting $117.5 billion, the Chrysler bill and the windfall bill as a whole have been sold to the Senate as going down the drain if the Danforth amendments are adopted by the Senate.

I say to the Senate that there is an economic issue before us which, quite frankly, dwarfs Chrysler—and I am from a State that has a Chrysler plant—and it dwarfs the windfall bill, and that is the whole question of the flow of economic power from some parts of the country, from most of the country, to a handful of States.

If we do not face it on this bill, then what will be jeopardized and what will be threatened are the jobs and the economic opportunities of people all over this country. In the name of passing a windfall bill, in the name of saving Chrysler—which I hope we will do—in the name of doing that, we will push in the background and forget and defeat an issue which is going to have monumental consequences, inescapable, for the country as a whole.

Mr. President, some day in the future, our constituents will come to us, when their plants are being shut down, when the opportunities are moving to another part of the country, and they will look at this issue and will say: "At a time when you had the opportunity to at least slow down this avalanche of economic opportunity, this hemorrhage out of the rest of the country into a handful of States, at a time when you had the opportunity to at least slow it down just a little bit, where were you?"

I believe we are making a tragic mistake for the economic future of most of the country if we do not face up right now to the seriousness of this problem.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

COMMITTEE MEETINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. STEWART. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate today to consider Senate Joint Resolution 116, providing for commemorating the 100th anniversary of the birth of President Franklin D. Roosevelt.

Mr. WALLOP. Mr. President, reserving the right to object—and I shall not object—I serve notice that if we are not going to be able to do anything constructive on the floor, then we are not going to be able to do anything constructive outside the floor.

So far as this Senator is concerned, I will let this one pass. But I serve notice that there is no point in our sitting around here not able to amend a piece of legislation, which 46 Senators find offensive, and find the rest of the Senators sitting off doing daily business.

I will not object to this one, but I will object to any further request.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. STEWART. Mr. President, I ask unanimous consent that the Science, Technology, and Space Subcommittee of the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate today to hold an oversight hearing on laser research and applications.

Mr. WALLOP. Does that extend to today only?

Mr. STEWART. That is today only.

Mr. HEFLIN. That already has been concluded.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered?

SUBCOMMITTEE ON ENERGY CONSERVATION AND SUPPLY

Mr. STEWART. Mr. President, I ask unanimous consent that the Energy Conservation and Supply Subcommittee of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on S. 1829, Communities Energy Efficiency Act.

Mr. WALLOP. I object.

The PRESIDING OFFICER. Objection is heard.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. STEWART. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, December 13, 1979, to hold a markup session of S. 1699 and S. 1880, Energy Impact Assistance Act, and other pending calendar business.

Mr. WALLOP. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEWART. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WALLOP. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of the bill (H.R. 3919).

Mr. WALLOP. Mr. President, it is no great pleasure for this Senator to stand in the way of impact legislation which is going to affect my State, but what has happened here is a parliamentary situation where those of us who wish to stage an intellectual argument on the validity or lack thereof of a minimum tax are precluded from doing that by way of amendment.

We sit here and have one tax and one tax alone upon which we can vote, not subject to amendment, and the rest of the Senate remains off the floor, uninterested, basking in the admiration of those who supported a higher tax. It was an anti-American vote, an anti-independence vote.

We have no way of making the case. Senators are not around who want to talk on it. And it is pathetic that we have chosen a symbol that has absolutely no relation to oil, the production of oil, or anything else. It is a means by which the Senate achieves $185 billion, whatever that means—nothing; absolutely nothing. That is not an intellectual basis where one can sit here and challenge anyone because people are walking around and they talk about big oil. They talk about Tenneco has bought a life insurance company in the Southwest. They exchanged paper for it. They exchanged stock. There were no dollars transacted. And in the course of that transaction they increased their borrowing power $450 million which they intend to spend in exploration. But Senators sit around here and pull down symbols out of the sky, the press reports them, and the public goes home and swallows them.

I maintain that it is not the business of the Senate to appear respectable. It is our business to be respectable. And sometimes that means taking a choice on an intellectual basis and not a piece of political machoism.

We can sit here and sit here and the business of the Senate and the business of the people which it rightfully expects to be carried out will be delayed because we have got frozen on a symbol. We are frozen on a symbol upon which reputations rest, not the country's security, not the country's independence from the likes of Ayatollah Khomeini, not the country worried every night whether the Saudis are going to raise the price of oil, not the country worried about whether the Secretary of the Treasury tells the truth when the Saudis say they want us to pass the windfall profit tax because the Secretary of the Treasury, if he knows what this bill is about, knows that those profits are not going to be taxed.

The country's business is being ignored while pride stands in the way, pride of Senators who want only to talk about symbols. They say the House of Representatives has passed a stronger bill than the Senate. That is preposterous. The House of Representatives passed a bill for $105 billion. They thought they did it, they knew they did it, and they boasted about having done it, and the President said he thought that was a pretty good deal. And the Finance Committee comes along and passes a bill of $138 billion, and that House bill is no longer any good. The symbols are in the way because you translate oil price assumptions and you get $278 billion. No one has ever proposed a way of spending with that $278 billion.

The administration was quoted by the Los Angeles Times saying, "The hell with that thing. We will find out how to spend it as soon as we get the money."

That is the public interest? That is symbolism.

There are a number of States around this country that are trying their best to take care of some of the Nation's energy problems. My own State is one of them. Absent any of the posturing, no Energy Mobilization Boards seeking to overpower the ability of the States to control their own affairs, no synthetic fuels corporation, no windfall profit tax, no decontrol, Wyoming has tripled its coal production. We have doubled our uranium production. We have increased by 17 percent our natural gas production. We have maintained our oil production in spite of declining fields. Some of the oldest fields in the country are in the State of Wyoming. We are doing our share.

The biggest obstacle that stands in the way of doing any more of it is the Federal Government. Despite the fact that Congress saw fit when it created the BLM wilderness review to dictate that the search for and exploration for oil and natural gas in this country would go on during that review, despite the fact that that is law, the Interior Department under Secretary Andrus have seen fit to write regulations that make it impossible to explore in those areas of review and have denied the country even that as a means of escape. And one of the people in the Department of Interior when he was questioned about whether or not it was a good idea, whether or not they were not contrary to the intent of Congress which dictated that they should proceed with the exploration of oil and gas, made the most remarkable statement with pure unadulterated arrogance of the bureaucracy, a statement as follows, and this is an exact quote:

> Inasmuch as we came up with the regulation we think we have struck the ideal balance between what Congress intended and what the wilderness advocate public will tolerate.

Not what the law is; just outright admission of ignoring congressional intent.

Is there any wonder this country cannot get itself untrapped in the production of energy or with the production of anything else? Is it any wonder that the whole national rate of production and efficiency is going downhill?

The Japanese who are so independent now are willing to thwart the international interests of the free world and the United States to thumb their nose at this country?

It just is preposterous that we have allowed ourselves to get in this position and then in the name of political symbols seek to perpetuate that circumstance.

I cannot for the life of me in any way legitimatize this process. It is a disgrace to the public of the United States that we would be sitting here wallowing in symbols when we cannot even untrap our own resource abundance of this land that we already possess.

It is a pretty sad day, Mr. President, wandering outside the energy field, when you have people in this Government who take the most outlandish, romantic view of life. We have a sheep rancher who last spring was seeking to move his sheep from traditional winter pasture to lambing ground, which is public ground. Of course, it is public ground which has been in the hands of this man's family for over 40 years.

All of a sudden, the Bureau of Land Management is engaged in some new kind of assessment that forbade him to move to his lambing pasture with no notice. He just provided the regular notice that you do when you seek to trail livestock, provided that notice, and he was refused. Ewes getting heavy with lamb less than a month away, and the Department of the Interior in its overpowering wisdom suggested that he postpone lambing for a month. [Laughter.]

That is the same kind of idiotic thinking that is going on here.

Now, even more recently I was listening to the radio the other morning at half past 5, and I heard the announcer say, after the Mutual News:

> We will have a first report on traffic and we will have a look at the weather, look at the business community, and a story about the unnatural activity of moose in Jackson, Wyoming.

I obviously could not turn down listening to a story about the unnatural activity of moose in Wyoming in order to take a morning jog in the rain. So I heard it seemed that out there is a ranch that has been having horses fed down by the river on hay grounds of this family for 52 years, and for 52 years the moose have come in and intermingled with those horses and eaten the hay on the feed grounds on winter days, and have supplemented their livelihood.

Well, an enthusiastic, keen-eyed park official decided that this was something that the public should not witness in a national park. This was an unnatural act that the horses and moose would be eating in the same feed ground, and that the public should not be permitted to witness such travesty.

So they moved this man, made him rent a ranch 6 miles up the river, haul his hay and establish a house for a man to feed his horses all winter.

The moose go up there and eat with his horses up there, but the public cannot see them in their unnatural act, and down below the moose that were unnaturally feeding along the river for 52 years with these horses moved off the park and are feeding on his neighbor's hay with his horses. The public cannot see those either, and so the park-going public of America has been saved from affront of witnessing moose in an unnatural act. [Laughter.]

Well, Mr. President, we can joke about these things, but in plain fact it is the same kind of preposterous behavior we are engaging in right now.

(Mr. SARBANES assumed the chair.)

Mr. STEWART. Mr. President, will the Senator yield just for a brief comment?

Mr. WALLOP. I would be happy to yield for a question.

Mr. STEWART. I just want to thank the Senator for raising the level of the debate with his most recent story. We are dealing with a fairly complex issue, and the story about the moose is welcome relief.

Mr. WALLOP. I will tell you we are dealing with a fairly complex issue, but how much interest has anybody got in the complex issue? They are dealing in symbols and have not listened to one argument that anybody has made. The President of the United States cannot even listen to himself. He was the one who suggested publicly on television, to the committee itself, that we not tax heavy oil. That was his idea. Nobody even came up with that. We did not even know what it was. We had to get them to define what they wanted heavy oil to be.

They defined it, said to exempt it. We did, and now they support a 20 percent minimum tax on it. Consistency is marvelous. It is the same kind of preposterous policies the Government is engaged in. It cannot get untracked in the practical business of the country, so it wallows around with moose acts and sheepherding with that postponement of their lambing for a month. It is ridiculous.

Then you take the basic question that we have here—I can tell the Senator, he asked me to tell him about the sheep. Obviously, they were not able, despite the wishes of the Department of the Interior, to postpone their lambing for a month.

In fact, I can remember, too, there was your predecessor, Senator Allen, who was a man I had the greatest affection for and the most respect in many ways of than any Senator it has been my privilege to know. You may recall that his colleague, who was another great Alabamian, Senator Sparkman, had a constituent down there who slipped into Yellowstone Park one night without paying the fee, and receiving the warning, and marched up and camped overnight in a forbidden area. He was eaten by a bear.

There was a special relief bill. The bear became my constituent—and Senator Sparkman and your predecessor, Senator Allen, had the family of the boy who was tragically eaten as their constituents.

But there was a problem we were faced with, which is one of the precedent, as to whether or not the public should be prevented entirely from the experience of the park to the point where you take every risk that nature has and then try to tell somebody to enjoy that in a natural form. It just was not so.

So we had a long ongoing argument about this special relief bill, and I was sitting over here with Senator Allen one evening, and the Senators engaged in a prolonged debate. I was talking to Jim Allen, and he said, "Now, Senator, couldn't you just see it in your way to release that bill and let us call it up, and just have a vote on it over here?"

I said, "Well, I don't know. I am really concerned about the precedent of it." And Senator Allen said to me, "Son, hell, it is no precedent. The boy was eaten by a bear and, after all, it was a Government bear.'" [Laughter.]

But the fact is, to get back to the issue here, there are some, including the Senator from Arkansas, who persistently claim there is nothing left for us to find, we know where it all is.

If that is the case then there is no such thing as new oil and, therefore, no risk in exempting it from any tax. If it is not the case, one has to ask oneself if it does not accrue to the benefit of the country that we have stretched out this time frame for a period.

Tertiary oil is another story. Tertiary oil we know exists; engineeringly we know it exists, geologically we know it exists. It is in the pools where production already exists or could exist, and has since declined with conventional means of production. It is expensive. It requires the technical genius of man to try to find some means of unlocking that which is held tightly by nature and, perhaps, nature in a way is telling us something we ought to be looking at otherwise, but it is held tightly, and it requires chemical washing and detergents, acids, and CO_2 gases that occur naturally to be pumped in under pressure, steam and other things to melt this oil and make it flow. It is not a question of how much it costs to discover it. We know it is there. But it is a question of how much it costs to produce it, and that much we do not know.

To march in and say "There is a minimum tax because we know you are going to make a profit" is to deny reason. It might be that we can say we do not think it is in the interests of the country to produce this oil if it is going to cost $42 or $43 a barrel to get it out. It might be that. But it is to deny reason to call it a profit tax and place a minimum tax on the cost of producing it. That is utterly unrelated to profits.

Nobody has made the case that it has any relationship at all. The Senator may recall that in the pamphlet that came over from the House describing, if you please, how generous the House has been, they had a little phrase in there which the Finance Committee has taken care of in its generosity. The House sent it over saying in order to prevent the tax from being too burdensome on marginal properties, the amount of windfall tax to be levied is limited to 100 percent of the net profit or the profit.

In most people's minds, that would not be considered an incentive. Obviously it was considered incentive in the House of Representatives, because they said this bill was in the national interest. But most people who have ever had any experience in the real world would recognize that very few Good Samaritans are going to operate at zero profit for any period of time.

The Senate reduced that to 90 percent. Personally, I think it ought to be down to 75 percent. This whole idea of a tax ought to be based on profit, period—not on the symbols of quarterly reports. Senators consistently hold those quarterly reports up. The Senator from Arkansas did so earlier today.

The quarterly reports are by international oil companies, represent international trade dealings. Those profits are going to remain high. They are going to remain high if we put a 100 percent windfall profit tax on domestic oil because those profits are not touched by this tax. Symbolism again.

The public will probably scratch its head and wonder why those profits remain as high. But at the same time—I have used the simile before, and I will use it again—at the same time, the country is sitting here watching the Senate shoot itself in the foot, or shoot the country in its own foot.

It is almost inconceivable that one could take a figure out of the sky and claim that that would be in any way related to profits, and claim that it would be in any way responsible. I would not do it. The Senator from Idaho (Mr. McCLURE) had a truly good idea, which was to put the tax on the basis of profits, and to prove that they are.

When the President first sent down his bill, he was going to raise $5 billion. That was on April 26 of this year.

By the end of June, with the activities going on, the House got down to work, it got into July, going into the August recess, and they sent down a proposal for a windfall profit tax and corporate income taxes for 10 years, for a total of $142 billion, out of which only $105 billion in that 10-year period was to come from the windfall profits, and the rest from increased corporate and personal income taxes.

Now all of a sudden, from April 26 to wherever we are now, about December 13 or thereabouts, $138 billion is not enough, and even in the age of the intrepid Dr. Kahn that is an inflation rate that ought to impress even the most cynical observer, from $5 billion in April to $278 billion in December. That means a cold winter whether you are in the oil business or not.

The problem we are faced with here is that somebody has made a decision that you can take a figure, any figure, and have that in some way related to profit. Nobody is asking how much it costs them to live. Nobody is asking how much it is costing to discover. Nobody is asking how it is going to cost to replace that which has been discovered. It is just a symbolism of dollars, to justify a political action that should have been taken decades ago.

You have to take a look, too, at something else. If one can presume there is going to be a windfall, and I do not doubt that there is going to be a windfall for the first year or 2 years of all of this; I have no question in my mind of that at all. But I do doubt seriously if anyone in the United States can make the claim that the windfall will continue beyond two years, if it exists at all. Nobody can make that claim; it is an impossible thing to do, because the economies of the world and this country will shift to the States where the cost of producing energy relates directly to the cost of drilling, exploring, and producing the new energy.

But we have seen fit, in our wisdom, to create a tax, now, that will go on more than 10 years, probably 13 years; and the justification that people keep coming back to is that we need this money to shift to alternate energy sources.

The strange thing is that in all of the

hearings before the Energy Committee and in all of the hearings before the Finance Committee, not one person who thought he might be engaged in the production of synthetic fuel asked for a synthetic fuel corporation, or the $88 billion generally. What they were interested in is one thing: The feeling that if we got into the production of synthetic fuels in this country in any kind of a way that threatened the OPEC countries, the OPEC countries would cut the price on them, and that they would be left with a suddenly noncompetitive fuel in a competitive world. That was the real basis of any request for security in the production of gasified coal, liquefied coal, and other synthetic fuels.

It seems almost inconceivable that we in our wisdom have decided maybe they need $88 billion, when they have not requested it. It seems inconceivable, in the light of the fact that there are 13 or 14 projects that are already potentially on line, including 2 in my State, that would appreciate loan guarantees or a price floor, but nothing else. They will be ready to go, and they could be in production by 1985, if they could get Federal approval for all the other required permits.

While we are talking about getting up all this money and setting it aside for synthetic fuel development, guess who is ultimately probably going to get the money? The independents? Do not kid yourself; they are not big enough. They could not get into those big $5-billion, or $20-billion projects. The companies that are primarily going to be paying the tax are going to be the recipients of the largess; and it does have an extraordinary way of developing a tenacious consensus; $200 plus billion is going to develop a consensus this country will not see diminished, not only in this century but in the next one to come. That kind of income has always got somebody who can figure out a way to spend it.

I would hope that somehow or other, during the course of this discussion, there ought to be an opportunity to debate the real central issues of this. It is amusing to hear stories of horses and moose grazing together, and that there are people who do not know whether sheep are lamb or not. But it is tragic to see this going down the drain of political symbolism. I find that is tragically irresponsible, while the Senate seeks to appear responsible, because someone has figured out that the figure of $185 billion, unrelated to oil production, unrelated to anything, is the figure of responsibility, and that in the absence of $185 billion the Senate is forever condemned to shame, while in the presence of it, or anything more, the Senate will forever be held in adulation by the public of America.

Somehow or other, in an area where our whole foreign policy, our domestic policy, and everything is driven by our inability to make decisions independent of that, it does seem a preposterous if not an immoral way for the Senate to proceed, while trying to appear responsible.

Mr. President, I yield the floor.

Mr. EXON. Mr. President, I did not intend to take part in the obvious filibuster that is going on in the U.S. Senate. But, in order to help out my colleagues on the other side and give them a little rest, I thought that I might make a few remarks.

I have been in the Chair for the last hour and have been hearing various Senators talking about oilmen going to heaven which, in my opinion, if that did happen, shows the great compassion of our Lord and how those who have sinned can indeed get into the pearly gates as taught in the Christian faith.

I have also heard about the unnatural acts of the moose and the horse. We do not have any moose in Nebraska at the present time, so I must yield to the superior knowledge of my good friend from Wyoming in that area.

However, there have been some serious statements made that, maybe, it would be well just for the RECORD to try and put in proper perspective.

I also heard, during the last hour, that one day not too many years ago the President of the United States—I believe it was then President Nixon—got a commitment that if we went on a crash program by just raising the price of oil, we could somehow become self-dependent on oil in the United States of America.

Well, I would like to hear more about that during the filibuster, because I think that is a very interesting concept, especially with what we face today.

Now, I, for one, have voted for exemptions, as the Senator from Wyoming knows, for the independent producers who traditionally are the ones who go out and do the wildcatting, take the high risks to discover more oil. And, certainly, I think there is no one in the United States that does not feel that we should attempt to discover more oil.

I also voted for exemptions from the windfall profit tax to reclaim the tertiary oil that we know is there. It just simply is a matter of encouraging it and making it economically feasible for that additional oil to be produced. And there may be other areas, maybe heavy oil should not be taxed under the windfall profit tax.

But, at the same time, I do not believe it is quite right for it to be said, without being challenged, that we are going to have a windfall profit tax for the first couple of years. Because I really do not believe that that is the case. And, after I finish my remarks, those who take that position might want to give some more statistics to attempt to convince this Senator from Nebraska.

Let us try and put this into perspective. Certainly, those of us who have not gone along 100 percent with emasculating the windfall profit tax as there are those on this Senate floor who would like us to do, certainly most of us who have not gone along with those votes that are generally considered probig oil company votes, have a position that we think is one that will stand the test of light and stand the test of argument.

And certainly I do not believe that most of us who have not gone along with the efforts to eliminate or emasculate the windfall profit tax agree with those who claim that somehow if we would turn big oil loose in the United States of America, we would, indeed, be able to solve the serious problem that confronts us, which is a continuing dependence of at least 50 percent of our petroleum appetites in America to be furnished from foreign sources.

Mr. President, it seems to me, to try and put all of this into perspective, that in the first place, when it is said on this Senate floor that those of us who do not wish to go along and eliminate or emasculate the windfall profit tax, are somehow trying to merely raise money or pass along a tax to the consumers that can be spent in Washington, D.C., somehow just are not leveling with their colleagues in this body or the American people.

Why is it that we are discussing a windfall profit tax, Mr. President? The reason, it seems to this Senator from Nebraska, is that, right or wrong, the determination was made a year ago that we should deregulate the price of domestically produced crude oil. Some of that domestically produced crude oil has a ceiling price of $5 or $6 a barrel. And, I think, with the increased cost of production, most of us in this body and most of the people in America would recognize that there shoud be some upward adjustment in the ceiling price for $5 and $6 a barrel domestically produced oil.

But with deregulation—and that decision has been made—Mr. President, it was understood that we were going to allow domestic production to come up to the world market—and the world market I think is the key phrase here. Let us take a look at what has happened since then and what is going to happen in the future weeks and months and years, unless we enact some kind of a fair and reasonable windfall profit tax.

Mr. President, I would remind all here that roughly 6 years ago the per barrel world price of oil was $3 a barrel. And during that time, we did not hear the cries about deregulation on domestically produced oil. But about 6 years ago, Mr. President, the OPEC nations got together and first hit us with an embargo. Since that time, the world price of oil has risen from $3 to $18 a barrel and indeed, Mr. President, up to at least $38 a barrel on the spot market today.

And during that time, Mr. President, the cost of a fundamental product to the American consumers that I hear so much talk about on the floor of the U.S. Senate today, the cost of their gasoline, has gone from approximately 35 cents to as high as $1.10 a gallon. And I predict, Mr. President, that it is going on up from here.

With that in mind, Mr. President, it seems to me that those who claim that there are those of us who feel we should have a reasonable windfall profit tax—that in taking that position we are taxing the consumer—their attitude, their suggestions and their statements should indeed be examined.

Because the fact of the matter is that when deregulation was put into effect we sold out the American consumer. And he is going to be forced to pay for his gasoline, Mr. President, not what it is going to require to produce oil in the United States, but at the price set by the OPEC oil barons over which we have no control whatsoever.

That is why, Mr. President, we need some kind of a reasonable windfall profit tax, in the opinion of this Senator. That is why I think it is unfair to accuse those of us who want a reasonable windfall profit tax, to say that it is we, who take that position, who are trying to tax the consumer and collect billions and billions of dollars that we can spend in Washington, D.C.

Mr. President, the facts of the matter are, it seems to me, that because the OPEC nations are going to be setting the world price of oil for as far as we can see into the future, unless we can somehow protect the additional billions and billions and billions of dollars that are going to accrue especially to the major oil companies in this Nation, unless we can somehow, and in a fair way, tax that away from those big oil companies and in some manner return it to the people on one hand, or employ those ill-gotten profits to help save this Nation from dependence in the future for more and more imports of oil, then we are making a grave mistake.

Mr. President, I have noted that those of us who have been for a fair windfall profit tax are now being accused of not recognizing that after a couple of years there will be a leveling off period, if you will, Mr. President, when there will not be these huge profits that even some of those on the other side of this position agree will take place in the first 2 years.

They talk, Mr. President, as if this is business as usual, the free enterprise system at work, if you will. It is my contention, Mr. President, that the free enterprise system is not in effect and will not be at work as long as not only the world price of oil but the price for oil produced in the United States will be set by the OPEC nations. I think there is no Senator who believes that there is any relation whatsoever to the present OPEC prices and the cost of that production in the OPEC world.

Therefore, Mr. President, while we can talk about the $138 billion over the 10-year period to be collected from the windfall profit tax as set out by the Senate Finance Committee, and we can ridicule the $278 billion figure as passed by the House of Representatives, and we can complain about the position of the administration and where they have or have not been consistent or inconsistent in the past, the fact of the matter is that it is up to this body, through compromise once again, to come up with some kind of a reasonable windfall profit tax, and, as it has been said time and time again, what comes out of the conference committee between the Senate and the House will be the windfall profit tax that we enact.

Therefore, I say to my friends on the other side of this issue, and for the most part I believe they are sincere in their convictions, I believe there is a place where we can compromise. I have not heard it talked about by those of us who do not agree with them that we should set upon any specific figure for the windfall profit tax to "make the Senate look good."

I think somewhere along the line we have to reach a compromise. But in reaching that compromise, Mr. President, I do not believe that we should buy what is being said on the floor time and time again. The essence of that argument is that if we did not have a windfall profit tax and if we would just turn the oil companies loose, we could, within 7 years, 8 years, or 9 years, reach a point of self-sufficiency as far as domestic production of oil is concerned.

Mr. President, I think that is not true for several reasons. The major oil companies themselves have indicated that at best, as far as the next 10 years are concerned, we are going to be running in place to not increase the imports of oil over what they are now. In fact, within the last month I entered into the RECORD of this body an instrument from the Exon Corp., which indicated in the next 8 or 10 years would be importing 64 percent of our oil from abroad rather than the approximate 50 percent figure today.

Realistically speaking, I think we are going to have to turn to alternate sources of energy to meet the serious crisis that I believe the United States of America and the free world face. It is not just the military security of the United States in the free world but the economic security as well. Therefore, I am hopeful that somewhere along the line the leadership of those on both sides of the issue can get together.

There has been great talk here about how terrible a 20 percent across-the-board tax would be. Yet there were statements on the floor this morning by those on the other side of this issue which would certainly indicate that at one time they were agreeing to a 10-percent-minimum tax. That seems to me, Mr. President, to indicate that there is room for compromise, and I hope that the intelligent people of the Senate who have compromised before can get on with the compromise in a much faster fashion than we have seen in the last few days.

Mr. RANDOLPH. Mr. President, will the able Senator from Nebraska yield?

Mr. EXON. I am very pleased to yield to my friend from West Virginia.

Mr. RANDOLPH. Mr. President, I will not discuss this specific tax item with the Senator. He did mention alternate sources of energy to fuel the needs of this country—not only in times of peace but in times of national emergency or conflict. Although he did not use those specific words, he is talking about the energy needs of our country and alternate sources to fulfill those needs. Am I correct?

Mr. EXON. The Senator is correct.

Mr. RANDOLPH. This gives me the opportunity and, I feel, the responsibility to several briefly shared thoughts with my colleagues, that is if you can ever believe a Senator who says he will speak briefly. However, in this instance, I will do so. I do not call attention to our long-range program to develop synthetic liquid fuels because what we do now will not be reflected in synthetic fuel supplies for 7, 8, or 10 years from now. We understand that. However, this fact is no reason to delay. The 7-, 8-, or 10-year period will be out there whenever we act. Many of us, including the Senator from Nebraska, have said we should act now.

I feel there is a recurring need to stress the strength of our most abundant fossil fuel supply—coal. Our domestic supply has a lifetime of hundreds of years, across a wide range of uses. The immediate use for coal is in a conversion program. Coal should be used to replace natural gas and petroleum in the electric generating plants of this country and in industrial installations of many types throughout the country.

We do not have to wait for this program. The program can be placed into operation immediately, not by legislation passed during this Congress but by legislation enacted several years ago which mandated that the executive branch of Government implement this program.

We do have a promise, and I believe it will be kept to aggressively implement the coal conversion program—although in the past these promises, these pledges, for coal to be the keystone of our energy program have not been kept. There must be a cooperative effort, which I advocate, not a polarization between Congress and the White House, because we need a total effort, not a timid approach, in implementing the coal conversion program of the United States. Not in a dozen plants or installations, not in 20 or 30, but, literally, in hundreds of facilities, we have an opportunity and the responsibility to do the job.

Recently, we have had conversions effected, not because of a Government mandate, but because private industry realizes its responsibility and the economic benefit to be gained by its consumers. In the New England States, in the State of Texas, the great petroleum-producing State, and other sections of the country, we have had electric companies convert to coal from natural gas or petroleum.

I draw my colleagues attention to the conversion program to emphasize the need for a comprehensive commitment to the use of coal—coal that can be burned without hazard to health or safety at prices per Btu more favorable as compared to petroleum from overeas—where, of course, we must pay the price asked by OPEC or other producing countries. We pay their price for oil and we are hostage.

We witness other hostages, of course, in our Embassy in Tehran. Hostages of a foreign government, if we can call it a government, which is in control in Iran. We as a country, see hostages in Tehran, men and women, citizens of the United States. Mr. President, we, a country of 230 million Americans—men, women, and children, are held hostage not just by one country but by countries like Iraq, Iran, and Libya—these are, in many instances, unstable governments which often are unfriendly to the United States.

Why do we delay when we have the opportunity to use our coal for the benefit of Americans. Cars can be fueled with gasoline which comes from petroleum or from coal—to move America. We must provide for the further undergirding which will come from a conversion program, to supply the necessary fuel for our utility boilers at reasonable prices—to break the bonds of imported oil which holds our Nation hostage.

I have asked the question again and again: Why not now? Why not now? Why not now?

The hour is late and the need is great. The commitment to utilize coal by all those in government, at all levels—Federal, State, and local—and in private industry and, yes, individuals, is necessary now.

Mr. EXON. Mr. President, I thank my friend from West Virginia for those remarks. I think that, generally speaking, we all agree with what he has just said. I could just add that there is something that he and I and others have been working on for some time—the matter of gasohol, alcohol added to gasoline which, along with coal, could make an immediate contribution while we move into coal gasification and other types of synfuels, and, indeed, solar and nuclear, to meet the future needs of this country. I think the time is now. I hope that the U.S. Senate will be in a position to move again, as I said a moment ago, more rapidly than we are moving right now.

Seeing no one else who wishes to speak on this side, Mr. President, I yield the floor at this time.

Mr. HUMPHREY. Mr. President, now I know this business of a minimum tax is upon us, it almost seems as though, now that the Senate has run over the big, bad oil industry once, it is not satisfied; it wants to go back and run over it a second time to make sure it is bleeding thoroughly.

I must say that one is left almost speechless witnessing the unlimited greed of Congress. What is our principal reaction to the energy crisis? To raise an unprecedented tax. So we are about to inflict on this poor country, which has suffered so much from our past maladministration, a new tax, an unprecedented tax in scope. We are about to inflict upon this bleeding country more of the same old bad medicine that made us sick in the first place.

When we go home—if, indeed, we do go home—at this holiday season, each of us will be asked, "What have you done about the energy crisis?" What will we be able to say? We shall be able to say that, A, we have added more bureaucracy in the form of the Energy Mobilization Board. Oh, I know, it is going to cut through all the redtape. But that same argument was made for the passage of the Department of Energy sometime ago, the very same arguments. So, A, we have added to the bureaucracy.

B, we have come up with a huge boondoggle called the synfuels program. My good friend from West Virginia, a moment ago, alluded to the fact that we have almost boundless energy resources in this country and we ought to be using them. I do not question that for a moment. None of us does.

But I do question whether it is wise to form a synfuels corporation, whether it is wise to pass what we all know will be at least an $88 billion program involving subsidies, guaranteed purchase contracts, involving all of the hallmarks of boondoggling.

Can you see yourself driving up to the gas pumps in 5 years and saying, "Fill it up with boondoggle?" Can you see someone in the Northern States calling his distributor in the State and saying, "Bring me up a hundred gallons of home heating boondoggle?" There will be darned little satisfaction in that.

So we can say, A, we have laid on more bureaucracy; B, We have raised taxes once again.

I know the argument has been made that this is not a tax on the American people, this is a tax on the oil companies. If that is the case, then the Senate has my congratulations, because for the first time in the history of mankind, we have devised a tax that will not be paid by people but by businessmen. That is nonsense. There is no way we could devise such a tax. People pay taxes, not businesses.

Americans are going to pay this tax as they have paid every tax levied by Congress since the beginning of this Republic. They are going to pay for it in terms of higher fuel costs, higher gasoline, higher home-heating oil, higher costs for everything that involves petroleum. And they are going to pay it in the form of greater shortages, because a tax is a disincentive to production.

It would seem that the Senate is propounding a new economic theory, that to increase production, we increase taxation.

It brings to mind the brilliant cartoon of some 6 or 7 months ago picturing George Washington in his cabin at Valley Forge and the sergeant major stumbling in with snow swirling behind him who says, "Sir, the men are running out of firewood." And George Washington turns around and says, "Quick, tax the firewood."

That is what Congress is going to do. That is some response to the energy crisis, higher taxes and more bureaucracy. That is the same bad medicine that made us sick to begin with. The greed of Congress is insatiable.

We produce no oil in New Hampshire, I am sorry to say. I wish we did. I wish we had some coal, some kind of energy beyond wood, hydro and solar.

The greed of Congress is so great, Mr. President, that I do not doubt that before long Congress will want to pass a maple syrup tax. A tax on maple syrup.

Maple syrup does not burn very well in automobiles, as far as I know, but it is slippery, like oil. The way things are going, Congress will want a tax on maple syrup. This is getting to be a little bit ridiculous.

Mr. President, we have heard a great deal about the big bad oil companies. I am not an advocate, no protector of big bad oil, or big business. I do not like anything big, and least of all big Government. I am no apologist for big oil. But if we can get through this crisis and provide for ourselves and our children the kind of future we all hope for, we cannot be acting on the basis of emotion, but on the basis of fact.

Who are these big bad oil companies? Who owns them? Are they owned by some fat, cigar smoking oil barons who spend all day in overstuffed leather chairs, trying to corner the market? We would think so, listening to the rhetoric around here. But, of course not.

Big oil, for that matter, industry in general, is owned by little people, mostly ordinary people of modest means. There is hardly an American who does not own stock in American industry, and a great many of them own stock, directly or indirectly, in the oil industry.

Those who have an interest indirectly are those who participate in pension plans or insurance programs of any kind whose funds are invested in American industry.

The way some people have been talking lately, Mr. President, we get the idea these owners of the oil companies are getting filthy rich.

Several days ago I turned to the financial section of the Washington Post to see how rich these owners of big oil were getting. What I found, Mr. President, may surprise some people.

If we look at the dividend payout, the yield on the stock of the 10 largest oil companies, we will find that the largest, Exxon, pays a dividend which equates to a yield of 7.6 percent on its stock—7.6 percent—and that is the most generous yield of all these 10 large oil companies—7.6 percent.

I do not have to tell anyone that that does not even equal the rate of inflation today—a little over half, 7.6 percent, but that is the most generous.

Standard Oil of Ohio, among those 10, pays the lowest dividend. It equates to a yield of 2.1 percent on its stock. The average of those 10, Mr. President, is 5.1 percent—5.1 percent. We can do better in a bank account without having to worry about the price of the stock declining.

So it is clear, at least to anyone who cares to be logical about it instead of emotional, that if the oil companies are getting rich, as has been alleged, they are certainly not distributing it to their shareholders. They are not. Anyone can figure it out for himself.

Someone may retort, "Well, that is possibly so, but the stockholders are benefiting through appreciation of their stock, capital gains."

That is not true, either, because, again, I conducted a little experiment.

If one had invested $1,000 in Exxon—it was called Esso—10 years ago, $1,000 10 years ago, his investment today would be worth $1,852. That is about $60 more than one would have profited with a plain old riskless 6-percent savings account—$1,852.

It happens that, thanks, in large measure, to Congress and its insatiable spending appetite, that the dollar has been cut in half by inflation in the last 10 years—50 percent.

Let me depart just a little bit here from my train of thought.

We have seen attempts in recent days to limit the spending of Congress, or to limit the amount which the IRS may extract from our economy. But, of course, as always, these measures were defeated in the name of compassion. We could not do it. It would cause unemployment, hurt the poor. The same old arguments we hear every time.

Yet, I ask, Mr. President, where is the compassion in inflation that cuts the dollar in half in 10 years, and at the present rate it is cutting the dollar in half at an even faster pace. Not an ounce of compassion in that. Congress, if I may say so, is judged as hypocritical when it refuses to live within its means, arguing reasons of compassion.

Mr. President, if we had invested $1,000 in Exxon 10 years ago, it would be worth $1,852.

If we apply the inflation factor, if we apply the deflator for that 10-year period of time, the investment is worth $944. We have lost 5 percent of the investment.

Is that getting rich? Shareholders in big oil? They are not making out on dividends. They are doing more poorly than if they simply put the money in the bank. In most cases, they are not making out in capital appreciation. In most cases, as with any equity over the last 10 years, they have lost money.

Mr. President, if the oil companies are not distributing this alleged wealth in the form of dividends, then what are they doing with it? Are they hiding it? If they are, the Securities and Exchange Commission has yet to detect that.

What they are doing, as is plain to see, again, for anyone who wants to abandon emotionalism and look at figures and use logic, what they are doing is investing it, reinvesting it.

President Carter, back on April 5, courageously set in motion a plan to deregulate the price of oil.

I am not of President Carter's party. I am even less of his liberal philosophy. But I commended him on April 5 for his courage in deregulating oil prices, and I do so again now.

In his speech on April 5, the President recognized the importance of investment when he announced he was phasing out oil price controls because "They hold down production and encourage waste."

Hold down production and encourage waste.

Well, it is working, Mr. President. Higher prices are cutting down waste. They are encouraging conservation. Painful though it is, they are working. But will Congress let the other half of the equation work? Will Congress let these increased revenues be plowed back into greater exploration, development, and production? Ha! Not a chance; not a chance. Congress wants that money. By the look of things, it is going to get most of it.

I recommend to every American who does not own a woodlot and who is not wealthy that he had better be prepared to burn Government paperwork in his gas tank or home heating oil tank, because, since Congress is about to rip off the oil companies, there is not going to be money to find new oil and increase production. Indeed, there might not be enough capital to maintain present production. It certainly bodes ill.

Mr. President, the essence of this debate over the windwall profit tax and this particular amendment, the so-called minimum tax, is who should control these revenues. Should it be the oil companies, who have a track record of producing energy? Or should it be Congress, that wise manager of programs, that all-seeing allocator of resources, which is going to produce energy? Should it be the oil companies, or should it be Congress, which produces nothing but boondoggles?

The oil companies are not distributing this wealth to their stockholders. They are not hiding it. They are reinvesting it—precisely what President Carter at least intimated he wanted them to do when he made his speech deregulating oil.

Mr. President, with regard to reinvestment, the trashers of big oil at this point always go into their litany about Montgomery Ward and Reliance Electric and circuses and hotels and all that nonsense. If they were right, if what they implied was correct, I would be on their side. They are implying that the oil companies are not interested in their oil industry. They are implying that the oil companies are diversifying madly, in a great rush to get out of the oil business.

For those who are interested in abandoning emotion and taking a look at the facts, a study by Chase Manhattan Bank covering 1968 to 1977, I believe—very close to that time period—showed the oil industry rate of diversification was 6 percent of capital investment, which is below the rate of diversification for American industry in general.

Nevertheless, notwithstanding the fact that the oil industry is reinvesting nearly all its profit in the energy industry, Congress is prepared to tar and feather the oil companies, and this is going to hurt; this is going to cost us. The less self-reliant we are, the more we are subject to blackmail and threats by countries which possess the energy we need.

According to the Congressional Budget Office, the windfall profit tax is going to cost us 800,000 to 1 million barrels a day by 1990 in potential domestic production. This is the price we will pay to tar and feather the oil companies. This is the price we will pay to have our little fling to obtain psychic relief. This is the price we will pay, and it is a mighty steep price.

Some say that the boondoggle called the Synthetic Fuels Corporation will produce that much energy and more. I am not against synfuels. But one would almost think that there is no money for that program or the program for helping the poor with their heating bills or the program of encouraging conservation. One would almost get the impression that there is no money for those things.

It seems to me that there a lot of people in Washington who are conveniently overlooking the fact that, today, about 60 percent of the revenues of the oil companies already are taxed away by government at various levels, chiefly by the Federal Government, and the deregulation of oil will yield to the Federal Treasury, by virtue of taxes already in place, upward of $300 billion. A year ago, we did not know that we would have that much money to spend, but we already have decided that we want about another $200 billion.

Mr. President, I am from New Hampshire. I mentioned earlier that we do not have traditional energy sources. We do not have any oil. We do not have any coal. We are energy consumers. I am no defender of big oil. I have a very poor track record insofar as advancing the free enterprise system is concerned. But I do have the interests of the consumers, by constituents, at heart, and I have the interests of the people of the United States at heart. I want to see us achieve energy independence, and I do not believe we can do it with a Government corporation handing out subsidies and guaranteed purchase contracts.

I believe we can do it if we put our reliance on the free enterprise system and unshackle it. We cannot do it by shackling the free enterprise system further.

Several weeks ago, we celebrated the 50th anniversary of the crash of the stock market, and we heard a great many speeches about how terrible the depression was and how wonderful it is that we have erected all those Government safeguards so that a depression never can occur again. The more I hear of those speeches, the less I believe them.

The crash of the stock market did not cause the depression. The crash of the stock market was a portent of things to come. There is a considerable body of opinion in this country among economists that the depression was brought on chiefly by the Smoot-Hawley Tariff Act of 1929.

Who could argue against tariffs back in those days? It was politically popular. Cut off foreign competition. Save American jobs. Nobody could argue successfully against that, and it passed, and it precipitated the greatest depression, the greatest economic decline of this century.

It may well be that this windfall profit tax, this tax of unprecedented severity, will be the Smoot-Hawley Act of the 1980's. I hope not. But what must be clear to everyone at this point is that this economy and our people cannot bear higher levels of taxation. They are paying taxes of unprecedented proportions, rising every year through the linking of inflation and the tax system. Congress refuses to address it, refuses to index taxes, refuses to put a cap on how much money—flesh and blood—the Government can extract from our people.

Mr. STEWART. Mr. President, will the Senator yield?

Mr. HUMPHREY. I will be happy to yield. I am almost finished.

Mr. STEWART. How about yielding at that point, so that I may ask a question?

Mr. HUMPHREY. I am almost finished.

Senators have sat aghast, watching Congress put into place this horrendous tax. It may be that this is going to be the straw that breaks the camel's back. It hardly can be called a straw. It is a huge, monstrous act that is going to cost us dearly in years to come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. STEWART. Mr. President, if the Senator from New Hampshire will remain, I should like to ask him a couple of questions about his last comment.

I did not hear the first part of his remarks. I hope it was a little more logical than the last part.

The Senator talked about indexing of taxes to fight inflation, and he said Congress has refused to respond to that issue. Is the Senator one of those who is for that particular thing at this time?

Mr. HUMPHREY. I think it is unfortunate that we have to resort to such a palliative.

Mr. STEWART. I want to know if the Senator from New Hampshire is for that.

Mr. HUMPHREY. Yes. I say to the Senator from Alabama, "Yes."

Mr. STEWART. I assume that the Senator from New Hampshire is also for balancing the budget. Is that not the case?

Mr. HUMPHREY. Imbalanced budgets are the cause of inflation.

Mr. STEWART. So the Senator from New Hampshire is also for balancing the budget.

I assume that the Senator from New Hampshire—and I do not want to make these assumptions without giving him the opportunity to say one way or the other—is also for an increase in defense spending and feels that we are not doing what we should do for that. Also, I assume he supported the 3-percent increase and the 5-percent increase. Is that the case?

Mr. HUMPHREY. That is correct—provided, of course, we make cuts elsewhere.

Mr. STEWART. Where would the Senator suggest we make those cuts? He is not protecting big oil here. He feels that they have not done what they should do about the free enterprise system. Where would he suggest we make those cuts?

Mr. HUMPHREY. My friend from Alabama knows that I did not come here with a list of particulars. However, specific suggestions for cuts have been made in Congress over and over again, and in every case, so far as I know, they have failed. So it is not as though that route has not been tried.

Mr. STEWART. I suggest to the Senator from New Hampshire that he cannot have it every way. We cannot balance the budget and cut the tax revenues of this country and increase defense spending. If you who espouse that philosophy intend to have it that way—as opposed to those of us who want to operate in a responsible manner with our constituents, who say that we feel that a balanced budget is important and critical, that we have to get to that—we cannot get to that by cutting revenues.

Those of us who feel the way we do are also very strong in the area of cutting back on waste, cutting back on regulatory activity, and cutting down on expenses. Also, personally, this Senator is for an increase in defense spending.

I am not going home to my people, and I really do not think the Senator from New Hampshire or anyone else should go home to his people, and tell them we are going to give them all of those things without creating any of the problems. And let me suggest a few that some of these proposals that have been offered that had nothing whatsoever to do with the windfall profit tax would create.

One would increase the budget deficit of this country by some $50 billion a year. That was offered just the other day.

And the same Senators who stood up in the Chamber and called for a balanced budget, some of them even have constitutional amendments in, also supported that amendment.

I think when one starts doing that kind of thing, it is just not the responsible kind of thing to do in the Chamber.

Comment was made earlier, and I sat here quietly and listened to it, about how respectable this body appears. I say for one that we are not very respectable when we tell our folks that we are going to be all things to all people.

I say one other thing to Senators who are opposing this minimum tax. If they are not defending the large-sized oil interests in this country, then please pray tell us who they are defending.

Mr. HUMPHREY. May I?

Mr. STEWART. I wish to hear that. I wish to know who in the world they are defending out here today in this particular situation if they are not speaking for the large-sized oil interests in this country that the Senator admitted a minute ago had not done what they should do as far as the free enterprise situation was concerned and they frankly had not done what they should do in developing of our alternative sources of energy in this country.

So I wish to know just exactly who the Senator is representing in this debate here this afternoon.

Mr. HUMPHREY. I am representing the people who need energy, as the Senator from Alabama well knows. Unless he is prepared to refute my argument that the oil companies have been reinvesting very nearly all their profits in finding more energy or at least maintaining the present rate of production, then I do not see why we have a problem. The oil companies have been reinvesting their earnings. They have been doing what we want them to do. Why must we tar and feather the oil companies at this point? It is only going to hurt ourselves and hurt especially the people up in the part of the country I come from and whom I have the privilege to represent because they will not have the oil to keep their homes warm and to run their factories. It is going to hurt our economy terribly. We do not have any mass transit to speak of. We rely on trucks, automobiles, and buses, and we will not have sufficient gasoline.

I wanted to see energy produced, not more taxes. I am simply not persuaded that by stealing the capital of the oil companies and turning it over to the high rollers in Congress we are going to increase energy production in this country. It is the most ridiculous proposition I have ever heard of that if we take the capital of the oil companies and give it to Congress, if we give it to Uncle Sam, who has a record as long as one's arm of wasting money and creating boondoggles, we are going to have more energy. I am not a fan of the big oil companies and I am not a fan of big anything, least of all big Government. I see us creating more big Government and it is going to cost us.

I wish to assure the Senator from Alabama who has my greatest respect and admiration that there is nothing personal in this. I have been sitting still for about 3 weeks and am finally venting my spleen, but I mean nothing personal toward the Senator from Alabama.

Mr. STEWART. Mr. President, I certainly mean nothing personal toward the Senator from New Hampshire, but I think we all should get our facts straight as we talk and should all know what is really going on here.

My comments were aimed frankly at some of these earlier amendments that have been offered by Senators to this particular legislation and very frankly amendments that were offered on behalf of many interests of people who fit into what I call the average wage earner type, moderate income folks in this country. What frankly amused me about it was when they started talking about reducing taxes for those people in some of those instances they were also Senators who were proponents of those amendments talking about creating greater budget deficits which would take away the value of that particular working individual's dollar. My folks in Alabama are smart enough to know that if we take about $3.4 billion away from them, which one of those tax cuts would do, or give it back to them in the way of refunded moneys, somewhere down the line someone is going to get it out of their other pocket. They are not fooled by a tax cut offered as a delaying tactic on a windfall profit piece of legislation. They are not fooled by that.

I say to the Senator from New Hampshire and others who want to offer a tax cut there will be one offered somewhere down the line and it will have a good possibility of passing and it will have a heck of a lot more equity in it than some of the ones that have been offered on this particular proposal.

I say one other thing. My folks have some good understanding of the fact that even if we did not have the windfall profit tax, under decontrol they are going to pay those higher prices at the gasoline pump. They have that figured out. What they are concerned about is how dependent we are now on other countries for about 50 percent of our oil supply, and they want some answers supplied by Congress.

While I am up I might as well say the President has been criticized, but I think his energy package is probably going to pass. There has been some question about his leadership ability. I think it is probably going to pass this Congress, and I think the windfall profit tax is going to pass.

I point out that he has been working on that for about 4 years now, and there has been some question about his leadership capability. Very frankly, I think the proposal of that magnitude indicates that he has a little bit more leadership capability than some I know about, just a little bit more, because I think he is at least proposing some answers and some alternatives and more than likely is going to be successful with them.

Mr. HUMPHREY. I hope the Senator from Alabama is correct. I hope that what I foresee does not occur and what he and the President evidently foresee does occur. I hope the program is successful.

But based on our past experience, one cannot be terribly optimistic. It is clear, and I agree with the Senator from Alabama, that the American people know they are going to pay higher prices for energy in the future, at least in the near future. They know that. But the question we are trying to decide here in Congress is what is to become of these revenues. Shall we leave them with the oil companies who have a proven record for anyone who cares to look of reinvesting very nearly all of it in further production of energy? Shall we leave it with the oil companies or shall we turn it over to the politicians and the bureaucrats in Washington? That seems to me the essence of this whole debate.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. EXON). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

(Mr. HART assumed the chair.)

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. STEWART). Without objection, it is so ordered.

The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, as I understand, the pending business is the Ribicoff amendment?

The PRESIDING OFFICER. The amendment of the Senator from New Jersey in the second degree to the Ribicoff amendment is pending.

Mr. DOLE. Which amendment would impose a minimum tax of 20 percent on heavy and tertiary and newly discovered oil, which amendment runs counter to all we discussed in the Senate Finance Committee, the decisions made after weeks of hearings, and 80-some hours of markup.

It is not based on anything, has nothing to do with energy production. It is based on one thing: How much tax can we soak the industry with, how much can we put on the industry.

Somehow somebody has dreamed up a magic figure of $185 billion, and everybody is trying to figure out a way to get $185 billion. Maybe it is enough, maybe not enough, and maybe it is too much, but the Senator from Kansas suggests that in the Senate Finance Committee on newly discovered oil we had 19 who said there should be no tax, and one who said there should be a tax. That was the principle we arrived at after a lot of discussion. It had strong bipartisan support. It was the feeling of 19 out of 20 members of the Senate Finance Committee, 11 Democrats and 8 Republicans, that we ought to exempt newly discovered oil from the tax.

We are talking about more production. You cannot have a windfall profit on something you have not found. So, after all this discussion, after the vote, I think everyone felt on the Senate floor and everybody everywhere else that there would not be any tax on newly discovered oil. Of course, then we were talking about energy production.

Now we are talking about tax production, who can offer the amendment to raise the most tax and get the biggest headlines. That is what this has become. We have not debated any energy policy in this Chamber for days. We are playing a numbers game.

If I will offer an amendment for a 30-percent tax or a 40-percent tax or a 50-percent tax that is the right course to follow according to the headline writers and those who make the news.

But sooner or later the American people are going to ask what happened in Congress in 1979 and in 1980, what happened to all the discussion about energy? "What did the Congress do about the energy problem? Why am I sitting in this gasline? Why are these people in the domestic oil industry going out of business? Why are not more wells being drilled? Why are not more rigs being built?"

Sooner or later the American people are going to understand while we were all talking about taxes the American people were more concerned about production.

The Senator from Kansas is willing to compromise, but we cannot compromise with these people. They do not want to compromise, and if we have to lose let us lose right out here on the floor. A compromise to some is to give it all away, give all to them, that is compromise.

This Senator has always felt that compromise is a way to try to work out your differences, and sometimes you split the difference; but apparently that is not how it is interpreted by some.

So on a procedural vote this morning, in an effort to table the so-called minimum tax, we failed in a relatively close vote, and then, in a closely related vote on a motion to invoke cloture, there were 53 votes for cloture and 46 votes against cloture.

I would be willing to settle on that basis. We are talking about $31 billion. They can have 53 percent and we will take 46 percent. That ought to be a compromise; that is the percentage of the vote, if I have the figures accurately. We will even go farther than that; we will give them 60 percent.

But why not preserve the principle that we do not tax new oil? Why is it so important that we go to the conference and not let someone escape taxes? I guess there is a feeling by some in this Chamber that we have to tax everybody, that we just cannot let this bill go to conference without taxing everyone; that everyone ought to be taxed. Even oil we have not discovered yet ought to be taxed. If it costs $50 a barrel to produce it, we still ought to tax it, because this is a tax bill. It is a revenue bill, it is not an energy bill.

It is politics as usual; let us play politics with the energy crisis, and then, when the time comes and the gaslines form, the shortages occur, and people are cold, blame the oil companies. It has worked every time. We just keep playing that old game, and some day the American people are going to understand. They will say, "I don't know; they blamed the oil companies last year, they blamed the oil companies the year before, and they blamed the oil companies the year before that, but nothing has gotten any better."

I suggest, as I have said many times on this floor, that there will be a tax. There should be a tax, even though the industry does not like it. They prefer not to have a tax. I have not had anyone write to me and suggest they would like to have more taxes. I have only been here 19 years, but not a single person in my State has written and said, "Please increase my taxes."

Those in the oil business do not want an increase in their taxes, but they are going to have taxes. We are going to raise, from States like Colorado, Arkansas, Louisiana, and Kansas, from the industry, as the bill is written right now on this floor, $156 billion in the next 10 years in a windfall profit tax, and about $300 billion in increased revenues, because of higher prices being paid for oil, in increased Federal royalty payments. That is almost $500 billion, as a conservative estimate, over the next 10 years.

Some are not satisfied with $500 billion; they want $520 billion. It seems there is something sacred about this figure of $185 billion, or $186 billion. Maybe that is not enough. Maybe we will decide 6 months or a year from now it ought to be double that. Maybe if prices increase the tax will increase. Maybe it should increase. But here we have the administration asking us to exempt heavy oil, and then asking us to tax it within 30 days—the yo-yo policy: First you say exempt it, and then you say tax it. I would just guess that maybe by the time the bill gets out of conference, they may change their mind again.

We have been told about the public purpose, that we have to raise all this money for the public purpose. But nobody has told us what the public purpose is. The taxpayers would like to get in on the public purpose. Are we going to reduce taxes? Are we going to reduce the social security tax? What is the public purpose?

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. DOLE. I am happy to yield.

Mr. LONG. It seems to me that it might be well if we would write up some instructions for people who hear political speeches, to guide them on how to react to a political speech. One of the instructions to the citizenry ought to be "When a politician says something you like, do not applaud until the speech is over, because you might make a mistake. When the man comes out and says 'We will deregulate,' do not applaud. Wait until you hear the rest of it; because if you are in the business of trying to produce more energy for the Nation's needs, and Government policies are killing you, in a figurative sense, and then someone says 'We will solve the problem; we will deregulate,' citizens should learn not to applaud at that point. Wait until you hear the rest of it, the rest of it being, 'We will put a tax on which will be 75 percent and, when added to the other taxes that you pay, works out to more than 100 percent, but do not worry; we will amend that tax so that all you pay is 100 percent. One hundred percent is all you will pay, so that the deregulation will mean absolutely nothing; you will have given your resources away for no additional income whatever, except the price you were getting geared for inflation back at the time when the Arabs started their boycott.' "

Of course, back at that time, the price producers were receiving was what you would call the going-out-of-business price, or the distress sale price, the price you get when you cannot make it, and therefore have to close your doors and quit doing business at some point.

People should realize that if you want the energy, you ought to expect to make it worth somebody's time and effort to put money into that, rather than putting it into something else.

So, I tend to agree with the Senator that those who are trying to get more energy production and who understand something about production here in the Senate have gone a very long way in trying to accommodate those who would put such heavy taxes on production that they might get, perhaps, more money, but a lot less oil.

Mr. DOLE. Mr. President, I share the views of the distinguished Senator from Louisiana. It seems to me that many would applaud, though some would not, the President's effort to decontrol until he dropped the other shoe, which is the tax.

Perhaps there should be a tax. I know, as I indicated, some in the industry do not care much for the tax. But it is this Senator's opinion that certainly the Senate Finance Committee version could be improved upon. It has been improved upon, I guess you could call it improved upon, on the Senate floor. We have added about $22 billion; maybe not quite that much, I guess about $18 billion. The figure was $138 billion; now it is $156 billion, or $155-point-something billion over 10 years.

The House figure is about $256 billion; we are probably about $100 billion apart. We go to conference, and I do not say we will necessarily divide it, but there is probably some give on each side, and we come out of there with a couple of hundred billion dollars.

A couple of hundred billion dollars out of conference is not a bad figure, just for the windfall tax, the so-called windfall tax. I may not be correct, and I do not know of any experts on the Senate floor as far as production is concerned, whether it is tertiary, heavy oil, independent production, or whatever. But it seems to me there is a principle that we are fighting for, and that is to indicate that as far as newly discovered oil is concerned, it ought to be exempted from taxes. The theory and the testimony was that this would encourage production. Some, I have heard, would say, "We cannot tax that; otherwise we will discourage production."

But the last thing we want to do, apparently, according to some, is encourage production, and the way to discourage production is to put on a tax.

This Senator knows that when you put on a 10- or 20-percent tax on newly discovered oil on the Senate floor, you will have a 40-percent tax when you come out of conference. Then what incentive do you have? I do not know what the final answer will be, but if we are going to lose, let us lose on the Senate floor. Let us have the majority invoke cloture. If we are going to add more taxes and add more taxes, let that be our responsibility.

It requires seven more votes to invoke cloture, and maybe there are seven more votes for cloture. Maybe cloture will be invoked tomorrow, or Friday or Saturday or Monday. But it seems to me there is a principle involved, and it is not a principle initiated by the Senator from Kansas; it is a Finance Committee principle.

The vote in committee, again, was 19 to 1 in favor of exempting newly discovered oil from the tax. And there were two fundamental reasons why this was done. I thought one made a great deal of sense: There was an indication that we would produce more oil.

But there are some who live in a dream world. All they want is more taxes and more taxes. The administration was all over the place this morning. The Vice President was presiding. We had the Secretary of the Treasury up here and the Secretary of Energy, bringing all the pressure to bear on Members of Congress. We could not even work our own free will. We were surrounded by the administration.

What did they want? More oil? No. They wanted more money. They were not up here lobbying for more oil and more production, they were lobbying for more taxes. This has become the highest taxing administration in history. This is the biggest tax bill in history, imposed by the Carter administration.

They lobbied the Congress and twisted arms. I have heard horror stories about what happened during the night, all the pressure that was brought to bear on those who thought we ought to exempt newly discovered tertiary and heavy oil from taxation. And was all the lobbying done because they wanted more production? Certainly not. What this administration wants is more taxes, not more production.

I suggest that maybe tomorrow the vote will be different. Maybe tomorrow there will be 55 votes for cloture. That is still five short. Maybe Friday there will be 57 votes for cloture. Maybe tomorrow there will be 61 votes for cloture, or 60 votes for cloture, but this Senator doubts that.

The provision mentioned by the distinguished chairman of the committee (Mr. LONG), when you go across the country and talk to the American people about the provision of this bill—and most people think we ought to tax the oil companies and, in fact, some think we do not tax them enough, unless they are in that business, then they say we tax them too much—but when you point out that in the version passed by the House there is a provision that says in no event will the tax exceed 100 percent of net income, most American businessmen, business women, farmers, and others understand that.

A tax of 100 percent of net income is a pretty heavy tax. And even those who do not like the oil companies feel that may be going a bit too far.

Do you want to spend our money in this country or do you want to continue to rely on the OPEC countries, who have not been very friendly to us? I just suggest that when we vote tomorrow on cloture, if you are for the OPEC countries, you vote to invoke cloture. If you are for America, you vote against invoking cloture. If you want all the OPEC countries to run this pricing policy of ours, you can support the OPEC countries tomorrow. If you want money spent in America by Americans for Americans for job expansion, then you vote to exempt these categories from tax.

We have been told by all the politicians and the administration that we have got to get the OPEC countries off our back. We have got a plan. We are going to get the OPEC countries off of our back by taxing the domestic companies, not the 40 or 50 percent tax, but a 75 percent tax on tier 1 oil and a 75 percent tax on tier 2 oil. And now we want to put a 20 percent tax on everything else. That is the administration's plan for energy independence. That is the administration's plan for getting the OPEC countries off of our back. That is the plan for disaster.

We are supposed to stand up and vote for that plan for disaster because, somehow, the American people are going to believe that the higher the tax, the better the policy. Well, the truth of the matter is that the higher tax probably would mean a disaster for this country.

Let me add a disclaimer. I do not have any oil income. The State of Kansas does not produce much oil. We produce 60 million barrels a year, which is one week's supply of imports. The average well in the State of Kansas produces 3.4 barrels a day; the little stripper wells, some average less than a barrel a day. It is not very much. We wish we had more for America, but that is all Kansas has.

The States like Arkansas, Wyoming, and Colorado are the States we are looking to for the future. Let us not stand in the way of development in those States and other States by imposing a tax on newly discovered oil.

It is this Senator's hope that we can reach some accommodation. The pressures are building. We are being told that, "Well, you will not get off for Christmas unless you vote another $30 billion in taxes." Well, I do not know whether the American people think that it is important that Senators or Members of Congress leave here for Christmas. They are going to end up paying the tax. But we are supposed to vote for another $15 billion, $30 billion, $40 billion, to $50 billion taxes so we can close up the Congress.

And I am very interested in the votes of the Senators from Michigan who want us to bail out Chrysler. Here they stand with their foot on the heads of the oil industry, wanting us to bail out Chrysler. Chrysler has already been done in by Government interference, by Government regulation, and by heavy taxes. I should think the last two people who would want to support any massive tax program would be the Senators from Michigan. But they will be on this floor, maybe, next week or maybe after the first of the year pleading with the rest of us to support Chrysler. And I will recall what they did to help us save an industry from becoming more entangled in Federal bureaucracy and Federal redtape.

Where does it stop? Some people make a career out of attacking the oil industry. I guess the politics of it say to all of us that the best way to get elected anywhere is to go out and pick out a nice, big oil company and look at their profit sheet and say, "Let's go out and put this on the blackboard," or "Let's picket some major oil company's headquarters. Let's march up and down with a sign on our backs about high profits."

The profits are very high. But they are in foreign oil profits; they are not domestic oil profits. But we are going to attack the problem the wrong way. We are going to put all the tax we can on domestic production.

The Senator from Kansas is just one voice from a small oil-producing State. We do not have much major production, so I guess I should pick on the big oil companies.

We have a lot of independents in our State. They spend a lot of money, and some have made some money. Some have paid some taxes and some have found some oil, and that oil has helped not just Kansas, but other States. It has created about 11,000 jobs and, hopefully, it will create more. It pays a lot of real and personal property taxes in my State. It has been important to the economy of my State, but it is also important to this country.

I suggest that those who believe that the way to solve the problem is to increase the tax are on the wrong track. Maybe after 2 or 3 more days of debate those who do not want to compromise may decide to compromise.

But I would say to my friend from Wyoming (Mr. WALLOP) that we had been discussing the compromise earlier today. But the compromise, in the eyes of some, is getting all they could not get on the floor. Well, that is not a compromise, as far as this Senator is concerned. I always thought a compromise was when each side gave a little.

The Senator from Kansas could not speak for the Senator from Wyoming, or others on this side of the aisle, but I made it very clear that we believe in the principle that, at least as far as newly discovered oil is concerned, there should not be any minimum tax. And we are going to stick by that principle. If we lose, we will lose right out here on the floor. We are not going to lose in the back room somewhere. We are going to lose out here in the open.

But I still think there is room for accommodation. The Senator from Kansas does not have the expertise to suggest where the best compromise would be. But we have got to get away from talking about numbers. We sit down to talk about a compromise and everybody pulls out their pencils and they do not want to talk about production. They say, "Well, here is $185 billion. Here is $160 billion. How much would this raise?" We do not have any recognition of the problem. We are all talking about how many dollars does it raise, how much tax does it raise, and not how much oil can be produced or how much oil can be saved.

Mr. WALLOP. Will the Senator from Kansas yield for a question?

Mr. DOLE. I am happy to yield to the Senator from Wyoming.

Mr. WALLOP. When the Senator says that they do not talk about how much oil it would produce or how much any of these numbers raise and only talk about the dollars that it raises, has anybody ever made any expression to the Senator from Kansas about the need for those dollars? It seems to me that the President identified—we passed that thing $16 billion ago here, all the plans that the administration had, plus a few that they did not have that have been funded. We passed that a long time ago. But has anybody ever given out a specific plan, other than just "get this money into our hands"?

Mr. DOLE. Well, this morning the majority leader talked about the public purposes, and that is rather a loose definition of where you put $185 billion. I do not know what the public purposes are.

Mr. WALLOP. One public purpose in getting money like that is that you develop very devoted constituencies as they seek to put their hands on it. That attracts constituencies like flies. They become very loyal devotees. But are they constituencies which serve the national interests?

Mr. DOLE. As I said earlier, the administration has been all over this place. I know they have every right to sit here and watch us vote. I do not know whether the Secretary of the Interior and the Secretary of the Treasury had their pencils out figuring out barrels and dollars, but I know they added up dollars. Long ago this lost being an energy bill. It is a tax bill of how much we can raise. That is all it is. We cannot characterize it in any other fashion.

Mr. WALLOP. If my friend will yield once more, we talked in terms of raising money only. As I pointed out earlier when the distinguished chairman (Mr. LONG) was talking about the plans President Nixon and others had had at one time to achieve energy independence in this country, about that same time it became obvious that there was oil and gas potential to be developed on the offshore of the Eastern United States.

Interestingly enough, at that time, in the same year, 12 years ago, the English Government, under a socialist leadership, a labor leadership, made a commitment to the free enterprise system that has achieved energy independence for the island of Great Britain to the point where they are becoming, next year, exporters of oil by developing the North Sea.

They pulled down the entanglements of socialism. They pulled down everything and called on the free enterprise system to go out, explore, and develop. Look where they are today. The Senator from Kansas and the Senator from Alaska are both well aware that we have yet to produce a barrel of oil off the east coast of the United States. There has been some discovery, but nobody knows yet whether it is enough to achieve commercial quantities to build the pipelines and other things necessary to gather that oil for this country.

We have been sitting here laying on controls, adding to the complexity of doing business in the country, adding to the cost of doing business in the country, and holding down the ability of a domestic industry to produce from a domestic resource energy independence.

I think it is a pretty sorry condemnation of what has taken place here. It ought to be the thing that we can look at that would free up our thinking away from the symbols of a dollar figure and reputations staked on it, to look to the symbol of what is the future of this country. The future of this country is not going to be very bright, in this Senator's estimation, if we continue to hold ourselves hostage to the policy designs of people who have no interest in our future. Really, that is the choice we are in. It is not how much money it will raise or anything else. It is whether we ought to take a chance on our own ingenuity and resources. Apparently we are no longer a prospecting country; we no longer want to take the risk for what we can achieve with our own resources.

I compliment the Senator. I hope he does not yield on the policy for new oil.

Mr. DOLE. The Senator from Kansas feels that not only many on this side but many on the other side who may have voted for a minimum tax to resolve the last impasse do not believe really there should be a minimum tax on new oil. The Senator is exactly correct. They say, "Well, we want to compromise. What can be done?" But the compromise has to be a two-way street.

As the Senator from Kansas indicated, if there is nothing to do but lose, we may as well lose here. Maybe we will lose. The Senator from Kansas does not have any influence, any power, any administrative pressure to put on other Senators. We have 41 Republicans. Not every Republican is in total agreement, and they should not be. There are 59 Democrats, and not every Democrat is in total agreement, and they should not be.

I think most every Senator believes he is doing the right thing, but it seems to me that the administration is being a little heavyhanded in their efforts to extract dollars. That is all it is now, a game of how many dollars, how much money.

Nobody ever talks about what a 20-percent tax will do to production. It is what a 20-percent tax will do for revenues.

The Senator from Kansas recalls in the early stages of discussion in the Senate Finance Committee, we talked about production response. But after about 10 days that just disappeared. Production response? "We do not know what it is going to be, whether it will be a tax credit or whether we ought to exempt certain categories."

Then when we got to the floor it sort of changed completely. So we have to protect the integrity of the Senate by raising a lot of money. I do not know what magic there is in that. I suppose if we want to be looked upon as the favorite, we would put in more than the House has and get a big headline. "Senate Strengthens Windfall Tax." That would be across the headlines of all major papers.

It is not difficult to impose taxes in this body, but it seems to this Senator if we want to look good we ought to raise more money than the House. Really, we are the upper body. We ought to have a few more dollars in the kitty than the House. But it seems to me that we have sort of lost track of the problem.

The Senator from Kansas will yield the floor. The Senator from Alaska wants to comment.

Mr. STEVENS. Mr. President, I am a little constrained as to how much I can join with my colleagues today, but I do want to point out some things about this minimum tax, particularly on what the Senator from Kansas was mentioning about arbitrary goals for the revenue that is to be produced by this bill.

The committee has arbitrarily accepted the figure of $30 a barrel for wellhead price, and the computer spews out figures on how much money will be raised based upon the application of various formula and a wellhead price of $30. The wellhead price of $30 could well be $45 in Long Beach and $15 in Prudhoe Bay. But that has been ignored.

Beyond that, what has really been ignored is the fact that this tax is going to be taken out of the money generated by the production of oil and it will not be put back into the ground, not be plowed back into exploring, developing, producing, and distributing new domestic oil and gas. There must be, therefore, an even higher price charged by the producers.

I had one producer come in and prove to me that they would have 6.5 cents left out of every dollar once this tax passes in terms of the money in excess of the base price.

That means only one thing: They have to raise the price more if they are going to have enough after-tax dollars to develop our oil and gas resources.

We used to use before-tax dollars, and many of us stood here on this floor and argued hard and long against the change that did away with the depletion allowance. The great oil producing areas of this country, other than mine, were all discovered at the time when we had incentives. We had the depletion allowance incentive and investors put their money into that risky business of finding oil and gas because they knew if they found oil or gas they would have 27.5 percent of their income tax free.

Now we are talking about leaving only 25 percent tax free. Is that not a strange thing? Within 10 years, we have gone from the point where we gave anyone who looked for oil and gas 27.5 percent tax free to the point where we are going to leave them with 25 percent.

The funny thing about it all to me is that it is the consumer who is going to pay for this oil. Sixty percent of all the gasoline consumed in this country is consumed by people driving to and from work. It is the working man and woman who are going to pay this tax. They are basically the people who are already paying taxes on the incomes that they make when they work. They are supporting the tax base now, and yet they are going to be asked to pay more and more for their gasoline in order to balance the budget.

I really think this is becoming a let's-balance-the-budget-for-2-or-3-years bill rather than a let's-have-a-bill-that-will-produce-more-oil-and-gas bill, I, for one, cannot understand these arbitrary figures of how much this should raise.

Mr. WALLOP. Will the Senator yield for just a comment on that?

Mr. STEVENS. Yes.

Mr. WALLOP. The Senator from Alaska and the Senator from Wyoming would like nothing better than to see the budget balanced. What this is doing is letting the budget be balanced without making any tough decisions, without cutting back on things or prioritizing things in our country. This is getting us into a situation where we can balance the budget and still keep the pie sweet for every conceivable program on the books now, besides a good many that are in the ingenius minds of Members of Congress and the administration.

To that extent, too, it is a real deception on the American public should we take that route, to balance the budget on the backs of one industry without giving up any of the prized or cherished plums that so many people like to insert at public expense into the public programs of this country.

Mr. STEVENS. This is one of those spirals. Every time a motorist drives into a gas station and pays more for gas, he is going to write his Senator and say, "That oil industry is gouging me again; it cost me 5 cents more for gas than before." Then we will come in and Congress will increase this percentage and tax the industry more. So they will have to raise the price higher in order to have money enough left to operate.

The difficulty with this is that it is not cost-related at all. It just says that, no matter what happens, of any amount earned over a certain figure, 75 percent will go to the Federal Treasury.

As I pointed out—this does not cover the Alaska situation. In one field in Alaska, however, it literally cost 10 times more in the west end to lift a barrel of oil than it does in the east end.

Look at those wells being drilled in the Anadarka Basin and the activities going on throughout the country. That money has to come from somewhere. It has to come now from after-tax dollars, not from before-tax dollars, as it did 10 years ago.

I called two of the leading educational institutions in the country and asked them if they would put on their computers the total model and find out what had happened to consumer pricing since we did away with the depletion allowance. They refused to do it because they told me, "We know what it would show." It increased the price of gas to the consumer.

Mr. WALLOP. Of course it will.

Mr. STEVENS. It did. We know it did. Everyone is standing around this room and saying, this is a giveaway to the oil industry. But they forget the fact that everything we gave to the oil industry in the depletion program was coming out before taxes. Now we get it after tax. That is known as the after-tax dollar. What this does is take 75 percent of the after-tax dollars. So the only thing the industry can possibly do is raise prices more.

Mr. WALLOP. One other thing that it does, which is not in the interest of the economy, is that it forces them into the capital markets that are competing for the money for modernization of plant and equipment with the rest of the country. All those dollars do is become more and more scarce.

People invest their money now in the Treasury bills that now have such attraction for people, as people are withdrawing their money from the stock market, withdrawing their money from the savings banks of this country and are buying U.S. Government notes—which, again, is money that is not in the fiber part of the economy of the United States they are doing it because we have gotten ourselves into an inflationary rate that is so terrifying that these interest rates guarantee relatively tax free income. For the most part, they are not income-tax free, but they are free from most State income taxes. All we are doing is compounding the circling of the bonds that are around this economy of ours.

No wonder it cannot produce. It is not only not producing energy, it is now becoming a question that we cannot produce anything and cannot compete economically on the world stage.

Mr. STEVENS. I do not understand, really, what the average family is going to do. I remember when my children were growing up; we used to go down to Florida for Christmas and we would drive down. People would say, why not fly down? It was very simple: I have five kids. By the time you paid the cost of flying five kids to Florida, you found it was a lot easier and cheaper to drive a car, which you were already paying for, and the incremental cost was the cost of gasoline. An average family could afford a vacation because of the price of gasoline. Now they want to force that up even more.

Now I see that the people in the House want to put a 50-cent-a-gallon tax on top of everything else.

Mr. WALLOP. Those are the same people, are they not, who suggest that it is in the public interest to reduce the size of Government?

Mr. STEVENS. Those are people whom I cannot quite understand. At the same time, they want a rationing program. I think they are people who live a block from the Metro. They do not live 40 miles out, 30 miles out. They do not travel the distances we do in the West.

I said here the other day that if there is any one bill that is going to add to the total East-West conflict in the United States, it is this. Basically, our production is coming from the West and I consider Alaska part of the West. This bill is being foisted on us by the heavily populated areas of the East. They, somehow or other, want to strike back at the whole international oil industry. They cannot strike back at OPEC; they cannot strike back at the foreign producers. So they are going to strike back at those in this country who have the ability to produce. The only people, in the long run, who have the ability to reduce the cost of their fuel, their gasoline, is who they are striking out at.

Mr. WALLOP. They could strike back if they had the courage to do it. There is a way to tax OPEC oil coming into this country that is not prohibited to us. But what has happened is that those people who thirst for OPEC oil—primarily in the New England area of this country—have gotten away with bringing high-priced OPEC oil in and making the rest of the country pay homage to it through the entitlements program. So, in fact, everybody in the country is paying the world price of oil. That is not the price oil brings in this country.

That is in order to subsidize one part of the country that will not allow a refinery to be built on its coast and apparently is going to do everything in its power to keep from having production on its coast as well.

Mr. STEVENS. Somebody was saying things could be worse; if we do not get this bill passed, the President could reinstitute controls. I said if he is going to reinstitute controls, he is going to have to put a tax on importation of foreign oil, too, because the administration and the country as a whole so much expects this money, that they are already starting to spend it. The money has to be raised from somewhere.

Continuing the control program is not that much of a problem, as far as I am concerned. We have lived under the control program. We can live a little longer under the control program. It will expire, by its own terms, in 1981. I would rather see the control program continue until 1981 than to see them institute a program taxing 75 percent of the amount that comes from oil in excess of $13.

(Mr. BOREN assumed the chair.)

Mr. WALLOP. It only makes sense. There is a point in here at which the economic and productive interest of this country would be better served by going the path the Senator is speaking of than it would be by burdening them throughout the rest of the century and restricting totally any future opportunity to get into the business of producing the resources that this country will have.

One could hope that maybe, over that course of time between now and 1981, there might be a reasoned national dialog that might even move them sooner.

But, at any rate, at least make it possible for the country to know it does not have to be held hostage, that it is being held hostage to the kinds of circumstances that are driving our foreign policy and domestic economic decisions by conscious design, conscious political choice.

What we are doing with this tax is one clear thing, that maybe someday the public will recognize we are still making it a much more attractive venture to search for and produce oil overseas, where the only risk is political instability versus political certainty in this country, of demagoguery and economic inability to go and search for and produce the resources the country possesses.

Mr. STEVENS. Alaska's gas was discovered in 1968 and is 10 percent of the known supply of the United States. Every day it is costing consumers, not the industry, if the industry lifts that along with the oil, separates it and injects it back into the ground, it is costing us twice to lift it.

It could be made available to the consumers in the south 48, but the cost of that pipeline is horrendous. The problem is that no one has that kind of money that can put up $15 billion to $17 billion. It takes a massive industry to do that.

This industry has been asked by the Federal Government to guarantee $4 billion of that cost. My State was asked to guarantee $2 billion of that cost, and we are proceeding to meet that.

I was told that if this bill passes, it will reduce the ability of the industry to participate. So I put in an amendment which said that 50 percent of the money put up for these facilities will serve as a credit against the tax.

It was an offer they could not refuse—still costing them 50 cents cut of every dollar, but 50 cents would be saved on this tax.

But we were told we could not have that because it will cost us $6 billion.

Mr. WALLOP. I am amazed.

Mr. STEVENS. It is not in our pocket yet. We have this revenue loss concept. Somebody put a figure up and said that that is the amount of money we have and yet we have not got a dime yet.

Mr. WALLOP. Actually speaking, the Senator is right, but it is worse than that.

This administration, and a good many people of liberal persuasion, operate from the presumption, and the Treasury supports that 100 percent, that all of the goods and services and labor of this country belong in the country, and the rest, keep what we have by grace.

That is how to get to assuming we are losing something not yet in one's pocket.

Most rational people in this country, I think, expect us to levy taxes to achieve a public purpose that we have identified and are willing to support as a public purpose. But to say that we are going to get the tax and then discover the public purpose is a total aberration of the way the economy once worked in this country, and the philosophy that once carried us. The Senator is dead right. It is incredibly frustrating to hear them talking about losing something they do not have.

Mr. STEVENS. I constantly refer to my family. But other Senators have the same questions asked of them that I have asked of me. One of my daughters got out of college, went to work, secured her first paycheck, sent it to me, and she had marked a circle around the amount deducted for the U.S. Federal tax. At the bottom, she wrote: "Daddy, what are you going to do with my money?"

I think there ought to be more thinking like that. That was her money. She earned it and it was withheld from her before she even got it.

Here we say to this industry that we are going to keep, before they get a chance to put it to work, the income that comes in from the sale of the oil because they are selling it at the same price the world oil market is selling at.

The only way I know to break that market is to increase production in this country and to go into other fields.

We have supported synthetic fuels. I support them, as the Senator from Wyoming has. We support the concept of alternative fuels. But we cannot develop these fuels either, except with additional money.

I find it interesting that more and more of my colleagues on this side of the aisle have amendments to finance solar and all other kinds of businesses, but they will take it from the production of oil to finance these things.

They are not going to continue to search for more oil. As a matter of fact, they will not let us use the money to continue development of an existing known oil or gas field.

I had sought a plowback into the very field the oil had come from that generated the revenue, so oil could be produced at a faster rate and made available to the country.

Alaska is the only State in the Union that has backed out foreign oil, when we brought in the pipeline. Because of the battle with the environmentalists, it cost my State $1 billion to support the pipeline construction during that total battle that went on.

I cannot believe the consumers of this country understand what is happening to them. Under the guise of taxing those who made the profits from oil in the last year or two, this bill comes forward and is called a windfall profit tax. The windfall profits were made by the people who bought foreign oil at less than world market price and brought it into this country, or somewhere else, and sold it at world market price, or above, in some instances, on the spot market.

Those people made tremendous profits. It is obvious that OPEC will move to shut that door.

But I do not know of anyone who has made a windfall profit off Alaska oil. As a matter of fact, I am told they have yet to get any return on their investment, and they invested that money starting in 1966.

I just cannot understand why the rest of the country does not understand it.

There will not be people taking risks in Alaska in the offshore area if this keeps up because there will not be enough money left to justify the risks.

Today, we can make more money in Time magazine, or the Washington Post, than investing in a company drilling in Alaska for oil.

Mr. WALLOP. If I may say, our friend from Idaho pointed that out, among other things.

I think it is fairly obvious, but the fact is that this does not have anything to do with profits, and nobody has identified yet publicly what is an unacceptable level of profit in the industry.

I have not seen any particular signs that there is an attempt to put windfall profits on the producers of gold, those who have gold mines.

Mr. STEVENS. I suggest we ought to have an excess profits tax. What about the people getting this fantastically high interest rate of return now just because of the fiat decision of a Federal agency?

All that money is windfall as they raise the price of, literally, the rent of money. It is causing a windfall.

And the price of gold, the price of housing, I wonder how many Members of Congress would like to pay a windfall profit on their profits they make on their houses after they have held them here for 10 or 12 years.

That is surely a windfall profit to have such fantastic appreciation in real estate that is going on around here, and yet no one has made any suggestion to impose a windfall tax on that.

I would like to see a genuine excess profits tax. I think we are in a period of very high profits that are harming the working people of this country. But I do not see that this will help them at all.

I hope we will hold tight on this one because I think the need for a filibuster—and this is what this is now—is to alarm the country as to what is going on, to set the stage for a great battle in 1980, and that battle, some people will say, will be a question of whether we should tax the oil companies. That is not the battle at all. It is whether we will become domestically secure in our production of energy.

Many people tell me they believe we ought to insist on increasing production.

I think the young people of this country are starting to learn the difference between the baloney of new taxes as compared to not being able to drive their cars.

Mr. WALLOP. I agree.

We continue to hear on this floor that there is no more to be found. People say that they are not going to find any more oil here. If that is true—the Senator has said it more than once today—there is no risk to the country in exempting new oil from the windfall profits tax. If they are right, there will not be any new oil to exempt.

The thing that is so preposterous in all this is that there is not a willingness to pay a tax and not a willingness to identify with the foreign policies of this country, Republican and Democrat, that put the country in the position it is now, in which people are suffering because of rapidly increasing prices of energy. If that had been spread over the years, the situation would not be so desperate, nor would we be in the position of having no control over the price. That is where we are now. We simply have no control, because we are too dependent on oil that comes from other parts of the world.

(Mr. HEFLIN assumed the chair.)

Mr. STEVENS. I recall a Secretary of the Interior who said that we would never discover another pound of tungsten in this country. Congress, in its wisdom, passed a program of incentives for those who discovered and produced tungsten, and we soon had tungsten coming out of our ears. Literally, we had so much tungsten that we did not know what to do with it.

The point I am trying to make is that the people who tell us that there is no oil apparently do not know that we have 15 sedimentary basins in Alaska that are enormous. Only two of them have been drilled so far, and both produce; one substantially.

Thank God for the natives of Alaska. They are now starting to drill on the lands to which Congress finally confirmed their title because of their longstanding claim stemming from our treaty of purchase from Russia. They are starting a well this December. I hope they get a bonanza. I would like to have that oil splash all over those people who say there is no more oil in this country. I feel that we could produce a staggering amount of oil and gas in Alaska and that we should produce as much as we can to assist the rest of the country.

It seems to me that what is happening is that because we have come on the scene as an oil and gas producing State at such a late stage in the hydrocarbon period, we are being punished. I wonder what would have happened if we had discovered Prudhoe Bay in the 1930's. Does anybody think the industry would have gone to OPEC?

Some great stories have been written about that. The naval petroleum reserve was set aside in the Arctic in order to prevent the staking of claims under the old Mineral Act of 1872, and that led to the Mineral Act of 1920. They did not want to see mining claims staked for petroleum. So we had the Mineral Leasing Act of 1920 come into being.

As a practical matter, there was interest in oil and gas production in Alaska in the 1920's. There was a Navy producing field in Alaska, a bunker plant, to fuel our Navy tankers off Alaska, between World War I and World War II.

But the Government would never let the industry in there, because the Government owned every inch of it. So they went to OPEC. They could do better in the OPEC countries than Alaska. It was only when the State of Alaska got title to the land that we started to lease the lands in the Arctic. We leased 450,000 acres, and from that came the great Prudhoe Bay bonanza. We believe we have a great many more of those bonanzas. The only trouble is that they will not get off our backs.

Mr. WALLOP. I know this is not the position that the industry takes, but I believe that we have yet to find a great deal of production in the lower 48 as well.

I share the optimism of the Senator from Alaska about the potential for Alaska. Unfortunately, I have a great measure of pessimism in my bones as to whether we will ever make a decision that is responsible toward the development of that area.

The worst thing we are doing at this moment is continuing to suggest to the American people that they are entitled to be uncomfortable, to have to pay not only the higher prices, but also to pay another 50-cent tax on top of that.

All through this bill is a series of suggestions—implied in some cases and specific in others—that the country can survive only by making do with less.

The Senator from Wyoming has a number of conservation proposals and has supported others. The plain fact is that the only cost effective one is the one we have turned down, at least for the time being, although I have hope that at one point that will take place.

We do not know if we are going to get anything from any given insulation. As a matter of fact, we even have taken the standards for insulation off in this Congress. All we know is that we are going to get a bill under which we have to pay part of somebody's insulation. No performance is required. We will have the same thing with a number of other conservation initiatives here—no performance required, just pay it.

We also are going to do that without regard to the fact that a good many of those issues and programs will take place without public money. That seems a bizarre way of proceeding, for a country that prided itself once on its ability to produce and the ability of sensible economic decisions to guide the working men and women in this country, the wage earner.

So we sit here now, again fussing with symbols, again unwilling to look at the great experience that has preceded the trouble that is here.

Mark Twain once said in a short story that you should only take out of an experience the amount of wisdom and learning that is in it, and no more. He went on to illustrate his point by saying that if a cat jumps on a hot stove lid, that cat will jump off and never again jump on a hot stove lid; but neither will it jump on a cold stove lid.

That seems to be the piece of the puzzle that is missing here. We have taken more experience out of what has happened than is in it; and, consciously or unconsciously, we are renewing our pledge of allegiance to OPEC. Consciously or unconsciously, we are making it impossible for the American people to gain relief, to hold their heads high once again, free from policy decisions driven by what now is desperate self-interest.

The Senator from Wyoming told earlier about the Park Service and their decision that it was unnatural for a moose to be feeding with horses, a domestic animal. That decision was driven by the fact that, somehow or other, the instict for survival of a moose was unnatural; that he would not find it in his self-interest to eat hay that was laid on the ground by a rancher for horses; that taking care of his survival over the course of the winter was not a natural act, even though he might be next to a domestic animal in the process.

Somehow, we have in our minds a particular and bizarre circumstance whereby one member of the animal kingdom, because it has been domesticated by man, is not natural, and another member of the animal kingdom, because we hunt it and shoot it, is natural, and the two cannot be seen feeding together.

We are doing the same thing here with the oil and gas industry in the country, by proposing a circumstance, admittedly unrelated to profits. The administration admitted earlier in this game, a long time ago—last spring—that the only reason at all for the windfall profits tax was to make the decision to decontrol politically acceptable, not productively more generous to the interest of the people of the country and our security.

We are not talking only about economic security. Make no mistake about it—we are talking about military security. Most people do not know—I think it comes as a surprise to many Members of Congress—that the Soviet Union is the largest oil producing country in the world.

We have some what we take to be comforting reports produced by the CIA that the Soviet Union is running out of oil and gas and they will soon be as dependent as we are on these foreign sources and a competitor of ours in the world market.

The Senator from Wyoming can only accept that thesis if he accepts the fact that the Soviet Union is as obtuse as we are in developing oil policies and self-sufficiencies, and I doubt that to be the case. They are inefficient in developing and producing, but they have it.

We sit here with an abundance of energy unrelated to oil and gas that can and indeed will be produced and provide us with a measure of security, but in order to get there we have to find a way to recycle it and take credit for that decision. We, Congress, the President, and all knowing political powers of the country, are going to take the money first out of circulation and then replace it in circulation, making decisions based not on what is practical—I will guarantee it—but on what is political.

The practical prospect of all of this is going to be lost because it is going to go to the people who come to town with the best dog and pony show and the most political support in Congress. I am talking about those who will be coming to the Energy Security Corporation for some of this $88 billion in grants. They are going to come walking down the road and they are going to put together a beautiful show. They are going to have colored brochures, diagrams, and rosy forecasts of what is coming in the future. We are going to buy a program whether or not it is related to profit. We are going to buy a program that would not otherwise go ahead in the free enterprise system and freeze out at the same time those who would go ahead in the free enterprise system because they are economically available and accessible to us but perhaps are not represented by their dog and pony show of the same consequence or political clout in the halls of Congress.

Those decisions are going to be entirely political. The public is going to be guaranteed certain things. Congress is going to take credit for it. The President, whoever he happens to be, is going to take credit for it. People who laid down these bills are going to take credit for it. But it would have happened anyway at less cost to the public and less cost in time.

The shoe that is pinching in all of this is only barely the economic shoe, and that matter is being taken care of rapidly by our friends in the world of OPEC. They have done what no one else could do, and that is to make the production of those alternative sources of energy an economically feasible operation. In the process, the most amazing thing—no one ever seems to hear it—is that those who would produce out of these incredible resources ask only to be protected from a rollback in prices from the OPEC oil countries. They are worried about the rollback because they see that there is a good bit of cunning and craft in the foreign policy decisions that those countries take and that cunning and craft is this. The United States is a much more pliable world partner when dependent on their whims than when genuinely independent as it could be.

There is a Government role in this and the Senator from Wyoming is not denying that. There is absolutely every reason to suppose that we should encourage borderline technologies to come on line so we can learn from them. There is every reason to suppose that we should help the poor who are the victims of this obtuse policy that has guided us since the 1950's. Having been told, virtually guaranteed, that there was no end to cheap energy and that it was every bit as much a right as free speech of people to have cheap energy, now all of a sudden we have put those people unwittingly—they did not know what was happening to them and had they known they would not have allowed it to happen—into the position where their retirement benefits are not enough for a comfortable survival, even in some cases survival at all. So we have to take care of those people. It is our obligation and we would do it in any case, and we can do it in any case with the $475 billion extra that is coming to the Treasury just as a result of the decision to decontrol.

No. We have to go on and make the decision that we are not yet ready to wean ourselves from the breast of OPEC. No one wants to leave that nest.

Whatever foreign policy decisions there are that drive that thinking have to be inimical to the interests of the American public. There is no reason to tell the public that it has to be dependent when it does not.

Yet, in a disguised way that is what the public is being told, that it cannot expect relief, that it can expect to be humiliated on the world market, that it can expect to have foreign policy decisions with regard to Israel driven by our fear that we will get cut off if we do not make some kind of unsatisfactory settlement in another part of that world. All kinds of other decisions are being driven in the same way.

We are not a responsible player on the world's stage if we cannot make a decision that is in the interests of the freedom of the world when we have to bow down to our own dependence on someone else's decision as to what may be right.

Mr. President, it is coming down to a sad day.

If Senators would bother to read the testimony in these books aptly entitled "Crude Oil Tax," not windfall profit tax, they would find thousands of pages of testimony by people within the industry and without, thousands of pages by people whose business it is to make investment judgments, by people whose business it is to research economic policy and doctrine, thousands of pages saying that the windfall profit tax is essentially destructive to American self-interest, not political self-interest, I might add, but the American public self-interest. It is there. And there are a few pages, literally few, of testimony by the administration and the Energy Action Committee and a few other people in support of this tax or a heavier one.

The decision was not made on the basis of testimony. We could have done without the hearings. We could have gotten to the point we are at right now without one single minute's worth of hearings because we have ignored production response. The very concept of a minimum tax, without regard to the consequences of what it will do, all that tells the public is that they not only got a bum rap having to pay the bill for all these hearings but they got a bum rap by the decision that was made at the other end of them because we ignored them.

It is too bad Senators will not take some time and read this testimony. Some of this is statistical. It is rather difficult to understand. And it confounds demagoguery when one takes a look at it, but nevertheless it would be in the interests of the people if Senators could approach this on some kind of an intellectual basis and not an emotional basis, not this act of political machoism, but on an intellectual basis. If we lose that argument on the basis that I think we will buy more with these dollars in the area of conservation than we will in production, and I think we will achieve independence sooner with these dollars placed in this area than we will with dollars placed in production, then we lose it on the basis of some kind of responsible action as a Senator.

But to lose it because somebody's symbol is $185 billion, without regard to the consequences to the country's independence, is an unbelievable frustration. We will not come out here and argue dollars and cents for energy saving. Why? Because we asked for a supply response way early on in all of this thing, and the supply response, except that which was derived by the Congressional Budget Office, all made the economic argument the Senator from Wyoming is trying to make right now, that you get a better buy, you buy oil in terms of $16 to $20 in terms of this so-called tax revenue, even up to $35 and $40 in terms of this so-called tax revenue, but it is money spent here to relieve us from the clutches of people who do not care about where we go—in fact care particularly where we go, and want to see us weakened and on our knees on the world stage. That is what is happening.

The economic arguments are there. Industry production, which is consciously, absolutely consciously, conservative States that absent any windfall profit tax at all, just decontrol, the country could produce oil in excess of 4 million barrels a day over what it is producing right now.

With the Senate bill as it came from committee—and these are crystal ball figures and no one is going to hold anyone accountable to the whole thing—3 million barrels a day. We sacrificed a million barrels a day as it came from the committee because some people thought it was a better way in purchasing conservation, and the Senator from Wyoming has no quarrel with that because we argued that on the basis of fact and decision, and we got to the point on purpose with a conscious measure.

The House bill, as passed, was 2 million barrels a day, half of what we could have as a country, based entirely on the decision to decontrol—2 million barrels a day over what we would have.

Well, that is still 2 million barrels we would not have had. So you want to ask yourselves if it is really in the public interest to lose those extra 2 million barrels a day to put it into technologies, the likes of which and the impact of which the country will never have known.

Accelerate a process, ride over States' desires to protect the quality of their life, do everything else, a crash program, but no, down here we have not even gotten to discussing that basis any longer. We have this symbolic $185 billion. We have this moment in time where all intellectual arguments have been removed from the floor of the Senate as we struggle over individual and personal symbols and matters of pride. I guess that is ultimately where we will end up making that decision, matters of pride, and it would sure be nice of the majority leader or somebody else would permit this so-called minimum tax to be subject to amendment so that the Senate could work an intellectual will based on that, and then we could lose it, and we might—the Senator from Wyoming has no doubts of the lengths to which the administration will go to twist arms on this thing, and we might lose that—but at least we would have had an argument based on some reason, although many, I suspect, would not listen to it, but at least we would have had a chance to persuade people and to get the public's awareness that not all the story is being told when you see a headline in the paper that the Senate weakens the tax or the House has a stronger tax. What is the definition of strength and what is the definition of weakness in there? Nobody is bothering to answer that. That is one of those little buzz words the press comes up with to substitute for their lack of information as to the issues involved.

Let the so-called minimum tax proposals come up individually on each category of oil and see if the wisdom of the Senate is not on the side of production. But we are not going to do that. We are going to hold ourselves hostage to the symbol of $185 billion. No compromise is available, just hostages, just like we are hostages to OPEC.

Well, it is too bad, and in the interest of looking respectable the Senate is acting in a most disreputable manner, highly political, extraordinarily popular, reads well in the press, but in half a decade from now, halfway through the eighties, we will be 10 years farther behind than we are right now in our march to independence.

If Senators think that is in the public interest to leave those decisions and the crash program that goes with them, make no mistake about it, the farther down the road we get and the worse our policy is, and the more squeezed our economy becomes, the more desperate people are going to be to make decisions to get out of it, and get out of it in a hurry.

You are already seeing signs of that now with energy mobilization boards and synfuel corporations and massive kinds of things, you are already seeing signs of that right now. The people are unwilling to look any longer to the protection. They are saying, "Just give me some heat, give me some way to drive my car, get me out of this predicament."

In the process, the only real opportunity the Senate of the United States has for a near-term response and a near-term relief is being denied and sacrificed on the altar of the symbolic $185 billion.

The Senator from Wyoming yields the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BELLMON. Mr. President, the basic question which the Senate must decide in voting on this bill is whether or not we are passing an energy bill or a revenue bill. I serve as a member of the Budget Committee and I watched carefully as we dealt with questions relating to the state of our country's revenues and whether or not we can bring our outlays in line with our income.

We have the Nation on a path now that will give us a balanced budget in fiscal year 1981. The path was chosen, those decisions were made, before this bill came under consideration, and we were able to project a balanced budget without counting on significant revenues from the so-called windfall profit tax bill, which is not, which really has nothing to do with, windfall profits but which is rather a domestic crude oil tax bill.

Therefore, I am not at all persuaded that we need to turn this bill into a revenue bill.

What is needed, Mr. President, insofar as the basic needs of the country are concerned, is an energy program that will provide incentive to the energy industry to get about the job of turning the abundant energy resources we still have in this country into forms which we can use.

The Nation has enough coal in the ground to last us several hundred years. I once visited the Paraho project out in Rifle, Colo., where we are making oil from shale on a limited basis, and was informed by the man who is in charge of that project in the Pieance Basin in Wyoming and Colorado where they had or identified oil shale deposits that could yield up to 2 trillion barrels of oil upon proper treatment. Two trillion barrels of oil could last this country for more than 200 years.

In addition to the coal and the oil shale there is still more oil left in the old oil fields of this Nation than was produced initially under primary recover techniques, and that oil can be brought to the surface by tertiary recovery means which are being improved upon every day.

The problem then is not that we do not have the resource base or that we do not have the technology to turn the energy into the liquid form which is needed, but rather that during the years since 1973 when the Arab embargo oil first hit, the Congress has insisted upon passing punitive legislation that has served as a disincentive to investors and keep them from making the highly complex investments and arrangements necessary to build the plants and produce the liquid hydrocarbons which they need.

The result is that we have literally wasted the 6 years since that embargo, so far as solving our Nation's energy problem is concerned. We are now importing something like three times as much crude oil as we were at that time, the cost of those imports has gone up by a factor of 10, and it will certainly again increase during the calendar year 1980, after the next meeting of the OPEC representatives.

So all we have done, Mr. President, during the last 6 years, is make ourselves more and more dependent upon undependable, insecure foreign crude oil, which costs us more every time a new shipload arrives in an American port. So the question that I see, so far as this bill is concerned, is whether or not we are now willing to provide the capital which the industry must have to build plants that are able to turn coal and oil shale into the liquid hydrocarbons which we need. Those plants are going to cost something like $5 billion each for a plant of the scale to make 100,000 barrels a day of oil, and if we are going to produce the 8 million barrels per day we are now importing, we need 80 of those plants before we will become independent of OPEC.

Now, Mr. President, building 80 plants which cost more than $5 billion apiece is an enormously expensive undertaking, and an undertaking which is not going to begin until and unless this country provides the incentive that is necessary to get that kind of investment started. We can depend, if we care to, upon imported crude oil so long as the OPEC nations are willing to sell us that oil for dollars that go down in value day after day, but the insecurity of that source is having a serious impact upon our foreign policy.

We are now, for the first time in the history of this country, unable to make foreign policy without considering whether or not the decisions we make will cause the OPEC countries to shut off their oil, and for that reason, as well as the fact that we simply cannot afford to buy imported crude oil much longer, I feel that the main thrust of this bill needs to be, not on the revenues it raises, but upon whether or not it will establish the incentive and provide the capital to the only people who know how to produce energy and in that way help us to get headed in the direction of finally, again, becoming energy independent.

I feel strongly that our dependence upon costly, insecure foreign oil must be ended, and it is for that reason that I am opposed to using this measure primarily as a revenue measure. There are a great many ways Congress can vote to raise revenues if in fact we need more revenues, and I am cognizant of that. For instance, there is now a great deal of conversation going on in this town and in the administration about imposing a 50-cents-a-gallon tax on gasoline. That tax, if it is applied to noncommercial gasoline, will produce about $45 billion of revenue per year. A tax of that kind, which would tend to reduce consumption rather than reduce production, as the so-called excess profit tax will do, would be far more in the national interest than the proposal we now have before us.

Mr. President, well into the next decade, the American people must face and come to understand the greatest challenge before us as a nation. This challenge has come to be known as the energy crisis, or probably more appropriately, the energy dilemma. It is a rather recent development, but one which strikes at every turn throughout our society.

Not since the Arab embargo of 1973–74 has this dilemma been more profound than during the last several months. This is not to say that the private and public sectors of our economy have not been struggling during the last 6 years to solve this energy dilemma. Struggle they have, and for the most part at cross-purposes, which has prolonged the positive and constructive action which has been so badly needed.

Unfortunately, Mr. President, this dilemma is not so easily cast in terms of struggles between private and public interests, solely in the domestic sense. The energy dilemma facing our Nation is complicated and intensified by virtue of our inordinate demand for foreign oil. True, struggles or squabbles in the domestic arena have done little to ease our appetite for foreign imported oil, but we must all come to realize that outside forces—both economic and political—have contributed in placing our Nation in this precarious situation.

Certainly every citizen of this country has heard, from one time to another, the dangers we face from our extreme dependence upon foreign oil to meet our energy demands. I know I have spoken on the subject, and I have heard numerous other politicians, journalists, television newsmen, and the Government itself express great concern and warning over our continued reliance on foreign imports of oil.

How this has been received and perceived by the American public is most disturbing. There seems to be an even greater dilemma among the public as to whether these concerns and warnings are true. The last several months and the coming years of uncertainty should leave little doubt in the minds of the American public as to the accuracy of these warnings.

Mr. President, we recently did a poll in Oklahoma, a State that produces a significant quantity of petroleum, a State where you would think most citizens would be fully informed about energy matters, a State where a good many of us, over the years, have tried to make this information public; and yet, to my absolute amazement, there still seems to be a very significant percentage of my own constituents who have genuine doubts as to whether or not there is an energy crisis.

I submit that here is one place where Congress is going to have to go ahead and solve this problem, perhaps even before our own constituents realize how serious the problem is.

While our dependence on foreign oil has contributed to the current situation, it is by no means the single cause of our present woes. Our domestic policies over the last 6 years, most notably those relating to crude oil pricing have done as much as anything to sustain our growing reliance on imported oil. This fact is often overlooked by the public as they search for the culprit in this whole affair. While the general perception around the country is that the oil companies are the ones to shoulder the blame, I would contend that that assessment ignores the realities of the last 6 years.

In reviewing the last 6 years to determine who might be responsible for this whole energy dilemma, there are many in addition to the oil companies that would fit the bill. As I see it Mr. President, the Congress and the executive branch take top billing when the finger pointing begins because our policies since 1973 have done nothing to enhance greater domestic production of crude oil. By tampering with prices and thereby creating an artificial market under which to operate, oil companies have been forced to sell their products at a price below their true replacement value.

Mr. President, that is the point that I think is often missed. There seems to be a feeling here in the Senate that oil that has been discovered is somewhere in the warehouse, and therefore it should be marketed at a cost reflecting what its finding costs were. Those who follow that position fail to realize that it is not enough to sell a product at what that product cost, but rather the products must be sold for a price adequate to replace them.

So it is not costs that should govern but rather replacement costs, and that is what we have absolutely failed to do so far as energy is concerned. The idea that so-called old oil, which comes from wells drilled before 1973, should be selling now at less than $6 a barrel, when the cost of finding a new barrel of oil is probably four or five times that amount, is absolute folly, because it simply means that when a producer sells one barrel of oil, the return from that barrel of old oil will be adequate only to find a fifth of a barrel of new oil; so, in effect, the producer is putting himself out of business day by day as he produces and markets the oil from the old fields.

Also, knowing a little about human nature, it is to me absolutely impossible to expect that producers, who have oil which is categorized as old oil, could produce at the maximum level, knowing, as they do, that they are selling their oil for far less than its cost to replace it and knowing, also, under decontrol and in the real world, that sooner or later those prices are going to go up dramatically and that oil, which is now sold at $6 a barrel, would sometimes be worth a multiple of that amount.

Therefore, in an absolutely legal manner, I am convinced that oil operators are discouraged from putting forth the maximum efforts to bring as much oil to the marketplace as they could. And unless we change that and abolish those disincentives, this country is not going to see as much production from our own fields as we could. And certainly we are not going to see expensive tertiary projects brought on the market, brought on stream if we tax that project heavily and if we deny the producers the capital they must have to initiate those terribly expensive projects and to operate them at a profit.

Mandatory price controls on domestically produced crude oil have created a disincentive for the industry to continue pouring money into new exploration. Consequently, as domestic production declined and demand continued to grow, we were forced to look to foreign governments for more and more of the crude oil that we use.

Fortunately, Mr. President, in the face of unbelievable price increases by OPEC—and, in all honesty, some of those price increases are not as great as might have been expected. Saudi Arabia, for instance, is still marketing much of its crude oil at $18 a barrel. Mexico, which is not a member of OPEC, but which is a significant oil producing nation, is marketing its oil at more than $25 a barrel.

So I think it is time we recognize that, rather than be totally critical of OPEC, we should recognize that some of the members of OPEC are exhibiting a considerable amount of restraint at this time. And I think it is unrealistic to expect that restraint to continue indefinitely.

(Mr. METZENBAUM assumed the chair.)

Mr. BELLMON. Those price increases have been dramatic. They will probably continue to go up until this country brings on enough production from our own resources so that we can begin to be independent of those higher prices, and then and only then will we see them moderate.

There is an obvious need to bring the domestic price of crude oil up to reality. And President Carter, in one of the few actions I have seen taken by a President or by anyone else in Government, has wisely exercised his authority earlier this year to decontrol the price of domestic crude oil over the period of months.

The President's action in this regard was most appropriate and, for a time, was encouraging, because it appeared, finally, we were going to have an incentive for investors to go out and explore and find additional reserves of crude oil and build synthetic crude plants and oil shale plants that would be coming into production in future years to relieve our dependence on OPEC.

As I have said, it was somewhat encouraging at the time the President took this action, because there was eminent reason to believe that the President would follow his positive action with other actions that would not undo the good that he had done.

But what has simply happened is that where Mr. Carter, as President, gave with one hand, he simply now is trying to take away with the other. It makes very little sense, so far as production is concerned, to decontrol crude oil prices and allow the price to rise, and then turn around, with the other hand, and take away those revenues from the producers who need those revenues in order to increase production and to move the Nation in the direction of the independence of OPEC.

Also, I believe that the purchasers of petroleum products deserve to see the price they pay for those products be used to bring more production in line and that the higher cost of those products should not be used simply to buy more government.

When President Carter recommended a crude oil excise tax, he went to great length to chastise the oil and gas industry as profit-mongers. Amidst this Presidential rhetoric, the tax-writing committees of Congress began the process of shaping a crude oil excise tax.

The House-passed bill proved to be virtually a carbon copy of the President's proposal. Fortunately, the Finance Committee has reported a bill to the full Senate which was balanced in its approach, or at least more balanced, by assuring certain incentives to those to explore and produce petroleum in this country.

I would say to my fellow Senators that the Finance Committee bill, as passed and initially amended on this floor, would probably have moved this country a long way in the direction of energy independence.

This balanced approach is reflected in the Senate Finance Committee's recommendation to exempt from the crude oil excise tax newly discovered oil, oil produced from tertiary recovery, the production of heavy oil, and, of course, the floor amendment which exempted independent producers from this tax.

There are several reasons why the Finance Committee chose to exempt these categories of crude oil production. To begin with, the committee recognized the need for providing the proper incentives in order to encourage new exploration and development. It is most difficult to make a case that income derived from newly discovered oil is, in fact, a windfall to the producer if our objective is, indeed, to bring the price of domestically produced crude oil up to world levels. There is little question that our objective is to bring some reasoning back into the crude oil pricing policy. So, therefore, to tax newly discovered oil—oil that is still in the ground today—is certainly contrary to this objective. And I am hopeful that most will agree that this is a reasonable position.

Second, Mr. President, the committee has recognized that incredible amounts of capital will be needed in order to facilitiate and stimulate the search for new oil and in the production of synthetic crude as well as in tertiary recovery projects.

The days of the Spindletop in east Texas or Prudhoe Bay in Alaska are most likely over. There may be other major finds, and there certainly will be, but it is much more difficult now and much more expensive to explore for crude oil and find it in significant amounts. Such reserves which we had in the older days, when Spindletop and other major finds were found, may exist, but they are much more difficult to find. So this means that any new oil which is found and produced will come in much smaller quantities and will be much more costly to the investor and will be more difficult and more costly to produce. The Finance Committee accurately recognizes this fact and attempted to deal with it appropriately.

An example of how costly crude oil production will be can be seen when you realize that the cost of drilling is now probably 10 times as much per foot as it was in the early 1970's.

We realize the cost of tubular goods has increased by a similar amount. When you realize that labor costs and the cost of electrical goods and chemical and all the other things that go into producing wells have escalated more rapidly than the rate of inflation throughout the whole economy, it is not accurate to assume that the cost of finding and producing oil has stood still when everything else in the economy has moved ahead rapidly.

The fact is that inflation in the oil and gas industry has been much more rapid and much more damaging than in the economy as a whole.

It is hard to know exactly how rapidly requirements for capital will increase in years ahead, as we do undertake to meet the requirements of this country by production from our own fields. But there was an article published in the Oil and Gas Journal, which is one of the most dependable publications for the industry and one which many look upon as sort of the bible of the industry. It happens to be published in my home State of Oklahoma, in the city of Tulsa.

But there was a story published on November 12, 1979 called "A Special Report." The title of it is "Oil In The Eighties." The subtitle is "Tight Supply And Soaring Capital Outlays."

Mr. President, I would like to read a portion of this article, because it makes the point I have been trying to make and makes it much, much better, because it outlines in great detail the capital requirements of the oil industry for the next decade.

The article says,

> The oil and gas industry, supplier of more than 70 percent of the world's energy—

and that is a point which I think is sometimes missed, that this world is dependent upon the oil and gas industry for 70 percent of the energy that we use. But the article says that,

> The oil and gas industry, supplier of more than 70 percent of the world's energy, is about to enter a decade of unprecedented challenge and opportunity.
>
> During the next 10 years, non-Communist energy demand will cotninue to rise, if only at half the pre-embargo rate.
>
> Despite the slowing effects of conservation and sluggish economies, staggered by a 70 percent increase in oil prices this year, energy consumption is forecast to grow 3–3.5 percent per year in non-Communist countries as a group and 1.5–2 percent in the U.S.

Mr. President, that is an extremely interesting statistic. If we continue to have energy consumption grow at a rate of 3 to 3.5 percent per year in non-Communist countries and have a 2-percent growth in this country, it is easy to see that the demand for energy is going to grow at a dramatic rate, and the pressure for greater supplies is going to get more and more intense.

The article says:

> Nevertheless, energy supply will have to strain to keep pace with even this more modest growth in demand.
>
> Production of crude oil will be restrained by mounting reluctance of key members of the Organization of Petroleum Exporting Countries to expand production. If OPEC flow plateaus, and if significant new supplies aren't brought on production elsewhere, non-Communist crude output could peak during the 1980s—as early as 1985, according to some projections. In fact, there are warnings from British Petroleum and the U.S. Central Intelligence Agency of even earlier peaks.
>
> On top of this, major importers will soon have to compete with Communist nations for a portion of non-Communinst supply. The Soviet bloc, a net exporter of 1 million b/d, is expected to become an importer early in the decade. The U.S.S.R. disputes CIA predictions that its production will peak this year or next. But the Soviets have notified eastern European customers that any increased demand must be met from other sources.
>
> CIA believes the Soviet position is more serious than that. From an exporter of 3 million b/d, CIA predicts in a new assessment that the Soviet Union will slip rapidly into deficit and will be forced to import 700,000 b/d by 1982.

Mr. President, think what that means. Just a short time ago the Soviet Union was exporting 3 million barrels of oil per day. It has now notified its Eastern European customers that it can no longer supply their needs, and the projections are that by 1982 the Soviet Union will be importing 700,000 barrels of crude oil per day to meet its domestic needs. This oil will, of necessity, come from the very same places that the United States and the other industrialized Western nations are receiving their supplies from.

That means that our access to OPEC oil and to Middle Eastern oil will be even more precarious in the 1980's than it has been in recent years, and we all know how precarious and uncertain the supply has already been.

The article goes on to say:

> Most forecasters are not so pessimistic. But they do foresee a decade of chronic tight supply, in spite of prospects for shrinking

demand growth. Non-oil energy supplies, they fear, can't come on stream fast enough and in sufficient quantities to make up the difference during the 1980s.

Coal and nuclear power are the only petroleum alternatives with technologies advanced enough to make any significant contributions.

But each of those options is mired in political and environmental problems that will limit expansion in the next decade.

It will be up to oil and natural gas, therefore, to continue to carry the main energy load and fuel at least part of world economic growth until alternate sources are able to take up more of the slack.

Long-term economic growth at an acceptable level, 3-4 percent, undoubtedly will require additional OPEC production. If OPEC should hold oil output at its present level, it is unlikely that the rest of the non-Communist countries could expand production fast enough to sustain this level of economic growth.

The challenge is awesome. W. J. Levy Consultants Corp. says cumulative crude production during 1978-90 must total 250 billion bbl to satisfy demand. To replace those volumes, industry would have to discover about 19 billion bbl/year, including 3 billion bbl in the U.S.

And that exploration effort must take place in increasingly remote and hostile areas, where drilling and production costs dwarf those of earlier days. Most discoveries, furthermore, will be small compared with the giants of the past. That will require more wells.

Thus, in the 1980s, industry will be called upon to invest enormous sums in exploration and development. If industry is to expand production at all or even sustain present levels, it must have access to prospective acreage and capital resources needed to finance the effort.

The challenge, according to Shell U.K. Ltd. chief executive J. M. Raisman, is for "governments to set the climate by means of sensible and stable licensing, taxation, and depletion policies. . . ."

And if that happens, "It is up to us in the oil industry to put our money where our mouth is and thereby to insure that our case for fair treatment continues to command public support."

In the U.S. the surge in capital outlays has already begun. The barriers to exploration and development are still significant. But with the phasing out of price controls on natural gas and oil, even after the impending excise tax on oil revenues, producers have a new opportunity. There is new incentive for drilling and the capital to make it possible.

Most of the 1980s talk may be of alternate sources, but most of the investment will still go into development of new supplies of oil and gas. The Age of Petroleum will extend through the decade ahead, and the one after that, too.

ENERGY DEMAND

The next decade will be a period of what one forecaster calls "uneasy equilibrium," another "heightened sensitivities" in energy supply and demand.

Energy surpluses will be rare, as production stabilizes and demand continues to grow. As a result, importing nations will be increasingly vulnerable to supply interruptions that translate into immediate shortages. Major industrial countries may be able to fulfill pledges not to increase oil imports above existing levels because increased volumes may not be available.

Projections of total energy demand vary widely. Last year, for example, Exxon Corp. estimated non-Communist total energy demand at 104 million b/d of oil equivalent in 1980 and 148 million b/d of oil equivalent in 1990. That assessment was made before the 70 percent increase in the price of oil this year rendered all demand forecasts obsolete.

More recently, W. J. Levy Consultants projected 1990 non-Communist energy demand at 131.6 million b/d of oil equivalent.

Key factors in demand projections are economic growth and relationships of energy and economic growth rates, which reflect efficiency of energy use.

Until the 1973-74 Arab oil embargo, energy demand and economic growth rates about matched in industrialized countries. According to Levy Consultants, during 1951-73 energy consumption among Organization for Economic Cooperation and Development (OECD) nations increased an average 4.9 percent/year, and real gross domestic product (GDP) increased an average 4.5 percent/year. The resulting energy/GDP coefficient was 1.09.

"These relatively high energy coefficients typically reflected both unusually rapid levels of economic expansion and relatively low, and in some cases declining, real energy prices," Levy Consultants says.

But the situation is changing as energy prices climb and conservation measures take effect. During 1974-77, the firm says, OECD energy/GDP coefficient was 0.33. And it projects an average coefficient of 0.74 during 1978-90, with energy consumption growth of 2.3 percent/year and GDP growth of 3.1 percent/year.

OIL'S SUPPLY ROLE

Energy surpluses are expected to occur only infrequently during the 1980s and only as the result of recession-induced demand slumps. Thus, most forecasts peg demand at projected available supply.

And oil will continue to account for nearly one-half of all energy supplies through 1990, although its share will decline slightly.

Exxon predicts oil's share at 48 percent of total non-Communist energy supply in 1990, compared with 54 percent last year. Levy Consultants also predicts a 48 percent share for oil in 1990, although its projected non-Communist energy supply is lower—131.6 million b/d of oil equivalent.

Mr. President, what this is saying is that, as much as we might like to bring on alternative sources of energy such as syncrude, at least through 1990, the non-Communist world is going to be as dependent upon crude oil as we are today, with some very slight changes. So we simply cannot expect to sit back and expect the Sun to take over or to see coal take over or to see oil shale come on rapidly enough to change the dependence on oil in any signficant way.

Crude-oil production rates, therefore, remain critical to the energy supply outlook for the 1980s. Until recently, the energy consuming world has turned to OPCE when it needed production boosts.

Those days probably are over. OPEC is stressing conservation, which means members probably will enforce production controls more strictly in the next decade.

During the third quarter this year, OPEC produced 31.2 million b/d of the 52.4-million-b/d output of non-Communist countries, according to the Petroleum Industry Research Foundation Inc. (Pirinc). And that included the above-ceiling production of Saudi Arabia and others that came in response to last winter's Iranian production decline.

Most industry analysts expect OPEC production to remain about 30 million b/d at least through 1985. British Petroleum Co. Ltd. explains why.

"The supply of oil for any significant growth in demand will be at the discretion of a few oil-producing countries throughout the 1980s. The export of this discretionary oil would increase its producers' external financial assets rather than their domestic economic growth.

"The experience of 1979 suggests that demand for increases in these discretionary supplies may well go unsatisfied—at least during the next 6 years—with the result that prices escalate rapidly.

What that is saying is that we may very well have shortages at least during the next 5 years, with the result that prices will escalate rapidly.

The more prices escalate—this is the point I think many people miss—

The less incentive there will be for the key producers to expand discretionary production, because the export revenue from nondiscretionary production would increase with the price.

"The net effect for the exporters would be merely to exchange oil in the ground for financial assets abroad."

PRODUCTION OUTLOOK

Projections of non-Communist production have become more and more pessimistic recently, notes the International Energy Agency (IEA).

An IEA monograph by John R. Broadman and Richard E. Hamilton compares 78 studies conducted during 1969-June 1978 and says production outlooks jumped after the price hikes following the 1973-74 embargo. But they've declined since then, reflecting forecasters' uneasiness over exploration disappointments or government policies.

In line with that trend, Exxon's 1978 production forecast is more optimistic than some later projections. Exxon predicted non-Communist oil flow of about 57 million b/d in 1980 and 72 million b/d in 1990. And it assumed OPEC production of more than 40 million b/d by 1990.

But that outlook predated the Iranian crisis.

The numbers are lower in later projections. One of the most-pessimistic projections of non-Communist crude production comes from British Petroleum. BP sees output peaking in 1985 at about 55 million b/d if OPEC countries maintain current production, and at 64 million b/d if they produce at maximum rates. However, non-Communist production may already have peaked, a BP analyst speculates.

CHALLENGES, OPPORTUNITIES

If BP is correct, the consuming world is due some drastic belt-tightening. The firm predicts maximum non-Communist crude production of 62 million b/d in 1990, 52 million b/d if OPEC doesn't produce its discretionary oil.

At the lower figure, assuming oil makes up 48 percent of 1990 energy supplies, total supply at the end of the coming decade would be only 108 million b/d of oil equivalent, far below anyone's projected needs.

Again, Mr. President, the thrust of what is being said here is that we simply cannot count on the OPEC countries to avoid serious shortages of energy in the industrialized world and, for that reason, particularly, the United States needs now, while we still have some time, to do everything we reasonably can to provide incentive and to provide the capital so we can bring on more oil from our own resources.

The article goes on to say that the challenge for consuming nations therefore is to assure pessimistic crude-production forecasts do not come true. In my opinion, this bill goes a long way toward assuring that those pessimistic forecasts do come through. Also consuming nations need to improve energy efficiency in all consumption sections.

And the key, Shell's Pocock said, is allowing oil prices to play an honest economic role.

"Higher energy prices not only dampen demand, they encourage all the desirable things. They encourage the search for oil and gas in new places. They allow experimenters to press forward with the development of alternative energies. They encourage the switch from oil to coal and nuclear. . . ."

INDUSTRY'S OPPORTUNITY

If the oil industry—particularly in the U.S.—is chary about prospects for uncontrolled crude prices in the 1980's, that's understandable.

As the IEA points out, price jumps following the Arab embargo of 1973–74 sparked a flurry of optimistic production forecasts based on producers everywhere being allowed to collect market crude prices.

In the U.S., always a key variable in production and consumption forecasts, producers are still waiting for world market prices.

President Carter's phaseout of crude price controls breathed life into U.S. energy prospects. But uncertainty remains over how much benefit will accrue to energy production, because Congress still is working on an excise tax Carter insists must accompany decontrol.

The tax that ultimately emerges will determine how much U.S. firms can invest in the energy effort, but it won't curb rising world prices.

Gulf Oil Corp., in a study it conducted with Stanford Research Institute, assumed prices would remain constant in real terms until 1985. Then demand would stretch supplies, forcing prices up.

Gulf expects prices during 1985–2000 to reach $30/bbl in 1975 dollars. In the U.S., that would make synthetic fuels competitive with conventional fuels, Gulf says.

For U.S. oil companies, Carter's decontrol plan would allow oil firms just a piece of that increasing revenue. R. M. Bressler, Atlantic Richfield Co. executive vice-president, cites government projections that decontrol would add $16 billion to oil-company revenues by the end of 1981.

A Standard of Indiana study projects added net income under decontrol of at least $96 billion during 1979–90.

Mr. President, I cite those figures to compare them with what this bill is going to generate as far as the U.S. Treasury is concerned. Here the studies show that the industry will get some $96 billion during the 11 years from 1979 to 1990. Yet our own estimates show that this bill is going to produce some $500 billion for the U.S. Treasury when you take into account the revenues that will be generated by corporate taxes and by personal income taxes.

This is based on provisions of the excise tax as passed by the House, whose bill will be reconciled with a more favorable Senate bill to produce the final legislation.

CAPITAL REQUIREMENTS

The capital boost that decontrol with an excise tax would give U.S. producers is pale compared to the requirements, some forecasters say.

Bressler says the $6–7 billion/year boost would expand available capital by 15–20 percent. Yet H. Andrew Thornburg, senior vice-president of Security Pacific National Bank, says investment must increase by 2–2.5 times the annual rate of the past 5 years if the U.S. is to have energy growth of 3 percent/year during the 1980s (OGJ, Oct. 15, p. 106).

Throughout the non-Communist oil industry, capital requirements will grow from $20 billion (1978 dollars) in 1980 to more than $70 billion in 2000, D. de Bruyne, president of Royal Dutch Petroleum Co., told the World Petroleum Congress in September (OGJ, Sept. 17, p. 55). Those projections are just for development of oil productive capacity. Nothing is included for downstream investment or for natural gas.

Investment requirements will increase, De Bruyne says, because increasing shares of the capital outlay will go for more expensive types of oil.

He described three categories of production: low-cost conventional oil that requires investment averaging $2,000/daily bbl of capacity (1978 dollar); medium-cost oil requiring investment of about $8,000/daily bbl of capacity; and high-cost oil that could require investment of $20,000–33,000/daily bbl of capacity by 2000.

Mr. President, again, it is a point frequently missed, and that is, it takes an enormous amount of capital to find and bring onstream one barrel per day of oil.

The low-cost conventional oil, that is harder and harder to find and scarcer and scarcer, costs about $2,000 per daily barrel of capacity. The medium-cost oil which, in my opinion, would be oil from tertiary wells, costs about $8,000 per daily barrel of capacity. The high-cost oil, or oil from shale or coal, costs $20,000 to $33,000 per daily barrel of capacity.

De Bruyne says low-cost production could increase by 15 million b/d before it begins to decline, and medium-cost production could climb to 10 million b/d by the late 1990s.

Most production will be in the two less-costly categories until "well into the next century," he says. But investments in high-cost oil already are heavy, accounting for about $10 billion/year of industry's outlay.

"Whereas total volumes of oil are expected to begin declining within the next 20 years, projections for total exploration and production expenditure keep on rising—and fairly steeply, at that," he says.

EXPLORATION, PRODUCTION EFFORT

Higher prices and investments in oil exploration and production should produce record drilling rates worldwide and in the U.S. during the 1980's.

"Higher oil prices and greater uncertainty about future OPEC behavior are of a great stimulus to the search for and the development of oil and gas wherever they can be found—but especially in politically safer areas, if, indeed, there are such places," says Shell U.K.'s Raisman.

Drilling-rate forecasts are optimistic. Rotan Mosle Inc., Dallas investment firm, predicts 75 percent expansion of oil-related drilling activity during the next 6 years in the U.S. The firm also sees expansion in worldwide drilling (OGJ, Sept. 24, p. 82).

Mr. President, again, that is a very significant feature. There is an estimate that we could have a 75-percent expansion of oil-related drilling in the United States during the next 6 years. There is also expectation there will be an expansion in worldwide drilling during the same period.

"We believe the stage has been set by the events of this year for long-term growth of worldwide oil-field activity at rates of 10–12 percent in real terms and 19–21 percent in current dollars," says Frederick Z. Mills, vice-president.

"We see this growth rather balanced among domestic and foreign; onshore and offshore; exploration, development, and production."

Here we have it, Mr. President, that the industry is planning these rapid increases in the rates of drilling, and what is needed, of course, is the capital to make this plan possible.

U.S. drilling. In the U.S., explorationists must drill 388,514 new field wildcats during 1978–90, totaling 2.6 billion ft. of hole, to maintain discovery rates of 2 billion bbl/year, says John D. Haun, president of the American Association of Petroleum Geologists.

That would require drilling and completion investments of $179 billion, he says (OGJ, Oct. 15, p. 94).

The high footage requirement results from a decline in the rate of discovery per foot or per well.

Haun predicts drilling costs will be $600,000/well in 1990, compared with an estimated $260,000/well last year.

This shows the demand for capital just for one well will more than double during the decade of the 1980's.

And he says that to maintain the discovery rate at 2 billion bbl/year, the number of wildcats drilled would have to total 23,606 in 1979, rising to 42,571 in 1990.

That is the number of wildcats. It has nothing to do with the production wells. But in 1979, that is 23,606, rising to 42,571 in 1990, and that is to produce 2 billion barrels of new reserves per year, and that is not enough to keep production at its present rate. We need to find 3 billion barrels per year to do that.

Indiana Standard's Eck predicts an average increase of 5.2 percent/year in the number of wells completed in the U.S. during 1980–1990.

He estimates well completions and footages of 54,000 wells and 270 million ft. in 1980, 70,000 wells and 360 million ft. in 1985, and 82,000 wells and 440 million ft. in 1990.

The increase will slow after 1990. Eck predicts 1995 drilling of 85,000 wells and 480 million ft. and 2000 activity of 86,000 wells and 500 million ft.—double the estimated footage for 1979.

I hope synthetic crude production will begin to take up some of the slack.

The prospects. Regardless of the size of the exploration effort undertaken worldwide, crude production will begin to decline before 1993, says the U.S. Geological Survey.

David H. Root and Emil D. Attanasi of USGS says the decline will result from physical limitations alone. And their reasoning highlights some of the challenges that will confront explorationists in the coming decade.

"The decline in the worldwide petroleum discovery rate is a consequence of the fact that most of the world's crude oil is in a few very large fields, and that in the exploration of a petroleum province the large fields are usually discovered early.

"Because exploration of frontier areas has moved almost exclusively offshore, we can reasonably conclude that prospects in accessible onshore areas are significantly poorer than prospects offshore.

"The existence and durability of the oil cartel (OPEC) is evidence that crude oil is found in large quantities in only a few places."

Root and Attanasi base their prediction of a production decline before 1993 on the discovery-rate decline, increasing production trends relative to reserves, and the assumption that the crude reserves-to-production ratio never drops below 10.

They say the primary factor in the discovery rate decline is the ever-decreasing size of fields being discovered. In short, small fields are harder to find than large ones, and their payoff obviously is smaller.

But that will be the exploration arena of the 1980s, a development the USGS officials interpret as a bad sign for the industry.

"The fact that explorationists have accepted the higher costs of moving into physically hostile areas is evidence that the world's petroleum industry is in difficulty.

"The increase in the discovery rate in Western Europe and the Far East are a result of this movement to new provinces offshore. Relatively few unexplored or lightly explored basins remain, so areas that have improved their discovery rates are unlikely to do so for long."

Deepwater drilling. One exploration frontier already may be closing off.

According to a study by Pace Co. Consultants & Engineers Inc., Houston, exploration may peak within the next 2-3 years in waters more than 600 ft deep unless a large number of giant fields are discovered in deep water.

Throughout the 1980s, Pace says, there will be a surplus of rigs capable of drilling in waters more than 600 ft deep. Last year, 185 rigs were rated by owners as capable of drilling at such depths, but only 32 were in use in deep water.

Industry has spent $5.4 billion on deepwater activity since the first deepwater well was drilled in 1965, Pace says. Of 281 deepwater wells drilled since then, only two discoveries—Exxon's Hondo and Shell's Cognac—have undergone development drilling.

In most cases, deepwater discoveries must indicate giant fields in order to be commercial.

* * * * *

Overcoming obstacles. The USGS and Pace projections are downbeat, but there can be little question the oil industry thinks the obstacles they cite can be overcome. And industry is willing to put money on it.

* * * * *

Long-term picture: "A projection of the volumes we can realistically expect to be available over the next few decades from both conventional and unconventional sources, such as tar sands—might rise gradually to a peak of almost 70 million b/d toward the end of the 1980s, which could then be sustained at this level for over a decade.

"However, at some time toward the end of this century, we must expect the production curve to start falling. Opinions differ as to how quickly new oil will come on stream to arrest the decline.

"But current evidence suggests the total could drop to around 50 million b/d before the curve flattens out into an extended plateau in the second decade of the next century."

Mr. LONG. Mr. President, I should like to suggest the absence of a quorum, if the Senator will permit, if he will yield the floor.

Mr. BELLMON. I am happy to yield.

Mr. DOLE. Before we do that, may we get the yeas and nays on the pending amendment?

CALL OF THE ROLL

Mr. LONG. I would rather not do that. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 13 Leg.]

Bayh
Bellmon
Bradley
Byrd, Robert C.
Cannon
Dole
Long
McClure
Metzenbaum
Stevens
Wallop

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Mr. MAGNUSON), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), and the Senator from South Dakota (Mr. PRESSLER) are necesarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber who desire to vote who have not done so?

The result was announced—yeas 77, nays 6, as follows:

[Rollcall Vote No. 473 Leg.]

YEAS—77

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Church
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hayakawa
Heflin
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
McGovern
Mathias
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—6

Boren
Boschwitz
Garn
Helms
McClure
Weicker

NOT VOTING—17

Baker
Chiles
Goldwater
Gravel
Hatch
Heinz
Javits
Kennedy
Magnuson
Matsunaga
Packwood
Percy
Pressler
Ribicoff
Sasser
Stone
Talmadge

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. ROBERT C. BYRD. Mr. President, may I have the attention of the Senate?

The PRESIDING OFFICER. Let us have order in the Senate.

Mr. ROBERT C. BYRD. I thank the Chair and I thank all Senators.

Mr. President, the pending bill was first called up on the 15th day of November, on a Thursday. Today, being Wednesday, December 12, we have been on this bill for 4 weeks, and tomorrow, Thursday, will begin the fifth week.

I am informed by the Journal clerk we have spent over 130 hours of debate on this bill.

Time is running out. We have, not counting this coming Sunday, 3 days remaining this week, 6 days next week, Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday, so we have 9 days left, including Saturday, the 22d, 9 days, and we have to dispose of this bill, if it can be disposed of, and we have to dispose of it, I say we have to, before the 22d, including the 22d, and that includes Chrysler, and that includes the conference reports on both bills, or the Senate will be back in session on the 27th day of December, possibly even the 26th—and it could be the 25th, that is all right with me, I heard someone say in the back—but even though it would be all right with me, we will not be here on the 25th. We may be back here on the 26th, we will definitely be back on the 27th, the 28th, the 29th, and the 31st, and then we will be back on the 2d day of January, and the 3d and the 4th and the 5th, and again on the 7th, and the 8th and 9th, and so on, until we finish this bill, and the Chrysler legislation.

It is not a threat. I am simply stating, as well as I know how to state, that we, the Senate, will have to do our duty, and it is going to be an inconvenience to a lot of people, not only Senators.

We have before the Senate at the moment the Ribicoff amendment in the first degree, and the Bradley amendment in the second degree, with other Senators cosponsoring both.

(Mr. BAUCUS assumed the chair.)

Mr. ROBERT C. BYRD. These amendments deal with a minimum tax. When the bill first came out of the committee it represented something like $138 billion in revenue. The adoption of the amendment by Mr. BENTSEN, I believe, dropped it back to something like $129 billion. Then the adoption of the amendment by Mr. BRADLEY and others raising the percentage from 60 to 75 percent brought the revenue figure back up to about $156 billion, give or take a little.

The minimum tax amendments that are now before the Senate would increase those revenues by the amount of $31 billion, and the formula is 20, 20, 20; 20 percent on newly-discovered oil, 20 percent on heavy oil, and 20 percent on tertiary.

I, as a cosponsor of that amendment—and whether I was a cosponsor or not I would feel the same way about it—feel it is important that this Senate act on a bill, and that that bill be in reality and in perception a bill that is fair and equitable to the oil companies, and a bill that is fair and equitable to the American people.

I would much prefer, I would much have preferred, to hold back the minimum tax. If I had my way, if I could have my way, for good and strategic reasons it would have been wiser if we could hold that amendment back, and that Mr. DANFORTH call up his amendments, which he has been indicating time and time again he is going to do any time, any time he can get them called up he is willing to do it, but he knows there is going to be a motion to table, and he is not asking for a pound of flesh, he has not asked that his amendments be called up on the condition that there not be a tabling motion, but we have accorded that waiving of the rights to Senators from time to time on this bill in order to get a vote, if we waive the motion to table.

Senator DANFORTH has been willing to call up his amendments. Senator LONG has been willing to let Senator DANFORTH go ahead with his amendments, but there were others who objected to the calling up of the amendments by Mr. DANFORTH until after the minimum tax amendment had been called up. As a matter of fact, on the evening before last I went to Senator DANFORTH, after having talked with Senator LONG, and I said, "Senator, call up your amendment. I talked it over with Senator LONG and it was OK with him to call up your amendment." He was ready to go, but when he started to call it up, he could not do it.

Obviously, we could be here through the rest of the year if we waited to call up the minimum tax and somebody else waited to call up theirs, but in the interest of moving the business along, taking our chances and letting the Senate seek its will, let the Senate work its will on the minimum tax, I said, "OK, we will go with it first."

I said, "OK, we will go with it. We will go with it." And the cosponsors of that amendment agreed to go ahead with it. And so we went to work, and it was indicated that the motion to table would be made, and I suggested that it would be only fair to all Senators that they have an opportunity to vote on that motion to table; so we scheduled a time for the vote, so that they would all be notified and be present.

You all know the story. The vote occurred this morning on the motion to table, and that motion failed by a vote of 53 to 44.

Well, that got us back to the negotiating table. Before the cloture motion had been voted on, after the vote on the motion to table, I urged the Senate to let us vote up or down, since the motion to table had failed. We had waited all these days, we had announced ahead of time when the motion would be voted on, and I asked the Senate to let us vote on the minimum tax, up or down.

Obviously you can see what happened. We have not been permitted to vote on the minimum tax up or down. Now, the logical order is for the Senate to proceed with the vote on the amendment in the second degree. No other amendment can be brought up except by unanimous consent until that amendment is disposed of one way or the other.

We have been very accommodating each to the other here for several days, setting aside amendments to allow the Members to call up other amendments that might be accepted, that would only take a little while. Now we have reached the point where we think, if we are going to get this bill out of the Senate, we are going to have to reach a decision on the minimum tax. With time running, with the clock ticking away, and with the American people expecting to see the Senate do its duty, I feel it is incumbent upon us to stay with this bill and to stay with this amendment until the amendment is disposed of and until the bill is passed, so that we can then move to the Chrysler legislation, an emergency piece of legislation.

Here we are with the Iranian situation. Here we are with the energy crisis being what it is. I supported the decontrol of oil prices. I urged the President to proceed in that direction, and so did others here, some of whom were opposed to the excess profit tax bill. But I asked that it be reported with the understanding that if we go that route, we are also going to have an excess profit tax bill, and the distinguished chairman of the committee, to his credit, took the same position. He assured the President that there would be a bill on his desk that the President would be "pleased to sign," and the manager of the bill, to his credit, has lived up to his word.

And may I say to all members of the Finance Committee that I thank them; they are to be congratulated for having brought out a bill. This bill was pronounced dead before it was ever sent up to the Hill. I watched the television screen one night and saw a reporter say, "The excess profit tax bill is dead."

I said to my wife, "The President hasn't even sent it up to the Hill yet."

"Well, it will never get out of the committee." But the members of the committee, on both sides of the aisle, worked long and hard, and brought a bill out.

Mr. President, the President went half way on what we asked him to do. The other half way we have to go. He deregulated. Now it is up to us to pass an excess profits tax bill, and it has to be a fair and equitable bill. We showed by the vote this morning that the Senate does not want to table this amendment. That vote demonstrated that the Senate does not want to table the minimum tax amendment, it wants a vote on the amendment. The people expect a vote on the minimum tax, and they expect a vote on the bill.

Now we have gone all morning and all afternoon. We had some more negotiations. They fell through. I had hoped we could work out an arrangement whereby we could dispose of the minimum tax and go ahead and vote on it. Then I had hoped we could go to Mr. DANFORTH's amendments, get a vote on those, and then agree to a time for a final vote on this bill, so it could go to conference and the conferees could begin working on it while the Senate is working on the Chrysler bill.

As I say, the negotiations fell through. So here we are tonight. We voted on the motion to table this morning at around 10:30 or 10:45, and here we are tonight. We have not moved 1 centimeter since that vote.

And so, may I say to my friends and colleagues, I see no way—no way—other than to stay with this amendment until it has been disposed of, with no other business until the amendment is disposed of; and I see no way, short of an agreement or cloture, that the Senate will go out of session until that amendment is disposed of.

If we can get an agreement that would see us get a vote on that amendment at a given hour, that is perfectly all right with me. I am willing to agree to a time certain to vote on this amendment and go home for the night.

But if we do not get an agreement, the cloture vote will occur again tomorrow. If we do not get cloture, there will be a cloture vote the next day. And without an agreement, an agreement that will see us making progress, see us getting a vote on the minimum tax, I urge my colleagues to stay here, to be prepared to stay, to cancel all engagements for the rest of this week and, if we have not worked our way out of this impasse by that time, to cancel them for next week. Our first duty is to the Senate.

I would have given my right arm to come to this body, and I expect there are a lot of other Senators who would have given their right arm to come to this body. Well, we are here, and I think this is our responsibility.

If we had 6 months of time, we could be a little less impassioned about it. But we do not have the time. We have spent too much time already.

I waited, as you know now, almost 4 weeks before offering the first cloture motion. So I urge my colleagues to cancel their engagements, stay here, and see this thing through to a finish.

There is a filibuster on. That is not to say that all Senators—I want to make myself clear; I am not pointing at any individual Senator. But if we cannot reach a vote on the minimum tax amendment, which the Senate refused to table 7 hours ago, then that begins to look more and more like a filibuster.

I understand there are several hundred amendments at the desk, several hundred. So, as far as I am concerned, it is a filibuster as of this moment.

When we failed to invoke cloture today and break the impasse, and when the Senate said no to the tabling motion and 7 hours have since passed with no indication that the Senate is going to vote on that minimum tax, then our only recourse is to stay with it until we break the impasse.

I do not often take the viewpoint that we have to run the Senate around the clock. I have been here around the clock a few times myself. As a matter of fact, I have been one of the filibusterers on one occasion. I do not say that with any pride, as I look back. But, nevertheless, I thought it was right then. I know what it is to be on both sides.

I think the time has come for us to do our duty to the American people. They expect us to stay here and they expect us to pass a bill. They expect that bill to be a respectable bill. It has to go to conference, of course, and it has to be adjusted there.

But I call on my colleagues to stay until we get an agreement that will see us through or until we reach a vote and pass this bill. And we may face the same thing on the Chrysler legislation, I do not know.

I yield to the Senator from Washington (Mr. JACKSON).

Mr. JACKSON. Mr. President, I should hope that the leader will hold up the option that he alluded to earlier, and that is price controls. I think all of us are aware that the process of decontrol is now underway. It will be completed in September of 1981. But there will be, on January 1, a very, very substantial decontrol process underway. It starts January 1.

This is an option that is available to the President. He can reimpose price controls if the Congress fails to enact legislation. He can also roll back the prices. He has absolute power, under the existing law, to reinvoke controls with a rollback, if necessary. And that authority continues until September 30, 1981.

I hope that the majority leader will hold open the option of recommending to the President that possible course of action if we are not going to be able to pass at least some kind of windfall profit tax legislation.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Washington.

The week before last I stated that I hoped that the President would reinstitute controls if the Congress did not pass a bill that was fair and equitable to the American people. I stated the same thing again last week. And I have mentioned this to the President in the leadership breakfast this week. I will certainly speak with him at some length the next time I talk with him on this matter.

I am against controls. I am for decontrol, under the circumstances. I have been for decontrol.

But I am also for getting a bill through this Senate that is fair and equitable to the American people. I want to vote on the minimum tax. The Senate wants to vote on the minimum tax. We demonstrated that this morning. That is all I am asking for. Let us vote. And let us get the Danforth amendments up and let us vote on them.

So I hope that the President will exercise his rights under the law. And if it gets to the point where the Senate is not going to break this impasse without the President so stating—this is the first time since the time I have been a leader of the Senate that I have suggested that the President do something to get the Senate to move. I am very hesitant about that, because I like to feel that the Senate will move. But the American people are to be considered in this and I hope that they understand that there is a filibuster going on right now.

And I hope that they understand that the Senate is going to stay in and do its duty. I hope the President would be ready to reinstitute controls and to roll back, if necessary.

I yield to the distinguished Senator from Kansas (Mr. DOLE) without losing my right to the floor.

Mr. DOLE. Mr. President, I appreciate the Senator yielding, I certainly understand the urgency of passing this legislation.

It is not out of proportion to have 130 hours of debate on a $500 billion bill. That is only about $4 billion an hour. So I do not get carried away with the fact that there has been 130 hours of debate. The Senator might accept that a filibuster has been started because I think there will be some debate. Some of us have a different view on the minimum tax. We had a different view in the committee on the minimum tax.

In fact, the vote on exempting new oil from any tax was 19 to 1 in the committee. There are not 19 Republicans on the committee. There are only 8. There are 11 Democrats, and 8 voted to exempt newly discovered oil from tax; 1 voted against.

On incremental tertiary, the vote was 14 to 2 to exempt that category of oil from any tax. On heavy oil, there was a voice vote, and the administration recommended that heavy oil be exempted from tax.

So the Senator from Kansas can certainly understand the problems of the distinguished majority leader. Nevertheless there is a principle involved. First we were talking about revenue numbers. Now we are talking about a minimum tax. We were trying to negotiate, a week ago, on how we could reach $185 billion, or somewhere in that range. Now we are told today that the numbers are not so important, but the minimum tax principle is important.

I wish the distinguished chairman of the Finance Committee (Mr. LONG) were here to discuss this. I think, at least I felt, that he had the same feeling an hour ago that there should not be a tax on newly discovered oil—that there was every reason not to tax newly discovered oil.

There cannot be a windfall profit on something that has not been discovered. If we really believe that we can produce more energy in this country, we ought at least to exempt newly discovered oil from a tax.

This is no longer an energy bill. It is a tax bill. We have not talked about energy production for about 2 weeks. How much tax can we raise? Who can offer the biggest tax amendment? And we have tax amendments pending now.

I do not believe that we ever thought we would win the motion to table this morning. We thought that if we could get a favorable vote in the midforties, we were in pretty good shape on the cloture vote. That is just about where it came out. There were 46 who voted against cloture and 44 who voted against tabling. So I would say that is about what we expected.

We would have been surprised, in view of the heavy lobbying by the administration with two Secretaries floating around in the galleries and in the corridors, lobbying Senators; and the Vice President called up for what might have been a key vote. This is an indication that the administration had more than a passing interest in what was happening—this is the very administration that said months ago that they wanted $50 billion, but now are not satisfied with $160 billion—and the very administration that said they wanted to exempt heavy oil, but now wants to tax heavy oil.

We talk about the Iranian crisis and all the other crises we have. We should not be here trying to destroy the domestic industry.

And I am not so certain that we need to hurry to consider Chrysler. They have been done in by the Government and now we want to do the same to the oil industry.

We can put off Chrysler until next year. This tax bill is probably the most important piece of legislation that this Senator has ever been involved in, $500 billion is a lot of money. This is not a partisan piece of legislation. It may be pitting those of us from oil States against those from nonproducing States, but our motives are pretty much the same. All of us want to find a way to produce more energy. I do not quarrel with my colleagues who have a different view.

I hope the Senator from Kansas has not been unreasonable in the negotiations, in the debate, or in the Senate Finance Committee. We voted for substantial taxes. We are ready to vote for a tax of $156 billion. Nevertheless we have to be very careful. I am not certain that $156 billion is enough or $200 billion is enough, or too much.

I assume, however, that the Senate will be in session next year and the following year and the following year. If we do not do the correct thing now, and if we do exempt new oil and the companies do not go out and find new oil, we can then impose a tax.

This Senator believes as much as we support the exemption of incremental, tertiary, and heavy oil, that if newly discovered oil could be exempt, that we could still reach an agreement.

I know the distinguished majority leader has great power and influence and the Senator from Kansas has none. Sooner or later the majority leader will prevail, party discipline being what it is. We have fewer numbers on this side. We are not in total agreement, nor should we be. There is not total agreement on that side, nor should there be. But all things being equal, the majority leader is way up here and the Senator from Kansas is way down here. The Senator from Kansas understands that. But if we are going to lose, we may as well lose right out here in the open, on the Senate floor. If we are going to be rolled, we ought to be rolled on the Senate floor. If someone wants to invoke cloture, then we can see what happens.

We have heard much talk about compromise. Compromise to some is getting all they could not get on the floor. That is not a compromise. It was this Senator's understanding we were talking about dollars. We were very close to a dollar figure. I will not go into the session that we had because I think that was privileged. Nevertheless, this Senator believes that there is still an opportunity to reach an agreement.

I do not believe anybody on this side is hard-headed or set in concrete. We do not represent big oil. We do represent a point of view that believes that you have to provide some incentive to find more energy in this country.

It does not bother us to be worried about having to debate tomorrow, the next day and the next day, or an all-night session. There are other things we would prefer to do, but there is a matter of principle involved. If those of us on this side or that side are not willing to stand up for principle and stand up for reasonable compromise, then we probably should not be here in any event.

The Senator said to give the Senate our right arm. Some in this body have, though maybe not to be here.

The Senator from Kansas does not find people across the country talking about the size of the tax the Senate is going to impose. Is it bigger than the House or less than the House? I have not had anybody walk up to me in Iowa, Kansas, Missouri, or in other places that I have been, saying, "You are not giving enough tax on the Senate side."

The people are distressed with the oil industry. I think the Senate majority leader is correct, that he wants to be fair with the industry. He has been fair with the industry. We simply have a different point of view. We would like to resolve it. It is my hope, and I think we are all still on a friendly basis, that perhaps by the next couple of hours we can reach some agreement. Certainly, we must finish this bill. We should finish this bill. There should be a tax. It should be on the President's desk. I would hate to think that we are holding it up unnecessarily.

I would say one other thing. There has been no opportunity to discuss any modification to the pending amendment. Under the procedure being used, and further amendment is shut off. If somebody sends an amendment to the desk, then that same person is locked in from sending up a second degree amendment. That shuts off amendments. I am not certain that is the proper procedure. It does not give anyone with a different view a chance to offer that different view. Now we have to take it or leave it. Some of us are unwilling to take it. We may have to take it in the end, but we will not take it without a fight.

Mr. ROBERT C. BYRD. Mr. President——

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. May I respond briefly and then I will be glad to yield.

The distinguished Senator from Kansas has said that sending up an amendment in the first degree and then having an amendment sent up in the second degree has been shut off. I say to my friend, this shutting off has worked both ways. There have been some of us on this side who have been shut off. The Senator from Missouri (Mr. DANFORTH) was shut off. Why? Because under an order that we secured some days ago, the amendment by Mr. DOLE, the plowback amendment, would be the amendment before this Senate right now, or it would have been the amendment before this Senate any number of times if he had proceeded with calling up the amendment. But he did not choose to do that. He chose to leave it there so that it has to be set aside only by unanimous consent.

The Senator from Missouri (Mr. DANFORTH) has been shut off, shut off because Mr. DOLE was against Mr. DANFORTH calling up his amendment. The only way he could get it called up was by unanimous consent. Why? Because there sits the order saying that Mr. DOLE is next on the plowback amendment. So when we talk about shutting off, it works both ways.

I am not asking to be shut off. The Senator says, "Roll us over." I say, "Well, let us go. Let us vote on the minimum tax and see who gets rolled over." If we get rolled over, I will not take my ball and go home. I will take it like a man saying that we had our chance and we lost.

But we have gone the last mile in every way. We did not insist on standing back with our minimum tax. We said, "OK, we will go."

We did not insist that it be brought up under an agreement that would waive a Senator's right to move to table. "OK, move to table. We will take our chances." We took our chances.

Now what we want is a vote. Let the Senate work its will on that tax. If it says, "No," I have had my day in court and I will not grumble about it. But I say let us vote. Until we do vote, I see no way other than just to stay here, unless we can get an agreement that will set a vote for a particular hour, and, more than that, see what else we can vote on. We have to get this bill off the dead-end street or dead end where it is now.

Mr. STEVENS. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. I would like to point out to the majority leader that when this bill came from the House in July the figure was $105 billion. The calculations were based upon $22 a barrel.

The issue that the majority leader wishes to cover now regarding new oil and tertiary recovery is covered by the House bill and will be in conference.

What we seek most is to close the gap between the House and the Senate as to the new calculations. The House has a figure of $278 billion and we have, under our calculation, somewhere around $156 billion. There are issues there that are conferenceable, since the House is taking the position of 50 percent tax treatment, for example not the 75 percent as suggested by Senator BRADLEY. But they give Tier 1 treatment to many more classifications of oil than does the Senate.

I do not quite understand, my good friend, how we can set these arbitrary limits as to how much money the Senate bill must raise when we know we have in conference at least $278 billion under the House bill now. As a matter of fact, I have pleaded, as the Senator from West Virginia knows, that we readjust the figure to more realistic levels today. That is how fast the oil prices are going up. If we priced this bill at just $1 more, there is no difference between them. Did you know that? We price oil at $31 instead of $30; there is no difference between us.

We are arguing about things that should be left to conference. I do not see any reason for offering the minimum tax now because the House bill does, in fact, tax new oil. The House bill does, in fact, tax tertiary oil. And the percentages which will come before the conference pursuant to the Bradley amendment, would have greater scope than anyone imagines.

I can demonstrate how the conference could actually come out with more than 278. It is a very simple matter. All we have to do is put the Bradley percentage on the House bill. It would be a lot more than 278.

This bill has gigantic proportions right now, coming out of conference.

I do not know why we have to shut off the conference by taking a position here that deals with minimum tax concepts, particularly on new oil, when I thought it was an agreed upon position of the Senate that we were not going to tax new oil. That, I think probably more than anything else, has this side of the aisle disturbed. That is a commitment we thought had been made.

This minimum tax does, in fact, apply to new oil. It should not apply to new oil, in our opinion.

I thank the Senator for yielding.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, I am not going to hold the floor. I shall yield shortly. Before I do, I should like to propound a unanimous-consent request. I am not going to propound it because the manager of the bill is not here, but I make the suggestion that we try to reach an agreement to vote on the tax tonight—perhaps at 8 o'clock. We have had 7 or 8 hours this afternoon and the remainder of the morning following the vote. Try to get an agreement to vote on the minimum tax, then get an agreement to vote; let Mr. DANFORTH call up his amendments. I am not making the request right now; I shall not make it while the manager of the bill is away. And I suggest that, once we have disposed of that, as far as I am concerned, we enter into an agreement that there will be no more amendments increasing the revenues and no more amendments decreasing them. That is as far as I am concerned. That may not sit well with others. Take the amendments in time to get a final vote and pass this bill before the next two or three days are gone.

I am amenable to any number of time agreements that can be reached, and they can be reached. We can dispose of this amendment. It is not going to go away. The Senate is going to have to vote on it one way or the other. Someone can move to table an amendment in the second degree any time he wants to. We cannot move to table the amendment in the first degree for a couple of days, because we voted on that this morning. But I am agreeable to setting a time to vote on this tonight. Let us get Mr. DANFORTH's amendments up. Once we dispose of these two matters, I think the bill can be passed reasonably soon.

I am amenable to a time agreement. I am amenable to going back and talking about the matters of new negotiations. I am as much amenable to negotiations as anyone could possibly be, I guess, because I never see it as having to have my way and nobody else's way. I simply want to get a decision by the Senate.

Mr. MUSKIE. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. MUSKIE. The distinguished majority leader has just said that he is as willing to negotiate and compromise as anybody. I simply want to attest to that. I have been invited to participate in negotiations, I think, over most of the last 3 weeks now, which have involved Senators on both sides of the aisle, on both sides of the issue. I have to say that the tone of those meetings was effectively established by the distinguished majority leader.

They were positive; they were instructive. There was a minimum of hot-headedness or abrasiveness. There was a genuine effort on both sides, including that of the distinguished floor manager of the bill, the Senator from Kansas, and others, to try to find a basis for accommodation.

Prior to the action the Senate took on the Leahy amendment, the Leahy amendment and its fate, the Danforth amendments and their fate, as well as the minimum tax and its fate, were discussed. It is true that they were discussed in the context of trying to reach accommodation by reaching an agreement on the amount of money to be raised by the bill but, at no time, even when we were talking about dollars, was there an absence of principle urged by one or another Member of the Senate involving those negotiations.

Senator DOLE always made it clear when we were talking about numbers that he could never agree to a minimum tax on newly discovered oil. He always made that clear. Other Senators took the direct opposite point of view as a matter of principle, even though we were talking about numbers. So there was an effort at that period in the negotiations to accommodate differences in principle by reaching agreement on the revenue to be raised.

Just when I thought that we were about to reach agreement on numbers, for some reason, the whole thing collapsed. We came to the floor and the Leahy amendment was called up and disposed of. When that lost by a sizable margin, the disposition to negotiate seemed to disappear. It disappeared completely, negotiation in terms of numbers or negotiation in terms of principle. It was not until the vote this morning, the vote on tabling the minimum tax, that the disposition to negotiate reappeared. So we gathered again this afternoon and have spent most of the 8½ hours that have passed since that time in again examining the possibilities for agreement.

The discussions swung back and forth between discussion about numbers as we did earlier and, more than before, insistence upon principle at other times. And the talks today collapsed, I think, on the basis of accommodation of the two. Each side had a bare minimum beyond which it was not willing to yield, as a matter of principle as well as dollars. I do not really think the difference in dollars was as much a reason for the collapse of the talks as was the basic minimum on principle.

I want to say to the majority leader and to my colleagues, having been a participant in these negotiations—not as an expert on the subject, which I am not, but in an effort to contribute whatever I could to development of pragmatic or practical solutions—I have learned a lot about the positions taken by the distinguished Senator from Kansas, the floor manager of the bill, and the Senator from Wyoming, who was part of the discussions. I learned a great deal about their point of view, about the subject, about oil, and about this bill. I found that discussion very useful. To a certain extent, I rather regret that it took place behind closed doors so that only a dozen and a half—perhaps a few more than that—Senators were the beneficiaries of the discussion.

Now, the talks have apparently collapsed. I do not see any prospect in anything that was said in the majority leader's office this afternoon that an agreement can be reached by a handful of us. So it seems to me that the majority leader is right: Having found it impossible to reach an agreement on accommodation behind closed doors, perhaps it is time to come to the floor—every Senator who has been involved in those discussions knows his subject, knows what his stand is, knows what his principles are—and let us debate them.

I think they are all capable of debating them. Let the whole Senate benefit from that debate. Let the whole country benefit from that debate and then let us vote.

If, in the meantime, a new formula for accommodation emerges from this public debate, nothing will be lost. If a new formula for accommodation does not emerge, then let us get to a vote.

I know how I would like that vote to come out, but, if it comes out contrary to my own view, I can live with it, as the majority leader said he can.

So I would like to compliment the majority leader. The negotiations have not been arm-twisting negotiations. There has been no pressure brought by him or anybody else to force Senators into a point of view with which they could not agree. Every Senator has been free to offer his own suggestions. And nothing came of it.

I have never seen more patience used by the majority leader than in those discussions in Senator ROBERT C. BYRD's office.

So I think his suggestion now that we bring the debate to the floor, continue it until we resolve the issue, is a healthy one. Certainly, it is not new. I have been here for 21 years and I have had some exposure to extended debate, and more extended than we have had thus far.

I am not sure I would call this so much a filibuster as an extended discussion that could develop into a filibuster, unless the Senate exercises its judgment to bring the matter to a vote.

It does not have to be brought to a vote in an hour. It could be brought to a vote at midnight, or 2 o'clock in the morning, as far as I am concerned. I see nothing wrong with that.

Let us air all issues, get it out, and if the solution and agreement emerges, that is fine. If it does not, let us vote in due course. I think that is what the majority leader is saying to us.

The calendar is running against us. We do not have a lot of time. I think there are a couple of other urgent matters we ought to discuss.

I think it is in that spirit the majority leader has spoken. I applaud him for his patience over the last 3 weeks and his continued patience today.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Maine (Mr. MUSKIE). He has participated in the discussion. He has been very helpful. He has done everything he possibly could do to move the discussion along and try to negotiate some kind of understanding that would see the Senate make progress on the bill.

Mr. President, I am going to shortly yield the floor.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send to the desk a cloture motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The second assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the reported amendment in the nature of a substitute to H.R. 3919, an Act to impose a windfall profit tax on domestic crude oil.

Robert C. Byrd, Edmund S. Muskie, Gaylord Nelson, Alan Cranston, Paul Sarbanes, Howard M. Metzenbaum, Donald Stewart, Walter D. Huddleston, John A. Durkin, Henry M. Jackson, John Culver, Harrison A. Williams, George McGovern, Frank Church, Daniel Patrick Moynihan, Edward Zorinsky, Carl Levin, Dale Bumpers, David Pryor, Joseph R. Biden, Jr.

Mr. ROBERT C. BYRD. Mr. President, I again thank Senators for their patience.

Mr. WALLOP. Will the majority leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. WALLOP. Just for a minute.

Mr. President, as the Senator from Maine said, and others, I was part of those negotiations. I feel that the situation has been accurately described, at least with regard to the good will people brought to the attempt to try to achieve some kind of situation of comity where we could come to a vote.

The Senator from Wyoming is still willing to try to get there. But it seems to me that when the majority leader says that we are waiting for the privilege of the Senate to work its will, the Senate really does not have an opportunity to work its will except in the most singularly narrow sense.

There are three categories of oil here, all with an intellectual argument that can be attached to them as to a supply response, the need for them to be achieved by taxing at certain levels.

It seems to me that if we really were going to work our will on the basis of an intellectual argument presented up or down, go ahead, take the shot as it comes, we would do that on each category of oil with the opportunity to amend the tax upward, downward, eliminate it, and have that category stand on its own as an option for the future that Senators could cast on behalf of America.

They could make their decision that the money was more important than the supply response, or the supply response seemed to be in the interest of freeing ourselves from this loathsome dependency upon other people's decisions, where it drives our foreign policy, drives our domestic economic policy, and other things.

Each category of oil has an argument that could be made about it. The Senator from Maine points out that a great many thoughtful remarks were made in the majority leader's office on this very point and why the logic attached to each of those categories.

It seems to me, if there was agreement to be made, we could make it more quickly, time agreements, with Senators present, based entirely on the logic attached to each category of oil singularly and the tax that should be attached to it.

But we do not have an opportunity to work in any way an intellectual will. We have really a choice or no choice.

That is what I am suggesting might be the basis for an agreement, where the Senator from Wyoming is more than willing to take his chances on an up-or-down vote on each of those categories of oil based on an argument.

I would hope the majority leader would consider that as a means of going down this road.

Mr. ROBERT C. BYRD. I am sorry. I was distracted.

Mr. WALLOP. I was saying that one of the frustrations I have had from the beginning about the whole windfall profit tax discussion is that everybody is hooked in some particular way on going down the road.

But if I could have the attention of the majority leader and Senators here just for a minute, in the majority leader's office, and in other places, there have been reasons proffered as to why there should or should not be a tax on each of the three categories of oil that are separately here.

It strikes me that an intellectual argument, based on each of those categories of oil, is available to the Senate separately, and should be separate, because the public should know what the issue is, Senators should know what the issue is.

I am perfectly willing, speaking only for myself, I cannot speak for others, but I am perfectly willing to take time agreements, make up or down votes on each of those categories of oil, and let the chips fall where they may.

But my problem is, with the circumstances we have now, the Senate is not capable of working its will, only in the most singularly narrow way.

Mr. ROBERT C. BYRD. Mr. President, if the Senator is addressing his question to me, we could have done that. We have been 4 weeks on the bill. There could have been votes on all kinds of amendments if Senators had called them up and had been permitted to do so by unanimous consent, because of the parliamentary situation we found ourselves in.

But now, at this moment, we have before the Senate the amendments that provide for 20, 20, and 20. Twenty percent on new oil, 20 percent on heavy oil, 20 percent on tertiary oil.

Mr. President, that is what we have. We cannot change it. There is no way we can change that except unanimous consent.

Mr. WALLOP. If the Senator will yield, we could change it.

Mr. ROBERT C. BYRD. Only if we were so willing to modify, yes.

Mr. WALLOP. I agree. But we could. It is not prohibited to us.

Mr. ROBERT C. BYRD. No. But while it is not procedurally prohibited from the standpoint of votes, I would be prohibited from doing that.

I am willing to go into my room, have Senators go with me, discuss the matter further.

I have been negotiating time agreements here for 13 years. I suppose I have negotiated more time agreements than have been negotiated by any other—well, in all the time of the Senate, before my time. I am willing to go again.

There was a man who lived in Uz and whose name was Job, and if he had more patience than I have, I am sure I would be a close second. I am willing to go back and to talk about time agreements, but I must say that the business before the Senate has been before the Senate. The Senate refused to table it. The Senate wants to vote on it.

If we cannot get an agreement, let us vote tonight on the amendment. I hope we can get an agreement. I am going to yield the floor now, and I am open to suggestions.

I will be willing to go to my office and talk with Senators. But let us have a vote. Let us talk about an agreement whereby we will get a vote, or let us vote on the amendment, up or down.

I am not going to modify that amendment militarily. We had our choice this morning of striking down both amendments, but the Senate did not choose to strike them down. I say let us vote. That is what the Senate wanted this morning, when it rejected the motion to table. Let us vote. If we fail, we will go from there. If we do not fail, we will go from there.

Mr. President, I thank all Senators for their patience.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I say to my good friend Mr. WALLOP, it would take unanimous consent to modify the amendment.

Mr. DOLE. Mr. President, the yeas and nays have been ordered on both amendments?

The PRESIDING OFFICER. The yeas and nays have been ordered only on the second degree amendment.

Mr. DOLE. Is it in order to ask for the yeas and nays, the first degree amendment.

Mr. ROBERT C. BYRD. Only without objection.

Mr. DOLE. I will not ask.

Mr. ROBERT C. BYRD. The Senator could ask.

Mr. DOLE. Is it in order now to move to table the amendment in the second degree?

Mr. ROBERT C. BYRD. It is.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. If the Senator intends to do that, I wish he would withhold for just a minute.

Mr. DOLE. I am just asking if it is in order to do that at some later time?

The PRESIDING OFFICER. The Senator is correct.

(Mr. TSONGAS assumed the chair.)

Mr. STEVENS. Mr. President, will the Senator yield?

I think that is probably the only way out of this dilemma—to have us recognize that we have a real conflict on an issue of principle. The principle, as I understand it on our side, is that there shall be no tax on new oil. As I said, it is in the House bill, so the conference could end up with a tax on new oil and we might later have to eat it.

However, as a practical matter, right now our position is that we should not have any tax on new oil.

I would like to see us consider and see what would happen to a motion to table the amendment in the second degree, with the clear understanding that if that motion were agreed to, we would come forward with an amendment, as we were discussing previously, that would have a 25–25 tax on tertiary and on heavy oil.

Let me talk about the tertiary for a moment. That is oil that is already discovered. It has been through secondary treatment and tertiary is required. Until the time it reaches tertiary, it is taxed at 75 percent under this bill. When you go into tertiary, the tax comes to 25 percent under our proposal. Heavy oil is mined. You do not have to go prospecting for it and drill dry holes. You know exactly where it is.

We do not have an agreement on that over here, but I would like to see what would happen if we could table the amendment to the amendment and offer the 25–25 on tertiary and on heavy oil. I think we might reach the compromise we are seeking. The trouble is that we cannot reach that compromise now. It is true that we have been trying.

I asked the young women in the majority leader's office if I could get a cot in there, because we have been in there so much during the last 3 weeks.

We have tried; the Senator from Kansas has tried. I cannot think of anybody who has not tried to find a way out of this. But we cannot find a way out of it with the amendment to the amendment pending.

I hope we will think seriously about tabling the amendment to the amendment, and then let us offer another form, a form that would carry out the commitment that was made in the Finance Committee almost unanimously. I understand that only one member of the Finance Committee voted for the proposition that new oil should be subject to any tax at all. The vote was 19 to 1.

All we are saying is that the one principle that was established after so long in the Finance Committee should be maintained on the floor. I urge my good friend from West Virginia to consider it. That is the way out of this dilemma.

New oil could be subject to taxation as a result of the conference. I hope it will not be, but it could be. It would still be a matter before the conference. It still would be something that could be sent to the President, when we look at the whole subject of the compromise between the two Houses in conference.

I hope that at some time the Senator from Kansas will make his motion to table the amendment to the amendment—not tonight, because I think that would be unfair. Many people have the idea that we will go pretty late in discussions and procedural motions and that there will not be any major motion. But I hope that tomorrow morning, before we have the vote on cloture, the Senator from Kansas will make a motion to table the amendment to the amendment, and we will see what happens.

I would support the amendment we discussed, the 25 percent and 25 percent so far as tertiary and heavy oils are concerned—remembering, of course, that that is a reduction for the oil that goes into tertiary development. It is not an increase in taxation; it is a reduction in the level of taxation.

Mr. DOLE. Mr. President, the Senator from Kansas will offer the motion to table any time he thinks he can win. I am not certain when that will be. It may be tonight or it may be tomorrow morning. I see the other side looking over their numbers, and I am not certain of the numbers that we have. It may be necessary to have another quorum call to see how many are still here.

However, there is no big rush on that, because I understand that we will have some time to think about it.

The Senator from Alaska is correct. It seems to this Senator that if we could properly promote or persuade our colleagues to accept a 25–25–0 combination we could break the deadlock. I understand now, however, that that combination is not acceptable.

We came close to that agreement earlier today. There are many ways we can reach an agreement. Had cloture been invoked and had the minimum tax amendment been accepted, it would have raised about $31 billion.

In the negotiations that took place earlier today—since everybody has discussed the negotiations, I guess the Senator from Kansas is free to do so—this Senator, without any authority from others who had the same view, agreed to give about $18 billion of that $31 billion, or about 60 percent, to those who offered the minimum tax amendment. That seemed to this Senator to be a reasonable compromise. A 60 to 40 compromise raised the numbers to around $173 or $174 billion. The total figure, of course, desired by the majority leader and others is $185 billion.

Then we were reminded by the staff that either figure might be $100 billion off, up or down. I am not certain whether we really are talking about anything definitive, because nobody knows what the price of oil will be next week or the next week or the next week, or next year, or what the domestic production will be next year or the following year.

There simply cannot be a windfall on oil which has not been discovered. We can debate that, and I assume that anyone's point of view can be explained.

I assume that if we are going to put everyone under a tax, maybe we should have a 10-percent tax on State royalties. That might be a compromise. Maybe instead of the Danforth amendment, we should tax everything because I think there are some in this body who are not going to let anything go without a tax.

There is an old story about the Senator who walked in the Chamber one day and one of the Senators was saying, "Now let me tax your memory." Someone jumped up and said, "Why haven't we thought of that before?"

That is where we find ourselves on this bill. We taxed everything up to 75 percent. Even the most liberal Senators who really want to tax the oil companies did not go beyond 75 percent.

So in an effort to find more money, not more oil, we now go back to the exempted categories and start imposing more taxes.

We never had any hearings on the minimum tax. It was not discussed in the Finance Committee. It is much like the carryover basis rule that we are now trying to repeal. We never had any hearings on the carryover basis rule before it was adopted. It was tacked onto the bill in conference in 1976. We made a big mistake or at least many of us think we made a big mistake. Because of this mistake I offered an amendment to repeal carryover basis along with the Senator from Virginia (Mr. HARRY F. BYRD, JR.). The vote of the Senate was 81 to 4 to repeal the carryover basis. That should be a lesson to us that before we start adding more taxes on the American people that at least we should have more hearings. The Democrats and the administration wants to impose a $30 billion tax without even a hearing.

Cloture may be invoked tomorrow. The Senator hopes cloture will not be invoked. We have not been able to debate. We have been shut off. We talk about cloture and about a filibuster. We never had a chance. We could not modify the amendments. They were presented to us on a take-it-or-leave-it basis.

I do not know what kind of procedure that is, but it does not give much flexibility. It is all staged, rehearsed, set up, and, "You can either take it or leave it."

Even if we wanted to modify the amendment, we could not have done it. We can all stand here and make platitudes and righteous rhetoric that we are going to have to stay here through Christmas and New Year's and the 26th and the 24th and 1st. So what? There are a lot of us who who might have been persuaded to vote for a scaled-down tax. We did not have a chance to offer any modification. We could not do it. We were shut off, foreclosed, had no rights.

One tool the minority has left is to talk. All we can do is talk because we cannot modify it. We can either make a deal in the back room or lose in the Chamber.

It is pretty hard to win when you have the administration prowling all over the Capitol, with two Secretaries and the Vice President—all lobbying Senators.

So we are foreclosed by at least what is at least stretching the rules. We have a parliamentary situation where two Senators have gotten together to prevent other Senators from amending an important new tax.

There has been some mention of the amendment of the Senator from Kansas on plowback. The Senator from Kansas is perfectly willing to set it aside and I have been willing to set it aside. I do not think that the Senator's amendment has been a roadblock, as far as I know, to any Senator. If it is, I will be happy to accommodate that Senator.

So what we have is we have one Senator in concert with another Senator or a group of Senators who sent one amendment to the desk and before anyone else has an opportunity to even debate that amendment they send a second amendment to the desk. It is now all over, and we are told, "You take it or leave it."

This Senator is under no illusion about a motion to table. When the majority leader stands up and says, "Do not table," there are 59 of them and 41 of us, the numbers certainly favor the other side. So we lost a fairly close vote. In fact, we were very pleased. There were 44 votes and we had 2 others had we needed them, maybe 45 or 46 votes. One Senator missed a vote by 2 minutes. He was headed for the Chamber, but he was shut off before he could vote. So that is about 46. That is not bad for a motion to table offered by the distinguished chairman of the committee, knowing all the pressures brought to bear on, I assume, Members on both sides of the aisle.

So we knew we would lose the motion to table, but we thought we would win insofar as cloture was concerned, and that cloture would not be invoked. Cloture was not invoked since there were 46 votes against cloture.

Maybe tomorrow they will all just disappear. Maybe tomorrow everyone will say: "We had enough of this bill. We have been persuaded by the majority leader. We all want to go home for Christmas. Do not worry about the $500 billion. Let the American taxpayers worry about that. We all have to get out of here because Christmas is coming. We might have to work on Saturday or maybe New Year's Eve."

I am not so certain that is going to be very impressive, that we are going to hasten or rush through this $500 billion tax bill so we can all jump on an airplane and head off somewhere for Christmas.

That may be persuasive, and I do not fault the majority leader for pointing that out, but most of us understand that in the first place our responsibility is here and most of us are here most of the time.

The majority needs 60 votes to shut off debate, and I am sure the leadership is working now to round up 7 more votes. The Senator from Kansas has not contacted anyone with reference to cloture.

But to come back to the same point, we have not talked about the issue of energy on this bill for 2 weeks. No one who has written about this bill has talked about energy. The headlines are "Carter Wins Test Vote." The test vote was just to impose another tax. That is a victory for the President. He gets to impose more taxes.

This is the most taxing administration in history, and they are going to continue to tax and tax and tax. We have been told today, the administration is going to spend for the public purpose, but no one has told the Senate what the purpose is. What is the public purpose? What are we going to do with $500 billion that we are going to take from the taxpayers? The taxpayers are going to pay for it eventually.

Are we going to lower taxes? Are we going to roll back social security? Are we going to spend more on mass transit, low-income assistance for the poor, tax credits to individuals or businesses?

As we pointed out earlier, the administration started with a $50 billion bill that went up to $150 billion. Now we are up to $160 billion.

We are told we have to be responsible. The Senate must look good to the American people. This has become a media event.

The event is how high is the tax? We have forgotten about oil production, we have forgotten about oil and alternate sources of energy, just how high can the tax be; how high is high?

So the magic figure has become $185 billion. Many of us have been told $185 was a compromise. But the point was those who were compromising were all on the same side. The Senator from Kansas, the Senator from Louisiana, the Senator from Wyoming, and the Senator from Alaska did not compromise on that figure.

So the reason we are here right now is because we cannot modify the pending amendment. We have been told what we will do. It has been indicated, or at least by inference, if we do not all buckle down and cave in tomorrow that somehow we are standing in the way of progress. If we do not increase the tax that somehow we are standing in the way of progress. Well, the Senator from Kansas has not been here all that long, but he has been here long enough to understand that the minority does have some rights. I do not speak of minority in the sense of Republican or Democrat, but those who have the minority view, and in this view it is Democrats and Republicans who have some rights. The rules are designed to protect us. They do not protect us from what is happening here when you close off modifications or amendments. We are protected if we can prevent cloture so the issue can be discussed.

Let us send the bill back to committee, let us have hearings on a minimum tax. We should have hearings on a minimum tax. So this Senator is prepared to do the right thing, and I guess the right thing now is to discuss the issue at length. Probably sometime tonight there will be a motion to table. A vote will be perceived all across America that the Senate is moving on energy. We voted on the motion to table. Everybody in Kansas will jump up and down tomorrow because they will read that the Senate voted on a motion to table. The Senate is really working on energy; they will feel that we voted on a motion to table, and tomorrow they are going to vote on another tax that is to be perceived across the country as progress. That the Senate is for energy. How do we produce energy? You do not produce energy by raising the tax.

So this Senator suggests that there are a lot of people across America who wonder what we are doing. They know they are going to end up paying the bill. If the administration needs all this money they should tell us what it is for. What is the vague public purpose the majority leader referred to? How are we going to spend all the money? Seventy billion dollars on low-income assistance, $14 billion on mass transit, $30 billion on tax credit, $1 billion for rail transportation, and then a trust fund for social security.

What are we going to spend the $200 billion for? There are still about $75 billion left as I figure in adding those figures up. I believe the taxpayers have a right to know. But I guess what we have going here is an effort by the administration—this is an election year coming up, President Carter is getting a little temporary up in the polls, but I would assume if we are going to impose this tax, and there will be a tax, that it will be a great gift to the administration to start speculating about next March, April, May, June, July, August, September, and October as to what we are going to do with this billion, that billion, a billion for Florida, a few more billion for Florida, certainly several billion for New Hampshire and Iowa, and all this might add up to $200 billion.

I am not certain that is the way we should proceed. But there is one principle that remains, and the Senator from Kansas will yield to the Senator from Colorado in a moment, it seems to this Senator that there is one principle involved, and that is, where the taxes were going to encourage production and discourage production of energy. We do not want the oil industry to end up like Chrysler asking for a bailout. We are ready to sock it to them, that is the way you get votes, you sock the oil companies, you sock them across the board, and do not let anybody escape any tax because that is the sign of progress in this country. A tax is a sign of progress in this country. It does not produce any oil, it puts money into the coffers, it helps the politicians.

Gas lines form and we say we will blame the oil companies. It is their fault. We have been doing that for years. We still have gas lines. It is partly their fault but it is partly our fault.

So I just suggest that during the evening and however long it may take that we can through quorum calls and other things there is a great interest in this, I can see by the Senators on the floor that they are just hanging on every word.

Mr. WEICKER. Mr. President, will the Senator from Kansas yield for a question?

Mr. DOLE. Yes, I would be happy to yield.

Mr. WEICKER. Why is it that the distinguished majority leader, having had a whole year to lay out his legislative schedule, plan his legislative schedule, to make certain those matters of priority are addressed by the U.S. Senate, has the MO, as the police would put it, of always running all the important issues up to the last minute, threatening the U.S. Senate with the fact that their privileges of being on vacation or recess will be withdrawn?

Indeed, these are important issues and they should be resolved. As I say, this is in the nature of a question to the distinguished Senator from Kansas.

We can spend weeks on $100,000 and not hear from the majority leader. But when you get into the billions-of-dollars category, be it oil, be it Chrysler or whatever, that is something that has to be resolved in a very brief period of time.

Maybe the fault then really lies not so much in the nature of the issue or those who are trying to debate the issue, but in the nature of the leadership. As far as I am concerned the leadership of the Senator from West Virginia has been lacking, not just in the last few weeks, but over a period of years.

I do not recall when we had giants here, such as the distinguished Senator from Montana, Senator Mansfield, or others that leadership was ever a problem. But with the Senator from West Virginia it is always a niggling, a negotiating of time agreements, and threatening Senators. Never mind the substance of issues, the MO of the majority leader is to treat his equals as inferiors.

As the Senator from Kansas well knows, I voted against him on some of the substantive issues relative to windfall profit taxes, and I suspect I will vote against him on some other issues, but I do not think there has been any filibuster here. I do not think he in any manner, or his colleagues has introduced extraneous issues to a valid debate over billions of dollars.

But I have seen over the course of months, not the weeks that he refers to, a propensity on the part of the majority leader not to pull the U.S. Senate together but to make sure it stays at odds, and with petty motions and petty recriminations and petty threats fail consistently to achieve the large objective.

So again to the distinguished Senator from Kansas in the sense of substance and with which substance I disagree in some respects, I do not feel that he has either delayed or negated the will of the people.

On the other hand, I have never once heard the distinguished majority leader speak out for conservation, never once, never once. The other day I introduced a conservation bill on the floor of the Senate and he wanted to substitute a sense-of-the-Senate resolution, having voted against conservation, which could only be interpreted as the weakest possible stance.

Now, a wheeler and a dealer does not a leader make, and that is exactly the nature of the problem here. It is not the substance of this legislation, it is not the presentation of the Senator from Kansas or the Senator from Louisiana. It is the insignificance and the smallness of the leadership and, very frankly, that invariably results in a last-minute tangle, not only on this issue but on issue after issue after issue.

This is a billion dollar issue on which the Senator from Kansas and I disagree, but it certainly deserves thorough debate.

No, I do not think we are going to react to the threat that we cannot go home for Christmas or New Year's. I am prepared to stay here, but I want the right result. That is what is important.

We want an energy policy that is grounded on the basis of conservation and of production, not on the basis of threats, and not on the basis of partisanship. Indeed, the record is abysmal when it comes to the majority leader on conservation or production.

There have been courageous souls on the Democratic side who have spoken out for conservation. Several of them are on the floor right now. And there have been those who have spoken out for conservation on the Republican side. But what has to be hammered out in the Senate is an energy policy for the Nation, and not threats.

Filibuster? I had to sit here through a one-half hour lecture, harangue, and chastisement by the majority leader. Who is filibustering? I suggest it is the majority leader, in furtherance of his point of view.

But more importantly, were he a man of stature, he long ago would have gotten the parties together, and we would have had agreement on the basic issues confronting us all. But he is not leading either in the fight for conservation, in the fight for alternate means of transportation, or in the fight for production. He has tried to play all ends against the middle. He has threatened. He has tried to appeal to human instincts outside the elements of the argument on energy. As such, he has failed miserably to assist in resolving the important energy issues before us.

So, to my good friend from Kansas I would hope, having voted for the minimum tax, that at least he would be given the opportunity to properly state his point of view, not in the narrow confines espoused by the majority leader, but in the sense of true debate and true choice. I would hope that the opportunity would be afforded the distinguished Senator from Kansas, with whom I disagree, to present his case. He deserves his day, not the mealy mouthed threats, the improvisations, the expediences, and the play to the baser human emotions that constituted the speech of the majority leader of the U.S. Senate.

ROUTINE MORNING BUSINESS

The following morning business was transacted today:

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that, on December 12, 1979, the President had approved and signed the following acts:

S. 1491. An act to designate the building known as the Federal Building, at 211 Main Street, in Scott City, Kansas, as the "Henry D. Parkinson Federal Building";

S. 1535. An act to designate the Federal Building in Rochester, New York, as the "Kenneth B. Keating Federal Building"; and

S. 1655. An act to designate the building known as the Department of Labor Building in Washington, District of Columbia, as the "Frances Perkins Department of Labor Building".

MESSAGES FROM THE HOUSE

At 1:48 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the text of the bill (H.R. 595) to authorize the administrator of General Services to dispose of 35,000 long tons of tin in the national and supplemental stockpiles, to provide for the deposit of moneys received from the sale of such tin, and for other purposes, with an amendment in which it requests the concurrence of the Senate; and that the House recedes from its disagreement to the amendment of the Senate to the title of the bill, and concurs therein.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 5487. An act to designate certain National Forest System lands in the State of Colorado and South Dakota for inclusion in the National Wilderness Preservation System, and for other purposes; and

H.R. 5926. An act to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes.

The message further announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 44, 56, and 81 to the bill and concurs therein; and that the House recedes from its disagreement to the amendments of the Senate numbered 4, 18, 1 23, 27, 31, 42, 45, 47, 52, 53, 55, 65, 8 and 92 to the bill, and concurs therein each with an amendment in which it requests the concurrence of the Senate.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 5487. An act to designate certain National Forest System lands in the State of Colorado and South Dakota for inclusion in the National Wilderness Preservation System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 5926. An act to establish the Biscayne National Park, to improve the administration of the Fort Jefferson National Monument, to enlarge the Valley Forge National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BAYH, from the Committee on the Judiciary, with amendments:

S. 1179. A bill to incorporate the Gold Star Wives of America (Rept. No. 96–479).

By Mr. BAYH, from the Committee on the Judiciary, with an amendment:

S. 414. A bill to amend title 35 of the United States Code; to establish a uniform Federal patent procedure for small businesses and nonprofit organizations; to create a consistent policy and procedure concerning patentability of inventions made with Federal assistance; and for other related purposes (Rept. No. 96–480).

By Mr. MELCHER, from the Select Committee on Indian Affairs, with an amendment and an amendment to the title:

S. 1273. A bill to restore the Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah as a federally recognized sovereign Indian tribe, to restore to the Cedar City, Shivwits, Kanosh, Koosharem, and Indian Peaks Bands of Paiute Indians of Utah and its members those Federal services and benefits furnished to federally recognized American Indian tribes and their members, and for other purposes (Rept. No. 96–481).

By Mr. BRADLEY, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2771. An act to change the name of the Palmetto Bend Reservoir on the Navidad River in Texas to Lake Texana (Rept. No. 96–482).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 539. A bill to authorize the Secretary of the Interior to amend the contract for the construction, operation, and maintenance of the Vermejo reclamation project between the Vermejo Conservancy District, located in the State of New Mexico, and the United States (Rept. No. 96–483).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Theodore Compton Lutz, of Virginia, to be Urban Mass Transportation Administrator.

(The above nomination from the Committee on Banking, Housing, and Urban Affairs was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McGOVERN:

S. 2120. A bill for the relief of Irma Caton; to the Committee on the Judiciary.

By Mr. RIBICOFF:

S. 2121. A bill for the relief of Ying Fan; to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 2122. A bill to clarify the authority of the Council of the District of Columbia to adopt emergency legislation; to the Committee on Governmental Affairs.

By Mr. HART:

S. 2123. A bill to designate certain National Forest lands in the State of Colorado as units of the National Wilderness Preservation System; to the Committee on Energy and Natural Resources.

By Mr. STEVENS (for himself and Mr. PRYOR):

S. 2124. A bill to amend titles 5, 37 and 28 of the United States Code to provide authority to continue the pay of Federal employees, judicial employees and military personnel during periods in which the enactment of appropriations is delayed; to the Committee on Appropriations.

By Mr. STEVENS:

S. 2125. A bill for the relief of Georgios Vouzikas; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. EAGLETON:

S. 2122. A bill to clarify the authority of the Council of the District of Columbia to adopt emergency legislation; to the Committee on Governmental Affairs.

● Mr. EAGLETON. Mr. President, in early November the District of Columbia sought congressional relief from a mortgage lending crisis in the District of Columbia which occurred when the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddy Mack) ceased buying loans in the District.

At that time, I traced the cause of the District's problem to its overuse of emergency legislative powers granted to the District City Council under the District of Columbia Self-Government and Governmental Reorganization Act (the Home Rule Act).

While I fully supported the District's request for congressional help and agreed that Congress should waive the mandated congressional review period for District of Columbia Council acts so that permanent legislation raising the District's usury ceiling could become effective immediately, thus allowing Fannie Mae and Freddy Mack to resume lending in the District, I also sought a tightening of the Council's emergency powers. A full explanation of the situation can be found in my original floor statement, which appeared on page S16457 of the November 9 CONGRESSIONAL RECORD.

Following hearings held on November 14, 1979, in my Subcommittee on Governmental Efficiency and the District of Columbia, I agreed to detach my emergency proposal from the waiver bill. In return, I was promised by Representatives RON DELLUMS and WALTER FAUNTROY that the House would look into the emergency situation as soon as possible. The waiver bill passed the Senate on November 16 and was signed into Public Law by President Carter on November 20. Fannie Mae and Freddy Mack reentered the Washington mortgage market on November 21.

The House, acting quickly on its commitment and using my proposal as a vehicle, held hearings on the District's use of emergency legislation on December 5. I now plan additional hearings on the issue in my subcommittee on Tuesday, December 18, 1979. To incorporate some changes which I have made in my proposal since it was first introduced, I am submitting today a clean bill reflecting those changes.

I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2122

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 412(a) of the District of Columbia Self-Government and Governmental Reorganization Act is amended (1) by designating the existing text as paragraph (1); (2) by deleting "ninety days" and inserting in lieu thereof "one hundred and eighty days"; and (3) by adding at the end thereof the following new paragraph:

"(2) In no case shall any emergency act be passed by the Council arising out of or in connection with any emergency situation if such act is for the same purpose and covers, in whole or in part, the same subject matter as any prior emergency act and is based on the same emergency as that on which such prior act was based. The provisions of this paragraph shall not be applicable with respect to any emergency act of Council amending an emergency act in effect on the date of the enactment of this paragraph in order to extend the effective date of such act in compliance with subsection (d) of this section.".

SEC. 2. Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act is amended by adding at the end thereof the following new subsection:

"(d) Except as provided in this subsection, in any case in which an act is passed pursuant to subsection (a)(1) of this section on the basis of an emergency, including any act so passed by the Council and still in effect on the date of the enactment of this subsection, such emergency act, including all amendments thereto, shall terminate on the date of termination provided in such act, or upon the expiration of the one hundred and eighty day period following the date of enactment of such emergency act, whichever first occurs. In any case in which the Council, during such one hundred and eighty day period, passes and transmits to the Speaker of the House of Representatives and the President of the Senate an act under the regular order for the same purpose, and covering and limited to the same subject matter, as that contained in such emergency act, and the Congress adjourns sine die prior to the termination of the thirty day period provided in section 602(c) of this Act for the consideration by Congress of such act of council, the emergency act of Council shall remain effective until after the expiration of such thirty day period, unless, during such thirty day period, a disapproving resolution is passed in accordance with section 602 (c) of this Act.".●

By Mr. HART:

S. 2123. A bill to designate certain national forest lands in the State of Colorado as units of the national wilderness preservation system; to the Committee on Energy and Natural Resources.

COLORADO NATIONAL FOREST WILDERNESS ACT OF 1979

● Mr. HART. Mr. President, I am introducing today legislation to protect, in its natural condition, some of the most magnificent Federal land in Colorado's Rocky Mountains. The bill would add 15 new units to the national wilderness preservation system, and would expand 6 existing wilderness areas. These 21 areas, all in Colorado's national forests, total about 1.5 million acres.

This bill reflects the best efforts of myself, and the many Coloradans who worked with me on this issue, to balance our many interests in the public lands. While our interests in Colorado's national forests are varied, the forests themselves are vast enough—containing 14.4 million acres—to accommodate many different uses. This proposal protects the most spectacular of those lands. It also leaves the vast majority of them—including those with the most promising economic potential—free for nonwilderness uses.

While thousands of Coloradans helped me, directly and indirectly, prepare this bill, only broad public scrutiny in Colorado will tell if indeed this represents the best consensus of our State's different interests. I invite that scrutiny. I invite all Coloradans to study the bill and let me know what they think. While I believe this represents an excellent balancing of our many interests, this bill is far from a final decision. The introduction of a bill is just the beginning of the formal legislative process in the Senate. If the public review indicates this proposal should be changed, there will be many opportunities to make those changes as the bill moves through the Senate.

It is crucial that Coloradans participate extensively in the legislative process, just as so many Coloradans helped me shape this bill. The lands involved are owned by the people of the United States, and the final wilderness decisions will be made by Congress. There is certainly a broad national interest in the protection of Colorado's wilderness lands. But even more certainly, Coloradans have more at stake in these decisions than other Americans. By participating vigorously in the legislative process, and by helping develop a common position which balances their different interests, Coloradans will insure we have the leading voice in the final congressional decisions on these lands in our State.

To help Coloradans review these proposals, I have detailed, topographic maps of each area covered in the bill available for public inspection in my Denver office, and in my Washington office. I urge people with a particular interest in an area to examine these maps. In addition, smaller scale, less detailed maps are available to anyone wanting them.

When I began my review of the various alternatives for new wilderness designations, many Coloradans had already participated extensively in earlier parts of the process. People all over the State, representing a full range of interests, were involved in the Forest Service's RARE II study—the roadless area review and evaluation, phase 2—which led to the administration's wilderness recommendations to Congress last April. After the administration submitted its proposals, Colorado Gov. Richard D. Lamm undertook an intensive review of the issue. Among his other efforts to include all interested Coloradans in the process, Governor Lamm organized public meetings around the State, where interested people could meet with top State officials to review the local areas.

The reviews by the Forest Service and the State government were comprehensive and very helpful. Still, because of the great importance of this issue, my staff and I spent 8 months conducting our own extensive review. As part of this review, we examined comments from almost 2,000 Coloradans; visited either on the ground or by flyovers, many of the proposed areas; held public meetings around the State; participated in other public meetings organized by the State government and others; solicited information and views from affected local governments, and from dozens of Colorado industries and organizations particularly interested in the public lands.

The goal of this review can be simply stated, even if it cannot be easily achieved. I have attempted to learn all I can from Coloradans about this issue, and then prepare a proposal that collects all interests into a single, balanced bill.

During my review, I have been impressed by how important our unspoiled mountain areas are to Coloradans. Our State is a magnificent one in many respects, but many Coloradans think first of our mountains when they think of the State. As our cities become more crowded, as we use more of our resources to meet the ever-growing needs of our complex society, the relatively few remaining untouched areas become even more important to people. This is demonstrated by the increasing use of the mountains for recreation, and by the growing public demand for protection of additional areas while they are still pristine.

But this increasing public support for wilderness protection is only part of the story. Our national forests—famous as "the land of many uses"—serve many purposes, many incompatible with wilderness designation. The national forests provide opportunities for a variety of recreational opportunities—skiing and riding in four-wheel-drive vehicles as well as backpacking. They also provide essential elements of our economy. For example, virtually all of the timber harvested in Colorado—for houses, for lumber, for paper products—comes from our national forests.

In reviewing the different proposals for wilderness designations, I sought to balance these different interests.

As a central part of this review, I paid close attention to the possible economic effect of the alternatives. Certain activities, such as timber harvesting, are not allowed in wilderness areas, while other activities, such as mining and grazing, are subject to special restrictions to protect the land. For this reason, I wanted to make sure that any new wilderness areas did not substantially inhibit Colorado's locally varied and strong economy.

My staff and I contacted as many as possible of the organizations with economic interests in the national forest lands. These groups included oil and gas companies, ranchers, and the timber and mining industries. Of course, both the administration and Governor Lamm had carefully considered these important economic interests. By and large, if an area has a particularly valuable commercial resource, it was not recommended for wilderness. In some cases, however, after consulting with ranchers and other interests, I decided some of the areas recommended by the administration and Governor Lamm should not be included in the bill, or boundaries should be changed to remove possible resource conflicts.

With these changes I have made, this bill will not impair any of Colorado's economic interests. It does not in any way restrict development of Colorado's coal, oil shale, oil, or natural gas. I have excluded from the bill every area with potential deposits of these important energy resources. While some areas in the bill contain other economic resources—such as timber, molybdenum, or hardrock minerals—there are ample opportunities in unrestricted areas, not included in the bill, to meet our needs for these resources.

The preservation of our prime mountain areas actually can be an important boost to Colorado's economy. For example, hunters' and other sportsmen's organizations pointed out to me the importance of wilderness for protecting the State's wildlife. Besides their other, immeasurable values, Colorado's wildlife can be considered an important economic resource. Last year, over 1 million sportsmen spent more than $400 million while hunting and fishing. Most of the important fish and wildlife sought by the sportsmen need unspoiled areas to survive. For instance, Colorado has the Nation's largest elk population—and the greatest number of elk hunters. Wilderness designation gives necessary protection to the calving areas and habitat the elk need to survive.

Besides focusing on the possible economic effects of the wilderness recommendations, I paid close attention to their possible effect on water use. In only one area recommended by the administration and Governor Lamm—Holy Cross—are there plans for a new major water project.

There, the cities of Colorado Springs and Aurora plan to extend the Homestake water supply project within the area recommended for wilderness. To insure the wilderness designation does not impede the already-established rights of these cities to this water project, I have included legislative language to insure the project can be constructed and operated as already authorized under State law. Recognizing the important wilderness values of the area, the project sponsors already are designing the project to reduce its interference with those values. For instance, the actual diversion structures will be primarily underground, to present only minor evidence of man's activities, and the project will protect appropriate minimum stream flows.

In some other areas it did not seem as possible to accommodate both wilderness and water development. For example, I did not include in the bill Kannah Creek, an area near Grand Junction recommended for wilderness by both the administration and Governor Lamm, in part because the city of Grand Junction wants to continue using vehicles to maintain an existing water project in the area. In other areas, I adjusted boundaries to eliminate possible restrictions on maintenance of grazers' stock ponds and other water structures.

I also took a variety of other considerations into account when I reviewed each area. I examined its wilderness characteristics—including its wildlife values, its scenery, its natural diversity, and its opportunities for back-country recreation. I tried to gage the general desire for wilderness in the nearby communities, and the availability of other nearby wilderness areas to meet those needs.

After reviewing all these concerns, I prepared the bill I am introducing today. It includes some, but not all, of the areas recommended by the administration and Governor Lamm. The administration recommended 32 separate areas, totaling 2.0 million acres. Governor Lamm recommended 34 areas, totaling 2.1 million acres.

The bill I am introducing is much closer to the legislation sponsored by Colorado Congressmen Jim Johnson and Ray Kogovsek. That bill, which the House of Representatives passed on Monday, includes 19 areas totaling 1.3 million acres.

While I carefully reviewed all the lands covered by the bill, I looked most closely at the few additions I have proposed to the House bill. These additions are the most important of the lands not in the House bill that Governor Lamm, hunters' groups, environmental groups, and others recommended be included in this bill. In each instance, the wilderness values of the lands clearly outweigh any other resource values.

I have included in this bill only two areas not in the House bill. These are Lost Creek, in Park and Douglas Counties, and St. Louis Peaks, in Grand and Clear Creek Counties. These two areas are close to the Denver metropolitan region, where the general public support for wilderness is greatest and where the demand for backpacking and other wilderness activities is greatest. The areas have virtually no other resource values. On the Forest Service scale of opportunities for economic development of the wilderness proposals, both of these areas were ranked at zero. Their combined acreage accounts for over one-third of the difference between my proposal and the House-passed bill.

Except for these two areas, I have included the same areas as the House bill. For 13 of those areas, the boundaries I have proposed are either identical or virtually the same as in the House bill. For the six other areas, I have proposed somewhat different boundaries.

I will enclose in the Record a table showing a comparison of my bill, the administration proposal, Governor Lamm's proposal, and the House bill. I will also include a short textual summary of my proposal for each recommended area.

The bill contains some other provisions besides the designation of wilderness areas.

It repeals the old Forest Service "primitive area" classifications of the Uncompahgre and Wilson Mountain areas. Most, but not all, of the lands in the primitive areas have been included in the new Uncompahgre and Wilson Mountains wilderness areas.

The bill proposes a 2-year wilderness study of the Fossil Ridge area, a tract of about 50,000 acres northeast of Gunnison. Governor Lamm, the city of Crested Butte, hunter and environmental organizations, and others proposed this area to me as a high priority addition to the wilderness areas included in the House bill. While the wilderness values of this area are certainly spectacular, two mining companies have explored the area for possible uranium development, and are interested enough to want to pursue their exploration.

The Wilderness Act allows mining in wilderness areas, and the possible uranium mining could in fact take place even if the area were designated as wilderness. However, rather than creating a wilderness area where there is a strong chance of future mining, it is better to spend some more time to let the Forest Service and the mining companies study further the resource values of the land. The legislatively mandated wilderness study would effectively move this area into the Forest Services "further planning" category, which includes other potential wilderness areas in the State. For these areas, the Forest Service decided the information gathered as part of the RARE II process was not adequate for a final recommendation to Congress.

The bill also contains a provision for a 2-year joint study by the National Park Service and the Forest Service of the unique Wheeler Geologic Area, which is adjacent to the existing La Garita Wilderness Area. The administration recommended adding this area to the La Garita Wilderness, but because of its special features, I thought it more appropriate to examine other management options, including designation as a national park or a national monument. The House bill contains a similar study provision.

The bill also requires the Forest Service to review its overall policies for management of grazing in wilderness areas. When Congress passed the Wilderness Act in 1964, it clearly intended that grazing be permitted in wilderness areas. During my review of the RARE II recommendations, however, I learned that the Forest Service is often unnecessarily strict in its special environmental protection requirements for grazing in wildernesses.

For example, ranchers are required to use only material naturally occurring in the area for fences in wildernesses. These restrictions frustrate the original congressional intent that grazing be allowed to continue in wilderness. Because the Forest Service review of its policies will not lead to an immediate relaxation of its unduly strict requirements, I will also urge the Senate Energy Committee, in its report on this bill, to include interim guidance for the Forest Service on how its grazing standards should be made more flexible. This is the same approach as taken in the House bill and committee report.

The bill does not include a "release" clause, which some people in the State asked me to include. There are two different types of possible release clauses, and I would like to address both of them in this statement.

The first type of release has to do with the areas recommended for wilderness designation by the administration, but not included in the bill. To keep open congressional options, the Forest Service will continue to manage administration-recommended areas in a way that protects their wilderness character. That way, the lands will not be disturbed while Congress is reviewing the recommendations, and if Congress decides to designate the areas as wilderness, they will still qualify as undisturbed lands. If the Forest Service gets a clear signal from Congress that it does not intend to designate recommended areas as wilderness, the Forest Service will return them to other uses.

Some people in the State have suggested that the bill should include a blanket clause "releasing" the administration-recommended areas not covered by the bill, so the Forest Service will return them to other uses. I have discussed this issue with interested Members of the House of Representatives, including Congressmen Johnson and Kogovsek and we have agreed to, instead, list for the Forest Service the acres which should be released for nonwilderness uses. To avoid different, confusing lists in the House and the Senate, we have agreed to include this list in the final House-Senate conference report on the final Colorado wilderness bill. I invite Coloradans to let me know which of the 11 areas recommended by the administration, but not included in the bill, should be released, and which should be left as administration-recommended wilderness areas for possible future congressional action.

The second type of release has to do with the roadless areas reviewed by the Forest Service under RARE II, but not recommended by the administration for wilderness designation or selected for further planning. The Forest Service reviewed over 6 million acres of roadless areas in Colorado. These lands were all frozen in their existing status during the RARE II process. The vast majority of them eventually were neither recommended for wilderness designation nor selected for further planning. In April of this year, when the administration's final RARE II recommendations were announced, these other roadless areas were all unfrozen and returned to the normal, nonwilderness, multiple-use management.

Some people in the State have proposed that I include in the wilderness bill a provision legislatively ratifying this return of the remaining roadless areas to the multiple-use category. I have not included such a provision for two reasons.

First, the Forest Service has already returned the lands to the multiple-use category, and has no plans to treat them in any way other than multiple-use. The only thing which would be accomplished by this second type of release clause would be legislative confirmation of what has already been done.

Second, if Congress were to legislate the decisions already made by the Forest Service, it would be making lasting decisions about the future of these lands without having studied them. Congress does not normally make decisions about the management of the public lands. Since so many different considerations must be taken into account in any land-use decision, Congress has reserved to itself only the most important of these decisions—the designation of lands as wilderness. Before making that land-use decision, Congress necessarily carefully reviews the actual land in question.

It is this review of the roughly 2 million acres of recommended new wilderness areas which has occupied my staff and me for the past 8 months. We have not reviewed the remaining roadless areas in the State, which total more than 4 million acres. Without having performed such a review, to legislate any decisions about the future management of these lands would be to blindly ratify the judgment of Forest Service officials.

Much of the public attention to the bill's provisions will center on the overall acreage of the wilderness areas.

The areas included in the bill total about 1.5 million acres. Let me put this figure in context. It will double the current amount of wilderness in the State. With the designation of this additional 1.5 million acres, the total wilderness in Colorado would equal about 4 percent of the State's land.

Setting aside this much land in the wilderness system must be seen as part of the overall pattern of future use of Colorado's public lands. The federally owned lands in Colorado have a wide variety of resources and serve a wide variety of purposes. Because the public lands are so vast, they have been able to accommodate these many interests.

For example, over 6 million acres of land in Colorado's national forest have remained in a virtually undisturbed condition, even without the protection of the official wilderness classification. But the pressures for development of the resources in these lands is growing rapidly. We are all aware of the abundant energy resources—coal, oil shale, oil and natural gas, and uranium—in the public lands. With our growing needs for secure domestic supplies of energy, much more of Colorado's land will be devoted to energy development in the future.

Similarly, Colorado has many of our Nation's mineral resources. Unless decisions are made to protect some of the now undisturbed land in the State, we cannot be sure they will be preserved in their natural condition.

Fortunately, our national forest lands are extensive enough that preserving some of the prime mountain areas need not keep us from meeting our other needs. That is the challenge—to retain the best of what is special and unique about Colorado, while not inhibiting the development of our energy, mineral and other resources. A successful combination of these two goals will benefit our State now and for generations to come.

Mr. President, I ask unanimous consent to insert at this point in the RECORD a table comparing different Colorado wilderness proposals, a textural summary of my proposals for each of the recommended areas, and the text of the bill.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 2123

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this act may be cited as the Colorado National Forest Wilderness Act of 1979.

SEC. 2 (a). In accordance with subsection 3(c) of the Wilderness Act of 1964 (78 Stat. 892), the following National Forest lands in the State of Colorado are designated as additions to the National Wilderness Preservation System:

(1) the Cache La Poudre Wilderness, consisting of approximately 9,400 acres in the Roosevelt National Forest, as generally depicted on a map entitled "Cache La Poudre Wilderness Proposal," dated October, 1979;

(2) the Collegiate Mountains Wilderness, consisting of approximately 193,500 acres in the Gunnison, San Isabel, and White River National Forests, as generally depicted on a map entitled "Collegiate Mountains Wilderness Proposal," dated December, 1979;

(3) the Comanche Peak Wilderness, consisting of approximately 73,100 acres in the Roosevelt National Forest, as generally depicted on a map entitled "Comanche Peak Wilderness Proposal," dated December, 1979;

(4) the Holy Cross Wilderness, consisting of approximately 130,600 acres in the White River National Forest, as generally depicted on a map entitled "Holy Cross Wilderness Proposal," dated December, 1979; *Provided,* That this Act shall not affect in any way any existing right, any existing conditional right, or any existing claim of right or conditional right, to the use of water by the cities of Aurora and Colorado Springs for the Homestake Water Development, nor affect in any way the construction, operation, maintenance, or repair of such project;

(5) the La Garita Wilderness additions, consisting of approximately 60,000 acres in the Gunnison and Rio Grande National Forests, as generally depicted on a map entitled "La Garita Wilderness Additions—Proposal," dated October, 1979, which are incorporated in and shall be a part of the La Garita Wilderness as designated by Public Law 88–577;

(6) the Lost Creek Wilderness, consisting of approximately 71,000 acres in the Pike National Forest, as generally depicted on a map entitled "Lost Creek Wilderness Proposal," dated December, 1979;

(7) the Maroon Bells-Snowmass Wilderness additions, consisting of approximately 101,500 acres in the Gunnison and White River National Forests, as generally depicted on a map entitled "Maroon Bells-Snowmass Wilderness Additions-Proposal," dated October, 1979, which are incorporated in and shall be a part of the Maroon Bells-Snowmass Wilderness as designated by Public Law 88–577;

(8) the Mount Evans Wilderness, consisting of approximately 74,000 acres in the Pike National Forest, as generally depicted on a map entitled "Mount Evans Wilderness Proposal," dated October, 1979;

(9) the Mount Massive Wilderness, consisting of approximately 26,000 acres in the San Isabel National Forest, as generally depicted on a map entitled "Hunter-Fryingpan Wilderness Additions—Proposal," dated October, 1979;

(10) the Mount Sneffels Wilderness, consisting of approximately 16,200 acres in the Uncompahgre National Forest, as generally depicted on a map entitled "Mount Sneffels Wilderness Proposal," dated October, 1979;

(11) the Mount Zirkel Wilderness additions, consisting of approximately 90,600 acres in the Routt National Forest, as generally depicted on a map entitled "Mount Zirkel Wilderness Additions—Proposal," dated December, 1979, which are incorporated in and shall be a part of the Mount Zirkel Wilderness as designated by Public Law 88–577;

(12) the Neota Wilderness, consisting of approximately 9,900 acres in the Roosevelt National Forest, as generally depicted on a map entitled "Neota Wilderness Proposal," dated October, 1979;

(13) the Never Summer Wilderness, consisting of approximately 26,900 acres in the Arapaho National Forest, as generally depicted on a map entitled "Never Summer Wilderness Proposal," dated December, 1979;

(14) the Raggeds Wilderness, consisting of approximately 71,500 acres in the Gunnison and White River National Forests, as generally depicted on a map entitled "Raggeds Wilderness Proposal," dated December, 1979;

(15) the Rawah Wilderness additions, consisting of approximately, 42,000 acres in the Roosevelt and Routt National Forests, as generally depicted on a map entitled "Rawah Wilderness Additions—Proposal," dated October, 1979, which are incorporated in and shall be a part of the Rawah Wilderness as designated by Public Law 88–577.

(16) the South San Juans Wilderness, consisting of approximately 157,500 acres in the San Juan National Forest, as generally depicted on a map entitled "South San Juans Wilderness Proposal," dated December, 1979;

(17) the St. Louis Peaks Wilderness, consisting of approximately 13,300 acres in the Arapaho National Forest, as generally depicted on a map entitled "St. Louis Peaks Wilderness Proposal," dated December, 1979;

(18) the Uncompahgre Wilderness, consisting of approximately 100,000 acres in the Uncompahgre National Forest, as generally depicted on a map entitled "Uncompahgre Wilderness Proposal," dated December, 1979;

(19) the Weminuche Wilderness additions, consisting of approximately 66,000 acres in the Rio Grande and San Juan National Forests, as generally depicted on a map entitled "Weminuche Wilderness Additions—Proposal," dated October, 1979, which are incorporated in and shall be a part of the Weminuche Wilderness as designated by Public Law 93–632;

(20) the West Elk Wilderness additions, consisting of approximately 133,500 acres in the Gunnison National Forest, as generally depicted on a map entitled "West Elk Wilderness Additions—Proposal," dated December, 1979, which are incorporated in and shall be a part of the West Elk Wilderness as designated by Public Law 88–577; and

(21) the Wilson Mountains Wilderness, consisting of approximately 40,000 acres in the San Juan and Uncompahgre National Forests, as generally depicted on a map entitled "Wilson Mountains Wilderness Proposal," dated December, 1979.

(b) The previous classifications of the Uncompahgre Primitive Area and the Wilson Mountains Primitive Area are repealed.

SEC. 3(a). The Secretary of Agriculture shall review the Fossil Ridge Wilderness Study Area, consisting of approximately 30,000 acres in the Gunnison National Forest, as generally depicted on a map entitled "Fossil Ridge Wilderness Study Area Proposal," dated December, 1979, and within two years after the date of enactment of this Act, shall report to the President and the Congress in accordance with subsections 3(c) and 3(d) of the Wilderness Act of 1964 (78 Stat. 892), his recommendations on the suitability or unsuitability of the lands within such study area for designation as wilderness.

(b) The Secretary of the Interior and the Secretary of Agriculture shall review jointly the Wheeler Geologic Study Area consisting of approximately 50,000 acres in the Gunnison National Forest, as generally depicted on a map entitled "Wheeler Geologic Study Area Proposal," dated December, 1979, and within two years following the date of enactment of this Act shall report to the President and to Congress their recommendations for management of the lands in such study area. In making such review and report, such Secretaries shall consider—

(1) the natural, historical, cultural, scenic, economic, educational, scientific, and geologic values of the study area;

(2) the management and protection of fragile geologic resources within the area;

(3) possible land management options

or designations including national park, monument, or national recreation area designation, addition to the wilderness system, special administrative designations, and management under the general laws and regulations applicable to the National Forest System;

(4) the effect of possible land management options on State and local economies, including timber harvest, tourism, grazing, mineral and other commercial activities; and

(5) the suitability and desirability of permanent or temporary road or other mechanized access to the study area.

SEC. 4. As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Energy and Natural Resources, United States Senate, and the Committee on Interior and Insular Affairs, House of Representatives, and each such map and legal description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 5. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas except that with respect to any area designated in this Act, any reference in such provisions to the effectiveness date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 6. The Secretary of Agriculture is directed to review all policies, practices and regulations of the Department of Agriculture regarding livestock grazing in national forest wilderness areas in order to ensure that such policies, practices and regulations fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act and this Act.

COMPARISON OF COLORADO WILDERNESS DESIGNATION PROPOSALS

[All acreages are approximate]

	Hart bill	Administration	State	House bill
Acres	1, 513, 400	2, 028, 600	2, 082, 900	1, 278, 500
Buffalo Peaks	0	56, 900	56, 900	0
Cache La Poudre	9, 400	9, 400	9, 400	9, 400
Collegiate Mountains	193, 500	193, 500	193, 500	155, 000
Comanche Peak	73, 100	74, 000	74, 000	59, 500
Fossil Ridge	0	0	57, 000	0
Greenhorn Mountain	0	22, 300	22, 300	0
Hermosa	0	75, 600	75, 600	0
Holy Cross	130, 600	121, 400	132, 900	101, 400
Kannah Creek	0	30, 200	30, 200	0
La Garita additions	60, 000	122, 000	72, 800	60, 000
Lost Creek	71, 000	71, 000	71, 000	0
Maroon Bells—Snowmass additions	101, 500	109, 100	109, 100	101, 500
Mount Evans	74, 000	74, 000	74, 000	74, 000
Mount Massive	26, 000	26, 700	26, 700	26, 000
Mount Sneffels	16, 200	16, 200	16, 200	16, 200
Mount Zirkel additions	90, 600	113, 000	76, 600	68, 800
Neota	9, 900	9, 900	9, 900	9, 900
Never Summer	26, 900	14, 900	14, 900	14, 900
Pawnee	0	12, 800	0	0
Platte River	0	800	800	0
Piedra	0	41, 500	41, 500	0
Raggeds	71, 500	61, 100	61, 100	67, 000
Rawah additions	48, 900	49, 200	49, 200	48, 900
Roubedeau	0	16, 700	16, 700	0
Sangre de Cristo	0	221, 500	221, 500	0
San Miguel	0	0	30, 200	0
Service Creek	0	0	46, 900	0
South San Juans	157, 500	134, 000	159, 500	130, 000
Spanish Peaks	0	19, 600	19, 600	0
St. Louis Peaks	13, 300	13, 300	13, 300	0
Tabeguache	0	7, 800	7, 800	0
Uncompaghre	100, 000	59, 500	59, 500	100, 000
Weminuche additions	66, 000	66, 000	66, 000	66, 000
West Elk additions	133, 500	150, 000	131, 500	130, 0000
West Needle	0	15, 800	15, 800	0
Wilson Mountains	40, 000	19, 000	19, 000	40, 000

SUMMARY OF SENATOR HART'S WILDERNESS BILL

CACHE LA POUDRE

Included in the bill is a wilderness area of 9,400 acres in Larimer County. The area is the same as that recommended by the Administration and the State government, and included in the House bill.

COLLEGIATE MOUNTAINS

Included in the bill is a 193,500 acre wilderness in Pitkin, Chafee, Gunnison, and Lake Counties. This is identical to the recommendations by the State government and the Administration. The House bill includes the area, but with smaller boundaries, totaling 155,000 acres. The House bill deletes from the Administration and State government recommendation almost 40,000 acres, to accommodate possible mining conflicts. While some deletions are appropriate to eliminate mining conflicts in the area, the House bill deletes more than necessary. Agreement on final boundaries can readily be reached when the House and Senate bills are considered by the conference committee.

COMANCHE PEAK

Included in the bill is a wilderness area of 73,100 acres in Larimer County. The area is essentially the same as that proposed by the Administration and the State government. Two minor adjustments were made in the boundaries, to accommodate Ft. Collins water supply projects. The House bill makes these same adjustments. I did not, however, agree with the House bill's large deletion of about 14,000 acres east of Rocky Mountain National Park which the Administration and State government recommended for wilderness. This deletion is for a possible highway, but the State government has no plans for considering or building a road in this area.

FOSSIL RIDGE

Included in the bill is a 42,000 acre wilderness study area in Gunnison County. The Forest Service will study in detail the wilderness suitability of the area and report to the President and the Congress in two years. Essentially, this treats the area the same as the areas the Administration designated for "further planning." The State government, the town of Crested Butte, hunters' and environmental organizations, and others recommended this area be designated now as wilderness. Because there is concern about the mining potential of the area—including the possibility that extensive mining might be undertaken in the area even if Congress were to designate it as wilderness—it is better to allow the Forest Service and mining companies to get more information about the mineral potential of the area before Congress makes a final decision.

HOLY CROSS

Included is a 130,600 wilderness area in Pitkin and Lake Counties. The language creating the wilderness includes an explicit provision allowing construction and operation of phase two of the Homestake Water Supply Project, as proposed by the cities of Colorado Springs and Aurora. The boundaries of this area are essentially those proposed by the State government. These boundaries include additions to the Administration's recommendations in the Whitney Peak area, near the Homestake Creek on the eastern side of the Holy Cross area; and around Beaver Creek on the northern end of the Administration-proposed area.

The State government's recommended addition around Beaver Creek has been clarified to ensure that it creates no conflict with a possible expansion of the Beaver Creek ski area. A minor deletion has been made from the boundaries recommended by both the Administration and the State government on the southeast, to remove some areas that have jeep roads in them. The House bill makes this same deletion.

LA GARITA ADDITIONS

Included are additions totaling 60,000 acres to the existing La Garita Wilderness area. The additions are the same as those contained in the House bill. The Administration had recommended additions totaling 122,000 and the State government had recommended additions totaling 72,800 acres.

The bill also provides for a joint National Park Service-Forest Service review of the Wheeler Geologic Area, adjacent to the existing wilderness area.

LOST CREEK

Included is a wilderness area of 71,000 acres in Park and Douglas Counties. This is the same area as recommended by the Administration and by the State government. This area is close to the Denver metropolitan area, where the public support for wilderness is greatest and where the demand for backpacking and other wilderness recreation is greatest. There are no resource conflicts in the area. The House bill does not include this area.

MAROON BELLS—SNOWMASS ADDITIONS

The boundaries of this area are the same as in the House bill. Minor boundary adjustments were made from the 109,100 acre area recommended by the Administration and by the State government. These adjustments were made to accommodate grazing interests, a ski touring area, some water ditch headgates, and to include a research area of the Rocky Mountain Biological Laboratory which the Laboratory wishes to have included in the wilderness.

MOUNT EVANS

Included in the bill is a 74,000 acre wilderness in Clear Creek and Park Counties. This is the same as the area recommended by the Administration and by the State government, and included in the House bill.

MOUNT MASSIVE

Included in the bill is a 26,000 acre wilderness area in Lake County. The boundaries of this area are the same as in the House bill. The 26,700 acre area recommended by the Administration and by the State government has been modified with minor deletions, allowing a Public Service Company powerline, and to exclude potential mining sites.

MOUNT SNEFFELS

Included in the bill is a 16,200 acre area in San Miguel and Ouray Countries. The area is the same as that proposed by the Administration and by the State government and included in the House bill.

MOUNT ZIRKEL ADDITIONS

Included in the bill are additions totaling 90,600 acres to the existing Mount Zirkel Wilderness area in Routt and Jackson Counties. The boundaries are the same as those included in the House bill with two additions. The first addition is an area in the Mad Creek drainage, as recommended by the State government. The second addition, on the south is a portion of roadless area B2355, which the Administration proposed as wilderness. This addition includes important high-country lakes, and has resource conflicts.

NEOTA

Included in the bill is a wilderness area of 9,900 acres in Larimer County. This area is the same as that recommended by the Administration and by the State government. and included in the House bill.

NEVER SUMMER

Included in the bill is a wilderness area of 26,900 acres in Jackson County. The area is the same as that recommended by the Administration and by the State government, and included in the House bill, with one addition. The addition is a portion of roadless area B2–111, along the Continental Divide, west of Cascade Monutain. The most prominent geographic feature of this part of the Never Summer mountain range is Radial Mountain. This area is an important wintering range for big horn sheep. There are no resource conflicts.

RAGGEDS

Included in the bill is a wilderness area of 71,500 acres in Gunnison County. The area is the same as the 67,000 acre area in the House bill, with one small addition. The addition is on the northeastern side of the wilderness area, where the boundary has been extended to the ridge line of Treasury Mountain. Otherwise, the boundaries are the same as in the House bill, including modifications of the boundaries recommended by the Administration and by the State government. Those modifications are an extension of wilderness area to include a portion of the Oh-Be-Joyful watershed, and a minor deletion on the northwestern end of the wilderness area to accommodate grazing interests.

RAWAH ADDITIONS

Included in the bill are additions totaling 48,900 acres to the existing Rawah Wilderness area. The boundaries are identical to those in the House bill, including some minor modifications to the larger boundaries recommended by the Administration and by the State government, these modifications will allow unhampered operation of water ditches.

SOUTH SAN JUANS

Included in the bill is a 157,500 wilderness area in Conejos and Archuletas Counties. The boundaries of this area are virtually the same as those recommended by the State government. The State government proposed two additions to the wilderness area recommended by the Administration. I have modified the northern of these two additions, which is around Montezuma Creek and Crater Lake, to ensure that it does not conflict with a possible ski resort area, and to delete some old clear-cut areas that have roads in them. The southern addition is on the southwest of the area and includes the V-Rock Trail Area. The House bill contains virtually the Administration's recommendations.

ST. LOUIS PEAKS

Included in the bill is a 13,300 acre area in Grand and Clear Creek Counties. This is identical to the area recommended by the Administration and the State government. The area is close to the Denver metropolitan area, where the public support for wilderness is greatest, and where the demand for backpacking and other wilderness activities is also greatest. There are no resource conflicts in the area. The House bill does not include this area.

UNCOMPAGHRE

Included in the bill is a 100,000 acre wilderness in Gunnison and Ouray Counties. The boundaries are essentially identical to those contained in the House bill, which calls this area Big Blue. The Administration and the State government recommended two separate wilderness areas—Big Blue and Courthouse Mountain—totaling 59,500 acres. The area contained in the bill links those two recommendations into one larger wilderness area.

WEMINUCHE ADDITIONS

Included in the bill are additions, totaling 66,000 acres, to the existing Weminuche Wilderness area. The additions are in San Juan, La Plata, Hinsdale, Mineral, and Rio Grande Counties. The area is the same as that proposed by the Administration and by the State government, and included in the House bill.

WEST ELK ADDITIONS

Included in the bill are additions totaling 133,500 acres to the existing West Elk Wilderness area in Gunnison County. The area is identical to the area in the House bill, with the minor addition on the northwest of the complete slope of Mount Gunnison. The area is virtually the same as that proposed by the State government, and smaller than that proposed by the Administration.

WILSON MOUNTAINS

Included in the bill is a wilderness area of 40,000 acres in San Miguel and Delores Counties. The boundaries of this area are virtually the same as those contained in the House bill, which calls the area Lizard Head. The Administration and the State government recommended two smaller areas called Mt. Wilson and Delores Peak, totaling 19,000 acres.●

By Mr. STEVENS (for himself and Mr. Pryor):

S. 2124. A bill to amend titles 5, 37, and 28 of the United States Code to provide authority to continue the pay of Federal employees, judicial employees and military personnel during periods in which the enactment of appropriations is delayed; to the Committee on Appropriations.

FEDERAL EMPLOYEE PAY PROTECTION ACT OF 1979

Mr. STEVENS. Mr. President, I am introducing a bill with the distinguished chairman of the Subcommittee on Civil Service and General Services, Senator Pryor, entitled the "Federal Employees Pay Protection Act of 1979," which I believe will prevent Federal employees, military personnel, the judiciary and their families from being held captive to annual in-house controversies within Congress. The salaries of all Federal workers are dependent upon the timely completion of annual appropriations bills. A fairly typical occurrence up here is for a particular appropriations bill to be tied up beyond the beginning of the next fiscal year.

We are forced, therefore, to adopt a continuing resolution which generally provides for funding of Federal salaries and of last year's programs until the respective appropriations bills can be acted upon. However, as we all remember, action on this year's continuing resolution was delayed because of the attachment to the resolution of some very controversial issues. In fact, it was not signed by the President until October 12, 12 days after the beginning of the fiscal year.

Thousands of Federal workers either did not receive their first October pay check on time or only received one-half of it. And if that is the pay check in which a family needed to pay its mortgage or rent, they were in trouble. A number of them were forced to take money out of savings or pay late charges.

Mr. President, in order to protect the employees from similar and future delays, my bill separates the appropriations for salaries from the rest of the appropriations process, when necessary. The bill automatically provides the money for Federal employees' salaries for any fiscal year at the prior fiscal year's level where appropriations have not been so provided and up to the time when the specific appropriations are made. Hence, the annual cost of living adjustment is deliberately not provided for since that very well may be tying up the appropriations bills. The bill also provides that Congress may withhold such a special appropriations if it passes a joint resolution before September 1 of the preceding fiscal year stating that no such appropriations will be made.

Mr. President, the intent of this legislation is clear. There is no reason why innocent employees must be deprived of their well-earned salaries simply because the two Houses of Congress cannot come to timely agreements over Federal funding. I ask unanimous consent that the Federal Employees Pay Protection Act be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Employees Pay Protection Act of 1979".

Sec. 2. (a) Chapter 55 of title 5, United States Code, relating to pay administration, is amended by adding at the end thereof the following new section:

"§ 5509. Pay during periods of unavailable appropriations.

"(a) There are appropriated out of such funds in the Treasury as are not otherwise appropriated, to each executive agency for fiscal year beginning after September 30, 1980, such sums as may be necessary to pay the salaries of officers and employees of such agency during any period of such fiscal year for which funds have not been made available for such purpose under any other appropriation Act.

"(b) The amount made available under subsection (a) to any agency shall not exceed the amount made available for such purpose during the preceding fiscal year (prorated over such period).

"(c) For purposes of this section, the term 'Executive agency' has the meaning given to such term by section 105 of title 5, United States Code."

(b) The analysis for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5508 the following new item:

"5509. Pay during periods of unavailable appropriations."

SEC. 3. (a) Title 37, United States Code, is amended by adding at the end thereof the following new section:

"1010. Pay during periods of unavailable appropriations."

"(a) There are appropriated, out of such funds in the Treasury as are not otherwise appropriated, to each military department for each fiscal year beginning after September 30, 1980, such sums as may be necessary to pay the salaries of members of the uniformed services and of officers and employees of such department during any period of such fiscal year for which funds have not been made available for such purpose under any other appropriation Act.

"(b) The amount made available under subsection (a) to any department shall not exceed the amount made available for such purpose during the preceding fiscal year (prorated over such period).

"(c) For purposes of this section, the term 'military department' has the meaning given to such term by section 102 of title 5, United States Code."

(b) The analysis for chapter 19 of title 37, United States Code, is amended by inserting after the item relating to section 1009 the following new item:

"1010. Pay during periods of unavailable appropriations."

SEC. 4. (a) Chapter 21 of title 28, United States Code, relating to pay administration, is amended by adding at the end thereof the following new section:

"§ 462. Pay during periods of unavailable appropriations."

"(a) There are appropriated, out of such funds in the Treasury as are otherwise appropriated, to the Administrative office of the United States Courts for each fiscal year beginning after September 30, 1980, such sums as may be necessary to pay the salaries of officers and employees of the courts of the United States during any period of such fiscal year for which funds have not been made available for such purpose under any other appropriation Act.

"(b) The amount made available under subsection (a) to any court shall not exceed the amount made available for such purpose during the preceding fiscal year (prorated over such period).

"(c) For purposes of this section, the term 'courts of the United States' has the meaning given to such term by section 451 of title 28, United States Code."

(b) The analysis for chapter 21 of title 28, United States Code, is amended by inserting after the item relating to section 461 the following new item:

"462. Pay during periods of unavailable appropriations."

SEC. 5. Sections 2, 3, and 4 of this Act shall not apply for any fiscal year if, before September 1 of the preceding fiscal year, a joint resolution has been enacted which provides that no appropriation shall be made under this Act for such fiscal year.

● Mr. PRYOR. Mr. President, today I am joining with Senator Stevens in sponsoring a bill to provide specific authority to continue the pay of Federal employees, judicial employees and military personnel during periods in which the enactment of appropriations is delayed by the Congress.

The pay and benefits of Federal employees, military personnel, the judiciary and their families have been held captive to controversies over unrelated issues in legislation on more than one occasion. In my opinion, such occurrences create needless and unnecessary hardships for millions of American citizens who are charged with running Government programs, providing national defense, and maintaining this Nation's judicial system.

When the Congress is late in approving appropriation bills, continuing appropriation resolutions are needed to continue the operation of the Federal Government until permanent appropriation measures are adopted. However, over the last 2 years a pattern has emerged which is very disturbing to me. This past year, as in 1978, the Congress failed to have the continuing appropriation resolution approved before the end of the fiscal year. In 1979, the resolution was not approved until October 12, 12 days after the beginning of the new fiscal year. As a direct result, thousands of Federal workers either did not receive their first October paycheck on time or they received only a portion of it. Such delays create unfortunate hardships and the Congress should not permit needless delays of pay and benefits to any group of citizens while it resolves philosophical differences in legislation. Such delays are not only pointless, but in these highly inflationary times, a delay of a couple of days or a week often means monthly bills are not paid on time. Employees are forced to either withdraw from savings, borrow money at a very high interest rate, or even pay interest on defaulted monthly bills or mortgage payments, hospital and doctor bills, and other credit payments.

This legislation, Mr. President, by providing for the continued appropriation of funds from the Treasury on an emergency basis at the previous levels of funding will provide for the continuous operation of Federal agencies and the effective delivery of Federal services and benefits to employees and beneficiaries.

I would urge my colleagues to join Senator Stevens in supporting this legislation which has wide support among Federal employees and their organizations, particularly the National Federation of Federal Employees.●

ADDITIONAL COSPONSORS

S. 1096

At the request of Mr. Stevens, the Senator from Maryland (Mr. Mathias) was added as a cosponsor of S. 1096, a bill to amend title 9, United States Code, to provide for an extension of the provisions of section 3626(a) relating to reduced rates.

S. 1808

At the request of Mr. Laxalt, the Senator from Utah (Mr. Hatch) was added as a cosponsor of S. 1808, the Family Protection Act.

S. 1858

At the request of Mr. Bayh, the Senator from Colorado (Mr. Armstrong) was added as a cosponsor of S. 1858, the National Guard Tort Claims Act of 1979.

S. 1874

At the request of Mr. Bayh, the Senaator from Alaska (Mr. Gravel) was added as a cosponsor of S. 1874, a bill to amend the act incorporating the American Legion so as to redefine eligibility for membership.

S. 1963

At the request of Mr. Helms, the Senator from New Mexico (Mr. Schmitt) was added as a cosponsor of S. 1963, a bill to require congressional approval before gold sales are held.

SENATE RESOLUTION 307

At the request of Mr. Roth, the Senator from New Mexico (Mr. Domenici) was added as a cosponsor of Senate Resolution 307, relating to the American hostages held in Iran.

AMENDMENTS SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 903

(Ordered to be printed and to lie on the table.)

Mr. ARMSTRONG submitted an amendment intended to be proposed by him to amendment No. 591 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 904

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted an amendment intended to be proposed by him to an amendment intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 905 THROUGH 908

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted four amendments intended to be proposed by him to amendment No. 835 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 909 THROUGH 920

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted 12 amendments intended to be proposed by him to amendment No. 813 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 921 THROUGH 927

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted seven amendments intended to be proposed by him to amendment No. 814 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 928 THROUGH 932

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted five amendments intended to be proposed by him to amendment No. 813 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 933 THROUGH 947

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted 15 amendments intended to be proposed by him to amendment No. 814 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 948 THROUGH 967

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted 20 amendments intended to be proposed by him to amendment No. 639 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 968 THROUGH 970

(Ordered to be printed and to lie on the table.)

Mr. JOHNSTON submitted three amendments intended to be proposed by him to amendment No. 640 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 971 THROUGH 1001

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted 31 amendments intended to be proposed by him to amendment No. 640 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1002 AND 1003

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted two amendments intended to be proposed by him to amendment No. 698 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1004 THROUGH 1017

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted 14 amendments intended to be proposed by him to amendment No. 813 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1018 THROUGH 1025

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted eight amendments intended to be proposed by him to amendment No. 814 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1026 THROUGH 1029

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted four amendments intended to be proposed by him to amendment No. 815 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1030 AND 1031

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted two amendments intended to be proposed by him to an amendment intended to be proposed to H.R. 3919, supra.

AMENDMENTS NO. 1032

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to amendment No. 759 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1033 THROUGH 1035

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted three amendments intended to be proposed by him to Amendment No. 759 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1036 AND 1037

(Ordered to be printed and to lie on the table.)

Mr. DANFORTH submitted two amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1038

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1039

(Ordered to be printed and to lie on the table.)

Mr. BUMPERS (for himself, Mr. JACKSON, and Mr. MOYNIHAN) submitted an amendment intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENT NO. 1040

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1041

(Ordered to be printed and to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1042

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1043

(Ordered to be printed and to lie on the table.)

Mr. TOWER submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1044

(Ordered to be printed and to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1045

(Ordered to be printed and to lie on the table.)

Mr. BOSCHWITZ submitted an amendment intended to be proposed by him to an amendment intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1046 THROUGH 1060

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted 15 amendments intended to be proposed by him to amendment No. 640 intended to be proposed to H.R. 3919, supra.

AMENDMENT NO. 1061

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 1062 THROUGH 1308

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted 247 amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 1309 THROUGH 1316

(Ordered to be printed and to lie on the table.)

Mr. McCLURE submitted eight amendments intended to be proposed by him to an amendment intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1317 THROUGH 1319

(Ordered to be printed and to lie on the table.)

Mr. HEFLIN submitted three amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1320

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to H.R. 3919, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION

● Mr. ZORINSKY. Mr. President, I wish to announce that the Agriculture Subcommittee on Agricultural Credit and Rural Electrification has scheduled a hearing on the effects of current commercial interest rates on agricultural enterprises. The hearing has been set for Tuesday, December 18, beginning at 9 a.m. The subcommittee will hear from invited witnesses only, but written statements submitted for the record are welcome. Anyone wishing further information should contact the Agriculture Committee staff at 224–2035.●

SUBCOMMITTEE ON ARMS CONTROL, OCEANS, INTERNATIONAL OPERATIONS AND ENVIRONMENT

● Mr. CHURCH. Mr. President, I wish to announce that the Arms Control, Oceans, International Operations and Environment Subcommittee of the Committee on Foreign Relations has scheduled additional hearings on S. 1450, the Foreign Service Act of 1979.

The hearings will be held on Friday, December 14, and Wednesday, December 19, beginning at 10 a.m. in room 4221 of the Dirksen Senate Office Building. The subcommittee will hear from invited witnesses only, but statements submitted for the record are welcome.

Anyone wishing further information should contact Mr. David Keaney or Mrs. Betty Alonso of the committee staff at 224–5481.●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Committee on Finance will hold a hearing on S. 1913 on Wednesday, December 19, 1979.

The hearing will begin at 9 a.m. in room 2221 of the Dirksen Senate Office Building.

S. 1913 is sponsored by Senators CRANSTON, HAYAKAWA, and TALMADGE. It retains the existing excise tax treatment for wine and distilled spirits products by providing a credit for the difference between the current excise tax liability and the excise tax liability which will arise under the all-in-bond method. The all-in-bond method will become effective on January 1, 1980.

It is estimated that this bill will reduce budget receipts by at least $5 million annually from the amount that would be collected under the all-in-bond method.

This measure will benefit domestic wine producers which produce distilled spirits from wine.

Persons desiring to testify during this hearing must make their requests to testify to Michael Stern, Staff Director, Committee on Finance, room 2227, Dirksen Senate Office Building, Washington, D.C. 20510, not later than the close of business on Monday, December 17, 1979.●

SUBCOMMITTEE ON ADMINISTRATIVE PRACTICE AND PROCEDURE

● Mr. **CULVER**. Mr. President, I wish to announce that the Subcommittee on Administrative Practice and Procedure will hold a business meeting on Wednesday, December 19, 1979, to mark up proposed regulatory reform legislation. The meeting will begin at 9:30 a.m. in room 424, Russell Senate Office Building.●

SUBCOMMITTEE ON THE CONSTITUTION

● Mr. **BAYH**. Mr. President, the Subcommittee on the Constitution, Committee on the Judiciary, has scheduled a markup session on the proposed constitutional amendments for a balanced Federal budget which include, Senate Joint Resolution 2 (DECONCINI), Senate Joint Resolution 4 (LUGAR), Senate Joint Resolution 5 (DOLE), Senate Joint Resolution 6 (STENNIS), Senate Joint Resolution 7 (ARMSTRONG), Senate Joint Resolution 9 (MCCLURE), Senate Joint Resolution 10 (MCCLURE), Senate Joint Resolution 11 (TALMADGE), Senate Joint Resolution 13 (HELMS), Senate Joint Resolution 16 (WALLOP), Senate Joint Resolution 18 (THURMOND), Senate Joint Resolution 36 (HEFLIN), Senate Joint Resolution 38 (HARRY F. BYRD, JR.), Senate Joint Resolution 45 (HARRY F. BYRD, JR.), Senate Joint Resolution 46 (HARRY F. BYRD, JR.), Senate Joint Resolution 56 (STONE-HEINZ), Senate Joint Resolution 76 (ARMSTRONG), Senate Joint Resolution 79 (HARRY F. BYRD, JR.), Senate Joint Resolution 86 (HATCH), and Senate Joint Resolution 93 (ARMSTRONG).

The markup will be held in room 5110, Dirksen Senate Office Building, on Wednesday, December 19, 1979, at 10 a.m.●

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. **CHILES**. Mr. President, I would like to announce that the Subcommittee on Federal Spending Practices and Open Government of the Committee on Governmental Affairs will hold a hearing on purchases of furniture by Federal agencies. The hearing will take place on Wednesday, December 19, 1979, at 10 a.m., in room 3302, Dirksen Senate Office Building.

Anyone having questions regarding this hearing should contact the subcommittee office, room 44, 128 C Street NE., or telephone 224-0211.●

ADDITIONAL STATEMENTS

CHRISTMAS AND CAMBODIA

● Mr. **CHURCH**. Mr. President, each day we read new stories of famine and starvation in Cambodia. Millions of Cambodians, pawns in a civil war, face death from malnutrition. The situation worsens with each passing week as an appalled world looks on in disbelief.

Recently, a political writer for the Times-News in Twin Falls, Idaho—David Morrissey—wrote a column in his newspaper in the form of a letter to his nephew, explaining that this year rather than sending him a gift, he is making a donation in the name of his nephew to one of the several agencies providing relief to the Cambodian people.

Dave wrote:

> I am doing the same for your parents, knowing they will understand the meaning of this gift. Several of my other friends will also receive Christmas presents of this nature. Rather than books or other manufactured items, their Christmas presents this year will be a little closer to what this season is hopefully all about.

Mr. President, this is an idea I heartily support, and I would hope that others would adopt it.

I would like to call special attention to Dave Morrissey's letter to his nephew, and therefore ask that his column from the December 2, 1979, issue of the Twin Falls Times-News be printed in the RECORD.

The article follows:

A CHRISTMAS GIFT THAT SAVES LIVES

(By David Morrissey)

Dear Joseph:

This isn't the kind of Christmas letter an uncle usually sends his nephew. And as this is just your second Christmas, it will be some time before you understand what I am writing.

But by the time you are my age it is likely you will have learned of the unbelievable tragedy of a tiny nation called Cambodia. By that time it is also possible Cambodia will be only a bitter memory. It is altogether conceivable the people in that far away land will have ceased to exist, having died of starvation or disease.

Let me explain.

Just five years ago the population of Cambodia, a nation geographically about three-quarters the size of my home state of Idaho, totaled seven million persons.

As I write this letter that population has decreased, because of war, starvation and disease, to four million persons.

That decrease continues. There are today fewer than 50 doctors in the entire nation. One of them, Nouth Sauoeun, estimates Cambodia now sees only one birth for every 10 deaths. Every hospital in the land has been gutted. Nearly all medical equipment has been destroyed.

November is normally a harvest month for Cambodia. This year, however, barely 5 percent of land normally planted was under cultivation. That means this year's hunger will merely stretch into next year, unabated by last month's small harvest.

The tragedy of this tiny nation is not that it has been overtly warlike, not that it has brought this holocaust upon itself, but that it has been caught between the conflicting demands of the world's mighty and powerful.

Cambodia's misfortune has been to exist in the path of the world's major powers. Like some tiny pawn on a chessboard, it has been battered and traded from side to side by those concerned only with the ends of their desires, and not the means to those ends.

For some 40 years Cambodia has suffered almost constant war, absorbing the awesome blows of the Japanese, the French, the Thais, the North Vietnamese, the South Vietnamese, and the Americans. That in turn has been followed by vicious civil war, destroying what litle semblance of organized society that had managed to endure.

The result is a nation in anarchy, a nation that has lost nearly half its population and which could lose most if not the rest through starvation.

I suspect, Joseph, that someday, with the passage of time, your generation will have many questions, many accusations about these events. One of the most damning will be the question of why nothing was done. Perhaps to a young man, as you will be then, it will be incomprehensible a world of civilized peoples could sit by and watch an entire nation starve to death.

I hope that you are then as outraged as we should all be today.

Yours won't be the first generation to question its elders, to challenge their indifference to what was obviously wrong. And it is likely that by the time you are a young man there will be reason for the accusations. Much as I would like to believe otherwise, I doubt if enough will be done to help the Cambodians now dying of hunger.

But what I would like to believe, Joseph, is that yours will be a generation that is more than just incensed in what it sees. I would like to think it will be a generation which will go on to be responsible for its own indifference, and which does not, as the aging process cements it into the matrix of established society, find it as convenient as my generation has to ignore what once sparked fire in its heart.

So I am doing something unusual this year, Joseph. Rather than spending money on the Christmas presents I would have ordinarily sent, I have made a donation in your name to a Cambodian relief fund for the purchase of food and medicine.

I am doing the same for your parents, knowing they will understand the meaning of this gift.

Several of my other friends will also receive Christmas presents of this nature. Rather than books or other manufactured items, their Christmas presents this year will be a little closer to what this season is hopefully all about.

And I hope that some of the people reading this column will also make such a donation the central Christmas gift on their list. In this hope, I am printing the names and addresses of the major relief agencies now taking food and medicine into Cambodia. A donation with a short note expressing the intended use of the funds is all that is necessary.

Deep down, I'm something of a skeptic, Joseph. I'm not sure most of us really care about our fellow men. It's so easy to find an excuse to hate, an excuse for indifference. How tragic it is that the society which has given its citizens the greatest plenty and abundance the world has ever seen may have also given them a spiritual poverty. Even in this time of Christmas we seem more concerned about commercial betterment of our individual lives than applying the message of Jesus to the world around us.

It may be years before I ever talk to you about this, Joseph. Civilizations have disappeared in less time. But I hope that should the subject of Cambodia ever arise, should the question of what was done to stop the suffering ever be asked, I hope there will be something tangible to which I can point. I hope I will have an answer. I hope silence is not my response to the charge that we knew it was wrong but did nothing.●

AID FOR CHRYSLER CORP.

● Mr. LUGAR. Mr. President, in recent days, the compromise plan Senator PAUL TSONGAS and I have offered to aid the Chrysler Corp. has been receiving much attention and has been the subject of intense debate. Some groups are arguing that our plan is too restrictive and places too much of the burden on the company and the union. Others argue that our plan is overly generous, and that absolutely no taxpayer funds should be risked for Chrysler's benefit.

Indiana, second only to Michigan in Chrysler operations, is a State with a lot at stake in this debate. Thousands of jobs are in jeopardy. The economic survival of several communities is threatened. Therefore, I think it is significant that editorial reaction in my State has so far been unanimously favorable toward the Lugar-Tsongas plan. And on Thursday, December 6, Gov. Otis R. Bowen of Indiana indicated his support for our plan.

Mr. President, I would like for my colleagues to have the opportunity to review these editorial comments, and that they be printed in the RECORD.

The material follows:

[From the Indianapolis Star, Dec. 5, 1979]

LUGAR'S COMPROMISE

At issue all along in Chrysler Corp.'s plea for government assistance has been the question of what employees and stockholders of the company are themselves ready to sacrifice to save their own jobs and investments.

Until last week it would appear they would be willing to give up precious little. If so, why should the taxpayers try to help?

But now, by virtue of a plan being offered to the full U.S. Senate this week by Senator Richard G. Lugar (R.-Ind.) and Senator Paul Tsongas (D.-Mass.), there may be a workable way to see that both employees and shareholders do their part in return for a possible government loan guarantee.

Under the Lugar-Tsongas proposals, the total new money available from all sources would increase to $4 billion while the government-guaranteed amount would drop to $1.25 billion. The Carter administration proposed a $3 billion package with a $1.5 billion federal guarantee.

Most importantly, all employees, including those in management, would have to agree to wage freezes of at least two and possibly three years. And a portion of the financing would have to come out of a new stock issue which would dilute the value of present stock holdings.

There would be more taxpayer protections in the Lugar-Tsongas measure, with a seven-member review body empowered to enforce the terms of the package.

The idea would be to protect the taxpayers from excessive risk and at the same time discourage other troubled corporations from seeking a similar deal.

While there are still serious questions about Chrysler's ability to perform even with the massive infusion of new money, the Lugas-Tsongas bill is the best approach yet to a bad situation.

For the sake of the more than 14,000 Chrysler employees in Indiana, the plan deserves a fair hearing.

COMMITMENT FROM CHRYSLER

Sen. Richard Lugar has offered a compromise on Chrysler that transforms a pure Federal bailout into government assistance to help the company help itself.

Both a Carter administration proposal and the Lugar proposal are before Congress. What Lugar's bill offers that the President's does not is a mandate that Chrysler workers and stockholders bear the burden of their rescue. That requirement is essential.

We have no desire to see the nation's tenth largest industrial corporation in bankruptcy, Chrysler employs 15,000 Hoosiers at an annual payroll of $392 million. Cities such as Kokomo and New Castle, which depend heavily on the automotive industry, already have unemployment rates topping 11 percent.

We have no desire to see more than 200,000 jobs in the northern industrial cities of this nation eliminated, or to burden the government with potential unemployment, welfare and pension payments that could total $3 billion.

At the same time, the government is not a sympathetic banker who will bail out any company unable to withstand the rigors of the marketplace. Nor is guilt the overriding factor. While government regulations certainly worked a hardship on Chrysler, company management shares the blame for whittling its own share of the market down to 9.1 percent.

Thus, pure bailouts to Chrysler—as the company originally asked for in the form of tax credits—are out of the question. Even Lockheed, which received loan guarantees from the government, did not ask for a cash advance.

President Carter did reject Chrysler's original request in favor of loan guarantees. But the terms he now offers are a form of giveaway, because they ask nothing in return. Carter's plan would commit the government to $1.5 billion in guarantees; it would require no sacrifice by Chrysler. The government would not protect taxpayer interests with an outside review authority, and it even would stand behind other creditors in the event of failure.

Lugar's plan would rectify all of the above. Further, it would require a commitment by Chrysler workers and management. The plan calls for a government guarantee of $1.25 billion. It would freeze for three years the wages of all management and hourly personnel, and it would require that a portion of Chrysler's financing come from a new stock issue, thus diluting shareholders' interest.

Dividends would be paid once loan guarantees were paid and employees would receive common stock in exchange for their wage freeze. The plan gives safeguarding of taxpayer dollars the highest priority, and it gives all Chrysler workers a stake in the company's success.

The Chrysler union recently negotiated a $1.3 billion package that would increase the company's labor costs to about $20 an hour by 1982. The company also intends to borrow its share of the package from sources other than its own stockholders. Neither strikes us as evidence of the kind of commitment which must be a prerequisite for Federal aid to Chrysler.

The Senate banking committee reported the Lugar bill out to the floor this week, just as Chrysler union leaders informally rejected the idea of a wage freeze. We hope the Lugar measure passes, and we urge Congress to turn down any aid for Chrysler which does not call for corresponding sacrifiice on the company's part.

[From the Bloomington Herald Telephone, Dec. 4, 1979]

CHRYSLER AID PLAN WORKABLE

The plan for aid to the financially ailing Chrysler Corporation, co-authored by Indiana Senator Richard Lugar, which passed the Senate Banking Committee last week by a 10–4 vote is the best yet proposed.

The Lugar plan incorporates both give and take that, if adopted, would enhance Chrysler's chances of economic survival and limit the possibility that federal loan guarantees would go for naught.

Its advantage over President Carter's bail-out plan is that it requires substantial commitment from Chrysler, its employees and its creditors in exchange for help.

The plan would impose a three-year wage freeze on Chrysler employees that could be lifted earlier if the company begins showing a profit. Chrysler, however, would be required to give $250 million worth of stock to employees, to give them a vested interest in seeing that Chrysler becomes profitable.

Chrysler would also be required to raise $1.43 million from private sources, including $500 million from U.S. banks and creditors, $150 million from foreign banks, $300 million from sale of assets, $250 million from state and local governments, $180 million from suppliers and dealers and $50 million from sale of new stock.

The beauty of the Lugar plan, which he co-authored with Sen. Paul Tsongas, D-Mass., is that it significantly broadens the involvement of those who will have a vested interest in seeing that Chrysler is successful in restoring its economic vitality.

The company's employees, the United Auto Workers, the creditors, the dealers, the stockholders, the state and local governments where plants are located will have such a commitment that all will be motivated by the single purpose of seeing that Chrysler succeeds.

The Herald-Telephone's initial opposition to the Chrysler bail-out plan stemmed from the uncertainty that it was doing anything more than delaying the inevitable, that the risk was only on the part of the taxpayers with little sacrifice on the part of those who stand to realize the biggest gains of success, and the precedent that was being set for the future when similar requests from other troubled companies could be anticipated.

The Lugar-Tsongas proposal overcomes each of these obstacles, significantly enhancing the chance of Chrysler's recovery, spreading the risk and establishing stringent guidelines for companies that find themselves in similar situations in the future.

The proposal requires significant sacrifices from many, but the burden has been spread evenly, and none of the sacrifices are as painful as would be an absolute Chrysler failure.

[From the Columbus Republic, Nov. 30, 1979]

LUGAR PICKS A PATH

You might never consider the "country-boy" image to fit Hoosier Richard Lugar. Even if he is from the Indiana cornbelt and even if Hoosiers are considered a bit backward, the state's junior senator is after all a former big city mayor and went to Oxford on a Rhodes scholarship.

As a freshman in the U.S. Senate, you also might not expect him to be so influential so soon on the Senate Banking Committee dealing with such complex issues as bailing out New York City or Chrysler Corp.

But that's where he is already. And Hoosiers can be proud of the respect he obviously commands.

The latest feather in his cap came Thursday as the banking committee voted 10–5 to accept a compromise developed by Lugar and Massachusetts Democrat Paul Tsongas to help the nearly bankrupt automobile company. It would require Chrysler and its employees to make sacrifices if the taxpayers are to put up money as suggested by President Carter. The president proposed $1.5 billion to guarantee twice that much in loans to Chrysler. The Lugar plan calls for $1 billion as the federal share in aid totaling $4.1 billion—but it requires a freeze on wages were in the nature of a bilateral compact be-of both management and union workers at the company, and a $50 million stock issue that will dilute current stockholders' interest by 15 to 20 percent.

"The administration's plan is a pure 'bail-out,'" said the Hoosier senator. "My plan would help Chrysler more with less risk to the taxpayers."

If the national government is ever to participate in aiding either New York City or Chrysler Corp., this is the sort of creative thinking needed more often in Washington. It helps to have a Hoosier with commonsense to pick out the path.

[From the Evansville Press, Dec. 3, 1979]

A New Chrysler Plan

A government attempt to bail out the Chrysler Corp. seems less attractive every day. But if there is to be one, a plan advanced by the Senate Banking Committee makes more sense than the Carter administration's plan.

A main feature of the committee's plan is a wage freeze for Chrysler employees that would save the company an estimated $1.3 billion over the next three years.

That puts the question directly to the workers. Are they, who already are among the highest paid in American industry, willing to forego the pay increases in their fat new contract in order to save their jobs?

The leadership of the United Auto Workers is fighting that provision fiercely. Union president Douglas Fraser says he wouldn't reopen the recently approved contract unless "the very survival of the company" was at stake.

Where has Fraser been? If the survival of the company is not at stake, what's all the commotion about?

Chrysler's position was precarious even before the fortunes of the industry in general took a sharp downturn lately. Slumping sales are giving even the healthiest of the auto firms the jitters.

The Senate committee's plan also would require banks, Chrysler's dealers and suppliers, and state and local governments where plants are located to come up with $2.75 billion in capital commitments before the company could get federal aid. Further, it would require the company to raise more money by selling additional stock and disposing of some of its assets.

The committee also would reduce the amount of U.S. loan guarantees to $1.25 billion, from the $1.5 billion proposed by the administration.

In sum, the committee bill puts more risk and sacrifice where it properly belongs—on the side of the private and local interests that have the biggest stake in Chrysler's continued existence or its demise.

[From the Kokomo Tribune, Nov. 11, 1979]

Chrysler Developments

If Congress is to come to the rescue of Chrysler Corporation, it isn't in any hurry. The Carter administration has proposed a plan to guarantee loans in the amount of $1.5 billion, but Congress has not yet acted.

There is no unanimous agreement among the legislators on federal aid to Chrysler. Some congressmen, such as Sen. William Proxmire of Wisconsin, are opposing a government bailout on the ground it favors one big company while thousands of other companies fail without receiving government help.

However, sentiment for assisting Chrysler to get on its feet is stronger than the opposition, and the chances of the loan guarantees going through still appear encouraging.

An interesting development came this week when Sen. Richard Lugar of Indiana announced he plans to oppose the Carter plan and will introduce one of his own when the Senate Banking Committee meets next week to handle the Chrysler legislation.

Lugar doesn't think the administration plan will work. He sees it as "a blueprint for failure."

It isn't that Lugar doesn't want to help save Chrysler. He told a press conference in Kokomo a week ago that saving the company is important not only for Indiana, a state with a large Chrysler investment, but for the national economy. He and all other congressmen from Indiana have been working to convince their colleagues of that fact.

Lugar's objection to the Carter plan is that "it provides neither enough capital nor the right kind of cost structure for Chrysler." Nor does it "adequately protect American taxpayers," he added. His own plan, he said, would shift "the major burden of saving the company from the taxpayer and onto parties directly involved in the Chrysler situation."

The senator's concern is to reduce the risk of loss to the people, whose money would be used to guarantee the loans. Chrysler is important to the American economy, and restoring it to its once-potent place in the nation's industrial sector should be the wish of everyone.

At the same time, the country must not get into a position where it would go on subsidizing corporations perpetually. Whatever the government may do about helping Chrysler, it needs to avoid a permanent subsidy. If a plan is adopted to guarantee loans, it should not be followed by additional guarantees later on, for that would be a step toward nationalizing industry and the British experience has shown how such a policy comes close to wrecking a country.

A question which continues to be asked is whether Chrysler and its employees are doing enough to ease the company's plight. Alfred Kahn, President Carter's anti-inflation fighter, aroused the ire of Chrysler workers by asserting their union agreement with the company had not been sufficiently sacrificial.

The company has not been entirely negligent in helping itself. Congressman Elwood Hillis points out that it has made significant efforts by selling many of its overseas assets, reducing top corporate salaries and adopting new management policies.

"The effects of a Chrysler failure on the automotive industry would be dramatic," Hillis told a Senate committee. "Without Chrysler, Ford and General Motors would be faced with anti-trust actions by the government. It would be impossible to disassemble Ford or General Motors without hampering their capabilities to improve safety and efficiency. Foreign competitors, with the help of their governments, would continue to take an increasing share of the automobile market."

Meanwhile, employee layoffs at Chrysler plants continue. This week, there were 400 layoffs at the Kokomo transmission plant, 170 at New Castle and 100 at Indianapolis. At present, nearly 2,000 Kokomo Chrysler workers are on furlough.

Significantly, Chrysler spokesmen are showing some spirited optimism. Speaking of the latest layoffs, John Montgomery, manager of the company's industrial public relations in Detroit, said, "It's not good-bye forever. It's (the layoffs) caused by a reduction in production levels, which in turn is caused by a reduction in sales. When sales pick up, we'll crank up again."

Let's hope this kind of spirit is justified.

[From the Columbus Republic, Dec. 1, 1979]

Philosophy and Chrysler

Details and philosophy behind Sen. Richard Lugar's plan to aid the ailing Chrysler Corp. point up differences between his proposal—accepted by members of the Senate Banking Committee 10–5 this week—and the "bail-out" plans offered by Michigan Sen. Donald Riegle Jr. of Flint and by the administration of President Jimmy Carter.

With 17,170 Hoosiers employed at Indiana Chrysler plants, the state is second only to Michigan in the scope of Chrysler activities and in the number of residents employed by the financially pressed car maker.

A chart to analyze the Lugar proposal is published here to show the compromise on which coalition support was built by Lugar and Massachusetts liberal Paul Tsongas. The chart compares the three proposals in graphic fashion.

It's easy to spot differences in philosophy. Lugar aims at more safety for the taxpayers' investment and greater degree of control in the Chrysler board room.

In Senate debate Tuesday, he called the proposal from Chrysler, itself, and its allies "false and misleading," arguing that it would mean throwing away $1.5 billion while incurring job losses and other costs as well.

Protection of taxpayers' investment is greater in the Lugar plan especially on the point that legal protection for United States' interests may be waived under the Carter plan by the Secretary of the Treasury who joins the private firm's board in one of the management changes required under that federal "bail-out." Lugar's proposal maintains full protection and leaves the private management unchanged and with less interference—but with the Treasury Secretary sitting on a seven-member review board that would include three private businessmen as well as the secretaries of Commerce and Labor plus a member of the Federal Reserve Board.

Four basic principles differing with the administration's plan are set out in the proposal from the Indiana senator:

1. All commitments must be known in advance. "No Hoosier farmer buys a pig in a poke," said Lugar in a speech Tuesday to the Senate, "and I will not force him to do so involuntarily by putting up his tax dollars before the hard cash of the other parties is on the table."

2. The private assistance must demonstrate a will to make sacrifices, and must exceed the public portion of the package. "Chrysler and its friends are the initiators of a private relief measure, and as such should bear the greatest burden," the senator pointed out. "This may not be the last sacrifice which the bankers, stockholders and employees of Chrysler are asked to make. Better that the American people find out now how determined to save itself the Chrysler family really is."

3. Taxpayers' money must have the highest degree of protection. "The federal loan guarantee is the indispensable element which will catalyze all other components of this reaction. As the most essential element, it deserves the greatest security against loss. . . ."

4. The chance of repetition must be minimized. "This means simply that the terms of the guarantee must be so stern and so demanding that other potential applicants are dissuaded and act stimulated."

Carter's plan proposes $1.5 billion in federal loan guarantees over 10 years to match $1.5 billion raised from all other sources by the company—a total of $3 billion.

Lugar amends that approach to reach a total of $4.1 billion with only $1 billion in federal loan guarantees plus a guarantee fee of at least one-half of 1 percent.

Requiring sacrifices by the Chrysler family, his plan goes this way:

Freeze management wages 3 years, saving Chrysler $233 million.

Freeze wages and some benefits of hourly workers three years, saving $1.2 billion.

Require a new stock issue of $50 million in 1980, diluting the ownership of current shareholders by 15 to 20 percent.

Require the company to assemble $1.65 billion, about the same as proposed by the president, from other private sources such as non-guaranteed loans, sale of assets, other stock issues, concessions from suppliers and concessions from state and local governments.

Require a certification that credit is not otherwise available, and show the company has a four-year financing plan to meet its needs.

Lugar said he believes the administration proposal would neither preserve the 140,000 Chrysler jobs nor meet reasonable standards of borrower contribution or lender protection.

And he asked Congress if it was solely on the basis of size that first the financial salvation of New York City and now the Chrysler Corp. were made matters of highest national urgency.

"Last year," he told the Senate, "7,000 businesses failed in this country without so much as a memorial service in this chamber. . . .

"Solely on the basis of size, we are asked to suspend the rules of fair competition for credit, to place—through federal loan guarantees—a large losing company at the front of the loan window line ahead of smaller, more creditworthy enterprises and entrepreneurs. Solely on the basis of size, we are asked to void in one special case the inescapable concomitant to the economic right to succeed—the right to fail.

"With a brand new federal law on bankruptcy and business reorganization, a comprehensive safety net of unemployment insurance, food stamps, and other income protections . . . we are told that all these mechanism are inadequate to their assigned tasks. solely on the basis of Chrysler's size."

It is with wisdom and solid business understanding as well as commonsense that the Hoosier senator has helped to pound out the compromise and to form coalition to back a Chrysler proposal that can satisfy those who would simply "bail out" the company while still maintaining order and security for the taxpayer.

That's the difference in the detail and the philosophy.●

THE COST OF ADMINISTERING THE NATIONAL FORESTS IN IDAHO

● Mr. CHURCH. Mr. President, on November 30, Vern Hamre, the U.S. Forest Service Regional Forester for the intermountain region, spoke about the so-called Sagebrush Rebellion at a meeting of the Idaho Horse Council in Twin Falls.

Mr. Hamre raised a number of questions about the primary goal of the "rebellion": The transfer of ownership of the Federal forests and rangelands to the individual public land States. He points out, for instance, that it would have cost the taxpayers of the State of Idaho almost $55 million, in fiscal year 1978 alone, to administer the 20 million acres of national forest lands in the State.

According to the figures developed by Mr. Hamre and his staff, the total receipts from such revenue producing activities as timber sales, mineral leases, grazing permits, and recreation user fees produced $48.7 million for the Federal Government in 1978. However, $19.4 million of that total was rebated to the State in the form of payments-in-lieu-of-taxes and other revenue-sharing payments. When the cost of administering the forests, $80.6 million for that fiscal year, are added to the loss of Federal revenues—the $19.4 million figure—and the loss of forest highway funds—$3.4 million—the total "cost" to the State of Idaho would have come to $93.6 million for 1978. Since the total revenues amounted to only $48.7 million, this means that the net cost sums up to a loss of $54.9 million.

Mr. President, the offerings of those who would transfer the federally owned public lands to State ownership require more than superficial study. They promise management policies more in tune with local and regional needs, they promise more grass for livestock grazing, more minerals for mining, and more trees for logging. But, what they do not talk about are the underlying implications, including the huge cost to the State governments, if these lands were to continue to be managed for multiple-use purposes.

Because of the important information it contains, I ask that the text of Mr. Hamre's remarks before the Idaho Horse Council be printed in full in the Record.

The speech follows:

SAGEBRUSH REBELLION

In recent months we've seen a new issue emerge in the West relating to the National Forests. It is the "sagebrush rebellion" which captured the interest and imagination of a broad spectrum of the public. Just what is the sagebrush rebellion—and more importantly, what does it mean to you as a citizen of Idaho? These comments are intended to broaden public understanding of the issue and to stimulate thinking on possible outcomes.

The sagebrush rebellion is the term commonly used to describe efforts to have western states obtain ownership of most of the federal lands within their boundaries. In the western states, federal lands often represent a major part of the total land area. For example, in Nevada some 87 percent of the land is owned by the federal government. Here in Idaho, the figure is 64 percent; while in neighboring Utah, 66 percent of the state is federally owned. (National Forest lands represent 7 percent of Nevada, 15 percent of Utah, and 38 percent of Idaho.)

Most observers agree that the igniting spark for the "rebellion" was the passage by Congress of the Federal Land Policy and Management Act of 1976 (FLPMA). This legislation changed the role of the Bureau of Land Management from a custodial and land disposal agency to a land management agency. Congress established for the first time a policy to retain most BLM administered land in federal ownership. While this legislation may have triggered the movement, it represents the culmination of a growing sense of dissatisfaction with what many feel to be "over-regulation" by the federal government. The sagebrush rebellion provides a platform to vent long felt frustrations with such things as the restrictive provisions of the EPA clean air and water standards, Wilderness designation, OSHA regulations, Threatened and Endangered Species Act, National Environmental Policy Act, Antiquities Act, elimination of 1080 compound for coyote control, and court decisions which have prevented the BLM from installing rangeland improvements in recent years. Many users feel that they have very little effective voice in how public lands are managed. They are frustrated with the centralized decision-making in the Department of the Interior which prevents local BLM managers from making prompt and responsive decisions on local issues. While the sagebrush rebellion is primarily related to the BLM, the Forest Service in the Department of Agriculture has been drawn in because of the basic philosophies involved.

One starting point in discussing the sagebrush rebellion is to take a look at the legal claims of the states to the land. As the western states entered the Union, they were given portions of the federal lands to produce revenue to be used to support schools and other state institutions. In return, each state recognized the right of the federal government to retain ownership of the remaining unappropriated public lands. These conditions were well understood and accepted by westerners at that time. The Federal lands were never in state ownership.

Here in Idaho the federal government granted the state two sections of land in each township. These were not unilateral gifts made by the United States Congress, but were in the nature of a bilateral compact between two sovereigns. In return for receiving the federal lands, Idaho disclaimed all interest in the remainder of the public domain and agreed to hold the granted lands, or the proceeds therefrom, in trust as a common school fund.

Many of the western states are now challenging the legality of these early agreements, citing violation of the "Equal Footing Doctrine". This provides that all states should be admitted to the Union on equal terms with the already established states. A recent court decision by Judge Aldon J. Anderson (State of Utah vs. Cecil D. Andrus and, United States vs. Cotter Corporation) recognizes that one of Congress' primary purposes in enacting school land grants was to place the new states on an "equal footing" with the original 13 Colonies.

Another facet of the legal battle is the so called "trust theory". This says that the federal government merely holds unappropriated federal lands in trust for the states.

These complex legal questions related to the rebellion will probably have to be resolved by the courts. However, most of the western states attorneys general agree that state claims to the lands are tenuous at best.

On the legislative front, actions are either completed or under way in several western states. In February of this year, Nevada passed a bill claiming state ownership of some 53 million acres of Bureau of Land Management (BLM) administered land. The National Forests were not included in this Act. The success of Nevada in promoting the sagebrush rebellion via the legislative route has prompted similar efforts in other western states. During September, California passed a bill to fund a feasibility study of land transfers in that state. This bill was later vetoed by Governor Brown. Legislation modeled after the Nevada Act is now being readied for introduction early next year in Idaho, Utah and Wyoming.

Although the wording of specific legislation varies from state to state, it is geared to accomplish two major goals. First, it establishes a state "position" concerning ownership and control of federal lands within its boundaries. Secondly it sets a framework for future legal actions against the federal government. Since the United States cannot be sued without its consent, proponents of the rebellion felt that drastic action, such as Nevada's claim to ownership of BLM lands, was needed to force the issue into the courts. In general, past efforts to directly influence federal activities through state legislation have proven ineffective.

At the national level, Senator Orrin Hatch of Utah has introduced the Western Lands Distribution and Regional Equalization Act (Senate Bill 1680). This bill provides a mechanism for the transfer of most federal lands west of the 100th Meridian—including the National Forests—to state ownership.[1] To date no action has been taken on this bill.

More recently, the Congress passed an appropriation bill that includes a section which limits livestock grazing reductions on BLM administered lands to 10 percent in any one year and 20 percent in a decade. This is in response to some recent BLM proposals to reduce grazing to protect range, wildlife and watershed resources. This legislation, sponsored by Senator McClure of Idaho, reflects the concern of cattlemen and woolgrowers about excessive regulation of public lands. More importantly, it indicates a sympathetic ear on the part of Congress to the basic issue of government "over regulation".

With this brief background, let's explore some of the possible outcomes of the sagebrush rebellion. Basically there are three.

First, if proposed federal legislation transferring ownership of public lands to the states is not enacted into law, I would see programs and activities continuing at pretty much the current levels because of overall budget constraints. Policies and management decisions would continue to be based on existing laws and regulations. However, I foresee one important change. I predict there will be greater sensitivity to local interests and concerns on the part of federal land managers. Improved communications and a more responsive "bureaucracy" will almost certainly take place regardless of any eventual outcome. We are already beginning to see evidence of this.

A second outcome, the passage of modified legislation, provides latitude for a wide range of alternative futures. The most probable outcome would be some form of state or local control over public lands using federal dollars to administer them. It would be difficult to speculate which types of lands might be involved or their location.

A third possibility, and the one with the most far reaching implications, is the passage of legislation shifting large portions of federal lands to state ownership. I will confine the rest of my remarks to the National Forest aspects of this possible outcome.

Those advocating state control of these lands often point to the potential for increased production of renewable resources such as timber and forage for grazing. While it is true that increased resource outputs are possible, the substantial investment needed to achieve these increases is often overlooked.

A good share of investment increases would be required to help mitigate potentially adverse environmental damage. Grazing and timber harvest might be increased on some lands, but only with careful eye on critical watershed, wildlife and recreation impacts. Generally, an increased level of investment would not provide an economically favorable return.

It has been argued that state ownership of federal lands would make it possible to increase mineral output from them. This might increase mineral royalties to the states.

A careful examination of this premise shows that increased revenues would be substantially less than one might expect. By law, 50 percent of all monies collected from federal mineral leasing royalties in Idaho are returned directly to the state. Another 40 percent of the mineral royalties are deposited in the Bureau of Reclamation's general fund for use on a wide range of water projects in the western states.

As a practical matter, the states are benefiting, either directly or indirectly, to the tune of 90 percent of mineral royalty monies received by the Federal government. It is doubtful that the states could absorb the job of managing a mineral leasing program for an amount equivalent to the 10 percent now being deposited in the Treasury as the federal share of mineral leasing royalty returns.

Managing Idaho's National Forests is not a profit-making enterprise. Too many services and benefits are provided free to the public. What are the financial implications of state ownership and management of National Forest lands? Here in Idaho we spent over $80 million dollars last year to manage some 20 million acres of National Forest lands.

The lion's share of this amount—over 27 million dollars—went for the construction and maintenance of Forest roads and trails. The National Forest transportation system in Idaho contains 16,350 miles of roads and 10,700 miles of trails. This system provides access to National Forest lands for a wide variety of purposes, including hunting and fishing, camping, timber harvest, fire protection, mining, grazing, and just general sightseeing. These would become county and state roads.

Over 5 million dollars were expended for the administration of developed and dispersed recreation areas. There are 468 developed campgrounds and picnic areas 20 winter sports sites, 16 ski areas, and many thousands of acres of undeveloped areas open to use by the public. Idaho's National Forests are the largest provider of outdoor recreation in the State, with more than 10.5 million recreation visitor days use in the past year.

Other major expenditures last year included 13¼ million dollars for fire prevention and presuppression; 3.6 million dollars for the administration of range programs, including range improvements; 12¼ million dollars for timber management; 2.1 million dollars for wildlife programs, including habitat improvement; and 3.1 million dollars for watershed management and rehabilitation. Watershed, fire protection and wildlife habitat management are activities which return no revenue.

Revenues received last year from various National Forest programs in Idaho totaled about 29.9 million dollars. This includes revenue from sources such as the sale of timber, recreation area user fees, payments for hard rock minerals and grazing fees.

What does this mean in terms of potential expenditures by the state? If we were to assume that the State of Idaho would continue to manage acquired National Forest lands at about the same level of intensity as the Forest Service, the cost would be in the neighborhood of 80 million dollars. Revenues from these same lands would range from 29 to 30 million dollars under current conditions. This would leave a deficit of approximately 51 to 52 million dollars to be assumed by the taxpayers of Idaho.

Along with the "out-of-pocket" expenditures needed to administer these lands, the State of Idaho would stand to lose a considerable amount of revenue in the form of direct payments as mandated by several federal laws. One such law provides that 25 percent of all National Forest receipts shall be returned to the states for the benefit of public schools and public roads. Last year this amounted to $11,807,165 in Idaho.

Forest Highway Funds, based on the value and extent of National Forest lands in a state, are provided as a part of the Federal Aid to Highways Program. This is an annual allocation, requiring no matching funds from the state, to be used in the construction and maintenance of Forest highways. Last year, Idaho received $3,359,992 for this purpose.

As mentioned earlier, 50 percent of the revenues from mineral leasing are returned to the states as a direct payment. This includes monies received from mineral leasing on all federal lands in a state, including the National Forests. Last year, Idaho received $2,101,873 from this source.

Along with these payments, each unit of local government receives payments in lieu of taxes based on a 1976 law. Payments under this law are based on a formula which takes into account local population, the amount of federal acreage, and certain federal payments made during the preceding year. Basically, it assures payment to local units of government of at least 75 cents per acre. Last year, Idaho was paid $7,557,847 under the provisions of this law. (Approximately 38 percent of the federal lands in Idaho are administered by the Forest Service—about $4,700,000 of the payment in lieu-of-taxes revenues can be attributed to the National Forests.

When we look at both sides of the ledger, the added financial burden to a state such as Idaho resulting from acquisition of National Forest lands is substantial. Briefly, it would look something like this—(based on 1978 figures).

Cost to administer N.F. lands	$80, 600, 000
Loss of Federal Revenues	19, 400, 000
Loss of Forest Highway Funds	3, 400, 000
Total	93, 600, 000
Less receipts from resource uses	48, 700, 000
Net cost of administration	54, 900, 000

This leaves approximately $55,000,000 to be made up by the State of Idaho if it were to acquire National Forest lands. In this era of Proposition 13 and "balanced budgets," such a deficit would represent a significant burden to the taxpayers of Idaho. The cost of administering BLM lands, should they be acquired, would raise this amount substantially.

This raises the concern that some states may find it more expensive to administer the federal lands than anticipated. This could result in overwhelming pressures to sell off the public lands.

There is expressed concern that some backers of the sagebrush rebellion are seeking an avenue to transfer land from public to private ownership. They argue that few states would find it feasible to manage these areas soundly and would be forced to sell them off piece by piece. Many people are concerned about the possible loss of public recreation opportunities, including hunting and fishing, if the lands were to go into private ownership. There is also concern for the small rancher who could not compete on the open market for grazing lands should they be offered by the state on a competitive basis. The small timber purchaser probably could not compete. Most of us probably would not be able to buy in to such a land sale. And certainly there is concern with the long-range effects on the environment and water quality should levels of production be increased without necessary planning and controls.

The public lands questions raised by the sagebrush rebellion will not be resolved over night. It is a complex issue and the pros and cons need to be studied very carefully. Currently several of the western governors have called for a closer look at the situation before committing their states to a position.

In Utah, Governor Matheson has asked for a detailed economic evaluation before taking a firm position. Colorado's Governor Richard Lamm has authorized a study of the feasibility of such a take-over in his state, indicating that he is skeptical that the State could do a better job of management for less money than the federal government. In California, Governor Jerry Brown vetoed a bill which would have funded a study of the rebellion from California's perspective, pointing to the need for improved management of the land the State already owns.

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[1] National Parks and Monuments, National Wildlife Refuges, military lands, and some other minor federal ownerships are excluded in SB 1680.

Fish and wildlife interests across the Nation have expressed strong opposition to the blanket transfer of public lands to the states. Editorial opposition to the movement has begun to surface in newspapers throughout the West.

Until such time as the basic questions raised by the sagebrush rebellion are resolved, we will continue to manage the National Forests under the principles of multiple use and sustained yield. We will continue to provide ways for the public to be involved in helping make resource management decisions. We will try to be responsive to state and local governments whenever possible. We will await the public's and Congress' judgment as to whether or not the National Forests are to survive this challenge.●

THE 50TH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER AS THE 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, I am pleased today to place in the RECORD an excellent essay concerning Herbert Hoover by Prof. James S. Olson, of Sam Houston State University in Huntsville, Tex. Professor Olson is one of a group of historians who have put a human face on Hoover, by countering the widespread notion that he was oblivious to and untroubled by the human suffering brought about by the Great Depression. In this essay, submitted to me as part of the series of essays commemorating the 50th anniversary of Hoover's inauguration, Olson treats the broad scope of Hoover's varied life and philosophy.

The essay concludes with a view of the dilemma which faced Hoover, as he struggled to bring America out of the depression. Olson writes that because of the depression, Hoover was—

> Forced to consider literally hundreds of demands for expanding the power and scope of the Federal Government. His understanding of the importance of economic security and prosperity as prerequisites for political stability persuaded him to consider massive Federal intervention, but his fears of bureaucratic tyranny countered those demands. Hoover's fear of the long-range consequences of governmental activism and insensitive bureaucracies wedded by mutual concerns to powerful interest groups have in many ways been fulfilled, so he was guilty of nothing more than farsightedness. Unfortunately for his political career and historical reputation, Hoover's long-range fears of bureaucratic tyranny limited his ability to focus clearly on the terribly immediate problems of financial collapse and massive unemployment.
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> During a period of relative prosperity, Herbert Hoover would likely have been one of America's greatest President's for his sophisticated understanding of corporate, industrial, and bureaucratic realities would have permitted him to regulate the economy and restrain the Federal Government at the same time. The Great Depression, however, dissipated Hoover's strengths. While he worried about the future substance of American institutions, 70 million of his fellow citizens worried about tomorrow night's meal and the next month's rent. The stark immediacy of their needs would render Hoover's fears irrelevant to his own generation. Herbert Hoover's greatest political enemy, ironically, was his own insight; he was the victim of his own vision.

Mr. President, I request that Professor Olson's essay, along with a biographic sketch of the author, be printed in the RECORD.

The material follows:

BIOGRAPHIC SKETCH OF JAMES S. OLSON

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Publications:

Herbert Hoover and the Reconstruction Finance Corporation, 1931–1933 (Ames: Iowa State University Press, 1977).

The Ethnic Dimension In American History (New York: St. Martin's Press, 1979).

Native Americans in the Twentieth Century (under contract with Brigham Young University Press).

"Organized Black Leadership and Industrial Unionism: The Racial Response, 1936–1945," Labor History, (Summer, 1969).

"Race, Class and Progress: Black Leaders and Industrial Unionims, 1936–1945." Milton Cantor, ed., Black Labor in America (Westport, Conn.: Greenwood Press, 1970).

"Gifford Pinchot and the Politics of Hunger, 1932–1933," Pennsylvania Magazine of History and Biography, (October, 1972).

"The End of Voluntarism: Herbert Hoover and the National Credit Corporation," Annals of Iowa, (Fall, 1972).

"Herbert Hoover and 'The Analogue of War'," Palimpsest, (July, 1973).

"Harvey C. Couch and the Reconstruction Finance Corporation," The Arkansas Historical Quartely, (Winter, 1973).

"The Politics of Religion, the New York Assembly, and the Coming of the American Revolution, 1767–1771," The Historical Magazine, (March, 1974).

"The Anatomy of a Race Riot: Beaumont, Texas, 1943," Texana, (Fall, 1974).

"The Birth of a Discipline: An Essay on Chicano Historiography," The Social Studies, (December, 1974).

"The Boise Banking Panic of 1932," Idaho Yesterdays, (Winter, 1975).

"Oasis in East Texas: Conroe and the Great Depression," Texana, (Spring, 1975).

"Rehearsal for Disaster: Hoover, the RFC, and the Banking Crisis in Nevada, 1932–1933," The Western Historical Quarterly, (April, 1975).

"The New York Times Index and Mexican Americans, 1951–1972," The Journal of Mexican American History (1975).

"Herbert Hoover: A Contemporary Perspective," Annals of Iowa, (Winter, 1976).

"The Depths of the Great Depression: Economic Collapse in West Virginia, 1932–1933," West Virginia History, (April, 1977).

HERBERT HOOVER AND TWENTIETH CENTURY AMERICA

(By James S. Olson)

Today, more than fifty years since his inauguration as president of the United States, Herbert Hoover remains one of the most controversial figures in the history of American politics. For two generations historians and politicians have drawn cursory and often convenient conclusions about his role in national life; conservatives have canonized him, liberals vilified him and more recently some New Leftists have tried to restore his reputation. Although the work of such historians as David Burner, Joan Hoff Wilson, Ellis Hawley, James Olson, Martin Fausold, and Craig Lloyd has portrayed Hoover as a compassionate man deeply troubled by the Great Depression, Hoover is still an enigma to the nation as a whole, either despised or held in high regard by older Americans and ignored as a high-collared irrelevancy by the young. Yet, much of his political career and approach to national problems is particularly germane to modern America.

In his inaugural address, President Hoover had confidently proclaimed America as a land rich in resources; stimulating in its glorious beauty; filled with millions of happy homes; blessed with comfort and opportunity. In no nation are the fruits of accomplishment more secure. In no nation is the government more worthy of respect. No country is more loved by its people. I have an abiding faith in their capacity, integrity and high purpose. I have no fears for the future of our country. It is bright with hope.[1]

Four years later those remarks had become ludicrous. As Hoover rode down Pennsylvania Avenue to Franklin Roosevelt's inauguration in 1933, thousands of financial institutions teetered on the brink of annihilation while thousands of others were only marginally solvent. Fifteen million people were out of work and businesses were failing in record numbers. The bottom had fallen out of the securities markets and the value of the dollar was eroding rapidly. The future was hardly bright with hope; indeed, it was dismal and gloomy, and most of the country held Hoover personally responsible.

It was, of course, a terrible irony. Just a few years earlier, Herbert Hoover had been a national hero, the symbol of both classical liberalism and the great American dream. He enjoyed membership in a most exclusive club: the relatively few Americans who truly embodied the Horatio Alger saga. Hoover was born on August 10, 1874, in the Quaker community of West Branch, Iowa—an agrarian village of only a few hundred people. The future president of the United States had an especially difficult, transient childhood. In 1880 his father died of heart failure, and four years later pneumonia complicated by typhus took his mother. During the next year he was shuttled back and forth among several sets of Quaker relatives in Iowa; in 1885 he went to live with his uncle, John Minthorn, in Newberg, Oregon. His uncle was the principal of Pacific Academy, and for three years Hoover worked part-time and went to school. In 1888 they moved to Salem, and his uncle set up the Oregon Land Company and began selling real estate. Hoover worked in the family business for two more years, took courses at a business college, and in 1891 entered the first class at Leland Stanford University. He had come from a lonely, economically simple background, and on entering college he was driven by more than an average share of ambition. Indeed, Herbert Hoover was determined never to return to the semi-frontier poverty of his midwestern childhood. In 1895 he graduated from Stanford with a BA in geology.[2]

The mid-1890s were inauspicious years for new college graduates. Because of the industrial depression of 1893, he was initially unable to find an outlet for his professional talents. After working as a common miner in Nevada, he joined the London mining firm of Bewick, Moreing and Company, where his success as businessman and engineer was rapid and spectacular. Between 1897 and 1911 he served the company as promoter, engineer, and troubleshooter and filled assignments in Australia, Burma, Ceylon, Egypt, France, Germany, India, Korea, Japan, New Zealand, Rhodesia, and Russia. In 1914, after nearly seventeen years abroad, Hoover was a multimillionaire enjoying annual earnings well in excess of $100,000.

With the outbreak of war in Europe, Hoover discovered an opportunity to balance his extraordinary economic success with a Quak-

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er-inspired impulse to serve his fellows. Despite the importance to him of economic security and independence from relatives and friends, Hoover still nurtured the Quaker beliefs in peace, equality of opportunity, and neighborliness. He was living in London in 1914, and after the formal declaration of hostilities the United States counsul-general asked him to assist American citizens in England who were unable to convert their assets into British currency. He also established the American Relief Committee to assist the thousands of Americans arriving from the Continent. In 1914 as chairman of the Commission for Relief in Belgium, Hoover took charge of feeding nearly ten million people in the face of almost insurmountable difficulties with belligerent governments. President Woodrow Wilson called Hoover home in 1917 and named him to head the new United States Food Administration, where he successfully sponsored voluntary programs of conservation and food rationing. After the war Hoover directed the American Relief Administration, distributing $3.5 billion worth of food and clothing to over thirty million people and averting economic collapse and social revolution in Europe. By the fall of 1919, Herbert Hoover had become an international symbol of hope and American benevolence. His public image blended that of the Great Engineer with that of the Great Humanitarian. In 1921, following the election of President Warren Harding, Hoover joined the Republican cabinet as secretary of commerce and by 1928 had further enhanced his personal reputation. The American public regarded him as a man of humane sympathies and a master bureaucrat—the one man most likely to perpetuate the Republican prosperity of the 1920's. His career reached a fitting climax in the election of 1928, and he entered the White House as a symbol of international power and prestige.

It is little wonder that Hoover celebrated the United States with a genuine patriotism; he loved and respected America for giving him so much opportunity. He viewed the United States as a unique society that had transcended social and economic convulsions so common elsewhere. For President Hoover, the genius of America involved its fluid social structure, a condition which had eliminated the aristocratic and class divisions characteristic of virtually all other societies in all other times. The United States had achieved a unique synthesis of enlightened individualism and equality of opportunity. Herbert Hoover constructed his personal philosophy on one foundation: the United States guaranteed to every member of the community uninhibited access to wealth, power, and prestige. The only obstacles to success acknowledged by Hoover's "American Individualism" were incompetence and indolence. Race, religion, and national origins were social and political irrelevancies.[3] American Individualism rewarded ability and ambition with success and fulfillment. The President considered himself living evidence of his philosophy.

Hoover also maintained a tempered faith in a closely related concept: Adam Smith's formulation of entrepreneurial self-interest. American Individualism enjoyed special distinction, the President maintained, because it had survived the Industrial Revolution and retained its vitality even in the presence of corporate power, economic interest groups, technology, and urbanization. Like Adam Smith, Hoover believed that economic self-interest and social progress were compatible and even inevitably reinforcing. In the nineteenth century powerful individuals and groups had risen spontaneously to aggrandize their own economic positions by rationalizing control of the national market and exerting pressure on political leaders. For the most part they had been concerned about themselves and not about society, but their activities had eliminated inefficiency and poor communication in the economy.

By introducing technology and scientific management to the production process, they had spectacularly raised the American standard of living. On this level, the great industrialists—people like John D. Rockefeller, Andrew Carnegie, or Henry Ford—were responsible for the "creative destruction" of an older economy and for building the foundation of a new society. For Hoover, economic strength was the basis of political and social progress. In 1922 he had written that high and increasing standards of living and comfort should be the first of considerations in the public mind and in the government. . . . We have long since realized that the basis of an advancing civilization must be a high and growing standard of living for all the people, not for a single class; that education, food, clothing, housing, and the spreading use of what we often term nonessentials, are the real fertilizers of the soil from which spring the finer flowers of life.[4]

Economic growth, while not redistributing wealth, had nevertheless improved the living standard of most Americans, eliminating the social and political tensions that always accompany extreme, chronic poverty. Economic self-interest and social progress were not contradictory, at least in terms of the American experience. Indeed, they were logical extensions of one another—intimately related characteristics of twentieth century United States history. The social and economic foundations of philosophical idealism were fragile and tenuous; concepts of freedom, democracy, and social progress were all based on economic prosperity and its accompanying political stability. The President believed that once economic stagnation set in, the foundations of social instability and political consensus would begin to decay and idealism would dissolve into bitterness and violence. Hoover had seen it happen in Europe. Describing the European nations of 1918 and 1919, he had written:

> "Specters of impoverishment, unemployment, and debt haunted them. The emotions of hatred and vengeance . . . were at a fever pitch among their people. . . . I have the feeling that revolution in Europe is by no means over. The social wrongs in these countries are far from solution and the tempest must blow itself out, probably, with enormous violence."[5]

He desperately hoped that economic disintegration and revolution would never come to America.

But if the President's political philosophy glorified the idea of self-interest and social progress, his historical consciousness prevented him from worshipping any god of inevitability; it was contradicted by too many instances of scandal, war, and depression, so Hoover had removed any notions of natural law from Adam Smith's system. Hoover did not naively suppose that the economic system would always function perfectly, and because of this he reluctantly parted company with the rigidly laissez-faire assumptions of the classical economists. He was an engineer, a man of precision, who had been naturally attracted to the mechanistic simplicity of classical economics. The reason, order, and guaranteed justice of its self-regulating capacity were appealing concepts. But Hoover also realized that its organizational realities of the Industrial Revolution had upset the mechanism. The economy was no longer self-governing because the laws of competition and supply and demand had been superseded. Since the Civil War, business and industry had made enormous gains in production with more centralized administration. The President generally praised this development because these groups had raised the standard of living. But by controlling increasingly larger shares of the national market, some of these businesses had placed themselves beyond public control and beyond what classical economists once considered immutable economic laws. Some of these corporations had become almost an entrepreneurial aristocracy; they manipulated the economic system to augment their own wealth and remained irresponsibly oblivious to the impact of their activities on the country as a whole.[6]

For two hundred years American liberalism had attempted to eliminate all artificial impediments, be they racial, economic, or political, to individual opportunity. But in the nineteenth century the rise of the supercorporations had raised the specter of economic tyranny; some business and industrial giants were powerful enough to exploit and retard social progress. To check that power, the progressive movement had created the regulatory state, and the federal government had risen as a "countervailing power." Hoover understood and reluctantly condoned the transition American public policy had been forced to make between the laissez-faire liberalism of Andrew Jackson and Thomas Jefferson and the progressive liberalism of Theodore Roosevelt, Herbert Croly, Woodrow Wilson, and Louis Brandeis.[7] Hoover was hardly an ideologue committed irrevocably to laissez-faire idealism.

In this sense, Hoover was a progressive. Just after leaving the White House, he complained to a friend that the Brain Trust and their superiors are now announcing to the world that the social thesis of laissez-faire died on March 4. I wish they would add a professor of history to the Brain Trust. The 18th century thesis of laissez-faire passed in the United States half a century ago. The visible proof of it was the enactment of the Sherman Act for the regulation of all business, the transportation and public utility regulation, the Federal Reserve System, the Eighteenth Amendment, the establishment of the Farm Loan Banks, the Home Loan Banks, the Reconstruction Finance Corporation. All are but part of the items marking the total abandonment of that social thesis.[8]

The President believed strongly in the usefulness of government, and he realized the need to police the activities of powerful economic interest groups. Through such agencies as the Federal Trade Commission, the Department of Commerce, and the Department of Justice, the federal government could enforce the laws against tax evasion, fraud, and monopolies and guarantee that economic affairs operate within prescribed legal boundaries. President Hoover had no intention of letting interest groups function in a power vacuum.[9]

But his recognition of the need for some regulation did not leave him satisfied with the methods the federal government had used in the twentieth century. Hoover was always keenly aware of the threat government posed to American Individualism. Because of his experience with the Department of Commerce during the 1920s, Hoover possessed a clear understanding of bureaucratic dynamics and worried that the regulatory state could not be contained within the boundaries set by American Individualism. Impulses to expand the authority of the federal government would be persistent and dangerous; once created, new government bureaucracies could be dismantled only with great difficulty because each program supported a constituency dedicated to its perpetuation. He knew that modern bureaucracies had insatiable desires for growth. As he feared the potential of certain private interest groups he also worried about the potential of bureaucratic tyranny. He retained this fear throughout his life.[10]

Other, more compelling reasons contributed to Hoover's general uneasiness about the responsibilities of the federal gov-

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ernment. In particular he had come to the conclusion that the regulatory programs of the progressive movement, though necessary at the time, were actually quite crude and primitive transitional steps from the laissez-faire ideology of the nineteenth century to the more sophisticated, corporate, "associative" ideology of the twentieth. For Hoover, such agencies as the Interstate Commerce Commission (ICC), the Federal Trade Commission, and the Antitrust Division of the Justice Department tended to be cumbersome, inefficient, and poorly managed. Instead of responding quickly and decisively, they were usually dilatory and demanded more information, called for new investigations, and postponed important decisions.

The regulatory agencies were also too capricious for Hoover; they were too subservient to the political establishment or to the industries they were supposed to regulate, and they often made contradictory decisions in a vain and futile attempt to please competing politicians and interest groups. To Hoover's precise, administrative mind, inconsistency was one of the worst sins of all.

Perhaps most important, Hoover believed the progressive regulatory state lacked foresight and vision in treating problems rather than anticipating them. Like all police actions, the regulatory agencies enforced rather than proposed and reacted rather than predicted; instead of preventing problems, they tried later to control and solve them and usually failed to do even that. Hoover envisioned another, more positive approach to the economic affairs of the twentieth century—an approach that made big government unnecessary. He, like the classical liberals, wanted an essentially self-regulating political economy, but one that was relevant to modern, industrial realities. He wanted to resurrect the spirit, not the substance, of Adam Smith's philosophy in creating a rational, self-governing economic system.[11]

So Hoover's thought contained a certain tension—an intellectual dialectic—between private and governmental programs as well as between rural values and industrial technologies. From his Quaker childhood in Iowa and his adolescence in Oregon, Hoover had come to believe in the importance of family unity, brotherly love, ambition, hard work, and thrift as the building blocks of individual character and integrity. Unlike many of his contemporaries, Hoover did not automatically associate these values with pre-industrial societies.

Although he realized that rural cultures were usually more conducive to family harmony and social cohesion, he believed these virtues could be, indeed had to be, preserved in urban societies. In his view the worst fate for America would be for rural values and industrial technologies to become mutually exclusive. Hoover believed in the value of the Industrial Revolution because science and technology, with their stupendous increases in production and efficiency, had raised the standard of living for all Americans. Somehow, rural values and industrial realities would have to coexist, and the challenge of the twentieth century would be to preserve and strengthen both.[12]

As Hoover searched for some means of guaranteeing economic growth and preserving entrepreneurial individualism and rural values while avoiding both industrial dictatorship and bureaucratic tyranny, he concluded that the organizational revolution accompanying industrialization seemed to provide a workable solution. Between 1870 and 1920, virtually every section of American society, in trying to cope with the disrupting impact of the Industrial Revolution, began to look outward and form certain communities of interest. In less than fifty years American workers, for example, had formally organized and replaced the feeble Knights of Labor with the more formidable railroad brotherhoods, the United Mine Workers, and the American Federation of Labor. During the same half century a new middle class had emerged: doctors, lawyers, professors, teachers, and social workers—all organized into various professional associations. The American Bar Association, the American Medical Association, the American Historical Association, the National Education Association, the American Political Science Association, and the National Conference on Social Work each sought to represent the interests of their constituents.

Finally, the new class of businessmen formed trade associations, chambers of commerce, and marketing cooperatives to enhance their position in the national economy. Eventually, such groups as the United States Chamber of Commerce, the National Association of Manufacturers, and the American Farm Bureau Federation became enormously powerful.[13] An "associative" evolution had occurred in America, and Herbert Hoover looked on it as a convenient device for promoting economic prosperity, underwriting social justice, and safeguarding American Individualism.

In the rise of these private associations Hoover saw the formation of a new, more rational economic system that was a synthesis of individual entrepreneurship and corporate enterprise—of rural simplicity and the technocratic commonwealth. For several reasons he believed these private associations were perfectly suited to the challenge of reconciling nineteenth century values and twentieth century realities, that is, of preserving the best of the old and promoting the best of the new. In the first place, these associations transcended parochial points of view in favor of a national perspective; they realized that the structural dynamics of the modern economy required cooperative action among like-minded groups. In this sense these private organizations fostered the vision of a national community, a single people, cooperating to improve the quality of their lives.

Equally significant, the private associations had risen spontaneously in response to industrialism; their activities were purely voluntary, independent of the federal government, and in the finest spirit of American Individualism. So despite the fact that an incredible amount of organizational activity was going on, the spirit of rural America, with its voluntary cooperation and community service, remained intact.

And just as the associations preserved the spirit of an older America, they promoted the techniques of modern industrialism. Their interest in scientific management and technology, precision, and order had vastly increased efficiency and productivity. The debilitating, sometimes destructive, competition of an earlier era had disappeared as had the inefficiencies so characteristic of pre-industrial economies. In the process the gross national product had increased tenfold since 1860 while the population had only tripled.

In Hoover's view virtually every member of American society was better off because of that phenomenal growth, and the social structure was quite stable. Not only was the United States enjoying cooperative individualism in an urban, industrial setting, but each citizen was more economically secure than ever before.

Finally, the network of associations held out the promise of a form of private government in which the economy was essentially self-regulating. In emphasizing professional standards, ethical codes of conduct, and rational problem solving, the private associations were self-disciplining and self-improving; and as they policed themselves internally they naturally contributed to social harmony. Even more important, the rise of the private associations had reoriented the American social structure just in time to avert absolutism.

The Industrial Revolution and the growth of the supercorporations had threatened to arrange American society along vertical lines with power flowing down from a corporate dictatorship to the working masses. Such a system preserved stabilty in the short run but almost guaranteed violent class confrontation in the future.

The progressive solution to this problem, in which the federal government intervened to control the corporations, offered no real change because it only replaced one form of vertical authority with another. But when the private associations developed, the social and economic structure in America assumed a horizontal dimension in which power flowed laterally, back and forth, among a large number of equally powerful interest groups. Here there was a natural separation of powers—an economic check and balance system—with the likelihood of tyranny by one group remote and the need for federal intervention unusual. In Hoover's opinion, the associative state would be able to preserve social justice, equality of opportunity, and political compromise.[14]

Hoover's ideal system, therefore, would have no need for an oppressive regulatory state. Instead the federal government would promote economic prosperity and supervise the exchanges of power between the functional interest groups. He believed that government, rather than ignore the ups and downs of the business cycle, must be responsible for maintaining stable prices and full employment. The federal government would pursue this objective in several ways.

To overcome narrow competition and at the same time to effect some private but national economic planning, Hoover wanted the federal government to continue to encourage the creation of trade associations, farm cooperatives, labor unions, and professional societies. To improve productivity and increase wages the federal government should provide business with reliable economic statistics, encourage the use of "scientific management," and assist in research and development. The President intended to promote economic stability by inspiring voluntary cooperation among all the private associations.

If the federal government could convince each that prosperity was good for all, then destructive price wars, strikes, boycotts, and legal confrontations could be avoided. The federal government was to be the coordinator of the associative state—promoting the interests of each group, negotiating their differences, and occasionally regulating their activities. Only then could the government simultaneously guarantee prosperity and ensure the survival of the noncoercive, individualistic, progressive society.[15]

Yet Hoover sustained throughout his life a nightmarish yet prophetic fear that someday a "corporate state" would develop in the United States. Ever since the Industrial Revolution more and more power in virtually every sector of the economy had become concentrated in the hands of the largest interest groups, and Hoover clearly recognized the need for the regulatory state to protect the public against any arbitrary or hostile decisions by those interest groups. But the decisions made by the state constituted an intangible and perhaps even capricious threat to the domain of the various interest groups. To offset their sense of dependence on the government, the leaders of America's great interest groups would feel compelled, in the name of their own sovereignty, to eliminate or control the decisions of the state. Success there would threaten the very foundations of American Individualism. Hoover envisioned several dangers.

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If, for example, the labor unions managed to secure control of the government, socialism would come to dominate the United States. If, on the other hand, the supercorporations assumed control of political power, the United States would gradually develop into a fascist state. Neither alternative was acceptable; consequently, the federal government had to be careful about the processes it used to regulate the economy, and about the personnel it used to staff the bureaucratic apparatus.

Because the regulatory responsibilities of the federal government in a complex industrial economy had to be exercised by executive rather than legislative authority, Hoover realized that political and administrative power could accumulate in the hands of the executive branch of the government. Congress might cease to be an effective check and balance on the presidency, instead becoming merely an administrative satellite of the more powerful executive bureaucracy. The most dangerous possibility of all, in Hoover's mind, could grow out of the interplay between the necessities of economic growth and government regulation; a symbiotic relationship could develop between the powerful interest groups and the executive bureaucracy, and both would be immune from the political process because of the impotency of Congress. Eventually, Hoover feared that the mechanisms of bureaucratic regulation might become dominated by the very interest groups the state was trying to control. In such a situation, American liberalism would die, the victim of a small coterie of economic and political power brokers.[16]

Finally, Hoover worried that after the spirit of American liberalism had disappeared, there would still exist powerful impulses to destroy even the formal institutions of democratic government. If the federal government ever forged an alliance with any of the interest groups, or with a coalition of the largest unions and corporations, the very processes of economic life would shortly lead to totalitarianism.

The federal government should never become a competitive participant in the economy, usurping economic functions normally left to private groups, because in addition to the characteristic inefficiency of large political bureaucracies, the federal government would sooner or later commit major economic blunders and resent carrying the burden of political responsibility for those mistakes. Tyranny might flow from such resentment.

The economic elite would be perfectly willing, indeed anxious, to finance the political campaigns of executive incumbents and their allies. With such funding, existing administrations would easily defeat their opponents in legitimate elections. Or in order to guarantee their political tenure and undermine those critical of their economic decisions, incumbents could be tempted and then induced by their own vanities and survival instincts to manipulate and even subvert the electoral process.

Under such circumstances, the "corporate state" would have eliminated all intangibles from its planning formula; effectively insulated itself from outside criticism; and closed itself to nonmembers, of the oligarchy. Individualism and equality of opportunity, along with the form and substance of the American dream, would be destroyed.[17]

So Hoover's personal philosophy contained two powerful ideological tensions, a Jeckyl and Hyde syndrome over the nature of the federal government and private interest groups. The interest groups had, on the one hand, brought economic supremacy to the United States, a productive capacity and standard of living unknown in human history. But at the same time, they contained within themselves the impulses to destroy the substance of American life.

The future of American Individualism rested upon the ability of the executive branch of the federal government to direct the exercise of both bureaucratic and economic power. That necessity, however, activated the second tension in his philosophy, for the federal government faced the ominous challenge of directing without controlling, of stimulating the economy with coercing private interest groups.

When Herbert Hoover assumed control of the executive branch in 1929, he looked upon himself as both a politician and an economic specialist leading the country down the middle road between the right and left, between unrestricted laissez-faire on the one hand and socialism on the other. It was that middle road, he believed, which would resolve that dual ideological tension in his political philosophy, for the interest groups of the "associative state," under the direction of the federal government, would regulate themselves to the benefit of all Americans.

Hoover's successful prepresidential career had confirmed in his own mind the validity of his personal philosophy and his opinions about the future of the American economic system. As a well-traveled mining engineer before World War I, he was able to compare with the living standard of the United States with those of other nations and conclude that his native country was the richest and most benevolent nation in the world. As Food Administrator during the war, he marveled at the voluntary cooperation of Americans in accepting production quotas on agricultural commodities and at their patriotism in supporting the war effort.

The incredible political and bureaucratic difficulties of finally liquidating the Food Administration after the war remained indelibly imprinted on his memory as an example of the dangers of governmental activism. While leading the American Relief Administration after the war he relied heavily on voluntary contributions and cooperation among charitable organizations, such as the Red Cross and the Friends Service Committee, to sustain his efforts to feed an impoverished Europe.[18]

As Secretary of Commerce between 1921 and 1928 Hoover had worked diligently to direct and inspire the associational activities in which he had so much confidence. The Bureau of Domestic and Foreign Commerce, in order to expand foreign trade, strengthened its ties with private associations and provided them with relevant economic and political information.

The Bureau of Standards during the same period worked with trade associations to improve product quality and safety. The Census Bureau collected data on prices, production, inventories, and technology and published it in a government periodical. And Hoover sponsored a series of conferences on such far-ranging subjects as labor relations, productivity, housing, public works and the business cycle, unemployment, child welfare, emergency relief, and research and development. Under his direction the federal government coordinated the activities of the private interest groups and strengthened the economy without raising the specter of bureaucratic tyranny.[19]

But in 1929 the unthinkable occurred. While Herbert Hoover ascended to the presidency, the economy descended into the depths of the worst depression in United States history. Visions of political conflict, then social instability, and ultimately even revolution passed through the President's mind.

The ordeal of Herbert Hoover revolved around the economic erosion of American Individualism's philosophical rationale. The Great Depression instantly stimulated the second tension in his thought, for he was forced to consider literally hundreds of demands for expanding the power and scope of the federal government. His understanding of the importance of economic security and prosperity as prerequisites for political stability persuaded him to consider massive federal intervention, but his fears of bureaucratic tyranny countered those demands.

Hoover's fears of the long range consequences of governmental activism and insensitive bureaucracies wedded by mutual concerns to powerful interest groups have in many ways been fulfilled, so he was guilty of nothing more than farsightedness. Unfortunately for his political career and historical reputation, Hoover's long range fears of bureaucratic tyranny limited his ability to focus clearly on the terribly immediate problems of financial collapse and massive unemployment.

During a period of relative prosperity, Herbert Hoover would likely have been one of America's greatest presidents, for his sophisticated understanding of corporate, industrial, and bureaucratic realities would have permitted him to regulate the economy and restrain the federal government at the same time.

The Great Depression, however, dissipated Hoover's strengths. While he worried about the future substance of American institutions, seventy million of his fellow citizens worried about tomorrow night's meal and the next month's rent. The stark immediacy of their needs would render Hoover's fears irrelevant to his own government. Herbert Hoover's greatest political enemy, ironically, was his own insight; he was the victim of his own vision.

FOOTNOTES

[1] Quoted in Harris G. Warren, *Herbert Hoover and the Great Depression* (New York, 1967), p. 53.

[2] For the best political biography of Herbert Hoover, see David Burner, *Herbert Hoover. A Public Life* (New York, 1979.)

[3] Herbert Hoover, *The New Day* (Stanford, 1928), p. 5; *American Individualism* (New York, 1922), pp. 9, 41–45.

[4] Herbert Hoover, *American Individualism*, pp. 32–33.

[5] Herbert Hoover, *The Ordeal of Woodrow Wilson* (New York, 1958), pp. 94–95, 147.

[6] Herbert Hoover, *American Individualism*, pp. 8–11, 51–55, 59–60; *The Ordeal of Woodrow Wilson*, pp. vii-viii, 11; *The Memoirs of Herbert Hoover* (New York, 1952), Vol. II, pp. 101–108.

[7] Herbert Hoover, *American Individualism*, pp. 7–13, 51–60.

[8] Quoted in Herbert Stein, *The Fiscal Revolution in America* (Chicago, 1969), pp. 7–8.

[9] Herbert Hoover, *American Individualism*, pp. 51–53.

[10] Herbert Hoover, *The Challenge to Liberty* (New York, 1934), pp. 56–60; *Memoirs*, Vol. , p. 71; *American Individualism*, pp. 37–38; William Appleman Williams, "What This Country Needs . . . ," *New York Review of Books* 15 (November 5, 1970), pp. 7–9.

[11] Herbert Hoover, *The New Day* (Stanford, 1928), pp. 22–23, 59–60; *Memoirs*, Vol. , pp. 4–7; *American Individualism*, pp. 39–44, 57–62.

[12] See the essay by Ellis W. Hawley in Joseph Huthmacher and Warren I. Susman, eds., *Herbert Hoover and the Crisis of American Capitalism* (Cambridge, 1973), pp. 3–34.

[13] Robert H. Wiebe, *The Search for Order, 1877–1920* (New York, 1967), pp. 111–132.

[14] Professor Ellis W. Hawley has written most persuasively on Hoover's political philosophy. See "Herbert Hoover, the Commerce Secretariat, and the Vision of an 'Associative State'," *The Journal of American History*, 61 (June 1974), pp. 116–140; "Herbert Hoover and American Corporatism, 1929–1933," in Martin Fausold and George Mazuzan, *The Hoover Presidency* (Albany, 1974), pp. 101–122.

[15] Herbert Hoover, *American Individualism*, pp. 41–45, 51–53; Ellis W. Hawley, "Hoover, Commerce Secretariat," pp. 116–140.

[16] Herbert Hoover, *American Individualism*, pp. 37–38, 41–45, 52–54; William S. Myers, *The State Papers and Other Public Writings of Herbert Hoover*, Vol. 1 (New York, 1934), p. 384.

[17] Herbert Hoover, *The Challenge to Liberty*, pp. 60, 79, 225; *Memoirs*, II, p. 304; *Addresses Upon the American Road, 1941–1945* (New York, 1946), p. 223; *Addresses Upon the American Road, 1945–1948* (New York, 1949), pp. 45, 50; *Addresses Upon the American Road, 1948–1950* (Stanford, 1951), p. 20; William S. Myers, *The State Papers*, II, p. 425.

[18] Herbert Hoover, *Memoirs*, Vol. II, pp. 20–23, 63, 169–174; Theodore G. Joslin, *Hoover Off the Record* (New York, 1934), pp. 131–133; Herbert Hoover, *Memoirs*, Vol. III, p. 97.

[19] Ellis W. Hawley, "Hoover, the Commerce Secretariat," pp. 116–140.

OLD AND COLD: HYPOTHERMIA IN THE ELDERLY

● Mr. CHILES. Mr. President, during the last few winters more and more elderly have suffered, and even died, from hypothermia—a severe decline of body temperature. There is a danger that even more will suffer this winter due to inability to pay for rising heating bills. Fortunately, the Congress has acted to assist such individuals with the low-income energy assistance program but there is still a real danger that many will suffer from hypothermia and may not be aware of the serious effects to their health.

A recent witness testifying before the U.S. Senate Committee on Aging, Nicholas Rango, M.D., told the committee that even some doctors are unfamiliar with the total symptoms of hypothermia. As more and more hospital personnel begin to prepare for an increasing caseload of persons suffering from hypothermia this winter, I think Dr. Rango's remarks can be very informative to them and to my colleagues and their constituents.

I ask that Dr. Rango's testimony be printed in the RECORD.

The testimony follows:

OLD AND COLD: HYPOTHERMIA IN THE ELDERLY

My testimony today concerns a grim social problem: old people freezing to death. The clinical condition is called hypothermia, which is defined as a core body temperature (e.g. rectal temperature) less than 35° C or 95° F. Although hypothermia has many medical causes (including metabolic disease, hypothalamic and central nervous system dysfunction, drugs, severe burns, and overwhelming infection), I will address only accidental hypothermia which results from exposure to environmental cold and not from primary pathology in the body.

My argument is straightforward, containing three essential points. First, clinical evidence demonstrates that the elderly are particularly susceptible to hypothermia. Second, existing national data on deaths attributed to hypothermia by age group are consistent with the contention that the old are particularly vulnerable. Third, government intervention is justified to protect from hypothermia high risk groups, especially the aged poor.

1. CLINICAL ASPECTS

Permit me to begin by presenting an actual case summary of an old man in whom exposure to cold was considered to be the primary cause of low body temperature.

G.H.M. was male, aged 95. Lived in a house in poor state of repair and inadequately heated. Steadily ailing in health for about two weeks before hospital admission and refused help. Very ill for three days before admission while living in cold home environment. Admitted to hospital stuporous and very cold. Pulse 64/minute. Pneumonia in right lung and congestive heart failure. EKG showed evidence of heart disease and irregular rhythm. Deep body temperature reached 36° C only after four days. Died ten days after admission.[1]

I chose this case because it demonstrates several of the potentially lethal consequences of hypothermia, particularly cardiac, neurological, and infectious complications.

Hypothermia has many adverse effects on health, the most important of which can be briefly described. With reduction of body temperature, metabolic rate is decreased, falling to 50 percent of normal at 28° C. or 82° F.[2] Among the cardiovascular effects are slowing of heart rate, weakening of pulses, changes in blood pressure, irritability of heart muscle, and conduction disturbances that include lethal abnormalities in heart rhythm. Neurological effects include a decrease in blood flow in the brain, absence of reflexes, dilation of pupils, and impaired mental function ranging from confusion and hallucinations to deep coma. Individuals suffering from severe hypothermia may be mistaken as dead because of these cardiovascular and neurological manifestations. It is for this reason that doctors have applied the dictum, "No one cold is dead until warm and dead."

Certain aspects of hypothermia among the elderly deserve special attention. In 1967, medical research conducted at the United Oxford Hospitals identified an abnormality of body temperature regulation that persists as much as three years after recovery from hypothermia. The Oxford study concludes that "survivors from accidental hypothermia of the elderly must be regarded as at risk from another episode of hypothermia when exposed to only moderate cold."[3] A British medical study published in 1977 drew attention to the fact that the problem is not confined to those who suffer from a fall or accident at home, nor is it confined to those elderly suffering from concurrent illnesses. The study emphasizes that "spontaneous hypothermia also occurs among apparently fit elderly people."[4]

Why are the aged particularly vulnerable to hypothermia? Good experimental work demonstrates that some elderly have impaired ability to feel cold, and therefore, may fail to respond quickly enough to cold by increasing room temperature and by adding clothing. If the individual is physically disabled, mentally impaired, or both, he or she may not be able to leave a cold environment like an underheated tenement apartment. Besides insensitivity to cold and immobility, the aged sometimes have defects in thermoregulation. Body temperature regulation is under complex neurological control. Age-related decline in autonomic nervous function can result in impaired temperature regulatory mechanisms in the elderly. Other poorly understood thermoregulatory defects may also be present. What is evident is the fact that multiple physiological abnormalities place the elderly at risk of thermoregulatory failure.

The impact of adverse social circumstances such as poor housing and living alone has also been discussed in the hypothermia literature. Attempting to ascertain the incidence of hypothermia in the elderly and the nature and effects of the condition, a multidisciplinary team of British investigators conducted a national survey and reported in 1977 that "the combination of a declining physiology and the most deprived social circumstances greatly increase the risk of an old person becoming hypothermic."[5] Thus, a strong case can be made for regarding the very old who are poor as a special high-risk group.

2 EPIDEMIOLOGICAL ASPECTS

What do we know about the incidence of hypothermia? How frequently does hypothermia cause hospitalization or death, particularly in the aged? Let me acknowledge from the start that our knowledge of the epidemiology of hypothermia remains quite limited. There is little published information except for a few British reports. For example, the Royal College of Physicians of London conducted a study in 1966 which stated that 1.2 percent of elderly hospital admissions were officially reported as hypothermia on the medical record.[6] A decade later, in 1977, a pilot study of low body temperatures in old people found that 3.6 percent of elderly patients admitted to hospitals had hypothermia.[7] We should note that each of the British studies stresses the tendency to underestimate the true proportion of hospital admissions which are due to hypothermia as well as hypothermia-caused deaths. Even these underestimated fractions, however, demonstrate that hypothermia among the aged is a significant problem, at least in Great Britain.

Because comparable American studies do not exist, the temptation is great to make cross-national inferences from these British estimates. Fortunately, the National Center for Health Statistics in the Department of Health, Education, and Welfare has collected relevant mortality data coded by underlying cause of death. Category E901 represents deaths attributed to exposure to "excessive cold" on the death certificate.[8] Because death (or illness) from hypothermia may result from exposure to cold both inside and outside buildings, this category lumps varying circumstances of exposure together in order to establish total mortality attributed on death certificates to the general cause, "exposure to cold." With this in mind, I have arranged the unpublished NCHS data to show deaths occuring in the United States for different age groups from 1970 to 1977 (viz. Table I).

The question remains, do the data show the elderly to be at greater risk than the rest of the population? Using observed numbers of hypothermia deaths for the numerator, and between-census population estimates published by the Bureau of the Census for the denominator, mortality rates are easily obtained.[9] Each annual mortality rate represents the actual number of reported hypothermia deaths by estimated total population at risk in millions. Graphing these rates permits straightforward appreciation of differences between the aged and the nonaged as well as trend observed. Figure I presents this comparison of annual mortality rates due to hypothermia for Americans age 65 and over and under age 65 from 1970 to 1977.

The medical literature indicates that physiological susceptibility to hypothermia increases in advanced old age. Social gerontology has amply documented the unique economic and social hardships of the very old, the so-called "old-old." The Royal College of Physicians' Survey identified those age 75 and over as constituting one of two age groups with highest rate of hospital admission due to hypothermia (the other group consisted of infants less than 12 months). Therefore, it is also important to show differences in death rates of Americans over and under age 75. Figure II does so using the same NCHS data for years 1970 to 1977.

Two alarming conclusions are inescapable. First, there exists a marked and consistent difference in mortality rates between the old and the rest of the population. This difference is particularly dramatic in the case of those age 75 and over for whom the risk

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Footnotes at end of article.

of dying from excessive cold is at least 5 times as great as for those under age 75 during each year of observation. Second, a striking rise in mortality rates for the elderly occurs in 1976 and 1977. Because data from 1978 and 1979 is not yet available, we cannot be certain whether this upturn has continued or abated. In the face of worsening economic prospects for the elderly poor, it is reasonable, I believe, to assume that this upward trend in mortality has in fact continued.

The data presented here needs to be interpreted with caution. Mortality rates deflate the problem because hypothermia is often difficult to diagnose, particularly when the body is discovered some time after death. The relationship between hypothermia and other illnesses is also complex, and while hypothermia may be the prime cause of death, it may be the related illness that is recorded on the death certificate. These mortality rates, therefore, are flawed by a systematic bias towards underestimation of numerator. Nevertheless, since no firm evidence on the number of deaths wholly or partly due to hypothermia exists elsewhere, we are compelled to rely on NCHS data, the best available at the national level.

Although the reported number of hypothermia-related deaths is relatively low, the true magnitude of the problem allows no room for complacency. Mortality rates for any disease condition represents merely "tip of the iceberg" estimation of the underlying magnitude of the problem. Permit me briefly to explain why. First, official mortality rates from death certificates do not include undocumented deaths due to hypothermia. Second, mortality rates tell us nothing about the extent of morbidity caused by the disease or condition in question. Because many more people freeze than freeze to death, we can be certain that the morbid consequences of hypothermia extend far beyond the number of total deaths caused by hypothermia. Third, in addition to mortality and morbidity, various physiological changes of unknown clinical significance result from hypothermia. These effects, by definition, are excluded from mortality as well as morbidity estimates. Fourth, beyond pathological and physiological changes, exposure to cold causes great human discomfort and misery. In terms of personal comfort and preferences, who would deny that feeling cold inside one's home greatly reduces the quality of life? Of course, our health statistics cannot report the intensity and magnitude of human misery resulting from hypothermia. Yet an accurate understanding of the entire problem is impossible without taking into account each level of adversity. To clarify this point, I have prepared a schematic representation of the health-related consequences of hypothermia. Although quality of life considerations are not included, the figure does suggest one way to place the problem of hypothermia into a general public health context.

3. POLICY ASPECTS

The information presented today alerts us to the poverty of current knowledge of hypothermia. Clinicians and basic scientists need to elucidate more fully the pathophysiological mechanisms; epidemiologists should provide us with sound estimates of the magnitude and distribution of the condition; social policy specialists ought to explore specific preventable causes in the social environment that predispose individuals and groups to hypothermia. Only if this three-pronged attack is waged can we be assured that current and future efforts by the government will be successful in diminishing the misery, morbidity, and mortality caused by hypothermia.

Often forgotten is the fact that the government is compelled to make important and costly policy decisions under conditions of great uncertainty because the prevailing knowledge and wisdom of "experts" contribute little to reduction of that uncertainty. Hypothermia is a case in which adequate clinical and epidemiological knowledge is absent, yet the need for ameliorative action is present. Congress is to be credited for recently approving legislation aimed at providing emergency assistance to help the poor heat their homes this winter. The action by Congress represents the crucial first step towards formulation of long-range policy to combat the problems created by inflation of energy costs. Permit me to conclude by offering four recommendations to the Senate Special Committee on Aging that go to specific intervention measures as well as evaluation of energy assistance policy.

The first recommendation is concrete and requires no additional funding. Congress should instruct appropriate government agencies to verify that hospitals, clinics, and health professionals are, in fact, using low-reading clinical thermometers. Since the ordinary thermometer inaccurately records the hypothermia condition, using it alone will result in failure to record hypothermia and consequent deflation of the importance of the problem.

The second recommendation is equally practical. Congress should initiate study of the advisability of providing electric blankets to high risk groups such as the elderly poor. More effective than using extra bedclothing, extra blankets, or a hot water bottle, the electric blanket provides warmth and comfort during the entire night at relatively low cost. Of course, safety is one important issue that requires investigation. Providing means to purchase electric blankets, therefore, represents a highly cost-effective measure to improve the quality of life and health of people chronically exposed to cold. This same recommendation has been made in 1977 by the national study in Great Britain conducted by the Center for Environmental Studies.[10] Now that Congress has approved funding of heating assistance to the poor, we must find ways to get that assistance directly and specifically to those in need. One important target group is the elderly who rent rather than own their homes, particularly those who live in large tenement buildings in urban settings. Energy assistance directed towards them may be reduced and diffused by several intermediaries including the landlord and the building manager. Providing money for an electric blanket is minimum assurance that the individual in need has been personally helped by the government.

The third recommendation has scientific and public policy implications. Congress should recommend a study of the epidemiology of hypothermia in the United States. Determining the prevalence and distribution of this condition is necessary for identifying preventable causes. Prevention, in turn, should constitute the cornerstone of government assistance programs. Thus, epidemiological investigation is required to ensure that current and future government efforts are effective.

The fourth and last recommendation concerns human values rather than scientific knowledge or program effectiveness. Why should the government assist low-income elderly and other economically disadvantaged groups in meeting increased residential fuel costs? Alternatively stated, how can we build public consensus on the moral necessity of government intervention? The American public, I believe, is prepared to support the proposition that any citizen, old or young, black or white, female or male, is entitled not to freeze at home for lack of money. However, more public education is needed to understand that adequate home heating is a necessary precondition of health. Those in our society who suffer and die from living in a cold home environment suffer and die unnecessarily. By alleviating suffering and by preventing deaths, energy assistance to the poor enhances the moral quality of our entire society. Has not the time arrived when heating assistance ought to join health, nutrition, income, and transportation services as essential components of basic life-supports? Opposing government assistance creates in the near future the likelihood of an epidemic of hypothermia affecting individuals compelled to live without warmth at home. Opposing government assistance denies the right of the elderly to finish their days without the cruel and unnecessary hardship of exposure to cold. The need for government assistance arises, therefore from our recognition of the right of each person not to suffer cold inside the home, the last sanctuary of comfort and dignity.

Footnotes at end of article.

TABLE I.—DEATHS FROM "EXCESSIVE COLD" (E901) FOR DIFFERENT AGE GROUPS FROM 1970 TO 1977

Age group (years)	1970	1971	1972	1973	1974	1975	1976	1977
1	11	5	4	4	2	1	2	2
1 to 4	5	0	0	2	3	5	2	1
5 to 9	3	1	2	1	1	1	0	0
10 to 14	5	5	4	2	1	3	6	6
15 to 19	9	13	8	11	8	13	8	21
20 to 24	10	13	10	18	11	18	15	24
25 to 29	11	10	10	17	15	11	26	17
30 to 34	14	15	10	19	9	15	13	17
35 to 39	18	21	16	23	21	14	12	21
40 to 44	20	22	36	22	23	22	20	27
45 to 49	46	23	46	27	32	23	21	50
50 to 54	51	40	48	33	36	38	41	51
55 to 59	43	26	62	24	29	29	37	57
60 to 64	52	41	60	44	27	34	52	70
65 to 69	42	26	40	34	32	35	38	56
70 to 74	37	34	34	31	24	34	47	63
75 to 79	37	30	36	21	23	23	21	50
80 to 84	29	18	26	27	21	24	32	58
85 to 89	16	10	28	13	14	10	19	29
90 to 94	5	6	6	6	12	3	7	10
95 to 99	1	2	4	0	2	1	3	3
100	0	0	0	1	1	0	1	1
Age not stated	1	0	0	1	1	2	1	0
Total	466	361	490	381	348	359	424	634

Source: Unpublished data from National Center for Health Statistics.

FOOTNOTES

[1] Arlene Goldman et alii, "A Pilot Study of Low Body Temperatures in Old People Admitted to Hospital," *Journal of Royal College of Physicians*, Volume 11, No. 3, April 1977.

[2] James Reuler, "Hypothermia: Pathophysiology, Clinical Settings, and Management," *Annals of Internal Medicine*, October 1978.

[3] A. L. Macmillan et alii, "Temperature Regulation in Survivors of Accidental Hypothermia of the Elderly," *The Lancet*, Saturday 22, July 1967.

[4] K. J. Collins et alii, "Accidental Hypothermia and Impaired Temperature Homeostasis in the Elderly," *British Medical Journal*, February 5, 1977.

[5] Malcolm Wicks, *Old and Cold: Hypothermia and Social Policy*, Heinemann Educational Books Ltd., 1978.

[6] Royal College of Physicians of London, *Report of Committee on Accidental Hypothermia*, 1966.

[7] Goldman, *Op. cit.*, 1977.

[8] Category E901 "Excessive Cold" lists "exhaustion from cold, freezing, frostbite, and frozen" as items for inclusion. Source: Eighth Revision International Classification of Diseases, Adopted for Use in the United States, 1965, U.S. Department of Health, Education, and Welfare, National Center for Health Statistics.

[9] Population estimates are taken from Table 1 of "Estimates of the Total Population of the United States including Armed Forces Overseas by Age, Sex, and Race: July 1, 1970 to 1977 (in *Current Population Reports:* "Population Estimates and Projections" Series P–25, No. 721, Issued April 1978).

[10] Wicks, *Op. cit.*, 1978.●

GEOTHERMAL ENERGY TO PRODUCE ALCOHOL

● Mr. CHURCH. Mr. President, the Senate recently passed its synthetic fuels legislation, S. 932, which I was pleased to see incorporate my geothermal and gasohol bills. Both geothermal energy and alcohol fuels produced from renewable resources will receive a big boost toward attaining the great potential they possess with the financial incentives that are contained in the synthetic fuels bill.

A magazine article which appeared in the December 1979 issue of Gasohol U.S.A. illustrates the vast potential both geothermal energy and alcohol fuels have in my home State of Idaho. Mr. Bob Erkins proposes to utilize the geothermal resources on his White Arrow Ranch to produce 10 million gallons of ethanol annually. He has been working closely with the Boise energy-consulting firm, Integrated Energy Systems, Inc., to achieve this goal.

I am hopeful that the provisions of S. 932 will encourage Mr. Erkins and others to push ahead with such ambitious projects, which can only be good news for our national goal of energy self-sufficiency.

Mr. President, I ask that a copy of the Erkins' article be printed in the RECORD, and commend it to the attention of the Senate.

The article follows:

GEOTHERMAL ENERGY TO PRODUCE ALCOHOL

When Bob Erkins came to Idaho, the land he wanted was ready for a stranger from Florida because no one had bid on it for years. In fact none of the locals wanted the ranch because the water on it was boiling hot, and cattle couldn't drink it.

But this was something right down Erkins' alley. He wanted hot springs to heat greenhouses without fuel costs. The rest soon became history. Erkins made a bit of money growing seedlings and selling them to the forest service, among others. He also made White Arrow Ranch famous. But all this was before the formation of OPEC.

Now Erkins hopes to have a $25 million plant using geothermal waters to produce ethanol. Erkins hopes to have the plant producing 10 million gallons of ethanol in a year. Most of this production would be sold to bulk plants and terminals.

Ray Sullivan of Times-News at Twin Falls, Idaho went out to see Erkins recently. The opener he got from Erkins put the reason for being of the geothermal plant into a nutshell. Erkins said the plant would mean Arab shieks wouldn't get as many U.S. dollars with which to build harems since his plant would eliminate 108,000 barrels of oil annually. Byproducts from the farm produce used to manufacture the ethanol could also be used to produce vitamins, liquid slurry or pelletized cattle feed, he said.

A one-year feasibility study could turn up other profitable byproducts, says Lou Esposito, vice president of Integrated Energy Systems, Inc., of Boise, one of several corporations working with Erkins on the projects. One possibility is to grow algae from the geothermal water after it is run through the plant, then substitute the algae for some of the farm produce to help produce more ethanol, Esposito explained. If the plant is built, 18 jobs will be created with an average salary of around $10,000 per year.

The plant will become a reality if the feasibility study indicates:

The geothermal water is hot enough—250 F.

There is an adequate hot water supply—a minimum of 710 gallons per minute—to run the plant.

There are sufficent markets for the ethanol byproducts to make it profitable enough to attract investors.

Erkins said three major food companies, one chemical company and a major Canadian conglomerate have said they would be interested in investing in the plant if the study backs up initial reports.

Erkins says the increased demand for agricultural products would not inflate supermarket prices but would serve to stabilize the market.

Some 150,000 acres of farmland would be required to grow the estimated 300 tons of produce a day it will take to operate the ethanol plant. The produce would have to be trucked to the plant site, creating more jobs to grow and haul the needed products.

Ethanol ideally could be sold to farmers to run farm machinery on 100 percent alcohol fuels or a mix of alternate fuels and gasoline for farm and passenger vehicles. Cars can be converted to use 100 percent alcohol fuel for under $100, Erkins said.

A geothermal plan could mean a savings of $900,000 a year to heat a similar conventional plant with 600 million cubic feet of natural gas, or some 29,000 tons of coal.●

AMENDMENT TO PROTECT THE ANCESTRAL HOMELAND OF THE TLINGIT INDIANS

● Mr. McGOVERN. Mr. President, on November 28, 1979, I introduced an amendment, No. 716, to H.R. 39, the Alaska lands bill. The purpose of that amendment was to protect the ancestral homeland of the Tlingit Indians living on Admiralty Island. As I mentioned in my introductory remarks, the people of Admiralty Island. represented by their native village corporation, Kootznoowoo, Inc., are embroiled in a lawsuit with Shee Atika, Inc., the urban native corporation representing the residents of Sitka, a town approximately 40 miles from Admiralty Island. Kootznoowoo, Inc. argues that Shee Atika has no legal right to make its land selections, under the Alaska Native Claims Settlement Act, on Admiralty Island.

Both last year and again, this year, the House of Representatives carefully considered this matter when it took up Alaska lands legislation. In both instances, the House wisely chose to take a "hands off" approach to the dispute, preferring to leave the matter to a negotiated settlement by the parties, or to resolution by the courts. The Senate Energy Committee adopted this same approach last year. During this year's markup, however, the Senate committee reversed itself and adopted an amendment which would unilaterally resolve the pending lawsuit in favor of Shee Atika and against the residents of Admiralty Island. The committee took this action without giving the people of Admiralty Island an adequate opportunity to be heard, or to respond to the information which Shee Atika had provided the committee.

My amendment, which adopts the language from the Tsongas-Roth substitute for H.R. 39, was merely designed to preserve the status quo.

Shortly after introducing my amendment, I was inundated with materials from Shee Atika and its attorney which, it was suggested, would show how "grossly misinformed" I had been in offering this amendment. It was requested that I correct my RECORD remarks so as not to be a party to my earlier "misstatements."

Mr. President, I have now had an opportunity to review the materials provided to me by Shee Atika and its representatives. I have also reviewed the lengthy record and extensive documentation which surround the controversy. Based on that review, I am today more convinced than ever that Kootznoowoo and the people of Admiralty Island deserve the support of the full Senate. I believe my amendment adopts a fair and reasonable approach to this question. And most importantly, I believe that the information provided by Shee Atika to the Senate Energy Committee, and to me, is misleading and may have created false impressions with regard to several key matters upon which this dispute is based.

Because all of my colleagues have recently received some of this "information" from Shee Atika, Inc. and because you were invited to contact my office for further information, I would like to take this opportunity to set forth some of the arguments which Shee Atika has made, and then provide the facts announcing each contention.

ARGUMENT

Kootznoowoo, Inc. invited Shee Atika to make its land selections on Admirality Island in 1975, then changed its mind.

FACT

This is simply incorrect. Kootznoowoo has never invited Shee Atika to make its land selections on Admiralty Island. Quite the opposite; Kootznoowoo has publicly, repeatedly and consistently objected to land selections on Admiralty Island by either Goldbelt, Inc., representing the natives of Juneau, or Shee Atika, representing the natives of Sitka. A letter dated August 27, 1975, from Kootznoowoo's counsel to the Alaska State director of the Bureau of Land Management, sets forth clearly the formal objections to the proposed Shee Atika and Goldbelt land selections on Admiralty Island. I have also seen copies of various newspaper articles from 1975, which clearly indicate that these objections had been publicly reported and were widely known.

Shee Atika's attempt to use a letter, dated August 25, 1975 (incorrectly referred to as August 25, 1979, in some of their materials) which states that Kootznoowoo, Inc. would not object to certain limited selections on Admiralty Island if other conditions were met, is misrepresentation. At that time, Kootznoowoo was under intense political pressure from the larger Goldbelt and Shee Atika Corporations to permit land selections on Admiralty Island. In an effort to forestall litigation and promote a reasonable compromise, Kootznoowoo let it be known that it would not object to certain selections on Admiralty Island if Shee Atika would reduce its selection on the island and would work with Kootznoowoo to keep Goldbelt from selecting on Admiralty Island. This letter, then, was simply a settlement offer.

Shee Atika's response was to reject the proposal, work in support of Goldbelt selections on Admiralty and to file a lawsuit, on November 25, 1975, seeking even more extensive land selections on Admiralty Island.

For Shee Atika to now produce this letter, containing a conditional offer which it rejected over 4 years ago, and suggest that it was an invitation to select lands on Admiralty Island is misleading in the extreme.

ARGUMENT

Because of Kootznoowoo's actions in this matter, Shee Atika is near bankruptcy and must have a legislative solution to its land selection difficulties.

FACT

Shee Atika has failed to disclose that it brought the first lawsuit in this matter. Shee Atika filed suit on November 25, 1975, in the U.S. district court in Washington, D.C., seeking the right to make extensive land selections on Admiralty Island. If Shee Atika had not brought the first suit, it is entirely possible that the matter could have been resolved administratively long ago. It was only after Shee Atika filed suit that Kootznoowoo was forced to bring its own lawsuit to protect its legal rights.

Shee Atika further suggests to the Members of the Senate that because the litigation is dragging on and on, it faces bankruptcy. Yet, the attorneys for Shee Atika have repeatedly agreed to, and most recently requested, stays of the judicial proceedings. On November 1, 1979, the attorney for Shee Atika joined the Government in requesting a further 2½-month continuance from the court.

It would appear to me that Shee Atika is trying to play both ends against the middle. It goes before the court to seek repeated delays in the judicial process, then comes to the Senate to argue that because of the slow moving litigation, it must have a legislative solution to its problems to avoid bankruptcy.

On the question of Shee Atika's financial conditions, I have seen no evidence. However, it is common knowledge in southeast Alaska that Shee Atika borrowed heavily to finance the construction of a resort complex whose economic viability was shaky from the start. Moreover, it entered into this questionable venture after the litigation in this matter had been commenced. Therefore, whatever financial problems Shee Atika is having are the result of poor business decisions which are wholly unrelated to the Admiralty Island land dispute. I view this effort as Shee Atika's attempt to be "bailed out" of the financial difficulties it has brought upon itself.

Finally, Shee Atika has stated that it "does not receive funds pursuant to the (Alaska Native Claims) Settlement Act."

The 1976 amendment to ANCSA (Public Law 94-204) specifically provided Shee Atika, Inc. with a grant of $250,000. This amount was in addition to the per capita payments which Shee Atika shareholders receive through Sealaska, the southeast Alaska Regional Corp.

ARGUMENT

There are no suitable lands available off of Admiralty Island from which Shee Atika can make its selection.

FACT

Kootznoowoo commissioned a study of this question by a respected timber consultant in 1976. His report states clearly and categorically that there is ample timber land off of Admiralty Island to allow both Goldbelt and Shee Atika to make advantageous timber exchanges. This is, of course, precisely what Goldbelt has recently done. Shee Atika has refused, however, ignoring the suitable exchange land available.

In the final analysis, though, it is not so important what Kootznoowoo's timber consultant, or Shee Atika's consultant, have to say on this matter. The real question is, what does the U.S. Forest Service say?

On this point, there can be no doubt: The Forest Service has identified over 110,500 acres from which Shee Atika could make its selections. From this large amount, the Forest Service has put together a package of approximately 29,000 acres which has been offered to Shee Atika.

In its submission to me, Shee Atika reproduced one page, G6, from the final environmental impact statment on the Tsongas land use plan. After reviewing pages G7 through G11, however, it is evident that the Forest Service has offered Shee Atika a desirable alternative to its Admiralty Island selection. Specifically, the off-Admiralty package offers 10,000 acres and a value of $8 million in excess of their selections on Admiralty Island. Thus, I can see no reasonable basis upon which Shee Atika can argue that there are no off-Admiralty lands available.

ARGUMENT

Kootznoowoo is seeking treatment superior to other village corporations while, at the same time, forcing Shee Atika into an inferior status.

FACT

This argument ignores reality. Shee Atika would have us believe that, but for Kootznoowoo, it would have its lands and its economic problems would be solved. In fact, land conveyances under the Settlement Act are progressing very slowly for all corporations. As of October 31, 1979, only about 75 out of the 200 plus native corporations had received any land conveyances whatsoever, and perhaps no more than a handful, if that many, had received all of their conveyances. Put another way, of the 44 million acres which are to be conveyed to native corporations, only 10.4 million acres, or less than 25 percent of the total, had actually been conveyed as of that date. It is apparent, then, that Shee Atika's position at this time is no better, and no worse, than the majority of native corporations. It should also be noted that Kootznoowoo, Inc. has not yet received any land conveyances under the Settlement Act.

As to the assertion that Kootznoowoo is seeking to be treated better than other corporations, and wants all of Admiralty Island for its own use, quite the contrary is true. The Tlingit culture is based on traditional subsistence activities. The natives of Kootznoowoo have no objection to others, including members of the urban communities, from using Admiralty Island for traditional purposes.

They do not, however, regard widespread clear-cutting of forests as a traditional use. It is Kootznoowoo's intent to exchange their timber cutting rights for lands off of Admiralty Island. The Alaska Lands bill will give it that right. Kootznoowoo does not want all of Admiralty Island's timber for itself; it wants the Island's timber and other natural resources preserved for the benefit of all Americans.

ARGUMENT

The McGovern amendment is an ill-conceived proposal based on misinformation and a lack of familiarity with the facts.

FACT

It is important to note that my amendment does not extinguish any valid rights to land selections on Admiralty Island. It does not force Shee Atika to make its selections off of Admiralty. Rather, it provides a legislative framework within which a negotiated settlement can be reached by the parties, or it would allow the matter to be resolved judicially, after a full and complete presentation of all the evidence.

What is involved here is a question of simple fairness. The attorney for Shee Atika argues that because Congress has, from time to time, legislatively resolved matters in litigation, that it should do so in this instance and resolve the lawsuit in favor of Shee Atika.

The fact that Congress has the means to legislatively resolve lawsuits does not mean that that power should be employed hastily or unfairly. When Congress takes such drastic action, it does so after carefully reviewing the merits of the question and after giving both sides to the dispute an opportunity to be heard. Such was not the case here.

Kootznoowoo, Inc. was totally unaware of the nature of the misinformation being conveyed to the members of the Energy Committee, nor was it given any opportunity whatsoever to respond to or rebut the charges and allegations made against it by Shee Atika and its lobbyists. If it had been accorded the elemental fairness to respond, I doubt that the Energy Committee would have taken the action it did.

I will conclude on this note. If there are any among my collegaues who view my introduction of this amendment as an attempt to delay or otherwise impede the consideration of H.R. 39, you can rest assured that such is not the case. My intent in this area is narrowly drawn. I believe that the Tlingit Indians of Admiralty Island have been wronged by the Energy Committee, and I intend to work to have that injustice corrected. I would welcome the support of my colleagues in that effort.●

SYNFUELS IN THE REAL WORLD

● Mr. BELLMON. Mr. President, we are presently in conference with the House on the synfuel bill, a bill that will authorize the expenditure of tens of billions of dollars to get a synthetic fuel industry going in this country. There was an interesting article in the December 11, 1979, Wall Street Journal about a Canadian synthetic fuel project that I have visited, and I would like to share that article with my colleagues.

I shall submit the full text of the article to be printed in the RECORD at the conclusion of my remarks.

The history of this synthetic fuel project can provide us with instructive—and somewhat sobering—lessons. The first lesson is that Hofstadter's law still holds. Hofstadter's law states that:

> It always takes longer than you expect, even when you take into account "Hofstadter's Law."

Since it will take longer, it will cost more. That is lesson No. 1.

The second lesson we can learn is that, when it comes to synthetic fuel production on a commercial basis, many lessons have already been learned by several American oil companies. I refer, of course, to Sun Oil, Cities Service, Gulf Oil, and Conoco, all participants in the Canadian oil and tar sands projects.

So far, the truly infuriating aspect of our national energy policy is that no one who knows anything about energy production has been allowed to try to solve our energy problem.

The energy problem, simply stated, is that there is insufficient domestic production of liquid fuels to meet demand. And yet, rather than turn to our domestic producers of liquid fuels for the solution, Congress repeatedly has crippled the energy industry by taxing away the capital needed for rapid increase in oil production activities.

I have often thought that the surest way to kill the solar power industry would be for the oil companies to get heavily involved in it. If the oil companies made a profit off solar energy—and investors could not long produce it unless they did make a profit—there would no doubt be a dozen Solar Energy Windfall Profit Tax bills introduced the day after the oil companies first quarterly earnings report.

Mr. President, I hope that we learn the lessons the Canadian Government and certain American oil companies have already paid for. If we do, then our synfuel bill may produce beneficial results. If we continue to make the mistakes we have made thus far, I fear that we are doomed to failure.

The article follows:

[From the Wall Street Journal, Dec. 11, 1979]

CANADIAN SYNTHETIC FUEL PROJECT PROVIDES INSTRUCTIVE, AND SOBERING, LESSON FOR U.S.

(By Leonard Zehr)

MILDRED LAKE, ALBERTA.—The U.S. Congress is about to approve a multibillion-dollar authorization to stimulate production of so-called synthetic energy from such sources as coal, tar sands and oil shale. Yet the U.S. has relatively little experience in the field, without a single commercial-scale "synfuel" plant in operation.

Here at Syncrude Canada Ltd., the world's largest synthetic oil facility, the U.S. can learn some useful—though hardly heartening—lessons about the synthetic-fuel enterprises it is about to launch.

Located on the vast Athabasca oil sands, estimated to contain 26.5 billion barrels of recoverable oil, Syncrude is dredging up a maximum of 200,000 tons of oil sand a day and normally producing 100,000 barrels of honey-colored syncrude a day. The company is the second miner on the Athabasca sands, the pioneer being Sun Co.'s Great Canadian Oil Sands Ltd. unit, which began in 1967.

Syncrude's history is riddled with difficulties. Opened in July 1978, the $2.3 billion (Canadian) plant produced at only half-capacity for the first year, and costs have soared.

PROFITS MAY FLOW

Robert Robinson, oils-analyst for Canadian stockbroker Gardiner Wilson Ltd., estimates that Syncrude lost $45 million in the first half of this year. But with the recent spurt in oil prices, he figures the project will break even for the year. If output can average 80,000 barrels a day next year, he says Syncrude should earn a profit of $115 million in 1980.

Oil sand, also called tar sand, is a thick, tar-like substance made of bitumen, the raw material for synthetic oil, and a mixture of sand and various minerals. Although bitumen is a liquid, it has the consistency of molasses. The only way to recover it is either to mine the oil sand and separate out the bitumen or to heat the oil sand underground and pump the bitumen to the surface in what is known as the in-situ process. Upgrading bitumen to usable oil is a complicated refinery process that involves the addition of hydrogen and the removal of nitrogen and sulphur.

Syncrude was established in 1964 by the Imperial Oil Ltd. affiliate of Exxon Corp. and the Canadian subsidiaries of Cities Service Co., Gulf Oil Corp. and Atlantic Richfield Co. At that time, capital costs were pegged at $356 million. But by 1972, after the Albert government approved the project, the cost had tripled.

Construction began in the spring of 1974. That September, with inflation roaring following the Arab oil embargo, a final cost study revised the capital figure to $2 billion, and Arco withdrew from the consortium.

BACKERS ALMOST BACKED OUT

Unable to find new investors to pick up the extra $1 billion, Imperiad, Gulf and Cities Service were on the verge of shelving Syncrude. But an 11th-hour rescue was arranged by the governments of Canada, Alberta and Ontario. They agreed to provide $600 million of equity, and the three companies also raised their ante.

Canada subsequently assigned its interest to Petro-Canada, the government-owned oil company, and Ontario sold its stake to Pan-Canadian Petroleum Ltd. Albert Energy Co., 50%-owned by the province, recently exercised an equity option and then sold half its interest to Canadian companies controlled by Petrofina S.A. of Belgium and Conoco Inc.

Even with the last-minute equity input, the project probably wouldn't survive without hefty incentives from the Canadian government. Syncrude is currently allowed to charge $24.60 a barrel for its output, or almost $11 a barrel more than the controlled domestic price of conventional crude. The government reimburses refineries for the extra cost of using synthetic crude. And Syncrude's royalties to Albert qualify for federal tax write-offs, resulting in an estimated saving to Syncrude of some $1 billion over 25 years.

Most experts agree that without the subsidies, any synthetic oil that the U.S. produces will cost up to $30 (U.S.) a barrel in 1979 dollars. (The world price of crude oil currently averages $22.)

Besides heavy costs, Syncrude has encountered unexpected operating problems. "The big danger with synthetics," says Tom Scott, a Petro-Canada manager detailed to Syncrude, "is that any production snag has a crippling domino effect through the entire operation."

The company has had trouble removing the overburden, or nonoil materials on top of the oil sand, and the soft consistency of the oil sand itself has hindered mining efficiency and raised operating costs. New equipment costing $300 million (Canadian) is being considered to help.

Last winter's subzero temperatures turned much of the stockpiled oil sand into unmanageable frozen boulders that defied the mining machinery. That could happen any winter, and a solution hasn't been found.

The project also involves environmental risks. Stuart Grant, assistant director of the Alberta oil sands environmental research program, says potential problems exist with land reclamation, sulphur-dioxide emissions and leaks from the nine-square-mile pond where Syncrude's wastes are stored.

Another worry is acid rain, which results when sulphur dioxide reacts with water vapor in the atmosphere. Sulphur-dioxide emissions in Alberta are expected to increase 28% by 1985, largely from oil-sands plants, says Hennie Veldhuizen, Canadian air-pollution official. "Thousands of wilderness lakes could be killed off."

But Mr. Grant contends that the greatest threat to the environment is posed by the influx of thousands of people into these remote areas, drawn by projects like Syncrude.

Nevertheless, oil sands are the cornerstone of Canada's energy strategy. The government is hoping for one million barrels of synthetic oil a day by 1990. That compares with two million barrels a day of synfuels that the Carter administration expects the U.S.—already years behind Canada—to produce in the same year.●

THE "SAGEBRUSH REBELLION"

● **Mr. CHURCH.** Mr. President, Secretary of Interior Cecil Andrus—a former Governor of Idaho—recently wrote a perceptive piece for the Wall Street Journal on the subject of the "sagebrush rebellion," the popular name for growing demands in the West that land now controlled by the Federal Government be "returned" to State control.

Secretary Andrus makes an extremely good case for the argument that this rebellion is really an attempt to turn over millions of acres of land, now managed for all citizens, to special interests.

The Secretary writes:

> It is unfortunate that the sideshow being staged by advocates of the Sagebrush Rebellion diverts attention from the central issues. Cries of "states" rights and "equality" are being used in the thinly veiled attempt to open up the public lands to questionable development and to other special interest exploitation, to the detriment of the land and its resources. Speculators believe that if they can pry the land loose from federal jurisdiction, they will have an easy time carving it up. This would be the ultimate "lockup" of the land.

Mr. President, I commend this article to my colleagues, and ask that the Secretary's thoughtful commentary, from the December 5 issues of the Wall Street Journal, be printed in the RECORD.

The article follows:

[From the Wall Street Journal, Dec. 5, 1979]

THE ATTACK ON FEDERAL LANDS

(By Cecil D. Andrus)

Proponents of the so-called Sagebrush Rebellion, seeking wide popular support, argue that the federal government is trying to "lock up" hundreds of millions of acres in the West.

Quite the contrary, for it is federal policy which has kept these hundreds of millions of acres available for public access, for numerous types of economic development, and for the conservation of a rich land heritage now shared by all Americans.

The main target of the Sagebrush Rebellion is some 174 million acres in the 11 Western states and additional millions in Alaska under jurisdiction of the Bureau of Land Management (BLM), an agency of the Interior Department.

Proponents of the Sagebrush Rebellion advocate shifting jurisdiction over the public land, from the federal to the state governments.

They claim they are striking a blow for states' rights and equality. They say the federal government should "give back" the land to the states.

What they conveniently overlook is the fact that the federal lands never did belong to the Western states, which upon entering the Union, signed irrevocable agreements disclaiming all right and title to federal public lands within their borders. There was good reason for this. The public domain lands of the West were acquired by the national government through purchase and warfare, at the expense of all Americans living at that time. Now, Nevada is seeking to reverse a consistent line of judicial decisions stretching back more than a century. This would unravel past land transactions, and possibly cast a legal cloud over not just BLM lands, but also National Forests, National Parks and Monuments, National Wildlife Refuges, military installations and test sites, and even Indian reservations.

The result would be a thoroughly chaotic legal, economic, and resource management situation for all the Western states. It would hobble our national energy efforts and obliterate essential environmental programs. In short, it would be a disaster not only for the Western states but for all of our citizens from Maine to Hawaii who have a stake in the public lands and their resources.

SIGNIFICANT CONTRIBUTIONS

These public lands contain more than half of our total Western coal reserves, more than three-quarters of our oil shale, more than three-quarters of our known on-shore oil and gas reserves, and much of our geothermal energy potential. Moreover, they make significant contributions to meeting the nation's needs for food and fiber, hard rock minerals, building materials and outdoor recreation of all kinds. They embrace scenic, wilderness, historic, and archeological resources of immeasurable value.

Deciding how we should use and conserve the resources of these public lands is a major item on our national agenda. Open discussion and extensive debate over management of these lands is healthy and constructive for the West and for the nation.

It is unfortunate that the sideshow being staged by advocates of the Sagebrush Rebellion diverts attention from the central issues. Cries of "states' rights" and "equality" are being used in the thinly veiled attempt to open up the public lands to questionable development and to other special interest exploitation, to the detriment of the land and its resources. Speculators believe that if they can pry the land loose from federal jurisdiction, they will have an easy time carving it up. This would be the ultimate "lockup" of the land.

There is understandable frustration over past mismanagement of some federal lands. There is concern on the part of the longtime users of federal lands who find they are now forced to compete and to share with other interests, and who find they no longer have carte blanche on the federal lands. There are those who resent recent requirements that they pay fair market value for use of federal resources.

Some astute front-line correspondents—respected Western journalists—see the Sagebrush Rebellion as a revolt against a series of land management laws culminating in the Federal Land Policy and Management Act of 1976 (FLPMA).

Contrary to the rhetoric of some of the leaders of the Sagebrush Rebellion, these laws were not perpetrated upon the West by some distant and oppressive landlord. They were the result of a steady evolution of attitudes and values about the resources of the public lands and were shaped—and largely drafted—by Westerners in Congress, in major interest groups, and in such panels as the Public Land Law Review Commission (13 of 19 members from Western states).

In FLPMA, it was recognized that national policy is to conserve the public lands rather than to dispose of them. By acknowledging this policy which has been in effect for decades, Congress upset those people who oppose the concept of federal public lands and those who seek special advantage by carving up the Western landscape.

Congress also faced these realities:

Population and economic growth, including increasing demands for energy and minerals, are putting tremendous new pressures on the public lands.

BLM, working with state and local officials and interests, must actively manage the land.

While much of the land can and should be open to multiple uses, not all land can be open to all uses.

Some land must be left in its natural state, not simply to mollify backpackers, but to protect the remaining clean air and water that is essential to the West—which, despite its great acreage, is largely arid and deceptively vulnerable.

The federal policy, mandated by law, is to work closely with the states and local citizens; to see that the land and resources are shared fairly by competing users; and, to balance out the need for economic development and recreational use with the need for conservations.

If the federal lands were turned over to the states, some curious results would ensue.

There are institutional barriers to balanced management of public lands by the states. In Idaho, for example, the state constitution says state lands must be managed for the highest return to the school endowment fund. If they followed that to the letter, as the State Land Board must do, it would mean a lot of those lands would be sold, or leased for single-purpose harvest—either timber or mineral.

There are economic barriers to balanced state management of public lands. It is extremely doubtful that the state governments could appropriate the large sums necessary for proper management, especially in view of the recent tax revolts in several states. Some states could do an adequate job, perhaps, but others would not be able to handle it, and the resources would suffer.

POLITICAL BARRIERS

As a former Western governor, I can also testify that there are political barriers to balanced management of public lands by states. Economic pressure groups would put overwhelming, sometimes irresistible pressure on elected officials to sell off the lands for single-purpose use.

Federal law provides means for transferring public lands to states where it is essential to expansion and development of an area, but this process is based on community need, not the desire of speculators to make a killing.

Clearly, continued federal management of the public lands is in the best interests of the West and all Americans.

It means that Westerners and visitors from everywhere will continue to have access to the public lands, with a minimum of fencing and "KEEP OUT" signs. People in the Western states will maintain a strong voice in how the public lands and resources are managed.

The scenic and wildlife values and air and watersheds will continue to be protected. Federal management means improved range management, payments in lieu of taxes to counties, and any other fiscal benefits to Westerners.

Continued federal management will maintain the land heritage of all Americans. It means that the energy and other resources on the public lands will be developed when and where needed, that speculators will not be allowed to buy up land and then sit on resources in hopes of driving up prices. It means that where public lands resources are used, the taxpayers will receive a fair price for their property.

Transferring public land to state control would end or weaken most of these benefits. Allowing the large tracts to pass into the hands of speculators would be the ultimate in a "lockup" of our land.

SMALL BUSINESSES: SHACKLED GIANTS OF INNOVATION

● **Mr. BAYH.** Mr. President, I call to the attention of this Chamber a public service advertisement appearing in several major national publications. Mr. Eric Schellin, chairman of the board of trustees of the National Small Business Association, was the featured guest in the latest of a series presented by the SmithKline Corp., a major pharmaceutical manufacturer.

This presentation is important not only as a show of solidarity between a major corporation and the small business community, but because the text of Mr. Schellin's remarks cuts straight to the heart of some of the serious economic problems we have faced in this country in recent years. We have been in a cycle of unemployment, rapid currency decline, inflation and recession. The effects of these mercurial economic trends are apparent to all members of this body, but its causes have been less clear, and Mr. Schellin, in his comments, has focused attention on one of the principal causes: Our failure to allow innovation and initiative to flourish in this land, as it did in the earlier history of the United States.

The rapid growth of the economy of the United States was due, in large part, to our ability to meet new needs in the world marketplace. From the assembly line to the light bulb to the integrated circuit, "Yankee ingenuity" has been a mainstay of our strength. While we would be remiss to neglect the role our abundant natural resources played in the growth of the American economy, we must also recognize that these resources were a challenge, conquered using innovative solutions. Moreover, these resources are far from depleted. In fact, the world market for American products is growing, not waning.

This being the case, we owe a great debt to individuals such as Eric Schellin, who remind us that our efforts to secure other policy goals at the expense of our strength in the world marketplace can lead us into treacherous waters. Mr. Schellin does not preach a brand of economic isolationism; rather, he contends that fairlypriced imports, a boon to the consumer, must be a part of the economy. However, Mr. Schellin is a clearheaded entrepreneur, and as such, he realizes that the nations from which fairlypriced imports originate are direct competitors. If we are to compete, we must be able to provide at least one of the aspects of a successful competitor—a lower price, a better product, or a more valuable service.

The United States must be a home for competitive enterprise, where our own industries are allowed to flourish at every level. As Mr. Schellin points out, the primary source of competition is our small businesses. As legislators, we must remind ourselves daily that it is not our job to restrict the ability of American business to survive in a competitive world marketplace. Instead, we should be creating new opportunities for the birth of new small businesses, and for the expansion of existing ones. If we may resolve to help business in America succeed, rather than consistently having to devise new means to save our companies from failing, we will then be living up to our responsibilities to small business owners, corporate executives, and consumers.

I request that Mr. Schellin's remarks be printed in the RECORD.

The remarks follow:

SMALL BUSINESS: SHACKLED GIANT OF INNOVATION

(Men have been taught that the highest virtue is not to achieve, but to give. Yet one cannot give that which has not been created. Creation comes before distribution—or there will be nothing to distribute. The need of the creator comes before the need of any possible beneficiary. Yet we are taught to admire the second-hander who dispenses gifts he has not produced above the man who made the gifts possible. We praise an act of charity; we shrug at an act of achievement.—Ayn Rand in The Fountainhead)

Ask people to define the American Dream. They will answer, "Opportunity." Ours is reputedly the land where a man or woman is free to go from poverty to wealth by applying effort and talent, and by taking risks.

Proprietors of small businesses have long symbolized our shared dream and made it increasingly real. But during the last decade, the dream has paled. Enterprises, especially small ones, have suffered at the hands of government.

Misunderstanding is more to be blamed than malice. Still, we are a poorer people because creativity has been thwarted, and because of the contributions and the special needs of small businesses have not been recognized.

INNOVATION: A VITAL U.S. NEED

Inexpensive imports are a boon to consumers. Let's never fear the simple fact that less developed nations can deliver to us certain goods more cheaply than we ourselves can.

Let's fear only that, at the same time, we may fail to deliver to foreigners other goods of equal or greater value. If U.S. industry is unable to innovate sufficiently, to develop and employ new and more productive technologies, that failure will result. The penalties will be growing unemployment and a shrinking economic base for support of health, education, leisure in old age, or any other quality of life.

SMALL BUSINESS: THE GREAT INNOVATOR

Small businesses are powerfully innovative. They react nimbly to changing needs. Often they are headed by independent, creative people whose energy and resourcefulness put their firms at the cutting edge of competition. The facts speak:

A recent National Science Foundation study found that firms with fewer than a thousand employees have produced about 50 per cent of the nation's "most significant new industrial products and processes" since World War II. Firms employing fewer than a hundred people produced 24 per cent. Further, though much innovation can succeed only in large companies, the cost per innovation in small firms averages about half that in large ones.

Regarding economic growth, the House Small Business Committee stated in 1978 that small firms "accounted for . . . virtually all the new private sector employment in this country" between 1969 and 1976. Studying a number of innovative ventures founded between 1971 and 1975, the American Electronic Association revealed that for each $100 invested by shareholders, in 1976 alone there were $70 in foreign sales, $15 in federal corporate taxes, $15 in personal income taxes, and $5 in state and local taxes.

THE POTOMAC STRANGLER

In spite of the crucial economic role of small business, it has been choked by the government. In turn, innovation and its benefits to all of us have been stifled.

Government burdens that merely damage large firms tend to overwhelm small ones. Inappropriate, heavy-handed, duplicative regulation; imprudent tax and securities policies; cumbersome, inequitable purchasing procedures; neglect of the patent system; all have led to a recent major decline of small business—its sales, its assets, its shares of many markets. Not surprisingly, the decline coincides with a sharp drop in the number of U.S. patents issued to American inventors, and with an increase in the number granted to foreign investors.

The National Small Business Association expects to reverse this situation—not out of nostalgia, but for hardheaded economic reasons.

BEFORE IT'S TOO LATE

Inflation, an unfavorable balance of trade, and the spectre of a recession demand that our government act to restore small business to health. Only by encouraging innovation that produces new products and new jobs can the U.S. restore its industry to unchallenged world leadership.

Regulation

As a first principle, small firms must be treated differently. To treat Joe's Machine Shop the same as General Motors is to treat Joe unfairly. Only big firms can hope to understand and respond to many of big government's demands as they are now expressed. The paperwork alone can be crushing. America as we know it cannot survive with only big firms. Indeed, most big firms as we know them cannot survive without their small suppliers.

Small firms now regard the government as a destructive alien power wielding unpredictable, contradictory regulations. Let's require issuance of long-range statements of regulatory intent. If two or more agencies must deal with one issue, let them coordinate and consolidate their functions.

Let's regulate results, not means. Plant effluents, for example, should be limited, but the methods not dictated. Let's encourage creative solutions.

Government control of prices and barriers to entry into markets should not be allowed. Such control is anti-innovative and anti-competitive.

Let's require study of the impact of any proposed regulation on the ability of U.S. industry to compete in world markets. Japan and West Germany are way ahead of us in this respect.

Antitrust law is meant to ensure competition, to guard against collusion and monopoly. But policies that inhibit innovation are inherently anti-competitive. Let's give small firms latitude to develop and commercialize new products and processes cooperatively.

Taxation and investment

As a first step, our tax code needs change. It now favors consumption and discourages saving and investment, preventing the formation of capital. Let's lower capital gains tax rates. Let's reduce or eliminate taxes on personal saving. Let's end "double taxation"—taxing a company's earnings a second time when distributed to shareholders' incomes.

Let's build incentives into the tax code so that ventures involving substantial research and development—especially small, new firms—will attract investors. We should allow firms greater tax credits and deductions for expenditures on research and development (R&D). We can encourage long-term investment in new R&D-intensive firms by means of special capital gains tax rates that would decrease to zero over, say, five years.

Small, technically-oriented new firms require exceptionally talented people but often cannot pay cash "up front." Let's permit them to offer key personnel more liberal stock options that could bring patient employees large rewards later.

Let's encourage the trustees of pension and profit-sharing programs to invest some safe share of their funds in higher-risk ventures.

Federal purchasing

Let functions rather than prescribed items characterize government bid invitations. If procurement processes are altered to allow firms to fill ordinary needs in new ways, small firms will do so.

Considering their record of innovation, it is perverse that small firms receive only 3.5 percent of federal R&D funds. Let's give small firms a much larger share of all types of government contracts.

Technology transfer and patents

The U.S. patent system, intended to spur invention by protecting intellectual property and by spreading new knowledge, is not working. Information in the Patent and Trademark Office (PTO) is grossly incomplete. Thus patents, when issued, are often unreliable. As a result, a new technology may be too risky an investment.

Let's upgrade the PTO and fund it adequately. It should function like the argicultural extension services, bringing new knowledge to those who will use it, invigorating the economy.

The government holds many patents as a result of work contracted to private firms or done in national labs. Ninety percent of the patents remain commercially undeveloped because firms cannot obtain the protection of exclusive licenses. Let's license the originator firms, or small businesses. Original public funding would be more than recovered through taxes paid by new firms, and new jobs would be created. Let's get our tax dollar's worth.

Individuals, not institutions, create. Let's devise new methods of identifying, teaching and encouraging potential innovators. Let's reward employed inventors better.

FLAMES AND FIDDLE MUSIC?

It is crucial to our present standard of living, let alone economic growth, that our advanced industrial society innovate continuously and remain advanced. Government holds the key.

As this is written, the President has not acted on the painstakingly prepared report of his Domestic Policy Review of Industrial Invention and Innovation. That report, along with recommendations from the National Small Business Association, has been on his desk since spring. It contains most of the recommendations made here and many more sound ideas for fostering a resurgence of economic strength.

If the President has now acted in concurrence with the report's basic propositions, let's all applaud him. If he has not, let's loudly ask why.

THE COMPETITIVE RATE PROGRAM

● Mr. INOUYE. Mr. President, one of the topics of discussion by the conference on the defense appropriations bill for fiscal year 1980 has been the competitive rate program. As with most controversial programs, it is much misunderstood.

At the request of Senator Stevens and myself, the conference has tentatively agreed to prohibit for 1 year the implementation of the competitive rate program for movement of military household goods involving Hawaii and Alaska.

The competitive rate program, or CRP, would award these military moving contracts exclusively to the lowest bidder, unlike the current system of allowing all firms to match the winning bid.

Under CRP, the bidding system may realize savings in the short run, but chaos in the industry and higher costs in the long run. If household moving business on a given route is awarded to a single contractor, he will soon become the only bidder. The long-range implications of this program will be disastrous because large numbers of companies would be driven out of business—thereby reducing competition and diminishing the quality of service.

Where the Defense Department has implemented the CRP, the result has been the demise of many companies which perform the underlying moving services for the forwarders—their agents. On Okinawa, before the CRP was implemented, there were 12 agents providing service to the Department of Defense. Currently, only three participate in the CRP. In Germany, there were approximately 150 agents at the start of CRP on November 1, 1976, and the number has since declined to approximately 40.

If the CRP is expanded to include the movement of household goods between the continental United States and Alaska and Hawaii, it will have a similar disastrous impact on companies acting as agents in these two States.

The economic impact of bidding procedures initiated under the threat of CRP has already been extremely severe on the Hawaii household moving and storage industry. Five of the 13 companies in the Moving and Storage Association of Hawaii have closed their doors. Others are in serious financial difficulty due to loss of military business and are expected to close if CRP is implemented.

Mr. President, I wish to bring a Honolulu Star-Bulletin article on this situation to the attention of my colleagues and, therefore, ask that it be printed in the Record.

The article follows:

Fifth Moving Company To Fold

(By Christy Schofield)

At the end of November Smyth Hawaiian Van Lines will join the list of moving agents who have gone out of business in recent months.

The closing of Smyth Hawaiian, which has been the agent for Smyth Worldwide and Smyth International in Hawaii for 23 years, will leave 38 men and women jobless.

Within the last year and a half, four other moving agents have folded—Hawaiian Hauling, Transco Hawaii Inc., City Transfer Co. and Richmond Transfer and Storage—according to Seb Hertling, general manager of Smyth Hawaiian.

More may be joining the list because of the worldwide problems of the household moving business.

Medford Dyer expects one or two other companies to be closing. He heads M. Dyer & Sons, Inc., one of the largest moving agents here, which will be taking over Smyth Hawaiian's operations.

Local industry leaders, while blaming economic conditions, also criticize a price structuring system established by the Department of Defense that has resulted in sometimes ruinous undercutting and pushed some forwarders into bankruptcy.

(A forwarding company does the paper work and sells the moving service. The moving agent handles the physical operations—trucking, packing and moving.)

A number of reasons account for the shutdowns.

"The transportation business all over the world is stinking," Hertling said. "The cost of labor, shipping and packing materials makes the moving business unprofitable."

The cost of wooden shipping crates, for instance, has gone from $70 to $130 in five years, he said.

Smyth Hawaiian's main problem, however, is that its parent's owner, Golden Cycle Corp. of Seattle, Wash., has been forced into reorganization under the federal bankruptcy law.

"Golden Cycle is in trouble worldwide because people are not paying their bills," Hertling said, (Smyth Hawaiian is believed to be one of Smyth International's few money-making operations.)

As a result, stockholders were getting only 3 to 5 percent on their investment, he said. "The profit line has dropped so that the stockholders feel they're better off putting their money in the bank."

There are about 12 household moving agents in Hawaii for some 80 forwarding companies that have contracts with the DOD. About 80 percent of the moving business is with the military, Hertling said.

Alvin Tanaka, forcer manager for Hawaiian Hauling, blames "outside forces" for many of the industry's problems.

"The health of the carrier (forwarding company) affects all agents worldwide," Tanaka said. "A financial loss for one (shipping) route can zonk another part of the world."

In 1974 the DOD began its competitive rate program (CRP) with the "Okinawa trial," he said. Each forwarding company doing military business there had to make a bid for the "channel," the route between Okinawa and U.S. destinations.

Louis Moccia, deputy chief of the Military Traffic Management Command, said that in the CRP, the prime carrier (the lowest bidder) as a rule gets the largest share, often 50 percent of the tonnage, and the rest is divided among the "me too" bidders (the other companies that submitted bids).

The percentages given to each bidder are flexible, depending on traffic—going as high as 80 percent for the prime carrier between Northern California and Japan. "No one percentage is valid. It's been getting lower and is constantly evaluated," Moccia said.

The system, the military says, is designed to be equitable and competitive.

But Dyer says the effect is a "monopoly situation." "In most channels the lowest bidder got 100 percent of the tonnage. One forwarder got 75 percent of the business between the Mainland and Guam."

Moccia denied that the CRP is a monopoly situation. "The carriers should know their compensatory rate. The DOD didn't dictate the rates. No one is placed on the spot. Any businessman should know his costs," Moccia said.

But the competitive rate program turned out to be the ruin of some companies.

"The forwarders bid too low, sometimes below cost," Tanaka said. "We're talking about millions of dollars. They thought that with volume alone they might make it, but sometimes they didn't."

"This year hasn't been too bad," Tom Onimori, manager for Worldwide Moving & Storage, said. "But in 1977 I was ready to close down. I did work for too cheap."

He said Worldwide took over a government contract forfeited by City Transfer when the latter closed its doors. "But the contract didn't pay off," Onimori said, "and I lost my pants." He also said that the CRP forced big companies to go "belly up."

Dyer said the bankruptcy of one of his forwarders cost him $28,000. And he added that "the government won't give me any protection. The government washes their hands of it."

At the Military Traffic Placement Command, Moccia said. "Of course we've got complaints. But the DOD is looking out for its own interests and trying to get service at a reasonable price."

Dyer said Hawaii's lawmakers fought the CRP, and industry leaders from Hawaii lobbied against it in Washington in 1977 and 1978, once testifying at a House committee meeting. Because of pressure by Hawaiian and Alaskan representatives, the Secretary of Defense said he would "delay" implementing the CRP in those states until a study was made, according to a Defense Department spokesman.

The study has been made, but the department has not yet received any guidance on the subject from the secretary of defense.

If the CRP were put into effect in Hawaii, the results would be "disastrous," Tanaka said.●

PROPOSED ARMS SALES

● Mr. CHURCH. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms under that act in excess of $25 million or, in the case of major defense equipment as defined in the act, those in excess of $7 million. Upon notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulates that, in the Senate, the notification of proposed sale shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is immediately available to the full Senate, I ask to have printed in the RECORD the following notification I have just received.

DEFENSE SECURITY
ASSISTANCE AGENCY,
Washington, D.C. December 10, 1979.

In reply refer to: I-4916/79ct

Hon. FRANK CHURCH,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith transmittal No. 80-24 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter of Offer to Saudi Arabia for defense articles and services estimated to cost $120.0 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified Transmittal.

Sincerely,

ERNEST GRAVES,
Lieutenant General, USA Director,
Defense Security Assistance Agency.

[Transmittal No. 80-24]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective Purchaser: Saudi Arabia.

(ii) Total Estimated Value: Major Defense Equipment*, $108.0 million; Other, $12.0 million; Total, $120.0 million.

(iii) Description of Articles or Services Offered:

(1) One thousand (1,000) CBU-58 munitions,

(2) Five hundred eighteen (518) CBU-71 munitions,

(3) Three thousand four hundred thirty-five (3,435) GBU laser guided bombs.

(4) Six hundred sixty (660) AIM-9P SIDEWINDER missiles,

(5) Nine hundred sixteen (916) AGM-65A Maverick missiles.

(iv) Military Department: Air Force.

(v) Sales Commission, Fee, etc. Paid, Offered or Agreed to be Paid: None.

(vi) Sensitivity of Technology Contained in the Defense Articles or Defense Services Proposed to be Sold: See Annex under separate cover.

(vii) Section 28 Report: Case not included in Section 28 report.

(viii) Date Report Delivered to Congress: Dec. 10, 1979.●

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*As included in the U.S. Munitions List, a part of the International Traffic in Arms Regulations (ITAR).

SALT ON THE VERGE

● Mr. BIDEN. Mr. President, because the Senate will not be able to consider SALT II before early next year, each of us will have additional time to reflect on the treaty itself and on its implications for U.S. security interests, the future of arms control, and the cohesion of the Atlantic Alliance.

A lucid and incisive treatment of the politics of SALT ratification and the serious consequences for our national security if it is not ratified is found in Tom Wicker's article of December 9 in the New York Times. I strongly recommend it to my colleagues and ask that it be printed in the RECORD.

The article follows:

SALT ON THE VERGE

(By Tom Wicker)

WASHINGTON, December 7.—The decision by Majority Leader Robert Byrd to delay the Senate's SALT II debate until next year means that he doesn't have the votes in hand or in sight; the arms limitation treaty is on the verge of defeat or of oblivion. Either way, national security will be the loser.

Exactly why this should be so is not clear; but the White House and those favoring the treaty seem never to have recovered from the loss of momentum brought about by President Carter's mishandling of the issue of Soviet troops in Cuba.

That nonsensical flap was followed quickly by the Iranian crisis. And even though twice as many American nuclear weapons or aircraft carriers probably would not have influenced events in Teheran, before or after the hostages were seized, the overrunning of the embassy there seems to have reinforced the notion that American military weakness is somehow responsible for the nation being "pushed around."

And that feeling appears to have hardened the lines against SALT II, even though there is no logical connection.

Former President Ford opposed the treaty; former Secretary of State Kissinger gave only qualified support; Minority Leader Howard Baker, a Presidential candidate supported by a number of senators, opposed it. All this held Republican support for the treaty below what might have been expected, since the Ford Administration began the SALT II negotiations. Whether opposing arms limitation will help the Republicans regain the White House remains to be seen.

Senator Pat Moynihan of New York, in a recent article in The New Yorker magazine, outlined the thesis that the United States has been falling behind the Soviet Union in strategic nuclear power because the Soviets have never accepted the theory of deterrence, and instead are seeking nuclear superiority. As a result, in the Moynihan view, the SALT process has succeeded only in permitting the strategic arms race to be carried on at higher and more lethal levels. A number of senators seem to agree in whole or in part with that analysis.

Nevertheless, no one has been able to make a convincing case that the nation would be better off and more secure without the SALT treaty than with it. There is no reason, even in opponents' own logic, for example, to suppose that if the Senate rejects this treaty the Soviets then would be willing to negotiate another one more favorable to the United States.

The primary rationale for refusing ratification appears to be the belief that if the treaty is rejected, the American people and Congress will be galvanized into new efforts to counter what opponents see as a growing Soviet military threat to the United States. Ratification, they say, would only conceal that threat and lull Americans into a false sense of security.

Maybe so. But this seems an abstract propposition, little more than a theory, when measured against the real political and military costs of rejecting SALT II.

Politically, a refusal to ratify will severely impair Soviet-American relations and demolish what little is left of détente. In the world at large, the idea of the United States as a peace-loving nation is bound to be damaged if the Senate rejects an arms limitation treaty that the Soviet Union has accepted. The widespread notion that the United States is floundering and rudderless, incapable of setting a policy goal and achieving it, will also be enhanced. The international authority of President Carter, never great, will be further undermined.

Most immediately, in Europe, American proposals for modernizing NATO theater nuclear forces will be set back. Several NATO countries are unwilling to accept the proposed new weapons without the promise of a third round of SALT that would deal with strategic arms limitation in the European theater. But if SALT II is rejected in the Senate, there can be no SALT III, perhaps no modernization of NATO strategic forces, and no real NATO confidence in the intentions or credibility of the United States.

Militarily, a failure to ratify—even though, as Senator Moynihan demonstrates, SALT II does not provide much arms limitation—would cause dangerous problems. The treaty would stop the Soviets from maintaining deployment of their heavy SS-18 and SS-19 missiles beyond stated levels; and it would prevent their "fractionating" these missiles—that is, putting on them more than the 10 independently targeted warheads that the treaty allows.

If the Soviets can deploy more heavy missiles carrying more warheads than permitted by SALT II, they could ultimately launch enough warheads to threaten destruction of even the mobile MX system the United States is planning to deploy in the late 1980's. The United States could counter that threat by expanding MX—not the number of missiles but the number of hardened silos among which the missiles could be shuttled; but that would be a hugely expensive response that would be necessary if SALT II were ratified.●

A PRAYER FOR AMERICAN HOSTAGES IN IRAN

● Mr. HART. Mr. President, the Most Reverend Charles A. Buswell, retired bishop of the Catholic Diocese of Pueblo, Colo., offered a prayer today which may be helpful to all who share a concern for the plight of our fellow Americans held hostage in Iran. It offers an ecumenical guide for our thoughts when they can easily be consumed by intolerance of those who hold others against their will.

As we approach one of the most festive seasons of the year in America, may we do so with thought, hope, prayer, and one united voice to offer solace to those whose loved ones may not be home to share it.

Mr. President, I request that with the permission of the publisher of the Pueblo Star-Journal & Chieftain of Pueblo, Colo., this prayer may be printed in the Record.

Heavenly Father; our hearts are filled with so much turmoil and concern; even as we prepare to celebrate Christmas.

We tremble at the tensions in the mid-East; and we are ashamed; at times; at our tendency to meet violence with violence.

Our minds are filled with worry for the safety of our countrymen; held against their will in another country and we are filled with particular compassion for our fellow Puebloan; William Gallegos; and his family and friends here.

He has been singled out to serve as a spokesman and subjected to a harsh sort of worldwide scrutiny.

We pray: Father of all people; for his safety and composure; and that of all his fellow hostages.

We pray for their families; as well; as they spend agonizing hours of waiting and hoping.

We seek your guidance for national leaders on both sides of the conflict; that they may act with the needs of their constituents in mind; and with prudence and a sense of worldwide justice.

We pray; too; for peace; in all corners of the Earth; and a cessation of hatred; violence and killing.

Help us remember that there is not war waged in your name; no such thing as a holy war; you are a God of love and tranquility.

Grant us; In whatever capacity we serve; to keep the larger picture I view; and work always to become instruments of your peace.—The Most Reverend Charles A. Buswell.●

TRIANGLE CHAPTER OF NAVY LEAGUE OPPOSES APPROVAL OF SALT II

● Mr. HELMS. Mr. President, the Triangle Chapter of the Navy League recently adopted a thoughtful position on the proposed SALT II treaty. In doing so, these citizens have put themselves in line with thousands of other defense experts who have served our Nation in peace and war.

I should mention, Mr. President, that the Triangle Chapter of the Navy League draws its members from three North Carolina counties—Wake, Durham and Orange. These counties are noted for many things. North Carolina's capital city, Raleigh, is in Wake County. Durham County is the home of Duke University. The original campus of the University of North Carolina is in Orange County, at Chapel Hill. N.C. State University is at Raleigh. This entire area is noted for its educational facilities, its research facilities, its industrial growth, its agriculture, and its emphasis on the development of the arts.

The resolution adopted by the Triangle Chapter takes note of the adverse impact of SALT II—if the Senate should make the mistake of approving it. As the resolution emphasizes, the world position of the United States would be harmed, and an enormous increase in defense spending would be imperative.

Mr. President, I ask that a letter from my good friend, Milton M. Croom, be printed in the Record at the conclusion of my remarks. As Senators will note, this letter states clearly and eloquently the position of the Triangle Chapter of the Navy League regarding SALT II.

The letter follows:

Sen. Jesse Helms,
Senate Office Building,
Washington, D.C.

Dear Senator Helms: The Triangle Chapter of the Navy League has named the following members as a committee to convey the Chapter's position on the SALT II Treaty to you: Milton M. Croom, John A. Dinger, Jr., I. Beverly Lake, Jr., Edward Outlaw, Cecil Sanford, Clarence Steppe.

The committee respectfully offers the following for your consideration:

The Chapter favors arms control in principle, but after careful study of its terms, urges utmost caution in considering the proposed SALT II agreements.

The Chapter opposes U.S. ratification of international arms limitation agreements unless they provide distinct benefits to the United States which keep our nation on a level of at least military parity with other leading powers, and unless they also are fully verifiable through appropriate means.

We deplore the trend toward unilateral disarmament on the part of the U.S., a trend that has so weakened our military that we believe that the next few years may be the most dangerous in our history.

The treaty provides a superficial equality in numbers but permits the Soviets a tremendous superiority in power of nuclear weapons.

Recent events in Cuba, Africa, Central America and the Persian Gulf indicate that they will use this power to our great detriment.

Should the treaty be ratified a resulting mood of euphoria among the uniformed may lessen support of essential defense efforts, thus leading to ever further deterioration of our defense capabilities and probable further adventures on the part of the Soviets, and a feeling of distrust on the part of our allies in Western Europe.

We urge that SALT II be renegotiated to achieve genuine equality, balance and verifiability.

John A. Dinger, Jr., chapter president.
I. Beverly Lake, Jr., public affairs officer.
Edward Outlaw, past national director.
Cecil Sanford, past president.
Clarence Steppe, State president and national director.

Milton M. Croom,
Past President and Chairman,
Resolutions Committee.●

THE ANN STEVENS RED CROSS MEMORIAL

Mr. BAKER. Mr. President, I deeply regretted not being able to attend the inaugural dinner for the Ann Stevens Memorial Red Cross Headquarters in Anchorage, Alaska, last week.

No one loved people more than Ann Stevens. She made hundreds of Alaskans feel at home during their visits to Washington. She championed the cause of Eskimo women. She was a devoted wife and a loving mother, and she was very special.

A new Alaska headquarters for the Red Cross is surely a fitting tribute to this remarkable woman who devoted so much of her time, her talent, and her energy to this noble and compassionate service, both in Alaska and in Washington.

As her name will adorn the building, her example will inspire those who labor there in the service of people in need. There simply could not be a more appropriate memorial to Ann Stevens than that, and I commend the good people of Alaska for their generous support of this worthwhile enterprise.

A TRIBUTE TO MRS. SEIBERLING

Mr. METZENBAUM. Mr. President, last week we were all saddened to learn of the death of Mrs. Henrietta Buckler Seiberling, mother of our good friend and colleague in the House of Representatives, John Seiberling of Akron. Mrs. Seiberling was a charming and gracious woman but it was only at her death that it was revealed that she was instrumental in the founding of Alcoholics Anonymous more than 40 years ago.

Though not an alcoholic herself, she met a man at a meeting of the Oxford Movement in 1935, who told her of his problems with alcohol. Later, she met another Akronite with a similar problem and it was through her introduction that the seed was planted that became Alcoholics Anonymous, an organization that has been responsible for the rehabilitation of millions of alcoholics since then.

Mrs. Seiberling neither wanted nor received any publicity during her lifetime about her part in the founding of Alcoholics Anonymous although she continued to be involved throughout her life.

In an article in the Akron Beacon Journal on December 6, 1979, entitled "Mrs. Seiberling Dies; Had Role in AA's Start," it is reported that:

Seiberling said some people might consider his mother's role an accident. "My mother would say it was by divine guidance," he said.

Mr. President, there is a prayer that has become synonymous with Alcoholics Anonymous and with the life of Henrietta Buckler Seiberling:

God grant me the serenity to accept the things I cannot change, courage to change the things I can, and the wisdom to know the difference.

I ask unanimous consent that the aforementioned article be printed in the Record in its entirety.

There being no objection, the article was ordered to be printed in the Record, as follows:

Mrs. Seiberling Dies; Had Role in AA's Start

(By William Canterbury)

The role of Henrietta Buckler Seiberling in the founding in Akron of Alcoholics Anonymous came to light with her death Wednesday. She was 91.

Mrs. Seiberling neither wanted nor received any publicity during her lifetime about her part in introducing in her own home the two men who founded AA in 1935, according to her son, U.S. Rep. John F. Seiberling of Akron.

But after her death in New York City, the Democratic congressman told publicly for the first time the role his mother played in the founding of that organization, which has an estimated one million members today.

Her involvement was known only to AA members.

"Though she herself was not an alcoholic, AA members looked to her for counsel and spiritual inspiration," Seiberling said in a telephone interview from his Washington office.

"She continued to be closely involved with AA throughout her life. That was her major contribution in life as far as public service was concerned."

The story of Mrs. Seiberling's involvement in introducing the late Bill Wilson of New York and Dr. Robert Smith of Akron, who eventually founded AA, had its roots in meetings in the 1930s of the Oxford Movement, a spiritual effort to revitalize religion, Seiberling said.

She used to attend meetings of the Oxford group along with "a lot of other people in the area who were trying to follow this spiritual quality of life," Seiberling said.

There she met Dr. Smith, a physician and surgeon in Akron who testified during one of the forums that he had a problem with alcoholism.

"He said, 'I just couldn't seem to lick it, and I want you to pray for me,'" the congressman recalled.

Soon afterward, Mrs. Seiberling got a call from Bill Wilson, who told her, 'I'm a rumhound from New York, and I need help,' so she invited him over to her house."

Wilson, a stockbroker who was in Akron on business, had gotten her number from the Rev. Walter F. Tunks of St. Paul's Episcopal Church.

Wilson told Mrs. Seiberling in the family home at Stan Hywet Lodge that through the Oxford group he had had a religious experience and had managed to stop drinking, and was getting back on his feet.

But he said he had an urge to drink that day (at the Mayflower Hotel), "so she said, 'Well, there's someone I think you ought to meet,' and she called up Dr. Smith and invited him over," the congressman said.

"They started talking about the experiences of alcoholics and Bill told of how it stopped him drinking.

"They sat there until 1:30 a.m., with my mother . . . and concluded that an alcoholic should never take that first drink and secondly, that they ought to try to continue to lead a spiritual-quality life and share their experiences with people."

Meetings at Oxford sessions with alcoholics proved popular, with so many showing up they decided to hold their own meetings as alcoholics at King School in Akron, the first site of the AA meetings, Seiberling said.

The old King School group continues to meet at United Church of Christ, at Portage Path and West Exchange Street.

By 1938, AA had spread to other cities.

Seiberling said some people might consider his mother's role an accident.

"My mother would say it was by divine guidance," he said. "She felt that Bill Wilson coming to her house was divinely inspired because she had been praying for some way to help Dr. Smith.

Seiberling said that AA "wanted to put a memorial marker at the (Stan Hywet) Gate House to show where AA actually started, and the family agreed to it, but hasn't got around to doing it."

Mrs. Seiberling was married to the late John F. Seiberling, Sr., a son of F. A. Seiberling, founder of both Goodyear and Seiberling rubber companies.

"She was a very gracious, charming woman, like an old shoe, just as nice as she could be," said D. Bruce Mansfield, former Ohio Edison Co. president, ex-trustee of the national General Services Board of AA and a friend of Mrs. Seiberling.

She lived in Akron from her marriage in 1917 until 1952, when she moved to New York.

She also leaves two daughters, Mary S. Huhn of Devon, Pa., and Dorothy S. Steinberg, who is deputy editor of New York Times Magazine, seven grandchildren and one great-grandchild.

Memorial services will be Monday in New York Citly. Memorials may be made to the Stan Hywet Hall Foundation in Akron.

Mr. METZENBAUM. I thank the Senator from Kansas.

CRUDE OIL WINDFALL PROFIT TAX OF 1979

The Senate continued with the consideration of H.R. 3919.

Mr. DOLE. Mr. President, I appreciate the question posed by the distinguished Senator from Connecticut. I would just say that insofar as the windfall profit tax bill is concerned, the fact that the Senate finds itself in this position is not the fault of the majority leader. In this instance he has moved as quickly as he could.

I understand the role of the majority leader. He does want to finish this bill, and I applaud him for that. He does want to finish with the Chrysler bill, and I applaud him for that. I am not here to find fault with the majority leader. I leave that to the Senator from Connecticut. There was nothing the majority leader could have done to speed up the process of this bill in the Senate Finance Committee. We spent 85 hours in markup, 7 weeks in hearings, and I happen to believe, in fact I know, that the majority leader was trying to push us to go a little faster, to get the bill to the floor.

I find myself in total disagreement with the distinguished Senator from Connecticut.

I would hope that the debate could be contained to the issues. The Senator from Kansas is not part of the leadership, but I understand the penalty of leadership. He has to pay a price. I think the Senator from West Virginia has paid that price. He has to please about 100 of us here all the time. There are only about 99 prima donnas that he has to satisfy, and that is not easy. There would be 100 if I counted him, but I will leave him out for the time being.

My point is that we should stick to the facts and not get off into unrelated issues. So my answer to the question—I guess it was a question—raised by the Senator from Connecticut is that I disagree totally. I could not disagree more. I find myself on one side of the aisle and the majority leader on the other side of the aisle, but I have never had any difference that we could not work out. I would hope that some things we say in the crush and rush of debate were not seriously intended.

This Senator has a different motive. This Senator wants to resolve the issue. I appreciate the fact that the Senator from Connecticut voted against me; I did not appreciate it much at the time, but I understand. The longer you look at these things, the more you appreciate things of that kind, because the Senator from Connecticut did vote against cloture.

We have an obligation to push on. We may not be able to reach an agreement. If we cannot reach an agreement, then we have to vote. And if we lose, we still do not want to give up. We will try to find some other course to follow.

This Senator is not expert in parliamentary procedure, but we do the best we can with what we have. So I would just suggest that we are going to debate the issues. Somebody else can debate other things that do not have any bearing on this, and the Senator from Kansas totally disassociates himself from those remarks.

I am prepared to yield the floor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. Yes.

Mr. ROBERT C. BYRD. I wish to thank the distinguished Senator from Kansas for his statement in which he has, I think, most satisfyingly and correctly stated that we should debate the issues and not personalities. I appreciate his having done that.

Mr. ARMSTRONG. Mr. President, I must confess I am somewhat perplexed by this turn of events, because 1 hour and 40 minutes ago I came to the floor to find the Chamber was filled with people who were eager to discuss the windfall tax legislation, and now I discover that the Chamber is virtually empty; and I wonder if somehow someone has circulated the word that I was about to make a speech at this time of the evening.

I am truly perplexed, because it is not clear to me that, for the Senator from Kansas to make the statement he has just made, and it was a fine statement, a statement on which I congratulate him, a statement which lays out well not only substantive policy issues, but also the procedural considerations which many of us agree with, and a statement which I think does justice and pride to our side of the aisle, which I think he has represented well during the long course of this debate, but it is not very plain to me why his making that statement to an empty Chamber advances the Nation's business. It is not plain to me why, if I had words of great wisdom to speak at this time, which I do not, it would be in aid of any known good cause for me to do so at this time.

Since I note that the majority leader is one of the few Senators still on the floor, if he would be amenable to the suggestion that we recess for an hour while these behind-the-scenes negotiations are going on, I would be happy to do that. Or if, in the alternative, he would be willing to lay aside this bill and move to other legislation, or if there is another approach to the problem, perhaps the majority leader could explain the situation to me.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. ARMSTRONG. Of course; I am pleased to yield.

Mr. ROBERT C. BYRD. Negotiations are going on. I would not want to recess the Senate, however, for those negotiations. I think perhaps negotiations can move forward more expeditiously if the Senate is in session and not in recess.

Mr. ARMSTRONG. Well, it is not plain to me why that is true. But the distinguished majority leader is a Senator of vast experience, and if he says the negotiations will be forwarded better by the Senate being in session than if we were in recess for a few minutes, then of course I am perfectly willing to take his word for that.

But I must say that the clock is running. Earlier in the evening I heard a very well reasoned and, indeed, passionate speech about the great length of time which the Senate has spent in debate on this matter, when—and I would like the Record to reflect this fact—much, not all, but much of the time when the Senate has allegedly had under consideration the windfall profit tax legislation, it has been under exactly the circumstance which presently prevails—that is, one or two Senators speaking to an empty Chamber, to a handful of visitors in the gallery, to a group of overworked members of the staff, and to a generally apathetic but patient press.

Now, it is still not plain to me how that advances the Nation's business. Earlier in the evening, I was somewhat distressed by the tone of the debate, because it seemed to me that it was being characterized as to who was winning and who was losing: Was the President winning? Was the majority leader winning? Was the Senator from Kansas winning? Were the Republicans winning? Were the Democrats winning? You know, that is really not the basis on which we ought to be considering this issue.

It is inevitable, I guess, in order to simplify complex legislative proposals, that there is a tendency for us to personalize them. But when we are considering a bill which so vitally affects the future of this Nation, it seems to me that we ought to try to get off the question of who is winning and who is losing and get on to the substantive merits of this issue.

In the context of what I perceive to be the merits of this tax legislation, I must say that this is a bill which, in its present form, will be seriously injurious to the future of this country. If the pending amendment should be adopted, it is my opinion that it would be nothing short of a disaster; truly a catastrophe for the future of the country. Because, as others have pointed out, the result will be to further inhibit the incentives available for domestic production of petroleum and other fuel sources, to raise a tremendous amount of tax revenue for the Federal Government; revenues which will be spent on programs that may or may not be desired but which, in any case, will not be available to promote new energy exploration in the private sector or for any other private sector purpose; revenues which, I fear, will be used to foster programs that are completely unrelated to energy needs, although there is some suggestion that perhaps part of the revenues will be used to promote synthetic fuel production or energy conservation or solar production or gasohol, or some other known or unknown form of energy production.

I am going to predict that a large portion of the revenues to be raised by this awful bill—if, in fact, it is enacted—will find their way into programs that have little or nothing to do with energy and, in fact, are nothing more than what somebody has called "add ons" or someone else characterized at one time as "goodies," just programs that are created because the money seems to be available. And there is an irresistible attraction for people in our line of work—that is to say, Senators and Representatives—to spend money. And if it is available, programs will certainly be created to spend it.

It is evident, Mr. President, that the debate on this critical issue has captured the imagination of the Senate. I want to apologize to any Senators who may find it difficult to follow the fast pace of this debate. I want to apologize to any Senators who may be seeking recognition and find it difficult to do so because of my remarks, which I will terminate here very shortly.

It occurs to me to wonder, Mr. President, since we are killing time—I beg your pardon, since we are facilitating the backstage negotiations by keeping the Senate in session—it occurs to me to wonder when was the last time, in the history of the Senate, that the Senate was put into recess upon the motion of someone other than the majority leader.

Does the Chair know if that has ever occurred in the history of the U.S. Senate?

The PRESIDING OFFICER. The Chair is informed that, offhand, it does not know.

Mr. ARMSTRONG. Well, it is a well-known fact that it is the prerogative of the majority leader to offer motions to recess. But I am willing to guess—and I have not researched this—that it is not the invariable custom of the Senate; that sometime during its long life another Senator has had the temerity to rise and simply say, "Let's quit for a while. Let's recess," and to make the motion for a recess.

In fact, I would guess that, during the long history of our Republic, that has happened many times, and on some of those occasions the motion has passed.

In fact, while not wanting to disturb the Chair or to interfere with the tranquility of the occasion, I would address to the Chair the question of whether or not, at any time in the modern history of the Senate, someone other than the majority leader has moved to adjourn and, if so, whether that motion has carried?

The PRESIDING OFFICER. The Chair is unable to answer the Senator's question.

Mr. ARMSTRONG. Mr. President, may I direct this inquiry to the Chair: Would it be in order for the Senator from Colorado to offer such a motion, either to recess or to adjourn?

The PRESIDING OFFICER. The Senator will be informed that it is in order for such a motion to be made.

Mr. ARMSTRONG. I have also been informed that it would be somewhat unusual for me to do so.

The PRESIDING OFFICER. The Senator is again correct.

Mr. ARMSTRONG. But I raise this question not frivolously, although I certainly have no intention of moving to recess or to adjourn at this time, but because I believe that while tradition properly accords the majority leader great discretion in such matters, ultimately that is a decision that the group can make.

I notice the majority leader has returned. And it is my belief that while the Senator from Colorado has been ruminating and thinking about windfall profits and going home for dinner, and other related subjects, that the majority leader has been brokering this deal in the back room and has returned to give us the good news that a bargain has been struck. And for the purposes of announcing this bargain, I would like to yield to the majority leader to present us with that.

The PRESIDING OFFICER. The Chair recognizes the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, a more amiable Senator I have not yet met than the distinguished Senator from Colorado.

Mr. ARMSTRONG. I thank the majority leader for his courtesy and for his words of encouragement.

Mr. DOLE. And for his perception.

Mr. ROBERT C. BYRD. Yes, for his perception.

I have nothing to state at this time. I will be glad to suggest the absence of a quorum, if the Senator does not wish to speak further just now.

Mr. ARMSTRONG. Well, I think it would be well for the majority leader to do that. But I must say that he has dashed my hopes. Because, based on our last conversation a few minutes ago, I felt that when not only the majority leader but also the distinguished Senator from Kansas (Mr. Dole) arrived through the same door at practically the same instant of time, that it was clear that they had reached a meeting of the minds.

Mr. DOLE. We came from different directions.

Mr. ARMSTRONG. Knowing of the efforts that they are making, I permitted my hopes to rise to the occasion and, under the circumstances, Mr. President, I am left speechless, at least temporarily. Therefore, I will yield the floor and await the further pleasure of the majority leader and the Senator from Kansas and others who are working on this problem.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TSONGAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Leahy). Is there objection?

Without objection, it is so ordered.

CHRYSLER CORP.

Mr. TSONGAS. Mr. President, I would like to take just a moment to talk about the Chrysler issue.

I inadvertently got involved with that

issue in the Banking Committee and spent some time on it. I thought it might be helpful to give a summary at this point as to where we are.

I must say that I am distressed by the lack of progress in resolving this issue between the various parties involved. There is a clear sense of wanting to resolve it on the part of the parties, but negotiations have not been successful.

I have before me two items that indicate where I believe we are going to end up in what, indeed, is the optimum Chrysler aid package of some $3.63 billion. I believe we will eventually get to this point. The question is whether we will get there in time to save that company.

There are, basically, four different versions afloat at this point. We have the Banking Committee version that was sponsored in large part by Senator LUGAR and myself. That is $4 billion.

The compromise that has been floated by a number of people that seems to be nameless, $3.3 billion.

And the administration package of $3 billion.

The suggested end result I have here is at $3.63 billion.

I will take a moment and go through the provisions of that package.

As we know, Senator LUGAR and I have been concerned about the administration package as not having enough money to do the job and, therefore, the $3.63 billion is a movement in the direction of enough financing to maximize liability.

The review board, which under the administration package was the Secretary of the Treasury, which under the Senate bill was the Secretary of the Treasury with the Chairman of the Federal Reserve and the Comptroller General, has been expanded to include the Secretary of Labor and the Secretary of Transportation, is an issue that was of some import to the House.

The Federal loan guarantee provisions remain at the $1.5 billion of the administration package, which is $250 million more than the Lugar-Tsongas bill that came out of the Banking Committee.

Now, the stickler issue has been the issue of the wage freeze. As has been noted in the press, the Senate Banking version we put together called for a 3-year wage freeze totaling $1.32 billion. That would include both management and union personnel. That was a long way from the $200 million the union was prepared to sacrifice.

That $1.32 billion is also a long way from the $400 million in the so-called no-name compromise.

It is my belief that the most logical middle ground that is, unhappily, acceptable, although they will deny it, of course, for the UAW, and, unhappily, acceptable, although they will deny it as well, to those opposed to Chrysler, is a $600-million wage concession package, $475 million coming from labor, a $75 million addition to where they are at this point, and $125 million coming from management on the very obvious theory that there is no point asking the union to do something management would not be able to do.

No one likes the $600-million wage concession, but the viability of Chrysler over the long term, I think, would be an even more important concept.

I find it intriguing to be attacked by unions since I probably have the best voting record on labor issues of anyone in the Chamber, or very close to that, in my 5 years in the Congress.

It seems to me that we are here to use our heads and not to be Senators for one constituency or another.

As to the ESOP, the so-called employees stock option plan, inasmuch as the union contribution has been reduced dramatically, ESOP, which was at $250 million in the Lugar-Tsongas proposal, has been dropped to $60 million.

I think both Senator LUGAR and I have always been intrigued by how little impact that approach had. We tried to indicate that if we had a freeze of some sort, we would make up for it by having the stock ownership plan, assuming Chrysler came back, that would more than make up over time for lost wages. That was received with the enthusiasm of a yawn.

Inasmuch as it is a significant contribution, but is perceived as insignificant, there is no sense in this case having the worst of both worlds. So that has been reduced to $60 million.

The provision on the ESOP is that introduced by Senator STEWART in the Banking Committee. The number simply has been changed.

Now, the non-Federal share, for the banks in the State of Michigan and the city of Detroit, Canada, dealers, suppliers, name it, was $1.43 billion, and that was true in the Lugar-Tsongas Banking Committee version and the so-called no-name compromise. That has been raised to $1.53 billion by adding another category, a target category of $100 million which, hopefully, would be a loan from the UAW.

That notion was introduced, as we know, by Senator LUGAR, although in a different amount.

Two points of clarification. One is that if the union and the management are able to come up with equivalency on the $600-million wage concession, that is all right with me.

For example, if they would rather give out wages and forgo court days, then I have no problem with that, and I suspect nobody else does.

So the equivalency concept is still in this bill.

The second point is that under the non-Federal share of $1.53 billion, it does not make a twit's bit of difference to me how that is arrived at. If they get it all from the banks, that is all right.

The figures we have in the bill are as follows: United States banks, $500 million; foreign banks, $150 million; sale of assets, $300 million; State and local governments, $250 million; suppliers and dealers, $180 million; new equity, $50 million, UAW loan, $100 million.

These are simply targets, and no one is holding anybody to these particular figures. Those are the figures that have been testified to and we think are realistic. But if the company is able to work within those figures to the same end result, then I do not think anyone would have any trouble with that. In fact, we probably would prefer it.

This is the compromise I have been working to end up at.

All the provisions, by the way, are identical to the Senate Banking Committee version.

Having spent a lot of time on this, I must say that I now believe that because of the vote on cloture this morning, time is not on the side of Chrysler and that it is really incumbent upon the various parties and interests to try to move closer to an agreement and to do it in rapid fashion.

While we are taking our various positions—all of which I agree have merit—the patient is dying. The bottom lines that I perceive on both sides do not happen to meet. Therefore, there has to be a rethinking of those bottom lines.

Today, out of a kind of frustration, I have put this together, and I would like to put it in the RECORD. I submit that it offers the best chance of passage and the best chance of a viable Chrysler 3 years from now.

I point out to the parties on both sides that I think there are valid brinks over which we should not go. I do not believe, for example, that the union, if pushed beyond the $475 million and the $100 million loan, would be interested any longer in the favorable resolution of this bill.

It is my belief that they would conclude that, since Chrysler represents a small portion of their membership and the long-term impact on the union is so negative, with this kind of precedent, they would work against ratification; and, in effect, we would have a self-fulfilling prophecy.

On the other hand, it is my belief that if we limit the Federal share to $1.25 billion, that would take $250 million out of the package and correspondingly reduce the chances that there would be enough money around to sustain the shock of a recession and an energy crisis in the latest ayatollah happening.

So those of us who are concerned about the bottom line being substantial seek—rightfully, I think—$1.5 billion. Again, what is the point of going through all this only to have Chrysler go under 3 years later? That is the reason why I support the full $1.5 billion Federal loan guarantee program.

Having invested a lot of time on this—and with no particular impact on Massachusetts—I am presenting this today as what I hope will be perceived as a reasonable last position. It would call on all the parties involved to take a look at it and argue it on its merits, without consideration for positions that have been held in the past.

I think that saving Chrysler is worth it. I did not have that opinion a month ago. I believe that the history of the Chrysler Corp. and the history of Mr. Iacocca, in terms of the auto efficiency bill of 1975, border on the unforgivable. I think they were irresponsible, did what was in their interests, and the country could go to hell so far as they were concerned. It almost did.

However, I think Detroit is on the verge of a renaissance, and this would be a body blow to that community. I believe Chrysler is going to have a viable product line next year with the Omni and the Horizon in full production and with the so-called K style cars coming on board to compete with GM's X cars.

I also think it is not in our national interest to have a major corporation go down like this, because it only adds to the balance of payments difficulties we already have, with people buying Toyotas and other foreign cars.

I hope the Senate will agree with the majority leader that we have to get this out. It was stated on the floor today that we could wait until February. If you are going to wait until February, I suggest that you trade in your Chrysler product right away, because it will not be serviced by February.

This has to be done; it has to be done now; it has to be done right.

I hope that what I have submitted for the Record will be appealing to the parties in interest. I take some consolation, in having presented this, to know that it is equally unacceptable to both sides. Not one of the parties in interest has called me to say that it can accept it, which to me is a pretty good sign that I am on the right track. If we are going to do it, I am suggesting that we do it sooner rather than later.

I ask unanimous consent to have this material printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

	Banking Committee bill	Tsongas compromise[1]	No name compromise	Administration
Total package	$4 billion	$3.63 billion	$3.33 billion	$3 billion.
Review board	Secretary of Treasury, Chairman of Federal Reserve Board, Comptroller General.	Secretary of Treasury, Secretary of Labor, Secretary of Transportation, Chairman of Federal Reserve Board, Comptroller General.	Secretary of Treasury, Chairman of the Federal Reserve Board, Comptroller General.	Secretary of Treasury.
Management and worker concessions.	A 3-yr wage freeze totaling $1.32 billion	$600 million in wage concessions—$475 labor, $125 management.	$400 million in labor wage concessions	Not addressed.
Federal loan guarantee	$1.25 billion	$1.5 billion	$1.5 billion	$1.5 billion.
ESOP	$250 million	$60 million	$100 million	0.
Non-Federal	$1.43 billion	$1.53 billion (include $100 million UAW)	$1.43 billion	$1.5 billion.

[1] All other provisions are identical to the Senate Banking Committee bill.

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. TSONGAS. I yield to the Senator from Michigan.

Mr. RIEGLE. Mr. President, I say to Senator Tsongas that I, for one, appreciate the efforts he has made over a rather extended period of time, in the Senate Banking Committee, during our hearings and during our markup, and since, in working in the most intensive personal way with the Chrysler problem.

In the course of those efforts, as I believe he has mentioned—I have heard only the latter part of his remarks—he had the opportunity to visit Detroit and to assess for himself the potential impact of a Chrysler bankruptcy and shutdown in that metropolitan area.

I think that was an extraordinary effort on his part, as a member of our committee, and it is one which I deeply appreciated at the time and appreciate today, and I will continue to appreciate it.

The suggestions he has made previously and the ones he makes today are serious and important. I believe that I and others will consider them, evaluate them, and talk with other parties.

This is a complex situation that is moving in both the Senate and the House simultaneously, in an effort to find a workable solution within the time pressures he has mentioned.

I agree fully with his assessment of a comment made earlier in the evening as to how long we have to deal with the Chrysler problem. From my own involvement with the situation, I say flatly that we have to act on and finish the work on Chrysler in this session of Congress, even if that should involve, as the majority leader has said, coming back during the Christmas period and even into the first part of the new year, if necessary. I hope that will not be necessary. However, if it becomes necessary to do so in order to complete action on Chrysler, I believe it has to be done. I applaud the majority leader for the strength of his conviction and commitment to see us do that if it is necessary.

It is my own view that if Congress were to fail to act positively on the Chrysler loan guarantee legislation during this session we will, in effect, have made a decision and I think a fatal one for Chrysler in that I do not think the company in the final situation that it is in at the present time can wait until the new session is initiated and that the Senate and House of Representatives were back in business to take the matter up again. I think the final situation now is at a critical point and partly because of the drum fire of negative comment that has been aimed at the company and its prospect by some of the opponents of the legislation.

So just the sheer act of delay takes a toll on the company every hour and every day and that is why the moment has come for us to face this issue and deal with it and settle it while we still can.

So again I say to the Senator from Massachusetts that I know of no Senator from a State without major Chrysler facilities that has devoted anything like the time and the attention that he has to this particular problem.

I want to continue to work with him as I will to see us reach a conclusion that can be one that is both workable in terms of solving the problem and also as one that can secure the support both here and in the House of Representatives that it takes to enact it into law.

The Senator can look forward to my continued effort to work with him and others in that regard to see if an answer can be found in time that fits this situation.

I thank the Senator for yielding.

Mr. PROXMIRE addressed the Chair.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. PROXMIRE addressed the Chair.

Mr. LEVIN. Will the Senator yield?

Mr. TSONGAS. I yield to the Senator from Michigan.

Mr. LEVIN. I add my thanks to the Senator from Massachusetts for his efforts.

The PRESIDING OFFICER. I advise the Senator that the Senator from Massachusetts has the floor and he is able to yield to the Senator from Michigan.

The Senator from Michigan.

Mr. LEVIN. I thank the Senator from Massachusetts for his efforts relative to the Chrysler matter. His State is not as directly involved as many other States, probably most other States in the Union. But he has taken on the task of trying to find a solution to this matter, which will be equitable to the parties involved, the taxpayers of this country, and to the economy of this country. I think it has been mostly a thankless task.

I simply want to get up and thank him because I think his purpose is admirable. I think his goal is highly desirable of trying to not only save the corporation but save the economy the kind of blow which the failure of this corporation would mean to the economy.

For his dedication, for his contribution I think we are all very much in his debt. I have not had a chance to review the document which he has introduced today. I am sure, however, that it reflects the kind of thoughtfulness which has consistently marked the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the Senator from Massachusetts has done a very fine job along with the Senator from Indiana in trying to work out some kind of a compromise that would be acceptable to Senators on this very, very troublesome issue. I join in congratulating him on the hard work, the time, the intelligence, the thoughtfulness, and the sense of compromise.

Mr. President, the less rewarding but the most important element of being a Senator or being a Congressman, for that matter, is being able to build a coalition that will get something done. It is one thing to be a Governor or a mayor or an executive of some kind and just make a decision and insist that it is carried out. It is something else to persuade people who have just as much of a vote and just as much authority as you have to go along with you.

This is what the Senator from Massachusetts has done. He has done it extraordinarily well I think under the circumstances.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield to the Senator from Massachusetts.

Mr. TSONGAS. I thank my chairman for his support of my legislative skills. I look forward for his vote on my motion.

Mr. PROXMIRE. Mr. President, I appreciate that. He knows I am going to vote against his position which I have consistently, and I am philosophically opposed to it and practically opposed from the standpoint of the practical effect on the national economy. I think it would be most unfortunate.

Mr. President, we have tried to push this bill along as quickly as we can. I feel very strongly, as the two Senators from Michigan have indicated, that we should dispose of this matter and dispose of it promptly and not let it die of inaction.

What our committee did was to hold 6 days of hearings, morning and afternoon. We had over 30 hours, I think close to 40 hours of testimony. We had testimony by people on all sides of the issue. I do think that we have a good record on which Senators can judge.

But the Senator from Indiana and the Senator from Massachusetts put forth a compromise which would achieve certain ends. No. 1, it would tend to discourage other people who want to get this kind of assistance when they are in trouble.

I think we all recognize that one of the great problems with providing a bailout is the precedent it provides for other firms that fail. Last year there were 6,000 firms that failed. The year before there were 8,000 firms that failed. We could have bailed all of them out. We could have made a great case. We could have saved jobs in the process and saved a lot of misery and heartbreak.

We also would have ended the free enterprise system. It is a profit and loss system, not just a profit system. We have to recognize that it is far easier to bail people out under these circumstances. It is hard to say, that, we bail out the big firms because they are big and have strong unions and banks and others who are pressing for them but forget about the little guy. We obviously would not want to do that.

So we have to follow a policy at the very least which would discourage others coming before us and asking for a bailout.

I think the Lugar-Tsongas compromise or the Tsongas-Lugar compromise tends to do that.

Furthermore, we should require a substantial contribution from those who would benefit, and their compromise also does that. It also provides a considerable amount of recovery in the event that this bill works out.

In the third place we should provide for protection for the taxpayer to the greatest extent we can. Contrasted to the administration bill, the Tsongas-Lugar compromise would tend to do that because it provides a much greater cushion. The administration bill would only provide $1.5 billion of private money. The suggestion of Mr. TSONGAS and Mr. LUGAR is that we should provide not $1.5 billion of private money, but $3.75 billion.

The latest compromise would provide somewhat less, but still be far better than the administration.

Mr. President, the principal issue we should keep in mind here is that we should act with a reasonable degree of promptitude on this matter and not simply have a minority of Senators kill it by delay for one simple reason. That is because if we delay this long enough that company is going to fail simply because of a lack of action. They are going to run out of money, possibly as early as the middle of February and almost certainly by the end of March. That is the testimony before us from the management, from the banks, and from all the others who have looked into it.

As I say, I am going to vote against this measure because I think it is a very, very bad precedent. I do not think we should do it. I think we have to just grit our teeth and take it when we have this kind of unfortunate development in this country.

Mr. President, I wish to speak very briefly on another matter.

Mr. WEICKER. Mr. President, will the Senator from Wisconsin yield on the matter that he just discussed?

Mr. PROXMIRE. I am happy to yield to my friend from Connecticut.

Mr. WEICKER. I appreciate the practical and philosophical position of the Senator from Wisconsin, and I probably join in that particular position. But as one who feels that this is not a matter which should be rushed through the Senate in 48 hours, I believe, if I am not mistaken, the matter has been before the distinguished Senator from Wisconsin and his committee for months; if not months, certainly weeks. I do not want to be accused out here because I insist on somewhat of a debate on the substance of the matter I was trying to go ahead and delay and postpone, or whatever have you. Right now on the basis of the legislation we have before us and the legislative schedule imposed by the majority leader of delaying deliberations on the $1.5 billion loan, I do not want any different standard set in the Chamber than the distinguished Senator set on his committee as to the proper evaluation of this loan.

I worry a little bit when I hear the comments of the distinguished Senator from Wisconsin that would indicate any such proper consideration would be deemed delaying the decision on the merits or a filibuster or what-have-you. That is what bothers me.

As I said in my earlier remarks about the majority leader, he loves to run the great issues right up to the adjournment date, and then he expects to resolve them within 48 hours.

I have been in agreement with the distinguished Senator from Wisconsin, not only on this loan but on Lockheed, and we are in agreement on that point; but I do worry somewhat when I catch the tenor of his remarks that he would be opposed to any sort of decent debate here on the Senate floor.

Mr. PROXMIRE. No, I think we should have debate, and I respect greatly, as the Senator knows, the Senator from Connecticut. I think he is right in having a debate and that Senators be satisfied in their minds as to the merits of this legislation pro and con.

But I do think it is quite different from the windfall profit tax, which is an extraordinary tax involving hundreds of billions of dollars, and something we have not had a chance to get into now. I do not think it is something that should require weeks of debate on the floor of the Senate.

As I say, we have a very solid record in the number of days, many, many hours in committee. That report is available now. It has been, the legislation has been, before the Senate now for almost a week, and Senators will have the opportunity to read the RECORD on the Chrysler hearings and on the committee report, and they should be prepared to act on it.

As I say, it is not the kind of tremendously complicated issue—it is a very important issue, and we feel very deeply about it on both sides, but it is not the very complicated issue—that should require extended debate. It is not the kind of issue that requires perhaps the kind of educational discussion we have had on the windfall profit tax. This is one I hope we can settle in a relatively short time.

Mr. WEICKER. Certainly I do not consider it any different either as to the dollar amount or complexity, and I agree with the Senator from Wisconsin that it should be thoroughly aired.

What worries me is in view of the schedule set before us by the distinguished majority leader that here we have $1.5 billion in Chrysler, and we have hundreds of billions of dollars involved insofar as windfall profits, and we have been sitting around for a year on matters of far more minor importance, and all of a sudden the legislation comes out and we have got to go ahead and make these deliberations in rapid fashion.

Mr. PROXMIRE. May I say to the Senator we did not have the legislation before us but for a very short time before we called our hearings, just as soon as we could get on top of the situation, so that the staff could invite competent witnesses, so that committee members could have an opportunity to study representations by the Treasury and Chrysler, and then we called the hearings, and we did it very promptly.

As I said, we had those hearings on 6 successive days morning and afternoon. Then we reported the bill just as promptly as we could, with only a very few days elapsing between the last hearing and the time of reporting the bill, and it has been before the Senate now for a full week.

So I think we have acted just as rapidly as we possibly could. We have a full record on it, and I hope Senators will feel, on the basis of what we have done, that we could act promptly.

Mr. WEICKER. Under normal circumstances, there is one thing about the

Senator from Wisconsin, and that is there is absolute consistency in the position he has taken over the years. There is integrity in the Senator from Wisconsin, integrity which is just as great, if not greater, than anyone on this floor.

I was just concerned over the fact of his comments that anybody who would choose to discuss this for any length of time at all would be delaying it.

Mr. PROXMIRE. No, no.

Mr. WEICKER. Indeed, let me say this: I have a feeling as to what is going to happen. I think what is going to happen is we are going to be rammed against a deadline of having everybody try to rush home for Christmas, the majority leader with his threats saying that nobody will go home for Christmas, and all of a sudden $1.5 billion and the method of disposition of that money is something that is going to be resolved in a matter of minutes or hours, and I just think that is highly improper, I really do.

Mr. RIEGLE. Mr. President, will the Senator yield at that point?

Mr. PROXMIRE. I have the floor. I do want to get in the RECORD something further, and then I would be happy to yield to the Senator.

Mr. WEICKER. In conclusion to the distinguished Senator from Wisconsin, I want to say this: He has not behaved any differently in the sense of committee hearings as against any other issue of similar substance, and I respect the position he has taken as to the substance of the legislation. I think he is truly one of the giants on the Senate floor, and I always have, and I do, but I know what I am going to be doing in the days ahead, and because of a lack of leadership on the other side I do not care to be the one accused of delaying a matter of this importance. I think that is a subject that is better addressed to the majority leader and not to those of us who care to thoroughly discuss $1.5 billion in taxpayers' money. That is my only area of concern.

Mr. PROXMIRE. I appreciate that.

The majority leader has been very diligent in urging the commitee and the members of the committee to act promptly on this matter. In all fairness, I think in this case he has done his best to see that we got the bill on the floor. One of the reasons why we have it on the floor is because he has urged us to do so.

I yield briefly to the Senator from Michigan.

Mr. RIEGLE. I thank my chairman for yielding.

I want to just comment on some of the things that have been said in respect to the majority leader because I think what the chairman has just said is absolutely correct. I think the majority leader has been diligent in working in every possible way to bring this matter forward. The timing is not his doing or anybody else's doing.

The difficulty with the Chrysler situation from the timing point of view relates as much to the high interest rates, the economy as a whole, the drum fire of negative commentary by Chrysler, and so forth, which have created the urgency. What I heard said earlier was, by the majority leader, that he was prepared because of the national impact of the Chrysler problem to see this Congress and the Senate stay in over the holiday period in order to see that it is considered, and I see that as the essence of a responsible position and not the reverse.

So I hope our frustration about the factors that are beyond anybody's control here are not laid at the doorstep of any one person. I do not think that is fair, and I hope we would not put it in that context because I think it is incorrect.

I thank the Senator for yielding.

THE GENOCIDE CONVENTION: NO INFRINGEMENT ON STATES' RIGHTS

Mr. PROXMIRE. Mr. President, for 12 years I have spoken on the need to ratify the Genocide Treaty. During those years few, if any, new arguments have been raised in opposition. I have refuted those existing arguments in hope that we could move toward ratification. Unfortunately, that has not been the case. Dissenters to the treaty cling to the same age-old arguments despite thorough and substantive evidence to the contrary.

Today I wish to refute yet another point which has inexplicably remained despite earlier rebuttals. Opponents to the treaty maintain that ratification would violate the 10th amendment of the Constitution. That amendment defends States' rights.

Mr. President, this argument does not hold water. We need look no further than a classic Supreme Court decision to dissolve this objection.

In 1920 the Supreme Court handed down a decision regarding the Migratory Bird Treaty between the United States and Canada. Opponents questioned the constitutionality of congressional legislation giving effect to a treaty which encroached on State game laws. The Court upheld Congress authority to join treaties dealing with matters normally under State control. The court held that—

> If the treaty is valid there can be no dispute about the validity of the statute * * * to execute the powers of the Government * * * We are of the opinion that the treaty and statute must be upheld.

Moreover, in writing for the majority Justice Holmes stated that—

> No doubt the great body of private relations usually falls within the control of the state, but a treaty may override its power.

Mr. President, neither the convention itself nor the implementing legislation would enlarge the powers of Congress. Under article I, section 8 of the Constitution, the Congress already holds the power "to define and punish offenses against the law of nations."

Mr. President, no expansion of the power of the Federal Government would take place through the Genocide Convention. This false belief is for the birds. Of course, I mean the migratory birds. We must set aside such inaccurate arguments and ratify the Genocide Convention.

Mr. President, I yield the floor.

THE IRANIAN-UNITED STATES DEBT SITUATION

Mr. HARRY F. BYRD, JR. Mr. President, in the light of the current crisis in Iran, and the freezing of Iranian Government assets in the United States and U.S. banks abroad, it is interesting to review the debt relationship between Iran and the United States.

I am advised by the Treasury Department that the Government of Iran has on deposit with the U.S. Government $400 million, for the use of the Defense Department in providing military equipment to Iran. Since military assistance to Iran has been suspended, this money is more or less in limbo.

At the same time, the Iranian Government has a debt to the U.S. Government amounting to $435 million, consisting mostly of credits granted through the Export-Import Bank. In addition, private corporations in Iran owe the U.S. Government $39 million.

Of course, during the present crisis, efforts to collect any Iranian debt to the United States would be fruitless.

In that regard, I feel I should mention that the U.S. Government has been lax over a long period of years in collecting debt owed by foreign governments. At hearings conducted by my Subcommittee on Taxation and Debt Management of the Finance Committee in February, witnesses from the State and Treasury Departments admitted that little or nothing had been done to collect the $73 billion which foreign governments owe to this country.

The status of the Iranian debts is up in the air at the moment. Experts at the Congressional Research Service and the Treasury Department have advised me that because of a lack of precedent, the question of whether frozen Iranian Government assets could be used to offset government-to-government debt cannot be resolved at this time.

Indeed, the entire situation surrounding the status of the seized Iranian assets is very confused. This includes not only debt involving the respective Governments, but all debt owed by parties in Iran to companies and institutions in the United States.

There has ensued, since the freezing of assets, a rush by attorneys to attach assets on behalf of their clients, who face large losses because of Iranian loan defaults and breached contracts during the current crisis. The legal picture was summarized in the December 17 edition of the National Law Journal, and I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RACE TO SHACKLE IRAN'S CASH

(By Jonathan M. Winer)

Commercial litigation involving the Islamic Republic of Iran mushroomed last week as major American banks and other creditors of Iran raced each other to the courthouse to attach Iranian assets wherever they could be found.

More than 40 suits were filed in the first two weeks in federal court in New York following President Carter's order freezing all

Iranian assets in the United States and Iran's threatened repudiation of its foreign debts.

Lawyers representing a wide range of banks, engineering, electronics and construction firms are trying to tie up Iranian assets in the United States to pay off mounting debts from loan defaults and contracts breached during the current crisis. The assets may be insufficient to cover the defaults.

"Right now it's a litter of pigs at a suckling sow. Everybody's rushing to make sure there's a tit left," said George Weisz of New York's Cleary, Gottlieb, Sutten & Hamilton.

LOOKING TOWARD EUROPE

Mr. Weisz's firm so far has filed three suits against Iran in New York and attached $9.2 million for Itek Corp., $3.5 million for Northwestern National Bank of Minneapolis and $700,000 for Seattle First National Bank. He said his firm is preparing other suits.

Already suits involving the attachments have spilled over to Europe, where American banks are now moving to offset their losses by grabbing non-frozen Iranian assets kept on deposit in Europe

These actions have caused consternation in foreign banking circles and will raise complicated questions of conflicts between American and foreign laws.

TOO MANY CASES

There's also been consternation in the United States as lawyers attempting to tie up Iranian funds in this country have been attaching every institution with significant Iranian assets or deposits.

"If Iran doesn't pay, I would think that this whole mess may have to be resolved by executive order or legislation," said Robert S. Smith, a lawyer for New York's Paul, Weiss, Rifkin, Wharton & Garrison who filed several attachment suits against Iran.

"Proceeding under the laws and procedures we have now isn't going to yield consistent, rational results," he said. "There are too many cases and claims, too many things unknown."

By last week, 57 suits had been filed in federal court, in New York, along with several suits in Boston, Dallas, San Francisco, Milwaukee, London and West Germany. Lawyers predicted that suits would also appear wherever banks held Iranian deposits in the United States.

The attachment process already has led to some bizarre actions as banks have begun to attach assets held by each other. The European American Bank even attached some of its own assets—funds deposited by the Bank Bazargani Iran. The EAB's Nov. 26 suit was filed by the New York firm of Sullivan & Cromwell.

One attempt to attach assets of the deposed shah of Iran, Mohammed Riza Pahlevi, led to an effort to serve the former ruler in his New York City hospital bed.

The attachment attempt was made by New York's Debevoise, Plimpton, Lyons & Gates for client First National Bank of Chicago shortly after the government of Iran sued the shah for $56 billion. The theory was that if the shah owed Iran money and Iran owed the bank money, then the bank could go after the shah's money.

ADEQUATE SERVICE?

"We figured that if the government of Iran recovers its $56 billion from the shah, all we want is the first $87 million chunk," said Debevoise's Robert L. King.

Service was difficult, however. Process servers were thrown out of the hospital and the shah's personal representative, Robert Armao, refused to accept court papers as he stepped into his Cadillac.

Mr. King claimed service on Mr. Armao was adequate, anyway.

"The question is whether service on Armao is adequate service on the shah," he said. "We'll have to see when all these legal questions are sorted out."

Ordinarily, the attachment proceedings take no more than a day. But the courts have directed the lawyers to give notice to Iran to appear after the initial ex-parte proceedings in hearings scheduled to begin by the middle of this month.

In those hearings, Iran will be represented by lawyers hired through the law firm of Abourezk, Shack & Mendenhall in Washington, D.C., a five-man firm acting as the central nervous system for suits filed in the United States involving Iran.

Lawyers familiar with the litigation said it is still unclear whether the multiplying suits will be consolidated at each federal court or will be assigned to a single judge in each court for the duration of the litigation.

"There is no way of predicting how long this all might take. It's a first. Who knows?" said Robert Christensen, a lawyer at Foley & Lardner in Milwaukee who filed an attachment suit against Iran on behalf of the First Wisconsin National Bank for $2.4 million Nov. 30.

WORLD WAR II PRECEDENT

Other lawyers suggested that the U.S. government might be forced to confiscate Iranian assets and distribute them as custodian for the benefit of creditors generally to prevent judgments from being satisfied solely on the basis of who got to the courthouse first.

They noted that precedent for such an action existed during World War II in the Alien Property Custodian Act and in the Foreign Enemy Property Authority. The authority was used by the government to handle Chinese assets frozen in the United States after the Communists drove Chiang Kaishek to Taiwan.

The international implications of the legal activity in the United States remain unclear, though lawyers involved in the litigation contended that their suits have already initiated a crisis in European banking circles.

According to the banking lawyers, the Carter freeze forced Iran into technical default on interest due a syndicate of 22 American and foreign banks on a $500 million loan.

American banks then sent cables warning foreign banks in the syndicate that they would be precluded from sharing in the benefits of attachment proceedings initiated in the United States if they didn't begin to attach Iranian assets in their own countries.

The lawyers said this action threatened to call into default all of Iran's outstanding international loans and credit. The action by the American banks might also force foreign banks to attach Iranian funds to protect themselves, thus further drawing their nations into the conflict between the United States and Iran.

BRITISH FREEZE

Meantime, Iran has counterattacked by suing five American banks in London for some $3 billion deposited in London branches of those banks. The U.S. government has itself joined Citibank Corp., one of the five banks, in counterproceedings against Iran and its national bank, the bank Markazi Iran.

Late last week, in response to a request by the Chemical Bank of New York, a British court issued an injunction freezing all Iranian bank assets in the United Kingdom.

Under American law, a bank that attaches Iran's frozen assets in the United States may then place a hold on nonfrozen Iranian deposits in branch offices in other countries. But courts in other countries may disallow such set-offs.

For that reason, banks such as the Morgan Guaranty Trust Co. of New York have begun to seek attachments in West Germany, England and France. Morgan attached 25 percent of Iran's interest in Germany's Krupp Corp. in late November.

In the United States, lawyers from many of the nation's best-known law firms involved in commercial and banking law have filed suits against Iran seeking multimillion-dollar attachments for clients.

These firms include Chicago-based Baker & McKenzie, which has filed at least six attachment suits, and several New York City firms, including Paul Weiss, which has filed three suits; Davis, Polk & Wardwell, which filed the first major post-freeze suit, a $66 million action on behalf of Morgan Guaranty; and Shearman & Sterling, which has represented Citibank.

Other New York firms attaching Iranian assets include White & Case LeBoeuf, Lamb. Leiby & MacRae; Proskauer, Rose, Goetz & Mendelsohn; Skadden, Arps, Slate, Meagher & Flom; Freid, Frank, Harris, Shriver & Jacobson; Breed, Abbott & Morgan; and Winthrop, Stimson, Putnam & Roberts.

QUORUM CALL

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. I object.

The PRESIDING OFFICER. Objection is heard.

The call of the role was resumed and the following Senators entered the Chamber and answered to their names:

[Quorum No. 14 Leg.]

Bellmon
Boschwitz
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Cranston
Dole
Garn
Hart
Hayakawa
Heflin
Helms
Inouye
Jackson
Jepsen
Leahy
Moynihan
Riegle
Sarbanes
Schmitt
Schweiker
Stevens
Weicker

The PRESIDING OFFICER. A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The Sergeant at Arms will execute the order of the Senate.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to direct the Sergeant at Arms to compel the attendance of absent Senators. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from Florida (Mr. CHILES), the Senator from Alaska (Mr. GRAVEL), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), the Senator from Illinois (Mr. STEVENSON), the Senator from Florida (Mr. STONE), the Senator from Georgia (Mr. TALMADGE), and the Senator from Nebraska (Mr. ZORINSKY) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maine (Mr. COHEN), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from New York (Mr. JAVITS), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from South Carolina (Mr. THURMOND), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

The PRESIDING OFFICER (Mr. LEVIN). Does any other Senator wish to vote?

The result was announced—yeas 67, nays 6, as follows:

[Rollcall Vote No. 474 Leg.]

YEAS—67

Baucus
Bayh
Bellmon
Biden
Boren
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Church
Cochran
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Jepsen
Johnston
Kassebaum
Leahy
Levin
Lugar
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stewart
Tower
Tsongas
Warner
Williams

NAYS—6

Armstrong
Boschwitz
Garn
McClure
Wallop
Weicker

NOT VOTING—27

Baker
Bentsen
Chiles
Cohen
Goldwater
Gravel
Hatch
Hatfield
Heinz
Javits
Kennedy
Laxalt
Long
Magnuson
McGovern
Packwood
Percy
Pressler
Ribicoff
Sasser
Stennis
Stevenson
Stone
Talmadge
Thurmond
Young
Zorinsky

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The PRESIDING OFFICER. The question is on the amendment.

Mr. DOLE. Mr. President, the question is on what amendment?

The PRESIDING OFFICER. The question is on the amendment of the Senator from New Jersey.

Mr. DOLE. Oh, well, we do not want to do that yet.

Mr. President, while we are adding up the absentees and seeing which side they are on, is a motion to table still in order?

The PRESIDING OFFICER. A motion to table what?

Mr. DOLE. Whatever is in order. The Bradley amendment.

The PRESIDING OFFICER. The motion to table the Bradley amendment would be in order.

Mr. DOLE. I appreciate that. I think I may do that sometime soon.

I should like again—tomorrow will not be very long, either. A parliamentary inquiry, Mr. President, if I may make a parliamentary inquiry without losing my right to the floor.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. Is it possible that a cloture vote could occur any time after 1 a.m.?

The PRESIDING OFFICER. If the Senate stays in session past midnight, there could be a cloture vote, if a quorum is established, at 1 o'clock.

Mr. DOLE. That would be the earliest time we could do that?

The PRESIDING OFFICER. Except by unanimous consent. The Senator is correct.

Mr. DOLE. That is something to ponder while we discuss the merits of this amendment. There are considerable merits to consider.

I understand that the chairman of the committee is now unavailable. I hope that he is not beyond recall, since he may be needed later on.

Mr. President, it is my understanding that there is some movement on the other side, but just in and out of the Chamber; there is no movement to compromise. There have been efforts by the distinguished acting minority leader (Mr. STEVENS) to propose certain opportunities or compromises.

The Senator from Kansas will repeat, as I did earlier, that there is a principle at stake here. It may become less and less visible as we discuss the proposal. I am certainly not suggesting that all the wisdom is reposited in the Committee on Finance, because I heard the distinguished Senator from South Caroline indicate that he is not on that committee and he is not.

He is certainly a very able Senator, an outstanding Senator, and he should have a right to vote on whether or not he wants a minimum tax on all these different categories. I think that we tend to agree with that, but we have not quite figured out the formula under which we could let that happen at this point.

The Senator knows, as I have said earlier, that it is an uphill battle for some lonely Senator on this side, the minority side—outnumbered, outmanned, outgunned. So we just have to do the best we can with what we have.

What we do have is the facts are on our side; the arguments are on our side; the merit is on our side. I mean by "our side" not the Republican side, but on the side of those who simply want to exempt new oil from a tax.

Maybe, if we are going to tax everything, we ought to tax State royalties That might concern the chairman if we proposed a minimum tax on State royalties.

I do not understand the insistence now, after talking about dollars for the past several weeks, that we are wedded to the principle, that suddenly it is a principle that we have to have a tax on newly discovered oil.

We talk about the Iranian crisis and the oil crisis and the energy problem, and what is our response to the energy problem? Start taxing everybody—impose more taxes. Somehow, perhaps the American people will perceive that to be progress while they are sitting there in a gas line wondering why we do not produce more energy in this country. We say, well, we cannot provide more energy because we taxed away the profits and we are not drilling as much in Oklahoma or in the State of Kansas or in other States that are now just starting to produce oil. That is the dilemma we face.

Some Senators feel very strongly that we ought to impose more taxes. Even some on this side of the aisle voted not to table, which would indicate that at least they are interested, perhaps, in imposing additional taxes, whether it be called a minimum tax or any other tax.

Notwithstanding the imperfections of the Senate Committee on Finance, the vote was 19 to 1 not to tax newly discovered oil. Eight Republicans and 11 Democrats joined together in voting to exempt newly discovered oil.

Mr. President, I wonder if we might have order on my side?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. DOLE. So, with that vote, after about 5 weeks of hearings and 85 hours of markup and a lot of discussion—nonpartisan, bipartisan, objective discussion and statements by the distinguished Senator from Rhode Island (Mr. CHAFEE), the distinguished Senator from Connecticut (Mr. RIBICOFF), and from nonproducing States, indicating that we should not tax new oil, we decide to exempt that category of oil. Many of us hoped that the entire Senate might go along with the Senate Committee on Finance in that one area.

The Senator from Kansas recognizes that everybody is a free spirit in this Chamber and everybody has the right to disagree. Nevertheless, it is the hope of this Senator that when there is the next vote on cloture, cloture will not be invoked and we can still find room to negotiate.

Again, it is very difficult to compromise when there are some who feel a compromise is getting more in the backroom than you can get on the Senate floor. This Senator, speaking only for himself earlier today, suggested that we agree on some figure that the minimum tax would raise, that we would give $18 billion to those who wanted a minimum tax and there would be $13 billion for those who did not want a minimum tax. But that proposal was not acceptable because we were then told that a matter of principle was involved on the minimum tax itself.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DANFORTH. Mr. President, will the Senator yield?

Mr. DOLE. I yield for a question.

Mr. DANFORTH. I wonder if at some time—I do not want to do it while the majority leader is not on the floor—but if at some time it would be in order for me to offer a unanimous-consent request to the effect that it be in order for me to bring up amendment No. 814 at this time?

My notion would be to offer it, to enter into a time agreement of any reasonable time, the amendment could be subject to a tabling motion. I would expect that the unanimous-consent request would have a reasonable time for its debate and that the amendment would not be subject to an amendment in the second degree.

Mr. CRANSTON. Which amendment is 814?

Mr. DANFORTH. This is the so-called Danforth 2 approach.

I think we can bring it up. It has already been fairly well debated a couple of times.

Mr. DOLE. Is that the Danforth 2?

Mr. DANFORTH. The Danforth 2.

We could dispose of it. That would be my offer of one way to try to break the logjam and expedite the business of the Senate.

Mr. NELSON. Will the Senator yield for a question as to the substance of that amendment?

Mr. DANFORTH. Senator DOLE has the floor, I think.

Mr. DOLE. I am happy to yield to the Senator from Wisconsin or the majority leader without losing my right to the floor.

Mr. NELSON. I just wanted to know what the substance of the amendment was that he was going to ask unanimous consent on.

Mr. DANFORTH. This is the so-called Danforth 2 amendment. What it would do would be to condition the exemption from the windfall tax which has provided for, I think, four different types of oil under the bill on the States not raising the tax on exactly the same oil.

It goes to the same basic question as the original Danforth amendment, that is, the economic problem that exists with the tremendous transfer of enormous additional resources to four States and the effect that has on the total economy.

Basically, what I have done is to propose two different approaches to dealing with at least part of that problem. One is the so-called Danforth 1 approach, which is to impose the windfall tax on State royalty receipts.

The second, and the one I would propose to call up and have a time agreement on, would be the one which would condition certain exemptions that we have written into the windfall bill on the States not increasing their severance tax.

Mr. DOLE. The Senator from Kansas has the floor. Was that request made?

Mr. DANFORTH. No. It has not been made. I wanted to discuss it, because I did not want to make it while the majority leader was not on the floor. I was just hoping that perhaps we could get some reasonable agreement on doing something.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

Mr. DOLE. I yield.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator from Missouri. He has repeatedly indicated his willingness to call up his amendments at any time. He has said this on the floor. He has said this privately.

I deeply appreciate not only his willingness, but his eagerness to cooperate in getting a vote on his amendments and in moving the bill along.

The manager of the bill (Mr. LONG), the distinguished chairman of the committee, is not here at this time. I would hope the Senator would not propound his request until such time as the manager of the bill is either on the floor or by telephone indicates his acquiescence.

Until such time as that is done, I would have to personally object, if the request is made.

Mr. DANFORTH. I certainly will not. I am not going to offer the request under those circumstances.

It seems to me that if this is not novel, it has been said by a number of Senators today, that, basically, there are two questions on which there is heated controversy. One is the minimum tax question, which seems to have us stymied. That would seem to this observer to be something that we should be able to work out. I mean, it is really a question of numbers.

The other is the question presented in two different amendments on whether there is not some way to put some kind of not cap, but limitation, on the tremendous excessive revenue that four States are going to have and the inevitable economic consequences that would have for the rest of the country.

That is a matter which has already been debated a couple of times on the floor of the Senate. I am sure both sides would want to talk about it some more. But I would think we could bring it to a head. It will have to come to a head sooner or later. We could work it out in a very short period of time. Then if that particular part of the logjam is broken, maybe some Senators who have been voting against cloture would be more inclined to vote for it.

DANFORTH 2

Currently the windfall profit tax bill exempts four categories of oil—newly discovered, incremental tertiary, heavy oil, and the first 1,000 barrels per day of oil produced by independent producers.

PROBLEM

Many States may impose a severance tax on the entire decontrolled price of these categories of oil. This could override, in whole or in part, the production response expected by exempting these categories of oil from the windfall profit tax. In addition, together with increased royalties, income taxes, and severance taxes on the "nonexempt" categories of oil, imposition of a severance tax on the entire decontrolled price of the four exempt categories will result in a massive shift of revenue from oil consuming to oil producing States.

AMENDMENT

Under the Danforth 2 amendment, the exemption from tax for the four above categories of oil would be eliminated—on a barrel-by-barrel basis—if a State imposes its severance tax on more than the base price of the oil. If a State imposes its severance tax on the entire decontrolled selling price, then the Federal Government would impose its windfall tax.

EXAMPLE

Assume a State severance tax of 10 percent.

Assume one barrel of heavy oil produced by a private individual from a property developed in 1975.

Assume a world price of oil of $30.

Currently there is no windfall tax and price controls are in effect. Since the oil is tier 2 oil, it would sell for approximately $13, and the State would collect $1.30 in State severance tax.

Under the Finance Committee bill and decontrol, the windfall tax would not be imposed on this barrel. However, the State would require $3—$30 times 10 percent—to be paid in State severance tax.

Under the Danforth amendment, the exemption from the Federal windfall tax would be removed if the State imposes its severance tax on the windfall profit element of the selling price. In other words, a State could impose its severance tax on the barrel of heavy oil up to its base price—that is in this case $13 since the oil is tier 2 oil. If the State imposed its severance tax on more than $13, the exemption from the Federal windfall tax would be removed. Assuming the State does not impose its severance tax on the windfall profit of this barrel, its revenue would be $1.30—$13 times 10 percent—the same as its revenue under current price controls.

Mr. DOLE. Mr. President, I appreciate the Senator from Missouri's willingness to bring up his amendment.

I think the majority leader correctly indicated that, without some acquiescence from the chairman, it probably would be best to wait and it would take unanimous consent.

I would say to the Republicans that if anyone has not been contacted about night duty, if they will leave their names we will look for volunteers and then take the next step.

I am certain there will be more than adequate and ample volunteers, if it is necessary to discuss this until the next cloture vote, and then beyond the next cloture vote, until the next cloture vote, and perhaps during the interim some of us, or those of us who have been attempting to negotiate, can meet.

The majority leader indicated earlier this evening that he would be willing to discuss possible compromises with anyone who had an interest. But the Senator from Kansas is not certain at this point whether there is any real interest in trying to work out some agreement that would preserve the principle of not taxing new oil. That would indicate to those engaged in the business that, if we really go out and look for new oil, they will escape the tax.

I know it would be a terrible thing if we started producing more income free of new taxes. We will still pay a lot of tax. But not put that roadblock in the way of those who engage in looking for newly discovered oil.

This new oil exemption was the result of weeks and weeks of hearings, weeks and weeks of markup, the last 3 or 4 weeks on the floor. It seems to this Senator that we are not, certainly, being unreasonable in this request, particularly when it is buttressed by a vote of 19 to 1 in the Senate Finance Committee. Again, 11 Democrats and 8 Republicans.

The Senator from Kansas repeats that in the event there is no production response as expected, the Senate can meet again, certainly. If we find there is abuse and if we find, in fact, there is not the development we expected or anticipated, then I assume this Congress can vote to impose a minimum tax, or some other tax, on newly discovered oil.

The administration feels very strongly that they have votes for a minimum tax. The administration wants the minimum tax. The same administration said they did not want a tax on heavy oil and now it wants a tax on heavy oil. The same administration which asked for $50 billion initially is now not satisfied with $156 billion. The same administration indicated that we are going to work our way out of the energy crisis with one proposal, and that is to tax everything.

Maybe in the throes of the Iranian crisis, not many Americans are paying much attention to what happens in this body, and maybe that is for the better. But sooner or later, when the gas lines form and when people in States where we should be starting to get into production have not, then perhaps we will understand that if we impose a minimum tax, we will realize that we have made a mistake.

The Senator from California indicated to me the other day on the floor that he would not vote for a minimum tax, and maybe on an up-and-down vote he will not; but heavy oil certainly is a very important factor.

If the administration prevails, we will have a 20-percent tax on heavy oil and a 20-percent tax on tertiary oil and a 20-percent tax on newly discovered oil, and that will just about have taxed everything.

So the Senator from Kansas would be very pleased if any of the principals involved would like to discuss ways to accommodate any compromise.

I say once more that had the amendment proposed by Senators Ribicoff, Bradley, and others been adopted, the revenue raised would have been $31 billion. We were not able to table that amendment; we never thought we could. We got about 45 or 46 votes, depending on who may have been needed in the vote. On the other hand, the administration was unable to invoke cloture. Despite the heavy lobbying, the administration could not get that done. So there were 46 votes against cloture, 53 for, and 60 votes are needed to shut off debate and further gag the Senate. But that failed. So the $31 billion has not yet been added to the tax.

This Senator, acting, I hope, in good faith, suggested earlier today that those who wanted a minimum tax would have $18 billion of that $31 billion, and those who opposed would at least be considered by reducing some $13 billion, which gave the proponents of the tax about 60 percent of what they were seeking. A 25-percent tax on tertiary, a 25-percent tax on heavy, and a zero tax on newly discovered oil and other adjustments would give those who wanted the tax about $18 billion.

I say, finally—then I will yield the floor—that in 1976, as the distinguished Senator from Virginia (Mr. Harry F. Byrd, Jr.) knows, there was another little tax added on in conference, called carryover basis. We had not had any hearings. Nobody really understood it. But it was progress, so it was adopted in the conference.

Under the leadership of the distinguished Senator from Virginia, the amendment to repeal carryover basis is now part of the so-called windfall profit tax, and the vote on the Senate floor was 81 to 4.

We have had no hearings on the minimum tax. The minimum tax never was discussed in the Senate Finance Committee. It never was raised by anyone, Republican or Democrat, so far as this Senator knows, from either a producing State or a nonproducing State. Why is it raised now? For one purpose: to raise revenue, to raise taxes. It has no relationship to production. There is no relationship to production response. There is no relationship to the needs of Americans so far as energy is concerned. It simply is another tax.

Somebody at the White House dreamed it up. It is a White House tax. It is a minimum tax proposed by the White House, sponsored by the White House, initiated by the White House, sent to Congress by the White House, lobbied by the White House; and they are going to try to shove it down our throats from the White House.

If that is the way to address the energy crisis in this country, they will prevail. With the President's newly-found popularity, maybe he will prevail. But it will come at the expense of the American consumer, the American taxpayer, those who are in gas lines, and those who are trying to produce.

The Senator from Kansas cannot understand what is so terrible about saying to those who have not yet looked for newly discovered oil that they cannot possibly have a windfall. How can you have a windfall when you do not even have the product? Maybe there is an administration answer for that.

I say to those from States where they have incremental tertiary, and heavy oil that I am opposed to that tax, too.

It seems to me that when you finally draw the bottom line, it is with reference to newly discovered oil. It is going to be difficult for the American people to accept once they understand. I suppose a way will be figured to do it.

We produce a little oil in Kansas, although not very much, about three or four barrels per day per well. We wish we had more, but that is the best we can do. We do not want you to discourage further production in our State.

We can say that we are not worried. Kansas does not have to worry, in any event. Kansas is a very small State. We produce only 56 million barrels a year. That is enough for about a week of foreign oil imports. So we are not taking the parochial view.

I hope some Senators from nonproducing States will at least consider the argument that there are those in the industry who are just as concerned about energy production as they are. Not everyone in the industry is concerned about raking off a profit. We have had the discussion about profits, and 80 percent of those profits come from overseas production, without any controls.

Notwithstanding that, it seems to me that what we are doing, in effect, every day on the Senate floor is indicting everybody in the oil business. We do not trust them. They cannot be trusted. They are making too much money. They are not producing any more oil. They are doing too much overseas.

It seems to me that probaby the great majority in the industry, like the great majority in politics, in labor, in the professions, in business, are honest, hardworking men and women who are concerned about the energy future of this country. I do not think they are self-seeking, greedy Americans who come grumbling to Congress saying, "Let me make another 10, 12, or 20 billion dollars." That is how they are characterized: They cannot be trusted.

I assume that in perhaps 10 or 20 years we will be waiting, at the end of a Senate session, for a bailout of the oil industry. Chrysler has gone down the tube; Ford is going down the tube; General Motors is barely hanging on; and we are going to come in and bail out Standard Oil. Maybe not Standard Oil; maybe someone else.

In any event, it is a serious problem. I hope that we approach this deadlock in the spirit of trying to accommodate a very delicate balance, in trying to determine what the proper amount of tax should be, in trying to satisfy that great public purpose that the administration talks about and does not define. What is the public purpose? How will all the money be spent? When will the administration give us an answer? After we have soaked the oil companies and soaked oil industry in California and all across this country? When can we have the answer?

When can the distinguished minority whip give us the answer as to this great purpose? What does the administration plan to do with all the money? We should talk until we find out. The American people want to know. Christmas is coming; maybe there is something in it for everyone. We are all waiting to find out what President Carter, what the administration, proposes to do with this approximately $200 billion in windfall tax and another $300 billion in increased revenue. That is more than $500 billion, and that is a conservative estimate. The staff tells us that that estimate could be off $100 billion either way.

So if the prices go up, when the companies make too much profit, I assume we can reconvene the Senate. I assume, as I have said before on this floor, that if those who are exempted from the tax do not demonstrate their willingness and their capacity to go out and produce more energy, they should be taxed.

Those of us who stood here trying to defend that exemption should be leading a charge to impose a tax. This Senator has no oil income. I have not even met some of these big oil people I hear about. We must be consistent and if in fact the industry fails to live up to what we suggest they should do, those of us who want the exemption have an obligation, I think, to cooperate with those who would oppose a tax.

Mr. President, I yield the floor.

Mr. JEPSEN. Mr. President, as the evening wears on and sometimes emotions heat up for what solace there is in it, it is not the first time these type things happen.

I wish to quote from a campaign years ago in Tennessee when Boss Ed Crump was running against Gordon Browning. He got mad at Gordon Browning and he said this about Gordon Browning:

> I have said it before and I repeat it now that in the art galleries of Paris there are 27 pictures of Judas Iscariot. None look like him but they all resemble Gordon Browning. Neither his head nor heart or his hand can be trusted. He would milk his neighbor's cow through a crack in the fence. Of the 206 bones in his body there is not one that is genuine. His heart has beaten 2 millon times without a sincere beat.

So you see as sometimes happens and has happened in history people get angry and say things that might well be left unsaid.

Mr. President, because of the confusing events of the past several days I dug out and read President Carter's original proposal for a windfall profit tax which got this whole thing started. In light of what has happened it is somewhat illuminating.

As you remember, President Carter originally proposed a tax of 50 percent on the difference between the controlled price of oil on April 26, 1979, and the price which oil is allowed to receive under decontrol. At that time the official OPEC price of oil was set at $14.55 per barrel and the weighted average for all world oil was $16.25 per barrel.

Under President Carter's estimates, which assumed an increase in the world of 3 percent per year in real terms—adjusted for inflation—the windfall profit tax would have brought in an additional $9 billion between now and 1982. Another $9.3 billion would come in automatically from existing Federal taxes. Thus we were talking about another $18.3 billion into the U.S. Treasury.

Two things happened after this tax was proposed. First was a dramatic increase in the world price of oil. In December 1978 you could buy a barrel of oil on the world market for $13.80. Today it will cost you approximately $22 on a weighted average basis, with oil selling on the spot market for $30 or more. Thus we have had a 60-percent increase in the price of oil since last December and a 35-percent increase since President Carter announced his tax. This unanticipated increase in the price of oil would have led to a significant increase in Government revenues by itself even without any windfall profit tax at all.

The Congressional Budget Office estimates that with no windfall profit tax at all, under existing tax law, the Federal Government is going to get an extra $197.5 billion in new revenue between now and 1990. We do not have to pass any kind of tax at all and we are going to get $197.5 billion. Well I think that is a pretty big windfall for the Federal Government already. That is almost $200 billion more money than we would have without decontrol which we are going to get automatically even if we defeat the bill before us or just go home for the holidays.

A sum of $197 billion was not enough. The House decided that the Finance Committee could not be trusted to impose a tough enough tax on top of the $197 billion. So the House passed a bill which would impose an additional $245.3 billion tax on top of the $197 billion we were already scheduled to get. Under the House bill the Federal Government would get an additional $442.8 billion beyond what it would get if we just left the controls on, according to the CBO.

Incidentally, do not let me forget that the State governments are going to get windfalls too. With no additional taxes they will get an additional $115.1 billion in new revenue. Interestingly, under the House bill they would only get $99.1 billion, the difference being caused by a decline in production caused by the tax.

Anyway, the Finance Committee did its work. And all things considered did a pretty good job. I congratulate them. Unlike our friends in the House they were not interested in blindly punishing the oil companies for having made wise investments. As Senator DOLE has repeated several times this evening, they at least gave some consideration to production incentives. Newly discovered oil was exempted from a windfall tax; heavy oil, which is very expensive to produce, was also exempted, as the President had requested; incremental tertiary oil was exempted; and 1,000 barrels per day of stripper oil from independent producers was also exempted.

In addition, the committee provided tax credits for various kinds of conservation and production measures. But the committee came up with a tax which only raised an additional $118 billion. This was denounced by the President and others as a giveaway to the oil companies, even though total Federal revenues would still increase by more than $315 billion under the Finance Committee bill, including the automatic revenues I have already discussed.

A sum of $315 billion was apparently not enough for many of my colleagues. They wanted more money. Right now we are discussing a minimum tax, to impose a windfall on everyone who produces oil regardless of whether they are producing oil in exempted categories, regardless of their costs of production, regardless of how much tax they may already be paying under existing law.

I have listened here while members of the Finance Committee have patiently attempted to explain that the reasons why exempted categories were created is because we will get more production that way. The result is that domestic oil production is expected to be 500,000 barrels per day greater under the original Finance Committee bill than under the House bill. Well I do not think that 500,000 barrels of oil production per day is something to be lightly tossed aside. Just a few weeks ago we passed legislation to spend $88 billion to produce synthetic fuels. A plant of this type which will produce 50,000 barrels per day costs about $5 billion. Thus we are going to have to spend another $50 billion on building synthetic fuel plants just to get back the production we will lose by passing a tougher windfall profit tax bill.

My colleagues talk a lot about the revenue raising effect of imposing a minimum tax or raising the tax on tier 2 oil or other toughening amendments. But have we considered the new expenditures which will be necessary to get back the production we are destroying? We are going to have to spend another $50 billion at least. Has anyone thought about that?

I am inclined to believe that some of them have and they do not care. What they really want to do is destroy the oil companies and substitute Government owned and controlled energy production. They want the people to be dependent upon them, not the private sector, for energy. The result will be that our energy industry, which for years brought us all the energy we could consume at low prices, will be run like the Post Office—or worse, like the Department of Energy. Do we really want the Post Office, which cannot deliver a letter across town in less than a week, or DOE, which has done a splendid job of screwing up almost everything it has touched from the petroleum reserve to the allocation of gasoline, ruining our energy industry? That is what we are going to get unless we provide some incentive for the private sector.

Today I would like to give you a brief lesson on how to create an energy shortage. Any resemblance between my scenerio and actual U.S. Government policy is, of course, coincidental.

The first thing that needs to be done is to put price controls on oil and natural gas, the two major sources of energy in the United States. Care should also be taken to make sure that the price is set significantly below the price which would occur on a free market.

This action simultaneously does two important things which will insure that a shortage results: It reduces the potential return on investing in the exploration, development, and production of oil and gas while at the same time encouraging consumers to use more oil and gas than they otherwise would have if the price had been set by the market instead of the Government.

Next, it would be a good idea to encourage other nations which produce significant amounts of oil for export to band together into a cartel. This cartel could then quadruple the price of oil within a very short time. Needless to say, under the guise of protecting consumers the price of domestically produced oil will be prohibited from rising.

With the domestic price of oil held down and the world market price rising this obviously will create huge profits for refiners with access to domestically produced oil. In order to prevent this from happening new regulations must be promulgated which would set a standard price for all oil, both domestic and imported. It would work like this: The Government would figure out the average price for all domestic oil and the average price for imported oil and create an average price for all oil. Next it would require that this price be paid by refiners for all oil used regardless of where it came from. The extra money paid to producers of lower priced domestic oil would then be paid to users of higher-priced imported oil.

Of course, the effect of all this is to subsidize the importation of foreign oil. This is a good idea because it makes our country more dependent upon the previously mentioned cartel. Thus, whenever one of the members of this cartel has internal problems which affect its ability to export this will immediately create a serious shortage of oil in the United States.

In order to prevent other kinds of energy from becoming a substitute for oil a number of other actions must still be taken to insure that the energy shortage gets worse.

Toward this end, for example, the Government could make it virtually impossible to develop nuclear power. A licensing process required for building nuclear powerplants should be instituted which takes at least 3 or 4 years and millions of dollars to complete. This will effectively eliminate the large-scale use of nuclear power, but just to make sure that it never gets off the ground several other things can be done:

A radical fringe element should be encouraged, dedicated to no economic growth, with unwavering hostility to nuclear power. These people can be brought out in large numbers to demonstrate and picket against nuclear power and file endless lawsuits against the building of nuclear powerplants. These radicals can also be utilized for opposition to other kinds of power as well, such as the building of hydroelectric power facilities.

In order to give them support in their fight laws should be passed to protect endangered species of plants and animals regardless of the cost. Thus, even if the multimillion dollar dam were about to be completed and a weed called, let us say, the furbish louswart were found to be endangered by the dam the project could be permanently halted. A few taxpayers may complain, but they can be ignored.

As time goes by members of this radical fringe element can be brought into the Government itself to administer the agencies which oversee the energy industry. A particularly clever thing to do would be to take a lawyer responsible for filing numerous environmental suits against the Federal Government and put him in charge of defending the Government against such suits. Or, one could take a man who had been in charge of writing a report for a major foundation which argued that our Nation's energy was virtually exhausted and who advocates strict rationing and other conservation measures and put him in charge of the Nation's largest public utility, a system of dams and powerplants in the Tennessee Valley.

When, by chance, new discoveries of oil and gas are made, in spite of the disincentives, efforts should be made to prohibit the development of such energy if possible, or to at least increase its cost enormously. This could be done by declaring the area which must be preserved in its pristine state and made off-limits to any development for all time. And of course, the desires of the people who actually live in this area will be totally disregarded.

If it turns out that a certain amount of development cannot be prohibited it should be made as difficult as possible to transport any oil and gas produced to market. This can be done by delaying the building of a pipeline as long as possible, then requiring that the pipeline be built in the most difficult way possible so as not to disturb the environment. A law should be passed which prohibits the export of this oil to any other country. This way if the refineries nearest to where the oil is cannot utilize all the oil produced it can either be put into storage or shipped several thousands of miles away at great cost.

By this time the Nation should already be in the midst of a serious energy shortage. But there are still many other things that can be done to make it permanent and make it worse.

To prevent coal from being used to generate electricity it should be required that utilities must install scrubbers on their smokestacks. These scrubbers will be enormously expensive and will add at least 25 percent to the cost of building a coal-fired generating plant. And the regulations must be—listen closely to this now, especially those from Montana—totally inflexible so plants using low-sulfur coal will incur the same costs as plants using high-sulfur coal even though emissions from the low-sulfur coal plant without scrubbers is less than the air with high-sulfur coal plants with scrubbers, you see, and let me make that point clear.

Clean air laws can also be utilized to block the building of new coal-powerplants and Federal regulations used to destroy the Nation's railroad network so that the coal cannot even be transported.

If anyone in the Government ever speaks out and says that there is plenty of energy to be had at the market price they must be silenced. If by accident an official study should get out, for example, showing that the Nation would be awash in natural gas at a price only a bit higher than the regulated price new studies must quickly be commissioned to refute such findings. In no case must any evidence be allowed to escape showing that there is any relationship between price and supply.

Eventually, pressure may be brought to bear on the Government to correct this mess. The Nation may even elect a President who has promised to decontrol the price of natural gas and work for energy independence. At this point it may be necessary to invent an energy program ostensibly designed to straighten out the Government's energy policy. The moral equivalent of war. That is how serious that is.

The easiest way to make things worse while appearing to make them better would be to centralize all energy policies in a huge new Department of Energy. A good person to place in charge of this Department would be someone with no experience in the field who had been fired by the previous administration for incompetence. He should also have an abrasive personality, an arrogant manner, and a terrible relationship with the Congress.

Under no circumstances should this Department of Energy be engaged in the actual production of energy. Nevertheless it should be given a budget equivalent to at least the combined gross profits of the 27 largest energy companies, an amount equal to $4 on every barrel of oil consumed in the United States. The employees of this Department can then be put to work enforcing and promulgating the vast array of energy regulations previously put into effect.

Finally, when the forces of deregulation and commonsense become too strong, new taxes should be levied on companies which produce oil. This way the implicit tax caused by price controls is merely replaced by an explicit tax, designed so as to significantly reduce the future return on investment in oil exploration and development.

This is what we have been doing here for weeks.

Of course there are any number of other things which could be done to create an energy shortage but by now I am sure that everyone recognizes that everything I have just discussed has actually happened. In other words, virtually every single thing the U.S. Government has ever done in the energy field has had the effect of discouraging domestic energy production and encouraging imports and shortages.

In closing, I will just note that many other nations in the world are even more dependent on imported energy than the United States. Yet they have not suffered from high inflation and shortages.

A great President of the United States, some years ago, wrote "Ten Cannots." Some of these "Ten Cannots" certainly are applicable to the debate, the material, and the subject matter that we are discussing here.

Abraham Lincoln said:

> You cannot bring about prosperity by discouraging thrift.
>
> You cannot help small men by tearing down big men.
>
> You cannot strengthen the weak by weakening the strong.
>
> You cannot lift the wage earner by pulling down the wage payer.
>
> You cannot help the poor man by destroying the rich.

You cannot keep out of trouble by spending more than your income.

You cannot further the brotherhood of man by inciting class hatred.

You cannot establish security on borrowed money.

You cannot build character and courage by taking away man's initiative and independence.

You cannot help men permanently by doing for them what they could and should do for themselves.

Not too many years ago, in this same Chamber, there was a debate that took place, amendments that were presented, filibustering that took place, threats to stay in until Christmas that took place. I would like to talk a few minutes about them. Some very beloved Senators were involved.

But I want to talk for a while first about the idea of voluntarism, the belief that no individual should be compelled to join a union as a precondition to exercising his right to work. My thought is that in a free society we ought to have the freedom of choice of whether or not we wish to join a union or not to join a union.

Let me quickly add a few caveats, however, because I would not want you to feel that I am here with any particular hostility against union as such.

Labor unions have done a great deal of good in this country for a great number of people. I do not know at firsthand, but I have been able to learn something of the life that was lived by the coal mining communities before John L. Lewis and the United Mineworkers began to develop some clout. It was a miserable life, a wretched existence for human beings. And it is still in many ways a hard, cruel, demanding life—the life of a coal miner. But it is infinitely better than it used to be for one reason only—the United Mineworkers.

I have read of the conditions that existed in New York City in the garment industry. I have read of the crowded lofts in which women worked, the incredible conditions that were imposed upon them. The conditions are now infinitely improved for one reason only—the Garment Workers Union. So if I seem critical in the remainder of my remarks to you, let me put in this much by way of balance—yes, many good things have been accomplished because of the organization and the power and the determination of people in the labor movement.

But it is apparent, or so it seems to me that something now has gone quite wrong with the labor movement in this country—wrong in all kinds of ways. In a recent article in Harper's magazine, Nick Von Hoffman, a syndicated columnist and a good labor man, undertook to examine some of the causes that have led to labor's decline. He mentioned quite a few. One thing, he said, was that labor had failed to get behind the civil rights' movement and identify itself sufficiently with the black community in this country and I think that is quite true. Organized labor had a great opportunity, had it joined with blacks, to identify itself with a very popular cause. But for one reason or another labor never got involved in that.

Another reason for the decline, I suspect, has been the image of leadership that organized labor projects to the country as a whole. Think about the "leaders of organized labor" for a moment and by word association what image do you get? Well, it is probably an image of George Meany or one of the other "bull walruses", as James Kilpatrick is fond of saying, of the old guard, getting out of a limousine in front of what is known as the Fountain Blue in Miami Beach, lounging around the pool smoking a big cigar. It is not an image that is appealing. As Von Hoffman said, organized labor's image problems also depend to an extent on mass media that regularly depict unions as feather bedding gangsters, authorization bores, and racketeers engaged in the business of entrapping working people in a closed shop slavery.

The image is obviously overdrawn, but the thing is: It is not that much overdrawn. There are just enough nuggets of truth in there to cause great embarrassment to the decent people in the labor movement, and there are many decent people in the labor movement. But there has indeed been violence in organized labor and violence is a part of its image. Murder is not unknown to labor disputes. In the construction unions we have witnessed vandalism and criminal violence that cannot possibly be condoned, and it is not condoned by the good people within the labor movement.

All this is part of a picture that has contributed to labor's problems. And one consequence is that in all of the polls that are taken periodically if Americans' confidence in American institutions, labor winds up on the bottom. It is a fairly depressing chart. At one time the majority of American people had great confidence in only two American institutions. One was the practice of medicine and one was trash collection. The practice of medicine has since declined in the ratings. As a matter of fact, the people's confidence has declined in virtually all our institutions—in the judiciary, the Congress, the executive branch, the judges, the press—but at the very bottom of the list, even under the lawyers, is organized labor.

Other evidence also supports this view in which labor is held. Over the past 4 years, while we have been adding 6 million people to the labor force, organized labor has actually lost more than one-half million members. Organized labor now constitutes only about 20 percent of the total working force. Labor still has political clout beyond its numbers, but the political power of organized labor these days ought not to be overestimated.

Finally on this matter of image: Overall, it is an image of compulsion as distinguished from an image of voluntarism. It is the compulsion of naked force that is involved in the violence of certain strikes. A union will compel a settlement by burning a place down or tearing up the construction site or whatever. People do not like to be compelled. People do not like to be ordered around, to be threatened, to be, endangered as they feel themselves endangered in the case of a strike by policemen or firemen. It is in this area of compulsion that we find the clearest distinctions between human rights and union power.

The real issue then is quite simple—freedom for men and women to live their own lives in their own way subject only to lawful commands of Government. While labor unions tend to equate themselves with government, it simply is not so. They think they have power of the courts, of the Congress, and of the executive. There is a certain arrogance in organized labor in this regard.

As I mentioned earlier in my remarks, in a free society we ought to be free to join a union or not to join a union. And we ought not to be subject to the tyranny of the 51 percent of the bargaining unit in this regard, any more than as free men and women we should be subject to the tyranny of the 51 percent in a matter of religion. Shall we have a referendum in Cedar Rapids on whether we can belong or not belong to the Catholic church? Or the Episcopal church? Or the Methodist church? And a 51 percent of the voters say no, there shall be no Catholic church, we are out? Or turning it around: If 51 percent of the people say everyone must be a Methodist, we all must belong to the Methodist church?

The proposition is of course absurd. The first amendment prohibits this absolutely. There can be no establishment of religion. To me, at least, the right to work is at least as fundamental as the right to attend the church of one's own choosing. It is at least as fundamental as the rights of free speech and free press. At least as fundamental as the right to petition for redress of grievances.

The right to work. I cannot imagine a more precious right in a free society.

It is argued by the opponents of right to work—they argued quite successfully in Missouri last fall when a right to work initiative went down to defeat—that right to work has a depressing effect on the economy and as a union busting measure, a depressing effect on union membership. Labor's own statistics fail to support that line of argument however. In the 20 right-to-work States, the AFL–CIO is doing proportionately better in terms of getting new members and sustaining its membership than it is doing in the old line industrial States that have no right to work laws.

The right to work States have healthier economies, wider employment, less poverty, and less unemployment than the non right-to-work States. The evidence is simply not there to show that right to work laws, in and of themselves, have a depressing effect on the economy.

Iowa is a good example. For instance, between 1966 and 1976 manufacturing employment in this State increased by 9 percent; some 20,000 jobs were added. In contract construction employment Iowa added 6,000 jobs for a gain of 14 percent. In nonagricultural employment between 1967 and 1977 Iowa experienced an increase in employment of about 30 percent. During that same period, per capita personal income for Iowans increased some $4,000 for a 123-percent gain. And finally, in new housing units authorized for that period Iowa had an actual gain of 9,200 for a whopping 87-percent increase.

Let me argue finally the case for freedom of choice. I would argue that there is a very human right to work as one wants to without having to be compelled to pay tribute to an unwanted labor union. Yes, there is a human right to join a labor union. There also ought to be a human right not to join a labor union. I make those arguments in terms of moral principles and freedom and ethics.

I alluded earlier in my remarks to the fact that for one reason or another something has gone quite wrong with the labor movement in this country. It is my opinion that the top levels of leadership in labor have lost touch not only with its rank and file members, but with the devotion to voluntarism that was the hallmark of the courageous founder of the American labor movement, Samuel Gompers.

His singleness of purpose and undeviating philosophy gave force and meaning to his life and the millions of Americans whose lives he has influenced. That influence is wearing thin among the men and women entrusted with carrying on Gompers' mission. As a sort of admonition to those who are in a leadership position with labor, let me just quote what Gompers said of voluntarism:

> I want to urge devotion to the fundamentals of human liberty—the principles of voluntarism. No lasting gain has ever come from compulsion. If we seek to force, we but tear apart that which, united, is invincible. I want to say to you, men and women of the American labor movement, do not reject the cornerstone upon which labor structure has been builded—but base your all upon voluntary principles and illumine your every problem by consecrated devotion to the highest of all purposes—human well being in the fullest, widest, deepest sense.

Let me for a moment turn to a more mundane field that is perhaps a little bit closer to my daily duty as a Senator. It might be interesting to inquire as to what happened to labor in the 95th Congress and look ahead a little bit to see what might happen to labor's causes in the 96th Congress. Consider if you will a half dozen misfortunes that befell organized labor in the 95th Congress.

First came the common situs picketing bill. This was a piece of legislation that would have overthrown the Supreme Court decision which said that no one union could tie up an entire construction site if a single union had a dispute with a single employer. There was every expectation that the bill would zip through the 95th Congress. Labor had Mr. Carter in the White House and a two to one majority of Democrats in the House.

It went down to defeat however, 217 to 205 and note the most unkind cut of all; 13 of the freshmen Democrats that had enjoyed labor's financial support defected. They voted against it and thus provided enough votes to kill the bill.

Then came the cargo preference bill. This was ardently sought by the maritime unions. They had given $150,000 to Mr. Carter's presidential campaign. Mr. Carter and the Speaker of the House were much in favor of the bill. It looked as if it would go sailing through. It sank by 257 to 165, a margin of almost 100 votes.

Then came Mr. Carter's election package consisting of four measures; direct election of the President, public financing of congressional elections, instant voter registration, and repeal of the Hatch Act. Nothing came of any of them.

Labor also backed the President's proposal to establish an Office of Consumer Representation. As in these other instances, there was every reason to believe that this Office of Consumer Representation bill would pass with ease. It had passed the House three times before. What happened? The bill was defeated 227 to 189. Down it went and 101 Democrats left their President on that particular vote.

Finally the principal bill that labor wanted in the 95th Congress was known as the Labor Reform Act. This was important to labor. In the past 5 years labor unions have lost more than half of all the certification elections—the organizing elections—that they have conducted. In the same period they also lost two-thirds of the decertification elections, an even more melancholy record. This particular labor reform package not only would have speeded up the certification process, it would also have imposed very severe penalties on employers who were found by the National Labor Relations Board to be engaged in unfair labor practices. The package passed the House but it got over to the Senate and there the proponents could not get it past a filibuster. They never could muster more than 58 votes in favor of cloture. And after six cloture votes the Labor Reform Act went back to the cemetery of recommittal. There it stayed for the balance of the session.

Now suppose we look ahead to this particular 96th Congress. And in particular let us take a look at the possible changes to the national labor policy which is why we are really all here tonight.

It is not practical in the current political climate to expect that national labor policy will be changed in a wholesale manner to reflect the ideal of others who have recognized the restrictions on individual freedom brought about by present law.

Mr. President, I would like to conclude my remarks tonight by telling you a story of Senator Everett M. Dirksen's battle to preserve the right to work right here in this Chamber.

Once when someone asked Everett what he considered his greatest legislative achievement, he replied:

> Although it is perhaps a negative distinction, I am most proud of the bills which I prevented from being enacted. The American people can thank God that only 6 to 8 percent of all legislation introduced becomes law.

He realized that the most basic ingredient of democratic freedom lay in the absence of excessive regulation. He knew that it was perfectly possible for a free society to legislate itself to death. He believed that the accomplishments of a government cannot be measured in inches of statutes, and that the freedom of man could not be measured as a ratio of Federal regulation.

Standing high on that stack of bills which he prevented from being enacted was one that made him most proud, one that I am sure he regarded as among his more important achievements. I mean the achievement was in getting the bill disposed of, buried.

He did it by literally talking the bill to death in what Capitol Hill calls a filibuster, but Everett called his "an attenuated discussion."

The bill was known simply as the 14–B bill. Actually it was a bill to repeal section 14–B of the Taft-Hartley Act, the section which outlaws compulsory union shop contracts.

It was a bill which would have legalized compulsory union membership in all 50 States.

The battle on this one took place in the fall of 1965 and the early months of 1966, and it was regarded as one of President Johnson's most severe legislative setbacks.

The labor unions were demanding repeal of 14–B, and it had become one of the President's major goals. He was stunned to learn that Everett was going to lead a filibuster against repeal of 14–B.

"You wouldn't do that to me, Ev?", he asked.

"I'm going to do it and the debate will be long and formidable. It could last until Christmas," Everett told him.

The House had already voted for repeal and LBJ expected the Senate to do the same before giving the green light for adjournment. He had obviously anticipated no problem in the Senate, since Everett had supported him on other controversial issues.

Besides, Congress had been in session 8 months, and everyone was tired and wanted to go home.

But Everett announced that he had 27 Senators lined up for his "talkathon" and they were all ready to talk indefinitely to prevent the bill from coming to a Senate vote.

President Johnson wailed to Everett, "I thought you were my friend."

"I am," Everett replied. "But remember why Brutus rose against Caesar—'not that I loved Caesar less, but I loved Rome more.' Well, I love my country more." (Julius Caesar, act III, scene 2.)

The President, as well as all of Capitol Hill, should have known by then that except for the late Senator Taft, no Republican leader of Congress had so consistently stood for what he believed to be the national interest as distinct from partisan advantage.

Everett summed up his attitude toward the 14–B repeal bill in these words:

> It is not a labor issue so far as I am concerned but a pre-emptive issue. If the Federal government pre-empts the power of the states to act in this field, the states will never regain their right to deal with union matters.
>
> Is there a more fundamental right than the right to make a living for one's self and for one's family without being compelled to join a labor organization?

So we opened the filibuster and the bill was finally shelved in late October. But under union pressure it was brought up again when Congress convened in January. Again Everett began another "attenuated discussion," a 13-day filibuster that was called "the second battle of 14–B."

It was finally buried with the letters RIP—rest in peace—on February 10 for the remainder of the session, and for good as far as Everett was concerned. "They'll bring it up again over my dead body," he declared. And so he saved the Taft-Hartley's section 14–B.

It was one of the President's few defeats.

Thank you for letting me be here tonight.

I yield to the Senator from New Mexico.

The PRESIDING OFFICER (Mr. Exon). The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I would like to begin this portion of the discussion specifically related to the minimum tax but obviously related to a much broader set of economic issues related to our future.

I would like to begin by thanking the distinguished Senator from Kansas and others for giving us an opportunity to exercise ourselves again in what is, in modern terms, called an extended debate rather than a filibuster, because it is always important about once a year, or maybe every 2 years, to remind our Senate colleagues that there is another party to this debate, that there is occasionally an issue that requires public participation in the debate of this house.

The only way in which such public participation can occur is if there is time, and if the issues are thoroughly aired so that the public, through the media, can begin to understand, in considerable depth, just what the issues are that are before the Congress.

The Senate must always remember that at any given time it does not necessarily represent a majority opinion in the country, nor did the Founding Fathers conceive that it always would. The hope, of course, has always been that it would come close to representing a majority opinion, if that majority opinion could be developed through a public forum in an objective way.

On this issue, as a few times in the past, it is apparently necessary for some of us to give the public time to become involved, to become involved as a third party to the debate, not only on the specific issue of the minimum tax, but on all the associated issues related to this so-called windfall tax, which is, in reality, of course, a tax on the production of a commodity; namely, crude oil.

The windfall tax or production tax might just not be the answer to the question of how do we get ourselves out of this mess of energy imports that we are in. Certainly, the minimum tax just may not be the answer, on those two questions, that is, whether or not a production tax or whether or not a minimum tax on new oil or heavy oil or tertiary produced oil is the answer to this particular crisis that we have gotten ourselves into.

Certainly, it is a crisis. It is a crisis far more related to our national security than it is a crisis related just to energy supply, because there is an adequate supply of energy today. It may not be here 90 days from now, but it is clearly here today. There are no significant gasoline lines except occasionally on weekends when you happen to miss the time for getting to a particular local service station. But certainly it is now clear, as the Senator from Kansas has made so obvious in his earlier remarks this evening, that the administration does not know what the answer is, and so for the last 3 years their answer has been not production, not any significant scheme of conservation—certainly no rational scheme of conservation—but an answer that is tax, an answer that is regulation. At a time when great acts are required by universal agreement in this country and around the world among our friends and allies, the administration's answer has consistently been, "Let us tax it. Let us regulate it." It is the old Army adage of if it moves, tax it; if it stands still regulate it. That is not exactly the old Army adage but it is a reasonable paraphrase thereof.

My question to the administration and to my colleagues on the opposite side of this issue is, Since when has a tax been a great thing? Since when has a tax been a great act of statesmanship, a great act of technical activity?

Mr. President, it is clear that Americans are capable of doing great things, they are capable of great acts of achievement, of compassion.

A few years ago when Neal Armstrong and I happened to be together with a number of our colleagues, we found that we had independently been considering this issue, a more philosophical issue, of what does it take for Americans to do great things. Looking back in history, including that of the Apollo program but obviously many other instances in our history when Americans supported or took part in great acts, I think it is clear and became clear to us independently that four criteria are generally met before those acts occur.

First of all, there has been a technological base available from which Americans could reach for whatever achievement they eventually strove for.

Secondly, there has been a period of uneasiness in the society. It apparently did not make too much difference what had caused that uneasiness, but, nevertheless, there was a pervasive feeling that all was not well with the body politic.

Thirdly, there was some catalytic event that focused in general ways but nevertheless focused attention on an area of potential endeavor.

And, finally, Mr. President, there was an articulate leader, a leader who recognized in one way or another that circumstances had come into coincidence that demanded the articulation of the task to be done.

When those four criteria have been met, Americans have done truly great things, and there are many, many examples: The transcontinental railroad, the Panama Canal, two world wars, in which not only was our technology but our compassion taxed sorely, and, of course, the Apollo program, the flights to the Moon.

It turns out, Mr. President, that in following this analysis one can see that there have been other opportunities since the articulation by President Kennedy that we should, in fact, go to the Moon and return safely to Earth.

One such opportunity was, I believe, the week that President Nixon resigned. When you think back, all of those criteria were met for a leader to ask us to do just about anything that seemed to be appropriate. Great acts were possible.

Another such opportunity was given to the now sitting President on April 20, 1977. After several months of discussion and identification of the problem—and that is an overdependence on imports of foreign oil—we were led to the Chamber of our sister House, the other body, to listen to what could have been an articulation of the great act that this country was going to perform, the act of becoming very rapidly independent of foreign supply for our essential requirements of energy.

That act could have required both production and conservation in rational, logical, systematic ways.

Unfortunately, Mr. President, the fourth of my four criteria was not met. The leadership of the country at that point, April 20, 1977, declined to ask this country to do great things.

Yes, it said we must approach the problem of the moral equivalent of war. But the leadership gave us no promise of victory, and to date we have had no promise of victory. All we have had are promises of more taxes and more regulations.

In the early stages of this battle, the taxes were beaten back, but the regulations came with the formulation of the new Department of Energy, now vilified on this floor at every opportunity by just about every Senator who is willing to talk about the subject of energy, and that is all of us. A coal conversion bill, a natural gas regulation bill, and on and on, Mr. President. There was no battle cry for victory. There was no call for great acts.

Interestingly enough, in the last few weeks, there has been another opportunity for this same sitting President to ask the country to do great things—again, great things very closely related to this energy crisis that we brought upon ourselves.

Through an extraordinary unfortunate set of circumstances, we suddenly found ourselves in confrontation with Iran. That confrontation continues. But, at the early stages of that—and I would not presume to say that the opportunity does not still exist; but at least, at the early stages of that crisis, this country, this Congress, could have been asked to do great things.

I, as I am sure many of my other colleagues, made the suggestion to the President of what might be done. I have not received an answer to that suggestion, but I realize the pressures now on that high office.

What we should have at least considered doing, Mr. President, was to mobilize the strength of this country to solve this very fundamental problem of energy supply as rapidly as we possibly can. We must learn once again to play to our strength. We do it every day on the football field and the basketball court. In the Olympics, we always lead with our strength and do very, very well in so doing. But on this very fundamental issue of national survival, related to the availability of essential energy supplies, we are clearly unwilling to lead with our strength. Politics and demagoguery have, unfortunately, diverted our attention away from the solution.

Mr. President, as many have said before me and many, I hope, will say after me, that solution is production. That solution is conservation. But production utilizing the most fantastic energy technology that the world has ever seen, the most advanced, the most clearly in place in terms of both units and capital; that is, the oil and gas industry of the United States of America.

That industry is capable of very rapidly identifying and bringing into production large amounts of oil and natural gas. No matter what we may say or hear, the facts are that our economy is an oil and natural gas economy and it "ain't" going to change very fast.

If we want to get out of this thing in a hurry, we had better produce it. And as soon as we become a threat to produce those valuable natural chemicals, then we shall find our way out of this forest.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield for a question without losing his right to the floor?

Mr. SCHMITT. I am happy to yield to the distinguished majority leader without losing my right to the floor, which I am sure he will agree to.

Mr. ROBERT C. BYRD. Mr. President, I understand that, in response to a parliamentary inquiry earlier by Mr. DOLE, the Chair responded to that inquiry. I understand that the Chair wishes to make a further response at this time.

The PRESIDING OFFICER. The Senator is correct. The Chair appreciates his statement.

The question was on whether the next motion for cloture is based on the motion filed yesterday with regard to cloture, with regard to whether or not the vote would come on the motion 1 hour after the Senate is in on midnight after a quorum is established, to which the Chair responded in the affirmative.

The one precedent on the point was missed and the Chair would now like to amplify that; that the vote would not come on the following day. In accordance with the rules, if on the day following the presentation of the cloture motion, the Senate remained in session beyond midnight and was in session 1 hour thereafter, the motion would be laid before the Senate 1 hour after the Senate convened at its next meeting and, after a quorum was established, the vote would be taken thereon.

Mr. DOLE. Will the Senator yield for a parliamentary inquiry without losing his right to the floor?

Mr. SCHMITT. Again, I am happy to yield without losing my right to the floor.

Mr. DOLE. If we do not recess or reconvene, we can never vote on cloture again.

The PRESIDING OFFICER. That would seem to be the purport of the precedent.

Mr. DOLE. So as long as we continue to talk, there can be no cloture vote.

The PRESIDING OFFICER. Unless the Senate recesses, I remind the Senator from Kansas. There is an order for the Senate to recess when it completes its business today until 10 a.m. tomorrow.

Mr. DOLE. And if we do not complete the business today?

The PRESIDING OFFICER. Under the precedent, the Senate would not vote on the next cloture motion until there had been a recess or an adjournment.

Mr. DOLE. A further parliamentary inquiry: In order for there to be a recess, someone on the other side would have to have the floor—not necessarily, but there would have to be a request for a recess.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. There would have to be a motion made.

Mr. ROBERT C. BYRD. Will the Senator yield to me?

Mr. SCHMITT. Mr. President, I will yield, again without losing my right to the floor.

Mr. ROBERT C. BYRD. I hope the Chair will take that parliamentary inquiry under advisement because I am not sure that that is the right response, I say with all due respect to the Chair.

I am prepared to argue that the vote would occur tomorrow. The meeting time is at 10 o'clock, and if the Chair is correct it would be possible for a Senator to get the floor, hold it, and prevent a cloture vote from occurring the following day but one.

So what I am saying is that I agree with the Chair that a vote would not occur tomorrow morning after the establishment of a quorum at circa 1 a.m. I agree with the Chair.

But I would like for us to further research the subsequent inquiry as to whether or not the Senate would be required to recess before a vote, indeed, would occur tomorrow, Thursday, at, say, 11 a.m., because the meeting time has already been set for 10.

So I would hope the Chair would research this further before responding to that inquiry.

Mr. McCLURE. Will the Senator from New Mexico yield to the Senator from Idaho for a comment without losing his right to the floor on the parliamentary question?

Mr. SCHMITT. Under those conditions.

Mr. McCLURE. I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I am a little bit discouraged by the procedure in which we are now involved because earlier this evening the inquiry was made by the Senator from Kansas on this very point and the Chair did rule that the vote would occur, and now——

The PRESIDING OFFICER. I would remind the Senator from Idaho that the Chair responded to a parliamentary inquiry.

Mr. McCLURE. Of course, I understand that. That is the reason for the parliamentary inquiry and the reason we got a ruling.

Mr. ROBERT C. BYRD. It was not a ruling.

Mr. McCLURE. All right. The response from the Chair with respect to the inquiry of the Senator from Kansas was that that is the fact, and now, some couple of hours later, we find the Chair, in response to a question from the majority leader, reversing himself.

I understand why the Senator from West Virginia, the majority leader, does not want a cloture vote at 1:15 in the morning and I understand why then he desires the kind of ruling he just now gets from the Chair.

Mr. ROBERT C. BYRD. Oh no, no, no.

Mr. McCLURE. The response from the Chair.

Mr. ROBERT C. BYRD. No, no.

Mr. McCLURE. And I understand why, when the Senator from Kansas then suggests that under that precedent—and it appears on page 221 of the manual, if anybody likes to look at the manual, look at page 221, look at footnote 116, if one wants to look at the original precedent, it occurred on June 9, 1964—it did say that it would be at the Senate's next convening, which clearly says that the Senate would have to break its session in order to get to the next vote on the cloture.

If the precedent is going to be used to break the response that was earlier given to the Senator from Kansas, the precedent also says there must be a break in the proceedings. If the precedent does not mean there must be a break in the proceedings, Mr. President, I must respectfully suggest the precedent does not say the vote will not occur following 1 o'clock tomorrow morning.

I thank the Senator from New Mexico for yielding.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator from New Mexico yield, for a parliamentary inquiry, to the Senator from Ohio?

Mr. SCHMITT. I yield without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Ohio will state it.

Mr. METZENBAUM. Mr. President, I understand that if the Senate could recess for 1 minute and then return, upon a motion of the majority leader, whatever time that might occur, that then the cloture motion would come up 1 hour after that?

The PRESIDING OFFICER. There is an order to recess until 10 tomorrow morning. It can only be changed by unanimous consent.

Mr. DOLE. An order to convene, not to recess.

The PRESIDING OFFICER. The order is to recess until 10 a.m. tomorrow morning.

Mr. DOLE. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. If we do not recess, what happens? Are we carried away, or——

The PRESIDING OFFICER. Obviously, if the Senate does not recess, then the motion is ongoing.

Mr. DOLE. So then we do not have any cloture vote because there has not been any recess.

Mr. ROBERT C. BYRD. Mr. President, after the Senator finishes——

The PRESIDING OFFICER. That seems to be the purport of the information the Chair ascribed to a moment ago. But I advise the Senator from Kansas that that matter is being further researched at this time by the Parliamentarian and the Chair.

Several Senators addressed the Chair.

Mr. DOLE. Mr. President, a parliamentary inquiry.

Mr. SCHMITT addressed the Chair.

Mr. DOLE. I hope we do not research it too carefully.

The PRESIDING OFFICER. The Senator from New Mexico has the floor. Does he yield? If so, to whom?

Mr. SCHMITT. I yield to the Senator from Kansas without losing my right to the floor.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Kansas is not an expert on parliamentary procedure, but we were under the impression that at 1 a.m. we would probably have a cloture vote, so we were prepared for that. But then we found additional precedents. In fact the Presiding Officer responded to my inquiry that if the Senate stayed in session past midnight, there could be a cloture vote if a quorum was establshed at 1 o'clock.

That would be the earliest time we could do that?

The PRESIDING OFFICER. Except by unanimous consent. The Senator is correct.

Mr. DOLE. That is something to ponder while we discuss the merits of this amendment.

So that precedent, or at least, that has been modified, but it seems to this Senator that unless someone on this side yields the floor, or unless there is a break in the proceedings, that there will be no cloture vote tomorrow.

Mr. McCLURE. Will the Senator from New Mexico yield?

Mr. SCHMITT. Mr. President, it sounds to me as if we need to have more research done on this, or maybe I ought to continue with my discussion.

Mr. ROBERT C. BYRD. Will the Senator yield to me without losing his right to the floor?

Mr. SCHMITT. I would yield only if the majority leader assures me that no precipitate action is going to occur.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. SCHMITT. I would like to know what purpose he would like me to yield for at this point.

Mr. ROBERT C. BYRD. May I say, I have been in the Senate for 13 years and I have yet to ask a Senator to yield to me and then try to take advantage of that Senator because he was kind and courteous enough to yield to me.

I do not have to assure the Senator of anything. If he thinks that I am capable of engaging in some action that he would not approve of, I will not ask him to yield.

Mr. SCHMITT. I have been in the Senate only 3 years, Mr. President, and I have seen the majority leader use the legitimate rules of the Senate to take actions of which I did not approve, but without in any way denigrating his right and ability to use those rules.

I just think that this issue is far too important for us to get caught in some kind of parliamentary maneuver.

Mr. ROBERT C. BYRD. The Senator can keep the floor. I will not ask him to yield the floor. I do not ask any Senator to yield to me who implies that I am going to pull some maneuver on him, when I ask him to yield with the understanding that he did not yield the floor.

I am not going to move to table or suggest the absence of a quorum or take advantage of the Senator. I can use the rules; and I do not have the slightest concern, not in the slightest, but that I will get the floor in due time. I may have to wait 24 hours to get it, but I will get it.

So I do not ask the Senator for the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. METZENBAUM. Mr. President, will the Senator from New Mexico yield for a parliamentary inquiry?

Mr. SCHMITT. The Senator from New Mexico will be happy to yield to the majority leader, again on the understanding that he does not lose his right to the floor under the circumstances.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. I want the Chair to protect the Senator.

The PRESIDING OFFICER. The Chair recognizes the majority leader, under the conditions outlined.

The Senator from New Mexico has the floor.

Mr. ROBERT C. BYRD. Mr. President, I was not on the floor when the distinguished Senator from Kansas made his parliamentary inquiry of the Chair and when the Chair ruled. I heard about it later, and understood that the Chair wanted to correct—it was not a ruling, because it was in response to a parliamentary inquiry; therefore it could not be a ruling—but I understood that the Chair wanted to correct the response that had been made earlier; that the Chair wanted to do it soon, so that Senators would be on notice; and the Chair felt a particular obligation to the Senator from Kansas to do that because the Chair had responded wrongly. I speak of the Chair.

So I made the parliamentary inquiry, to give the Chair the opportunity to correct the earlier incorrect response to the parliamentary inquiry that was made by the distinguished Senator from Kansas, and the Chair did that.

It is clear, from page 221 of the precedents, that the Chair was wrong when the Chair indicated, in response to the parliamentary inquiry by the distinguished Senator from Kansas, that there would be a vote tomorrow morning at circa 1 a.m., following the establishment of a quorum, and the Chair wanted to correct that. It is clear that the Chair is now correct in saying that the vote would not occur at that time. I read from page 221:

> One day of actual session must intervene between the presentation of a cloture motion and a vote thereon.
>
> If on the day following the presentation of the cloture motion the Senate remained in session beyond midnight and was in session 1 hour thereafter.

Which would be the case here:

> The motion would be laid before the Senate 1 hour after the Senate convened at its next meeting and after a quorum was established, the vote would be taken thereon.

The Chair was correct. I do not think anyone would question the correctness of the Chair's later response.

As to the further response, that being that if a Senator has the floor and no motion to recess can be entered, say, for 1 minute or 2 minutes before 10 o'clock tomorrow, whether or not a vote would occur at all during tomorrow—the calendar day of tomorrow—I would like that researched a little further. If, indeed, there has to be a recess, I will stand by that. But I want to be sure that is correct; and no time is lost, no rights are lost, if the Chair researches that further. I am not convinced that that would be the case. It may be the case. But if it is, then I call attention to rule III, and I read from the handbook, page 3:

> *Resolved*, That the Chaplain shall open each calendar day session of the Senate with prayer.

So at some point tomorrow, the Chaplain is going to have to deliver a prayer.

Mr. DOLE. We need it.

Mr. SCHMITT. That is going to be a tough decision.

Mr. ROBERT C. BYRD. What I am saying is that, that being the case, if the Chaplain were to open tomorrow's session in accordance with the rule—open the calendar day session tomorrow with prayer—I want to be sure that that cloture vote indeed will not occur on tomorrow after the first hour following the hour of 10 a.m.

If the Senator will allow me to make a further parliamentary inquiry, at what time tomorrow would the Chaplain offer a prayer?

Mr. DOLE. Put it on our desks.

The PRESIDING OFFICER (Mr. FORD). It is the Chair's opinion that it depends upon whether the Senate recesses or not.

Mr. ROBERT C. BYRD. As to whether the Chaplain will deliver a prayer?

The PRESIDING OFFICER. That will be the judgment, on the face of it, without further research.

Mr. ROBERT C. BYRD. As to when the Chaplain will offer a prayer?

The PRESIDING OFFICER. As the Chair has stated, it will depend upon whether we recess or not, to make it the additional day.

Mr. ROBERT C. BYRD. As to whether or not we have a prayer? I am sure that has to be researched.

I have sat in that chair all night long. I sat in that chair 22 continuous hours, and the Chaplain was not here, and I had to deliver the prayer.

Mr. TOWER. Lord help us.

[Laughter.]

The PRESIDING OFFICER. The Chair reads the following on page 608:

PRAYER IN SENATE

On February 6, 1939, the Senate adopted the following resolution:

"*Resolved*, That the Chaplain shall open each calendar day's session of the Senate with prayer."

On February 29, 1960, the Senate adopted a resolution that "during the sessions of the Senate when that body is in continuous session, the Presiding Officer shall temporarily suspend the business of the Senate at 12 o clock noon each day for the purpose of having the customary daily prayer by the Chaplain of the Senate."

Senators have rendered the prayer for the Chaplain.

That was done on October 15, 1978, by the Chaplain.

Mr. ROBERT C. BYRD. If the distinguished Senator will indulge me further——

Mr. SCHMITT. I yield to the majority leader, without losing my right to the floor.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. President, the Chair has sustained my position that in the case where the Senate is in continuous session and there is no recess, there is no adjournment, the Chaplain does offer a prayer. So I think there is a linkage there, and I think it can be argued that a cloture vote would have to occur on tomorrow, Thursday, at some point, whether that is 11 o'clock or 1 o'clock. That is why I asked the Chair to withhold any response at this time. The response does not have to be given at this time.

I hope Senators will indulge my having said that, because I feel that what the Chair has just said about prayer in such circumstances does not render my having raised the question as having been entirely without some justification.

I thank the Senator.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. METZENBAUM. Mr. President, will the Senator from New York yield for a parliamentary inquiry?

Mr. SCHMITT. I yield first to the Senator from Idaho, without losing my right to the floor.

Mr. McCLURE. Mr. President, I thank the Senator for yielding.

I have no objection, I say to the Senator from West Virginia, with respect to the Chair withholding so that that matter can be researched as I think that is a much tidier method than having the Chair rule or respond and then having to at a later time respond in a different manner.

Mr. ROBERT C. BYRD. I agree.

Mr. McCLURE. But I say to the Senator from West Virginia that I think the same thing should be said with respect to the opinion of the Chair variously given to us this evening with respect to the effect of continuing in continuous session beyond midnight.

I have not relied upon page 221 of the manual except to give me the guidance to go back to the Record upon which that paragraph is mentioned and if I may I shall read from page S13099 of the Record dated June 9, 1964.

Mr. Mansfield was undertaking to determine at that time what would occur with respect to the provisions of rule XXII, the 1-hour time provision and the automatic quorum call preceding the vote upon cloture, and Mr. Russell was in a colloquy with Mr. Mansfield at that time. I shall take a moment to read what Mr. Russell and the Presiding Officer at that time said.

Mr. Russell. I am perfectly familiar with rule XXII. I think I can recite it word for word, line by line. The question I asked was. How would rule XXII ever become operative if a Senator were to speak from now until 12 o'clock noon tomorrow, when there is a unanimous-consent agreement to have the Senate reconvene tomorrow at 10 o'clock?

The Presiding Officer. If a Senator were to take the floor at this time and were to speak past midnight tonight and through the night, he could not hold the floor after 1 a.m. tomorrow morning, which would be 1 hour after the session on tomorrow began; and, therefore, at 1 a.m. tomorrow there would be a quorum call, and immediately following the quorum call the Senate would vote on the cloture motion.

Mr. Russell. Is the Chair's ruling based on the fact that ordinarily the Senate convenes at noon on each day, unless the Senate has ordered otherwise?

The Presiding Officer. The Parliamentarian informs the Chair it is based on rule XXII. Ordinarily the Senate convenes at noon, each day. In such case, there would be a quorum call at 1 p.m., and the quorum call would be followed immediately by the vote on the cloture motion. But if the Senate were to be in continuous session from this time until tomorrow, a new problem would arise; and in such case, a Senator who was speaking at 1 a.m. tomorrow morning would at that time lose the floor; and commencing at 1 a.m. there would be a quorum call; and immediately after the presence of a quorum was ascertained, the Senate would vote on the cloture motion.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. McCLURE. May I finish?

Mr ROBERT C. BYRD. I thought the Senator was finished. I am sorry.

Mr. McCLURE [reading]:

Mr. Russell. Mr. President, I know that under the precedents a Senator who is speaking can be interrupted at any time, to permit another Senator to file a cloture motion. That right has been established by numerous rulings; and that is one of the few occasions when a Senator who has the floor and is speaking can be interrupted.

So I had assumed that if a Senator undertook to speak from tonight until noon tomorrow, when noon—the normal hour of the convening of the Senate—arrived, the Senator then speaking would lose the floor. I should like to have the ruling of the Chair on that point.

The Presiding Officer. The Parliamentarian informs the Chair that a Senator then speaking would lose his right to the floor—at 1 a.m. tomorrow.

Mr. Russell. In other words, such a Senator would not lose the floor until 1 a.m. tomorrow?

The Presiding Officer. That is correct.

Mr. Russell. At that time, such Senator would be compelled to take his seat; and then the Chair would have a quorum call commenced, to ascertain the presence of a quorum; and immediately after the ascertainment of the presence of a quorum, the Chair would lay before the Senate the cloture motion, and would put the motion to a vote, to determine whether it was the sense of the Senate that the debate be closed; is that correct?

The Presiding Officer. That is correct.

I think that is the relevant portions of the Record as of June 9, 1964.

It seems to me, Mr. President, if that is the precedent, it is very clear, it is precisely the case we have here today and at 1 a.m. tomorrow morning there would be the interruption of the pending business, if we are in continuous session until 1 a.m., and the quorum call would then be called to establish the presence of a quorum and immediately upon the establishment of the presence of a quorum the cloture motion would be put to the Senate.

That, I say, is what the Presiding Officer had said earlier this evening when the Senator from Kansas addressed the inquiry to the Chair.

I thank the Senator from New Mexico.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me?

The PRESIDING OFFICER. Allow the Chair to interject that on the night to which the Senator is referring, the Senator from West Virginia was in fact speaking at 1 a.m. and went through until 9:51 a.m. the following morning and the Senate had an order to recess for 9 minutes and then went back into session and 1 hour after they convened had a quorum call and a vote on cloture.

Mr. ROBERT C. BYRD and Mr. McCLURE addressed the Chair.

Mr. McCLURE. Mr. President, will the Senator from New Mexico yield for one response to the Chair?

Mr. SCHMITT. Mr. President, I yield to the Senator from Idaho for his response and then for the purposes of rebuttal to the Senator from West Virginia.

Mr. McCLURE. I thank the Senator from New Mexico again and I think that it is important that we try to establish the parliamentary situation as best we can.

I say also to the Presiding Officer that the record would indicate that that was done by unanimous consent and, therefore, what the Presiding Officer has indicated has no relevance to the current situation unless unanimous consent is agreed to.

Mr. SCHMITT. Mr. President, I yield

to the majority leader for purposes of further discussion on this matter without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, I was indeed the Senator who spoke that night. I began at something like 6 o'clock on the evening before and spoke until almost 10 o'clock the next morning, a total of 16 hours and 22 minutes.

Mr. McCLURE. That would be hard to believe.

Mr. ROBERT C. BYRD. The vote did not occur at 1 o'clock in the morning.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I heard the Senator a moment ago, and I will be glad to yield.

Mr. McCLURE. On page 13098, the page preceding the one I immediately referred to, Senator Mansfield had asked and was given unanimous consent to fix the time of the cloture vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. Mansfield asked me if I would yield the floor shortly before 10 o'clock the next morning, and I said that I would and proceeded on the vote. I was the last speaker in that long filibuster in 1964 on the 1964 civil rights bill.

Although my recollection is dim, I know that the vote did not occur at 1 o'clock in the morning and did not occur until 1 hour after 10 the next morning. I did agree with Mr. Mansfield to yield the floor just before 10 o'clock. It may very well be. I have not taken a position that a cloture vote could not occur tomorrow without a recess or an adjournment. I simply said I hope the Chair will take that under advisement and research it further.

But I think that a case might be made against that. That is why I raised the question about the prayer with the chaplain. I think the Chair is correct in saying that a vote would not occur at 1 o'clock tomorrow morning.

Mr. METZENBAUM. Mr. President, will the Senator from New Mexico yield for a parliamentary inquiry?

Mr. SCHMITT. Mr. President, did I understand the Chair to agree with the Senator from Idaho that the reason that the vote did not occur at 1 a.m. was because of a unanimous-consent request?

The PRESIDING OFFICER. There was an order to vote at 11 o'clock the following morning which was a factor.

Mr. SCHMITT. But without that order it is clear that the vote would have occurred at 1 a.m., is that correct, or following a quorum call?

The PRESIDING OFFICER. That is action of the precedents as stated on page 221.

The Parliamentarian informs the Chair that page 221 misstated it in light of the actual precedents.

Mr. METZENBAUM. Mr. President, will the Senator yield to the Senator from Ohio?

Mr. SCHMITT. I yield for the purpose of a parliamentary inquiry.

Mr. METZENBAUM. Mr. President, I heard the Senator from Kansas on two separate occasions talk about the difficulty that may occur with reference to the Senate going into a recess, "That we," as he put it, on this side might just continue talking in order that there might not even be an opportunity to offer a motion to that effect." Did I misunderstand the Senator from Kansas on that score?

Mr. DOLE. I hope so.

Mr. SCHMITT. Mr. President, I yielded for the purpose of a parliamentary inquiry.

Mr. METZENBAUM. My parliamentary inquiry is that according to the phraseology, "We on this side holding the floor," is it not the fact that one Senator may not yield to another Senator without the unanimous consent of the Senate?

The PRESIDING OFFICER. For more than a question.

Mr. METZENBAUM. I thank the Senator.

Mr. SCHMITT. Mr. President, I hope no one will take advantage of the fact that I have not asked for unanimous consent on each of these yieldings for purposes other than questions.

Mr. METZENBAUM. I had no thought of doing that.

Mr. DOLE. Mr. President, will the Senator from New Mexico yield for a parliamentary inquiry?

Mr. SCHMITT. I yield with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Chair recognizes the Senator from Kansas for a parliamentary inquiry.

Mr. DOLE. The Senator from Kansas is confused, and maybe that is an understatement, but having made the parliamentary inquiry, and having had the response of the Presiding Officer, and I quote, "If the Senate stays in session past midnight there could be a cloture vote if a quorum is established after 1 o'clock," I assume he meant 1 a.m.?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Then the distinguished majority leader indicated that there was something that had been overlooked by the Presiding Officer, and the Senator from Kansas does not quarrel with that, but then I listened carefully to the Senator from Idaho read from the RECORD, whatever the date was, 1964, page 13099, and it seemed very clear that the first response of the Presiding Officer, which would indicate we would vote at 1 a.m. if a quorum is established, is a correct response. My inquiry is, Was that the correct response?

The PRESIDING OFFICER. The Parliamentarian advised the Chair that the first response was correct.

Mr. DOLE. So at 1 a.m., assuming we are still here at 1 a.m., if a quorum is established there will be a cloture vote?

The PRESIDING OFFICER. If the Senate is in session at 1 a.m. a quorum call will be given, and once a quorum is present a vote will be taken.

Mr. DOLE. I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield to the majority leader for a question, and on the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there may be a point of order made at that point, and I want to thoroughly research this question. I am not going to concede at this moment that at 1 o'clock in the morning the cloture rule would be operative. I want to thoroughly research that. There will be a point of order, and we may let the Senate decide that.

There has just been going back and forth here this afternoon, and the Chair has a duty to respond to parliamentary inquiries, and sometimes the Chair cannot adequately research, in a brief period of time, precedents. I happened to have been the one who was on the floor on that night, and I just want to put all Senators on notice that we have a vote at 1 o'clock on the cloture motion or we may not. That may become a matter for the Senate to decide. If I am convinced that that is correct then I will not challenge it. But Senators may wish to be around in any event.

I thank the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, believe it or not we are in the process of discussing the minimum tax, a so-called minimum tax, on top of a so-called windfall tax on top of all other taxes that the American economy is going to have to bear over the next 10, 11, and unfortunately probably even more years than that.

We are staring at a vast increase of new Federal revenues just because of decontrol. We are staring in the face of a vast increase in taxes on the American taxpayer because of inflation of unfortunately accelerating proportions.

We are facing a vast new tax as a consequence of the unfortunate increase in social security taxes by the last Congress and, Mr. President, if one does some simple calculations based on clearly inadequate data, you can convince yourself there is going to be a minimum of $1.5 trillion or possibly as much as $2 trillion into the Federal Treasury over the next 10 years at a time when almost certainly less than $500 billion, less than a quarter of that amount, is going to be added to the value of goods and services in this country. The consequences of that phenomenal redistribution of resources from the private sector to the Government will be as profound as they are uncertain at this time.

There is a myth going around, Mr. President, that it is going to be business, it is going to be the oil industry, it is going to be the businesses that pay this tax. Mr. President, we all know that is not true. That when the economy is burdened with taxes of that magnitude you know darned good and well who is going to pay them, and that is going to be the American consumer and the American taxpayer, usually one and the same.

Here tonight we are looking at a proposal to add a minimum tax on heavy crude oil after, as the Senator from Kansas has pointed out, the administration said that that decontrol of heavy crude oil was not going to be subject and should not be subject to taxation.

Why? Because they understood, amazingly enough, or at least they said they understood, that if you taxed heavy crude oil, you would not get as much of it out of the ground, because the marginal reserves of that commodity would not be economic.

Mr. HELMS. Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senate will be in order. Senators wishing to engage in conversation will retire to the cloakrooms.

Mr. SCHMITT. I thank the Chair, and I thank the Senator from North Carolina.

The PRESIDING OFFICER. If the Senator will withhold, the Chair will attempt to get order, as requested by the Senator from North Carolina. The Senate will be in order.

The Senator may proceed.

Mr. SCHMITT. Mr. President——

The PRESIDING OFFICER. The Senator may proceed.

Mr. SCHMITT. Mr. President, I thank the Chair again.

Mr. MATHIAS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator may proceed.

Mr. SCHMITT. Mr. President, the minimum tax is also proposed on so-called tertiary production, tertiary production being that production that comes from existing or older fields as a consequence of enhanced recovery techniques other than simple water flooding.

The effect of this, Mr. President, is to vastly reduce the amount of such enhanced recovery that will occur. If one looks at a map, as I am doing at this moment, of the fields around the country where production has occurred or is currently occurring, he can get a feeling for the vast potential of such enhanced recovery techniques. I would just remind my colleagues that on the average, primary production, that is, simple pumping from a newly discovered field, will produce only a third of the oil actually in the rocks, and through these enhanced production techniques, in many fields it is possible to produce up to another third of that oil.

Again I would remind my colleagues of the fact that up to the present time, something like 300 billion barrels of oil have been discovered and largely produced by primary techniques in the contiguous United States, and that if one follows the rule of thumb that I just articulated, one can see that there may be the potential for up to 300 billion barrels of additional oil through these enhanced recovery techniques.

I will admit that is an oversimplification, but when you are dealing with 100 billion barrels of oil here or 100 billion barrels of oil there, one can afford some simplification for the purposes of these discussions.

But, Mr. President, the most serious flaw in the minimum tax proposal, as has been so aptly pointed out by other speakers, is that it would apply, in the minds of the authors of that proposal, to newly discovered oil. Oil that has not been discovered yet already is faced with that additional tax, over and above all the other taxes and all the other costs that are related to its discovery and development and eventual production.

The game of economic geology, in which I cut my teeth at a very early age, is a game of calculating whether or not you can produce minerals at the margin. The old days of the bonanzas, of the gold lying around on the fields or in the streams, of nuggets of silver in the rocks, of easily found copper mines, of oil out of the ground, have been gone for decades, and now it is a question of whether or not the economics at the margin support taking the risks to actually go drill the holes and make the investments that eventually will produce the oil. If you move that marginal envelope inward as a result of the minimum tax, or any new tax, or any new cost through regulation or otherwise, then you limit the areas in which we can search and eventually find new sources of petroleum.

Mr. President, that map to which I referred previously, a moment ago, is one which the distinguished Senator from Louisiana used in a discussion the other evening, prepared by the Pitts Energy Group in Dallas, Tex., using sources from the Texas Petroleum Institute, the National Association of Petroleum Geologists, the U.S. Geological Survey, and the American Petroleum Institute. It is a very illuminating document, for it indicates the geologic basins of sedimentary rocks in this country, in the contiguous United States and Alaska, and it indicates, most importantly, the amount of area that is yet to be explored, and, in a table, indicates the cubic miles of promising sediments in each of the major regions covered by this information.

If one looks only at the volume of rocks that have yet to be explored, the calculation is very simple, namely, that we have explored only 2 percent—2 percent, Mr. President—of the rocks that potentially have oil and gas production.

That potential for oil production, and also gas, comes from four major areas, the so-called deep geologic basinal areas, where the largest reserves of natural gas have long been expected to come from depths below 15,000 feet.

As the Senator from Louisiana pointed out the other evening, in 1978 only 463 deep wells were drilled, which was only 1½ percent of the total of almost 50,000 wells drilled in that year. Why? Because there was an uncertainty of the return on the investment in drilling at the prices then prevailing. We are not going to make that any easier, Mr. President, or any more attractive.

Many of the areas in this deep geologic basin category already produce oil and gas from shallow wells. We know that production from deeper zones is common in such areas if the higher drilling costs can be met with adequate product prices. As a matter of fact, as I indicated the other evening also, new ideas, verified now, about types of previously unknown or unrealized structures, make even the shallow areas promising if you can afford to drill the additional holes and conduct the additional exploration under the advanced seismic techniques necessary to identify these additional reservoirs of oil, and mixed oil and gas.

A second category are those areas which can be categorized as low-production areas, where wells may produce slowly for many years or require expensive recovery treatment, neither of which is feasible under present and past price regulation and tax policies.

If we want to produce from these areas, Mr. President, we are going to have to make it possible to produce, and to be possible to produce somebody is going to have to have the capital to drill the wells and pump the oil.

The third category are the frontier areas, where remote distance from existing pipelines, no immediate market, and long-term investment necessary for development do not justify exploration at this time because of the uncertainty of price. This includes, of course, the offshore areas, millions of acres of Federal lands, where the Government consistently and continuously restricts normal development activities of oil and gas.

The fourth category are those special types of areas where, either because of limitations on technologies, combined with limitations on price, it just has not been possible to begin the development necessary to produce petroleum, particularly exotic forms of natural gas.

Mr. President, the bottom line of this discussion is that, from a geological point of view, even though someday we all recognize we will run out of oil and gas, that day is a long way in the future. It does not mean we should count on oil and gas indefinitely—it is too valuable a natural chemical for other purposes to continue to burn any longer than we have to—but it does provide us, Mr. President, with a means of buying time, so that these alternative energy sources that everybody is so fond of talking about and voting for can actually come into existence.

But if we want to become independent of foreign sources of oil for our essential energy needs in the next decade, it is only going to come with the production of oil and gas. And everybody who says it is going to come any other way is whistling some song, either from north or south of the Mason-Dixon line. Take your pick. And, unfortunately, they are going to be whistling in the dark if we do not do something pretty fast.

As a matter of fact, you do not even have to get these wells into final production to be an influence on what is going to happen to you. And, believe me, we do not have much influence on what is going to happen in this country with respect to energy at this point in time.

But, as soon as the rest of the world knows that we are serious about drilling those holes, developing the fields, and producing the oil and gas, we become a threat and we can begin to control that price. And that price is inflated on the world market now, as much or more than it was deflated by domestic regulation in previous decades.

We can drive that price down. And how do you drive prices down? You drive them through supply and excess of demand. And, in particular, you drive it down by busting up the cartels. Cartels are only cartels if they control production. OPEC will only be viable so long as they have control of significant production relative to the world's needs.

This country has within its grasps the potential to break the back of OPEC. We have had it for years. Unfortunately, we refused to do it.

I am glad the Martians are not watching us, because they would go back, scratching their several heads in disbelief.

Now, we often on this floor are exposed to so-called facts about oil and gas. And, frankly, Mr. President, I tend to go back to my previous profession in science and geology and engineering, and, to some degree, in the hard economics of mineral production to find my facts.

If someone looks at the factual representations, as contained in a publication of the American Institute of Professional Geologists, October 1979, some very interesting factual conclusions can be made.

In summary, forced reduction of the supply of energy will cause unemployment and a drop in productivity.

Second, for the near future, at least, petroleum will be by far the greatest single contributor of domestic energy. We should understand how to make this resource more productive.

Third, exploration for domestic petroleum has lagged growth and consumption for 26 years, because of inadequate price incentives.

Fourth, drilling the wells for domestic petroleum has lagged growth and consumption for 22 years, because of inadequate price incentives.

Fifth, petroleum industry profits are average, not excessive, as charged. Of greater importance, they are inadequate for the job that needs to be done; that is, to produce energy.

Sixth, the rate of petroleum production is directly related to the number of wells drilled which, in turn, is related to the price of petroleum. The present drilling rate is inadequate for the job that needs to be done; namely, produce more energy.

Seventh, the discovery of new petroleum reserves is related to the number of wildcat wells drilled which, in turn, is related to the price of petroleum. The potential exists, but price incentive has been inadequate for 22 years. As a result, the job is not being done; namely, new oil and gas are not being found and produced at the rate necessary to meet our essential needs.

Eighth, the lower price received from the sale of his oil, the less incentive for the producer to produce exploratory wells. Price controls have the same effect as added tax levied on production.

Ninth, the cash paid for domestic oil at the free market price provides enormous benefits to State governments and local communities. At control prices, it provides greatly reduced benefits. The money made from foreign oil provides no local benefits at all.

Tenth, for each increase in the price of oil, an additional amount is economically producible, and waste is minimized in the so-called enhanced or secondary and tertiary recovery techniques.

Finally, additional regulations create—and I might add additional taxes create—greater operating costs, which lead to premature abandonment of wells and much more oil left in the ground.

Mr. President, with respect to the first of those relationships—namely, the relationship between energy consumption, employment, and gross national product—the following facts can be deduced from the historical patterns that everyone can have access to.

In 1974, the Arab oil embargo caused a 3-percent drop in energy consumption. Completion of the Alaska pipeline was delayed from 1972 to 1977. In 1974, the gross national product declined 2.1 percent. In 1975, total civilian employment dropped 1.25 percent. The 1974 drop in energy consumption equaled 2.25 quadrillion Btu's, or quads.

The Alaska pipeline would have provided 2.5 quads of energy in 1974 had it been completed on schedule.

Some conclusions can be drawn from those six facts: Productivity and jobs depend on the supply of energy. Anybody who thinks otherwise "ain't" thinking.

Two, actions by Government that reduce the level of oil and gas supplies cause severe adverse economic reactions throughout the entire economy.

Third, the worst depression since 1930 would have been much less severe, that is, the recession of 1973–74, and some of 1975, if the regulationists had not persuaded the Government to delay the Alaska pipeline for 5 years and had not continued to inhibit the drilling of domestic oil and gas wells, particularly on Federal lands.

Mr. President, the second major statement that can be made based on these historical facts is that for the near future at least petroleum will be by far the greatest single contributor of domestic energy. The facts are that oil and gas provide 65 percent of the domestic energy supply. Second, contributions from solar energy of various kinds, from synfuel developments, including oil shale and coal, are clearly insignificant at present and will remain so for at least a decade, particularly if we implement present policy related to recent decisions by the U.S. Senate.

Again, conclusions that can be drawn from this breakdown of domestic sources of energy are as follows:

For the near-term and for the next few years the United States will benefit more from minor percentage improvements in oil and gas production than from major improvements in other energy sources.

Second, primary attention should be paid by the Government to improving the environment for productivity in the oil and gas industry and for the utilization, the efficient utilization, of those two commodities.

Third, Mr. President, it is amazing how many people, if you sit down and talk to them privately, will agree that if we had our druthers, we would have an energy economy based on the most efficient, least costly, and the least environmentally damaging energy sources.

Mr. President, that mix of energy sources would be oil, particularly natural gas, safe nuclear power, and the resource of technology for increased efficiency in the use of energy conversion systems. But if you also look at what we are doing to ourselves, Mr. President, you will find that we are discouraging all four of those energy sources: Oil, gas, safe nuclear power, and technological efficiency. Again, the Martians must be scratching their heads.

What has become of us?

The third point that I had made earlier was that exploration for domestic petroleum has lagged growth in consumption for 26 years because of an inadequate price incentive. The cumulative shortfall, for example, in seismic exploration expenditures from 1954 to 1978 amounts to something like $38 billion, in 1978 dollars.

The facts are, Mr. President, that seismic exploration, which is the principal means by which we have discovered new oil and gas fields since the seeps disappeared, seismic exploration activity in the United States increased at a uniform rate between 1932 and 1952 in a relatively unregulated environment.

Second, the price of crude oil declined 31 percent from 1948 to 1972 in constant year dollars.

Third, seismic activity in exploration declined 73 percent from 1952 to 1970.

Fourth, oil prices increased 73 percent between 1972 and 1978, but only 20 percent from 1948 to 1978.

Fifth, by 1978, seismic activity had increased but was still only 63 percent of the peak year in 1952, even though consumption of energy in the United States increased 120 percent during this period.

Sixth, the resultant cumulative shortfall in seismic activity, as I said before, totaled $38 billion at a time when our consumption was rapidly increasing.

Seventh, the shortfall is 45 times the seismic exploration expenditures for 1978 and nearly three times the entire industry profits for that year.

Mr. President, it is not cheap to provide for the energy demands, even the legitimate energy demands, of this great country. The conclusion one gets from the facts just enumerated is that seismic exploration is a fundamental tool and its use is one of the prerequisites for finding large oil and gas reserves. Expenditures in that area are a clear indicator of what our future supplies will be. There is a direct relation between the price of oil and seismic exploration activity in the domestic market.

Third, a prolonged price decline in oil triggered a serious decline in exploration activity using seismic methods. This is a valid measure of lost exploration momentum in the United States.

Fourth, additional increases in seismic exploration work and other types of exploration are required if the rate of oil and gas discoveries is to increase.

Fifth, greater profit incentive is needed if this seismic exploration activity is to increase, not less. As a matter of fact, with decontrol, we should be in a position to take advantage of these correlations of exploration activity with price. One would think that we were not even interested in getting out of this mess that we have gotten ourselves into.

Finally, adequate incentive to accomplish the catch-up cannot be generated without a major change in the attitude of Government toward profit. Our system does not work without them.

This data that relates to the initial exploration activity; that is, the use of seismic techniques, is supported when one looks at drilling.

In the floor statement I made a few moments ago, I stated that drilling of wells for domestic petroleum has lagged growth and consumption for 22 years because of inadequate price incentives. When one looks at the historical data, we find that the cumulative shortfall in total drilling expenditures between 1957 and 1978 was $250 billion, based on what we needed in order to maintain domestic production adequate to meet our needs.

I should add that these shortfalls were domestic shortfalls. They were expended somewhere else, largely in the Middle East, which is the reason for our dependency and our travail in that area today.

Through concerted Government policy, we forced ourselves into the position that we and our friends and neighbors find ourselves in, in Iran today.

(Mr. SARBANES assumed the chair.)

Mr. SCHMITT. The facts with respect to drilling are as follows:

First, drilling activity in the United States increased to the uniform rate between 1947 and 1956 prior to major regulation of the petroleum industry.

Second, crude oil price declined 31 percent between 1948 and 1972.

Third, total drilling declined 55 percent between 1956 and 1971, after we began forcing our industry abroad.

Fourth, from 1972 to 1978, drilling activity had improved but was still 18 percent below the peak year of 1956, even though energy consumption was up 91 percent.

Fifth, this sustained decline in the drilling rate between 1956 and 1978 resulted in a cumulative shortfall in drilling expenditures which totals $250 billion, as I indicated earlier.

This calculated cumulative shortfall is 25 times the drilling expenditures for 1978 and 18 times the total energy profits for that year.

I hope the conclusions are obvious, Mr. President.

First, there is a fundamental, direct relationship between the price of oil drilling activity and oil production, even though this relationship may be disguised temporarily by time lags. For domestic production to increase, drilling activity must increase at a greater rate and lead that production increase by several years.

Third, for drilling to increase, anticipation of greater profit is essential; and it is greater profit not just for an industry but for the investors in that industry, the pension funds that depend on that industry, and all who benefit from it.

Fourth, greater profits to accomplish this catch-up, again, as with seismic exploration, cannot be generated without a major change in the attitude of Government.

Mr. President, the other day, the distinguished majority leader was once again bringing up the old—if I may quote the Senator from Missouri—red herring about profits in the petroleum industry. Of course, numbers are such that very often you can do anything with them.

I submit that if the petroleum industry's profits were zero in the third quarter of last year and were up to 1 percent return on investment in the next third quarter, we would have a very difficult time calculating what the percent increase was. Mathematically, it would be very difficult. But, basically, we have seen an industry, whose average profits are about the same as or less than the average profits for industry in general, rise as a percent increase, at apparently very high rates, but the profits themselves are still very average.

The petroleum industry net income as a percent of net worth compared to all major manufacturing companies and other groups, if looked at historically, provides the following important facts:

One, for the past 32 years, the oil and gas industry profits as a percentage of net worth have been average—namely, in the range of about 13 percent or 14 percent.

During the past 10 years, profits were about 14 percent, compared to 13.5 percent for all manufacturing.

For this period, petroleum profits were far less than in other groups whose earnings have not been judged, to this Senator's knowledge, as obscene; namely, the soft drink industry, at a profit level of 22 percent; drugs and medicine, at a profit level of 20 percent; soaps and cosmetics, at a profit level of 19 percent—significantly, above those of the petroleum industry.

For the year 1978, Fortune magazine rated 25 industrial groups and placed petroleum refining 17 from the top, at 13.4 percent, and mining and crude oil at the bottom, with 10.1 percent profits.

Groups with high profit that were not judged to be obscene, in this Senator's knowledge, were as follows: broadcasting and motion pictures, 21.6 percent; pharmaceuticals, 17.6 percent; soaps and cosmetics, 16.7 percent; transportation equipment, 15.9 percent; publishing, 15.8 percent; tobacco, 15.8 percent; and motor vehicles, 15.4 percent.

Again, Mr. President, that is compared with the mining and crude oil industry at 10.1 percent.

I remind Senators that if the mining and crude oil industry average profits became comparable with those of the industries I just listed, there would be an increase in profits of 100 percent or more.

That is the problem with those kinds of numbers, particularly when they are misused by those who have other fish to fry.

The conclusions that come from this examination of petroleum net income as a percent of net worth are, I believe, obvious if the facts are studied.

The oil and gas industry has been wrongly accused of making unreasonably high profits. I think the facts I have just enumerated show that this accusation is false. Unfortunately, it has been made, substantiated by misapplication of mathematics, and unfortunately has created a great atmosphere of deep distrust of probably our only means out of the oil import dilemma to which we have driven ourselves.

This is a very, very dangerous situation that exists between the American people and an industry from which they derive 65 percent of their domestic energy.

The second conclusion is that an industry with only average profits is not in a position to substantially increase our oil and gas production.

Third, it is the responsibility of this body and Congress as a whole to become more acquainted with the truth in these issues and the facts in these issues than they have in the past; so if they cannot inform their constituents, they at least can represent them properly.

As I said the other night, what is often called fact in this body has become self-fulfilling prophecy instead.

Mr. President, there are a wide variety of factors that are important to the production of oil and gas. I have been going through a listing of some of them, but probably the most important fact is that the rate of petroleum production is directly related to the number of wells drilled. The number of wells drilled is directly related to the price that the driller, the risk-taker, can expect to get for the petroleum produced.

The present drilling rate is inadequate for the job that needs to be done to remove our dependency on foreign sources, and it has been inadequate for many, many years.

Prior to the beginning of our difficulties, the drilling activity in the United States increased to the uniform rate between 1947 and 1956. In 1957, oil imports to the United States were only 0.16 billion barrels. In 1977, imports of oil had increased to 3.2 billion barrels, 26 percent of the total energy consumed in the United States.

When drilling activity was at its highest, crude oil prices declined 31 percent—that is, between 1948 and 1972. As imports increased during the latter part of this period, total drilling declined 55 percent from 1956 to 1971, as regulation increased and prices declined—again, due to the influx of foreign petroleum and Government intervention in the petroleum industry.

Oil and gas production in the United States declined 13 percent between 1971 and 1976, at a time when we were finally beginning to realize the nature of our dilemma. We still were unable to do anything about it.

Total drilling increased from 1972 to 1978 but was still 18 percent below the peak year in 1956, even though during the same period, energy consumption was up 91 percent. Oil and gas production increased only 2 percent between 1976 and 1978.

Again, the conclusion that must be drawn is that there is a fundamental, direct relationship between the price of oil, the number of wells drilled, and the oil and gas produced. This relationship is disguised to a minor degree by time lag factor.

The relationship is further disguised when there is a shut-in productive capacity such as existed between 1956 and 1970. The surplus capacity must be reduced before the direct relationship shows in the data we have.

The relationship also is disguised by unusual time lags in bringing oil and gas to market, such as was the case in the Prudhoe Bay field, where production was delayed by 5 years because of regulatory and construction problems.

It should be of great concern to Americans that total energy production in the United States is not increasing in spite of the geological information we have that great productive potential still exists. The downward rate of change could, will, and has caused severe economic, military, and defense consequences for this country. Why we refuse to face that fact in the face I do not know.

Oil and gas production is a source most likely to contribute to improvement of the U.S. energy shortage in the near term because minor percentage changes yield great total benefits. The lag time from a price rise to energy produced is shorter than for almost any other energy sources.

In order to stimulate the production of oil and gas, net price to the producer must be increased so that drilling will be increased.

Mr. President, the other day I had the opportunity to discuss a phenomena called pilot-induced oscillations which we can take care of in airplanes, but seem to be unable to take care of when we try to apply it to the economy and energy productive capacity of the country. There is another interesting phenomenon that has some analogies to our dilemma today, and that is called behind the power curve. It turns out that if you plot air speed versus power produced in almost any airplane, the curve is such that at low speeds it takes more power to stay in the air than it does at high speeds, and that has gotten many a pilot into trouble. He ran out of power and air speed and ended on the ground inadvertently.

Basically, we are in that position today with respect to domestic oil and gas production. We are so far behind in producing the adequate amounts and we have so discouraged the kind of exploration activity and drilling activity necessary that we are going to have to have a major influx of power, that is, capital into the industry if we are going to ever get caught up. It does not mean we cannot do it. We are just going to have to have it. But as I said earlier, that seems to be too much for the administration and the majority in Congress to ask of the American free enterprise system.

Mr. WALLOP. Mr. President, will the Senator yield for a question?

Mr. SCHMITT. I am happy to yield to the Senator from Wyoming, but I ask unanimous consent that I not lose my right to the floor.

The PRESIDING OFFICER. The Senator may yield for a question.

Mr. SCHMITT. I yield for a question.

Mr. WALLOP. The Senator brought up the aeronautical engineering question about behind-the-power curve. I wonder if he would agree that perhaps the country is not so much behind the power curve as it is behind the mentality curve?

Mr. SCHMITT. I agree with that.

Mr. WALLOP. Even maybe a little beyond that, beyond the mentality curve, could we not be judged in the Senate as we are behind the courage curve? It would appear on the fact of it that Senators are more interested in appearing respectable in the press of this land than they are in doing what is right for the public that they seek to serve.

Mr. SCHMITT. The Senator is entirely correct, and it is unfortunate that the Senate and, of course, the other body do not think more about how they are going to appear in the eyes of history because I cannot believe that history books, if we are still around as a free country to write them, are going to be very kind to activities of this Congress over the last several years because there are administrations that have been in power during that time because clearly the historical data now is extensive. We have been at it for a number of years trying to recover and the data shows we have done all the wrong things.

Mr. WALLOP. Will the Senator not agree, though, that it would take a most careful and persistent historian to go through the buffoonery that has been presented on the floor of this Senate and by this administration in behalf of this bill?

Mr. SCHMITT. There is no question that the Senator's choice of words is probably more accurate than mine, particularly that of buffoonery. But I say hopefully the historian will do something of a nature that I have tried to illustrate in the last few moments through just a basic factual analysis of what things have been like since the end of World War II, where we do have good historical data and the facts speak for themselves. We have been doing it wrong. We did it right for a while and then we decided to do it wrong. And it is reflected directly in the decrease of domestic oil production, and of still an inadequate amount of drilling and exploration activity to meet our needs.

Mr. WALLOP. Will the Senator from New Mexico agree that there really can be no logical justification for traveling down this road that we are in essence traveling down it only for momentary political advantage, momentary respectability, as the majority leader puts it, in the eyes of the American public without regard to the consequences of the actions that we are taking and without regard to any kind of an intellectual debate on the relative merits of a level of taxation on each of the three categories of oil that are the subject of the amendment in front of the Senate tonight?

(Mr. STEVENSON assumed the chair.)

Mr. SCHMITT. The Senator from Wyoming is entirely correct about what is taking place, but I might argue a little bit of whether or not such actions actually give significant respectability with the American public because, as I travel around this country, I think there is a heck of a lot more understanding of the free enterprise system among the American public and what it takes in order for this country to remain free, strong, and self-sufficient than there is here in the Senate. That is what bothers me because I do not think we are listening, and if the last two or three elections have not told Senators and others something about what it takes to get reelected or elected to this body then again that proves to me that they are not listening.

Mr. WALLOP. I thank the Senator for responding to my questions and I just wish to add by way of commendation my admiration for the learned dissertation he has engaged in.

Mr. SCHMITT. Mr. President, the issue of newly discovered oil is one which is certainly before us because this minimum tax proposal would go directly to the newly discovered oil issue.

Oil produced from newly discovered sources along with tertiary or enhanced recovery oil must shoulder a major burden of adding to future domestic supplies. Although there is substantial uncertainty associated with any estimate of future discovery volumes, in recent testimony before the Finance Committee on June 11, 1979, an oil industry spokesman indicated future domestic crude oil discovery volumes at 60 billion barrels. It should be noted that the U.S. Geological Survey estimates the undiscovered domestic recoverable oil rescurces in the 50 to 127 billion barrels range. If we include estimated oil reserves of about 40 billion barrels, the present total domstic oil resource base would be about 90 to 167 billion barrels combining those numbers.

Domestic oil resource is far from depleted and in fact others offer the opportunity for significant amounts of production to meet the Nation's energy need.

Mr. President, I have quoted those numbers not meaning that I agree with them. I think they are unnecessarily low estimates. As I indicated earlier this evening, the geological data suggests that of all the cubic miles of sediments that could be explored productively or potentially productively for oil only 2 percent have actually been explored. I do not want to mislead anyone by saying that there is oil in all of those other cubic miles but the point is there is oil in a lot of it.

But you have to have the price incentives in order to go search for it, not just price for profit; it is price to make your money back that you invest.

These are fairly simple concepts, and I have not found, as I indicated to the Senator from Wyoming, that the American people find it very difficult to grasp.

As a matter of fact, I think the next election or two are going to show that they grasp it far better than those who think that for a short term political advantage they can do violence to the most advanced energy creation system the world has ever seen, namely, the American oil and gas industry.

Now, just so that there is some perspective, I am not at all sure that certain of the major oil companies, particularly those that are dominated by foreign interests, have always had the best interests of this country in mind.

But I do feel that those companies that are domestically based have a great deal of understanding about the future of this country, what is necessary for it to survive, and one essential element is to produce oil and gas. Clearly the Government's role as a referee in that industry is the same as its role in the free enterprise system in general. Particularly as that system gets more and more complex, the need for a referee often becomes essential and as we look at high risk research and development the need for a department becomes essential. But the last thing we need, and the historical data we have been going through shows clearly the last thing we need is a manager in the form of government. But, that, unfortunately, is what we have had, and the consequences are extraordinarily profound and will affect this country for decades to come even if we began to do everything right.

Mr. President, to continue in the discussion of the facts that are pertinent to this overall discussion of whether we should apply a minimum tax to new oil, heavy oil, and oil recovered by tertiary means, I refer back to an earlier statement I made in a list of statements, that the discovery of new petroleum reserves is related to the number of wildcat wells drilled which, in turn, is related to the price of petroleum. The potential exists, but price incentive has been inadequate for 22 years. As a result the job is just not getting done; that is, of developing new oil and gas reserves to meet the essential needs of this country.

I think it is well to point out that the number of wildcats as a proportion of the number of producing wells is an important figure. A general average is something like nine wildcats to every producing well.

We also must remember that all wildcats do not go to the depth of the basin that is potentially productive. As I indicated earlier, much of the potential that we have is going to be in areas and basins where there is already production or has been production.

As we learn more about where oil might be, as we learn more about the depths in which gas reserves might be identified, we must have the capital to drill more deeply. Today we are talking about deep wells costing millions of dollars—every well millions of dollars. When we talk about developing a field of tens and sometimes hundreds of wells, we are talking about one heck of a lot of capital that has to be sunk into the ground before they get anything, and that is after they drill nine wildcats in order to get one producing.

The fact in this situation of wildcat drilling is that the drilling of exploratory wells or what I have been referring to as wildcats increased in the uniform manner from 1947 to 1956, again that period of 10 years prior to the beginning of the imposition of Federal management or regulation of the industry.

Second, additions of new oil and gas reserves increased slightly from 1947 to 1960. The price of crude oil declined 31 percent, as I said earlier, between 1948 and 1972.

The finding of new oil and gas reserves declined approximately 40 percent, Mr. President, between 1960 and 1977 in spite of the outstanding exception in 1968 when Prudhoe Bay was discovered in Alaska.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. SCHMITT. I am happy to yield to the distinguished Senator from Texas for a question.

Mr. TOWER. The distinguished Senator from New Mexico has pointed out the decline in drilling activity over a certain period of time, and as I remember during that period of time the Middle Eastern oil was selling in this country for about $1 a barrel.

I want to ask my question in several parts.

Is the Senator from New Mexico aware that at that time there was a quota imposed on the importation of foreign oil, and is he also aware that at that time there was considerable effort made here in the Congress of the United States to try to raise that import quota, so that more of this cheaper Middle Eastern oil could come in at a dollar a barrel?

Is the Senator aware that at that time domestic oil was selling for about $3 a barrel, and that at that time that did not reflect extraordinary profits, considering drilling costs, exploration costs, and all that sort of thing?

Is the Senator aware that a lot of people, or people, at least, from the same area of the country that at that time wanted very much to get this cheap Middle Eastern oil into the country were at that time willing to see us stack rigs, stop exploration, cap marginal wells, and all that sort of thing, so that they could get this cheap Middle Eastern oil?

Would the Senator from New Mexico care to comment on the impact that might have had, now that we are trying to take capital out of the private sector? Is he aware that some of the very people who now want to take capital out of the private sector through the so-called windfall profit tax are the people who were perfectly prepared to see the domestic oil industry cut back on its production, so that they might get cheaper oil from abroad?

Is the Senator further aware that that cost us a great deal in capital investment, exploration, and production over the years, and that had not that been the case, we might be producing a great deal more oil today than we are producing now, and would be much less dependent on external sources?

Is the Senator further aware that we would not have developed the thirst for and dependence upon Middle Eastern oil that we have today had that not been the case?

Mr. SCHMITT. The Senator from Texas has posed an extraordinary question, not only for its content, but for its length. But that litany of activity that he has described in the course of posing that question is one which I certainly agree with. The history is clear; we can look back away from the passions of the moment and identify those facts and those occurrences that he described, and many others that contributed to our present dilemma.

Again, as he has indicated, many of the same proponents today of the windfall tax are the ones which have their roots, at least, in the proponents of increased dependence on then cheap foreign imports.

I would add to the Senator's litany the following: That in the early 1950's, when we began to regulate the price of natural gas at artificially low levels, there was a further incentive for domestic oil companies to go abroad in order to compete with natural gas, because that is where cheap oil was then being produced. Again, regulation of the natural gas industry caused further involvement in exploration and development of the Middle Eastern area by U.S. companies. At the same time, that control of the development of natural gas practically destroyed the U.S. coal industry. Coal found itself in a position where it could not compete with cheap natural gas.

At the same time, again in the 1950's, you may recall the mid-1950's as being a significant historical date in my discussion tonight, when we basically began to rapidly decrease our exploration, not only for new natural gas, that we were using at higher and higher rates because it was a cheap, but also in our exploration for oil, for all the reasons that the Senator has listed, as well as all the reasons that forced our industry to go abroad in order to compete in price.

Unfortunately, a great deal of the impact of this production tax on domestic oil will be to further encourage the industry to go abroad, where the profit incentives will be higher. They have to compete, just like every other portion of the free enterprise system, with investors for capital, and that system only works when there is that kind of competition. Unfortunately, the tax, making artificial measures in the form of tax law that discriminates against domestic production, would mean that there is going to be an artificial movement of the industry to unregulated markets abroad. This is a continuation of the same folly that we have seen now for an unfortunate 25 years.

The issue, though, of wildcat wells is one which is extraordinarily important. It not only illustrates the gambling nature of the oil business—that is, as I said the other day, that it attracts those people who otherwise would probably be farmers, ranchers, or gamblers in Las Vegas—but the mining and energy business in general is extraordinarily exciting. I, as I say, cut my teeth on it as a boy, and subsequently as a practicing geologist and it is one where the excitement of pitting your intellect, your capital, and to some degree your luck against nature, hoping that you figured nature out, and knowing that your chances are only 1 in 10 of having actually done so, generates an excitement among people in that business that is almost unparalleled.

It is the wildcat well that represents the epitome of that excitement, particularly for the independents, but I think in an indirect way for all who are involved in the business and for those who invest in it.

Unfortunately, although the drilling of wildcat wells has increased slightly in the last few years, it is still 33 percent below the peak year rate of 1956, even though, again, the consumption of energy in that period has increased 91 percent.

The improvement in this drilling rate is very sluggish, and a great deal of that is because of the uncertainty of what the Government is going to do to us next, how it is going to interfere with producing new oil and gas.

Consumption of oil and gas in the United States in 1978 was 57.6 quads, which is nearly 10 billion barrels of oil equivalent, and this includes imports. The proven U.S. reserves in 1977 were about eight times the 1978 consumption. Undiscovered reserves in 1977 were 17 to 32 times 1978 consumption, according to U.S. Geological Survey estimates, based on the 1974 price-cost factor.

But, Mr. President, I have had numerous occasions to discuss with the U.S. Geological Survey scientists these estimates, and they are estimates based on very conservative assumptions, and unfortunately a few years ago those assumptions were made more conservative in order to adjust themselves to what was articulated as administration policy. I was always very disappointed in that, but the basic facts are what I have described earlier, these indeed tremendous volumes of rock about which we know very little. You hear a great deal, or used to, at any rate, about the King Hubbard curves, curves that show that basically all the oil and gas to be found had been found, because the drilling rate, it seemed, was declining, peaking out.

I think we have illustrated tonight, at least, that there are a number of extraneous factors that have influenced the peaking out of drilling rigs, and it is not because holes have been punched in all the cubic miles of rock in which there is high potential for the production of oil and the production of natural gas. Certainly in the offshore areas this is not true, and in many of the new areas, deep rock stratographic traps, and other areas, it is not true. A generation, though, of politicians seem to have been fooled by some of this misuse of statistics or misinterpretation of statistics beyond that intended by Dr. Hubbard and others who worked those curves out.

One of the most important things that our colleagues should be made aware of is that there is a price-cost relationship to the available supply of oil and gas. It is the same as with any mineral commodity. As your price goes up and your costs go down, more and more potential areas of production are made available.

I can remember, for example, in the copper industry, when I was a boy, you almost never looked at a mine that could not produce an average grade of something like 1 percent of copper—that is, an open pit copper mine—but now that grade has gone down steadily because of new technology that reduces cost until, literally, copper is mined as a trace element. To think that we actually extract economic amounts of copper at grades less than 0.5 percent never ceases to amaze me, but it is an illustration of what can happen. If you can reduce your costs, you open up vast new resources and eventually reserves of the commodity in question. If you increase your price, you do identically the same thing.

If you conversely, however, put restrictions on the price or add to the cost, then you reduce the volume of rocks that are potentially productive.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. SCHMITT. I am happy to yield to the Senator from Texas for another question.

Mr. TOWER. I think that the Senator has done us a service in talking about the cost-price aspect of this business of producing more energy.

Does the Senator anticipate that costs are going to go down, or that we are going to artificially reduce the return, or at last restrain the return, for example, on barrels of oil? Is there anything being done at this point to reduce the cost of exploring for or producing a barrel of oil? Is it not possible that in this legislation that we are about to enact, we are going to control the price, that the cost will continue to go up, which will in turn discourage additional production?

Mr. SCHMITT. The Senator is correct, as usual, in many respects. As we restrict the potential for a return on investment by acts of the nature of the so-called windfall profit tax, we also restrict the incentives for research and development in new technologies that can reduce cost.

During recent years there has been an explosion of technologies that are potentially applicable to reducing the cost of finding oil and gas in these frontier areas. One which I am sure the Senator is familiar with, since the principal proponent of it, the first proponent of it was in his great State, is the so-called Bright Spot technology for the discovery of deep, hidden oil and gas.

This Bright Spot technology actually has its origins in the space program. Two things were developed in the space program out of necessity for success: One was low-noise electronics; that is, electronics systems that have very little extraneous signal, in which most of the information is real information and not random noise. And the other was the so-called image enhancement techniques, using the computer technology of the day. Those techniques were developed in order to get the maximum amount of information out of pictures taken of Mars, the first major application of it. The combination of low noise electronics and these image enhancement, or amplitude enhancement, systems has enabled seismologists to see changes in materials at great depths in the earth that they never could see before. One, because the electronics were too noisy and, two, because they just did not have the computer technology for amplitude enhancement to allow them to see that.

And what it does is enable them to see differences in the seismic waves, differences between water and oil, between water and gas, between gas and oil, and of course separating those three from different kinds of rocks. Never could do that before.

So this makes it possible to literally begin to take pictures of oil and gas reservoirs in the rock, whereas before we could only look at the rock structures. That is what seismic information gave us, the picture of the rock structure.

We did not know whether there was oil and gas in there at all. That is why you had to drill holes. That is what the wildcats were all about, was punching holes into these structures, hoping there might be some oil and gas there.

Now we have been moving toward a time when we can take a picture of that oil and gas before we ever drill to it. And those are the kinds of things in the frontier areas that are going to make the critical difference in whether you bring a new producing well in or not.

Now, unfortunately, as you add disincentives for oil and gas production in general, you add disincentives for investment in new technologies and to develop new technologies that can further decrease the cost and actually find oil and gas in areas that you could not have afforded to look before.

The Senator from Texas (Mr. TOWER), once again, puts his finger on a very important part of this total problem.

It is, in this Senator's estimation, impossible to overemphasize the essence of economic geology, which is the science and the art of determining whether or not you should invest or a company should invest or your employer should invest some given amount of money in the first stage of trying to decide whether there is an economical resources within the Earth.

The basic principles are the same throughout the commodity natural resource industry. But they all depend on what is the price at the end of the pipeline, whether it is the price of copper or whether it is the price of oil. And if that price is too low, if there is no profit by which you can attract investors, or if the price is too uncertain so that you cannot again attract investors, the risk is just too high then you are not going to see those initial investments made to run the seismic lines to drill that first hole that eventually finds new oil and gas production.

But if you do just the opposite, and that is provide an encouragement through price, through certainty, you are going to see this country, once again, become not only self-sufficient in oil and gas production, but you will also potentially see us become an exporter again.

Now, Mr. President, I am not necessarily an advocate of going that far. But I say it only to illustrate the potential that exists, because again I would say that in a modern context, the long term use of oil and gas as an energy source at the levels of which we are using it today is a mistake.

It is too valuable a chemical, they are too valuable chemicals, which are going to be important for a large variety of uses in the future, to future generations, and we ought to preserve as much of it as we possibly can. But unfortunately, due to bad regulatory policy, which prevented the price of these commodities from reaching a replacement level and thus encouraging the development of new energy sources as those prices continue to rise, and also bad research and development policy within several administrations that has prevented the development of alternative energy sources to replace oil and gas, we are in a position where we are going to have to have to use it and we are going to have to use it for an unfortunate number of more years. And unless we produce what we need very quickly, it is going to be very difficult to withstand these pressures that come at us from abroad.

The conclusions that one can draw from the preceding discussion of wildcats are as follows, Mr. President: A large but unknown amount of oil and gas remains to be discovered in the United States, at least 17 times the 1978 consumption when proven reserves are added to the total. It is at least 25 times the total 1978 consumption.

Again, Mr. President, I would emphasize that those are based essentially on U.S. Geological Survey estimates which most of the workers in the field, outside the survey, agree are low, and are very low because of the total volume of rocks, the total number of favorable areas that are yet to be explored.

Another conclusion is that there could reasonably be total reserves adequate to supply the United States for over 50 years based on total consumption in the United States in 1978. And, Mr. President, that 50 years is not an extraordinarily high replacement cost for oil or gas. It is at a normal increase cost curve, but not one that is reflected by the present world price.

I emphasize once again that that world price is inflated. Depending on who you talk to and what field you are particularly looking at, it is inflated by a factor of two, and may be as much as a factor of three, over what the true replacement cost of the energy should be. We are being had, of course, by the OPEC control over essential production. The only way to break that control is to outproduce them.

Third, in order to find these undiscovered reserves, exploratory wells or wildcats must be drilled and incentives must exist to go out there and take the risks and invest the capital in order to drill them.

Fourth, the present rate of drilling of wildcat wells is very depressed compared to the historical ratios of wildcat wells to reserves found or to consumption and certainly are horribly depressed compared to our projected need. The current rate is 33 percent lower than in 1956, even though consumption is 91 percent higher.

Fifth, based on the cause-effect relationship shown by the earlier facts, it is logical to expect that wildcat drilling will increase significantly only after sustained, large price increases for oil and gas occur. And that is the bottom line, Mr. President. There not only have to be price increases, they have to be sustained and they have to be enough and with enough certainty that we can move ourselves from being, as I said earlier, behind the power curve of energy production to getting ahead of it.

Finally, adequate incentive to accomplish this catchup cannot be generated without a major change in the attitude of Government towards the industry. And that change of attitude, as I suggested earlier, is that we must be willing, first of all, to recognize the seriousness of our peril and, second, to mobilize an industry and an industry-Government partnership necessary to get us out of this mess.

Mr. President, it is unfortunate that the Senate must spend its time going through the factual recitation that I have just undertaken. The facts really are not that hidden. They have certainly been expressed before in various ways on this floor. They certainly are not difficult facts.

They really relate to very basic economics of a natural resource industry. They relate to the very basic disincentives that come from an overly regulated industry; one in which the government has become a manager rather than a referee.

It is this Senator's hope that over the next few months—it would be nice to have it over the next few days—that we, as Senators, professionals in our own right, can begin to stare these facts in the face, along with others, and start to change, however slowly, our attitude toward the system that has made this country what it is today.

There are many who would discard the free enterprise system and the freedom and the growth that has come from that system for this country. But I do not believe that it is the will of the majority of the American people to do so or even of a significant large minority of people to do so. If one looks at surveys about what makes this country great, very often it is the free enterprise system that is mentioned or the technological process that has come from that system that is mentioned.

And it is going to be a very sad day in history indeed if the system, in whatever part of it one cares to discuss, begins to be destroyed.

Mr. President, I am not sure that there is any system that can replace it adequately in this country that would allow us to compete.

I had the privilege, Mr. President, as many know, I guess, to participate 7 years ago—as a matter of fact 7 years ago tonight, we were in our second day of activities on the surface of the moon, and that effort by this country was made possible because we believed that there was not anything we could not do if we put our minds to it.

It was that effort of industry-Government partnership, one of high motivation, one of the lowest bidder building high quality products, and one which, most of all, was successful. It came, as I indicated earlier, at the coincidence of a technology base that could accomplish the task, a period of uneasiness that was afoot in the country, a catalytic event that made it——

CLOTURE MOTION

The PRESIDING OFFICER. One hour having passed since the start of the new calendar day, the clerk will report the motion to invoke cloture.

The assistant legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the reported amendment in the nature of a substitute to H.R. 3919, an Act to impose a windfall profit tax on domestic crude oil.

Robert C. Byrd, Bill Bradley, Edmund S. Muskie, Gaylord Nelson, Richard Stone, John A. Durkin, Alan Cranston, Paul Sarbanes, Claiborne Pell, Henry M. Jackson, John Glenn, George McGovern, Daniel Patrick Moynihan, J. James Exon, Carl Levin, and Max Baucus.

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll, and the following Senators answered to their names:

[Quorum No. 15 Leg.]

Armstrong
Baucus
Bellmon
Bradley
Byrd, Harry, F., Jr.
Byrd, Robert C. W. Va.
Culver
Danforth
Dole
Domenici
Ford
Garn
Hayakawa
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Mathias
McClure
Pell
Sarbanes
Schmitt
Stevens
Stevenson
Thurmond
Tower
Wallop
Warner
Weicker

The PRESIDING OFFICER (Mr. Bradley). A quorum is not present.

Mr. ROBERT C. BYRD. Mr. President, I make the point of order.

The PRESIDING OFFICER. The point of order is not in order in the absence of a quorum.

Mr. ROBERT C. BYRD. I am sorry. I thought the Chair said a quorum was present.

The PRESIDING OFFICER. The clerk will call the names of absent Senators.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be directed to request the attendance of absent Senators, and I ask for the yeas and nays.

Mr. SCHMITT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. A parliamentary inquiry is not in order.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator fom Texas (Mr. Bentsen), the Senator from Oklahoma (Mr. Boren), the Senator from North Dakota (Mr.

Burdick), the Senator from Florida (Mr. Chiles), the Senator from Arizona (Mr. DeConcini), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from South Dakota (Mr. McGovern), the Senator from Montana (Mr. Melcher), the Senator from Georgia (Mr. Nunn), the Senator from Connecticut (Mr. Ribicoff), the Senator from Tennessee (Mr. Sasser), the Senator from Mississippi (Mr. Stennis), the Senator from Florida (Mr. Stone), the Senator from Georgia (Mr. Talmadge), and the Senator from Nebraska (Mr. Zorinsky) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), the Senator from Utah (Mr. Hatch), the Senator from Pennsylvania (Mr. Heinz), the Senator from Kansas (Mrs. Kassebaum), the Senator from Nevada (Mr. Laxalt), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from Vermont (Mr. Stafford), and the Senator from North Dakota (Mr. Young) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 68, nays 1, as follows:

[Rollcall Vote No. 475 Leg.]

YEAS—68

Armstrong
Baucus
Bayh
Bellmon
Biden
Boschwitz
Bradley
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Church
Cochran
Cohen
Cranston
Culver
Danforth
Dole
Domenici
Durenberger
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Leahy
Levin
Lugar
Mathias
Matsunaga
McClure
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Pell
Proxmire
Pryor
Randolph
Riegle
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stevens
Stevenson
Stewart
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Williams

NAYS—1

Garn

NOT VOTING—31

Baker
Bentsen
Boren
Burdick
Chiles
DeConcini
Durkin
Goldwater
Gravel
Hatch
Heinz
Johnston
Kassebaum
Kennedy
Laxalt
Long
McGovern
Magnuson
Melcher
Nunn
Packwood
Percy
Pressler
Ribicoff
Sasser
Stafford
Stennis
Stone
Talmadge
Young
Zorinsky

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

Mr. ROBERT C. BYRD. Mr. President, I make a point of order that rule XXII reading with respect to the vote on the motion to invoke cloture states as follows: "1 hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and"; that, for the purpose of the operation of the rule, the word "meets" comprehends a new beginning, that it implies a period of whatever length in which the Senate was not in session and that the Senate having been in continuous session since yesterday 10 o'clock in the morning, that the Senate has not yet met on this day, Thursday, and that the word "meets" becomes operative for purposes of the cloture rule on the following day but one when in continuous session.

Mr. STEVENS. Parliamentary inquiry, Mr. President.

Mr. ROBERT C. BYRD. Becomes operative in the event no opportunity is given to move to recess or adjourn in the meantime at the hour of daily meeting of the Senate which is 12 o'clock meridian unless otherwise ordered which in this case is 10 o'clock a.m.

Mr. STEVENS. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. Debate is not in order.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be—this is a very important point of order—I ask unanimous consent that the Chair submit the question to the Senate for debate and that there be not to exceed 30 minutes to be equally divided between myself and the distinguished acting Republican leader.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object.

Mr. McCLURE. Mr. President, reserving the right to object.

Mr. TOWER. This is debatable, is it not, whether there is any consent agreement?

The PRESIDING OFFICER. No, it is not debatable.

Mr. TOWER. Therefore, it can be debated only if there is consent agreement to do so?

The PRESIDING OFFICER. Or if the Chair wishes to entertain debate for its own edification.

Mr. McCLURE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, I reserve the right to object because I want to make certain that I understand what the majority leader has suggested. As I understand he couched the request in two terms. One is that there be a period for debate but the other is that the matter be submitted to the Senate for a vote. My understanding, if I am correct, is that the Chair has already responded to a parliamentary inquiry and responded affirmatively saying that this procedure would be followed and we are in the midst of that procedure.

Mr. President, it is further my understanding that under those circumstances if the Chair would rule according to its prior ruling the way in which the Senate would then vote upon it would be on an appeal from the ruling of the Chair. I inquire of the Chair under my reservation as to whether my statement is correct?

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request.

I ask unanimous consent that the Senate be permitted to debate this point of order for not to exceed 30 minutes, the time to be equally divided between myself and the acting Republican leader.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. I object.

Mr. McCLURE. Mr. President, reserving the right to object, I wish to make a point of order against the point of order and if it is overruled I will agree with the Senator.

Mr. President, I make the point of order that the point of order raised by the Senator from West Virginia is not timely, that the time for him to have raised the point of order was before the process started and his failure to have done so waives his right to raise the point of order at this time.

The PRESIDING OFFICER. One point of order is not in order while another point of order is pending.

Mr. TOWER. Mr. President, reserving the right to object.

Mr. McCLURE. Mr. President, may I be heard on that question?

The PRESIDING OFFICER. The Chair will entertain debate on that.

Mr. McCLURE. I thank the Chair for entertaining the debate because it is quite clear that if a point of order has not been made at the right time the point of order is out of order.

Mr. President, it may be that the Chair is correct and I stated it wrongly. Perhaps I should call for the regular order that says that the Senator from West Virginia is not in order in raising the point of order.

The PRESIDING OFFICER. The Chair will state that in the Chair's opinion the point of order of the Senator from West Virginia would not have come until the Chair invoked the cloture procedure. The start of that is calling for the quorum. While a quorum call is in progress, no business can be transacted. So the first time the Senator could have raised the point of order was after the quorum which was established which is what he did.

Mr. McCLURE. Mr. President, may I be heard on that question?

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, the fact is that the cloture procedure was invoked at the moment the Senator from New Mexico was required by the Chair to yield the floor. The Senator from New Mexico was speaking. The Senator from New Mexico had the right to floor. The Senator from New Mexico did not yield the floor. The Senator from New Mexico was deprived of the floor by the Chair invoking the cloture procedure.

Mr. ROBERT C. BYRD. Mr. President, may I be heard on that?

The PRESIDING OFFICER. The Chair does not understand the Senator's point.

The Senator from Idaho.

Mr. McCLURE. Mr. President, my point is that cloture procedure started when the Senator from New Mexico was deprived of the floor by the action of the Chair. That was 32 minutes ago and if there was to be a point of order against the cloture procedure, the time to raise the point of order was when the Senator from New Mexico was asked to yield the floor when the Chair announced at that time that the hour of 1 o'clock having arrived, the procedure would be invoked.

There was adequate opportunity for the Senator from West Virginia, or any other Senator, before the first name had responded on that quorum call, to have at that point raised the point of order. The Senator from West Virginia did not raise the point of order at that time, but waited until 30 minutes later.

The PRESIDING OFFICER. That is exactly the Chair's point. The Senator from New Mexico was taken off this floor to report the cloture motion, and immediately the Senate went into a quorum, both steps taken under the rule, and the Senator from West Virginia could not have been recognized at that time.

Mr. McCLURE. Mr. President, the Senator from West Virginia could have risen to his feet and asked for recognition before the first name on that quorum call was called, and could have been recognized by the Chair to state his point of order at that time.

The PRESIDING OFFICER. The Chair thinks not.

Mr. TOWER and Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I would like to inquire of the Chair whether or not raising a point of order constitutes debate.

The PRESIDING OFFICER. No, it does not constitute debate, because a point of order is not debatable.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. McCLURE. Mr. President, if, at the hour of 1 a.m., when the Chair invoked the cloture procedure under the rule and interrupted the Senator from New Mexico, any Senator at that time had asked for recognition to raise a point of order, would the Chair have recognized a Senator to raise that point of order?

The PRESIDING OFFICER. No.

Mr. McCLURE. A further parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. McCLURE. Mr. President, is the Chair indicating that a Senator, at the beginning of a quorum call, cannot be recognized to raise a point of order?

The PRESIDING OFFICER. Not once the Senate is in a quorum call.

Mr. McCLURE. Before the Senate——

The PRESIDING OFFICER. The Senator from West Virginia attempted to make a point of order during the last quorum call, and was advised that it was not in order.

Mr. McCLURE. Mr. President, that is not the point of the Senator from Idaho. That is not the question that I asked.

If, prior to the time the quorum call had started and before the first name was called and answered, it was in order for any Senator to be recognized to make a point of order, and a Senator seeking recognition——

The PRESIDING OFFICER. The Chair again thinks not, under the rule.

Mr. McCLURE. Mr. President, I appeal the ruling of the Chair.

Mr. President, I will withhold that.

The PRESIDING OFFICER. The Chair is responding only to parliamentary inquiries. There has been no ruling.

Mr. TOWER. A parliamentary inquiry, Mr. President. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. If indeed the point of order raised by the distinguished majority leader is sustained, then would that have vitiated the whole procedure for the invocation of cloture, to the extent that the Senator from New Mexico would be once again entitled to the floor?

The PRESIDING OFFICER. It would vitiate the cloture procedure.

Mr. TOWER. Therefore, the Senator from New Mexico would be entitled to regain the floor under those circumstances, since the point of order lies against the entire procedure?

The PRESIDING OFFICER. If the Chair again recognizes him.

Mr. TOWER. That does not answer the question, Mr. President. Would he not be automatically entitled to the floor, because under the rule he was made to take his seat?

The PRESIDING OFFICER. The Chair thinks not.

Mr. ROBERT C. BYRD. Mr. President, will the Chair recognize someone on this side of the aisle for a moment?

The PRESIDING OFFICER. The majority leader.

Mr. ROBERT C. BYRD. Mr. President, the point of order has not come too late. At any time after the lack of a quorum has been established, a Senator could have moved to recess. When the Chair announced that a quorum was not present, I could have moved to recess then. I could have made a point of order at that time. I could have moved to recess under the order. This operation we are talking about has not run its course. If it had run its course, and then I had raised the point of order, the point of order would have come too late.

Mr. President, I renew my unanimous-consent request.

Mr. STEVENS. Mr. President, reserving the right to object——

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, the provision of rule XXII requires that upon the ascertainment of a quorum, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question: "Is it the sense of the Senate that the debate shall be brought to a close?"

The PRESIDING OFFICER. A point of order is not debatable.

Mr. STEVENS. My question is, why did not the Chair set that question before the Senate prior to that point of order being raised?

The PRESIDING OFFICER. The Senator from West Virginia sought recognition, the Chair recognized him, and he made a point of order.

Mr. STEVENS. A further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Will the Chair tell the Senator from Alaska whether there is any precedent for a point of order having been raised after a quorum was established, in a cloture proceeding under this rule?

The PRESIDING OFFICER. The Chair cannot respond to that offhand. The precedents would have to be checked, but the Chair thinks not.

Mr. STEVENS. I think not also, Mr. President. It is my feeling that further proceedings—still reserving the right to object—that further proceedings under this approach are going to vastly upset the precedents that have been established by the Senate in the past, and for myself, as soon as other comments on the reservation are expressed, I intend to object.

Mr. McCLURE. Mr. President——

Mr. ROBERT C. BYRD. Mr. President, the Chair is allowing debate on that side of the aisle without recognizing anyone on this side.

The PRESIDING OFFICER. The majority leader.

Mr. ROBERT C. BYRD. I yield to the Senator from Idaho.

Mr. McCLURE. Mr. President, reserving the right to object, the Senator from West Virginia says that at the end of the quorum, when the first call of the roll had been completed and the Chair announced that a quorum was not present, he could have moved to recess—that he could, as provided in the rules; or he could have moved to adjourn—that he could, as provided in the rules——

The PRESIDING OFFICER. He could not have moved to adjourn, because there was a prior order to recess.

Mr. McCLURE. Because of a previous order for recess, that is correct. I agree with the Chair.

And, further reserving the right to object, Mr. President, he could also do the three other things that are provided for under the quorum proceeding; move, as he did, to instruct the Sergeant at Arms to request the presence of the absent Senators. The rules are very specific as to what can be called for and what has the order of priority in the event that a quorum is not present.

So, Mr. President, further reserving the right to object, that does not reach the question of whether or not the cloture proceeding having been invoked to remove the Senator from New Mexico before a quorum call started, it was possible for anybody to be recognized to make a point of order that the proceeding should not have been invoked. But the fact is that the cloture proceeding was invoked to deprive the Senator from New Mexico of the right to this floor, and then we come back, a half an hour later or more, and say, "We used the procedure to get him out of his recognition on the floor, but now we are going to say that the procedure does not apply at all."

I recognize that this may strike some people as a rather complex procedure, and perhaps a convoluted point, but it is not. How can you use a rule, Mr. President, to deprive a speaking Senator of his right to the floor, and then say that the entire proceeding should not have been invoked in the first place, and then suggest that even if we sustain that provision that it should never have been invoked in the first place, the Senator is not entitled to be recognized at the conclusion of that decision.

Mr. ROBERT C. BYRD. Mr. President, I do not think anyone would argue that upon the completion of the call of the roll to establish a quorum, a motion to recess would not have been in order at that point. A motion to recess would be in order. I could have gotten the floor and moved to recess at that point, and forced a cloture vote over until 11 o'clock tomorrow.

If a motion could be made at that point, why cannot a point of order be made at that point? A point of order can be made at that point. It does not come too late. It would come too late after the cloture vote.

Mr. President, is the Chair going to entertain debate on this point of order? I am very happy to speak to the point of order, if the Chair does so.

The PRESIDING OFFICER. The Chair will entertain 5 minutes on each side.

Mr. ROBERT C. BYRD. Five minutes will not be long enough.

I ask that there be at least 30 minutes, equally divided. This is a very important point of order.

The PRESIDING OFFICER. The Chair will entertain 30 minutes, equally divided.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. McCLURE addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I ask that it be equally divided between Mr. STEVENS and myself.

Mr. McCLURE. Point of order, Mr. President.

The PRESIDING OFFICER. It will be so divided.

Mr. McCLURE. Mr. President, point of order.

The PRESIDING OFFICER. There is a point of order pending.

Mr. McCLURE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. ROBERT C. BYRD. I hope time is not being charged against me on this.

Mr. McCLURE. Mr. President, did I understand, then, that the Chair has ruled that a Senator may not be recognized if he seeks recognition after a Senator has been removed from the floor and before the quorum call is started?

The PRESIDING OFFICER. That is what the Chair said.

Mr. McCLURE. And the Senator from Idaho, in suggesting that the point of order of the Senator from West Virginia is not timely, has similarly been decided by the Chair in the negative, is that correct?

The PRESIDING OFFICER. The Chair never entertained that point of order, because another point of order was pending. The Chair responded to parliamentary inquiries.

Mr. McCLURE. All right. The Chair responded to a parliamentary inquiry in what fashion, as I said, or in some other manner?

The PRESIDING OFFICER. The Chair responded by saying that the Senator could not be recognized before the quorum call but could be recognized after the quorum call to make the point of order, which the Chair thought was timely.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, I disagree with the Chair on that, when the Chair states that a Senator could not be recognized before the quorum call began.

The Senator has the right to be recognized. I might want to move to recess, I might want to go through that quorum, and I had a right to be recognized at that point.

But I also had a right to be recognized after the quorum was established. I had a right to be recognized at that point to move to recess, if I wanted to, even after a quorum was established.

I had a right to be recognized at that point to make a point of order, because this cloture rule has not run its course yet. It would be too late after the cloture vote. So I maintain that the point of order has been raised in a timely fashion. I could have raised it before the clerk called that first name. I agree with that.

The PRESIDING OFFICER. The Chair will accept that correction.

Mr. McCLURE. Parliamentary inquiry, then, Mr. President.

The PRESIDING OFFICER. The basic point is the point of order is still timely.

Mr. McCLURE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. McCLURE. Mr. President, do I understand the Chair to be saying that, although the Senator could have raised a point of order before the quorum call started, it is not too late now, 30 minutes later, after intervening business in the Senate?

Mr. SARBANES. Mr. President, parliamentary inquiry. Mr. President, is it not in order——

The PRESIDING OFFICER. A point of order can come any time up to the action sought to be restricted by the point of order. And that, in this case, would be the cloture vote.

Mr. McCLURE. Mr. President, parliamentary inquiry.

Mr. SARBANES. Mr. President, parliamentary inquiry. Is the question before the Chair the simple question as to whether the point of order is timely?

The PRESIDING OFFICER. The question before the Chair is the point of order stated by the Senator from West Virginia (Mr. ROBERT C. BYRD).

Mr. SARBANES. I suggest, Mr. President, that whether that point of order might also have been made at another time is not pertinent to whether it is in order to have been made at the time when it was made.

Mr. McCLURE. But it is.

Mr. SARBANES. It is in order now, clearly in order now to be made. It might well have been made at some other point. And, therefore, it is now before us, and we probably have given it importance and should have some discussion on it.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Chair has stated that it will be 30 minutes, equally divided.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, do I have control of half of that time?

The PRESIDING OFFICER. It is controlled by the majority leader and acting minority leader, the Senator from Alaska (Mr. STEVENS).

Mr. McCLURE. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. Who yields time?

The PRESIDING OFFICER. The Chair will entertain no more debate——

Mr. McCLURE. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER (continuing). In the guise of a parliamentary inquiry.

Mr. McCLURE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. There is 15 minutes to each side. Who yields time?

Mr. McCLURE. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Chair has stated he will accept no more parliamentary inquiries, as is his option to refuse.

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Idaho (Mr. McCLURE) will have an opportunity.

Mr. McCLURE. Will the Senator yield on that point? Because this is the first time I have ever seen, in the history of the U.S. Senate, when the Chair has ruled that he can, on his own, decide that he will entertain no more parliamentary inquiries.

I wanted to ask a parliamentary inquiry on another matter.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Idaho for his making that parliamentary inquiry. I yield on my time.

The PRESIDING OFFICER. The Chair would point out that last year the Chair refused to respond to a parliamentary inquiry. If the Senator wants that precedent, the Chair will obtain it for him.

Mr. McCLURE. Mr. President, I would of course, like to have it. But I think the Senator from West Virginia is yielding to me.

Mr. President, do I understand that

the Chair has decided that there will be 30 minutes of debate, equally divided, under the prerogatives of the Chair to entertain debate, or under a unanimous-consent agreement?

The PRESIDING OFFICER. Under the prerogative of the Chair to entertain debate on a point of order for his own edification.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. ROBERT C. BYRD. Mr. President, the cloture rule—if I may have the attention of all Senators—requires that the vote occur following the establishment of a quorum, 1 hour after the Senate meets on the following calendar day but one.

Now, Mr. President, it was not comprehended, I am sure, when that rule was written, that the Senate would be in continuous session. It was comprehended that the Senate would be going out from day to day, either by way of recess or by way of adjournment.

May I have the attention of every Senator? I have difficulty at this hour in the morning attempting to make my case and I think this is a very important case and it will be around a long time.

When that rule was written, it was not comprehended, I do not think, by the authors of that rule that the Senate would be in continuous session from day to day. It was comprehended that there would be recesses and adjournments.

And so it used the word "meets" which, it seems to me, contemplates a period of time before the Senate meets when the Senate will not be meeting. And so, 1 hour after the Senate meets on the following day but one something happens. The cloture rule becomes operative.

Now, it was never contemplated by the authors of that rule that cloture votes would occur at 1 o'clock in the morning. And if my point of order is not sustained, when a cloture motion is introduced, it will be possible for any Senator who gets the floor on the intervening day and holds that floor until 1 o'clock the following morning, he cannot be taken off of his feet. And he will make impossible the votes occurring on a cloture motion at any other time of that following day but one, except at 1 o'clock in the morning. The authors of that rule did not comprehend that. They never intended that.

They considered the Senate would be in recess or adjourning, and then, after the Senate "meets," it would do thus and so.

Now, earlier this evening, I cited the precedent—at least it is listed in the book of precedents, on page 221, third paragraph:

> If on the day following the presentation of the cloture motion the Senate remains in session beyond midnight and was in session 1 hour thereafter, the motion would be laid before the Senate 1 hour after the Senate convened at its next meeting and after a quorum was established, the vote would be taken thereon.

According to that, the point of order is clearly proper. Now, the CONGRESSIONAL RECORD of June 9, 1964, was brought out and read, in which case, it was stated by the Chair, not as a ruling, but as a response to a parliamentary inquiry.

And if Senators will look at the bottom of page 221, footnote 116, the word "see" appears there. "See June 9, 1964." Here it is.

Now, the word "see" means that it is not a precedent established by a ruling of the Chair, not a precedent established by the Senate. The word "see" in the footnote means that whatever is quoted is in response to a parliamentary inquiry. So there has been no ruling.

The Senator who cited this debate at that time, when the Chair, in response to a parliamentary inquiry, said that if the Senate were in session 1 hour past midnight on the following day but one, the vote on cloture would then occur, that was the response to a parliamentary inquiry. There has never been a ruling to that effect. And the Senate has never voted on it.

Now, I happen to have been the Senator who spoke that night, all night. And the matter was avoided that night simply by the fact that the majority leader, then Mr. Mansfield, got unanimous consent that the vote on cloture would occur at a given hour the next day.

So there was an order that the vote on cloture would occur at, I believe it was, 11 o'clock, or something like that, the next day. And I stopped talking about 5 minutes before 10 and the majority leader recessed briefly, and so the Senate met again.

So there is no precedent on this point. There is only a response to a parliamentary inquiry.

Now, there are those who say, "Well, if the Senate has to meet, if that is going to be the interpretation of the word 'meet,' then suppose a Senator gets the floor and keeps it on tomorrow and does not let a motion to recess come in?" Well, my order takes care of that. Because if a Senator could do that, he could make the rule inoperative, simply by getting the floor and holding the floor. If he could hold the floor for 2, 3, 4 days himself, he would make inoperative that rule. But the rule says on the following day but one, the following calendar day but one.

So, in that event, if a Senator gets the floor and will not yield for a motion to recess, then in that case, for the purpose of the cloture rule, the Senate would be deemed as having met in accordance with the resolution entered at the beginning of the session—12 o'clock meridian, unless otherwise ordered. In this case, it would be 10 o'clock, because the order already was entered.

The same way with the Chaplain, who offers the prayer. He offers it at 12 o'clock each day. Why? Because that is the hour of daily meeting of the Senate, unless otherwise ordered. Tomorrow morning, he will offer the prayer at 10 o'clock. Even if we are in continuous session, the Chaplain offers the prayer tomorrow morning at 10 o'clock. That is when the Senate is deemed to be meeting, if it has been in continuous session for the purpose of determining when that third day starts. The third day has to begin somewhere. It is made up of only 24 hours—24 hours and 1 minute every 4 years, something like that.

I say that if the cloture rule is going to be operative from a realistic standpoint, it cannot be utilized in such a way that cloture votes occur at 1 o'clock in the morning. Therefore, I think my case is well made, and I hope that the Chair sustains my point of order.

Do I have any time remaining?

The PRESIDING OFFICER (Mr. MOYNIHAN). Slightly under 4 minutes remain.

Mr. ROBERT C. BYRD. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, because of the obvious impediment in my voice, I am not going to take much of this time myself, but I will say this:

I spoke to the Senator from West Virginia and urged that we have a time on tomorrow for the vote. I asked his assistance to assure that we were prepared to agree to take this vote tomorrow so that this very thing could not happen, knowing the precedents, that we would have a vote at 1 o'clock.

I feel that we are treading in dangerous territory, because there are times at the end of a session when this rule could mean, if it is changed the way the majority leader wants, that a small group of Senators could completely frustrate the completion of business before the end of a session or before the end of a Congress.

This rule was meant so that at the beginning of the next day—literally, the next day—1 hour after the beginning of the calendar day, that vote would take place. If 60 Senators want to stop a filibuster and then get on with the time frame that is set up in this rule, they may do so. Then the burden is on those who seek to shut off debate to be present to do it.

We do not have to be here tonight to do this, because we are prepared to go over until tomorrow. I am sorry that my good friend wants to upset the Russell precedent, because I consider it to be a precedent.

I also feel that the Chair having instituted this extraordinary procedure to take a Senator off his feet. The Chair did that tonight. It started the procedure for cloture, and having done so, the Chair has a duty to move ahead with cloture; because the Chair, by its very act of taking the Senator from New Mexico off his feet, made the ruling that the Russell precedent was a precedent of the Senate. I think it is a very strange procedure. That would lead us now to a point of order to upset this.

I ask the Senator from Kansas to carry on for such time as he may wish. I know that the Senator from Idaho seeks time, so I will allocate the time. The Senator from New Mexico lost the floor and is entitled to some time, also.

I assume that I have about 12 minutes remaining. I yield 3 minutes to the Senator from Kansas, 3 minutes to the Senator from New Mexico, 3 minutes to the Senator from Idaho, and 3 minutes to the Senator from North Carolina. If no one objects, that will wind up our time.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the Record the colloquy between Mr. Russell and the Presiding Officer which appears on page 13099 of the Record of June 9, 1964.

There being no objection, the colloquy was ordered to be printed in the Record, as follows:

Mr. Russell. Mr. President, I was curious, from a parliamentary standpoint, as to what would transpire, since the majority leader has raised this question. If some Senator were to obtain the floor and hold it until, say, 12 o'clock noon tomorrow, when would the cloture vote be had?

The Presiding Officer (Mr. McIntyre in the chair). The Parliamentarian states that under rule XXII, "1 hour after the Senate meets on the following calendar day but one," is when the vote would come. If the Senate remained in session even until 1 o'clock, the vote would have to come at that time following the ascertainment of a quorum.

Mr. Mansfield. Mr. President, could the Senate, in understandable language, get an answer from the Chair, through the Parliamentarian, to the question raised by the distinguished Senator from Georgia?

Mr. Russell. I am perfectly familiar with rule XXII. I think I can recite it word for word, line by line. The question I asked was, How would rule XXII ever become operative if a Senator were to speak from now until 12 o'clock noon tomorrow, when there is a unanimous-consent agreement to have the Senate reconvene tomorrow at 10 o'clock?

The Presiding Officer. If a Senator were to take the floor at this time and were to speak past midnight tonight and through the night, he could not hold the floor after 1 a.m. tomorrow morning, which would be 1 hour after the session on tomorrow began; and, therefore, at 1 a.m. tomorrow there would be a quorum call, and immediately following the quorum the Senate would vote on the cloture motion.

Mr. Russell. Is the Chair's ruling based on the fact that ordinarily the Senate convenes at noon on each day, unless the Senate has ordered otherwise?

The Presiding Officer. The Parliamentarian informs the Chair it is based on the XXII. Ordinarily the Senate convenes at noon, each day. In such case, there would be a quorum call at 1 p.m., and the quorum call would be followed immediately by the vote on the cloture motion. But if the Senate were to be in continuous session from this time until tomorrow, a new problem would arise; and in such a case, a Senator who was speaking at 1 a.m. tomorrow morning would at that time lose the floor; and commencing at 1 a.m. there would be a quorum call; and immediately after the presence of a quorum was ascertained, the Senate would vote on the cloture motion.

Mr. Russell. Mr. President, I know that under the precedents a Senator who is speaking can be interrupted at any time, to permit another Senator to file a cloture motion. That right has been established by numerous rulings; and that is one of the few occasions when a Senator who has the floor and is speaking can be interrupted.

So I had assumed that if a Senator undertook to speak from tonight until noon tomorrow, when noon—the normal hour of the convening of the Senate—arrived, the Senator then speaking would lose the floor. I should like to have the ruling of the Chair on that point.

The Presiding Officer. The Parliamentarian informed the Chair that a Senator then speaking would lose his right to the floor—at 1 a.m. tomorrow.

Mr. Russell. In other words, such a Senator would not lose the floor until 1 a.m. tomorrow?

The Presiding Officer. That is correct.

Mr. Russell. At that time, such Senator would be compelled to take his seat; and then the Chair would have a quorum call commenced, to ascertain the presence of a quorum; and immediately after the ascertainment of the presence of a quorum, the Chair would lay before the Senate the cloture motion, and would put the motion to a vote, to determine whether it was the sense of the Senate that the debate be closed; is that correct?

The Presiding Officer. That is correct.

Mr. DOLE. Mr. President, in two places, Mr. Russell indicated that he was perfectly familiar with rule XXII, and I assumed he was. He was noted as probably the most informed Senator of our time.

I read from the Record of that date:

Mr. Russell. I am perfectly familiar with rule XXII. I think I can recite it word for word, line by line. The question I asked was, How would rule XXII ever become operative if a Senator were to speak from now until 12 o'clock noon tomorrow, when there is a unanimous-consent agreement to have the Senate reconvene tomorrow at 10 o'clock?

That sounds sort of like what is happening right here:

The Presiding Officer. If a Senator were to take the floor at this time and were to speak past midnight tonight and through the night, he could not hold the floor after 1 a.m. tomorrow morning, which would be 1 hour after the session on tomorrow began; and, therefore, at 1 a.m. tomorrow there would be a quorum call, and immediately following the quorum call the Senate would vote on the cloture motion.

That sounds like what is happening here. The same thing is repeated later.

This was not a ruling by the Chair, but it was in response to a question by the distinguished Senator from Georgia, Mr. Russell.

I read from the next section:

The Presiding Officer. But if the Senate were to be in continuous session from this time until tomorrow, a new problem would arise; and in such case, a Senator who was speaking at 1 a.m. tomorrow morning would at that time lose the floor——

As happened to Senator Schmitt.

and commencing at 1 a.m. there would be a quorum call; and immediately after the presence of a quorum was ascertained, the Senate would vote on the cloture motion.

That did not happen tonight, because a point of order was made.

I hope we do not change this lightly, because this time we are the minority, those who do not want to impose more taxes. The next time, if may be some other group, a Democratic group, a conservative group, a liberal group. If we are going to bend the rules now or try to alter whatever precedent we may have in order to frustrate the minority in this case, those of us who are willing to stay here, those of us who have stayed here since 6 o'clock, to have a vote on cloture at 1:20, are now being frustrated in that effort.

Why are we being frustrated? Because I assume there are not 60 votes over there to invoke cloture, and maybe tomorrow morning, by 11 o'clock, there will be 60 votes.

I do not quarrel with the majority leader for trying to move this thing along, but I always considered Senator Russell to be an expert. I do not quarrel with the wisdom of the majority leader. What we are frustrating is what power the minority has in this effort, and I hope that will be remembered.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. McCLURE. Mr. President, with respect to page 13098 of the June 9, 1964 Record, I was directed to it by the precedents recited in the manual that Dr. Riddick has submitted, which has been approved by the Senate.

Senator Mansfield sought to get a unanimous-consent request adopted fixing the time for a vote on cloture. He said:

Mr. President, it is my understanding that there may be speeches beyond the hour of 12 o'clock midnight tonight. Under the rules of the Senate, when a motion for cloture is submitted, 1 calendar day must intervene, and then on the next day, 1 hour after the Senate convenes, there is a quorum call and then the vote on the cloture motion.

He went on to say he wanted to preclude the possibility that that meant a vote at 1 o'clock in the morning, and he asked unanimous consent that the cloture vote occur at 11. I move to the next page of the Congressional Record, where Senator Russell said:

Mr. President, I was curious, from a parliamentary standpoint, as to what would transpire, since the majority leader has raised this question. If some Senator were to obtain the floor and hold it until, say, 12 o'clock noon tomorrow, when would the cloture vote be had?

The Presiding Officer (Mr. McIntyre in the chair). The Parliamentarian states that under rule XXII, "1 hour after the Senate meets on the following calendar day but one," is when the vote would come. If the Senate remained in session even until 1 o'clock, the vote would have to come at that time following the ascertainment of a quorum.

The next exchange was the one the Senator from Kansas has read.

At the top of the next column on that page:

The Presiding Officer. The Parliamentarian informs the Chair it is based on rule XXII. Ordinarily the Senate convenes at noon, each day. In such case, there would be a quroum call at 1 p.m., and the quorum call would be followed immediately by the vote on the cloture motion. But if the Senate were to be in continuous session from this time until tomorrow, a new problem would arise; and in such case, a Senator who was speaking at 1 a.m. tomorrow morning would at that time lose the floor; and commencing at 1 a.m. there would be a quorum call; and immediately after the presence of a quorum was ascertained, the Senate would vote on the cloture motion.

I do not know how anyone can argue that that is not what the rule has been since 1964, when the Chair announced that at the request of Senator Russell and Senator Mansfield. That ruling has been in effect until tonight. Now, suddenly, rather than try to amend the rules, we are being asked to overturn what the Senate has done in the past in both its rules and its practices.

Mr. President, there is reason to require in the rules that if you want to amend the rules, you follow a certain procedure, including a 1-day notice.

It would be a sad day, in my view, if, just because it pinches a little now, we trample the rules of the Senate under foot.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, we are being subjected to an extraordinary set of procedures this morning, many of which, I think, established some very unfortunate precedents or at least pseudo precedents.

The Chair began the rule XXII procedure, as I think the Chair should have, took my rights away from the debate that was in progress, and then allowed a point of order in the middle of the process, the rule XXII cloture process.

The Chair then vacillated at the direction of the majority leader, which I think was extremely unfortunate and certainly could have been avoided.

Now, the Chair—the previous occupant of the chair—has cut off legitimate parliamentary inquiries; and if the point of order is sustained, the Chair has said that I would not be entitled to retain my right to the floor.

I think those are all very serious mistakes; and now, more serious, is the effect of the point of order itself.

For the convenience of some Senators, we would amend the rules of the Senate, essentially, and sacrifice cloture.

If, as the Senator from Alaska has indicated, a determined group of Senators or one Senator wanted to maintain debate.

I am not one who ordinarily likes to see cloture invoked, but it is a rule of the Senate, and I do not think we should sacrifice it in this way.

I hope the Chair will not sustain the point of order.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I continue to hear references to this CONGRESSIONAL RECORD and the response of the Chair to a parliamentary inquiry on June 9, 1964, as a ruling. That is not a ruling. The Chair rules on a point of order. No point of order was raised. That is the difference between a ruling and a parliamentary inquiry. So there has not been any ruling.

Mr. President, Senator Russell's name has been invoked. I was here and had some tutelage under Senator Russell. I have always felt that he was my mentor.

The Richard B. Russell Building is named the Richard B. Russell Building because, in his honor, I introduced a resolution asking that the building be named the Richard B. Russell Building.

I often have said that the two greatest men I ever met in my life were Richard B. Russell and my coal-miner foster father. So I thought a lot of Senator Russell. It is he who taught me to read the precedents—not just the rules, but the precedents.

So much for Senator Russell. He was a great parliamentarian. I revered his name.

Mr. President, at the beginning of that colloquy, Mr. Mansfield said this:

> Is it the understanding of the Chair that at the conclusion of business today, or if the business goes beyond the hour of midnight, the Senate will meet, under the motion for cloture laid down, at 10 o'clock on Wednesday morning?
>
> The PRESIDING OFFICER. The Senator from Montana is correct.
>
> Mr. MANSFIELD. Is it the understanding of the Chair that at that time there will be 1 hour of debate, beginning at the conclusion of the prayer and ending at 11 o'clock, approximately?
>
> The PRESIDING OFFICER. The Parliamentarian informs the Chair that 1 hour after the Senate convenes there will be a quorum call. Upon the ascertainment of a quorum a vote will be had, by yeas and nays, on the cloture motion.

In the middle column at the bottom of page 13098 Mr. Mansfield said this:

> In order to preclude any possibility that the procedure agreed to under the Senate rules may be forestalled, and with the full accord of the distinguished Senator from West Virginia [Mr. BYRD], I ask unanimous consent that the cloture vote be taken tomorrow, Wednesday, after determining that a quorum is present, beginning at the hour of 11 a.m.

Then ensued the colloquy that we have all been talking about, but it is obvious from the beginning of that colloquy that Mr. Mansfield was not sure, that based on the responses of the Chair to Mr. Mansfield's initial questions it was unclear as to whether that vote would occur at 1 o'clock the following morning or whether it would occur at 1 o'clock in the afternoon or 1 hour after the Senate came in. So that colloquy ensued and then in the middle of the column of page 13099 Mr. Mansfield repeated his request, and at the bottom of the third column on page 13099 the Presiding Officer put the question, and it was not objected to and so the hour was set for a cloture vote.

That resolved the matter in that instance. But in this instance there was no request made for the cloture vote to occur at the given hour tomorrow.

That was no ruling. That matter has not been resolved by the Senate, and I think the Senate should resolve it, because it is very obvious that cloture votes can occur in the future only at 1 o'clock in the morning if a Senator on the opposing side so determines and gets the floor and can stand on his feet long enough.

So I hope, Mr. President, again that my point of order is sustained.

Mr. STEVENS. Mr. President, I yield the time to the Senator from North Carolina and the Senator from Texas as they wish to divide it.

Mr. HELMS. I defer to my friend from Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, for the benefit of the Senate, will the Chair restate the point of order raised by the Senator from West Virginia? Will the Chair restate it?

The PRESIDING OFFICER. The point of order, as the Chair understands it, is that under rule XXII, the Senate not having met anew on this the second day following the filing of the cloture motion, the Chair should not invoke the cloture procedure at this point. If the Senate stays in continuous session past the hour that it is supposed to convene again tomorrow——

Mr. TOWER. May I inquire of the Chair, does the rule specify that the Senate must have met anew?

The PRESIDING OFFICER. Will the Senator suspend for a moment while the Parliamentarian checks?

Mr. TOWER. Mr. President, I ask unanimous consent that the time taken by the Chair to restate the point of order not be charged to either side.

Mr. ROBERT C. BYRD. Mr. President, the Chair was able to complete his statement on the point of order.

The PRESIDING OFFICER. This is not being charged to either side and if the Senator from Texas will be so gracious the Chair wishes to repeat the question before the Senate as the Senator from Texas requested.

If that is the case, that is, that the Senate stays in continuous session, then the standing order of the Senate requiring the Senate to convene each day at noon controls and 1 hour after that time the Senate would go into the cloture procedure.

Mr. ROBERT C. BYRD. Except when otherwise ordered. In this case it would be 10 o'clock.

The PRESIDING OFFICER. Except when otherwise ordered as the majority leader has stated.

The Chair will read the rule for the instruction of the Senator from Texas as he has requested.

This is page 21, and the relevant rule reads:

> and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and upon the ascertainment that a quorum is present, the Presiding Officer shall, without debate, submit to the Senate by a yea-and-nay vote the question:

The Chair will repeat the first clause for emphasis, "and 1 hour after the Senate meets on the following calendar day but one,"

The Senator from Texas.

Mr. TOWER. I thank the Chair.

So the rule states 1 hour after the Senate meets and does not say after the Senate meets anew, for this whole matter turns on a construction of the word "meets."

What was the intent of the framers of the rule when it was couched in this language? Is there any precedent? It has already been stated by the Chair that there is no precedent. Therefore, a new precedent is being made here tonight. Originally, the purpose of this rule was to prevent filibustering against a vote on a cloture motion. But we are thwarting the original intent here and now in trying to put off a vote on cloture.

I suggest that we are doing it to spare some embarrassment and we are setting a dangerous precedent in the process. It appears these days that we can wrap and bend the rules to suit our purposes.

I have no question in my mind what the outcome will be. It will be a straight party line vote in all probability, at least on that side of the aisle. We may be somewhat independent over here, not as disciplined as some of us like to see them sometimes. But I have little doubt what the outcome will be. But reflect on it because perhaps Senators are setting a precedent here that someday the minority can use to its advantage.

The PRESIDING OFFICER. A minute Senator from North Carolina.

Mr. HELMS. How much time remains?

The PRESIDING OFFICER. A minute and 5 seconds.

Mr. HELMS. I thank the Chair.

Mr. President, it may be that the Senator from North Carolina has almost as many credentials to invoke the name of Dick Russell as anyone else in this Chamber. I was here in the early 1950's and I served on his campaign staff when he unsuccessfully sought the Presidency.

I know how he felt about preserving the rules of the Senate. And I recall on one occasion when he remarked about a Senator who attempted to change the rules by precedent and he said, "If he had won, he would have won as a matter of ego, but he would have won a peer victory for the U.S. Senate."

I am sorry this question came up and I wonder if the Senator from West Virginia one day will not rue the day that he brought it up and it is for that reason that I implore Senators to think carefully about what they are doing as they vote.

Now, Mr. President, I move to table the point of order and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. ROBERT C. BYRD. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from North Carolina to lay on the table the point of order of the Senator from West Virginia.

On the question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Vermont (Mr. STAFFORD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 30, nays 44, as follows:

[Rollcall Vote No. 476 Leg.]

YEAS—30

Armstrong
Bellmon
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatfield
Hayakawa
Helms
Humphrey
Javits
Jepsen
Lugar
McClure
Mathias
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Weicker

NAYS—44

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Stevenson
Stewart
Tsongas
Williams
Zorinsky

NOT VOTING—26

Baker
Boren
DeConcini
Durkin
Goldwater
Gravel
Hatch
Heinz
Johnston
Kassebaum
Kennedy
Laxalt
Long
McGovern
Magnuson
Nunn
Packwood
Percy
Pressler
Ribicoff
Sasser
Stafford
Stennis
Stone
Talmadge
Young

So the motion to lay on the table was rejected.

The PRESIDING OFFICER. The question now recurs——

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I do not want it on my conscience that I did not do everything I could to preserve the precedents of the Senate. Therefore, in accordance with the previous order, I move that the Senate stand in recess, and I ask for the yeas and nays.

Mr. ROBERT C. BYRD. Mr. President, that motion is normally made by the leadership. I would hope Senators would respect that.

The PRESIDING OFFICER. The motion is not debatable.

The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion that the Senate stand in recess in accordance with the previous order. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. BOREN), the Senator from Arizona (Mr. DECONCINI), the Senator from New Hampshire (Mr. DURKIN), the Senator from Alaska (Mr. GRAVEL), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Washington (Mr. MAGNUSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Georgia (Mr. NUNN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from Tennessee (Mr. SASSER), the Senator from Mississippi (Mr. STENNIS), the Senator from Florida (Mr. STONE), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Arizona (Mr. GOLDWATER), the Senator from Utah (Mr. HATCH), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Kansas (Mrs. KASSEBAUM), the Senator from Nevada (Mr. LAXALT), the Senator from Oregon (Mr. PACKWOOD), the Senator from Illinois (Mr. PERCY), the Senator from South Dakota (Mr. PRESSLER), the Senator from Vermont (Mr. STAFFORD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. (HATCH) would vote "yea".

The PRESIDING OFFICER. Is there any other Senator in the Chamber wishing to vote?

The result was announced—yeas 30, nays 44, as follows:

[Rollcall Vote No. 477 Leg.]

Armstrong
Bellmon
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatfield
Hayakawa
Helms
Humphrey
Javits
Jepsen
Lugar
McClure
Mathias
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Weicker

NAYS—44

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Stevenson
Stewart
Tsongas
Williams
Zorinsky

NOT VOTING—26

Baker
Boren
DeConcini
Durkin
Goldwater
Gravel
Hatch
Heinz
Johnston
Kassebaum
Kennedy
Laxalt
Long
McGovern
Magnuson
Nunn
Packwood
Percy
Pressler
Ribicoff
Sasser
Stafford
Stennis
Stone
Talmadge
Young

So the motion was rejected.

The PRESIDING OFFICER. The question now recurs on the point of order raised by the Senator from West Virginia (Mr. Robert C. Byrd).

The Chair would request the courteous attention of the Senate to a statement.

Mr. STEVENS. Mr. President, before the Chair reads the statement, the Senator has one last parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Mr. President, is there any debatable motion that can be made against this point of order at this point?

The PRESIDING OFFICER. The Parliamentarian informs the Chair that he cannot think of any. [Laughter.]

Mr. STEVENS. Mr. President, I was trying to think of one, also, because I live 11 hours away from here by air. We are about ready to change this precedent so that, on the whim of the majority leader, who is my good friend, a cloture vote can take place.

The reason we put up the rule was so there would be certainty. And now it is going to be whenever the day starts anew, determined by the majority leader. There is no certainty in this rule.

I wish there were something I could debate, because I might get my voice back a little bit on this one. The more I think about it, the more I think this action certainly discriminates against those of us who have a very hard time coming back and forth between our homes and this Senate.

The PRESIDING OFFICER. The Chair begs to remind the Senator from Alaska that the matter has not been decided.

The Chair will now read a statement.

Even though responses of the Chair to parliamentary inquiries are not binding on the Senate because they are not subject to appeal, the Chair, in invoking the cloture procedure at 1 a.m. this morning, did so because it felt it should follow the only precedent the Senate had on the point.

Now, a point of order has been made challenging that precedent. Because the Senate itself has never spoken to this issue, and because it is a most important issue, the Chair will invoke its discretion, under rule XX, and submit the question to the Senate for its decision ab initio.

The question then is: Is the point of order well taken?

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Florida (Mr. Chiles).

Mr. CHILES. Mr. President, that is not debatable?

The PRESIDING OFFICER. The Senator is correct, that is not debatable.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma (Mr. Boren), the Senator from Arizona (Mr. DeConcini), the Senator from New Hampshire (Mr. Durkin), the Senator from Alaska (Mr. Gravel), the Senator from Louisiana (Mr. Johnston), the Senator from Massachusetts (Mr. Kennedy), the Senator from Louisiana (Mr. Long), the Senator from Washington (Mr. Magnuson), the Senator from Georgia (Mr. Nunn), the Senator from Connecticut (Mr. Ribicoff), the Senator from Tennessee (Mr. Sasser), the Senator from Mississippi (Mr. Stennis), the Senator from Florida (Mr. Stone), and the Senator from Georgia (Mr. Talmadge) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Arizona (Mr. Goldwater), the Senator from Utah (Mr. Hatch), the Senator from Pennsylvania (Mr. Heinz), the Senator from Kansas (Mrs. Kassebaum), the Senator from Nevada (Mr. Laxalt), the Senator from Oregon (Mr. Packwood), the Senator from Illinois (Mr. Percy), the Senator from South Dakota (Mr. Pressler), the Senator from Vermont (Mr. Stafford), and the Senator from North Dakota (Mr. Young) are necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. Hatch) would vote "nay."

The PRESIDING OFFICER. Have all Senators in the Chamber wishing to vote done so?

The result was announced—yeas 43, nays 32, as follows:

[Rollcall Vote No. 478 Leg.]

YEAS—43

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
Eagleton
Exon
Ford
Glenn
Hart
Heflin
Hollings
Huddleston
Inouye
Jackson
Leahy
Levin
McGovern
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Pell
Proxmire
Pryor
Randolph
Riegle
Sarbanes
Stevenson
Stewart
Tsongas
Williams

NAYS—32

Armstrong
Bellmon
Boschwitz
Byrd,
  Harry F., Jr.
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Hatfield
Hayakawa
Helms
Humphrey
Javits
Jepsen
Lugar
McClure
Mathias
Roth
Schmitt
Schweiker
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Weicker
Zorinsky

NOT VOTING—25

Baker
Boren
DeConcini
Durkin
Goldwater
Gravel
Hatch
Heinz
Johnston
Kassebaum
Kennedy
Laxalt
Long
Magnuson
Nunn
Packwood
Percy
Pressler
Ribicoff
Sasser
Stafford
Stennis
Stone
Talmadge
Young

The PRESIDING OFFICER. The point of order is sustained.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the point of order was sustained.

Mr. CANNON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I reclaim the right to the floor.

The procedure for cloture having been revoked by the ruling of the Chair sustained by the Senate my parliamentary inquiry is to the effect, does the Chair agree with that statement?

The PRESIDING OFFICER. The Chair recognized the Senator from New Mexico and does not find it necessary to make any further statement.

Mr. SCHMITT. Mr. President, I hope that at some subsequent time another occupant of the chair will recognize that with the vitiation of that cloture procedure the Senator whose rights were usurped by it would receive recognition as a matter of right and that my colleagues, whoever they might be in that position should it happen again, will realize that it is important to maintain that "precedent" and if necessary to proceed to a point of order if the Chair does not so recognize.

The PRESIDING OFFICER. Will the Senator suspend for a moment while the Chair consults the Parliamentarian? The Senator has made a serious statement.

Will the Senate be in order?

The Chair will state that should such a question arise in a proper context as the Chair judges such a ruling will be made. It is not the judgment of the Chair that there is such a context.

The Senator from New Mexico sought recognition and was recognized. The matter so far as the Chair is concerned is concluded at this point. It would be a case of first impression which the Chair does not think the hour proper or the occasion fitting to deal with.

Mr. SCHMITT. Mr. President, we have on the record a statement, then, of first impression by a previous occupant of the Chair that the right of the Senator from New Mexico did not exist to retain the floor if the cloture procedure was vitiated and again I shall just repeat that if that right had not been recognized by the Chair, then I would have made a point of order to establish that right. I will not so do tonight because it is unnecessary having achieved recognition.

But I hope again that the Senate, both sides of the aisle, whatever their feelings may be about the preceding procedural wrangle, will recognize that if such an action occurs in the future they will make a point of order because the most sacred right of any Senator is the right to the floor. It must be maintained.

Mr. President, when we were so unfortunately interrupted we were discussing the minimum tax.

Mr. STEVENS. Will the Senator yield to me without losing his right to the floor?

Mr. SCHMITT. I am happy to yield for a question.

Mr. STEVENS. I wish to have him yield to me for the purpose of making a parliamentary inquiry.

Mr. SCHMITT. I am happy to yield for the purpose of making a parliamentary inquiry without losing the right to the floor.

Mr. STEVENS. I heard the distinguished Senator from Connecticut raise a question that was in my mind, Mr. President. Under the precedent that was just established. when does the vote take place on the cloture petition?

The PRESIDING OFFICER (Mr. PRYOR). It depends on whether or not the Senate stays in continuous session past the hour of 10 a.m.

Mr. STEVENS. Another parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STEVENS. Did we not set the precedent as when the Senate begins anew on this day?

The PRESIDING OFFICER. Will the Senator please repeat the inquiry?

Mr. STEVENS. It was my understanding that the point of order was that that motion would be voted on within 1 hour after the Senate commences anew on this calendar day. Is that correct? Is that the point of order we just established?

The PRESIDING OFFICER. But if the Senate stays in continuous session, the standing order is to convene each day at 12 noon and to have a prayer at that time each day. Even if the Senate is in continuous session, that would be construed to mean that that would be the start of the session.

Mr. STEVENS. Will the Chair tell the Senator from Alaska, Is the vote going to take place at 11 o'clock or 1 o'clock?

Mr. ROBERT C. BYRD. Will the Chair withhold the next question?

The PRESIDING OFFICER. The Chair does not know at this point.

Mr. ROBERT C. BYRD. I want to be sure we heard the Chair correctly.

The PRESIDING OFFICER. Whether the Senate stays in continuous session or not.

Mr. ROBERT C. BYRD. In this instance.

Mr. STEVENS. Mr. President, I believe the Senator from New Mexico has the floor, and I am happy to yield to the Senator from West Virginia for a parliamentary inquiry.

Mr. ROBERT C. BYRD. I thank the Senator.

Did I understand the Chair to say in view of the fact the Senate will be meeting at 10 o'clock this morning if it recessed and came back in it will have to come back in at 10 o'clock under the order previously entered, but if it stays in continuous session, the 1 hour would begin running at 10, or did the Chair say it would begin running at noon?

The PRESIDING OFFICER. The hour will begin running at noon.

Mr. ROBERT C. BYRD. No; the point of order established that point that it would begin running at noon in accordance with the resolution that was agreed to at the beginning of the session unless otherwise ordered and in this case it has been otherwise ordered. The Senate is to come in at 10 a.m.

The PRESIDING OFFICER. But if the Senate stays in continuous session past 10 o'clock it would start running at 12 o'clock, the Chair is so advised.

Mr. ROBERT C. BYRD. That is not what the Senate just voted. The Senate just voted, and I made it very clear in my statement, that in the event the Senate is in continuous session and there is no opportunity to recess or adjourn then the meeting time would begin in accordance with the daily meeting time set forth in the resolution at the beginning of the session, which is 12 o'clock meridian unless "otherwise ordered," and in this instance, I say with all respect to the Chair—I realize it is late in the night but early in the morning—that in this instance the meeting time would be 10 a.m. as previously set.

Mr. TOWER. Will the Senator from New Mexico yield without losing his right to the floor?

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOLE. Will the Senator yield?

Mr. SCHMITT. I yield to the Senator from Texas without losing my right to the floor.

Mr. TOWER. I suggest that while we are in the process of formulating the rules here it would save a great deal of time and tedious communication if the distinguished majority leader would take the chair.

Mr. ROBERT C. BYRD. I will be glad to.

Mr. DOLE. Will the Senator yield for a parliamentary inquiry?

Mr. SCHMITT. I yield to the Senator from Kansas for a parliamentary inquiry.

Mr. ROBERT C. BYRD. The Senator wishes me to take the chair.

Mr. McCLURE. Yes. He is running the show. He may as well do it from there.

Mr. HELMS. We have now eliminated the middle man.

[Laughter.]

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. ROBERT C. BYRD). The Senator from New Mexico.

Mr. SCHMITT. I yield to the Senator from Kansas for a parliamentary inquiry without losing my right to the floor.

Mr. DOLE. Mr. President, is it not a fact if we stay in continuous session we vitiate the 10 o'clock order?

The PRESIDING OFFICER. If the Senate stays in continuous session, the 10 o'clock order would be normally vitiated, except when the cloture rule is invoked there has to be a time for the Senate to qualify under the cloture rule as having met, and in that case, as the point of order stated and as the Senate so upheld, the time for the 1 hour to begin running would be at 12 o'clock meridian normally, in accordance with the resolution agreed to at the beginning of each session. But that resolution adopted in January of 1979, also stated "unless otherwise ordered." In this instance, therefore, the Senate has "otherwise ordered." The Senate, under the order entered Monday last, was to come in at 10 a.m. on Thursday. Consequently, the 1 hour under the rule, if the Senate stays in continuous session, will begin running at the hour of 10 a.m.

Mr. McCLURE. Will the Senator from New Mexico yield to the Senator from Idaho for a parliamentary inquiry?

Mr. SCHMITT. I will yield to the Senator from Idaho for such an inquiry without losing my right to the floor.

Mr. McCLURE. Mr. President, my inquiry is this: If, as a matter of fact, the record differs from what the Senator now occupying the Chair has just stated, the record would control; is that not correct?

The PRESIDING OFFICER. What is the Senator's parliamentary inquiry?

Mr. McCLURE. That in the event the record reveals a different status of the question submitted to the Senate and the Senator now occupying the Chair has just recited that the record would control? Am I not correct?

The PRESIDING OFFICER. The Senator will remember that the Senator from West Virginia stated the point of order and that the Chair restated that point of order at the request of a Senator and it was well understood at the time that the Chair restated the point of order that——

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. Will the Senator kindly desist?

Mr. McCLURE. Of course.

The PRESIDING OFFICER. That the Chair had correctly stated the point of order in accordance with the intent of the Senator who made that point of order.

Mr. McCLURE. Will the Senator yield for a further parliamentary inquiry under the same circumstances?

Mr. SCHMITT. I am happy to yield to the Senator from Idaho.

Mr. McCLURE. Again, Mr. President, restating my parliamentary inquiry, in the event that the record indicates something different than the Chair has just stated, is it not a fact that the record controls what the action was or states what the action was that the Senate took?

The PRESIDING OFFICER. Shall I read the record to the Senator?

Mr. McCLURE. I wonder if the Chair could respond to my question about whether it is the record of what was submitted to the Senate that controls or the subsequent statement of the Chair?

The PRESIDING OFFICER. It would be the point of order as stated by the Senator from West Virginia. In the event the Chair properly restated the point of order in accordance with the point of order made by the Senator from West Virginia that would be correct, but if the Chair misstated it then it would not be correct. The Chair will ask the Senator from Arkansas to come back and take the chair. I do not believe I should be presiding over the Senate at this point. I just wanted to do so because my good friend from Texas thought it might be appropriate.

(Mr. PRYOR assumed the chair.)

Mr. McCLURE. Will the Senator yield for one further parliamentary inquiry with the same unanimous consent?

Mr. SCHMITT. Yes. Mr. President, it is unfortunate now that we have to reintroduce the Presiding Officer. I am happy to yield to the Senator from Idaho once again for a parliamentary inquiry without losing my right to the floor.

Mr. McCLURE. Mr. President, in the

event there is a difference between the record of the submission to the Senate and the statement of the Senator from West Virginia when he occupied the chair, it would be my understanding under the rulings that were made earlier this evening that any statement of the Chair that is not a vote of the Senate or a ruling of the Chair does not mean anything anyhow?

Mr. DOLE. He is right.

The PRESIDING OFFICER. The Chair will read what appears to be the pertinent section of the Senator's point of order.

Mr. McCLURE. Is the Chair reading from the first time the point was made or when it was restated?

The PRESIDING OFFICER. From the end of the point of order made by the Senator.

Mr. McCLURE. When he first stated the point of order or when it was later restated?

The PRESIDING OFFICER. When the Senator first stated the point of order, if the Senator will allow the Chair to read:

> Mr. Robert C. Byrd. It becomes operative—in the event no opportunty is given to move to recess or adjourn in the meantime—at the hour of daily meeting of the Senate, which is 12 o'clock meridian "unless otherwise ordered," which in this case is 10 o'clock a.m.

Mr. McCLURE. Will the Chair state what the question was submitted to the Senate?

The PRESIDING OFFICER. The Chair does not have that portion of the transcript available at this moment.

Mr. ROBERT C. BYRD. Mr. President, will the able Senator yield to me for an inquiry of the Senator from New Mexico?

Mr. SCHMITT. Mr. President, I think it is important to know exactly what question was submitted to the Senate. I will yield to the Senator from West Virginia for that purpose.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. SCHMITT. Yes.

Mr. ROBERT C. BYRD. I think, Mr. President—and then I will ask the question—that the Senate has made its decision on the point of order. The point of order was well understood, and I think that to continue now, hour after hour, as we are doing, we are getting nowhere. If the Senator will yield for that purpose, I would move to recess under the order until 10 o'clock today, with the understanding that the distinguished Senator from New Mexico could regain the floor at 10 o'clock today, after the prayer and the disposition of the approval of the Journal. Will the Senator yield for that purpose?

Mr. SCHMITT. Then it would be my understanding that the Senator from West Virginia would expect the cloture procedure to begin to take effect at 11 o'clock, following the reconvening of the Senate at 10.

Mr. ROBERT C. BYRD. The 1 hour under the cloture rule would begin running at 10 a.m., if the Senator will allow me to move to recess under the order. And, if the Senator does not object, I would ask unanimous consent to change the order—which would require unanimous consent—to allow the Senate to come in at noon. The Senator from New Mexico would then be the first Senator recognized after the Journal has been approved and after the prayer.

Will the Senator allow me to proceed further? He has the floor.

Mr. SCHMITT. Mr. President, I will allow the majority leader to proceed, but I will reserve the right to object.

Mr. ROBERT C. BYRD. Mr. President, I had hoped the Senate would continue to debate throughout the evening and throughout the night the pending question, which is on the adoption of the minimum tax amendment. During the evening and throughout the night, I had hoped there would be discussions and suggestions, and there were. I have discussed the proposal that was made by Senator Danforth with Senator Long by telephone. I listened to a suggestion by Mr. Wallop. Senators met and discussed matters, and Senators for a while debated the issue before the Senate.

I think we have gotten to the point now where no one is debating the question that is before the Senate. We are continuing to discuss a point of order that has been well settled by vote of the Senate, reconsidered, and the motion to reconsider laid on the table, and I see nothing to be gained in further discussing it.

ORDER FOR RECESS UNTIL 12 NOON, AND FOR RECOGNITION OF SENATOR SCHMITT

I would therefore, if the Senator would allow me, ask unanimous consent that when the Senate completes its business at this point, it stand in recess until the hour of 12 o'clock noon later today, and that following the disposition of the approval of the Journal and the prayer by the Chaplain, the distinguished Senator from New Mexico (Mr. Schmitt), be the first to be recognized during the running of the 1 hour under the cloture rule.

Mr. SCHMITT. Mr. President, reserving the right to object, and I will not object, I would just say that I think it has been a very unfortunate evening, and it is probably just as well that we do recess. I would have no objection to that request.

Unfortunately, I think we will all regret the precedents and the words of the Chair during this evening, and I hope some day they will all be sorted out.

I yield to the majority leader for the purpose of the request.

Mr. ROBERT C. BYRD. I thank the Senator from New Mexico, and I thank all Senators.

Mr. President, I renew my unanimous-consent request that the Senate so stand in recess.

The PRESIDING OFFICER. Is there objection?

RECESS UNTIL 12 NOON

There being no objection, the Senate, at 3:34 a.m. on Thursday, December 13, 1979, recessed until 12 o'clock noon the same day.

NOMINATIONS

Executive nominations received by the Senate December 12, 1979:

DEPARTMENT OF COMMERCE

Homer E. Moyer, Jr., of the District of Columbia, to be General Counsel of the Department of Commerce, vice Charles Linn Haslam, resigning.

IN THE NAVY

The following-named lieutenant commander of the U.S. Navy for temporary promotion to the grade of commander in the staff corps, as indicated, pursuant to title 10, United States Code, sections 5773 and 5791, subject to qualification therefor as provided by law:

CHAPLAIN CORPS

Kelly, Edward J., Jr.

The following-named lieutenants of the U.S. Navy for temporary promotion to the grade of lieutenant commander, in the line and staff corps, as indicated, pursuant to title 10, United States Code, sections 5769 (line), 5773 (staff corps), and 5791, subject to qualification therefor as provided by law:

LINE

McMahon, Paul T.

DENTAL CORPS

Hoffman, Barry B.

The following-named lieutenants (junior grade) of the N.S. Navy for temporary promotion to the grade of lieutenant in the line and staff corps, as indicated, pursuant to title 10, United States Code, sections 5769 (line), 5773 (staff corps), and 5791, subject to qualification therefor as provided by law:

LINE

Comrie, Steven W.
Holt, Richard J., Jr.
Marineau, Charles R., Jr.
Nash, Robert L., Jr.
Russell, Warren D.
Smith, Peter M.
Zumstein, Edward H.
Heusinkveld, Paul A.
King, Mark G.
Milliman, Daniel L.
Ogden, James E.
Schildhouse, Rex A.
Symonds, James A.

NURSE CORPS

Bainton, Patricia A.
Good, Margaret A.
Hicks, Larry L.
Maloney, Mary J.
Gallagher, Roger
Graver, Linda L.
Lawn, Amy L.
Thobe, John F. V.

The following-named lieutenants of the line, of the U.S. Navy, for appointment in the various staff corps, as indicated, as permanent lieutenants (junior grade) and temporary lieutenants, pursuant to title 10, United States Code, sections 5582(b) and 5791, subject to qualification therefor as provided by law:

SUPPLY CORPS

Bodin, Kenneth, C.
Cavanagh, Jeffrey D.
Dilley, Kevin L.
Eltringham, Peter S.
Glover, Michael D.
Patton, Donald J.
Bryant, Richard A.
Coy, Curtis L.
Durmick, John R.
Fedele, Alan R.
Park, Steven A.

CIVIL ENGINEER CORPS

Bullock, James L.
Pruett, David, D.
Steele, Robert D., Jr.
Olszerski, Paul J.
Savage, Robert W.
Wilder, William M.

The following-named lieutenants (junior grade) of the line, of the U.S. Navy, for appointment in the various staff corps, as indicated, as permanent ensigns and temporary lieutenants (junior grade), pursuant to title 10, United States Code, sections 5582(b) and 5791, subject to qualification therefor as provided by law:

SUPPLY CORPS

Barnes, Robert L.
Haney, Richard F.
Buczkowski, Terry B.
Sutter, Robert

CIVIL ENGINEER CORPS

Pfannenstiel, Gary A.
Trueblood, Michael B.
Scanlan, Philip R.

The following-named lieutenants (junior grade) of the line, of the U.S. Navy, for appointment in the various staff corps, as indicated, as permanent lieutenants (junior grade), pursuant to title 10, United States Code, sections 5582(b) and 5791, subject to qualification therefor as provided by law:

SUPPLY CORPS

Alderman, Robert B.
Boyter, Henry G. III
Decker, Craig M.
Masters, Paul G.
Perry, Will H. III
Scherini, Ralph O.
Tracy, Elizabeth A.

CIVIL ENGINEER CORPS

Wright, Dennis E.

The following-named ensigns of the line, of the U.S. Navy, for appointment in the various staff corps, as indicated, as permanent ensigns, pursuant to title 10, United States Code, sections 5582(b) and 5791, subject to qualification therefor as provided by law:

SUPPLY CORPS

Lankamer, Victor F.

CIVIL ENGINEER CORPS

Sherman, Marc

The following-named ensign of the Supply Corps, of the U.S. Navy, for appointment in the line, as permanent ensign, pursuant to title 10, United States Code, sections 5582(a) and 5791, subject to qualification therefor as provided by law:

Johnson, Darrel G.

DEPARTMENT OF STATE

Victor H. Palmieri, of California, to be Ambassador at Large and United States Coordinator for Refugee Affairs.

APPALACHIAN REGIONAL COMMISSION

Albert P. Smith, of Kentucky, to be Federal Cochairman of the Appalachian Regional Commission, vice Robert Walter Scott, resigned.

DEPARTMENT OF DEFENSE

Joseph A. Doyle, of New York, to be an Assistant Secretary of the Navy, vice Edward Hidalgo, elevated.

INTERSTATE COMMERCE COMMISSION

Reginald E. Gilliam, Jr., of Virginia, to be a Member of the Interstate Commerce Commission for the term of 7 years from January 1, 1976, vice Kenneth H. Tuggle.

EXTENSIONS OF REMARKS

ENGLAND'S LUCAS AEROSPACE EXPERIMENT: INDUSTRIAL CONVERSION FOR SOCIALLY USEFUL WORK

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. CONYERS. Mr. Speaker, the problems besetting America's auto, steel, and tire industries raise very disturbing questions about the whole American economy. Are these cases isolated instances, or are they interrelated, pointing up the seriousness of industrial dislocations in America? The sheer trend and numbers of industrial plant-closings, of lagging industrial investment and innovation, the shrinking share of American products in export markets, the continuing balance-of-payments deficits, and the declining markets for basic products such as autos and steel in the face of overseas import competition would indicate fundamental problems exist.

A dramatic example of one facet of the problem—plant closings—has occurred recently in the Detroit area. Chrysler announced last week it will shut down on January 6 its Dodge main plant in Hamtramck, Mich. This plant, at one time a flagship in Chrysler's worldwide operations, at its peak turned out more than 500,000 vehicles annually and employed over 20,000 workers. Over the years Dodge-main had been continuously modified and modernized to accommodate new automotive products. As recently as a year ago, it was slated by Chrysler for major renovation. Plans were drawn up to convert it to the production of Chrysler's most fuel-efficient cars of the future. In fact, it was announced the plant would house the most sophisticated automated robot technology for auto assembly in use anywhere in the world. Yet just last Spring Chrysler completely reversed its earlier plans and announced the closing of Dodge-Main.

The Hamtramck Dodge-main workforce of nearly 9,000, many of whom are minority workers, now has dwindled to a few thousand and the workforce will disappear altogether in January. The city of Hamtramck, a small city within the city of Detroit, already has lost more than $2 million in tax revenues and has had to cut back severely on the delivery of municipal services. Although Detroit is not alone in being victimized by plant shutdowns—virtually every major city has its own examples—Detroit stands to suffer heavily because its auto industry is in serious decline and the local economy has experienced unprecedented unemployment and recession for years.

The Dodge-main workers have made substantial efforts to win public support to keep their plant open. They have effectively answered the charges that the plant was obsolete. With the decision made to shut it down, they are participating in a local economic development effort to purchase Dodge-main from Chrysler and convert the plant to alternative productive uses.

A model for this effort at industrial conversion through worker control exists in England. The workers at 16 Lucas Aerospace factories were notified several years ago their plants would be closed and all the workers would be laid off. The Lucas workers on their own created a planning organization that developed blueprints for the production of 150 technically feasible new products—socially useful products—which could be easily produced at the 16 plants slated for shut down.

As a result of the workers' initiative at Lucas Aerospace, the plants have been kept open the past several years, and industry and government are beginning to examine the workers' proposals for alternative socially useful production. While there are many differences between the Lucas and Dodge-main situations, American workers can learn a great deal from the actions taken by workers in Britain.

The Lucas experiment has captured a great deal of attention, and in order to make it better known, I am attaching two articles that explain the genesis and development of the British workers' campaign for industrial conversion for socially useful work. I recommend them to my colleagues.

The articles follow:

CAMPAIGNING FOR SOCIALLY USEFUL WORK: A NEW STRATEGY TO PREVENT ECONOMIC DISLOCATION

For years the unions at Lucas Aerospace in England fought unsuccessfully against a "restructuring" which led to 5,000 layoffs in the early 1970's. The Shop Stewards Combine Committee, representing workers at all sixteen Lucas plants, soon realized that they could no longer campaign for the kind of jobs proposed by management. By 1974 it had become apparent that it was the very nature of Lucas's products and manufacturing techniques which led to work force reductions.

At the suggestion of then-Minister of Industry Tony Benn, the Combine Committee decided to move in an unprecedented new direction which would demonstrate their ability to work on socially useful goods not included in Lucas' portfolio. Out of this effort grew the initiative known as the Corporate Plan, a 12-volume document compiled entirely by the work force under the direction of the Combine. The plan is a blueprint of 150 technically feasible product proposals which would utilize existing job skills and plant machinery without the need for layoffs.

The product proposals include both commercially marketable goods and less profitable public products. Among the innovative products proposed by the workers are retarded breaking systems based on the dynometer principle, control systems for oil and natural gas exploration, telechiric devices, kidney machines, hob-carts for children suffering from spinal disease, heat pumps for low-energy housing, hybrid power packs, guided road/rail transport systems and portable life-support systems.

Although none of the specific product proposals have entered production, the existence of the plan has had a powerful and important effect. In the six years since the development of the Corporate Plan, no layoffs have occurred at Lucas Aerospace. The campaign for socially useful production has thus proved to be a successful strategy for preventing dislocation.

The Shop Stewards movement has raised fundamental questions about the nature of industrial society. According to Mike Cooley, a leading member of the Lucas Stewards Committee, the combination of unprecedented structural unemployment, resource depletion and the unavailability of human necessities can be attributed largely to the misuse of technology in modern industrial society.

Expressed through the Corporate Plan, the essential philosophy of the Lucas Committee is the unacceptability of worker layoffs while there simultaneously exists a vast "underconsumption" of products which satisfy basic human needs. Their campaign for

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● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

socially useful work has thus attempted to link employment struggles with broader societal questions.

The same misuse of technology and capital which has allowed urban areas to deteriorate, medical problems to remain unsolved and energy and transport systems to consume non-renewable resources also leads to unemployment and economic dislocation. These trends, as Cooley points out, are destined to continue so long as business decisions remain governed solely by the profit motive.

Challenging corporate decisionmaking is hardly a new concept. What is most interesting is the development of a concrete strategy for combating industrial dislocations. The Shop Stewards have succeeded in forcing management to maintain employment, while at the same time building a strong political movement to challenge the way decisions are made. Indeed the building of that movement is the very dynamic which has prevented Lucas from laying off workers.

In effect, by declaring the right to produce socially useful goods, the Shop Stewards have created a national constituency for their continued employment. Lucas has been unwilling, for example, to layoff workers who have shown their desire and ability to build kidney machines in a country where 3,000 people die each year for lack of such devices.

Perhaps the key aspect of the campaign for socially useful production has been its ability to motivate workers to take control of their own lives. In the Corporate Plan the Lucas Shop Stewards have found a mechanism for heightening worker consciousness regarding the potentiial of their own skills and knowledge. Under the direction of the Stewards, Lucas workers have assumed responsibilities for production planning normally reserved for management.

This unprecedented call for labor participation has sparked strong interest and enthusiasm among many workers. This is manifest in the proliferation of worker plans in other industries throughout Britain, such as those compiled by the workers at C. A. Parsons, Chrysler Rolls Royce and Dunlop. It is also evident in the strong interest expressed by such other European unions as the FLM in Italy and I. G. Metall in Germany.

It may seem utopian to advocate such a campaign in the context of American labor relations. Certainly nothing resembling the military workers' tradition and strong shop floor organization of British industry exists in the United States.

Nonetheless, the concept of socially useful work is so important that a search for practical applications in the U.S. seems well worth the effort. The beginnings of such an attempt may already be present in the growing arms conversion movement. There are important lessons to be learned from the British and European experience. The time has come to begin a serious public discussion on these efforts.

CONVERSION CAMPAIGNS IN OTHER COUNTRIES

Lucas-style campaigns have also occurred abroad. For example a group of glassbottle makers in the SURTE factory in southern Sweden have adopted a similar approach. Faced with threats of closure, caused by the company's preference for profitable but environmentally damaging non-returnable cans, the workers, aided by technical advisers from a nearby university, have been against closure on both social and environmental grounds. Peace conversion activists in the US have, adopted a similar approach, pointing out that military equipment production is capital and energy intensive and that more jobs could be created through investment in civilian oriented projects—such as mass transit, environmental protection, energy conservation and alternative energy technologies. At the same time the question of ownership and control is being raised.

This argument has also been adopted by some Labour unions. For example a resolution passed at a United Auto Workers' "Aerospace Conference" included: "A solar unit for every American home, noise reduction units for American factories. People movers for our big cities. New ventilation systems for noxious workplaces; these are the places where US aerospace workers are likely to find employment in the upcoming years. Skills of aerospace workers are readily adapted to perform the work necessary for the design and building of equipment and systems that could help in the resolution of some of the pressing problems of our society, such as mass transportation, energy, education, environment, housing and dozens of other aspects of modern life" (quoted in Environmentalist for Full Employment Number 2, Spring 1976).

Workers employed by Lockheed in the San Francisco area are also beginning to raise the same questions. As one Lockheed engineer put it in an interview in Ploughshare Press (Volume 1 Number 2, Spring 1976) a US peace conversion newspaper: "I think that diversification in general is probably a good idea in that it would offer Lockheed or any other company an opportunity to make broader use of its personnel". His suggestion was for emphasis on "... things like mass transit, solar heating or other alternative forms of energy".

So far little progress has been made, partly because of the disinterest of the union bureaucracy. One Lockheed machinist saw a need for more grass roots militancy: "the union could play the most important role, but it will never do it because it is not oriented to being a leader in the field of progress or revolution.

The IAM (machinist's union) staunchly believes that the type of work that the facility does is the management's prerogative. What we got to do is say, hey, it's the management's prerogative but its also (in) our interest to see that other things are done" (Ploughshare Press Volume 1 Number 1, Spring 1976).

Even senior engineers are beginning to see a need for collective organisation at the local level, despite their traditional resistance to collective action. As one engineer put it: "The unfortunate thing is having to organise or band together in order to talk objectively about these things within the context of management—employee relations. You like to think you are important enough that they are going to listen to you, but then you find they are not taking you seriously" (*ibid*).

It seems then that even in the very different U.S. context both blue collar workers and senior engineers are adopting an approach in terms of technological demands and organisation structure similar to that of the Lucas workers. The senior engineer quoted above argued that there was a need for an organisation which would "be vitally involved in working for conversion.

"One of the reasons for its existence would be job security for its members, so therefore such an organisation should play a fundamental role in organising and negotiating for alternative job situations for its members" (*ibid*).

All in all it appears that Lucas-type strategies are being taken up fairly widely in a number of different industries. Certainly there has been considerable trade union interest in the Lucas campaign both in Britain and abroad—and members of the Combine Committee have contributed to a large number of conferences, publications and broadcasts, in this country and elsewhere.

It is clear however that the Lucas workers and those who are following them are putting a whole host of fundamental questions as to the nature and use of technology and the sort of society we can develop, firmly on the agenda of the labour and trade union movement.●

THE FIRST VICTORY

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mrs. SCHROEDER. Mr. Speaker, honoring "firsts" always gives one a sense of historical significance. But for women whose "firsts" have occurred relatively late along the line, our moments are especially treasured. As the only Western Congresswoman in the 96th Congress, I am very proud that it was one of our States, Wyoming, that was the first State in the Union to grant women the right to vote and to hold office. I would like to share with my colleagues an article from the Denver Post which describes an exhibition celebrating this important first—"Wyoming: The First Victory":

EXHIBIT ON EQUALITY TO OPEN

(By Joanne Ditmer)

The women of Wyoming had had full voting rights for a half-century before the 19th Amendment granted women's suffrage to the rest of the United States in 1919.

An exhibit chronicling the history of sexual equality in the United States, and the important role played by Wyoming will open Monday at the historic Governors' Mansion in Cheyenne.

"Wyoming: The First Victory" has photographs, documents and historic objects related to men and women of the state's early history. There also will be early suffrage photographs from the Elizabeth and Arthur Schlesinger Library of Radcliffe College and materials from the Western History Research Center of the University of Wyoming.

The Judith Kaplan collection of rare documents, letters and memorabilia of the national women's movement also will be on display. It is considered the largest and most extensive private collection of women's history materials in the nation.

When Gov. John Campbell signed "An Act to Grant to the Women of Wyoming Territory the Right of Suffrage, and To Hold Office," on Dec. 10, 1869, American women were in the midst of a desperate and losing battle to secure their political rights. It inspired women across the nation to try to secure suffrage for themselves, but they were largely ignored as the nation sought to secure passage of the (male) Negro suffrage amendment and to recover from the strife of the Civil War.

The Wyoming display traces the history of women's struggle for equality from Abigail Adams' famous letter to her husband, promising a new revolution formed by women if their rights to self-government were denied, through early feminist writings up to the current controversy over the Equal Rights Amendment. The substantial accomplishments of Elizabeth Cady Stanton, Lucretia Mott, Susan B. Anthony and Carrie Chapman Catt are recorded to tell modern citizens what their feminine predecessors fought for.

"Wyoming: the First Victory" will show for a year on the second floor of the Historic Governors' Mansion. Built in 1905, and an executive mansion until 1976, it was once the home of Nelbe Taylo Ross, first woman governor in the United States. Mrs. Ross was elected in 1924 in a special election after the death of her husband, Gov. William B.

Ross. She served two years, and then became the first woman director of the U.S. Mint.●

NEW RUSSIAN GRAIN DEAL: FARMERS LOSE AGAIN

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. NOLAN. Mr. Speaker, according to Richard Gilmore's article which appeared in the New York Times on December 10, 1979, farmers are not the winners in the Carter administration's recent decision to allow the Soviet Union to purchase 25 million tons of grain. Gilmore has cleared away the administration's tangled web of distortions and misconceptions regarding who will benefit the most from the recent sales to the Soviets. The grain trade, it becomes clear, will benefit the most at the expense of U.S. producers and consumers.

Despite the fact that inflation has eaten up farm profits in 1979 and that the Agriculture Department projects a 20-percent drop in net farm income in 1979, the White House continues to oppose adequate improvements in the price support program. Gilmore's article reveals that the Carter administration's agricultural export policy also short-changes U.S. farmers.

The article follows:

GRAIN FOR RUSSIA

(By Richard Gilmore)

WASHINGTON.—The Carter Administration has approved large-scale grain sales to the Soviet Union without clearly understanding how they will affect our economic and foreign-policy interests.

Conventional wisdom has it that this new deal, concluded in October, will benefit American farmers by keeping wheat and corn prices at their current high levels; farmers will, consequently, have higher incomes for the year—a gain for President Carter and farmer Jones—and American consumers won't be afflicted by inflationary food prices.

The explanation for this view is simple: "We have more grain stocks than we need, and unloading 25 million tons in commercial sales will reduce the costs of storing them or holding down production. Besides, today's market prices have already registered the impact of these huge purchases, guaranteeing no inflationary price hikes in the future.

This explanation is not supported by the facts. Few wheat and corn growers have made money on export sales to the Soviet Union or on large contracts to any foreign buyer. In 1972, when our exports almost doubled from 1971, average wheat prices at the farm went up less than 25 percent. Wheat shipments in the next two years were in a slump but farm prices climbed to record levels of over $4 per bushel. Moreover, the trend from 1969 to 1979 shows that exports influence prices off the farm more than at the farm gate: Intermediaries stand to gain disproportionately more from large individual sales than growers do.

Current surpluses are also misleading. Much of our grain stocks are now owned and held by farmers to keep a floor under grain prices and meet demand requirements. But Government regulations require farmers to release their "reserves" when average national prices for their crops reach legislated limits. Current prices hit these target levels in late summer triggering sales that resulted in the cutback of wheat and corn stocks by 25 to 30 percent from their peak of a few months earler. Soviet or other purchasers could trip the wire again soon. In 1980, the Government will not offer special payments for setting aside a portion of land from production. The intent is to have a greater supply in the market stream, enough to cover additional sales to the Russians as well as amounts for all other regular importers of American grain.

The policy shift may be adequate to compensate for a moderate increase in demand—maybe, assuming the Russians buy less, or barring unforseen import requirements in other countries that have grown dependent on American supplies. The margin for error is great.

Whatever the effects on America and, indirectly, the world economy, the Russians will profit. By releasing the farmer-held reserves and thereby creating more supply on the market, America is in effect keeping a lid on export prices likely to last as long as Moscow is shopping here. Right now it is a buyer's market. The Russians can buy our grain with cheap dollars, made cheaper by sales of their own gold. They can also count on the assistance of Washington to make supplies available. Because of economic difficulties at home, Washington cannot offer equally attractive guarantees to American producers or an inflation-free commitment to consumers.

Since we need to improve our trade account, we are prepared to gloss over any misgivings in this large-scale drain of supplies. Gone are Congressional and public outcries of a grain robbery. The main reason for this turnaround is more a frustration over our economic travail than a hard assessment of the contribution that these expected sales will make.

Economics aside, how does this new accord on grain relate to diplomacy? Henry A. Kissinger viewed food as a weapon that we could apply against the Russians. The Carter Administration rejected the food-weapon option in handling the latest Cuban crisis. To the extent that there is a policy at all, the new approach is to welcome exports to the Soviet Union as a blessing to both countries. Zbigniew Brzezinski said that withholding sales would be like "shooting oneself in the foot"—that Soviet purchases are too precious to us and potentially helpful in the political arena to try to manipulate them.

The Russians now have free rein to buy up to the 25-million-ton ceiling. The deal is now in the hands of the grain trade. The United States failed to secure maximum feasible economic and political gain. This time it is too late, but in the future the United States can ill afford to offer such huge sales without full knowledge of the consequences.●

MSHA RESPONSE TO CONCERNS OVER ITS INSPECTION ACTIVITIES

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. GAYDOS. Mr. Speaker, the CONGRESSIONAL RECORD of November 14, 1979, contained an article by the gentleman from Iowa, Mr. THOMAS TAUKE, concerning the Mine Safety and Health Administration (MSHA). Included in the article was a letter from Mr. Michael Wright of Alpha Industries, setting forth in detail the MSHA inspection activities involving the Alpha Industries, for which Mr. Wright was quite critical.

The Subcommittee on Health and Safety, which I chair, recently concluded 14 days of oversight hearings into the administration of the Mine Safety and Health Act. During the hearings it was apparent that there was substantial misunderstanding and misinterpretation of the act.

I have requested Mr. Legather, Assistant Secretary of Labor for Mine Safety and Health, to review Mr. Wright's letter. I have received Mr. Lagather's response and ask that it be included following my remarks.

In his letter, Mr. Lagather points out that in its inspection of Alpha Industries, MSHA has been carrying out its congressional mandate of two annual complete health and safety inspections of surface operations. He also notes that, contrary to Mr. Wright's contention, MSHA inspectors do not make special trips to inspect that Alpha Mines, but inspect these mines while inspecting others in the area. Finally, Mr. Lagather makes mention of MSHA's recently initiated compliance assistance visit (CAV) program.

Under this program, inspectors visit mines for the purpose of pointing out any conditions or practices which are in violation of the Mine Act so that they may be corrected by the operator without him being assessed civil penalties. Since these visits are conducted when mines are not in operation, this program should be beneficial to Alpha Industries which operates on a seasonal basis and is thus eligible for such visits.

I now include in the RECORD Mr. Lagather's letter:

U.S. DEPARTMENT OF LABOR, MINE SAFETY AND HEALTH ADMINISTRATION,
Arlington, Va., November 30, 1979.

Hon. JOSEPH M. GAYDOS,
Chairman, Subcommittee on Health and Safety, Committee on Education and Labor, House of Representatives, Washington, D.C.

DEAR CHAIRMAN GAYDOS: This is in response to your letter of November 21, 1979, concerning a letter inserted in the Federal Register on November 14, 1979, to Congressman Tauke from Michael Wright, Safety Director of Alpha Industries, Marion, Iowa.

Alpha mines and mills materials at 24 locations which requires 24 mine identification numbers and each mine is required under the Mine Act to be inspected a minimum of two times annually to assure the health and safety of the miners employed by Alpha. It is impossible for a mine inspector, in the performance of his duties, to determine which plant or crew will be involved in the milling of materials at any particular location at any particular time.

An informal investigation revealed that MSHA inspectors do not make a special trip to inspect the Alpha mines, but inspect the mines while inspecting other mining properties in the area.

MSHA has conducted thirty-seven complete safety and health inspections and 2 compliance follow-up inspections at the twenty-four Alpha permanent and intermittent operating mine locations during CY 1979.

Because of the mobile nature of Alpha, coupled with the potential for rapidly deteriorating mining conditions, we do not feel that MSHA has been overly aggressive in its enforcement of the Mine Act or the safety and health standards. Our inspection activities should not be viewed as interferring with Mr. Wright's health and safety program, but rather as a tool to emphasize certain aspects of that program.

Also I do want to apprise you of the MSHA compliance assistance visit (CAV) program which has recently been initiated. Under the program inspectors will visit mines for the purpose of pointing out any conditions or practices which are in violation of the Mine Act or standards so that the operator may correct them without civil penalties being assessed.

We hope that we have adequately responded to your concerns. If we may be of any further assistance, please do not hesitate to contact us.

Sincerely,

ROBERT B. LAGATHER,
Assistant Secretary for Mine Safety and Health.●

GUAM'S GOVERNOR CAMACHO DIES

HON. ANTONIO BORJA WON PAT

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. WON PAT. Mr. Speaker, I regret to say that on December 6, 1979, Carlos G. Camacho died. He was honored to serve as Guam's first elected Governor, beginning his term in office in 1971.

I was proud to have worked with Governor Camacho during his term in office. Prior to his election to that position by the people of Guam, he was appointed as Governor of Guam by President Nixon. During his confirmation hearings in the U.S. Senate, it was my pleasure to speak out in his behalf and support.

Previous to his term as chief executive of the territory, he also served in the Eighth Guam Legislature.

It was to his credit that the Governor became the island's first chief executive to visit Guamanian soldiers during the Vietnam crisis. He took to our fighting men and women messages and gifts from their families. This generous gesture of deep concern for his fellow islanders won him lasting respect and affection among our people.

Before entering politics, the Governor won considerable renown for his able skills as a dentist. He served in the U.S. Army for 2 years in the rank of captain.

Governor Camacho was one of the founders of the Republican Party on Guam. He struggled hard to win an education, having been forced to cut short his schooling during World War II. Following the war, he went to Aquinas College and later graduated from the School of Dentistry at Marquette University in Milwaukee, Wis.

In his many obituaries, it is comforting to note that all have one main theme: "Governor Camacho was a good and honest man." I could not agree more. He will be missed and I extend my sorrow to his family at his passing.●

DECLINE OF ILLINOIS COAL PRODUCTION

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, although our worsening energy supply situation is a topic of great concern to all of us, very little has been said about what is perhaps the most alarming trend of all.

Coal, at present the cheapest and most abundant energy source, is in danger, as the following table shows. Illinois coal production has been decreasing, while the demand for coal has been growing.

The blame for this frightening situation can be laid on the doorstep of government—specifically the existence of an unreasonable Clean Air Act which threatens to push the cost of coal production so high as to make it virtually uneconomical.

If all the OPEC-dependent oil-fired boilers in the country were to convert to coal we would reduce our oil imports, and consequent dependence upon OPEC, by about 200 million barrels per year.

Apart from the significant liberation from OPEC dependence that such a switch would encourage, we would also see an increase in employment in the American coal industry. There are about 14,000 miners in Illinois. Between 5 and 10 percent have lost their jobs because of the decline of the coal industry. In some towns which base their economy on the coal industry, this is a devastating loss.

The Ziegler Coal Co. has prepared the following table and analysis showing Illinois coal production decline compared with the growth of demand for electric power, and I strongly urge all of my colleagues concerned with our energy future to study this report and support measures to revitalize the American coal industry.

ILLINOIS COAL

The table appearing below portrays the continuing trend of shrinking production and sales of Illinois Coal.

TONS OF ILLINOIS COAL PRODUCED AND SOLD IN THE 1970'S VERSUS PERCENT RATE OF U.S. ELECTRIC POWER INDUSTRY DEMAND GROWTH

Year	Total tons coal produced (thousands)	Percent change, 1970 base	Percent growth U.S. electric power industry demand compounded annually
1970	64,885		7.0
1971	58,415	−10.0	7.0
1972	65,522	+1.0	7.0
1973	61,549	−5.2	7.0
1974	58,073	−10.5	7.0
1975	59,539	−8.3	2.5
1976	57,974	−10.7	5.5
1977	53,880	−17.0	3.5
1978	48,745	−25.0	3.5

Illinois Coal production has been decreasing, while the prime market (electric utilities) has been growing. Nuclear Power plants have not been totally responsible for replacing Illinois Coal. Approximately 68 percent of electric power used in the state of Illinois is generated by coal burning utilities.

The trend as depicted above is alarming. Coal fired power plants are the backbone of the U.S. utility industry, in that they supply about 47 percent of the total electricity produced in our country. Nationwide, utilities have reported plans to bring some 240 new coal-fired electric generating units on line by the end of 1985. If environmental restraints and government regulations do not interfere with these plans, an additional 400,000,000 tons of coal per year would be required by 1985. This would almost double 475,000,000 tons of coal burned in 1977 by electric utilities.

About 85 percent of the coal produced in Illinois goes to Electric Utilities. Traditionally, a large amount of the coal mined in Illinois has been used within the state. During the past several years, however, the amount of Illinois Coal shipped out of state has increased while the percentage of Illinois coal burned in the state has fallen. In part, this trend can be attributed to state anti-pollution regulations in Illinois, which greatly restrict the burning of high-sulfur Illinois coal in many areas.

In 1957, 39 percent of the coal mined in Illinois was burned in other states. In 1977 about 60 percent of the total extracted were riding the rails to other states. During the 1970's shipments of Illinois coal to utility plants in Missouri and some Southern states increased. But, that trend was offset by a decline in Illinois coal sales to utilities in Minnesota, Wisconsin, Iowa, Kentucky and Illinois itself. In many of those places, plants have dropped Illinois coal in favor of lower sulfur coal from the Western states.

THE SULFUR PROBLEM

Sulfur occurs in coal as particles of pyrite and as organic sulfur intimately tied to the chemical structure of the coal itself. When coal is burned the sulfur combines with oxygen to become sulfur dioxide. This emission in sufficient quantity can pose an environmental problem.

The Federal Clean Air Act of 1970 and subsequent amendments to the legislation have imposed tight controls on coal burning in an attempt to deal with sulfurous emissions. Restrictions on sulfur dioxide under the Illinois anti-pollution program also hamper the marketability of Illinois coal.

The regulations on sulfur dioxide emissions were arbitrarily set without the application and use of scientific data to determine a safe level of emissions. Because of these overly stringent regulations many utilities have replaced Illinois coal with Western coal. The unduly restrictive SO$_2$ emissions limitations should be re-examined and relaxed to the level which would not jeopardize the federal ambient air standard for SO$_2$. A utility that is exceeding expensive SO$_2$ emissions level has a choice of installing expensive SO$_2$ emission control equipment—scrubbers—or burning low sulfur western coal. Since the installation of scrubbers is a capital expenditure some Utilities must go before the Public Utility Commission for a rate increase in order to cover the cost of installing the scrubbers. However, if they choose the option of burning low sulfur, western coal, some utilities can easily recover the higher costs through the fuel adjustment clause mechanism.

WESTERN COAL

In Illinois, as in other Midwestern states, the use of Western coal has soared during the 1970's. In the late 1960's prior to the effects of the Federal Clean Air Act, only small amounts of Western coal were consumed by utilities in the Midwestern states. However, as of the mid 1970's the imported amounts were significant—41 percent of the coal burned in Iowa, 33 percent in Illinois, 26 percent in Wisconsin and 14 percent in Indiana. In 1977 some 16,000,000 tons of low sulfur, western coal were shipped into Illinois and burned by Illinois utilities. The amount of diesel fuel used to transport this coal is significant at a time when we are trying to conserve oil and reduce oil imports, to improve our balance of trade deficit.

Western coal on the average, has a much lower sulfur content. However, it also has a lower heating value than Illinois coal. Thus, an average of four tons of western coal must be burned to gain the same heating equivalent contained in only 3 tons of Illinois coal.

Coal from Illinois is less expensive than western coal in most of the Midwest because of the considerable cost in transporting western coal from mines more than 1000 miles away from the Midwestern utility plants.

About two-thirds of the cost of western coal delivered to the Midwest is attributable to transportation. Thus, we become more dependent on foreign oil, our balance of trade deficit grows, inflation increases, scarce natural resources are not being utilized efficiently and the consumer pays more for electricity.

The lack of a firm National Energy Policy and the failure of the Executive Branch of the Federal Government to give more than token lip service to their alleged total commitment to coal, contribute to the uncertainties facing the American Business Community and the Coal Industry.

President Carter has told the coal industry that he wants this nation to mine and consume 1.2 billion tons of coal annually by 1985. But the rules under which the game is currently being played will prevent us from reaching that goal. At the present rate of growth we will fall 20 to 25 percent below President Carter's 1985 timetable. Even with more optimistic annual increases in coal use of 5 to 7 percent, coal will be supplying only 48 percent to 50 percent of America's electricity and only 20 percent of the total energy by 1985—figures that are barely more than the current totals.

This minimal increase in the use of domestic coal is significantly less than could be achieved if balanced federal policies were adopted. This year we will mine over 700 million tons of coal. But this figure is 100 million tons below what we now have the capacity to produce. Demand does not exist primarily because wholly unnecessary federal regulations have made the production, transportation and use of coal difficult in some instances, and impossible in others.

A reasonable Clean Air Act would be welcomed as an important tool in assuring a healthy environment while allowing sustained economic growth. But the law we now have, tightened and made more strict by amendments passed in 1977, threatens to push the cost of coal-generated power so high that any cost advantage over oil and natural gas would become negligible. There are thousands of miners out of work right at this moment because Clean Air Act regulations unfairly preclude the use of some of our most plentiful and easily accessible coals east of the Mississippi River.

The oil embargo taught us a harsh lesson. It was then, for the first time, that we were forced to confront the facts. It was then that we discovered the coal industry. By that time we were dependent upon petroleum and gas for three-fourths of all the energy we use in this country each day. Coal, which had long since been dismissed by the public as a fuel of the past, supplied less than 20 percent.

But the most striking development was the fact that we were importing larger and larger quantities of petroleum from overseas. Imports that were just 1.3 million barrels a day in 1970 had tripled by 1974. And with the drastic price increases instituted by OPEC, we found an unstoppable flood of dollars leaving this country at the expense of our domestic economy.

But it was soon apparent that even the drastic effects of the oil embargo were not enough to make America face up to reality. Once the Middle East oil faucets were turned back on, we again became complacent about our petroleum dependency, and doubled it again.

It is unfortunate that we once again this summer had to undergo social disruption to emphasize the seriousness of our energy dilemma. Today, five years after the oil embargo, the destiny of this country is more than ever before firmly in the hands of a few small countries in the Middle East. Forty-five percent of the 20 million barrels of oil we consume daily is now imported. Seventy percent of this imported oil comes from OPEC. And despite the hard lessons of the oil embargo, U.S. oil imports have risen an average 7 percent over the past five years, while the consumption of coal has increased only 2.1 percent.

I'm sure it has occurred to many that there is striking similarity between the events that have taken place this year and those which happened five years ago. There has been disruption of our Mid-east oil supplies, long waits at the gasoline pumps, exorbitant price increases and vows again by officials in Washington to find solutions that will lead us to increased energy independence.

To the coal industry, this similarity between 1974 and 1979 is particularly distressing. Long before there was an oil embargo, our industry questioned the wisdom of a policy that ignored plentiful coal at the expense of scarce petroleum and natural gas resources. One of the few beneficial effects of the oil embargo five years ago was that it reminded Americans they did still have a vast domestic resource—coal—that could provide nearly limitless, secure supplies of energy. But as far as coal was concerned, nothing happened. In fact, the federal constraints on coal have increased in the intervening years, restraining the growth of our current markets.

The Government should provide ample incentives or make it mandatory for firms and utilities presently using oil to convert to coal. Because of the fuel adjustment clause mechanism, some utilities can pass the ever-escalating costs of oil on to their customers. Therefore, the utilities will not change or convert. Therefore, the utilities will not change or convert. If all the utilities and industries presently burning oil in their boilers today were to switch to coal we would reduce our oil imports by approximately 200,000,000 barrels per year. This would amount to a savings of approximately 3 billion dollars in our balance of payments and reduce oil consumption by about 7 percent immediately.

The Peabody Coal Company recently released the findings of a study projecting that 43 million tons of high sulfur coal would be displaced between 1977 and 1980 as a result of power plant compliance with state implementation plans, some of which may be unduly restrictive. It is estimated that the loss of 43 million tons of output affects directly about 12,000 miners' jobs and indirectly as many as 24,000 additional jobs.

In Illinois there are approximately 14,000 active miners. Thus far between 5 percent and 10 percent of the total have lost their jobs because of the situation and conditions as discussed above. In addition an equal number or like amount of mining related jobs will be lost. In the smaller Southern Illinois communities this could amount to a significant percentage of the population.

At a time when we need reason in Washington, we are faced with a mind set against rational change. The administration is unwilling to even discuss the possibility of being more flexible in its regulatory program. What we are being told is to take it as it is. This is despite the fact that there is an administration energy program that is looking to the last years of this century, but which has little chance of success under current programs. This is despite the fact that there is growing unemployment in the mines and elsewhere, due largely to our energy-related economic problems. And this is despite the fact that there are utilities and industrial concerns who either cannot convert to coal or are unwilling to convert to coal because of the ambiguities and roadblocks created by federal policy.

Mr. Carter's own Coal Commission, chaired by Governor Jay Rockefeller of West Virginia, released a report at the President's request, that clearly underscored the need for a reasonable balancing of energy, environmental and economic goals if coal production is ever going to significantly increase.●

CHRISTIAN-JEWISH-MUSLIM DIALOG

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. SIMON. Mr. Speaker, one of the Members of this House, upon whom we place the responsibilities of leadership is our majority whip, our colleague from Indiana (Mr. BRADEMAS). But he is a leader in more than name. For he has shown an intellectual quality of probing and reflecting that brings honor to this House. He is a man of Jeffersonian interests, a better legislator because he has knowledge in so many areas. One of the many areas in which he has contributed significantly is the field of religion. Recently, he addressed a conference at Notre Dame on the subject of Christian-Jewish-Muslim relationships. I am taking the liberty of inserting that in the RECORD.

It is important to note two points which he makes:

First, that most of us who come from a Judeo-Christian background have an extremely limited knowledge of the Moslem world.

Second, we have major deficiencies in our studies of other cultures, including the religions of other countries and the languages spoken by people in other lands.

It is worth a few minutes of time to read his perceptive remarks:

RELIGIOUS CURRENTS IN THE ARAB-ISRAELI CONFLICT

(Remarks by Hon. JOHN BRADEMAS)

I count it a great honor to have been invited to take part in this conference, and I want to commend Professor Alan Dowty for his leadership in organizing it and the University of Notre Dame and American Professors for Peace in the Middle East for sponsoring it.

As you know, there are 435 members of the United States House of Representatives, and each of us is understandably proud of the district he or she represents. I, nonetheless, persist in counting myself particularly blessed in that I am the only Member of Congress who can say that he represents the district where the University of Notre Dame is located.

And I make that statement despite this year's football season!

For Notre Dame, as those of you who are not natives of this area are aware, is not only a national institution but, under the extraordinary leadership of our community's most distinguished citizen, Father Theodore Hesburgh, Notre Dame has become known throughout the world as an outstanding center of teaching and learning.

It is, therefore, altogether fitting and proper that Notre Dame, an institution committed to the flowering of the human spirit as well as the enrichment of the human mind, should be the setting for a gathering like this.

Here we—Christians, Jews, Muslims, and others—meet on a university campus in Northern Indiana to discuss one of the most difficult but consequential problems facing humankind today—the continuing conflict between Arabs and Israelis in the Middle East.

But we hold our talks under the Golden Dome of Our Lady with a special eye to the religious dimensions of the differences that divide these two peoples.

And who would have predicted when this conference was first arranged that we should be meeting at a time when the Middle East—and the forces of religion there—should be on the front pages of every newspaper every night and the leadoff dispatch on every radio and television newscast every day of the week?

Before I plunge into a consideration of some aspects of the subject of our conference, I should like, if I may, to make some observations I believe necessary to what I have to say.

For I think that my own life and experience are not unrelated to the reason we are here.

I speak as a Christian, a Protestant, a Methodist.

My Hoosier mother is also a Protestant but a member of the Disciples of Christ Church, while my late father, born in the Peloponnesian town of Kalamata whence he migrated to this country sixty-five years ago, was Greek Orthodox.

I speak as well as one who grew up in the shadow of Notre Dame and who, for a time, between elections, taught across the road at Saint Mary's College.

Let me say further, as one who for the last twenty-five years has been directly engaged in public life, most of that time as an elected member of the Congress of the United States, that what provoked some of my first political stirrings as a schoolboy at James Madison School in South Bend were the radio broadcasts we heard of the speeches of Adolf Hitler. I can remember still the dramatic, staccato voice of H. V. Kaltenborn reporting those speeches from Germany.

And nothing shook me more profoundly in those incredible days, days of my own childhood, than the news of what Hitler was doing to the Jews.

All those memories rushed back to me when, last summer, I visited the death camps of Auschwitz and Birkenau.

And so like many Christian Americans of my generation, I came to be a strong supporter of the creation of a secure homeland for the Jewish people in Israel—and I still am.

Over ten years ago, I led a delegation of Members of the House Committee on Education and Labor to visit Israel for the purpose of seeing the moshavim, the kibbutzim, the child daycare centers, schools, colleges and universities of that remarkable land—and I was in Jerusalem again last May to give a lecture at the Hebrew University.

No Christian, I venture to say, can see and touch and smell and walk in places like Bethlehem and Galilee and Nazareth without experiencing the deepest emotional feelings.

Beyond what I have just said to you by way of explaining some of the reasons for the affinity that links many American Christians to Israel, there are at least three others.

Israel is a feisty, vigorous, flourishing democracy and so is the United States. The two peoples have a common commitment to individual freedoms and popular self-government.

There is a second reason that Christians feel so close to Jews. Every Sunday in every church in America, we read not only from the New Testament but the Old.

And I need hardly here remind you that the person in whom Christians see God most perfectly revealed was a Jew.

Moreover, to offer yet a third explanation of the closeness that many Christians in our country feel toward Jews: in nearly every community in the United States, Jews and Christians work together—for the United Way, in the NCCJ, for civil rights, in nearly every kind of activity aimed at civic and human betterment.

I do not mean here to paint a sentimental picture. Obviously, there have been tensions and disputes between Christians and Jews even as there are dark strands in our history in the relationship between Protestants and Roman Catholics. You must remember that the state of Indiana was once an outpost of the Ku Klux Klan.

I recall my own father's telling me that, as a Greek immigrant, he found his restaurant, then located not far from where we meet, boycotted because he was not a wasp, and I remember, too, that my father saw Notre Dame students fighting in the streets of South Bend with Klansmen.

But I am making a different point. I am saying that woven into the fabric of our national life are the most intimate relationships between those of us who are Christians and Americans who are "People of the Book."

Yet it must be obvious to us all that there is no such history of experience in our country with the religion of Islam and with those who call themselves Muslims.

We do not read the Koran during our religious services on Sunday.

There is no Islamic counterpart in American towns and cities of B'nai Brith or Hadassah.

If many Christian Americans have been in a synagogue or temple, almost none has set foot inside a mosque.

In the House of Representatives, we do no legislative business on Passover or Yom Kippur anymore than we would on Good Friday. But we take no cognizance of the Holy Days of Islam, Muharran or Ashura.

In our school days, we may have known Lebanese or Syrian children, but they were Christians or Jews.

And though we may have been well acquainted with the map of Western Europe, Latin America or Japan, few among us, unless he or she took college courses on the Middle East, could have told you just where Syria and Iraq began or where Saudi Arabia and Jordan commenced.

And then, I should like to suggest, about six years ago, Americans—and I speak here of university educated, politically sophisticated Americans as well as those who may not pay so much attention to these matters—began to pay attention, serious attention, to that rather mysterious part of the world we call the Middle East.

And the reason, of course, was oil.

The Arab oil boycott of 1973–74 began to bring home to Americans the immense impact on our daily lives of actions taken by people of whose religion and culture and politics we were so generally ignorant.

Events in succeeding years have caused Americans to realize that the day of our isolation from the Middle East is, whether we like it or not, over.

For we now know that, whether we like it or not, what happens there affects in the most direct and daily way how we live here.

The conflict between Israel and the Arab states is, of course, together with oil, the other great factor that commands us to heed the Middle East.

That conflict is ongoing and its twists and turns and ups and downs are not easy to follow, even for those of us whose vocation is politics.

Even as the Mayors of Nablus and of some twenty other Arab municipalities on the West Bank resigned last month to protest certain actions of the Israeli Government, that same government, in compliance with the Camp David Accord, has just returned to Egypt oil wells in the Sanai that supplied twenty percent of Israel's energy needs.

Even as most thoughtful Americans believe it imperative that there be justice for the Palestinian people, many of these same Americans are unwilling to accept as an instrument to achieve that goal an organization committed to the destruction of Israel.

And almost unnoticed in the struggle between Israel and the Arab states is the dreadful war in Lebanon, with Jordan and Syria, Israel and the PLO all contributing, justly or unjustly, to laying waste this small nation of intelligent, resourceful, diligent people.

And, of course, perhaps most difficult for those in the Hebrew-Christian West to understand in all the tortured history of the Middle East is the tragedy through which we are now living in Iran:

A tyrannical Shah, deposed and exiled, after years of support by American administrations of both political parties;

An equally tyrannical, if radically different, Ayatollah, bitterly hostile to the United States and to all that western culture represents;

The seizure of American citizens at an American embassy and a defiant insistence that only with the Shah's return will the hostages be released—

These events taken together are like an ever more dangerous minefield . . . for the United States, for Iran and potentially for other nations of the world.

As I thought about what I might say to you tonight, I realized that yesterday marked Ashura, the day on which Shi'ite Muslims observe the martyrdom fourteen hundred years ago of Hussein, grandson of the Prophet Muhammad, and that tomorrow is the day of elections in Iran. I realized as well what limited knowledge we Americans have of what is happening there and, indeed, what is happening in the wider world of Islam.

There are, after all, some 800 million people on this planet who are Muslims.

We are only now beginning to realize that they are not all of the same temperament or conviction any more than are all Christians or all Jews.

We are learning that the differences between the Sunni majority and Shi'ite minority are deep and significant.

Last Tuesday the leaders of Congress met with President Carter at the White House to discuss the crisis in Iran and now, every afternoon at four o'clock, Secretary Vance or Undersecretary Warren Christopher comes to Capitol Hill to brief the Speaker, the Minority Leader and the other Members of the House Leadership on the latest developments.

As we discussed the situation in Tehran, I wondered how well equipped we were as a nation to understand the roots of our troubles there and, more broadly still, the revival of Islam that appears to be sweeping across a wide arc of nations from Egypt to Pakistan.

So I began to ask some questions about the state of Islamic studies in the United States.

I found that there are currently eleven centers of Middle Eastern studies in this country, one of them, soon to be closed, at Indiana University.

There are, including these eleven centers some 25 colleges and universities in the entire country that offer Middle East studies programs. Beyond these 25, three or four theological seminaries have Islamic programs but there is only one college in the United States with a comprehensive "Muslim World" program—Ricker College in Houlton, Maine.

The total number of students in Middle East centers and college programs throughout the United States is no more than 2,000.

Of the 25 colleges with Middle East programs, most offer Judaic rather than Islamic studies and in the latter group, most courses deal with anthropology, social history or literature; few with the Islamic religion.

Another leading scholar, at Harvard, reminded me that Islamic studies cover a wide geographical area, including not only Iran and the Arab states but the Philippines and Indonesia, sub-Saharan Africa, Spain and Turkey as well. He might have added the Soviet Union!

Although, he said, there may be several hundred persons in Iranian studies in the United States today, those who could be called "Persian specialists," knowledgeable in the language, history, culture and society are, he said, "far, far smaller" in number.

Another Middle East scholar, from Columbia University, bewailed the great scarcity of Iranian specialists at the Department of State and asserted that from the time major troubles in Iran began last year, it was "ages" before the State Department believed that the religious dimension of the Iranian situation was significant.

Nor have we sufficient specialized knowledge, he said, to deal with other potential danger spots such as Turkey with the Kurds; the Sudan and Somalia.

As I listened to these comments, I knew that I had heard it all before for my mind returned to a time, nearly fifteen years ago, when I had labored hard, as Chairman of a special Congressional Task Force, to write into law what came to be known as the International Education Act of 1966.

That law authorized Federal grants to colleges and universities in the United States—it was not a foreign aid bill—to support studies and research at both the undergraduate and graduate level in international affairs. The funds could be used for either area studies or to focus on specific issues, or combinations of both.

And a key thrust of the International Education Act, signed into law by President Lyndon Johnson while flying over Thailand, was to enhance our knowledge and understanding of the non-western world.

I remember still how the great Harvard Sinologist, John King Fairbank, once declared that when the Vietnam war began, there were no more than half a dozen senior scholars in the United States who knew the language, culture, and history of the nation that became the locus of one of the great tragedies of American history.

And what became of the International Education Act?

For reasons pointless here to recount, Congress never appropriated one penny for it.

Partly as a result of this failure, we have seen in recent years a sad decline in international studies, including foreign languages, at American schools, colleges and universities, and our Nation is the weaker for it.

Listen to these facts:

Only 15 percent of American high school students now study a foreign language—down from 24 percent in 1965.

Only 1 of 20 public high school students studies French, German or Russian beyond the second year; four years are generally considered a minimal prerequisite for usable language competence.

Only 8 percent of American colleges and universities now require a foreign language for admission, compared with 34 percent in 1966.

There are an estimated 10,000 English speaking Japanese business representatives on assignment in the United States. By contrast, there are fewer than 900 American counterparts in Japan—and only a handful of these have a working knowledge of Japanese.

The figures I have cited come from the so-called Perkins Report, the result of a year-long study released in October by the President's Commission on Foreign Language and International Studies.

The Commission, under the chairmanship of James Perkins, former President of Cornell, conducted lengthy hearings and received testimony from over a thousand persons. The Commission's conclusion: "We are profoundly alarmed by what we have found."

Beyond the statistical danger signs I have already mentioned, the Commission found other reasons for apprehension:

Over 40 percent of 12th graders in a recent survey, for example, were unable to place Egypt correctly while over 20 percent of those students were equally ignorant about the location of France or China.

Only 5 percent of prospective teachers take even a single course relating to international affairs or foreign peoples and cultures as part of their professional preparation.

Federally financed foreign language and area studies fellowships fell from a peak of 2557 in 1969 to 828 in 1978.

American participation in exchange programs is declining at a time when other nations are expanding their efforts. A recent GAO study found that, compared to both allies and potential adversaries, American investment in exchange programs is proportionately the lowest of any of the countries surveyed.

It was this rather sorry record that led the Perkins Commission to call for an increased commitment to foreign language studies and international education on the part of the Federal government, state and local governments and the private sector.

And it was this same record that led a number of us in Congress—including Speaker O'Neill—to write to President Carter and Secretary of State Vance urging that there be included in the President's budget recommendations for Fiscal 1981 30 to 40 million dollars under Title VI of the National Defense Education Act. This Title supports foreign language and area studies, fellowships, research, summer intensive language courses and undergraduate and graduate field programs.

In the current year, by way of contrast, we are investing only $14 million to support these activities.

Now President Carter has, quite rightly, in my view, called on the American people to respond to the crisis in Iran with increased efforts at conservation of energy and has insisted that Congress pass a substantial tax on the windfall profits of the oil industry.

Even as we seek to make better use of our energy resources, so too must we strengthen our resources of knowledge.

The tragedy unfolding in Iran should spur us to invest substantially more in studying those cultures and peoples of the rest of this planet, especially of the non-Western world, more particularly still, the world of Islam.

So this is the first lesson I draw from the religious currents that have shaped and continue to shape the Middle East: We in the West must study harder and we must learn more about other peoples and other cultures.

But there is one more lesson that I would leave with you at this conference of outstanding scholars of and from three major world religions.

It is the lesson that three men of deep religious faith taught the world 15 months ago in meetings in the Catoctin Mountains of Maryland.

It is the lesson of Camp David—and the teachers were a Moslem, a Jew and a Christian—Anwar Sadat, Menachim Begin and Jimmy Carter.

As a practicing and, I hope, extant, politician, I am not, unaware that each of these political leaders, because of his actions or inactions on one or another issue, foreign or domestic, is a figure of considerable controversy.

But what bound them all together at Camp David was a common conviction that a durable peace could be built between Egypt and Israel, and they laid the foundations for that peace.

On issues that appeared to be irreconcilable, these three men showed that agreements were possible.

I take a lesson for our meeting here at Notre Dame from what they did at Camp David. It is that the diversity of their religious convictions did not impede their efforts. Anwar Sadat, Menachim Begin and Jimmy Carter were able to make progress because all three were motivated by a commitment to certain values common to each of their religious traditions.

Only this week in Turkey, Pope John Paul II stressed the positive values of the teachings of Islam and chief among them, he said, was "the faith of Abraham in the only all-powerful and merciful God".

Now I respectfully suggest to you that as we look to the issues that divide people against people, nation against nation, Jew against Arab in the Middle East, we must, in the final analysis, if we are to contribute to the construction of an edifice of peace in that region, be inspired by the theme of which the Holy Father spoke in Ankara this week.

"Faith in God," he said, "which the spiritual descendants of Abraham—Christians, Moselms and Jews—profess, when it is lived sincerely so that it penetrates life, is an assured foundation of the dignity, the brotherhood and the freedom of men and a principle of rectitude for moral conduct and life in society. . . ."

Let us then seek to know one another better and to learn more about each other.

And let us above all respect one another, including respect for that which divides us, for we shall be moved by what is common to the faiths of us all, whether we are followers of Jesus, Moses, or Muhammad.●

CONGRATULATIONS ON A CHAMPIONSHIP EFFORT

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. SCHULZE. Mr. Speaker, I would like to congratulate the Great Valley High School girls field hockey team for winning the State championship.

On November 17, by a score of 5 to 4, Great Valley defeated North Lebanon High at Shippensburg State College. The team was undefeated in the regular season with an 11–0 record. Great Valley compiled an 8–0 record during the championship round.

The team will be honored at a banquet on Thursday, December 13, at Mansion House by their families, friends, and fans.

A trophy will be presented to the team for the State title.

All too often we overlook the accomplishments of our young people and dwell on their problems. Here is a good example of what is good with the youth of America, and I want to share it with my colleagues.

The team members are: Laura Babish, Jayne Cunningham, Joanne Ellbeck, Lisa Fritsche, Lynn Hayes, Anne Hopkins, Lese Jackmon, Sue Lenker, Karen Norris, Kim O'Brien, Beth Bergey, Mala Bettenhausen, Liz Durst, Sue Munley, Becky Schmucker, Penny Sweatlock, and Lyn Tomlinson, goalie. The team coach is Rosmarie Gentile.●

THE NORTHERN TIER PIPELINE

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. MARLENEE. Mr. Speaker, recently the president of the Northern Tier Pipeline Co., Mr. Thomas Kryzer, spoke before the Chicago Association of Commerce and Industry about the merits and advantages to the Nation of the Northern Tier Pipeline. I believe this pipeline will be an asset and should be given final approval by the President as soon as is possible. The Secretary of the Interior has already recommended to the President that it be built because of the overall positive benefits it will give the United States in helping to solve some of our crude oil delivery problems.

I thought my colleagues would be interested in Mr. Kryzer's comments which follow:

ADDRESS BY THOMAS C. KRYZER

It is a pleasure and an honor to address your prestigious group today and to be in Chicago where I received part of my education and also where I spent my early years in the energy industry.

Your city and the region it dominates is the nerve center of America's agricultural and industrial heartland. It is also the crossroads of America and this includes an energy transportation network for coal, petroleum and electricity.

Linked together, they provide lifeblood to the most productive economic system in human history.

Events since the oil embargo six years ago have brought into sharp focus the relationship between energy and the economy. They have spotlighted just how fragile and vulnerable the systems are that produce and transport energy for the economy. These are the very issues facing this nation today which affect all of us—inflation, productivity, jobs, balance of payments, value of the U.S. dollar, as well as our basic national security.

In retrospect, the embargo was a modern Pearl Harbor in energy terms. There have been rude, sudden shocks since then, and there will be others unless we develop the national will and the appropriate policies to protect ourselves against what economists term exogenous forces.

At times I fear we are becoming a nation of critics, unable to act in order to free ourselves from the chains of OPEC, to protect ourselves from events 12,000 miles away. Recall with me the words of the poet Whittier, "For all sad words of tongue or pen, the saddest are these, It might have been."

A brief review of recent developments on the energy front produces a long list of what-ifs and what-might-have-beens.

What if OPEC hadn't guadrupled oil prices in 1974?

What if the Alaskan oil had begun flowing to the lower 48 in 1972 instead of 1977?

What if the U.S. Government were to stop ignoring Alaska's great energy potential, estimated yesterday in Washington by Commonwealth North at 5 million barrels a day of productive capacity?

What if Alaskan oil already was available in the mid-continent market?

The answer to the last question is obvious. There wouldn't be any mid-continent crude supply problem because of the Iranian or Canadian cutoff.

Which brings me to my discussion of the Northern Tier Pipeline and what it means to Chicago and to the U.S.

On top of our current energy problems we are now facing a serious crude oil transportation crisis. Since 1973, we have been living from crisis to crisis, the fuel shortage of '76 and '77 being just one example. The hardest hit were the northern tier and inland states, affecting major agricultural, industrial and population centers.

In the upper Midwest and the northern tier states there are 66 refineries, one-fourth the nation's total serving 21 states including Illinois. What has been lacking is an embargo-proof crude oil artery connecting existing refineries and serving the maximum number of refineries at the lowest possible cost.

With such an artery there would be greater encouragement to develop new petroleum reserves. With such a secure artery, no embargo could immobilize us.

Just as the delay in the Alaskan pipeline cost the nation billions in balance of payments, so has the delay in starting the Northern Tier line been costly. If it were in operation today, it could be pumping hundreds of thousands of barrels of Alaskan oil to the mid-continent.

Some would even go as far as to say that the nation's inability to solve a relatively simple transportation problem has the markings of a national tragedy.

On the one hand, a surplus of domestic crude oil has built up on the West Coast, and on the other, there is developing a serious and growing shortage of crude in the northern tier and inland states, created by Canadian curtailments and declining domestic supplies.

As a result of delays, North Slope oil is being denied the opportunity to soften the impacts of Canadian curtailments. What if delays continue? What if North Slope crude is unable to find a home in U.S. markets, where will future Alaskan and offshore West Coast production go?

The obvious answer to these questions is the Northern Tier Pipeline, a privately-financed energy transportation system nearly 1500 miles long, transporting up to 900,000 barrels a day eastward in an underground pipeline from Port Angeles, Washington, to Clearbrook, Minnesota. The line will pass through the states of Washington, Idaho, Montana, North Dakota, and Minnesota.

When the line begins operation in 1982, it will stand as the first major grass roots energy project to be launched in many years and will provide jobs and tax revenue as well as energy supplies to states and regions which it serves. It will permit the U.S. to distribute Alaskan oil with greater economy and equity and provide new incentives for exploration in Alaska and in California where several hundred thousand barrels a day are shut in.

The pipeline has special significance for Chicago and this region for the following reasons:

Chicago area refineries will be assured greater energy security by providing improved access to secure domestic crude oil. In addition, they will also have access to a wide variety of foreign crudes. There are six refineries with a capacity of about 975,000 barrels a day, a major share of the U.S. total capacity. These refineries not only provide products to the Chicago area but also are major factors in supplying consumers, agricultural and industrial users in Michigan, Wisconsin, Indiana, Iowa, and Minnesota as well. In short, they feed a complex production chain of goods and services which in turn serves the U.S. and the world.

Historically, these refineries have relied on crude from four sources:

Canada;

Local production;

Production via pipeline from Texas, Oklahoma, Wyoming, Kansas; and

Crude oil imports from the Gulf Coast via pipeline.

Canadian crude export to the U.S. at one time amounted to over one million barrels per day. A significant portion of that export was refined in the Chicago area. The Canadian crude export is now being phased out—that is correct—phased out. It has been replaced to a great extent by OPEC crudes through pipelines from the Gulf Coast. Domestic crudes used by your refiners have also been declining in recent years, further increasing dependence on foreign sources.

Simply put, the Northern Tier Pipeline will enable your refineries to have access to Alaskan oil at a savings of $1.85 a barrel over current delivery systems, according to a DOE study published this past July. Furthermore, it would provide an alternate means of delivering foreign oil to this area, thereby providing a competitive alternative and eliminating the shortfalls that are otherwise bound to occur in the 1980s.

It has become abundantly clear that transportation and resource development are interrelated. A resource, such as there is in Alaska, no matter how much it is needed, has no value if it cannot reach the user. Indeed, if it has no where to go, there is ample cause for not developing it in the first place.

A study of Alaskan energy resources released yesterday in Washington by Commonwealth North, asserts that the lack of transportation has prevented oil companies from pursuing more active drilling programs. In a larger sense, insufficient access to markets in the inland U.S. has also played a role in discouraging greater exploration and production in Alaska.

The most rational long-term solution to the twin problems of West Coast surplus and crude-short refineries of the northern tier and Midwest is the Northern Tier Pipeline.

It has become almost impossible to build a billion dollar energy project in this country. We at Northern Tier are prepared to accomplish this "mission impossible" but government must act on a time basis as well.

We, in the United States, must solve the energy problem ourselves. We cannot look to Canada, Mexico, or any other country for the solution. As the saying goes, if you're not part of the solution, you're part of the problem.

Thank you.●

HOSTAGE IN TEHRAN

HON. RAY KOGOVSEK

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. KOGOVSEK. Mr. Speaker, a young man from my district, and hometown, has found himself in circumstances so strenuous as to be unimaginable to me. He is a hostage in Tehran. In recent days his captors have thrust him before the media with the entire world as spectators—a most difficult situation even for the most experienced of Foreign Service officers. My constitutent is 19 years old.

I wish to commend Marine Cpl. Billy Gallegos for his maturity and courage, and for his unswerving loyalty and devotion to his country, duty, and the corps. May God be with him and his family throughout this ordeal.●

THE CONGRESSIONAL REPORTS ELIMINATION ACT OF 1979

HON. DONALD JOSEPH ALBOSTA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. ALBOSTA. Mr. Speaker, on November 12, 1979, the Subcommittee on Investigations of the House Post Office and Civil Service Committee held field hearings in the 10th Congressional District in Michigan. I asked Chairman James Hanley to call these hearings in my district to investigate the problems that are caused by excessive paperwork requirements by the Federal Government. We held 3 hearings on that day, and took testimony from 40 witnesses from many different backgrounds. The message from my constituents was clear on this subject that they have had enough paperwork requirements from the Federal Government, and that Congress and the bureaucracy must work to reduce and eliminate this burden.

A fact was generally accepted that many of the paperwork requirements are the product of regulations issued by the various agencies but are not necessarily mandated in the legislation that passed Congress. I have thus concluded, as have many of my colleagues, that more congressional oversight is needed to insure that the intent of Congress is met by the bureaucracy.

Upon further study of this paperwork problem, it became evident that Congress, through the years, is also guilty of placing a paperwork burden on the American public. It may not appear so directly, but when Congress requires a Federal agency to continually make a report to Congress, these reports translate into additional information requirements from our already exhausted public. The real problem is, however, that many of these reports are either not needed because of changes in the law, or represent duplication of information already compiled by other sources.

As I have been involved with this issue since coming to Congress, I was pleased to note that the Office of Management and Budget has been working, for the past year, on legislation that seeks to eliminate unnecessary reports of this nature, and modify those that, while still needed, may represent excessive reporting requirements placed on the American public.

I have had the privilege of introducing this important piece of legislation today, because I can attest, from the results of field hearings, that the American public is demanding that Congress do all in its powers to reduce the heavy burden of paperwork currently being placed on them. This bill represents a strong positive movement toward a reduction, and in some cases an elimination, of reports that have been mandated by the Congress, but are simply no longer needed in their present form. This bill leaves intact those reports that are still of essential value in their present form.

I urge my colleagues to take a hard look at this measure, and seriously consider supporting this legislation.●

McSWAIN DEDICATION

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. CAMPBELL. Mr. Speaker, recently it was my privilege to dedicate the stately and lovely home of the late Congressman and Mrs. John Jackson McSwain as a visual arts center and museum. John McSwain was the chairman of the House Military Affairs Committee and served in this body from 1921 until his death in 1936. He was a statesman and a scholar, and the interest he and his wife Sarah shared in the commemoration of our history and the education of our young people will be perpetuated in their restored home. The dedication address follows:

Address by Hon. Carroll A. Campbell

In a memorial tribute to Congressman John Jackson McSwain, one of his colleagues who had an office along the same corridor, said: "After we had formed an acquaintance, I shall never forget his unfailing greeting: 'How is my good friend today?' And when we would have time to have a brief conversation, on departing he would always say, 'If there is ever anything I can do to help you, just let me know.' "

That's the kind of man John McSwain was. As James Byrnes said, "People loved him because he loved people."

As a successor to the congressional seat John McSwain once held, it is a special privilege for me today to have the opportunity to dedicate the McSwain home. John McSwain left some big footprints. He was a scholar, a teacher, a lawyer, a soldier, and statesman, as well as a devoted husband and father.

His love of country caused him to volunteer for duty in World War I when he was 42 years old, and his knowledge of war made him an outspoken advocate of a strong national defense policy when he was elected to Congress. As chairman of the powerful Military Affairs Committee, he was instrumental in enacting important reforms in the military establishment and he took particular interest in the development of the Air Force.

John McSwain was a thoughtful, learned man, who promoted peace through national strength. More than many, he understood the meaning of John Adams' observations in one of his eloquent letters.

Adams wrote that, "I must study politics and war, that my sons may have liberty to study mathematics and philosophy, in order to give their children a right to study painting, poetry, music, (and) architecture."

The dedication of the home of John and Sarah McSwain, who were renowned for their warmth and hospitality, as a visual arts museum and living workshop for students of the arts, seems a most fitting memorial to this outstanding couple. Sarah's particular interest in the preservation of our local heritage and John's interest in expanded educational opportunities for the young are here combined. And a further bonus for us all is the renovation of this beautiful home, which we are hoping will soon be designated as an historic landmark.

Without many of us realizing it, our area, our region is fast becoming wealthy with cultural, artistic and educational opportunities. Of course, when we remember that our state offered the colonies the first public museum, and the first free library, and the first operatic performance on American soil, we recognize that we are bearing a strong tradition.

And we recognize also that this bounty is coming to us through the efforts of some very hard-working people. I'd like to take a moment here to offer on behalf of the community our appreciation to the daughters of Congressman and Mrs. McSwain, Sarah and Janie, and to Lantz Caldwell, the moving force behind this occasion, the members of the Silver Eye Endowment, the faculty at Greenville Technical College and to all the others who have contributed time or funds toward this dedication.

Carl Sandburg once wrote that when a society perishes, one condition can always be found: they forgot where they came from.

We are most fortunate to have so many who will help us to remember.●

NATIONAL INSTITUTE OF EDUCATION EXTENSION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. SIMON. Mr. Speaker, I am today introducing legislation intended to extend the authorization of appropriations for the National Institute of Education (NIE) through fiscal year 1985. Joining me as cosponsors of the measure are our distinguished colleagues Mr. Perkins, Mr. Brademas, Mr. Hawkins, Mr. Stack, Mr. Coleman, Mr. Ford of Michigan, Mr. Buchanan, and Mr. Jeffords.

My colleagues will recall that the NIE was created by the 92d Congress through the efforts of our distinguished majority whip, the gentleman from Indiana (Mr. Brademas) and the then-ranking minority member of the Committee on Education and Labor, now the Governor of Minnesota, Mr. Quie. NIE was created as an independent agency charged with fulfilling the national responsibility of supporting research into education.

NIE is headed by a Director of the same executive level as the Commissioner of Education, appointed by the President and confirmed by the Senate. The Director also has special authority to hire and compensate some staff outside of normal civil service requirements. This exempted hiring authority was designed for two purposes: First, to allow distinguished experts to serve at the Institute on a short-term basis, and second, to enable the Institute to attract scholars in specialized fields without permanently enlarging the size of the Agency's work force.

The initial legislation also provided for the creation of a Presidentially appointed policymaking National Council on Educational Research which would bring together individuals from both the public and private sectors to set general policy for the Agency and to advise the Director, the President, and the Congress on the status of education, educational research, and the educational needs of our society.

NIE is required by law to expend not less than 90 percent of its funds through grants and contracts with qualified individuals and institutions. NIE relies upon the competitive award process to select grantees and contractors based upon the quality and merits of proposed work as judged by outside reviewers and by NIE staff.

Mr. Speaker, although NIE has not enjoyed the level of appropriations which many of us think necessary, it has, in the words of the conference report on the 1978 education amendments, "matured into a unique and solid resource" for educators and policymakers alike. Some of its reports have been of great assistance to the Congress in reviewing and reauthorizing key education legislation.

Mr. Speaker, the Subcommittee on Select Education, which I am privileged to chair, will hold hearings early in the next session, on the role of NIE in the new Office of Educational Research and Improvement in the Department of Education. I am pleased that the extension legislation which I am introducing today enjoys bipartisan support—as did the original legislation to create NIE—and I am looking forward to working with my colleagues on the reauthorization of the National Institute of Education.●

FAMILY FARM DEVELOPMENT ACT: SUMMARY OF PROVISIONS

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. NOLAN. Mr. Speaker, last year, Congressman GEORGE BROWN and I introduced a comprehensive farm bill entitled the Family Farm Development Act. We have been working on a new draft of the bill, and we plan to introduce it in the near future.

Because of the large number of requests for copies of the Family Farm Development Act, we are making a summary of the bill available before its introduction.

The summary follows:

THE FAMILY FARM DEVELOPMENT ACT: A SUMMARY

TITLE I: FAMILY FARM DEVELOPMENT SERVICE

This Title establishes a Family Farm Development Service within the USDA to focus attention on the family farmer's problems. This Service would have the authority to: (1) Coordinate activities within the USDA concerning development and maintenance of small and moderate-sized family farms; (2) Evaluate the impact of USDA activities on small and family farmers and communicate this evaluation to the Congress annually with recommendations for changes; (3) Develop a national long-term plan to provide the incentives for the development and application of technical assistance programs designed to improve the energy efficiency, productivity, conservation practices, marketing capabilities and economic viability of small and medium-sized family farms; and report this plan to Congress in 3½ years; (4) Set up a Family Farm Assistance Board to provide research and education grants.

TITLES II AND III: RESEARCH, EDUCATION, DEMONSTRATION AND TRAINING PROGRAMS

A. Research Programs

The USDA, through the Family Farm Development Service, will give grants to organizations, individuals, colleges and universities, agencies of a state or local government and other federal agencies to conduct research concerning small and moderate-sized family farms. This research shall include the following: (1) Why the number of farms in this country has declined and how this trend could be reversed; (2) Land ownership; (3) How to enhance the life-style of small and moderate-sized family farmers, including community services; (4) How to develop energy efficient, appropriate farm techniques and technologies that are low-in-cost and environmentally protective; (5) How to increase and improve nutrient levels and humus content of the soil, increase soil productivity and reduce nutrient run-off and water pollution from farming; (6) How to improve methods of integrated pest control; (7) Studies of agricultural methods used in other countries and potential application in the U.S.

B. Education, training, and demonstration programs

The FFDA creates several new programs and amends old ones in order to change the emphasis of existing education and demonstration programs, including: (1) Broadening the small farm extension program (often called the "para-professional program") to include every state. It will give small farmers financial, managerial, credit, bookkeeping, marketing, conservation and cropping assistance. The para-professionals shall be local people, preferably small farmers themselves, to the greatest extent possible; (2) Establishing Farm Demonstration and Training Centers in rural areas of each state to help train new farmers in improved methods of small and moderate-sized farming and simultaneously demonstrate the new methods and technologies being researched which are energy-efficient, low-in-cost, and environmentally protective; (3) Training at least one USDA agent per state to work with small and family farmers to install and operate appropriate technology on the farm; (4) Establishing a program to teach and demonstrate sustainable agriculture and integrated pest control methods, soil and water conservation methods, and methods which increase the humus content of the soil to family farmers; (5) Authorizing the creation of a new USDA "Apprenticeship Program" to provide instruction in agricultural practices geared toward application on small and medium-sized family farms.

TITLE IV: FARMERS HOME LOAN PROGRAMS

This title changes Farmers Home Loan programs so that they offer low interest, balloon repayment loans to farmers who initiate sustainable agriculture techniques or integrated pest management programs. It also makes loans available to farmers who want to install appropriate technology on their farms.

TITLE V: TAX CODE AMENDMENTS

The Family Farm Development Act changes the Internal Revenue Code to help prevent non-farm corporations and outside investors from using losses or expenses from farming to offset profits earned off the farm. To do this, the FFDA makes the following changes in tax laws: (1) The total amount of tax deductions allowable for a farmer cannot exceed an amount equal to the sum of gross income derived from farming plus amount by which non-farm gross income exceeds $17,500, the current median national income. Taxpayers whose non-farm adjusted income is less than $17,500 could subtract all allowable farm losses; (2) Farmers whose gross income from farming exceeds $100,000 would have to use accrual (as opposed to cash) accounting methods to determine taxable income; (3) Foreign investors will be required to pay capital gains on profits made from the purchase or sale of farm or other rural land; (4) Foreign investors will be required to report farm or rural land buildings, sales or acquisitions to the I.R.S.

TITLE VI: GRANTS TO COMMUNITIES FOR FAMILY FARM OWNERSHIP

This title provides for federal grants through the Farmers' Home Administration, to county or city governments or local community development organizations for the purchase of farmland. The grant recipient will establish a revolving loan fund which can then sell the land to new, small or limited resource family farmers. The land can be sold in parcels no larger than the smaller of 640 acres or twice the average farm size in the county in which the parcel is located. A board made up of representative members of the local community will administer and oversee the program in each community.

TITLE VII: SMALL SCALE ALCOHOL PRODUCTION

This title sets up a program of federally-insured, low interest loans available to communities, non-profit organizations, cooperatives, individuals and community development corporations (CDC) for the construction of small scale (i.e., plants whose capacity is 500,000 gallons per year or less) alcohol plants. (Alcohol, when combined with gasoline, produces gasohol). Under this title, plants can be operated in one of several ways: on the farm for direct use by a farmer or group of farmers; in a community, run by a community development corporation or cooperative, etc., or as a portable unit operated by a farmers' cooperative, a CDC, etc., for use by farmers in a specified geographical area.

TITLE VIII: NEW FARM MARKETING PROGRAMS

This title creates several marketing programs and expands some existing ones. The title broadens the authority of the Farmer Cooperative Service to give small and moderate-sized family farmers the technical assistance and information necessary to establish marketing cooperatives. The title also directs the Agricultural Marketing Service to evaluate its programs in order to determine the extent to which they aid small and moderate-sized family farmers and to determine ways they could be made more useful to such farmers.

Under this title, the National School Lunch Program is changed so that states can use a portion of the federal allotment they are given to purchase federal surplus commodities to create a fund with which to purchase state-grown surplus commodities.

This title also establishes a Federal-State Direct Marketing Program that will permit a state government or private non-profit organization to submit a proposal to USDA for the creation of a state-wide direct marketing system. Programs will be funded on a 75/25 federal-state or federal-nonprofit institution basis. Program monies will be awarded for a three-year period and will cover the establishment and operation of marketing systems. Selection will be made on a competitive grants basis.

TITLES IX AND XI: FOOD PRICE REVIEW BOARD/ UNFAIR TRADE PRACTICES

These two titles of the FFDA would do the following: (1) Set up a Food Price Review Board housed in USDA, which would have oversight authority over increases in food prices. Board would represent the interests of farmers, consumers, the food industry and federal agencies. This Board would conduct hearings to investigate causes of food price increases. It would also have the authority to recommend to the President that he roll back food prices if increases are found to be unwarranted; (2) Require that the USDA publish regularly for all major food commodities a comparison of consumer retail prices and prices received by farmers for those commodities on a unit price basis. This information would be posted in all retail food stores under regulations to be established by the USDA.

TITLE X: LEGAL SERVICES TO FARMERS AND RURAL PEOPLE

The Family Farm Development Act would increase the funding to the Legal Services Corporation by $30 million to provide legal services to rural people, with an emphasis on farmers, particularly for problems related to the ownership and operation of farms. $1 million of these funds will fund research and dissemination of that research on legal/administrative issues related to the ownership and operation of farms. Legal Services Corporation will be required to publish a report each year documenting its services and programs to farmers and rural people.●

INTRODUCTION OF NUCLEAR WASTE LICENSING AMENDMENTS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. UDALL. Mr. Speaker, I am introducing legislation to include a new category of nuclear waste under the Nuclear Regulatory Commission's licensing authority and to clarify the Commission's authority to license high-level waste disposal facilities. These steps are necessary to provide for thorough health and safety review of repositories for nuclear wastes which will remain hazardous for hundreds of thousands of years.

The administration and the Congress are at last addressing the need for a coherent and reliable plan for the development of facilities for the permanent disposal of high-level nuclear wastes. The best near-term solution for the nuclear waste disposal problem is burial of the material in very deep geologic structures. It has become clear that finding appropriate geologic sites for this purpose will be one of our toughest challenges. Each prospective site we find, therefore, will be an extremely important natural resource to be carefully explored and developed. According to the Nuclear Regulatory Commission, a rare prospective site could be ruined by inadvertent exploratory mistakes. It is essential, according to the Commission, that the Department of Energy begin to work within the licensing process early in the site development stage to insure the safety of the facility and the integrity of the host rock.

Three principal kinds of nuclear materials have been determined to require deep geologic storage. High-level nuclear wastes are the thermally hot products of the fission process of nuclear reactors, and include products of our weapons development programs. Other wastes, called transuranic waste, are not as hot as high-level materials, but may be of similar toxicity, and are similarly long lived. Spent nuclear reactor fuel contains high-level and transuranic waste.

Current law requires that the NRC license facilities for permanent disposal of high-level wastes produced by our commercial and defense activities, but does not address the similar hazards of the transuranic elements. The President's Interagency Review Group on Nuclear Waste Management, and the Nuclear Regulatory Commission, have recommended that facilities for the permanent storage of defense transuranic wastes be brought under NRC's licensing authority. The Department of Energy has specifically supported this recommendation.

Current law does not distinguish between spent nuclear fuel and high-level waste. Although the Nuclear Regulatory Commission has interpreted its authority to license facilities for high-level waste disposal to encompass disposal of spent fuel, due to the radioactive content of the fuel, the Commission and other groups have requested that the law be clarified to distinguish spent fuel from high-level waste and to clarify that spent fuel disposal be subject to license.

My amendments to the Energy Reorganization Act would provide clear licensing authority for spent nuclear fuel and transuranic waste disposal. In addition, the amendments would clarify that act to insure that prospective sites for high-level waste repositories are not endangered by activities carried on without the benefit of health and safety reviews.

This amendment has been drafted to insure that the Department of Energy can continue to explore regulatory sites and conduct research and development activities to develop the tremendous amounts of information required before the licensing process should come into play. It would not promote the speedy and competent development of waste repositories to engage the Department in licensing issues prior to thorough site exploration. It might be necessary to actually place quantities of waste in some rock to gather data on the effects.

The objective of the amendment is to insure that any geologic repository site which ultimately could be used for permanent disposal would be protected by independent safety review before major construction activities begin.

It is also important to clarify that due to the irreversible effects which placement of substantial quantities of waste would have on a geologic site, such placement cannot be considered merely a research and development activity. Any emplacement of substantial quantities of long-lived hazardous waste in a prospective permanent storage site must be accomplished within the licensing process, in order to protect both the site and the health and safety of the public. Were something to go wrong after such emplacement, officials would be forced to choose between a tremendously expensive and hazardous operation to retrieve the material, or the risky alternative of leaving the waste underground in less than optimum or inadequate circumstances. In either case, the site would probably be eliminated from our small bank of candidates for full-scale, long-term operation.

While continuing a policy of nuclear development, the Government has repeatedly made a commitment to insure that the toxic wastes are removed from the biosphere in a manner that protects our citizens and future generations. The amendments I propose today will provide statutory adjustments necessary for careful planning and implementation of our waste-management policy.●

THE HOUSE POSITION ON ABORTION

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. DORNAN. Mr. Speaker, I will be brief. A young couple from Virginia Beach has written me a truly inspiring letter concerning a little child of theirs who died shortly after birth as a result of anencephalia. Unlike the couple described in a Judy Mann article being circulated even now in the Senate in an attempt to promote abortion on demand in the military with taxpayer's money, Joel and Nancy Mandelkorn wanted their baby to live, even if briefly.

I urge my colleagues in the House and Senate, who might be tempted to abolish the House pro-life position, to read the loving thoughts this young couple shared with me.

The letter follows:

VIRGINIA BEACH, VA.,
November 30, 1979.

Hon. ROBERT K. DORNAN,
Cannon Building,
Washington, D.C.

DEAR CONGRESSMAN DORNAN: My wife and I write you in regards to an issue we feel is very important to our nation's future. It is the issue of abortion. In particular we have been provoked to seek your aid in voicing our testimony because of an article we read in the Navy Times magazine dated September 3, 1979. This article reports the testimony of a Mr. and Mrs. Denny Edwards who presented their opinion before the House Defense Appropriations Subcommittee. The Edwards' went through the heartbreaking experience of having an anencephalic child. We too had an anencephalic child. But in the light of our own experience it becomes clear that the Edwards' went through a different trauma that has left them bitter and burdened with a terrible grudge.

After considering their report and looking at our own experience, we feel that their decision and attempt to abort their child is the difference that resulted in such a negative and bitter outcome to their case. And because our country's present legal status has turned people to elect murder, rather than life, as a solution—one which not only fails, but actually creates more complex problems—we ask your help. We hope that our story will be helpful to our country's law-makers, that it might give insight and perspective and that they would do all within their power to promote right living through the laws of our land and discourage abortion in whatever ways that they can.

(My wife writes—still with tears as she remembers) "It wasn't until late in pregnancy, the eighth month, when we were told that our child would die at birth. It's difficult to describe the grief we experienced. We were heartbroken. Every time the baby moved my heart would ache, and I cried a lot. But during that last week before the birth, I grew to love the baby even more. Knowing that I wouldn't be able to love and care for my child made me cherish our remaining time together. We felt sorry for ourselves, but more for the baby. We were sad that its life would be over so quickly. The possibility of abortion never entered our minds. On August 14, 1975, after a mild and easy labor, and a natural delivery, our daughter was born. We named her 'Precious'. She was a beautiful little girl, only her skull-bone was missing. We had her brought to us for a short time. We told her of our love as we held her close, until the time came to say good-bye. She died a half hour later. My husband cried himself to sleep at my bedside. This heartbreak caused us to pull together as never before. Our memories of her are truly precious."

All through life each of us encounters difficulties, tragedies, and various hardships. It is how we face them and deal with them that is important. These very trials are what build character, teach us compassion and add depth to the lives we lead.

Anencephalia is detected late in pregnancy. Abortion will not erase the trauma experienced by the parents once they've discovered that their baby will die at birth. We believe that abortion would only add to the trauma. Late abortions not only subject the baby to an agonizing death, but can result in serious physical complications for the mother as well. When a couple finds that their child is dying with leukemia or some other fatal disease they don't seek to kill their child as soon as possible simply to alleviate their own anguish. They let the child die naturally and make his death as comfortable as possible. Likewise, shouldn't we allow an anencephalic child to die naturally and make his death as comfortable as possible?

The practice of medicine should not be above the law. Right and wrong should not be abandoned to the discretion of each individual. We urge you as a Member of Congress to stand up for that which is right and incorporate it into the laws of our land. Please remember that these babies aren't monsters—only poor, tiny, misfortunate human beings. All life is precious.

Thank you.

Sincerely,

JOEL and NANCY MANDELKORN.●

MASON WILLIAMS A SOLID CITIZEN

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. FUQUA. Mr. Speaker, December 5 marked both the 65th birthday and the retirement of John Mason Williams, Jr. from his position with the Buckeye Division of Proctor and Gamble at Perry, Fla.

With 44 years of service, 22 of which were spent in Perry and Taylor County, no other employee of any Buckeye Plant in the United States had served longer—nor might I add, with more distinction.

His job with Buckeye at the time of his retirement was to manage and implement recruitment of engineers for all Buckeye plants in the Nation. Prior to the creation of that position, he was employed in manaufacturing production.

A native of Madison, Ga., Mason spent most of his boyhood in nearby Monroe, Ga. He graduated from Georgia Tech University in Atlanta with a degree in chemical engineering. As soon as he received his diploma he went to work for Buckeye. His first job was at the Augusta, Ga. division, and over the years he has been based in Fort Worth, Tex., Memphis, Tenn., and Perry, Fla.

Mason and his wife, Ida, were married in Washington, Ga., in 1943. They are the proud parents of four daughters and two sons, all of whom grew up in Perry.

A member of the First Presbyterian Church of Perry for 22 years, Mason has taught a Sunday school class and sung in the choir since first joining the church.

One of his accomplishments which I most appreciate was his service as the chairman of the first Pine Tree Festival Queen Pageant in 1957 and the following year he served as chairman of the festival.

For those of you who do not know, Taylor County is the "tree capital of the World," and this festival honoring forestry and all aspects of the timber industry is nationally and internationally known.

Always active in civic affairs, he has served as president of the PTA, served as chairman of the March of Dimes and Red Cross drives, president of the Rotary Club, Girl Scout finance chairman and Boy Scout master.

And on a very personal note, I first met Mason through his brother-in-law, former Congressman Robert Stephens of Georgia. Bob wanted me to meet his sister and "in-law" and it was a great day for me that he did. Ida and Mason Williams are among my closest friends, and this lovely lady made all of those things he did worthwhile.

His third child, Martha, served on my congressional staff for 7½ years and just left to take a position as manager of the Savannah district office of Senator HERMAN TALMADGE. It is the Senator's gain and our loss.

His oldest child, Lucy, is married and has three children; while the second, Kate, is married and has two children. The third, Jane, is married and all three families live in Georgia.

A son, John Mason III, is a first-year law student at the University of Florida, and the youngest, Robert, is a senior at Taylor County High School.

Upon retirement, Mason plans to do a lot of fishing and hunting, play some golf and tennis, might even do some traveling. It will be pretty difficult to slow down someone as active as he has been.

My mind goes back to a newspaper article which referred to Mason as "Mr. Solid Citizen of Taylor County." As a company official, as a father and grandfather, as a husband, as someone interested in his fellow man, there is no way they could have described Mason Williams better.●

NATIONAL ENERGY POLICY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, December 12, 1979, into the CONGRESSIONAL RECORD:

NATIONAL ENERGY POLICY

Many Ninth District residents have wondered why Congress and the President have had such difficulty developing a national energy policy. I must agree that the government has wrestled with the task far too long.

There are several reasons, if not excuses, for the lack of bold action. To begin, some confusion exists as to whether there is an energy problem and, if so, whether the problem is one of scarcity or high cost. Second, there is great uncertainty about the impact of the alternative energy policies that might be implemented. Third, the energy problem is quite complex, with important and interrelated economic, social, political, environmental, and national security aspects. Some people are chiefly concerned about the effect of rising prices on oil company profits and the budgets of low-income families. Others think that higher prices will encourage more conservation and production of energy. Still others worry about damage to the environment and bad consequences for the health of the population. Finally, some people place primary emphasis on energy independence and national security. When these difficulties arise in the absence of a consensus on energy in the country, it is small wonder that Congress and the President have been so restrained.

In analyzing the energy problem, it may help to recognize that there are two basic dimensions: the short-term, which involves meeting the threat of an abrupt curtailment in the supply of oil, and the long-term, which involves adjustment to the high cost of energy. In developing energy policy, it is not easy to choose between short- and long-term objectives. What may be best this year may only make things worse in 1990, and vice versa.

Several policies would be useful in dealing with an abrupt interruption in oil supply resulting from such natural or intentional events as an earthquake or an embargo. The policies include an oil stockpile, a rationing plan, and an international scheme to share supplies. The government has already planned a strategic petroleum reserve of one billion barrels, but only 94 million barrels are in the reserve so far and new purchases have been suspended due to tight supplies and high prices. A stand-by gasoline rationing plan, however, has been approved, and an international oil-sharing mechanism is in existence. The United States and 17 other nations are committed to joint action to combat any supply shortfall in excess of 7 percent.

The long-term problem, the more serious of the two, is not the scarcity of energy. No one believes that the United States or any other country is going to run out of energy. The basic question is how to handle the high cost of energy, and the basic answer is to increase production of energy while limiting its consumption. The conventional way of achieving such results in our economy is the use of price as an allocator, but oil price has been controlled and the most vigorous of all the debates on energy has centered on the possibility of decontrol. The contestants in the debate are those who would let prices, profits, and the free market operate and those who fear the shortcomings of the free market and would prefer the government to take a role as overseer. The proponents of decontrol have argued that higher prices will bring more conservation, more production, and a rapid shift to alternative sources of energy. The opponents of decontrol have maintained that higher prices would not have these results, but instead would be both inflationary and inequitable. The choice, of course, is not necessarily between the opposing views of the proponents and opponents of decontrol. A policy combining market incentives with government action could be adopted. In fact, it is becoming clear that the nation is gradually moving toward a combined policy. There will probably be oil price decontrol accompanied, as a matter of equity, by additional taxes on oil companies.

The degree of government support for synthetic fuels and other non-conventional sources of energy has been a matter of interest as well. Government participation in basic research and development has been widely accepted, but government backing of demonstration and commercialization has been controversial. Although it is said that sufficient private investment will be forthcoming as energy prices rise, energy policy is apparently moving toward government backing of demonstration and commercialization on the grounds that national security and the high cost of developing synthetic fuels and other non-conventional sources of energy require it. Yet another matter of interest has been the issue of oil import quotas. President Carter has stated that the United States will never again import more oil than was imported in 1977. Quotas can cut consumption without a doubt, but they can also cause shortages and price increases. I see Congress as skeptical of the President's proposal on quotas, but Congress may go along if it can share responsibility for administration of the quotas.

I remain optimistic that the United States will make the necessary adjustments to changing conditions in the area of energy. Just as this nation has negotiated the transition from agriculture to industry to the post-industrial society, so it can negotiate the transition from present patterns of energy use to higher energy costs and new energy sources. I am not saying that the transition will be easy—for all, and for some more than others, it will be painful—but we should never doubt that we will eventually succeed in making it.

(Note.—Data for this newsletter are drawn from a report of the Congressional Research Service.) ●

WAYMAN PRESLEY OFFERS FRESH IDEAS TO NATION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. SIMON. Mr. Speaker, one of the most creative persons in my district—and in this Nation—is a retired rural mail carrier, Wayman Presley, who is responsible for constructing the largest cross in the United States and who built a multimillion dollar travel business in the most unlikely of places, the community of Makanda in southern Illinois, a town of less than 1,000 population.

Recently he sent Senator Kennedy a letter outlining a plan to bring those who are on welfare to small rural villages which would be constructed, making land which is now relatively unproductive productive once again.

As I see his plan it has some advantages and some disadvantages, but the idea is worth exploring. We have Federal funds to assist in building communities which are largely for middle- and upper-income Americans, like Reston, Va. Why not create a small village in a rural setting for those who are the poor, who need that help the most?

The advantages of the plan would appear to be:

First. It offers some in urban settings who would like to be in a rural area the chance to go to, or return to, a rural setting.

Second. It can be a source for on-the-job training for both construction skills and agricultural skills.

Third. It ultimately provides some relief to the taxpayers, as well as hope to those on welfare.

Fourth. It will increase food production in a world in which we will be needing all of it we can get.

The disadvantages—the areas where some work will have to go into careful planning—include:

First. It should not simply be a concentration of the poor, a rural ghetto which replaces an urban ghetto. We have learned the hard way that economic segregation is as much a blight on the Nation as is racial segregation. The plan should include some mixtures of economic status. My guess, for example, is that there might well be some retired citizens who would enjoy living in such a community and working only part-time.

Second. We must recognize that many of those who are on welfare are there because they have very marginal abilities and their managerial abilities may be limited. Not everyone can learn to be a carpenter or a welder or a farmer. There would have to be a careful screening process.

Third. Before there could be any massive movement into something like this there should be experimentation with two or three different small villages at different locations in the United States, using differing techniques, so that we can learn what works and what does not work.

But Wayman Presley—once again—has come up with an idea which ought to be explored.

I commend Mr. Presley's letter to the attention of my colleagues at this point.

The letter follows:

Makanda, Ill., *November 27, 1979.*

Senator Ted Kennedy,
Senate Office Building,
Washington, D.C.

Dear Senator Kennedy: The purpose of this letter is to propose a plan that will, if instituted on a massive scale, provide an economic boost for our country, give welfare recipients a meaningful control over their own lives; and through a reduction of the welfare rolls, provide relief from soaring inflation.

I am sending copies of this letter to other candidates for President, with the hope that one of you will see fit to include it in your platform. This plan has great popular appeal.

The plan is simply this: Create hundreds of self sustaining community farm villages on the millions of acres of unproductive and wornout land that now blankets several midwestern and southern states.

Plentiful rainfall, long growing season, abundant transportation, plenty of streams for water and the amazing manner in which this clay land responds to fertilization, makes this area capable of providing new homes and a livelihood for millions now in ghettos and on welfare. One has only to study first hand, as I have done, the great success Israel is having with its community villages, to realize what potential this plan has. Think what a blessing to the multitude of youngsters in ghettos to have such an opportunity to live in lovely little homes in beautiful surroundings and a future ahead of them instead of the bleak outlook on life they now have. And oh, what a relief to the taxpayers!

The Dixon Springs (Illinois) Agricultural Experimental Station has worked out the knowhow to make these clay hillsides highly productive. One has only to look at the family gardens throughout the area to realize its great possibilities. Station is operated by University of Illinois.

Here is how it would work: Blocks of land ranging from several hundred acres, to a few thousand, depending upon location, would be secured. House trailers, completely equipped, would be moved to the site. They would number, perhaps thirty, fifty or more at each village site. Selected families on welfare rolls would be moved into them. These people would leave their old clothes and furniture behind and move into a new surrounding. Workers in the families would then begin constructing new homes, bulldozing down the bushes, filling gullies, seeding the fields and on and on. As the new homes in the landscaped villages are completed, families would move into them, and the trailers moved on to the new sites to be used again and again. As workers become proficient they would go to new locations as supervisors, electricians, plumbers, carpenters, etc. This will be an incentive to them.

Acres and acres of fish ponds would furnish the protein our country so badly needs. Hillsides would be covered with the new solar-heated hothouses for raising fresh water shrimp and prawns by the new method recently discovered. Also winter flowers for northern markets. Great herds of cattle would graze across the rolling hills. Heavy land reclamation machinery would be moved from one location to the next. These possibilities go on and on as one lets the imagination go. Small industries in villages.

How to finance the villages until they are on a pay-as-you-go basis:

A massive fund would be created by imposing a windfall profits tax on gasoline and oil products. The public could be protected by a price limit on gasoline.

During the next five years this could amount to a hundred billion dollars or even more. This amount would establish more than a million families in new homes and with new jobs to enable them to pay for their homes. This money could then go into a revolving fund and be added to new money coming from the gasoline tax.

Let's say a family is now receiving a monthly check for $500.00. No expectation of it ever being paid back. Just a gift. When this family moves into one of these village homes, it would still receive a monthly check for the same amount but now it will be paid out of the fund as a loan to be repaid when the project is on a paying basis. The U.S. Government would have a mortgage on the homes and land until the loan was entirely repaid. No way for the Government to lose because the land would be increasing in value as it is improved.

No minimum wage involved here. The villagers would all be working for themselves. After receiving a living wage from the fund as they go along, the profits from the entire operation would be divided between them at the end of the year according to how many hours they worked. No share alike in this plan.

Each village would have recreational facilities. Each family would be required to keep their homes in good shape and apply themselves to the welfare of the entire operation or be moved back to their ghetto homes.

This is a plan that will benefit our national economy, the local economies of surrounding communities, the welfare recipients who are an enormous drain on our national budget, and the candidate who presents this plan to the American people.

You can reach me at the above address for additional information.

Cordially,

WAYMAN PRESLEY.●

THE NATIONAL HEALTH CARE MANAGEMENT CENTER

HON. EDWARD J. PATTEN

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. PATTEN. Mr. Speaker, under Public Laws 93-363 and 94-460, the National Center for Health Services Research established research centers across the Nation for the purposes of undertaking research on various aspects of the health system. The intent of the 1975 legislation authorizing these centers was to provide a 5-year funding base for each center.

I would like to share with my colleagues some of the marvelous programs of the National Health Care Management Center at the University of Pennsylvania. This center, designated in late 1976 is now in its 3d year of funding. In this time, the NHCMC has shown itself to be a major regional and national resource, and has made significant accomplishments in addressing problems faced in the health field. Indeed, many hospitals, institutions, organizations and health care providers in my own State of New Jersey have benefited directly from the work of the center.

Following are some specific areas of accomplishment that are illustrative of the contribution of the National Health Care Management Center:

Development of a plan for corporate monitoring of cost and utilization of hospital services of employees and their dependents. This effort, undertaken with the Philadelphia Chamber of Commerce and 30 Philadelphia area employers, has been instrumental in developing a fundamental means by which corporations can monitor health costs. The monitoring is leading to a better understanding of the causes of costs and means for their rational control.

Development and administration of a management audit tool for home health agencies for use in assessment of management practices, financial control and problem analysis. This effort, undertaken in cooperation with home health agencies in New Jersey, has resulted in an audit tool that can be self-administered by agencies, data that can be used to compare agencies, and a set of management priorities and continuing education courses.

Development of an experimental program to involve physicians in hospital cost containment decisions. This project, undertaken at a New Jersey hospital, has resulted in specific policy and administrative changes; the process has potential for adaptation to other hospital settings.

Development and assessment of alternative models for organization of blood bank facilities. This research, focusing on Chicago area facilities, has resulted in a new understanding of implications of alternative arrangements; policy recommendations are currently under study by Illinois area legislators and planners.

Development and evaluation of experimental program to identify incentives to avoid unnecessary utilization of laboratory procedures by physicians. This effort has identified reasons for unnecessary use of tests and is providing guidelines and methods for institutions to change physician behavior.

Development and sponsorship of innovative education programs for practicing health professionals on critical aspects of management, administrative and decisionmaking. Approximately 15 programs are offered annually with a total enrollment of 500.

Provision of a large volume of technical assistance to organizations across the country concerning management related problems.

In progress or in planning are a number of research projects focusing on improvement in health planning methods, cost containment strategies, experiments in vertical integration or services, and other areas.

I believe that this Center, and others like it are providing needed programs to promote cost containment and better management in the health care field. I would hope that each Member of Congress would investigate this marvelous program in their own areas and become fully aware of the contributions these fine Centers are making across the Nation.●

ALPEROVITZ AND FAUX ON THE STRUCTURAL PROBLEMS OF THE AMERICAN ECONOMY

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. CONYERS. Mr. Speaker, Chrysler, Uniroyal, Excello, Parke-Davis—these are some of the major corporations that already have announced plant closings in the Detroit area. Few industrial centers in the Nation have been spared this phenomenon. Ohio and Pennsylvania will be extremely hard hit by the recently announced shutdown of 15 steel plants by United States Steel. Southern California's tire industry is being decimated by the shutdown of Uniroyal, Firestone, and Goodyear plants, some of which will be relocated abroad—Goodyear is building a $34 million tire plant in Chile, which will employ 2,000 workers.

The tragedy is that the workers in these plants have the skills, experience, and the will to keep producing the products America and the world need. The factories they operate are all basically sound, although a good many have been made inefficient by the corporations' decisions to forgo modernization. Yet the workers—their families and communities—who are least responsible for these plant closings, are the ones who will suffer the most.

These factories are being shut down simply because their owners have decided they no longer need, or can derive big enough profits from, their continued operation. The owners conveniently label these factories "obsolete," contrary to all experience that shows even the oldest factories can be kept efficient when decisions are made to invest in their modernization. Neither the workers or communities affected, nor the Federal Government, ever have sufficient information with which to judge the facts in each situation, or the ability to reverse the corporate decisions once they are made.

Are we to write off entire regions of the country because there is no planning mechanism in place that anticipates economic shocks, competitive pressures from abroad, or the unavailability of capital to modernize older plants? Can we afford any longer to apply the haphazard, piecemeal approach, typically used by economic policymakers in the executive and the Congress, of putting out one economic fire after another, without ever addressing the larger issues of runaway capital, industrial decline, and massive unemployment?

The United States, alone among industrialized countries, lacks even the most rudimentary mechanisms for anticipating economic shocks and shaping economic changes. Japan's Government and financial sector are intimately involved in the investment and production decisions of its industries. Germany's large firms all have worker representatives on the boards of directors. France has a national economic planning agency. Besides their far more humane and liberal programs of social insurance, each of these nations has the wherewithal to anticipate and deal with economic shocks and dislocations.

Clearly, a new direction of labor, management, and public cooperation is needed in the United States to revive industry and protect the industrial centers of the Nation. A key to this cooperation is to create a framework of checks and balances, corporate and public, that protects industry's operational control, yet makes it accountable to the public interest. One possible approach is a compact among the three parties: corporations would be responsible for prenotifying workers and communities of their plans to modify or eliminate facilities, which would be subject to public review. Employees would have a significant voice in corporate operations, including representation on boards of directors as well as equity. Company decisions on investments, productivity, distribution of income would be jointly made. Government would be responsible for overseeing balanced growth across the country and of expanding energy supplies and allocating scarce energy, if need be. Serious programs for conversion and worker retraining would exist.

The alternative to a new direction in industry is likely to be continued economic paralysis and decline through interest group and sectional conflict at home and competitive pressures abroad.

Gar Alperovitz and Jeff Faux, codirectors of Washington's National Center for Economic Alternatives, published an op-ed article in the December 12 New York Times that examines very clearly the consequences of America's industrial decline. The commentary, "When Steel Goes Cold," ought to be read as widely as possible, for the issues it raises are terribly urgent. I recommend the Alperovitz-Faux article, that follows, to my colleagues:

The article follows:

WHEN STEEL GOES COLD

(By Gar Alperovitz and Jeff Faux)

WASHINGTON.—The permanent layoff of 13,000 workers by United States Steel is the latest reminder of the high cost to America of not having a comprehensive industrial policy. In steel, as in the Chrysler case and recent plant closings in the electronic, shoe, rubber and textile industries, Federal economic-policy makers treat the corporate convulsions that characterize our industrial decline as separate illnesses requiring separate treatment. Many believe that the cure for steel's troubles is higher import restrictions, and for Chrysler, Government loan guarantees. The result is a choice, on the one hand, between protectionism or subsidies that can encourage inefficiency and, on the other, the wholesale destruction of major industries, their suppliers and the surrounding communities.

Neither choice is satisfactory. So long as we refuse to face the question of national planning, however, economic policy will continue neither to abet, nor prevent, industrial decline. Our economic difficulties are partly international, but the place to begin solving them is at home. A more realistic approach to steel's problems would recognize that the industry's fate is substantially tied to the economy's overall growth and direction. Yet current national policy—generally supported by the leadership of both parties—is to keep our entire productive system operating below capacity to stem inflation. A more sensible antiinflation policy would aim to expand supply in such inflationary sectors as housing and, for instance, to increase conservation to reduce dependence on high-cost foreign crude oil.

A comprehensive, alternative anti-inflation plan aimed at specific sectors could allow resumption of economic growth. Sustained national demand could solve one major part of the steel industry's problem. The issue of planning arises also because of the industry's significant dependence on the auto business. The demand for small cars may sustain a reasonably-sized auto industry for some time, but rapid growth is a thing of the past. It makes sense to point steel production, and the auto industry's excess capacity, toward our substantial needs for rail and mass transit over the next 20 years. This requires a conversion plan that links energy, transportation and steel policies. America today manufactures only 5,000 buses a year as compared with Western Europe's 100,000.

Another factor in steel's decline has been lagging productivity, with labor blaming management for failure to invest and management blaming unions for inefficient work rules, and both blaming the Government for its environmental regulations. Neither management nor labor has covered itself with glory in this sterile debate. The central question is how to raise productivity. Again, the performance of the entire economy is crucial. The maximum incentive for management to invest in more-efficient capital equipment comes when sales are high, labor is scarce and there is confidence in the long-term stability of demand. None of these conditions is satisfied by a crisis-oriented, stop-and-go economic policy. In addition, labor's efficiency is increased when workers participate in ownership and in decisionmaking. Even in the steel industry's generally unimaginative climate, experiments show that more worker participation can result in increased productivity. Several Congressmen have been pressing for increased encouragement of worker ownership and participation in American industry; some have urged it as a condition for aiding Chrysler.

Despite great hand-wringing over America's low productivity rates, however, there seems little understanding of the issue in the Carter Administration. An innovative demonstration project with potential for major increased productivity was put forward with significant steelworker concessions last year by Youngstown, Ohio, civic and religious leaders, but was turned down by Administration officials, who showed little interest in its productivity features.

Other industrial nations are much further along. The Japanese, French and West Germans have in varying degrees developed coordination between steel operations, overall economy policy and the adaption of institutional arrangements between management and labor to meet the realities of the changing economic world. Increasingly among the more successful industrial nations, governments use a variety of incentives to achieve public goals rather than to bail out private business. Many of these specific arrangements are not appropriate for the United States, and none are perfect. But despite the substantial relative decrease in American labor costs accompanying the falling dollar, the competition is beating our brains out. They must be doing something right.

This is not only a matter of economic policy. The recent steelworker sit-ins at the United States Steel offices in Pittsburgh warn that labor unrest and urban violence could increase dramatically in the 1980's if we refuse to take responsibility for our economic future.●

THE EDITORIAL LINE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. LAFALCE. Mr. Speaker, the rebirth of investigative reporting in the 1970's has brought with it a panoply of provocative stories, many of which have aided and abetted legislative changes to address societal problems. This form of journalism has unearthed scandals in nearly every sector of our society and has cast light into some of our Nation's darkest corners.

But, the growth of this style of reporting—a form of journalistic advocacy—has left the role of the editorial in doubt. As our newspapers, periodicals, and broadcast media devote increasing attention to developing analyses of societal problems, the legitimate role of the editorial and the line between news and opinion have both grown fuzzy.

"Fuzzy" is the term used by a good friend of mine, Millard Browne, editorial page editor of the Buffalo Evening News, to describe the line that ought to separate straight news stories and analytic commentaries by reporters or editorial writers. As Browne notes in a recent column in his newspaper, the cause of this "fuzzing" is the "activist journalism that stretches news, interpretation and analysis more and more into opinionated commentary and outright editorializing."

Browne points out, correctly, that no news medium can or ought to be free of opinions and commentary. But the point he makes, and which ought to be discussed further among reporters and editors, is the need to clearly distinguish the news story from the opinion piece. Making such distinctions not only aids the reader, but also serves to protect the credibility of the newspaper or television network that carries an opinion by one or more of its employees. Making such distinctions would also help serve the public interest much better.

Millard Brown's article from the December 9 issue of the Buffalo Evening News follows:

NEWS/OPINION LINE CAN GET A LITTLE FUZZY

(By Millard C. Browne)

In his Tuesday column, "The News: Your Newspaper," my editor-colleague, Murray Light, has discussed many of the problems and judgment calls that have to be made daily in handling the news side of a newspaper. So maybe it's time for me to pick up the ball and talk about where news leaves off and opinion begins.

Actually, that line is a lot harder to define these days than it used to be. It is the subject of one of the biggest arguments going on within today's journalism. It pits old-timers raised in the strictly-objective who-what-where-when-why school of journalism against many of the brightest young reporters who are committed to an "activist journalism" that stretches news, interpretation, and analysis more and more into opinionated commentary and outright editorialzing.

I even have a son in the business (elsewhere) who has asked the heretical question, in my own household, whether editorial pages aren't getting obsolete.

Not to me, they aren't. But then I'm one of the old guard who likes a neat, clean line between news and opinion, and I worry when I see the line fuzzed either by news-writing that is too opinionated or by opinion-writing that is too bland.

The problem is partly one of labeling opinion wherever it appears. On this, the American Society of Newspaper Editors in its "statement of principles" says: "Sound practice demands a clear distinction between news reports and opinion. Articles that contain opinion or personal interpretation should be clearly identified."

This is not to say, of course, that they all have to be put on the editorial page. That would be absurd in today's complex mix of frankly-labeled commentary, reviews, advice and analyses that appear all over the paper—on everything from hobbies to homemaking, from second-guessing the Bills and Sabres to lambasting a substandard movie or concert. Opinion belongs on a lot of pages besides this one.

But beyond the problem of labeling, there is the problem of focus—of using a clearly-marked opinion page to help readers focus on what, in the welter of all the day's happenings, is important for them to think about. And that, the "opinion function," is our bag, here on the editorial page. Our job is not to report the news but to comment on it, to add it up, to make policy judgments about what it means, which happenings are important and what, in the public interest, should be done about them. In doing this, our hope is to be provocative—especially to provoke readers to do their own thinking.

This one part of the paper is kept separate from the news side—co-operative but a little bit aloof. And generally with good reason, in my view—both in that it helps readers avoid confusion between what is news and what is opinion, and in the way it focuses The News' talent more sharply on the thing each of us is responsible for. The conscious effort to avoid having editorial-policy judgments influence news-handling judgments, and vice versa, thus helps both sides to practice a better-disciplined quality of journalism.

It tells reporters, in effect: "Don't try to judge all these newsmakers you're writing about, just tell the readers what's happening." And it tells editorial writers: "Don't try to retell the whole story, just tell the readers what you think it means, what to make of it, how to fix it, what to do about it."

Time and again, our team—the editorial writers—will check with reporters for more background, more facts, on which to base editorial judgment calls. Often reporters will tip our side off on stories coming up on their beats that cry for comment. But having each side doing its own thing not only makes for a sharper line between news and opinion, but it makes for sharper opinions by those who are paid to write them.

My four editorial-writing colleagues—in order of seniority, Leonard Halpert, Lee Smith, Larry Paul and Norm Rowlinson—are all fully professional journalists, graduates from reporting and copy-editing experience who gravitated to editorial writing a long time ago. When they did, they started reading the news and digging out its meaning in a very different way.

They all develop their own areas of expertise, but they also all participate in vigorous daily discussion and debate over "what The News should say"—about everything that any of us thinks we ought to be editorializing about.

At least half of our work consists of general reading and research, to cull the wheat from the chaff, the important from the marginal or the merely interesting—to draw a bead, in short, on the particular subjects that call most clearly for comment that day. The other half is the specific research, writing, checking and often rewriting, of the editorials we print. They are unsigned, because the whole effort represents an effort in group policy-making—in speaking not for ourselves individually (as I do here), but for The News as an institution.●

ONE PILOT'S FIGHT AGAINST THE AGE 60 RULE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. PEPPER. Mr. Speaker, as you know, the House passed the Experienced Pilots Act, H.R. 3948, Wednesday with the amendment offered by the gentleman from New Jersey (Mr. HOWARD), to limit the bill to a study. I was extremely disappointed that my colleagues voted against eliminating one of the last vestiges of age discrimination—the age 60 mandatory retirement rule for airline pilots. Ironically enough this vote on the 20th anniversary of the original promulgation of the age 60 rule as well as the 60th birthday of the pilot who spearheaded the fight against the age 60 rule and has worked tirelessly to get this bill through Congress. He was instrumental in organizing his fellow pilots in support of the bill and dedicated himself to the cause of eliminating age discrimination.

Thus, it is indeed ironic that as of this past Wednesday, Captain Young who all of us know is healthy, vigorous, mentally alert, and competent is ineligible to fly a commercial airplane. It seems a shame that Captain Young should be denied the benefits that he so determinably strove to achieve for both himself and his fellow pilots. For this reason, I am introducing a private relief bill for Capt. Jack Young. It contains the same provisions contained in H.R. 3948, but will apply only to Captain Young. It is my feeling that he is both able and willing to continue to fly until the NIH study is complete but that would be conditional on his passing four FAA examinations a year. Please give this man the chance to prove his health and ability and join with me in urging the hasty passage of this legislation. Captain Young's dedicated and inexhaustible efforts will not be in vain.●

TELEVISION DIPLOMACY AND TERRORISM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. LAFALCE. Mr. Speaker, the interview with the young marine corporal in Tehran is but another example of the Iranians' wish to circumvent normal diplomatic channels and conduct diplomacy on and by television. Despite the U.S. Government's repeated efforts to approach whatever regime exists in Iran, the Ayatollah Khomeini and his followers steadfastly refuse to deal with our Government and attempt to appeal directly to the American people. Although they have no understanding of the real situation in this country, the Iranians certainly have a keen grasp of the propaganda possibilities of the electronic media. I want to share with my colleagues an insightful article from yesterday's Washington Post, by Tom Shales, on this important aspect of the Iranian crisis.

The article follows:

TERRORVISION—THE HOSTAGE SPEAKS: PRIME TIME IN TV-SAVVY TEHRAN

(By Tom Shales)

CBS News correspondent Tom Fenton was finishing his stand-up report near the American Embassy in Tehran when demonstrators began crowding around the camera crew. He thought things might get out of hand when suddenly a demonstrator rushed forward to ask him, "CIA?"

"No," Fenton replied quickly, "CBS!" He and the demonstrator, and many in the crowd, broke up laughing.

It was another little irony in a situation riddled with paradox. The capture of American hostages in Iran has moved well into its second month and become television's first, live, Global Crisis Mini-Series. Depending on its outcome, it may be anything but the last.

NBC News president Bill Small says one of his producers recently moaned, "I look forward to the day when our lead is not Iran," but no one knows how far off that day is. The sight of chanting, fist-waving mobs has become part of the fabric of everyday lives for millions of Americans through TV, and one can't be blamed for wondering if some dank new age has now been ushered in—an age of Terrorvision, in which the term "air power" takes on an entirely different meaning.

Last night's NBC News interview with Marine Cpl. William Gallegos of Pueblo, Colo., taped earlier in the day at the U.S. Embassy, may have been the most powerful broadcast yet out of the heavily televised trouble spot. It was the first chance for American viewers to see one of the hostages in captivity, and it made an uncommonly compelling 18 minutes of grim reality television.

Although Gallegos did not appear visibly traumatized, the sight of him suddenly personalized the story as it had not been previously. "The students here have been really good to us: it's hard to believe, I know," Gallegos told two NBC reporters in an embassy room dominated by a poster of the ubiquitous Ayatollah Khomeini.

The Iranians were operating the cameras, which occasionally panned to lingering shots of anti-shah posters, particularly during a five-minute harangue by a spokeswoman identified only as "Mary."

NBC News could have edited the interview, a spokesman insisted last night, but chose, on the advice of correspondents in Tehran, to run it in its entirety. This left the natural tense rhythms of the session intact and made the broadcast all the more gripping, if all the more bizarre, a spectacle.

The network had planned to air the interview at 9 p.m., and promoted it heavily with the sensationalistic title: "Hostage! The First TV Interview." But at the appointed hour the spectre of debacle loomed; correspondent John Chancellor told viewers the satellite feed from Iran was "delayed because of technical difficulties."

He also said the difficulties could be "not technical but political," and that Iranian authorities might have decided they didn't want the interview seen. But it finally came on the air at 9:46.

An NBC News spokesman said immediately after the broadcast ended at 10:14 that there was no evidence of sabotage and that it was being assumed the problems were accidental. Chancellor was quick to point out to viewers, following the interview, that it left many questions unanswered and contradictions and inconsistencies with what had previously been learned about the hostages and their treatment.

But as is so often the case with television, it was not so much what was said as what was seen and perceived that gave the interview its impact.

NBC News officials defended concessions they made to the Iranians, in order to get the interview, with remarkable consistency. An NBC News spokesman said yesterday that the statement made by "Mary" helped demonstrate the "intensity and depth" of Iranian feeling. Later, Small said the statement would show the "intensity and depth" of Iranian feeling.

And finally, on the telecast itself, Chancellor spoke of the "intensity and depth" evident in the statement.

Newspapers are certainly represented in Iran as well, but television and its dramatic pictures have brought the living story into the American living room. The White House and State Department aren't seeing a lot of this stuff even one instant before it is made available to millions of American viewers.

What viewers often see are huge crowds of Iranians demonstrating their hatred for the United States, and yet if there weren't official Iranian cooperation with U.S. TV networks, those pictures might never cross the Atlantic. And network news personnel stationed in Iran have, for the most part, felt little threat to their own safety.

"I wouldn't rate it as a very dangerous story," says Fenton, now in London after three weeks in Iran. "It's a problem of the cultural gap. Americans don't realize it's just Persian hyperbole when the crowds chant 'Death to Carter.' They're not ready to slit the throats of Americans by any means.

"At the same time, the Iranians don't understand Americans. They have absolutely no idea how furious Americans get when they see their flag burned or their President hanged in effigy."

The Iranians are, literally, sending out a signal, one that literally goes over the heads of official diplomats—by satellite. Each day the networks get 2½ hours of satellite time via the state-controlled VBIR. "Revolutionary Broadcast Center." With some exceptions, this operation has been running along swimmingly.

"They have been edgy and shoved some people around," says Ernest Leiser, CBS News vice president, "but they are dying to get their message across." In this age of instant communication, exposure is power and access is politics.

The Iranian television show isn't being produced purely for the consternation of Americans, either. Demonstrations are also covered by Iranian TV. Not for nothing was Sadegh Ghotbzadeh promoted from head of the Iranian television authority to foreign minister—a move roughly comparable to a U.S. president naming Fred Silverman secretary of state.

Yesterday in Tabriz, pro- and anti-Khomeini forces battled for control of a central power source: the television station.

AIR TIME IS POWER

Meanwhile, how do the American networks know they aren't being used by the media-hip Iranians? "We don't want to be used by them, but we still want to get every tidbit we can about everybody," says Robert Siegenthaler, director of special events for ABC News.

"These people are tremendously media-conscious." Siegenthaler says. "The Revolutionary Council are like cheerleaders with bullhorns—truck drivers one day, ladies and self-flagellators the next—and so we try to keep using words like 'orchestrated' and 'well organized' so that we're not being a kind of mindless mirror. We are trying not to be victimized."

The object all sublime is to get on television, to make that direct entry into American—and Iranian—homes and minds. No one in TV journalism quarrels with the idea that the Iranians are trying to use the press—only with the suggestion that they are succeeding. Some of the attempts at manipulation are as rude as this: ABC News personnel have been approached by strangers claiming to have secret tapes of the hostages taken inside the embassy and offering them for sale. It's on a level with the porno trade and "no one has bought the Brooklyn Bridge yet," says Siegenthaler.

Fenton says the students are getting so "savvy" about TV exposure that they have offered him "secret government documents" in exchange for "five minutes of unedited air time." Time may be money, but Air Time is power.

Finally, this weekend, after two more offers the networks all felt they could refuse, NBC News came up with a counteroffer; they got the Gallegos interview in return for giving a militant Iranian a few minutes to state her case on prime-time television. At CBS News, NBC's move was looked down upon as a capitulation to manipulation.

But NBC's Small said, "If I were at one of the other networks, I would like to have this myself. We think it is a terribly important public service to present the first interview with a hostage in the embassy. I'd hate to think someone got so righteous as to say we shouldn't do this. We need all the insights into this situation that we can possibly get."

Small said that although Iranian representatives were present when the tape was edited in Tehran, they had no say over how it was edited. The "Tonight Show" was canceled and a one-hour late-night analysis scheduled, Small said, to make it clear what the circumstances of the broadcast were. "I don't think our viewers are going to be fooled," he said.

As usual, pro-Khomeini Iranians in the United States were undoubtedly monitoring the NBC broadcasts and reporting their reactions to the folks back home. Let's say the Iranians are very image-conscious—so much so that CBS News was briefly denied access to the satellite on Friday because Iranians here took offense at remarks made earlier in the week by writer Carl Rowan on WDVM-TV, the CBS affiliate in Washington.

CBS was about to send back a report on anti-Khomeini demonstrations in Tabriz when the Iranians pulled the plug on the satellite. It took "hours" of haggling to get back the bird, a CBS News source says.

By insider's estimates, each network has already spent between $500,000 and $750,000 covering the Iranian crisis. Expenses in Tehran alone amount to $75,000 a week for each network. Unanimously, network news exectives say the public is rewarding this effort with lavish attention. ABC News, which has been the leader in the amount of Iranian coverage broadcast, has found that its late night reports have on occasion out-rated entertainment programs on other networks, including NBC's "Tonight Show."

TV STRATEGY

Even if State Department spokesman Hodding Carter III hadn't brought it up—and infuriated the networks—with his recent remarks, the question of where coverage ends and participation begins would naturally have arisen during this story. No one complained much when it appeared that Barbara Walters had helped talk Sadat and Begin into a powwow for peace during the media blitz on the Mideast in 1978.

But in a situation as fraught with potential calamity as the Iranian crisis, there is natural concern that TV's penchant for participatory journalism could endanger lives or prolong the ordeal.

Ed Fouhy, Washington bureau chief for CBS News, thinks such talk is just idle steam. "That 'TV diplomacy' stuff is nonsense," Fouhy says, "It's untrue. It's a base canard. I'm inclined to use the old Fred Friendly answer: Colonials threw tea into Boston Harbor, and there weren't any cameras there."

"We are not negotiating—far from it," says Fenton of CBS. "But we are looking for anything that might be an opening. You couldn't help feeling that if there as anything that looked like a possible compromise, it was worth promoting."

ABC's Siegenthaler rejects Hodding Carter's notion about the ayatollah allegedly hardening his lined uring the network interviews; "I don't go for that at all." But Siegenthaler did say that covering a situation in which hostages have been taken does bring up its own set of problems—a set of problems the world may see a great deal more of in the electronic '80s.

"In the mid-'70s, when we had the Moluccans and the Hanafis, we went through a whole set of jazz about how do you deal with a hostage situation," Siegenthaler says. "Deejays were calling the Hanafis inside the buildings they'd taken over, and all that. The thing is, no general set of rules applies to every situation.

"We can't consider suppressing the news, or lying doggo, or only reporting what the police tell you. It's a terrible, thin line to walk, and sometimes, I guess, we stray."

"One of the most disturbing things to the press over there is when correspondents are accused of trying to negotiate," says Walt Garrity, an NBC News unit manager who just returned after 15 days in Iran. "It's an injustice. Because they ask a question doesn't mean they're negotiating. The government emissaries couldn't get in, anyway."

This line, however, leads inevitably to other conjecture: Would the tactics being used by the Iranians ever have been considered if television's global link-up weren't there to beam the message back to Americans? If TV strategy is part of the Iranian plan, isn't television a participant no matter how hard it tries not to be?

"The funny thing is, we had so much trouble getting into Iran a year ago, and you couldn't even get near that TV station," says Burton Benjamin, director of news for CBS News. "But now there's no trouble. Obviously they want their message to get out."

And NBC's Garrity says, "We had a nice relationship with Iranians. They like Americans over there. The people feel wronged by the United States and various administrations, and they'll shake their fists and shout 'Death to Carter' at you, and then they'll smile and tap you on the shoulder. They have an honest liking for the American people, and some of them are damn decent to talk to."

News executives will not talk on the record about how this attitude might change should worse, as it has throughout world history, come to worse. There is talk of a civil war in Iran that might endanger the press along with every other American. Privately, government sources note that even if there were a way to free the hostages, that would still leave 100 American journalists now headquartered at the Intercontinental Hotel, which militant students roam at will.

"No one wants to think what would happen if there were a rescue attempt or some kind of punitive action taken," Siegenthaler says.

THE COVERAGE CONTINUES

It's ABC that has played this story the heaviest, with more hours of special reports than the other two networks combined. ABC has even prepared a fancy electronic logo for each report: "America Held Hostage," the program is called. All three networks are now ballyhooing their coverage with promotional announcements, each implicitly claiming that the bad news is better on one network than the others.

In addition to the overseas crews, network news departments are maintaining 12-hour shifts of crews at the White House, State Department and, now, at the temporary residence of the shah in Texas.

There is no sign that the American people are tiring of the coverage. "The only way we have to measure that is audiences," says Leiser of CBS, "and ours and ABC's are huge. We're getting a 13 rating at 11:30 at night and that's only a couple of points behind the evening news."

ABC has promised nightly reports as long as the situation in Iran "remains critical." At the other networks, this is quietly considered more a matter of showmanship than journalism.

"There's not a story to do every night, no," says Fouhy of CBS News. "To commit in advance, not knowing what the news will be, is obviously overkill."

If ABC's approach may be unprecedented, so is the news story. Even if there were no other positive side to the crisis, Americans are learning more about the temperaments, politics and geography of the Islamic world than they have ever had a chance to learn before.

"We're getting very good feedback," says ABC's Siegenthaler. "There's a technical crew in Detroit that stays on after the local news at the affiliate there just to watch our Iran shows. To know as much as possible can only be good for people. If they see the situation reported with all its nuances, I think there is less tendency toward jingoism and xenophobia."

And Iranians on the streets of Tehran seem determined that Americans will know "as much as possible" about their side of the stalemate. Fenton says it was not uncommon for Iranian passers-by to offer him and his crew advice on camera angles, help set up the tripods, even help plug in the video cameras. "We are part," he says, "of their game."●

VIVID REPORT FROM REFUGEE CAMP

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. SIMON. Mr. Speaker, for 5 weeks, the attention of Americans and those throughout the world has been riveted on Iran. The crisis there has brought together many Americans in their support of the President's search for peaceful solutions to this situation.

There is another issue that has produced a positive and deep response from the American people and that is the hunger problem in Cambodia. Money and offers of assistance continue to flood the many voluntary agencies working in Cambodia, but the fight to save the lives of thousands of starving Cambodians continues.

Ann Morgan, the daughter of Mr. and Mrs. Marshall Morgan of Marion, Ill., is an outstanding person in every respect and has recently returned to Thailand as a Peace Corps volunteer and leader. This is her third tour of duty in Thailand and she has been working in a refugee camp on the Cambodian border. Recently she wrote to her parents about her first several weeks in the camp. This letter which appeared in the Marion Daily Republican, describes so well the daily struggles experienced by both Cambodians who have left their country and fled to Thailand and by those who are offering whatever assistance they can to help the refugees. I am inserting a copy of her letter in order that we may all get a glimpse of what is happening in Southeast Asia.

The letter follows:

Dear mom and dad:

You're probably wondering what's happened to me. I know I promised to call from San Francisco, but my stopover there was cut short by a call to return to Bangkok immediately. I hardly got off the plane here before going immediately down to the border to help out with the influx of refugees from Cambodia. I've been working in the camp for two weeks now. I'm sure you've been hearing about the problem on T.V. Fifty thousand Cambodians came in all at once, and the camp had to be set up in a matter of days. If there is a hell, it has to look like what I have seen there. During the first few days, the sick were dying in the mud simply because they were too weak to raise their heads. I carried out fifty bodies from just one hospital tent the first day.

The makeshift hospital we set up hardly deserves the name. There were no cots, no walls, no food except the dirt. People were lying and dying on straw mats. Literally everyone was malnourished. They were nothing but bags of bones, 80 percent have malaria, complicated by pneumonia and beri-beri. Many were missing arms and legs. The children were the most pitiful. They just lie there quietly and die.

I guess the silence of the camp was what struck me most. Fifty thousand people, and you couldn't hear a sound. It was a silence of desperation and hopelessness. I worked mostly in the infectious ward of the so-called hospital. We couldn't do much. We washed people, cleaned up diarrhea, cut hair full of lice, put ice packs on the fevered and carried out the bodies. Every day there was a stack higher than my head of bodies to take from the camp and bury.

I guess my best contribution was to organize the many volunteers who came to help. That's why I was sent there, anyway. I suppose you have heard that Rosalynn Carter came to visit. I met her briefly. I don't know how much her visit will help, except to call attention to the most devasting tragedy since the genocide of the Jews in WWII. It seems there is no end to it. We expect another 110 thousand Cambodians within the next two weeks. I assume that the Peace Corps staff will be called upon again when the next influx occurs. It's all right with me. God knows they need help, and we are glad to provide whatever assistance we can.

I just can't tell you what a powerful affect it has. I can't close my eyes without seeing scenes from the camp. One woman who was dying with TB asked me to take her baby and raise it. Had I been able to get the child out of the camp I would have done so. Another woman, nothing but bones and covered with ulcerating sores, fought for life for a week before she finally died. We all cried when we had to carry her to the dead tent. One little boy had bloody dysentery for two weeks. He sat by his cot, uncomplaining, for the whole time while clots of blood ran from his anus. The last thing he did was look up at us and smile. Then he turned over and died.

There are 400 orphans, we think. Children tell us of having seen the Pol Pot forces slit the throats of their parents. Those are the ones who know they are orphans. Others simply haven't seen their parents for a year or so and can't be sure whether they are alive or dead.

I know you will understand if you don't hear from me for a few weeks. I may have to go back down to a new camp with very short notice. Please don't worry. The camp areas are certainly safe, if not pleasant. And, when I'm down there, I really feel as if I'm doing something that helps a lot of people.●

COMMONWEALTH OF VIRGINIA PUSHES FOR NUCLEAR PLANT LICENSING

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. WYDLER. Mr. Speaker, in the past 2 weeks on the floor of the House we have seen the Members demonstrate their collective will on the question of nuclear power development. The defeat of the Markey nuclear moratorium amendment by 119 votes sent a strong message to our citizens and the rest of the world that we intend to move forward, incorporating the lessons of Three Mile Island.

It is also worth pointing out that, as Mr. BROWN and Mr. UDALL discussed in the debate on the Nuclear Regulatory Commission authorization bill the Commission should move ahead with the issuance of operating licenses for new nuclear plants, given a case-by-case assurance that these plants will incorporate the lessons learned from Three Mile Island.

In this regard it is worth noting a specific case of a nuclear plant whose operating license is pending, that is, the North Anna Unit No. 2 of the Virginia Electric & Power Co. The State Corporation Commission of Virginia wrote a strong letter to the President calling for the NRC to move ahead with the granting of this license because of the financial burden and question of reliability posed by the delay.

I recommend this letter to my colleagues who are interested in a sane pursuit of the nuclear option:

COMMONWEALTH OF VIRGINIA,
STATE CORPORATION COMMISSION,
November 27, 1979.

Hon. JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing to express our disappointment with the Nuclear Regulatory Commission's recent statement that it would postpone all licensing proceedings until it has been able to consider all of the recommendations contained in the various investigations of the incident at Three Mile Island and the unresponsive attitude by the Nuclear Regulatory Commission regarding previous communications to them from us and others on behalf of Virginians.

The Nuclear Regulatory Commission's decision to refuse to perform its duties has grave economic consequences for Virginia. Virginia Electric and Power Company's North Anna Unit 2 is directly affected by this decision. Unit 2, which represents an investment of approximately $508 million, was scheduled for licensing in July, 1979 but, it now appears that a license will not be forthcoming until the second quarter of 1980 at the earliest. As a result of this unit not being placed in service increased reliance must be placed on the use of oil for the generation of electricity. Because of the difference in price of these fuels it has been estimated that the cost of replacement generation is approximately $12–$13 million per month more than it otherwise would be. Additionally, because of the interest charges on the capital investment the completed cost of North Anna increases by approximately $4 million per month for each month the unit is delayed being placed into commercial operation. Along with the financial burden imposed on the Company and its customers, as a result of the decision to postpone licensing, the reliability of service is significantly decreased.

North Anna Unit 2 is a sister unit of North Anna Unit 1 which was placed into commercial operation on June 6, 1978. The operation of Unit 1 has been extremely successful since that time and there is every reason to believe that Unit 2 will perform in the same manner.

There is no justification for the NRC's decision to further delay licensing proceedings. Unless the NRC can produce specific findings that commercial operation of Unit 2 would have an adverse impact on public health and safety we submit that the NRC's decision is counterproductive to the national interest of furthering energy independence and is certainly detrimental to the economic well-being of the businesses and residents of this Commonwealth.

We respectfully request your intervention on behalf of the people of Virginia by exerting the influence of your office to have the Nuclear Regulatory Commission resume the licensing procedure for Virginia Electric and Power Company's North Anna Unit 2 without further unnecessary delay.

Very truly yours,
JUNIE L. BRADSHAW,
Chairman.
PRESTON C. SHANNON,
Commissioner.
THOMAS P. HARWOOD, Jr.,
Commissioner.●

THE ACTIVITIES OF THE SUBCOMMITTEE ON HEALTH AND SAFETY OF THE EDUCATION AND LABOR COMMITTEE DURING THE 96TH CONGRESS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. GAYDOS. Mr. Speaker, the Subcommittee on Health and Safety has conducted extensive oversight hearings during this 1st session of the 96th Congress on the Federal Mine Safety and Health Amendments Act of 1977 and the Occupational Safety and Health Act of 1970, two statutes subject to the jurisdiction of the subcommittee.

A. THE FEDERAL MINE SAFETY AND HEALTH AMENDMENTS ACT OF 1977

Prior to 1977, metal and nonmetallic mines were subject to the provisions of the Federal Metal and Nonmetallic Mine Safety Act of 1966. This act did not require any minimum annual inspections of surface mines, citations and fines, or training programs for miners.

On the other hand, coal mines were subject to the provisions of the Federal Coal Mine Health and Safety Act of 1969, which did require a minimum of four inspections per year in underground mines and citations and fines.

The 1977 act brought all miners under the protection of one law. It repealed the Federal Metal and Nonmetallic Mine Safety Act of 1966, and upgraded many of the provisions of the 1969 Coal Act, which now apply to all mines and miners. Accordingly, metal and nonmetallic mines are now subject to a minimum of four annual inspections for underground mines (as coal mines have since 1969) and two annual inspections of surface mines (the same as for coal mines). Also, metal and nonmetallic mines are now subject to mandatory citations and fines for violations of standards. Finally, the 1977 act requires that all newly hired inexperienced underground miners must receive no less than 40 hours of training while newly hired inexperienced surface miners must receive no less than 24 hours of training

Accordingly, the 1977 act resulted in a substantial change in the procedure for insuring the health and safety of metal and nonmetallic miners.

The concern of many mine operators with the 1977 act was reflected in several Members of the House sponsoring legislation which would have amended the 1977 act to exclude nonmetallic mines from the jurisdiction of the act.

The subcommittee responded to these concerns and conducted 14 days of oversight hearings in 1979. The emphasis of the hearings was on the impact of the 1977 act on the sand and gravel, limestone, crushed stone, surface clay, and colloidal phosphate mines.

Several Members of the House testified before the subcommittee, as well as representatives of crushed stone, limestone, sand and gravel, colloidal phosphate, and surface clay mines, the National Association of Counties, the United Cement, Lime, and Gypsum Workers International Union, the United Steelworkers of America and the Honorable Robert B. Lagather, Assistant Secretary of Labor for Mine Safety and Health.

During their testimony, industry representatives referred to certain matters as being the most significant to them. In his appearance before the subcommittee on October 30, 1979, Assistant Secretary Lagather responded as follows to these contentions in an attempt to clarify any misconceptions, as well as to point out actions which have been taken, or plan to be taken, by MSHA with regard to these concerns:

First. According to industry spokesmen, sand and gravel and stone operations are safe operations and should not be included in a mine safety law which also applies to coal and metal mines. However, Assistant Secretary Lagather pointed out that in each year since 1974, sand and gravel and stone operations have consistently accounted for about one-half of all metal and nonmetal mining fatalities. Since 1974, the sand and gravel fatality rate has been consistently higher than the overall rate of all metal and nonmetal mines. The injury-severity rate for sand and gravel operations has been consistently higher than the overall metal and nonmetal rate for the same period. With respect to stone mining, the disabling injury frequency rate has been higher than the overall metal and nonmetal rate since 1972.

Second. Certain industry representatives contended that the requirements of the training standard are too onerous on small operations. They contended that even though a new employee had prior experience in the operation of equipment, such as a bulldozer at a construction site, that when employed at a sand and gravel mine or a stone mine, he must be given 24 hours of training. Assistant Secretary Lagather categorically denied this to be required by MSHA. He stated that with respect to surface mines, where a new employee has experience operating equipment at a site other than a mine, he only has to be shown by the operator the particular hazards he may be exposed to. This could take 10 minutes or 1 hour, depending on the particular mine site. In response to queries concerning the nature of training plans required by MSHA, Mr. Lagather stated in his testimony that most of what MSHA requires is very minor. He noted that not only does MSHA provide the operators with assistance in preparing these plans, but it also provides them with the forms. Furthermore, according to Mr. Lagather, there are many plans that are only one, two, or three pages, and much of this only calls for checking off those specific items in the MSHA form which pertain to a given mine site.

Third. Various industry witnesses contended that the citation and assessment procedure is uncertain and unfair. They stated that the system of proposing fines leads to an uneven application of consideration of negligence and good faith points. Assistant Secretary Lagather stated he has already undertaken a comprehensive review of the assessment system. He stated he has some concern about negligence points, good faith points and how history points will apply, and hopes that the review, which should be completed within 2 months, will result in a more equitable assessment system.

Fourth. Several industry witnesses pointed out that onsite consultation is not available and urged that MSHA provide such a service to assist operators in complying with the act. Assistant Secretary Lagather stated that he curently is putting in place a "compliance assistance visit" procedure, whereby operators may request such visit without any citations to be issued in the following situations.

First, a new mine not yet producing, second, seasonal, closed or abandoned mines prior to reopening, and third, new installations in mines prior to their becoming operational.

Fifth. Some of the industry witnesses pointed out instances where they have been cited for violations committed by independent contractors. Assistant Secretary Lagather stated that MSHA has just concluded its public hearings on the proposed independent contractor standard and, it is anticipated it will be promulgated by February 1980. He further stated that in 98 or 99 percent of the instances the independent contractor will be the one to be cited when he has control of the situation.

Sixth. Some industry witnesses claimed that MSHA is applying coal mine standards to sand and gravel, and stone mines. Assistant Secretary Lagather stated this is not so, that the current standards being applied to sand and gravel and stone mines were promulgated under the Federal Metal and Nonmetallic Mine Safety Act of 1966. Further, he stated that the advisory standards issued pursuant to that act have been reviewed and certain ones eliminated.

In reviewing the 14 days of hearings, it became apparent there has been a lot of misinterpretation and misunderstanding of the provisions of the Federal Mine Safety and Health Act of 1977.

I am confident that the dialog involved in these extensive hearings clarified many of the concerns of the affected industries.

The subcommittee will continue to

monitor and review the administration of this law to assure that its implementation is fair and equitable.

B. THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

The subcommittee conducted 14 days of oversight hearings during 1979, 13 days of which reviewed the status of the safety and health of the Federal employee.

The Occupational Safety and Health Act of 1970, in section 19(a) mandates the head of each Federal agency to "establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6."

It further provides that the Secretary of Labor act in an advisory and consultative capacity to assist the agencies and to evaluate agency programs and submit recommendations.

Pursuant to the 1970 act, two executive orders were issued by the President, the most recent (Executive Order 11807) on September 28, 1974, in an attempt, "to strengthen the occupational safety and health programs of all Federal agencies."

There has been an increasing expression of concern as to the effectiveness of the 1970 act, executive order, and the commitment by the Federal agencies in properly protecting the health and safety of Federal employees.

In response thereto, the subcommittee initiated on March 14, 1979, an extensive and comprehensive review of safety and health in the Federal sector. Representatives of the Departments of Agriculture, Interior, Commerce, HUD, Transportation, GSA and the Coast Guard and FAA testified before the subcommittee. Additionally, representatives of the Public Employees Department AFL–CIO, the Metal Trades Department, AFL–CIO, the American Federation of Government Employees AFL–CIO (AFGE), the National Association of Letter Carriers, the Laborers International Union AFL–CIO (mail handlers division) and the National Federation of Federal Employees (NFFE) appeared before the subcommittee.

The testimony of agency representatives indicated a lack of uniformity in programs established to insure the safety and health of its employees.

The testimony of the various union representatives focused on the lack of any system of effective enforcement—primarily the lack of any system of citations and fines to require agencies to implement an effective safety and health program.

The subcommittee plans to continue oversight hearings on this matter in 1980 to receive testimony from representatives of other Federal agencies and employee representatives in order to review the overall Federal safety and health program and evaluate what steps are necessary to remedy any of its shortcomings.

Additionally, in 1979, the subcommittee conducted a field hearing in Philadelphia, Pa. At this hearing representatives of unions, public interest groups, employers and OSHA testified. The general tenor of the testimony was that OSHA is seriously under-funded with the result that it is currently unable to effectively inspect workplaces in the Philadelphia area.

The subcommittee's projected activities for 1980:

1. YOUTH CAMP SAFETY

This subcommittee in the 95th Congress considered the Youth Camp Safety Act (H.R. 6761), a comprehensive bill that would have provided assistance to States to establish effective youth camp safety programs.

The subcommittee plans to readdress the matter of youth camp safety and toward that purpose plans to initiate hearings early in 1980.

2. THE MINE SAFETY AND HEALTH AMENDMENTS ACT OF 1977

The subcommittee intends to closely monitor the administration of this act during the second session of the 96th Congress.

3. THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

The subcommittee plans to continue with oversight hearings on safety and health programs in the Federal Government.

I would like to take this opportunity to thank Members of Congress and other persons who have appeared as witnesses before the Subcommittee on Health and Safety. I particularly want to thank all the members of the subcommittee who have cooperated and participated in the activities of the subcommittee.●

BERGLAND MEETING PROVES PRODUCTIVE

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. SKELTON. Mr. Speaker, recently, Secretary of Agriculture Bob Bergland held a public forum in Missouri's Fourth District. It was a success, and a full and frank discussion. I wish to share an editorial from the Sedalia Democrat that praised Secretary Bergland's meeting:

(BERGLAND MEETING PROVES PRODUCTIVE

Anyone laboring under the delusion that farming is a fairly uncomplicated business would have received an education had he attended the public forum held Wednesday in Convention Hall.

Chaired by Agriculture Secretary Bob Bergland, the all-day session was one of 10 the secretary is holding across the country. Sedalia, the smallest of the cities on the itinerary, was honored by its selection—which testifies to this area's importance as a center for Missouri agriculture.

We came away from the meeting very much impressed with Secretary Bergland's grasp of the problems confronting agriculture and his understanding of how they bear upon one another. There are no simple answers here. But out of a series of such "national dialogues" on American agriculture—if others are as productive as the one here appeared to be—the secretary should have a feeling for grassroots opinion on some important issues that will have a bearing on the next farm program, which is coming in 1981.

The underlying theme at the forum here, and one that was touched on by many speakers, was the need to preserve the family farm, and the way of life that goes with it. We are convinced that Secretary Bergland, himself a farmer, is equally concerned about some ominous trends in this respect.

Like so many areas of American life today, agriculture is caught up in the almost irrestible push toward the big, the impersonal, the efficient. As the world more and more looks to America as its breadbasket, increasing demands will be placed upon farmers to mass produce. Preserving the traditional farm and rural values in the face of such pressures will not be easy.

In addition, the economics of farming pose additional problems. With soaring land prices and skyrocketing costs of farm equipment, fuel and supplies, the American farmer is frustrated when his earnings fail to keep pace. This, in a nutshell, prompted the recent farm strike movement.

All of this and much more was discussed at Wednesday's forum with the secretary, in which many diverse interests within the agri-business community had a chance to speak their piece. That can't help but be of value to Mr. Bergland when he begins to formulate a new farm program for the nation.●

THE CHILD HEALTH CARE ASSURANCE ACT OF 1979

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. EVANS of Delaware. Mr. Speaker, I am pleased the House of Representatives has passed the Child Health Assurance Act of 1979. This bill will amend title XIX, medicaid, of the Social Security Act by expanding medicaid coverage for poor children and low-income pregnant women, and improving current medicaid screening and treatment requirements for children through the establishment of a child health assurance program (CHAP). The primary aim of CHAP is to enroll children in a continuing health program which provides comprehensive preventive services and needed subsequent care. H.R. 4962 directly addresses the most glaring shortcomings of the current medicaid program in meeting the health needs of poor children and pregnant women. Virtually all of the evaluations of the medicaid program in recent years have reached the same conclusion: it is ineffective in providing integrated health care services to many of the Nation's poor. The administrative reforms and program alterations contained in this bill will go a long way to alleviate the serious shortcomings that have been uncovered by various congressional oversight committees and independent organizations like the Children's Defense Fund.

CHAP is a noteworthy proposal because it emphasizes prevention and systematically attempts to make an existing program work more effectively. The benefits derived from preventive services and comprehensive, continuous care can bear high returns for all the involved parties. For example, the requirement that all State medicaid programs provide prenatal care for low-income pregnant women will undoubtedly have a significant and positive effect on the health of both mother and child. The Federal Government will also benefit because early detection will prevent more serious illnesses and disabilities from developing. Studies have demonstrated savings of roughly 40 percent in longrun health bills for children and who receive the preventive and primary care that will be provided under the terms of this bill.

There is solid evidence that early diagnosis and treatment of disease in low-income children is not only an effective means of reducing human suffering, but also a cost-effective way for the Congress to meet its commitment to provide adequate medical care for low-income families. By detecting and attacking health problems before they become critical, we can simultaneously improve the quality of life for poor children and prevent more costly obligations later on. CHAP offers a unique opportunity to assure that millions of children, who would otherwise go without proper medical care, will have an opportunity to grow up in good health. I am extremely pleased that a majority of my colleagues have joined me in supporting this bill because it represents a commitment to a minimum level of health care for some of the most vulnerable members of our society: poor children and low-income pregnant women.●

EXTENSION OF MOTHER'S BENEFITS UNDER SOCIAL SECURITY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. GUARINI. Mr. Speaker, today I am introducing a bill which would amend title II of the Social Security Act to provide that a wife's or mother's insurance benefits may be paid to the individual who has care of a dependent, nondisabled child, until the child reaches age 19 or has finished high school, whichever comes first.

The problem which this bill is designed to correct was first called to my attention by a displaced homemaker from my district. Mrs. G is a widow who is the sole support of her daughter who will turn 18 in a few days. Unfortunately, her daughter does not graduate from high school until next June. However, Mrs. G's mother's benefits will be terminated when her daughter turns 18.

Mrs. G is employed part-time at a local school and earns $3.05 an hour. She has tried to find full-time employment but has been unsuccessful. She was a homemaker for 31 years, until the death of her husband 4 years ago.

If the purpose of the mother's benefits is to provide assistance to those with dependent children, it seems unfair to penalize them because a child's 18th birthday falls prior to high school graduation.

Women like Mrs. G who have spent many years as homemakers are at a severe disadvantage when they enter the job market after the death of their husbands. They face a combination of age discrimination, lack of skills, lack of recent paid work experience (if they ever had any), competition from younger workers.

We have heard a great deal about how much progress women are making in the job market in terms of their earning ability. But recent statistics from the Department of Labor show that a woman today earns only 59 cents for each dollar a man earns. Currently, a woman, employed full-time, year-round, earns on the average $8,618 compared to the $14,626 a man earns.

I would ask my colleagues how a woman can support herself and her dependent child on a $3.05 an hour part-time job.

This bill will not help Mrs. G. Her benefits terminate in a few days. But it will help others like her who are struggling to raise their dependent children and I ask my colleagues to support this bill.●

SIGNIFICANT EASING OF APARTHEID IN SOUTH AFRICA

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. BOB WILSON. Mr. Speaker, just recently I was privileged to pay a return visit to South Africa with the House Armed Services Committee. In looking back over the 5 years since my last tour of the country, I was most gratified to see that significant strides have been made in education for black people and that there has been a definite easing of the system of apartheid.

I was pleased to note that these steps are being taken on the volition of the South Africans themselves and that this exceptional progress has occurred in both these areas of concern.

The following article from the Johannesburg Star is indicative of the kind of progress I observed, and I commend it to the attention of my colleagues:

[From the Johannesburg Star, Nov. 29, 1979]

URBAN BLACKS' SUPPORT IS BREAKTHROUGH FOR PW

The Prime Minister, Mr. P. W. Botha, has achieved a breakthrough; more than half South Africa's urban blacks now believe he is leading the country well.

This is the significant finding of the latest socio-political barometer published by Markinor this month.

The survey also shows that Mr. Botha has rallied the vast majority of whites behind him, with 86 percent of whites now believing he is leading the country well or fairly well.

An upsurge of racial goodwill among blacks towards whites has accompanied Mr. Botha's rise in popularity.

This occurred despite a worsening economic situation in which unemployment has severely reduced the real incomes of both major race groups, especially the blacks.

Mr. Botha's popularity among blacks reflects an overwhelming change from the image of his predecessor, Mr. Vorster.

In 1977, during the aftermath of the 1976 riots, only six percent of urban blacks thought Mr. Vorster was doing very or fairly well.

This increased to 22 percent at the end of Mr. Vorster's term last year.

By May this year, 35 percent of urban blacks thought Mr. Botha was leading the country well.

And by this month, following Mr. Botha's historic visit to Soweto, and the announcement of new policies, 11 percent of urban blacks think he is leading the country very well, and 46 percent believe he is leading it fairly well. This makes a well-disposed majority of 57 percent.

TIDE TURNED

Mr. Botha has also succeeded in turning the tide of white opinion, which in May this year, appeared to be running against him.

At the end of Mr. Vorster's term, an overwhelming 95 percent of whites thought he was leading the country very well or fairly well.

But in May this year, white support for his successor, Mr. Botha, had dropped to 71 percent.

But the latest survey shows Mr. Botha has succeeded in raising this figure to 86 percent.

Increased support for Mr. Botha personally has also improved public opinion of the Government.

The latest survey shows that 49 percent of urban blacks believe the Government is handling relationships between blacks and whites very well or fairly well.

At the end of last year, only 23 percent of urban blacks thought the Government was doing well. This figure increased to 38 percent in May this year.

White opinion of the Government's performance in the racial field, which deteriorated early this year, has now improved.

In November last year, 88 percent of whites believed the Government was doing very well or fairly well on race relations. In May this year this dropped to 74 percent, but has now increased to 83 percent.

The survey shows that 61 percent of blacks are now confident of a happy future for all races in South Africa. Last year only 37 percent were confident.

White optimism has shown little change, with 71 percent now confident in a happy future, compared to 68 percent in May this year, but down from 78 percent in November last year.

THE ATTITUDE TO WHITES IMPROVES

The racial attitudes of blacks towards whites have improved over the past six months.

But white attitudes towards blacks have hardly changed in six months, and are perhaps "a degree cooler," according to this month's Markinor socio-political barometer.

The survey was carried out on 800 black women living in metropolitan areas and 800 white women living in both urban and rural areas.

A total of 76 percent of whites say they have very good or personal relationships with blacks. This represents a reduction of three percent over six months.

Twenty percent of whites say they have "medium" personal relationships with blacks, while three percent have poor relationships.

A total of 37 percent of blacks say they have good personal relationships with whites—a reduction of three percent of the May figure.

But the number of blacks with "medium" personal relationships with whites increased by 10 percent to 41 percent. The number with negative views diminished by six percent to 16 percent.

The survey found that 48 percent of working women rated their personal relationships with whites as good or very good, while only 30 percent of non-working women did the same.

"The private, person-to-person contact between blacks and whites thus has a positive effect on race relations," Markinor concludes.

This applies to those blacks whose jobs give them contact with whites outside the official administration and the police, according to Markinor.

The survey found that whites now have a more realistic view of black opinion.

Previous surveys showed that whites "were under considerable illusion as to how satisfied blacks were with their lot."

The latest survey shows that only five percent of whites believe that blacks are very satisfied with their lot. This compares with 11 percent of blacks who say they are very satisfied with their lot.●

GENERAL SEIGNIOUS COMMENTS ON SALT II

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. SIMON. Mr. Speaker, the Senate majority leader has recently announced that the Senate will not consider the SALT II treaty until after Congress returns in January. Although I am distressed we will not see action on the treaty this year, I understand the political considerations which went into the decision to pull the treaty from the Senate calendar. I would hope that those of us who see passage of the SALT II treaty as a necessary step in the continued progress toward real arms control will use the next several months to educate our constituents on the specific provisions of the treaties and the reasons this treaty is a must if we are going to see the United States and the Soviet Union impose the internal and external controls necessary to stop the distressing arms race.

Gen. George M. Seignious, Director of the Arms Control and Disarmament Agency, recently wrote an article for the NATO Review. Mr. Seignious does an excellent job of laying out the case in support of the treaty. I am inserting this article into the RECORD as I think it offers clear and reasonable explanations of the treaty:

SALT II: THE CENTRE-PIECE OF EAST-WEST RELATIONS

(By George M. Seignious)

The SALT debate in the United States and abroad has produced consensus among the agreements' supporters and opponents on one point: SALT II must enhance the security of the United States and its allies. I believe it meets that test. If it did not, I, for one, could not support it.

The most difficult task that faces a strategist is to find some way to control the forces of one's opponent. No matter how many weapons the United States builds, we cannot stop the Soviet Union from building right along with us. With nuclear weapons—against which there is no adequate defence—the result of such a race is not more security for one, but greater insecurity for all.

Under SALT, there will be many hundreds fewer Soviet strategic systems, and many thousands fewer deliverable strategic warheads in the Soviet arsenal than they could have had without SALT. These limits on Soviet systems are not just meaningless restraints on totals already too high. For example, with the SALT warhead limits, the basing alternatives that we are considering for the new MX ICBM are unquestionably more feasible and more economical. Without these important warhead limits, the Soviets could just add more warheads to their forces over time which would necessitate a significantly larger number of shelters for our MX missiles.

There is no doubt that the Soviet strategic force is formidable and growing rapidly. There is no doubt that it is the only military force in the world that is our rival. But there is also no doubt that the Soviet Union does not have strategic superiority today, and they will not have it in the future if we continue to modernise our strategic forces and do what we have to do to maintain equivalence. The recent decision to proceed with full-scale development of the MX ICBM is evidence that we will proceed with the programmes necessary for our security.

I want to lay to rest two misconceptions that have appeared in the SALT debate, both in America and abroad. The first is that SALT will tie our hands. Our strategic military capabilities are increasing, and SALT will allow us to proceed with all of the force options we have decided are necessary for our security—air-launched Cruise missiles on B-52 bombers, Trident submarines, the Trident I and II submarine-launched ballistic missiles, the MX missile, and even a new heavy bomber if we want to build it.

A second misconception that pervades the SALT debate is that SALT is based on trust. That is not the case. To put it very bluntly, we are dealing with our principal potential adversary, and trust is not a basis for national security or national survival.

The agreement has been designed to be verifiable by our own national technical means (NTM)—independent, United States intelligence capabilities, including photo-reconnaissance satellites, ground-based radar and other means. These verification capabilities are impressive and overlapping. As in any intelligence effort, we can monitor some activities with greater precision than others, but our verification capability is sufficient to ensure that the Soviets could not cheat so as to pose a significant military risk, or adversely affect the strategic balance without being detected in time by our intelligence collection systems. We will have that capability from the day the agreement enters into force, despite the loss of our monitoring stations in Iran.

The verification provisions in SALT do more than serve our basic need to be certain that the Soviets are living up to their obligations under the agreement. Those provisions actually enhance the knowledge we have about Soviet strategic forces. For example, under SALT II, deliberate concealment which impedes verification of compliance is banned. This includes encryption of telemetry which would impede verification. Without this ban, the Soviets could use any and all means of concealment. Our intelligence task would be greater; our information would be less; and we would have to plan our own forces against a far less certain and more dangerous Soviet threat.

EUROPEAN CONCERNS

So far I have dealt primarily with SALT from the perspective of American strategic forces. In actuality, the SALT process is intertwined with European security concerns—and as SALT proceeds, it promises to become more so.

I believe that the NATO alliance, basically, looks to the United States to accomplish two tasks:

To maintain a strong deterrent and a strong defence; and

To lead in managing the East-West relationship to avoid a war that would devastate the nations of Europe as well as the United States.

The SALT agreement contributes to both.

SALT II in no way inhibits our capability to respond to the Soviet's SS-20 missile or their Backfire bomber—now and in the future. It does not prohibit the United States from building a bomber similar to Backfire. The protocol limits on deployment of ground- and sea-launched Cruise missiles will expire before we are ready to deploy these missiles. There are no limits on development or testing. We will have time to plan carefully—in concert with NATO—how best to modernise our theatre nuclear forces. As NATO Review readers know, this planning is already underway.

We will be free to deploy ground- and sea-launched Cruise missiles in the post-protocol period if the United States and NATO decide that such deployment is in the best interest of our collective security. When the protocol expires, it expires. Its temporary limits will not prejudice the results of future negotiations.

The non-circumvention provision means just that . . . "non-circumvention", it does not mean "non-transfer". During the SALT negotiations we specifically rejected the Soviet proposal for a non-transfer provision. Any future requests for transfers will be dealt with on a case-by-case basis, as would be the case without SALT or without a non-circumvention provision. This provision adds nothing to our obligations under SALT.

SALT, furthermore, places no limits on French or British nuclear systems, nor does it limit American forward-based systems located in Europe or on aircraft carriers. This important principle of exclusion was agreed at Vladivostok in 1974, a major negotiating achievement of President Ford and Secretary of State Kissinger.

Accompanying the maintenance of a strong deterrent and defence is another, equally critical necessity: the preservation of stability and avoidance of nuclear war.

Nowhere is this requirement more important than in Europe where two enormously capable military forces face each other in an arena of historic confrontation. With the potential for destruction so great, the ultimate security of every European is at stake in SALT. Europe, therefore, has a special interest in stability. Failure of SALT and rejection of the process could lead to the most dangerous kind of instability.

A wide-open arms race, with increased defence burdens, would not necessarily cement Atlantic cohesion. Furthermore, an uncontrolled strategic arms race could have other effects as well. Would NATO be better able to meet the Soviet challenge in Europe without SALT? Would the United States be better able to meet the Soviet challenge in Africa and Asia, without SALT—while spending even larger sums on nuclear, rather than conventional forces? I think not.

A nuclear arms race, with the gloves off, would not just mean billions more for defence. It would focus our attention and resources on strategic military rivalry and competition. Our ability to respond to other pressing common problems—such as energy and inflation—could not help but suffer.

A stable world is an arena best turned to our advantage. An unrestrained and tension-filled nuclear arms race is not the recipe for stable economies and it is not the recipe for a stable world.

It will be a long time before we can truly diminish the ability of the U.S. and the Soviet Union to destroy each other's societies. But, by the process of SALT, we improve stability and predictability, and we move towards more ambitious goals.

SALT III will follow closely on the heels of SALT II; indeed, both nations are committed in SALT II to the resumption of negotiations immediately upon entry into force.

The first point I want to make is that we will negotiate from a position of equivalence. There must be genuine equality in capability and survivability. This, I might add, does not mean that U.S. and Soviet strategic forces will be symmetrical in every respect.

With survivability improvements, such as those provided by the mobile MX ICBM and the greatly increased patrol areas provided by the new Trident I missile, I believe that significant future reductions in strategic forces will be both more likely and more possible.

In SALT III there will be several immediate and obvious priorities—further numerical reductions, further qualitative limits, and resolution of the issues in the protocol. Also, so-called "grey-area" systems are certain to be a major topic of discussion, and they will necessitate the most intense consultation with our NATO allies, United States nuclear weapons in Europe have been outside the purview of SALT so far. But there now appears to be genuine interest in trying to obtain limits on Soviet theatre nuclear weapons, in exchange for corresponding limits on our side.

NATO is currently conducting an in-depth review of theatre nuclear force modernisation and arms control. A process of consultation on these issues is already underway and will continue. I think that none of us wish to see a SALT agreement succeeded by unchecked theatre nuclear competition. And I think we all realise the serious implications of an unbounded nuclear arms race in Europe. Such a race could be particularly destabilising, given the short distance between opposing forces. Moreover, public support for significant modernisation of NATO theatre nuclear forces may require corresponding moves in the direction of theatre nuclear arms control.

OTHER ARMS CONTROL EFFORTS

Arms control consists of more than SALT. SALT will not guarantee success in other arms control efforts. But without SALT, other efforts will wither. In speaking of the important mutual and balanced force reduction (MBFR) negotiations. Chancellor Helmut Schmidt said it very clearly:

> I do not believe MBFR can be successful if SALT II fails.

Progress has been made in the anti-satellite negotiations. A ban on anti-satellite capabilities would be a most important buttress for strategic stability.

We also intend to continue to work with the United Kingdom and the Soviet Union to complete preparation of a comprehensive nuclear test ban treaty as soon as possible. In these test ban negotiations, the Soviets have been forthcoming by agreeing in principle to accept special means of vertification based on the territory of the parties. This is an important breakthrough, an opportunity that we should not allow to slip by.

But all of the arms control efforts in which we are engaged—apart from SALT—I am most concerned about nuclear non-proliferation.

No threat to our common security better illustrates the importance of cooperation than the danger posed by the possible spread of nuclear weapons. We and the Soviet Union, together with other nations, are working on this danger. As a former strategist for the Joint Chiefs of Staff, I can think of no nightmare for our security worse than a world of 10 or 15 or 25 nuclear powers. Circumstances could drag us unwillingly into a conflagration. Furthermore, as these weapons spread into more hands, we could suffer an attack and not even know from where the blow had come.

In closing, I want to return to the most urgent imperative of all—reducing the threat of nuclear war. As we argue over details, we often forget why we have built our strategic forces, and why we are negotiating with the Soviet Union. A common necessity binds the United States, the Soviet Union, and every nation—the necessity to prevent the certain and enormous destruction that any use of nuclear weapons would cause.

The United States has the capacity to devastate the Soviet Union, but we in the West should take no comfort from such a scenario. The grim reality of the nuclear age is such that the same holocaust would be our fate. No one can truly imagine the consequences of nuclear war. And no nation could be certain of immunity once the apocalypse was underway.

I believe this may be our last real chance to control nuclear weapons that threaten the survival of our nation and the world. If we wait another five years, we could see the cumulative development of military technology that could exceed our ability to control it. SALT will not end the threat of nuclear war with a single stroke of the pen, but it is a vital step in the direction that national security and survival require. The cold, hard fact of life in the nuclear age is that we have no other practical choice.●

IF THERE'S A CRISIS, AMERICA'S YOUTH WILL RESPOND

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. SEIBERLING. Mr. Speaker, a short time ago the House rejected a provision in the fiscal year 1980 defense procurement bill which sought to require the President to resume registering young men for the draft. I opposed the provision on the grounds that registration was unnecessary, and represented a serious invasion of privacy in the absence of the utmost threat to our national security. Proponents of registration have recently made much of the fact that the all-volunteer force has had some trouble meeting all of its recruiting quotas. It was my contention during the debate on draft registration that, in the face of a genuine national emergency, young Americans would respond today as they have in the past by volunteering for military service in order to protect our country.

I came across a small news item in the November 29 edition of the New York Times which I wanted to make sure was brought to the attention of my colleagues in the House. The Times reports that Marine Corps enlistments in Connecticut and western Massachusetts are up by more than 50 percent over November 1978. According to a Marine Corps official, the increase in enlistments is attributable to the crisis in Iran. While this may be an isolated incident, I suspect it is not. In any case, it is a good indication of what we can expect from our young people if we need them. The full text of the article is as follows:

CRISIS IN IRAN IS RAISING ENLISTMENTS IN MARINES

HARTFORD, November 28.—A Marine Corps official says the Iranian hostage crisis has raised November enlistments in Connecticut and western Massachusetts by more than 50 percent over November of last year.

"There's kind of a patriotic atmosphere in both Connecticut and western Massachusetts", said Maj. David Andriacco.●

THE DANGER IS DEFEAT, NOT DESTRUCTION

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. SYMMS. Mr. Speaker, I wish to submit to the RECORD an excellent article which appeared in Dr. Gary North's Remnant Review, volume VI, No. 16, of August 17, 1979. I have been trying for several years now to call to the attention of my colleagues the emerging strategic superiority on the part of the Soviet Union and the political, diplomatic, and economic hegemony that this superiority would supply the Soviets around the globe. Of all the statements that have been written about this topic, the Remnant Review's discussion of this problem is as good as can be found anywhere. The article explains how Soviet military superiority can be exploited to advance Soviet domination of world affairs and check the U.S. ability to protect its vital interests.

Copies of this article can be obtained by writing to Remnant Review, 713 West Cornwallis Rd., Suite 100, Durham, N.C. 27707.

THE DANGER IS DEFEAT, NOT DESTRUCTION

(You are about to read the most startling issue of Remnant Review ever published. In five years, I think it will be regarded as the most important issue ever published. I did not write it. The man who wrote it agreed to take the assignment only on the condition that he remain anonymous. This is necessary in order to protect his career, since he is presently employed in a most sensitive position in Washington, and he does not need the added publicity. I am putting my reputation on the line by publishing this report, and I assure you that I would not risk my reputation if I were not convinced that the man is reliable. I have known him for many years. He is a scholar. He holds the Ph. D. in political science, and he has published in prestigious journals.

(He is regarded as one of the most informed conservatives in the field of European politics. He now devotes his skills full time to studying Soviet military strategy. He is no crackpot. If his analysis proves correct, then most of the so-called experts in Soviet studies will be regarded as the true crackpots. The shocking fact is that all of the information presented in this report is based on publicly available documents. My first reaction, three months ago, was simple: "Why haven't I seen any of this in print in any of the conservative journals, let alone the regular news media?" I can almost guarantee you that this will be your response, too. But having seen the light—or more properly, the flash—I have decided to take action.

(I will be moving out of Durham before the end of the year. Durham is too vulnerable, not to Soviet missiles, but to the emergency regulations that the Federal government plans to impose immediately after a nuclear attack. I outline these in chapters 5 and 6 of my book, How You Can Profit From the Coming Price Controls. Another step I am taking is to publish this without the protection of copyright. Please feel free to reproduce it in any form. I will follow up on this report in the next issue of Remnant Review. I will offer a comprehensive strategy of personal defense against the events that this report warns about. I assure you that the next issue will be fully copyrighted!—Gary North)

If the Soviet Union were to inflict a nuclear first strike upon the United States, well over 90 percent of the American people would read about the attack in their newspapers, or hear about it on radio or TV. Only a small percentage of Americans would see, hear, or feel any effects of the attack, and considerably less than one percent of us would become casualties. This is not wishful thinking, but rather a sober, detailed appraisal of the effects of the Soviet nuclear weapons which exist or are being built, if they were used according to the military strategy which the Soviet Union has been teaching to its forces since the beginning of the nuclear era. Soviet weapons are made especially to destroy American weapons—to defeat America while killing very few Americans and leaving our economy intact. Simply put, the Soviet Union is not out to destroy us, but to defeat us. We can take no comfort in this, because the Soviets have made tremendous strides toward being able to achieve this goal, and because, after being defeated by the Soviets, most Americans might wish that Armageddon had come instead.

All of this, of course, is contrary to the picture of nuclear war which has been propagated by most American politicians, academics, and publicists for a generation. According to their view, nuclear war would be a spasmodic exchange. Both the U.S. and the USSR would shoot everything they had at each others' centers of population, literally bombing each other back into the Stone Age, or worse. Neither country could or would take any care, before or during the conflict, about limiting damage to itself.

Each would strive only to annihilate the other even as it was being annihilated itself. As song writer Tom Lehrer once put it, "We will all go together when we go." This very popular and reassuring view is shared by people as different in their political preferences as George McGovern and Barry Goldwater.

The popular American picture of nuclear war has always been utter nonsense. Nonetheless, the technological advances of recent years have made it even more criminally stupid. First, the military capacity of the two sides has never been equal. During the 1950's, had we gone to war with the Soviets, nearly all our bombers would have gotten through to Soviet targets while very few Soviet ones would have made it to our borders.

During the early 1960's, our missiles, inaccurate as they were, could have knocked out the Soviets' few missiles, which were then located on soft pads well known to our satellites. During the remainder of the 1960's, when both we and the Soviets placed our missiles in hardened silos or submarines, there was some reason to believe that we and the Soviets were equally targeting each others' population. But it was not so. We targeted industries, while the Soviets targeted our air and naval bases. But we had a bigger force.

Had we gone to war in the late 1960's, we would have lost most of our military power, while the Soviet Union would have lost a fourth of its population and less than half of its industry. Since the early 1970's, it has been beyond dispute that the Soviet Union has a superior ICBM force built for one primary mission: destroying American missiles in their silos. (Roger D. Speed, Strategic Deterrence in the 1980's [Stanford: Hoover Institution, 1979].) By so doing the Soviet Union can diminish the United States' ability to strike back with its population-killing weapons.

So, to sum up, at different times either side has had finite military ability to defeat the other and protect itself. Second, and most important, the American image of nuclear war as Armageddon is false because while American planners, beginning with Robert McNamara, have disapproved of destroying enemy weapons, and have not attempted to design plans which might allow the U.S. to survive a nuclear war, the men in charge of the Soviet military establishment have never wavered from the view that wars have winners and losers and that the job of the Soviet military is to protect the Soviet Union by smashing the enemy's weapons.

Thus while American policies have aimed at producing dead Russians while leaving intact Soviet strategic weapons, the Soviet Union has never targeted our population. (Fritz Earmarth, "Contrasts in American and Soviet Strategic Thought," International Security [Spring, 1978].) As a result of our misperception, we have been worrying needlessly about being burned to a crisp, or about dying of radiation sickness (a la the movie "On the Beach").

We have worried ourselves so irrationally about a far-fetched danger that we have rendered ourselves incapable of doing anything about the present danger—the Soviet Union's growing ability to defeat us and to do to us what it has done to other peoples it has conquered.

THE SOVIET FORCES

At the time of the Cuban missile crisis in 1962, the Soviets had less than ten SS–6 intercontinental missiles capable of striking the U.S. These lumbering giants were aimed at U.S. Air Force bases. They were dangerous above all to the people who had to pump fuel into them. Today, Soviet missiles capable of reaching the U.S. number at least 2400 modern types. (All figures for strategic deployments are taken from the book edited by Paul Nitze, The Fateful Ends and Shades of SALT [New York: Crane Russak & Co., 1979].)

We must say "at least" because we really have no idea just how many missiles the Soviet Union has built and stored, ready for use. The Soviets have always refused to let us examine their facilities for producing missiles, while the United States' vaunted intelligence satellites simply cannot look through roofs, or darkness, or clouds. Nor can they overhear anything that is not broadcast in the clear. Nevertheless, at the beginning of the SALT negotiations ten years ago, the U.S. agreed to believe officially that the Soviets had only as many missiles as they had silos in the ground and in launcher tubes on submarines.

Thus the SALT treaties have not limited the production of missiles, but only the deployment of things which American intelligence systems can count—silos and submarines. At any rate, regardless of the missiles they might have hidden, 2400 is the number of missiles and bombers the Soviets have openly deployed.

At least 326 of these missiles are SS–18's. These carry ten independently targeted warheads, each of which has a yield of about one megaton—one million tons of TNT. (This is a highly tentative estimate, because the U.S. really does not understand how Soviets build nuclear weapons.) These 3000+ Soviet warheads carry more explosive power than the entire American missile force put together. These warheads by themselves are also sufficient to cover every American "hard target" twice over.

They would have to, because prudent planners assign two warheads to critically important targets—such as missile silos and "command and control" points—which have been armored to resist nuclear explosions. The United States has less than 1500 such sites overall, each able to resist pressures of 1000 lbs. per square inch. (Figures for hardness of American and Soviet Silos are reported in Counterforce Issues, published by the Congressional Budget Office, 1978.) The SS–18's warheads are accurate enough to place their megaton within about one-tenth of a mile of the target—close enough to be quite sure of killing it. (Performance data for Soviet and American missiles are from Jane's Weapon Systems, 1978–79.) The SS–18's alone can go a long way toward disarming the United States.

The Soviet Union either has deployed or is now deploying 500 SS–17's and SS–19's. These missiles carry four and six warheads respectively. Though not quite so accurate as the 18's, these twenty-five hundred megaton size warheads could kill "hard targets." But they could also be used to destroy "soft" military targets such as air bases, or be kept in reserve to threaten cities. In addition, there are almost 600 S–11's, each carrying one megaton. The Soviet Union has also deployed some 900 missiles aboard submarines.

Almost half of these are longer range than anything aboard American ones, and about two hundred of these carry multiple warheads. By the early 1980's, the latter's number will rise to about 500. The Soviet submarine force should be expected to have over two thousand warheads, each of which would yield between 500 kilotons and one megaton. Such warheads, however, are only accurate to within a half mile. Therefore they can be used to attack air bases or to threaten cities.

The Soviet heavy bomber force is small—less than 150 operational Bears and Bisons. Yet it can easily be augmented by 200 Backfire medium to long-range bombers, or even by cargo aircraft. The reason is simple: Soviet aircraft seeking to drop bombs on the U.S. need not use speed, low altitude, or deception to counteract American air defenses, because none exist. They have been dismantled over the past two decades. Even civilian cargo planes could be used to bomb the U.S.!

The Soviet Union, on the other hand, has deployed 6500 air-defense radars, 10,000 interceptor missiles, and 2600 interceptor aircraft. It practices air-defense constantly. It has also built four huge phased-array radars which can be the core of a nationwide defense against ballistic missiles.

The other components of such a defense already exist. The Soviet Union has but to mass produce them—which, for all we know, it may be doing—in order to have a respectable defense. To back up its active defenses, the Soviet Union has an expanding civil defense, featuring hard shelters for about one-fourth of the urban population, protection for vital industries, and sheltered food supplies.

AMERICAN FORCES

The backbone of the American force is the Polaris-Poseidon fleet. These 41 submarines carry 16 missiles each—a total of 656 missiles, which can carry some 5000-5400 nuclear warheads. About half of this force—some 2500 warheads—is at sea at any given time. Most of it could survive any Soviet attack. But the Polaris-Poseidon warheads are curious weapons. They yield only 40 kilotons each, and are accurate to about four-tenths of a mile.

Thus they are optimal for attacking soft targets, such as residential areas. They are less useful for military targets, and totally useless against "hard" targets. This is by design. As Poseidon was being perfected, Secretary of Defense Robert McNamara rejected plans to fit it with three big, accurate warheads, on the grounds that the ability to strike "hard targets" was against America's strategic policy.

That policy, simply put, is to deter war by threatening to kill Soviet civilians in a second strike. According to that policy, any weapon which can destroy missile silos makes war more likely because it gives its owners several militarily rational options—including a first strike. The objective of nuclear strategy, according to people such as Robert McNamara and the Carter Administration, is to make war wholly irrational for all concerned. The Poseidon, with its many, small, inaccurate warheads, is certainly an irrational weapon.

The 1000 Minuteman II's and III's are spread in silos at the following Air Force bases: Grand Forks, North Dakota; Malstrom, Montana; Whitman, Missouri; Warren, Wyoming; Minot, North Dakota; and Ellsworth, South Dakota. Fifty-four Titan II's are located at Davis-Monthan AFB, Arizona, and Little Rock, AFB, Arkansas. Even the best of these, the 550 Minuteman III's have but slight chances against Soviet silos and military communications centers "hardened" to some 2500 pounds per square inch.

These missiles, then, can best be used against industrial targets and relatively soft military ones. But, since the Soviets have weapons capable of destroying them on the ground, these missiles may do nothing more in wartime than "soak up" Soviet warheads.

The American bomber force is old. Its mainstay, the B-52, was designed during the Truman Administration. President Carter cancelled production of its successor, the B-1. The B-52's in service now are older than the pilots who fly them. Some 300 B-52's are flyable. Each carries about four bombs. In the future, they may carry cruise missiles.

One-third of the B-52's are on ground alert at some 25 bases. If the Soviet Union attacked these bases with submarine-launched missiles, and also barraged the bombers' escaped corridors, not many would survive to try their luck against Soviet air defenses.

American defenses are practically nonexistent. The old Distant Early Warning (DEW) line of arctic radars is obsolete. Anyone with a terrain map of Northern Canada can figure out the holes in it. Once a Soviet pilot gets through that, he can be confident of flying to his destination undetected. Even if he were detected, little could be done. The U.S. has only 300 old F-106 interceptors, and no surface-to-air missiles deployed to defend the country.

The U.S. has developed excellent technology by which to defend against ballistic missiles, but has renounced its use. According to American strategic doctrine, safety lies in mutual vulnerability. So far do American officials adhere to this doctrine, that the U.S. is wholly without civil defense. There are practically no blast shelters in the U.S., and certainly no strategic storage of food.

HOW STRATEGIC FORCES MAY BE USED

It is clear that the biggest difference between the Soviet and the American force—bigger than the differences in hardware—concerns the purposes for which the weapons may be used. Soviet military writings refer to deterrence quite differently from American ones. Whereas American Defense intellectuals see the weapons as scarecrows by which to ward off attack on American cities, the Soviets see them as tools by which to achieve their ends.

Thus, for them, deterrence is an offensive concept: that is, to keep the Americans from thwarting Soviet purposes. For them, deterrence is achieved by the ability to win the war. (J. Douglas and A. Hoeber, Soviet Strategy for Nuclear War [Stanford: Hoover Institution, 1979].)

The Soviets expect that the U.S. would be deterred from doing anything serious to stop the ultimate triumph of the Marxist "Socialist Commonwealth" by the following prospect. If pressed too far, the Soviet Union could launch its force of SS-18's and therewith destroy nearly all American land-based missiles and bombers. At the same time, Soviet ships or aircraft would mine the harbors where half of the American Polaris-Poseidon submarines lay. This would put the submarines out of action, and keep them where they could be destroyed at will by ICBMs, quite without killing Americans. Reduced to some 2500 40 Kiloton warheads, what could the U.S. do? The USSR would still have about 7000 warheads—all invulnerable. If the U.S. chose to strike back, it could not thereby reduce the threat to itself. At this point, the U.S. would have suffered militarily, but in no other way. The 3000 Soviet megatons which would already have exploded over places such as Davis-Monthan Air Force Base, Arizona and Warren Air Force Base, Wyoming, would have killed less than a quarter-million Americans—five years' traffic fatalities. Nearly all of the casualties would have been military personnel or their dependents. But if, at this point, an American President ordered a strike at Soviet cities, he would risk a Soviet attack on America's population. At this point, negotiated surrender would have far more sense. Moreover, even if the President of the U.S., or several submarine crews acting on their own, were to launch Polaris-Poseidon on the Soviet Union, they could do relatively little damage. The Soviet civil defense system would have been on alert. The key industries would have shut down, "hardened" their machinery, and sheltered their workers. The rest of the urban population, the non-essentials, would have been placed in lesser shelters or sent to outlying areas. Finally, the incoming American warheads would probably be met by some kind of antiballistic missile system. (It is doubtful the Soviets would initiate such an attack until their plans for missile defense were well along.) That fraction of the American warheads which arrived—probably far less than 100—would knock down a lot of buildings, (T. K. Jones and Scott Thompson, "Central War and Civil Defense," Orbis [Fall, 1978].) The future would belong to the Soviet Union.

This scenario could occur any time after 1981, when the Soviets will have completed deployment of their fourth-generation ICBM strike force. But because persons knowledgeable in military affairs know it could, the Soviet Union may not need to carry out an actual strike. In recent years American leaders have said loudly and often that military power no longer matters in world affairs. (Gen. Dan Graham, Shall America Be Defended? [New Rochelle, New York: Arlington House, 1979].) They have been whistling in the dark. More people's fates have been affected by military victories and defeats since 1960 than during World War II. During these years India has beaten Pakistan twice, Israel has beaten Arab coalitions twice, North Viet Nam, with Soviet help, has beaten the U.S., Soviet clients have triumphed in Cuba, Nicaragua, Algeria, Angola, Mozambique, Guinea, Ethiopia, Afghanistan, Iran, Laos, and Cambodia. They narrowly failed in Zaire and Indonesia. Soviet clients or sympathizers have also waged inconclusive wars or have attempted coups d'etat in nearly every country of Africa, Asia, and Latin America. The Soviet Union has repeatedly vowed support for such enterprises, and has made clear that their success depends on the growth of Soviet power. Certainly the fear of greater Soviet involvement kept the United States from winning in Vietnam. That fear has helped to convince American policymakers not to help America's beleaguered friends in places like Iran. In 1973, the threat of Soviet intervention into the Middle East led the U.S. to stop Israel from consummating its victory against Soviet-supplied Arab armies which had attacked her on her highest holiday. The same prospect frightened the U.S. into submitting to virtual expropriation of its oil production equipment in the Middle East, and the quadrupling of the price of oil.

As the Soviet Union's arsenal becomes more fearsome, it will become more reasonable for the Soviet Union's friends around the world to be bolder, and it will be more reasonable for the United States and its friends to do more and to suffer more to avoid antagonizing the Soviets.

THE RETREAT OF OUR ALLIES

The incentives for friendship with the U.S. can only drop. Consider Europe, which is tied to us by bonds of kinship, culture, and interest. What would happen if, in 1982, the Soviet Union (or East Germany) quickly seized just a couple of square miles of farmland on the German border on some transparent pretext? One thing is certain not to happen. The U.S. would surely not launch nuclear strikes against Soviet cities. That would serve no rational purpose whatever. Would NATO then attack to take back those few square miles? Given that the Soviet Union can muster on the central front 21,000 tanks to NATO's 7000, over 4000 aircraft to NATO's approximately 2000, as well as almost two soldiers for each of NATO's, a NATO attack would make no sense. Of course the Soviets would call for negotiations. No doubt NATO would attend.

What would Europe have to gain by taking an intransigent attitude toward the Soviet Union? Such an attitude would get Europe nothing but military trouble, which the U.S. could not alleviate. The U.S. could not help to defend Europe because the U.S. could not protect itself. American ground and air forces in Europe could not stop a Soviet advance. But if American strategic weapons were used against Soviet forces in Europe, the Soviet Union could well afford to unleash a disarming strike upon the United States. Knowledge of this—not the small amount of force used to take the small border area—would quickly detach Europe from the United States. This end could be accomplished quickly with even less direct expenditure of force. The Soviets could stake a coup d'etat or other military action against Saudi Arabia. The PLO would gladly lend itself to such a venture. Would America risk World War III (which American planners have made sure the U.S. will lose) for the sake of the Saudi Royal Family? But with Saudi Arabia—the world's largest exporter of oil—in anti-imperialists' hands, the Soviet Union would be in a position to approach Europe with the offer to facilitate their oil supplies at stable prices—if only Europe would slip out of its relationship with the United States. Given the balance of forces between the U.S. and USSR in the early to mid 1980's, the Europeans would have to be heroes to refuse the Soviets' offer.

The decisive defeat of the United States in the world—a defeat which would leave no doubt in anyone's mind who ruled the world—could be accomplished even more easily, given the "cover" of decisive nuclear superiority. On Oct. 1, 1979, the pro-Soviet government of Panama becomes legally sovereign over the whole Panama Canal Zone. Anytime thereafter it can abrogate the treaties which preserve a residual role for the U.S. Then it can ask the Soviet Union to send troops to help protect the Canal from the U.S. Of course the U.S. would enjoy local military superiority. But, given the Soviets' ability to carry out a disarming nuclear strike on the U.S., and the latter's inability to disarm the Soviet Union, would the U.S. actually risk killing Russian soldiers? It would be more reasonable to absorb the loss of the Canal, and of the last shreds of American influence in the world.

Such losses could not help but jar the United States into realizing that strategic inferiority to the Soviet Union can only lead to enslavement. But surely, by the mid-1980's, this realization would come too late. Surely the U.S. would begin to build the weapons it should have built during the 1960's and 1980's. But how would the U.S. respond to a Soviet declaration that the continuation of such an American build-up would be regarded as an act of war, for which the U.S. would bear full responsibility? If the U.S. chose to disregard the warning, the Soviets could look forward to losing their supremacy in a few years. Why should they not use it while they had it?

Subjugation of the United States would open new and more violent chapters in the history of the world. We can but speculate beyond the first one, the outlines of which are clear. The Soviet Union and its victorious coalition will still be hungry. Moreover, they are possessed of an ideology which tells them that the wealth of the formerly free world consists of goods somehow stolen from them. The rape of the United States would be swift. Russians have never been very farsighted in the husbanding of golden geese. The history of postwar Eastern Europe indicates the Soviets would set unrealistic reparations quotas and try to squeeze blood from stones. They would attempt to rid the economy of "parasitic" occupations—and to rid the earth of "useless mouths." All would be made even harsher by the inevitable campaigns against religion, the family, and other ancestral enemies of Communism. Those given power would be the most reliable. Reliability would be proved by harshness. Unfortunately, this is not speculation, but dreary experience. The history of Soviet rule consists of little else.

THE POSSIBILITIES FOR DEFENSE

The United States is not doomed to defeat. The Soviets have not built their nuclear forces by peculiar genius. The U.S. possesses technology to build weapons of the same kind that are even better. More important, the U.S. possesses the technology to build weapons of altogether different kinds, weapons which are likely to safeguard both our freedoms and our lives. Of course to build these things at all we would have to change the way our officials have been thinking about war and weapons. Much would happen, however, if the American people transmitted one simple message to their officials: "We want to survive any war with our freedoms intact."

With such a mandate, the next President of the United States would begin by ordering the U.S. Air Force to remove the Minuteman II's and III's from their silos, to place them inside their factory canisters, and to keep them on the move aboard trucks, whence they could be launched. (See Aviation Week and Space Technology [19 June, 1979].) This would remove the Soviet Union's ability to target and destroy these missiles. With that gone, the Soviet Union would lose a large part of the military incentive for a first strike.

Second, the President would order the abolition of the system by which the U.S. has acquired weapons since 1963. Before 1963 it took about six years to translate an idea into a weapons system. Now it takes about fifteen years. This system has reduced the U.S. armed forces to one of the worst-equipped forces in the world. If we proceed as we have been, the MX missile, our first counterforce weapon, won't be fully deployed until 1990.

That will be years after the Soviets will have achieved a counterforce capability against the U.S. 1990 is too late. With the WWII purchase system in effect, the U.S. could quickly build a mobile heavy missile, capable of taking out enemy silos. If we went about it on a crash basis, we could have the missile moving on American roads by 1983. Even more quickly, the U.S. could change the warheads on the Poseidon—reducing their number, and making them accurate weapon killers instead of terror bombs.

A mere 1200 big, accurate warheads aboard our submarines would do more to defend us than the 5000+ little, inaccurate ones we now have. Once these weapons were in hand, our targeting strategy could stop aiming at producing dead Russians, and could begin to concern itself with protecting Americans. With the weapons we have in 1979, even a massive change in American targeting doctrine could not hope to reduce the threat to the U.S. We simply need new weapons.

More important still, the U.S. could take advantage of new advances in the technology of anti-missiles and radars. These are especially efficient for defending mobile missiles deceptively based. The anti-missile missile need only shoot down the warheads which are actually heading for the right targets. A National network of interceptor missiles for the defense of our population is expensive, but possible.

Just as possible but less expensive is a defense against ballistic missiles based on laser stations in space. (See Sen. Malcolm Wallop, "The Emerging Possibilities for Defense," Strategic Review [Fall, 1979].) This is not a Buck Rogers system. The technology for it is well known in the U.S. Lasers are not objects of speculation, as are particle beams. Megawatt-size lasers are weapons of today. With every passing year, technology is making it even more possible for defensive forces to seize the advantage over offensive ones.

CONCLUSION

By 1982 at the latest, the U.S. will enter the most dangerous period in its history. In order to avoid the risk of disastrous defeat, the U.S. must begin to take action now, and surely cannot afford to put off certain crash programs beyond the first days of a new Administration.

These crash programs should: take our Minutemen out of their holes and fit them with counterforce warheads, fit Polaris-Poseidon with counterforce warheads, build a truly mobile MX, unhampered by Rube Goldberg basing schemes, the B-1 bomber, anti-missile missiles, and space-based lasers. The country may not be able to complete these programs in time. But it can try.●

MR. AND MRS. HAROLD L. DANIELS, DEDICATED PEACE CORPS VOLUNTEERS

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. DOUGHERTY. Mr. Speaker, on December 28, 1979, Mr. and Mrs. Harold L. Daniels, dedicated Peace Corps workers, will celebrate their 50th wedding anniversary in Suva, Fiji Islands. These two Americans deserve special recognition from our Government and from the Peace Corps upon the occasion of this anniversary.

This outstanding couple, after retiring from successful careers (Mrs. Daniels as a teacher and librarian and Mr. Daniels as an oil company executive and businessman), began a new career of service with the Peace Corps. For 7 years they have served in Liberia, Venezuela, Honduras, and now are located in Fiji.

Miss L. Grace Loftain and Harold L. Daniels were married in Baltimore, Md., on December 28, 1929. They are the parents of Mrs. Frederick W. Anton III, of my district. Mr. and Mrs. Daniels will probably not be with their relatives and friends for their golden wedding anniversary because of their assignment with the Peace Corps.

Mr. Speaker, on this momentous occasion we offer to Mr. and Mrs. Daniels our congratulations and our grateful thanks for long lives of service to our Nation.●

MEDIA MANIPULATION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. LAFALCE. Mr. Speaker, one of the most disturbing aspects of the Iranian crisis is the apparent ease with which the Ayatolah Khomeini is able to use the U.S. television networks for his own purposes. The interview with a young Marine corporal in Tehran indicates that the so-called students at the U.S. Embassy are now using the ayatollah's methods to sell their case.

Although NBC erred badly in agreeing to the Iranians' terms, in conducting the interview under those circumstances, and in allowing a spokesman for the Iranians to have 5 free minutes on prime time television, its blunder is actually only a greater or more extreme example of the type of television manipulation which is occurring in Iran. The networks would be well advised to do some fundamental soul searching about their news techniques, in light of what is happening to them in Iran at the present time.

I want to share with my colleagues a very interesting article on this phenomenon by Thomas Griffith, which appeared in this week's Newsweek. It is entitled "The Self Restraint Brownout."

The article follows:

THE "SELF-RESTRAINT" BROWNOUT

(By Thomas Griffith)

Egypt's Anwar Sadat thinks the Ayatullah is a lunatic, but, as Richard Nixon told a TV interviewer two weeks ago, "if he's crazy, he's crazy like a fox in one respect. He knows how to manipulate the media. He in effect has convicted the Shah in the minds of great numbers of Americans, as well as people throughout the world."

Nixon can never resist a chance to get in a lick at the press. About the Shah's fallen reputation, Nixon is dead right, but not simply because Khomeini manipulated the press: the Ayatullah has been able to take noisy advantage of a bizarre news brownout, a month of "self-restraint" unparalleled in American life. Johnny Carson confesses on TV that he is having a harder time with his opening monologues; Art Buchwald, who gets most of his humor columns out of topical events, hasn't done a single column about Iran. Even presidential candidates have been biting their tongues about Iran, except for Connally's early macho outburst and Teddy Kennedy's intemperate denunciation of the Shah. In this distorted situation, nightly television news has done the poorest job of balancing its coverage.

With their appetite for visual excitement, newscasts often open with the latest rant from the cross-legged Ayatullah, then move to shots of Death-to-the-Shah street crowds, who by now economically wave their fists most fervently when they see the camera's red light upon them. Next the "students" appear, enjoying the dream of every terrorist and airplane hijacker: to have television cameramen vying to record their loudest threats and wildest allegations. This has usually been balanced, if at all, by a brief low-key response from the State Department spokesman, and by the infrequent appearance of an unimpressive publicity man for the Shah. Anchormen and their producers are generally scrupulous about presenting "the other side" of any story, but they do not consider it their business to generate one. That, to them, would be new manipulation. On any lively issue they expect counterarguments to surface normally in the news, and just this has been missing in the news programs from which most Americans get their information, under the brownout of self-restraint.

The Shah has been the real loser. While hostages are in jeopardy, the only minidebate that has been allowed to erupt publicly is over who-let-the-Shah-in. When Carter's foreign policy again becomes fair game for partisan attack, it is doubtful that the strengths of the Shah's regime can ever be asserted as full-throatedly as before. Those televised sweeping panoramas of massed Iranians seem to dispute whatever public support the Shah once had. The Shah's secret police may not have tortured so widely or viciously as the Ayatullah's propagandists claim, but at least some torture seems to be conceded. How many millions of dollars the Shah and his family got away with—those "umpteen billions," in Kennedy's phrase—amounts to a quarrel about numbers.

Khomenini did not create U.S. television's imbalance between self-restraint and rant, but he has profited from it. Once he seemed bent on expelling all foreign correspondents, but now more than 200 of them are "persona grata" in a land where American diplomats are not. Journalists walk the streets of Tehran encountering little hostility, despite Iran radio's constant and strident anti-American propaganda. In their on-the-air questioning of the student militants, however, they too seem inhibited by the fear of jeopardizing the hostages. When Khomeini gives televised interviews, he chooses which submitted questions he will deign to answer and allows no follow-ups. His advisers are smart enough about American public opinion to recognize that a star like CBS's Mike Wallace deserves three times as much interview time as the two other networks, and to conclude that public television rates fourth.

With such advantages, the Imam who rejects modernity needs no flying carpet to speed his message round the world. Television's latest technology, and the unaccustomed restraint of the press, does it for him.●

CONGRESSMAN GOODLING ON ZIMBABWE-RHODESIA

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. FINDLEY. Mr. Speaker, I would like to call the attention of my colleagues to the excellent statement on United States policy toward Zimbabwe-Rhodesia by the gentleman from Pennsylvania, Bill Goodling. As ranking minority member of the Subcommittee on Africa of the Foreign Affairs Committee, Bill Goodling is highly knowledgeable and thoughtful on African affairs. He has taken a particularly strong interest in United States policy toward Zimbabwe-Rhodesia and the question of sanctions against that nation. Last month, in fact, he introduced a resolution which urges the President to terminate United States sanctions against Zimbabwe-Rhodesia when the new British Governor to Zimbabwe-Rhodesia arrives in Salisbury.

Bill Goodling's statement is important reading for those who are concerned about events in, and policies toward, Zimbabwe-Rhodesia. It is particularly useful, as the House approaches another vote on the question of sanctions.

Therefore, I commend this statement to my colleagues:

Statement of Hon. William F. Goodling

Mr. Chairman, members of the Subcommittee, distinguished witnesses, there has developed over the past few weeks a significant and varied Congressional response to Executive pronouncements of November 14 relating to economic sanctions against Zimbabwe Rhodesia. I am very pleased that this hearing has been called to address this issue, although I am disappointed that my personal attendance is not possible.

As I believe you are aware, I was joined by twelve other members of the House in introducing a concurrent resolution which would urge the President to terminate U.S. sanctions against Zimbabwe Rhodesia with the appointment of a British Governor and his arrival in Salisbury. A total of thirty-six members of the House have now cosponsored this legislation which seeks a clear and appropriate stance for the U.S. Government.

Since the demise of the joint Anglo-American plan, the United States has left the responsibility of mediation between the warring parties in Zimbabwe Rhodesia in the capable hands of the British. This is consistent with P.L. 96–60, Sec. 408, approved by the President on August 15, 1979, which specifically recognizes that the Government of Great Britain retains responsibility for Zimbabwe Rhodesia under international law. It is consistent with positions stated—and restated—by the President, and it is consistent with Great Britain's historical role in Zimbabwe Rhodesia.

The President, on November 14, took the position that the United States will maintain sanctions against an interim British governmental authority, agreed to by Great Britain and the Zimbabwe Rhodesian parties at the London conference, until some vague conditions—in addition to the assumption of authority by the British Governor—are met regarding the commencement of the new election process. The Administration's statements gave no indication of what specific steps must be accomplished to meet this additional condition of demonstrating that a "process leading to impartial elections has begun." It is questionable that this policy is supportive of Great Britain's role and responsibility in Zimbabwe Rhodesia.

More recently, the President has again altered his position on this issue. In a December 3 letter to Senator Jesse Helms, Secretary of State Vance supports a legislative proposal which was later approved by the Senate Foreign Relations Committee. This proposal "would require the President to terminate sanctions either (a) after the arrival of a British Governor, or (b) on January 31, 1980, whichever is earlier, unless the President were to determine that it would not be in our national interest to do so" (emphasis added). In an earlier paragraph of this letter to Senator Helms, the Secretary also mentions the requirement of the beginning of an "electoral process" in Zimbabe Rhodesia.

The plan adopted by the British Government has no such provision. Frankly, I am concerned about the possibility that the United States will continue sanctions against a transitional British Government in Zimbabwe Rhodesia, agreed upon by the Zimbabwean parties to the conflict. That would not only be inconsistent with the spirit of U.S. statutory policy, but it may also have a negative impact on the political, economic and psychological environment in which the British authorities will be implementing a peaceful reconciliation within a democratic framework.

In the meantime, the Government of Australia has agreed to a plan to lift sanctions when an all-parties settlement has been freely agreed upon and British authority has been reestablished in Zimbabwe Rhodesia.

My resolution merely expresses the sense of Congress that the United States position should express our support and confidence for the British effort by more closely paralleling the British and Australian position on lifting sanctions.●

CHARTER 77 AND CZECHOSLOVAKIAN FREEDOM

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. DORNAN. Mr. Speaker, today, as the United States and the values of Western civilization, for which so many have sacrificed so much, are being assaulted by modern-day barbarians masquerading as idealists, it would be well to recall events which convey this urgent message: "History does repeat itself."

Recent events in Czechoslovakia sound that warning loudly and clearly. At the close of the Second World War, Czechoslovakia was the most industrialized, prosperous, highly educated and democratic state in Eastern and Central Europe. Yet, by 1948, the Communist Party was able to carry out a "coup d'etat," destroying prospects for a democracy and establishing a cruel and despotic dictatorship. How did this nation fall prey to Communist enslavement? The answer to this question is an answer we ought to remember today, as we face the growing military might of the Soviet Union and the increasingly militant and barbaric tactics of those whom it encourages overtly or covertly to further its goal of world domination.

In 1948, the leaders of Czechoslovakia, honorable, decent men who believed in democracy, believed that their Communist adversaries could be satisfied if given a voice in that nation's affairs. They were mistaken—some of them fatally so. By small concessions to the Reds, understood as an alternative to attack by the Red Army, and obviously to be preferred to such an attack, they weakened their position. The cumulative effect, however, was the surrender of Czechoslovakia to communism. Such is the bitter lesson for those charged with protecting the interests and security of our Nation. There are some people with whom compromise is impossible because to such people negotiation and compromise are merely the means to achieve the goal of domination—not arrangements which permit harmonious existence between people with differing views.

Upon attaining total power in Czechoslovakia, by means with which we have now become sadly familiar, the Communists proceeded to consolidate their power by eliminating potential opponents by methods such as phony arrests of democratic leaders; disenfranchisement for the flimsiest of reasons; counting of ballots by Communist chairmen of electoral commissions; and elimination of the secret ballot.

A ray of hope for freedom was restored under the Dubcek regime. But the discovery of long-lost freedoms by the oppressed Czechoslovakian people was intolerable to the tyrants in Moscow. We all remember what came next. The divisions of Soviet troops and the legions of Soviet tanks brutally crushed the germinating freedom of the Czechoslovakian people. The new puppet leadership of Czechosolvakia, whose loyalties to Moscow and to the preservation of a brutal Communist dictatorship far exceeded their loyalty to the Czechoslovakian people, found it necessary to "purge" and "cleanse" the "infected" body politic which had been subverted by the reintroduction of democratic institutions to Czechoslovakia. This purge of 70 percent of former officers of trade unions, student associations, agricultural organizations; 40 percent of journalists and economists and 1,200 professors and teachers removed all potential opposition. The judiciary did not escape; it was made an appendage to the new puppet regime, because, writes Walter Dushnyck:

> . . . so as to be able to carry out the "socialist legality" through newly appointed judges who are totally subservient to the regime.

As a result, Mr. Dushnyck wrote:

> No one can say how many hundreds of persons were sentenced to prison for "subversive activities and incitement" against the socialist order. Thousands of people have lost their jobs without having been sentenced by the courts; and without recourse to courts, writers have been deprived by their regime of the right to publish, artists to create, actors to act, and young people to study. Former members of the Academy of Sciences or university professors have often been seen selling lottery tickets, or loading or unloading construction material.

It must be pointed out that, contrary to the claims of some in our media and in the political establishment, Communism does not mellow. Eleven years after the destruction of Czechoslovakia's renaissance of freedom, and 31 years after closing the "Iron Curtain" around Czechoslovakia's borders, that nation is still occupied by five Soviet Army divisions. R. C. Longworth, of the Chicago Tribune, writes that the Husak regime:

> . . . has liberalized almost nothing. All the freedoms of speech, travel, protest—remain controlled. Ten years after the Prague Spring, Czechoslovakia ranks with . . . the most dogmatic of the Soviet bloc countries.

At the time of the signing of the Helsinki agreement, hopes were raised that, at last, individual freedoms would be protected. But the Communists, as usual, are simply not following the terms of a treaty which they do not like.

A courageous group of Czechoslovakians formed a group which has become know as "Charter 77," to monitor the Husak regime's compliance with the Helsinki agreement. Not surprisingly, those brave individuals who express support of, or join, "Charter 77" have been punished by the Husak government. In 1977, 350 writers were expelled from the state writers union for expressing support for "Charter 77." The London Times has published accounts by "Charter 77" members detailing beatings and deprivation of medical care while in prison awaiting a so-called trial before a kangaroo Czechoslovakian court.

It is now 1979, and nothing in Czechoslovakia has changed. There, it might as well be 1949. The cold, hard fist of Communist oppression is still tirelessly conducting its inexorable campaign to intimidate and silence those brave Czechs in whom the unending and unquenchable human desire for freedom still burns. I would like to introduce into the RECORD an account by Dr. George Breber, of the Thomas G. Masaryk Branch of the Czechoslovak National Council of America, regarding the latest phony trial of "Charter 77" members and of current condition of that admirable organization. I would also like to introduce an excellent legal analysis of the trials by Attorney Gordon Wright of Edmonton, Canada. It is a devastating revelation of Communist "justice."

We in the United States who so often take our freedom for granted have an obligation to remember those who are not so fortunate and who look to this Nation and its ideals as their salvation from Communist bondage.

The items follow:

TRIAL OF CHARTER 77 MEMBERS IN PRAGUE

(By Dr. George Breber)

A trial with six human rights activists was finished in Czechoslovakia last Tuesday, October 23. The six defendants were among ten persons arrested in early morning police raids on May 29, 1979. All ten have been in jail since their arrest and no trial date has been announced for the others. Several Charter 77 movement members were arrested in recent weeks.

The six defendants were:

Vaclav Havel, 43, very successful, world reknown playwright (banned in Czechoslovakia), and a former Charter 77 spokesman; Dr. Vaclav Benda, 33, philosopher and physicist; Jiri Dienstbier, 44, journalist; Dana Nemcova, 45, leader of a Roman Catholic dissident faction and mother of seven children; (Mrs.) Otka Bednarova, 54, a former journalist; Peter Uhl, 38, engineer, son-in-law of Doc. Dr. Jaroslav Sabata, the imprisoned former Communist Party secretary from the Dubcek liberal era.

All defendants were also members of the Committee for the Defense of the Unjustly Persecuted.

These people were not demonstrators, guerrillas or criminals. They only criticized the Prague Communist regime for violating the Czechoslovak constitution and Czechoslovak laws. All the arrested were facing the charge of subversion and were sentenced to imprisonment from 2 to 5 years.

That trial was the first major show trial since the Stalin's era of the 1950s, when the Czech leading patriots and democrats, as (Mrs.) Dr. Milada Horakova, M.P., Gen. Heliodor Pika and many others were sentenced to death and executed. It also was the first time that Czechoslovak citizens faced prison terms as a direct result of the Charter 77 activities. Previously, the authorities have masked political repression under the rubric of currency regulations or "crimes" against socialism.

The dissent movement in Czechoslovakia was encouraged by the signing of the Helsinki Final Act of 1975. This document gave people in East Europe the hope that finally the occupation power, the Soviet Union, had shown itself willing to allow some freedom and that the western world got a legal base for criticism and sanctions, if human rights in East Europe will not be tolerated. Groups to promote and monitor adherence to these principles were formed in Czechoslovakia, as well as in the Soviet Union and other countries of Eastern Europe. Charter 77 emerged as a brave testimony and plea for the government of Czechoslovakia to implement the principles of Basket III of the Helsinki Agreemnt.

The moral qualities and bravery of all imprisoned Charter 77 signatories are exemplary. Writer Vaclav Havel rejected in jail the government offer to leave Czechoslovakia and instead decided to face the trial together with the others.

The movement is not without its martyrs. Let no one forget the death of Professor Jan Patocka. He died of a stroke after repeated brutal interrogations. The cases of harassment, beating, and arrests of Charter 77 signatories are very frequent. Many leading human rights activists were attacked by unknown assailants in Prague. These types of incidents are never properly investigated and it is obvious that these acts were administered by the secret police.

Despite these terror tactics used by the Czechoslovak government against human rights supporters, Charter 77 has now over one thousand signatories and 250 citizens who signed the letter addressed to Czechoslovak President Husak not only requested the release of all political prisoners, but made a solemn promise to bring the Charter 77 to life again.

It is apparent that human rights advocacy is considered a crime by the authorities in Czechoslovakia. It is also apparent that the Prague government has no intention of honoring its obligations made at the 1975 Helsinki Conference on Security and Cooperation in Europe.

Brezhnev's tanks demonstrated in Prague in 1968 no regard or respect for international rights and justice. The liberal movement, the Prague Spring 1968, was crushed under the threads of Soviet tanks. Can we trust in the questionable SALT II and the other treaties with Communists when they violate so many international pacts and even their own constitutions and laws? The Final Act of Helsinki explicitly states the right of all signatories to watch over its implementation, including in other countries. The United States punished several governments by economic embargo for the violation of human rights. Does the United States have the courage to use the same stick against the Soviet imposed regime in Czechoslovakia?

THE TRIAL OF UHL ET ALII

(By Gordon Wright)

Analysing the matter from the point of view of a common lawyer one would have to say:

(1) The indictment is defective on its face viz. the details given of the charge do not constitute the offense charged.

Section 98 makes "subversive activity" an offense. If that phrase is to be construed to be consistent with Art. 19 (freedom of expression and the right to propagate free expression by any means) of Pact I of the Helsinki Accord (which has been part of Czech domestic law since 23 Mar. 1976—see collection of Laws No. 120 of 13 Oct. 1976) it cannot extend merely to the dissemination of written material. Whatever was the case before Mar. of 1976, after that month it is clear that "subversive activity" needs something more than words e.g. terrorist acts, or a conspiracy to commit such acts. So since the offence charged is only the dissemination of material or ideas, the charge is defective on its face.

(2) Neither the indictment nor the evidence set out what it was about VONS that made it "anti-state." The indictment simply said that, the evidence assumed it and the lawyers didn't question it; though the accused did. The indictment simply assumed that proposition in the 2nd line, and then passed on to the methods of propagation, and commentary on the contents, all of which is irrelevant if the activities were legal in the first place.

(3) There was never any proof that the defendants acted "out of hostility to the socialist, social and government system of the Republic", or for that matter, any of them, though strictly it should be all of those or nothing. On the contrary all 6 accused were content with the socialist system; but they wanted it to live up to its constitution. Yet this is a requisite mental element that must be proved by the prosecutors.

(4) The supinity of the lawyers was shocking, even if, up to a point, understandable. It is understandable that a man should fear to lose his livelihood, which has happened to those lawyers, like Dr. Josef Danisz, who defended their clients vigorously, or, as we would think in the West, normally. So he should not take on a client, if he cannot conduct the defense properly. But I cannot see how a lawyer can take on a client and not defend properly. It is contrary to his oath when he becomes a lawyer. It only lends a facade of respectability to the trial, so that the lawyer is acting not for his client, but for the state, for the opponent.

These lawyers evidently agreed that they could not quarrel with the case as a whole. Their clients were left to try on their own to take the points noted above viz. (1) that "subversive activity" cannot include the dissemination of information, true or false, (2) that the requisite intent was not present, and (3) that the work of VONS was not tried to elaborate (1) and was shut up by the judge, Kaspar. So he simply said it was hopeless, he did not recognize the Court, because it was obviously all decided. Havel tried (3) and was interrupted 5 times by the judge. Bednarova tried (2) and was told it wasn't relevant.

What the lawyers evidently did agree was that they could submit that the evidence did not implicate their own client. Not all did that even. Benda's lawyer was the worst. He congratulated the prosecutor on the indictment. He said that he was a good socialist, and so the only reason he was pleading not guilty was because his client insisted. He spent much of the time in Court reading a car magazine. Bednarova's was the most energetic, taking some lawyer's points about the indictment saying that the material was transmitted to the 'courts and the public', and 'at home and abroad', but there was no proof against his client that she had had anything to do with sending the material to the public and abroad. The remainder were less than useless. None got at the guts of the case.

(5) The indictment sets up a false defence for the accused and then, of course, demolishes it. This is that their right to VONS is based on the right of petition: but they did not just petition the Courts—they reached the public. Of course that is not the principal defence. Nevertheless (and Benda took this point in his defence, not of course his lawyer) it was the case that all of VONS statements were addressed in the first place to the authorities and transmitted to them, and later released to the public where they brought no response.

(6) The procedure was unfair, and illegal in many ways. (a) Bias. The bias of the court needs no elaboration. At the end of the case there was little or no consideration of the evidence before the judgment was given so far as we are able to judge. The judgment did not review the evidence and its implication or otherwise if each prisoner demonstrated, as one would expect. The judge simply read the first page of the indictment, said it was proved and passed to the sentences.

(b) At the preliminary inquiry stage the names of the accused were published, contrary to the Penal Code.

(c) The public was excluded from the trial. The trial was intentionally held in a small court room, the same one the previous trials have been held in (No. 81) with room for only about 18 persons other than court officials, the accused, their counsel, and the judges. There were 10 or 11 relatives present. But despite the throng of people wanting to attend the trial no one else was let in.

The lawyers who had been sent as observers from other countries, correspondents from all the big press services, diplomatic corps observers, were not let in, and not a single number of the Czech public was let in (other than relatives). When Uhl's wife Sabatova was arrested and dragged from the court Uhl's lawyer asked for a 'confidant' to be seated in her stead. In closed trials the accused is nonetheless allowed one 'confidant' as observer. The judge, with amazing cynicism (having shortly before personally indicted the above mentioned classes of people), refused this request since, he said, it was an open trial.

Later the first day the public was excluded even from the Court House. Later still people were arrested for hanging about in the street in the vicinity of the Court House. Even the Time correspondent Barry Kalil was temporarily detained for taking two pictures of the Court House. Yet there were on both days of the trial 5 or 6 empty seats, even in that small court room. In previous trials the seats have been filled with secret servicemen, but not in this one. (One joke had it that the 5 empty seats were for the ghosts of Slansky et al). Of course the trial could easily have been held in a courtroom along the corridor that has a public gallery for 100 or more. The judge said that unfortunately it was booked.

(d) The friends of the accused were not permitted to take notes. They were doing this at the beginning, Kaspar told them that they could not take notes wihout his permission. Sabatova asked for permission. It was refused. She insisted on her right to take notes. The judge ordered her removed from the courtroom. She was dragged away by the police. She was taken to headquarters. She was questioned by two interrogators. She said nothing. She was asked to submit to a body search and she refused. A doctor was called and she still refused a body search. She was put in a punishment cell for several hours. This is a dark concrete cell with no furniture, but containing a Turkish toilet. (The latter proved useful because she got rid of her notes). Then she submitted to a body search and nothing was found. She had been arrested in the morning of 22 Oct. She was released at 1 a.m. on 24 Oct. into the cold Prague night (temperature about freezing) without a coat and without any money, since her coat and handbag had been left in the courtroom.

Not allowed to see relatives for ten minutes at end of trial.

(e) The material witnesses were not called. Only a perfunctory right of cross-examination was permitted. The evidence was mostly read out of the transcript of the preliminary inquiry, where cross examination is not permitted. Anything less likely to procure a fair trial is hard to imagine.

(f) The length of the sittings. These lasted for 11 or 12 hours each day. It has been proved that no lawyer can function longer than 6 hours per day, at the outside, at his best. And this probably goes for the judges as well.

(g) Record of proceedings. No record is available. The record of the Slansky trials, even, were available, and published, at the time. But not this one. Moreover there is no record in our sense a verbatim record. There is only what is called the protocol. Argument ensues as to what goes in it, and the judge rules. But there is no record of the argument. This may be most expectant.

Thus Bednarova, speaking to the lack of the intent required by Section 98's opening words, tried to say she was drawn into the VONS work because she did not wish to see a repetition of the trials of the 50's of which she had had personal experience. She was told to move on to something relevant. She desired her point to be recorded in the protocol. The judge refused. The protocol will show only that there was an argument between the judge and the accused at that point, but not what is was. Now on an appeal, there is no record of her defence.

(h) The indictment was not made available to anyone officially, other than the accused and their counsel, at any time. Somehow it was obtained clandestinely a few days before the trial. How can the accused defend themselves when their lawyers are frauds and they cannot give their friends the indictment?

(7) Finally the common lawyer asks the question—suppose the mode of trial in Czechoslovakia was by judge and jury, would the result of the trial have been different? Surprisingly the opinon of those with whom I spoke was that it cannot be assumed that the result would have been different. The reason lies in the apparent acceptance of the official line by the great majority of Czech citizens. But a jury verdict must be unanimous, or nearly so.

It is hard to believe that such would have been the verdict in this case. But even if we assume a people so cowed as to make that possible, which I doubt, we certainly cannot assume it for any length of time into the future. My own belief is that tried by one's peers, instead of by officials of the state, remains the single best guarantee of liberty, and the people of England have been right to prize this as the brightest jewel of her liberties since 1215.●

JOHNSON HIGH SCHOOL STATE VOLLEYBALL CHAMPIONS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. VENTO. Mr. Speaker, since the passage of title IX of the Civil Rights Act our Nation has sought to equalize women's opportunity in all federally funded educational activities. One area that has received considerable attention is women's athletics. The Department of Health, Education, and Welfare recently published regulations to assist schools in complying with the requirements of title IX. While many institutions have not placed equal emphasis on women's athletics, the institutions and school districts which have established quality programs should be commended.

In this regard, I am proud to bring to the attention of my colleagues the accomplishments of my alma mater, St. Paul Johnson High School. It is with great pleasure that I offer my congratulations to the 1979 Minnesota AA women's volleyball champions, the St. Paul Johnson Governors.

The St. Paul school district has a longstanding commitment to equality in all athletic programs. This volleyball team follows the distinguished tradition of many Johnson championship teams. The Governors compiled a 21 and 2 record for the season. The competitive nature of St. Paul's women's athletic programs is demonstrated by the fact that their only loses came at the hands of other St. Paul area teams. The strength of the conference is further illustrated by the Governors' victory in the traditional St. Paul/Minneapolis metro championship game against Minneapolis South West High School.

Head Coach Marcia Hulstrand attributes this year's success to teamwork rather than the efforts of a few individual stars. This is especially significant in a sport that places an emphasis on height. The Governors' tallest player was only 5 feet 9 inches and the team averaged less than 5 feet 7 inches. This year's champion was the shortest team in the State tournament.

Congratulations are in order for all members of the 500 Minnesota teams that participated in this year's interscholastic women's volleyball competition. Special recognition should be given to the coaching staff and the players of the Johnson High School State champions.

Coaching staff: Marcia Hulstrand, head coach; Mary Hoisser, assistant coach; and Chris McLay, assistant coach.

Players: Capt. Lucia Wrobleski, senior, all-State selection; Julie Blossey, junior, all-State selection; Lisa Spannbauer, junior; Janis Sonnee, junior; Julie Sonnee, junior; Liz Rajtar, senior; Capt. Karen Rebeck, senior; Carol Herzog, senior; Bridget Waldorf, junior; Mari Barduson, junior; Becky Baumen, junior; and Patrice Ricci, junior.●

POLL SHOWS PUBLIC WANTS AIRBAGS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. SIMON. Mr. Speaker, during the debate on the airbag issue one of the charges made was that the public did not want airbags. Though I supported airbags, because I believe them to be in the public interest, I had no reason to doubt the veracity of the claim that the public did not favor them.

But the Washington Post of December 7 has an intriguing article by Larry Kramer which shows the opposite is true. I know that the House was not in session on Friday and some of my colleagues may have missed the article and I am taking the liberty of having it inserted in the Record at this point:

GM Buyers Want Airbags, Studies Show

(By Larry Kramer)

Three previously undisclosed marketing studies by General Motors reveal that its own customers "strongly prefer airbags" over the alternative of safety belts, a fact the automaker did not reveal during the debate over proposed laws calling for passive restraints in autos.

The studies, released yesterday by Rep. John Burton (D-Calif.), chairman of the House government activities and transportation subcommittee, show that as recently as February 1979, 70 percent of those GM car owners questioned preferred airbags over active or automatic seat belts, even when told that the airbags could cost up to $360.

A 1971 study also released showed that 50 percent of those surveyed preferred airbags over a choice of either belts or no restraints at all.

And a third consumer study, done in 1978, told GM that airbags "received the highest ratings on all operation, comfort and appearance items evaluated."

Burton timed the release of the survey to influence legislative proposals next week that could halt pending Transportation Department regulations ordering automakers to phase in passive restraint systems between 1982 (large cars) and 1984 (small cars).

Although the present DOT regulation merely calls for any form of passive restraint, there are certain types of vehicles that, under present technology, could comply with the regulation only through the use of airbags.

Burton accused the world's largest automaker of suppressing the surveys while the House was considering related legislation

Burton claimed that GM "has known for years that a significant and growing number of its customers strongly prefer airbags. Yet GM does not offer airbags as an option on a single car today."

A GM spokesman attending Burton's press conference, Technical Liaison Group manager Bill Chapman, acknowledged that the surveys were genuine, but denied that GM in any way suppressed them. "When the committee asked for them, we gave them to them," he said.

Chapman further said that when GM offered airbags as an option in certain large cars from 1974–1976, only 5,000 people ordered them in the best year.

"We were tooled up to produce 100,000 a year," he said. "Some of the airbag proponents in this room did not buy them."

Chapman said marketing surveys are not in themselves enough to establish consumer demand. "There were lots of marketing studies done on the Edsel, too," he said.

General Motors had expressed safety concerns with its airbag system, which it originally had planned to offer in late-model 1980 cars. That introduction had been delayed because the automaker said its tests have shown that unrestrained and out-of-place children could be hurt by the airbag system.

But Burton said he was shocked to find that GM withheld the consumer studies during the congressional debate over airbags, particularly since some House members claimed that airbags were "not what the public really wants."

"This (information in these studies) destroys the argument that people don't want airbags," Burton said yesterday. He said he personally found airbags to be far superior to passive restraint belt systems, which he said a consumer would find uncomfortable, "unless he was some kind of bondage freak."

Passive restraint belts are the seat and shoulder belts that automatically close on the occupant when he or she closes the door of an automobile. They are presently offered as options only on Volkswagen Rabbits. There were, however, about 10,000 1978 Chevettes sold with a similar system.

Specifically, the three newly released studies revealed the following:

The 1971 Consumer Preference Study. This study involved 630 workshop participants who were interviewed extensively. They were asked their preferences on several different occasions, each time being given new information. What the survey found was that even after told of the extra costs and disadvantages of airbags, the majority of those surveyed found the airbag "far superior in all areas of style and convenience."

The 1978 Study. In this survey, GM asked 1,014 GM car owners in a midwestern city to examine and rate three items: active seatbelts, which must be buckled by the user); automatic seatbelts and air bags. It concluded: "The air cushion restraint system . . . received the highest ratings on all operation, comfort and appearance items evaluated," and that "passive restraint systems were preferred by a margin of two-to-one over a mandatory seatbelt law."

The 1979 Study. Here 195 Chicago GM large-car owners were asked their preferences among three types of automatic seatbelts or airbags. Seventy percent preferred airbags, even when told it would cost more than four times the price of the most popular belt. The airbags were priced at $360, while the automatic belts were priced between $80 and $150.

Speaking yesterday GM's Chapman said, "There is a big difference between saying you're going to do something and writing the check to do it.' ●

PRELIMINARY REPORT OF THE PRESIDENTIAL COMMISSION ON WORLD HUNGER

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. GILMAN. Mr. Speaker, on Monday, December 10, 1979, the gentleman from Minnesota, Richard Nolan, and I joined with other members of the Presidential Commission on World Hunger in submitting our preliminary report to President Carter.

This report has grown out of a 14-month effort by the Commission to define the problem of world hunger and malnutrition, to identify the problem's root causes, and to develop recommendations to significantly reduce hunger and malnutrition.

This 20-member panel, created by the President at the urging of Congress, is also charged with helping to implement its recommendations and focus public attention on the extent and nature of hunger and malnutrition.

The Commission will soon be launching a public outreach program designed to solicit comment on this report, and I am hopeful that a heightened level of concern can begin to move our Nation toward the type of concerted international effort needed to eliminate the worst aspects of hunger and malnutrition by the end of this century.

While my colleagues have been provided with a copy of the preliminary report, I would like to share with them a brief summary of the report outlining: why the United States should be concerned about world hunger, the nature and extent of world hunger today, the causes of hunger, prospects for overcoming world hunger: the challenge ahead, and the Commission's initial conclusions and preliminary recommendations.

I also wish to insert into the Record a December 12, 1979, Christian Science Monitor editorial assessing the central findings of the Commission's report:

Background Information on the Preliminary Report of the Presidential Commission on World Hunger

WHY SHOULD THE UNITED STATES BE CONCERNED ABOUT WORLD HUNGER?

There are significant reasons why the United States should place the elimination of hunger at the top of its list of global concerns. Moral obligation alone would justify giving highest priority to the task of eliminating world hunger. Millions of human beings live on the edge of starvation in conditions of poverty which preclude access to the most basic human needs of food, shelter and education. At least one out of every eight men, women and children on earth suffers malnutrition severe enough to shorten lifespans, stunt physical growth and dull mental abilities. Unless all governments begin now to act upon their rhetorical commitments to ending hunger, the principle that human life is sacred, which forms the very underpinnings of human society will gradually but relentlessly erode.

Promoting economic development in general and overcoming hunger in particular are tasks far more critical to U.S. national security than most policymakers and citizens believe or even acknowledge. Hunger has been internationalized and turned into a continuing global issue, transformed from a low-profile moral imperative to a divisive and disruptive factor in international relations. The most potentially explosive force in the world today is the frustrated desire of poor people to attain a decent standard of living. The anger, despair and often hatred that result represent a real and persistent threat to international order. No monetary value can be placed on avoiding the chaos that will ensue unless the United States and the rest of the world begin to develop a common institutional framework for meeting such critical global threats as the growing scarcity of fossil fuels and other non-renewable resources, environmental pollution and international terrorism. This combination of problems threatens the national security of all countries just as surely as advancing armies or nuclear arsenals.

There are compelling economic reasons for the United States to focus on the elimination of hunger. The United States can maintain its own economic vitality only within a healthy international economy whose overall strength will increase as each of its component parts becomes more productive and more internationally competitive. To sustain a healthy global economy over the long run, the purchasing power of today's poor countries must rise substantially, in order to set in motion that mutually reinforcing exchange of goods, services and commodities which provides the foundation for viable economic partnership and growth.

The United States has a special capability and special responsibility to lead the campaign against world hunger. The United States is by far the most powerful member of the world's increasingly interdependent food system. It harvests more than half the grain that crosses international borders. Its grain reserves are the world's largest. Because of its agricultural productivity, its advanced food technology, and its market power, the United States automatically exerts a major influence—intended or not—on all aspects of the international food system.

American concern for the world's hungry must spread to all spheres of international activity. The U.S. Government's response to world hunger has been inadequate. Besides significantly reduced foreign assistance programs, U.S. neglect of the hunger problem is evident in other policies and programs which may, in the long run, have a far more important effect on world hunger and the possibilities for overcoming it through self-reliant development. Flows of development assistance will never amount to more than a tiny fraction of all U.S. economic interactions with Third World nations. In the long run, patterns of U.S. trade and foreign investment, U.S. participation in international organizations and domestic policies regarding agricultural production and trade adjustment are likely to have a much greater impact on hungry people than foreign aid does.

THE NATURE AND EXTENT OF WORLD HUNGER TODAY

The major world hunger problem today is not periodic famine, but the less dramatic one of chronic undernutrition. Chronic undernutrition results when people consume fewer calories and less protein than their bodies require to lead active, healthy lives. Although chronic or repeated shortages of calories may appear less newsworthy than outright starvation, they steadily take a greater toll in human lives. The Food and Agriculture Organization of the United Nations estimates that as of 1975 approximately 450 million people were severely malnourished in the developing world.

More than three-quarters of the world's inadequately nourished people live on the Indian subcontinent, in Southeast Asia and in sub-Saharan Africa. Many also live in parts of Latin America and the Middle East and pockets of the poorly nourished persist in the United States and other rich countries as well. Children under five make up over half of the world's malnourished population, and significantly more women are affected than men. Despite its magnitude, its moral aspects and its high social and economic costs, world hunger seldom captures widespread public attention except in times of catastrophe and dire emergency. World hunger is at least as much a political, economic and social challenge as it is a scientific, technical or logistical one.

THE CAUSES OF HUNGER

Poverty is the root cause of hunger. Nearly forty percent of the people in the non-socialist developing world live in such dire poverty that they cannot provide themselves with even a minimally adequate diet. This impoverished one-fifth of humanity lacks the land to grow its own food or the money to buy it—even in years when local crops are good, world production is high and storage bins are filled to overflowing. This massive poverty explains the National Academy of Sciences' conclusion that "even doubling food production next year on present patterns would not materially change the status of the great majority who are hungry and malnourished today."

Sharp extremes of wealth and poverty persist between and within nations. Three major national factors, acting within the environment defined by international economic constraints, give rise to most developing world poverty: inequitable distribution of resources and income; low productivity and slow economic growth; and excessive population increases. These major factors interact with one another and a number of subsidiary factors to perpetuate world poverty which is the principal cause of hunger.

PROSPECTS FOR OVERCOMING WORLD HUNGER: THE CHALLENGE AHEAD

Lasting solutions to world hunger can result only from rapid, equitable and self-reliant economic growth. The industrialized nations can do their part by providing various forms of development assistance. However, the effort to assure equitable economic growth cannot end with development assistance—no matter how generous and effective. Because hunger and poverty are deeply rooted in political and economic relations among nations, fundamental changes in global patterns of food production, trade and finance are needed to improve the conditions within which the developing countries themselves must break the cycle of stagnant agricultural productivity, hunger, poverty, high birth rates, unemployment and disease.

More than ever, the economic prospects of poor nations and poor people depend heavily on the evolution of the international economy as a whole. A number of related factors will govern the general direction of the world economy, and the performance of individual developing nations. In addition to the economic health of the industrialized nations, these factors include developments in world trade, private and public capital flows and energy issues, among others. The Commission believes that the rate at which the world economy grows during the next 20 years will make the major difference between the possibility of better conditions of life or continuing misery for millions of people. It is imperative that policy makers in every nation search for all possible ways to further economic growth, as the most self-sustaining means of overcoming hunger.

Food production worldwide has been steadily increasing over the past two decades, although there are wide regional variations. In the 1960s and 1970s, food production increased at a faster pace in the developing countries than in the developed ones, yet because of much higher population growth rates in the developing countries, per capita food supplies are growing smaller where the need is greatest. In Africa, in particular, food production per capita has declined dramatically in recent years. If present trends continue, substantial portions of the developing world will encounter rapidly increasing foodgrain shortages and increasing hunger and malnutrition as domestic demand outstrips the ability of nations to grow or purchase their own food.

The necessary increase in agricultural productivity in the developing world will not occur without substantially greater investments of financial and human resources in Third World agriculture.

Finally, if there is to be enough food to feed future generations, priority attention must be given to maintaining the ecological foundation of agriculture, reducing the rate of population growth, establishing a system of international grain reserves as well as national grain reserves and taking special short-term measures to provide food for nutritionally vulnerable populations. Food subsidy and food-for-work programs, targeted nutritional interventions, and well-organized famine and disaster relief programs are examples of short-term measures which can address the nutritional needs of the poor in developing countries.

In the end, the issue of ending world hunger comes down to a question of political choice—a factor that is no more predictable than the weather, but far more susceptible to human control. The quantities of food and money needed to eliminate hunger are very small in relation to available global resources. Political will is the missing ingredient and will be required in abundance.

CONCLUSIONS AND RECOMMENDATIONS

The Commssion's conviction of the need for immediate U.S. attention to solutions to the problem of world hunger which are supportive of the goals of self-reliant growth is reinforced by its following major conclusions.

The major world hunger problem today is qualitatively distinct from the historically familiar story of recurrent famines. Chronic undernutrition is the principal world hunger problem.

Political will is the key to eliminating world hunger.

The world hunger problem is getting worse rather than better. One out of every eight people on earth is still afflicted by some form of malnutrition. The world food situation in 1979 remains precarious.

World hunger has many interrelated causes, but the central and most intransigent cause is poverty. Hunger is as much a political, economic and social problem as it is a scientific, technical and logistical challenge.

A major crisis of global food supplies appears likely within the next twenty years unless steps are taken to facilitate a significant increase in food production in the developing countries.

The Commission's preliminary recommendations are:

That the United States make the elimination of hunger the primary focus of its relationships with the developing countries for the decade of the 1980s.

That the Director of the International Development Cooperation Agency be accorded Cabinet rank and that EDCA be given authority over those development programs currently in the Departments of State, Treasury, and Agriculture.

That the United States move as rapidly as possible towards the United Nations' goal of 0.7 percent of Gross National Product as this nation's net disbursement of concessional economic assistance.

That the United States Senate ratify the Additional Protocols to the 1949 Geneva Convention, adopted by the International Conference on Humanitarian Law in Armed Conflict, which prohibits the starvation of civilians as an instrument of war.

That increased resources be provided to those domestic U.S. hunger programs which have a demonstrated record of success and that a systematic effort to assess the nutritional status of Americans be undertaken.

HUNGER—A SOBER REPORT

The hostage crisis in Iran. The nuclear missile debate in NATO. These are the international topics commanding front-page attention in this week's newspapers. But it is an item of news on the inside pages which is likely to prove the most crucial to global stability over the long term. That is the report of President Carter's Commission on World Hunger stating that the world's food situation is getting worse rather than better and calling on the United States to lead a worldwide effort to eliminate hunger in the next 20 years. It hardly needs pointing out that the cost of failure to respond, because of inertia or lack of foresight, could be high. As the commission bluntly declared:

"A major crisis of world food supply—of even more serious dimensions than the present energy crisis—appears likely within the next 20 years, unless steps are taken now . . ."

Summing up the moral conscience, political will, and perseverance needed to come to grips with the problem of food sufficiency clearly should be a most pressing goal of American policy. Yet the record leaves much to be desired. It is now five years since the World Food Conference in Rome and the results are disappointing. No system of international grain reserves has yet been set up to protect countries against sudden food shortages. Good harvests in major food-producing countries in the past three years have made the food situation seem secure, but specialists warn that two consecutive bad years in such regions as China, the Soviet Union, and India could place many countries in jeopardy. Even with the good world harvests of recent years the number of the world's hungry has grown from 740 million to 800 million.

Of greatest concern to aid experts is the fact that the poor countries of the world, where population growths are highest, are sinking in their efforts to produce more food and that many are unable to pay for food imports. Robert McNamara of the World Bank notes, for instance, that a major structural change has occurred in the pattern of global grain trade. The better-off developing countries, the OPEC countries and the USSR are today the chief customers in the grain market, with the result that the poorest of the poor are being priced out of the market.

If the problem looms large, it is not beyond solving. The commission in fact makes the reassuring statement that in the next two decades "there appear to be no major physical barriers to feeding all the world's inhabitants." The principal grain producers, notably North America, will continue to be relied upon for commercial grain sales and food grants. But the only long-term solution is to help the developing countries produce their own food and this will require more aid and investment. To double their farm output in the next 20 years will take $30 to $40 billion a year, according to estimates. Here the United States is reminded yet once again that it has fallen far behind other rich nations of the world in amount of aid given in terms of percentage of gross national product. The commission recommends the U.S. double the $1.5 billion it supplies annually in technical and economic aid to developing countries for advancing agriculture.

The other side of the coin is that the poor nations themselves must institute the social and economic reforms needed to make the foreign aid effective. Land reform, for example, is desperately needed in many areas to give farmers incentive to produce more. The poorest people in the world, according to a Worldwatch Institute study, are not small farmers but landless laborers, sharecroppers, and marginal farmers who farm the rural majority in most developing countries. It is therefore not unreasonable to ask the U.S. and other Western aid programs to be made dependent on structural reforms. Pouring funds into the coffers of affluent landowners or ruling elites will not get at the root of the problem and in fact only aggravates rich-poor disparities.

In sum, the United States and other rich nations must give far more attention to the economic needs of the third world. Primary emphasis in recent decades has been placed on military assistance. But, as the presidential commission points out, the chronic hunger of over a half billion people could lead to disastrous political instability. Iran itself is a sharp reminder of how little military weapons count when people's aspirations for a better society appear to them threatened. If there is a lesson to be learned from that experience, it is surely that the U.S. stands most to gain—morally and politically—by addressing above all the social and economic rather than military needs of the developing world. The commission's report on world hunger should help reorder the nation's priorities.●

THE DIFFERENCE BETWEEN IRAN AND THE UNITED STATES

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. YOUNG of Florida. Mr. Speaker, the Evening Independent of St. Petersburg, Fla., published an editorial yesterday which profoundly lists some of the differences between the Governments of Iran and the United States. So often we take our Government and the freedoms it guarantees for granted. Sometimes it takes a crisis, and in this case the denial of those freedoms, for us to remember that we are the most fortunate nation on Earth.

The Independent's editorial serves as a good reminder and I submit it for the RECORD at this point.

The editorial follows:

WHAT A DIFFERENCE!

They celebrate a major religious holiday by holding hostages. We celebrate a major religious holiday by giving gifts, including millions worldwide.

Their national leadership comes to power in a coup d'etat, featuring an aging religious zealot's appeal for jihad—a holy war—against all unbelievers (anyone who doesn't accept his Shiite Moslem belief). Our national leaders come to office by vote of a democracy, pledging to support a Constitution that guarantees freedom of religion for all residents.

They seek to advance their national purposes with demonstrations. We watch television in quiet support of our elected leaders.

They support their government's actions with wild mob scenes. We write letters to the editor.

Their newspapers' editors support the government by command of the government. Our nation's newspaper editors, free to write whatever they would, support the national government by free choice.

Their government's machinery won't start unless the ayatollah himself initiates its action with his presence. Our government's machinery often won't stop unless a President personally intervenes.

They are so committed to their national goals they risk world opinion and the loss of markets for their economy's top product, oil. We're so uncommitted we won't risk a day without the automobile to help curb our incredible national appetite for a dwindling natural resource.

They support a man who risks war to extract blood vengeance from an ailing shah. We support a man who refuses to use our enormous military power so long as there is any reasonable chance the lives of our people can be saved.

They support a man who orders executions, without due process of law, of hundreds of his own countrymen. We support a man who offers on a humanitarian basis a hospital to a shah who also killed to maintain his government.

Their leader shoots his political enemies. Ours shares public forums with his opponents.

They depose their national leader with bullets and the intent to execute him. We depose ours by ballots, giving him a lifetime pension and security guard.

Their leader thinks we will weary of supporting our government, if he holds out long enough. Our leader thinks we will stand firm.

Americans have never stood taller.●

TRADE PROBLEMS: RECOMMENDATIONS FOR ACTION (PART 4)

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. ROUSSELOT. Mr. Speaker, for the past few days my colleagues have had the opportunity to read the testimony received by the Subcommittee on Trade during hearings held in San Jose, Calif., on the issue of the semiconductor industry. Today and tomorrow I will bring to the attention of the House the statement of Mr. George M. Scalise, vice president for administration, Advanced Micro Devices, Inc. Mr. Scalise's remarks are extensive and provide an informative wrapup to the points made by the earlier witnesses. Due to the length of Mr. Scalise's testimony, it will appear in two installments.

The testimony follows:

STATEMENT OF GEORGE M. SCALISE

Mr. Chairman, my name is George Scalise. I am Vice President—Administration of Advanced Micro Devices of Sunnyvale, California. With me today on the panel are representatives of the following members of the Semiconductor Industry Association ("SIA"):

Andrew Procassini, Corporate Vice President, Worldwide Marketing, Fairchild Camera & Instrument Corp; Earl Rogers, President, Precision Monolithics, Inc; and Charles C. Harwood, President, Signetics Corporation.

Also with the panel today is: Peter B. Archie of Peabody, Rivlin, Lambert & Meyers, Washington counsel to SIA.

INTRODUCTION

Mr. Chairman, we are particularly pleased to have the opportunity to discuss the problems of the United States semiconductor industry in the context of the International Trade Commission's "Study of Worldwide Trade Problems in Integrated Circuits." * Each of the industry witnesses will present a summary of his prepared statement, after which we will be pleased to answer any questions which you may have.

Mr. Chairman, members of the SIA cooperated extensively with the International Trade Commission in its investigation of the integrated circuit industry. We responded to voluminous and detailed questionnaires, three of our executives testified for a full day before the ITC during its hearings in San Francisco, and our members supplied supplemental data in response to ITC staff requests.

On some issues, the conclusions of the ITC have been valid; however, there are several key areas of the ITC Report which we question. In particular:

The ITC conclusion, which is supported by no analysis or discussion in the Report, that the U.S. industry will maintain its leadership and profitability in "the foreseeable future" and thus, by inference, is not seriously threatened by foreign competition. (Report, p. viii);

The omission from the Report of meaningful analysis of evidence which SIA submitted to the ITC on the comparative capital formation advantages of the Japanese semiconductor companies;

The conclusion, contrary to the data in the Report, that the U.S. industry lagged in investment in new plant and equipment in the mid 1970's;

The ITC analysis which purports to show that the Japanese industry is more efficient than the U.S. industry (Report, p. ix); and

Overall, the deletion of meaningful statistical data from the public version of the Report.

To put these deficiencies in context, we are submitting for the record copies of the testimony SIA presented before the ITC on May 30, 1979 in San Francisco.

In the course of reviewing the ITC Report with you today, we would like, first, to provide an overview of our industry, to explain why it is important to the United States, to give you some details about our efforts to market in Japan and to emphasize the threat which the U.S. industry faces from the Japanese target industry system.

DISCUSSION

The basic problem in semiconductor trade, a problem which is not clearly identified in the ITC Report, is the Japanese target industry system which places the Japanese government, with its unlimited financial resources, behind a particular Japanese-owned industry which is targeted for growth. This financial support permits the Japanese firms to price their products with a view toward long run market penetration strategies, and to ignore free market capital formation strictures which apply to U.S. firms. These structural advantages, Mr. Chairman, apply to shipments from Japanese-owned plants abroad, as well as those in the United States.

Our present trade laws and treaties, including the recent MTN legislation, do not adequately deal with planned economies and governmental targeting. Private U.S. companies are hardly in a position to negotiate directly with the government of Japan for structural changes. Of course, we don't expect the Japanese to revamp their economic system. We ask, however, that our government negotiate at the highest levels with the Japanese government to achieve a solution which moderates the disruptive international effects of the Japanese target industry practices and which removes structural barriers to the Japanese market and neutralizes the Japanese advantages in international trade. If negotiations are not successful, legislation may be necessary. We do not intend to sit idly and watch the destruction of our industry.

The U.S. semiconductor industry is a leader in a growing world industry which is expected to reach annual sales of $10 billion in 1982 and perhaps $20 billion by the late 1980's. Even more important, semiconductors serve advanced electronics equipment markets which are expected to total $200 billion of annual sales by the late 1980's.

Jerry Sanders, Chairman of the Board of our company, Advanced Micro Devices, testified before the International Trade Commission that semiconductors are the "crude oil" of the 1980's. The strength of all industrialized nations, Jerry Sanders stated, will largely depend on semiconductors by the end of this century. His conclusion, which I share with you today, is that the effectiveness of the United States government in coming to grips with contemporary problems of international competition will determine whether our country is a net importer or exporter of the "crude oil" for tomorrow's advanced computer and telecommunications systems. If Japanese targeting continues to be successful, the United States could become a net importer of another vital commodity. Now is the time to avoid a crisis with ramifications as important as the present energy crisis. Thus, it is quite clear that U.S. leadership in integrated circuits is threatened.

Prices in the semiconductor industry have tended to decline, with normal competition, at the rate of about 30 percent each year. The ITC Report discusses this declining price trend phenomenon on pages 19–20. I particularly call your attention to the Table on page 19 of the Report which is reproduced below:

Integrated circuits.—Indexes of weighted average unit prices of selected types of integrated circuits produced by U.S. firms, by quarter, 1977 and 1978

[January–March 1977=100.0]

Period	Linear circuits	Digital bipolar circuits	Digital MOS circuits	
			4K RAM	Other MOS
1977:				
January–March	100.0	100.0	100.0	100.0
April–June	101.2	102.8	88.9	88.8
July–September	89.6	83.7	80.2	88.2
October–December	87.5	76.1	77.8	79.4
1978:				
January–March	78.7	67.7	62.5	68.9
April–June	74.2	59.2	57.1	61.8
July–September	88.8	49.7	53.9	45.8
October–December	72.1	53.1	39.9	41.5

Source: Compiled from data submitted in responses to questionnaires of the U.S. International Trade Commission.

Further, the learning curve graph from page 20 of the Report shows that U.S. manufacturers continually reduce their prices to the benefit of the consumer:

Artificial Japanese pricing below the normal learning curve price decline tends to injure the U.S. industry. Such artificial pricing is now occurring in the 16K RAM market, as Chuck Harwood will explain in his testimony. The point, Mr. Chairman, is that even in absence of Japanese competition, the U.S. industry is highly competitive. With historical price declines of 30 percent a year, our industry is obviously anti-inflationary.

The significance of the foreign challenge to the U.S. semiconductor industry is best understood in the context of the rapid pace of technological advances and product development which occurs in the semiconductor industry. Unlike products manufactured by the steel industry, which have long life cycles, today's semiconductor products may be obsolete tomorrow. This short product life of semiconductor products makes it very important that our industry continue the research necessary to develop new generations of products. Evolution from one product stage to the next must be maintained for viability of the industry. The technology needed to advance from the current product stage to the next will be unavailable if earnings needed by U.S. firms to fund R&D are dissipated because of price-cutting tactics of foreign enterprises. Now is the time to anticipate the foreign threat to those high technology industries, and now is the time for our government to act.

The Japanese criticize the United States because trade policy has been reactive, not anticipatory. Historically, the United States has protected our mature industries, such as textiles and footwear, from unfair trade practices, but we only act after injury is severe. As a result, once proud U.S industries

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* "Competitive Factors Influencing World Trade in Integrated Circuits." Report by the International Trade Commission under Section 332 of the Tariff Act of 1930, as amended (USITC Publication 1013, November 1979) (herein the "ITC Report.")

were injured by foreign targeting practices. That policy must change if our high technology industries are to survive. Unlike a steel mill, a semiconductor plant can't be closed for a year or more and expect to be competitive when it reopens. Its talented scientists and engineers will be gone, the technology will have advanced and a new generation of products will have been introduced.

Mr. Chairman, the U.S. semiconductor industry stands exposed to the same Japanese target industry strategy which decimated the U.S. color TV and steel industries. These targeting practices have also burdened United States commerce in a number of other industries. The successes of the other Japanese target industry strategies are well documented by the recent Report by the General Accounting Office on U.S.-Japan Trade Problems.* As we all know, very little has been done by our government to prevent the Japanese threats to our industries from becoming harsh realities. Quite frankly, Mr. Chairman, we feel that it is time our trading partners quit pushing U.S. industries around.

The present foreign challenge to our technological leadership is not on "even terms," but is led by foreign enterprises which are largely state-owned or state-directed or, at the very least, receive significant and continuing financial support from foreign governments. The foreign enterprises do not rely on innovative genius or market superiority but, in addition to direct and indirect funding from their national governments, frequently operate in a protected home market. Current commercially oriented semiconductor development projects financed by foreign governments aggregate approximately $1.6 billion. ITC Report, p. 75. This massive governmental funding indicates the magnitude of the challenge confronting the U.S. semiconductor industry and the unique trade problems presented.

We have, Mr. Chairman, a clash of economic philosophies: our free market companies—including many small, highly innovative firms—are confronted by major foreign enterprises which have a pipeline to their respective national treasuries and which coordinate research in ways that would violate our antitrust laws.

The structural advantages of these foreign state-supported enterprises have been leveraged even further by unfair trade practices designed to capture a slice of our market, resulting in a clear-cut threat to the U.S. industry. Economic theory (and practice) demonstrates that it is not enough for the foreign government-funded scientists to close the semiconductor technology gap. The foreign government successes must reach beyond the laboratory and into the commercial marketplace, as widespread commercial acceptance is necessary to assure a firm grip on each successive generation of products. Thus, each instance of national funding of research and development efforts will be followed by efforts to sell the developed products, and the principal market for these products is the United States. "The sophisticated U.S. microelectronic market," Mr. Stanley Nehmer testified before the ITC on behalf of the SIA, "remains the initial proving ground for the most advanced generation of products. . . ." Unquestionably, as Mr. Nehmer concluded, "firms enjoying an established share of the U.S. market for existing products . . . will hold a large advantage."

Many of the major developed countries—Britain, Germany, France and Japan—are directly subsidizing or directly investing in their semiconductor industries with total subsidies as the ITC has found, "of $1.6 billion over three to five years through 1981." ITC Report p. 75. In Britain, for example, one semiconductor company—which is perhaps the strongest potential competitor for U.S.-based firms—is entirely owned by the state. Report, pp. 38, 76. This company, "Inmos," which is using British government funds to build a plant in Colorado Springs, Colorado, is currently claiming in trade press advertisements in the United States that "we're going to build a great company." With the support of the British Treasury, Inmos may well achieve its goal.●

THE THREAT OF SOVIET POLICY IN SOUTHERN AFRICA

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

○ Mr. BAUMAN. Mr. Speaker, Soviet expansion in southern Africa may seem a remote problem to many, because it occurs out of sight of the United States and involves a series of events which, each and of themselves, do not seem to threaten our security. The fact is that Soviet influence in that part of the world is a severe threat to us, and American apathy toward events in that region will surely cost us dearly in the future.

An analysis of Soviet activity in southern Africa should lead one to see the clear pattern of Soviet intentions. If one doubts what his own conclusions tell him, though, one need only read the following analysis by someone who definitely knows what the Kremlin dictatorship is up to. He is Dr. Igor S. Glagolev, a Soviet citizen who was a member of Moscow's advisory team on SALT matters and who saw firsthand what the Soviets are up to. His report should leave no doubt as to the danger we face if we allow the Soviet Union to have free rein in what is without doubt one of the most strategically important parts of the world for the United States.

SOVIET POLICY IN SOUTHERN AFRICA

(By Dr. Igor S. Glagolev*)

Seizure of control over the southern part of the African continent is the most important and immediate aim of the present Soviet leadership. The Soviet expansion in Africa developed in several stages. First, using the conflict between the Arab countries and Israel, the Soviet government established its influence over several Arab states. Then, using the tribal conflict in Nigeria, the U.S.S.R. began to influence Nigerian dictators for its own purposes. In the middle of the present decade, by taking advantage of the anti-Portugal movement, the Soviet leadership has established its control over the former Portugal colonies in Africa. The goal of the present, final stage is the elimination of the democratic development in the southern part of the African continent by means of subversion and military invasion by pro-Soviet forces. Conflicts between blacks and whites are being used as a cover for installation of pro-Soviet dictatorships in Rhodesia, Namibia and the Republic of South Africa. Simultaneously, Soviet influence is being established in the whole African continent and in the Middle East. The majority of African dictatorial regimes already support the policy of the U.S.S.R., including the Soviet-inspired anti-Western resolutions in the international organizations. Seizure of control over southern Africa is especially important for the Soviet leaders because of the unique mineral resources of this region. South African reserves as a percentage of non-communist world reserves in 1975[1] were: platinum, 99; vanadium, 96; diamonds, 92; chrome ore, 84; manganese ore, 83; gold, 61; fluorspar, 50; titanium, 40; uranium, 30.

Up to now southern Africa has been economically, politically and spiritually connected with the Western democracies. It is still a tremendous asset of the Western civilization. However, during the period of "detente", when liberal and social-democratic governments of the West surrendered Indochina, Angola, Mozambique, Guinea-Bissau, Cape Verde, Ethiopia, South Yemen, Afghanistan, Iran and some other countries to pro-Soviet and anti-Western dictators, the same Western governments tried to isolate South Africa and Rhodesia. They even gave and still give diplomatic support to pro-Soviet terrorist organizations—the "Patriotic Front" of Zimbabwe and SWAPO.

The decision to begin an offensive for the conquest of southern Africa was taken by the Politburo of the Communist Party of the Soviet Union near the end of the 1960's.

The then National Chairman of the Communist Party of South Africa, John Marx, as well as some pro-Soviet terrorists from Rhodesia, were summoned to Moscow. I participated in negotiations with them. The negotiations with the terrorists (who are called the "Patriotic Front" of Zimbabwe) began at the Soviet Peace Committee and continued at the Central Committee of the CPSU in 1968. The terrorists asked and received Soviet arms and money. Later, Marx attended a special conference organized by the Central Committee of the party and received Soviet instructions. His headquarters were in London and he was already controlled by the Soviet Politburo. The present National Chairman of the Communist Party of South Africa, Usef Dadu, has also been controlled by the Soviet leadership for a long time. He attended international conferences of communist parties in Moscow in 1960 and 1969. He is one of the authors of the present program of the Communist Party of South Africa which openly stipulates destruction of the structure of the South African society. In September, 1979, Dadu was awarded the Soviet order of "Friendship of Peoples".

The Soviet leadership controls through him not only the South African Communist Party but the African National Congress and the South African Indian Congress as well. Dadu is president of the South African Indian Congress and vice-chairman of the Revolutionary Council of the African National Congress.[2]

The Soviet leaders and their local agents used the territory of Angola and Mozambique as a base for terrorist actions in Rhodesia and South Africa even before pro-Soviet dictators Agostinho Neto and Samora Machel came to power in the former Portuguese colonies. The offensive against Rhodesia and South Africa quickly grew in intensity after their dictatorship was established. In order to terrorize the population and stop the development of Rhodesia and South Africa towards full democracy, more and more civilians in these countries were killed by the Soviet-controlled forces.

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*Report by the General Accounting Office "United States-Japan Trade: Issues and Problems," September 21, 1979.

* Until his defection in October 1976, Dr. Glagolev was a Senior Member of the Institute of History of the U.S.S.R. (Academy of Sciences of the U.S.S.R.). He was also an advisor on foreign affairs and SALT to the Central Committee of the Communist Party of the Soviet Union, as well as a consultant to the Politburo of the Soviet Communist Party.

[1] *The Southern Oceans and the Security of the Free World*, Ed. by P. Wall, London, 1977, p. 228.

[2] *Pravda*, Sept. 5, 1979.

One of the most important KGB agents, V. Solodovnikov, who in the first half of the 1970's was director of the Institute of Africa in Moscow, was subsequently appointed Soviet Ambassador in Zambia to organize an invasion of the terrorists headed by J. Nkomo into Rhodesia.

In general, the Institute of Africa is the brain trust of the Soviet offensive in Africa. It is important to note this Institute began to consider invasion into southern Africa as a major goal of Soviet foreign policy only in the 1970's. In the 1960's it paid much less attention to this region. In 1976, however, a deputy director of the Institute, Yablochkov announced (at a secret meeting of the Permanent Interagency Council on the Foreign Policy of the U.S.S.R. and International Relations) that elimination of the Western influence in southern Africa is the major task of the Soviet foreign policy. I was a member of this Council and attended this meeting.

The Lumumba University in Moscow plays an active role in the Soviet infiltration of African countries. The majority of its students are Africans who study at the expense of the Soviet government. Only young people from influential and rich pro-Soviet and anti-Western families are invited to the university. They study Marxism-Leninism and the Russian language and are trained to promote the interests of the Soviet leadership. Many Nigerians and citizens of other African countries have graduated from the Lumumba University.

The KGB often uses the World Peace Council for contacts with its African agents. In the 1950's and 1960's some members of this council, including myself, resisted this practice. We tried to promote ideas of disarmament with the help of this Council. The Central Committee of the Communist Party of the Soviet Union (which controls the World Peace Council) in order to be more effective decided to use it mainly for the promotion of the so-called wars of national liberation against pro-Western countries in the Third World.

The Central Committee of the CPSU also organizes regular indoctrination courses in the U.S.S.R. for the leaders of foreign communist parties.

Using illiteracy and racial prejudices, the Soviet leadership has managed to influence a part of the population of African countries. However, communist parties have never been able to win a majority of votes in free elections. That is why they resort to terrorism, armed invasions and dictatorship.

Pro-communist dictators in Angola, Mozambique, Ethiopia and in some other African countries usually rob a considerable part of their population. The land is taken from the peasants and given to the so-called collective farms, which practically belong to the government. The peasants are compelled to work at these collective farms for a very low income. Those who oppose the dictators are sent to concentration camps or killed.

The Soviet leaders instigated genocidal wars and terror of local dictators against the population of Biafra, Angola, Mozambique, Uganda, Equatorial Guinea, Ethiopia and other African countries. The year 1977 was very important for the preparation of the final Soviet attack against southern Africa. The Soviet leaders took into consideration that the present U.S. administration would not support anti-communist and pro-Western governments in southern Africa. On the contrary, the U.S. government actually lined up behind some of the demands of the U.S.S.R., the "Patriotic Front of Zimbabwe", SWAPO and the African National Congress. N. Podgorny, who was then chairman of the Presidium of the Supreme Soviet, went along with the policy of the aggressive group of the Politburo and started its implementation. He went on official visits to Tanzania, Zambia and Mozambique. There, on behalf of the Soviet government, Podgorny concluded mutual agreements with the governments of respective countries concerning liquidation by military means of the present socio-political-economic system in Zimbabwe-Rhodesia, Namibia and the Republic of South Africa. The "Patriotic Front of Zimbabwe", SWAPO and the African National Congress were designated in the joint statements by the governments of the three aforementioned front-line states, on the one hand, and the Soviet Union, on the other, as the sole future rulers of Zimbabwe, Namibia and South Africa. Creation of new independent states in the region of South Africa was severely criticized. Similar agreements were concluded in Moscow in 1977 between the U.S.S.R. and Fidel Castro and between Nigerian minister of foreign affairs Garba and the Soviet government.[3]

During the recent years the Soviet press openly described organization of military forces in Mozambique, Zambia and Angola for invasion into Zimbabwe-Rhodesia and Namibia. It maintains this invasion has already begun and the invaders occupy major parts of these countries.[4]

Even the Prime Minister of the U.S.S.R., A. Kosygin, who formerly belonged to the less aggressive group in the Politburo, demanded liquidation of the present social system not only in Zimbabwe-Rhodesia and Namibia but also in the Republic of South Africa during his visit to Ethiopia in September, 1979.[5] Not only terrorist groups headed by Nkomo and Mugabe, but also regular military forces of the frontline states participate in aggressive actions in southern Africa. Soviet arms are constantly supplied for these actions. There is a Soviet inspired plan, (published in the Western press), to use Nigerian regular troops for occupation of southern Africa under the pretext of pacifying this region. It must be noted the Syrian troops occupied Lebanon, destroyed a considerable part of the country, and installed a puppet regime there under the same pretext.

Inclusion of pro-Soviet terrorists into the governments of countries of southern Africa, and occupation of these countries by pro-Soviet forces, would lead to bloody civil wars, political and possibly physical liquidation of the present elected governments and parliaments of these countries, mass robberies, creation of concentration camps and suppression of the present system of human rights. All the supporters of democracy—i.e. the majority of the population—would be persecuted. Expression of independent opinions, which is allowed at present, would be forbidden.

The example of Angola and other Soviet-dominated African states shows that the white population of southern Africa would probably flee before the communist takeover. The black population would not be able to do it and it would suffer the main human losses. Already now the pro-Soviet terrorists kill and multilate mainly black civilians of southern Africa, including women and children, priests, and nuns. After the takeover the black population would be doomed to forced labor in the Soviet-controlled mines and in the state-owned collective farms.

The Soviet leadership would use the enormous natural resources of southern Africa for a major increase of Soviet reserves of hard currency and for a more effective expansion of Soviet control in Africa, Asia and Latin America.

The Western powers could radically change their policy from their present help to pro-Soviet terrorists to help for the elected governments of southern Africa. This change has already begun, but it is still very slow. If a conservative president is elected in the United States in 1980, the change should become more pronounced.●

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[3] *Vneshnyaya politika Sovetskogo Soyuza i mezhdunarodnyye otnosheniya 1977, Sbornik* dokumentov. Moscow, 1978. Str. 21, 30, 35–36, 54, 194.

[4] *Pravda*, September 14, 1979.

[5] *Pravda*, September 13, 1979.

GALLO BROTHERS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. COELHO. Mr. Speaker, I am sure my colleagues are familiar with the names of Ernest and Julio Gallo, two men who are leaders in the production of California wines. What my fellow members may not be aware of, however, is the fascinating story behind the rise of these residents of Modesto, Calif. to the position of respect they hold in the wine industry today. The wine industry is important to our area, providing employment for many, and the Gallo brothers have contributed greatly to the industry and to the community.

The following article appeared in the Modesto Bee newspaper, and I believe it is well worth reading:

WORLD OF THE GALLO BROTHERS—YESTERDAY, TODAY AND TOMORROW

(By Jerry D. Mead)

From a makeshift winery in a rented warehouse in 1933, to the impressive structure that insiders affectionately refer to as "the temple on the Tuolumne," and the largest winery in the world, is no short journey, but Ernest and Julio Gallo made it all seem almost simple.

Flying into, or out of, Modesto, one has a commanding aerial view of the headquarters of the Gallo empire. There are no signs to indicate that this is the home of E & J Gallo, and countless thousands no doubt pass by without realizing what they have seen.

To the casual observer, the huge buildings, temperature controlled tanks reaching to the sky, and the warehouse that sprawls over 1 million square feet on the 350-acre site, could be any kind of an industrial complex. It doesn't look like a winery, but then it really isn't.

No wine is made at the Modesto facility. It is a storage facility, a bottling plant, a shipping point, a site for the most technologically advanced research laboratories in the industry, and of course the administration offices are here.

It is also the location of the first glass plant built and owned by a winery. It has facilities for the production of the foils and closures for the bottles made in the glass factory; a railroad spur that runs through the 25-acre, 1 million-square-foot warehouse; and a bank of computers that stores every piece of information about every imaginable facet of the business. Gallo's own trucking company is also based here.

How did it all begin? How did these sons of an Italian immigrant become the most important force in the world of wine? And, perhaps even more important, where are they going.

In an attempt to answer these questions, I was granted an exclusive interview with Julio Gallo.

Approaching the administration building, it was impossible not to be impressed. The stark, white, pillared structure looks more like a museum than an office building and the manicured lawns rising gently up the knoll that supports the building are large enough for at least nine holes of golf.

Peacocks, a hobby of Julio's son Bob, disport themselves regally on the lawn and the steps.

The building itself is centered around a grand atrium, with a giant skylight providing sun to tropical plants and pools of Japanese Koi fish. The floors and walls have a white granite look that adds to the temple feeling of the two-story structure.

For nearly an hour and a half, Gallo answered questions in an immediate and forthright manner, an almost surprising fact, since the Gallos have a reputation for shunning the press.

Gallo exhibited total comprehension of everything going on in his empire. He plays a very active role in the business. Julio is in charge of production; Ernest handles sales and marketing. That's the way it has always been and apparently the brothers respect each other's area of expertise.

I toured the Modesto facility and spent the afternoon visiting Gallo properties, including Livingston Ranch, the largest single wine producing facility in the world.

After lunch, on the way back to the winery, Julio began to reminisce.

The first warehouse/winery building still stands at 11th and D Streets, but instead of paying the $60 per month rent that was commanded in 1933, the Gallos now own the building. It is leased out for storage.

During childhood, both brothers had worked in their father's vineyard near Modesto, and there were memories of their grandfather's small winery at Hanford, just south of Fresno.

Prohibition brought the wine industry to a standstill, with the only surviving wineries being those with contracts to produce wine for sacramental or pharmaceutical purposes. A few vineyardists managed a living by selling grapes to home winemakers (any head of household could make 200 gallons a year, even during Prohibition). Many growers tore out their vineyards of fine wine grapes, replacing them with either table grapes or course, thick-skinned varieties that could survive shipping to the East Coast market.

This was the Depression-era setting that saw the birth of the E & J Gallo Winery. It took genuine optimists, people of vision, or perhaps crazy men, to even think about starting a winery in 1933.

But start one, they did. A few redwood tanks, a grape crusher, and a couple of pre-Prohibition leaflets on winemaking, found at the old McHenry Public Library, and two legends were in the making.

Ernest sold the wine of vintage 1933 in bulk to Eastern distributors at a reported price of 50 cents a gallon.

Julio remembers one lot of wine shipped East that he was sure would cause complaints. Nothing wrong with the wine, except it was far too young. But there was a contract to be filled, so the wine was shipped. He laughs when he recalls the compliment that came back. The buyer thought it was the best wine the young men had ever sold him, "It has a little bite, for a change," he said.

That may have been the Gallos' first lesson in making wine to please their customers. They've been very astute at that practice, ever since.

By putting every dollar back into the business, they were able, in two short years, to buy land and build a small concrete winery on what was then the out-skirts of the city.

Julio may be a serious man by nature, but he does know how to laugh at himself. And that's exactly what he does when he recalls that he balked at renting the first warehouse building. He thought it was about twice the square footage needed.

It is hard to believe that a winery of such humble beginnings is now responsible for about 40 percent of all California wine, and around 25 percent of all wine, imports included, sold in the U.S.

The Gallos didn't become number one overnight. They continued to sell their wine in the bulk market for a number of years. The Gallo name didn't appear on a bottle until 1940.

Gallo had many competitiors in the 40s and 50s, names like Roma, and Petri, and dozens of others. Louis Petri was the toughest competitor, with his United Vintners collection of brands that included not only the Petri label, but Italian Swiss Colony and others.

Petri forced the Gallo brothers into one of the smartest business decisions a winery ever made—a decision that pushed them into first place. They've been there ever since.

In the late 1950s, Petri built a wine tanker which enabled him to ship his wines to the East Coast cheaper than the Gallos could send theirs by rail. That meant Petri could undersell Gallo and his other competitors. To compete, instead of building their own ships, the Gallos built a glass factory in Modesto, drastically cutting their packaging costs and allowing them to sell at the same price as Petri. Gallo then had the edge, because they could claim their wines were bottled in California.

Gallo was far out front by 1968 when Petri sold United Vintners to the Heublein complex. Nothing has changed, though under Heublein's stewardship, United Vintners has made small inroads into Gallo's dominance.

A number of firsts helped put the Gallos on top. They were first in the flavored aperitif field with Thunderbird. They were also first with low-alcohol, slightly carbonated wines. Remember Ripple?

And there was Spanada, a take-off on Sangria before Sangria was fashionable. Boone's Farm was another coup, with that wine's success starting a run on the apple market. They eventually planted their own orchards.

When Gallo started fermenting pears in certain of the Ripple blends, it was a virtual salvation for pear growers in Mendocino County and elsewhere. The nice thing about pears for wine, from the growers standpoint, is that the fruit doesn't have to be uniform in size, nor pretty to look at. Pears sold at a better price for wine than for canning. The days when fruit fell on the ground for lack of a market are forgotten.

Five years ago, Gallo came up with another first by becoming the first large volume winery to introduce cork-finished varietals. They had already received a kind of begrudging connoisseur acceptance for Hearty Burgandy and Chablis Blanc, two generic wines that benefitted from considerable amounts of premium North Coast grapes.

Robert Balzer, wine columnist for the Los Angeles Times, called Hearty Burgundy the best red wine value in America in the early '70s and consumers as well as other writers began to pay attention.

Those first varietals, which included a Chenin Blanc and a Zinfandel, among other varieties, were not an instant success. Many of Gallo's customers didn't own a corkscrew (their wines all had screw-cap closures up to this point), and some of the wines weren't all they should have been.

But the Gallos had set out, from the very beginning, to make the best affordable wine in the world, and they were determined. The blends improved steadily, and today the varietals are a successful part of the line.

The Gallos were first to develop their own research program, conducting intensive experiments with both wines and vineyards. It has often been said that wine is really made in the vineyard, and no one believes that any stronger than Julio Gallo.

Robert Logan, Gallo's current director of agricultural research, came to the winery from a similar position at the University of California, Davis, "the" enology and viticultural school in the United States, and perhaps the world. Logan says money was not a major factor in his decision to join Gallo. He insists that a greater latitude in the work he could accomplish was the major deciding force. According to Logan, "Gallo is eight to 10 years ahead of the university in research."

That Gallo's chief research goal has been to determine which grapes will do best in California's various growing areas and climates.

With the results of that research, the Gallos convinced many of their growers to replant their vineyards with more desirable varieties. Out came Mission and other varieties considered less than desirable for winemaking, and in went Chenin Blanc, Zinfandel, whatever variety was best suited to soil and climate.

Often, long-term contracts promising more money for more desirable varieties were offered to encourage growers to make the change. It is rumored that the Gallos were so intent on improving wine grapes in the San Joaquin Valley, they virtually subsidized some growers who could not afford to be without a crop for the several years it takes for new vines to mature, by paying for nonexistent crops during the growing period.

Their search for better fruit to produce better wine did not stop at the borders of the great Central Valley. Contracts went out to all of the state's growing regions. A winery was purchased in Sonoma County just to crush the huge quantities of fruit purchased there. A long-term contract with another winery in Napa Valley serves the same purpose.

Gallo can no longer be considered a Central Valley winery simply because its facility is located in Modesto. If the Gallos desired to do so, they could rightfully claim any appelation in the state.

Julio provided some startling figures. Gallo purchases around 40 percent of all the grapes grown in Sonoma County; about 20 percent of Napa County's production; and an amazing 27 percent of the yield from the massive acreage of the Central Coast (Monterey south to San Luis Obispo).

While Julio was improving the vineyards and the wines, Ernest was busy marketing the product. It is said he cannot resist checkout retailers in any city he happens to be visiting. Often without saying who he is, he will ask questions about his wines and about the kind of service the store receives from his sales force.

He was responsible for forming one of the first winery sales forces. Wholesalers and distributors had done all the selling in the old days, but Ernest knew they were selling many brands not just his.

By sending his own men into the field, he was able to fight for the most desirable shelf positions and encourage the merchants to sell his product first. It worked. Gallo's sales force was, and is, formidable.

The Gallo winery is the world's largest. It is controlled 100 percent by the family. The brothers are no longer young (now in their mid-60's), and they could easily step down, live very comfortable in retirement, and let the next generation take over. But that isn't likely.

They still have one goal—to be accepted as producers of premium wines. They could produce "small" if they wanted; they can produce anything they want. They have the fruit, the facilities, the technology, and the talent. If they wanted to produce 200 case lots of the most expensive Chardonnay or

Cabernet Sauvignon in California, they could do it.

But they are determined to do it their way, to convince the American consumer that they can provide fine wine in bulk at reasonable prices.

A few weeks ago, Gallo announced it would soon release a new line of cork-finished quality varietal wines such as Johannisberg Riesling, Chardonnay, Gewurztraminer and Cabernet Sauvignon. Most of the grapes for these wines will come from coastal vineyards.

To make the new varietal program possible, Gallo built the largest underground cellar anywhere and stocked it with the largest collection of oak cooperage anywhere. Eventually, 600 casks, each holding 4,000 gallons, will fill the 100,000 square foot cellar.

The first of these new wines, Johannisberg Riesling and Gewurztraminer, are already being marketed. Chardonnay and Cabernet Sauvignon, as well as new oak-aged versions of Zinfandel and Barbera, will be in the trade by 1980.

Ernest and Julio have accepted the challenge of the '80s. If they don't come out winners, it will certainly be the first time. That's one "first" they could do without.●

THE NEED FOR A SCIENTIFIC COMMUNITY

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. RITTER. Mr. Speaker, I would like to pass on for the benefit of Members and their offices a guest editorial in November's Science magazine, published by the American Association for the Advancement of Science, entitled "Scientists, Engineers, and Citizens." This article underscores the need of the scientific community and engineering professions to help the American people to better understand the technical foundations of modern life and the associated benefits, dangers, and choices.

Through their professional societies, the scientific and engineering communities are urged to make a greater commitment to public interest activities and to help increase citizen understanding. I also would urge Members to seek to promote increased technical advisory participation in their individual districts as well as in the decisionmaking processes of the Congress and Federal, State, and local agencies of government.

Following is the excerpted article, "Scientists, Engineers and Citizens":

SCIENTISTS, ENGINEERS, AND CITIZENS

Meeting needs for public understanding of science was adopted as federal policy in 1950 legislation creating the National Science Foundation. On the basis of currently low levels of citizen comprehension, that original NSF program can hardly be viewed as successful. But how should we expect any federal program to buck a powerful cultural tide?

Huizinga addressed this issue almost half a century ago.* As he wrote, universal education and modern publicity, instead of raising the level of culture, have produced symptoms of devitalization and degeneration. Science as new knowledge has not settled into the culture, and the aggregate of discoveries cannot be equated to culture.

Among knowledge consumers, with everyone getting a taste of everything, there is depreciation of critical judgment. And that process has been accelerated by techniques of mass entertainment wherein participation slides from active to passive mode, speeding abdication of informed judgment to others. Everyone becomes a trivial, Monday morning quarterback.

As to the scientific community, it has considered its primary role as one of acquiring and extending knowledge, leaving to others the roles both of educating the public about the social implications of science and of exercising responsibility over ways and means for adapting and controlling natural forces. The scientific community may also share in the blame for weakening of an intellectual conscience that underpins critical discernment.

Granted, various groups of scientists have become crusaders for specific issues. A few have tackled broader questions of survival. While not identified with causes as such, other scientists have become activists in their own community, applying expertise to local issues.

Professional organizations also now get involved. Journals have carried articles on key policy issues to enlighten members. Some organizations have confirmed their tax-exempt status, then summoned up their courage and taken public positions, submitted testimony, and stepped up attention to professional activities in which ethical dimensions of social responsibilities are at stake. The concepts of technology assessment have begun to be integrated into professional engineering practice and teaching.

Looking ahead, the scientific and engineering communities could be of more direct assistance through heavier commitment of their professional societies to public interest activities and to citizen understanding. At present, organizations of scientists and engineers devote the greatest fraction of their income from dues to dissemination of technical information. The public is never excluded, but the content and style of such communication are so highly specialized as to discourage participation by any but the expert.

Thus the scientific community and the engineering professions have failed to help the other 98 percent of the population who are nonspecialists to grasp the technical foundations of modern life and associated threats to survival. Some of the difficulty arises from cultural isolation of the scientific and engineering communities. One antidote lies in a more systematic exposure to issues that concern society generally, especially regarding those whose lives seldom intersect the technical aristocracy, and whose consequently remote concerns and dreams are alien and heard vicariously, if at all. When the technical community recognizes that it must address the stark questions of who wins, who loses, and how much, then they may also recognize that the attack on these questions of cultural and psychological as well as operational effects involves a kaleidoscopic bend of technical with social knowledge. This surely will widen the perspective and enrich the value base intrinsically present in all judgments that the technical community is called upon to make on technology-intensive public policy.—Edward Wenk, Jr., Professor of Engineering and Public Affairs, University of Washington, Seattle.●

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*J. Huizinga, *In the Shadow of Tomorrow* (Norton, New York, 1936), p. 79.

MORE U.S. OIL

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. COLLINS of Texas. Mr. Speaker, the biggest need for energy today is providing more capital to generate more new oil and gas drilling within the United States. Our country can no longer be dependent on foreign oil. The United States has increased our oil imports from $3 billion 6 years ago, to $45 billion last year, $60 billion this year, and we expect to import $70 billion of OPEC oil next year.

This country is paying $11 a barrel for U.S. oil while, at the same time, it is paying over $24 a barrel for foreign OPEC oil.

Liberals have claimed that U.S. oil companies are making too much profit. Abbott Sparks, who is the publisher of Pipeline and Gas Journal, made some interesting comparisons.

I quote the comparative statistics on profits:

PROFITS IN PERSPECTIVE

We think some of this comes under the heading of irresponsible mis-education of the public, because TV interviews, radio, and newspaper presentations seldom provide an understanding of what the announcer means by "profits." Few voters realize that "profits" (earnings after taxes) represent only a few cents return on each dollar of sales.

Very few recognize that a 100-percent increase in earnings, as reported by media, doesn't necessarily mean a comparable increase in profit margin. As the table below shows, Shell and Union California, with respective earnings increases of 18 percent and 14 percent, actually had declines in profit margin.

Let's take a close look at the "profits" percentages of a representative group of major oil companies for the third quarter of this year:

[Earnings expressed as percent of revenues for third quarter]

Major Oil Companies	1979	1978
Atlantic Richfield	7.3	6.5
Cities Service	5.4	4.7
Conoco Inc	7.1	4.4
Exxon	5.5	3.3
Gulf Oil	6.2	4.2
Mobil Corp	4.9	2.8
Phillips Petroleum	7.7	6.8
Shell Oil	7.8	8.7
Standard Indiana	8.5	7.0
Sun Oil	6.7	5.6
Texaco	5.0	2.8
Union California	4.9	5.7

When you see the major companies' profits or earnings expressed as a percentage of revenues, they aren't all that impressive, especially compared to the prime interest rate—about 15 percent today. (When will the prime rate come down, and how far? And how practical is it to invest in long-range pipeline construction, plant construction, or expansion, if you should have to pay 14 percent to 18 percent interest rates in a long-range effort to develop earnings levels which are much lower? And why would a company go through that rigmarole if it can get similar results through other investment?) On the matter of why TV, radio, and newspaper profit margins are so high? Following is the kind of material he would have to work with:

[Earnings expressed as percent of revenues for third quarter]

Media	1979	1978
Capital Cities Communications	14.6	13.6
Dow Jones	12.2	12.1
Gannett	12.3	11.4
Time Inc	5.1	6.4
Times Mirror	10.4	8.9
Washington Post	5.8	7.2
ABC	6.8	6.3
CBS	6.0	6.0
RCA (NBC)	3.6	4.2
Cox Broadcasting	15.3	15.0
Multimedia Inc	13.8	13.9
Storer Broadcasting	20.0	11.2

An article in Business Week (March 19, 1979) showed profit margins for companies by category of industry for 1978:

[Earnings expressed as percent of revenues for the 12 months of 1978]

Industry Category:	
Publishing	8.3
Radio and TV broadcasting	1.1
Natural resources	4.6

The American oil companies are reinvesting more than their total profits. They are putting their money back into drilling and exploration for more oil and gas. I think Mr. Sparks of Pipeline and Gas Journal has made an interesting and essential comparison. With inflation running 14 percent, the profit of 7 percent on sales is obviously below essential exploration capital fund needs.

Let me call on the Members to invest your own savings in meeting the oil and gas shortage. Invest in drilling for oil and gas.●

WITH ENEMIES LIKE THESE, WHO NEEDS TREATIES?

HON. ROBERT E. BAUMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. BAUMAN. Mr. Speaker, one would think that the Iranian crisis would make all nations, and particularly large ones with high visibility such as our own, careful not to encourage this kind of international lawlessness, lest it turn and consume those who encourage it. Indeed, one would also think that the Soviet Union, which not only meets the foregoing criteria but has pending before the Senate a treaty of overriding importance to its goals, would be particularly reticent about worsening the situation and might even offer to assist us as a token of good will.

Unfortunately, this has not been the case. The Soviets have instead seized upon this opportunity to launch vitriolic, inflammatory attacks on the United States from Persian-language radio stations in the U.S.S.R. and have actually encouraged the terrorists who hold our citizens under threat of death.

Here is an article from Human Events detailing these broadcasts which all should read. I can only wonder at the logic pursued by the Carter administration in insisting that we agree to an arms limitation treaty with a country whose leaders cannot resist this sick opportunity to magnify our grief.

The article follows:

HOW SOVIETS ARE FUELING ANTI-U.S. FIRES IN IRAN

While the majority on the Senate Foreign Relations panel last week asked us to enter into a SALT II agreement with the Soviets, how, one is tempted to ask, have the Russians been behaving during the Iranian crisis? Have they been trying to help us get back our hostages? Have they tried to head off the possible show trials in an effort to demonstrate their goodwill before the Senate ratifies a new arms agreement?

Not so anyone would notice. Privately, of course, Soviet officials have been shedding crocodile tears about the U.S. plight. According to the UPI, Soviet sources, "who cannot be identified," say their country opposes the incarceration of Americans, stressing their arrest means that no other country's diplomats feel safe.

But what have the Soviets been doing in practice? There have been some hints in the papers, but what it boils down to is this: the Soviets have been ferociously fanning the flames of anti-Americanism in Iran to a white heat.

The officially outlawed Iranian Communist Party, the Tudeh party, operates from the Soviet city of Baku a radio station called the National Voice of Iran. But the party is nothing more than a Soviet tool, having slavishly followed Moscow's line down through the years. In the 1940s, the Tudeh party, which was actually founded by German Marxists, was so obsequious to the Kremlin that it supported the Soviet occupation of northern Iran.

Controlled by the Soviets, but manned by Iranian Communists, the Russian-based National Voice of Iran steadily spews out vicious, raw chunks of anti-American propaganda in Persian to Khomeini's countrymen just across the border.

On November 5, for instance, one day following the seizure of the 62 American hostages, here's what this Soviet-controlled radio station was saying in a commentary entitled: "Let Us Eradicate All the Evil Vestiges of the Domination and Influence of U.S. Imperialism in the Country."

The text of the program began: "Dear compatriots: Protest demonstrations against U.S. imperialism aimed at the eradication of all vestiges of its domination and influence have enveloped our entire liberated homeland. In nearly all towns the people, and especially the fighting young people of Iran, by massive demonstrations have manifested their indestructible determination to continue the struggle against U.S. imperialism, and are emphatically demanding from officials of the Provisional Government of the Islamic Republic to carry out in practice the necessary measures for strengthening our homeland's independence by unconditionally abrogating all bilateral military and nonmilitary agreements with the United States."

Here's another excerpt from the same soothing broadcast: "In Teheran, struggling and enthusiastic young people occupied the building of the U.S. Embassy, this center of corruption and anti-Iranian conspiracies, and in this way they reflected the anti-imperialist feelings of our homeland's people. The reason for the climax of these anti-American struggles in our country should be sought most of all in the conspiracies of U.S. imperialism against the Iranian nation and revolution."

This Soviet-controlled station then hammered at our having granted the shah asylum, contending—in total consonance with Khomeini—that, by granting a visa to the "executioner shah," the U.S. had "shown its hostility toward the Iranian people for the thousandth time. . . . The occupation of the U.S. Embassy in Teheran by struggling young people, regardless of its outward aspects, is in fact a decisive response to the overt and covert conspiracies of U.S. imperialism and to the U.S. government's hostile act of settling the deposed shah in the United States."

The Soviet-controlled station also called for the Iranian government to get rid of moderate, pro-Western officials, a policy, in fact, which was followed within days of the broadcast. There are, unfortunately, said the broadcast, "those who, despite the emphatic demand and inclination of our nation, provide U.S. imperialism with more leeway for the continuation of its conspiracies, by means of their middle-of-the-road and conciliatory policy, which is actually an attempt to maintain the position of the United States in our country. . . .

"The existence of such individuals among officials of the government of the Islamic Republic, who disregard the demand of the people and in practice pour water into the mill of Iran's enemies, once more confirms this just view of Imam Khomeini, who says, 'A purge must be carried out. Lovers of the West and U.S. imperialism who are in governmental positions must be purged. The purging of administrative, military and civil organizations from such masked and unmasked elements will be a step in the direction of strengthening more than ever the revolution and its gains, and the eradication of all the evil vestiges of the domination of U.S. imperialism in our country.' "

As tension between Iran and the United States mounted during the days ahead, the National Voice of Iran continued to mount its furious hate-America assault, whipping up the ayatollah's favorite theme: that the U.S. hostages were spies, intriguing against the Iranian government.

As the November 10 radio broadcast virtually screamed, "During the almost nine months since the admirable revolution of the Iranian nation, there has not been one month, week or day in which elements and agents of U.S. imperialism, remnants of the former regime, and the lackeys of the U.S. Central Intelligence Agency have not perpetrated an incident or engaged in a plot and a conspiracy in some corner of our country, and have not caused the spilling of the blood of scores and hundreds of other noble and courageous sons of the Iranian nation. . . .

"Procrastination and negligence by the responsible officials of the provisional government in annulling all enslaving treaties and agreements—particularly the bilateral Iran-U.S. military agreement, a document which delivered the greatest blow to our country's political and military independence—led the employees of the U.S. Embassy—or to put it better, these professional spies—to continue interference in our country's internal affairs more boldly, and according to their naive thinking, to prepare conditions for the return of the former era."

Five days later, the National Voice of Iran again erupted: "Dear compatriots: U.S. imperialism is once more displaying its claws and teeth to the people of the world in the most impudent manner. In the face of the Iranian nation's legitimate demand for the extradition of the traitorous former shah and return of the plundered property of the Iranian nation, or his trial in an international court, which is a legitimate demand enjoying the support of world opinion, the U.S. once more displayed its ugly visage.

"U.S. world-devouring imperialism, which for scores of years has employed the hands of its monopolies to plunder the national wealth of developing nations and countries, and which for the sake of continuing these obvious plunderings had resorted to and continues to resort to any conspiracy and crime, from political assassinations to military coups, has now once more resorted to its same well-known method in connection with our country, namely military and economic threats.

"Why? Because the Iranian does not want to stay under the domination of imperialism any longer, especially world-devouring U.S. imperialism; he does not want his national wealth to be looted by plundering Western monopolies; and he does not want a handful of American advisers and spies to dominate all his social, economic and cultural affairs."

While the U.S. has repeatedly asked the Russians to cut out the inflammatory rhetoric, the Soviet-controlled broadcasts were still pouring forth their venom as of last week. As the latest monitored broadcast we saw before press time stated, "We should all rise in unison in support of the Imam's line." (There have, however, been reports that the voice has temporarily softened its stance.)

Thus here is the true face of the Soviet Union in the Iranian crisis. Instead of trying to extricate the United States from a difficult jam, as the Russians keep hinting they are trying to do, the Soviets have used the situation to help perpetuate the white-hot anti-American feelings in Iran, indeed, to create a climate where the public trial—and perhaps execution—of American hostages may be inevitable.

In view of this unacceptable behavior, why should the U.S. Senate do the Soviets a favor by ratifying an arms agreement that the Russians desperately want? ●

MISSING SECURITY

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. YOUNG of Florida. Mr. Speaker, if we lived in a world where everyone played by the rules of decency and compassion, there would be no need for an intelligence-gathering function in our Government. However, events in Iran, Pakistan, Puerto Rico and many other places dramatically point out what many of us here in the Congress have feared for a long time. The Congress and the administration have limited our intelligence gathering community so much that we quite frankly do not know where terrorists will attack next.

Mr. Speaker, it is time that we realize what has happened to us. It is time we admit what we have done to ourselves. And it is time we let the FBI, the CIA, and the other intelligence agencies get back to the business of protecting us from anti-American terrorists.

Barron's Financial Weekly has an editorial commentary in this week's edition which strikes right at the heart of this matter and I submit it for the RECORD at this point:

MISSING SECURITY—THE U.S. HAS ROBBED ITSELF OF DEFENSE AGAINST TERROR

(By James Grant)

Last Monday, a Navy bus was ambushed outside the Sabana Secanava Communications Center in Puerto Rico. Two sailors died in the assault and another 10 were wounded. In the manner of terrorists and ambushes, three bands boasted that they had done the shooting. They called themselves the Volunteers for the Puerto Rican Revolution, the Popular Boricua Army and the Armed Forces for Popular Resistance, and they said they sought the independence of Puerto Rico.

On the day that Purple Hearts were distributed to the wounded, a dispatch from the scene appeared in The New York Times. It read in part: "As to whether investigators knew much about the three groups asserting responsibility for the attack, one official said: 'We're dealing here mainly with ghosts. They could be small cells. We don't know.'" The story speculated: "One likely avenue of investigation is a possible Cuban link. Members of the pro-independence Puerto Rican Socialist party are known to visit Cuba regularly, and police here contend that radical 'Independistas' also receive guerrilla training in Cuba."

"Police . . . contend." With what measure of certainty, we wondered? In recent years, critics of domestic intelligence have caused police at every level to abandon the job of monitoring extremists of all stripes. On its face, that may seem a noble thing. The burden of proof for keeping vast dossiers rightly falls to government. The investigative excesses of the Vietnam and Watergate periods have been well publicized. At least on the basis of arrests and convictions, the return on investment in internal surveillance (spying, file keeping and the like) has been remarkably small. Of no fewer than 17,528 FBI investigations of individuals on security grounds in 1974, the General Accounting Office reports, only 1.3% resulted in conviction. In 1976 the Bureau ceased to monitor the likes of the Progressive Labor Party, which, though it advocates "armed struggle," isn't shooting anyone at the moment. Yet the number of terrorist incidents in this country, far from soaring, lately has fallen off. Beyond that, as the American Civil Liberties Union observes, the record of "preventive intelligence" in staving off the unrest of the 'Sixties and early 'Seventies is scarcely confidence building.

Then why not abolish what is nearly extinct? Because, in this century of ours, war and subversion are constant companions. It is a fact that the George Washington Bridge was not blown up in World War II. Someone, assuredly, would have liked to blow it up, yet it wasn't blown, for which the nation owed a debt to timely domestic intelligence. The nature of surveillance is that the dangers attending it are real and visible but the payoff is often hypothetical and hard to see. The abolition of the District of Columbia police intelligence unit, for example, led to the loss of an informant in the Hanafi Muslim sect, which in March 1977 laid seige to three buildings and took dozens of hostages. In the process, one man was maimed and another died. The argument is made—hypothetically but convincingly, in our view—that the siege might never have occurred if the agent had remained in place.

Since 1976, at the behest of the Ford Administration, the FBI has largely abandoned the job of monitoring "subversives." (The agency no longer uses the word, an omission which we deplore: there are subversives, certainly, and they mean to subvert.) In 1976, it bears noting, the FBI admitted to a stable of 598 informants in domestic intelligence. Today it admits to fewer than 25. The House Committee on Un-American Activities and the Senate Internal Security Subcommittee have both passed, unmourned, into history's shredding machine, their files impounded or destroyed. Federal and state governments, declared then-Sen. James O. Eastland (D. Miss.) last year, "have permitted, or even encouraged, a massive erosion of law enforcement intelligence and of security, in consequence of which we are rapidly moving toward the status of a 'zero security' society."

But not in consequence a freer society; rather the opposite. In the name of civil liberties, the ACLU would abolish what remains of the domestic intelligence establishment. To the same end, we would rebuild it. The tearing down has already passed the danger point. Such is the spirit of the times—notably the effect of various federal privacy acts—that background checks of employees, including those in hospitals and nuclear utilities, have become in effect extra-legal. For all but a handful of radical groups (those that are actually breaking the law), the FBI is prohibited from even keeping a file of newspaper articles. Confidential informants, in fear of their confidentiality if not their lives, have changed careers in droves.

What began as reform thus has ended as something akin to destruction. As the then Attorney General, Griffin Bell, pointed out at a hearing last year, a U.S. citizen may go to a foreign country, be trained as a terrorist, return to this country and—if he or she overtly breaks no law—be immune from even cursory surveillance by the FBI. Granted, risks attach to lurking and snooping. But surely it is the duty of government to keep track of society's sworn enemies. At least for a day or so last month, the whereabouts of Oscar Collazo, who had been serving time for the attempted assassination of Harry S. Truman and the killing of a White House guard in 1950, were publicly documented. Shortly after he (and three compatriots) were sprung from prison by order of President Carter, they repaired to Havana, where Fidel Castro urged them to keep up the good work. Whether they were involved in last week's ambush in Puerto Rico is unknown.

So little is known or can be asked. Through no fault of its own nowadays, a hospital, for example, can blunder into hiring anybody. Often an applicant's prior criminal record is unavailable. Sometimes, an employer refuses to run the apparent legal risks of searching it out. Before the Senate Judiciary Committee last year, a hospital security man, Robert B. Ross, of Kansas City, Mo., told of the unwitting hiring of a suspected arsonist by a New Jersey institution and a convicted murderer by a hospital in Denver. The ex-murderer proceeded to stab a nurse and the arsonist to set a fire. Nor can the fededal government check up on its employes as closely as the taxpayers might want. In a hearing of the Intelligence Oversight Subcommittee this past summer, an astonishing exchange occurred between Rep. Bill Young (R., Fla.) and FBI official Paul Nugent on the matter of the Progressive Labor Party. It came to light that the FBI had gleaned no information on that Marxist faction since Sept. 20, 1976.

Rep. Young: "Well, the Progressive Labor Party has publicly proclaimed that they intend to take power in the United States by using 'armed struggle' and that they are engaged in a program of penetrating the armed forces. . . . In a case like this where they themselves have made this declaration, can the FBI collect these public documents on a group like the Progressive Labor Party, despite the fact that the case has been closed?"

Nugent: "Absolutely not."

Rep. Young: "If the United States Army sent you a name in a national agency check of someone who had recently joined the PLP, and had penetrated the Army, which is what they say they are going to do, would you have to answer, 'no record.?' "

Nugent: "Well, that is a hypothetical question . . . but if that name were submitted today and that individual had joined such an organization last week, I would say that the possibilities of our coming up with that name in a name check situation would be practically remote."

* * * * *

In a moment of illuminating confusion last week, the authorities in Puerto Rico confessed that they hadn't a solid lead in the ambush, while Patricia Harris, the new Secretary for Health, Education and Welfare, issued a pronouncement against sex in cigarette advertising. In that juxtaposition may be seen the logical conclusion of the modern theory of government: protection from ourselves but from nobody else. In his famous dissent in Olmstead v. United States, Justice Brandeis dwelled on "the right to be left alone." As even the trial subscriber is aware, Barron's holds that right to be self-evident. But the one thing that government is bound to do—is in business to do—is to bar coercion. Even in a night watchman state, the government must stand watch.

NO STEEL INDUSTRY JOB CUTBACKS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. RITTER. Mr. Speaker, the U.S. steel industry is undergoing pressure for more job cutbacks both from the threat from international forces, including foreign-subsidized competition, and domestic conditions. During this time of trial for the American steel industry, government, private industry, labor, and consumers must pull together if we are to meet this severe new challenge successfully.

On several occasions I have strongly urged that we avoid the example of Great Britain and other West European industrial countries. Their governments and steel industries did not correctly face the current challenge of modernization, reinvestment, need for new equipment, cost reduction, and updating of plants, basic processes, and methods of production. This means preservation of jobs for the steelworkers and other industrial workers of the Lehigh Valley of Pennsylvania, which I represent.

The state-owned British Steel Corp. today announced shocking news revealing the true terrible state it suffers from failure to face similar modern industrial realities confronting U.S. steel producers. The BSC planned layoffs—announced in a pre-Christmas news conference—of at least one-third of the 152,000 work force, which more than surpasses our own recent setbacks in steel-related jobs. Some Christmas present for those workers.

To underscore this new revelation of the international situation facing the steel industry, I enclose for the information of Members today's Wall Street Journal and Washington Post reports of BSC Chairman Charles Villiers' London news conference announcing the cutbacks in steel:

[From the Washington Post, Dec. 12, 1979]

BRITISH STEEL TO LAY OFF THIRD OF ITS WORKERS

LONDON, December 11.—The state-owned British Steel Corp. plans to lay off at least one-third of its work force and cut back production capacity by nearly the same amount in an "urgent" effort to become more competitive in the international market, the company announced today.

BSC Chairman Sir Charles Villiers told a news conference that, to approach international manning levels, the total number of BSC employes engaged in iron and steel activities shouldn't exceed 100,000, compared with the current 152,000.

Even then, he said, the tons per man year at BSC will be lower than its principal international competitors.

Villiers' statements also said that the company is determined that its current annual manned-plant capacity of 21.5 million metric tons of liquid steel "should quickly be reduced to about 15 million tons at which level profitable sales in (Britain) and overseas should, on present assumptions, be possible." A metric ton contains about 2,205 pounds.

The BSC announcement did not come as a complete surprise. The company recently announced that substantial cuts in both jobs and capacity would have to be made to trim what is expected to be a 300 million pound loss this year. The pound is worth about $2.19.

The company statement said that the board "has considered the problems arising from the sharp and pronounced falling off in demand for steel products in the United Kingdom and in its other markets, and the fact that no upturn is in sight. The problems have to be tackled urgently."

In particular, Villiers announced that consultations would begin with unions soon over plans to close plants at Consett, Durham, and Hallside, Scotland. Plans to close iron and steel making works at Shotton and Corby already had been announced.

The company also said consultations would begin at Port Talbot and Llanwern in South Wales on ways to reduce costs and modify capacity. It said "very radical reductions in manning" would be required to make operations in South Wales competitive on an international basis.

The announcement also said that, because of reductions in steelmaking, some rolling mills also will have to be closed. Discussions on this will begin next month.

Last week, BSC was rebuffed by unions over the 2 percent pay offer it made. The proposal, which included the option for local productivity agreements that could yield a total 10 percent rise, was soundly rejected by the Iron and Steel Trades Confederation, which has called a strike for Jan. 2. This would be the first national steel strike since 1926.

[From the Wall Street Journal, Dec. 12, 1979]

BRITISH STEEL SETS REORGANIZATION TO STEM LOSSES—MOVES WILL ELIMINATE JOBS, CAPACITY BY ABOUT 33%; $657 MILLION DEFICIT SEEN

LONDON.—British Steel Corp., struggling against losses equivalent to about $2 million a day, announced a reorganization plan that would eliminate one third of its steelmaking jobs and production capacity.

At the same time, Prime Minister Margaret Thatcher said her government would provide about $986 million to the state-owned steelmaker next year, only about half the $1.9 billion the government is providing in the current fiscal year ending in March. Mrs. Thatcher warned that the government spending "isn't, of course, for increased wages."

British Steel said it will cut its steelmaking workforce to 100,000 from 152,000, close two plants, scale down steelmaking production at four plants and trim 12,000 jobs at plants that remain open. Earlier, the company announced plans to close two other plants.

The reorganization plan would reduce production capacity to 15 million tons of steel a year from 21.5 million tons, but actual production isn't likely to be cut back so severely. The steel company produced 17.3 million tons of steel in the year ended last March and expects lower production in the current year.

Sir Charles Villiers, British Steel's chairman, announced the reorganization plan little more than a week after the company reported a first half loss of about $319.6 million. The company said it expects a deficit of about $657 million in the current fiscal year.

British Steel's largest union, the Iron and Steel Trades Confederation, already has rejected the company's plans to cut jobs. Last week, it refused a company offer of a 2% pay increase and called for a national steel strike to begin Jan. 2. The company said it won't increase its pay offer because of its heavy losses. The union is asking for a 20% raise.

Elsewhere, Industry Secretary Sir Keith Joseph unveiled to Parliament the Conservative Party government's draft guidelines for the National Enterprise Board, Britain's state holding company. Among the major changes is a requirement that the board treat any interests it acquires in companies as temporary, rather than permanent, holdings.

The guidelines also restrict the board except in the case of BL Ltd., from making loans or other financial commitments of more than $11 million without approval by the Industry Secretary. For BL, the state-owned auto maker, the limit is $55 million "for each project."●

SCIENCE AND POLITICS—A SPEECH BY THE PRESIDENT'S SCIENCE ADVISOR

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. BROWN of California. Mr. Speaker, I recently came upon an abridged version of a recent lecture by Dr. Frank Press, the President's science advisor, which I believe deserves wider circulation.

Since the range of issues described in the following remarks relates to the interests and concerns of most Members of Congress, I recommend the following remarks to my colleagues:

[From the BioScience, December 1979]

SCIENCE AND TECHNOLOGY IN A CONSERVING SOCIETY

(By Frank Press)

Being a science and technology adviser to a national leader—a position that places one between the seemingly rational world of science and engineering and the seemingly value-laden and confrontational world of politics (I won't say "irrational")—tends to sharpen one's sense of realism. From this vantage point, one gets some idea of why the world is as it is, what it might be, and why it is so difficult to get from here to there.

PROBLEMS OF HINDSIGHT

Certain things become clear. One is that there is an abundance of hindsight about the effects of science and technology, which leads us to be overly critical of ourselves and our past activities. It is true we can learn from past mistakes. But it is also true that we can misuse hindsight to develop a destructive guilt complex and a paralyzing impotence because we fear that we will use future technologies abusively. It does us little good these days to go about proclaiming *mea culpa* over some past effects of our science and technology when much of our future survival depends on their vastly improved development in the years ahead.

Hindsight also leads us to believe we can be a lot wiser and more certain about the future than we may be able to be. We look to the past and, assessing in retrospect the impact of a previously developed technology, we assume we can do the same in the future. However, although technology assessment is a very useful discipline for thinking about and planning for new technologies and their institutional and environmental framework, it does not guarantee the certain and risk-free world that some believe. Every human activity, no matter how benign and beneficial at the outset and as anticipated, has some unforeseen future impact that eventually must be dealt with through other technological or social change.

A prime example of this has been the combination of biomedical advances and public health measures, which have over the years extended human life, and thus resulted in the population explosion. Conversely, today the control of human fertility, while having many benefits, is also going to lead to social changes with which we will have to deal. In fact, we are already facing these, and this year the Office of Management and Budget presented a review of the effects of present and future demographic change and how we might respond.

Somewhat opposite to those technologies that are "born" benign but have hidden implications are those that are born hazardous and must be "tamed." History is replete with these, starting with the use of fire and moving through the ages of steam, aviation, and the atom. We often overlook the fact that such inherently dangerous technologies force the growth of human knowledge, skills, and social maturity. We advance mentally and morally as well as technically by meeting their challenges.

But we can't anticipate all of these, and perhaps that is for the best. In the past, had we assessed in advance all the dangers and potential impacts, had we sought certainty or wanted guarantees about the outcome of every technology, we might still be cowering in caves. Human development—in fact, any development in nature—simply does not take place that way. All life, and its evolution, is to a great extent an experiment. We can try to make it a less precarious one, but we shall never determine a final outcome.

COMPLEXITY AND CHANGE

Being a scientist in a political rather than an academic setting makes one sharply aware of several things. One is the difficulty of instituting change in the complex and dynamic system we loosely call our society or our world. The huge and interrelated social, economic, and technological systems we have in place cannot be altered overnight by decisions—no matter how well thought out—that we would simply be better off with something new. When the need for change is seen, careful transitions must be planned—transitions that in some cases may take several decades. Their plans must be made with the full consideration of economic, environmental, and socio-political consequences.

We have not done this adequately in the past. We have had environmental impact statements; we have done economic studies; we have listened to public opinion polls and reacted to public demonstrations. In responding to these influences individually over the years, and during different administrations, we have changed course, become confused, and floundered many times.

We can do better, and we will. As the President has pointed out, severe tests still lie ahead for us as a democratic society—a society in which legitimate, conflicting interests must learn to compromise and cooperate to generate solutions for the survival of all. Nowhere is this seen more clearly than in our energy problem, which in reality is an energy-environment-economic problem and for which there is no one solution, no single technological fix.

Aside from the tendency to believe that there are simple answers to our complex problems, there is another set of beliefs being perpetuated these days that is dangerous because it both oversimplifies and tends to present either/or choices. In essence, it pits man against nature; it asks us to choose between a "hard" and "soft" path to the future; it continually makes distinctions between the "artificial" (i.e., man-made) and the "natural"; and it implies that the technological evolution of human society, as we see it today, is an aberration. This kind of thinking divides our society into the camps and cults that make it ever more difficult to increase the understanding necessary to move us ahead as a society, if not in certainty and consensus on every issue, at least on the basis of the best available knowledge.

One myth that such divisive thinking seems to perpetuate is the mistaken idea that scientists and engineers are somehow at odds with conservationists. The image of the romantic conservationist in opposition to the earth-plundering technologist is a false image—one that is a hangover of 19th-century thinking. Most enlightened scientists and engineers today are students of nature and seek, in some ways, to emulate her efficient and economic ways. In fact, some of our most promising advances of the future may lie in understanding and applying more biological phenomena to our energy, material, and industrial activities. We are learning things today in such disciplines as biochemistry, microbiology, photobiology, the plant and animal sciences, marine biology, and other related fields that in the future could vastly change those activities.

The best hope for conservation in the future lies precisely with science and technology, as we learn more about nature, work with her processes, and develop new technologies of our own to use and reuse her bounty with the greatest efficiency and care.

PEOPLE AND DEVELOPMENT

The driving force behind all the concerns and activity of our time is, of course, people—their increasing number, their needs, their expectations. The scope of this can be grasped by viewing a certain sign in Washington and considering its implications. That sign, a large electric calculator on the facade of a Washington building, continually flashes the count of the world's population. When I last viewed it, about two weeks ago, the count was more than 4.6 billion. But the most impressive thing is the rate at which that total changes—this year at 172 births per minute! Last year similar growth added about 73 million people to the earth, an increase resulting from 122 million births offset by 49 million deaths, about one-third of which were, in this International Year of the Child, children.

In this age when we are bombarded with such statistics, it is sometimes difficult to recognize the impact of such growth. We must force ourselves to see its implications and act accordingly. For example, for each life created, we will have to assume the responsibility for providing some 20 to 30 metric tons of food for that person's lifetime. In the past, it has taken about one hectare of average arable land per year to feed and clothe one person adequately. Today there is less than one-third of a hectare for each person (Pirie 1968, pp. 178–179). Obviously we need some radical changes in our approaches to agriculture.

The same holds true for our energy and mineral resources. On a worldwide basis, annual per capita mineral use is now 3.75 metric tons and growing 7 percent each year. Thus, in 50 years mineral use will increase 32-fold. Of course, there is a wide disparity in use between people in the industrialized and the developing countries; U.S. consumption is at about 15 metric tons per person (Hayes 1978, pp. 5–6). This, too, is going to change, in absolute terms, geographically, structurally, and because of variations in our science and technology.

The most important thing about the pressure from the growing number of people and their needs and expectations is the base from which most of it will originate. In this day of our own immediate crises here at home and in the industrialized world, many tend to overlook the simmering situation in the Third World. By the year 2000—that's only 20 years away—nine-tenths of the 2 billion additional people on earth will be in that part of the world. It is that part where today about 20 percent are already malnourished, 30 percent do not have access to clean water or proper health care, 40 percent have no jobs or are underemployed, and more than 50 percent of the over-15 population is illiterate.

So the challenge is here. It is clearly a challenge to our science and technology, and there is little time for handwriting and bemoaning past errors and lost opportunities.

One way this administration hopes to meet the challenge is through the work of an Institute for Scientific and Technological Cooperation (ISTC), as proposed by the President last year. This institute will allow our scientists and engineers to work in close collaboration with those of developing countries on problems specific to those countries. The work will focus on meeting the basic needs of people in agriculture, health, environment, resources, and economic development.

Perhaps nowhere are there more problems and more opportunities than in the global production and distribution of food. For years we have been watching the food-population race, listening to variations of the Malthusian argument as food-production growth managed to keep about one percentage point or so above that of population. We have fluctuated between optimism and pessimism with each successful monsoon season or drought. We have witnessed almost chronic hunger and malnutrition for more than a half-billion people, while in other parts of the world cookbooks and diet books are among the most popular literature.

There are a number of things that can be, and are being, done to change this. On the short-term basis, hunger today is largely an economic problem based on poverty and maldistribution. Development can alleviate this, but for the long-term the development must have a sound agricultural base. That is why there is increasing emphasis in development today in agricultural R&D, particularly in moving Third World countries toward self-subsistence in food production.

This involves a whole range of interesting and promising activities involving science and technologies—activities ranging from programs to develop small-scale energy and appropriate technologies for farming, to those aimed at improving food storage and controlling pests, pathogens, and animal diseases, to those advancing our knowledge of tropical biology and agriculture for arid areas. All this indicates a new and much more sophisticated approach to world agriculture. We are going far beyond our past attempts at traditional agricultural transfer.

AN AGRICULTURAL REVOLUTION

These are exciting and promising times for agriculture. New techniques and tools are being developed to work the land and to control water so as to counter age-old problems of erosion, waterlogging, and salinity. New systems of tillage and irrigation are conserving soil and water and making previously unproductive land arable. New ways are being conceived to develop crops that capture more of the sun's energy, that require less input of synthetic chemicals, and that withstand more of nature's stresses. And new searches are underway to increase the number and variety of plants that mankind uses as a source of food, fiber, and other products.

All this constitutes a veritable revolution in agricultural research and development—one that is just beginning and could greatly improve our ability to tap nature's abundance in a more efficient, as well as a more conserving and caring, way. For example, of the approximately 350,000 plant species described by botanists to date, only some 3,000 have been tried as a source of food and other resources. Today, we cultivate only about 100 plants on any large scale, with about 90 percent of our food coming from only a dozen or so crops (Vietmeyer 1976). Although this may not change overnight, there is now a great interest in examining a number of other plants as potential food sources.

Many of the plants being investigated are indigenous to, and abundant in, areas where it is difficult to cultivate today's conventional crops and where there is poverty and hunger. Some are legumes that are high in protein; many are not directly edible by humans but make excellent forage for livestock. Significant research is being done on the direct processing of protein from green plants, including large crops such as alfalfa and tobacco. The extractable protein in these plants is high in the amino acids needed for human nutrition (Alexander 1979). There are also a number of plants being investigated that are potentially valuable as material and chemical resources.

That some of these plants might be cultivated in the tropics and arid regions is significant environmentally as well as economically. Particularly in the tropics, new approaches to food and resource development could ward off what might be an ecological disaster in the years ahead.

THE TROPICS

Because a large and growing number of people now live in the tropics, and rapidly increasing development is beginning to take place there, the tropical forests are under assault. More than 20 hectares of such forests is cleared each minute, 11 million hectares a year. The National Academy of Sciences has reported that, of the 16 million square kilometers that once covered the earth, only about 9 million remain. And within the next 50 years or so, that is likely to be destroyed before the ravages of a food-and energy-short people in these regions, whose number will double before the end of this century (Cromie 1979). Such destruction will wipe out millions of plant and animal species, most of which have yet to be identified, and many of which could be of great interest and value to the human race.

Perhaps more devastating could be the effect that the destruction of this vast amount of vegetation could have on the global levels of carbon dioxide. Since green plants absorb CO_2 and transpire oxygen, they would be vital in keeping down the level of CO_2 in our atmosphere, which is apparently rising and which could rise to a level that would adversely affect global climate if we rely heavily on the burning of fossil fuels during the next few decades.

The continual large-scale clearing and monoculturing of land are bound to result in these problems. But perhaps with the new interest in tropical biology, with the discovery of indigenous plants as promising sources of food and other resources, and with the possibilities of developing polycultural and multicrop farming and other less destructive developments in these areas, we can avoid disaster. Work along all these lines is now going on in our agricultural research programs in cooperation with other countries.

ARID LANDS AND WATER

There is also a new focus on agriculture in arid lands. These lands—if we include the more than 20.8 million square kilometers classified as semiarid—total almost 49.4 million square kilometers, about 36 percent of the earth's land surface (Anon. 1977). There is concern about the continued spread of the desert in some parts of the world, and there has been some international effort to reverse it through the creation of "greenbelts" and better rangeland management.

There is also a new interest in bringing a viable agriculture into desert lands. Certain plants, native to these areas, could be of great economic value. They are being pursued in research, and we have cooperative programs with other countries—Mexico, for example—to work on them.

In addition, some 32,000 kilometers of desert coastline in the world is largely uninhabited but could be made arable and productive when and if large-scale economic desalting becomes a reality (Hodge 1969). In the meantime, significant research is trying to develop salt-tolerant crops that may be able to grow with the use of saline or brackish water.

Water research and management are going to play a most important role in our future, in terms of agriculture, energy, and overall economic development. Approximately 24 percent of the world's cropped lands that are under irrigation produce a fourth or more of the world's agricultural crops. By the year 2000 there will likely be twice the present 160 million hectares under irrigation (Wolfle 1969). To keep the cost and the environmental consequences of such water usage acceptable, and to develop new and better ways to use this precious resource, will be major challenges to our science and engineering.

Water research and management is of great interest to us domestically, as much of the future of the United States is dependent on the wise use of water resources. The President is particularly aware of, and concerned about, this, and Interior Secretary Andrus and I have been working together on an agenda for water research for the 1980s.

There are many other avenues of scientific research now being pursued that could result in substantial benefit agriculturally and environmentally. Much of this work is going on in plant genetics, photosynthesis, integrated pest control, and biological nitrogen fixation. It is aimed ultimately at helping us develop crops that will use sunlight and water more efficiently, that will better resist environmental stresses, and that can be grown without the use of large quantities of synthetic fertilizers, herbicides, and pesticides. Much of the world's future depends on the success of work going on and being initiated in these fields.

BIOMASS AND BIOCONVERSION

There is growing interest today in what is broadly called "biomass"—that is, all of the earth's organic material produced directly and indirectly by the energy of the sun The amount of this substance produced annually on our planet is about 150 billion metric tons. Of that amount, mankind harvests about 10 percent for uses ranging from food to building materials. However, around three-quarters of that ends up as waste, and there is further waste at later stages of processing, storage, and final disposal after use.

We are just beginning to realize what an enormous untapped source of energy and materials lies in this reservoir of waste and what a variety of uses it could serve. After all, this is essentially the same photosynthetic material the earth trapped millions of years ago and processed into the fossil fuels we are so voraciously using today while agonizing about their future supply.

Furthermore, we are learning that most of this biomass, particularly what we waste, can be used in a variety of ways as fuel, additional food sources, and substitutes for the petrochemicals that are the basis of so many of today's products. Advances in organic chemistry, biochemistry, and microbiology are revealing that many of these waste substances can be processed efficiently—with less energy use and environmental impact—into sugars, carbohydrates, proteins, alcohols, resins, and even biodegradable plastics.

Scientific research and development in these fields holds enormous economic promise for a healthier environment in the future. If we can learn to use biomass effectively, we have the potential of converting from a hydrocarbon-based to a carbohydrate-based economy with all its attendant advantages. Such an economy would not be based merely on the use of what we consider waste today; the whole concept of waste would change when literally everything becomes a resource. We would be able to use as basic resources algae, aquatic weeds, and almost every kind of agricultural and forest waste. Advances in photosynthesis, biological nitrogen fixation, and plant genetics might enable us to produce rapid-growing crops or trees that make "energy farming" feasible. And there is, of course, the possibility of cultivating ocean plants, such as the giant kelp that can grow up to half a meter per day and can be used for a variety of things, including making gas, cattle feed, and vitamins.

One science that can help make all this possible is microbiology. The tiny microbe may be one of our mightiest allies in our future struggles to survive and advance, particularly as we move into a solar age using renewable resources. At that time, when cellulose is our most basic resource, microbes would be our principal industrial tool, and these abound in nature. One of our laboratories has collected 13,000 different organisms that can break down the cellulose molecule and release energy in the process (Ford 1976). Furthermore, we are now approaching the day, through research in recombinant DNA, when microbes with specific working attributes may be designed to order Such "genetic engineering" may soon be the basis for a new innovative industry.

The extent to which we are already pursuing an interest in bioconversion is indicated by the number and variety of related research projects that are underway and being planned across the country. A Bio-Energy Council has been established to help encourage, support, and keep track of these activities. Their recently published directory lists nearly 500 projects being worked on at universities, national laboratories, and private and industrial research centers. They range from work on basic research on photosynthesis to technologies for converting biomass and various wastes to solid, liquid, and gaseous fuels. The council speaks in terms of "harnessing the sun" and of the cell as "the building block of bioenergy," and it is planning a world congress on all aspects this spring.

I cannot here give equal time to inorganic material and nonrenewable resources. Although the situation is not quite the same with finite resources, there are encouraging signs of changing attitudes and activities regarding their conservation and extended use.

Shifting to new resources and new technologies, particularly to some of the large-scale energy technologies we must move toward today, will cause significant institutional and economic changes, which cannot be made overnight.

As we make our energy transitions over the coming decades, we will have to make them with resolution and reason, fully aware of the complexities and costs we face. Energy is the lifeblood of our society, and we have been undervaluing it and wasting it for quite some time. This must, and will, change. One way or another, we will pay the price for our energy. As India's eminent scientist, the late Homi Bhahba, once commented: "No power is more costly than no power."

REGULATION

Finally, there is the matter of regulation. Throughout history, human beings and their societies have always agreed upon and collectively imposed social regulation on themselves. This was done whenever the activities of individuals or small groups threatened the well-being of others and particularly of the society as a whole. The growth of society's power, individually and collectively through advancing technology, has brought the potential for greater social good and greater threats through the abuse of power—knowingly and inadvertently.

This is one of our most agonizing dilemmas today, for two reasons: First, regulations, if ill-conceived, excessive, or overlapping and conflicting, tend to dampen the initiative and innovation we need so badly. Churchill once said that "if you have ten thousand regulations you destroy all respect for law." We may destroy much more than that.

The second reason may be more difficult. Because of the growing sensitivity of science today, we can analyze and anticipate a greater number of risks, many stemming from scientific and technological advances that also promise great benefits. But the risks and benefits do not necessarily accrue in the same time frame. So, once again, we are involved with the age-old problems of "Faustian bargains"—making decisions about activities that may not have a harmful impact for years, if not generation, or for which the outcome, based on today's knowledge, is uncertain.

This administration is taking many measures to overcome the first problem. We are closely coordinating the activities and rulemaking of our regulatory agencies; that is, we are trying to establish accurate uniform bases for making regulations. For example, under the direction of my office, an Interagency Regulatory Liaison Group composed of five regulatory agencies has been working on formulating common scientific and technical principles or policies that will be used by each in making regulatory decisions. Much of this work has centered on the identification and control of potential carcinogens, along with estimations of their risks (Press 1979). This, along with other administration programs on identifying and characterizing the risks of hazardous substances, is a most important national effort.

At the annual AAAS Colloquium on R&D Policy last June, I spoke at length on this subject and on the many measures we are taking related to risk assessment and balancing costs and benefits in regulation. We have all been hearing a great deal about this lately, as we struggle to maintain our goals for a better environment in the face of increasing economic pressures.

The President is most aware of, and most dedicated to, this in his efforts to move the country ahead economically, but not on a short-term, short-sighted basis, which would degrade and destroy those things that are and will be essential to us for generations to come. President Carter has continually supported basic research as an essential investment in our future. He has sought to preserve and protect the nation's natural heritage and wilderness, and most recently he has appealed to the nation to restore its self-confidence as we take bold measures to solve our energy problems.

We must take such measures and make every effort to resolve both the energy crisis and the "crisis of confidence." We must not let ourselves become overwhelmed by our problems or lose perspective of them. We must not turn cynical and belittle our accomplishments or our capabilities, whether they are in science and technology, industry, or government. In short, we must again believe in ourselves—that we are good, that we care, and that we will prevail. On this basis, we will achieve a better nation in a better world.

Perhaps the best way to look at all this is the way that Lewis Thomas has expressed it in his new book: The Medusa and the Snail (Thomas 1979, p. 18):

> There is nothing at all absurd about the human condition. We matter. It seems to me a good guess, hazarded by a good many people who have thought about it, that we may be engaged in the formation of something like a mind for the life of this planet. If this is so, we are still at the most primitive stage, still fumbling with language and thinking, bu infinitely capacitated for the future. Looked at this way, it is remarkable that we've come as far as we have in so short a period, really no time at all as geologists measure time. We are the newest, the youngest, and the brightest thing around.

Thank you, Lewis Thomas.●

SUPPORT FOR ASBESTOS SCHOOL HAZARDS BILL

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 12, 1979

● Mr. MILLER of California. Mr. Speaker, many major education organizations throughout the United States, representing millions of families and educators, have expressed their strong support for passage of H.R. 3282. These same groups have recognized the threat to our education programs posed by the Goodling substitute.

I would like to have some of these letters and telegrams of support for the "Asbestos School Hazard Detection and Control Act" included in the Record at this point.

The letters follow:

American Federation of
Labor and Congress of
Industrial Organizations,
Washington, D.C., December 3, 1979.

Dear Representative: The AFL–CIO supports H.R. 3282, a bill to identify and remove asbestos from our nation's public schools. As you know, asbestos is an extremely dangerous substance and is identified with serious and even fatal lung disease.

Our concern with occupational health and safety leads us to support fully this effort to make our nation's schools safe for both children and the staff who work there.

A substitute may be offered by Congressman Goodling (R–PA) to divert one percent of already appropriated education funds for the purpose of asbestos removal. The AFL–CIO opposes this substitute and urges you to vote against it. Reappropriating needed education funds for disadvantaged students to pay for needed asbestos identification and removal is a case of doing justice for neither. A three-year $30 million authorization to identify asbestos and a three-year $100 million program of loans is not a steep price to pay for elimination of dangerous classrooms for our nation's children.

The AFL–CIO urges you to support H.R. 3282 as reported and to reject the Goodling substitute.

Sincerely,

Kenneth Young,
Director, Department of Legislation.

National School Boards Association,
Washington, D.C., November 30, 1979.

Dear Representative: On behalf of the nation's 95,000 school board members representing 16,000 local school districts across the country, I am writing to urge you to vote in favor of H.R. 3282 when it comes before the House of Representatives next week.

The purpose of this bill is to establish a systematic program to help school districts identify and control the exposure of school children and personnel to asbestos fibers.

Medical evidence has linked exposure to asbestos with chronic or terminal diseases. School buildings constructed in the postwar period were built with extensive use of asbestos for insulation, decorative, and acoustical purposes. Inspections of school buildings have confirmed that loose, flaking asbestos material exists in schools and can contaminate the air with dangerous concentrations of fibers.

Recently, school districts across the country have begun to assess the cost of removing or containing asbestos materials, and they are finding that the impact on their budgets is potentially devastating.

Therefore, Mr. Miller's bill (H.R. 3282) will help to relieve the enormous costs which many school districts will face in the near future. The bill allows federal funding to school districts for 50 percent of the cost of inspection and detection, and long-term no-interest loans for removing and replacing asbestos materials.

NSBA opposes any efforts to provide funding for asbestos removal by diverting funds from any other educational program. I urge you to vote against amendments which might be proposed which would affect funded programs such as the Elementary and Secondary Education Act or the Education for All Handicapped Children Act (P.L. 94–142).

NSBA believes that funding for H.R. 3282 is responsive to the problem, but responsible to federal budget constraints. H.R. 3282 gives immediate aid to affected school districts at minimal cost to the federal government.

Again I urge that you vote in favor of H.R. 3282.

Very truly yours,

Thomas A. Shannon,
Executive Director.

The National PTA,
Washington, D.C., December 3, 1979.

Dear Representative: Parents and educators urge you to support H.R. 3282, the Asbestos School Hazard Control and Detection Act of 1979. This bill provides funds in the form of either grants or loans for schools to voluntarily take steps to combat hazardous levels of asbestos. The funds would be used for detecting, containing or removing harmful asbestos in schools.

The bill provides for an Advisory Task Force, which in itself is a good idea; however, if membership is limited to only government officials the advisory function is narrowed. The PTA urges that members of the general public be considered in the membership on the advisory committee.

The National PTA does not support the Goodling amendment. This adment advocates funding H.R. 3282 from currently existing educational programs. Presently on 15 percent of our nation's schools have harmful levels of asbestos. It is inequitable to take funds from existing educational programs because it would divert monies from existing programs for an unrelated purpose.

Again, we urge you to support H.R. 3282, and to vote against the Goodling amendment.

Sincerely,

Joseph Scherer,
Director, Government Relations.

National Advisory Council on the Education of Disadvantaged Children,
Washington, D.C., December 9, 1979.

Hon. George Miller,
U.S. House of Representatives,
Longworth House Office Building,
Washington, D.C.

Dear Congressman Miller: Thank you for your recent request for the views of the National Council on the Education of Disadvantaged Children concerning the proposed amendment which would allow funds from the Elementary and Secondary Education Act to be used for the purpose of detecting and removing asbestos from public schools.

At its meeting on December 7 the National Advisory Council on the Education of Disadvantaged Children discussed this matter and unanimously agreed that any such use of ESEA funds should be strongly opposed. The Council was particularly concerned about the effect of such an amendment on Title I, ESEA, which provides financial assistance for programs for educationally disadvantaged children most in need attending targeted schools in low-income areas. Not only would the use of these funds for the purpose of asbestos detection and removal violate the purpose of Title I, but it would seriously jeopardize the supplemental educational opportunities which Title I funds provide. The Congress has never appropriated enough funds through Title I to serve all the children who are eligible for services under the program, and the Council is deeply concerned about this effort to use the funds which are available for a purpose which would harm children and establish a precedent which is unacceptable.

The Council agrees that action needs to be taken to protect the health and safety of children in schools where asbestos may be present, and we hope Congress will take appropriate action which is consistent with both the health and education of children. Services which are available to children are already too few, and no action should be taken which has the effect of forcing children to choose between good education and good health.

Thank you very much for giving the Council the opportunity to comment on this matter. I hope you will communicate with us in the future when the views of the Council may be of assistance.

Sincerely,

M. Hayes Mizell,
Chairman.

The National Association of Secondary School Principals,
Reston, Va., December 12, 1979.

Hon. George Miller,
House of Representatives,
Washington, D.C.

Dear Congressman Miller: The National Association of Secondary School Principals, representing more than 35,000 secondary school administrators wishes to join in support of the Asbestos School Hazard Protection and Control Act (H.R. 3282). We commend you for your leadership in this area, and share with you the concern that exposure of our youth to a known carcinogen—asbestos—is a risk children should not be obliged to take.

Although some groups have questioned the degree of health risk that friable asbestos material might have on our youth, it is our position that the health of our youth should be a number one priority and should not be compromised. While we fervently hope that the exposure of children to friable asbestos in school will not prove to be a serious long-term cancer risk, we should err on the side of caution.

Having stated our concern, it must also be said that local school districts simply cannot afford to take those actions found necessary by the EPA to correct the problem where it is found to exist. For this reason, we believe the grant and loan procedures provided for in H.R. 3282 are necessary and appropriate vehicles for the federal government to assist local school districts to solve this problem. At the same time, it is imperative that these procedures are voluntary. We also believe that the 50–50 matching grant for local programs for asbestos removal are appropriate.

We also wish to express our strong opposition to an amendment expected to be introduced by Mr. Goodling which would instead permit states the option of diverting up to one percent of their federal education funds for an asbestos control program. We vehemently oppose such a financing scheme. With most districts suffering a severe fiscal crisis and relying on shrinking resources, the siphoning of monies from quality education programs could only add to education's current funding crisis. The asbestos problem in some of our schools must be addressed on its own merits, and we think it wrong that state governments should be asked to make a trade-off between quality education programs and the health of students. This funding scheme is also ill advised since there has been no data to indicate that those states receiving federal funds will be those states with the greatest needs for asbestos control.

Again, we commend you for your leadership in this area.

Sincerely yours,

Ivan B. Gluckman,
Legal and Legislative Counsel.

California Teachers Association,
Burlingame, Calif., December 4, 1979.

Hon. George Miller,
U.S. House of Representatives,
Washington, D.C.

We urge your support of H.R. 3282 which will provide grants and loans for detection and correction of asbestos hazards in the schools. We understand it may come to the floor this week.

Ed Foglia,
President.

State Department of Education,
Jackson, Miss., November 30, 1979.

Congressman George Miller,
House of Representatives,
Washington, D.C.

As president of the National Association of State Coordinators of ESEA title I, I would like to voice a strong objection to the diversion of title I ESEA funds for purposes other than those established in the title I statute. However meritorious the removal of the asbestos hazard in classrooms may be it is inconceivable that title I funds would be considered for that purpose.

Albert J. Comfort, Jr.,
President.

National Education Association,
McLean, Va., December 1, 1979.

Hon. George Miller,
U.S. House of Representatives,
Washington, D.C.

The National Education Association urgently asks your support of H.R. 3282, a bill to authorize grants and loans to schools for detecting and correcting asbestos hazards, as reported by the Education and Labor Committee.

James W. Green,
Assistant Director.●

LAWS RELATIVE TO THE PRINTING OF DOCUMENTS

Either House may order the printing of a document not already provided for by law, but only when the same shall be accompanied by an estimate from the Public Printer as to the probable cost thereof. Any executive department, bureau, board or independent office of the Government submitting reports or documents in response to inquiries from Congress shall submit therewith an estimate of the probable cost of printing the usual number. Nothing in this section relating to estimate shall apply to reports or documents not exceeding 50 pages (U.S. Code, title 44, sec. 716).

Resolution for printing extra copies, when presented to either House, shall be referred immediately to the Committee on House Administration of the House of Representatives or the Committee on Rules and Administration of the Senate, who in making their report, shall give the probable cost of the proposed printing upon the estimate of the Public Printer, and no extra copies shall be Printed before such committee has reported (U.S. Code, title 44, sec. 703).

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings, when scheduled, and any cancellations, or changes in the meetings as they occur.

As an interim procedure until the computerization of this information becomes operational, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the Congressional Record on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, December 13, 1979, may be found in the Daily Digest of today's Record.

Meetings Scheduled

DECEMBER 14

9:00 a.m.

Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings on the scope of laser research and technology, focusing on

the principal applications of lasers and future expectations from lasers.

235 Russell Building

Governmental Affairs

Permanent Subcommittee on Investigations

To continue hearings to examine the size, nature, and economic impact of profits made from illegal narcotics trafficking.

3302 Dirksen Building

9:30 a.m.

Labor and Human Resources

To hold hearings on the nomination of William A. Lubbers, of Maryland, to be General Counsel of the National Labor Relations Board.

4232 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To resume oversight hearings to review the world economic situation, focusing on the European markets, international debt, the economic effect of oil price increases, and the evolution of the international monetary system.

5302 Dirksen Building

Foreign Relations

Arms Control, Oceans, International Operations and Environment Subcommittee

To hold hearings on S. 1450, to improve and simplify the personnel system of the foreign service by linking the granting of career tenure, promotions, compensation and performance pay more closely to the quality of performance; by creating a Senior Foreign Service; by limiting foreign service career status to those who accept the discipline of service overseas; by reducing the number of personnel categories; and by establishing a Foreign Service Labor Relations Board and a Foreign Service Impasse Disputes Panel.

4221 Dirksen Building

10:30 a.m.

Judiciary

To hold hearings on the nomination of Ira M. Schwartz, of Washington, to be Associate Administrator of Law Enforcement Assistance.

2228 Dirksen Building

DECEMBER 17

9:00 a.m.

Energy and Natural Resources

To hold hearings on the nomination of Thomas E. Stelson, of Georgia, to be an Assistant Secretary of Energy (Conservation and Solar Applications).

3110 Dirksen Building

Government Affairs

Permanent Subcommittee on Investigations

To resume hearings to examine the size, nature, and economic impact of profits made from illegal narcotics trafficking.

3302 Dirksen Building

10:00 a.m.

*Energy and Natural Resources

Energy Regulation Subcommittee

To receive testimony on the current price and supply situation for petroleum fuels.

3110 Dirksen Building

Judiciary

To hold hearings on pending nominations.

2228 Dirksen Building

Labor and Human Resources

Health and Scientific Research Subcommittee

Business meeting, to consider S. 988, authorizing funds through fiscal year 1983 to increase the effectiveness of research in biomedical sciences.

4232 Dirksen Building

Select on Indian Affairs

To hold hearings to determine whether the April 1, 1980, statute of limitations deadline should be extended for commencing actions on behalf of an Indian tribe, band or group by the Federal Government.

1202 Dirksen Building

DECEMBER 18

9:00 a.m.

Agriculture, Nutrition, and Forestry

Agricultural Credit and Rural Electrification Subcommittee

To hold hearings on the effects of current commercial interest rates on agriculture enterprises.

324 Russell Building

9:30 a.m.

Judiciary

Business meeting, to consider pending legislation and nominations.

2228 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation.

To hold hearings on the nomination of James V. Day, of Maine, to be a Federal Maritime Commissioner.

318 Russell Building

Select on Indian Affairs

Business meeting, to begin markup of S. 1464, to acquire certain lands for the benefit of the Mille Lacs Band of the Minnesota Chippewa Indians; S. 1855, authorizing funds through fiscal year 1982 for the Tribally Controlled Community College Assistance Act; and to resume consideration of S. 1832, authorizing the Secretary of the Interior to declare certain land to be Indian reservation land.

1202 Dirksen Building

DECEMBER 19

9:00 a.m.

Finance

Taxation and Debt Management Generally Subcommittee

To hold hearings on S. 1913, to retain the existing excise tax treatment for wine and distilled spirits products by providing a credit against the distilled spirits tax for the amount of alcohol in the product.

2221 Dirksen Building

9:30 a.m.

Judiciary

Administrative Practice and Procedure Subcommittee

Business meeting, to mark up proposed legislation proposing regulatory reform to coordinate and oversee Federal policy.

424 Rusell Building

Judiciary

Constitution Subcommittee

Business meeting, to begin markup proposals advocating a balanced Federal budget or restricting in some way the growth of Federal outlays (S.J. Res. 2, 4, 5, 6, 7, 9, 10, 11, 13, 16, 18, 36, 38, 45, 46, 56, 76, 79, 86, and 93).

5110 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Rural Housing and Development Subcommittee

To hold oversight hearings to examine the use of urea-formaldehyde foamed-in-place insulation to promote energy conservation in rural housing.

5302 Dirksen Building

Governmental Affairs

Federal Spending Practices and Open Government Subcommitte

To resume oversight hearings to examine alleged fraud and mismanagement practices in the General Services Administration focusing on procurement practices and control procedures of individual Federal agencies.

3302 Dirksen Building

JANUARY 14

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1466, to provide for the payment of Indian Claims Commission judgments in favor of the Delaware Tribe of Indians and the absentee Delaware Tribe of Western Oklahoma.

5110 Dirksen Building

JANUARY 15

10:00 a.m.

Banking, Housing, and Urban Affairs.

International Finance Subcommittee

To hold hearings to examine U.S. trade and technological competitiveness with other industralized countries, focusing on a report by the International Trade Commission on international trade in integrated circuits relating to the electronics industry.

5302 Dirksen Building

JANUARY 21

10:00 a.m.

Select on Indian Affairs

To hold hearings on H.R. 3979, to modify and ease certain Federal laws restricting commercial transactions between Indians and Federal employees.

5110 Dirksen Building

JANUARY 29

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 1507, to provide for the purchase of certain facilities, lands, and water rights in and around the San Luis Rey River, San Diego, California, to be held in trust for, and operated and maintained by certain boards of Mission Indians.

5110 Dirksen Building

JANUARY 30

10:00 a.m.

Select on Indian Affairs

To hold hearings on S. 2055, to establish a reservation for the confederated tribes of Siletz Indians of Oregon.

5110 Dirksen Building

FEBRUARY 5

10:00 a.m.

Select on Indians

To hold hearings on S. 1998, to provide for certain public lands to be held in trust by the U.S. for the Tule River Indian Tribe.

5110 Dirksen Building

CANCELLATIONS

DECEMBER 13

10:00 a.m.

Banking, Housing, and Urban Affairs

International Finance Subcommittee

To continue oversight hearings to review international monetary policy relative to the Eurodollar currency.

5302 Dirksen Building

DECEMBER 14

2:30 p.m.

Labor and Human Resources

Business meeting, to consider the nomination of William A. Lubbers, of Maryland, to be General Counsel of the National Labor Relations Board.

4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, December 13, 1979*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

"As with gladness men of old
Did the guiding star behold;
As with joy they hailed its light,
Leading onward, beaming bright;
So, most gracious Lord, may we
Evermore be led to Thee."
—WM. DIX.

During these holy days, O Lord, lead us in the paths of truth and of peace, and may all Your creation, wherever they may be, experience the gifts of love and of hope. In the name of the Prince of Peace, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

CONTAINING INFLATION

(Mr. MOTTL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOTTL. Mr. Speaker, the new year will not be a happy one on the inflation front, unless we in Congress get serious about the problem. I call your attention to an article in the December 11 Washington Post, in which the chief economist of Salomon Bros.' investment banking firm predicts still higher inflation in 1980 than the double-digit rate we are now experiencing.

But yet, I and others have been unable to generate even a serious discussion about one important thing Congress can do: give the President the authority to impose mandatory wage and price controls.

People will sacrifice to fight inflation, if they feel the sacrifices are shared. Mandatory wage and price controls are one way, perhaps the only way, to assure that the burdens of fighting inflation are equitably distributed. I urge the leadership of the House to recognize this and endorse enactment of standby Presidential authority to impose these controls.

SUPPORT FOR THE PRESIDENT'S DEFENSE POLICY STATEMENT

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, I commend the President for his defense policy statement that he laid out yesterday in his speech. The keystone of our national security is still military strength. This is well pointed out by the President. We all know that the situation in Iran shows a need for a strong and a secure and a united America.

The President's program is a five-point program. It first improves our strategic forces, assuring deterrence. Second, it upgrades our forces in NATO. Third, it modernizes our naval forces. Fourth, it strengthens the rapid deployment capabilities to meet our responsibilities outside of NATO and, fifth, and I think very important, is the extremely critical area of manpower, recruiting and retaining an effective force of skilled and experienced military personnel, since our military security depends upon the abilities, the training, and the dedication of the people who are in our Armed Services.

Mr. Speaker, I hope that Congress will give its full support to the President's five-point plan for national security.

Mr. Speaker, as the President well stated, a prerequisite to the enjoyment of progress in the areas of jobs, housing, education, and health is to assure peace for this Nation. This can be done only through a secure United States.

U.S.-U.S.S.R. MILITARY BALANCE—MYTHS AND FACTS VII

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BINGHAM. Mr. Speaker, in an earlier 1-minute speech I listed some of the reasons why the Soviet Navy is no match for our own. Today I will add to that list.

Not only is our Navy already larger in number of major surface combatants, but that advantage will grow over the coming decade as our fleet of warships will increase by 34 percent to some 223 ships.

The Russian Navy must maneuver through narrow choke points, many of which are controlled by Western powers, to reach the high seas. They have only three major, ice-free naval bases and repair yards, while the United States operates more than 40 bases and yards along thousands of miles of our own open-ocean coastline as well as overseas.

The Soviets cannot sustain deployed combat operations outside their own contiguous seas because their smaller ships lack staying power and have too few support ships for services and auxiliary tasks. Their navy has only 1 large fleet support ship for every 42 major combatants, while the U.S. Navy maintains a ratio of 1 to 15.

The Russian Navy cannot compare to ours in air cover or reconnaissance capability. We have more than 5 times as many naval aircraft and 10 times as many aircraft aboard ships.

The Russians are only now building their first nuclear-powered surface ship, while the U.S. Navy already operates 11.

The Russians keep only 15 percent of their ballistic missile submarines on patrol, while 55 percent of ours are normally on station.

The United States has an unmatched ASW capability based on an elaborate system of sea bottom, ship-towed, and aircraft, dropped listening devices to track comparatively noisy Russian submarines.

It is not surprising that our naval leaders freely admit that they would rather command the United States than the Soviet fleet.

WINDFALL PROFIT TAX EXEMPTIONS

(Mr. HANCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANCE. Mr. Speaker, today I am introducing legislation which calls for an exemption from the windfall profit tax of 1,000 barrels per day for the independent producers and royalty owners. I offered similar legislation earlier when this was considered in the House. It was disposed of in the Committee on Rules by a vote of 7 to 7. The measure was not permitted to be heard on the House floor.

Mr. Speaker, since that time similar legislation has passed in the other body. The reason for my introduction of this legislation at this time is to get as many sponsors as possible so the House conferees will know that there is strong support for this position in the House and among House Members.

Mr. Speaker, I would like to point out that the independents drill approximately 90 percent of the exploratory wells in this country. Over the past 5 years the U.S. Bureau of Census has pointed out that independents have reinvested 105 percent of their revenues. In other words, they have been investing more than they have been making in the production of new energy which will help to solve the energy crisis.

PERSONAL EXPLANATION

(Mr. DAN DANIEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAN DANIEL. Mr. Speaker, during the session of Thursday, December 6, I was not present to respond to several votes because of committee related work.

☐ This symbol represents the time of day during the House Proceedings, e.g., ☐ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

Had I been here, I would have been recorded as follows:

On rollcall No. 709, to prohibit funding for medical assistance for abortions, except when the life of a mother is in danger, I would have voted "aye."

On rollcall No. 708, which would have amended the foregoing to also permit medical assistance to terminate a pregnancy resulting from rape or incest, I would have voted "no."

On rollcall No. 710, that sought to convert the financing mechanism for CHAP, from an entitlement to fixed authorizations subject to the annual appropriation process, I would have voted "aye."

HELPING JAPAN REDUCE ITS DEPENDENCE ON IRANIAN OIL

(Mr. OBEY asked and was given permission to address the House for 1 minute.)

Mr. OBEY. Mr. Speaker, although European allies have expressed some support for the U.S. economic actions against Iran in an effort to win release of the American hostages, Japan has not only refused such support but has used the American cutoff of Iranian oil imports to build up its own reserves.

Mr. Speaker, I would like to suggest to the American people that there are ways that they could help Japan reduce its dependence upon Iranian oil. About 2.5 percent of the Japanese gross national product results from the sale of cars, televisions, stereos, cameras, and other consumer products shipped to and sold in the United States. If we assume that the manufacture of those products requires on average about the same amount of energy as other aspects of the Japanese economy, then that would amount to about 67 million barrels of oil a year or roughly one-third of the amount that Japan imported from Iran last year.

Mr. Speaker, it is bad politics for the oil-importing countries to be undercutting each other in dealing with the OPEC cartel and it is particularly irresponsible when an important principle of international law is at stake as is the case in the current crisis. The moguls who run the giant Japanese corporations might find it is bad economics as well if American consumers decide to send them a message by discontinuing the purchase of Japanese products. I think they should do just that.

U.S. POSITION REGARDING IRAN

(Mr. BROOMFIELD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROOMFIELD. Mr. Speaker, today marks the 40th day in captivity for the U.S. hostages in Iran.

Time is running out and the patience of the American people is wearing thin.

While the administration has moved in a positive and measured way in assembling the support of the world community, now is the time to step-up our efforts.

Each day we delay only increases the prospects that military force will be the ultimate—and almost certainly tragic—solution to this crisis.

We should immediately begin proceedings at the United Nations toward a world economic boycott of Iran.

The tragic plight of those 50 Americans demands that we do no less.

I would hope, Mr. Speaker, that we would receive the enthusiastic support in this effort of all of our allies, including Japan.

If we are to provide a major share of the free world's defense, we should expect its unqualified support in our moment of great distress.

□ 1010

UNITED STATES TO SPEND MORE DEFENDING EUROPE

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, after much effort, the administration has finally convinced the Europeans to let us spend more of our money defending them. We will spend $5 billion on new missiles and they will spend one-tenth of that.

Am I the only one who thinks this is crazy? Why should American taxpayers keep these countries on military welfare, when they have more money and stronger economies than we do?

Western Europe does need stronger defenses against potential Soviet aggression, but is that not the Europeans' responsibility? We had to browbeat some of these countries into accepting our help. Apparently they would rather have Americans be the targets of Soviet missiles instead of their own people. But they still want our protection, free of charge.

A prominent defense analyst told me that we spend over half of our military budget on NATO, in direct and indirect expenditures. I doubt if the American taxpayer wants us to continue this policy.

America needs a much stronger defense, with laser and particle beam ABM's, and fewer SALT agreements for example. But more Government spending—even defense spending—will only weaken us. Let us allow well-off Europeans to pay for their own defense, and devote more of our resources to the defense of America and Americans. Let us stop being the suckers of the Western World.

TOO LITTLE, TOO LATE?

(Mr. MYERS of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MYERS of Indiana. Mr. Speaker, the Iranian crisis, as painful as it is, has had at least one beneficial aspect. It has focused the attention of the administration on our need to be strong and to have the national will to use that strength.

Yesterday the President made a speech calling for increased spending for defense. I am glad that, at long last, the President has reached an understanding of our defense needs that Republicans have had all along.

Throughout his Presidential campaign of 1975–76, Jimmy Carter pledged to cut defense spending by as much as $7 billion. While the majority in Congress applauded, Republicans told him this was suicidal. He responded by refusing to build the B-1 and the neutron bomb. He cut back our fleet.

So, here we are, more than 1,000 days after his inauguration, finally getting from him a message we should have had 3 years ago. Let us hope the Democrats in Congress also wake up.

The Iranian crisis is but the most dramatic—and not the only—example of how we are going to suffer for 3 years of irresponsible administration defense policies. If tyrants see us act like pushovers, they will treat us like pushovers.

Let us support the President in this crisis. But let us also tell the truth about what his tragically weak defense policies have done to this country. He has given us too little. I pray his newfound policy is not too late.

FORTY DAYS AND FORTY NIGHTS

(Mr. DEVINE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEVINE. Mr. Speaker, I think it was Noah that talked about 40 days and 40 nights that the world was to be destroyed and would start all over again.

These hostages have been in custody for 40 days and 40 nights.

Another biblical quotation, I think it was Isaiah, says, "How long, O Lord, how long?"

I say to the Members here, how would you like to be confined to these quarters for 40 days and 40 nights? You would blow your tops. "How long, O Lord, how long?"

Let us take some affirmative action. I think the President is right. I am not talking about military intervention or dropping the bomb, but I am so sick of watching these media events of those great unwashed masses waving their arms like this every time the TV camera is on. We do not know what they do in the meantime, but we know they do not work.

Let us put a complete, total embargo, on food, medical supplies, equipment and parts, to drive them to the point where our hostages are released.

APPLAUDING ADMINISTRATION'S DECISION TO REDUCE SIZE OF IRANIAN DIPLOMATIC CORPS

(Mr. COURTER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, I applaud the administration's decision to reduce the size of the Iranian diplomatic corps in the United States as another means of expressing our outrage toward the actions of Iran's Revolutionary Council headed by the Ayatollah Khomeini. It must be remembered that members of the Iranian diplomatic corps took part in pro-Khomeini demonstrations at the outset of this crisis and I believe that we should have given thought to expelling them at that time.

Furthermore, I was stunned by a report on last night's "CBS Evening News" by diplomatic correspondent Marvin Kalb that the United States had hard information through credible intelligence sources that members of the PLO are in our Embassy in Tehran and are involved in securing it against any potential American rescue effort. Mr. Kalb cited the mining of the compound and interrogation of hostages as major functions of their mission. As a result of this report I understand that the Khomeini regime has threatened to expel CBS News from Iran.

Should this report prove to be accurate it would reinforce my position that the PLO is a terrorist group and that we should have no dealings with it or force Israel to, until they abandon terrorism as a means of political expression.

A TRIBUTE TO HAROLD K. MILKS

(Mr. RUDD asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. RUDD. Mr. Speaker, our Nation lost a remarkable journalist with the passing yesterday of Harold K. Milks, longtime foreign correspondent for the Associated Press and more recently managing editor and Latin affairs editor of the Arizona Republic in Phoenix.

Mr. Milks' career as a newsman spanned half a century.

He served the Associated Press in the Far East, Moscow, Madrid, and in Havana, Cuba, where he was AP bureau chief when Fidel Castro came to power in 1959.

Harold Milks—known as Heine to his close friends in journalism—was totally honest, very direct, completely professional, totally dedicated to collecting and disseminating the news no matter what the burden or difficulty.

He was completely empathetic with the needs and problems of his fellow citizens.

Harold Milks will be missed in journalism and in his community.

Those of us who came to know and respect his byline will always treasure his highly principled and professional lifetime contribution to his country and his fellow citizens.

TAX ON SOCIAL SECURITY BENEFITS

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and to extend his remarks and include extraneous matter.)

Mr. KOSTMAYER. Mr. Speaker, the Advisory Council on Social Security, established to study the social security system, recently issued its report. One of their recommendations would make one-half of all social security benefits taxable.

I believe that the Congress must act to reduce the social security tax burden on American workers, and the Council has made some valuable suggestions which can do that as well as stabilizing the social security trust fund. Congress needs to study most of these proposals carefully and deliberately.

But, while many of the Council's recommendations are worth considering, the proposed tax is not. The harm such a tax could cause would be tremendous. If enacted, such a tax could devastate the lives of so many dependent upon this limited income. Recipients receive little enough from social security now. Can Congress seriously consider reducing that income even further?

Mr. Speaker, in recent years, rising prices have made what once seemed to be sufficient retirement savings terribly inadequate. The rising cost of food, energy and health care have depleted the savings of millions of retired Americans. Instead of a comfortable retirement, they now face the almost hopeless task of trying to decide whether they can afford to eat, heat or stay healthy.

We must let senior citizens know that Congress will not tax their benefits. It is unfair to anyone who depends on that check. For years, Americans have been guaranteed a secure income because they contributed to the system. We cannot now rob them of that little security.

PROVIDING FOR CONSIDERATION OF H.R. 5860, CHRYSLER CORPORATION LOAN GUARANTEE ACT OF 1979

Mr. BOLLING. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 505 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res 505

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) and clause 7, rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corporation, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Banking, Finance and Urban Affairs now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and each section of said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7, rule XVI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1020

The SPEAKER. The gentleman from Missouri (Mr. Bolling) is recognized for 1 hour.

Mr. BOLLING. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. Latta), and pending that, I yield myself such time as I may consume.

Mr. Speaker, this is an ordinary open rule, with 2 hours of general debate. I know of no controversy whatsoever on the rule, and, therefore, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say that I agree with the statement just made by the gentleman from Missouri (Mr. Bolling) about this rule. It is a completely open rule.

I would like to point out that there has been some misinformation about this bill printed in the morning papers, and I think we ought to be aware of that. One of the morning papers indicates that the bill will be considered under a parliamentary procedure allowing the introduction of amendments that have been printed in the Congressional Record. That is not true. They do not have to be printed in the Congressional Record.

As the gentleman from Missouri has indicated, this is a completely open rule. Yesterday, before the Committee on Rules, we heard testimony about the Chrysler problem, as did the Committee on Banking, Finance and Urban Affairs, but as of yesterday when we were hearing testimony on this bill, the committee was still in the process of putting it together.

We granted a rule that would permit the committee to print in the Record a completely new bill, if the Members thought it was necessary, to make such changes as they thought necessary, and the bill appeared in the Congressional Record as of last night.

There have been some changes made, and I think it is well that we point them out very quickly. There have been some concerns that have been cleared up by the recent changes in the revised edition to this very important piece of legislation.

For example, on the makeup of the Chrysler Corporation Loan Guarantee Board, this section now sets up a five-member Board to administer the program. The Secretary of the Treasury will chair the Board. The Board will also consist of the Chairman of the Federal Reserve Board, the Comptroller General, and the Secretaries of Transportation and Labor. This is new.

The financing plan now must include at least $1.830 billion of "nonfederally guaranteed assistance" which may come from several sources.

Let me say that in section 4(b) there have been some changes. Section 4(b) provides that the deferral of stock dividends not be counted against the $1.830 of non-Federal contributions.

Section 4(c) details the following amounts the various groups must contribute to this amount: $400 million from unionized employees of Chrysler.

Mr. Speaker, let me hasten to point out that this does not spell out, contrary to the reports in the morning papers, how this $400 million is to be raised. There are only 100,000 workers of Chrysler, and if we were to fairly apportion this amount among the employees of Chrysler, this would mean $4,000 per employee.

Now, certainly the union is not going to assess the employees of Chrysler $4,000 each to raise this $400 million. I would think that instead of doing that, they would go back and renegotiate their contract and have some sort of a wage freeze for a given period of time.

There has been some talk of 18 months rather than the 3-year period that was talked about in the Lugar bill.

Speaking about that new contract, we are talking about a $1.5 billion guaranteed loan by the taxpayers of this country; $1.3 billion of that amount could be used just for increased benefits for Chrysler workers during the next 3 years. As I pointed out yesterday before the Committee on Rules, I certainly want to see Chrysler become a viable corporation, employing these people, producing products, and permitting the many sales agencies throughout the country to continue in business. But how can they possibly continue in business if $1.3 billion of the $1.5 billion is going to be used up just in increased benefits for Chrysler workers under their new contract?

The unions have already pointed out that they do not want any kind of a wage freeze. They say, "We want it all or nothing." That is what they have said: "We want it all or nothing."

I am here to tell the Members that I do not believe I can support that "all or nothing" approach, just on a fairness basis. I want to support something, as I mentioned, to keep Chrysler viable.

How in the name of good sense can we say to the taxpayer out there, the man who makes $4, $5, or $6 an hour—yes, the industrial worker's average is $7.50 in this Nation—that we have to dig deeper in our pockets for a guarantee to guarantee a $15-an-hour wage to Chrysler employees? I do not think that would be quite fair, and I do not think the taxpayers would think that would be quite fair.

So somebody has to give something along these lines if they are going to expect that laboring man who makes $5 and $6 an hour to dig deeper in his pocket to come up with the money for this loan guarantee.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am pleased to yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding.

I did have a couple of questions, but our friend, the chairman of the Committee on Rules, the esteemed gentleman from Missouri (Mr. BOLLING), referred to this as an "ordinary open rule." The gentleman in the well referred to it as a "completely open rule." So I suppose that would mean we can offer germane amendments.

I notice that the committee, on page 2, lines 13 and 14 of the rule, did put in the caveat about failure to comply with the provisions of clause 7, rule 16, and all points of order are waived.

Mr. LATTA. There are three waivers in the bill. I am going to get to that and explain it.

Mr. ASHBROOK. Mr. Speaker, I suppose that is because we have some moving target when the Chrysler dealers are calling in and saying, "We don't know anything about the bill you are talking about." I unedrstand the bill is being written now, so I assume the waiver is necessary because the leadership probably is not even sure at this point what bill will come before us next Tuesday.

Mr. LATTA. Mr. Speaker, I think that is one of the reasons, as I explained earlier, why the Committee on Rules granted a completely open rule, subject to all germane amendments, because the bill is in the process of being written. I believe that it should be written in committee and that we should not have to write this legislation on the floor of the House.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield further?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I thank my colleague for yielding.

Mr. Speaker, I adhere to everything the gentleman said, particularly as it relates to the wage freeze, and particularly since Mr. Fraser seems to have moved from a position of open cooperation to a position of getting what he wants for the union.

Mr. LATTA. To be completely accurate, let me note there has been a concession. There was $200 million to be raised from the unions, and that has been changed to $400 million.

Mr. BOLLING. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to the chairman of the committee.

Mr. BOLLING. Mr. Speaker, I would say that the comment is not really pertinent to the rule, referring to the comment of the gentleman from Ohio, because this waiver is to something that has been around for quite a long time. The waiver is to the committee amendment that came out of committee, so this has nothing to do with some prospective amendment.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman yield?

Mr. LATTA. Mr. Speaker, let me first comment, before I yield, and say that I agree with what the gentleman from Missouri (Mr. BOLLING) just said on the waivers themselves, and I will be glad to explain the waivers.

Mr. BROOMFIELD. Mr. Speaker, will the gentleman now yield?

Mr. LATTA. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Speaker, I want to express my support for the rule. I sincerely hope not only that the rule will pass but that we will have a thorough discussion of this issue. It is extremely important to our country. With all the economic problems we are faced with, we must see the importance of not creating problems in the unemployment field.

Mr. Speaker, I rise to urge the adoption of this rule so that we can proceed with the consideration of this very important bill, H.R. 5860, the "Chrysler Corporation Loan Guarantee Act."

Mr. Lee Iacocca, the chairman of the board of the Chrysler Corp., has said that it is imperative for the Congress to act this year on the issue of providing Federal assistance to this company. To let the issue drag beyond this time would, in essence, sentence Chrysler to shutting down by Valentine's Day. A Department of Transportation study concurs in that the company needs the assistance this year.

We are coming close to the end of this first session, and so the time left to consider this issue in a meaningful manner becomes very relevant.

For some of us, the outcome of this bill will affect our districts dramatically. However, there is much more at stake than just the impact upon certain localities. The future of the Chrysler Corp. will have serious consequences upon the entire Nation in terms of its unemployment, the economy, the balance of trade, and our national response to our energy problems.

Mr. Speaker, there are many aspects attached to the question of providing Federal loan guarantees to Chrysler. With the passage of this rule, we will have the needed opportunity to examine them in depth, and we will be able to do so in a relevant time frame.

I once again strongly urge my colleagues to adopt this rule.

Mr. LATTA. Mr. Speaker, I thank the gentleman from Michigan (Mr. BROOMFIELD) for his comments.

Let me say that I hope we do not get too far away from the issue, in the direction, for instance, of having this Congress or this Government telling Chrysler what color cars to manufacture. For example, somebody said yesterday, "Until they get out of the red, maybe they ought to produce all red cars, and when they get in the black, then they ought to produce all black cars." I do not think we ought to go quite that far.

□ 1030

But let me proceed with some of the other requirements under this revised piece of legislation.

From U.S. banks must come $500 million; $150 million from foreign banks and other creditors; $300 million from the sale of Chrysler assets; $250 million from the State and local governments; $180 million from suppliers and dealers; and $50 million from the sale of additional equity.

So we have an involvement here of quite a few agencies, including State and local government.

I am sure that the bill itself will be completely discussed when we get into the general debate on this bill, but let me just point out one other thing that troubled me about the earlier version of this legislation. I think that they pretty well cure this objection in this substitute. Subsection (b) of section 8 also requires that the U.S. Government have first priority for debts arising under guarantees in the event of bankruptcy or before. Priority may be waived with respect to State and local governments that lend to Chrysler.

It may also be waived with respect to suppliers of Chrysler, up to $100,000 per supplier. This is taking care of the little suppliers but not the big ones. It may only provide that the U.S. Government and the suppliers will have an equal position. This is new, and I think it is an improvement over the legislation as it came before us in the Committee on Rules.

Mr. STANTON. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Ohio.

Mr. STANTON. I appreciate the gentleman's yielding.

Mr. Speaker, I take this time just to express my personal appreciation to the gentleman in the well, and specifically to the gentleman from Missouri (Mr. Bolling), on the cooperation that he has given to all sides on the subject of this particular rule.

I think it behooves us, from our experience in the House, that we should be the first to recognize, as the gentleman from Michigan (Mr. Broomfield) has said, that this is a bill of magnitude and of importance, and the committee should have the right to work its will; and, therefore, the open rule.

On the other hand, I think with this open rule we will be proposing, we hope, meaningful amendments that do indeed have an obligation not to be detrimental or dilatory to the progress of this legislation. We have a responsibility in this Congress up or down to give Chrysler and their families and employees a decision. I pledged to the Committee on Rules and to the gentleman from Pennsylvania (Mr. Moorhead) my cooperation in this regard. We hope, though, we will have a thorough discussion of the problems involved, and I thank the Committee on Rules for their decision.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Pennsylvania, the chairman of the subcommittee.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I want to say to the ranking minority member on the Committee on Banking, Finance and Urban Affairs, the gentleman from Ohio (Mr. Stanton), that he has been cooperative in every way, that I agree with him that we should have a vote up or down on this legislation.

The worst thing that could happen to the reputation of this institution is if we fail to take action because of dilatory tactics. It would be better to have a clear vote down rather than have it just dribble out and no action taken. Naturally, I hope the vote will be yes, but I know that when the gentleman from Ohio says that he will not engage in dilatory tactics, I rely on him completley because I have never known the gentleman from Ohio to be anything less than a complete keeper of his word.

Mr. LATTA. I thank the gentleman for his comments, and I also thank him for supplying me with a copy of this revised edition, as he said he would, before it was printed in the Record.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for yielding.

Mr. Speaker, I want to rise in support of this completely open rule. If we have a few more open rules like this, it may become a tradition to let the House work its will. One never knows what will happen around here. It is getting toward Christmas, and perhaps the charity of the majority leadership allowed this.

But I honestly believe that the reason we have an open rule is that nobody knows what bill is going to be considered next week. I am glad to hear about all of the cooperation on both sides of our aisle and across the Capitol in the other body. Everybody is cooperating with everybody. But the bill was being written in the hall outside the Committee on Rules as we met yesterday. This morning we have a completely new substitute amendment from the gentleman from Pennsylvania which is in the Record. The gentleman from Ohio (Mr. Latta) must have stayed up all night studying the latest version, because he seems to know more about it than the daily press in Washington, and who knows, with negotiations over a long weekend, we may have yet another bill next week.

I only bring out this interesting legislative history because Richard Nixon used to say that in politics timing is everything. Of course, his timing got a little off at one point. But here we are, being told that this is a momentous decision legislatively, that we may set an historic precedent for the country by bailing out big business.

I have as many Chrysler workers and dealers in my district as anybody else and I am concerned about their future. But I am concerned, as the gentleman from Ohio (Mr. Ashbrook) said, that we are getting calls on the phone saying, "Vote for the bill," and there is no bill.

So I am glad now to have something before us in written form. I would suggest to the leadership that if it is so important to know what we are voting on, they might want to put this off until a time when the House can fully understand what it is we are voting on.

I will listen to the debate today. I understand next Tuesday is to be the amendment stage. But I also understand the other body is so ensnarled in difficulties on other matters that this bill may never be acted upon before Christmas. Surely, it is an important issue, and maybe we ought to treat it as such legislatively rather than writing bills in the halls.

Mr. LATTA. The gentleman has mentioned some of the press reports on this compromise. I would like to clarify fully one other one that I ran across this morning. It said the compromise would require the United Auto Workers and other unions to defer $400 million in new wage increases and other benefits. That is not exactly the way the substitute is written. It just says $400 million, and it does not specify that the wage increases have to be deferred. That is something that bothers me. I wish that this statement were correct.

There are just a couple of other things that I would like to mention that the bill does not do and, hopefully, during the 5-minute rule we will do something about it.

One of the reasons that Chrysler is in the condition it is in today is because of Government regulations. That is one of the reasons that people are resisting buying new cars, because they have got $1,000 or better attached to the price of every new car caused by excessive Government regulation. The prices are now out of sight, in part because of regulations that I think are absolutely unnecessary, and we ought to take a look at it. If we do not do anything about it, we ought to blame ourselves for part of the condition that Chrysler finds itself in. So hopefully something will be done about some of these unnecessary governmental regulations that are heaped on these automobile makers. The costs are ultimately being picked up by the purchasers of new automobiles.

Mr. McKINNEY. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Connecticut.

Mr. McKINNEY. Mr. Speaker, I think the gentleman has brought out an important point. I would like to make one other point.

As the gentleman knows, I am going to support the Chrysler Corp. bailout. To me, the issue here is not really Chrysler. The issue is what is happening to the basic industries of this Nation.

We very quietly, without much notice, in our economic development assistance bills, bailed out almost every single steel company in the United States, and they are still amongst the most inefficient in the entire world. Chrysler is now before us. Ford is going to lose over $1 billion in their domestic sales. What we are really talking about is that there is no investment climate, no reason to invest in American industry. We, in the Congress, through our tax policies and through our regulatory policies have exported more jobs. We have literally, through regulation and through investment tax policies, put our jobs and our businesses on freighters and sent them across the sea. I think that is the tragedy. Chrysler is not the issue. Chrysler is the symptom of the issue. I hope that Congress will wake up to the fact that Chrysler Corp. is here in front of us today not because of bad management, not specifically because of OPEC, but because of the fact that every American basic industry in this country is starved for investment capital.

Mr. LATTA. I thank the gentleman for his very important statement.

Mr. Speaker, there is one other thing that I would like to mention that this bill contains that I do not like and I hope is removed. Chrysler has some obsolescent plants that ought to be shut down. They have some procedures that ought to be changed. We should not mandate in this legislation that they keep these plants open. I think that the sponsore of the legislation know whereof I speak.

Let me just mention one, the Dodge main plant in Detroit. As I understand it, here was a plant which employed several thousand employees and is now down to something like 2,600. Chrysler says it is obsolete and it ought to be closed. That is management speaking. We do not want anything in this bill that is going to say you have to keep it open regardless. And then if they close it down, do you realize there is reported to be a provision in this legislation—unless it has been changed—providing if they close it down then the company that opens it up gets loan guarantees under this bill. That is wrong, and I think we ought to take it out.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Wisconsin, the chairman of the Committee on Banking, Finance and Urban Affairs.

□ 1040

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Wisconsin.

Mr. REUSS. I appreciate the gentleman yielding on this point.

If the bill contained what the gentleman, who apparently reads editorials in the Washington Post, suggests that it did, it would indeed.

Mr. LATTA. Occasionally.

Mr. REUSS. It could be an abomination and ought to be stamped out. Happily, the bill does not contain that at all.

There is nothing in the bill which suggests that one single obsolescent plant or facility be kept in being.

What is in the bill is the mandate that those who are making up the plan for Chrysler concentrate on energy-saving things, not energy-wasting things.

I can assure the gentleman there is nothing in it such as he describes, and if there were, it should be exorcised.

Mr. LATTA. I would agree with the gentleman completely.

Let me say we will examine it very closely to make absolutely certain that language is not still in this legislation that is presented to us.

One other thing that I mentioned yesterday in the Committee on Rules, and I think it is most important. That is that Chrysler Corp. has a contract with the Department of Defense to produce the XM-1 tank. This is a very modern tank. The Department of Defense needs this tank. So we have got to keep that in mind in considering this piece of legislation.

In conclusion, let me say to the people who are interested in the waivers, they are really technical waivers. I will mention them very quickly. First, there is a waiver of the Budget Act requirement that an authorization bill be reported by May 15 preceding the beginning of the fiscal year it becomes effective.

In this case the bill was not reported until December 6, 1979.

The Committee on the Budget decided by a vote of 14 to 1 to recommend the budget waiver, and the Committee on Rules agreed.

Second, there is a technical waiver of clause 7, rule XIII. This is a rule requiring each committee report include—

> * * * an estimate, made by such committee, of the costs which would be incurred in carrying out such bill or joint resolution in the fiscal year in which it is reported and in each of the five fiscal years following such fiscal year . . .

In this case the committee followed the acceptable practice of adopting the Congressional Budget Office cost estimate as its own. Unfortunately, the Congress Budget Office cost estimate in this report only covers this fiscal year and the next 4 years rather than the next 5 years, as required in the rule.

This means that there is a technical violation of clause 7, rule XIII, which is cured by the waiver in the rule.

The third waiver is of the germaneness rule. The committee substitute includes a definition of the term "borrower," which is considerably broader than the original bill.

Without the waiver provided in the rule, the committee amendment would be subject to a point of order for failure to comply with the germaneness rule.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. Lundine).

Mr. LUNDINE. Mr. Speaker, I urge the adoption of the rule on H.R. 5860, which provides for Government loan guarantees to the Chrysler Corp.

I can understand the skepticism of some of my colleagues about this company's bid for Federal aid. Initially, I shared such doubts, and only gradually became convinced that a rescue plan could work.

This is an open rule and there should be little controversy regarding the procedural aspect of this issue. Nevertheless, the entire Chrysler matter is of such consequence that it deserves serious discussion. I hope the House will adopt a compromise plan to be proposed by my colleagues from Pennsylvania (Mr. Moorhead) and Connecticut (Mr. McKinney), which requires Chrysler to obtain $1.83 billion of financing from specific non-Federal sources before it can draw on $1.5 billion of Federal loan guarantees.

A refusal to provide adequate assistance to Chrysler will certainly lead to the company's collapse. Insolvency could come within weeks. Once bankrupt, the company in my view has virtually no prospect of surviving: There is a big difference between being willing to ride on a bankrupt railroad and deciding to purchase a car from a company you do not expect to stay in business. In this case, I am virtually certain the result of Chrysler's bankruptcy would be liquidation.

The impact of Chrysler failure would obviously be devastating for Detroit and other areas where company facilities are located. Substantial costs would fall on the general taxpayer as well: The requirements of unemployment insurance and other Federal transfer payments along with reduced tax receipts are expected to amount to $1 billion in 1980 and $1.5 billion in 1981. In addition, the Federal Government would be responsible for approximately $1 billion to cover certain unfunded pension liabilities which, in all likelihood, would have to be provided from general tax revenues.

The loss of Chrysler would further leave only three domestic auto manufacturers. I realize, of course, that part of the viability of our economic system rests on the assumption that inefficient companies will go out of business. But competition is also an essential element of our free enterprise economy. If Chrysler can be turned around, the competitiveness of this industry will be enhanced.

On balance, providing Federal loan guarantees to Chrysler is a good public policy if the prospects for repayment of the loans are strong. I consider this result likely, if the plan is structured properly.

I see these conditions as essential:

First. That the company obtain a significant portion of its financing in the form of new equity, rather than debt;

Second. That the financing package require substantial commitments and concessions from those groups with a direct stake in the company's future;

Third. That a broad employee stock ownership plan be established, to strengthen incentives to improve operations at Chrysler and assure that workers will share in the company's success.

All of these requirements are met by the Moorhead-McKinney substitute, in a rescue plan that I think will work. I urge the adoption of the rule permitting its consideration by the House.

Mr. LATTA. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Speaker, it would be best for the American people if the Chrysler bailout bill did not come to the floor.

The fact that we are discussing the Chrysler bailout, I believe, is nothing more than an endorsement of old wornout economic ideas. I believe the whole discussion that will ensue with the Chrysler bailout will be nothing more than discussing Government interventionism at its worst.

There will be no discussion; there generally has been no discussion on whether or not we should have a market economy versus an interventionist economy. The discussion generally has only been which form of interventionism we shall have, in which way should we assist the companies, in which way should we give clout to the unions. This has been the only discussion.

Hardly ever does the subject come up on whether or not we should even be manipulating the marketplace and controlling the marketplace.

By rejecting the rule and rejecting the notion that we should discuss the Chrysler bailout, it would at least put us online and say there is another alternative other than the Government; the Congress, and the agencies dealing with problems of this sort.

If we would stop and listen and slow up the tide of interventionism, at least we could consider the fact that maybe we the Government are the cause and not the solution.

There is no question in my mind that we create the Chryslers. By failing Chrysler, we do nothing but endorse all those policies in one form or the other that brought the Chrysler problem to our doorstep. It was said by some in the discussion many times in the Committee on Banking, Finance and Urban Affairs, as an argument against the bailout, that this is a new precedent, and they were anxious not to establish a new precedent. They argued that we should not establish something new.

I would like to take a slightly different view from this. In contrast I think it is precisely because it has been the precedent that we should not discuss nor grant the bailout. The precedent has been well established for we have already guaranteed over $400 billion worth of loans. That is the problem. It cannot be the solution.

It was said in the Committee on Banking, Finance and Urban Affairs that another loan, another billion dollars, would not make much difference. What is another billion-dollar bailout when we have already guaranteed $400 billion? There is a lot of truth to this.

The $1 billion in addition probably does not make much difference.

An analogy that was used by one witness was: It is like another cigarette. If you are a heavy smoker, and you smoke three packs of cigarettes a day, and you are on your way to developing a lung cancer; if you skip one cigarette, or one pack, it probably does not make much difference.

But we do know that the perpetual use of cigarettes and the abuse of one's body with cigarettes will cause lung cancer. It is this way in the economy.

The abuse of the monetary system, the abuse of the economic system by guaranteeing loans, will eventually bring a downfall of the economy.

So in this sense it is a bad thing to do, not because it is new and different, but precisely because it is an old and wornout idea. It is the old idea that Government has a responsibility, has a need, to do things.

The information is now available to us to show that the interventionism, the interfering in the marketplace, the manipulating for the benefit of special interest by the Government is the problem and cannot be the solution. I think there is a strong message here. There is a strong message here that the economic foundation in this Nation is in a shambles and if not rebuilt we will soon suffer the consequences.

Monetary and fiscal restraints along with detaxing and deregulation of the economy must replace our suicidal persistence in the policies of inflation, overregulation, overtaxation, and credit preemption through guaranteed loans. If we do not, we will soon see that the Chrysler tragedy will seem minor compared to the pervasive national tragedy that will occur when the national Government's bankruptcy becomes obvious to all of us.

Mr. BOLLING. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Speaker, I rise in support of the rule.

It is one of those rare occasions when I am in complete agreement with my colleague, the gentleman from Maryland (Mr. BAUMAN) we do have a wide-open rule and I interpret that to mean that this House realizes the importance of acting on this situation in an expeditious manner.

The other options that might be open for Chrysler are just unthinkable. Bankruptcy would be an unthinkable option to pursue.

I would like to say that while I support the rule, I want to add that I have some concerns, which I will spell out later on, but the gravity of the situation overweighs my concerns. In my opinion, this is not the time to lay blame. This is not the time to blame the Government or to blame Chrysler or to blame the workers. This is a time for a strong bipartisan effort to find a solution to this very, very serious problem. If we do not, then I think we will have a catastrophic impact on our economy for the next decade.

□ 1050

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. KELLY).

Mr. KELLY. Mr. Speaker, I think the Members of Congress in the forthcoming exercise on the Chrysler bailout should be aware that this is not a normal procedure even for the chaotic operations that take place in this Congress. We are dealing with a substitute that was never considered by any committee of this House. The bill that we considered in committee never got adequate consideration.

Every Member of this Congress should know that there was no string of economists that came to testify about what the impact of this kind of program would be on the economy. There were no financiers that came to say what the pros and cons of this would be. There were no industrialists that came to testify whether this would help or hurt American industry.

This Congress is absolutely blind on every one of those subjects except for two economists that were called by the minority. These economists were called on short notice, without adequate time to prepare. Their testimony would have been much more extensive than it was had the circumstances been different. They both testified Chrysler will not make it with or without the bailout.

This legislation has been railroaded through this Congress. The Committee on Rules should certainly be commended for the courage that it demonstrated in giving an open rule, because clearly the intention was that this matter was going to come before the House on a closed rule.

I would say to my colleagues you are being snookered, Members of Congress, and you are being snookered in a way that it is going to be damaging to our economy and our ability to compete, and American industry is truly in trouble. We are getting ready to invest billions of dollars of long-term industrial capital which is in short supply in a failing corporation with impacts on the economy that are not described or known to any Member of this Congress, based on any kind of committee activity. My colleagues certainly should be forewarned that what they are being asked to do in this matter cannot make any kind of sense at all.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. KELLY. I am happy to yield to the gentleman.

Mr. LATTA. Mr. Speaker, I want to thank the gentleman for yielding and commend him for the good work he has done on this problem. We might come down eventually on different sides of the fence, but let me just commend the gentleman for the work he has done and the amount of information he has given the Members. I, for one Member of Congress, appreciate it.

Mr. KELLY. I thank the gentleman.

So in closing, let me just say this: No Member of Congress can come and cast any vote on this legislation with a feeling of confidence that some of his colleagues have adequately examined this question, because the substitute that we are going to be voting on today was not even published until this morning.

Mr. LATTA. Mr. Speaker, I would just like to take this time to call the attention of my friend from Wisconsin, the chairman of the committee, to the definition section of this bill on the subject that we discussed earlier.

(1) the term "borrower" means the Chrysler Corporation, any of its subsidaries or affiliates, or any other entity the Secretary may designate from time to time which borrows funds for the benefits or use of the Corporation or which—

(A) produces transportation or energy equipment which meets the goal of lessening the dependence of the United States on petroleum;

(B) provides employment in areas where the Chrysler Corporation has or plans to discontinue operations; and

(C) utilizes facilities presently owned by the Chrysler Corporation;

Hopefully they will tighten up those definitions sections and what I mentioned will not come to pass.

Mr. REUSS. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I am happy to yield to my friend from Wisconsin.

Mr. REUSS. I appreciate the gentleman yielding. Of course, the whole bill speaks everywhere of efficient operation. It would be simply unthinkable that the Board would validate a proposal, however meritorious it may sound, to produce things in an inefficient plant. So it really could not be clearer that the use of inefficient plants is prohibited under the terms of the act.

The SPEAKER pro tempore. All the gentleman's time has expired.

Mr. BOLLING. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 391, nays 5, not voting 37, as follows:

[Roll No. 726]

YEAS—391

Abdnor
Addabbo
Akaka
Albosta
Alexander
Anderson, Calif.
Annunzio
Anthony
Applegate
Archer
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Campbell
Carney
Carr
Carter
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-
schmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lundine
Lungren
McClory
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead,
Calif.
Moorhead, Pa.
Mottl
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Sabo
Santini
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—5

Collins, Tex.
Evans, Ga.
Gibbons
McDonald
Paul

NOT VOTING—37

Ambro
Anderson, Ill.
Andrews, N.C.
Andrews,
N. Dak.
Burton, John
Cavanaugh
Coelho
Crane, Philip
Dellums
Dixon
Eckhardt
Edwards, Calif.
Flood
Hagedorn
Hanley
Hollenbeck
Jenkins
Lewis
McCloskey
McCormack
McEwen
McKay
Mattox
Michel
Murphy, Ill.
Nichols
Rostenkowski
Runnels
Russo
Simon
Solarz
Stark
Stokes
Symms
Treen
Weiss
Young, Alaska

☐ 1110

The Clerk announced the following pairs:

Mr. Hanley with Mr. Andrews of North Carolina.

Mr. Ambro with Mr. Hollenbeck.

Mr. Russo with Mr. Symms.

Mr. Rostenkowski with Mr. Young of Alaska.

Mr. McCormack with Mr. McCloskey.

Mr. John L. Burton with Mr. Michel.

Mr. Edwards of California with Mr. Cavanaugh.

Mr. Stokes with Mr. Anderson of Illinois.

Mr. Runnels with Mr. Eckhardt.

Mr. Simon with Mr. Flood.

Mr. Dellums with Mr. Lewis.

Mr. Murphy of Illinois with Mr. Mattox.

Mr. McKay with Mr. McEwen.

Mr. Stark with Mr. Philip M. Crane.

Mr. Nichols with Mr. Andrews of North Dakota.

Mr. Weiss with Mr. Jenkins.

Mr. Solarz with Mr. Hagedorn.

Mr. Coelho with Mr. Dixon.

Mr. DANNEMEYER changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. MOORHEAD).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5860, with Mr. BOLLING in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule,

the first reading of the bill is dispensed with.

Under the rule, the gentleman from Pennsylvania (Mr. MOORHEAD) will be recognized for 1 hour, and the gentleman from Ohio (Mr. STANTON) will be recognized for 1 hour.

The Chair recognizes the gentleman from Pennsylvania (Mr. MOORHEAD).

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield myself 12 minutes.

Mr. Chairman, this legislation involving the Chrysler Corp. has made me go through a lot of thought processes. I am a strong believer in the free enterprise system, and I believe that the freedom to make profits also includes the freedom to fail. But as I continued to study this situation, I became convinced that this legislation is in the national interest. I decided early in the game that I was not elected to vote on the basis of some economic theology but to deal practically and pragmatically with problems as they came along. Principles, of course, do matter and should shape our judgment, but stubborn adherence to an ideological principle is often the enemy of sensible action, action in this case involving the livelihoods of several hundred thousand people.

Several key issues quickly emerged as our examination proceeded: No. 1, why was the company in trouble? Was it just bad management, poor decisions in the past, a poor product? Or was it chiefly something bigger that was outside the company itself? No. 2, was reorganization under the bankruptcy laws a solution? No. 3, would a Federal loan guarantee really do the trick? That is, could the company emerge from its present period of troubles and become again a profitable, viable enterprise? And if so, what was the right amount, the right amount of Federal aid, and, equally important, non-Federal aid from those with an economic stake in the corporation? What was the balance of potential costs and benefits to the Nation's taxpayers? And how well would the Federal interest be protected?

Finally, to what degree would this assistance for Chrysler be regarded as a precedent for an endless series of cases to follow?

Mr. Chairman, I have satisfied myself on all of these points. The company's troubles are chiefly the result of the world energy problem which has radically transformed the market for automobiles. The whole industry is going through an enormously expensive alteration of its entire product line in the direction of fuel efficiency—mandated by legislation, but now mandated even more by the marketplace.

Chrysler is the smallest of the Big Three, though still the 10th largest corporation in the Nation. Mr. Chairman, the Chrysler Corp. simply could not cope with this burden in the shortrun. The slump in the market this year turned the problem into a crisis.

I do not absolve Chrysler management of all past mistakes, but I am persuaded that they are not the root of the problem.

Second, now that the package of Federal and non-Federal assistance is upward of $3 billion, I believe this corporation can make it. By late next year they will have an entire new line of small front-wheel-drive cars that will be competitive not only in the U.S. market but, according to objective testimony from the Transportation Research Center of the Department of Transportation, quite probably in foreign markets as well. This capacity will be badly needed in light of the shift in the marketplace. General Motors and Ford will not be able to meet the demand for genuinely fuel-efficient cars for the next couple of years. Unless the automobile market undergoes a deep and prolonged collapse, Chrysler has a very good probability of returning to profitability. Its cash gap between now and 1982 can be met with this package.

Third, your committee concluded that bankruptcy reorganization was no solution for Chrysler. The automobile is not like any other purchase that the ordinary citizen makes, but rather it is a major investment.

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There must be assurance not only of warranty protection and service but also of used-car value.

The average person on the street does not distinguish between a chapter 11 reorganization in bankruptcy and ordinary bankruptcy and liquidation which is what he is familiar with.

The testimony before our subcommittee was predominantly to the effect that the mere announcement of bankruptcy would ruin the market for Chrysler cars. In addition, while bankruptcy can help in dealing with old debt, it does not by itself provide the means for raising the vast amounts of new capital that this and other auto producers must have to transform their product line.

Next, I am persuaded that this is a sound deal for the taxpayers. The Treasury's conservative estimate was that a collapse of Chrysler would cost the budget $2.75 billion in the 2-year period 1980–81 for both increased outlays and reduced revenues. The loan guarantee in this bill is for a maximum of $1.5 billion. Of course, if the company returns to profitability, as I expect it will, the loans will be repaid and there will be no cost to the taxpayers. There will even be a small profit from the loan guarantee fees as there was in the Lockheed case. The guaranteed loans, furthermore, will be fully secured and the Treasury will come first among the company's creditors if the worst happened. This priority will be made even tighter in the substitute bill which I will be offering and will discuss shortly.

Finally, the question of precedent. This bill does not open the way to some new wave of Federal assistance for industry at large. For one thing, it is purposely drafted to be what I call mean and nasty—so much so as to make any other company in difficulty think a long time before asking for Federal help. Equally important, the problems of the automobile industry are truly unusual if not unique. This is the only major industry having to completely remake its products because of the energy crisis, at a capital cost over 5 years of $80 billion. The bill before us represents a tailored solution to a special problem, not a general new policy.

I will conclude, Mr. Chairman, by touching briefly upon the substitute bill that I will be offering when we go under the 5-minute rule next week. It is printed in the RECORD of yesterday that we received this morning.

Let me say first, and emphatically, that the substitute follows the same basic line of approach as H.R. 5860, the committee bill. There is no radical difference. It is being offered, quite frankly, in light of developments in the other body and in the interest of obtaining legislation that can be passed by both Houses, and passed quickly.

Under both bills there is an authorization of $1.5 billion in Federal loan guarantees together with an absolute requirement of a large package of cash assistance from non-Federal sources—$1.5 billion in the committee bill and $1.83 billion in the substitute. No Federal guarantees can be issued until firm commitments are in hand for all of these non-Federal funds. They will come mainly from those with an economic stake in the company's survival—employees, dealers, suppliers, banks and other lenders, State and local governments. Some funds will come from sale of new stock and some from sale assets of the company that are not vital to its profitability as a producer of automobiles.

This is the basic approach of the bill. The substitute differs from the committee bill in only a few major respects.

First, it requires a larger contribution from the company's workers—and the bill limits it to union members who are employees. The substitute specifies that this contribution must be $400 million, which includes the estimated $203 million value of the concessions that Chrysler already has received because its new labor contract is less liberal than those of General Motors and Ford. The contributions of the others with a stake in the company are also specified in more detail, as are the target amounts for sale of stock and sale of assets, all adding up to an additional $1.43 billion beyond the union contribution. That makes $1.83 billion in non-Federal contributions and a total of $3.33 billion, an even safer cushion than the $3 billion of the committee bill.

Second, the substitute would have the program administered, instead of by the Secretary of the Treasury alone as in the committee bill, by a five-person board. The Secretary of the Treasury would be the chairman. The other members would be the Chairman of the Federal Reserve Board, the Comptroller General and the Secretaries of Transportation and Labor.

Another significant difference is the tightening of the U.S. priority as a creditor and the requirement of full collateral for the loans, with no waivers. The only exceptions to U.S. priority are in the case of loans from State or local governments and small suppliers with claims up to $100,000.

There are other, lesser changes, which I will describe when the substitute is offered next week. To repeat, the most important change is the requirement of a larger contribution from the company's workers. I believe that this is reasonable because their stake—their jobs—is perhaps the greatest of anyone.

Mr. Chairman, I began by saying that I had doubts as this Chrysler episode began. I have resolved these doubts in my own mind and I have no hesitation whatsoever in recommending the prompt enactment of this legislation.

Mr. Chairman, I yield back the balance of my time.

Mr. STANTON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the majority of witnesses and the majority of time on this bill in committee was held before the Economic and Stabilization Subcommittee. On our side of the aisle and representing the minority on that subcommittee is the gentleman who will next speak, the very distinguished gentleman from the State of Connecticut (Mr. McKINNEY).

Mr. Chairman, I yield such time as he may consume to the gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Chairman, if most House Members feel as though they have had a crash course in the automotive industry over these past few weeks, then BILL MOORHEAD, JIM BLANCHARD, and I qualify for our master's degree. Since early August I have had the opportunity to learn more about automobile engineering, automotive industry economics and demographics and other related topics than I ever wanted to know.

I did not feel totally uninformed when this issue was first discussed as a possible issue for the Economic Stabilization Subcommittee. Before coming to Congress most of my business experience came from automotive-related endeavors. I spent a good part of 1975 and 1976 as a member of the House Automobile Task Force investigating many of the problems which are directly related to Chrysler's request for Federal loan guarantee assistance. In all honesty I can say to my colleagues that initially I was opposed to any Federal assistance to Chrysler on philosophical grounds.

Today I still have some reservations about supporting this type of legislation, but I feel this assistance is more beneficial to the welfare of the American people than would be the failure of the Chrysler Corp. A great many of our constituents have formed an opinion on this issue without full knowledge of the impact that our inaction would have. In numerous cases this awareness has been gained only after the question has been brought to them on a personal basis.

There are 19,000 companies which are suppliers to the Chrysler Corp.—the vast majority of which are small businesses. The $8 billion of business volume that they do with Chrysler may be a small part of our GNP but for many of those companies it may represent the difference between success and failure and for their employees, the difference between a job or welfare. We can also imagine the impact on the dealers if they are forced to go out of business and, on another level, the impact on thousands of local banks which have made business loans to these dealers and suppliers.

These loans are not made to Chrysler; they are not secured by a plant in Detroit. The bank's security is the showroom and service equipment on Main Street. The members of the Banking Committee are very concerned about the high cost of housing in this country and the severe shortage of mortgage money for homebuyers. In my opinion, the problems these thousands of dealers and many thousands of Chrysler suppliers would have in paying off their business loans would further exacerbate the problems local banks are having in this period of unusually high interest rates and capital shortages.

In the Banking Committee report on H.R. 5860, I inserted additional views that were endorsed also by my two Republican colleagues who joined me in voting for the bill, CHALMERS WYLIE and TOM EVANS. Those views stated in some detail the depth of the study made by the Banking Committee into the nature of Chrysler's financial problems and also the efforts that were made to find some alternative form of assistance from the private sector. My conclusion is that there is no logical or reasonable alternative to a Federal loan guarantee. For the benefit of those Members who have not seen the report I shall repeat these views:

> The decision to support this legislation was made after many hours of deliberation. There is a natural reluctance to interject the Federal government into the affairs of the business community to any greater extent than it is involved already. Philosophically speaking, the granting of Federal assistance to a specific company is abhorrent as the rejection of a basic element of the free enterprise system. But looking at this situation from a theoretical perspective ignores the realities that are involved and it was these realities that convinced us that there is a need for Congress to act.
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> The bill reported by the Committee is not perfect. We have reservations about the effectiveness of some elements of the Administration's proposal and there is much that needs to be done by the other participants to the financial plan to demonstrate an actual sacrifice. If the U.S. government is going to put taxpayers money at risk to help the Chrysler Corporation, there must be evidence that all of the other parties with an economic interest in a healthy Chrysler have made a total commitment to the success of this plan prior to our involvement.
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> The basic problem facing Chrysler is the inability to generate, internally or from outside private sources, sufficient operating capital to complete a program to downsize its fleet and put small, fuel efficient lines of cars into production. The difficulty in raising this capital can be attributed to three primary causes: changes in consumer auto buying patterns caused by OPEC actions, poor management decisions made 5–6 years ago and the heavy cost burden of meeting government regulations. Any one, or all, of these problems could probably be handled by Chrysler without government help over a normal period of time, but that time is not available.
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> Chrysler's management in the early 1970's failed to recognize the long-term impact of the OPEC embargo. When the company's program to meet federal fund efficiency and emission standards was launched belatedly a major portion of the funding for the development and production of these new models was expected to come from sales of Chrysler's larger cars and its truck and van lines. Higher world oil prices, the Iranian situation and the domestic recession combined earlier this year to cause an abrupt and radical change in America's car-buying habits. Big cars could not be given away and small cars brought premium prices.
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> This change in trends, which appears to be long-term in nature, will be a major reason why Chrysler expects to lose approximately $1 billion this year. In addition, the company's share of the auto market which has been above 12 percent in eight of the last 10 years has slipped below 10 percent at this time. Throughout the auto industry the only positive note is the strong demand for subcompact and compact cars.
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> The domestic producers are dependent on imported small models, such as GM's Opel, Ford's Fiesta, and Chrysler's Champ or Colt. These cars are made in Japan or Germany; they have a six month waiting list for delivery; and, they contribute little to our economy. The irony of the situation is that Chrysler has the brightest outlook among the Big 3 for the production of the type of compact car best suited for the American market in the 1980's. GM's production capability for its "x-body" cars is at its limit. Additional capacity is not available in less than two years and then only with a huge capital investment that GM does not intend to make. Ford will introduce subcompact models by 1981, but it does not intend to break into the compact market until 1985. Chrysler, however, can produce domestically 500,000 units of 4-cylinder front wheel drive, fuel efficient compact cars by 1981 and upwards of 800,000 units by 1982. This production can be achieved only if Chrysler can continue to pay for retooling and other production changes that have progressed to within a year of actual production of these models. If Chrysler is unable to obtain the necessary funding, the only source capable of meeting that demand would be imports and it is estimated this would increase the balance of payments deficit by $3 billion by 1982.
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> The logical question to ask at this point is why won't Chrysler's creditors advance the necessary capital? Given the "Catch-22" nature of this situation, the logical answer is that the risk is too great. Banks loans to Chrysler have been classified by federal regulators, which limits the ability of the banks to extend further credit to the company. Also, the loan officer passing judgment on Chrysler is concerned about his bank's stockholder liability and not about any of the non-business considerations that have to be weighed by the Members of Congress.
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> Another source of capital would be the possibility of a merger or takeover. Chrysler does not represent an attractive opportunity to foreign car manufacturers for a variety of reasons. Perhaps the most fundamental is the cost of manufacturing an automobile. In most foreign countries the manufacturer is subsidized by his government, labor costs are much lower and there is no need to meet the stringent federal regulations imposed in this country. With only a few exceptions there are no large cars, as Americans know them, being produced so there is no problem adapting to size preferences. If a foreign manufacturer were to acquire Chrysler, it would be competing with itself rather than improving its market.
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> There are other considerations for foreign manufacturers to avoid offering financial help. Volkswagen currently sells 300,000 4-cylinder engines to Chrysler. These engines are desperately needed by VW and it would willingly terminate its contract with

Chrysler. The German manufacturer would gladly put those engines into VW Rabbits which it could sell more profitably to Americans. In Japan, Mitsubishi which manufactures most of the subcompact and compact cars imported by the Chrysler Corporation is eager to develop its own distribution system in this country, but not if it involves the acquisition of Chrysler's manufacturing and assembly facilities.

Domestically the prospect of merger is presently non-existent. Antitrust considerations preclude either GM or Ford from talking to Chrysler and no other company is interested in investing in the problems of the automobile industry.

The conclusion, then, was that conventional sources of capital were not available to Chrysler. Since the issue facing Congress could be defined as should the Federal government extend assistance to this private corporation and what form and size should that assistance take, it was necessary to examine fully the options available and to weigh the implications of offering that aid.

Our study of these options began with the assumption that no Federal loans or guarantees would be given to Chrysler. A number of analyses of Chrysler's financial condition have been made—some of three months duration and at least one for more than two years. The analysts have all concluded that without a massive infusion of capital, Chrysler is faced with bankruptcy, most likely within three months. What impact that action would have on Chrysler's future, its employees and the communities and regions where the plants are located has been the subject of some dispute. In our opinion, there is no "best case" solution if Chrysler files for bankruptcy protection. There will only be varying degrees of "worst case" scenarios.

First, we should look at what bankruptcy or reorganization under the law offers in the Chrysler framework. There have been large companies that have filed for bankruptcy and have undergone liquidation or in some cases they have survived after court-supervised reorganization. The major differences in this instance are that there has never been a similar case where the entity was a manufacturer of a major product as well as the national distributor of that product. When W. T. Grant or Food Fair Stores or Robert Hall were forced to close their doors, there were other chains willing and able to sell the products they had carried. The circumstances are not quite the same in the automobile industry.

Perhaps the most unique factor to be considered is the importance of consumer confidence to such a corporation. Among the forty witnesses who came before the Committee during the nine days of hearings were representatives of Chrysler's dealers and a panel of bankruptcy experts. The dealers placed special emphasis on the psychologically devasting impact that bankruptcy would have on their business. It was estimated that 80 percent of the 4700 Chrysler dealers would be forced to close their doors within two weeks of a bankruptcy petition being filed. These dealers did not expect that they would reopen the next month selling Ford or GM cars or a new import line: those franchises have already been taken. Their employees would not be absorbed in any volume by other dealers and the vast majority of the 150,000 employees of Chrysler dealerships would add to the increasing number of unemployed Americans.

The dealers also expressed to us the opinion that bankruptcy would be self-defeating since the Chrysler dealerships would not be there to service the millions of cars already on the road. Some might argue that reorganization differs from bankruptcy but the dealers argued very strongly that the man in the street does not understand the difference. If the media say the company is going to court, their sales will disappear, their bank credit will dry up and if under reorganization the court were to order the disposition of Chrysler Financial Corporation, the last source of funding for car inventories will be gone.

The outlook for suppliers to Chrysler is likewise bleak under either bankruptcy or reorganization. Last year aproximately 17,000 companies, mostly small businesses, did $8 billion in orders with Chrysler. Since the auto maker has been much more dependent on outside sources for its parts and components, there would be very little shifting of this business for Chrysler to any other car manufacturer. It is likely that thousands of jobs would be lost and many of these companies would be forced to declare bankruptcy themselves.

The third area of impact to consider concerns the Chrysler Corporation itself. Bankruptcy (without Federal aid) would bring the company's production to a halt since credit lines would cease to be available. The greatest effect of this shutdown would be regional. Chrysler has facilities in seven states but the impact would reach far beyond the midwest. Although there are only 4,500 Chrysler employees in Delaware, for example, the impact on that state's economy could have a devastating impact. One analysis estimates that unemployment compensation, lost wages and lost purchasing power would cost the state economy almost one billion dollars. In metropolitan Detroit Chrysler employs 74,000 people and pays them nearly $2.4 billion annually in direct and indirect wages. The loss of this income flowing through Detroit's economy would bring the city to its knees and similarly severe repercussions would be seen in many other cities. Several states would be in dangerous financial straits from lost tax revenues and unexpectedly large demands on their unemployment compensation funds.

Much has been said about the use of "worst case" statistics to generate support for Chrysler. That may have been a valid objection if some reasonable assurance could be given that the risk of the "worse case" scenario developing was not so great. We have studied all of the information that has been made available to the Banking Committee. After listening to the many witnesses testify about the technical problems of the automobile industry and its suppliers and dealers; about the economic and social impact on cities and states around the country, and; about the practical and psychological impact of the bankruptcy laws, there is a need for Federal assistance to the Chrysler Corporation.

When Congress revised the bankruptcy laws, three areas were delineated which were considered necessary for development if a debtor were to succeed in its efforts toward reorganization. These were, first, the ability to attract and to hold skilled management; second, the ability to obtain credit; and, third, the corporation's ability to project to the public an image of vitality. In our opinion, Chrysler is engaged in an out-of-court reorganization that with government assistance has a much more realistic chance of success. In reaching this decision we agree with Benjamin Weintraub, a bankruptcy law expert, who testified before the Committee:

Paradoxically, if this out-of-court plan fails because many of the assumptions are not realized, there is always the alternative of Chapter 11.

However, if a Chapter 11 petition is filed, it will never be known what would have happened if the loan guarantee request had been granted.

After the decision to extend Federal assistance was made it was necessary to determine how much was needed and how it should be Chrysler's financial collapse. This factor limits the type of aid that can be given which can be truly effective to loan guarantees or direct loans. Some combination that would involve revision of regulatory standards and tax depreciation schedules could be arranged, but there would be no immediate cash flow, so that was rejected.

Also, the difficulties caused by the heavy costs of the Federal regulatory burden and outdated tax laws are not peculiar to Chrysler. All major industries in this country are faced with the same prospects as Chrysler unless Congress acts on these issues. We urge our colleagues to look at the Chrysler situation and to resolve that this exercise will not be repeated. An initiative such as the "10–5–3" depreciation proposal will do much more to stimulate capital formation than massive loan guarantee programs and regulatory burdens can be eased without losing our direction.

Although there are precedents for direct loans and loan guarantees, any use of a direct Federal loan to Chrysler was precluded by a Minority amendment which we supported. The Administration requested a loan guarantee and has structured its plan requirements around that approach. Also, we do not think that the Federal Government should obtain an equity participation in Chrysler as a result of extending financial assistance. Rather than seeking a means of additional corporate involvement, we should try to remove the government from Chrysler's affairs as soon as the company is financially stable.

Early in our hearings we expressed concern that the plan being discussed by Chrysler and the Treasury Department did not call for sufficient capital to insure viability. The $1.5 billion figure authorized in H.R. 5860 which must be matched with $1.5 billion in commitments from the private sector is a much more realistic figure.

No one can predict what the future holds and we cannot guarantee that this plan will restore Chrysler to profitability. We can say with assurance that there is a much greater probability that the rescue plan will succeed at this funding level and that there is much less risk of taxpayers' money being lost under these circumstances. Also, we can say with certainty that the U.S. Government and the American taxpayers will lose billions of dollars in welfare, unemployment compensation and lost taxes if we do not help Chrysler.

It must be stressed that aid to Chrysler is not going to come only from the Federal Government. In his testimony before the Committee, Treasury Secretary Miller spelled out a number of conditions which must be satisfied before a loan would be guaranteed. He also made reference to the Department's experience in similar financing programs. In that regard we would like to refresh his memory and add a reminder.

This Committee has had much experience with loan guarantee programs, such as the Emergency Loan Guarantee Act specifically tailored for Lockheed and the New York City Loan Guarantee Act. In addition, numerous hearings have been held on loan guarantees and how to structure them. Conditions attached to the guarantees, we realize, are unique to each situation. In the case of the Chrysler legislation the Banking Committee has tried to permit the Secretary of the Treasury to have some flexibility in drawing together the various parties with an interest in Chrysler's economic health. In granting this flexibility to the Secretary we hope that it is understood that the Congress is not abdicating its responsibility to protect the taxpayers' interests. The Secretary's actions, Chrysler's actions and the efforts of all other interested parties will be monitored closely for compliance with our intent.

There is a great deal that can be said about the Chrysler Corporation and this

> legislation. The problem is much more complex than most people believe. Unfortunately academic theories about the free enterprise system do not provide the practical solutions needed in the real world. Our support for H.R. 5860 is based on meeting such a need. There are a number of conditions which we would like to see the Secretary include before loan guarantees are given. We think that there should be additional liquidation of nonessential assets such as stock in foreign operations; there should be firm commitments from the major creditors for new capital; there should be more in the way of "hard" contributions from the employees either as cash or in wage reductions; there should be protection against the loan guarantees going to foreign corporations in the event of a merger; and, there should be adequate protection for the taxpayers' interests vis-a-vis other creditors. The Secretary should have it understood that the U.S. government will be the last party into the agreement and the first one out with its interests securely protected. This may not be very popular with the creditors, but the purpose of this legislation is not to bail out the banks or the stockholders. Nor is it intended to open the Treasury to raids by other corporations.
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> We support this loan guarantee to Chrysler because we are confronted with a unique situation with national dimensions. Chrysler's survival is important for the continued vitality of our auto industry; Chrysler's ability to produce its new fuel efficient cars is important to our national energy conservation policy and will have a positive impact on our balance of payments. Federal assistance does not absolve Chrysler, for its poor management decisions, but failure to provide Federal aid will punish hundreds of thousands. The Mayor of Detroit said Congress should draw the line to extend help at the point of perceptible negative impact on the national economy. The condition of the national economy is tenuous now. We cannot afford to test its resiliency by refusing this loan guarantee to Chrysler.

When the Committee of the Whole House votes on amendments to the legislation reported by the Banking Committee, it will be asked to consider an amendment in the nature of a substitute offered by Mr. Moorhead and cosponsored by myself. This language was drafted after long hours of negotiating and represents a bipartisan compromise to meet the strongest objections and criticisms of H.R. 5860.

For example, the Republican conference held a meeting to discuss the loan guarantee proposal. The major criticisms that I heard of the committee bill were that the authority to make guarantees had been given to the Treasury Secretary, that the U.S. priority was waived on guarantees, that the Chrysler financial plan was not specific, and that the employees' contribution was not high enough.

The amendment which Mr. Moorhead will offer as a substitute is an honest attempt to meet those objections. It has been hammered out on a bipartisan basis and in cooperation with some of our colleagues from the other House. Three of the four points have been accepted. We include a board; we specify in line items how the components of the financial plan are to be put together and we remove the waiver authority except for State and local governments and for small suppliers. This last point is one which my friend on the committee, Jim Leach, offered as an amendment in our committee. I supported him then and had stated that without protection for the U.S. interests, without an agreement that the United States would be the last in, the first out and our interests protected, any loan guarantee proposal could not pass. We have that protection and I urge the bill's passage.

The last criticism of this bill has been a major point of dispute. The question of a reasonable level of participation from the employees has ranged from the level in H.R. 5860 of $200 million in a wage contribution to the level of $1.3 billion in wages and benefits in the Senate bill. As a result of our negotiations we have doubled the level of employee contribution to $400 million and we have raised the ante for some of the other players as well. The level of Federal assistance remains the same, at $1.5 billion, but the nonfederally guaranteed contributions have been increased from $1.5 billion to $1.83 billion, and the total amount provided would be $3.33 billion.

Some may say that we should get additional sacrifices from the employees. I would caution about being so demanding that the end result is detrimental to the company's future prospects. There is a point beyond which the employees or the banks are not willing to go. Many of Chrysler's skilled employees are willing to take what is in effect a wage freeze for 1 year or even 18 months, but to demand that they do so for 3 years is unreasonable to them. I am concerned that if these people leave Chrysler to work in the aerospace industry, who will be left to design any future generations of Chrysler cars? We were very critical of Chrysler's management for laying off engineers during the oil embargo rather than using them to plan for the future. I think that we would make an equally foolish choice for Chrysler's future by taking what would be a politically more acceptable choice now if we put more of a burden on the employees than is contained in this compromise substitute.

I hope that this bill will be debated in an open and fair fashion. I believe that the American people will understand the need to make assistance available to Chrysler if they are given the facts. If they understand that Chrysler's failure will cost them billions in tax dollars and have untold impacts on our economy, an insurance policy of $1.5 billion for Chrysler will be seen as the better alternative.

The reference to insurance brings to mind the matter of pension fund liability which I have not previously addressed. Chrysler has a present pension fund liability insured by ERISA of $1.1 billion. That is not a direct liability to the Treasury. However, the current condition of ERISA reflects a deficit of almost $300 million. If Chrysler's pension funds were dropped on the Pension Benefit Guaranty Corporation, there is no denying that every company now paying a premium to the PBGC under ERISA would be forced to increase its premium substantially to meet that additional burden. There is no way of denying that that premium increase would be a "Chrysler" tax on all businesses covered by ERISA.

The way Congress should look at this proposed loan guarantee is the way any businessman should approach the problem: on the bottom line, what will it cost if we do not? The cost if we do not act begins at more than $2.5 billion for unemployment and keeps on climbing. The cost if we do act may be heavy also, but there is an option not available if we let Chrysler fail. We may be able to save jobs for hundreds of thousands of Americans, we may maintain some competitiveness in our domestic automobile industry; we may improve our energy conservation potential; we may keep our balance of payments deficit from increasing; and, we may be able to retain the confidence of thousands of American businessmen in the democratic system.

My analysis of the Chrysler situation leads me to believe that Federal assistance is necessary. We have a tough bill forcing all of the parties to make sacrifices. With this program Chrysler can succeed, but any other company that tried to get similar assistance would be discouraged by these terms. This is not a bailout: we are protecting a major segment of the American economy and we are not violating any great American traditions. The Moorhead-McKinney amendment goes as far as we can reasonably go to meet the needs of Chrysler while protecting the American taxpayer. I urge its adoption without amendment.

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In closing, Mr. Chairman, I would just remind my colleagues of one thing. We are treating a symptom of the most terrible disease this Nation has. We are, through our economic investment policies and tax policies in the United States, putting basic American industrial capacity and jobs on ships and sending them across the seas.

Mr. Chairman, I hope that this committee and this Member will never again have to ask this Congress to help a major American industry, because with the proper investment incentives and the proper investment climate in the United States of America, this particular action today would not be necessary.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. Stewart).

Mr. STEWART. Mr. Chairman, I rise in support of this piece of legislation to guarantee the loan to Chrysler Corp.

Mr. Chairman, Chrysler's financial plight is a cause of concern to me. I support a guaranteed Government loan to the financially troubled automaker. If the Government does not give some support to the automaker, the company's bankruptcy is imminent and such an action could have an adverse impact on the national economy. To make my point a little clearer, I will describe the impact a Chrysler shutdown would have on my congressional district, as well as the national economy.

There are 22 suppliers with contracts totaling $44,657,265 which directly or indirectly serve the First Congressional District of Illinois. There are 1,569 full-time employees who work on these contracts. There are three Chrysler/Plymouth/Dodge car and truck dealers in the district. A Chrysler shutdown would directly or indirectly threaten all of these individuals in my congressional district. Some dealers and suppliers might eventually switch to other manufacturers and other contracts, but the immediate prospect of unemployment and financial distress will affect everyone involved.

According to recent statistics given to the Northeast-Midwest Congressional Coalition by the administration, a Chrysler shutdown during the next 2 years would have the following effect on Federal, State, and local governments:

An increase in the Federal budget deficit of $1 billion in 1980 and $1.5 billion in 1981, reflecting reduced revenues and increased costs of unemployment benefits and other Federal transfer payment programs;

Federal liability of $1 billion to cover insured Chrysler pension plans, funded either by general revenues or by a threefold increase in pension plan insurance premiums;

A loss of $500 million in Federal, State, and local income tax revenues; and

A loss of more than $140 million in corporate taxes to the State and local governments.

The impact on the economy would exacerbate the effects of the recession by:

A reduction in GNP of $4 billion in 1980 and $6 billion in 1981;

An immediate loss of at least 100,000 jobs and perhaps a permanent loss to the economy of 200,000 jobs. Potential loss of 38,000 minority jobs located in areas with limited prospects for reemployment;

A loss of $800 million in wages and salaries to black workers amounting to 1 percent of total black income in the United States;

An increase in the foreign trade deficit of $1.5 billion;

Reduction in competition among U.S. auto makers and an increase in market shares of foreign producers; and

Removal of 800,000 small cars from the American production base by 1981.

If we do not want to add fuel to an already troublesome situation, I would urge that my colleagues in the House give their support to the bill to guarantee Government loans to the Chrysler Corporation.

For these reasons, Mr. Chairman, I strongly urge passage of H.R. 5860, loan guarantee for Chrysler Corp.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. MITCHELL).

Mr. MITCHELL of Maryland. Mr. Chairman, let me say to my colleagues in the House that I support this legislation. I will support the Moorhead-McKinney substitute.

As I indicated in the discussion on the rule, I am very, very uncomfortable with this position. Here I am in the well supporting Chrysler Corp., a part of that structure that has ranted and railed against Government spending, a part of that structure that generally opposes CETA programs, food stamps, et cetera. But here I am in support of Chrysler.

This has given me a great deal of concern because of the rather cavalier treatment that Chrysler has accorded to minority businesses up to this point. Out of their total procurement and contracting of over $6 billion a year or more, they have never done in excess of $12 million with minority businesses, and yet I am here supporting Chrysler.

In addition, I, too, have worried about the precedent. I am sorry about the precedent that was set through the Lockheed bailout. Some call this a bailout for Chrysler, but I do not. My concern has primarily been based on the fact that we must do this to help Chrysler. Yet I might point this out: Let any small minority business enterprise make a simple mistake, and it is reported in detail and written up in the press, and Government support is unavailable.

If I have all these bad feelings, why am I supporting Chrysler? Because it is the only sensible and logical thing we can do. We cannot afford to increase unemployment in this country by a half-million people. I am advised by the United Auto Workers that there are already 100,000 auto workers on indefinite lay-offs that are not at all associated with Chrysler. These lay-offs are not associated with this issue.

If we fail to act, we will add another half-million people to the unemployment rolls.

I am supporting this because I think, given the state of our economy, unless we shore up Chrysler, we might well start a ripple effect in this shaky economy which will lead us into a deep recession or possibly a depression. We cannot afford the luxury of seeing our balance of trade increase at a time when our domestic economy is uncertain.

Mr. Chairman, let me say in conclusion that there is one compelling argument why we must support this legislation. By every estimate of every respected economist, each 1 percent of unemployment in this country will cost us $17 billion a year. That is that much more added to welfare, to housing subsidies, and to everything else.

Mr. Chairman, I urge the support of the Members for this legislation.

Mr. STANTON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida (Mr. KELLY).

Mr. KELLY. Mr. Chairman, I would like to call the attention of the Members of the House to what we are doing here. What we are getting ready to do is invest and control $8 billion of long-term industrial capital for the benefit of a single corporation. That is what this exercise is about this morning.

We are getting ready to control $8 billion worth of money, and we are going to give it to one corporation based on what we know about this program. So obviously every Member of Congress knows enough about the legislation we are dealing with and about the industry to invest $8 billion.

Now, I say to the Members, "You are going to do this when you know that the only testimony before you, before any House committee or subcommittee of this House, indicates that Chrysler will not make it, either with or without this bailout."

The suggestion by proponents of the legislation is that bankers would go to jail for violating their fiduciary responsibility if they loan money to Chrysler under these conditions. They are saying, "It is all right for you to do it because your reputation in the country for even good sense is suspect. So you can allocate $8 billion and they are not going to put you in jail." This argues that the Members of Congress have no responsibility to the taxpayers and all of the people we represent.

Mr. Chairman, I think that is the proposition that has been put to us. It did not appeal to me. Judging from our record, it probably will appeal to a lot of the Members.

Now, the suggestion was that we should approach this as any other businessman making an investment would. We are going to invest in a company that has clearly indicated that it could not make it. All the investment bankers, all the financiers, and all the industrialists in this Nation have said that this company is a failure, and they say, "We will not loan our money to or invest in Chrysler on a voluntary basis."

So this is the predicate. You are going to allocate this enormous amount of money on the basis of a committee inquiry that is totally inadequate. Every Member of Congress has to recognize that he does not know what he is doing to the degree that is necessary to launch any kind of an investment program such as this.

□ 1150

Why is Chrysler failing? Because Chrysler is paying wages that are totally noncompetitive, because Chrysler has made bad business judgments, and because the new management of Chrysler has granted a pay raise even though Chrysler lost three-quarters of a billion dollars so far this year under the old labor contract. Chrysler's management has now given a new contract that amounts to $1.2 billion, about what you are getting ready to loan them initially, so far as the Government's participation.

I am extremely limited as to time, and I urge every Member of Congress to dig out a "Dear Colleague" letter that I sent you on December 4. It covers every vital point of this legislation. Dig that "Dear Colleague" letter out and read it. I have just 5 minutes and that is not adequate to cover all that is involved. So I urge you to read the "Dear Colleague" letter.

There is a suggestion here that because Chrysler is in trouble you have to do something. It is suggested that Congress start a new welfare program for big corporations because it is going to cost you more if you do not. But let me tell you this: There is not one bit of objective testimony that was presented to the committee that indicated there are going to be massive layoffs. What they have done is, have some paid honchos on Wall Street do a study on the predicate that Chrysler would totally collapse. But there is no evidence that Chrysler would totally collapse. In other words, they said, "Take a worst case scenario and tell us what would be the impact on the economy." But there is no evidence that the worst case scenario would develop. That is sheer bunk. There is no reason for you to believe it. The evidence is to the contrary from all of the objective testimony.

Much of Chrysler could survive in the open market, but they cannot keep all of the inefficient plants open as they are trying to do. So do not fall for that.

The CHAIRMAN. The time of the gentleman from Florida (Mr. Kelly) has expired.

Mr. STANTON. Mr. Chairman, I yield 2 additional minutes to the gentleman from Florida.

Mr. KELLY. It has been suggested that I lower my voice, but I am excited about being robbed in broad daylight.

The chairman of the subcommittee suggested that Chrysler is in trouble because of the Government. In other words, what he is saying is that Members of this House have so mismanaged the Government that we, by our action, by the laws that we have passed, have killed the 10th largest corporation in the United States of America. There is much to be said for that point of view. This is the expressed view of Chrysler's chairman Iacocca, but I think you have to remember these things: The other companies have survived, the better managed, the more efficient companies. We are being asked to invest in the one that is not efficient.

A major contributing cause for Chrysler's failure to compete is that a Japanese automobile worker produces 40 cars a year. An American automobile production worker produces 25 cars a year. The Japanese automobile worker gets paid $6.50 an hour, and an American automobile production worker, under Chrysler's new contract, will be paid $15.50 per hour. This is clearly why we are losing to foreign competition. Nothing in this bill is going to change any of that. None of the real problems of Chrysler's difficulties are being addressed in this legislation, including Government taxes and regulation. We are simply operating a welfare program for production workers who get paid twice as much as the average production worker in this country, and we are operating a welfare program for a large corporation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. KELLY. I yield to the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, the gentleman said that I said something to the effect that this was caused by Government. What my words actually were is that the company's troubles are chiefly the result of world energy problems. I then went on to mention the expensive alteration of its product line in the direction of fuel efficiency mandated by legislation but now mandated even more by the marketplace.

So I just want the record to be clear.

Mr. KELLY. I thank the gentleman for clarifying that the Government is at fault.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 3 minutes to the gentleman from New York (Mr. Lundine), the author of one very important section of this legislation.

Mr. LUNDINE. Mr. Chairman, I rise in support of H.R. 5860, which provides $1.5 billion of Federal loan guarantees to Chrysler.

I do not want to oversimplify this issue. But based on the financial indent that without Federal assistance this company will be bankrupt in a matter of weeks.

It is not the Government's place to prop up, or bailout, unprofitable businesses which have no prospects of ever being competitive. In these cases, the Government should do what it can to smooth the necessary readjustments, but it should not try to postpone the inevitable.

Helping to revive firms that face temporary or potentially surmountable economic difficulties is, however, a major focus of our national economic development programs. The same kind of aid being sought by Chrysler is sought by thousands of small businesses every year, with a lot fewer strings attached in those cases.

Of course, the Chrysler request requires a much larger commitment from the Government than the typical small business, and it cannot be evaluated by the same standards. If we grant the request, I do not believe we have set any precedents that give big ailing companies the right to Government aid. All we have said, I think, is that firms with highly unusual financing needs will be considered on a case-by-case basis.

I believe that with properly structured assistance from the Federal Government, Chrysler will be able to put together the commitments and concessions it must have from private sources to make a rescue effort succeed. In a sense, the Federal guarantee becomes the glue that commitment and sacrifice by each of the various parties with an economic stake in Chrysler. Without this, each group is motivated to wait to see how much the others will do. And as they wait, the company will collapse.

With an adequate financial plan, this company should be able to regain a viable position in the automobile industry. Chrysler has replaced its previous management, and taken a hard look at what it will be able to produce and market. Barring another devastating and prolonged recession, the projections should be achievable.

I cannot promise my colleagues that Chrysler will be able to do all it says and repay its loans: if I could, the company would not be in this position. I believe it is in the national interest to try to preserve the jobs and productive capacity of Chrysler as long as the taxpayers do not face an unreasonable risk. And there are steps we should take to try to keep that risk as low as possible.

The establishment of an employee stock ownership plan with broad participation from all categories of Chrysler employees should help improve the company's performance, and thus reduce the chance that the Government will have to bear the costs of a default. While the pending proposals in the House and the Senate differ considerably in detail, their intent is to require Chrysler employees to take a portion of their compensation in the form of stock.

Both the House and the Senate versions require Chrysler to issue new common stock, which the workers will purchase either directly or indirectly by making further financial concessions. While no one gets anything for nothing, the arrangement is advantageous to both the company and its employees. Chrysler will get an infusion of new capital without incurring more debt at high interest rates; Chrysler workers will realize significant appreciation on their stock if the company succeeds.

Employee ownership plans have helped to revive a number of failing companies largely because of their impact on worker motivation and productivity. Where there are significant opportunities for ownership and participation in the company's decisions, workers can have strong incentives to look for ways to make the company run better.

A survey in the Senate Finance Committee of 1975 employee-owned firms showed that an average sales profits and employment increased dramatically in some cases reversify a decade or more of unsatisfactory business performance.

I would argue, finally, that without a meaningful employee ownership plan, the bailout of Chrysler becomes simply a bailout of its current shareholders. Among the biggest beneficiaries will be the company's executives who now own about one-third of the current outstanding stock. The ESOP's in both the House and Senate bills are both modest attempts to assure that working people whose efforts helped to turn the company around also realize some of the benefits.

With the inclusion of an employee stock ownership plan, the prospects for Chrysler success are enhanced. If we pass a reasonable bill and Chrysler does succeed it will be a positive step toward the reindustrialization of America.

Mr. STANTON. Mr. Chairman, I yield 5 minutes to my distinguished colleague from the great State of Ohio, the Honorable Chalmers Wylie.

Mr. WYLIE. Mr. Chairman, I thank my distinguished colleague from the great State of Ohio very much for yielding me this time, and I take the time to evidence my support for a loan guarantee for Chrysler.

I evidence my support as a matter of conscience. I support a loan guarantee to Chrysler because my initial visceral impulse told me that I should. I have seen no evidence to the contrary since I had that initial visceral impulse of conscience. I say this because on a poll conducted in my district just recently, and which was reported on the front page of the Columbus Dispatch, it says: "Most People Against Bailout by Taxpayers." The question was: Should U.S. taxpayers bail out the Chrysler Corp. by guaranteeing up to $1.5 billion in loans to that firm? Forty-one percent said "yes" and 59 percent said "no." So in a recent poll in my district, most people would not favor my vote in favor of this loan guarantee today.

□ 1200

I have no Chrysler plants in my district, and I have no major suppliers in my district. Most of my mail would say that I should vote against this loan guarantee arrangement today, although I will have to say it is fairly close.

This is one of those times when I honestly feel that the national interest militates in favor of keeping Chrysler going.

Chrysler will almost certainly go into bankruptcy if we do not pass this bill, or unless it is taken over by a foreign corporation.

Bankruptcy, to me, is not a viable option. It would be psychologically devastating to Chrysler and to its suppliers.

Bankruptcy could conservatively result in—and these figures have been mentioned before—$2.75 billion in losses to our economy through unemployment compensation benefits, through welfare benefits; and it would also endanger a $1.5 billion pension program which has been guaranteed by the Federal Government.

If Chrysler goes belly up, the Federal Government will have to pick up that loan guarantee. Bankruptcy would almost certainly put 600,000 people out of work.

Now, much is made of the danger to our free enterprise system and its fine tradition, the finest economic system in the history of man. Of course it is, but our free enterprise system is flexible, and it contemplates Government help to the private sector when the private sector needs help.

We helped Lockheed. That has been mentioned, and it worked. We helped New York City. I hope that works. We have helped farmers. We have helped the housing industry on a continuing basis. We have helped small businesses.

Two weeks ago, we authorized over $3 billion in economic development aid for direct loans and grants and loan guarantee programs for failing small companies.

Another reason why this is within the truest concept of our free enterprise system and why it contemplates exceptions is that Chrysler and other domestic automobile companies are not operating on a level playing field in the finest concepts of the free enterprise system.

In 1977, Volkswagen lost $400 million. The West German Government gave—yes, gave, and they did not ask for a loan guarantee—they gave Volkswagen $1 billion to keep them producing.

Japan makes up Toyota's losses. Mazda has never made money, and has received direct grants from the Japanese Government.

So to talk in terms of competing within our free enterprise system is not being realistic, because Chrysler is competing against other governments. Our private automobile corporations are competing against other governments.

I think we cannot diminish the combined effect, and this has been mentioned before, of Federal regulations and OPEC oil price increases on Chrysler. Federal auto emissions, safety and mileage standards require an enormous amount of capital to implement these programs.

This is a burden not directly borne by competing foreign companies. General Motors and Ford are larger and have been able to sustain the burden so far. This one-two punch of OPEC oil price increases and subsequent Government regulations requiring domestic auto makers to redesign their entire line has left Chrysler with a very serious cash-flow problem, which I think will only be temporary if we help them out with a loan guarantee.

Chrysler made the best tanks made during World War II, and it is still producing the vital XM-1 battle tank.

A foreign takeover of Chrysler would deepen our dependence on foreign governments and could have tremendous negative effects.

I have talked with the President of Toyota of America, and I can tell my colleagues that Toyota is definitely interested in purchasing the best parts of Chrysler.

Other levels of Government have indicated their support.

Gov. James Rhodes of Ohio has lent his support to Chrysler. The State of Ohio is in the process of assembling a $35 million financial assistance package for Chrysler plants in Ohio. I think we must provide this loan guarantee or brace ourselves for some very sad consequences. I honestly feel we have no recourse.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 3 minutes to the gentlewoman from Ohio (Ms. OAKAR), a member of the committee.

Ms. OAKAR. Mr. Chairman, as a member of the Subcommittee of Economic Stabilization, we have heard many philosophical arguments against this bill. I would just like to bring us down from the clouds of theory to the hard realities of life. I think we should be talking about the human dimensions of this problem. We should be talking about the 500,000 or so people who will face, not a temporary layoff but a permanent job loss.

This has been called the Michigan bill, but it affects every State in the Union.

Let me use my own State of Ohio as an example. In my own State of Ohio there are more than 11,000 workers directly employed by the Chrysler Corp. in 18 facilities across the State with a $303 million payroll. There is no doubt but that most of these workers would have a very hard tme finding equivalent employment if Chrysler went bankrupt. In addition there are almost 2,500 Chrysler suppliers in Ohio. We are second only to Michigan as a supplier state to Chrysler. These 2,500 suppliers employ an equivalent of over 40,000 additional employees. Many of these people would also lose their jobs as their companies collapsed in the wake of a Chrysler failure. I know many will argue that some of these suppliers are big corporations that can take the loss of Chrysler's business.

Perhaps, but in the district that I represent, in Cleveland, Ohio, most of our 184 Chrysler suppliers are very small specialty manufacturers employing 10 to 15 people. Many of these people have written or called me to let me know that a Chrysler failure would mean a failure of their businesses as well. There are also 260 Chrysler dealerships in Ohio employing over 10,000 people. Already some of these dealers are experiencing great difficulty in this time of uncertainty over Chrysler's fate. Some have already gone under. The rest of these dealerships and the jobs that they represent can only be saved if this Congress takes the action it should in guaranteeing these loans.

Chrysler is a major taxpayer in my State. Each year the corporation pays $9.2 million in taxes to Ohio. I ask my colleagues, do you really think that a tax loss of this magnitude will have no effect on our State and on the cities and towns that also depend on Chrysler tax receipts? I think that the loss of this corporation would have disastrous effects on Ohio.

As the only Member of Congress on the National Commission on Unemployment Compensation I am acutely aware of the unemployment consequences of a Chrysler failure. There will be $1.5 billion in unemployment insurance benefits paid in the first year alone. This would have a disastrous effect on the trust funds of various States. The Federal Government will be forced to pick up most of the tab for these benefits.

And there are other hidden costs of a Chrysler shutdown. A major Chrysler facility in my area is the Twinsburg Stamping Plant. It employs 3,600 workers. I was grateful to be able to tour this plant during our committee's deliberations on the Chrysler bill. I spoke to workers and management during my visit. I learned that this plant uses 263,000 tons of steel per year; 25 percent of this steel is purchased from plants in my own city of Cleveland and the other 75 percent from other areas of the country. What happens to Cleveland's and the Nation's steel industry if Chrysler closes its operations? The plant pays a $200,000 electric bill to Ohio Edison each month. What happens to the surplus generating capacity that residential electric consumers will have to pay for if Twinsburg closes?

I believe that there are hundreds, perhaps thousands of these hidden costs that are not taken into account even by the best studies that we have seen. The plain fact is that a Chrysler shutdown will have a disastrous effect on many parts of this Nation. This bill would demand great sacrifices from the participants and I support those sacrifices, but the important point is that this bill would aid Chrysler in preserving those jobs, that so crucially affect all of us in Ohio and elsewhere in the Nation.

American jobs for Americans.

Mr. STANTON. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. PAUL).

Mr. PAUL. Mr. Chairman, every one of us here has a great deal of concern for inflation. Every one of us here has a great deal of concern for unemployment and concern for the problems that Chrysler faces today.

However, one of the characteristics of inflation is the problem with economic calculation; therefore, the margin of error for business management becomes very narrow. Chrysler has suffered from this consequence. Not only that, inflation, that is the creation of credit, is also by all evidence available to us today, the cause of the business cycle and therefore the cause of our unemployment.

For this reason, it seems rather silly for us to look at the problems of the past which were caused by inflation, the credit creation, and seeing the Chryslers before us and then coming before the American people and saying what we need to do is inflate a little bit more.

Claiming if we inflate a little bit more we will take care of the problem and it will go away is a false claim.

□ 1210

I beg to say this bailout legislation is not much different than making the drug addict feel good by giving the drug addict another fix. And as we give the economy another fix with another shot of credit creation, it will feel better for a while, Chrysler will do better maybe for a year, but the fundamentals will not change. The economic environment will not change. The Fords will continue to lose money and other businesses will be threatened.

The argument was proposed before us—before the Committee on Banking, Finance and Urban Affairs—that it will cost nothing. I heard it said frequently from our side, from conservatives who have advocated loan guarantees for various reasons, everything from education to small business loans, that guaranteed loans cost nothing because it does not require an authorization. The truth is we now have subsidized and guaranteed loans of over $400 billion. This is literally inflation and it is costing us plenty.

The cost is not only in the misallocation of capital; that is taking capital away from thriving businesses and giving it to others for noneconomic reasons, and instead giving it to them for political reasons, it is also costing us something in the sense of literally causing inflation. Some say we just guarantee loans and take money from somebody else and, as bad as that may be, there is an additional problem with this, because it does put the pressures on the money markets, and it does literally create new credit.

Not only would we create credit in the future with $1.5 billion of guarantees, but this has a ripple effect through the banking system and can multiply as much as six times. It could literally become $9 billion as it goes through the marketplace. Even if we have a tight monetary policy today, next year, if there is a recession, when the Fed opens up the money doors again, this could mean a lot more money rippling through the banking system.

When Alan Greenspan testified before our committee he addressed this problem. He did confess that maybe the $1 billion or $1.5 billion literally would not make a lot of difference. But the big difference is whether or not we endorse inflation, as a policy that is right and proper and economically sound versus the challenge to what we have been doing for the past 40 or 50 years. When we asked this question of Mr. Greenspan he said:

> Loan guarantees, insofar as the issue of inflation is concerned, are virtually indistinguishable from on-budget financing, and that the major cause of inflation in this country has been an excessive amount of credit preemption, largely in the area of guarantees, which . . . has created excessive monetary growth and is the base of inflation in the system.

Therefore, he does not accept the argument that we just take capital from one and give it to another, but it is a force behind the Federal Reserve system to create new credit. In this system where we allocate credit, where we guarantee loans, where we take the responsibility from the consumer—for all of us here, speak highly of the consumer and we want to do everything possible for the consumer. Yet here is literally an example of how we take the decisionmaking power from the consumer and put it in the hands of the politician and the bureaucrat. We are incapable of knowing the best place to invest money. Only the consumer can decide this by deciding which goods to buy and which goods not to buy.

But it is the consumer that should determine this, and it is the consumer alone who should determine success and failure in the business world.

However, the consumer today will be the victim, the small businessman dealer is going to be the victim, and the working man is going to be the victim of runaway Government intervention unless we change our ways.

The House Banking Committee spent a lot of time this fall considering loan guarantees for the Chrysler Corp. The company is in serious economic trouble because of Government regulations, bad management, and inflation.

The total cost of Government regulations is at least $100 billion a year, and probably much more. This money, spent in economically wasteful ways because of Federal fiat, lowers the standard of living of the average American by decreasing productivity and raising costs.

In the automobile industry's case, the burden has been an especially heavy one. Federal rules that are supposed to mandate safety, cleaner air, and fuel conservation add $700 to the cost of every new car. By 1985, regulations will add an additional $1,000, and if the Department of Transportation orders the dangerous air bag installed, another $600 will be piled on each car's cost.

Because it is smaller than GM or Ford, the research and development burden of complying with these regulations has fallen more heavily on Chrysler.

This burden, combined with a series of bad management decisions, has caused Chrysler's share of the domestic car market to decline from 16.2 percent in 1968 to 7.1 percent last year. For 1979, losses will exceed $1 billion.

The age of inflation encourages bad management, and at the same time shrinks the margin of error. Inflation causes malinvestment and malemployment. It undermines even the well-managed, well-capitalized economy. A shakier firm can get into very serious trouble easily, and Chrysler has.

In an attempt to overcome the bad effects of regulations, inflation, and bad management, Chrysler is asking Congress for $1.5 billion in Federal loan guarantees, and the administration is supporting the request.

If Chrysler were asking relief from regulations, its cause should be championed. If it were seeking to sue the political and bureaucratic scoundrels responsible for so many of the company's problems, it would have an excellent case.

But the firm demands more Government intervention in the economy to counteract the effects of the massive intervention we have now. It may work temporarily for Chrysler—but in the long run, for the company as well as the country, it is a very bad idea.

ECONOMICS

Technically, when the Federal Government guarantees payment of principal and interest on outside loans—whether for New York City, Lockheed, or Chrysler—it need not result in more inflation. Inflation is an increase in the money supply, and if the loan guarantees simply attracted capital from other areas of the economy, there would be no such increase—although the other effects would be very bad indeed.

But given the demands on the capital markets by the Government during 1980—probably over $60 billion plus productive private uses—it is highly unlikely that sufficient private capital will be left to fund the loans Chrysler wants. To fulfill this demand, then, the Federal Reserve will increase the money supply. Because of our fractional reserve banking system, this $1.5 billion will percolate throughout the banking system, possibly creating as much as $9 billion in new money.

The virtual certainty of more inflation makes nonsense of the claim that loan guarantees cost nothing. But there are additional bad effects.

MISALLOCATION OF CREDIT

By misdirecting credit, loan guarantees aid less productive enterprises at the expense of more efficient ones. The free market is a profit-and-loss system. If the threat of loss is removed, much of the incentive that makes the system operate is removed as well. It is just as important that firms which fail to serve the consumer go out of business, as it is that successful ones profit. This insures that investment capital and labor will be available for new enterprises and for enlarging existing, efficient ones.

Whenever the Federal Government props up an inefficient company like Chrysler, it reduces the economic well being of the entire Nation.

In his testimony before the Banking Committee, where he praised Government regulations, Chrysler Chairman Lee Iacocca said the bailout would establish no precedent, since the Federal Government had already guaranteed over $400 billion in loans. Would another billion and a half make any difference?

Alan Greenspan used the correct analogy in answering that point. Will one more cigarette cause lung cancer in a heavy smoker? Probably not, but enough of them will. The Chrysler bailout would be one more cigarette for an economy already wheezing and coughing from Government control. Enough inflation and credit misallocation will cause a collapse. The heavy smoker must stop now. The Government must stop inflating now. It may already be too late. The more cigarettes we smoke, the more we will insure that it is.

CONSTITUTIONALITY

Not long ago an aide of mine was talking to his counterpart on the staff of a liberal Texas Congressman. "How does Ron Paul stand on (a particular giveaway program then being debated in the House)?" the liberal aide asked. "I imagine," said my assistant, "that Dr. Paul would say he couldn't recall that function of government being mentioned in the Constitution."

"You mean he actually votes on that basis?" asked the stunned liberal.

Congressmen should take their oath to uphold the Constitution seriously, and nowhere in article I—where the powers of Congress are enumerated—is the authority to bail out large corporations mentioned.

WELFARE

The true beneficiaries of a Chrysler bailout would be the company's creditors and stockholders, as well as its highly paid executives and employees. The bankers and shareholders have been unwilling, not surprisingly, to extend more credit to Chrysler without a Federal guarantee. Employees have been unwilling to hold back on big wage boosts.

When a company gets in trouble, profits decline and so do dividends. Salaries and wages must decline as well, if the firm is to recover. A company cannot pay higher wages while earning less, or it ends up in the bankruptcy courts. This is where Chrysler is headed, of course. In today's inflationary climate, it may be enough for wages and salaries to be frozen, since this means a real reduction. When sales plummet, employees cannot get the giant raises the new Chrysler contract provides.

Every year 6 to 8 thousand businesses go bankrupt (not to mention the 180,000-plus individuals in the same category), but new businesses take their place.

Is it fair to exempt Chrysler from this process simply because it is so big, or to protect employees who earn so much more than the average industrial wage? The typical Chrysler production worker makes $30,000 a year in wages and benefits. Is it right to penalize the Texas union worker making a third that in order to subsidize the more well-to-do Michigan employee?

JOBS

No one wants to see anyone lose his job. But when the giant W. T. Grant Co. went under a few years ago, 70,000 people were thrown out of work. But this was not a permanent job loss. More productive stores hired some; others went into new kinds of work. It would not have made economic sense to have kept this failing firm in business. If we had today's Congress in Henry Ford's day, we would probably still have a host of buggy manufacturers in operation, all subsidized by the taxpayers.

Every job saved by a Chrysler bailout will cost at least one other job elsewhere in the economy, through misallocation of capital. Taking into account that the loans would otherwise go to efficient users of labor and capital, the loss might well be two jobs for every one "saved."

The Federal Government produces nothing. What it gives to an individual, a group, or a company, it must take by force or fraud from others, through taxation, inflation, or credit reallocation. Redistribution of wealth is not only economically counterproductive, it is also immoral, since it violates the natural law of property. Those who produce, the workers and the businessmen, have the right to determine how the fruits of that production should be used.

Wrote the great Ludwig von Mises:

> The source of capital that leads to genuine economic growth must itself be legitimate. Specifically, "expansion of credit cannot form a substitute for capital." The facile expansion of credit through governmental manipulation is spurious and deceptive; there is an illusion of increased wealth rather than the reality. Genuine capital, and thereby genuine economic growth, must come from bona fide savings....
>
> Capital is not a free gift from God or nature. It is the outcome of a prudent restriction of consumption on the part of man....
>
> The Santa Claus fables of the welfare school are characterized by their complete failure to grasp the problems of capital.

We can all sympathize with the plight of Chrysler, or any business or individual in trouble, but bailing out the company at the expense of the American people does not make economic, constitutional, or moral sense.

Under our legal system, all citizens are supposed to enjoy equal protection of the laws. The fact that many laws now in existence violate this principle, for Chrysler and most everyone else, is no justification for making the situation worse.

With the proposed bailout, Congress is acting to save its face, rather than acknowledging the bad laws it has enacted, with congressionally caused inflation, regulations, and taxation.

Until these problems are solved, we will continue to move closer to the failure of the entire economy, not just one big company.

Ford will lose a billion dollars in its North American division for 1979. GM dropped $300 million on its U.S. auto operations for the third quarter of this year alone.

How many more mistakes will be made before Congress recognizes its errors, and decides to legislate according to constitutional and free market principles? The free market is the only real solution to the problems faced by business, labor, and consumers.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 5 minutes to the very distinguished chairman of the Committee on Banking, Finance and Urban Affairs the gentleman from Wisconsin (Mr. Reuss).

Mr. REUSS. Mr. Chairman, it is not an easy decision to come to in this melancholy matter before us. I have heard the two principal opponents of the legislation, our friend Judge Kelly of Florida, and Ron Paul of Texas. They make some valid points.

I fully support the bill. I particularly support the Moorhead-McKinney substitute, which has been explained.

But this is not the clearest case in the world. The arguments to the contrary that have been made have been thoughtful. But I come out clearly in favor of the legislation for the reason that we are now confronted with a situation which we should never have allowed to confront us.

Of all of the sad words of tongue and pen, the saddest of all is "It might have been."

Suppose in 1975 or 1976 the President of the United States had said now, Mr. Moorhead, Mr. McKinney, you are a team, and you must go to Detroit and see what is happening in our automobile industry. Get yourself a board with a representative of labor, a representative of the automobile industry, and perhaps Father Hesburgh as chaplain, and go out there and tell the world what you see.

Well, we all know what they would have said. They would have said that OPEC has quintupled oil and gasoline prices, and we are in for a long, lean, twilight period ahead. They would have said if we go on as we have, we are going to be forfeiting our gas-efficient automobile industry to the Volkswagens, the Toyotas, the Datsuns, the Renaults, and the Fiats of the world. They would have said that if we let nature take its course, and let Detroit continue on its gas-guzzling, high-profit-per-unit ways, we are going to be in hock forever to whatever leaders may come out of the sands of the Middle East. They would have pointed out that high imports of oil and compact autos would shatter our balance of trade, weaken the dollar, and add to our inflation by increasing the real cost of all our imports.

Therefore, they would have suggested an action program to the President and the Congress, and to the private sector and labor, which would have used the velvet glove to get General Motors and Ford and Chrysler on a gas-conserving track—by tax credits, by labor guidance, by making financing available if it were needed. They would have also have had ready the mailed fist, if you want to call it that: If GM, Ford, and Chrysler had not responded, an order for a million fuel-efficient cars could have been given to American Motors. Then we would not be in the position today of confronting the all-but-expiring body of Chrysler.

But what might have been, has not.

So today we are trying to fashion a bill which will concentrate and focus on energy savings. Let Chrysler's plants and Chrysler's workers be the subject of an overall plan, the kind of thing which for some reason we do not do in this country, by the Secretary of the Treasury, by the Secretary of Transportation, by the Secretary of Labor, by the Comptroller to make sure that it is efficient, and by the Federal Reserve to make sure that it is financially sound.

This is precisely what the Moorhead-McKinney substitute mandates. Let the Board put together a plan by Chrysler if it will, by whomever, if it will not, so that efficient plants, and the men and women who now work for Chrysler, and those associated with them, may produce useful, energy-saving equipment that the people of this country need and want.

We are confronted today by a stubborn fact. I hope that, after considering all of the issues, this body will overwhelmingly endorse the Moorhead-McKinney compromise which will come before us. I believe it is sound.

And thereafter, let us change our feckless, unseeing ways, so that we will be able to say "No more Chryslers."

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. Brodhead).

□ 1220

Mr. BRODHEAD. Mr. Chairman, there is abundant material available on the Moorhead-McKinney substitute, and I urge my colleagues to study it carefully. But, I think the real issue here is, are we going to turn our backs on 500,000 American workers? Are we going to turn our backs on one of America's great cities, for Detroit surely will be a ruined city if Chrysler Corp. fails? Are we going to turn our backs on the jobs that will be exported if the sales that will be made by the Chrysler Corp. are lost, because some portion of those sales will go overseas, and those jobs will go overseas?

So, look at it, weigh it carefully, but in the end I think Members are going to be faced with a tough decision: Can you turn your backs on 500,000 American workers?

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. BRODHEAD. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to associate my remarks with those of the gentleman in the well, our colleague from Michigan (Mr. Brodhead).

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan (Mr. Brodhead).

Mr. PHILLIP BURTON. It may be regrettable from a number of points of view that we need this more overt Government intervention to deal with this terrible problem, but I fully share the concern of the gentleman in the well that the plight of the jobless workers, is one that we must deal with. The only remedy before us is the bill at hand, which I intend to support.

I very deeply regret that in the proposed configuration, the Chrysler workers are going to bear the most specific burden in rescuing Chrysler. I think that most inequitable. It may or may not be a prerequisite in getting congressional approval, and congressional approval is an imperative in this situation.

Mr. BRODHEAD. I thank the gentleman for his remarks, and I urge my colleagues to put aside outmoded 19th century concepts and look at the pragmatic facts of the situation, as my colleague from Pennsylvania (Mr. Moorhead) stated in his remarks, and be fair and compassionate and reasonable. If we do that, I am confident Members will support this legislation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. Ashley), a member of the committee.

Mr. ASHLEY. Mr. Chairman, at the outset I want to say how impressed I have been by the job done by Chairman Moorhead, Jim Blanchard, Stewart McKinney on the minority side, as well as, of course, Bill Stanton. There have been differences, and significant differences, as well there should have been, considering the fundamental importance of the issues surrounding this legislation. But I take pride in the legislation process from which the bill before us evolved.

During the hearings of the subcommittee chaired by Bill Moorhead, the focus was on discussions of policy issues, the key ones, in my opinion, being Chrysler's financial condition, the reasons for the company's financial condition. the inevitability of a bankruptcy without Federal support, and the effect that a bankruptcy of this size would have on the economy.

Initially, it is a fact that bankruptcy is all but a certainty for Chrysler without Federal support. We have confirmed that. We do not know whether it would occur at chapter 7 or chapter 11 of the Chrysler story, but we know that without Federal support bankruptcy is a certainty.

A second important and very practical issue the subcommittee focused on was the certain costs the Federal Government would incur as a result of a Chrysler bankruptcy versus the costs of Federal assistance through credit guarantees.

The effect of a Chrysler shutdown would cost the Federal Government in the next 2 years alone an additional $2.5 billion in unemployment benefits, Federal transfer payments, and reduced revenues.

An additional $1 billion in liability to cover insured Chrysler pension plans would have to be funded either from the general revenues or by a threefold increase in pension plan insurance premiums at a cost to other employers. Furthermore, a Chrysler bankruptcy would result in a loss of over $500 million in Federal, State, and local income tax revenues and of more than $140 million in corporate taxes to State and local governments.

When we weigh the costs of a Chrysler bankruptcy to the American taxpayer—a certain $3 to $4 billion—with the uncertain costs—the possible, contingent liability to the Federal Government if Chrysler goes under even with Federal support—it becomes clear to me from a pragmatic standpoint that the risk of providing assistance to the company is eminently worth taking.

Finally, there are macro- and microeconomic impacts of a Chrysler failure that suggest very strongly that this is not just simply another bankruptcy situation. When we consider the fact that last year the Chrysler Corp. paid over $4 billion in wages and salaries to its employees, an additional $6 billion to its suppliers, and that it employs directly and indirectly between 100,000 and 200,000 factory workers, it is clear that a collapse of the company would have repercussions on the entire U.S. economy and would exacerbate the effects of a recession.

Before we turn our backs on Chrysler, let us keep in mind that a Chrysler failure would result in a reduction of GNP of $4 billion in 1980 and $6 billion in 1981; a $1.5 billion increase in our foreign trade deficit; a reduction in competition among U.S. automakers, removal of 300,000 small cars from the American production base by 1981, and a marked increase in auto market shares of foreign producers; and a loss of 38,000 minority jobs located in areas with limited prospects for reemployment.

Certainly the consequences for our already overburdened economy justify our writing what can only be considered a special bankruptcy act for this very special situation. In the final analysis, that is what we are doing. But, I think that the circumstances warrant this action because, if Chrysler is obliged to go into bankruptcy—which it will without this assistance, we can be sure that the Bankruptcy Act that is on the statute books now will not save the situation.

Mr. STANTON. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Delaware (Mr. Evans).

Mr. EVANS of Delaware. Mr. Chairman, I rise in support of legislation to aid the employees of Chrysler and our Nation's economy.

We will hear a great deal in this debate about loan guarantees, about market shares, about economic concessions, and other terminology that in the final analysis means little to the person on the street.

But we are not talking in this bill about esoteric economic slogans. We are talking about people, and what will happen to hundreds of thousands of people in this country if we let Chrysler miss the chance to again become successful.

I sat through the lengthy hearings which the Banking Committee held on this very complex matter, and I have learned something about the grim facts in the event of a Chrysler collapse.

For instance, unemployment in this country would probably increase by some 500,000 people in 1980 if Chrysler failed. Federal tax revenues would be reduced by at least $4.5 billion, not to mention the enormous losses which would be sustained by State and local governments. Expenditures for unemployment compensation, welfare, and food stamps would rise by $1 billion.

The Federal Governments would, in the event of a Chrysler collapse, have to contribute almost $1 billion to cover pension shortfalls.

Our balance-of-payments deficit would increase by $2 billion as foreign imports penetrated Chrysler's share of the market.

The negative economic impact on just my State of Delaware would be almost a billion dollars, or about two-thirds greater than my State's budget for the entire year.

In short, I think it is clear that the risks involved in any loan guarantee would pale in comparison to the tremendous costs to Federal, State and local governments if Chrysler were to go under. And in view of the fact that the Federal Government with its excessive regulations has contributed significantly to Chrysler's problems the Federal Government must shoulder some of the responsible for solving these problems.

For instance, Chrysler estimates that research, development and retooling costs needed to meet Federal safety, pollution and fuel-efficiency standards will cost the U.S. auto industry $80 billion over the next 7 years. And since Chrysler is the smallest of the Big Three, their per unit costs of compliance are greatest, some $620 per car as compared to General Motors' figure of $340 per car. This obviously impacts greatly on Chrysler's ability to compete in the marketplace, and further centralizes economic power in this country.

Mr. Chairman, I very much believe that unless Congress moves immediately to reduce the regulatory burden on businesses and consumers in this country, then we are going to have more and more Chryslers on our hands in the future. Ford will lose a billion dollars, I am told, on its North American automobile operations in both 1979 and 1980. General Motors lost an estimated $300 million on their U.S. auto operations in the July–September quarter alone. I have been highly critical of past Chrysler management for being out of touch with both the marketplace and their own work force, but something else also must be wrong with the American automobile industry. All three auto giants cannot have bad managers.

I hope that the House will pass this legislation so that desperately needed help can be provided. But I also hope that this measure will mark the beginning of a serious effort by the Congress to rid this country of unnecessary, unwise, and costly regulations which are strangling the productivity of everything from a mom and pop grocery store to the biggest corporation and in the process costing the American consumer billions in higher prices.

My colleagues, you are going to hear a lot of economic rhetoric from the opponents of this bill.

First, you are going to hear that we are setting a bad precedent. The plain and simple truth is that no precedent, good or bad, is being established because we in the Congress have for years provided the same kind of aid to businesses of all shapes and sizes. At the present time, according to fiscal year 1980 budget figures, there is an estimated $552 billion worth of Federal lending outstanding, including direct loans by the Federal Government, loan guarantees, and loans by Government-sponsored enterprises like the TVA. In addition to Lockheed and New York City which readily come to mind, we have guaranteed $1.4 billion worth of loans for the building of two nuclear reactors by Westinghouse in South Korea.

We have given five steel companies loan guarantees for $365 million. The list goes on and on. There simply is no precedent involved with this legislation. Whatever precedent involved was established long ago before most of us ever got to this Chamber.

Second, you are going to hear that Chrysler is not doing enough. What more do you want them to do and still have a chance of survival? They have sold assets; the union under the compromise will have to make $400 million worth of concessions; the loan guarantee will not be exercised unless Chrysler can find $1.4 billion worth of financing on its own without any Government help. The idea of this legislation is to give Chrysler a reasonable chance to succeed. If you bleed them to death, then some political consciences might feel better, but Chrysler's chances of success will probably go right down the drain.

You are going to hear that the loan is too risky. Yes, there is some risk involved. To me, after listening to the days of hearings which the Banking Committee held, those risks are acceptable. Before we are through with the bill, the taxpayer will be in a priority position if Chrysler folds. More importantly, however, the risks to our country's fragile economy if we do not give aid make any risks associated with this legislation pale by comparison.

Finally, you are going to hear that everything will be all right if we let Chrysler quietly slip into bankruptcy. This, my friends, is the most fallacious argument of all. If Chrysler filed for bankruptcy, any chance of success would be eliminated.

After all, would you buy a car from a company that was bankrupt? I do not think many would. Consumers have no idea if their warranties would be honored. They would worry about future servicing, about the availability of spare parts, and about the value of their cars once they decided to trade them in. Chrysler suppliers would demand cash on the barrelhead. New car sales would simply die.

Mr. Chairman, there is no easy or simple solution to this enormously complex issue. Chrysler must shoulder much of the blame for their own failings. But if we allow Chrysler to collapse, the economic waves it sets off will not be limited just to Chrysler management or its shareholders, or its workers. The tidal wave it sets off will engulf our entire economy and hundreds of thousands of people. The question before this House today should not be "Can we afford aid?" Rather, the question is "Can we afford not to give aid?"

I urge adoption of the loan guarantee package.

☐ 1230

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. VENTO), a member of the committee.

Mr. VENTO. Mr. Chairman, I rise in support of the substitute as has been proposed and is in the CONGRESSIONAL RECORD of December 12. I want to pay special credit to the gentleman from Pennsylvania (Mr. MOORHEAD), the gentleman from Michigan (Mr. BLANCHARD), and the gentleman from Connecticut (Mr. MCKINNEY) for their work on this subject. I followed it through the entire process as a member of the subcommittee and the full committee and am pleased to note the amendments and changes that we were able to achieve. As we have become more definitive with regard to the specifics of the legislation, we have answered a lot of the criticism against it.

I might say that the free enterprise system has not really been the same since it left the pen of Adam Smith, and further that the Chrysler Corp., the 10th largest corporation in this country at the bottom line is really worth saving. That system, for all its failings, has provided our society with great benefits, with employment, with products that are useful in our communities. We are going to do a lot of reflection on what is in reality the genesis of the Chrysler Corp.'s present situation.

Let us briefly outline some factors and evaluate them as to their relative importance. There are taxes, there is regulation, and surely there are many factors that contribute to it, but none probably is more important than the unstable supply of oil and the supply of gasoline. Maybe the lack of regulation, maybe the lack of rationing, maybe the lack of rational energy policy in light of the type of cost increases that we face from both OPEC and multinational oil companies really are at the base of the problem. Incidentally, that is what the committee testimony supports.

If in 1973 and again in 1979 our action is only to accommodate those particular types of increases, then I think that we had better prepare ourselves for many changes in the type of society in which we will live in the future, both in terms of the financial institutions and in terms of corporations that try to exist in this particular free enterprise environment. Make no mistake about it, we face a very significant reshuffling of the economic values in this world under those circumstances and Chrysler's trouble is but a single important manifestation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. EVANS), a member of the committee.

Mr. EVANS of Indiana. Mr. Chairman, without early Federal assistance in the form of loan guarantees, Chrysler faces bankruptcy and probably liquidation. The immediate job loss—counting the company itself, its dealers and its suppliers—would be in excess of 300,000. For various reasons, including location of the workers, Ford and General Motors could at best pick up only a very small portion of these workers. The impact would be heaviest in Detroit and the State of Michigan, but six other States have significant Chrysler facilities, and dealers and suppliers are located in every State. The Treasury's conservative estimate of the direct impact on the Federal budget would be an increase in the deficit by $2.75 billion in calendar years 1980 and 1981 combined, because of both higher outlays and reduced revenues.

With Federal assistance, Chrysler can again become a viable, profitable company. This cannot be guaranteed, of course, particularly if there is a prolonged slump in the automobile market as a whole. But projections by the Treasury and by Booz, Allen & Hamilton show that with a reasonable market share—less than the company itself projects—the company can keep going and return to profitability over the next 4 years. It is completely transforming its product line and will have capacity by next autumn for 1 million small cars annually.

The Chrysler capacity is valuable to the Nation because Ford and GM are selling all the small cars they can make and will not be able to meet this demand for the next several years.

The legislation approved by the Banking Committee authorizes $1.5 billion of Federal loan guarantees. No guarantees can be issued until a package of $1.5 billion additional resources for the company is mobilized, chiefly from those with an economic interest in the health of the corporation including lenders, dealers, suppliers, employees, stockholders, and State and local governments. The $3 billion total resources is enough to meet the company's cash needs through 1983, when it should again be profitable with its new line of cars and trucks.

Chrysler is not a precedent for general Federal aid to industry in general or even to large businesses. The situation is as unusual as Lockheed was, and is being handled on a one-time, pragmatic basis. The automobile industry is a special victim of the energy problem and is the only major industry having to completely remake its product line at enormous capital cost ($80 billion for the industry as a whole). The industry's problem has been worsened by a sudden slump in sales this year, also energy-related, which is the immediate cause of the crisis for Chrysler.

Bankruptcy is not a solution for Chrysler because of its probable impact on consumer confidence. An automobile is not like any other consumer product; there must be assurance not only of service and warranty protection but also of resale or trade-in value. The testimony indicated that bankruptcy for Chrysler would probably be followed by a sharp loss of sales and early liquidation of the company.

If Chrysler returns to profitability, which is a reasonable prospect, the loans will be repaid and there will be no cost to the taxpayer. The Lockheed legislation produced a profit of $30 million for the Treasury from loan guarantee fees.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Chairman, we are talking about a $1.5 billion loan guarantee to Chrysler. It will not be lost unless there is a failure of Chrysler, the 10th largest corporation in the Nation. It is my belief that this corporation, with the substitute now offered with the help of our colleague, the gentleman from Michigan (Mr. BLANCHARD), and the other members of the Committee on Banking, Finance and Urban Affairs, can succeed. We really have no alternative unless we are going to throw out thousands of people into a job market which cannot absorb them and let hundreds of local communities, in which Chrysler operates, also go under. I am convinced that with the new management, with labor cooperation, with cooperation from Congress and with the growing support across the country, Chrysler can succeed. We simply cannot afford to abandon the immense reservoir of skills and the productive know-how that Chrysler represents. I ask the Members to support this legislation.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Michigan (Mr. BONIOR).

Mr. BONIOR of Michigan. I thank the Chairman, the gentleman from Pennsylvania (Mr. MOORHEAD), for yielding time to me.

Mr. Chairman, the debate that is now in process in this body begins, I think, one of the most important debates that this Congress will have to face in the coming decade, and that is the industrialization of America. At this very moment the Committee on Public Works and Transportation and members of the Committee on Banking, Finance and Urban Affairs are meeting in conference with Members of the Senate to discuss the EDA bill, which in itself contains millions of dollars in Federal loan guarantees.

My friend, the gentleman from Minnesota (Mr. VENTO), indicated that the free enterprise system has not been the same since it left the pen of Adam Smith. I would suggest that I would go a step further and suggest that it was not even in the pen of Adam Smith. The system known as the free enterprise system in this country died to a considerable extent 50 years ago on Black Tuesday, and the Reconstruction Finance Corporation that was established as a result of that demise, I think, indicates that Federal financing can be important and helpful in reconstructing this industrial society.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 minute to the gentleman from Connecticut (Mr. RATCHFORD).

Mr. RATCHFORD. Mr. Chairman, I rise today to add my voice to the call for a reasonable and responsible approach to the financial crisis of the Chrysler Corp.

This is hardly the first piece of legislation in the 96th Congress on which we have spent our time chasing ghosts and bogeymen. Yet the spectres raised by the opponents of loan guarantees to Chrysler are particularly disturbing, because in their emotional allegations of a Federal bailout, of expensive subsidies and dangerous precedents, we run the risk of turning our backs on the real issues and alternatives of the Chrysler situation.

Take a moment to consider the bogeyman of a Federal bailout for Chrysler. The opponents of this legislation would have us believe that aid to Chrysler is an extremely expensive proposition, even though we are debating $1.5 billion in loan guarantees, payable only if the company defaults, rather than direct loans from the Federal Treasury.

Even more importantly, though, the opponents of this legislation certainly do not tell us about the hidden costs of refusing aid to Chrysler, about the ways in which we will be paying a much larger bill later if we fail to approve this limited aid now. And the projections on the costs of defeating this legislation are extremely sobering.

Just take a brief look at the impact of a Chrysler bankruptcy. The Treasury Department predicts that higher expenditures and reduced revenues from a Chrysler failure would add a whopping $2.75 billion to the Federal deficit during 1980 and 1981. State and local governments would lose over $250 million in tax revenues, and the cost of pension guarantees and unemployment benefits would jump a shocking $3 billion. The impact of bankruptcy would be felt far beyond Detroit or Michigan with as much as one-half percent added to the national unemployment rate and as much as $3 billion added to our trade deficit; $3.6 billion would be lost in wages and salaries to working men and women across the Nation, with minorities and low-income families bearing the greatest portion of that burden.

These figures on the scope of Chrysler's impact are overwhelming on a national scale, but certainly no less sobering when viewed from a local perspective. In my home district in Connecticut, 68 companies do over $30 million of business annually with Chrysler, and may have to lay off as many as 1,000 employees in the event of a Chrysler bankruptcy. These costs will be deeply felt, even without a single Chrysler plant in the district, and they will be duplicated in every district and every corner of the Nation.

Mr. Chairman, the opponents of this bill mislead us when they argue against this legislation, for we will pay more dearly later if we defeat this legislation now. They also deceive us when they raise the spectre of dangerous precedents for Federal intervention at a time when we currently have over $400 billion loan guarantees to business in all sectors of the economy outstanding. There is no question that the Federal Government cannot, and should not, offer aid to all companies in difficult financial straits, but we must examine the Chrysler case on its own merits.

We can hardly afford to go off tilting windmills in the Chrysler issue, especially in these difficult times. To those who would have you vote "no" on the Chrysler legislation, ask them how they would replace the tax revenues we will lose. Ask them how we will pay for the benefits and the services Chrysler's employees will require. Ask them how we will repair the damage to an already faltering economy. And then, when you have found no answers, I urge you to vote in favor of this important legislation.

Mr. STANTON. Mr. Chairman, I yield 4 minutes to the gentleman from Arkansas (Mr. Bethune), a member of the committee.

Mr. QUAYLE. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Indiana.

Mr. QUAYLE. I thank the gentleman for yielding. I just want to take 10 seconds to say that there are a lot of compromises and substitutes floating around, and I intend to offer a substitute which will be a compromise between the Moorhead and McKinney substitute and the language adopted by the Committee on Banking, Finance and Urban Affairs.

Mr. Chairman, being a Member from the State of Indiana, I have watched the progress of the Chrysler legislation with great interest.

It is apparent to me that the House and Senate are moving toward a consensus concerning this legislation.

The Senate Banking Committee has reported out a bill authored by Senators Lugar and Tsongas. The House reported out the Carter proposal. As I understand it now there will be a substitute offered by Congressmen Moorhead and McKinney which is a much improved version of the House Banking Committee proposal and indeed encouraging.

Also, the Lugar-Tsongas bill is being modified to exclude the wage freeze.

My purpose today is simply to state my intention to introduce a substitute to the Chrysler bill on Tuesday which will be a modification of the Senate Banking Committee proposal. My substitute will not have a wage freeze but will require an aggregate savings for both management and salaried personnel.

This substitute will offer the Members of this House the opportunity to express their support on what the final ingredients of this important legislation should be.

I will be furnishing Members with a copy of the proposal and supportive information as to reasons why you should support the Quayle substitute rather than the Moorhead-Blanchard substitute.

Mr. BETHUNE. Mr. Chairman, it is very difficult to debate a bill when we do not know exactly what the bill will look like. I am somewhat inhibited but, nevertheless, I want to make a general point or two. I have done some research on this as a member of the committee, and part of my research took me to a catalog of Federal loan guarantee programs which was compiled by the very committee that brings this bill to the floor.

☐ 1240

That catalog was prepared in 1977, 2 full years ago. The essence of the study done by the Subcommittee on Economic Stabilization indicates a concern that this Nation is catching the British disease. I would just like to comment on the report and read a few lines from it.

On the first page of the report it says:

> The importance and rapid growth of Federal loan guarantee programs confront the Congress and the Federal executive with 3 major problems. These are:
>
> (1) Most programs are off-budget.
>
> (2) The subsidy embodied in such programs is not explicitly identified.
>
> (3) The economic impacts of the programs are not well defined.

Yet Congress has done nothing to check the phenomenal growth in loan guarantees. The catalog identifies 164 programs, but adds the caveat that, "because of the lack of centralized information, it is probable that these listings are not complete."

Even more startling is the changing nature of loan guarantees where, over time, the Government has assumed greater and greater amounts of risk.

Loan guarantee programs first came into use during the Depression to help families purchase their own homes by giving the banking community the certainty it needed to finance home loans. These loans can be characterized, for the most part, as actuarially sound programs providing relatively small loans to a large number of individuals. The risks are pooled over a large number of loans. Examples of these programs are FHA-insured loans and VA-guaranteed loans.

The second type of loan program evolved from the first, and was directed to mariginal, small borrowers such as students and low-income families seeking a home. These borrowers pose a greater than normal probablity of default or a lack of acceptable collateral. Although this type of program is similar to the first—in that the risks of individual loans are pooled across a large number of loans—the Government bears a portion of the risk.

Most recently, a third class of loan guarantee programs has emerged. This type is made to a large single borrower, or a small group of borrowers running common risks. Examples are Lockheed Corp., New York City, and the plan under consideration today for Chrysler. In this type of program, the risk is borne by the Federal Government and cannot be pooled across different borrowers.

This, the riskiest type of loan guarantees has grown quickly during the last decade. In 1960, there were only $79,000 in outstanding, single-venture loan guarantees. At the end of fiscal year 1976, $3.1 billion were outstanding—almost a 40 thousand-fold increase over the period. Today, there are about $4.85 billion outstanding—where the risk of default cannot be spread among borrowers. Because the size of each loan is large, any default can have a serious budgetary consequence.

Mr. Chairman, on the second page of the catalog it says, "The principal economic objective of loan guarantees is to redirect capital resources." That brings up a second and related issue, that of identifying the economic impact of particular loan guarantee programs.

It says that, "although we can presume from economic theory what the impact of a program might be, it is difficult if not impossible to quantify the impact of any one guarantee program."

I submit that it is difficult to fashion even theoretical knowledge about the impact of a single program. According to the Congressional Budget Office, the Federal Government has no idea how many loans are in default right now. Further, there are no controls to determine whether an outstanding loan guarantee is nearing default.

So. contrary to all of the rhetoric that has been heard here on the floor, no one knows what this program is going to do. They cannot know because we do not know the extent or nature of loan guarantees that have been made previously by the Congress.

Then when we got down to the fine point in the study it said the issue is this:

> As the importance of guarantee programs continues to grow, it will become increasingly imperative for the Congress to establish control over these programs.

Mr. Chairman, it was 2 years ago that the study was done and these issues were raised. Nothing has been done since that time. Not only have we done nothing to get control over loan guarantee programs generally; but here we are today debating a loan guarantee bill and we know not the terms or provisions of the bill. I think it is absolutely a comical circumstance; but I don't think the people will think it is funny when they realize what the Congress has done.

Mr. Chairman, it seems to me clear that we have the cart before the horse here in this Congress and as usual we are yielding to the short-term political pressures.

I started at the beginning by saying we are catching the British disease. The British disease is not an economic malady. The British disease is yielding to short-term economic and political pressures rather than being concerned about the long-term interest of the country.

I would like to submit that we have no bill here because this is a bad proposition. We are entering into an area where we should not be and that is the reason we are having so much trouble drawing a bill. We are trying to take something that we should not even be doing and make legislation out of it.

In Arkansas we call this a sow's ear and you cannot make a silk purse out of a sow's ear. We can go through the amendment process as much as we want next week and we still come up with a sow's ear.

I yield back the balance of my time.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 30 seconds to the chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino).

Mr. RODINO. Mr. Chairman, while we are dealing with the specifics of the serious problem faced by the Chrysler Corp. and in turn by the country at large, it seems significant that we have never had a national policy for dealing with the kind of serious threat to our economy that a Chrysler bankruptcy would present.

We presently have approximately 5 million workers displaced in our economy, an economy faced by continuing problems of recession and inflation. What we are dealing with in the Chrysler situation is the unacceptable prospect of adding some 500,000 workers to this displacement. It is little known that among these 500,000 workers are the largest percentage of blacks and minorities employed in the automobile industry, being paid at a level substantially above the general scale of wages presently paid in the industry.

A national policy is necessary for dealing with situations which have devastating effects not only upon the workers but upon the hundreds of thousands of people who would be affected, families, small businesses, suppliers of goods and services, plus a tax loss of some $500 million dollars per year, including interest.

A national policy would first attempt to identify serious financial displacement in key industries and then develop a formula for the Government to help attack such problems. However, what we are dealing with in the Chrysler situation is one of two alternatives; if Chrysler goes down the drain, reorganization is not possible and nothing can be recovered. The loss of our economy and in human dimensions would be incalculable. As we are a free enterprise nation we must realize that all of our institutions including government are involved in a potential disaster such as this.

About 25 percent of all new car sales in this country now go to foreign made automobiles. Chrysler is producing outstanding fuel efficient cars. It is clear to me that on a competitive basis, with the help Chrysler is presently seeking, the corporation can survive its current crisis. A national policy for grappling with problems in free enterprise today with such potential destructive effects, would enable the Government and industry, in partnership, to anticipate rather than react. A national policy would apply equally to other industries in similar straits rather than on a piecemeal ad hoc basis as we have dealt with Lockheed, Boeing and others and now are dealing with Chrysler. A part of Chrysler's entire production line, to the tune of $600 million annually, is in the production of tanks for our Army. Those who oppose the relief sought by Chrysler have not put forward suggestions for replacing such an enormous loss to our Armed Forces.

I am a firm believer in the free enterprise system, and the creation of a national policy, including the possibility of a Federal corporation designed to deal with such problems.

In the meantime, failure to come to Chrysler's aid at this time will have a ripple effect upon the recession and will push inflation even higher while we attempt to grapple with the hundreds of thousands of people who would be affected by Chrysler's bankruptcy. This loss in human dimensions cannot be measured. What would we have to do to try to reestablish these lives? How much time would it take? How many millions would it cost? We must deal with these questions here and now. Time is of the essence. We must face up to our responsibilities and prevent the human, economic, and social disaster that a Chrysler bankruptcy would present.

I urge, therefore, support of the compromise proposal before us.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 2½ minutes to the gentleman from Missouri (Mr. Ichord).

Mr. ICHORD. Mr. Chairman, like so many complex 20th-century issues, our vote on loan guarantees to the Chrysler Corp. involves conflicting interests and instincts, including the humanitarian, political, economic, and philosophical.

The human impact is deeply troubling. It is nationwide and hits my own State with devastating force. If Chrysler goes out of existence, 9,223 Missourians will be directly affected. In fact, Chrysler and its representatives estimate that the job loss will be greater in my district than any other Missouri congressional district. Nearly 3,000 people in my district are directly involved in automobile assembly work. In that district, I have stood for election 28 times—most of the time with opposition; and I am sure my colleagues who have also been processed by our electoral machinery are well aware of the political concerns I have over this issue.

After a great deal of reflection, however, I feel I must go to my constituents, Chrysler employees or not, and tell them that what is attractive politically and economically right now could hurt them more in the future. Even though my district will be deeply affected, I cannot and will not trade important economic principles for political expediency. I voted against Lockheed, which was not in my district, and now I shall vote against Chrysler, which is. It is well past time that this Government put every company and corporation, large and small, on notice that they are to look after themselves.

The Congress is about to render a verdict on Chrysler, but only because it is ignoring the verdict long since made: The public and the marketplace have found Chrysler wanting. The public has judged Chrysler products uncompetitive and uneconomic.

Why, then, should the Government subsidize the production of goods that the public has already rejected? Why should the Government, in effect, punish efficient companies by rewarding an inefficient one?

The quintessential purpose of the marketplace is to reward and preserve those companies and businesses that do things best. To subsidize poor management and uncompetitive practices is to turn the logic of the marketplace upside down.

Mr. Chairman, I am well aware that a good deal of sentimental nonsense is said and written about the free enterprise system. Ours is very much a mixed economy and some Government intervention is here to stay. But the capitalist structure remains the foundation of our economy and that foundation will collapse if the Government liquidates the risk and potential for failure, which are as integral to that foundation as the potential for success. Remove the threat of failure and you rob management of its incentive to eliminate waste, boost productivity, cut costs and come up with new ideas and products.

There is growing and justified concern about declining American productivity, the linchpin of our economic troubles. Yet, here this Congress sits, about to reward the kinds of practices that have led this Nation to poor productivity and a lack of competitiveness. It is an absurdity.

In the temptation to bail out Chrysler. I see the growing tendency in this country to try to avoid risk and its consequences. Have we become so unrealistic that we cannot face the rational threat of failure in the marketplace? Where is it law that all must succeed and none fail? That all must be rewarded, regardless of performance?

No economy can remain static. All companies cannot last forever. Economic needs and forces change and flow in new directions. We must change with them—society must adapt or be consigned to historys trash bin. These are commonplace truths and observations, but it is a measure of our headlong flight from reality that we must remind ourselves of them. If Government subsidizes what is moribund, it betrays the past and forfeits the future.

And just what criteria are being used to judge Chrysler's worthiness to be moved to the head of the lending line. Its size? What dimensions are we using to measure it? Its number of employees? Is the Government to bail out only companies with 300,000 employees or more? 200,000 employees? Or 150,000? 1,000? 500? Just how are we determining eligibility for a bailout? I have seen no bill of particulars setting forth how we are to decide if a company is eligible. What is the Congress going to do if companies without number stampede the Government for protection against the vagaries of the marketplace? Where is the cut off point going to be and who is going to decide? These questions should be answered before any loan guarantees are approved, not after.

Furthermore, we are tricking ourselves rather extravagantly with the deception that a loan guarantee does not involve spending any money. This is delusion. Loan guarantees fuel the fires of inflation.

If we guarantee a loan to the Chrysler Corp., we are helping a borrower who is less creditworthy move to the front of the lending line, displacing more worthy prospective borrowers toward the back. Government loan guarantees distort and warp the credit relationships among potential borrowers. Loan guarantees are not free. Alan Greenspan, the respected Ford administration economic adviser, recently told a congressional subcommittee that with respect to inflation, loan guarantees "are virtually indistinguishable from on-budget financing" He said:

> A major cause of inflation in this country has been an excessive amount of credit preemption, largely in the area of guarantees, which, because it has crowded out a substantial part of private borrowers and led them to the banks to get additional financing, has created excessive monetary growth and is the base of inflation in the system.

Greenspan predicted flatly that we will have a very difficult time arresting the inflation tearing at our economy unless we get rid of this kind of financing. Greenspan readily acknowledges that, in the amount of dollars, the proposed Chrysler loan guarantee is of minor consequence. But, he asks:

> Where are we going from here? . . . we've got to stop solving our problems by federal guarantees. . . . whether it's a billion and a half or somewhat more, it is still small relative to the aggregate amount of credit that is created by the federal government. But this is an area which is relatively new and I find it very difficult to figure out where in the world you draw the line. If you give guarantees to a failing large corporation, on what justification does not one give guarantees to virtually every other corporation in the country?

At the end of 1978, Government loan guarantees totaled $254 billion, Federal loan guarantees have doubled since 1970 and they have multiplied six times since 1950. The Government is guaranteeing all kinds of loans and they have become a grand hodgepodge. The loans do not show up in agency budgets and they generally are not subject to congressional scrutiny on a periodic basis. How, then, are they to be controlled as part of the overall Federal budget process set forth in 1974?

Let me refer again to Mr. Greenspan's perceptive testimony. He not only warned of the inflationary damage brought on by the pressures on American capital markets by loan guarantees; he also cautioned that—

> We will be confronted with chronic unemployment at perhaps much higher levels than we're looking at today; and that the instability in the economy which can be created by credit inflation is very broad and very prolonged.

Mr. Chairman this is what I feel compelled to tell the Chrysler employees in my district: That the unemployment and inflationary risks they are running and experiencing now are small, compared to what they will be facing in this country in the future, if this Government does not begin practicing serious economic and financial restraint. We are going to pay a price in this country for the past 30 years of excessive spending and declining productivity. The costs are inevitable; the only question is when we pay. And the longer we procrastinate, the more it's going to hurt. The headlong rush to bail out Chrysler is only one more effort to escape paying our dues.

There are those who argue, quite persuasively, that if Congress does not come through with a loan guarantee for Chrysler and the company collapses, the government will foot immense bills in unemployment compensation, pension benefits, and the like. To that argument I reply: Propping up inefficient operations and distorting our economy are even more costly to the welfare of our people. Why? Because our standard of living reflects how productive we are and how wise we are in our investments. The efficiency of our economy will determine the welfare of our people. Nothing could be more destructive of that welfare than for the Government to undermine the economy by subsidizing unproductive operations.

Am I really saving my constituents' jobs if I vote for a Chrysler loan guarantee, or am I simply postponing the inevitable collapse? Is it not more realistic and compassionate for me to prepare Chrysler employees now for a different future with a different company? Why prolong the agony? Why encourage them to think that this Government can continue indefinitely spending policies that threaten us with economic ruin?

Mr. Chairman, I say all this, fully aware that Chrysler has just cause for complaint for the way Government has imposed its regulatory burdens these last 10 years. It is true that Chrysler has suffered disproportionately from regulatory costs, relative to GM and Ford. Beyond that, Government regulation has ineluctably driven all three major automakers toward more uniform products, to cut costs. This has doubly hurt Chrysler, because its share of the market was relatively small to begin with, necessitating its reliance on model variety and diversity. Government regulation has made Chrysler's dependence on the specialized vehicle market uneconomic. The heavy impact of mistaken and misguided governmental regulations, which I have consistently voted against, has made it especially difficult for me to make my decision on the Chrysler loan guarantees. Governmental actions, I believe, have made it extremely difficult for the U.S. automotive industry to compete successfully with its foreign competitors. Indeed, I believe a good case can be made that the Federal Government is greatly responsible for the relative decline in the quality of U.S. made automobiles in recent years.

Still, even though Chrysler has been victimized by poor Government thinking, that has not been the singular or overriding cause of its decline. Poor management and a lack of foresight have figured prominently in its recessional.

The taxpayers have no ethical, economic, legal, or social obligation to insulate Chrysler from the normal interplay of market forces. Chrysler took its chances in the marketplace like everyone else and it lost. Congress should not conspire to overturn that outcome.

To do so is to thwart the economic laws and imperatives that once made the American economy the strongest and most productive in human history—because this society obeyed those laws and imperatives. If, by the 21st century, the American economy is to be restored to its former health and vigor, we must cleave again to fundamental capitalist principles. To do otherwise is folly.

Mr. CONABLE. Mr. Chairman, like everyone else in this room. I would like to be able to help Chrysler, its subcontractors, and its distribution system, survive. There is reason for this desire in the extent to which the Government, in myriad direct and indirect ways, has itself contributed to Chrysler's difficulties.

But I have two concerns which to date have not been adequately addressed for me to feel I can support this bill. The first is doubt that Chrysler can survive even with the Government guarantee of $1.5 billion in loans. How can we expect this company to recapture its lost share of the domestic auto market from the present domestic competitiveness and the imports after adding $3 billion of debt service, at current interest rates, to its competitive burdens? If we are only taking money from the taxpayers to prolong the agony, what appears at first glance to be a human gesture becomes a wasteful and inhumane charade.

The second concern involves the UAW wage settlement, costing the company $1.3 billion over the next 3 years. This almost equals the amount of the Government guarantee. Chrysler workers are not underpaid by the standards of the average American taxpayer, and since they have the greatest stake in survival of the company, it is not unreasonable to expect some sacrifice on their part as a condition of requiring sacrifice from the taxpayers.

I hope these doubts can be resolved, so that I can support this bill. Otherwise, I must oppose it.

Mr. STANTON. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Chairman, this is a bill none of us like because it is a situation none of us like. However, doctrinarianism in the pursuit of truth is just as great a threat to the American economy today as overregulation and overtaxation.

Mr. Chairman, the key issue in murkey problems such as posed by Chrysler is to assure that the United States taxpayers rather than the corporate stockholders are protected. The committee bill in my judgment did not meet this test. Therefore, I felt compelled to vote against it during deliberations of the Committee on Banking, Finance and Urban Affairs. However, with the acceptance by the gentleman from Pennsylvania (Mr. Moorhead) and the gentleman from Michigan (Mr. Blanchard) of my amendment in presenting their substitute, to give the taxpayers first protection in the event of default. I believe this measure should now be supported.

Obviously, giving a priority position to the taxpayers will make Treasury negotiations with bank creditors more difficult. However, without an amendment giving the taxpayers priority rights, Congress would be passing a bank bailout bill instead of Chrysler support act. We would be passing a Federal grant bill instead of a loan guarantee.

Mr. Chairman, no corporation, no matter how politically powerful or economically consequential, should expect Government assistance unless the taxpayer is fully protected. Accordingly, I appreciate the accommodation that the gentleman from Pennsylvania (Mr. Moorhead) and the gentleman from Michigan (Mr. Blanchard) have made to the concerns I raised in committee and would urge adoption of their substitute bill.

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Mr. STANTON. Mr. Chairman, I yield 1 minute to the gentleman from Indiana (Mr. Hillis).

Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to the gentleman from Michigan (Mr. Broomfield).

Mr. BROOMFIELD. Mr. Chairman, I rise in behalf of this legislation and indicate my strong support for the McKinney-Moorhead substitute.

Mr. Chairman, the financial crisis confronting the Chrysler Corp. faces many of us in this body with a choice among unattractive alternatives.

Like many of my colleagues, I am greatly bothered by the idea of the Government further interfering in the natural forces of the free enterprise system. My record over the years, I believe, clearly documents my faith in and my support of the free enterprise system—a system that has brought this Nation economic greatness.

Further, I do not believe that the committee bill is perfect. I would like to see, for example, much more of a commitment made to the financial recovery of Chrysler by those who have a direct interest in an economically healthy company.

Yet, with these and other reservations, I still believe in and intend to support this bill providing Federal assistance to the Chrysler Corp.

Some may feel that my supporting this bill is predicated upon the fact that my district will be heavily impacted by Chrysler's future. It is true that the success or failure of Chrysler will have a dramatic impact upon my district and all of southeastern Michigan. However, beyond the impact upon any localized economy, there are major national interests also at stake, and these must be seriously considered.

In terms of the impact upon people, the failure of Chrysler will result in the unemployment of close to 600,000 people nationwide because of their direct or indirect relationship to this company for their livelihood. Not all of these people would suffer prolonged unemployment, but hundreds of thousands would.

Some suggest that the unemployment impact would be less dramatic because the other auto manufacturers would simply rehire Chrysler workers. A Department of Transportation study suggests otherwise. The study says that Ford and General Motors already have many laid-off workers who can fill production lines without hiring Chrysler employees. Many of the Ford and GM plants that might experience an increase in demand for their cars are not located in proximity to Chrysler plants. Thus, they would have neither need for nor access to Chrysler employees.

The problem of unemployment would be equally difficult for those employed at Chrysler dealerships and as suppliers.

It is estimated that 80 percent of the 4,700 Chrysler dealers would be forced to close their doors within 2 weeks of filing of a bankruptcy petition. These dealerships could not reopen their doors shortly thereafter selling another line of cars, for those franchises have already been taken. The vast majority of the 150,000 employees could not be absorbed by other dealerships already fully staffed.

For the Chrysler suppliers, the picture would be equally bleak. Last year, approximately 17,000 companies, mostly small businesses, had almost $8 billion in orders from Chrysler. Since Chrysler is more dependent upon outside suppliers than other auto manufacturers, there would be little shifting of business with the failure of Chrysler. Thus, the loss of this business would result in thousands of lost jobs, and the possible failure of many of these companies.

It is difficult to conceive of 600,000 people unemployed and the personal hardships this would cause. I would like to share parts of a letter to the editor of the Oakland Press, a newspaper in my district, describing what the failure of Chrysler would mean to one family. This person, responding to another open letter opposing assistance to Chrysler, wrote:

> Does he seem to think Chrysler Corporation is just a stone-cold board of fancy directors? It happens to be a corporation that employs people. Real people! People who need their jobs for their livelihood. People who happen to pay all the same taxes as he does. . . . I happen to live in Oakland County as he does, and my husband happens to work for Chrysler. If Chrysler goes under, we may also. Then who will pay our taxes and all the other taxes paid by Chrysler employees who will then be forced from their jobs?
>
> My grandfather came to this country, and not one of his family right on down has asked for one penny of welfare. Now we may be forced to, and I'll need every penny I can get. . . .
>
> My husband will never be a rich man working for Chrysler, but we can live in dignity and pride. Think about our side. I'm sure there are thousands of people who could also sign their name to the bottom of this letter.

The writer of this letter brings me to the second aspect of the very real national problem—the national economic effect—which would result if Chrysler were to fail.

A Chrysler shutdown would place the entire economic burden upon the taxpayer. The Secretary of the Treasury estimates that if Chrysler were to fail, it would cost Americans at least $2.75 billion in 1980 and 1981 combined in terms of lost tax revenue and increased unemployment claims and welfare costs.

Beyond this, Chrysler's unfunded pension liability is about $1.1 billion, which greatly exceeds the reserves of the Pension Benefit Guaranty Corp. To honor the claims from retired Chrysler employees, the Corporation would either have to increase the premiums on every employer with a pension plan or else come to the Congress asking for more of the taxpayers' money.

Finally, the energy impact also must be taken into consideration. While much has been said about Chrysler's large cars, according to a Department of Transportation study, the fact is that Chrysler has the brightest outlook among the "Big 3" auto makers for the production of the compact, fuel-efficient cars now being demanded. The other car companies are not prepared to produce such cars in the immediate future.

Chrysler can produce domestically 500,000 four-cylinder, fuel-efficient, compact cars by 1981, and up to 800,000 by 1982, if it can continue to pay for a major retooling and other production changes that are within 1 year of completion. If Chrysler cannot obtain the necessary funding, however, the market will go to foreign producers, with a resulting net loss of $3 billion in the balance of trade to imports.

The social, economic, and energy consequences to our Nation if Chrysler Corp. were to fail are extremely grave. Yet some would recommend that the free market mechanisms be allowed to run their course. If they result in the bankruptcy of Chrysler, then so be it. After all, they argue, other large companies have filed for bankruptcy and have undergone liquidation, or in some cases, have survived after a reorganization.

However, the nature of the automobile market, I believe, makes this an unworkable proposition and commits Chrysler to closing its doors forever, for two reasons.

First, it is questionable whether people will continue to buy Chrysler products if the company were to declare bankruptcy. A car is generally the second largest purchase a person makes, and a buyer would rightly be concerned about future warranty coverage, the availability of parts and service, and the future resale or trade-in value of the car if a Chrysler product were purchased.

Second, it seems that bankruptcy helps to deal with old debts but it is not very good at raising the new capital needed to complete the downsizing and production of Chrysler's new line of fuel-efficient cars—Chrysler's future.

Mr. Chairman, the problems facing Chrysler today arise from several sources. These include a number of bad management decisions, the effects of the energy shortage and the resultant changes in consumer demand, and the increasing costs of complying with Federal requirements.

There have been internal changes at Chrysler to overcome past management problems. Among these is a new and imaginative management team to lead this company in the 1980's.

To accommodate the changes in consumer tastes because of the energy shortage, Chrysler is involved in a major retooling effort to produce small, fuel-efficient cars, and is a leader among the "Big 3" in this area.

As to the effects of excessive government regulations, this is still an area to which we in the Congress must apply our energies. Many of us have long argued that the present laws must be reconsidered, not in terms of the ultimate goals, but in terms of time and conflicting requirements.

The Federal Government, through its laws and regulations, has been deeply involved in the auto business for 13 years now. Because of the relative size of Chrysler in comparison to Ford and General Motors, the massive cost burdens imposed by these regulations falls heaviest on Chrysler.

To meet the up coming safety, emission, and fuel efficiency standards, it is estimated that the costs per year, over the period of 1978–85, will be $800 million for Chrysler, $1 billion for Ford, and $2 billion for General Motors. This, however, averages to $550 per car for Chrysler as compared to $340 for Ford and $345 for General Motors. The costs and impacts of these regulations are important matters that eventually must be considered.

Mr. Chairman, as I said in the beginning of my remarks, I have some serious reservations about the Banking Committee bill to provide Federal loan guarantees to the Chrysler Corp. However, on the whole, I believe the passage of legislation providing these loan guarantees would be in the best long-term interests of our Nation. I will support it, and I ask my colleagues to support it.

Mr. HILLIS. Mr. Chairman, there are two general misconceptions which have shaped the thinking of those who oppose Federal loan guarantees to the Chrysler Corp. The first misconception is that should Chrysler go bankrupt, its facilities would be purchased by other auto manufacturers, either domestic or foreign. The second misconception is that Chrysler's share of the market will be picked up by Ford and GM thus increasing imports only to a minimal degree.

There are several reasons why many of the Chrysler facilities would not be purchased in the foreseeable future by other auto manufacturers. To begin with, both Ford and GM are unable to sell every car they can produce, particularly the family and intermediate sized cars. Second, both companies are currently having to invest about $180 million each month in order to continue their efforts to meet fuel, safety, and emission requirements. Both companies simply do not have the need for increased production capability or the money to purchase the Chrysler facilities. I have discussed this issue with executives of the Ford Motor Co. and they confirm the fact that they do not have the need or the capital to purchase any of Chrysler's facilities.

The auto industry is an extremely complex system of facilities linked by a delicate transportation network. Due to the geographic location of Ford and GM plants, very few of Chrysler's facilities could be integrated into another transportation network.

The second misconception I mentioned is that Ford and GM will be able to pick up Chrysler's share of the market. Approximately 70 percent of Chrysler's sales are compacts and subcompacts. As we all know, it is in the area of compacts and subcompacts where foreign competition is most severe. Neither GM or Ford is in as good a position as Chrysler to compete against foreign manufacturers in the 1980's. In model year 1981 Chrysler will introduce its "K" model which will be a front-wheel-drive four-cylinder car capable of getting 25 to 30 miles per gallon.

As the chart next to me illustrates, Chrysler has made tremendous gains in fuel economy since 1975. As shown on the chart Chrysler will have a very fuel efficient fleet in 1985, averaging 27.8 miles per gallon. That fleet average is superior to either Ford's or GM's projections. By 1985, Chrysler will become the first manufacturer to produce all front-wheel-drive cars.

A Chrysler failure will increase foreign penetration into the U.S. market since Ford and GM cannot pick up Chrysler's small car sales because they are already producing at capacity—sales of their small cars are up from 1978 levels and GM's "X" cars are already sold out for 1980 model year. Therefore most of Chrysler's small cars will be replaced by imports. Projections for increased imports vary between 200,000 and 250,000 a year. This will increase the balance-of-trade deficit between $1 and $3 billion over the 2 years.

There are those who would oppose any Federal assistance to Chrysler because of the high wages Chrysler employees receive. I represent a congressional district which is highly industrialized. I have had many opportunities to visit different types of factories over the last several years. Most recently I visited the Chrysler transmission plant in Kokomo. I was surprised to note the low labor intensity of the plant. The workers there operated extremely complicated machines. Because of the tremendous skill involved in operating these machines, UAW employees are able to demand and get higher wages than other factory workers.

This is not to say, however, that Chrysler employees should not have a vested stake in the future of the corporation. But what is the appropriate commitment we should require from each employee—a thousand dollars—two thousand? Under the agreement worked out between the administration, the UAW, and Chrysler and which is reflected in the committee's substitute amendment, each employee would give up approximately $4,000 in wages and benefits for a total union contribution of $400 million. To ask any more than that, I think, would be excessive.

There is more than just an element of fairness to union employees involved in a potential wage freeze. Should we force union and management employees to accept unreasonable wage curtailments as a prerequisite to Federal loan guarantees, we have done nothing to insure the future stability of Chrysler. Freezing the wages would cause an exodus of skilled labor and quality management personnel. Take for example the situation in my hometown of Kokomo. The Chrysler transmission plant employs over 4,000 people. Directly across the highway is a GM plant. All of the highly skilled Chrysler employees would move over to the GM plant as soon as possible leaving Chrysler without the requisite skilled employees to keep the plant operating efficiently. Eventually this drain on talent would be reflected in the quality of work.

Another argument expressed against granting the loan guarantees is that the loans will deprive more deserving companies from receiving loans. This argument may be true if our economy is loaned out. In other words, if our economy was such that every dollar available for loans were engaged, there would be some legitimacy for opposing the Federal loans to Chrysler. However, we are not in a position where all of the dollars available through commercial credit channels are engaged or applications pending for engagement. The present high interest rates have had the effect of constricting the Nation's debt supply. By the time Chrysler is in a position to use the loan guarantees there should be plenty of loanable funds available to Chrysler and still meet the demand of all others wishing to obtain credit.

There is one more point I would like to raise. Some Members have opposed assisting Chrysler because, to quote one of the "Dear Colleagues" being circulated, "the Chrysler problem is not merely a freakish aberration, but is symptomatic of an intensifying shakeout of plants, firms and jobs across a broad range of industrial sectors and regions." I agree totally that such a shakeout is occurring. However, I do not believe the manner in which this is occurring is in the Nation's best interest.

The Congress needs to recognize and address the factors which have allowed imports to lead to the decline of American industries. We need to examine our tax policies and the effects of Federal regulations. We need to address the problems of aging manufacturing facilities. We do not, however, need to allow Chrysler to fail in order to prove a point. I say "save Chrysler" and begin to solve the various problems which have led to its failure and the failure of other companies in other industries.

There are numerous reasons to support Federal loan guarantees. I have only touched on some of the more important reasons. I urge my colleagues to listen carefully to today's debate and work toward passing the best possible legislation to save Chrysler.

Mr. STANTON. Mr. Chairman, I yield 1 minute to the gentleman from Michigan (Mr. Sawyer).

Mr. SAWYER. Mr. Chairman, I have been one of two Members of the entire Michigan delegation in both Houses who have been opposed to this bill on a strong matter of principle. I could not, I am frank to say, have been able to support the original bill turned out of the committee; however, I have had an opportunity now to review the Moorhead-McKinney substitute. I feel that in light of the alternatives, that I can go along with that bill.

I would also urge that if we are going to go along with the bill, do not, for goodness sakes, put amendments on it that will make it almost impossible for Chrysler to survive, because once we go on this bill, we have got a vested interest in their making it, and things such as an absolute wage freeze for 3 years would lose them all their best people and deprive us of the biggest collateral security we could have for making it, and that is their personnel.

I have personally talked with Mr. Joseph Campana, the new director of marketing, and I am convinced that they can make it with some help.

Mr. STANTON. Mr. Chairman, I yield myself one-half minute.

Mr. Chairman, this will be the conclusion on our side of debate here today. We will be continuing debate for 15 minutes on Tuesday next, after which we will get into the amendment process.

Simply let me say, Mr. Chairman, it is my hope sincerely that a final bill, which has not been introduced yet, will be introduced in its final form by the time we start the markup. I am sure that the Members will appreciate this and I would hope the majority will do everything they can to insure that at least when this legislation with all its importance comes before the committee on Tuesday, we will have a bill that the American people can live with and which the Congress can have a chance to vote on.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, may I inquire how much time I have remaining?

The CHAIRMAN. The gentleman has 20 minutes remaining.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I also intend to reserve 15 minutes for continued debate next Tuesday.

In light thereof, I now yield 5 minutes to the gentleman from Michigan (Mr. Blanchard), the ranking majority member of the subcommittee.

Mr. BLANCHARD. Mr. Chairman, I thank the chairman, the gentleman from Pennsylvania (Mr. Moorhead).

The work by the chairman, the gentleman from Pennsylvania (Mr. Moorhead), my colleagues on the Banking Committee, by the ranking member, the gentleman from Connecticut (Mr. McKinney) and others including my dear friends from Michigan, is finally beginning to permit us to deal with the matter of financial assistance to Chrysler on a more intelligent, practical plane than we have heard all fall.

No issue, as most of us know, has been more plagued by slogans, and ostrich-like responses as this very important national issue. In fact, since last fall, all the slogans of "bailout, gas-guzzler, free enterprise, wage freeze," and now we even hear today, "drug addict," have made it very difficult to address the human and financial consequences of our failure to act.

I think my colleagues on both sides of the aisle have very eloquently touched upon all the reasons why it is in the national interest to help Chrysler.

Briefly, of course, the costs will be far greater to the taxpayers if we fail to hlep them than if we do. The jobs involving 500,000 or perhaps to 600,000 people and families are at stake. The health of not only the Detroit area, but other communities as well, in addition to 19,000 suppliers and 5,000 dealers throughout the country is on the line.

Most importantly and most surprising to a lot of people, America's ability to produce fuel-efficient cars will be seriously jeopardized by our failure to help Chrysler.

Let me reiterate what was said earlier. Without Chrysler and its current product line, if they fail, America stands to lose $3 billion just in the balance of trade, because there is not the capacity of the other two domestic automakers to meet the market for the Omni and the Horizon.

I find it ironic that our committee, which would have cranked out synthetic fuel legislation, loan guarantees for synthetic fuel, and then later this fall loan guarantees to the agricultural community to put up Gasohol plants, would now be faced with the argument that what we are doing to help Chrysler is somehow novel. I find it questionable that we can spend all this money on synthetic fuel so we can put it in foreign gas tanks.

I find it rather novel that those who have for years stood here justifying loan guarantees for almost every other industry are questioning now all of a sudden the wisdom of this.

Now, we can debate the reasons for the Chrysler problem. I think it is a lot more complicated than most people realize. I think we could find certainly mismanagement. I think we could find mismanagement the aggravation of government regulations, and I think you can find just plain bad luck.

My best guess is that were it not for OPEC, its formation and its strengthening, Chrysler would not be in here asking for assistance.

I essentially believe that because of the radical shift of oil and the power to decide not only what it will cost by the cartel, but how much will be produced, that essentially we are allowing decisions by a cartel to rearrange or potentially rearrange our economy.

Now, nobody likes this issue. I do not like it. I do not think my friends from Michigan and our friends on the Banking Committee really like this bill or the issue. It is not a question whether we like this. It is a question of what is the best of a lot of difficult alternatives.

Let me just underscore one other thing that our dear colleague, the gentleman from Michigan (Mr. Sawyer), alluded to. A lot of people are going to talk about the British-style bailout. The best way to avoid that is not to try to load this bill up with everybody's little pet projects and not try to design tail fins and engines and decide what the janitors are going to be paid in Highland Park, Mich. I urge you to stick with the Moorhead-McKinney substitute, which by the way is printed in the Record and available for all Members, something I am afraid a lot of our amendments that are going to be offered will not be; stick with our substitute.

We are going to find as we move along, by the way, in the next few days that the foes of this measure will give a thousand reasons why we should not help; but if we start looking at their reasons, most of them are attempts to simply avoid—avoid dealing with this issue. They want it to go away. There are days when even I would like it to go away. They want to avoid dealing with it. It is a tough one. We find ourselves increasingly in this town avoiding the tough issues, paralyzing the Government.

My own feeling is that if we deal with this issue, if our colleagues honestly deal with it, and I see the debate here is going to help in that regard, we are going to conclude that it is in the national interest to help the Chrysler Corp. and its tens of thousands of workers and the communities it affects. Once we realize that, and I believe our colleagues will, that we actually have it within our hands to prevent a Chrysler collapse and what will be very real human disaster, that we have the power in our hands, we are going to do something about it. And we are going to do something in the national interest and we are going to do it by backing the Moorhead-McKinney substitute.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. Blanchard) has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I yield 1 additional minute to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman I rise to associate myself with the remarks of the gentleman in the well and tell the gentleman that we in the Michigan delegation are very grateful to the gentleman from Connecticut (Mr. McKinney) and to the gentleman from Pennsylvania (Mr. Moorhead) for fashioning a bipartisan package that we are proud to support.

Moreover, we from Michigan are extremely proud of the gentleman in the well and the fine, professional way in which the gentleman has gone about bringing this bill to the floor. I have never seen a better legislative job since I have been here. We are happy that the gentleman is leading this fight for us.

Mr. Chairman, I cannot express myself too strongly in my support for this bill.

The collapse of the Chrysler Corp. is an eventuality too catastrophic to consider. We would not just lose Chrysler—we would lose $4 billion of our Nation's gross national product; we would lose an estimated 600,000 jobs throughout the Nation, and we would lose an even larger share of our automobile market to foreign imports.

This loss of 600,000 jobs would mean Federal costs of $2.75 billion in the first 2 years alone through lost tax revenue and increased welfare costs, not to mention $1.1 billion in Federal guaranteed pensions.

We are talking about a lot of money, Mr. Chairman, and we are talking about a lot of human suffering.

This bill does not call for a gift or a grant to Chrysler; it does not even call for a Federal loan. All we are asking is that the Federal Government guarantee loans of $1.5 billion, which will enable Chrysler to survive, and save our economy and 600,000 of our citizens from a brutal and unnecessary shock.

The collapse of Chrysler would drastically affect our international trade picture, adding $1.5 billion to our balance-of-payments deficit. It would mean a sharp reduction in competition for the foreign auto makers, who are already flooding the highways with their products.

The direct affect on Michigan alone would be staggering. The State would lose about $200 million a year in direct revenue, and would incur costs of some $230 million in unemployment insurance costs over a 2-year period.

The employment impact goes far beyond the 140,000 Chrysler jobs involved. Suppliers, dealers, and other businesses affected would bring the total to nearly 600,000.

In my own district, which has no Chrysler plants, we have 249 suppliers with contracts totaling nearly $75,000,000 who employ several thousands persons. We have eight Chrysler/Plymouth/Dodge car and truck dealers, with hundreds of employees. We have thousands of retail businesses who depend on these people as customers.

Aside from dollars, Mr. Chairman, we are talking about people. We are talking about people like the Chrysler employee who is 50 years old and has spent his working life on the assembly line. What would he do if Chrysler folds? Who would hire him? We are talking about people with home mortgages to retire, utility bills to pay, groceries and clothing to buy for their families. These people have already seen their dollars eroded by inflation. Do we now want to see their jobs eroded because of congressional inaction?

Mr. Chairman, no philosophical rhetoric about free enterprise or dangerous precedents can save Chrysler or solve its problems. H.R. 5860 is the only thing which can accomplish that, and I plead with my colleagues to support us here today by voting for this bill.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding, and I echo the comments of the gentleman from Michigan (Mr. Ford).

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Mr. BROOMFIELD. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Michigan.

Mr. BROOMFIELD. Mr. Chairman, I would like to join with the gentleman from Michigan (Mr. Ford) in paying tribute to my colleague, the gentleman from Michigan (Mr. Blanchard) for the outstanding job he has done. I want to assure the gentleman that we on this side appreciate the part he has played in this bipartisan support.

● Mr. WHITTEN. Mr. Chairman, in view of the time limitation on debate and the desire of my colleagues on the committee to speak, under leave to extend my remarks, I submit substantially what I said in my speech of yesterday, that these facts may be considered in connection with other discussion.

We all recognize the problems which the Nation faces that are symbolized to some degree, by the financial condition of the Chrysler Corp. From reports in the news media, we can see, too, that the Nation itself has an interest, not only in the situation facing Chrysler, its stockholders, and employees, but in any other situation when the industrial productivity of the Nation is endangered—whether it be railroads, a Lockheed type operation, or a city such as New York.

It is comparatively easy for the Government, so far as bookkeeping is concerned, to guarantee a loan. In fact, our country has done that to the point that at the moment, while we can tell what the national debt is, in no place is there any exact figure on what our outstanding obligations are under guarantees, contracts, and treaties. We do know that it is in excess of $500 billion.

I would like to call attention today to the fact that while we recognize the national interest in solving the Chrysler problem, to solve it completely we must look in many directions, and it is my belief that with all due credit to the Congress and to the fine committee chairman and members of the committee involved that we have, I believe that this simply is not a matter that can be handled by the Congress through existing means for a variety of reasons.

I am thoroughly convinced that only by creating a Government corporation—somewhat like the Reconstruction Finance Corporation, which would have the right of information and also the right of inspection, the right of requiring certain commitments, the power to accept mortgages, to assess the value of assets, and the many other things that go with corporations—will the Government be able to adequately deal with Chrysler-type problems in a positive aggressive manner.

Without going into great detail, on November 16, I introduced H.R. 5920 reinstating the Reconstruction Finance Corporation. My remarks discussing this appear in the Congressional Record on page 32862 of that date.

My purpose at that time was to call to the attention of the Congress the need for such a corporation with perhaps enlarged authority somewhat along the line of the charter of the Commodity Credit Corporation.

Through my experience with the Reconstruction Finance Corporation in its latter days, the Commodity Credit Corporation, as chairman of the Agriculture Appropriations Subcommittee, and the Export-Import Bank—all of which were designed to be positive solutions to difficult business-economic problems, I am convinced that we can do better than just guarantee another loan—whether it be for Chrysler or any other major U.S. industrial producer.

My purpose today is to urge the appropriate committees to give consideration to this approach because we should not commit the United States on an indefinite basis to the problems faced now by Chrysler, nor should we operate in such matters on the basis of Government guarantees.

I expect to go into this matter more thoroughly at a later date but at this point I urge the Congress to consider this approach in dealing with the Chrysler problem. A loan guarantee by itself is simply not adequate.●

● Mr. SHUMWAY. Mr. Chairman, the legislation initially proposed by the House Banking Committee, on which I serve, to provide the Chrysler Corp. with a $1.5 billion Federal loan guarantee is an entirely inappropriate response to the perceived problem. The Moorhead substitute is fundamentally no better. I cannot support the premise that it is in the public interest for the American taxpayer to be placed in the inherently risky financial position of underwriting Chrysler, and I am most concerned that the already dangerous predeliction of Government to intervene in the private sector will, if this legislation is adopted, be significantly furthered.

There can be no question that the threat of a Chrysler failure is very real. For a number of years, Chrysler's corporate viability has declined as a result of various factors: poor management, Federal regulatory policy, and, recently, the energy crisis. Chrysler's share of the domestic auto market has dropped from 25.7 percent in 1946 and 16.2 percent in 1968 to an estimated 9.1 percent this year. In the past month, Chrysler's share has dropped to 8 percent. For whatever reason, Chrysler is quite simply now a classic example of an aging, increasingly inefficient corporation that is no longer able to successfully compete in its own industry.

It is apparent that, in the eyes of those who favor this legislation, the very fact of Chrysler's size is sufficient reason for a Federal bailout. Yet in 1978, over 6,000 American businesses failed. It is expected that one out of every two companies established this year will not survive. Most of these surely would survive if the Federal Government provided financial assistance. But, in most of these cases, no such assistance is forthcoming—and none is expected.

Simply stated, the basis of our free enterprise system—the economic system that has provided Americans a standard of living unprecedented in the world—is competition. Businesses have the opportunity and the right to compete successfully and to be rewarded with profits; conversely, businesses judged noncompetitive in the marketplace have the right to fail. It is the free market which determines success and failure; through this process, scarce economic resources are most efficiently and effectively allocated.

Chrysler, as currently structured, has proven its inability to compete in its market—and is now asking the Federal Government to reward it for its inefficiency with a $1.5 billion loan guarantee. Although such guarantees have unfortunately been provided in the past, acquiescence to the Chrysler request would represent one further violation of our economic system. Such an approach, by artificially removing both the risks and benefits of competing in the marketplace, can only lead to a less vigorous and a less enterprising economy. As the former majority leader of the Senate, the Honorable Mike Mansfield, put it during the Penn Central debate:

> I do not believe it is the function of a democratic government to pick up the tab for the failure of (a) private enterprise.

I am extremely concerned with the kind of precedent we will establish if this legislation is adopted. Although it is commonly asserted that no real precedent is involved; that the Federal Government has billions outstanding in loan guarantees, and that we provided such assistance for New York City and for Lockheed, I would argue that, even if justifiable, none of these cases is applicable to Chrysler.

Chrysler has been no more than marginally profitable for a number of years. It has failed to compete adequately with any of its competitors, whether domestic or foreign. Government intervention will be no solution. Nothing the Government can do will change Chrysler's inherent competitive ability. Government cannot improve a company's productivity or the value in the market of its output. Federal assistance cannot insulate Chrysler in the future against the shocks and traumas which may well impact the auto industry.

In the case of Lockheed, of course, the Federal Government was the purchaser of 95 percent of its output; prices, revenues, and most costs were thus controlled. In the case of New York City, all loans are potentially secured by the local tax rolls.

In the case of Chrysler, however, no such conditions prevail. In essence, the legislation before us requires that scarce credit be allocated to Chrysler—a failing concern—on terms more preferential than those available to healthy companies. This is the precedent involved. Do we now expect all other firms in similar conditions to line up before the Federal till? Or should only large firms apply? Where do we draw the line? If we are concerned about the loss of jobs, how can we turn down United States Steel, say, which has just laid off 13,000 workers, or even Ford and GM, where many are unemployed? Certainly, these companies would appear to meet the size criterion.

The consequences of a Chrysler failure may be serious in the short run; the consequences of Federal assistance, if provided, will assuredly be much more severe in the long run as the distinction between the public and private sectors is further blurred. More specifically, the legislation before us as reported by the committee is not well conceived nor well drafted.

The American taxpayer is being asked to underwrite Chrysler to the tune of $1.5 billion. With this kind of investment, two preconditions would seem necessary: First, that those most directly affected by Chrysler's situation have made and will continue to make significant sacrifices; and second, that there be reasonable certainty that the assistance provided will insure that Chrysler is restored to a position of economic viability in the near future.

Unfortunately, neither of these conditions have been met. Chrysler's employees, the majority of whom are represented by the United Auto Workers (UAW), would seem to bear the most direct burden of a Chrysler failure. When faced with the loss of their jobs, most workers can normally be expected to limit substantially their requests for salary increases, and, in fact, to accept a pay reduction if necessary. In this case, however, the normal course of action has been rejected out of hand; Doug Fraser would rather let Chrysler fail than accept a wage freeze. Chrysler and the UAW recently announced agreement on a contract providing for a $1.3 billion increase in wages and benefits over the next 3 years.

This package is so large that the administration's chief inflation fighter, Alfred Kahn, has warned that it exceeds the President's own wage standards. The UAW—even with its new $400 million contribution—would hardly seem to be making the kind of sacrifice one might expect. In fact, I find it rather ironic that of the $1.5 billion Chrysler is requesting from the Federal Government, $1.3 billion may have to be applied just to satisfy UAW wage and benefit requirements. Are the taxpayers expected to guarantee this clearly excessive contract? This would certainly appear to be the case.

Second, it is altogether uncertain whether $1.5 billion in Federal loan guarantees will be sufficient. It is widely asserted by financial experts that such an infusion of funds would, at best, merely defer a Chrysler failure. Even Secretary Miller, the administration's leading supporter of the bill, was unable to assure the committee that Chrysler would survive if such assistance were provided. Perhaps most revealing in this regard is the recent testimony of John McGillicuddy, chairman of Manufacturers Hanover—Chrysler's lead bank—that the private financial community is now unlikely to provide the additional credit required by the legislation before the Federal loan guarantee can take effect. Given the current degree of uncertainty, therefore, it makes little sense for the Federal Government to allocate scarce resources for this extremely risky venture.

Chrysler's market share is steadily declining, losses have become increasingly significant over the past decade (Chrysler now loses about $700 on every vehicle sold), production costs are growing rapidly, and, because of our economic situation and the energy crisis, the future of the entire industry in which it competes is in doubt. Due to inflexibility in dealing with changing market conditions, Chrysler has reached the point where private credit is no longer available—in other words, the market has determined that Chrysler's performance does not warrant the provision of additional credit.

Under these circumstances, the extension of credit by the Federal Government would not seem appropriate. The Government cannot overrule the economic determination of the marketplace; by intervening, it can, however, contribute to an increase in efficiency.

Chrysler has waged an extremely professional lobbying campaign. It has convincingly argued that its problems are temporary, that a one-time loan guarantee will turn the tide, and that its future will be one of success and profitability. It has argued that a corporate failure would not be in the national interest. Unfortunately, however, Chrysler's assumptions as to the nature of its current problems and future performance are questionable—if they were not, sufficient private credit would certainly be available—while the impact of failure is overstated, and the systemic consequences of Federal assistance generally ignored.

Chrysler, by mere virtue of its size, should not be granted special treatment by the Federal Government; treatment unavailable to thousands of other marginal businesses. Not only would this legislation represent a strong precedent in favor of the Federal Government as the "lender of last resort," thus insulating companies from the pressures of the marketplace, it would be an action incompatible with long-term growth, efficiency, and productivity.●

● Mr. PANETTA. Mr. Chairman, I would like to address the issues raised by H.R. 5860 and briefly discuss its very serious implications for our economy and for this Congress. As we all know, we are basically talking about a $1.5 billion loan guarantee for the Chrysler Corp. with a stipulated $400 million contribution from Chrysler's employees.

The first issue I would like to discuss is that of precedent. The proponents of

H.R. 5860 state that there is sufficient precedent for this legislation. Frankly, I do not agree. The problems of Lockheed resulted directly from specific Government actions, and as for small business loans, I do not think you can compare our programs in that area to a proposal to assist the 10th largest corporation in the United States.

Even more important, though, is the precedent this legislation would set for the future. It is becoming increasingly clear—and the debate on this legislation has contributed greatly to this realization—that our economy is entering a new stage of development. Some of our most vital heavy industries are reaching a point where they must retrench and attempt to modernize their facilities and their methods of operation. The steel industry, along with the automobile industry, provides a good example of this problem.

Now, it may well be that this Congress will have to confront this situation and come up with a method of addressing this problem. Indeed, loan guarantees might be a part of such a strategy. But if it is to be done, let it be done in a rational, methodical way. To proceed in a hit-and-miss fashion, and I feel that this legislation can be characterized that way, does not address the heart of the issue.

The next point to be considered relates to the Chrysler Corp. itself. If any point in this debate has developed a consensus, it is that Chrysler has been very poorly managed. Analysts have pointed to a variety of foolish decisions made by the company over the past two decades, but the one that stands out in my mind, and in the minds of many others, is the decision made around the time of the Arab oil embargo to hold off on pursuing the small-car market and to continue pouring resources into large gas-guzzling automobiles. Indeed, while the other major companies were developing the cars that would help them to survive the advent of an energy-short era, Chrysler was firing the very engineers that could have helped them to become competitive in this area.

The argument has been made that Government regulations are the major cause of Chrysler's problems. Chrysler claims that these regulations—in the areas of safety, pollution control, and gas mileage—have a greater effect on Chrysler than on Ford and General Motors because of larger per-unit costs. Frankly, Chrysler does not explain how Volkswagen, with presumably smaller economies of scale, manages to meet these regulations in its American operations. In addition, we are all aware that a very significant portion of these costs were incurred in meeting gasoline-mileage requirements. If Chrysler had not been forced to meet such standards, the company would have disappeared well before this.

In short, we are confronted by a company that is primarily responsible for getting itself into deep financial trouble. That company now wants the Federal Government to bail it out. But are we to sit here and reward financial mismanagement? In fact, would we not be punishing Chrysler's competitors for their effective management? Our economy was not designed to reward mismanagement—indeed, under ideal circumstances, it punishes mismanagement. I do not think we should set the precedent of rewarding it.

A third question we must face is whether we would be making a relatively safe investment. It is hard to believe it, by any stretch of the imagination. The reality is that Chrysler will continue to face very hard times. We are entering a recession, and the automobile industry is going to be hit hard, particularly with our energy problems. Chrysler's financial survival plan, which is supposed to provide proof of the viability of this loan guarantee, is incredibly optimistic. Why on Earth is there any reason to believe that Chrysler's share of the market will increase by 50 percent over the next 5 years. Indeed, Chrysler makes the further prediction that the market will increase by 10 percent over that period of time. On top of these two shaky statements, Chrysler goes on to claim that its new K-body cars will be much more successful to similar products manufactured by its competitors.

All of these things could indeed occur. But I do not expect them to, and it is clear that the private lending sector, including those institutions which regularly make high-risk loans, has grave doubts about such predictions. It appears to me that Chrysler would soon be knocking at our door once again for additional assistance.

Finally, I think we have to consider the future of the automobile industry. The trend in the industry is taking us away from the old dichotomy of American cars and foreign cars. The so-called world car, one that is fuel efficient but that incorporates traditional styling and accessories, represents the future of this industry. But this is a car that will be sold all over the world, and it will require the resources of large multinational companies to produce and market it in a competitive manner. It is very unfortunate, but Chrysler is not in a position to compete in this manner. Even if we help Chrysler now, the company is not likely to survive this new and increasing industry trend. Government intervention at this time would only help to stall the inevitable.

I do not have to point out to my colleagues what is at stake in this debate. I do not think the Chrysler Corp. per se is what most of us are concerned about today. Our obvious concern has to be for the thousands of employees and Chrysler dealers across the country who could be put out of work and out of business if Chrysler went bankrupt. Of course, many of these jobs will be doomed even if Congress does approve this legislation. After all, the company already has plans that include significant layoffs, and it will have to modernize its facilities if it is to have any chance of survival.

Nevertheless, there will be an impact, and in certain areas of the country it will be serious. Again, though, this is going to happen in other industries. The steel industry is currently in the process of scaling down in order to avoid reaching the stage that Chrysler is now approaching. Others will follow. What is our policy to be? I do not think it can be a haphazard, first-come-first-served policy. In its current form, H.R. 5860 is unacceptable on that basis. Instead, let us take a look at new and innovative ideas for addressing the problems of our industrial sector. Only in this way will we truly address the issues raised by this legislation.

To oppose this bill is not to express an insensitivity to the potential for serious unemployment problems. I am very concerned about the personal hardships that many Chrysler employees may face in the months ahead. But in the long run, thousands of employees of other companies may be laid off for the same reasons, and the task that lies ahead is to determine what our long-term approach will be. That issue, not assistance to one ill-managed company, should be the subject of this debate.●

● Mr. PATTERSON. Mr. Chairman, the House of Representatives today will examine emergency legislation providing loan guarantees to the Chrysler Corp. This legislation involves difficult decisions for the Congress; decisions that must be based upon somehow reconciling the philosophical and economic reasons against Federal bailouts for failing private enterprises and the concerns we share for individual workers who are bound to be adversely affected by the collapse of such enterprises.

I have struggled with the need for legislation such as H.R. 5860, as I know many of my colleagues have. It seems particularly frustrating considering that congressional action of this magnitude must be completed so expeditiously that many of us may think the decision to be, more than anything else, an accommodation based upon the urgency of the situation.

An important tenet of our free-enterprise system is the right of the private sector to make and accept decisions and their attendant risks. The choices of the private sector should permit failure as well as success. But as we know, exceptions to the rule arise from time to time.

As much as I do believe that the workings of the private sector should permit failure as well as success, I have come to the conclusion that this legislation should be approved by the Congress. The justification is in part reflected in the following excerpt from the report of the Banking, Finance and Urban Affairs Committee on H.R. 5860:

A Chrysler Failure—The Impact

Chrysler is the nation's tenth largest corporation. It employs directly about 140,000 persons (some of whom are now on layoff because of the slump in the industry), and its 4,700 dealers employ another 150,000. Chrysler buys more of its parts and components from outside the company than do its two larger competitors (that is, it is less vertically integrated), and its 19,000 suppliers employ an additional approximately 250,000 workers, many of whom depend on Chrysler business. When the families of these workers are added, it is a fair estimate that some two million Americans would be affected by a collapse of the Chrysler Corporation.

Not all of the workers involved, of course, would suffer prolonged unemployment, but many of them probably would. One important reason, brought out in a thorough study of the employment situation by the Department of Transportation's Transportation Systems Center, is that Chrysler workers for the most part are not in the right places, or do not have the right skills, to be employed by the other automobile companies even if General Motors and Ford were to pick up all of the market formerly served by Chrysler.

Another reason to expect a severe and lasting employment effect for a sizeable number of persons relates to the company's dealers and suppliers. In some states it is impossible for a Chrysler dealer to become a Ford or General Motors dealer in the same location because of geographical restrictions on dealer numbers. In the case of suppliers, the impact would not be limited to small companies. As an example, the testimony disclosed that the Essex division of United Technologies Corporation, in the event of a Chrysler failure, would have to lay off at least 2,000 workers in 16 plants in five states and would close altogether four of these facilities. . . .

The impact of a Chrysler collapse on the national economy can be measured in several ways, though none of them can be precise. Estimates by such sources as Data Resources Incorporated, the Treasury and the Transportation Systems Center all conclude that there would be a perceptible increase in the national unemployment rate and an appreciable reduction in the gross national product. Because foreign automakers will take, according to the testimony, at least 25 percent and probably more of the market now filled by Chrysler products, the nation's balance of payments would suffer by at least $3 billion a year, which is a significant amount with the current account deficit now estimated at less than $10 billion for 1979.

Finally, there is the impact on the Federal budget. Several witnesses used a rule of thumb which relates changes in the national unemployment rate to changes in the Federal budget deficit, and concluded that a Chrysler failure would increase the deficit by $10–11 billion. The Treasury's calculations were far more cautious. Secretary Miller testified that identifiable increases in outlays, chiefly for unemployment compensation, and losses of revenues would amount to $2.75 billion in the calendar years 1980 and 1981 combined.

In addition, Chrysler's unfunded pension liabilities amount to about $1.1 billion, which greatly exceeds the reserves of the Pension Benefit Guaranty Corporation. To make good on claims from retired Chrysler workers, the Corporation would either have to increase the premiums on every employer in the nation with a pension plan, or else request a special appropriation from Congress.

I hasten to add, however, that my decision to support Federal loan guarantees to Chrysler in no way indicates that the Chrysler management decisions that have contributed to the corporation's financial fiasco are absolved. Additionally, I submit that the corporation's claims of financial difficulty due to Federal regulation are overstated.

Within the last 24 hours, we have been advised that the distinguished chairman of the Subcommittee on Economic Stabilization, William Moorhead, whose subcommittee has jurisdiction over this legislation, will offer a substitute to the committee bill. Upon my examination of the provisions of that substitute, I find that it strengthens in several respects the emergency loan guarantee authorization.

First, I would note that the financial commitment from the private sector, or the non-Federal contribution to Chrysler, would be increased from the original $1.5 billion to $1.83 billion.

Second, concessions from the unions to Chrysler would almost be doubled, for a total of $400 million.

Third, the substitute replaces the existing administration of the loan guarantee program to Chrysler by the Secretary of the Treasury with a five-person Emergency Loan Guarantee Board. The Board will be compromised of the Secretary of the Treasury, the Chairman of the Federal Reserve Board, the Comptroller General, the Secretary of Transportation and the Secretary of Labor. It would be chaired, however, by the Secretary of the Treasury. This approach is a wise one. Emergency loan guarantees, involving as they do significant decisions affecting the national economy, should be adminstered by a board of national economic policy officials. This was the case, as my colleagues may recall, under the Lockheed loan guarantee program.

Fourth, the Moorhead substitute would further protect the Federal interest by requiring full collateral as security behind the federally guaranteed loans and also by barring any waiver of the No. 1 U.S. position as a creditor except in two limited instances—claims by State and local governments and claims of up to $100,000 by suppliers. Under the committee reported version of H.R. 5860, the Secretary of the Treasury was given the right to waive U.S. priority as a creditor.

Fifth, the Moorhead substitute makes clear that this is, indeed, a one-time Federal bailout by stating that no guarantees can be issued after the end of 1983.

Sixth, the substitute details the amounts that various groups must contribute toward the $1.83 billion of private assistance to Chrysler: $400 million from unionized Chrysler employees; $500 million from U.S. banks; $150 million from foreign banks and other creditors; $300 million from the sale of Chrysler assets; $250 million from State and local governments; $180 million from suppliers and dealers; $50 million from the sale of additional equity.

While these amounts may be revised upon further study by the Board, the employee contribution could not be adjusted. It is clear, however, that all those who have a direct stake in the future of Chrysler would be required to bear some burden as long as the Federal Government issues loan guarantees.

These important revisions to H.R. 5860 take into consideration many of the concerns that Congress and the American public share about special assistance to troubled corporations. Therefore, I intend to support this legislation and urge my colleagues for favorable consideration as well.●

● Mr. BRADEMAS. Mr. Chairman, as the House of Representatives today begins consideration of legislation to provide Federal loan guarantees to Chrysler, I take this time to note that most of the communications I have been receiving from the State of Indiana and from my own congressional district strongly favor such assistance.

For example, last month, the distinguished Governor of Indiana, Otis R. Bowen, M.D.—a Republican, I might add—sent a message to all members of the Indiana delegation strongly favoring such legislation.

In his message of November 28, 1979, Governor Bowen said:

> I would urge your support for the President's loan guarantee program—or some variation that would achieve the same purposes—in order to forestall the collapse of Chrysler Corp.
>
> Chrysler's importance to Indiana has been documented on numerous occasions and I need not restate it. A limited form of government assistance seems to be justified in this situation.
>
> Kindest personal regards,
>
> Otis R. Bowen, M.D.,
> *Governor.*

Two daily newspapers in my congressional district have also, Mr. Chairman, editorially called for passage of the bill.

For example, the Goshen, Ind., News declared:

> Efforts to save Chrysler are a gamble worth taking. We can't afford to do otherwise.

The Goshen News noted that Chrysler employs 14,675 people in Indiana with a direct impact in the State from wages and purchases alone of over $1 billion.

I insert the text of the Goshen News editorial of November 20, 1979, entitled, "Chrysler Help Sensible," at this point in the Record.

Chrysler Help Sensible

> The problem facing the ailing Chrysler Corporation "is not a money problem, it's a people problem." This is how Senator Birch Bayh described it to the Senate Banking Committee during a recent hearing.
>
> The Indiana senator is correct. And many of the people who will be adversely affected by a bankruptcy of Chrysler will be right here in the Goshen area, and in just about every other area of the nation.
>
> Should the goverment bail out Chrysler? The first feeling of most people is "no way." But it's not really that simple, and Congress will debate all aspects of this problem before making a final decision. We think government loan guarantees for Chrysler may be the lesser of two evils.
>
> Two bills currently being considered contain important safeguards for the taxpayer, including requirements that loans be adequately collateralized, a prohibition against payment of dividends, and a preferred position of the government as against other creditors. Before a guarantee is made, there must be reasonable assurance or prospect of repayment. Credit must not otherwise be available.
>
> Bayh has done his homework on what effect a Chrysler collapse would have in Indiana. Chrysler corporation suppliers billing $1 million or more during 1978 including Switches Inc., Goshen, and the Ligonier Rubber Co. Inc. No doubt there are a number of other Goshen area businesses under the $1 million mark in annual dealings with Chrysler.
>
> But the big Indiana losers in a Chrysler collapse would be New Castle and Kokomo. New Castle Forge and Machining has been

making powertrain components for Chrysler autos for over half a century and employs 2,807 people with an annual payroll of $73 million. It provides 11.8 percent of the total employment for all of Henry County. Chrysler plants in Kokomo employ 6,764 people. This is 13.9 percent of the total employment for both Howard and Tipton counties with an annual payroll of $189 million. The second largest Chrysler plant in Indiana is at Indianapolis and there is another big plant at Michigan City.

All told, Chrysler in Indiana employs 14,675 people, pays $410 million in wages, purchases $603 million in supplies for a direct impact by Chrysler on Indiana from wages and purchases alone of over $1 billion. This is not to mention the indirect impact of the jobs which are secondarily dependent on these wages and purchases, probably an additional $2 billion.

As Bayh says, "the issue here is jobs and families, not cold, hard statistics."

The fact remains that Chrysler is in a money bind, partially because of governmental regulations involving the environment and energy. It's true that Chrysler's management misread the market and the energy crunch, but the company has problems competing with GM and Ford in meeting various governmental regulations.

So what happens if the government doesn't help bail out Chrysler? The rest of us help pay for Chrysler workers' public assistance, unemployment benefits, pension fund guarantees and loss of federal revenues. And we'll pay more in local taxes in many of our communities.

Although the principle of a Chrysler bailout isn't what most of us would prefer with our tax dollars, maybe this nation should scale down some of its worldwide credit financing and guarantee some loans for a company that is important to every American, in one way or another. We encourage congressmen to carefully consider the practicality of assistance to Chrysler, even though it may be against their basic governmental principles. The collapse of Chrysler would be felt in many areas of this nation, certainly in Indiana and Michigan, and more specifically right here in Goshen. Efforts to save Chrysler is a gamble worth taking. We can't afford to do otherwise.

I should also here cite, Mr. Chairman, an editorial of November 24, 1979, entitled "Chrysler in Indiana," published in the LaPorte, Ind., Herald-Argus which also points to the great impact of Chrysler on the economy of Indiana.

The editorial follows:

[From LaPorte (Ind.) Herald-Argus,
Nov. 24, 1979]

CHRYSLER IN INDIANA

Perhaps our days are numbered in the unconstrained use of the automobile. Two and three dollar-a-gallon gasoline and mere mention of a $1-a-gallon tax on gasoline is enough to pose an assault on our lifestyle with the automobile.

But it makes us think twice about the shift to more shared-ride transportation as we peruse the statistics bandied about by Indiana U.S. Sen. Birch Bayh as he testified in Washington before the Senate Banking Committee on the economic impact of a Chrysler closing in Indiana.

We're not alone, of course. Michigan, the seat of the automobile manufacturing industry, would suffer devastating results from a bankrupt Chrysler Corp. But next to Michigan, Chrysler's active involvement is greater in Indiana than in any other state in the Union.

The significance of active manufacturing production in any given area is best exemplified by the fact that Chrysler employs nearly 15,000 workers in Indiana, pays $410 million each year in wages in this state, and purchases more than $600 million annually in supplies from Indiana firms, not to overlook more than $8 million in state and local taxes paid in Indiana by Chrysler in 1978.

Forget Chrysler itself for a moment. That company buys from more than 50 other Indiana companies which produce automotive products. New Castle Forge and Machining, as one example, has been producing for Chrysler during all of its 54 years of existence.

A good share of the 2,600 employees in that plant work on Chrysler products. The company employs 12 percent of the total work force in Henry County, and generates a $73-million-a-year payroll, thanks in large part to Chrysler. And the same can be said for several other plants, corporately divorced from the Chrysler Corp., which depend primarily upon Chrysler for their annual output.

This is not to say that these same automotive parts and accessories plants do not produce for other automotive and satellite companies in the vehicular industry, but Chrysler does buy from some 50 Indiana manufacturing plants.

The automotive and transportation industries are sure to change in years to come. Other types of more economical private vehicles and public conveyances must be manufactured, and we hope that Chrysler and other automobile and truck builders will figure prominently in that conversion.

But those Chrysler figures clearly show the dependence we have on the automobile making industry.

Sen. Bayh put it appropriately: "I believe curing the patient is much cheaper than allowing the patient to die."

I note as well, Mr. Chairman, that both the management and employees at the Chrysler plant in Michigan City, Ind., have advised me that their annual payroll of $5 million and the continued employment of 300 persons depend on approval of this legislation.

To make this point more generally, Mr. Chairman, Chrysler purchases an estimated $30 million annually from businesses in the Third Congressional District of Indiana, including $18.6 million from the Bendix Corp. in South Bend.

For all these reasons, Mr. Chairman, it is clear that my own congressional district and my own home State of Indiana have a very important stake in the passage of this legislation.

And for all these reasons, Mr. Chairman—and provided that the bill provides adequate protection for the American taxpayer, as the amendment to be offered by Mr. MOORHEAD of Pennsylvania and Mr. McKINNEY of Connecticut does—I will support this legislation.●

The CHAIRMAN. All time has expired.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. NATCHER) having assumed the chair, Mr. BOLLING, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5860) to authorize loan guarantees to the Chrysler Corp., had come to no resolution thereon.

GENERAL LEAVE

Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on December 12, 1979, the President approved and signed bills of the House of the following titles:

H.R. 3354. An act to authorize appropriations for fiscal year 1980 for conservation, exploration, development, and use of naval petroleum reserves and naval oil shale reserves, and for other purposes; and

H.R. 4259. An act authorizing the President of the United States to present a gold medal to the American Red Cross.

ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL ACT OF 1979

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3282) to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3282, with Mr. BENJAMIN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Monday, December 3, 1979, all time for general debate on the bill had expired.

Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the reported bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Asbestos School Hazard Detection and Control Act of 1979".

FINDINGS AND PURPOSES

SEC. 2 (a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and

by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be dislodged into the air, and (B) asbestos concentrations far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health, Education, and Welfare and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbesos fibers, but there is no systematic program for identifying hazardous conditions in schools or for remedying those conditions;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in non-commercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without an improved program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this Act to identify and mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this Act to—

(1) direct the Secretary of Health, Education, and Welfare to establish a task force to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) require States receiving administrative funds for any applicable program (as defined under section 400(c)(1)(A) of the General Education Provisions Act) to prepare a plan describing the manner in which information relating to programs established under this Act shall be distributed to local educational agencies;

(3) provide scientific, technical and financial assistance to local educational agencies to enable them to conduct an asbestos detection program to identify asbestos hazards in schools;

(4) provide loans to local educational agencies for the mitigation of asbestos hazards which constitute an imminent hazard to the health and safety of school children and employees; and

(5) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

TASK FORCE

SEC. 3. (a)(1) There is established a task force to be known as the Asbestos Hazards School Safety Task Force (hereinafter in this Act referred to as "Task Force"). The Task Force shall be composed of nine members, who shall be appointed by the Secretary within 30 days after the effective date of this Act, as follows:

(A) One representative of the Office of Education, recommended by the Commissioner of Education.

(B) One representative of the National Cancer Institute.

(C) One representative of the Environmental Protection Agency, recommended by the Adminisrtator of such agency.

(D) One representative of the National Institute of Environmental Health Sciences.

(E) One representative of the Occupational Safety and Health Administration, recommended by the Secretary of Labor.

(F) Four representatives from among organizations concerned with education and health.

Members of the Task Force shall be individuals who have knowledge of the medical problems associated with exposure to asbestos, or individuals who are familiar with procedures for the following activities: the containment or removal of asbestos from buildings; the replacement of asbestos materials removed from school buildings with other appropriate building materials; and the restoration of such buildings to conditions comparable to those existing before such containment or removal was carried out.

(2) The Secretary shall designate a chairman of the Task Force from among its members.

(3) Members shall be appointed for the life of the Task Force. Any vacancy in the Task Force shall be filled in the same manner in which the original appointment was made.

(b)(1) The Task Force shall meet, no later than 30 days after the appointment of its members, at the call of the chairman of the Task Force.

(2) Five members of the Task Force shall constitute a quorum for purposes of conducting the business of the Task Force, but a lesser number may hold hearings.

(c)(1) Members of the Task Force who are not full-time officers or employees of the Federal Government shall receive compensation at a rate determined by the Secretary, but not to exceed the daily equivalent of the maximum annual rate of pay in effect for grade GS–16 of the General Schedule, for each day (including traveltime) during which they are engaged in the performance of the duties of the Task Force.

(2) While away from their homes or regular places of business in the performance of the duties of the Task Force, all members of the Task Force shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d)(1) Upon request of the Task Force, the Secretary shall make available to the Task Force personnel of the Department of Health, Education, and Welfare to assist the Task Force in carrying out its duties.

(2) The Task Force may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(e) The duties of the Task Force shall include—

(1) the compilation of medical, scientific, and technical information explaining—

(A) the health and safety hazards associated with asbestos materials; and

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State educational agencies and to local educational agencies for the purpose of assisting such agencies in carrying out activities described in this Act;

(3) the review of applications for grants and loans under sections 5 and 6 of this Act, and the submission to the Secretary of recommendations respecting the approval or disapproval of such applications;

(4) the review of any guidelines established by the Environmental Protection Agency for identifying those schools in which exposure to asbestos fibers constitutes a health problem and for taking appropriate corrective actions at such schools, in order to determine whether any modifications of such guidelines should be recommended to the Secretary under paragraph (5); and

(5) providing the Secretary with assistance in formulating standards and procedures under section 7 of this Act by—

(A) submitting to the Secretary relevant information concerning the results of the review made under paragraph (4) of this subsection; and

(B) recommending such modifications to the guidelines referred to in such paragraph as the Task Force considers appropriate.

In carrying out its duties under this subsection, the Task Force shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

(f) The Task Force shall cease to exist at the end of the 180-day period beginning on the date that the authority of the Secretary to make loans under section 6 has expired.

STATE PLAN

SEC. 4. (a) Not later than six months after the effective date of this Act, the State educational agency of any State which receives administrative funds for any applicable program (as defined under section 400(c)(1)(A) of the General Education Provisions Act) shall submit to the Secretary a plan which—

(1) describes the manner in which the State, not later than nine months after the effective date of this Act, shall distribute to local educational agencies within that State's jurisdiction information describing—

(A) the programs established under this Act;

(B) the health hazards associated with exposure to asbestos fibers; and

(C) the procedures established by the Secretary under section 7 for carrying out activities under programs under this Act, and such other relevant information regarding such activities as the State considers desirable;

(2) contains a general description of the content of the information to be distributed in accordance with paragraph (1) and provides assurances that the State shall continually revise such information and distribute such revised material to local educational agencies to ensure that such agencies have available to them the most recent material available with regard to the matters referred to in paragraph (1);

(3) describes the procedures to be used by the State for maintaining records on—

(A) the presence of asbestos materials in school buildings of local educational agencies;

(B) the asbestos detection, containment, or removal activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials); and

(C) repairs made to restore school buildings to conditions comparable to those existing before the containment or removal activities referred to in subparagraph (B) were undertaken; and

(4) designates a State agency or other administrative unit with the responsibility for submitting to the Secretary the reports

described in subsection (b) of this section and provides assurances that such agency or unit shall carry out the duties specified under subsection (b).

(b) Not later than six months after the submission of the plan described in subsection (a), and each six months thereafter during the three-year period beginning on the effective date of this act, the State agency or unit designated under paragraph (4) of subsection (a) shall submit to the Secretary a report which describes the actions taken by the State in accordance with its plan under such subsection.

ASBESTOS HAZARDS DETECTION PROGRAM

SEC. 5. (a)(1) The Secretary may make grants to local educational agencies for the Federal share of the costs of carrying out an asbestos detection program meeting the standards established by the Secretary under section 7(a)(1) of this act. Grants may be made under this section only during the three-year period beginning on the effective date of this act.

(2) Subject to the second sentence of this paragraph, the Federal share of the costs referred to in paragraph (1) shall be 50 percent. Upon a determination by the Secretary that an applicant has limited fiscal resources and would be unable to participate in the program under this section without receiving from the Federal Government, as its Federal share of such costs, an amount greater than the amount permitted under the first sentence of this paragraph, the Secretary may increase the Federal share which may be paid to such applicant by such amount as the Secretary considers appropriate to permit the applicant to participate in the program.

(b)(1) No grant may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force. The Secretary may not approve an application unless the application—

(A) contains a description of the methods to be used by the local educational agency to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency;

(B) contains an estimate of the total cost of the detection program, including such detailed descriptions of the costs of each component of the program as the Secretary may require;

(C) designates the party which shall conduct the testing for the detection program and describes such party's qualifications for conducting such testing; and

(D) contains assurances that the program shall be carried out in accordance with standards established by the Secretary under section 7(a)(1) and that any party employed to conduct such testing shall satisfy the competency standards established under such section; and

(E) contains such other information or assurances as the Secretary may require.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No grant may be awarded by the Secretary under this section for asbestos hazards detection programs conducted before the effective date of this Act unless the applicant has submitted an application to the Secretary—

(A) containing the information required under paragraph (1); and

(B) providing assurances that any program for which a grant is sought was carried out in a manner which substantially conforms to the requirements established by the Secretary under section 7(a)(1).

No grant may be awarded under this section for any asbestos hazards detection program completed before January 1, 1977.

(4) After reviewing the application submitted under this section, together with any recommendations made by the Task Force, the Secretary shall determine the amount of any grant to be awarded under this section. Funds may be awarded by the Secretary for the administrative costs incurred in the preparation and supervision of the asbestos detection program and for the following activities:

(A) Visual inspections of school buildings.

(B) The sampling of building and insulation materials.

(C) Appropriate tests to determine the level of asbestos content in suspected materials, and tests determined to be essential to detect the likelihood of imminent danger to persons within school buildings.

(c) Local educational agencies receiving grants under this section shall file a report with the Secretary, not later than 120 days after the award of such grant, describing the detection activities which were undertaken, the results of the asbestos detection program, and plans for mitigating any imminent hazards which were detected by the testing. The report shall include a detailed accounting of the funds used to carry out the detection program.

(d) During the period in which grants may be made under this section, not more than 20 percent of the funds appropriated to carry out this section may be made available by the Secretary to the Task Force to conduct education and technical assistance programs related to the detection of asbestos hazards in school buildings and the implementation of appropriate actions to mitigate such hazards.

ASBESTOS HAZARDS CONTROL LOAN PROGRAM

SEC. 6. (a)(1) There is established within the Department of Health, Education, and Welfare an Asbestos Hazards Control Loan Program (hereinafter in this Act referred to as the "Loan Program"), which shall be administered by the Secretary in accordance with this section.

(2) The Secretary may make loans under this section to local educational agencies in an amount equal to 50 percent of the costs of carrying out projects for—

(A) the containment or removal of any materials containing asbestos in school buildings in which such materials pose an imminent hazard to the health and safety of children or employees;

(B) the replacement of the asbestos materials removed from school buildings with other appropriate building materials; and

(C) making repairs which the Secretary determines to be necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under subparagraph (A).

Loans may be made under this section only for projects affecting more than 2,500 square feet of surface and in which the asbestos material to be contained or removed consists of a minimum asbestos level, as determined by the Secretary under section 7(a)(2).

(3) If the Secretary determines that an applicant has limited fiscal resources and would be unable to carry out the projects described in paragraph (2) without receiving a loan under this section for an amount greater than the amount permitted under such paragraph, the Secretary may increase the amount of the loan payable to such applicant to an amount the Secretary considers appropriate to enable the applicant to carry out such projects.

(b) Loans under this section shall be made pursuant to loan agreements which shall provide for the following terms:

(1) The loan shall not bear any interest except as otherwise provided under paragraph (5).

(2) The loan shall have a maturity period of not more than 20 years (as determined by the Secretary) and shall be repayable during such period at such times and in such amounts as the Secretary may specify in the loan agreement.

(3) Repayment of the loan shall be made to the Secretary of the Treasury for deposit in the general fund of the Treasury.

Such loans shall be subject to such other terms and conditions as the Secretary may establish for the protection of the financial interest of the United States and in furtherance of the purposes of this Act.

(c)(1) No loan may be made under this section unless an application has been submitted to and approved by the Secretary, after consultation with the Task Force, within the three-year period beginning on the effective date of this Act. The Secretary may not approve an application unless—

(A) the application contains such information as the Secretary may require, including information describing—

(i) the nature of the asbestos problem for which the loan is sought;

(ii) the asbestos content of the material to be contained or removed by the local educational agency, as determined under preliminary testing which was conducted in accordance with the standards established by the Secretary under section 7(a)(1), or, in the case of testing conducted before the effective date of this Act, was conducted in a manner which substantially conforms to such standards; and

(iii) the methods which will be used to contain or remove the asbestos materials, in accordance with section 7(b) of this Act, and any other pertinent details relating to the project or projects to be conducted by the applicant (as described in subsection (a)(2)); and

(B) the application contains assurances that—

(i) any employee engaged in any activity to carry out programs under this section shall be notified in writing by the local educational agency conducting the program of the hazards of working with asbestos, and shall be required to utilize all appropriate safety procedures to minimize health risks;

(ii) no child or school employee shall be permitted in the vicinity of any asbestos containment or removal activity; and

(iii) the local educational agency shall pay employees engaged in containment, removal, or replacement activities to carry out programs under this section at reasonable rates of pay, as established by the Secretary on the basis of prevailing wage rates in the location of such work.

(2) The Secretary shall provide the Task Force with a copy of any application submitted to the Secretary under paragraph (1).

(3) No loans may be made by the Secretary under this section for projects described in subsection (a)(2) which commenced before the availability of loans under the Loan Program unless the local educational agency submits to the Secretary an application which—

(A) meets the requirements of paragraph (1); and

(B) contains assurances that any work already completed by the applicant has been carried out in substantial conformity with section 7(b).

No loan may be awarded under this section for any project described in subsection (a)(2) which was completed before January 1, 1977.

(d) During each of the four calendar years after the year in which this Act is enacted, the Secretary shall submit before February 1 of such year a report to the appropriate committees of the House of Representatives and the Senate, which shall—

(1) describe the number of loans made in the preceding calendar year and specify each applicant for and recipient of a loan;

(2) describe the nature of the asbestos problem of each applicant;

(3) describe the types of programs for which loans were made;

(4) specify the estimated total costs of such programs to the recipients of loans and specify the amount of loans made under the Loan Program; and

(5) specify the number of loan applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals.

STANDARDS AND SAFETY PROCEDURES

SEC. 7. (a) (1) Within 120 days after the first meeting of the Task Force, and after consultation with the Task Force, the Secretary shall establish and distribute to the State agency or unit designated under section 4(a) (4)—

(A) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducing such tests;

(B) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(C) standards for determining which contractors are qualified to carry out the testing and evaluation described in this paragraph.

(2) After consulting with the Task Force, the Secretary shall establish criteria to be used for determining eligibility for loans under section 6 of this Act. The criteria shall be based on the assessment of the extent of the health hazards posed by the presence of asbestos fibers in schools, as determined in accordance with standards under paragraph (1) (B) of this subsection.

(b) After reviewing recommendations submitted to the Secretary by the Task Force under section 3(e) (5), the Secretary, with the concurrence of the Task Force, shall by regulation establish—

(1) procedures to be used by local educational agencies, in programs for which loans are made under section 6, for—

(A) containing and removing asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) standards for determining which contractors are qualified to carry out the activities referred to in paragraph (1).

(c) In carrying out his duties under this section, the Secretary shall avoid, to the maximum extent practicable, duplicating similar activities undertaken by the Environmental Protection Agency.

RECOVERY OF COSTS BY THE UNITED STATES

SEC. 8. (a) (1) As a condition of the award of any grant under section 5 or loan under section 6, the recipient of any such grant or loan shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from any judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount of any grant made to the recipient under section 5;

(B) the amount outstanding on any loan made to the recipient under section 6; and

(C) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Secretary).

(b) The Attorney General shall conduct an investigation to determine whether, by using all available means, the United States should or could recover, from any person determined by the Attorney General to be liable for such costs, the amounts expended by the United States to carry out this Act. Within one year after the effective date of this Act, the Attorney General shall submit to the Congress a report containing the results of the study, together with any appropriate recommendations.

(c) If the Attorney General determines in the report under subsection (b) that the United States should seek to recover the amounts expended by the United States to carry out this Act, the Atterney General shall proceed in an expeditious manner to recover such amounts from the persons referred to in subsection (b).

EMPLOYEE PROTECTION

SEC. 9. No local educational agency receiving assistance under this Act may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

RETAINED RIGHTS

SEC. 10. Except as otherwise provided in section 8, nothing in this Act shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

DEFINITIONS

SEC. 11. For purposes of this Act—

(1) the term "asbestos" mean—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) The term "Attorney General" means the Attorney General of the United States;

(3) the term "imminent hazard to the health and safety" means, for purposes of section 6, that an asbestos material is, according to standards established by the Secretary, friable or easily damaged, or within easy reach of students or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term "local educational agency" means—

(A) any local educational agency as defined in section 198(a) (10) of the Elementary and Secondary Education Act of 1965; and

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term "nonprofit elementary or secondary school" means—

(A) any elementary or secondary school (as defined in section 198(a) (7) of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual, and

(B) any school of any agency of the United States;

(6) the term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term "Secretary" means the Secretary of Health, Education, and Welfare, or his designee;

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, the Bureau of Indian Affairs, and the Office of Overseas Schools of the Department of Defense; and

(9) the term "State educational agency" has the same meaning given such term by section 198(a) (17) of the Elementary and Secondary Education Act of 1965.

AUTHORIZATION OF APPROPRIATIONS

SEC. 12. (a) (1) There are authorized to be appropriated—

(A) for the asbestos detection program under section 5, for the fiscal year ending September 30, 1980, and for the two succeeding fiscal years, a total of not more than $30,000,000; and

(B) for the asbestos hazards control loan program under section 6, not more than $100,000,000 for the fiscal year ending September 30, 1980, $100,000,000 for the fiscal year ending September 30, 1981, and $100,000,000 for the fiscal year ending September 30, 1982.

(2) Sums appropriated under paragraph (1) of this subsection shall remain available for obligation until September 30, 1983.

(b) Programs under this Act shall be considered automatically eligible for the one-year contingent extension under section 414 of the General Education Provisions Act.

(c) If funds appropriated to carry out this Act are insufficient to pay the total amount required to make all the grants and loans authorized under this Act, the Secretary shall establish criteria to be used in determining which applicants for grants or loans under this Act have the greatest financial need for receiving funds under this Act and shall make determinations regarding the approval of applications for such grants or loans in accordance with such criteria.

(d) Notwithstanding any other provision of this Act, the authority of the Secretary to enter into agreements, or to make payments, under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

EFFECTIVE DATE

SEC. 13. The provisions of this Act shall take effect on the date of the enactment of this Act or on October 1, 1979, whichever date occurs later.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. GOODLING

Mr. GOODLING. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Goodling: Beginning on page 28, strike out line 23 and all that follows through page 55, line 6, and insert in lieu thereof the following new text:

That the General Education Provisions Act is amended by adding after section 426 the following new section:

"ASBESTOS SCHOOL HAZARD DETECTION AND CONTROL

"Sec. 426A. (a) Each State which administers, through a State board or agency, an applicable program to assist elementary or secondary education in such State may distribute to local educational agencies within the State information describing—

"(1) any health hazards proven to be associated with the presence of asbestos fibers in nonworkplace environments such as schools;

"(2) procedures recommended by the Administrator of the Environmental Protection Agency (or by scientific and medical experts of the State if no procedures have been recommended by such Administrator) for conducting testing to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agency; and

"(3) the availability of funds under this section to assist the local educational agencies to carry out the activities described in subsection (c) of this section.

"(b) (1) During each of the first four fiscal years beginning after the date of the enactment of this Act, each State referred to in subsection (a) of this section may reserve for the activities described in subsection (c) of this section not more than 1 percent of the funds available to such State for such fiscal year by appropriations made after the date of enactment of this Act for applicable programs to assist elementary or secondary education (including funds made available to local educational agencies through the State). In carrying out the first sentence of this paragraph in any fiscal year, the State shall not reserve, from funds available to carry out any such applicable program for which funds are specifically made available to the State, more than 5 percent of the funds available for that program.

"(2) The State may make the funds reserved under paragraph (1) of this subsection available (in such amounts as the State determines to be appropriate) to each local educational agency within the State—

"(A) which has conducted asbestos testing, in accordance with the procedures referred to in subsection (a) (2) of this section; and

"(B) which has under its jurisdiction school buildings containing asbestos materials which pose imminent health hazards to persons using such buildings (as determined by the State after reviewing the results of such testing).

The State shall make determinations under subparagraph (B) of this paragraph in accordance with applicable standards established by the Administrator of the Environmental Protection Agency.

"(3) Any State which makes funds reserved under this section available for activities described in subsection (c) shall establish auditing procedures satisfactory to the Commissioner to ensure that asbestos detection activities are carried out in substantial conformity with procedures recommended by the Administrator of the Environmental Protection Agency and that the projects described in subsection (c) (1) (B) are carried out in the manner recommended by scientific or medical experts of the State after consultation with appropriate officers or employees of the Environmental Protection Agency. Each State shall make available to the Commissioner the results of the audits conducted under this paragraph.

"(c) (1) Funds reserved by a State, through a State board or agency, under subsection (b) may be used to—

"(A) reimburse the local educational agencies described in subsection (b) (2) of this section for the costs of any asbestos detection activities undertaken by them in accordance with subsection (a) (2) of this section; and

"(B) assist the local educational agencies to carry out projects to—

"(i) contain or remove asbestos materials from school buildings identified as posing imminent health hazards to persons using such buildings;

"(ii) replace the asbestos materials removed from such buildings with other appropriate building materials; and

"(iii) make repairs considered necessary to restore school buildings to conditions comparable to those existing before containment or removal activities were undertaken under clause (i).

Projects referred to in subparagraph (B) of this subsection shall be carried out in the manner recommended by scientific or medical experts of the State after consultation with appropriate officers or employees of the Environmental Protection Agency.

"(2) Funds reserved under this section may be used to reimburse local educational agencies for the costs of any activities described in paragraph (1) undertaken after December 31, 1976. No such funds shall be made available to reimburse local educational agencies for activities undertaken before the date on which funds may be reserved under this section unless the State involved receives assurances from the local educational agency seeking such reimbursement that—

"(A) any asbestos detection activities conducted by such agency were carried out in substantial conformity with the procedures referred to in subsection (a) (2); and

"(B) any projects described in paragraph (1) (B) were carried out in substantial conformity with the procedures recommended by appropriate State officials under paragraph (1) of this subsection.

"(d) The Secretary of Health, Education, and Welfare, after consultation with the Administrator of the Environmental Protection Agency, the head of the Occupational Safety and Health Administration, and with other appropriate Federal officials, shall provide technical advice and assistance to States to assist them in carrying out the activities described in subsection (a) and (c) (2) of this section.

"(e) Appropriate officials at the Bureau of Indian Affairs of the Department of the Interior and the Office of Overseas Schools of the Department of Defense who are responsible for the administration of elementary and secondary schools under the jurisdiction of such agencies shall carry out a program to—

"(1) conduct asbestos testing, in accordance with procedures recommended by the Administrator of the Environmental Protection Agency, to determine whether hazardous concentrations of asbestos fibers or materials emitting such fibers exist in school buildings under the jurisdiction of such agencies; and

"(2) contain or remove asbestos materials from school buildings identified by such testing as posing imminent health hazards to persons using such buildings, and replace the asbestos materials so removed with other appropriate building materials.

The program under this subsection shall be completed not later than September 30, 1983.

"(f) For purposes of this section—

"(1) the term 'local educational agency' means—

"(A) any local educational agency as defined in section 198(a) (10) of the Elementary and Secondary Education Act of 1965; and

"(B) the governing authority of any elementary or secondary school (as defined in section 198(a) (7) of the Elementary and Secondary Education Act of 1965) owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

"(2) the term 'school buildings' means—

"(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

"(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

"(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

"(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph.".

Amend the title so as to read: "To amend the General Education Provisions Act to permit certain State education funds to be used for projects to detect and remedy asbestos-related health hazards in elementary and secondary schools.".

Mr. GOODLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the Record, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GOODLING. Mr. Chairman, there is no question that every member of the committee is very much interested in the health and safety of children. That is what this legislation is all about.

The question comes then as to how we can best insure the health and safety of children as it relates to an asbestos problem. It is my belief that if we are seriously going to do more than just hoodwink those in the field of education back home, we are going to have to do more than just pass a piece of authorizing legislation.

When I was back in the field, educators used to become very confused because they would read the paper and they would see that the House or the Senate or both passed a piece of legislation and they would get all excited about this piece of legislation; but then they really never understood what happened to that legislation. Those of us, of course, who are here in the Committee of the Whole know—and I guess we have all had this experience—that even on set-asides we may discover next year that they did not do anything about it downtown or that the Committee on Appropriations did not go along with what we recommended.

It was not until I came to the Congress that I realized that there is authorization, there is appropriation, there is deferral, and there is rescission. It is all of these things that confuse the people back home. We pass legislation, and we can go back and say, "Well, in the House we passed it" or "The Senate passed it."

Then we can say, "It was the Appropriations Committee that didn't do anything about it" or "It was the executive branch that decided not to spend the money."

What I am saying is that there is a way for us to look out for the health and safety of children as it relates to asbestos, and this is more than just a fishing license for our committee to go to the pool of appropriations and drop our fishing line and our fishing hook into that pool and come up with nothing more probably than a snail darter, if even that—but then we would have to throw that back because that is illegal to catch.

Our committee bill is fine. There is only one problem with it. It does not assure anybody anything as far as financial help is concerned. The earliest this bill could possibly bring forth any money to any school district, as I see it, would be in October of 1981, probably later than October; it would be more like January or February of 1982 actually because, first of all, let us say that we pass the committee bill as it presently exists. That means we can go to the Committee on Appropriations, but that does not mean they have to act.

First of all, we have to hope that the Senate would pass this bill before May 15. That is very unlikely. With all the important legislation that is before the Senate, I do not believe they would get to this bill before May 15. That would mean that nothing would be available in October of 1980.

However, if my substitute were adopted and we got off this continuing resolution and got into an actual appropriation for 1980, we could have this money ready by October 1, 1980. There is no way—and I am sure I will probably receive arguments on this—realistically, there is positively no way that could happen with the committee bill.

Let us look at the appropriations. My chairman and I, along with the rest of the committee, just went through a battle trying to prevent a 5-cent-per-meal reduction in the national school lunch program because OMB and the executive branch thought this was a good place to cut. The Committee on the Budget, as a matter of fact, went along with that thinking, and it has been a battle trying to save that. So we know that going to the Committee on Appropriations is going to be a real problem.

Second, from time to time we have another problem.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Goodling) has expired.

(By unanimous consent, Mr. Goodling was allowed to proceed for 5 additional minutes.)

□ 1310

Mr. GOODLING. Mr. Chairman, over a period of years the Federal Government has had a tendency of mandating things and then not coming up with any finances to help the people who have been mandated to do something. One of those areas is compliance legislation for barrier removal for the handicapped—section 504 of the Rehabilitation Act of 1973. After a period of years, they finally went along with $25 million. Barrier removal in colleges alone is estimated to cost much more than one-half billion dollars. But in the budget for 1981, OMB has left that blank. No money for barrier removal.

The only point I am trying to make is that if we pass the committee bill, go before the Appropriations Committee, and if we can get the Senate to act in time, then all we are doing is holding out a false promise that "Here is something good for you." But they are never going to realize it because of the pressures of today regarding the need for a balanced budget. We know the committee's action and we know what OMB is saying and we know what the executive branch is saying.

Let me very quickly, then, review what I would like to do with my substitute to make sure there is money available as quickly as possible to do the best job for the health and safety of youngsters. With my substitute, each State may distribute to LEA's information on asbestos health hazards in schools, procedures recommended by EPA for detection, availability of funds to assist LEA's to carry out detection and removal activities.

It could begin, as I explained before, in October 1980, providing we get the Labor-HEW fiscal year 1980 appropriation, rather than a continuing resolution. One percent of the total Federal dollars in certain categories of education would go for this purpose.

If you want to work against this bill, then you have to get into the tear-jerking business, because the first thing you have to say is, "Oh, but you are taking something away from the handicapped." Well, we are talking about 1 percent of $5 billion that we are going to take away from programs. If that does not succeed, then you have to say, "Oh, but look what you are doing to the disadvantaged." Well, I will be the first to admit that we are talking about taking up to 1 percent from those programs. One percent, that is all, if they need 1 percent, to do something about the health and welfare of children.

We always say in education that there is not much use of talking about educating youngsters unless you are sure about their health and safety, their nutrition, or their general well-being. Otherwise, it is just an exercise in futility.

So we are saying, "Yes, you would have to give up 1 percent, 1 percent in order to try to guarantee health and safety for youngsters."

So I would hope that we would carefully consider a substitute that would not just hold out a promise that "We are thinking about you, we are talking about you," but a substitute that would actually send money back to do the job.

Let me do a little comparison. With my substitute, we do not expand the budget. But we do provide up to $50 million each year for 4 years to help rid the schools of the asbestos hazard. On the other hand, the committee bill would initially cost $30 million. Then the loan provision would cost over $300 million.

Second, my substitute affords that policy for relief without a separate appropriation bill. I think that is very important. The committee bill, of course, risks that whole business, as I said before, of going fishing into that appropriation pool.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. Goodling) has expired.

(By unanimous consent, Mr. Goodling was allowed to proceed for 2 additional minutes.)

Mr. GOODLING. Mr. Chairman, this is where I think the hoodwinking comes in. We do not want to promise by legislating something that we cannot deliver. We can deliver this aid without increasing the bureaucracy. Funding decisions would be decentralized. We do not need another bureaucracy. EPA is in this business. EPA has already established regulations in September. EPA has already said they are going to mandate action. They are already involved in this. Let us not duplicate what they are doing. Let us use the money wisely.

Again, I cannot overemphasize the fact that if we approve the substitute amendment and we get off the continuing resolution, we can deliver money, not promises, and we can deliver it by October 1 of 1980.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the substitute.

Mr. Chairman, first let me state that the gentleman from Pennsylvania (Mr. Goodling) was quite factual, but he withheld some of the most pertinent facts insofar as his substitute is concerned and the effect it will have in providing money at an early date.

His substitute does provide that the cost shall not exceed more than 1 percent of the aggregate. What constitutes the aggregate is title I, ESEA, where we are presently spending a little over $3 billion. I think we are all conscious today that title I is very much under-funded. Most of the title I money today is being expended in the elementary schools and very little in the high schools. There is a lot of complaint throughout America about the reading scores in the high schools, and that is because of the inadequacy of title I funds for the disadvantaged.

Then the other programs that are affected are title IV of ESEA, which encompasses the library resources and the innovative programs where we have an expenditure of about $360 million. Then for the handicapped we have $900 million, and for vocational education, about $680 million, enough money to take care of about 20 percent of the demands of the vocational schools throughout America.

Here we have a total of about a little over $5 billion, and the gentleman's amendment provides that the program shall not cost more than 1 percent of the aggregate of $5 billion or not more than 5 percent of any one program. For the handicapped or for title I, ESEA, or for library resources and the innovative programs or vocational education, as much as 5 percent could be taken away from any one of these programs, in his substitute, when they are very much underfunded today.

The gentleman from Pennsylvania (Mr.

Goodling) states that, assuming certain facts, we can get money right away. I think the Members of the Congress realize that it is most likely that we may not get an appropriation bill at all the next fiscal year and we will have to go under a continuing resolution. That is because of the abortion issue.

In addition, all of these programs are advance funded. We would not get any money under the Goodling substitute until, in all probability 1981–82, 2 years in the future. I would hope that we could vote down the Goodling substitute so that the Congress can make an appropriation of $100 million this year to remove the dangerous asbestos fibers existing in many of the classrooms throughout America where the local communities do not have the resources.

□ 1320

It is generally known that the program that we are advocating here is very reasonable, very modest, $100 million a year for 3 years for removal, and $30 million for 3 years for detection purposes for the States.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. Perkins) has expired.

(By unanimous consent, Mr. Perkins was allowed to proceed for 5 additional minutes.)

Mr. PERKINS. So it is much better, it seems to me, to appropriate the money so that the schools can get the immediate benefits from this program, instead of making them wait until school year 1981.

Now, the gentleman from Pennsylvania (Mr. Goodling) was honest in his statement, but I say again it is very unlikely that we will get an appropriation bill this year. It is much better to go the route of the committee bill than it is to take the money away from these other programs that are presently underfunded.

Now he says that it does not amount to much, but I say to this body if we took 5 percent away from vocational education or title I or the library program or the handicapped program, we would be doing considerable damage to any of these programs.

Now, between 1979 and 1980, the increase in appropriations for all of the Federal elementary and secondary education programs was only 4.2 percent. This means that with an inflation rate of 13 percent the schools are being asked to cut back by 8 or 9 percent in their programs.

Then the Goodling substitute comes along and says that a State can cut back another 5 percent in any one program to pay for this asbestos program.

I want to say to the members of the committee that this is an unfair solution, trying to deal with this asbestos problem.

It would be my hope, Mr. Chairman, that the members of the committee would vote against this substitute, because, as I have stated, it will delay any action, and the schools may not receive any funding until the fall of 1981.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I thank the gentleman for yielding.

The latest effective date for distributing funds under my substitute would be October 1, 1981.

The committee bill would not be effective in providing funds in all probability before October 1981. Then the Department needs 6 months to establish the bureaucracy and regulations.

Mr. PERKINS. I would say to the gentleman, we have a supplemental yet to come, and it would be my hope that the Senate would act at an early date so that we could get this bill funded early next year, by February or March, by the time the supplemental goes through.

Mr. GOODLING. Would not the supplemental also have another abortion fight?

Mr. PERKINS. Under the gentleman's substitute, money would be taken from programs that have already been funded. In addition, all of these programs are advance funded, so I say to the gentleman from Pennsylvania, his intentions are good, but his substitute would completely delay the effectiveness of this program.

Mr. GOODLING. Mr. Chairman, being realistic, is there any possible scenario where the committee bill has much chance of getting any funding before fiscal year 1981?

Mr. PERKINS. Well, the gentleman knows that it is difficult to get money today for new programs, but I firmly believe that, considering the seriousness of the program, the health and welfare of the children of the Nation, and the fact that EPA has already proposed regulations which are up for comment at the present time, that the Committee on Appropriations, when we go before them and ask them for an appropriation, will respond forthwith. That is my best judgment.

Mr. GOODLING. Will they do better than they did with providing funds for removing architectural barriers for the handicapped under section 504?

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. Perkins) has expired.

(At the request of Mr. Goodling and by unanimous consent, Mr. Perkins was allowed to proceed for 2 additional minutes.)

Mr. GOODLING. If the gentleman will continue to yield, I thought I heard the gentleman say that States could take, with my substitute, another 5 percent after the 1 percent. I want to make sure it is known that the maximum that could come out of the combined State-administered programs is 1 percent and no more than 5 percent from any one program. The total amount may not exceed 1 percent.

Mr. PERKINS. That is correct, or 5 percent from any one program. I thought I stated that and reiterated that.

Mr. ERLENBORN. Mr. Chairman, I rise in support of the Goodling substitute.

I think the gentleman from Pennsylvania has made some excellent points in support of his substitute: the fact that it would not require any separate authorization, separate appropriation process, the establishment of a new bureaucracy to administer, as would the basic bill before us, H.R. 3282.

A good deal of the discussion in the last few minutes has been about timing and how soon we can get help to local school districts for this problem.

It seems as though the proponents of this legislation take the view that there is some sort of a fast track where the Senate is going to take it up quickly, is going to act in time under the Budget Act so that an appropriation would be authorized for fiscal year 1981 and possibly even get money in a supplemental appropriation for part of fiscal 1980.

They are assuming apparently that the President will sign the bill and they take all of these possibilities in the very best light and say they might get a little money to the school districts a little earlier than would the Goodling substitute, viewed in the very worst light.

I think if we look at these two provisions, the bill as reported by the committee and the Goodling substitute, realistically instead of one in the most favorable and the other in the worst light, the Goodling substitute is far superior.

The Goodling substitute, I think, could be enacted and signed by the President.

The bill before us does not have the support of the administration. I am not saying that the Goodling substitute does either, but the bill before us has been commented on by the Secretary of HEW, Patricia Harris, and she says:

> We believe that basic responsibility for removing hazardous asbestos materials in schools and other public buildings is a State and local one and that the correct Federal role is one of leadership and guidance for State and local governments.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. I want to make sure that everybody understands that the White House does not support either the committee bill or my substitute. In reference to the various education groups, we must realize that they are thinking that they will get both. Whenever you get contacted by an educational agency or some special group that has an interest in this money, I do not blame them for saying, "Do not support my substitute," because they think that they will get everything.

I think the gentleman and I know that we are living in a real world. A new spending program is not going to happen. It just will not happen. The Committee on Appropriations, OMB, and everybody else, the Committee on the Budget, are just not going to permit new programs and additional expenditures.

□ 1330

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield.

Mr. ASHBROOK. I thank my colleague and want to, in addition to commending him for his statement and expressing my support for the substitute, I want to say I think he stated something that is rather unique. I am really glad that HEW, after all of these years, has found something they think is truly a local responsibility. Maybe that augurs well for the future and our new Secretary of HEW.

Again, I thank my colleague for yielding.

Mr. ERLENBORN. I thank the gentleman for his contribution. I think the gentleman is eminently correct. It is quite refreshing to have the Secretary of HEW who is able to recognize the fact that there is a State and local responsibility for some of the problems that face us.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the chairman.

Mr. PERKINS. Let me say to my distinguished colleague that in the letter he is quoting, December 6, 1979, addressed to me, we have a paragraph there that states:

> We oppose the Goodling substitute because it would set a dangerous precedent by diverting funds already authorized and appropriated for other educational purposes. Most States and school districts have completed plans for spending their FY 1980 funds during the current school year. Allowing schools to use funds for new and additional purposes would create disruptions in educational programs and force cutbacks in needed education services. We cannot support the diversion of funds away from children with special educational needs who are the intended beneficiaries of the categorical programs authorized by the Elementary and Secondary Education Act of 1965.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. GOODLING and by unanimous consent, Mr. ERLENBORN was allowed to proceed for 2 additional minutes.)

Mr. ERLENBORN. Let me say that I thank the chairman for his contribution. He has accurately read the portion of the letter.

I would just point out that Mr. GOODLING himself a minute ago tried to make it quite clear that the administration supported neither the pending bill nor the Goodling substitute.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I am happy to yield to the gentleman.

Mr. GOODLING. Mr. Chairman, I merely wanted to point out that if there are any school districts that are planning on spending their 1980 money, and have everything all lined up, they had better make sure that it is a continuing resolution kind of thing that they are doing and that they are not planning on any additional funding. They just better be planning on that continuing resolution. The Secretary of HEW has just missed a few lines there that she should have talked about. There is no question that is the only thing they can be planning for, and that planning has not started, I will assure the gentleman.

Mr. ERLENBORN. I thank the gentleman for his contribution. I think it is an interesting speculation as to whether we will get a basic appropriation bill for fiscal 1980 for HEW-Labor. I think it also is, as far as I know, not settled—maybe I could be corrected by a Member here who knows the answer—but now we have a new, separate Department of Education and they probably will not be in the HEW appropriation bill because there is no HEW any longer. Possibly we might have a separate appropriation bill for education with this new setup, and then it will not get embroiled in this abortion controversy. If that scenario should take effect, then we should have no need for any delay in fiscal 1981 and funds under the Goodling substitute could be made available without further action or any worry about a continuing resolution. As I say, I am not certain that is the way it is going to happen, but I do know there will not be an HEW appropriation for fiscal 1981 because there is no longer any HEW.

I hope the Goodling substitute will be adopted.

Mr. DRINAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979. Our consideration of this legislation today brings to mind the haunting testimony before a Senate subcommittee in 1970 of Dr. Irving Selikoff:

> You may wonder why asbestos workers walk backwards. They don't always. It is only going upstairs. They are so short of breath that after two steps, they have to sit down. It is easier to go up a flight of stairs backwards.

Dr. Selikoff heads the department of environmental health at Mount Sinai, and is the country's leading expert on the health effects of asbestos. He and other researchers have established that inhaling and ingesting asbestos significantly increases the risk of cancer in the lung, esophagus, stomach, colon, and chest cavity. Asbestos also interacts with other carcinogens to escalate the cancer hazard: tobacco smokers exposed to asbestos face up to 100 times the normal risk of lung cancer.

Asbestos tends to break down into a fine dust of tiny fibers that float in the air and are easily transported by clothing. These fibers endanger not only those who work directly with asbestos, but also their families, people who live near asbestos plants, and people who work near its application or removal without actually touching it.

We are only now beginning to fully realize the dreadful effects of workers' exposure to asbestos. We must act to prevent similar debilitation in an entire generation of school children.

Children are more susceptible than adults to certain environmental cancers due to their rapid growth rates. And the long latency period of asbestos-induced cancers—15 to 35 years—means that children exposed to asbestos have a higher chance of developing cancer than adults do.

This bill would grant school districts and private schools funds to detect asbestos hazards, and then long-term, interest-free loans to correct them. The need for this program is clear. In my home state of Massachusetts, for example, over 11 percent of the schools contain sprayed asbestos. The cost of correcting this problem is staggering. Newton North High School, a school in my district that was completed 5 years ago at a cost of $20 million, has severe contamination that might require $6 million to eliminate.

This bill would help not only the school districts and private schools that cannot now afford to correct their asbestos problems, but would also compensate the districts and schools that have taken the leadership on this issue and have acted to reduce the danger of asbestos during the past 3 years.

Mr. Chairman, the National Cancer Institute estimates that 18 percent of future cancer cases will be due to asbestos. We can mitigate this frightening prospect by enacting the Asbestos School Hazard Detection and Control Act. I urge my colleagues' support for this important bill, unamended.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. DRINAN. I am happy to yield.

Mr. GOODLING. I would ask my colleague, would he not agree that this bill will do nothing for students; it is the appropriations to this bill that will help students. That is the only thing I am trying to bring to the attention of my colleagues.

Mr. DRINAN. I appreciate the gentleman's comments in that I, too, want the appropriation bill and that I am inclined to agree with the chairman that the best way is to go forward as the committee bill mandates.

Mr. GOODLING. If I may make one other comment, if the gentleman will yield further, the gentleman talked about those who have gone ahead and done it on their own. My substitute does have a retroactive provision to January of 1977

Mr. DRINAN. As does the committee bill, and I thank the gentleman for his remarks.

Mr. ERDAHL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today we have the option of passing an authorization bill which basically is a hunting license to go out and look for some hard to find Federal funds, or we have the opportunity of passing the Goodling substitute. The Goodling substitute will provide school districts with some needed funds in dealing with, as the gentleman from Massachusetts has just pointed out, a very serious problem in our society. The asbestos threat is real.

Mr. Chairman, I think voting for the Goodling substitute for this bill ought to be one of the easiest votes we make this session.

What are the advantages of the Goodling substitute?

First of all, it would permit the States to use Federal funds to attack the problem of asbestos hazards in schools in the same manner as the committee-reported bill.

Second, unlike the committee-reported bill, it would assure that funds would actually be made available for that purpose.

Third, unlike the committee-reported bill, it would require no new Federal appropriations and, accordingly, would not add to our problems in trying to control the Federal budget.

Fourth, unlike the committee bill, it

would require no Federal bureaucracy, no new Federal bureaucracy, and no additional Federal employees, and require no additional Federal bureaucrats.

We are all aware of the mood in the country, in the administration and in this Congress to hold down Federal spending and to eliminate or pull back on Federal regulations and the bureaucracy.

Finally, its impact upon Federal funds in any State would be so slight and so limited with respect to any particular program, and so completely in the control of the State, that it would not detract from the effort we are making to assist education.

So here we have an ingenious and attractive proposal for attacking a real and particular problem without adding new additional Federal programs, without adding new additional Federal costs, without adding to the bureaucracy and the redtape. At the same time, since the authorization in the committee bill does not insure funding, this substitute would be more certain in accomplishing the intended purpose. About that purpose I do not think there is any disagreement at all.

Accordingly, it is difficult for me to understand how any Member can oppose this.

□ 1340

I congratulate my colleague from Pennsylvania on his responsible efforts to deal with the asbestos problem, and urge adoption of the Goodling substitute.

Mr. HINSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Goodling substitute.

Mr. Chairman, I support the Goodling substitute. I feel that it substantially improves the original bill. There was a section in the original bill which allowed the Secretary to assess the businesses that mined and produced asbestos, or sold products that were manufactured with it. That was removed in committee. I think that removed a major objection to the bill.

The Goodling substitute removes the remaining objections and creates no new bureaucracy. It allows elementary and secondary funds to be used for the purposes of detection.

Most importantly, it is nonduplicative. It dovetails very neatly into EPA asbestos detection programs, and I believe deserves the consideration of the House. It preserves the purpose of the bill and allows us to get at the basis of the problem that we all seek to solve, namely, the identification and removal of asbestos from our childrens' schools. The substitute amendment is a good one, and I think it ought to be adopted.

Mr. MARTIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have also studied this legislation rather carefully, H.R. 3282, and observed that it is more modest in its scope than was originally contemplated; that it would be desirable to enact it if the Federal budget were balanced and we had the money. Nevertheless, it is worth noting that while the committee's findings drift off into areas that little is known about, such as minimum exposure, no-effect levels and the like, the bill itself does not otherwise relate to or depend on these scientific controversies, but reaches only to the more obviously hazardous conditions. For that, I want to commend its authors.

It does not propose to remove every detectable trace of asbestos from any school, but differentiates only against that which is loose, flaky, or friable, and thus more likely to create a serious exposure problem. On this point, could I ask the gentleman from California (Mr. MILLER) the principal author of the legislation, whether it is correct that his legislation seeks to help remove the more serious friable and damaged asbestos situations, and does not seek to remove all asbestos as, for example, in forms where it may be protected from flaking by suitable plastering or paintings?

Mr. MILLER of California. Mr. Chairman, if the gentleman will yield, the gentleman's statement is in fact correct. The legislation only goes to that asbestos which is determined to be an imminent health hazard because of its condition. As the gentleman pointed out, flaking and friable and falling down due to damage from weather or water. But, where it is far from students or cemented over or enclosed in tiles, or partitions, again in that case the bill does not direct itself to that, so it does draw the distinction the gentleman is concerned about.

Mr. MARTIN. I thank the gentleman. That, of course, does not mean that it will result in the elusive goal of zero exposure or zero risk, but rather the legislation will tacitly acknowledge that relatively low exposure to airborne asbestos fibers does not pose a significant risk sufficient to warrant a major and expensive program to eliminate any detectable trace. Is that correct?

Mr. MILLER of California. The legislation certainly acknowledges that there is in fact background atmospheric levels of asbestos which come from other environmental factors such as automobile brake linings, and other factors which this legislation cannot speak to and has no control over, and recognizes that may continue to exist even with the passage of this legislation.

Mr. MARTIN. In other words then, it is not the purpose of this legislation to seek to frighten school boards about the presence of low but barely detectable exposure to 1 or even 4 fibers per liter of air inhaled?

Mr. MILLER of California. The intent is just the opposite, to try to provide the means by which school boards can make rational determinations as to levels of asbestos in a school, rather than to respond to the hysteria of somebody who discovers asbestos is in fact present when it is no health hazard at all. We try to draw that distinction with the detection fund.

Mr. MARTIN. I thank the gentleman. I think that it is important that we make this kind of distinction. I think it also must be borne in mind that we believe that once this exposure is reduced, there would still be some exposure to ambient asbestos, or perhaps to asbestos from some source that is out of the way or plastered over, that is painted over when this would produce an element of risk that is relatively low in comparison to the risk of exposure that would still remain, and certainly be experienced there in the same school from airborne particles from other sources such as fiberglas and other minerals. In fact, we cannot be sure that the moneys invested such as on page 42 of the bill will result in a zero risk either. Nevertheless, it is important to have fireproofing available to the schools as a relative choice between great risk on the one hand and rather remote risk on the other.

There is here a need to help remove the more hazardous asbestos exposure, and to encourage school authorities to undertake the responsibility that is properly theirs to maintain the school premises so as to avoid any undue carcinogenic risk to their pupils.

Another point I want to raise with the gentleman from California is this:

The CHAIRMAN. The time of the gentleman from North Carolina has expired.

(By unanimous consent Mr. MARTIN was allowed to proceed for 3 additional minutes.)

Mr. MARTIN. If I could further raise a question with the gentleman from California to clarify that it is not expected or intended in this legislation that air sampling, X-ray diffraction, and other costly yet highly sensitive techniques would be paid for or required.

Mr. MILLER of California. That would depend upon the detection procedures. We know in some cases the conduct and the content of asbestos in the building materials is readily known through architecture plans or elsewhere, and our common sense would tell us that asbestos in that condition, in that content, should be removed. In other cases, school boards and local agencies may make the determination that they want to go into the more sophisticated efforts at detection. I think we have to leave that to the school boards to make those determinations because those are their children, it is their school, it is their budget.

Mr. MARTIN. The fact that it is not required——

Mr. MILLER of California. It is not required.

Mr. MARTIN (continuing). Or recommended under this legislation——

Mr. MILLER of California. No, that is for local determination.

Mr. MARTIN. I would say to the gentleman that I have reviewed a document prepared by the Environmental Protection Agency regarding asbestos in school buildings, a guidance document, which the gentleman and his staff or the committee may be very familiar with. It sets out the preparations the EPA would recommend. It does not include a requirement of air sampling. In fact, it raises questions as to whether that really tells us anything if the air sample is conducted when school is not in session or is conducted in such a way as to invite damage to asbestos as a way of spitting the school administration. What they set forth is a series of steps to conduct an asbestos control program which would include inspecting for friable material; which would include sampling that friable material to determine what in fact is in it. It would include analysis of these bulk samples, and then would lead to an exposure assessment upon which would be based the corrective action. This assessment would take into account the percentage of asbestos in the sample, friability, its condition, whether it was water-damaged, whether it was accessible to students to damage. I would ask the gentleman whether, in his mind, this is what would be contemplated, this kind of approach.

□ 1350

Mr. MILLER of California. Mr. Chairman, both the legislation which I have offered and the Goodling substitute speak to and anticipate the incorporation of this kind of plan for the methodical proceeding forward of the detection of asbestos, and that is the kind of plan we hope would be incorporated. The problem with that plan in and of itself is, one, school districts are not doing it, so now we are considering promulgating EPA as mandatory, or else that they follow that plan. The concern is that the schools say in most of the comments that come back that, even if we did it, we do not have the money to do it.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MARTIN was allowed to proceed for 2 additional minutes.)

Mr. MARTIN. I yield further to the gentleman from California.

Mr. MILLER of Califronia. That is the kind of procedure that is anticipated by both pieces of legislation.

Mr. MARTIN. Finally, there is one phrase in the legislation that concerns me because it is not entirely clear what is meant. That is the use of phrases like "imminent danger" and "imminent hazard." What does the adjective there mean? Does imminent mean that it is ready to take place or impending as used in the law dealing with acute toxicity? Does it mean that there is an imminent health condition? I do not think that is what is intended. I think it may refer to imminent exposure. While it is known that the health results of that would delayed, it is not well understood.

On page 51, lines 16 through 23, the bill defines "imminent hazard" to mean conditions of asbestos that are friable or easily damaged, which we have already addressed, which could result in the dispersal of asbestos fibers into the school environment. I guess my basic point here is to ask the gentleman again, what is meant here to describe conditions that would result in a recognizably serious health risk at higher probable dose levels than the lowest levels that are capable of detection?

Mr. MILLER of California. The gentleman's last sentence is, in fact, correct that there are certain conditions of repair and exposure that will in fact, due to the length of time of the stay and proximity of the students, impose greater hazard onto the students than other conditions. This is a distinguishing factor, and it will be determined by a panel made up of people in the industry, by people in the scientific community and in education, to detemine exactly what that is. If in fact that does not exist, you will not be able to get a loan from the Federal Government for the purposes of that removal.

Mr. MARTIN. Again I want to thank the gentleman and the House for their patience. The questions that have been raised here have been subject to considerable controversy, and I think clarification will be very helpful for the implementation of the act.

Mr. KRAMER. Mr. Chairman, I move to strike the last word. Mr. Chairman, I rise in support of the Goodling substitute amendment. I do not think any of us argue with the intention of the sponsors of this bill. No one wants to see schoolchildren and teachers exposed to health hazards, but the bill establishes authority in one agency, HEW, for the inspection, detection, and the mitigation of asbestos hazards, even though another agency, as other speakers have pointed out, the EPA, has already underway an inspection and detection program and is providing technical assistance on mitigation procedures. In spite of the nominal mention in the legislation of interagency cooperation, I think that the argument is a sound one that this is clear duplication, overlap, and really regulatory overkill. It is going to result in confusion, I think, rather than clarification.

The bill authorizes the Secretary of HEW to set standards for safety and quality control. There are clearly technical issues involved here which I think more appropriately lie with agencies such as the Environmental Protection Agency, which traditionally conducts tests of this kind for environmental hazards as part of its activities. I think we are really getting the HEW bureaucracy into an area that, despite their widespread umbrella, is one that even for them is new and requires technical expertise that is simply not available to them.

What is the Environmental Protection Agency already doing? They began a voluntary inspection and detection program in March of this year. They have provided substantial guidelines, documentation, and technical assistance to school districts. There are a number of documents that other people have alluded to. There are three of them right here. Part 1 and part 2 of their guidelines describe in some detail how to treat asbestos conditions in schools, and there is also a booklet with school asbestos program questions and answer. So, EPA is already well into this thing, and now to put HEW in it from the beginning is simply going to mean the reinvention of the wheel.

I would hope that with the new initiative that EPA is undertaking in that they have given notice now of proposed rulemaking to make mandatory school inspections for asbestos hazards, it seems to me that we are going to insure that we have inspection and detection in our schools.

This notice states that—

> EPA is continuing a health effects review of asbestos. The extent of exposure to asbestos in schools will be estimated using results of the reports now being submitted to EPA. The Agency will combine this exposure and health information to estimate the human health risk due to exposure to asbestos in schools.

EPA has already identified many of the important issues associated with this problem and in this notice has solicited comments on such questions as the most effective manner of making an exposure assessment, the method for identifying asbestos and quantifying its presence, and the potential risks to workers and the environment during the removal, transportation, and disposal processes.

The bill's provisions requiring HEW to duplicate these technical efforts will only confuse and delay the process which EPA has already had underway for nearly a year.

In order to avoid having two agencies doing half a job, let us at least stick with the one that has already started it.

In that regard, Mr. Chairman, I think that we can, indeed, scrutinize the problem. We can provide assistance for the problem and at the same time keep the American public from having to have a new layer of Government imposed upon them, something I think that certainly is unnecessary at this particular point in time. I hope that the members of the committee will support the Goodling substitute.

Mr. RICHMOND. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Goodling substitute.

Mr. Chairman, the substitute would allow States and localities the option of using up to 1 percent of their Federal elementary and secondary education funds for identifying and removing asbestos hazards. The substitute does not provide any additional funds to detect or remove asbestos hazards. It merely gives State and local public officials and school administrators a most difficult choice: They can continued full funding for the essential title I educational programs for disadvantaged children or they can divert funds to protecting the health of students, teachers, and school personnel—but not both.

As we all know, school budgets are already tight enough, without further burdening them with the full costs of identifying and removing asbestos hazards. These costs are substantial. In testimony earlier this year, the excutive director of the division of school buildings of the New York City Board of Education, Anthony Smith, estimated that the cost of removing or controlling asbestos hazards in New York City schools would be between $35 and $48 million.

Title I funding benefits the poor and the handicapped, and the diversion of these funds—even for such a crucially important program as the reduction of asbestos hazards—would undermine the title I program. In addition, by allowing school districts to decide whether or not to engage in their own asbestos inspection and control programs, the substitute guts the committee bill which provides effective coordination and control provisions.

Mr. Chairman, the risks of asbestos exposure in our schools must be eliminated and I believe the committee bill provides a sensible, effective method for doing so. I urge my colleagues to defeat the substitute.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute amendment.

Mr. Chairman, we have a choice between the committee bill, which is the careful product of months of hearings, and the Goodling substitute. The real question is whether or not this body wants to do something about the removal of a very potentially hazardous material, asbestos, from the schools of this Nation where it poses an imminent health hazard to students and school personnel. It has been suggested that all you have to do is vote for the Goodling substitute for money to readily flow, without any delay, to local school districts. If such unused money were available in the school budget of local districts between their local revenues and Federal revenues, I would suggest to you that school districts would start the program of removal of this hazardous material. But their budgets are so tight that many districts have not been able to initiate detection programs even where they have been placed on the alert as to the potential hazard. The Goodling substitute is purely pretense. Its proponents would have us vote for this legislation and then tell everybody we are terribly concerned about the problem. That just will not wash because the money will not flow under the Goodling approach. There will not be any money to meet the serious asbestos problem.

Somehow, all of a sudden this afternoon, the appropriations procedure has become repugnant to some Members of this House. Nearly every piece of authorizing legislation that we pass goes through the Committee on Appropriations. We do not allow the Army to spend money without going through Appropriations. We do not allow school districts to spend it without the Committee on Appropriations having the final say. That is part of the checks and balances of this House. But now, some of the very same people who oppose entitlements because they circumvent the Appropriations Committee want to make an end run around that committee in order to look like they are terribly concerned about the problem. But they do not want to put their money where their mouths are. This problem requires money to solve. It costs a great deal of money to detect and to remove and to replace and repair the asbestos.

□ 1400

Let us look closely at the committee bill, because it is fiscally very restrained. In this age of tight budgets, in this age of concern over Federal expenditures, we have told these school districts that we will make a loan to them, a loan which they must match 50-50, if they can show that it is an imminent asbestos hazard. They must repay 100 percent of that money to the Federal Government.

Mr. Chairman, I think that is a reasonable approach. I think it is very clear that if you want to take care of the problem, you must go with the committee bill. To do otherwise is to confuse local agencies. You must understand there is no rhyme or reason how the so-called money under the Goodling substitute could ever get to those schools or those school districts which are in need.

Mr. Chairman, I have a potential in a number of schools which I represent which may have an asbestos problem and other Members undoubtedly have the same problem. They get no title I money. They get very little vocational money. The libraries are already being closed down.

Now, what does that have to do with their asbestos money? Other districts may get a great amount of title I but have no asbestos problem. The Goodling approach would just not direct the money to the problem. As a matter of fact, nothing would be available under the Goodling substitute because no school district is going to cut down their already stark education programs by diverting funds to asbestos control. And the Congress ought not ask them to make that choice.

Mr. Chairman, the committee spent months taking medical evidence, holding evidentiary hearings with the agencies like EPA, HEW, and the National Institute for Environmental Health Sciences which are involved in this program, and from others concerned with the health risks. It is true that other programs have been started. EPA has started a voluntary program for which, Mr. Chairman, very few people volunteered. Now, EPA is contemplating a mandated inspection program.

Most of the people who have written back on those proposed EPA regulations have said that they could not do it because the money simply is not available to correct whatever hazards they discover.

I want to point out that there is no mandate in the program established in H.R. 3282. If the school district wants to ignore the problem, we do not intervene. The gentleman from Pennsylvania (Mr. GOODLING) has suggested here we are mandating this program, but that is simply not the case.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. It is strictly voluntary. You can either get in the program or you cannot. You either determine that you have the problem or you do not. We are not going to force this loan on any school district.

Mr. Chairman, it is also suggested that the bureaucracy in the committee bill is much greater than the bureaucracy in the Goodling substitute. In fact, that is not so. The Goodling bill actually goes beyond the committee bill concerning paperwork and bureaucracy because the local districts on a project by project basis must consult with the medical experts of the State, after consultation with the appropriate officers and employees of the Environmental Protection Agency. We have a simplified application procedure utilizing established Federal granting processes.

Mr. Chairman, we do have an interagency task force. Why do we have an interagency task force? Because the problem is an interagency problem. We thought we would put the people together who know about the problem and see if we could come up with a rational, reasonable solution with the least expenditure of dollars possible.

During the Second World War, millions of people worked to help this country in the shipyards, in the defense industries. Millions of them worked around asbestos. Now we find out that we, in fact, set a time bomb, that 30 years later, due to the latency period, we find that many of these people have complications of the lungs, the respiratory system and, in many cases, cancer.

Now, do we want to set the time bomb ticking for this generation of schoolchildren?

Let me tell you something, Mr. Chairman, it will not happen after they worked in the shipyard for 30 or 40 years, and now they are 70 and they find out they have a cancer or a lung ailment.

Mr. Chairman, these are young children, aged 4, 5, 6, 7 years old, high school students. When they are 40 years old, in the prime of their life, because of the time they spent in these schools under these conditions, they may, in fact, now be stricken with cancer or other respiratory ailments. We have a chance to direct Federal money as tightly as possible to those schools which have a very severe problem, not to spread it willy-nilly across the country as would do the Goodling substitute.

In fact, under the Goodling substitute I think you could provide remodeling money. How do you keep track, once they can divert 1 or 5 percent? How does the school make a determination to divert education funds when they have children waiting in line to get into classes for the disadvantaged and the handicapped? When they are shutting down libraries? That is what you are talking about under the substitute as a diversion of existing money. We are talking about money which has already been appropriated. Now we are going to tell the Committee on Appropriations, "We do not really mean to spend the money that way, we have come up with a new plan."

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. PERKINS, and by unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. MILLER of California. I will be delighted to yield to my chairman.

Mr. PERKINS. Mr. Chairman, I want to thank the gentleman for yielding. I think we should make it perfectly clear to the members of the committee that if we do not have an HEW appropriations bill this year that the Goodling substitute will not go into effect until 2 years from this past September, until the commencement of the school year, 1981. I think the gentleman from Pennsylvania will agree to that. Assuming we do not have an HEW appropriations bill this year. There is a good likelihood, in my judgment, that we will not have an appropriations bill this year because of the abortion issue, that we will go on a continuing resolution.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I would be delighted to yield.

Mr. GOODLING. I would just like to respond. I said that over and over again that there is that possibility. That is also true of the committee bill. The only possible way is 1981 but that means then about 6 months later because then you have to get the bureaucracy and everything involved in setting up this proposal and then the regulations. You know, we are both saying the same thing.

Mr. MILLER of California. I think that under the committee bill the appropriation could be made available in a supplemental. The abortion language, as I understand it, has never been attached to a supplemental in this House.

Mr. GOODLING. Mr. Chairman, would the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. The supplemental would have to be approved after the Senate acted. The Senate is talking about higher education, they are talking about arts and humanities. All those things they are going to try to do before May 15. Therefore, if they do not get it finished before May 15 that is all down the drain also.

Mr. Chairman, everyone wants to do the same thing. We want to help children. I think it is just a matter of how can we get the dollars the quickest.

Mr. MILLER of California. I would certainly respond by returning to my initial premise, that under the substitute the dollars will not be there. School districts cannot reduce essential education programs. Moreover, many school districts may have a serious problem that far exceeds any moneys that they would receive under these Federal programs. It is a question of usurping the funds of existing programs. It is a terrible precedent, and it will not remove one particle of asbestos from a classroom anywhere in America. I urge defeat of the substitute.

Mr. DEVINE. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Pennsylvania (Mr. Goodling).

Mr. GOODLING. Mr. Chairman, first of all, let me respond to several things that have been said. The gentleman from New York said that the Goodling substitute guts the bill. There could be nothing further from the truth. The substitute only deals with the source of the funds, not the objective of the bill. The objective of both the committee bill and my substitute is the same. It only deals with the source of the funds.

As I mentioned, the supplemental appropriation process we are talking about is predicated on the assumption that the Senate would pass the legislation before May 15, which I do not forsee. They have indicated in private conversation it would be difficult to get to it.

Second, my colleague on one point said we are not mandating anything in the bill. At another point the gentleman said EPA is mandating a program. We may as well talk about mandating because that is the direction in which we are definitely going, not through the legislation but through EPA's mandate. I am trying to get funds there more quickly without the redtape, without all of the additional people involved. I am suggesting that we use the EPA system and that we avoid duplicating the efforts of EPA which is presently involved in this whole thing.

□ 1410

Mr. Chairman, let me just conclude by saying, as I said once before, passing this legislation will do nothing, and I repeat, will do nothing to improve the health and safety of children. Appropriations is the name of the game.

I just feel we have a much better chance with the substitute of reaching our objective.

One other point I have to make. My colleague said that, well, his district does not get Federal education money. It has nothing to do with which district gets Federal education money. It is 1 percent of the Federal education dollars that goes to the State. The State appropriates it where it is needed. It has nothing to do with which schools receive the money or which district does not. The substitute allows the States to put the money where it is needed. That is what my substitute says.

So I hope that we really consider the fact that we do not want to hoodwink people by giving them the impression that we have passed meaningful legislation, when in reality all that we have done is to give a hunting license for appropriations.

Appropriations is the name of the game.

Mr. HEFTEL. Mr. Chairman, I move to strike the requisite number of words.

I yield to my former chairman, the gentleman from Kentucky (Mr. Perkins).

Mr. PERKINS. Mr. Chairman, I thank the gentleman for yielding.

Let me respond to the gentleman from Pennsylvania (Mr. Goodling) by stating that the gentleman's substitute in all likelihood will not be effective until October 1981. The committee bill could provide funds next summer, in the fall of 1980, and that is what we expect. I feel that we will have an appropriation.

I do not think that the members of the committee should forget that we are taking funds here from the ongoing programs, taking funds from the handicapped, the disadvantaged, from the library resources.

I am fearful that with the underfunding of most of these programs at the present time, that in certain schools that do not have the resources we can disrupt the whole title I program.

Mr. HEFTEL. Mr. Chairman, I yield to the gentleman from Michigan (Mr. Ford).

Mr. FORD of Michigan. Mr. Chairman, I think one thing that has to be observed about the proposal of the gentleman from Pennsylvania (Mr. Goodling) that is disturbing to many of us is that the choice to be exercised here by the gentleman's amendment is not a choice by local school officials based on their own intimate knowledge of their needs and priorities in their school district. It is a choice made by somebody in the State capitol with respect to whether or not any of the funds going into the State can be used for these purposes. To suggest that this is leaving a choice to the people is a cruel hoax, because it is leaving the choice to the State capitol. In my State, we do not like the choices on what to do with our money in individual districts made at the State capitol. Our local school boards make those decisions for us.

For that reason, as well as the others stated, we would have to oppose the effect of the Goodling amendment, because it transfers for the first time control to the State capitols over the use of these funds which now go directly to local school districts. I think it is a very bad precedent for us to set, no matter how worthy the objectives sought, to take away or dismantle a system that has gone to distributing money to local school districts and replace it with State agency discretion instead of local discretion.

Mr. Chairman, I thank the gentleman for yielding.

Mr. GOODLING. Mr. Chairman, will the gentleman yield?

Mr. HEFTEL. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding.

There were two statements that were made, not quite correctly, and I wanted to be sure to correct them. All these programs we are talking about are administered by the State, where this 1 percent would come from. They are not administered by anybody else. They are administered by the State.

The second comment I would make is that I am sure that the State would be in a better position than Washington, D.C., to make these decisions.

Mr. PERKINS. Mr. Chairman, if the gentleman will yield further, on the formula it goes to the local level; I am sure the gentleman from Pennsylvania will agree to that readily. On the formula, it goes to the local level.

Mr. GOODLING. It goes through the State.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield to me?

Mr. HEFTEL. I would be delighted to yield.

Mr. FORD of Michigan. Mr. Chairman, the gentleman has been on the committee working with these formulas long enough to know that the State does not administer these programs. It is a conduit, pure and simple, that acts even with less discretion on the money than a bank.

The State exercises no discretion on how the funds are used or which school district gets the funds, because the formula down at the county level determines where the money will ultimately end up after it gets into the State. No State agency can redirect title I funds after they get into that State.

The CHAIRMAN. The time of the gentleman from Hawaii (Mr. HEFTEL) has expired.

(By unanimous consent, Mr. HEFTEL was allowed to proceed for 2 additional minutes.)

Mr. HEFTEL. Mr. Chairman, the committee should be applauded for having isolated the problem of asbestos poisoning in our schoolrooms. We would not now want to compromise that approach by confusing it with any other educational programs.

It is a loan program for the States which will have to be repaid. Thus, the States can target on the specific problems of asbestos poisoning in the schoolrooms.

In Hawaii we have now found that 40 percent of our schools have contamination at levels of 2 to 50 percent.

We want a loan program in which we do not have to compete with other educational programs.

The Federal Government loan program is the perfect solution to the problem of how to best assist the States.

I hope that the amendment will be defeated and that the bill would pass.

Mr. COLEMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Goodling amendment.

Mr. Chairman, the legislation presently before the House addresses an important and pressing problem that affects every State in the Nation: asbestos in our schools. Every day hundreds of thousands, perhaps millions, of school-age children are being exposed to particles of asbestos dust. These particles of dust, so fine that their detection takes the use of sophisticated equipment, have been proven to lead to the development of cancer.

There is no dispute that legislation to remove this hazard is badly needed. This body is going to produce a bill to address this problem. Where there are differences between us is as to how we should go about accomplishing the detection and removal of the asbestos material in the schools. Because I believe the Goodling substitute offers the most effective and least expensive means of accomplishing this, I urge its adoption as a substitute to H.R. 3282.

The Goodling substitute will place the asbestos removal effort on the fast track. There will be no need to wait until the bureaucracy to administer the program is in place. Under the substitute, there will be no bureaucracy. Not a single Federal employee would have to be hired. There will be no need to wait for regulations to be issued to govern the operation of the program. No regulations will be needed for the effort to get started. The control of the program will be in the hands of the State authorities, not Washington bureaucrats. There will also be no need to wait for the appropriation of funds. The substitute calls for no new Federal appropriation, not one dime. Existing education funds—in amounts so small as not to disturb existing federally supported education programs—will simply be shifted to fund the effort.

I have to commend my colleague from Pennsylvania in the strongest terms—he has come up with an effective, sure-fire way to address a major problem without furthering the problem of deficit Federal spending. I urge my colleagues to join me in supporting the substitute to the bill.

Mr. COLEMAN. Mr. Chairman, I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Chairman, first of all, let me say that it is really not a loan program. There is no way we can say it is a loan program. It is interest free and does not have to be repaid for 20 years. Therefore, it is a grant program. It is not a loan program, because it is the taxpayers who are, in fact, paying to borrow that money which is to be used over the 20-year period on an interest-free basis.

Second, when you say that the State is a conduit through which this money passes, it is really interesting to me. As a superintendent, it was the State of Pennsylvania who determined whether my ESEA programs could get off the ground or whether they could not get off the ground, whether in fact they would be approved or whether they were not approved. We never had a visit from anybody from Washington, D.C.

Just let me again reiterate that even in the worst case, neither of us could provide money before October 1981. There is no question in my mind that the committee bill could not deliver any money before that time. There is a possibility that my proposal could.

Even if the committee bill becomes effective on October 1, 1981, HEW must then set up the bureaucracy. They must then set up the regulations and that could be even 6 more months down the line before all that was done and this assumes that the Appropriations Committee has acted favorably and that the appropriations process is not tied up in the abortion dispute.

So I would hope that we would give careful consideration to the substitute so that we can actually help children, not just pass legislation.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Pennsylvania (Mr. GOODLING).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. PERKINS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The Chair will announce that this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 727]

Abdnor
Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashbrook
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Cheney
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cotter
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Danielson
Dannemeyer
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Ford, Mich.
Forsythe
Fountain
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Green
Grisham
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Hyde
Ichord
Ireland
Jacobs
Jeffries
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kastenmeier
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Latta
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
Lungren
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson

Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rosenthal
Roth
Rousselot
Roybal
Royer
Rudd
Runnels
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stewart
Stockman
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Trible
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Zablocki
Zeferetti

☐ 1430

The CHAIRMAN. Three hundred and eighty-one Members have answered to their names, a quorum is present, and the committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Kentucky (Mr. PERKINS) for a recorded vote.

Does the gentleman from Kentucky insist on his demand?

Mr. PERKINS. Yes, Mr. Chairman.

A recorded vote was ordered.

The CHAIRMAN. Five minutes will be allowed for the vote.

The vote was taken by electronic device, and there were—ayes 133, noes 262, not voting 38, as follows:

[Roll No. 728]

AYES—133

Abdnor
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bethune
Bouquard
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Butler
Byron
Cheney
Cleveland
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Deckard
Derwinski
Devine
Dickinson
Duncan, Tenn.
Emery
Erdahl
Erlenborn
Evans, Del.
Fenwick
Findley
Fountain
Fowler
Frenzel
Gingrich
Glickman
Goodling
Gradison
Grassley
Grisham
Guyer
Hammerschmidt
Hansen
Harsha
Hillis
Hinson
Holt
Hyde
Ichord
Jacobs
Jeffries
Johnson, Colo.
Jones, Tenn.
Kelly
Kindness
Kramer
LaFalce
Lagomarsino
Latta
Lee
Lent
Livingston
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDade
McDonald
Marriott
Martin
Miller, Ohio
Mitchell, N.Y.
Montgomery
Moore
Moorhead, Calif.
Myers, Ind.
O'Brien
Pashayan
Petri
Quayle
Quillen
Railsback
Rhodes
Ritter
Robinson
Roth
Rousselot
Rudd
Runnels
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Skelton
Snowe
Snyder
Solomon
Stangeland
Stanton
Stenholm
Stockman
Stratton
Stump
Tauke
Taylor
Trible
Ullman
Vander Jagt
Volkmer
Walgren
Walker
Wampler
Whitehurst
Whittaker
Wilson, Bob
Winn
Wydler
Wylie
Young, Alaska
Young, Fla.

NOES—262

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bowen
Brademas
Breaux
Brodhead
Brown, Calif.
Buchanan
Burlison
Burton, Phillip
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Derrick
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Okla.
English
Ertel
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Ginn
Goldwater
Gonzalez
Gore
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Harris
Hawkins
Heckler
Hefner
Heftel
Hightower
Holland
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hutto
Ireland
Jenrette
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Levitas
Lewis
Lloyd
Long, La.
Lowry
Luken
McCormack
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Rahall
Rangel
Ratchford
Regula
Reuss
Richmond
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Roybal
Royer
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Slack
Smith, Iowa
Smith, Nebr.
Spellman
St Germain
Stack
Staggers
Steed
Stewart
Stokes
Studds
Swift
Synar
Thomas
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Watkins
Weaver
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Tex.
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Zablocki
Zeferetti

NOT VOTING—38

Alexander
Anderson, Ill.
Andrews, N. Dak.
Badham
Bonker
Burton, John
Campbell
Coelho
Crane, Philip
Dellums
Dingell
Edwards, Calif.
Flood
Hagedorn
Hanley
Jeffords
Jenkins
Lundine
McCloskey
McEwen
McKay
Michel
Murphy, Ill.
Murphy, N.Y.
Nichols
Paul
Rose
Rostenkowski
Russo
Solarz
Spence
Stark
Symms
Treen
Waxman
Weiss
Wilson, C. H.
Young, Mo.

☐ 1440

The Clerk announced the following pairs:

On this vote:

Mr. Nichols for, with Mr. Hanley against.

Mr. Philip M. Crane for, with Mr. Young of Missouri against.

Mr. Hagedorn for, with Mr. Russo against.

Mr. Michel for, with Mr. Rostenkowski against.

Mr. Paul for, with Mr. Murphy of New York against.

Mr. Symms for, with Mr. John L. Burton against.

Mrs. SMITH of Nebraska changed her vote from "aye" to "no."

Mr. GLICKMAN changed his vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. PERKINS. Mr. Chairman, I move to strike the last word, and I yield to the gentleman from New Jersey (Mr. MAGUIRE).

Mr. MAGUIRE. I thank the gentleman for yielding.

I want to congratulate the gentleman, and I support the bill.

Mr. Chairman, I rise in support of H.R. 3282.

From my work on the cancer issue as a member of the Health and Environment and Oversight and Investigations Subcommittees of the Commerce Committee, I am convinced that deteriorating ceilings in thousands of our Nation's schools pose a serious, long-term health threat to our Nation's vast, exposed school population. I believe this legislation is necessary to reduce the danger that thousands of today's students will face 20 to 30 years from now.

We know a good deal about the serious hazards posed by asbestos. Through the work of Dr. Irving Selikoff of Mount Sinai Hospital in New York, we know that even small amounts of asbestos fibers brought home on the clothing of asbestos workers can lead to cancer in their wives and children many years later.

We know that the majority of scientists believe that there is no known safe threshold for exposure to any carcinogen and that unnecessary exposures to these substances ought to be eliminated.

We will therefore be doing our children and their teachers, who may be exposed to asbestos for a good part of the day, 5 days a week, for 9 months of a year, a grave disservice if we do not pass this bill.

Without Federal support for the effort to locate schools with asbestos problems, and a coordinated program with uniform standards for testing and removal or control, it is likely that school districts will cut existing programs to do the job. Because cancer does not kill until 10 to 40 years after exposure, it is too easy to pretend that exposures are not a problem. Certainly, if we were talking about an epidemic of botulism in our schools, we would not hesitate to act. But the particular nature of cancer should not lead us to put our heads in the sand and pretend that there is no connection between our failure to act and deaths that we will not see immediately. Our action, or our inaction, will still be critical to whether thousands of American schoolchildren live long and healthy lives or contact the agony of cancer.

It is incumbent upon us, if we are to be responsible public officials, to provide the small amount of money that will protect our schoolchildren, our Nation's future. This is properly a Federal responsibility.

The school population is particularly vulnerable to exposures from cancer-causing agents such as asbestos. The cancers that may be caused by exposures early in life will appear at a much earlier age than the exposures of those in Navy shipyards who worked with asbestos during World War II who are now in their fifties and sixties. And if these schoolchildren develop cancer in their thirties and forties the costs to society will be much greater.

I believe that this legislation aimed at preventing unnecessary cancer risks among our schoolchildren is a sound investment in preventive medicine.

In economic terms, this effort will reduce the cost to the Nation of lost productivity and extended health care. But more important, knowing what we know about the peril of asbestos, in human terms, we owe it to our children to spare them from this kind of unnecessary threat to their futures.

Mr. PERKINS. Mr. Chairman, I yield to the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the bill before us today, H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979.

Asbestos is a known carcinogen. It causes cancer primarily in the lungs but can also affect other organs.

Children in our Nation's schools are a captive audience. We, as legislators and our colleagues in the State capitols, require that children spend a minimum of 10 years of their lives in school. We, as legislators also must assume the responsibility for insuring the health and safety of our children.

The problem of asbestos in our Nation's schools is a national problem. I applaud Chairman PERKINS and my colleague from California (Mr. MILLER) for introducing this legislation.

The problem of asbestos, however, is not insurmountable. I would like to share with you our experience in New York City. At first we were told that asbestos was in as many as 300 to 400 of our schools and would cost upward of $40 to $50 million to contain.

Through a competent, professional testing and analysis program of the type which the legislation will enable other jurisdictions to carry out, the board of education has surveyed almost 1,400 facilities. They now know that efforts to remove or contain asbestos will have to be undertaken in about 175 sites.

To date, the school system has only expended $3 million to provide for the most extreme problems. Estimated costs of the total abatement project will not exceed $15 million, and will most likely run about $13 million.

There is currently no Federal assistance to help schools meet this serious and unanticipated problem. Therefore, I urge my colleagues to support this legislation which will give school systems the incentive they need to do a thorough assessment of their individual needs and the ability to borrow the funds to correct problems that do exist. It establishes a reasonable, cautious, and fair approach to ridding our schools of a potentially severe health hazard.

● Mr. MOAKLEY. Mr. Chairman, I rise in strong support for H.R. 3282, the Asbestos School Hazard Detection and Control Act.

I would first like to commend the gentleman from California (Mr. MILLER) and the chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS), for their fine work in bringing this important issue to the House floor.

The health hazards of asbestos cannot be denied. This substance has been linked to a number of illnesses, including cancer of the lung, esophagus, stomach, and colon. The risks of children to asbestos are even greater due to their increased rate of cell multiplication, respiration, and physical activity.

Unfortunately, asbestos was widely used in schools between 1940 and 1972 for fire proofing, insulation, soundproofing, and even decoration. Today, some of this asbestos material is deteriorating and fibers are being released into the air of school buildings; being inhaled by schoolchildren and employees.

In Massachusetts, 11.3 percent of the schools were found to contain sprayed asbestos material. Of the 138 schools containing asbestos, officials said that 27 were potentially hazardous enough to warrant immediate action. The Massachusetts Legislature has deemed this problem serious enough to establish a special investigatory commission.

It is painfully obvious the Congress must address this problem.

The legislation we are now considering will provide Federal assistance, predominantly repayable loans, to help elementary and secondary schools to identify and control hazardous asbestos conditions. Recipients of these Federal grants and loans must match the money 50–50 and all loans must be repaid to the Federal Government.

I believe the House must pass this legislation in its present form, so the States can begin to address this serious threat to the health of our Nation's schoolchildren.●

● Mr. OTTINGER. Mr. Chairman, as an original cosponsor of the Asbestos School Hazard Detection and Control Act of 1979, I rise in strong support of H.R. 3282 now under consideration and urge my colleagues to join me in supporting this important bill.

Medical evidence has established a strong link of exposure to absestos fibers with chronic or terminal diseases, principally asbestosis and cancer. School buildings constructed between 1946 and 1972 were built with extensive use of asbestos for insulation, decoration, and for accoustical purposes. Approximately 15 percent of the schools in the country contain asbestos. Many of these are in New York.

Fortunately the problem of asbestos exposure in schools is a problem that can be solved. However, the procedures to remove or contain the asbestos are costly and many school districts are finding that the impact on their budgets is potentially devastating.

There is currently no Federal assistance to help schools meet this unanticipated problem. This bill establishes a program to help school districts identify and control the exposure of schoolchildren and school personnel to asbestos. It is a modest yet responsive program.

H.R. 3282 authorizes grants to local education agencies and private schools for inspection of school facilities to determine the presence of hazardous asbestos materials. These grants could pay up to 50 percent of the project's costs. However, the Federal share could be increased to up to 100 percent if HEW determines that an applicant has limited financial resources and would otherwise be unable to participate in the program. The bill also provides that grants may be made retroactively to reimburse districts and private schools for activities conducted after January 1, 1977, as long as these activities were conducted in a manner that substantially conforms to HEW standards.

In addition, H.R. 3282 authorizes long-term, interest-free loans to local educational agencies and private schools for containing or removing asbestos-containing materials which pose an imminent health and safety hazard. As in the grant program, the bill provides that the loans could pay for up to 50 percent of the costs of projects and can be made retroactively.

I understand that a substitute bill will be offered to allow State and local education authorities the option of using up to 1 percent of their Federal elementary and secondary education funds for the purposes of detection and/or removal of asbestos. I oppose this amendment. No school administrator or public official should have to choose between spending funds for essential educational programs of safeguarding the health of schoolchildren and employees.

Similar legislation has been introduced in the Senate by Senator STAFFORD, Senator MOYNIHAN, Senator CRANSTON, Senator KENNEDY, and Senator BRADLEY. I urge my colleagues to approve this bill today so that there will be time for the Senate to act and the bill to be signed into law early next year. This will hopefully allow States to proceed with the detection programs so that repairs can be made during the summer of 1980.●

● Mr. BIAGGI. Mr. Chairman, I rise in support of the bill before us here, H.R. 3282, the Asbestos School Hazard Detection and Control Act which originated from our Education and Labor Committee.

As the ranking New York member on this committee, I wish to echo the concerns which many of us heard through the deliberations we held on this legislation. Those sentiments are these: Recent scientific evidence has established a dangerously strong link between exposure to asbestos and many serious diseases, such as certain types of cancer and respiratory ailments.

Our concern has been even more increased because of the fact that this flaking asbestos material (called "friable" in the language of the experts) is present in many of this Nation's elementary and secondary schools. Hundreds of thousands of children are being exposed to this potential danger on a daily basis. Therefore, it is imperative that we act to approve this bill which would give States and local educational agencies scientific, technical and financial assistance to detect and remove the presence of friable asbestos in our schools.

In sum, this bill authorizes $30 million for fiscal year 1980 through fiscal year 1982 for grants to local educational agencies and private schools to conduct detection programs for the presence of asbestos in their buildings. These grants will provide up to 50 percent of the funding, with an option to fund up to 100 percent if HEW determines that the applicant has limited financial resources and otherwise, would not be able to conduct an inspection program.

There is also a loan program in this bill which authorizes up to $100 million per year from fiscal year 1980 through fiscal year 1982 which provides interest-free loans to schools, both public and private, to assist them in removing asbestos-containing materials. As in the grant program, these loans will pay for up to 50 percent of the costs. I bring to the attention of my colleagues that every penny of these loans will be repaid to the Federal Government. It is a small, temporary investment for us to make in the short run, for the benefit of better health for our Nation's children in the long run.

I am also proud to note that my own State of New York has been a pioneer in bringing national attention to bear on the asbestos problem. A model program is currently being operated in New York City schools which will serve as an example of how asbestos control can economically and efficiently be carried out by local educational agencies.

This bill is of critical importance not only to the schools of this Nation, but more importantly, to our most valuable asset as a nation—our children. In this final month of the International Year of the Child, let us commit ourselves to assuring that the future leaders of this Nation will grow to be healthy and productive adults. I urge that my colleagues join me in support of this vital piece of legislation.●

● Mr. DOWNEY. Mr. Chairman, I rise to express my strong support for the Asbestos School Hazard Detection and Control Act of 1979.

I have a special interest in this bill. Three years ago a veteran of World War II came to me for help. He was dying of lung cancer and traced the beginning of his disease to exposure to asbestos while working on a Navy ship.

Months later, this same conclusion was reluctantly reached by the Veterans' Administration, and while I was pleased to have helped him, it was only the start of my own investigation into the widespread use of asbestos and the horrifying result of asbestos poisoning.

As a cosponsor of this measure, I am acutely aware of the need to check every public building and to repair or demolish any surface improperly employing asbestos as a fire retardant. Twenty of the one hundred and forty school districts in Suffolk County have already requested health department tests for asbestos fibers. Forty percent of those already tested have been identified as "potentially hazardous," 3 in my own district, and 120 more school districts still must be tested.

One fiber, lodged in lung tissue, can develop into a malignancy 20 years from now. Surely, the Asbestos School Hazard Detection and Control Act represents preventive medicine at its best. I only hope we are not too late.

I urge my colleagues to join with me to make the schools of our Nation safe. Twenty years from now I do not want to learn of high incidence of lung cancer in today's schoolchildren as a result of our inaction today.●

● Mr. CARTER. Mr. Chairman, as we consider H.R. 3282, the proposed Asbestos School Hazard Detection and Control Act of 1979, I would like to take this opportunity to urge my colleagues to support legislation to help alleviate the serious problem of asbestos in schools.

Hearings held earlier this year before the Education and Labor Committee's Subcommittee on Elementary, Secondary, and Vocational Education, along with several independent studies confirm the serious danger posed by the widespread use of asbestos for decorative, fireproofing, insulation, and acoustical purposes in schools nationwide.

Inhalation of the small asbestos fibers, released into the air from deteriorating asbestos products, poorly installed asbestos, or vandalized objects made with asbestos, has been statistically linked to a variety of diseases, including lung cancer, mesothelioma, asbestosis, and various gastrointestinal cancers.

While asbestos is currently regulated in the workplace, it is not in nonindustrial situations such as schools, where it is apparently so prevalent that the magnitude of the problem has been difficult to assess.

It is equally difficult to assess the asbestos threat in terms of when and how it can affect the health of the child because of the disparity in degree of exposure to asbestos and the long latency period that characterizes asbestos-related diseases.

In a recent lecture addressing asbestos and other environmental hazards, Dr. Irving Selikoff, the director of the environmental science laboratory at New York's Mount Sinai Hospital and a nationally known authority on asbestos-related disease, put the problem we face in perspective:

> American society has decided to follow a path of control rather than outright banning. We are willing to tolerate some disease, but as little as is humanly possible. If we control vigorously, we can be very successful. . . . Control is very complicated . . . it requires an extraordinary commitment.

The legislation before us is a limited but necessary step in overcoming the dangers presented by the use of asbestos in our schools. It encourages investigation and provides the means to determine the depth of the immediate problem facing a school district: Is the asbestos used presenting a serious health hazard? It also provides assistance, in the form of loans, to schools that must correct an asbestos problem, by sealing the asbestos, eliminating it, or other structural changes.

In view of the potential hazards asbestos presents in schools, it is incumbent that we take any reasonable precaution to protect the health and well-being of our schoolchildren. Legislation of this nature represents a fulfillment of that obligation.●

● Mrs. CHISHOLM. Mr. Chairman, I rise in support of this legislation, which I believe to be vital in assuring that our children are adequately protected from the debilitating effects of exposure to dangerous levels of asbestos. Asbestos building materials were frequently used in schools built between 1946 and 1972. Currently, we have no way of knowing the effects that this material is presently having on our school age population and there is not available data that measures the incidence of asbestos in schools. A program of asbestos detection leading to expedient remedial measures is urgently needed so that we may all rest easy with the knowledge that our children's health and safety is not being compromised by the effects of asbestos fibers.

I compliment the Committee on Education and Labor for the coordinated systematic approach that they have taken with the asbestos problem. Federal financial assistance to local educational agencies and private schools in the form of grants for inspection of school facilities and interest free loans for activities to control the problem are sorely needed, particularly at a time when many school budgets are facing serious restraints.

I urge my colleagues to join me in support of this worthy and necessary legislation. As this International Year of the Child comes to a close, the passage of this legislation can be a small, but significant measure to protect the health of American children.●

● Mr. LUKEN. Mr. Chairman, the link between asbestos exposure and cancer is well known; cancer can occur some 20 to 30 years after exposure. Thus, the presence of asbestos in our schools is a serious problem requiring immediate action. The bill before Congress today would provide funds for asbestos testing by local school districts, as well as make available interest-free loans for removal and replacement of any dangerous materials found in the schools.

The situation in my district, in Cincinnati, is by all accounts, potentially critical.

Inquiries into the local activities have revealed that visual inspections, but no chemical or laboratory testing, has been conducted. Cincinnati School Board, State bureau of health, and Federal Environment Protection Agency officials all agree that it is extremely difficult to detect the presence of asbestos visually. It is virtually impossible to determine the level or percentage of asbestos present, or estimate the potential danger, without sophisticated laboratory tests.

Passage of the bill pending today, H.R. 3282, is imperative. This bill would make it possible for Cincinnati's financially burdened school district, and others in a similar position, to do the testing necessary to detect dangerous situations and give them the ability to quickly correct them.●

● Mr. COTTER. Mr. Chairman, I rise in support of H.R. 3282, the Asbestos School Hazard Detection and Control Act, which I sponsored along with 47 of my colleagues. This bill will establish a limited Federal matching grant and loan program for the detection and removal of asbestos materials which pose serious health hazards to millions of schoolchildren and school personnel as a result of cancer-causing asbestos fibers.

Asbestos was used in schools built from 1946 to 1973, when it was banned by the Environmental Protection Agency. Authorities claim that thousands of schools across the country contain asbestos materials. When such structures age or are damaged, asbestos fibers are released into the air. The asbestos dust, buoyant enough to float in still air, can only be seen through an electron microscope.

Medical experts agree that inhalation of asbestos fibers can be linked to the development of cancer of the lung, mesothelioms, asbestosis, and gastrointestinal cancer. Such diseases can take up to 30 years to develop into detectable maladies. The Department of Health, Education, and Welfare estimates that asbestos may figure in 10 to 15 percent of all cancer deaths in the United States each year.

We must act immediately to defuse the environmental time bomb which is set to go off in our schoolchildren decades from now.

We have a very serious problem in my own district. City officials in Hartford, Conn., were informed earlier this year that two schools have excessive and unsafe levels of asbestos in sprayed-on fireproofing. The Hartford City Council was asked to appropriate $500,000 just to remove asbestos from one elementary school.

A preliminary survey by the State department of education located 13 schools in Connecticut with asbestos problems. It will cost an estimated $7 million to remove this hazard.

While the Environmental Protection Agency is providing technical assistance to States and localities to meet this hazard, I do not believe this assistance is sufficient to permit local and State governments to deal immediately with the situation. And, we cannot permit our schoolchildren to be exposed to asbestos fibers for even 1 more year. We must act now, by approving H.R. 3282, to eliminate this health hazard in our school buildings.

I urge you to support H.R. 3282, without amendment. The substitute being offered by our colleague, Mr. GOODLING, is an attempt to gut the bill as reported by the Education and Labor Committee. If it were adopted, local school districts and private schools would receive absolutely no assistance in detecting and removing asbestos hazards. It would also set a very dangerous precedent for the use of title I funds. I oppose its adoption, and advise any colleague who is truly committed to dealing with this very serious threat to the health of the Nation's schoolchildren to do likewise.●

● Mr. AKAKA. Mr. Chairman, I rise today in support of H.R. 3282, the Asbestos School Hazard Detection and Control Act. The State of Hawaii recently commissioned a survey of the classrooms on Oahu and discovered 1.3 million square feet of classrooms with asbestos of high level—5 percent or greater. An estimated $20 million is needed for removal costs. Since medical evidence links exposure to asbestos fibers with various types of cancer and other diseases. I feel that it is essential for the Federal Government to assist local educational agencies and private schools identify and control asbestos hazards before the health of millions of schoolchildren is seriously affected.●

● Mr. HEFTEL. Mr. Chairman, I strongly support H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979. This important legislation will provide our Nation's schools with urgently needed assistance to detect and remove hazardous asbestos conditions. Over the past several years we have become painfully aware of the widespread prevalence of asbestos in building construction. The daily exposure of as many as 2 million schoolchildren to asbestos fibers which were widely used in school construction for over three decades is especially disturbing.

In my own State of Hawaii, preliminary analyses have shown that 64 of the 159 schools on the Island of Oahu have ceiling asbestos in concentrations from 2 to 50 percent. On the neighbor islands, asbestos concentration in ceilings ranges up to 60 percent. We cannot continue to permit our children to be exposed to these intolerable conditions. Reports from the medical and scientific community clearly indicate that there is no safe level of inhalation of asbestos. Such inhalation has been directly linked to increased rates of cancer and other chronic or fatal diseases, and we must act now to protect our children from further exposure.

As we debate this issue, the walls and halls of close to 15 percent of our country's schools are deteriorating and emitting hazardous asbestos fibers into the lungs of schoolchildren. Prompt congressional passage of H.R. 3282 will enable States to proceed with detection programs so that appropriate controls and repairs can be made during the 1980 summer recess. Corrective measures taken now will reward our Nation with healthier citizens and will be cost effective in holding down future Federal health expenditures for treatment of asbestos-related diseases.

Some Members may argue that existing EPA programs are adequate to provide elementary and secondary schools with technical assistance to address the asbestos program. The fact that only 1 percent of school districts responded to a voluntary survey of the problem gives us a clear understanding of the ineffectiveness of the EPA efforts. States have been dragging their feet on this vital issue—half of the States do not have any asbestos program and only six States have inspected more than 20 percent of their schools.

This lack of responsiveness has made EPA recognize that they need to strengthen their asbestos control efforts. Currently under consideration is a rulemaking which will force schools to identify and remedy the asbestos hazard. If this regulation is adopted, H.R. 3282 will provide appropriate Federal financial aid.

The grants for detection and the loans for removal of asbestos in schools provided by H.R. 3282 will provide States with necessary funding and incentive to control school asbestos hazards. The sum of $30 million in Federal grants and $300 million in loans over a 3-year period that will be repaid is not too high a price to pay to insure that our children are not unnecessarily exposed to health hazards. The payback is a healthier America and lower Federal outlays for diseases caused by asbestos fibers.

H.R. 3283 also requires HEW to develop standards and procedures for the detection and abatement of asbestos in schools. These guidelines are necessary to assure that proper safety precautions are taken during removal activities. Careless corrective actions may cause health hazards to those doing the work and even increase the health risk in the classrooms and hallways.

H.R. 3282 is a carefully thought out bill which provides appropriate Federal assistance and incentives to schools to tackle the asbestos problem. I want to commend the author of the bill, Mr. MILLER, and the manager of the bill, Chairman PERKINS, for their diligent efforts to bring this vital concern to the attention of Congress and the rest of the Nation. The time for action is now; we must no longer delay protective measures to insure the health of our Nation's schoolchildren. Thank you.●

● Mr. HOLLENBECK. Mr. Chairman, I rise in support of H.R. 3282, the Asbestos School Hazard Detection and Control Act. As a cosponsor of this legislation, I believe the programs established by this bill will assist educational institutions in detecting and removing the health hazard presented by asbestos material.

Until recently exposure to asbestos was generally considered an occupational health hazard for asbestos workers. However, it has been learned that asbestos containing materials have been used for fireproofing and insulation in all types of buildings. The building environment can be contaminated by the release of asbestos materials and individuals exposed to this contamination could develop cancer. It is unfortunate that the detection of asbestos-related diseases is difficult since the latency period between exposure and appearance of the disease is between 20 to 30 years.

Since these materials are found in school buildings, I am concerned with the exposure of schoolchildren to asbestos. The New Jersey Department of Education conducted surveys of public schools to ascertain the usage as well as the extent of deteriorated asbestos in schools. In this survey, it was found that approximately 16 percent of the schools were in need of corrective measures. The problem was so extreme in some districts that corrective action has already been undertaken.

Since it is already well-established that asbestos presents a health hazard, the modest federal program proposed under H.R. 3282 is a sound investment for future generations. The provisions of this legislation develop a program that responds to the need for information and guidance to deal with this difficult situation. States receiving aid must provide a 50 percent match and the loans must be completely repaid to the Federal Government.

Mr. GOODLING contends that his amendment offers a more prudent method in approaching this problem. I wholeheartedly disagree with this contention. The amendment would eliminate authorizations and instead permit states to use 1 percent—but not more than 5 percent—of their Federal education funds to assist in the detection and removal of asbestos materials. I believe the amendment to be counter-productive in that it sets poor precedent for educational policy. It will divert funds intended for handicapped and disadvantaged children to asbestos control. These programs can ill-afford a diversion of their already limited funds. Asbestos is a health hazard and today we have the opportunity to prevent further tragic health consequences. I urge my colleagues to reject the Goodling amendment and support the proposal as reported by the Education and Labor Committee.●

Mr. WEISS. Mr. Chairman, I strongly support H.R. 3282, the Asbestos School Hazard Detection and Control Act of 1979. This important legislation creates a systematic Federal program for identifying and eliminating hazardous asbestos conditions in elementary and secondary schools throughout the country.

Chronic and terminal diseases such as lung, esophageal, stomach and colon cancers have been definitely linked in medical tests to asbestos exposure. As bestosis, an irreversible and progressively disabling lung disease, is likewise conclusively linked to the substance from which it derives its name.

Various ameliorative actions to limit exposure to asbestos in workplace settings have already been taken by the Environmental Protection Administration and the Occupational Safety and Health Administration. Despite these most commendable Federal initiatives, no program or regulations currently exist to protect children in school buildings where asbestos materials are a distinct danger to health.

Asbestos, particularly in its sprayed form, is quite common on schools built between 1946 and 1972. Expert witnesses appearing before the Education and Labor Committee pointed out that sprayed material has the greatest potential for contamination since it may not adhere securely to the subsurface and may deteriorate rapidly. This form of asbestos is also the most friable, and it is likely to release dangerous fibers following only minor disturbances.

Potentially harmful levels of contamination already exist in some schools in different parts of the Nation. In New York City, for example, all 1,400 public schools have been surveyed by three city agencies, with the result that nearly 200 have been found to include asbestos-containing material.

Methods for controlling or removing asbestos hazards in school are available, but these procedures are very expensive. Estimates of the cost for removal and replacement of asbestos presented to our subcommittee range from $2 to $12 per square foot. Encapsulation and enclosure have meanwhile been estimated to cost between 20 cents and $5 per square foot. About $15 million will have to be spent if New York City is to abate its school asbestos hazard, according to survey estimates.

Although the fiscal consequences of this proposed legislation are significant, the results of our failure to authorize removal of a known carcinogen would be disastrous. Millions of schoolchildren throughout the country face a daily risk of exposure to a potentially fatal substance.

The health hazards for school-age children are particularly acute since they are likely to outlive the 10–40-year incubation period for asbestos-related diseases.

Local school budgets cannot absorb the costs involved in a comprehensive asbestos-control program. Some districts do have some capability to meet at least part of the program costs, however, so the legislation before us today includes a matching requirement of 50 percent Federal funds and 50 percent State or local funds. Loans offered under the proposed program to schools by the Federal Government are interest-free and are payable within 20 years.

I strongly oppose any attempt to permit the States to divert up to 1 percent of their Federal education funds for an asbestos-control program. Money which has already been appropriated for specific and essential education purposes must not be used for other projects.

I strongly urge my colleagues to approve the Asbestos School Hazard Detection and Control Act of 1979. This is a critical problem that will not solve itself. Indeed, it will worsen in the years ahead. Asbestos hazards exist in literally hundreds of school districts around the country. The legislation before us today addresses this situation effectively and comprehensively. Again, I strongly urge its passage.

● Mr. DODD. Mr. Chairman, I rise in support of H.R. 3282, "The Asbestos School Hazard Detection and Control Act" and ask my colleagues to join me in supporting passage of this legislation today.

As my good friend and colleague, Representative MILLER, has pointed out, it has been well established that the inhalation of asbestos fibers has been linked to causing cancer, and other serious diseases. We also know that over a 25-year period asbestos materials were used in the construction of our schools and in many cases, where there has been deterioration of the materials, pose a serious health hazard to students and staff.

H.R. 3282 provides a program of grants and loans for the inspection of schools to detect, remove, or replace hazardous materials where necessary. This is a sound, reasonable and cost-effective approach. The bill authorizes a total of $30 million for fiscal year 1980 through fiscal year 1982 for grants to local educational agencies and private schools for inspections and $100 million per year for loans for containing or removing hazardous materials. Compared to the cost of treatments for cancer and other asbestos-related diseases—where treatment exists at all—and compared to the inestimable cost in terms of human suffering and loss of life, the cost of this legislation is negligible. This is clearly a case where an ounce of prevention is worth a pound of cure and, again, in many cases, we have no cure to fit into the equation at all.

Although some areas of the Nation are more adversely affected by the asbestos-exposure-in-schools hazard than others, all of us are confronted with the larger problem of asbestos exposure in general. We are all aware of the public outcry over the announcement that most of the hair dryers we use pose a potential health hazard through exposure to asbestos particles. My own commitment to addressing this problem was originally generated by my concern for the health of the workers at the Navy shipyard in my district in Groton, Conn. It is well known that the shipyards are among the heaviest users of asbestos, and the Department of Health, Education, and Welfare has reported that an estimated 11 million Americans have been exposed to asbestos at significant levels in the past 30 years and that up to 50 percent of that number may die of lung cancer and related diseases.

Over the past several years, I have supported the efforts of the Connecticut Department of Health, and others, in the State who have been working to establish a screening clinic in Groton. To date we have been unsuccessful in securing a grant for this purpose. I will continue working with, and supporting the efforts of, the State of Connecticut to bring about such a program at the earliest possible time.

I am taking this opportunity to bring this larger issue of asbestos exposure to your attention because it is my hope that the positive action I anticipate this body taking today will be—by way of taking the first step in addressing this problem in the schools—an indication of the Congress readiness to take whatever other actions may be deemed necessary in the future to address this larger problem.

A number of my colleagues, such as Representatives MILLER, FENWICK, BEARD, and the members of the House Education and Labor Subcommittee on Elementary, Secondary, and Vocational Education and the Subcommittee on Labor Standards as well as Senator HARRISON WILLIAMS and the Senate Human Resources Committee have been working very hard to address this problem. We know there are serious health problems attendant to inhalation of significant amounts of asbestos fibers, and we know that there are many people who have been heavily exposed. This is a problem that will not go away, and I look forward to this House having the opportunity to consider legislation which will provide guidance and leadership in this area during this Congress.

I believe that in supporting H.R. 3282 we will be assuming a responsible position in providing for the inspection and detection of hazardous asbestos conditions in our schools and, as a result, will assist in providing a national focus and greater awareness of the larger problem that awaits our further action and consideration.

I strongly urge my colleagues to join me in supporting H.R. 3282.●

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FARY) having assumed the chair, Mr. BENJAMIN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3282) to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes, pursuant to House Resolution 366, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. ERLENBORN. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ERLENBORN moves to recommit the bill, H.R. 3282, to the Committee on Education and Labor.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. COLLINS of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 336, nays 63, not voting 34, as follows:

[Roll No. 729]

YEAS—336

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burgener
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Clinger
Coleman
Collins, Ill.
Conte
Conyers
Corman
Cotter
Coughlin
Courter
D'Amours
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Dicks
Diggs
Dixon
Dodd
Donnelly
Dornan
Dougherty
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erdahl
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gephardt
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hamilton
Hammerschmidt
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hightower
Hillis
Hinson
Holland
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, Tenn
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Luken
Lungren
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nelson
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Petri
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quayle
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts
Rodino
Roe
Rosenthal
Roth
Roybal
Royer
Sabo
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Solomon
Spellman
St Germain
Stack
Staggers
Stanton
Stewart
Stokes
Stratton
Studds
Swift
Synar
Tauke
Thomas
Thompson
Traxler
Udall
Van Deerlin
Vanik
Vento
Walgren
Walker
Wampler
Watkins
Waxman
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Mo.
Zablocki
Zeferetti

NAYS—63

Archer
Ashbrook
Barnard
Bauman
Broomfield
Brown, Ohio
Burlison
Butler
Cheney
Cleveland
Collins, Tex.
Conable
Corcoran
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Devine
Dickinson
Edwards, Okla.
Erlenborn
Evans, Ga.
Fountain
Glickman
Hall, Tex.
Hance
Hansen
Hutto
Ichord
Jacobs
Jeffries
Jones, N.C.
Jones, Okla.
Kelly
Kindness
Kramer
Latta
Leath, Tex.
Lujan
McDonald
Miller, Ohio
O'Brien
Paul
Pease
Robinson
Rousselot
Rudd
Runnels
Santini
Satterfield
Shumway
Shuster
Snyder
Stangeland
Steed
Stenholm
Stockman
Stump
Taylor
Trible
Ullman
Vander Jagt
Volkmer

NOT VOTING—34

Anderson, Ill.
Andrews, N. Dak.
Applegate
Badham
Burton, John
Campbell
Coelho
Crane, Philip
Dellums
Dingell
Edwards, Calif.
Flood
Hagedorn
Hanley
Jeffords
Jenkins
Lundine
McCloskey
McEwen
McKay
Michel
Murphy, Ill.
Murphy, N.Y.
Nichols
Rose
Rostenkowski
Russo
Solarz
Spence
Stark
Symms
Treen
Weiss
Young, Fla.

□ 1500

The Clerk announced the following pairs:

On this vote:

Mr. Hanley for, with Mr. Philip M. Crane against.

Mr. Hagedorn for, with Mr. Symms against.

Until further notice:

Mr. Russo with Mr. Spence.

Mr. Rostenkowski with Mr. Young of Florida.

Mr. John L. Burton with Mr. Jeffords.

Mr. Dingell with Mr. Andrews of North Dakota.

Mr. Edwards of California with Mr. Badham.

Mr. McKay with Mr. Campbell.

Mr. Murphy of New York with Mr. Michel.

Mr. Rose with Mr. Jenkins.

Mr. Weiss with Mr. Stark.

Mr. Nichols with Mr. Solarz.

Mr. Murphy of Illinois with Mr. McCloskey.

Mr. Dellums with Mr. Anderson of Illinois.

Mr. Lundine with Mr. McEwen.

Mr. Applegate with Mr. Coelho.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON S. 673, DEPARTMENT OF ENERGY NATIONAL SECURITY AND MILITARY APPLICATIONS OF NUCLEAR ENERGY AUHORIZATION ACT OF 1980

Mr. PRICE submitted the following conference report and statement on the Senate bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980:

CONFERENCE REPORT (H. REPT. No. 96–702)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

That this Act may be cited as the "Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1980".

TITLE I—NATIONAL SECURITY PROGRAMS

OPERATING EXPENSES

SEC. 101. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1980 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the armed services, strategic and critical materials necessary for the common defense, and military applications of nuclear energy) as follows:

(1) For the defense inertial confinement fusion program, a total of $125,090,000, allocated as follows:

(A) For glass laser experiments, $44,200,000.

(B) For gas laser experiments, $29,300,000.

(C) For electron and particle beam experiments, $12,200,000.

(D) For supporting research and experiments, $38,300,000.

(E) For personnel, $1,090,000.

(2) For the naval reactor development program, a total of $241,367,000, allocated as follows:

(A) For the naval reactor development program, $232,600,000.

(B) For personnel, $8,767,000.

(3) For weapons activities, a total of $1,455,241,000, allocated as follows:

(A) For research and development, $421,143,000.

(B) For weapons testing, $236,000,000.

(C) For production and surveillance, $761,000,000.

(D) For personnel, $37,098,000.

(4) For verification and control technology (including personnel), $36,800,000.

(5) For materials production, to be administered by the Assistant Secretary for Defense Programs, a total of $357,748,000, allocated as follows:

(A) For production reactor expenses, $180,300,000.

(B) For the processing of nuclear materials, $82,400,000.

(C) For supporting services, $67,714,000, of which $15,000,000 shall be used for the fiscal year 1980 increment of startup costs for the Purex chemical processing plant at Richland, Washington.

(D) For fluorinel processing of nonproduction fuels and related activities, $21,390,000.

(E) For advanced isotope separation research, $5,000,000.

(F) For personnel, $944,000.

(6) For defense waste management (including $1,691,000 for personnel), $215,991,000.

(7) For the nuclear materials security and safeguards technology development program (defense program), including $3,560,000 for personnel, $43,227,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. Funds are hereby authorized to be appropriated to the Department of Energy for fiscal year 1980 for plant and capital equipment (including planning, construction, acquisition, and modification of facilities, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs, as follows:

(1) For inertial confinement fusion:

Project 80–PE&D–1, plant engineering and design, $3,500,000.

(2) For naval reactors development:

Project 80–AE–1, fluids and corrosion test facilities upgrading, various locations, $17,900,000.

Project 80–GPP–1, general plant projects, $3,300,000.

(3) For weapons activities:

Project 80–AE–4, addition to computer facility, Sandia Laboratories, Livermore, California, $2,800,000.

Project 80–AE–5, ground launched cruise missile (GLCM) warhead production facilities, various locations, $4,000,000.

Project 80–AE–6, utilities and equipment restoration, replacement and upgrade, various locations, $39,400,000.

Project 80–AE–8, advanced size reduction facility, Rocky Flats Plant, Golden, Colorado, $10,000,000.

Project 80–AE–9, new polymer production facility, Bendix Plant, Kansas City, Missouri, $1,400,000.

Project 80–AE–10, additional loading facilities, Savannah River Plant, Aiken, South Carolina, $3,500,000.

Project 80–AE–11, Pershing II warhead production facilities, various locations, $5,000,000.

Project 80–GPP–1, general plant projects, $25,400,000.

Project 80–PE&D–1, plant engineering and design, $3,600,000.

Project 71–9, fire, safety, and adequacy of operating conditions projects, various locations, an additional sum of $7,000,000, for a total project authorization of $287,000,000.

Project 77–11–c, 8" Artillery Fired Atomic Projectile (AFAP) production facilities, various locations, an additional sum of $4,600,000, for a total project authorization of $27,200,000.

Project 78–16–d, weapons safeguards, various locations, an additional sum of $2,000,000, for a total project authorization of $28,000,000.

Project 78–16–g, radioactive liquid waste improvement, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $6,200,000, for a total project authorization of $12,500,000.

Project 78–18–d, Steam plant improvements, Y–12 plant, Oak Ridge, Tennessee, an additional sum of $15,500,000, for a total project authorization of $25,500,000.

Project 79–7–b, fire protection improvements, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $2,500,000, for a total project authorization of $4,500,000.

Project 79–7–c, proton storage ring, Los Alamos Scientific Laboratory, New Mexico, an additional sum of $14,000,000, for a total project authorization of $19,000,000.

Project 79–7–l, system research and development laboratory, Sandia Laboratories, Albuquerque, New Mexico, an additional sum of $12,000,000, for a total project authorization of $13,000,000.

Project 79–7–n, utility system restoration, Y–12 plant, Oak Ridge, Tennessee, an additional sum of $15,800,000, for a total project authorization of $18,000,000.

Project 79–7–o, univeral pilot plant, Pantex Plant, Amarillo, Texas, an additional sum of

(4) For materials production:

Project 80–AE–2, replace obolete processing

$3,900,000, for a total project authorization of $7,400,000.

facilities, HB Line, Savannah River, South Carolina, $19,000,000.

Project 80–AE–3, steam generation facilities, Idaho Chemical Processing Plant, Idaho, $23,500,000.

Project 80–GPP–1, general plant projects, $15,000,000.

Project 80–PE&D–1, plant engineering and design, $3,400,000.

Project 77–13–a, fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho National Engineering Laboratory, Idaho, an additional sum of $50,400,000, for a total project authorization of $115,400,000.

Project 78–18–e, environmental, safety and security improvements to waste management and materials processing facilities, Richland, Washington, an additional sum of $11,500,000, for a total project authorization of $40,000,000.

Project 79–7–i, transmission and distribution systems upgrading, Richland, Washington, an additional sum of $7,000,000, for a total project authorization of $14,000,000.

(5) For defense waste management:

Project 80–GPP–1, general plant projects, $8,880,000.

Project 80–PE&D–1, plant engineering and design, $8,000,000, of which $3,000,000 shall be available only for plant engineering and design at the Savannah River Plant, Aiken, South Carolina.

Project 77–13–f, Waste Isolation Pilot Plant, Delaware Basin, southeast New Mexico (A–E, land lease acquisition and long-lead procurement), an additional sum of $22,000,000, for a total project authorization of $90,000,000.

Project 75–1–c, new Waste Calcining Facility, Idaho Falls, Idaho, an additional sum of $25,000,000, for a total project authorization of $90,000,000.

(6) For capital equipment not related to construction—

(A) for inertial confinement fusion, $10,100,000;

(B) for naval reactors development, $15,800,000;

(C) for weapons activities, $104,164,000;

(D) for verification and control technology, $1,060,000;

(E) for materials production, $35,000,000;

(F) for defense waste management, $12,000,000; and

(G) for nuclear materials security and safeguards, $3,400,000.

TITLE II—GENERAL PROVISIONS

REPROGRAMMING

SEC. 201. (a) Except as otherwise provided in this Act—

(1) no amount appropriated pursuant to this Act may be used for any program in excess of 105 percent of the amount authorized for that program by this Act or $10,000,000 more than the amount authorized for that program by this Act, whichever is the lesser, and

(2) no amount appropriated pursuant to this Act may be used for any program which has not been presented to, or requested of, the Congress,

unless a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of Congress of notice from the Secretary of Energy (hereinafter in this title referred to as the "Secretary") containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or unless each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

(b) In no event may the total amount of funds obligated pursuant to this Act exceed the total amount authorized to be appropriated by this Act.

LIMITS ON GENERAL PLANT PROJECTS

SEC. 202. (a) The Secretary is authorized to carry out any construction project under the general plant projects provisions authorized by this Act if the total estimated cost of such construction project does not exceed $1,000,000.

(b) If at any time during the construction of any general plant project authorized by this Act, the estimated cost of such project is revised due to unforeseen cost variations and the revised cost of such project exceeds $1,000,000, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variation.

(c) In no event may the total amount of funds obligated to carry out all general plant projects authorized by this Act exceed the total amount authorized to be appropriated for such projects by this Act.

LIMITS ON CONSTRUCTION PROJECTS

SEC. 203. (a) Whenever the current estimated cost of any construction project which is authorized by section 102 of this Act, or which is in support of the national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent (1) the amount authorized for such project, or (2) the amount of the total estimated cost for such project as shown in the most recent budget justification data submitted to Congress, such project may not be started or additional obligations incurred in connection with such project, as the case may be, unless a period of 30 days (not including any day in which either House of Congress is not in session because of adjournment of more than three days to a day certain) has passed after receipt by the appropriate committees of Congress of written notice from the Secretary containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such action, or unless each such committee before the expiration of such period has notified the Secretary that such committee has no objection to the proposed action.

(b) Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

SEC. 204. Subject to the provisions of appropriation Acts, amounts appropriated pursuant to this Act for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

FUND TRANSFER AUTHORITY

SEC. 205. To the extent specified in appropriation Acts, funds appropriated pursuant to this Act may be transferred to other agencies of the Government for the performance of the work for which such funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which such funds are transferred.

AUTHORITY FOR CONSTRUCTION DESIGN

SEC. 206. (a)(1) Within the amounts authorized by this Act for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the appropriate committees of Congress in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

(c) This section shall apply only with respect to design for construction projects begun after October 1, 1980.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

SEC. 207. In addition to the advance planning and construction design authorized by section 102, the Secretary may perform such planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that such design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

ADJUSTMENTS FOR PAY INCREASES

SEC. 208. Appropriations authorized by this Act for salary, pay, retirement or other benefits for Federal employees may be increased by such amounts as may be necessary for increases in such benefits authorized by law.

AVAILABILITY OF FUNDS

SEC. 209. When so specified in an appropriation Act, amounts appropriated for "Operating expenses" or for "Plant and capital equipment" may remain available until expended.

RESTRICTION ON LICENSING REQUIREMENT FOR CERTAIN DEFENSE ACTIVITIES AND FACILITIES

SEC. 210. None of the funds authorized to be appropriated by this or any other Act may be used for any purpose related to licensing of any defense activity or facility of the Department of Energy by the Nuclear Regulatory Commission.

RESTRICTION ON USE OF FUNDS TO PAY PENALTIES UNDER CLEAN AIR ACT

SEC. 211. None of the funds authorized to be appropriated by this or any other Act may be used to pay any penalty, fine, forfeiture, or settlement resulting from a failure to comply with the Clean Air Act (42 U.S.C. 7401 et seq.) with respect to any defense activity of the Department of Energy if (1) the Secretary finds that compliance is physically impossible within the time prescribed for compliance, or (2) the President has specifically requested appropriations for compliance and the Congress has failed to appropriate funds for such purpose.

MANAGEMENT OF NATIONAL WEAPONS LABORATORIES

SEC. 212. (a) It is the sense of Congress that—

(1) the nuclear weapons laboratories (the Los Alamos Scientific Laboratory, Los Alamos, New Mexico, the Lawrence Livermore Laboratory, Livermore, California, and the Sandia Laboratories, Albuquerque, New Mexico, and Livermore, California) are unique national assets which must retain their primary defense focus and strive to sustain this Nation's world pre-eminence in the area of nuclear systems technology;

(2) the long standing contractual arrangements between the Federal Government and the University of California for the administration of the Los Alamos Scientific Laboratory and the Lawrence Livermore Laboratory have served the Nation well and should continue as long as the national interest is being served; and

(3) the recent efforts by some individuals within the University of California system to influence the roles and missions of the Lawrence Livermore Laboratory and the Los Alamos Laboratory have been disruptive and may prove to be counterproductive to the national interest.

(b) As soon as practicable, but not later than February 1, 1980, the Secretary shall submit to the Congress a plan for the termination of the performance of work of the Department of Energy at the Ernest Orlando Lawrence Livermore Laboratory and at the Los Alamos Scientific Laboratory under contracts numbered W–7405–ENG–36 and W–7405–ENG–48 between the United States and the Regents of the University of California (a corporation of the State of California). Such plan shall include provisions to assure that such a termination of work would be conducted in accordance with the terms of such contracts.

(c) The Secretary shall study the types of contracts that would best provide for the continued performance of the work performed under the contracts referred to in subsection (b). The Secretary shall include in any contract proposed to replace such contracts terms to assure that—

(1) the paramount objectives and missions of such laboratories continue to be in the field of national security;

(2) the transition from management of such laboratories by the University of California to management by any new contractor would be orderly, involve a minimum of uncertainty, and provide employee rights and benefits (including rights and benefits with respect to pensions and retirement) reasonably comparable to those currently provided employees of the laboratories by the Regents of the University of California; and

(3) any new contractor may retain as many of the current management officials and employees of the laboratories as may be consistent with maintaining and fostering excellence in carrying out the functions assigned to the laboratories.

(d)(1) The Los Alamos Scientific Laboratory at Los Alamos, New Mexico, shall after the date of the enactment of this Act be known and designated as the "Los Alamos National Scientific Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Los Alamos Scientific Laboratory shall after such date be considered to be a reference to the Los Alamos National Scientific Laboratory.

(2) The Ernest Orlando Lawrence Livermore Laboratory at Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Ernest Orlando Lawrence Livermore National Laboratory". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Ernest Orlando Lawrence Livermore Laboratory shall after such date be considered to be a reference to the Ernest Orlando Lawrence Livermore National Laboratory.

(3) The Sandia Laboratories at Albuquerque, New Mexico, and Livermore, California, shall after the date of the enactment of this Act be known and designated as the "Sandia National Laboratories". Any reference in any law, map, regulation, document, record, or other paper of the United States to the Sandia Laboratories shall after such date be considered to be a reference to the Sandia National Laboratories.

WASTE ISOLATION PILOT PLANT, DELAWARE BASIN, NEW MEXICO

SEC. 213. (a) The Secretary of Energy shall proceed with the Waste Isolation Pilot Plant construction project authorized to be carried out in the Delaware Basin of southeast

New Mexico (project 77-13-f) in accordance with the authorization for such project as modified by this section. Notwithstanding any other provision of law, the Waste Isolation Pilot Plant is authorized as a defense activity of the Department of Energy, administered by the Assistant Secretary of Energy for Defense Programs, for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States exempted from regulation by the Nuclear Regulatory Commission.

(b)(1) In carrying out such project, the Secretary shall consult and cooperate with the appropriate officials of the State of New Mexico, with respect to the public health and safety concerns of such State in regard to such project and shall, consistent with the purposes of subsection (a), give consideration to such concerns and cooperate with such officials in resolving such concerns. The consultation and cooperation required by this paragraph shall be carried out as provided in paragraph (2).

(2) The Secretary shall seek to enter into a written agreement with the appropriate officials of the State of New Mexico, as provided by the laws of the State of New Mexico, not later than September 30, 1980, setting forth the procedures under which the consultation and cooperation required by paragraph (1) shall be carried out. Such procedures shall include as a minimum—

(A) the right of the State of New Mexico to comment on, and make recommendations with regard to, the public health and safety aspects of such project before the occurrence of certain key events identified in the agreement;

(B) procedures, including specific time frames, for the Secretary to receive, consider, resolve, and act upon comments and recommendations made by the State of New Mexico; and

(C) procedures for the Secretary and the appropriate officials of the State of New Mexico to periodically review, amend, or modify the agreement.

(3) As soon as practicable after the date on which the agreement referred to in paragraph (2) is entered into by the Secretary and the appropriate officials of the State of New Mexico, but not more than 15 days after such date, the Secretary shall transmit to the Committees on Armed Services of the Senate and the House of Representatives copies of such agreement, and a period of 45 days shall elapse while Congress is in session before such agreement becomes effective unless the Committees on Armed Services of the Senate and the House of Representatives, in writing, waive any portion of such 45-day period. The Secretary shall prompty notify such committees of any amendment or modification made to such agreement under paragraph (2)(C).

(c) No law enacted after the date of the enactment of this Act shall be held, considered, or construed as amending, superseding, or otherwise modifying any provision of this section unless such law does so by specifically and explicitly amending, repealing, or superseding this section.

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill and agree to the same.

MELVIN PRICE,
CHAS. H. WILSON,
DAN DANIEL,
BOB STUMP,
BOB WILSON,
MARJORIE S. HOLT,
R. DANIEL,
Managers on the Part of the House.

HENRY M. JACKSON,
JOHN C. STENNIS,
GARY HART,
J. J. EXON,
CARL LEVIN,
BILL COHEN,
JOHN TOWER,
STROM THURMOND,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 673) to authorize appropriations for the Department of Energy for national security programs for fiscal year 1980, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

DISCUSSION OF MATTERS BEFORE THE CONFERENCE COMMITTEE

Legislation to authorize appropriations for the national security programs and functions of the Department of Energy (DOE) for fiscal year 1980 was contained in the Senate bill, S. 673, and in the House bill, H.R. 2603. The Senate bill was passed and sent to the House. After passage of the House bill (H.R. 2603), the bill S. 673 was called up and amended by striking all language after the enacting clause and inserting in lieu thereof the provisions of H.R. 2603 as passed by the House.

TITLE I—NATIONAL SECURITY PROGRAMS

SUMMARY OF CONFERENCE ACTION

Title I authorizes the appropriation of funds for operating expenses for plant and capital equipment expenses for fiscal year 1980.

OPERATING EXPENSES

The Senate bill authorized appropriations for operating expenses for seven Department of Energy (DOE) defense programs within Title I and Title II. Title I contained the weapons activities, verification and control technology, materials production, and defense waste management programs. Title II contained the inertial confinement fusion, naval reactors, and nuclear materials security and safeguards programs. The House amendment included all seven programs within Title I, and they are so included in the conference report.

The Senate bill authorized a total amount for each major program. The House amendment authorized various amounts for subprograms. The conference report specifies program and subprogram amounts.

The President requested total authorizations of $2,394.364 million for operating expenses for fiscal year 1980. The Senate bill provided authorizations totaling $2,438.174 million. The House amendment provided a total of $2,470.723 million for this purpose. The conferees agreed to authorizations in the total amount of $2,475.464 million for operating expenses for fiscal year 1980. Programs which were in disagreement and resolved by the Committee of Conference are discussed in detail subsequently in this statement.

PLANT AND CAPITAL EQUIPMENT

The President requested a total of $689.624 million in new authorizations for plant and capital equipment for fiscal year 1980. The Senate bill provided new authorizations totaling $591.924 million. The House amendment provided a total of $532.204 for this purpose. The conferees agreed to new authorizations for plant and capital equipment which total $578.504 million. Items which were in disagreement and resolved by the Committee of Conference are discussed in detail subsequently in this statement.

TOTALS

The President's authorization request for DOE defense programs, including letter requests received subsequent to the submission of the budget, was for a total of $3,083.988 million for fiscal year 1980. The Senate bill provided total authorizations of $3,030.098 million. The House amendment provided total authorizations of $3,002.927 million.

The conferees agreed to authorizations which total $3,053.968 million. The conference action is set forth in the following tables.

DEPARTMENT OF ENERGY, NATIONAL SECURITY PROGRAMS—RECONCILIATION OF REQUEST TO CONFERENCE ACTION

OPERATING EXPENSES

[In millions of dollars]

Item	DOE authorization request	Conference action
nertial confinement fusion:		
Glass laser experiments	40.400	44.200
Gas laser experiments	25.900	29.300
Electron and particle beam experiments	10.100	12.200
Other supporting research and experiments	31.400	38.300
Personnel	1.090	1.090
Total, operating expenses	108.890	125.090
Naval reactors development	160.100	160.100
Surface ship propulsion	55.600	55.600
Supporting research and development	16.900	16.900
Personnel	8.767	8.767
Total, operating expenses	241.367	241.367
Item	DOE authorization request	Conference action
Weapons activities:		
Research and development	421.143	421.143
Testing	198.000	236.000
Production and surveillance	732.000	761.000
Personnel	37.098	37.098
Total, operating expenses	1,388.241	1,455.241
Verification and control technology:		
Program expenses	35.040	35.040
Personnel	1,760	1,760
Total, operating expenses	36.800	36.800
Materials production:		
Production reactor operations	170.800	180.300
Processing of nuclear materials	77.200	82.400
Supporting services	55.714	67.714
Fluorinel reprocessing	21.390	21.390
Advanced isotope separation research	0	5.000
Personnel	0.944	0.944
Total, operating expenses	326.048	357.748
Defense waste management:		
Interim waste management	125.851	125.851
Long-term waste management	94.449	74.449
Terminal storage (WIPP)	20.800	14.000
Transportation research and development	5.000	0
Decontamination and decommissioning	2.000	0
Personnel	1.691	1.691
Total, operating expenses	249.791	215.991
Nuclear materials security and safeguards:		
Program expenses	39.667	39.667
Personnel	3.560	3.560
Total, operating expenses	43.227	43.227
Total	2,394.364	2,475.464

PLANT AND CAPITAL EQUIPMENT

[In millions of dollars]

Project No.	Item	DOE authorization request	Conference action
	Inertial confinement fusion:		
80-PE & D-1	Plant engineering and design	1.5	3.5
80-AE-11	ICF target fabrication facility, Los Alamos Scientific Lab, New Mexico.	0	0
80-AE-12	ICF target fabrication facility, Lawrence Livermore Lab, California.	0	0
75-3-b	High energy laser facility, Los Alamos Scientific Lab, New Mexico.	8.0	0
	Naval reactors development:		
80-AE-1	Fluids and corrosion test facilities upgrading, various locations.	17.9	17.9
80-GPP-1	General plant projects	3.3	3.3
	Weapons activities:		
80-GPP-1	General plant projects, various locations	25.4	25.4
80-PE & D-1	Plant engineering and design, various locations	3.6	3.6
80-AE-4	Addition to computer facility, Sandia Laboratories, Livermore, Calif.	2.8	2.8
80-AE-5	Ground launched cruise missile (GLCM) warhead production facilities, various locations.	7.0	4.0
80-AE-6	Utilities and equipment restoration, replacement and upgrade, various locations.	69.3	39.4
80-AE-7	Relocate water towers, Mound facility, Miamisburg, Ohio.	1.4	0
80-AE-8	Advanced size reduction facility, Rocky Flats Plant, Golden, Colo.	10.0	10.0
80-AE-9	New polymer production facility, Bendix Plant, Kansas City, Mo.	1.4	1.4
80-AE-10	Additional loading facilities, Savannah River Plant, Aiken, S.C.	3.5	3.5
80-AE-11	Pershing II warhead facilities, various locations	*5.0	5.0
	*Letter request dated June 20, 1979		
79-7-b	Fire protection improvements, Los Alamos Scientific Lab, New Mexico.	2.5	2.5
79-7-c	Proton Storage ring, Los Alamos Scientific Lab, New Mexico.	16.1	14.0
79-7-l	Systems research and development lab, Sandia Laboratories, Albuquerque, N. Mex.	12.0	12.0
79-7-n	Utility systems restoration, Y-12 Plant, Oak Ridge, Tenn.	15.8	15.8
79-7-o	Universal pilot plant, Pantex Plant, Amarillo, Tex.	3.9	3.9
78-18-d	Steam plant improvements, Y-12 Plant, Oak Ridge, Tenn.		
	*Supplemental request submitted May 15, 1979	*15.5	15.5
78-16-d	Weapons safeguards, various locations	2.0	2.0
78-16-g	Radioactive liquid waste improvement, Los Alamos Scientific Lab, New Mexico.	6.2	6.2
77-11-c	8-in artillery fired atomic projectile (AFAP) production facilities, various locations.	4.6	4.6
71-9	Fire, safety, and adequacy of operating conditions projects, various locations.	7.0	7.0
	Materials production:		
80-GPP-1	General plant projects	15.0	15.0
80-PE & D-1	Plant engineering and design	3.4	3.4
80-AE-2	Replace obsolete processing facilities, HB line, Savannah River, S.C.	19.0	19.0
80-AE-3	Steam generation facilities, Idaho Chemical Processing Plant, Idaho.	23.5	23.5
79-7-h	Utilities replacement and expansion, Idaho Chemical Processing Plant, Idaho.	5.5	0
79-7-i	Transmission and distribution systems upgrading, Richland, Wash.	7.0	7.0
78-18-e	Environmental, safety and security improvements to waste management and materials processing facilities, Richland, Wash.	11.5	11.5
77-13-a	Fluorinel dissolution process and fuel receiving improvements, Idaho Chemical Processing Plant, Idaho.	84.4	50.4
	Defense waste management:		
80-GPP-1	General plant projects	8.88	8.88
80-PE & D-1	Plant engineering and design	21.32	8.0
77-13-f	Waste isolation pilot plant, Delaware Basin, southeast New Mexico (A-E) land lease acquisition and long lead procurement.	55.0	22.0
75-1-c	New waste calcining facility, Idaho Falls, Idaho		
	*Letter request dated Nov. 6, 1979	*25.0	25.0
	Total, plant construction	509.70	396.98
	Capital equipment not related to construction:		
	Inertial confinement fusion	8.5	10.1
	Naval reactors development	15.8	15.8
	Weapons activities	104.164	104.164
	Verification and control technology	1.060	1.060
	Materials production	35.0	35.0
	Defense waste management	12.0	12.0
	Nuclear materials security and safeguards	3.4	3.4
	Total, capital equipment	179.924	181.524
	Grand total	3,083.988	3,053.968

ITEMS FOR SPECIAL COMMENT

INERTIAL CONFINEMENT FUSION

The conferees view the recent application for the "lead laboratory" approach to the inertial confinement fusion program with approval as a device to more effectively use research and development funds. The Congress has authorized and appropriated hundreds of millions of dollars and made large investments in buildings and equipment in support of the inertial confinement fusion program. The conferees believe that it is now incumbent upon the Department of Energy to maintain a level of effort, after inflation is taken into consideration, which will allow the capabilities of the facilities now under development to be fully exploited. To this end, the conferees approved authorizations for operating funds for glass laser, gas laser and electron beam experiments and for supporting research which total $16.1 million above the amount requested in order to offset the effects of inflation.

Within the funds authorized to be appropriated for "operating expenses" and for "capital equipment" for the Inertial Confinement Fusion program, the conferees have provided $8.0 million for such supporting research and experiments at the National Laser User Facility (NLUF) at the Laboratory for Laser Energetics in Rochester, New York, which the Assistant Secretary for Defense Programs finds appropriate to support the national glass laser program.

The conferees, in agreeing not to increase the authorization for the High Energy Laser Facility, ANTARES, at this time, want to make clear that this action does not represent a lack of support for the ANTARES project. To the contrary, the conferees feel that the investment made in ANTARES to date is well justified and that the project should be completed in a manner to competently demonstrate the potential utility of the carbon dioxide and other gas lasers as drivers of fusion power. In that regard, the conferees were advised that as a result of the delays in funding the currently estimated construction cost of $62.5 million needs to be reevaluated. Some reduction in scope may be possible, but the conferees feel that the scope should not be reduced to the point where the facility cannot serve its intended purpose. The conferees will make the ANTARES project an item of special emphasis during hearings on the fiscal year 1981 budget and the Department should be prepared to discuss precisely where this project is going. The conferees will expect the Department to have reanalyzed the scope of this project and, if necessary, a revised total estimated cost to bring the ANTARES project to fruition.

MATERIALS PRODUCTION

The conferees agreed that the amounts requested for nuclear materials production were insufficient to sustain a cost effective program during the next fiscal year. The Senate added $17.8 million in order to maintain three production reactors in operation at the Savannah River Plant. The House amendment added $31.7 million above the request in order to maintain the Savannah River Plant reactors in full operation, to process the resultant nuclear materials, to maintain the only heavy water facility in the United States, and earmarked $15.0 million to prepare the PUREX chemical processing plant in Richland, Washington, to resume operations. In view of the requirements for weapons grade materials, the conferees adopted the position of the House.

According to testimony presented to both the Senate and the House Armed Services Committees, the production of weapons grade plutonium could seriously limit planned and approved weapons production programs starting in the early 1980's. One option under consideration by the Department of Energy to solve this problem is to convert the "N" reactor at Richland, Washington, from the production of fuel grade plutonium to weapons grade plutonium. The conferees consider this option highly desirable and have agreed to the authorization of $15 million to begin the startup of the PUREX plant at Richland, Washington. The PUREX plant (Plutonium-uranium-extraction) is needed to process the plutonium from the irradiated fuel elements. The conferees expect to see the necessary costs budgeted in fiscal year 1981 to continue the conversion of the "N" reactor to the production of weapons grade plutonium and to prepare the PUREX plant for processing during fiscal year 1983.

WEAPONS ACTIVITIES

The conferees are mindful of the commitment by the government to improved strategic and theater nuclear weapons. These weapons include the M-X, TRIDENT, ALCM, GLCM, Lance, Pershing II, artillery shells, and other systems which will require the development and production of warheads in increased numbers and at increased rates. These systems are considered to be crucial to the strategic deterrent power of the United States and to the collective deterrent power of the NATO alliance. While there is a strong commitment to the delivery systems referred to above, the authorization request reflects no similar commitment to the matching warheads for those systems. The national testing program necessary to both the development and maintenance of the U.S. deterrent in the 1980's and 1990's was greatly underfunded. The conferees are concerned that billions of dollars may be spent to upgrade and convert

B–52 aircraft and to procure delivery systems which cannot be armed because sufficient funds have not been committed to the testing, production and surveillance functions of the Department of Energy or because critical decisions have not been made to produce sufficient quantities of special nuclear materials.

The Secretary of Energy in conjunction with the Secretary of Defense is requested to provide the Committee on Armed Services of the Senate and the House of Representatives, on or before February 1, 1980, a report which shall include: the data contained in the most recent "Stockpile Memorandum" approved by the President; an analysis to show that the appropriations requested for fiscal year 1981 will support the necessary research and development, testing, production and surveillance to meet the schedules set forth in the "Stockpile Memorandum"; and an assessment to demonstrate sufficient special nuclear materials will be available to support the warhead production for the delivery systems contained in Defense Department budget justification documents presented to the Congress.

PLANT ENGINEERING AND DESIGN

The programing of plant engineering and design (PED) funds has been the source of some confusion in recent years. It is the intent of the conferees that the design and planning of capital investment projects should proceed in advance of the request for authorization for the construction of such projects.

In general, the programing sequence for a new facility is expected to proceed as follows:

1. When the requirement for a new facility is recognized, concept studies necessary to define the broad scope and cost range of the project will be accomplished with oper- into the programing process, Title I and ating funds. Such concept studies will normally be accomplished by "in-house" personnel (DOE and/or operating contractor).

2. When concept studies are completed and the proposed facility has been integrated Title II design can proceed using funds available from the PED appropriation *if the total estimated design cost does not exceed $2 million*. If the total estimated design cost exceeds $2 million, the design must be authorized as a separate line item in the annual authorization bill. The appropriate committees of Congress will see the proposed projects in the budget justification for the PED line and then again just prior to the obligation of funds as required by section 206. The conferees recognize that shifting requirements and priorities may result in changes from the budget justification in those projects actually proceeding to design and the PED line specifically permits that needed flexibility.

3. When design is well underway (30–50 percent as a minimum) such that the total estimated construction cost is sufficiently reliable and such that construction contract awards can be made during the budgeted year, the authorization for the construction of the project should be sought. The project authorization will be a line item if the construction cost is estimated to exceed $1 million or as a part of the General Plant Projects line if the cost is less than $1 million.

In consonance with this approach, the conferees have included House projects 80–AE–11 and 80–AE–12 for the design of target fabrication facilities at Los Alamos and Livermore Laboratories under the 80–P.E. & D.–1 line and intend that appropriations for those separate line items be used for those specific projects.

The conferees note that in utilizing PED funds for fiscal year 1980 the Department of Energy is apportioning available funds to accomplish design increments of very large, complex construction projects (e.g., TRU facility, Idaho Falls; Waste Processing Facility, Savannah River). In future years, design funds for such large projects will have to be separate line items in the authorization bill.

THE WASTE ISOLATION PILOT PLANT (WIPP)

The process of producing nuclear weapons yields byproducts, customarily referred to as nuclear wastes, that are hazardous in certain regimes and which should be isolated from the biosphere on a permanent basis. Defense nuclear wastes have been accumulating and safely stored at temporary storage sites over the past 35 years. The issue of the ultimate disposal of nuclear waste is one of the most troublesome challenges of our time. The United States has not yet decided on the issue of how to permanently store nuclear wastes resulting from various national defense programs. The right combination of public concern, technology and resource application is needed in order to produce a decision. Such a decision will not be simple, and the WIPP will contribute but one small piece to that decision.

What is WIPP?

The WIPP, originally authorized in 1976, was conceived as a research, development and demonstration project for the storage of defense waste. Since that time the administration has proposed changes to the mission of the WIPP regularly, first to include the storage of 1,000 spent fuel assemblies from commercial reactors, and later to a commercial type "intermediate scale facility" where defense nuclear wastes would be stored upon the payment of a "fee." This constant attempt to change the purpose of the WIPP has resulted in delay and confusion.

The conferees have sought to reiterate the congressionally authorized purpose for the WIPP project to get it back on track. The conferees emphasize that:

WIPP is not the solution to the total defense nuclear waste problem.

WIPP is not to become the "dumping ground" for the Nation's defense nuclear waste.

The conferees have very carefully defined the WIPP project in law as a defense project "for the express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities and programs of the United States . . ."

WIPP is a research and development effort designed to address the technological questions associated with the long term storage of defense nuclear wastes using a natural salt-formation as the geological medium for storage.

WIPP is only for the storage of demonstration quantities of defense wastes.

WIPP is, under current law, exempt from licensing by the Nuclear Regulatory Commission.

Scope of conference on WIPP

The Senate bill limited the use of funds authorized to be appropriated by this or any other act for the Waste Isolation Pilot Plant (WIPP) in southeast New Mexico to the "pursuit of a demonstration project for the long term storage of nuclear wastes generated by the nuclear weapons research, development and production complex." The Senate provision also provided that the Secretary of Energy "shall continue the pursuit of consultation and concurrence begun with the State of New Mexico regarding its legitimate concerns in this project."

The House amendment contained a more comprehensive provision which specifically reauthorizes the WIPP as a defense activity of the Department of Energy, administered by the Assistant Secretary for Defense Programs, for the "express purpose of providing a research and development facility to demonstrate the safe disposal of radioactive wastes resulting from the defense activities of the United States." The facility is exempted from regulation by the Nuclear Regulatory Commission (NRC) by the House amendment as such a facility would also be exempted under current law. With respect to relations with the State of New Mexico concerning the project, the House amendment directs the Secretary of Energy to "consult and cooperate with the appropriate officials" of the state "with respect to health and safety concerns" and to "give consideration to such concerns and to cooperate with such officials in resolving such concerns."

The House amendment specifically prohibited the Secretary of Energy from entering into any agreement or making any commitment under which the State or any State official could in effect veto the project.

The House amendment also provided that changes to the WIPP provision (sec. 213) can be made only by specifically amending, repealing, or suspending that provision. The Senate bill contained no such restriction.

The authority of the conference committee is limited to the topics and issues committed to conference by either House. For this reason, the conferees have resolved this issue within the differences which existed between section 307 of the Senate bill and section 213 of the House amendment.

Conference action on WIPP

The conferees adopted the language of section 213(a) of the House amendment as a more concise statement of the intent of Congress that: the WIPP is a defense activity of the Department of Energy; its purpose is research and development, and demonstration; its activities are confined to defense wastes. The conferees believed that the frequent changes which have been made in the scope and purpose of the WIPP have made a statutory definition of the project not only desirable but necessary. Frequent changes have driven up costs, delayed design and construction, and have confused management, the public and the Congress. As a result, the project was unmanageable and served only to delay ultimate decisions and solutions necessary for the long term storage of nuclear waste.

The conferees have also adopted section 213(b)(1) of the House amendment as a concise expression of congressional intent. The conferees believe that the language directing the Secretary of Energy to consult and cooperate with officials responsible under New Mexico laws for public health and safety, along with existing applicable Federal laws, Executive Orders, and regulations, are sufficient to permit the State to protect its legitimate interests. At the same time, the language will permit the Secretary of Energy to carry out his legal responsibilities and to balance the national interest with that of the State.

After much discussion, the conferees inserted a new paragraph 213(b)(2) which prescribes the procedures to be followed in the pursuit of consultation and cooperation with the State of New Mexico as required by subsection 213(b)(1). A more detailed discussion of the conferee's action in this regard is discussed below—see State's Participation in WIPP. The conferees also included a new paragraph to provide Armed Services Committees oversight of the agreement.

The conferees adopted the language of section 213(c) of the House amendment.

Should WIPP proceed now?

There was serious question among the conferees as to whether the WIPP project should proceed at this time. The Senate had agreed with the administration's request to proceed with WIPP in fiscal year 1980; the House, on the other hand, raising questions of project scope and jurisdiction, had denied all funding and deauthorized $30 million in previous project authorization.

The conferees were aware that an Interagency Review Group (IRG) has prepared certain recommendations to the President regarding the long term approach to the handling of nuclear waste. The President has not yet acted on those recommendations. One of the IRG options related to the deep geologic storage of nuclear wastes suggests delaying WIPP until site studies of differing geologic media can be readied to make a more informed choice between alternative storage media.

After considerable discussion, the conferees reached a consensus that WIPP should proceed now for two reasons:

The demonstration of nuclear waste disposal is critical. The costs already sunk in WIPP are approaching $100 million and much of the effort already expended would be lost if the project were to be deferred. Sidetracking WIPP at this point would probably delay for years the ultimate decisions with regard to permanent nuclear waste disposal.

Any program which stresses the state of current scientific knowledge requires a demonstration effort, within an acceptable level of risk, to move the program forward. At some point every weapon system moves from the drawing board to the test range. The conferees did not want to delay any longer the demonstration of nuclear waste storage.

WIPP as a precedent

Much controversy surrounding the WIPP had dealt with the so-called "precedent setting" nature of the project. Some argue that WIPP will set a precedent as to the future procedures for the handling of nuclear wastes, and therefore the WIPP project should proceed only under a highly visible, tightly-formalized set of procedures which including deliberate State and local participation. There are equally compelling arguments that, since WIPP is a defense project, the interests of national defense mitigate against over-institutionalizing a costly, time-consuming set of procedures which might then be applied to other defense projects. The conferees believed that the "precedent setting" nature of WIPP has been overstated. WIPP, as it is now authorized, is only a demonstration effort which will serve to answer some of the questions about the complex system that will be needed to solve the defense nuclear waste problem. Strong central control is needed—not diversified management and over-regulation.

State's participation in WIPP

A key issue surrounding the WIPP project concerned what should be the State's role in the project. After lengthy discussion, the conferees agreed on two premises:

The State must be in a position where its legitimate concerns with respect to public health and safety are fully and responsibly considered. The State of New Mexico should be permitted the opportunity to be consulted and to cooperate in the development, construction and operation of the project. The State should have access to relevant material concerning the project and at key decision points, such as the decision point to proceed with construction, there should be a formal means, within reasonable specific time frames, for the State to make comments and recommendations on the public health and safety aspects of the project and to have its public health and safety concerns resolved at those key decision points.

While agreeing that the State should play an active "partnership" role with the Federal Government, the conferees did not feel the State should have the right to "veto" the project. The conferees felt that if the process of consultation and cooperation was pursued in good faith by both parties as prescribed in the final bill, then there need never develop a situation that would cause the State to raise an objection to the project. Relations with State and local governments with regard to environmental, health and safety functions have been institutionalized within the DOE through the Atomic Energy Act, the Energy Reorganization Act of 1974 and the Department of Energy Organization Act. The present five levels of safety review required by DOE and the mechanisms for consultation and cooperation with State and local governments have proven to be quite adequate over time.

The conferees noted that the National Environmental Policy Act as implemented by Executive Order No. 11752 places heavy responsibilities upon government departments, and these responsibilities include consultation and cooperation with State and local governments. The Executive Order, however, states that, "In light of the principle of Federal supremacy embodied in the Constitution, this order is not intended, nor should it be interpreted, to require Federal facilities to comply with State or local administrative procedures with respect to pollution abatement and control."

The conferees emphasized the following points with regard to the consultation and cooperation provision:

The conferees recognized the possibility that the Secretary of Energy and the State might not be able to negotiate a mutually satisfactory agreement. However, in view of the long history of cooperation by the State with the Federal Government in atomic energy matters and in view of the national significance of the WIPP project, the conferees fully expect such an agreement can be successfully negotiated. In this spirit of cooperation, no specific legislative remedy has been included to resolve a situation where there is no agreement.

The consultation and cooperation agreement (or lack of such an agreement) and the proper execution of the process specified by such an agreement should not delay the progress of the WIPP project. Work should proceed on the WIPP project as planned and as envisioned in the fiscal year 1980 and subsequent budget requests. For fiscal year 1980, this includes the planned exploratory shaft to establish the adequacy of the salt formation which is part of the site characterization work.

The conferees have indicated only the general content of the agreement. The specifics of the agreement (i.e., the designation of key events; the setting of time frames for review, comment, and resolution of comments; the procedures for review of the project and for resolving conflicts; etc.) are left to the parties. However, the conferees were adamant that the Secretary of Energy may not enter into any agreement or make any commitment under which the State of New Mexico, or any official of such State, could in effect veto such project.

The Committees on Armed Services of the Senate and the House of Representatives should be kept advised throughout the process of developing a consultation and cooperation agreement and then during the consultation and cooperation process.

The conferees drew heavily from a September 7, 1979, opinion of the Comptroller General of the United States concerning this matter (B–192999). That opinion pointed out that permitting State disapproval to control DOE's determinations of suitable sites for nuclear storage facilities *could ultimately result in DOE being unable to carry out its statutory authority of establishing waste storage facilities*, since there are only a limited number of suitable potential storage sites in a very few States. Based on existing law, the Comptroller General also pointed out that an attempt by the Secretary "to bind the United States to refrain from establishing or operating a nuclear waste storage facility if the State objected," might in his view, "constitute an unlawful delegation of Federal power." (Italic added.) The conferees agree with this analysis.

Since there are a limited number of potential sites, the conferees believed that a State veto policy would be self-defeating of congressional intent regarding defense waste management. Under such a policy, the conferees, without difficulty, foresaw each State exercising a veto leaving no site available for defense waste management purposes. The result would be a continuation of the status quo, i.e. temporary storage of defense nuclear wastes.

OPERATING EXPENSES

INERTIAL CONFINEMENT FUSION

The Senate bill authorized a total of $114.89 million for operating expenses for the inertial confinement fusion program. The House amendment contained authorizations of $44.2 million for glass laser experiments, $29.3 million for gas laser experiments, $12.2 million for electron beam experiments, $38.3 million for supporting research including an allowance for experiments at a National Laser User Facility in New York, and $1.09 million for personnel—a total of $125.09 million.

The conferees agreed to adopt the House position in order to provide for program adjustments and to offset the impact of unbudgeted inflation on this program.

The Senate recedes.

The House amendment contained a limitation on the use of funds authorized to be appropriated for supporting research and development incident to the inertial confinement fusion program. The Senate bill contained no similar provision.

The House recedes.

WEAPONS ACTIVITIES

The Senate bill authorized $1,441,541,000 for operating expenses for weapons activities for fiscal year 1980. The House amendment provided authorizations of $421.143 million for research and development $225.0 million for weapons testing, $772.0 million for weapons production and surveillance, and $37,098 million for personnel—a total of $1,455.241 for this program. The conferees noted that the weapons testing and production and surveillance programs are suffering from serious underfunding problems which can only be alleviated through supplemental funding. The conferees agreed to compromise and have provided authorizations of $421.143 million for research and development, $236.0 million for testing, $761.0 million for production and surveillance, and $37.098 million for personnel—a total of $1,455.241, the total amount of the House authorization.

The Senate recedes with an amendment.

MATERIALS PRODUCTION

The Senate bill authorized $343.848 million for operating expenses for the materials production program for fiscal year 1980. The House amendment provided authorizations in six subprograms for this program, as follows: $180.3 million for production reactor operations; $82.4 million for nuclear materials processing; $67.714 million for supporting services, of which $15.0 million shall be used only for startup costs for the PUREX chemical processing plant at Richland, Washington; $21.390 million for fluorinel reprocessing; $5.0 million for advanced isotope separation research; and $944,000 for personnel—a total of $357.748 million, the amount of the House amendment.

The Senate recedes.

DEFENSE WASTE MANAGEMENT

The Senate bill authorized $216.501 million for the defense waste management program including the following allowances: $110.515 million for interim waste management operations; $63.495 million for long term waste management technology; $20.8 million for terminal storage operations; $1.691 million for program direction; and $20.0 million for an undistributed amendment.

The House amendment authorized a total of $211.25 million including allowances as follows: $125.851 million for interim waste management operations; $76.708 million for long term waste management technology; $2 million for decontamination and decommissioning; $5 million for transportation research and development; and $1.691 million for program direction.

The House amendment provided no authorization for operating expenses for the Waste Isolation Pilot Plant (WIPP) in southeast New Mexico. The conferees agreed to authorizations totaling $215.991 million for operating expenses for the defense waste management program with allowances as follows: $125.851 million for interim waste operations; $74.449 million for long term waste management technology; $14.0 million for terminal storage operations; and $1.691 million for program direction.

The House recedes with an amendment.

The House amendment contained language which would prohibit the use of any funds authorized to be appropriated for defense waste management for the WIPP. The Senate bill contained no similar provision.

The House recedes.

PLANT AND CAPITAL EQUIPMENT

INERTIAL CONFINEMENT FUSION

Project No. 80–P.E. & D.–1: Plant engineering and design (P.E. & D.):

The President's request included $1.5 million for Project No. 80–P.E. & D.–1, plant engineering and design for inertial confinement fusion projects. The Senate bill included an authorization of $3.5 million for this project including two target fabrication facilities authorized by the House amendment as Project Nos. 80–AE–11 and 80–AE–12. The House amendment authorized the amount requested. The conferees agreed to adopt the Senate position.

The House recedes.

Project No. 80–AE–11: Target fabrication facility, Los Alamos Scientific Laboratory, New Mexico:

The House amendment contained a line item authorization for $1 million for starting the design of a target fabrication facility to serve both the Los Alamos Scientific Laboratory and the Sandia Laboratory in Albuquerque, New Mexico. The Senate bill contained no specific authorization for this project. The conferees believe this facility will be necessary to fully exploit the potential of the high-power gas laser (ANTARES) and the HELIOS system approaching completion at the Los Alamos Laboratory and the electron beam facility under development at Sandia Laboratory in Albuquerque, New Mexico. The conferees agreed to include this project within Project No. 80–P.E. & D.–1.

The House recedes.

Project No. 80–AE–12: Target fabrication facility, Lawrence Livermore Laboratory, California:

The House amendment contained a line item authorization for $1 million for starting the design of a target fabrication facility for the Lawrence Livermore Laboratory, California. The conferees believe this facility will be necessary to fully exploit the potential of the high-power glass laser (SHIVA) now operating at the Lawrence Livermore Laboratory and for the NOVA facility which was fully authorized and is under construction. The conferees agreed to include this project within Project No. 80–P.E. & D.–1.

The House recedes.

Project No. 75–3–b: High energy laser facility, Los Alamos Scientific Laboratory, New Mexico:

The President's budget contained a request for $8 million in additional authorization for Project No. 75–3–b, the high energy laser facility at Los Alamos Scientific Laboratory, New Mexico, to compensate for increased escalation, added costs of procurement, design and installation due to prior limited annual funding. The Senate bill contained no additional authorization for this project, since there is ample existing authorization for the appropriations requested. The House amendment authorized the amount requested. The conferees agreed to defer additional authorizations without prejudice, while expressing their continued strong support for the project. (See Inertial Confinement Fusion under Items for Special Comment earlier in this statement.)

The House recedes.

CAPITAL EQUIPMENT NOT RELATED TO CONSTRUCTION

The President's request for capital equipment for the inertial confinement fusion program was $8.5 million. The Senate bill authorized $18.5 million. The House amendment authorized $10.1 million for this purpose. This item is discussed earlier under Items for Special Comment.

The Senate recedes.

WEAPONS ACTIVITIES

Project No. 80–AE–7: Relocate water towers, Mound Facility, Miamisburg, Ohio.

The President's request included $1.4 million to relocate two water towers at Mound facility at Miamisburg, Ohio. The Senate bill authorized $1.4 million. The House amendment authorized no appropriations for this project.

The Senate recedes.

Project No. 80–AE–8: Advanced size reduction facilities, Rocky Flats Plant, Golden, Colorado:

The President's request contained $10 million for this project. The Senate bill authorized the amount requested. The House amendment authorized $5 million, the amount of the appropriation request for this project for fiscal year 1980.

The House recedes.

Project No. 80–AE–11: Pershing II warhead facilities, various locations:

Subsequent to the passage of Senate bill S. 673, the Department of Energy (by letter dated June 20, 1979) requested that an appropriation of $5 million be authorized to initiate the design and construction of facilities to develop and produce the new Pershing II warhead on an accelerated basis. The House amendment authorized the $5 million requested. The Senate bill contained no authorization for this project.

The Senate recedes.

Project No. 80–P.E. & D.–1: Plant engineering and design:

The President's request included $3.6 million for plant engineering and design for selected future weapons activities construction projects. The Senate bill provided an authorization of $16.7 million. The House amendment contained $3.6 million, the amount requested.

The Senate recedes.

Project No. 79–7–c: Proton storage ring, Los Alamos Scientific Laboratory, New Mexico:

The President requested $16.1 million in additional authorization to fully authorize a proton storage ring that would be significantly larger than the facility presented to the Congress in fiscal year 1979. The Senate bill authorized the $16.1 million requested. The House amendment authorized $11.7 million, an amount sufficient to meet the original total estimated cost for the project. The conferees believe that $14 million will meet the increased size requirements for the proton storage ring facility when the 23 percent contingency funding is considered, and agreed to an authorization in that amount.

The House recedes with an amendment.

Project No. 78–18–d: Steam plant improvements, Y–12 plant, Oak Ridge, Tennessee:

By supplemental request dated May 15, 1979, the Department of Energy requested that an additional $15.5 million be authorized to make environmental improvements to a steam plant at the Y–12 facility in Oak Ridge, Tennessee. Prior year authorizations provided $10 million to completely upgrade the existing steam plant over a period of several years. The Senate bill authorizes the $15.5 million requested. The House amendment contained no authorization for this project.

The House recedes.

MATERIALS PRODUCTION

Project No. 80–P.E. & D.–1: Plant engineering and design:

The President requested $3.4 million for preliminary plant engineering and design for future materials production construction projects. The Senate bill contains an authorization of $7 million for this plant engineering design project. The House amendment contained an authorization in the amount requested.

The Senate recedes.

Project No. 80–AE–3: Steam generation facilities, Idaho Chemical Processing Plant, Idaho:

The President requested an authorization of $23.5 million for the design, procurement and construction of a coal-fired steam generation facility at the Idaho Chemical Processing Plant. The Senate bill contained the requested amount of $23.5 million. The House amendment authorized $10 million, the amount of the appropriation request for this project.

The House recedes.

Project No. 77–13–a: Fluorinel dissolution process and fuel receiving improvements, Idaho National Engineering Laboratory, Idaho:

The President requested $84.4 million in additional authorization for this program. The Senate bill authorized $50.4 million. The House amendment authorized $54.4 million, the amount of the appropriation request for the project.

The House recedes.

DEFENSE WASTE MANAGEMENT

Project No. 80–P.E. & D.–1: Plant engineering and design:

The President's request contained $21.32 million for eight defense waste management plant engineering and design projects which ranged from $500,000 to $10 million for each project. The Senate bill authorized the $21.32 million requested. The House amendment authorized preliminary design authorizations for potential projects of approximately $1 million each and authorized $8 million for this purpose, of which amount $3 million is available only for plant engineering and design at the Savannah River Plant, Aiken, South Carolina.

The Senate recedes.

Project No. 77–13–f: Waste isolation pilot plant, Delaware Basin, southeast New Mexico (A–E, land lease acquisition and long-lead procurement):

The Senate bill authorized an additional appropriation in the amount of $26.5 million for the Waste Isolation Pilot Plant, Delaware Basin, New Mexico, for fiscal year 1980, for architectural and engineering services, land lease acquisition and long-lead procurement, for a total project authorization of $94.5 million. The House amendment contained a provision which reduced the amount authorized to be appropriated for this project for fiscal year 1979 and prior years by $30 million, for a total project authorization of $38 million.

The conferees found that the amounts authorized to be appropriated for construction expenses for this project during fiscal year 1979, and prior years, is $68 million. The conferees also found that the amount appropriated for construction, and funds which have been reprogramed into the project including $22.0 million appropriated for fiscal year 1980 by Public Law 96–69, totals $68 million. The conferees further noted that a partial appropriation was made for the project for fiscal year 1980 to provide for operations only through March 31, 1980, pending the resolution of program goals and objectives in authorizing legislation. Since these matters have been resolved by section 213 of the conference report, the conferees agreed to an additional authorization of $22 million for fiscal year 1980 for a total authorization for this project of $90 million.

The House recedes with an amendment.

Project No. 75-1-c: New waste calcining facility, Idaho Falls, Idaho:

The President's budget requested no additional authorization for this project. A Department of Energy letter dated November 6, 1979, stated that the facility's total estimated cost has risen by $25 million and authorization of that amount was necessary to keep the project on schedule to prevent a construction work stoppage of from one to two years, and to avoid the cost increases which would follow a work stoppage. The Senate bill contained no additional authorization for this project. The House amendment contained $25 million as requested.

The Senate recedes.

TITLE II—GENERAL PROVISIONS

REPROGRAMING

Section 301 of the Senate bill and section 201 of the House amendment contained similar provisions pertaining to the reprograming of funds authorized to be appropriated by the bill. Amounts authorized for a particular program could be increased by five percent or $10,000,000 whichever is less. No new program which has not been presented to Congress could be started unless that new program is specifically presented to the appropriate committees of Congress in writing and a period of 30 days expires, or unless prior to the expiration of the 30 day period each such committee states in writing that it has no objection. The Senate provision, which the conferees accepted, also places a ceiling on obligations pursuant to the act which is equal to the sum of all authorizations; that is to say, any increase in the amounts obligated, as provided by section 201 of the conference report, must be offset by a corresponding decrease in one or more of the other amounts authorized.

The House recedes.

LIMITS ON GENERAL PLANT PROJECTS

The Senate bill contained a provision which authorized the Secretary of Energy to carry out any construction project under the general plant projects provisions authorized by this act if the total estimated cost of such construction project does not exceed $1 million. If at any time during construction of any general plant project the estimated cost of such project is revised to exceed $1 million due to unforeseen cost variations, the Secretary shall immediately furnish a complete report to the appropriate committees of Congress explaining the reasons for the cost variations. Under the Senate provision, the total of all general plant projects carried out pursuant to the act may not exceed by more than ten percent the total amount authorized to be appropriated for general plant projects under the act.

The House amendment contained a similar provision with a limitation of $750,000 for any general plant project and a limitation of $300,000 for the cost of any building included in such a project.

The House recedes.

LIMITS ON CONSTRUCTION PROJECTS

The Senate bill contained a provision which precluded the start of a construction project or the incurring of additional obligations for any project authorized by the act if current estimated cost exceeds by 25 percent the amount authorized for that project. Thirty days after the Secretary has notified the appropriate committees, in writing, of the facts and circumstances which caused an increase, the provision could be waived if there were no adverse response, or if in a shorter period of time than 30 days each committee notified the Secretary that they have no objection. This restriction would not apply to any construction project with a current estimated cost of less than $5 million. The House amendment also precluded the start or the incurring of additional obligations if the currently estimated cost of a line item construction project would exceed the authorization by 25 percent as such costs were estimated on the date of enactment of the act. This provision could be waived if the Secretary of Energy notified the appropriate committees of the reasons for the increase and did not receive a negative response after 30 days. The Secretary could proceed if, before the 30 days waiting period ended, he received written notice from each appropriate committee that he could proceed. The provisions of this section did not apply to projects with a currently estimated cost of less than $5 million.

Compromise language was adopted which precludes the start of, or the obligation of additional funds for, any national security programs project for which the current estimated cost would exceed by more than 25 percent the amount authorized for the project, or the amount of the total estimated cost for such project as shown in the most recent budget justification data submitted to the Congress. This provision would not apply if the Secretary notifies the appropriate committees in writing of the reasons and waits 30 days before taking any action on the project, unless he is notified before the 30 day period ends that the appropriate committees have no objection to the proposed action. This provision does not apply to any construction project which has a current estimated cost of less than $5 million.

The Senate recedes with an amendment.

FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Section 204 of the House amendment provided that, subject to the provisions of appropriations acts, amounts appropriated pursuant to the authorization for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy. The Senate bill contained no similar provisions.

The Senate recedes.

FUND TRANSFER AUTHORITY

Section 304 of the Senate bill provided that, to the extent specified in appropriations acts, funds appropriated pursuant to authorizations contained in the act may be transferred to other agencies of the government for the performance of work for which such funds were appropriated, and that the funds so transferred may be merged with the appropriations of the agency to which such funds are transferred. Section 205 of the House amendment contained a similar provision which was stated in different language.

The House recedes.

AUTHORITY FOR CONSTRUCTION DESIGN

The Senate bill contained a provision authorizing the Secretary to carry out advance planning and construction design and to obtain architectural and engineering services for construction projects not authorized by law, within the amounts authorized to be appropriated for plant engineering and design. If the estimated design cost is greater than $300,000, the Secretary would be required to notify the appropriate committees of Congress in writing 30 days prior to the obligation of any funds for design services.

The House amendment restricted advance plant engineering and design funding to Department of Energy construction projects in support of national security programs which have been presented to the Congress. For those programs estimated to exceed a design cost of $300,000, the Secretary would be required to notify the appropriate congressional committees 30 days before any funds were obligated.

The conferees agreed to compromise language which constrains total spending on a single advance plant engineering and design project to $2 million unless the project is specifically authorized by law. If the estimated cost of planning and design of a project not specifically authorized by law exceeds $300,000, the appropriate committees of Congress must be notified in writing 30 days before any funds are obligated. The compromise provisions apply to design for construction projects begun after October 1, 1980.

The House recedes with an amendment.

AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

The House amendment contained a provision authorizing the Secretary of Energy to provide construction design services, in addition to design services performed with plant engineering and design funds, for any Department of Energy defense activity construction project if the project has been included in a proposed authorization bill sent to the Congress and if the Secretary determines that the project is urgently needed for the national defense effort or the protection of life and property or health and safety and that construction should be initiated promptly upon enactment of legislation appropriating funds for construction. The Senate bill contained no comparable provision. The conferees agreed to compromise language which authorizes the Secretary, in addition to the advance planning and construction design funds authorized to be appropriated by section 102, to perform such planning and design, utilizing available funds, for any Department of Energy defense activity construction project which he considers urgent for the needs of national defense or to protect property or human life.

The Senate recedes with an amendment.

AVAILABILITY OF FUNDS

Section 209 of the House amendment provided that, when so specified in an appropriation act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

The Senate recedes.

RESTRICTIONS ON LICENSING

Section 210 of the House amendment provided that none of the funds authorized to be appropriated by this or any other act may be used for any purpose related to the licensing of any defense activity of the Department of Energy by the Nuclear Regulatory Commission (NRC). The Senate bill contained no similar provision.

The House position was based on the fact that defense programs, particularly those dealing with weapons research, development and production, special nuclear materials production and defense waste management, are closely integrated into a complex of facilities. The Secretary of Defense and the Secretary of Energy have indicated that the application of NRC licensing and regulatory authority to defense programs could adversely affect the national defense interests of the United States and could cost billions of additional dollars. There is also uncertainty that the benefits of regulation would outweigh the costs or the impact on national defense.

In adopting the House position, the conferees are aware that there is legislation pending in both Houses, some of which would make a blanket extension of NRC authority over DOE defense nuclear waste activities. In addition, the conferees are aware that the President's Interagency Review Group on Nuclear Waste Management has made certain recommendations with respect to NRC licensing authority. The Committees on Armed Services will want to examine this legislation very thoroughly.

This section will continue current policy with respect to NRC licensing of DOE defense programs until the Congress addresses certain concerns raised by the NRC in its report on "Regulation of Federal Radioactive Waste

Activities." These concerns are that the authority of the NRC should not be given "a blanket extension" until:

(a) a process for applying further regulatory authority, satisfactory to both NRC and DOE, can be developed;

(b) probable costs can be determined;

(c) benefits would result that outweigh the costs;

(d) workable procedures can be established which both allow the public to be fully informed about the regulatory process and provide an effective severing of any link between regulation of the storage or disposal of waste and any classified information about its generation; and

(*e*) there will be no significant delay of, or other negative impact on, sensitive defense related production programs.

The Senate recedes.

Restriction on Use of Funds To Pay Penalties Under Clean Air Act

Section 211 of the House amendment prohibits the use of funds authorized to be appropriated for the purpose of paying penalties, fines, forfeitures, or settlements resulting from the failure of a defense activity of the Department of Energy to be in compliance with the Clean Air Act if (1) the Secretary of Energy finds that it is physically impossible to be in compliance within the time specified, or (2) the President has specifically requested appropriations for compliance but the Congress has failed to make available such appropriations. The Senate bill contained no similar provision.

The Senate recedes.

Contract for Delivery of Byproduct Steam

Section 212 of the House amendment would require the Secretary of Energy, beginning in fiscal year 1980, to insure that an existing contract for the delivery of byproduct steam from the N-reactor, a dual purpose reactor located in Richland, Washington, to the Washington Public Power Supply System, is renegotiated in such a manner that the United States will recover the fair market value of the steam so delivered. The Senate bill contained no similar provision. After consideration of the practical difficulties with which the contracting parties would be faced under the provisions of the House amendment, the House receded.

Contingency Plan for Alternate Management of Weapons Laboratories

Section 214 of the House amendment (section 212 of the Conference Report) directed the Secretary of Energy to submit to Congress a contingency plan for the possible termination of the existing contract with the Regents of the University of California, and for the orderly transition to management of the Lawrence Livermore Laboratory and the Los Alamos Scientific Laboratory by a possible new contractor. The Secretary is directed to protect the rights and benefits of employees, and to stress the paramount mission of those laboratories in the field of national security. Section 214 also inserts the word "national" into the names of the above laboratories and into the name of Sandia Laboratories.

The Senate bill contained no similar provision. The conferees adopted compromise language which includes language stating that it is the sense of Congress that the above mentioned laboratories are unique national assets which must remain dedicated to their primary defense focus aimed at maintaining United States preeminence in nuclear weapons systems technology. The compromise language also expresses the sense of Congress that the long-standing contractual arrangements between the Federal Government and the University of California have served the Nation well and should continue as long as the national interest is being served. The compromise language notes the recent efforts by individuals within the University of California system to influence the roles and missions of the laboratories which have been disruptive and which may prove to be counterproductive to the national interest.

The Senate recedes with an amendment.

West Valley Project

Section 308 of the Senate bill directed the Secretary of Energy to carry out a nuclear waste management demonstration project at the Western New York Nuclear Service Center in West Valley, New York. The first year's costs for the project were to be borne by the Secretary of Energy from funds authorized to be appropriated for defense waste management. The House amendment contained no similar provision.

The conferees noted that a more comprehensive provision had been included in the bill H.R. 3000, authorizing appropriations for Department of Energy civilian programs, and that this bill had been passed by the House on October 24, 1979. The conferees also noted that, consonant with H.R. 3000, the Conference Report to accompany the 1980 Appropriations Act for the Department of Energy (Report No. 96–388) directed that funds for this project be allocated from funds appropriated for commercial waste management. Since the West Valley project is a civilian program not directly related to national defense, the conferees adopted the House position without comment on the merits.

The Senate recedes.

Amendment of the Title of the Bill

The House amendment amended the title of the Act.

The Senate recedes.

Melvin Price,
Chas. H. Wilson,
Dan Daniel,
Bob Stump,
Bob Wilson,
Marjorie S. Holt,
R. Daniel,
Managers on the Part of the House.

Henry M. Jackson,
John C. Stennis,
Gary Hart,
J. J. Exon,
Carl Levin,
Bill Cohen,
John Tower,
Strom Thurmond,
Managers on the Part of the Senate.

CONFERENCE REPORT ON S. 241, JUSTICE SYSTEM IMPROVEMENT ACT OF 1979

Mr. GUDGER. Mr. Speaker, I call up the conference report on the Senate bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore (Mr. Murtha). Under the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of December 10, 1979.)

The SPEAKER pro tempore. The gentleman from North Carolina (Mr. Gudger) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. McClory) will be recognized for 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. Gudger).

Mr. GUDGER. Mr. Speaker, S. 241 passed the Senate on May 21, 1979. On October 12, the House passed its bill to restructure LEAA, H.R. 2061, and later agreed to a conference requested by the Senate on the differences between the two bills. The conference report is printed in the Record of Monday December 10 at pages 35162–35184.

LEAA was created by title I of the Omnibus Crime Control and Safe Streets Act of 1968 in response to rising crime rates and following recommendation of a Presidential Commission for Federal assistance to State and local govenment criminal justice efforts. Although the act has been the subject of extensive amendments in 1971, 1973, and 1976, the basic design of the programs has remained that of the 1968 act. This design provides a combination of grant programs for criminal justice planning, for projects to strengthen and improve law enforcement, and for training, education research, and special projects.

S. 241 and H.R. 2061, as introduced, were identical. Both bodies adopted extensive committee and floor amendments, and major changes in the LEAA program contained in both provide for a reduction in the Federal review and supervision responsibility, for 3-year programs (rather than annual ones), for expansion of provision for automatic "passthrough" of funds through the States to cities and counties (the so-called miniblock grant provisions), and for the establishment of separate units for research (the National Institute of Justice) and statistics (the Bureau of Justice Statistics).

In all, there were 80 differences between the two bills. I will not go into detail on all of these differences since House Report No. 96–655, the conference report on S. 241, which appeared in the Congressional Record on December 10, 1979, pages 35162–35184, explains the action of the conferees on all of these items. The major items in disagreement were resolved as follows:

An Office of Justice Assistance, Research, and Statistics (OJARS) is established, as provided in the Senate bill, with authority to coordinate the activities of LEAA, the National Institute of Justice (NIJ), and the Bureau of Justice Statistics (BJS). The Senate bill would have given OJARS policy setting authority over the three other units; the House bill provided for direct reporting by these units to the Attorney General. Under the compromise agreement, OJARS will provide staff support to the three units, and priorities in LEAA programs will be established jointly by LEAA and OJARS, rather than by OJARS alone, as called for by the Senate bill.

Jurisdictions (cities and counties) and combinations over 100,000 population will be entitled to automatic passthrough of Federal funds, as provided in the House bill. However, only jurisdictions which will be entitled, in any given year, to a share which equals $50,000 or more will be permitted to participate. The Senate bill required counties and combinations to have a population of at least 250,000 for eligibility.

Involvement in civil justice matters under this act is permitted to the extent the civil justice matter in question bears directly on criminal justice or is necessarily intertwined with criminal justice. The House bill prohibited involvement in civil justice by any of the entities established under the act, and the Senate bill would have opened up civil justice to an equal status with criminal justice in the programs of the NIJ and the BJS.

The House 10 percent matching fund requirement for the formula grant program is adopted, but the match requirement will not be imposed for fiscal year 1980, and hardship exceptions are permitted. The Senate "no match" provision is adopted for the discretionary program.

The Senate provisions relating to Federal funding of State and local planning and administration are adopted. These require that such activities be funded out of the State allocation for formula grants, rather than "off the top," as provided in the House bill.

A 4-year authorization is provided, rather than the House's 3 years or the Senate's 5.

The Senate exception for prison construction to the general ban on construction funding is not accepted; however, the Senate's 2-year "grandfathering" for existing construction projects is adopted.

The Senate bill's requirement for submission to Congress of a detailed evaluation of the LEAA programs 1 year before the end of this authorization period is adopted, but the "sunset" language of the Senate evaluation is not accepted.

The substitute bill agreed to in conference is a good one which I urge the House to adopt.

☐ 1510

Mr. Speaker, I now yield 2 minutes to the gentleman from North Carolina (Mr. Neal).

Mr. NEAL. I thank the gentleman for yielding.

First of all, let me thank the most distinguished gentleman from North Carolina (Mr. Gudger) for his help in committee and in conference on the question of including in this bill the eligibility of rescue squad personnel in the public officers death benefits program of LEAA. I take this time to thank him and to thank the gentleman from Texas (Mr. Hall) who along with Mr. Gudger, I would point out, were the only two House conferees who voted to support this program, which on a recorded vote passed in the House by almost 2 to 1.

At this point, I would like to try to determine for the record why the conferees did not support the House's position. I know the gentleman who manages this bill supported it, so perhaps I could ask this question and maybe get some response from the chairman of the full committee, the gentleman from New Jersey (Mr. Rodino) or the gentleman from Illinois (Mr. McClory) if they would engage in some dialog.

Mr. GUDGER. If the gentleman will yield, I would answer the gentleman from North Carolina in my own right as floor manager that the proposition which he supported had my support and that of the gentleman from Texas (Mr. Hall) as he asserts but not the support of the conference committee.

In many instances the House position was sustained, but by the rule of the conference committee it failed in this instance.

Mr. NEAL. I would just like, for the record, to describe for my colleagues the situation. After an almost 2-to-1 recorded vote on the part of the House, the conferees, except for the gentleman from North Carolina (Mr. Gudger) and the gentleman from Texas (Mr. Hall) did absolutely nothing to support the position of the House of Representatives. In fact, one of our conferees made the motion to recede. My colleagues and I know that certainly there are times when the conferees must negotiate serious differences, and that in those cases often yield on some issues to get something in return. But in this case, there was no serious objection from the other side. Nothing had to be given, nor was anything gained in return. It was simply the majority of our conferees substituting their judgment for the judgment of the House of Representatives, for nothing in return. I think it is important that all Members know this. Other Members may not be as concerned as I am about rescue squad personnel, but at some time there will be an issue in conference which will be as important to them as this one is to me, and they may find themselves in the same position that I am occupying at this moment.

I have no recourse, Mr. Speaker, other than to express my regret. There is no opportunity for a motion to recommit.

I will conclude by saying that I have the highest regard for, and the utmost respect for, the distinguished members of the Committee on the Judiciary. I must say, however, that in this one instance I am rather keenly disappointed.

Mr. GUDGER. If the gentleman will yield, I will answer him briefly, for the time is limited, to this extent only by saying that the conference proceeded in an orderly fashion. There was lengthy negotiation between staff members before the conferences and negotiations of the conference committee members. There were 80 items in issue and in dispute, and the result was as shown in the conference report.

Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. First of all I would like to compliment the gentleman from North Carolina (Mr. Gudger) for the superb job he has done on this bill.

Mr. Speaker, during House consideration of this legislation my friend from Nebraska (Mr. Bereuter) offered an amendment which I had intended to offer but I was unfortunately away from the city. That amendment was intended to put into the legislation language to make clear that funding available to State judicial coordinating committees may be allocated to State criminal justice councils in those States which do not have judicial coordinating committees.

In Senate floor debate the Senator from South Carolina, Mr. Thurmond, whom I understand was instrumental in seeing this funding included in the bill, made the point that those funds should be available to the criminal justice councils for purposes of court planning and administration in instances where there is no judicial coordinating committee. The LEAA expressed support for that interpretation in a letter I received in September. And the clarifying amendment was supported by the floor managers here in the House.

However, in accepting the Senate language with regard to the criminal justice planning function, the Bereuter amendment was not explicitly retained in the conference report. It is my understanding from checking with committee staff that the fact that the Bereuter amendment is not in the bill was not a conscious decision to reverse the present practice of making those funds available to the criminal justice councils where judicial coordinating committees have not been established. In fact, in accepting the Senate language with regard to these planning funds, it seems evident that the conferees also accepted the Senate's intent with regard to availability of the $50,000 in planning funds as explained in floor debate by Senator Thurmond.

My State of Kansas and that of my colleague, Mr. Bereuter, are among the 13 States which do not have judicial coodinating committees. It is clearly most important to them that there be no doubt that their criminal justice planning funds will not be lost due to an unintentional ambiguity in the legislation. For that reason I would like to ask the distinguished floor manager his view on this matter. Is it the committee's intention that the present policy of making these funds available to criminal justice councils in the absence of judicial coordinating committees be continued?

Mr. GUDGER. If the gentleman will yield. When the House conferees accepted the Senate language with regard to these planning funds, we did so subject to the understanding that the Senate intent with regard to the use of these planning funds was as explained in the Senate debate by Senator Thurmond and that Criminal Justice Councils could qualify as in your question. Therefore, the answer to the gentleman's question is, "Yes."

Mr. GLICKMAN. I thank the floor manager.

Mr. BEREUTER. Mr. Speaker, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Nebraska (Mr. Bereuter).

Mr. BEREUTER. I thank the gentleman from Kansas for yielding. I would like to address my remarks to the gentleman from North Carolina. I appreciate the clarification he has just provided to the gentleman from Kansas. As the sponsor of the amendment, I shared my colleague's concern when I found that this provision had been dropped in the conference committee. Frankly, considering the importance of it and the lack of objection to it, I was disappointed that it was not in the bill. But I trust that should any problems develop—and I do not think that any will—if that is the eventuality, we might be able to contact the committee for some clarification and assistance to those States like Kansas and like Nebraska, and about 11 other States that are affected. Would this be the gentleman's understanding?

Mr. GUDGER. If the gentleman will

yield, I assure the gentleman that it is our understanding that the Councils which he has referred to will qualify.

Mr. BEREUTER. I thank the gentleman from Kansas.

☐ 1520

Mr. GUDGER. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. Mr. Speaker, while I am in general support of this conference report, I am extremely concerned about one section of the statement of managers.

Section 705 of both the House and Senate versions of S. 241 reauthorized certain law enforcement education programs under LEAA. However, the House version, which we approved on October 12 by a vote of 220 to 54, also contained a section 705(g), stating that "the functions, powers, and duties specified in this section to be carried out by the administrator shall be transferred to the Secretary of the Department of Education upon its establishment by an act of Congress." This language in the House bill was consistent with the intent of both Houses of Congress when they passed the Department of Education Organization Act, since that Act specifically transferred those programs to the Department of Education. In fact, during this Houses's long debate on the Department of Education on June 13, 1979, we rejected—by a vote of 128 to 275—an amendment to strike the transfer of the law enforcement education programs from the Justice Department to the Department of Education.

I was most surprised and displeased to discover that the conference report now before us deletes the specification of transfer to the Department of Education. To make matters worse, the statement of managers on S. 241 attempts to leave the impression that S. 241 is a subsequent enactment of these law enforcement education programs and that the deletion of the reference to transfer of programs will have the effect of leaving those programs within the Department of Justice.

This statement is misleading and, in my opinion, in error. S. 241's provision authorizing these law enforcement education programs is a word-for-word reenactment of the programs which are specifically transferred in the Department of Education Organization Act. The only change is in redesignation of the section number. Furthermore, inasmuch as the effective date of the Department of Education Organization Act is certain to be after the effective date of S. 241, it is clear that the language of the Department of Education Organization Act transferring these programs from Justice to Education will be the controlling language.

My opinion is shared by the Department of Justice's Office of Legal Counsel. That office has prepared a comprehensive memorandum on the disputed language in the conference report which concludes, and I quote, "We believe that that language does not affect the transfer of LEEP programs to the new DOE." I ask unanimous consent that this memorandum be printed in the RECORD at the conclusion of my remarks.

U.S. DEPARTMENT OF JUSTICE,
Washington, D.C., November 27, 1979.

Hon. JACK BROOKS,
Chairman, Government Operations Committee, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am sending a copy of a memorandum of the opinion of the Office of Legal Counsel of the Department of Justice on the transfer of certain LEEP programs to the Department of Education.

Sincerely,

ALAN A. PARKER,
Assistant Attorney General.

MEMORANDUM FOR ALAN A. PARKER

Re: Transfer of Certain Law Enforcement Assistance Administration Programs to the Department of Education

This responds to your request for our opinion on the effect of language in the conference report on S. 241, the proposed Justice System Improvement Act, on the transfer of the Law Enforcement Education Program and the Law Enforcement Internship Program (LEEP programs) to the Department of Education (DOE) from the Law Enforcement Assistance Administration (LEAA). For reasons stated hereafter, we believe that that language does not affect the transfer of LEEP programs to the new DOE.

The Department of Education Organization Act of 1979 (DOE Act), Pub. L. 96-88, provides in § 305:

"There are transferred to the Secretary all functions of the Attorney General and of the Law Enforcement Assistance Administration with regard to the student loan and grant programs known as the law enforcement education program and the law enforcement intern program authorized by subsections (b), (c), and (f) of section 406 of the Omnibus Crime Control and Safe Streets Act of 1968."

Under § 601(a) of the DOE Act, this transfer "shall take effect one hundred and eighty days after the first Secretary takes office, or on any earlier date on or after October 1, 1979, as the President may prescribe and publish in the Federal Register, . . ."

Congress is currently considering S. 241, the Justice System Improvement Act of 1979. Section 705 of that bill provides for a continuation of various LEEP programs and, as drafted, assumes that the LEAA will administer these programs by its use of the word "Administration" throughout.

There is no doubt that § 305 of the DOE Act specifically provides for transfer of the administration of LEEP programs from LEAA to the DOE. At the same time, S. 241 provides for the continuation of LEEP programs and names the LEAA as the agency to administer these programs. The question raised is whether § 705 is necessarily inconsistent with § 305 of the DOE Act. If § 705 were determined to be inconsistent and irreconcilable with § 305, then S. 241, *if enacted* in its present form, would, as the most recently enacted statute control the question of what agency is to administer LEEP programs. The specific rule of statutory construction applicable here is as follows:

"If the same legislative session enacts two or more acts on the same subject they are presumed to have been actuated by the same policy and intended to have effect together."

1A Sands, Sutherland Statutory Construction 250 (4th ed. 1972). In addition, the more general rule disfavoring implied repeals is applicable here because § 705 of S. 241, if read to retain administration of LEEP programs in the LEAA after a transfer would have otherwise been accomplished under the DOE Act, would necessarily repeal § 305 of the DOE Act. This rule of statutory construction has recently been reaffirmed by the Supreme Court as follows:

"In practical terms, his 'cardinal rule' means that '[i]n the absence of some affirmative showing of an intention to repeal, the only permissible justification is when the earlier and later statutes are irreconcilable.' "[1]

We believe that § 705 of S. 241, if enacted, could be read consistently with § 305 of the DOE Act for two reasons.

First, since § 601(a) of the DOE Act contemplates a gap of up to 180 days between the time the first Secretary of Education takes office and the actual transfer of LEEP programs occurs by operation of law, it is probable that LEEP programs as restructured by S. 241 will, for a short period of time, be administered by the LEAA. Thus, the inclusion of LEEP programs in the new LEAA organization Act, and the use in § 705 of the term "Administration" is understandable.

Second, § 507 of the DOE Act establishes a rule of statutory interpretation applicable to federal laws which we believe is controlling until that provision is itself repealed by Congress. Section 507 reads as follows:

"With respect to any functions transferred by this Act and exercised on or after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary, other official, or component of the Department to which this Act transfers such functions."

Because § 305 of the DOE Act transfers all LEEP functions vested in either the Attorney General or the LEAA to the Secretary of Education, § 507 of the DOE Act mandates that the word "Administration" as it appears in § 705 of S. 241 be deemed to refer to a component of the DOE.[2]

The only evidence of which we are aware suggesting that § 705 should be read to repeal not only § 305 of the DOE Act but the rule of statutory interpretation in § 507 of that Act is an expression of "opinion" in the conference report on S. 241:

"The House bill provided for the reauthorization of the Law Enforcement Education Program (LEEP). One of its provisions provided for the transfer of the program to the Department of Education.

"The Senate bill contained authorization for LEEP within LEAA, but had no transfer provision.

"The conference substitute adopts the Senate position.

"A provision similar to the House transfer provision is contained in section 305 of the Department of Education Authorization Act. (Public Law 96-88, approved October 17, 1979.) Section 305 provides for the transfer, upon the establishment of the Department of Education, of the programs 'authorized by subsections (b), (c), and (f) of Section 406 of the Omnibus Crime Control and Safe Streets Act of 1968.' These subsections are to be subsequently reenacted in section 705 (b), (c), and (f) of the conference substitute. These provisions authorize the Administrator of LEAA to conduct these law enforcement education programs, and, upon enactment, the conference substitute will constitute legislative action subsequent to the Department of Education Authorization Act. The conferees are of the opinion that the cumulative effect of reenactment of the LEEP programs within LEAA and the deletion of any reference in this legislation to transfer of the programs will have the effect of retaining these LEEP programs within LEAA."[3]

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[1] *TVA* v. *Hill*, 437 U.S. 153, 190 (1978), quoting *Morton* v. *Mancari*, 417 U.S. 535, 550 (1974).

[2] We note that § 507 on its face is not limited in application to Federal laws existing at the time of enactment of the DOE Act and nothing in its legislative history suggests such a legislative intent. See S. Rep. No. 326, 96th Cong., 1st Sess. 60 (1979); S. Rep. No. 49, 96th Cong., 1st Sess. 88 (1979); H.R. Rep. No. 143, 96th Cong., 1st Sess. 30 (1979). Indeed, we assume that the drafters of § 705 would acknowledge that that provision's reference to the "Commissioner of Education" in paragraph (a) must be deemed a reference to the Secretary of Education as soon as the office of the "Commissioner of Education" is abolished, and that reference to the "Administration" in § 705 must be deemed a reference to a component of the DOE.

To the extent that this "opinion" of the conferees expresses a legislative "intent" that could be subsequently ascribed to Congress as a whole were S. 241 to be enacted in its present form, it constitutes evidence regarding the correct interpretation of § 705. However, it is not, in our view, persuasive evidence, given the rules of statutory construction discussed above. The plain language of § 705 can, as we indicate, be read consistently with both §§ 305 and 507, of the DOE Act. In these circumstances, the observation of Mr. Justice White in *Train* v. *City of New York*, 420 U.S. 35, 45 (1975), that "legislative intention, without more, is not legislation" would seem appropriate to make regarding the views of the conferees.[4]

Congress may, of course, repeal or condition the application respectively of §§ 305 and 507 of the DOE Act.[5] We simply conclude that S. 241, if enacted in its present form, would be insufficient to accomplish the legislative objective articulated by the conferees on S. 241.

Larry L. Simms,
Deputy Assistant Attorney General,
Office of Legal Counsel.

Mr. HORTON. Mr. Speaker, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from New York.

Mr. HORTON. Mr. Speaker, I take this time to speak about an attempt in this legislation to break up the Department of Education even before that new Agency is in operation.

In enacting the Department of Education Organization Act (Public Law 96-88) earlier this year, the Congress transferred the student financial aid portions of the Law Enforcement Assistance Administration's (LEAA) law enforcement education program (LEEP) from the Department of Justice to the Department of Education. The conference report now before us tries to prevent that transfer by keeping these portions of LEEP in Justice. I would like to explain how the legislation makes this attempt, and why I think it is ineffectual in doing so.

The conference report restructures the law authorizing LEAA, and in so doing, reenacts without change, for the purpose of simplicity in drafting, statutory provisions which are intended to remain intact. The section regarding LEEP is one of these provisions; it is renumbered from section 406 to section 705 of the Agency's authorizing law, but otherwise unchanged.

The statement of managers offers this comment on the reenactment:

> The conferees are of the opinion that the cumulative effect of reenactment of the LEEP programs within LEAA and the deletion of any reference in this legislation to transfer of the programs [(the House bill included such a reference)] will have the effect of retaining these LEEP programs within LEAA.

This remark, in my judgment, is contrary to both congressional intent and judicial rulings.

The House has spoken twice on the question of whether the student financial aid portions of LEEP should be administered by the Department of Justice or the Department of Education. On June 13, 1979, during consideration of the Department of Education Organization Act, the gentleman from Illinois (Mr. McClory) offered an amendment to eliminate the transfer of these parts of LEEP from Justice to Education. The amendment was defeated by a vote of 128 to 275; incidentally, a majority of House conferees on the conference report now before us joined in opposition to the amendment. On October 12, 1979, the House passed H.R. 2061, this body's version of a bill to restructure LEAA, with an amendment to the section governing LEEP. This amendment provided that all of the LEEP program, not just the student financial aid portions, be transferred to the Department of Education.

The Senate has not spoken directly about the placement of LEEP, but twice, in its consideration of both the Department of Education Organization Act and this bill to restructure LEAA, it has raised no objection to the transfer of the student financial aid portions of that program to the Education Department. During debate on the education bill, no Senator attempted to strike the provision directing the transfer. After Senate passage of that legislation, the Judiciary Committee filed its report on this bill (S. Rept. 96-142); it made no statement about the transfer, which it knew the Senate contemplated, saying only that its bill's provision regarding LEEP was "comparable" to present law. The Senate later passed S. 241 without commenting on LEEP.

The courts have generally ruled that all provisions of law should be given effect, and that—

> *In the absence of any express repeal or amendment* therein, the new provision [should be read as having been] enacted in accord with the legislative policy embodied in those prior statutes . . . (emphasis added) (C. Dallas Sands, "Sutherland Statutes and Statutory Construction," § 51.02 (4th ed. 1973)).

Here, since S. 241 makes no express repeal or amendment of any provision of Public Law 96-88, the two laws should be read as being in accord with each other—the LEEP program restated, and portions of it transferred to the Department of Education.

In *Tennessee Valley Authority* v. *Hill*, 437 U.S. 153 (1978), the last case in which the Supreme Court considered an issue of statutory construction similar to the one before us, the Court ruled that statements in a committee report claiming that certain provisions of law should not apply to a specific matter were ineffectual. To find a repeal of existing law under these circumstances, the Court said, would violate the cardinal rule that repeals by implication are not favored. Professor Sands says that the presumption against implied repeals may be overcome only—

> by showing that the two acts are irreconcilable, clearly repugnant as to vital matters to which they relate, and so inconsistent that the two cannot have concurrent operation. (Id. at § 23.10.)

Such a showing, I think, cannot be made here.

Consequently, the statement of managers notwithstanding, the conference report on S. 241 should have no effect on the transfer of the student financial aid portions of the LEEP program from the Department of Justice to the Department of Education. As the ranking minority member of the Government Operations Committee, which recommended enactment of the Department of Education Organization Act, I shall be working with the administration to insure that the Education Department is established in compliance with that law, with regard to LEEP as well as all other programs transferred to the new Department.

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report. As a sponsor and supporter of LEAA from its inception, I am pleased to see this program continue. Over the years it has not been uncommon for the administration to propose its plan only to have Congress write its own. This, in fact, was how LEAA was born. And this is occurring once again today. I would hope that the administration would accept the congressional enactment and execute the law in good faith and not try to construe our rejection into agreement of its proposal.

In the last few minutes I have had the brief opportunity to look over the so-called final report of the OJARS transition task force. As best as I can determine, the report appears to have been written to carry out the rejected proposal and then modified to the extent necessary to avoid clear conflict with the conference report.

This is not the equivalent of the good faith implementation I would hope for. I am fearful that by transferring certain so-called administrative support services from LEAA to OJARS, the necessary evaluation and audit review of programs before approval will be made by OJARS and not by LEAA. I am also concerned that by not transferring the necessary staff to LEAA to carry out the statistical systems development program which the report admits is specifically allocated to

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[3] H.R. Rept. No. 96-655, 96th Cong., 1st Sess., reprinted in 125 Cong. Rec. H11008 (daily ed. Nov. 16, 1979).

[4] We note that the argument of the conferees rests in the main on the proposition that their deletion of § 205(b) of H.R. 2061 as passed by the House, which provided explicitly for the transfer of LEEP administration to the Secretary of Education, succeeded in retaining the LEEP programs in the LEAA. This argument assumes that § 205(b) as it appeared in H.R. 2061 was in any sense necessary to effect the transfer of LEEP programs to the Secretary of Education. As our discussion of § 305 above makes clear, § 205(b) was, at best, a redundancy. Indeed, the House of Representatives had, in June 13, 1979, made clear its collective view regarding this transfer by rejecting, on a vote of 275-128, an amendment which would have stricken § 305 from the DOE Act. 125 Cong. Rec. H4481-82 (daily ed. June 13, 1979).

[5] We cannot say with certainty that if a court examined this question it would not find that Congress affected this repeal in passing S. 241. No matter how clear the statutory scheme, a court may not feel precluded from relying on contrary legislative, history. *Train* v. *Colorado P.I.R.G.*, 426 U.S. 1, 10 (1976).

LEAA, the emasculation of LEAA continues. Moreover, the diagrams depicting OJARS as a layer of bureaucracy above the LEAA, NIJ, and BJS is exactly what both Houses of Congress have already voted to prohibit. OJARS is not supervisory. It is a management tool. It is designed to be equal to the other agencies, not their superior.

This program is not so well received as it once was. I have received assurances from the agency that the conference report will not be undercut, that the task force report does not represent the final conclusion of the Department, and that the law—as written—will be faithfully executed.

Mr. Speaker, clearly the most significant conference issue concerned the structure of LEAA. As the Members of this body will recall, the House by a recorded vote of 237 to 169 rejected the administration's proposal, adopted in the Senate, to place an administrative layer between the Attorney General and LEAA. This layer was called the Office of Justice Assistance, Research and Statistics, or OJARS. At the time I supported the OJARS proposal not because I wanted an additional layer of bureaucracy but because I thought OJARS could coordinate the activities of LEAA with the National Institute of Justice (NIJ) and the Bureau of Justice Statistics (BJS) and could also provide common support staff to the three other agencies so that the total staff level could be reduced.

Fortunately, the conference compromise achieves the best of both worlds. It does not place OJARS above LEAA, NIJ or BJS. Rather OJARS is placed alongside of those Agencies and given its own administrative mission. It is to coordinate and support these Agencies but not to dominate them. And in the words of the statement of managers, "inasmuch as OJARS is to provide these support and coordination functions, and not policy discretion and control, the conferees determined that no Advisory Board to OJARS is needed."

Thus "policy setting for LEAA, NIJ, and BJS will be the responsibility of the appropriate Director or Administrator of the program in question." These three Agencies are placed under the general authority of the Attorney General and not under the authority of OJARS.

The one defect in this structure was introduced at the insistence of the Senate. Under the conference substitute LEAA must share its authority to establish priorities for discretionary and national priority grants with OJARS. This may recall to some the original "troika" scheme for administering LEAA, which has been largely discredited. The resolution of differences that may arise between the two agencies will be the duty of the Attorney General. This shared authority will, I fear, become a problem area. Unfortunately, there was no more acceptable alternative in conference and the House conferees reluctantly agreed.

But it should be pointed out that this is OJARS' only policy role. Thus with respect to policy formulation, it has less of a role than the agencies it coordinates and supports. And I trust that the scope of those functions are clear to all: Coordination and support are quite distinct from management, supervision, or policy control. In contrast to the role of OJARS as originally proposed by the administration, OJARS is—in the words of the ranking minority member of the Senate Judiciary Committee, "only a shadow of its former self." I agree in that evaluation, and I would like to commend the Senator for his explanation of the role of OJARS, given during debate on the conference report, which is both thorough and accurate.

The second major difference between the Houses concerned the jurisdiction of the entire program. The House wished to confine it to criminal matters alone while the Senate wished to embrace civil matters as well. It should be noted that there is probably no better way to reduce our efforts in both the criminal and civil areas than to adopt the Senate position. Although LEAA's enlargement of its own jurisdiction by bureaucratic fiat may have redounded to its political benefit by increasing the number of possible grantees who might pressure Congress to continue the program, such machinations were not in the interests of improving the administration of justice. The reason is that as a matter of practical experience, jurisdictional forays into civil areas have only reduced the number of dollars available for criminal matters while at the same time providing an excuse for not funding civil programs thought to be eligible for LEAA grants.

For that reason the Judiciary Committee in this body overwhelmingly agreed to restrict the jurisdiction of LEAA to criminal matters. It was not that we thought that civil justice was unimportant. Rather it was to allow civil justice programs to be judged on their own merits.

The other body took a less sophisticated approach. In view of that, our compromise is acceptable. The jurisdiction of LEAA extends to civil matters only to the extent that it bears directly upon, or is necessarily intertwined with, criminal matters.

This formula is statutory and it speaks for itself. It does not permit LEAA to build playgrounds to reduce juvenile delinquency. It does not permit LEAA to fund jobs programs so that the jobless will not steal. It does not permit LEAA to fund counseling centers so that people will not attack each other. LEAA is not the answer to all our problems. It is a limited program focusing on criminal matters. While playgrounds, jobs programs, counseling centers, and the like may be great ideas, they do not meet the test. Their relationship is indirect—not direct. They can make no claim on LEAA dollars.

However, there are many instances where it is not possible to accomplish one's purpose in the criminal area without acting upon both civil and criminal matters. Court reform may be such an example. While the House language would have restricted LEAA in such instances, the conference substitute would not.

The compromise is by no means a license for LEAA to continue as usual. Its funding of the National Center for State Courts was far removed from the purpose of LEAA then—and now. Then, of course, there was no statutory formula—only what I thought was clear congressional intent "to fight crime." Now, with the adoption of the conference formula, LEAA will no longer be permitted such jurisdictional incursions into noncriminal areas. It will be permitted to touch on civil areas where there is no other way to achieve its criminal justice purposes.

The third item of major controversy concerned Senate provisions requiring an evaluation report by OJARS. The House conferees, of course, did not oppose an evaluation requirement as such—the House amendment itself had such a requirement—but objected to the particular character of the Senate provision which was implicitly critical of LEAA, wasteful in its breadth, and unrealistic in its expectations. With substantial modification, the evaluation requirement was accepted. Most of the objections have been met in drafting new subsections 816 (b), (c), and (d), and to the extent some were not, the statement of managers makes clear what is expected of the report.

While the original provision was written in terms that one should expect that every LEAA dollar would produce some quantifiable benefit, the conference substitute is more realistic. As written there is ample opportunity for LEAA to suggest what may be reasonably expected of various programs. If a given effort is designed, for example, to train personnel, it is not expected that it will produce noticeable results in the crime rates or prison conditions or statistical systems. It is anticipated that both the evaluation prognosis and the evaluation results will be performed with proper regard for the limitations of LEAA programs—a low level of Federal funding and less control than ever over formula grants which comprise 80 percent of the program.

The fourth item of controversy concerned the 10-percent matching requirement for formula grants and discretionary grants contained in the House amendment. The House favored the matching requirement so that grantees would show true commitment to programs which they must pay for entirely when such programs have lost their innovative character and so that, having spent some of their own funds, grantees would exercise more care in auditing the programs to insure against waste. However, the best that those of us favoring the House position could accomplish was to apply the requirements to formula grants but not to discretionary grants.

In one sense, the requirement was strengthened by requiring that the match be in hard cash. But exceptions were made for fiscal year 1980, since many legislatures have adjourned, and thereafter in cases of hardship. I would hope that in applying the standard for determining a hardship case LEAA would require of a grantee seeking the exemption of how it reasonably expects to pay 100 percent of the cost in the future when it cannot pay 10 percent at present. In addition, the traditional exception for Indian tribes was reinstated.

A fifth item of disagreement was the

retention of the LEEP program within LEAA. Much to my surprise, there was very little opposition on the part of the House conferees to accepting the Senate provision which reenacted the LEEP program as part of LEAA. The Members may recall that I had offered an amendment to keep LEEP in LEAA last June 13, but the amendment was defeated with a majority of the LEAA House conferees voting against it. The subsequent enactment of Public Law 96-88, the Department of Education Organization Act, thus provided that LEEP was to be transferred to the Department of Education 6 months after a Secretary to that Department was sworn in. That condition has yet to be fulfilled; so LEEP is presently within LEAA.

There are two ways to override a prior law. The first is to repeal that prior law directly. The second is to write a new law that does the opposite. The conference substitute is an example of the second approach. The prior law transferred LEEP out of LEAA. The law before us today reenacts LEEP as part of LEAA. Both provisions cannot stand together; they are contradictory. The later in time therefore prevails. And the statement of managers makes clear that it is our legislative intention that the subsequent enactment be given its normal legal effect.

Those who argue that LEEP is not retained in LEAA appear to be confused by the condition subsequent contained in Public Law 96-88. Since that condition has not been fulfilled, they seem to feel that this legislation will be superseded on the fulfillment on the condition as if the fulfillment were somehow a reenactment of Public Law 96-88. But what they fail to realize is that the enactment of this legislation will nullify that part of Public Law 96-88 containing the condition subsequent just as if the condition had been fulfilled and LEEP then been transferred from LEAA. Had that happened and this legislation then been enacted, there would be no question that LEEP would be transferred back to LEAA. The same result must obtain where the condition has not been fulfilled. It is the law—not the occurrence contained in the condition—that is contradicted. It is the law—not the occurrence—which is nullified. If this report is passed by both Houses and signed by the President, it is the new law of the land, contradictory prior laws notwithstanding.

The Department of Justice has provided a legal opinion that our action today is not contrary to the transfer envisioned by Public Law 96-88 because the latter contained a provision, section 507, that said that references in Federal law to transferor agencies shall be deemed to refer to the transferee. That provision is, of course, an omnibus cross-reference provision. The opinion further suggests that the provision applies prospectively to subsequent acts of Congress so that our references to LEAA are actually references, for this purpose, to the Department of Education. But if that were so, our action today would be irrational. For we would be requiring in section 705(a) of this legislation that the Department of Education consult itself. Since rules of statutory construction require the avoidance of irrational results, the reference to LEAA cannot be deemed a reference to the Department of Education.

More significantly, section 507 of Public Law 96-88 cannot be applied to determine whether a transfer, in fact, occurs. It begs the question to suggest that a cross-reference provision that takes effect where there is a transfer actually governs legislation written to preclude such transfer. If LEEP were transferred, cross references should be deemed corrected. But if LEEP is not transferred, then section 507 has no relevance. And the question before us is whether LEEP is in the Department of Justice or in the Department of Education. The last word prevails, as the legal opinion admits, and that fortunately is S. 241.

The Members of this body will note that not one word of contrary legislative intention was voiced in the other body in debating the conference report. I concur in the unequivocal joint statement of managers and the legislative history in the other body that LEEP is now being enacted as part of LEAA for the purpose of keeping it part of LEAA. How some can suggest that this is neither our purpose nor our effect is difficult to understand unless, of course, you recall their particular interest on this issue.

A sixth item of some importance is the conference substitute's requirement that formula grant programs be "innovative." Innovative programs are comprised of those proven to be effective in other jurisdictions but never tried in the grantee jurisdiction as well as those programs never tried anywhere but which demonstrate a strong probability of achieving their intended criminal-justice purpose. This limitation on formula grants should rekindle the original flame of LEAA, a program instituted to provide the spark necessary to fight crime and improve the administration of justice in ways not yet tried by the grantees. It also means that after a period of time an LEAA program, no matter how successful, is no longer innovative and must thereafter be supported entirely by non-Federal funds. If LEAA would enforce this congressional mandate to fund only innovative programs, its contribution to the people would increase, its respect would rise, and its future existence would be assured.

The last item concerns the treatment of entitlement jurisdictions. While it is understandable that every locality would like to be entitled to LEAA money, that is not workable. In fact, the requirement of 100,000 population in the House bill also appeared unworkable upon careful analysis. With the meager appropriations provided for this year, such a formula would spread LEAA money so thinly across the country that it would be just a waste of money. Thus the conferees agreed that no grantee should be entitled to any money unless the formula entitled it to $50,000 or more. In the same vein, the conferees eliminated entitlement status for central cities of SMSA's since they produced a very high proportion of small grants.

This lessening of entitlements will have a beneficial effect, I believe, on regional planning units. The greater number of entitlement jurisdictions, the more difficult it is for regional planning. The higher standard for entitlements should prompt local governments to band together into coordinated units and thereby gain entitlement status. Where local governments are reluctant to combine or cooperate with regional planning units, the States have considerable leverage through incentive—and disincentive—funding to encourage such activity. An express provision for incentive funding was dropped as unnecessary rather than as undesirable or illegal.

Mr. Speaker, the conference substitute should be very acceptable to the House. I believe that in many respects the substitute is an improvement over the versions which passed the respective Houses. While we did not prevail on every point, we won more than our share. And, on those we lost, the result may be better for the administration of justice. I urge the adoption of the report.

Mr. McCLORY. I yield 7 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the conference report on the Justice Improvement Act of 1979. In my opinion, the conference report is substantially worse than the bill which passed out of the House of Representatives in that the Office of Justice Assistance Research and Statistics—OJARS, for short—has been revived and that the provision for 10 percent State and local matching grants for the formula grant has been deleted.

Mr. Speaker, the OJARS provision was amended out of the LEAA bill when it came before the House of Representatives on the grounds that an additional layer of bureaucracy is unneeded and unnecessary in the dispensation of Justice grants to the States and localities. Unfortunately, the conferees of this House were not able to prevail and as a result this bill creates a new Federal agency.

Mr. Speaker, on November 30, 1979, the final report of the OJARS transition task force was released in the Department of Justice. This is entitled "A Transition Plan for the Office of Justice Assistance Research and Statistics."

Mr. Speaker, this plan indicates that of the 598 present LEAA employees, 274 of them, or over half, will be transferred to OJARS. It is obvious that even before the President's signature is on this conference committee report the OJARS empire is being built and the only way the Congress can stop this empire from being built is through the rejection of the report that is before us at the present time.

Mr. McCLORY. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I am happy to yield to the gentleman from Illinois.

Mr. McCLORY. Mr. Speaker, I agree with the gentleman that this report, this so-called task force report, interprets the function of OJARS differently from the way the law is written in this conference committee report. I have communicated with the Administrator of LEAA to advise him that the organizational structure outlined by the task force was not the will of the House nor of the Senate, that the OJARS function is to be a coordinating function and not supervisory over LEAA. LEAA is to manage its own independent functions. It is to be in charge of the grant program and the approval of the planning measures that are taken by the States. We do not want any super bureaucracy placed over LEAA and the National Institute of Justice and the Bureau of Justice Statistics. He understands that. And I think the message is clear that the House and the Senate have spoken their own mind on this legislation. I am hopeful that the limited role we give to OJARS—support and coordination—is the only role assigned to it. OJARS can be useful. But it could also be bureaucratic, it could be meddlesome, it could be expensive and burdensome if it is permitted to undertake functions beyond those that are granted in the legislation. I hope that the gentleman's fears will not come to pass in the administration of this law.

Mr. SENSENBRENNER. Mr. Speaker, I would pray that the hopes of the gentleman from Illinois will be fulfilled. However, in the brief time that this report has been available to me, it appears that the plan for OJARS that the bureaucrats have come up with is consistent with the law as set forth in the conference report. For example, OJARS' function would include, according to this report, management, budget, and program coordination, centralized staff and administrative support services, joint designation of discretionary and national priority programs with LEAA and civil rights.

Now for that, according to this report, they will need 274 employees. On the other hand, the Law Enforcement Assistance Administration, which this report downgrades, with responsibilities for State/local assistance, national programs, community crime prevention programs, juvenile justice and delinquency prevention and education and training would only get 228 employees. My, how the bureaucracy grows before it is even created. That is why OJARS is an unnecessary appendage to the LEAA-type apparatus because it gets more employees under a proposed reorganization plan than the agency from which it sprang—the LEAA.

Finally, Mr. Speaker, the conference report is deficient in that the House provision which requires State and local government to provide 10 percent of their own money to match the 90-percent Federal funding has been eliminated so that State and local programs get a 100-percent free ride. One of the reasons that some LEAA programs have been successful at the State and local level has been that there has been some State and local money required to be put up to finance it and, as a result, many of these programs have been continued when the Federal money expired.

One sure way to make sure they are not continued is to not have any State and local match, and for that reason I would hope this report would be rejected as well.

Mr. GUDGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to respond to one observation made by the gentleman from Wisconsin. Only for 1 year is there 100-percent funding. After that first year, which is the year now in progress, we will go back to the 90–10 limitation. I disagree with the gentleman on his interpretation about OJARS. I concur with the observations of the gentleman from Illinois concerning OJARS and concerning the LEEP program. I think the gentleman has fully defined what is the function of both in the context of this bill. I commend the gentleman for his observations.

Mr. Speaker, I now yield the balance of the time remaining to the majority, to the chairman of the Committee on the Judiciary, the gentleman from New Jersey (Mr. Rodino).

□ 1530

Mr. RODINO. Mr. Speaker, I shall not consume the 14 minutes allotted to me. I merely want to rise in support of this conference report and commend the gentleman from North Carolina, who has so ably not only floor-managed this conference report, but steered this bill through the House and through the conference.

I also want to commend the ranking minority member, the gentleman from Illinois (Mr. McClory) for his cooperation.

I think the explanations today on the part of the managers of the House and the actions they have taken are reasonable. I think they are perfectly justified. They are part of the process of trying to arrive at a resolution of the differences in the two bills that were presented, one on the part of the House and the other on the part of the Senate.

The nature of the types of effective compromises they worked out is demonstrated by the resolution of the OJARS issue, which was probably the toughest issue before the conference. The House bill had no OJARS, the House having adopted provisions calling for LEAA, NIJ, and BJS to report directly to the Attorney General. The Senate language established an OJARS, with broad authority to set policy for and direct the three component programs.

The conference substitute retains OJARS, but with more limited and more clearly defined authority. First, OJARS is to provide staff support to the three other units. This will permit consolidation of a number of functions common to all, and will result in personnel and cost savings. Second, OJARS will coordinate the functions of the three units—it will not dominate them. Coordination in this context means to resolve differences between them, and to see that all three units work together effectively in areas where their functions overlap.

Accordingly, the Senate provisions for an advisory board for OJARS is deleted. Since OJARS will not be setting policy for the three grant making agencies, no advisory board is seen as necessary.

A final feature of the OJARS compromise relates to setting of priorities for the national priorities and the discretionary programs within LEAA. These will be set jointly by the Director of OJARS and the Administrator of LEAA.

I, too, have just received a copy of the transition plan prepared by the Justice Department and referred to in the remarks of the ranking minority member of the Judiciary Committee. We will be reviewing this document very carefully to make sure that the letter and spirit of the substitute bill adopted by the conference is followed.

Other apprehensions and concerns have been now aired here by some Members. The explanations made by the floor manager, certainly should, in my view, put those apprehensions and concerns to rest.

Mr. Speaker, this is a good bill. The House was able in many instances to maintain its position. There had to be, of course, a giving of the House position in certain instances in order to maintain a balanced view.

I think in all we have got to commend the managers of this conference report for having brought out a bill that I think all of us can support, which carries out the objectives of LEAA.

Mr. Speaker, I urge adoption of this conference report.

Mr. McCLORY. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I just take this 1 minute to emphasize that under this legislation the general authority over, and general control of, each agency is in the Department of Justice under the Attorney General. The three agencies—LEAA, NIJ, and BJS—are not under OJARS. OJARS is under the Attorney General, just as are the three agencies. That is the way we want it to be. There is where we repose the responsibility for its faithful administration. That is what this conference report says.

No one agency is superior in status to any other. They are equal and coordinate, each supreme in the area assigned to it by Congress but each respectful of the functions assigned to others. Thus, for example, under the guise of providing support staff, it is not intended that OJARS correctly engage in policy direction and control.

Mr. Speaker, I am now happy to yield 3 minutes to the gentleman from New York (Mr. Lee).

Mr. LEE. Mr. Speaker, I rise to voice my deep concern with the regrettable misdirection in emphasis this program has taken in Onondaga County, N.Y., a county I am proud to represent in this body. I am concerned that more than 1½ million Federal dollars have been allocated to fund a politically motivated probe that far exceeds the scope of the Law Enforcement Assistance Administration, and brings to the forefront the serious problem of LEAA's ability to oversee and evaluate projects funded by Federal block grants which prove to be in fact outside the program's intent and focus.

Before I outline, Mr. Speaker, the abuse of the program I see taking place in my district, I must state I applaud the purposes of the LEAA. In the decade since LEAA was formed in 1968, the number of serious crimes reported in the United States rose from 6.7 million to 10.9 million, an increase of over 60 percent. As criminal activity has increased, the burden on State and local agencies responsible for protecting life and property has escalated, and the need for Federal assistance becomes more critical. In this context of rising crime and the limited financial resources of Government, we owe our citizens the most efficient and effective law enforcement possible, and any waste of funds is itself a criminal act.

When discussing this conference report in the Senate, my distinguished colleague, Senator JACOB JAVITS, has taken the time to outline the history of the political probe in Onondaga County funded by LEAA dollars. I concur with the Senator's assessments, and will not expand upon his description of this partisan political investigation, except to inform you it has lasted 3 years, expended over $1.5 million in LEAA funds which were appropriated to New York State through the formula grants program, and this investigation has produced only two misdemeanor convictions and five pleas of guilty to misdemeanors.

It must be stated this political inquiry was initiated by Governor Carey, a Democrat, and resulted in indictments of over 30 Republican politicians and their business associates for crimes former U.S. Attorney General Griffin Bell himself rejected as trivial and obscure. It must be noted, Mr. Speaker, that this large expenditure of LEAA funds is a grossly disproportionate allocation, and has caused essential criminal justice projects in other areas of New York State to go unaided.

Mr. Speaker, this disproportionate allocation raises in my mind serious questions about the effectiveness of the LEAA block grant formula approach. Although guidelines exist to check and balance the program, it has become apparent stricter criteria is necessary to insure immunity from partisan political interference. The original intent of LEAA is admirable—to make our neighborhoods safe for all citizens, to provide an environment where we are not prisoners in our own homes, and where criminals are behind bars.

Mr. Speaker, I am pleased to inform the House that I have today requested the Comptroller General of the United States to direct the General Accounting Office to study and report its findings on the use of LEAA funds for the maintenance of the Onondaga County probe. In making this request I have sought an impartial and completely objective review of the LEAA's role in this questionable, politically motivated inquiry.

There is no doubt, Mr. Speaker, that local and law enforcement officials are given a free hand within the limits of our Constitution to root out crime, unbridled by the redtape of the Federal Government. The LEAA block grant concept is well suited to achieving this goal. However, those serving in Congress have the obligation to guarantee to every extent possible that Federal moneys are used to fund only those programs well within the spirit as well as the letter of the law.

● Ms. HOLTZMAN. Mr. Speaker, I support the conference report on S. 241, which extends the programs of the Law Enforcement Assistance Administration for 4 years.

I hope it is adopted. As the members of this House know, I have taken a strong leadership role in support of LEAA for many years. While the agency has not been without flaws, it has been improving with each passing year. I have been proud to play a role in strengthening and upgrading this program. LEAA has helped develop successful efforts such as the "sting operations" and the career criminal program. In New York City, it is providing the means to computerize the criminal justice system. LEAA has helped make our criminal justice system more efficient and more effective.

This reauthorization bill makes a number of significant improvements in the Federal program of aid to States and local government in their efforts to fight crime. This legislation builds on the strengths of the existing programs. It streamlines the flow of LEAA assistance and improves management and accountability. The bill creates an Office of Justice Assistance, Research and Statistics (OJARS) to coordinate the activities of LEAA, the National Institute of Justice and the Bureau of Justice Statistics. The newly created National Institute of Justice would work on problems common to State and local justice systems and would coordinate efforts to develop effective crime prevention programs. The bill provides for a greater State and local contribution and requires those units of government to assume a greater share of the administrative costs.

This LEAA conference report will provide badly needed Federal aid to help State and local governments combat crime.●

Mr. McCLORY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GUDGER. Mr. Speaker, we have no further requests for time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER pro tempore (Mr. MURTHA). The question is on the conference report.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 304, nays 83, not voting 46, as follows:

[Roll No. 730]

YEAS—304

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnes
Beard, Tenn.
Beard, R.I.
Bedell
Benjamin
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Butler
Byron
Carr
Carter
Chappell
Chisholm
Clausen
Clinger
Coleman
Collins, Ill.
Conable
Conte
Corcoran
Corman
Cotter
Courter
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Derwinski
Dicks
Dixon
Dodd
Dornan
Dougherty
Downey
Drinan
Duncan, Tenn.
Eckhardt
Edgar
Edwards, Ala.
Emery
Erdahl
Ertel
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Findley
Fish
Fisher
Fithian
Flippo
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Giaimo
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Harkin
Harris
Harsha
Hawkins
Heckler
Hefner
Hightower
Hillis
Hinson
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Huckaby
Hutto
Hyde
Ireland
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Tenn.
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Lagomarsino
Leach, Iowa
Leach, La.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Luken
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Mathis
Matsui
Mavroules
Mazzoli
Mica
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pepper
Perkins
Peyser
Pickle
Preyer
Price
Pritchard
Pursell
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Robinson
Rodino
Roe
Rosenthal
Roybal
Royer
Sabo
Santini
Sawyer
Scheuer
Schulze
Sebelius
Shannon
Sharp
Shelby
Skelton
Slack
Smith, Iowa
Smith, Nebr.
Snowe
Snyder
Solomon
Spellman
St Germain
Stack
Staggers
Stanton
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Thompson
Traxler
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Walgren
Wampler
Waxman
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wilson, Tex.
Winn
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—83

Archer
Ashbrook
Barnard
Bauman
Beilenson
Bennett
Bereuter
Bethune
Burgener
Carney
Cavanaugh
Cheney
Clay
Cleveland
Collins, Tex.
Conyers
Coughlin
Crane, Daniel
Dannemeyer
Devine
Dickinson
Duncan, Oreg.
Early
Edwards, Okla.
English
Erlenborn
Forsythe
Frenzel
Gephardt
Guyer
Hammerschmidt
Hance
Heftel
Holt
Hubbard
Hughes
Ichord
Jacobs

Jeffries
Jones, Okla.
Kelly
Kindness
Kramer
Latta
Leath, Tex.
Lewis
Lungren
McDonald
Martin
Mattox
Miller, Ohio
Moorhead, Calif.
Nelson
O'Brien
Paul
Pease
Petri
Quayle
Roberts
Roth
Rousselot
Runnels
Satterfield
Schroeder
Seiberling
Sensenbrenner
Shumway
Shuster
Simon
Stangeland
Steed
Stenholm
Stump
Synar
Tauke
Taylor
Thomas
Volkmer
Walker
Watkins
Weaver
Wirth
Wydler

NOT VOTING—46

Anderson, Ill.
Andrews, N. Dak.
Badham
Brademas
Burton, John
Burton, Phillip
Campbell
Coelho
Crane, Philip
Dellums
Diggs
Dingell
Donnelly
Edwards, Calif.
Fenwick
Flood
Goodling
Hagedorn
Hanley
Hansen
Holland
Jeffords
Jenkins
LaFalce
Lundine
McCloskey
McEwen
McKay
Marlenee
Michel
Murphy, Ill.
Murphy, N.Y.
Nichols
Oakar
Rose
Rostenkowski
Rudd
Russo
Solarz
Spence
Stark
Symms
Treen
Trible
Weiss
Wilson, C. H.

☐ 1550

The Clerk announced the following pairs:

Mr. Hanley with Mr. Andrews of North Dakota.

Mr. Russo with Mr. Campbell.

Mr. Brademas with Mr. Anderson of Illinois.

Mr. Rostenkowski with Mr. Jeffords.

Mr. Solarz with Mr. Goodling.

Mr. Weiss with Mr. Michel.

Mr. Murphy of New York with Mr. Philip M. Crane.

Mr. Coelho with Mr. Spence.

Mr. Nichols with Mr. Symms.

Mr. John L. Burton with Mr. Trible.

Mr. Dellums with Mr. Rudd.

Mr. Dingell with Mr. Hagedorn.

Mr. Edwards of California with Mr. Hansen.

Mr. Phillip Burton with Mr. Marlenee.

Mr. Donnelly with Mr. McCloskey.

Mr. Holland with Mr. McEwen.

Mr. Jenkins with Mrs. Fenwick.

Mr. LaFalce with Mr. Badham.

Mr. McKay with Mr. Lundine.

Mr. Murphy of Illinois with Mr. Stark.

Mr. Rose with Mr. Charles H. Wilson of California.

Ms. Oakar with Mr. Diggs.

Mr. STENHOLM and Mr. QUAYLE changed their votes from "yea" to "nay."

Mr. EVANS of Georgia changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5980, RECESSION AND TARGETED FISCAL ASSISTANCE

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 96–703) on the resolution (H. Res. 506) providing for the consideration of the bill (H.R. 5980) to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 2816, REFUGEE ACT OF 1979

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 499 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 499

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2816) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections and each title shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 2816, the House shall proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, to the consideration of the bill S. 643, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 2816 as passed by the House.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, this is a simple, open rule, with 1 hour of general debate to be divided between the minority and the majority in the usual way.

The rule makes in order a committee amendment in the nature of a substitute to be considered as an original bill for purposes of amendment and read for amendment by titles rather than sections.

The rule waives section 402(a) of the Congressional Budget Act against consideration of the bill. Sections 301 and 302 of the bill as introduced would authorize appropriations for fiscal years 1980 and 1981 for domestic refugee assistance. Since the bill was not reported on or before May 15, 1979, it would, therefore, be subject to a point of order under section 402(a) of the Budget Act with respect to fiscal 1980. The Budget Committee, however, has voted to support the waiver of this section.

Upon passage of H.R. 2816, the resolution makes in order consideration of S. 643 and waives again section 402(a) of the Budget Act against consideration of S. 643, it also being in violation of section 402(a) of the Budget Act because it was not reported by the required time. However, again, the Budget Committee authorizes and supports the waiver.

The resolution also waives clause 5, rule XXI, the rule prohibiting appropriations in a legislative bill, against the committee substitute.

Finally, the resolution provides for one motion to recommit, with or without instructions.

Mr. Speaker, the purpose of this bill, a very salutary and desirable bill, is to establish a coherent and comprehensive U.S. refugee policy, this being accomplished by creating a systematic and flexible procedure for the admission and resettlement of refugees. I urge, therefore, the passage of this rule so that we may consider that bill.

Mr. Speaker, I reserve the remainder of my time.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule would make in order consideration of H.R. 2816, the Refugee Act of 1979. It is an open rule, providing for 1 hour of debate. The rule makes in order the amendment in the nature of a substitute recommended by the Judiciary Committee to be considered as an original bill for purposes of amendment and the substitute is to be considered by titles instead of sections.

The rule waives section 402(a) of the Congressional Budget Act, which requires that authorizations be reported by May 15 preceding the beginning of the fiscal year. In a letter from the chairman of the Budget Committee to the chairman of the Rules Committee, the Rules Committee learned that the Budget Committee had voted to support a waiver of section 402(a) due to the so-called emergency nature of the request.

In addition, clause 5 of rule XXI is waived against the committee substitute. Clause 5 relates to appropriations in a legislative measure.

After passage of H.R. 2816, the rule provides that the House move to consideration of S. 643, strike all after the enacting clause, and insert in lieu thereof the provisions contained in H.R. 2816 as passed by the House. Section 402(a) of the Congressional Budget Act is also waived against consideration of the Senate bill and the Budget Committee supports this waiver.

Mr. Speaker, H.R. 2816 is an attempt to replace our current haphazard system with a permanent program for the admission of refugees and assistance for their resettlement in this country. Although I am acutely aware of the need for updated refugee legislation and recommendations for long-range reform, this legislation does not address the real issues which should act as guidelines in assessing refugee situations as they arise.

I have some concrete objections to the legislation we will be debating. One of the most obvious is the lack of criteria which will be used in evaluating which refugees and how many will be admitted. There are millions of individuals who could qualify under this bill, but there is no guidance in setting priorities as to those refugees who should be accepted for admission.

Another area of concern is the fact that Congress only last year established a Select Commission on Immigration and Refugee Policy to review existing immigration and refugee laws. However, rather than wait for the Commission's report due next year the committee has chosen to recommend substantive changes in these policy areas without the benefit of the Commission's evaluation.

Perhaps even more important is the fact that a new refugee policy will, if we pass this legislation, be implemented without any real evaluation of the number of additional refugees or immigrants our country can successfully absorb. We seem to be completely ignoring those areas in the United States which must make adjustments for the influx of these people and we are unwisely failing to face up to some very difficult questions about our Nation's ability to accept unlimited numbers of refugees. For example, it would be foolhardy indeed for us to overlook the fact that our Nation is faced with a continuing energy crisis and problems of unemployment and inflation which will only be exacerbated by increasing our population, not only in our larger cities where refugees usually are assimilated more easily, but also in smaller towns and rural areas where the presence of refugees is more obvious.

Mr. Speaker, I am not unaware of the need to provide a refuge for the homeless. However, we do neither ourselves nor the homeless any good when we welcome them under a system which is oblivious to our Nation's future.

I have real concerns about the legislation we will be considering, and I urge my colleagues to think seriously about putting in place a system which is so ill conceived and shortsighted.

□ 1600

Mr. Speaker, I have no further requests for time.

Mr. PEPPER. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from New York (Mr. Downey).

Mr. DOWNEY. Mr. Speaker, I would like to propound a question to the subcommittee chairwoman, the gentlewoman from New York (Ms. Holtzman).

One of the concerns that I have, along with the gentleman from New York (Mr. Rosenthal), is the plight of the Hmong tribesmen. These are people who, during the Vietnamese conflict, fought on our side, were indirectly paid by the CIA, and are systematically being eliminated.

I recently read they are being experimented on by the Vietnamese with gas warfare. There are about 40,000 Hmong tribesmen in a camp called Loei in Thailand.

I had originally prepared an amendment to give them special consideration. I have been dissuaded by the subcommittee chairwoman. I would like to ask her if in the committee report or in some place in the legislation whether or not special consideration can be given to these people who fought for our country, died in great numbers, and now are languishing in refugee camps in Thailand.

Ms. HOLTZMAN. Mr. Speaker, will the gentleman yield?

Mr. DOWNEY. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentleman for yielding.

I think the gentleman has made an extremely important point. I, myself, traveled to Thailand and saw the plight of the Hmong people. So did the ranking minority member of the subcommittee, the gentleman from New York (Mr. Fish).

The committee report states explicitly that the criterion for admitting refugees to this country will be "special humanitarian concern."

It goes on to say that the special humanitarian concern could involve the relationship between people and the U.S. Government in the past. It explicitly refers to the Hmong tribes from North Central Laos and their plight, and their past connection with the U.S. Government.

This legislation, however, does not specifically refer to any particular group, because this is legislation not for today or next year, but for many years to come. Nonetheless, the committee report does specifically refer to the Hmong and does express the committee's concern about these people.

Mr. DOWNEY. I thank the gentlewoman for that explanation.

I hope that if we are establishing legislative history here, that that consideration by future people who will read this will understand my special concern and that of the subcommittee's toward these people who have really suffered an inordinate amount in service to this country despite the fact they are not citizens.

Mr. PEPPER. Mr. Speaker, I have no further requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3875, HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979

Mr. ASHLEY. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

REFUGEE ACT OF 1979

Ms. HOLTZMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2816) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Ms. Holtzman.)

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2816, with Mr. Dodd in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentlewoman from New York (Ms. Holtzman) will be recognized for 30 minutes, and the gentleman from New York (Mr. Fish) will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from New York (Ms. Holtzman).

Ms. HOLTZMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased today to bring to the House H.R. 2816, the Refugee Act of 1979, which was approved overwhelmingly by the Judiciary Committee and reported on November 9, 1979. This legislation, introduced by Chairman Rodino and myself in March, represents a comprehensive effort to revise and rationalize our laws relating to the admission of refugees to the United States and to provide effective domestic resettlement assistance after their arrival in this country.

This bill is an important first step in responding to an international problem of staggering proportions. Although the United States has a noble record of humanitarian concern for the world's homeless, we have up to this time had no overall policy to respond to refugee situations as they have arisen. Instead, we have been forced to enact special legislation—as we did after World War II—or use a combination of the limited conditional entry provisions of the Immigration and Nationality Act and the Attorney General's parole authority—as we have done for the past 20 years. This haphazard, ad hoc policy has been further constrained by the antiquated definition of "refugee" in present law which limits admissions to those fleeing Communist countries and the Middle East.

This ad hoc response to refugee problems has not only caused inordinate delays in admissions and led to great human suffering on the part of the refugees themselves, but has made long-range planning by States and voluntary agencies involved in the resettlement process virtually impossible. The bill before the House today will resolve these problems; it will mandate equity in our treatment of all refugees; it will bring us into conformity with our international legal obligations; it will provide set procedures for admission; and it will create a more effective and less costly method of resettlement.

This is not a simple piece of legislation. It is a complicated response to an almost insoluble problem. My Subcommittee on Immigration, Refugees, and International Law held 5 long days of hearings on the bill in May of this year, in addition to numerous other hearings and briefings on the Indochinese refugee crisis in general. We heard from three members of the Cabinet—Secretary of State Vance, Attorney General Bell, and Secretary of HEW Califano—in addition to the U.S. Coordinator for Refugee Affairs and over 40 other witnesses. We heard from the States, including Gov. Robert Ray of Iowa, chairman of the National Governors' Association Task Force on Refugees. We heard from voluntary agency officials and individuals involved in particular resettlement programs. We heard from organized labor and from concerned citizens such as the distinguished black leader, Bayard Rustin. And we also heard from experts on methods used by other nations to admit and absorb refugees. All of these witnesses strongly supported the Refugee Act of 1979.

From this voluminous hearing record and after 2 days of markup, the Judiciary Committee fashioned the bill which we bring before you today. In this regard, I would like to thank and commend the members of my subcommittee for their consistent participation and work over the past several months on this important legislation. In particular, I would like to acknowledge the work of my good friend and colleague from New York (Mr. Fish) the ranking minority member for his efforts in producing a bill which the entire subcommittee could support and which the full committee reported out by a vote of 20 to 6.

Let me now briefly review the major provisions of the Refugee Act of 1979.

In title II, the bill sets up a statutory framework for the admission of refugees into the United States and provides for their adjustment of status to lawful permanent residents. The title makes several significant improvements in current law.

First, the bill provides a new definition of the term "refugee" which essentially conforms to that used under the United Nations Convention and Protocol Relating to the Status of Refugees, and which eliminates the geographical and ideological restrictions now applicable to conditional entrant refugees under section 203 (a)(7) of the Immigration and Nationality Act. The committee added language to make it clear that the definition would include those persecuted or threatened with persecution in their own country on account of their race, religion, nationality, membership in a particular social group, or political opinion. Ths amendment was necessary to cover the situation in Vietnam in 1975 and in countries today such as Cuba and Chile where there are political prisoners or prisoners of conscience who may be of concern to the United States.

The committee also added language specifically to exclude from the definition of "refugee" those who themselves engaged in persecution. This is consistent with the United Nations Convention—which does not apply to those who, inter alia, "committed a crime against peace, a war crime, or a crime against humanity"—and with the two special statutory enactments under which refugees were admitted to this country after World War II, the Displaced Persons Act of 1948 and the Refugee Relief Act of 1953.

Let me say that this expanded definition will in no way open the floodgates to hordes of refugees. Merely because an individual or group of refugees comes within the new definition does not guarantee resettlement in the United States. Obviously, with 10 to 13 million refugees worldwide that would be a practical, if not philosophical, impossibility. The number of refugee admissions to this country will be strictly limited under the terms of this legislation. This expanded definition will simply give our Government the flexibility to admit refugees of special humanitarian concern to the United States who remain within their own country as well as those who have managed to escape to a third country. The total number of refugees admitted will remain unchanged from the limits established in the bill.

Second, the bill establishes a statutory procedure for the admission of refugees to replace the conditional entry and parole provisions of current law. Importantly, for the first time, the bill requires that Congress be consulted before refugees are admitted, and spells out in detail the elements of that consultation.

The bill provides for a normal flow of refugees not to exceed 50,000 annually except in cases where the President, prior to the beginning of the fiscal year and after consultation with the Committee on the Judiciary, determines that there is a foreseeable need to admit a greater number and it is "justified by humanitarian concerns."

I would point out that although the 50,000 figure represents an increase over the 17,400 admissions allowed under the present 203(a)(7) conditional entry provision, the number does not actually indicate an increase in overall annual refugee admissions to the United States, since the Attorney General's parole authority has been used consistently to exceed the conditional entry ceiling.

The 50,000 annual admissions—and any additions thereto—will be allocated among refugees of "special humanitarian concern to the United States" in accordance with a determination made by the President. The committee added language to assure that this determination would be made only after consultation with Congress.

The bill also provides for the admission of refugees in unforeseen emergency situations arising after the start of the fiscal year. If the President determines following consultation with the Judiciary Committees, that an emergency refugee situation exists, that admission of refugees in response to the situation is justified by grave humanitarian concerns, and that admission cannot be accomplished under normal flow procedures, he may fix a number of refugees to be admitted for up to one year. Again, the admission numbers will be allocated among refugees of "special humanitarian concern to the United States" as determined by the President after consultation with Congress.

All refugees—normal flow and emergency situation—will be admitted by the Attorney General as refugees, not as lawful permanent residents. Applicants for refugee admission will be required to establish that they meet the refugee definition, that they have not become firmly resettled in any foreign country, and that they are admissible with certain exceptions as immigrants under the act.

Admitting the refugees as refugees—in effect granting them a new status—will allow officials to conduct better and more intensive screening prior to granting them permanent resident status. In testimony before the committee, the Attorney General stated that he was not satisfied with current screening procedures and would support a status akin to conditional entry after admission.

Those admitted as refugees—either under the normal flow provision or in an emergency situation—are allowed to adjust their status to that of lawful permanent residence after they have been physically present in the United States for 2 years. Once granted, the lawful permanent resident status operates retroactively to the date of the refugee's arrival in the United States, so that in terms of eligibility for naturalization the refugee is not disadvantaged by the waiting period.

The committee was extremely concerned about assuring that Congress has a proper and substantial role in refugee admissions, given our plenary power over immigration. Consequently, the legislation as introduced was amended specifically to define the "consultation" process which up to now has been informal and solely a matter of courtesy or custom. The bill now provides that consultation means discussions in person by designated Cabinet-level representatives of the President with Judiciary Committee members to review the refugee situation or emergency refugee situation, to project the extent of possible U.S. participation, and to discuss the reasons for believing the proposed admission of refugees is justified by humanitarian concerns. Further, the section requires that committee members be provided with certain detailed information on the proposed admission. Additionally, the legislation requires that the Judiciary Committee print the substance of consultations on refugees in the Congressional Record.

The committee bill also creates, for the first time, a statutory asylum procedure in our immigration law. Currently, asylum can only be provided administratively. The bill now requires the Attorney General to establish a uniform procedure for aliens within the United States or at ports of entry or land borders to apply for asylum which may be granted if the alien is a refugee within the new definition. The bill allows the Attorney General to terminate an individual's grant of asylum if conditions change in the asylee's home country so that he or she would no longer be subject to persecution upon return. In addition, the bill amends section 243(h) of the Immigration and Nationality Act, relating to withholding of deportation, to prohibit, with certain exceptions, the deportation of an alien to any country if the Attorney General determines that the alien's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group or political opinion.

These provisions are consistent with our international obligations, and were supported by the State and Justice Departments in addition to the United Nations High Commissioner for Refugees and numerous other witnesses.

As in the case with title II, the primary objective advanced by title III, dealing with domestic assistance, are equity and flexibility in our treatment of refugees. Equally important are those provisions in title III which are designed to insure accountability with regard to our domestic resettlement program.

In the past, refugee resettlement has been solely the result of administrative decisionmaking. There has been no legislative involvement in our resettlement policies and practices other than the blanket authorization of funds. This policy of unfettered executive discretion would have continued under the proposals submitted by the administration. The committee, after receiving extensive testimony from resettlement experts, felt that the delegation of such broad authority to the executive branch was not warranted. Instead, the committee adopted provisions which establish specific resettlement priorities and which insures that the expenditure of Federal funds for this purpose are closely monitored.

For over two decades—beginning in 1962 with the Cuban refugee program and carried forward in 1975 with the Indochinese refugee program and in 1978 with the Soviet refugee program—we have witnessed the emergence of different domestic assistance programs for different refugee groups. The result has been that some refugees receive a wide variety of domestic services; others receive nothing. Under title III of the bill, this disparate treatment is eliminated and all refugees are made eligible for the same range of resettlement services.

Title III also recognizes the need for preserving flexibility with regard to the resettlement approaches utilized by State and local governments and by voluntary agencies. The committee was careful to insure that existing approaches which have been successful and cost-effective—that is Soviet resettlement efforts—are not impeded and that new and innovative resettlement approaches can be developed in the future.

This title places special emphasis on those social services which have proven to be essential in the refugee absorption process. For example, title III acknowledges the vital importance of providing English language training to refugees as soon as possible after their arrival in this country. All witnesses agreed that the ability to read and speak English is directly related to their ability to assimilate, to find jobs, and to become economically self-sufficient. It is clear that employment opportunities are greatly enhanced by vocational and professional training and, as a result, title III places high priority on job-related programs. Furthermore, because the committee recognized the importance of these services in facilitating resettlement, no time limitation is placed on Federal support for these programs.

On the other hand, title III limits reimbursement to State and local governments for cash and medical assistance to refugees who have been in this country for less than 4 years. It also provides 1 more fiscal year of full Federal funding before that limitation takes effect. The administration's proposal would have limited reimbursement period to 2 years. The reason the committee adopted a more generous—and a more realistic—reimbursement formula is that decisions to admit refugees are within the exclusive province of the Federal Government and every effort must be made to minimize the financial impact on State and local governments. This is particularly true when we note that Cuban and Indochinese refugees have tended to concentrate in certain States.

In my judgment, it is essential that we continue to receive the full support of State governments for our refugee programs; I believe that we would jeopardize that support and cooperation if we were to transfer the resettlement burden to the States after the refugees have been in this country for only 2 short years. While most refugees are quickly integrated into American society, some adjustment problems do occur in the first few years and I do not believe we should require States to respond to these residual problems with their own resources. In short, full reimbursement for a 4-year period represents, in the committee's judgment, a proper allocation of Federal and State responsibilities for the care and resettlement of refugees.

While the funding level for title III is substantial, I would remind my colleagues that it is a sound investment when you consider that one of its basic objectives is to remove refugees from the welfare system and to encourage them to become productive members of our society. For example, one problem presented to the committee was the large number of refugees who go on welfare in order to be eligible for medical assistance (medicaid). In other words, we found that we were encouraging welfare dependency on the part of many employable refugees by linking health care eligibility to welfare eligibility. This problem has been corrected in this bill by authorizing medical assistance to be provided, for 1 year after arrival, to refugees who are not eligible for cash assistance. I point this out to my colleagues to demonstrate how this bill can actually result in a cost savings to the American taxpayer.

A final problem the Refugee Act of 1979 addresses is the current fragmentation of the resettlement program at the Federal level, with responsibilities divided between three Cabinet Departments—State, Justice, and HEW.

Because of this situation and as the result of the low priority historically accorded to refugee resettlement by HEW, programs have not been properly evaluated, expenditures have not been adequately monitored and coordination has been extremely limited. A recent GAO report found—

> —the HEW management system lacking in detailed program guidelines and found it unable to effectively monitor the use of Federal refugee program funds.

It is clear that HEW's role must be strengthened and that the Federal Government must substantially improve its refugee resettlement mechanism.

Title II would accomplish this goal by creating an Office of Refugee Resettlement in HEW, directly responsible to the Secretary. That office will be charged with the responsibility of administering our domestic refugee program and all resettlement activities, including reception and placement grants—although during fiscal year 1980 these grants will remain in the State Department—will be concentrated in this office. The committee believes that the creation of this office by statute will promote accountability, enhance long range planning and improve coordination and cooperation among the Federal Government, States, localities and voluntary agencies.

Mr. Chairman, I cannot overemphasize the importance of this legislation and the urgent need for its enactment into law before the end of this session of Congress and prior to the expiration of the current Indochina parole program in a matter of days. I urge all my colleagues to join in supporting its immediate passage.

☐ 1610

Mr. FISH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am pleased to join the gentlelady from New York in support of the bill, H.R. 2816, as reported from our committee. This bill we report will replace the present system requiring ad hoc responses to refugee emergencies with a rational system for refugee admissions and resettlement. This bill broadens the existing definition of "refugee" to conform to the United Nations Convention definition. It provides for a normal flow of 50,000 refugees per year—up from the present number of 17,400. The President is authorized to admit an unlimited number of refugees after consultation with Members of Congress for additional normal flow refugees anticipated before the beginning of a fiscal year. Additionally as unforeseen emergency situations arising after the beginning of a fiscal year, the President under restrictive conditions and consultation may admit further refugees.

Title III of the bill establishes an office of refugee resettlement directly responsible to the Secretary of HEW, to direct programs providing for resettlement assistance to refugees admitted to the United States. The bill would authorize job and language training, provide full reimbursement to States for cash and medical assistance provided to refugees for up to 4 years after their arrival in this country.

While consolidation of resettlement assistance in one office after a period of adjustment is an efficient procedure, I want to point out that by an amendment to be offered by the chairwoman of the subcommittee, the Office of Refugee Coordination will be placed in the White House and is expected, in fact, to be the overall coordinator of activities that inevitably involve several departments of Government in addition to Health and Welfare.

This bill represents a statement of a

new U.S. policy toward refugees, principally a focus on the humanitarian plight of the refugee. The policy is expressed in the new definition of refugee, a person unable to avail himself of the protection of his country "because of persecution or a well founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion." The policy is expressed with reference to admissions.

Additions to normal flow of 50,000 a year must be warranted by "humanitarian concerns." Emergency admissions must be warranted by "grave humanitarian concerns." The latter is a stricter standard intended to limit the emergency admission procedure to situations where refugees' lives are in immediate jeopardy or their personal safety is threatened.

With respect to the allocation of numbers of refugees to be admitted among different groups of refugees, the term "special humanitarian concerns" defines those who will be admitted. The bill as it came to the committee had a standard of special concern and the word humanitarian was added to emphasize that the plight of the refugees themselves is paramount as opposed to national origins, political considerations or a possible contribution by the United States to the refugee condition. Consultation with Congress extends to allocations as well as admissions.

The committee report sets forth some of the historical considerations that can provide guidance as to persons who are in fact of humanitarian concern to this country. These include patterns of human rights violations in the refugee's country of origin, family, historical, cultural and religious ties to this country, the likelihood of finding sanctuary elsewhere, and previous contact with the U.S. Government or U.S. businesses abroad.

A second policy goal is to establish a long term political mechanism to respond to refugee problems as they may arise. For the first time, this bill would establish in one statute both admissions and resettlement policies. This will assure the international community of the continuing commitment of the United States to resettlement and also will assure State and local governments of Federal assistance for refugees admitted so they will not be an undue burden on State and local communities.

Mr. Chairman, the bill makes consultation a statutory requirement, rather than a custom, as it is now, before refugees beyond the number authorized by statute can be admitted to this country. Section 207(e) of this proposed legislation sets forth information that must be submitted as part of the consultation process, including a description of resettlement plans and anticipated economic, social, and demographic impact of the admission of refugees in question. The substance of the consultation will be communicated to the Congress. The actual process will be by an amendment which will be accepted, enlarged to embrace all concerned Judiciary Committee members.

Enactment of this legislation will result in several significant improvements in our system providing for the admission of refugees. I believe it represents a clear statement of a new U.S. policy toward the unfortunate victims of persecution. It will enable our Government to respond to refugee situations, not on an ad hoc basis as it must do now, but under prescribed and orderly procedures. Enactment of this bill will be a signal to all in this country and throughout the world of the continuing commitment of the United States to refugees in their plight.

In the course of the amending process, I shall accept not only the amendment providing for enlarging the consultive process to be offered by Mr. HYDE, but as well Mr. BUTLER's sunset amendment reducing the number of authorized 50,000 normal flow and Mr. MOORHEAD's amendment providing for a one-House veto on the admissions in excess to normal flow.

Mr. Chairman, I believe together these amendments will reassure the House of continued control over admissions of aliens into our country. Other amendments may be offered to restrict admissions which I believe do violence to our humanitarian tradition and which I shall oppose.

Until 1924 the door to our country was virtually open to all fleeing famine or racial, religious, or political persecution. Most of us in this Chamber trace our ancestry to these earlier refugees. We have before us an opportunity to reaffirm America's historic proud role as haven for the oppressed and the persecuted.

☐ 1620

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. FISH. I will be happy to yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Chairman, I thank the gentleman, and would like to identify myself with his remarks. He has very clearly presented the questions and issues that will be coming forth during the debate.

I would just like to emphasize that I am not as enthusiastic about this legislation as a lot of people are, but I think it is important that the Congress regain control of the process of immigration. I think this legislation goes a long way toward doing that, so that is the basis on which I support it. I will be pleased to work with the Committee of the Whole to make sure that is the intent of the legislation when it leaves this body.

Mr. FISH. I thank the gentleman.

Ms. HOLTZMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. RODINO), the distinguished chairman of the Committee on the Judiciary.

Mr. RODINO. Mr. Chairman, I thank the gentlewoman from New York, the chairwoman of the Subcommittee on Immigration, for yielding this time to me. I want to commend her and the ranking minority member of the subcommittee for their diligence and their continued efforts in behalf of those who need the kind of assistance and the kind of understanding that this committee has given to these people, who indeed are looking for help from all over the world because they become the flotsam of the world. These are the people whom we call the refugees.

Mr. Chairman, we are considering today, H.R. 2816, the Refugee Act of 1979, which establishes rational, comprehensive and humane refugee policies and procedures for our country.

I think it is particularly significant that this legislation comes at a time when our country's commitment to human rights—our country's image around the world—has been drawn into question. This bill clearly reflects our genuine concern for all refugees around the world and it shows that we are prepared to provide a haven for those unfortunate people who have been driven from their homes and expelled from their countries.

Mr. Chairman, this legislation fills a critical void in our present immigration law and enhances our commitment to human rights.

The phenomena of refugee situations in the world which at one time were perceived as temporary and comparatively easy to resolve, now loom as a fact of life which requires continuous and long range solutions, not only on the part of the United States, but also by all the freedom loving nations of the world.

This legislation, which I introduced along with the gentlewoman from New York (Ms. HOLTZMAN) on behalf of the administration, is the product of lengthy hearings by the Subcommittee on Immigration, Refugees, and International Law. It was overwhelmingly supported by the members of that subcommittee and the full Committee on the Judiciary during the markup sessions. In fact, the bill was reported out favorably by the full committee on September 19—by a vote of 20 to 6.

In essence, this legislation would broaden the definition of persons who may be admitted as refugees under normal immigration to conform to the U.N. Convention and Protocol relating to refugees and would increase normal flow refugee admissions to not more than 50,000 persons per year. It would also provide for the admission of additional refugees in foreseen and unforeseen emergencies. Finally, it would establish comprehensive authorization to assist in the resettlement of refugees in the United States.

The first U.S. programs providing for the admission of refugees were established following World War II. Since 1945, we have admitted into the United States over 2 million refugees under programs authorized both administratively and legislatively, but always undertaken on an ad hoc basis in response to a serious refugee emergency that had developed.

In 1965, amendments to the Immigration and Nationality Act specifically provided for the admission of an annual flow of refugees to the United States. However, despite this statutory procedure, most of the refugees continue to be admitted outside the regular provisions of the law. Because of the restrictive definition of "refugee" and the limited refugee numbers available under current law, numerous parole programs have been initiated and implemented by the executive branch over the past two decades. The wide scope of this authority is clearly evident when you look at the number of refugees admitted during that period—32,000 Hungarian refugees in 1958; over 650,000 Cubans since 1961; 223,000 Indochinese refugees since the spring of 1975; 46,000 Soviet Jews since January 1977; as well as numerous other smaller programs involving Ugandans, Lebanese, Chileans, Argentineans, and Czechoslovaks.

Under the present parole procedure consultation with the Congress is merely a courtesy extended by the Attorney General to selected members of the Judiciary Committees in the House and Senate. At present there is no prescribed format for these consultations nor is there any statutory requirement mandating that such consultation even be held.

This legislation corrects both of these deficiencies by specifically providing for consultations and describing in detail the information required to be submitted by the executive branch at these consultations.

Similar to the issue of admitting refugees, decisions on the level and nature of Federal assistance to be provided to refugees upon arrival continue to be resolved on an ad hoc piecemeal basis. This bill would eliminate that problem by establishing for the first time a permanent and dependable program to fund refugee resettlement and such assistance is made available to all refugees regardless of their national origin.

It is indeed imperative that we take immediate positive steps to rectify this chaotic state of affairs by enacting this major refugee reform legislation which will permit us to respond in a timely, orderly, and humane manner to refugee situations.

I would like to cite briefly from a letter I received from the Department of Justice earlier this week on this legislation and at the appropriate time I will ask unanimous consent to insert it in the Record of this debate. In the letter, Acting Attorney General Wade McCree expressed the Department's "strong support" of the bill and he noted that the administration believes its enactment "is necessary to regularize the procedures and decisional processes by which the United States responds to refugee problems, recognizing both our long humanitarian tradition and the limits on our available resources."

In conclusion, I urge my colleagues to give this legislation your wholehearted support and I firmly believe its passage will demonstrate to the world that our country continues to be deeply concerned by the plight of persons uprooted from their homeland by tyranny, racial persecution, and the threat of political reprisals.

Mr. Chairman, the letter from the Acting Attorney General, Wade McCree, and a letter from the American Council of Voluntary Agencies for Foreign Service, Inc., follow:

Office of the Attorney General,
Washington, D.C., December 11, 1979.
Hon. Peter W. Rodino, Jr.,
Chairman, Committee on the Judiciary,
U.S. House of Representatives,
Washington, D.C.

Dear Mr. Chairman: The Refugee Act of 1979 (H.R. 2816) is scheduled for consideration on the House floor this week. In response to your query, I wish to take this opportunity to restate the Administration's strong support for House passage of this bill as needed revision of our existing piecemeal legislative authorities governing refugee admissions and domestic resettlement assistance.

Refugee migration and resettlement have become chronic international concerns and are not, for the foreseeable future, the sporadic and limited problems that inspired existing law. The Administration believes that the Refugee Act is necessary to regularize the procedures and decisional processes by which the United States responds to refugee problems, recognizing both our long humanitarian tradition and the limits on our available resources.

The Senate passed the Refugee Act (S. 643) 85–0 on September 6. In expressing our hope for early completion of Congressional action, the Secretary of State, the Secretary of Health, Education and Welfare, and I would like to advise you of our views on several key provisions of the bill reported by the House Judiciary Committee and on amendments that may be offered on the floor.

First, we continue to support a two-year limit on full federal funding for cash and medical assistance to new refugees. We believe that four years of such support, which is provided in the Judiciary Committee bill, is excessive and in some ways counterproductive to efforts to assimilate refugees quickly. The two-year period is, in our view, responsive to several competing considerations: it recognizes the fiscal burdens of states, particularly those with concentrations of refugees; it encourages those involved with resettlement to concentrate their assistance efforts in the initial phase of economic and social adjustment; and it recognizes the impact on the federal budget. The Judiciary Committee bill would add more than $100 million to federal costs in 1981, and as much as half a billion dollars over the period 1981–83.

Second, we strongly support Representative Fascell's proposed amendment to increase the authorized level of the Emergency Migration and Refugee Assistance Fund from $25 million to $50 million. This increased level will provide the resources to carry out provisions in the Act dealing with the admission of "emergency situation" refugees authorized by the President after consultations with the Congress. Refugee emergencies are by nature unpredictable, and adequate funds are absolutely essential to respond to these challenges.

Third, we support Representative Fascell's amendment to continue the four-year phase-down of special federal assistance to Cuban refugees, which the Committee bill eliminates after 1980. This phase-down was agreed to by the Administration and the Congress two years ago.

Finally, the Administration opposes any absolute limits on refugee admissions, whether effective immediately or in future years, as well as proposals forcing reductions in regular immigration when refugee admissions are increased. The Refugee Act authorizes the President—in consultation with the Congress—to adjust up or down the "normal flow" of 50,000 admissions if circumstances and national interests warrant. Given the unpredictable nature of refugee crises, we would oppose amendments limiting that flexibility or setting ceilings in any form.

We urge you to consider and support our views on these issues. We continue to believe the Refugee Act provides the most appropriate framework for addressing the admission and resettlement of refugees in the United States.

Sincerely,

Wade McCree,
Acting Attorney General.

American Council of
Voluntary Agencies for
Foreign Service, Inc.,
New York, N.Y., December 6, 1979.
Hon. Peter W. Rodino, Jr.,
Rayburn House Building,
Washington, D.C.

Dear Mr. Rodino: The undersigned national refugee resettlement voluntary agencies want to state their wholehearted support for comprehensive refugee legislation which is long overdue. We strongly endorse and urge the immediate passage of the Refugee Act of 1979 and would not wish to delay immediate action on this vital legislation. There is, however, an aspect of HR 2816, as reported out of the Judiciary Committee on November 9, 1979, which gives us some cause for concern.

Our organizations have been resettling refugees for over 30 years. We enjoy a wide array of constituent support and dedicated participation from the volunteer sector across this country, including churches, synagogues and other community groups. "Good resettlement," as we define it, is the immediate marshalling of diverse resources within the community to enable refugee families to become self sufficient, contributing members of the American society as quickly as possible after arrival.

We welcomed the recent establishment of the Office of U.S. Coordinator for Refugee Affairs. We now welcome the recognition of the need for a refugee office in the Department of Health, Education and Welfare which will relate to the U.S. Coordinator's office and to which we can relate. Nevertheless, we feel that the actual operations, functions and interrelationships with public and private entities should be the prerogative of the Secretary. The detail contained in HR 2816 would, in our mind, create a costly, inflexible and potentially counterproductive bureaucracy unnecessarily and one which cannot relate to the ever changing needs of refugee situations.

The U.S. refugee program must be responsive to refugee and community needs without fostering long term dependency in our incoming refugee population. It must have maximum flexibility to respond effectively to shifting international realities. To legislate such an HEW structure would preclude swift decisionmaking adaptability.

Furthermore, to mandate placement of all components of the private, experienced voluntary resettlement agency programs under the administration of the Department of HEW with its longstanding use of state systems for program delivery could jeopardize the enthusiastic participation of church and other volunteer efforts and resources in this program. Without wide community support, refugees would suffer and severe strains between different groups in our society could emerge.

We agencies have enjoyed a long, effective relationship with the refugee office of the State Department which administers the reception and placement grants involved in our programs. This has been a long term, very effective and proven working relationship which has helped us carry out our international as well as domestic responsibilities. We urge that this relationship be allowed to continue. Our agencies' constituencies lend major public support to this responsive and cost effective program. They do so because they identify easily with it and it is "their program." The U.S. Refugee Program, now considered by private and public agencies in partnership, must be responsible and answerable to the American people.

Sincerely,

Mrs. Ingrid Walter,
Chairman, Committee on Migration
and Refugee Affairs.

□ 1630

Mr. FISH. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I find myself in a difficult position through the debate on this bill as I firmly believe the American people are generous, openhearted, and touched by the plight of refugees, and that we have responded generously. We are now committed to a large-scale increase in the number of refugees admitted into the United States.

But there are those who want that increase to be a permanent change in the American immigration law, rather than just to be a temporary response to the current Indochinese crisis.

The United States already receives 400,000 immigrants every year, on top of the millions of illegal immigrants to the United States.

In H.R. 2816 it is proposed that the ceiling on refugees be increased from 17,400 per year to 50,000 per year, and that the President have the power to lift this ceiling at the beginning of every year to take more refugees. H.R. 2816 as a comprehensive policy can be made more responsible by recognizing a limit on admissions. We know that the American people have been willing to sacrifice and share without complaint, but with resettlement costs now reaching $1 billion per year, this burden cannot be compounded indefinitely.

There will be amendments offered during the 5-minute rule on this bill to require a public hearing to be held before the House and Senate Judiciary Committees when the 50,000-per-year refugee limit is exceeded. That amendment should be adopted.

Furthermore, a second amendment will be offered to put a sunset provision on the President's power to increase the refugee flow beyond the 50,000 per year effective in 1982. That amendment should be supported as well.

Finally, I shall offer an amendment to tie the refugee quota with the normal non-refugee-immigrant quotas so that the non-refugee-immigrant quota would be reduced by 1 for every 2 refugees admitted above the 50,000-per-year quota. This would mean that if we go to 70,000 refugees per year, the non-refugee-immigrant quotas would be reduced by 10,000.

In my opinion, this will put pressure on the other countries of the world to accept their fair share of refugees for permanent resettlement that commitment has been lacking in the past. This amendment would not—I repeat it would not—reduce the number of refugees who would be admitted to our country but would tell other countries, particularly developed nations in the world, that if they want their citizens to be able to emigrate to the United States, they must accept refugees for resettlement so that the burden is not on the United States and its taxpayers alone.

The plight of the refugee is, for the United States, just a part of a much larger concern: The flow of immigrants into this country. I hope that through the amendments to this bill which I have described, the American people can discharge our moral obligation toward the world's homeless without short-changing long-standing commitments to our people at home.

Mr. Chairman, I yield back the remainder of my time.

Ms. HOLTZMAN. Mr. Chairman, I yield 5 minutes to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Chairman, I would like to compliment the gentlewoman from New York (Ms. HOLTZMAN) for taking leadership in this area.

Mr. Chairman, from the time of the pilgrims to the new immigrants, our Asian cousins who are moving to this country, we have always stood for in this Nation as being a haven for people escaping persecution from foreign countries.

Last month I joined other women Members of Congress on a trip to Asia. While there, we viewed for the first time the holocaust that the Cambodian people were experiencing. For me, it was a very conscience-raising experience in terms of overall refugee issues. I did not realize until I went to Asia, the magnitude of the problem facing us in terms of the refugee situation. I did not realize the outmoded definition that we now have of a refugee that limits that primarily to those from Europe, when at the same time the refugee problem is enormously present in Asia and Africa. But far more devasting was the fact that I did not realize what an incoherent, inconsistent disjointed, fragmented, splintered refugee series of policies and programs that we have.

One of the main aspects that I like about the gentlewoman from New York's legislation is that for the first time we will have a coherent, consistent, compassionate policy on refugees that, No. 1, the refugees themselves can understand, and, No. 2, those private voluntary agencies that will carry most of the burden of refugee policy will be able to understand and administer to facilitate the resettlement of people in this country.

There are two other aspects of the legislation that I would particularly like to compliment the gentlewoman on, and they are, No. 1, the fact that she mandates that in-transit centers where people are waiting to come to the United States we will mandate educational, language, and other training for people about to enter this country. In the Lumphini Refugee Transit Center in downtown Bangkok, I was absolutely shocked to find 6,000 people who would be going primarily either to Canada or to the United States—mostly to the United States—in which they were waiting to come into this country, and there was no language training, no orientation into the United States, no preparation for entering the job market. One of the men I spoke to told me he was going to Montana. When I told him that was terrifiic he said, "What is Montana?"

I think that is not only a waste of time, it is a waste of human resources, and I compliment the gentlewoman from New York for mandating those types of programs for people waiting to come into this country.

The second aspect that I compliment the gentlewoman for including in the legislation is that for the first time we will have a specific policy directed to unaccompanied children. What a tragic word that is. What a tragic concept of a child being called an unaccompanied child. What does that mean? It means that you are 12 years old, you are absolutely vulnerable, you have no place to go, you have no protection. You are subject to all types of physical abuse and the worst type of treatment. What I like about this legislation is that for unaccompanied children who will be coming to the United States we establish a guardian policy within the U.S. Government, related to HEW, so that in this way, in a very specific way, we offer protection to the unaccompanied children.

Ms. HOLTZMAN. Mr. Chairman, will the gentlewoman yield?

Ms. MIKULSKI. I yield to the gentlewoman from New York.

Ms. HOLTZMAN. I thank the gentlewoman for her comments. I think the problem with regard to unaccompanied minors is an extremely serious one. These are children who have often lost their parents in the process of escape. They have seen their parents die. Our procedures here are so extremely bureaucratic that, although we accord to the unaccompanied minor almost the highest priority in terms of coming to the United States, virtually none of them come here because the Federal Government does not want to take responsibility for them. The States do not want to take responsibility for them. So they languish in these camps. When you see these children, who cannot smile, your heart breaks.

I want to compliment my colleagues on the subcommittee for supporting me in this legislation. It goes far to provide a program where we can effectively help children who have lost their parents.

Ms. MIKULSKI. I thank the gentlewoman and would agree with her. I would like to conclude my remarks by pointing out that there is a fundamental difference between being an immigrant and being a refugee. An immigrant is a person who would like to come to the United States in search of the American dream, usually looking for personal opportunity, a chance to have a better life. That is also true of the refugee, but a refugee comes not only in search of the American dream but to escape a desperate personal nightmare. That person is coming not only looking for personal opportunity but physical safety, refuge and sanctuary.

Unfortunately, the problems of refugees will not go away. Americans can be proud of our history of accepting refugees. It is not an accident that the Statue of Liberty is one of our most honored national symbols. Our policies as a nation should continue to reflect those principles. The door to freedom must always remain open. We should be prepared to deal with today's refugees in a fair, compassionate, coherent, humane way, and I believe the Holtzman-Fish legislation establishes those principles.

□ 1640

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the ranking minority member of the Committee on the Judiciary, the gentleman from Illinois (Mr. McClory).

Mr. McCLORY. Mr. Chairman, I want to compliment the gentleman from New York (Mr. Fish) and also the gentlewoman from New York (Ms. Holtzman) for the very diligent work in bringing this legislation to us.

I want to express first, my general support of the legislation. I think it would bring a great deal of order out of a very confused situation as it exists at the present time.

Mr. Chairman, at present, we are admitting 17,400 so-called conditional entrants as refugees, but only if they are from the Middle East or a Communist country. To deal with the problems of refuges from Indochina and elsewhere, we have had to resort to the exercise of parole authority as contained in section 212 of the Immigration and Nationality Act. Custom has developed that the executive branch comes to the Judiciary Committee of both Houses and "consults" with us as to the decision to admit large numbers of refugees through the use of the parole authority.

These ad hoc determinations are short term in nature and are inadequate to allow for orderly and long-term planning for the processing and resettlement of refugees once they are in this country.

This legislation establishes a procedure for the admission of both "normal flow" refugees and additional refugees who may be admitted in cases of unforeseen emergencies. As one who has participated in prior consultations, I welcome this significant change in our admissions procedure.

I have some problems with the bill as reported. I believe that the full Judiciary Committee should approve any requests for admissions of the "normal flow" beyond the number specifically authorized by statute. I also feel that title III of this bill creates an unnecessary bureaucracy in the Department of Health, Education, and Welfare to administer the domestic resettlement programs. I would prefer the approach recommended by the administration in submitting this bill to the Congress and adopted by the other body to establish broad guidelines for programs of resettlement assistance, leaving the implementation of these programs up to the executive branch. At the appropriate time, I will offer amendments to carry out these proposed changes. Otherwise, I again wish to congratulate my colleagues on their efforts to bring some order to refugee admissions procedure.

Mr. FISH. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. Lungren).

Mr. LUNGREN. Mr. Chairman, I rise in strong support for this particular piece of legislation. It seems to me abundantly clear that this country has made a major commitment to the admission of refugees in response to worldwide refugee crises, perhaps unparalleled in recent history. That is a good gesture. It is in the best keeping with the feelings and fundamental premises of this country.

At the same time it seems to me we must go further than just admitting them, we must insure that the admission is a real admission and that there is every attempt to insure that these refugees are somehow acclimated to this society and make the transition to become full members of this society. I think that is the purpose of this bill. I think in the general thrust of this bill it does a good job in accomplishing that task.

Mr. Chairman, there will be a number of amendments that will be presented, some of which have already been mentioned. I intend to support some of them as important and necessary changes in the legislation. I think overall we must keep it abundantly clear that this legislation is absolutely necessary. I will, along with the gentleman from California (Mr. Danielson) bring forth an amendment as far as the grandfather clause is concerned. This would extend it from 1 year to 2 years. This is in response to unique situations which exist not only in my home State but in a number of States throughout this country. It is a phenomenon that is not occurring in all 50 States. It is the question of secondary migration.

Mr. Chairman, a number of those refugees admitted to this country have initially resettled in some States of the Union and finding it difficult to achieve resettlement successfully there, have moved on to other States. As a result some States are resettling far more refugees than other States, far beyond State population figures would initially suggest.

Mr. Chairman, in my own State of California, the best figures we can find are that approximately 40 percent of all the Southeast Asian refugees have resettled in California.

Of that number about 70 percent are in southern California. Now, that is no problem as far as I am concerned and no problem as many Californians are concerned in terms of their hospitality and in terms of their recognition of the tremendous commitment this country has to resettle these refugees. However, it is an undue burden in terms of the State and local taxation that goes into effect when many of the programs that are necessary to accomplish successful resettlement are not going to be carried forward by the Federal Government.

Mr. Chairman, I think those who have heard me speak in the well before know that I cannot be accused of being a big spender, particularly on Federal issues, but it seems to me the issue is very different here. There is a Federal commitment, a correct Federal commitment, in my judgment, that we should accept these refugees. However, at the same time it ought to be a Federal commitment to take care of the refugees to the extent that Government programs are necessary.

Mr. Chairman, we have found in southern California, for instance, that a good portion of those refugees who have already been here for 4 years are still on some form of assistance—cash assistance or medical assistance of some sort. And this may differ with some of the other States because the secondary migration question comes into play here.

While some States may be able to show that a tremendous number such as 70 or 80 percent of the refugees after just 2 years are able to go off welfare assistance of any sort, that has not been the case in my home State.

One of the reasons is secondary migration. When people find they cannot make it in some of the States of the Union and go to a second State, in terms of statistics it may show that that first State has been successful in getting them off assistance programs when, in fact, all that has happened is that those people have moved to another State.

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We can guess at why these refugees go to a second State. We can talk about climate. We can talk about the fact that in California and some of the other States of the Union a large number of people have already resettled in the first place and others then gravitate to those areas. These refugees have the same cultural background, the same training, the same language, some of the same values. It is a very natural thing that they should go there. As a result, the secondary migration takes place and large numbers find themselves in States where they were not originally settled. So I think that should be at least addressed in this legislation and we will bring forward that amendment.

I am hopeful that we will have the support of many of the other Members of the House. It is not a California issue. It is not a Florida issue. It is not a Pennsylvania or New York issue. It is a national issue and one that needs attention.

In conclusion, I would just like to say that we must pass this legislation. We need a comprehensive refugee assistance program. Many of the complaints that have arisen about the failure of resettlement of those that are already here have, I think, arisen as a result of the somewhat helter-skelter approach we have taken in the past. That is not a complaint or a criticism of what we have done in the past.

The fact is that with the fall of Saigon we needed to act and act immediately. We needed to do whatever we could given the programs that already existed. But now we have had this experience of the past number of years. This bill is really the product of the experience of those years. This is a bill that attempts to bring together these programs in one focused piece of legislation. This is a bill that I think is quite proper. This is a bill that is really ultimately necessary if we are going to achieve successful assimilation of the Southeast Asian refugees into the American community.

Ms. HOLTZMAN. Mr. Chairman, I yield 6 minutes to the gentlewoman from New York (Mrs. Chisholm).

Mrs. CHISHOLM. Mr. Chairman, first of all, I wish to extend very hearty congratulations to the gentlewoman from New York (Ms. Holtzman), and the gentleman from New York (Mr. Fish) for this piece of legislation, because the need for an equitable and comprehensive refugee policy for the United States is widely accepted. H.R. 2816, the Refugee Act of 1979, accomplishes this goal.

Since World War II, refugees have entered the United States under a variety of legislative and administrative refugee programs. As crises arose, each refugee program was established to accommodate a different group of East Europeans fleeing Communist regimes to the recent admission of refugees from Southeast Asia. This bill establishes a coherent U.S. refugee policy by creating a systematic and flexible procedure for the admission and resettlement of refugees. One of the most significant contributions toward this effort is the new definition of the term "refugee." H.R. 2816 defines a "refugee" as—

> Any person who is outside . . . (his or her) country . . . who is unable or unwilling to return to . . . that country because of persecution or a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group or political opinion.

This redefinition eliminates the current geographical and ideological restrictions which limit the designation of refugee status to persons fleeing Communist or Middle Eastern countries and bring U.S. law into conformity with the internationally accepted definition of the term "refugee" as articulated by the 1951 U.N. Refugee Convention and the protocol which was ratified by the United States in 1968.

I would hope that this new definition would also encourage both the State Department and the Immigration and Naturalization Service to provide additional consulates, which will accept refugee applications. It is significant that applications for refugee status abroad can only be made in Austria, Belgium, France, Germany, Greece, Hong Kong, Italy, or Lebanon. It is particularly striking that nowhere in the Caribbean, Latin America, or Africa can applications for conditional refugee status be accommodated. Unfortunately, such channeling operates to discriminate against refugees from the Caribbean, Latin America, and Africa, most of whom, would be people of color.

Although there seems to be a great deal of support for the general thrust of this legislation, many questions have been raised about the increased number of refugees that could be admitted annually under this bill. The report language on H.R. 2186 represents the best rationale for the ceiling of 50,000 annual refugee admissions. As the Committee on the Judiciary report indicates:

> The 50,000 normal flow figure was selected based on past experience with refugee outflows. . . .

It further states:

> Although the 50,000 figure represents an increase over the 17,400 admissions allowed under the present 203(a) (7) conditional entry provision, the number does not actually increase overall annual refugee admissions to the United States, since the Attorney General's parole authority has consistently been used to exceed substantially the conditional entry ceiling.

While it is true that the President can increase the number of refugee admissions beyond the 50,000 ceiling, this action can only be taken "after consultation with the Committees on the Judiciary," and after a determination has been made "that there is a foreseeable need to admit a greater number and it is justified by humanitarian concerns."

Refugees fleeing persecution regardless of the country they come from, on humanitarian considerations alone, should be equal in standing for entry into the United States. Obviously, the United States cannot and should not accept all the world's refugees. But the United States should do its share toward alleviating the worldwide refugee program. Considering the millions of refugees in the world, 50,000 annually is a comparatively small number. It should also be remembered that this ceiling does not mean that 50,000 refugees will in fact be admitted to the United States; the actual numbers may be much less than 50,000. Therefore, I would hope that you would resist any attempts to reduce the number of annual refugee admissions below the current ceiling of 50,000 as presented in H.R. 2816.

While supporting H.R. 2816, I also wish to briefly address the tragic plight of Haitian refugees. Since 1972, 8,000 to 10,000 black men, women, and children have fled the oppressive Duvalier regime and sought political asylum in the United States. Thousands have languished in South Florida for 5, 6, and up to 7 years, uncertain of their fate, and in desperate fear of forced return to Haiti. I would like to submit for the record a recent Amnesty International report and articles from the Miami Herald, New York Times, the Philadelphia Inquirer and Latin American Political Reports which describe the reality of political repression in Haiti and the arrest and indeed execution of Haitians deported by the Immigration and Naturalization Service.

The Haitian Government, the State Department, and INS would have us believe, these boat people are not political refugees, but rather flee to the United States for economic reasons. The Congressional Black Caucus has studied this question carefully and has concluded that there can be no doubt that Haitians are in fact political refugees.

Yet, upon arrival in the United States, Haitians, unlike any other group of political refugees, are imprisoned, maltreated, and denied any semblance of due process. The National Council of Churches accused the United States of human rights violations in its treatment of these refugees in a complaint filed with the Organization of American States. I would also like to submit the complaint for the Record together with an article from the October 1979 issue of the Saturday Review.

Further, Dade County officials have testified that the primary health problem facing these people in the United States is starvation. I am overwhelmed and ashamed that these refugees have been forced into starvation in America.

The Archbishop of Miami has described the U.S. treatment of Haitian refugees as discriminatory and racist. He, and many others, including the CBC task force on Haitian refugees, have called upon the administration to grant refugee status—political asylum—to the small number of 8,000 to 10,000 Haitians who have sought refuge in the United States. Black Americans throughout the country have joined this appeal. I submit for the Record two letters to President Carter, from the CBC and approximately 125 black leaders in Florida, calling for equal treatment for these black boat people. We shall no longer tolerate the suffering of these refugees.

I include the following material:

[From the Saturday Review, October 1979]

Refugees Adrift—Barred From America's Shores

(By Kevin Krajick)

"If they are going to deport me, it is better that they kill me right away here," said Joseph Gabriel, speaking in Creole through an interpreter. "I will die when I get there anyway." Gabriel (not his real name) paid a boat captain $2,000 to smuggle him from his native Haiti to the coast of southern Florida. He borrowed the money from a cousin who immigrated illegally to New York several years ago. Gabriel said his father was killed by the government for political activities, and he was afraid that he would be next. On December 28, 1978, he, the smuggler, and three other Haitians were caught by the U.S. Immigration and Naturalization Service (INS) when they landed on the coast of Florida. Now the INS is trying to send Gabriel back, along with 8,000 other Haitians in the Miami area who it says are here illegally.

But the Haitians have banded together to fight their deportation with litigation and political pressure. To Florida INS officials' dismay, they have succeeded so far.

The "Haitian problem," as it has become known in Miami, involves moral and political questions that will eventually have to be answered by Congress and the federal courts. It will not only affect the Haitians in Miami and many of the estimated 75,000 Haitians illegally in New York, but it will have more important implications for U.S. immigration policy toward other poor countries controlled like Haiti, by right-wing dictatorships.

The dispute concerns whether the Haitians are fleeing political persecution or are victims of intense poverty. The U.S. is bound by international protocol to let political refugees stay. But the Haitians, according to their supporters, are the victims of the U.S. government's double standard as to who should be let into the country on political grounds. Under a set of regulations left over from the Cold War, nearly anyone who comes from a Communist country or from the Middle East is a "political refugee" and receives favorable consideration for admission to the country. Such individuals reach American shores over and above the legally mandated quota of 17,400 refugees per year, through the Attorney General's "parole" authority. Three to four thousand East Europeans are admitted annually without being processed through the European INS center. Two thousand released Cuban prisoners and their families have entered the United States from Havana since August. During the last fiscal year, 30,000 Russian Jews arrived in this country. And we have already accepted 210,000 Indochinese refugees, the largest number of any nation in the world with the possible exception of China.

But those claiming asylum from right-wing governments, no matter how blatantly oppressive, have had a far more difficult time gaining entry, since they must prove with documents and witnesses that they personally will be subject to persecution if they return. The Haitians and a coalition of lawyers and church groups have been fighting to validate the Haitians' claim that they are fleeing what they say is the oppressive and murderous government of Jean-Claude "Baby Doc" Duvalier, the country's hereditary "president for life."

When the Haitians arrive in the U.S., they are often greeted with little more courtesy then the Vietnamese who land in Indonesia or Malaysia. They are jailed and, it is alleged, sometimes beaten and tear-gassed while behind bars. The Immigration Service, whose job it is to hear political asylum cases, has been accused on numerous occasions of walking over the Haitians' rights as landed aliens so that they can be deported as quickly as possible. Nevertheless, efforts of a group of volunteer immigration lawyers, the National Council of Churches, and some Roman Catholic clergy have temporarily prevented the INS from sending back all but 550 of the 8,000 Haitians caught since 1974. Usually only a few dozen of these known illegal Haitians are in jail at any one time. Some have been locked up as long as 18 months pending hearing, but most get out within a few weeks when members of the legal Haitian community post bond for them or offer them a place to stay and a promise to the INS that they will show up at later hearings.

Like the Vietnamese "boat people," the poorer illegal Haitians cram themselves onto the open decks of broken-down fishing boats for the 800-mile voyage to Florida. They often bring no more than a bundle of clothes. They risk drowning. Dozens, maybe hundreds, have died when their old and overloaded boats have capsized or sprung a leak. Sometimes they pay a ship captain to take them to Florida and are then murdered on the high seas because the owner does not want to risk confiscation of his boat by landing in U.S. territory. On August 13 at 5:29 a.m., two West Palm Beach police officers spotted a smuggler's boat a quarter mile offshore and watched, horrified, as the panicked smugglers allegedly threw small children overboard and forced the adults out of the boat. Five children and a young mother drowned.

Haitians who are better off fly to the U.S. on tourist visas and simply stay on after the visa has expired.

However they arrive, they are considered illegal aliens. Illegals like Gabriel say they live here under the constant shadow of fear that U.S. authorities will finally succeed in sending them back.

State Department officials have steadfastly maintained in almost all cases that if any Haitians die when they are deported, it is because of the starvation and disease that plague the island, not because of political oppression. Most Hatians, they assert, are economic, not political, refugees. Haiti, they point out, is the poorest nation in the Western Hemisphere. It is one of a handful of nations in the world that economists consider the "fourth world." There is little industrial or economic development and none on the way. Three-quarters of the children in Haiti suffer from malnutrition. Eighty percent of the adults are illiterate. U.S. aid officials proposed an $80 million economic development program for Haiti this year, but then withdrew the offer when the Haitian government refused to change corrupt budgeting practices. Officials of private organizations administering aid have estimated that 20 to 40 percent of the government's income goes into the private accounts of the Duvalier family.

Haitian expatriate leaders in this country protest that the Haitian issue cannot be separated neatly into economics and politics. They say strikes are repressed by the government with beatings and jailings, and the poverty of most of the people in the country is forcibly maintained by a tiny ruling class. The U.S. government ignores this oppression, they say, because most of the few industries in Haiti use the cheap labor to make such things as underwear, wigs, and stuffed toys for American markets. Haiti is the world's number-one producer of baseballs. No one in Haiti plays baseball.

A deeper reason may be that Haiti, with its terrible poverty, and the strong evidence of official terrorism is a country ripe for revolution. Critics of America's Haitian policy say that the Department of Defense is afraid of "another Cuba" if the Duvalier regime is overthrown and replaced with a more leftist government. "Any admission by the American government that the Haitains have a valid claim for asylum because their country is run by a brutal dictatorship is clearly going to destabilize Duvalier, and they don't want that," said Ira Kurzban, a Miami lawyer who is helping lead the litigation on behalf of the Haitians.

Privately, U.S. officials pose an equally complex argument. Many countries, they say, are afflicted by insane political terrorism and horrible poverty. They fear that if they admit the Haitians as political refugees, millions from the many other poverty-mired right-wing dictatorships will press their own equally forceful claims, and a massive invasion will inevitably ensue.

"It is certainty that Haiti is ruled by an oppressive and terrible government where you do find genuine political refugees," said a State Department official who asked not to be identified. "But that fact does not entitle everyone there to an unmbrella status as refugee. . . . We have to go on a case-by-case basis. . . . The question is, Can we take everyone who is living under oppression?"

In July, five black members of Congress condemned the INS for "discriminatory" treatment of the Haitians, and called on the Attorney General and President Carter to reconsider the present policy.

One particularly unfortunate boatload of 47 Haitians was quickly rounded up by police on May 7 when they landed in the worst of all possible places: Miami's Dodge Island Seaport, right in front of a security post and 25 feet from a big U.S. Customs house. The same day, they were driven in one of the Border Patrol's two second-hand buses to the place where many apprehended Haitians receive their first taste of America: a dingy cell block at the Collier County Prison Stockade in Imokalee, Florida. The trip to Imokalee must rank among the most bewildering experiences of their lives.

About 120 miles west of Miami on one of the two small roads through the wild Everglades, Imokalee is about as close to the middle of nowhere as one can be in Florida. The prison has gray concrete floors and crumbling foam mattresses. The thinly populated county is glad to rent out its vast and almost deserted jail to the INS for $10 per prisoner per day.

The guards at Imokalee do not speak a word of Creole, and most of the Haitians don't speak a word of English. The nearest Haitian-English interpreter is in Miami. (Creole is a unique language, blending elements of French and African dialects. The ruling class in Haiti speaks only French, which is incomprehensible to the majority of Haitians.)

So the Haitians are left pretty much to themselves in their separate cellblock except at mealtimes, when guards, waving and gesticulating, guide them to the mess hall. There they eat better than they ever did at home. They rarely see anyone from the outside who can explain in their language what is happening to them.

Things are not always quiet at Imokalee or at the several other county jails where Haitians are imprisoned. According to sworn affidavits given by four Haitians, detainees were beaten in November 1978 by guards at Imokalee and immigration officers when they organized a hunger strike. Shuttled around to various other jails in southern Florida over the next time months, the group organized other strikes to extract information from INS about what was happening to them. Two days into their last strike, on Saturday, February 24, 1979, they were taken to a jail in Fort Pierce, Florida. There they were crammed 12 to a cell, they say, and the cell floors were littered with garbage and feces. The Haitians banged on their bunks to protest the conditions. The guards' response was to tear-gas them twice, assert the Haitians. Finally, most of the prisoners were released on bond in early March, shortly after four of their number had been hospitalized from the effects of hunger.

Another jail incident: An eight-year-old Haitian girl was imprisoned in the West Palm Beach jail for three weeks last November after being captured along with a boatload of other illegal immigrants. She was freed after a Haitian priest and nun discovered her in the jail, weeping for her missing father. INS commissioner Leonel Castillo described the girl's incarceration as a "screw-up."

John Eldred, head of detention for the Florida INS office, said he had no knowledge of beatings or gassings.

But James Lester, the warden at the Imokalee jail, readily admitted that his men and the immigration officers had beaten the Haitians. "They didn't want to move when we told them to move," said Lester in an interview at the jail. "We had lots of fun there for a few minutes. There was some bloodshed and we cracked some heads." Lester then pointed the way down a corridor to where most of the Haitians who had been apprehended the week before at Dodge Island were being held. "Now that bunch, they haven't give us no trouble yet."

When a reporter walked through the sliding gate at one end of the cellblock in Imokalee, the 42 Dodge Island Haitians who were there crowded around in a tight circle, hushed and wide-eyed, as if they were imprisoned on a strange planet and expected to hear some important news. Most were barefoot and wearing the clothes they had been arrested in the week before. Somehow, through a combination of broken English, French, sign language, and some Spanish, interpreted by a Mexican-American prisoner, they communicated.

Joseph Zenon, a tall man in his late twenties, had two possessions besides the scanty clothes on his back: a bar of Zest soap which he shared with another inmate and a folded, worn mimeo sheet given to him by the INS which he kept in his pocket. It informed him that he was considered a "deportable alien" and that he would have a preliminary hearing within seven days.

Zenon and the others were bewildered by the paper. They said they wanted a job, any job. They knew there were plenty of jobs in Miami because friends and relatives who lived there had written and told them so. They thought America was free. They could not understand why they were locked up. No one had told them how long they would be there, although they asked often.

"You let us out soon?" asked a tiny young man with warm brown eyes. He did not understand the purpose of the visit.

Another man volunteered that he had seen huge fields of tomatoes growing on the side of the road during the bus ride to the jail. He would pick tomatoes all day for nothing and sleep on the ground if they would let him go free, he said.

A slight young man dressed only in a pair of ragged black trousers outlined the economic incentives for emigration from Haiti. "In Haiti much problem. Father hungry. Mother hungry. My family hungry. I come here to help myself. Help my family."

But politics is the ground on which their application for residency must eventually rest.

No one denies that torture and murder were the pillars of government in Haiti after Francois (Papa Doc) Duvalier appointed himself "president for life" in 1957. When his son, Jean-Claude, known as "Baby Doc" inherited the presidency in 1971 at age 19, blatant persecution dropped off. The U.S. and France stepped up military aid on the condition that certain standards of human rights be maintained.

Haitian leaders in America assert that

the "liberalization" that took place under Baby Doc is a facade. "They do not shoot people in the streets anymore, and they do not hang opposition leaders publicly," said Father Antoine Adrien, a Haitian priest living in Brooklyn. "But people do disappear." Newspapers do not print anti-Duvalier articles. To produce a play in Haiti, you need the approval of three government agencies.

Significant numbers of Haitans began arriving on Florida's shores in 1972, well after Baby Doc took over. Many were denied even so much as a hearing on their political-asylum claims. They were also denied the representation of lawyers at hearings.

Eventually, the Haitians gained the sympathy of American legal and religious organizations. The organizations began to insist that the INS take the Haitians' claims more seriously. The INS was intransignent. Finally, in 1977, as a result of a lawsuit pending before the Supreme Court, the INS agreed to give the Haitians hearings and allow legal representation.

But the INS continued to deny asylum to almost all Haitians, and has constantly maneuvered to find a way to deport those who are here, with a minimum of legal process. According to INS records, only 58 Haitians have been granted political asylum since 1972. One of the most powerful weapons of the INS has been its stringent rules requiring documentation of specific persecution. "How do you prove that your brother was killed by the government if he just disappeared one day? They tell you that you're paranoid," said Sue Sullivan, who works with the Haitian Refugee Project in Washington, D.C.

INS officials admit that the only Haitians who receive political asylum are well-known civic leaders who have spoken out against the government.

But the bulk of the Haitian immigrants, mostly peasants, claim that much of the most terrible persecution happens arbitrarily on a local, decentralized level, often without political motivation. They say the state police, called the ton ton Macoute, are often controlled more by rural village chiefs than by the president. The chiefs use the ton ton Macoute to intimidate local business or political rivals. The ton ton Macoute use their position in turn to plunder the peasants of businesses and goods. There is also strong evidence that more centralized, political oppression also exists in Haiti.

Throughout the early 1970s, hundreds of arrests of students who had studied abroad were made by national police, apparently on the suspicion that they opposed the Duvalier government. In November 1977, Amnesty International obtained from ex-detainees who had been expelled from Haiti a list of over 100 prisoners who had died in detention. The organization's 1978 annual report states, "Arrests still take place without legal safeguards and are often carried out by the security militia. . . . There are still many hundreds of political prisoners who have not been accounted for, dead or alive. . . . Haiti has one of the world's highest mortality rates among detainees."

During the last elections in Haiti, this past February, recently exiled Haitians report that most of the few political candidates who dared run against Duvalier-supported politicians were forced by the ton ton Macoute to withdraw; a few were exiled.

The fate of exiles claiming political asylum in the U.S. who are deported to Haiti is uncertain. In May, the State Department sent a team of investigators to Haiti to determine what had become of 550 Haitians that the U.S. had deported over the last several years. Like an investigator that U.S. lawyers working for the exiled Haitians had sent down the month before, the State Department investigators were unable to trace many of the deported Haitians. However, they did not interpret this to mean, as the lawyers did, that some of the returnees had been jailed, killed, or were in hiding. Leonard Leopold, a trial lawyer for the INS, said "it is being contemplated" that the State Department will be used as evidence in future asylum hearings to support the contention that deportees face no danger if they are sent back.

A report issued in December by three lawyers' groups in Washington, D.C., and New York presented strong evidence that in many of the hearings and prehearing procedures already held for Haitians, the INS, in its zeal to deport them as a group, has systematically deprived them of due-process rights. The Lawyers' Committee for International Human Rights, The International Human Rights Law Group, and the Washington Lawyers' Committee for Civil Rights jointly reported after an investigation that in order to expedite a sudden glut of cases last summer in Miami, the INS held an average of 60 and sometimes as many as 150 hearings a day. The seven lawyers working for the Haitians at that time pointed out that it was impossible for them even to be present at all the hearings, much less to prepare for them.

The report says that during prehearing interviews, where crucial evidence is taken for the hearings, INS employees routinely listened to detailed reports by the Haitians of their troubles with government authorities. But if the Haitians did not have documentary evidence of persecution, the interviewers simply wrote "no" in the space for that question without even including the person's comments.

The report states that the INS did everything it could do to keep lawyers from seeing the Haitians and offering them help. It allegedly denied them access to hearing waiting rooms, harassed them, and threatened them. The INS justified this by saying it was improper for the lawyers to "solicit business" on public property, though the lawyers work almost exclusively on a volunteer basis.

INS officials deny that anyone's rights were violated. "All of them were notified of their right to an attorney . . . and given access to telephones to call anyone they wanted," said Vern Jervis, an INS spokesman in Washington.

The growing group of lawyers working for the Haitians is constantly filing new lawsuits to stave off pending deportations. Deportation hearings are being held as of this writing, but it may be months or years before the Haitians have exhausted their appeals.

Raymond Morris, district director of the INS in Florida, is angry about the legal tangle. He said that he believes most of the Haitians come here not even knowing about the political-asylum provisions. All they know, he said, is that there are more jobs in America than there are in Haiti. "Once we catch them, the lawyers come to the jail and prime them," he said. "The lawyers teach them the magic words 'political asylum,' and suddenly they're turned into political refugees."

Other agents feel more sympathy. "It takes a lot of balls to come across all that water in a rickety little boat," said border patrol agent Truman Carr. "We ought to do something for them in their own country so we wouldn't have to round them up here."

"I feel sorry for them," said Fred Alexander, an INS investigator. "I'd do the same thing in their place. . . . But I sincerely feel that we're better off enforcing the law as it stands. Until Congress and the American people resolve this issue some other way, I'm going to continue enforcing the law."

AMNESTY INTERNATIONAL,
December 1979.

STEPHANIE GRANT,
Director,
Washington Office

DEAR STEPHANIE: I understand you are testifying on some technical aspects of human rights research in the context of the Miami legal case concerning Haitian refugees. I have received your request for a comment on Amnesty International's present concerns in Haiti which you could make available to the court. This letter is written to reflect information available to Amnesty International (AI).

1. In September 1977, the Haitian government released 104 political prisoners and stated publicly that no other political prisoners remained in custody. Information from these prisoners, and from others released some months earlier, confirmed AI reports that large numbers of prisoners had been imprisoned for nonviolent political activities, often for many years, and invariably without charge, trial or any due process procedures and that their treatment in prison had resulted in a high mortality rate resulting from, inter alia, disease, malnutrition and summary execution. Prior to these releases precise information had been hard to obtain, as evidenced by a State Department statement to Congress in 1975 that "few if any individuals are being held solely for their beliefs"—an assertion directly contradicted by the 1977 releases.

It might be added here that we have received reports that several political prisoners including Ceres D'Accueil and Nestor Rochambeau, who had been seen alive in September 1977, are still in prison or in secret detention centres.

2. Shortly after this amnesty, on 27 September 1977 the Haitian government ratified the American Convention on Human Rights. In so doing it undertook to protect basic human rights in Haiti and specifically to safeguard:

(A) Freedom from arbitrary arrest and the right to due process.

(B) Freedom of expression, association and belief.

(C) The right not to be tortured or subjected to cruel, inhuman or degrading treatment or punishment.

3. Since September 1977, AI has endeavored to assess the extent to which Haitian law and practice has in fact been brought into conformity with the provisions of the convention. The low awareness of human rights combined with the high level of fear amongst almost all sectors of the Haitian population, make monitoring unusually difficult. However, the information which has to date become available to us suggests that there remains a wide discrepancy between Haitian practice and the convention. Serious violations continue to take place. I will indicate some of the evidence which underlies this comment.

4. Right to due process, freedom from arbitrary arrest.

(a) Constitutional/legal safeguards: the Haitian constitution formally guarantees basic human rights. However, most constitutional safeguards are suspended under the "Plein Pouvoir" authority in the period when the legislature is not in session (normally for 7 months of each year). State of siege provisions also formally suspend significant constitutional safeguards (Article 197). Even when these guarantees are not suspended, available evidence suggests that they are not applied (e.g. article 197 provides that prisoners must appear before a judge within 48 hours of arrest—to our knowledge, this is not observed).

In addition, there exists in Haiti an extensive body of legislation which applies irrespective of the constitution. These laws—e.g. the anti-communist law of 1969 and the series of laws for acts against state security—provide no constitutional or due process protection. Despite claims that the state security tribunal, which was established in August 1977, would remedy these defects, reports such as that of the International Commission of Jurists (December 1977) make it clear that in fact it does not provide any protection before the time when a charge is brought against a prisoner. It should also be noted that although the names of prisoners arrested as long ago as April 1979 are known (e.g. Ulrigh Desire) the tribunal is believed not to have met, no prisoner has appeared before it, no judges have been appointed, and for all practical purposes the tribunal appears to have been a dead letter.

(b) Legal representation in practice: to our knowledge, none of the prisoners currently held for political reasons in Caserne Dessalines, Fort Dimanche or the National Penetentiary have been formally charged, brought before a judge or provided with legal counsel. Information in the Amnesty International Report 1979 (published on 10 December 1979) that four prisoners had been charged came from the government and is now known to be inaccurate.

5. Freedom of expression, association and belief.

(a) Constitutional safeguards: formal safeguards exist but are set aside under "Plein Pouvoir" and state of seige. (4(a) above). The provisions of the anti-communist law and the new press law radically curtail constitutional freedoms.

(b) Legal limitations: the anti-communist law provides that persons found to have made "any declaration of belief in communism, verbal or written, public or private" or propagated "communist or anarchist doctrines by conferences, speeches, conversations, by leaflets, posters, newspapers" will be charged with crimes against the state, tried in a military court and if convicted "punished by the death penalty." This is a clear violation of freedom of expression and association.

The press law (26 September 1979) makes it an offence to "offend the chief of state or first lady," "to make any attack against the integrity of popular culture" (article 22), or to erode public confidence on the country's financial system (article 40), prison sentences are prescribed.

Anyone sentenced under either law would of course, be regarded by AI as a prisoner of conscience.

(C) In practice the VSN (Volunteers for National Security—"Tontons Macoutes") and other security forces enjoy apparently unfettered discretion in arresting suspected or denounced critics of the Duvalier family or the Haitian government.

6. Freedom from torture and other cruel, inhuman or degrading treatment or punishment.

(A) The Constitution prohibits physical brutality and guarantees the integrity of the person. This protection is set aside under states of siege or the "plein pouvoir" authority. In a statement to the United Nations (17 May 1979) made in reply to questions on what legislative or administrative steps had been taken to implement the UN 1975 declaration on torture in Haiti, the Haitian government noted only that a victim "might appeal to the competent courts" for violation of his constitutional rights. It was not stated that torture was a criminal offence, nor that officials guilty of acts of torture would face legal or administrative sanction.

(B) No instances are known to AI in which any official responsible for violating these rights prior to 1977 has been charged, prosecuted or subjected to disciplinary measures.

(C) Evidence that torture and systematic brutality continue to be employed has reached AI during 1979. It includes:

(I) A public appeal to the government "to suppress the abhorrent practice of torture "made by the president of the Haitian League for Human Rights on 31 July 1979. He also referred to the "dangerous re-occurrence of cases where individual rights have been violated."

(II) A report that Sylvio Claude was beaten and given electric shock treatment in February 1979. Claude is leader of the Haitian Christian Democratic Party.

(III) Affidavit statements by former prisoners alleging torture on specified dates in December 1978 and April 1979.

7. Political imprisonment.

Cases have been reported to AI of individuals who have been arrested in the following circumstances, and who are still in custody:

(A) For organizing peaceful association.

(B) For engaging in peaceful discussion of human rights issues.

(C) As a result of anonymous denunciation of the above-mentioned activities or such activities as singing a song critical of the government, reproving members of the armed forces who had expressed a wish to shoot strikers, or of illegal exit and reentry to Haiti.

Numerous short-term detentions were reported in 1979, including Haitian League for Human Rights in early November 1979 to protest at these violations was broken up by the security forces.

The government has taken the unusual step of informing the United States Government that it will prosecute political opponents who return or are returned to Haiti and has underlined the point by stating that in certain cases an application for political asylum in the USA would be regarded as defamation of the nation. Given the wide discretion to arrest and detain indefinitely which Haitian security officials enjoy, it must be assumed that this term 'political opponent' will be interpreted widely. In recent months three people have been deported from Haiti allegedly for having contact with exiles: Two Haitians residents abroad who went to Haiti on holiday and one living in Haiti who had been abroad on holiday. This, in fact, would seem to indicate that every Haitian returning to Haiti could potentially be accused of having had contact with opposition abroad.

8. Extra-judicial executions.

While in at least one case the government has taken legal action against an official responsible for a street killing, other instances have been reported to AI in which 'Tonton Macoutes' have shot individuals on the street with apparent impunity.

9. Incidence of violations.

AI is in no position accurately to assess the level or frequency of these violations. We are, however, convinced that political imprisonment and torture still take place and that the government has brought neither law nor practice into conformity with even minimal international standards. It is also apparent that this is a situation in which asylum provisions in the USA should be interpreted broadly and generously, and the benefit of the doubt given to individual applicants.

With best wishes.

Yours sincerely,

DICK OOSTING,
Deputy Secretary General.

[From the Philadelphia Inquirer, Oct. 7, 1979]

SEEKING REFUGE IN THE U.S., THEY WASH OFF HAITI'S SHORES

(By Bruce Keidan)

PORT-AU-PRINCE, HAITI.—She lives now with her two small children and her mother in an airless room the size of a walk-in closet, off a dirt alley that empties onto the Rue de Grand.

She takes in laundry and ironing and does a little sewing to support the children, but work is very scarce and they often go hungry.

She is either the wife of Arnold Desroiers or his widow. She suspects it is the latter, but she cannot be sure.

She last saw her husband in the summer of 1977, when he was deported back to Haiti from the United States after his application for political asylum was denied. He stayed in Port-au-Prince for a few weeks, she says, but there was no work for a tailor.

So Arnold Desroiers begged and borrowed enough money for passage aboard a makeshift boat. And in July 1977, about a month after his deportation from Miami, he rejoined the tide of human flotsam that washes off Haiti's shores on moonless nights.

They are the other boat people, the people whose plight is every bit as pitiful as that of Indochina's boat people. Like the boat people of Indochina, they are victimized by smugglers and by pirates. Like the boat people of Indochina, they are often simply dumped onto uninhabited islands and left to fend for themselve or perish.

But unlike the boat people of Indochina, they have attracted little public notice; no humanitarian outcry has gone up on their behalf. Victim of abject poverty and a repressive regime in their homeland, they have been exploited in every country to which they have fled. They are the outcasts of the Caribbean.

Last month, six of them drowned—five children and a young mother—when sailors they had paid to get them to Florida put them overboard half a mile from the Florida coast to avoid a police patrol.

Last week, 209 of them crammed aboard two tiny sailboats were rescued off the Florida Keys by the U.S. Coast Guard after guardmen expressed fears that their overburdened sailboats might capsize.

No one knows what happened to Arnold Desroiers. He was determined to go back to Miami, his wife says. And first he was bound for the Bahamas, where he could work and earn the $300 or more he would need to pay the smugglers to take him to Florida. It is the time-honored escape route of the Haitian boat people from the hopelessness of one of the world's poorest nations.

She has not heard from him since the night he left. Many months later, she heard that a boat went down that night and that more than 50 persons drowned.

No one knows for sure, but the best estimates are that approximately 200 Haitians a week slip out of their country in rickety boats that hold from 20 to 100 persons. They have been doing it for decades, long before the boat people of Indochina first began impinging upon the American conscience. But there the parallels end.

The refugees who fled Indochina brought with them some education and skills. Their ranks include a merchant class whose predominantly Chinese ancestry makes them convenient targets for the governments of Southeast Asia. Because those governments are Communist, the refugees are being granted political asylum in the United States, in much the same manner that Hungarians who fled their homeland in 1956 were granted asylum.

POVERTY'S VICTIMS

Most of the Haitian boat people are uneducated and unskilled. Their property has not been seized; they never had anything worth taking. They are not fleeing from firing squads but from a less dramatic sentence: slow death by poverty.

By the reasoning of the U.S. Immigration and Naturalization Service, they are not political refugees at all. They are economic refugees. When they have roused our attention at all, we have given them not sympathy but scorn.

Immigration officials estimate that nearly 200,000 Haitians, most of whom entered the country and remain illegally, live in the New York City area alone. There are perhaps another 60,000 in south Florida. Their presence has been responsible for an outcry both in New York and Miami.

"These people have a very strong work ethic," a State Department official said. "They'll take the jobs nobody else wants, live in the slum areas nobody else wants to live in, just so they can save up some money.

"The Jamaican immigrants come into the

United States and join the unions. The Mexicans get on welfare. But the Haitians just go out and work at whatever jobs they can find for whatever money they can get. And the unions understandably don't like that."

Slum landlords in Brooklyn's Bedford-Stuyvesant section are glad to take in Haitians, who live five and six to a tenement room, do not complain and habitually pay their rent without a problem.

"That's one reason why so many Haitians have gravitated to New York," a State Department official said. "The slumlords there have a justifiable reputation for hiding them."

A majority of those Haitian refugees who come into contact with Immigration officials are quickly shipped back to Haiti.

SIGN OR ELSE

"They're given a form to sign that's a waiver of a hearing," said Steve Forester, a Miami attorney who often represents Haitians applying for political asylum. "And they're told they must either sign it or go to jail. Most of them speak only Creole French and don't read any language at all, so they sign with no idea what they're signing.

"Most of them sign and then are shipped back to Haiti within 24 hours. But some of them are so terrified of returning to Haiti that they refuse to sign, even though they think it means going to prison here. The ones that don't sign wind up getting a hearing. And then we can make a case for political asylum."

Such cases are decided on their individual merits. Most of the hearings result in a denial of political asylum. In a few cases, such asylum is granted. But at least one U.S. consular officer stationed here believes the difference between a "political refugee" and an "economic refugee" to be mostly semantic.

"I don't think you'll find a pattern of systematic persecution by the government here," the officer said. "There are some human-rights violations, but less now under Jean-Claude Duvalier than under his father.

"What you do have here is a government that is lining its own pockets in a country where the minimum wage is $1.60 a day, where many companies get around paying even that much by hiring workers on a piece-work basis, and where there are simply no jobs of any description for the vast majority of the people.

"What you also have here in Haiti is a situation where the government is so decentralized as to virtually be nonexistent outside Port-au-Prince. Out in the provinces, the government doesn't really know or care what is going on. The provinces were run by feudal-type warlords back as far as the 18th century, and that's largely the case today.

OPPRESSION BY NEGLECT

"When you talk about what happens outside Port-au-Prince, you aren't talking so much of government oppression by design as you are government oppression by neglect."

Until his death in April 1971, the government of Haiti existed entirely in the person of Francois (Papa Doc) Duvalier. Political observers here believe that Jean-Claude Duvalier, who succeeded his father as president-for-life that year at the age of 19, has managed to liberalize government policies at least a little—despite strong resistance from his mother, Simone O. Duvalier, designated First Lady of the Republic, and a coterie of his father's advisers, who retain their cabinet positions and are known here as "the dinosaurs."

Under the Carter Administration, Jean-Claude Duvalier has been subjected to some pressure to open up Haiti's political process and to take some steps to alleviate human-rights violations.

But it was not until this summer, after the fall of the Somoza government in Nicaragua, that Jean-Claude Duvalier convinced "the dinosaurs" to legalize opposition political parties in Haiti for the first time.

Two opposition parties were immediately formed, but the experiment has not proven an unqualified success: Sylvio Claude, the leader of one opposing party, made some intemperate public statements about the government early this month and was immediately imprisoned.

The Haitian constitution provides for election of all members of the nation's unicameral legislature every four years, but there is some evidence that those elections continue to be cosmetic.

A minor Haitian provincial official, who has since fled to the United States, swears that he personally saw the "results" of the last such election in the southeastern city of Les Cayes three days before the election was held. In a sworn statement, he has testified that the vote totals were sent in advance in a memo from Jean-Claude Duvalier to the local military prefect, Col. Gregorio Figaro.

Election-rigging, though, is not the gut-level issue to the provincial Haitian that it would be to his American counterpart. In the Haitian provinces, repression wears a blue denim uniform and carries a rifle or submachine gun. It goes by the name "Ton-Ton Macoute."

Formed by Papa Doc Duvalier along the lines of the German SS, the Ton-Ton Macoute has not been dismantled by Jean-Claude Duvalier. It exists today as the Voluntaire Securite Nationale (VSN). It continues to strike terror over the length and breadth of this nation of 6 million.

"The Macoutes still operate in the provinces the way they always have," a U.S. embassy official confirmed. "You don't see much of them in Port-au-Prince anymore, but in the provinces, they are the law.

"They are not paid. They exist by practicing extortion on the people. They are a law unto themselves."

And they are one of the reasons that Haitians have risked their lives in rickety boats to escape.

[From the Philadelphia Inquirer, Oct. 8, 1979]

TALES OF THE TONTON MACOUTES FROM HAITIANS WHO FLED

(By Bruce Keidan)

MIAMI.—Call him Dumont. That is not his real name. Athough he lives here, in a tiny apartment in a rundown section of northeast Miami, he fears reprisals against his relatives, who are still in Haiti.

He is a defector from the Tonton Macoutes.

In a recent interview, Dumont explained why he had joined Haiti's quasi-official army of thugs: "The macoutes had cut off someone's head. I was afraid of them, so I joined."

Dumont, who has applied for political asylum in the United States, has testified in an affidavit sent to the U.S. State Department that he personally witnessed other murders by the macoutes during his six years in the organization.

"Some reprimand (of a macoute) may be announced (by the government)," he said, "but even if it is, nothing ever happens to the macoutes. He is never punished."

The tonton macoutes, the private militia formed by the late Haitian dictator Francois (Papa Doc) Duvalier along the lines of the German SS, did not die with Duvalier in 1971. It continues to operate in the Haitian provinces, where its gun-toting members are a law unto themselves.

"You don't see much of them in Port-au-Prince anymore, but in the provinces, they are the law," a U.S. embassy official in Haiti said. "They are not paid. They exist by practicing extortion on the people."

Among the people who reportedly have suffered most at the hands of the macoutes are the Haitians who have fled the impoverished island country, only to be picked up by officials and deported back to Haiti.

They are the "boat people" of the Caribbean, victimized by smugglers and exploited in the countries to which they have fled. But unlike the boat people of Indochina, whose plight has been widely publicized, almost no one has raised a humanitarian outcry on their behalf.

The U.S. Immigration and Naturalization Service considers them economic, not political, refugees. Although it considers Haitians' applications for political asylum on a case-by-case basis, most of those who enter the United States illegally are shipped back.

What they often confront when they return is the tonton macoutes.

Dumont, the macoutes defector, said provincial Haitians can be arrested by the macoutes under virtually any pretext, and their release is generally arranged through payment of a bribe to the local macoutes commander. If the family is too poor to pay the bribe, the commander will decide where and for how long the "offender" will be incarcerated.

"When people are arrested by the tonton macoutes, they never go before a judge," Dumont said. "I personally saw hundreds, if not thousands, of people arrested and thrown in jail . . . without ever appearing before a judge.

"Occasionally a judge attempted to serve by messenger a notice to appear to one or another macoutes. The common practice on our part was simply to rip the notice up.

"If the macoutes want to arrest you, they can simply say you are 'kamokin,' which means a snake but which in Haiti is used to mean an enemy of the government. Then that person becomes a political prisoner.

"On the average, we would have 17 persons in a 10- by 12-foot cell. The political prisoners got absolutely nothing to eat. Those who did not die when they were being beaten sometimes died in the cells. After a few days, they looked like skeletons."

Dumont recalled that one such "kamokin" was beaten so savagely by the macoutes guard that "blood was gushing from the man's head and face. And the guard said, 'You'll make the floor dirty,' and he ordered the man to drink his own blood. The man picked up his blood from the floor with his cupped hands and drank."

Dumont's downfall came after he learned that the macoutes group was about to arrest a boyhood friend. He was observed warning the man of the imminent arrest and was forced to flee Haiti.

Smuggled out of the country in the hold of a tourist ship last June, he left behind him a wife and four children. The thought of returning to Haiti terrifies him. Because he is a defector, he says, he would be arrested, beaten and put to death.

Like many other Haitians, Dumont believes that there is a standing secret order from Jean-Claude Duvalier, Papa Doc's son and successor as president for life, to arrest everyone deported back to Haiti.

"That order was first given in 1976," he said. "It was still the unquestioned rule when I left Haiti, and the order was never taken back."

The Haitian government has denied that there are standing orders to imprison returning refugees, and Jean-Claude Duvalier has announced publicly that they are not to be harassed.

Two American studies, one by the State Department and another by a Florida congressman, failed to uncover evidence of systematic abuse of the returning refugees by the Haitian government.

But a State Department official formerly stationed in Haiti said: "If the macoutes commander out in the provinces tells his hoodlums that there is such a secret order, they aren't going to question him."

Michelle Bogre, a free-lance journalist from New York City, visited Haiti last spring. In the town of Port de Paix, he found it was common practice for returning refugees to be jailed for short periods as "a small punishment" for the civil offense of leaving Haiti without an exit visa.

When the provincial Haitian has been directly victimized by his government, it has usually been on another front. The Anti-Slavery Society, based in London, created a small stir in August when it suggested in a report to a United Nations commission meeting in Geneva that Haitians were being sold as slave labor by their government to the government of the neighboring Dominican Republic. The report said the "slaves" harvested sugar cane there.

The commission adjourned without commenting on the report, which charged that the Haitian government was collecting an $11 bounty for each field worker it sent over the border for the cane-cutting season.

A spokesman for the Anti-Slavery Society, Pat Montgomery, told the Inquirer: "Since our report was written, there has been a change in government in the Dominican, so that the present Dominican government may well have done whatever it can to right the situation. But my own belief is that no one on earth could put the matter right quickly. Conditions are so bad that it would take years to improve them very much."

"It is slavery and it is happening on Haiti all the time," said the Rev. Gerard Jean-Juste, head of the Haitian Refugee Center in Miami. "Duvalier orders the peasants into town, then sends them by truck into the Dominican.

"Well, Papa Doc used to order them to come into town. Jean-Claude Duvalier does it differently. He promises them jobs. About 20,000 responded to that promise last year. They were rioting for the chance to get on the trucks, and the macoutes finally shot about 10 people.

"But even those who got on the trucks voluntarily now are still enslaved. They are promised money. Then, once they are in the Dominican Republic, they are given part payment of a few dollars and told they must collect the remainder from their own government when they return to Haiti. But if they try to collect, they are turned away. And if they protest, they are jailed.

"The conditions in the Dominican for the cane cutters are worse than anything you can imagine. That is why they must bring in the Haitians: The Dominicans refuse to work the cane fields. When a Haitian tries to quit and go back home, he is discouraged from doing so.

"Still, it is better now than it used to be. Under the Trujillo government, the Haitian workers were sometimes massacred. Thousands of them."

Gen. Rafael Leonidas Trujillo Molina ruled brutally from 1930 until his assassination in 1961.

Despite a history of inhospitable treatment, the Dominican Republic continues to attract some Haitian refugees. In 1975, the Dominican government estimated that there were 450,000 Haitians living in the Dominican Republic—most of them illegally. The Dominican Department of Migration has an ongoing campaign to find and deport them, except during the cane-harvesting season.

Indeed, the Haitian refugee is an outcast wherever he travels.

"They are looked down on all over the Caribbean, except maybe in Cuba," a veteran American observer of the Haitian refugee problem said. "For the most part, it's a racial thing. The Haitian is usually black. The brown-skinned people of the Caribbean are very caste conscious.

"Almost everywhere you go in the Caribbean, you'll hear certain kinds of jobs referred to as 'Haitian work' by the locals. That means it's the sort of work that's so backbreaking and low-paying that no human being in his right mind would consider doing it."

But in Haiti, there is no money to work for, as far as the majority of Haitians are concerned. For the chance to toil at even the worst job at the lowest pay, the Haitian must leave his homeland. And that is an uncertain journey, fraught with peril.

"Most of the people go out in flimsy boats," said Father Jean-Juste, himself a Haitian refugee. "The small boats are co-ops. Anyone who can read a compass is the captain. They sneak out at night, from 10 to 200 in a boat. I believe that half of them never make it.

"Then there are other boats, the trawlers and cargo boats, that sometimes carry people. Some of the captains of these boats used to have a habit of charging whatever they could get, then picking the people up and dropping them on a deserted island or just pushing them overboard at sea.

"One lady who made it to the United States talked to me. She left Haiti on a ship with 215 others going to the Bahamas. Only 11 of them reached the Bahamas. She said the captain pretended to be lost, starved the passengers then threw most of them overboard."

The Bahamas are the traditional first stop on the voyage of the Haitian boat people, since many Bahamian islands are less than a day's sail from the northwest coast of Haiti.

"Some of the Haitians end up on uninhabited little out-islands here," a U.S. official stationed in the Bahamas said. "But many of them do manage to reach Nassau or Freeport. They take work as domestics or cleaning up yards. They save their money and try to build a nest egg that will get them to the United States or Canada.

"Once in a while, the Bahamas Defense Force will pick up one of the incoming boats. Or there will be a sweep through some of the out-islands, and they'll find the Haitians there. So, periodically, some Haitians are sent home. But despite that, there are thousands of them here.

"The Bahamas never grants political asylum to Haitians. And the official word is that the Haitians aren't welcome here. But they fill a job need. If you look around, you'll find Haitians mowing lawns for Bahamian government officials."

Knowing full well that the Bahamas are the primary jumping-off point for Haitians illegally entering the United States (Bimini is less than 50 miles from the Florida Keys), the American government has tried for years to spur Bahamian immigration officials to staunch the flow.

"In public," said one State Department source, who asked not to be identified, "the response of the Bahamian government has been to ask what it can do to help. But in private, the Bahamians say they can't understand why, if we don't want the Haitians, we don't just kick them out as soon as the Haitians come ashore.

"When you try to explain to them about immigration hearings and due process and political asylum requests, you can see their eyes start to cloud over. I think they feel we are asking them to pull our political chestnuts out of the fire for us."

At times, the Bahamian government has cracked down on the Haitian refugees for reasons of its own.

Seeing a fifth of its own population on welfare while Haitians worked, the government has reacted on occasion by announcing "repatriation" programs for the Haitian refugees.

The Haitians would be given 72 hours to turn themselves in and be shipped home. After that, they were warned, they would face imprisonment.

Most of the Haitians who leave the Bahamas do so from Bimini, and they are taken out by smugglers.

Bahamian officials are loath to discuss the smuggling trade, but an American counsular officer who has spent years in the Bahamas said: "Smuggling is not really regarded as a crime in the Bahamas, or at least not a very serious one.

"Throughout its history, the Bahamas has prospered most when there is something that the Americans were determined to keep from U.S. shores. Bahamian smugglers had a field day when the Union attempted to blockade the Confederacy. They had another one during Prohibition. And now we're trying to keep out the refugees.

"Well, a free movement of people and an easy attitude toward smuggling is traditional in the Bahamas. Even drug smuggling is largely successful, because Bahamian (police) resources are quite limited. But the government of the Bahamas is really trying hard to cut down on the drug smuggling because they can see we really oppose it.

"The Haitian refugees are another story. The way the Bahamian official sees it, we're telling the Haitian refugee: 'If you can make it to the U.S., you can stay. If you don't, drown.' Then we're telling the Bahamian: 'Stop him (the Haitian) en route.'

"In the estimation of Bahamian officials, we're welcoming these people in the United States. So their attitude is: 'Why ask us to solve your problems?' "

Even if the Bahamian government really wanted to halt the smuggling of Haitians into Florida, chances are it could not.

"There's no way, man," the captain of a Bimini-based boat said. "There's more of us than there are constables."

But the boat fare comes with no guarantees. When Bahamian smugglers fear they are about to be intercepted by the Coast Guard in U.S. coastal waters, they sometimes drop their illicit cargo overboard. That was true during Prohibition, when they carried rum. It is true now, when their cargo is Haitian refugees.

The Haitian boat people who do land safely in the United States and manage to avoid deportation are less than enchanted with the government of their new land.

The feelings of many of them are expressed by Christian Louis, 19, who fled Haiti in a boat with 28 other persons after being jailed for two weeks for his part in a protest near the presidential palace in Port-au-Prince last January.

Said Louis, who now lives in Miami on a temporary visa: "The United States government knows exactly what is happening in Haiti, but they continue to support Duvalier. Then they wonder why people are leaving Haiti and trying to come here.

"They used to support Papa Doc, and nobody knows how many people Papa Doc killed. Now they support Jean-Claude Duvalier. They say he is a better man than his father. They don't listen to us when we try to tell them about Jean-Claude Duvalier.

"Jean-Claude Duvalier told somebody about himself. He made a speech to the people of Haiti. And he said: 'The son of the tiger is the tiger.' "

Mr. FISH. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Ms. HOLTZMAN. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. Evans).

Mr. EVANS of Georgia. Mr. Chairman, there is no bill that has come before the Congress of the United States this year that needs passing any more than H.R. 2816. For years we have followed a very inconsistent policy toward the refugees of Southeast Asia. After the fall of Vietnam, our program even ceased for a period of time, even though the problem was continuing to grow.

I personally became involved in this matter a couple years ago in talking to the leaders of the first asylum nations for refugees throughout Southeast Asia. At that time the United States was putting pressure on these nations not to turn back the refugees at their borders. We were encouraging these people, although our policies were not clear, to take the refugees and protect them and to keep them from dying on the high seas.

Mr. Chairman, this country is a country that cares and we do not have any choice but to pass legislation that will provide a comprehensive policy for the refugees and the bringing of refugees into this country out of Southeast Asia and other areas.

□ 1700

I just left Griffin Bell, the former Attorney General. We talked about this problem. He talked about the problem he had as Attorney General in trying to operate without a statute dealing with the comprehensive problem of refugees. As we know, he extended his power greatly and worked with the Congress, which he recognizes is the proper body to deal with refugees in trying to cooperate with the first asylum countries and provide assistance by giving permanent asylum to refugees.

Mr. Chairman, we cared enough about resisting communism to commit our own troops and our own people to fight communism in Vietnam. Surely we care enough now to provide a comprehensive policy to help the people that we cared about before and to at least provide them some opportunity.

Sometimes I run into problems in my district with the refugee question and with people who wonder why we even care or do anything for them. I can imagine how those people who have to be elected in their own countries—in Thailand and Malaysia and other first asylum countries—must feel with the pressure they have from their constituents to turn these people back. Those countries are not nearly as well off as we are or as well equipped to try to help these people.

I do not think that the United States can turn its back on providing a continuous program for the refugees. I do not think we can afford to refuse to help those people and those countries that we have encouraged to allow these people to come into their countries on a temporary basis. We cannot afford not to tell the countries of first asylum what they can depend on from us. We have to tell them how many people we will take and how much we will provide for them if they will continue to be humane and allow these people to come across their borders and come into camps for protection.

This is not a problem that is going away, and we cannot turn our backs on it.

I come from a very conservative part of the country. I think that communism is one of the things that we have to be concerned about, and we have fought it. Yet we have not until now provided a comprehensive policy to give refuge to the refugees who are fleeing communism.

Mr. Chairman, I would just like to say in conclusion that this country is the leader of the free world. We believe that people should be allowed to have an opportunity to provide for themselves. Certainly the refugees who have come into this country have proved over and over again that they appreciate the opportunity, and that they will provide for themselves.

Other philosophies try to spread their philosophy by force and by taking over governments. This country does it by example. Is our example going to be that when the going gets tough, we turn our backs, or is it going to be that we open our hearts and our lands to these people who need our help? I think it is the latter.

Mr. Chairman, I urge passage of the bill.

● Mr. ZABLOCKI. Mr. Chairman, I rise in support of H.R. 2816, the Refugee Act of 1979. As noted on pages 7 and 8 of the Judiciary Committee's report including the exchange of letters between Chairman RODINO and myself on this legislation, the Committee on Foreign Affairs, in order to expedite the consideration by the House of this important legislation, did not insist on sequential referral of the bill. We chose this course with the understanding that such action did not in any way diminish or prejudice the jurisdiction and continuing interest of the Foreign Affairs Committee with regard to the bill or the subject matter contained therein.

We also agreed to forgo formal consideration of this legislation with the understanding that the distinguished manager of the bill, the gentlewoman from New York (Ms. HOLTZMAN) would accept certain amendments offered by the Committee on Foreign Affairs pursuant to its jurisdiction. Those amendments, which will be offered at the appropriate time by the distinguished chairman of the Subcommittee on International Operations, Mr. FASCELL, deal with: First, the definition of the term "refugee"; second, the role of the proposed Office of Refugee Resettlement in the Department of Health, Education, and Welfare versus the Office of the U.S. Coordinator for Refugee Affairs in the Department of State; and third, raising the funding ceiling of the emergency migration and refugee fund.

I would like to take this opportunity to commend those who have made it possible to bring this vital legislation to the floor. In particular, I want to commend the distinguished chairman of the Committee on the Judiciary, Mr. RODINO, and the distinguished chairwoman of the Subcommittee on Immigration, Refugees and International Law, Ms. HOLTZMAN, and the chairman of the Subcommittee on International Operations, Mr. FASCELL, for their efforts to reconcile the foreign and domestic aspects of this legislation without prolonging the consideration of the bill at committee level.

Mr. Chairman, I am convinced that the bill as reported by the Committee on the Judiciary, with the amendments to be offered by the Committee on Foreign Affairs, is in the best interest of the United States. I therefore urge its overwhelming adoption.●

● Mr. DRINAN. Mr. Chairman, I rise in support of H.R. 2816, the Refugee Act of 1979. I have long been interested in refugee matters and just 4 months ago visited refugee camps in Southeast Asia. I commend the chairwoman of the Immigration Subcommittee, Congresswoman HOLTZMAN, and the members of that subcommittee for their great accomplishment in developing a fair and responsible program for the admission of refugees to the United States. There is no greater need in the world today than the very basic call for resettlement assistance for the world's homeless.

For far too long our efforts to resettle refugees have been a series of ad hoc legislative and administrative reactions to certain crisis situations. This piecemeal approach is contrary to both our international commitments and our concern for human rights.

We have made clear our indignation over the disregard for the rights of countless persons throughout the world who have been abducted from their homes, held without charge or tortured simply because of their race, religion, nationality, or political opinion. We have cried out for those forced to flee their countries and left to languish on open seas or in dismal refugee camps. We have reduced aid to certain nations saying we will not be partners to this brutality. Yet, all too often, those victims on whose behalf we speak, are denied admission to the United States or subject to long, agonizing periods of uncertainty in gaining admission.

As the distinguished chairwoman of the Subcommittee on Immigration has observed:

> In good measure, our country's humanitarian tradition of extending a welcome to the world's homeless has been accomplished in spite of, not because of, our laws relating to refugees.

H.R. 2816 gives substance to our concerns and meaning to our words. One of its most important, yet fundamental provisions, is the definition of a refugee. In current law refugee status is determined based on outmoded geographical and ideological considerations. Only those fleeing from Communist nations are recognized as refugees.

With H.R. 2816 our law will finally be in conformity with the internationally accepted definition of a refugee set forth in the 1951 United Nations Refugee Convention and Protocol which the United States ratified in 1968. The U.N. definition recognizes as a refugee, any person outside his or her country, who has a fear of persecution based on race, religion, nationality, or political opinion. In fact, this bill takes our law one important step further. It also recognizes the plight of those political prisoners within their own nations who are not able to reach a country of first asylum.

United States policy to some extent, already recognizes this need as the Attorney General's parole authority has been used to admit groups such as Chilean and Cuban political prisoners directly into the United States. In these instances release has been conditioned on resettlement in the United States.

H.R. 2816 separates the admission of refugees from that of routine immigration under the preference system and authorizes the admission of 50,000 refugees a year. It also contains allowances for additional admissions at any given time based on emergency situations and humanitarian concerns.

For the first time, a comprehensive statutory procedure for the admission of refugees, will replace the limited conditional entry and parole provisions of existing law. Because of the flexibility this legislation provides, there will be no need for special legislative or administrative actions, in the future in order to meet an urgent resettlement need. Those in need of our assistance will not have to wait for us to act.

Title III of this bill establishes a permanent resettlement program for refugees once they are admitted to the United States. One of the primary criticisms of current resettlement efforts is that separate programs serve separate groups. A "patchwork" of Federal programs have emerged to deal with various groups of refugees and as a result there is considerable confusion among both public and private agencies involved in resettlement activities. Needless to say, those intended to be served, are least served by a morass of programs.

H.R. 2816 creates a high level Office of Refugee Resettlement within HEW charged with coordinating refugee resettlement programs that include reception and placement of refugees, grants for resettlement services such as English language training, educational and vocational training, counseling, basic orientation, food, clothing and shelter and reimbursement to State governments for cash and medical assistance provided to refugees.

This proposal is one of the most important matters before this House. It is a finely tuned piece of legislation that deserves our support. This Nation is for the most part composed of the descendants of refugees from political, religious, and economic oppression. Adoption of H.R. 2816 is in our national and international interest.●

The CHAIRMAN. The Chair wishes to inform the gentlewoman from New York (Ms. HOLTZMAN) that she has 2 minutes remaining. The gentleman from New York (Mr. FISH) has yielded back his time.

Ms. HOLTZMAN. Mr. Chairman, I yield back the balance of my time, and I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. DODD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2816) to amend the Immigration and Nationality Act to revise the procedures for the admission of refugees, to amend the Migration and Refugee Assistance Act of 1962 to establish a more uniform basis for the provision of assistance to refugees, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Ms. HOLTZMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 2816, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2585, NATIONAL TRAFFIC AND MOTOR VEHICLE INFORMATION AND COST SAVINGS AUTHORIZATION ACT

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 320 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 320

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2585) to amend the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1980 and 1981, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 320 provides for the consideration of H.R. 2585 which authorizes appropriations of $53 million for fiscal year 1980 and $58.1 million for fiscal year 1981 for the operations and research activities of the National Highway Traffic and Safety Administration of the Department of Transportation. The authorized level in the bill is 8.3 percent below the President's budget request for fiscal year 1980.

The funds authorized by this bill would be used to conduct vehicle safety research, to develop and promulgate new vehicle safety standards, to amend existing standards and other rules and regulations, to provide consumer information, to conduct defect and noncompliance testing, and to enforce the provisions of the Safety Act.

This is an open rule providing for 1 hour of general debate on the bill. The time is to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. A motion to recommit is in order upon completion of the consideration of the bill.

Mr. Speaker, I urge my colleagues to adopt House Resolution 320 so that the House may consider H.R. 2585.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this resolution provides for the consideration of the bill, H.R. 2825, to amend the National Traffic and Motor Vehicle Safety Act and the Motor Information and Cost Savings Act. This is an open rule, providing for 1 hour of general debate to be divided between the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce. The rule also permits a motion to recommit.

H.R. 2585 authorizes appropriations for the 1980 and 1981 fiscal years for the National Traffic and Motor Vehicle Safety Act and Motor Vehicle Information and Cost Savings Act. One of the activities which is being carried out under the National Traffic and Motor Vehicle Safety Act is the development and implementation of the passive restraint standard. This is, of course, an issue which is somewhat controversial and will, I am sure, be addressed by my colleagues as the bill is considered. Also included in H.R. 2585 is an authorization of funds under the Motor Vehicle Information and Cost Savings Act for providing consumers with information to help them avoid unnecessary damage to their cars, make informed purchasing decisions, and encourage early diagnosis and repair of automobiles.

The amount of the authorization for this legislation is $53 million for fiscal year 1980 and $58.1 million for fiscal year 1981. The authorization level in the bill is 8.3 percent below the President's budget request for fiscal year 1980 and 9.8 percent lower than the comparable funding level enacted for fiscal year 1979.

Mr. Speaker, this legislation was reported from the Interstate and Foreign Commerce Committee by voice vote and I have no objection to the passage of the rule.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, this is a wide open rule, and it allows the House to work its will, as the gentleman said; is that correct?

Mr. LOTT. I think it does, yes.

Mr. BAUMAN. Does the gentleman from Mississippi realize that this is the second time in 1 day that this has happened, that two open rules have been passed today?

Mr. LOTT. Yes. It is unprecedented. I do not know whether we are beginning to start doing these things in the open now or not. I think it is just that this is an unusual day.

Mr. BAUMAN. Mr. Speaker, if the gentleman will yield, I think it is virtually unprecedent in this Congress that such freedom will be allowed to reign. With two open rules in 1 day, Christmas cannot be far behind.

Mr. LOTT. Mr. Speaker, I yield back the balance of my time.

Mr. BEILENSON. Mr. Speaker, I have no requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1710

ANNUAL REPORT OF THE SIX RIVER BASIN COMMISSIONS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Interior and Insular Affairs:

To the Congress of the United States:

I hereby transmit to the Congress the annual reports of the six river basin commissions, as required under section 204 (2) of the Water Resources Planning Act of 1965.

JIMMY CARTER.

THE WHITE HOUSE, *December 13, 1979.*

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5359) entitled "An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes," and that the Senate agreed to the amendments of the House to the amendments of the Senate numbered 4, 18, 19, 23, 27, 31, 42, 45, 47, 52, 53, 55, 65, 83, and 92 to the foregoing bill.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1227. An act for the relief of Munir P. Benjenk.

EMPTY SCHOOLS

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, education is the most important asset that we can give to the youngsters of America. We are all discouraged to see that student achievement tests have dropped 10 percent during the past 15 years since the Federal Government planners put in school busing. Shuffling students around develops insecurity and leaves students with a lack of interest in learning. Busing also leaves empty school buildings. This is a waste of taxpayers' money.

Monday's copy of the Dallas Morning News had a lead story that spread completely across the top of the newspaper. It was describing what has happened to many Dallas elementary schools since 1970. They took the decade of the 1970's and showed the capacity of the school and the current enrollment. These 25 typical schools are listed in the chart of the Dallas Morning News.

When I was in business, there was an old saying that every good business has good brains at the top. When we look at the education system in America, there is one profound conclusion that keeps coming through. Judging by results, we are mightly short on heavy thinkers at the top of the Federal education and planning process. We have a group of sociologists who believe that change for the sake of change is more important than fundamental education for the sake of sound learning.

It is unfortunate that this Congress established a separate Department of Education. The best thing we could have done for America would be to have taken Federal intervention out of local education. We should return schools to the local school board and again have America be able to move forward in developing brighter young men and women.

School name	Current enrollment	Capacity
Nathan Adams	114	800
Arlington Park	117	350
William L. Cabell	196	1, 300
City Park	155	800
George B. Dealey	111	800
E.L. DeGolyer		800
Tom W. Field	145	500
C.A. Gill	248	800
Tom C. Gooch	188	800
Fannie C. Harris	130	550
Thomas Hassell	156	750
Victor H. Hexter	169	800
J.S. Hogg	341	400
Stonewall Jackson	222	800
Edwin Kiest	271	1, 300
Arthur Kramer	72	800
B.H. Macon	273	450
Ben Milam	178	800
J.W. Ray	236	400
Edward Titche	305	800
William B. Travis	272	800
Priscilla Tyler	279	750
Urban Park	243	800
Phyllis Wheatley	218	400
Harry C. Withers	134	800

We do not need a Federal Department of Education. This $14 billion expenditure is duplication bureaucracy. Education is best handled by the local school board. Our country has more Government than we need, more Government than the people want, and more taxes than we can afford to pay.

SUPPORT FOR THE PRESIDENT'S STATEMENT ON THE NEED FOR NUCLEAR ENERGY

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

● Mr. PRICE. Mr. Speaker, it is indeed encouraging to note the landslide of support which is developing for use of nuclear energy. The media is doing a good job of presenting the President's December 7 statement explaining the need for nuclear energy which I introduced in the RECORD on December 10, on H11759. An example of the responsible treatment in the media of this issue is the lead editorial in the Washington Star which follows my remarks:

MR. CARTER AND NUCLEAR POWER

It would be hard to be more emphatic about the continuing need for nuclear power than President Carter was the other day when he announced his response to the Kemeny Commission's report on Three Mile Island: "Every domestic energy source, including nuclear power, is critical," the president said, "if we are to free our country from its overdependence on unstable sources of high-priced foreign oil. We do not have the luxury of abandoning nuclear power or imposing a lengthy moratorium on its use."

Since the commission apparently came within a vote or two of recommending a permanent moratorium on nuclear plant construction, and since both of Mr. Carter's rivals for the Democratic nomination have aligned themselves with the anti-nuclear lobby, the president has taken a position not without political risk. But we are persuaded, as apparently he is, that it is in the national interest.

Calling the abandonment of nuclear power a "luxury" was the strongest part of the president's statement. But the ancillary actions he took (or refused to take) are also important. Quite without prompting from the commission, he ousted the chairman of the Nuclear Regulatory Commission, Joseph Hendrie, and signaled his intent to nominate a strong chairman when the next NRC vacancy occurs. Mr. Hendrie seems a competent and well-intentioned man. But he was not the man of the hour, when a man of the hour was needed, when the Three Mile Island accident happened. Stronger leadership is a must.

Mr. Carter wisely refrained from seconding the Kemeny Commission's recommendation that the NRC be scraped and replaced by a line executive agency for nuclear regulation, directly accountable to the White House. That restructuring would be fundamentally objectionable, risking the politicization of nuclear regulation and policy and exposing the nation's existing nuclear plant (as well as projected expansions of it) to the caprices and uncertainties of presidential elections. Constancy and continuing of nuclear policy are needed, along with more vigorous leadership and stronger safety enforcement.

The president would be justified in demanding an earlier end to the NRC's temporary moratorium on operating licenses. Nine new plants could be operating within two years; seven, which have the capacity to displace the equivalent of 200,000 barrels of oil per day, are ready to start up now.

Stalling their opening, notwithstanding that most of them have more sophisticated safety devices than the operating plants to which they are often twins, may be a satisfying gesture to safety concerns. But unless there are distinct and specific safety problems at these new plants, it is merely a gesture. Meanwhile, the energy deficit created by the delay is costly to consumers and hazardous to the nation's security. Mr. Carter expressed the hope that the moratorium will be ended by May. It probably should end forthwith.

The essential finding of the Kemeny Commission, let us not forget, was that the problem at Three Mile Island and (insofar as problems may really be predicted) in nuclear plants generally are human problems, not equipment problems.

There should be a rapid improvement in the competence of plant operators. They probably should be federally trained and licensed, their work treated as the crucial specialty it is. But if human management is the root of the problem, it is as irrational as it is wasteful of the nation's energy-producing potential to hold equipment idle. It means more inflation, more strain on the industrial nations, and more American vulnerability to the threat of oil blackmail.

The public concern with nuclear safety is appropriate; it is not an imaginary worry. It is, however, a question of men (and women), rather than machinery. And the concern for safety is hardly one-dimensional when the dependency on imported oil entails all sorts of perils to the nation's economic well-being and even, as the Iranian crisis shows, to human life.●

INDUSTRIAL INNOVATION COLLOQUY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. AuCoin) is recognized for 60 minutes.

GENERAL LEAVE

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. AuCOIN. Mr. Speaker, my colleagues and I have come to the floor and are making floor statements today because we are deeply concerned about the health and vigor of the American economy. Rampant, double-digit inflation is fueling excessive consumer spending and eroding personal savings which are already at a level which is lower than any of the other industrial nations of the world.

Productivity has fallen by nearly 6 percent in this year alone. We continue to rack up huge trade deficits, in large part due to our dangerous dependence on foreign oil.

Because of our concern about the economy, a number of the Members of the House this fall joined together to form an Ad Hoc Task Force on Industrial Innovation which I now chair. I am joined in this colloquy today by the cochairman of the task force, the gentleman from New York (Mr. Ambro). and by the distinguished chairman of the Subcommittee on Science, Research and Technology of the Committee on Science and Technology, the gentleman from California (Mr. Brown). There are others who are also making statements for the purposes of the Record.

We are here, Mr. Speaker, because we believe that innovation can have a significant, positive impact on our economy. Innovation helps expand and increase exports. It makes better use of scarce resources such as fossil fuels, and it boosts productivity, thereby decreasing inflationary pressures.

The United States has always been a leading technological power, but there are signs today that the pace of innovation in the United States is slowing and that we are perhaps losing ground to foreign nations. The proportion of gross national product devoted to research and development has actually declined during the past decade while our international trading partners have increased their commitment. European firms on the average devote a greater percentage of their sales to research and development than do U.S. companies.

In the past 5 years, foreign citizens have won more than one-third of all patents issued by the U.S. Government, while the share of patents held by Americans abroad has actually declined.

Mr. Speaker, while experts may, in fact, argue over the significance of indicators of that kind, one thing is absolutely clear and that is that increased innovation will help us to maintain our competitive edge and to increase productivity and thereby reduce the rates of inflation we are experiencing today.

The purpose of the colloquy today in the House is to focus more attention on the part of all of our colleagues in the House, and the public as well, on the important role that innovation plays in industry in fighting the problem of staving off an unstable economy. We want to illustrate how innovation can help fight inflation, how it can bring stability to the economy. We want to talk about the ways in which innovation can be stimulated through changes in tax policy, through changes in foreign trade regulations, patent procedures, and Government research efforts.

At this point, Mr. Speaker, I would like to yield to my colleague, the gentleman from California (Mr. Brown), the chairman of the Subcommittee on Science, Research and Technology of the Committee on Science and Technology.

Mr. BROWN of California. Mr. Speaker, I want to thank the gentleman for yielding and particularly I want to commend him on the perception that he has had of the complexity and the importance of this problem. It is typical of a growing number of problems facing the Congress in which there are a number of interrelated pieces frequently falling within the jurisdiction of different committees, and the problem is such that unless all of these pieces are addressed in some coherent way it is impossible to develop a rational course of action.

This is true of the problem of innovation and productivity, and the efforts of the task force to put all of these pieces into perspective, in my opinion, are essential to being able to address the problem and produce solutions that will have any meaning.

INTRODUCTION

The innovation of new products and services is central to the process by which our economy has grown and renewed itself. Technological innovation is also an important element in international trade and the balance of payments. Innovation, productivity, and R. & D. are closely interlinked, as cost reductions and efficiency gains arise mainly through innovations in methods for production and distribution. Thus, the advancement of innovation and productivity, within the context of other national objectives, holds enormous promise for the continued betterment of our national welfare.

INDICATORS

Although this country has a record of innovation that is little short of astonishing, a number of economic, technical, and manpower indicators point to the fact that, even though the United States still leads the world in innovative technology, there has been a decline in both our rate of research and in new product development over the past decade. There have been a number of contributing factors in this decline.

First there is inflation. It is high, it is getting higher, and we do not seem to be able to control it. Increases in productivity can help bring inflation down.

Second, there is productivity itself. The annual percent growth of person-hour output for the total U.S. private economy during the last decade was less than half that of the preceding two decades, and recent reports put productivity growth near zero.

Third, is the international balance of trade. The net U.S. 1978 trade deficit for all items was about $28 billion. Although we are still strong in certain areas such as chemicals and electronics, in light machinery the deficit was $10 to $12 billion. The 20 most negative trade categories associated with mechanical technology generated a $34 billion deficit in 1978—oil imports cost about $39.5 billion that year.

A fourth indicator is patents. Over the last decade a larger and larger share of U.S. patents has been going to foreign nationals, while foreign patents to U.S. nationals have been decreasing.

A fifth indicator is formation of new publicly financed small technical companies. In 1969 204 such companies sought public financing. In 1975 that number had dropped to near zero. Although there has been some recovery since, the number is still low.

NEED FOR NATIONAL CONSENSUS

Recently there has been a surge of activity in industry, in the administration, and in Congress on the problems of innovation and productivity. This is nothing new; discussions and studies of these problems have taken place at the national policy level sporadically for the last 20 years, and programs to solve the problems have come and gone. The severity of the problems, however, has now reached such a level that there is potential for reaching national consensus on what to do about them. For realization of this potential and for action on issues of innovation and productivity, there must be both substantial congressional interest and constituencies—industry, academia, and labor—pressing for action.

A shortcoming to date has been the degree of coordination and communication within Congress on innovation and productivity issues. Our discussions today are one of several recent efforts to rectify this shortcoming. This effort, however, should be viewed as only a beginning. In the months ahead, Congress, aided by its constituencies, needs to develop a coordinated approach to the many issues which address the entire spectrum of requirements for successful innovation, from the inception of research and development ideas to the application and widespread use of a new product, process, concept or service, and to provide the necessary linkages between the various phases in the innovation process.

This level of coordination is necessary in order to develop the appropriate incentives and research and development infrastructure that will encourage linkages between good ideas and people, between institutions in the R. & D. enterprise, and between R. &. D. innovation and productivity policies and national objectives. The forging of these linkages will be an integral element in the success of our innovation and productivity endeavors and in meeting the technological and social challenges of the future.

DOMESTIC POLICY REVIEW ON INDUSTRIAL INNOVATION

As you are well aware, this past summer the Secretary of Commerce presented the President for his consideration the findings of the Domestic Policy Review on Industrial Innovation. The President made known his recommendations regarding this review on October 31, and Congress, in a coordinated effort, held joint hearings among the House and Senate Small Business Committees, the House Committee on Science and Technology, and the Senate Committee on Commerce, Science and Transportation on that same day to evaluate and discuss the President's specific recommendations on industrial innovation.

It should be recognized that the President's recommendations represent only an initial step in fostering a national climate which hopefully can rekindle both our competitive ability and our entrepreneurial spirit for the technological, economic, and social challenges of the future. It should be noted also that, although several domestic policy reviews on industrial innovation have been developed previously, this is the first review on industrial innovation which a President has acted upon.

Recommendations contained within the President's report on industrial innovation which are of particular importance to my Subcommittee on Science, Research, and Technology and its NSF oversight responsibilities include: First, expansion of NSF's successful experimental industry-university cooperative programs by $20 million in fiscal year 1981; second, extension of the model for NSF's industry-university cooperative program to other Federal agencies such as DOD, DOE, EPA, and NASA; third, expansion by the Federal Government at both NSF and the Department of Commerce of Cooperative (generic) Technology Centers by approximately $8 million in fiscal year 1981 with increasing contributions by industry; and fourth, expansion of NSF's small business innovation program by $10 million in fiscal year 1981 and extension of this program to other Federal agencies.

ACTIVITIES OF THE SUBCOMMITTEE ON SCIENCE, RESEARCH, AND TECHNOLOGY

In addition to my subcommittee's responsibilities for NSF, many of the recommendations of the Domestic Policy Review on Industrial Innovation and related issues are also being considered concurrently with our ongoing subcommittee studies of innovation and productivity. I would like to mention some of these broad ranging initiatives and legislative proposals now under consideration by the Subcommittee on Science, Research, and Technology.

First. I introduced H.R. 4672, National Science and Technology Innovation Act of 1979, patterned after Senator STEVENSON's S. 1250. H.R. 4672, a specific form of university-industry linkage would authorize the support of Centers for Industrial Technology by NSF and the Department of Commerce and would establish an "Office of Industrial Technology" in the Department of Commerce. Three sessions of hearings held last summer on university-industry relations by my subcommittee included testimony on this bill. Senator STEVENSON's subcommittee has held hearings on S. 1250, the most recent being on November 21, 1979.

Second. We are considering draft legislation which establishes a National Technology Foundation. We are giving this bill further review before deciding whether to introduce it. In essence the bill would create an independent agency to promote technology for the national welfare and unite and coordinate key elements within the Federal sector involved in innovation and productivity, university-industry linkages, high technology small business, technical information and data acquisition, and transfer of technology and information to the private sector. The bill would incorporate all of the substance of H.R. 4672.

Third. Another piece of draft legislation under subcommittee review and consideration relates to the more effective utilization of Federal laboratories as national resources (Domestic Technology Transfer and Utilization Policy Act). The bill would provide a national policy of encouraging secondary utilization of federally sponsored R. & D., would require each Federal laboratory with a budget in excess of $50 million to establish a technology utilization office, and would establish a Federal Laboratory Resource Center to coordinate the activities of the various technology utilization offices and to serve as a technological information clearinghouse for the private sector.

Fourth. To encourage the commercialization of innovative ideas and technologies developed as a result of Federal sponsorship of university and industry based R. & D. projects, proposed patent legislation (S. 414, BAYH and others, University and Small Business Patent Procedures Act; and identical legislation, H.R. 2414, RODINO, H.R. 5427, ERTEL, Science and Technology Research and Development Utilization Policy Act; H.R. 5715, ERTEL, Uniform Federal Research and Development Utilization Act of 1979) under consideration by the subcommittee would extend beyond the institutional patent agreement concept, would provide uniformity in Federal patent policy, and most importantly, would increase the opportunity for the results of federally sponsored R. & D. to reach the consumer in the form of tangible benefits. On October 16 and 17, 1979, my subcommittee held hearings on the proposed patent policy legislation and its predicted impact on innovation and productivity. Additional discussion and hearings are planned in the future.

Fifth. In joint R. & D. small business hearings on November 1, 1979, among the Senate and House Small Business Committees and the House Science and Technology Committee, factors, such as the availability of venture capital during the startup phase, that contribute to the success and survival of high technology small businesses and the means by which the Federal Government can reduce disincentives and barriers which tend to discourage entrepreneurship and technology small business survival and expansion were explored.

SUMMARY

The problem of industrial innovation and productivity is probably as complex as any set of problems that Congress faces. If we continue to be fragmented in our approaches to this problem, the chances of succeeding and solving it are about the same as solving the energy problem. The events of the past decade should force us into the realization that this national problem will be solved only through coordinated congressional effort and constituency consensus building. This may be atypical of past congressional action. I am, however, an optimist, and I am here today to encourage all Members to assist this cooperative national endeavor.

INDUSTRIAL INNOVATION PROCESS RECEIVES RESTRAINED BOOST FROM CARTER POLICY REVIEW

(By Stephen Reiss)

Industrial innovation, that elusive process in which an idea moves from the inventor to the drafting table to the production line, received a somewhat restrained boost when the Carter Administration unveiled the results of its long-awaited Domestic Policy Review.

The President's proposals were the product of a mammoth 18-month effort coordinated by the Department of Commerce, which solicited suggestions from industry, labor, academia, and public interest organization. The voluminous reports these groups produced then went through the executive agency mill and were presented to Carter in September in the form of an options paper.

The Carter program calls for changes in a smorgasbord of federal policies covering areas from patents to antitrust action to government purchasing practices, but they are curiously limited in scope considering the time and effort that preceded them.

Dr. Frank Press, the President's science advisor, has tried to allay concern over the almost gingerly approach of the planned initiatives, which call for a mere $55 million to be spent over the next year, a pittance compared to the $30 billion which the government spends annually on research and development.

"Many of these programs are experimental," said Press. "If they work well we will want to expand them. One shouldn't reach a decision on the efficacy of this program by the dollar value attached to them."

But to the Congressmen who have been pushing for action on a host of topics related to innovation, notably Senator Adlai Stevenson (D-Ill.) and Rep. George Brown (D-Calif.), it seemed as though the President thought he could tame a rhinoceros with a flyswatter. Brown, chairman of the House subcommittee on Science, Research and Technology, expressed dismay that many of the options Carter chose to endorse would not be implemented in the 1980 budget, and that there was no mention of changes in the tax codes or in monetary policies to encourage capital formation, actions which would have a more immediate effect.

"They're too little and don't cope with a broad enough area," he said. "You're suggesting an expansion of a modest nature in the fiscal year 1981 budget which is a year away. Let's not delay another year to get some initiatives."

Senator Harrison Schmitt (R–N.M.) voiced similar feelings. "We must stop taking small steps, many of which are backward," he said. "Frankly, I'm not impressed with the President's proposals. It ignores those things that the Congress has been pointing to for years."

The White House initiatives fall into nine areas:

Enhancing the transfer of information.—Carter will create a center within the National Technical Information Service (NTIS) to improve the flow of knowledge from federal laboratories to private industry. NTIS will also improve its collection of foreign technical literature. In apparent imitation of the Japanese practice, the Commerce and State Departments will begin interviewing volunteers returning from abroad about foreign technological developments.

Increasing technical knowledge.—Four generic technology centers, jointly financed by industry and government, will be established in 1981. Each center will focus on a technology such as automated assembly that is involved in the processes of several industrial sectors and has potential for significant technological upgrading. A National Science Foundation program that funds R&D projects proposed jointly by industry-university research teams will receive an additional $20 million in 1981, and the program will be extended to the Defense and Energy Departments, EPA, and NASA.

These suggestions are similar to ones in a bill introduced by Rep. Brown, but the scale is completely different. The White House sees the generic technology centers costing a total of $6–$8 million, and projects an eventual government-wide goal of $150 million for the joint industry-university research projects. Brown, on the other hand, wants to spend $320 million over the next five years to set up an Office of Industrial Technology in the Commerce Department and a series of Centers for Industrial Technology at schools and non-profit institutions across the country.

Strengthening the patent system.—The Administration will support legislation to establish a uniform government patent policy for inventions made under federal contracts. The contractor would have an exclusive license in the field of use, but the government would retain title and would have march-in rights enabling it to cancel the license if the company is not commercializing the invention.

Carter also proposed a reorganization of the Patent and Trademark Office and a single court of patent appeals to reduce the cost and frequency of contesting patents in court. The Small Business Administration and the Office of Minority Business Enterprise will provide legal assistance to inventors trying to make the jump from invention to small business.

The vagaries of the patent system have been the bane of inventors for over 30 years and have been a concern on Capitol Hill for the past several years. The problems fall into two main areas: First, individual inventors have difficulty defending their interests in the labyrinths of the patent law system.

The second area of concern is the large number of patents produced by private firms under contract to the federal government that have not been commercialized. Trying to avoid the stigma of a "give-away," federal agencies are reluctant to waive title to patents or grant exclusive licenses. The result, say industry spokesmen, is that no company is willing to invest in commercializing the patents because it cannot protect its investment. The federal government presently holds title to nearly 30,000 inventions, less than five percent of which have been effectively utilized.

Rep. Allen Ertel (D-Pa.) is pushing a proposal that would grant companies exclusive license to patents developed on federal contracts but would require royalties on the profits made from them. "The government has paid a lot of money for the invention and one person will reap all the benefits," said Ertel. "It seems to me the government ought to participate in the benefits because that person would never have been able to do it without your and my taxes."

Carter's proposals mirror ideas already before Congress in bills introduced by Senators Schmitt and Bayh which have no royalty provisions. "Current policies have failed miserably to effectuate the transfer of new technology to the marketplace," commented Senator Schmitt. "The real loser has been the consumer and the taxpayer." He feels inventors are already paying royalties in the form of taxes on profits and that any further financial penalty would cause them to abandon any plans to commercialize the product.

Clarifying antitrust policy.—Competition is good except when it inhibits innovation, declared the White House, and the Justice Department has been directed to "clarify its position on collaboration among firms in research and development." The Attorney General, the chairman of the Federal Trade Commission, and the Secrtary of Commerce will begin a series of "discussions" with industry to "dispel the perception that antitrust policy inhibits innovation." The Administration points to a joint research program by the auto industry—announced in May after government prodding—as a step in the right direction.

Fostering the development of small, innovative firms.—An NSF program that provides funding to small companies for venture analysis and to demonstrate technological feasibility of their products will have its funding quadrupled in 1981 to $10 million. Other federal agencies are supposed to see whether they can set up similar programs.

The Commerce Department will establish two Corporations for Innovation Development (CID) in 1981. Modeled after the National Research and Development Corporation in Great Britain and the Connecticut Product Development Corporation, these CID's will provide management assistance and direct equity funding for firms wishing to develop and commercialize a promising, but high-risk innovation. Spurred by annual assessments by the Office of Management and Budget, every federal agency will develop policies to make sure that small businesses are not excluded from competition for federal R&D contracts.

Numerous government and independent economic studies have shown that most innovation occurs in small firms and that these firms also account for most new jobs. But small businesses are receiving only 3.4 percent of federal R&D money. Therefore, the plan for a "good faith effort" by federal agencies with OMB looking over their shoulders ran into large-scale skepticism. "Without these mandatory levels they don't feel they have the capability of competing for R&D funds," said Senator Donald Stewart (D-Ala.)

A widely-supported bill introduced by Senator Gaylord Nelson (D-Wisc.), chairman of the Small Business Committee, would require every federal agency to increase its R&D funding for small business by one percent a year, until ten percent of the total R & D money was received by small business. Mandatory percentages are "a pretty poor idea" commented Assistant Secretary of Commerce for Science and Technology Jordan Baruch, who coordinated the policy review, because the needs of each agency differ. "There is already a strong incentive because each agency will be reporting to OMB," he added.

Although tax breaks for small, innovative buinesses were among the options presented to Carter, including accelerated depreciation and taxfree cash reserves for future R&D, they did not appear among the final proposals, to the annoyance of a number of Congressmen.

Rep. John LaFalce (D-N.Y.), a self-appointed apostle of tax incentives and the sponsor of one of four bills presently before Congress on the subject, said, "This is what the private sector told government it needed to facilitate the innovative processes. This is what the Administration has to date ignored."

Although Senator Stevenson commended the Administration for "a small first step," he was equally miffed at the lack of proposals for tax reform and capital formation. "Do we continue down the British route, subsidizing low-growth, geriatric industries, or are we going to subsidize our strengths," he said. "Is this the proper ratio—$55 million for innovation and $1 billion for Chrysler?"

Dr. Press stated that the Administration was not opposed to tax incentives but didn't want to consider them apart from other aspects of economic policy. "This will be considered in the overall context of the Administration's economic and tax policies," he said.

Opening federal procurement to innovations.—OMB and the General Services Administration will perform a number of internal housekeeping reforms to allow the government to more easily purchase new innovative products.

Regulatory reform.—Health, safety, and environmental regulatory agencies will now prepare five-year forecasts of their priorities and concerns to allow industry to better plan its R&D to comply with those priorities. The Environmental Protection Agency will substitute performance standards for design and specification standards where it's possible. EPA will also develop an implementation policy and set of criteria for "innovation waivers" for new processes which more cheaply meet one set of environmental standards while violating others.

Facilitating labor/management adjustment to technical change.—The Departments of Labor and Commerce will work jointly with labor and management to develop a national Labor/Technology Forecasting System. This system would predict technological change within specific industries and assess the implications for labor. These forecasts would then be used as the basis for retraining and other adjustment activities.

Similar programs have been used successfully in several Western European nations, particularly Sweden. The labor movement in this country has been calling for such a policy for two decades. Rep. William Ford (D-Mich.) and Senator Harrison Williams (D-N.J.) currently have bills in committee that would provide for retraining of workers in the event of plant closings. Similar proposals are before a number of state legislatures.

Maintaining a supportive climate for innovation.—NSF and the Commerce Department will host a national conference for deans of engineering and business schools to stimulate improved curriculum development in technology management and entrepreneurship. In addition, Carter will present an annual award for technological innovation to companies in several areas: transportation, communication, health, agriculture and food, and natural resources.

In the past few years, the solution to the innovation problem has assumed almost mythical importance. Dr. Baruch is typical of the government and industrial leaders who preach the gospel of salvation through innovation. "Industrial innovation affects domestic productivity, domestic inflation, domestic employment and our balance of trade," he recently told the House Committee of Small Business. "Increased industrial innovation will improve domestic productivity, help dampen the rate of domestic inflation, help to improve the nation's balance of trade and create jobs. In addition, increased industrial innovation can help to reduce this nation's consumption of raw materials and our dependence upon non-renewable energy resources."

What should not be lost in the bickering over particular proposals or the lack of them, is that the domestic policy review represents a major step toward a national industrial policy. Although "free market" and "excessive government regulation" are still the favored buzzwords, these policies cannot help leading to more public involvement in what were formerly private decisions about the future of particular industries.

As Senator Stevenson observed, an innovation program "requires resistance to the pressures to protect geriatric industries from competition and shelter the powerful in labor, industry, and agriculture from natural adjustments. It requires reassessment of traditional attitudes about relationships between government and industry."

Mr. AuCOIN. Mr. Speaker, I appreciate the comments of my friend and colleague, the gentleman from California (Mr. Brown), who has made a great contribution in the subcommittee that he chairs, and he has made a great contribution in the ad hoc task force that has been formed. He rightly points to one of the problems we face in the Congress today when we are dealing with modern difficulties, with issues that cross into so many disciplines and fields, and that simply is that our committee structure sometimes prevents us from organizing ourselves in such a way as to deal effectively with those problems on a legislative basis.

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I would guess that the ad hoc task force is no meaningful substitute for a standing ad hoc committee in which members from a variety of committees of the Congress could sit and have bona fide legislative authority in which to consider the myriad of proposals that are pending before the Congress, that are in the hopper tonight as we stand here, that could be looked upon from an interdisciplinary point of view.

In lieu of that, the task force does give the Members of Congress who are interested in this exchange an opportunity to trade ideas, bringing to bear their expertise from the committees that they do serve on and in order to try to promote understanding and to try to develop more positive results in action in their own committees and also on the floor of the House.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I certainly want to commend the gentleman on the floor at the moment and also the task force as a whole for taking time to have this discussion on national productivity. It is a very, very crucial subject, as I hope all of our colleagues realize. We do not know enough about it. Not even the experts know enough about it, and so it is time we started focusing all of the attention we can.

Mr. Speaker, invention and innovation are essential to providing technical solutions to many of the Nation's problems: The energy crisis, inflation, the unfavorable balance of payments and declining productivity.

In 1978, an estimated $47 billion was spent on research and development in this country, with the Federal Government providing the source of over half of that R. & D. financing. Nevertheless, we seem to be suffering a technological innovation lag. In the past, some Federal policies have actually worked to discourage investment in innovative ventures. For instance, industry migration out of established urban areas, spurred by Federal tax programs, has resulted in costly duplication and absorption of the capital needed to intensify innovative efforts.

It is important that we reassess our policies in light of the impact they have on the investment in new scientific and technical ideas, and make whatever changes we must to stimulate innovation. That will, in turn, enhance our country's economic well being.

Capital formation must be one of the focal points of any discussion of innovation incentive policies. There seems to be a consensus that an acute lack of capital is industry's biggest problem. I have heard the president of a steel company state that the steel industry in the United States, which is one of our most troubled industries, has not exploited new technological developments as fully as some foreign competitors simply because of lack of capital. For years, I advocated changing the investment tax credit as a way to spur capital formation. The proposal I favored, which was adopted in essence last year with passage of the tax bill, provided for targeting the investment tax credit to areas of economic distress. The Nation's existing urban areas represent an enormous investment, yet many of them are in deep trouble mainly because supporting industries have built their newest plants elsewhere.

This uses up capital which could be used to stimulate innovation. But when manufacturing plants and equipment grew old and obsolescent, there was no incentive for the plant owners to upgrade the existing facilities, so they moved to areas where the climate was better, the work force younger, or the labor problems fewer. But now that the tax code offers an incentive to plant owners to rehabilitate their older buildings, there will, I hope, be more capital available to sink into innovative ventures.

Another proposal which could help recommends making the investment tax credit refundable. Much of the innovation in this country takes place in small firms that have difficulty in obtaining capital for research and development. As it is now, in its nonrefundable form, the investment tax credit does not help low-growth firms—usually small or new firms—because they lack sufficient tax liability to take advantage of all their credits. A fully refundable credit would end the discrimination against the small, unprofitable firms and make available the kind of capital formation incentive intended to be generated by the investment tax credit.

Another Federal policy that may have inhibited innovation somewhat is pollution control. I have long been a strong advocate of the clean air and water laws which improve the health and environment of our citizens. But I recognize that compliance with these necessary laws may be costly to industry, diverting capital that could otherwise be used for innovation. Our ultimate goal should be full internalization of industry's pollution control costs so that the costs will be reflected in the prices of the products. But until we have overcome the initial burden of costly retrofitting of older plants to achieve compliance, I think financial tools are needed, not only to help clean our air and water, but to help preserve economic stability.

The situation demands a balanced approach to achieve both capital formation and a healthy environment. I have introduced my own bill, H.R. 5339, which I believe encourages compliance with regulatory schedules for pollution control and, at the same time, reduces the adverse economic impact of abatement and lessens the potential for dislocation and destabilization. The bill would permit a plant which was in operation prior to January 1, 1971, a choice among three tax options:

First. A 5-year amortization plus the ITC; or

Second. A 1-year amortization; or

Third. A refundable, double investment tax credit.

This approach makes sense because the entire public benefits from both a clean environment and continued economic growth and technical excellence.

Perhaps no other issue has so clearly highlighted our need to stimulate innovation as the energy crisis. We have become painfully aware that we must find ways to insure the rapid development, demonstration, and commercialization of the kinds of energy technology needed to transform our society from dependence on exhaustible fossil fuels to the use of renewable energy sources. In the past, I have introduced legislation which would achieve this and also minimize the likelihood of abuses when the oil companies are doing the bulk of the federally funded R. & D.

As you know, the development and commercialization of synthetic rubber became a critical national need if the United States was to win World War II. Rapid success was achieved only because of a Government decision to require a joint Government-industry effort based on the pooling of patents and technology. It also made possible the fantastic postwar expansion of the private synthetic rubber industry of a whole spectrum of synthetic rubbers. Without the assurance that the private manufacturers had of patent licenses on the basic technology, this expansion would not have taken place as quickly or as fully. The lessons of the synthetic rubber industry, I believe, should be applied to the nonnuclear energy industries because of the war-like proportions of the current energy crisis.

Last year, the oil industry spent a lower percetnage of its sales and profits on R. & D. than any other major industry in the United States. Earlier this year, a Business Week survey of industrial spending on R. & D. showed that for the country's 10 largest high technology industries, the average R. & D. spending in 1978 was 3.5 percent of sales and 62.1 percent of profits. By contrast, and quite a contrast it is, the oil industry spent only 0.4 percent of sales on R. & D. and only 8.6 percent of profits on R. & D. That is about 800 percent lower than the composite average. The energy field is full of research opportunities, yet according to these figures, and according to the oil industry's performance in the past, they are far from being fully explored or exploited by the oil industry.

The assumption underlying our patent laws is that the inventor of new technology will have a financial incentive to have that technology commercialized and widely used. But when the technology involves alternative fossile fuels or renewable energy resources, an oil company may very well have the financial incentive not to commercialize the technology since commercialization may hurt the company's overall profits. To prevent this from happening, we should have statutory authority to insure that such technology would be made available rapidly, widely and cheaply. At the same time, the company making the breakthrough should be generously rewarded—but not through statutory protection of its monopoly right not to develop or commercialize that technology. The solution I have proposed requires mandatory licensing of nonnuclear energy technology by amending the Clayton Act to give a private cause of action to any person who is unfairly denied a license to use energy technology upon the payment of a reasonable royalty.

Finally, one of the reasons that innovation, and thus productivity, has declined in the United States is the amount of Federal research and development funds which go for military purposes. According to the National Science Foundation, of the $26.3 billion which the Federal Government spent in 1978 for R. & D., $12.9 billion, or 49 percent, went for military purposes. By contrast, only $97 million, or 0.4 percent of Federal R. & D. funding, went for economic growth and productivity. In the April 1 Washington Post, Dr. Seymour Melman, a well-known economist and professor of industrial engineering at Columbia University, made a compelling case that this crushing burden of Federal spending on military research and armaments production is a major cause of inflation. He states:

> The mechanism of productivity growth and cost minimizing ground to a halt by the mid-1960's as a result of capital and technology resources being pre-empted on a massive and continuing scale for the military economy. Whatever worth the military economy has, its products do not serve us in consumption or for further production.

The military-industrial complex, Dr. Melman argued, has usurped the three ingredients which fueled our 1865–1965 achievements in high productivity and economic growth: Capital, technology resources and the traditional practice of cost minimizing, instead of the cost-passthrough which military contractors perfected.

This country was built on risk and ingenuity. Without the Americans who, with great hopes and visions, were willing to invest in new ideas, we would not have the competitive advantage we do in the world today. But that advantage, and our entire economic survival, still depend on continuing risk and experimentation. Now is the time to meet this challenge and direct our efforts toward stimulating innovation.

Mr. AuCOIN. I appreciate the gentleman's comments, and I would observe that in an economy in which we have always tried to achieve more for the working person, we have always tried to have an ever-growing standard of living, the only way it seems to me that we are going to be able to do that, to continue to do that as we have done in the past, is to insure that the United States retains that technological advantage in order to increase productivity.

If productivity increases, then wage demands, bona fide and justified as they are, will not be inflationary if productivity follows suit.

Mr. SEIBERLING. Absolutely.

Mr. AuCOIN. That is what industrialization is all about. It is about tax possibilities, too, the degree to which it can help provide that technological advantage and that productivity we are talking about. That is what research and development proposals are about. It is what all these things are about. That is why there needs to be some focus on this subject. That is what the task force is about. I think the colloquy we are having tonight sheds some light on it. I appreciate the gentleman's contribution this evening.

Mr. SEIBERLING. Thank you.

Mr. AMBRO. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from New York, cochairman of the task force at this time.

Mr. AMBRO. I am happy to join with the distinguished gentleman from Oregon (Mr. AuCoin) and my cochairman on the Committee on Science and Technology, the gentleman from California (Mr. Brown), and I would like to congratulate my friend from Oregon for providing the leadership to this task force and compliment them for elevating the consciousness of our colleagues to the significance of this most vital subject.

Representing as I do a Long Island, N.Y., congressional district known for its aerospace, electronics, and high-technology industries, I work constantly with businessmen, engineers, physicists and scientists who tell of America's need to increase industrial innovation.

Now, the term industrial innovation covers such a broad range of activity as to almost defy simple definition.

The task force on industrial innovation, as was said, is an informal group of House Members who will use a series of seminars with prominent businessmen, academicians and Government officials to formulate recommendations for boosting America's sagging productivity, a task force which does not have legislative powers, who will examine the reasons for the decline of productivity in the United States, a major contributing factor to our inflation, unemployment and negative international balance of payments.

The panel as well should devise a comprehensive program for reversing the decade-long slide in industrial output per average hour. Many Americans believe for a variety of reasons that there is no longer pioneering spirit nor other technological breakthroughs that accrue here and that indeed our traditional lead in that field has been overtaken by German and Japanese industries.

Innovation process, product innovation, and indeed radical innovation should be related to a coherent Federal policy, it seems to me, to stimulate industry in this country. The debate on sweeping changes in the tax code, on Federal long-term low-interest loans and streamlining of the patent process must intensify in order to speed up the pace of innovation in our private sector to stimulate production, to increase employment and to restore this Nation to its place of primacy among the industrialized nations of the world.

Toward these goals, my friend, the gentleman from Oregon has done and will continue to do the Nation a great service, and I once more commend him for taking this short time to even further elevate the understanding of our colleagues to this vital subject.

I would like to thank the gentleman for asking me to participate.

Mr. AuCOIN. I want to thank the gentleman from New York because, as I say, he has made a very fine contribution to the work of the task force, and it is a pleasure to have him as a cochairman.

I am confident, with his help and the help of the other Members we can have, at least even in an informal sense, the interdisciplinary dialog that is so essential, in the first instance, to effectively legislative action in this area.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Florida.

Mr. FUQUA. Mr. Speaker, the subject of innovation and productivity has become very popular recently. It has been discussed in the press, there have been conferences dealing with it and many committees of Congress have held hearings into this very complex subject. My own Committee on Science and Technology has been particularly active.

While there were studies by previous administrations, nothing came of them. This administration just completed an

18-month "Domestic Policy Review on Industrial Innovation Initiatives." I am submitting for the Record a copy of the President's message to Congress on the initiatives.

Although the domestic policy review was comprehensive in its inquiries, the President's initiatives in my opinion, can only be considered a first step in what is hoped will be a continuing series of initiatives to further address the innovation issue. The President's initiatives all seem to be steps in the right direction, although they could have been more forceful steps. There are also critical areas which have not yet been addressed by the President.

These include tax policy—particularly for capital formation—and innovation related to foreign trade, among others.

The fact remains, however, that the administration is trying to implement these recommendations, and it is up to us in Congress to make the most of this opportunity. We must take comprehensive action on national innovation policy, action in which the total package of legislation is greater than the sum of its parts.

This is a most important point. Piecemeal legislation, done without broader focus, will not achieve this goal. A strategic plan is needed. I would like to quote part of the testimony of Dr. Myron Tribus, a former Assistant Secretary of Commerce for Science and Technology, at the August 1 hearing before our Science, Research and Technology Subcommittee. He relates how pieces of the innovation process are interdependent—

> It does no good to encourage invention in universities while we kill the Patent System.
>
> It does no good to develop patentable ideas if there are no sources of venture capital.
>
> It does no good to create sources of venture capital if the rewards for risk are removed.
>
> It does no good to create centers of expertise if managements of companies are not under pressure to use them.
>
> It does no good to do research on manufacturing if there are no connections to manufacturers who intend to use the results.
>
> It does no good to encourage researchers to pursue their own ideas about productivity if they are remote from the real problems of the manufacturing world.
>
> It does no good to promote collaboration in research on an industry-wide basis if participating companies are worried about antitrust problems.
>
> It does no real good if we develop sources of help which are as accessible to Japanese companies as American.
>
> Strategic studies should reveal the barriers to progress and point to a more balanced use of our assets. This problem (innovation) didn't arise for a single reason; it will not yield to piecemeal approaches.

There may not be universal agreement on these provocative comments, but they do bear thought.

On the Senate side, Mr. Cannon, chairman of the Committee on Commerce, Science and Transportation, has already asked his fellow chairmen to join him in a concerted effort to coordinate Senate action on innovation. I believe we must take similar steps in the House if we are to produce an effective package of legislation. We may need to act in areas such as taxes, small business, labor, procurement, foreign trade, education, antitrust—and other economic regulation—patents, health and safety regulation, and research and development. The legislation should be dealt with as parts of an overall innovation package, rather than individual pieces. This will require transcending individual committee jurisdictions at times, but without this type of cooperative effort, any legislative solutions to this problem will be unlikely to achieve the long range effects that the Nation requires.

The problems that our Nation faces today in the area of inflation, energy, and the environment demand a resurgence in innovation. We must meet that challenge head on.

The White House,
October 31, 1979.

To the Congress of the United States:

Industrial innovation—the development and commercialization of new products and processes—is an essential element of a strong and growing American economy. It helps ensure economic vitality, improved productivity, international competitiveness, job creation, and an improved quality of life for every American. Further, industrial innovation is necessary if we are to solve some of the Nation's most pressing problems—reducing inflation, providing new energy supplies and better conserving existing supplies, ensuring adequate food for the world's population, protecting the environment and our natural resources, and improving health care.

Our Nation's history is filled with a rich tradition of industrial innovation. America has been the world leader in developing new products, new processes, and new technologies, and in ensuring their wide dissemination and use. We are still the world's leader. But our products are meeting growing competition from abroad. Many of the world's leading industrial countries are now attempting to develop a competitive advantage through the use of industrial innovation. This is a challenge we cannot afford to ignore any longer. To respond to this challenge, we must develop our own policies for fostering the Nation's competitive capability and entrepreneurial spirit in the decades ahead. This Message represents an important first step in that direction.

I am today announcing measures which will help ensure our country's continued role as the world leader in industrial innovation. These initiatives address nine critical areas:

Enhancing the Transfer of Information
Increasing Technical Knowledge
Strengthening the Patent System
Clarifying Anti-trust Policy
Fostering the Development of Small Innovative Firms
Opening Federal Procurement to Innovations
Improving Our Regulatory System
Facilitating Labor/Management Adjustment to Technical Change
Maintaining a Supportive Climate for Innovation.

INITIATIVES

1. *Enhancing the Transfer of Information.* Often, the information that underlies a technological advance is not known to companies capable of commercially developing that advance. I am therefore taking several actions to ease and encourage the flow of technical knowledge and information. These actions include establishing the Center for the Utilization of Federal Technology at the National Technical Information Service to improve the transfer of knowledge from Federal laboratories; and, through the State and Commerce Departments, increasing the availability of technical information developed in foreign countries.

2. *Increasing Technical Knowledge.* We have already made significant efforts to assure an adequate investment in the basic research that will underlie future technical advances. This commitment is reflected in a 25 percent growth in funding during the first two years of my Administration. I am taking some additional steps that will increase Federal support for research and development:

First, I will establish a program to cooperate with industry in the advancement of generic technologies that underlie the operations of several industrial sectors. This activity will broaden the $50 million initiative I announced in May to further research in automotive research. Second, in order to help harness the scientific and technological strength of American universities, I have directed a significant enhancement in support of joint industry-university research proposals. This program will be modeled on a successful program at the National Science Foundation, and I have set a target of $150 million in Federal support for it.

3. *Strengthening the Patent System.* Patents can provide a vital incentive for innovation, but the patent process has become expensive, time-consuming, and unreliable. Each year, fewer patents are issued to Americans. At my direction, the Patent and Trademark Office will undertake a major effort to upgrade and modernize its processes, in order to restore the incentive to patent—and ultimately develop—inventions. I will also seek legislation to provide the Patent and Trademark Office with greater authority to reexamine patents already issued, thereby reducing the need for expensive, time-consuming litigation over the validity of a patent.

For over thirty years the Federal agencies supporting research and development in industry and universities have had conflicting policies governing the disposition of pertinent rights resulting from that work. This confusion has seriously inhibited the use of those patents in industry. To remove that confusion and encourage the use of those patents I will support uniform government patent legislation. That legislation will provide exclusive licenses to contractors in specific fileds of use that they agree to commercialize and will permit the government to license firms in other fields. If the license fails to commercialize the inventories, the government will retain the right to recapture those rights. I will also support the retention of patent ownership by small businesses and universities, the prime thrust of legislation now in Congress, in recognition of their special place in our society.

4. *Clarifying Anti-trust Policy.* By spurring competition, anti-trust policies can provide a stimulant to the development of innovations. In some cases, however, such as in research, industrial cooperation may have clear social and economic benefits for the country. Unfortunately, our anti-trust laws are often mistakenly viewed as preventing all cooperative activity.

The Department of Justice at my direction, will issue a guide clearly explaining its position on colaboration among firms in research, as part of a broader program of improved communication with industry by the Justice Department and the Federal Trade Commission. This statement will provide the first uniform anti-trust guidance to industrial firms in the area of cooperation in research.

5. *Fostering the Development of Small Innovative Firms.* Small innovative firms have historically played an important role in bringing new technologies into the marketplace. They are also an important source of new jobs. Although many of the initiatives in this Message will encourage such companies, I will also implement several initiatives focused particularly on small firms.

First, I propose the enhancement by $10 million of the Small Business Innovation Research Program of the National Science Foundation. This program supports creative, high-risk, potentially high-reward research performed by small business. Further, the National Science Foundation will assist other agencies in implementing similar programs, with total Federal support eventually reaching $150 million per year.

Second, in order to experiment with ways to ease the ability of small firms to obtain start-up capital, I will help establish two Corporations For Innovation Development to provide equity funding for firms that will develop and market promising high-risk innovation. These not-for-profit firms will be established with State or regional capital and the Federal government will provide each with matching loan funds up to $4 million.

6. *Opening Federal Procurement to Innovations.* The Federal government is the Nation's largest single purchaser of goods and services. Through its purchases, the Federal government can influence the rate at which innovative products enter the market.

For that reason, I am directing the Office of Federal Procurement Policy to introduce procurement policies and regulations that will remove barriers now inhibiting the government from purchasing innovative products. Special attention will be given to substituting performance for design specifications and, wherever feasible, selection will be on the basis of costs over the life of the item, rather than merely the initial purchase price.

7. *Improving our Regulatory System.* During my Administration, I have already taken a number of actions to help assure that regulation does not adversely affect innovation. Working with the Congress, I have moved successfully toward deregulation of airlines and other industries, and I expect the pressures of competition to trigger innovative new ways to cut costs and improve service. In environmental, health and safety regulation, I have emphasized the use of cost-impact analysis, where appropriate, to take account of the burdens on industry in the regulatory process. To provide better coordination between the regulatory agencies, I have created the Regulatory Council, composed of the heads of 35 regulatory agencies. This Council is working to reduce inconsistencies and duplications among regulations, to eliminate needless rule-making delays, to reduce paperwork, and to minimize the cost of compliance.

I am today proposing additional steps to improve our regulatory system. First, the Administrator of EPA will intensify his efforts, wherever possible, to use performance standards in regulations, specifying only the required goal, rather than the means of achieving it. Second, all Executive Branch environmental, health and safety regulatory agencies will prepare a five-year forecast of their priorities and concerns. This information will give industry the time to develop compliance technology. Third, all administrators of Federal executive agencies responsible for clearance of new products will be directed to develop and implement an expedited process for projects having a strong innovative impact or exceptional social benefit, and to do so without jeopardizing the quality of the review process.

8. *Facilitating Labor and Management Adjustment to Technical Change.* Although innovation can increase the number of workers employed within an industry over the long term, or even create an entire new industry, individual innovations may occasionally cause workers to be displaced.

In order to assure adequate time for workers and management to adjust to changes caused by innovations, I am directing the Secretaries of Labor and Commerce to work jointly with labor and management to develop a Labor/Technology Forecasting System. The System would develop advance warning of industrial changes and permit timely adjustments.

9. *Maintaining a Supportive Federal Climate.* The initiatives announced in this Message are only the first steps in our efforts to ensure American technological strength. We must also develop and maintain a climate conducive to industrial innovation. The Federal government must take the lead in creating that climate. And the Federal government's efforts must be continuing ones. I am committed to these goals.

I am charging the National Productivity Council with the continuing tasks of monitoring innovation, developing policies to encourage innovation and assisting the Departments and agencies in implementing the policies announced today. I am also establishing a Presidential award for technological innovation to make clear to this Nation's inventors and entrepreneurs that we place the highest national value on their contributions.

Each of the initiatives I have just proposed supports an important component in the innovation process. In combination, these initiatives should make a major difference in our Nation's ability to develop and pursue industrial innovation. However, these incentives will not by themselves solve our current difficulties in encouraging needed innovation. In our economic system, industrial innovation is primarily the responsibility of the private sector. The manager of the firm must decide whether to develop and market innovative new products or whether to find and employ new ways of making existing products. Although the Federal government can establish a climate that encourages innovative activity, it is the private sector that finally determines whether innovation will take place.

In addition, the steps outlined in this Message must be viewed in the context of our current severe inflation problem. With costs rising at an abnormally high rate, managers naturally have a disincentive to spend the sums needed for adequate industrial innovation. I understand and fully appreciate that changing certain of our tax laws could provide additional incentives for investment in innovation. Indeed, my approval of adjustments in the capital gains tax in the Revenue Act of 1978 has alleviated some shortages of venture capital. Many of the suggested alterations of our tax system are intertwined with other economic challenges—such as fighting inflation. While it might be possible to make changes in the tax code that would promote innovation, these changes should not be viewed in isolation from other aspects of our economy. I will therefore evaluate tax laws affecting industrial innovation at the time that I consider my fiscal policies for fiscal year 1981.

CONCLUSION

Innovation is a subtle and intricate process, covering that range of events from the inspiration of the inventor to the marketing strategy of the eventual producer. Although there are many places in the chain from invention to sale where we have found modification of Federal policy to be appropriate, there is no one place where the Federal government can take action and thereby ensure that industrial innovation will be increased. We have therefore chosen a range of initiatives, each of which we believe to be helpful. In aggregate, we expect them to have a significant impact. Nonetheless, they represent only an early skirmish in what must be a continuing battle to maintain the technological strength of the American economy. I pledge myself to this task and ask the Congress to join me in meeting our common challenge.

JIMMY CARTER.

THE WHITE HOUSE, *October 31, 1979.*

Mr. AuCOIN. I appreciate the gentleman's statement and his contribution and also the support that he brings to bear from the committee that he so ably chairs.

At this point I would like to yield to my colleague from Louisiana (Mr. MOORE), the other cochairman of the Task Force on Industrial Innovation, with the comment that he has served very ably. I appreciate the help he has rendered.

Mr. MOORE. Mr. Speaker, I thank the chairman for having asked me to serve as a member of this task force and as one of its cochairmen.

There are many task forces in the Congress right now or certain groups trying to promote one sort of activity or another, and I was asked to join many of them. I have turned down most, but this was one I could not turn down for two reasons. One, my respect for the gentleman who chairs this task force, and secondly, because of his tremendous importance, serving on the Committee on Ways and Means, and the Subcommittee on Trade, in particular.

When we look at the status of American foreign trade, and we see that our penetration of foreign markets is not what it ought to be, and foreign manufacturers are penetrating our markets to an extent maybe they should not be, then we begin to ask questions why is this?

The subject matter of this task force, that of innovation, when we finish our work and really continue to get down into the subject matter as we have begun to do, I think we are going to find some answers to those questions.

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Innovation seems to me, from what I have learned, innovation seems to be the very root cause of either a deterioration in our trade and in our industral society, and because of inflation, and because of unemployment, or if we have a prosperous, developing, innovative policy in one's country, a continuing promotion and progressive response in terms of technology, we find just the opposite. We find new industry, growing industry, expanding industry, and expanding foreign trade, and expanding foreign economy and inflation held to a standstill, and expanding employment.

So I think the subject matter of this particular task force is vital. I think the further we get into this, Mr. Speaker, we are going to see that we are going to be able to tie innovation to capital formation.

Mr. Speaker, industrial innovation cannot be accomplished without industrial capital and it in turn will not exist without a national tax policy with capital formation as its focal point not only for innovation, but also for job creation, economic expansion, and inflation reduction. In recent years and with increasing frequency we have found Government regulatory policy forcing the limited amount of industrial capital available these days away from innovation and toward control of pollution, noise, industrial discomfort, and many other forms of Federal regulation. Some experiences have proven worthy while cost and effectiveness cast doubt on many others. So we are not only doing little to create new capital but we are committing existing capital to purposes other than innovation. This produces even less capital for innovation than regularly would be available. Now is the time to give innovation an economic shot in the arm and use our tax policy to do it.

Statistical evidence shows the degree of decline in capital for innovation purposes. Recently, the Business Roundtable found that 48 companies it surveyed said they had to spend half of their research and development budgets on complying with Government regulation. According to Dr. Murray Weidenbaum that cost of compliance nationwide is well in excess of $100 billion annually. As a result we have fewer scientists and engineers in U.S. industry today than 10 years ago and our research and development expenditures have fallen from a 10-percent annual increase a decade ago to 2 percent today. Without capital there is no innovation.

Other economic indicators point to an equally bleak condition for innovation unless corrective steps are taken in our tax policy. Presently, the United States is suffering from a very low rate of economic growth, with real GNP expanding at an annual rate of 2.4 percent, a near 6-percent unemployment rate, inflation at near 14 percent, a decline in productivity—the third quarter rate was minus 2.4 percent—and a 28-year low in personal savings. It now stands at 4.1 percent of family disposable income. Without savings little encouragement occurs for capital formation.

Let us look at the dimensions of the capital shortage.

We have created a tax system which taxes capital rather than income from capital, and as a result companies are frequently unable to recoup their initial capital investment. Dr. Martin Feldstein, president of the National Bureau of Economic Research and a professor at Harvard University, estimated that last year corporation paid taxes on $40 billion in phantom profits, resulting from the underdepreciation of plant and equipment. The real effective tax rate then became 66 percent versus the maximum statutory rate of 46 percent.

As an example of the economic penalty resulting from underdepreciated plant and equipment, consider a printer who bought a $10,000 printing press 10 years ago expecting that press to last him 10 years. Over the last 10 years he has depreciated the press based upon its original cost of $10,000 and has thus set aside $10,000 to cover the cost of a new press this year. Unfortunately, the printer goes into the market only to find equivalent presses for $20,000 to $30,000 because of inflation. He has calculated depreciation of assets according to original cost, not upon replacement costs.

The multiple taxes upon corporate capital are, in many cases, even more extreme. Again, an illustration may prove valuable. Assume for a moment that you are operating a successful business in New York City, earning $1 million per year pretax profit. First of all, you will need to pay a 10-percent New York State corporate income tax. Secondly, you will have to pay a 46-percent Federal corporate income tax. If the remainder is paid out to stockholders residing in New York City, they must pay a 5.3-percent New York City income tax, and 11-percent New York State income tax, and up to 70 percent in individual Federal income taxes. On the initial $1 million income, taxes of 10 percent, 46 percent, 5.3 percent, 11 percent, and 70 percent were paid. The result is an effective tax rate of almost 90 percent. Your total tax rate, coupled with underdepreciation of assets, could create a tax rate approaching, or at times exceeding, 100 percent.

The tax on capital gains is another illustration. Dr. Martin Feldstein reports in a study using 1973 data, which is the most recent data available, that there were $4.5 billion capital gains in sales of corporate stocks; however, after adjustment for inflation, investors were taxed upon $1 billion worth of capital losses.

Classical economic theory states that if you tax something, you get less of it; if you subsidize something, you get more of it. If we tax capital at rates approaching or sometimes exceeding 100 percent, investors will stop investing, which is precisely what has happened in our economy. Fortunately, more and more of our political leaders are becoming aware of the economic crisis which is besetting our country. Last year Congress and the President passed the Revenue Act of 1978, which reduced the maximum capital gains tax from a maximum of 49.125 percent to a maximum of 28 percent. Inflation being what it is, many investors still pay effective capital gains taxes of a rate of 100 percent or more; however, the Revenue Act of 1978 was a huge step in the right direction.

I believe there is some reason for optimism. Next year the Congress may take several steps to reduce the size of the tax wedge upon capital. Specifically, there are several bills under consideration which I believe have a good chance of passage and which would aid the investment crisis in this country.

The Capital Cost Recovery Act of 1979 or 10–5–3 as it is popularly known has been introduced to replace the existing useful life concept of plant and equipment depreciation with a faster depreciation write-off system. The 10–5–3 label simply refers to the classes of corporate assets which could be depreciated more quickly under the new system. Structures could be depreciated over a 10-year recovery period. Equipment could be depreciated over a 5-year period with a full 10-percent investment credit. And short-lived assets, such as automobiles and light duty trucks, could be recovered over a 3-year period with a 6-percent investment tax credit with a limit of $100,000 per year for this class. The 10–5–3 system has several major advantages.

First of all, business will be able to recoup most capital investment even under relatively high rates of inflation. Second, the Internal Revenue Code will be simplified because the so-called useful life concept will be abandoned and replaced with a definitive schedule for all capital assets. Third, 10–5–3 will virtually eliminate the present tax bias against investment in very long-lived equipment; and, finally, it will have a relatively modest impact on Federal revenue initially under the proposed phasein of the system. In short, 10–5–3 addresses many problems of continued high inflation, the accelerating cost of replacing obsolete or unproductive assets, and the lack of liquid funds available for investment and reinvestment.

Another approach that must be taken is encouragement of individual savings rates. One reason other industrialized nations commit more time and investment to innovation than the United States does is found in rates of savings used to build investment capital. While Americans place only 4.1 percent of their disposable income in savings, other industrialized nations far outpace our rate. Savings as a percent of disposable income is 13 percent in Britain, 15 percent in West Germany, and 25 percent in inflation-riddled Japan.

Why do their savings rates greatly exceed our own? Take a look at the degree of incentive to save given by the government of each industrial power. In Britain, national savings certificates are tax free up to the equivalent of $2,237.50. British savings bonds, save as you earn, national savings bank accounts are totally tax free. In West Germany, interest on deposits at savings and loan associations is tax deductible based on family size, veterans status, and other factors. In Japan, any person receiving either interest or dividend income can choose to have this income taxed at a flat 35-percent rate while it otherwise could be taxed as high as 75 percent. Interest income from deposits up to $15,000 is totally tax exempt. Little wonder their savings rates are far above our own.

To encourage savings I have proposed a modest yet effective savings incentive of allowing each individual with a savings account in any financial institution to receive $100 in interest annually tax free. Couples would be given a $200 interest income exclusion. According to Evans Economics, Inc., savings would grow by up to $1.2 billion annually and by $2 to $3 billion annually under the findings of Dr. Michael Boskin of Stanford University.

Would Americans save by this degree of incentive?

Yes.

Between September 9 and 21, the firm of William R. Hamilton polled 1,394 adults over 21 years of age throughout the United States by telephone. The poll was prepared for the Savings and Loan Foundation. One-half of those polled would consider increasing their use of savings accounts if they received a tax incentive of a $100/$200 exclusion on interest subject to tax. It had broad appeal with 59 percent of those in the $10,000 to $20,000 annual income range saying their saving frequency and degree would increase as did 54 percent of those living in the Northeast, 54 percent of those between the ages of 22 and 34, 54 percent of all blue-collar head-of-household workers, and 54 percent of single inviduals. Fully 40 percent of those polled who do not now have savings accounts said they would be inclined to use savings in order to get the $100/$200 exclusion.

Without encouragement for savings investment, there is little encouragement of capital formation. Without its encouragement, there is little chance for the U.S. industry to increase its commitment to advanced technology and innovation.

Certainly other means to encourage innovation exist as well and should be explored. These include rewarding innovation directly thorough tax credits. These means should be fully explored in tandem with savings encouragement and general tax revision to create a more normal business atmosphere.

Mr. AuCOIN. I appreciate the gentleman's comment.

I would like to ask the gentleman in the well, serving as he does on the Ways and Means Committee, which has jurisdiction over much of the field of trade policy in the House of Representatives, what is the gentleman's opinion about the implications in the multilateral trade negotiations that have just been completed with regard to American products? It would seem to this observer, serving as I do on the Committee on Banking, Finance and Urban Affairs, but also on the International Trade, Investment and Monetary Policy Subcommittee of that committee, that this new international agreement, highly desirable as it is, poses a very significant challenge to the United States. That is that we are going to have to compete far more effectively than perhaps we have done before in order to not only penetrate market opportunities that are now open for us in other countries, but also to compete effectively against foreign competitors through our own doors that they will be walking through; in other words, we have opened up our doors to a greater amount of trade on the part of the foreign trading partners. If we are not competitive, if we do not have the technological edge, if we do not have the productivity edge that we need, it would seem to me that we might find ourselves at a distinct disadvantage. So it would seem to me in the weight of this international agreement there is even more reason today, to advance in this field of industrial innovation and provide the venture capital necessary, the R. & D. that is necessary in order to make American industry fully competitive again at home and abroad.

Would the gentleman agree with that assessment?

Mr. MOORE. I certainly agree with the chairman of the task force. I would simply say we sat through perhaps as much as 6 weeks of closed-door, all-day deliberations in the subcommittee working on this multilateral trade negotiation document that this House and the other body passed by an overwhelming vote. The question the gentleman just posed was not posed by very many Members of this House. This sort of thing was accepted as being all good. I supported it and voted for it. It was accepted as really having nothing bad in it. It was like a motherhood resolution or a grandfather's day resolution. It just slid right on through the House. Really, I think the significance of that document and those negotiations really escaped most of the Members of this House and, I think, the American public.

There are two things that need to be drawn from that or realize, and this poses a real good forum to discuss that. The first thing is that while we do open the doors or have the doors opened of certain foreign countries to allow us to sell goods in those countries that we have been blocked from doing in the past, that supposes we can compete there, that we have the goods to sell, that we still have the most modern, the most technologically advanced goods to sell and that that door is also open for other competitors that signed that document, and they may just have the best goods to sell and we may find while we have opened a market for ourselves we cannot compete in that market.

Second, in opening the market to them, we have likewise opened our markets to all of the rest of the world's trading partners, which means that things that have been protected before, or by American agreements we have had on Government products and Government purchases, those things cannot be done now. We have opened up our own markets to these foreign competitors, so we have got to be technologically advanced, we have to have innovation to be able to hold our own domestic market much less against the possible foreign markets that are now open to us.

There is one other point that I think people ought to remember. In the past when American industry got in trouble all they had to do was come to Congress and ask for help. All they had to do was run down here to us and say let us raise the quota on this, or let us raise the tariff on that, or let us do something to stop those goods from coming in. This agreement that we are now a party to and have signed, and this Congress has approved, and the President has signed, largely prevents us from doing that in the future. When people come down to us in trouble here in the future we are going to have to say I am sorry, but these GATT agreements and multilateral trade negotiations which we are a party to prevent us from outright protectionism to help our industries and businesses that are in trouble. This forces us to begin to look at the root causes of that trouble rather than trying to see them stay in trouble and protect them from foreign competition. We cannot bring down that curtain any more. They have to be able to compete or they have to go out of business. That is why this task force on innovation and our attention to innovation is so necessary.

We are talking about solving the problems that Congress is going to be presented with 4 or 5 years down the road. We are talking about doing it now, and if we do not do it now, 4 or 5 years from now when they come to us, then there is nothing that we are going to be able legally to do overnight to save them.

Mr. AuCOIN. I thank the gentleman and think he makes the point just extremely well. Of course, I am a strong advocate of the multilateral trade negotiation agreement entered into that we signed and passed in this Congress. The gentleman is quite right, as a result of that we are not going to be able to drop the curtain of protectionism any longer, or certainly to the degree we have done in the past.

I say that is good. But let us understand, and I hope our colleagues in Congress understand that this means an attendant responsibility. That responsibility is to pick up the challenge we have given to ourselves to innovate, to give ourselves the technological advantage so that we can be competitive, or someone is going to steal our lunch, as the gentleman well pointed out.

Mr. MOORE. If the gentleman will yield further, I think he is exactly right. The real value of this task force is to begin to look at our American industries for innovation, for methods of innovating and developing new products. Then as we begin to develop the reasons for innovating, and the means of innovating, then as we begin to develop answers to these questions, hopefully then we can use the implications of this task force to get our colleagues to begin to propose solutions to these problems, then have these solutions on line, bringing about a solution to the problem before it is too late. Many of the things we are talking about doing, capital formation, whatever it may be, cannot be done overnight. We are talking about a year or two to implement, and maybe 2 to 3 years before the economic effect is properly felt.

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So, now is the time to start. In 4 or 5 years from now it will be too late.

Mr. AuCOIN. Absolutely. I completely agree with what the gentleman from Louisiana has said. Now is the time to start. I would say that the whole question—and I know the gentleman agrees—is that this is not a negative situation we are discussing. We are discussing an exciting possibility for a course of turning away from the narrow-minded, self-defeating notion of protectionism to advancement and enhancing of industry, to accomplishing a bold and vigorous challenge that American industry can get on the march again, if we can only devise the proper policies to allow that industry to proceed. That is what we are talking about here.

Mr. Speaker, I want to take a moment now to talk about the very important relationship between industrial innovation and foreign trade. This relationship moves in two directions—innovation helps American exports and, at the same time, expanding participation in foreign trade increases the innovation and productivity of the American economy.

The time when the trade sector could be considered peripheral to the health of the economy is now past. Increasingly, we must find ways to pay for our imports, not only because we are buying huge supplies of foreign oil and other scarce materials, but also because our citizens are better off when they can buy lower cost products from abroad.

We have not been doing very well at paying for imports. The poor performance of exports beginning in 1975 led to large balance of payments deficits in 1977 and 1978 and to a decline in the dollar. The largest and most immediate effect of a depreciating dollar is that prices go up as imports become more expensive. So we can blame part of the severe 1979 inflation on insufficient exports.

Innovation is a critically important way for American industry to become more competitive internationally. The United States has a particularly large advantage in the products of innovative industries—industries with heavy investment in research and development. Chemicals, electrical machinery, nonelectrical machinery, aircraft, and scientific instruments are industries which currently are R. & D. intensive, spending more than 3.5 percent of their net sales on R. & D. The balance of trade—the difference between the value of exports and the value of imports—for R. & D.—intensive manufactured products has been positive for at least two decades and has increased fivefold since 1960, while the balance of trade for non-R. & D. intensive manufactured goods is negative and declining dramatically, reaching a deficit of nearly $25 billion in 1977.

But it is not a static situation, in which we can sit back and enjoy the competitive edge of our high technology products. As those technologies are adopted by foreign producers, who often have lower labor costs or other advantages we can not match, the United States loses its advantage for those products. So the export success of our industries depends on their constant renewal, depends on the constant development and application of further technological advances.

There is some evidence, for example, from the movement of the balance of trade for high technology products in the past 2 years that they are beginning to lose ground. While the positive trade balance for chemicals continued to grow after 1975 and the balance for aircraft and parts remained constant, the balance for other high technology product groups began to decline. This decline can be attributed in part to the recession in Western Europe and Japan, which weakened these markets for U.S. goods, but a contributing factor is certainly the slowdown of American research and development and the associated slower growth of productivity in U.S. industry.

The U.S. proportion of all industrial R. & D. expenditures by industrialized Western countries decreased from 62 percent in 1967 to 49 percent in 1975, and the intensity of industrial R. & D. expenditures—expenditures as a percentage of the domestic product of industry—has declined in the United States since the mid-1960's, while it has risen in West Germany and Japan. Movements in productivity have been more striking, with the productivity of manfacturing industries growing at a slower rate in the United States than in France, West Germany, Canada, the United Kingdom, and Japan.

We need to pay serious attention to increased investment in research and development as a key to maintaining our trade position. This does not simply mean more Government funding of R. & D. Compared with other advanced industrialized countries, industrial R. & D. in the United States is already heavily dependent on direct Government funding. There is evidence that indirect Government support for R. & D. through tax incentives, patent policies, regulatory policies, and Government procurement actions, has a greater impact on the industrial innovation process than direct Government R. & D. expenditures. Clearly, in all these areas increased incentives for investment in R. & D. must be balanced against other goals. I think we need increased discussion of what can and should be done. The measures and proposals announced in the recent report of the domestic policy review on industrial innovation are a start, but they do not go far enough.

One area that the President's report failed to address is tax policy. America's high technology industries need an infusion of venture capital. And mature industries—such as steel, automobiles, and textiles need to renew their capital resources. The bottom line is that greater capital formation is an absolute must if we are to maintain our technological edge.

One way to increase capital formation is to revise depreciation procedures and increase the incentives for industries to invest in the'r productive assets. The Capital Cost Recovery Act introduced by Congressmen JONES and CONABLE would simplify procedures by setting uniform time periods for asset depreciation.

I also have cosponsored legislation to unfetter patents resulting from Government-financed applied research. Now these patents often languish because companies are unable to tie down the exclusivity they need to justify major capital expenditures to develop and market products.

Finally, we need to maintain a strong commitment to basic research. In the last few years, there has been a shift in emphasis away from basic research toward applied research. This shift has taken place in part because inflation—and market success—have turned previously aggressive companies into cautious investors. With a limited amount of investment dollars, firms can get more for their money by concentrating on applied research.

To help correct this situation, I agreed to be prime cosponsor of a bill to give both a tax credit and a tax deduction to companies that contract with universities to finance basic research. This bill would reestablish a Government-industry partnership in doing basic research, and hopefully spur increased applied research by individual companies. In addition to targeting research, it will have the spinoff effect of training people to step right into industrial laboratories and apply this basic knowledge.

I want to emphasize that our support for industrial innovation need not be confined to industries which currently are R. & D. intensive. Many industries which do not currently invest heavily in R. & D. or apply the results of R. & D. could increase their productivity and their international competitiveness by doing so. Economists attribute the export success of American agriculture in part to its technology intensiveness, its reliance on continual improvements in seeds, fertilizers, and agricultural machinery—as well as to more obvious advantages such as good land and favorable climate.

An equally important but less clearly recognized connection between innovation and trade is this: selling products abroad accelerates the process of innovation itself. Economic theory tells us that the more our products are forced to compete the more we will concentrate on more efficient products. Innovative firms, firms with increasing productivity, will prosper and continue to innovate under the stimulus of foreign trade.

But we have more than theory to go on. A recent survey of industrial leaders shows that 20 producers of various manufactured goods and 10 chemicals producers on the average counted on exports for 30 percent of the return to their investments in R. & D. They would have invested considerably less, they asserted, if opportunities for foreign sales had not been available.

To summarize, exports are important, not just because they enable us to pay for imports, not just because they enable us to produce more than we could produce for domestic markets alone, but also because they stimulate an increase in research and development on new products and processes. This adds to the productivity of the U.S. economy in general, and not just to that of the export sector.

As a legislator, I am working to expand opportunities for U.S. exports, both through assistance to firms in marketing their products and through removing barriers to international trade.

One way to stimulate expanded trade is by opening up Eastern bloc markets. The Stevenson-AuCoin bill, which I hope this Congress will pass early in the next session, will achieve this objective by making section 402 of the Trade Act—the Jackson-Vanik provision—both more effective in its effect on emigration policies and less of a barrier to trade. The trade agreement recently concluded with the People's Republic of China is a particularly important step in creating export opportunities for American firms. I testified in favor of this agreement and I am delighted with the action of the Ways and Means Committee, which just yesterday reported out the resolution implementing the agreement.

Another way to expand export opportunities is to create incentives for U.S. export firms to pool their resources in seeking markets abroad. Therefore, I am drafting legislation to clear up legal ambiguities relating to trade associations.

Much more needs to be done. The United States needs an aggressive, consistent export policy, working, for example, to promote exports of smaller businesses and to provide greater financing assistance to American exporters through the Export-Import Bank.

Mr. SIMON. Mr. Speaker, will the gentleman yield?

Mr. AuCOIN. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Speaker, I thank my colleague from Oregon. I was very interested, before I get into just a few notes I have here, in the colloquy which took place between the gentleman from Oregon and the gentleman from Louisiana. We are in a new economic era, and we have really not faced up to that. After World War II we were the economic giant, and the rest of the world were economic pygmies. That is a day of the past.

One of the ways where we are not facing up to it is what the two gentlemen were talking about, selling, and selling overseas. You can buy in any language; you cannot sell in any language. We happen to be living in the only Nation on the face of the Earth where you can graduate from college without having had a year of a foreign language at any point. There was a marvelous discussion on the floor of the Senate recently on the balance of trade with Japan, and Senator HAYAKAWA, from the gentleman's neighboring State, pointed out that in New York City alone there were approximately 10,000 Japanese salesmen, all of whom speak English. In all of Japan there are approximately 1,000 American salesmen, very few of whom speak Japanese. He asked the question "Who do you think sells more?"

We simply have to recognize in our educational establishment and in the business world that the old era is past, and it is going to be tough. We ought to be selling all kinds of things that we are not selling; 80 percent of American manufacturers who ought to be exporting today are not exporting, in part because we are not paying attention to the cultures of other countries.

Let me just add a few words on this very important discussion here today. I want to cite two studies. One is perhaps the most thorough discussion of the whole area of productivity done by Prof. Edward Dennison, of the Brookings Institute. Among other things, they point out this decline in productivity, and that in the first three-quarters of 1979 we have actually had a negative productivity factor. But, he points out that in the decline four major factors—the 1974–75 recession, policies controlling safety requirements, the changing makeup of the labor force, and this is one that is going to turn around because of changes in our culture where we have brought a great many people into the labor force who have not had skills and technical training and background. That is gradually going to change, and the point the gentleman has been talking about, the smaller accumulation of capital in the United States.

I would also like to cite the recommendations of our Task Force on Inflation, an arm of the Budget Committee. We divided our 37 recommendations into four categories: Fiscal and monetary policies; wage and price action; procedural recommendations; and the final area, productivity. We mention several points, and I shall just touch on them lightly.

One is an approach on an industry-by-industry basis. For example, in the coal industry we can find a number of industries. We can find some coal mines where they have a very high productivity figure, and some do not. We ought to be taking a look industry-by-industry.

Secondly, we have to move aggressively on this whole regulation process. I do not care whether one is Republican, Democrat, conservative, or liberal, we have to look at regulations. They are too cumbersome, too uncertain, they have to wait too long to get them. There are just a host of problems we have with them.

We have to be examining unemployment compensation policy. It is a ticklish area. I think we have to be looking for some type of job guarantees, alternatives to paying people for nonproductivity, at least beyond a certain point. We ought to be studying both Japan and Germany in their labor-management relations.

We ought to encourage research training. One of the things Professor Dennison's study points out very clearly is that one of the things that has been best for our country is vocational training that we have in the high schools, community colleges, and elsewhere.

Finally, the capital formation problem the gentleman has touched upon. We have suggested several things, including accelerated depreciation and some special stimulus to the equity market. It is very clear that the equity market is much weaker than it ought to be. I would hasten to add that one of our recommendations is that no tax cuts take place this next year, that right now tax cuts would be inflationary. We agree with the Federal Reserve Board in that respect.

Mr. AuCOIN. Does the gentleman believe general tax cuts—is he referring to general tax cuts or specialized tax cuts as well?

Mr. SIMON. At this point we are talking about any tax cuts, but we do believe that after another session we ought to be in a position, if we exercise prudence here in Congress, where we can have some tax cuts, that obviously they will have to be balanced with looking toward equity, but also taking a look at the very real capital formation problem that we have in this Nation.

But, again I would simply want to commend my colleague from Oregon, who has distinguished himself in so many ways in this House, for once again providing leadership in a very vital area. I am proud to be associated with him in this discussion.

Mr. AuCOIN. I want to thank the gentleman from Illinois for the remarks he has made. I hold to the view that perhaps the time is ripe for some from of tax cut this year, but I share his view that a generalized, across-the-board, massive tax cut would be most disruptive economically because it stimulates the spending side rather than stimulating the supply side. It would seem to me that the Congress would be well advised to look at the tax cuts, to the degree it looks at them this year, to how they might pinpoint those cuts to stimulate the supply side of the economy. It seems to me that is one of the processes.

Mr. SIMON. If we want to go ahead, and my strong feeling is that despite the wisdom of my colleague from Oregon we should approach this with great caution because, as the gentleman indicates, we cannot repeal the law of supply and demand, but if we move ahead we ought to target those cuts very, very cautiously.

Mr. AuCOIN. Again, I want to compliment my colleague for his comments. I appreciate his participation in the colloquy tonight. I have always admired his enthusiasm for the work that he does and the ideas that he brings to the committees he serves on and to this Chamber. It has been a pleasure serving, and remains a pleasure, serving with him. I might mention, in addition to pointing out something many people might overlook, the problem of language training in the United States is involved in this entire situation, but in addition to that in the whole field of education and in research we have some very serious shortcomings.

I think the gentleman might be interested in one statistic that I think says a great deal about our problem today; that is, that the U.S. proportion of industrial R. & D. expenditures by industrialized western countries decreased from 62 percent in 1967 to 49 percent in 1975, and the intensity of industrial research and development expenditures has declined in the United States since the mid-1960's, while it has risen in West Germany and Japan.

□ 1750

I think that points not only to tax policy, but it points in the direction of educational policy. And it says something about the emphasis of basic research on our college campuses, in our research institutions, as well as in the industries and firms and corporations of this country.

Mr. SIMON. If my colleague would yield for just 1 minute—I see two of my colleagues who wish to enter into this colloquy here, and I do not want to hold them up—I would simply point out one other factor, and that is that relative to these other countries we have a very high percentage of our research that goes on in the defense field which does not end up helping our balance of payments and other things. So our research component factor in this productivity problem is a more major one than the simple study that the statistics suggest. Again I thank my colleague.

Mr. AuCOIN. I appreciate the gentleman's participation.

I will be pleased now to yield to my friend, the gentleman from California (Mr. CLAUSEN).

Mr. RITTER. Just before the gentleman from Oregon yields to the gentleman from California, could I ask the gentleman to yield for a short moment on that comment on the research component factor.

Mr. AuCOIN. I yield to the gentleman from Pennsylvania.

Mr. RITTER. I thank the gentleman for yielding. I would like to point out for Members that the area where we are leading the world today in market sales in jet and turbine-driven aircraft and electronics had a major boost from defense, so it is not all a one-way street. We can do all the basic research and development at our universities in the world yet not have the biggest market share, because the industrialized countries of Western Europe are moving ahead, and we remain stagnant with very little innovation in our economy.

Mr. CLAUSEN. Mr. Speaker, I thank the gentleman from Oregon for yielding.

I appreciate the opportunity to engage in a bit of dialog with the gentleman from Oregon (Mr. AuCoin) because one of the most important steps that we can take, in my view, in order to get this country back on the road to productivity is to encourage innovation. It was good old American know-how, ingenuity, and hard work that made our country as great as it is. I am convinced that with a little encouragement we can keep the foreign technology and competition at bay and regain our lead in innovative technology.

Every day we are barraged, literally barraged, with reports of the ills of our economy. Inflation is at an all-time high. Rising costs are forcing businesses to close their doors. The underlying issue that has been confronting our Nation for many years is whether or not we will have economic growth and opportunity or contraction and unemployment. As I see it, if we are going to address this issue properly and adequately, we must take some immediate steps to provide incentives for investment and innovation.

As I listened to the exchange between my friend, the gentleman from Oregon (Mr. AuCoin) and the gentleman from Illinois (Mr. Simon) I detected a little bit of a tax cut, when it should be, and in what form. There has been a lot of reference made in the Congress to a tax cut and/or reform, but I choose to use the word "revision." I think what we need to do is to come forward with a selective revision of the Tax Code that would place the maximum emphasis on incentives for people to save and to invest.

Our businesses are faced with a critical shortage of investment capital. I cosponsored the Capital Cost Recovery Act because I believe this legislation will put an end to this shortage and encourage increased productivity and market expansion—a sure way to break the inflationary spiral.

We should liberalize depreciation rates, freeze social security taxes, and provide more incentives for American energy production. The most direct thing we can do to immediately increase the amount of employment, saving and investment is to increase the reward or incentive for the next dollar earned by employment, saving, or investment. This means cutting tax rates and I am in full support of a selective revision in individual and business tax rates. These tax cuts would lead to more job creation and investment in the private sector—in small business and in large corporations.

The United States is faced with a kind of situation where we are living in competition with Japan, incorporated, or Germany, incorporated, and much of it is because of the lack of responsiveness on the part of Congress to address adequately the tax code, we need to liberalize some of the depreciation rates. We need to freeze the social security taxes and provide more incentives rather than disincentives for American energy production. The most direct way to increase the amount of employment and investment is to increase the reward or incentive for the next dollar earned by employment, saving, or investment. This means the cutting of those tax rates, the kind of selective tax cut that the gentleman from Oregon (Mr. AuCoin) is talking about and that I fully support. These tax cuts would lead to more job creation and investment in that productive private sector.

Let me just say in conclusion it was my privilege to speak recently in Cairo, Egypt, to the first World Aerospace Education Congress. I tried to lay out to them what I perceived to be the basic thrust of our objectives here in this country, and that is that we want to participate in a move in the direction of a merger between the developed and the developing countries, an expansionist program that places the maximum effort on the building of our freedom and our free institutions in those sections of the world that simply do not know what it is all about. I happen to believe that as we look to the expansion of our free-trade concepts by an interlinking of our institution-building effort with these developing countries, they will see all of the advantages that will accrue to them if they associate with the United States of America. But we have got to give them something to associate with.

Just in conclusion, I have said this on occasion, that our international purpose is really going to be judged by our domestic performance. The people here at home need to do the right kind of thing, and this means revising that Tax Code to open up what I think is the greatest productive system in the world, the private sector.

Mr. AuCOIN. The gentleman from California (Mr. Clausen), as always, makes an extremely important series of points. I would hold to the view, and I think the gentleman holds to the view, that at this time when people in this Congress and across the country are talking about this Nation's defense, as we should be, we ought to remember that fundamentally our Nation's defense really depends on the strength of our basic economic structure. If we are economically strong, we have then the capacity to be socially strong. We have then the capacity to be militarily strong, and we will not have that strength unless we adopt the kinds of policies that allow industry to innovate, that allow industry, not just the halls of the ivy-covered walls of college campuses alone, but industry to embark on research and development, and also to allow campuses to work in basic research. Until we do those kinds of things, I do not think we are going to be able to have the technological incentive, the productivity, the vibrancy that has made this economy what it is today. That is what we need to work for.

The gentleman makes a good point, too, when he focuses on selective tax cuts. That is what we should be talking about today, selective tax cuts pinpointing where the greatest need is, on the demand side in working toward the kind of innovations that will, indeed, yield greater results and improved products so that we can be more competitive in the world and here at home.

Mr. CLAUSEN. As the gentleman knows, I was the principal author of the so-called innovative technology amendment dealing with the so-called waste water treatment alternatives in the Clean Air Act.

Mr. AuCOIN. Yes, I am.

Mr. CLAUSEN. The whole concept is based upon providing incentives so that the municipalities themselves will look to something other than the established status quo in addressing waste water treatment, but by the same token to bring in the engineering capability that we have, as well as those that are involved in productivity, in the building sector in this country, so that they would address the pollution abatement problems in a more innovative manner. In this way it creates jobs. But that is the kind of direction for the limited amount of innovation that we have, and we need to be doing more of that.

I would make just one final point. Most of the people in this country, I think, have forgotten whence the element of revenues comes for the so-called social programs of this country. Unless there is assured productivity from the private sector, and the opportunity for it to function and flourish in that great free enterprise system, there is not going to be an element of revenue where the public sector functions, or an element of revenue where the great private sector functions. But it all depends upon a viable productive sector in the private sector of our economy.

Mr. AuCOIN. That is exactly why this is not a partisan issue. It is not a Democratic issue. It is not a Republican issue. It is an issue that ought to be of concern to every American who wants to see the assured strength of this economy and the assured strength of this country's posture in the world. He wants also to look to the future with regard to himself or herself and his or her family with some degree of assurance that there is a possibility of improvement economically on an individual basis.

Mr. Speaker, I now yield to the gentleman from Pennsylvania (Mr. Ritter).

☐ 1800

Mr. RITTER. I thank my colleague from Oregon. I especially would like to thank the gentleman for taking this special order to underscore to the House and to the American people and to American industry the very much increased importance of innovation in the national economy. I would also like to thank the chairman of our subcommittee, the gentleman from California (Mr. Brown) for his very active role in this important area of innovation.

I repeatedly have argued strongly on the floor of the House and in subcommittee that in order for America to restore its place of preeminence in the world competitive order we have to act to promote change in such areas as tax investment policy, patent and technology development, government research efforts, stimulation of small business and foreign trade policy, many of these things which have been talked about earlier today.

Mr. Speaker, I would like to focus initially on the immediate effects of government research and development policies on the lives of the American people. Having been a scientist-engineer and research manager before coming to the Congress, I am eager to see the fruits of our research achievements affirmatively translated into improving people's lives.

In fact, in recent days I listened carefully to the collective wisdom of four Nobel prizewinners who testified before our joint subcommittee hearing on science and technology. Each of these great achievers in the realm of basic research argued vehemently that the problem was not putting more money into the research and development sphere but rather in addressing the interface, or the wall as it has turned out to be, between the development of scientific information and its application in the marketplace.

There is little doubt that the question of innovation in our economy addressed here by our good colleague from Oregon centers right at that point of obstruction.

Mr. Speaker, I spent a year as an exchange science fellow in the Soviet Union. They, too, have a great research and development arm. In fact, the Soviets put a hefty percentage of their gross national product into basic research and development.

The interesting thing is that the research and development richness they have does not translate hardly at all into the marketplace. It does to a limited extent in certain areas of defense and their space program but that is where it all ends. There is little Soviet product competition on today's world markets despite enormous research and development expenditures by that society. They have done even worse than we in this important regard. Nor did the Carter policy review on innovation completed recently fully address the real problem area, which is not greater government research and development, increased technical information sharing and a whole series of what the Federal Government already is doing. No, it is rather in that area where the Federal Government has been inactive, and that is in providing the kind of innovation ambience or climate for the application of these results.

Mr. Speaker, as a graduate student in the 1960's at MIT, I witnessed one of the greatest technological revolutions in this country in modern times. Similar breakthrough situations evolved in and around Stanford, at Palo Alto, and around the University of Chicago and a number of America's great universities and science-oriented communities. This was a time of enormous technology transfer into the marketplace. What happened?

We have to ask ourselves this important question: what happened to choke off that kind of technology transfer we seek and were experiencing?

In the late 1960's there was a monumental increase in capital gains taxes. It went to 50 percent maximum from 25 percent. Almost overnight that influence choked the very substance of that technological revolution then centered in electronics.

What is very interesting is that the recent reductions—and these are across-the-board reductions, they are not targeted reductions—the recent reductions in the capital gain taxes have been very effective in restimulating these smaller, more innovating businesses. These were called by many on the floor of this House, these capital gains tax reductions were called "rich man's tax havens."

Not so.

There has been a marked increase in industrial innovation and there would be an even further marked increase if these kinds of taxes were reduced.

Mr. Speaker, many of the people on the floor of this House this year have pushed a variety of brand new programs where everybody knows the money is not there to pay for more programs.

The SPEAKER pro tempore. The time of the gentleman has expired.

One hour has expired.

Mr. RITTER. Mr. Speaker, I ask unanimous consent that I be allowed to address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. RITTER. Mr. Speaker, many new programs have surfaced in this House of Representatives this year when everyone knew we were facing dire economic circumstances, rampant inflation caused to some large extent by overspending of this Government. I do not want to get into that during this colloquy on innovation, but it was very interesting for me to hear the comments of one of my colleagues a moment ago that this year we cannot afford any tax cuts, that this year would not be the time for tax cuts.

On that important point I want to echo the remarks of my colleague from California that without a productive economy there is no room for additional socially beneficial programs this House might wish to put into place.

To say that we cannot afford tax cuts while we are deficit spending to the tune of perhaps $40 billion this year—after all of the on-budget items add up—is really putting in danger the very goose that lays the golden egg that pays for these socially beneficial programs in the first place.

Mr. Speaker, I would strongly urge my colleagues that tax cuts, be they targeted toward innovation, be they general, together with some greater spending restraints here on the floor of the House, will do more to stimulate revenues collected by this Government than anything we could possibly imagine, and that if we wish to see a return to innovation that we saw in the 1960's, we have to cooperate toward these basic goals in this House of Representatives.

Mr. Speaker, I am happy to see my colleague from Louisiana here on the floor representing the Committee on Ways and Means. Because if again there is going to be innovation it will not come about simply out of increasing the Federal role in research and development.

☐ 1810

Also, I have here an article taken from the Professional Engineer magazine, a magazine put out by the National Society of Professional Engineers. The title is, "Industrial Innovation Process Receives Restrained Boost From the Carter Policy Review."

Basically, Mr. Speaker, we ended up spending about $50 million or $60 million more to further study the problem. The problem does not need further study. This Monday we had in committee four Nobel Prize winners, generous recipients of Federal research money, testifying that it is not Federal money in research and development, or the lack of Federal activities to fine tune the research and development transfer into the private sector. It is simply giving back the incentive, the reward, the motivation for individuals to move out of large corporations into "America's small garages," because they know that they have a product that they can do eventually far better than they would be doing had they stayed with their initial big corporations.

This is the sociology of the technical professional who went into small innovative business in the sixties. This is the sociology that we can ill afford to repress.

Unfortunately, present governmental policies toward these kind of individuals and their future gain, the risks that they take, and the risks of the capital that accompany them are to date repressive.

I thank the gentleman from Oregon for the opportunity to participate in this very helpful special order on innovation in the American industrial economy.

The SPEAKER pro tempore. The time of the gentleman from Oregon (Mr. AuCoin) has expired.

Mr. WATKINS. Mr. Speaker, I ask unanimous consent to address the House for 5 minutes concerning this matter.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. WATKINS. Mr. Speaker, first and foremost, I would like to pay my deepest respect and appreciation and admiration to my colleague, the gentleman from Oregon (Mr. AuCoin) for bringing this matter under a special order to the attention of this House and to the people of this great country.

Mr. Speaker, I rise to address the role America's small businesses play in the innovation process—and the relatively poor role the Federal Government has played in stimulating innovation by such firms.

My colleagues have already emphasized the importance of innovation in increasing productivity, reducing inflation and improving the balance of trade. Therefore, any effort expended by the Federal Government in promoting the innovative climate is money well spent—probably one of the wisest and most cost-effective uses of the tax dollar.

The most productive Federal initiatives would be those concentrated on small firms, because this segment of private industry has historically accounted for a disproportionately large share of our Nation's innovations. One study shows that of the 61 important inventions and innovations of the 20th century, over half stemmed from independent investors or small firms. Further, small firms—those with 1,000 employees or less—produce about 4 times as many innovations per R. & D. dollar as medium-sized firms—those with 1,000 to 10,000 employees—and about 24 times as many as those large firms with over 10,000 employees.

The importance of this segment of industry is further underscored by the fact that 87 percent of all new jobs are created by firms with 500 or less employees. So innovation by small business not only has the biggest impact on inflation, productivity, and the balance of trade, it is also the deciding factor in our Nation's employment statistics.

Consequently, the fate of innovation by our small firms determines for the most part the fate of our economy. But small businesses have been producing innovations in spite of Federal policies, not because of Federal programs.

Small businesses share only a fraction of Federal procurement and R. & D. dollars. And while some agencies have launched programs to promote innovation, most of these have been aimed at large industries. Yet it is small business that has the least resources to dedicate to research and development and patent procurement, as well as the least access to venture and startup capital.

To be fair, some agencies have attempted to address innovation by small business. In fact, one particular example involves a firm in my congressional district—Aimwell Production Co. of Ada, Okla., my hometown.

Jerry Johnson, president of Aimwell, together with another partner in the firm, obtained a patent for an innovative pumping device for oil wells. Rather than relying on the traditional mechanical engine or motor to drive the pumping unit, the Aimwell pump uses a hydraulic device. Although Aimwell holds the patent, it does not have access to sufficient capital to acquire land, build the plant and begin production of the device. Also, a few final engineering problems remained to be resolved.

Jerry Johnson contacted the Oklahoma Technological Commercialization Center, an operation funded by the Commerce Department's Minority Business Development Agency. The center first put Aimwell in contact with engineers at Oklahoma State University and Georgia Institute of Technology to complete technological development so a prototype can be built. Then the center determined that the Aimwell pump has a major commercial market, both in the United States and Mexico. Then, working with the State Industrial Development Department, the center obtained an offer of a free industrial tract from the town of Davis, Okla. Next, the center reached an agreement with the Oklahoma Department of Transportation to build an industrial access road to the plantsite. The center is now working with Aimwell to prepare a business plan and working with public and private sources of capital to put together financing.

The upshot is that we soon hope to have a new, minority-owned manufacturing concern located in a rural, depressed area providing jobs and, hopefully, exporting products. Everyone involved will benefit, thanks to the efforts of the Oklahoma Technology Commercialization Center and the Minority Business Development Agency.

But for every such success story cited, there is a horror story of an independent inventor or small businessman who did not have access to these types of resources and whose dreams faded and fell by the wayside. The public is the loser because jobs, good ideas, improvements, ways to save money or do things better for the same money are never developed.

And now, the hopes of America's entrepreneurs have been rekindled by the recent announcement of President Carter's innovation initiatives. To be sure, I applaud the President for his leadership in this area and he can count on my support in these efforts. But if these programs remain centralized in Washington, they are doomed to failure.

To capitalize upon the opportunities provided by these initiatives, I propose a network of regional innovation centers to marshal the resources of the Government in promoting innovation by small businesses. The innovation centers would assist entrepreneurs in determining the technological and commercial feasibility of new products and processes, provide adaptive engineering to develop prototypes and pull together private and public capital sources to develop the financial packaging. The centers would also be charged with commercializing patents owned by the Federal Government through its research and development projects. Finally, the innovation centers would encourage the startup ventures to locate in areas targeted for economic development, particularly the economically depressed small cities and towns in rural America.

America can rekindle its entrepreneurial spirit. America can come to grips with inflation and its balance of payments. But only if we, as Members of Congress, recognize the role of innovation in the economy and seize this opportunity.

Mr. AuCOIN. Mr. Speaker, I ask unanimous consent to address the House for 2 additional minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon (Mr. AuCoin)?

There was no objection.

Mr. AuCOIN. Mr. Speaker, I want to conclude this colloquy by thanking all the participants for contributing their views to what I consider a fundamental problem and an extremely important issue facing the Congress and facing the American people.

I would say to my colleagues that the preceding Speaker is a friend of mine whom I have known since the gentleman joined the Banking Committee and I know of no better advocate for the small businessman and the plights and problems that the businessman has than the gentleman from Oklahoma.

I would also say in conclusion that this colloquy is being held on a momentous day for the Congress. This is a day in which debate began on a massive Federal loan guarantee program for a company known as the Chrysler Corp.

Now, Members have differing views on how they expect to vote on that particular proposition, whether they will vote to give the loan guarantees to Chrysler or whether they will vote against it; but whether they will or whether they will not, I think the point needs to be made. I think we need to ask ourselves why is it that this institution, this great body of the Congress of the United States becomes concerned about jobs, becomes concerned about operating capital, becomes concerned about the ability to provide decent futures for the workers and for the management and for a segment of our manufacturing sector of the economy only when we have a disaster and a crisis of the kind and magnitude of the Chrysler proposition.

Why is it that we cannot take one step back and see that some underlying economic problems such as declining productivity call for our attention just as meaningfully, just as eloquently, and demand our attention just as much.

It seems to me that we ought to do that more often. This colloquy has focused on that important need and I believe it is only the first of many future discussions in this House on the need for more innovation.

● Mr. WYDLER. Mr. Speaker, I appreciate this opportunity to participate in this Special Order on innovation and productivity in the United States. It is an excellent idea for an extremely important topic.

I would like to take a slightly different approach from my colleagues on this topic, but nevertheless one that has profound implications for innovative advances in the Nation.

I was quite interested in the White House paper of October 31 on industrial innovation. In particular, the section on maintaining a supportive Federal climate for industrial innovation caught my attention. This country has made several decades of research investment to provide a technical base for breeder reactor demonstration. It is an area where technology demonstration is now required to bring to fruition the results of several billion dollars of research and development. This has truly been an effort "to insure American technological strength," yet the Government has drawn back from this commitment. This is hardly a step to "maintain a climate conducive to industrial innovation." Industry was originally encouraged to participate in this project, but now the Federal Government has reneged and we are losing valuable international ground in advanced technology. It is certainly a valuable exercise to look at specific programs under these innovatives in the context of the administration's present technology priorities.

I believe my colleagues would agree that initiatives under any innovation program should not be considered in a vacuum but rather be evaluated in the framework of concrete examples. The case of the breeder reactor is a sad example of the Federal Government stifling innovation rather than encouraging it.

I communicated these thoughts to Dr. Frank Press, Director of the Office of Science and Technology Policy at the White House in November. For the benefit of my colleagues I would like to include a copy of that letter at this point in the Record.

House of Representatives,
Washington, D.C., November 29, 1979.
Dr. Frank Press,
Director, Office of Science and Technology Policy, Washington, D.C.

Dear Frank: I was quite interested in the White House paper of October 31 on industrial innovation. There are two aspects of the paper that particularly caught my eye and I thought it might be worthwhile to bring them to your attention.

Item number 9, "Maintaining a Supportive Federal Climate" is certainly apropos of the breeder reactor program. This country has made several decades of research investment to provide a technical base for breeder reactor demonstration. It is an area where technology demonstration is now required to bring to fruition the results of several billion dollars of research and development. This has truly been an effort "to ensure American Technological Strength", yet the Government has drawn back from this commitment. This is hardly a step to "maintain a climate conducive to industrial innovation." Industry was originally encouraged to participate in this project but now the Federal Government has reneged and we are losing valuable international ground in advanced technology. It is certainly a valuable exercise to look at specific programs under these innovative initiatives in the context of the Administration's present technology priorities.

Item number 7, "Improving Our Regulatory System" is a most laudable one but it omits a critical aspect of the regulatory issue. Although "the use of cost-impact analysis" is mentioned, the broader question of cost benefits, including risk assessment, is not addressed. Our Science and Technology Committee has emphasized the theme of comparative risk (for example, for energy technologies) in the 96th Congress.

I believe it is extremely important that the questions of environmental, health and safety risks be studied on a comparative basis and the real benefits of technologies such as nuclear power (for example, oil savings) be considered in any assessment which is intended to serve as an adequate basis for decisionmaking.

I would be interested in hearing your views on these points. I believe you would agree that the initiatives under the innovation program should not be considered in a vacuum but rather be evaluated in the framework of concrete examples.

Sincerely,

John W. Wydler,
Member of Congress.●

● Mr. AuCOIN. Mr. Speaker, the 96th Congress faces no economic issue of greater priority than the need to stimulate technology development, innovation, and industrial growth in our Nation. At the heart of this issue is the need for Congress to adopt tax policies that will foster capital formation by American business.

The single most effective piece of capital formation legislation that is likely to be voted this Congress is the Jones-Conable bill, H.R. 4646, which will accelerate depreciation and the recovery of capital costs for American business.

H.R. 4646 will help create 1.2 million new jobs over the next 5 years. Econometric studies show the bill will boost industrial growth and productivity from the current 1.7 percent annual rate to 2.4 percent, an increase of 40 percent. Passage of the bill will help give American business the capital it needs to invest in modern and more efficient technology, and to compete more effectively in world markets.

The Capital Cost Recovery Act also provides major simplification of our complex tax code, an aspect of the legislation that small business in particular strongly supports. Finally, H.R. 4646 is the least inflationary of the several business tax-cut bills now being discussed, providing important stimulus to innovation and economic growth at the relatively modest first year cost estimated by CBO of under $2 billion.

Mr. Speaker, H.R. 4646 currently has the broad-based, bipartisan support of 267 House cosponsors. The Ways and Means Committee will quite likely begin hearings on the legislation shortly after our return to session in January. To those Members of the House who have not already agreed to cosponsor H.R. 4646, I want to again solicit your endorsement of this important legislation. The sponsors of H.R. 4646 feel very strongly that this bill will become the centerpiece of a new direction in tax policy designed to stimulate American economic growth in the 1980's.●

● Mr. LUKEN. Mr. Speaker, I welcome the opportunity today to speak on innovation and to commend the gentleman from Oregon (Mr. AuCoin) for his efforts in organizing this colloquy.

We are proud that our country has been historically known as a leading technological power throughout the world; yet, there is increasing concern that the capability of the United States to continue its historic successes in technology is in a serious decline. For example, during the past decade, the gap has been narrowing between U.S. patents issued to foreigners and those to U.S. residents.

As we begin a new decade, I believe we must solidify America's lead in innovative technology. We need to improve the climate for the sole inventor and the small businessperson to bring their ideas into the marketplace.

As chairman of the Small Business Subcommittee on Energy, Environment, Safety and Research, I am especially interested in the continued effectiveness and viability of small business in innovation. Small business is the proven innovator in our society. For example, during the period of 1953–73, firms with less than 1,000 employees accounted for almost one half of major U.S. innovations. This includes such well-known items as the automatic camera, discount stores, air conditioning and insulin.

In addition, innovation is especially important in the creation of new jobs. From 1969 to 1976 fewer than 600,000 out of 9 million jobs were added to our economy by our 1,300 largest businesses. It is also important to point out that research and development dollars to small business create domestic jobs, whereas, those same dollars to big business often end up creating foreign jobs.

In the energy field, innovation is essential if we are to meet our country's future needs, and I believe that it is the small businessperson who can lead the way. However, small business, with great potential to develop alternative energy sources, is only given an estimated 3½ percent of Federal research and development money. Further, small business has 24 more major innovations per research and development dollar than does big business according to a recent National Science Foundation report.

In hearings conducted this fall by the subcommittee which I chair, it was found that in 1978 only 5 percent of Department of Energy solar research and development money went to small business. The 1980 Department of Energy authorizing legislation requires a 12-percent set-aside to small business—certainly a major step to increase small business participation in the solar R. & D. area. We will look with interest to insure that this mandate is fully satisfied.

The time has come for us to focus our attention on the vital role of innovation in our country. To meet this goal, we must turn to small business, the proven leader in the field. Small businesses have had a striking record of innovation in the past and will in the future, as well, if we make sure they have that opportunity.●

● Mr. ERTEL. Mr. Speaker, today, more than ever, we need to focus our attention on the need for this country to become more innovative and more productive. In this last year, this long neglected issue has begun to receive the attention it demands. Our colleague, the Honorable George E. Brown, Jr., chairman of the Subcommittee on Science, Research and Technology of the Science and Technology Committee, is to be commended for his efforts in this area.

Innovation and productivity are closely related to the health and vitality of our scientific and technological activities. Obviously, research often results in important new inventions and innovations. The Federal Government, as a major funder of research and development work, clearly has an impact on our innovativeness and our productivity. It is imperative, however, for us to realize that simply funding scientific inquiries and research work does not in itself yield innovations, nor does it improve our productivity. There are numerous other variables which must be considered. Among these are the impact of Federal regulations, the tax codes, the general economic health of the Nation, and the patent system.

Federal funding for research represents a catalyst for the development of new inventions and innovations. I would emphasize the word catalyst because following the Federal R. & D. work a great deal of additional time and money is usually required to bring new products or processes to the marketplace. It is commonly recognized that in the research and development process research accounts for about 10 percent of the total cost of bringing a product to the marketplace. This is the share provided by the Federal Government. This leaves 90 percent for the private sector to pick up if innovations are to be commercialized and made available to the American people. As such, the incentives for the private sector to invest its time and money to commercialize something developed in the course of Federal R. & D. work is a subject of enormous significance.

The patent "policies" of the Federal Government have often been identified as a disincentive to private sector commercialization of federally developed inventions and innovations. Currently, Federal patents are controlled by approximately 20 statutes applying to different agencies and programs, and by Presidential patent policies in all situations not covered by statute. Under this "system" an inventor's rights may differ not only from agency to agency, but from department to department within an agency. This confused situation is in itself a disincentive to firms which may be interested in commercializing a federally developed invention.

In addition, current policy does not permit exclusive licensing of federally held patents—the Federal Government holds title to all patents developed under federally funded research and development. Without some form of exclusivity, a private firm is often reluctant to invest the resources needed to commercialize the invention. Why spend the money only to have your competitor pick up the process just before you hit the market? Your competitor will be able to underprice you since he does not have to recover the development costs.

Studies have indicated that commercial utilization of patented inventions is achieved at a much higher rate when the contractor is permitted to retain exclusive rights to the invention. For example, a NASA study has shown that contractors have achieved commercial utilization of patented inventions at a rate approximately 20 times greater than that achieved by the agency itself.

The development of a uniform Federal patent policy permitting a private company exclusive rights to practice an invention is an important way in which we can improve the climate for innovation and encourage greater commercialization of these inventions. I recently had the opportunity to participate in the National Academy of Engineering's Colloquium on Industrial Innovation and Public Policy Options on the panel examining the issue of a Federal patent policy. I would like to share my remarks upon that occasion with my colleagues:

Statement of Hon. Allen E. Ertel

I am pleased to have the opportunity to participate on this distinguished panel today as we look at patent policy as an aspect of the subject of innovation and productivity.

As my colleagues here are well aware, discussions on the need to rationalize federal patent policy are not new. What is new is the heightened attention in both the Executive and Legislative Branches of the government to the need for change.

The President's October 31 message on innovation and productivity includes recommendations for change in the patent system. Many of these changes can be made administratively or through the budgetary process. Some of these areas include improving the Patent and Trademark Office's filing and classification system, and providing greater public access to, and use of, patent files. Other areas where change is needed will require legislative action. As you know, legislation has been introduced in a number of these areas. In most cases the issues involved with this legislation are fairly clear.

There is one area, however, where an understanding of the options is not so clearly recognized. This relates to the creation of a uniform federal patent policy which would bring about greater commercial utilization of inventions developed under federal contract. In fact, I sense confusion even in the background papers which were provided to the panelists. If I could quote from that report, on page 14 it states:

". . . the studies strongly support President Carter's recent call for the Congress to enable government agencies to grant exclusive marketing rights on a consistent policy basis."

I would quarrel with that statement for several reasons. The President's proposals do not grant patent rights on a consistent policy basis. The President recommends granting title to inventions developed under federal contract if the contractor is a university or a small business. In other cases, only exclusive licenses (not title) are granted for specified fields of use. Different rules for different groups is not a consistent policy.

More importantly, however, I disagree that the literature on this subject strongly supports the President's proposals. There are important differences between the granting of title and the granting of exclusive licenses in specified fields of use. The very fact that the President made this distinction in his proposals underlines the fact that they are not the same thing. Most of the literature endorses the granting of some form of exclusivity; it does not, however, contend that exclusive licenses are superior to the granting of title. In testimony before my Task Force on Federal Patent Policy it has become clear that granting title, not exclusive licenses, will result in the greatest amount of commercialization of inventions developed under federal research and development contracts. I think that it is important that we recognize this distinction and that it be the subject of our attention today.

I am sure that it comes as no surprise to my colleagues on this panel that I support the granting of title to contractors of federal research and development work whether they are small businesses, universities, or large businesses. I have introduced legislation in the House, H.R. 5715, that would accomplish this end.

I believe that the President's proposals, important as they are, are still inadequate. Granting exclusive licenses, rather than title, creates enormous administrative burdens. Limiting these licenses to specified fields of use merely compounds that burden. In the case of large businesses, which make up roughly 90 percent of all federal R & D contracts, patent rights would have to be negotiated on a case-by-case basis. Administrative burdens must be, and can be, kept to an absolute minimum—but not under an exclusive licensing arrangement.

Denying title to the major part of federal R & D contractors also inhibits the full commercialization potential. The fact is that the private sector perceives greater protection by holding title. It is clear that the private sector acts upon its perceptions in making investment decisions.

Finally, what goal is furthered by the government retaining title to patents on inventions developed by large businesses under federal contract? I have heard that some in the Administration feel that large corporations have difficulty sublicensing their patents. I suppose I must assume from that that the Administration feels that small businesses and universities will not have these same difficulties and it is, therefore, appropriate to grant title to these groups. I have also been told that the federal government is going to seek out industries that would have an interest in commercializing federally held patents. I have seen nothing in the past experience that would suggest that the federal government will accomplish that objective in an effective manner and I am extremely dubious about those predictions that with passage of the President's proposals things will greatly improve in the government's salesmanship.

In short, we lose nothing from granting title to all contractors, but we could lose a great deal by not doing so.

I earlier stated that I thought we should deal with this subject today. I believe that this is important because we are expecting the Administration to submit its legislation within the next few weeks. The Senate Judiciary Committee has reported out legislation which is much more limited in scope than even the Administration's proposals. The die is being cast in Congress on the type of legislation which will very likely be considered in the near future. To have a meaningful input in that process, this panel must address this fundamental question.

I was pleased that discussion did follow on the question of what form of exclusivity best accomplishes our goal of achieving greater innovation and productivity in the Nation. Notable among the discussion were the remarks of Mr. Philip Smith of the Office of Science and Technology Policy. He stated that the administration basically favors a title with the contractor concept for all contractors of Federal R. & D. work regardless of their size; however, they felt that Congress would not agree to such a proposal. This parallels numerous comments from other sources. I think that we should look at this attitude for a moment.

People in the private sector favor title with the contractor across the board. I am told that the administration favors title with the contractor across the board. The American Patent Law Association and the American Bar Association Section of Patent Trademark, and Copyright Law favors title with the contractor across the board. Small businesses and universities apparently have no problem with title with the contractor across the board. This is one of the most important features of legislation I have introduced, H.R. 5715. Why then are we not working toward our common goal?

Now is the time that we all need to work together to push for legislation that we believe in and which will best accomplish the objective of increased innovation and productivity. We should not limit our efforts to what we think we can get. If that is the strategy then there is no question that nothing more can be gained. Instead, we should strive for what we know is best. I think Congress will enact some form of patent legislation during the 96th Congress. I am afraid that if we do not push for title with the contractor for all Federal R. & D. contractors, we will have lost the opportunity to make a truly meaningful and effective change. If we stop saying Congress will not enact such a policy and begin working for it, we may all be surprised to see our goal accomplished.

I believe that it is possible to pass a

bill providing title with the contractor for all contractors. I take this position for two principal reasons. First, those who favor granting some form of exclusivity to encourage greater commercialization of federally developed inventions in general could support a provision granting title across the board. Second, those who have opposed the granting of exclusive rights in the past have done so because they feel that this would be a giveaway of something that belongs to everyone and a company should not be allowed to profit from research done by the taxpayers. The bill which I have introduced, H.R. 5715, addresses the giveaway concerns.

Under this legislation provision is made for a payback to the Government through the sharing of royalties and/or revenues in return for the original Federal investment. I believe that this provision will compensate the Government and prevent the contractor from achieving windfall profits at the expense of the taxpayers while still encouraging commercialization of the invention. Under my bill this payback can be waived under certain circumstances to insure that the payback is not counterproductive. For example if the payback would cost more to administer than it would collect, it would be waived. Further, if it would inhibit the commercialization potential it would be waived. In addition, it could be waived for universities and small businesses. These are the groups which are least able to make a payback. As such, this should make my legislation more attractive to these groups than other legislation which is receiving attention in the Senate. The payback provision insures that there is no giveaway. Therefore, those who have been reluctant to work for legislation in this area should now be able to support the much-needed changes.

Developing a climate which encourages greater innovation and productivity is an effort which will require action over a broad front. Patents represents one piece of the puzzle. I am pleased to have this chance to join with my colleagues to highlight the problems and potential in this important area.●

● Mr. LAFALCE. Mr. Speaker, it is essential for this country to begin to focus increasing attention on the importance of innovation in our economy, because without innovations, the rate of productivity will continue to decline ominously.

Until very recently, mere mention of the word "productivity" was met with indifference or a yawn from labor and business leaders, Government spokesmen and economists. Although statistics on productivity were kept, no one seemed to evince any interest in them or their ramifications. This indifference reached its nadir last year, when the administration allowed the National Center on Productivity and Quality of Working Life to expire and to be replaced with almost nonexistent National Productivity Council which has an imposing staff assignment of two.

However, I am pleased by the fact that the previous indifference is beginning to melt away. For the first time in its history, the Joint Economic Committee has issued a unanimous report, backed by liberals and conservatives, which emphasizes the key importance of productivity. The New York Stock Exchange has issued a report on productivity, entitled "Reaching a Higher Standard of Living", which concluded that—

> A coordinated national effort to boost productivity growth to at least 3 percent per annum would go a long way toward unwinding inflation, raising living standards, and creating jobs. It would also make American goods more competitive internationally and help strengthen the dollar. These are objectives in which every American has a stake.

Professors Kendrick and Denison have been in the forefront of the effort to bring other economists' attention to the problem of declining productivity.

I was particularly pleased by the fact that the administration initiated a "Domestic Policy Review on Industrial Innovation," because innovation plays an important role in boosting productivity. The decline in the rate of productivity during the late 1960's and 1970's was preceded by a decline in the amount of spending on research and development as a percentage of the Gross National Product. While spending declined on a relative basis in this country, our industrialized competitors did not slacken their research and development efforts, which has been very detrimental to the competitiveness of U.S. goods and services.

The administration's review has been completed, and a number of initiatives have been announced. Although many of those initiatives are commendable and will have a positive effect on industrial innovation, the administration neglected the best and swiftest way to encourage innovation; and that is tax incentives. Without tax incentives, there can be no meaningful national policy for boosting productivity and industrial innovations; but I believe that Congress will take the initiative and correct that significant deficiency in the administration's program.

The tax code is not neutral in its relationship toward productivity growth and industrial innovation, and tax policy must be made in light of its effect on both. Due to the emphasis on Keynesianism in the post-World War II world, tax policies have concentrated on the demand side of the economy, as various administrations and Congresses have attempted to stimulate demand, in order to produce prosperity. With the advent of stagflation on a prolonged basis, new attention must be focused on ways to stimulate the supply side of the economy, because the usual Keynesian tax cut—personal income tax cuts—contributes to a higher rate of inflation.

A surprising consensus of opinion among economists of every school and persuasion is emerging on the need for non-inflationary supply side tax reductions to revive the economy without contributing to inflation. This consensus, which includes Herb Stein, Walter Heller, and Bill Miller, is convinced that economic stimulus is vital to restore the basic underlying strength of the economy. That strength has been seriously eroded by the inadequate level of investments in the private sector of the economy.

A study by the Organization for Economic Cooperation and Development of productivity also investigated the level of investments in industrialized countries from 1960 to 1976. Not surprisingly, it found that the United States ranked dead last by a fair margin in investments as a percentage of gross national product. The OECD concluded that "nations with highest ratios of investment in GNP had the highest rates of productivity growth," which points to the imperative need to stimulate investments, in order to help produce industrial innovation.

Last year, the Congress took the initiative and forced the inclusion of three key items in the Revenue Act. First, the act contained provision for a liberalized capital gains tax. Second, it made the investment tax credit, which is one of the most direct ways of encouraging investments, more attractive to businesses wishing to expand their facilities or equipment. Third, the act instituted a graduated corporate income tax, which will be of considerable benefit to small- and medium-sized businesses, by freeing capital for these firms.

Mr. Speaker, this year, the Congress has again taken the initiative with H.R. 4646, which I cosponsored. This bill would institute a fundamental reform of the depreciation allowance by installing a rational, clear-cut, and equitable system of depreciation allowances on the popularly known 10–5–3 basis. Business leaders and economists have long been complaining about the haphazard and complicated present system of depreciation allowances, which provide a marked disincentive for new investments and for industrial innovation.

There is yet another way to use the tax code to enhance productivity growth and industrial innovation. R. & D. are vital to both, because they directly lead to better and newer products, more streamlined production, and better worker safety and comfort. However, as I mentioned earlier, total R. & D. spending has steadily declined from over 3 percent of GNP in the early 1960's to just over 2 percent in 1977; and there is no sign that this discouraging trend is being reversed.

One sure-fire method of encouraging R. & D. is to provide a tax incentive to businesses which are involved in advanced technological R. & D. Therefore, I have sponsored a number of bills, including H.R. 5313, the Small Business R. & D. Incentive Act, which would provide targeted tax incentives to businesses, in order to persuade them to increase their R. & D. spending or to become involved in R. & D. These types of tax incentives are particularly useful for small businesses, because it is precisely those types of companies which are in the forefront of technological innovation and which require these tax incentives the most because of their limited financial base.

Mr. Speaker, declining productivity rates and lagging industrial innovation are far too important to be relegated to the back pages of academic journals; on the contrary, they are topics worthy of a high priority from Congress and the administration.●

Mr. KEMP. Mr. Speaker, American innovation is vitally important in creating high levels of productivity, real economic growth, and increasing real income for all Americans. Yet we have recently seen an actual decline in U.S. productivity, and many experts claim there has been a deceleration of the pace of U.S. innovation. We are here today to focus attention on this dangerous shift, to discuss strategies for reversing these trends, and rightly so. But while debating Government research, patent procedures, capital formation, and foreign trade implications, we cannot lose sight of the fact that it is the individual and the individual alone who is the source for all innovation.

As the Small Business Administration's Task Force on Innovation concluded:

> *New concepts are only generated from individuals*, and creative individuals need an environment that is conducive for creation with rewards, recognition, profits, freedoms, and the availability of capital, basic knowledge, and other tools with which to create. There appears to us to be a lack of understanding within government of how individuals create in the private sector, and how they implement their creations.—(emphasis added)

The decline in innovation is not caused by any drop-off in traditional Yankee creativity and ingenuity. It is, rather, a direct result of years of misguided Federal policies which work to discourage risk-taking, capital, work, savings, creativity, and entrepreneurial activity. To increase innovation we need to restore incentives for risk-taking.

The beginning point has to be Government-wide recognition of a simple, time-honored idea: When you tax something, you get less of that thing. A revised tax policy, then, should be the cutting edge of a program to restore incentives for innovation, productivity, and real economic growth. We should start by cutting personal income tax rates dramatically, across-the-board, for both labor and capital. This would instantly increase incentives for innovation by increasing the after-tax return for individual effort, and would restore the incentive for production and real economic growth to our economy as well. In addition, such tax rate reduction would dramatically increase the pool of personal savings—these after-tax savings are the only source of seed capital available for most independent inventors. Without this seed capital, most innovations have no way of reaching their intended market.

Furthermore, we must eliminate several glaring inequities in the Federal tax code, which taxes individuals at rates of up to 70 percent while limiting corporate taxation to a flat 46-percent rate. Federal tax policy, then, gives corporations the edge in accumulating after-tax savings to be channeled into product innovation. Yet another tax break biased against inventors permits corporate use of profits tax free to develop and market new products. This credit is useless to the would be entrepreneur, and, again, tends to skew the availability of R. & D. money towards large corporations.

Over the past few years, several articles by economist D. G. Soergel have analyzed the impact of our biased tax code on innovation, and his penetrating analyses are an extremely timely addition to this debate. He has looked as well at the Federal R. & D. budget and Federal procurement policy. The Federal Government spends more on R. & D. than is spent by all of industry. This tends to federalize innovation, centralize control over venture capital, and divide product design from product development. Soergel concludes that a combination of Federal tax, procurement, and R. & D. policies have resulted in the near disappearance of new technical enterprises from the U.S. economy; a growing tendency for industries to economically concentrate; a stagnated economy; and a worsening position in world trade. It is the combined impact of all three which causes a decline in innovation; individuals may no longer hope to advance in society by venturing their own ideas, win or lose.

I commend the following articles by Soergel to my collegues, as an important addition to this vital debate, and ask that we concentrate on the individual in our "solutions" to this problem, for it is from people alone that all creative concepts arise.

The articles follow:

IR&D: AN UNRESOLVABLE CONGRESSIONAL ISSUE?

(By David G. Soergel)

A controversial issue has been around Congress a long time—over ten years—and will probably be around much longer. This is because it is a derivative of a still larger issue.

The larger issue is the tax code's treatment of private enterprise. The derivative issue comes from Senator William Proxmire's (D-Wis.) annual challenge to defense contractor costs for independent technical and proposal activity. Like most everything having to do with national security, independent technical and proposal costs are known by an acronym, IR&D/B&P, which means Independent R&D and Bid and Proposal.

The key to understanding IR&D/B&P is that no formal defense contract authorizes the new business expenditures. They are costs which are added to a company's current weapon contracts and paid as part of the company's overhead, along with many other overhead costs, such as employee benefits and executive office expenses.

They are negotiable as to dollar amount and relevance to the Department of Defense's longer range interests. The dollars come to about 4% of a defense contractor's weapon's sales, and in 1978, amounted to nearly $1 billion. This amount was recovered in $25 billion weapon's sales by less than 100 of the largest defense contractors out of 24,000 DOD suppliers.

PREFERRED POSITIONS

Senator Proxmire claims that IR&D/B&P distributes new business opportunities unequally by reinforcing the market positions of the largest defense firms and keeping out newcomers. According to his viewpoint, IR&D/B&P is a "taxpayer hand-out to the large defense firms with inadequate expenditure accountability", that they are costs which should either be brought under congressional control, or eliminated completely.

Defense contractors and DOD representatives annually counter by claiming that "IR&D/B&P is a normal cost of doing business, and contractor technical independence is in the interests of national security."

Both viewpoints are defensible and only a stand-off can result—as has happened since Senator Proxmire surfaced the issue.

The industry and DOD position is persuasive because the tax code supports it. A mark-up on a product's price to start new products, processes, or services may be deducted in corporate tax reporting. These costs are indeed considered by the IRS as a normal cost of doing business, exactly as claimed by aerospace industry leaders and DOD.

For example, in 1977, 624 of the nation's largest firms spent $18 billion tax-free to start new technical products, and the IR&D/B&P $1 billion is only a small part of the $18 billion total. Business Week annually reports the data and opinions that out of four million businesses, the 624 companies spent about 90% of all industrial research and development for new products. According to the tax code, the expenses are deductible whether sales are gained within commercial or government markets. This exemption feature of the tax code is well accepted by industry because it is, in fact, a profit-related tax incentive for industrial innovation.

BASIC DIFFERENCES

Whether commercial firms can afford such price mark-ups depends on sales in price competitive markets and corporate operating costs and obligations. If costs to gain sales are higher than those of competitors, a firm may close the year with less gross profit than others, or suffer an operating loss. There may be little left over to explore new business possibilities. How much the price mark-up is must be balanced against expected sales revenue, stockholder dividend payments, operating cash demands and reserves, debt repayments and other corporate obligations. And these independent judgments fluctuate from year to year.

On the other hand, weapon sale prices are usually negotiated; that is, they are not usually set by price competitions within common markets. Also, new weapon developments are characterized by high estimating uncertainties at the time of negotiation, and actual costs may end up much larger than initially negotiated. An aerospace company could "go broke" unless DOD paid the difference, and DOD will pay the difference if it judges the additional costs reasonable and justified, unless the contract is "fixed price", as it often is if sales prices have been well established and competitively determined.

The similarity between tax-free new business costs recovered in commercial sales, and IR&D/B&P costs negotiated into defense contracts and recovered in defense sales, is that both are spent to prepare for and propose new business, and this is why both issues are interconnected. Where they differ is that the amounts available for new business activity are set by price competitions in one case, and by negotiations in the other.

If "commonness" is viewed in the context of private enterprise generally, Senator Proxmire's position about IR&D/B&P is equally persuasive. Tax deductibility of costs for new product innovations which are recovered in sales prices obviously benefits established and profitable firms, but not enterprising individuals and newly-started businesses, simply because they do not have sales and profits at the beginning. In short, government does "hand-out" new business benefits which are available to some but not others, as Senator Proxmire claims.

The tax code is apparently based on the premise that those who have succeeded in the past should receive special incentives to be enterprising in the future—incentives which are over and above the profit gained from success. This premise is carried forward in IR&D/B&P negotiations for weapon's contracting. It is a faulty premise because new product ideas come from individuals regardless of their employment location or economic status in society.

To illustrate, the inventor who recently demonstrated 74 mile per gallon auto performance didn't come from any of Detroit's "Big Three" auto producers, nor did Xerox come from any office equipment manufacturer of the time.

Of course just an idea is not enough. It has to be moved through product innovation to reach its intended market. More fail than succeed along the way, but some eventually form the basis for a new and profitable enterprise. The critical resource which moves an idea into innovation is called seed capital. It is critical because what cannot be started has no chance at all to reach its intended market. As might be expected, seed capital expenditure may attract even more start-up money and, if experimental success continues, a new product could be on its way to consumers.

Where do entrepreneurs find seed capital to start a new enterprise and hope to attract outside money to continue the work? The answer is, from accumulation of after-tax savings. It takes personal savings to prepare a convincing case that others should join a new enterprise using their own savings, thus all seed capital comes from after-tax savings.

And this situation relates to another tax code provision which also favors the established firm. Corporate profits are taxed at a 46% rate and individual income at a 70% max rate by progressive taxation. In brief, corporations are again benefited by the tax code, as compared to all others, in the accumulation of after-tax savings for product innovation purposes.

Thus, the established and profitable firm has two sources for new product seed capital—after-tax savings and nontaxable profits—and the individual entrepreneur only one, after-tax savings, which is accumulated at a higher tax burden than corporations.

It seems reasonable to conclude that on two counts—nontaxable profits and progressive taxation—the net effect of U.S. tax policy protects the capital of established firms from challenges by new enterprise.

Corporate executives must, and do, take public policy positions which have the net effect of a "capital protective" strategy. Otherwise their capital may be destroyed or threatened by non-producible new technology introduced by upstart entrepreneurs—as mimeograph producer's capital was "destroyed" by Chester Carlson's Xerox, Kodak's threatened by Dr. Land's Polaroid, Detroit auto producer's threatened by small car imports, and U.S. steel producer's threatened by Japan's new technology steel production.

Yet several special federal incentives, however, do encourage new enterprise. For example, a new company which is financed by 10 or less stock purchasers doesn't have to go through costly SEC reporting procedures. The Small Business Administration may guarantee commercial loans which are secured by the entrepreneur's personal assets, or entrepreneurs may contact Small Business Investment Corporations which are federally chartered to purchase equity stock and make low interest loans to small businesses. And minority groups may start-up a new business by federal contract set-asides which provide seed capital. Other IRS, SEC, SBA and federal procurement procedures have been, and are being, considered, all having to do with making easier the start-up of a new enterprise.

BASIC CHANGE NEEDED

All, however, are "band-aids" to the fundamental problem—"old" enterprise is treated more favorably in federal tax and prominent policy than new enterprise, and legislating "distributive justice" codes is evidently seen as the only way to remedy what is essentially an institutional problem.

It would be better to institutionally remedy the problem than pick away at it by piece-meal legislation. Distributive justice legislation leads to such absurdities as special federal entitlements for firms of less than 500 employees which are not available to a firm of 502 employees, for example, or American Motors being labeled a "small business."

The trouble is that institutional change in policy is easier said than done. The more the tax code promotes industrial capital protection, the more tendency for industry to economically concentrate—and the more economic concentration, the more political clout to influence corporate tax policies towards even more capital protection. Fortunately there is a way out of this dilemma, and possibly a way large industry may actually endorse.

For almost two decades, Nobel Prize winner Friedrick Hayek has advocated a tax policy which equally burdens all income producing units, including individuals. Thus, if government took 25 percent of the national income, 25 percent would also be the maximum rate of direct taxation on any part of income. In 1970, another Nobel Prize winner, Milton Friedman, estimated that a flat-rate tax of about 16 percent on the difference between gross income and the cost to gain income would yield federal revenue equal to the federal budget, a percentage which undoubtedly needs updating because government continues to increase its demand on national income to finance its own operations.

Surely industrial leaders would endorse a significantly lower taxation on profits than the current 46 percent. But they may not endorse what goes with it. And that is that all new product seed capital come from equally burdened income and not from tax exemption of costs for new product developments.

It is time for a basic legislative change to U.S. tax law. Private enterprise must be considered in the context of enterprise generally, whether entered into by individuals or corporations.

Enterprise is the "means to the end" of capitalism, the private ownership of capital, and individuals and corporations must be tax burdened equally to achieve equalities in opportunities to enterprise. The importance of equality in the opportunity to enterprise is that it is inherent in the American ideals of individual liberty and economic freedom guaranteed to all citizens by the rule of law.

The survival of private enterprise capitalism, however, is endangered, and because it is, so is individual liberty, mainly because the tax code distributes unequal opportunities to enterprise—by favoring those who have successfully enterprised in the past and discriminating against others who haven't enterprised, but wish to try. And "distributive justice" remedies, while the fuel which makes the legal machinery run, do little to correct basic institutional flaws.

There are other important reasons why private enterprise capitalism and individual liberty are endangered. One is a $30 billion federal R&D budget. Federal enterprise, through government's centralized control over more experimental money than privately supplied by all industry, is becoming dominant in determining the nation's future economy—a likely cause among many for an inflationary dollar, productivity decreases, and a worsening position in world trade.

With an increasing federalization of product ideas and technologies, private productive capital will produce more what bureaucracy tells its private owners to produce, and produce less what a company independently decides and risks in the marketplace. Only centralized economic planning and nationalization of industrial segments can come from a long-run dominance of federal enterprise in the U.S. economy.

Senator Proxmire, aerospace and DOD leaders will have at it again this year. Not much will come of it, and the issue will resurface next year, and the next, and so on.

But he has touched on an important issue which does need resolution, but is an issue which can't be resolved at the level of IR&D/B&P debate. Resolution of the issue requires participation by all of Congress, and most of all, by American citizens who value liberty above everything else.

THE FEDERAL GRIP ON AMERICAN INVENTIVENESS

(By D. G. Soergel)

An unwritten federal policy favors those who have successfully innovated in the past, and inhibits competitive challenge by those who may successfully innovate in the future. The invisible policy undermines America's private enterprise capitalistic economy, and is a fundamental cause of America's deteriorating position in domestic and world economies. This conclusion came from an analysis and assessment of the interactions of three federal policies: (a) the U.S. tax code, (b) the procurement code, and (c) the federal "make-or-buy" policy.

On first examination all are benign and deliver the intended public benefits. The tax code exempts new product expenses and thus encourages industrial innovation. The federal procurement code governs contract compliance, expenditure accountability, and provides "start-up" capital to established federal contractors. Risk capital for the development and test of nationally needed products (processes and services) is provided by federal R&D contracts with little risk to company stockholders. Permitting agency scientific and technical personnel to "make" innovative activities provides federal-level competence to assess contractor technical progress, manage agency innovation programs, and prepare technically precise standards for health, safety, and environment improvements.

A brief description follows which ties the three policies together, analyzes the combination, suggests conclusions about government's role, and perceives national consequences. It is a space-limited discussion which permits only a surfacing of the most important findings and analyses.

RISK CAPITAL AND R&D

Enterprise and industrial innovation depend on the commitment of risk capital. It finances the start-up of new ideas; development, testing, production, and market introduction of survivors of the innovative process.

Research and development (R&D) is a special risk capital which starts up new ideas and carries some through full development and test, but does not finance subsequent innovative phases, such as production, sales and distribution. Thus R&D finances the earliest and riskiest beginning of innovation and locks in the characteristics of future innovative supply, including the societal and economic price to be paid.

Because what cannot be started cannot be introduced, it is important to locate institutional sources of R&D and examine for what purpose and to whom these institutions distribute R&D.

INSTITUTIONAL R&D SOURCES

Most privately sponsored R&D is economically concentrated. In 1977, 624 of the largest companies spent $18 billion on R&D and recovered this amount of $921 billion sales to government and private consumers. They controlled about 90 per cent of all privately sponsored R&D.

The most concentrated source, however, is found in the U.S. Treasury and it is also the largest amount. In 1977, taxpayers paid $22 billion R&D. Thus the largest R&D institutional source, government, acts as a monopoly source of the United States' major share of start-up and development risk capital, and the second largest institutional source, industry, indicates high concentration.

FUNCTIONAL ALLOCATIONS OF FEDERAL R&D

Over half of federal R&D is allocated to start up and fully develop new weapons and space science "tools of research," such as the space shuttle. Centralized control is needed because Department of Defense and NASA innovation markets are generally monopsonistic; that is, these agencies usually act as single buyers and users of the innovations they have sponsored.

The nearly half that remains, however, represents the largest R&D growth market in today's economy. These federal R&D expenditures are allocated to start up and develop new product ideas to achieve national civilian goals, such as those for energy, transportation, and housing. A portion is also spent to determine precise technical standards to achieve national social goals, such as those for environment, health, and safety.

As one might expect, when new introductions are required to meet these new national civilian and social goals, Congress would turn to the agencies having most experience in high-technology innovations—to DoD, NASA, and the old Atomic Energy Commission—for advice, policies, and even assignment of their people to the new missions.

The fact that civil and social agencies do not consume what they innovate—nonfederal private and public buyers are consumers—seems to have made little difference in statutory and policy issuances as compared to those for DoD and NASA.

Centralized technology, program and risk capital planning, and nationalized risk-taking—all characteristics of both DoD and NASA innovation markets—cannot apply to widely separated and unique innovation markets created by new civilian national goals, for what may work well in Peoria, for example, may have little similarity to what is needed elsewhere, even though a common national civilian goal may be met by different approaches in all applications.

Also DoD and NASA policies applied to federal regulatory missions will tend to economically concentrate private innovative supply. A single technical standard arrived at outside of a competitive marketplace favors the economy-of-scale price advantages of large suppliers, inhibits the entry of new suppliers, and forces smaller suppliers to exit the market.

New policies which describe an appropriate role for government in nonfederal innovation markets must be conceived. This new role cannot be the same as that played by DoD and NASA in their monopsonistic innovation markets. The issue centers on nationalized control of R&D when the nonfederal consumer markets to be served are widely separated, diverse, and unique.

FEDERAL R. & D. PERFORMER DISTRIBUTIONS

Federal agencies plan to distribute about equal R&D to non-market and market innovative performers ($13 billion each, est. FY 1978).

Non-market innovative performers cannot be measured by the usual economic standards of profit, return on investment, or stock and bond market prices. They are represented by agency in-house laboratories, private not-for-profits, and private operators of nationalized facilities such as Western Electric's management of the Sandia Corp. There are about 40 other nationalized facilities operated by private organizations.

To put a dimension on non-market innovative performers, a 1977 congressional survey identified 779 federal laboratories with annual operating expenses of about $15 billion, some of which is contracted out and taken into account in the distribution shown above.

The planned R&D distribution indicates disregard for government's 20-year "make-or-buy" policy. Briefly, the policy (A–76) fosters the concept that government has no business being in business, that government should rely on private enterprise for the goods and services which it needs. In this context, innovative services are little different than window-washing services, or many other commonly understood services; they also can be either competitively "bought" or monopolistically "made" within federal agencies.

Are all non-market innovative services ones which industry is either unwilling or unable to supply? Recalling that monopoly in R&D monopolizes the characteristics of future innovative introductions, including price, asking and answering this question has extremely important relevance to the nature and efficiency of the nation's future economy.

FEDERAL START-UP CAPITAL

The meaning of start-up capital is approximately the same as "applied research" expenditure in government terminology, although the amounts reported do not include all that is needed to start up a new idea. In addition, and relevant to all government R&D reporting of agency in-house R&D expenditure, the true taxpayer cost to support inhouse activities is understated by at least 16 per cent by under-reporting taxpayer contributions to civil service retirement and insurance benefits.

With these caveats in mind, official government data show that agencies plan to distribute over 100 per cent more start-up capital to non-markets than to markets ($4.9 billion vs. $1.9 billion, est. FY 1978).

This distribution suggests that industry will finally develop, produce, and introduce mainly what non-markets have started and decided, and that the market entry of newer and smaller businesses will be inhibited by non-market retention of start-up capital which they need to enterprise new businesses and products. The distribution tends to inhibit innovative competition in the marketplace, narrow the supply and span of new technology introductions, and prohibit a small firm from growing to a large one based on competitive merit.

A PROCUREMENT TECHNICALITY

Along with non-markets, established federal contractors also receive federal start-up capital, but indirectly by a federal procurement technicality. About 10 per cent of industry's total independent R&D appears as price mark-ups in current federal sales.

The federal contractor distribution, however, is highly concentrated. Ninety-one of the largest defense suppliers out of a total DoD supply base of over 23,000 separate firms are annually audited and in 1976 were found to have received about $900 million of the estimated $1.4 billion total paid on all government procurement of about $70 billion.

The indirect supply of start-up capital to federal contractors institutionally connects to directly paid non-market start-up activities and moves industrial competitions downstream in the innovative process, to late design and early production phases. The cost to remain competitive until invisible innovative activities are broken out for visible procurement of follow-on activity is not affordable by enterprising individuals and small technical firms, so the connection, in effect, tends to concentrate future innovative supply.

TAX CODE INEQUALITIES

The tax code also tends to concentrate future innovative supply and foster more of a "product improvement" economy and less of a "private enterprise" economy.

Nobel prize-winning economist Friedrich Hayek has noted that the tax code inhibits competition within the private sector by favoring the savings of established corporations as compared to the savings of all others. It is individual, small firm, and corporate savings which constitute the largest start-up capital source for enterprising new businesses and products. The tax code, however, makes it relatively easy for corporations to accumulate savings for new idea start-up purposes and thus tends to protect their market positions from the challenges of newcomers.

But the tax code provides no relative incentive for established corporations to start up risky and novel ideas as compared to improving current production. This relative lack of tax incentive to undertake riskier product innovations motivates corporate avoidance of new ideas which may prematurely make obsolete current plant and equipment if undertaken.

The net outcome is that corporate organizations, whose savings are relatively benefited by the tax code, are less likely to employ savings for the introduction of new and novel ideas. Those that are more likely, enterprising individuals and small firms, are relatively less benefited, and product improvements are more likely to appear in the marketplace than new and novel products.

GOVERNMENT'S ROLES

The net policy caused by the interactions of several policies elevates the role of government to a principal actor in the industrial innovative process. Federal enterprise is supplanting private enterprise in the U.S. economy. Federal agencies, through centralized control over non-market economy start-up activities, increasingly decide what is to be innovated, how it is to be produced, and allocate nationalized risk capital to private innovative performers that other policies tend to economically concentrate.

Equalities in the distribution of innovation entitlements and opportunities to innovate are in decline and in the process of being supplanted by disconnected "distributive justice" administrative rules and procedures. These rules and procedures arbitrarily declare that some innovative performers are "more equal" than others and distribute innovation entitlements and opportunities accordingly. Enterprising individuals and small technical firms receive the least innovation entitlements and opportunities, and non-markets and federal contractors the most. All others are variously benefited depending on their relative wealth and federal contract sales base. The enabling statute for the Small Business Administration, or the procurement technicality favoring large federal contractors are examples of "distributive justice" rules, both contrary to the rule of law.

However, the ability to create new ideas has little correlation to the wealth of a creative individual or an innovating unit. And the opporunity to risk an innovation and financial benefits distributed by federal policy should be equal to all, regardles of relative wealth or federal contract sales base.

NET OUTCOME

With government unable to separate innovation markets in federal policy, combined with policies and practices which further unequal taxation on savings, a lack of incentive to undertake new and novel products as compared to product improvements, the supply of start-up capital for future federal business to current contractors but not others, and a practice which disregards government's "make-or-buy" policy applied to innovative services; the net, but unwritten, U.S. policy governing the private enterprise capitalistic economy could be written in the following way:

It is the policy of the United States to unequally distribute innovation entitlements and opportunities favoring those who have successfully innovated in the past and inhibiting competitive challenge by those who may successfully innovate in the future and, by such policy, to foster economic concentrations in the private sector, increases in nationalized risk-taking and ultimately nationalized industries and centralized economic planning.

This is the principal conclusion of the brief and space-limited analysis.

R&D Funds: For Government Use Only

(By D. G. Soergel)

Next year, government will spend $30 billion on research and development to start and develop what it thinks best for the nation. It doesn't plan to produce what it starts, because, since 1966, an administrative policy known as A–76 states, "It is government's general policy of relying on the private enterprise system to supply its needs." In short, government has no business being in business, or so one would think.

But in actual practice, the investment of $30 billion in R&D surely means that government is heavily in the business of enterprise, regardless of its stated policy.

Could federal enterprise be overtaking private enterprise in the U.S. economy? If so, what could this mean to the future of capitalism, the private ownership of capital?

WHO GETS THE FEDERAL MONEY?

Some information about $28 billion R&D obligated during 1979 helps answer these questions. Over half went to scientific and technical organizations that are not incentive-oriented, the so-called "non-profits," and the rest went to industry. Nonprofits are both privately and publicly administered. Those that are publicly administered are scientific and technical organizations within federal agencies. They all have one thing in common. All are chartered outside a capitalistic economy, that is all are not incentive-oriented to gain the reward for successful enterprise, the ownership of capital. Nor is it necessary for them to explore new product ideas which are competitive in the marketplace in order to stay in business.

Remarkably, the only count ever taken was in 1977 by a congressional committee. It located 779 federal laboratories and private nonprofits controlled by agencies, such as Los Alamos, Sandia, and Livermore Labs, the centroid of federal nuclear power enterprise for the past 30 years.

Basic research, the "search for nonapplied knowledge," is mainly performed by universities ($2.1 billion), but it is interesting that a total $5 billion was spent. This suggests they do a lot more than "search for knowledge," such as move ideas into enterprise within their own laboratories in hope of patent royalties and consulting contracts with industry. To some, enterprising activity may seem far from a common understanding of a university's principal role in society. Nevertheless, they annually "perform" about $3 billion of it using federal funds.

Most was spent by agency laboratories and technical centers to run their own internal operations and employ 66,000 scientists and engineers ($7 billion).

Of the overall $28 billion, about $7 billion could be loosely described as scarce "seed" capital to start up new ideas, the beginning of enterprise.

Nonprofits spent $5 billion of the $7 billion which suggests that they select ideas from both private and public sources and start up new products; some go further into prototype and engineering development, and, at a later time, transfer their designs to industry for final production. In effect, government uses industries' productive capital as a convenient "tool" to finish whatever it is agencies and "captured" nonprofit technical organizations have decided and started.

WHY SO MUCH FEDERAL ENTERPRISE?

Taxpayers had little choice for most of the $28 billion. About $18 billion was spent to develop new weapon and space systems—systems far too risky for private capital. The B–1 bomber cancellation comes to mind as an example.

Some may think $18 billion for these purposes is far too much—defense R. &. D. tends to "pump up" the arms race, so they say. Others may claim it is far too little in view of the Soviet threat. Whether "too much or too little" is strictly a matter for political debate because national security will always be a taxpayers' burden.

The real problem in the supply of weapon and space systems is Department of Defense (DOD) and National Aeronautics and Space Administration (NASA) management of R. & D. "seed" capital. It leaves much to be desired when one places the need for new weapon and space systems in context with private enterprise's role in supplying them. DOD and NASA policies protect the capital of long-established contractors from technology challenges by newcomers.

For example, space and weapon contractors include nontaxable costs in contract prices to prepare for and propose new defense and space business. These are "seed" capital payments not granted anyone else. More than $1 billion is recovered annually as a contract charge in the defense sales of a small number of the largest defense contractors. For this reason alone, defense and space R. & D. markets are best avoided if one has new technical enterprise in mind and must have "seed" capital to begin. It's a stacked deck from the outset.

About $10 billion in federal R&D was spent for civilian and social enterprise, such as nuclear power, transportation, health delivery systems, and social standards for environment and safety. From 1969 to 1979, civilian and social R&D rose from 20 percent of the federal R&D budget to about 40 percent. The rise suggests that defense and space R&D policies governing the distribution of federally supplied "seed" capital are also used by civil and regulatory agencies.

THE NEED FOR DIVERSITY AND COMPETITION

Apart from a serious threat to private enterprise, adoption of DOD's R&D policies and federalized control of "seed" capital are entirely out of place. Unlike DOD and NASA, civil and regulatory agencies don't purchase and use the products of their own R&D sponsorship; nonfederal private and public purchasers represent the consumer's marketplace.

These are private individuals, organizations, companies, and state and local governments. What is needed is diversity of choice and competition in supply, not a single or limited choice decided by bureaucracy. This may be appropriate for defense markets, but surely not for private and nonfederal public markets, where what one locality needs for public transportation, for example, is always different than what is needed by another. There has to be a better way to enterprise new products for nonfederal consumers than by the convenient route of defense policy and federalized control of "seed" capital.

The public's concern about environmental pollution and safety and health hazards caused by *laissez faire* private enterprise cannot be minimized. It is an important national problem and government does have a legitimate role in solving it. The issue cannot be should government intervene in private business affairs but when and how it should intervene.

The "when and how" can come from only two choices. Government could tell industry what it may or may not enterprise. It could coercively enforce its dictates by demanding compliance with rigid social standards and production of its partially completed designs. Or government could challenge private enterprise to meet national goals in the future. The first fosters federal enterprise, the second private enterprise, competition, and diversity in approach to common national goals. The problem is that no one knows what these national goals are, not even a federal agency.

THE IMPORTANCE OF GOALS

National goals, if the agencies would only get around to constructing them, should be publicized for the benefit of all private entrepreneurs throughout the country. They give freedom and competition in approach. Standards and partially completed designs, on the other hand, lock in a bureaucratic approach, are coercive in application, and tend to enhance the formation of industrial economic concentrations. It would be a good idea to inform the American people about the challenge and goals to "win the war," if the creative genius of American enterprise is to solve "the energy crisis, the moral equivalent of war." And goals are needed for new housing approaches, transportation, health delivery systems, and many others where government has legislatively intervened into private business affairs and markets. But goals alone are not all that is needed. An incentive is also needed which makes it at least as attractive to privately enterprise nationally needed innovations.

Suppose government paid accumulated, audited and private "seed" capital to successfully demonstrate an idea's promise of meeting well-advertised national goals. By this is meant a feasibility demonstration of some critical features of an idea, not a demonstration of a fully engineered and preproduced product. Failure to successfully demonstrate, as measured by goals, would mean loss of the "seed" capital.

What would federal payback of accumulated "seed" capital offer compared to usual commercial opportunities? It would offer a private "seed" capital investor a chance to quicky recover initial investments. And a public and successful feasibility demonstration would undoubtedly attract equity stock purchases for follow-on innovative work to full market introduction.

For example, under this arrangement, the inventor who recently demonstrated 74 miles per gallon auto performance could very likely have had his "seed" capital investment picked up by government. Is 74 mpg performance in the national interest? If so, what obligation does government have to encourage its introduction? Surely there is some obligation if one is to believe the "energy crisis is indeed the moral equivalent of war," a rationale for the establishment of the 20,000 employment at the Department of Energy. The "when" of intervention could come at the time of feasibiity demonstration, the "how" by direct federal payment of the initial "seed" investment.

No commercial opportunity presents a possibility of quick "seed" investment recovery. The product must run the full innovative cycle and become profitable in the marketplace before the investor knows whether money has been lost or financially gained. This could take years, sometimes more than a decade.

GETTING THE WORD AROUND

General publication of the national need and goals for new enterprise could be most effective through local business associations and Chambers of Commerce. No federal agency's staff could ever hope to duplicate the combined knowledge of such groups in locating our country's most important resources: its innovative and risk-taking individuals. And all would be given the same challenge and technical/economic background by distribution of identical data through local organizations. No individual or company, large or small, would have an "inside track" on future business which comes from national needs.

Institutionally, there are important gains. Instead of federalizing ideas according to agency internal decisions, the approach makes them private by broadcasting goals to the nations enterprising resource.

All would be presented with an equal opportunity to start up their ideas, regardless of employment location or economic status in society, and a firms size, profitability and familiarity with the complexities of federal contracting. This cannot mean that all who wish to enterprise their ideas do, in fact, find private "seed capital, or that all who do will be successful; only that all have an equal opportunity to try to be successful in the private supply of national needs.

THE THREAT TO LIBERTY

Individual liberty and economic freedom to enterprise are one and the same. They are inseparable, and if one goes, so goes the other. The freedom to engage in private enterprise—the means to the end of capitalism—is directly connected to the preservation of individual liberty. No other economic system fosters this important direct connection.

Unfortunately, America's ideal of individual liberty is seriously undermined by the alarming growth of federal enterprise. Government's policy "of reliance on private enterprise" is at best rhetorical and at worst a sham played on the American public.

The "public ownership of productive capital"—socialism—becomes enticing the more federal enterprise is allowed to dictate the private production of goods and services. Federal enterprise is the beginning of federal enterprise socialism with centralized economic planning in command and individual liberty in jeopardy. Admiral Rickover has suggested the transfer of shipbuilders' private capital to public ownership—under his autocratic control, of course. And recently the threat of nationalizing private oil companies has picked up some popular appeal.

All new ideas please some and displease others. The idea described in this article is no exception. While it has been conceived hopefully to motivate public goals to become private interests, and also foster competition, diversity and incentive-oriented decisions about new ideas and technologies, there is no question that it steps on many well-established "turfs" in both private and public sectors. But it might work better than current policy. Why not give it a try?●

● Mr. LUNDINE. Mr. Speaker, during the last decade the United States has experienced a worse record of improvement in productivity than any of our major international economic competitors. This declining productivity is one of the most serious problems facing our country today. It is an underlying cause for much of our country's economic malaise—sustained inflation, large trade deficits, and a sagging American dollar. Development of an overall national strategy for productivity improvement must be one of our top priorities as we enter a new decade.

Continuous innovation is an essential component to productivity growth. At least 40 percent of our post-World War II productivity growth has been due to innovation. There is evidence that our innovative capacity—our ability to take a novel idea, develop it, and bring it to commercialization—has weakened.

Unfortunately, improving our innovative capacity is not likely to be a simplistic task. Policy areas that are often mentioned as having a direct bearing on our capacity to innovate include tax policy, capital and credit policy, burdens of Government regulations, levels of research and development funding, Government procurement policy, and Government patent policy.

Still, I am not certain that any of us at this point have the necessary grasp of the intricacies of the innovative process that will enable us to design solutions to address the trouble spots. The recent reports of the Commerce Department's task force on innovation shed some light on this subject and are an important first step; but certainly a great deal more dialog in this area is needed. We need to develop a set of policies that will make companies not now innovating do so. As such, it is important that we address ourselves to all types of businesses—high-technology businesses that are innovating in the current environment, small businesses that have a great potential to innovate and create new jobs and other opportunities, and marginal businesses that are concerned about their future competitiveness and are disinclined to innovate.

Many large businesses seem reluctant to embark on innovative projects because of lack of investment capital and a costly and uncertain regulatory environment. As important, these and other factors related to Government actions have created an adversary type relationship between the Federal Government and private sector which hinders productivity improvement. Instead, to insure adequate return on investment, these businesses are more and more content to take a short-term planning outlook that will insure high, immediate returns on investment. This serves to dampen the competitive spirit in the private sector and creates opportunities for international competitors to capture traditional domestic markets.

Labor, sharing some of the fears of management concerned with business outlook and maintenance of job levels and benefits, is also reluctant to internally advocate adoption of a business plan emphasizing technical change that will require some level of worker mobility adjustment. Productivity improvement and innovation, in the long term, will create jobs and help stabilize the economy by opening up new businesses at home and maintaining a competitive advantage abroad.

Since coming to Congress, I have advocated Federal support for creation of labor-management committees to help foster a higher level of collaboration between labor and management. Experience I gained when I was mayor of Jamestown working with our local labor-management committee and examining similar efforts across the country demonstrate the positive impact this approach can have on improving productivity.

When speaking of innovation, it is important to recognize the important role small business has traditionally played in the innovation process. The bulk of inventions and greatest number of new jobs have been created as a result of work done by small business people and enterprising entrepreneurs. Today, small businesses are experiencing a critical gap in available venture capital in the formative stages of the innovation process. Private venture capital is rarely available and bureaucratic complexities and delays have made Government assistance a frustrating experience. Actions aimed at improving capital availability and insuring that small businesses have adequate access to Government procurement opportunities are essential to improving the innovative process.

As our society has grown more complex, with the creation of additional regulatory burdens, fewer resources have been available to expend on patenting an invention. Government patent policy is one area where policy changes can result in additional incentive. Proposals before the Congress to make patent rights available to contractors working with Federal research and development dollars and to provide for more rapid depreciation of costs related to patent procedures should be given serious consideration.

Fundamentally, I do not believe the United States has lost its innovative spirit that has enabled us to maintain our preeminent economic position in the world. However, I am convinced that deliberative, coordinated actions must be taken by Congress and the administration to remove disincentives to innovators and to help provide a framework that will help us manage our inventions better. Furthermore, actions to improve our innovative capacity must be part of an overall strategy to improve our sagging productivity performance. I urge my colleagues to give this issue top priority consideration in the months ahead.●

● Mr. BALDUS. Mr. Speaker, it is a pleasure for me to join my colleagues in the House in this special order focusing attention on the importance of innovation in our economy.

I have long felt that small businesses hold the key to innovation. When I served as chairman of the House Small Business Subcommittee on Energy, Environment, Safety, and Research in the last Congress, the point was repeatedly made that small businesses are the chief innovators and job creators. Study after study shows that, contrary to the popular misconception, big businesses, universities and Government laboratories do not produce the majority of new technology. A recent survey by the National Science Foundation shows that small firms produce about four times as many innovations per research and development dollar as medium-sized firms and about 24 times as many innovations as the largest firms.

Considering all this, you might expect that small businesses are being given a high priority by the Federal Government in affecting economic policies. Unfortunately, the reverse is true. Therefore, it is evident to me that Government policies and regulations must be changed to help stimulate small business provide even more of the innovations that have helped this Nation become a technological power.

I was particularly impressed by the administration's announcement in November that it was proposing a series of legislative and administrative actions aimed at encouraging innovation. These steps, along with initiatives I and other Members have taken, hopefully can provide the necessary stimulus for increasing productivity and capital formation in our country.

One of the proposals I have advocated would encourage investment in small businesses and require the Small Business Administration to provide management assistance to small research and development firms to help them receive a more equitable share of available Federal dollars for this purpose. Another feature of the legislation would set goals so that eventually 20 percent of prime contract research and development dollars would go to small firms. Currently, less than 4 percent of Federal research and development contract funds go to the Nation's small businesses.

And even more importantly, because of our energy crisis, is the need for the Department of Energy to provide alternative energy and solar research and development money to small business. A GAO report made at my request questioned the effectiveness of DOE's efforts to encourage small business solar research and development contracting. For example, in fiscal year 1978 only 5 percent of solar research and development money was awarded to small business, and in the first half of fiscal year 1979 an astonishingly low 0.7 percent of the funds went to small business. Solar energy represents an opportunity to decrease our dependence on high-priced foreign oil, and yet the Department of Energy has failed to turn to the proven innovative leader, small business, to provide the needed research and development. I would hope that DOE will soon make a concerted effort to increase small business participation in research and development.

As an example, I would cite a small business in my district in western Wisconsin manufacturing high quality solar panels for existing homes. The price for these panels is less than one-half of the amount that big businesses in this field are charging. The demand is so great for the panels made by this small business that the owners are only able to fill about 10 percent of its orders. The owners hope to expand the operation utilizing Federal funds and eventually would like to offer classes to train people to install these panels.

This is the kind of innovative and job-creating business that we need to encourage and develop. It is clear to me that the sooner we have more small businesses participating in the development and distribution of unusual energy-saving products, the better off we will be.●

● Mr. FLORIO. Mr. Speaker, as we enter the eighth decade of this century, the greatest homage we can pay to truth is to recognize that American technological supremacy has ebbed. Explanations for our economic decline and diminishing role as a technological superpower vary. Nevertheless, a consensus seems to prevail here among our colleagues in both the House and Senate. A new surge of inventiveness, and increased productivity throughout the broad spectrum of American enterprise, could reverse the flow of the tide.

Who, among us, can dispute that a new climate, created to foster and stimulate industrial innovation, is an imperative need?

Mr. Speaker, as all of us are aware, industrial innovation is not a newly emerging concern of the U.S. Congress. The House Small Business Oversight Subcommittee has been conducting hearings on the entire concept of innovation and productivity on a regular basis for the past 3 years. The Senate's review of technology policy over a period of approximately 1½ years was embodied in Senator STEVENSON's noteworthy bill, S. 1250, the National Technology Innovation Act of 1979, introduced last May.

But, it was only recently when the President made a personal commitment, and pledged the support of his administration to revitalizing the Nation's industrial base, that national attention focused upon innovation.

On October 31, when the President sent to the Congress his Domestic Policy Review on Innovation, a new track record for accelerated congressional action was established. Indeed, within an hour of the White House press conference announcing the administration's nine initiatives, an unprecedented quadrilateral congressional hearing was underway.

As amazing as a quadrilateral session seemed to me at that time, in retrospect, Mr. Speaker, it should not be surprising to any of us that the Senate Commerce Committee, the Senate and House Small Business Committees, and the House Committee on Science and Technology would move swiftly to hear testimony on the President's Domestic Policy Review on Innovation. The President's pronouncement was:

> It represents the most wide-ranging initiative ever made to spur initiative and innovation to unleash America's creative genius.

The President has proposed revisions in patent, antitrust and regulation policies, in addition to six other measures to reverse a widely perceived lag in the capacity of American business to exploit technological innovation. These concepts are compatible with S. 1250, the National Technology Innovation Act of 1979. However, emphatic and frequently recurring references were made by committee chairman, and members, during the hearings that the most essential component—tax incentives—to encourage industry to spend more on research and development, was a glaring omission. The President has rejected, for the present, and with no definite commitment for consideration in the future, an administration study panel's recommendation to seek tax incentives.

The transcript of the hearings attributes to Senator STEVENSON the following comment:

> An innovation program circumscribed in vision and nutured in a climate of retrenchment is unlikely to produce a bold basis for a national industrial policy. Such a policy, it seems to me, demands an ungentle review of tax codes and monetary instruments, export promotion and adjustment assistance . . . it requires resistance to the pressures for protection for low growth industries from competition and natural adjustments . . . it requires an assessment of traditional attitudes about the relationship between government and industry, and assistance for high-growth industry.

Our colleague, JOHN LAFALCE, as chairman of the Small Business Oversight Subcommittee pointed out that "the various task forces which have focused on the innovation process have all noted the need for tax stimuli."

For the record, Mr. Speaker, both of these esteemed legislators refrained from resurrecting the President's 1976 campaign assertion that our Nation's tax structure was "a disgrace to the human race."

In her last appearance at a congressional hearing, before relinquishing the reins as Secretary of Commerce, Mrs. Kreps' testimony contained a parting message no Member of Congress can afford to take lightly. Since reports of the hearings are not likely to be off the press and available until sometime early next year, I would like to share with my colleagues an excerpt from her provocative comments:

> . . . It is difficult to overstate the prevasive importance of industrial innovation to our economy and our society. In the long run, innovation determines the growth and strength of our economy, the ability of our Nation to provide for human needs and individual wants, and the quality of life for our people. It determines the range, quality and price of the goods and services we produce and thereby the vitality and world competitiveness of our industry.
>
> Innovation is also critical to the attainment of important National goals—improving the quality of health care, conserving and using efficiently our national resources, reducing our dependence on nonrenewable sources of energy, assuring the defense of our Nation, and advancing the living conditions of our people.
>
> By promoting the strength of our economy through innovation, we dampen inflation, we enhance our balance of trade, we create jobs.
>
> The strength of our Nation, the faith in our ability as a people to solve problems, are premised on our scientific, technological and industrial preeminence.

Mr. Speaker, in reviewing Mrs. Kreps' testimony, and the President's October 31 press release on his industrial innovation initiatives, a compelling question comes to my mind.

If, as Mrs. Kreps' avers, there is such a strong correlation between innovation and solutions to our Nation's most pressing problems, should we, as Members of Congress, hesitate to make innovation a priority during the second session next year? From my perspective—and it is one shared by so many of my colleagues—I do not believe we can afford the consequences of delay in doing whatever needs to be done.

The administration has committed a total of $55 million in fiscal year 1980 to launch the innovation program. This is a first forward step in establishing a supportive climate. Several of the nine initiatives, such as clarification of antitrust policy, opening Federal procurement to innovation, and improving our regulatory process do not require new funds.

As the program proceeds, we will find ways and means to enhance its potential. With 535 reservoirs of creativity in the U.S. Congress, Mr. Speaker, I harbor no doubts that we are equal to the challenge.●

Mr. LEWIS. Mr. Speaker, at a time when the rate of productivity growth in the United States lags behind most of our competitors in the world economy, and our country is suffering from unemployment, inflation and a large negative balance of payments, it is imperative that we encourage productivity in our Nation's most productive sector, that of small business.

Small businesses create the vast majority of new jobs in our Nation. In fact, studies show that of the major innovations introduced into the marketplace in the past 25 years, small firms were found to produce about 24 times more per R. & D. dollar than large firms, and 4 times as many as medium-sized firms. In this time of fiscal austerity, it is necessary that the Congress realize this and spend its money in the most productive manner.

One of my concerns has been this body's apparent lack of assertiveness in setting criteria for Federal Agencies. Our rules and authorizations have been too lax, especially in the area of small business. The agencies know small business is more cost efficient and has a greater per dollar rate of productivity than large firms. However, they continually show a lack of confidence in small firms' ability to produce, by awarding their money to the less effective larger firms. This is not to downgrade the importance of the large company, but it is essential that my colleagues realize the important role played by small business.

It is time we let the agencies know that the Congress is concerned how our tax dollars are allocated and that we want the most from every R. & D. dollar that is spent.

I have sponsored legislation which will be a meaningful step toward achieving this goal, H.R. 5330. The Small Business Innovation Research Act will strengthen technological innovation and in turn, promote increased productivity in our Nation's economy. I urge my colleagues to join me in supporting this legislation.●

● Mr. NELSON. Mr. Speaker, I want to thank my colleagues, Mr. MOORE, Mr. AMBRO, and Mr. AUCOIN for reserving this bloc of time for a colloquy on such an important topic.

As a member of the Task Force on Industrial Innovation, I have become increasingly aware of this Nation's technological innovation lag which seems to be growing at a rapid pace in recent years. This Congress has the opportunity to fight our overriding problem of inflation by doing all in its power to encourage innovation and productivity. To attack inflation, we will have to spur innovation and create employment; we will have to stimulate productivity and regain our competitive edge in the world trade market.

Historically, the growth of American productivity has been rapid by any standards during most of the postwar period. About a decade ago, the rate began to slacken. Until the recession of 1974, this slackening was not particularly alarming. Although nearly all advanced countries enjoyed larger rates of growth in postwar years, most of these countries have experienced some retardation in the growth of productivity since 1973.

In answer to many of the charges that innovation and productivity must be further encouraged, this week the Brookings Institution published "Accounting for Slower Economic Growth" to investigate the causes contributing to the decline in the growth rate of productivity and innovation. This study by Edward F. Denison delves into myriad reasons for this decline, such as the shift of employment to service industries, the reduction in R. & D. expenditures, the decline of yankee ingenuity, Government regulation and taxation, and the rise in energy prices. Although Denison suggests that each of these has contributed only minimally to the over-all problem, the total has considerable impact.

This gives us the opportunity to make incremental improvements in each piece of legislation that we introduce. From this time forward, we should consider the innovative and productivity impact of each bill that we introduce. I am cosponsoring several pieces of legislation that I feel will work toward improved productivity and innovation. Bills such as H.R. 4646, the Capital Recovery Act, and H.R. 5607, the Small Business Innovation Act, will encourage business to invest their profits in research and development and in plant and equipment expansion. I believe that if we can encourage investment into production capacity and can decrease Government intervention, our free enterprise system will be able to take over from there.●

● Mr. HOLLENBECK. Mr. Speaker, I welcome this opportunity to speak on the terribly important subject of innovation and productivity and congratulate the members of the task force on innovation, Congressman AUCOIN, Chairman BROWN, and others for their initiatives in getting this effort going. Today's colloquy is the first important step in raising the consciousness of the Congress and the public on this important subject. Unfortunately, I have to agree with a speaker the other day at the National Academy of Engineering's workshop on industrial innovation the subject of innovation is definitely not foremost in the Congress attention. It is, as the speaker said, a "category B" issue. This situation must change because over the long run innovation in our economy and in our society is a prerequisite to providing a rich and rewarding life for our people through this rapidly changing era.

Mr. Speaker, we hear a great deal about how American productivity is declining. And it is true that the growth in output per working hour has declined nearly 30 percent in the United States from 3.5 per year in the 1960's to 2.4 percent in the 1970's. But what does this mean? It may simply result because we already have reached a very high standard of living and that beyond a certain point it becomes more and more difficult to bring about marginal increases in productivity? There is good evidence to believe so. All other countries which are industrialized, including the much vaunted Japanese and Germans, have also experienced declines in productivity growth. Most dramatically, Japan declined from a 11 percent annual rate to a 4.5 annual rate between the decade of the 1960's and the 1970's.

Others have blamed lower investments in R. & D. for declining productivity in this country and for the declining rate in productivity. However, the United States spends more on R. & D. than the United Kingdom, France, West Germany, and Japan combined. So it is not obvious that our declining productivity stems from declining research expenditures even though estimates made by Robert Solow of MIT and others who said that about half of the growth of U.S. productivity is itself the result of advances of scientific knowledge.

Of course, innovation is not simply research and development. Innovation implies actually getting the results of research out into the economy and that is a long-term process at least as long as the research itself. There are indications that in fact it is the transition from the laboratory to the economy which is not occurring. I might add, however, perfectly valid reasons for scientific research rather than the immediate practical benefit. Not the least of these is the greater understanding of the world around us, which opens our eyes and minds and makes us receptive to the possibility of new inventions by creating new wants which years later may be satisfied by new technology.

Nevertheless, whatever the cause for declining U.S. productivity, our balance-of-payments problem which some believe stems from a lack of innovation is dominated by our imbalance in imports in energy and material. In fact, over the past decade, U.S. exports of innovative high technology items has grown dramatically and are now some five times what they were in the early 1960's. This seems to suggest that innovation by itself will not solve our balance-of-payments problems, but it must be coupled with the national solution of energy and materials shortages.

Mr. Speaker, from what I have just said, it is evident that we need to come to a greater understanding of the causes of declining productivity. We cannot expect a simple fix; we must recognize that there will be no single solution. Rather, we are going through a readjustment to a new style of economy, one dominated by services, but also one where, in terms of consumption of goods, we are perhaps leveling off simply due to restraints of world resources. This, of course, does not require a decline in the quality of our life because for a long time we have been shifting from manufacturing to services and thus the latter being hard to increase productivity. By definition, services imply personal attention and that is hard to make "efficient."

With these general thoughts as background, I will discuss a few issues which I believe are important and upon which I intend to act in the area of innovation and productivity.

First, Federal Patent Policy. I have joined my colleague Alan Ertel in cosponsoring H.R. 5715, the Uniform Federal Research and Development Utilization Act of 1979. It is shocking that the utilization of the rate of Federal patents is up around 1 percent whereas in private industry that rate is up around 20 to 30 percent. In part, this results from the fact that patents from federally sponsored R. & D. are virtually useless as a proprietary item. They do not grant somebody, who is willing to sink the capital for developing an invention, the exclusive right to produce and market that invention. In fact, testimony before our subcommittee has indicated that the real bucks flow into developing a product not into inventing it or conducting research. H.R. 5715, in contrast to the administration's proposal, would grant to all performers of Federal research and development, the title to any invention which they may make under Federal sponsorship.

I realize that some will object to allowing personal gain from the results of publically funded research, but the fact is that no one is gaining under the current system. It is far more important to get these research results used. However, H.R. 5715 does provide for a payback. If an invention growing out of Federal research funds makes a profit, the Federal Government at least recoups its investment. One other feature which should be pointed out about this bill is that it grants title—not simply an exclusive license to the inventor. For the purposes of raising capital to finance the development and production of an invention, it is important that the inventor have actual title to the invention. In addition, by granting title and having a uniform policy across all Federal agencies, we eliminate an enormous amount of bureaucratic paperwork as well as negotiating time in the application of new inventions. And timing is crtical—because very often marketability of a new product depends upon the timing of its entrance of the market. A year's time lost because you are negotiating with a contract officer in a Federal agency on the terms of a license can mean the difference between economic success and failure. For this reason, I commend Mr. Ertel for introducing this bill and I hope that the Congress will act upon it in the coming session.

Second, I would note that recently the House overwhelmingly passed H.R. 2743, the Materials Policy Research and Development Act. I am very proud of this bill which mandates the President to deliver within 1 year a comprehensive national program for materials research and development. I hope that the Senate will act on this bill with all due speed so that we can meet the research and development needs which are becoming increasingly evident in many areas of materials production, processing and supply. For example, we must develop and implement and employ substitutes for chrome wherever possible, although complete substitution will never be possible. I mention this because I believe we should reduce our dependence on oppressive governments such as Rhodesia, South Africa to the maximum extent possible. In addition to our political ideals, on a purely practical level, if we do not begin to recognize the move toward independence and equality in those countries, we may well find ourselves cut out of vital materials products at a later date. There are potential methods for reducing annual consumption by approximately two-thirds according to the National Academy of Sciences. But to achieve this requires research and then sustained industrial innovation in all uses of materials such as chrome, platinum and cobalt.

I should also draw attention to the fact that the Materials Policy Research and Development Act stipulates that it is the policy of the United States to promote industrial innovation in materials and materials technologies. Specifically, we must take steps to see that the results of the research are applied in actual practice.

Thus, it is fully the understanding of our committee and the floor managers that the programs which the President is mandated to submit also deal with all measures of all types which will foster industrial innovation. I hope the President responds imaginatively to the challenge.

I am proud to have worked with my colleagues on this bill and I hope that we will soon see passage of this important legislation.

It has been pointed out in a recent study by the MIT, program on neighborhood and regional change, that up to 80 percent of all new jobs created in the last decade have grown out of young small businesses. Furthermore, roughly 50 percent of the major product innovations have originated in small businesses. Thus it is very important that we do everything possible to insure that Federal policies do not discriminate but rather enhance the ability of small businesses to thrive and prosper. In this connection, I would note that there has been an alarming decline in the introduction of new public stock offerings by small businesses. This situation has been somewhat reversed by recent reductions in capital gains taxes, but only partially so—we have a long way to go.

Testimony to us indicates that there is a real problem in raising capital to support the introduction of innovations. The U.S. savings rate is among the lowest of all industrialized nations. As a matter of fact, the capital investment as a percentage of output in the United States was only 14.6 percent from 1970 to 1976 which is lower than any other nation. In Japan the percentage was 27 percent for the corresponding period.

Many people have proposed the introduction of various tax credits, tax deductions and other financial incentives to stimulate capital investment, particularly in high risk young new corporations. Others have criticized the investment policies of pension funds for being too conservative. I hope that pension investment policies can be changed. We all know the classic example of the widow during the depression who had General Electric stocks while her children were forced under court order to invest their inherited funds in "prudent" bank stocks of the period. The widow who had the investment in GE at that time is the only person who has any money now. I simply use this example to illustrate the point that ultimately the safest investment is an investment in innovation which anticipates future needs and which does not simply shore up geriatric firms, such as the Chrysler Corp., at a time when we have so many new and unmet needs.

Mr. Speaker, on the subject of possible tax breaks to stimulate greater capital investment, I could not at this moment give a precise formula for a desirable approach; nevertheless, I think one important principle should be considered. I do not directly favor a tax break to stimulate industrial innovation, although I certainly support the aims behind it, because tax credits and deductions would be administered under current techniques by the Internal Revenue Service. The purpose of the Internal Revenue Service is to collect revenue, not to give it out. Therefore, I would strongly urge that if the Congress mandates a program which works through the income tax system—which I would recommend—then we should authorize the mission agency whose programs most nearly coincide with the goals of any given tax break to write the guidelines and regulations. For example, if we want a tax deduction for solar energy or a tax deduction for capital equipment in small businesses, we should have the guidelines and regulations for these programs defined by the Department of Energy by the Small Business Administration respectively, not by the Internal Revenue Service.

Mr. Speaker, we must always ask ourselves why we want to have innovation. In my mind, the forces of innovation must be directed by the satisfaction of socially desirable ends. Innovation to produce a colored toothpaste, is not to my mind a worthwhile diversion of public resources. On the other hand, innovation to stimulate the introduction of energy conservation measures or to capitalize solar energy is highly worthwhile and should be supported. More generally, we should couple the thrust of any innovative measures to the solution of national problems.

Having decided what national goals we wish to pursue, we must find a better way to bring more of the reward that society reaps from an innovation back to the person who is out on the cutting edge. Let me illustrate: Historical evidence seems to indicate that of the total return from an innovation, the inventor receives about one-half of the profits. Society receives the other half. It seems to me that we should develop techniques to permit a greater return of the social profits to the individual who is willing to take a risk and introduce an innovation. For instance, a man who puts $2,000 of insulation in his house in some small way reduces pressure on world oil prices. Thus, he makes it easier for his neighbor who may not have put a penny into saving energy. Should not the man who made the insulation investment receive some of his neighbor's profit? This type of problem occurs again, again and again.

In effect, the social profit is profit returned to the original innovator's competitor. It seems hardly fair that a company which has introduced an invention should in effect be financing its own demise over the long run. At the same time, however, society contributes a great deal to the support and the conditions under which it is possible to innovate at all. If nothing else, society provides an individual with his education. So society also deserves to receive some of the profit which returns from innovation. What is the right mix? I don't know, but I think we should study very carefully whether the right proportion is occurring so as to stimulate the introduction of innovations consistent with national goals.

Mr. Speaker, I will conclude simply by observing that the process of reinvigorating our national economy is going to be a generation-long problem; I have tried to make this point time and time again in my support of bills on long range materials and energy policy. We must not scatter our resources. We cannot move willy-nilly in response to each passing crisis. We must begin to chart a much longer range flexible program which is built upon proper synchronizing of our public policies with the very process of technological change over a full generation—in energy, materials and in all facets of economic activity. At the same time, in order to meet short term shortages and disruptions, programs such as materials and energy stockpiles, are necessary. These can be used to blunt momentary shortages.

At present, we have virtually none of the elements of this systematic approach in place. The keysone in my mind of the problem of innovation and productivity is one of understanding and managing technological change toward improving the quality of human life. Not only for ourselves but for people everywhere in every land, now and in the future. If we do not recognize the demands for equity and justice in this process of economic change and development, then we shall not reap its benefits. If we do recognize and peacefully assist other nations in their struggle for freedom from want and from authoritarian governments, we shall all receive a handsome profit.●

A BILL TO IMPROVE THE QUALITY OF LIFE OF HANDICAPPED AND DISABLED CHILDREN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. Courter) is recognized for 10 minutes.

● Mr. COURTER. Mr. Speaker, the bill I am introducing today is an amendment to the Social Security Act. Its purpose is to make it possible to allow children to remain at home and receive medical care without having to be institutionalized in order to get supplemental security income (SSI).

At the present time the income and resources of the parents are attributed to children in determining eligibility for SSI. If a child is institutionalized for at least 1 calendar month, his parents' income is no longer used to determine eligibility. Once a child is allowed SSI, he becomes eligible for medicaid which covers all medical expenses. Unfortunately, a child can receive those benefits only if he is institutionalized because often the parents' income and resources render the child ineligible when he is living at home. Yet a problem that arises in many cases where a child can live at home is that the parents' income cannot be stretched to pay the cost of medical bills. I might also add that the bill does provide for regulations determined by the Secretary to exclude those children whose families can realistically afford home care. Such a provision will insure that SSI and Medicare will not be allowed to individuals who are financially able to pay for needed medical care.

As an example of the inadequacies of our present eligibility requirements, I will describe the case of a family in my district. Paul and Patricia Leymeister became the parents of a baby boy, Paul-Matthew, over 1 year ago. Shortly after his birth Paul-Matthew developed hydroencephelitis, meningitis, and other problems. He has spent most of his short life in and out of institutions, but only once for an entire calendar month. Since he spent only that 1 calendar month in an institution he was found eligible for only 1 month of SSI and medicaid benefits. Paul Leymeister is a laborer for a township road department and makes approximately $12,000 a year. Obviously that income is inadequate to meet ordinary living expenses plus the medical bills of the baby. I would like to quote to you from a letter I received from the Leyeisters.

> If parents could receive benefits to help in keeping their handicapped children home, when possible, it would cut taxes, empty institutions and most importantly help the children lead as normal lives as they possibly can. I don't know what we will do without the SSI and Medicaid benefits.

I have done some arithmetic with the help of the Department of Health, Education, and Welfare and the Congressional Budget Office which clearly demonstrates the benefit and logic to this legislation. To institutionalize Paul-Matthew in an institution recommended by his physician it would cost the Government approximately $56,000 a year. If Paul-Matthew would be allowed to live at home and receive SSI and medicaid benefits it would likely cost about $4,000 a year. The difference is $52,000 a year in his case which is particularly severe. When one looks at the overall picture, there are about 20,000 children in medicaid reimbursable institutions. It costs approximately $20,000 a year to institutionalize a child in a long-term care facility. The average yearly SSI and medicaid payment for disabled recipients is about $4,000. If only half of the 20,000 institutionalized children could be cared for at home, the savings would be approximately $165 million a year. The bill I have introduced provides a savings in public funds and more importantly gives each one of those children in an institution the opportunity to be in an atmosphere which may make a tremendous difference in the quality of their lives.

I hope you will join me in cosponsoring this bill.●

QUALIFIED PENSION PLAN RULES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. Ullman) is recognized for 5 minutes.

● Mr. ULLMAN. Mr. Speaker, the qualified pension plan rules of the Tax Code provide significant tax incentives to encourage the formation of pension plans that do not discriminate in favor of employees who are officers, shareholders, or highly compensated. These incentives include deferral of tax on plan benefits, favorable taxation of benefits, and exclusion of benefits from estate and gift tax. Also, employer contributions to a qualified plan are deductible—within limits—in the year for which the contributions are made.

In a case decided recently by the Tax Court, *Kiddie* (69 T.C. 1055) separate corporations were established by two professionals. Each professional was the sole employee and sole shareholder of his own corporation. The professional corporations formed a partnership and the partnership employed staff. One of the corporations, Kiddie, Inc., set up a pension plan for its only employee and claimed a deduction for a contribution to the plan. There was no comparable plan for the employees of the partnership. The Internal Revenue Service disallowed the deduction, contending that the employees of the partnership should be considered together with the employee of the professional corporation in testing the corporation's plan for discrimination and that the plan failed to satisfy the discrimination test. The Tax Court found no rule which would aggregate the partnership employees with the corporate employee for pension purposes.

Accordingly, the Tax Court found the plan qualified and allowed the deduction. Since Kiddie, the Tax Court decided a similar case, *Garland* (73 T.C. —, No. 2) with a similar result.

I am concerned that if the Kiddie and Garland cases become an accepted part of the pension law, the intent of the Congress in providing tax incentives for qualified plans that benefit rank-and-file workers will be frustrated. The bill I am introducing today, together with Mr. Rostenkowski and Mr. Conable, is designed to stop this abuse before it becomes widespread. Under the bill, in testing whether a pension, profit sharing, or stock bonus plan meets specified requirements relating to tax-qualified plans, employees of a professional organization and an adjunct professional organization—for example, the professional corporations and their partnership in the Kiddie case—would be treated as if they were employed by the same employer.

The rules affected by the bill include

plan qualification requirements relating to discrimination, eligibility for plan participation, vesting, and limits on contributions and benefits. The bill also provides for coordination of the new rules with pension rules relating to funding of plans and employer deductions for plan contributions. The bill authorizes the Secretary of the Treasury to prescribe regulations necessary to prevent abuse of the specified provisions with respect to professional organizations through the use of separate corporations, partnerships, or other organizations.

The bill applies where: First, a professional organization regularly uses the services of the adjunct professional organization or is regularly associated with the adjunct organization in performing professional services for others; second, one or more of the professionals (or one or more owners of the professional organization) owns an interest in the adjunct organization; and third, such individuals, as a group, own at least 25 percent at the adjunct organization.

For plans not in existence on December 13, 1979, the bill would apply for plan years ending on or after December 13, 1979. For plans in existence on December 13, 1979, the bill would apply for plan years beginning after December 13, 1979.●

ECONOMIC OPPORTUNITY ACT OF 1964

(Mr. PERKINS asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. PERKINS. Mr. Speaker, my colleague, Ike Andrews, and I are introducing a weatherization bill which would amend the Economic Opportunity Act of 1964 by establishing a comprehensive energy conservation services program designed to enable low-income individuals, particularly low-income elderly persons, and severely handicapped individuals, to participate in energy assistance programs.

This bill revises section 222(a)(5) of the Economic Opportunity Act which authorizes low-income emergency energy conservation services with respect to the following programs: weatherization; crisis intervention; outreach activities; energy conservation education; alternative technological developments; and energy audits. The new title XI—comprehensive energy conservation services program—is established in the Economic Opportunity Act under which these various energy-related programs will be conducted.

This bill makes more explicit the authority for the Community Services Administration to conduct a low-income weatherization program although it does not affect the Department of Energy's authorization to conduct its low-income weatherization program. The bill resolves, however, many of DOE's problems. For example, it allows weatherization funds to be used to pay for labor costs.

The program is authorized for 3 fiscal years, 1981 through 1983. $750,000,000 is allotted for fiscal year 1981; $1,000,000,000 for fiscal year 1982; and $1,200,000,000 for fiscal year 1983. Grants will be provided to the States for weatherization of homes. Each State must submit a 3-year plan which would be updated yearly.

Title XI also clarifies the crisis intervention program. Energy crisis intervention projects which are presently authorized by law but are revised and made more explicit in this bill, supplement energy assistance payments by providing temporary assistance—such as blankets—in times of energy-related crisis. Such sums as necessary are authorized for fiscal years 1981 through 1983 for the crisis intervention program under part B of this bill.

The formula for allocations to States prescribed for both weatherization and crisis intervention is as follows: One-third of the funds will be allotted on the basis of the number of heating degree days weighted by the population of the State; one-third of the funds will be allotted on the basis of the relative number of families whose income equals or is lower than the 100 percent of the OMB poverty line; one-third of the funds will be allotted on the basis of the relative number of individuals who are 60 years of age or older.

Finally, the bill revises existing authority for energy conservation education, alternative technological development; energy audit; energy conservation research and demonstration and pilot projects; and other energy-related activities, and $10 million is authorized for fiscal year 1981 and for each succeeding fiscal year ending before October 1, 1963.

Some distinct provisions of this bill are worth noting at this time. This bill gives priority in determining eligibility for assistance to three groups of individuals: low-income persons whose income is equal to or less than 100 percent of the OMB poverty guideline; persons over the age of 60 whose income is equal to or less than 150 percent of the OMB poverty guideline; and severely handicapped individuals without regard to income level. Because of poverty or severely handicapped conditions, these persons would have the most difficult time in weatherizing their homes.

Also, this bill would utilize to the extent feasible, older persons, who are eligible to receive assistance under title V of the Older Americans Act of 1965, as employees to conduct weatherization projects.

Mr. Speaker, both Congress and the administration have recognized a need for a comprehensive energy plan for this country. A comprehensive weatherization program such as the one set forth in this bill is an essential component of any long-term strategy which seeks to help individuals reduce consumption of energy. Energy-conserving weatherization activities benefit not only those individuals who are eligible for assistance under this bill, but also benefit the Nation as energy consumption and foreign dependence on oil are reduced. Conservation and reduction of consumption of energy is possible for our country, but not all individuals can afford to conduct weatherization activities. This is why my colleague and I firmly believe that the Federal Government must commit itself to a comprehensive weatherization program so that our conservation goals can be achieved.●

PEACE THROUGH STRENGTH

(Mr. DEVINE asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. DEVINE. Mr. Speaker, I want to compliment the President for his new defense stance, proposing increases in the future.

At a time when a consensus is emerging across the Nation that we must have stronger defenses to protect our national interests and safeguard our embassies and diplomats, it is worth noting once again how the Carter administration finally recognized how it has erred in defense procurement decisions until now.

In June 1977 President Carter canceled production of the B-1 intercontinental missile. The administration claimed that our existing obsolete B-52's and existing commercial aircraft could be used to launch standoff cruise missiles.

More evidence is emerging that killing the B-1 project was foolish. The current issue of Aviation Week and Space Technology reports that existing transport planes are unsuited to carry the cruise missile.

As a result, the Air Force is being compelled to focus again on the B-1 as a primary cruise missile launcher.

Mr. Speaker, it is clear that the misguided B-1 decision is another example of amateurism in White House decision-making. It has harmed the Nation and our defenses.

AERONAUTICAL ENGINEERING—B-1 STUDIED AS CRUISE MISSILE CARRIER

(By Robert R. Ropelewski)

Los Angeles.—U.S. Air Force is preparing to evaluate the Rockwell International B-1 bomber as a potential cruise missile carrier aircraft following an Air Force determination that existing commercial transport aircraft could not be adapted suitably to the strategic air-launched cruise missile (ALCM) launcher requirement.

The service is concentrating the remainder of its flight testing of the B-1 on the development and evaluation of the aircraft's penetration aids and defensive systems, with the aim of proving the concept of these systems rather than qualifying them specifically for the B-1.

Under congressional mandate, the Air Force last year awarded study contracts to Boeing to evaluate its 747 and YC-14, to Lockheed to evaluate its L-1011 and C-5A, and to McDonnell Douglas to evaluate its DC-10 and YC-15 transports as potential candidates for the cruise missile carrier aircraft (CMCA) role (AW&ST May 22, 1978, p. 23). Those studies are nearing completion—with unfavorable conclusions as far as the wide-body commercial transports are concerned.

The Air Force is now focusing on the B-1 as its primary strategic air-launched cruise missile launcher (SAL) candidate, and has directed the Aeronautical Systems Div. of the Air Force Systems Command to initiate preliminary planning for a flight evaluation and advance design of a B-1 SAL derivative. The third B-1 prototype is expected to be used for the flight evaluation once it finishes the present B–1 flight test schedule.

Reasons for the dismissal of existing commercial transport aircraft as viable candidates for the CMCA mission center around their performance and relative vulnerability in a hostile environment.

In a speech here to an Air Force Assn. symposium, Seymour L. Zeilberg, deputy under secretary of Defense-strategic and space systems, acknowledged that the Air Force and the Defense Dept. had "made some progress in sorting out the issue of what is an appropriate cruise missile carrier."

Echoing a sentiment expressed recently by several top Air Force officers, Zeilberg noted: "I personally believe that variants of commercial aircraft are not appropriate. By the time they are modified to have the desired characteristics in the presence of the kinds of threats we worry about, they offer no cost or performance advantage over a dedicated military aircraft," he added.

"You can't just go out and buy a [Boeing] 707 and use it," Zeilberg told Aviation Week & Space Technology. "If you apply a severe threat in a forward area, then modify the aircraft to account for this, you run up the cost of the aircraft and change it so much it's not the same aircraft any more."

A B–1 derivative in the 1984–85 time frame "is our favorite solution as far as a cruise missile is concerned," said.

"Variants of military cargo aircraft might be interesting," Zeiberg conceded, "but the analysis is not yet convincing and more work needs to be completed before we decide this point. Derivatives of the B–1 technology base have the features desired; however, there the question tends to be cost-related."

Air Force officials confirmed that while derivatives of wide-body commercial transports were no longer under consideration, the CX or other military derivative aircraft were still candidates.

In addition to the cruise missile carrier aircraft requirement, the Air Force continues to be concerned with the manned penetrator issue as it relates to the eventual replacement of the service's aging Boeing B–52 bombers. While Defense Dept. and Air Force officials have identified the stretched General Dynamics F–111 as a lower-cost interim solution to this requirement, a derivative B–1 solution continues to have its proponents.

As Zeiberg noted: "The penetrating bomber question is still an area of uncertainty. If I could trade $5–6 billion of late-eighties money for near-term application, I'd weigh in for the FB–111 stretch. If I could round up more money, I'd switch to derivatives of B–1 technology, with suitable updating, since it offers better performance and can serve a dual role—bomber and cruise missile carrier.

"But, this may be fantasy," he added, "since the extra money is not likely and the appropriate and critical question to answer is how long we can extend B–52 life while keeping quick-reaction options open if the B–52 suffers from unexpected degradation—either threat or age-induced."

Zeiberg conceded there was little reason to believe the money would be available to move ahead with a new bomber program. But the need for options in case of unplanned early retirement of the B–52 would "dominate our thinking in the near future," he said.

We will be looking for a firm plan to evaluate B–52 life extension while developing prototypes for the shelf as backups, should the B–52 not be available throughout the eighties. I foresee a near-term end to paper studies and the start of some prototype hardware efforts."

He described these efforts as a "combined program of prototype hardware for a cruise missile carrier plus studies of a new manned bomber."

In conjunction with this, a program management directive (PMD) has been issued by the Air Staff directing the Air Force Systems Command to initiate the B–1 cruise missile carrier evaluation. Rockwell International has been asked to assist in developing a range of options for B–1 modifications to be accomplished within the fiscal constraints of the cruise missile carrier aircraft evaluation.

Those constraints have not been identified fully for the duration of the evaluation program, but about $30 million has been earmarked for CMCA work in Fiscal 1980, and most of that is likely to be used for the B–1 evaluation.

As the program is outlined, examination of the options developed by Rockwell and the Air Force would begin late this year or early in 1980. The Air Force would then select the most suitable option from these, probably in the spring of 1980.

A request for proposals would be issued at that time for the design, development and demonstration work involved, and a contract would follow. Schedule for the start of flight demonstrations varies with the options and ranges from as early as the spring of 1981 to sometime in 1982.

Rockwell has already accomplished a considerable amount of work on its own in this area with its proposals for the production of a B–1 core aircraft that could be adapted for several strategic missions, including strategic weapons launcher, near-term penetrator, conventional bomber or tanker (AW&NST, Sept. 17, p. 14).

Air Force and Pentagon official stress that the studies now being planned involve only a cruise missile launcher role for the B–1 and not a broader role of strategic weapons launcher or manned penetrator. Current discussions on an evaluation of the B–1 as a cruise missile carrier do not address directly the manned penetrator question, although present B–1 flight testing with the third and fourth B–1 prototypes is oriented specifically toward penetration/defensive systems capabilities.

A low-key flight development program has continued at Edwards AFB since President Carter's decision in 1977 to terminate B–1 production plans. Flight testing is scheduled to terminate in early 1981.

The program management directive commissioning the B–1 strategic ALCM launcher studies gives specific instruction to the Aeronautical Systems Div. to complete ongoing B–1 tests. Remaining flight tests are oriented toward the following areas in order of their priority:

Penetrativity.

Defensive systems, including a shakedown of the AIL ALQ–161 electronic warfare system and its compatibility with the aircraft.

Offensive systems.

Basic aircraft systems.

General Electric F101 engines.

Electromagnetic propagation tests.

Activities in these areas include both development and testing, with heavy priority placed on the first two areas. Little, if any, testing is devoted to the basic aircraft, and the two B–1 prototypes essentially have become convenient platforms on which to test penetration aids and defensive systems.

"Flight objectives are generally written around the first two areas," according to an Air Force spokesman, "but we're looking at the other areas, too, as time permits."

Basic research and development work on penetration and defensive systems in the two aircraft is continuing as reflected in the recent installation of a Doppler beam sharpening system for the B–1's terrain-following radar, a long wave guide in modified dorsal fins on both aircraft for jamming, and other developmental systems.

"We had a baseline system a couple of years ago," an Air Force Systems Command officer said, "but there has to be a constant evolution of the system as far as the threats that can be anticipated. The restructuring [of the test program] was an attempt to update this baseline."

"The system is fairly up-to-date now," he said, "but we can expect to add to it as time goes on."

TEST PHASES DEFINED

Decision to give priority to the penetrativity/defensive systems tests and the guidance for doing this were provided by an Air Force general officers' steering committee, which met last January for this purpose. The steering committee defined three phases of penetrativity testing, including:

ALQ–161 defensive systems group shakedown evaluation to verify the system meets specifications and performance requirements. Only the No. 4 prototype is equipped with the ALQ–161. The system is designed to detect, classify and identify hostile radar threats and to direct appropriate jamming responses automatically.

Evaluation of the B–1's penetration aids and defensive systems against advanced threats using existing USAF systems with similarities to the anticipated enemy threats of the middle and late 1980s. Downward-looking radar-equipped aircraft such as the McDonnell Douglas F–15 fighter and the Boeing E–3A early warning aircraft, among others, are serving as the adversaries in this phase of the tests.

Operational penetrativity phase, in which the overall capabilities of the B–1 systems are being examined in a total air defense environment rather than one-on-one situations. Both flight test data and computer simulations are being used.

There is a certain amount of overlapping of each phase, rather than a strictly consecutive execution of the three phases. Thus, some flights involve one-on-one encounters with adversary aircraft while others involve multiple adversaries.

The two B–1 prototypes have been averaging a total of four or five flights a month, with each flight generaly lasting 6–7 hr.●

CONFERENCE REPORT ON S. 918

Mr. SMITH of Iowa submitted the following conference report and statement on the bill (S. 918) to amend the Small Business Act and the Small Business Investment Act of 1958.

CONFERENCE REPORT (H. REPT. No. 96–705)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 918) to amend the Small Business Act and the Small Business Investment Act of 1958, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—AUTHORIZATIONS AND MISCELLANEOUS AMENDMENTS

PART A—PROGRAM LEVELS AND AUTHORIZATIONS

SEC. 101. Section 20(e)(4) of the Small Business Act is amended to read as follows:

"(4) For the programs authorized by sections 501, 502, and 503 of the Small Business

Investment Act of 1958, the Administration is authorized to make $49,000,000 in direct and immediate participation loans, and $75,000,000 in guaranteed loans and guarantees of debentures.".

SEC. 102. Section 20(e)(5) of the Small Business Act is amended to read as follows:

"(5) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $35,000,000 in direct purchase of debentures and preferred securities and to make $198,000,000 in guarantees of debentures.".

SEC. 103. Section 20 of the Small Business Act is amended by adding at the end thereof the following new subsections:

"(h) The following program levels are authorized for fiscal year 1980:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $275,000,000 in direct and immediate participation loans, and $3,630,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $22,000,000 in direct and immediate participation loans and $11,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $69,000,000 in direct and immediate participation loans and $81,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $30,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $50,000,000 in direct and immediate participation, loans, and $105,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $38,000,000 in direct purchases of debentures and preferred securities and to make $207,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,300,000,000.

"(8) For the programs authorized by sections 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $100,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $100,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(i) There are authorized to be appropriated to the Administration for fiscal year 1980, $952,000,000. Of such sum, $715,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6); $20,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $212,500,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $12,000,000 shall be available for procurement and technical assistance, including the employment of not less than twenty-seven additional procurement center representatives and subcontracting specialists; of which amount not less than $1,800,000 shall be available for technical assistance, and of this amount not less than $572,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $750,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses; and not more than $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, nonconcentrated, healthy forest products industry.

"(2) $21,000,000 shall be available for management assistance including the development and implementation of a small business export development program, of which amount not less than $500,000 shall be used to employ not less than fourteen additional staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,000,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,000,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,500,000 shall be used to develop an external small business data bank and small business index; and not less than $1,500,000 shall be used for research.

"(4) $25,000,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $11,285,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $9,000,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,000,000 shall be used to pay for development of such indicative small business data base.

"(6) $12,000,000 shall be available for matching grants to small business development centers, and an additional $500,000 shall be available for the administration of the small business development center program.

"(j) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (6) of section 20 (i) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.

"(k) The following program levels are authorized for fiscal year 1981:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $300,000,000 in direct and immediate participation loans, and $4,000,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $25,000,000 in direct and immediate participation loans and $12,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $76,000,000 in direct and immediate participation loans and $90,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $33,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $55,000,000 in direct and immediate participation loans and $115,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $42,000,000 in direct purchase of debentures and preferred securities, and to make $228,000,000 in guarantees of debentures.

"(7) For the programs authorized in part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,530,000,000.

"(8) For the programs authorized by sections (7)(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $110,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized by sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $110,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(l) There are authorized to be appropriated to the Administration for fiscal year 1981, $1,187,000,000. Of such sum, $865,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraphs (1) through (6); $76,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $242,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $13,200,000 shall be available for procurement and technical assistance; of which amount not less than $2,000,000 shall be available for technical assistance, of which amount not less than $629,000 shall be used to pay for the continued development of a procurement automated source system and not less than $825,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

"(2) $23,100,000 shall be available for management assistance, of which amount not less than $880,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,200,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,650,000 shall be used to develop an external small business data bank and small business index; and not less than $1,650,000 shall be used for research.

"(4) $27,500,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $12,414,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $9,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,100,000 shall be used to pay for development of such indicative small business data base.

"(6) $20,000,000 shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

"(m) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (6) of section 20(1) of this Act: *Provided, however*, That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.

"(n) The following program levels are authorized for fiscal year 1982:

"(1) For the programs authorized by section 7(a) of this Act, the Administration is authorized to make $330,000,000 in direct and immediate participation loans, and $4,400,000,000 in deferred participation loans.

"(2) For the programs authorized by section 7(h) of this Act, the Administration is authorized to make $28,000,000 in direct and immediate participation loans, and $14,000,000 in guaranteed loans.

"(3) For the programs authorized by section 7(i) of this Act, the Administration is authorized to make $83,000,000 in direct and immediate participation loans and $99,000,000 in guaranteed loans.

"(4) For the programs authorized by section 7(l) of this Act, the Administration is authorized to make $30,000,000 in direct and immediate participation loans and $37,000,000 in guaranteed loans.

"(5) For the programs authorized by sections 501, 502, and 503 of the Small Business Investment Act of 1958, the Administration is authorized to make $61,000,000 in direct and immediate participation loans, and $125,000,000 in guaranteed loans and guarantees of debentures.

"(6) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $47,000,000 in direct purchases of debentures and preferred securities and to make $215,000,000 in guarantees of debentures.

"(7) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $2,780,000,000.

"(8) For the programs authorized by section 7(b)(3) through 7(b)(9) and 7(g) of this Act, the Administration is authorized to enter into $121,000,000 in loans, guarantees, and other obligations or commitments.

"(9) For the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $125,000,000.

"(10) There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b) and 7(g), of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(o) There are authorized to be appropriated to the Administration for fiscal year 1982, $1,375,000,000. Of such sum, $1,022,000,000 shall be available for the purpose of carrying out the programs referred to in subsection (n), paragraphs (1) through (6); $83,000,000 shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4,000,000 shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $266,000,000 shall be available for salaries and expenses of the Administration of which amount—

"(1) $14,520,000 shall be available for procurement and technical assistance; of which amount not less than $2,100,000 shall be available for technical assistance, of which amount not less than $692,000 shall be used to pay for the continued development of a procurement automated source system, and not less than $907,500 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

"(2) $25,400,000 shall be available for management assistance, of which amount not less than $968,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

"(3) $9,680,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,815,000 shall be used to develop an external small business data bank and small business index; and not less than $1,815,000 shall be used for research.

"(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $13,655,000 of which shall be used to carry out those functions, including administrative expenses, prescribed by section 7(j) of this Act.

"(5) $10,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,210,000 shall be used to pay for development of such indicative small business data base.

"(p) The Administrator may transfer no more than 10 percent of each of the total levels for salaries and expenses authorized in paragraphs (1) through (5) of section 20(o) of this Act: *Provided, however,* That no level authorized in such paragraphs may be increased more than 20 percent by any such transfers.".

PART B—MISCELLANEOUS AND TECHNICAL AMENDMENTS

Sec. 110. Section 20(a) of the Small Business Act is amended to read as follows: "For fiscal years 1979, 1980, 1981 and 1982 there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1983 and every fiscal year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.".

ENERGY SHORTAGE LOANS

Sec. 111. Section 7(b)(8) of the Small Business Act is amended by inserting after "energy-producing resources," the following: "including, but not limited to, a shortage of coal or other energy-producing resource caused by a strike, boycott, or embargo, unless such strike, boycott, or embargo is directly against such small business concern,".

DISASTER LOAN INTEREST RATES

Sec. 112. (a) The first undesignated paragraph of section 7(b) of the Small Business Act is amended by inserting after "under subsection (b)" the following ", except as provided in subsection (c),";

(b) Section 7(c) of the Small Business Act is amended by adding the following new paragraphs:

"(3) With respect to a disaster occurring on or after October 1, 1978, and prior to October 1, 1982, on the Administration's share of loans made pursuant to paragraph (1) of subsection (b)—

"(A) if the loan proceeds are to repair or replace a primary residence and/or repair or replace damaged or destroyed personal property, the interest rate shall be 3 percent on the first $55,000 of such loan;

"(B) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is unable to obtain sufficient credit elsewhere, the interest rate shall be as determined by the Administration, but not in excess of 5 percent per annum; and

"(C) if the loan proceeds are to repair or replace property damaged or destroyed and if the applicant is a business concern which is able to obtain sufficient credit elsewhere, the interest rate shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one-eighth of 1 percent, and an additional amount as determined by the Administration, but not to exceed 1 percent: *Provided*, That three years after such loan is fully disbursed and every two years thereafter for the term of the loan, if the Administration determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Administration, apply for and accept such loan in sufficient amount to repay the Administration: *Provided, further*, That no loan under subsection (b)(1) shall be made, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under such subsection would exceed $500,000 for each disaster, unless an applicant constitutes a major source of employment in an area suffering a disaster, in which case the Administration, in its discretion, may waive the $500,000 limitation.".

(c) Section 18 of the Small Business Act is amended by—

(1) inserting after "Sec. 18." "(a)";

(2) striking the comma after the phrase "agricultural related industries" and inserting the following: ": *Provided*, That prior to October 1, 1982, an agricultural enterprise shall not be eligible for loan assistance under paragraph (1) of section 7(b) to repair or replace property other than residences and/or personal property unless it is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from the Farmers Home Administration under subchapter III of the Consolidated Farm and Rural Development Act," and

(3) inserting a new subsection as follows:

"(b) As used in this Act—

"(1) "agricultural enterprises" means those businesses engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and

"(2) "credit elsewhere" means the availability of sufficient credit from non-Federal sources at reasonable rates and terms, taking into consideration prevailing private rates and terms in the community in or near where the concern transacts business for similar purposes and periods of time.".

(d) The amendments made by this section to sections 7(c)(3)(C) and 18 of the Small Business Act shall not apply to any disaster which commenced on or before the effective date of this Act.

INTEREST DIFFERENTIAL PAYMENTS

SEC. 113. Section 4(c)(5) of the Small Business Act is amended by striking "each of the funds established by paragraph (1)" and inserting in lieu thereof "the fund established by subparagraph (B) of paragraph (1)".

INVESTMENT OF IDLE FUNDS

SEC. 114. The last sentence of section 412 of the Small Business Investment Act of 1958 is repealed.

SEC. 115. Section 405 of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following: "Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.".

PRODUCT DISASTER LOANS

SEC. 116. Section 7(b)(4) of the Small Business Act is amended by striking "undetermined causes" and inserting in lieu thereof "other causes: Provided, That any small business which intentionally adulterates its product in order to attempt to establish eligibility under this program shall not be eligible for loan assistance hereunder".

DUPLICATION OF DISASTER BENEFITS

SEC. 117. Section 7(b) of the Small Business Act is amended by adding at the end thereof the following: "(E) A State grant made on or prior to July 1, 1979, shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of Public Law 93-288 (42 U.S.C. 5155) to a disaster loan under paragraph (1), (2), or (4) of this subsection.".

DEVELOPMENT COMPANY DEBENTURES

SEC. 118. (a) Title V of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"DEVELOPMENT COMPANY DEBENTURES

"SEC. 503. (a)(1) Except as provided in subsection (b), the Administration may guarantee the timely payment of all principal and interest as scheduled on any debenture issued by any qualified State or local development company.

"(2) Such guarantees may be made on such terms and conditions as the Administration may by regulation determine to be appropriate.

"(3) The full faith and credit of the United States is pledged to the payment of all amounts guaranteed under this subsection.

"(4) Any debenture issued by any State or local development company with respect to which a guarantee is made under this subsection, may be subordinated by the Administration to any other debenture, promissory note, or other debt or obligation of such company.

"(b) No guarantee may be made with respect to any debenture under subsection (a) unless—

"(1) such debenture is issued for the purpose of making one or more loans to small business concerns, the proceeds of which shall be used by such concern for the purposes set forth in section 502;

"(2) necessary funds for making such loans are not available to such company from private sources on reasonable terms;

"(3) the interest rate on such debenture is not less than the rate of interest determined by the Secretary of the Treasury for purposes of section 303(b);

"(4) the aggregate amount of such debenture does not exceed the amount of loans to be made from the proceeds of such debenture (other than any excess attributable to the administrative costs of such loans);

"(5) the amount of any loan to be made from such proceeds does not exceed an amount equal to 50 percent of the cost of the project with respect to which such loan is made; and

"(6) the Administration approves each loan to be made from such proceeds.

"(c) The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

"(d) For purposes of this section, the term 'qualified State or local development company' means any State or local development company which, as determined by the Administration, has—

"(1) a full-time professional staff;

"(2) professional management ability (including adequate accounting, legal, and business-servicing abilities); and

"(3) a board of directors, or membership, which meets on a regular basis to make management decisions for such company, including decisions relating to the making and servicing of loans by such company.".

(b) The table of contents of the Small Business Investment Act of 1958 is amended by inserting after the item relating to section 502 the folowing new item:

"Sec. 503. Development company debentures.".

REGULAR BUSINESS LOAN REFORM

SEC. 119. Section 5(b)(7) of the Small Business Act is amended to read as follows:

"(7) in addition to any powers, functions, privileges and immunities otherwise vested in him, take any and all actions (including the procurement of the services of attorneys by contract in any office where an attorney or attorneys are not or cannot be economically employed full time or render such services) when he determines such actions are necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act: *Provided*, That nothing herein shall be construed as authorizing the Administrator to contract or otherwise delegate his responsibility for loan servicing to other than Administration personnel, but with respect to deferred participation loans he may authorize participating lending institutions, in his discretion pursuant to regulations promulgated by him, to take such actions on his behalf, including, but not limited to the determination of eligibility and creditworthiness, and loan monitoring, collection and liquidation;".

SURETY BOND GUARANTEE

SEC. 120. Section 411(c) of the Small Business Investment Act of 1958 is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum not to exceed (1) in the case of a breach of contract, 90 percent of the loss incurred and paid by the surety as the result of the breach; or (2) in a case in which (b) applies, the amount determined under (b).".

PROCUREMENT SYSTEMS

SEC. 121. Section 15(c) of the Small Business Act is amended to read as follows:

"(c)(1) During fiscal years 1980, 1981, and 1982, public and private not-for-profit organizations eligible for assistance under section 7(h) of this Act shall be eligible to participate in programs authorized under this section in an aggregate amount not to exceed $100,000,000 for each such year: *Provided*, That the Administrator shall monitor and evaluate such participation and in any case where the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped find that the participation of such organizations has or may cause severe economic injury to for-profit small businesses, the Administrator shall and is hereby authorized to direct and require every agency and department having procurement powers to take such actions as the Administrator and the Executive Director of the Committee for the Purchase from the Blind and Severely Handicapped may deem appropriate to alleviate the economic injury sustained or likely to be sustained by such for-profit small businesses.

"(2) The Administration shall, not later than January 1, 1981, prepare and transmit to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives, a report on the impact of contracts awarded to such organizations on for-profit small businesses.".

SEC. 122. (a) The first sentence of section 15(d) of the Small Business Act is amended by inserting "small business" before "concerns";

(b) Subsections (e) and (f) of section 15 of such Act are amended to read as follows:

"(c) In carrying out small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

"(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside.

"(2) concerns which are small business concerns, on the basis of a total set-aside.

"(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside.

"(4) concerns which are small business concerns, on the basis of a partial set-aside.

"(f) After priority is given to the small business concerns specified in subsection (e), priority shall also be given to the awarding of contracts and the placement of subcontracts, on the basis of a total set-aside, to concerns which—

"(1) are not eligible under subsection (e);

"(2) are not small business concerns; and

"(4) will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.".

ASIAN PACIFIC AMERICANS

SEC. 123. (a) Section 2(e)(1)(C) of the Small Busness Act is amended by inserting "Asian Pacific Americans," after "Native Americans.".

(b) The last sentence of subparagraph (C) of the clause contained in section 8(d)(3) of the Small Business Act is amended by inserting "Asian Pacific Americans," after "Native Americans.".

(c)(1) The amendment made by subsection (a) shall apply as if included in the amendment made by section 201 of the Act entitled "An Act to amend the Small Business Act and the Small Business Investment Act of 1958", approved October 24, 1978 (Public Law 95-507); and

(2) The amendment made by subsection (b) shall apply as if included in the amendment made by section 211 of the Act so entitled.

AMENDMENTS TO CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

SEC. 124. (a) Section 321 of the Consolidated Farm and Rural Development Act is amended by striking out in the first sentence all that follows after "with the assistance of such loan" through the end of the sentence and inserting in lieu thereof a period.

(b) Section 324(a) of the Consolidated Farm and Rural Development Act is amended by—

(1) striking out the first sentence and inserting in lieu thereof the following: "Loans made or insured under this subtitle shall be at rates of interest as follows:

"(1) with respect to loans or portions of loans up to the amount of the applicant's actual loss caused by the disaster. (A) if the applicant is unable to obtain sufficient credit elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time, the interest rate shall be a rate prescribed by the Secretary not in excess of 5 percent per annum, and (B) if the applicant is able to obtain sufficient credit elsewhere, the interest rate shall be the rate prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus not to exceed 1 percent, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 percent; Provided, That the total amount outstanding and committed to the borrower under this paragraph (1) shall not exceed $500,000 for each disaster; and

"(2) with respect to loans or portions of loans exceeding the amount of actual loss caused by the disaster, the interest rate shall be that prevailing in the private market for similar loans, as determined by the Secretary."; and

(2) inserting in the second sentence after "*Provided*, That" the following: "for loans approved under subsection (a)(1)(B), three years after such loan is made or insured and every two years thereafter for the term of the loan, if the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall, upon request by the Secretary, apply for and accept such loan in sufficient amount to repay the Secretary: *Provided further*, That".

TITLE II—SMALL BUSINESS DEVELOPMENT CENTERS

SHORT TITLE

SEC. 201. This title may be cited as the "Small Business Development Center Act of 1979".

PROGRAM AUTHORIZATION

SEC. 202. The Small Business Act is amended by redesignating section 21 as section 30 and by inserting the following new section:

"SEC. 21. (a)(1) The Administration is authorized to make grants (including contracts and cooperative agreements) to any State government or any agency thereof, any regional entity, any State-chartered development, credit or finance corporation, any public or private institution of higher education, including but not limited to any land-grant college or university, any college or school of business, engineering, commerce, or agriculture, community college or junior college, or to any entity formed by two or more of the above entities (herein referred to as "applicants") to assist in establishing small business development centers and to any such body for: small business oriented employment or natural resources development programs: studies, research, and counseling concerning the managing, financing, and operation of small business enterprises; delivery or distribution of such services and information; and providing access to business analysts who can refer small business concerns to available experts.

"(2) The Administration shall require, as a condition to any grant (or amendment or modification thereof) made to an applicant under this section, that an additional amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government: *Provided*, That the additional amount shall not include any amount of indirect costs or in-kind contributions paid for under any Federal program, nor shall such indirect costs or in-kind contributions exceed 50 percent of the non-Federal additional amount: *Provided further*, That no recipient of funds under this section shall receive a grant which would exceed its pro rata share of a $65,000,000 program based upon the population to be served by the small business development center as compared to the total population in the United States, or $200,000, whichever is greater.

"(b)(1) During fiscal years 1980, 1981, and 1982 financial assistance shall not be made available to any applicant if approving such assistance would be inconsistent with a plan for the area involved which has been adopted by an agency recognized by the State government as authorized to do so and approved by the Administration in accordance with the standards and requirements established pursuant to this section.

"(2) An applicant may apply to participate in the program by submitting to the Administration for approval a plan naming those authorized in subsection (a) to participate in the program, the geographic area to be served, the services that it would provide, the method for delivering services, a budget, and any other information and assurances the Administration may require to insure that the applicant will carry out the activities eligible for assistance. The Administration is authorized to approve, conditionally approve or reject a plan or combination of plans submitted. In all cases, the Administration shall review plans for conformity with the plan submitted pursuant to paragraph (1) of this subsection, and with a view toward providing small business with the most comprehensive and coordinated assistance in the State or part thereof to be served.

"(3) At the discretion of the Administration, the Administration is authorized to permit a small business development center to provide advice, information and assistance, as described in subsection (c), to small businesses located outside the State, but only to the extent such businesses are located within close geographical proximity to the small business development center, as determined by the Administration.

"(c)(1) Applicants receiving grants under this section shall assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other disciplines required for small business growth and expansion, innovation, increased productivity, and management improvement, and for decreasing industry economic concentrations.

"(2) A small business development center shall provide services as close as possible to small businesses by providing extension services and utilizing satellite locations when necessary. To the extent possible, it also shall make full use of other Federal and State government programs that are concerned with aiding small businesses. A small business development center shall have—

"(A) a full-time staff, including a director to manage the program activities;

"(B) business analysts to counsel, assist, and inform small business clients;

"(C) technology transfer agents to provide state of the art technology to small businesses through coupling with national and regional technology data sources;

"(D) information specialists to assist in providing information searches and referrals for small businesses;

"(E) access to part-time professional specialists to conduct research or to provide counseling assistance whenever the need arises; and

"(F) access to laboratory and adaptive engineering facilities.

"(3) Services provided by a small business development center shall include, but shall not be limited to—

"(A) furnishing one-to-one individual counseling to small businesses;

"(B) assisting in technology transfer, research, and coupling from existing sources to small businesses;

"(C) maintaining current information concerning Federal, State, and local regulations that affect small businesses and counsel small businesses on methods of compliance. Counseling and technology development shall be provided when necessary to help small businesses find solutions for complying with environmental, energy, health, safety, and other Federal, State, and local regulations;

"(D) coordinating and conducting research into technical and general small business problems for which there are no ready solutions;

"(E) providing and maintaining a comprehensive library that contains current information and statistical data needed by small businesses;

"(F) maintaining a working relationship and open communications with the financial and investment communities, legal associations, local and regional private consultants, and local and regional small business groups and associations in order to help address the various needs of the small business community;

"(G) conducting in-depth surveys for local small business groups in order to develop general information regarding the local economy and general small business strengths and weaknesses in the locality; and

"(H) maintain lists of local and regional private consultants to whom small businesses can be referred.

A small business development center shall continue to upgrade and modify its services, as needed, in order to meet the changing and evolving needs of the small business community.

"(4) A small business development center is authorized to utilize and compensate consultants, engineers and testing laboratories for services provided to small businesses on behalf of such small business development center.

"(d) Laboratories operated and funded by the Federal Government are authorized and directed to cooperate with the Administration in developing and establishing programs to support small business development centers by making facilities and equipment available; providing experiment station capabilities in adaptive engineering; providing library and technical information processing capabilities; and providing professional staff for consulting. The Administration is authorized to reimburse the laboratories for such services.

"(e) The National Science Foundation and innovation centers supported by the National Science Foundation are authorized and directed to cooperate with small business development centers participating in this program. The National Science Foundation shall report annually on the performance of such innovation centers with recommendations to the Administration and the Congress on how such innovation centers can be strengthened and expanded. The National Science Foundation shall include in its report to Congress information on the ability of innovation centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(f) The National Aeronautics and Space Administration and industrial application centers supported by the National Aeronautics and Space Administration are authorized and directed to cooperate with small business development centers participating in this program. The National Aeronautics and Space Administration shall report annually on the performance of such industrial application centers with recommendations to the Administration and the Congress on how such industrial application centers can be strengthened and expanded. The National Aeronautics and Space Administration shall include in its report to Congress information on the ability of industrial application centers to interact with the Nation's small business community and recommendations to the Administration on continued funding.

"(g)(1) The Administrator shall appoint a Deputy Associate Administrator for Management Assistance who shall report to the Associate Administrator for Management Assistance and who shall serve without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS-17 of the General Schedule.

"(2) The sole responsibility of the Deputy Associate Administrator for Management Assistance shall be to administer the small business development center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefor, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section. The Deputy Associate Administrator for Management Assistance shall confer with and seek the advice and counsel of the Board in carrying out the responsibilities described in this subsection.

"(h)(1) There is established a National Small Business Development Center Advisory Board (herein referred to as "Board") which shall consist of nine members appointed from civilian life by the Administrator and who shall be persons of outstanding qualifications known to be familiar and sympathetic with small business needs and problems. No more than three members shall be from universities or their affiliates and six shall be from small businesses or associations representing small businesses. At the time of the appointment of the Board, the Administrator shall designate one-third of the members and at least one from each category whose term shall end in two years from the date of appointment, a second third whose term shall end in three years from the date of appointment, and the final third whose term shall end in four years from the date of appointment. Succeeding Boards shall have three-year terms, with one-third of the Board changing each year.

"(2) The Board shall elect a Chairman and advise, counsel, and confer with the Deputy Associate Administrator for Management Assistance in carrying out the duties described in this section. The Board shall meet at least quarterly and at the call of the Chairman of the Board. Each member of the Board shall be entitled to be compensated at the rate not in excess of the per diem equivalent of the highest rate of pay for individuals occupying the position under GS-18 of the General Schedule for each day engaged in activities of the Board and shall be entitled to be reimbursed for expenses as a member of the Board.

"(i)(1) Each small business development center may establish an advisory board.

"(2) Each small business development center advisory board shall elect a chairman and advise, counsel, and confer with the director of the small business development center on all policy matters pertaining to the operation of the small business development center, including who may be eligible to receive assistance from, and how local and regional private consultants may participate with the small business development center.

"(j) The Administration, with the advice of the Board, shall establish a plan for evaluation of the small business development center program which may include the retaining of an independent concern to conduct such an evaluation. The evaluation shall be both quantitative and qualitative and shall determine—

"(1) the impact of the small business development center program on small businesses, including private consultants, and the socio-economic base of the area served;

"(2) the multidisciplinary resources the small business development center program was able to coordinate to assist small businesses; and

"(3) the extent to which various types of small businesses engaged in areas such as manufacturing, retailing, wholesaling and services have been assisted by the small business development center program.

For the purpose of this evaluation, the Administration is authorized to require any small business development center or party receiving assistance under this section to furnish it with such information annually or otherwise as it deems appropriate. Such evaluation shall be completed and submitted to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives by January 31, 1982.

"(k) The authority to enter into contracts shall be in effect for each fiscal year only to the extent or in the amounts as are provided in advance in appropriations Acts.".

SEC. 203. Section 7(d)(1) of the Small Business Act is amended to read as follows:

"(d)(1) On or after October 1, 1979, the Administration shall not fund any small business development center or any variation thereof, except as authorized in section 21 of this Act: *Provided*, That in fiscal year 1980 nothing in this section or in section 21 shall be deemed to affect the operation of any small business development center which was funded by the Administration prior to October 1, 1979: *Provided further*, That no small business development center which was funded in fiscal year 1978 may be funded in excess of $300,000 in fiscal year 1980.".

SEC. 204. Sections 201 and 202 of this title are repealed effective October 1, 1983.

TITLE III—SMALL BUSINESS ECONOMIC POLICY

SHORT TITLE

SEC. 301. This title may be cited as the "Small Business Economic Policy Act of 1979".

DECLARATION OF SMALL BUSINESS ECONOMIC POLICY

SEC. 302. (a) For the purpose of preserving and promoting a competitive free enterprise economic system, Congress hereby declares that it is the continuing policy and responsibility of the Federal Government to use all practical means and to take such actions as are necessary, consistent with its needs and obligations and other essential considerations of national policy, to implement and coordinate all Federal department, agency, and instrumentality policies, programs, and activities in order to: foster the economic interests of small businesses; insure a competitive economic climate conducive to the development, growth and expansion of small businesses; establish incentives to assure that adequate capital and other resources at competitive prices are available to small businesses; reduce the concentration of economic resources and expand competition; and provide an opportunity for entrepreneurship, inventiveness, and the creation and growth of small businesses.

(b) Congress further declares that the Federal Government is committed to a policy of utilizing all reasonable means, consistent with the overall economic policy goals of the Nation and the preservation of the competitive free enterprise system of the Nation, to establish private sector incentives that will help assure that adequate capital at competitive prices is available to small businesses. To fulfill this policy, departments, agencies, and instrumentalities of the Federal Government shall use all reasonable means to coordinate, create, and sustain policies and programs which promote investment in small businesses, including those investments which expand employment opportunities and which foster the effective and efficient use of human and natural resources in the economy of the Nation.

STATE OF SMALL BUSINESS

SEC. 303. (a) The President shall transmit to the Congress not later than January 20 of each year a Report on Small Business and Competition which shall—

(1) examine the current role of small business in the economy on an industry-by-industry basis;

(2) present current and historical data on production, employment, investment, and other economic variables for small business in the economy as a whole and for small business in each sector of the economy;

(3) identify economic trends which will or may affect the small business sector and the state of competition;

(4) examine the effects on small business and competition of policies, programs, and activities, including, but not limited to the Internal Revenue Code, the Employee Retirement Income Security Act, the Securities Act of 1933, and the Securities Exchange Act of 1934, and regulations promulgated thereunder; identify problems generated by such policies, programs, and activities; and recommend legislative and administrative solutions to such problems; and

(5) recommend a program for carrying out the policy declared in section 302 of this Act, together with such recommendations for legislation as he may deem necessary or desirable.

(b) The President also shall transmit simultaneously as an appendix to such annual report, a report, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 in amount and the dollar amount (including the subcontracts thereunder in excess of $10,000) awarded to small, minority-owned and female-owned businesses.

(c) The President may transmit from time to time to the Congress reports supplementary to the Report on Small Business and Competition, each of which shall include such supplementary or revised recommendations as he may deem necessary or desirable to achieve the policy declared in section 302 of this Act.

(d) The Report on Small Business and Competition and all supplementary reports transmitted under subsections (b) and (c) of this section shall, when transmitted to Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

TITLE IV—SMALL BUSINESS ECONOMIC RESEARCH AND ANALYSIS

SEC. 401. The Small Business Act is amended by redesignating subsection 4(b) as subsection 4(b)(1) and inserting thereafter the following:

"The Administrator also shall be responsible for—

"(A) establishing and maintaining an external small business economic data base for the purpose of providing the Congress and the Administration information on the economic condition and the expansion or contraction of the small business sector. To that end, the Administrator shall publish on a regular basis national small business economic indices and, to the extent feasible, regional small business economic indices, which shall include, but need not be limited to, data on—

"(i) employment, layoffs, and new hires;

"(ii) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

"(iii) number of business formations and failures;

"(iv) sales and new orders;

"(v) back orders;

"(vi) investment in plant and equipment;

"(vii) changes in inventory and rate of inventory turnover;

"(viii) sources and amounts of capital investment, including debt, equity, and internally generated funds;

"(ix) debt to equity ratios;

"(x) exports;

"(xi) number and dollar amount of mergers and acquisition by size of acquiring an acquired firm; and

"(xii) concentration ratios; and

"(B) publishing annually a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by the data acquired pursuant to subparagraph (A) of this subsection.".

SEC. 402. Section 634d(1) of title 15, United States Code, is amended by striking the word "Schedule;" and inserting in lieu thereof "Schedule: *Provided, however,* That not more than ten staff personnel at any one time may be employed and compensated at a rate not in excess of GS-15, step 10, of the General Schedule;".

SEC. 403. Section 5315 of title 5 of the United States Code is amended by adding the following new paragraph:

"(128) Chief Counsel for Advocacy, Small Business Administration.".

SEC. 404. In consultation with the Administrator of the Small Business Administration and the Bureau of the Census, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation shall conduct such studies of the credit needs of small business as may be appropriate to determine the extent to which such needs are being met by commercial banks and shall report the results of such studies to the Congress by January 1, 1981, together with their views and recommendations as to the feasibility and cost of conducting periodic sample surveys, by region and nationwide, of the number and dollar amount of commercial and industrial loans extended by commercial banks to small business. Reports shall, when transmitted to the Congress, be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

TITLE V—WHITE HOUSE CONFERENCE ON SMALL BUSINESS

SHORT TITLE

SEC. 501. This title may be cited as the "White House Conference on Small Business Act".

AUTHORIZATION OF CONFERENCE

SEC. 502. (a) The President shall call and conduct a White House Conference on Small Business (hereinafter referred to as the "Conference") not later than June 30, 1980, to carry out the purposes described in section 503 of this title.

(b) Participants in the Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the regional and State levels prior to the date of the Conference, subject to the approval of the Administrator of the Small Business Administration, and shall direct such conferences and activities toward the consideration of the purposes of the Conference described in section 503 of this title in order to prepare for the Conference.

PURPOSE OF CONFERENCE

SEC. 503. The purpose of the Conference shall be to increase public awareness of the essential contribution of small business; to identify the problems of small business, including new, small, and family enterprises; to examine the status of minorities and women as small business owners; and to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate for maintaining and encouraging the economic viability of small business and, thereby, the Nation.

CONFERENCE PARTICIPANTS

SEC. 504. In order to carry out the purposes specified in section 503 of this title, the Conference shall bring together individuals concerned with issues relating to small business: *Provided,* That no small business concern representative may be denied admission to any State or regional meeting.

PLANNING AND ADMINISTRATION OF CONFERENCE

SEC. 505. (a) All Federal departments, agencies, and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) In carrying out the provisions of this title, the Administrator of the Small Business Administration—

(1) shall provide such financial and other assistance as may be necessary for the organization and conduct of conferences at the regional and State levels as authorized under section 502(b) of this title;

(2) shall provide for the preparation of background materals for use by participants in the Conference, as well as by participants in regional and State conferences; and

(3) is authorized to make grants to, and enter into contracts with, public agencies, private organizations, and academic institutions to carry out the provisions of this title.

(c) Upon presentation of vouchers within thirty days of the completion of the Conference, the Administrator of the Small Business Administration is authorized and directed to reimburse Conference delegates for travel to the Conference, and for actual and necessary expenses related to attending the Conference (including meals and accommodations) not to exceed $44 per day: *Provided*, That, (1) such reimbursement shall be effective for fiscal year 1980 only to the extent or in the amounts as are provided in advance in appropriation Acts, and (2) in the event such appropriated amounts are not sufficient to fully pay each voucher submitted, each voucher shall be paid on a pro-rata basis.

(d)(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

REPORTS REQUIRED

SEC. 506. Not more than one year from the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

FOLLOW-UP ACTIONS

SEC. 507. The Small Business Administration shall report to the Congress annually during the three-year period following the submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference.

AVAILABILITY OF FUNDS

SEC. 508. (a) There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Such sums as are appropriated to carry out the provisions of this title shall remain available until expended.

(b) No funds appropriated to the Small Business Administration shall be made available to carry out the provisions of this title other than funds appropriated specifically for the purpose of conducting the Conference. Any funds remaining unexpended at the termination of the Conference shall be made available to the Administrator of the Small Business Administration to carry out the provisions of section 20 of the Small Business Act.

TITLE VI—EMPLOYEE OWNERSHIP

SEC. 601. This title may be cited as the "Small Business Employee Ownership Act of 1979".

SEC. 602. The Congress hereby finds and declares that—

(1) employee ownership of firms provides a means for preserving jobs and business activity;

(2) employee ownership of firms provides a means for keeping a small business small when it might otherwise be sold to a conglomerate or other large enterprise;

(3) employee ownership of firms provides a means for creating a new small business from the sale of a subsidiary of a large enterprise;

(4) unemployment insurance programs, welfare payments, and job creation programs are less desirable and more costly for both the Government and program beneficiaries than loan guarantee programs to maintain employment in firms that would otherwise be closed, liquidated, or relocated; and

(5) by guaranteeing loans to qualified employee trusts and similar oganizations, the Small Business Administration can provide feasible and desirable methods for the transfer of all or part of the ownership of a small business concern to its employees.

SEC. 603. (a) The purposes of this title are—

(1) to provide that a qualified employee trust shall be eligible for loan guarantees under section 7(a) of the Small Business Act with respect to a small business concern, regardless of the percentage of stock of the concern held by the trust, and

(2) to provide in section 605 of this act authority to address the specific case in which the Small Business Administration guarantees loans under section 7(a), of the Small Business Act for purposes of providing funds to a qualified employee trust (and other employee organizations which are treated as qualified employee trusts) for the purchase, by at least 51 percent of the employees of at least 51 percent of the stock of a business which is operated for profit and which is—

(A) a small business concern, or

(B) a corporation which is controlled by another person if, after the plan for the purchase of such corporation is carried out, such corporation would be a small business concern.

(b) Nothing in this title shall be construed to prohibit the Small Business Administration from making loan guarantees under section 7(a) of the Small Business Act to qualified employee trusts which own less than 51 percent of the stock of a continuing business.

SEC. 604. Section 3 of the Small Business Act is amended by adding at the end thereof the following new subsection:

"(c)(1) For purposes of this Act, a qualified employee trust shall be eligible for any loan guarantee under section 7(a) with respect to a small business concern on the same basis as if such trust were the same legal entity as such concern.

"(2) For purposes of this Act, the term 'qualified employee trust' means, with respect to a small business concern, a trust—

"(A) which forms part of a leveraged employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1954)—

"(i) which is maintained by such concern, and

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of outstanding common shares voted; and

"(B) in the case of any loan guarantee under section 7(a), the trustee of which enters into an agreement with the Administration which is binding on the trust and on such small business concern and which provides that—

"(i) the loan guaranteed under section 7(a) shall be used solely for the purchase of qualifying employer securities (as defined in section 4975(e)(8) of such Code) of such concern,

"(ii) all funds acquired by the concern in such purchase shall be used by such concern solely for the purposes for which such loans was guaranteed,

"(iii) such concern will provide such funds as may be necessary for the timely repayment of such loan, and the property of such concern shall be available as security for repayment of such loan, and

"(iv) all qualifying employer securities acquired by such trust in such purchase shall be allocated to the accounts of participants in such plan who are entitled to share in such allocation, and each participant has a non-forfeitable right, not later than the date such loan is repaid, to all such qualifying employer securities which are so allocated to the participant's account.

"(3) Under regulations which may be prescribed by the Administration, a trust may be treated as a qualified employee trust with respect to a small business concern if—

"(A) the trust is maintained by an employee organization which represents at least 51 percent of the employees of such concern, and

"(B) such concern maintains a plan—

"(i) which is an employee benefit plan which is designed to invest primarily in qualifying employer securities (as defined in section 4975(e)(8) of the Internal Code of 1954),

"(ii) which provides that each participant in the plan is entitled to direct the plan as to the manner in which voting rights under qualifying employer securities which are allocated to the account of such participant are to be exercised with respect to a corporate matter which (by law or charter) must be decided by a majority vote of the outstanding common shares voted,

"(iii) which provides that each participant who is entitled to distribution from the plan has a right, in the case of qualifying employer securities which are not readily tradeable on an established market, to require that the concern repurchase such securities under a fair valuation formula, and

"(iv) which meets such other requirements (similar to requirements applicable to leveraged employee stock ownership plans as defined in section 4975(e)(7) of the Internal Revenue Code of 1954) as the Administrator may prescribe, and

"(C) in the case of a loan guarantee under section 7(a), such organization enters into an agreement with the Administration which is described in paragraph (2)(B).".

SEC. 605. Section 7(a) of the Small Business Act is amended by adding at the end thereof the following new paragraph:

"(8)(A) The Administration may guarantee under subsection (a) a loan to a qualified employee trust with respect to a small business concern for the purpose of purchasing stock of the concern under a plan approved by the Administration which, when carried out, results in the qualified employee trust owning at least 51 percent of the stock of the concern.

"(B) The plan requiring the Administration's approval under subparagraph (A) shall be submitted to the Administration by the trustee of such trust with its application for the guarantee. Such plan shall include an agreement with the Administration which is binding on such trust and on the small business concern and which provides that—

"(i) not later than the date the loan guaranteed under subparagraph (A) is repaid (or as soon thereafter as is consistent with the requirements of section 401(a) of the Internal Revenue Code of 1954), at least 51 percent of the total stock of such concern shall be allocated to the accounts of at least 51 percent of the employees of such concern who are entitled to share in such allocation,

"(ii) there will be periodic reviews of the role in the management of such concern of employees to whose accounts stock is allocated, and

"(iii) there will be adequate management contracts to assure management expertise and continuity.

"(C) In determining whether to guarantee any loan under this subparagraph, the individual business experience or personal assets of employee-owners shall not be used as criteria, except inasmuch as certain employee-owners may assume managerial responsibilities, in which case business experience may be considered.

"(D) For purposes of this paragraph, a corporation which is controlled by any other person shall be treated as a small business concern if such corporation would, after the plan described in subparagraph (B) is carried out, be treated as a small business concern.

"(E) The Administration shall compile a separate list of applications for assistance under this paragraph, indicating which applications were accepted and which were denied, and shall report periodically to the Congress on the status of employee-owned firms assisted by the Administration.".

SEC. 606. (a) The Administrator of the Small Business Administration shall enter into a contract with an independent consultant which provides for a study by such consultant of the feasibility of making loan guarantees under section 7(a) of the Small Business Act directly to the seller of a small business concern in connection with the installment sale of such concern. Such study shall include an analysis of at least the following:

(1) the extent and nature of the use of installment sales for the sale of small business concerns,

(2) the ability of the Small Business Administration to make credit judgments in connection with installment sales,

(3) the need for Small Business Administration loan guarantees to facilitate installment sales,

(4) the willingness of banks and other financial institutions to participate in the evaluation of installment sales, and

(5) the anticipated cost of such a guarantee program in comparison to other loan guarantee programs of the Small Business Administration.

(b) Not later than January 31, 1980, the Administrator of the Small Business Administration shall transmit the findings of such study, along with his recommendations, to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

And the House agrees to the same.

NEAL SMITH,
FERNAND J. ST GERMAIN,
RICHARD NOLAN,
RICHARD H. ICHORD,
BILLY L. EVANS,
DOUG BARNARD, Jr.
CLAUDE "BUDDY" LEACH,
TONY P. HALL,

Solely for consideration of subsections (c), (d), and (e), of section 113 of the House amendment and modifications committed to conference:

THOMAS S. FOLEY,
ED JONES,
TOM HARKIN,
JERRY HUCKABY,
DAN GLICKMAN,
KENT HANCE,
GEORGE E. BROWN, Jr.,
FREDERICK W. RICHMOND,
Managers on the Part of the House.

GAYLORD NELSON,
SAM NUNN,
JOHN CULVER,
WALTER D. HUDDLESTON,
DALE BUMPERS,
ROBERT MORGAN,
JIM SASSER,
DONALD W. STEWART,
MAX BAUCUS,
CARL LEVIN,
LOWELL P. WEICKER, Jr.,
BOB PACKWOOD,
ORRIN G. HATCH,
S. I. HAYAKAWA,
HARRISON SCHMITT,
RUDY BOSCHWITZ,
LARRY PRESSLER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 918) to amend the Small Business Act and the Small Business Investment Act of 1958, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The House amendment struck all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The principle differences among the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

(1) SBA PROGRAM LEVELS—FISCAL YEAR 1979

Existing law establishes program levels for fiscal year 1979 as follows:

	Millions
7(a) Business	$3,757
Direct and immediate participation	457
Guaranteed	3,300
7(h) Handicapped	55
Direct and immediate participation	33
Guaranteed	22
7(i) EOL	155
Direct and immediate participation	66
Guaranteed	89
Development companies	94
Direct and immediate participation	49
Guaranteed	45
Investment company assistance	220
Direct purchases of debentures and preferred securities	22
Guaranteed	198
7(l) Solar and energy conservation	875
Direct and immediate participation	30
Guaranteed	45
Total BLIF	4,356
Direct and immediate participation	657
Guaranteed	3,699
Disaster:	
Physical	(1)
Nonphysical	330
Surety bond guarantees (SBA share of program level)	2,200
Pollution control bond guarantees	300

[1] Open ended.

To carry out fiscal year 1979 program levels, *existing law* authorizes $1,601.75 million.

The *Senate bill* increased only that portion of the fiscal year 1979 program level relating to the direct purchase of debentures and preferred securities for investment company assistance to $47 million.

The *House bill* contains no comparable provision.

The *conference substitute* includes the Senate provision but a level of $35 million.

The *House bill* redirects the program level for fiscal year 1979 for development companies only to:

	Millions
Direct and immediate participation	$45
Guaranteed	100

The *Senate bill* contains no comparable provision.

The *conference substitute* includes the House provision, but retains existing law on direct and immediate participation and $75 million on guaranteed. The conference substitute also includes reference to the new section 503 provision added by this bill.

(2) AMENDMENTS TO FISCAL YEAR 1979 SALARIES AND EXPENSE AUTHORIZATIONS

Of the total of $188 million in salaries and expenses authorized for fiscal year 1979, *existing law* earmarks five specific functions with priorities being given within each function;

(1) Procurement assistance, $14.3 million;

(2) Management and technical assistance, $35.2 million;

(3) Research and advocacy, $6.6 million;

(4) Office of minority small business, $4.4 million; and

(5) Data management, $4.39 million.

The amount which may be transferred from any of the five functions is 10 percent of the amount specified; however, none of these functions may be increased by more than 20 percent.

The *House bill* amends the salaries and expenses authorization for fiscal year 1979 by increasing the total to $200 million, of which amount five specific functions with priorities being given within each function are redirected as follows:

(1) Procurement assistance, $17 million;

(2) Management and technical assistance, $25.557 million;

(3) Research and advocacy, $7.3 million;

(4) Office of minority small business, $17 million; and

(5) Data management, $4.5 million, of which amount $1 million shall be used for the development of an indicative small business data base.

The *Senate bill* contains no comparable provision.

The *conference substitute* does not include this provision. The conferees note that these provisions are no longer necessary.

(3) SBA PROGRAM LEVELS—FISCAL YEAR 1980

The Senate bill establishes program levels for fiscal fear 1980 as follows:

	Millions
7(a) Business	$3,250
Direct and immediate participation	50
Guaranteed	3,200
7(h) Handicapped	33
Direct and immediate participation	22
Guaranteed	11

	Millions
7(i) EOL	135
Direct and immediate participation	65
Guaranteed	70
7(1) Solar and energy conservation	60
Direct and immediate participation	30
Guaranteed	30
Development companies	150
Direct and immediate participation	50
Guaranteed and guarantees of debentures	100
Investment company assistance	240
Direct purchase of debentures and preferred securities	50
Guaranteed	190
Tota BLIF	3,868
Direct and immediate participation	267
Guaranteed	3,601
Disaster:	
Physical	(1)
Nonphysical	60
Surety bond guarantees (SBA share of program level)	1,900
Pollution control bond guarantees	100

[1] Open ended.

To carry out fiscal year 1980 program levels, the *Senate bill* authorizes $677.453 million. Of this amount, $441 milion shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6): $6 million shall be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $194.453 million for salaries and expenses.

The House bill establishes program levels for fiscal year 1980 as follows:

	Millions
7(a) Business	$4,125
Direct and immediate participation	495
Guaranteed	3,630
7(h) Handicapped	33
Direct and immediate participation	22
Guaranteed	11
7(i) EOL	166
Direct and immediate participation	73
Guaranteed	93
7(1) Solar and energy conservation	75
Direct and immediate participation	30
Guaranteed	45
Development companies	160
Direct and immediate participation	50
Guaranteed	110
Investment company assistance	250
Direct purchase of debentures and preferred securities	25
Guaranteed	225
Total BLIF	4,809
Direct and immediate participation	695
Guaranteed	4,114
Disaster:	
Physical	(1)
Nonphysical	220
Surety bond guarantees (SBA share of program level)	2,700
Pollution control bond guarantees	100

[1] Open ended.

To carry out fiscal year 1980 program levels, the *House bill* authorizes $1,616 million. Of this amount $42 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $232 million for salaries and expenses.

The *conference substitute* establishes the following program levels for fiscal year 1980:

	Millions
7(a) Business	$3,905
Direct and immediate participation	275
Guaranteed	3,630
7(h) Handicapped	33
Direct and immediate participation	22
Guaranteed	11
7(i) EOL	$150
Direct and immediate participation	69
Guaranteed	81
7(1) Solar and energy conservation	60
Direct and immediate participation	30
Guaranteed	30
Development companies	155
Direct and immediate participation	50
Guaranteed	105
Investment company assistance	245
Direct purchase of debentures and preferred securities	38
Guaranteed	207
Total BLIF	4548
Direct and immediate participation	484
Guaranteed	4064
Disaster:	
Physical	(1)
Nonphysical	100
Surety bond guarantees (SBA share of program levels)	2,300
Pollution control bond guarantees	100

[1] Open ended.

There are authorized to be appropriated to the Administration for fiscal year 1980, $952 million. Of such sum, $715 million shall be available for the purpose of carrying out the programs referred to in subsection (h), paragraphs (1) through (6); $20 million shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958: $4 million shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958: and $212.5 million shall be available for salaries and expenses of the Administration. The conferees note that the increase in the guaranteed levels for development company lending is due largely to the addition of the new section 503 program.

(4) FISCAL YEAR 1980 SALARY AND EXPENSE AUTHORIZATIONS

Of the total salary and expenses for fiscal year 1980, the *Senate bill* earmarks eight specific functions with priority being given within each function:

(1) $11,315,000 shall be available for procurement assistance, of which amount no less than $300,000 shall be used to employ ten additional certificate of competency specialists, no less than $900,000 shall be used to employ thirty additional procurement cente rrepresentatives and no less than $450,000 shall be used to employ fifteen additional subcontracting specialists;

(2) $2,800,000 shall be available for technical assistance, of which amount no less than $1,200,000 shall be used to develop and maintain twelve technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technological problems or needs of small businesses by searching such technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses, and no less than $772,000 shall be used to pay for the continued develoment of a procurement automated source system;

(3) $19,346,000 shall be available for management assistance, of which amount no less than $5,279,000 shall be used for SCORE/ACE program costs, no less than $3,835,000 shall be used for small business institute program costs, no less than $1,611,000 shall be used for management assistance program development costs, and no less than $1 million shall be used to develop and implement a small business export development program and to employ no less than seventeen staff people for the Office of Internatonal Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist;

(4) $8 million shall be available for economic research and analysis and advocacy, of which amount no less than $2,898,000 shall be used to employ sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out those functions prescribed by Public Law 94–305, no less than $1,500,000 shall be used to develop an external small business data bank and small business index, no less than $1 million shall be used to undertake studies associated with issues affecting the whole of the small business sector, and no less than $500,000 shall be used to research small business problems within industries undergoing dislocation and stress and to recommend solutions for such problems;

(5) $24,897,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, of which amount no less than $12 million shall be used to carry out those functions prescribed by section 7(j) of this Act;

(6) $8,034,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount no less than $1 million shall be used to pay for development of such indicative small business data base;

(7) $8 million shall be available for matching grants to small business development centers, and an additional $500,000 shall be available for the administration of the small business development center program; and

(8) not to exceed $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, nonconcentrated, healthy forest product indus-.

try. In conducting the study and investigation pursuant to the preceding sentence, particular attention should be given to the ananlysis and review of, and recommendations with respect to, reasons for failure among firms within the forest products industry.

Of the total salary and expenses for fiscal year 1980, the House bill earmarks 6 specific functions, with priority being given within each function:

(1) $18,700,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including those under section 8(a) of this Act;

(2) $29,400,000 shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, development of small business development centers, and development of an effective small business technology transfer program;

(3) $8 million shall be available for research and advocacy, with priority given to developing a small business economic data base, evaluating the required resources for a major business economic research and analysis unit in the Administration, undertaking such economic research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government;

(4) $17,200,000 shall be available for the Office of Minority Small Business:

(5) $7,400,000 shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration of which amount no less than $1 million shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information; and

(6) $18 million shall be available for grants to small business development centers, and an additional $650,000 shall be available for the administration of the small business development center program.

The *conference substitute* provides:

(1) $12 million shall be available for procurement and technical assistance, including the employment of not less than twenty-seven additional procurement center representatives and subcontracting specialists: $1,800,000 shall be available for technical assistance, of which amount not less than $572,000 shall be used to pay for the continued development of a procurement automated source system; and not less than $750,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and intepret the appropriate technology for such small businesses; and not more than $200,000 shall be available for a study the purpose of which shall be to define and describe the forest products industry and, in particular, to define and describe that portion of the forest products industry which consists of small businesses, to identify the trends and conditions affecting the survival of small businesses as a viable portion of the forest products industry, and to propose actions and programs to assist and promote a broadly based, non-concentrated, healthy forest products industry.

(2) $21 million shall be available for management assistance including the development and implementation of a small business export development program of which amount not less than $500,000 shall be used to employ not less than 14 additional staff people for the Office of International Trade, 10 of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

(3) $8 million shall be available for economic research and analysis and advocacy, of which amount not less than $2 million shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,500,000 shall be used to develop an external small business data bank and small business index, and not less than $1,500,000 shall be used for research.

(4) $25 million shall be available for the Office of Minority Small Business and Capital Ownership Development, $10 million of which shall be used to carry out those functions prescribed by section 7(j) of this Act, and $1.285 million for section 7(j) program administration.

(5) $9 million shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1 million shall be used to pay for development of such indicative small business data base.

(6) $12 million shall be available for matching grants to small business development centers, and an additional $500,000 shall be available for the administration of the small business development center program.

The conferees note that the salary and expense authorizations for three fiscal years reflect the realignment of certain agency functions as a result of the Administration's internal reorganization.

In this fiscal year, procurement and technical assistance deletes from this function funding for the Office of Business Development. The procurement assistance line-item includes a technology assistance subfunction treated separately by the Senate bill. This subfunction includes an increase of $300,000 for the procurement automated source system is meant to be applied to increase the number of entries into the system. With respect to the additional subcontracting specialists and procurement center representatives mandated, the conferees expect the additional personnel to be devoted specifically to that purpose and not transferred to other divisions or assigned other responsibilities within the Administration. In addition, the agency should review and seriously consider the feasibility of contracting annually with private firms, on a dollar-incentive basis, the procurement center representative function. Since such a large volume of SBA 8(a) contracts are in the fuel-oil area, and the agency has encountered difficulty in this field, serious consideration should be given to hiring at least one of the new subcontracting specialists as a fuel-oil specialist; to date, the conferees are not convinced that any single person within the agency has the expertise to handle this complex, and growing, subcontracting function. With respect to the forest products study, the conferees reiterate that the $200,000 provided for this fiscal year only is meant as a maximum, not a minimum, amount to be spent on the study. The study has been earmarked under the procurement function where the timber set aside program is managed. In conducting the forest products study, particular attention should be given to an analysis and review of, and recommendations with respect to, reasons for failure among firms within the forest products industry.

Management assistance has been provided $21 million. However, conferees note it does not include any funds for the operation of the 7(j) program (which has been transferred to the Office of Minority Small Business and Capital Ownership Development) or small business development centers (a separate line-item has been provided). This amount does include an additional $1 million to employ additional personnel and upgrade the Office of International Trade. Such office should carefully address the proper role of the agency in making export assistance available to small business.

Research and advocacy includes funds for at least sixty-nine staff personnel for the Office of the Chief Counsel for Advocacy, including those salaries attributable to other personnel in the central office performing research and advocacy functions. Not less than $3 million is made available for research, of which $1.5 million is specifically to be used to develop an external small business data bank and small business economic index. No funds for the Office of Public Communications are included in this function.

The Office of Minority Small Business and Capital Ownership Development includes the full amount requested by the President for salaries and expenses for this Office. In addition, salaries and expenses for the Office of Business Development, as well as funding for the programs undertaken pursuant to section 7(j) of the Small Business Act, are incorporated in this function. An additional $1.285 million above the President's request is provided for the 7(j) program, but administrative expenses associated with the program are also incorporated in this line item.

Program evaluation and data management includes all the funds requested by the President, plus an additional amount specifically to continue the development of the small business indicative data base. The conferees expect SBA to adhere to the provisions of the Privacy Act of 1974 with respect to the dissemination of this information.

An authorization for matching grants to small business development centers, including administrative expenses, is provided in a separate line-item.

(5) SBA PROGRAM LEVELS—FISCAL 1981

The *Senate bill* establishes the following program levels for fiscal year 1981:

	Millions
7(a) Business	$3,570
Direct and immediate participation	50
Guaranteed	3,520
7(h) Handicapped	37
Direct and immediate participation	25
Guaranteed	12
7(i) EOL	148.5
Direct and immediate participation	71.5
Guaranteed	77.0
7(l) Solar and Energy conservation	63
Direct and immediate participation	30
Guaranteed	33
Development companies	165
Direct and immediate participation	55
Guaranteed and guarantees of debentures	110

	Millions
Investment company assistance	264
Direct purchase of debentures and preferred securities	55
Guaranteed	209
Total BLIF	4, 147. 5
Direct and immediate participation	286. 5
Guaranteed	3, 861. 0
Disaster:	
Physical	(1)
Nonphysical	66
Surety bond guarantees (SBA share of program level)	2, 090
Pollution control bond guarantees	110

[1] Open ended.

To carry out fiscal year 1981 program levels, the *Senate bill* authorizes $850.1 million. Of this amount, $521 million shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraphs (1) through (6): $63 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program and $224.1 million for salaries and expenses.

The *House bill* establishes the following program levels for fiscal year 1981:

	Millions
7(a) Business	$4, 545
Direct and immediate participation	545
Guaranteed	4, 000
7(h) Handicapped	$37
Direct and immediate participation	25
Guaranteed	12
7(i) EOL	184
Direct and immediate participation	81
Guaranteed	103
7(l) Solar and energy conservation	75
Direct and immediate participation	30
Guaranteed	45
Development companies	175
Direct and immediate participation	55
Guaranteed	120
Investment company assistance	278
Direct purchase of debentures and preferred securities	28
Guaranteed	250
Total BLIF	5, 294
Direct and immediate participation	764
Guaranteed	4, 530
Disaster:	
Physical	(1)
Nonphysical	242
Surety bond guarantees (SBA share of program level)	3, 500
Pollution control bond guarantees	110

[1] Open ended.

To carry out fiscal year 1981 program levels, *the House bill* authorizes $1,789 million. Of this amount, $59 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $254 million for salaries and expenses.

The *conference substitute* establishes the following program levels for fiscal year 1981:

	Millions
7(a) Business	$4, 300
Direct and immediate participation	300
Guaranteed	4, 000
7(h) Handicapped	37
Direct and immediate participation	25
Guaranteed	12
7(i) EOL	166
Direct and immediate participation	76
Guaranteed	90
7 (l) Solar and energy conservation	63
Direct and immediate participation	30
Guaranteed	33
Development companies	$170
Direct and immediate participation	55
Guaranteed	115
Investment company assistance	270
Direct purchase of debentures and preferred securities	42
Guaranteed	228
Total BLIF	5, 006
Direct and immediate participation	528
Guaranteed	4, 478
Disaster:	
Physical	(1)
Nonphysical	110
Surety bond guarantees (SBA share of program levels)	2, 530
Pollution control bond guarantees	110

[1] Open ended.

There are authorized to be appropriated to the Administration for fiscal year 1981, $1,187 million. Of such sum, $865 million shall be available for the purpose of carrying out the programs referred to in subsection (k), paragraphs (1) through (6): $76 million shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4 million shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $242 million shall be available for salaries and expenses of the Administration.

(6) FISCAL YEAR 1981 SALARY AND EXPENSE AUTHORIZATIONS

Of the total salary and expenses for fiscal year 1981, the *Senate bill* earmarks seven specific functions with priority being given within each function:

(1) $12,446,000 shall be available for procurement assistance;

(2) $3,080,000 shall be available for technical assistance, of which amount no less than $1,320,000 shall be used to develop and maintain twelve technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technological problems or needs of small businesses by searching such technology data banks or other sources to locate, obtain, and interpret the appropriate technology for such small businesses;

(3) $20,180,000 shall be available for management assistance, of which amount no less than $5,806,000 shall be used for SCORE/ACE program costs, no less than $4,218,000 shall be used for small business institute program costs, no less than $1,772,000 shall be used for management assistance program development costs, and no less than $1,100,000 shall be used to implement the small business export development program and to employ no less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist;

(4) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount no less than $3,187,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out those functions prescribed in Public Law 94–305, no less than $1,650,000 shall be used to develop an external small business data bank and small business index, no less than $1,100,000 shall be used to undertake studies associated with issues affecting the whole of the small business sector, and no less than $550,000 shall be used to research small business problems within industries undergoing dislocation and stress and to recommend solutions for such problems;

(5) $27,386,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, of which amount no less than $13,200,000 shall be used to carry out those functions prescribed by section 7(j) of this Act;

(6) $8,837,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount no less than $1 million shall be used to pay for development of such indicative small business data base; and

(7) $18 million shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

Of the total salary and expenses for fiscal year 1981, the *House bill* earmarks five specific functions with priority being given within each function:

(1) $20,600,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including those under section 8(a) of this Act;

(2) $33 million shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, development of small business development centers, and development of an effective small business technology transfer program;

(3) $8,900,000 shall be available for research and advocacy, with priority given to developing a small business economic data base, evaluating the required resources for a major small business economic research and analysis unit in the Administration, undertaking such economic research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government;

(4) $17,400,000 shall be available for the office of minority small business; and

(5) $8 million shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration, of which amount no less than $1 million shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information.

The *conference substitute* provides:

(1) $13,200,000 shall be available for procurement and technical assistance; of which amount not less than $2 million shall be available for technical assistance, and of that amount not less than $629,000 shall be used to pay for the continued development of a procurement automated source system and not less than $825,000 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching technology data banks or other sources to locate, obtain and interpret the appropriate technology for such small businesses.

(2) $23,100,000 shall be available for management assistance of which amount not less than $880,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the Administration's regional offices being assigned one such specialist.

(3) $8,800,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2.2 million shall be used to employ at least 69 staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94–305; not less than $1,650,000 shall be used to develop an external small business data bank and small business index, and not less than $1,650,000 shall be used for research.

(4) $27,500,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $11,000,000 of which shall be used to carry out those functions prescribed by section 7(j) of this Act, and $1.414 million for section 7(j) program administration.

(5) $9,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount no less than $1,100,000 shall be used to pay for development of such indicative small business data base.

(6) $20 million shall be available for matching grants to small business development centers, and an additional $550,000 shall be available for the administration of the small business development center program.

(7) SBA PROGRAM LEVELS—FISCAL YEAR 1982

The *House bill* establishes the following program levels for fiscal year 1982:

	Millions
7(a) Business	$5,000
Direct and immediate participation	600
Guaranteed	4,400
7(h) Handicapped	42
Direct and immediate participation	28
Guaranteed	14
7(i) EOL	204
Direct and immediate participation	90
Guaranteed	114
7(l) Solar and energy conservation	75
Direct and immediate participation	30
Guaranteed	45
Development companies	191
Direct and immediate participation	61
Guaranteed	130
Investment company assistance	306
Direct purchase of debentures and preferred securities	31
Guaranteed	275
Total BLIF	5,818
Direct and immediate participation	840
Guaranteed	4,978
Disaster:	
Physical	([1])
Nonphysical	267
Surety bond guarantees (SBA share of program levels)	4,000
Pollution control bond guarantees	125

[1] Open ended.

To carry out fiscal year 1982 program levels, the *House bill* authorizes $1,943 million. Of this amount, $69 million is to be available to carry out the surety bond guarantees program; $4 million to pay claims on prior guarantees on the defunct lease guarantees program; and $278 million for salaries and expenses.

The *Senate bill* has no comparable provision.

The *conference substitute* establishes the following program levels for fiscal year 1982:

	Millions
7(a) Business	$4,780
Direct and immediate participation	330
Guaranteed	4,400
7(h) Handicapped	42
Direct and immediate participation	28
Guaranteed	14
7(i) EOL	182
Direct and immediate participation	83
Guaranteed	99
7(l) Solar and energy conservation	67
Direct and immediate participation	30
Guaranteed	37
Development companies	186
Direct and immediate participation	61
Guaranteed	125
Investment company assistance	298
Direct purchase of debentures and preferred securities	47
Guaranteed	251
Total BLIF	5,505
Direct and immediate participation	579
Guaranteed	4,926
Disaster:	
Physical	([1])
Nonphysical	121
Surety bond guarantees (SBA share of program level)	2,780
Pollution control bond guarantees	125

[1] Open ended.

There are authorized to be appropriated to the Administration for fiscal year 1982, $1,375 million. Of such sum, $1,022 million shall be available for the purpose of carrying out the programs referred to in subsection (n), paragraphs (1) through (6); $83 million shall be available for the purpose of carrying out the provisions of section 412 of the Small Business Investment Act of 1958; $4 million shall be available for the purpose of carrying out the provisions of section 403 of the Small Business Investment Act of 1958; and $266 million shall be available for salaries and expenses of the Administration.

(8) FISCAL YEAR 1982 SALARY AND EXPENSE AUTHORIZATION

Of the total salary and expenses for fiscal year 1982, the *House bill* earmarks 5 specific functions with priority being given within each function:

(1) $22,600,000 shall be available for procurement assistance, with priority given to developing a small business procurement source data bank and to employing additional procurement officers to increase the number and total value of set-asides, including those under section 8(a) of this Act;

(2) $36,100,000 shall be available for management and technical assistance, with priority given to development of effective training programs and counseling services, development of small business development centers, and development of an effective small business technology transfer program;

(3) $9,800,000 shall be available for research and advocacy, with priority given to developing a small business economic data base, evaluating the required resources for a major small business economic research and analysis unit in the Administration, undertaking such economic research and analysis, representing the interests of small business within the Federal Government, and developing a small business ombudsman function to help solve small business problems that are caused by programs, regulations, or general activities of the Federal Government;

(4) $17,600,000 shall be available for the office of minority small business; and

(5) $9,200,000 shall be available for data management with priority given to more effective and efficient utilization of existing data management resources of the Administration of which amount no less than $1,000,000 shall be used to pay for development of an indicative small business data base comprised of names and addresses and related information.

The *Senate bill* authorizes $20,605 million for fiscal year 1982, which shall be available solely for the small business development center program.

The *conference substitute* provides:

(1) $14,520,000 shall be available for procurement and technical assistance; of which amount not less than $2,100,000 shall be available for technical assistance of which amount not less than $692,000 shall be used to pay for the continued development of a procurement automated source system and not less than $907,500 shall be used to develop and maintain technology assistance centers which shall have direct or indirect access to a minimum of thirty technology data banks to define the technology problems or needs of small businesses by searching tecnhology data banks or other sources

to locate, obtain and interpret the appropriate technology for such small businesses.

(2) $25,400,000 shall be available for management assistance, of which amount not less than $968,000 shall be used to sustain the small business export development program and to employ not less than seventeen staff people for the Office of International Trade, ten of whom shall serve as export development specialists with each of the administration's regional offices being assigned one such specialist.

(3) $9,680,000 shall be available for economic research and analysis and advocacy, of which amount not less than $2,420,000 shall be used to employ at least sixty-nine staff people for the Office of the Chief Counsel for Advocacy to carry out research and those functions prescribed by Public Law 94-305; not less than $1,815,000 shall be used to develop an external small business data bank and small business index, and not less than $1,815,000 shall be used for research.

(4) $30,250,000 shall be available for the Office of Minority Small Business and Capital Ownership Development, $12,100,000 of which shall be used to carry out those functions prescribed by section 7(j) of this Act and $1.555 million for section 7(j) program administration.

(5) $10,900,000 shall be available for program evaluation and data management with priority given to the development of an automated internal Administration management data base, to the enhancement of the Administration's document tracking system, to the installation of terminals in Administration field offices, and to the development of an indicative small business data base comprised of names and addresses and related information, of which amount not less than $1,210,000 shall be used to pay for development of such indicative small business data base.

(9) SBA DISASTER ASSISTANCE

The *Senate bill* makes several changes in the disaster assistance programs of the Federal Government.

First, the *Senate bill* amends section 7(b)(1) of the Small Business Act by including a provision requiring SBA to review the ability of business concerns to obtain sufficient credit elsewhere at reasonable rates and terms, taking into account the prevailing private rates and terms for similar purposes and periods of time in the community in or near where the business concern transacts business.

Section 7(b) of the Small Business Act is further amended by changing the formula by which the Small Business Administration calculates the maximum interest rate it is permitted by statute to charge on its share of loans made under this subsection, including both physical disaster and economic injury disaster loans.

The *Senate bill* retroactively establishes interest rates on homeowner loans for disasters occurring on or after October 1, 1978 at three percent on the first $55,000 of assistance. There is no prospective termination date provided.

Further, the interest rate for business disaster loan assistance is similarly made retroactive to loans made for disaster occurring on or after October 1, 1978. If the business is not able to obtain sufficient credit elsewhere, as determined by SBA, then the SBA rate on that loan shall be the rate charged farmers who cannot obtain sufficient credit elsewhere under the Farmers Home Administration emergency loan program, as established by the Consolidated Farm and Rural Development Act. That rate is presently 5 percent.

If the business concern is able to obtain sufficient credit elsewhere, the interest rate will be the cost-of-money to the Federal Government, as revised by the *Senate bill*.

The *Senate bill* also adopts a "graduation" provision which provides that five years after the loan to these businesses is first approved, and every two years thereafter for the life of the loan, if need be, the portfolio managers will review the credit abilities of the business. If SBA determines during these reviews that the business is then able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower will, upon request of SBA, apply for and accept such non-Federal loan in an amount sufficient to fully repay SBA for the balance outstanding.

The *Senate bill* requires those eligible for FmHA loans to apply there first; however, if they are not offered an FmHA loan, a borrower may apply to and receive an SBA loan if he/she meets the tests of the SBA administered program.

The *House bill* also makes significant changes in the SBA disaster assistance program.

The interest rates on loans to offset net losses on principal residences and personal property will be 3 percent up to $55,000 and under certain conditions up to an additional $50,000 at cost-of-money under a formula which currently equals 8¼ percent. The SBA will continue to make loans on homes and personal property.

Businesses, including the owners of residential buildings rented to others, unable to obtain sufficient credit elsewhere may receive a loan of 5 percent to offset net losses up to a maximum of $500,000, whether the applicant goes to SBA or is qualified at FmHA.

If a business could obtain credit elsewhere, it shall have a right to obtain up to a maximum of $500,000 at a rate of interest equal to the cost of money to the U.S. Government plus not more than 1 percent under a formula which currently would equal 10½ percent plus an additional amount up to 1 percent. This applies whether the applicant is being processed by SBA or FmHA. After 2 years, these loans are subject to being reviewed to see if the borrower is able to obtain a loan elsewhere at reasonable rates and on reasonable terms.

Those eligible for FmHA loans would be required to apply there first: however, if they are not offered an FmHA loan, a borrower may apply for and receive an SBA loan if he/she meets the tests of the SBA administered program;

An exception to the $500,000 loan limit to businesses could be made by SBA if the applicant is a major employer and is no longer in substantial operation as a result of the disaster.

(10) CREDIT-ELSEWHERE TEST

The *Senate bill* imposes a credit-elsewhere test for businesses under the physical disaster lending program as a means for determining the interest rate to be applied to the loan.

The *House bill* imposes a similar credit-elsewhere test for businesses with respect to a disaster occurring on or after October 1, 1978 and prior to October 1, 1982. The ability to obtain credit-elsewhere is used as a means for determining the interest rate to be applied for loans to repair or replace property damaged or destroyed.

The *conference substitute* adopts the House provision.

(11) INTEREST FORMULA

Under *existing law*, the agency is not permitted to set the interest at a rate in excess of the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 percent plus one-quarter of 1 percent. This rate presently translates into an interest rate of 8½ percent.

Under the *Senate bill* this cost-of-money formula is amended to provide for the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus not to exceed 1 percent, as determined by the Administrator, and adjusted to the nearest one-eighth of 1 percent. The Senate bill interest rate formula change would be applicable to all SBA disaster loan programs.

The *House bill* adopts a similarly revised cost-of-money interest rate for business physical disaster loans with respect to a disaster occurring on or after October 1, 1978 and prior to October 1, 1982 where the business is able to obtain sufficient credit elsewhere. The House bill interest formula would be applicable only to the SBA physical disaster loan program.

The *conference substitute* adopts the House provision.

(12) HOMEOWNER INTEREST RATES

The *Senate bill* retroactively establishes interest rates on homeowners loans for disasters occurring on or after October 1, 1978, at 3 percent on the first $55,000 of assistance. There is no prospective termination date provided.

The *House bill* establishes interest rates on homeowner loans for disasters occuring on or after October 1, 1978 and prior to October 1, 1982, at 3 percent on the first $55,000 of assistance.

The *conference substitute* adopts the House provision.

The conferees are aware that, in years past, when adjustment in interest rates were made under different circumstances, the Small Business Administration moved to hold monthly payments the same and accommodate lower interest payments by reducing the term of the loan. While this may have been proper under different circumstances of the past, the conferees direct that, upon enactment, SBA give the borrower the option of selecting lower monthly payments or a reduction in principal.

(13) BUSINESS INTEREST RATES

The *Senate bill* retroactively reduces the interest rates on loans to business on account of a disaster occurring on or after October 1, 1978. If the business is not able to obtain sufficient credit elsewhere, as determined by SBA, then the SBA rate on that loan shall be the rate charged farmers who cannot obtain sufficient credit elsewhere under the Farmers Home Administration emergency loan program, as established by the Consolidated Farm and Rural Development Act. That rate is presently 5 percent.

If the business concern is able to obtain sufficient credit elsewhere, the interest rate will be the cost of money to the Federal Government, as revised by the Senate bill.

The *House bill* retroactively reduces the interest rates on business loans for disasters occurring on or after October 1, 1978 and prior to October 1, 1982. If the loan is to repair or replace property damaged or destroyed, and the business is not able to obtain sufficient credit elsewhere, the interest rate is as determined by SBA, but not in excess of 5 percent per annum. If the business is able to obtain sufficient credit elsewhere, the interest rate is at a rate not to exceed the current average yield on outstanding marketable obligations of the U.S. adjusted.

The *conferense substitute* basically adopts the House provision.

(14) CREDIT AVAILABILITY REVIEW BY SBA

The *Senate bill* adopts a "graduation" provision for review of the credit availability from non-Federal sources for businesses which receive SBA physical disaster loans even though they could obtain credit elsewhere.

Five years after the loan to these businesses is first approved, and every 2 years thereafter for the life of the loan, if need be, the portfolio managers will review the credit abilities of the business. If SBA determines during these reviews that the business is then able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower will, upon request of SBA, apply for and accept such non-Federal loan in sufficient amount to fully repay SBA for the balance outstanding.

The *House bill* contains a similar review provision. However, under the House bill, the initial review is made 2 years after the loan is first approved.

The *conference substitute* provides for the initial graduation review 3 years after the loan is fully disbursed and additional reviews, if appropriate, every 2 years thereafter.

(15) CEILING ON LOAN SIZE

The *House bill* imposes a $500,000 ceiling on the total amount outstanding and committed to any single borrower unless an applicant constitutes a major source of employment in an area suffering a disaster and is no longer in substantial operation as a result of such disaster. In such a case, SBA may waive the limitation.

The *Senate bill* contains no similar provision.

The *conference substitute* adopts a provision similar to the House provision. However, while the House bill provided for a limitation on the total amount outstanding and committed to any single borrower, the conference substitute makes it clear that this limitation is applicable for each disaster. The conferees want to make clear that the limitation is not meant to be cumulative, nor is it meant to be applicable to any other form of assistance which an applicant may receive from other SBA programs, including non-physical disaster loans.

The waiver authority granted to the Administrator has been amended to clarify that the business only needs to be a major source of employment in an area suffering a disaster. The requirement in the House bill that the business also "no longer be in substantial operation" has been deleted as being too restrictive.

(16) FARMER ELIGIBILITY AT SBA

Under *current law*, farmers are statutorily deemed eligible for assistance from SBA for all forms of physical disaster assistance, including crop loss. In addition, under certain circumstances, farmers are also eligible for assistance from the Farmers Home Administration. However, there is no requirement that farmers first seek assistance from Farmers Home before going to SBA.

The *Senate bill* amends section 18 of the Small Business Act, relating to duplication, to clarify that an agricultural enterprise shall not be eligible for physical disaster loan assistance to repair or replace property other than a residence unless that enterprise is first declined for, or would be declined for, emergency loan assistance from the Farmers Home Administration.

The *House bill* contains a similar provision, except that the prohibition is in effect only with respect to a disaster occurring on or after October 1, 1978 and prior to October 1, 1982.

The *conference substitute* basically adopts the Senate provision.

Section 18 of the Small Business Act, relating to duplication, is amended by clarifying the definition of "agricultural enterprises" and "credit elsewhere." In addition, the conference substitute makes these amendments effective through fiscal year 1982 only.

The *conference substitute* makes clear that agricultural enterprises must first seek assistance from the Farmers Home Administration unless the agricultural enterprise is declined for, or would be declined for, emergency loan assistance at substantially similar interest rates from FmHA.

There has been some discussion of administratively imposing a minimum loss test at SBA for agricultural producers. In the case of a disaster caused by drought, there is a variation from normal yield which would represent the amount by which yields presumably would be reduced in approximately one-half of the crop years. Conferees understand the Administration is attempting to determine a fair formula to take this natural occurrence into consideration in figuring net losses in those drought disaster cases. However, in disasters not related to drought involving crops, there is no normal reduction or increase from such non-drought causes; and since there is no arbitrary deduction from net loss in calculating the amount of loan eligibility for non-farm businesses, homeowners and other eligible applicants, SBA would not arbitrarily reduce the amount of loan eligibility for non-drought disasters for agricultural producers.

The underlying issue is one of equality and lack of discrimination and the conferees again state the basic premise that unless agricultural enterprises receive emergency loan assistance at substantially similar interest rates from FmHA as other business disaster victims receive from SBA, they may seek assistance from SBA.

(17) AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

(*a*) *The Senate bill* amends section 324 of the Consolidated Farm and Rural Development Act to make emergency loans by the Farmers Home Administration available for the first time to farmers who can obtain credit elsewhere. The bill imposes a two-tier emergency loan interest rate structure for loans up to the actual loss covered by the disaster. If a farmer is not able to obtain sufficient credit elsewhere, the interest rate will be in excess of 5 percent as under current law. If a farmer is able to obtain sufficient credit elsewhere, emergency loans will be not in excess of a rate equal to the cost of money to the Federal Government for comparable marketable obligations, plus not to exceed 1 percent as determined by the Secretary.

The *House amendment* contains the same provision, but would place a cap of $500,000 on the total amount of emergency loans covering actual loss that could be outstanding and committed to any one borrower.

The *conference substitute* adopts the $500,000 ceiling on emergency loans contained in the *House amendment* but applies it separately to each disaster.

It is the intent of the conferees that the total amount of disaster loans made to borrowers who are able to obtain sufficient credit elsewhere not exceed the borrowers' actual loss, so that credit worthy borrowers would not be extended credit for restructuring of their farming operations.

It is further the intent that the existing Small Business Administration portfolio of farm loans should remain solely within the Small Business Administration and not be transferred to the Farmers Home Administration.

The provision of the *conference substitute* authorizing a departure from Farmers Home Administration's credit-elsewhere test is expected to result in a 25 percent increase in the workload of that agency based on experience during fiscal year 1979. This is expected to increase the program level by $400 million, increase administrative expenses by $4 million as well as require an additional 200 staff-years to make and service these loans. The conferees have been informed by the Administration that upon approval of the *conference substitute*, the Administration will increase the personnel ceiling for the Department of Agriculture and authorize it to hire the additional 200 staff persons. The conferees fully expect the Administration to meet this commitment so that the amendments to the Consolidated Farm and Rural Development Act can be properly implemented.

(*b*) The *House amendment* provides in the case of FmHA emergency loans to a borrower who can obtain credit elsewhere that if two years after the disaster loan is first approved and every two years thereafter the Secretary determines that the borrower is able to obtain a loan from non-Federal sources at reasonable rates and terms for loans of similar purposes and periods of time, the borrower shall obtain such loan and repay the Secretary.

The *Senate bill* contains no comparable provision but current law provides the Secretary with discretion to exercise similar authority.

The *conference substitute* adopts the House provision, but provides for this authority to be exercised three years after the disaster loan is made or insured and every two years thereafter. The non-Federal sources to which this "graduation" requirement applies includes, among other things, production credit associations, Federal land banks, and similar financial institutions.

(18) SAVINGS CLAUSE

The *House bill* provides that nothing in the disaster loan interest provisions shall be construed to adversely affect the interest of any disaster victim whose application for a loan has been approved prior to the effective date of the act.

The *Senate bill* contains no comparable provision.

The *conference substitute* provides that the amendments made by this section to section 7(c)(3)(C) (relating to the imposition of increased interest rates for business borrowers eligible to obtain credit elsewhere or the $500,000 cap) and section 18 (relating to the requirement that most agricultural enterprises must first seek assistance from FmHA) do not, and shall not, apply to any disaster which commenced on or before the effective date of this Act. The word "commenced" has been used because of the inconsistent position the agency has taken in the past with the term "occurred" in determining whether particular localities are eligible for new benefits.

The conferees emphasize that nothing contained in the conference substitute shall preclude the benefits which will accrue to disaster victims from vesting immediately upon enactment of this Act.

The primary reason for this amendment is the accommodation of the Administration's policy of attempting to maximize the number of agricultural producers whose financial needs resulting from a physical or natural disaster are served by FmHA's emergency loan program rather than by SBA's disaster loan program. The conferees concur in this intent provided that an agricultural producer receives emergency loan assistance at substantially similar interest rates from FmHA as a non-agricultural business receives from SBA.

(19) INVESTMENT OF IDLE FUNDS

The Senate bill repeals the last sentence of section 412 of the Small Business Investment Act of 1958, thus eliminating the authority of the Small Business Administration to invest temporarily idle funds in the surety bond guarantees revolving fund.

The Senate bill amends section 405 of the Small Business Investment Act of 1958, by adding a new sentence which specifically provides authority for investment of temporarily idle funds in the pollution control guarantee revolving fund.

The House bill contains identical provisions.

The conference substitute adopts the Senate provisions.

(20) AVAILABILITY OF UNEXPENDED FUNDS

The Senate bill amends section 20(a) of the Small Business Act by providing that, except as otherwise specifically authorized in other subsections of section 20, there are authorized to be appropriated for fiscal years 1979, 1980, 1981 and 1982 such sums as may be necessary to carry out the provisions and purposes of this Act. In addition, it provides that all appropriations, whether specifically or generally authorized, shall remain available until expended.

The House bill amends section 20(a) of the Small Business Act by providing that all appropriations shall remain available until expended.

The conference substitute provides that for fiscal years 1979, 1980, 1981, and 1982 there are authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. For fiscal year 1983 and every fiscal year thereafter, there are hereby authorized to be appropriated such sums as may be necessary and appropriate to carry out the provisions and purposes of this Act other than those for which appropriations are specifically authorized. All appropriations whether specifically or generally authorized shall remain available until expended.

(21) ENERGY SHORTAGE LOANS

The *Senate bill* amends section 7(b)(8) of the Small Business Act by clarifying that energy shortage loans may be made available to those small business concerns injured by a shortage of any energy source, including coal, unless the shortage is caused by a strike, boycott or embargo directly against such concern.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(22) INTEREST DIFFERENTIAL

The *House bill* amends section 4(c)(5) of the Small Business Act by removing the requirement that SBA pay interest on the outstanding cash disbursements from the disaster loan revolving fund.

The *Senate bill* contains no comparable provision.

The *conference substitute* adopts the House provision.

(23) PRODUCT DISASTER LOANS

The *Senate bill* amends section 7(b)(4) of the Small Business Act by clarifying the circumstances under which product disaster loan assistance may be made available to small businesses unable to market their products.

The *House bill* contains a similar provision, but imposes a ceiling of $500,000 on the size of the loan if the disease or toxicity occurs from other than natural causes.

The *conference substitute* adopts the Senate provision with a proviso that any small business which intentionally adulterates its product in order to attempt to establish eligibility under this section shall not be eligible for loan assistance under this section.

The $500,000 cap in the House provision was inserted in an attempt to comply with OMB objections. This cap did not satisfy these objections and thus instead the conferees are expressly prohibiting a small business which intentionally adulterates its product in order to take advantage of this program from receiving a product disaster loan, as was expressly requested by the SBA Administrator.

The basic reason for the change in this program which was made by both the House and Senate bills is to provide loan assistance to those small businesses whose product is made unfit for human consumption due to other than natural causes. For example, if the Federally imposed ban on saccharin is not delayed, many small businesses, primarily including manufacturers and wholesalers, may suffer injury because they are unable to market products containing saccharin due to actions by the Federal Government. Such small businesses which are adversely affected by this type of action by the Government should receive loan assistance in overcoming the adverse effects of this type of Federal action.

(24) DEVELOPMENT COMPANY DEBENTURES

Under *existing law*, SBA is authorized to make loans, either direct or guaranteed, to local development companies for projects to help a small business concern acquire land, construct a new plant, purchase necessary equipment and machinery, or acquire, expand or convert an existing plant. SBA financing, however, is limited to $500,000 for each such small business to be assisted and the development company must procure the balance of the necessary assistance from other sources.

The *Senate bill* amends the Small Business Investment Act of 1958 to provide for a new "section 503" development program.

The *Senate bill* provides for the formation of local development companies that have: (1) a full-time professional staff; (2) adequate accounting, legal, and business servicing capabilities; and (3) an active board of directors which meets on a regular basis and is actively involved in loan decisions and loan servicing. In addition to SBA's authority to make loans up to $500,000 to the local development company for each small business being assisted by the company, SBA would be authorized to guarantee debentures issued by eligible local development companies. The amount of the debentures to be guaranteed may not exceed one-half of the project cost. The remaining one-half of the project cost would be required to be supplied from non-Federal Government sources.

SBA would still have to approve each individual loan of the development company. However, instead of making a direct loan for the approved amount, the development company would issue a debenture for one-half the amount of the deal. SBA would provide a 100-percent guarantee, and sell the debenture to private markets through the Federal Financing Bank.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision. Conferees intend that the availability of section 503 assistance to fund one-half of the project cost precludes utilizing section 501 and 502 assistance to fund any portion of the balance of that project.

(25) REGULAR BUSINESS LOAN REFORM

Under *current law*, the agency is charged with reviewing and approving de novo all credit and other threshold eligibility decisions prior to guaranteeing a loan already approved by a financial institution under the regular business loan guarantee program. In addition, the Federal Government must initiate any collection action in the event of a default.

SBA has undertaken, on its own initiative, a pilot bank certification program wherein banks are given increased responsibility and authority in making some of these credit and eligibility decisions. That pilot program has been underway for only a limited period of time, however.

The *Senate bill* amends section 5(b)(7) of the Small Business Act to extend the authority of the Small Business Administration in the area of loan making and administration. It authorizes the Administrator to transfer limited loan processing functions from the Administration to qualified financial institutions.

The *Senate bill* further provides that the current 7(a) regular business guarantee program will be sunset on October 1, 1981.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision with respect to granting the Administrator the authority to transfer certain of his responsibilities with repect to deferred participation loans to qualified participating lending institutions.

The conferees have also restated the Administrator's authority to take any and all actions necessary for administering the direct and immediate participation loan-making and servicing functions, but nothing shall be deemed to give the Administrator the authority to delegate or transfer his responsibility for administering the direct or immediate participation loan programs to other than Administration personnel (temporary disaster personnel are deemed to be Administration personnel).

(26) SURETY BOND GUARANTEE

The *Senate bill* amends section 411(c) of the Small Business Investment Act of 1958 to clarify a drafting error in the surety bond guarantees program when the Congress approved H.R. 11318 (Public Law 95–507) in the 95th Congress.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision.

(27) HANDICAPPED ASSISTANCE

The *Senate bill* amends section 15(c) of the Small Business Act to allow small businesses owned by handicapped individuals and sheltered workshops that employ the handicapped to participate in the Small Business Administration procurement set-aside program.

The *House bill* has no comparable provision.

The *conference substitute* extends the authority of non-profit organizations of handicapped individuals to participate in small business procurement set-asides, but restricts the participation to fiscal years 1980, 1981 and 1982, and limits it to not more than $100 million per year. In addition, it requires the SBA to monitor and evaluate the program, and directs the Administrator to require every Federal agency and department having procurement authority to take such actions as the Administrator deems appropriate if the Administrator and the Executive Director of the Committee for the Purchase From the Blind and Severely Handicapped find that the participation of such organizations of handicapped individuals has or may cause severe economic injury to for-profit small businesses. It further requires that by January 1, 1981, SBA prepare and transmit to the Small Business Committees of both the Senate and the House a report on the impact on for-profit small businesses of contracts awarded to such organizations of handicapped.

The conferees were disappointed, however, that the Small Business Administration was not given the cooperation of other Federal departments and agencies, particularly the Office of Federal Procurement Policy, in collecting the fullest possible information in order to be responsive to a previous congressionally mandated study. A new study is ordered, and the conferees fully expect all departments and agencies, including in particular the Office of Federal Procurement Policy, to cooperate fully with SBA in obtaining the necessary information.

(28) PROCUREMENT SYSTEMS

The purpose of the labor surplus area set-aside program is to target procurements to firms doing business in high unemployment areas. The program applies largely to purchases by civilian agencies. Approximately $200 million in Government contracts are being channeled into labor surplus areas through this program.

Under existing law, the Congress integrated the small business and labor surplus area set-aside programs in Public Law 95–89, and established the following scale of priorities for contracting agencies to use in determining when and what kinds of set-asides should be made:

(1) Concerns which are located in labor surplus areas, and which are also small business concerns, on the basis of a total set-aside.

(2) Concerns which are small business concerns on the basis of a total set-aside.

(3) Concerns which are small business concerns, on the basis of partial set-aside.

(4) Concerns which are located in labor surplus areas on the basis of a total set-aside.

Under conditions of the International Procurement Code, which was negotiated as part of the multilateral trade agreements, the United States would waive its "Buy American" protection for domestic suppliers for certain items purchased by the Federal Government.

U.S. negotiators were successful in having the small and minority business set-asides excluded from coverage under the Code. They were not successful in obtaining an exclusion for labor surplus area set-asides.

The *Senate bill* restructures section 15 (d) and (e) of the Small Business Act to make it possible to satisfy current terms of the International Procurement Code (a waiver of labor surplus area set-asides for firms) without waiving the small business set-aside program for firms located in these areas. It establishes the first priority as a small business set-aside that is further restricted to labor surplus areas, and thus excludes the small business program from the Code.

The *Senate bill* further amends section 15(f) by providing authority for labor surplus area set-asides for all businesses. This is the authority that would be waived under the terms of the International Procurement Code.

The *House bill* contains no comparable provision.

The reference in the *Senate bill* to "set-aside programs" was to the programs established and defined by Sections 15(a) through (d) of the Small Business Act as limited by the Maybank Amendments contained in the Department of Defense Appropriations Acts. Nothing in the *Senate bill* enlarges the substance of the provisions of sections 15(a) through (d) of the Small Business Act. The *Senate bill* reduces the number of concerns eligible for set-asides under sections 15(e) and (f), and revises the priorities within the small business and labor surplus area set-aside program aimed at preserving the preference for small business contractors in labor surplus areas and removes the sunset provision in existing law.

The *conference substitute* basically adopts the Senate provisions with respect to revising the priorities within the small business and labor surplus area set-aside programs which are as follows:

(1) concerns which are small business concerns and which are located in labor surplus areas, on the basis of a total set-aside;

(2) concerns which are small business concerns, on the basis of a total set-aside;

(3) concerns which are small business concerns and which are located in a labor surplus area, on the basis of a partial set-aside;

(4) concerns which are small business concerns, on the basis of a partial set-aside; and

(5) businesses which are not small business concerns and which will perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas.

The *conference substitute* also repeals the sunset provision of existing law.

Public Law 95–507 directs the President to report to the House and Senate Small Business and Armed Services Committees, on the labor surplus area procurement program on, or before, October 1, 1979. The conferees expect that this statutorily mandated, now postdue, report will be completed and submitted.

Public Law 95–507 also requires that the Department of Defense (DOD) report quarterly on the number and dollar value of formally advertised awards and labor surplus area set-asides for that period. The Defense Department's failure to make these reports indicates the cavalier attitude taken by that Department in carrying out the labor surplus area provisions. The conferees direct that these reports be made current and continue into the future.

Restating the Conference Report accompanying Public Law 95–507, the conferees again express their concern with DOD's utilization of partial labor surplus area procurements. The conferees expect that all applicable laws and regulations regarding the use of labor surplus area set-asides be fully, completely and expeditiously complied with by the Department of Defense, as well as other agencies. The conferees further direct the Department of Defense, in the quarterly report already mandated, to include quarterly labor surplus area set-aside goals by service (Army, Air Force, Navy, Defense Logistics Agency and the Department of Defense), the degrees to which compliance has been reached, and the reasons why goals have not been met.

(29) DUPLICATION OF SBA DISASTER LOAN BENEFITS

The *Senate bill* amends section 7(b) of the Small Business Act and provides that a State grant made on or after January 1, 1979 shall not be considered compensation for the purpose of applying the provisions of subsection (b) of section 315 of the Disaster Relief Act of 1974.

The *House bill* has no comparable provision.

The *conference substitute* basically adopts the Senate provision, but changes the date to provide that State grants made on or before July 1, 1979 shall not be considered compensation.

It is the intent of the conferees that the Small Business Administration shall use its authority to aid redevelopment of flood prone areas by transfer of disaster loan liens from properties condemned to new properties acquired with the proceeds of condemnation. Through the use of this lien transfer authority, State and Federal redevelopment initiatives will not place a burden on disaster victims in a redevelopment area while not allowing windfall profits. In addition, it is the intent of the Congress that any moneys issued by a redevelopment authority shall not be considered compensation under this provision.

(30) ELIGIBILITY OF ASIAN PACIFIC AMERICANS

Existing law (as amended by Public Law 95–507) establishes or amends certain SBA remedial business development programs for the benefit of "socially and economically disadvantaged" business persons. These programs include specialized management and technical assistance (sec. 7(j)) and procurement assistance (sec. 8). Present law specifies that, subject to certain specified constraints, socially "disadvantaged" persons include "Black Americans, Hispanic Americans, Native Americans and other minorities."

The *House bill* adds "Asian Pacific Americans" to the groups mentioned in existing law.

The *Senate bill* has no comparable provision.

The *conference substitute* adopts the House provision.

SMALL BUSINESS DEVELOPMENT CENTERS

(31) SEPARATE ACT

The *Senate bill* establishes a legislative structure for small business development centers as a separate act.

The *House bill* contains no comparable provision.

The *conference substitute* adopts the Senate provision.

(32) CONGRESSIONAL FINDINGS AND PURPOSES

The *Senate* bill amends the Small Business Act by redesignating section 21 as section 30 and by adding a new section 21 providing statutory guidelines for the small business development center program.

New sections 21 (a) and (b) outline findings and purpose.

Congress finds that small businesses do not have access to advice, information and services as do larger corporations, or as do farmers because of assistance provided by the Department of Agriculture extension service program.

Small businesses would benefit from having a local, single source which would provide assistance in such areas as management, marketing, product development, manufacturing, technology development and exchange, finance, and government regulations.

The academic community and private consultants are aware of local small business problems and are better equipped than the Federal Government to provide management and technical assistance to small concerns.

The purpose of the act is to expand the small business sector, stimulate economic diversity and foster competition by establishing a small business development center program to aid in the growth and development of new and existing small businesses.

The *House bill* contains no comparable provision.

The *conference substitute* does not include this provision although conferees recognize the accuracy of the provision with respect to their intent in creating the program.

(33) MATCHING GRANT PROGRAM

The *Senate bill* authorizes SBA to make grants to States to defray 50 percent of the cost of developing and operating a small business development center program, providing no more than 50 percent of the non-Federal contributions can be in-kind contributions. The amount of the grant would be based on a formula by which each State would receive a pro-rata share (determined by population) of the amount authorized in each fiscal year, as compared to the population to be served by all participating States. Notwithstanding this formula, a center which meets the eligibility criteria would be eligible to receive no less than $250,000.

The *House bill* contains similar provisions, except that:

(1) grants would go to any of the named entities rather than only to States;

(2) applicants could include a State-chartered development credit of finance corporation;

(3) the purpose of the grant would be for small business oriented employment or natural resources development programs in addition to assisting development of SBDC's;

(4) the amount of the grant would be based on a pro-rata share (determined by population) of a $65 million program rather than based on a pro-rata share of the dollar amount of the program per year; and

(5) there is no minimum grant per State.

The *Conference substitute* adopts the House provision, except that:

(1) the Administration is authorized to make grants and enter into contracts and cooperative agreements with the named entities included in subsection (a)(1);

(2) reference to fiscal year 1980 in the House bill is deleted:

(3) there is established a minimum grant to any small business development center of $200,000 providing it meets the other requirements of the Act; and

(4) the restriction prohibiting Federal funds from exceeding 50 percent of the total program costs is deleted.

It is the intention of the conferees that SBA encourage all eligible entities in a State to coordinate their applications for assistance. Furthermore, SBA is to make certain that all participating entities agree to cooperate and coordinate their activities within the area to be served before agreeing to accept a plan and naming new small business development centers.

In addition, SBA is directed to monitor the activities of all authorized centers receiving other Federal grant money to insure that the center conforms with the goals of the "Small Business Development Center Act of 1979." The center is not to divert its resources from the types of services it is to provide under this Act in order to manage other Federally funded programs, unless reimbursed by the appropriate Federal agency. If other non-SBA-sponsored programs are included in the center's operations, the costs associated with managing such programs should be allocated to the sponsoring Federal agency or department.

(34) CONSISTENCY WITH STATE PLANS

The *Senate bill* prohibits financial assistance to any applicant if such assistance would be inconsistent with the State plan.

The *House bill* contains a similar provision.

The *conference substitute* adopts the Senate provision, but refers to an area plan rather than a State plan.

(35) APPLICATION PROCEDURE

Under the *Senate bill*, in order to participate in the small business development center program, an applicant may submit to SBA for approval a plan naming those entities authorized to participate, a budget, the area to be served, the services to be rendered, and the method for delivering such services and any other assurances that SBA may, in its discretion, require.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(36) ACTIVITIES OUTSIDE OWN STATE

Under the *Senate bill*, SBA may authorize an SBDC to serve out-of-State clients under certain circumstances.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(37) TYPES OF SERVICES PROVIDED

Under the *Senate bill*, small business development centers must assist small businesses in solving problems concerning operations, manufacturing, engineering, technology exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, business strategy development, and other matters needed by small business for growth and expansion, innovation, increased productivity and management improvement and for decreasing industry concentration.

The *House bill* contains an identical provision, except that it applies to applicants rather than State small business development centers.

The *conference substitute* adopts the House provision.

(38) CAPABILITIES

Under the *Senate bill*, a State center must make its services available as close as possible to small businesses by providing extension services and utilizing satellite locations and State and Federal small business programs whenever possible.

In addition, the State center must have a full-time staff director, and access to business analysts, technology transfer agents, information specialists, part-time professional people, and laboratory and adaptive engineering facilities.

The *House bill* contains a similar provision, except that it requires the SBDC to have "in-house" analysts, technology transfer agents, and information specialists rather than solely "access to" such people.

The *conference substitute* adopts the House provision.

Given the limitation of full-time resources and personnel, the conferees expect the staff of the small business development center to utilize the expertise available in the private sector when appropriate. Specifically in the areas of technology transfer, data research and financial analysis, private sources are usually capable of providing qualified assistance to small firms. Such assistance must be available at reasonable rates and terms, however.

(39) SERVICES TO BE PROVIDED

Under the *Senate bill*, services of a State center shall include: one-on-one counseling; assisting in technology transfer; maintaining information pertaining to Federal, State, and local regulations and providing technology development to assist small concerns with regulatory compliance; conducting and coordinating research into technical and general small business problems; providing a library containing current information and data needed by local small businesses; maintaining a working relationship with the financial and investment communities, and small business groups, conducting surveys for local small business groups to develop information pertaining to the local economy and the status of small business in that locality, and maintaining lists of local and regional private consultants and testing laboratories.

The *House bill* contains a similar provision, except that it does not include the requirements that the SBDC:

(1) maintains lists of private consultants to whom small businesses can be referred; and

(2) utilize private local and regional consultants and testing laboratories when appropriate and applicable.

The *conference substitute* adopts the Senate provision except for the requirement that the center utilize consultants and laboratories. A related provision is incorporated elsewhere in the title.

(40) USE OF CONSULTANTS

The *Senate bill* authorizes the SBDC to utilize the services of private consultants and testing laboratories when appropriate and applicable, and to compensate them for their services.

The *House bill* contains no comparable provision.

The *conference substitute* adopts an amended version of the Senate provision authorizing small business development centers to utilize and compensate consultants, engineers, and testing laboratories for services provided to small businesses on behalf of such small business development center.

When a small business development center utilizes consultants, engineers or testing laboratories, the conferees expect such consulting entities to be qualified small businesses whose services are competitively priced.

(41) REGIONAL CENTERS

Under the *Senate bill* SBA may establish regional centers to provide support for State centers when SBA determines that there is a need for developing information and assistance regarding problems that are capital intensive. Such centers shall have their own staff and charter and render assistance to all State centers.

The *House bill* contains no comparable provision.

The *conference substitute* does not contain this provision.

(42) COOPERATION OF FEDERALLY FUNDED LABORATORIES AND NSF

Under the *Senate bill*, laboratories operated and funded by the Federal Government shall provide services and make their facilities available to small business development centers on a reimbursable cost basis.

National Science Foundation funded innovation centers are authorized and directed to cooperate with small business development centers in their activities. The National Science Foundation shall submit an annual report to Congress and the SBA concerning the performance of these centers, with recommendations for their expansion and improvement.

The *House bill* has a similar provision.

The *conference substitute* adopts the Senate provision.

(43) NASA COOPERATION AND REPORT

Under the *Senate bill*, National Aeronautics and Space Administration industrial application centers are authorized and directed to cooperate with small business development centers in their activities. The National Aeronautics and Space Administration shall submit an annual report to Congress and the SBA concerning the performance of these centers, with recommendations for their expansion and improvement.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision.

(44) SBA DEPUTY ASSOCIATE ADMINISTRATOR

Under the *Senate bill*, the Administrator shall appoint a Deputy Associate Administrator whose sole responsibility shall be to administer the small business development center program. That person shall be responsible for setting the program budget, reviewing State center budgets, selecting States to participate in the center program, establishing program policies, maintaining a clearinghouse to disseminate information generated by the program, concluding agreements with federally supported laboratories and centers and Federal agencies to provide technology assistance, and conducting audits of grant recipients. The Small Business Development Center Advisory Board shall counsel the Deputy Associate Administrator for Management Assistance with regard to the carrying out of the duties of that office.

The *House bill* contains a comparable provision except that:

(1) the new deputy would not be required to be appointed until October 1, 1979;

(2) the new deputy's title would be for management and technical assistance rather than just for management assistance; and

(3) the new deputy's duties would not specifically include concluding agreements between SBDCs and others to provide technology assistance.

The *conference substitute* adopts the Senate provision with the deletion of the duty of the new deputy to conclude agreements between small business development centers and other Federally supported laboratories, centers, or agencies.

(45) NATIONAL ADVISORY BOARD

The *Senate bill* establishes a National Small Business Development Center Advisory Board with nine members, six of whom shall be from small businesses or associations representing small businesses, no more than three of whom shall be from the academic community.

The Board shall elect officers, meet at least quarterly, and shall advise the Deputy Associate Administrator with regard to policies and management of the program.

The *House bill* contains a comparable provision except that membership on the nine member board would be staggered so that the terms of one-third of the members would expire annually.

The *conference substitute* adopts the House provision.

(46) STATE ADVISORY BOARD

The *Senate bill* would require each State small business development center to have an advisory board, no more than one-third of whose members shall be from the academic community and no less than two-thirds shall be from small business or associations representing small businesses.

Each State board shall elect officers and advise, counsel, and confer with the director of the State small business development center with regard to policies and management of the center.

The *House bill* contains no comparable provision.

The *conference substitute* adopts the Senate provision except that the formation of State advisory boards is made permissive rather than mandatory and reference to the makeup of the State board is deleted.

(47) PROGRAM EVALUATION

Under the *Senate bill* either SBA or a firm retained by SBA shall evaluate the small business development center program to measure quantitatively and qualitatively the impact on small businesses and the socioeconomic base of the regions served. The evaluation shall also report to what extent multidisciplinary resources were utilized by the center program. SBDCs and recipients of research grants shall furnish SBA with whatever information is necessary in order to undertake the required evaluations.

A complete evaluation is to be submitted to the Senate and House Small Business Committees no later than January 31, 1982.

The *House bill* contains a similar provision except that:

(1) The evaluation would not specifically include the impact of the SBDC program on private consultants nor the extent to which various types of small businesses were assisted by the program; and

(2) The evaluation would be due in the third year after enactment of this bill rather than on a date specified.

The *conference substitute* adopts the Senate provision with only minor drafting differences.

It is the intention of the conferees that both the House and Senate Small Business Committees will have the opportunity to review the results of the SBA and the General Accounting Office evaluations of this program. The Small Business Committee of the House of Representatives intends to hold hearings on those evaluations and develop legislation appropriate to the findings of the Committee. It is also the intent of the conferees that no more than eighteen States will participate in this program during 1980.

(48) FUNDING RESTRICTION

The *Senate bill* prohibits SBA from funding any SBDC except as provided under the provisions of this bill.

The *House bill* is identical, except that it also expressly provides that existing SBDCs are not affected by this bill other than by a limitation on their funding during fiscal year 1980 which is set at a maximum of $300,000.

The *conference substitute* adopts the House provision.

(49) PROGRAM REPEAL

The *Senate bill* repeals the SBDC program as of October 1, 1982.

The *House bill* has no comparable provision.

The *conference substitute* adopts an amended version of the Senate provision by repealing sections 201 and 202 of the conference substitute on October 1, 1983.

SMALL BUSINESS ECONOMIC POLICY

(50) SMALL BUSINESS ECONOMIC POLICY

The *Senate bill* creates the "Small Business Economic Policy Act of 1979." Under the *Senate bill*, Congress establishes a national economic policy to implement and coordinate the policies, programs, and activities of all Federal departments, agencies, and instrumentalities in order to provide an economic climate conducive to the development, growth, and expansion of small business. To that end, there shall be established incentives to assure that adequate capital at competitive prices and other resources are available to small businesses. The Federal Government is to also undertake to reduce concentration of economic resources and to promote measures that will expand competition.

The *Senate bill* also commits the Federal Government to establish private sector incentives that will promote capital formation at competitive prices. To fulfill this policy, all reasonable means shall be used by the Government to create, coordinate, and sustain policies and programs which promote investment in small businesses. In addition, there shall be created an environment conducive to entrepreneurship, inventiveness, and the creation and growth of small businesses.

The *House bill* contains no comparable provision.

The *conference substitute* adopts the Senate provision.

(51) PRESIDENTIAL REPORT ON SMALL BUSINESS AND COMPETITION

The *Senate bill* provides that not later than January 20 of each year, the President shall submit a "Report on Small Business and Competition," focusing on economic issues affecting the small business sector, the efficiency of the Nation's markets, and the state of competition in the economy. Specifically, this report would examine the current role of small business in the economy; present a current and historical perspective of the economic variables influencing small business; identify economic trends affecting small business and the state of competition; examine the effects of, and problems caused by, policies, programs and activities of the Federal Government on small business and competition and recommend legislative and administrative solutions to such problems; and recommend a program for carrying out the small business economic policy provided for in this title.

The report and the recommendations contained therein would be referred to the Senate Select Committee on Small Business and the Committee on Small Business of the House of Representatives.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision.

The conferees also agree that the report should examine the role of small business in the economy on an industry-by-industry basis. The conferees recognize the value of this information. If data on a particular industry is not available, every effort should be made to assimilate it. Also, the appendix to the report is expanded to include information, by agency and department, on the total dollar value of all Federal contracts exceeding $10,000 and all subcontracts exceeding the same amount which are awarded to small, minority-owned and female-owned businesses.

Nothing in this bill is intended to require additional paperwork or data collection from small business. This section is intended to increase executive branch and public awareness that a healthy small business community is vital to our national economy. It calls for the problems of small business to receive the highest policy priority, but in no way is it intended to increase the already monumental paperwork burden small business owners face.

(52) PRESIDENTIAL ASSISTANT FOR SMALL BUSINESS

The *Senate bill* authorizes the President to designate a Special Assistant to the President for Small Business within the White House Office of the President.

This person is to assist the President in preparing the annual report required; gather, analyze, and interpret information concerning the position of small business in the economy; appraise Federal programs as they affect small business; study the availability of various resources to small business; develop and recommend to the President national economic policies that promote small business, and make such additional studies as the President may request.

The *House bill* contains no comparable provision.

The conference substitute does not contain this provision. The conferees recognize the inherent authority of the President to appoint such an assistant.

(53) RESEARCH AND ADVOCACY

The *Senate bill* assigns to the SBA Administrator tne responsibility for establishing and maintaining an economic data base on small business and for annually publishing a report giving a comparative analysis and interpretation of the historical trends of the small business sector as reflected by such data. The Administrator is to also publish on a regular basis national and, to the extent possible, regional small business economic indices which shall include, but need not be limited to data on:

(a) employment, layoffs, and new hires;

(b) number of business establishments and the types of such establishments such as sole proprietorships, corporations, and partnerships;

(c) number of business formations and failures;

(d) sales and new orders;

(e) back orders;

(f) investment in plant and equipment;

(g) changes in inventory and rate of inventory turnover;

(h) sources and amounts of capital investment, including debt, equity, and internally generated funds;

(i) debt to equity ratios;

(j) exports;

(k) number and dollar amount of mergers and acquisitions by size of acquiring and acquired firm; and

(l) concentration ratios.

The *House bill* contains no comparable provision.

The *conference substitute* adopts the Senate provision.

It is the intention of the conferees that SBA make a more concerted effort to compile existing economic and research data on small businesses. The Departments of Labor Commerce and perhaps others, as well as SBA, already collect a large amount of data which could be useful in gaining a greater understanding of the small business sector of the economy. In addition, SBA could make better use of studies done by educational institutions, State and local governments, business groups and others, to evaluate the small business sector. The conferees wish to stress that all data concerning small businesses collected by Federal agencies should be made readily available to SBA and thus it will not place any additional paperwork burden on individual small business concerns.

(54) OFFICE OF ADVOCACY EMPLOYEES

The *Senate bill* authorizes employees in the Office of the Chief Counsel for Advocacy to be employed at a maximum of step 10 of GS-15.

The *House bill* has no comparable provision.

The *conference substitute* basically adopts the Senate provision, but limits to no more than ten employees at any one time that may be paid at a rate not in excess of GS–15, step 10.

(55) CHIEF COUNCEL FOR ADVOCACY EXECUTIVE LEVEL

The *Senate bill* establishes the Office of the Chief Counsel for Advocacy at executive level IV.

The *House bill* contains no comparable provision.

The *conference substitute* adopts the Senate provision.

In establishing the Chief Counsel for Advocacy at executive level IV, the conferees note that the administration expressed concern because this level is the same as SBA's Deputy Administrator and above that of the Associate Administrators. The conferees do not see that this should create any internal problems at SBA and cannot but wonder if the concern is due to a lack of understanding of the advocate's role.

By agreeing to this provision, the conferees do not intend to alter or interfere with the internal line of authority of either the Administrator or Deputy Administrator of the Small Business Administration. The change is intended simply to give the Chief Counsel for Advocacy proper standing within the executive branch and thereby enable him to better carry out the responsibilities imposed upon him by Congress in Public Law 94–305.

The Chief Counsel for Advocacy is not in the SBA chain of command: he is a Presidentially appointed official with Senate confirmation. His mandate is to represent the views of small business. In carrying out this mission, he is expected to present and fight for the views of the small business sector of the economy; the views will not always be the same as those expressed by the SBA on behalf of the administration. He is much like an attorney representing a client and just as the attorney presents his client's position, the Chief Counsel for Advocacy presents his client's position which is that of the small business community.

Viewed in this role, the position of the advocate cannot be equated with that of the Deputy Administrator or the Associate Administrators. He has a different mission than that assigned to the rest of the SBA and since he is a separate part of the SBA team, there should not be any comparison of positions between him and other officials in the SBA hierarchy. The advocate may not necessarily represent the administration's position or that of SBA; however, the SBA and other Federal departments and agencies are required to cooperate fully with him.

(56) STUDY OF SMALL BUSINESS CREDIT NEEDS

The *Senate bill* directs the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation to work with SBA and the Bureau of the Census in undertaking studies to determine the credit needs of small business and to what extent such needs are being met. The results of these studies are to be provided to Congress by October 1, 1980.

The three banking regulators are also required to provide recommendations regarding the feasibility of conducting periodic sample surveys by region and nationwide, in order to monitor the number and dollar volume of commercial and industrial loans being extended by banks to smaller concerns.

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision but extends the date to January 1, 1981.

The conferees note that the purpose of this section is to accurately gauge, for the first time, whether small business credit needs are being met. If they are not, the Congress and the executive branch can respond by instituting appropriate private sector incentives to induce a sufficient flow of debt to this economic sector.

The conferees antcipate, however, that the responsible agencies, in order to minimize the costs, may conduct the studies required pursuant to the section by the use of an appropriately designed sample to collect such data as may be necessary. Nevertheless, efforts to minimize costs should not affect adversely the quality and integrity of the studies.

The conferees stress that in order to perform the study, Federal agencies are not to solicit any additional information from small business concerns.

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

(57) SHORT TITLE

The *Senate bill* provides that the legislation may be cited by the short title "White House Conference on Small Business Act."

The *House bill* has no comparable provision.

The *conference substitute* adopts the Senate provision.

(58) AUTHORIZATION FOR CONFERENCE

The *Senate bill* contains an authorization for the Conference. It provides a concluding date for the Conference of June 30, 1980.

The *House bill* is identical except the term "Administrator" is not specifically defined.

The *conference substitute* adopts the Senate provision.

(59) PURPOSES OF CONFERENCE

The *Senate bill* outlines the purposes of the Conference and identifies the range of small business problems to be addressed. These purposes include identification of the opportunities for advancing national economic and social goals which might be accomplished by the solution of small business problems and encouragement of new, small and family enterprises.

The *Senate bill* also calls for the development of specific and comprehensive recommendations for executive and legislative action.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(60) CONFERENCE PARTICIPANTS

The *Senate bill* outlines the major groups from the private and public sectors that would be participating in the Conference.

The *Senate bill* also prohibits barring any small business concern from any State or regional meeting.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(61) CONFERENCE PLANNING AND ADMINISTRATION

The *Senate bill* covers the planning and administration of the Conference. It authorizes financial assistance for the regional and/or State meetings and provides for the preparation of background materials for the participants. It also provides authority for the appointment of an Executive Director and technical authorization for the staffing of the Conference.

The *House bill* contains a similar provision except that it directs the Administrator to reimburse participants in the National Conference for their costs such as travel, meals, and accommodations.

The *conference substitute* adopts the Senate provisions, but includes a provision relating to reimbursement of expenses for Conference delegates. Upon presentation of vouchers within thirty days of the completion of the Conference, the SBA Administrator is authorized and directed to reimburse Conference delegates only for expenses related to their participation in the Conference. The reimbursement is to be made for travel costs, and for actual and necessary expenses related to attending the Conference, including meals and accommodations. Reimbursement for any expenses is limited, however, to a maximum of $44 per day. Reimbursement shall be effective only to the extent provided in advance in appropriations acts: and in the event such appropriated amounts are not sufficient to fully pay each voucher submitted, each voucher shall be paid on a pro rata basis only.

The conferees note that SBA has publicly told delegates and candidates for delegates that they would have to pay their own way. Nonetheless, it continually had budgeted funds to pay the expenses of some delegates. The latest budget estimate available to the conferees shows approximately $245,000 which which would be available to reimburse delegates.

Due to the public statements of SBA concerning the lack of reimbursement, the conferees direct the Administrator of SBA to notify all delegates as soon as practical after selection that they may receive at least partial reimbursement for their expenses providing that a request is made for reimbursement within 30 days after termination of the Conference meeting. This notification should be in writing and should set forth the procedure to be followed by those seeking reimbursement.

The underlying principle to be followed is that all delegates should be reimbursed as delegates to other conferences have been. However, if full reimbursement for all who request it is not to be provided, then those requesting reimbursement must be treated equally and no one delegate should receive preferential treatment.

(62) REPORTS REQUIRED

The *Senate bill* provides that not more than one year from the date on which the Conference is convened, a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(63) FOLLOW-UP ACTIONS

The *Senate bill* provides that the Small Business Administration shall report annually to the Congress for the 3-year period following the submission of the final report of the Conference on the status and implementation of the findings and recommendations of the Conference.

The *House bill* contains an identical provision.

The *conference substitute* adopts the Senate provision.

(64) AVAILABILITY OF FUNDS

The *Senate bill* authorizes such sums as may be necessary to carry out the provisions of the title. Such sums appropriated shall remain available until expended. Funds appropriated to the Small Business Administration may not be transferred to carry out the provisions of this title.

The *House bill* has a similar provision, but does not explicitly authorize the appropriation of funds. It further states that no provision of this title shall be construed as authorizing the appropriations of additional funds for fiscal year 1979.

The *conference substitute* adopts the Senate provision.

(65) SMALL BUSINESS EMPLOYEE OWNERSHIP

The *Senate bill* contains a new title creating an act which may be cited as the "Small Business Employee Ownership Act".

The Congress finds that employee ownership of business helps to preserve jobs, increase worker productivity and company profits, provides for the continuity of existing small businesses, creates new enterprises from corporate divestitures and provides a means for broadening participation in the capitalist system. Furthermore, the continued closing of small businesses and the continued decline in productivity present serious problems for the economy. The present concentration of capital has created too great a disparity between the wealthy few and moderate- and low-income majority and loan guarantees for employee ownership from the SBA could help to keep businesses viable and save communities from the loss of jobs and business activity.

The purposes of this title are to: (1). treat employee-owned businesses as small businesses for all purposes of the Small Business Act; (2) assure that in those cases where an employee organization seeks to purchase a company that would otherwise be closed, relocated, or sold to an unrelated outside interest, or whose owner agrees to a transfer to employees, the employee organization, including an employee stock ownership trust, will be eligible for assistance under the Small Business Act; and (3) provide that when guaranteeing loans to employee organizations the SBA will guarantee the loan on the basis of the firm's reasonable prospects of success.

The *Senate bill* also amends section 7 of the Small Business Act by adding a new subsection (m). "Employees" are defined as all full-time employees who have worked for the company for at least thirty days prior to the application for SBA assistance. "Employee Stock Ownership Plans" (ESOPs) and "Employee Stock Ownership Trusts" (ESOTs) are also defined.

' The *Senate bill* further authorities the Administration to make assistance under section 7 available to both employee organizations seeking to buy their companies and to employee owned small business firms or ESOTs, provided they otherwise meet the qualifications established by this subsection. In the case of a company using an ESOP, for example, the company must guarantee that it will make available to the ESOP such funds as are necessary to repay the loan guaranteed by the SBA, that the funds loaned to the ESOP will be used solely for the purchase of qualified employer securities, and that no such funds shall be used to acquire a separate company or provide financing for a separate company.

In addition, it provides that loan guarantees will be made to employee organizations, including ESOPs, for the purpose of acquiring a small business or company which, when independently owned, would become a small business, provided that the company would otherwise be closed, relocated, sold to a large business, or the owner agrees to sell to the employees. The decision to grant the guarantee will be based on an application by the ESOP or employee organization to the SBA. The application must include a plan for the employee organization, or ESOP, demonstrating that all employees will be offered an opportunity to participate in the plan; that where stock is distributed, employees must be given non-forfeitable rights to such stock before the loan is fully paid, and any such distribution must comply with all IRS requirements; that generally by the time the loan is repaid a majority of the employees will own a majority of the stock, and that managerial employees who will own 10 percent or more of company stock (owner-employees) will have worked for at least 1 year before such person can become a participant in the plan. The certified plan must also provide for the periodic review of the mode of company organization and adequate management contracts.

Finally, the plan must enable the company to repurchase stock from employees when they leave the firm and provide a method of wage deductions in non-ESOP cases where such deductions are determined to be necessary to repay the loan.

The Senate bill also states that assistance under this section shall be made when the firm or employee organization can demonstrate the likelihood of repayment to SBA and that the firm they intend to operate can provide a reasonable assurance of repayment to SBA. The individual business experience or assets of owners shall not be used as the criteria, except inasmuch as employee owners may assume managerial responsibility, in which case experience and assets may be considered.

The maximum amount of any such loan is $500,000.

It requires SBA to report periodically to Congress on the status of employee-owned firms and those applications denied and approved. The bill also states that guarantees under this subsection may be made directly to the seller of a business when selling under an installment sales contract, provided that in the case of a default the seller has the option: (1) of paying SBA an amount equal to 90 percent of the total amount paid on the contract at the time of default and reassuming title to the business (SBA being relieved of all further obligations): or (2) assigning to SBA the option of assuming title to the business for an SBA lump-sum payment equal to 90 percent of the remaining payments due on the contract.

The Senate bill amends section 8(a) of the Small Business Act and clarifies that a firm in which 51 percent of the stock is owned by socially and economically disadvantaged individuals through an ESOT may also qualify for participation in the SBA 8(a) minority assistance program.

Under existing law, companies in which 51 percent of the stock is owned by socially and economically disadvantaged individuals may be qualified to receive assistance from SBA. This section assures equitable treatment for ESOP companies.

Finally, the Senate bill directs the Small Business Administration to conduct a study of the feasibility of extendng the "guarantee-to-seller" concept incorporated in this bill to any purchaser of a small business concern. Such study is to be completed by January 1, 1980.

The House bill has no comparable provision.

The *conference substitute* adopts the Senate provision with several modifications. This title is very similar to legislation (S. 388) favorably reported by the Senate Select Committee on Small Business on April 24, 1979 (S. Rept. 96–93) and passed unanimously by the Senate on May 1, 1979. The purpose of the bill, and Committee's intent in adding it as a separate title to this bill, are identical to those specified in both the Committee's report and the floor statements except as changed or otherwise noted.

One substantive difference between the conference substitute and the Senate-passed bill is that the provisions for SBA guarantees for installment contracts between sellers and employee-buyers has been dropped. The study provision directing SBA to contract with a consultant to evaluate the desirability of guaranteeing payments on contracts generally under its 7(a) program has been retained. This change was made out of the belief that if the contract idea is a good one, it should apply to all 7(a) cases.

The *Senate bill* also includes a provision specifically directing SBA to make assistance under the 8(a) minority business contract companies owned by socially and economi- procurement assistance program available to cally disadvantaged individuals through ESOP's.

The conferees agree to drop this provision with the understanding that nothing in existing law prohibits SBA from making such assistance available to firms owned and controlled by socially and economically disadvantaged firms through ESOR's. The conferees believe that SBA should expeditiously issue regulations to permit such assistance.

The other differences in the bill are technical in nature. "Employee organization" is now defined as a qualified employee trust", since trusts have a clearer legal status. Various definitions in the bill have been changed so that they are more consistent with existing law on employee benefit plans. Voting right requirements for employee stock ownership plans have also been clarified to eliminate any possibility of conflicts with existing law. Finally, managerial employees are no longer required to work for one year before becoming eligible to participate in the plan, as this was judged to be likely to produce too much confusion with existing law governing employee stock ownership plans.

The amended Title VI of S. 918 is the result of negotiations between Chairman Henry J. Nowak of the House Subcommittee on Access to Equity Capital and Business Opportunities and Senator Donald Stewart of the Select Committee on Small Business of the Senate.

The amended version takes into account changes which were suggested by expert witnesses and administration witnesses who testified before the House Subcommittee on Access to Equity Capital and Business Opportunities at hearings on May 8 and 15.

The Nowak Subcommittee drafted a similar bill and reached consensus with Senator Stewart and Congressman William Stanton. on the language contained in the *conference substitute*.

Neal Smith,
Fernand J. St Germain,
Richard Nolan,
Richard H. Ichord,
Billy L. Evans,
Doug Barnard, Jr.,
Claude "Buddy" Leach,
Tony P. Hall,

Solely for consideration of subsections (c), (d), and (e), of section 113 of the House amendment and modifications committed to conference:

Thomas S. Foley,
Ed Jones,
Tom Harkin,
Jerry Huckaby,
Dan Glickman,
Kent Hance,
George E. Brown, Jr.,
Frederick W. Richmond,
Managers on the Part of the House.

Gaylord Nelson,
Sam Nunn,
John Culver,
Walter D. Huddleston.
Dale Bumpers,
Robert Morgan,
Jim Sasser,
Donald A. Stewart,
Max Baucus,
Carl Levin,
Lowell P. Weicker, Jr.,
Bob Packwood,
Orrin G. Hatch,
S. I. Hayakawa,
Harrison Schmitt,
Rudy Boschwitz,
Larry Pressler,
Managers on the Part of the Senate.

CONFERENCE REPORT ON H.R. 3875

Mr. REUSS submitted the following conference report and statement on the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

CONFERENCE REPORT (H. REPT. No. 96–706)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Housing and Community Development Amendments of 1979".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

REHABILITATION LOANS

SEC. 101. (a) Section 312(d) of the Housing Act of 1964 is amended—

(1) by striking out "and not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978" in the first sentence and inserting in lieu thereof "not to exceed $245,000,000 for the fiscal year beginning on October 1, 1978, and not to exceed $140,000,000 for the fiscal year beginning on October 1, 1979"; and

(2) by adding at the end thereof the following new sentence: "Of the amounts available for loans under this section during any fiscal year beginning on or after October 1, 1979, the Secretary may utilize not more than $75,000,000 for rehabilitation loans for multifamily properties.".

(b) Section 312(h) of such Act is amended—

(1) by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980"; and

(2) by striking out "December 1, 1979" and inserting in lieu thereof "October 1, 1980".

(c) Subsections (i) and (j) of section 312 of such Act, as added by section 101(b) of the Housing and Community Development Amendments of 1978, are redesignated as subsection (j) and (k), respectively.

COMPREHENSIVE PLANNING

SEC. 102. The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking out "and not to exceed $57,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $57,000,000 for the fiscal year 1979, and not to exceed $50,000,000 for the fiscal year 1980".

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

SEC. 103. (a) Section 103(c) of the Housing and Community Development Act of 1974 is amended by striking out "a sum not in excess of $400,000,000 for supplemental grant assistance under section 119 for each of the fiscal years 1978, 1979, and 1980" and inserting in lieu thereof "for supplemental grant assistance under section 119 a sum not to exceed $400,000,000 for each of the fiscal years 1978 and 1979, and not to exceed $675,000,000 for the fiscal year 1980".

(b) Section 103(a)(2) of the Housing and Community Development Act of 1974 is amended by striking out "$250,000,000 for the fiscal year 1980" and inserting in lieu thereof "$275,000,000 for the fiscal year 1980".

(c) Section 104(b)(3) of such Act is amended to read as follows:

"(3) The Secretary may waive all or part of the requirements contained in paragraphs (1), (2), and (3) of subsection (a) if (A) the application does not involve a comprehensive community development program, as determined by the Secretary, and (B) the Secretary determines that, considering the nature of the activity to be carried out, such waiver is not inconsistent with the purposes of this title.".

(d) Section 106(m) of such Act is amended by striking out "or fiscal year 1979" and inserting in lieu thereof ", fiscal year 1979, or fiscal year 1980".

(e) Section 106(b) of such Act is amended by adding at the end thereof the following new paragraph:

"(5) In computing amounts under this section with respect to any urban county, there shall be included all of the area of any unit of local government which is part of, but is not located entirely within the boundaries of, such urban county if the part of such unit of local government which is within the boundaries of such urban county would otherwise be included in computing the amount for such urban county under this section, and if the part of such unit of local government which is not within the boundaries of such urban county is not included as a part of any other unit of local government for the purpose of this section. Any amount received by such urban county under this section may be used with respect to the part of such unit of local government which is outside the boundaries of such urban county.".

(f) Section 102(a)(1) of such Act is amended by inserting "the Northern Mariana Islands," after "Guam,".

(f) Section 104(h) of such Act is amended—

(1) by inserting in the first sentence of parapraph (1)—

(A) after "National Environmental Policy Act of 1969" the following: "and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary)"; and

(B) after "such Act" the following: ", and such other provisions of law as the regulations of the Secretary specify,";

(2) by inserting in the second sentence of paragraph (2) after "National Environmental Policy Act" the following: "of 1969 and such other provisions of law as the reguations of the Secretary specify"; and

(3) by inserting in paragraph (3)(D)(i)—

(A) after "National Environmental Policy Act of 1969" the following: "and each provision of law specified in regulations issued by the Secretary"; and

(B) after "such Act" the following: "or other such provision of law".

POCKETS OF POVERTY

SEC. 104. (a) Section 119(b) of the Housing and Community Development Act of 1974 is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following:

"(2) A city or urban county which fails to meet the minimum standards established pursuant to paragraph (1) shall be eligible for assistance under this section if it meets the requirements of the first sentence of paragraph (1), and—

"(A) in the case of a city with a population of fifty thousand persons or more or an urban county, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, or block groups, as defined by the United States Bureau of Census, having at least a population of ten thousand persons or 10 per centum of the population of the city or urban county, (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of the median income of such city or urban county, and (iii) in which at least 30 per centum of the residents have incomes of below the national poverty level; or

"(B) in the case of a city with a population of less than fifty thousand persons, contains an area (i) composed of one or more contiguous census tracts, enumeration districts, or block groups or other areas defined by the United States Bureau of Census or for which data certified by the United States Bureau of Census are available having at least a population of two thousand and five hundred persons or 10 per centum of the population of such city, whichever is greater, (ii) in which at least 70 per centum of the residents have incomes below 80 per centum of the median income for such city, and (iii) in which at least 30 per centum of the residents have incomes of below the national poverty level.

The Secretary shall utilize up to, but not more than, 20 per centum of the funds appropriated for use in any fiscal year under this section for the purpose of making grants to cities and urban counties eligible under this paragraph.".

(b) Section 119(e) of such Act is amended—

(1) by striking out "In" after "(e)" and inserting in lieu thereof "(1) Except in the case of a city or urban county eligible under subsection (b)(2), in";

(2) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C); and

(3) by adding at the end thereof the following:

"(2) For the purpose of making grants with respect to areas described in subsection (b)(2), the Secretary shall establish selection criteria, which must include (A) factors determined to be relevant by the Secretary in assessing the comparative degree of physical and economic deterioration among eligible areas, and (B) such other criteria as the Secretary may determine, including at a minimum the criteria listed in clause (C) of paragraph (1) of this subsection.

"(3) The Secretary may not approve any grant to a city or urban county eligible under subsection (b)(2) unless—

"(A) the grant will be utilized in connection with a project located in an area described in subsection (b)(2), except that the Secretary may waive this requirement where the Secretary determines (i) that there is no suitable site for the project within such area, (ii) the project will be located directly adjacent to such area, and (iii) the project will substantially contribute to the physical and economic development of such area;

"(B) the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area described in subsection (b)(2) are at least equivalent, as measured by per capita expenditures, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have median incomes above the median income for the city or urban county;

"(C) the grant will be utilized in connection with a project which will directly benefit the low- and moderate-income families and individauls residing in the area described in subsection (b)(2); and

"(D) the city or urban county makes available, from its own funds or from funds received from the State or under any Federal program which permits the use of financial assistance to meet the non-Federal share requirements of Federal grant-in-aid programs, an amount equal to 20 per centum of the grant to be available pursuant to this section to be used in carrying out the activities described in the application.".

URBAN DEVELOPMENT ACTION GRANT PROGRAM

SEC. 105. Section 119 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(l) A grant may be made under this section only where the Secretary determines that there is a strong probability that the non-Federal investment in the project would not be made without such grant and where the Secretary determines that there is a strong probability that the grant would not substitute for non-Federal funds which are otherwise available to the project.

"(m) For purposes of carrying out this section, the Secretary may reduce or waive the requirement, as described in section 102(a)(5)(B)(ii) and applied to recipients of community development grants, that a town or township be closely settled.".

URBAN HOMESTEADING AMENDMENT

SEC. 106. Section 810 of the Housng Community Development Act of 1974 is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g)(1) The Secretary is authorized to reimburse the Administrator of Veterans' Affairs, in an amount to be agreed upon by the Secretary and the Administrator, for property which the Administrator conveys to a unit of general local government, State, or agency for use in connection with an urban homesteading program approved by the Secretary.

"(2) The Secretary is authorized to reimburse the Secretary of Agriculture, in an amount to be agreed upon by the Secretary and the Secretary of Agriculture, for property which the Secretary of Agriculture conveys to a unit of general local government, State, or agency for use in connection with an urban homesteading program approved by the Secretary.".

NEIGHBORHOOD SELF-HELP DEVELOPMENT

SEC. 107. (a) Section 705 of the Housing and Community Development Amendments of 1978 is amended by striking out "$15,000,000" and inserting in lieu thereof "$13,500,000."

(b) Section 704(d) of such Act is amended by inserting before the period at the end thereof the following: ", except that the Secretary may make such grants and other forms of assistance available without such certification if such assistance is made available for the demonstration of innovative means of assisting in neighborhood conservation and revitalization, but not more than 10 per centum of assistance made available under this title in any fiscal year shall be made available without such certification".

LIVABLE CITIES

SEC. 108. Section 807 of the Housing and Community Development Amendments of 1978 is amended by striking out "$10,000,000" and inserting in lieu thereof "$5,000,000".

REVIEW OF EFFECTS OF RENTAL CONVERSIONS

SEC. 109. (a) Section 104(a)(4)(A) of the Housing and Community Development Act of 1974 is amended by inserting before the comma at the end thereof the following: ", including the impact of conversion of rental housing to condominium or cooperative ownership on such needs".

(b) Not later than six months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall submit a report to the Congress concerning the conversion of rental housing to condominium or cooperative ownership. Such report shall at least include—

(1) an estimate of the number of such conversions which have occurred since 1970;

(2) a projection of the number of such conversions estimated to occur during the period 1980 through 1985;

(3) an assessment of the impact that such conversions have had or are likely to have on the availability of housing for lower income persons;

(4) an assessment of the extent to which such conversions are concentrated in certain areas or types of areas of the country; and

(5) an assessment of the factors contributing to the increase in such conversions.

The Secretary may also include in such report recommendations concerning alternative means to minimize the adverse impact that such conversions may have on lower income persons.

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW-INCOME HOUSING

SEC. 201. (a) The first sentence of section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" immediately after "October 1, 1977,"; and

(2) by inserting after "on October 1, 1978" the following: ", and by $1,140,661,000 on October 1, 1979,".

(b) Section 5(c) of such Act is amended by inserting the following after the third sentence: "Of the additional authority authorized by the first sentence of this subsection on October 1, 1979, not more than $195,053,000 is authorized to be approved in appropriation Acts for units assisted under this Act other than under section 8 (not less than $50,000,000 of which is authorized to be so approved for modernization of such units with a preference being given to the modernization of substandard vacant units). In no case may the Secretary, with respect to the additional authority made available on October 1, 1979, enter into annual contributions contracts aggregating more than $195,053,000 for units assisted under this Act other than under section 8.".

(c) Section 9(c) of such Act is amended—

(1) by striking out "and" immediately after "on or after October 1, 1977,"; and

(2) by inserting immediately before the period at the end thereof the following: ", and not to exceed $741,500,000 on or after October 1, 1979".

AMOUNT OF TENANT CONTRIBUTION FOR RENTAL PAYMENTS

SEC. 202. (a) Section 3(1) of the United States Housing Act of 1937 is amended by striking out the third sentence and inserting in lieu thereof the following: "The rental for any dwelling unit shall not exceed that portion of the resident family's income which the Secretary establishes on the basis of the relative level of income of the family, but such rental shall not exceed 25 per centum of family income in the case of a very low income family or, in the case of other families, 30 per centum of such income.".

(b) Section 8(c)(3) of such Act is amended by striking out the first and second sentences and inserting in lieu thereof the following: "The amount of the monthly assistance payment with respect to any dwelling unit shall be the difference between the maximum monthly rent which the contract provides that the owner is to receive for the unit and a portion of one-twelfth of the resident family's income which the Secretary establishes on the basis of the relative level of income of the family and on the basis of such other factors as the number of minor children in the household and the extent of medical and other unusual expenses incurred by the family. In carrying out the previous sentence, the Secretary shall provide that—

"(A) in the case of a very low income family, the amount of such assistance payment shall be the difference between such rent and not less than 15 per centum but not more than 25 per centum of such family income, taking into consideration such relative level of income and such other factors;

"(B) in the case of a large very low income family or a lower income family with exceptional medical or other expenses, as determined by the Secretary, the amount of such assistance payment shall be the difference between such rent and 15 per centum of such family income;

"(C) in the case of a very large lower-income family, the amount of such assistance payment shall be the difference between such rent and 20 per centum of such family income; and

"(D) in the case of other families, the amount of such assistance payment shall be the difference between such rent and not less than 20 per centum but not more than 30 per centum of such family income, taking into consideration such relative level of income and such other factors.".

(c) The amendments made by subsections (a) and (b) shall become effective on January 1, 1980, except that the amount of the tenant contribution required of families whose occupancy of housing units assisted under the United States Housing Act of 1937 commenced prior to such date shall be determined in accordance with the provisions of such Act in effect on December 31, 1979, so long as such occupancy is continuous thereafter.

SECTION 101 RENT SUPPLEMENT AND SECTION 236 INCOME DEFINITIONS

SEC. 203. (a) Section 101 of the Housing and Urban Development Act of 1965 is amended—

(1) by striking out the first sentence of subsection (c) and inserting in lieu thereof the following new sentence: "As used in this section, the term—

"(1) 'qualified tenant' means any individual or family having an income which would qualify such individual or family for assistance under section 8 of the United States Housing Act of 1937, except that such term shall also include any individual or family who was receiving assistance under this section on the day preceding the date of the enactment of the Housing and Community Development Amendments of 1979, so long as such individual or family continues to meet the conditions for such assistance which were in effect on such day; and

"(2) 'income' means income as determined under section 8 of the United States Housing Act of 1937.";

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The amount of the annual payment with respect to any dwelling unit shall not exceed the amount by which the fair market rental for such unit exceeds one-fourth of the tenant's income as determined by the Secretary pursuant to procedures and regulations established by the Secretary. Notwithstanding the preceding sentence, the amount of the payment made under any contract amended pursuant to subsection (1) with respect to any dwelling unit assisted under this section shall be determined in the same manner as it would be determined under section 8 of the United States Housing Act of 1937 if the tenant on whose behalf such payment is made were receiving assistance with respect to such unit under section 8 of such Act.";

(3) by striking out subsection (e)(1)(B) and inserting in lieu thereof the following:

"(B) whether the individual or family was occupying substandard housing or was involuntarily displaced at the time it was seeking assistance under this section."; and

(4) by adding the following new subsections at the end thereof:

"(k) In making assistance available under this section, the Secretary shall give priority to individuals or families who are occupying substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section.

"(l) The Secretary may offer to amend each contract entered into pursuant to this section for the purpose of making such contract contain such terms and conditions as the Secretary deems necessary to implement the amendments made to this section by the Housing and Community Development Amendments of 1979. Notwithstanding the provisions of subsection (a) and any other provision of law, the Secretary may utilize additional authority under section 5(c) of the United States Housing Act of 1937 made available by appropriation Acts on or after October 1, 1979, in order to carry out any changes in contracts as a result of the preceding sentence to the extent necessary to supplement assistance authority available for that purpose under this section.".

(b) Section 236(m) of the National Housing Act is amended to read as follows:

"(m) For the purpose of this section, the term 'income' means income as determined under secion 8 of the United States Housing Act of 1937.".

(c) The amendments made by subsections (a) and (b) shall become effecive on the date of enactment of this Act. The maximum tenant contribution applicable to any family whose occupancy of housing assisted under section 101 of the Housing and Urban Development Act of 1965 or section 236 of the National Housing Act commenced prior to such date shall not exceed the maximum tenant contribution which would have been applicable under such section, as it was in effect on the day preceding the date of enactment of this Act, so long as such occupancy is continuous thereafter.

SECTION 213 ALLOCATION REQUIREMENTS

Sec. 204. (a) Section 213(d)(1) of the Housing and Community Development Act of 1974 is amended by inserting after "In allocating financial assistance" in the first sentence the following: "(other than assistance approved in appropriation Acts for use on and after October 1, 1979, under the United States Housing Act of 1937 for the purpose of modernization of low-income housing projects)".

(b) Section 213(d)(1) of such Act is amended by inserting before the last sentence the following: "Any amounts allocated to a State or to areas or communities within a State which are not likely to be utilized within a fiscal year shall not be reallocated for use in another State unless the Secretary determines that other areas or communities within the same State cannot utilize the amounts in accordance with the appropriate housing assistance plans within that fiscal year.".

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

Sec. 205. (a) The first sentence of section 201(h) of the Housing and Community Development Amendments of 1978 is amended by inserting immediately before the period at the end thereof the following: ", and not to exceed $82,000,000 for the fiscal year 1980".

(b) Section 236(f)(3)(B) of the National Housing Act is amended—

(1) by inserting immediately after "October 1, 1978," in the first sentence the following: "or credited to such fund prior to October 1, 1978, but remaining unobligated on October 31, 1978,"; and

(2) by striking out "September 30, 1979" in the third sentence and inserting in lieu thereof "September 30, 1980".

TENANT SELECTION CRITERIA

Sec. 206. (a) Section 6(c)(4)(A) of the United States Housing Act of 1937 is amended by inserting after "tenant selection criteria" the following: "which gives preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this Act and which is".

(b)(1) Section 8(d)(1)(A) of such Act is amended by inserting before the semicolon at the end thereof the following: ", except that the tenant selection criteria used by the owner shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this section".

(2) Section 8(e)(2) of such Act is amended by inserting before the period at the end of the first sentence the following: ", except that the tenant selection criteria shall give preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section".

DISTRIBUTION OF SECTION 9 OPERATING SUBSIDIES

Sec. 207. Section 9 of the United States Housing Act of 1937 is amended by adding the following new subsection at the end thereof:

"(d) If, in any fiscal year beginning after September 30, 1979, any funds which have been appropriated for such year remain after applying the provisions of the second and fourth sentences of subsection (a)(1), the Secretary shall distribute such funds to low-income housing projects which incurred excessive costs which were beyond their control and the full extent of which was not taken into account in the original distribution of funds for such fiscal year.".

DISPLACED TENANTS IN A HUD-OWNED PROJECT

Sec. 208. Section 203(d)(2) of the Housing and Community Development Amendments of 1978 is amended by striking out "The Secretary shall seek to assure the maximum opportunity for any such tenant—" and inserting in lieu thereof the following: "The Secretary shall assure for any such tenant (who continues to meet applicable qualification standards) the right—".

ENERGY CONSERVATION

Sec. 209. The United States Housing Act of 1937 is amended by adding at the end thereof the following new section:

"ENERGY CONSERVATION

"Sec. 13. (a) In utilizing contract authority which is provided by section 5(c) and has been approved in appropriation Acts for use in the modernization of low-income housing projects (other than projects assisted under section 8) on or after October 1, 1979, the Secretary shall, to the maximum extent practicable, also take into consideration projects which will be modernized to a substantial extent with weatherization materials as defined in section 412(9) of the Energy Conservation in Existing Buildings Act of 1976.

"(b) The Secretary shall, to the maximum extent practicable, require that newly constructed and substantially rehabiliated projects assisted under this Act with authority provided on or after October 1, 1979, shall be equipped with heating and cooling systems selected on the basis of criteria which include a life-cycle cost analysis of such systems.".

VERIFICATION OF INCOME

Sec. 210. Section 8 of the United States Housing Act of 1937 is amended by adding at the end thereof the following new subsection:

"(k) The Secretary shall establish procedures which are appropriate and necessary to assure that income data provided to public housing agencies and owners by families applying for or receiving assistance under this section is complete and accurate. In establishing such procedures, the Secretary shall randomly, regularly, and periodically select a sample of families to authorize the Secretary to obtain information on these families for the purpose of income verification, or to allow those families to provide such information themselves. Such information may include, but is not limited to, data concerning unemployment compensation and Federal income taxation and data relating to benefits made available under the Social Security Act, the Food Stamp Act of 1977, or title 38, United States Code. Any such information received pursuant to this subsection shall remain confidential and shall be used only for the purpose of verifying incomes in order to determine eligibility of families for benefits (and the amount of such benefits, if any) under this section.".

PRESERVATION OF LOW-INCOME CHARACTER OF ASSISTED HOUSING

Sec. 211. (a) Section 9(a) of the United States Housing Act of 1937 is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)";

(3) by inserting the following before the period at the end of the third sentence: ", and such contract shall provide that no disposition of the low-income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary"; and

(4) by adding the following new paragraph at the end thereof:

"(2) The Secretary may not make assistance available under this section for any low-income housing project unless such project is being assisted by an annual contributions contract authorized by section 5(c) but not subject to section 8, except that after the duration of any such annual contributions contract with respect to a low-income housing project, the Secretary may provide assistance under this section with respect to such project as long as the low-income nature of such project is maintained.".

(b) The first sentence of section 8(e)(1) of such Act is amended by striking out "one month" and inserting in lieu thereof "two hundred and forty months".

(c) Section 201(d)(1) of the Housing and Community Development Amendments of 1978 is amended by inserting the following before the semicolon at the end thereof: ", and the owner has agreed to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage".

RENT STUDIES

Sec. 212. (a) The Secretary of Housing and Urban Development shall conduct a study of the feasibility and financial desirability of requiring minimum rent payments from tenants in low-income housing assisted under the United States Housing Act of 1937. The study shall examine (1) the extent to which tenants in such housing are not required to or do not pay rent, (2) the incentives for greater tenant care of such housing which minimum rents may create, (3) the administrative costs of assessing and collecting minimum rents, and (4) in each of the five fiscal years beginning on October 1, 1980 and ending September 30, 1984, the reductions in appropriations for the payment of annual contributions for assisted housing and for payments for the operation of low-income housing projects which several alternative specifications of minimum rent requirements would allow. The Secretary shall submit a report to the Congress containing the findings and conclusions of such study not later than ten days after the Budget for fiscal year 1981 is transmitted pursuant to section 201 of the Budget and Accounting Act, 1921.

(b) The Secretary of Housing and Urban Development shall conduct a study to provide detailed comparisons between the rents paid by tenants occupying low-income housing assisted under the United States Housing Act of 1937, and the rents paid by tenants at the same income levels who are not in assisted housing. The comparisons shall be made for differing regions, income levels and family size, and shall include data on utility costs paid by tenants. Data on tenants not in assisted housing shall be further subdivided in accordance with various indicators of housing quality. The Secretary shall transmit a report on such study to the Congress not later than March 1, 1980.

SECTION 235 AMENDMENTS

SEC. 213. (a) Section 235(a)(1) of the National Housing Act is amended by adding the following new sentence at the end thereof: "In making such assistance available, the Secretary shall give preference to low-income families who, without such assistance, would be likely to be involuntarily displaced (including those who would be likely to be displaced from rental units which are to be converted into a condominium project or a cooperative project). Such assistance may include the acquisition of a condominimum or a membership in a cooperative association.".

(b) Section 235(i)(3)(A) of such Act is amended by striking out ", if the mortgagor qualifies" in the first proviso and all that follows through "public housing".

(c)(1) Section 235 of such Act is amended by adding at the end thereof the following new subsection:

"(o) The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 20 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section if the mortgage relates to a dwelling in an urban neighborhood where the Secretary determines that a community sponsored program of concentrated redevelopment or revitalization is being undertaken and the Secretary determines that such action is necessary to enable eligible families residing in the area who occupy substandard housing or are being involuntarily displaced to remain in the area in decent, safe, and sanitary housing.".

(2) Section 235(c)(2) of such Act is amended by inserting after "1 per centum per annum" the following: "(4 per centum per annum in the case of a mortgage described in subsection (o))".

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "December 1, 1979" in the first sentence and inserting in lieu thereof "October 1, 1980".

(b) Section 217 of such Act is amended by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980".

(c) Section 221(f) of such Act is amended by striking out "November 30, 1979" in the fifth sentence and inserting in lieu thereof "September 30, 1980".

(d) Section 235(m) of such Act is amended by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980".

(e) Section 236(n) of such Act is amended by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980".

(f) Section 244(d) of such Act is amended—

(1) by striking out "November 30, 1979" in the first sentence and inserting in lieu thereof "September 30, 1980"; and

(2) by striking out "December 1, 1979" in the second sentence and inserting in lieu thereof "October 1, 1980".

(g) Section 245 of such Act is amended by striking out "November 30, 1979" where it appears and inserting in lieu thereof "September 30, 1980".

(h) Section 809(f) of such Act is amended by striking out "November 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(i) Section 810(k) of such Act is amended by striking out "November 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(j) Section 1002(a) of such Act is amended by striking out "November 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(k) Section 1101(a) of such Act is amended by striking out "November 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

EXTENSION OF FLEXIBLE INTEREST RATE AUTHORITY

SEC. 302. Section 3(a) of Public Law 90–301 is amended by striking out "December 1, 1979" and inserting in lieu thereof "October 1, 1980".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 303. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "December 1, 1979" and inserting in lieu thereof "October 1, 1980".

RESEARCH AUTHORIZATIONS

SEC. 304. The second sentence of section 501 of the Housing and Urban Development Act of 1970 is amended by striking out "and not to exceed $62,000,000 for the fiscal year 1979" and inserting in lieu thereof "not to exceed $62,000,000 for the fiscal year 1979, and not to exceed $50,300,000 for the fiscal year 1980".

FEDERAL HOUSING ADMINISTRATION GENERAL INSURANCE FUND

SEC. 305. Section 519(f) of the National Housing Act is amended by inserting before the period at the end thereof the following: ", which shall be increased by not to exceed $93,000,000 on October 1, 1979".

HOUSING FOR THE ELDERLY OR HANDICAPPED

SEC. 306. (a) Section 202(a)(4)(B)(i) of the Housing Act of 1959 is amended by striking out "and to $3,300,000,000 on October 1, 1978" and inserting in lieu thereof "to $3,300,000,000 on October 1, 1978, to $3,827,500,000 on October 1, 1979, to $4,777,500,000 on October 1, 1980, and to $5,752,500,000 on October 1, 1981".

(b) Section 202(a) of such Act is amended by adding at the end thereof the following new paragraphs:

"(6) In reviewing applications for loans under this section, the Secretary may consider the extent to which such loans—

"(A) will assist in stabilizing, conserving, and revitalizing neighborhoods and communities;

"(B) will assist in providing housing for elderly and handicapped families in neighborhoods and communities in which they are experiencing significant displacement due to public or private investment; or

"(C) will assist in the substantial rehabilitation, in an economical manner, of structures having architectural, historical, or cultural significance.

"(7) The Secretary may make available appropriate technical and training assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.".

(c)(1) Section 202(d)(8)(A) of such Act is amended by striking out "or infirmaries or other inpatient or" and inserting in lieu thereof "adult day health facilities, or other".

(2) Section 202(f) of such Act is amended by inserting "(including adult day health services)" after "health".

(d) Section 202(g) of such Act is amended by adding the following new sentence at the end thereof: "At the time of settlement on permanent financing with respect to a project under this section, the Secretary shall make an appropriate adjustment in the amount of any assistance to be provided under a contract for annual contributions pursuant to section 8 of the Untied States Housing Act of 1937 in order to reflect fully any difference between the interest rate which will actually be charged in connection with such permanent financing and the interest rate which was in effect at the time of the reservation of assistance in connection with the project.".

(e) Not later than six months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall transmit a report to the Congress on the housing needs of the elderly and handicapped in rural areas. Such report shall at least include—

(1) an assessment of the operations of the present programs in rural areas available to the elderly and handicapped;

(2) an assessment of the housing needs of the elderly and handicapped living in rural areas; and

(3) an examination of the various alternatives available to meet the housing needs of the elderly and handicapped in rural areas.

(f) Not later than six months after the date of enactment of this Act, the Secretary of Housing and Urban Development shall transmit a report to the Congress containing recommendations on means to reduce the costs of the program carried out under section 202 of the Housing Act of 1959 without—

(1) unduly burdening sponsors of programs and projects under this section; or

(2) adversely affecting the ability of the program under this section to meet the housing needs of elderly and handicapped families.

NEIGHBORHOOD REINVESTMENT CORPORATION

SEC. 307. Section 608(a) of the Housing and Community Development Amendments of 1978 is amended by inserting ", and not to exceed $12,000,000 for fiscal year 1980" after "1979".

EXEMPTION FROM STATE USURY LAWS

SEC. 308. Title V of the National Housing Act is amended by adding the following new section at the end thereof:

"EXEMPTION FROM STATE USURY LAWS

"SEC. 529. (a) The provisions of the constitution of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders and the provisions of any State law expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is insured under title I or II of this Act.

"(b) The provisions of subsection (a) shall apply to loans, mortgages, or advances made or executed in any State until the effective date (after the date of enactment of this section) of a provision of law of that State limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance.".

STUDIES OF MORTGAGE INSURANCE PREMIUMS AND ALTERNATIVES TO STATUTORY MORTGAGE AMOUNTS

SEC. 309. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall conduct a study of the relative risks of loss which exist with respect to the various classes of mortgages which may be insured under sections 203(b) and 213 of the National Housing Act. Such study shall be conducted for the purpose of making recommendations on the advisability of reducing, in accordance with sound actuarial and accounting practices, some or all of the mortgage insurance premiums required for such classes of mortgages. The Secretary shall transmit such recommendations to the Congress within eighteen months from the date of the enactment of this Act.

(b) The Secretary shall conduct a study of alternatives to the present system of fixed statutory maximum amounts for mortgages insured by the Department of Housing and Urban Development under titles I and II of the National Housing Act. Such study shall include an examination of possible alternatives, including but not limited to flexible mortgage ceilings, prototype cost limits, ceilings based on regional housing costs, sales prices of homes, and construction costs. The Secretary shall report to the Congress on the results of such study, together with recommendations for legislation, no later than March 1, 1980.

MORTGAGE INSURANCE FOR EXISTING DWELLINGS WITH WARRANTY PLANS

SEC. 310. Section 203(b)(2) of the National Housing Act is amended by striking out "the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction" in the third sentence and by inserting in lieu thereof the following: "(i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction, or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction".

MODIFICATION OF GRADUATED PAYMENT MORTGAGE PAYMENT

SEC. 311. (a) This section may be cited as the "Homeownership Opportunity Act of 1979".

(b) Section 245 of the National Housing Act is amended—

(1) by inserting "(a)" after "SEC. 245.";

(2) by inserting after "title" in the second sentence the following ", except as provided in subsection (b) of this section,";

(3) by striking out "section" after "pursuant to this" and inserting in lieu thereof "subsection";

(4) by striking out the last sentence; and

(5) by adding at the end thereof the following:

"(b) Notwithstanding the provisions of subsection (a), the Secretary may insure under any provision of this title a mortgage or loan which meets the requirements of the first sentence of subsection (a) and which has provisions for varying rates of amortization if the Secretary determines—

"(1) the mortgagor could not reasonably afford to purchase the dwelling unit by means of a mortgage insured under subsection (a) or any other mortgage insurance program under this title;

"(2) the principal obligation of the mortgage or loan initially does not exceed the percentage of the initial appraised value of the property specified in section 203(b) of this title as of the date the mortgage or loan is accepted for insurance;

"(3) the principal obligation of the mortgage or loan thereafter (including all interest to be deferred and added to principal) will not at any time be scheduled to exceed 97 per centum, or, if the mortgagor is a veteran, such higher percentage as it provided under section 203(b)(2) for veterans, of the projected value of the property; and

"(4) the principal obligation of the mortgage thereafter will not exceed 113 per centum of the initial appraised value of the property.

Mortgage insurance under this subsection shall be limited to mortgages executed by mortgagors who, as determined by the Secretary, have not owned dwelling units within the preceding three years. For the purpose of this subsection, the projected value of the property shall be calculated by the Secretary by increasing the initial appraised value of the property at a rate not in excess of 2½ per centum per annum. The number of mortgages which are insured in accordance with this subsection in any fiscal year may not exceed (A) that number of mortgages the aggregate initial principal obligation of which equals 10 per centum of the aggregate amount of the initial principal obligation of all mortgages secured by properties improved by one- to four-family residences which are insured under this title during the preceding fiscal year, or (B) 50,000 mortgages, whichever is greater.

"(c) Any mortgage or loan insured pursuant to this section which contains or sets forth any graduated mortgage provisions (including but not limited to provisions for adding deferred interest to principal) which are authorized under this section and applicable regulations, or which have been insured on the basis of their being so authorized, shall not be subject to any State constitution, statute, court decree, common law, or rule or public policy (1) limiting the amount of interest which may be charged, taken, received, or reserved, or the manner of calculating such interest (including but not limited to prohibitions against the charging of interest on interest), if such constitution, statute, court decree, common law, or rule would not apply to the mortgage or loan in the absence of such graduated payment mortgage provisions, or (2) requiring a minimum amortization of principal under the mortgage or loan."

FEDERAL HOUSING ADMINISTRATION MORTGAGE LIMITS

SEC. 312. (a) Section 203(b)(2) of the National Housing Act is amended by striking out everything through "or $75,000 in the case of a four-family residence," and inserting in lieu thereof the following:

"(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $67,500 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or $76,000 in the case of a two-family residence whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes); or $92,000 in the case of a three-family residence, or $107,000 in the case of a four-family residence;".

(b) Section 220(d)(3)(A)(i) of such Act is amended—

(1) by striking out "$60,000" and inserting in lieu thereof "$67,500";

(2) by striking out "$65,000" the first time it appears and inserting in lieu thereof "$76,000";

(3) by striking out "$65,000" the second time it appears and inserting in lieu thereof "$92,000";

(4) by striking out "$75,000" and inserting in lieu thereof "$107,000"; and

(5) by striking out "$7,700" and inserting in lieu thereof "$8,250".

(c) Section 222(b)(2) and section 234(c) of such Act are amended by striking out "$60,000" in each such section and inserting in lieu thereof "$67,500".

LOANS FOR MOBILE HOMES AND LOTS

SEC. 313. (a) Section 2(b) of the National Housing Act is amended—

(1) by striking out "$16,000 ($24,000 in the case of a mobile home composed of two or more modules" in the first sentence and inserting in lieu thereof "$18,000 ($27,000 in the case of a mobile home containing two or more modules";

(2) by striking out subparagraph (A) of the second paragraph and inserting in lieu thereof the following:

"(A) involve such an amount not exceeding $24,000 ($33,000 in the case of a mobile home composed of two or more modules); and";

(3) by striking out "fifteen years and thirty-two days (twenty-three" in subparagraph (B) of the second paragraph and inserting in lieu thereof "twenty years and thirty-two days (twenty-five";

(4) by striking out subparagraph (A) of the third paragraph and inserting in lieu thereof the following:

"(A) involve such an amount not exceeding $27,500 ($36,500 in the case of a mobile home composed of two or more modules); and";

(5) by striking out "fifteen years and thirty-two days (twenty-three" in subparagraph (B) of the third paragraph and inserting in lieu thereof "twenty years and thirty-two days (twenty-five";

(6) by striking out "5,000 in the case of an undeveloped lot, or (ii) $7,500," in subparagraph (A) of the fourth paragraph and inserting in lieu thereof "$6,250 in the case of an undeveloped lot, or (ii) $9,375"; and

(7) by striking out "ten years and thirty-two days" in subparagraph (B) of the fourth paragraph and inserting in lieu thereof "fifteen years and thirty-two days".

(b) Section 207(c)(3) of such Act is amended by striking out "$3,900" and inserting in lieu thereof "$8,000".

HIGH-COST AREA MAXIMUM MORTGAGE AMOUNTS

SEC. 314. The National Housing Act is amended by striking out "by not to exceed 50 per centum in any geographical area where he finds that cost levels so require" where it appears in sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), and 234(e)(3) and inserting in lieu thereof in each such section "by not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum in such an area".

COMBINATION FINANCING

SEC. 315. Section 242(d) of the National Housing Act is amended by adding the following new paragraph at the end thereof:

"(5) The Secretary shall not insure any mortgage or approve any modification of an existing mortgage insured pursuant to this section or section 233(f) if such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 306, of a trust certificate or other security which is exempt from Federal taxation or which is to be used to collateralize obligations which are so exempt, except that the Secretary shall not refuse to insure such a mortgage or approve such a modification solely on the basis that such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 306, of a trust certificate or other security which is exempt from Federal taxation or which is to be used to collateralize obligations which are so exempt if—

"(A) a written application for such insurance or modification submitted at the express direction of the hospital has been submitted to the appropriate office of the Department of Health, Education, and Welfare prior to March 29, 1979; or

"(B) in the case of a nonprofit mortgagor which is seeking refinancing or modification of an existing mortgage insured pursuant to this section or section 223(f), the mortgagor (i) had engaged an investment banker for the purpose of obtaining such refinancing or modification, or had undertaken or arranged for the undertaking of a market or feasibility study with respect to the advisability of obtaining such refinancing or modification, and had made written notification of its interest in such refinancing or modification to the Department of Health, Education, and Welfare or the Department of Housing and Urban Development prior to June 7, 1979; and (ii) receives from the programs established under titles XVIII and XIX of the Social Security Act a percentage of its total revenue which is greater than 125 per centum of the national average for hospitals which derive revenue from such titles,".

FEDERAL HOME LOAN MORTGAGE CORPORATION AMENDMENTS

SEC. 316. (a) Section 306 of the Federal Home Loan Mortgage Corporation Act is amended by adding at the end thereof the following:

"(e)(1) Any person, trust, or organization created pursuant to or existing under the laws of the United States or any State shall be authorized to purchase, hold, and invest in mortgages, obligations, or other securities which are or have been sold by the Corporation pursuant to this section or pursuant to section 305 of this title to the same extent that such person, trust, or organization is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof. Where State law limits the purchase, holding, or investment in obligations issued by the United States by such a person, trust, or organization, such Corporation mortgages, obligations, and other securities shall be considered to be obligations issued by the United States for purposes of the limitation.

"(2) The provisions of paragraph (1) shall not apply with respect to a particular person, trust, or organization or class thereof in any State which, after the date of enactment of this subsection, enacts a statute which specifically names the Corporation and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by such person, trust, or organization or class thereof than is provided in paragraph (1). The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest which was made prior thereto.

"(3) Any authority granted by paragraph (1) and not granted by any other Federal statute shall expire as of the end of June 30, 1985. Such expiration shall not affect the validity of any contractual commitment to purchase, hold, or invest which was made prior thereto pursuant to paragraph (1), and shall not affect the validity of any contractual commitment or other action to purchase, hold, or invest pursuant to any other authorization.".

(b) Section 303 of such Act is amended by adding at the end thereof the following:

"(f) All mortgages, obligations, or other securities which are or have been sold by the Corporation pursuant to section 305 or section 306 of this title shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any officers thereof.".

(c) Section 302(h) of such Act is amended by adding at the end thereof the following sentence: "Such term shall also include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of the Internal Revenue Code of 1954, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation.".

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MAXIMUM MORTGAGE AMOUNT

SEC. 317. The second sentence of section 302(b)(1) of the National Housing Act is amended to read as follows: "Notwithstanding the provisions of clause (3) of the preceding sentence, the Association may purchase a mortgage under section 305 with an original principal obligation which exceeds the otherwise applicable maximum amount per dwelling unit if (1) the mortgage is insured under section 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), 234((e)(3), or 236, and (2) at least 20 per centum of the units covered by such mortgage are assisted under contracts authorized by section 8 of the United States Housing Act of 1937.".

SECTION 203(i) PROGRAM

SEC. 318. Section 203(i) of the National Housing Act is amended—

(1) by striking out "adjacent to a public highway" in the last proviso and inserting in lieu thereof adjacent to an all-weather public road"; and

(2) by striking out "five" in the last proviso and inserting in lieu thereof "two and one-half".

MATURITIES FOR SUPPLEMENTAL LOANS

SEC. 319. Section 241(b)(2) of the National Housing Act is amended by striking out the phrase "but not to exceed the remaining term of the mortgage".

AMENDMENT TO THE NATIONAL MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS ACT OF 1974

SEC. 320. Section 620 of the National Mobile Home Construction and Safety Standards Act of 1974 is amended by inserting after "conducting such inspections," the following: "and the Secretary may use any fees so collected to pay expenses incurred in connection with such inspections,".

OWNERSHIP OF MOBILE HOME SITES

SEC. 321. Not later than March 31, 1980, the Secretary of Housing and Urban Development shall transmit to the Congress a report containing recommendations for programs and policies which encourage individual ownership of mobile home lots through condominium or cooperative development of mobile home parks or through the development of mobile home subdivisions.

INVALIDATION OF HUD INCREASES IN THERMAL REQUIREMENTS

SEC. 322. The final rule revision 6A of the Department of Housing and Urban Development (entitled "Increases in Thermal Requirements for HUD Minimum Property Standards" and contained in the Federal Register, volume 44, number 74, April 16, 1979, 24 CFR Part 200) is hereby disapproved and invalidated insofar as it applies to masonry construction.

DEPOSIT INSURANCE AND SECURITY EXTENDED TO INDIAN TRIBAL GOVERNMENT DEPOSITS

SEC. 323. (a) Paragraph (2)(A) of section 11(a) of the Federal Deposit Insurance Act is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" following the semicolon at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing or depositing the same in time and savings deposits in an insured bank;".

(b) Paragraph (1) of section 405(d) of the National Housing Act is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" following the semicolon at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing the same in an insured institution;".

(c) Subparagraph (2)(A) of section 207(c) of the Federal Credit Union Act is amended by—

(1) striking out "or" at the end of clause (iii),

(2) inserting "or" following the semicolon at the end of clause (iv), and

(3) inserting immediately after clause (iv) the following:

"(v) an officer, employee, or agent of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof having official custody of tribal funds and lawfully investing the same in a credit union insured in accordance with this title;".

(d) Section 107(6) of the Federal Credit Union Act is amended by striking out "nonmember units of Federal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act" and inserting in lieu thereof "nonmember units of Federal, Indian tribal, State, or local governments and political subdivisions thereof enumerated in section 207 of this Act".

(e) The amendments made by subsections (a) through (d) are not applicable to any claim arising out of the closing of a bank, savings and loan association, or credit union prior to the date of enactment of this Act, but shall be applicable to any such claim arising on or after such date.

(f) Section 5153 of the Revised Statutes is amended by adding at the end thereof the following paragraph:

"Any national banking association may, upon the deposit with it of any funds by any federally recognized Indian tribe, or any officer, employees, or agent thereof in his or her official capacity, give security for the safekeeping and prompt payment of the funds so deposited by the deposit of United States bonds and otherwise as may be prescribed by the Secretary of the Treasury for public funds under the first paragraph of this section.".

AIDING MEMBERS OF THE FEDERAL HOME LOAN BANK SYSTEM

SEC. 324. Section 11(h) of the Federal Home Loan Bank Act is amended by inserting after "in the stock of the Federal National Mortgage Association," the following: "in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, for the purpose of aiding members of the Federal Home Loan Bank System,".

SMALL BUSINESS INVESTMENT COMPANIES

SEC. 325. Section 5(c)(4) of the Home Owners' Loan Act of 1933 is amended by adding at the end thereof the following:

"(E) SMALL BUSINESS INVESTMENT COMPANIES.—An association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958, for the purpose of aiding members of the Federal Home Loan Bank System, but no association may make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 per centum of the assets of such association.".

SINGLE FAMILY LOAN LIMITATION

SEC. 326. Paragraph (1)(B) of section 5(c) of the Home Owners' Loan Act of 1933 is amended by striking out "$60,000" and inserting in lieu thereof "$75,000."

STOCK TO ADVANCES RATIO

SEC. 327. Section 6(c)(2)(ii) of the Federal Home Loan Bank Act is amended by striking out "twelve" and inserting in lieu thereof "twenty".

PAPERWORK REDUCTION

SEC. 328. Section 905 of the Housing and Community Development Amendments of 1978 is amended to read as follows:

"PAPERWORK REDUCTION

"SEC. 905. (a) The Congress finds and declares—

"(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs, require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments) as notes secured by those mortgages, and for application, appraisals and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

"(2) that unnecessary paperwork impairs the effectiveness of Federal housing finance programs;

"(3) that both single-family and multifamily programs are affected; and

"(4) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

"(b)(1) Not later than October 1, 1980, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs shall, consistent with provisions of law governing the conduct of housing programs, employ in their respective programs—

"(A) uniform single-family and multifamily note and mortgage forms;

"(B) a uniform application form for mortgage approval and commitment for mortgage insurance;

"(C) a uniform form for computation of the monthly net effective income of applicants;

"(D) a uniform property appraisal form;

"(E) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act; and

"(F) such other consolidated or simplified forms, particularly those which solicit identical or nearly identical information from the same persons in the conduct of two or more such programs, the consolidation or simplification of which the Secretaries of Housing and Urban Development and Agriculture and the Administrator of Veterans' Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of such programs.

"(2) The Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Administrator of Veterans' Affairs shall, consistent with provisions of law governing their respective programs, provide by regulation for the elimination of forms which solicit information which is already available from other available sources through indexing or other means of identifying such forms.

"(3) Each agency referred to in subsection (b) may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and maximizing the suitability of such forms for the use of all participants, public and private.

"(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the efforts required by subsection (b) and shall report to the Congress on such development and implementation and with respect to any provisions of law which unnecessarily prevent such departments and agencies from carrying out the provisions of this section as part of each report required under Public Law 93-556. Such report shall include an estimate of the reduction of the level of paperwork burden hours of the affected agencies as allocated by the Office of Management and Budget.".

TITLE IV—INTERSTATE LAND SALES

DEFINITIONS

SEC. 401. Section 1402 of the Interstate Land Sales Full Disclosure Act is amended by redesignating paragraphs (4) through (10) as paragraphs (5) through (11), respectively, and by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) 'subdivision' means any land which is located in any State or in a foreign country and is divided or is proposed to be divided into lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan;

"(4) 'common promotional plan' means a plan, undertaken by a single developer or a group of developers acting in concert, to offer lots for sale or lease; where such land is offered for sale by such a developer or group of developers acting in concert, and such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan;".

EXEMPTIONS

SEC. 402. Subsections (a) and (b) of section 1403 of the Interstate Land Sales Full Disclosure Act are amended to read as follows:

"(a) Unless the method of disposition is adopted for the purpose of evasion of this title, the provisions of this title shall not apply to—

"(1) the sale or lease of lots in a subdivision containing less than twenty-five lots;

"(2) the sale or lease of any improved land on which there is a residential, commercial, condominium, or industrial building, or the sale or lease of land under a contract obligating the seller or lessor to erect such a building thereon within a period of two years;

"(3) the sale of evidences of indebtedness secured by a mortgage or deed of trust on real estate;

"(4) the sale of securities issued by a real estate investment trust;

"(5) the sale or lease of real estate by any government or government agency;

"(6) the sale or lease of cemetery lots;

"(7) the sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial, or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business; or

"(8) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of covenants, conditions, and restrictions which has been recorded in the official record of the city or county in which such real estate is located, when—

"(A) local authorities have approved access from such real estate to a public street or highway;

"(B) the purchaser or lessee of such real estate is a duly organized corporation, partnership, trust, or business entity engaged in commercial or industrial business;

"(C) the purchaser or lessee of such real estate is represented in the transaction of sale or lease by a representative of its own selection;

"(D) the purchaser or lessee of such real estate affirms in writing to the seller or lessor that it either (i) is purchasing or leasing such real estate substantially for its own use, or (ii) has a binding commitment to sell, lease, or sublease such real estate to an entity which meets the requirements of subparagraph (B), is engaged in commercial or industrial business, and is not affiliated with the seller, lessor, or agent thereof; and

"(E) a policy of title insurance or a title opinion is issued in connection with the transaction showing that title the real estate purchased or leased is vested in the seller or lessor, subject only to such exceptions as may be approved in writing by such purchaser or the lessee prior to recordation of the instrument of conveyance or execution of the lease, but (i) nothing herein shall be construed as requiring the recordation of a lease, and (ii) any purchaser or lessee may waive, in writing in a separate document, the requirement of this subparagraph that a policy of title insurance or title opinion be issued in connection with the transaction.

"(b) Unless the method of disposition is adopted for the purpose of evasion of this title, the provisions requiring registration and disclosure (as specified in section 1404 (a)(1) and sections 1405 through 1408) shall not apply to—

"(1) the sale or lease of lots in a subdivision containing fewer than one hundred lots which are not exempt under subsection (a);

"(2) the sale or lease of lots in a subdivision if, within the twelve-month period commencing on the date of the first sale or lease of a lot in such subdivision after the effective date of this subsection or on such other date within that twelve-month period as the Secretary may prescribe, not more than twelve lots are sold or leased, and the sale or lease of the first twelve lots in such subdivision in any subsequent twelve-month period, if not more than twelve lots have been sold or leased in any preceding twelve-month period after the effective date of this subsection;

"(3) the sale or lease of lots in a subdivision if each noncontiguous part of such subdivision contains not more than twenty lots, and if the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease;

"(4) the sale or lease of lots in a subdivision in which each of the lots is at least twenty acres (inclusive of easements for ingress and egress or public utilities);

"(5) the sale or lease of a lot which is located within a municipality or county where a unit of local government specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

"(A)(i) the subdivision meets all local codes and standards, and (ii) each lot is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

"(B)(i) the lot is situated on a paved street or highway which has been built to standards applicable to streets and highways maintained by the unit of local government in which the subdivision is located and is acceptable to such unit, or, where such street or highway is not complete, a bond or other surety acceptable to the municipality or county in the full amount of the cost of completing such street or highway has been posted to assure completion to such standards, and (ii) the unit of local government or a homeowners association has accepted or is obligated to accept the responsibility of maintaining such street or highway, except, that, in any case in which a homeowners association has accepted or is obligated to accept such responsibility, a good faith written estimate of the cost of carrying out such responsibility over the first ten years of ownership or lease is provided to the purchaser or lessee prior to the signing of the contract or agreement to purchase or lease;

"(C) at the time of closing, potable water, sanitary sewage disposal, and electricity have been extended to the lot or the unit of local government is obligated to install such facilities within one hundred and eighty days, and, for subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round and that the lot is approved for the installation of a septic tank;

"(D) the contract of sale requires delivery of a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant which warrants that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him) to the purchaser within one hundred and eighty days after the signing of the sales contract;

"(E) at the time of closing, a title insurance binder or a title opinion reflecting the condition of the title shall be in existence and issued or presented to the purchaser or lessee showing that, subject only to such exceptions as may be approved in writing by the purchaser or lessee at the time of closing, marketable title to the lot is vested in the seller or lessor;

"(F) the purchaser or lessee (or spouse thereof) has made a personal, on-the-lot inspection of the lot purchased or leased, prior to signing of the contract or agreement to purchase or lease; and

"(G) there are no offers, by direct mail or telephone solicitation, of gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot;

"(6) the sale or lease of a lot, if a mobile home is to be erected or placed thereon as a residence, where the lot is sold as a homesite by one party and the home by another, under contracts that obligate such sellers to perform, contingent upon the other seller carrying out its obligations so that a completed mobile home will be erected or placed on the completed homesite within a period of two years, and provide for all funds received by the sellers to be deposited in escrow accounts (controlled by parties independent of the sellers) until the transactions are completed, and further provide that such funds shall be released to the buyer on demand without prejudice if the land with the mobile home erected or placed thereon is not conveyed within such two-year period. Such homesite must conform to all local codes and standards for mobile home subdivisions, if any, must provide potable water, sanitary sewage disposal, electricity, access by roads, the purchaser must receive marketable title to the lot, and where common facilities are to be provided, they must be completed or fully funded;

"(7)(A) the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature. For purposes of this exemption, a lot may be sold only if—

"(i) the lot is free and clear of all liens, encumbrances, and adverse claims;

"(ii) the purchaser or lessee (or spouse thereof) has made a personal on-the-lot inspection of the lot to be purchased or leased;

"(iii) each purchase or lease agreement contains—

"(I) a clear and specific statement describing a good faith estimate of the year of completion of, and the party responsible for, providing and maintaining the roads, water facilities, sewer facilities and any existing or promised amenities; and

"(II) a nonwaivable provision specifying that the contract or agreement may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws; and

"(iv) the purchaser or lessee has, prior to the time the contract or lease is entered into, acknowledged in writing the receipt of a written statement by the developer containing good faith estimates of the cost of providing electric, water, sewer, gas, and telephone service to such lot.

"(B) As used in subparagraph (A)(i) of this paragraph, the terms 'liens', 'encumbrances', and 'adverse claims' do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if—

"(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such liens, reservations, taxes, assessments and restrictions which are applicable to the lot to be purchased or leased; and

"(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee.

"(C) For the purpose of this paragraph, a sales operation is 'intrastate in nature' if the developer is subject to the laws of the State in which the land is located, and each lot in the subdivision, other than those which are exempt under section 1403 (a), (b)(6), or (b)(8), is sold or leased to residents of the State in which the land is located; or

"(8) the sale or lease of a lot in a subdivision containing fewer than three hundred lots if—

"(A) the principal residence of the purchaser or lessee is within the same standard metropolitan statistical area, as defined by the Office of Management and Budget, as the lot purchased or leased;

"(B) the lot is free and clear of liens (such as mortgages, deeds of trust, tax liens, mechanics liens, or judgments) at the time of the signing of the contract or agreement and until a deed is delivered to the purchaser or the lease expires. As used in this subparagraph, the term 'liens' does not include (i) United States land patents and similar Federal grants or reservations, (ii) property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, (iii) taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, or (iv) other interests described in regulations prescribed by the Secretary;

"(C) the purchaser or lessee (or spouse thereof) has made a personal on-the lot inspection of the lot to be purchased or leased;

"(D) each purchase or lease agreement contains (i) a clear and specific statement describing a good faith estimate of the year of completion of and the party responsible for providing and maintaining the roads, water facilities, sewer facilities and any existing or promised amenities; and (ii) a nonwaivable provision specifying that the contract or agreement may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable State laws;

"(E) the purchaser or lessee has, prior to the time the contract or lease is entered into, acknowledged in writing receipt of a written statement by the developer setting forth (i) in descriptive and concise terms all liens, reservations, taxes, assessments, beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, and adverse claims which are applicable to the lot to be purchased or leased, and (ii) good faith estimates of the cost of providing electric, water, sewer, gas, and telephone service to such lot;

"(F) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process and acknowledging that the developer submits to the legal jurisdiction of the State in which the purchaser or lessee resides; and

"(G) the developer executes a written affirmation to the effect that he has complied with the provisions of this paragraph, such affirmation to be given on a form provided by the Secretary, which shall include the following: the name and address of the developer; the name and address of the purchaser or lessee; a legal description of the lot; an affirmation that the provisions of this paragraph have been complied with; a statement that the developer submits to the jurisdiction of this title with regard to the sale or lease; and the signature of the developer.".

REQUIREMENTS RELATING TO THE SALE OR LEASE OF LOTS

SEC. 403. Section 1404 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"REQUIREMENTS RELATING TO THE SALE OR LEASE OF LOTS

"SEC. 1404. (a) It shall be unlawful for any developer or agent, directly or indirectly, to make use of any means or instruments of transportation or communication in interstate commerce, or of the mails—

"(1) with respect to the sale or lease of any lot not exempt under section 1403—

"(A) to sell or lease any lot unless a statement of record with respect to such lot is in effect in accordance with section 1407;

"(B) to sell or lease any lot unless a printed property report, meeting the requirements of section 1408, has been furnished to the purchaser or lessee in advance of the signing of any contract or agreement by such purchaser or lessee;

"(C) to sell or lease any lot where any part of the statement of record or the property report contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein pursuant to sections 1405 through 1408 of this title or any regulations thereunder; or

"(D) to display or deliver to prospective purchasers or lessees advertising and promotional material which is inconsistent with information required to be disclosed in the property report; or "(2) with respect to the sale or lease, or offer to sell or lease, any lot not exempt under section 1403(a)—

"(A) to employ any device, scheme, or artifice to defraud;

"(B) to obtain money or property by means of any untrue statement of a material fact, or any omission to state a material fact necessary in order to make the statements made (in light of the circumstances in which they were made and within the context of the overall offer and sale or lease) not misleading, with respect to any information pertinent to the lot or subdivision;

"(C) to engage in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon a purchaser; or

"(D) to represent that roads, sewers, water, gas, or electric service, or recreational amenities will be provided or completed by the developer without stipulating in the contract of sale or lease that such services or amenities will be provided or completed.

"(b) Any contract or agreement for the sale or lease of a lot not exempt under section 1403 may be revoked at the option of the purchaser or lessee until midnight of the seventh day following the signing of such contract or agreement or until such later time as may be required pursuant to applicable laws, and such contract or agreement shall clearly provide this right.

"(c) In the case of any contract or agreement for the sale or lease of a lot for which a property report is required by this title and the property report has not been given to the purchaser or lessee in advance of his or her signing such contract or agreement, such contract or agreement may be revoked at the option of the purchaser or lessee within two years from the date of such signing, and such contract or agreement shall clearly provide this right.

"(d) Any contract or agreement which is for the sale or lease of a lot not exempt under section 1403 and which does not provide—

"(1) a description of the lot which makes such a lot clearly identifiable and which is in a form acceptable for recording by the appropriate public official responsible for maintaining land records in the jurisdiction in which the lot is located;

"(2) that, in the event of a default or breach of the contract or agreement by the purchaser or lessee, the seller or lessor (or successor thereof) will provide the purchaser or lessee with written notice of such default or breach and of the opportunity, which shall be given such purchaser or lessee, to remedy such default or breach within twenty days after the date of the receipt of such notice; and

"(3) that, if the purchaser or lessee loses rights and interest in the lot as a result of a default or breach of the contract or agreement which occurs after the purchaser or lessee has paid 15 per centum of the purchase price of the lot, excluding any interest owed under the contract or agreement, the seller or lessor (or successor thereof) shall refund to such purchaser or lessee any amount which remains after subtracting (A) 15 per centum of the purchase price of the lot, excluding any interest owed under the contract or agreement, or the amount of damages incurred by the seller or lessor (or successor thereof) as a result of such breach, whichever is greater, from (B) the amount paid by the purchaser or lessee with respect to the purchase price of the lot, excluding any interest paid under the contract or agreement,

may be revoked at the option of the purchaser or lessee for two years from the date of the signing of such contract or agreement. This subsection shall not apply to the sale of a lot for which, within one hundred and eighty days after the signing of the sales contract, the purchaser receives a warranty deed (or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant that warrants at least that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him or her).

"(e) If a contract or agreement is revoked pursuant to subsection (b), (c), or (d), if the purchaser or lessee tenders to the seller or lessor (or successor thereof) an instrument conveying his or her rights and interests in the lot, and if the rights and interests and the lot are in a condition which is substantially similar to the condition in which they were conveyed or purported to be conveyed to the purchaser or lessee, such purchaser or lessee shall be entitled to all money paid by him or her under such contract or agreement.".

CERTIFICATION OF SUBSTANTIALLY EQUIVALENT STATE LAW

SEC. 404. Section 1409 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"CERTIFICATION OF SUBSTANTIALLY EQUIVALENT STATE LAW

"SEC. 1409. (a) (1) A State shall be certified if the Secretary determines—

"(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1403 require the seller or lessor of of such lots to disclose information which is at least substantially equivalent to the information required to be disclosed by section 1408; and

"(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that such information is accurate.

"(2) In the case of any State which is not certified under paragraph (1), such State shall be certified if the Secretary determines—

"(A) that, when taken as a whole, the laws and regulations of the State applicable to the sale or lease of lots not exempt under section 1403 provide sufficient protection for purchasers and lessees with respect to the matters for which information is required to be disclosed by section 1408 but which is not required to be disclosed by such State's laws and regulations; and

"(B) that the State's administration of such laws and regulations provides, to the maximum extent practicable, that (i) information required to be disclosed by such laws and regulations is accurate, and (ii) sufficient protection for purchasers and lessees is made available with respect to the matters for which information is not required to be disclosed.

"(3) Any State requesting certification must agree to accept a property report covering land located in another certified State but offered for sale or lease in the State requesting certification if the property report has been approved by the other certified State. Such property report shall be the only property report required by the State with respect to the sale or lease of such land.

"(b) After the Secretary has certified a State under subsection (a), the Secretary shall accept for filing under sections 1405 through 1408 (and declare effective as the Federal statement of record and property report which shall be used in all States in which the lots are offered for sale or lease) disclosure materials found acceptable, and any related documentation required, by State authorities in connection with the sale or lease of lots located within the State. The Secretary may accept for such filing, and declare effective as the Federal statement of record and property report, such materials and documentation found acceptable by the State in connection with the sale or lease of lots located outside that State. Nothing in this subsection shall preclude the Secretary from exercising the authority conferred by subsections (d) and (e) of section 1407.

"(c) If a State fails to meet the standards for certification pursuant to subsection (a), the Secretary shall notify the State in writing of the changes in State law, regulation, or administration that are needed in order to obtain certification.

"(d) The Secretary shall periodically review the laws and regulations, and the administration thereof, of States certified under subsection (a), and may withdraw such certification upon a determination that such laws, regulations, and the administration thereof, taken as a whole, no longer meet the requirements of subsection (a).

"(e) Nothing in this title may be construed to prevent or limit the authority of any State or local government to enact and enforce with regard to the sale of land any law, ordinance, or code not in conflict with this title. In administering this title, the Secretary shall cooperate with State authorities charged with the responsibility of regulating the sale or lease of lots which are subject to this title.".

CIVIL LIABILITIES

SEC. 405. Section 1410 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"CIVIL LIABILITIES

"SEC. 1410. (a) A purchaser or lessee may bring an action at law or in equity against a developer or agent if the sale or lease was made in violation of section 1404(a). In a suit authorized by this subsection, the court may order damages, specific performance, or such other relief as the court deems fair, just, and equitable. In determining such relief the court may take into account, but not be limited to, the following factors: the contract price of the lot or leasehold; the amount the purchaser or lessee actually paid; the cost of any improvements to the lot; the fair market value of the lot or leasehold at the time relief is determined; and the fair market value of the lot or household at the time such lot was purchased or leased.

"(b) A purchaser or lessee may bring an action at law or in equity against the seller or lessor (or successor thereof) to enforce any right under subsection (b), (c), (d), or (e) of section 1404.

"(c) The amount recoverable in a suit authorized by this section may include, in addition to matters specified in subsections (a) and (b), interest, court costs, and reasonable amounts for attorneys' fees, independent appraisers' fees, and travel to and from the lot.

"(d) Every person who becomes liable to make any payment under this section may recover contribution as in cases of contract from any person who, if sued separately, would have been liable to make the same payment.".

LIMITATION OF ACTIONS

SEC. 406. Section 1412 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"LIMITATION OF ACTIONS

"SEC. 1412. (a) No action shall be maintained under section 1410 with respect to—

"(1) a violation of subsection (a)(1) or (a)(2)(D) of section 1404 more than three years after the date of signing of the contract of sale or lease; or

"(2) a violation of subsection (a)(2)(A), (a)(2)(B), or (a)(2)(C) of section 1404 more than three years after discovery of the violation or after discovery should have been made by the exercise of reasonable diligence.

"(b) No action shall be maintained under section 1410 to enforce a right created under subsection (b), (c), (d), or (e) of section 1404 unless brought within three years after the signing of the contract or lease, notwithstanding delivery of a deed to a purchaser.".

ADMINISTRATIVE PROCEDURE

SEC. 407. Section 1416 of the Interstate Land Sales Full Disclosure Act is amended by adding at the end thereof the following:

"(c) The Secretary shall conduct all actions with respect to rulemaking or adjudication under this title in accordance with the provisions of chapter 5 of title 5, United States Code. Notice shall be given of any adverse action or final disposition and such notice and the entry of any order shall be accompanied by a written statement of supporting facts and legal authority.".

CRIMINAL PENALTIES

SEC. 408. Section 1418 of the Interstate Land Sales Full Disclosure Act is amended to read as follows:

"PENALTIES

"SEC. 1418. Any person who willfully violates any of the provisions of this title, or the rules and regulations prescribed pursuant thereto, or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact or omits to state any material fact required to be stated therein, shall upon conviction be fined not more than $10,000 or imprisoned not more than five years, or both.".

REPORT TO CONGRESS

SEC. 409. The Interstate Land Sales Full Disclosure Act is amended by redesignating sections 1421 and 1422 as section 1422 and 1423, respectively, and by inserting the following new section after section 1420:

"REPORT TO CONGRESS

"SEC. 1421. The Secretary shall prepare and submit to the Congress on March 1, 1981, and biennially thereafter a report on the administration of this title and its impact upon the land development industry and purchasers and lessees of undeveloped land. Such report shall include but not be restricted to the analysis of—

"(1) consumer and industry complaints and their resolution, with particular emphasis on the impact of various statutory and regulatory exemptions;

"(2) the effect the State certification has had in encouraging States to provide protection to purchasers of undeveloped land; and

"(3) efforts by the Secretary to simplify registration and disclosure procedures.

The report shall also contain such legislative recommendations as the Secretary deems advisable.".

EFFECTIVE DATE

SEC. 410. The amendments made by this title shall become effective on the effective date of regulations implementing such amendments, but in no case later than six months following the date of enactment of this Act, except that section 1403(b)(7) of the Interstate Land Sales Full Disclosure Act, contained in the amendment made by section 402, shall become effective on the date of enactment.

TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513 of the Housing Act of 1949 is amended to read as follows:

"AUTHORIZATIONS

"SEC. 513. (a) The Secretary may, as approved in appropriation Acts, insure and guarantee loans under the authorities provided in this title in an aggregate principal amount not to exceed $4,484,000,000 with respect to fiscal year ending September 20, 1980; except that—

"(1) not less than $3,070,000,000 of any amount so approved in appropriation Acts for such year shall be made available for loans insured or guaranteed on behalf of borrowers receiving assistance pursuant to subparagraph (B) or (C) of section 521(a)(1);

"(2) not more than $38,000,000 of such amount so approved for such fiscal year may be made available for loans insured under section 514; and

"(3) not more than $5,000,000 of such amount so approved shall be available for making advances under section 501(e) for such fiscal year.

"(b) There are authorized to be appropriated—

"(1) such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to (A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503, and (B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary;

"(2) not to exceed $48,000,000 for loans and grants pursuant to section 504 for the fiscal year ending September 30, 1980;

"(3) not to exceed $30,000,000 for financial assistance pursuant to section 516 for the fiscal year ending September 30, 1980;

"(4) not to exceed $1,500,000 for the purposes of section 525(a), of which not less than $750,000 shall be used for counseling purchasers and delinquent borrowers, and not to exceed $1,000,000 for the purposes of section 525(b) for the fiscal year ending September 30, 1980; and

"(5) such sums as may be required by the Secretary to administer the provisions of sections 235 and 236 of the National Housing Act and section 8 of the United States Housing Act of 1937.".

(b) Section 514(d) of such Act is repealed.

(c)(1) Section 521(a)(1)(C) of such Act is amended by adding the following new sentences at the end thereof: "The amount of such additional assistance which may be approved in appropriation Acts may not exceed an aggregate amount of $985,000,000 for contracts entered into with respect to fiscal year 1979 and an aggregate amount of $500,000,000 for contracts entered into with respect to fiscal year 1980. Such additional assistance may not be so approved with respect to any fiscal year after fiscal year 1980.".

(2) Section 521(c) of such Act is amended by inserting the following new sentence after the first sentence thereof: "There are authorized to be appropriated to the Rural Housing Insurance Fund such sums as may be necessary to reimburse such fund for the amount of assistance payments described in subsection (a)(1)(C).".

(3) Section 521(a)(1) of such Act is amended by striking out subparagraph (H).

(d) Section 523(f) of such Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following: "There is authorized to be appropriated an amount to carry out this section not to exceed $5,000,000 for the fiscal year ending September 30, 1980."; and

(2) by striking out "November 30, 1979" in the second sentence and inserting in lieu thereof "September 30, 1980".

(e) Section 523(g) of such Act is amended by striking out "and not to exceed $3,000,000 for the fiscal year ending September 30. 1979" and inserting in lieu thereof "not to exceed $3,000,000 for the fiscal year ending September 30, 1979, and not to exceed $1,000,000 for the fiscal year ending September 30, 1980".

(f) Section 515(b)(5) of such Act is amended by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980".

(g) Section 517(a)(1) of such Act is amended by striking out "November 30, 1979" and inserting in lieu thereof "September 30, 1980".

INTEREST RATE; DEFINITION OF LOW INCOME

SEC. 502. (a) Section 521(a)(1)(A) of the Housing Act of 1949 is amended by inserting before the period at the end of the first sentence the following: ", except that such loans to provide housing and related facilities for persons or families of moderate income shall bear interest at the rate established by the Secretary of Housing and Urban Development under section 3(a) of Public Law 90-301 with respect to maximum interest rates established for mortgages insured under section 203(b) of the National Housing Act if the Secretary determines that the borrower can afford such higher interest charges".

(b) Section 501(b) of such Act is amended by adding at the end thereof the following:

"(4) For the purpose of this title, the term 'persons of low income' and the term 'persons and families of low income' means families and persons whose income do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that (A) if the Secretary determines that it is impracticable to use the median income for any area, the Secretary may use such area the median income of all the nonmetropolitan areas in the State, and (B) the Secretary may establish income ceilings higher or lower than 80 per centum of median income on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

"(5) For the purpose of this title, the term 'income' means income from all sources of each member of a household, as determined in accordance with criteria prescribed by the Secretary.".

PREPAYMENT AND REFINANCING OF LOANS UNDER SECTIONS 514 AND 515

SEC. 503. (a) Section 502(b)(2) of the Housing Act of 1949 is amended by inserting the following before the semicolon at the end thereof: ", except that any prepayment of a loan made or insured under section 514 or 515 shall be subject to the provisions of subsection (c)".

(b) Section 502 of such Act is amended by inserting the following new subsection at the end thereof:

"(c)(1) Except as provided in paragraph (2), the Secretary may not accept an offer to prepay, or request refinancing in accordance with subsection (b)(3) of, any loan made or insured under section 514 or 515 of this title pursuant to a contract entered into before or after the date of enactment of this subsection, unless the Secretary takes appropriate action which will obligate the borrower (and successors in interest thereof) to utilize the assisted housing and related facilities for the purposes specified in section 514 or 515, as the case may be, for a period of—

"(A) 15 years from the date on which the loan was made in the case of a loan made or insured pursuant to a contract entered into before or after the date of enactment of this subsection and utilized for housing and related facilities which have not received assistance under section 521 (a)(1)(B) or (a)(2) of this title or section 8 of the United States Housing Act of 1937; or

"(B) 20 years from the date on which the loan was made in the case of any other such loan;

or until the Secretary determines (prior to the end of such period) that there is no longer a need for such housing and related facilities to be so utilized or that Federal or other financial assistance provided to the presidents of such housing will no longer be provided.

"(2) In the case of any such loan made or insured pursuant to a contract entered into before the date of enactment of this subsection, the Secretary, after examining an offer to prepay such loan and the likely consequences of accepting such offer, shall accept such offer without taking the appropriate action described in paragraph (1) unless, after such examination, the Secretary determines that—

"(A) due to a change in the use of such housing and related facilities, or to an increase in rental or other charges, likely to occur as a result of prepayment, the low and moderate income and elderly tenants occupying the assisted housing and related facilities at the time of such offer cannot reasonably be expected to remain in occupancy for the applicable period described in paragraph (1), but notwithstanding such a determination, the Secretary shall accept such an offer without taking such appropriate action if such tenants who are likely to be displaced as a result of such changes or increases will be provided with affordable, decent, safe, sanitary, and available alternative housing; or

"(B) in the case of housing and related facilities containing more than 10 dwelling units, the changes likely to occur as a result of such prepayment will have a substantial, adverse effect on the supply of affordable, decent, safe, and sanitary housing available to low and moderate income and elderly persons in the area in which such housing and related facilities are located.".

RENTAL ASSISTANCE

SEC. 504. (a) The first sentence of section 521(a)(2)(A) of the Housing Act of 1949 is amended—

(1) by striking out "public and private nonprofit owners' and inserting in lieu thereof "the owners"; and

(2) by inserting a comma before "congregate".

(b) Section 521 (a)(2)(A) of the Housing Act of 1949 is amended—

(1) by striking out "20 per centum" each place it appears in the second sentence and inserting in lieu thereof "70 per centum";

(2) by inserting "to a public or private nonprofit owner" after "section 514" the first time it appears in clause (i) of the second sentence; and

(3) by inserting after the second sentence the following: "In approving projects for assistance under this paragraph, the Secretary shall give a priority to projects in which assistance is provided to 40 per centum or fewer of the units contained in the project.".

TRAINING FOR SELF-HELP HOUSING

SEC. 505. Section 523(b) of the Housing Act of 1949 is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following:

"(2) to make grants to, or contract with, national or regional private nonprofit corporations to provide training and technical assistance to public or private nonprofit corporations, agencies, institutions, organizations, and other associations eligible to receive assistance under this section in order to expand the use of authorities contained in this section and to improve performance; and".

REFINANCING

SEC. 506. Section 501(a)(4) of the Housing Act of 1949 is amended by inserting "and" after the comma at the end of subparagraph (A), and by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B)(i) if not refinanced, is likely to result (because of circumstances beyond the control of the applicant) at an early date in the loss of the applicant's necessary dwelling or essential farm service buildings, or

"(ii) if combined (in the case of a dwelling that the Secretary finds not to be decent, safe, and sanitary) with a loan for improvement, rehabilitation, or repairs and not refinanced, is likely to result in the applicant's continuing to be deprived of a decent, safe, and sanitary dwelling.".

PROPERTY DISPOSITION

SEC. 507. Section 510(e) of the Housing Act of 1949 is amended—

(1) by inserting ", to repair and rehabilitate such property," after "United States therein"; and

(2) by inserting before the semicolon at the end thereof the following: "; except that the Secretary may not sell or otherwise dispose of such property unless (1) the Secretary assures that such property will meet decent, safe, and sanitary standards, (2) the recipient of the property is obligated, as a condition of the sale or other disposition of the property, to meet such standards with respect to the property before such property is occupied, or (3) such recipient is precluded, as a condition of the sale or other disposition of the property, from using the property for residential purposes".

CONSTRUCTION DEFECTS

SEC. 508. Section 509(c) of the Housing Act of 1949 is amended by striking out "within eighteen months after such date of enactment" in the first sentence and inserting in lieu thereof "within thirty-six months after such date of enactment".

FARM LABOR HOUSING ASSISTANCE

SEC. 509. Section 516 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(h) Notwithstanding the provisions of subsection (a)(3), the Secretary may, upon a finding of persistent need for migrant farmworker housing in any area, provide assistance to eligible applicants for 90 per centum of the development costs of such housing in such area to be used solely by migrant farmworkers while they are away from their residence. Such housing shall be constructed in such a manner as to be safe and weatherproof for the time it is to be occupied, be equipped with potable water and modern sanitation facilities (including a kitchen sink, toilet, and bathing facilities), and meet such other requirements as the Secretary may prescribe.".

INCREASE IN THE CEILING FOR SECTION 504(a) LOANS AND LOAN-GRANT COMBINATIONS

SEC. 510. The second sentence of section 504(a) of the Housing Act of 1949 is amended to read as follows: "No assistance shall be extended to any individual or family under this subsection in the form of a grant in excess of $5,000, and no assistance shall be extended to any individual or family under this subsection in the form of a loan or a combined loan and grant in excess of $7,500.".

ASSISTANCE ALLOCATION

SEC. 511. Section 517(o) of the Housing Act of 1949 is amended—

(1) by inserting "(1)" before "At"; and

(2) by adding the following new paragraph at the end thereof:

"(2) At least 30 per centum of the assistance made available in any area of any State pursuant to this title in any fiscal year shall, to the extent practicable, benefit persons with incomes below 50 per centum of the medium income which is determined for that area in accordance with section 501(b)(4).".

TITLE VI—CRIME INSURANCE, RIOT REINSURANCE, AND FLOOD INSURANCE EXTENSIONS

EXTENSIONS OF CRIME AND RIOT INSURANCE PROGRAM

SEC. 601. Section 1201 of the National Housing Act is amended—

(1) by striking out in subsection (b)(1), "September 30, 1980" and inserting in lieu thereof "September 30, 1981";

(2) by striking out, in subsection (b)(1)(A), "September 30, 1983" and inserting in lieu thereof "September 30, 1984"; and

(3) by striking out, in subsection (b)(2), "or as soon thereafter as possible,".

EXTENSION OF FLOOD INSURANCE PROGRAM

SEC. 602. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1980" and inserting in lieu thereof "September 30, 1981".

(c) Section 1376(c) of such Act is amended by striking out "and not to exceed $114,000,000 for the fiscal year 1979" and inserting in lieu thereof the following: "not to exceed $114,000,000 for the fiscal year 1979, and not to exceed $74,000,000 for the fiscal year 1980".

TRANSFER OF FLOOD INSURANCE ADMINISTRATOR

SEC. 603. (a) Section 1105(a) of the Urban Property Protection and Reinsurance Act of 1968 (title XI of the Housing and Urban Development Act of 1968) is amended by striking out "Department of Housing and Urban Development" and substituting in lieu thereof "Federal Emergency Management Agency".

(b) Section 5315(91) of title 5, United States Code, is amended by striking out "Department of Housing and Urban Development" and substituting in lieu thereof "Federal Emergency Management Agency".

And the Senate agree to the same.

HENRY S. REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
HENRY GONZALEZ,
WALTER E. FAUNTROY,
JERRY M. PATTERSON,
LES AUCOIN,
STANLEY LUNDINE,
BRUCE F. VENTO,
BILL STANTON,
CHALMERS WYLIE,
STEWART MCKINNEY,
TOM EVANS,

For consideration of provisions relating only to title IV and Senate modifications relating thereto:

JOE MINISH,
CARROLL A. CAMPBELL, Jr.,
Managers on the Part of the House.

WILLIAM PROXMIRE,
HARRISON WILLIAMS,
ALAN CRANSTON,
JOHN TOWER,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 3875) to amend and extend certain federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment to the text of the bill struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, and the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—COMMUNITY DEVELOPMENT

SECTION 312 REHABILITATION LOANS

Authorization

The House bill contained a provision authorizing for appropriation for section 312 rehabilitation loans an amount not to exceed $150 million for fiscal year 1980. The Senate amendment contained a provision authorizing for appropriation an amount not to exceed $130 million for Fiscal Year 1980. The conference report contains the Senate provision amended to authorize for appropriation an amount not to exceed $140 million for Fiscal Year 1980.

Limitation on multi-family loans

The House bill contained a provision, not in the Senate amendment, limiting the amount that the Secretary may utilize after October 1, 1979, for rehabilitation loans for multi-family properties to $50 million. The conference report contains a provision limiting the amount that may be utilized for multi-family rehabilitation loans after October 1, 1979, to $75 million.

COMPREHENSIVE PLANNING AUTHORIZATION

The House bill contained a provision authorizing for appropriation for comprehensive planning grants an amount not to exceed $45 million for Fiscal Year 1980. The Senate amendment contained a provision authorizing for appropriation an amount not to exceed $50 million. The conference report contains the Senate provision.

COMMUNITY DEVELOPMENT BLOCK GRANT AMENDMENTS

CDBG metropolitan balances

The House bill contained a provision not contained in the Senate amendment increasing the CDBG setaside of funds for nonentitlement metropolitan communities from $250 million to $290 million in Fiscal 1980. The conference report contains the House provision reduced to $275 million.

This figure was adopted as a result of new information provided by HUD that such a level would keep the total funding for nonentitlement metropolitan communities at the level existing in Fiscal 1979. The conferees also direct the Secretary to utilize $10 million of the Secretary's discretionary fund under section 107 to offset the effects of the increase in the metropolitan balances setaside by transferring the $10 million into the basic grant portion of the program. It is not the intent of the conferees to designate which of the HUD budgeted eligible categories, under section 107, should be reduced to make up the $10 million.

Eligibility

The Senate amendment contained a provision which would have made local governments which are part of, but are not located entirely within the boundaries of an urban county, eligible for grants out of the CDBG metropolitan balances, on the condition that (1) the funds will be used in that part of the unit of local government for which the grant was made, and (2) the funds received by the urban county will not be used in that part of the unit of local government which is not located within the boundaries of the urban county.

The House bill did not contain a similar provision. The conference report includes the Senate provision amended to provide that in computing the amount of assistance with respect to any urban county, a unit of local government not entirely located within the urban county may be included, except if the unit of local government is included as part of any other unit of local government for the purpose of computing such assistance. Furthermore, any amount received by the urban county may be used in the area not located entirely within the urban county's boundaries.

Definition of unit of general local government

The House bill contained a provision not in the Senate amendment redefining the term "unit of general local government" to also include the Northern Mariana Islands as eligible CDBG recipients. The conference report contains this provision.

Delegation of the environmental review authority

The House bill contained a provision that was not contained in the Senate amendment clarifying the authority of the Secretary to delegate to local governments his responsibility over the conduct of environmental reviews. The conference report contains the House provision.

The conferees are aware that there has been some confusion over whether the Secretary has the authority to delegate such authority with regard to Acts other than the National Environmental Policy Act of 1969 (NEPA). Specifically, the conferees wish to make clear that delegations can also be made with regard to the National Historic Preservation Act of 1966, Coastal Zone Management Act of 1972, Wild and Scenic Rivers Act, Flood Disaster Protection Act and Clean Air Act, as well as other Acts which further the purposes of the NEPA.

In clarifying the delegation of environmental review authority under the CDBG program, the conferees have been made aware that discussions are presently underway within the Administration regarding the procedural treatment of environmental matters in the UDAG program. The conferees expect HUD to assist in resolving outstanding issues regarding conformance of the UDAG program with the purposes and requirements of the National Environmental Policy Act and other provisions of law which further the purposes of such Act. The conferees expect that the appropriate committees of Congress will be consulted on these discussions in advance of the reauthorizations of these programs during 1980.

URBAN DEVELOPMENT ACTION GRANTS

Pockets of poverty A

Eligibility.—The House bill contained a provision not contained in the Senate amendment which provided that a city or urban county may be considered severely distressed, and therefore, eligible for assistance under the UDAG program, if it contains one or more areas, as defined in the House provision, which have the levels of physical and economic distress set forth in the minimum standards. The conference report does not contain the House provision.

Direct benefit.—The House bill also contained a provision not in the Senate amendment which required that assistance received under the pockets of poverty be utilized for the direct benefit of the area or areas that have qualified for such assistance. The conference report does not contain this provision.

Comparable services.—The House bill, but not the Senate amendment, required the Secretary, before providing such assistance, to determine that the recipient will provide comparable services to the distressed areas commensurate with those provided to other parts of the cities. The conference report does not contain this provision.

Limitations and effective dates.—The House bill further provided that the Secretary make up to 20 percent of the funds authorized for the UDAG program available for grants to cities eligible under pockets of poverty; furthermore, that the provisions of pockets of poverty assistance would become effective October 1, 1979. The conference report does not contain these provisions.

Pockets of poverty B

Authority.—The House bill contained a provision not included in the Senate amendment limiting assistance provided on the basis of severely distressed areas to grants made under the pockets of poverty provision. The conference report does not contain the House provision.

Eligible areas.—The House bill provided that grants under this section may be made only if determined by the Secretary that funds will only be utilized in an area (1) for a metropolitan city or urban county, that consists of one or more contiguous census tracts having a population of at least 10,000 persons or 10 percent of the population, whichever is less; for a nonmetropolitan city, that consists of one or more contiguous census tracts having a population of at least 2,500 persons or 10 percent of the population, whichever is greater, (2) in which at least 70 percent of the residents have incomes below 80 percent of the city or county's median income, and (3) in which at least 30 percent of the residents have incomes below the national poverty level. The Senate amendment contained a similar provision, except that (1) rather than defining a qualified area in terms of contiguous census tracts, any defined geographic vicinity could qualify if it meets the other eligibility requirements, and (2) rather than income requirements, the vicinity must meet minimum standards for determining distress to be established by the Secretary, which standards shall be based on such factors as percentage of poverty, condition of housing, and levels of unemployment within the area.

The conference report contains the House provision, with the amendment that specifies (1) that for cities with a population of 50,000 or greater or an urban county, qualified areas may be composed of one or more contiguous census tracts, enumeration districts or block groups as defined by the Bureau of Census which have at least a population of 10,000 persons or 10 percent of the population of the city or urban county, whichever is less, and (2) that in the case of a city with a population of less than 50,000, that consists of one or more contiguous census tracts, enumeration districts or block groups as defined by the Bureau of Census which have a population of at least 2,500 persons or 10 percent of the city's population, whichever is greater. The House provision was further amended to provide that the Secretary may waive the requirement that the grant only be utilized in connection with a project located in a qualified area where the Secretary determines (1) that there is no suitable site for the project within such area, (2) the project will be located directly adjacent to such area, and (3) the project will substantially contribute to the physical and economic development of such area.

The conferees wish to make clear that the Department should accept for purposes of determining the eligibility of an individual area data supplied by the locality and verified by the Bureau of the Census as to its accuracy, as well as information available from special census surveys and the 1970 census.

In addition, the conferees believe that in all but very rare instances, the project should be located within the area to be assisted. The UDAG program is intended not only to provide employment but to also provide the physical and economic stimulus to encourage further development in the area. Clearly this aim is best achieved when the project is located directly in the area. The conferees believe, however, that there are limited circumstances in which a project could be funded if it were outside the area. Admittedly the conditions placed on the exception are strict. There must be no other suitable site in the area and the site chosen must be directly adjacent to the area. The project would also have to be shown to substantially contribute to the physical and economical development of the area even though it is located outside the area. These conditions are intended to assure that the assisted area receive the maximum possible benefit from the UDAG project. The conferees are also concerned that even though the project may be within the pocket it may not serve the development needs of the pocket. This could be the case where the pocket includes a portion of the central business district or an industrial park which have little relationship to the distressed portion of the pocket. The Secretary should in such situations employ a similar test to that required for projects outside the pocket.

Benefit to low and moderate income.—The House bill contained a provision that required that the project to be funded will directly benefit low and moderate income families and persons residing in the area in which the project is located, while a similar Senate provision provided that the project must benefit low and moderate income persons residing in the severely distressed defined geographic vicinity. The conference report contains the House provision.

Comparable services.—The House bill included a provision not contained in the Senate amendment providing that the applicant supply services to the assisted area to an extent at least comparable to the services supplied by such applicant to other areas of the city which are similar to the assisted area in population and size and have a median income which is above the median income for the city. The House provision is included in the conference report, with an amendment which provides that no grant may be approved unless the city or urban county has demonstrated to the satisfaction of the Secretary that basic services supplied by the city or urban county to the area to be assisted as described in paragraph (b)(2) are at least equivalent, as measured by per capita expenditure, to those supplied to other areas within the city or urban county which are similar in population size and physical characteristics and which have a median income which is above the median income for the city or urban county.

The basic services to be compared include fire, police, sanitation and road repair. A city, however, will only be required to demonstrate comparability with regard to those services it has direct control over. In establishing comparability, the community may make adjustments based on the needs of the areas as affected by the physical characteristics of those areas. The conferees also wish to make clear that the city need only demonstrate comparability at the time of application.

Conformance.—The Senate amendment included a provision that is not contained in the House bill providing that applications for grant assistance be made in accordance with such requirements for the UDAG program, as specified in subsections (b), (c), and (f) of section 119 of the Housing and Community Development Act of 1974. The conference report contains the Senate provision.

Selection criteria.—The Senate amendment but not the House bill provided that in making grants under this program, the Secretary shall establish criteria, which must include: (1) factors determined to be relevant by the Secretary in assessing the comparative degree of physical and economical deterioration among eligible areas, and (2) such other criteria as the Secretary may determine, including at a minimum the criteria listed in section 119(e)(3) of the Housing and Community Development Act of 1974. The conference report contains the Senate provision.

The conferees recognize that by their action projects in pocket cities will be ranked in the selection process only with each other rather than together with projects in all cities. However, the conferees believe that no project should be funded unless on its own merits it would compete favorably with not only the other projects in pocket cities but also with projects competing in the basic program. The Secretary should not fund projects simply to fully exhaust the 20 percent funding limitation. Should there be an insufficient number of high quality projects in pocket cities the Secretary should simply fund worthy projects in severely distressed cities even though the result may be that less than 20 percent of the fundings goes to pocket cities.

Exclusivity of UDAG eligibility.—The Senate amendment, but not the House bill, provided that a city or urban county eligible for assistance under section 119(a) of the 1974 Act shall not be eligible for assistance under the 'pockets of poverty' provision. This provision is contained in the conference report.

Local contribution.—The Senate amendment included a provision not contained in the House bill requiring a UDAG applicant to make available, from its own funds or from funds received from the state of from federal programs which permit the use of funds to meet the non-federal share requirements of a federal grant-in-aid program, an amount equal to 20 percent of the grant provided under this program. The conference report contains the Senate provision.

UDAG selection, criteria

The House bill contained a provision restricting grants made under the UDAG program to cases where the Secretary has determined that: (1) such grant is essential to the initiation of the project; and (2) funds from such grant will not be used in lieu of private or non-federal public funds which would otherwise have been expended.

The Senate amendment did not include a similar provision. The House provision is included in the conference report, amended to provide that a grant made under this section may be made only where the Secretary determines that there is a strong probability that the non-federal investment in the project would not be made without such grant and where the Secretary determines that there is a strong probability that the grant would not substitute for non-federal funds which are otherwise available to the project.

The conferees expect that the Secretary will employ this provision to assure that federal funds will serve as the driving force behind the initiation of local development projects and will not be used to substitute for either private funds or local public funds which are otherwise available to the project. In undertaking the required determinations, the Secretary should, at a minimum, consider the financial characteristics of the project and reviews undertaken by the area and central office staff and should seek assurances from the investors and the local government that they would not provide the funds were it not for the inducement of a UDAG grant, and that other funds would not be available if the grant were not approved. Neither with regard to the availability of the private funds nor the availability of public funds would the conferees expect the Secretary to reach a conclusion to a certainty. Rather, the conferees expect the Secretary to make a reasoned judgment based on a thorough examination of available information. It is not the intent of this provision to require any lengthy and difficult administrative procedure. Much of the information needed to make the judgments involved is already available through the UDAG application process and the conferees expect minimal additional paperwork to occur through the implementation of this provision.

Definition of "townships"

The Senate amendment redefined the term "cities" as it applies to the UDAG program to also include townships, as determined by the Secretary. The House bill did not contain a similar provision. The conference report contains the Senate provision with an amendment which allows the Secretary to reduce or waive the requirement that a town or township be closely settled, for the purposes of carrying out this section.

The conferees believe that the UDAG program should be available to severely distressed towns and townships which are capable of undertaking a local development project. Those towns and townships which are eligible for the basic CDBG program should in the opinion of the conferees not be barred from UDAG participation simply on the basis that they do not meet the "closely settled" test which is applied for purposes of community development grants. Therefore, the Secretary is given the authority to reduce or waive that test to the extent and in a manner necessary to carry out the purposes of the UDAG program. The conferees also anticipate that a change in the closely settled test will permit municipios in Puerto Rico to also participate in the UDAG program since they are considered to be the equivalent of a town or township.

URBAN HOMESTEADING PROGRAM

Reimbursements

The Senate amendment contained two provisions not in the House bill authorizing the Secretary to reimburse the Administrator of Veterans Affairs, in an amount to be agreed upon by the Secretary and the Administrator, for property which the Administrator conveys to a unit of local government, state, or agency for use in an urban homesteading program. In addition, the Secretary is authorized to reimburse the Secretary of Agriculture. The conference report contains the Senate provision with the amendment that such reimbursement is limited to urban homesteading programs approved by the Secretary of HUD.

The Secretary should base such reimbursement upon the lesser of the market value of the property and the amount of the claim plus the expenses connected with federal ownership.

Relocation assistance waiver

The Senate amendment contained a provision not in the House bill exempting from the provisions of title III of the Uniform Relocation Assistance Act of 1970 any property acquired for use in an urban homesteading program if it was not acquired through the use of eminent domain and where in accordance with regulations prescribed by the Secretary the seller knowingly waives his or her rights under the title. The conference report does not contain this provision.

The conferees have been concerned that certain administrative practices under the Uniform Act had the effect of unduly delaying or barring the acquisition of certain properties from owners willing to sell them to local governments for inclusion in local urban homesteading programs. The conferees, however, are pleased to note that recently proposed regulations of the Department together with administrative improvements appear to provide a solution to this problem and to obviate the need for the provision proposed in the Senate amendment.

NEIGHBORHOOD SELF-HELP DEVELOPMENT

Authorization

The Senate amendment contained a provision not contained in the House bill which would reduce the authorization for neighborhood self-help development from $15 million to $13.5 million for Fiscal Year 1980. The conference report contains this provision.

Innovative grants

The House bill contained a provision not in the Senate amendment allowing the Secretary to make innovative grants for neighborhood conservation and revitalization projects without certification by the local government, but limiting the amount of assistance that may be made without certification to 10 percent. The conference report contains this provision.

LIVABLE CITIES

The Senate amendment contained a provision not in the House bill reducing the existing authorization for the livable cities program from $10 million to $4.5 million for fiscal year 1980. The conference report contains the Senate provision with an amendment reducing the existing authorization from $10 million to $5 million for Fiscal Year 1980.

RENTAL CONVERSIONS

Review of effects

The Senate amendment contained a provision directing the Secretary, in reviewing local HAPs, to evaluate whether applicants have accurately assessed the effect of the conversion of rental units to condominiums, cooperatives, and other ownership forms. The House bill did not include a similar provision. The conference report contains a provision which requires CDBG applicants to include in the HAP an assessment of the effect of such conversions on the housing needs of lower-income persons.

Report

The Senate amendment also required the Secretary to submit to Congress, within 6 months after enactment, a report on the present and anticipated availability of affordable rental units for low, moderate, and middle income Americans. The House bill did not include a similar provision.

The conference report adopts the Senate provision, with an amendment providing that a report shall be submitted to Congress within 6 months after enactment concerning the conversion of rental housing to condominium or cooperative ownership. The report shall include at least the following: (1) an estimate of the number of such conversions which have occurred since 1970; (2) a projection of the number of such conversions estimated to occur during the period 1980–1985; (3) an assessment of the impact that such conversions have had or are likely to have on the availability of housing for lower income persons; (4) an assessment of the extent to which such conversions are concentrated in certain areas or types of areas of the county; and (5) an assessment of the factors contributing to the increase in such conversions. In addition, the Secretary may also include in the report recommendations concerning alternative means to minimize the adverse impact that such conversions may have on lower income persons.

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW INCOME HOUSING ASSISTANCE

Authorization

The House bill contained a provision increasing the authorization for the Secretary to enter into contracts for annual contributions contracts, subject to appropriation, of not to exceed $1,286,155,000 after October 1, 1979, for low income housing assistance. The Senate amendment contained a similar provision, except that it authorized an increase of not to exceed $1,140,661,000. The conference report includes the Senate provision.

Limitations on authority

Public housing.—The House bill contained a provision which provided that of the additional authority authorized to be appropriated after October 1, 1979, for low income housing assistance, not more than $223,142,000 is authorized to be appropriated for use in assisting public housing units and in no case may the Secretary enter into annual contribution contract authority aggregating more than such amount. The Senate amendment contained no similar provision. The conference report contains the House provision amended to provide that no more than $195.053.000 be available for assisting public housing units and that the Secretary may not enter into contracts aggregating more than that amount.

Set-aside for modernization.—The House bill contained a provision not contained in the Senate amendment providing that not less than $55 million of the amount available for public housing units is to be used for modernization of such units, with a preference being given to the modernization of substandard vacant units. The conference report contains the House provision with an amendment establishing the amount available for public housing modernization at not less than $50 million.

In awarding contracts under the modernization program, the Secretary is directed to give preference to projects involving substandard vacant units. This preference, however, does not require the Secretary to serve exclusively projects with substandard vacant units nor does it require that an individual modernization contract include only improvements to substandard vacant units.

Section 8.—The House bill contained a provision not found in the Senate amendment requiring that of the additional authority authorized to be appropriated after October 1, 1979, not more than $1,063,013,000 be authorized to be appropriated in annual contract authority for section 8 units. The conference report does not contain the House provision.

TENANT CONTRIBUTION

Public housing

The House bill contained a provision not contained in the Senate amendment which provided that based on the relative level of the family's income, the maximum tenant contribution to rent is increased to 30 percent, except that very low income families (families whose income is less than 50 percent of area median income) shall contribute no more than 25 percent of family income. The conference report contains the House provision amended so that the provision will not be implemented until January 1, 1980, and to exempt from this amendment families occupying housing units assisted under the U.S. Housing Act of 1937, so long as such occupancy is continuous thereafter.

Section 8

The House bill contained a provision requiring that in the section 8 housing program, (1) a very large low income family will contribute to the rent an amount equal to 20 percent of family income, and (2) a family having income above 50 percent of the area median will be required, based on its relative level of income, to contribute at least 20 percent, but not more than 30 percent of its family income. The Senate amendment did not have a similar provision. The conference report contains the House provision amended so that the provision will not be implemented until January 1, 1980, and that tenants residing in section 8 assisted units as of December 31, 1979, are exempted from this amendment.

SECTION 101 RENT SUPPLEMENTS

Eligibility

The House bill contained a provision which redefined standards for tenants eligible for section 101 rent supplements to require that a tenant, in order to be eligible for such assistance, must meet the standards for eligibility under section 8 of the U.S. Housing Act of 1937, except that any individual or family receiving assistance under section 101 on the date of enactment of the Housing and Community Development Amendments of 1979 will continue to be eligible for such assistance. The Senate amendment did not contain a similar provision. The conference report contains the House provision, amended so that qualified tenant" shall mean any individual or family who was receiving section 101 assistance on the day preceding the date of enactment of the Housing and Community Development Amendments of 1979, so long as such individual or family continues to meet the conditions for eligibility in effect prior to enactment.

Tenant income

The House bill included a provision not contained in the Senate amendment which provided that the income of tenants receiving section 101 assistance be the same as determined under section 8 of the U.S. Housing Act of 1937. The conference report includes the House provision.

Payment

The House bill contained a provision which provided that the amount of assistance payments made under section 101 be determined in the same manner as under section 8 of the U.S. Housing Act of 1937. The Senate amendment did not include this provision. The House provision is contained in the conference report with an amendment to clarify that until the rent supplement contract is amended pursuant to this provision, the determination of assistance payments shall be undertaken in accordance with existing law.

Certification

The House bill included a provision not contained in the Senate amendment which deleted the requirement that, upon request by a housing owner, the Secretary must certify to the owner that the tenant is either elderly, handicapped, an Armed Forces, family, or situated in a disaster area. The conference report adopts the House provision.

Priority

The House bill contained a provision not contained in the Senate amendment which provided that in making section 101 assistance available, the Secretary shall give priority to individuals or families who are occupying substandard housing or are involuntarily displaced at the time they are seeking such assistance and deletes the existing restrictions on eligibility. The House provision is contained in the conference report.

Contracts

The House bill but not the Senate amendment contained a provision which authorized the Secretary to amend contracts made under section 101 for the purpose of conforming such contracts to those entered pursuant to section 8 of the U.S. Housing Act of 1937 and to permit the Secretary to utilize in this connection funds authorized on or after October 1, 1979, under section 5(c) of the U.S. Housing Act of 1937. The conference report contains the House provision amended to provide that the Secretary may amend such contracts and utilize such funds only to the extent necessary to carry out the provisions of this section.

SECTION 236 ELIGIBILITY

The Senate amendment contained a provision not in the House bill redefining income for the purposes of determining "qualified tenant" under the section 236 rental and co-operative housing programs to mean any individual or family having an income which would qualify such individual or family for assistance under section 8 of the U.S. Housing Act of 1937, except such term would also include any individual or family who was receiving assistance under this section on the date of enactment of the Housing and Community Development Amendments of 1979.

The conference report adopts the Senate provision with an amendment which defines "income" as income as determined under section 8 of such Act. This provision also provides that with regard to the section 101 rent supplement program and the section 236 mortgage insurance program, no tenant in occupancy prior to enactment and whose occupancy is continuous thereafter shall be required to contribute more towards their rent than they would be required to pay under the law which existed prior to these amendments.

SECTION 213 ALLOCATION REQUIREMENTS

Compliance with local HAP's

The House bill contained a provision not found in the Senate amendment which reemphasized the requirement in existing law that housing assistance funds be distributed in accordance with local Housing Assistance Plans. The conference report does not contain the House provision.

The conferees believe that the requirement in existing law should be sufficient to assure that funds are distributed in accordance with the HAP's. The conferees believe, however, that the Department must take steps to strengthen the HAP process. As part of the CDBG application requirements, the HAP is intended to link the housing programs to the overall community development strategy of a community. The assessment of local needs and the development of local goals through the HAP are intended to be based upon the judgment of the local officials. Their judgments with regard to the HAP, as with the CD application as a whole, are by statute subject only to the review of the Secretary to determine that they are plainly inconsistent with the available facts and data or are plainly inappropriate to meet the needs as outlined in the plan. It is the local nature of this assessment that the conferees wish to reemphasize. Ultimately, it must be the community which establishes its housing assistance goals. These goals, must, however, be realistic. They must not only take into consideration the objective needs of the community, but also the availability of housing assistance funds. The most important role for the Department in this process is to provide the technical support and advice necessary to assist the community to develop its Housing Assistance Plan into a realistic and effective instrument.

Exemption for modernization funds

The House bill contained a provision not found in the Senate amendment exempting from the section 213 allocation procedure funds for the modernization of public housing projects. The conference report contains this provision.

The conferees expect the Secretary to distribute the modernization funds based upon an objective national competitive funding procedure. This procedure should be designed to assure that funds will be awarded only to PHAs which have a capacity to effectively employ them. In addition, the procedure should take into consideration at least the extent of modernization need, the quality of design, the cost efficiency of the proposed program and the extent to which the proposal would improve the energy efficiency of the project. The procedure must also be designed to give preference in awarding contracts to proposals involving the modernization of substantial vacant units.

State allocation of housing assistance

The Senate amendment contained a provision not in the House bill which (1) maintained a state's section 213 allocation of housing assistance funds unless the Secretary determines that other areas or communities within the state cannot utilize the amounts in accordance with local housing assistance plans and (2) authorized the Secretary to allow amendments to housing assistance plans under an expedited review procedure. The conference report contains only the first part of the Senate provision.

The conferees emphasize, however, that the Secretary has authority to allow amendments to local housing assistance plans and that local communities' requests for amendments to housing assistance plans should be reviewed and acted upon promptly by the Secretary. Prompt approval of amendments to housing assistance plans will respond to changing local housing needs or changing locally determined annual goals to meet those needs. This will facilitate full utilization of housing assistance funds allocated to a state by allowing, for example, swaps between a community which needs additional new construction to meet a tightening housing market and one which has sufficient supply to use additional existing housing assistance. Communities may also find it appropriate to adjust the distribution of funds between type of construction after learning the actual amount of assistance available during a fiscal year.

Eligibility for section 8

The Senate amendment contained a provision not contained in the House bill reducing the maximum income with which a family could qualify for section 8 assisted housing from 80 percent to 70 percent of median area income with adjustment for family size, except that the eligibility of any family presently receiving assistance is not affected. The Senate provision is not contained in the conference report.

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY PROJECTS

The House bill provided an authorization of not to exceed $92 million for Fiscal Year 1980 for the Troubled Projects Program while the Senate amendment provided an authorization of not to exceed $82 million for the program in Fiscal Year 1980. The conference report contains the Senate provision.

The conferees, in accepting the lesser authorization level, wish to make clear that they do not intend to imply that funds should not be made available under the program to assist state-aided uninsured projects.

TENANT SELECTION CRITERIA

The House bill contained a provision not contained in the Senate amendment amending the selection criteria for the public housing and section 8 programs to give preference to families occupying substandard housing or who are involuntarily displaced. The conference report contains the House provision.

The conferees believe that during a period of reduced funding for assisted housing, the programs should be directed toward those families who have the most urgent housing need. The priority is intended to guide the owner or PHA in determining which potential tenants to select. The priority is not intended nor should it be used to allow the Department to direct an owner or PHA to select certain tenants. It would be unacceptable and clearly not authorized by this provision for the Department to require a PHA or owner to select tenants from a list developed by the Department. This provision is not intended to alter the basic responsibility over tenant selection which, under current law, rests solely with the PHA and owner. It is simply intended to have owners and PHAs give priority to meeting the urgent housing needs of those families living in substandard conditions or being involuntarily diplaced.

DISTRIBUTION OF OPERATING SUBSIDIES

The House bill contained a provision not in the Senate amendment requiring that in any fiscal year beginning with Fiscal Year 1980, any funds appropriated for public housing operating subsidy remaining after distribution in accordance with the performance funding system shall be distributed to low-income housing projects incurring excessive costs which were beyond their control and the full extent of which was not taken into account in the original distribution funds for such fiscal year. The conference report contains this provision.

DISPLACED TENANTS IN HUD-OWNED PROJECTS

The House bill contained a provision not in the Senate amendment requiring the Secretary to assure, for any tenant displaced from a HUD-owned formerly subsidized multifamily housing project as the result of disposition or repair of such project, the right to return to a repaired unit, occupy another unit, obtain housing assistance under the U.S. Housing Act of 1937, or receive any other available relocation assistance which the Secretary determines to be appropriate. The conference report contains the House provision.

The conferees wish to make clear that the obligation imposed by the provision is imposed upon the Secretary and not upon the community in which the housing project is located. While communities are permitted to use Community Development Block Grant funds or their own resources for relocation benefits, the Secretary may not require communities to use such funds or resources for this purpose.

ENERGY CONSERVATION

Modernization of projects with weatherization materials

The House bill contained a provision not in the Senate amendment requiring that the Secretary, in utilizing contract authority approved for appropriation for use in the modernization of low-income housing (other than section 8 assisted projects) on or after October 1, 1979, shall, to the maximum extent practicable, also take into consideration projects which will be modernized to a substantial extent with weatherization materials. The conference report adopts this provision.

Life cycle cost analysis

The House bill contained a provision not found in the Senate amendment providing that the Secretary shall, to the maximum extent practicable, require that newly constructed and substantially rehabilitated projects assisted under the U.S. Housing Act of 1937 with authority provided on or after October 1, 1979, shall be equipped with heating and cooling systems selected on the basis of criteria which includes a life cycle cost analysis of such systems. This provision is contained in the conference report.

DISPOSITION OF PUBLIC HOUSING PROJECTS

The House bill provided that no low-income housing project that has received operating subsidies pursuant to section 9 of the U.S. Housing Act of 1937 after the date of enactment of this provision shall be disposed of (either during or after the term of the contract governing the availability of operating subsidies) unless approved by the Secretary. The Senate amendment did not contain a similar provision. The conference report contains the House provision with an amendment which provides that no low-income housing project shall be disposed of prior to ten years after the last payment of an operating subsidy pursuant to the 1937 Act without the approval of the Secretary.

STUDY OF MINIMUM RENTS

The Senate amendment but not the House bill contained a provision requiring the Secretary of HUD to conduct a study of the feasibility and financial desirability of requiring minimum rent payments from tenants in low-income housing assisted under the U.S. Housing Act of 1937. The study shall examine (1) the extent to which tenants in such housing are not required to or do not pay rent. (2) the incentives for greater tenant care of such housing which minimum rent may create. (3) the administrative costs of assessing and collecting minimum rents, and (4) for each of the five fiscal years beginning October 1, 1980, and ending September 30, 1984, the reductions in appropriations for the payment of annual contributions for assisted housing and for payments for the operation of low-income housing projects which would be allowed by several alternative specifications of minimum rent requirements; the report shall be submitted to Congress not later than 10 days after Fiscal Year 1981 budget is transmitted. The conference report includes the Senate provisions.

The conference report also contains a provision to require HUD to conduct a study to provide detailed comparisons between the rents paid by tenants occupying assisted housing, and the rents paid by tenants at the same income levels outside of assisted housing. The comparisons shall be made for differing regions, income levels and family size, and shall include data on utility costs. Data on tenants not in assisted housing shall be further subdivided in accordance with various indicators of housing quality. The Secretary shall transmit a report on such study to the Congress not later than March 1, 1980.

SECTION 235 PROGRAM AMENDMENTS

Priority for assistance

The House bill contained a provision not in the Senate amendment requiring the Secretary, in making section 235 home ownership assistance available, to give preference to low-income families who, without such assistance, would be likely to be displaced from rental units which are to be converted into a condominium or co-operative; such assistance may include the acquisition of a condominium or a membership in a cooperative.

The conference report adopts this provision with an amendment that in making such assistance available, the Secretary shall give preference to low-income families who, without such assistance, would be likely to be involuntarily displaced (including those who would be likely to be involuntarily displaced from rental units which are to be converted into a condominium or cooperative). Such assistance may include the acquisition of a condominium or membership in a cooperative.

Availability

The House bill but not the Senate amendment provided that section 235 assistance for an existing dwelling unit or condominium project is no longer restricted to certain displaced families, families with 5 or more minor children, or families living in public housing. The conference report adopts this provision.

Mortgage limits in revitalization areas

The Senate amendment but not the House bill permitted the Secretary to insure under section 235 of the National Housing Act mortgages involving principal which exceeds the current maximum limits by not more than 25 percent if the dwelling is an area designated by the Secretary to be undergoing significant revitalization activity and the Secretary determines that such action is necessary to enable eligible families to remain in the area as home owners. The conference report contains this provision amended to permit the Secretary to insure a mortgage involving a principal obligation which exceeds the current maximum limits by not more than 20 percent, if (1) such mortgage bears an interest rate of at least 4 percent per annum, (2) the insured property is located in an area in which a community sponsored program of concentrated redevelopment or revitalization is being undertaken, and (3) such action would enable eligible families living in the area in substandard housing, or who are being involuntarily displaced, to remain in the area in decent, safe, and sanitary housing.

TITLE III—PROGRAM AMENDMENTS AND EXTENSIONS

RESEARCH AUTHORIZATION

The House bill contained a provision authorizing appropriations of not to exceed $51,000,000 for research in fiscal year 1980, while the Senate amendment authorized appropriations of not to exceed $50,300,000. The conference report contains the Senate provision.

FHA GENERAL INSURANCE FUND

The House bill contained a provision which provided that the existing overall limitation on appropriations authorized to cover losses of the General Insurance Fund is increased by $93 million on October 1, 1979. The Senate amendment authorized to be appropriated such sums as may be necessary from time to time to cover losses sustained by the Fund. The conference report contains the House provision.

SECTION 202 HOUSING FOR THE ELDERLY OR HANDICAPPED

Authorization

The House bill contained a provision increasing the limits on authority to borrow subject to appropriations for the section 202 program to $3,835,000,000 for fiscal year 1980; $4,785,000,000 for fiscal year 1981; and $5,760,000,000 for fiscal year 1982. The Senate provision was similar, except that the limits were increased to $3,820,000,000 for fiscal year 1980; $4,770,000,000 for fiscal year 1981; and $5,745,000,000 for fiscal year 1982. The conference report adopts the Senate provision amended to increase the limits on borrowing authority to $3,827,500,000 for fiscal year 1980; $4,777,500,000 for fiscal year 1981; and $5,752,500,000 for fiscal year 1982.

Technical assistance

The House bill provided that the Secretary may make available appropriate technical and training assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the section 202 program. The Senate amendment contained a similar provision, except that the Secretary would make assistance available to applicants lacking prior housing management experience, as well as having limited resources. The conference report contains the House provision.

Adult day care health facilities

The Senate amendment contained a provision not in the House bill allowing sponsors of elderly housing to utilize community space for adult day health care facilities and to delete references in existing law to the use of such space for infirmaries and other inpatient facilities. The conference report contains the Senate provision.

Report on rural housing needs of elderly

The Senate amendment but not the House bill contained a provision that not later than six months after the date of enactment, the Secretary shall submit to Congress a report on federal housing programs and the capacity for meeting the housing needs of the elderly and handicapped in rural areas. Such a report shall contain: (1) an assessment of present programs in rural areas, (2) an assessment of the housing needs and desires of the elderly and handicapped people residing in rural areas, (3) an evaluation of how federal programs can be used most effectively to meet the needs of such people, (4) an examination of the various alternatives in housing programs available to meet the needs of such people in rural areas, and (5) an assessment of the rehabilitation needs of the 202 projects constructed before 1976 and of the adequacy of the section 8 subsidy mechanism for these projects. Such report shall include a study of how elderly housing can be developed and operated in a cost-effective manner in rural areas, and shall be developed after consultation with other federal agencies involved in housing and rural development, federal, state, and local agencies involved in housing assistance, and other agencies that provide services to the elderly and handicapped.

The conference report contains the Senate provision amended so that, not later than six months after the date of enactment, the Secretary shall transmit a report to the Congress on the housing needs of the elderly and handicapped in rural areas. Such report shall at least include (1) an assessment of the operations of the present programs in rural areas available to the elderly and handicapped; (2) an assessment of the housing needs of the elderly and handicapped living in rural areas; and (3) an examination of the various alternatives available to meet those needs.

Report on reducing program costs

The Senate amendment, but not the House bill, required the Secretary to transmit a report to Congress containing recommendations on means to reduce the costs of the section 202 program without:

(1) Unduly burdening sponsors or projects; or

(2) Adversely affecting the ability of the section 202 program to meet the housing needs of elderly handicapped families, such report to be transmitted not later than six months after the date of enactment.

The conference report adopts this provision.

Office of elderly housing

The Senate amendment contained a provision not found in the House bill which would create within the Office of the Secretary of HUD an Office of Elderly Housing under the direction of an Assistant to the Secretary.

While the conferees did not adopt the Senate provision, they do believe that increased coordination of the Department's response to the housing needs of the elderly is warranted. It is in this regard that the conferees are pleased by the decision of the Assistant Secretary for Housing—FHA Commissioner to appoint a special assistant to coordinate the elderly housing programs of the Department. A special assistant to the Assistant Secretary should not only enhance coordination both within and outside the Department, but, also should enhance the visibility of the elderly housing activities of the Department. It is the conferees expectation that the role of the special assistant will be at least comparable to the Director of the Office of Independent Living for the Disabled. The conferees believe that there should be no need to increase staffing nor administrative expenditures to implement this decision.

Waiver of minimum capital requirements

The Senate amendment contained a provision not in the House bill which authorized the Secretary to waive any minimum capital investment requirement imposed in connection with the program for housing for the elderly. The conference report does not contain the Senate provision. However, the conferees wish to emphasize that the Secretary should not set such minimum capital investment requirements at a level which would unduly restrict access to the program of sponsors which (1) have a creditable reputation for satisfactory job performance; (2) have not defaulted on any contract; (3) have proven stability in the community and have community acceptance and support; and (4) have the endorsement of the appropriate local or state authorities.

NEIGHBORHOOD REINVESTMENT CORPORATION

The House bill provided authorization for appropriations not to exceed $9.5 million for the Neighborhood Reinvestment Corporation for fiscal year 1980, while the Senate amendment provided authorization for appropriations not to exceed $12 million for fiscal year 1980. The conference report contains the Senate provision.

EXEMPTION FROM STATE USURY LAWS

Both the House bill and the Senate amendment contained a provision exempting any loan, mortgage or advance made under title I or II of the National Housing Act from state and local usury laws.

The conferees wish to indicate that the phrase "interest, discount points or other charges" contained in the provision includes credit sale finance charges, and the phrase "loan, mortgage or advance" includes installment credit sale obligations. The provision applies to all types of obligations insured under Titles I and II, including those evidenced by installment credit sale agreements. The provision does not, however, preempt any state law limiting or otherwise regulating refinancing or prepayment penalties, or the calculation of prepayment rebates or credits.

The conferees are aware that, in general, installment credit sale contracts have been criticized for frequently containing provisions which do not adequately protect consumers. However, the conferees note that with respect to such contracts used to finance mobile homes under Title I of the National Housing Act, FHA regulations already provide significant protections by prohibiting both the Rule of 78 and balloon payments, and by limiting late charges. FHA also provides an interest rate ceiling. In addition, the conferees are pleased by the decision of the Assistant Secretary for Housing—FHA Commissioner to amend FHA's mobile home regulations to provide at least a 30 day notice prior to instituting any action leading to repossession and/or foreclosure (except in the case of abandonment), and to insert into the mobile home park approval instructions, a requirement prohibiting unfair or prejudicial marketing methods, procedures, requirements or practices.

STUDY OF ALTERNATIVES

The Senate amendment contained a provision requiring the Secretary to conduct a study of alternatives to the present system of fixed statutory maximum amounts for mortgages insured by HUD under Titles I and II of the National Housing Act, and report to the Congress with recommendations for legislation not later than March 1, 1980. The House bill contained no similar provision. The conference report contains the Senate provision, amended to clarify that the Secretary, when examining the use of sales price data, need not limit this examination to median sales price data.

MODIFICATION OF GRADUATED PAYMENT MORTGAGE PROGRAM (GPM)

Title

The Senate amendment included a provision not contained in the House bill to title the modifications to the GPM Programs contained in this section as "The Home Ownership Opportunity Act of 1979". The conference report adopts the Senate provision.

Findings of Congress

The Senate amendment, but not the House bill, included a provision establishing the findings of Congress for modifying the existing GPM Program. The conference report does not contain the Senate provision.

New GPM program

The Senate amendment contained a provision which provided that notwithstanding the present requirement that the principal obligation including deferred payments of the insured loan not exceed 97 percent of original appraised value of the property, the Secretary may insure a mortgage with varying rates of amortization where (1) the principal obligation of the mortgage or loan initially does not exceed the percentage of the appraised value of the property in section 203(b) as of the date the mortgage is accepted for insurance, and (2) the principal obligation thereafter (including all interest to be deferred and added) will not at any time be scheduled to exceed 97 percent, or, if the borrower is a veteran, such higher percentage as is provided under section 203(b)(2). The House bill did not contain this provision.

The conference report adopts the Senate provision with an amendment which provides that this program is further limited (1) to mortgagors who, as determined by the Secretary, have not owned a home within the last three years, and (2) to where the Secretary determines that the mortgagors for 245(b) mortgage insurance cannot reasonably afford to purchase the home by utilizing subsection (a) or other FHA insurance programs; in addition, the loan balance for such mortgagors can never exceed 113 percent of the original appraised value of the home.

Although the new GPM is limited to persons who have not owned a home within the last three years, the conferees intend that HUD should apply a liberal interpretation of this provision. For example, where two persons apply for a mortgage and one has owned a home in the past three years and the other has not, as a unit they should not be considered ineligible because of this provision. Furthermore, a mortgagor should not be ineligible solely because he or she has had an incidental or partial interest in a home.

In all cases, applicants must not reasonably be able to purchase the home using other FHA insurance programs as required by the Secretarial finding. The conferees expect these conditions to assure that the limited number of mortgages to be insured under section 245(b) are targeted to those most in need.

Projected property value

The Senate amendment contained a provision not found in the House bill providing that for the purpose of this subsection, the projected property value shall be calculated by increasing the initial appraised value at a rate not more than two and one-half percent per year. The conference report adopts the Senate provision.

Aggregate amount to be insured

The Senate amendment contained a provision limiting the initial aggregate principal amount of mortgages which are insured under this program in any fiscal year to an amount not to exceed 20 percent of the amount of all mortgages secured by properties improved by one-to-four-family residences which are insured in that year. The House bill did not contain a similar provision.

The conference report adopts the Senate provision with an amendment which limits the activity level to 10 percent of the total amount of FHA one-to-four-family mortgages insured in the preceding fiscal year, or 50,000 mortgages, which ever is greater.

Exemption from State laws

The Senate amendment, but not the House bill, contained a technical amendment to add the word "constitution" to the second enumeration of laws or rules governing negative amortization from which GPM's are exempt.

FHA MORTGAGE LIMITS

Section 203(b) single family housing insurance

The House bill contained a provision to amend section 203(b) of the National Housing Act to increase the mortgage ceilings for single-family housing from: $60,000 to $65,000 for a single-family home; $65,000 to $73,500 for two-family homes; $65,000 to $87,500 for a three-family residence; and $75,000 to $100,000 for a four-family residence. The Senate amendment contained a similar provision, except that the limits are increased from: $60,000 to $70,000 for a single-family home; $65,000 to $80,000 for two-family homes; $65,000 to $99,000 for a three-family residence; $75,000 to $120,000 for a four-family residence. The conference report adopts the Senate provision, amended to increase the limits to $67,500 for a single-family home; $76,000 for two-family homes; $92,000 for a three-family residence; $107,000 for a four-family residence.

Section 220(d)(3) urban and renewal areas housing insurance

The House bill contained a provision to amend section 220(d)(3)(A)(i) of the National Housing Act to increase the mortgage insurance ceilings from: $60,000 to $65,000 for a single-family residence; $65,000 to $73,500 for a two-family residence; $65,000 to $87,500 for a three-family residence; $75,000 to $100,000 for a four-family residence; $7,700 to $8,000 per unit in a residence with more than four units. Under the Senate amendment, the limits were increased from: $60,000 to $70,000 for a single-family residence; $65,000 to $80,000 for a two-family residence; $65,000 to $99,000 for a three-family residence; $75,000 to $120,000 for a four-family residence; $7,700 to $8,500 per unit in a residence with more than four units. The conference report contains the Senate provision, amended to increase the limits to $67,500 for a single-family residence; $76,000 for a two-family residence; $92,000 for a three-family residence; $107,000 for a four-family residence; $8,250 per unit in a residence with more than four units.

Section 222(b) serviceman and section 234(c) condominium housing insurance

The House bill contained a provision to amend sections 222(b)(2) and 234(c) of the National Housing Act to increase the mortgage insurance ceilings from $60,000 to $65,000. Similarly, the Senate amendment provided that the limit is increased from $60,000 to $70,000. The conference report contains the Senate provision, amended to increase the mortgage insurance ceiling from $60,000 to $67,500.

LOANS FOR MOBILE HOMES AND LOTS

Mobile homes

The House bill contained a provision to increase the maximum loan for a single module mobile home from $16,000 to $17,300; for a mobile home with two or more modules, from $24,000 to $25,920. The Senate amendment contained a provision to increase the maximum loan from $16,000 to $20,000 for a single module mobile home; from $24,000 to $30,000 for a mobile home with two or more modules or a mobile home that contains more than 1,100 square feet. The conference report contains the Senate provision amended to increase the maximum loan to $18,000 for a single module mobile home, and to $27,000 for a mobile home with two or more modules. Under this provision, a mobile home that contains more than 1,100 square feet does not qualify for the higher loan limits.

The conferees believe that the Department should examine the basis upon which a mobile home may qualify for the higher loan limits. Presently, single module mobile homes generally range from 775 to 1,050 square feet, while two module or "double wide" homes range from 900 to 1,450 square feet in size. However, some single module homes or homes composed of one and one-half modules are presently being built which provide over 1,100 square feet of living space. Under existing law these homes only qualify for the lower loan limits. It may be that as an alternative to multiple module construction, other factors such as total square footage or attachment to a permanent foundation should be used to define eligibility for higher loan limits.

Mobile homes with lots

The House bill contained a provision to increase the maximum loan for a single module home or an undeveloped lot to $23,550; to $32,170 for a mobile home composed of two or more modules on an undeveloped lot; to $26,675 for a single module home on a developed lot; to $35,295 for a mobile home with two or more modules on a developed lot. The Senate amendment contained a similar provision to increase the maximum loan: to $26,250 for a single-module home on an undeveloped lot; to $36,250 for a mobile home with two or more modules or containing more than 1,100 square feet on an undeveloped lot; to $28,750 for a single module home on a developed lot; to $39,375 for a mobile home with two or more modules or more than 1,100 square feet on a developed lot. The conference report adopts the Senate provision, amended to increase the maximum loan for a single module home on an undeveloped lot to $24,000; to $33,000 for a mobile home composed of two or more modules; to $27,500 for a single module home on a developed lot; to $36,500 for a mobile home with two or more modules.

Maximum maturity of loans

The Senate amendment but not the House bill provided that the maximum maturity permitted for loans on mobile homes on undeveloped lots be increased from 15 years and 32 days to 20 years and 32 days for a single module home and from 23 years and 32 days to 28 years and 32 days for a home with two or more modules; for loans on mobile homes on developed lots, it is increased from 15 years and 32 days to 20 years and 32 days for a single module home and from 23 years and 32 days to 28 years and 32 days for a home with two or more modules. The conference report contains this provision, amended to increase the maximum maturity permitted for loans on mobile homes on undeveloped lots to 25 years and 32 days for a home with two or more modules, and for loans on mobile homes on developed lots to 25 years and 32 days.

Insurance of mobile home sites under section 207

The Senate amendment but not the House bill contained a provision to amend section 207(c)(3) of the National Housing Act to raise the maximum for mortgage insurance for a mobile home site from $3,900 to $8,000 per space. The conference report contains this provision.

MORTGAGE LIMITS FOR MULTIFAMILY HOUSING INSURANCE

Sections 207(c), 213(b), 220(d)(5), and 234(e)

The Senate amendment contained a provision not included in the House bill which increased the mortgage ceilings under these programs for non-elevator structures from $19,500 to $23,930 per family unit without a bedroom; $21,600 to $26,500 per unit with one bedroom; $25,800 to $31,660 per unit with two bedrooms; $31,800 to $39,020 per unit with three bedrooms; $36,000 to $44,170 per unit with four or more bedrooms. For structures with elevators, from $22,500 to $27,600 per family unit without a bedroom; $25,200 to $30,900 per unit with one bedroom; $30,900 to $37,910 per unit with two bedrooms; $38,700 to $47,480 per unit with three bedrooms; $43,758 to $53,690 per unit with four or more bedrooms. The conference report does not contain the Senate provision.

Section 221(d)(4)

The Senate amendment contained an additional provision not contained in the House bill which increased the mortgage ceilings under the section 221(d)(4) program for structures with elevators from $20,962 to $25,700 per family unit without a bedroom; $24,030 to $29,480 per unit with one bedroom; $29,220 to $35,850 per unit with two bedrooms; $37,800 to $46,380 per unit with three bedrooms; $41,494 to $50,910 per unit with four or more bedrooms. The conference report does not contain the Senate provision.

HIGH COST AREAS

The House bill contained a provision to amend the National Housing Act to allow the maximum mortgage limits for high cost areas to exceed statutory limits up to 75 percent, while the Senate amendment allowed the mortgage limits for those areas to exceed the statutory limits up to 90 percent. The conference report contains the Senate provisions, with an amendment which provides that mortgage limits may exceed the statutory limits up to 75 percent in any geographical area. In addition, where determined by the Secretary on a project-by-project basis, the maximum mortgage limits for high cost areas may exceed the statutory limits up to 90 percent.

HOSPITAL COMBINATION FINANCING

The House bill contained a provision not contained in the Senate amendment prohibiting the use of FHA section 242 or section 223(f) loan insurance and GNMA mortgage guarantees to collaterize tax-exempt bonds, a practice commonly referred to as combination financing, unless applications for the issuance or modification of such loan insurance had been submitted at the express direction of the hospital to the appropriate office of the Department of Health, Education, and Welfare prior to March 29, 1979.

The conference report contains the House provision with an amendment which exempts from this prohibition additional hospitals which are presently seeking to utilize this form of combination financing. Any nonprofit hospital which is seeking to use combination financing to refinance its facility or modify the interest rate on a mortgage which is presently insured under the FHA section 242 or section 223(f) programs would not be prohibited from utilizing combination financing provided that the hospital meets the following conditions: (1) prior to June 7, 1979, the hospital engaged an investment banker for the purpose of obtaining combination financing or had undertaken or arranged for the undertaking of a market or feasibility study with respect to the advisability of combination financing; (2) prior to June 7, 1979, the hospital had made written notification of its interest in combination financing to the Department of Health, Education, and Welfare or the Department of Housing and Urban Development; and (3) the hospital receives from Medicare and Medicaid a percentage of its total revenue which is greater than 125 percent of the national average for hospitals.

Certain hospitals which were seeking combination financing applied for insurance or modification of existing insurance agreements prior to March 29, 1979, as a necessary step in their overall plan of obtaining combination financing. The conferees intend that any hospital which had made written application to the appropriate HEW office, prior to March 29, 1979, for FHA 242 insurance as part of its effort to obtain combination financing should be regarded as having submitted a written application for combination financing as of that date.

In providing for additional exemptions from the prohibition for nonprofit hospitals with existing FHA insurance agreements, the conferees recognize that certain hospitals may have engaged investment bankers for the purpose of obtaining combination financing by entering into a contract with an investment banker, or by otherwise authorizing the investment banker to act on the hospital's behalf. As an alternative to engaging an investment banker, a hospital may have undertaken, or may have arranged for another party to undertake, a study designed to measure the cost savings which the hospital would experience as a result of utilizing combination financing. With respect to Medicare and Medicaid revenues, to qualify for the exemption from the prohibition, a nonprofit hospital, during its most recent accounting year ending on or before June 30, 1979, must have received from the Medicare and Medicaid programs a proportion of its total net patient revenue which is greater than 125 percent of the average proportion of revenues received by the Nation's hospitals through Medicare and Medicaid during the calendar year 1978.

The conferees believe that in the event revenues from Medicare and Medicaid are not separately identified in a hospital's financial statement covering this period, hospitals should utilize the Medicare and Medicaid data reported to the Department of Health, Education, and Welfare or the state Medicaid agency for a time period identical to or as close as possible to that encompassed by the hospital's financial statement as the basis for determining compliance with this requirement.

The conferees note that the Health Care Financing Review (Vol. 1, No. 1, Summer, 1979, page 26), published by the Department of Health, Education, and Welfare, indicates that the nation's hospitals received 33 percent of their total revenue from Medicare and Medicaid during calendar year 1978, and that in excess of 95 percent of the Nation's hospitals receive revenue under the Medicare and Medicaid programs. The conferees intend that this base figure of 33 percent be used by the Department of Health, Education, and Welfare and the Department of Housing and Urban Development in determining, in part, whether a hospital qualifies for the additional exemption which has been included within this section.

The conferees also intend that a hospital may meet the requirement of having provided written notification of its interest in combination financing prior to June 7, 1979, by having made this notification in the form of a letter, telegram, or other document, intended to put either of these Departments on notice of the hospital's interest in combination financing.

With respect to those hospitals which are exempted from the prohibition against combination financing contained in this section, the conferees intend that the Departments of Health, Education, and Welfare and Housing and Urban Development initiate processing of these hospitals' applications promptly upon receipt and that this processing be completed as expeditiously as possible.

FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC) ACT AMENDMENTS

Authority to purchase FHLMC obligations

The House bill contained a provision not contained in the Senate amendment to authorize any person, trust or organization existing under the laws of the United States or any State to purchase, hold and invest in mortgages, obligations or other securities sold by the Federal Home Loan Mortgage Corporation to the same extent any such entity is authorized to purchase, hold or invest in obligations issued or guaranteed by the United States or any agency or instrumentality thereof. The conference report contains the House provision with an amendment to (1) provide that any state may enact legislation to prohibit or limit this authority for entities existing under such state's laws; (2) provide that any authority granted by this provision shall expire as of the end of June 30, 1985; and (3) clarify that for the purpose of determining compliance with a limitation in state law on investment in United States obligations, FHLMC securities shall be considered as United States obligations for the purposes of any such limitation.

The conferees note that mortgages, obligations and other securities sold by FHLMC move in commerce in a similar fashion to securities issued or guaranteed by the United States. Nevertheless, the conferees concluded in this case that a permanent preemption of state law should not be adopted. The conferees believe that the more than five-and-a-half year sunset period should be adequate time for states to decide on the investment authority they wish to grant with respect to FHLMC securities. Thus, after June 30, 1985, investment authority must either be based on state law in effect at that time or on some other authority derived from federal law, such as for example, from section 805(c) of the Housing and Community Development Act of 1974.

Cooperative loans

The Senate amendment included a provision which was not contained in the House bill to amend the term "residential mortgage", which defined those mortgages the

Corporation may purchase and sell to include a mortgage, lien or other security interest on the stock of membership certificates issued to a tenant stockholder or resident-member by a cooperative housing corporation, and on the instrument granting a right of tenancy in the dwelling unit. The conference report contains the Senate provision.

The conferees do not intend that the implementation of this authority should delay the implementation of other programs planned by the Corporation. The conferees expect the Corporation will carefully assess the risks associated with such a loan purchase program prior to fully implementing the program and will move cautiously in implementing it. The Corporation also should take into consideration the differing levels of experience among lenders in various parts of the country in designing the program.

GNMA LIMITS

Purchases under section 305

The House bill contained a provision to amend the National Housing Act to allow GNMA to purchase mortgages under section 305 which exceed the existing statutory limitation if (1) the mortgage is insured under sections 221(d)(3)(ii) and 224(d)(4)(ii) of the Act, and (2) at least 20 percent of the units covered by such mortgage are section 8-assisted units. The Senate amendment contained a similar provision, except that it also exempted from the purchase limits mortgages insured under sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 231(c)(2), 234(c)(3), or 236 and where at least 20 percent of the units covered by such mortgage are section 8-assisted units. The conference report contains the Senate provision.

Purchases under section 313

The Senate amendment contained a provision not contained in the House bill which amended section 313 of The National Housing Act to allow GNMA to purchase a mortgage under section 313 which has a principal obligation that exceeds the statutory limit, if the mortgage (1) is insured under sections 207(c)(3), 213(b)(2), 220(d)(3), 221(d)(3), 221(d)(4), 231(c)(2), 234(c)(3), or 236, and (2) at least 20 percent of the units covered by such mortgage are assisted under contracts authorized by section 8 of the U.S. Housing Act of 1937. The conference report does not contain this provision.

MORTGAGE INSURANCE IN OUTLYING AREAS

Home location

The House bill included a provision not contained in the Senate amendment providing that a home insurance under the section 203(i) mortgage insurance program may be located adjacent to an all-weather public road rather than adjacent, as in existing law, to a public highway. The conference report contains the House provision.

Minimum lot size

The House bill but not the Senate amendment contained a provision reducing the minimum lot size with respect to a section 203(i) farm home mortgage from 5 acres to two and one-half acres. The conference report contains this provision.

SUPPLEMENTAL LOANS

The Senate amendment contained a provision not included in the House bill to delete the restriction on supplemental mortgage insurance which limits the term of the supplemental loan to the remaining term of the original mortgage. This provision is contained in the conference report.

AMENDMENT TO THE NATIONAL MOBILE HOME CONSTRUCTION ACT OF 1974

The Senate amendment, but not the House bill, contained a provision to amend the Act to clarify that fees collected from the manufacturer for in-plant inspection may be used to cover the expenses incurred by private and State agencies in conducting the inspections and administratively enforcing the Federal standards. The Senate provision is included in the conference report.

OWNERSHIP OF MOBILE HOME SITES

The Senate amendment, but not the House bill, required the Secretary to make recommendations by March 31, 1980, on programs and policies which would encourage individual home ownership of mobile home lots through condominium or cooperative development of mobile home parks, or through the development of mobile home subdivisions. The conference report adopts the Senate provision.

THERMAL REQUIREMENTS

The House bill contained a provision not contained in the Senate amendment to disapprove HUD's interim regulations as published on April 16, 1979, on thermal requirements for the masonry components of construction. The conference report contains the House provision.

The objective of the provision is not to exempt the masonry components of construction from increased thermal energy requirements. Rather, the conferees expect the Secretary of HUD, after consulting with the Farmers Home Administration and the Department of Energy, and after carefully reviewing data that has become available since the interim rule was published, and other data developed pursuant to the recent National Bureau of Standards cost benefit analysis, to move immediately to issue final thermal standards for the masonry components of construction no later than one month after enactment of this Act. During the interim period and prior to the issuance of the revised standards, masonry components shall comply with those thermal requirements existing prior to April 16, 1979, except that any local acceptable standard exemptions granted by HUD as of June 8, 1979, may remain in effect until the revised standards become final.

The conferees believe that the three agencies involved in developing conservation standards for new and rehabilitated residential construction—the Department of Housing and Urban Development, the Farmers Home Administration and the Department of Energy—should develop standards for various programs that are consistent. In order for the Federal Government to develop a rational and consistent approach to energy conservation, these three agencies should work closely together and reach a consensus on the assumptions and data used in various residential conservation standards.

PAPERWORK REDUCTION

The House bill contained a provision providing that, not later than one year after enactment, the Secretaries of HUD, Agriculture and the Administrator of Veterans Affairs shall (1) index and maintain a file on all forms used by such Secretaries to solicit information on the conduct of housing programs, (2) to the extent practicable, provide for the consolidation of forms which solicit identical or nearly identical information from the same person in the conduct of two or more housing programs, and (3) eliminate forms which solicit information already available from other sources and provide for further such simplification as may be possible. The House provision further required the Secretaries to reduce their respective agencies' fiscal year 1979 level of paperwork burden hours by not less than 5.7 percent, and authorizes interdepartmental access to "forms" files for the purposes of carrying out this section. The Senate amendment did not contain a similar provision.

The conference report contains the House provision amended to incorporate certain of the provisions of the House bill into the paperwork reduction provisions contained in section 905 of the Housing and Community Development Amendments of 1978.

The revised section 905 now provides that the Secretaries of HUD and Agriculture and the Veterans' Administration are required within one year to provide for the consolidation of certain forms utilized in single and multifamily housing programs, and to eliminate forms which solicit information already available from other sources.

In addition, OMB is responsible for coordinating efforts in this area and for reporting to the Congress on the implementation of this section and any legislative recommendations.

The conferees expect that these agencies will index their various application forms, information requests and other forms used to solicit information in their programs with a view toward reducing such forms and the paperwork burden hours of the agencies by 5.7 percent below fiscal year 1979 levels.

TEMPORARY MORTGAGE PAYMENT ASSISTANCE

The program

The Senate amendment included a provision not contained in the House bill which provided that as an alternative to acquiring the mortgage, the Secretary, in his discretion, may make all or part of the monthly mortgage payments on behalf of a borrower who has defaulted on his mortgage directly to the lender where the default was caused by circumstances beyond the borrower's control and which renders the borrower temporarily unable to correct a mortgage delinquency and resume full payments. The conference report does not contain the Senate provision.

Conditions

The Senate amendment contained a provision not in the House bill which provided that no payments may be made unless the Secretary has determined that: (1) such payments are necessary to avoid foreclosure; and (2) there is a reasonable prospect that the borrower will be able to (a) resume full payments upon termination of this assistance, (b) commence repayment of the payments made under this program at a time designated by the Secretary, and (c) pay the mortgage in full by its maturity date or by a later date previously approved by the Secretary under section 204(a). The conference report does not include the Senate provision.

Amount of assistance

The Senate amendment but not the House bill provided that assistance payments may be in an amount determined by the Secretary up to the amount of the principal, interest, taxes, assessments, ground rents, hazard insurance, and mortgage insurance premiums due under the mortgage and the initial payment may include an amount necessary to make the mortgage current and that payments may not exceed amounts which the Secretary determines to be reasonably necessary to supplement the amounts, if any, which the mortgagor is capable of contributing toward the mortgage payments. The conference report does not include the Senate provision.

Period of assistance

The Senate amendment contained a provision not in the House bill providing that payments may be made for up to 18 months, inclusive of any period of default; where determined by the Secretary such period may be extended for up to 18 months; the Secretary shall establish procedures for periodic review of the borrowers' financial circumstances; where determined by the Secretary, payments shall be discontinued. The conference report does not contain this provision.

Repayment conditions

The Senate amendment contained a provision not included in the House bill which provided that all payments by the Secretary shall be secured by such obligation as the Secretary may require, and shall include a lien on the mortgaged property; the Secretary shall prescribe the terms and conditions of repayment, which may include requirements for repayment of any amounts that the Secretary has paid toward the lender's expenses; the Secretary may establish interest charges on such payments which shall not be governed by any state or local interest ceiling on loans or credit advances, except that the interest shall not exceed the maximum rate for section 203(b). This privision is not contained in the conference report.

Future availability

The Senate amendment but not the House bill provided that if a mortgage has been previously assisted under this subsection (TMAP), the Secretary may only provide such payments under limited conditions as he prescribes. The Senate provision is not included in the report.

Source of expenditures

The Senate amendment contained a provision not included in the House bill which provided that all expenditures under the TMAP shall be made from the insurance fund chargeable for insurance benefits on the mortgage for which the payments are made, and repayments shall be credited to such fund; expenditures may include amounts paid by the Secretary toward the lender's expenses in connection with payments or repayments under this subsection. The conference report does not include the Senate provision.

Sunset

The Senate amendment but not the House bill provided that no payments shall be made after September 30, 1984, except that payments which have been commenced on or before such date may be continued beyond such date. The conference report does not contain the Senate provision.

LEGISLATIVE REVIEW

The Senate amendment contained a provision not found in the House bill which reduced the time period for which regulations can be suspended by Committee action to 45 days from 90 days. The conference report does not contain the Senate provision.

The conferees wish to clarify the meaning of the term "reported out" as used in section 7(o)(3) of the Department of Housing and Urban Development Act. Notwithstanding any other interpretations, it is the intent of the conferees that "reported out" means the vote of either committee to report out a bill or resolution containing a disapproval provision, and it does not mean the filing of the committee report with the Clerk of the House or Secretary of the Senate. Thus, if either committee, within 20 days after publication of a regulation as final, votes to report out a bill or resolution intended to disapprove a regulation, it shall be considered a timely action which would keep the regulation from becoming effective for 90 days.

LIMITATION ON SOUL CITY ASSISTANCE

The Senate bill contained a provision not contained in the House bill prohibiting the Secretary, in determining the acceptability of financial risk, from taking into account any funds which would be provided under federal financial assistance programs, or from approving any loan guarantee under the New Communities Act, with respect to or for the benefit of the new community at Soul City, North Carolina. The conference report does not contain the Senate provision.

The conferees are concerned about HUD's disposition policies and plans for all of the title VII new communities that it has found to be financially infeasible. The conferees believe that in developing and carrying out a plan for disposition of any new community, the Secretary should take care to minimize the financial exposure of the federal government, while assuring that the reasonable interests of the surrounding local governments and the states are protected.

DEPOSIT INSURANCE FOR INDIAN TRIBAL GOVERNMENT

Coverage

The Senate amendment contained a provision not contained in the House bill which extends deposit insurance and security to Indian tribal government deposits. The conference report adopts the Senate provision.

Effective date

The Senate amendment contained a provision not contained in the House bill to provide that such coverage shall only be applicable on or after the date of enactment of this Act. The conference report includes the Senate provision.

Security

The Senate amendment, but not the House bill, also provided that any national banking association may, upon deposit with it of any funds by any Indian tribe or official representative, give security for the safekeeping and prompt payment of deposited funds by the deposit of U.S. bonds and otherwise. The conference report contains the Senate provision.

SMALL BUSINESS INVESTMENT COMPANIES ASSISTANCE

Investments by FHLB's

The Senate amendment contained a provision not contained in the House bill to permit the Federal Home Loan Banks to invest in any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958 for the purpose of aiding members of the FHLB System. The conference report contains the Senate provision.

Investments by savings and loans

The Senate amendment, but not the House bill, included a provision to enable savings and loan associations to invest in any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958 for the purpose of aiding members of the Federal Home Loan Bank System, but no association may make any investment under this section if its aggregate outstanding investment under this section would exceed one percent of the assets of such association. The Senate provision is included in the conference report.

LOANS BY SAVINGS AND LOANS

The Senate amendment, but not the House bill, contained a provision to raise the ceiling for single-family loans for federally-chartered savings and loan associations from $60,000 to $75,000. The conference report contains the Senate provision.

FEDERAL HOME LOAN BANKS

Advances

The Senate amendment contained a provision not contained in the House bill permitting the Federal Home Loan Banks to have discretion to determine the amount of any secured advance to a member institution. The conference report does not contain the Senate provision.

Collateral

The Senate amendment contained another provision not included in the House bill permitting the Federal Home Loan Banks to accept as collateral for an advance any residential mortgage, or U.S. Government obligation or guaranteed obligation. The conference report does not include this provision.

STOCK TO ADVANCES RATIO

The Senate amendment contained a provision not contained in the House bill providing for a decrease from 1-12 to 1-20 the ratio of stock required to be purchased by a member institution to be eligible for advances of funds from the Federal Home Loan Banks. The conference report contains the Senate provision.

TITLE IV—INTERSTATE LAND SALES

DEFINITIONS

The House bill contained a provision to (1) amend the definition of "subdivision" so that it is not restricted to land divided into 50 or more lots but applies to all land divided or proposed to be divided into lots, and (2) clarify the term "common promotional plan" as it applies to a subdivision to mean a plan undertaken by a single developer or a group of developers acting together to offer lots for sale or lease. The Senate amendment did not contain a similar provision. The conference report contains the House provision. The conferees believe that a common promotional plan does not exist when the sole connection between two or more parcels of land is that they share a common equity investor.

EXISTING EXEMPTIONS

The House bill deleted two exemptions from the registration, disclosure and fraud provisions of the Act: (1) sale or lease of real estate under or pursuant to a court order, and (2) sale or lease of real estate which is free and clear of all liens, encumbrances, and adverse claims, if each purchaser or spouse has made a personal on-the-lot inspection of the real estate. The Senate amendment did not contain a similar provision. The conference report contains the House provision.

EXEMPTIONS

Less than 100 lots

The House bill contained a provision not contained in the Senate amendment to amend existing law to exempt only from the registration and disclosure requirements of the Act the sale of lots in a subdivision containing less than 100 lots which are not otherwise exempt under Section 1403. The conference report contains the House provision with an amendment to exempt from all provisions of the Act subdivisions containing less than 25 lots, and to exempt, only from registration and disclosure requirements, lots in a subdivision containing less than 100 lots which are not exempt under section 1403(a) of the Act.

The conferees believe that the 100 lot exemption should not be combined with the exemptions in section 1403(b). However, when only a small number of lots in a subdivision cannot qualify for any exemption, the conferees believe such small number of lots should be exempt. Thus, the conferees direct the Secretary to use the authority available under section 1403(c) to issue exemptions so that such lots can be sold without the need for complying with the registration and disclosure requirements of the Act. Consistent with this objective, the Secretary should issue regulations providing procedures whereby developers may apply for an exemption for a small number of lots. In addition, when appropriate, the Secretary should issue a No-Action Letter.

First 12 lots

The House bill, but not the Senate amendment, contained a provision exempting the sale or lease of the first 12 lots of a subdivision which are sold or leased, or both, in any calendar year from the registration and disclosure requirements, if not more than 12 lots have been sold or leased, or both, from that subdivision in any previous calendar year.

The conference report contains the House provision amended to provide that the exemption is available in the first year of sale or lease after the effective date of this provision only if 12 or fewer lots are sold or leased during that year and that in any subsequent year the first 12 lots sold or leased will be exempt if no more than 12 lots were sold or leased in any previous year and all of the above 12 which are sold or leased are registered or qualify for another exemption. The conferees wish to make clear that if the developer increased the pace of sale so that more than 12 lots are sold or leased in a year, this exemption would be available (other than during the first year) for only the first 12 lots sold or leased in that year but would not be available for the sale of any subsequent lot even though the developer may sell only 12 lots in any other year. The Secretary, consistent with the intent of this provision, should permit a developer to establish a twelve month period in a manner which allows that period to conform with the developer's fiscal or tax year. For example, if the first sale of a lot were made on January 1, but the developer's tax year began on July 1 and no more than 6 lots were sold in the interim, the next twelve-month period could be established beginning on July 1.

Sale of lots from noncontiguous parcels

The House bill contained a provision not contained in the Senate amendment to exempt from the registration and disclosure requirements of the Act the sale or lease of lots where each noncontiguous part of a subdivision contains not more than 10 lots, and where each purchaser or lease (or spouse) has made an on-the-lot inspection of the lot prior to signing the contract to purchase or lease. The conference report contains the House provision with an amendment which raises from 10 to 20 lots the maximum size of any noncontiguous parcel exempted from such provisions.

Large lots

The House bill contained a provision to exempt from the registration and disclosure requirements the sale or lease of lots in a subdivision where at least 90 percent of the lots are each 40 acres or more in size (inclusive of easements) and any remaining lots are each 30 acres or more in size (inclusive of easements). The Senate amendment did not contain a similar provision. The conference report contains the House provision with an amendment which exempts from such provisions any subdivision where all the lots are at least 20 acres in size (inclusive of easements).

Regulated jurisdictions

Limitation to Single Family.—The House bill contained a provision to amend the regulated jurisdictions exemption in existing law to provide that "each lot" (rather than the subdivision) is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences. The Senate amendment was similar. The conference report contains the House provision. The conferees wish to emphasize that the phrase "each lot" refers to each lot which qualifies for this exemption, but does not require that every lot in the subdivision must be zoned for or limited to single family residences. Lots that are not single family must either qualify for some other exemption (including an exemption pursuant to section 1403(c)) or be registered (or, under the appropriate circumstances, receive a No-Action Letter). The phrase "single family residences" as used in this provision refers to 1–4 family dwellings.

While lots zoned for multi-family dwellings technically are not eligible for this exemption, the conferees believes that where the other requirements of the regulated jurisdictions exemption are met, the Secretary should use the authority of section 1403(c) to exempt such lots in cases where such exemption would not be inconsistent with the provisions of section 1403(c).

Street Construction and Maintenance.—The House bill contained a provision to amend the existing regulated jurisdictions exemption to provide that the lot must be situated on a paved street which (1) meets the standards of streets maintained by the applicable local government and is acceptable to such government and (2) is maintained by the local government or a homeowner's association except that where a homeowner's association is responsible, the purchaser or lessee (prior to signing the contract) is provided with a good faith written estimate of the cost of carrying out such responsibility over the first ten years of ownership or lease. The Senate amendment contained a similar provision, except it provided that the paved street (1) must be built to a standard acceptable to the unit of local government in which the subdivision is located, and (2) must be maintained by the unit of local government or the local government has approved other provisions to insure perpetual maintenance of the street; the provisions did not require a good faith estimate. The conference report contains the House provision. The conferees wish to clarify that the requirements that the lot be situated on a road which is acceptable to the unit of local government where the land is located can be met by the local government following whatever practice it has presently in existence for approving new roads. The conferees do not intend that any new procedure be established by the local government.

Deed.—The House bill contained a provision that the contract of sale requires delivery of a warranty deed or, where such deed is not commonly used in the jurisdiction where the lot is located, a deed or grant that warrants at least that the grantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him to the purchaser within 180 days after the signing of the sales contract. The Senate amendment contained a similar provision, except that it provided that the alternative to a warranty deed is a grant or similar deed conveying title to real property and commonly accepted in the State in which the subdivision is located. The conference report contains the House provision with an amendment deleting the phrase "at least." The conferees wish to emphasize that in all cases the seller must use a warranty deed, except where a warranty deed is not commonly used in the jurisdiction he must use a deed that warrants that the gantor has not conveyed the lot to another person and that the lot is free from encumbrances made by the grantor or any other person claiming by, through, or under him. The deed may include any other warranties commonly used in the jurisdiction where the lot is located but HUD may not require the inclusion of any other warranties in the deed. Quit claim deeds may not be used to qualify for this exemption.

Title.—The House bill contained a provision requiring that at the time of closing, a title insurance binder or title opinion shall be in existence and issued or presented to the purchaser or lessee showing that, subject to such exceptions as may be approved in writing by the purchaser or lessee prior to the recordation of the deed or execution of the lease, marketable title is vested in the seller or lessor. The Senate amendment contained a similar provision, except it provided (1) that this subsection must be complied with prior to the time of closing, (2) no reference to lessee as well as purchaser, and (3) no provision for exceptions to the marketable title approved in writing by the buyer prior to recordation. The conference report contains the House provision with an amendment which provides that the exceptions to title will be approved in writing at the time of closing rather than prior to the recordation of the deed.

Sales promotion.—The House bill contained a provision prohibiting direct mail or telephone solicitations which offer gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot. The Senate amendment did not contain a similar provision. The conference report contains the House provision with an amendment which clarifies that the prohibition is with regard to direct mail or telephone solicitations which offers gifts, trips, dinners, or other promotional items to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot. This restriction applies to the sale or lease of all lots in the subdivision. However, under this provision, financing incentives are not to be considered promotional items.

Mobile homes

The House bill contained a provision that was not contained in the Senate amendment to exempt from registration and disclosure provisions the sale or lease of a lot if a mobile home is to be placed there as a primary residence, and the lot is sold by one party and the mobile home by another under contracts that obligate both such sellers to carry out their contracts within 2 years: the contracts must provide that all funds received by the sellers will be held in escrow by parties independent of the sellers until the transactions are completed, and such funds will be released to the buyer without prejudice if the land with a residential home is not conveyed within 2 years. Such homesite must conform to all local codes for mobile home subdivisions, if any, and must provide potable water, sewage disposal, access by roads and where common facilities are to be provided, they must be completed or fully funded. In addition, the purchaser must receive marketable title to the lot. The conference report adopts the House provision with an amendment which deletes the term "primary." For the purposes of this section, a mobile home used as a "residence" means that the mobile home is capable of being lived in throughout the year.

Intrastate sales

The House bill contained a provision which exempts from the registration and disclosure requirements of the Act the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate in nature if the lot is free and clear of all liens, encumbrances, and adverse claims, the purchaser or his or her spouse has made a personal on-the-lot inspection of the lot to be purchased, and each purchase or lease agreement contains a clear and specific statement describing the party responsible for providing and maintaining the roads, water facilities, sewer facilities and any existing amenities or promised amenities. The provision further provided that, as used in connection with this exemption, the terms "liens", "encumbrances", and "adverse claims" do not include U.S. land patents and similar federal grants or reservations, property reservations dedicated to local bodies or public utilities for the purpose of bringing public services to the development, taxes and assessments imposed by the State or any other such authority, including a property owner's association, which, under applicable State or local law, constitute liens on the land before they are due, or beneficial property restrictions enforceable by other lot owners or lessees in the subdivision, if (1) the developer prior to entering the contract, has furnished each buyer with a statement of all such reservations, taxes, and assessments applicable to the lot to be purchased or leased, and (2) receipt of such statement has been acknowledged in writing by the buyer or lessee. Furthermore, the term "intrastate in nature" was defined to mean sales or lease by residents of a State to residents of that State of land situated within the State, provided that such State required delivery of a disclosure document, as determined to be necessary by the State, to purchasers or lessees.

The Senate amendment contained a provision similar to the provision in the House bill, except there was no definition of "intrastate in nature", and there was no requirement that the State provide for the delivery of a disclosure document to purchasers. The conference report contains the Senate provision, amended (1) to require that the purchaser or lessee receive a good faith estimate of the cost of providing electric, water, sewer, gas and telephone service to the lot, and that each purchase or lease agreement contain a clear specific statement describing a good faith estimate of the year of completion of the roads, water facilities, sewer facilities, and other promised amenities, and a period in which the purchaser or lessee may revoke the contract which is 7 days or such longer period as required pursuant to State laws, and (2) to provide that a sales operation is "intrastate in nature" if the developer is subject to the laws of the State in which the land is located and each lot in the subdivision, other than those which are totally exempt from the Act under section 1403(a), or exempt from registration and disclosure pursuant to the mobile home sites or the SMSA exemption, is sold to residents of the State in which the land is located.

The amended definition of what makes a sales operation "intrastate in nature" eliminates the need for complicated regulations or interpretations specifying allowable and prohibited marketing practices. Instead the test is intended to be result oriented. If a lot qualifies for any of the exemptions under section 1403(a), or if it qualifies for the mobile home site exemption or the SMSA exemption, then all such lots may be marketed and sold to out-of-State residents. However, any lot in the subdivision which does not qualify for one of these exemptions must be sold to a resident of the State in order for the subdivision to be eligible for the intrastate exemption. For this purpose, a developer may rely on a signed certification by the purchaser or lessee as to the State of his or her residence.

It is the intent of the conferees that the provision requiring the lot to be free and clear of liens, encumbrances and adverse claims means that the lot must remain free and clear of liens from the date the contract is signed until a deed is delivered or the lease expires (unless the lien is subordinate to the leasehold interest and would not affect the lessee's right to use or enjoy the lot).

Further, the conferees urge the Secretary to use the authority under section 1403(c) to specify further exemptions from the free and clear requirements so that the requirement is focused on those liens specified in the new SMSA exemption.

Sales within 100-mile radius

The Senate amendment contained a provision, not contained in the House bill, which exempted from the registration and disclosure requirements of the Act the sale or lease of not to exceed 500 lots in a subdivision to a resident of another state whose principal residence is within a radius of 100 miles from the property if; (a) the lot is free and clear of all liens, encumbrances, and adverse claims; (b) the purchaser (or his or her spouse) has made a personal on-the-lot inspection; (c) each contract contains a clear and specific statement describing the party responsible for providing and maintaining the roads, water and sewer facilities, and any promised or existing amenities; (d) the developer executes and delivers to the purchaser a written designation of a person within the state of residence of the purchaser to act as the developer's agent of service or process, and the developer acknowledged that he submits to that state's legal jurisdiction; and (c) the developer affirms (in writing, on a form provided by the Secretary and kept on file by the Secretary) that he has complied with the above conditions and requirements.

The Senate provision also provided that, as used in connection with this exemption, the terms "liens", "encumbrances", and "adverse claims" do not include U.S. land patents and similar federal grants or reservations, property reservations dedicated to local bodies or public utilities for the purpose of bringing public services to the development, taxes and assessments imposed by the state or any other such authority, including a property owner's association, which, under applicable state or local law, constitutes liens on the land before they are due, or beneficial property restrictions enforceable by other lot owners or lessees in the subdivision, if: (1) the developer, prior to entering the contract, has furnished each buyer with a statement of all such reservations, taxes and assessments applicable to the lot to be purchased, and (2) receipt of such statement has been acknowledged in writing by the buyer.

The conference report contains the Senate provision with an amendment to provide that the exemption applies to subdivisions containing fewer than 300 lots and in order for a lot to qualify for the exemption, the principal residence of the purchaser or lessee must be within the same SMSA as the lot purchased or leased. The amendment also provides that in addition to the disclosure requirements specified in the Senate provision, all liens, reservations, taxes, assessments and beneficial property restrictions which would be ---------- by such lot owners or lessees in the subdivision, and adverse claims must be disclosed, and each agreement must include a good faith estimate of the year of completion of promised amenities and a seven day cooling off period or such longer period as may be required pursuant to State laws. The developer must also provide a good faith estimate of the cost of providing utility service to the lot. The lot must be clear of liens, but not encumbrances and adverse claims as provided in the Senate provision, from the date the contract is signed until the deed is delivered or the lease expires. In addition to the exceptions to the term "liens" contained in the Senate provision, the conference report also provides for the exception of other interests described in regulations prescribed by the Secretary.

The conferees direct the Secretary to use this authority to exempt liens which are subordinate to the leasehold interest and which would not affect the lessee's right to use or enjoy the lot.

The conferees intend in regard to both the intrastate and SMSA exemptions that if there is a blanket lien with release provisions, the lot may qualify for the exemption if the contract requires delivery of the deed within 180 days of signing of the contract and all payments are put in escrow. In addition, the conferees wish to clarify that the requirement that a lot be "free and clear" until the deed is delivered or the lease expires would not be violated if a purchaser or lessee encumbers the lot.

Examples of the types of reservations, encumbrances, assessments and adverse claims that must be disclosed include, but are not limited to, easements for ingress, egress and utilities, state and local property taxes, mineral rights, homeowner association assessments, and any restrictions on property use.

For purposes of this exemption a developer may rely on a signed certification by the purchaser or lessee of his or her residence.

Under both the intrastate and the SMSA exemptions, developers must provide purchasers and lessees with good faith estimates of the cost of installing electric, water, sewer, gas and telephone services. The conferees believe that to comply with this requirement, a developer could provide estimates for the types of utility service reasonably expected to be utilized in that location. For example, where septic systems or water wells are suitable, good faith estimates of their cost would satisfy this requirement. The conferees also wish to clarify that good faith estimates of the cost of installing electric, water, sewer, gas and telephone services need not be based on information obtained at the date of signing the contract of sale or lease. Instead, the developer may fulfill the requirement by providing a reasonably current estimate of such costs. For lots not yet sold, estimates should be updated every two years, or more frequently if the developer has reason to believe that significant cost increases have occurred. Further, the purchaser or lessee should be informed of the date on which the estimate was made.

Operation of exemptions

The conferees intend that the provisions of section 1403 shall be applied on a lot-by-lot basis except where the context indicates a requirement that applies to a whole subdivision. Some exemptions apply solely on a lot-by-lot basis so that each lot meeting the requirement is exempt regardless of the status of other lots in the subdivision. The exemptions under section 1403(a)(2), (a)(5) through (a)(8) and (b)(6) fall into this category.

Some exemptions are subdivision exemptions and apply only where each and every lot in the subdivision meets the requirements; for example, the large lot exemption in section 1403(b)(4) or the exemptions based solely on the number of lots in a subdivision such as section 1403(a)(1) and (b)(1). None of these pure subdivision exemptions may be used in combination with any other exemption.

Other exemptions combine an initial subdivision test or tests with lot-by-lot requirements. Particular lots that do not meet these lot-by-lot requirements must either qualify under some other exemption or be registered. Where such a hybrid exemption exists and the initial subdivision test is not satisfied, then no lots in that subdivision are eligible for that exemption.

In the regulated jurisdictions exemption, section 1403(b)(5), there are three subdivision tests: (1) the unit of local government must specify minimum standards for the development of subdivision lots within its boundaries; (2) the subdivision must meet all local codes and standards; and (3) there must be no offers by direct mail or telephone solicitation, of gifts, trips, dinners, or other such promotional techniques to induce prospective purchasers or lessees to visit the subdivision or to purchase or lease a lot. All other requirements in the regulated jurisdictions exemption provision are lot-by-lot requirements.

In the SMSA exemption, section 1403(b)(8), the only subdivision test is that the subdivision must contain fewer than 300 lots. If this test is satisfied, then the particular lots that meet all other requirements specified in section 1403(b)(8) are exempt from registration and disclosure.

In the intrastate exemption, section 1403(b)(7), the only subdivision test is that the sales operation must be "intrastate in nature". This test permits the sale or lease of individual lots pursuant to section 1403(a), (b)(6) or (b)(8) even though they are sold or leased outside the state in which the land is located. However, all other lots in the subdivision which do not qualify for these specified exemptions must be sold or leased to a resident of such state. If this subdivision test is satisfied, then the particular lots which meet all other requirements specified in section 1403(b)(7) are exempt from registration and disclosure.

For example, if a subdivision contained 500 lots, 50 of which were sold pursuant to a contract to build a home within two years as provided under section 1403(a)(2) and 50 were zoned for commercial use as provided under section 1403(a)(8) the remaining 400 lots would be exempt if they were sold only to persons residing in the state where the land was located and met the other requirements of the intrastate exemption. However, the SMSA and intrastate exemptions could only be combined if the subdivision contains less than 300 lots, since the SMSA exemption is only available for a subdivision of that size.

As a general principle applying to exemptions, the conferees expect HUD to use discretion and not punish a developer for minor violations that occur through inadvertence. HUD may determine in these cases that the developer may retain an exemption if the developer corrects the mistake or offers to repurchase the offending lot or lots. In addition, where a developer has fully complied with the requirements regarding exempt lots but has a small number of lots which do not qualify for any exemption, the conferees direct the Secretary to use the authority available under section 1403(c) to provide exemptions, or to issue no action letters so that these small number of lots may be sold without registration or disclosure.

The conferees intend that the transition from exemptions and requirements under present law to the amended law should not affect real estate already sold or leased as of the executive date of the amendments. For example, lots sold before the effective date of the amendments pursuant to the present on-site inspection exemption would not be brought under requirements of the amended Act. If, as of the effective date of the amendment, the number of lots in the subdivision that have not yet been sold under the on-site inspection exemption is less than 100, then these lots will be exempt. However, if the number of such remaining lots is 100 or more, then all these lots must either qualify under other exemptions or be registered.

Since many of the new exemptions being enacted are complex and self-determining, the conferees direct the Secretary to make very clear to developers how they may take advantage of these exemptions without needing advisory opinions.

REQUIREMENTS RELATING TO THE SALE OR LEASE OF LOTS

Lots registered with OILSR

The House bill contained a provision not contained in the Senate amendment to include in the requirements for sales or lease of lots not exempt from the registration and disclosure provisions of the act prohibitions against: (a) selling or leasing any lot where any part of the statement of record of the property report contains an untrue statement of a material fact required to be stated therein; and (b) displaying or delivering to prospective purchasers or lessees advertising and promotional material which is inconsistent with the information required to be disclosed in the property report.

The conference report contains the House provision with an amendment which clarifies that this section applies to information required to be included in the property report and statement of record pursuant to sections 1405 through 1408 of the act and any rules and regulations promulgated pursuant to those sections. The conferees wish to further clarify that advertising may include information not required by law to be disclosed in the property report and need not include all the information that is required to be included in the property report. However, when the advertising deals with a subject required to be addressed in the property report, the information in the advertising should not be inconsistent with information in the property report.

Lots not exempt from the act

Untrue statements.—The House bill contained a provision not contained in the Senate amendment providing that the existing prohibition against obtaining money or property by means of a material misrepresentation with respect to any information upon which a purchaser relies in regard to the sale or lease of a lot not exempt from the act is amended to prohibit the obtaining of money or property by means of any untrue statement or omission of a material fact that would (in light of the circumstances in which it was made and in the context of the overall offer and sale or lease) be misleading with respect to any information pertinent to the lot or subdivision. The conference report contains the House provision.

While the purchaser's actual reliance would no longer have to be an element of proof, it is clear that in proving that an untrue or omitted fact was material, it must be established that the fact was important enough that a reasonable person would have relied upon it in making a decision to purchase or lease that particular piece of land.

The language "in the context of the overall offer and sale or lease" was included to clarify how to determine the materiality of a fact and to make clear that a developer is not required to say everything about the subdivision in each discrete contact with the purchaser, but rather that what the developer does choose to say must not omit important facts that would be needed so that the purchaser would not be misled. Clearly, when a seller draws attention to information which is favorable to the sale of the lot and delays providing contradictory information, a purchaser may be misled. Any subsequent information of a countervailing nature must be highlighted; it is not sufficient simply to deliver the information to the purchaser. The seller by omission has taken on an affirmative obligation to make the statements clear and unambiguous to the purchaser. This is particularly important where the primary contact between the purchaser and the seller is through advertising or the mails. In this circumstance an advertisement for "lakeside property" which omits to state that the lake was dry for 6 months of the year or an advertisement for "home-sites" which fails to mention that the land was inappropriate for septic tanks and a municipal, sewage system was unavailable would be misleading.

Services and amenities.—The House bill contained a provision not contained in the Senate amendment providing that in addition to the existing prohibitions against employing schemes and artifices to defraud and engaging in any practice or course of business that would operate as a fraud with regard to the sale or lease of lots not exempt from the act, it would be a prohibited act to represent that roads, sewers, water, electric services, or recreational amenities will be provided or completed by the developer without so stipulating in the contract of sale or lease.

The House provision is contained in the conference report. It is not the intention of the conferees to impose a new substantive requirement on the developer to provide roads, services, water, electric, sewer, or recreational amenities, but where the developer represents in any manner that such facilities will be provided or completed by the developer the contract of sale or lease utilized in the transaction must contain provisions so obligating the developer.

REVOCATION OF THE CONTRACT

Cooling-off period

The House bill contained a provision to amend the existing requirement that a purchaser may revoke his contract until midnight of the third business day where a property report has been received less than 48 hours before he signed the contract to provide that: (1) any contract for the sale or lease of a lot not totally exempt from the Act may be revoked at the option of the purchaser or lessee until midnight of the 10th day following the signing of such contract and such contract shall clearly provide this right; and (2) no other revocation period shall be imposed by Federal or State law, except that any State may permit a longer period within which such right may be invoked. The Senate amendment did not contain a similar provision. The conference report contains the House provision with an amendment which reduces the cooling-off period from 10 to 7 calendar days or such later time as may be required pursuant to state laws and which deletes the requirement that no other period be imposed pursuant to Federal law.

Nondelivery of property report

The House bill contained a provision to amend the existing requirement that a 2-year option to void a contract be provided where a property report has not been given to a purchaser or lessee in advance of or at the time of signing a contract or agreement for purchase or lease to provide the right of revocation where the property report is required to be provided and has not been given in advance of signing the contract or agreement. The Senate amendment contained a similar provision which provided that the option to void exists only where the property report is required to be provided and has not been given to the purchaser in advance or at the time of his signing. The conference report contains the House provision.

Contracts not containing certain provisions

The House bill contained a provision not contained in the Senate amendment providing that any contract for the sale or lease of a lot not exempt from the act may be revoked by the purchaser or lessee for 2 years from signing the contract where the contract does not provide: (1) a legally sufficient and recordable description of the boundaries of the lot, (2) that, in the event of a contract breach by the purchaser or lessee, the seller or lessor will inform the purchaser in writing of such breach and of the opportunity to remedy such breach within 30 days, and (3) that, if the purchaser or lessee loses his or her interest or rights in the lot as a result of a breach of contract which occurs after the purchaser or lessee has paid 15 percent of the lot's purchase price (excluding any interest owed under the contract), the seller shall refund to such purchaser any amount remaining after subtracting the amount of damages incurred by the seller or lessor as result of such breach from the amount paid by the purchaser with respect to the lot's purchase price (excluding any interest). The House provision further provided that this subsection shall not apply to the sale of any lot for which the purchaser receives a warranty deed within 180 days after the signing of the contract.

The conference report contains the House provision, with an amendment which provides that such contracts may be revoked by the purchaser or lessee for 2 years from signing the contract where the contract does not provide: (1) a description of the lot that is clearly identifiable and in a form that is acceptable for recording by the appropriate public officials responsible for maintaining land records in the jurisdiction in which the land is located, (2) that, in the event of default or breach of contract or agreement, the buyer must be given 20 days after receipt of written notice to cure the default or breach, and (3) that, in the case of default or breach after the purchaser has paid 15 percent of the purchase price of the lot, the seller or lessor may retain 15 percent of the purchase price of the lot or actual damages, whichever is greater.

The conferees intend that in defining the term "purchase price" the Secretary be guided by the concept of "cash price" as defined pursuant to the Truth in Lending Act and Regulation Z. In calculating the amount of money paid which shall be excluded as interest for the purpose of determining the amount of funds retainable as liquidated damages, the actuarial method shall be utilized.

Reimbursement

The House bill contained a provision not contained in the Senate amendment providing that upon revocation of the contract under any of the provisions of this section, and upon tender of an instrument by the purchaser to the developer conveying his or her rights and interests in the lot, such purchaser shall be entitled to all money paid by him or her under such contract. The conference report contains the House provision with an amendment which provides that when the purchaser, exercising his or her right of revocation, conveys his or her right and interest in the lot to the developer, the property and the legal interest conveyed must be in a condition substantially similar to the condition in which it was conveyed or purported to be conveyed to the purchaser. It is the intention of the conferees that the responsibility of the purchaser to correct conditions would go only to restoring those items or correcting those conditions which resulted in diminished value as a result of his or her voluntary and deliberate or negligent actions.

CERTIFICATION OF STATE LAW

Requirements

The House bill contained a provision not contained in the Senate amendment providing that the Secretary shall certify a State when he determines that: (a) when taken as a whole, the laws and regulations of the State which are applicable to the sale or lease of lots, not exempt from the registration and disclosure provisions of the act, require the seller or lessor to disclose informawhich is substantially equivalent or greater than the requirements of section 1408; and (b) the State's administration of such laws provides, to the maximum extent practicable, that such information is accurate. In addition, in the case of a State whose disclosure laws are less than the federal requirements, the Secretary shall certify such a State when he determines that: (a) taken as a whole, the laws of the State applicable to the sale or lease of lots not exempt from federal disclosure and registration requirements provide sufficient protection for purchasers and leases with respect to the matters for which information is not required to be disclosed by such laws; and (b) the State's administration of such laws provides that the information required to be disclosed is accurate, and sufficient protection for purchasers is made available with respect to those matters about which there is disclosure.

The conference report contains the House provision, amended, so that to be certified, in addition to other requirements, a State's laws must require disclosure which is substantially equivalent to (but not greater than) the federal requirements, and a State must agree to accept and allow to be distributed for disclosure purposes the property report covering land located outside that State and offered for sale or lease inside that State when the land is located in a second certified State and the property report has been approved by the second certified State.

Substitute filings

The House bill provided that after certification of a State, the Secretary shall accept for filing under sections 1105 through 1408 (and declare effective as the statement of record and property report) and disclosure materials found acceptable by such State (in connection with the sale or lease of lots located within the State), and further, nothing in this subsection shall preclude the Secretary from exercising the authority conferred by sections 1407(d) and 1407(e) to investigate and suspended the statement of record after a hearing if it contains untrue statements or omissions of material fact. The Senate amendment did not contain a similar provision. The conference report contains the House provision with an amendment which provides, in addition, that in the case of land located in a non-certified State, but offered for sale in a certified State, the Secretary may accept for purposes of federal filing a statement of record and a property report containing information required by the certified State. These certified State property reports become the federal property report and must be used as such in all State where that property is offered for sale or lease. In addition, when a State fails to be certified by the Secretary, the Secretary must inform the State in writing of changes in State law, regulation, or administration that are needed in order to obtain certification. The conferees wish to make clear that the Department has discretion regarding whether to declare effective as a federal property report, the certified State's property report covering land located in a non-certified State but sold in the certified State. Thus, a State may be certified only for sales of land located within the State or for both sales of land located within and outside that State.

Review

The House bill contained a provision not contained in the Senate amendment requiring the Secretary to periodically review the laws, and the administration thereof, of States certified under this section, and such certification may be withdrawn if such laws and their administration no longer meet this section's requirements. The conference report contains the House provision.

State authority

The House bill contained a provision not contained in the Senate amendment providing that nothing in this title may be construed to limit the authority of any State or local government to enact any law with regard to land sales not in conflict with this title; and which requires the Secretary in administering this title, to cooperate with state authorities responsible for regulating land sales. The conference report contains the House provision.

It is the intention of the conferees that nothing in the provisions of this section will limit any State's power to impose strict registration requirements or substantive development standards on developers who want to sell land within that State. Once a State is certified and that State's property report becomes for all purposes the Federal property report, the Secretary may require a Federal cover sheet similar to the one presently in use.

CIVIL LIABILITIES

Specific performance

The House bill contained a provision not contained in the Senate amendment to add to the relief available under existing law specific performance, or other relief which the court deems equitable. The conference report contains the House provision.

Determining relief

The House bill contains a provision not contained in the Senate amendment requiring that in a determining relief, the court will take into account, but not be limited to the following factors: the contract price of the lot; the amount the purchaser actually paid; the cost of any improvements to the lot; the fair market value of the lot at the time of sale; and the fair market value of the lot at the time the lot was purchased.

The conference report contains the House provision with an amendment which provides that the court "may" rather than "will," take these factors into account; which provides that the court may consider the fair market value of the lot at the time relief is determined in addition to the value at the time the lot was purchased; and that the court may consider the value of "leaseholds," as well as the value of "lots."

Additional relief

The House bill contained a provision not contained in the Senate amendment to amend existing law to permit recovery for interest, reasonable attorney's fees, independent appraiser's fees and travel costs. The conference report contains the House provision with an amendment which clarifies that in addition to recovery for interest, the court may award reasonable amounts for attorney's fees, independent appraiser's fees and travel to and from the lot in connection with the suit.

STATUTE OF LIMITATIONS

Limitations on civil action

The House bill contained a provision not contained in the Senate amendment providing that the statute of limitations for violations of registration, disclosure, fraud, and misrepresentation, is 3 years after discovery or after discovery should have been made, whichever is later. The House bill also included a provision not in the Senate amendment which deleted the existing requirement that in no event may any action be brought by a purchaser more than 3 years after the sale or lease to such purchaser, and which provides that in no case shall actions be brought more than 3 years after the last payment has been made on a contract of sale or lease or 3 years after conveyance of a warranty deed, whichever is shorter.

The conference report contains the House provision with an amendment providing that—

(1) The statute of limitations would be 3 years from the date of signing the contract for violations regarding any sale or lease:

(a) without an effective statement of record;

(b) without delivering a property report to the purchaser or lessee prior to signing the contract;

(c) where the property report or statement of record contains an untrue statement of material fact or omits to state a material fact;

(d) where advertising is used that is inconsistent with information required to be in the property report or statement of record; or

(e) where the developer represents that utilities and amenities will be provided or completed by the developer without so stipulating in the contract of sale or lease; and

(2) That the statute of limitations would be 3 years after discovery of the violation or after discovery should have been made by exercise of reasonable diligence for violations regarding any offer or sale or lease that involves:

(a) employing any device, scheme or artifice to defraud;

(b) obtaining money by means of any untrue statement of material fact or any omission to state a material fact necessary in order to make the statements made not misleading with respect to any information pertinent to the lot or subdivision; or

(c) engaging in any transaction, practice, or course of business that would operate as a fraud or deceit.

The conferees wish to clarify that the purpose of the amendment contained in the conference report is to limit to 3 years after the date of signing the contract those suits based on requirements related to advertising, to contract terms or to information reviewed by the Department of Housing and Urban Development prior to sale. The fact of a material omission or the use of an untrue statement of material fact in the property report or the statement of record would be covered under this statute of limitations.

The longer statute of limitations which requires a suit to be filed within 3 years from discovery of the violations applies to a variety of fraudulent practice. In bringing an action under the longer statute of limitations, a plaintiff could use evidence based on violations covered by the shorter statute of limitations period to establish that a fraud had occurred. For example, since clear prohibitions exist in the law against the use of untrue statements or omissions of material fact in the statement of record or property report, these violations would be relevant in establishing whether a fraud existed in the context of the whole offer and sale or lease.

Revocation

The House bill contained a provision not contained in the Senate amendment providing that actions to enforce rights of revocation under section 1404(b), (c) or (d) must be brought within 3 years after signing the contract or lease, notwithstanding delivery of a deed to a purchaser. The conference report contains the House provision with an amendment which includes actions to enforce rights under section 1404(e).

ADMINISTRATIVE PROCEDURE

The Senate amendment contained a provision not contained in the House bill providing that in discharging his responsibilities under the Act, the Secretary shall conduct all rulemaking and adjudication in accordance with the Administrative Procedures Act; and which provided further that in the case of other actions not required to be determined on the record, the Secretary shall provide the procedure applicable to every case after notice and opportunity for hearing; prompt notice shall be given of any adverse action or final disposition, and shall be accompanied by a statement of legal authority and other written reasons.

The conference report contains the Senate provision with an amendment which would delete the statutory language referring to actions not required to be determined on the record, and which clarifies that any notice of adverse action or final disposition shall be accompanied by a written statement of supporting facts and legal authority.

The conferees believe that the Office of Interstate Land Sales needs to be more sensitive to the objectives of the Administrative Procedures Act. Several important federal policies which affect substantive rights have been established by HUD through guidelines or advisory letters which are not subject to the public comment and review procedure. OILSR should seek to maximize the opportunity fo public participation in its policy making.

CRIMINAL PENALTIES

The House bill contained a provision not contained in the Senate amendment to increase the criminal penalties for willfully violating the provisions of the title (including any cease and desist order issued under section 1415) from $5,000 to $10,000 and from a maximum of 5 years to 7 years imprisonment. The conference report contains the House provision with an amendment which deletes the reference to cease and desist orders and which provides a maximum penalty of 5 years imprisonment.

REPORT TO CONGRESS

The House bill contained a provision not contained in the Senate amendment requiring the Secretary to report to Congress by March 1, 1981, and biennially thereafter, on the administration of this title and its impact upon the land development industry and purchasers and lessees of undeveloped land, and that such report shall also contain legislative recommendations. The conference report contains the House provision.

EFFECTIVE DATE

The conference report also contains a provision which provides that the effective date for all amendments to the Interstate Land Sales Full Disclosure Act made by this title shall be the effective date of regulations implementing such amendments, but in no case later than six months following the date of enactment of this Act, except that the intrastate exemption shall take effect on the date of enactment of this Act.

Since the effective date of the intrastate exemption is the date of enactment and HUD will not have an opportunity to issue regulations by that date, the conferees urge developers who believe they may qualify for the exemption to act cautiously so they will not be in violation of the law.

In order to provide guidance to developers, the conferees direct the Secretary to move expeditiously to issue guidelines relating to the provision requiring the absence of liens as soon as possible after enactment (and prior to the development and final regulations) and to respond quickly to any requests from developers for advisory opinions regarding the applicability of this exemption.

TITLE V—RURAL HOUSING

INDIVIDUAL PROGRAM AUTHORIZATION

Guaranteed and insured loans

General authorization.—The House bill contained a provision authorizing, subject to limitation by appropriations Acts, the Secretary to insure or guarantee loans with an aggregate principal amount not to exceed $3,906,000,000 for fiscal year 1980. The Senate amendment did not include a similar provision. The conference report contains this provision, amended to establish the limitation for insured or guaranteed loans at an amount not to exceed $4,484,000,000.

Low and moderate income or elderly rental and cooperative housing assistance.—The House bill, but not the Senate amendment, provided for an authorization subject to appropriation Acts of not less than $2,857,000,000 for loans insured in connection with interest credits and assistance payments authorized pursuant to section 521. The conference report adopts this provision amended to establish an amount not less than $3,070,000,000 of any amount approved by appropriations Acts for loans pursuant to section 521(a)(1)(B) or (C).

Section 516 domestic farm labor assistance

The House bill contained a provision which authorized to be appropriated not to exceed $25,000,000 for fiscal year 1980 for section 516 grants, while the Senate amendment extended the existing authorization of not to exceed $30,000,000 for fiscal year 1980. The conference report contains the Senate provision.

Research

The House bill included a provision not contained in the Senate amendment which authorized to be appropriated not to exceed $1,000,000 for fiscal year 1980 research activities under section 506. This provision is not contained in the conference report.

Advance expense payments

The House bill included a provision, not in the Senate amendment, which authorized an appropriation of not to exceed $5,000,000 for fiscal year 1980 for advances to certain FmHA borrowers for taxes, insurance and other expenses. The conference report adopts this provision with an amendment providing that such funds be available to the extent approved in Appropriations Act, out of the Rural Housing Insurance Fund.

Construction defects

Included in the House bill was a provision not contained in the Senate amendment. which authorized an appropriation of not to exceed $5,000,000 for fiscal year 1980 for construction defects payments. The conference report does not contain the House provision.

Technical assistance and counseling

The House bill contained a provision which authorized to be appropriated not to exceed for fiscal year 1980: $1,200,000 for technical assistance outreach grants; $3,800,000 for prepurchase and delinquency counseling; and $1,000,000 for technical assistance loans. A similar provision in the Senate amendment extended the existing authorization of $5,000,000 for both technical assistance and counseling pursuant to existing section 525 (a) and $5,000,000 for technical assistance loans for fiscal year 1980. The conference report contains the Senate provision with an amendment providing (1) $1.5 million for technical assistance grants of which not less than $750,000 must be used for counseling FmHA prepurchasers and delinquent borrowers; and (2) $1 million for technical assistance loans.

The conferees are aware that FmHA still has a serious delinquency problem that could be substantially reduced by providing counseling services to prospective and delinquent FmHA borrowers. FmHA may find it useful to review HUD's experience with such counseling. The conferees expect that counseling funds will be used to complement existing FmHA staff counseling capacity. The conferees further expect FmHA to allocate counseling funds to the field in accordance with the need generated by factors such as the volume of new loan activity, the extent of delinquencies and other similar factors. The conferees also urge FmHA to assure that organizations and agencies that are to provide prepurchase and delinquency counseling have expert counseling capacity and develop comprehensive counseling services, in addition to home ownership counseling, where such services are required in other housing assistance programs.

Sections 235 and 236 of the National Housing Act and section 8 of the U.S. Housing Act of 1937

The House bill contained a provision, not included in the Senate amendment, which added section 8 to the existing authorization for appropriation of sums as may be required to administer sections 235 and 236. The conference report adopts the House provision.

Mutual self-help grants and loans

The House bill included a provision which authorized an appropriation not to exceed $1 million for fiscal year 1980 for mutual and self-help housing loans and grants, while the Senate amendment contained a similar provision which authorized an appropriation for fiscal year 1980 of not in excess of $7,500,000. The conference report provides an authorization of $5 million for fiscal year 1980.

Mutual self-help site development loans

The Senate bill contained a provision which authorized for appropriation $3 million for the self-help development loan fund for fiscal year 1980, while the House bill did not include a similar provision. The conference report contains the Senate provision, amended to establish the amount authorized for appropriation at $1 million for fiscal year 1980.

HOAP FUNDING PROCESS

Limitation of contract authority for HOAP assistance

The House bill included a provision, not contained in the Senate amendment, which limited the amount of contract authority for home ownership subsidies to an aggregate amount of $985 million for fiscal year 1979 and $500 million for fiscal year 1980, as approved in appropriation acts; and which provides that no such assistance may be approved for any year after fiscal year 1980. The conference report adopts the House provision.

Authorization to reimburse RHIF

The House bill contained a provision, not included in the Senate amendment, which authorized to be appropriated such sums as may be necessary to reimburse the RHIF for

HOAP assistance payments. The conference report contains the House provision.

Loan limitations

The House bill contained a provision which deleted the existing limitation on the aggregate principal amount of loans made in connection with HOAP. The provision included in the Senate amendment provided that the existing limit of $440 million on the principal amount loans made in connection with HOAP shall apply to new loans made in any year. The conference report contains the House provision.

FMHA HOUSING LOAN INTEREST RATES

The House bill contained a provision not contained in the Senate amendment establishing the interest rate applicable to FmHA rural housing loan as the same as that which is applicable to HUD insured mortgages pursuant to section 203(b)(5) of the National Housing Act. The conference report contains the House provision, amended to maintain the interest rate at the level provided in existing law but to permit the Secretary to raise the interest rate to the maximum of the FHA 203(b) rate upon a finding that the borrower for any single-family or multifamily loan has the ability to pay such a rate.

DEFINITION OF LOW INCOME

The House bill contained a provision not contained in the Senate amendment which defined "persons of low income" and "persons and families of low income" as families and persons having incomes not exceeding 80 percent of the area median income as determined by the Secretary of the Department of Agriculture with adjustments for smaller and larger families; however, the House provision would have permitted the Secretary to establish income ceilings higher or lower than 80 percent upon finding such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes or other factors. The House provision further defined "income" as income from all sources of each member of the household in accordance with criteria established by the Secretary.

The conference report contains the House provision amended to provide that the Secretary may use State nonmetropolitan median income wherever he determines that it is impracticable to use median income for the area.

For the purposes of this section, nonmetropolitan median income for a substate district may be substituted for the median income for the area wherever it is determined appropriate by the Secretary.

LIMITATION ON RENTAL ASSISTANCE UNITS

The House bill contained a provision that increased the percentage of family units that may receive rental assistance from 20 to 40 percent of the units in a project. The Senate bill provided that up to 100 percent of the units in a project including units designated for families, the elderly, or farmworkers, may receive rental assistance, and established a priority for those projects in which 40 percent or less of the units receive rental assistance. The conference report contains the House provision with an amendment increasing from 20 to 70 percent the percentage of units that may receive rental assistance in FmHA rental projects and giving a priority to multifamily projects in which 40 percent or less of the units will receive rental assistance.

The conferees reaffirm their commitment to the objective of achieving, where feasible, an economic and social mix in projects receiving rental assistance. The conferees also recognize that market and economic conditions in some communities, particularly those with relatively low median income, may require the Secretary to exercise the authority contained in this section to permit rental assistance on a project-by-project basis in up to 100 percent of family units. The conferees expect that, in selecting rental projects that are to receive FmHA assistance, especially with respect to large rental projects to be occupied by families, the Secretary will give priority to projects in which 40 percent or less of the families will receive rental assistance.

Definition of rural area

The Senate amendment, but not the House bill, provided that the Secretary may waive the requirement that a community of between 10,000 and 20,000 persons must be outside of an SMSA in order to be eligible for FmHA programs, (1) if the community is eligible for assistance under section 119 of the Housing and Community Development Act of 1974 or other Federal programs targeted to areas of distress, and (2) if the application shows the rural character, need for low income housing, lack of mortgage credit, and lack of sufficient funding from other Federal housing programs in such community. The Senate provision is not contained in the conference report.

PREPAYMENT OF SECTION 514 AND SECTION 515 LOANS

The House bill contained a provision which required that, where the owner of a project covered by a section 514 or section 515 loan offers or is requested by the Secretary to prepay the mortgage loan, the Secretary may not accept such prepayment unless the owner or its successor is obligated to use the assisted housing for the purposes specified in section 514 and section 515 for the duration of the original loan repayment schedule, or until the Secretary determined there is no longer a need for such housing or that Federal or other financial assistance to the residents of such housing would no longer be provided.

The Senate amendment contained a similar provision, except that it (1) made a declaration of the intent of Congress to be that prepayment or refinancing under section 502(b) should not operate to deprive low-income occupants of rural rental or farm labor housing, of their right to continue residency in that housing, (2) provided that the Secretary shall require the borrower and any successors in interest: (a) to continue to use the housing for its original purposes for a 15-year period beginning on the date the loan is made or insured, and (b) to give assurance that prepayment won't force an occupant to vacate prior to the close of such 15-year period, except that the provision would not have applied where the Secretary determined there is no longer a need for such housing, and (3) limited the requirement to projects which are approved for section 514 and section 515 loans after the date of enactment.

The conference report contains the House provision amended to provide that, where the owner of a project covered by section 514 or section 515 loan offers to prepay the mortgage loan, the Secretary may not accept such prepayment unless the owner or its successor is obligated to use the assisted housing for the purposes specified in section 514 or section 515 for a period of 20 years from the date on which the loan was made, or for a period of 15 years from the date on which the loan was made in the case of housing which has not received interest credit, rental assistance or section 8 assistance, or until the Secretary determines there is no longer a need for such housing, or that Federal or other financial assistance to the residents of such housing will no longer be provided. But in the case of loans made prior to the date of enactment of this section, the Secretary shall accept offers to prepay after examining the offer and its likely consequences (a) unless the Secretary determines that due to a change in the use of such housing and related facilities, or to an increase in rental or other charges, likely to occur as a result of prepayment, the low and moderate income and elderly tenants occupying the assisted housing and related facilities at the time of such offer cannot reasonably be expected to remain in occupancy for such period, however, notwithstanding such a determination, the Secretary shall accept an offer to prepay if the tenants who are likely to be displaced as a result of such changes or increases will be provided with affordable, decent, safe, sanitary, and available alternative housing; or (b) in the case of housing and related facilities containing more than ten dwelling units, unless the Secretary determines that the changes likely to occur as a result of such prepayment will have a substantial adverse effect on the supply of affordable, decent, safe, and sanitary housing available to low and moderate income and elderly persons in the area in which such housing and related facilities are located.

In determining whether affordable housing will be available to low or moderate income or elderly tenants likely to be displaced by a prepayment, the Secretary shall only consider nonassisted housing units and such vacant assisted units for which there is no waiting list. If such housing is not available at the time of the request for a prepayment, or is not expected to be available at the time the prepayment would occur if approved by the Secretary, the Secretary nevertheless may approve a prepayment upon the finding condition that any such tenants who are not able to relocate into decent, safe and sanitary housing that they can afford will be allowed to remain in the project, at a rental charge not in excess of what they would have paid if the loan had not been prepaid, for such time as the Secretary shall determine, up until the expiration of the 15 or 20 year period, whichever is applicable, or until such housing becomes available, whichever first occurs.

TECHNICAL ASSISTANCE, COUNSELING, AND TRAINING

Counseling

The House bill contained a provision, not included in the Senate amendment, permitting the Secretary to allocate funds for the purpose of providing counseling to FmHA loan recipients. The conference report does not contain this provision.

Training for self-help housing agencies and organizations

The Senate amendment contained a provision that was not included in the House bill which authorizes grants to national or regional private nonprofit corporations for providing training and technical assistance to local public or nonprofit corporations, agencies and institutions, organizations and other associations eligible to receive funds under section 523 to provide to rural low income families technical assistance in constructing their homes. The conference report contains the Senate provision.

The conferees are aware that self-help housing activities require highly technical staff who have a broad knowledge of housing, construction, and related matters. Many local eligible self-help housing groups often are found to be in need of training and technical assistance to qualify new staff or to upgrade the knowledge of existing staff, however, they may not have the capability to provide such assistance from within. A number of national and regional groups involved in rural housing having special expertise in self-help housing could provide the training and technical assistance to such regional and local self-help groups if FmHA was permitted to provide them with the necessary funding.

The conferees expect that in providing such funding the Secretary will be mindful of the sizeable costs per unit that has been experienced in the self-help housing program and will utilize this assistance to aid in reducing those costs. It is further expected the Secretary will assure that the local and regional groups that receive the assistance provided herein will be selected for assistance on the basis of specific need criteria developed by FmHA to assure that those most in need of actual self-help construction training are given priority.

REFINANCING

The Senate and House bills both contained a provision to delete the prohibition in existing law barring FmHA from refinancing loans that are 5 years old or less. The House bill contained specific conditions not contained in the Senate amendment limiting refinancing (1) to circumstances in which the applicant will lose his home, at an early date, for reasons beyond his control, and (2) in the case of substandard dwellings, where the lack of refinancing is likely to result in the applicant continuing to be deprived of a decent, safe and sanitary dwelling. The conference report contains the House provisions.

The conferees, in approving the new refinancing authority, expect the Secretary to use the authority to assist rural home owners threatened with the loss of their homes or continuing housing deprivation under certain circumstances. At the same time, the conferees desire the Secretary to use the new authority prudently and in a manner that does not encourage borrowers to relax in managing their finances and fully meeting their loan obligations.

The conferees intend that the Secretary should provide applicants refinancing assistance where, because of illness, loss of employment or income resulting from a local or national economic downturn, or such other similar events or unforeseen circumstances, the applicant might lose the dwelling.

The conferees also expect the Secretary not to deny refinancing assistance to an applicant because his or her dwelling is not found to be dilapidated or uninhabitable. A deteriorating dwelling with major deficiencies in decent, safe and sanitary standards should, if otherwise eligible, be permitted to be refinanced.

PROPERTY DISPOSITION

The House bill required the Secretary to assure, in disposing of properties that are to be continued as residential, that such properties not be substandard before or within a reasonable time after such sale or disposition. The Senate amendment was similar except that it precluded the Secretary from such sale or disposition unless (1) the property meets FmHA standards for hability, (2) the purchaser is obligated to meet such standards before the property is occupied, or (3) the purchaser is precluded from using the property for residential purposes. The conference report contains the House provision, amended to require that such assurance be made prior to sale or disposition.

CONSTRUCTION DEFECTS

The House bill and the Senate amendment both contained provisions to extend by 18 months the period during which an FmHA assisted home owner could request assistance for construction defects, but the Senate amendment contained an additional provision extending from 18 to 36 months during which an owner assisted after October 12, 1977, could request such assistance. The conference report does not contain the additional Senate provision.

The conferees also express continuing concern about the problem of construction defects in FmHA assisted housing, and urge the Secretary to consider establishing a warranty program to protect homebuyers from construction defects.

Both the House bill and the Senate amendment approved extension of the period during which an FmHA assisted home owner could request assistance because it was found that some of the intended beneficiaries of the program were denied the full 18 months that Congress had initially provided.

FARM LABOR HOUSING

The Senate amendment contained two provisions dealing with farm labor housing not included in the House bill. The first provision would have authorized the Secretary to provide financial assistance, not exceeding 90 percent of total dévelopment cost, for the construction of farmworker housing that would be adequate for seasonal occupancy by migrant farmworkers. The second provision would have prohibited the Secretary from approving rental charges for farm labor housing that exceed 25 percent of the tenant's income unless the tenant is receiving housing assistance or a good faith effort has been made to secure such assistance.

The conference report contains the first provision with an amendment deleting the requirements concerned with the location of the housing and the availability of recreation in the area.

In adopting the provision authorizing the Secretary to aid in the construction of housing for migrant farmworkers, the conferees intend that the Secretary shall give appropriate recognition to the need for seasonally occupied housing, in addition to housing suitable for year-round occupancy. The conferees expect the Secretary to encourage sponsors under this program to provide housing that is safe, weatherproof, equipped with potable water, modern sanitation and such other reasonable amenities but also, wherever practicable, to provide sites which offer a safe and sanitary enivornment, and include areas appropriate for recreation purposes.

The conferees did not adopt the statutory language limiting rent payments in farmworker housing. The conferees expect the Secretary, before approving any rent increases, to give "due consideration to the income and earning capacity of the tenants", as specified in existing law, and to require applicants seeking such increases to make reasonable efforts to obtain FmHA or HUD rental assistance for tenants whose rental charges are likely to be excessive for low-income migrant farmworkers. The conferees further direct the Secretary to complete, in an expeditious manner, the study of Farmworker Housing Needs contained in the Housing and Community Development Amendments of 1978.

The conferees intend that if the housing for agricultural workers for which construction grants are made comes under the control of employers of such workers or of farm labor contractors, the Secretary of Labor's enforcement authority regarding the maintenance of such housing in safe and healthful conditions shall not be preempted.

SECTION 504 LOAN CEILINGS

The Senate amendment contained a provision not included in the House bill to increase from $5,000 to $7,500 the limit for a section 504 home repair loan or a combined loan and grant. The conference report contains the Senate provision.

The conferees intend that section 504 loans and grants be used to assist all eligible very low-income families and individuals to meet their housing repair needs. The conferees recognize that by limiting the use of section 504 loans and grants exclusively to the very low-income elderly, the present program is failing to serve the very real needs of non-elderly very low-income families and individuals. These needs have substantially increased in recent months as a result of the rising home heating costs and the need of many very low-income families to weatherize their homes. The conferees do not intend that the Secretary de-emphasize the program for elderly persons but rather that the Secretary also consider the needs of other very low-income families in carrying out the program.

ALLOCATION OF ASSISTANCE

The Senate amendment contained a provision not contained in the House bill which provided that notwithstanding any other provision of law in each fiscal year, at least 30 percent of the eligible households assisted under the Farmers Home Administration programs must have incomes below 50 percent of the national median income, and no more than 15 percent of the eligible households assisted may have incomes above 80 percent of the national median income, except that the percentage requirements of this section would have applied to State or area median income rather than national median income in those States or areas with extremely high prevailing incomes, as determined by the Secretary.

The conference report contains the Senate provision amended to provide that at least 30 percent of the assistance made under the Farmers Home Administration in any fiscal year shall, to the extent practicable, benefit persons with incomes below 50 percent of the area median income. The conferees believe that the Farmers Home Administration should strive to achieve the 30 percent goal, but acknowledge that funding limitations and cost constraints could limit its ability to do so.

The conferees intend that in implementing this provision, the Secretary take reasonable steps to assure that funds are provided to meet existing formal or conditional commitments where subdivisions have been approved by FmHA and the houses have been constructed and inspected and appraised by FmHA.

SECTION 524 SITE-DEVELOPMENT LOANS

The House bill contained a provision, not included in the Senate amendment, which allowed the Secretary to make loans to public or private nonprofit organizations for site development for residential housing without regard to whether such housing will be eligible for assistance under federal, state or local law. This provision is not included in the conference report.

TITLE VI—MISCELLANEOUS

AUTHORITY

The House bill contained a provision not contained in the Senate amendment providing that any amendment made by this Act which creates new budget authority shall become effective on October 1, 1979. The conference report does not contain the House provision.

TREATMENT OF SOCIAL SECURITY BENEFIT INCREASES

The House bill contained a provision not contained in the Senate amendment which provides that Social Security benefit increases occurring after May 1979, shall not be considered as income or resources or otherwise taken into account for purposes of determining the eligibility for or amount of assistance which any individual or family is provided under the U.S. Housing Act of 1937, the National Housing Act, the HUD Act of 1965, or the Housing Act of 1949; which defines the term "Social Security benefit increases occurring after May, 1979", and which provided that this section shall be effective only with respect to housing assistance which is provided for period after September 30, 1979. The conference report does not contain the House provision.

FEDERAL INSURANCE ADMINISTRATION

Crime and riot insurance

New insurance.—The Senate amendment contained a provision not found in the House bill extending the powers of the Secretary to provide new crime insurance and riot reinsurance through September 30, 1981. The conference report contains the Senate provision.

Existing insurance.—The Senate amendment contained a provision not in the House bill authorizing the Secretary to continue existing crime insurance and riot reinsurance coverage through September 30, 1984. The conference report contains the Senate provision as amended to require that the liquidation plans be submitted no later than September 30, 1981.

Flood insurance

New insurance.—The Senate amendment contained a provision not in the House Bill authorizing the Secretary to provide new flood insurance coverage through September 30, 1981.

Emergency program.—The Senate amendment contained a provision not in the House bill extending through September 30, 1981 authority to provide subsidized flood insurance under the emergency program in communities for which no actuarial rates and elevation studies have been completed.

Authorization for studies.—The Senate amendment contained a provision not in the House bill authorizing to be appropriated for flood elevation studies not to exceed $74 million for fiscal year 1980.

Transfer of position of Federal Insurance Administrator

The Senate amendment contained a provision not contained in the House bill transferring the position of Federal Insurance Administrator from HUD to the Federal Emergency Management Agency. The conference report contains the Senate provision.

Study of impact of flood insurance program

The Senate amendment contained a provision not contained in the House bill directing the Federal Insurance Administrator, in consultation with the Army Corps of Engineers, the Appalachian Regional Commission, and other appropriate agencies to carry out a study identifying: (1) the extent to which individual political jurisdictions have significant concentrations of population, businesses, and other commercial and public facilities within special flood hazard studies under the flood insurance program, but have limited availability of alternatives sites for development, and (2) the impact of the flood insurance program on property values, tax base, and economic activity in such jurisdictions and shall report to the Congress not later than March 1, 1989, on the special problems of such jurisdictions and alternative means of meeting the problems identified. The alternative means to be considered shall include, but not be limited to, technical assistance, long term subsidized loans and alternative building sites. The conference report does not contain this provision.

The conferees are informed that the Federal Insurance Administrator is currently conducting such a study of flood insurance impact, particularly in those areas with limited alternative sites for development both within and without the flood hazard areas. The conferees understand that the Administrator is working together with the Corps of Engineers on this study and urges her to work jointly with the Appalachian Regional Commission and other appropriate state and local agencies. The conferees would urge the Administrator to complete this study and report her recommendations to the Congress by March 1, 1980.

HENRY S. REUSS,
THOMAS L. ASHLEY,
WILLIAM S. MOORHEAD,
FERNAND J. ST GERMAIN,
HENRY GONZALEZ,
WALTER E. FAUNTROY,
JERRY M. PATTERSON,
LES AUCOIN,
STANLEY LUNDINE,
BRUCE F. VENTO,
BILL STANTON,
CHALMERS WYLIE,
STEWART MCKINNEY,
TOM EVANS,

For consideration of provisions relating only to title IV and Senate modifications relating thereto:

JOE MINISH,
CARROLL A. CAMPBELL, Jr.,
Managers on the Part of the House.

WILLIAM PROXMIRE,
HARRISON WILLIAMS,
ALAN CRANSTON,
JOHN TOWER,
Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CHENEY) to revise and extend their remarks and include extraneous material:)

Mr. COURTER, for 10 minutes, today.

Mr. PAUL, for 15 minutes, December 18, 1979.

(The following Members (at the request of Mr. BEILENSON) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. ULLMAN, for 5 minutes, today.

Mr. LELAND, for 60 minutes, on December 20.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. CHENEY) and to include extraneous material:)

Mr. CLINGER.
Mr. WYDLER.
Mr. KEMP.
Mr. MICHEL in four instances.
Mr. BADHAM.
Mr. FINDLEY.
Mr. RITTER in three instances.
Mr. HOPKINS.
Mr. TAUKE.
Mr. SHUMWAY.
Mr. GILMAN.
Mr. RUDD.
Mr. ROTH in two instances.
Mr. BEREUTER.
Mr. EDWARDS of Oklahoma.
Mr. DANIEL B. CRANE.
Mr. PAUL in six instances.
Mr. CARTER.
Mr. COLLINS of Texas in two instances.

(The following Members (at the request of Mr. BEILENSON) and to include extraneous matter:)

Mr. APPLEGATE.
Mr. HAMILTON.
Mr. LAFALCE in three instances.
Mr. LELAND.
Mr. LUKEN in two instances.
Mr. OTTINGER.
Mr. WOLFF in two instances.
Mr. NOLAN in two instances.
Mr. MICA.
Mr. DOWNEY.
Mr. SATTERFIELD.
Mrs. CHISHOLM.
Mr. SANTINI.
Mr. STARK.
Mr. PATTERSON in three instances.
Mr. BRADEMAS in two instances.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 1227. An act for the relief of Munir P. Benjenk; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1888. An act for the relief of Kenneth and Jacqueline Traylar;

H.R. 1889. An act for the relief of Naomi Chen;

H.R. 2532. An act for the relief of Gail Williamson; and

H.R. 2594. An act for the relief of Lunette Joyce Clarke.

ADJOURNMENT

Mr. AUCOIN. Mr. Speaker, I move that the House do now adjourn.

The motion was ageed to; accordingly (at 6 o'clock and 17 minutes p.m.), under its previous order, the House adjourned until tomorrow, Friday, December 14, 1979, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3016. A letter from the District of Columbia Auditor, transmitting copies of four reports issued by his office, pursuant to section 455 of Public Law 93-198; to the Committee on the District of Columbia.

3017. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by H. Carl McCall, Alternate Representative-designate of the United States for Special Political Affairs in the United Nations, with the rank of Ambassador, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

3018. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Sidney Rand, Ambassador-designate to Norway, and by members of his family, pursuant to section 6 of Public Law 93-126; to the Committee on Foreign Affairs.

3019. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice of the State Department's intention to consent to a request by the Government of the Federal Republic of Germany for permission to transfer certain U.S.-origin defense articles to Governments of Greece and Turkey, pursuant to section 3(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3020. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Army's intention to offer to sell certain defense services to Saudi Arabia (Transmittal No. 80-25), pursuant to section 36(b) of the Arms Export Control Act; to the Committee on Foreign Affairs.

3021. A letter from the Deputy Assistant Secretary of State for Congressional Relations, transmitting notice of proposed changes in an existing records system maintained by the National Security Agency, pursuant to 5 USC 552a(o); to the Committee on Government Operations.

3022. A letter from the Assistant Attorney General for Administration, transmitting notice of a proposed new records system for the Immigration and Nautralization Service, pursuant to 5 USC 552a(o); to the Committee on Government Operations.

3023. A letter from the Administrator of General Services, transmitting a draft of proposed legislation to amend section 5702 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses of Government employees on official travel; to the Committee on Government Operations.

3024. A letter from the Acting Secretary of the Interior, transmitting notice of the proposed refund of $5,178.47 in excess gas royalties to the CNG Producing Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3025. A letter from the Acting Secretary of the Interior, transmitting notice of the proposed refund of $7,292.45 in excess gas royalty payments to the Forest Oil Corp., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3026. A letter from the Acting Secretary of the Interior, transmitting notice of the proposed refund of $26,214.76 in excess gas royalty payments to Texaco Inc., pursuant to section 10(b) of the Outer Continental Shelf Lands Act of 1953; to the Committee on Interior and Insular Affairs.

3027. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

3028. A letter from the Assistant Secretary of the Army (Civil Works), transmitting a final environmental impact statement on Imperial Beach erosion control, San Diego County, Calif., pursuant to section 404(r) of the Federal Water Pollution Control Act, as amended; to the Committee on Public Works and Transportation.

3029. A letter from the Comptroller General of the United States, transmitting a report on the Federal Government's in-house energy conservation efforts (EMD-80-11, December 12, 1979); jointly, to the Committees on Government Operations, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PRICE: Committee of conference. Conference report on S. 673 (Report No. 96-702). Ordered to be printed.

Mr. ZEFERETTI: Committee on Rules. H. Res. 506. A resolution providing for the consideration of H.R. 5980. A bill to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes (Report No. 96-703). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. Report of the Committee on Ways and Means, relating to section 302(b) allocation, the Second Concurrent Budget Resolution for fiscal year 1980 (Report No. 96-704). Referred to the Committee of the Whole House on the State of the Union.

Mr. SMITH of Iowa: Committee of conference. Conference report on S. 918 (Report No. 96-705). Ordered to be printed.

Mr. REUSS: Committee of conference. Conference report on H.R. 3875 (Report No. 96-706). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

By Mr. VAN DEERLIN (for himself, Mr. Staggers, Mr. Murphy of New York, Mr. Wirth, Mr. Markey, Mr. Mottl, Mr. Swift, Mr. Luken, Mr. Gore, Mr. Matsui, Mr. Broyhill, Mr. Collins of Texas, Mr. Moorhead of California, Mr. Marks, and Mr. Loeffler):

H.R. 6121. A bill to amend the Communications Act of 1934 to make certain revisions in the provisions of such act relating to the regulation of telecommunications activities; to the Committee on Interstate and Foreign Commerce.

By Mr. CORRADA:

H.R. 6122. A bill to amend title 5 of the United States Code to provide for the transportation of remains, dependents, and effects of certain Federal employees whose homes or official stations are located in parts of the United States outside the continental United States, and for other purposes; to the Committee on Government Operations.

H.R. 6123. A bill to clarify certain definitions used in the Shipping Act, 1916; to the Committee on Merchant Marine and Fisheries.

By Mr. COURTER:

H.R. 6124. A bill to amend title XVI of the Social Security Act to provide that the income and resources of parents shall not be attributed to their children (for purposes of determining the eligibility of such children for SSI benefits) in certain cases where the payment of such benefits is necessary to enable the parents to provide disability-related home care without which the children would require continued institutionalization; to the Committee on Ways and Means.

By Mr. DEVINE:

H.R. 6125. A bill to amend the Safe Drinking Water Act; to the Committee on Interstate and Foreign Commerce.

H.R. 6126. A bill to amend the Internal Revenue Code of 1954 to exclude from gross income any commuter passes received by an employee from an employer; to the Committee on Ways and Means.

By Mr. LEACH of Iowa:

H.R. 6127. A bill to amend the Internal Revenue Code of 1954 to deny the foreign tax credit with respect to certain amounts paid to oil cartel countries; to the Committee on Ways and Means.

H.R. 6128. A bill to limit investment in the United States by nations which are members of an oil cartel, and by the residents and other legal entities of such nations, and for other purposes; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Interstate and Foreign Commerce.

H.R. 6129. A bill to provide for acceleration of U.S. Government purchases of crude oil for the strategic petroleum reserve and for participation by the private sector in establishing and maintaining said reserve; to the Committee on Interstate and Foreign Commerce.

H.R. 6130. A bill to provide that major petroleum producers, refiners, and marketers may not acquire any business (or interest therein) which is outside of the petroleum industry while the United States is dependent on foreign energy sources; jointly, to the Committees on Interstate and Foreign Commerce, and the Judiciary.

H.R. 6131. A bill to prohibit any person from raising as a defense to any proceeding commenced under the laws of the United States that such person was compelled by a foreign state to take the action which is the basis of the proceeding; to the Committee on the Judiciary.

H.R. 6132. A bill to amend the act of February 25, 1920, commonly known as the Mineral Leasing Act, to require competitive bidding for leases on Federal lands with oil or gas deposits, to require diligent exploration for, and development and production of, such oil or gas deposits, to limit the assignment of leases of lands with such deposits, and for other purposes; to the Committee on Interior and Insular Affairs.

H.R. 6133. A bill to amend the Bretton Woods Agreements Act to authorize the actions necessary to establish a substitution account in the International Monetary Fund; to the Committee on Banking, Finance and Urban Affairs.

H.R. 6134. A bill to amend section 207 of title 18 of the United States Code to extend from 2 to 5 years the prohibition on former officers and employees of the United States representing persons before the United States if such persons are foreign governments or instrumentalities of foreign governments and to apply such prohibition to former Members of Congress; to the Committee on the Judiciary.

By Mr. LLOYD (for himself, Mr. McDonald, Mr. Clay, Mr. Dornan, Mr. Whitehurst, Mr. Dan Daniel, Mr. Duncan of Tennessee, Mr. Ertel, Mr. Bafalis, Mr. Gudger, Mr. Symms, Mr. Dickinson, Mr. Stangeland, Mr. Solomon, Mr. Jenrette, Mr. Hughes, Mrs. Spellman, Mr. Tauke, Mr. Frost, Mr. Cleveland, Mr. Danielson, Mr. Broyhill, Mr. Chappell, Mr. Guyer, Mr. Stack, Mr. Sawyer, Mr. Roe, Mr. Rousselot, Mr. Snyder, Mr. Derwinski, Mr. Lujan, Mr. McCloskey, Mr. Charles Wilson of Texas, Mr. Mathis, Mr. Collins of Texas, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Burgener, Mr. Mineta, Mr. Edwards of Oklahoma, Mr. Bedell, Mr. Campbell, Mr. Coughlin, Mr. Royer, Mr. Gray, Mr. Erdahl, Mr. Anthony, Mr. Fazio, Mr. Garcia, Mr. Murphy of Pennsylvania, Mr. Bevill, and Mr. Evans of Georgia):

H.R. 6135. A bill to amend the Internal Revenue Code of 1954 to allow a credit against income taxes for expenses incurred as a result of an income tax audit, in any case in which the taxpayer is not liable for more taxes as the result of such audit; to the Committee on Ways and Means.

By Mr. PERKINS (for himself and Mr. Andrews of North Carolina):

H.R. 6136. A bill to amend the Economic Opportunity Act of 1964 to establish a comprehensive energy conservation services program designed to enable low-income individuals and families, and severely handicapped individuals, to participate in energy assistance programs; jointly, to the Committees on Education and Labor, Banking, Finance and Urban Affairs, Interstate and Foreign Commerce, and Science and Technology.

By Mr. SHUMWAY:

H.R. 6137. A bill to convey certain interests in public lands to the City of Angels, Calif.; to the Committee on Interior and Insular Affairs.

By Mr. STARK:

H.R. 6138. A bill to extend the period for congressional review of the act passed by the Council of the District of Columbia entitled "The Location of Chanceries Amendment Act of 1979"; to the Committee on the District of Columbia.

By Mr. TRAXLER:

H.R. 6139. A bill to amend title XIV of the Public Health Service Act to authorize States with primary enforcement responsibility for drinking water standards to grant variances from turbidity requirements for certain public water systems; to the Committee on Interstate and Foreign Commerce.

By Mr. ULLMAN (for himself, Mr. Rostenkowski, and Mr. Conable):

H.R. 6140. A bill to prevent the abuse of certain pension plan provisions of the Internal Revenue Code of 1954 through the use of separate corporations or other organizations; to the Committee on Ways and Means.

By Mr. DONNELLY:

H.J. Res. 464. Resolution designating June 15, 1979 as "National Prayer Day for the Vietnam Dead and Missing"; to the Committee on Post Office and Civil Service.

By Mr. HYDE:

H.J. Res. 465. Resolution proposing an amendment to the Constitution of the United States to establish a 12-year term of office for judges of the Supreme Court; to the Committee on the Judiciary.

By Mr. LEACH of Iowa:

H. Con. Res. 227. Concurrent resolution expressing the sense of the Congress that the President should act immediately to reduce the power of the Organization of Petroleum Exporting Countries to control the supply and price of oil and should act to reduce the vulnerability of the United States to a cutoff or decrease of oil supplied by the member countries of that organization; jointly, to the Committees on Banking, Finance and Urban Affairs, Foreign Affairs, Interior and Insular Affairs, and the Judiciary.

By Mr. STARK (for himself, Mr. Charles Wilson of Texas, Mr. Zablocki, Mr. Broomfield, Mr. Fascell, Mr. Brooks, and Mrs. Fenwick):

H. Con. Res. 228. Concurrent resolution to disapprove the Location of Chanceries Amendment Act of 1979 passed by the Council of the District of Columbia; to the Committee on the District of Columbia.

By Mr. LEACH of Iowa (for himself, Mr. Pritchard, Mr. Derwinski, Mr. Oberstar, Mr. Dodd, Mr. Beilenson, Mr. Stark, Mr. Whitehurst, Mr. Bedell, Mr. McDonald, Mr. Barnes, Mr. Bonior of Michigan, Mr. McCloskey, Mr. Scheuer, Mr. Hughes, Mr. Dougherty, Mr. Lagomarsino, Mr. AuCoin, Mr. Gilman, Mr. Neal, Mr. Whittaker, Mr. Edwards of Oklahoma, Mr. Pease, Mrs. Fenwick, Mr. McHugh, Mr. Mitchell of Maryland, Mr. Green, Mr. Dicks, Mr. Panetta, Mr. Tauke, Mr. Kramer, Mr. Thompson, Mr. Daschle, Mr. Frenzel, Mr. Albosta, Mr. Fazio, Mr. Bingham, Mr. Solarz, Mr. Pepper, Mr. Ottinger, Mr. Carney, and Mr. Lowry):

H. Res. 507. Resolution condemning the use of chemical agents in Indochina; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HALL of Ohio introduced a bill (H.R. 6141) for the relief of Fanny R. Ypola McCarthy; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 3766: Mr. Beard of Rhode Island.

H.R. 4312: Mr. Beard of Rhode Island.

H.R. 5018: Mr. Wyatt, Mr. Bowen, Mr. Young of Alaska, Mr. Lott, Mr. Frenzel, Mr. Derwinski, and Mr. Charles Wilson of Texas.

H.R. 5209: Mr. Conte, Mr. Boland, Mr. Drinan, Mr. Shannon, Mr. Markey, Mr. Moakley, Mrs. Heckler, Mr. Studds, Mr. Mavroules, Mr. Dodd, Mr. Giaimo, Mr. McKinney, Mr. Ratchford, Mr. Beard of Rhode Island, Mr. St Germain, Mr. Jeffords, and Mr. Emery.

H.R. 5257: Mr. Bedell, Mr. Burgener, Mr. Coelho, Mr. Collins of Texas, Mr. Dan Daniel, Mr. Dornan, Mr. Erdahl, Mr. Fauntroy, Mr. Fazio, Mr. Frenzel, Mr. Hance, Mr. Hughes, Mr. Lagomarsino, Mr. Leach of Louisiana, Mr. Lott, Mr. Marriott, Mr. Montgomery, Mr. Marks, Mr. Mottl, Mr. Neal, Mr. Stanton, and Mr. Whittaker.

H.R. 5362: Mr. Seiberling, Mr. McDade, Mr. Mineta, Mr. Mavroules, and Mr. Murphy of Pennsylvania.

H.R. 5371: Mr. Buchanan, Mr. Kogovsek, Mr. Symms, Mr. White, Mr. Young of Alaska, Mr. Trible, Mr. Livingston, Mr. Vento, Mr. Grassley, Mr. Pritchard, Mr. Davis of Michigan, Mrs. Byron, Mr. Hance, Mr. Hinson, Mr. English, Mr. Goldwater, Mrs. Fenwick, Mr. Marks, Mr. Wyatt, and Mr. Mitchell of New York.

H.R. 5477: Mr. Addabbo and Mr. Mitchell of New York.

H.R. 5499: Mr. Grisham, Mr. Zablocki, Mr. Thomas, Mr. Vento, and Ms. Oakar.

H.R. 5862: Mr. Corcoran, Mr. Butler, and Mr. Lott.

H.R. 5983: Mr. Oberstar.

H.R. 6021: Mr. Hughes, Mr. Derrick, and Mr. Vanik.

H.R. 6070: Mr. McCormack and Mr. Duncan of Oregon.

H.R. 6109: Mr. Cotter and Mr. Sharp.

H. Con. Res. 201: Mr. Gingrich, Mrs. Smith of Nebraska, Mr. Sebelius, Mr. Runnels, Mr. Devine, Mr. Daniel B. Crane, Mr. Kindness, Mr. Benjamin, Mr. Mottl, Mr. Duncan of Tennessee, Mr. Stenholm, Mr. Robert W. Daniel, Jr., Mr. Dornan, and Mr. Trible.

PETITION, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were presented and referred as follows:

251. By the SPEAKER: Petition of the city council, Garfield, N.J., relative to Iran; to the Committee on Foreign Affairs.

252. By the SPEAKER: Petition of the American University Democrats, Washington, D.C., relative to Iran; to the Committee on Foreign Affairs.

253. By the SPEAKER: Petition of the 44th convention of the Operative Plasterers' and Cement Masons' International Association of the United States and Canada, New Orleans, La., relative to Northern Ireland; to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5860

By Mr. MAGUIRE:

(In the nature of a substitute.)

—Section 11 is amended by inserting after paragraph (b), the following:

(c) The Secretary of Transportation shall conduct a study to determine the feasibility of federal, state, and local governments, and private corporations contracting over the next three to five years with the Chrysler Corporation or any other manufacturer or group of manufacturers for the purchase of advanced alternatives to existing automobiles which can be manufactured at reasonable cost with the best conservation, safety, and environmental characteristics of the experimental motor vehicles designed by the National Highway Traffic Safety Administration. The purpose of the study would be to assess the feasibility of manufacturing advanced automobiles which would be available for a broad market beginning with federal, state, and local government procurement and corporate fleet purchase in order to:

1. Substantially advance innovative automobile safety technology and fuel efficiency;

2. Reduce the Nation's dependence of foreign oil;

3. Protect the Nation against trade and balance of payments deficits incurred by excessive domestic sales of imported automobiles;

4. Enhance and facilitate competition in advanced development and production techniques, including the use of quality control circles, in the automobile industry;

5. Provide increased opportunities for employment within the United States; and

6. Assure that safety needs are met at the same time that automobiles become lighter and smaller to assure fuel efficiency.

The Secretary shall report the results of his study to the Board, with his recommendations, not later than six months after the enactment of this Act.

Section 11, paragraph (c) is redesignated paragraph (d) and amended by striking the word "study" and inserting in lieu thereof the word "studies".

By Mr. MICA:

—Page 26, line 14, insert "(1)" after "(c)".

Page 27, after line 3, insert the following:

(2)(A) During the period beginning on December 31, 1990, and ending on December 31, 2000, each borrower shall pay to the Secretary, at a rate determined by the Secretary, an additional guarantee fee in an amount determined by the Secretary to equal the amount by which the total debt service costs (including all guarantee fees) of such borrower under all loans guaranteed for such borrower under this Act is less than the total debt service costs which such borrower would have incurred if such borrower had secured such loans at the market rate of interest through private credit markets.

(B) For purposes of this paragraph, the term "market rate of interest" means the rate of interest charged on a loan to an enterprise which, at the time of such loan, is financially viable and has approximately the same assets as the borrower.

By Mr. PATTERSON:

(Amendment to the Moorhead amendment in the nature of a substitute.)

—Section 13, insert the following new subsection:

(c) The Secretary of the Treasury in consultation with the Secretary of Defense shall conduct a study regarding the possibility of establishing the Tank Division of the Chrysler Corporation as an independent corporation which is not financially dependent upon the Chrysler Corporation. Such study shall consider the potential advantages and disadvantages which establishing such a corporation would have on the tank production program of the United States Army and the operation of the Chrysler Corporation. Not later than 180 days after the date of the enactment of this Act, a report shall be transmitted to the Congress containing the findings and conclusions of such study and such recommendations regarding the establishment of such corporation as the Secretary of the Treasury and the Secretary of Defense consider appropriate.

By Mr. SOLOMON:

(To the amendment in the nature of a substitute to H.R. 5860.)

—On page 21, section 11(a), line 17, after "1980's" insert the following: "the economic impact on the industry of Federal regulatory requirements and the necessity thereof,".

H.R. 5980

By Mr. WALKER:

—Strike out all from line 20 on page 57 through line 6 on page 58 inclusive.

Renumber succeeding sections accordingly.

—On page 73, strike out lines 3 through 14 inclusive.

Renumber succeeding sections accordingly.

SENATE—*Thursday, December 13, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 12 meridian, on the expiration of the recess, and was called to order by Hon. JOSEPH R. BIDEN, JR., a Senator from the State of Delaware.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal Father, when the way is hard and the hours long, we come to Thee, the Great Burden Bearer who never leaves us nor forsakes us. When we are unmindful of Thee remind us of Thy nearness, Thy wisdom, Thy strength, Thy grace. Take us as we are, reinforce us by Thy spirit and use us in shaping those policies and programs which best enhance the well-being of this Nation and move forward Thy kingdom on Earth. We ask not to be delivered from our work but for strength with which to do it. When evening comes, grant us hearts at peace, bodies at rest, and minds being renewed for greater service in Thy kingdom.

And to Thee shall be the praise and the thanksgiving. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 13, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOSEPH R. BIDEN, JR., a Senator from the State of Delaware, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BIDEN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

Mr. WEICKER. I object.

The ACTING PRESIDENT pro tempore. The objection is heard.

U.S. NATIONAL SECURITY POLICY

Mr. ROBERT C. BYRD. Mr. President, two important developments occurred Wednesday which should have a major bearing on U.S. defense posture.

In Brussels, the North Atlantic Treaty Organization gave formal approval to the proposal for theater nuclear force (TNF) modernization. This decision represents a significant and necessary step in maintaining NATO's deterrent capability and in countering Soviet advances in theater nuclear forces.

Meanwhile, President Carter, in a major statement on U.S. defense policy, outlined other steps being taken to strengthen our national security.

President Carter called for a steady and sustained growth in defense spending over the next 5 years. As the President states, the steady buildup by the Soviets calls for a calm, deliberate, and sustained American response, and that is what the President is proposing.

Today, Secretary of Defense Harold Brown will brief the Committee on Armed Services on the highlights of the proposed fiscal year 1981 budget and the 5-year defense program. This preview of the budget and 5-year plan marks probably the first time the Senate has received such a briefing prior to formal submission, but it is an important step within the context of the SALT II debate.

The Committee on Armed Services and the Senate will, of course, be taking a detailed look at the budget proposals in the months ahead.

I have consistently advocated a prudent, balanced modernization of our overall defense program, and I believe the plan outlined by President Carter and Secretary Brown moves us in that direction.

I do not favor "throwing" money at our defense problems. That is not a sound approach, and I do not believe the Congress would ever agree to anything other than a careful, reasoned, and sound defense program. We have to keep in mind the other pressing claims on our national resources, particularly the areas of energy, health, and social welfare. As President Carter pointed out, we must have a long-range, balanced approach to the allocation of Federal expenditures. We have to continue to meet such critical needs as jobs, housing, education, and health.

The defense program proposed by the administration will result in significant increases in defense spending, but will not increase the percentage of our gross national product devoted to defense, which will remain steady at about 5 percent.

I spoke in the Senate earlier this week on the steps we need to take to strengthen the international position of the United States in the 1980's—in foreign and defense policy, and in the critical area of energy and economic policy.

A key element in this overall approach is the SALT II treaty. I strongly concur with President Carter that we must act in both arms control and defense, and that these actions are vital to our national security.

There may be areas in which I would support the higher figure for our defense spending on a selective basis after a study and hearings, and listening to debate, than are included in the preview that is being given to Congress by the administration.

I have repeatedly stated—but I do not think the point can be made too often—that SALT II constitutes a positive contribution to our national security. Not only can we better maintain strategic equivalence with SALT II, but we will be in a better position to maintain the efficiency and readiness of our nonnuclear forces with SALT II than without it. We can better control the proliferation of nuclear weapons among other nations if SALT II is ratified.

Furthermore, SALT II is important to our NATO allies. The approval of SALT II, combined with Wednesday's decision on TNF modernization, will greatly bolster the unity and overall capability of our North Atlantic alliance.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The acting minority leader is recognized.

HOUSE MINORITY LEADER JOHN J. RHODES

Mr. STEVENS. Mr. President, yesterday my good friend and colleague in the Republican joint leadership, Congressman JOHN J. RHODES, announced his decision to seek reelection to the House of Representatives.

This bit of good news has been greeted enthusiastically by those of us who have been fortunate enough to work closely with this dedicated and hard-working Member of Congress. He has served the people of his State with distinction for over 28 years now and I know that Arizonans will welcome the news that he has decided to remain a vital part of their delegation.

It was also learned, however, that Congressman RHODES has decided to step down as chief spokesman for House Republicans effective next Congress. He has left the options open to him as far as a final decision with respect to the leadership post is concerned by stating his intention to run for House Speaker in the event Republicans win control in the upcoming elections.

Congressman RHODES has held the position of minority leader since 1973, assuming his role upon the departure of Representative Jerry Ford who left to become Vice President under Richard Nixon. His previous leadership ability had been proven during his stint as chairman of the House Republican Policy Committee. Since that time he has achieved a deserved reputation as an effective, well-respected leader.

Many innovative policies were initiated under Congressman RHODES' leadership. He developed the concept of a legislative agenda which set out a format outlining Republican goals for each new Congress, in addition to detailing how these goals were to be achieved. Another innovation he contributed was the task force idea. This successful practice provided a forum for the freshman Member to take a lead in areas of interest to him that would have been foreclosed had he had to pursue the normal majority-controlled committee assignment procedure.

It is not surprising that, under Congressman RHODES' leadership service, House Republicans have become an influential group able to play an active role in legislative matters. He has been very successful in promoting tax-cutting measures and in welding together a unified Republican front, a feat difficult to achieve by any leader these days.

Many in the press have perceived his decision to step down as leader as a sign of weakness. I think these members of the press will be proven wrong in writing his political obituary.

Perhaps his greatest contribution to the party has been in working toward the goal of achieving a majority Congress. It is this end that has promoted his decision to relinquish the leadership post he has held for the past 6 years. I am convinced that we will be hearing more than ever from him now that he has the time to devote to his cause.

Although I am sorry that he will not be joining us in the leadership in 1981, I am confident in knowing that he will remain a potent force in Republican politics for years to come. On behalf of all Republicans in the Senate, let me thank him for providing us with the kind of leadership that has made us proud to be members of the Grand Old Party.

Frankly it would not surprise me, knowing his commitment to a given task, if we were to say goodbye to him as House minority leader in 1980 and hello to him as Speaker of the House in 1981.

RECOGNITION OF SENATOR SCHMITT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico is recognized.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield without losing his right to the floor?

Mr. SCHMITT. Mr. President, I yield to the distinguished majority leader without losing my right to the floor for the purpose of——

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. I should like to ask unanimous consent that the 1 hour of time under the cloture rule be divided between the distinguished Senator from Louisiana and myself, with the understanding, of course, that the Senator from New Mexico is going to speak and, as far as I am concerned, I should be very happy——

Mr. SCHMITT. Mr. President, the Senator from New Mexico requires only 5 or 10 minutes—I would say only 10 minutes and shall probably not use that. I shall be happy to agree.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the Senator will allow me, that the time under the hour be equally divided between Mr. DOLE and myself, with the exception of 15 minutes.

Mr. SCHMITT. Ten minutes will be enough.

Mr. ROBERT C. BYRD. It will be entirely under the control of the Senator from New Mexico.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

INCREASED SAVINGS AND INVESTMENT NEEDED FOR GROWTH IN THE 1980'S

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, this morning, I should like to discuss briefly a matter peripheral to the issue of the minimum tax but not unrelated to it; namely, the issue of increased savings and investment that is needed for growth in the 1980's.

Of course, as we withdraw greater and greater tax revenues from the economy—which I think is unfortunate—we must also look for ways in which we can return money to the economy so that it can grow.

Mr. President, I intend to offer two amendments, Nos. 884 and 885, to the Bentsen savings and dividend exemption amendment No. 735 when it is brought up for consideration on the floor. My amendments are designed simply to broaden the exemptions contained in amendment 735 and in no way to change its concept. They are not at all in conflict with the objectives of that amendment and its many cosponsors, of which I am one.

My first amendment would expand the limited Bentsen $200 exemption for individuals to $500 by 1984 and would increase the exemption for couples filing joint returns from $400 to $1,000 in the same time period. The following chart lays out the schedule for these changes:

	FY 81	FY 82	FY 83	FY 84
Individual	200	300	400	500
Joint	400	600	800	1,000

The second amendment would encourage a higher rate of saving and investment by providing a scheduled increase in the amount of interest and dividend income above the ceiling set in the Bentsen amendment that would be exempt from taxation. The primary beneficiaries will be retirees dependent on interest and dividend income, and those small savers of working age with the will to save and invest.

The second amendment would add a 25-percent exclusion from tax of all interest and dividends earned above the levels covered by the Bentsen amendment. That is, in addition to the Bentsen amendment exclusion of 100 percent of the first $200/$400 of interest and dividend income on single/joint tax returns respectively, there would be a 25-percent exclusion of all additional interest and dividends. This would be phased in at 5 percent a year over a period of 5 years beginning in fiscal year 1981. The saving to the taxpayer would be about $1 billion in the first fiscal year and $5 to $7 billion when fully operative.

I should say that the advantage to the Federal Treasury will be that those savings and dividends, if so excluded, will further increase the production of goods and services during that same time period, resulting in increased employment and additional tax revenues to the Federal Treasury. If history is any indication, these additional revenues will offset a significant proportion of the $5 to $7 billion annually that the Treasury would not receive because of the exclusion.

The United States has the lowest rate of saving in the Western World, resulting in the lowest rate of productivity growth, investment, and real wage increases among the major industrialized nations. Personal saving is falling because high inflation and high tax rates reduce the real rate of return on savings. As people are pushed into higher tax brackets, they get to keep less of each additional dollar of savings income. Since income from savings is added to earned income, the highest tax rate each taxpayer pays is imposed on his or her savings income. The higher the tax rate individuals face on the additional income from saving, the less likely they are to save. Thus, the present high tax rates discourage new savings, encourage consumption, and force savings away from nationally productive investments and into tax-exempt bonds and tax shelters.

Many of our competitors in the world economy have recognized the need to stimulate savings through exempting interest on time and saving deposits or interest from State savings institutions. Among these 39 countries are Japan, Great Britain, and France. Nearly every major industrialized nation offers greater incentives to savings and investment than does the United States.

The total amount of saving in the United States—personal savings, retained earnings, and depreciation setasides—has already fallen so low that we are barely providing enough investment to keep pace with replacing worn out machinery and equipping a growing labor force. The taxes we raise in the windfall profit bill will wipe out our margin of growth several times over. Investment in excess of depreciation and equipping new entrants in the labor force came within $4 billion of total saving in 1978. Only $4 billion was available for productivity growth and modernization of a $1.8 trillion current stock of plant and equipment. There really is no room for a $12 to $16 billion a year windfall tax on retained earnings; however, if we take steps to encourage total savings we can reduce its adverse impact.

In order to encourage new savings, the tax rates which apply to interest and dividends must be reduced. The limited interest tax exemption in amendment No. 735, to be offered by the Senator from Texas (Mr. BENTSEN) will not substantially increase saving. It will primarily and properly reward existing savings. On equity grounds, an interest exemption is advisable for senior citizens and low- and moderate-income taxpayers to offset the impact of inflation and artificially low rates of return on savings accounts. But, in order to encourage additional savings, the tax rates at which new savings income is taxed must be reduced.

The 25-percent exclusion of additional interest and dividends has the effect of reducing the tax rates on additional savings income by one-quarter. For example, an individual in the 28-percent tax bracket would see the effective marginal tax rate on savings income fall to 21 percent. The 40-percent bracket would effectively fall to 30 percent, and the 70-percent bracket to 53 percent. This would result in substantial increases in saving, a switch out of tax shelters, reduced interest rates, and less pressure on the Federal Reserve to create money. It is a progrowth, anti-inflationary step of great effectiveness.

A larger exemption for income derived from interest and dividends is essential if the economy of the 1980's is to be one of strong, real growth. Full employment and low inflation can only be achieved if there is sufficient capital to finance the investments required to make new discoveries, develop new technologies, and build new plants. A holistic view of the economy reveals an interdependence of all its components; components which act together and synergistically throughout the country. It would be shortsighted to assume that one part of this system could be altered without impacting on the system as a whole.

Once again, Mr. President, I remind my colleagues that, over the next decade, we are going to withdraw unprecedented amounts of money from the economy in the form of taxes at a time when our national growth measured in dollar terms is almost certainly going to be far less, maybe less than a quarter, of the withdraw. The impact of this withdrawal of these resources is going to be as profound as it is presently uncertain.

Mr. President, according to estimates made by the Joint Committee on Taxation and the Department of the Treasury, Federal revenues will increase by at least $1.5 trillion over the next 10 years as a result of upcoming social security, decontrol, windfall profits, and inflation induced tax increases. Other estimates exceed $2 trillion. These will be the greatest tax increases in American history. Those who contend that the economy can absorb these increases without creating dislocations are advocating a dangerous course. It is a course that may lead the United States down the road of slow growth—or no growth except in the size of Government—in the decade ahead.

This massive transfer of resources to the Government is a significant matter, particularly during a period when we are already experiencing declining productivity and sluggish growth of the economy. Recent studies have shown a direct correlation between the rate of savings, investment, and economic growth. It is therefore no coincidence that the United States, with the lowest rate of savings among major industrialized nations, is also afflicted with stagnating economic growth. The U.S. rate of savings as a percentage of national income in 1976 was only 4.8 percent compared to rates of 6.6 percent in England; 13.1 percent in France; 13.2 percent in Germany; and 25.36 percent in Japan.

If those numbers do not scare anyone, Mr. President, I do not know what will.

A study prepared by the Department of the Treasury indicates that total U.S. fixed investment as a share of national output between 1960 through 1973 was 17.5 percent. The U.S. figure ranks last among a group of major industrial nations. Our investment rate was 7.2 percentage points below the average commitment of the entire group. Even below that of Great Britain. Greater savings and investment must be made to help boost productivity and reduce inflation.

These figures are a direct result of the numerous discentives which discouraged Americans from saving and investment. Government regulation, for example, has frozen interest rates on savings accounts at 5¼ percent while inflation has surged to an annual rate near 14 percent. Under these conditions the effective return on savings is a negative 9.75 percent, and this is before interests income has been taxed. After Federal income taxes, the rate of return is significantly worse than this negative 9.75 percent.

It simply does not make economic sense to place money in a savings account in this environment. The amazing thing is that Americans still do so, to some degree. Instead, Americans increasingly choose to spend now and pay later, knowing that prices will only be higher in the future. This tends to be a self-fulfilling prophesy as high demand bids up the price of goods and businesses run short of investment capital leading to higher production costs from outmoded technology, and the cycle repeats.

The Finance Committee has recognized the seriousness of this situation and has endorsed an amendment to the windfall profit bill to provide an income tax exclusion from the first $200 of combined interest and dividends received during the year—$400 for a couple filing a joint return. This is the Bentsen amendment No. 735. Unfortunately, this proposal will do little to effect the more than $1.5 trillion increase in Federal taxes over the next 10 years; it will reduce Federal taxes by about $27 billion during the decade of the 1980's.

But we can be assured from the experience of the past that there will be a significant increase in the revenues returned to the Treasury as a consequence of the use of those savings and investments to increase American productivity and the growth of goods and services.

While the $27 billion revenue loss in the $200/$400 interest exclusion amendment is a significant sum, as a percentage of the $1.5 trillion tax increase, it represents a mere 1.8 percent. Clearly this excessively modest proposal will fail to offset the impact of tax increases already approved by this Congress, not to speak of the windfall profit tax presently under debate.

Mr. President, I hope my colleague will join me in supporting these amendments to expand the potential benefits of the Bentsen initiative. This is not special interest legislation, but a proposal that will affect every American with a savings account or investments. Over 24 million Americans will benefit from reduced taxes on interest and dividends. Low and moderate income people will benefit in two ways. First, from lower taxes; and second, from the job production, real income growth and overall increase in economic prosperity that will result. Older Americans on fixed incomes, facing high inflation, will benefit through an improved rate of return on their savings.

This is the least we can do for our citizens in the current economic climate.

It is what dozens of our competitors around the world have already done to improve their rates of savings and investment.

It is what we should do today if the decade ahead is to be one of the growth and prosperity necessary to defeat inflation and save our economy from stagnation.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

The ACTING PRESIDENT pro tempore. The time between now and 1:00 will be evenly divided.

Who yields time?

Mr. DOLE addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. DOLE. Mr. President, first of all, I send a number of amendments to the desk, and ask that they be printed. There are 51 amendments in all.

The ACTING PRESIDENT pro tempore. They will be received.

Mr. DOLE. They will be in order. We will not invoke cloture today. The Chair will make certain of that.

Mr. President, I cannot remember where I left off this morning. It is the understanding of this Senator, at least, as he remembers from 11 o'clock last night, that he made a passing inquiry of the Chair whether there be a cloture vote sometime after 1 a.m. this morning. The advice from the Chair was that there would be such a vote. That advice of course, was all set aside by a number of warped interpretations that, in effect, changed what many thought was the precedent.

So now we are back, going through the same process. We will have a live quorum call at 1 p.m. We had a live quorum call at 1 a.m.

So I say to those who have indicated there may be a filibuster in the works, that we could have voted on the second cloture petition at 1:15 a.m. this morning, and made at least that progress and had that vote behind us.

Now we have wasted 12 hours. I regret that we have had to waste it, but I can understand when we do not have the votes, it is better to delay. I can excuse the majority leader for delay through the night because there certainly were not 60 votes for cloture at 1 a.m. today.

The Senator from Kansas hopes there are not 60 votes for cloture at 1 p.m., or sometime after 1 p.m.

Mr. SCHMITT. Will the Senator yield for a question?

Mr. DOLE. I am happy to yield.

Mr. SCHMITT. The question is, I ask the Senator if he will make any more passing requests of the Chair that will set us off on further opportunities for rule changes without following the procedures of the Senate?

Mr. DOLE. The Senator from Kansas has decided to leave the rulemaking to those who have the vote. I will just try to stick to the facts.

But I think the events were interesting. I think a lot of people enjoyed the evening, particularly those who were at home.

But for those of us who were not, we are back at the same old stand, with the same problem. The Senator from Kansas still feels that sometime, hopefully early today, there will be some agreement that will break this little logjam. I guess we cannot properly call it a logjam yet, because there are only 700 amendments pending. In the event we can reach some agreement, then it is the hope of this Senator that we can move on to the Danforth amendment and other germane amendments, finish the bill, go to conference, and perhaps even complete it by next week.

As I said last night, not in defense of the majority leader since he does not need any defense from this Senator, I strongly object to the indication of some that this bill was stalled in the committee by whoever had control and that it was by design dropped on the Senate in the closing days of the session.

I do not believe the Senator from Kansas missed more than one or two of the Finance Committee markup sessions. There were daily efforts, I think at least in the last couple of weeks, by the majority leader to push the Finance Committee to get the bill to the floor.

So I think the record should indicate that there was no effort on the part of the Finance Committee, or on the part of the leadership on either side to somehow hold the bill in committee until such time as it could be brought up and held over us during the holiday season.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. DOLE. I am happy to.

Mr. ROBERT C. BYRD. Every Member of this body learned before he became a Member of the Senate that revenue raising measures have to begin in the House.

Is that not a correct statement? Under the Constitution they have to begin there?

Mr. DOLE. Yes. That is correct.

Mr. ROBERT C. BYRD. Does that not, in itself, militate against early action by the Senate, certainly prior to the action by the House?

Mr. DOLE. That is my understanding. Yes.

Mr. ROBERT C. BYRD. Second, has it not been the schedule announced for weeks, and even months, that the energy bills, and then the energy tax bill, and then the treaty, would be the order and the sequence in which measures would be called up before we went home?

Mr. DOLE. That was the understanding of the Senator from Kansas. I think we have tried to meet that schedule.

Mr. ROBERT C. BYRD. Yes.

And did not the energy mobilization bill and the synfuels bill pass the Senate after some debate prior to the energy tax bill?

Mr. DOLE. That is correct.

Mr. ROBERT C. BYRD. In accordance with the schedule that was laid out?

Mr. DOLE. Correct.

Mr. ROBERT C. BYRD. And in accordance with that schedule, in view of the fact that the Senate was acting on the energy mobilization bill and the synfuels bill, does the Senator not agree with me that those are very important measures dealing with the energy problem, and that they were ready to be taken up prior to the tax bill?

Mr. DOLE. In fact, they were part of the package that has been discussed here for months. Even while the synfuels bill was pending we were still working on this legislation in the Senate Finance Committee. Thus we could not have considered it at that time. It was then brought to the floor at the earliest possible time.

In fact, my understanding is that the staff may have worked nights to get the report together, to get it here at the earliest date.

We have been on this bill, I think the majority leader said last night, since November 16. It is a very important piece of legislation—$500 billion involved.

Mr. ROBERT C. BYRD. And could not the same be said with respect to the energy bills, in that they required great time, great study, much study in the committee, and were reported as early as the committees could possibly work their way through them and were taken up as early as the 3-day rule and business would allow?

Mr. DOLE. That is certainly the understanding of this Senator.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for his unfailing courtesy, and especially do I thank him for the kind words he had to say on yesterday with respect to my efforts to move the legislation along.

Mr. DOLE. Mr. President, I send an amendment to the desk and ask it be printed.

The ACTING PRESIDENT pro tempore. It will be received.

Mr. DOLE. Mr. President, I would just say very quickly that the principle is still before us. The principle at stake is, whether there should be a tax imposed on newly discovered oil, when the Senate Finance Committee, after weeks and weeks and 85 hours of markup, voted, by a vote of 19 to 1, not to tax newly discovered oil. Newly discovered oil was not taxed for two reasons.

First of all, it is hard to imagine there could be a windfall profit on something that has not been discovered. If the oil is there, we have discovered it.

We can make a case for imposing some form of windfall tax, and we are doing that. It is a very heavy tax. This bill will raise, at this moment, $156 billion over a 10-year period, and there will be an additional $300 billion in revenues because of increased income taxes and Federal royalty payments—a total of about $500 billion.

It was the near-unanimous view of Democrats and Republicans, conservatives and liberals, on the Senate Finance Committee that newly discovered oil deserved special treatment. This decision was made not because of a love affair with the oil industry but because we were concerned about American consumers, concerned about the energy problem, and concerned about producing more energy in America.

So after extensive discussion the vote was taken, and everyone on the committee but the distinguished Senator from Wisconsin (Mr. NELSON) voted in the affirmative.

The bill came to the floor. There were some Senators—and this Senator does not question their motives—who felt, "Well, we are not raising enough revenue in this bill." The bill came out of the Senate Finance Committee at $138 billion. Then there was the amendment proposed by Senator BENTSEN, the Senator from Kansas and others, which reduced that figure by about $9 billion. Then there was an amendment adopted by the Senator from Rhode Island (Mr. CHAFEE) and the Senator from New Jersey (Mr. BRADLEY) that increased that figure by about $22 billion. Then there was another pickup of $4 billion or $5 billion, so now we are back up to $156 billion over the next 10 years.

Some Members felt that amount was not enough and that the bill did not reflect glory on the Senate because we had not taxed the people enough. Some thought we ought to raise that figure to $200 billion, $190 billion, $185 billion. So the numbers became a matter of debate.

How do you raise additional revenue? You are already taxing so-called old oil at 75 percent, you are taxing so-called new oil at 75 percent. The only other place to go for revenues is to those categories that were exempted by the Senate Finance Committee, albeit for good reasons and to produce more energy, and levy a tax on those categories.

This little idea came from the White House. From the outset they have been more concerned with revenues than energy. We have been told this tax is to meet a public purpose, but we have not been told what the public purpose is. How do we spend $200 billion of the taxpayers' money and not notify the taxpayers what we have in mind?

So someone in the White House or someone in the administration dreamed up a minimum tax to raise additional revenue. An amendment was presented to this floor by the distinguished Senator from Connecticut (Mr. RIBICOFF) and others that would raise about $31.5 billion by taxing those exempt categories—a 20-percent tax on incremental oil, a 20-percent tax on heavy oil, and a 20-percent tax on newly discovered oil.

This minimum tax was proposed even though after all the debate, after all the hearings, after all the witnesses, it was determined by those of us on the Senate Finance Committee that we ought to exempt these categories from tax, and we ought to produce the energy. The American people would benefit from these exemptions. The vote on the tertiary exemption was 14 to 2. As I have said, the vote, on newly discovered oil was 19 to 1. The vote on the heavy oil exemption, as recommended by the administration, was not even contested in the committee. It was a voice vote. It was unanimous. But when this became a revenue bill, then all the emphasis was placed on how much money can be raised and not on how much energy can be produced.

So we have a minimum tax amendment before us. Some of us tried unsuccessfully, although we did not expect to win, to table this amendment yesterday. That vote was heralded across the country as a great victory for the President.

If you call imposing more taxes a victory for the President, then it was a victory because it did impose more taxes. Sooner or later those taxes are going to be paid by the American consumer. If that is the kind of victory President Carter wants, he had a victory.

The forces representing the administration's point of view were able to prevent those on the other side, Democrats and Republicans, from killing this additional tax. But there was another vote. There was a vote on cloture, a vote on shutting off debate, where 60 votes are required, and on that vote the vote was 53 to 46, and so we are still debating the issue.

The Senator from Kansas still believes there can be some compromise that would satisfy most people on both sides. There should be some compromise where everyone can claim victory, and with justification claim victory. Many formulas have been suggested, many have been rejected and many are probably still in the works. The Senator from Kansas hope some may be on their way to the floor.

The Senator from Kansas is now told that revenue is not a factor—that we are not so concerned about whether it is $185 billion or $178 billion, $174 billion or whatever amount is raised. Now it is a matter of principle, that we ought to tax new oil along with tertiary and heavy. Some of us really believe that if we are concerned about energy production, concerned about energy independence, concerned about getting the OPEC countries off our back, concerned about letting the OPEC countries set the prices in the world that we ought to encourage anybody in the oil business to go out and produce and discover all the new oil that there is to find.

If, in fact, this effort is not made by the oil industry, then we ought to impose a tax. Those of us who stand here today and say that that particular category of oil should be exempt ought to be leading the fight to impose the tax if the industry as a whole lets the American people down.

We are now importing half of the oil that we use in this country. We are importing half of our oil, and a GAO report indicated last week that domestic production was going down. It seems to this Senator that we have a very, very serious matter to address. It is not a question of whether one is for or against the oil companies. I do not know of anybody who is going to stand up and fight for the oil companies. They make profits. Some profits may seem excessive, but most of the current profits come from overseas operations that this tax would not touch in any event. I guess we could affect foreign profits if we changed the foreign tax credit, but that issue is not before us. Perhaps the foreign tax credit issue will be before us next year.

How do we go about addressing our energy problems? We go about it in a strange way. We are going to tax the domestic production. We are going to tax the domestic production to the point that those in the business are going to be diversifying, getting out of the business, or maybe moving more operations overseas where they can operate under a noncontrolled society.

There is doubt that prices are too high. The Senator from Kansas does not want to be misunderstood. The OPEC price is not a free-market price in this Senator's view. It is an arbitrary price. One way to bring that price down, and one way to stabilize that price, is to send a signal to the world that this country can still produce oil, that we can get off our knees and start producing, that we are willing to let somebody make a profit if they will produce and help us become energy independent.

Therefore, I hope that when the cloture motion is voted upon that it will not receive the requisite number of votes. I hope that following the vote there would be additional efforts to come to some meaningful compromise that preserves the principles involved. Perhaps that could be done by changing the base price, by imposing a tax on newly discovered oil, or making the base price high enough so that it would not impinge on the efforts to discover more oil.

I assume that somebody will be running to the floor any moment now, talking about the report that the Saudis might increase the price of oil by $6 a barrel. Of course, Saudi Arabia now has some of the lowest oil prices in the world. This price rise would make their price about $24 a barrel. Nevertheless I assume that the argument is going to be made before the day is over, "Oh, here are the Saudis raising the price $6 a barrel. The price is going out of sight."

I would like to point out that there is a reason for this price increase, so far as Saudi Arabia is concerned.

Mr. President, how much time does the Senator from Kansas have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 5 seconds remaining.

Mr. DOLE. Well, let us just let it run.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. ROBERT C. BYRD. If the Senator needs more time I will yield 5 minutes to the distinguished Senator from Kansas.

The ACTING PRESIDENT pro tempore. The Senator from Kansas.

Mr. DOLE. I suggest to those who might like to reach some agreement that there are a number of possibilities. The Senator from Kansas has thought of a number. There seems to be agreement in the Senate there should be a tax of 20 percent on tertiary oil. There seems to be a majority who would accept a 20-percent tax on heavy oil. However, if we could have a vote on newly discovered oil, the majority in this body would vote to exempt it from tax.

I think now we are locked into a struggle of principle, on each side. So it has occurred to the Senator from Kansas, one way to avoid any collision on the word "principle," on this particular principle, would be to propose a 20-percent tax on tertiary and a 20-percent tax on heavy and perhaps, a 10-percent tax on newly discovered oil, but with a $30 base price. Then I trust the fears of those who think the price of oil is going to go to $45, $50, or $60 a barrel would be satisfied. If the price exceeded $30 a barrel, there would be a tax.

In addition, other minor changes could be made. I believe such a compromise would net $170.1 billion.

Of course adjusted House figure is about $256 billion. I just believe conference would come out somewhere around $200 billion.

It should be understood that if the conferees decide to increase the tax it is going to mean more of a tax on tertiary and heavy than on newly-discovered oil.

So I do not know, the Senator from Kansas is not certain, what we accomplish here except to alert those in the Senate that the conferees certainly understand we will probably not be able to retain the Senate figure, and the House conferees certainly understand they are probably not going to be able to retain their figure.

So the Senator from Kansas would again urge his colleagues who are concerned about production, who are concerned about additional taxes, to vote against the cloture motion and, perhaps, in the next few hours following the vote an agreement can be reached.

Mr. President, I reserve any time I have left.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum and ask that the time be charged against me.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, Senators are well aware of the cloture vote, its meaning, and its necessity. They are also, I am sure, aware of the fact that no cloture motion was entered until just on Monday of this week, which was the fourth week of debate. So ample time has been allowed for debate and for action on amendments to the excess profit tax bill prior to the offering of the cloture motion.

This day being Thursday marks the beginning of the fifth week of debate on this bill. I think there has been ample time for debate. According to the Journal clerk, 106 hours have been spent in debate. Forty-two rollcall votes have occurred, and 47 amendments have been acted upon.

Mr. President, a vote for cloture does not shut off debate. Under rule XXII, the invoking of cloture will limit debate certainly in regard to debate itself to not to exceed 100 hours.

So having spent 106 hours already on debate, the Senate, if cloture were to be invoked today—and I have my doubts that it will be today; there are some absentee problems, for one thing—if it were to invoke cloture today, the Senate would still have not to exceed 100 hours under the rule, which, as far as hours are concerned, are about as many hours as the Senate has already spent—106 hours in 4 weeks.

Mr. PERCY. Mr. President, will the Senator yield at some point for a question?

Mr. ROBERT C. BYRD. Yes.

It is not a closing off of debate. It is not shutting off debate. Senators can still debate.

I yield to the Senator.

Mr. PERCY. As a clarification for the record, the Senator from Illinois has always voted for cloture after a proper amount of time for debate and analysis of an issue—even on bills I have opposed, such as labor reform. Yet cloture, as we all know, would mean that nongermane amendments could not be considered for the remainder of this bill.

Mr. ROBERT C. BYRD. That is correct.

Mr. PERCY. One amendment the Senator from Illinois has discussed several times with the distinguished majority leader would serve the very best interests of the energy policy of this country. It would provide revenues from the windfall profit tax to double the tax credit for conversion to coal by huge industry boilers. The amendment would make it practical and economical for them to burn coal directly, ultimately saving millions of barrels of oil.

That, of course, is very pertinent to this pending legislation, although the Parliamentarian would say strictly it is nongermane. This amendment would not be considered if cloture is invoked.

Second, is the amendment for turnbacks of money to States to compensate them for their added fiscal burden resulting from conservation measures. This amendment, too, would be considered nongermane and could not be taken up.

For that reason, the Senator from Illinois, with great regret, informs the distinguished majority leader he must vote against cloture, until such time as the Senator from Illinois has been given assurance by the distinguished majority leader that those amendments can be taken up.

As the Senator understands it, any single Senator objecting to consideration of these amendments would bar the distinguished majority leader from enabling them to be brought up. I have to vote against cloture so long as that situation exists.

Mr. ROBERT C. BYRD. I understand the Senator.

Mr. PERCY. I thank the distinguished majority leader.

Mr. DOLE. Will the Senator yield long enough for me to send some amendments to the desk, another bundle?

Mr. ROBERT C. BYRD. Yes, I yield.

The ACTING PRESIDENT pro tempore. The amendments will be received.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senate will vote cloture.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. One hour having intervened since the Senate convened, the clerk will state the cloture motion.

The assistant legislative clerk read as follows:

Cloture Motion

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the reported amendment in the nature of a substitute to H.R. 3919, an Act to impose a windfall profit tax on domestic crude oil.

Robert C. Byrd, Bill Bradley, Edmund S. Muskie, Gaylord Nelson, Richard Stone, John A. Durkin, Alan Cranston, Paul Sarbanes, Claiborne Pell, Henry M. Jackson, John Glenn, George McGovern, Daniel Patrick Moynihan, J. James Exon, Carl Levin, and Max Baucus.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The second assistant legislative clerk called the roll and the following Senators answered to their names:

[Quorum No. 16 Leg.]

Bellmon
Bentsen
Biden
Boren
Byrd, Robert C.
Danforth
Dole
Domenici
Ford
Garn
Helms
Hollings
Inouye
Leahy
Long
McClure
Metzenbaum
Muskie
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Stewart
Talmadge
Wallop
Warner
Weicker
Young

The PRESIDING OFFICER (Mr. Stewart). A quorum is not present. The clerk will call the names of the absentees.

The second assistant legislative clerk continued to call the roll, and the following Senators entered the Chamber and answered to their names:

Armstrong
Baucus
Bayh
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Cannon
Chafee
Chiles
Church
Cochran
Cohen
Cranston
Culver
DeConcini
Durenberger
Durkin
Eagleton
Exon
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Levin
Lugar
Magnuson
Mathias
Matsunaga
McGovern
Melcher
Morgan
Moynihan
Nelson
Nunn
Packwood
Pressler
Pryor
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Thurmond
Tower
Tsongas
Williams
Zorinsky

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. Kennedy) and the Senator from Florida (Mr. Stone) are necessarily absent.

Mr. STEVENS. I announced that the Senator from Tennessee (Mr. Baker) and the Senator from Pennsylvania (Mr. Heinz) are necessarily absent.

The PRESIDING OFFICER. A quorum is present.

VOTE

The PRESIDING OFFICER. The question now is, Is it the sense of the Senate that debate shall be brought to a close? The yeas and nays are automatic under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Massachusetts (Mr. Kennedy) and the Senator from Florida (Mr. Stone) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Pennsylvania (Mr. Heinz) are necessarily absent.

Mr. DOLE. Mr. President, regular order.

Mr. TOWER. Regular order.

The PRESIDING OFFICER. Is there any Senator in the Chamber who has not voted and desires to do so?

The result was announced—yeas 56, nays 40, as follows:

[Rollcall Vote No. 479 Leg.]

YEAS—56

Baucus
Bayh
Biden
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Church
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Leahy
Levin
Magnuson
Mathias
Matsunaga
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stennis
Stevenson
Stewart
Talmadge
Tsongas
Williams
Zorinsky

NAYS—40

Armstrong
Bellmon
Bentsen
Boren
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Goldwater
Gravel
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Melcher

Percy
Pressler
Roth
Schmitt
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner
Weicker
Young

NOT VOTING—4

Baker
Heinz
Kennedy
Stone

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 40. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I am encouraged by the vote today.

The PRESIDING OFFICER. Will the majority leader suspend? Let us have order in the Chamber.

Mr. ROBERT C. BYRD. Mr. President, I am encouraged by the vote on the motion to invoke cloture. On yesterday, the vote was 53 votes for cloture, 46 votes against cloture, and 1 Senator absent.

Today, the votes are 56 votes for cloture, a pickup of 3 votes; 40 votes against cloture, a decline of 6 votes; and with 4 Senators absent.

So I am pleased to see this movement. I think it indicates that the Senate wants to reach a final decision on the bill, and in view of the fact that under cloture when it is invoked and if it is invoked there will still be at least not to exceed 100 hours for debate.

I hope, Mr. President, that this vote will indicate that the Senate is tiring of the continuing delay and that it wants to see final action on this bill in a reasonable time, after reasonable debate.

We have already had 4 weeks of debate now. I hope the Senators will see in this vote an indication that we ought to seriously make every effort to break out of the impasse and see if we cannot get on with the action of the pending amendment and action on the bill.

There will be continuing negotiations this afternoon. Senators on both sides of the aisle have indicated an interest in discussions. Mr. Dole indicated this to me last night after the session recessed and Mr. Long has indicated an interest. Senators on the other side of the question have indicated an interest. So we will have some discussions this afternoon. Hopefully, they will be fruitful.

I again congratulate the Senate on this vote on the cloture motion.

Mr. DOLE. Mr. President, the Senator from Kansas is also encouraged by the vote. I think it does indicate that we are making progress, because we did not invoke cloture. That would give us an opportunity, as the distinguished majority leader has indicated, to discuss possibilities of some compromise agreement. The Senator from Kansas is certainly willing to do that, along with others with a different point of view and, hopefully, we can do that at the majority leader's convenience this afternoon.

Mr. President, what is the pending business?

AMENDMENT NO. 794

The PRESIDING OFFICER. The amendment No. 794, offered by Senator Bradley and others.

Mr. DOLE. Mr. President, those of us who are not in favor of that amendment would like to discuss it. There are a number of my colleagues who have indicated a desire to speak. I just do not know what happened to the desire. [Laughter.]

The PRESIDING OFFICER. Let us have order in the Chamber.

Mr. WALLOP. Will the Senator yield to me?

Mr. DOLE. I am happy to yield to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator will suspend until we have order in the Chamber.

Mr. DOLE. I am happy to yield the floor to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank my colleague from Kansas.

Mr. President, while there are still a few Senators here, I will again make a plea for the attention of some Senators, because there is an important issue here at stake. The issue is not the symbolism of whether or not the Senate arrives at $185 billion, but an intellectual argument that can be made about each of these categories of oil and whether or not there is legitimate reason—Mr. President, may I have order, please?

The PRESIDING OFFICER. The Senator is correct. Let us have order in the Chamber. Those Senators who are carrying on conversations in the Chamber, please leave the aisle and take their conversations elsewhere.

Mr. WALLOP. Mr. President——

The PRESIDING OFFICER. Will the Senator suspend until we get order in the Chamber?

The Senator may proceed.

Mr. WALLOP. Mr. President, the Senator was hoping that he might have order and a couple of Senators. I did not mean to clear the Chamber in that process.

The PRESIDING OFFICER. We have done the best we can.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield, without losing his right to the floor?

Mr. WALLOP. Mr. President, I am happy to yield to the majority leader on that basis.

Mr. ROBERT C. BYRD. Mr. President, while discussions are going forward, the distinguished manager of the bill is in the Chamber. On yesterday, I said that I would personally want to see objection made to any amendment being called up prior to getting a vote on the minimum tax amendment.

I have no objection at the moment while discussions are going on if other amendments can be called up and disposed of, and I hope that a time agreement, if any other amendment is called up—that any such amendment could be called up under a time agreement. Otherwise I would personally want to accept it for my part, if the manager were not disposed to accept it on his own behalf, and—for example, Mr. Percy has an amendment or a couple of amendments, and I would be very agreeable personally, myself—I am not the manager of the bill, but I did make the objection yesterday, and I am taking the floor now to remove that objection. If the manager of the bill wanted to let Mr. Percy bring up an amendment, or any other Senator, with a time limit on it so that it does not get in the way of the minimum tax amendment for the afternoon, I have no objection at this point.

I thank the Senator.

Mr. DOLE addressed the Chair.

Mr. WALLOP. Mr. President, I have the floor and, if I may, I just want to make a point and then I would be happy to yield.

The point the Senator from Wyoming is trying to make is the Senate is not able to work its intellectual will on the package before us.

We have 20, 20, 20 as the percentages for tax, but there is an argument that can be made and a case that can be made for each category of oil, whether to exempt it, tax it at a lesser rate or tax it at a greater rate. That is not available to the Senate at the moment.

There would be a hope in the mind of the Senator from Wyoming—no real expectation because I, very frankly, do not see any indication on the part of people to approach this thing from the standpoint of a justified argument made either in behalf of the tax or in behalf of an exemption, because all people want to do is to reach the symbolic figure of $185 billion, and however you want to manipulate those figures to get there seems to be within the realm of anybody's acceptability—but if the Senate would just stop and argue these taxes singly by each category of oil—for instance, some people, and I have had conversation with them, find it difficult to believe that you can create a windfall for something that does not exist yet, namely, the new oil. Some people feel differently.

Some people feel there is a reason to tax tertiary oil more than the 20 percent that is offered. Some people think they can make an argument that the immediate supply response to the country is to exempt that oil altogether.

We cannot make these arguments because Senators on the other side will not come and listen, and we are frozen into this position.

The Senator from Wyoming is happy to yield the floor on that basis.

Several Senators addressed the Chair.

UNANIMOUS-CONSENT AGREEMENT—CONFERENCE REPORT—DEFENSE APPROPRIATIONS, 1980

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me? If it is agreeable with Mr. Young, I can get a time agreement on the DOD conference report of 20 minutes overall, including any motion to reconsider or any other debatable motion, to be equally divided between Mr. Young and Mr. Stennis.

Mr. YOUNG. I agree. In fact, we are 2½ months into the new year, and need to pass the conference report so that the Department of Defense can proceed to fund the many activities in that big establishment.

Mr. ROBERT C. BYRD. I will make that request.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Mr. President, reserving the right to object—and I shall not, of course, wanting to have that business go forward—could the Senator from Illinois make a unanimous-consent request that following the disposition of the conference report, amendment No. 682, calling for a payback to the States from windfall profit moneys, would be in order? Could it be the next order of business, to followthrough with the idea of the majority leader?

Mr. ROBERT C. BYRD. Mr. President, would the Senator not hold this agreement hostage to that?

Mr. PERCY. Not at all.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I have already indicated it is agreeable with me if a time agreement is put thereon. I cannot speak for the managers of the bill.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, is this conference report to be taken up immediately?

Mr. DOLE. When does it come up?

Mr. ROBERT C. BYRD. I should hope within 30 minutes from now.

Mr. YOUNG. I will be here.

Mr. ROBERT C. BYRD. Mr. President, with that understanding with Mr. YOUNG, I ask unanimous consent that at 2:15 p.m. today the Senate proceed to the consideration of the DOD conference report under the time agreement.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of the bill (H.R. 3919).

Mr. PERCY. Mr. President, in order then to followthrough so that we do use our time—and I have been very appreciative of the sympathy from the majority leader and the floor managers—the Senator from Illinois would like to proceed, if possible. Mr. President, I ask unanimous consent that we proceed immediately to the consideration of amendment No. 682 under a time limitation of 1 hour, equally divided, and interrupted at 2:15 p.m. by the DOD conference report. Immediately upon disposition of that, I ask unanimous consent that we complete action on amendment No. 682. Following its disposition, I ask that I be allowed to call up my amendment on coal conversion, with a time limitation of 1 hour equally divided. I make that request.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object—and I reluctantly will have to object—it is my hope that I will have the opportunity to meet with some of those on the contending sides to try to work out an agreement that will resolve the impasse which confronts us at the moment.

I cannot be at such a place and be managing the bill in opposition to the Senator's amendment at the same time. I feel I will be compelled to oppose the amendment, and I think it will simply have to wait and take its turn. As I say, for those reasons, I object.

The PRESIDING OFFICER. Objection is heard.

The question is now on the amendment, and the yeas and nays have been ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized and has the floor.

Mr. DOLE. Mr. President, I am just surveying the wreckage. I believe we should continue to discuss again the so-called minimum tax on heavy, tertiary, and newly discovered oil. It would be the hope of the Senator from Kansas, as suggested by the Senator from Wyoming, that somehow we could have a division of the issues so the votes may appear separately.

But, failing a separate vote it is the hope of the Senator from Kansas that we can work out some compromise. Failing that we are prepared to talk tonight and, hopefully, prevail again tomorrow on the cloture vote, and prevail again Saturday on the cloture vote.

The Senator from Kansas has introduced about a hundred amendments this morning that can be called up in due course. I suggest that although members of this side are in the minority, we are not totally without resources or initiative, because those of us who feel strongly about the principle are concerned that once we start down the road of taxing newly discovered oil we are eliminating one source of energy independence.

The Senator from Kansas has said a number of times on the floor that there is no certainty whether our position is correct or whether the other position is correct.

There is no certainty where the reserves are, how much the reserves are, when they will be discovered, what the price will be when the oil is discovered, whether or not any profit will be excessive or whether or not there will be a profit at all.

The Senator from Kansas believes that the course we should pursue would be to say to all those in the business of looking for oil in this case, "We are going to accept what you have told us, that if newly discovered oil is exempt you will go out and produce and discover for oil and gas," and if in fact that does not happen then, as the Senator said before, those of us who have this point of view should be the first ones on the Senate floor suggesting that we were mistaken.

If the effort is made, and the oil companies could not find energy, that would be one thing. But if the effort is not made, then those of us who have the point of view, would be perfectly willing to suggest that we made a mistake and, there should be not only the tax suggested but a higher tax.

I hope in the debate today we can discuss this matter fully and that we can persuade our colleagues to stick with us until we can reach some agreement that makes sense to the American people.

I yield the floor.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. Mr. President, it is my understanding that the DOD conference report will become the pending business at 2:15.

The PRESIDING OFFICER. The Senator is correct.

Mr. McCLURE. And, Mr. President, it is my understanding that it is also the desire of the majority leader that the managers of the bill and the responsible parties with respect to the pending amendment be given the opportunity to consult with each other to see whether or not there is any room for agreement.

Mr. President, much has been said about the people who are opposed to the legislation having delayed the proceedings. Mr. President, I have not participated in this debate at length up to this time, and I do so now primarily out of accommodation to the majority leader, to permit the process to go forward which he has set as the pattern for our procedures here.

Mr. President, the real impediment to process on this bill has been the absolutely intransigent position that we will vote on this amendment and nothing else until it is disposed of.

We have been in that position for 2 weeks now. The efforts by any other persons to get any other kind of an option worked out, either by agreement or by offering parliamentary procedures, has been beaten back one by one, sequentially, in groups, in whatever manner they are brought up. It is the determination of the majority leader to force a vote on this issue and this issue alone, without amendment, with no amendment being in order under a parliamentary situation which he has contrived, using both the rules and his arbitrary authority as majority leader in order to contrive it.

So I think we ought to recognize that the delay of the last 2 weeks is not wholly the responsibility of some who have differing opinions, but also partly the responsibility of one who desires that nothing else be discussed or voted upon.

Mr. President, as the Senator from Wyoming has been trying to say repeatedly, and he has been saying it repeatedly and trying to get people to listen, there are imbedded within this amendment a variety of issues: The issue of whether or not new oil should be taxed, newly discovered oil; the issue of whether or not heavy oil should be taxed; the issue of whether or not tertiary recovery should be taxed, and, if so, at what level.

The Senator from Kansas has pointed out that there was some conversation early about the tax being imposed, a minimum tax, on these exempt categories at the rate of 10 percent. We have never been permitted to vote on a 10-percent tax. We are not even permitted to offer an amendment with respect to a 10-percent tax. All we are permitted to do is to vote upon the single formulation that has been submitted to us under a gag procedure.

Mr. President that is neither democracy nor good parliamentary procedure, but certainly not the former. It achieves the goals desired by some, not just one but some, but it completely tramples the rights of a minority or anyone else who is in agreement, even if they be in the majority, to have an option to offer some other formulation on that particular issue.

It is thought by some that they will gain an advantage in a parliamentary sense by having done this, and I suspect that that is correct. They believe that by having cast it in this light, they are more sure of winning the votes on that amendment. But I would say that the record now appears to be quite clear that in attempting to direct that result they have also achieved a hardening of the lines to the point that cloture cannot be achieved.

So if there is delay, and if there is a failure to vote cloture, there is at least some responsibility on the part of those who have attempted to achieve a single parliamentary position from which no one else can vary.

But it is not just the issue of the minimum tax. It is not just the fact that there are three different classes of oil which may be taxed at one level or another, or in some combinations, that ought to be debated. I think they all ought to be debated. I think we ought to determine whether or not as a matter of public policy it is a good idea to tax newly discovered oil, oil that has not yet been discovered.

What does that do to the incentive to produce oil, to explore for the production of oil? What does it do with respect to the availability of capital, either because of the cash flow of those who are already producing oil or the opportunity to raise risk capital to invest in that opportunity?

If, as a matter of fact, the Senate in its judgment determines that a tax should be imposed, is there a difference in effect between the rates of a 10-, 20-, or 30-percent tax level or up to 50 percent, as I understand the House has determined the tax should be on that category of oil?

Does it make sense, as a matter of public policy, to tax heavy oil, the oil that is difficult and expensive to bring to the market? If, as a matter of fact, a level of taxation renders that uneconomical, who is going to bring it to the market? And if it is not economic and no one brings it to the market as a result of the action we take, what does that do to the power of the OPEC cartel to continue to dictate political and economic terms to the United States?

Why are we involved as we are in the Middle East today? Why is the United States now facing over a month of disgrace before the eyes of the world in having our people on our soil being held hostage to political demands, other than the fact that we have a vulnerability to the availability of oil?

I applaud the President's decision to embargo the purchase of oil from Iran. I support it fully. It should have been automatic. We should not have had to wait for days and days before that decision was made. But, then, the President went on to say, "But don't be mistaken; we are not exerting any economic pressure on them. That is not why we did it."

Well, for heaven's sake, it should have been why we did it. But he said, "No, that is not why we did it. We did it to remove oil from the debate about the hostages."

Now, who is so naive as to believe that? Who could possibly believe that, having said we will not import oil from Iran, oil is unimportant to the dialog? The fact of the matter is that we are concerned about the response throughout the Islamic world for a whole host of reasons, but one of the most important ones in that whole host of reasons is oil. The balance wheel of the world energy supply is oil in Islamic countries, and we all know it. We all know it.

While we are now talking about imposing taxes that will inhibit production of oil, we, at the same time, beat our breasts about the injustice, the humiliation of the American people, the desecration of the American flag, when our very dependence on oil is the reason they can do it.

So I say to those within this body and others who may listen, that it is not just the question of oil that we are talking about here; we are talking about the position of the United States within the free world and within the world generally. And every vote here, on the floor of the Senate, every procedural roadblock that is erected here, every change in the rules that may be mandated in order to continue this kind of mad rush to self-destruction, also makes it more impossible for us to deal with the question of the hostages in Iran.

I want everybody who is voting on these matters and everybody who is pulling the strings that manipulate the Senate to understand that the American public has a right to hold them accountable for the danger of our hostages in Iran. They cannot duck that issue. They cannot evade that responsibility. It is time for us to recognize what we should have been recognizing for years. That is that the United States has built itself a nearly fatal dependence upon imported oil as a source of energy that is important, that is absolutely critical to the United States and to the whole of the industrialized world.

The United States finds itself today almost totally isolated among the nations of the world with respect to Middle Eastern policy. The United States has almost no ally willing to go to the wall with us over the interruption of oil supplies. The United States finds it almost impossible to go to our allies in Japan or in Europe and say, "Let's stop all of the Iranian oil." We cannot stop all of the Iranian oil because our allies in Japan and Europe will not tolerate it, and we can offer them no alternative. We have offered them no alternative. And as long as we continue to inhibit our own production of energy, we shall not be able to withstand the kinds of demands that are being made upon the United States and the Middle East today.

These are not unrelated items. The pending amendment that we have been debating ought to be debated not only upon the basis of what it will do to the production of revenues for us to spend, but also what it does to us in terms of our ability to conduct an independent foreign policy.

What is the effect of the pending amendment? I have not heard anyone deny that the amendment, if passed, will have some adverse effect upon the production of oil. I have heard no one deny the truth of that statement, and I do not think anyone could truthfully deny it. There may be arguments about how much it will inhibit the production of oil, but it will inhibit the production of oil to some degree.

If we remove our ability to produce energy, whatever its source may be, we strengthen the hand of those who dictate to us in economic terms, who dictate to us the political terms under which we may deal in international trade in energy, and who humiliate us in foreign affairs.

Mr. President, the issue is much broader than just the revenue to be derived. Somewhere, by some process, in some secret conclave—I do not know whether it was done by sticking pins in dolls or reading the entrails of chickens—somebody has decided that we need $185 billion in revenue in this bill. And it is just as illogical as that process which I just described. What the process was I do not know, nor has anyone else determined, because there is no logical basis for the figure of $185 billion being the appropriate level of revenue to be achieved by this legislation. Yet that is what drives the discussion and drives the decision.

It is not whether it is right or wrong on this class of oil or that kind of energy; it is a question of what its revenue effects will be. How will it add to or subtract from our ability to arrive at this massive new tax level of $185 billion in this legislation?

So, logic is out the window. Foreign policy is being sacrificed for domestic policy. Energy sufficiency is being sacrificed for social program spending. Consumers are being sacrificed while being told they are being protected.

Every time we get a major national shortage in the supply of energy, the leverage on prices is dramatic. A 2-percent shortage of energy does not yield a 2-percent increase in price; it yields a 50- or 60-percent increase in price.

I repeat what has been said time after time in the past, that in 1973, we were importing oil to the east coast of the United States at $1.90 a barrel—in 1973. But the clouds were already building on the horizon. I remember a speech I gave in Dallas, Tex., in the spring of 1973, in which I said, "Don't be surprised if the price of oil goes above $5." And they laughed. Foreign oil was $1.90 delivered to the east coast of the United States, domestic oil was averaging less than $3.60 a barrel at that time. I said, "Don't be surprised, either, if political considerations are attached to the availability of the oil."

And they thought, what does a Senator from Idaho know about oil production?

I say that not because I was so smart, Mr. President, but because I could read, because I could listen, because I was uninhibited in preconceptions of what was going to happen in the industry, and it was absolutely clear to me that those predictions were going to come true. As history would record, before the year was out, they had come true in 1973. And in 1973 and 1974, the price rose from the $1.90 to an average of $12 a barrel, a little less than $12.

They have since that time nearly doubled in official prices.

Some people will be reading the actions of our friends in Saudi Arabia in increasing the price of oil by $6 a barrel by saying that we have been ripped off again. But remember, the Saudis were selling their oil under the world market price and probably will continue to sell under the prevailing world market price with the $6 a barrel increase.

Remember, in 1973, $6 a barrel was an unheard-of price. Now we are talking about a $6 increase to bring it to a price four times that $6 increase.

Mr. President, these are not unpredictable events. They are predictable by anyone who will read and believe. They are predictable if people will not be blinded by their desire to generate more money that they can spend in this ever-increasing Federal bureaucracy we have, with the ever-increasing panoply of social and bureaucratic programs, if they will not be blinded by the desire to soak it to the oil companies.

Who is kidding who? The consumer is the one getting soaked by this process.

Had we taken the right actions as late as 1973, we would not be paying $24 a barrel on the world market today.

For every $10 increase in the price of oil on the world market, the American consumers paid $35 billion a year.

The actions that we are taking on the floor of the Senate in this so-called windfall profit tax—it is a tax to create windfall profit to Government—the action we are taking guarantees that the price of oil on the world market will continue to rise and that the American consumer will continue to pay the billions upon billions of dollars that will be extracted from the American market as a result of the actions of the Senate of the United States and the Congress of the United States in trying to protect the American consumer against excessive prices. That is what we say, when, as a matter of fact, the consumer is the one who is forgotten in the action being taken here.

Mr. RANDOLPH. Mr. President, will my able colleague from Idaho yield to me for a moment?

Mr. McCLURE. I am happy to yield to the Senator from West Virginia without losing my right to the floor.

Mr. RANDOLPH. Yes.

I want to address myself, not to the specifics of the pending legislation or an amendment thereto, but to commend any and all Senators who rise in this Chamber, as they have been doing and must continue to do, not only in words, but in actions, in reference to the need, which comes after the fact rather than before the fact as it should have, that America, in substantial degree, should have been independent of these unstable and unfriendly countries overseas, wherever they are today, and under what cloak they operate, OPEC or otherwise.

They give to us the petroleum, the oil, at a price which we have no bargaining power over.

Is that correct?

Mr. McCLURE. I would say to my friend from West Virginia that we have very limited, if any, bargaining power. But it is not just an economic price they are extracting from us. It is a political price and a price of prestige of the United States they are extracting from us, as well.

Mr. RANDOLPH. That is something I can fully agree with.

I add to what I am saying this commendation for the Senator and others who expressed themselves vigorously on this subject.

Now, the price, for the moment, it is going up—what? Six dollars a barrel across the OPEC and other nations, is that correct?

Mr. McCLURE. I think the Senator would be more correctly stating the effect if he would indicate that the Saudi Government has indicated their oil will be raised in price by $6. What effect it will have on the prices of other OPEC producers is as yet uncertain.

But remember, while the world price has been about $25 a barrel, the official Saudi price has been about $18 a barrel. So the Saudi price increase only brings them up to a little less than what has been the going price in the world market, on contract markets, not spot markets.

So, yes, there is a price increase on a significant segment of this foreign production.

Mr. RANDOLPH. But we have no doubt the prices will continue, as the Senator indicated earlier in his remarks, the spiraling price of petroleum will continue?

Mr. McCLURE. It will continue so long as we will not produce enough energy to break the marginal shortage that drives that world market price up. The Senator is correct.

The PRESIDING OFFICER (Mr. HEFLIN). The Chair apologizes for having to interrupt the debate, but the hour of 2:15 has arrived.

Mr. McCLURE. Mr. President, I ask unanimous consent we might proceed 2 additional minutes before we proceed to the conference report, to conclude this colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I thank the Chair and my colleagues.

Mr. RANDOLPH. In this minute, we have talked about price. But we also have to couple with it the amounts of petroleum from overseas. They give to us not only the price which we must pay, but they give to us the petroleum in the amounts they desire to sell to us, and we take it. We cannot leave it. We have to take it.

Is that not right?

Mr. McCLURE. The Senator is correct.

Mr. RANDOLPH. It is a shocking indictment of administration, not one party or another, of the Congress, frankly, of the body politic of this Nation, that a tragedy of this kind could occur among knowledgeable people.

I am not a carping critic. But the commitment is so evident that I have to say again and again and again even though the hour is late, we must act, and act affirmatively.

Mr. McCLURE. I thank the Senator for his comments.

I recognize, of course, his long leadership in trying to move the United States toward more production of energy, particularly in the field of coal and coal synthetics.

But, Mr. President, I say to the able Senator, as I have been trying to say to the entire Senate, that when we vote on this measure, we impose taxes on production, particularly on new or marginal production, as the pending amendment would do. We strengthen the grip of the OPEC cartel on the American people economically, politically, and in terms of the position of the United States before the world community of nations.

Mr. President, I thank the Senator for his words. I thank again my colleagues for yielding the additional 2 minutes.

DEFENSE APPROPRIATIONS, 1979— CONFERENCE REPORT

The PRESIDING OFFICER (Mr. HEFLIN). The hour of 2:15 p.m. having arrived, the clerk will state the conference report on H.R. 5359.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5359) making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of December 11, 1979.)

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. ARMSTRONG. Mr. President, may I address an inquiry to the Chair before the Senator from Mississippi proceeds?

Mr. STENNIS. I am glad to yield briefly.

Mr. ARMSTRONG. Mr. President, the nature of my inquiry is simply to ask how it happens that at 2:15 we interrupt the proceedings to take up this conference report? Evidently, an agreement was entered into in my absence. I wonder if the Chair could enlighten me as to what our parliamentary situation is.

The PRESIDING OFFICER. The agreement was entered into for 20 minutes of debate on the conference report, beginning at 2:15.

Mr. ARMSTRONG. Mr. President, is the motion to take up the conference report a debatable motion?

The PRESIDING OFFICER. It is not.

Mr. ARMSTRONG. Is the Chair stating that the motion to take up the conference report is not a debatable motion?

The PRESIDING OFFICER. The Chair is so stating.

Mr. ARMSTRONG. Do I understand, Mr. President, that the motion to adopt the conference report is a debatable motion and may be debated at any length, but only 20 minutes at this particular time?

The PRESIDING OFFICER. Normally, a conference report, once called up, is debatable.

Mr. STENNIS. Mr. President, I ask unanimous consent that the time the Senator is using not be counted against the 20 minutes that we already have. Otherwise, I would have to ask to proceed.

Mr. ARMSTRONG. Mr. President, it was my understanding that unanimous consent has been so granted.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, all I was trying to clarify at this moment—and then I will not impose further on the distinguished chairman of the Armed Services Committee (Mr. STENNIS)—is that what we have agreed to is there shall be, at this hour, 20 minutes of debate but, as I understand it, there is no agreement at this time as to when the vote shall occur on the conference report itself?

The PRESIDING OFFICER. Under the agreement, at the end of 20 minutes of debate, a vote will occur.

Mr. ARMSTRONG. I thank the Chair for that explanation.

Let me say, having entered an informal request for protection, evidently there has been some misunderstanding, because I think my interest in this has not been properly recorded and protected.

I thank the Chair.

Mr. STENNIS. Mr. President, I am glad to present, on the part of the conferees, this conference report, which was agreed to by all the conferees and is now before the Senate.

Mr. President, on Thursday, December 6, 1979, the conferees on the Department of Defense appropriations bill reached agreement on the differences between the two Houses after 11 sessions totaling almost 30 hours of deliberations.

The total amount of new budget authority in this bill is $130,981,290,000. This is $1.3 billion below the budget request. It is $1.5 billion above the House bill and $680 million below the Senate bill. This is the largest appropriations bill ever passed in the history of our country.

Mr. President, we are already in the third month of fiscal year 1980. Since Congress passed the Military Procurement Authorization Act for fiscal year 1980, the Appropriations Committees of the House and Senate have worked very hard to complete action on their bill before adjournment. Every significant item in the bill has been thoroughly discussed and debated. The House passed this conference report earlier today. I hope that the Senate can act on the conference report without delay.

Mr. President, this was a very harmonious conference, conducted in the spirit of compromise. There were 92 amendments made by the Senate to the House bill, including 512 individual line item or language differences. All in all, I think the conferees succeeded in putting together a reasonable compromise that funds the items necessary for the security of our Nation. At the conclusion of my remarks, I shall submit for the RECORD a comparative summary, by appropriation, of the conference committee's actions.

MAJOR ITEMS IN CONFERENCE

Mr. President, the final bill agreed to by the conference committee makes a substantial contribution to the dual goals of modernizing our military forces and increasing the day-to-day operational readiness of those forces. The bill continues the modernization of our strategic Triad by providing $670 million to continue the research and development of the new M–X intercontinental ballistic missile; $1.1 billion for the eighth Trident submarine; and $80 million is provided for continued development of the long-range cruise missile.

The bill continues a number of important initiatives to modernize and improve our conventional forces. For our naval forces, $2.1 billion is included for a nuclear-powered aircraft carrier; $696.4 million is included for two nuclear attack submarines; $1.2 billion is included for six guided missile frigates; and $41.0 million for advance procurement for an amphibious landing ship. The conferees also provided $10 million for light carrier design; $5 million for a maritime version of the Harrier aircraft; and $8 million for modular ship design. These initiatives are intended to reverse the current trend toward fewer, larger and more expensive ships to more numerous, smaller and less expensive ships.

To improve the capability of our ground combat forces, the bill includes $631 million for 352 XM–1 tanks; $225 million for 208 fighting vehicle systems; $396 million for the Patriot long-range surface-to-air missile; and $145 million for continued development of the Pershing II theater nuclear missile.

The bill provides funds earmarked for aircraft to modernize our Reserve forces. Included are $123.4 million to buy 12 A–7K attack aircraft and $77.2 million for 8 C–130H airlift aircraft for the Air National Guard. An additional $29.5 million will procure two C–9B airlift aircraft for the Naval Reserve.

The President's budget did not provide for these aircraft. However, the Congress has authorized and seen fit to provide the funds as encouragement to bolster the readiness of the Reserve forces and expects the Department of Defense to continue the pattern in future budget requests.

And, also, this is aircraft of great service, but it is also a tremendous encouragement to the membership of these reserve units. It is well worth the money. It is something that the legislative branch has been urging heretofore. I hope that we can continue that pattern. It is relatively modest in what it costs.

Modernization of our tactical air forces continues with procurement of the Army's Black Hawk support helicopter, the Navy's F–14 and F–18 fighter aircraft, and the Air Force's A–10, F–15 and F–16 fighter aircraft. Development continues on the Army's new advanced attack helicopter.

Mr. President, this bill also includes funds to improve the day-to-day operational readiness of our military forces. In the operation and maintenance area, this bill provides for improvements in the material readiness of our forces by increasing funds for repair and maintenance of our ships, aircraft, engines and combat vehicles. The conferees also included funds for increased aircraft flying hours, as additional combat aircraft enter the inventory, and for increased ship operating hours to enhance the readiness of our naval forces.

Providing sufficient funds in the operation and maintenance area is the only way to insure that our military forces are well trained and ready, and that the weapons systems they operate are well maintained. The funds included in this conference agreement, if properly managed, will accomplish that goal.

Under the general provisions, the conferees adopted language limiting Federal funding for abortions which is the same as the language included in the continuing resolution for fiscal year 1980.

On this subject of general provisions, Mr. President, there has been a growing trend in recent years to attach substantive legislation to appropriations bills in the form of general provisions. Just by way of example, 10 years ago, the fiscal year 1970 Defense Appropriations Act included only 42 general provisions. The fiscal year 1980 defense appropriations bill agreed to by the conference committee includes 70 general provisions. We had a number of these legislative provisions before the conference this year. Mr. President, this runaway use of general provisions on annual appropriations bills to bypass the established authorization process is a dangerous practice which we all should try to stop.

Mr. President, there is certain language proposed in this conference report by the Senator from South Carolina (Mr. HOLLINGS) that inadvertently got omitted from the joint explanatory statement.

I ask unanimous consent that a letter of explanation be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The letter follows:

COMMITTEE ON APPROPRIATIONS,
Washington, D.C., December 12, 1979.

Hon. HAROLD BROWN,
Secretary of Defense,
Washington, D.C.

DEAR MR. SECRETARY: The Committee of Conference on the fiscal year 1980 Defense Appropriations Act adopted language proposed by Senator Hollings of South Carolina requesting that the Secretary of the Navy study the concept of using commercial platforms as station ships.

The following language was inadvertently omitted from the joint explanatory statement of the Committee of Conference:

COMMERCIAL SHIPS

The conferees request that the Secretary of the Navy carefully study the concept of using commercial platforms as station ships, shuttle ships and mobile POL depot ships and consider requesting from the appropriate Committees of Congress any additional funds that he thinks necessary to test this concept in the near future. The conferees believe that such a test will be helpful to the Congress in determining future funding requirements for Navy tankers and oilers.

This advises that the Department of Defense shall construe this language on commercial ships as Conference Report language.

With best wishes,

Sincerely,

JOHN C. STENNIS,
Chairman.
JOSEPH P. ADDABBO,
Vice Chairman.

Mr. STENNIS. Mr. President, I will be glad to answer any questions concerning the items in this conference report. I want to especially thank all the Members of the conference, both House and Senate, for their fine work. We were in conference for 7 days on this bill stretching over 3 weeks. This bill we have wound up with provides significant real growth in our defense programs in fiscal year 1980. I believe it is a bill that every Senator can support without reservation.

Mr. President, I ask unanimous consent that the comparative study which I previously referred to be printed at this point in the RECORD.

There being no objection, the comparative study was ordered to be printed in the RECORD, as follows:

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY

[Fiscal years]

	New budget authority					Conference compared with—			
	1979 enacted	1980 estimates	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
TITLE I—MILITARY PERSONNEL									
Military personnel:									
Army	9, 647, 973, 000	9, 848, 900, 000	9, 668, 294, 000	9, 719, 853, 000	9, 668, 819, 000	+20, 846, 000	−180, 081, 000	+525, 000	−51, 034, 000
Navy	6, 787, 033, 000	6, 914, 500, 000	6, 809, 305, 000	6, 863, 834, 000	6, 857, 256, 000	+70, 223, 000	−57, 244, 000	+47, 951, 000	−6, 578, 000
Marine Corps	2, 112, 400, 000	2, 135, 000, 000	2, 093, 100, 000	2, 074, 757, 000	2, 089, 457, 000	−22, 943, 000	−45, 543, 000	−3, 643, 000	+14, 700, 000
Air Force	7, 929, 535, 000	7, 966, 900, 000	7, 873, 500, 000	7, 905, 275, 000	7, 863, 817, 000	−65, 718, 000	−103, 083, 000	−9, 683, 000	−41, 458, 000
Reserve personnel:									
Army	560, 900, 000	597, 600, 000	591, 300, 000	606, 700, 000	606, 400, 000	+45, 500, 000	+8, 800, 000	+15, 100, 000	−300, 000
Navy	241, 500, 000	184, 100, 000	240, 902, 000	240, 902, 000	240, 902, 000	+9, 402, 000	+56, 802, 000		
Marine Corps	87, 200, 000	87, 000, 000	88, 400, 000	87, 800, 000	88, 100, 000	+900, 000	+1, 100, 000	−300, 000	+300, 000
Air Force	197, 400, 000	214, 700, 000	213, 500, 000	214, 400, 000	214, 400, 000	+17, 000, 000	−300, 000	+900, 000	
National Guard personnel:									
Army	789, 100, 000	874, 200, 000	859, 430, 000	867, 700, 000	867, 250, 000	+78, 150, 000	−6, 950, 000	+7, 820, 000	−450, 000
Air Force	266, 500, 000	273, 500, 000	272, 500, 000	272, 500, 000	272, 500, 000	+6, 000, 000	−1, 000, 000		
Total, title I, new budget (obligational) authority, military personnel	28, 609, 541, 000	29, 096, 400, 000	28, 710, 231, 000	28, 853, 721, 000	28, 768, 901, 000	+159, 360, 000	−327, 499, 000	+58, 670, 000	−84, 820, 000
TITLE II—RETIRED MILITARY PERSONNEL									
Retired pay, Defense	10, 263, 500, 000	11, 451, 500, 000	11, 451, 500, 000	11, 451, 500, 000	11, 451, 500, 000	+1, 183, 000, 000			
TITLE III—OPERATION AND MAINTENANCE									
Operation and maintenance:									
Army	9, 299, 200, 000	10, 266, 200, 000	9, 791, 832, 000	10, 006, 355, 000	9, 915, 368, 000	+616, 168, 000	−350, 832, 000	+123, 536, 000	−90, 987, 000
Navy	11, 819, 200, 000	13, 562, 246, 000	13, 134, 875, 000	13, 317, 224, 000	13, 272, 245, 000	+1, 453, 045, 000	−290, 001, 000	+137, 370, 000	−44, 979, 000
Marine Corps	735, 800, 000	764, 500, 000	797, 881, 000	802, 726, 000	803, 046, 000	+66, 246, 000	+37, 546, 000	+4, 165, 000	−680, 000
Air Force	9, 346, 800, 000	10, 754, 000, 000	10, 190, 580, 000	10, 564, 409, 000	10, 459, 750, 000	+1, 112, 950, 000	−294, 250, 000	+269, 170, 000	−104, 659, 000
Defense agencies	3, 124, 800, 000	3, 655, 924, 000	3, 440, 435, 000	3, 550, 197, 000	3, 528, 214, 000	+403, 414, 000	−127, 711, 000	+87, 779, 000	−21, 983, 000
Army Reserve	420, 300, 000	428, 600, 000	419, 755, 000	421, 374, 000	420, 644, 000	+344, 000	−7, 956, 000	+889, 000	−730, 000
Navy Reserve	382, 900, 000	326, 300, 000	434, 399, 000	347, 136, 000	396, 436, 000	+13, 536, 000	+70, 136, 000	−37, 963, 000	+49, 300, 000
Rescission of fiscal year 1979 funds				(−30, 000, 000)					(+30, 000, 000)
Marine Corps Reserve	19, 900, 000	22, 067, 000	21, 923, 000	22, 003, 000	21, 923, 000	+2, 023, 000	−144, 000		−80, 000
Air Force Reserve	393, 300, 000	432, 000, 000	430, 225, 000	431, 107, 000	429, 407, 000	+36, 107, 000	−2, 593, 000	−818, 000	−1, 700, 000
Army National Guard	799, 400, 000	806, 700, 000	801, 220, 000	797, 350, 000	797, 150, 000	−2, 250, 000	−9, 550, 000	−4, 070, 000	−200, 000
Air National Guard	950, 000, 000	1, 096, 300, 000	1, 088, 007, 000	1, 089, 687, 000	1, 089, 687, 000	+139, 687, 000	−7, 113, 000	+1, 680, 000	
National Board for the Promotion of Rifle Practice, Army	375, 000		397, 000	397, 000	397, 000	+22, 000	+397, 000		
Claims, Defense	87, 500, 000	113, 200, 000	98, 200, 000	113, 200, 000	98, 200, 000	+10, 700, 000	−15, 000, 000		−15, 000, 000
Contingencies, Defense	2, 500, 000					−2, 500, 000			
Court of Military Appeals, Defense	1, 840, 000	2, 033, 000	2, 030, 000	2, 030, 000	2, 030, 000	+190, 000	−3, 000		
Foreign currency fluctuations, Defense	500, 000, 000	470, 000, 000	378, 000, 000	470, 000, 000	470, 000, 000	−30, 000, 000		+100, 000, 000	
XIII Olympic Winter Games	2, 000, 000	10, 000, 000	10, 000, 000	10, 000, 000	10, 000, 000	+3, 000, 000			
Total, title III, new budget (obligational) authority, operation and maintenance	37, 885, 815, 000	42, 710, 571, 000	41, 031, 759, 00	41, 945, 195, 000	41, 713, 497, 000	+3, 827, 682, 000	−997, 074, 000	+681, 738, 000	−231, 698, 000
Rescission of fiscal year 1979 funds				(−30, 000, 000)					(+30, 000, 000)
TITLE IV—PROCUREMENT									
Aircraft procurement, Army	949, 709, 000	946, 400, 000	902, 837, 000	1, 000, 437, 000	961, 837, 000	+12, 128, 000	+15, 437, 000	−21, 000, 000	−38, 600, 000
Missile procurement, Army	736, 900, 000	1, 250, 500, 000	1, 088, 100, 000	1, 173, 200, 000	1, 140, 800, 000	+403, 900, 000	−109, 700, 000	+52, 700, 000	−32, 400, 000
Procurement of weapons and tracked combat vehicles, Army	1, 511, 100, 000	1, 888, 900, 000	1, 786, 600, 000	1, 824, 100, 000	1, 824, 100, 000	+313, 000, 000	−64, 800, 000	+37, 500, 000	
Transfer from other accounts			(12, 100, 000)	(12, 100, 000)	(12, 100, 000)	(+12, 100, 000)	(+12, 100, 000)		
Procurement of ammunition, Army	1, 218, 100, 000	1, 343, 400, 000	1, 243, 800, 000	1, 234, 100, 000	1, 232, 800, 000	+14, 700, 000	−110, 600, 000	−11, 000, 000	−1, 300, 000
Transfer from other accounts	(30, 000, 000)		(52, 500, 000)			(−30, 000, 000)		(−52, 500, 000)	
Other procurement, Army	1, 650, 850, 000	1, 694, 200, 000	1, 379, 710, 000	1, 611, 510, 000	1, 435, 410, 000	−215, 440, 000	−253, 780, 000	+55, 700, 000	−176, 100, 000
Transfer from other accounts	(40, 000, 000)		(47, 000, 000)	(36, 400, 000)	(47, 000, 000)	(+7, 000, 000)	(+47, 000, 000)		(+10, 600, 000)
Aircraft procurement, Navy	4, 358, 700, 000	3, 967, 900, 000	4, 601, 293, 000	4, 518, 000, 000	4, 441, 446, 000	+82, 746, 000	+473, 456, 000	−159, 847, 000	−76, 554, 000
Weapons procurement, Navy	1, 955, 600, 000	1, 973, 500, 000	1, 914, 014, 000	1, 988, 214, 000	1, 988, 214, 000	+32, 614, 000	+14, 714, 000	+74, 200, 000	
Transfer from other accounts			(8, 300, 000)	(8, 300, 000)	(8, 300, 000)	(+8, 300, 000)	(+8, 300, 000)		
Shipbuilding and conversion, Navy	5, 112, 600, 000	6, 173, 800, 000	6, 163, 950, 000	6, 706, 550, 000	6, 571, 850, 000	+1, 459, 250, 000	+398, 050, 000	+407, 900, 000	−134, 700, 000
Transfer from other accounts			(76, 200, 000)	(76, 200, 000)	(76, 200, 000)	(+76, 200, 000)	(+76, 200, 000)		
Other procurement, Navy	2, 641, 600, 000	2, 694, 500, 000	2, 524, 309, 000	2, 604, 456, 000	2, 590, 056, 000	−51, 544, 000	−104, 444, 000	+65, 747, 000	−14, 400, 000
Transfer from other accounts			(46, 500, 000)	(34, 700, 000)	(34, 700, 000)	(+34, 700, 000)	(+34, 700, 000)	(−11, 800, 000)	
Procurement, Marine Corps	356, 000, 000	284, 200, 000	277, 285, 000	283, 785, 000	283, 785, 000	−72, 215, 000	−415, 000	+6, 500, 000	
Aircraft procurement, Air Force	6, 893, 307, 000	7, 931, 200, 000	7, 981, 300, 000	7, 941, 340, 000	7, 965, 240, 000	+1, 071, 933, 000	+34, 040, 000	−16, 060, 000	+23, 900, 000
Proceeds from foreign sales			(106, 000, 000)	(106, 000, 000)	(106, 000, 000)	(+106, 000, 000)	(+106, 000, 000)		
Transfer from other accounts	(80, 100, 000)			(13, 800, 000)	(13, 800, 000)	(−66, 300, 000)	(+13, 800, 000)	(+13, 800, 000)	
Missile procurement, Air Force	1, 579, 800, 000	2, 288, 600, 000	2, 170, 485, 000	2, 175, 200, 000	2, 160, 385, 000	+580, 585, 000	−128, 215, 000	−10, 100, 000	−14, 815, 000
Reappropriation, by transfer		15, 000, 000	15, 000, 000	15, 000, 000	15, 000, 000	+15, 000, 000			
Transfer from other accounts			(4, 300, 000)					(−4, 300, 000)	

	New budget authority					Conference compared with—			
	1979 enacted	1980 estimates	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
Other procurement, Air Force	2,362,250,000	2,671,100,000	2,534,373,000	2,633,731,000	2,634,031,000	+271,781,000	−37,069,000	+99,658,000	+300,000
Reappropriation, by transfer		3,000,000	3,000,000	3,000,000	3,000,000	+3,000,000			
Transfer from other accounts	(37,000,000)		(35,700,000)	(10,600,000)	(10,600,000)	(−26,400,000)	(+10,600,000)	(−25,100,000)	
Procurement, Defense agencies	274,600,000	294,000,000	275,685,000	286,185,000	280,185,000	+5,585,000	−13,815,000	+4,500,000	−6,000,000
Total, title IV, procurement:									
New budget (obligational) authority	31,601,115,000	35,420,200,000	34,941,741,000	35,998,808,000	35,528,139,000	+3,927,023,000	+107,939,000	+586,398,000	−470,669,000
Proceeds from foreign sales			(106,000,000)	(106,000,000)	(106,000,000)	(+106,000,000)	(+106,000,000)		
Transfer from other accounts	(187,100,000)		(282,600,000)	(192,100,000)	(202,700,000)	(+15,600,000)	(+202,700,000)	(−79,900,000)	(+10,600,000)
TITLE V—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION									
Research, development, test, and evaluation:									
Army	2,640,864,000	2,927,000,000	2,817,674,000	2,785,309,000	2,853,331,000	+212,467,000	−73,669,000	+35,657,000	+68,022,000
Transfer from other accounts			(2,000,000)	(2,000,000)	(2,000,000)	(+2,000,000)	(+2,000,000)		
Navy	4,471,871,000	4,484,000,000	4,478,081,000	4,536,337,000	4,537,433,000	+65,562,000	+53,433,000	+59,352,000	+1,096,000
Transfer from other accounts	(15,000,000)		(15,886,000)	(20,886,000)	(15,886,000)	(+886,000)	(+15,886,000)		(−5,000,000)
Air Force	4,321,040,000	5,005,100,000	4,913,012,000	4,892,043,000	4,941,943,000	+620,903,000	−63,157,000	+28,931,000	+49,900,000
Reappropriation, by transfer		34,900,000	37,230,000	37,230,000	37,230,000	+37,230,000	+2,330,000		
Transfer from other accounts		(20,100,000)	(44,000,000)	(44,000,000)	(44,000,000)	(+44,000,000)	(+23,900,000)		
Defense agencies	892,887,000	1,086,600,000	1,030,056,000	1,048,322,000	1,037,022,000	+144,135,000	−49,578,000	+6,966,000	−11,300,000
Director of Test and Evaluation, Defense	27,600,000	33,400,000	42,500,000	42,500,000	42,500,000	+14,900,000	+9,100,000		
Total, title V, new budget (obligational) authority, research, development, test, and evaluation	12,354,262,000	13,571,000,000	13,318,553,000	13,341,741,000	13,449,459,000	+1,095,197,000	−121,541,000	+130,906,000	+107,718,000
Transfer from other accounts	(15,000,000)	(20,100,000)	(61,886,000)	(66,886,000)	(61,886,000)	(+46,886,000)	(+41,786,000)		(−5,000,000)
TITLE VI—SPECIAL FOREIGN CURRENCY PROGRAM									
Special foreign currency program	14,362,000	6,667,000	6,667,000	6,667,000	6,667,000	−7,695,000			
WORKING CAPITAL FUNDS									
Army stock fund	74,000,000					−74,000,000			
Air Force stock fund	26,800,000					−26,800,000			
Total, new budget (obligational) authority, working capital funds	100,800,000					−100,800,000			
TITLE VII—GENERAL PROVISIONS									
Additional transfer authority, sec. 734	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
TITLE VIII—RELATED AGENCIES									
Intelligence community staff	12,000,000	12,627,000	11,527,000	11,527,000	11,527,000	−473,000	−1,100,000		
Payment to the CIA retirement and disability fund	43,500,000	51,600,000	51,600,000	51,600,000	51,600,000	+3,100,000			
Total, title VIII, new budget (obligational) authority, related agencies	55,500,000	64,227,000	63,127,000	63,127,000	63,127,000	+7,627,000	−1,100,000		
RECAPITULATION									
Title I—Military personnel	28,609,541,000	29,096,400,000	28,710,231,000	28,853,721,000	28,768,901,000	+159,360,000	−327,499,000	+58,670,000	−84,820,000
Title II—Retired military personnel	10,268,500,000	11,451,500,000	11,451,500,000	11,451,500,000	11,451,500,000	+1,183,000,000			
Title III—Operation and maintenance	37,885,815,000	42,710,571,000	41,031,759,000	41,945,195,000	41,713,497,000	+3,827,682,000	−997,074,000	+681,738,000	−231,698,000
Rescission of fiscal year 1979 funds				(−30,000,000)					(+30,000,000)
Title IV—Procurement	31,601,116,000	35,420,200,000	34,941,741,000	35,998,808,000	35,528,139,000	+3,927,023,000	+107,939,000	+585,398,000	−470,669,000
Proceeds from foreign sales			(106,000,000)	(106,000,000)	(106,000,000)	(+106,000,000)	(+106,000,000)		
Transfer from other accounts	(187,100,000)		(282,600,000)	(192,100,000)	(202,700,000)	(+15,600,000)	(+202,700,000)	(−79,900,000	(+10,600,000)
Title V—Research, development, test, and evaluation	12,354,262,000	13,571,000,000	13,318,553,000	13,341,741,000	13,449,459,000	+1,095,197,000	−121,541,000	+130,906,000	+107,718,000
Transfer from other accounts	(15,000,000)	(20,100,000)	(61,886,000)	(66,886,000)	(61,886,000)	(+46,986,000)	(+41,786,000)		(−5,000,000
Title VI—Special foreign currency program	14,362,000	6,667,000	6,667,000	6,667,000	6,667,000	−7,695,000			
Working capital funds	100,800,000					−100,800,000			
Title VII—General provisions (additional transfer authority, sec. 734)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				
Title VIII—Related agencies	55,500,000	64,227,000	63,127,000	63,127,000	63,127,000	+7,627,000	−1,100,000		
Total, Department of Defense (NOA)	120,889,896,000	132,320,565,000	129,523,578,000	131,660,759,000	130,981,290,000	+10,091,394,000	−1,339,275,000	+1,457,712,000	−679,469,000
Proceeds from foreign sales			(106,000,000)	(106,000,000)	(106,000,000)	(+106,000,000)	(+106,000,000)		
Transfer from other accounts	(202,100,000)	(20,100,000)	(344,486,000)	(258,986,000)	(264,586,000)	(+62,486,000)	(+244,486,000)	(−79,900,000)	(+5,600,000)
Rescission of fiscal year 1979 funds				(−30,000,000)					(+30,000,000)
Total funding available	121,091,996,000	132,340,665,000	129,974,064,000	132,025,745,000	131,351,876,000	+10,259,880,000	−983,789,000	+1,377,812,000	−673,869,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				

COMPARATIVE STATEMENT OF NEW BUDGET (OBLIGATIONAL) AUTHORITY—Continued

[Fiscal years]

	New budget authority					Conference compared with—			
	1979 enacted	1980 estimates	House, 1980	Senate, 1980	Conference, 1980	1979 enacted	1980 estimate	House bill	Senate bill
RECAPITULATION—Continued									
Distribution by organizational component:									
Army	$30,298,771,000	$32,872,600,000	$31,430,949,000	$32,048,385,000	$31,724,306,000	+$1,425,535,000	—$1,148,294,000	+$293,357,000	—$324,079,000
Transfer from other accounts	(70,000,000)		(113,600,000)	(50,500,000)	(61,100,000)	(—8,900,000)	(+61,100,000)	(—59,900,000)	(+10,600,000)
Navy	41,072,304,000	43,573,613,000	43,579,717,000	44,393,724,000	44,181,149,000	+3,108,345,000	+607,530,000	+601,432,000	—212,575,000
Transfer from other accounts	(15,000,000)		(146,886,000)	(140,086,000)	(135,086,000)	(+120,086,000)	(+135,086,000)	(—11,800,000)	(—5,000,000)
Rescission of fiscal year 1979 funds				(—30,000,000)					(+30,000,000)
Air Force	34,266,732,000	38,686,800,000	37,722,712,000	38,174,922,000	38,086,390,000	+3,819,658,000	—600,410,000	+363,678,000	—88,532,000
Proceeds from foreign sales			(106,000,000)	(106,000,000)	(106,000,000)	(+106,000,000)	(+106,000,000)		
Transfer from other accounts	(117,100,000)	(20,100,000)	(84,000,000)	(68,400,000)	(68,400,000)	(—48,700,000)	(+48,300,000)	(—15,000,000)	
Defense agencies/OSD	4,928,089,000	5,671,825,000	5,275,573,000	5,529,101,000	5,474,818,000	+546,729,000	—197,007,000	+199,245,000	—54,283,000
Retired military personnel	10,200,500,000	11,451,500,000	11,451,500,000	11,451,500,000	11,451,500,000	+1,183,000,000			
Related agencies	55,500,000	64,227,000	63,127,000	63,127,000	43,127,000	+7,627,000	—1,100,000		
Total, Department of Defense (NOA)	120,889,896,000	132,320,565,000	129,523,578,000	131,660,759,000	130,981,290,000	+10,091,394,000	—1,339,275,000	+1,457,712,000	—679,469,000
Proceeds from foreign sales			(106,000,000)	(106,000,000)	(106,000,000)	(+106,000,000)	(+106,000,000)		
Transfer from other accounts	(202,100,000)	(20,000,000)	(344,486,000)	(258,986,000)	(244,586,000)	(+62,486,000)	(+244,436,000)	(79,900,000)	(+5,600,000)
Rescission of fiscal year 1979 funds				(—30,000,000)					(+30,000,000)
Total funding available	121,091,996,000	132,340,665,000	129,974,064,000	132,025,745,000	131,351,876,000	+10,259,080,000	—988,789,000	+1,377,812,000	—673,869,000
Transfer authority	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)	(750,000,000)				

Mr. STENNIS. Mr. President, the Senator from North Dakota (Mr. YOUNG) I hope will use some time.

Mr. YOUNG. Mr. President, I wish to associate myself with the comments of the distinguished chairman of the Defense Subcommittee (Mr. STENNIS). I would like to add a few brief comments.

As the distinguished Senator from Mississippi stated in his opening remarks, the conferees agreed to a total of $130,981,290,000 for defense. This is $1,457,712,000 over the House allowance and $679,469,000 under the Senate bill.

Mr. President, this is a very large appropriation for defense. In past years the Appropriations Committee has made considerably larger reductions in providing funds for the defense of our country. However, this year there has been an increasing concern by the American people and Members of Congress over the increased spending and strength by the military of the Soviet Union. The SALT talks and the pending SALT treaty have revealed the Soviets' increases in weapons and technology. Specifically, their improvements in intercontinental ballistic missiles. The defense authorization bill, when it was debated here on the floor of the Senate, revealed a deep concern relative to the overall strength of the Soviet land, water, and air forces.

Mr. President, these concerns have brought us to realize, as I said when we first passed the defense appropriations bill, that the United States can no longer be certain that it is the No. 1 as a world power or even equal in power to the Soviet Union.

The conference agreement provides the necessary funds to buy all of the aircraft authorized and most of the ships, tanks, and other weapons systems authorized. This bill also provides funds to offset inflation and hopefully to provide some small degree of real growth.

Mr. President, the conferees supported their respective Houses on the issue of abortion. I would have supported the stronger Hyde language if I thought there was any chance that the Senate would agree—but after 33 votes that is no longer the case. As we all know, each House has the votes to support their respective positions on abortion so it was necessary to find the best compromise language possible. Since the continuing resolution has passed both Houses twice this year with compromise langauge on abortion, this language was agreed to by the conferees. I believe this is the only viable solution to this very controversial problem at this time.

Mr. President, I hope the Senate approves the conference report.

Mr. STENNIS. Mr. President, I thank the Senator from North Dakota.

Mr. THURMOND. Mr. President, I rise in support of the conference report on H.R. 5359, the Department of Defense Appropriation Act for fiscal year 1981.

This bill appropriates for national defense purposes a total of $132.3 billion, a substantial increase over the $121 billion provided for fiscal year 1979.

Mr. President, I commend the conference for the approval given a number of programs added by the Congress. These include many research and procurement programs.

In the procurement area, I was pleased that additional tactical fighter aircraft were accepted, additional Mark-48 torpedoes were accepted and the hardware for the National Guard modernization program was accepted.

Of particular importance was the acceptance by the Congress of a flight test program for the Enforcer aircraft, a low cost, small, heavily armored, close support aircraft. If these tests prove successful, the Nation will have an opportunity to overcome the numbers deficiencies in its tactical aircraft programs with a plane which could cost in the range of $1 million per copy.

Mr. President, the program for the hardware tests of the Enforcer was presented to the House Armed Services Committee in June of 1978 and this committee added money for such effort in the next defense budget, the fiscal year 1980 budget.

This program called for expenditures of about $13 million over a 2-year period to build and test four prototype aircraft. The House provided in its bill $6 million, and that sum has been approved by a substantial majority of all four of the defense committees.

These funds are not to be used for the purchase of production-type aircraft, but to carry out a research, development, test, and evaluation program that includes acquisition of four prototypes for operational demonstration during the next 2 years.

Mr. President, the $6 million is the first year funding for this test flight program. The Air Force should move promptly to carry out the will of the Congress in this matter. Members are aware that the Air Force was not supportive of this test, but the Congress has funded this program despite those objections. I would recommend the Air Force initiate this effort immediately for to do otherwise will create unnecessary ill will for our Defense Establishment.

Mr. STENNIS. Mr. President, I thank the Senator very much for his interest.

Mr. President, some reference has been made to questions about the reductions in this bill that the Senate conferees agreed to. I refer to one for $327 million that relates to military personnel and $101 million of the total relates to the fact that they are just not able to make their recruiting quotas.

There is just no use to put the money in; according to the average, those places will not be filled.

Another item was concerning estimates about inflation. Another item was regarding consultants, contract studies and management support of $150 million dollars. That is in operation and maintenance funds. And that was capital conservation there.

At the same time, we put in $477 million extra for added costs for a nuclear aircraft carrier, which added valuable capacity to our naval forces. We put in an extra nuclear submarine, that is, $348 million for a second ship; additional Air Force aircraft added $211 million; including the Air National Guard, as I already mentioned.

That gives the membership and the press a quick reference to some of the major items.

I want to associate myself with the remarks of the Senator from North Dakota (Mr. YOUNG) on this abortion question.

Mr. President, I do not believe in any abortion amendment being tied to this bill. I do not believe it being tied the way it is to any bill. It is not a matter that we ought to be legislating on in that way, not on appropriation bill amendments. And I hope we can move further and further from it.

But we did have to yield to weaker language, anyway, as the Senator from North Dakota (Mr. YOUNG) said, as a practical matter here, having had three or four debates on this question recently.

Mr. YOUNG. Mr. President, does the Senator from Colorado (Mr. ARMSTRONG) desire some time?

Mr. ARMSTRONG. Mr. President, I would be happy if the distinguished floor manager can yield me some time.

Mr. YOUNG. How much time?

Mr. ARMSTRONG. I would be very happy if the Senator could yield me 3 minutes.

Mr. YOUNG. Make it 4.

The PRESIDING OFFICER (Mr. HUDDLESTON). The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I thank the Senator for his courtesy.

I am generally well pleased with the conference report, although there is one aspect of it that troubles me, I must say, and that is the question of TACFIRE. I was pleased when the Senate put the TACFIRE money in the bill. Now it is my understanding, and I have been looking at the conference report on page 24, that the conference agreement provides only $18.2 million for the TACFIRE program, and that is for the termination of the program itself.

For my colleagues who are not familiar with TACFIRE, it makes possible an exponential increase in the capabilities of Army artillery batteries, one badly needed if our heavily outnumbered conventional forces are to present a credible deterrent to Soviet aggression in Western Europe.

Before TACFIRE, artillery target acquisition was done in very much the same way it had been done during World War II: A forward observer would report the position of potential targets over the radio to a fire control officer at an artillery battery, who would make manual calculatons as to the target's range; the type of ammunition that should be used against the target; the number of cannon in the battery that should be used to engage the target, and the number of rounds that should be fired from each tube. There are problems with this system as I think is agreed by all who have looked at the issue. Voice communication is slow, and susceptible to jamming by modern EW techniques. Manual calculation is slower still, and the potential for error is significant.

With TACFIRE, these problems are either eliminated or greatly reduced. A forward observer equipped with a handheld computer transmits targeting information instantaneously to mobile computers at the battery, battalion, and division level. These computers determine in seconds which batteries should engage the target, and how many rounds of what type of ammunition should be required to suppress it. The Army's tests at Fort Sill and Fort Hood have shown that with TACFIRE, the time required for target acquisition can be cut in half, and, the number of targets that can be engaged simultaneously by a single battery rises tenfold, from 3 to 30.

Now, the factual situation, as I understand it, is:

The Army has enough TACFIRE units to equip half of its active forces, and planned to acquire the remainder in fiscal years 1980 and 1981.

If we go ahead, as the conference report will have us do, with the termination of this, we will leave only half of the Army's batteries automated and have the Army's batteries back on the old World War II system. It seems to me this is an unsatisfactory and unfortunate development.

I am well aware of the fact that there are on the drawing boards more capable fire control systems than TACFIRE, and that there is an argument that says we ought to wait and install the latest generation of fire control systems.

I would express concern, however, that unless we move very rapidly, we are in a continuing position of vulnerability with respect to this important element of our military capability.

So I wanted to express that concern. I do not entertain, of course, the thought that it can be remedied at this time, but I hope that members of the committee will look seriously at this issue and, as we go into next year would either revive TACFIRE or a follow-on system that will address itself to this urgent defense capability.

Mr. STENNIS. Mr. President, I appreciate the Senator's remarks.

The Senate stood by that system and put in the full amount, as he will recall. But in conference, the judgment was the other way, decidedly so, by the House Members who have also looked into it. I do not think this is just abandonment though, as the Senator suggested. We ought to have something better in its place, and I think it will be given the proper attention on that score. But this one, it was said, was behind in modern developments. I thank the Senator for his comments.

Mr. YOUNG. I would like to say to my friend from Colorado that I supported the funds for TACFIRE, and I hoped the conferees would approve it. But they defended their position opposing it as strongly as I have ever known them to do. We spent over 3 weeks on this bill, and we had one very important item that was not resolved until the last day. They knew the details of this bill very well. I give them credit for that. I supported the Senator's position but the House conferees were adamant.

Mr. ARMSTRONG. Mr. President, I very much appreciate the observations and words of encouragement by the distinguished managers of the conference and of the bill, and I also appreciate this opportunity to express my own concern about this matter.

Mr. STENNIS. Mr. President, if there is time left, I yield half a minute to the Senator from Arkansas.

Mr. PRYOR. How much time do we have?

The PRESIDING OFFICER. The Senator from Mississippi has 6 minutes and 20 seconds.

Mr. PRYOR. Mr. President, I would just like to compliment the chairman of the committee for the way in which he has handled this very, very difficult piece of legislation. I know it has not been easy.

I would specifically like to thank the chairman and the other conferees for looking very carefully at the usage of funds for private consultants throughout the Defense Department's budget.

I proposed a $100 million cut in funds for this purpose. That not only passed, but the chairman of the committee saw to it that even additional moneys were taken out of the defense appropriation for the use of private consultants. I will say, Mr. President, that this did not diminish our defense posture one iota.

I would again like to compliment the distinguished chairman, the Senator from Mississippi, for his work, his activity, and his diligence. The chairman and the distinguished Senator from North Dakota handled this entire matter in a very, very perceptive way. I deeply appreciate their work on this bill and the courtesies they extended to me in the process.

Mr. STENNIS. We thank the Senator for his kind words. Certainly this is the work of many people from the House and the Senate. The Senator from North Dakota was very active all the way through. This TACFIRE program now was something which we did not throw out, it just fell out. We were able to keep 68 percent of the Senate amendments, by the way, but the age of its technology was the thing that determined the TACFIRE matter.

Mr. President, I have already moved the adoption of the conference report, and I am ready to yield back our time.

Mr. MUSKIE. Mr. President, the Senate now is considering the conference agreement on H.R. 5359, the defense appropriation bill for fiscal year 1980. I want to take this opportunity to comment on the budgetary implications of this bill.

The conference agreement on the bill provides for $131.0 billion in budget authority and $84.2 billion in fiscal year 1980 outlays. This represents a reduction to the Senate-passed bill of approximately $700 million in budget authority and $300 million in outlays. The amounts in this conference agreement are well within the assumptions for defense appropriations contained in the second budget resolution.

Mr. President, I want to take this opportunity to single out Senator STENNIS, the distinguished chairman of the Defense Subcommittee—and the chairman of the Armed Services Committee—for the very effective leadership he continues to provide the Congress. His devotion to a strong national defense is unquestionable. His leadership and support among all Senate committee chairmen has been instrumental to the development of a sound budget process. I thank him for his continuing encouragement and support.

TEST OF THE ENFORCER AIRCRAFT

Mr. PROXMIRE. Mr. President, I join my colleague from Florida, Mr. CHILES, in urging that the Air Force give a fair and impartial test to the Enforcer aircraft. All four committees of Congress have now approved this test. The details of how this test should be carried out have been spelled out in hearings before the House Armed Services Committee.

It is well known that the Air Force has opposed the testing of this aircraft. Now, however, Congress has insisted that this test take place and I am confident that the Air Force will do so without any hint of partiality.

I might add that the conferees were nearly unanimous on this issue. The Senate conferees with only one or two exceptions, were dedicated to the testing of the Enforcer. Further, it can be said that this test must take place in an atmosphere of complete analytical honesty. There is no sense in having to debate this issue again next year. Let us see just what this aircraft can accomplish and then determine where to go from there.

The distinguished Senator from South Carolina (Mr. THURMOND) deserves great credit for his remarkable persistence in pushing so hard for the test of the Enforcer aircraft. Even though many members of the conference and of the committee favored the Enforcer, without Senator THURMOND's very persistent and effective work, I am convinced that the Enforcer would have great difficulty surviving.

● Mr. HART. Mr. President, I would like to commend the members of the Appropriations Conference, and especially the chairman of the Defense Appropriations Subcommittee, Senator STENNIS, for their hard work and their good work on this conference report. The issues before them were many and difficult. There was substantial divergence between the Senate and House bills. The conference report now before us represents the best possible resolution of that divergence, and it well protects the views of the Senate.

I would like to offer my special thanks to Senator STENNIS for the hard fight he made on a series of naval initiatives. Through his work and his skill he obtained three of the five initiatives in the Senate bill. They include $10 million for continued design work on a light carrier for V/STOL aircraft, $5 million for a naval version of the AV–8B advanced Harrier, and $8 million for ships systems engineering standards, which is part of the SEAMOD program. These initiatives will be of substantial assistance in the effort to move the Navy toward new concepts and new technologies.

Unfortunately, despite the strong fight put up by Senator STENNIS and several other members of the conference, several important naval initiatives were not funded. Two of these related to high-speed ships: Surface effect ships and hydrofoils. The termination of the surface effect ship program eliminates our most promising option for large high-speed ships. This in turn may tend to restrict us to frigates for defensive antisubmarine warfare, and in my view, frigates are not very effective at this task. We have also lost the option for high-speed transports at a time when our increasing concern with situations in the Third World might make such ships highly attractive. I believe we will come to regret the loss of this option.

Also lost was the APRAPS sonar, and with it two important options: More effective active shipboard sonars, and the use of hydrofoils in ASW. With the final termination of the APRAPS program, the only shipboard sonars left in development are passive. They detect noises emitted by some types of submarines. Unfortunately, not all types of submarines make these noises. Unless the submarine is going fast, a passive sonar is of questionable effectiveness against a conventional submarine running on its batteries. Within the next decade some nations may have submarines with the performance of nuclear powered submarines but without nuclear power plants. Again, it may be very difficult to detect them with passive sonars. Our failure to pursue the development of shipboard active sonars could prove to be a very costly mistake.

The funds for APRAPS in the Senate appropriations bill were to be used to test a prototype APRAPS on a hydrofoil. This would have opened the door to additional procurement of the PHM hydrofoil for use in ASW. Groups of these ships equipped with APRAPS, operating with a small ASW carrier, could have been more effective and most cost-effective at antisubmarine warfare than the frigates and destroyers we procure now. Again, the option has probably been lost.

Probably the single most important naval initiative in the Senate bill was the conversion of an LPH class amphibious ship to the first light carrier for V/STOL aircraft. Despite the strong efforts of Senator STENNIS and others, whose assistance I deeply appreciate, this conversion was not funded by the conference.

Because of the immense cost of the large aircraft carriers and their escorts, we cannot afford very many of them. We bought this year what I hope will be the last big carrier—not because I believe it to be a useless type of ship, but because any ship is useful only if it can be acquired in sufficient numbers, and with the large carrier, that simply is not possible. The big carrier has priced itself out of the future market.

The future of sea-based air power must involve the light V/STOL carrier. If this type of ship is self-escorting—as it should be—we can afford six or even eight for the shipbuilding cost of a single large carrier and its escorts. We can afford enough light carriers to cover our many interests in the Third World, to undertake antisubmarine and countermine operations, to carry out amphibious assaults—for the light carrier could operate as an amphibious assault ship at need—and to give us a fleet where the inevitable losses in a major conflict need not be crippling.

We need a light carrier force in the near, not the distant, future. We do not face a prospective crisis in the Persian Gulf in 20 years, we have one on our hands today. We do not postulate a Soviet navy capable of devastating anti-carrier strikes by the year 2000—we see such a navy opposing us today. We need to move immediately to create a light carrier force. Indeed, we are probably 10 years late.

The conversion of an LPH to a light carrier was a promising way to begin acquiring a light carrier force. However, it is not the only way. In losing this conversion, we have not lost the light carrier option, although we have made the task of realizing the option more difficult.

I know the Senator from Mississippi has expressed himself recently in favor of a light carrier force. I know of his great resourcefulness in these matters. I hope he will be able to find another way to move forward rapidly with the light carrier program. For move forward we certainly must.●

Mr. YOUNG. I yield back my time.

The PRESIDING OFFICER. All time is yielded back, and the question then is on agreeing to the conference report.

The conference report was agreed to.

Mr. STENNIS. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will report the amendments in disagreement.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 4 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$7,863,817,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 18 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$429,407,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 19 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: "$797,150,000".

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 23 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $961,837,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 27 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $1,232,800,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $4,441,446,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 42 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: (Including Transfer of Funds)

In addition to any other funds authorized to be appropriated under this heading, there is hereby authorized to be appropriated during fiscal year 1980 an additional amount of $75,400,000 only for the procurement of F-100 engine initial and replenishment spare parts.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 45 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $2,160,385,000.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 47 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $2,634,031,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 52 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert $2,853,331,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 53 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $4,537,433,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 55 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $4,941,943,000

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 65 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter proposed by said amendment, insert: or, for the purpose of conducting a test during fiscal year 1980, by a certified psychiatric nurse or other certified nurse practitioner.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 83 to the aforesaid bill, and concur therein with an amendment as follows:

Restore the matter stricken by said amendment, amended to read as follows:

Sec. 766. None of the funds appropriated by this Act or any other Act appropriating funds for fiscal year 1980 or for subsequent fiscal years shall be available to pay the basic compensation of an individual employed on September 30, 1979, as a teacher or a teaching position with the Canal Zone Government who is transferred to such a position in the Department of Defense in an amount in excess of the greater of:

(a) the amount of basic compensation an individual with comparable experience and level of education is entitled to receive pursuant to section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)); or

(b) for fiscal year 1980—the amount to which such individual was or would have been entitled to receive based on the established rates of basic compensation in effect on September 30, 1979, for such employees of the Canal Zone Government, plus seven percent of that amount: *Provided,* That this limitation shall not preclude a proportionate adjustment in the basic compensation of such an individual to reflect an increase in the number of working days in the school year as a result of the transfer; or

(c) for fiscal year 1981 and subsequent fiscal years—the amount payable based on the rates of basic compensation in effect (including the limitations contained in this section) on September 30th of the fiscal year preceding the fiscal year for which payment is to be made, plus an amount equal to one-half of the increase in basic compensation for the school year in progress on October 1st in the fiscal year for which payment is to be made compared to the basic compensation for the previous school year, that an individual with comparable experience and level of education is entitled to receive pursuant to section 5(c) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (20 U.S.C. 903(c)).

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 92 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matters proposed by said amendment, insert:

Sec. 770. The Secretary of the Air Force shall acquire and install, with such funds as may be available to him, a civilian early warning system at each Titan II missile site to the extent found necessary or desirable by the study conducted pursuant to section 813 of the Department of Defense Authorization Act, 1980.

Mr. STENNIS. Mr. President, I ask unanimous consent that the Senate concur in the amendments of the House to the amendments of the Senate, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, I thank the Chair. We did not request a rollcall vote on this matter, Mr. President, because generally it was in line all the way down with matters that have been voted on by the Senate and the House and with the authorizations and appropriations.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of the bill (H.R. 3919).

The PRESIDING OFFICER. The Senator from Utah.

Mr. ROBERT C. BYRD. Mr. President, will the Senator allow me to ask what is the pending business?

The PRESIDING OFFICER. The pending business is amendment No. 794 of the Senator from New Jersey.

Mr. ROBERT C. BYRD. On what bill?

The PRESIDING OFFICER. On H.R. 3919.

Mr. ROBERT C. BYRD. That is the excess profit tax?

The PRESIDING OFFICER. Excess profits.

Mr. ROBERT C. BYRD. I thank the Chair.

(The following occurred during Mr. HATCH's remarks and is printed at this point by unanimous consent.)

Mr. ARMSTRONG. Mr. President, while I was off the floor briefly, it is my understanding, a suggestion was advanced by the majority leader that, to expedite our business, perhaps other Senators could call up amendments. If that is in order, I shall certainly be glad to do so.

I ask unanimous consent that the pending amendment be laid aside and I be permitted to call up my amendment No. 869.

Mr. PRYOR. Reserving the right to object, Mr. President, I wonder if the Senator from Colorado will please make his statement once again? I am acting majority leader for the moment. As the majority leader himself is not in the Chamber, I have been asked to monitor the situation for a short time. I wonder if my friend from Colorado will restate his position and also his request?

Mr. ARMSTRONG. Mr. President, I am happy to restate my unanimous-consent request. Before I do so, may I observe that the distinguished Senator's conduct of the office of acting majority leader reflects great credit on him and on the institution in which we are both privileged to serve.

Mr. PRYOR. The Senator can just state this observation. This office is going downhill very quickly with my operating in this capacity.

Mr. ARMSTRONG. Mr. President, my request is to call up my amendment numbered 869. If I understand the parliamentary situation correctly, since we have a second-degree amendment pending, it would require unanimous consent for that to be ordered.

The PRESIDING OFFICER. That is correct.

Mr. BOREN. Mr. President, reserving the right to object, will the Senator from Colorado state the subject matter of his amendment?

Mr. ARMSTRONG. I am happy to do so.

Mr. President, the amendment I seek to call up at this time simply provides that the President may not adjust, amend, or terminate any rule or order on December 31, 1979, which is part of a plan to phase out price controls on crude oil under the Emergency Petroleum Allocation Act or change the allocation of any such rule or order on any class or category after that date.

The reason I seek to bring this amendment up is that the essence of the windfall tax proposition is that, since we are going to have decontrol, in the minds of many people, we ought to have a tax on the resulting increase of revenues. The reason I seek to bring it up at this particular time is to expedite the business of the body, as suggested by the majority leader.

Also, as Senators will recall, a similar amendment was discussed and voted on last week, and nearly adopted by the Senate with a large number of absentees. At that time, I pointed out that I thought it would be well to bring it back to the attention of the body at a time when all or nearly all of the Senators were on hand. That is the nature of my request.

Mr. PRYOR. I say to my distinguished friend from Colorado that until the majority leader arrives in the Chamber, I shall have to object in his name to the request of my distinguished friend from Colorado.

The PRESIDING OFFICER. The objection is heard.

Mr. HATCH. Mr. President, one of the forgotten issues in the debate over oil decontrol and the windfall profit tax is the extent to which price controls actually hold down consumer oil prices. In many analyses it is merely assumed that an increase in oil prices at the wellhead will cause an identical increase at the gas pump. The premise here is that the artificially low U.S. crude oil price is currently passed through dollar for dollar to consumers.

There is considerable evidence that this premise is incorrect. It would appear instead that a considerable portion of the difference between world and U.S. crude prices is distributed to refiners and marketers as a more or less deliberate function of the price control and allocation program. To the extent this is true the wealth transfer involved in decontrol is not from consumers to crude producers, but from refiners and marketers to crude producers. If so, what is the logic of a windfall profit tax? Why are the same revenues to be taxed at windfall rates when they accrue to producers but not when they accrue to refiners and marketers? And, since production, refining, and marketing are often merely departments of the same integrated company, why a windfall tax on one department but not on the others?

THE REFINER SLICE

The sharp rise in crude-prices occasioned by the Arab embargo slowed down growth in oil consumption and thereby created a glut in both refining and marketing facilities. Abroad, refiner margins went to almost nothing as excess capacity developed. However, in the U.S. margins have been maintained at respectable levels and operating rates have remained near capacity. The explanation is that cheap domestic crude has been allocated to domestic refiners through the Federal entitlements programs, an advantage that foreign refiners do not receive since crude oil abroad is available only at world prices. Elementary economics tells us that this subsidy—and a right to purchase cheap U.S. crude is a subsidy—will be shared by refiners and their customers depending upon the configuration of supply and demand schedules in the market. This sharing of benefits will exist whether the market is competitive or monopolistic. In this case it is certainly not attributable to any hanky-panky in the refining industry, which is in fact highly competitive.

The respectable refining margins at home and severely depressed margins abroad (until the Iranian crisis) suggest that some fraction of the benefits of cheap crude is kept by refiners. Added evidence comes from relative refining prices at home and abroad. Table I shows that there is little difference in gasoline prices at home and abroad at the refining level. Distillate fuel oil prices have been lower here by about $1.15 to $1.65 per barrel, but crude oil costs to U.S. refiners have typically been $2.50 to $3.00 per barrel cheaper. Heavy fuel oil is imported continuously in substantial quantities and the United States is generally regarded as a price taker in the world market. In sum, U.S. refinery prices do not reflect anything like the crude cost advantage we possess.

I ask unanimous consent that the table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

Average refinery f.o.b. prices, 1975–78

	Regular gasoline	Distillate fuel oil
U.S. Gulf	$15.34	$13.32
Caribbean	15.00	14.46
Italy	14.67	14.78
Rotterdam	15.69	15.00

SOURCE.—Platt's Oil Price Service.

Mr. HATCH. Further evidence comes from imports of foreign product which have been competitive from time to time in spite of tariffs and license fees. (Foreign refinery products have not been competitive in the United States since the Iranian crisis and indeed foreign refinery margins at the moment are unusually high. But in judging a public policy issue we should take the long view and the current situation is atypical and, most likely, temporary).

THE RETAIL DEALER SLICE

Even before the Arab embargo it was clear that gasoline stations had been overbuilt in the United States. Responding to the high retail margins of the late 1960's major companies raised marketing investments to unprecedented levels. While marketing investments began to decline sharply in 1971 it was too late to prevent an enormous glut of service stations in the marketplace. Thousands of service stations had to be abandoned or converted to other uses and the number in existence today stands about 16 percent below the level of the early 1970's.

Retail margins, adjusted for inflation, have been in decline since 1967 reaching post-1950 lows in the 1976–78 period. But there are two dramatic exceptions to this decline and depression. In 1974–75 and in early 1979, real retail margins rose sharply. The explanation for these seemingly aberrational movements in an economically meaningful long-term downtrend is that during these periods gasoline supplies were distributed not on the basis of competition among service stations but on the basis of federally mandated allocation rules.

When gasoline supplies became tight, for whatever reason, the natural inclination of refiners is to raise prices to dealers to choke off excess demand. However, under price controls that is limited at some point. When that point is reached, as it is today, refiners cannot meet the demands of their retail dealers. They must therefore allocate supplies among their dealers on a historical basis as required by regulation.

At this point competition among retail dealers disappears. The only motive any seller has to hold down prices is that he will lose sales if he raises prices. But under allocation you do not lose sales to another station if you raise prices because the other stations cannot increase their sales. Volume by each station is fixed by the Department of Energy to an extent that an illegal market-sharing conspiracy among dealers could not hope to achieve. In principle, price controls at the dealer level are supposed to put a ceiling on retail prices, but with a couple of hundred thousand stations out there enforcement is sporadic and the sky's the limit.

The price effect of allocation can only be guessed at. If we take 1976–78 economically depressed margins as a base we get 4.5 to 5.0 cents (in 1967 money) as a norm. The real margins in 1974 and 1975 under allocation were 6.5 and 6.0 cents, respectively, and May 1979 real margins are approaching these levels. Converting these to 1979 money we get a difference of about 2 to 4 cents per gallon attributable to the allocation program. In some areas the difference is much greater. For examples, Detroit margins in 1974–75 were about 8 cents per gallon above the norm in today's money.

The high dealer margins cannot be the result of a scarcity of gasoline per se. If that was all there was to it the refiner (or the producer, if crude scarcity is the ultimate cause) would reap the price benefits. Retail dealers sell marketing services and these are in great abundance in a naturally competitive market. The retail dealer can only capture the economic benefits of scarce gasoline or crude if these benefits are granted to him by the Government. And apparently that is what the Government does each time gasoline and/or crude become scarce.

Putting it all together we find that U.S. refinery prices have not reflected anything like the crude cost advantage that exists by virture of price controls on crude. And retail margins have frequently been much higher than they would be in an uncontrolled market. I conclude that some major proportion of the benefits of low crude prices is distributed to the refiners and marketers, not consumers.

If so, we have, economically speaking, the worst of all worlds. World crude supply is scare, artifically so due to the actions of certain OPEC members in holding back production, but nevertheless, scarce. World refinery capacity is abundant with most refiners outside the

United States operating well below capacity. U.S. retail services are also in enormous oversupply with abandoned stations all over the country.

Our policy, therefore, has been to hold down the price of what is scarce and jack up the price of what is abundant. And as this error is about to be corrected by decontrol we are asked to place a special tax on this transfer which in large part is within the oil industry.

The wisdom of this proposal is not apparent.

Mr. President, I attribute those remarks to the excellent statement of Prof. Edward J. Mitchell, of the Graduate School of Business Administration of the University of Michigan and who is director of Energy Policy Studies of the American Enterprise Institute.

I wish to share with my colleagues at this time a Wall Street Journal article entitled "Political Economy" by Dr. Paul Craig Roberts. It is subtitled, "Opportunity in Adversity."

I believe this is one of the better statements on the subject and certainly, backs up what Dr. Edward J. Mitchell had to say:

OPPORTUNITY IN ADVERSITY

Even governments born of idealism learn that there is opportunity in adversity. Once they do, they no longer seek to overcome adversity, but to profit by it. While people in L.A. bed down next to the gas pump and mug each other for a can of gasoline, the men in Washington have discovered the gold mine in the OPEC cartel.

The President has succeeded in leading most people to believe that he is giving the oil companies something by decontrolling domestic oil prices. In truth, current law removes price controls completely in 1981 and does not require a new tax as a quid pro quo. But by skillfully playing on the vision of billions of dollars pouring into the pockets of oil barons, the President has created a political constituency for a new oil tax. While Senator Kennedy lays down a smokescreen of sham uproar over "vast new profits" being turned over to big oil, temporary (and soon to expire) price controls are being replaced with a permanent tax.

This permanent tax has a striking feature. It applies to future oil yet to be discovered and brought into production. And it is not a tax on windfall profits or even ordinary profits from new wells, but a tax on the market price of the oil. It works as follows:

A benchmark price for U.S. oil is established in terms of constant dollars at roughly the world price at the time the proposal is enacted. Today that would be about sixteen 1979 dollars. This adjusts the price for inflation, but not for rises in the real or relative price of oil. If the world price of oil rises above the benchmark price, the government takes half of the difference. For example, if the benchmark price is $16 and the price rises to $18, the government taxes $2 at 50 percent, which means tax revenues of $1 per barrel.

The higher the world price of oil rises above the U.S. benchmark, the greater the tax bite. As the tax rises as a percentage of the price, there is an increasing disincentive to find and produce new oil in the U.S. The table tells the story.

Year	Benchmark price	World price	Tax	Tax as percent of world price
1980	$16	$18	$1	6
1990	16	30	7	23
2000	16	40	12	30

Notice that the tax makes the U.S. government a co-beneficiary of OPEC price increases. The higher the price goes above the benchmark, the greater the government's share.

Of course, if the world price of oil doesn't rise any faster than inflation, there is no tax. But Harvard economist Thomas Schnelling in a Committee for Economic Development study says that we should expect the real price of oil to rise. Although "the world is not about to run out of fuel," much of the high-grade, cheap-to-produce oil is behind us. Future oil is "going to become progressively more expensive" to find and produce.

Judging by the new national energy plan that he sent to Congress this week, the President also expects the real price of oil to rise. The plan foresees 1990 oil prices of $30 a barrel in constant 1979 dollars—almost twice the benchmark price.

Clearly, the administration has come up with a plan that will produce tax revenues for the government while it discourages U.S. exploration and development and makes us even more dependent on imports. U.S. Representative John Rousselot (R., Calif.) and Bud Brown (R., Ohio) tried to point this out to Energy Secretary Schlesinger and CEA chairman Schultze when they testified before the Joint Economic Committee on April 25 in behalf of the President's tax proposal.

The President's men emphasized that decontrolling existing production now would provide more revenues to the oil industry during the next two years than they would otherwise get. This, they said, would be a big incentive to find new oil. But Rep. Rousselot saw it differently: "Basically, it means that a permanent tax to hold domestic oil prices to our producers below world levels is going to lower U.S. production. The lower U.S. production will raise our imports."

The President's proposal contains no incentive whatsoever to find new wells. But it does contain substantial disincentives, because it reduces the rate of return on new discoveries. Temporarily lowering the tax on existing wells now (by letting the price rise sooner) does not compensate for permanently raising the tax on all oil in 1981.

What, in the administration's view, justifies this new tax that will discourage further exploration, development, and exploitation of our own oil reserves? Well, said Mr. Schulze, we don't need just more oil; we also need long-term research and development of alternative energy sources to oil. "The whole concept of the windfall profits tax and its use to finance those longer term developments is, it seems to me, a very good way to deal with that long-term problem. We are taking some of those proceeds for what we desperately need, which is long-term research, development, and exploration of alternative resources."

Mr. Schultze doesn't explain why the government is taking the oil companies' profits to set itself up in the energy business instead of allowing the companies to gradually establish themselves on the basis of new technologies and new energy sources. The tax signals the phaseout of the private energy industry, not energy independence. Of all the big oil companies, only Mobil has understood the message and is fighting for its private life.

(Mr. BOREN assumed the chair.)

Mr. HATCH. As usual, Dr. Roberts hits the matter right on the head. What he really is saying is why should the Federal Government be involved in the oil business at all? Let us push it more logically farther. Why should the Federal Government be involved in any of the energy business at all?

We have not seen efficiency from the Federal Government. We have not seen an analysis from the Federal Government. We have not seen incentives to find oil and produce more energy from the Federal Government, only disincentives. We have not seen an intelligent bureaucratic approach to resolving the energy crisis.

What we have seen in 43 of the last 49 years is a continual erosion of our economic base in this country and the devaluation of the dollar to the point where we are having trouble competing with other nations in this world involving tremendous turmoil.

Not only have we raised the Federal budget from $100 billion since 1962, as Senators know, $200 billion in 1972, $400 billion in 1976, and now up to around $550 billion and approaching $600 billion by 1980 or 1981, but we have allowed the national debt to escalate to the point where we twice this year have lifted the debt ceiling limitation, the first, I believe, on April 2, 1979, from $798 billion to $830 billion, and the second on September 28, 1979, from $830 billion to $879 billion good only until March of next year.

In addition to that we have proliferated the world with no one really knows but an estimated $600 billion to $1 trillion of our dollars through Eurodollars and the like. We have devalued the dollar to such an extent that people are paying $450 an ounce for gold, which may be a true valuation of really how badly our economy is off.

It is also interesting to me to note that gold has risen in proportion to the rise in oil prices by the OPEC nations and gold may be the only true or at least one of the main barometers telling us just how bad off our economy is.

A lot of people would not like to go to a fixed standard to bolster the dollar. Some people would. I have heard a number of provocative discussions of this matter in just recent months, one in particular from Mr. Arthur Laffer, the author of the Laffer curve and, of course, one of the leading supply side economic theorists in America today.

Mr. Laffer feels that the United States should bolster the dollar by being willing to purchase all dollars in the world market in exchange for gold at world prices.

I have listened to his theories and I think they may be very well worthy of consideration, although I have difficulty in seeing how we can resolve our economic difficulties by bolstering the dollar with an exchange for world price gold.

On the other hand, with what better medium of exchange do we have to bolster the dollar? Maybe it is time we start to realize that since we have had these floating approaches we have had nothing but problems and maybe there has to be some fixed method of exchange regardless of what we do in this matter.

There is another interesting article written by one of my friends, Mr. Jude Wanniski, and this article is extremely provocative. It is entitled, "Oil in Abundance, Without Taxes or Synthetic Fuel."

OIL IN ABUNDANCE, WITHOUT TAXES OR SYNTHETIC FUEL

(By Jude Wanniski)

Despite President Carter's ten days of struggling at Camp David to find a solution to the nation's energy shortages, he has moved further away from understanding the problem. Doubling his speed and losing sight of his goal, the President concluded that only massive intervention by the federal government could solve the problem, when in fact it is the energy and economic policies of the federal government that created it.

For all his talk of having consulted a cross-section of American society during these deliberations, Mr. Carter did not meet with a producer of any kind. Not an oil producer. Not even a farmer. He met with Democratic politicians, labor leaders, environmentalists, preachers, favorite corporate managers, obsolete Keynesian economists, stars of the news media, selected bankers, and state and local bureaucrats. The only energy expert consulted was Thornton Bradshaw of Atlantic Richfield, popular in the White House for having endorsed the windfall profits tax that his company no doubt imagines will finance the conversion of its own vast coal holdings into synthetic oil and gas.

If there were a serious chance the President could find the support in the country and in Congress to implement his program, there would be cause for alarm. Taxing $140 billion from the private sector—to use the President's figure—to finance a synthetic-fuel, solar-energy program in the next decade would so decrease the efficiency of the stumbling American economy that the ensuing recession with inflation would guarantee Jimmy Carter's departure from the White House.

The President is the southern self-proclaimed populist who ran against the government in 1976. How remarkable that he would wrestle with the energy issue for three years—and for ten days at Camp David—and decide to throw a colossal amount of federal money at the problem. Even as Carter was at Camp David, editorials and news columns in the *New York Times* and the *Wall Street Journal* warned of the enormous costs of synthesizing oil from coal—synfuel, as it is called. With great luck, the scheme may yield one million barrels a day by 1990, these newspapers reported after consulting experts in the field. Yet the decontrol of crude-oil prices, without a windfall tax on domestic production, would yield an additional 2 million barrels per day by 1985, according to testimony before the Senate Finance Committee by the Independent Petroleum Association of America. The projections, based on established coefficients between price, exploration, and finding rates, have not been challenged by the Department of Energy.

This information has eluded the President. Worse, he seems to ignore the dimensions of the problem, his own plan, and the international economics of energy.

Oil is found in abundance only if a great many people are looking for it at once in all sorts of unlikely places," Ruth Sheldon Knowles wrote twenty years ago in her history of the American oil industry, The Greatest Gamblers. That insight is vital to understanding why there is an energy shortage in the world today. It is not just that insufficient numbers of people are looking for oil and gas in the United States—although the policies of the federal government discourage domestic oil and gas exploration. Too few people are looking for oil and gas all over the world, because most foreign governments discourage exploration in unlikely places. These policies, which could change tomorrow, in a year, or five years from now, prevent the private capital markets from financing the development of synthetic fuels, because an unanticipated change in foreign governments' policies toward domestic oil exploration could wash away all private synfuel schemes with a flood of inexpensive, conventional oil and gas.

Liquid petroleum that comes from a man-made hole in the ground under its own pressure constitutes only one percent of all the oil in the earth's crust. The rest is "heavy," the shales and tar sands that must be extracted at great expense. If you took all the liquid petroleum produced from all the wells drilled on earth since the first, at Titusville, Pennsylvania, in 1859, and poured it into a lake the size of Chicago, roughly 227 square miles, the 330 billion barrels the earth has yielded so far would fille the lake to a depth of only 300 feet. The estimated petroleum, worldwide, that could be recovered at current prices and technology would fill the lake to a depth of 2.300 feet.

Even this amount may seem worrisome, until we add in a number of important facts. In 120 years, about 3.2 million oil wells have been drilled into the planet's crust. Of this number, 2.4 million were drilled in the forty-eight continental states of the United States, and most of these in the "oil patch," as oilmen refer to the oil-producing southern states. The rest of the world has been relatively unexplored, especially former colonial nations of Africa and Asia.

Of the 645,500 exploratory wells drilled on earth by the end of 1975, 616,000, or 95.4 percent, were drilled in the industrial countries. Africa, Latin America, South and Southeast Asia, and China have barely been touched. The United States accounts for 482,000 of the exploration wells, 74.7 percent of the total, and 34.9 percent of the oil in that imaginary Chicago lake of oil. The reason is not simply that the United States has had the skilled manpower, technology, capital, and market, but that it has had policies conducive to exploration and a stable government that has protected the property rights of its private landowners. Landowners have possessed the mineral rights to oil discovered on their property. The indigenous exploration industry could develop here because individual explorers could lease the mineral rights from private landowners and drill with the sure knowledge that the explorer and the landowner would possess any oil discovered, and that high risk might yield high reward.

In addition, the U.S. government did not hoard land in the name of the collective interest, but sold the majority of western lands at $1.25 an acre to encourage settlement. Where this Jeffersonian pattern was not followed, there has been scant exploration. The U.S. government, for example, owns almost 90 percent of Nevada's 110,000 square miles, and much of Nevada has not been explored. Alaska, too, has been relatively untouched by oil exploration, and increasingly the environmentalists, with the eager assistance of President Carter, are keeping it this way by closing off public lands to any kind of mineral exploration. Even before the Carter Presidency, almost 500 million acres of federal lands, an area three times the size of Texas, had been effectively closed to mineral exploration. President Carter has closed off another 185 million acres, and some of his people would like to close off more. The North Slope oil field in Alaska, the largest field discovered in the United States (the East Texas field being second), covers an area of only 400 square miles in a state of 566,000 square miles.

In most developing countries, even in those with relatively stable governments, the conditions that fostered oil exploration in the United States are absent. Governments keep title either to most land or to the mineral rights of privately owned land. Income taxes are so confiscatory that should a native landowner possess mineral rights, he probably could not find native capital and labor willing to explore the land, as the government would capture the rewards through taxation. Governments will lease lands to the major international oil companies to explore, but these companies will look only in places where oil is most likely to be found, where seismology can at least hint at probable finds. Most oil, however, cannot be tracked by seismology, for, like the East Texas field, it is trapped in complex geology and will yield only to myriad explorers taking long shots. One half-joking rule of thumb among the international oil companies drilling in unstable countries is that you should try to pay all costs and make a small profit with the first tanker of oil that leaves the country, on the assumption that what oil remains will be nationalized or confiscated by taxation.

Madagascar, off the southeast coast of Africa, for example, is almost the size of Texas, and lies in one of the world's largest sedimentary basins where oil is most likely to be found. Prior to 1975, the French controlled the island and there was almost no exploration, possibly because the French believed that if oil was discovered they would be pitched out. Since 1975, the government and the international oil companies have been wary of one another, and as a result only eighty-three wells have been drilled on the island. Even in secure, developed parts of the world, the combination of high levels of government land ownership and steep personal taxation deters extensive exploration. Most of Australia's 3 million square miles is held in collective ownership. In 1978, a mere fifty-three exploratory wells were sunk, twice the number drilled in the previous year. In the Middle East, there is little exploration, the sheikhs having no desire to find and produce oil at a rate that would diminish the price they can command for their known reserves. Since 1974, the Saudis have averaged a mere ten exploratory wells a year, Iraq only one a year, and the entire Middle East only ninety-five a year.

Enormous amounts of conventional oil are waiting to be discovered, and will be once governments around the world—including the United States—are prepared to match the high risks of exploration with commensurate rewards. And here, President Carter wants to tax between $140 billion and $200 billion from the domestic industry in the next decade, at the same time as he is shutting off more and more government lands to exploration, to finance synthetic-fuel projects that can, at best, produce a dribble of oil while exacting severe costs from the landscape. This is to be done in the name of energy independence, to free us from OPEC's alleged ability to set prices. Yet as Rep. David Stockman of Michigan has pointed out, even if by some miracle the government can produce 2.5 million barrels a day of synfuel by 1990, it will still be unable to control the world price. The synfuel supply will go into the world's base supplies of oil, and a country can influence the world price only if it can control the marginal supply. If, in other words, the United States were willing to shut down the synfuel plants when the world oil price got too low and crank it up again when the price got too high, it could influence the world price as the Texas Railroad Commission used to do, by regulating the output of the Texas oil fields.

The case against energy alternatives, including solar energy, is not that they will not free the United States from OPEC's pricing; OPEC's pricing is a function of U.S. monetary policy anyway. The reason is that the international and domestic potential for existing petroleum and gas is so enormous that synthetic fuels will be uneconomical well into the next century. If, in the 1980s, the United States were to increase only slightly the rewards for domestic exploration, or if a feeble attempt were made by governments in the developing world to do likewise, the relative price of world oil would resume its historic decline. The United States would then either be forced to scrap the uneconomical synthetic-fuel program or drain, through taxation, the rest of the economy for an interminable period to keep it operating.

In microcosm, the problem is the same as that of the proposed natural-gas pipeline from Alaska to the Midwest, which President Carter accuses the Alaska oil companies of dragging their feet on. By the most optimistic estimates, the pipeline would cost $10 billion, and the gas delivered in Chicago would cost $3.50 per thousand cubic feet. The pipeline cannot be built because no investor can count on anyone's buying $3.50 gas five or ten years from now. Should a President and Congress dedicated to increasing the supply of oil and gas be elected in 1980, and should government controls be lifted from production and pricing, natural gas would sell at much less than $3, according to the Department of Energy's own 1977 report, the so-called MOPPS study that the Carter Administration suppressed. Mr. Carter now proposes to pay $1.5 billion for the pipeline project, but even that will fail to make the gas competitive. As Congressman Stockman has pointed out, through 1974 "97 percent of the non-North American natural-gas resource base had yet to be disturbed by a production-well bore. Nor was this potential resource negligible in dimension. The remaining natural-gas resource base outside of North America may total the equivalent of 1.4 trillion barrels, a quantity of energy equal to four times all of the crude oil that has ever been produced." Because the domestic price of natural gas has been kept low by government control for twenty-five years, almost all domestic exploration has aimed at finding crude oil, not gas. Freeing the price of natural gas would encourage more exploration in the continental United States, and this cleanest of fuels would be produced in such quantity that it would not only displace nuclear and coal as serious competitors, but also reduce demand for imported petroleum. The Alaska pipeline could be built only if the government promises to buy $3.50 (or $4 or $5) gas that it would transmit, while there are plentiful supplies at $2.25, and to pay the difference out of general revenues. The alternative would be to force customers in the Midwest to pay the tab through regulated utility rates; however, midwestern commercial and farming interests would become uncompetitive with areas not so bound.

By all rights, the Carter tax-and-spending energy scheme ought to fail in Congress after it is debated this autumn. The President has no mandate to sustain it. Neither in his 1976 election nor in the 1978 Congressional elections were voters asked to consider and ratify such a grandiose government energy program. Indeed, in the 1976 campaign, President Carter was identified with government decontrol of energy and greater reliance on private business for solutions. President Ford, although he did not beat the drums for it, was still identified with Vice-President Rockefeller's $100-billion program of synfuel subsidies. The 1978 Congressional elections provided sharp gains for free-market candidates over government interventionists, especially in the Senate.

The Senate is where the President's energy program should unravel. Reporters assessing the Carter energy speeches have pointed out that Congress was "already ahead" of the President in legislating a mammoth synthetic-fuel program as well as the windfall-tax revenues to finance it. But beneath the surface, the whole idea of an emergency energy scheme had been doing poorly on the financial end. In late June, the segment of the oil industry that would be devastated by the proposed excise tax on domestic production—the 10,000 independent producers who drill 90 percent of the exploratory wells—finally had their case heard on Capitol Hill, even as the major oil companies were accepting the inevitability of the tax. In a surprising vote on June 28, the House accepted a substitute amendment to the tax the President wanted, making it temporary instead of permanent and also reducing its effective bite. This 236–183 vote was a blow to White House strategists, who realized that the Senate Finance Committee and Chairman Russell Long would, in turn, take every opportunity to weaken the tax on domestic producers and produce a shadow of the bill the President wants. The Administration could see this inevitable path of defeat and knew that only something dramatic could give it a grip on the Senate. Camp David followed.

The melodrama of the President's Camp David retreat produced a moment of national enthusiasm for a synthetic-fuel program. The President did, after all, heighten public discussion about the energy issue to a level above that of clogged service stations. And, tempted to be bold, he placed the price tag of $140 billion on his program. The major oil companies, who see themselves as recipients of this largesse, either in peddling their billions of tons of coal to the government—like Atlantic Richfield and Exxon—or in getting government contracts to build synthetic-fuel plants, have naturally applauded the program. So has George Meany of the AFL–CIO, who envisions all that work for the building trades at cost-plus. The National Association of Manufacturers can be expected to make the same calculations, especially those member companies that believe they are in a good position to share the federal golden goose.

But the $140-billion cost of the program concerns the electorate, which understands that people, not oil, pay taxes. The expectation of dozens of shale-conversion stations or coal-liquefaction plants pouring fumes into the atmosphere has roused environmentalists. Sen. William Proxmire calls the synthetic-fuel scheme the "SST of the Eighties," and can be counted on to lead the charge against it in the Senate. Mike Gravel of Alaska, a liberal Democrat on the Senate Finance Committee, is alarmed at the implications of the windfall tax on his state's petroleum industry and vows a filibuster against it. Sen. Abraham Ribicoff, a Connecticut Democrat and also a member of the Senate Finance Committee, has become more outspoken against the idea of taxing domestic production. The mood of the committee as it recessed for August was to exempt the taxation of newly discovered oil, wells that produce less than twenty barrels per day, and small producers—up to perhaps 1,000 barrels per day The tax may still be beaten altogether.

This possibility does not, however, take into account the determination and resourcefulness of the forces behind this mammoth tax and spending scheme. It will be hard for the Senate to resist. Democrats and Republicans, who have been held down by tightening budgets for several years, regard the excise tax revenues as a government windfall. Bruce Bartlett, a Senate staff member, writing in the August 6 and 20 issue of *Inquiry*, suggests where the money might go:

"Senator Henry Jackson has come up with his own energy bill that would, among other things, authorize $5 billion to build fifteen synfuel plants. In order to spread the wealth around and attract cosponsors, Jackson made a point of specifying the following projects:

"$500 million for the Solvent Refined Coal I project in Kentucky (supported by Senators Wendell Ford and Walter Huddleston);

"$700 million for the SRC II project in West Virginia (supported by Senator Robert Byrd);

"More than $1 billion for high- and low-BTU coal gasification projects in Ohio and Louisiana (supported by Senators Howard Metzenbaum and Bennett Johnston);

"Geothermal plants now tentatively set for Idaho, California, and New Mexico locations (supported by Senators Frank Church, Alan Cranston, and Pete Domenici);

"$300 million in loan guarantees for an urban and industrial waste conversion plant (supported by Senator Bill Bradley of New Jersey); and

"$250 million for a fuel-cell demonstration program pushed by United Technologies Corporation of Connecticut (supported by Senator Lowell Weicker)."

Business and labor see only the first-order individual gains of such largesse. They cannot see the colossal drain on the economy as a whole, which will drag down the standard of living for all Americans, themselves included. The parallels with 1929 are eerie. Fifty years ago exactly an engineer was in the White House as the Hawley-Smoot Tariff Act was under consideration in Congress. The same autarchic forces that were behind the industrial independence of Fortress America are now behind the Carter plan of energy independence. Business and labor backed Hawley-Smoot, which would shut out foreign imports with a massive tax. Now the President would hold crude imports to 1977 levels with a quota—which surely has the effect of discouraging the rest of the world from looking for oil to send to this biggest market—and he would impose the tax internally. Again, business and labor eye the pork barrel. As Congressman Stockman put it, in his important essay in the fall, 1978, Public Interest:

"The decision to eschew an economic policy of trading on the world market for the 90 percent of the non-U.S. oil and gas resource base that remains to be developed in favor of a cramped, inward-looking policy of autarchy may prove to be the most costly national error of the last half of the twentieth century—if it is not soon reversed."

At that point in the summer of 1929, it still seemed as if the internationalists might win. A majority coalition in the Senate still opposed the tariff. October, 1929, when the Senate coalition crumbled is when it became clear that the internationalists had lost. Should the present engineer win a similar victory for autarchy in 1979, the difference would be in a less palpably dramatic stock market crash. In 1929, the dollar still had a monetary standard—it was tied to gold—so all declines of value were real, there being no inflation. Now, inflation masks the decline in stock values. In the past eighteen months, relative to gold, the value of dollar-denominated financial assets has plummeted by 50 percent. With inflation, crashes take place quietly, but with a decrease in the nation's economic vitality that is as severe as the drain of the Depression.

Mr. President, I also ask unanimous consent that a chart entitled "Window on Oil" be printed in the Record at this point.

There being no objection, the table was ordered to be printed in the Record, as follows:

[Chart not reproducible in Record.]

Mr. HATCH. Mr. President, I think the paper by Mr. Wanniski is an interesting paper, showing that the profitability of oil development expands in relation to the incentive given to those efficient producers who produce it.

I would like to go on to an interesting paper showing the profitability of the oil industry is not significantly above the median of all manufacturing industries.

With our need for domestic energy, we should let the market forces increase the rate of return on oil development to encourage more domestic production. The so-called windfall profit tax will prevent this rate of return from increasing and inhibit domestic production.

The paper I am about to read is entitled, "On Profitability in Major Oil Companies and the Windfall Profit Tax." These comments were prepared by a list of members of the Business, Public Policy, and the Law Group in the Department of Management, College of Business Administration, Texas A. & M. University, on November 19, 1979.

Those who participated in the preparation, to my knowledge, were Gerald D. Keim, associate professor and leader, Business and Public Policy Group; Barry D. Baysinger, assistant professor; Gary D. Libecap, assistant professor; and Roger E. Meiners, also an assistant professor.

PROFITABILITY IN THE OIL INDUSTRY

Recent coverage of third quarter earnings reports implies that large oil companies are earning excessive profits. The notion of excessive profits is one that is difficult to define in any operational sense. However, it is relatively easy to compare profitability of the major oil companies with other companies and industries.

The third quarter earnings figures recently released report the percent increase in earnings of the third quarter of 1979 with the earnings of the third quarter of 1978. Most of the oil companies posted significant percent increases in earnings for that time. However, when we compare the profitability of these companies for the year 1978 with other industries we find that during that year oil companies were generally no more profitable than the average Fortune 500 company.

Mr. President, I ask unanimous consent that three tables which I will mention in my comments be printed in the RECORD at the conclusion of my remarks on this subject.

The PRESIIDNG OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HATCH. The enclosed Table 1 provides some figures for comparison. The data was taken from the Fortune 500 listings for 1978. The 10 largest oil companies are listed in order of size based on total assets. Listed for each company are the return to investors, which includes any appreciation or depreciation in the company's stock price and all dividends paid during the year; the return on stockholders' equity; and the return on sales. Then are calculated the average for each of these measures for the 10 largest oil companies and the median figure for these measures. The average is probably more relevant but the median enables one to compare this data with the median of all Fortune 500 companies and with median figures from other major industries.

As you can see, in each category some of the largest oil companies did better than the Fortune 500 median and some did worse. But the median figure for the 10 largest oil firms was only slightly higher than the median for the Fortune 500 firms in two of the three measures of profits, lower than the median by the other measure of profits, and well below that of some of the most profitable industries, such as the broadcast and motion picture industry, by all measures of profits.

In an industry that requires large capital investment and will require increasing amounts of capital in future years, the return to investors is perhaps the most significant measure to examine. The median figure for the 10 largest oil companies is only slightly above the Fortune 500 median, and investors in 3 of the largest oil companies actually lost money last year. Many industries, including the broadcast and motion picture industry, the aerospace industry, the office equipment industry, and others were able to offer their investors returns which were two or three times as high as the returns earned in the petroleum industry.

Similarly, return on stockholders' equity for the 10 largest companies was actually lower than the median for the Fortune 500 companies. This is not a return likely to encourage investors to invest in the petroleum industry, while more profitable industries are available. Furthermore, this increases the cost to the petroleum industry, relative to other industries, of accumulating increased capital through the assumption of more debt.

These comparisons show that 1978 was not a year in which large oil companies were significantly more profitable than hundreds of other large industrial corporations. Some critics may accept the finding that oil companies have not earned excessive profits in the past, but may still charge that 1979 profits are "too high." It is impossible at this time to make a calendar year comparison across companies for the present year. However, we can examine the earnings to date for the oil companies and other U.S. corporations by comparing the 12-month period beginning with the fourth quarter 1978 and ending with the third quarter 1979. This would capture the so-called sinful earnings which were recently announced. The data shown in table II were collected by Standard & Poor's Compustat Services, Inc., and were published in the November 19, 1979, issue of Business Week. As table II shows, the top 10 oil firms averaged a lower rate of return on common equity than did 16 of the 40 industry categories reported by Business Week. Despite the "windfall profits" of 1979, the largest oil producers rate of return was only 2.2 percent greater than the average return of all firms. Despite the increase in profits, 3 of the top 10 oil firms still had a profit rate below the average profits of all industries.

For the shortsighted individual who may not be concerned with investment in this industry but only with the earnings these companies make on each dollar of sales, we have included return on sales data in table III. During the third quarter of this year, the 10 largest oil companies, on average, earned 6.6 cents on each sales dollar. The average for the 880 companies in the survey was 5.5 cents. Among the industries whose sales margins was higher are utilities (10.9), office equipment and computers (10.7), drugs (10.0), food and leisure time (9.0), lodging (8.4), metals and mining (8.2), and paper and forest products (8.0). Even by this measure, it is difficult to substantiate the charge that oil company profits result from a ripoff of consumers.

The results of these straightforward comparisons between the large petroleum companies and other industries suggests that oil company profits are not relatively higher than many other American industrial corporations. Thus, it is difficult to justify the assertion that the earnings of petroleum companies are excessive by any standard.

WHAT ARE MONOPOLY PROFITS?

The idea of a "windfall profit tax" has considerable popular appeal. It appears that such a tax is simply a way to transfer some ill-gotten gains of monopolists back to the consumers from which they were unjustly extracted. But in order for such a scheme to be truly in the public interest, two conditions must exist.

First, the industry subject to the tax must be monopolistic. Second, the profits to be taxed must serve no purpose other than to line the pockets of industry.

The U.S. petroleum industry meets neither of these conditions. The first condition is not met since there are thousands of oil companies competing in one of the least concentrated of all American industries. The second condition is not met because, as discussed below, firms in the oil industry have consistently reinvested earnings for further energy development—benefiting all citizens.

As a result, the "windfall profit tax" on the oil industry can only serve the interests of those who do not expect to live in the future, or those who benefit from shortsightedness. Everyone else will suffer from such a tax.

Properly defined, monopoly profits are revenues over costs not necessary to keep capital employed in productive activities. If these are taxed away, nothing will happen to industry supply—by definition. Since they are not a necessary reward for past investment, or incentive to future investment, their absence cannot affect future behavior. However, oil company profits are not monopoly profits. They are rewards for thousands of citizens who gave up some consumption—that is, they saved—in order to invest resources in a risky industry.

Every drop of oil that is sold today exists solely because someone in the past took a chance. It takes time to convert crude oil, which lies hidden below the Earth's surface, into something usable by consumers. During this very expensive process, someone must give up consumption or other investment opportunities in anticipation of producing something which may be eventually sold to repay investment. Sometimes a particular investment yields nothing, as in the case of dry holes or unproductive off-shore leases.

Sometimes past investments yield more than expected, as in the case of an unanticipated increase in the demand for fuel oil due to an exceptionally cold winter or a politically motivated embargo of foreign crude. These uncertainties are known to exist at the time of investment, and are accepted by investors as long as a risk reward is obtained. High profits in any given period are irrelevant to this decisionmaking process. What is important is the longrun rate of return compared to other investment opportunities. This rate is composed of low or negative returns over some intervals, and high returns over other intervals.

To maintain investment, and attract resources for future investment, individuals who take chances must be rewarded at a rate at least equal to the best alternative investment or they will not take the chance. In a risky business like oil production, this requires that inevitable losses be offset, over time, by high returns in some periods. If the high returns are cut off by a "windfall profit tax," the longrun rate of return will fall below the level of other investments not subject to such measures. Investment and future supplies—especially in domestic energy—will then fall, and consumers cannot benefit from that.

This analysis implies that the taxing of current oil company profits will have the impact of lowering the longrun rate of return on investment in oil production. No one is going to be willing to invest in an enterprise which is allowed to absorb shortrun losses, but is precluded from earning shortrun profits above the norm. The profits subject to any "windfall profit tax" in the oil industry are not pure monopoly profits that line the pockets of the oil industry. They are simply what investors require in order to be willing to absorb the inevitable hard times endemic to oil production. Therefore, by taxing them away, future domestic supplies will be adversely affected. The "windfall profit tax" violates the commonsense definition of monopoly profits—profits whose absence would have no impact on supply.

WHY THE OIL COMPANIES BUY NON-ENERGY INVESTMENTS

It has been argued that if oil companies were interested in future supplies of domestic oil, they would not invest their earnings in nonenergy enterprises like department stores and electric motor manufacturers. That is, it seems that if Mobil and Exxon were earning just enough profits to assure plentiful supplies of oil in the future, they could not afford to divert any investment into Montgomery Ward and Reliance Electric. This is not a valid argument, despite its popular appeal.

Investment in oil production requires capital supplied by the world's capital markets. These markets are highly impersonal: They do not care about a person's color, sex, national origin, or religious affiliation. What is important to the capital market is expected real returns from taking chances with capital resources. Being competitive, these markets assure that capital will flow from investments with relatively low rates of return to those with relatively high rates of return, whenever they occur in the world. In order to attract capital to finance exploration, research and development, storage facilities, or emergency carry-over supplies of winter heating oil, petroleum companies must offer a return to investors, over time, attractive relative to other possible uses of their money. The impersonal market does not particularly care how that return is achieved.

Although capital markets are indifferent to personal characteristics, they are highly sensitive to risks. Investments earning high returns one period, negative returns other periods, and no returns in other periods cause investors to worry. Such highly variable return streams require higher overall rates of returns to make them as attractive as investments which display a more stable pattern of earnings. In other words, high risk investments require high levels of profits to make them equally attractive in the capital markets. Hence, periods of high profits are costs of production which must be paid by the consumers of products produced by high risk industries.

Business conduct that has the effect of reducing the variability of periodic earnings will have two beneficial effects. First, the lower the risk, the lower the longrun rate of return required to make investment in that industry attractive to the capital markets. That is, any given level of profits will attract more investment, and assure greater future supplies, in industries with lower variability in returns. Second, consumers of the products of low risk firms can expect more output at lower prices since the cost of capital is lower. What, then, does this have to do with Mobil, Wards, Exxon, and Reliance?

As indicated above, the oil production is highly risky. In some periods of time, negative returns are not unusual. An uncertain political environment has increased the inherent riskiness of oil production. Statements by so-called consumer groups, the President, and some Members of Congress concerning nationalization, windfall profit taxes, and the like have the same impact on the attractiveness of investing in oil companies as a string of 50 dry holes in a row.

In order to continue to attract capital into the production of oil, these risks must be reduced. The only alternative is to pay higher returns to the capital markets. One way to reduce the risks faced by the oil companies is to diversify their investment portfolio into things other than oil—like department stores and electric motor makers.

After all, no one has suggested a windfall profit tax on the sale of washing machines and double knit suits, or electric motors. Nor has anyone suggested we nationalize the department store industry. Moreover, intelligent diversification has always reduced risk, even in industries not subject to the threat of political action. Consider an example.

There are two independent firms. One produces raincoats and the other produces sunglasses. When the weather is wet, the raincoat producer earns high profits while the producer of sunglasses sits on his hands. When the Sun comes out the profit picture is reversed. Independently, each enterprise is a risky affair, profits turning as they do on the whims of the weather. But if the companies merge into one, their product lines compliment each other from the perspective of the capital markets. This reduces the premium required for risk in the capital market; more investment will be forthcoming for any given profit rate earned over time. Moreover, investors avoid the cost and inconvenience of investing in two different companies since they need pay brokers fees only once and keep track of one investment.

The purchase of Wards (Marcor) by Mobil Oil can be explained in the same manner. But risk diversification is perhaps the smallest part of the reason oil companies spend money on nonoil projects. Threats by political spokesmen to confiscate profits or property naturally lower the expected return from investing in oil production. To compete in the capital market for funds, the oil industry must offer a competitive return. Investing in products not subject to popular outrage is one method available to accomplish this. We may all prefer for companies good at oil production to specialize in this activity, or to diversify only to reduce financial rather than political risk.

But in order to increase production of oil the companies must compete for capital. If a Mobil-Wards merger makes Mobil a better investment, then the use of cash to buy Wards is an investment in future supplies of Mobil Oil. There is no reason to assume such a purchase as evidence of "windfall profit," when just the opposite is the case. The "windfall profit tax" is a tax on the future production of oil; only those who do not plan to be around in the coming years, or who gain more from current transfers of wealth from stockholders of oil companies to the general treasury, can benefit from such a scheme.

PROFITS, TAXES AND ENERGY PRODUCTION

Even if the petroleum companies were the most profitable in American industry, would that necessarily be bad for consumers? To raise this question focuses attention on the use of profits in this particular industry. Numerous independent studies done in recent years all show that the large petroleum companies reinvest far more than they earn in any given year. Thus, to object to current profit levels is to object to current investment levels. There is widespread concern among Americans about the level of investment in energy and energy-related industries. But, the primary concern is that there has not been sufficient investment to meet our energy needs in the future, not that there has been too much investment. To suggest that it would be desirable for oil companies to have lower earnings is to suggest that they reduce their investment. This is indeed a perverse suggestion in light of current energy problems, compounded by the political problems in Iran.

This same kind of reasoning can be applied to the so-called "windfall profit tax" question. This legislation is mislabeled since it is not a tax on profits, but instead is an excise tax on the sale of domestic crude oil. To determine logically whether the general public would be better-off with or without the proposed tax, one must address the following question: What would be done with the earnings if the tax were not imposed?

The evidence is overwhelming that the large petroleum companies have reinvested far more than they have earned in recent years. Unless one assumes that there will be a radical change in their behavior—not evidenced by the added billions of dollars recently committed by the oil firms to be spent on new energy developments—the additional funds will be reinvested if the tax is not imposed. The impact of this excise tax is clear, it will reduce investment by the large oil companies in energy and energy related activities. Such a position can not be justified in our present energy situation. There are probably few Americans who believe that the Government can more wisely invest dollars in production of energy than can the decisionmakers in private energy industry.

EXHIBIT 1

[All figures are expressed as percentages]

TABLE I.—1978 PROFITS: OIL COMPANIES AND OTHER INDUSTRIES

Firm or industry	Profit measures		
	Return to investors	Return on stockholders' equity	Return on sales
Exxon	8.94	13.7	4.6
Mobil	15.79	12.6	3.2
Texaco	(6.76)	9.0	3.0
Standard of California	27.14	13.4	4.8
Gulf	(5.53)	10.2	4.4
Standard of Indiana (Amoco)	20.06	15.1	7.2
Arco	15.37	14.6	6.5
Shell	1.26	13.3	7.4
Conoco	(1.51)	14.3	4.7
Sun	6.12	12.4	4.9
10-firm average	8.08	12.86	5.07
10-firm median	10.19	12.25	5.2
Fortune 500 firm median	7.16	14.3	4.8
Broadcasting and motion picture industry median	33.34	21.6	9.6
Aerospace industry median	28.22	15.6	4.6
Tobacco industry median	17.09	9.5	6.4
Industrial and farm equipment industry median	12.18	15.2	5.5
Food industry median	3.24	13.7	2.8

Note: Figures are obtained from Fortune 500 listings. Figures in parentheses are negative numbers.

Table II—Return on equity: September 1978–September 1979—Oil companies and other industries

	Return on equity
40 industry average	16.5
Average of ten largest oil companies	18.7
Industries with higher return on equity:	
Oil service and supply	23.6
Radio and TV broadcasting	23.2
Food and lodging	21.3
Drugs	21.2
Aerospace	20.5
Real estate and housing	20.1
Personal care products	20.1
Publishing	20.0
Office equipment and computers	19.9
Tobacco	19.4
Trucking	19.3
Miscellaneous manufacturing	19.2
Electronics	19.2
Service industries	19.1
Special machinery	18.9
Nonbank financial	18.8

Data obtained from Survey of 40 Industries (880 firms) Business Week, November 19, 1979.

Table III—Return on sales: third quarter 1979—oil companies and other industries

	Return on sales
40 Industry Average	5.5
(40 Ind. Avg. 3rd Qtr. 1978)	(5.4)
Average for 10 Largest Oil Corps	6.6
(Avg. for 10 largest Oil Corps. 3rd Qtr. 1978)	(4.5)
Industries with higher return on sales:	
Utilities	10.9
Oil service and supply	10.9
Savings and loan	10.3
Drugs	10.0
Office Equipment and computers	9.2
Publishing	9.0
Leisure time	9.0
Food and lodging	8.4
Metals and mining	8.2
Paper and forest products	8.0
Tobacco	6.9
Personal care	6.7

Data obtained from Survey of 40 Industries (880 firms) Business Week, November 19, 1979.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

DECEMBER FLEECE OF THE MONTH

Mr. PROXMIRE. Mr. President, I am giving my Fleece of the Month Award for December to the Department of Energy for spending $1,200 under its small grants energy saving technology program to build and test "* * * an above ground aerobic and solar assisted composting toilet." It is in fact nothing more than a somewhat improved version of the old "Chic Sale" outhouse. One can bet the world will not beat a path to this inventor's door.

The Fleece of the Month Award is given for the biggest, most ironic, or most ridiculous example of wasteful Government spending for the month.

The December Fleece wins in the "most ridiculous" category, for the fundamental premise of the proposal selected by the Department of Energy is that the energy savings would come about when citizens of a community abandoned their indoor plumbing for the old-fashioned outhouse.

The $1,200 was given to a Missouri inventor who, according to his application—p. A-9—would build an outhouse elevated to a seat level of approximately 5 feet above the ground. The waste, collected on a wire mesh primed with straw 2 feet above the ground would be exposed to aerobic bacterial activity, both by a dampered air flow stack through the compost heap and by a double glazed southern exposure—window—for winter heating of both the compost chamber as well as the upper "sitting room," well insulated for heat retention.

The inventor stated—p. A-5—that the compost toilet was unique because:

> It provides pleasing and aesthetic moments of meditative contemplation in a small sunlit room perched 6 to 8 feet above a backyard or garden view.

The Department of Energy's award raised a storm of protest among the State of Missouri members of the DOE advisory committee whose job was to recommend grants to those submitting ideas to save or produce energy. The original 17-page proposal, accompanied by a sketch of an outhouse complete with half-moon, the sun, and a stick-figure of a man, was one of 257 evaluated by the Missouri Citizen's Committee.

One member quoted in the Jefferson City Missouri Times said:

> We spent the whole day and tried to do the best we could. The project . . . didn't even make the top 20 and now some idiot gives this guy $1,200.

Energy Department officials in the Kansas City region overrode the Missouri committee because of the project's "technical merits" and because extra funds became available from savings from the administrative expenses of the program. In addition, they said the project "lends itself well to rural Missouri" and told my staff they selected it in part for its "geographical representation," that is, the only one from the Ozarks.

This infuriated one member of the Citizens Peer Review Committee who complained to the Missouri Times:

> For God's sake, we've come a little bit past the outhouse stage. They must have the conception we're all hillbillies in out-State regions.

Among the other benefits or innovative features suggested by the inventor in his application were:

It would conserve about 13,000 gallons of potable water per person per year (884,000) gallons per year for each of the 68 persons in the community based on seven 5-gallon flushes per day of existing toliets.) (p. A-7) provided they shifted from indoor to outside toilets.

It would provide the single family self sufficiency in disposing of human waste in a rewarding manner by generation of a minor amount of fertilizer, thereby conserving good drinking water as well as the costs in building and maintaining a centralized treatment plant. (p. A-6)

The wintertime solar heating of the sitting room will be a small but effective way of introducing individuals to the validity of solar heat. (p. A-6).

One wonders how practical the invention would be under conditions of 2 feet of snow, 15-degree weather, 2 a.m. in the morning, and 10 yards behind the house.

Among other reasons the project appears ridiculous on the face of it are:

Since 1960 the number of housing units in the United States without complete bathroom facilities has dropped from 5.97 million to 1.65 million of the over 70 million housing units in the country. Even with the energy shortage, the country is not going back to the outhouse.

The Department of Interior and the Forest Service have previously spent considerable research and development funds to test and successfully develop appropriate facilities for campsites and trails.

The amount of fertilizer produced is so small as to produce no alternative to commercial means of production.

This is an idea whose time has passed. The DOE deserves the Fleece for the most ridiculous example of truly wasteful Government spending for the month.

REAL GROWTH IN DEFENSE NOT THE ANSWER

Mr. PROXMIRE. Mr. President, the President's speech yesterday on defense spending was interesting from the perspective of what was said and left unsaid. Clearly, we are approaching a period of sustained real growth in defense spending at about the 4½-percent level in budget authority.

What drives these upward trends? One obvious factor is Iran. We are going to increase defense spending to be able more readily to respond to crises like Iran. Mr. President, if ever there was a situation which called into question the flexibility of military power it is Iran. Did billions in U.S. arms preserve the regime of the Shah? Did our most modern weapon systems guarantee the safety of Americans in Iran? Is our tactical military capability a real alternative for release of the hostages alive? Has the President ever considered increasing the budget of the Arms Control Agency so as to seek peaceful solutions to crises?

The answer is obvious. Yet we respond in singleminded fashion. More military power is the only answer.

Well, what is wrong with more military power? After all, it does have its uses. Maybe not in Iran or Angola or Ethiopia but worldwide power is respected to some degree.

This Senator has always called for an overwhelming, efficient, responsive military capability. Observance of percentage real growth formulas for defense spending, however, does not automatically mean enhanced military power. We are addicted to real growth formulas while turning a blind eye to the efficiency of the product. When half our modern F–14 and F–15 fighters are grounded with engine or maintenance problems; when our most modern tank engine is in trouble; when the cost of weapon systems soar far above inflation—then we must consider how we produce military equipment rather than be intellectually fixed on simple mathematical formulas.

Of course, the formulas have a purpose. They provide a political solution to the SALT II problem. Yes, Mr. President, it is easier to turn our attention to Iran and 4¼ percent increases rather than solving the problem of the 73-percent of defense contracts that are awarded annually without competition. We would rather pat ourselves on the back for spending more than improve the system we have for spending.

More money is always the solution for every problem in Government. But more money will not buy security, efficiency or more military power. Money does not solve problems at HEW, Transportation, or GSA. It is not the solution to our military problems.

PANEL CALLS FOR RATIFICATION OF GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, in observance of "Human Rights Day," Monday, December 10, a blue ribbon panel called for Senate ratification of the Genocide Convention. The panel noted that this would be an important step toward making concern for the human rights of people in other countries an important and permanent aspect of U.S. foreign policy.

The panel, sponsored by the United Nations Association of the United States, is headed by William T. Coleman Jr., former Secretary of Transporation. After a thorough 18-month analsysis of human rights issues, the panel concluded in its report that human rights should continue to be a top priority in our foreign policy.

Human rights goals, says the report, "not only reflect our national values and moral concerns but also usually support other important U.S. foreign policy objectives." The panel is right. Our values are in the right place. Our intentions are good. But the Senate's actions in support of human rights fall sadly short.

This is by no means the first recommendation to the Senate to ratify the Genocide Convention. This comes in the wake of the repeated urgings of President Carter and every other President for three decades, including President Truman. The United Nations Association panel has added its well-considered conclusion to those of numerous other respected organizations including the American Bar Association and the American Civil Liberties Union, virtually every religious group in the country, and others. As with the others, the Coleman panel recognized that the convention does not impinge upon the U.S. Constitution in any way.

These Presidents—seven of them—and prominent groups have understood the merits of the convention and the emptiness of the arguments against it. They have understood, Mr. President, that the convention is a key element—they call it a vertebra—in our human rights posture. Our delay in its ratification has led our allies and our critics to doubt our resolve. It is as though the President supports human rights and the Senate does not.

As we approach the conclusion of "Human Rights Week," let us reconsider this inconsistency. I urge the Senate to ratify the Genocide Convention.

SOMEWHAT ENCOURAGING NEWS

Mr. PROXMIRE. Mr. President, today, the Bureau of Labor Statistics disclosed some encouraging information, encouraging in a sense, at least, although not as strongly heartwarming as it might be. They reported that productivity in nonfinancial corporations increased by seven-tenths of a percent in the third quarter of 1979 to the seasonally adjusted annual rate. The increase reflected a 1.6-percent of 1 percent increase in employee hours.

The significant point, and the reason I am calling this to the attention of the Senate, is that this was the first quarter of 1979 that nonfinancial corporate productivity did not fall. In the first two quarters, output for all employee hours dropped 2.1 percent and 2.8 percent, respectively.

So at long last we are getting some improvement in productivity.

As I say, in the first two quarters of the year, as productivity declined, that is one reason why inflation was as bad as it was. What you have to do is take the money increase in wages and add the drop in productivity, to get the real wage cost.

Fortunately, we have now turned around that drop in productivity, and productivity has improved, so we can subtract the increase in productivity from the money wage increase to get the underlying inflation rate.

That is good news, but not as good as it should be. A 7-percent annual rate increase is better than it has been, and it is something we should not and do our best to try to encourage.

CALL FOR RELEASE OF AMERICAN HOSTAGES

Mr. WARNER. Mr. President, I have in my hand a resolution calling on the followers of Islam throughout the world to prevail upon their brethren to immediately release the Americans being held hostage in Iran; and, until such time as they are set free, to allow them to worship in accordance with their religious faiths, and to allow the clergy of their faiths to minister to them.

Mr. President, I am joined in this resolution by the following cosponsors: Mr. STENNIS, Mr. HATFIELD, Mr. NUNN, Mr. HELMS, Mr. TOWER, Mr. MCGOVERN, Mr. GLENN, Mr. BAYH, Mr. BOREN, Mr. HUMPHREY, Mr. LEAHY, Mr. COCHRAN, Mr. SCHWEIKER, Mr. YOUNG, Mr. RIBICOFF, Mr. DOMENICI, Mr. ROTH, Mr. PERCY, Mr. HEFLIN, Mr. HARRY F. BYRD, JR., Mr. LUGAR, and many others who are calling in, as I left this resolution on the desks of all Senators this morning—this being the 40th day of the illegal retention of these American citizens.

This resolution provides:

> Whereas a liberty most dearly prized by free men and women worldwide is the right to express their religious faiths and to worship in accordance with the dictates of their individual consciences; and
>
> Whereas, with the approach of Hanukkah and Christmas, the Judeo-Christian world is preparing to celebrate one of its holiest seasons of the year; and
>
> Whereas earlier this month, Shiite Moslems freely marked the holiest day of their religious calendar with observances according to their faith; and
>
> Whereas fifty American citizens are wrongfully being held hostage in Iran and, among many deprivations, are being denied the opportunity to practice their religious faiths, other than through silent prayer; and
>
> Whereas the continued denial of such a fundamental human right is an unconscionable indignity and contrary to the teachings of all the great religions of the world:

I hope the Senate will resolve:

That the Senate of the United States calls upon the faithful followers of the religion of Islam, in whatever land they may reside, to prevail upon their brethren to permit the Americans being wrongfully held hostage in Iran to return immediately to their families and homeland; and until such time as they are released, to permit them to worship regularly and on a continuing basis in accordance with their religious faiths; and to permit clergy of their faiths to meet regularly with them, to minister to their spiritual needs, and to conduct religious services.

Mr. President, I look to the guidance of the distinguished majority leader and minority leader as to how best the Senate can expeditiously address itself to the content of this resolution.

I thank you, Mr. President. I yield the floor back to the distinguished majority leader.

SENATOR KENNEDY'S COMMENT ON THE SHAH OF IRAN

Mr. McGOVERN. Mr. President, in view of the furor that was stirred by Senator KENNEDY's comment on the Iranian situation, I would suggest that before that whole matter is finally judged Senators look at some of the thoughtful comment that has been stirred up by Senator KENNEDY's statement.

I ask unanimous consent, first of all, that the full text of what the Senator from Massachusetts had to say in that celebrated interview be printed in the RECORD, along with an editorial from the Des Moines Register of December 11, and a piece appearing in today's New York Times by Prof. Arthur Schlesinger under the title "No, Let's Debate Our Iran Policy."

I ask unanimous consent that those three articles be printed in that order, and I strongly urge Senators who are trying to arrive at a balanced judgment on this matter to read these articles before they make any final judgment on the wisdom of what Senator KENNEDY had to say.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Star, Dec. 4, 1979]

TEXT OF KENNEDY INTERVIEW

Following are Sen. Edward Kennedy's answers to questions about the deposed shah of Iran during an interview with KRON-TV in San Francisco that was shown Sunday.

Question: What . . . is your response to (Ronald) Reagan's point and Henry Kissinger's point that we really should allow (the shah) to stay in the United States, that this is a betrayal of a friend, of a man who was a loyal ally for 30 years? And what does American friendship mean, if we're going to reject the shah?

KENNEDY: Because the shah had the reins of power, and ran one of the most violent regimes in the history of mankind, in the form of terrorism, and of the basic and fundamental violations of human rights under the most cruel circumstances to his own people? How do we justify that in the United States? On the one hand accepting that individual because he would like to come here and stay here with his umpteen billion dollars that he'd stolen from Iran, and at the same time, say to Hispanics who are here legally that they have to wait nine years to bring their wife and their children to this country? Or someone who comes across the border from Mexico whose only desire is to work and provide for their family that we may even put them in jail?

Question: But you don't think that these years, though, he wasn't a loyal ally of the United States?

KENNNDY: I think he was looking out after one person, himself. I think that was the number one interest of the shah, to look out after himself. I think that the interest of the United States is with the Iranian people. We have, and should have, a strong association with the Iranian people. I think to tie American fortunes, whether it is the energy to heat the home of elderly citizens, or to run the plants and factories in this country, on one man rather than a whole nation and a people is a policy that's bankrupt. And that was the policy prior to the time the shah fell. I think the Americans and American foreign policy have to get their act together. And if we continue to identify with dictatorships, whether it's Somoza and Nicaragua, because he's prepared to vote with us X number of times and then shows he has no support of his people, or the shah or other dictators, I don't think that's wise foreign policy.

Question: You don't think necessity forces you to do that at times? I'm trying to think of a Kennedy administration, where you would find yourself in a position of having to deal with a government you didn't find totally satisfactory.

KENNEDY: I think that is what diplomatic relations are. Diplomatic relations do not give tantamount to approval or disapproval of a country. I've long favored, since 1969, the formalization of relations with China—the People's Republic of China. Now the fact of the matter is that doesn't say that we approve or disapprove, it says that they exist and we have to deal with them. That's a lot different from saying that we have to take extraordinary actions in full regimes on it (sic). Now, I think we have to give a long and hard thought to these matters, and I think it's important that we do.

[From the Des Moines Register, Dec. 11, 1979]

EXAM ON IRAN

I. Who made each of the following statements?

A. "The biggest foreign policy debacle for the United States in a generation was the collapse of the shah in Iran without support or even understanding by the United States of what was involved."

B. "This country ought to . . . make it plain that [the shah] is welcome to remain here. . . . We've got a history of being an asylum for political exiles, and he certainly was as loyal an ally for a great many years as this country could ever possibly have."

C. "The shah had the reins of power and ran one of the most violent regimes in the history of mankind, in the form of terrorism and the basic and fundamental violation of human rights, in the most cruel circumstances to his people."

Answer:

I. A. Henry Kissinger.
B. Ronald Reagan.
C. Edward Kennedy.

II. Which of the statements is most likely to be harmful to the American hostages being held in Tehran? Explain your answer.

Answer:

II. A and B.

Kissinger, a former secretary of state, is a possible future secretary of state in a Republican administration. His Nov. 20 statement lamenting the loss of the shah almost certainly would feed fears in Iran that the United States had not given up on the shah and would like to return him to power.

The United States put the shah on the throne in 1953 and helped keep him there. The militants holding American hostages are making return of the shah a condition for their release, in part to prevent a repetition of 1953. Kissinger's statement gave the hostage-takers every reason to suspect U.S. intentions and to stick to their demands.

Reagan's Nov. 29 statement was in a similar vein. Polls show Reagan to be the leading Republican contender for the presidential nomination. Expressions from a prospective president of solidarity with the shah, coupled with favorable references to permanent asylum for the deposed dictator, would carry an ominous ring to anyone worried about U.S. plotting to restore the shah. Hostages in the hands of people with a blind hatred for the shah would have to be fearful of any pro-shah statements by a presidential candidate.

Kennedy's statement was uncompromisingly critical of the shah. As such, it created the least danger for the hostages. Yet Kennedy's statement was more bitterly denounced than were the others by administration spokesmen. Presidential candidates of both parties joined in the denunciation.

This student has to conclude that a large measure of politics figured in the reaction. The politicians had a field day at Kennedy's expense—and possibly at the expense of the hostages.

[From the New York Times, Dec. 13, 1979]

NO, LET'S DEBATE OUR IRAN POLICY

(By Arthur Schlesinger)

"What experience and history teach," wrote Hegel, "is this—that people and governments never have learned anything from history." Washington today would seem to prove Hegel's point.

Seven years ago, the United States finally bowed out of the longest, the most useless and the most shameful war in its history. There was much talk then about the "lessons of Vietnam." Americans, it was hoped, would understand the indispensability of candid debate in foreign policy, the risks when any Administration demanded uncritical support, the angers of unilateral Presidential action, the hazards of military intervention in parts of the world remote from our vital interest, the limits of American knowledge and power. Now all that painfully earned wisdom seems to be going by the boards. In Washington, legislators rejoice that "the Vietnam syndrome" is dead. At last, it would appear, we are free to be fools again.

Nothing is more discouraging than the attempt to prohibit discussion of the President's Iran policy. It is a time of crisis, the prohibitionists cry. But surely a time of crisis is precisely when debate is most necessary. Debate, it is said, might endanger the hostages. Certainly a movement to send the Shah back to Iran would encourage the Iranians to hold on to the hostages as long as possible. But no serious debater has proposed this. The existing debate shows that the anti-Shah people are as much against returning him as the pro-Shah people. This can only help the hostages.

Moreover, it is surely permissible to ask whether the best way to save the hostages is to follow the President's lead and join the case of the hostages with the case of the Shah—which is what the President has done by refusing to say that the Iranians might have legitimate grievances and by taking the Shah under the official protection of the Government. If the President's course makes sense, free discussion will strengthen his hand. If it doesn't, free discussion may spare the Republic disastrous error. If we ought to have learned anything from Vietnam, it is surely that.

Nor is it clear how far our unlearning of the Vietnam experience will carry us. Tad Szulc reports in New York magazine that "the Carter administration sees Khomeini as a 'cancer' which, in the national interest, must be removed by any possible means." If we should go down this particular road, the cry will continue that it is the President's decision; the nation must stand behind him; debate is forbidden. Did Vietnam teach us nothing about our incompetence when it comes to trying to decide the destiny of Asian countries? Iran itself should have taught us that lesson long since. If we had not intervened to install the Shah in 1953, we might not be paying the horrid price of Khomeini today. Let us pray that we are not going to plunge even deeper into Iran now in our mad compulsion to repeat first grade.

However, I have the strong impression, after traveling around the country during the last two weeks, that the horror over any questioning of the President's policy is pretty much confined to a small if influential group, the so-called foreign-policy establishment. Ordinary people do not for the most part share the establishment's belief in the unanimity rule. Still the fact that this establishment has been wrong on so many isues of foreign policy in the 30 years since the Marshall Plan and NATO does not diminish the confidence with which its members lay down the law when new issues arise. Over these years, dissent has played an invaluable role in introducing a measure of rationality into our foreign relations. On issue after issue of foreign policy, Senators Mike Mansfield and J. William Fulbright, for example, look considerably wiser in retrospect than the President's National Security Council.

I remember in 1957 when an earlier Senator Kennedy came out for the independence of Algeria. The foreign policy establishment was scandalized. Even Adlai Stevenson said to me: "What's got into Jack? After all, France is a NATO ally." A decade later another Senator Kennedy opposed the escalation of the Vietnam War. Again the predictable cries of alarm. In retrospect, the first two Senator Kennedys do not look so foolish. Let the third Senator Kennedy not despair.

This nation has not only the right but the obligation to debate our Iranian policy, to call on the Administration to separate the issue of the hostages from the issue of the Shah, to challenge Mr. Carter's decision to clasp the Shah to our bosom and give him the official protection of the Air Force, to discuss the proposal that the Shah become a permanent ward of the Government and, for that matter, to review the series of miscalculations and mistakes that has brought our country to this miserable pass.

What an unnecessary crisis it is! Had different decisions been taken in Washington, the Shah would still be resting comfortably in Mexico; the Canadian doctor would have flown to Mexico City instead of to New York to exorcise the Shah's gallstones; and our diplomats would be going safely about their business in Teheran. The Administration's campaign to ban all discussion of these questions is a far more political act than anything undertaken by the President's critics. The cry of "national unity" has been used before to cut off debate and to conceal error. Democracy is not something to be suspended in an emergency. We are in trouble not because we have remembered Vietnam too long but because we have forgotten it too quickly.

QUORUM CALL

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Harry F. Byrd, Jr.). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUPREME COURT DECISION ON TERMINATION OF UNITED STATES-TAIWAN MUTUAL DEFENSE TREATY

Mr. GOLDWATER. Mr. President, before I make any remarks on the subject that we are discussing, I think that my colleagues might be interested in the fact that the Supreme Court has just rendered a decision on the case that we have all been interested in, namely, a case instituted by myself and 29 other Members of Congress against the President of the United States contesting the way in which he abrogated or stopped the mutual defense treaty with Taiwan.

I do not have the decision in my hands so I have to rely on my memory, which is not the best that has ever come around. But, in effect, the Supreme Court has ruled against the decision of the appellate court which overturned the decision of the district court where Judge Gasch rendered an opinion favorable to our side. As I understand it, there were some eight different opinions on the Supreme Court, but it all gets down to what we more or less expected because the Court never in 200 years has agreed to hear in these cases, although I think it should, that is, a political matter that should be determined by resolution, law, or constitutional amendment, between the administrative branch and the legislative branch.

If this is true, then I think I could say that, without consulting with the occupant of the chair (Mr. Harry F. Byrd, Jr.) who is the author of the resolution that has already passed this body that expresses the opinion of the Senate that it is not right for the President to unilaterally abrogate mutual defense treaties, I think we at least have the framework and, while I have not had time to really do anything about it or planning, I can assure the Chair that within the next day he will hear something from us. I am going to approach the majority leader, who has been the leader on the other side saying that we should resolve this by resolution. His resolution suggestions have never complied with the thinking of either the occupant of the chair or with my thinking or with the thinking of those others with us.

I believe that, if we resolve this by an action of this body, it should require that the President seek the advice and consent of the Senate with a two-thirds vote required to give advice and consent if asked for.

I am glad this is over. It has been almost 1 year in court, and I think that all the way through, with few exceptions, the decisions have been good.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

Mr. GOLDWATER. Mr. President, we have been many days and weeks on the tax bill that is now before us, the windfall tax.

While I was not here last night and, therefore, I missed the splendid demonstration by the majority leader, which I read about in the Record and wished I had been here, I would like to suggest to the majority leader that maybe the American people do not want this bill passed. Maybe what we are doing in this body by lengthy discussion of it, so as to educate the other colleagues, may be what the American people are asking for.

I remember when the President first suggested that we put a windfall tax on the oil industry.

As a person who spent many years of his life in business, trying my best to make a profit, and the more the better, I tried to find out what his idea of windfall profit might be.

I have listened rather carefully to the debate. I have read what is going on in the debate even though I might not have been here. I cannot recall having seen or heard any discussion of what it is we are talking about when we talk about windfall.

I gather from the remarks of the President and the remarks of those who support such a tax proposal in this body that it is a corporation, an individual, or a business making more than normal profit.

Now, what is normal profit? I have not heard anybody in this body discuss what the normal profit picture of the oil industry is, or should be.

I recall the days of my business, making 10 percent on sales was not unusual. Today, if we make 2½ percent on sales, that is a little bit high, but it is about average.

Windfall, to me, in my particular business, would mean a retail business that, maybe, made 5 or 6 percent on sales. As we look at the oil companies and read in the newspapers that they made $100 billion last year, the question comes to my mind what were their sales?

If we do not know what their sales are, and I have not heard this discussed yet, then we cannot make a fair judgment of what is windfall. If we do not know what these companies do, other than oil, we cannot make a fair judgment, and I have not heard that.

I am not going to mention companies by name, but I had a son-in-law who worked for one of the largest so-called oil companies in America, and 80 percent of their business is done in real estate.

Mr. LONG. Will the Senator yield at that point?

Mr. GOLDWATER. Yes.

Mr. LONG. Some people have read that a company made a 100 percent, or even 200 percent, more profit than they made in the previous year, and some man on the street jumps to the conclusion they meant on an investment of $1,000, the company might have made $2,000 or $3,000.

There is one simple answer to that, a horrible example, not this last quarter, but a couple of quarters ago, was one that had to do with Sohio.

It seems that company in the previous quarter had a disaster. They had a coal mining operation shut down by a strike, and they had traded a lot of their production for production in Alaska, pretty much concentrated their eggs in one basket. Then, the Alaskan pipeline went out because of some problem.

So it was a disastrous quarter for them.

But later, the Alaskan pipeline was

pumping along fully, and the coal mining operation was going on as usual. So they had a good quarter.

They were reported as having an increase of 234 percent profit, or something like that.

For all we know, they might have just been making something like the Senator would make in the retail business after taxes, about 3 percent on sales.

Mr. GOLDWATER. Yes.

Mr. LONG. No one has ever attempted in all these headlines, as the Senator has suggested, to analyze whether they made too much profit or too little profit, all things considered.

The Senator undoubtedly knows that people who were buying oil from Saudi Arabia did very well, because Saudi Arabia was selling their oil at about $18 a barrel, while other people were selling oil for maybe $10 a barrel more than that. If one was fortunate enough to buy his oil from the Saudis, he had a built-in profit of about $10 a barrel.

When they brought it in the United States, it is my understanding, under our laws and our price controls, the consumer was getting the benefit of it here. But when they sold oil bought in Saudi Arabia by an American company in Western Europe, for example, they would make whatever profit they could. So they made a lot of profit, but that did not cost the American consumer anything, it did not cost the American taxpayer anything.

As a matter of fact, it should result in perhaps more taxes being paid to this Government because dividends came back in and they paid taxes on that.

But the American producer, at least, the American taxpayer, and the American consumer had nothing to worry about. But to read the report the way it came out, one would think that he is being ripped off, to use a colloquial term, because someone made a lot of money picking up some oil in Saudi Arabia, selling it in Western Germany. In fact, that had no impact at all on the American consumer or on the American taxpayer. It had nothing but beneficial effects, as far as I am concerned.

Mr. GOLDWATER. I am glad my friend brought that out because I think it is very important that during the course of this debate, for academic reasons and for the education of the American public, particularly the American young public, we get into this business of profit. It has become a dirty word.

I talked to a business group last night in New York and castigated it for not making more money and not being proud of the fact that they make a profit.

Profit is the only reason we go into business, and we try to make all we can because there are years when we do not make any.

I remember in my business, I went for 5 years and did nothing but lose money. But, by golly, I stayed in business.

But to get back to this question of what is a windfall profit, I do not like the term because the President, at the same time he invented this term, did not tell us what he meant.

As I say, we will find most of our major oil companies receiving more income from nonoil than from oil.

I remember 2 years ago when I was at the island in the gulf off Iran, I saw 56 tankers lined up before 13 different loading docks to receive all the way from 50,000 tons to 250,000 tons of fuel, served by two lines coming from the mainland, 70 inches—that is just about 2 inches shorter than I am—full of oil all the time.

The surprising thing to me was that I did not see Esso. I did not see Sohio. I did not see any of the so-called big oil companies.

I saw American oil companies, so help me God, I never heard of before, little companies.

Now, these are the companies that furnish most of the oil that this country uses for energy purposes. Yet we are hearing nothing but the big companies, and we are trying to shoot them down, putting tax on them they cannot hear.

I recall reading about the same time a headline which said that X oil company has a 100-percent increase in profit.

The Washington Post had that much increase in profit. Now, I do not begrudge them that. I think it is good when a newspaper can break even, particularly that one.

(Mr. LEVIN assumed the chair.)

Mr. GOLDWATER. But we are just sort of working around here and not really getting to any kind of conclusions that I think that we should. And I would hope that during the course of this debate—and I hope this debate goes on a long, long time. In fact, I think it would be very helpful if we went right through the Christmas holidays talking about what windfall profits are, because it is always nice, at Christmas time to have a little extra profits to pay for the things that we have to buy for our children and our grandchildren. But that is beside the point.

I think we have a chance here that this Congress has not had in 40 years: to educate the American people as to what we are talking about when we talk about the ability to make money. Because profits, Mr. President, mean the future of this country. Without profits, there cannot be new machinery, there cannot be new building, there cannot be new ideas, and there cannot be new jobs.

Now we are hearing that the Chrysler Corp. is going broke, and we are asked to help them. I am not going to vote for that. I think one of the greatest factors or most attractive parts of our free-market system is that you can either make money or you can go broke. And I do not think it is the business of the American Government to be bailing out anybody.

They made mistakes in that corporation. They made big cars when they should have been making small cars. In fact, there are times when I wonder why there is any automobile manufacturer still in business, because they are so far behind times.

Well, the oil companies have tried not to stay behind times. We knew about this energy shortage way back in 1950. Now, that is a long time ago. And this Government has done nothing about it.

I pled with Republican Presidents, whom I could get much closer to than I can with Democratic Presidents, pointing out that if they just decontrolled gas and oil in this country, within 6 months we would begin to see prices coming down, we would begin to see the shortages disappear, and, within a matter of maybe a year or two, there would be no more gas lines.

Because we have enough fuel in this country, Mr. President, either in shale or in coal or in natural gas or in heavy crude, to last this country for 3,000 years. And yet we go begging to the Arab countries to sell us oil at any price.

Now, would not the man in West Virginia, Virginia, Missouri, or Kansas who has that one or two little wells that go like this, up and down, pumping maybe five or six barrels a day, would not he like to have $30 a barrel for that, instead of $8 a barrel? Because if he got $30 a barrel, he would be pumping fuel and not growing corn or wheat or something else.

We are not answering this problem. And I wish we could get the President to listen. If he would listen to Jim Schlesinger, he would be out of his energy problems right now. But he is getting the wrong advice. Somebody is telling our President that he has to control all sources of energy in this country.

I maintain the same rule applies to energy as applies to anything else. When the Government controls prices and wages and quality and specifications, we are through in that business. And that is what is happening to us in the world trade today.

I just returned yesterday morning from the country of Taiwan, which is not as large as the State I live in, in geographic terms; 18 million people. What is their unemployment rate? One percent. The Minister of Commerce told me that these were actually people who would not work. Otherwise, they would have no unemployment problem at all.

And here we are, this great country of ours, that has been able to build anything, invent anything, make things better, now slipping behind the rest of the world.

And a lot of what I am talking about and a lot of what we are talking about in this Chamber in this debate is directly related to the condition of the American economy and the American people.

Last night it was my pleasure to have been in New York and to have had dinner with Dr. Raymond Saulnier, who is on the economic staff at Columbia University, a man I consider one of our best economists. He is a conservative, but he has always been right.

I would like to read the paper that he gave me, because this is a good time for it to get into the RECORD.

He said:

> The object of this memorandum is to explore the implications for the upcoming presidential campaigns of the economic environment likely to prevail in 1980. To this end it begins with a 1980 economic forecast.

And I think this has a bearing on what we are talking about. Continuing:

> It is not a certainty, but close to it, that 1980 will be a recession year. There was a good chance until July 1979 to avoid it, and there are still items in the news supporting that possibility, but I believe the game was irretrievably lost when credit expansion got

out of control last summer and forced the Federal Reserve System to shift abruptly to a severely restrictive monetary policy. Actually, evidence is multiplying that a downturn is already underway; the questions that remain are: How deep will it be? How long will it last?

The conclusions summarized below respond to these questions on assumptions thought to be reasonable concerning areas of activity that fluctuate most widely during cyclical swings. For purposes of brevity, most of the underlying argument has been omitted.

The economy is already in a decline that will last until the second or third quarter of 1980 and will carry activity down between 3 and 3½ percent. This is less than the 1974–75 recession (5.6 percent, peak to trough) but considerably more severe than the decline that occurred during the 1960 election year.

The most rapid declines will probably be in December 1979 through March 1980, inclusive, with several additional months of moderate decline until a cyclical trough is reached around mid-1980.

There are reasons to expect that recovery will not be brisk. Rather, the economy may do little more for several quarters after mid-1980 than bump along on a fairly flat trend, with meaningful recovery not starting until sometime in 1981.

Recession will almost certainly cause a slowing of inflation, though it will take a few months to be noticeable. Measured by the GNP deflator, the annual inflation rate will probably be around 9 percent in 4Q79 but could moderate to between 7 and 7½ percent by 4Q80; the consumer price index will rise faster by several percentage points but its rate of increase should be below 10 percent by yearend 1980.

With inflation moderating, interest rates should move down in 1980, extending a movement already underway.

The unemployment rate could rise to between 8 and 8.5 percent by midyear 1980. Furthermore, it will probably rise for several months after the cyclical trough has been reached, with the high coming sometime in 1981.

Corporate profits will be lower in 1980 than in 1979 by at least 5 percent, possibly more. Some analysts put the expected decline over 15 percent. The most unfavorable profit comparisons will come in third-quarter 1980 results, released mainly in October of that year.

Finally, stock prices are so low relative to earnings and reasonable valuations of corporate assets they should resist downward pressure. If a basis exists by mid-1980 for anticipating recovery in 1981, stock prices could be staging a fairly well-based recovery in the second half of next year.

With a recession trough in the middle of the year, 1980 will present a test to both political parties for which there is no parallel in post-WWII history. Nineteen-sixty was something of a test, but Senator Kennedy's complaint was not that the economy was in recession but that it wasn't growing fast enough. Moreover, there was no inflation issue in 1960, as there will assuredly be in 1980. The CPI rose only 1.4 percent in the twelve months through November 1960 and the unemployment rate as late as October 1960 (6.3 percent) was not much higher than was recorded for August 1979. In short, 1980 will be unique as a presidential election year: fullfledged recession, high inflation and high unemployment, all coming together at the most crucial point in the campaign.

It will be important, also, to the conduct of political discussion in 1980 that the two leading domestic issues—inflation and unemployment—suggest corrective measures that are often directly in conflict and tend to elicit popular solutions that are almost invariably wrong. In short, it will be easy to be drawn into policy contradictions in 1980, and easy to take policy positions that are economically unsound.

Exploring the implications of such an economic environment for presidential campaigning, let us turn first to President Carter. He will be open to severe criticism from all sides—Democratic and Republican—for the failures of economic policy over the past three and one-half years, and will be under heavy pressure to launch new initiatives simultaneously against both inflation and unemployment. Basically, two strategies will be open to him.

Under Strategy A he would stay with the monetary policies currently in force (his present stance), and continue to resist tax cuts and large unscheduled spending increases. He would continue to put heavy accent on a budget-balancing goal, though not to the exclusion of measures directed specifically toward unemployment, such as a liberalization of unemployment benefits and the funding of work projects.

Under Strategy B he would advocate shifting to a more expansionary fiscal policy: larger spending increases and large tax cuts, and would call on the Federal Reserve to ease monetary policy, possibly risking an open conflict with Volcker. It is a virtual certainty, also, that Strategy B would call for direct controls over prices, wages, dividends, interest rates, and the extension of credit—all in the name of taking care of the inflation problem.

Which of the two strategies is Carter most likely to follow?

Based on my 1980 economic forecast and on my expectation that present policies will soon show signs of success, I believe the odds favor his following Strategy A. What is mainly important, politically, about this is that it will put him on ground typically held by Republicans and normally anathema to Democrats. In other words, circumstances (the bankruptcy of typical Democratic policies) will have put Carter in the position of supporting the Federal Reserve System in a monetary policy that is orthodox in nature, and espousing a fiscal policy that has a conservative cast. In general, this is his present stance, and if some success against inflation becomes apparent before mid-1980, as I expect it will, the chances of his abandoning it will diminish sharply. Furthermore, recession will provide opportunities within the next few months to relax money policy a bit without seriously impairing the fight against inflation, which will make it easier for Carter to defend a Strategy A position.

There is, of course, the possibility that sharply rising unemployment rates will push Carter into Strategy B, though it will not be easy for him to do more than talk about it. White House control of the Federal Reserve Board is exercised only by presidential appointment, and while the majority of Carter appointees will be increased to five out of seven in a few months the duration of the appointments and the integrity of the individuals involved means that in practice the Board is not readily open to external influence. And influence is even more difficult to wield over the Open Market Committee. Finally, the adverse effects on financial markets that would follow from White House intervention in monetary policy would be so damaging, and so immediate, especially in world currency markets, that there is little chance it would be risked.

Nor would it be easy to shape fiscal policy along Strategy B lines. Nearly everyone, Republicans and Democrats, is now talking "taxcuts." But tax cuts require legislative action and for a president to get it while he is running for office, and at war not only with his opposition party but with many in his own ranks, could turn out to be a long and bruising legislative struggle. Similarly, credit programs that operate outside the budget can be utilized to spur activity, and will doubtless be exploited to the hilt, but the most the White House can do on budget spending is to expedite or redirect spending (or contracting) already authorized by Congress, a process in which results lag by many months.

Finally, although opinion polls continue to show widespread popular support for direct wage and price controls, there are distinct limitations on what the president can do without new legislation. The Credit Control Act of 1969 is still on the books and gives the president virtually unlimited power to impose controls on interest rates and the extension of credit, but if demand for credit is already declining, and if interest rates are trending down—as my forecast implies—the relevance of such measures is doubtful. Wage and price controls are another matter. It is more or less standard opinion nowadays that the president will ask for authority to impose such controls in 1980, but this also would require new legislation, and any sign of impending mandatory controls would set reactions in motion from consumers, businesses, and labor organizations that would create enormous confusion during what could be an extended period of legislative debate and could harm rather than help the president's campaign.

In short, Carter could talk about a Strategy B program but not be able to do much about it, and in the process might be the principal loser. On balance, therefore, I expect to see him continue in a Strategy A policy position; in my opinion, that is the policy-line Republicans will confront in 1980.

I believe there are important implications in the above for how the 1980 Republican campaign should be structured. The crucial point is that if Carter runs on Strategy A, the Republican campaign will have to be directed mainly against his record and against the authenticity of his claimed attachment to an economic policy that, in a number of respects, is essentially orthodox. In other words, because such a campaign would contain much that identifies with traditional Republican positions, there will be less scope than usual for offering significantly different alternatives from those the Democratic candidate will be espousing. Obviously, Senator Kennedy would present a totally different target.

This is not to say that the Republican program cannot have positive elements in it. There will be many opportunities to give it such a cast without abandoning the traditional Republican ground onto which Carter will be tending to move. But it will not be easy to structure such a program, and there will be temptation to move, here and there, away from traditional Republicanism as a counterattack against Carter.

Tax policy is the leading case illustrating this. The traditional Republican position has been to oppose overall tax reduction when the budget is deeply in deficit, the more so when there is serious inflation to overcome. The most dramatic example was the Eisenhower/Humphrey decision, early in 1953, to oppose the already-scheduled expiration of an excess profits tax. Similarly, the administration opposed at the same time the July 1, 1953 elimination of a corporate income surtax enacted in 1950 to help meet costs of the Korean Conflict, again on the ground that the budget deficit did not permit it. True, the deferred cuts, plus a scheduled reduction in the individual income tax, were allowed to take place on January 1, 1954 despite a budget deficit, largely as an anti-recession measure; but in contrast to now, there was at that time no inflation to worry about. In my opinion it would be a grave mistake for the Republican Party to abandon its traditional position on taxes and the budget precisely when, with inflation in double-digit figures, it is most relevant to the country's needs.

The task of shaping a program to provide a clearly Republican alternative will not be easy in the 1980 economic and political environment, but it can be done; and in the country's interest, it desperately needs to be done.

As I said at the outset, Mr. President, what I have been reading is an economic forecast written for me by Dr. Raymond Saulnier of Columbia University. It was written on December 4 of this year.

I repeat what I said at the outset: While Dr. Saulnier is an admittedly conservative economist, he has an excellent record. He has been wonderfully accurate, as accurate as an economist can be in these matters.

I might say, Mr. President, that it has always been interesting to me to follow the words of economists. Milton Friedman is one of my other advisers.

The science of economics is at its best an unprecise work. Having lived through the Great Depression of the 1920's and the 1930's, one learned not to put much faith in the words or teachings of economists. I recall the one year I spent in college, in 1928, I had a German professor of psychology who had no use at all for any Austrian, and instead of teaching us psychology, he spent most of the period being mad at Austria and what she was doing, from 1920 to 1928, with the mark. He used to tell us that if Austria did not quit doing what she was doing in the welfare state business, in deficit spending, et cetera, that the mark would fall; and in those years the mark was a very, very important piece of international currency, where our dollar really did not amount to a hill of beans.

Well, sure enough, in 1928 the great House of Creditanstalt in Austria collapsed, the mark fell through the floor, and a depression started in Europe which became a worldwide depression. We were right in the middle of it; and it has always sort of irked me, as a Republican, to have Herbert Hoover blamed for our depression, when what we were going through was a worldwide recession or depression. I have often said to young people who worked for me and with me that what we are doing in the United States relative to our dollar, relative to inflation, relative to spending money we do not have, can bring about the same situation, and we can be the ones who start a world depression. It is not impossible.

That is one of the major reasons why I sound off so often in such a doleful, sad way about the state of our finances in this country, about the situation of inflation, the decreasing value of our dollar, the fact that we have nothing to back our dollar up, that it is merely paper; and I am really apprehensive, Mr. President, that if we continue this practice much longer, we will be in desperate trouble in this country, and we could possibly set off trouble in the rest of the world.

Mr. President, this subject of economics is a very important one to me. Even though I have been out of business for a good many years, I maintain an interest in it by reading and trying to follow the records of my old company, which I am no longer connected with. I think this debate is going to be a beneficial one. We have gotten into matters here that I have not heard discussed on this floor in all the years that I have been here. There has been more or less of an antibusiness attitude in Congress for as long as I have been here. The businessman has been looked upon as the bad apple in the barrel of America.

Of course, I disagree with that. But I do think that the American businessman could pay a more active role in backing up American business, in speaking out about American business, and particularly in this field of oil and gas.

I have no major interest in this. We do not have an oil well is my whole State. I wish we did, but we do not have. But I would like to hear oilmen come into our hearings and defend what they are doing, explain to our colleagues on these committees what they are confronted with in terms of providing sufficient energy for the people of our country and, so far as that goes, for many of the people in other parts of the world.

But I do have, Mr. President, another subject I would like to touch on briefly. It does not apply to the basic matter that we are discussing, but it is going to come up before us, and it is especially of interest, I hope, to the present occupant of the chair (Mr. LEVIN), who performs such a fine role on our Armed Services Committee in the whole field of personnel.

This is a study, Mr. President, put together by a Maj. Michael Bressler, a graduate of West Point, and it is so interesting that I have already mailed an important part of it to every member of the Armed Services Committee, so that the members can get a better feeling of what the officer or the enlisted man in charge of men under them has to put up with, and what the suggestions are to relieve him.

I would like to read from his paper, if I may, just a bit. I will not read the whole thing; it would take much longer than the majority leader took last night to tell us how to apply ourselves.

It reads as follows:

> Any attempt to seriously study the role of U.S. military power at the turn of this century might be lightly dismissed as impractical and, hence, a waste of time. To deny the pitfalls involved in long-range planning is to deny the realities of complex international relations on which any military policy must depend. These complexities are difficult enough to plan for on a day to day basis. The alternative to not planning for the long range, or at least being receptive to plausible solutions is to sow the seeds for a harvest of future military calamities.
>
> The world at the turn of this century will more than likely be a world which has not seen global war for some 55 years. The United States and the Soviet Union will still be the only major powers with formidable capabilities in all aspects of national defense. A competitive relationship will continue to exist on both the military and economic fronts. Western Europe, China and Japan will join the United States and the Soviet Union as power centers, but their lack of balanced power—political, military and economic—will preclude the emergence of a multipolar sharing of world power. A stalemate in world power advantage between the United States and the Soviets will have crystallized from what we know today as detente. Like the center of gravity for a delicately balanced top, this power stalemate will be subject to the slightest directional thrust from any of the other three power centers. Spheres of influence will not exist in the classical sense and the majority of the world will remain nonaligned waiting only to see which of the three new power centers exert what directional force on the balance of power. Competition for allies in the underdeveloped areas of the world will intensify tremendously, making any use of force to support national self-interest an extremely sensitive undertaking.
>
> Merging national policy and strategy in a delicate bipolar world will demand the coordinated use of a nation's political, economic, psychological and military powers. In an article for the *Military Review*, LTC William Stokes calls for a broader recognition of this synergistic effect in the form of an integrated power projection.* Such a projection can be workable only if the force element is organized to maximize its efficient and flexible use. Military force will not merely be relied on as a deterrent to all out war but will be looked to as a positive means of support to stabilize foreign spheres of interest. Such stability operations might include the application of U.S. forces (in concert with other national power) in a security assistance role which may ultimately necessitate massive direct involvement.
>
> The role of military force in this power projection is visualized by LTC Stokes as an application of leverage that should be used "to discourage interference with pursuit of economic objectives, and to provide alternative means of positive action in support of stability operations." The study contained herein is a human approach to the problem of implementing a force structure to accommodate America's power projection at the end of the Twentieth Century. Part One defines the deterioration of primary group cohesion as a very critical problem in the modern United States Army and, hence, a detriment to any projection of organized force.

I might interject my own thoughts at this point which are contained in the brief paper that I mailed to members of the Armed Services Committee.

This gentleman makes the very true statement that four men will not attack a lion, but four men who know each other and have respect for each other will attack a lion.

I know there are many men listening to me who can recall their activities in the Armed Services of the four wars we have had in my life who recognize that when you go into battle the real determining strength of your position is that man next to you. If you had to do it yourself the chances are that you would not do it. It is the difference between our forces, really, and the forces of the rest of the world.

There is probably no individual soldier more superb in the art of soldiering than the German, but leave that German alone without a leader and he goes noplace. Leave the Russian alone without a leader and he gets noplace.

You leave an American alone with a buddy or the man next to him, and he does not need a corporal, he does not need a sergeant, he does not need a lieutenant. He gets the job done.

That was the reason I mailed this

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* "Power Projection 1990: The Role of U.S. Military Power", by LTC W. Stokes III, et al., *Military Review*, May 1975 p. 8.

piece to members of the committee, because I think it is necessary that we begin to understand what makes an effective military force. It is not just numbers. It is not just training. It is the psychological effect of serving as more than one.

Back to my reading:

> Part Two recommends a realignment of existing resources to solve the cohesion problem and at the same time provide a force structure adaptable to the philosophy of power projection envisioned by LTC Stokes. This study is founded on two basic assumptions:
>
> 1. That man never changes with respect to his psychic needs during moments of combat stress.
>
> 2. Man's technology will always keep pace with his dreams when preparing for war.

Mr. President, this is such an interesting document that I intend to see that all Members of this body have access to it. I have not even asked the author if I can do this. He is a professional military man and I know that his interest, the same as all of us, is with the man in uniform, the man in the ranks, the man who is a member of the team.

Mr. President, it has been my distinct pleasure to have been allowed to address the subject of the tax bill today. I am opposed to it in any manner, shape, or form. I would rather see profits encouraged in this country than discouraged. One of the major reasons we have the present state of unemployment in this country is that through the days of Eisenhower, Kennedy, Nixon, Johnson, and the rest of them, we have not been making enough profit in our businesses to put aside I would say at least 4 percent of the gross each year to build more factories, to buy new machinery, to create new jobs.

Mr. President, all you have to do is let this economy go. You do not have to try to regulate it by a bunch of bureaucrats in Washington who have a hard time getting 2 and 2 to come out 4. You just leave them alone and let them go. The law of the natural market will take care of it.

Mr. BOSCHWITZ. Will the Senator yield?

Mr. GOLDWATER. I am happy to yield.

Mr. BOSCHWITZ. I caught the end of the Senator's remarks about the military matters that affect this country.

I read with great interest 2 or 3 days ago an article from the U.S. Air Force magazine that the Senator inserted into the RECORD. In the event some of our colleagues missed it, I certainly direct their attention to them. It very succinctly, very directly, and rather briefly as well, sums up the differences between the military might of our country and the might of Russia. I thank the Senator for bringing it to my attention and for bringing it to the attention of the Senate.

I also concur in what the Senator is now saying.

As the Senator knows, I, too, oppose the windfall profit tax or excess tax, as it can be called. I, too, believe that if American business is allowed to move forward and is not impeded either by departments here in Washington or by excessive taxation, it can be enormously productive. No other system in the world has been able to provide as much for its people and its Nation, and provide enough so that Nation can also defend itself.

The Senator's insertion into the RECORD of the article from the U.S. Air Force magazine——

Mr. GOLDWATER. The article came from the London Strategic Institute.

Mr. BOSCHWITZ. It actually makes a comparison between the strategic and nonstrategic forces.

Mr. GOLDWATER. It is something like Jane's "Fighting Ships," which is the bible for the Navy. They also have an issue of Jane's "Aviation," which is the bible for the aviator on world power. We now have a counterpart of the London Strategic Institute in this country that is rapidly gaining the same stature. I am so happy that the Senator mentioned it. I am glad he called our colleagues' attention to it. It is an item that I think everyone should read.

Mr. BOSCHWITZ. It is a broader comparison than Jane's "Fighting Ships" or Jane's "Fighting Aircraft." It compares strategic and nonstrategic strength in substantial detail, but yet very briefly and directly.

I thank the Senator for entering it in the RECORD and bringing it to my attention in that manner.

Mr. GOLDWATER. Mr. President, I yield the floor.

Mr. BELLMON. Mr. President, there is probably no single subject that affects the American people more—or interests them less—than the subject of energy. I have yet to find a single politician in Washington who can make the subject appealing enough to get the American people to think about it for more than a minute or two, if that.

I would like the American people to think about it for more than a few minutes.

I say to my friend from Arizona that I think he has done an extraordinarily good job here this afternoon in linking our defense posture and the energy situation. Perhaps that is the way we could make American people realize how important this predicament is.

I also would say that the present situation in Iran, I believe, is convincing a lot of people that that is not a contrived arrangement over there and that there really are serious difficulties in our relationships with many of the countries upon which we rely for oil—that this is helping to make American consumers realize that the problem is real and that it is now.

President Nixon tried it 6 years ago, right after the Arab oil embargo, when he summoned us to win our "energy independence." Those were his words.

President Ford devoted almost his entire State of the Union address in 1975 to the energy issue, a fact that hardly anyone remembered even a year later.

President Carter took his turn in 2 successive years, each in the month of April, calling on the American people to attack our energy problem with "the moral equivalent of war."

The fact is that for 6 years, every President, and every Member of Congress has been calling upon the American people to take our energy situation seriously. Unfortunately, little attention has been paid, and we have achieved nothing in terms of reducing our dependence upon foreign imports.

Mr. President, this is one thing that makes our present situation so difficult. I am convinced that a large number of the Members of the Senate know that we have in this country the energy resources base to produce as much energy as we need. They are also convinced that it is going to take an enormous amount of capital to bring those energy resources into production and bring them to the marketplace. Yet they are fearful that if we adopt a wise energy policy which consumers and our constituents fail to understand, we shall be charged with having been in the pocket of the oil companies and that we will all suffer serious political consequences.

To me, this is extremely regrettable. It is a time when I hope Congress can rise above its concerns as to the popularity of these actions and do what is necessary to be done in the national interest. That is to get more incentive and more capital available to producers so that, 5 years from now or 10 years from now, we can have achieved something like energy independence or, at least, the moral equivalent of war which President Carter and President Nixon have talked about.

It seems to me that the energy issue can be boiled down to two basic questions: First, is there really an energy crisis? And, second, if there is one, what should we do about it?

The answer to the first question is, "yes and no."

From the way Americans continue to use energy, it is apparent that most of them do not believe the crisis is real.

Here, Mr. President, I should like to point out that there is a healthy sign. We are using considerably less gasoline now, for instance, than we were a year ago. The real saving is something like 8 percent when you factor in the normal growth, and the saving is considerably larger. That saving, I am convinced, has come about because the cost of gasoline has gone up and now many drivers are more careful about the amount of gasoline they use.

The supply of energy resources certainly seems plentiful enough, to the ordinary American, whether it really is or not. That is because we do not have gasoline lines now and, so far, no one is without home heating oil this winter. This past summer probably did more than anything to convince the American people that supplies of energy—particularly gasoline—can be limited.

This past summer probably did more than any other event—I am talking now about the gas lines that existed for several weeks in parts of the country—to convince the American people that supplies of energy, particularly gasoline, are limited and can become short in certain circumstances.

The Carter administration claims that, in relative terms, we are down to our last few gallons of petroleum and natural gas, and that by the end of the 20th century—20 years from now—these traditional sources of energy will be gone completely.

Mr. President, that is a vast mistake. One of the great fallacies in this picture is that many in the Carter administration seem to feel that we no longer have a significant resource base for production of crude oil. That is entirely wrong.

It should be noted that this is not the first time such a dire prediction has been made. The first time was in 1919, when U.S. Government experts claimed we would be out of oil by 1939. That was 60 years ago, when we had barely scratched the surfaces so far as finding the oil reserves this country had initially. In 1920, the Secretary of the Navy called for immediate nationalization of the oil industry as the only remedy for what he called the oil shortage.

Mr. President, I remember vividly, in the 1930's, when I was growing up near the oil fields in Oklahoma, when there was a tremendous surplus of oil. Oil was being produced and stored in open pits. It would evaporate and a great deal of it would be lost. It was finally Bill Murray, Governor of Oklahoma, who called out the National Guard to force the producers to shut down the wells and put in place conservation measures to end the waste of both oil and natural gas, and, for the next 30 years after that time, in the major oil-producing States in this country, production of oil was prorated because we had the ability to produce much more oil than was needed and much more than refineries wanted to process. So it was up to the State governments to try to balance production with demand. This they did through various kinds of oil allocation programs.

So it is lucky for us that the oil companies did not believe the Navy back in 1920, nor the other oil experts at that time and quit looking for oil just because the experts said we had run out. The experts looked, and our proven reserves are higher than they were back then. We still have in this country a 10-year supply of proven reserves in the ground, but all that means is that that is the oil we know about and oil which we can produce at present economic conditions.

There is still an enormous amount of oil to be found. There is still more in the oil fields than was found by primary and secondary techniques. To get that oil out through tertiary methods is going to be expensive. You have to pump down something almost like dish detergent, force it through the rocks, bring it to the surface, and separate the chemicals out. To do that is going to cost billions of dollars, and every barrel will have to sell for at least enough to bring back to the producer a return on the investment.

Mr. President, I ask unanimous consent that I may yield to the Senator from North Carolina without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

VISIT TO THE SENATE BY MR. DAVID MUKOME, MEMBER OF PARLIAMENT AND FOREIGN MINISTER FOR ZIMBABWE-RHODESIA

Mr. HELMS. Mr. President, today we are pleased to have with us a distinguished foreign visitor, Mr. David Mukome, member of Parliament and Foreign Minister for Zimbabwe-Rhodesia. Mr. Mukome comes to this country at a moment of high drama. The British Governor General arrived yesterday in Salisbury, beginning the process of international recognition for the independence of Zimbabwe-Rhodesia.

His country has come a long way toward that recognition. Britain and New Zealand have already lifted all sanctions against Zimbabwe-Rhodesia. I feel confident that the United States will follow suit very shortly. It is certainly the will of the Senate that the sanctions should be lifted promptly by this Government.

Mr. Mukome played a significant role as Foreign Minister in the London Conference. He and Prime Minister Abel Muzorewa, and all the members of the delegation, deserve recognition for the statesman-like manner in which they participated in the negotiations.

On behalf of the Senate, Mr. President, I extend a welcome to this distinguished visitor.

Accompanying him on his visit here is the Deputy Minister of Information, Immigration and Tourism, Mr. Ismail Ali Adam, who is also in the Capitol at this time.

On behalf of the distinguished majority leader, I ask unanimous consent that the Senate stand in recess for 5 minutes, so that Senators may extend a welcome to Mr. Mukome, whom I present to the Senate at this time. [Applause, Senators rising.]

RECESS

There being no objection, the Senate, at 5:44 p.m., recessed until 5:49 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with consideration of H.R. 3919.

The PRESIDING OFFICER. The Senator from Oklahoma has the floor.

Mr. BELLMON. Mr. President, as I was saying, the proven reserves in this country are actually greater now than they were back in 1919 when a lot of experts were saying we had found all the oil that was in the country. There is still an enormous amount of oil to be discovered, particularly in the Outer Continental Shelf and beyond and also the enormous amount of oil to be recovered from the oilfields through tertiary production techniques.

There is what the experts call the ultimate reserve and that is the total reserve base of this country or planet which is estimated on the basis of geological formations, technologic advances, economic factors, and other criteria.

In 1942 the best estimate of this ultimate reserve of crude oil, and this is an astronomical figure—we are talking now about the ultimate of all the oil that is considered to be available in the country in the ground—was 600 billion barrels. In 1970, believe it or not, geologists from Mobil Oil estimated 2 trillion barrels. The Geographical Journal estimated in 1973 that by the year 2000 the ultimate reserve in the country will reach 4 trillion barrels. That, of course, includes all the oil in all the formations and at all depths and regardless of the economics of whether or not it can ever be produced.

According to the Geographical Journal:

> This gives very little cause for concern not only for the remainder of this century but well into the 21st century at rates of consumption which will be much higher than at the present level.

In the United States alone the U.S. Geological Survey estimates the ultimate reserves of both oil and natural gas at 40 to 60 times our current level of annual production and some estimates range much higher. None of this includes the 500 years worth of coal in America, the near infinite supply of nuclear fuel, the staggering potential of solar power, and the host of exotic energy resources we have not even thought about yet.

So the problem is not that there is a shortage of energy. The problem simply is this: most of the easy oil and gas, the two fuels we rely on most heavily, has already been discovered and produced. The rest of these massive reserves will be a good deal more expensive to find and process.

Price regulation has held the price artificially low. It has been uneconomic to exploit these remaining reserves as it has made it difficult to encourage effective conservation.

At this moment we are importing half the oil we use every day from supplies whose reliability is increasingly questionable.

So, Mr. President, we find ourselves between the rock and the hard place. We are not producing enough oil and gas domestically. We have to import too much from eratic volatile suppliers abroad, and we have to pay too much for it.

In short, if we do not have a crisis—now maybe that is not the right word for it—we certainly are in a serious dilemma.

We have done virtually nothing over the last 6 years to rectify this situation.

Mr. President, as an example of what may be done, I have a clipping from the Washington Post written by Mr. J. P. Smith. The story is from the edition of Monday, December 3, 1979. The title on the story is "Oil Mining May Increase U.S. Supply Dramatically."

The story begins:

> Back in the 1920s, a Union Oil geologist told his company he was onto a major oil discovery in central California. Impressed, Union drilled a string of wells and hit—black goo.

The geologist was fired.

> Today that black goo is known as heavy crude and—thanks to some new developments in extraction technology—several oil companies are betting a lot of money that they can get it out of the ground and sell it at a tidy profit.
>
> Getty Oil, for one, is opening a $21 million operation outside Bakersfield, Calif., not far from the Union find, to tap a reservoir Getty believes contains 400 million barrels of crude. Other companies are contemplating similar efforts in New Mexico, Utah and other oil-producing states.
>
> In fact, Shell Oil's $3.6 billion purchase of California's Belridge Oil Co. earlier this year may have been predicated on Shell's ability to squeeze a lot more out of Belridge's holdings than could be obtained through conventional drilling.

The key to all this is oil mining, mining oil as if it were coal or another mineral.

Reading further:

> The key to all this is oil mining, a term that encompasses several processes. In one, the oil-bearing rock is simply mined out of the ground and the crude "cooked" out of it. In others, huge pits are dug down to the oil formation and chemicals applied to loosen the oil. In still others, shafts are drilled underneath the reservoir and holes cut upward so the oil drips out, like sap from a maple tree.
>
> These processes are attractive because they are applicable not only to heavy crude, but also to tar sands, a hydrocarbon-bearing soil called diatomite, and, perhaps most importantly, to old fields of lighter crude where conventional wells have run dry.
>
> Studies for the Interior Department's Bureau of Mines conclude that oil mining could increase America's economically exploitable oil reserves tenfold, adding hundreds of billions of barrels to the nation's current 30 billion barrels of proven reserves.

Think of it. Here we are in a country with hundreds of billions of barrels of oil that can be mined, a process that is now in its infancy, and yet we are importing some half the oil we use and paying $60 billion to $90 billion a year to the producing countries from whom we buy the oil at a time when our own economy can certainly not stand that kind of fiscal drag.

The problem is, Mr. President, that mining oil this way is going to cost more per barrel than the current market price of oil. It is also going to take hundreds of millions, probably billions of dollars of investment. Unless the Senate is very careful in the shape of the bill we are passing, if we go ahead and put a high tax on heavy oil and make it uneconomic to tap these reserves, then that oil will simply remain in the ground until the Government adopts a sensible policy and provides the incentives necessary to get investors to make these enormous investments and start production.

I read further in the article:

> John Hutchins of Energy Development Consultants, who worked on one of the studies, says: "It's quicker and probably a lot cheaper than oil shale and coal liquefaction. The only thing left is just going out and trying it." And that is what Getty and the others are doing.
>
> The idea of mining for oil is not new. A 1932 Bureau of Mines study by George S. Rice concluded, "Where conditions are favorable, mining methods in depleted oilfields may bring large financial returns and recover oil that might otherwise be lost."
>
> But until recently an important factor has been lacking: price.
>
> In the development of any mineral resource, the first question that must be answered is whether the deposit is "economical"—that is, can the mineral be mined and processed and sold for a profit at the prevailing price?
>
> Oil is no different, and when crude was selling for $2 to $3 a barrel, only the cheapest extraction process could be employed profitably.
>
> Now all that has changed.
>
> Bureau of Mines consultants say that surface-mined oil can be produced at a cost ranging from $12 to $21 a barrel, and that the cost for oil from underground mining operations ranges from as little as $10 a barrel to $60 a barrel.
>
> World oil prices have risen more than 70 percent this year. The Organization of Petroleum Exporting Countries is charging "official" prices averaging $22 a barrel, and also sells much of its oil on a one-time, or spot, basis at prices of up to $40 a barrel.
>
> Richard Dick of the Bureau of Mines' Twin Cities Research Center in Minneapolis says: "A couple of million barrels a day of production from oil mining is possible, by 1990, no doubt about it."
>
> Dick oversaw the studies prepared by Golder Associates and Energy Development Consultants and released to the public earlier this year.
>
> "Under today's economics, many of the oil deposits in this country can be mined economically," he adds.
>
> Sheldon Wimpfen, the bureau's chief mining engineer, also is optimistic.
>
> "From a mining standpoint, all of this is proven technology in use worldwide," Wimpfen says.
>
> Wimpfen became interested in oil mining years ago when he noticed that mining engineers continued to make advances in ore recovery processes, but that oilmen still left 40 percent to 60 percent of the oil they discovered in the ground, even with so-called "enhanced oil recovery" operations.
>
> "We have some mineral operations that typically recover up to 90 percent of the ore, but the oil boys have settled for a lot less," Wimpfen continues.
>
> In the last century, more than 450 billion barrels of oil have been discovered in the United States. But just 115 billion barrels have been produced. Current conventional production technology will allow the oil companies to produce about another 30 billion barrels, leaving some 305 billion barrels out of reach.
>
> Another 26 billion barrels of oil are locked in Utah's tar sands, and billions more elsewhere. Then there are an estimated 30 billion barrels of "heavy" viscous oil in California, and billions more in shallow diatomite formations.
>
> The one million to two million barrels a day of new production from oil mining that supporters say is possible, is equivalent to President Carter's most optimistic forecast of production from synthetic fuels by 1990.
>
> Not everyone familiar with the oil mining concept is quick to embrace it, however, or agrees with the Bureau of Mines studies.
>
> Lee Marchant of the Energy Department's Laramie Energy Research Center is one of the skeptics. He says the optimistic conclusions of the Golder Associates and Energy Development Consultants studies "have to be considered speculative." Further, Marchant says, the firms have a "vested interest" in generating more studies through their encouraging reports.
>
> Until an oil or mining company actually mines oil on a commercial scale, Marchant says, it will be too soon to accept unequivocally the bureau's economic analysis.
>
> As for the priority the Department of Energy assigns to oil mining, Marchant says: "We don't see spending a large portion of our money on this technology. . . . We feel mining is only applicable to a small percentage of our total resource."
>
> Conoco, a major oil company that has tried underground oil mining methods on a limited basis on its Lakota field near Casper, Wyo., is skeptical.
>
> "If reservoir conditions are favorable, we might try this again," says Aurelio Madrazo, Conoco's head of North American production.
>
> Conoco has been operating a 50-barrel-a-day underground mining plant for the last three years, draining oil into a 2,000-foot-long horizontal shaft, 180 feet underground, beneath a shallow oil field.
>
> "It's not something we see as solving the energy crisis," Madrazo says. "It is still a very small contribution."
>
> Getty Oil Co., however, is moving ahead with its $21 million pilot plant at its McKittrick field outside Bakersfield.
>
> Construction will begin early next year, Getty spokesman George Schwarz says, and the company expects to be producing 20,000 barrels a day by the late 1980s.
>
> The McKittrick operation, if it works, is an illustration of oil mining's potential. Discovered in 1896, the McKittrick field produced 15,900 barrels a day at its peak. But by June of this year, production had dropped to 6,000 barrels a day.
>
> Schwarz says Getty is confident that the company will be able to extract nearly 400 million barrels before the field is mined out—largely through digging and processing hydro-carbon-rich diatomite overlying the field. The 400 million barrels Getty hopes to get amount to nearly twice the total production from the field during the 80 years it has been worked.
>
> Most of the oil-soaked diatomite laced through and around the McKittrick field easily can be surface mined. A few miles away, another company has a surface mining operation to extract diatomite that is free of oil, for use as cat litter.
>
> Getty's pilot plant will produce 150 barrels of oil daily, from 240 tons of surface-mined ore processed at one of two facilities.
>
> The purpose of the test is to determine which of the two methods of separating the oil from the ore is the most profitable. One method will employ a variation of a process devised by the Germans to convert coal to oil. The other will use a solvent from Dravo, a company that is experienced in extracting vegetable oil from soybeans.
>
> "With conventional methods you can't get the oil out, but mining should work," Schwarz says.
>
> Similar plans are under way in Utah to mine and process billions of barrels of oil locked in tar sands deposits.
>
> Dr. Francis Hansen, of the University of Utah, says that maybe 25 percent of the State's tar sands can be surface-mined. While no major oil company has announced plans to go ahead, several are exploring it, Hansen says.
>
> Hansen and other researchers believe it is feasible to construct units that could produce from 50,000 to 150,000 barrels a day by mining the tar sands. They believe the process could yield quality oil that could be sold profitably at $25 a barrel.
>
> "I'm bullish on oil mining," Hansen says, adding, "It is only a year or two away."
>
> The nation's largest gasoline retailer, Shell Oil Co., according to oil industry executives, also has plans for mining-style operations to recover billions of barrels of oil in the 33,000 acres of Kern County, Calif., fields it bought from Belridge Oil Co.
>
> "There is a widespread belief that Shell has the capability to squeeze oil out of those formations," says Bruce Wilson, an energy

> analyst with the brokerage firm of Smith, Barney, Harris, Upham Co., Inc.
>
> "If you have a process with a higher recovery rate, then you have a larger exploitable resource base," Wilson points out.
>
> This could explain why Shell's purchase of Belridge—the largest merger in U.S. history—called for paying almost $9 a barrel for the little-known California producer's known reserves, compared with the $6 a barrel that industry analysts normally figure in transactions of this type.
>
> Yet another oil mining project is taking shape near Santa Rosa, N.M. There, James Young, president of American Mining and Exploration Co., has obtained the rights to 11,000 acres of tar sands deposits.
>
> Young says his plan to establish a $25 million oil mining operation at the site is "strictly a private venture, not requiring State or Federal money."
>
> Young anticipates the tar sands should yield some 250 million barrels of oil that will be mined and processed with solvents.

The point is that we have this enormous resource base, but through policies of our Government we have made it unattractive for investors to make the investment to bring these resources into production. Also, through our tax policies, we have taken from producers the capital they need to drill the wells, or build the plants, or make all the other investments necessary before this oil, which is presently unusable, finds its way to our refineries and the filling stations.

This brings us to the second basic question: What are we going to do about it?

President Carter's energy proposal has turned out to be not an energy proposal at all, but a tax increase proposal which the U.S. Senate is apparently about to accept in some form or other.

An example of this bill becoming a revenue measure instead of an energy measure is made very clear by the pending amendment before the Senate. The concept of applying a minimum tax upon newly discovered oil, incremental and tertiary oil and heavy oil is not only ill conceived, but is totally ill advised.

Stop and think about it, Mr. President. If we were a company considering making an investment in a heavy oil mining operation and knew we would have to pay $7 or $8 or maybe $10 a barrel tax on that oil, we would have to first take that into account, before we could decide the project would be profitable, and if there is no profit in the project, we simply cannot make the investment.

What we are doing, if we adopt the Bradley amendment, is put these heavy taxes on these sources of oil which we desperately need to bring to market. We will simply slow down the whole process and become increasingly dependent upon oil we cannot afford, from sources we cannot depend upon. To me, as I have said, this is not only ill conceived, but totally ill advised.

Mr. President, I ask a basic question when I say, "How can there be a windfall profit on oil that has yet to be produced?"

We are not producing anything being mined from these heavy sources, and not producing, in this country, much tertiary oil. The new oil, by definition, is still being found. So why have a windfall profit on oil not brought to the market?

To say that newly discovered oil should be taxed as excess profits indicates to me that the supporters of this amendment simply will not accept the current world price of oil. They may not accept it, or like it for that matter, but the fact remains that whatever the price of oil is following January 1, 1980, after the OPEC meeting in Caracas, they will set the price and we will pay it, or do without.

The only way we will get away from that situation is after we make the investment to bring these abundant energy resources we have in this country to market, and then we can tell OPEC where to go with their oil and what to do with it.

That is what the price of oil will be. What else could it be Mr. President? While some may delight in the prospects of controlling the price of oil worldwide, we are simply unable to do so. OPEC will set whatever price they want, and we either pay the price or do without.

When we recognize that fact, I believe we are going to be in a position to start making some sensible decisions here, so far as our energy policy is concerned.

I would like to compliment the Senate Finance Committee. In my opinion, they have taken cognizance of this fact. They have recognized the importance of providing incentives so as to stimulate greater domestic production and, accordingly, they have exempted newly discovered oil and also heavy oil and tertiary oil from the so-called crude oil excise tax and it is an excise tax. It is an excess profits tax. To reverse the Finance Committee's decision in this regard would be totally ludicrous.

The same is true with respect to the production of heavy oil. It was not too long ago that the Carter administration was singing the praises of heavy oil. In fact, they were singing to the tune of no excise taxes upon heavy oil production. They felt heavy oil should be decontrolled immediately, which they did, and further indicated that such production should not be subject to any tax whatsoever. Unfortunately, once it became apparent that this was a revenue measure, the administration changed its position, and now, if my information is correct, is advocating the taxing of heavy oil the same as newly discovered oil and tertiary oil.

Mr. President, to me, this is a great tragedy. The Senate now has the opportunity to write a realistic energy policy.

We have the advantage, the fact that public awareness of the instability of world conditions is now high, because of our hostages held in Iran.

If we miss this opportunity, it may be a long time before we have conditions existing that make it plain that this country needs to develop its own energy resources and not be dependent upon foreign nations which may decide at any time they do not like our foreign policy, or something else we are doing, and decide to cut back on their oil production.

The fact is that many of those countries have no need for the currency they get from the sale of their oil. They know the longer they leave it in the ground, the more it will be worth. Many of them are persuaded it would be very wise to leave it in the ground and bring it to the surface 5 or 10 years from now and it probably will be worth twice as much.

They also know that when they convert oil into currency, the currency loses value at the same time the oil reserves in the ground are gaining in value. So it makes very little sense for them to produce oil in excess of the amount needed to pay for the current costs of their government.

In my opinion, we will see the energy supply around the world get tighter and tighter as years go by for that very reason.

Mr. President, a study was made at the instigation of the Senator from Colorado (Mr. HART), who was chairman of the task force on synthetic fuels of the Senate Budget Committee. This study was published September 5, 1979. I have put it in the RECORD already—at least, parts of it—but I would like to cite again a chart that appears on page 3. It highlights the findings of the study and says:

> The highlights in our study of methods of cutting imports are as follows:
>
> Under current policy, oil imports would be about 11.3 million barrels per day (mmb/d) in 1990.
>
> Although we have not considered all of the possible alternatives, we identified 7.7 mmb/d of import savings.

I want to emphasize that they are not talking about synfuels, they talk about that in a different part of the report:

> These do not include synfuels, and each would achieve the import savings at a cost per barrel saved of $30 or less. The actions and their results can be summarized as follows:

Action:	*Savings in 1990*
Conservation	3.1 mmb/d
Substitution	2.2 mmb/d
Production	2.4 mmb/d

The first action they list is conservation. This group called ICF, Inc., located in Washington, is sort of a think tank, as I understand it.

The first action they list is conservation, and they claim the savings possible in 1990, in that 1 year, is 3.1 million barrels per day from conservation.

The next action is substitution, the switch of plants that burn oil over to burning coal, and they claim from substitution we can realize a saving of 2.2 million barrels per day in 1990.

But then the one that got my attention is the last one, production.

I understand again they are not talking about synfuels, but about production of traditional crude oil from the customary drilling of oil wells and production in that fashion.

They claim it is possible in 1990 to increase production by 2.4 million barrels per day.

Combining these three, 3.1 million from conservation, 2.2 million from substitution, and 2.4 million, which was potentially from increased production, would give us a net saving of 7.7 million barrels per day of the 11.3 million barrels per day it is estimated we will be importing in 1990.

But the point I want to make is that conservation does not cost a lot, substitution will cost something, but to drill enough wells to increase our production by 2.4 million barrels a day in 1990, taking into account the normal decline of an oil field is about 12 percent per year, will require drilling of about 70,000 wells a year in this country.

I have an article from the November 12 issue of Oil and Gas Journal entitled "U.S. Petroleum Industry Will Face a Monumental Task in the Next Decade," which deals with this last point.

This article, written by knowledgeable people in the oil business and published by what some consider to be the bible of the industry, sums it up as well as any I have seen.

Here is what they say:

> The 1980s will be a pivotal decade for the U.S. petroleum industry.
>
> That's the consensus of industry leaders facing a host of uncertainties as they lay plans to cope with persistent oil-supply problems.
>
> Foremost among the uncertainties are government policies and how much foreign oil will be available.

You know, that is not very revealing to anyone who has watched what we have done here, but these people who have to solve this problem do not know from one year to the next what our problem will be. And the second uncertainty is how much foreign oil is available.

I might say, parenthetically, Mr. President, that some may feel oil producers like to see shortages. That is absolutely false.

If anyone can remember as long back as the late 1960's or early 1970's, they will be able to remember that this country used to have a considerable number of so-called gas wars, when, at least in my State, sometimes the price of gasoline would go down to the point where they were only collecting the money to pay the taxes. They were literally giving it away. And it is not the nature of the oil producers to want to see shortages.

And there is another very good reason. One of the reasons is a lot of the people in the industry are concerned that unless the industry succeeds in solving our energy problem and meeting our energy needs, there is real danger of punitive legislation from the Congress, far in excess of anything we have seen to date.

So I think it is legitimate to say, as they do here, that producers are concerned that we not run short of oil and cause the serious reaction toward the industry that would follow. Reading:

> Industry executives fear that U.S. government actions on prices and taxes won't yield sufficient capital for the massive buildup in exploration and development required to boost domestic oil and gas supply—or even to arrest the decline.
>
> The task facing the U.S. industry in the 80s is a monumental one indeed. Most forecasts for the coming decade, including those by the government, assume domestic production of oil and gas at about present levels. But that alone would be a tremendous accomplishment.

The study I have just referred to has a different view. They feel that during the decade of the 1980's we can actually increase oil production by 2.4 million barrels per day. So they are much more optimistic than even this trade journal. Continuing:

> The U.S. currently is producing all-out at the rate of some 3 billion bbl of oil and 20 trillion cu ft of gas annually. If production is to be maintained at these levels, the U.S. during the next decade would produce roughly 30 billion bbl of oil and 200 trillion cu ft of gas. Those volumes exceed present U.S. reserves of oil (27.8 billion bbl as of Jan. 1, 1979) and equal present gas reserves (200.3 trillion cu ft).
>
> Thus, to hold production at current levels until 1990, the industry will have to find and develop reserves in this one decade at least equal to total current proved reserves of both oil and gas.

So, Mr. President, in the next 10 years it is going to be up to the industry to find and develop reserves equal to all the oil we have proven in the ground at the present time. And much of it, of course, was found years ago when oil was much more plentiful and when costs were much less. I read:

> Assuming a constant for reserves added per well drilled, U.S. operators would have to drill about twice as many wells as they are now drilling to add reserves of this magnitude.
>
> That would be nearly 100,000 wells/year.

Earlier I said 70,000. I was in error. It would require 100,000 new wells per year to find and prove reserves equal to our demand during the next 10 years. I continue reading:

> The U.S. industry drilled 48,513 wells in 1978. Reserves meanwhile dropped 1.7 billion bbl for oil and 8 trillion cu ft for gas. Reserves added, thus, replaced less than half the domestic oil produced and three-fifths of the gas.
>
> The most optimistic of recent drilling forecasts is for a 75 percent increase in U.S. drilling over the next 6 years.
>
> Along with the obvious requirement for a very sharp increase in domestic drilling, there is the vital need for places to drill all these wells—the continuing problem for large additions to reserves. Where is the prospective acreage Much of it is lands owned by the federal government in such highly promising areas as the Overthrust Belt of the Rockies, the Alaskan North Slope, and the offshore frontiers—especially those off Alaska. Therein lies another major uncertainty.
>
> So far the Congress and those in the administration charged with administering the federal lands—up to and including the President himself—still show more concern for pristine environment than for leasing in these areas. A prime example: The Beaufort Sea north of Alasks is perhaps the country's brightest hope for very large additions of oil and gas reserves—witness the Dome group's significant finds across the median line in Canadian waters and the wealth of very large structures.

I might say, again, parenthetically, that it is good news that a fairly large lease sale in the Beaufort Sea was conducted this week, although the matter still may be in court for some time. Continuing:

> Yet the Interior Department is only now beginning to take the first tentative steps toward leasing in the open sea. A lease sale will not be held until 1983 at the earliest.
>
> Present policy, or lack of it, explains the industry's second concern over oil imports. If government policies frustrate the tremendous outlay of capital required to increase or maintain domestic production, will the U.S. be able to obtain sufficient oil from abroad in competition with other oil-importing countries during an assured period of tight—possibly deficient—world supply? If the answer is yes, will U.S. government policy, which now limits imports to 1977 volume, be amended to permit imports over that level?

Mr. President, I feel there was a very important point made in this last paragraph. It says that if Government policies frustrate the tremendous outlay of capital required, will the United States be able to obtain oil elsewhere? And that is what we are about to do in this bill. Some seem to feel that if the price is high enough that that is all the incentive that is needed. Certainly, that is an extremely important incentive.

But it is also necessary, if we are going to drill 100,000 new oil wells per year, to have available a large amount of capital. That capital can only come from two places. One is it can come from profits made by the industry or, second, it can come from the U.S. Treasury. And I think most of us would agree that we do not want to set up a sort of post office of oil and turn the production or the efforts to produce oil in this country over to an army of Government bureaucrats. Because, if we do that, I can assure my fellow Senators that the cost will not be $30 a barrel or $40 a barrel or $50 a barrel. It will be many times that.

So, in my opinion, it is absolutely essential that we understand that there will be a need for a tremendous, to use the words of this article, a tremendous outlay of capital. And anytime we cut into the capital formation in the industry, we are shimply postponing the date when we will develop our own energy resources and when we will be headed for energy independence. I read:

> If not, the result will be a continuation of supply shortages which jolted the country twice during the 1970s.
>
> It's quite likely now that the next decade will see the beginning of a U.S. synthetic-fuels industry spawned by government incentives, industry efforts, and a vast storehouse of alternate fuel sources. But synfuels production, even with the most optimistic set of conditions, can fill only a small fraction of U.S. demand by the end of the 80's.

And that is the other point I wanted to emphasize. Some of us seem to think that we may be able to turn to solar power and wind power, or some other exotic form, or that we will be able to reach President Carter's goal of some 200 million barrels per day of syncrude by the end of the 1980's, by 1990.

Mr. President, there is not a single authority that I have read in the energy business that knows anything about it that agrees that any of those possibilities are likely to occur. We will be lucky, according to the best information I can get, if we are able to build enough plants to produce 500,000 barrels of synthetic crude by the end of the 1980's.

Solar power, wind power, and the other exotic forms of energy will make a contribution, certainly, but it probably will not be significant in years from now. And we will still be relying heavily upon oil, gas, coal and, to some extent, of course, on hydro and nuclear power. Continuing:

> Amid all the uncertainties, thus, there is this certainty: Conventional oil and gas will continue to dominate the U.S. energy-supply mix throughout the next decade and into the next century as well.

Again, Mr. President, I think the Senate needs to realize that—that we are going to have to depend upon conventional oil and gas through the rest of this century and probably into the next. And we had better be very careful before we limit the ability of the oil and gas industry to drill the wells and produce the fuel we need, because there simply will not be any substitute. I read:

> Further, government price policy for oil and gas—either already in place or to be put in place within the next few months—assures that the industry will have substantially more capital available for exploration and development than at present. Increased drilling is virtually assured in the 80's. And expanded U.S. rig-building capacity assures the rigs can be had to accommodate the increase.
>
> ### TOTAL ENERGY SUPPLY
>
> The latest revisions of forecasts by Shell Oil Co. and Standard Oil Co. of California are in close agreement on the dominant role oil and gas will play in U.S. energy supply during the next decade (Fig. 1).
>
> Shell foresees total primary energy supply of 49.93 million b/d of crude oil equivalent in 1990, with oil and gas accounting for 30.06 million b/d or 60.2 percent.

They are talking now, Mr. President, of worldwide, about supplies in the Free World. I continue reading:

> Socal pegs total supply in 1990 at 47.6 million b/d of oil equivalent, with oil and gas accounting for 30 million b/d or 63 percent.
>
> Both companies acknowledge that the combined oil and gas share of the total energy market will decline.
>
> Socal figures that oil and gas amounted to 15.8 million b/d of oil equivalent in 1960, claiming 73.8 percent of the total market. And Shell's study shows that oil and gas amounted to 18.58 million b/d of oil equivalent in 1965, accounting for 71.9 percent of the total market.
>
> But Shell insists oil and gas will continue to meet the bulk of total energy requirements because each market has special fuel needs which aren't easily substituted—at least in the short term. For oil, an example is the transportation market.
>
> Other markets—residential/commercial and chemical feedstocks among them—have some flexibility for substitution. But time and economics will prevent rapid change.
>
> Shell believes that energy supply from coal and nuclear power will grow rapidly, but other sources such as hydropower, geothermal, and solar will remain small. Sites for expansion of major hydropower complexes are limited, and the geothermal resource base is small.
>
> Solar power has great potential, Shell feels. Some will appear by 1990. But technological and economic problems will delay any major contribution from this source until later in the century.
>
> Gulf Oil Corp. chairman Jerry McAfee emphasizes the further long-range importance of oil and gas in U.S. total energy supply.
>
> He says, "Oil and gas are an absolute necessity and the backbone of the intermediate stage in our energy transition (to synthetic fuels).
>
> "By 2000, we'll still be depending on oil and gas for half of our energy needs."
>
> ### U.S. OIL AND GAS
>
> The most recent forecasts peg U.S. production of crude oil and natural-gas liquids at 8.5–10 million b/d in 1990—some 15 percent less to about even with today's production.
>
> Natural-gas production is seen declining from the 19.7 trillion cu ft in 1978 to 17–19.4 trillion cu ft in 1990.

So, Mr. President, even with optimistic projections, it looks like our oil and gas producers have an enormous task cut out for them if they are going to hold their own, and certainly if they are going to significantly increase, the task becomes all that much greater. Reading:

> Gulf's forecast of crude and NGL production involves a range reflecting the uncertainties involved in government policy.
>
> Says McAfee, "Given ideal circumstances and some measure of enhanced recovery, the U.S. could increase its oil (plus NGL) output by about one-fifth—to a maximum of 12 million b/d by 1990.

That is more optimistic than the report I read earlier from the ICF Corp. This article says we could get up to 12 million barrels per day under the ideal conditions, but under the most adverse circumstances production would decline down to about 8 million barrels per day. I read:

> All things considered, the most probable future production rate will be about that at present—10 million b/d.
>
> "In other words," says McAfee, "we'll do well just to stay level in domestic oil output during the next decade."
>
> Socal agrees with the outlook for 10 million b/d of crude and NGL, but its forecast includes 50,000 b/d of shale oil in 1985 and 500,000 b/d in 1990.
>
> A study by Arthur D. Little Inc. (ADL) foresees a decline to 8.8 million b/d in 1985 and 8.5 million b/d in 1990 for total U.S. liquids production.

What this adds up to is, there is great uncertainty about the amount of oil we are going to be producing 10 years from now, and a great deal of it depends upon what we do here in this Chamber on this legislation we are going to be voting on, hopefully before the end of the week. Continuing:

> ADL economists don't expect the sharp decline of crude oil production from the Lower 48 in the next 10 years to be offset by additional oil from enhanced recovery methods, increased Alaskan North Slope production, and new offshore fields. They also expect a decline in NGL supply from forecast lower natural-gas production.
>
> What's more, because of technological and regulatory uncertainties, ADL forecasts for 1990 a total synthetic and unconventional fuels production of only 1 million b/d of oil equivalent. That includes coal liquids and gas, liquid biomass fuels, shale oil, and unconventional gas.
>
> The volume is less than half of the Carter administration's goal of 2.5 million b/d of oil equivalent from such sources by the end of the 1980s (see p. 189).
>
> Shell's forecast anticipates crude and NGL production of 9.4 million b/d in 1980, falling off to 8.04 million b/d in 1985, and rebounding to 9.32 million b/d on the strength of increased production from the Alaskan Arctic and from synthetics.
>
> During 1980–90, Shell says, Lower 48 and South Alaska production will fall sharply to 5.82 million b/d from 7.85 million. Alaskan Arctic production will rise to 3 million b/d from 1.55 million. Synthetic crude will rise to 500,000 b/d from zero.
>
> For U.S. natural-gas production, Gulf says the most likely prospect is a slow decline to about 17 trillion cu ft by 1990.
>
> Given circumstances encouraging maximum output, gas production would at best remain level at about 20 trillion cu ft. And under the worst assumptions for government policy, production could decline by almost half—to a minimum of about 12 trillion cu ft by 1990.
>
> ADL predicts that natural gas production will remain at 19.7 trillion cu ft in 1985 and decline to 19.4 trillion cu ft in 1990. And although production in the Lower 48 will decline sharply, it still will exceed expected reserve additions.
>
> Production of about 1.5 trillion cu ft is forecast for 1990 from unconventional sources—eastern Devonian shales, western tight sands, and coal gasification.
>
> ADL expects LNG imports to rise "significantly" to 1.2 trillion cu ft by 1990. And imports of natural gas via pipeline from Mexico should reach 700 billion cu ft by the same year. But imports from Canada could decline at the same time. The resulting 2.2 trillion cu ft of net imports in 1990 would be insufficient to offset ADL's predicted decline in U.S. production.
>
> ### OIL IMPORTS
>
> Despite President Carter's vow last summer to hold net U.S. oil imports to 8.5 million b/d, industry analysts insist that imports must top that level if the country is to maintain its economic growth. There simply won't be enough conventional and synthetic oil and gas and other fuels to fill the U.S. supply/demand gap in energy unless imports increase beyond the President's ceiling.
>
> The result, analysts feel, will be a continuing spiral in U.S. outlays for imports of crude and products. And that supply chain will become increasingly vulnerable to disruptions during the 1980s.
>
> Socal's oil supply/demand study sees net imports of 8.1 million b/d of crude and products during 1979 rising to 8.4 million b/d next year. Shortly thereafter, they will pierce Carter's ceiling and climb to 10.1 million b/d in 1985 before slipping to 9.7 million b/d in 1990—if the ceiling is lifted and oil is available.
>
> Gulf pegs 1990 gross imports at 10 million b/d.
>
> And Shell sees an even higher level—12.84 million b/d of total liquids imports in 1990, accounting for 57.95 percent of total U.S. oil supply that year compared with 50.09 percent anticipated for the beginning of the 1980s.
>
> A compilation of government figures by the Institute of Gas Technology (IGT) underscores the country's rising dependence on imports, along with the price exacted from the U.S. economy.
>
> During the 1970s, U.S. oil imports rose to 8.5 million b/d from 3 million b/d. And the cost rocketed to $60 billion/year from $2.8 billion, requiring 24.6 percent of U.S. exports of goods and services to pay for oil imports (Table 1).
>
> IGT says, "Despite a slower rate of growth in total energy demand, these large oil imports have been needed because some energy prices have been kept below market-clearing levels, U.S. oil and natural gas production has decreased, nuclear and the direct use of coal have encountered environmental delays and costs, and the cost of new energy technologies has been higher than the short-term direct cost of oil imports."
>
> ### SUPPLY DISRUPTIONS
>
> Warnings of import supply disruptions come from many industry executives, among them Samuel Schwartz, senior vice-president of Conoco Inc., and John E. Swearingen, chairman of Standard Oil Co. (Ind.).
>
> "The world will remain highly vulnerable to disruptions in oil supplies throughout the next decade," Schwartz declares.
>
> He urges resumption of purchases for the U.S. Strategic Petroleum Reserve, with a buildup to about 500 million bbl.
>
> The SPR held a little more than 90 million bbl last summer, with the last supply bought under existing contracts trickling in (OGJ, Aug. 6, p. 49).
>
> New contracts haven't been signed for a number of reasons: high global prices, gov-

ernment reluctance to put added pressure on world supplies in the wake of the Iranian shutdown last December, and sentiment among OPEC members against selling to SPR.

The U.S. also should develop an emergency response system to cope with supply dislocations, Schwartz says. The system should signal when the SPR should be tapped, and it should define in advance the mandatory conservation and allocation measures to be taken.

What's more, Schwartz says, the U.S. should develop better relations with OPEC "to increase the attractiveness of producing oil now instead of holding it in the ground."

While focusing on the security of supplies in the near term, the U.S. must stress the adequacy of supplies in the long term, Schwartz says.

Swearingen warns that continued heavy reliance on Middle East oil means continued inflation, continued distortion in the U.S. balance of payments, and, eventually, economic chaos and compromised national security.

Unrest in Iran, uncertainty over actions by governments in Iraq and Libya, and Saudi unease over being singled out as "the staunchest friend of the West in the Middle East" cast a shadow over the security of oil supplies from that part of the world.

"I believe that the revolution in Iran isn't over," Swearingen says. "It is unreasonable to assume that the Iranian political situation can be resolved without some further interruption of Iran's oil production."

Full-scale civil war in Iran could remove that country's oil exports from world supplies "for as little as 3 months or as long as several years."

For their part, the Saudis "no longer feel they should increase production substantially and invest the proceeds in monetary instruments of doubtful value."

The Saudis "must feel that their own national self-interest dictates building bridges to their more militant Arab neighbors."

To the current unrest must be added the question of Soviet activities and intentions in the Middle East.

Citing the military disparity between the forces of the Soviet Union and the U.S. in that region, Swearingen quotes ex-Energy Sec. James Schlesinger's warning: "Soviet control of the oil tap in the Middle East would mean the end of the world as we have known it since 1945 and of the association of free nations."

Therefore, Swearingen says, "The only sensible solution is to decide to make ourselves less reliant on unstable sources of supply."

Certain steps should be taken by all oil-consuming countries of the non-Communist world. These include cutting consumption "as much as is realistically possible," increasing domestic production of every energy source available, and stepping up development of all new types of alternative energy sources that the countries' resources and economies will allow.

While these alternate sources are being developed, oil and gas production from conventional sources in the U.S. and other non-Communist countries must be increased, "whether it be from existing fields or from new fields in remote and hostile regions of the globe."

"Failure to recognize this fact is the fatal fault in President Carter's current energy plan," Swearingen says.

WHAT'S LEFT TO FIND?

Consensus of industry estimates is that the U.S. still has a large exploration target for reliance on the secure supply sources that Swearingen and other industry executives urge.

The Potential Gas Committee tops most estimates. It places 820 trillion cu ft of gas resources in possible and speculative categories—those that might be tapped outside of existing fields in productive areas and in frontier regions (OGP, Apr. 9, P. 82).

Most companies place the resource base at a somewhat lower level.

Shell, for example, estimates that 30–100 billion bbl and 150–500 trillion cu ft remain to be found and produced in Alaska and the Lower 48, with most of those volumes offshore for oil and onshore for gas (Table 2).

The top of the range for oil is equal to the amount the U.S. has produced to date.

There's no question that finding that oil will be costly.

Says Gulf's McAfee, "Most of the remaining domestic oil and gas to be found is in frontier areas only slightly explored—the Alaskan North Slope, Atlantic offshore, and deep waters of the Gulf of Mexico.

"This oil and gas will be expensive to find and produce, but we know how to find and produce it. However, our resources still need strengthening in that regard."

John D. Haun, president of the American Association of Petroleum Geologists, estimates that maintaining the present discovery level of 2 billion bbl/year of oil equivalent will require the drilling of 388,514 new field wildcats with 2.6 billion ft of hole and an outlay of $179 billion during the next decade (OGJ, Oct. 15, p. 94). That would mean wildcatting at a rate 3½ times the 1979 level.

Despite the technological challenges and high costs, an intense exploration effort is absolutely required if the U.S. is to maintain or bolster its domestic production.

An analysis by Atlantic Richfield Co. shows that nearly half of the country's 1990 oil production must come from future discoveries.

The biggest potential lies in frontier regions of the Outer Continental Shelf, says R. M. Bressler, ARCO executive vice-president.

Some "10–15 major untested OSC provinces hold the only real (production) trend-reversing potential for the U.S.," Bressler contends.

Alaska will claim a great deal of ARCO's efforts during the 1980s. During the next 5 years the company will spend two-thirds of a $10.5-billion capital program on conventional oil and gas exploration/development. And more than $2 billion of that amount will be spent in Alaska.

Elsewhere, smaller "but still major" reserves remain to be found onshore, Bressler says. Giant fields of 100 million bbl or more will continue to be found onshore, but they will be scattered in time and distance.

This leads ARCO to conclude that smaller discoveries and extensions will contribute more to new reserves than will major finds during the next decade.

"Our confidence in this projection is based on the continued improvement in seismic technology, which is opening many more opportunities than were formerly estimated."

He cites as an example the Overthrust Belt of the Rocky Mountains, a complex geological area, much of it covered with volcanic rock that formerly stymied the best efforts of geophysicists.

"Thanks to seismological advances," Bressler says, "the industry is forecasting reserves in this area ranging from 1.5 billion to 8.8 billion bbl of oil and 6 trillion cu ft of gas."

He believes the Gulf of Mexico still holds good opportunities for discovery of small to medium-sized fields "and possibly a few giants as well."

"Here again, the decline in the number of larger, more obvious prospects will tend to be offset by the increasing capability of new seismic technology to look deeper into the earth and detect more subtle geological anomalies where oil and gas may be trapped.

"We feel that improved prices will allow these smaller, more risky prospects to be drilled, enabling the industry to play this province heavily for the next several years."

WILL IT BE FOUND?

Petroleum economists attack Carter's excise tax on decontrolled U.S. crude. The danger, they charge, is that the levy will drain so much money out of the oil industry that the required exploratory campaign can't be mounted.

Typical criticism of the tax comes from E. Anthony Copp and Ronald M. Freeman, vice-presidents of Salomon Bros., New York.

They told a Senate finance committee hearing, "In this country, we always have managed to solve our energy problems by enhancing domestic output.

"Because lead times for petroleum and other natural-resource developments are long, we need to combine a sensible, national conservation effort with an effort to maximize near and long-term domestic energy supply.

"President Carter's program does not fully exploit this nation's domestic potential for exploring and rapidly developing hydrocarbons.

"The administration appears to have settled for a lower than possible effort at exploration in this country in favor of more capital-intensive, long-term, uncertain technologies.

"The so-called windfall profits tax is the Achilles heel of this country's mobilization effort on energy."

Mr. President, I ask unanimous consent to have printed in the RECORD two tables contained in this article.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE 1.—U.S. OIL IMPORTS

Year	Volume [1] (million barrels per day)	Cost (billions)	Cost as percentage of exports
1970	3.0	$2.8	4.3
1971	3.8	3.3	4.8
1972	4.7	4.3	5.6
1973	6.3	7.6	6.9
1974	6.1	24.3	16.6
1975	6.0	24.8	15.9
1976	7.3	31.8	18.6
1977	8.7	41.5	22.7
1978	8.2	39.1	17.9
1979 [3]	8.5	60.0	24.6

[1] Crude oil and refined products.
[2] Total U.S. exports of goods and services.
[3] Preliminary.

Source: Institute of Gas Technology from Department of Energy and Department of Commerce data.

TABLE 2.—SHELL'S FORECAST OF FUTURE DISCOVERIES

Area	Oil [1] (billion barrels)	Gas (trillion cubic feet)
Onshore:		
Lower 48	15	150
Alaska	10	50
Total	25	200
Offshore:		
Lower 48	10	70
Alaska	25	45
Total	35	115
Total, United States	60	315
Range	30–100	150–500

[1] Excludes natural-gas liquids.

Source: Shell Oil Co.

Mr. BELLMON. Mr. President, there is a great deal more to be said about what needs to be done in the production of oil and gas in this country, but I would like to sum up as best I can by trying to make a couple of points that I think bring it all into focus.

First is the fact that this country is not out of crude oil. We have yet enormous reserves of oil in the ground, some still to be found, some we know about but which can only be produced by expensive tertiary methods.

I might take just a moment of the Senate's time to tell about a field in Oklahoma which is called the North Burbank Field, and it happens to lay under land owned by the Osage Indian tribes.

This was drilled in the 20's and 30's. There are 600 wells in the field. They have produced now through primary methods hundreds of millions of barrels of oil, and the wells are now producing a small amount of oil and, of course, large quantities of salt water, and increasingly the field is becoming uneconomic to operate.

But with a grant of money from the Department of Energy, the producers in that field have found that by pumping down certain chemicals they can literally wash the rocks in that field and, according to the best estimates they can make, they have determined there are still 600 million barrels of oil in that one field which, for all practical purposes, is soon going to have to be abandoned unless we create an economic incentive to make it economical to continue producing and to start this new tertiary recovery technique.

Drilling the additional wells that will be needed to force the chemicals down, and building the plants to process the oil and mixture when it comes out of the ground are going to be enormously expensive, but that whole project is being held in abeyance until the economic climate is right and until the investors can spend those hundreds of millions of dollars and be sure they are going to get their money back with at least a reasonable profit.

That is the kind of thing we are either going to encourage by what we do on this bill or discourage, and if we do not take the right course here and do not provide both the incentives and the capital that is needed for not only that kind of a project but oil mining, which I have mentioned, and the construction of synthetic crude plants and coal liquefaction plants and all the broad range of energy activities, activities we must now turn to, we will be back here 5 years from now and 10 years from now still facing a serious energy crisis, and still trying to figure out what to do about it.

The problem here, of course, is that it is politically difficult to do what has to be done. It is very easy to go home and make speeches about how we clobbered the big oil companies, but remember those are the people who know how to produce energy. While it is true they are profitable, I think anyone who looked carefully and fairly at the financial statements of those companies will find they are not more profitable than many other types of industries. At any rate it is very pleasing to go home and make speeches about how we have cut back on their profits and how we have taxed them heavily.

But all we are doing, Mr. President, is making it certain that the day we finally become energy independent in this country is being stretched out more and more and more.

I was surprised in a recent poll we conducted among my own constituents to find out how many people in Oklahoma, which is one of the four or five major producing States in the Union, how many people there do not believe there is an oil crisis, how many people there feel the companies are making excessive profits, so I can certainly sympathize with my friends who come from States where there is no oil industry. But this is a bullet we need to bite, and I am of the opinion we can work out a compromise. In fact, I hope one has already been worked out. I see the distinguished Senator from Kansas is here, and I know he has been negotiating all afternoon so that we will make it possible to pass a bill that is politically acceptable and yet, at the same time, does not so weaken the energy producers of this country that 5 years from now or 10 years from now we will be worse off and not better off.

We have that option, Mr. President, and I sincerely hope the Senate makes the right decision.

I will be glad to yield to my friend from Kansas.

Mr. DOLE. Mr. President, I certainly thank the distinguished Senator from Oklahoma (Mr. BELLMON) who understands the problems, understands the industry, and understands the budgetary impact and the need for capital.

The Senator from Kansas understands the Democrats are meeting at this moment and, hopefully, there can be some agreement reached on some compromise on the differences that we have on two measures, the minimum tax and the dollar amount to be raised, and if these two matters can be resolved then the Senator from Kansas would guess we can move rather rapidly on the remaining portions of the bill, disposing maybe of the Danforth amendment, first of all, and then moving on to other germane amendments, perhaps with some agreement that any amendment that either increases or decreases the figure agreed upon in title I would be opposed by the leadership on both sides.

In any event, the Senator from Kansas is not certain whether there will be an agreement because it is a meeting that has been going on for a couple of hours, and since there are only a couple of issues involved, it may be that agreement has not been reached.

While waiting for the distinguished Senator from Wyoming (Mr. SIMPSON) to arrive, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. PELL). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMPSON. Mr. President, in Wyoming, I hunch we would refer to this particular event as coming out of chute No. 4. It is my opportunity to address some of the issues concerning this issue we are grappling with—and have been grappling with—and will continue to grapple with. It had occurred to me as a freshman observing the process that I must admit to a feeling of a bit of levity as I observe it. Humor for me is, I guess, best described as my mother once defined it, as the universal solvent against the abrasive elements of life.

So I have watched this process and I have tried to keep it in perspective, realizing not only the gravity of it but the humor of it. This is my first entry into the fray with regard to the tactics of filibuster. I must certainly concur that it is best described as a mystic ritual or a mystical exercise, with rule XXII in full power and flower. It is somewhat like what we refer to in Wyoming as "eating bear meat." The more you chew on it the bigger it gets. That seems to fit it pretty well.

I do know this: It is an effective device. I come from a small State where we have seen the necessity of having an appropriate device for protection of the minority, and that is exactly what it is. That protective procedure is needed. It is quite necessary.

I would share with you that in 1964, in one of the most extensive filibusters of this Senate on the civil rights issue, my father was present in the Chamber at that time. I was a young lawyer in Cody, Wyo., and had come to the Senate to witness that particular vote and the filibuster that accompanied it.

Many Members here will recall that. It was certainly a national event of deep significance, as was the final rollcall vote.

I must admit that I was rather stunned by it as I observed it, as it dragged on. I guess what I would say is that I hope I do not get used to it. It is much like spinach. If I ate some of it I might like it and I would not like that because I hate it.

I have been fascinated to observe the conduct of the debate, and having now compared the reality with what I had only read or seen of them in the past, also realizing fully that it is a time when tempers can fray and fatigue can set in. I am sure it can reach a greater degree than this, indeed, and may.

But a legislative body needs to be involved in it. It needs to engage in it from time to time and it is beneficial if it can be done without rancor or ill feeling.

Last night there was an admixture of the touches of tedium and humor, all of particular interest to me because in the legislature of the State of Wyoming I served as a member of that body for some 13 years. I was chairman of the judiciary committee of the house. I enjoyed that very much. That is why I am enjoying my work with the Judiciary Committee of the U.S. Senate. I have been treated very fairly there by the chairman and the members. I have enjoyed my experiences in the Environment and Public Works Committee, under that very able chairman, JENNINGS RANDOLPH, who is much like a weather report: Fair and warm. I have enjoyed my work and my company with him.

And also, of course, I thoroughly enjoy my work on the Veterans' Affairs Committee, where I serve as ranking minority member under the able and effective chairmanship of Senator ALAN CRANSTON, a most astute and observant Senator.

So, comparing my efforts in Wyoming and my experiences here in the big leagues, I want to share with you that I also served as a majority floor leader. That was a real task—to work the flow of legislation. It is tough duty. You have to push, you have to remain fair. You have to cajole, and you have to entreat. I guess it was best described as having to be a velvet hammer. Senator BYRD performs the task with enormous legislative skill. And always, always, in the most important way, that being to protect the minority.

I would wonder how many in this Chamber or listening to my voice have served in both capacities, as a member of the minority and as a member of the majority. How many here have seen duty in both legislative roles? I have. I think it gives me perhaps a little different insight. I have served in both capacities.

It would be what we call in these times "a learning experience," meaning, that is, painful to be in the minority and more fun to be in the majority, that is certain, but just as the test of any great civilization is how tenderly they treat their minorities, that is so the same test of a capable legislature—that is how tenderly, does it treat its various minorities—partisan and nonpartisan.

In observing last night I was fascinated with how the debate developed and to see that finally we reached an accord because what we all know for certain is that some day we will be on the other side, if we stay in it long enough. Actually, I believe a legislator will end up on both sides of the same issue over many years, or maybe even in a shorter period of time!

I must share with you a rather remarkable device we utilized in the Wyoming legislature. I commend it to the Rules Committee for its novelty and partially bizarre effectiveness. We had a device which was, I guess, best described, as a Call of the House. It was an excellent procedure. It was done with eight members rising to request it and the sergeant at arms then gathering up those who had wandered awav to the various watering holes throughout the city, gathering them together and when they entered the chamber they could not leave until "the call of the house" was lifted after the issue was disposed of, which also meant that thev could not leave the chamber in order to even humor their functions and do other necessary things, which, we learned, seemed to greatly accelerate the process of debate. I commend it to you.

We learned to deal with issues quite promptly and with acute dispatch under those conditions.

I indeed have mixed feelings, as I have observed the process here. You know, of course, Mr. President, the definition of mixed feelings. The definition of mixed feelings is when your only daughter comes home—on time—from her first date—with a Gideon Bible under her arm.

I represent a State that has a tremendous oil production and, I suppose, in that role of representation, I could be described as a captive of the oil industry—which I am not. The county I happen to live in has a remarkable tax base. Seventy-five percent of the tax revenues of that county are paid by the oil industry. The "oil patch" is a very real thing in my State.

That is why it is so curious to me as I think of what we were doing when we started on this issue. We were talking about energy. Somewhere along the line we have forgotten any reference to energy and we are just talking bucks now. That disturbs me. Obviously, it disturbs others in the minority on this same issue—not the partisan minority; the minority on this issue.

Whatever happened to energy? Where did that issue disappear? We are now just picking a figure. We are apparently going to go for 185 billion bucks. We do not know quite why, but it supposedly sounds like an excellent figure to arrive at, something between the House and some other known or unknown view.

Too bad we have strayed away from the issue. I think that has served to dilute the issue immensely.

I hope that we can come to an accord without going farther into this process which is so extraordinarily unknown and unappreciated by the American people. Perhaps we can come to some type of accord where we can break down the voting on the three categories in dispute on this minimum tax issue. Perhaps we can vote separately on newly discovered oil. Perhaps we could vote separately on heavy oil. Perhaps we could vote separately on incremental tertiary oil. I hope we can do that. I know that procedure is being sought.

I certainly indicate to you the absolute necessity of the oil and gas industry in the State of Wyoming. Without that industry, we would not have a State or a tax base.

I think the most appalling thing to me in my less than first year of observing the issues in the energy arena is that it is suggested often that those companies are operated by evil people—bloated corporate magnates. That is not the case. It is unfortunate that that is the image portrayed, for whatever reason. If you knew them, you would like them.

I guess the real issue is who is next? Who is next when we are out foraging for tax revenue and the bucks? Will it be the architects? Will it be the lawyers? Will it be the perfume companies? They have the biggest spread in return on net invested capital. We should watch them carefully.

It might be the florists. They also have a great return on investment.

Who will be next? Who will be singled out? I think that it is a bad precedent, when we lose track of the basic issue of energy security and self sufficiency and have now gone on just to greedily search for the jack to run our country because we do not seem to do it very well from here. Because none of us seem able to resist the rich demands of a constituent saying, "Cut her back, but don't forget my project: I want that doubled this year."

That is the way it works. So we are hired on to do something about it and that is great. The pay is good; the hours are ordinarily quite appropriate. They do lapse into some aberrations.

I hope that the minimum tax issue can be handled without going farther into the filibuster. I hope that perhaps at least, if nothing else, we might stick with the President on at least one issue when he suggested no minimum tax on heavy oil.

It is so curious to watch people act in an ordinary and rational manner as they deal with the basic issues confronting us and then suddenly come to issues involving oil and gas and watch their eyes glaze over and see them turn into a wholly different type of individual—kind of like those domestic dogs that sit around home all day sleepily dozing because at night, they gather together in a clandestine fashion and go out and chew up sheep. It is that same kind of thing—the blood lust, I guess. The blood lust gets pretty obvious when we deal with oil companies—the full moon syndrome, perhaps.

I regret that it seems to come to the point of "Let's get 'em now," but that, I am afraid, is where we have arrived.

Since we are here stretching time let me share with you an interesting bit of trivia that was a rather timeless comment during a legislative session when a person rose and said, in the spirit of this tremendous debate, "I would rather be right than be Governor." The speaker rose and said, "The speaker will never be either."

On another occasion when I was in the minority, one of our beleaguered colleagues raised his pathetic voice and said, "Mr. Speaker, what is the function of the minority?"

The answer, "The function of the minority is to draw a salary and to make a quorum."

I remember that very distinctly. Those are all part of the fascinating learning experience.

And, of course, there is the tale of the legislator responding to a constituent request, who wrote to the person who sent him a most insulting letter. He said: "Dear Sir, my stenographer, being a lady, cannot write what I think of you. I, being a gentleman, cannot say it. You, being neither, will understand exactly what I mean."

And, of course, in the frustration of spirited filibuster debate, there was the legislator who rose and said "My opponent deserves to be kicked to death by a jackass, and I would like to be the one to do it."

Well, enough of that. I leave with you this bit of advice that seems appropriate, especially under these conditions. That is this old Wyoming adage: "Never play cards with a guy named Doc; never eat at a place called Mom's; never trust a guy who wears white socks; and when you're through pumping, let go of the handle." I commend that advice to all—especially the latter admonition.

I thank the Chair.

(Mr. TSONGAS assumed the chair.)

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. Yes.

Mr. ROBERT C. BYRD. Mr. President, for the information of the Senate, discussions are still going forward on the pending business and will continue for a while yet. I think Senators should know that the Senate will be in for a late evening. I cannot say anything beyond that at the moment. I hope the discussions will prove to be fruitful, but we do not know. So I urge, that being the case, that all Senators be available in case there is a need to have them on the floor.

There could be rollcall votes yet tonight. I am in no position at this moment to know. I simply want to emphasize that Senators must understand that the Senate will be in session until late evening. Beyond that, I cannot say how long, and until the discussion ends, I will not know how long. Depending upon the outcome of those discussions, we will go from there.

I will say that there will not be any rollcall votes for the next couple of hours, I am sure. But Senators may speak, if they wish, during those 2 hours. I do not think we should recess the Senate if Senators wish to speak.

There will be no rollcall votes, so far as I am concerned, for a couple of hours. Senators can be sure of that.

2-HOUR RECESS

Mr. ROBERT C. BYRD. Mr. President, to make sure, so that all Senators will know that they do not have to stay on the floor and protect anybody, I ask unanimous consent that the Senate stand in recess for 2 hours.

There being no objection, at 7:01 p.m., the Senate recessed until 9:01 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. WILLIAMS).

The PRESIDING OFFICER. What is the pleasure of the Senate?

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AFFIRMATIVE ACTION VERSUS EQUAL PROTECTION—III

Mr. HATCH. Mr. President, the phenomenon of affirmative action has stolen into American life so stealthily that there are many who do not yet realize how widespread and how inimical to our laws and values it is. Writing in the November issue of the British magazine Encounter, Dr. John H. Bunzel has provided us all with an opportunity to refresh our knowledge. Dr. Bunzel is one of our leading political scientists, the former president of San Jose State College in California, and is currently senior research fellow at the Hoover Institution at Stanford University.

He points out that affirmative action does amount, despite obfuscations, to the imposition of numerical quotas favoring certain officially approved groups, that it is imposed by bureaucratic fiat in defiance of the legislated will of Congress, and that it contradicts any normal account of morality in a free society. He also points out the enormous cost imposed on educational institutions by the compliance bureaucracy.

Dr. Bunzel has solutions to the problem affirmative action is allegedly trying to solve. Their adoption would not injure anyone, and would certainly prove more effective. They would not undermine the principles upon which this Nation was founded.

I commend his article to my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AFFIRMATIVE ACTION NEGATIVE RESULTS

(By John H. Bunzel)

In the office of a Stanford University administrator there is a photograph of the Presidents of Harvard, Yale, Stanford and Princeton. But only Princeton's President Bowen has a happy face. Underneath is the written question, "Why is this man smiling?" The answer: he is the only one whose university does not have a Medical School.

It is a story President Bowen often tells to alumni groups and other audiences when he is asked to describe what Princeton is doing to protect its independence in the face of Government intrusion into the university's affairs, the growth of Federal rules and regulations, and the mounting burden of unnecessary red tape and paperwork. How to respond to the constant threat of new "government initiatives" is a question presidents, administrators, and faculty members across the US are grappling with on a daily basis.

Perhaps the single most controversial undertaking of the Federal government in American higher education has been the move to increase the hiring of minority and women faculty on the approximately 3,000 colleges and universities in the USA. If the institutions fail to take "affirmative action" in recruiting more women, Blacks, and other minorities for faculty positions, they face the possibility of a cut-off of Federal research (and other) grants. Put very simply, the enforcement of this powerful requirement has increased the national government's role and has dramatically changed hiring and employment procedures on the campuses. It is a striking illustration of both the burgeoning cost of compliance and the growing autonomy of the executive branch of government as its Washington agencies have engaged in an excessive blanketing of rules and regulations.

In a moment of frustration over the heavy hand of the Federal bureaucracy, I once said that Affirmative Action was an example of the government's enduring ability to give a good idea a bad name. It was an immoderate statement . . . not only because I do not subscribe to that school of thought which reflexively looks upon the government as the embodiment of "regulatory evil" but because I supported the efforts (at all levels of government) to play a vigorous role in the struggle against discrimination and inequality long before Affirmative Action became a "code-word" in the 1970s. Along with most of my academic colleagues, I strongly believe we should recruit more women and minorities as faculty members on an equal opportunity and non-discriminatory basis. Highly qualified women in particular have not been accorded fair-and-equal treatment by the academic world, and it is time we admitted it. But I am opposed to the use of any form of quota system (or its functional equivalent) that would distinguish race or sex as a preferred or predominant criterion for hiring.

In the last ten years American educators have been reminded again that institutional freedom can be threatened by a well-intentioned and beneficient government. As Congressman John O'Hara remarked (when he was chairman of the House Subcommittee on Post-secondary Education),

"Surely we have learned that however laudable the goal, we cannot thrust in the limitless goodwill of government—that agencies that are charged with carrying out the law have an almost irresistible tendency to go beyond the law, and that we have to maintain constant vigilance to see that they stay within it. . . ."

Anyone looking for an example of how such university values as self-governance, academic excellence, individual judgment, and local decision-making have been entangled in the web of the Federal regulatory process could do no better than focus on the impact of Affirmative Action rulemaking and enforcement in the academic community.

From its inception in the early 1970s, Affirmative Action has been regarded by its strongest advocates as a democratic principle wrapped in a moral command that authorises the Federal government, in advancing its conceptions of sound and necessary policy, to take enforcement action against colleges and universities (if they are Federal contractors) that have not taken positive steps to cure employment discrimination by hiring more women and minorities. But like "due process" and "equal protection", the substantive reach of the Government's powers and strategies to achieve its goals cannot be determined by reading the words of the wrapping alone. In relying on Executive Order 11246 (as amended) and a variety of other antidiscrimination statutes, the Government has assumed the role of interpreter as well as overseer of the rules and regulations. Furthermore, through its formidable presence it has not only sought to shape the thinking about social and racial justice in the country but has played a decisive role in its determination to make the American system of higher education fit its own egalitarian model.

It is important not to minimise the depth and range of the difficult problems and actual conditions which surround the guidelines for higher education established by the US Department of Health, Education, and Welfare (HEW). The truth is that the debate over Affirmative Action has increasingly echoed Stokely Carmichael's familiar and facile distinction: "If you are not actively with us, you are actively against us. . . ." When applied to higher education, this simplistic moral absolute denies legitimacy to complicated and inevitably vexing questions.

"No institution is required to hire women or national origin.[1] Further, Executive Order preference. To do so would be clearly illegal. Affirmative Action is not aimed at creating preference but at ending the preference for white males which has always existed in academia. What the executive order and Title VII do require is the obligation of fair recruiting and hiring. . . . Broadly speaking, affirmative action consists of efforts aimed to end discrimination and to remedy the effects of past discrimination."

This statement by Bernice Sandler, one of the most vigorous and respected opponents of discrimination, represents a number of beliefs which are in keeping with the unobjectionable policy of the Civil Rights Act of 1964 that all contractors with the government will take "affirmative action" to eliminate employment discrimination against a person because of race, colour, religion, sex or national origin.[1] Further, Executive Order 11246 (the source of the contract compliance programme) also forbids "discrimination because of . . .", commands equal treatment "without-regard-to . . .", and requires positive measures to eliminate the one and accomplish the other.

But the Department of Labour's Revised Order No. 4 charted a different course which underscored the schizophrenia running through the whole posture of affirmative action:

"An acceptable Affirmative Action program must include . . . goals and timetables to which the contractor's good faith efforts must be directed to correct deficiencies and thus to increase materially the utilisation of minorities and women, at all levels and in all segments of the work force where deficiencies exist."

In the hands of some of HEW's advocates of an aggressive affirmative Action programme, the concept of race and ethnicity has frequently been introduced into academic deliberations in ways that *go beyond* simply taking a person's background into account as a supplementary factor in making admissions or appointment decisions on the basis of individual achievement. Race has too often become the dominant (and sometimes exclusive) consideration that not only enables colleges to meet their "goals" and "timetables" but to subordinate merit criteria to the higher principle that preference be given to women and certain minority groups.

Thus "affirmative action" is governed by two sets of criteria with quite different genealogies. One draws on the tradition that the equal protection clause of the Constitution commands the elimination of racial barriers, with the academic variation that "race" (as the biologists and anthropologists demonstrated long ago) does not adequately describe individuals and, therefore, does not allow discriminatory preferences for any group, minority and majority. The other assets that the Constitution's equal protection clause permits "race" to become a factor in employment when identification by race is intended to help those for whose protection the Fourteenth Amendment was enacted. The former accords equal rights to all persons regardless of race and does not command that members of any groups be given preference in hiring because they were formerly the subject of discrimination or because they are members of a minority group. The latter claims that racial identification is necessary, given the compelling interest of the state in overcoming past discrimination. It is also a strategy that seems to assume that preferential treatment based on race is a rational means of implementing that interest.

The crucial question has been how to interpret and then apply Washington's Federal regulations which prohibit discrimination on grounds of race or sex but also require affirmative and corrective action on behalf of certain minority groups and women. Apart from the tangle of overlapping jurisdictions (and the fact that different enforcement agencies of the government have had conflicting views about what procedures to follow in their investigations of employment patterns and personnel practices in higher education), there has been no clear agreement either on or off the campus as to what constitutes "discrimination." College and university officials have repeatedly been told that the prohibition against discrimination means that men and women should receive "equal treatment." But what kind of treatment is "equal" remains a matter of dispute.

What is not in dispute is that the meaning of discrimination has been expanded. For example, at one time discrimination turned on whether or not an employer took racial considerations into account in making employment decisions—"intentional discrimination on the basis of race."

Now "discrimination" can take place even if the employer does not intend to discriminate in this way. The new test is whether an employer's hiring procedure has a discriminatory or "adverse impact" on certain (but not all) minority groups—Blacks, for example, or Hispanics, but not Polish-Americans or citizens whose ancestors came from Eastern Europe. In other words, if the effect is disproportionately to disadvantage Blacks as against Whites, the burden to prove good behaviour shifts to the campus to show that it is not guilty of discriminating on grounds of race—reversing the ordinary requirements of legal procedure.

But, as Professor Jan Vetter (of Berkeley) has asked, "disproportionate with respect to what?" It makes a difference if the answer is with respect to the fraction of Blacks in the labour force, or with respect to the relative "merit" (i.e., job performance) of Blacks and Whites in the labour force.

"These two answers might come to the same thing if it were the case that capacity for job performance were equally distributed among Blacks and Whites for all jobs. This is, however, not the case."[2]

The cause of both grief and mischief for heads of academic departments as well as for deans and other administrators who are responsible for faculty appointments is the increasing tendency of the government's compliance agencies to regard numbers as ends in themselves. But educators across the country have long believed that the important goal for a self-respecting college or university is and should be "equality of opportunity for every individual and the appointment of the best qualified person in every instance." It has been my own contention that the commitment to Affirmative Action reveals a basic flaw when government officials who investigate hiring and promotional practices rely heavily on a "numbers" definition of discrimination. The implication is that the real though unstated aim of Federal policy is not to promote equal opportunity but to bring about a dramatic equalisation of conditions for certain groups through preferential hiring and proportional representation—what the Carnegie Commission has called "an equality of forced results." This "charade of numbers" in the quest for statistical parity also implies that more weight should be given to prohibiting discrimination against what have come to be called "federally protected minorities", even though the Executive Order and Title VII of the Civil Rights Act make it clear that what is prohibited is discrimination against anyone on grounds of race or sex.

"Affirmative Action policy requires an employer to develop "a set of specific and result-oriented procedures. . . . An acceptable Affirmative Action program must include an analysis of areas within which the contractor is deficient in the utilisation of minority groups and women, and further, goals and timetables to which the contractor's good faith efforts must be directed to correct the deficiencies and, thus, to increase materially the utilisation of minorities and women." U.S. DEPARTMENT OF LABOR (Revised Order No. 4, Section 60–2.10), Higher Education Guidelines, p. C–2.

"Whenever the percentage of such persons [women and representatives of each minority group] in that job group is less than the percentage available within the applicable labor area, the affirmative action program must specifically state that underutilisation exists in that group. Where underutilisation exists, and that increase in the number of persons in a job group necessary to eliminate underutilisation is .5 persons or greater, each [affirmative action] program must contain goals which satisfy the following requirements. . . ." FEDERAL REGISTER (25 August 1975), p. 37066.

The central concept of "under-utilisation" as it has been used in Affirmative Action—the mandate that employers must overcome their "under-utilisation" of persons in certain preferred groups—is another illustration of the shift in understanding of discrimination and discriminatory practices in higher education (and elsewhere) and of what should be done about it. Nondiscrimination and equal treatment without regard to race, sex or national origin are felt to lack sufficiently vigorous thrust because a policy that merely treats all individuals equally will impede progress toward the more important goal of the "truly committed" Affirmative Actionists—namely, the immediate hiring of more women and minorities. Under the Executive Order a college or university (or any employer) must take Affirmative Action to insure equal treatment "without-regard-to. . . ." But the elimination of the "without-regard-to" from the concept of discrimination as well as the compliance agencies' focus of concern and point of attack on "under-utilisation" have raised serious doubts. Is the real goal of Affirmative Action an "equality of actual opportunities" for all individuals so that the best possible person can be fairly found for every opening?

What I have found especially troubling is that as a matter of policy and practice "treating equally" has been subordinated to "hiring more." The necessary and connecting link between one (means) and the other (ends)—particularly when the investigative agencies are bent on discovering so-called "real discrimination"—is "under-utilisation", which has come to mean under-representation. As San Jose State University's Dean of the Faculty has said:

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[1] Title VI of the Civil Rights Act (Sect. 601) states that "no person in the United States shall, on the ground of race, colour or national origin, be . . . subjected to discrimination under any program or activity receiving Federal assistance."

Title VII (Sec. 703a) states that "It shall be an unlawful employment practice for an employer . . . to discriminate against any individual . . . because of such individual's race, colour, religion, sex or national origin; or to limit, segregate or classify his employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual's race, colour, religion, sex or national origin."

[2] Professor Vetter points out that "a lower percentage of Blacks than Whites possess what society insists upon as a necessary minimum of training for the practice of medicine. The cumulative impact of the black experience in the US has the consequence that relative capacity across the entire range of jobs in the economy (in the sense of "present" as opposed to "innate" capacity) is not proportionately distributed between the two racial groups. It makes a difference whether discrimination against Blacks is defined as employing a lower proportion of Blacks in particular jobs than their proportion of the labour force, or as employing less able Whites than available Blacks. The former definition may serve as a measure of discrimination in society, but it is unlikely to furnish a test of unlawful discrimination unless modified to include a standard of minimum qualification. At least three considerations combine in favour of the latter definition. It serves an interest in efficiency. It gives effect to the view that the person who will perform a job best deserves the job. It rejects race as a criterion of selection." Jan Vetter, "Affirmative Action In Faculty Employment Under Executive Order 11246" (prepared for the Administrative Conference of the United States, dated 14 September 1974), pp. 65–66.

"Under the guise of enforcing an executive order and through a sophistical manipulation of the concepts of 'discrimination' and 'equal opportunity', the affirmative action policy has transformed a legitimate order to ensure equal treatment into a wilful command to hire more members of the preferred groups. Affirmative action is simply and overall a preferential policy of proportional employment." [3]

In Washington's enforcement of the Executive Order, statistical under-utilisation is not a question of evidence in a demonstration of unlawful discrimination. It is, rather, the deceptively subtle reasoning which gives the compliance agencies the authority to encourage employers everywhere to engage in preferential hiring on the basis of race or sex. This has come about because non-discriminatory compliance is measured quantitatively and more or less rigidly by a "result-oriented" under-utilisation analysis for higher education, the basic concepts of which have been transplanted from industrial sector employment. Predictably, under-utilisation will ultimately have reference not only to an employer's labour market but also to the general population. This extension is almost inevitable because (1) it is natural to think of representation in terms of population; (2) the labour market will itself be seen as "under-utilised" if the preferred groups are not represented therein in some arithmetic proportion; and (3) the demand to remedy past injustice will apply to the market no less than to the factory.

It must be noted that there is nothing in the Civil Rights Act or Executive Order 11246 which suggests that statistical under-utilisation of certain groups in a university's faculty or staff (or in any labour force) is a prima facie sign of discrimination.

"There has been much controversy in this area concerning the distinction between a quota hiring remedy, and a less rigid approach involving affirmative action toward a goal. That distinction is ultimately illusory. As the time to achieve the required goal approaches, members of the discriminated group must be hired in preference to a majority group person as often as required to meet the goal. A quota system, then, is simply a recognition of the reality encountered in reaching the desired goal." Quoted by one Federal Court (even while permitting ratio hiring), in Bridgeport Guardians, Inc. v. Bridgeport Civil Service Commission, 41 U.S.L. Week 2427, 2428 (D. Conn., 1/29/73).

But *proportional employment* has never been understood to mean "equal treatment." The only way it can be connected is through "a particular and erroneous understanding of the principle of equality." The requirement to "overcome underutilisation" can be validly connected to the command to treat equally "only if equal treatment means no underutilisation. Affirmative Action can be justified in the name of equality only if equality naturally involves proportional employment and requires the distribution of jobs in arithmetic proportion among the groups composing society. . . ." Without this premise there is no valid connection between the Affirmative Action requirement to overcome employment underrepresentation and the legitimate command of the Executive Order for employers to take positive measures to ensure equal treatment.

"Simply stated", Sasseen writes, "hiring proportionately can be considered equal treatment only if underutilisation necessarily means unequal treatment. Similarly, underutilisation is necessarily a sign of unequal treatment only if proportional employment is naturally the result of treating equally." The point is that only such an understanding of equality can supply the "necessary link" between the means of "hiring more" and the end of "treating equally."

"The use of minimum racial, ethnic, religious and sexual quotas as a technique for correcting a serious discrimination in employment is a justifiable means of offsetting past wrongs by temporarily recruiting people from a group which has been discriminated against . . . the alleged discrimination experienced by the individual white applicant under a system of compensatory treatment is not the same as the discrimination previously suffered by blacks. The white applicant is not being barred from employment because of his race; rather his claim to a particular job is being deferred while a remedy is applied" (*emphasis added*).[4] Memorandum of the "Equality Commission" of the American Civil Liberties Union (29 November 1972).

It is important to point out that if the basic goal of Affirmative Action is to assure as faithfully as possible that members of both sexes and of all races and ethnic groups are accorded genuinely equal employment opportunities in higher education, then a numerical analysis of the circumstances of different groups can be helpful. For example, I know that colleges and universities would be able to strengthen their recruitment efforts and procedures if, through detailed analysis, they were able to compare more precisely "the proportions of women and members of minority groups among those recently hired with their proportions in the various pools from which faculty candidates are drawn and appointments made." Thus numerical analysis can serve a useful purpose in "Affirmative action" if the purpose is not simply a particular numerical result but instead the fairest and most vigorous efforts to "reach out" for women and minorities (because this is the best guarantee of equal access and opportunity on a non-discriminatory basis) and the ultimate appointment of the best-qualified person (because this is the only way to guarantee that the university's continuing quest for excellence will not be compromised).

Higher education's problem with "goals" and "timetables" (as they are customarily understood by the compliance agencies) is that they are not clearly and unequivocally tied to the selection of the best-qualified individual regardless of race or sex. The setting of "goals" has tipped the balance away from providing equal opportunity for every individual to implying that unless a particular "numerical goal" has been achieved there has been "under-utilisation" which, in turn, means unequal treatment and discrimination. But this preoccupation with numbers and statistical parity suggests that the primary objective of a university in its hiring procedures should be to use "goal-setting" as a way of favouring applicants on the basis of race or sex, when "the aggregate numbers for groups of people", as Princeton's President William Bowen has stated, "should be seen as expected by-products of affirmative action efforts, not as the goals themselves." Apart from the importance of overcoming any notion that women or individuals from minority groups have been hired because of a need to reach a certain numerical goal, President Bowen states that—

"The crudity of the projections of composition of faculty groups by sex, race, and ethnic background, the probabilistic nature of such data, the small numbers often involved, and the appreciable differences among departments within the same institution and across institutions in the definitions of particular personnel needs—all warn strongly against putting much weight on any simple numerical analysis in seeking to determine whether good faith efforts have been made."

In short, the manipulation of dubious figures and statistical data—the "numbers game"—cannot make genuine equality of opportunity "more of a reality than it had been" and can never be a substitute for "improving the lot of real people."[5]

It is necessary to remember that "goals" and "timetables" are consequent upon the concept of "under-utilisation" and the requirement to eliminate it. One can argue at great length whether "goals" are really quotas (or merely "soft" or "benign" quotas). HEW has said that a university's attainment of specific numerical goals, according to the timetables in its affirmative action programme, will not be the single test of compliance or noncompliance. None the less, they are perceived as a clear commitment by various groups on campus, which then hold the university accountable. HEW insists it is not advocating rigid or inflexible quotas that must be met. But the problem with applying numerical goals in a flexible manner is that there is no way of predicting how it will work in practice. Furthermore, the implication in the word "goal" that the number is something to be aimed at is precisely what gives a goal the character of a quota and allows it to be used as an instrument of administration and enforcement.

"While it may give minorities a little edge in some instances, and you may run into the danger of what we now commonly call reverse discrimination, I think the educational system needs this. Society needs this as much as the people we are trying to help . . . a society working toward affirmative action and inclusiveness is going to be a stronger and more relevant society than one that accepts the limited concepts of objectivity. . . . I would admit that it is perhaps an individual injustice. But it might be necessary in order to overcome an historic group injustice or series of group injustices." ANDREW YOUNG (then a Congressman from Georgia), The Atlanta Journal and Constitution, 22 September 1974.

Many Washington officials of HEW's Office of Civil Rights deny that Federal policy encourages reverse discrimination. They point to specific language in Affirmative Action programmes requiring universities to recruit, hire, train, and promote persons in all job classifications without regard to race, colour, religion, sex or national origin. While they charge there has been conspicuous discrimination against women and minorities in higher education, they insist that Blacks should not be hired because they are Blacks or women because they are women. They also maintain that reverse discrimination with rigid quotas is not justified as a way of compensating for past discrimination. The principal requirement for a campus is "a good faith effort" to meet its flexible goals and timetables—in short, Affirmative Action in recruitment in order to provide equal opportunity for all.

I am speaking here about the principles of Affirmative Action as reflected in Executive Order 11246 and as they have been publicly pronounced and defended by those who believe that reverse discrimination is not consistent with a commitment to equal opportunity and social justice. These sound principles have the full support of the nation's institutions of higher learning. But the complicating truth is that the most zealous Affirmative Actionists, including Washington government investigators who are responsible for implementing Affirmative Action programmes on the campus, have too often violated their own principles in their quest for immediate results.

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[3] Robert F. Sasseen, "Affirmative Action and the Principle of Equality", *Studies in Philosophy and Education*, Spring 1976, p. 283.

[4] Very simply, the American Civil Liberties Union is telling a white applicant, "You can wait"—and, presumably, would be willing to explain to him why waiting (10 years? 20 years? longer?) is not "serious discrimination." Perhaps the ACLU could convince him that the debate over the setting of employment quotas by race and sex is merely a semantic quibble. But he will probably feel that what has happened to him contradicts some fundamental principles of justice and equality in American society.

[5] William G. Bowen, Testimony Before Department of Labor, 30 September 1975.

The violation of principle occurs in at least two ways. First, when many civil rights advocates and enforcement officials conclude that "getting the right proportions" of women and minorities is the only result oriented method of showing that discrimination has really been ended. Secondly, when they agree that priority emphasis on race or sex or minority-group status is permissible in order to get the "right numbers" into jobs and schools as quickly as possible and as a short-term measure for meeting what has been called "a crisis of thundering urgency." What has happened, for example, is that a policy of preferential treatment has permitted race itself to become the determining factor in many admissions policies (before the US Supreme Court ruled in the Bakke Case that race could be only one factor)—thereby systematically excluding certain persons from equal consideration even when they were more promising than some minority applicants who were admitted to law or medical school on racial grounds. No matter how strenuously the defenders of "reverse discrimination" may claim that such a policy is not intended to disadvantage innocent individuals, the fact remains that it does not allow everyone a fair and equal chance "to play the game and compete within the rules." Thus, Affirmative Action programmes of anti-discrimination perceived by the higher education community as a commitment to equal access and opportunity have been regarded by policy activists in the government as something quite different—a "special treatment" policy of hiring and promotion that considers race and sex in choosing among "equal" applicants and employees, on the implicit assumption that equality of opportunity must be redefined not as "equal rights for all" but as group proportional equality.

During the time I served as a university president, a number of charges of racial or sexual discrimination were filed against the institution. They ended up either in a campus grievance hearing or court (or both), or with the Office for Civil Rights, the Equal Employment Opportunity Commission, or the California Fair Employment Practices Committee. However, not once in eight years was the University found guilty of any form of "discrimination." I know that the same can be said of most US colleges and universities, especially when it comes to purposive or systematic discrimination.

This is neither an argument for complacency nor an attempt to suggest that the process of liberating America's women and minorities has been completed. Clearly that is not the case. But there is something very wrong with the method of investigating all complaints of discrimination (including those which are of a frivolous or deceitful nature) when the investigative agencies of the government come on to the campus with the starting assumption that discrimination has actually taken place. It has turned out that the Washington investigators operate pretty much as advocates of the person or group bringing the complaint rather than as a neutral arbitrator, essentially because under the law that is the role the agency must play. Thus the university is always cast in the role of a defendant seemingly trying to conceal wrongful behaviour.

The investigative agencies and the universities are both dissatisfied with the whole complaint procedure, though for different reasons. The only real enforcement power an agency has is to cut off Federal funds, which is like trying to kill a gnat with a bowling ball. Therefore, an agency's true power lies in its ability to harass, which is a weapon it can and does use effectively irrespective of the merits of an individual complaint. As the University of California has learned, the agency must take advantage of the opportunity provided by a complaint to use that power. In fact, Berkeley's requests that the harassing stop are regarded by the agencies as a move to "strip them of the most useful means at their disposal to carry out their responsibilities." From the perspective of a college or university, the amount of time and money[6] spent in responding to demands for information and data is simply another example of how legitimate Affirmative Action progress is sacrificed to the agencies' insatiable appetite for forms and files—for "racial profiles" (of all applicants in the past two, four or maybe even ten years), copies of position announcements and job descriptions, written and unwritten procedures, "name, title, sex, ethnicity, and role of each member of the selection committee", telephone notes, special computer runs, and "any additional information that would assist us", all to be submitted "in no more than thirty (30) days from the date of this letter."[7]

In an Appropriations Committee hearing, Congresswoman Edith Green (author of Title IX of the Higher Education Act of 1972) once questioned the Director of the Office of Civil Rights about its enforcement policy:

"Suppose in an institution of higher education there were a vacancy; ten people applied; two were obviously far more qualified than the other eight—these two happened to be WASPMs—White Anglo-Saxon Protestant Males. Would they then require the institution to hire one of the other eight who happened to be a woman or a member of a minority group?"

He replied, "It depends on whether or not all ten were qualified."

My reply was, "For the sake of argument, let's say all ten are qualified, but two were far more qualified and those two happened to be white males." His reply was, "Yes, if all are qualified—then they would have to hire a woman or a member of a minority group."

I do not believe that this policy represents the Congressional intent.[8]

Congresswoman Green tried to write a provision into Title IX requiring that the text of the proposed regulations be specifically reviewed and approved by Congress. She was aware that even with their own enormous staff bureaucracies the members of the House and Senate were unable to keep up with the other bureaucracies, which (many of her colleagues believe) "make more laws" than Congress does. It was a good idea then. and it deserves serious attention now. I would further contend that the need for Congressional review and oversight of the Federal regulatory process is especially important in light of the critical and unresolved issue of whether "equality" in our society as well as in higher education is one of process or outcome, of opportunity or result. The question for the U.S. Congress to consider is this: if Race or Ethnicity is to be legitimated as a proper or desirable ground for "public policy assignments of burdens and benefits", and if rights and special preferences are to be given to certain groups (but not to others), are the bureaucrats in HEW or elsewhere to decide which rules and regulations will be used to institutionalise the "new legitimacy" without the legislative process being engaged?

When the Civil Rights Act of 1964 was passed, Congress reflected the general normative consensus that Americans wanted not only to eliminate discrimination but to make employment opportunity independent of race, colour, religion, sex or national origins. The law intended to "bring Americans together", not to separate them into categories. It was a sentiment expressed by individuals and groups from every walk of life who participated in the legislative process that gave political sanction not to racially preferential treatment, or special privileges for some, or the concept of statistical parity among groups, but to the elimination of discrimination against anyone.

That policy has now undergone many changes, not by the legislative process responding to a great reversal of public opinion in the succeeding years—as verified by every poll, there has been no such reversal—but by the Courts and the Enforcement agencies of the Federal government many of whose decisions and actions, if taken one by one as legislative proposals, would not be passed by Congress. Therefore, it would appear to be time for Congress to restate its motives and purposes in passing the Civil Rights Act and to reaffirm the major principles to which the law is eloquent testimony. This would not only provide guidance to the US Courts but let the "policy activists" in Federal bureaucracy know that their regulatory efforts to change the meaning of equal opportunity and access from "fair and non-discriminatory competition" to the "achievement of numerical and racial goals" have exceeded Congressional intent and are contrary to wider public interests and political opinion.

What, then, should Federal law and policy require of U.S. colleges and universities in the area of equal educational opportunity?

(1) Higher education should be expected to exhibit and foster an attitude of working toward the national policy of equal opportunity at all levels without regard to an individual's race, religion, color, sex or national background.

(2) Higher education should be expected to oppose all practices that give persons an advantage, or impose upon them any disad-

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[6] The total financial costs of Affirmative Action programmes throughout the country are high. A few years ago the Congressional Research Service collected what data there were and found that for the Federal Government alone in the fiscal year 1976 the figure was $329,296,367. The estimated costs to higher education for the academic year 1974–75 were more than $75,000,000—which Senator Buckley of New York called "literally astronomical."

There are also indirect costs of regulation that colleges and universities find especially burdensome. One is the unreimbursed diversion of faculty time from teaching and research to a wide variety of committee works and administrative duties (e.g. screening and drafting replies to large numbers of applicants) demanded by the complex procedures of Affirmative Action. Harvard's President Derek C. Bok estimated that "80,000 hours of faculty time" were consumed with Federal regulations in 1974–75. Another indirect cost is the excessive amount of time administrators must give to legal and bureaucratic problems at the expense of their educational responsibilities. A rule-of-thumb estimate is that these indirect costs may be two to three times the direct costs—all of which poses difficult problems for institutions with tight or declining budgets.

[7] Albert H. Bowker and Patrick M. Morgan, The Impact of Federal Regulations on the University of California, Berkeley (unpublished study, Berkeley, 19 September 1977), p. 406.

[8] Congresswoman Edith Green's remarks were part of an address given at the University of Michigan in Ann Arbor on 19 May 1974.

vantage, because of anything extraneous to their own merit, i.e., their skill, ability, achievement and promise. At the very least, any preference or disadvantage based on race or sex should be sustainable only upon a showing, by clear and convincing proof, that it is essential to an overriding public purpose and can be attained in no other way.

(3) Higher education should concentrate its efforts on its essential mission—education. It should not be asked to compromise those efforts by favoring experiments or policies which jeopardize them. U.S. Government regulations or guidelines which affirm the principle of non-discrimination and equal opportunity make a fundamental error by establishing as the major goal an immediate increase in the number of women and minorities on the faculty and staff and in the student body. There should be no misunderstanding of this point. Colleges and universities must continue to seek a more cosmopolitan membership. But instead of being set as the primary, if not exclusive, goal, it should be viewed as an expected and desirable by-product of proper policy. An Affirmative Action program should clearly state that an academic institution serves society best by providing quality education to all eligible students on the basis of equal access and equal treatment. That is its primary function. It is also the primary way it can contribute to the mitigation of inequalities in the country and should be emphasized in any policy statement on "equal opportunity." If the educational mission were regarded as paramount, many of the ambiguities and contradictions of Affirmative Action would be avoided.

(4) Higher education needs to do more to reach effectively people who have been denied the benefits of higher education, or who have had special barriers placed in their way. Any erosion in the quality of academic programs cheats them, and is inconsistent with broadening the opportunity for quality education.

(5) Congress can help secure these objectives by well-conceived programs of financial support. The most promising hope lies in a combination of longer-term efforts that range from introducing minority high-school students at the earliest age possible to the opportunities available to them in medicine, law, teaching, etc., to motivating those with potential as college undergraduates to pursue careers at the professional level so that the ranks of the truly qualified will be legitimately expanded. There should be guidance and assistance for people before they become incapacitated students. We need to rescue good minds at the U.S. high-school level before they become dulled and ill-equipped to go on to college. The Federal government, state legislatures, and private foundations, as well as business and industry, should make available the necessary resources as further confirmation that as a society America must be more than passive if increased employment opportunities for women and minorities in higher education are to be achieved in fact as well as in legal theory.

PULLING THE PLUG FOR THE HOSTAGES IN IRAN

Mr. FORD. Mr. President, no event in recent memory has touched the nerve of this Nation more dramatically than the takeover of the American Embassy in Iran on November 4 and the capture of 50 U.S. citizens as hostages.

As the gravity of this situation began to unfold, there was an immediate outpouring of unity and spirit from individuals of every walk of life in every corner of the United States.

The lives of each of us have been affected by this situation, as our thoughts and prayers continue for the safe release of the hostages.

There have been many demonstrations of concern for the well-being of the hostages, but none has had a greater impact than the way a group of fourth-grade schoolchildren in Calvert City, Ky., chose to express their feelings.

These students, members of Mrs. Mary Ford's fourth grade class at the Calvert City Elementary School, decided to ask their families to forego the traditional lighting of their Christmas trees this year as a sign of continued concern for the fate of those Americans still being held hostage. As they told me, "We are Americans and we have 50 fellow Americans in trouble. Somehow Christmas doesn't seem so bright anymore."

I am deeply moved by this sincere expression of concern and I am very proud that people of such a young age in my State have such deep-rooted emotions for both their fellow men and our country.

Mr. President, in order that I might share the details of this very special action with every Member of the Senate, I ask unanimous consent that a letter from the school children to me be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Calvert City Elementary School,
Calvert City, Ky.

Dear Senator Ford: In discussing the problem in Iran, we felt we wanted to do something—anything! What can twenty-four nine year olds and one Fourth Grade teacher do? We are Americans, and we have fifty fellow Americans in trouble. Somehow Christmas doesn't seem quite so bright anymore.

We, as a class and all are families are going to pull the plug on our Christmas tree lights to show that we care. We have advised WPSD–TV, Governor Brown, Mayor Colburn and President Carter of our intentions. Hopefully, with the help of Calvert Citians, Marshall Countians, Kentuckians and all Americans we can have a united display of love for our fellow Americans, by keeping our Christmas trees dark until our young men come home! Therefore may we respectfully request that you ask all fellow Kentuckians to darken their Christmas trees?

P.S. Our School phone number is 502–395–4664.

Mrs. Mary Ford's Fourth Grade Class.

IN MEMORIAL—ARCHBISHOP FULTON J. SHEEN

Mr. JAVITS. Mr. President, in our State of New York, we have lost one of the most gifted Catholic churchmen of our time.

I rise to mark the passing of Archbishop Fulton J. Sheen, a great communicator of his Catholic faith, whose message brought comfort to the millions it reached, and who lived a life of dedication and service to mankind's highest values.

I knew Bishop Sheen with great admiration and respect as a churchman of profound conviction. He dedicated his life to all mankind and used his great personal gifts of communication to reach out in a spirit of brotherhood to peoples of all faiths.

He was unexcelled as a speaker, and he was among the first to appreciate the value of radio and television in preaching in his ministry. His electronic audiences rivaled those of the most popular entertainers.

In an editorial comment that expressed the philosophy which Bishop Sheen taught and lived by, the New York Times recalled an appearance Bishop Sheen made 6 months ago at the centennial of the consecration of St. Patrick's Cathedral.

Bishop Sheen called attention to the contrast between the "bent, broken image of Atlas in Rockefeller Center across the avenue and the spires of St. Patrick's," the Times said. " 'When you come to the precipice,' he urged, 'don't jump in. Be the one who looks to the spires. Takes wings and fly.' "

Bishop Sheen's message and mission will be deeply missed by millions of Americans who believe as he did—and I do—that "life is worth living."

I ask unanimous consent that the New York Times editorial to which I have referred and that paper's obituary of Bishop Sheen be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Preacher to the World

A word fitly spoken, says the Book of Proverbs, "is like apples of gold on beds of silver." During a long ministry, Archbishop Fulton J. Sheen was excelled by none as a speaker fit to translate the Message into every modern medium. With silver mane and scarlet robe, he had a demeanor equal in intensity to his words; he was the incarnation of the Church Traditional.

Six months before his death Sunday at the age of 84, Archbishop Sheen appeared at the centennial of the consecration of St. Patrick's Cathedral. Typically, the Archbishop called attention to the contrast between the "bent, broken" image of Atlas in Rockefeller Center across the avenue, and the spires of St. Patrick's. "When you come to the precipice," he urged, "don't jump in. Be the one who looks to the spires. Take wings and fly!"

Archbishop Sheen was able to attune his eloquence first to radio and then to television, and was among the first to demonstrate the reach of the electronic pulpit. So broad was his appeal that in the 1950's he took on Milton Berle and Frank Sinatra in the same time slot, successfully. As he liked to remark, he had better writers—Matthew, Mark, Luke and John.

A theological conservative for most of his ministry, Archbishop Sheen nonetheless welcomed John XXIII's reforms, and even startled some admirers with his clerical liberalism during a brief tenure as Bishop of Rochester. His shift was a measure of the profound changes in his Church—and his country. For Fulton Sheen was able to reach out to non-Catholics as well as Catholics, melting intolerance in the process. Throughout, he took the country as his parish, and it listened.

Fulton Sheen Dies; Archbishop Was 84

Archbishop Fulton J. Sheen, who, through his television ministry became one of the best-known figures of the Roman Catholic Church in the United States, died at his home at 500 East 77th Street in Manhattan last night after a long battle with heart disease. He was 84 years old.

The Archbishop, as national director of the Society for the Propagation of the Faith, was also known as the instructor of some of the country's most famous people who converted to the Catholic faith.

His religious commentary program, called "The Catholic Hour," began on radio in 1930, and eventually spread to television as "Life is Worth Living." A progressive on many social and church matters, Archbishop Sheen was also a relentless foe of Communism. However, he drew a distinction between the ideology and its adherents.

The Archbishop's body was taken to the Frank E. Campbell Funeral Chapel. Information on funeral plans was not immediately available.

ARCHBISHOP SHEEN, WHO PREACHED TO MILLIONS OVER TV, IS DEAD AT 84

(By George Dugan)

Archbishop Fulton J. Sheen, who through his television ministry became one of the best-known figures of the Roman Catholic Church in the United States, died at his home at 500 East 77th Street in Manhattan yesterday after a long battle with heart disease. He was 84 years old.

An ascetic, slender figure with blue eyes so deep-set and piercing that most people thought they were black, Archbishop Sheen was one of the most effective evangelists that the broadcasting era has produced.

From 1930, when he became the first regular preacher on "The Catholic Hour" over national radio, he was the most prominent spokesman of the Catholic Church in the United States and one of the most widely heard clergymen of any denomination.

He was also famous for his conversions, of ordinary folk en masse and of such prominent individuals as Fritz Kreisler, Heywood Broun, Clare Boothe Luce, Henry Ford 2d and Louis Budenz, then managing editor of The Daily Worker, the Communist Party newspaper in America.

Archbishop Sheen, a newspaper columnist as well as a preacher, was sometimes a controversial figure, reflecting first the conservatism of his church and then the changes introduced by Pope John XXIII. Following a brief, stormy tenure as Bishop of Rochester, he retired in 1969 but continued to preach, with the title of Archbishop.

Born in El Paso, Ill., on May 8, 1895, the first of four sons of Newton Morris Sheen and the former Delia Fulton, he was christened Peter John. As an infant, he apparently suffered from tuberculosis, and was often cared for by his mother's family. They enrolled him in school as "a Fulton," and his name evolved to Fulton J. Sheen.

Members of his family were farmers, but young Fulton never dreamed, he said, of any career other than the priesthood. Educated in parochial schools in Peoria, Ill., and at St. Viator's College in Kankakee, Ill., and St. Paul's Seminary in St. Paul, Minn., he was ordained in Peoria in 1919.

Because of his outstanding scholastic record, he was then sent on to the Catholic University of America, in Washington, and to the University of Louvain, in Belgium, where he obtained his doctorate in 1923 and an agrégé en philosophie with highest honors in 1925, after taking courses in Paris and Rome.

Father Sheen was teaching theology at St. Edmund's College at Ware, England, where his brillance led a number of his former teachers to recommend him for positions of high responsibility in major cities, when his Bishop in Peoria called him home in 1926 to serve a modest parish.

A TEST OF HIS OBEDIENCE

Eight months later, he was transferred to Catholic University as a teacher of philosophy. He later recounted that he had asked why he was not sent there first, and the Bishop replied: "I was afraid you might become proud. I wanted to find out if you were obedient and would do what you were told."

The young priest, with his dark, straight hair combed back, his high cheekbones and those eyes like deep coals, soon distinguished himself by his furious dedication and passion. He neither smoked nor drank; he took no holidays; he was indifferent to food and amusements; he gave away nearly all his earnings.

And the earnings as his career moved forward were considerable. He wrote about 50 books of popular evangelism, some of which sold widely. As a teacher, he rose quickly to full professor, and as a priest to papal chamberlain, domestic prelate and the presonal rank of Bishop. In addition, he was in wide demand as a guest speaker, and for many years, he preached the Lenten sermons at St. Patrick's Cathedral in New York.

ON TV, HIS RATINGS SOARED

Archbishop Sheen would not say how many conversions he had effected—"lest I should believe that I made them, instead of the Lord."

The Sunday evening "Catholic Hour" on NBC, beginning in 1930, brought him an audience of millions. In 1940, he conducted the first telecast religious service, and in late 1951, he began his "Life Is Worth Living" television series.

Slotted in prime time on a few ABC stations against Milton Berle and Frank Sinatra on the larger networks, he was not expected to draw much of an audience. But his ratings soared, and he was soon reaching 20 million viewers through 123 stations.

Bishop Sheen addressed his viewers simply, sometimes almost casually, often humorously. He never read from notes or a prompter, but he denied speaking extemporaneously—each half-hour talk represented some 30 hours of study and rehearsal.

But even though he was acclaimed for his television oratory, he aroused criticism for extreme conservatism on some issues.

SUPPORTED FRANCO IN CIVIL WAR

In the Spanish Civil War of the 1930's, for example, he, like most of the Catholic hierarchy, supported the Franco side against a government that they regarded as Communist.

"We cannot breed rats in abundance without being obliged to use rat poison," he said, "and so neither can we breed Communism without being obliged to use the poison of Fascism." He argued that "freedom is the right to do what you ought to do."

Defending corporal punishment in schools, he said: "A pat on the back will help build character if it is given often enough, hard enough and low enough."

He opposed Freudianism so strongly as to arouse the protest of Catholic psychologists, who feared that his polemics would deprive the faithful of needed therapy. He predicted that war with the Soviet Union was inevitable.

CALLED NUCLEAR WAR IMMORAL

Yet from the first atomic bombing, at Hiroshima, he assailed nuclear war as immoral. For a time in the late 1960's, he favored immediate withdrawal from Vietnam, but eventually went along with President Nixon's pursuit of the conflict.

The tensions within the church revealed by Vatican Council II, which he attended, were reflected in Bishop Sheen's own remarkable change in 1966. Since 1950, he had been national director of the Society for the Propagation of the Faith, raising funds for missions around the world. In 1962–64, he advised Vatican II on mission problems.

In 1966, Francis Cardinal Spellman, the Archbishop of New York, recommended the assignment of Bishop Sheen, then his auxiliary, to the Rochester diocese. The appointment, his first pastoral post in 40 years, came as a surprise. There was speculation as to whether it was a demotion or a step to even higher things.

The diocese greeted its famous Bishop with joy. He, in turn, immediately began to effect the aggiornamento—the "bringing up to date"—in Rochester. He named a young priest who had been active among blacks as his vicar for urban affairs, gave his priests permission to say mass in private homes, moved the favored age of confirmation up from the traditional 7 to 12 years to the late teens, proposed that the church give 5 percent of its revenues to the poor and said no new church should be built at a cost of more than $1 million.

He also announced the donation of a church to the Government for public housing. This stirred an outcry from parishioners, and he withdrew the gift.

But there was now widespread complaint about the Bishops' administrative methods. In late 1969, he retired at age 74, a year before the customary age, was elevated to titular Archbishop and moved to New York City.

Interviewed subsequently by Mike Wallace on CBS–TV's "60 Minutes," the Archbishop hinted that he could have become a cardinal had he been willing to encourage friends to lobby for him.

Mr. Wallace asked, "Are you an ambitious man?"

"I suppose there certainly must be ambition in me," he replied, "because ambition is really in a certain sense a drive for perfection. But I have never deliberately sought any kind of honor. It is possible for a man in the church to go up and up, and I could have gone higher and higher and higher. But I refused to pay the price."

Living as austerely as ever, he continued to preach and write and, occasionally, to appear on television. With good humor, he told interviewers that he hoped to be taken from life, first before his 80th birthday, then in his 80th year, and so on.

OPEN HEART SURGERY IN '77

Archbishop Sheen underwent open heart surgery in July of 1977, and was confined to Lenox Hill Hospital until early November. Thereafter, he was largely confined to his apartment.

But in 1978, he conducted the traditional Good Friday service at St. Agnes Church on East 43d Street, where he had conducted a similar service 51 years before. He was a surprise speaker in St. Patrick's Cathedral when it marked the centennial of its consecration last May, and he was given a standing ovation.

Archbishop Sheen made one more public appearance, in St. Patrick's last Oct. 2, when Pope John Paul II visited the cathedral. The 84-year-old prelate, who had entered the cathedral to the crowd's applause before the Pope's entrance, rose from his chair at the side of the altar and knelt before the Pontiff in homage.

The Pope helped the aging prelate to his feet and embraced him.

Archbishop Sheen leaves several nieces and nephews. His body will lie in repose for public viewing today and tomorrow at St. Patrick's Cathedral from 7 a.m. to 9 p.m. The funeral mass will be celebrated Thursday afternoon at 2 at the cathedral. Burial will be in the crypt under the altar of St. Patrick's.

DOE DEFENSE AUTHORIZATION CONFERENCE REPORT

● Mr. HART. Mr. President, the DOE defense programs conference bill, S. 673, includes a provision (section 210) that would prohibit DOE from using any funds appropriated by this or any other act for licensing by the Nuclear Regulatory Commission of any DOE defense activity.

The bill specifically designates the Waste Isolation Pilot Plant (WIPP) as a "research and development facility" so that it falls within the current exemption from NRC licensing in section 202(4) of the 1954 Atomic Energy Act, as amended.

The conferees carefully crafted the accompanying statement of managers so that the act would not preclude future extension of NRC regulatory authority or licensing over the WIPP or other DOE nuclear waste activities if Congress determines that licensing is appropriate.

I strongly supported the intent of the conferees to leave the door open for future extension of NRC regulatory authority or licensing into these areas. Congress has yet to consider comprehensive nuclear waste legislation that will define the extent to which an independent agency such as the NRC should have authority to review these activities.

I have proposed legislation, now pending before the Senate Environment and Public Works Subcommittee on Nuclear Regulation, that would extend NRC licensing authority over all DOE research and development facilities for nuclear waste disposal, including WIPP. My bill would also extend NRC licensing authority over new DOE facilities for the long-term storage and disposal of nuclear waste. Senator RANDOLPH, the distinguished chairman of our full committee, has introduced a similar proposal.

The President has yet to announce his nuclear waste proposals, based on the Review Group on Nuclear Waste Management. Undoubtedly, he will have proposals of his own about the extent to which NRC regulatory authority should extend over WIPP and other DOE nuclear waste activities. The Subcommittee on Nuclear Regulation will give the administration proposals full consideration.

I anticipate our committee will report a comprehensive nuclear waste management bill early next session for careful consideration by Congress.

One thing, however, is clear. Past experience has shown the folly of attempting to address the nuclear waste issue in a piecemeal manner. Only close coordination between Federal agencies, particularly between the Nuclear Regulatory Commission, the Department of Energy and the Environmental Protection Agency, can produce R. & D. and permanent nuclear waste disposal facilities that will adequately protect public health and safety and the environment.

Understanding that it leaves the door open for further review of proposals to extend NRC regulatory authority over DOE nuclear waste activities, I signed the statement of managers. I must, however, make an important clarification. Both the President's Interagency Review Group and the NRC unanimously recommended that NRC license new DOE facilities for the disposal of transuranic (TRU) wastes. The statement of managers, citing the NRC report on "Regulation of Federal Radioactive Waste Activities" fails to note this important recommendation.

I feel that the statement of managers would have been clearer had this important recommendation been noted.●

ORDER FOR RECESS UNTIL TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I have discussed this request with Senator DOLE, Senator TOWER, and Senator WALLOP.

I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 meridian tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting the nomination of John J. Partington, of Rhode Island, to be U.S. marshall for the district of Rhode Island; which was referred to the Committee on the Judiciary.

REPORTS OF SIX RIVER BASIN COMMISSIONS—MESSAGE FROM THE PRESIDENT—PM 142

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying reports, which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

I hereby transmit to the Congress the annual reports of the six river basin commissions, as required under section 204(2) of the Water Resources Planning Act of 1965.

JIMMY CARTER.

THE WHITE HOUSE, *December 13, 1979.*

MESSAGE FROM THE HOUSE

At 5:37 p.m., a message from the House of Representatives delivered by Mr. Gregory, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 241) to restructure the Federal Law Enforcement Assistance Administration, to assist State and local governments in improving the quality of their justice systems, and for other purposes.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 1888. An act for the relief of Kenneth and Jacqueline Traylar;

H.R. 1889. An act for the relief of Naomi Chen;

H.R. 2532. An act for the relief of Gail Williamson; and

H.R. 2594. An act for the relief of Lunette Joyce Clarke.

The enrolled bills were subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message further announced that the House has passed the following bill and joint resolution, in which it requests the concurrence of the Senate:

H.R. 4962. An act to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes; and

H.J. Res. 458. A joint resolution to authorize and request the Presidents to issue a proclamation designating December 8, 1979, "National Unity Day".

HOUSE BILL PLACED ON CALENDAR

The following bill was read by title and ordered placed on the calendar:

H.R. 4962. An act to amend title XIX of the Social Security Act to strengthen and improve medicaid services to low-income children and pregnant women, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. BUMPERS, from the Committee on Energy and Natural Resources, with an amendment and an amendment to the title (on December 12):

H.R. 3757. An act to amend the National Parks and Recreation Act of 1978, to establish the Channel Islands National Park, and for other purposes (Rept. No. 96–484).

By Mr. CHURCH, from the Committee on Foreign Relations, without amendment, but with a preamble:

H. Con. Res. 200. Concurrent resolution expressing the sense of Congress with respect to the Baltic States and with respect to Soviet claims of citizenship over certain United States citizens (Rept. No. 96–485).

H. Con. Res. 202. Concurrent resolution urging the Soviet Union to allow Ida Nudel to emigrate to Israel, and for other purposes (Rept. No. 96–486).

By Mr. EAGLETON, from the Committee on Governmental Affairs, without amendment:

S. Res. 309. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 5537. Referred to the Committee on the Budget.

H.R. 5537. An act to amend the District of Columbia Self-Government and Governmental Reorganization Act with respect to the borrowing authority of the District of Columbia (Rept. No. 96–487).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Con. Res. 56. Concurrent resolution authorizing the reprinting of the committee print entitled "Synthetic Fuels" (Rept. No. 96–488).

S. Res. 293. Resolution increasing the limitation on expenditures by the Committee on Finance for the procurement of consultants (Rept. No. 96–489).

S. Res. 305. Resolution relating to payment of expenses from a Senator's official office expense account (Rept. No. 96–490).

S. Res. 310. An original resolution relating to the payment of witness fees (Rept. No. 96–491).

S. Res. 311. An original resolution relating to the payment of per diem and subsistence expenses to Members and employees of the Senate (Rept. No. 96–492).

S. Res. 312. An original resolution to pay a gratuity to Bernice S. Zahn.

By Mr. PELL, from the Committee on Rules and Administration, with amendments:

S. 2018. A bill to transfer unexpended balances of funds appropriated for salaries of Senate committee employees, and for other purposes (Rept. No. 96–493).

S. Res. 281. Resolution relating to expenditures and staffs of committees of the Senate (Rept. No. 96–494).

S. Res. 297. Resolution authorizing a check by the Department of Health, Education, and Welfare to determine if any Senate employees are indebted to the United States for defaulted student loans (Rept. No. 96–495).

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1979—CONFERENCE REPORT

Mr. WILLIAMS, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3875) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes (Rept. No. 96–496).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 1798. A bill to reduce regulation of and increase competition in the household goods moving industry, and for other purposes (Rept. No. 96–497).

By Mr. LONG, from the Committee on Finance, with amendments:

H.R. 2797. An act to make technical corrections related to the Revenue Act of 1978 (Rept. No. 96–498).

By Mr. LONG, from the Committee on Finance, with an amendment and an amendment to the title:

H.R. 1319. An act to extend the period for duty-free entry of a 3.60-meter telescope and associated articles for the use of the Canada-France-Hawaii Telescope Project at Mauna Kea, Hawaii (Rept. No. 96–499).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. CHURCH, from the Committee on Foreign Relations:

William Garton Bowdler, of Florida, to be an Assistant Secretary of State.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. CHURCH, from the Committee on Foreign Relations:

Mabel Murphy Smythe, of Connecticut, now Ambassador Extraordinary and Plenipotentiary of the United States to the United Republic of Cameroon, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Equatorial Guinea.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Mabel M. Smythe.
Post: Ambassador to Equatorial Guinea.
Nominated: November 20, 1979.
Contributions, amount, date and donee:
1. Self, $250, 1976, 1977, 1978, Democratic Party.
2. Spouse, $250, 1967, 1977, 1978, Democratic Party.
3. Children and spouses names, Pamela Smythe, None.
4. Parents names: Josephine D. Murphy, Harry S. Murphy, (both deceased).
5. Grandparents names: Benjamin and Sarah Murphy, Eugene and Sallie Dibble, deceased.
6. Brothers and spouses names: Harry S. Murphy, Jr., unavailable (has not contributed in the past).
7. Sisters and spouses names: Sarah M. Lemon, Doris M. Coates, None.

By Mr. CHURCH, from the Committee on Foreign Relations:

Donald R. Toussaint, of Virginia, Ambassador Extraordinary and Plenipotentiary of the United States to the Democratic Socialist Republic of Sri Lanka, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Maldives.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: Donald R. Toussaint.
Post: Ambassador to Sri Lanka.
Contributions, amount, date, and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, Micheline Claire, Kathryn Noel, David Jules, none.
4. Parents names, Hortense Toussaint (mother); father deceased—1964, none.
5. Grandparents names (all deceased prior to 1975), none.
6. Brothers and spouses names, Howard Jules Toussaint (brother), and Eunice Toussaint (wife), none.
7. Sisters and spouses names, none.

By Mr. CHURCH, from the Committee on Foreign Relations:

H. Carl McCall, of New York, to be the Alternate Representative of the United States for Special Political Affairs in the United Nations, with the rank of Ambassador.

(The above nomination from the Committee on Foreign Relations was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

STATEMENT OF POLITICAL CONTRIBUTIONS

Nominee: H. Carl McCall.
Post: Ambassador.
Contributions, amount, date and donee:
1. Self, none.
2. Spouse, none.
3. Children and spouses names, none.
4. Parents names, none.
5. Grandparents names, none.
6. Brothers and spouses names, none.
7. Sisters and spouses names, none.

POLITICAL CONTRIBUTIONS TO FEDERAL ELECTION CAMPAIGNS 1974–1979

1. The Honorable Charles Rangel, Member of Congress, $150.00.
2. The Honorable Theodore Weiss, Member of Congress, $75.00.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MELCHER (on December 12):

S. 2126. A bill relating to certain leases involving the Secretary of the Interior and the Northern Cheyenne Indian Reservation; to the Select Committee on Indian Affairs.

By Mr. HART:

S. 2127. A bill to amend section 2031 of title 10, United States Code, to reduce the minimum number of students that must be in a Junior Reserve Officer Training Corps unit, and for other purposes; to the Committee on Armed Services.

By Mr. BENTSEN:

S. 2128. A bill to prevent the abuse of certain pension plan provisions of the Internal Revenue Code of 1954 through the use of separate corporations or other organizations; to the Committee on Finance.

By Mr. DOMENICI:

S. 2129. A bill to amend the Safe Drinking Water Act with respect to regulations relating to underground injections necessary for oil and natural gas recovery; to the Committee on Commerce, Science, and Transportation.

By Mr. STEWART:

S. 2130. A bill to amend the Higher Education Act of 1965 to improve programs for developing institutions under title III of that Act; to the Committee on Labor and Human Resources.

By Mr. MATSUNAGA (for himself and Mr. INOUYE):

S. 2131. A bill to establish the Hawaiian Native Claims Settlement Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

● Mr. MELCHER. Mr. President, I introduce and send to the desk a bill, which I ask unanimous consent to have printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2126

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that:

(1) certain mineral leases and prospecting permits entered into between the Northern Cheyenne Tribal Council and private parties in 1969, 1970, and 1971, presently encumber approximately 53 percent of the lands within the boundaries of the Northern Cheyenne Indian Reservation;

(2) due to the likelihood of permanent and large-scale disruption of their tribal community which would result from development under such leases and permits, the Northern Cheyenne Indian Tribe has been and continues to oppose any development under these leases and prospecting permits;

(3) although such leases and permits were approved by representatives of the Secretary of the Interior, it is a serious question as to whether such approval is consistent with the trust responsibility of the Secretary of the Interior to "act in the best interests" of Indian tribes and individuals;

(4) the present impasse which has existed with regard to such leases and permits, unless resolved, can only result in expensive and

time-consuming litigation which does not hold out the likelihood of a satisfactory solution which would be fair to all parties; and

(5) cancellation of such leases and permits, and providing a fair remedy to any party or parties whose property interest, invested in good faith, would be adversely affected by such cancellation, appears to be the most direct and effective manner within which to resolve this impasse.

SEC. 2. Effective on the date of the enactment of this Act, all coal leases and permits issued pursuant to the provisions of the Act of May 11, 1938 (25 U.S.C. 396a), and involving the Northern Cheyenne Indian Reservation, are cancelled:

Name of companies, document nos., and dates of entry:

Peabody Coal Co. (Leasee), 14–20–0257–897, Nov. 17, 1970.

Peabody Coal Co. (Lessee), 14–20–0257–899, Nov. 17, 1970.

Peabody Coal Co. (Lessee), 14–20–0257–900, Nov. 17, 1970.

Peabody Coal Co. (Lessee), 14–20–0257–901, Nov. 17, 1970.

Peabody Coal Co. (Lessee), 14–20–0257–902, Nov. 17, 1970.

Peabody Coal Co. (Lessee), 14–20–0257–903, Nov. 17, 1970.

Peabody Coal Co. (Permit), C–57–P–30, Aug. 18, 1969.

Peabody Coal Co. (Permit), C–57–P–31, Aug. 18, 1969.

Peabody Coal Co. (Permit), C–57–P–31. Aug. 18, 1969.

Bruce L. Ennis (Now assigned to Chevron Oil), C–57–P–42, May 21, 1971.

Bruce L. Ennis (Now assigned to Chevron Oil), C–57–P–45, June 14, 1971.

Norsworthy and Roger, Inc., C–57–P–46, June 14, 1971.

Norsworthy and Roger, Inc., C–57–P–47, June 14, 1971.

Consolidation Coal Co., C–57–P–43, May 21, 1971.

Meadowlark Farms, Inc. (Subsidiary of AMAX), C–57–P–40, May 21, 1971.

Meadowlark Farms, Inc. (Subsidiary of AMAX), C–57–P–41, May 21, 1971.

Meadowlark Farms, Inc. (Subsidiary of AMAX), C–57–P–44, May 21, 1971.

Sec. 3. The Secretary of the Interior is authorized to receive, consider, and pay claims for damages arising out of the cancellation of leases and permits pursuant to the first section of this Act. Such claims shall be submitted in such manner, at such time, and contain such information as the Secretary of the Interior shall, by regulation, prescribe.

Sec. 4. (a) The Secretary of the Interior shall file an annual report with the Congress with respect to claims submitted pursuant to this Act. Such report shall include the name of each claimant, the nature of the claim, the amount, if any, paid pursuant to such claim, and information with respect to the disposition of such claim.

(b) No claim shall be received by the Secretary of the Interior pursuant to this Act unless such claim is submitted to the Secretary of the Interior during the twelve-month period following the date of the enactment of this Act.

Sec. 5. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.●

By Mr. BENTSEN:

S. 2128. A bill to prevent the abuse of certain pension plan provisions of the Internal Revenue Code of 1954 through the use of separate corporations or other organizations; to the Committee on Finance.

PROTECTION OF PENSION BENEFITS FOR THE AMERICAN WORKER

● Mr. BENTSEN. Mr. President, as chairman of the Private Pension Subcommittee of the Senate Finance Committee, I am today introducing tax legislation to insure that the so-called nondiscrimination rules for private pension plans adequately protect the interests of the American worker.

The qualified pension plan rules of the Internal Revenue Code provide significant tax incentives to encourage the formation of pension plans that do not discriminate in favor of employees who are officers, shareholders, or highly compensated persons. These incentives include deferral of tax on plan benefits, favorable taxation of benefits, and exclusion from estate and gift tax.

In a case considered by the Tax Court—the Kiddie case—separate corporations were set up by two pathologists. Each doctor was the only employee and shareholder of his corporation. The corporations formed a partnership and the partnership employed staff. One of the corporations set up a pension plan solely for the doctor and claimed a deduction for a contribution to its pension plan.

The IRS contended that the staff of the partnership should be considered to be employed by the corporation for pension purposes and that under the circumstances the plan discriminated in favor of the doctor in violation of the pension rules. The case was litigated in the Tax Court and the doctor won because the court found no rule which would cause the employees of the partnership to be treated as employees of the corporation for pension purposes. Accordingly, the doctor can enjoy substantial tax benefits under the pension plan without providing pension benefits to his staff on a nondiscriminatory basis.

If this technique is not reversed by legislation, the pension rules will be used by professionals to obtain tax benefits not intended by the Congress.

The legislation I am introducing today will reverse the rule.

Under the bill, in testing whether a pension, profit-sharing, or stock bonus plan meets specified requirements relating to tax-qualified plans, employees of a professional organization and an adjunct professional organization (for example, the professional corporations and their partnership in the Kiddie case) would be treated as if they were employed by the same employer.

The rules affected by the bill include qualification requirements relating to discrimination, eligibility for plan participation, vesting, and limits on contributions and benefits. The bill also provides for coordination of the new rules with pension rules relating to funding of plans and employer deductions for plan contributions. The bill authorizes the Secretary of the Treasury to prescribe regulations necessary to prevent abuse of the specified provisions with respect to professional organizations through the use of separate corporations, partnerships, or other organizations.

The bill applies where first, a professional organization regularly uses the services of the adjunct professional organization or is regularly associated with the adjunct organization in performing professional services for others; second, one or more of the professionals (or one or more owners of the professional organization) owns an interest in the adjunct organization; and third, such individuals, as a group, own at least 25 percent of the adjunct organization.

For plans not in existence on December 13, 1979, the bill would apply for plan years ending after December 13, 1979. For plans in existence on December 13, 1979, the bill would apply for plan years beginning after December 13, 1979.

I urge the Senate to promptly enact this legislation to provide greater retirement security to countless American citizens.●

By Mr. DOMENICI:

S. 2129. A bill to amend the Safe Drinking Water Act with respect to regulations relating to underground injections necessary for oil and natural gas recovery; to the Committee on Commerce, Science, and Transportation.

● Mr. DOMENICI. Mr. President, today I am introducing legislation to amend the Safe Drinking Water Act with respect to the regulation of underground injections necessary for oil and natural gas recovery.

Public Law 93–523 requires that the Environmental Protection Agency propose regulations for State Underground Injection Control within 120 days after the date of enactment of that law. The regulations would cover all types of injection wells from industrial and nuclear disposal wells, oil and gas injection wells, solution mining wells or any hole in the ground designed for the purpose of injecting water or other fluids below the surface.

Since this section was passed into law, EPA has proposed and reproposed regulations and in each case, the proposals have been almost universally repugnant to the States who will enforce the regulations.

For example, in my State of New Mexico, the State Oil Conservation Division presently regulates approximately 3,500 injection wells related to oil and gas activities in the State. These include injection wells in secondary recovery projects and approximately 250 salt water disposal wells. Almost 80 percent of the State's oil production is directly related to the continued use of these injection wells, consequently, EPA's regulations are of vital concern, and any unnecessary regulations imposed on an already effective State program could be a step backward, not forward.

In New Mexico the first salt water disposal well was approved in 1951. The Oil Conservation Division has continued to work to develop a program which it believes adequately protects underground sources of drinking water while continuing to permit the maximum degree of oil and gas production at a minimum cost to taxpayers. Since that first well was approved in 1951, there has only been one case brought before the Commission where contamination of a fresh water zone was alleged.

The Interstate Oil Compact Commission has prepared a brief study of the harmful effects of oil and gas operations on underground sources of drinking water in the States of Texas, New Mexico, Louisiana, Oklahoma, and Arkansas and has failed to find any widespread contamination. While the study is by no means a comprehensive look at the issue, it is presently the only information of this kind available, as EPA has not as yet conducted such a study.

The imposition of a rigid national pattern on States which possess varying regulatory systems, varying geology, and varying ages of wells, could prove unworkable. The Safe Drinking Water Act requires that EPA not unnecessarily interfere with existing State programs, and it is my belief that the issuance of these underground injection regulations could undermine the responsible program of many States.

Consequently, the bill I am introducing today would clarify our intention of not interfering with ongoing efforts by the States to monitor underground injections, while insuring that States which do not have adequate programs will be brought under the Federal monitoring system. Specifically, by bill does the following:

Within 90 days after EPA issues final regulations, any State may petition the Administrator to have a joint study undertaken to evaluate the existing State program. A State may only petition EPA if it has in place an entire system of permitting, review, surveillance, monitoring, and reporting of underground injections.

No later than 2 years after the State first petitions for the study, a final report must be submitted to the Congress by EPA. Unless the Administrator determines from that report that a State does not have laws and control programs to adequately protect underground drinking water, the Federal regulations will not be implemented in that State. Such a situation will encourage the continuation of strong programs, while weeding out those States where Federal control is needed.

I urge my colleagues consideration of this bill, and I ask unanimous consent that the text of my bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1421 of the Public Health Service Act is amended by redesignating subsection (d) as subsection (e) and by inserting the following new subsection after subsection (c):

"(d)(1) Within ninety days following the promulgation of final regulations under this section any State may petition the Administrator for a joint study by such State and the Agency of the existing State program for the regulation of—

"(A) the underground injection of brine or other fluids which are brought to the surface in connection with oil or natural gas production; or

"(B) any underground injection for the secondary or tertiary recovery of oil or natural gas.

"(2) The Administrator shall grant any petition requested under paragraph (1), except that no State shall be eligible to petition for such a joint study unless on the date of enactment of this subsection it shall have in effect a program for the permitting, review, surveillance, monitoring and reporting of underground injections described in paragraph (1).

"(3) Except as provided in paragraph (5), the Administrator may not implement regulations with respect to such State relative to underground injections subject to paragraph (1) until completion of the joint study.

"(4) The study shall be a joint study by the State and the Agency which shall include—

"(A) an inventory of existing injection wells covered under subsection (d)(1)(A) and (B), accompanied by a review of the quality of construction and mechanical integrity of at least a representative sample of such wells;

"(B) data on instances of underground water contamination which may have resulted from the underground injection fluids;

"(C) a description and an evaluation of State law and the adequacy of control programs to protect underground sources of drinking water, including data on the adequacy of existing State monitoring, surveillance and enforcement efforts;

"(D) a comparison of the additional public benefits that would accrue from the imposition of additional Federal regulations of the injection of fluids for purposes covered under subsection (d)(1) (A) and (B) and the additional costs imposed on private and public parties, giving consideration to the disruption of ongoing State programs; and

"(E) such other data, information and scientific or statistical evidence as may be agreed upon between the State and the Administrator.

"(5) Pending the completion of the study, the Administrator may, after a hearing on the record, and an opportunity for public comment, implement such regulations for any State whose program he finds is clearly deficient in protecting underground sources of drinking water. Such a finding must be supported by a preponderance of the evidence found in the hearing record.

"(6)(A) Within eighteen months after the petition for a study by a State under paragraph (1), the Administrator shall publish a draft report containing the results of such study.

"(B) The Administrator shall conduct a public hearing with respect to the draft report, and shall provide an opportunity for public comment on the draft report.

"(C) After the hearing and period for public comment required under subparagraph (B), but not later than two years after the petition for the study was made by the State, the Administrator shall submit a final report on the study to the Congress.

"(7)(A) Unless the Administrator determines, on the basis of such study, that a State does not have laws and control programs adequate to provide reasonable protection of underground sources of drinking water, the Administrator shall not implement regulations relating to underground injections described in paragraph (1) with respect to such State. The Administrator may not make such a negative determination unless he shall concurrently find on the basis of such study that the regulations described in paragraph (1) provide public benefits exceeding their additional cost.

"(B) If the Administrator makes such a determination under subparagraph (A), he shall implement such regulations with respect to such State effective at the time he submits the final report on such study to the Congress.

"(C) A determination under subparagraph (A) shall be subject to judicial review in accordance with the provisions of section 1448.

"(8) The cost of any joint study under this subsection shall be paid by the Administrator out of funds otherwise available under section 1443(b).".

SEC. 2 Section 1443(b)(2) of the Safe Drinking Water Act is amended by striking out all that follows "determines that the State—" and inserting in lieu thereof the following:

"(A)(i) has established or will establish within two years from the date of such grant an underground water source protection, and

"(ii) will, within such two years, assume primary enforcement responsibility for underground water sources within the State or

"(B) will participate with the Administrator in a joint study or existing State programs as provided under section 1421 (d).

Except in the case of a State participating in a joint study as described in subparagraph (B), no grant may be made to a State under paragraph (1) for any period beginning more than two years after the date of the State's first grant unless the State has assumed and maintains primary enforcement responsibility for underground water sources within the State. In the case of a State which participates in such a joint study, no grant may be made to such State under paragraph (1) for any period beginning more than two years after the date on which the final report of such study was submitted to Congress unless such State has assumed and maintains primary enforcement responsibility for underground water sources within the State".●

By Mr. STEWART:

S. 2130. A bill to amend the Higher Education Act of 1965 to improve programs for developing institutions under title III of that act; to the Committee on Labor and Human Resources.

DEVELOPING INSTITUTIONS AMENDMENTS OF 1979

● Mr. STEWART. Mr. President, nearly 15 years ago the Congress enacted the Higher Education Act of 1965. At the time the Higher Education Act was the boldest Federal initiative in higher education since the passage of the Morrill Act more than 100 years earlier. Since the passage of the Higher Education Act millions of young people have benefited from it.

One of the key provisions of the act was the program for Strengthening Developing Institutions. This program was designed to provide assistance to those institutions of higher learnings which were isolated from the mainstream of academic life and struggling for survival. This group included the many small colleges and junior colleges throughout the country who were struggling to maintain minimal standards of academic excellence.

Since the programs inception in 1966, more than 800 institutions have participated and appropriations have been almost $1 billion. The institutions which have received funds under the program have primarily served low income and minority students. Title III moneys have allowed many schools to maintain accreditation. At other institutions the moneys have been used to strengthen curriculum and develop faculty.

Since these institutions primarily severe low-income students, it is difficult if not impossible to pass on the full cost of providing a quality higher education to the student. I believe that over the years, title III has been an effective program for addressing the needs of the smaller, less endowed institutions of higher education.

Today I am pleased to introduce legislation to extend and improve the program for assisting developing institusions. The legislation I am introducing today addresses many of the criticisms that has been raised over the last few months regarding the title III program. The legislation has the support of the administration as well as educators at both developed and developing institutions.

The legislation I am introducing today makes significant revisions in the title III program. The bill adopts the eligibility criteria recommended by the administration and currently used by the Office of Education in awarding grants. This formula bases eligibility for title III grants on an institution's average educational and general expenditures and average basic educational opportunity grant (BEOG) per full time equivalent student. This provision insures that funds will go to the most financially needy institutions.

The bill also establishes a new challenge grant program whereby title III funds would be provided to match assistance from other sources. The purpose of this new grant program is to encourage institutions to seek other sources of funds.

The overall intent of this bill is to strengthen the administrative integrity of the title III program. A number of new reporting requirements have been added and the requirement of the use of "assisting agencies" has been dropped.

The bill I am introducing strikes a careful balance between the need to provide assistance to our developing institutions and the need for program integrity in the multimillion dollar program. I urge my colleagues to support it.●

By Mr. MATSUNAGA (for himself and Mr. INOUYE):

S. 2131. A bill to establish the Hawaiian Native Claims Settlement Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

HAWAIIAN NATIVE CLAIMS SETTLEMENT STUDY COMMISSION ACT OF 1979

Mr. MATSUNAGA. Mr. President, I am reintroducing today the Hawaiian Native Claims Settlement Study Commission Act, with my colleague from Hawaii, Mr. INOUYE. The provisions of our bill are identical to those of Senate Joint Resolution 4, which passed the Senate by unanimous consent during the 95th Congress. A similar measure was considered in the U.S. House of Representatives but not passed before adjournment of the 95th Congress.

Legislation relating to the historic claims of Native Hawaiians has been introduced in every Congress since 1974. In 1977, the four-member Hawaii congressional delegation agreed that it would be best to establish a Federal Commission to study the claims and to recommend to Congress whether or not any legislative action should be taken to address them. Public hearings on Senate Joint Resolution 4 and its House companion (H.J. 526) were held jointly in Hawaii by the Subcommittee on Public Lands and Resources of the Senate Committee on Energy and Natural Resources and the Subcommittee on Indian Affairs and Public Lands of the House Interior and Insular Affairs Committee. Subsequently, the Senate joint resolution was favorably reported by the Committee on Energy and Natural Resources, and, as indicated, it passed the Senate without a single dissenting vote in October 1977.

The claims of the Native Hawaiian people stem from the overthrow of the legitimate government of Hawaii in 1893 by a small band of foreign residents of Hawaii, assisted by the U.S. Minister to Hawaii and a detachment of U.S. Marines from a visiting warship. This unwarranted intervention in the internal affairs of a friendly nation may have occurred without the knowledge and consent of Congress and the President of the United States; but the Government of the United States failed to correct the injustice even when fully informed.

In 1893, the Kingdom of Hawaii established by Kamehameha I, was nearly 100 years old. A constitutional monarchy, it was ruled by Queen Liliuokalani, who had been chosen by her brother, the childless King Kalakaua, to be his successor in accordance with the established constitutional procedure. As Crown Princess, Liliuokalani had cemented her ties to the common people of Hawaii through frequent royal visits to the neighbor islands and rural areas on the Island of Oahu where the national capital was located. Well educated in the Victorian fashion, she was also a talented composer and poet. "Aloha Oe," one of hundreds of songs and hymns which she composed, is well known today throughout the United States. A devout Christian, Liliuokalani was known throughout the islands for her generosity to many charities and for her devotion to children. She had traveled in the United States and in Europe and had met the rulers and elected leaders of many other nations, including Queen Victoria of Great Britain and the President of the United States. In 1893, she had been Queen for only 2 years, but she had already established a reputation for firm, sometimes tough, leadership.

Since the establishment of a United Kingdom of Hawaii in 1795, foreign residents and visitors had been hospitably received by the people of Hawaii and, in many cases, were the recipients of royal appointments, honors and gifts. During this period, the Hawaiian population of the islands declined sharply, and the non-Hawaiian population increased. In 1887, King Kalakaua was compelled to accept a new constitution—sometimes called the "Bayonet Constitution"—which restricted the authority of the monarch and which extended the franchise to some of these non-Hawaiian residents while denying it to others and imposing property ownership requirements on those who wished to vote for members of the upper house of the Kingdom's legislature. In short, the Constitution of 1887 was designed to protect the considerable economic interests of non-Hawaiian residents of the islands and to limit the power of the Hawaiians. Almost from the day of its implementation, there were many pleas for a return to the previous system.

Liliuokalani, who wanted to be a strong ruler, no doubt welcomed these petitions and found the restrictions of the 1887 constitution very frustrating She was planning to call a constitutional convention in the near future to discuss the issue, and, reportedly, had already drafted the main provisions of a new constitution. Fear that they would be deprived of the advantages they had gained led a small group of foreigners to launch their revolution in January 1893.

While Liliuokalani might have resisted the group of non-Hawaiian civilians, she realistically concluded that the armed forces of the Kingdom of Hawaii could not resist the United States, and so surrendered, not to the revolutionists but to the superior forces of the United States in the belief that she would be restored to her throne as soon as the facts were known.

Disquieting reports about the revolution in Hawaii did reach Washington, D.C. Annexation to the United States was requested by the provisional government established in Honolulu, and was proposed to Congress by outgoing President Harrison. However, the proposed treaty of annexation was withdrawn from Congress only a month later by the new President, Grover Cleveland. President Cleveland appointed a special commissioner, former Congressman James Blount of Georgia, to go to Hawaii and study the circumstances of the so-called revolution and to report back to him on what had actually happened.

Blount's subsequent report was a condemning one. Based on it, Secretary of State Walter Q. Gresham advised the President that the U.S. Minister to Hawaii had in fact aided the overthrow of the Hawaiian monarchy. He recommended that the treaty of annexation not be resubmitted to Congress, and urged that the monarchy be restored. President Cleveland's message to Congress in December 1893, based on the reports of his Special Commission and Secretary of State, stands as the best evidence of our country's regrettable involvement in an incident which was the single greatest cause of the overthrow of the Hawaiian monarchy. The President said:

> * * * by an act of war, committed with the participation of a diplomatic representative of the United States and without the authority of Congress, the government of a feeble, friendly and confiding people has been overthrown * * * A substantial wrong has been done which a due regard for our national character as well as the rights of the injured people requires that we endeavor to repair * * * the United States cannot fail to vindicate its sense of justice by an earnest effort to make all possible reparation.

President Cleveland's concern for justice and the American national character delayed annexation for 5 years, but, in 1898, with a new administration in office and in accordance with the manifest destiny spirit of the times, Hawaii was annexed. Under the treaty, the Republic of Hawaii ceded to the United States the absolute fee and ownership of all public, government and crown lands belonging to the Government of the Hawaiian Islands. Thus, the lands of the Hawaiian monarch, and of the people of Hawaii, as vested in their Government, were obtained by the United States without any compensation to their rightful owners, the Hawaiian people.

Mr. President, the bill which I am introducing today with Senator INOUYE would enable the U.S. Government to examine officially for the first time the events of January 1893. Our bill is not a settlement act. It does not authorize the payment of any Federal moneys to the Native Hawaiian people. It does not authorize the transfer of any Federal lands to the Native Hawaiian people. It merely provides for the long overdue investigation requested nearly 90 years ago by President Cleveland on the basis of the Blount report. The proposed Commission may find that no compensation should be paid to the Hawaiians, or it may recommend reparations. If the latter happens to be the case, the Commission could recommend several alternatives for consideration by Congress. Ultimately, it would be up to some future Congress to decide whether or not such reparations should be made.

The Commissioners would be appointed by the President of the United States and would be free to hold public hearings and study the historical record in an effort to develop their recommendations.

The people of Hawaii and their elected representatives are deeply grateful for the favorable action which the Senate took on this proposal in 1977, and I do hope that similar expeditious action will be taken by the 96th Congress.

● Mr. INOUYE. Mr. President, I wish to take this opportunity to join my distinquished colleague, Mr. MATSUNAGA, in expressing my strongest personal support for the bill we are introducing today, the Hawaiian Native Claims Study Commission Act. While this is not a measure which ranks high on the national scene, it is an issue which has long concerned the people of Hawaii, both those of Native Hawaiian and non-Hawaiian blood, and it is one which I am convinced merits the attention and concern of the U.S. Congress and of the American people.

The bill is simple and straightforward; it purports to accomplish three goals: First, it will provide a clear statement by the Congress that, in 1893, a wrong was committed by representatives of the U.S. Government against the sovereign Government of the Hawaiian Kingdom and her subjects; second, it will clearly set forth that this wrong has never been redressed; third, it will provide a vehicle, the Hawaiian Native Claims Study Commission, which will recommend the extent of the Federal obligation which is outstanding and the means by which that obligation can be met.

These issues and goals are familiar to my colleagues in the Senate. Since becoming a Member of Congress, I, along with the other members of the Hawaii delegation, have worked with dedication to educate and sensitize our fellow Senators and Congressmen to the unique conditions and needs of this important constituency and to the Federal Government's moral and legal obligation to attempt to address these needs. It bodes well for this body that these efforts have, for the most part, been responded to with fairness and compassion.

The issue of native Hawaiian claims is one that has arrested the Hawaiian congressional delegation's attention for the past 5 years. In 1975, I introduced Senate Joint Resolution 155, legislation similar to that which is presently before you. Though Senate Joint Resolution 155 was favorably reported by the Senate Interior and Insular Affairs Committee, insufficient time remained in the 94th Congress to achieve full Senate approval. An effort was again launched during the 95th Congress and met with success when Senate Joint Resolution 4 was favorably reported to the floor by the Senate Energy Committee and was subsequently unanimously passed by the Senate in October of 1978. Unfortunately, the House of Representatives failed to act favorably.

Over the past months, I have continued to meet with Hawaiian leaders, individually and in groups, to discuss and consider alternatives to the Native Claims Study Commission bill. However, out of these discussions has grown an even stronger conviction that this is a just cause. While legitimate disagreement exists over the extent and nature of the proper redress there can be few who investigate the relevant past who in all honesty can doubt that a genuine grievance exists.

History sadly records that the United States did not choose a peaceful, and responsibly negotiated route to annexation of the Hawiian Islands. Instead, by an act of war in January, 1893, official representatives of the United States participated significantly in wrongful and illegal conspiracy and subsequent overthrow of an officially recognized and friendly government that had enjoyed amicable relations with the Government of the United States. That friendly Government was the constitutional monarchy of Queen Liliuokalani of the independent and sovereign Kingdom of Hawaii which has prevailed for over 100 years and which was invested with a sophisticated social, cultural, economic, political, and legal organization but which was militarily weak.

The coming of the white man, almost a century earlier, and the ravages of the diseases he brought, served to drastically weaken the Hawaiian people and their traditional laws and customs. By the late 1880's, the increasing Westernization of Hawaiian society and Government under pressure from Western religious and business interests was breaking down the traditional forms of the monarchy. Queen Liliuokalani's attempt to regain some of the powers and rights of the Hawaiian monarchy and people in 1892 triggered a well-planned conspiracy by a small but influential foreign elite, many of whom were American citizens. Deeply involved in this conspiracy was the U.S. Representative to Hawaii, Mr. John L. Stevens, who arranged to have marines from a U.S. ship docked in Honolulu Harbor land and enforce the otherthrow.

Despite numerous attempts by the Queen and loyal royalists to regain the throne the conspirators prevailed with continued U.S. protection. A provisional government was soon established. This government later transformed itself into the independent Republic of Hawaii and waited for annexation to the United States, which was finally consummated in 1898. The Constitution of the Republic expropriated the crown lands without compensation and made them available for purchase by private Western interests. Lands held in the public domain were also appropriated and transferred to the U.S. Government upon annexation.

Perhaps the most tragic consequence of the overthrow has been the serious aggravation of a trend toward demoralization and alienation of the native Hawaiian people from their former national, cultural, and individual identity. Though they currently comprise 18 percent of the Hawaii state population, native Hawaiians almost across the board occupy the bottom most rungs of every possible socioeconomic indicator. In many ways, they have become strangers in their own homeland and now face what I consider to be a severe crisis in economic, social, and cultural survival, a situation somewhat similar to that of the American Indian.

The Senate Interior Committee report on the original Senate Native Hawaiian Claims Study Commission Act contained the following statement:

> The Committee has examined the record of this historic, well-documented affair. The overthrow of the Hawaiian Kingdom is a dark chapter in American diplomatic and military history, made darker still by the long failure of the Congress to recognize the wrong that was done and to fashion a means for making reparation. The case for recognition of the validity of the Hawaiian Native Claims is compelling. It is time for the Congress to vindicate the honor and sense of justice of the United States.

Mr. President, the full repair of the injury suffered by the Hawaiian people is still unfinished business of this Government. Though the legislation we are introducing today represents but one small step toward the final resolution of this issue. I believe it is a fair and responsible approach. I do not know what the specific results of the Study Commission's investigation will be or what forms of compensation may be recommended.

However, I do believe that our Government has an obligation to objectively determine the validity of the Hawaiians' claim and to seek a responsible redress of our Nation's past transgressions. I urge my colleagues to once again recognize the longstanding relationships and the responsibilities attached to these relationships, existing between the U.S. Government and the native Hawaiian people and to also once again express their commitment to seeking a just and equitable solution to this longstanding problem. I am most hopeful that this bill will meet the fast approval of the appropriate Senate committee, the full House of Representatives, the U.S. Senate, and the President.●

ADDITIONAL COSPONSORS

S. 1963

At the request of Mr. HELMS, the Senator from New Hampshire (Mr. HUMPHREY) and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 1963, a bill to require congressional approval before gold could be sold from U.S. stocks.

SENATE JOINT RESOLUTION 40

At the request of Mr. WILLIAMS, the Senator from Indiana (Mr. BAYH), the Senator from Minnesota (Mr. BOSCHWITZ), the Senator from New Jersey (Mr. BRADLEY), the Senator from Minnesota (Mr. DURENBERGER), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Michigan (Mr. LEVIN), the Senator from Maryland (Mr. MATHIAS), the Senator from South Dakota (Mr. MCGOVERN), the Senator from New York (Mr. MOYNIHAN), the Senator from South Dakota (Mr. PRESSLER), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), the Senator from Georgia (Mr. TALMADGE), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of Senate Joint Resolution 40, a joint resolution to authorize the President to proclaim annually the last Friday of April as "National Arbor Day."

NOTE.—In the RECORD of December 7, 1979, at page S18087, under "Additional Cosponsors," the cosponsors added to Senate Joint Resolution 140 is in error. The Permanent RECORD will be corrected to read as above.

SENATE RESOLUTIO 305

At the request of Mr. HATFIELD, the Senator from Minnesota (Mr. DURENBERGER) and the Senator from Connecticut (Mr. WEICKER) were added as cosponsors of Senate Resolution 305, relating to reimbursement for office accounts.

AMENDMENT NO. 791

At the request of Mr. BENTSEN, the Senator from Washington (Mr. MAGNUSON), the Senator from Louisiana (Mr. LONG), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of amendment No. 791 intended to be proposed to H.R. 919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 309—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. EAGLETON, from the Committee on Governmental Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 309

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402)a) of such Act are waived with respect to the consideration of H.R. 5537, a bill to amend the District of Columbia Self-Government Reorganization Act with respect to the borrowing authority of the District of Columbia.

Such waiver is necessary because of unforeseen delay in implementation of a Financial Management System for the District of Columbia. Upon full implementation of such a system, the District of Columbia can enter the bond market rather than borrow from the United States Treasury for capital funds, as it now does. Until the District can issue bonds, this ability to continue uninterrupted borrowing from the Treasury is vital to the continuation of District building projects.

This waiver would not be disruptive to the budget process because of the inclusion of funds for capital projects in the District of Columbia's Fiscal Year 1980 budget appropriations.

For the foregoing reasons, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to H.R. 5537, as reported by the Committee on Governmental Affairs.

SENATE RESOLUTION 310—ORIGINAL RESOLUTION REPORTED RELATING TO PAYMENT OF WITNESS FEES

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was ordered to be placed on the calendar:

S. RES. 310

Resolved, That witnesses summoned to appear before the Senate or any of its committees shall be entitled to a witness fee rated at not to exceed $50 for each full day spent in traveling to and from the place of examination and for each full day in attendance. A witness shall also be entitled to reimbursement of the actual and necessary transportation expenses incurred by him in traveling to and from the place of examination.

SEC. 2. Senate Resolution 178, 96th Congress, agreed to June 20, 1979, is repealed.

SENATE RESOLUTION 311—ORIGINAL RESOLUTION REPORTED RELATING TO PAYMENT OF PER DIEM AND SUBSISTENCE EXPENSES TO MEMBERS AND EMPLOYEES OF THE SENATE

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was ordered to be placed on the calendar:

S. RES. 311

Resolved, That, until otherwise provided by law, per diem and subsistence expenses reimbursable to a Member or employee of the Senate in connection with travel within the United States shall be made on the basis of actual expenses incurred but not to exceed $50 per day for each day or fraction thereof spent in a travel status.

SENATE RESOLUTION 312—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, submitted the following original resolution, which was ordered placed on the calendar:

S. RES. 312

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Bernice S. Zahn, widow of Nathan R. Zahn, an employee of the Senate at the time of his death, a sum equal to two months' compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 313—SUBMISSION OF A RESOLUTION RELATING TO GOVERNMENT FAILURE TO CURB ITS ENERGY USE

Mr. ROTH submitted the following resolution, which was referred to the Committee on Governmental Affairs:

S. RES. 313

Whereas the Federal government is the Nation's largest single energy user, and directly accounts for over 2 percent of U.S. energy consumption, representing the equivalent of 282 million barrels of oil a year worth $4 billion, and

Whereas the Federal government also is indirectly responsible for 4 to 7 percent of total national energy consumption in support of its purchase of goods and services, and

Whereas the General Accounting Office has concluded the Federal government could reduce its overall energy use by about 15 to 30 percent, or the equivalent of 116,000 to 232,000 barrels of oil a day, with a comprehensive and aggressive energy conservation program, and

Whereas in the Energy Policy and Conservation Act of 1975 Congress mandated that the President develop and implement a 10 year plan to conserve energy in Federal government buildings and Federal government purchases of goods, materials and automobiles, and

Whereas 4 years later, the Department of Energy has still not developed a comprehensive energy conservation plan for the Federal government, and

Whereas, since 1975, the government's energy use has increased in 2 of the last 3 years, with gasoline use increasing 18 percent since 1974, and

Whereas the GAO has concluded the Federal government's program to conserve energy is fragmented and in disarray because the Department of Energy has failed to take an active leadership role.

Now, therefore, be it resolved by the Senate:

1. It is inexcusable and intolerable that the Federal government and the Department of Energy in particular have failed to comply with the 1975 Congressional mandate to develop a comprehensive and aggressive 10 year government energy conservation plan.

2. The Federal government should be the leader, not the follower in energy conservation, and should set the standard for the rest of the country.

3. At a time when the working people and taxpayers of America are being asked to reduce their gasoline consumption by 7

percent or more in calendar year 1980, the Federal government should reduce its gasoline consumption by at least double that in 1980, or by at least 15 percent.

4. In light of the critical and precarious world energy supply situation, the Federal government should set and achieve a goal of reducing its energy consumption by at least 20 percent by 1985, or the equivalent of 160,000 barrels a day.

5. The President should swiftly review and adopt the recommendations in the General Accounting Office report of December 12, 1979 to develop and implement through the Department of Energy an aggressive and comprehensive Federal Energy Management Program.

● **Mr. ROTH.** Mr. President, I submit a sense of the Senate resolution regarding the outrageous failure of the Federal Government to curb its own energy use

According to a report by the General Accounting Office yesterday, the Federal Government—the Nation's largest consumer of energy and the biggest oil guzzler of them all—has failed miserably to comply with its 1975 congressional mandate to come up with a comprehensive and aggressive 10 year energy conservation plan.

Mr. President, at the same time the Government is asking the American people to conserve energy and make sacrifices, I think it is inexcusable, intolerable, and indefensible that the Government has failed to come up with an energy conservation plan for itself. I think my colleagues will be shocked to hear some of GAO's findings.

For instance, do my colleagues know that. while the working people of this country have put up with higher fuel prices, gasoline lines and skyrocketing energy prices, the Federal Government's energy use has actually increased in 2 of the last 3 years between 1975 and 1977, and has only been reduced 2.7 percent overall since 1974?

Do my colleagues know that, while Americans have been accused of being gas guzzlers, the Federal Government has increased its gasoline consumption a whopping 18 percent since 1974? Mr. President, I submit that figure—I repeat, 18-percent increase in Federal gas consumption since 1974—is one of the most shocking wastes of tax dollars I have seen this or any year.

Let me give a few more figures on the horrid example set by an energy-inebriated Uncle Sam.

The Federal Government directly consumes the equivalent of 282 million barrels of oil a year, or over 2 percent of U.S. energy consumption. The Government is indirectly responsible for an additional 4 to 7 percent of national consumption in support of its voracious procurement policies.

The Energy Policy and Conservation Act of 1975 mandated that the President develop and implement a 10-year plan to conserve energy in Federal buildings and purchases of goods, materials, and automobiles. Four years later, GAO has found DOE has yet to complete such a plan and, I quote, as a result, "The Federal Government's program to conserve energy is in disarray," and, "GAO believes the lack of an enterprising Government conservation program stems largely from the Department of Energy's failure to take the lead."

At the same time each State in the Union is being asked to cut gasoline consumption 7 percent or more in 1980, the Federal Government is being asked to reduce its energy consumption only 5 percent. If that is not misplaced priorities, then DOE has become more of a fantasyland than I suspected. GAO concludes the Federal Government could reduce its overall energy use by 15 to 30 percent, the equivalent of 116,000 to 232,000 barrels of oil a day, by aggressive energy conservation.

Mr. President, it is time for the Federal Government to empty its own gas tank before asking the American public to sacrifice.

My resolution expresses the sense of the Senate that:

First, the Federal Government has failed to comply with the 1975 congressional mandate on energy conservation;

Second, the Federal Government should be the leader, not the follower in energy conservation;

Third, the Federal Government should reduce its gasoline consumption by at least 15 percent in 1980, double what DOE is asking the rest of the country;

Fourth, the Federal Government should set and achieve an energy reduction goal of at least 20 percent by 1985; and

Finally, the President should swiftly review and adopt the recommendations by the GAO for a comprehensive and aggressive Federal energy management program.

In short, we must take the tiger by the tail, pull it from DOE's tank, and make the Federal Government shape up on its energy use.

Mr. President, I ask unanimous consent that a summary of the GAO report be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

THE FEDERAL GOVERNMENT NEEDS A COMPREHENSIVE PROGRAM TO CURB ITS ENERGY USE

DIGEST

The Federal Government's program to conserve energy is in disarray. In spite of legislative and executive guidance, a comprehensive, aggressive energy conservation program for the Federal sector has not been developed. While individual agencies have made some progress in conserving energy, these efforts have been fragmented and piecemeal because the Department of Energy has not taken an active leadership role.

The Federal Government needs a comprehensive program to curb its energy use, embracing all aspects of energy conservation. The Government has the obligation to meet the same standards advocated or mandated for the rest of the Nation. In fact, in should be a leader in energy conservation.

The President has suggested reducing Federal energy consumption by 5 percent. In GAO's opinion, the 5-percent target is much too modest and, based on identified opportunities, consumption can be reduced much more than this. Considering that each percentage point reduction in Federal energy consumption saves the equivalent of about 8,000 barrels of oil a day, the importance of not setting goals too low is obvious.

GAO believes the lack of an enterprising Government conservation program stems largely from the Department of Energy's failure to take the lead. Lack of administration commitment and support for a strong program, coupled with Federal agency resistance to Energy's attempts to establish a meaningful program, also contributed to an inadequate Federal conservation effort.

GAO found:

Energy has not developed energy conservation plans for buildings as required by legislation and Executive orders. (See pp. 6 to 9.)

Energy has not issued guidance for Federal agencies to use in developing overall energy conservation plans. (See pp. 9 and 10.)

Energy's Federal Energy Management Program, which is responsible for the Federal conservation effort, is not capable of managing a comprehensive program because it does not have sufficient resources and organizational status. (See pp. 10 to 12.)

Although the Federal Government has reduced its energy use significantly, most of these reductions resulted from quick-fix changes that occurred between 1973 and 1974. (See pp. 12 and 13.)

Federal energy consumption data shows that since fiscal year 1975 the Government's energy use has increased in 2 of the last 3 years. (See pp. 12 and 13.)

Federal consumption of gasoline, a precious product, has increased 18 percent since 1974 while use of coal, a plentiful energy source, has decreased 27 percent. (See p. 13.)

Energy has taken a hands-off approach to managing Federal energy conservation efforts and does not intend to strengthen the Federal energy conservation program. (See pp. 14 and 15.)

RECOMMENDATIONS

The Congress should enact legislation which expresses the priority and emphasis that should be placed on the issue of energy use and management in the Federal sector and consolidate existing laws. The legislation should:

Require the President to develop and implement through the Department of Energy an aggressive and comprehensive Federal Energy Management Program and clearly define the roles, authority, and responsibilities that the Department of Energy and other executive branch agencies are to fulfill in the program.

Require under the Federal Energy Management Program's purview the development and implementation of specific plans and programs.

Require the President to complete action on the above items within 18 months after legislation is enacted and report to the Congress.

Provide to the Department of Energy central funding and control over energy conservation funds and restrict such funds to energy conservation use.

In view of the national importance of energy conservation and the need to establish immediately an aggressive Federal program to conserve energy, GAO recommends that the President not wait for congressional actions specified in this report and issue a new Executive order which incorporates a Federal energy management policy statement and provides for an aggressive and comprehensive program. The order should as a minimum:

Define the priority agencies are to place on energy conservation and assign the Department of Energy responsibility for the Federal Energy Management Program.

Specify clearly and precisely agency roles, authority, and responsibilities.

Provide for aggressive action to implement legislative and Executive order requirements.

Require Office of Federal Procurement Policy to develop more specific procurement strategies, guidelines, and procedures for considering energy use in Federal purchases and coordinate this effort with the Department of Energy.

Require annual progress reports from the Secretary of Energy.

Upon enactment of new legislation by the Congress, the President should revise the Executive order as appropriate for legislative compliance.

GAO recommends that the Secretary of Energy assist the President in this effort by immediately taking the following actions:

Establish within the Department of Energy a high-ranking Federal Energy Management Program office reporting directly to the Under Secretary.

Assign to this office broad responsibility for all aspects of Federal sector energy conservation plans and programs currently assigned to the Department.

Provide adequate funding and personnel resources to the office.

Direct appropriate Department of Energy officials to implement expeditiously adequate energy conservation plans and guidelines as intended under energy legislation and Executive orders.

Direct this office to develop an approved management plan for carrying out responsibilities.

AGENCY COMMENTS

This report was provided to the Energy and Defense Departments, the Office of Management and Budget, the General Services Administration, and the White House Staff for formal comment. The Office of Management and Budget, the General Services Administration, and the Department of Defense comments and GAO's response are included in appendixes II, III, and IV. Comments from the Department of Energy and the White House Staff were not received.

The Office of Management and Budget disagreed with GAO's view on centralization of the Federal Government's program to conserve energy and indicated that a decentralized management approach to Federal energy conservation is preferable. However, the Office, agreeing with GAO, stated that Energy can and should actively monitor Federal Government energy consumption trends and conservation opportunities and assist agencies needing help in developing energy conservation programs. With respect to decentralization, the Department of Defense expressed a similar position. The General Services Administration said it was not opposed to central leadership and coordination by Energy, but was opposed to unnecessary rules and bureaucratic controls that might result and slow down the progress being made by the agencies.

GAO disagrees with the Office of Management and Budget's and the Department of Defense's position on decentralization and believes the Federal Government needs a more centralized approach to fulfill its leadership role in energy conservation. GAO recognizes the General Services Administration's concern that establishment of a comprehensive Federal Energy Management Program with Department of Energy central leadership and coordination would result in more administrative review and approval. However, GAO believes that, if the program is properly managed, this burden need not be excessive and the benefits would far exceed any costs. An effective management program would assure energy conservation funds are allocated to the most attractive projects and eliminate needless duplication by the agencies.●

AMENDMENTS SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENTS NOS. 1321 THROUGH 1371

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted 51 amendments intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENTS NOS. 1372 AND 1373

(Ordered to be printed and to lie on the table.)

Mr. HART submitted two amendments intended to be proposed by him to an amendment intended to be proposed to H.R. 3919, supra.

EXTENSIONS OF TAX CREDITS FOR SYNTHETIC FUELS

● Mr. HART. Mr. President, I am submitting an amendment to the windfall profits tax to provide modifications of existing tax credits related to the production of synthetic fuels. This amendment pertains to the $3 per barrel production tax credit and to the 10-percent business energy investment tax credit in the Finance Committee bill.

ADJUST $3 PER BARREL TAX CREDIT

The Finance Committee bill already contains a tax credit providing $3 per barrel of synthetic oil produced. As my colleagues will remember, late last winter I introduced a similar proposal to provide a $3 per barrel tax credit for shale oil, subject to having the tax credit phase out with high world oil prices.

There are two technical problems with the Finance Committee bill. The first concerns the adjustment of the price used to phase out the tax credit. Already in the bill is a provision to have this tax credit phase out when the reference price reaches $29.50. The problem is that this $29.50 reference price is indexed for the implicit GNP inflator, which is the average rate of inflation in the country.

My amendment would modify the inflation adjustment of the reference price by having the reference price inflated by the implicit GNP deflator for business investment in structures. This modification is needed because the rate of inflation in business investment in structures is more closely connected to the actual cost of inflation in synthetic fuel plants.

If the rate of inflation in synthetic fuel plants and in the general category of business investment in structures is faster than the average inflation rate in the country, then the phaseout price for this $3 per barrel tax credit will also increase faster. This provision is fair because we do not want the $3 per barrel production tax credit to phase out very rapidly when the inflation rate in synthetic fuel plants could be increasing even more rapidly.

Another problem with the Finance Committee's version of the $3 per barrel production tax credit refers to the "reference price." In the Finance Committee bill, the $29.50 reference price is compared to the delivered price of imported oil. My amendment would change this so that the reference price is compared to the average price that domestic refineries pay for all of their crude oil.

Under the President's deregulation plan, domestic crude oil would be deregulated by 1982 and, therefore, the price of domestic oil will probably be as high as the price of imported oil. Therefore, presuming that the President's deregulation plan remains in effect, this modification should not actually change the effect of the Finance Committee's amendment after 1982. If, however, deregulation does not proceed as currently planned, then the $3 per barrel production tax credit would be modified probably to stay in effect a while longer.

EXTENSIONS OF 10 PERCENT BUSINESS ENERGY INVESTMENT TAX CREDIT

The Finance Committee bill provides for a continuation of the additional 10-percent investment tax credit for certain energy-related investments. As currently defined, these tax credits apply to oil shale equipment which excludes hydrogenation or upgrading facilities. My amendment would extend the tax credit to include these facilities.

Many people are not yet aware that when shale oil rock is treated in a retort to make shale oil, the product is usually unsuitable for immediate and direct processing in a refinery. In fact, most of the shale oil techniques would produce a thick, tarlike oil substance which will need to be "prerefined' before it is processed in a conventional refinery.

This prerefining is called hydrogenation because hydrogen is added in the process to make the shale oil product a more easily flowing liquid and more easily treatable in refineries. This upgrading process can cost several dollars per barrel, and the investment in a prerefining plant is extremely costly. Furthermore, the hydrogenation facilities are somewhat risky in that there will be a need to extract certain chemicals from the very crude shale oil before the product is shipped to refineries.

Because such hydrogenation facilities are necessary for most shale oil plants and because there is an element of risk involved since such facilities have not been built before on a commercial scale, it is necessary to extend the tax credit incentives to this part of synthetic fuels production.

Another part of my amendment pertains to the date of termination of the additional 10 percent energy investment tax credit. In the committee bill, in order for the synthetic fuel project to qualify for the tax credit after 1982, the company must meet several complicated provisions. I am concerned that if a company makes an error and does not satisfactorily complete in extreme detail all of the complicated requirements, the company could fail to receive the investment tax credit and yet be within the spirit of the Finance Committee's proposal.

In particular, in the Finance Committee bill, in order to qualify for the tax credit between 1983 and 1990, a company would have to complete all engineering studies and apply for all environmental and construction permits required under Federal, State, and local law before January 1, 1983. And, in addition, before January 1, 1986, would have to enter into binding contract for the acquisition, construction, reconstruction, and erection of equipment specially designed for the project. The aggregate cost to the company of that equipment must be at least 50 percent of the reasonably estimated cost for all such equipment which is to be placed in service as part of the project upon its completion.

The problem is that if a company makes a mistake, a small, honest mistake, and does not apply for a particular permit which it might not know about, or does not enter into a binding contract for some particular piece of equipment which it does not foresee as needed by 1986, the entire project would fail to receive the investment tax credit. The amendment which I am proposing would provide a great deal more certainty for companies and yet probably have less impact on the Federal Treasury. My amendment would extend the 10-percent energy tax credit for what we define as pioneering synthetic fuel projects until January 1, 1990.

The important part is our definition of pioneering synthetic fuels projects. Pioneering projects are those which employ a unique technical process which has not been previously demonstrated in a commercial plant and is not under construction for demonstration in a commercial plant. Furthermore, tax credit would apply only to that portion of the investment in the plant which is attributable to a maximum of 50,000 barrels per day.

In other words, the spirit of my amendment in this regard is to guarantee that plants placed in service before January 1, 1990, will qualify for the 10-percent energy investment tax credit. If they are demonstrations of a unique process, the Secretary of Energy would certify a particular project as unique so that a company would know whether it would receive the investment tax credit before initiated production.

My colleagues may be interested to know why this amendment would limit this extension of the investment tax credit to pioneering synthetic fuel plants. The answer is that the national policy toward synthetic fuels should be testing as many competing processes for synthetic fuels at commercial scale as soon as possible. A decision regarding Federal incentives to duplicate any particular synthetic fuel process should be reserved to a future date. This reservation is needed because we do not know that synthetic fuel processes will be economically practical and environmentally desirable.

After this pioneering commercial demonstration phase, we will know with reasonable certainty that one or more processes are acceptable on environmental and economic grounds. Then, private business will undertake measures to build duplicate plants consistent with environmental laws to help reduce U.S. dependence on foreign oil. Because a process has been demonstrated to be economically practical, it will probably be unnecessary to provide Federal incentives such as investment tax credits for the duplication of already demonstrated processes.

SUMMARY

In summary, this amendment to the windfall profit tax proposes modest adjustments to two tax credit proposals in the existing Finance Committee bill. The $3 per barrel production tax credit would be modified so that the phaseout of this tax credit would be related to the rate of inflation and investment in structures, and the reference price would be the average refiner acquisition cost rather than the cost of imported crude. Second, the record portion of my amendment would modify the existing 10-percent energy investment tax credit. The modifications would extend the tax credit to include upgrading facilities, preliminary to refining shale oil. Furthermore, the tax credit would be extended from 1982 until 1990 for pioneering synthetic fuel plants. Pioneering plants are those employing a unique technical process not previously demonstrated commercially, and a tax credit would apply only to the costs attributable to 50,000 barrels per day.●

AMENDMENT NO. 1374

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 1375 AND 1376

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted two amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1377

(Ordered to be printed and to lie on the table.)

Mr. LEVIN (for himself, Mr. RIBICOFF, and Mr. PERCY) submitted an amendment intended to be proposed by them to H.R. 3919, supra.

AMENDMENTS NOS. 1378 THROUGH 1433

(Ordered to be printed and to lie on the table.)

Mr. DOLE submitted 56 amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1434

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI (for himself and Mr. SCHMITT) submitted an amendment intended to be proposed by them, jointly, to amendment No. 735 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1435 AND 1436

(Ordered to be printed and to lie on the table.)

Mr. RANDOLPH (for himself and Mr. PERCY) submitted two amendments intended to be proposed by them, jointly, to H.R. 3919, supra.

AMENDMENTS NOS. 1437 AND 1438

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted two amendments intended to be proposed by him to amendment No. 791 proposed to H.R. 3919, supra.

DEPARTMENT OF ENERGY CIVILIAN PROGRAMS AUTHORIZATIONS—S. 688

AMENDMENT NO. 1439

(Ordered to be printed and to lie on the table.)

Mr. HATFIELD submitted an amendment intended to be proposed by him to S. 688, a bill to authorize appropriations to the Department of Energy for civilian programs for fiscal year 1980 and fiscal year 1981, and for other purposes.

SOCIAL SECURITY DISABILITY AMENDMENTS OF 1979—H.R. 3236

AMENDMENTS NOS. 1440 THROUGH 1442

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to H.R. 3236, an act to amend title II of the Social Security Act to provide better work incentives and improved accountability in the disability insurance program, and for other purposes.

NOTICES OF HEARINGS

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

● Mr. EAGLETON. Mr. President, on Monday, December 17, 1979, the Subcommittee on Governmental Efficiency and the District of Columbia will hold a hearing on a concurrent resolution to disapprove the action of the City Council with regard to the "Location of Chanceries Act of 1979," act 3-120, passed by the City Council on October 9, 1979, signed by the Mayor on November 9, 1979, and submitted to the Senate for congressional review on November 19, 1979. The hearing will take place in room 6226, Dirksen Senate Office Building at 9:30 a.m. Any questions about the hearing should be directed to Ira Shapiro or Peggy Crenshaw of the subcommittee staff at 224-4161.●

SUBCOMMITTEE ON GOVERNMENTAL EFFICIENCY AND THE DISTRICT OF COLUMBIA

● Mr. EAGLETON. Mr. President, on Tuesday, December 18, 1979, the Subcommittee on Governmental Efficiency and the District of Columbia will hold a hearing on S. 2122, legislation to clarify the authority of the Council of the District of Columbia to adopt emergency legislation under the Home Rule Act. The hearing will take place in room 457 Russell Senate Office Building at 9:30 a.m. Any questions about the hearing should be directed to Ira Shapiro or Peggy Crenshaw of the subcommittee staff at 224-4161.●

ADDITIONAL STATEMENTS

CRISIS IN THE CARIBBEAN

● Mr. GOLDWATER. Mr. President, it strikes me that we are in danger of paying so much attention to the problems in Iran and the Middle East that we may overlook what can only be described as a crisis in the Caribbean. In this connection, I should like to recommend to the Members an extremely important article on this subject recently published by the Arizonans for National Security. The author is Dr. Lewis A. Tambs, an authority on Latin American history, who spent 10 years in South America as an engineer and businessman. Dr. Tambs sees the crisis in the Caribbean as a third phase in a Soviet drive to strangle the free world's economies and energy supplies. Because of the pertinence of this article to the understanding of our national security needs, I ask that this article be printed in the RECORD.

CRISIS IN THE CARIBBEAN: A GLANCE AHEAD

(By Lewis A. Tambs, Ph. D.)

World War II is coming to a climax in the Caribbean. The first two phases of World War III—Cold War and Détente—have been succeeded by the Soviet scenario of double envelopment. Soviet Russia is seeking to isolate the People's Republic of China by geographical encirclement and to strangle the industrialized nations of the Western Alliance—particularly the United States—by choking off their access to strategic minerals and petroleum supplies.

The current crisis in the Caribbean is merely one manifestation of the grand geopolitical game plan of the Union of Soviet Socialist Republics (USSR). The objective is to seize the storehouse of strategic minerals in Southern Africa and throttle the Sea Peoples of the Western Pacific, Western Europe and the Western Hemisphere by acquiring control of the Sea Lines of Communication (SLOC) which carry the hydrocarbons vital to their advanced economies. For the United States, which is dependent on other lands for 93 out of 95 strategic minerals and which imports over 40% of its energy, the Caribbean is critical.

The Caribbean is a closed sea. The number of entrances and exits is limited. The Bahamas, Puerto Rico, the Leeward and Windward Islands encircle the eastern edge. North, Central and South America ring the rest. The only Pacific passage is the Panama Canal. The center of the circle is dominated by the Greater Antilles—Puerto Rico, Hispanola, Jamaica and Cuba which also form a barrier between North and South America. Only three channels, Mona, Windward and Yucatan cut through the Antillian island chain which lies athwart the sea lanes connecting the two continents. The warm tropical waters also wash Venezuela and Mexico, two of the world's major oil exporting nations. Thus, the Caribbean rim and basin is a petroleum focal point.

Through Caribbean channels, Antillian passages and the Panama Canal pulses the petroleum of the Middle East, Ecuador and Alaska. The Middle East may be the petroleum pump, but the New World Mediterranean is the nozzle. Supertankers sailing from the Persian Gulf around Africa do not dock directly in U.S. Atlantic or Gulf ports. These huge vessels transfer their cargoes at the Virgin Islands, Trinidad, or Curacao into standard size tankers which then sail on to the eastern or southern seaboards of the United States. Venezuelan oil also moves northward through the Yucatan, Windward and Mona Channels. Not all of this oil is crude. Since the U.S. has not completed a refinery in seven years much of this imported petroleum is finished product having been processed at off shore locations. The Panama Canal also plays an important role in U.S. energy supply. Oil from Alaska and Ecuador passes through the Republic of Panama by tanker through the Canal Zone. Thus, whoever controls the Caribbean can strangle the United States by choking off the petroleum life line.

"History passes, but geography remains" is a basic theme of geopolitics. The closed sea of the Caribbean has been the scene of strife since the emergence of Modern Europe. All of the great maritime nations—Spain, the Netherlands, Great Britain, the United States and the Soviet Union—have striven for supremacy in the New World Mediterranean. Nevertheless, only men make history.

The USSR, operating under the nuclear balance of terror, is applying the classical principles of geopolitics—encircle, isolate and overrun. During the first two phases of World War III, Cold War and Détente, the Soviet Russians prepared their grand design; first to gain nuclear superiority and then, shielded by an atomic umbrella, to launch a high seas fleet and to win the world's waterways by supporting subversion and wars of national liberation in critical areas. Since 1959 the Soviets have intruded into the world's fourteen major maritime choke points: Five inland seas—South China Sea, Mediterranean, North Sea, Norwegian Sea, and Caribbean; two interoceanic canals—Suez and Panama; and seven crucial passage points—Malacca Straits, Sri Lanka (Ceylon), Horn of Africa, Mozambique Channel, Cape of Good Hope, Gibraltar and Cape Horn.

Cuba has always been the key to the Caribbean. Fidel Castro struck around the rim of the inland sea between 1959 and 1965. The Dominican Republic, Haiti, Venezuela, Colombia, Panama, Nicaragua, Guatemala and Mexico were targeted. Nevertheless, local nationalism supported by United States counterinsurgency suppressed these subversive strikes. Direct action having failed, the Communists shifted temporarily to their other traditional tactic—the popular front. However, in 1968 a new technique was also initiated—infiltration of the armed forces. The results, aided by a general loss of will and purpose by the United States and abetted by an alarming decline in Yankee shrewdness and sense of strategy, were revolutionary.

The Caribbean has been an American Lake. Now, it is becoming a Socialist Sea. Guayana moved toward Marxism. Castroite General Omar Torrijos reigns in the Republic of Panama. President Jimmy Carter, apparently following the ideas advanced by the Institute of Policy Studies in "The Southern Connection," deeded away the Panama Canal, destabilized Nicaragua and is contemplating giving away Guantanamo and granting independence to Puerto Rico.

Withdrawal of the U.S. from the Caribbean and the Canal Zone—a Trans-Isthmian passage upon which not only the U.S. but also the Spanish speaking republics of Central and South America depend for their sea borne commerce—further upset the situation. Pushed by popular front governments and shaken by subversion, several of the former British Colonies in the West Indies—Dominica, St. Lucia, Grenada, and Jamaica collapsed into Castroism. Then, with the Atlantic approaches of the Leeward Islands and the Pacific passage of the Panama Canal within their grasp, the Cuban Communists and the Panamanian Partido del Pueblo, using neutralist Costa Rica as a sanctuary, concentrated on Nicaragua—the only other feasible route for a Trans-Isthmian Canal.

The agony of Nicaragua, which was exacerbated by the dispatch of U.S. arms to Panama for transshipment to the Sandinistas, the U.S. interdiction of Israel weapons destined for Anastasio Somoza and by the U.S. embargo of munitions for the Nicaraguan National Guard, is, however, only the beginning of the evisceration of Central America.

Nicaragua is a Central American beachhead for the eventual Castroite conquest of the petroleum fields in Southern Mexico. El Salvador is under seige; Guatemala targeted. Using a combination of ardent nationalism and socialist slogans a future People's Republic of Guatemala may call for the recovery of the lost province of Chiapas which was ceded to Mexico in 1882. The question is one of timing. The Sandinista Simón Bolívar Brigade is ready for action. The Soviets have sufficient airlift capacity to move the 3,000 Russian combat troops in Cuba to any area in the Caribbean. Debate over the date rages in Moscow, Havana and Managua. The controversy centers over the next president of the United States. If a hawk seems likely to win the White House the move into El Salvador will be soon. If a dove appears likely to prevail, El Salvador and Guatemala have about fourteen months of grace to get ready. Of more immediate import is the recent transfer of the Panama Canal Zone to the Republic of Panama on Monday, October 1, 1979.

Carter-Torrijos Treaties and DeConcini Reservations notwithstanding, loss of the Trans-Isthmian Canal by the United States long before the year 2000 is accepted in many Latin American circles. President Aristides Royo in his letter of July 11, 1979 to Jimmy Carter made it abundantly clear that there are numerous areas of disagreement over interpretation of the treaties.

In Panama as in El Salvador the question of a Castroite take-over is not if, but when. Dispute over some minor point in the Carter-Torrijos Treaties can be escalated into a contrived confrontation between the Panamanian National Guard and the US Army. Deaths will follow. Panama will nationalize the Canal under eminent domain and call upon their Socialist brethren in Nicaragua and Cuba for support—Humberto Ortego Saavedra, Commander-in-Chief of the Sandanista Armed forces told Panamanian officials on September 22, 1979 that his troops would fight along with the Panamanian National Guard against the US "if there is imperialist aggression." Faced with a fight the US will probably back down and withdraw. US evacuation of the isthmus will be followed by an astronomical hike in Canal transit tolls and eventually the closure of the Canal to US shipping and vessels carrying cargoes to or from US ports as well as interdiction of the Pacific-Atlantic pipeline. Simultaneously with terrorist attacks on US tankers, labor strife may erupt at the oil loading facilities and refineries in Curacao, Trinidad and the Virgin Islands. Aroused, as its industries grind to a halt the US will prepare for armed intervention. At this juncture the Soviet Union, confident in its newly won, but long planned nuclear superiority, will come to the defense of the various People's Republics in the Caribbean. In this eyeball to eyeball confrontation, reminiscent of the Cuban Crisis of 1962 when the US had an eight to one nuclear advantage over the USSR, it will be the US which blinks and stands aside. Shorn of imported strategic minerals, deprived of petroleum and unable to sail from coast to coast without permission of a Soviet surrogate, the US will withdraw into a vulnerable Fortress America—a third class power with a Third World standard of living. The Soviets with a good grasp of geopolitics and proper application of sea power, by fermenting subversion in strategic areas, will have triumphed.

History passes, but geography remains. The current crisis in the Caribbean is phase three of World War III. Soviet strangulation of the Free World's economic and energy supplies is well underway. The closed sea of the Caribbean is already spotted with Soviet surrogates and ringed with Socialist states. Interdiction of U.S. energy imports—75% of which either trans-ship or transit the Caribbean—from the Middle East, Venezuela, Ecuador and Alaska is well begun. Even the oil fields of Mexico are under long range attack. Nevertheless, though inland, seas, inter-oceanic waterways and passage points along with islands, channels and canals influence history, they do not determine the future. Only men make history. There is still time for the United States and the Western World to recover their instinct for survival and their sense of strategy and turn the Red tide which is engulfing the Caribbean.

ABOUT THE AUTHOR

Dr. Lewis A. Tambs, an authority on Latin American History, spent 10 years in South America as an engineer and businessman. He then changed course and earned a Ph. D. in History. He has published extensively in United States and Latin American journals. He is a co-author with Dr. Gerald Kleinfeld of the recently published book, "Hitler's Spanish Legion" which gives an account of the 37,000 Spanish volunteers that fought with the German Army during World War II.●

TRIBUTE TO THE PRINCIPLES OF HUMAN RIGHTS DAY

● Mr. WILLIAMS. Mr. President, for millions of people all over the globe, December is a time for special celebration. Chanuka is only days away, and people are making their final plans for the Christmas holidays which follow soon after. We are nearing the end of a decade which ran the gamut from domestic advances to the impressive, historic developments with the People's Republic of China.

This is an appropriate time, I think, to reflect on what the 1980's will demand of us, and on the commitments we have made as a Nation. Of course, this decade has not been without troubles, but a quick look brings into focus the sharp contrast between our own lives in the United States, and the troubled existence endured by so many others who have been denied their human rights.

This December, Americans are helping out with the difficult and traumatic events in Cambodia, working both here and abroad to provide medical care and food to the many refugees who desperately need attention.

In Iran, we are faced with an explosive situation unlike any in recent history. Americans who worked in our Embassy are still being held hostage after more than a month in captivity. A great deal of our national energies have been devoted to finding a peaceable solution to what surely is a dangerous and frustrating situation.

And in the Soviet Union, the human rights of dissidents and Soviet Jews are still in jeopardy, despite the constant efforts of Americans and others to encourage leniency from Soviet officials.

This holiday season, we should think long and hard about our commitments to human rights and to the efforts we have yet to make if we are going to insure peace for American citizens and our friends. It is time for us to renew our unwavering support for those who look to us for a sign that our commitments are still strong.

Over 30 years ago, the United Nations General Assembly adopted a major statement of policy which proclaimed the Universal Declaration of Human Rights on behalf of people everywhere whose individual freedom and dignity are ignored. The December 10, 1948, declaration was set forth as a common standard for all nations so that every individual and social institution would strive, through education, to promote respect for the rights and freedoms cited in the policy statement. Progressive measures were promoted to secure the international recognition and observance of these precious rights.

On December 6, 1949, President Harry S Truman put a special American stamp on the occasion by issuing a proclamation designating December 10 of that year, and each succeeding year, as Human Rights Day.

Ever since this important declaration was adopted, it has been used as the cornerstone for important actions taken by the United Nations. Its provisions have inspired international conventions both within and outside of the U.N. It has exercised significant influence on national constitutions and municipal legislation and, in several cases, on the decisions of courts. The declaration has also been used to define a code of conduct to measure the degree of respect for and compliance with the international standards of human rights.

We are still a long way from the guarantee of human rights to every citizen in every land, as sought by the declaration, and that remains a cause for continuing concern. To demonstrate our own commitment, the President has sought congressional approval of the U.N. Covenant on Economic, Social, and Cultural Rights, and the Covenant on Civil and Political Rights. I strongly believe that we must also work to achieve ratification of the Genocide Convention and the Treaty for the Elimination of All Forms of Racial Discrimination.

This December 1979, we should renew our national support for the protection of human rights. Working toward the guarantees contained in the agreements I have just named would be a sign that we are willing to implement our conviction. It would be a beacon of hope to those who are suffering the burdens of totalitarian injustice.

A speech given by John F. Kennedy nearly 20 years ago carries with it a special meaning for us this year. He said:

> Let the word go forth from this time and place, to friend and foe alike, that the torch has been passed to a new generation of Americans, born in this century, tempered by war, disciplined by a hard and bitter peace, proud of our ancient heritage, and unwilling to witness or permit the slow undoing of those human rights to which this nation has always been committed, and to which we are committed today at home and around the world.

I am hopeful that our public dedication to the human freedoms set down in the declaration will inspire a greater acceptance of them by governments throughout the world. And I am hopeful that my colleagues will join me in renewing our commitment to the ideals which have inspired the expectations and the hopes of people everywhere.●

HURRY-UP SPENDING

● Mr. BELLMON. Mr. President, I would like to call the Senate's attention to recent hearings held by the Senate Governmental Affairs Subcommittee on the problem of "hurry-up spending" in the Federal Government—the last-minute rush by Federal agencies to obligate their funds at the close of a fiscal year.

Late last summer, at the request of Senator COHEN, the minority staff of the Subcommittee on Oversight of Government Management began an investigation of the phenomenon of "hurry-up spending."

Based on the results of this study, Senator COHEN, with the cooperation of Senator CARL LEVIN, the subcommittee chairman, scheduled hearings to explore, for the public record, the origins of the disturbing yearend spending problem. Witnesses from the Law Enforcement Assistance Administration, the National Highway Traffic Safety Administration, and the Department of Commerce told how lack of planning and, sometimes, disregard for the public interest have resulted in inefficiencies in yearend purchases. Regrettably these practices have continued as recently as September 1979, the last month of the fiscal year that just ended.

Although representatives of the Office of Management and Budget, also present at the hearing, claimed that the amount of waste can be exaggerated, they promised to examine more closely the planning tools and controls that are available to insure that Government funds are spent in a wise and prudent manner. A system already in operation at EPA has produced savings in the last fiscal year of $1 million in staff costs alone.

These hearings by the Governmental Affairs Subcommittee coincided with the same concern being addressed in the congressional budget process. At my suggestion the conference report on the second concurrent budget resolution for fiscal year 1980 contains a strong statement urging both the Congress and the President to provide limitations in fiscal year 1981 spending legislation or alternative legislative remedies to curtail wasteful end-of-year obligation of funds. A copy of that statement by the budget conference is attached for inclusion in the CONGRESSIONAL RECORD at the conclusion of my comments.

I applaud Senator COHEN and his staff for taking a serious and thorough look at the "hurry-up spending" dilemma.

Mr. President, I submit for the RECORD Senator COHEN's opening remarks on the hearing and articles which appeared in the Washington Post, the New York Times, and U.S. News and World Report concerning the hearing.

The material follows:

[Excerpt from conference report on Second Concurrent Resolution on the Budget FY 1980]

YEAR-END WASTEFUL SPENDING

The conferees are very concerned about wasteful government spending which may result from agency practices of obligating substantial amounts of funds during the last weeks and months of the fiscal year in order to avoid lapse of unneeded funds at year end. Although the seasonal nature of some programs may require that obligations be incurred at a greater rate toward the end of the fiscal year, there are undoubtedly many instances of hasty and ill-considered obligations simply because the annual appropriation would otherwise lapse.

Accordingly, the conferees urge continued careful scrutiny of appropriation requests by the Congress to assure that amounts made available for obligation are not excessive, and careful review by the Office of Management and Budget of requests for apportionment to reduce instances of wasteful end-of-year obligation of funds.

In particular, the conferees urge the appropriate committees to consider the need for language in fiscal year 1981 spending bills to control the obligation rates for Federal programs, or consider alternative legislative remedies for this problem. The conferees also urge the President to consider such limitations or remedies as part of his budget and legislative proposal for fiscal year 1981.

OPENING STATEMENT OF SENATOR WILLIAM S. COHEN

Mr. Chairman, I want to express my appreciation to you and your excellent staff for your cooperation in holding this hearing on "hurry-up spending" in the federal government.

Hurry-up spending, the process by which Federal agencies obligate huge amounts of money in the last quarter of the fiscal year, is not new. President Johnson recognized the problem fifteen years ago and issued a memorandum denouncing "opportunistic spending in the last days of the fiscal year." Directives from the Office of Management and Budget prohibiting wasteful year-end spending have since become annual events as regular as the opening of the cherry blossoms.

Clearly, however, the OMB's guidelines haven't been entirely successful. During the past decade, the General Accounting Office has criticized a number of agencies for spending a disproportionate part of their budgets in the final months of the fiscal year. For example, a recent GAO study revealed that in 1975, the Maritime Administration obligated 42 per cent of its contract budget during the last two working days of the fiscal year. Every year the newspapers report a new scandal involving wasteful year-end purchases. Every year there's a new internal audit that documents the lack of need for items bought at year-end.

The year-end spending tidal wave shows no signs of abating. Just look at the figures for September, the last chance agencies have to empty their tills and comply with their appropriations guidelines. In 1977 and 1978, the amount of funds spent in September was double that spent in each of the eleven preceding months.

Despite its responsibility to control the Federal purse strings, Congress has given the problem of questionable year-end spending little attention in the past. Recently, however, in the conference report to the second budget resolution, members of both houses agreed that hurry-up spending poses the potential for vast abuses of Federal spending power. In this hearing, we will go beyond this expression of concern and document why there is such a surge in Federal spending at the end of the fiscal year, whether or not it is justified, and, if it isn't, how it should be remedied.

Let's consider the justifications for a moment. Our preliminary studies showed that some of the jump is explainable. We would be irresponsible not to recognize that in many cases what shows up on September's books is the culmination of months, even years, of effort.

But I think we would be equally irresponsible not to raise serious questions about the slipshod procedures often used to spend money before the September 30 deadline.

It's easy enough to criticize agencies for the outrageous items bought during the height of the Autumn binge. During our investigation, we found some of these—money spent on plants, office furniture, color televisions, and yes, an oriental rug.

But our investigation suggests that the waste of tax dollars is not only in the $500 for plants, or in the thousands of dollars for new office equipment.

The waste is in poorly negotiated contracts involving billions of dollars for goods and services that are needed by the public.

The waste is in the costly mistakes contractors make because everyone in the Federal government has forgotten about monitoring the billions of dollars of ongoing contracts in order to work full-time on writing new contracts at year-end.

The waste is in the millions of dollars of overtime logged by government personnel in order merely to process the flood of procurement actions that occur in the last quarter of the fiscal year. Hurry-up spending is a widespread problem. The agencies represented here today have not been called to testify because they have been adjudged particularly "guilty" of participating in the year-end binge. They represent the average problem, which is nevertheless staggering in its proportion.

In short, the evidence clearly suggests that the present system does not ensure that Uncle Sam always obtains full value for our tax dollars. These costs far overshadow the amount of money that may be spent for particular items that I might deem unnecessary, such as color televisions.

The problem is that federal program managers and budget personnel are faced with a Catch-22 situation. They are supposed to spend the public's money as carefully as possible. But if they plan effectively, budget prudently, spend less, and manage to return tax dollars to the federal treasury, they face the prospect of having their budgets slashed for the next year. There is no incentive for prudent management, no regard for saving tax dollars. The system is common sense turned upside down.

In a way, we need look no farther than the House and Senate chambers for the origins of the dilemma. Congress is not always in a position, or does not have the desire, to determine the need for particular appropriations.

In the past, there has been a tendency to say, "We'll appropriate what the agency spent last year, and maybe adjust it for inflation." As long as Congress focuses its primary attentions on the amount of dollars spent, and not on the quality of government program expenditures, the Catch-22 will remain. It is self-evident, moreover, that Congressional failure to enact appropriations bills in a timely fashion contributes to the inability of agencies to plan their expenditures.

If Congress is to carry out its oversight functions, however, it needs better information about what agencies plan to do with their money. Even if an agency receives its appropriation on time, it often lacks specific ideas of how to spend appropriated funds. Sometimes such plans are lacking as late as halfway through the fiscal year. How can Congress be expected to assess the need for certain expenditures when the agencies themselves don't know what they intend to buy even after they have their money? With this kind of planning, it's little wonder that the year-end crunch is the rule rather than the exception.

The real tragedy here is that some agencies do plan well. But their experience rarely benefits those organizations in need of help because no one on the administration apparently has taken the lead in promoting the management tools that are available.

Mr. Chairman, former secretary of the treasury Michael Blumenthal once referred to the year-end spending binge as agencies "literally pushing money out the door with a wheelbarrow" in order to use up their funds and thus suggest that they are doing their job.

He said that several billion dollars could be saved each year if this backhanded public relations effort were curtailed.

Congress has the responsibility not only to appropriate money but to ensure that it is wisely spent. It is time we stopped the wheelbarrows from rolling.

[From the U.S. News & World Report, Dec. 10, 1979]

END-OF-YEAR SPREE WITH TAX DOLLARS

Congress is looking for ways to stifle traditional spending sprees by bureaucrats determined to use every nickel in their budgets before the fiscal year ends.

Despite the third White House order in as many years banning wasteful last-minute outlays, senators heard evidence on November 29 that the practice continued up to the September 30 end of the last fiscal year.

Senator William Cohen (R-Me.) said his investigators turned up "outrageous items bought during the height of the autumn binge"—including furniture, television sets and an Oriental rug. More common, he said, are "poorly negotiated contracts involving billions of dollars of goods and services."

Testimony showed that the Law Enforcement Assistance Administration leased $200,000 worth of automatic typewriters on the last day of September to avoid a rule going into effect the next day requiring approval from another agency. To beat the deadline, an employe said, bureaucrats "sped up like a car flying through an intersection seconds before the light turns red."

Among other cases alarming senators were $65,000 spent at year's end by federal housing officials for furniture that wound up in a warehouse and a last-minute $132,000 grant by the Justice Department to a consultant to evaluate other grant proposals.

One suggested remedy: An order from Congress that bureaucrats spend at an even pace during the year.

Still, some federal workers are proud of their spending abilities. Air Force officials in the Philippines spent some of a $715,000 surplus in September to resurface tennis courts, clean swimming pools and buy color TV sets. The base commander termed the spending "a fine team effort."

[From the New York Times, Nov. 30, 1979]

YEAR-END RUSH TO SPEND U.S. FUNDS ASSAILED

(By Clyde H. Farnsworth)

WASHINGTON, November 29.—Federal procurement officers today supported contentions of budget watchers on Capitol Hill that billions of dollars of taxpayers' money are probably wasted by the bunching up of Federal spending in the fourth fiscal quarter.

The profligacy occurs, a Senate subcommittee was told, when program officers suddenly find, late in the year—as they frequently do—that they have not spent all the money Congress has appropriated for them.

Rather than return the funds to the Treasury and be docked when the following year's appropriations are made, questionable contracts are awarded in a "use-it-or-lose-it" rush to spend before the fiscal year ends on Sept. 30.

PROCEDURES OFTEN WAIVED

Often, said Joe N. Pate, a contract officer in the Law Enforcement Assistance Administration of the Justice Department, awards are made in which both audit and competitive bidding procedures are waived.

Dana L. Scott, associate administrator for administration of the National Highway Traffic Safety Administration, added, "Compressing a high percentage of awards in the fourth quarter impairs the procurement process."

Amid the ever-more-intense Congressional interest in fiscal restraint, the Subcommittee on Oversight of Government Management of the Senate Government Affairs Committee called procurement officers at today's hearings to get rare first-hand knowledge of the way the practice works.

WASTE "MAY BE THE NORM"

The subcommittee's chairman, Senator Carl Levin, Democrat of Michigan, reported that after a three-month staff investigation it was found that the wasteful practices "may well be the norm rather than the exception."

Mr. Pate, the contract officer at the law enforcement assistance agency at the Justice Department, cited as one example an award made by his own agency last Sept. 20, which he said he had let against his better judgment, under orders from superiors.

The contract involved a $132,500 project called New Pride to enlist private enterprise in a consultancy to help the agency evaluate grant applications. There were three problems connected with the contract, he said:

Evaluation of grant applications was a job the Government should be performing itself.

There was no time to conduct an audit of relevant cost information.

The agency had to buy new furniture for the contractor, even though the agency had excess furniture that could have been used in a warehouse.

Under questioning from Senator William S. Cohen, Republican of Maine, Mr. Pate noted that "the same situations have happened over and over in all the agencies that I worked in." Since 1958, these have included the Air Force, Department of Commerce, Department of Transportation, and Department of Housing and Urban Development.

LAST-MINUTE AIR FORCE SPENDING

Senator William Proxmire, Democrat of Wisconsin, awarded his November Golden Fleece Award to the Air Force for $715,000 in spending at Clark Air Force Base in the Philippines in the last month of the 1979 fiscal year.

"It's easy enough to criticize agencies for the outrageous items bought during the height of the autumn binge," said Senator Cohen. "During our investigation, we found some of these—money spent on plants, office furniture, color televisions, and, yes, an oriental rug."

But he went on to say the real waste lay not so much in $500 for office plants as in the "poorly negotiated contracts," in "costly mistakes contractors make because everyone in the Federal Government has forgotten about monitoring" and in the "millions of dollars of overtime logged by government personnel in order merely to process the flow of procurement actions."

[From the Washington Post: Nov. 30, 1979]

YEAR-END SPENDING PUSH PROBED ON HILL

(By Morton Mintz)

Senate investigators took a new look yesterday at one of the old problems in government, "hurry-up" spending in which agencies hastily get rid of their money in the final hours of each fiscal year so they won't have to give any back to the Treasury.

In fiscal 1978, for example, the subcommittee on oversight of government management was told that monthly outlays jumped from $44.8 billion in August, the next to last month, to $86.8 billion in September. That was a 94 percent increase.

The Maritime Administration, in the last two days of one fiscal year, obligated 42 percent of its budget for contracts. The Department of Health, Education, and Welfare, in the last three days, awarded eight contracts in a year's batch of 15.

In addition, said Sen. William S. Cohen (Maine), the unit's ranking Republican, there's the extra cost of poorly negotiated contracts, including those for noncompetitive procurement, and overtime needed to process tidal waves of procurement at year end.

By contrast, W. Bowman Cutter, an official of the White House's Office of Management and Budget, conceded only that "some abusive year-end buying occurs. But, he said, "I am persuaded that the extent of the problem has been exaggerated and in a way that could cause harm to rational government."

Most year-end spending increases result from "predictable occurrences," principally slow congressional approval of appropriations, "normal obligation patterns, management efficiencies, and bookkeeping procedures," Cutter said.

Through the years, hurry-up spending has been regularly exposed and decried while persisting and flourishing. As Cohen sees it, the principal cause is that federal program managers and budget officials, who are supposed to spend public money with utmost care, are in "a Catch-22 situation" for which some blame goes to Capitol Hill habit of focusing on dollars rather than program quality.

If the officials "plan effectively, budget prudently, spend less, and manage to return tax dollars to the federal treasury, they face the prospect of having their budgets slashed for the next year," Cohen said.

He assigned his staff to a three-month investigation that led subcommittee chairman Carl Levin (D-Mich.) to schedule the first series of oversight hearings on the problem.

The staff said that "dozens" of officials in numerous agencies privately acknowledged hurry-up spending abuses, but that only one, Joe N. Pate, contracting officer of the Justice Department's Law Enforcement Assistance Administration, consented to testify.

Terming LEAA buying practices typical of the executive branch, Pate told how it got around tough new General Services Administration rules for buying $200,000 in word-processing equipment.

Under the rules, GSA approval to buy such equipment was to be required after last Oct. 1. But on Sept. 28, Pate's office was asked to approve a noncompetitive three-day lease for such equipment. The intent "was to use a loophole" to bypas GSA, he testified. Pate refused to approve the lease. His supervisor, W. W. Hudson, did.

LEAA's reaction to GSA's threat to its purchasing power was to speed up "like a car flying through an intersection seconds before the light turns red," Pate said.

Pate, appearing at yesterday's opening hearing "as an individual, a concerned taxpayer, a concerned citizen and . . . a professional civil servant," said peers warned him that he was "putting my career at stake."

He has been in the contracting field, in various agencies, for 21 years. His performance at LEAA was praised at the hearing by two of his bosses, general counsel Thomas Madden and Comptroller Robert Goffus, although they disputed some of his facts. But Cohen told a reporter, "His overall point of view was absolutely confirmed." ●

APPEALS IN BEHALF OF HOSTAGES IN IRAN

● Mr. PELL. Mr. President, I wish to declare my support and admiration for three campaigns that have been initiated in my State of Rhode Island in connection with the Americans being held hostage in Iran. All of them involve sending messages to Tehran to complement our own domestic expression of solidarity through the ringing of church bells for the hostages.

The first one is an effort, organized by Phyllis Winkler and Edna Owens of Newport, R.I., which calls upon millions of Americans to send telegrams to Tehran between December 15 and December 31 with the following simple, but forceful message:

> Release American hostages! Unharmed! Immediately!

The second is a proposal made by Rhode Island's Secretary of State, Robert F. Burns, that letters be sent to the Iranian Mission to the United Nations in New York urging compliance with the U.N. Security Council resolution calling for the release of the American hostages.

The third campaign is an appeal by the Coventry Teachers Alliance, affiliated with the American Federation of Teachers, for students and parents to send Christmas cards and letters to the hostages in Iran. The alliance will be collecting the cards and will pay all postage. The idea is to demonstrate to the hostages and their captors that Americans are thinking of the hostages and supporting them in their ordeal.

In my view, every peaceful means must be used in an effort to free the hostages. These campaigns, which I hope will swamp Tehran with cards, letters, and telegrams, will make it clear to the Iranian Government that Americans feel very deeply about the hostages and will not yield to blackmail. At the same time, the absence of threats in the appeals will underscore that Americans want the confrontation with Iran resolved by peaceful means if at all possible.

I am very proud of these Rhode Island campaigns and am pleased that they have been timed to coincide with the holiday season. The holiday season is a most appropriate time to demonstrate solidarity and concern for a brave band of Americans who are wondering whether they will ever again enjoy a Christmas with their families and friends.

The outrageous seizure of our diplomatic people in Tehran is a day that will long be remembered in international infamy. This wholesale abuse of diplomatic immunity and the sanctity of a diplomatic mission is, to the best of my knowledge, a first in history. Accordingly, we must not submit to blackmail or accept in any way an action that is clearly illegal under international law. The President has already acted in a number of specific areas, and I support what he has done, including his decision to take action against those Iranians in this country who are in violation of their guest status.

Further strong measures also must be considered. I believe, however, that for the time being we must be careful not to provoke the Iranian Government into taking actions of possibly tragic consequences against our Embassy personnel. Our first priority must be to get our people back, and then we can determine what the appropriate response should be to Iran's illegal actions.

Mr. President, I ask that an abstract describing the telegraphic appeal in behalf of the hostages in Iran and Secretary of State Burns' press release and letter be printed in the RECORD.

The material follows:

ABSTRACT: TELEGRAPHIC APPEAL

Bells ring daily to show support for hostages being held in Tehran. White banners fly from autos. Still the tension mounts. People are frustrated. "What can I do?" They ask and as always it is difficult for those who sit and wait. It is extremely important that our feelings of anger and frustration not become directed toward Iranians in the United States. We must not participate in the very negative actions that we so abhor in Tehran. But there is something you can do. Something positive.

A small group of concerned citizens have come up with a nation-wide plan to reach every American and urge them to bombard the U.S. Embassy in Tehran wth telegrams. Millions of messages, one voice, Release American Hostages! Unharmed! Immediately! The date for this attack? December 15th through December 31st. The cost is small, less than $4.00 per message.

Phyllis Winkler, an environmental health technician from Newport, R.I. started the campaign and it is growing hourly. Volunteers are sending information to churches, colleges, elected officials, and concerned citizens all over the United States urging support. Phyllis's dream is two-fold: to reach every American and to have every American respond.

"We are divided on many issues in this country." Phyllis says, "But on this one issue we are united and we must present a united voice to the people of Iran."

The group is busy working almost around the clock seeking support for the campaign. News releases have been sent to the major wire services as well as National television and radio stations. Everyone is urged to contribute in some way. Write a letter, tell a friend, or make a phone call. But please help!

Don't Forget December 15th. Release American Hostages! Unharmed! Immediately.

Name ———.

State ———.

Send to the U.S. Embassy; Tehran, Iran.

DEPARTMENT OF STATE, OFFICE OF
THE SECRETARY OF STATE,
Providence, R.I., December 7, 1979.

Secretary of State Robert F. Burns today urged the citizens of Rhode Island to write to members of the Iranian Mission at the United Nations in support of the U.N. Resolution to free the American hostages.

Enclosed is a copy of his communication to the representatives of the Iranian government to the United Nations.

ROBERT F. BURNS,
Secretary of State.

DEPARTMENT OF STATE, OFFICE OF
THE SECRETARY OF STATE,
Providence, R.I., December 6, 1979.

Their EXCELLENCIES, *the Representatives of Iran to the United Nations, New York, N.Y.*

EXCELLENCIES: I am writing to urge support of the Resolution adopted by the United Nations calling for the return of all American hostages held in Iran. The Resolution insures the government of Iran that its allegations against the former Shah will be heard by the United Nations acting as a world forum upon which public opinion of the world can be forged peacefully.

The United Nations Resolution should not be ignored by the Iranian Government. Its value for propaganda purposes in the interest of Iran far exceeds that of continuing a stalemate between our countries over the issue of the hostages. To lose the respect of the people of the United States is one thing; but to risk losing the respect of all nations by refusing to honor the Resolution would be a long-range error on the part of your nation.

All impasses must eventually come to an end. This one between our governments surely will, also. As an American, I wish it to be a peaceful and rational solution. However, I urge the Iranian government to remember that the people of the United States are not interested in Iranian oil, which we can learn to live without. We are interested solely in the restoration of the freedom of Americans you now hold prisoner, for freedom is the only thing which Americans cannot learn to live without.

No American enjoys complete freedom while your country denies one American his freedom.—And in holding Americans prisoners against their will, Iran in effect holds all the people of our nation against their will. This simply cannot be tolerated very much longer by the people of the United States.

Our national unity was questioned often during the Vietnam era. It is not questioned today. The hostage issue has united all of America to an extent not seen since the attack on Pearl Harbor. Kindly convey to Mr. Khomeini the urgency of settling this matter in a peaceful way as promptly as possible. He should realize the consequences to Iran could eventually prove greater than the consequences to America. Without freedom for every American, no American has it. As a nation, therefore, we are ready to support whatever action our country deems necessary for it to insure the safety of its people anywhere in the world.

Give the United Nations a chance. Allow them to serve Iran as well as all other nations by honoring the Resolution to free American hostages. Returning the hostages to the United States will return Iran once again to the mainstream of humanity from which it appears to have parted of late.

Respectfully,

ROBERT F. BURNS,
Secretary of State.

1979 RESOLUTIONS OF THE ASSOCIATION OF THE U.S. ARMY

• Mr. GOLDWATER. Mr. President, in my experience, there is no organization that pays any closer attention to America's defense problems, and especially the Army's role in our military system, than the Association of the U.S. Army. It recently held its annual meeting and adopted a series of resolutions which outline many of the needs that currently confront us. For this reason, I ask that the 1979 resolution of the AUSA be printed in the RECORD.

The resolution follows:

AUSA ACTS IN SUPPORT OF THE TOTAL ARMY: 1979 RESOLUTIONS

PREAMBLE

It is the nature of world affairs that nations with common aims must be collectively strong if they are to ensure their well-being and chosen way of life. Statements of national policy and national objectives are meaningless if nations lack the power to carry them to fruition. Strength, in the context of international relations, mandates that nations devote the necessary manpower, finances, and other vital national resources in furtherance of the common cause.

Actions undertaken by the United States, in furtherance of developing and maintaining a proper defense posture, bear particular significance. To this end, the Congress has mandated that the Army:

Provide for the defense of the United States, its Territories, Commonwealths and possessions.

Preserve the peace and security.

Support national policies and implement national objectives, and

Overcome nations responsible for aggressive acts that imperil the peace and security of the United States.

It is significant that the Congress has further directed that the Army shall be so organized, trained and equipped as to permit it to accomplish the foregoing under conditions that demand prompt and sustained combat. The Resolutions which follow support and further this law of the land.

Tasks implicit in the Army's mission can be accomplished in a timely and effective manner only if the Army is provided the means to accomplish the end and, here, the most precious and critical ingredient is manpower. The Army is people, and the proficiency of the Army is related directly to the quality and quantity of its soldiers. Incentives beyond appealing to one's sense of obligation and patriotism are necessary if we are to prevail upon young men and women to commit themselves—and perhaps their lives—in the service of their country. The profession of the United States Army soldier has never been an easy one, but when properly equipped, trained and oriented, he is the equal of any fighting man in the world.

The resolutions which follow clearly evidence the concern of this Association, not only for the operational readiness of the ground forces as an entity, but also direct attention to the necessity for providing for the well-being of the soldier on a wide range of issues. Morale always has been and always will be a critical factor in the profession of arms; hence, the Association of the United States Army has long been vitally concerned about those matters which bear upon the circumstances under which the soldier lives, trains and fights. The continued existence of this country, under our chosen form of government, will, in times of peril, rest in the hands of its soldiers. Those soldiers must be assured that in the event of a national emergency they will have the country's full support. Steps, such as those proposed in the following resolutions warrant the attention of all in authority. The soldier and his family must be adequately paid, housed, cared for in sickness and health, and given recognition for the job the soldier performs—the most challenging and dangerous of any in the world.

IN SUPPORT OF SOLDIERS . . . 1. BILL OF RIGHTS FOR THOSE WHO SERVE

The military way of life differs in a marked degree from the civilian career environment. With its long, arduous training, ever present danger, family separations, constant relocations and unusual demands on both the individual and his/her family, it calls for a long term commitment to a life of dedicated service. What is less clearly defined is the nation's responsibility to those who so serve their country.

The Defense Manpower Commission, appointed by direction of the Congress, in its April 1976 Report, states "that a 'Bill of Rights' should be enacted specifying the benefits that accrue from military service. This Bill of Rights would provide that such benefits would only be changed, or eliminated, prospectively, and changes would not apply to those already in the Service. The serviceman now perceives that his benefits are in jeopardy. His trust and confidence in the system have been shaken to the point where legislation may be necessary to restore it."

AUSA concurred wholeheartedly with this finding of the Defense Manpower Commission and has actively urged enactment of appropriate implementing legislation for three years.

In the view of the Association, the lack of understanding of the military compensation system on the part of the Executive and Legislative Branches, as well as the individual service people themselves, is due partly to the system's complexity. It also has roots in the number of recent changes to the system, actual and proposed, as well as in the multitude of directions from which the changes have come. This obvious lack of coordination among the authors of changes, together with ineffective efforts to explain adequately to service personnel what the changes are intended to accomplish, has further clouded the issue.

The continuing widespread perception among servicemen and women that national commitment to their support is declining has not abated, although there have been Administration and Congressional efforts to deal constructively with some elements of the required Bill of Rights. Unfortunately, these actions have been initiated in the same uncoordinated, piecemeal manner as in the past. Specifically:

The pay raise ceiling imposed by the President is clearly an injustice in that it invalidates the concept of pay comparability, and forever reduces the level of ultimate retired pay and other pay elements, such as bonuses and reserve component pay.

The repeated, but so far unsuccessful, proposal in the Senate to reduce commissary appropriated fund support and to limit transportation of post exchange supplies overseas, using the money so saved to increase ammunition procurement, in effect, asks soldiers to pay for their ammunition.

The effort on the part of the House Appropriations Committee and the Senate Armed Services Committee to reduce the numbers of military dependents overseas by cutting funds/spaces for dependent support activities (schools and housing) and to revoke the funding for junior enlisted travel entitlements overseas creates a serious morale problem.

The failure of the Administration to support DA requests to extend funding support for junior enlisted travel entitlements worldwide is discriminating.

The failure on the part of DOD to adjust the rapidly widening gap between an individual's Permanent Change of Station costs and reimbursement, by authorizing concurrent per diem and mileage, is costly to the individual soldier and family.

All of these are indications to those who serve that some of the nation's leaders lack real concern for those who wear their country's uniform, and harassments, such as charging federal employees parking fees on some military installations, is an example of unwarranted irritation.

To overcome the debilitating effect on morale associated with this perception of lack of concern, a Bill of Rights is essential. It should include:

A clear acknowledgment of the federal government's responsibility to adequately pay, house, feed, transport and provide medical and dental care to active duty service personnel and their dependents.

A pay and allowance system which recognizes the special nature of military service, to include:

Basic pay to compete with other employment systems, equitably rewarding progressive achievement in the military system.

Housing or a quarters allowances to be provided all single service personnel, and family housing or a quarters allowance for all personnel with dependents. The basic allowance per grade for quarters should be set on a standard of total housing costs, varied by locale.

A single standard basic subsistence allowance for all personnel authorized to mess separately, as recommended by the Third Quadrennial Review of Military Compensation.

Cost of Living Allowances for both married and single soldiers to offset exceptionally severe living expenses in high cost locales, worldwide.

A tamper-proof system to adjust annually pay/allowances based on the consumer price index.

A full range of medical and dental care for active duty services personnel and retirees and their dependents, provided by military health care facilities, augmented by CHAMPUS in its original form, i.e., 90th percentile payments and care of service-connected disabilities.

Recognition by the Congress and the Administration of their responsibilities for quality education of dependents.

Complete commissary and exchange systems, with continued appropriated fund support.

An expense reimbursement system which compensates all personnel for the actual expenses of official travel, to include family separation allowances, dependent travel, and shipment of household goods for all personnel with dependents.

Appropriated fund support of essential military recreation programs.

A retirement system which provides for:

Retired pay levels modeled on the previously proposed Retirement Modernization Act, which places a premium on longer service, while retaining 20-year separation at lower rates, providing equity in the form of separation pay for enlisted and officer personnel involuntarily separated without prejudice prior to reaching retirement eligibility, and retirement pay that is not integrated with the Social Security program. Included should be a description of the basis for adjustments to the level of retired pay and survivors' benefits to maintain purchasing power. When changes are necessary, they should provide protection for those already serving, including a save-pay clause, as appropriate.

An equitable Survivor Benefit Plan with the Social Security offset reduced to 50 percent of the benefit attributable to military service, the offset to be eliminated when the beneficiary is entitled to equal, or greater benefits, due to his or her own employment. Premiums should be calculated in the same manner as for Civil Service employees.

Free and equal access to the entire job market for which retirees are qualified upon honorable separation from the service, without forfeiture of earned benefits.

No single element of the military compensation system should be studied or modified outside the context of the entire system.

We Therefore Resolve to reiterate our strong conviction that the Congress, charged with raising and maintaining the Armed Forces of the United States, legislate the described elements for a "Bill of Rights for Those Who Serve".

We Also Resolve that the Bill of Rights not only be defined in law, but that each service person now, and henceforward, receive a copy of its provisions upon enlistment or commissioning.

2. MILITARY HEALTH CARE SYSTEM

The most critical problem in the military health care system is the overall shortage of military physicians and nurses. The Active Army forecasts a continued shortfall of a quarter of its required doctor and nurse strength, with the Reserve Components having a shortfall of approximately 1,500 physicians. Wartime early evacuation of military casualties to civilian hospitals in the CONUS, with a concomitant increased mortality rate, underscores the gravity of these shortfalls. It appeared that the Army Medical Department, through a careful blending of physician recruitment and graduate medical education programs underway in military medical centers, would be able to solve its manpower problem by the mid-1980's. However, this delicate meld of recruitment and training is threatened. There are those who are advocating that the Army's system of medical centers be curtailed in order to disperse the physicians concentrated in the centers to a large number of military bases. This issue merits careful attention, and the general public must be properly informed. The solution to the Army's problem lies in its ability to recruit, train, and retain an adequate number of young, obligated physicians who will go where needed.

The Uniformed Services University of Health Sciences will only provide the Army 65 doctors annually by 1984, while the principal source, the Armed Forces Health Professional Scholarship Program, which should produce approximately 400 obligated doctors a year, has been undersubscribed for three years.

There is now genuine cause for concern about the future success of this program. If the Army Graduate Medical Education Program, which entails residency training, is disrupted there would be a precipitous drop in students. The opportunity for specialty training by physicians is important to recruitment, but this opportunity is being seriously threatened. First, the House Appropriations Committee has recommended closure of several of the Army's eight teaching medical centers to make the physicians involved theoretically available for reassignment. Second, the DoD plans to "cap" participation in the Army's GME program in an action which is similarly deleterious. While the short range goal would be achieved, the long range effect on the Army's medical care program would be disastrous.

The Army's ability to meet contingencies, mobilization, and combat operations depends upon its ability to recruit and train adequate numbers of obligated physicians. The medical centers are not only the principal source of the Army's specialists, but they also serve as a major incentive in the Army's recruitment of physicians. If any one of these centers is closed, the number of critical specialists will rapidly sink to a dangerous level.

The shortage of military doctors and the resultant requirements for greater use of CHAMPUS—with its higher costs to the individual and the government—emphasizes major deficiencies in that program, as it currently operates.

These include:

Delays in handling claims and the use of the 80th percentile and out-of-date data to establish allowable charges, thus causing large numbers of civilian doctors not to accept CHAMPUS patients.

The need to make permanent the temporary authority for CHAMPUS cost-sharing or service-connected disability care.

The Congressional-imposed 40-mile rule, which is an additional administrative burden to both patient and facility, at a time of reduced military doctor availability.

In the total health care picture, other deficiencies include:

The lack of uniform dental care programs for active duty dependents and retirees and their dependents.

The DoD decision to charge overseas DoD civilians an arbitrary fee for treatment in military health care facilities.

We Therefore Resolve to continue our support for a well-rounded health care program to include:

Required Reserve service for all newly qualified doctors as payback for Federal support of medical-education programs.

Retention of all U.S. Army Medical Centers as teaching hospitals.

The Army Surgeon General's program of attracting doctors through graduate medical education incentives.

A balanced program of incentives, including pay structures, for active duty shortage skills in medical, dental and medical service areas.

Improvement in the Armed Forces Health Professions Scholarship Program to exempt the total value of the scholarship from federal income tax for both present and future participants.

Increased hospital facilities and equipment modernization funding.

CHAMPUS changes, including improved administration and return to the 90th percentile method of computing reasonable charges, care of service connected disabilities, and deletion of the 40-mile rule.

Development of a federally funded dental care plan for active duty dependents and a cost-sharing plan for retirees and their dependents.

3. MILITARY PAY

Pay raises from 1967 to 1972 made military pay rates generally competitive with the private civilian sector. Since that date, pay raises have failed to keep pace with inflation or the private civilian sector, lagging over 13 percent behind when the 1 October 1979 pay raise limitation of 7 percent is included.

AUSA is increasingly concerned about the adverse impact of inflation and pay caps on the perception of active duty personnel regarding the desirability of a military career. We believe actions must be taken to ensure that military members are treated equitably with respect to their fellow Americans. It is clear that the cumulative effect of pay caps and reallocations has progressively eroded the buying power of military pay and is regarded by many career members as a default on previous commitments by both the executive and legislative branches to the principle that military compensation should remain comparable to compensation in the private sector.

AUSA believes that the overall adequacy of active duty compensation should be thoroughly reviewed at an early date, with a view to redressing the effects of past pay caps and restoring military pay to levels comparable to those in the civilian sector. To sustain recruiting and avoid losing highly skilled personnel, the Department of Defense must regain and maintain comparability of military compensation.

We Therefore Resolve to:

Support restoration of military pay to levels comparable to those in the civilian sector and

Strongly enjoin elimination of pay raise limitations.

4. PERMANENT HOUSING FOR SOLDIERS AND THEIR FAMILIES

Bachelor enlisted quarters for single soldiers and family quarters for married soldiers have long been advanced as a benefit that accrues to the service member. Unfortunately, housing available to our soldiers today is inadequate—both in quantity and in quality.

Specifically, 30 percent to 40 percent of our single soldiers stationed overseas live in substandard quarters, and, in Germany, 46 percent of the installations report deficiencies in troop housing.

Over 50 percent of the Army's enlisted force is married, and the Army has established a goal of ensuring that these families are adequately housed. A number of military facilities, however, do not have sufficient housing. There are currently shortages of several thousand sets of quarters in CONUS alone.

Initiatives undertaken by the Army, if fully funded, include:

Modernization or construction of overseas billet space for over 2,300 soldiers in FY 80, and for over 4,000 soldiers in FY 81.

Construction of 900 sets of family quarters at Ford Ord, Fort Polk, and Fort Stewart, and leases of over 14,000 sets of quarters worldwide in FY 81.

Housing is one of the most significant factors affecting the morale and welfare of soldiers, both single and married. In recognition thereof, the Army has budgeted $225 million for bachelor housing in FY 80 and FY 81, and a total of $209 million for family housing on and off post during the same period. This proposed funding represents a small beginning to solving a large problem.

We Therefore Resolve to enjoin DoD and Congress to support initiatives to assure adequate permanent quarters for our soldiers, both single and married.

5. OVERSEAS DEPENDENT POLICY

In acting on the FY 80 Defense Authorization Bill, the Senate approved a cut in the number of military and civilian personnel supporting dependent related activities overseas, eliminated the funding of junior enlisted travel entitlements to overseas stations, and directed DoD to reduce the number of dependents overseas by 10 percent no later than September 1980 and by 30 percent within five years. In addition, the House Appropriations Committee recommended cuts in the FY 80 Military Construction Bill which will affect overseas dependent support, to include school construction, leased housing and furniture and, in the Appropriations Bill, directed denial of all support, except emergency medical care, to non-command sponsored dependents by 1 December 1979.

Although final action on these bills has not been taken, Congressional concern over the growing number of military dependents overseas and their impact on cost and readiness is clear. Therefore, it is pertinent to note that all military personnel are entitled by law to basic transportation allowances for dependent travel and household goods shipment incident to permanent changes of station. Currently, DoD policy is to permit dependents of eligible service members to accompany or join individuals overseas in all areas capable of providing dependent support. However, funding constraints have restricted this entitlement to those in pay grade E-4 and higher, providing they have more than two years service.

In FY 79, to eliminate hardships on families of junior enlisted personnel, Congress approved funding to provide for the extension of overseas travel entitlements to individuals in pay grade E-4 and below with less than two years of service. In so authorizing, the Congress set the limit on total numbers of DoD dependents overseas at 350,000.

The Defense Manpower Commission has recommended that the Defense policy on overseas dependents be continued and has taken note of the negative aspects of shorter, unaccompanied tours.

The House Appropriations Committee is aware that DoD cannot unilaterally control the travel of dependents, overseas and has chosen to attack the problem by directing withdrawal of support for non-command sponsored dependents. The adverse consequences to morale, retention and readiness are predictable.

We Therefore Resolve to urge the Congress to:

Support DoD's present policy regarding accompanied tours overseas.

Fully fund junior enlisted travel entitlements.

Continue to provide budgetary support for overseas dependents as a means of enhancing readiness.

Permit DoD to provide support for non-command sponsored families.

6. EDUCATIONAL INCENTIVES

Educational opportunities, particularly the non-contributory GI Bill, are perceived by the soldier as an integral aspect of military benefits. This perception is both understood and reinforced by millions of family members who enjoyed non-contributory GI Bill opportunities incident to military service since World War II. The incentive aspects of educational benefits remain as vital to the soldier, and, in turn, to the nation, as ever before.

The Army has traditionally been a leader in career educational opportunities for the individual soldier. This is evidenced by emphasis displayed in programs from basic to advanced individual training, and from Primary Leadership Courses to the top of the NCO education pyramid, the Sergeants Major Academy.

The Army has likewise done a commendable job with individual educational development programs, as formalized through the Army Continuing Education System. The available programs include:

On-duty Basic Skills Education Program.

Off-duty High school completion.

Serviceman's Opportunity College Associate Degree Programs. Even with the foregoing career and individual development education programs as incentives, the Volunteer Army continues to fall short of its enlistment objectives, both quantitative and qualitative. During FY 79, the Army fell short by over 16,000 and the impact will be left through FY 80. Qualitatively, the number of male high school graduate enlistees fell from 70 percent in FY 78 to below 60 percent in FY 79. Male enlistees in Mental Categories I-IIIa dropped from over 43 percent in FY 78 to less than 38 percent in FY 79.

Remedial action is needed now—not only to correct quantitative shortfalls, but also to resolve qualitative shortfalls.

AUSA believes that restoration of non-contributory GI Bill educational benefits will materially increase enlistments and, just as importantly, will attract a higher level of enlistee, more motivated, easier to train, and better able to comprehend the complexities of today's Army weaponry and equipment.

We Therefore Resolve to:

Encourage the Army to continue career and individual development educational programs, with particular emphasis on expansion of those pertaining to non-commissioned officer leadership training and development.

Call upon the Congress to pass legislation for immediate return of the non-contributory GI Bill benefit for those now on active duty for the duration of their active duty plus ten years, or until 31 December 1989, whichever is later.

7. QUALITY OF LIFE PROGRAMS

The Association of the United States Army continues to be concerned with the pressing need for the enhancement of Quality of Life Programs. Actions taken during the past year have had some favorable impact upon morale, living conditions, tour curtailments and reductions in separations and desertions in the Army; however, much remains to be done world-wide. Additional funding is required in the areas of community services, recreational centers, child care centers, and in the provision of adequate essential morale, welfare and recreational areas.

This Association is concerned for the welfare and morale of soldiers and their families; furthermore, since these matters bear directly upon operational readiness, more emphasis should be placed on the following areas:

Granting authority for senior grade personnel (E-7 and above) to ship their full household goods allotment overseas, thus, increasing availability of existing overseas government furniture for junior grade personnel.

Granting authority for military dependents to travel on a space required basis from overseas areas to CONUS for schooling, in line with DoD and State Department civilian authorizations.

Upgrading overseas working and living facilities, in particular those bearing on health, safety, security and sanitation.

Improving the medical and dental care provided soldiers and their families.

Taking positive action to reduce substantially the backlog of essential maintenance and repair.

We Therefore Resolve to reaffirm our call upon the Congress to continue to provide the long-range budgetary support to improve the quality of life of soldiers and their family members, wherever they may be.

8. RESERVE COMPONENT INCENTIVES

The Total Army Force requires a high state of readiness of National Guard and Reserve forces. To achieve that end, Congress and the Department of Defense must resolve serious understrengths and MOS shortages that exist within the Reserve Component units and the Individual Ready Reserves. To attract high quality first-term enlistees and to retain qualified Reserve Component personnel, incentives and benefits must be increased.

We Therefore Resolve to support:

Enlistment and reenlistment bonuses for Reserve Component personnel based upon MOS shortages.

Commissary privileges once a month for Reserve Component personnel who are members of organized units.

An increased annual ceiling on inactive retirement points from 60 to at least 75.

Additional Retention NCO's for Reserve Component troop units.

Increased full time support personnel in Reserve Component units.

Post exchange and commissary privileges to Reserve Component personnel who have received their 20 year Retirement Certification Letters but have not yet reached age 60.

We Further Resolve to continue to urge employers, civilian and government, to support, without discrimination, all Guardsmen and Reservists who voluntarily devote their time to the national defense.

9. UNIFORMED SERVICES RETIREMENT BENEFITS ACT

After a year of widely reported DoD and separate Service reactions to the report of the President's Commission on Military Compensation, a legislative proposal was forwarded to the Congress by the DoD under the title "Uniformed Services Retirement Benefits Act."

DoD contends that the proposed retirement system would improve recruiting and retention while simultaneously reducing retirement costs by 30–40 percent. The Services and the Joint Chiefs of Staff oppose the major reduction in retirement benefits involved and have expressed serious concern over the potential lowered retention rate of military personnel in the 11–20 years of service range, as well as over the near-term cost increases involved.

Several elements of total compensation which are of deep concern to AUSA are not addressed in the legislative proposal, due to its focus on retirement. Specifically lacking is a Variable Housing Allowance, a revised Basic Allowance for Subsistence, support for needed changes in the Survivor Benefit Plan, and clarification of medical/dental care entitlements.

We Therefore Resolve to oppose the Uniformed Services Retirement Benefits Act as presented to the Congress.

10. SURVIVOR BENEFIT IMPROVEMENTS

The Survivor Benefit Plan (SBP), as amended by Congress in 1978, provides greatly needed protection for the survivors of all military retirees, but several points still require change to balance the military program with that of the Civil Service.

AUSA has recommended that the inequities of the Social Security offset provisions affecting survivors of active military and retirees be corrected and that the method of calculating SBP premiums be made comparable with the Civil Service plan.

The DoD has qualified its support for improvement in the SBP by proposing that all future participants be admitted on a no-cost-to-the-government basis. This, in effect, is a return to the discredited Retired Servicemen's Family Protection Plan.

We Therefore Resolve to reaffirm our strong support for legislative action to:

Reduce the Social Security offset to 50 percent when a survivor becomes eligible for Social Security benefits at age 62.

Revise the calculation of military Survivor Benefit Plan premiums to conform to that of the Civil Service system.

Eliminate the Social Security offset for periods of reserve active duty of under 30 days.

Eliminate Social Security offset when a survivor receives Social Security benefits based on personal earnings or has one or more dependent children.

We further resolve to oppose the proposed DoD no-cost-to-the-government Survivor Benefit Plan for future military retirees.

We also resolve that, upon passage of legislation to accomplish the above, present nonparticipants be given the opportunity to enroll in the new enhanced program.

IN SUPPORT OF THE TOTAL ARMY: 11. PROVIDE A REALISTIC DEFENSE BUDGET

Our national interests are at stake everywhere and we must have the means and the will to support them. If we are to sustain our freedom, we must be prepared to pay the price. The United States has increased its defense budget over the years but it still remains a comparatively low 4.9 percent of the Gross National Product. Considering that the Soviets are spending in excess of 15 percent of their Gross National Product on defense, we must continuously evaluate whether we are risking disaster in the interest of saving money.

The Army's share of the fiscal year 1980 budget appears to be adequate; however, when examined in the light of inflation, increased fuel costs, and the diminishing value of the dollar overseas, the fiscal year 1980 budget falls short of supporting vital Army programs. In fact, the budget barely pays for maintaining the status quo while foregoing near-term readiness and modernization so badly needed.

The Administration has not recognized the shortfalls in our ability to modernize, mobilize, deploy, and sustain ground forces in the event of war. Major items, to include fielding of needed weapon systems, establishing a viable selective service system, ensuring adequate ammunition procurement, providing for standby production facilities, and developing an adequate chemical warfare capability will not receive adequate funding in the fiscal year 1980 budget.

The ultimate defense of U.S. interests requires strategic, tactical nuclear, and conventional forces—the national defense triad. National security mandates these components be in balance. Therefore, resources must be shared to the end that we do not focus on any single capability to the exclusion of any others.

We Therefore Resolve to urge the Congress and the Administration:

To provide a realistic defense budget with real growth sufficient to meet the increasing requirements for national defense.

To take cognizance of inflation and not sacrifice funds needed for modernization and growth.

To ensure that a proper balance be maintained between our strategic, tactical nuclear, and conventional forces.

12. MAINTENANCE OF A STRONG TOTAL ARMY

A strong Total Army is essential to the protection of our national interests. The Association has consistently held that the minimum Army force required is one of 24 divisions (16 Active and 8 National Guard) with support elements, all at maximum combat readiness—fully manned, trained and equipped with modern materiel. This structure requires not less than Active Army of 790,000, a paid Army National Guard of 400,000 and a paid United States Army Reserve of 260,000 supported by a highly professional civilian work force of 411,000.

The authorized strength of the Active Army has been whittled away to 774,000, a reduction of 9,000 over the past three years. Furthermore, the active Army is experiencing a continued shortfall in male and female nonprior service enlistees—over 16,000 this year. This, coupled with past strength reductions and requirements to keep high priority units at 100 percent fill, has resulted in some tank battalions fielding half their tanks and infantry companies being short entire platoons and squads. At the same time, the authorized strengths for the Army Reserve and Army National Guard have been reduced to 196,000 and 359,000, respectively. Even with added incentives, these lower reserve strengths have not been maintained, and their combined shortage remains over 125,000 below peacetime requirements.

In the past, individuals who had a six-year service obligation constituted a large reservoir of trained manpower in the Individual Ready Reserve to fill understrength units and provide replacements. With the end of the draft, this pool has declined to the point that it fails to meet the Army's general mobilization requirements for trained replacements by nearly a half-million persons, primarily in the enlisted combat arms areas.

A stabilized Army civilian workforce, free from unwarranted space authorization changes is also required. Like their counterparts in uniform, Department of the Army civilian employees seek challenge, job security, adequate compensation, professional growth, and equal opportunity in a stable career environment. Employment stability, however, is consistently being challenged and jeopardized by repeated unjustified annual reductions in civilian authorization levels. These reductions result in work-force turbulence which creates employee unrest, dissatisfaction, and low morale.

The use of attrition to achieve Army civilian workforce reduction levels has created skill imbalances which impair the Army's ability to support the forward deployed forces. These imbalances are detrimental to unit readiness and mission effectiveness. While the workload of the civilian workforce has been steadily increasing over the past five years, its end strength has been reduced by 55,000 (over 12 percent), including 13,000 in FY 79. Efforts to adjust to such cuts are extremely difficult to implement and have resulted in closure of installations, contracting out, and elimination of vital support functions. Resultant manpower actions, such as borrowing up to 16,000 soldiers a day throughout the Army to perform the tasks of the eliminated civilians, severely impacts upon training and readiness. These continual cuts create an adverse impact upon base operations, the logistics system, support for our soldiers, the ability to support mobilization, unit readiness, and upon the morale and effectiveness of our civilian and military Total Army force.

We therefore resolve to reaffirm vigorously our support for a ready Total Army Force of 16 Active Army divisions and 8 Army National Guard divisions, including support forces, as the minimum to meet essential national security requirements.

We further resolve to reaffirm our position that the 24-division force requires a long-range minimum strength of not less than 790,000 in the Active Army; 400,000 in the paid Army National Guard; 260,000 in the paid Army Reserve; and 411,000 Department of the Army Civilians.

We also resolve to reaffirm our support for new initiatives to solve the serious Total Army personnel strength shortages.

We also resolve to reaffirm the Association's call for a stabilized civilian end-strength.

We also resolve to oppose any further reductions in the civilian work-forces.

13. ENSURE ADEQUATE RESEARCH, DEVELOPMENT, MODERNIZATION AND PRODUCTION

The military build-up of the Soviet Union, in quantity and quality, has continued at a relentless pace with no apparent leveling off in sight. At least 60 new military weapons systems have been fielded by the Soviets—some with offensive capabilities that threaten our very existence. The Soviet national priorities are such that they can field large quantities of military hardware quickly with regard to demands from the civilian sector.

Most of the Army's costly and long-term development programs are near completion, and the U.S. Army is prepared to enter into the largest peacetime modernization program in its history. This program, if properly funded, can reverse ground force qualitative imbalances with the Soviets, within a three to five year period.

All major powers are signatories to treaties denouncing chemical warfare in almost all its forms. In keeping with the intent of these treaties, the United States has limited its chemical warfare activities to defensive and protective measures and has restricted its chemical offensive capability to research and development efforts. The Army is left with an aged arsenal stockpile, dwindling due to deterioration, increasingly dangerous to store and handle, and increasingly difficult to use in training. It is reliably reported that the Soviet chemical warfare potential is a strong reality and that chemical warfare is a very active part of the training of their armed services, to include offensive as well as defensive capabilities. To offset this disadvantage, the U.S. Army can develop binary chemicals which are safer than conventional chemical ammunition and will make it possible to embark on a production program leading to, at least, a limited offensive capability.

We therefore resolve to support:

A defense procurement budget which provides for not less than five percent real growth until the modernization program has been completed.

The maintenance of an adequate production base to meet the Army's present and projected needs.

Force modernization through the effective integration of new materiel, including the full complement of training and logistic support.

A sustained expenditure in basic research and development sufficient to meet the requirements of future system developments.

A decisive chemical warfare program emphasizing production of defensive items and a stockpile of offensive binary systems.

14. AN EFFECTIVE SELECTIVE SERVICE SYSTEM

The Military Selective Service Act requires an active standby organization, with (1) a complete registration and classification structure capable of immediate operation in the event of a national emergency, and (2) sufficient personnel qualified to reinstitute immediately the full operation of the System.

AUSA fully supports the Defense Manpower Commission's observation that it is "less than prudent to allow a major underpinning of our Total Force (the Selective Service System) to be less than immediately available and of use." The Selective Service System as it now exists is incapable of registering and classifying individuals for possible military service.

The Administration plans to fulfill mobilization manpower requirements by activating the Selective Service System on Mobilization Day (M-Day). In recent testimony Army officials have stated that the present Selective Service System could only deliver the first inductee between M+75 and M+85, and deliver 100,000 inductees between M+115 and M+125. This will not meet emergency mobilization requirements. AUSA believes the system must produce the first trainee by M+15 and 100,000 by M+30.

The current inability of Selective Service to meet early manpower requirements, coupled with the rapid shrinking of the Individual Ready Reserve as draftees' obligations for service expire, has led DoD to consider the use of an Emergency Reserve of trained manpower—young veterans who no longer have a service obligation, and selected military retirees. This concept, which AUSA opposes in principle, fails to recognize the basic inequity of requiring additional service from veterans before nonveteran manpower is used, and fails to provide for prompt mobilization of the required number of inductees in time of emergency.

After six years, the Volunteer Force has not proved to be a successful program for meeting the manning requirements of the Total Force. To further drift, in the vague hope that some half-way measure will prove to be the solution to this pressing problem, presents an unconscionable risk to the nation's security. It must be recognized by those in authority that a viable Selective Service System coupled with adequate IRR would be a deterrent to war and, most importantly, symbolize our country's determination to abide by its commitments.

We therefore resolve to urge that:

Congress and the Administration recognize the realistic need for, and support of, a functioning Selective Service System which will reliably and responsively meet mobilization manpower requirements.

Presidential induction authority be reestablished to induct up to 200,000 annually for the Individual Ready Reserve.

15. SUPPORT OF NATO

The consistently increasing buildup of Warsaw Pact forces in Western Europe—a region of most vital political, economic and strategic interest to the United States—embodies the potential for dangerous instability. Such buildup has proceeded to the point where in Northern and Central Europe, Warsaw Pact forces presently possess a significant numerical advantage over NATO forces in troops, tanks, artillery, and armored fighting vehicles.

In an era of assumed strategic nuclear parity between the United States and the Soviet Union, and recognizing the steady improvement of the Warsaw Pact's tactical nuclear capability, strong NATO conventional and theater nuclear forces are essential.

To meet the mounting Soviet threat, substantial improvements in NATO Force capabilities must be made. These include, among other things:

Increasing the equipment, ammunition and supplies prepositioned in Europe.

Continuing to expand REFORGER exercises.

Encouraging all NATO nations to contribute men, equipment, and funds according to their capabilities.

Promoting teamwork among NATO allies.

Responding to a reduced warning time associated with a possible conflict.

Showing that NATO is the keystone in preventing world communist domination.

Improving tactical mobility.

Assuring adequate ammunition supplies.

Improving NATO's overall air defense capability.

Assuring an intermediate range missile capability.

Providing state-of-the-art electronic countermeasure equipment.

We must also seek, with our NATO allies, greater cooperation in all aspects of military rationalization, standardization and interoperability.

We therefore resolve to support:

Further increases in the capabilities of the U.S. to reinforce and sustain NATO forces.

Our NATO allies by encouraging an increase in the effectiveness and size of their contributions to NATO's defense.

Efforts to increase the rationalization, standardization and interoperability of NATO military forces and equipment.

16. CONTINUED PRESENCE IN THE PACIFIC

Our overriding concerns for NATO, together with problems associated with the Middle East, Cuba and Panama, cannot be allowed to divert absolutely our attention from the Pacific area. The Far East remains a highly volatile source of potential conflict, and it appears increasingly evident that two major powers, China and the USSR, intend to increase their military support to warring factions throughout the area. It is conceivable that a contingency situation could develop which would require the United States to abide by commitments of long standing under mutual defense treaties consummated with Asian nations.

The Association of the United States Army appreciates the Administration's decision to hold in abeyance further withdrawal of Army units from Korea until the balance of power is restored on the Korean peninsula. At the same time, we believe that strong United States ground forces must continue to be deployed well forward in the Pacific. This not only will demonstrate to our allies and to the neutral nations of Asia that the United States is scrupulously committed to its treaty commitments and their independence, but will also serve to alleviate strategic mobility problems.

We therefore resolve to reaffirm our support for maintaining a continued ground force presence in the Pacific and for fully adhering to our commitments under terms of mutual defense treaties with Asian nations.

The effectiveness of our forces and their success in combat will depend largely on our ability to deploy, then support them adequately. This creates a requirement for an integrated mobility system consisting of land, air, and sea modes available on a timely basis and in sufficient quantities to do the job.

The U.S. railway system will be called upon to get heavy and outsized equipment to seaports and to provide an energy efficient mode for moving massive amounts of equipment and supplies. However, railroads currently fail to meet required criteria and, unless the government takes a more active interest in their wellbeing, will be incapable of performing required tasks satisfactorily during an all-out mobilization.

The U.S. Air Force, if backed up by a full strength Civil Reserve Air Fleet (CRAF), will have the ability to deploy the early reinforcing units with heavy equipment prepositioned in Europe. The Air Force must then be prepared to turn to the delivery of high priority cargoes that will be needed to keep committed forces supplied until sealift can take over. This requires that the Air Force move ahead with the strengthening of C–5 aircraft wings and with stretching and other modifications to the C–141 fleet. To complement these actions, the CRAF needs to pursue those modifications which will make its wide-bodied cargo planes adaptable to military cargo in emergency situations.

The United States needs to redevelop its merchant fleet, to include expanding its roll on/roll off capabilities. Coupled with the foregoing, is the need for increasing the amphibious lift needed to meet Army and Marine Corps contingency requirements.

In 1976, AUSA called strategic mobility the "Achilles Heel" of our defense establishment. Little has been done since then to provide any measurable improvement in the ability to project our combat power—and thereby the perception of our national will—beyond our shores.

We therefore resolve to express our strong concern that the condition of the nation's transportation system be improved and maintained in a state of readiness adequate to provide the required mobility for our Armed Forces. Specifically, we encourage the Administration to support:

American shipping roll on/roll off capability.

Improvements to the nation's railway system.

A Civil Reserve Air Fleet of wide-bodied aircraft sufficiently modified to handle large military items of equipment.

The C–5 aircraft wing modification and C–141 stretch programs.

18. DEFENSE OFFICER PERSONNEL MANAGEMENT ACT

AUSA has long supported DoD efforts to overcome the defects in today's officer personnel management system. That system was designed in 1947 for the small, all-regular forces expected. Although it was planned to phase out reservists and temporarily appointed officers in 10 years, it has been necessary to keep large numbers of career reservists on active duty to meet much larger force requirements. The system, with its temporary and permanent promotions and greater vulnerability of career reserve officers to reductions in force, does not make the most effective use of the best qualified personnel, nor does it provide similar career opportunities for commissioned officers of each service.

The Defense Officer Personnel Management Act (DOPMA) proposed an all regular officer force after the eleventh year of service, with a single promotion system and career opportunities to attract, and retain, the number of high-caliber officers needed in the active Army. Despite passage by the House in the 93rd, 94th and 95th Congresses, the Senate has not acted.

AUSA is seriously concerned over an alternative suggestion in the Senate which, in effect, eliminates the all regular force concept. This proposal would reduce the number of field grade officers permitted to such an extent that combat effectiveness would be threatened. It would also provide for the retention, in the grade of Army Captain, of individuals twice non-selected for promotion until retirement at 20 years.

We Therefore Resolve to reaffirm our strong support of the Defense Officer Personnel Management Act and urge final Congressional action without further delay.

19. SUPPORT OF THE RESERVE OFFICER TRAINING PROGRAM

The Reserve Officer Training Corps program continues to be the Army's largest single source of officer personnel for both the Active Army and the Reserve Components. Effective support by the Congress, coupled with the renewed interest and assistance of college and university administrators, has resulted in improvements within the program in both quality and quantity. Support at all levels must continue to be strong and visible to ensure participants of the highest caliber and in sufficient numbers to meet the Army's requirements.

The ROTC program is enhanced greatly through involvement with Army Reserve and Army National Guard units. Such involvement should be encouraged within unit mission constraints. The new Simultaneous Membership Program, which permits concurrent membership in the Reserve Components and Army ROTC, provides an incentive for students to participate in both programs. This mutually beneficial program increases the number of officers entering the Army Total Force through the ROTC program.

We Therefore Resolve to:

Continue active support of the Senior ROTC program and encourage renewed publicity and recruiting designed to attract and identify the highest qualified male and female candidates.

Support the authorization of 5,500 additional Army Senior ROTC scholarships required to produce the number of graduates needed for the projected strength of the Army.

Seek an increase in the current subsistence allowance for Advanced ROTC cadets.

Encourage participation in the Simultaneous Membership Program so as to increase ROTC enrollment and, in turn, provide officers for the Active Army and Reserve Components.

Support the authorization required for enrollment of community college students in the ROTC Advanced Course.

Urge the continuing support of Congress and the Department of Defense for the Junior ROTC program.●

GERONTOLOGICAL SOCIETY'S DONALD P. KENT AWARD RECEIVED BY WILLIAM E. ORIOL

● Mr. WILLIAMS. Mr. President, public awareness about the problems and challenges confronting older Americans has increased measurably in recent years, and particularly during the past decade.

This heightened sensitivity is important because our population is continuing to grow older.

In 1900, only about 1 out of every 25 Americans was 65 years or older. Today, one out of every nine persons living in the United States is an older American. And 50 years from now, almost one out of every five Americans will be 65 years or older.

The major national aging organizations have, in my opinion, performed a valuable service in educating the public about key issues on the horizon and beyond.

One of the leading organizations in fulfilling this important mission is the Gerontological Society.

In recent years the Gerontological Society has presented the Donald P. Kent award to an individual demonstrating the highest standards of professional leadership through public service, teaching or other activities.

This year the recipient of that prestigious award is William E. Oriol, who served with distinction for 16 years as a staff member of the Senate Committee on Aging—including the past 12 years as staff director.

Bill left a long and impressive legacy of achievements during this period. Many older Americans live better today because of his dedication and commitment, as well as the efforts of the Committee on Aging members and staff.

It is also a source of personal pleasure for me that Bill received this award for exceptional public service because he served as staff director of the committee when I was chairman. I have never known a more dedicated public servant. I am delighted that he is receiving the recognition he deserves for his unselfish efforts on behalf of older Americans. I am also certain that Bill will perform with the same high standards of professionalism in his new position as assistant director for the International Center on Social Gerontology.

Ethel Shanas—the chairperson for the awards committee and a former president of the Gerontological Society—made a brief but moving presentation when she presented him with the Donald P. Kent award.

Mr. President, I request that the following presentation be printed in the Record.

The presentation follows:

The Donald P. Kent Award

The Donald P. Kent award is given to a member of the Gerontological Society who exemplifies the highest standards of professional leadership through teaching, service or interpretation of gerontology to the lay society. The 1979 recipient is William E. Oriol, Associate Director for the International Center for Social Gerontology.

Mr. Oriol is known to all of us for his 16 years of service with the Senate Committee on Aging. From 1967 to 1979 he served as staff director of that committee. During this past year this distinguished career of public service and public education has been recognized by awards from the Western Gerontological Society and the Urban Elderly Coalition.

The Gerontological Society is proud to give the Kent award for 1979 to William E. Oriol for his exceptional public service and leadership on behalf of older Americans.●

THE ELDERLY "MEDIGAP" INSURANCE TRAP

● Mr. CULVER. Mr. President, earlier this year Senator Baucus and I introduced the Senior Citizen Health Insurance Reform Act of 1979. This legislation would establish a voluntary certification program for companies selling insurance policies intended to supplement medicare coverage, and stiffen the penalties for unethical sales practices. As such, it would provide much needed protection to the millions of older Americans who purchase such so-called medigap health insurance policies. The major provisions of the legislation have been included in the Social Security Disability Amendments of 1979, now pending before the Senate.

Many people may not realize that medicare covers only a modest and declining portion of the elderly's health care expenses. The rising costs of health care and the fear of a potentially bankrupting illness have led 15 million out of 23 million Americans over age 65 to purchase health insurance policies to fill the gaps in their medicare coverage.

The abuses in the sale of medicare supplemental insurance are alarmingly widespread and may well represent a $1 billion a year fraud against our senior citizens. The Des Moines Register recently published a series of articles outlining the medigap insurance victimization of the elderly and several existing and potential mechanisms for addressing the problems of fraud and abuse in this area.

Given the pending Senate consideration of Federal legislation that would help protect this Nation's elderly against unethical sales practices and worthless supplemental medicare insurance policies, I hope that my colleagues will benefit from these articles which appeared in the Des Moines Register on November 20, 21, and 22, 1979. Mr. President, I ask that they be printed in the Record.

The articles follow:

How Elderly Get Caught in Insurance "Medigap"

(By Charles Bruner)

Ethel Johnson, 67, has been sold six private health-insurance plans in addition to her federal Medicare coverage. She lives on a $242 monthly Social Security check, and insurance premiums take a big bite out of that. The private health-insurance policies are all designed to fill the "gaps" in the coverage provided through Medicare. In actuality, they overlap one another and provide Johnson with few additional benefits.

The elderly, often lonely and confused, are particularly susceptible to door-to-door salesmen, and many health-insurance policies marketed to appeal to the elderly are sold this way. Johnson is one of 12.6 million Americans covered by Medicare who have purchased at least one supplemental private health-insurance policy.

Ellen Thomas, Iowa State University extension specialist, says Johnson's situation is not at all uncommon. Many elderly persons she has worked with pay premiums on 10, 15 or more insurance policies. "They're scared to death something will happen to them," she says, "and they'll have to become dependent upon someone else."

Herbert Anderson, Iowa's state insurance commissioner until his death in October, has said that the Medicare supplement insurance field is "an extremely attractive one to opportunists, both insurers and agents."

The Iowa Department of Insurance, which Anderson directed, is responsible for the licensing of insurance agents and the handling of complaints lodged against them. "Probably our office does more suspension and revocation of licenses of agents in the area of Medicare supplement policies than in any other insurance area," Anderson has said.

Anderson supported legislation to give the Iowa Department of Insurance greater authority to regulate insurance practices in the areas of Medicare supplement, dread disease, and hospital indemnity policies. The National Association of Insurance Commissioners (NAIC) has developed a model act (a proposed piece of legislation) to assist states in curbing abuses of the elderly in health insurance, but Iowa has yet to consider such legislation.

"Medigap" policies (Medicare supplement health-insurance policies) are designed to provide coverage for health expenses not covered by Medicare. Some provide payment for Medicare deductibles and some do not. Nationally, it is estimated that Medicare covers only 38 percent of the health-care costs of the elderly. Persons over 65 must pay for Medicare's deductibles and co-insurance, and for many kinds of care not covered by Medicare—drugs, dental care, eyeglasses, hearing aids, routine examinations and most forms of nursing care.

Because of these "gaps" in Medicare the nation's elderly have turned to private health insurance, and more than half have at least one policy to supplement Medicare. Many elderly people are sold more than one supplemental policy, and it is estimated that almost one-quarter of those having supplemental coverage have some unnecessary duplication in coverage. "Medigap" policies are big business, perhaps $4 billion in premium volume per year.

Former "Medigap" insurance agents testifying last June in Florida before a Congressional health subcommittee on abuses in the sale of health insurance to the elderly highlighted the nationwide problem. One agent testified that he "specialized in the sale of insurance for the elderly because they were an easy market" and very susceptible to high pressure and fear sales techniques.

"They were generally lonely," he testified. "They did not buy the company—they bought the agent, or more precisely, I found they would buy a friend."

A second former insurance agent indicated the extent of the problem. "I believe 75 percent of the agents who deal strictly in 'Medigap' coverage are practicing fraud," he testified.

Unscrupulous agents selling door-to-door or through mail-order advertisements often mislead or frighten the elderly into "loading up" on two or more health-insurance policies with duplicative coverage or in replacing policies each year, a practice known as "twisting." Since insurance agents usually are paid particularly high commissions on "new" policies (usually 50 percent, and, in extreme cases, up to 80 percent, of the first year's premium) and since most policies have clauses that exclude coverage for health conditions existing at the time the policy is issued, "twisting" is lucrative to the insurance agent at the same time it reduces the protections obtained by the insured.

And since "Medigap" policies are so tied in to a government insurance program, agents have been known to represent themselves as government or quasi-government representatives simply offering additional Medicare options. A U.S. House Aging Committee staff report has estimated that the elderly are being duped for $1 billion each year through false charges of "Medigap" coverage by insurance firms.

For the individual looking for health coverage to supplement the gaps in Medicare, Tony Schrader, public service director at the Iowa Department of Insurance, has two pieces of advice.

First, the prospective customer should decide on the coverage appropriate to his or her needs, and then purchase only one policy to provide that coverage.

For many people, Medicare may be adequate coverage, particularly if a person chooses both Part A and Part B of Medicare. Overinsurance is one of the biggest problems the elderly face, and Medicare provides very good and fairly extensive coverage, Schrader says, although supplementation is wise for some individuals.

Second, the prospective customer should check on converting any present group health-insurance policy from a standard policy to a Medicare supplement policy. Many group policies offer conversion alternatives to persons becoming eligible for Medicare, and these conversions often offer the best insurance rates and coverage levels.

Consumer protection is still needed for those elderly who are not informed about their insurance needs and may be victimized by hard-sell insurance agencies and insurance policies.

Several components of the National Association of Insurance Commissioners' Model Act, introduced as HF554 last year by Representative Steve Rapp of Waterloo, are designed to place greater controls on insurance agent practices.

First, under danger of license revocation and fine, agents would be required to exercise "due diligence" in determining whether the policy they offer to an elderly customer duplicates any coverage already in effect for the customer through an existing insurance policy.

Second, agents would be required to present an information brochure, in a form approved by the insurance commissioner, outlining what the policy does and does not cover as a supplement to Medicare. Several states have gone even further by requiring not only standardization in outlining policy coverage, but standardization of the insurance policies themselves.

These two aspects of the NAIC Model Act address the problem of insurance-agent victimization of the elderly. Yet many feel that the insurance policies themselves are the major culprits in overinsuring and victimizing the elderly.

Private Insurance Abuses, Medicare Complexities Victimize Elderly

(By Charles Bruner)

When John Reiser purchased a policy "rider" to his health insurance providing coverage for "convalescent" care in a skilled nursing facility (SNF), he thought he was purchasing nursing-home coverage. Later, he found his insurance company would not pay the $2,000 bill for his nursing-home care because the company considered his care to be "custodial" rather than "convalescent."

Health-insurance policies, particularly those for the elderly that supplement Medicare, are complex and difficult to understand. In some cases, as in Reiser's, the policy-holder may believe he is covered and his bills are being paid only to find later that they are not and that he is forced to pay.

The question of nursing-home-insurance coverage is a case in point. In addition to Reiser's problem, some insurance policies sold to the elderly provide coverage for "convalescent" care only in a Medicare-certified skilled nursing facility, but not in an intermediate care facility or non-Medicare-certified skilled nursing facility, even when these facilities provide equivalent care. Since many facilities do not choose to deal with the paperwork Medicare-certification requires, there are fewer than 30 Medicare-certified skilled nursing facilities in Iowa. Many Iowans pay premiums that cover nursing-home care only if that care is in a Medicare-certified skilled nursing facility, even though that care is unavailable in their area.

These are but special instances of the problems complexity produces in health-insurance policies written to attract elderly customers. Simply, there is no standardization of policy coverage.

One of the problems, the U.S. House Select Committee on Aging's staff reports, is with

Medicare itself. Medicare fails to provide full health-care coverage, requiring supplementation with private insurance policies. But "the complexity of Medicare and the confusing ways in which the program has been described to the public have helped fuel the crisis" by making supplement policies complex and confusing, the staff contends. Medicare itself provides two levels of coverage, with a mandatory Group A coverage and a voluntary Group B coverage, giving rise to numerous forms of Medicare supplement, or "Medigap," private health-insurance options.

About 100 insurance companies in Iowa offer policies designed to supplement Medicare coverage. In general, these companies are not the larger insurance companies in the state, and a few deal almost exclusively in policies for the over-65 insurance market. The "Medigap" policies offered by these companies vary widely in their range of coverage, their premiums and their restrictions on applicability. Thus, comparison-shopping for the best "Medigap" policy is extremely difficult at best.

In addition, a number of other policies or "riders" designed to appeal to the elderly are being sold in Iowa—dread-disease policies such as cancer insurance and hospital indemnity policies providing cash supplements for hospital stays chief among them.

The Iowa Department of Insurance is given limited tools to evaluate and approve or disapprove health and accident insurance policies. For instance, the department does not have any rate-setting authority for health and accident policies, although it has that authority for credit life and health policies.

Specific reports by insurance companies of premiums paid in vs. claims paid out are not collected in low for Medicare supplement, hospital indemnity or dread disease policies. Therefore, "loss ratios" (the amount of money paid out in claims divided by the amount of money taken in in premiums) for these policies are not known.

Nationally, a Federal Trade Commission report estimates that "loss ratios" for hospital indemnity and low-value Medicare supplement policies are as low as 40 percent. Dread-disease policies such as cancer insurance typically are even lower. In contrast, Blue Cross-Blue Shield group health insurance plans usually have loss ratios of 85 percent to 90 percent, meaning that a person so insured gets more than twice as much protection per premium dollar than a person with low-value Medicare supplement policy.

Government interest and concern is increasing over private health insurance policies marketed toward the elderly. At the national level, U.S. Representative Claude Pepper (Dem., Fla.) has proposed a voluntary system of certification of health-insurance policies sold to supplement Medicare, in effect to provide a "seal of government approval" to "Medigap" policies meeting minimum standards. Through U.S. Representative Tom Downey (Dem., N.Y.), the Gray Panthers are proposing national legislation that goes further by establishing a single acceptable "Medigap" policy (with a series of optional "riders") and strictly prohibiting deceptive and unfair practices used by agents to sell such policies. National health insurance that provided fuller coverage to those over 65 might eliminate the need for private health-insurance policies in this area altogether.

Still, it is at the state government level that most activity to curb "Medigap" abuses and standardize "Medigap" policies is taking place.

The National Association of Insurance Commissioners' Model Act, adopted in Idaho, Pennsylvania, Wisconsin and West Virginia, gives the state department of insurance the authority to set minimum levels of coverage for individual health and accident policies. The act also limits the ability of insurance companies to disallow insurance claims on the basis of prior or "pre-existing" health conditions, requires agents to exercise "due diligence" in determining whether a prospective customer already has insurance coverage that would duplicate the agent's policy, and requires that extensive and standardized written disclosures of policy coverage be provided the customer.

The Wisconsin insurance commissioner has taken the lead in regulating "Medigap" policy-writing by requiring that any policy written in his state be identical to one of four authorized coverages. Minimum coverage levels are established and policy comparability is achieved.

The Michigan legislature has mandated that anticipated "loss ratios" for policies issued to individuals 65 and over must be at least 65 percent; California sets that level at 55 percent; and the New Jersey insurance commissioner in 1978 banned the sale of 133 individual health and accident policies previously licensed in his state on the ground that their loss ratios were below 50 percent. Many of the New Jersey policies banned provided only dread disease coverage, a type of insurance marketed especially for the elderly.

The Iowa Department of Insurance has not established any equivalent standards. The department is considering publication of a shoppers' guide to assist the elderly in evaluating and purchasing "Medigap" insurance, and has promulgated rules concerning both the mass advertising of hospital indemnity policies and insurance-agent responsibilities in representing health and accident insurance policies to the public.

The biggest controversy in Iowa thus far has been over health-insurance policies sold as nursing home care policies that limit coverage to "convalescent" care. In 1977, the Iowa General Assembly passed a measure to require such policies to provide "custodial" as well as "convalescent" coverage, but an attorney general's opinion indicated that the legislation was unconstitutional. The sentiment to do something to assist Iowa's elderly population in insurance buying certainly is there, but little has been done.

Iowa Can Lessen Insurance Fraud Against Aged

(By Charles Bruner)

The Iowa Department of Insurance maintains public records of complaints filed against insurance agents and insurance policies. Janet Griffin, who works as an attorney for the department in complaint cases, says the files are full of horror stories involving victimization of the elderly.

"It's not unknown for an insurance agent to walk into an elderly couple's home to sell insurance and to walk out with a check for $700, $800 or even $900 for Medicare supplement insurance and several other policies," she says. Since the agent typically receives a commission of 50 percent on new policy sales, one hour's work may net him $350 to $450. The agents selling such insurance are used to going door-to-door.

Can the insurance companies police themselves to curb abuses?

The National Association of Insurance Commissioners (NAIC) thinks not, and has prepared model statutes and regulations to bring some accountability to health-insurance policies marketed to the elderly. The health-insurance field for the elderly is too big and lucrative for anyone to expect self-policing from insurance companies, particularly when many companies offering such insurance are relatively small. Premium volume for Medicare supplement or "Medigap" policies alone has been estimated at $4 billion annually.

What can be done?

Other states have approached the problem from different angles, but in general, efforts have been directed to three problem areas: (1) establishing minimum coverage standards that health and accident policies must meet to be authorized by the state department of insurance for sale within the state; (2) requiring fuller disclosure to potential customers of policy coverages and needs for coverage to supplement Medicare; and (3) weeding out unscrupulous insurance agent practices through stiffer penalties, licensing procedures or professional standards.

Minimum coverage standards: The NAIC Model Act and its accompanying departmental regulations establish minimum coverage standards for any individual health and accident policy offered in the state. Included within the NAIC Model Act is a limitation on the time for which a "pre-existing" condition may be used as a ground for denying an insurance claim. "Medigap," dread disease and hospital indemnity policies are forms of health and accident insurance and are covered under the model act.

These minimum standards help ensure that policies of little real value to the customer cannot be sold. For instance, some "riders" to "Medigap" policies offer "blood insurance." This rider, at a cost of $8 to $10 per year, pays for the first three pints of blood needed by the policy holder. Medicare covers all but the first three pints.

"This is exactly what insurance is not intended to cover," Tony Schrader, public service director at the Iowa Department of Insurance, says. The protection is very limited, not "insuring" the customer against any potential major expense. When one buys such "first dollar" coverage, one pays for considerable administrative claims processing overhead, and doesn't receive any additional coverage for "catastrophic" medical costs: Added on to similar riders or policies, such "insurance" may come to a considerable additional expense.

A second approach to establishing minimum standards is to set a minimum "loss ratio" that insurance policies written in the state must meet. A loss ratio is computed by dividing the amount of money paid out in claims by the amount of money taken in in premiums. Michigan, for instance, has mandated that estimated loss ratios for policies issued to individuals over 65 must be at least 45 percent, meaning that, on average, the policy must return to policy holders in insurance claims at least 45 percent of what it collects from them in insurance premiums.

Fuller disclosure: It is the practice in many states to require that a state-approved booklet outlining Medicare "gaps" and Medicare supplement policies be distributed to all prospective Medicare supplement policy buyers. The booklet is designed to clarify some of the confusing aspects of Medicare and provide standardized information to buyers on specific "Medigap" policies so they can compare separate policies.

One particularly confusing aspect of certain health-insurance policies for senior citizens is that relating to skilled nursing facility care. Some companies in Iowa offer policies or policy "riders" to provide "convalescent" skilled nursing facility care, usually with a 100-day maximum coverage. Customers may believe they are purchasing nursing home coverage, only to find later that coverage is limited to "convalescent," post-hospital care, and does not apply to "custodial" care. Certain skilled nursing facility coverages are limited to care in a Medicare-certified facility. Since there are fewer than 30 such facilities in Iowa, the customer's skilled nursing facility coverage may be virtually worthless. An alternative here is to provide a "plain language" description on the policy of what types of care are covered ("convalescent," "custodial" or both) and where in that area such care is provided.

Regulation of insurance agents: More than any other type of private health-insurance policy, policies marketed for the elderly are sold door-to-door. Agents are required to take a health and accident insurance licensing examination, but not one specifically on Medicare supplement coverage. Many agents have little understanding of the workings of the federal Medicare program and "Medigap" insurance, although they sell it door-to-door.

Enforcement of any regulations concerning sales practices and techniques is difficult. The Iowa Department of Insurance does promulgate rules prohibiting certain deceptive sales practices and does regulate television advertising, but more could be done.

One of the chief problems the elderly face in selecting private health-insurance policies to supplement Medicare coverage is in avoiding overlapping or duplicative coverage. Many elderly are sold multiple policies that do overlap one another. Since in most instances only one policy will pay the hospital bill or medical payment, the overlapping coverage is wasted.

The NAIC Model Act requires agents to exercise "due diligence" in determining whether the policy being offered to the elderly customer duplicates any coverage already in effect for the customer through an existing policy. This "due diligence" clause places the onus on the seller, and not the buyer, in understanding policy coverages and avoiding policy duplication.

The Iowa General Assembly also could establish a separate line of insurance—one for "over-age" health and accident insurance policies. Agents then would have to be specifically licensed to sell "Medigap" insurance or other insurance marketed for those over 65. Agents now selling insurance in Iowa, including those selling "Medigap" policies door-to-door, would have to pass a licensing examination designed to assure expertise in "over-age" health and accident insurance if they wished to continue to sell such insurance.

This would give the Iowa Department of Insurance a powerful tool to use in curbing abuses caused by unscrupulous or ill-informed insurance agents.

The problems created by the expansion of the private health-insurance industry into the senior citizen market require legislative action. Victimization of the elderly through over-insurance or valueless insurance is a daily occurrence in Iowa.

The fear many elderly have about potential health problems and about meeting rising health-care costs makes health-insurance marketing directed toward them a lucrative one, and one open to great abuse.

The Iowa General Assembly has the authority and the responsibility to establish greater protections for the elderly insurance customer by adopting many of the reforms mentioned in this article. Senior citizens in many other states already have these protections.●

A REVOLUTION TO RESTORE THE REVOLUTION

● Mr. GOLDWATER. Mr. President, it was my extreme honor and pleasure to have received on December 12 of this year a national service award from the Institute for Socioeconomic Studies in New York City. I was asked to make a few comments, which I did, and I request that they be printed in the RECORD.

The speech follows:

SPEECH BY SENATOR BARRY GOLDWATER BEFORE THE INSTITUTE FOR SOCIOECONOMIC STUDIES

INTRODUCTION

Among my favorite quotations are two which appear on the National Archives Building. One is "Study the Past," which comes from Confucius, and the other is "What is Past is Prologue," which you will recognize as Shakespeare.

These inscriptions appear on the Pennsylvania side of the Archives. On the Constitution Avenue side, there is a complementary wording, which reads: "The Heritage of the Past is the Seed that Brings Forth the Harvest of the Future." This is attributed to the first Archivist of the United States.

The seed I will borrow for my message tonight was planted by Thomas Jefferson, who held the view that what the country needed was a revolution to restore the revolution.

This is how Jefferson referred to his own Presidency. During the last decade of his life, in a private letter, Jefferson spoke of the "Revolution of 1800." Now, by "revolution," Jefferson did not mean a military upheaval, but a revival of what he called the "spirit of 1776" and a return to the "true principles" of the American Revolution.

By a revival of the "spirit of 1776" Jefferson meant a rebirth of the faith that the patriots had that the American people are unique in our opportunities, our mission in life, and the hope that our experiment in popular self-government will be an enduring example for the world.

By a return to "true principles," Jefferson meant a greater recognition of the sovereignty of the people and of what great achievements each man and woman can make under freedom. In the context of his time, Jefferson believed that the "high Federalists" had broken away from these principles by passing the infamous Alien and Sedition Acts and by allowing the federal bureaucracy to grow five-fold in one decade, among other things.

Jefferson's answer of how to return to the true principles, which he said had formed "the bright constellation which has gone before us and guided our steps through an age of revolution," was to conduct—

"A wise and frugal government which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement, and shall not take from the mouth of labor the bread it has earned."

Jefferson's hopes were in a society of relatively unrestricted individuals. His desire was that all artificial restrictions be removed and men and women left to attain their natural potentials.

Jefferson's policies specifically included protection of minority rights. In his words, Jefferson said it is a "sacred principle . . . that the minority possess their equal rights, which equal law must protect, and to violate would be oppression."

Other major principles announced by Jefferson in his first inaugural address included strict governmental economy, relief from taxes, and retirement of the national debt.

In short, what Jefferson aimed at has been summed up by historian Daniel Boorstin, as "a government too weak to aid the wolves, and yet strong enough to protect the sheep."

Let us see how well the goals of Jefferson might fit our present society and how well his idea of "a revolution to restore the revolution" would fit as a fresh goal for our country as we embark upon our 214th year of independence.

More than thirty years ago I stopped being a businessman only and got into politics. I got in it because I believed the federal government was interfering too much with our market economy and, thus, our liberty. What I thought I saw on the horizon thirty years ago now looms like a black, swirling, thundercloud above us. Excessive federal government today poses a threat to our future.

Perhaps we have tolerated government excess beyond the point of no return. All of us in this room may live with inflation for the rest of our days. I say this because I see no indication that the Congress, the administration, the federal agencies or even the people themselves, care enough to stop the deficit spending and over-regulation that creates our inflation.

The direct role of government has increased enormously over the past three decades. Government spending at all levels now takes forty-five percent of our national income—up from twenty-five percent. In those thirty years, we have had only two budget surpluses, and only five budgets in balance, and none in the past ten years.

And these percentages consider only direct spending reflected in the federal budget. They don't include the gigantic growth in off-budget spending and in federal guarantees. The omnious fact here is that a rising share of our annual production is being channeled through the government. The federal government absorbs an increasing share of our national savings—by borrowing to finance federal deficits, and by loan guarantees that put certain classes or borrowers at the head of the line.

The indirect, growing interference of government in our economic system dwarfs the direct role that is easier to see. Government regulation extends across the entire economy. New agencies, as well as the old, control the environment, employment practices, conditions in the workplace, energy, automobiles, engineering, advertising—almost any activity you can think of.

The size of the Federal Register, where the federal government publishes its regulations, has tripled in the past ten years. Costs to meet government mandated standards are measured in tens of billions of dollars. Some estimates place the total cost of regulation in the economy at more than a hundred billion dollars annually. These estimates include money spent by the government in publishing and policing its regulations, and costs to the private sector in meeting the standards, doing the paperwork, and so on. And don't be fooled—the consumers pay these costs just as surely as if the money had been collected through taxes and spent directly by the government.

That's not all. Federal decisions go into minute detail in production, marketing and consumption. They rob the nation of diversity and innovation. They deaden inspiration. Technical details of engineering design must be approved by government before plants can be constructed. This kind of oversight not only costs time and money, but it discourages the creativity that made America great. Management decisions are tightly circumscribed. Regulations cover the product to be manufactured, the location of the plant, the production process, and the way to market the product. The regulatory toll is indeed high. Where is the quality of American workmanship that we were once so proud of? Where do you find service given with expertise and a desire to serve? Do Americans prefer foreign made merchandise, including automobiles, because of price? No! They prefer them because they are better made, of better quality.

The explosive growth of regulation during the past ten years transfers many free market decisions to the bureaucracy. It would be a mistake, however, to blame the bureaucrats altogether for the cumbersome and unwelcome regulatory procedures. The blame belongs on Congress. It has been negligent in spelling out how regulatory agencies should proceed. Neither has Congress placed limits on bureaucratic authority.

Part of the problem is that Congress has gotten into areas that it doesn't know enough about. Legislators, with all their increased staffs, can never be smart enough to prescribe in detail how every regulation should be applied in a diverse and changing economy. Despite the cries of the special interests, Congress should get busy cutting out regulations in areas where the market functions effectively—and that includes most of them.

Congress likewise is to blame for excessive welfare spending. Their programs have concentrated enormous power in the bureaucracies. With their constituencies, bureaucracies are the strongest political force in America today. Their impact is greater than all of the so-called political organizations, including the Republican and Democratic parties. Welfare policies have brought us inflation, rendered the private sector nearly helpless, and limited the range of private choices.

We embarked on the welfare state in the 1930's. Now, don't misunderstand me. I agree completely with the idea that goes back at least to Lincoln that the government is responsible for persons who are not in a position to care for themselves. The idea, however, has been carried too far. It has been carried so far that many of the other goals of our society have been sacrificed.

Two questions should dominate in considering programs for the unfortunate. First, how should we proceed? Second, how far do we go? And we have been wrong for the most part in answering both questions.

Most of our programs have weakened and reduced the roles of important institutions in our society. Our schools and our families have suffered mightily. As we pumped larger and larger chunks of money into elementary education, the federal controls that go with the money weakened the ability of parents and their local school boards to assure that children learn basic skills. Parents want their children to learn, especially to read. Yet high schools continually graduate young ones who can't fill out application blanks for jobs, or as some wag said, they can't read the stuff on the outside of a cereal box.

The education experts, the professionals, and the bureaucrats with all their federal funds and controls have a sorry record indeed in elementary education. Now, we are going to have a new Federal Department of Education, which I'll wager will continue to move learning in the wrong direction.

Congress is passing health care programs that cost more without improving the health of the people. Tax incentives for health insurance in many cases cause overuse of health services and massive increases in health care spending. Our emphasis has been wrong. The incentives Congress creates should lead to widespread purchases of catastrophic health insurance. Our federal health policies should foster arrangements that would introduce more competition in health care. Instead, we spend more federal dollars, stimulate third party payments to a wide range of health care services, and then inevitably try—unsuccessfully—to place limits on the costs that our policies drive up in the first place.

There you have a couple of examples of wrong answers to the question: How to proceed? Let's take the second question: How far should we go in welfare state programs?

Programs like unemployment compensation are constructive. But I draw the line on payments to strikers. And I don't see why we should provide food stamps to families of workers out on strike—to say nothing of all the stamps going to families at higher income levels.

We have even shown a tendency to go too far in social security. Recent hikes in social security taxes have dramatically raised the amount of earnings that are taxed. This shortsighted funding policy gets us off the hook for a few years, but it also increases commitments in future years to those in the higher income range. Social security in the future won't provide just the basic support for retirement that the original act intended. Instead, it will increasingly supplant private pension plans for those in the middle and higher income brackets. Furthermore, it will dry up private savings, which are needed to support the investment that creates more jobs, and keeps our economy efficient and expanding. The result is an expanding role of government in our lives, and a shrinking of the role and responsibilities of families and individuals.

The questions of how to proceed and how far to go usually are interrelated. At some point, such programs as unemployment compensation and earned income tax credits actually increase unemployment. The after-tax income a person earns on the job becomes less attractive than the benefits the program pays if he or she doesn't work. This problem is more apparent as families more and more have two or more wage earners.

My fundamental concern for the 1980's comes as a question. Are we nearing the point where continually enlarging government intervention in our free market system is seriously threatening our democratic form of government? It's a question that troubled me long before I got into politics; and it's a question that should trouble all of us here tonight.

I am certain that we are sapping the vitality of private enterprise at the same time we are shifting power and authority to the federal government. The private sector cannot operate effectively without incentives. Profits, one of the most important of these incentives, has become a dirty word for some industries. Profits embarrass businessmen, even though they are the basic source for building new plants, buying new tools, and designing new equipment; all of which create new jobs, increase productivity, and help raise the standard of living.

It strikes me as ironic that the public appears angry because many of our major oil companies are operating profitably, while seemingly unconcerned that their taxes may be used to bail out unprofitable companies like Chrysler.

As we weaken our private institutions, we reduce the dispersal of power and influence in our society. And dispersal of power is the cornerstone of democracy. Centralized authority in government limits private decisions and choices. A controlling bureaucracy must cut back input and standardize in order to cope, and private enterprise must comply.

A market-oriented economy, which disperses power widely throughout the society, and a democratic government, with its checks and balances, are intimately related. When one is weakened, the other inevitably is undermined. Then, the society becomes increasingly authoritarian.

At a time of serious inflation, ordinary citizens and their families feel helpless; they are unable to plan effectively for their future. As inflation continues, they have an increasing tendency to turn to the government for relief. At some point, the process may become irreversible, and our society will be drastically changed.

I ask you the question again. Are we in danger of reaching that point of no return for our system? It's a fundamental question, and I know of no better place than before this institute for getting an answer, or to begin considering answers.

I have one more question in closing about our government's role in the economy in the eighties. Many parts of the world are turning away from civilization and heading back to the days of Genghis Khan when nothing mattered but brute force, without any consideration of civilized progress within a nation. We see the entire Muslim world now being turned against the rest of the world. This is ancient thinking; it is not progress.

We see only seventeen percent of the people in this world living in any kind of freedom, and ten years ago that figure was thirty percent. With an American economy headed toward socialism and certain destruction. if that happens, what contributions can we make as a people toward helping other nations enjoy the material things that we have enjoyed thanks to the application of our free enterprise system?

Unless the United States answers these questions about itself, I am afraid that the federal government will (1) not exist as we know it in the 1980's and (2) the economy and way of life to which we are accustomed will also be a thing of the past. I know these predictions are dire, and I will probably be castigated for even thinking of them, but I am a great believer in looking to history; and what I've been talking about has happened before to civilized people.●

THE 31ST ANNIVERSARY OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

● Mr. JACKSON. Mr. President, I wish to bring to the attention of the Senate an important address by our distinguished colleague Senator HOWARD M. METZENBAUM honoring the 31st anniversary of the Universal Declaration of Human Rights. This address was delivered before the Women's Board of the Toledo Jewish Welfare Federation and the Henrietta Szold Group of Hadassah, December 9, 1979, at Temple B'nai Israel, Toledo, Ohio.

Senator METZENBAUM points out that—

> We live in a world today whose cruel realities often make a mockery of the ringing words and phrases of the Universal Declaration of Human Rights.

He adds that—

> The human rights movement has the potential to shake the world . . . It has begun to shake the established order in the Soviet Union, in Eastern Europe and in scores of other countries where repressive governments deprive their citizens of their rights. And it is a movement that is sure to spread. The Brezhnevs and Khomeinis and the Amins of this world can slow it down—but they cannot stop it.

Mr. President, I commend this speech to the thoughtful attention of my colleagues and ask that the full text be printed in the RECORD.

The speech follows:

ADDRESS OF SENATOR HOWARD M. METZENBAUM

Tomorrow, December 10, marks the thirty-first anniversary of the promulgation by the U.N. General Assembly of the Universal Declaration of Human Rights.

The Universal Declaration is a remarkable document.

It states that all people in every country have a fundamental right to freedom of thought, freedom of religion, freedom of conscience.

The Declaration says that all human beings should be free to express themselves, free to travel and free to emigrate.

It says, in other words, that all people should have the rights that are now enjoyed by just a few.

But we live in a world today whose cruel realities often make a mockery of the ringing words and phrases of the Universal Declaration of Human Rights.

In Africa, we have seen promising new nations fall victim to famine and civil war. We have seen the rise and fall of brutal dictators like Bokassa and Idi Amin. And we have seen in South Africa a society in which racism degrades the whites who practice it and the blacks who suffer from it.

In Asia today, we see in Cambodia the slaughter of a people. We see an Asian holocaust on a huge and tragic scale.

In the aftermath of Dachau and Buchenwald, the civilized world said "never again."—

"Never again will we stand by and watch the innocents die."

But it is happening again in Cambodia. Once again, innocent men, women and children are dying by the tens of thousands. And once again, the world has failed to act in time to stem a small nation's agony.

The people of Cambodia are the victims of the twisted ideologies and ruthless national ambitions that have been the scourge of this century.

In Iran today, we see in the Ayatollah Khomeini and his followers a revival of the ancient fanaticism that goes in the guise of religion. We see in Iran a kind of madness that sanctifies hatred and terrorism with the name of God. And there are signs that the Ayatollah's lunacy might be contagious—that it could spread to other nations in that unstable and explosive part of the world.

Iran, Cambodia, Uganda—these may be extreme examples of how far the real world is from the lofty principles enunciated in the Universal Declaration.

But they are not the only examples.

Argentina, Chile, the Philippines, both Koreas—all of them textbook examples of repression.

And the Soviet Union today holds in open contempt the principles enunciated in the Universal Declaration of Human Rights and reconfirmed by the Soviets themselves when they signed the 1975 Helsinki Accords.

The Soviet government now is just as determined as it ever was to crush dissent.

Anyone who doubts that can ask what has happened to the heroic men and women who asked their country to comply with the promises it made at Helsinki.

At Helsinki, the Soviets promised to "promote and encourage the effective exercise of civil, political, economic, social, cultural, and other rights." And they agreed to "confirm the right of the individual to know and act upon his rights and duties."

Have the Soviets kept their promises?

Ask Anatoly Shcharansky, the Jewish activist and Helsinki monitor. He is in prison.

Ask Ida Nudel, another Jewish activist, who was convicted last year of a crime called "malicious hooliganism."

What did she do?

After waiting seven years for permission to emigrate to Israel, she finally hung a banner out her apartment window. It simply read "Where is my visa?"

Ida Nudel is in Siberia today—serving a four year sentence.

She is not the only one. Far from it.

Take, for example, Balys Gajauskas, editor of an underground Catholic newspaper in Lithuania.

Gajauskas, also a Helsinki monitor, was convicted of a crime called "slandering the Soviet state." He drew fifteen years for that, ten of them to be spent in what the Soviets call a "special regime" prison.

A "special regime" prison in the Soviet Union is very special indeed. The food in such places is especially bad. Living quarters are especially cold and crowded. Medical care and hygenic facilities are especially absent. And the risk to life and health and sanity is especially great.

Ask this man what he thinks of Soviet promises.

Ask him and ask the other Helsinki monitors from Moscow, from the Ukraine and the Baltic countries, from Georgia and Armenia. Ask them all—if you can reach them in prison.

And while you're at it, ask religious believers in the Soviet Union what they think of their government's promise at Helsinki to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief in accordance with the dictates of his own conscience."

Ask and you will learn that no religious believer—Christian, Jew and Moslem alike—may be a teacher in the Soviet Union.

No religious believer may be a civil servant or an official in the government.

No religious believer may be assured of access to places of worship or to the services of the clergy.

In the Soviet Union, official permission is required for a priest or a minister or a rabbi to visit the sick. Official permission is required even to comfort the dying. And often in the Soviet Union, official permission is refused.

And if you continue your inquiries, contact members of the Soviet Union's national minorities—which, by the way, is how Jews are defined in that country.

At Helsinki, the Soviets promised to "respect the right of persons belonging to such minorities to equality before the law."

Ask the Soviet Jews and you will learn that they have not had that equality before the law.

Ask the Jews and you will learn that since 1968, the year after the Six Day War, the number of Jewish students admitted to Soviet universities has dropped by over forty per cent.

Ask the Soviet Jews and you will learn that a secret 1970 Communist Party directive discouraged the employment of Jews "at responsible levels" in sensitive institutions.

Ask the Soviet Jews and you will learn that in 1977 and 1978, Soviet propaganda moved from denunciation of Israel and Zionism to open, rabid anti-semitism. In an article that appeared in the Fall issue of the prestigious journal *Foreign Affairs*, William Korey wrote that "saturation of the media, including television programming, made the U.S.S.R. the world's center for anti-semitic propaganda."

The Korey article also quotes a Soviet spokesman, who was asked "what is the future of the Jewish people, then? Assimilation?"

"I don't believe in assimilation," he said. "There always remains something Jewish in a Jew anyway."

What then should the Jews do? "Live quietly," he said, "and that's it."

This year, fifty thousand Jews will leave the Soviet Union to join two hundred thousand who have already left.

In the past year, sixteen thousand invitations per month have gone from Israel to Soviet Jews. As many as three hundred thousand unused affidavits are now in Soviet Jewish hands.

And the number will grow—as grow it must as anti-semitism becomes the official policy of the Soviet government.

The Soviets have not kept their word.

But in spite of what has happened to Shcharansky and Orlov, Nudel and Gajauskas and to so many others, there are still people in the Soviet Union who are willing to step forward. There are still those who are unafraid to take the places of the brave men and women sent off by the Soviets to the jails, the mental hospitals, and the remotest parts of Siberia.

There are still people in the U.S.S.R. who stand by their religious faith.

There are Jews in Russia, many of them, who are not willing to "live quietly and that is it."

These people deserve all the gratitude, all the admiration and especially, all the support that we can give them. They are among the great heroes and heroines of our times.

We have given them support in the past. Members of the Senate, myself included, have written time and again to the Soviet leaders to ask that peaceful dissenters be treated in accordance with internationally recognized standards of fairness and decency. But we have heard nothing in return.

Some Senators, myself included, have asked our government to consider withdrawing our teams from the 1980 Moscow Olympics.

Some Senators, myself included, have called for trade sanctions against the Soviet Union. We have proposed denying to the Soviets the western technology that they desperately need to modernize their backward economy. And we have made it clear that we will strongly oppose any attempt to water down Jackson-Vanik.

Early in his term, President Carter told the Soviet Union that human rights are of deep concern to the people of this country. And for that, the President deserves great credit.

But I think you ought to know that there are those in our government who believe that we should back away from the human rights issue.

There are those who argue that our support for human rights in the Soviet Union complicates our relationship with that country.

We must realize, these people say, that the Soviets consider this an internal matter.

And we must be aware, they tell us, that the Soviet leaders are very sensitive about our criticism.

Well I am sorry to hear that the Soviet leaders are sensitive.

I would not want to hurt their feelings.

But I want the Soviets to know that I am sensitive too. And I want them to know that the American people are sensitive.

I am sensitive and I am angry when I hear of Helsinki monitors consigned to "special regime" prisons.

I am sensitive and I am angry when I hear about the "refuseniks," the Soviet Jews who have been denied the right to emigrate to Israel.

I am sensitive and I am angry when I read of people jailed for slandering the Soviet state.

How, I ask you, can these men slander a state whose own actions bring down upon it the scorn and contempt of civilized humanity?

If it is a crime in the Soviet Union to make that country look absurd, then let them put the judges in these cases on trial. Let them haul Mr. Brezhnev into the dock. Let them try the secret police, the informers, and the Communist Party officials who are so frightened, so insecure that they make their country the laughingstock of the world.

I reject the idea that we should stop bothering the Soviet authorities with demands about the liberties guaranteed to their citizens by the Helsinki Accords and the Universal Declaration of Human Rights.

I believe that we should bother them as often and as forcefully as we can.

And I believe that we should bother our own government, to let our leaders know that human rights at home and abroad is what this nation is all about.

I have heard it said the human rights movement is a fad, a flash in the pan.

I say that it is not.

I say to you that the human rights movement has the potential to shake the world.

It shook this country in the form of the civil rights movement. And it will continue to shake this country until we have finally eliminated the shameful discrimination that we have inflicted upon our people on the basis of race, religion, sex and ethnicity.

It has begun to shake the established order in the Soviet Union, in Eastern Europe and in scores of other countries where repressive governments deprive their citizens of their rights.

And it is a movement that is sure to spread. The Brezhnevs and Khomeinis and Amins of this world can slow it down—but they cannot stop it.

They tell us that we should take care not to offend dictators and totalitarian governments by preaching to them about human rights.

That is the kind of "realism" that has in the past aligned our nation with repressive and reactionary governments.

That kind of "realism" has put the prestige of the United States of America behind Greek colonels, Chilean generals and corrupt, brutal dictatorships the world over. It has aligned this proud nation with the likes of Somoza in Nicaragua, Park in South Korea, Thieu in Viet Nam and Franco in Spain. And it has kept us from criticizing the Trujillos and Battistas, and all the other tyrants who deserve nothing but contempt of free men.

And that's the kind of "realism" that would bargain the future of Israel for the oil of the Persian Gulf.

Make no mistake about it—that attitude has begun to spread in this country.

We've seen it reflected in the words of a major presidential candidate.

We've heard it from some who say that their concern is for the poor.

And we hear it in the boardrooms of the great banks and oil companies of this country.

Oil and money—that's a powerful combination.

Recently, Saudi Arabia's Deputy Minister of Commerce visited here to talk with businessmen about participating in his country's lavishly financed economic development program.

"Another necessity for success," he told his listeners, "is political awareness in which the American businessman has to become involved in the legislatures of his state and nation. He has to argue against hurdles placed in his way to make it harder to do business with countries like Saudi Arabia. A great deal," he said, "has been accomplished in this area.

He is right. From the Arab point of view, much has been accomplished.

Israel no longer has clear sailing in Washington.

And Israel no longer enjoys quite the overwhelming support it once had.

A few weeks ago, the Senate turned back an amendment that would have cut aid to Israel by a hundred million dollars as a protest over the use of American weapons in southern Lebanon.

The amendment was beaten easily, by a margin of seventy-seven to seven. But the point we should keep in mind is that a few years ago, no such amendment would ever have been offered.

Israel has problems with the Administration—and potentially, with American public opinion—over issues like the West Bank and the settlements.

But we must remember that Israel is a democracy—the only one in the Middle East.

We must remember that Israel has the duty to make its own sovereign decisions about what is right.

And now more than ever, Israel needs your support, my support, and the friendship which our great country has so generously given for the past thirty years.

In the end, I believe that the case for Israel is the case for human rights.

The case for Israel is the case for a small beleaguered democracy. It is the case for a nation formed from the ingathering of a people that for five thousand years has been hounded and persecuted and driven time and again into exile.

Israelis and Jews everywhere have special reason to appreciate the glory of society like this one, where the expression "human rights" is more than an empty slogan.

Jews have good reason to know that human rights cannot be taken for granted.

And as Jews, we have a special responsibility to strengthen and to perpetuate the ideas and the institutions that have given to us the precious gift of freedom.

We owe that to ourselves. And we owe it to our children and our grandchildren to pass on to them two nations—Israel and America—that together represent what Abraham Lincoln called more than a hundred years ago—"The last, best hope of mankind."●

BETTY SAUTHARD MURPHY, A DISTINGUISHED PUBLIC SERVANT

● Mr. WILLIAMS. Mr. President, I would like my colleagues to join me in observing a milestone in the career of a most distinguished public servant—Betty Southard Murphy. Mrs. Murphy has announced her resignation from her position as a member of the National Labor Relations Board.

Mrs. Murphy's departure will be a great loss to the Board, but I am confident that she will continue in whatever capacity she chooses to provide outstanding service to the national interest.

Before her appointment as the first woman ever nominated for a position on the National Labor Relations Board, Mrs. Murphy had an outstanding record of public service as a reporter, an attorney and as Administrator of the Wage and Hour Division of the U.S. Department of Labor. This experience included work for 13 years as a partner in the distinguished law firm of Wilson, Woods & Villalon, where she practiced extensively in all phases of labor, corporate and administrative law. Mrs. Murphy has tried cases or otherwise appeared in the courts of 19 different States and has argued in 9 of the 11 U.S. courts of appeals. She is one of the very few lawyers in the United States who has successfully represented both employers and labor organizations in the often controversial field of labor relations.

When she was appointed to be Administrator of the Wage and Hour Division of the U.S. Department of Labor, she became the first woman ever to administer that program, with responsibility for enforcement of more than 80 Federal statutes which provide important protections for aproximately 73 million American workers.

At the time of Mrs. Murphy's confirmation hearing to be appointed to her position on the National Labor Relations Board, she was recommended to the Committee on Labor and Human Resources as a person who was "universally reputed as one who was tough when necessary, fair and always compassionate as required." During her nearly 5 years of service on the Board, including 2 years' service as Chair of the Board, Mrs. Murphy has demonstrated why she so richly deserves this remarkable reputation for combining toughness, fairness, and compassion in a career of dedicated public service.

It is, thus, with mixed emotions that I note her resignation. I regret that her distinguished and effective service will be lost to the board, but I am confident that we will continue to have the benefit of her service in other capacities in the years ahead.●

THE INTERNATIONAL YEAR OF THE CHILD

● Mr. CULVER. Mr. President, the International Year of the Child (IYC) is drawing to an official close this month. During the year, thousands of individuals in community, State, and national forums and projects have focused their attention on the needs and contributions of children. Together we have both celebrated the joys children bring to us and their potential to make the world a better place and explored the serious problems facing many youngsters in this country and the various ways those problems can be addressed.

The National Commission on the International Year of the Child has been a catalyst for IYC activities in the United States. I have been pleased to serve as a member of that Commission, along with my colleague Senator CHARLES MATHIAS, who recently spoke at a banquet honoring oustanding young Lutherans in Maryland. In his remarks, Senator MATHIAS eloquently describes the important and essential role we play in imparting a sense of worth and responsibility to our children.

I commend this speech to all of my colleagues for their review, and I ask that the text of Senator MATHIAS' remarks be printed in the RECORD.

The remarks follow:

INTERNATIONAL YEAR OF THE CHILD: PUTTING CHILDREN IN THEIR PROPER PLACE

(By Senator CHARLES McC. MATHIAS, JR.)

Abraham Lincoln called children the "people who are going to carry on what you have started. You may adopt all the policies you please," he said, "but how they are carried out depends on them. . . . The faith of humanity is in their hands."

I'd like to add that I certainly have no qualms about leaving the future in the hands of the outstanding young people being honored here tonight. I'm delighted that the Lutheran Social Services Committee invited me to share this special evening with you and to talk about the International Year of the Child.

The nations of the world set aside this year with one strategic objective in mind: to put children in their proper place at the center of world concern. During 1979, each participating nation has focused on the special problems of its own children, and has created individualized programs to deal with those problems. So, all over the world, a lot of different answers are being developed to one key question: how can we make life better for our children?

As a member of the U.S. National Commission on IYC, I'd like to tell you a little about what we're doing in America to answer that question. I'm happy to report there's a lot going on. Almost every state has its own commission, task force or liaison group to encourage projects at the local level. Federal agencies have launched more than 120 new programs and some 300 civic, professional, business, labor and religious organizations have undertaken special activities to enhance the growth and development of our nation's young people. Among the programs being sponsored by U.S. corporations are scholarships, support or development of zoo or museum programs, educational programs, funding for research on birth defects and a nutritional hotline.

The Year of the Child would be meaningless, however, without substantial input from children themselves. Recognizing this, the

National Commission established a Children's Advisory Panel, composed of 25 children from across the country, ranging in age from 11 to 17. These children have been active in their own communities getting other children's ideas about the Year of the Child and bringing that perspective back to the National Commission.

I'd like to share some of the insights of these children with you because we can learn a lot about ourselves and our society from them. Let me read you a sampling of what those kids have told the Commission:

We don't want to be stereotyped. Teenagers, especially, feel that they suffer unfairly from a commonly held adult view that all teenagers are irresponsible. Not true.

We want more opportunities for joining in decision-making regarding our lives (how else can we learn to make wise decisions?), and we want the chance to assume real—not contrived—responsibility, including opportunities to earn money.

We want career counseling, including help in understanding the value of education.

We want more, and more suitable, recreational facilities—good places to go for socializing with friends.

We want to learn more about good nutrition and the risks in using drugs and alcohol, and

We believe that parent education courses should be more widely available in school because they will help us to be better parents one day.

An outstanding young Marylander, Steven Dunne, is serving on the Children's Advisory Panel and we can all take pride in the contribution he is making. At a White House briefing a few months ago, Steven electrified the audience when he said very simply: "I don't want to live in a valueless society when I grow up." It is up to each one of us to see that Steven gets his wish. It is up to us to see that the society we place in Steven's hands and in the hands of the young people we honor here tonight is worthy of them.

We also have a responsibility to equip the next generation to deal successfully with the society they will inherit from us, which brings me to the important subject of parenting. Margret Mead who until her death last year was an Honorary Commissioner on the International Year of the Child, spoke often of the correlation between a child's achievements and a child's environment. Over and over again, Margaret Mead preached one sermon: parents are the primary contributors to a child's experiences; parents make the difference. And she was right.

Good parenting has never been easy. And it is more difficult today than ever before. Significant changes have taken place in American society, particularly in the institution of the family. Today, for the first time in our history, more than half of the mothers of our school age children and one-third of the mothers of our pre-school children work outside the home. With the troubled state of our economy, these figures are on the rise. In addition, more than 10 million children under the age of 18 live in families headed by a single parent, and that figure is also on the rise. The implications of these figures are staggering. The American family and American society are in flux. We are in a whole new ball game, where the old rules no longer apply and new rules haven't been written.

Nothing that is being done in this IYC—no number of conferences, or programs, no amount of funds—can give a child one iota as much as a concerned and loving parent can. The experts can tell you how much television is too much, but the experts can't turn off the tube. Psychologists can tell you what happens when you deprive a child of love, but they can't come into your home and supply the love. Social workers can tell you how drugs or drunkenness affect a child, but they can't cure your addiction. And educators can tell you how much children need role models, but they can't play your role for you.

The Maryland Department of Human Resources has printed a wonderful bumper sticker that reads: "Have You Hugged Your Child Today?" But it's not enough to hug our children and tell our children we love them. We've got to show them by giving them better health care, better education, a safer, saner environment, brighter prospects for the future, and values to live by.

Now, more than ever, children should be taught ethical standards and should be encouraged to recognize that they, too, have moral responsibilities: to their family, to their environment, to their country, to their fellow human beings and, above all, to themselves.

It would be a terrible mistake in our celebration of the International Year of the Child if we focused all our attention on the rights of children and none of it on their responsibilities.

I cannot speak from a mother's point of view about the joy of creation. But I can speak about the pride a father feels when he stands in a hospital corridor and hears of the birth of a child. And I can speak of the pleasure a parent feels as you progress through the various milestones of childhood—the first birthday, learning to swim, learning to ride a bicycle.

I can talk about the pride you feel as you see a child's personality and character develop.

But all of this joy and pleasure and pride is in jeopardy if you don't grant your child the basic right of being recognized as an individual and if you don't somehow make your child realize his responsibilty for himself and for his share of work in his generation. And, if you can respect this right of your child's and impart this sense of responsibility to your child, then you can reach for one of the greatest joys which is granted as we pass this way: the satisfaction of knowing that you have helped another person achieve his full potential as a human being.

That, essentially, is the goal of the International Year of the Child. The quality of tomorrow's world, even its survival, will be determined by today's children. The faith of humanity is, indeed, in their hands.●

DR. JACK BLINKOFF

● Mr. RIBICOFF. Mr. President, it was with sorrow that I learned that Dr. Jack Blinkoff of Torrington, Conn. had been killed in a traffic accident in New York State. A man of compassion, deep concern for his patients and his community and a physician of skill and competence, Dr. Blinkoff will not be forgotten. For those of us who knew this extraordinary man, his passing will always be a source of sadness.

Jack Blinkoff's record of civic service in Torrington spanned three decades. In 1948, he was named assistant health director for the city and he became chief health director in 1955. He served in that position for 12 years.

From 1951 until 1970, Dr. Blinkoff was Litchfield County Coroner. He also served as examining physician for the police and fire departments for more than 20 years before leaving that post 2 years ago.

At the direction of Mayor Michael Conway, flags on all city buildings in Torrington were flown at half-mast in respect for Jack Blinkoff. This gesture was reflective of the high regard Torrington felt for Jack Blinkoff.

In a letter to the Torrington Register of December 7, 1979, Paul Pasquariello gave a fitting tribute to Jack Blinkoff. Mr. President, I request that this letter be printed in the Record.

Tribute to Dr. Blinkoff

Editor of the Register: The passing of Dr. John J. Blinkoff, late of Torrington, on December 2 was routinely reported in the local newspaper and in other papers on December 3 with some very brief biographical data concerning him.

With his passing, the community has lost one of its greatest intellects and as fine a doctor as ever lived. Dr. Blinkoff adhered to the truest standards of his profession. He practiced medicine not for monetary enrichment, but as a service to humanity. His relationships with his patients were full of care and compassion for them. He was always modest and unassuming, gentle in his manner, charitable, and unoffending. He routinely made house calls at all hours, and in all kinds of weather. We shall probably never know how many lives he saved, and how many thousands of people he benefited, both physically and mentally. In an age when materialism is extolled, he practiced in his own life and in his dealings with others the highest standards of Judeo-Christian ethics.

His learning was unsurpassed, not only in the field of medicine, but in many other fields as well, and he could converse brilliantly and accurately on history, economics, national and international events, and many other subjects. He was a true scientist and a true humanitarian at the same time. He was in the front lines of combat in World War II, and exposed himself fearlessly to the greatest elements of danger during wartime. He treated people not as chattels, but as human beings. He was always prone to forgive offenses and, in his unassuming way, to do all the good that he could and to rectify evil insofar as it was in his power to do so. We shall probably never have a detailed description of his tens of thousands of kind deeds. In his passing the community and the world have lost a great man.

On the tombstone of Sir Isaac Newton, the great mathematician and the founder of the science of physics, are engraved the words "rejoice, mankind, and that so great an ornament hath adorned thy race." The same sentiments concerning Dr. Blinkoff are in the minds and hearts of his multitude of patients and friends.

Socrates said that no harm can come to a just man, either in this life or after death, and this thought may help to alleviate the shock felt upon Dr. Blinkoff's sudden passing away.

He was a living example of the precepts stated by the Apostle Paul in these words: "Finally, breathren, whatsoever things are true, whatsoever things are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think of these things."

Paul Pasquariello.

Torrington.

FEDERATION OF AMERICAN SCIENTISTS SUPPORTS SALT III ARMS REDUCTION DECLARATION

● Mr. McGOVERN. Mr. President, the Federation of American Scientists is a nonprofit public interest organization of over 5,000 natural and social scientists and engineers. The Federation was first organized in 1945 as the Federation of Atomic Scientists in response to the dilemmas of science and conscience posed by the development of nuclear weapons. Its founding members and its current membership include many of the country's leading atomic scientists who have been responsible for the scientific development of nuclear weapons. For this reason, I am especially gratified to receive the endorsement of the FAS for the SALT III Arms Reduction Declaration which I introduced along with Senator CHAFEE. The December 1979 FAS newsletter, called "F.A.S. Public Interest Report," presents the views of the F.A.S. National Council on SALT III and includes other interesting materials on the future of arms reductions.

I ask to have printed the text of the relevant portions of the FAS newsletter in the RECORD so that it can become available during the SALT debate.

The text follows:

F.A.S. PUBLIC INTEREST REPORT

SALT III EMERGING OUT OF SALT II

While the Senate nitpicks SALT II, Senator George McGovern has begun to shape the form of SALT III.

On November 1, Senator McGovern secured the unanimous consent of the Foreign Relations Committee to the declaration on page 2, which declaration is almost certain to be attached by the full Senate, to the resolution of ratification of SALT II. He observed that he would vote for the SALT II treaty only if it were.

To appreciate its significance, one should know that the Administration has no clear and agreed idea what to do in SALT III. Much of its sophisticated opinion is so traumatized by the difficulties of SALT II, that it is prepared to give up on efforts to secure substantial reductions, or even comprehensive agreements, in SALT III. The SALT II treaty itself is vague on the subject of what to do next (see box, page 3). The real weakness in the Administration's case for SALT II, from the perspective of doves, has always rested on uncertainty of what would follow.

Senator McGovern's success in securing the approval of his resolution rested on five observations, none of which will be foreign to readers of our FAS editorials and testimony.

(1). He perceived early that both those for, and those critical of, the SALT II treaty were, for diverse reasons, declaring their support for "real" arms control and hence could be counted upon to support a resolution urging still more progress next time, (PIR, 9/79).

(2). He recognized that the SALT II treaty could be used as a baseline for such agreement, and that proportionate reductions of those ceilings and subceilings would represent an attractive disarmament method hard to argue against (PIR, 1/79).

(3). He recognized that it was not only doves, but also hawks, who had a special antipathy toward MIRV—because MIRV had threatened Minuteman; hence the alliance between hawks and doves could be extended beyond percentage annual reductions to urging special efforts to control MIRVs, (PIR, 3/79).

(4). He recognized that the most constructive thing which the Senate Foreign Relations Committee could do, was not to make minor adjustments to the SALT II treaty—which was a fait accompli—but to constructively influence SALT III, without which influence SALT III might achieve little, (PIR, 9/79).

(5). And he understood that, with ratification in doubt, "left" criticism of the treaty—fully justified by its inadequacies—would give him the political leverage to secure his resolution, (PIR 2/79).

We commend the Senator for his skillful legislative work and for getting this all together.

The effect has been, in particular, to require the Administration to seek deep cuts in general and, in particular, to focus on the method of percentage annual reductions (PAR), applied to the various limits of SALT II: 2250, 1320, 1200, 820, and 308. (The Air Force, among others, is now studying this matter in exhaustive classified detail).

The declaration also requires the Administration to make a major effort to control the problems which MIRV has caused. And it should deter the Administration and the Soviets from using SALT III as a forum only for isolated arms control agreements of a narrow technical kind.

True these declarations are not binding; no Senate can bind a future one, which is why the declaration ends only by saying that it is the "conviction" of the Senate that future consent should be withheld from treaties not complying substantively with the declaration. But the resolution does give substance to, and formalize, an existing attitude in the Congress—hence it must be respected in the negotiations, at peril to ratification of any subsequent agreement. We hope it will help those in the Administration who want to make a major effort to turn the arms race around.

FOREIGN RELATIONS COMMITTEE APPROVES SALT II BY 9–6

While approving SALT II, and in addition to passing the resolution discussed above, the Foreign Relations Committee, in its Committee Report explicitly rejected the view that SALT II could be justified simply as "a step forward in a process" and recommended that the Senate play an important advisory role in establishing goals and guidelines for SALT III by establishing standards for the future. Nothing could be closer to what FAS newsletters have preached.

The Committee Report noted also that the purpose of the McGovern-Chafee declaration was to translate a consensus in favor of mutual arms reductions into a constructive set of guidelines for the next phase of the negotiations.

SALT HEARINGS PROVIDED DRAMA—BUT LITTLE ACTION

Virtually each day since October 15, the Senate Foreign Relations Committee has been putting on a show reminiscent of the Perils of Pauline. About 30 members of the press, 50 spectators, and 30 representatives of the Administration, watch the Committee members convene to mark up the SALT II Treaty. The members attend with unprecedented regularity, and offer amendments.

The amendments are categorized: Category I amendments involve such matters as need not be communicated to the Russians, e.g., instructions about SALT III; Category 2 amendments are those that instruct the President to advise the Russians of some matter, unilaterally, without requiring a Soviet response; Category 3 amendments are the so-called "killer" amendments that reopen negotiations to the extent of requiring Soviet acceptance.

In theory, the mark-up hearings have the Committee staff as main witnesses; in fact, the Administration observers and witnesses, 40 strong, play that role—led by Senate Counsel, Lloyd Cutler, and ACDA negotiator, Ralph Earle. They live, as one of their assistants put it, "day to day" waiting to see if a Category 3 "killer" will get through. In the end, none had.

The Administration lined up a firm collection of 8 of the 15 Senators to oppose such amendments. They are: Frank Church, Claiborne Pell, George McGovern, Jacob Javits, Charles Percy, Paul Sarbanes, Edmund Muskie, and Joseph Biden. Thus, the "perils" of a Category 3 amendment were, in the end, unreal.

On the other hand, the opposition to the treaty is practicing for the floor debate. Senator Baker is openly running for President against the treaty. Senator Lugar is his campaign manager, and votes his proxy on the Committee. Senator Helms' aide advised FAS that he has 50 amendments ready for the floor, and that he believes the treaty is "dead in the water".

Military opponent becomes staffer!

Recently Senator Helms complained that the Administration was dominating the hearings, and that no opposition was there to balance the debate. In effect, he wanted an anti-Administration view at the table. He suggested General Edward Rowny, former SALT negotiator who opposes the treaty, although General Rowny had been heard as a witness at great length.

Senator Javits noted that Senator Helms could hire Rowny as an aide and have him sitting on the podium as an advisor. By the time the smoke cleared, Senator Church, and ranking Republican Senator Javits had invited General Rowny to be the minority counsel consultant to the committee, and sat him at the witness table. There he discourses lengthly, and often, somewhat, irrelevantly.

In honor of his presence, Senator Hayakawa asked for a revote on several close "killer" amendments. The theory is that General Rowny might add something that would change a vote. In practice, it is just stalling. Senator Hayakawa read a related statement suggesting that the treaty supporters were really consigning the treaty to defeat by not letting the opponents amend it with the "killer" amendments. He offered this as an analogy to Woodrow Wilson instructing his supporters to oppose the Treaty of Versailles rather than let it be amended.

In fact, when Senator Lugar was asked whether he would support the treaty if an amendment he offered was accepted by the Committee, he declined to do so saying the treaty had many problems, and even opponents were obligated to try to fix them.

The Administration will be trying to line up about 53 firm votes to turn back all such amendments on the floor of the Senate. There may then result a Mexican stand-off, with the Administration able to prevent the treaty being amended (by majority vote), but unable, perhaps, to secure the two-thirds vote necessary to ratify the treaty. If so, the Administration will probably then buy the votes necessary to approve the Treaty by accepting a few so-called "killer" amendments—after checking with the Soviets, of course, to ensure that the particular category III amendments can be accepted, in turn, by the Russians. Not every "killer-amendment" does in fact, kill. And so the Treaty will likely pass, if slightly changed.

The Russians have about three observers at the hearing room, but they must be quite confused. At a Soviet annual reception for the 62nd anniversary of the Revolution—attended exclusively by newsmen and SALT activists—the Ambassador complains to a Senate aide that he cannot understand what is happening in the Senate. In Moscow, similarly, a Soviet analyst is quoted as saying that Washington SALT events cannot be put in a "Marxist perspective" but resemble random Boolean motion. The attendance at the reception seems to reflect the significance of SALT for U.S.-Soviet relations; the Russians really have no other constituency here for detente. (Nov. 26).

"SHRINK SALT II"

"I do not think in SALT III we have to reinvent the wheel. We can start off with the proposition that this is a basic treaty that can be continued. It can be continued with amendments.

"I believe what we ought to do as a priority item in SALT III is to try and shrink the SALT II limits, not only the overall aggregate ceiling of strategic nuclear weapons but also the various subceilings on the subcategories."—Paul C. Warnke

TEXT OF THE M'GOVERN-CHAFEE SALT III DECLARATION

"(1) expresses its disappointment that strategic arms limitations talks between the United States and the Union of Soviet Socialist Republics (hereafter in this declaration referred to as the 'Parties') have failed to achieve an agreement providing for major reductions of, and more significant qualitative limitations on, strategic nuclear forces;

"(2) endorses the agreement of the Parties under the Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms (hereinafter in this declaration referred to as the 'Joint Statement'), signed on June 18, 1979, to pursue, through further negotiations for an agreement on further measures for the limitation and reduction of strategic arms, the objectives of significant and substantial reductions in the numbers of strategic offensive arms and qualitative limitations on such arms, and affirms that the attainment of such objectives would strengthen strategic stability, maintain international peace, and enhance the national security of the United States;

"(3) urges and requests the President, at the earliest possible moment during the SALT III negotiations, on the basis of mutuality, to pursue continuous year-by-year reductions in the ceilings and subceilings under the Treaty so as to take advantage of the Treaty already negotiated and to begin a sustainable and effective process of reductions in strategic arms which promotes strategic equivalence and strategic stability;

"(4) intends the phrase 'ceilings and subceilings under the Treaty', as used in paragraph (3) of this declaration, to mean—

"(A) the aggregate number of strategic offensive arms permitted to each Party under Article III of the Treaty;

"(B) the number of fixed heavy intercontinental ballistic missile (ICBM) launchers permitted under paragraphs 3 and 7 of Article IV of the Treaty; and

"(C) the number of such arms permitted under each limitation of Article V of the Treaty;

"(5) urges that the President, in seeking an agreement on reductions in such arms, make exceptional efforts to reduce the number of ICBMs equipped with multiple independently targetable reentry vehicles (MIRVs);

"(6) urges the President, during SALT III negotiations, to seek further agreement on qualitative limitations on strategic offensive arms for the purposes of promoting strategic stability and strategic equivalence and of assuring the survivability of strategic nuclear forces, including—

"(A) restrictions on the development, testing, and deployment of new types of strategic offensive arms;

"(B) restrictions on the modernization of such arms which were developed, tested, or deployed on the date of entry into force of the Treaty;

"(C) restrictions on and reductions in the number of reentry vehicles with which ICBMs, submarine-launched ballistic missiles (SLBMs), and Air-to-surface ballistic missiles (ASBMs) may be flight-tested or deployed; and

"(D) restrictions on potentially destabilizing advances in technology relating to strategic nuclear weapons;

"(7) emphasizes that any qualitative or quantitative reductions or restrictions called for under this declaration should be adequately verifiable by national technical means or by additional cooperative measures which contribute to the effectiveness of verification of compliance with the Treaty by national technical means, as provided by the Joint Statement;

"(8) supports the undertaking by the Parties in Article XIV of the Treaty to begin promptly negotiations to achieve agreement as soon as possible, and concludes that the Parties should also seek to give effect well in advance of 1985 to new agreements or to amendments to the Treaty, as provided in Article XVIII of the Treaty, which are consistent with this declaration;

"(9) requests the President, not later than December 31, 1981, to prepare and transmit to the Senate a report on the progress achieved during SALT III negotiations; and

"(10) expresses its intention to keep the progress achieved in SALT III negotiations under continuous review and expresses its conviction that the Senate should not advise and consent to the ratification of any SALT III Treaty which does not comply substantially with this declaration."

UNITED STATES-SOVIET UNION AGREED PRINCIPLES FOR SALT III

(1) Significant and substantial reductions in the numbers of strategic offensive arms;

(2) Qualitative limitations on strategic offensive arms, including restrictions on the development, testing, and deployment of new types of strategic offensive arms and on the modernization of existing strategic offensive arms;

(3) Resolution of the issues included in the Protocol of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offensive Arms in the context of the negotiations relating to the implementation of the principles and objectives set out herein.

M'GOVERN ON SALT II

[From the October 31 Congressional Record in which Senator McGovern explained his resolution]

The use of SALT as an arms race management device rather than as an arms reduction device has become a major obstacle preventing achievement of the very goals SALT was created to secure. The first goal was to limit and reduce weapons. The second goal was to improve United States-Soviet relations.

Neither of these goals has been achieved. By the expiration of SALT II, both sides will have more than tripled their arsenals of nuclear warheads over the pre-SALT period. SALT has been largely irrelevant to the major strategic developments of this era, namely MIRV's and first-strike accuracy refinements.

This failure to limit arms and reduce substantially the threat to our security has created new political insecurities on both sides since the Soviet Union and the United States can each comply with the SALT treaty provisions while simultaneously increasing the threat directed against the other side. This insecurity and uncertainty about the other side's true intentions make substantially reductions more difficult to achieve, thus fueling new doubts and fears and raising the level of tension and suspicion.

The result of this vicious cycle is that we are ending up with both a SALT treaty and arms escalation. And we are ending up with SALT without detente. It is clear to me that the SALT process is not working. We cannot afford to seek new cosmetic agreements just for the sake of keeping the SALT process alive when the process is no longer effective—and may even have become counterproductive.

If SALT II were the end of the road, I could not in good conscience support it. I must first be assured that genuine reductions will be the goal of any future SALT negotiations and that a realistic method exists to achieve them. It is a commonsense observation that SALT II must be passed before SALT III is possible. But for those of us sincerely interested in arms reductions, there can be no SALT II without a clearly visible outline for SALT III. My vote depends on it.

The most important step the Senate can take to protect our security is to change the direction of the arms escalator by demanding that SALT do more to protect our security. The declaration on SALT III which Senator Chafee and I are proposing today is an attempt to shift the arms race into reverse.

A concensus has emerged in the SALT debate in favor of mutual and equitable deep cuts in weaponry. The agreement of military and civilian witnesses, public and private, treaty opponents and supporters, Republicans and Democrats in favor of reductions may be the most noteworthy outcome of the debate.

Now our challenge is to translate this bipartisan consensus on arms reductions into a concrete and effective strategy for achieving deep cuts in SALT III.

We need a dramatic new strategy for several reasons. First, major reductions will elude us if SALT continues on a business as usual basis. The unstable relations between the United States and the Soviet Union, the gallop of weapons technology and the inherently escalatory impact of the SALT bargaining and ratification processes tend to prevent true arms limitations. We must chart a new course.

Second, we need a new strategy because the experience of congressional action in SALT I proves the merely calling for reductions in the abstract is not enough. In the SALT I resolution, Congress adopted, under Senator Cranston's sponsorship, an amendment which urged the President—

> To seek at the earliest practicable moment Strategic Arms Reductions Talks . . . in order to bring about agreements for mutual decreases in the production and development of weapons of mass destruction.

We cannot afford simply to repeat this call for reductions without proposing either a strategy or any hint of a sanction.

Third, we need a strategy because there are ominous suggestions within the administration that it does not accept the consensus formed in the Senate for reductions. The fashionable argument at the moment is that arms control has failed because negotiations have focused too much on reductions and too little on minor stabilizing agreements which could better manage the nuclear arms race. But arms control has failed, not because the reductions were too big, but because they were too little and too late. SALT is in trouble on all sides of the political spectrum not because negotiators focused too little on arms race management, but because they focused too much attention on it while neglecting the goal of reductions. We need to send a tough message to the administration that we regard genuine arms reductions as the centerpiece of any future agreement. There is nothing inherently contradictory about arms reductions and qualitative limitations to improve strategic stability.

Fourth, a realistic strategy will help us probe the intentions of the Soviet Union. Thus far, the record is unclear. On the one hand, the Soviets did make actual reductions in SALT II. Their reductions will not be militarily significant, but they are politically significant. On the other hand, the Soviets rejected any significant lowering of the Vladivostok ceilings. We have to make every reasonable effort to achieve equitable reductions through negotiations with the Soviet Union. Any SALT III strategy must take into account the fact that an arms reduction agreement must satisfy two parties. The SALT III debate will become pointless if it is reduced to a rhetorical attempt to disarm the Soviet Union just as any Soviet attempt to use SALT to unilaterally disarm the United States would fail.

SALT NEEDS A THEME

Executive Branch agencies are beginning to work on options for SALT III; the letter below urges them to consider setting long range goals and constructing a framework akin to that used in the Mideast Crisis. This would the SALT process in some perspective, and provide it with some "theme". Such a course would help SALT II, as well as SALT III, by showing that SALT had promise and direction.

The crucial question raised by SALT today is whether the President should raise or lower expectations for its progress. The FAS position, as evinced in a number of Council approved editorials, and in its historical tradition, is to press for making SALT real and significant—hence to raise expectations from the present degree of achievement of SALT. As this month's editorial indicates, the Senate is also adopting this view.

NOVEMBER 8, 1979.

MY DEAR MR. PRESIDENT: The trouble with the SALT process is that it has no theme. It gives the appearance of being the result of ad hoc haggling, and worse, fails to achieve enough.

To put the SALT talks back on a sustainable track, you must set far-reaching—but understandable and concrete—goals for SALT. Then you must outline simple processes for achieving those goals. Once all concerned can see where SALT is headed and why, criticism of its ongoing accomplishments will decline.

Recently, the Foreign Relations Committee passed, unanimously, the McGovern-Chafee SALT III resolution. It indicates directions upon which both hawks and doves can agree. First, the resolution called for using your SALT II treaty ceilings and subceilings as a baseline for reductions, and then reducing these limits year-by-year in a continuous and sustainable fashion, as might be done most easily by percentage reduction each year. Second, the resolution called for exceptional efforts to secure reductions in multiple independently guided reentry vehicles (MIRV).

Remembering how you solved the Mideast confrontation, and building on this important indication of sentiment, why not look to a far-reaching "Framework for SALT to the year 2000". As with your Mideast solution, the Framework would not imply that all problems could now be solved, or even understood clearly. But it would show where disarmament was supposed to be going, catch public attention, and resurrect popular support for the SALT process. Most important, it would give the negotiators a structure within which to work. Today, with the exception of your remark that "zero-nuclear" weapons should be the goal, the negotiators themselves have no clear idea what it is they are attempting to achieve.

Why not develop such a structure by building on the Foreign Relations Committee bill and espousing its two themes:

(1) THEME ONE: *Diminishing the Threat to our Society* (*Disarmament*). Here you might look toward reducing overall aggregates of U.S. and Soviet strategic forces by half during the 1980s, and by half again during the 1990s. This could be achieved by a 7 percent annual reduction of strategic delivery vehicles (bombers, ICBMs and sub-launched missiles) applied year-by-year to each of the ceilings and subceilings of your SALT II treaty.

If these reductions occurred, each side would have about 575 strategic delivery vehicles in the year 2000—a fully adequate deterrent if deployed in a survivable fashion with bombers, land-based missiles and submarines. Incidentally, the concrete use of your SALT II agreement as a baseline will help build support for SALT II ratification; people sense that the SALT II treaty is of little value except as a baseline for disarmament, but they are unsure that either of the two sides actually plan to move to meaningful disarmament.

Now in order to help them be deployed in a survivable manner, you need also to limit the threat to our forces.

(2) Theme two: *Diminishing the Threat to our Forces* (*Stability*). While a variety of minor arms control agreements can usefully be reached under this category, you should call for the complete elimination of multiple warheads on U.S. and Soviet missiles. You should set, as a goal, the elimination of land-based missile MIRV in the 1980s, and the elimination of sea-based missile MIRV in the 1990s.

Instability caused by MIRV

It is land-based MIRV that threatens to make our land-based Minuteman missiles vulnerable—with one Soviet missile being able to destroy several of ours, and vice versa. It is MIRV that threatens to provide so many warheads that exotic barrage attacks on air space or water might threaten located airplanes and submarines. And, unfortunately, even sharp reductions of MIRV are not really enough—elimination is required. Only a few hundred Soviet SS-18s could threaten to destroy all of our land-based missiles just as could our protected MX missile do the reverse.

Fortunately, it will not be until the nineties that sea-based MIRV is accurate enough to be troublesome in this way; with the success in eliminating land-based MIRV in the 1980s, your plan would be just in time to work on sea-based MIRV in the 1990s. Especially important, if you could secure agreement to eliminate MIRV, the MX missile project could be abandoned in time, its use having been simply to help persuade the Soviet Union to give up its MIRVed land-based missile force. In effect, the U.S. would trade 550 Minuteman III missiles and 200 projected MX missiles for about the same number of Soviet MIRVed missiles. They could be reduced at 50–70 per year.

Can it be done? Politically, no one knows since the Soviet Union, with an ailing Brezhnev, will soon be under new leadership. But, technically, it does not require the dismantlement of launchers or silos now armed with MIRV; they need only be modified so that they are not of a size and kind that has previously been tested with a MIRVed missile according to our present verification techniques.

Needless to say, techniques of verification would change during the two decades with new methods being adopted and older ones, perhaps, abandoned; success in verification would be imperative. In addition, success in reducing theatre nuclear forces would be important. Just as your Mideast agreement did not resolve problems of Palestinian autonomy, the SALT framework cannot now solve all problems of European dependence. To repeat, you need not have the solution in hand to all problems to let "your reach exceed your grasp".

In fact, the critical question for your policy is whether to raise or lower expectations for SALT. Should you let SALT wind down into a technical morass devoted, at best, to taking the roughest edges off on-going technological advance? Or should you follow your initial instincts that the survival of the Nation depends upon making a beginning in real reductions?

Mr. President, the greatest danger to this Nation springs from a "war nobody wants", that arises notwithstanding the greatest deterrent forces the world has ever seen, and an abundance of overkill. None of your advisors can look with confidence to our Nation continuing for another 200 years if these weapons remain in place indefinitely. Every year brings new world crises; which Iran will be the one to set Armegeddon in motion? We can, in 30 minutes be more desolated, and more abandoned, than even any Cambodia. Nuclear war is your most important problem. To lower expectations for SALT may be to seal the Nation's fate.

It is true that we cannot now see how we will progress from the above goals for the year 2000, to a context in which our Nation could survive an all-out general war. One of your successors will work on relevant plans in the next century.

But you could, with this plan, at least use the next two decades, to return us to the force levels of two decades ago. And if you were willing to devote the energy and precision you devoted to the Mideast crisis, to this most pressing problem of our own, might you not be remembered, most of all, for this?

Most Sincerely,

JEREMY J. STONE.

W.K.H. PANOFSKY URGED 50% CUT IN 10 YEARS

". . . I do not consider it feasible or desirable to establish the specific schedule desired by the United States before commencement of negotiations. However, I consider the goal of reducing the totality of SNDV's (Strategic Nuclear Delivery Vehicles) by, perhaps, 50 percent during a period of less than 10 years to be reasonable and negotiable. I recommended that, in the interest of strategic stability, reductions be negotiated not only in the overall aggregates, but also in the subcategories of central strategic systems as now identified in SALT II. I also specifically recommended that the 'phasing', that is the schedule of reduction, should not be the same for each of the SALT II categories. Specifically the schedule of reductions for MIRVed land-based ICBM's should be more rapid than that of the overall aggregate."

FOREIGN RELATIONS COMMITTEE EXPRESSES DISMAY: CALLS FOR SENATE INSTRUCTIONS

". . . But the most important reason for the Committee's sense of disappointment is the large increase in warheads expected on both sides, despite the modest reduction in the numbers of permitted launchers. Thus, paradoxically, a vast increase in the quantity and destructiveness of each side's strategic power will occur during the period of a Treaty which seeks to limit strategic offensive arms.

"Moreover, though the qualitative constraints in the Treaty are important, particularly from the standpoint of establishing precedents for SALT III, the Committee believes that the Treaty does little to restrain potentially destabilizing technologies or to alleviate the main threats to strategic stability. SALT II has not been able, despite the Administration's efforts, to reduce the Soviet capability to threaten the prompt destruction of most of the U.S. ICBM force. This leaves a potentially less stable situation in the early to mid-1980's, in which the United States may be compelled to undertake major new strategic programs and increased defense expenditures.

"Some witnesses told the Committee that SALT could not be expected to resolve such strategic problems or to make great strides in reducing and controlling the strategic competition. Instead, SALT II was justified as a step forward in a process that must proceed incrementally toward more significant arms control outcomes. But, the Committee is convinced, after extensive consideration of the question, that to be worthwhile, and to preserve the base of support in the United States for arms control process, SALT III must achieve greater progress in reductions and qualitative limits. For that reason, the Committee recommends that the Senate play an important advisory role in establishing goals or guidelines for SALT III. The Executive must understand the depth of the Senate's concern. The Committee believes that the best way in which the Senate can do this is to set forth fundamental goals which should guide the U.S. negotiators in SALT III and which will serve as a standard against which the Senate can evaluate a future SALT II agreement or agreements. The Committee's specific recommendation as to the form and language of such a Senate statement is discussed in the Committee Action section of this report." (From the Committee's Report, November 19, 1979). ☐ ●

ADDRESS BY SENATOR MAX BAUCUS BEFORE WOMEN'S NATIONAL DEMOCRATIC CLUB

● Mr. DANFORTH. Mr. President, it is a privilege to serve in the U.S. Senate with Max Baucus. He is a person of great ability and, beyond that, keen conscience. He has delivered to the Women's National Democratic Club an excellent analysis of the serious crisis in Cambodia. I ask that his remarks be printed in the Record.

The remarks follow:

Relief Efforts to Cambodia; New Perspectives

(Speech by Senator Max Baucus)

In the spirit of Christmas, I thought an appropriate beginning to my address on Cambodia would be to recall the encounter between Ebenezer Scrooge and the ghost of Christmas present in Dickens' famous classic, "A Christmas Carol."

Near the end of the meeting, Scrooge notices several strange forms under the spirit's robe and asks him what he is hiding under there.

Let me read you at this point, Dickens' own prose:

"From the foldings of its robe it brought two children, wretched, abject, frightful, hideous, miserable. They knelt down at its feet, and clung upon the outside of its garment.

"They were a boy and girl. Yellow, meagre, ragged, scowling, wolfish, but prostrate, too, in their humility.

"Where graceful youth should have filled their features out, and touched them with its freshest tints, a stale and shrivelled hand, like that of age, had pinched and twisted them, and pulled them into shreds.

"Where angels might have sat enthroned, Devils lurked, and glared out menacing.

"Scrooge stepped back, appalled. Having them shown to him in this way, he tried to say they were fine children, but the words choked themselves, rather than be parties to a lie of such enormous magnitude.

" 'Spirit! are they yours?'

" 'They are man's,' said the spirit. This boy is ignorance. This girl is want. Beware of them both, but most of all beware this boy.' "

As the Christmas season approaches, the subject of Cambodia falls deeper and deeper into the back sections of our newspapers. For over a month now, the lead story throughout the world is the Iranian hostage crisis.

My concern is that the children under the robes of Christmas present continue in their dismal state.

The children of want still exist in Cambodia. And the extent of worldwide ignorance about the problems being confronted in providing aid to starving Cambodians continues to be our principal obstacle in dealing with this massive problem.

I would like to paraphrase Thomas More in one of his classic confrontations with Cardinal Wolsey in the famous play, "A Man for All Seasons," where Sir Thomas says:

". . . When statesmen forsake their own private conscience for the sake of their public duties, they lead the world by a short route to chaos."

We all feel that message. We all understand how words cannot express the need for us as a people, as passengers on this planet, to do something now to stop the deaths of millions of helpless people.

Yet, in my address today, I want to talk through with you the myriad obstacles—political, diplomatic, historical, and the like—that are working together to frustrate our efforts to help the Cambodians.

But before I provide you with that survey and with a few meager ideas as to what more we can do to help, I would like to quote one more passage from "A Man For All Seasons." I suspect most of you remember this encounter where Sir Thomas More is confronted by his family who are imploring him to use his power to arrest and imprison a former friend of the family who has betrayed him.

Imagine if you will the part of the family being played by those of us who would like to see aggressive action taken immediately to move into Cambodia and provide the assistance needed to help the defenseless people there.

The first member of the family says to her father:

Family. "Father, that man's bad."

More. "There is no law against that."

Family. "There is: God's law!"

More. "Then God can arrest him."

Family. "Sophistication upon sophistication!"

More. "No, sheer simplicity. The law. I know what's legal and what's right. And I'll stick to what's legal."

Family. "Then you set man's law above God's!"

More. "No, far below; but let me draw your attention to a fact—I'm not God. The currents and eddies of right and wrong, which you find such plain sailing, I can't navigate. I'm no voyager. But in the thickets of the law, oh, there I'm a forester. I doubt if there's a man alive who could follow me there, thank God . . ."

Family. "While you talk, he's gone!"

More. "And go he should, if he was the devil himself, until he broke the law!"

Family. "So now you'd give the devil benefit of law?"

More. "Yes. What would you do? Cut a great road through the law to get after the devil?"

Family. "I'd cut down every law in England to do that!"

More. "Oh! And when the last law was down, and the devil turned around on you—where would you hide, the laws all being flat? This country's planted thick with laws from coast to coast—man's laws, not God's—and if you cut them down—and you're just the man to do it—d'you really think you could stand upright in the winds that would blow then? Yes, I'd give the devil benefit of law, for my own safety's sake."

It's a great leap in time from Thomas More to the Cambodian dilemma, but More expresses as well as any the importance of maintaining international laws.

I will seek in my address today to identify the tension between honoring those laws—laws made by men and women like you and me—and honoring higher laws—laws we sometimes call God's laws—laws that are meant to protect human life and human rights.

As we meet here, more than 3 million Cambodians—or two-thirds of the remaining Khmer population—are in desperate need of food and medical assistance. Two and one quarter million of them are in central and eastern Cambodia.

As many as one million are in Cambodia's Western third. A majority of them are moving toward, or already have reached, the Thai-Cambodian border. Several hundred thousand have crossed into Thailand. And about 30,000 have been moved to U.N.-sponsored holding centers 20 miles or so inside Thailand.

The Khmer people cannot meet their own basic human needs. Their health, their lives, perhaps even their continued existence today depend on those outside the society, who might share their strength and resources.

You may have seen the limp, stunted bodies of Khmer Children. You have seen the exhaustion and confusion in the eyes of their parents. You have seen thousands of Khmer silently huddled together in pain and discomfort.

You might ask how an ancient culture has come to such straits. How is it that the descendants of rulers of large sections of Southeast Asia and builders of great temples and monuments find themselves incapable of feeding their own children.

How is it that on the rich, fertile farmlands of Cambodia—formerly a rice exporter—thousands of people now forage for leaves and bark? Where are the leaders of the Khmer?

Some analysts answer these questions by saying that Cambodia, often called "the gentle land," has once again become the victim of a power struggle. Today, the Soviet-backed, Vietnam, China, and—to a lesser degree—ASEAN, the non-communist States of Southeast Asia, compete to determine the future of Cambodia.

The struggles of the Khmer people over the past millenium against the encroachment of their stronger neighbors, Thailand and Vietnam, have resulted in the deep antagonism that exists between the Thais and the Khmer and between the Khmer and the Vietnamese.

Cambodia was drawn into the Indochina war after neutralist Prince Norodom Sihanouk was ousted by an anti-communist, pro-western government in 1970. The bombing of Cambodia and major dislocations of its population followed.

In April 1975, the Khmer Rouge under Pol Pot took control of Phnom Penh and initiated an independent, xenophobic, and brutal program of communism. Whereas Laos accepted the Vietnamese leadership of Indochina, Cambodia under Pol Pot challenged Hanoi's dominance.

Tensions between Cambodia and Vietnam increased after China began to support Pol Pot; and the Vietnamese, meanwhile, grew more dependent on Soviet assistance.

In 1977 and 1978, armed conflicts erupted on the Khmer-Vietnamese border. Finally, in late 1978, more than 100,000 Vietnamese troops and 20,000 Khmer troops invaded Cambodia and marched toward Phnom Penh. After his ouster from Phnom Penh by the Vietnamese in January 1979, Pol Pot and approximately 25,000 of his troops withdrew to the western and southwestern sections of the country where they since have waged protracted guerrilla warfare.

Today there are more than 170,000 Vietnamese troops on Cambodia soil. After the rainy season ended two months ago, they began to push toward the Thai-Cambodian border in an attempt to wipe out the remaining forces resisting the Vietnamese-backed government in Phnom Penh.

Following these hostilities, 100,000 Khmer refugees crossed the Thai border in mid-October. Later, another 200,000 fled to Thailand. And today, several hundred thousand more Khmer are moving toward the border as they search for food and safety. Many of these people will die before they reach the aid distribution points in Thailand.

Therefore, the warfare in Cambodia, which has used the destruction and denial of food as a weapon, helps explain that the Khmer people can no longer feed themselves from their once abundant lands.

But the Khmer people's suffering can be

only partially explained by warfare and power rivalries.

The brutal regime of Pol Pot is also responsible.

After Pol Pot's Khmer rouge took control of Cambodia in 1975, they ordered mass evacuations of urban areas. They executed the educated classes, systematically robbing Cambodia of the technical and managerial skills needed to run a modern society. Financial, educational, religious and other social institutions were eliminated. Hospitals, schools, water supplies were demolished.

All signs of modern civilization, such as typewriters, books, recordings, and medical equipment were destroyed. Homes were ransacked and furnishings left in piles of ruin.

Two to three million persons, some of whom could be leaders today, died of disease, mistreatment, execution, or fled the country. The suffering inflicted upon the Khmer people by Pol Pot contributed to the reduction of Cambodia's population from an estimated 7 million persons in 1975 to fewer than 5 million people today.

Some analysts point out that the Khmer Rouge were only able to gain strength because, after Cambodia had enjoyed relative neutrality, the United States drew it into the Indochina war in 1970. According to this research, U.S. bombing along the Khmer-Vietnamese border pushed the Khmer Rouge into the interior of Cambodia and encouraged some Khmer to join their ranks.

One could trace the causes of the tragedy unfolding in Cambodia today, but I prefer to focus on what is being accomplished and what more can be done now to alleviate the suffering.

To date about 25,000 tons of food and medical assistance has been delivered by the international organizations and private relief groups to Phnom Penh and Kampong Som. But some reports estimate that less than 10 percent of this badly needed assistance has been distributed. More than 90 percent has accumulated in warehouses. In fact one report said that only 35 tons have been distributed.

About 20,000 tons of food and medical supplies has been distributed along the Thai-Cambodian border. According to estimates more than 700,000 Khmer are receiving this aid, including some Khmer Rouge troops.

International efforts:

In October 1979, the International Committee of the Red Cross (ICRC) and the UN Childrens Fund (UNICEF) initiated a major relief program to avert famine in Cambodia. Officials of these agencies estimate that to prevent the starvation of nearly 3 million persons, 1,000 tons of food and medicine per day would have to be distributed to the Khmer people for six months to one year.

ICRC/UNICEF requested $250 million for a year's relief efforts for the Cambodians. The UN High Commission for Refugees (UNHCR) sought $60 million for 8 months of operation to care for the 600,000 to 1 million Khmer fleeing to Thailand.

In response to the urgent need, at a special UN conference held November 5, a total of $210 million in costs and supplies was pledged providing adequate funding for the first phase of the relief efforts.

Since the program was implemented, ICRC/UNICEF has coordinated the delivery of assistance by the following means:

(1) Four daily flights from Bangkok to Phnom Penh carrying about 15 tons of food and medical supplies;

(2) Approximately 18 airlifts from Europe to Phnom Penh;

(3) Shipments to the port of Kompong Som including about 15,000 tons of food distributed by the world food program;

(4) Regular deliveries to the Thai-Cambodian border;

(5) Also, ICRC provides medical aid to Khmer refugees in the holding centers near the Thai-Cambodian border maintained by UNHCR.

The assistance provided, or in the pipeline, includes 150 trucks, cranes, and other equipment needed for the distribution of aid.

Private voluntary agencies have played a vital role providing relief supplies either independently or in cooperation with the UN program. For example, OXFAM has delivered to Phnom Penh and Kompong Som by air and by barge on the Mekong River about 4,000 tons of food, medicine, and seeds. The Catholic Relief Services has distributed about 2,000 tons of supplies to the Thai-Khmer border area.

I personally commend the private groups, and encourage them to continue their work. Often, smaller, non-political groups can be more flexible and successful than governmental groups in responding quickly to human needs.

American efforts for Cambodian relief have been extensive and energetic. Perhaps they got off to a slow start, but in my view, our Government and our citizens are now actively working to ease human suffering according to the best American traditions.

The U.S. Government's contributions for Khmer relief will be about $105 million for fiscal year 1980. Approximately $45 million has already been spent, or is in the pipeline. A major part of our aid consists of food-for-peace commodities. We are now shipping $25 million in rice, corn soya mix, non-fat dry milk, and vegetable oil.

We have flown 9 cranes and several trucks by C5A aircraft from Tokyo to Singapore for shipment to Phnom Penh.

U.S. contributions for border feeding and care included: 90,000 pounds of medicine, medical supplies and water purification equipment; 45 tons of corn soya mix; and 800 tents.

My own home State of Montana has sent $65,000 to aid this effort. Other towns, counties, and States are doing the same.

The generous U.S. efforts for aid to Cambodia are the result of many individuals' hard work—work often frustrated by red tape.

Personally, I feel very privileged to have been part of the three-man Senate delegation to Thailand and Cambodia, October 19–26.

The trip helped bring the tragedy of Cambodia to the attention of the American people and of the world. There was little U.S. news coverage of the suffering Khmer before our trip.

We arrived at the border just a few days after the first wave of 100,000 Khmer had crossed into Thailand. The voluntary agencies were just beginning to reach some of the makeshift settlements. Hundreds of refugees lay exhausted on the bare ground with no medicine and little food available to them.

We walked among the thousands of newly arrived Khmer in three settlements along the border. We saw and smelled the effects of untreated disease and starvation. The odor was sharp, acid-like, and penetrating.

We saw row upon row upon row of people too weak to walk or sit up, lying crowded together on the hard ground under plastic sheets propped up by bamboo poles. Blotched skin, patches of baldness, persistent coughs were commonplace. No one smiled, very few moved.

After receiving assistance some persons would recover, but many, especially the children, have already suffered permanent brain damage and bone deformation. We saw corpses no one had time to bury. We witnessed deaths, deaths which might have been avoided.

Volunteers on the scene told us that 70 percent of the refugees suffered from malaria; that 5 to 10 percent of them died every day. Dysentary, T.B., and severe malnutrition were prevalent.

Given these deplorable conditions, and after consultations with representatives of the international organizations and private relief agencies working in the area, Senators Sasser, Danforth and myself proposed to the Phnom Penh authorities that ICRC/UNICEF administer a program of moving humanitarian assistance into Cambodia along highways 5 and 6, between the Thai border and Phnom Penh.

According to this plan, a convoy of perhaps 400 to 600 ten-ton trucks, under the direction of ICRC/UNICEF, would transport international assistance into Cambodia and dispense supplies at designated storage points along the way. From the storage points the assistance might be further distributed into local areas.

A major advantage of the truck convoy proposal is that it can distribute a large amount of assistance quickly to population concentrations. According to officials of the World Food Program in Bangkok, this plan could increase transport capacity by as much as 1,000 tons per day and be implemented within a matter of only a few days.

To date, however, the authorities in Phnom Penh, under direction of Hanoi, have rejected our proposal. It appears that the truck convoys would cross militarily contested areas, whereas deliveries made to Kompong Som or up the Mekong River to Phnom Penh would be in complete control of the Vietnamese forces.

Although our proposal was rejected, we brought back to the Congress an impetus for immediate authorization of funds for Cambodia. Our trip had direct input into the authorization of $30 million in new funds, and the transfer of $30 million disaster relief funds for humanitarian aid to Cambodia.

Since our return we have continued to speak of the urgency of the Khmer problem in every forum available—the UN pledging conference; the floor of the Senate; T.V. shows; foreign broadcasts; churches; schools; political groups; voluntary groups; meetings with foreign diplomats and in our home states.

When we traveled to Southeast Asia in October the objective was to muster a generous international response. Now, two months later—after a generous response has been made, we must struggle with the problems of distributing the aid.

Approximately 40 Nations have pledged the financial support necessary to avert this human tragedy. Substantial quantities of assistance have been made accessible to the authorities in Cambodia. Distribution plans are in hand, and some are underway, but they have been hampered by political considerations, a straight-forward solution to a serious human problem is being complicated by politics.

We have many indications that the greater portion—perhaps 90 percent—of the humanitarian assistance which has been delivered to Phnom Penh and Kompong Som by ICRC/UNICEF has not yet been distributed to the Khmer civilians in need. And the aid distribution which has taken place has been painfully and, in many cases, unnecessary slow. Some of the aid has been diverted to the military.

Cambodia's war-ravaged infrastructure bears some responsibility for this deplorable situation. But the main obstacle appears to be political.

What options can we take to facilitate better aid distribution?

It appears the options open to us fall in three categories: diplomatic, political, and logistic.

Through diplomatic channels we can continue to bring pressure to bear on those governments which have influence in Phnom Penh to open Cambodia to full scale relief efforts and to permit access by all routes—land, sea, river, and air.

We can encourage other governments to join with us in urging the Soviets and the

Vietnamese to improve the distribution of aid:

By preventing the diversion of badly needed assistance from those starving and diseased civilians to the military;

By seeking an increase in the number of ICRC/UNICEF and voluntary personnel in Cambodia; (there are only 20 in Cambodia today)

By increasing the number of relief flights into Phnom Penh;

By gaining access to provincial airports in Cambodia; and

By eliminating the high taxes and tariffs on foreign relief supplies.

POLITICAL OPTIONS

Also, it is important to work toward a political solution to the conflict in Cambodia. Until the hostilities have ended, and population dislocations and food production disruptions have ceased, the grave humanitarian problems of the Khmer people cannot be solved.

INTERNATIONAL CONFERENCE ON CAMBODIA

To facilitate an acceptable political solution in Cambodia, last week I co-sponsored a joint resolution which would provide the support of Congress for an international conference on Cambodia. The goal of the conference would be to develop a generally acceptable political solution in Cambodia.

At this time there is no indication that the parties directly involved in the Cambodian conflict are interested in such a conference. But, in my view, we must work for an environment in which cooperation for the conference can be forthcoming. It seems to me that the government of the Khmer nation should reflect Khmer interests, and be without excessively close ties to any outside power.

An appropriate political solution will be difficult to achieve, of course, requiring much effort and skill. But it must remain our goal over the long-term.

MOVE TOWARD IMPROVED RELATIONS WITH VIETNAM

Nor should we rule out the political option of normalizing relations with Vietnam, including the restoration of trade relations. Perhaps with improved U.S.-Vietnamese relations, the United States might play a larger role in aid distribution in Cambodia as well as the achievement of an acceptable political solution for Cambodia.

In contrast to diplomatic and political options, logistic options offer immediate action.

LAND BRIDGE VARIATIONS

A strong interest of mine is the land-bridge plan. The original proposal called for an eastbound convoy of trucks to transport aid from the Thai-Khmer border to Phnom Penh. That proposal has not been accepted, presumably because eastbound trucks could aid Pol Pot and others.

So, why not consider other similar approaches. For example, one obvious variation is the "land-bridge in reverse." Let the trucks move westward from Phnom Penh.

According to a second variation, trucks might enter Cambodia from Laos. The Lao-Khmer route is less efficient, but it provides access to those civilians who otherwise might not be reached. Again, the security concerns of Hanoi and Phnom Penh would appear to be less regarding the Lao-Khmer route than the Thai-Khmer route.

In my view if truck convoys via Laos or westward from Phnom Penh are not permitted one might conclude that the authorities do not want assistance distributed to the Khmer civilians.

Some observers have proposed arbitrarily moving aid-laden unarmed trucks across the Thai-Khmer border without permission from Phnom Penh or Hanoi in order to prevent unnecessary deaths of Khmer civilians. Perhaps this idea should not be ruled out if the aid distribution system within Cambodia does not improve.

Others have favored moving aid-filled trucks to the Thai border with a gathering of the world's eminent humanitarians—mother Teressa, Pope John Paul II, Buddhist Monks, Rabbis, and others recognized for their non-political work for peace. Let a vigil of prayer be held until the borders are open to aid.

Among the options for aid distribution are air drops, which have been proposed in several forums.

Last month, 68 members of the House of Representatives suggested that the administation explore the possibility of a joint U.S.-USSR air drop of assistance over Cambodia.

More recently, French Deputy Jean Marie Daillet proposed parachuting food to the Khmer population by a "twenty-four hour a day air bridge for Cambodia." He urged the establishment of a U.N. task force to carry out the operation, including both Soviet and U.S. resources.

Others have advocated that the United States unilaterally launch a massive air drop of supplies into Cambodia.

Most of us are aware of the negative aspects of an airdrop:

There is at present no guarantee that planes carrying humanitarian assistance over Cambodia would not receive hostile fire;

The civilians most in need of the assistance might not be able to reach it before troops in the area could gather it;

Many civilians cannot be easily reached by airdrops because they are scattered over large areas rather than concentrated.

However, in my view, despite these obstacles, the airdrop idea should be fully explored and maintained as a contingency measure especially if aid distribution within Cambodia does not improve.

All options should be explored.

CONCLUSION

We face a serious dilemma.

On the one hand, there has been a generous outpouring of contributions from the international community; from private citizens both at home and abroad to the serve human needs of the Cambodians.

A massive international humanitarian effort currently is delivering large amounts of food and supplies to Cambodia and along the Thai-Khmer border. There is enough assistance in the pipeline to avert the tragedy in Cambodia.

However, the distribution of the assistance is severely blocked. Hundreds of thousands of starving Khmer are not receiving the aid accumulating in warehouses or being diverted to the military.

In our Nation's past, we have faced other situations where political considerations have prevented a humanitarian solution to a human problem. Remember Biafra, Bangladesh, Eastern Europe, and so on back in history.

The 1980's will bring other crises. There will be food shortages. There will be famines. Our challenge is to find ways to respond to human needs despite political obstacles.

As we struggle to solve the dilemma that confronts us today in Cambodia perhaps we can prepare ourselves for those dilemmas which the 1980's will bring.

We must push forward with all the options available to us—diplomatic, political, and logistic—for better aid distribution in Cambodia.

We must reach for creative and flexible ways to solve the dilemma. And hopefully, we can give priority to the humanitarian motive for our efforts.

The overreaching motive of the Congressional push for aid to Cambodia was humanitarian. Many members of Congress cited parallels between the starving Cambodians and the persecution of minorities in earlier decades. They felt compelled to speak out.

The response of Congress to the tragedy in Cambodia was not encouraged by constituent pressure. In fact, Congress helped focus media attention on the problem which, in turn, evoked a generous response from the American people.

It is my hope this humanitarian trend in Congress will carry over to foreign aid programs in the 1980's. Perhaps a greater portion of future U.S. foreign aid can be humanitarian aid.

If one group in human society is threatened, all of us are made less secure. Any effort to ease human suffering, no matter how geographically or culturally distant from us, helps provide security for those close to us.●

MEXICAN MIGRATION: THE TRUE FACTS

● Mr. SCHMITT. Mr. President, on Tuesday, December 10, 1979, Senator HUDDLESTON printed in the CONGRESSIONAL RECORD an interview which was given by Secretary of Labor F. Ray Marshall to the Los Angeles Times, December 2, 1979. In this article Secretary Marshall stated that the illegal alien is filling jobs that would otherwise be occupied by domestic workers.

I do not know the source of Secretary Marshall's statistics; but, at least as to the illegal Mexican aliens, his conclusions do not seem warranted.

In July, 1978 a monumental study in Mexican migration entitled "Mexican Migration to the United States: Causes, Consequences and United States Responses" was published by the Migration and Development Study Group, Center for International Studies, Massachusetts Institute of Technology (MIT), Cambridge, Mass. The study was published by Dr. Wayne Cornelius, a professor of political science at MIT. This study is probably the most comprehensive analysis of the Mexican migration phenomena. It is very important that the American people have an accurate account of the effect of Mexican migration rather than Secretary Marshall's unsupported statements.

I request that the questions and answers from Secretary Marshall's interview be printed in the RECORD along with extracts from Dr. Cornelius' study.

The questions to Secretary Marshall with his answers are followed by Dr. Cornelius' conclusions:

> He voiced his views on this volatile issue in an extended interview, responding orally and in writing to a series of questions:
>
> Q. There is a widespread belief that illegal aliens are helpful and even essential to this country because they are willing to take jobs citizens or legal aliens will not perform. Do you agree?
>
> A. It is false to say American workers cannot be found for all of the jobs filled by undocumented workers. The truth is that there are millions of American workers in all of these low-paying occupations already. The job market in which they (the illegal aliens) compete is highly competitive, with a surplus of people vying for a shortage of jobs, no matter how undesirable the jobs may be.
>
> Q. Have you made any estimates of the impact of illegal aliens on U.S. employment?
>
> A. One of the lowest estimates of the number of illegal workers in the United States is 4 million. If only half, or 2 million, of them are in jobs that would otherwise be held by

U.S. workers, eliminating this displacement would bring unemployment down to 3.7 percent, which is below the 4 percent full-employment target set by the Humphrey-Hawkins Act.

The real tragedy of this displacement is that its burden falls on the most vulnerable people in our society: minority teen-agers, women who head families and older workers. Their high rates of unemployment are public record. They will continue to suffer if high levels of illegal immigration continue.

Q. Do you not worry about creating an "anti-alien" climate of opinion that will harm aliens here legally as you warn about the dangers of the illegal aliens?

A. Those of us concerned about the implications of continued illegal immigration believe we can have a just and humane solution to this problem if we act before it becomes a crisis instead of ignoring it. This is far from a hysterical fear about an "alien invasion," a challenge to our cultural purity or even the fear of overloading our welfare system.

I have become concerned recently that people are beginning to say there is no problem, and the illegal worker is a positive benefit for us. That is a narrow and short-sighted view.

Q. Is there a problem now of illegal aliens overloading our welfare system?

A. Undocumented workers may use few public services today, but those who settle here permanently will increasingly rely on them. As they establish families and grow older, they will be less able to compete with the newer undocumented workers. Compete they must, and compete fiercely. They may be healthy today, but they will age, and their endurance will fade. Once they falter on the job, younger illegal workers will take their place.

Q. Do you see any advantage to the competition provided by the illegal aliens?

A. No. If we were a country that acquiesces to all economic forces, perhaps we could expect disadvantaged American-Born and legal immigrant workers to compete with illegal workers. We could expect them to forget about earning decent wages, safe and healthy conditions or the chance for advancement. We could expect older workers and women to compete with younger, stronger, male undocumented workers.

But we have come too far in this century to turn back the clock. Long ago, we decided to improve the working conditions and pay for all workers. We enacted standards for employers, and we must enforce them. It is repugnant that millions of workers in America are in a lifelong second-class status, without legal protections or civil liberties. It is not only repugnant; it is dangerous to our society and a problem which can come back to haunt us with a vengeance.

Q. Are you talking about reactions among illegal aliens now here as a future problem for the United States?

A. Yes. Undocumented workers may be desperate and fearful enough to endure this today. But what about 10 years from now? And what will their children be willing to endure? Is there any doubt that their children will be disadvantaged because of the extralegal status of their parents? I am convinced we are sowing the seeds of a second future civil rights struggle, and we would be better off if we were to confront it now.

Q. Aren't illegal aliens here better off than in their own countries where their income and working conditions are often even worse than in the jobs they find in the United States?

A. It is true that most illegal immigrants come from developing nations with generally very low standards of living, high population growth rates and many more workers than job opportunities. Probably 60 percent of them come from Mexico.

They are mostly men in their prime working years, poorly educated, most have about half the years of education of American workers, and few speak English. Because they are here illegally, they work in the shadows of our society. They earn less money than just about everyone else. They endure poor and unsafe working conditions, high turnover and little chance for advancement.

Employers often shamelessly exploit them, paying less than the minimum wage, cheating them and sometimes even arranging raids by immigration officers on the day before payday. Even when paid minimum wage or higher, comparable U.S. workers might earn more.

In short, the illegal immigrant often works hard and scared, and that is nothing to cheer about in a nation that has struggled for two centuries to achieve dignity for its citizens and a decent reward for work.

Q. But still, aren't the illegals here often better off than in their home countries?

A. I see no rationalization for arguing that people should be here illegally. As a labor economist, I have studied the problem of illegal immigration for a quarter-century and know how deep and complex the problem is. The illegal immigrants are exploited by employers here. But don't forget the other end of this illegal labor market. The ample supply of docile, illegal workers perpetuates an underclass of dirty, unsafe, inefficient jobs. It removes the incentive to design work that is more efficient.

Q. Do we really know the extent of the problem?

A. We know it is very serious, and has a severe negative impact on employment in this country. We don't know the magnitude of the problem, and we need more data. For example, estimates of the number of illegal immigrants range from 4 million to 12 million. Few students of the problem believe the number is as high as 12 million.

But even if it is "only" 4 million, that is about 4 percent of our work force, which means it is a massive problem even based on the lowest of estimates.

Q. What do you want to do about the problem, and how far along is the Carter Administration in proposing new legislation to deal with it?

A. Congress did not act last year on President Carter's immigration proposals, although a Select Commission on Immigration and Refugee Policy is now studying the problem.

We need not wait for the commission to see the urgent need to protect the rights of undocumented workers already settled here permanently, to penalize employers who hire illegal immigrants, to improve enforcement and to promote closer cooperation with the countries of origin.

To be concerned about the consequences of illegal immigration on this country does not mean we must be unfeeling about the plight of immigrants and millions like them in the countries of origin.

But we should not allow the costs of the aid to those countries to be borne primarily by low-wage U.S. workers who have limited economic or political power to protect themselves.

Q. Do we need any other system to enforce the proposed laws to punish employers who hire the illegal aliens, and if so, what will it cost?

A. Yes, we need an identification system which would apply to all workers. Initially, at least, a noncounterfeitable Social Security card could be issued to all workers changing jobs and to all newly hired persons, and that could be done for under $200 million, a far cry from the earlier estimates that it would cost $500 million.

I want to emphasize that I, like many critics of the identification system, am concerned about civil liberties. But the fears of such a system are exaggerated, because all workers would be covered, not just Hispanics or some other group. It would not impair anyone's liberty.

I have been concerned about civil liberties all of my professional life.

Q. Should we increase the number of legal immigrants, especially those coming from Mexico?

A. Yes, and the exact amount of the increase should be a matter for negotiations with Mexico and other governments. But we should remember that the United States today continues to admit more immigrants than any other nation in the world—some 400,000 a year in addition to large numbers of refugees.

We may need foreign workers, but they should only be allowed to work here legally, under the protection of our laws.

CORNELIUS STUDY

The Cornelius study states:

Few restrictionists still cling to the earlier, simplistic notion of direct, one-to-one job displacement of domestic workers by illegal migrants which was popularized a few years ago by INS Commissioner Leonard Chapman ("give me a thousand more [Border Patrol] men, and I'll liberate a million jobs for U.S. citizens . . ."). The more recent, more sophisticated version of the argument holds that, while illegal migrants probably do not displace American workers directly, they do so indirectly, by depressing wages and working conditions in those sectors of the labor market where they cluster:

"The presence of illegal aliens in the labor market—desperate for work of any kind—undermines the very structure of the labor market. . . . in two ways, by their numbers, and if you will, by their manners. . . . Common sense suggests, all else being equal, that wages will remain stationary or fall if there are substantially more workers than jobs. And then there is the matter of the manners—illegal aliens are, in many circumstances, a *preferred* work force; they are docile, because they are desperate; they work 'hard and scared,' to quote Ray Marshall. Thus the principal impact of illegal aliens on the labor market is . . . the creation of the self-fulfilling prophecy that illegals take jobs which legal workers will not accept. Were these jobs to be forced up to competitive standards, some of course would simply disappear, as employers either went out of business or reorganized their activities around the concept of high priced labor [i.e., they would mechanize]; others would become attractive to legal workers. In short, either directly or more often indirectly, illegal aliens are decreasing job opportunities for legal workers." (North, 1977: 5–6).

Does illegal migration "create unemployment" among the U.S. domestic work force? While restrictionists seem to feel that the drawing of "common sense" inferences is sufficient to prove their case, and have not pursued the kind of research that might generate direct evidence bearing on the question,[1] there are fragmentary data available which—if anything—demonstrate how tenuous is the purported relationship between illegal migration and the U.S. unemployment problem.

If illegal migration from Mexico were decreasing job opportunities for significant numbers of American workers—either directly or indirectly—it follows that unemployment rates should be higher in those parts of the country having large concentrations of Mexican illegals, and lower in areas with few illegals. Of course, this is not the case: some of the lowest unemployment rates in the U.S. are found in the "Sunbelt" areas having the largest concentrations of illegal Mexican migrants. The data presented in Table 6 show that during all but two of the last 10 years, the unemployment rate in eight of the labor markets most heavily affected by Mexican migration has been *lower* than the national unemployment rate—during a period in which the volume of illegal Mexican migration (as indicated by INS apprehensions) was increasing at an average annual rate of 25 percent.[2] Nationwide, there seems to be virtually no correlation between numbers of illegal Mexican migrants and levels of unemployment. Research at the local level has also failed to demonstrate the existence of significant job displacement resulting from Mexican migration. A detailed study of Mexican illegals' participation in the labor market of the San Antonio metropolitan area found that—

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[1] The following statements are typical: "It [illegal migration from Mexico] *has* to have an impact, and it has to be detrimental, extremely detrimental" (Vernon Briggs, quoted in Ross, ed., 1978: 379). "The precise degree to which undocumented workers are displacing native workers is not and may never be known. However, the trend is clear and provides sufficient cause to act" (U.S. Dept. of Justice, 1978: "Analysis of the Issues" paper, p. 3).

"Mexican illegal aliens in no way compete with or displace workers in the primary [skilled] labor market. In the secondary [low-skilled] labor market, where they work alongside blacks and Chicanos, illegals usually represent an additional supply of labor. . . . Blacks and Mexican-Americans worked in similar industries but in basically different jobs. . . . For example, in a typical small construction firm, the Mexican illegal aliens worked as laborers while the Mexican-Americans and blacks had jobs as craftsmen. In a manufacturing industry such as meatpacking, the illegals worked in occupations that Mexican-Americans and blacks shunned because of dirty working conditions." (Cardenas, 1976: 68–69)

TABLE 6.—*Unemployment in the United States and in major labor areas highly affected by Mexican migration, 1968–77*

[In percent]

Year	Unemployment rate [1]	
	United States	"High impact" labor areas [2]
1968	3.6	3.0
1969	3.5	3.1
1970	4.9	5.2
1971	5.9	6.1
1972	5.6	5.3
1973	4.9	4.8
1974	5.6	5.2
1975	8.5	7.5
1976	7.7	7.3
1977	7.0	6.7
1968–77 (average)	5.7	5.4

[1] Unemployed as percent of total labor force. Sources: U.S. Dept. of Labor and U.S. Dept. of Health, Education and Welfare, *Employment and Training Report of the President, 1977*, Table D–8, pp. 246–248; U.S. Dept. of Labor, *Manpower Report of the President, 1969*, Table D–8, pp. 284–286; *Monthly Labor Review*, March, 1978, Table 1, p. 63.

[2] Unemployment rate averaged across the following labor areas (as defined by the U.S. Dept. of Labor): Los Angeles-Long Beach, Calif.; Anaheim-Santa Ana-Garden Grove, Calif.; San Diego, Calif.; Dallas, Texas; Fort Worth, Texas (data combined for Dallas-Ft. Worth labor area since 1974); Houston, Texas; San Antonio, Texas; Oklahoma City, Okla.; and Chicago, Ill.

While systematic research on the labor market impacts of illegal migration is just beginning (see King and Rizo-Patrón, 1977; Cardenas, 1977), the evidence available at present indicates that even in the most highly "impacted" areas, the effects of unemployment among domestic workers are not nearly as great as those agitating for a more restrictive immigration policy would have us believe. There is simply not enough credible evidence to establish the existence of a cause-and-effect relationship—even an indirect one—between illegal migration and domestic unemployment.

Who, then, stands to benefit from a more restrictive immigration policy? According to those who advocate such a policy, it will be the young, the least skilled, least educated, downtrodden elements of U.S. society; the blacks, Chicanos, and other minority group members who "cannot compete" successfully with Mexican illegals in the secondary job market, and therefore suffer from higher levels of unemployment. But for these or any other Americans to benefit, at least two things must happen: (1) there must be a net increase in the number of low-skill jobs available to American workers (i.e., the additional jobs made available to Americans must exceed the number of jobs lost as a result of removing or reducing the presence of illegal migrants in the labor market); and (2) unemployed domestic workers somehow must be induced to take the jobs formerly held by migrant workers. It is unlikely, however, that either of these conditions will be satisfied unless fundamental changes occur in other areas of U.S. economic life and public policy.

Most jobs now held by illegal migrants, from Mexico and other countries, continue to exist either because the employers involved cannot afford to automate the work, or because it is more profitable to continue emplying migrant workers—even at the legal minimum wage or above—than to mechanize. As Michael Piore has pointed out (1977b: 7), the basic interest of the disadvantaged American workers who allegedly must compete against illegal migrants is in advancement to higher-status, more secure jobs: "If the types of jobs which they [must now] share with migrants are actually improved by curtailing their labor supply, the nationals might well be better off. But, to the extent that the existing characteristics of the jobs are in some way critical to the socio-economic system, the jobs will not be improved" by reducing the supply of migrant labor.

The data from my study show that in the period since 1969, the majority of Mexican illegals (59 percent) have been employed in enterprises having fewer than 25 employees; in fact, more than one-third worked most recently in businesses having six or fewer employees. This compares with only 37.5 percent who were employed in enterprises with fewer than 25 employees during the pre-1969 period. About two-thirds of the most recent illegal migrants reported that more than half of the employees in their last U.S. place of work were Mexicans, but a much larger proportion (over 80 percent) had worked in Mexican-dominated enterprises in the pre-1969 period. Taken together, these findings indicate that more Mexican migrants than before are finding employment in small-scale, labor-intensive enterprises having more ethnically diverse work forces. Examples would be small farms, restaurants, small construction firms, green-houses, and small plants manufacturing such labor-intensive products as clothes or shoes. These tend to be businesses with small profit margins, often operating under severe competition from low-priced foreign imports, whose future survival may well depend upon the availability of migrant labor.[3]

Alternatives such as mechanization or relocation in a foreign country where labor costs are low are not normally available to businesses in this size category. And because of their smallness and marginal economic status, such enterprises are unlikely to offer the kinds of wage scales, working conditions, job security and prospects for advancement which would make them attractive to the average American worker—even one who is unemployed!

And what of the larger businesses, which can presumably "afford" to upgrade the jobs now held by migrant workers? U.S. domestic labor is already considerably overpriced, given its physical productivity, by world standards. In the agricultural sector, some enterprises still using large numbers of Mexican workers would switch their production to less labor-intensive crops, or accelerate mechanization, if the supply of Mexican labor were severely curtailed. Similarly, in non-agricultural sectors of the economy, raising the labor bill through a restrictive immigration policy will only accelerate the substitution of capital (i.e., machinery) for labor, and the relocation of labor-intensive manufacturing enterprises in foreign countries having lower wage scales. The flight of U.S. enterprises to Taiwan, Korea, the Mexican border states, and other low-wage areas has been occurring on a large scale for more than a decade, and it will only be accelerated by a more restrictive U.S. immigration policy. It should be kept in mind that each of these "run-away industries" takes with it a substantial number of jobs now held by American citizens.[4] Clearly, the result is less employment for American workers—not more.

IMPACT ON SOCIAL SERVICE COSTS AND TAX REVENUES

Since the onset of the Great Depression of the 1930s, Mexican migrants have often been accused, simultaneously, of (1) being a burden on the U.S. taxpayer by going on welfare, and (2) holding jobs at the expense of American workers (see Hoffman, 1974: 2). If my own mail and various public opinion polls are any guide, these perceptions of the negative consequences of Mexican migration remain fused in the minds of most Americans; the obvious contradiction ("they're all on welfare and they're taking our jobs away") never occurs to most people. The use of illegal migrants as scapegoats for rising social service costs and higher taxes is particularly common in the Southwest; witness, for example, the explicit invocation of the "illegal alien" issue by groups promoting "taxpayer revolt" in California during the first six months of 1978. Such appeals feed upon racism and the traditional U.S. stereotype of the Mexican as being lazy, indolent, and thieving.

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[2] All studies which have collected data on Mexican migrants' places of destination within the U.S. attest to the importance of the eight labor areas represented in Table 6, as receiving areas for Mexican illegals. In my own sample, 39 percent of the most recent illegal migrants had worked in one of these eight areas during their last trip to the United States.

[3] By contrast, leading restrictionists such as Labor Secretary Ray Marshall have argued constantly that in most U.S. businesses, foreign migrant labor isn't really needed—that the labor needs of these enterprises can be met with domestic workers, at a tolerable cost, if the businesses would only "rationalize" their productive processes, through "better management" or more mechanized methods. Marshall's views on the subject reportedly stem from his previous research on the South Texas citrus industry, which he found to be badly mismanaged and inefficiently organized (see Business Week, June 13, 1977, p. 88).

[4] According to one estimate, some 900,000 jobs and job opportunities were lost to U.S. workers because of the migration of U.S. firms to "cheap-labor" countries during the period of 1966–1971, with the greatest losses occuring in the apparel industry, the shoe industry, and the electronics industry (Tyler, 1973: 115; see also, NACLA, 1975; Van der Spek, 1975; Bolin, 1977). In 1965, in the apparel industry alone, "runaway shops" were located in 9 countries; by early 1977, they were spread over at least 36 countries (NACLA, 1977: 7).

The reality of the situation is quite different. At least six different field studies of Mexican illegals have found extremely low rates of utilization of such tax-supported programs as unemployment compensation, welfare assistance, food stamps, and public education—usually in the 1–3 percent range (see Table 11). A comprehensive study of welfare assistance in Los Angeles County—which undoubtedly contains more Mexicans than any other county in the United States—found that the total cost of aiding illegal migrants in the county during 1976 represented about 2/10 of 1 percent of the county's total welfare (AFDC) budget, and the costs for 1977 were expected to be even lower (Comrie, 1978: 71).[5] Similarly, when some 80,000 persons receiving welfare payments in San Diego County were screened during 1976–77, it was discovered that only about 800 individuals—about 1 percent of the case load—were illegal migrants (North, 1977: 13). Again, San Diego County is one of the most highly "impacted" counties in the United States: In 1975 it accounted for 43 percent of all apprehensions of illegal migrants along the southern U.S. border and 25 percent of all apprehensions throughout the nation.

TABLE 11.—*Utilization of tax-supported services among illegal Mexican migrants*

Type of service:	*Percent who have ever used the service (range)*[1]
Unemployment compensation	2.6– 4.0
Welfare (A.F.D.C., etc.)	0.0– 3.2
Food stamps	0.0– 1.6
Public schools (has had children in)	0.9– 3.0
Medical care[2]	8.0–14.0

[1] The range listed here summarizes the rates of service utilization among illegal Mexican migrants reported in the following studies: Bustamante (1978b), Cardenas (1977), Cornelius (Jalisco survey), North & Houstoun (1976), Orange County Task Force (1978), and Villalpando (1977).

[2] Refers only to receiving treatment in a public hospital or clinic. As noted in the text, in most cases the cost of such treatment is defrayed by payments by the migrant himself (either out of pocket or through hospitalization insurance) and/or his employer.

It should come as little surprise that relatively few illegal migrants from Mexico make use of tax-supported social services. In the first place, popular stereotypes notwithstanding, the work ethic is very strong among Mexican migrants. They come from a culture in which acceptance of "welfare" or other kinds of public hand-outs is strongly frowned upon. Second, their illegal status militates against social service usage: Making application for welfare, unemployment compensation, and other kinds of benefits forces the migrant to identify himself to a government agency, thereby increasing his risk of apprehension and deportation—a powerful deterrent to service utilization. In many places, applicants for welfare and other service programs are routinely "referred" to the Immigration and Naturalization Service for a check of immigration status. In fact, such "referrals" to the INS from public service agencies constitute one of the most important sources of information leading to apprehensions of illegal migrants in the interior of the United States. Those who do apply for welfare or food stamps are usually denied such benefits, even if they escape deportation (Cardenas, 1977: 190). Finally, most Mexican migrants have what they consider to be a superior alternative to public assistance programs in times of need: informal support networks of relatives and friends who have preceded them in migration to the United States. When unemployed, they rely on these kinship-friendship networks for temporary support, or else return to their community of origin in Mexico.

All of the studies completed thus far show that illegal Mexican migrants are more likely to make use of health care than any other type of public service (see Table 11). However, the available data do not provide a useful measure of the "taxpayer burden" imposed by medical care for illegal migrants, because of the way in which most survey questions about medical care have been worded. The data undoubtedly overstate the extent of medical assistance received by Mexican illegals at taxpayers' expense, for two reasons: (1) It is not known whether the U.S. hospitals or clinics mentioned by survey respondents were, in fact, tax-supported institutions; and (2) in many cases, even though the migrant himself did not pay the full cost of the medical care received, the costs were covered by the migrant's employer, or through hospitalization insurance paid for by the migrant and his employer. Forty-four percent of the illegal migrants in North & Houston's (1976) survey had hospitalization insurance deducted from their wages, and 34% of the respondents in the Orange County Task Force (1978) survey reported such deductions. Cardenas (1977: 190) has also reported that Mexican illegals receiving health care in San Antonio have usually been persons who had married legal residents of the U.S. and whose children had been born in San Antonio. Of course, denial of medical attention to such persons—who are likely to remain more-or-less permanently in the U.S.—would only lead to more serious public health problems and even higher health and welfare costs in the future (see Orange County Task Force, 1978: 65–67).

It could be argued that since most of the studies represented in Table 11 consisted of interviews with temporary illegal migrants from Mexico—i.e., those who worked in the U.S. for relatively short periods, leaving their dependents in Mexico—they would be less likely than "permanent" immigrants to have made use of social services. The longer the migrant stays in the U.S., the more likely he is to have dependents living here who require social services. But the Orange County Task Force Study (1978) demonstrated that even among the more-or-less "permanent" population of Mexican illegals, there is very little utilization of tax-supported programs (2.8% had collected welfare payments, 1.6% had received food stamps, 9.0% had received medical care). Because of the procedure used to locate respondents, the sample in this study was biased toward long-term residents, whose presence in a given neighborhood would be better known to the interviewers than more recent arrivals. Ninety percent of the Orange County respondents had been in the U.S. for more than one year; the average duration of stay was more than 2.5 years.

In the face of overwhelming and highly consistent evidence indicating very low levels of service utilization, at least among illegal migrants from Mexico, the Carter Administration recently conceded that undocumented aliens "are not now a drain on public assistance programs paid for by taxpayers."[6]

It must be emphasized, however, that even with the best possible rural development program in Mexico, with optimal utilization of oil and gas revenues (from the standpoint of jobs, income, and welfare), and with overall economic growth rates of 7, 8, or 9 percent per year, it will be virtually impossible for Mexico to absorb all of the expected additions to its labor force over the next 15 years into productive employment (see Reubens, 1978). These future entrants to the labor force have already been born; family planning programs will not diminish their numbers. Unless it opts to close the southern border by military force or a Berlin-type wall, the United States will undoubtedly have a sizeable Mexican migrant presence in its labor market for at least another 15 years. Given this situation, the principal policy objectives should be to regulate the flow of migrants and to reduce the size of the illegal component. The number of opportunities to migrate legally to the U.S. could be increased by raising the legal immigration quota for Mexico to a realistic level (i.e., more closely approximating the Mexican demand for immigrant visas), by administering the existing "H–2" temporary worker visa system in a less restrictive way,[7] or by instituting a new type of temporary worker program not modeled on either the H–2 system or the former "bracero" program, with greater protections for the worker.[8] Such measures would create meaningful alternatives to illegal migration, for those who must continue to seek employment in the United States.

How likely is it that the U.S. will opt for this kind of nonpunitive response to illegal migration? There is as yet no evidence to support the restrictionists' view of the migration as a national calamity. In fact, a policy of "benign neglect" would be more consistent with the existing evidence than most of the restrictive measures currently under consideration. But inaction may no longer be politically feasible, due to the large increases in the flow of illegal migrants in recent years, and the arousal of public concern about the phenomenon by government officials and the mass media since 1973. Polls show that public tolerance in the U.S. for immigration in general—legal and illegal—has declined during the past decade, while public approval for draconian "solutions" has increased. A majority of the American people now opposes any form of amnesty for illegal immigrants, while 62–80 percent support employer sanctions legislation to deny them jobs, and 57 percent would approve "Operation Wetback"-

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[5] Even when the children of undocumented migrant parents are included in the total of persons receiving welfare aid in Los Angeles County, the cost is still only about 1.5% of the AFDC budget (Hearing on Undocumented Aliens, 1978: 56).

[6] Developmental investments in the principal source areas for migration to the United States will also have an important impact on migration within Mexico, especially to Mexico City. Three of the most important sending states for migrants to the U.S.—Michoacán, Guanajuato, and Jalisco—are also among the top five or six states supplying migrants to the Mexico City metropolitan area, according to census data for the 1960–70 period. Michoacán, Zacatecas, and Guanajuato also ranked first, second, and fourth (respectively) among all Mexican states in terms of the total number of people which they lost due to out-migration (to all destinations) during the 1960–70 intercensal period (see Wright, 1976: 47, Table 3.9).

[7] The U.S. Department of Labor currently allows fewer than 1,000 Mexican workers to enter the U.S. on H–2 visas each year. In fact, more H–2 visas are granted to Canadians and workers from the British West Indies than to Mexicans. When asked recently by a Congressional committee to explain this policy of visa issuance, INS Commissioner Castillo referred the committee to the Labor Department (Castillo, 1978a: 17–18).

[8] It would be possible to issue temporary work visas on a first-come, first-served basis through U.S. consulates in Mexico, permitting the holder to be legally employed in the U.S. for a limited period of time (e.g., 6 months per year). Rather than indenturing him to a specific U.S. employer (as under the "bracero" and H–2 programs), and thereby increasing the potential for exploitation, the migrant entering on a temporary work visa should be free to work for any employer, anywhere in the U.S.

round-ups and mass deportations (Gallup Organization, 1976: 18–19; Castillo, 1978c). Such attitudes will only harden during the next U.S. recession, which is not too far away, according to most economists.

Under the circumstances, there is serious doubt that the U.S. will be able to rise above scapegoating, political expedience, and racial prejudice to pursue an immigration policy which will serve its own long-term national interests as well as those of Mexico and other sending countries. Like some West European nations, the U.S. may well have lost the capacity to respond rationally, constructively, and humanely to large-scale migration from less developed countries. The implications of this are profoundly disturbing, but Mexico and other sending countries would be well advised to ponder them.

Mr. President, it should be noted that the recommendation by Dr. Cornelius formed the basis for S. 1427 (the United States-New Mexico Good Neighbor Act of 1979) which I introduced for myself, Senator HAYAKAWA and Senator GOLDWATER on June 27, 1979. I request that S. 1427 be printed in the RECORD at this point.

The bill follows:

S. 1427

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "United States-Mexico Good Neighbor Act of 1979".

FINDINGS

SEC. 2. The Congress finds that—

(a) strong economic and political cooperation between the United States and Mexico will benefit not only the people of these countries, but will also help to eliminate western hemispheric tensions;

(b) the root cause of illegal migration from Mexico into the United States is the lack of reasonable alternatives for economic well-being in Mexico relative to those in the United States;

(c) the mutual benefit of past economic cooperation through legal work programs and investment opportunities is well documented;

(d) in order to eliminate the present large and uncontrolled influx of undocumented workers a system of temporary legal admissions should be established;

(e) the vast majority of jobs that will be taken by Mexicans are in the agricultural and service industries where jobs are not now greatly in demand by American workers;

(f) many of the short-term economic needs of Mexicans and the short-term labor needs of American agricultural and service industries can be met by a temporary worker visa program for Mexicans seeking temporary employment in the United States;

(g) the value to Mexico of temporary employment of Mexican workers in the United States is in the direct flow of dollars into its economy and in the increase in skills within its labor force;

(h) a program of temporary worker visas would encourage the existing temporary nature of most Mexican migration into the United States;

(i) attempts to seal our vast border with Mexico to the flow of migrants are doomed to failure and only increase the exploitation of such workers by smugglers and unscrupulous employers;

(j) employer sanctions against the hiring of illegal Mexican migrants could result in discrimination against Hispanic Americans and/or in an unprecedented national identification system; and

(k) it is necessary to establish a legal framework for Mexican labor in the United States in order to harmonize the use of such workers, to prevent abuse of them by smugglers and unscrupulous employers, to better protect American workers from unfair competition, to reduce the flow of illegal migrants, and to permit a better understanding of the scope of the opportunities and problems related to Mexican workers in the United States and Mexico.

ESTABLISHMENT OF VISA PROGRAM

SEC. 3. Section 214 of the Immigration and Nationality Act is amended by adding the following new subsections at the end thereof:

"(e) (1) The Attorney General, in consultation with the Secretary of State, shall by regulation establish a program for the admission as nonimmigrants into the United States under section 101(a) (15) (M) of Mexican nationals who desire to temporarily perform services or labor in the United States. The regulations shall establish methods for establishing monthly and annual numerical quotas for the issuance of temporary worker visas in accordance with subsection (g). Visas shall be made available on the basis of such quotas to qualified applicants in the chronological order for which they are applied. Such visas shall permit each alien to temporarily perform services or labor within the United States for a period not to exceed 180 days during any calendar year, such period not necessarily a 180 day consecutive period. Such aliens shall not be required to obtain a petition of any prospective employer within the United States in order to obtain such a visa. Such visas shall not limit the geographical area within which the alien may be employed nor set any limitations on the type of employment for which the alien may be employed, except as provided in subsection (f).

"(2) Any alien who obtains a visa under the program established under paragraph (1) who (A) violates the restrictions with respect to the amount of time for which the alien is allowed to remain in the United States, or (B) violates any restriction required under subsection (f), shall be ineligible to obtain another visa under such program for a period of 5 years. Any alien who, after the inception of this program, enters the United States unlawfully shall be prohibited from obtaining a visa under such program for a period of 10 years.

"(f) The Attorney General, upon request from the Secretary of Labor, shall place specific restrictions on employment of aliens holding temporary work visas under this program at a specific business or agricultural site if employees or employers demonstrate that such aliens will displace available, qualified, and willing domestic workers. The Secretary of Labor shall establish the criteria under which such restrictions may be requested.

"(g) When appropriate, the Attorney General shall seek the assistance of the Secretary of Agriculture, the Secretary of Commerce, and the Secretary of Labor in establishing the regulation under subsection (e), and in computing the annual and monthly numerical quotas for temporary worker visas, based upon the number of seasonal or cyclical workers sought by employers in the United States. In computing such quotas, the Attorney General shall also consider historical needs, availability of domestic labor, and the projected needs of prospective employers.".

UNITED STATES CONSULATES IN MEXICO

SEC. 4. (a) The Secretary of State is authorized to take such steps as are necessary in order to establish and expand the United States Consulates in Mexico in order to implement the program established in section 214 (e), (f), and (g) of the Immigration and Nationality Act, as added by section 3 of this Act.

(b) The Secretary of State shall coordinate with appropriate officials of Mexico in order to insure maxfmum awareness in Mexico of the nature and restrictions of the program established in section 214 (e), (f), and (g) of the Immigration and Nationality Act, as added by section 3 of this Act.

(c) The Secretary of Labor shall undertake to insure, to the extent practicable, that the nature and restrictions of the programs established in section 214 (e), (f), and (g), of the Immigration and Nationality Act, as added by section 3 of this Act are known to aliens of Mexican citizenship residing in the United States.

NONIMMIGRANT CATEGORY

SEC. 5. Section 101((a)(15) of the Immigration and National Act is amended by adding at the end thereof the following:

"(M) a Mexican national who has no intention of abandoning his or her residence in Mexico who is coming to the United States for a period of not to exceed 6 months during any calendar year, for an indefinite number of such periods, to temporarily perform services or labor.".

EFFECT OF DEPORTATION

SEC. 6. Section 212(a) is amended—

(1) by inserting before the semicolon at the end of paragraph (16) a comma and the following: "except that the Attorney General shall not consent to the reapplying for admission of an alien described in section 101 (a)(15)(M)"; and

(2) by inserting before the semicolon at the end of paragraph (17) a comma and the following: "except that the Attorney General shall not consent to the applying or reapplying for admission of an alien described in section 101(a)(15)(M)".

PROHIBITION ON ADJUSTMENT OF STATUS UNDER TEMPORARY WORKER VISA PROGRAM

SEC. 6. Section 245(c) of the Immigration and Nationality Act is amended—

(1) by striking out "or"; and

(2) by inserting immediately after "section 212(d)(4)(C)" a semicolon and the following: "or (4) any alien described in section 101(a)(15)(M)".

REPORT TO CONGRESS

SEC. 8. The Attorney General shall report semiannually to the Congress on the temporary worker visa program established in section 214(e), (f), and (g) of the Immigration and Nationality Act, as added by section 3 of this Act, and shall include in that report a summary of the number of visas issued under the program, the effectiveness of the program, enforcement problems related to the program, and any recommendations for legislative change in the program.

BILATERAL ADVISORY COMMISSION

SEC. 9. It is the sense of the Congress that the President should negotiate with the appropriate officials of the government of Mexico to establish an Advisory Commission on the Mexico-United States Temporary Worker Visa Program to consult with and advise the Attorney General in establishing the regulations, and in computing the monthly and annual numerical quotas, for the temporary worker visa program established under section 214 (e), (f), and (g) of the Immigration and Nationality Act, as added by section 3 of this Act.

AUTHORIZATIONS

SEC. 10. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this title.●

THE FTC UNDER ATTACK

● Mr. METZENBAUM. Mr. President, within a short time the Senate could be asked to consider authorizing legislation for the Federal Trade Commission which could have a far-reaching and damaging impact on our Nation's consumers.

The bill being proposed by the Senate Commerce Committee will cut at the very heart of the FTC's regulatory authority, through a variety of procedural and substantive changes, the bill will cripple the agency's ability to protect the consumer from anticompetitive, unfair, and fraudulent practices in the marketplace.

American consumers can ill afford to lose the effective arm of the Federal Trade Commission. American consumers can ill afford to have legislation which, among other things, will strip the agency of its power to investigate children's advertising, the insurance industry, and the practices of used car dealers.

Unfortunately, too much of the debate heard in Congress these days has been one-sided against the FTC. It is time to present the other side. It is time to show the critics of the FTC that there are those of us in Congress, and throughout the country, who will not sit back and allow the FTC to be dismantled.

In an effort to demonstrate but a small part of this support, from now until the Senate considers this crucial matter, I will submit for the RECORD newspaper editorials from throughout the country. It is my sincere hope that my colleagues will heed the strong arguments these editorials make on behalf of the FTC and its importance to the consumer.

I request that the following editorial which appeared in the Cleveland Press on November 27 be printed in the RECORD in its entirety.

The editorial follows:

FTC UNDER ATTACK

The congressional attack on the Federal Trade Commission is indicative of the anti-government regulation mood that is gaining ground on Capitol Hill and elsewhere.

But moves to reduce the FTC's authority have reached such proportion that it's time for House and Senate members to ask themselves if they intend to put out of business this 65-year-old agency created to encourage competition and combat business fraud.

We don't doubt that the agency itself is responsible in a major way for the congressional assault. It sometimes seems that under its aggressive new chairman, Michael Pertschuk, the FTC is out to cleanse the business world of all its alleged sins and sinners at one fell swoop.

Pertschuk has dispatched his investigators and regulation writers in all directions. Operating under a 1974 congressional mandate to set guidelines for entire businesses and industries, the FTC is stepping on many toes and touching many raw nerves.

Instead of telling Pertschuk to cool it a bit, committees of the House and Senate are proposing restrictions that would severely cripple the agency. Within the past few weeks, there have been moves to exempt funeral, insurance and used car businesses from FTC authority, to prohibit the agency from investigating children's television advertising and the tobacco industry's health disclosure practices, and to strip the agency of a key provision of its 40-year-old antitrust authority.

A consumer activist was quoted the other day as saying that supporters of the attack on the FTC are "portraying themselves as champions of deregulation" when in reality "they are champions of consumer fraud and monopoly."

That's an exaggeration of course. The supporters aren't championing consumer fraud and monopoly. But in their zeal to get the FTC off the backs of business, they may unwittingly encourage business practices that ought to be discouraged, and they may destroy the usefulness of an agency created to protect the consumer.●

COST-BENEFIT TRIPS UP THE CORPS

● Mr. DOMENICI. Mr. President, the Senate knows of my continuing concern over the viability of our national water resources development program. One of the key issues is the adequacy and need for the benefit-cost ratio process imposed on water resources development projects.

Earlier this year, Business Week magazine carried an article discussing the inadequacies of the benefit-cost analysis. I ask that this article be printed in the RECORD.

The article follows:

COST-BENEFIT TRIPS UP THE CORPS

To keep a tight rein on government spending, the Administration will be relying heavily on a powerful tool called cost-benefit analysis to determine whether a government project is worth the taxpayer's money. As part of this effort, the White House is now listening to independent cost-benefit experts who have long been attacking the U.S. Army Corps of Engineers for having spent tens of billions of dollars on waterway projects that should never have been built, because their costs far exceeded the benefits to the public.

Ironically, the corps has justified all its projects over the last several decades using C–B analyses. But critics say that these analyses have been grossly inaccurate. "Over the last 15 years that I've been watching them, I don't think two-thirds of their expenditures and projects could pass a rigorous and correct cost-benefit test," claims University of Wisconsin cost-benefit expert Robert H. Haveman, "and that is a really conservative estimate."

These same critics also point out that Congress has willingly accepted and even encouraged the misuse of C–B analysis by the corps. Indeed, Congress has legislated the improper use of cost-benefit analysis in order to hype the benefits of dozens of waterway projects and thereby justify their construction. "Pork-barrel politics has gone a long way toward prostituting the Corps of Engineers," says Pennsylvania State University economist Joseph L. Carroll.

SYSTEMATIC ATTACK

Environmental and railroad interests are suing the corps to stop construction of the $2 billion Tennessee-Tombigbee Waterway. A similar coalition has tied up in court the construction of Locks & Dam No. 26 on the Mississippi River at Alton, Ill., just above St. Louis.

While the legal battles proceed, the Carter Administration has mounted a systematic attack on the water-resource pork barrel. On Jan. 5 it established an independent review unit in the Water Resources Council—an executive agency that oversees water resource projects.

This new unit will focus on the proper use of cost-benefit analysis in evaluating water-resource projects. To be sure, no cost-benefit study will arrive at a result on which all experts will agree because it is difficult to measure benefits to the public of some government programs. Nevertheless, there is wide agreement that the analyses performed at the Corps of Engineers have grossly overstated the benefits of its waterway projects. Among the most flagrant abuses cited:

The corps projects unrealistically high traffic volume on proposed new waterways. It also counts as a benefit all the money that shippers save in diverting cargoes from rail to barge. Much of this is not a true economic saving in the cost of transporting goods.

The corps understates the amount of barge traffic that can be handled by existing waterways. This makes the replacement or expansion of these facilities appear to have greater benefits than they actually have.

The interest rate the corps users in evaluating projects is unrealistically low. Since most costs occur early in a project's life, and benefits only start when the project is completed, the interest rate used to discount tomorrow's benefits into today's dollar becomes crucial. High interest rates tend to lower benefits, while low rates raise benefits.

Haveman is one of the many critics who claims that the corps' projections of barge traffic on proposed waterways are too high. For example, in its evaluation of Locks & Dam No. 26, he notes, the corps projection of coal traffic ignores the obvious growth of Western coal, which moves mainly by rail. It assumes, rather, that the huge Chicago market will continue to be served by southern Illinois coal, which is barged on the Mississippi River. In addition, says Haveman, the corps' forecast of petroleum traffic assumes that utilities would not switch from oil to coal, completely ignoring the energy crisis and the national policy calling for such a shift.

Carroll and his colleague at Penn State, Srikanth Rao, recently published a study that is highly critical of the corps' projection of the amount of barge traffic that the proposed Tennessee-Tombigbee Waterway could handle. They claim that the corps overstated the speed of barge traffic and the number of barges any one tug could push. Using what they say are more realistic assumptions, Carroll and Rao concluded that "the project would return at best about 60 cents to 70 cents in benefits for each public dollar expended, or, alternately, would involve losses of about $700 million on the $2 billion investment." This is in sharp contrast to the corps' finding that Tennessee-Tombigbee would generate benefits of between $400 million and $800 million in excess of its costs.

The very method by which the corps calculates benefits has also come under fire. Otto Eckstein of Harvard University pointed out some 20 years ago in his classic book Water Resource Development: The Economics of Project Evaluation that the appropriate benefit measure is the savings to the economy as a whole "in the cost of producing the national output." Yet the corps measures benefits by taking the difference between rates currently charged by the next best mode of transportation—usually railroads—and rates to be charged by barges on the proposed waterway. The move from rail to water is a savings to shippers. But since rail rates are often well above real economic costs, this difference does not represent true savings in the total cost of transporting the nation's goods.

UNDERESTIMATING CAPACITY

Indeed, the railroads often lower their rates to compete with a new waterway, and this lower rate is a much better guide for measuring the benefits of the project. Haveman, in his book Economic Performance of Public Investments, calculates that if the corps had followed accepted cost-benefits procedures, it would have found that this change alone cuts benefits on the Illinois Waterway Project, for example, by more than half. Instead of the project generating $1.26 to $1.72 in benefits for every public dollar spent, as the corps forecast, he estimated it would return only 44c to 72c. And this means that the project should have died on the drawing boards.

"Congressmen and senators from states with strong waterway interests found the accepted procedure to be a severe obstacle to project approval," notes Haveman. So Congress legislated pork-barrel irrationality in

Section 7a of the Transportation Act of 1966, which instructed the corps to calculate benefits on the basis of the higher rail rates in effect at the time of the study.

One place the corps apparently does not need Congress' help to hype benefits is in underestimating the capacity of existing waterways it proposes to improve. Haveman says the corps' estimates of the existing capacity of Locks & Dam No. 26—which the corps maintains should be rebuilt and enlarged at a cost of $400 million—are "erroneous and inconsistent." He points out that the corps estimated capacity at 26 million tons a year in 1956 but that it was forced by criticism to raise this five different times, from 30 million tons in 1958 to 73 million tons in 1975. Yet even that figure is lower than the 90 million tons estimated by independent sources, Haveman says.

HOG-WILD SPENDING

The corps' Edward A. Cohn, chief of the Economic & Social Factors Section, defends the corps' capacity estimates. He maintains that capacity depends critically on how long barges have to wait to go through the locks and how large the fleet of barges using the locks is expected to be in the future. Cohn maintains that corps estimates are as good as those made by the independent experts.

But whether Cohn is right or wrong on capacity estimates, the corps' use of a 6⅞ percent interest rate for calculating future benefits' present worth is being criticized for giving corps projects a huge advantage when compared with other federal programs. Economists agree that the cost of long-term government borrowing is the appropriate rate to be used in discounting future benefits. The Office of Management & Budget now requires evaluation of other federal projects to use a 10-percent discount rate.

Clearly, the 6⅞-percent discount rate will be targeted by the Carter Administration in its efforts to put a lid on waterway spending that has gone hog-wild. But this rate was not dreamed up by the corps' economists. It was mandated by Congress. That means that the Administration will have to do a lot more than insist on the corps' proper use of cost-benefit analysis. It will have to vigorously oppose Congress, which is still protecting its pet projects.●

GOING PUBLIC FOR PRIVATE ENTERPRISE

● Mr. HATCH. Mr. President, I would like to share with my colleagues here in the Senate the remarks of Willard C. Butcher, president of the Chase Manhattan Bank, N.A. Americans are wondering what "big business" could say that is new. In a year that we have talked about "obscene profits," defenders of free enterprise have had to sit back and reexamine their relations not so much with other corporations, Congress or the White House, but with American people. Mr. Butcher makes some very cogent points concerning this communications gap between business and the taxpayers, and suggests a new road for business to travel to help restore American confidence in its economic system. I would commend Mr. Butcher's comments to all Senators and ask that his address be printed in the RECORD.

The comments follow:

GOING PUBLIC FOR THE PRIVATE ENTERPRISE SYSTEM

Dick Leavitt is quite a persuasive fellow. A few months ago he called and told me about this wonderful forum here in Des Moines, "Bill," he said, "You're a staunch advocate of our system—right?"

I said, "Right."

He said, "You like to share our thoughts with others—right?"

I said, "Right."

He said, "And you believe strongly in free speech—don't you?"

I said, "Yes Dick, I do."

He said, "Good. How about coming out here and giving one!"

And here I am.

It is a pleasure to be in Des Moines amid the most efficient and productive agricultural land of the world, and among the many thriving business and financial institutions of Mid-America.

I would like to share with you today a major marketing opportunity. If diligently pursued and professionally implemented, it will raise your productivity . . . supply your energy needs . . . and boost your profits. What's even more important, it will help secure jobs, economic growth and prosperity for all Americans.

I recognize that's a mighty impressive claim. But I am talking about something far more powerful and profound than any chemical or machine. I am suggesting we market an idea—specifically, the idea of private enterprise.

Any successful marketing effort requires good timing and I believe the best time to promote free enterprise is now.

Record levels of inflation and negligible real economic growth have caused many Americans to question the statist and socialist concepts that have been a near-global orthodoxy over the past 50 years.

True, American capitalism is still on trial. But I believe the time is right for a fair trial. We're no longer being lynched, as we were in the 60's and early 70's. But if we fail to argue our case effectively, economic erosion in the U.S. will continue and public confidence and faith in America's future will decline.

It is the challenge of the business community to help channel growing public discontent with U.S. economic performance into constructive action—proposals for greater capital investment, improved productivity and a return to stable growth . . . concrete measures that will restore confidence in our system of private enterprise. To succeed we must obtain greater public understanding and active public support. Thus far, our efforts to rally the public have been less than adequate. The challenge to correct this deficiency is critical . . . the need urgent . . . and the task formidable. Witness the stakes involved:

Investment capital, the seed corn of economic growth and our future prosperity, has been generated in the U.S. at the lowest level in a decade.

For the past 10 years, the United States has had the lowest rate of productivity growth of any modern industrialized nation.

Contributing to our productivity lag, government regulation is costing business over $100 billion annually.

Our record $34 billion balance of trade deficit in 1978 and a $28 billion deficit this year are tangible signs of our growing dependence on imported energy and the declining competitiveness of U.S. goods in domestic as well as foreign markets.

Meanwhile, rampaging inflation, which will reach a 13 percent annual rate in 1979, has battered our currency, shattered the retirement hopes of countless thousands of Americans and seriously undermined the confidence of Americans in their future, as well as having eroded the capital saved by our parents and grandparents.

For two centuries, economic expansion and growth provided increasing numbers of Americans with a better life. Yet, today we hear from a number of different sources that economic growth is unattainable or even undesirable. In essence, many Americans have lost faith in the institutions . . . the system . . . and the process that have generated our prosperity.

It is disturbing to see a sizable American movement that advocates surrender and retreat from the major challenges of our day. Instead of seeking new oil we're told we need to rigidly allocate what oil we already have. Instead of working toward even safer nuclear power we're told we must abandon nuclear power altogether. Instead of eliminating the disincentives that make it difficult for the small entrepreneur to thrive, we are asked to hobble our most efficient and competitive large companies.

"Small is beautiful" has become the rallying cry for those who tell us to reduce our expectations and learn to live with a static or declining standard of living.

Yet, I don't really believe that you, or I, or for that matter the vast majority of Americans, are prepared to deny our children tomorrow, the privileges that we enjoy, today.

How can we, the business community, counteract the sentiment against private enterprise and reverse government initiatives that impede economic growth, profit and incentive?

What can we do to foster the awareness and support necessary to revitalize and refurbish the system and institutions that generated our nation's 200-year economic ascendancy?

I believe we have one critical task: to go public. We must take our message directly into American homes . . . to the people . . . to the ultimate deciders of our society's fate. We need nothing less than a major and sustained effort in the marketplace of ideas. As Judge Learned Hand noted, "Words are not only the keys to persuasion but the triggers of action."

I believe this is a top management concern. Speaking out is a constitutional right under the First Amendment and a duty in our representative democracy. The framers of our Constitution created a system where citizens, responsibly, yet aggressively, pursuing their self-interest are what determine the public interest.

We've been hearing a lot lately about "special" interests. This tag has been used to suggest that some of us have less of a mandate to speak out and exercise our rights than others. The truth is that social workers as well as bankers . . . Common Cause as well as the Chamber of Commerce . . . and, yes, even Ralph Nader, all represent "special" interests.

DeTocqueville and other students of our democracy have marveled at how private, voluntary associations formed by citizens to advance their interests are a bullwark of our freedom, a fortress against oppression.

Interestingly, some of the friends of private enterprise as well as our critics, have cautioned the business community against active participation in the public policy process.

Both our proponents and our opponents tell us we shouldn't speak out because, in point of fact, they fear we will be effective.

Many of our friends tell us we shouldn't speak out because we lack credibility. Yet, only by speaking out will we achieve credibility.

I would agree that we are not effective when our efforts are defensive, apologetic or half-hearted. Reactive or lukewarm marketing measures are ineffective. It doesn't matter whether you're marketing an ideology or a product or service.

In that context, I think business has done a superior job time over time in marketing its products. But we have done an inferior one in marketing ideas. And today we can't afford not to be involved in this "idea marketplace."

Business must have more than a casual commitment to the idea marketplace. Indeed, it seems to me that as individual companies and industries, we have succeeded in carving out our own deserved piece of the "economic pie." What we must now address collectively is preserving the pie itself.

We must apply the same sophistication, discipline, resource commitment and courage in the marketing of ideas as we apply in the marketing of products. This implies an obligation to use all the opinion avenues open to us in our democracy:

Meetings with the media, customers and suppliers, issue advertising;

Congressional testimony, trips to campuses and meetings with community groups; and

Participation in associations such as the Chamber of Commerce, the American Enterprise Institute, and the National Association of Manufacturers.

In short, participation in the idea marketplace should be a living, breathing part of everything we do in our everyday business lives.

In the past year or two, many large corporations have begun to take a more active and visible role in communicating the private enterprise perspective on a variety of critical public issues. This welcome activity has included a number of issue advertising campaigns that have generated wide exposure and some controversy. I believe the public was surprised and generally pleased to see business step forward to defend, report and explain its activities and positions. These efforts, although useful, are only a toe in the water. We will need wider and more sustained efforts.

Small business may not command the same resources as a Chase or Mobil, but it plays an equal, or perhaps even more critical, role in the public arena. The individual entrepreneur enjoys personal contact with his customers, employees, elected officials and fellow citizens in his community. This one-to-one exposure is far more difficult for an executive in a far-flung global corporation to achieve. Opinion polls have shown that despite the battering business in general has received, the public holds small business in higher esteem than nearly any other American institution. The independent businessman is the embodiment of the competitive and entrepreneurial spirit of our country. Reflecting the esteem in which he his held, the small business executive has proven to be highly effective in the halls of Congress, particularly in concert with organizations such as the National Federation of Independent Businessmen. Excellent examples were the successful efforts of the N.F.I.B. to defeat the consumer agency and their continuing efforts to promote tax reform that would encourage capital formation.

By lending support to the N.F.I.B., the Chamber, the American Productivity Center and other private enterprise groups, we not only enhance our lobbying efforts but we help provide platforms for some of the outstanding advocates of private enterprise—individuals such as former Fed Chief Arthur Burns, scholar Irving Kristol and academician Jack Grayson who, when accorded the necessary exposure, are every bit as effective as our most articulate critics.

Also the media are important for promoting public understanding and support of private enterprise.

The media have a major role in reporting and explaining the dynamics of our economy to their audience. This is not a matter of serving as a mouthpiece or even an advocate of business. I recognize that one purpose of a newspaper is to "comfort the afflicted and afflict the comfortable." Yet, the outstanding newspapers of our nation have always served as communicators, interpreters and educators as well as advocates and watchdogs.

One of the founders of the highly-respected, Pulitzer-prize winning Des Moines Register, Harvey Ingham has said, "Two avenues of popularity are open to newspapers. The first is to yield, to flatter, to cvajole. The second is to stand for the right things unflinchingly and win respect."

I must say that the press has not always been as accurate or fair as it might be. For example, when the Commerce Department earlier this year announced sizable percentage hikes in corporate profits, these increases were emblazoned in large and provocative headlines. Yet, too often, the underlying stories failed to mention the recession-level troughs from which profits had recovered or the importance of profits for growth and productivity.

But is every misguided story the fault of the media?

Clearly not. The fact is business has not done all that it can to keep the media informed and accurate. We have been, in many instances, less than forthcoming with needed information. And the result, most often, has worked to our detriment.

How can we reverse this fact? I believe by accepting, as former AT&T Chairman John DeButts once put it, "A sufficient openness to public inquiry—and a sufficient readiness to respond to public challenges." Stated another way, in the public arena—we must be bold not bland, forceful not fearful, courageous not cowardly. And proactive not reactive.

When I travel on business throughout the U.S., I make an effort to meet with the business and financial writers and editors of the local press. I've found from these visits that the majority of the business press is conscientious and responsible. But they do need information and that's where you and I can play a role.

In the same spirit, we can't withdraw and whine over biased reporting. We have a right and obligation to hit back. We must effectively rebut inaccurate or distorted media coverage through letters to the editor, advertisements and other communications. This encourages dialogue, and causes reporters to think twice before they commit another distortion. In recent years, the media have taken a good deal of interest in themselves and often an effective rebuttal to poor journalism generates wider coverage than a stand-alone business communication.

Communicating the case for private enterprise in the electronic media is a far more difficult task. However, I think it's a healthy sign that all three major networks have added bona fide business reporters to their staffs.

It's difficult though to articulate the complex workings of our economic system within the brief flashes of TV and radio newscasts. At the same time, glib and glamorous spokespeople for the left have often succeeded in capturing the greatest share of attention while most business executives haven't yet mastered the necessary techniques.

But I think we must find new and better ways to use radio and TV to communicate our position. Effectively communicating in the electronic media requires preparation, experience and agreement over fair ground rules. It is not easy going before a camera and not all of us may be well-suited to it. But it must be done, professionally and on a regular basis.

Earlier this year, Cliff Garvin, the Chairman of Exxon appeared on both the Today Show and the Phil Donahue show to discuss the energy situation. Cliff was concise, effective and above all, he reached a large audience of people who may only casually read newspapers.

I believe the networks recognize the difficulty in providing accurate and fair coverage of a wide range of viewpoints. Yet it is unfortunate that, in the guise of fairness, the public has been shielded from serious discussion on many important issues.

How can the networks, who have a primary responsibility to courageously probe key public issues, deny Kaiser Aluminum the right to use TV advertising to discuss issues such as energy, bureaucracy and free enterprise? The networks cited the FCC's fairness doctrine, which requires that all responsible viewpoints on a controversial issue be represented, as the reason. Ads for political candidates are seasonal fare on TV. Why not permit issue ads? The absence of dialogue is as dangerous as blatantly biased media. An informed public will be able to ferret out fact from opinion and reach its own conclusions. But if spirited debate on important issues is excluded from the media, we encourage ignorance which is the greatest enemy of the democratic process. I would hope, as a matter of public policy, this issue be reexamined.

Oliver Wendell Holmes, Jr. once said, "The best test of truth is the power of the thought to get itself accepted in the competition of the market." We must bring the public into the forefront of the idea marketplace. We must openly and vigorously debate with our opponents the critical issues of our day. We must stand for freedom of the press but insist on a responsible and fair press. We must speak out for the system that we believe safeguards our freedom . . . generates our prosperity . . . and provides for the greatest common good. We owe it to ourselves and the enterprises we represents. But far more importantly, we owe it to our children.●

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of the bill (H.R. 3919).

Mr. LONG. Mr. President, if cloture is voted, there will not be time for me to adequately explain the reasons why I believe the Danforth proposal should not be agreed to, particularly the constitutional aspect of it and, therefore, Mr. President, I think I should address myself to that this evening, and I hope the Senator from Missouri (Mr. DANFORTH) will be alerted that I am discussing this subject.

Mr. President, the junior Senator from Missouri (Mr. DANFORTH) has proposed an amendment which I believe strikes at the very heart of this Nation's historical understanding of the States' immunity from Federal taxation and the principal of State sovereignty.

The Danforth amendment proposes to apply the windfall profit tax on State royalty income from oil produced on State lands.

Make no mistake about it: the Danforth amendment would constitute a tax directly on the State governments themselves.

This would be an unprecedented extension of the Federal taxing power over the States. It is an unprecedented attempt because it would be an unconstitutional invasion of the rights of the States to dispose of its property.

Never in over the 200-year history of this Nation has the Federal Government ever attempted to tax the nonrenewable mineral resources owned by the States.

It is important to understand that under both Federal and State laws the sale of mineral rights is the sale of real property. The minerals are legally part of the land itself.

Thus, for the Federal Government to tax the States on their mineral income is no different than taxing the States on the sale of State lands or the sale of the State Capitol building itself.

Oil, in addition to natural gas, coal, iron, copper, lead and many more, are all finite natural resources. When a State depletes its land of these minerals, there is no more. When they are gone, they are gone forever.

The States use this mineral income to pay for their traditional governmental functions and the needs of their people. These State revenues are used to pay the expenses of State government, the education of their citizens, and various other public purposes. These are central functions of the States which are critical to the preservation of State government.

To tax the States on their property is to strip the States of whatever is left of State sovereignty.

Our Founding Fathers of this great Nation clearly recognized this principle by acknowledging the limitations on the Federal taxing power.

The U.S. Supreme Court recognized that "the power to tax involves the power to destroy," in the famous case of McCulloch against Maryland.

What the Danforth amendment would instigate is a greatly broadened expansion of the Federal taxing power. This would give Uncle Sam the power to destroy the viability of the States themselves.

Mr. President, the amendment proposed by the junior Senator from Missouri (Mr. DANFORTH) must meet two tests. One test is whether it is wise from the standpoint of public policy, a subject I shall return to later.

A. CONSTITUTIONAL ISSUE

The other test is that of constitutionality. I believe that both the junior Senator from Missouri (Mr. DANFORTH) and I agree that before the Senate decides whether to tax Louisiana on its oil, or another State on its coal, or another State on its timber, it must decide whether any tax on a State's property is constitutional.

It is true that under our form of government, the Supreme Court is the ultimate authority as to constitutionality, and it is to the decisions of that Court that we look for guidance. On the other hand, each of us, each Senator and each Representative, took a personal oath to defend the Constitution, and I doubt that any of us want to vote for a measure if we do not personally think that it is within constitutional boundaries.

The Constitution remains a living document only so long as Americans continue to honor and obey it. The courts have a duty to respect it, and we as Senators have a duty to defend it.

Some Senators may not share our concern for the constitutional issue in the belief that it is, in this case, an uncertain trumpet. There seem to be legal opinions on both sides and Supreme Court quotations on both sides.

The fact is that the image of uncertainty is unreal. If we really look at the case in favor of constitutionality, we find that it simply does not survive hard scrutiny, since it rests on a group of factual misunderstandings. This statement will demonstrate step by step the lack of merit in the arguments for constitutionality, but all of it can be boiled down into four basic points:

The first point is that traditionally, historically, income from State property was, and always has been, exempt from Federal tax. For the first 100 years of the Republic, and for most of its second hundred years, no one would have had any question about this matter whatsoever. If the Danforth amendment were to be constituional, it would have to be by virtue of some change, some reversal of the law that had occurred since that time.

The second point is that although a group of cases dating from 1905 to 1946 did reduce the scope of State immunity from Federal taxation in some respects, the closest of these cases to the present situation involved a State which was carrying on an active commercial business. Here we are dealing with the passive receipt of royalties, a critical distinction which runs through the entire fabric of American tax law.

Third, all of the key cases involve nondiscriminatory taxes. The Senate version of the windfall tax, as changed by the Danforth amendment, would be unconstitutionally discriminatory because it would tax State governments while exempting a great number of private taxpayers.

Fourth, Senator DANFORTH has explained that the point of this amendment is to interfere with State programs for developing industry and jobs. Imposing a tax for such a purpose is clearly unconstitutional regardless of any other factor.

Now let me cover these four points.

First, historically, the States are immune from Federal taxation.

To begin with a discussion of the first point, the traditional rules on State immunity, we all know that the States existed before the Declaration of Independence. The Declaration of Independence, for example, states that:

> These United Colonies are and of right ought to be free and independent States: that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as free and independent States, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent States may of right do.

The adoption of the Constitution, granting limited powers to a Federal Government, did not eliminate the concern for the independence and sovereignty of the individual States.

This concern for sovereignty carried over into the field of taxation. In the most famous case of all, McCulloch against Maryland, Chief Justice Marshall, speaking for the Supreme Court, pointed on that the founders of the Republic were fearful that a national government vested with an unlimited taxing power might deprive the governments of the States—

> * * * of the means of providing for their own necesites * * * to the entjre exclusion and destruction of the state governments.

The underlying doctrine was capsulized in the statement of the Chief Justice: "The power to tax involves the power to destroy."

Based on this premise, it was held in Collector against Day that the Federal Government could not constitutionally tax the wages paid by a State government to its employees:

> The means and instrumentalities employed for carrying on the operations of their governments, for preserving their existence, and fulfilling the high and responsible duties assigned to them in the Constitution should be left free and unimpaired, should not be liable to be crippled . . . by the taxing power of another government. (78 U.S. 113)

Similarly, in Pollock against Farmers Loan and Trust Co., the Supreme Court held that interest on State and local bonds could not be subjected to the Federal income tax since this was viewed as a tax on the power of the States to borrow, and accordingly, violated the reciprocal immunity doctrine of McCulloch against Maryland.

In short, at the high water mark of the governmental immunity doctrine, it was clear that the Federal Government had no power to tax even the State's employees, let alone the State itself, and that the State's inability to tax the Federal Government or its employees was equally clear.

Second. The Constitution does not permit the Federal Government to tax income from State lands.

The period of sweeping governmental immunity was followed by a period lasting almost exactly 40 years in which the boundaries of such immunity receded. The Supreme Court overruled the cases forbidding the States to tax Federal employees and forbidding the Federal Government to tax State employees. It also held that if a State entered into commercial business, such as the operation of a liquor store, the normal Federal taxes on such businesses could be applied.

The important question is whether any of the cases limiting State immunity went so far as to support or permit the Danforth amendment. It is clear that if there was one such case there was only one, *Now York* v. *United States*, 326 U.S. 572 (1946). From a constitutional standpoint, if the Danforth amendment is to be upheld at all, it must be supported by that one case. Therefore, it is worth taking a few minutes to describe it and show that it also offers no support whatever to the junior Senator from Missouri (Mr. DANFORTH).

The New York case arose out of a decision by that State to take over and run a commercial health resort at Saratoga Springs. One part of that business consisted of a plant which bottled and sold several kinds of mineral water, some with a natural laxative effect, some with a diuretic effect, and some which merely aided digestion.

In addition to bottling these powerful waters, the State operated an elaborate merchandizing system using a mixture of direct sales to consumers, sales through exclusive distributors, and sales through nonexclusive distributors. It carried on commercial advertising in competition with at least six other privately owned plants which bottled mineral water. One was located at Hot Springs in Virginia and another was at White Sulphur Springs in West Virginia. Another competitor, apparently even more powerful, was known as Pluto Water.

The litigation began when the Federal Government attempted to impose on the Saratoga Springs Bottling plant its tax on soft drinks, which included a levy on bottled water. Since the Supreme Court had already held that the Federal Government could tax State owned liquor stores, that would have seemed clearly constitutional; but New York elected to fight the case on the theory that this was a sale of natural resources by the State which could not be taxed.

The district court agreed with the State that the sale of natural resources could not be taxed, but held that that rule did not protect what New York was doing in running a bottling business.

The case finally reached the Supreme Court, where the Solicitor General abandoned the narrow theory of its victory in the district court and argued that it was indeed within the power of the Federal Government to tax a sale of natural resources by a State. Had that argument been upheld, the junior Senator from Missouri would at least be able to cite dictum in favor of his position. As it was, however, the Supreme Court simply did not adopt that view.

To determine what the Supreme Court really did say, it is necessary to know that only eight Justices participated in the decision and between them, they wrote four different opinions. Mr. Justice Frankfurter's opinion was the most favorable to the Danforth amendment, but it was not the opinion of the Court, and it reflected the views of at most two Justices.

Justice Rutledge is listed as joining in the Frankfurter opinion but he was sufficiently dissatisfied with it so that he also wrote another, separate opinion of his own.

The third opinion is the one which the Supreme Court itself later described as the majority view of the Court. (433 U.S. 444, 457, n.15 (1978).) It was written by Chief Justice Stone and reflected the views of four Justices. Still another opinion by Justice Douglas reflected the views of two Justices who dissented and would not permit the imposition of a tax at all.

To begin with the two-Justice opinion by Mr. Frankfurter, it is true that it contains some abstract, philosophical language which would be cause for concern if it represented the view of more than two Justices. On the other hand, the discussion of specific facts of the case is far narrower. In particular, Justice Frankfurter stated as follows:

> On the basis of authority, the case is quickly disposed of. When States sought to control the liquor traffic by going into the liquor business, they were denied immunity from Federal taxes upon the liquor business . . . We certainly see no reason for putting soft drinks in a different constitutional category from hard ones. (326 U.S. at 574–5.)

The basic point which underlies that language by Justice Frankfurter is that the New York case involved a commercial bottling business complete with plant, distributors, and advertising. Even the natural resource aspect was different from the present case. The mineral water in question was surplus.

There was a limit to what the Governor could drink, especially considering the particular qualities of the water, and the choice was between the bottling works or letting it run into the Atlantic Ocean. That is totally different from the sale of a depletable resource like oil, where a State has only a certain supply which, once sold, is gone for good.

By contrast to the bottling business described by Justice Frankfurter, the State of Louisiana and others do not extract oil, nor merchandise oil, nor does it conduct advertising campaigns.

From a business standpoint, the sovereign State of Louisiana is no different from farmer Jones when Shell or Exxon comes around and requests the right to extract oil and gas from his land. If farmer Jones agrees and, in exchange for a royalty, allows the minerals to be taken by an oil company, that does not convert farmer Jones himself into an oil company. Neither farmer Jones nor Louisiana drills wells or extracts oil, and normally they do not even share in the costs of such operations.

This point can be clearly understood if we consider other examples which occur every day. If a utility sells electricity to a shoe factory, that does not put the utility in the shoe business. If a farmer leases land to an automobile plant, that does not put the farmer in the automobile business. If a restaurant serves lunch to Mr. DANFORTH, that does not make the cook a Senator from Missouri. (Although I guess technically that lunch does become part of a Senator from Missouri.)

In short, Justice Frankfurter supported a commercial business tax imposed on a commercial business. That just is not what the Danforth amendment does or purports to do.

Turning from an analysis of the two-Justice opinion to the four-Justice opinion written by Chief Justice Stone, the language closest to our facts reads as follows:

> We could hardly say that a general nondiscriminatory real estate tax (appportioned) or an income tax laid upon citizens and states alike could be constitutionally applied to the State's Capitol, the Statehouse, its public school houses, public parks, or *its revenues from* taxes or *school lands* . . . (326 U.S. at 587–8.) (Emphasis added.)

In context, the list of properties is clearly not intended as a complete catalogue. The reference to "school lands" is not intended to exclude lands dedicated to hospitals or to other public purposes, any more than the reference to the State Capitol building is intended to exclude a State office building.

Rather, in referring to school lands, Justice Stone is probably reflecting an earlier opinion of his which allowed a tax on the private lessee of oil and gas from school lands, but explicitly said that such a tax could not be imposed on the State itself. That case, *Group No. 1 Oil Corp.* v. *Bass*, 283 U.S. 279 (1931), still stands as the most direct statement by the Supreme Court on this subject.

Let me quote what Justice Stone wrote in that case about State property—and remember that the property he was referring to was oil produced from school lands owned by the State—

> Property sold or otherwise disposed of by the Government, either state or national, in order to raise revenue for Government purposes, is in a broad sense a Government instrumentality, with respect to which neither *the property itself before sale, nor its sale by one government, may be taxed by the other*. (283 U.S. at 282.) (Emphasis added.)

In evaluating the force of these two quotes from Chief Justice Stone, remember that two Justices in the New York case would not even agree to imposing the soft drink tax on the bottling business. Therefore, if Justice Frankfurter really did mean to contradict the statement that it would be unconstitutional to tax revenues from school lands, he had six out of eight Justices against him.

In short, until the Supreme Court passes a rule that two Justices out of eight constitute a majority, the New York case does not support, but demolishes, the constitutionality of what Senator DANFORTH is asking us to do.

In my opinion, the only reason anyone would even suggest that the New York case is relevant to the Danforth amendment is that when it was decided it looked like one step in the wave of the future. A series of cases had cut down State immunity, and perhaps it looked as if the immunity described by Justice Stone would last only until the Supreme Court dropped the second shoe.

Unfortunately for that line of analysis, the New York case, while the most recent decision to give hope to the proponents of the Danforth amendment, is not recent by any other standard. It was decided in January of 1946, and of the 100 Members of the Senate today, only two of us were Senators then: Senator MAGNUSON of Washington and Senator YOUNG of North Dakota. Indeed, the distinguished Senator from Missouri (Mr. DANFORTH) was at that time a boy of 9. In a sense, he has been waiting during his entire adult life for the Supreme Court to drop the other shoe.

The fact is that in hindsight, 1946 marked the high water mark of the Federal power to tax the States. Today we live in an era much more concerned about the impact of taxation.

Chief Justice Marshall's famous statement that "the power to tax involves the power to destroy" takes on new meaning when we have an Internal Revenue Code which contains 200 percent penalty taxes, and when we are aware of taxes in the United Kingdom exceeding 100 percent of the income by which they are measured, and when the impact of certain provisions of the very tax we are discussing threatened to exceed 100 percent.

Mr. President, there should be some analysis of the opinions to which the Senator from Missouri has referred.

ANALYSIS OF LEGAL OPINIONS

The basic irrelevance of the New York case is shown by the two legal opinions which the Senator from Missouri has cited as supporting the constitutionality of his proposal. These two opinions make clear that we are dealing not with a misunderstanding as to the law, but a misunderstanding as to the facts.

His first authority is the research memorandum from the Congressional Research Service which concludes as follows:

> Therefore, it would appear that there would be no constitutional problem with taxing *lessees* of State lands on their windfall profits from extracting oil; nor does there appear to be a constitutional problem with taxing a State *which extracts and sells oil as if it were a private company.* (Emphasis added)

We do not disagree with either part of that conclusion. The first part states that it is constitutional to tax lessees from the State government.

Everybody agrees that it is constitutional to tax an oil company which is producing oil from State lands.

Both the House bill and the Finance Committee bill do tax such lessees.

The second half of the statement refers to States which extract and sell oil as if they were a private company. Once again, there is no real dispute.

As I have stated repeatedly, it is true that the Federal Government can tax a commercial business carried on by a State. That was the holding of the liquor store cases; that was the holding of the New York case. As I have also explained repeatedly, allowing an oil company to operate on State lands does not mean the State is in the oil business.

Now let us turn to the Treasury letter, which is the other legal opinion cited by the junior Senator from Missouri (Mr. DANFORTH). The first thing to emphasize and to underscore and to repeat is that the opinion does not anywhere say that the Danforth amendment is constitutional. It does not even mention that issue.

What the opinion does do is discuss three very specific questions, of which only one is relevant to this discussion. That question is whether it make a difference under the Constitution that Louisiana is not in the oil business but instead, simply collects royalties. That certainly is one of the important questions, but it could not by itself establish constitutionality in any event.

In analyzing the question it does raise, the opinion cites the New York case and three others even more removed from the present facts. Although language is quoted from the New York opinions, the Treasury never seems to get around to mentioning the bottling plant, or the network of distributors, or the advertising campaign. It also neglects to quote the statement from the four-Justice opinion that it would be unconstitutional to applv even a nondiscriminatory tax to the State's Capitol, its Statehouse, its public school houses, public parks, or its revenues from taxes or school lands.

Then, ignoring the fact that Chief Justice Stone has already answered their question, the Treasury opinion makes three points purporting to demonstrate that the New York case supports a tax on the removal of oil.

One of the three points is that excise taxes are a natural and traditional source of Federal revenue. It would seem perfectly obvious that this is true of some excise taxes, but that other excise taxes could be imagined which are highly untraditional. The real issue is whether this specific proposal, a tax directly on the States themselves on the sale of State property, is traditional. In fact, it is completely unprecedented, going far beyond any prior attempt to assert a Federal tax upon the States.

Another point, according to the Treasury, is that the tax does not discriminate against the States. Whether or not that was true when the opinion was written, it is not true now, and that point is so important I will return to it in a few minutes.

The only remaining Treasury point is that the extraction and sale of oil is an entrepreneurial activity. Since Louisiana is not engaged in an entrepreneurial activity, and since this was recognized in the Treasury's original statement of the question, this point is, once more, irrevelant.

In other words, the Treasury opinion on this question gets within one sentence of the end without mentioning anything relevant to the question posed. Realizing this, it suddenly adds, out of the blue, a single sentence stating that the analysis sustaining the windfall profit tax does not turn on whether the State actively carries on a business or is simply taking a royalty payment from a private person who is carrying on the business. That is the only really relevant sentence in the entire opinion, and it is not supported by a single case citation, nor is it consistent with the three so-called principles which immediately precede it.

In short, after wrestling with the question for almost three single-space pages, the Treasury cannot come up with anything whatever to support its answer.

Third. The Danforth amendment is unconstitutional since it discriminates against States.

Now let me turn to two problems with the Danforth amendment which are even more basic: One is the question of discriminating against the States. All of the cases upholding taxes which affect the States emphasize that the tax in question is nondiscriminatory.

A good statement of the rule in this area is contained in the opinion by Justice Frankfurter in the New York case. You will recall that there were four opinions in that case and Justice Frankfurter's took the most expansive view of the Federal taxing power.

Justice Frankfurter stated the rule as follows:

> Thus, for Congress to tax State activities while leaving untaxed the same activities pursued by private persons would do violence to the presuppositions derived from the fact that we are a Nation composed of States. (326 U.S. at 575, 576.)

The majority view of the Court as stated by Chief Justice Stone in the New York case was in full agreement on this point. As the Chief Justice explained:

> Concededly a Federal tax discriminating against a State would be an unconstitutional exertion of power over a co-existing sovereignty within the same framework of government. (326 U.S. at 586.)

The fact is that the Danforth amendment would, in Mr. Justice Frankfurter's words, "tax state activities while leaving untaxed the same activities pursued by private persons."

Under the Finance Committee substitute, as amended on the Senate floor, there are certain classes of landowners and oil producers which are exempt from the tax.

Universities are exempt.

Charitable hospitals are exempt.

Indian tribes are exempt.

Independent producers are exempt, and that is about 75 percent of them, Mr. President.

Private landowners whose property is drilled by independent producers are exempt, and that is a very high percentage of them, also.

In other words, the proposed amendment would divide potential taxpayers into a series of groups. It would apply the tax to one of these groups, and then put the States in the disfavored group. Justice Frankfurter and the other justices said that could not be done; the U.S. Senate should say that it will not be done.

Fourth. The stated purpose of the Danforth amendment alone would make it unconstitutional.

The remaining constitutional point relates to the purpose of the Danforth amendment. Last Friday, he explained the point of the amendment at length. I quote his remarks from the CONGRESSIONAL RECORD of December 7 on Page 35084:

> The point simply is this: what are they going to do with the money? . . . I submit to the Senate that there is only one thing they will do. They will conduct the most effective economic warfare against the rest of the country ever dreamed of and they will begin packaging tax programs. They will build factories at nominal rentals, make loans at nominal interest. They will do this in order to make a very appealing package of economic incentives for business and industry to move into these States.
>
> If the people from Chrysler states—and I happen to be one of them—think we are having problems now just wait until one plant after another is picked off all over the rest of the country and this Mecca is created in just four States. We are talking about the future of America. We are talking about jobs.

To someone from Louisiana, who knows that our per capita income is only 70 percent of the average for all States, to someone who knows that our program to attract jobs and industry is less, not greater than that of many other States, the idea of the Federal Government attempting to interfere with that program will seem unfair and unjust.

The point, however, is that the Constitution did not leave it to the Federal Government to decide which State governmental programs should be impaired by Federal taxation and which should be left untouched.

The fact is that all the States now recognize that finding economic opportunity and jobs for its people is an important function of the State government. As such, it is plainly not subject to assault by Federal taxing power.

Let me quote once again from the majority opinion in New York against

United States, where Chief Justice Stone dealt with this issue as follows:

> But neither Government may destroy the other nor curtail in any substantial manner the exercise of its powers. Hence the limitation upon the taxing power of each, so far as it affects the other, must receive a practical construction which permits both to function with the minimum of interference each with the other; and that limitation cannot be so varied or extended as seriously to impair . . . the appropriate exercise of the functions of the government affected by it. (326 U.S. at 589–590.)

In short, the very case—the only case—upon which the junior Senator from Missouri (Mr. DANFORTH) relies, makes it clear that his proposal violates the fundamental law that every Senator in this body is sworn to uphold.

B. PUBLIC POLICY ARGUMENTS

First. Danforth amendment violates the whole theory of Federal land policy.

In addition to the unconstitutional nature of the Danforth amendment, it is important to understand the unwise and misguided precedent it would set from a public policy standpoint.

What the junior Senator from Missouri's proposition would do is start a land and resources redistribution scheme to have the Federal Government dictate to the States what they can or cannot do with the income from their own land. This is contrary to the whole theory of the land policy of the United States.

Historically, each State has been entitled to rely upon the resources of the land within its State borders. Congress has always recognized the right of each State to benefit from the extraction of minerals from the lands within its borders. The junior Senator from Missouri (Mr. DANFORTH) would have us break with the intent of the various compacts agreed to by the Western States and the Federal Government.

He would lay the groundwork for a board ranging revenue-sharing scheme in reverse by plundering the States of their own natural resources.

This, Mr. President, would be a redistribution nightmare.

Fortunately, in recent years, Congress has been moving in a direction 180 degrees differently than the junior Senator from Missouri (Mr. DANFORTH) would have us go.

In 1976, Congress passed, and President Ford signed into law, the Federal Land Policy and Management Act. This legislation, for the first time, consolidated numerous individual public land laws and put into a single statute the authority for management of millions of acres of Federal lands. The Bureau of Land Management in the Department of Interior was given the job of supervising the care and use of most of this land.

Significantly, this legislation amended the Mineral Leasing Act of 1920 to increase the State share of mineral leasing revenues on Federal lands from 37.5 percent to 50 percent. Furthermore, Congress removed the existing restrictions on the States which had required the use of these funds for schools and roadbuilding purposes only. The States were given the full State share of these revenues for whatever public facilities and services were needed.

As a footnote, it should be noted that the Senate bill had advocated a full 60 percent State allocation to meet general public requirements.

Mr. President, I believe it is in the national interest for the States with energy resources to develop them as quickly as possible in a prudent manner. Additional production will help reduce our oil import bill which will exceed $70 billion this year. For the States to hold back production at a time when this Nation is in the midst of such a serious energy crisis would be tragic.

Quite to the contrary, Mr. President, Louisiana, Texas, Alaska, California, and others have been moving ahead, producing their energy resources as rapidly as prudently possible to help supply our Nation's people and industries with the energy we need.

Some economic planners in the energy producing States have argued that by accelerating the rate of depletion of their nonrenewable resources, these States are following a very unwise and shortsighted course for their future economies. They have suggested that a slowing of this development would be in the best long term interests of the producing States, but undoubtedly would injure the rest of the country.

Instead, Mr. President, I am proud to say that the producing States are responding to the national emergency by increasing their production efforts. I only wish that all States would assist in developing their offshore resources.

Just as the junior Senator from Missouri (Mr. DANFORTH) has been working diligently to protect the jobs and livelihoods of hundreds of workers in the Chrysler plants in his State, other Senators are also concerned about their citizens.

Senator DANFORTH has expressed great concern about how States will use the additional revenues they will receive as a result of oil price decontrol. In fact, the States in question are not, as my colleague from Missouri suggests, plotting the economic ruin of States which are not fortunate enough to have oil resources.

Louisiana is not setting aside an unusual amount of money to attract industries to our State. In fact, Louisiana's highest priority for these funds is the education of its children.

Yet, the Danforth amendment would seek to impose a federal tax on the income from these State lands—an unprecedented action, since the Federal Government has never placed a tax on the State selling its own real property.

As a matter of fact, Mr. President, people are very concerned and worried in Louisiana. They realize that most of our oil will be gone within the next two decades, and that industry is responsible for about 40 percent of the economic activity within the State. We will have a very serious problem finding jobs for the people who once worked in the oil industry if, in fact, we are not able to find other sources of energy to develop after the oil is gone. We perhaps will have to call upon the Federal Government to help us, just as other States have found themselves distressed on occasion.

If we are to be denied the benefit of resources while they are developed, what are we going to do in order to provide an opportunity for our people to work after the resources are gone?

No State, including Louisiana, wants to be a burden on the rest of the Nation. We do not want to be supported on welfare. We want to earn our own way.

I put the question to the Senator: After our resources have been depleted, how are we to sustain ourselves?

Second. Consequences of Danforth amendment: Erosion of States' immunity from Federal taxation.

Mr. President, once a State has been stripped of its immunity from Federal taxation on its natural resources, where will the Federal Government's power to tax States end? While the Senator from Missouri has conjured up a theory of national economic disaster if the Senate rejects his amendment, he does not even consider the consequences of his own proposal.

Point one: If we are going to impose a tax on the States on the minerals extracted from State-owned lands, is it not even more justifiable to impose a tax on all mineral income that States receive from Federal lands?

This is particularly important to the Western States, since most of the valuable resource deposits are located on federally controlled public lands.

For example, I have a list of the percentage of land within these States that is controlled by the Federal Government, and I ask unanimous consent to have it printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

Percentage of Federal lands

Alaska	95
Nevada	87
Utah	66
Idaho	64
Oregon	52

Mr. LONG. Mr. President, it should be noted that every State has at least some public lands.

Point two: If the Senator from Missouri wants to redistribute the income from the various States' resources, why limit ourselves to oil? Admittedly, oil has greatly increased in value. But, other scarce minerals have also dramatically risen in price.

For example, over the past decade lumber prices have tripled. The average price of 1,000 board feet of lumber has skyrocketed from $113 to $394 in a single decade.

Timber is an important natural resource for States across the country. Every State in the Union has timber resources that can be used for lumber.

Many States receive a substantial amount of royalty income from timber production on State and Federal lands. In 1979, the State of Washington, which is so ably represented by the chairman of the Appropriations Committee and the chairman of the Energy Committee, will receive $143 million in timber royalties from State lands. Timber royalties bring $3.25 million to the State treasury of Pennsylvania. Oregon's coffers will be enriched by $35 million from timber royalties on State-owned land.

Domestic coal prices were four times higher in the 6-year period between 1970 and 1976. A ton of coal cost $4.99 in 1970. In 1976, you would have to pay $19.43, about 4 times as much for that same ton of coal. This price increase affected an important natural resource in many States. West Virginia, Pennsylvania, New Mexico, Ohio, Utah, Washington, Illinois, Montana, North Dakota, and Oklahoma all have coal reserves.

Colorado receives $1,398,000 in annual royalties from coal production on State land. Montana's treasury benefits from $926,250 of coal royalties.

One of the important minerals to our economy is lead, which happens to be produced in the State of Missouri. The price of lead on the New York market has increased from 14.5 cents per pound in 1972 to 67 cents per pound in September of this year. This is a price increase of over 360 percent in less than 7 years.

Why does the junior Senator from Missouri (Mr. DANFORTH) suggest that we should begin taxing revenues States receive from the development of their mineral resources?

Perhaps he does because Missouri may not be quite as mineral rich as some other States. However, the great "Show-Me-State" has many other natural advantages, such as good farmland and grazing lands.

Furthermore, Missouri has an excellent record in attracting jobs with such industries as meatpacking plants, Anheuser-Busch, Hallmark, and Ralston-Purina, a small but growing concern. Who knows, there even may still be a Chrysler plant in Missouri next year.

Mr. President, I do not cast envious eyes on Alaska and their tremendous oil reserves. Nor do I covet the coal resources of West Virginia. I am glad that the States of Maine and Oregon have significant timber reserves. Neither do I begrudge the State of Pennsylvania its new Volkswagen factory. The good Lord endowed various parts of this country with different resources. This is not a case of rendering to Caesar that which is his. The Senator from Missouri wants to take back that which Caesar has given.

The Federal Government has agreed that a State should maintain its lands and that the proceeds from those lands could be used to help finance the State's operation. That is what I understood when I voted for Alaskan statehood. I voted for Alaska to have the right to set aside a certain amount of territory as State land. Back in 1949, most people questioned how Alaska could ever be able to financially support statehood. Senator Bob Kerr of Oklahoma said, "Oh, yes they can. They will find a lot of oil up there." And they found a lot of oil.

The Danforth amendment would renege on a promise, Mr. President, I want no part of that.

Imagine this Nation permitted Alaska to have 5 percent of its land and the Senator, by his amendment, would take back that 5 percent.

Point three: The final impact of Senator DANFORTH's amendment is the potential destruction of the tax-exempt status of State and municipal bonds.

In previous debates, I have expressed my view that this tax-exempt status could not long survive if the Danforth amendment is adopted and upheld by the courts.

The junior Senator from Missouri has argued that there is no real danger to the bond exemption since very few Senators would actually support ending it.

I think he fails to recognize the force of the practical and theoretical arguments against the exemption.

From a revenue standpoint, eliminating the exemption would raise $161 billion between 1980 and 1990, more than 12 times as much as the Danforth amendment would raise.

From a tax purist's standpoint, all income, at least all ordinary income, should be taxed at exactly the same rate regardless of source. Taxing certain interest income at zero percent is the greatest existing violation of that rule.

From a tax efficiency or tax expenditure standpoint, the exemption is one of the least efficient engines in existence. It has been estimated that it is worth about 30 percent to the States. In other words, for every $1,000 interest the States pay now, they would have to pay $1,300 if their bonds were not exempt.

For the bondholder in a 70-percent bracket who receives that $1,000 interest, the exemption is worth not $300 but $700—over twice as much. In other words, a grossly disproportionate part of the cost of this exemption benefits not the States but our richest citizens.

These considerations have led over the years to continued proposals for taxing these bonds. Furthermore, these proposals have become increasingly sophisticated over the years. The leading alternative is to give the States an election to waive voluntarily the exempt status of their bonds in exchange for 30-percent subsidy. That eliminates the constitutional impediment, since it is voluntary with the States and since the burden on the States has been removed.

Another alternative, introduced by Senator DANFORTH himself, is to give the taxpayer an incentive to report the interest voluntarily.

To clarify the record on that proposal, the junior Senator from Missouri (Mr. DANFORTH) stated that in the Finance Committee I had voted in favor of it. I have reviewed the record and, as I thought, I voted against his proposal.

He ultimately withdraw the proposal on the floor of the Senate, but it had cleared the Finance Committee and is sure to return to tempt us again.

The problem with proposals of this type is the danger of allowing the camel's nose under the tent. Once the country becomes used to taxing interest on State bonds, it will be easier to eliminate the optional element. Once the States become used to depending upon Federal subsidies, they will find that subsidies lead first to strings and then to controls.

The camel's nose, however, may begin to uproot the tent as Members of Congress are called upon to defend a system which provides a benefit to our richest citizens over twice as great as the benefit to the States. How would an astute politician defend such a system at a speech before a union hall or a college audience?

Today the answer is clear. The Supreme Court has said that the Constitution requires the exemption. It said so in the Pollock case and in a series of later cases, none of which have been reversed.

On the other hand, it is also clear that many authorities today question the constitutional protection of this interest exemption. It is not carved in granite and could well cease to be credible. That, I submit, would be the result of adopting and sustaining the Danforth amendment.

How will any lawyer be able to argue effectively that a bond issued by a State is exempt, when the State itself is not exempt?

That this problem is apparent to others is clear from the fact that Mr. Justice Douglas, back in the New York case, pointed out the connection between a Federal tax on the sale of State resources and a Federal tax on the interest on State bonds. This concern is also reflected in the mailgrams sent to all Members of this body by the American Bankers Association expressing their opposition to the Danforth amendment.

CONCLUSION

Mr. President, in conclusion, let me state that I implore this body not to denounce the valued principles of Federal-State relations upon which this proud Government was founded. We are a nation of States, we should not look with jealous eyes of greed at the natural resources of our sister States.

Louisiana is a great State in things of the spirit, but its per capita income is only 70 percent of the national average. It lacks the industrial base of Missouri. It lacks the agricultural resources of Missouri. It does have oil and gas, but these will soon be consumed, leaving us with a large collection of petrochemical plants which other States would not take, and a swamp full of alligators.

Mr. President, must we look at each other's States in this jealous manner, envying this State's climate and that State's timber, and translating that envy into tax burdens? Personally, I can think of few approaches more destructive of national unity.

Let me conclude with a quote from the great American statesman, Daniel Webster:

> We may be tossed upon an ocean where we can see no land—nor, perhaps, the sun or stars. But there is a chart and a compass for us to study, to consult and to obey. That chart is the Constitution.

Mr. President, I ask unanimous consent that a legal opinion from the attorney general of Louisiana, who takes the same position I take, be printed in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Department of Justice,
Baton Rouge, December 12, 1979.

Hon. Russell B. Long,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

Dear Senator Long: You have asked for our views on whether the proposal of Senator Danforth to apply the so-called Windfall Profits Tax (actually a gross receipts tax) to the revenues received by states from the sale of oil from state lands would transgress the constitutionally implied immunity of states and state instrumentalities from taxation by the federal government.

Application of such a tax to the states would clearly be unconstitutional. The federal government has never imposed taxes on state revenues for the simple reason that the doctrine of intergovernmental immunity, basic to the very foundation of the Constitution, absolutely forbids it. Even such federal taxes as licenses and other fees directly related to offsetting the costs of particular federal services have, where applied to the states, been exhaustively scrutinized and narrowly construed by the Supreme Court lest they unconstitutionally impair state sovereignty.

In 1931, the Supreme Court flatly declared that the sale by a state of its oil and gas may not be subjected to a federal tax, *Group No. 1 Oil Corp.* v. *Bass*, 283 U.S. 279 (1931). In our judgment that declaration has not been eroded by any subsequent decisions of the Court. In *Bass* the Court considered—and rejected—the claim of a lessee under a state oil and gas lease that income he derived from the sale of oil and gas produced under the lease was immune from federal income taxation. However, the Court carefully distinguished the lessee's income from that which the state derived from its sale of the oil and gas to the lessee (283 U.S. at 282):

"Property [in the *Bass* case, oil and gas] sold or otherwise disposed of by the government, either state or federal, in order to raise revenue for government purposes, is in a broad sense a government instrumentality, with respect to which neither the property itself before sale, *nor its sale by one government, may be taxed by the other*" [Emphasis added].

The Court went on to say that "it does not follow that the same property in the hands of the buyer . . . or the income he derives from it, is also tax immune" (*Id.*).

The only case that has been suggested that might be said to qualify *Bass* is, *New York* v. *United States*, 326 U.S. 572 ((1946). The States are immune from federal taxation if such taxation is discriminatory or if it unduly interferes with the performance of the states' functions of government. This principle was enunciated in the *New York* case, in the opinion by Justice Stone. This concurring opinion was recently cited as the better test of the limits of the federal taxing power in *Massachusetts* v. *U.S.*, 435 U.S. 444 (1978), n. 15.

While in the *New York* case the Court upheld the imposition of a federal excise tax on the sale of mineral water by the state, Justice Stone's opinion made clear that this was in no way a blanket approval of federal taxation of the states. "[A] federal tax which is not discriminatory as to the subject matter may nevertheless so affect the state, merely because it is a state that is being taxed, as to interfere unduly with the state's performance of its sovereign functions of government." *Id.*, at 587.

The concurring opinion goes on to suggest the limits of the taxing power. "[W]e could hardly say that a general non-discriminatory . . . tax laid upon the citizens and states alike could be constitutionally applied to the state's capital, its state-house, its public school houses, public parks, or its revenues from taxes or school lands, even though all real property and all income of the citizens is taxed." *Id.*, at 588.

The affirmance of the excise in the *New York* case is clearly grounded in the peculiar facts of that case and cannot be logically extended to oil production from state lands, which is specifically protected from taxation both by the *Bass* and *New York* opinions. Mineral water production by the state came about after a conscious choice by that state to enter a market previously wholly private in nature.

Apparently, as was revealed by the facts of the case which were stipulated and are recited with great clarity in the District Court and Court of Appeals opinions, 48 F. Supp. 15 (N.D.N.Y. 1942), aff'd 140 F.2d 608 (2d Cir. 1944), "[t]he springs were exploited by private enterprise until 1912, but unwise operation was taking its toll by lowering the water level to an alarming extent and in that year the state stepped in to prevent that. To preserve and restore them to their former flow, the state acquired title to all the land on which the springs were located, and took immediate measures to return the subterranean water level to a height from which it had been lowered by the drilling of new wells while the business was privately conducted." 140 F.2d at 609; see also 48 F. Supp. at 16.

Over the years and at the expense of millions of dollars the state, through the Saratoga Springs Authority, constructed an elaborate retreat which included "a drinking hall, two bath houses for administering mineral baths, . . . a recreation center with a swimming pool, golf course, outdoor gymnasium, tennis courts and other facilities for outdoor recreation and a hotel-sanitorium." 48 F. Supp. at 17. In addition, the State sold bottled water from "a surplus resulting from the conservation and maintenance" of the Springs. 140 F.2d at 610. Its gross sales of bottled water were approximately $125,000 per year, which were supported by expenditures of approximately $20,000 per year in advertising. 48 F. Supp. at 17.

Clearly the *New York* case offers no support to the contention of Senator Danforth that the federal government may impose the Windfall Profits Tax on the states. The tax fails under both facets of the two-fold test, as reiterated in the recent *Massachusetts* case, because, it is both discriminatory *and* unduly interferes with the state's performance of its sovereign functions of government.

New York makes it clear that a tax *discriminatory* against a state is unconstitutional. 326 U.S. at 586. Under the present version of the bill numerous exemptions are created: for universities, for charitable hospitals and for independent producers. Yet the Danforth proposal would deny the exception to the state. The Constitution permits discriminatory treatment of groups only when they are rationally and logically supported. The exemption of the named classes—a clear exercise of legislative grace to which the exempted class can claim to be legally entitled—has manifestly less legal foundation than the claim of the states. To exempt the former while including the latter is impermissibly discriminatory under *New York* v. *United States.*

Even the opinion of J. Frankfurter in the *New York* case, which gives the most expansive reading to the federal taxing power, would have disallowed such a tax which purports to tax a state while not taxing private activities similarly situated. "Thus, for Congress to tax state activities while leaving untaxed the same activities pursued by private persons would do violence to the presuppositions derived from the fact that we are a Nation composed of states." 326 U.S. at 576.

That the tax is discriminatory is also clear under the equal footing doctrine. That doctrine, that each state enters the Union on an equal footing with every other state, has been developed primarily in the area of waterbottom litigation involving the states' sovereign ownership or the application of state laws to such waterbottoms, as opposed to federal common law.

However, the application of the Windfall Profits Tax to the states would violate this doctrine by unfairly imposing upon a few states a monumental fiscal burden not shared equally by all the states in support of federal program. This is discriminatory both as between the producing and nonproducing states, and as between oil resources of state lands and other equally integral state resources and revenue generating devices.

The second facet of the *New York* test, that a federal tax is unconstitutional if it would impair appropriate exercise of the functions of government, was recently buttressed by the *National League of Cities* v. *Usery* case [426 U.S. 833 (1976)]. That case dealt with the commerce power, which has traditionally been more broadly construed than the power to tax. In invalidating application of the Fair Labor Standards Act to the states, the Supreme Court cited the *New York* case with approval for the proposition that the taxing power is limited with respect to the application to state-owned lands and instrumentalities. *Id.*, at 843.

The criteria examined by the *Usery* Court in drawing the limits dictated by intergovernmental immunity in the exercise of federal powers included fiscal impact, interference in internal government structure, potential curtailment of services to state citizens, and loss of sovereign control over a traditional function. Clearly, such impact as is anticipated from the Windfall Profits Tax would fall within these criteria.

Application of the Windfall Profits Tax to producing states would cause serious disruption of state activities under all of these criteria. The actual fiscal impact has been estimated at more than $300 million per year. Loss of such revenues would clearly cause a rethinking of revenue-generating devices, including possibly higher personal income, property and sales taxes. Revenues derived from mineral production fund every aspect of the provision of governmental services to the citizens of Louisiana. Specifically, the revenues from school lands go to education, and one-tenth of the royalties from all state lands are returned to the parishes in which production occurs for retirement of general obligation bonds under the Louisiana Constitution, Article 7, § 4(E).

The traditional role of the state as trustee of sovereign lands would be infringed by such a tax. The sovereign nature of the control of submerged lands has long been recognized. *See, e.g., Pollard's Lessee* v. *Hagan*, 3 How. 212 (1845), *State Land Board* v. *Corvallis Sand and Gravel Co.*, 429 U.S. 363 (1977). Such revenues as are generated from sovereign lands are excluded from federal taxation, to the same extent as other sovereign instrumentalities, such as "the State's capitol, its Statehouse, its public school houses, public parks, or its revenues from taxes or school lands . . ." *New York* v. *U.S. supra*, at 589–590.

In a recent license tax case, *State of California* v. *U.S.*, 441 F. Supp. 21 (1977), the

Usery rationale was recognized by the district court as applicable also in testing the limits of the taxing power. That court upheld the license tax, mainly because the state had only demonstrated minimal fiscal impact, and did not demonstrate sufficient other interference to warrant application of the *Usery* limitation.

Perhaps the best proof that the Windfall Profits Tax would seriously impair traditional governmental functions is offered in Senator Danforth's own arguments. He has argued, in opposing the exemption of the States, that the revenues generated will enable the States to entice industry to move these by offering favorable tax treatment. Yet, as all elected officials know, there is no more appropriate "function of government" than to develop a State's economy. If the exemption enables a State to exercise that function, as Senator Danforth argues, the denial of the exemption would, for that very reason, impermissibly frustrate such a legitimate government function.

Finally, the states are not in the business of oil production. The clear distinction between this situation and the only case apparently broadening the government's power to levy excises on the states in any way, the *New York* case, rests in the fact that New York there entered a field previously in private hands, consciously bought the land for the purpose of producing mineral water and did produce, bottle, advertise and market such water. This is not true as regards oil production. The states have owned their lands in their sovereign capacity since their entry into the Union. These lands are held in trust for their citizens. The states do not produce oil, however, as trustees of these lands they are obligated to maximize the revenues available. This they have accomplished through the leasing of timber, sand, gravel, oysters, and minerals, and rentals derived from private use of state lands such as waterbottoms. The administration of public lands to the best advantage of the public is absolutely a traditional function. Oil leasing has been actively pursued for more than 50 years. Such leasing is as much as traditional revenue source as taxation, it is more traditional than such activities as state lotteries or the bottling, advertising and sale of mineral water.

Much about the present case argues that the disposition of finite and nonreplenishable property of a state is a central governmental function "essential to the preservation of state government." The proper disposition of its real property has been a function of state government from the beginning. Conversely it has not been "a subject of taxation of a nature which has been traditionally within that (federal taxing) power from the beginning." *New York* v. *United States*, 326 U.S. at 558. Indeed no one has yet suggested that a state could be taxed on the gain it realized from the alienation of such real property. Yet the oil which underlies such property is as much a part of the property as is the surface area. Unlike the *surplus* mineral water bottled and sold at Saratoga Springs, it is a unique and nonrenewable part of the property.

In conclusion, research has discolsed no case which overrules or qualifies the *Bass* decision. Indeed, specific language from such cases as *New York*, *Usery* and *Massachusetts* only reenforce the conclusion that the composition of such a federal tax would be blatently unconstitutional.

I hope this opinion is satisfactory. If I can be of assistance in the future, please do not hesitate to call.

With best regards,
Very truly yours,
William J. Guste, Jr.,
Attorney General.

Mr. DANFORTH. Mr. President, let me say that I am highly honored as a freshman Member of the U.S. Senate that one of the great men of the Senate has just delivered a speech which is 31 typewritten pages against a little amendment which I happened to think up.

I heard that the Senator from Louisiana was on the floor when I was at a dinner party way out near the beltway, in Bethesda, Md.

I got the call. I came in because I really wanted to hear him. I must say that I was only able to hear the last part of it.

I will read it. I assure the Senator from Louisiana I will read it with great interest. I am sure it is his usual fine job.

Mr. President, I would like to simply rebut some of the points which I believe were made in the Senator's presentation.

Really, Mr. President, there are only two arguments against my amendment. One, it is said that it is some sort of precedent. It is some sort of awful precedent for the Federal Government to impose a tax on a State; second, it is said that this is somehow unconstitutional.

Those are the basic arguments that are raised against it.

Mr. President, I would simply say that the first argument with respect to precedent is simply not true. This is no precedent of any kind, the imposition of an excise tax by the Federal Government, nondiscriminatory in its effect, applying equally to people similarly situated and not being taxed on an essential State function, such as the Senator from Louisiana frequently talks about, the State capitol building, or the States imposing taxes themselves. Such a tax has been held constitutional by no less a court than the U.S. Supreme Court.

Mr. LONG addressed the Chair.

Mr. DANFORTH. Mr. President, the Senator from Louisiana has made a 31 page speech. I just wonder if I might rebut the points he made.

Mr. LONG addressed the Chair.

Mr. DANFORTH. Mr. President, if I may keep the floor.

The PRESIDING OFFICER (Mr. Tsongas). The Senator from Missouri has the floor.

Mr. LONG addressed the Chair.

Mr. DANFORTH. Mr. President, there is no precedent——

The PRESIDING OFFICER. I would say to the Senator, the Chair is correct. The Senator from Louisiana does have the floor and did yield the floor for a question.

Mr. LONG. I yielded to the Senator, Mr. President, but I yielded for a question.

I simply want to say that I would urge the Senator to read the statement I made.

In the beginning of my statement, I stated I did not know where the Senator was, but I hoped he would come to the floor. I hoped that the public address system that is in every office would alert the Senator that I was addressing myself to this subject.

I hope the Senator will read my prepared remarks because he will find that I pointed out that the case on which he relies does not support his position at all, that his tax would be discriminatory.

The opinion he put in the Record relies upon an opinion written at Treasury that was not drafted with his amendment in mind, and at the time that opinion was drafted, the tax was presumably intended to be a nondiscriminatory tax.

But as I point out in my statement, 95 percent of producers are exempt. A great percentage of private landowners are exempt.

In many respects, the tax would be highly discriminatory, and the State would be included in the group discriminated against.

I would wait with interest to find where any Justice—I know of none—who ever contended a Federal Government could levy a discriminatory tax on the State government, exempting many thousands of citizens and including the State in the group that would be taxed.

The majority view of the court in that very New York case on which the Senator relies sets forth other tests that any purported tax against a State would be required to meet. I regret to say his amendment does not meet those standards, either.

I yield the floor, Mr. President. The Senator can have it in his own right.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH addressed the Chair.

Mr. McGOVERN. Will the Senator from Missouri allow me to make two or three remarks for 2 or 3 minutes on another subject before we continue this debate?

Mr. DANFORTH. Of course, if I could have the understanding that I could get the floor back.

Mr. McGOVERN. The Senator may keep the floor, just yield to me for 2 or 3 minutes.

The PRESIDING OFFICER. The Chair will recognize the Senator from Missouri.

A PLEA FOR EDITORIAL OBJECTIVITY

Mr. McGOVERN. Mr. President, ordinarily, it is a futile and probably unwise gesture for a public figure to try to answer an editorial comment. But an editorial appeared this morning in the Washington Post that had one reference that I would like to comment on, just briefly.

I will read the pertinent paragraph. It says:

> There is an old political maxim that urges every candidate to do that which the candidate does well: if the candidate is a good speaker, get him before a crowd; if the candidate is charming in personal meetings, get him out with the folks. Mr. Connally obviously raises campaign funds exceptionally well. His supporters make much of his going through various corporate headquarters like a human Electrolux—picking up lucre instead of lint. In just one year, John Connally has become to the Fortune 500 what George McGovern was to the Chicago 7: their favorite.

Mr. President. I do not know whether Mr. Connally regards it as a compliment or an insult to be said to be the favorite of the Fortune 500. But I do know that I resent the implication that I am affiliated or identified with or the favorite of the Chicago seven.

In many respects I think my efforts over the last 10 years have been the antithesis of what the Chicago 7 stood for and the tactics they used.

They came to the 1968 Democratic National Convention in Chicago for the purpose of disrupting that convention. They repudiated the entire political process. In contrast, I tried to work within our political system to end an unjust war and meet the urgent needs of our Nation here at home.

I was frequently a favored target of the Chicago seven, not their favorite politician. Frequently I was ridiculed and assailed by members of this group because I advocated that young people, instead of dropping out of our political process, should participate within that system in a constructive way.

I urged that we bring about change, not by disrupting the Nation but by trying to heal the wounds that had been opened by the Vietnam war and other divisive experiences. So I cannot help but recoil from the suggestion in this editorial that my public career is one based on either the philosophy or the tactics of the Chicago 7.

Now, picking up on the advice of the Washington Post: "There is an old political maxim that urges every candidate to do that which the candidate does well," I would say that there ought to be a maxim for journalists to write editorials that are fair and objective, rather than to engage in the kind of cheap shots represented by this editorial.

Mr. President, there is a phenomenon that I have puzzled over for the last 6 or 7 years since the end of the 1972 Presidential campaign.

The Washington Post is a superb newspaper in many ways, one of the most generously budgeted papers in the country, a paper with brilliant journalists and editorial writers. But for reasons that have never been clear to me, at periodic intervals, editorial remarks like this will appear; snide, condenscending, untruthful distortions about my philosophy and the principles I stand for in public life.

Most of those unfair editorial distortions I have ignored. But occasionally one like this appears which comes to my attention late at night.

Mr. STEVENS. will the Senator yield to me for just one moment?

Mr. McGOVERN. Yes.

Mr. STEVENS. Mr. President, I just discussed with the majority leader the problem of votes tonight and he stated to me there will be no more votes tonight, for the interest of those people who are in their offices listening.

I appreciate the courtesy of the Senator from South Dakota.

Mr. McGOVERN. In any event, Mr. President, I would urge whoever has written this editorial comment, and others similar to it—and obviously on an editorial page like this where the editorials are not signed, one never quite knows who to reply to—but I would urge them to reconsider this kind of sloppy and unprofessional journalism which has no place in a newspaper of this stature.

I thank the Senator from Missouri for yielding to me.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

Mr. DANFORTH. Mr. President, we have heard much debate about what kind of precedent it would be for the Federal Government to subject State royalty payments, along with all other royalty payments, to the windfall tax. And I simply ask the Senate: What kind of precedent is it? I do not think it would be any precedent at all.

The windfall tax is an excise tax. States are subjected to excise taxes. There are at least four other excise taxes that the Federal Government now imposes uniformly on people similarly situated including State governments.

This is no precedent, nor is it a precedent for the notion of limiting the amount of revenue a State can receive from oil production. States are now limited from what kind of revenue they can receive on oil production. How are they limited? They are limited by the system of controls which are imposed by the Federal Government.

So the Federal Government now imposes excise taxes on the States and the Federal Government now restricts the amount of revenue that States can receive from oil production on State property.

Mr. President, I would like to call the Senate's attention to section 4121 of the Internal Revenue Code with respect to the black lung program, where the black lung program is financed by an excise tax which is imposed on all producers of coal, including the States. There is no exemption in section 4121 for States which have coal production on State land. There is no exemption for the States from this excise tax.

And yet we have been told, Mr. President, over and over again, if we tax State royalties on oil, then what is next? Well, we have established the precedent, Mr. President, as recently as 1978 when this bill was passed by the Congress and signed into law by the President of the United States. And, Mr. President, this is a bill which was reported out of the Senate Finance Committee and the Senator from Louisiana is, of course, the chairman now, as he was in 1978, of the Senate Finance Committee.

Mr. LONG. Will the Senator yield?

Mr. DANFORTH. Now, what is the difference between an excise tax on State royalties for oil and an excise tax on State production of coal?

Mr. LONG. Will the Senator yield for a question at that point?

Mr. DANFORTH. I will yield the floor in about 2 minutes, then the Senator from Louisiana can respond at whatever length he wants.

Mr. President, I know oil and coal are different. I know what coal looks like, I believe, and I know what oil looks like.

But this point was never raised in the Senate Finance Committee, to my memory. There was no request for some special treatment for States which are in the business of producing coal. There was no claim made that it was unconstitutional to treat the States as anyone else, to treat people similarly situated the same. Because we had a common national problem: The black lung problem. And it was felt that everyone was similarly situated and should be part of the solution to that problem.

And the same is the case with the windfall tax. The problem that we are facing hopefully is one of a national energy policy. And we are simply saying, in this amendment, let us treat the States just as we treat everybody else—no differently, no discrimination, exactly the same as anyone else similarly situated.

What the Senator from Louisiana wants, and what I guess every Senator from an oil-producing State wants, is special treatment. A special exemption. A special exemption which applies to oil but does not apply to coal.

Now, it is said that this is some great precedent. Well, why is the tax on coal production not a precedent? Why is not the tax on States that have State lands which are producing coal, why is that not a precedent? If this is unconstitutional, why was that not unconstitutional? Why did we not raise the question then? Why did we simply say, "Well, we will sock it to the States that have coal lands"? And now suddenly when it is oil that is involved, it is an entirely different situation.

Mr. President, I suggest that the main difference between coal and oil is not that one is hard and the other is liquid. I suggest that the main difference between coal and oil is that they are produced sometimes in different States. And this is a special benefit which was provided in this bill for certain States, primarily four States, which four States are going to get 83 percent of the increased revenue from all State governments as a result of the decontrol.

No, Mr. President, the argument about a precedent is not a real argument. The precedent has been established with numerous excise taxes imposed by the Federal Government which have applied also to the States.

Nor is it a constitutional argument. That argument has been settled by the Supreme Court of the United States, which has held that it is perfectly constitutional to impose excise taxes, equally, in a nondiscriminatory fashion, and to cover States as well as anyone else, as long as it is not an essential State function that is involved.

There is no constitutional argument, there is no new precedent. It is argued, well, this is property, oil is property. How about coal? Is not coal property? Is not coal that is produced on State land property? Yet where were all the cries of constitutionality and the cries of precedent with respect to this tax which was reported out of the Senate Finance Committee and adopted on the floor of the Senate as recently as last year?

There is no precedential value in this. The precedent has already been established. There is no legal value in this. This law has already been established.

The only issue before us is not one of law, not one of precedent, not one of somehow opening the doors. It is simply one of trying to do a favor for a few States which are in a very favored position right now. That is the only issue before us, Mr. President.

So on the merits I believe it is fair to say there is no reason to vote against the amendment of the Senator from Missouri. If we are careful about precedent what is that fear after all, what is that fear? Is it a fear that suddenly the U.S. Congress turns into a bunch of puppets, that we lose our sense of judgment, that somehow we have to fall into some sort of inexorable chain of events, unable to think for ourselves, and unable to vote our own minds? That having under unique circumstances with this tremendous increase in the price of oil decided we have a national problem and we are not going to allow certain States to have this ripoff benefit which they can use against the rest of the country, that somehow that gets us into the business of taxing State bonds?

How could that be? How could this automatically follow that we are going to tax State bonds? It would take an act of Congress, beginning in the House of Representatives, moving through the U.S. Senate, signed into law by the President of the United States. Nobody is proposing to do that. If the precedential argument applies, that precedent is established not by any amendment offered by the Senator from Missouri but is established over and over again by countless excise taxes imposed by the Federal Government on all persons equally situated, including State governments, and is established in court decisions, including decisions by the Supreme Court of the United States.

The argument of precedent was not raised as recently as last year with respect to coal. The argument of constitutionality was not raised as recently as last year with respect to coal.

The situation before us is oil. The situation before us is the sudden enormous increase in profits as a result of the decontrol of oil. The issue before us is the enormous consequences that these huge additional revenues will have for the rest of the United States, for the rest of the country, for those States which are not so fortunate as to be oil producers. How can any State in New England, Mr. President, how can any State in the North, how can any State in the northern part of the Midwest, how can the State of Virginia, which does not have oil production, to my knowledge, compete with a State such as Texas, which now has no income tax, and which has no corporate tax, and which, along with Louisiana, two of these four States, all of which have no right-to-work laws, and that is the point the chairman has made repeatedly, how can they compete under this sort of situation?

We are not talking law and we are not talking precedent and we are not talking constitutionality. We are not talking about that. We are talking about the economics of the United States of America and we are talking about the economic future of parts of this country which are not so blessed as others.

Mr. WARNER. Mr. President, will the Senator yield?

Mr. DANFORTH. Yes.

Mr. WARNER. I would like to inform the Senator that Virginia last year generated 2,000 barrels of oil, and we just had a well dug that produced 30 barrels of oil. Inconsequential though it may be, we are extremely proud of this.

Mr. DANFORTH. I stand corrected. I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. I wonder whether the Senator has read the speech of which I afforded him a copy. I wish he would read it, because it seems to me the speech points out the fallacy that runs throughout his whole argument.

Yes, I managed that bill the Senator refers to on coal. Let me read what it says:

> There is hereby imposed on coal sold by the producer a tax at the rates as follows:

Senator, that is a tax on coal producers; it is not a tax on the landowner.

Here is a document sent by the Treasury Department to those who must pay the tax:

> Congress recently passed legislation to finance benefits for certain disabled victims of black lung disease. These benefits will be funded by an excise tax on coal mine operators.

If the State operates a coal mine, the tax could apply to the State. I would be the first to agree and, as I said in my speech, Senator, if the State was in the business of drilling for oil, and if the State were an oil producer it may very well be that the tax could be applied. I would assume so, Mr. President, that is if it were a nondiscriminatory tax. But, Mr. President, the Senator said there are four taxes, four excise taxes applied to States. If a tax is applied uniformly to all people, yes, perhaps it could be applied to a business carried on by a State, provided it does not interfere with a State function.

If the Senator advocates a tax on royalties for those who own land from which coal is mined, I would like to know about it. I would like to know if he advocates a Federal tax on the landowner when timber is taken from his land. There is no such tax, and no one is for it.

I have explained the purpose of the tax in my statement, and I wish the Senator would read it.

We agree where a State goes into a commercial business the State can be taxed on a uniform basis. But, Mr. President, every declaration I have seen says you cannot tax a State on any basis where you discriminate.

You have a right to discriminate with respect to whom you are going to tax and whom you do not tax. You can say, "We will tax the independent producers" or "We will not tax independent producers," and you can say, "We will tax the major companies but not the smaller companies," and you can say, "We will tax the landowner but we will not tax the producer." You can make those discriminations. But, Mr. President, every Justice that I can find—and I have quoted them in my statement—says without exception that while there can be a uniform tax applied to a State when the State goes into a private business that the tax must be nondiscriminatory. It must apply to everybody, and it cannot be for the purpose of impeding a State function.

In addition, Mr. President, there were at least two other criteria set down by a majority of the court.

I would be curious to know which opinion in that New York case the Senator would regard as the majority opinion, stating the majority position of the court. Would it be the opinion of Mr. Justice Frankfurter or would it be the opinion of Mr. Justice Stone?

Mr. DANFORTH. I do not have the opinions before me but, as I recall, there were two opinions. One was the opinion that was issued on behalf of the court delivered for the court by Mr. Justice Frankfurter, with one concurring opinion.

The other was an opinion that was delivered by Justice Stone, in which three other Justices concurred, for a total of six. As I recall, there was a dissenting opinion with two dissenters; and one Justice, I think Justice Rutledge, and Justice Jackson perhaps, did not participate in the decision.

But under either circumstance, under either view of the situation, whether it was the opinion of Justice Frankfurter or the opinion written by Justice Stone, under either set of circumstances I think it is clear that under the present circumstances of this amendment, this amendment is clearly constitutional.

Mr. LONG. Mr. President, I asked the Senators opinion, and I regret to see that he fell into the same error that the General Counsel of the Treasury, Mr. Mundheim did, or at least someone on behalf of the Treasury did. When they first looked at that same case, they fell into the error of assuming that Mr. Justice Frankfurter's opinion was the majority view of the Court.

If you will look at that case again, or read what it says, you will see it says that Mr. Justice Frankfurter delivered "an opinion," not the majority opinion.

If you take the case of Massachusetts against United States, written by Mr. Justice Brennan in 1978, you will find that the footnote by Justice Brennan says:

> In New York v. U.S., Mr. Justice Frankfurter announces the judgment of the Court—

He announced the judgment. That was the position that the Court decided to take, that is, that the New York tax on the bottling business was constitutional.

> and an opinion joined in by only one of eight Justices participating in that case.
>
> That opinion upheld the tax on a broader ground than the concurring opinion of Chief Justice Stone, joined by three other Justices. We therefore conclude that a majority supported the Chief Justice's rationale.

Mr. President, here is what happened, and here is the way that distinguished Court works: The Justices hear the case, they sit and discuss it, and after they discuss it, they agree that the judgment will either be affirmed or it will be reversed, and then someone is designated to write the opinion of the Court.

In this case, it would seem that Mr. Justice Frankfurter was designated.

After he wrote his opinion, the other seven Justices looked at it, and only one Justice, Mr. Justice Rutledge, decided he would go along with it, and even he wrote a separate opinion. The other six Justices did not agree with it, and Mr. Justice Stone wrote what should be regarded as the majority opinion of the Court, because it speaks for more Justices. And insofar as Chief Justice Stone differed with Mr. Justice Frankfurter, the other two Justices who were listed as dissenting agreed with Chief Justice Stone. So six Justices in that case, six out of eight Justices, agreed that they would prefer the position of Mr. Justice Stone as against that of Mr. Justice Frankfurter in that case.

But, Senator, even Mr. Justice Frankfurter, upon whom the Senator would rely, and who, the Senator erroneously seems to think, was speaking for the majority on this point—let me just quote the precise words of Mr. Justice Frankfurter:

> Thus, for Congress to tax State activities while leaving untaxed the same activities pursued by private persons would do violence to the presuppositions derived from the fact that we are a nation composed of States.

So, Mr. President, it is clear that even the one Justice in that case, upon whom the Senator relies, stated clearly that if you are going to tax some citizens and you do not tax others, you cannot tax the States. That was said at the high watermark, the furthest any Justice has ever gone, of permitting the Federal Government to tax a State.

Yes, we agree that you can tax a State when the State goes into a business; but, as I discussed in my statement, a farmer is not in the oil business just because he signs a lease with someone to permit that person to remove oil from his property, any more than the Senator would be in the restaurant business if he went in the restaurant and ate a meal. He is simply not engaged in that line of endeavor. He is not in the business. So the same fallacy the Senator first made also applies to this thesis.

May I say also, Mr. President, the purpose of the tax, according to Justice Stone, can make a difference, and Mr. Justice Stone also states—and I wish the Senator would take a look at it in the statements I have prepared—that the purpose of taxing the States may determine whether the court should uphold it.

The Senator has said that he wants to prevent certain States from receiving money that they could use to help attract jobs for the people in those States. Well, it is a legitimate function of a State government to try to provide an opportunity for its people to work. So far as I know, all States do it. I do not know of any State that does not try to help its people find jobs and opportunities to work.

In the State of Louisiana, for example, when our oil and gas is gone—and that will not be long, maybe 10 or 20 years, but in any event, it will be a shorter period of time than the time I have served in the U.S. Senate—when that happens, Louisiana could well be the most depressed State in the entire United States.

We do not want to be a welfare burden on the other 49 States. We would hope we could earn our own way. But the fact is that the oil and gas industry accounts for about 40 percent of all economic activity in Louisiana. So I would be curious to know, how does the Senator expect us to support ourselves when that is gone?

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. LONG. I will yield to the Senator. First let me finish this point.

The point is that it is a legitimate function of a State government to try to find an opportunity for its people to support themselves, and to survive without being a welfare burden on the other States of the Nation.

The Senator would seek to curtail the States in the proper exercise of their function, in what they regard as the proper exercise of their duty, with a Federal tax on the States.

Here is what Chief Justice Stone said in the New York case—the only one, to my knowledge, that would give the Senator any reason to think the Federal Government has a right to tax the States in this way:

> But neither government may destroy the other nor curtail in any substantial manner the exercise of its powers. Hence the limitation upon the taxing power of each, so far as it affects the other, must receive a practical construction which permits both to function with the minimum of interference each with the other; and that limitation cannot be so varied or extended as seriously to impair . . . the appropriate exercise of the functions of the government affected by it.

I yield to the Senator from Montana.

Mr. MELCHER. I thank the Senator for yielding. I listened to his very well thought-out remarks, that were made this evening, and have read, right along with listening to them, those remarks; and I concur in the Senator's findings.

But I would like to relate what the facts are as it would concern our State of Montana if the Danforth amendment were adopted.

When we came into the Union much later than many other States, sections 16 and 36 of each township were reserved for public school purposes. Two sections out of every 36 in each township were set aside for that purpose.

These lands are school lands and they are not taxed by the State, nor are they taxed by the counties, in which those particular sections are found. The land is used. The land is leased out. It is rented out. It is used economically for whatever its best purpose is.

All the income from the use of the lands goes to the permanent school fund for the use of the public schools of the State of Montana.

All income from minerals from those lands, if they happen to have minerals, goes into the permanent school fund. Their developed minerals, as the Senator from Louisiana has pointed out, is not done by the State, but is done by private sources. All income from those minerals, under whatever arrangement is made by the State acting on behalf of the school fund for whatever percentage of the minerals, goes into the permanent school fund for the use of the public schools and for that purpose only.

In the case of oil revenue from Montana's school lands, several million dollars a year are received in royalties for the public school funds.

The Senator from Missouri would apply under his amendment the windfall profit tax, 75 percent, to that revenue derived by the State for the use of the public schools. The Federal Treasury would get it. The school fund would lose it. And the public school of Montana would lose.

It is perhaps attractive to throw around the huge sums of billions of dollars that might be derived from such a tax if it were imposed that would benefit the Federal Treasury. But carrying with that is the small amount of money that our school lands derived for our permanent school fund for the use of the public schools in Montana.

It would hardly be logical that when Montana came into the Union that when sections 16 and 36 of every township were reserved for the benefit for the permanent income of the public schools of Montana that we would now impose a Federal tax on whatever revenues could be derived from that land. This tax would not apply to the detriment of anyone in Montana except the public schools and the schoolchildren of Montana.

I think it is a reprehensible tax. To say that it is a wedge for imposition of Federal taxes on other State revenues from other resources on State lands is an understatement. If we could flout the very purpose for the reservation of these school lands for the public schoolchildren of Montana by this Danforth amendment, it would logically follow that almost anything else could pass Congress in terms of the imposition of a Federal tax on revenue derived of a State land. I think it would be the last place to start that sort of a procedure.

I hope that the Danforth amendment is never offered, but if it is offered, I hope that the Senate will turn it down resoundingly out of a feeling of justice, a feeling of a continuity of allowing for the States some opportunity or public purposes to derive some income off the land that has been reserved for themselves.

I thank the Senator for yielding.

Mr. LONG. Mr. President, let us keep in mind who the majority was in the case that would give the Senator from Missouri the best hope to think that his proposed tax might be constitutional. The majority view in that case was constituted by Chief Justice Stone and those judges who agreed with him. There were two other justices, Justice Douglas and Justice Black, who went further to contend that you could not tax the State of New York, even on the bottling operation. With regard to the areas where Chief Justice Stone said that you could not tax the State, Justices Douglas and Black agreed.

So, with regard to the areas where the Chief Justice said you could not tax, he had the support of the other two justices, so that would mean that six out of eight justices would say that you could not tax a State unless it could meet three tests.

One of the tests, he said, was that you could not tax the State lands at all. And the reference he made had to do with a case he himself had decided before he became the Chief Justice when he was just one of the Associate Justices of the Supreme Court. In that case he said that you could tax an oil company producing oil on State lands, but that you could not tax the State itself on royalty income.

Second, Mr. President, in addition to that he said that the tax cannot be discriminatory, and the Senator's proposed tax fails to meet that test because some would be taxed, others would not be taxed, and the State would be among those that would be taxed.

And he sets up the third test, Mr. President, having to do with the purpose of the tax, that the tax must not interfere with State government functions:

> Neither government may destroy the other government nor curtail in any substantial manner the exercise of its powers. Hence, the limitation upon the taxing power of each . . . must receive a practical construction which permits both to function with the minimum of interference, each with the other; and that limitation cannot be so varied or extended as seriously to impair either the taxing power of the government imposing the tax . . . or the appropriate exercise of the functions of the government affected by it.

Mr. President, the Senator has stated what his purpose is. His purpose is to prevent a State from doing that which it has the right to do. It may be that the Senator may very well find some other tax, some other excise tax, such as this proposed black lung tax, which he erroneously assumed supported his case and, if so, I think he should provide it for the record so we could look at it. Clearly, the black lung tax does not support his argument. The State does not pay the black lung tax insofar as the State is a mere owner of lands. The black lung tax is paid by the people who produce the coal; those who take the coal out of the ground. It is not owed by the royalty owner, which is the State, and I would be surprised if the Senator would advocate any such tax as that. I know I would not. At least I have no intention of doing so for the very reasons I have discussed here.

So I hope Mr. President, that the Senator will review this statement I have made because I am convinced that I am correct about this.

There is one other point that I am told has been discussed not by the Senator in the Chamber, but I am told that the point has been made.

The Senator has said that, on occasion, the States impose a severance tax on oil from Federal lands and, therefore, the Federal Government should be able to place such a tax on the States.

Mr. President, the States have a right to tax someone, like an oil company, that goes on Federal lands and produces oil, just as the Federal Government has a right to tax someone who goes onto State lands and produces oil. I voted that we would do that. But the State cannot put a tax on the Federal Government; it cannot tax the Government because the Government owns that land. That is, it cannot do it without the consent of that Government. If that Government does not consent to it, it cannot be done.

Of course, the Federal Government, up to this point, has been rather generous in its land policies, as I discussed previously. It permits the States to receive 50 percent of the revenues from revenues produced on those federally controlled lands. When the Federal Government gets a royalty on lands located within a State boundary, it permits the State to share in the revenue, which is somewhat at odds with what the Senator is proposing here.

No, Mr. President, I believe one will find that not only is the tax not constitutional, but it is clearly the opposite of the entire purpose, and the entire trend, of Federal land policy during the last 30 years, and throughout history.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. LONG. Mr. President, I ask unanimous consent that there be a 1-minute period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL UNITY DAY

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message from the House on House Joint Resolution 458, National Unity Day.

The PRESIDING OFFICER. The joint resolution will be stated by title.

The legislative clerk read as follows:

> A joint resolution (H.J. Res. 458) to authorize and request the President to issue a proclamation designating December 18, 1979, "National Unity Day".

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution, which was read twice by title.

Mr. WILLIAMS. Mr. President, I have been deeply moved by the unity and patriotic fervor of the American people that has spontaneously emerged from the ordeal we are now suffering in Iran.

The situation of the hostages remains very serious, and we still face unacceptable demands on our Nation. Nevertheless, we must continue to use every potential channel to obtain the safe release of the hostages, and we must exercise restraint at a time of intense frustration.

It is also important, however, that we seek means for the American people to have the opportunity to show their commitment not to yield to blackmail and international lawlessness. No one should underestimate the depth of feeling about this issue among the American citizenry, regardless of the difficult challenge it presents to our economy and society.

Mr. President, I was pleased to note the tremendous enthusiasm that a proposal of my colleague from New Jersey, Congressman RINALDO, has generated in the House of Representatives. He has introduced a resolution, House Joint Resolution 458 suggesting that our Nation designate one day, December 18, as "National Unity Day." On that day, all American citizens and organizations would be urged to prominently display American flags to express their support for the hostages in Iran. Yesterday, this resolution passed the House unanimously.

I also believe the American people should have a way to express their sense of national solidarity for our hostages and our efforts to have them freed. Indeed, the display of our flag is a most appropriate act to do that, although the flag has not received much emphasis as the symbol of our national unity in recent years. Perhaps this dramatic event in Iran will return the focus of our citizens on the flag as the symbol of our national solidarity and our national meaning.

The comments of President Woodrow Wilson on Flag Day, June 14, 1917, express the meaning of our flag most eloquently:

> We meet to celebrate Flag Day because this flag which we honor and under which we serve is the emblem of our unity, our power, our thought, and purpose as a nation. It has no other character than that which we give it from generation to generation. The choice is ours. It floats in majestic silence above the hosts that execute those choices whether in peace or war. And yet, though silent, it speaks to us—speaks to us of the past, of the men and women who went before us and of the records they wrote upon it. We celebrate the day of its birth, and from its birth until now it has witnessed a great history, has floated on high the symbol of great events, of a great plan of life worked out by a great people.

Mr. President, the House action on House Joint Resolution 458 is a most desirable way for all Americans to express their sense of national unity during this difficult time. I urge the expeditious adoption of House Joint Resolution 458 by the Senate.

The PRESIDING OFFICER. The question is on the third reading and passage of the joint resolution.

The joint resolution was read the third time, and passed.

RECESS UNTIL TOMORROW

Mr. LONG. Mr. President, I ask unanimous consent that the Senate stand in recess until 12 meridian tomorrow, in accordance with the previous order.

There being no objection, the Senate, at 10:56 p.m., recessed until tomorrow, December 14, 1979, at 12 meridian.

NOMINATION

Executive nomination received by the Senate December 1, 1979:

DEPARTMENT OF JUSTICE

John P. Partington, of Rhode Island, to be U.S. marshal for the district of Rhode Island for the term of 4 years, vice Donald W. Wyatt, term expired.

EXTENSIONS OF REMARKS

A DEFENSE AGAINST IRS EXCESSES

HON. HOWARD W. CANNON

OF NEVADA

IN THE SENATE OF THE UNITED STATES

Thursday, December 13, 1979

● Mr. CANNON. Mr. President, it has become increasingly frequent over the last several years to hear numerous complaints about the operations and attitudes conveyed to taxpayers by officials of the Internal Revenue Service.

The problem has been particularly vexing in the State of Nevada where the taxpaying public frequently feels victimized by arbitrary and capricious edicts handed down by the IRS. Altogether too frequently these disputes end in a less than equitable manner, too often with the taxpayer not having adequate hearing or opportunity to rebut financial allegations put forth by the Service.

A good deal of this public ire is finding its way into the public prints and I ask to have printed in the extensions of remarks the editorial and opening article of a Las Vegas Sun series dealing with the IRS operations in my State.

The material follows:

A DEFENSE AGAINST IRS EXCESSES

Freedom of the press is the first and foremost of cherished fundamental rights guaranteed by the Constitution of the United States. This right, however, has a concomitant obligation requiring that the press be vigilant and alert to protect and defend our citizens from the excesses of over-zealous governmental action. In this context, it has been well said that the press occupies an "adversary" relationship to governmental authority and actions.

And it is in this spirit that the Las Vegas SUN has launched a program whereby all of its subscribers shall be protected from the excesses of the Internal Revenue Service. In any instance where a subscriber to the SUN feels that he or she has been unfairly or improperly treated at the hands of the IRS, the SUN stands ready to aid the subscriber and to insure that injustice is not done.

Doing battle with the IRS to right a wrong is an enormously expensive undertaking. No one knows this better than the SUN itself. The burden and expense bears most heavily upon those of limited means who not infrequently must bear in silence the excesses and harassments of the IRS. The SUN proposes in all proper instances to become the Champion of every taxpayer who has suffered unjustly at the hands of IRS.

Collection of the revenues to support proper and legitimate ends of government is of course required in any civilized society. Where it is right, the arm of the IRS must be upheld. On the other hand, when the IRS becomes overreaching and oppressive, it must be exposed and its abuses thwarted.

In this spirit, the Las Vegas SUN proposes to be the Friend and Champion of all persons unjustly victimized by the IRS, particularly little people who are unable to vindicate their rights at the hands of a "Bureaucratic Goliath."

The program to protect and defend all SUN subscribers will be detailed at the close of this series.

Let us hear from you. We will not be found wanting.

HANK GREENSPUN,
Publisher.

LAS VEGAS PRIME TARGET OF IRS ATTACK

(By James Phelan, John Peer Nugent, and Gary Thompson)

There is a tax rebellion spreading throughout the United States and it poses a massive threat to the Internal Revenue Service. The rebellion could destroy the autocratic, top-heavy, jerry-built system whereby the IRS annually siphons out of our pockets the billions that keep the federal government running.

The IRS is responding to this threat—not by reform of the abuses that fuel the rebellion—but by a counter-attack against the citizens who pay the nation's bills.

As a result, the state of Nevada, and especially Las Vegas, have become prime targets of the IRS. If you have been squeezed, bruised or harassed by the IRS in the past, things are going to get worse. The IRS is angry at the taxpayers of this country, and it intends to use Nevada to teach them a lesson.

The IRS piously denies that it has singled out Nevada for special attention. Some cold statistics contradict the agency.

The IRS has assigned 170 full-time employees to its Las Vegas office. They include 56 revenue agents and 26 special agents.

In Bakersfield, Calif., which is slightly larger than Las Vegas, the IRS has 46 employees, of which only four are special agents.

The key to what is going on is the high number of special agents assigned here. Special agents work only on criminal fraud cases. They spell Trouble with a capital T. There are six-and-one-half times as many of them here as there are in Bakersfield. They are here to build fraud cases against Las Vegans, and to put them in jail.

They are not necessarily after any major, high-income tax dodgers. If you are a waitress or a casino worker, you're in for special attention. Your chances of getting hauled in by the IRS are more than double your chances if you lived in any other city in the U.S. selected at random.

Behind this hostile focusing on Las Vegas is a major IRS problem of national proportions. The traditional voluntray tax-paying system, which kept this country running for years, is breaking down. And it gets worse each year.

These are not scare words. According to the conservative U.S. News and World Report, as many as 20 million Americans have defected from our system and work in "a vast underground economy, rivaling the entire output of Canada." They deal in barter, or in cash, keep no records and pay no taxes.

"Squeezed by inflation and angered by rising taxes and bureaucratic waste," says U.S. News, "more and more workers are cutting the government out of its share."

LAS VEGAS TARGET FOR IRS ATTACK

The more people who escape the IRS clutch, the harder the IRS squeezes those it can reach. It needs to produce more money from those who dutifuly file their annual returns. The IRS clings to the notion that if it catches and punishes enough people—and publicizes these "victories"—it will deter tax evasion and quell tax rebellion. It intends to make an example out of Nevada to whip the rest of the country into line.

The IRS doesn't say this publicly. It has refused to grant a news conference to Las Vegas SUN reporters. Unlike other federal agencies, which are daily and openly accessible to the press, the IRS in Nevada says that it wants questions submitted in writing—a restriction identical to that which the Ayatollah Khomeini recently imposed on U.S. television interviewers in Iran. When the SUN pointed out that even the President of the United States undergoes the give-and-take of regular press conferences, the IRS was unmoved.

"We don't think it would be appropriate to grant a news interview to the SUN," said Nevada IRS public information officer Martin Bibb. "We feel it is best to analyze individual requests and determine whether the nature of a news interview would be effective."

The IRS insistence that it is not openly accountable to the press is not new. It is part of an IRS syndrome whereby it has exempted itself from the normal checks and balances that prevail elsewhere in a democratic government.

You cannot, for example, invoke the help of your elected representative in Congress if you are unfairly dealt with by the IRS. Your Congressman or Senator can help you if you have trouble with the Justice Department, the FBI, the Bureau of Indian Affairs, the U.S. Customs Service, or any other branch of the government. But not the IRS. It is a crime for any member of Congress to intercede on your behalf with the IRS.

The IRS has exempted itself from responsibility for its own mistakes. It provides taxpayers with IRS "experts" to help them make out their tax returns, because the returns are so densely complicated the average citizen cannot understand them. But if the "expert" makes a mistake on the return, that is your responsibility. When you sign the return—as required by law—you accept the onus for any mistakes on it.

These hundreds of similar IRS abuses propel the spreading U.S. tax rebellion. Six years ago, the Las Vegas SUN spent months compiling tax "horror" stories, instances of IRS arrogance, contradictions in the tax code, and flaws in the system that imposed injustices on taxpayers. It spelled them out in a 21-part series. The SUN editorially called for tax reform, and the SUN's publisher summarized the abuses this newspaper had compiled in testimony before a U.S. Senate tax hearing.

The abuses continue, the tax rebellion spreads, and the IRS now has targeted the state of Nevada for special punishment.

The IRS can ignore the SUN, but the SUN does not propose to ignore the IRS.

In the upcoming series, the SUN will relate the impact the IRS "Target Nevada" program has had on two ordinary Las Vegas taxpayers.

It will detail the ordeal of a well-known Las Vegan, whom the IRS has hung on its audit hook for nine years. At one point the IRS claimed he owed $3.2 million in taxes, then $912,000. In pursuing these wildly disparate claims, the IRS finally wound up attaching the taxpayer's final bank balance of $9.75.

It will also spell out what you can do—and what you should not do—when the IRS auditor comes calling. It will tell you what your rights are—not what the IRS says they are.

It will outline a simple tax reform and tell you what you can do to help push its passage.

And finally, it will offer you some concrete help if the IRS insists on making a national example of you.●

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

THE HISTORY OF THE BUFFALO-ERIE COUNTY LABOR-MANAGEMENT COUNCIL

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

• Mr. LAFALCE. Mr. Speaker, one of the most encouraging developments of the 1970's has been the spread of area-wide labor-management committees. These unheralded committees have made significant contributions to increased labor-management peace, and have tried to help stem the decline in our productivity rate.

Through a wide range of activities, labor-management committees have worked to improve the labor relations climate and the basic economic health of their communities. Improved communications between employers and unions, cooperative efforts to create jobs, and assistance to individual plant labor-management committees are among the many benefits from the creation of area-wide labor-management committees. There are presently 28 area-wide labor-management committees in the entire country, and that number will surely grow, as the concept becomes better understood, and as the Federal Government provides assistance for the formation of these invaluable committees.

After extensive discussions among area business, labor, and political leaders, the Buffalo-Erie County Labor-Management Council was founded on February 12, 1976. Robert W. Ahern, executive director of the council, has prepared a very informative study, entitled "The Area-Wide Labor-Management Committee: The Buffalo Experience." I want to share with my colleagues that section of the study, which chronicles the history of the council, because it will help create an improved understanding of the role of these innovative committees.

The history follows:

HISTORY

In 1975, Buffalo reached the bottom. Between 1970 and 1975, 30,000 manufacturing jobs, twenty percent of the total, had been lost. Unemployment was approaching 11%. The City teetered on the brink of bankruptcy. The County was hurrying toward its own severe financial problems which would result in a crisis a year and a half later. Buffalo ranked among the top three cities in the nation in working time lost due to strikes in 1970, 1971, 1972 and 1975. Construction had virtually ground to a halt. The downtown was dotted with patches of blight. The once thriving port was moribund. It was the worst of times.

It was in the fact of these conditions that labor and management leaders reached out to each other to determine what had to be done to reverse the situation. At a series of quiet and private meetings a small group chosen by George L. Wessel, President of the Buffalo AFL-CIO Council, and Daniel A. Roblin, Jr., President of Roblin Industries, discussed the problem with the Congressional delegation, the County Executive, and the Mayor of Buffalo. From these meetings emerged two clear problems which could be handled relatively quickly by joint union-management effort. First, the various economic development agencies, which had been factionalized and warring bureaucracies, could be brought together under one coordinating agency headed by labor, management and local government. Second, the area's labor relations climate could be improved. This would be necessary to reverse the City's longstanding image of being a "bad labor town".

In the early seventies a small city about seventy miles south of Buffalo, Jamestown, New York, had developed an areawide labor management committee which by 1975 had made major strides in reversing that city's poor reputation in labor relations. There had been community wide efforts in other cities such as South Bend and Toledo, but Jamestown was the first to involve itself in day-to-day labor relations on a plant by plant basis. Naturally, Buffalo leaders looked to this successful effort as a model.

However, the problems of scaling up the model to fit an area the size of the Buffalo area appeared formidable. Indeed, the wisdom prevailing at the time, even among some of the people working with the Jamestown LMC, was that the concept could not work in a large city. The argument was that the success of Jamestown rested on the following unique set of factors:

1. The small size of the area (40,000).
2. A well developed sense of community.
3. A strong, charismatic mayor who furthered the sense of community.
4. The concentration of manufacturing in a few industries.
5. Small plants, many without professional industrial relations staff.

In the case of Buffalo:

1. The area had a 1,400,000 population.

(2. There was no comprehensive sense of community—rather, there were a large number of "communities" many of whom warred one with the other: City vs. suburbs, a large county government sitting in the middle of a large city government, a severe inner city problem, etc.

3. A Democratic Mayor and city administration; a Republican County Executive, with the Democrats controlling the County Legislature.

4. Buffalo has a wide mix of industries.

5. Buffalo has a wide range of plant size and most plants above 200 employees have one or more industrial relations professionals.

Despite these differing factors and the pessimism raised, the Council was formed and began its operations on February 12, 1976. The membership of the Council, which contains the leaders of all the major unions and a strong cross-section of management leaders is presented as Appendix I. The Council through its management and union leaders represents more than 200,000 salaried and hourly workers.

The Council, early on, made several decisions which proved to be significant. First, it decided to make the Council purely a private sector organization. Political leaders and public sector administrators were not included mainly because it was feared the Council might become another political football to be kicked around in the Buffalo community. However, all the political leaders were involved in the planning for the Council and were and continue to be among its strong supporters.

Second, although the County, the City or the Chamber of Commerce could have provided office space, the Council was housed first with the overall economic development agency and now has its own office. The Council felt that if it were housed in government it would inevitably be perceived as a governmental agency. If it were in with the Chamber, it would be viewed as a management operation. The independent identity of the Council has been one of the keys to its success.

Third, the Council decided to keep a low profile. There were several reasons; many prior organizations had been launched flying the banner of "Save Buffalo" only to fade out six months later leaving the media and the public more and more skeptical; the Council didn't want to raise expectations it could not meet; it didn't want to create a strong demand for services which it could not meet.

Fourth, it was decided that the Council would concentrate solely on labor relations problems—specifically, it would not get involved in human resources efforts, i.e. government manpower programs and training. The feeling was that something could be done about labor relations, but it was unlikely that much could be done about unemployment. Again, the Council felt this would involve it with "government", an involvement which was unanimously rejected by the members.

The first problem to be addressed was the obvious lack of a unified approach to the area's economic development. There were numerous agencies working on the problem, but each was going its own way. There was considerable bickering and a series of jurisdictional struggles. Although several attempts had been made to unify these efforts, none had succeeded. The Economic Development Administration was painfully aware of this problem and pressured the Council and other economic development agencies by restricting funding until the long standing fragmentation was ended. Therefore, the Council's Co-Chairmen, with an Advisory Council member, Harlan Swift, Chairman of the Board of a local bank, suggested to the Mayor and County Executive an organizational structure which could bring all economic development agencies under one umbrella. There followed an eighteen month turmoil in which the recommendation went through a negotiations process which involved not only the agencies concerned, but all local political leaders. When the State legislature finally approved the legislation enabling the community to broaden the board of the Industrial Development Agency to include all necessary parties, the Governor's legal staff recommended a veto. The Governor rejected the veto in the face of what he called an unprecedented outpouring of bi-partisan support for the bill.

The Co-Chairmen of the Labor-Management Council serve as Chairman and Vice President of the Erie County Industrial Development Agency and also headed the selection committee which recruited the first Executive Director of the E.C.I.D.A. The problem of the labor relations climate and image was the assignment of the Labor-Management Council.

This report looks back over three and one half years in which the Council took the model developed in Jamestown and Chautauqua County and made it a viable and useful tool for economic development in a large urban area. Along the way the model had to be enlarged and refined, and as the detail below will amply illustrate, has remained dynamic and in need of continual refinement.

Since early 1976 the economic situation has been reversed. Total employment has increased 10%, almost 50,000 jobs have been added. About 10,000 of those jobs are in manufacturing, and some 8,000 jobs have been added in construction. The unemployment rate is the lowest it has been in the decade. Working time lost due to strikes has fallen in each of the three years of the Council's existence and instead of ranking first, the City now ranks below the median of a sample of thirty-three major cities.

County government is stable, the City has a surplus. The Port of Buffalo has had more traffic this year than the last six years put together. The downtown area is crawling with construction sites. A new convention center, new hotels, a rapid transit system, new arterial roads, industrial parks and a growing sense of regeneration and pride have developed. The Labor-Management Council is happy to have played a part in this effort.●

KENTUCKY SHOWS ITS LOVE FOR HORSES

HON. LARRY J. HOPKINS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. HOPKINS. Mr. Speaker, I am proud to have recently joined with a number of my colleagues in forming a Congressional Tourism Caucus to focus attention on, and to improve, national policies which impact on the tourism industry. In my own State of Kentucky, and in my district, tourism ranks as a leading contributor to the economy. It is ironic, however, that one of the outstanding tourist attractions in the 6th Congressional District, which I represent, is better known to European and other foreign travelers than it is to the American public. Kentucky's unique international drawing card is the Kentucky Horse Park, located in Lexington, Ky., in the heart of the famed Bluegrass country.

In addition to a museum, an active working horse farm, and facilities for staging major equestrian events, the Kentucky Horse Park boasts what may be the finest cross-country course in the world. In fact, it was the site for the 1978 World Championship Three-Day Event, the most prestigious equestrian event in the world, which had never before been held in the United States.

At this point, I would like to insert in the Record a recent article entitled "Kentucky Shows Its Love for Horses," describing the Kentucky Horse Park and the many recreational and educational opportunities it offers the American touring public:

Kentucky Shows Its Love for Horses

(By Kermit Holt)

Lexington, Ky.—Kentucky's storied Bluegrass Country, the rolling countryside of plank-fenced pastures dotted with mares and foals chewing the famed grass—where thoroughbred yearlings gambol across the landscape—has always been a prime tourist destination.

Now there's a stunning new attraction.

Although easily accessible—near the crossing of two major interstate highways, 64 and 75, just north of Lexington, and on the way for midwesterners traveling almost any place in the South—Kentucky Horse Park is better known to Europeans and other foreigners than to Americans.

Foreign languages and English accents of all varieties have been heard at the vast $27 million complex of Kentucky Horse Park since it opened a little less than a year ago.

It's well known in Europe, of course, because Kentucky Horse Park was the scene of the 1978 World Championship Three-Day Event.

To most Americans the reaction to that is, "Well, well, well, hooray, hooray, and what the heck, may I ask, is that?"

It is, as any certified horse person knows, the world's most prestigious equestrian competition, said to be even more demanding than the similar Olympic event. The next comparable equestrian event will be that in the 1980 Olympics in Moscow.

Both are grueling three-day competitions that test the horse and rider—dressage (exercises in the art of training a horse in obedience and precision of movement), a 17-mile test of endurance in a cross-country race against the clock over rugged terrain and jumps, and additional jumping over 12 obstacles in a tight and twisting course in the main arena.

In Europe the Three-Day Event doesn't have to be explained. Its competition is followed avidly in Britain, Ireland, Sweden, France, Italy, West Germany, as well as in the sports pages of newspapers in countries throughout the world where horsemen do well in equestrian events—Argentina, Mexico, Australia, Japan.

A year ago 12 nations sent teams to the world class equestrian championship in Kentucky Horse Park, the first time the Three-Day Event has been held in the United States.

More than 170,000 persons attended, thousands of them Europeans, including Britain's Prince Phillip who called the Horse Park's cross-country course the finest in the world.

Newspaper and magazine writers from throughout the world came, too, and sent back reports not only on the equestrian championship results but on the unique park. There's nothing like it anywhere in the world, they wrote, and within weeks the flood of foreign visitors began.

Thus, foreigners know about Kentucky Horse Park, but most American tourists do not.

They should.

Visiting the vast, multimillion-dollar Kentucky Horse Park is a delightful excursion for everybody—not just the wealthy and aristocratic few who breed, train, race, buy, and sell thoroughbreds and standardbreds (the latter trotters and pacers) and other breeds; not just for those who ride horses, drive them, bet on them, bid on them.

This educational and recreational complex is entertaining and fascinating for all age groups, even for people who think (before their visit) that they couldn't care less about "man's noblest animal."

Honoring the state's principal product (breeding top race and show horses is a definite winner over the growing of burley tobacco and the making of bourbon whisky), the Commonwealth of Kentucky spent $26,953,750 to buy the property, build Kentucky Horse Park, and dedicate it to man's love for horses. The park honors every breed of equines from thoroughbreds to draft horses.

This unique park is much more than a collection of superb facilities for the staging of major equestrian events, of which it has a complete list in addition to the cross-country course, dressage areas, and the stadium jumping ring used during the 1978 Three-Day Event.

Also on the grounds: A half-mile track with a quarter-mile chute and an infield for rodeo and saddle horse exhibitions (and for the exercising of thoroughbreds); a regulation polo field; a mile-long, 600-foot steeplechase course and a 22-stall steeplechase barn; picnic areas in pastoral settings; horseback riding trails; and a 260-site, fully equipped campground where a recreational vehicle or a tent accommodating up to six persons can be parked for $6 a night.

But all these facilities for horse shows, steeplechases, cross-country competitions, rodeos, and polo matches that are scheduled throughout the year are only a very minor part of the many attractions.

Inside the 27 miles of white plank fence that surrounds and partitions the park's 1,032 lush acres are 47 buildings and exhibit areas, accessible by foot, horseback, and horse-drawn wagons and buggies, that show the horse at ease, at play, at exercise, in training and in action.

Just one of the fascinating attractions is a huge operating horse farm that is staffed by teachers and students from the Central Kentucky State Vocational-Technical School, who are planning careers in the horse industry and are taking a six-month course, the Kentucky Equine Education Program (KEEP), unavailable elsewhere in the country.

Visitors can see horses in their stalls and paddocks being fed, groomed, trained and exercised and watch them grazing and frolicking in the nearby bluegrass meadows.

Fourteen structures, all renovated since purchase, came with the land, site of the former Walnut Hall Stud. Twenty-three new buildings were constructed, including a magnificent museum; what is said to be the world's longest horse barn (at 463 feet it is longer than 1½ football fields); an attractive visitors' center with two theaters; a restaurant building; and a memorial to the champion thoroughbred, Man o'War, generally considered to be the greatest race horse of all time.

Even when there are no special events, there is enough to see and do to keep visitors in the park a minimum of half a day.

Entering the park and driving down the tree-laned drive toward the parking lot, the visitor is greeted by Herbert Haseltine's larger-than-life (1½ times larger) bronze statue of Man o'War, personifying Kentucky's tribute to all horses and marking the new gravesite of the horse whose name was a household word during his lifetime (1917–1947) and whose triumphs and personality thrilled millions of horse lovers.

Man o'War won 20 of 21 races, coming in second to the appropriately named Upset in his only loss. As a 3-year-old he competed in and won 11 races. In eight of those he set or equaled track record time, in five he set new American records, and in three he set new world records.

During his years of stud at Faraway Farm near Lexington, the big, beautiful chestnut horse, who came to be known as Big Red was Kentucky's No. 1 tourist attraction. More than a million persons signed the visitors' register at his stall in the days when bad roads made it difficult to get to Lexington.

Even death didn't diminish Big Red's regality. The first horse to be embalmed, Man o'War was buried in an oak casket lined with the yellow and black fabric of his racing silks. More than 2,500 paid their respects before the funeral, and some even stroked Big Red as he lay in state amid banks of flowers. The ceremony was broadcast by radio and recorded by newsreel cameramen.

A few years later the bronze statue was erected in a small memorial park on Huffman Mill Pike and thousands of visitors continued to pay homage to Big Red every year.

Just before the new Horse Park opened, Man o'War's bones were moved to the site of the new memorial area, as were those of his two male offspring, War Relic and War Admiral (a winner of the Triple Crown); two female offspring, War Kilt and War Hazard, and Brush Up, the dam of War Admiral.

Nearby is the grave of one of the great jockeys of history, black, 5-foot Isaac Burns Murphy who won 44 percent of all the races he rode in, including the Kentucky Derbies of 1884, 1890 and 1891), the Saratoga Cup, five Latonia Derbies, and four of the first five American Derbies in Chicago.

Murphy died of pneumonia in 1896 at the age of 35 and was buried in a Lexington cemetery, which through the years became so neglected that his grave was lost for decades. Recently found and their identity confirmed, Murphy's remains were removed to the new horse park and placed next to those of Man o' War.

Starting point of a tour of the park is the Visitor's Information Center. There an elaborate, computerized, electronic board displays slides of the park's attractions as an audio tape explains them and a map is backlit to point out the location of each. Flashing letters and numbers on the big board inform visitors of special events, ticket prices and waiting times.

Beneath the big board, ticket sellers dressed as jockeys dispense general admission books ($3.25; children 7 to 12, $2; those 6 and under, free) which provide entrance to the park's attractions. (Aside from a nominal charge for horse, pony and carriage rides, the rest of the park is free.)

A variety of breeds are displayed in the flesh in the spotless stalls of the Big Barn the year around, each with a plaque showing the horse's name, breed, classification, brief description, and historical background.

Thirteen breeds are on display, always eight of the country's most popular breeds plus five more breeds changed from time to time to provide variety and new attractions.

Walking through the great barn (463 by 60 feet) and adjacent buildings, visitors get close to the horses and talk with the people who care for them.

They watch blacksmiths making horseshoes and then shoeing the animals, watch harness makers fashioning saddles, bridles, stirrups, straps, inspect tack rooms containing horse paraphernalia; view a collection of 30 antique carriages.

Demonstrations show tourists how to saddle and mount a horse, how to hitch a horse to a wagon, illustrate the various gaits—walk, trot, lope, gallop and the stride of the Tennessee Walking Horse.

Even though there may not be a horse show in progress that day on the park grounds, often there are demonstrations of required performances for shows: the three-gaited division requirements (the three natural gaits—walk, trot, and canter); the 5-gaited division (the same three gaits plus two manmade gaits, slow gait and rack); and the fine harness division in which the horse, hitched to a four-wheeled vehicle, performs the walk and park trot.

Visitors also can go horseback riding, take guided trail rides with choice of saddle ($6 an hour, $3.75 for a half hour), or tour the park in wagons drawn by teams of horses ($1.50, $1 for children).

A gift shop features quality gifts and books about horses.●

GOOD INTENTIONS, BAD RESULTS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. MICHEL. Mr. Speaker, evidence shows that it is not only the road to hell, but the road to poverty, despair, and unemployment that is paved with good intentions. A minimum wage for workers is a good idea, and those who propose it no doubt have good intentions. But the result of current minimum-wage laws is high minority youth unemployment. The Davis-Bacon law also can be traced to good intentions, but its effect is devastating to contractors, consumers, and those seeking work.

Prof. Walter E. Williams, distinguished scholar and teacher of economics at Temple University, has written an article demonstrating with facts and figures why we have such an alarming minority unemployment rate, and how it can be traced to the Federal Government's programs, usually begun with the best of intentions.

At this point I wish to insert in the RECORD, "The Shameful Roots of Minority Unemployment," from the Readers Digest, October 1979:

THE SHAMEFUL ROOTS OF MINORITY UNEMPLOYMENT

(By Walter E. Williams)

A black teen-ager applied for a job at a carwash where his buddy had worked last year. The black owner shook his head. "I'd like to help," he said, "but I can't afford you kids anymore."

A young Indian watched roofers working on a new house. He wanted to become a carpenter. What better place to get his training than this Indian Housing Authority project on his own reservation? But he had already been turned down. Most of the construction workers were from a city miles away.

A Puerto Rican youth had waited outside the contractor's trailer for hours, hoping to get hired as a laborer on the new construction site. "Sorry, kid, you gotta be in the union," the foreman told him. "I'll join," said the youth. "You don't understand," said the foreman. "You gotta be in the union already."

What keeps these minority teenagers out of the productive mainstream of the economy? What makes it impossible for them to get that first job—the important first step on the ladder to self-sufficiency?

Sociologists posit theories about "poor role models," "disenchantment" and racial prejudice. But I am convinced that the source of most problems facing minorities in the American marketplace today is the federal government, acting in behalf of powerful interest groups, particularly organized labor. The brutal fact is that government, through supposedly "progressive" laws, has written the rules of the game against minorities. Day in, day out, these laws keep many minorities from making progress in employment and, worst of all, prevent them from even getting into the job market.

MINIMUM WAGE—MINIMUM EMPLOYMENT

One great handicap to the young worker, especially the young minority worker, is the federal minimum-wage law. Originally enacted by Congress in 1938, it has been extolled as a "moral" effort to assure every worker a "decent wage." In reality, it prices many low-skilled workers out of the labor market.

All the egalitarian rhetoric will not change the simple fact that some workers are less experienced, less productive—and therefore worth less (in wages) than others. This is especially true of the new worker. Forced by law to pay a wage that may be more than the new worker is worth, the druggist hires one stockboy instead of two; the garage owner hires two workers, not four—and hires the highest-skilled ones he can find.

Following the minimum-wage increase to $2.90 per hour in January 1978, the National Restaurant Association surveyed 2000 member businesses and found that, as a result of the new wage, 78 percent reduced worker hours, 63 percent laid off workers and more than 50 percent resorted to the use of mechanical devices as a substitute for labor. What these statistics do not show are the numbers of minority young people who hoped to get jobs at those restaurants—as busboy, waitress, dishwasher—that would have started them on their way.

Still, politicians, including minority politicians, push for higher minimum wages while decrying minority unemployment. They may try to explain the high rate of minority-youth unemployment (40 percent) relative to that of white-youth (16 percent) by claiming racial bias. But until 1954, employment of minority youths exceeded that of white youths. Have employers become more racist since the early 1950s? No. The culprit is the minimum wage. Minority youth bear a greater burden of the minimum-wage law. Because of poor schooling and other factors, they are disproportionately represented among the low skilled. Instead of being employed at $2 an hour, many get to be unemployed at $2.90 an hour.

Finis Welch, economics professor at U.C.L.A. and leading authority on minimum wage and its effects says, "The law that employment reductions accompany mandated wage increases is as basic as the law of gravity." Then why the persistent upgrading of the law over the years? Who supports minimum wage so indefatigably? The answer is the labor unions. Because the higher the minimum wage, the higher the "floor" from which unions can bargain for their members' wages.

And there is another aspect: job security. Suppose a fence can be built either by a high-skilled worker or by two low-skilled workers. If the wage of the high-skilled worker is $29 per day and that of the low-skilled worker is $15, an employer would hire the high-skilled worker because the cost would be less ($29 versus $30). The high-skilled worker soon realizes that one way to protect his job and increase his income is to advocate a minimum wage of, say, $20 per day. His arguments to gain political support deal with "raising the standard of living, preventing "worker exploitation," etc. His real motives are probably less altruistic: if the $20 minimum is enacted, he can then demand $39 and still retain his job.

DAVIS-BACON BARRIER

After years of lobbying by organized labor, the Davis-Bacon Act became law in 1931. Its purpose was supposedly to prevent itinerant labor from undercutting local wage rates on federally funded construction projects. The act simply says that, on any federal construction project, contractors and subcontractors must pay a "prevailing wage" calculated by the Department of Labor. Almost invariably this wage level turns out to be the union scale, even in areas where most construction work is non-union.

In Vermont, for instance, where a public-housing development was planned, roofers were making about $4 an hour and electricians $6. But the Labor Department set Davis-$9.25 an hour for roofers and $8.25 an hour for electricians. The basis for these inflated "prevailing" rates? Wage scales in highly unionized Albany, N.Y., 125 miles away. Similar procedures for determining rates are used on federal projects all over the country. The General Accounting Office estimates that they add about $700 million to federal construction costs annually.

Equally important, Davis-Bacon means that the lion's share of federal construction goes to unionized construction firms, where minority workers are often excluded. Nonunion contractors who hire many minority workers are reluctant to bid on jobs where they will be forced to pay wage rates far above the norm.

Those who do bid tend to handle the contract by hiring only the highest-skilled people they can find. This is because, under Davis-Bacon, the training of new workers is discouraged since they must be paid at the full union apprentice rate. A roofing contractor on a government job near Leavenworth, Kan., says, "We can't be competitive and pay a green kid full roofer's wages. This tends to limit our growth ability, since we are discouraged from hiring new young men willing to learn the trade."

A further quirk of the Davis-Bacon Act mandates that when union rates are paid on a job, union work rules must also prevail. When a group of young Puerto Ricans sought to rehabilitate a tenement in Manhattan with the help of federal money, they were stunned by the work rules springing from the powerful New York construction unions. If one of them worked as an apprentice plumber, they were told they had to hire 12 union plumbers; for each additional apprentice plumber, they were required to hire 14 union plumbers!

It has been estimated that Davis-Bacon restrictions have led to the abandonment of more than 5,000 self-help projects all over the United States. These generally involved minority-group job training. The unseen result: thousands of people with potentially marketable skills are never able to develop them.

PRIVATE CLUB

Organized labor's unhealthy sway in the economic affairs of minority groups results from the National Labor Relations Act of 1935, and from a maze of federally sanctioned work rules—hiring-hall arrangements, union "referrals," union training programs, etc. These all give labor power to choose who will gain entry into the high-wage union "club." Thus, the minority member seeking a job in a specific industry may find that the union has the first opportunity to fill any vacancies. In addition, he may find that union membership is granted only to workers employed in that industry before a certain date. Or he may find that job preference is given to graduates of union-controlled training programs.

For years now, the government has been wasting money and time trying to "solve" minority unemployment with one hand while causing it with the other. What minorities need are not additional handouts but bold legislative changes that will improve their economic opportunity. The improvement will come not through more laws but through fewer.

"All good intent aside," says Sen. Jake Garn (R., Utah), "the patent failure of much so-called 'progressive legislation' makes it imperative that we seek useful changes to these laws." We might begin with excepting youth from the full requirements of the minimum-wage law. Congress in 1977 fell one vote short of doing just this. Then get rid of Davis-Bacon. and strike down the provisions of the National Labor Relations Act which give organized labor the power to determine who can and who cannot work in many fields.

Clear away such barriers to opportunity and we will see that the "minority problem" is, in fact, largely an economic problem. And the solution will come when we peel away the thick layers of anti-competitive law in which government and the special interests—particularly organized labor—have so securely and smugly wrapped themselves.●

TAXES ON OIL

HON. JAMES M. COLLINS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. COLLINS of Texas. Mr. Speaker, taxes included in the price of oil, gasoline, and other oil products in this country are staggering. They are estimated at $64.3 billion for the year 1978. And every dollar of this, as well as the future windfall profit taxes, comes from the pocket of the consumer.

This $64.3 billion is 13 times as much money as was paid to shareholders. It is more than 4 times as much as was paid in salaries to the hundreds of thousands of employees of the oil companies.

The basic fact is that Federal, State, local, and foreign governments together took, by taxes, over 70 percent of the combined incomes generated for the oil companies, the shareholders, and the employees. And this does not count the huge tax bite that governments took out of oil industry purchases of equipment, supplies, and services.

Americans must learn that they are the ones who end up paying every tax dollar collected from the oil industry. And in return for higher taxes, the consumer gets more of what he does not want—too much government.

The oil business needs more capital for drilling oil and gas wells. Members should invest your savings in oil and gas drilling by going into joint ventures as partners. If you are afraid of the loss that is possible in drilling dry holes, you can go into the oil business by simply buying oil company stock on the New York Stock Exchange. However, the great need is for new added capital from joint-venture partners to go out and take their chances on drilling for more oil and gas. After nine dry holes, you should average out one producing well.●

IMPACT OF FEDERAL RESERVE BOARD

HON. THOMAS J. DOWNEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. DOWNEY. Mr. Speaker, the recent actions taken by the Federal Reserve Board may have been necessary to help get inflation under control, but they could also be disastrous for small business. My staff has put together an analysis which, if true, indicates that the coming months may be very difficult for this vitally important sector of our economy. Frankly, I am worried that this will be the case.

In order to assess the possible impact in my own district, I asked my Small Business Advisory Committee to comment on the Fed's actions. I believe their responses accurately reflect the problems and fears small businessmen are facing all over the Nation. For this reason, I am including in the Record five of the letters I received from members of my Small Business Committee along with a copy of the analysis I provided to them.

The text follows:

Impact of Recent Federal Reserve Board Actions on Small Business

The Federal Reserve Board's anti-inflation monetary policy enacted over the October 6-7 weekend should have the following impacts on small business:

1. As a result of the Fed's actions to raise interest rates (prime rate at 14.5 percent) banks will pass along higher rates to customers, money will become tighter and high interest charges will keep many out of the loan market. Banks will enact stricter lending policies and it will be more difficult to qualify for a loan.

Struggling, small businesses may be hardest hit. Loan money to keep marginal operations afloat will not be available on the open market. Expect increases in small business failures. The most immediate impact may be on small retailers.

2. Stricter loan qualifications requirements will be imposed on consumer loans and home mortgages. Expect a slowdown in consumer demand. Loans for new construction will be tight. Despite reassurances to the contrary, the housing industry could be hard hit, especially small, marginal builders.

3. There has been a strong business inventory buildup in recent weeks. A large decrease in credit purchases may severely impact small businesses with large inventories. Expect the recession to be somewhat deeper than previously predicted.

4. Expect increased unemployment as small businesses attempt to cut costs wherever possible.

5. Smaller banks may be squeezed worse than larger banks if high interest rates on short term instruments, such as treasury bills, drain off savings deposits. Problems at small banks could ripple back to exaggerate small business credit problems in general.

6. The initial reaction in futures markets was lower prices (especially for grains, livestock, copper and wood products) reflecting the anti-inflationary aspects of the Fed's action.

7. Internationally, the dollar seemed to gain fundamental strength as short term money moved into U.S. markets to take advantage of the high interest rates. A stronger dollar will reduce demand for U.S. grain and other exports.

In summary, small businesses with limited resources, limited credit alternatives, limited access to investment capital, and with limited flexibility face more difficult times and can be expected to face reductions in credit sales leading to reduced production levels. There will be a substantial increase in the demand for government direct and subsidized loan programs.

Aerospace Avionics Inc.,
Bohemia, N.Y., November 5, 1979.
Hon. Thomas J. Downey,
Congress of the United States, House of Representatives, Washington, D.C.

Dear Tom: In reply to your letter of October 22nd regarding the recent actions taken by the Federal Reserve to help get inflation under control and related changes in the economy and the business environment, I would offer the following comments regarding the impact on small business in the Second Congressional District.

1. The net effect so far of the Fed's actions to raise interest rates has been to feed the inflationary process. As money costs move ahead of prices, up go the price levels as long as there is no resistance. Money has not yet become "tight" and until is does, the Fed's anti-inflation monetary policy will not be effective.

2. When money does become "tight", a reduced interest rate should be made available to small business by both commercial banks and the SBA as there will be a substantial need for government direct and subsidized loan programs.

3. Based on the solid backlog that many Long Island producers now enjoy, it looks as though a real business down turn has been somewhat delayed in terms of earlier expectations. However, in order to satisfy these business opportunities, we are having difficulty employing "technical" personnel because of the high area taxes. While Long Island is perceived as very positive with regards to the quality of life, it is also perceived as negative with regards to taxation which

has resulted in a severe shortage of technical personnel. Just ask someone who has tried to recruit an engineer, technician or competent manager. This is one particular way where your office can be of great assistance that is with some form of tax relief for this area vis-a-vis many of the other areas of the country in which I travel (e.g. South, South-West and West). We have definitely lost our competitive edge in this region and will force many business relocations if we are not able to achieve parity with the rest of the nation.

4. In addition to tax relief, my three favorite goals to continue to keep the economy healthy would be to work in the Congress for:

(a) Balanced Budget.
(b) Positive Trade Status.
(c) Roll Back Social Security Payroll Tax.

5. As a country involved with technological innovations, we need to develop changes in the tax structure to provide more incentives for innovators in order to off-set the U.S. lag in the development of new ideas and products. Nations such as Japan and West Germany, which provide generous rewards for innovators, are moving into the space we once dominated. R. & D. is a key to growth and jobs and should be encouraged.

6. A recent newspaper ad stated that on the average, Americans save only 4.1 percent of their disposable income compared to 13 percent for the British, 15 percent for the West Germans and 25 percent for the Japanese. It follows that without savings, there can be no investment and without investment, there can be no new jobs created. This is another area where we need tax incentives to help stabilize our economy and off-set inflation.

I appreciate your invitation to forward the comments contained herein and upon reflection I see that they will form the good basis for a future "business platform". We on your "Business Advisory Committee" have enjoyed working with you and hope we will be able to continue to serve your future needs in an effective and positive manner.

With warm personal regards,
Very truly yours,
James P. Dunn, Jr.,
President and Chief Executive Officer.

Viewlex Audio-Visual, Inc.,
Holbrook, N.Y., October 29, 1979.

Hon. Thomas J. Downey,
Member of Congress, 2d District,
West Islip, N.Y.

Dear Tom: I appreciate your requesting my comments on your analysis of the effects of the recent Federal Reserve Board's actions.

I believe your analysis is thorough and accurate. The only input I can provide is the experience of Viewlex. We have been effected directly and adversely by the rapid increase of interest rates due to our heavy debt load but, more importantly, our sales in October have dropped off sharply. Our audio visual dealers throughout the United States are unwilling to take in inventory as they normally did in the past. These are basically small businessmen who have become afraid and uncertain about the future and are taking steps to reduce their inventory even though their actual sales may not be declining. They now want the manufacturer to be their warehouse. Since we finance receivables, the immediate cash loss from such a reduction is substantial.

This is a case of the aura of panic created by the Federal Reserve being transmitted to the small businessman who, in turn, is reacting negatively as much for psychological reasons (because his government appears to be acting in panic) as for real reasons; i.e., interest rate increase and reduction of availability of money. For example, even when we offer these small businessmen special credit terms, where Viewlex absorbs the cost of money, we are unable to get an order as they fear that business is going to decline with the Fed taking such dramatic steps to achieve a business slowdown.

Best regards.
Sincerely,
Harry G. Charlston,
President.

Cianciotti Planning &
Service Corp.,
November 9, 1979.

Hon. Thomas J. Downey,
Congress of the U.S., House of Representatives, Longworth House Office Building, Washington, D.C.

Dear Tom: Because I travel the entire Island performing my normal business activities I have quizzed my clients, both large and small, as to their opinions and assessment of the situation and in direct response to the analysis I submit the following.

1. Many businessmen have dropped out of the loan market refusing to pay the exorbitant interest charges which will not only prevent growth and expansion but, in many instances, because of their inability to pass on the higher costs of operating, may be forced to cut back and even fight for very survival to remain in business.

2. Obtaining a home mortgage on Long Island is almost a joke. Builders have cut back, home purchases have dropped off and the building industry which has had its problems over the last few years, truly has an uphill battle.

3-4. My clients agree practically on a verbatim basis.

5. Over the last few years small banks on Long Island have had their problems with "city banks" moving in. I think the present situation will emphasize the problem and we will either have additional mergers and acquisitions and, possibly, even bank failures.

As for 6, there seems to be little concern with regard to the people I have polled. Possibly it could be summed up by saying "the operation was a success, but the patient dies during the process".

Of course, none of the above offers a solution but if a program such as the one mentioned in the summary of the analysis is instituted, one in which subsidized loan programs could be made available, this may be the answer to the small businessman's prayer.

In short, can we get some low-cost money back to Long Island so we can survive?

Best regards.
Cordially,
Dominick V. Cianciotti,
President.

Positive Consultants Inc.,
Bellmore, N.Y., October 29, 1979.

Hon. Tom J. Downey,
Congress of the United States,
House of Representatives,
Washington, D.C.

Dear Tom: Thanks for your letter of October 23 regarding the tight money effect on small business.

I do have some suggestions which could be handled administratively rather than legislatively.

Before this, I do want to assert my long time gripe that the Government stop this roller coaster toying with the economy.

If, however, they can't keep their hands off, at least have a computer analysis of the immediate and long range potential effect. Then ask the computer to figure out the best mean approach and use it as a guide. With the technology in programming, this should be a snap.

Now to the problem at hand.

For commercial businesses SBA would have to cut red tape and make immediate loans available to these firms, possible at SBA rates with direct loans.

For defense and other Government contractors advance payments should be a standard item in each contract to pay for materials and direct costs. Progress payments should be increased from 85 percent to 90 percent for small business with minimum red tape.

In addition the "V" loan program should be reactivated by the Federal Reserve Banks. Although it really has not been deactivated, very few know of its existence.

Unfortunately, this will probably not sit well with the administration. However, it will dampen the immediate disasterous problems that the tight money situation is causing.

Best regards.
Manny Goldstein,
President.

Kelly, Luglio & Mazzol,
Deer Park, N.Y., November 8, 1979.

Hon. Thomas J. Downey,
Longworth House Office Building,
Washington, D.C.

Dear Tom: This will acknowledge receipt of your letter of October 23, 1979 and its attached Impact of Recent Federal Reserve Board Actions on Small Business.

I agree with your general analysis and assume others on the Committee will respond directly to you.

Paragraph 2 of your Impact statement particularly concerns me.

The conventional home mortgage market is practically coming to a stop. Only certain nationally chartered commercial banks, which can lend at higher rates than the 10¼ now permitted by the N.Y. State law, are making loans. Citibank and National Bank of North America has been active in this market. Almost all Savings and Loan Associations are out of the market, as are almost all Savings Banks. Special exceptions do exist.

Young families have been forced to seek FHA and VA financing. That too is becoming impossible.

Before HUD raised the rate to 11½, points charged on these loans by Lending Institutions were out of sight—as high as 14 to 17 points. After the rate was raised to 11½ percent the points lowered to 7 or 8, but are now up to 10 or 11. A mortgage lender's attorney told me yesterday that the situation will get worse. They cannot warehouse these FHA and VA loans because banks are not interested in them at 11½ percent, even with the points.

The result will be one or more of the following:

(1) Sellers will take their houses off the market, or pay the points and accept a lower net return. Where the seller's equity is not large, there may be no room to lower the price or the net.

(2) Purchasers will withdraw from the market, and stay where they are. The higher rates and prices caused by the recent events are pricing one family homes out of the reach of most young people. Yesterday, for example, a young couple purchased a home in Babylon for $42,300 with an FHA mortgage of $37,300. Their monthly payments will be $525.00. In this case their taxes were only $1,235, a little less than usual.

(3) Builders, who have had trouble getting financing will have additional problems getting buyers. Those who would have sold their homes to "buy up" will be out of the market. Most marginal builders already have been put out of business. The new strain will hit the successful builders hard.

Most of the Country has been living with a housing boom for the last five years. Long Island, however, has been in a housing slump, even prior to the recent mortgage problems.

If we're building Long Island industry, and we are, the people who live here or move here are going to be hard pressed to obtain decent housing accommodations.

I assume many builders, brokers and lenders will offer suggestions as to what action should be taken, if asked. Some suggestions may even be constructive.

Best regards.

Sincerely,

ALBERT J. LUGLIO.●

SUGAR STABILIZATION

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. MICA. Mr. Speaker, I insert a newspaper article commenting on the recent defeat of the Sugar Stabilization Act of 1979 and the effect on the consumers as a result, as written in a weekly newspaper, the Glades Trend:

AMERICANS CAN THANK THE U.S. CONGRESS, SAYS KNIGHT

American consumers can thank the United States Congress for sugar price increases about to come their way, according to S. N. Knight, Sr., president of the Florida Sugar Cane League.

Since the Sugar Stabilization Act of 1979 was defeated by Congress October 23, domestic spot market prices have increased to slightly over 16 cents per pound, a higher price than the 15.8 cents called for the legislation backed by the sugar industry.

"We may be about to witness a situation similar to the one in 1974 which also occurred when Congress failed to enact legislation to stabilize the price of sugar, said Knight in his address during the Florida Sugar Cane Leagues 16th Annual Meeting held November 26.

"In 1974, the sugar industry was unjustly accused of raising sugar prices to the detriment of American consumers. Let the record stand clear now. The United States Congress and the office of the President must shoulder most of the responsibility for the tremendous instability in today's sugar market, continued Knight.

According to the League president, Congress was fooled in the name of consumers. Some sugar refiners and industrial users used the consumer movement to kill the sugar bill, saying the legislation would be inflationary.

"It's unfortunate consumer groups didn't take time to really learn what was at stake for the American public," said Knight. "By stabilizing the price of sugar, legislation would have protected producers and consumers. Now, however, if prices continue to escalate as they have since the defeat of the bill, costs will surely be passed on to consumers."

Knight asked the media present to make note of sugar prices and prices of sugar-containing products, and to again check the products' prices when the sugar market comes down.

"Industrial users usually do not lower their prices when the price of sugar falls. They continue to make even greater profits, and yet, the sugar producer is blamed for the high prices," said Knight.

"We farmers don't like the wide fluctuations of the sugar market, it hurts us. But, it hurts the American consumer even more." Knight continued. "Our industry would rather see stable prices with modest increases based on increased operating costs."

"Price stability benefits everyone, producers and consumers alike. Instability hurts consumers more in the long run," concluded Knight. "Perhaps the next time we go to Washington, we can make this point understood." ●

THE GOVERNOR WHO KEPT HIS WORD

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. PAUL. Mr. Speaker, the Hon. Jim Longley, Independent Governor of Maine set a magnificent example for politicians at all levels.

He kept his word, believed in limited terms, held down the cost of government, and served the people of his State.

I would like to call the following article to my colleagues attention. It is no wonder that some people are urging Governor Longley to run for President.

THE GOVERNOR WHO KEPT HIS WORD

(By Eugene H. Methvin)

Last January 5, 54-year-old James B. Longley walked into the office of his insurance company in Lewiston, Maine, sat down at his desk and grinned broadly at reporters. A private citizen once again, he had fulfilled the last of his campaign promises—to serve his four-year term as Maine's governor without seeking re-election.

Jim Longley had long since kept his other promises. Foremost among them: to erase the highest deficit in Maine's history without raising taxes and to balance fiscal responsibility with humanitarianism. In fulfilling his campaign slogans, he proved to Maine's voters that both skyrocketing spending and burgeoning bureaucracy can be curbed.

Early in life, Longley demonstrated his enthusiastic, rambunctious independence. He zipped through Bowdoin College in 27 months on the GI bill after World War II. He quarterbacked the football team, was student-government president and held enough outside jobs to send home more than $2000 in one year to his widowed mother and family. When his fraternity refused initiation privileges to one of Bowdoin's few minority students, Longley forced a re-vote. The vote didn't change, but the student later became one of Longley's roommates.

UPHILL CAMPAIGNER

By 1972 Longley had added a law degree to his accomplishments and built a prosperous insurance business. He was asked by the Democratic governor to direct a group of business executives looking for ways to streamline state government. Longley's team came up with 807 recommendations to save taxpayers $28 million a year. Because many of the economies were bitterly opposed by special interests, the governor and the legislature dropped them like hot potatoes.

Shocked and angered, Longley made throbbing speeches for government efficiency. Questioners began asking, "Why don't you run for governor?" In June 1974, Longley, a lifelong Democrat, announced as an independent. One of his first promises: "I'm going to make a $250-million difference in the cost of state government during the next four years."

At first Longley's race looked ridiculous. His headquarters was a converted garage. His campaign manager in the state's most populous county was a high-school senior who worked part time in a supermarket. His only paid staffer was a young reporter with whom he crisscrossed Maine in a rented camper.

Longley operated on three hours' sleep. Where other candidates might shake factory workers' hands for one shift, Longley would meet all three shifts and canvass nearby towns in between. Everywhere, Longley asked, "Do you want better management of your hard-earned tax dollars? If so, vote for me."

Late in October the polls showed Longley running a poor third, but he stepped up his campaign and won with almost 40 percent of the votes. He thus became the only independent candidate elected governor of any state in nearly four decades.

CONSTANT CRUSADE

As governor, Longley found himself facing a Democratic house, a Republican senate and a skeptical press. With no party or organization of his own for support, he fell back on his inexhaustible energy, idealism and feistiness. The morning after his inauguration, he called a 7 a.m. cabinet meeting and told the 18 department heads to quit lobbying legislators for their own pet programs. He clamped down on out-of-state travel, slapped a freeze on hiring and announced there would be no general pay raises for state employees until the budget was in balance.

To avoid a tax hike, Longley ordered all agencies to cut spending seven percent below budget. To set the example, he drew only $20,000 of his $35,000 salary and lopped $13,853 off spending for the governor's mansion in the first six months. He cut state grants to towns for road improvements, snow removal and welfare programs. By squeezing dollars, the state's welfare commissioner was able to fund a catastrophic-illness program without new appropriations. And over four years Longley cut the number of state employees by 15 percent, from 14,000 to 12,000.

Longley insisted on personally examining every application for federal funds, and stopped many. He was the nation's only governor to reject federal money to help disabled Vietnam veterans find jobs; instead, he organized a volunteer program to handle the task.

"We must stop misleading people into believing that government can give more than it takes," Longley told the legislature. He innocently thought that as an independent with a mandate to cut spending he would have both parties' help. He was soon to proclaim ruefully, "I was naive." Partisans obstructed his appointments and gleefully tore into his first budget, a hurried patchwork effort to control the state's runaway finances.

Within weeks, Longley and the legislators were fighting bitterly. Democrats, pushing secretly for a tax increase, started false rumors that Longley had suffered nervous breakdowns and was destined for an early crackup. Reporters began calling him "El Wacko."

UNFLINCHING IN FLAK

Indeed, by conventional political standards Longley did seem mad. He refused to compromise. He took on virtually every organized pressure group—from the State employes' union to the legislature's women's caucus, from the National Education Assn. to road contractors. He vetoed a record 109 bills, and 53 of the vetoes were upheld. He killed a bill to create a University of Maine medical school, despite laments Maine would lose $7 million in federal help. Instead Longley persuaded the Tufts and University of Vermont medical schools, which admit Maine students under interstate compacts, to more than double Maine's quotas.

Through it all, he dominated the headlines and hammered home his point: every hard-earned tax dollar had to go to the neediest, not to the bureaucrats or special interests. Explained Jim MacGregor, Longley's closest aide, "His top priority is always some imaginary millworkers who works hard, pays his taxes and counts on Jim Longley to see that he gets honest, frugal government."

Finding the state's economic-development agency politically overstaffed, Longley cut it from nine offices and 53 staffers to one office of nine people. He drafted summer residents and concerned citizens to serve as "Friends of Maine" and cadged introductions to corporate executives throughout the nation. Result: 86 companies expanded Maine facilities during his term, and 74 opened plants, creating 11,300 jobs.

Like most states in 1975, Maine faced a runaway welfare program, one that was eating up a third of the state's budget. Food-stamp recipients hid sources of income, and the welfare bureaucracy's checkups were few. Fathers abandoned families, and little effort was made to collect child support from them. Aid to families with dependent children (AFDC) had swelled to 25,000 families, and experts predicted the load would double in Longley's term, costing the state $130 million a year. Families with incomes as high as $18,000 a year were getting state aid.

To curb the "welfare monster," Longley picked David E. Smith, a young management specialist who had come up through the welfare bureaucracy's ranks. When Smith was done, instead of the predicted $130 million a year, Maine was spending $50 million on its AFDC program. Smith cut food-stamp rolls by 45 percent, saving $26 million yearly, and rolled back AFDC families from 25,000 to 18,000. But he increased the maximum grants by nearly half for those on the low end. A new program to crack down runaway fathers increased child-support collections eightfold, to $4 million yearly.

The flak was heavy: lawsuits, mothers marching in protest and fiery legislative denunciations. Longley never flinched. When welfare clients complained, he personally visited their homes, and made sure there were no bureaucratic snarls for the truly down-and-out. Even protesting groups gave Longley high marks for improving the efficiency of agencies dealing with low-income people. Moreover, he poured $6 million into building a model program for retarded children and installed free medicine for the elderly.

CLEAR DEMONSTRATION

The "bottom line" on Longley's cost-cutting: in two of his four years in office, Maine was the only state in the nation to decrease the per-person state-tax burden. Spending increased about ten percent a year, moderately ahead of inflation. "But under anyone else, it would have gone up twice that fast," declares the Republican senate president, Joe Sewall. And Longley last year became the first governor in Maine's history to sign major tax cuts and rebates.

Another Longley promise was to be "the hardest-working governor Maine ever had." Indeed, by working 18-to-20-hour days, he left a legend akin to Superman around the state. Out for his 5 a.m. run one morning, he stopped to change a tire for an older man who turned out to be a State House janitor. When the deputy commisioner of mental health sought permission to force-feed a depressed patient, Longley went to see the patient himself and was able to coax her to eat on her own. Longley also interviewed privately every prison inmate whose application for clemency or pardon he had to act upon.

As the 1978 election approached, polls indicated that Longley would beat any challenger by at least two to one. Although countless editorials and letters urged him to reconsider, Longley announced firmly he would not run: "Nothing we might accomplish in a second term would be as important as a clear demonstration that this governor continues to keep his word."

One civic leader summed up Longley's achievements: "The people have seen a man fight for what he believes—and demonstrate it can be done. Any future governor will be measured by that standard."

But perhaps the highest tribute came from John Martin, the Democratic speaker of the house of representatives and Longley's most frequent opponent in the legislature: "He finally made people realize that whatever they get from government they have to pay for."

EDITORS' NOTE: Today Longley is happily back running his insurance business. His only political activity is to serve as co-chairman of the National Taxpayers Union's drive for a Constitutional amendment compelling Congress to balance the federal budget. He has said he might run for governor again in three years, and he hears from many who urge him to jump into the Presidential primaries as an independent. But, says Longley, "what I'd really like is for somebody to run whom I could wholeheartedly support, somebody who would change the politics-as-usual game in Washington."●

RECOGNITION OF RICHARD BIONDI'S CONTRIBUTIONS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. OTTINGER. Mr. Speaker, on December 18, the Iona College community will bid farewell to one of their faculty members, Richard Biondi. I am pleased to share with my colleagues at this time a brief recognition of Mr. Biondi's numerous accomplishments and contributions to the college, the New Rochelle community, Westchester County, New York State, and the Nation.

Richard Biondi has been a member of the administration and faculty of Iona College since July of 1967. As director of financial aid, association director of admissions, and as executive director of college advancement, he has distinguished himself on local, State, and national levels in the service of students and institutions of higher education.

Mr. Biondi has worked closely with my staff in the development and implementation of financial aid forums for the constituents of my district. For the past several years, this event has afforded students and their parents the opportunity of learning the details and approaches of financial aid programs from experts in the field representing governmental and private agencies.

As president of the New York State Financial Aid Administrators Association and as an elected official of the Eastern Association and National Association of Student Financial Aid Administrators, Mr. Biondi labored for legislation, policy, and procedures which would make financial aid programs more responsive to the needs of students who want to engage in post-secondary education.

He was a charter member of the communty leadership consortium, an advisory board which involved five metropolitan area colleges' higher education opportunity programs. He has had direct input into the revision of State regulations governing opportunity programs.

Mr. Biondi has been an elected trustee of the Westchester-Rockland-Putnam Guidance Counselors Association for several years. He has worked closely to develop more effective levels of communication between private and governmental agencies and organizations and the secondary school student for the enlightenment and benefit of the latter. His presence and participation in high schools and community-organized forums throughout Metropolitan New York City and the State have been numerous during the years. He has been called upon to present testimony before congressional committees, hearings sponsored by the Office of Education, and before committees of the New York State Legislature. He has been a presenter at professional association conventions held throughout the country.

Through Mr. Biondi's efforts, public employees have been provided with increased funding opportunities in order to pursue higher education. For example, he brought the law enforcement education program to Iona College. Through him, Iona College became the first 4-year college in Westchester County to be selected as a participating institution in the Intergovernmental Personnel Act education program.

His work with neighborhood associations and with the city of New Rochelle and the Westchester County government with regard to better articulation and interaction has brought about a better rapport among all parties concerned. He has been a moving force behind the progress achieved by the North Avenue revitalization project and several other community-based activities as well.

Mr. Biondi resides in White Plains with his wife, Maureen, and two children.

Richard Biondi has made an extraordinary contribution to his community, State, and Nation and to all students that deserves our recognition and commendation.●

SPECIAL OCCASION

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. APPLEGATE. Mr. Speaker, it is indeed an honor for me to bring to the attention of my colleagues in the House of Representatives a very special occasion in the life of a constituent of mine who is truly a leader in the church community of the 18th Congressional District of Ohio.

Just recently, the Rev. Chester Szymanski, pastor of St. Stanislaus Catholic Church, Steubenville, Ohio, was presented with an inscribed plaque commemorating his 25th anniversary as the administrator, and then pastor, of the church. The plaque was awarded him by the Our Lady of Steubenville Rosary Making Guild.

Since first being ordained as a priest in Steubenville on May 31, 1947, Father Szymanski has had total involvement with the church and all of its activities. He has held a whole host of positions within St. Stanislaus, most significant of which was that of administrator from November 23, 1954, until March 28, 1958, when he was named pastor of the church. He has held that position ever since.

Father Szymanski is to be commended for his many contributions to both the church and the community. We in Steubenville are indeed privileged to have Father Szymanski in our area, and extend our congratulations and thanks to him at this time.●

GOVERNMENT BRAINWASHING

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. BADHAM. Mr. Speaker, as our colleagues in the Senate continue their debate on the proposed windfall profits tax bill, I would like to bring to your attention a "letter to the editor" written by one of my constituents, Mr. Paul Raabe. Thus far, the debate in the Congress has been conducted in a haze of misinformation and emotionalism. Mr. Raabe has succinctly articulated that what this country needs is not more taxes on petroleum products, but less. He said:

> They pay (oil companies), on an average, 43 percent of their profits in income taxes. They are also taxed on their payroll for social security and unemployment insurance—federal and state. This would have the effect of increasing the tax bite to around 50 percent of their profits. In most states the tax at the pump includes federal and state assessments totaling 11 cents per gallon, almost twice as much as the profit realized by the oil companies.

The oil producers in this country are already overtaxed. We do not need a windfall profits tax, we need immediate deregulation of the domestic oil industry. I request that Mr. Raabe's letter to the editor be inserted at this point into the RECORD.

GOVERNMENT BRAINWASHING

EDITOR: I am sure that you, just as I, are very dissatisfied with the rising cost of gasoline and other products of the oil industry. In the future we can expect still further price increases.

According to the politicians, the blame can be placed with the oil companies, Mr. Carter has been ranting against their third quarter profits. House Speaker Tip O'Neill called them "an absolute and utter disgrace." Well, let us examine the real reason for the high cost of gasoline.

The oil companies, according to the Chicago Tribune-New York News Syndicate, realizes 6 cents profit on each dollar in sales. They pay, on an average, 43 percent of their profits in income taxes. They also are taxed on their payroll for social security and unemployment insurance, federal and state. This would have the effect of increasing the tax bite to around 50 percent of their profits. In most states the tax at the pump includes federal and state assessments totalling 11 cents per gallon, almost twice as much as the profit realized by the oil companies.

There are other items of cost that we must also pay indirectly. The regulations imposed by the Department of Energy (DOE) require reports that must cost millions of dollars each year to prepare. Also, the DOE has an allotment of $11 billion this year, which is more than the combined earnings of the 10 largest oil companies in the USA. Yet the DOE has not produced any oil. In fact, they are more of a handicap than they are useful.

Now our government wants an additional so-called windfall profits tax, and who will pay that? We will—you and I, because as the expenses rise, the price will, of necessity, also rise.

It is very apparent to me that our government, with assistance from the news media, is trying to brainwash the people to the extent that they will accept nationalization of the oil industry. I am sure that you do not want this to happen. So I urge you to do what you can to inform people of who really is responsible for the high cost of gasoline and other products of the oil industry.

PAUL H. RAABE,
Oceanside.●

WHAT IS THE BASIS OF LEARNING?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. MICHEL. Mr. Speaker, we have heard much in recent years about the back-to-basics movement in education. Usually when this term is used, it refers to a desire to have grammar, mathematics, spelling, and other "basic" material taught to children instead of giving them "how-to-adjust" courses.

A recent column by William Raspberry of the Washington Post suggests that what is needed in education is something even more basic than traditional subject matter. There must be proper motivation and a belief in those "middle-class values" that have been the subject of so much abuse in recent years. Raspberry, quoting famed educator and psychologist Bruno Bettelheim, writes that "education requires a middle-class orientation."

I urge all those interested in education—and that should include just about everyone and especially those in Congress with direct responsibility for spending tax dollars on education—to read Raspberry's article.

At this time I wish to insert in the RECORD, "Fear and Learning in the Public Schools," by William Raspberry, the Washington Post, December 10, 1979.

FEAR AND LEARNING IN THE PUBLIC SCHOOLS

One frequent criticism of public education is that it is too middle-class oriented to be effective with non-middle-class children. Not just textbooks and tests, but also curricula and even educational goals, we are told, are tainted by this middle-class bias.

Now comes Bruno Bettelheim, the celebrated educator and psychologist, with a different perspective: that education requires a middle-class orientation.

"In the recent controversy about whether our schools serve the underprivileged well, it has been pointed out again and again that current methods and procedures, including our teaching materials, are geared to the middle-class child," he says in an article in the winter issue of American Educator magazine.

"In fact, none of the learning our present schools expect to instill in their students can take place without what has been described as a puritanical, or a specifically middle-class, morality."

The essence of middle-class morality, as it relates to education, is, Bettleheim contends, "the conviction that postponing immediate pleasure in order to gain more lasting satisfactions in the future is the most effective way to reach one's goals." In other words, the "pleasure principle" must give way to the "reality principle"—the principle of deferred satisfaction.

"It is this morality alone that makes serious and consistent learning over long periods of time possible," Bettelheim believes.

If his notion squarely contradicts the recent idea that "learning must be fun," Bettelheim embraces the contradiction.

"Those who live by the pleasure principle can and do make good use of educational experiences which are made truly enjoyable to them," he concedes. "In this manner they may acquire bits of knowledge and skills.

"But despite it they remain essentially uneducable and uneducated because solid knowledge requires that such isolated pieces of information become systematically woven into a consistent whole, and this demands prolonged hard work for a distant purpose. It is beyond those who cannot give up the pleasure principle for the reality principle."

Bettelheim expresses in impressive psychological terms what many of us, including a number of teachers, have believed instinctively all along: that reliance on pleasure alone is of limited educational value.

Some things—simple scientific experiments, for instance—can be made fun. Others—multiplication tables, long division, trigonometric functions and much of history—cannot be.

So where do we turn for motivation?

Comes Bettelheim's surprising answer: to fear—fear of hell, fear of parental displeasure, fear of not making it, fear of something.

"The child must fear something if he is to apply himself to the arduous task of learning," says the distinguished professor emeritus at the University of Chicago. "My contention is that for education to proceed, children must have learned to fear something before they come to school. If it is not the fear of damnation and the woodshed, then in our more enlightened days it must be at least the fear of losing parental love and respect (or later, by proxy, the teacher's) and eventually, the fear of losing self-respect."

But we no longer want our children to be afraid. We want them to act on the basis of reason and objectivity and sound judgment, not out of some learned sense of absolute right and wrong. That may be fine for adults with well-developed consciences, Bettelheim says, but to an immature child, it is likely to translate into: I can act as I please.

The reality principle is not learned on a rational basis, Bettelheim believes, but through two sets of experiences: anxiety instilled by parents and the example of parental behavior. The latter experience, naturally, is more likely to be available to the middle-class youngster than to the child from a low-income family.

But the reality principle can be taught, he believes, if teachers are aware of the necessity of teaching it.

"Our ability to postpone must be based on the repeated experience that it pays off in the future. The injunction not to grab and eat a cookie right now will be effective only if the child gets a good deal of praise and affection for the postponement, if he is not too desperately hungary at the moment, if his hunger has always been satiated pleasantly and fully in the past, and if he fears that by grabbing he will lose the source of this very certain satisfaction.

"No praise will work with the hunger unstilled; no demand will be effective without the conviction that postponement will achieve greater gains but certainly no loss. No postponement is possible if all one's experience says, 'What I don't grab now I'll never get.' "●

WHY THE HOSTAGES WERE SEIZED

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. LaFALCE. Mr. Speaker, while the Ayatollah Khomeini was delivering another one of his incendiary and lie-ridden addresses, a prominent Iranian leader revealed the real motivation for the seizure of the U.S. hostages in Tehran.

Ibrahim Yazdi, who has the dubious distinction of being one of the Ayatollah Khomeini's former foreign ministers, explained that the seizure had nothing to do with the crimes of the Shah or the identity of the U.S. President, which confirms the suspicions of many U.S. commentators. The hostages are being used to mobilize the masses, whose support for the Ayatollah Khomeini had been lagging before November 4 because of Iran's many internal problems and the blatant excesses of the revolutionary courts. As the country was collapsing around him, which was largely due to the gross ineptitude of his followers, the Ayatollah Khomeini seized upon the concept of the "foreign devils" as the explanation for all of Iran's problems.

Mr. Yazdi may have performed an inadvertent service by admitting the real motivation for this immoral and illegal action. I want to direct my colleagues' attention to a story in today's Washington Post, which contained Mr. Yazdi's remarks, because they are so very revealing.

The story follows:

Khomeini Aide Says Embassy Taken to "Mobile Masses"

Tehran, December 12.—Ayatollah Ruhlolah Khomeini accused the United States today of trying to distract world attention from its "crimes against Iran" but a Khomeini aide and former foreign minister said the real reason for seizure of the U.S. embassy was a move to "mobilize the masses" to improve the country's economy.

Khomeini, speaking in the holy city of Qom, said the United States was "trying to create amusements" to "prevent us from bringing to the notice of the world the documents and evidence of crimes and plunder of the presidents of the United States and, in particular, the present one."

The remarks, published by the official Pars news agency, did not explain what Khomeini meant by "amusements" but he apparently was referring to U.S. moves to put the dispute before the United Nations and the International Court of Justice.

In an interview published by the English-language weekly The Iranian, former foreign minister Ibrahim Yazdi gave an explanation for the seizure of the U.S. embassy and the continued holding of 50 hostages that coincided with the suspicions of many Western observers.

"In order to rally the masses, this kind of thing should continue," Yazdi was quoted as saying.

"If this campaign against the Americans ends just by a trial of these Americans and their deportation, it will be a disaster. It has to go further. We have to divert this to the reconstruction of the country. When the masses are completely mobilized against the Americans, it is easier to tell them to go to the fields and do this and that," he said.

He added, "If one is to mobilize the masses and to correct their attitudes toward a consumer society, you have to have a very strong motivating force."

Yazdi, who lived in exile in the United States for 14 years, resigned as foreign minister two days after the American embassy was seized Nov. 4 but he is still an aide of Khomeini and has been named to head an investigation of problems in Iran's provinces.

Iran's leading revolutionary judge, Avatollah Sadegh Khalkhali, who has sentenced hundreds of supporters of the deposed shah to death by firing squad, told reporters in Qom that none of the American hostages will be sentenced to death if they are tried as spies.

It was unclear what authority Khalkhali's remarks had. In the past, declarations about the hostages by various officials have often been rejected by the militant students holding the embassy or by Khomeini.

Meanwhile, the Foreign Ministry said that a letter purportedly written by Sen. Edward M. Kennedy (D-Mass.) asking to visit Khomeini and pledging support for him apparently was a hoax.

Kennedy's office in Washington said that Kennedy had had no contact whatsoever with anyone in the Iranian government, especially a letter being sent to the ayatollah.

Before the Foreign Ministry's denial of the letter's authenticity, official Radio Tehran had broadcast its contents several times, including a purported Kennedy pledge that I will give my blood for you." There was no indication where the letter originated.

Kennedy, a Democratic presidential candidate, recently stirred controversy in the United States and received front-page press coverage in Iran for remarks condemning the shah as a dictator.●

THE QUIET SUBSIDY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. PAUL. Mr. Speaker, the Federal Government, that reverse Robin Hood, often takes from the poor and working people and gives to the rich. One of the most flagrant examples of this is the Export-Import Bank.

This institution subsidizes big business and penalizes every ordinary American with more inflation and capital misallocation.

A recent issue of Inquiry magazine had an excellent article on the subject, and I would like to call excerpts from it to my colleagues' attention:

The Quiet Subsidy

(By Nicholas Burnett)

The Carter administration proposes federal loan guarantees of $1.5 billion for the Chrysler Corporation, which is set to lose over a billion dollars in 1979. The National Association of Manufacturers objects to the interference in the workings of the free market that the guarantees would represent. The NAM argues that public subsidies should not be granted to a firm that deserves to die.

But NAM spokesmen are careful to add that the association does not object to assistance to Chrysler "under legislation of general applicability." The commitment to the free market turns out to mean not an objection to subsidies per se; only a demand that all corporations should have equal access to government assistance. And in fact, Chrysler has long received huge subsidies from one of Washington's more obscure agencies, the Export-Import Bank of the United States.

Eximbank, as it is generally known, supports U.S. exports in a variety of ways, largely by making direct loans to enable foreigners to purchase U.S. products and by guaranteeing and insuring loans for this purpose extended by private American banks. As of March 31, 1979, Chrysler had been the beneficiary of $0.5 billion of Exim's credit. The total for General Motors, whose chairman Thomas Murphy vociferously opposed loan guarantees for Chrysler, was $0.9 billion.

Eximbank does not use taxpayers' money directly. It prides itself on not taking appropriations from Congress; its latest annual report notes prominently that it has paid more than one billion dollars to the United States Treasury since the bank was established by Executive Order in 1934. What Eximbank does is to borrow from the Treasury and then to repay to the Treasury the principal together with an annual "dividend." This subsidy to the private sector is discussed in a 1976 Congressional Budget Office (CBO) study as follows:

"A subsidy arises because Eximbank can borrow, mostly from the government at government bond rates, and lend at a rate lower than the going rate in the export finance market. . . . The size of the subsidy is not under the control of the Eximbank. The subsidy decreases when the market rate falls, or Eximbank starts disbursing loans which were authorized at a higher interest rate, or when Eximbank disbursements decline. For fiscal year 1975 over 50 percent of the subsidy went to support the sales of aircraft and other transportation equipment, nuclear power plants and equipment, and other special industrial machines."

Exim lends money to foreign purchasers of U.S. goods at rates below those they could obtain on the private market. So one might expect foreigners to be the subsidy's beneficiaries: They are, but they are not the only ones. Research by Professor Janos Horvath of Butler University in Indianapolis demonstrates that "Eximbank does not favor foreigners at the expense of Americans, but, rather, its subsidies end up within this country." And, "the grant equivalent [i.e., subsidy] accrues to the exporter, or in a broad sense to the export sector of the national economy." About two hundred large U.S. exports. So the subsidy ends up with firms account for over 85 percent of all big business.

Despite the massive credits in favor of GM and Chrysler, these vehicle manufacturing giants rank but sixth and eighth among the corporations benefiting from Eximbank finance. The list of those each having more than half a billion dollars of credit authorizations this March confirms the pattern the CBO identified in 1976: Boeing ($3.0 billion), Westinghouse ($2.6 billion), General Electric ($2.0 billion), McDonnell Douglas ($1.8 billion), Caterpillar ($1.1 billion), General Motors ($0.9 billion), Allis-Chalmers ($0.6 billion), Chrysler ($0.5 billion).

Since these data were compiled, Westinghouse has shot to the top of the list. In August Eximbank approved the largest credit it has ever authorized, $1.2 billion, to support Westinghouse's sale of two nuclear power plants to South Korea. Nuclear power exports now use more of Exim's funds than anything else. "Twenty-five to thirty percent of our annual budget for direct credits is accounted for by nuclear exports," says Jim Cruse, Exim's acting vice-president for policy analysis. Exim has financed forty-seven of the fifty-nine nuclear plants that have been exported from the United States to date.

The bank justifies its support for nuclear and other exports in terms of the need to meet foreign competition, arguing, for example, that if the U.S. did not sell those power plants to Korea, then Germany or France or Sweden would. The governments of these countries provide export finance to help their manufacturers obtain orders, and the U.S. government must do the same if American firms are to compete successfully in the world marketplace. This argument received a further boost this year when President Carter committed the government to all-out support of exports in order to combat the growing trade deficit. The chairman of Eximbank, John Moore, has become a veritable missionary in his devotion to this goal, traveling the world to promote U.S. products and Eximbank's financing of them.

The scramble for world trade set off by the industrial countries' desire to restore their external payments balances after the shocks administered by OPEC in 1973–74 has led to a revival of mercantilism, one symptom of which is keen competition among national export credit agencies. Meeting this competition has caused Exim to lower its interest rates wherever possible. Its average rate in 1978 was 8.25 percent, down from 8.53 in 1977, and well below the prime rate.

The argument that the United States should subsidize exports because other countries do so is not without superficial appeal. Yet it does not stand up under deeper examination. If the problem is the trade deficit, then the solution lies in the value of the dollar. Let it float downward until payments equilibrium is achieved.

Furthermore, it is by no means obvious that there is a correlation between a country's export performance and the proportion of its exports that government credits assist. Japan, an outstandingly successful exporter, supports some 39 percent of all its exports with government credit; the comparable figure for Germany, another successful exporter, is only 11 percent. U.S. Treasury econometricians have attempted to calculate the "additionality" of Eximbank programs. For the fiscal year 1976 they claim that "about two-thirds of the total U.S. exports which the bank financed directly represent additional sales which might not have been made if Exim finance had not been available."

The analytical problem with such a claim is that it is not possible to compare what happened with Eximbank financing to what happened without. Assumptions must be made about what would have happened without bank support of exports. In addition, the study extrapolates from only one year's figures. It is notable, moreover, that the Treasury study maintained that only Eximbank's direct loan program was particularly effective; the econometricians estimated that only "about 30 percent of the guarantee program produced additional sales, as did about 27 percent of the insurance program."

The Treasury study says that one-third of the exports Eximbank supported would have been sent abroad in any case. Jet aircraft must surely be one of these inevitable export items. Eximbank financing here is, in Senator William Proxmire's words, "utterly ridiculous, because there is no competitive reason for it." A press release announcing a credit of $151 million in October 1978 to permit British Airways to purchase nineteen Boeing 737s proudly observed that the loan "continues a long history of Eximbank's financing support for exports of U.S. aircraft. The bank has assisted U.S. manufacturers in obtaining approximately 80 percent of the world market." This gets things the wrong way round. There is some foreign competition, notably from European Airbus, which challenges the American jumbo jets, but many U.S. planes have no overseas challengers at all. Yet, after the nuclear industry, aircraft manufacturers have benefitted most from Eximbank finance. About 60 percent of all U.S. jetliner exports receive Eximbank support, according to the Aerospace Industries Association. It is difficult to understand the justification for this, particularly for such credits as one in 1977 permitting the Japanese domestic airline All Nippon to purchase three Boeing 737s or one earlier this year for a similar purchase by the Canadian company Nordair. There is no non-American challenger for the 737.

Power plants, aircraft, transportation equipment. They're all manufactured by major corporations, and it's major corporations that benefit from Eximbank's programs. The bank has been pressed to do something for small business and, together with the Small Business Administration and the Department of Commerce, Exim introduced a nationwide series of conferences on exporting for small and minority enterprises. "No segment of the economy is being given more attention and encouragement by the Export-Import Bank than the small business concerns of this country," chairman Moore told a congressional committee in April. The bank considers the conference program a success.

"At the end of the fiscal year," states its report for 1978, "there were more than 3,000 exporters actively using Exim's programs, of which more than 1,100, or 37.7 percent, could be considered small business." However it is impossible to find anyone in the bank who will say how many of these businesses are using Exim programs because of the conferences. And it is deceptive to bandy around figures like 37.7 percent when nothing like that proportion of the bank's total export finance—in dollars, as opposed to number of firms helped—goes to small business.

Apparently big business isn't satisfied with the present level of Eximbank subsidies. The Carter administration has asked Congress to authorize the bank to lend $4.1 billion in direct credits in the current (1980) fiscal year, up dramatically from $2.9 billion in fiscal 1977. Business groups, however, under the aegis of the "Export Policy Task Force" of the U.S. Chamber of Commerce, want even more. An internal document of this group, which includes executives of General Electric and Catepillar as well as bankers and other industrialists, describes its intention to lobby for an immediate increase in Eximbank's financing from $4.1 billion to "between $6 and $9 billion."

That's not all: Also proposed are two special funds, each an additional one billion dollars, one to support exports to "higher risk developing countries" and the other to meet foreign "mixed credit" competition. (Mixed credit is a blend of aid and export credit funds.) Both funds would support increased U.S. exports to the developing countries.

It's not as if Eximbank hasn't been lending to the Third World. "About two-thirds of Exim's activity between 1970 and 1978 was in the developing countries, though two-thirds of U.S. exports went to the industrialized nations," observed chairman Moore in a recent speech. The bulk of these loans were to the so-called upper-tier developing nations, especially Brazil, Korea, and Mexico. Indeed the flow of Eximbank loans to the Third World, now around $2.7 billion a year, exceeds the total disbursements of the Agency for International Development by almost half a billion dollars—when the very special cases of Egypt and Israel are excluded.

The bank was first established in 1934 to facilitate trade with the Soviet Union, political accord with the country then being a major foreign policy objective. Today the provisions of the Jackson-Vanik Amendment preclude Eximbank from extending credits to Russia. China is also excluded, though it is expected that the explosion in Sino-American trade will soon lead the administration to propose legislation permitting Exim credits for the People's Republic.

Exim's aggressive lending elsewhere in the world may lead it into financal difficulties. At present the bank earns more than it has to pay out because some three billion dollars of its outstanding loans is financed from funds on which it need pay no interest: about two-thirds in accumulated earnings and one-third in original capitalization. This situation may not continue. Chairman Moore's pushing of U.S. exports has involved a considerable shaving of Eximbank's interest rates and a decline in the bank's "dividend" payments to the Treasury relative to the size of its business. In 1978 this dividend was only $35 million, the same as in 1977, despite a 26 percent increase in the volume of export sales supported.

Since 1975 the comptroller general's annual examinations of Exim's financial statements have been qualified, at first because the reserve available to meet potential losses could not be precisely determined but had clearly failed to keep pace with the rapid expansion of programs in the 1970s, and in more recent years, because of an increase in the amount at risk on delinquent and rescheduled loans to financially precarious Third World nations. In commenting on last year's statements the comptroller general observed: "Although the reserve increased in fiscal year 1978, the risk of incurring possible future losses increased to a larger extent. . . . We are unable to express an opinion on the adequacy of the reserve . . ."

Nobody thinks Eximbank is about to go bust. That would take a worldwide financial collapse. Rather there is a possibility—denied by Exim officials—that the banks could find itself suffering losses large enough to require coverage by federal budget appropriations. Despite Exim's never having received an appropriation, there is nothing in the 1945 and 1978 laws incorporating the bank that obliges it to be financially self-sufficient, though it is expected to obtain reasonable assurances of repayment.

The key determinant of Eximbank's financial health is the interest rate it charges to foreign borrowers. The lower the interest charged, of course, the less income Exim can put into its reserve to cover defaults and other contingencies. Should that reserve prove inadequate, the federal purse—ultimately the taxpayer—will have to bail out the bank. The interest rate it establishes is therefore a matter of public policy.

Yet the public cannot attend the board meetings at which Eximbank sets its interest rates, both in general and for specific loans. While the bank is required by the Sunshine Act to hold all its board meetings in public, it has not yet held an open meeting. It is extraordinarily difficult for the public to find out what is going on inside. Board minutes are extremely brief and the staff is hostile to public scrutiny. . . .

Thus far, the bank's refusal of appropriations and its relative obscurity have protected it from criticism. But Chamber of Commerce proposals for two new Eximbank funds for assisting exports to the Third World will, if adopted, require the direct financial support of the taxpayer.

The business group's document does not explain how a mixed credit fund is to be financed, but as its interest rate will be lower than that for straightforward export credits, it will surely run at a loss. The proposal on credits for higher-risk developing countries is more explicit: "Because of the requirement of reasonable assurances of repayment in its charter, Eximbank has in the past been reluctant to extend foreign credits for transactions with higher risk developing countries." If legislators can be persuaded to enact such a fund, the group suggests that the congressional mandate "include language to the effect that losses are expected."

This is worth closer examination. There are certain developing countries where the political instability or level of external debt is such that neither private banks nor even Eximbank is prepared to lend much. Yet our captains of industry want Exim to make loans to such countries, fully expecting that the bank will suffer losses. By then the corporations, however, will have made their sales and gotten their profits, thank you very much. And these extraordinary financial demands on federal agencies like the Export-Import Bank are made in the same breath with outright opposition to subsidies to Chrysler and vocal support for the free market. If the corporations were at all sincere, they would call for the abolition of the Export-Import Bank.●

THE LIMITATIONS OF TV JOURNALISM

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. LaFALCE. Mr. Speaker, TV's coverage of events within Iran in general and NBC's "interview" with the young Marine corporal at the U.S. Embassy in Tehran, in particular, have raised some serious questions about TV journalism.

During the Vietnam war, television helped to bring home some of the reality of that unfortunate conflict; and during the Watergate crisis, television informed millions of Americans about most of the details of that sorbid episode. As the state of the art progressed in terms of advanced telecommunications and the increased skill of correspondents, some commentators, like Marshall McLuhan, predicted that television and other electronic media would soon replace the printed media.

However, the crisis in Iran has revealed some of the problems inherent in television journalism, which are to some extent unique to television. From the very beginning, the networks have been somewhat at the service of the Ayatollah Khomeini and the so-called students at the U.S. Embassy, as both have employed the new technique of television diplomacy. NBC's decision to interview the Marine corporal hostage demonstrated a marked lack of sensitivity and a failure to consider the very probable possibility of brainwashing by the terrorists at the U.S. Embassy. Most importantly, the networks' fixation on the contrived mob scenes outside the Embassy, which have approximately the same importance as a pep rally, are conveying a rather selective reality, and a small slice at that, of what is happening in Iran at the present time. The carefully orchestrated mob reacts to television cameras in much the same way as a high school crowd at a football game reacts to its team's cheerleaders.

In the future, there will be a need to reexamine television journalism; and that reexamination must find an appropriate balance between absolute apologists for NBC and those who want no television coverage of events in Iran. I want to share with my colleagues a very thoughtful editorial from yesterday's Wall Street Journal, which examines the role of the electronic and printed media in Iran.

The editorial follows:

CAMERAS AND CAPTIVES

> CBS and ABC refused to air an Iranian-filmed interview with a Marine hostage, bridling at such conditions as it be run in full in prime time. NBC did run the interview, adding the pointed perspective that its subject had been held captive and his remarks must be seen in that light. The networks are showing some sensitivity to what has become a nightly propaganda barrage from Tehran.
>
> Events like the taking of the hostages pose a dilemma for all newsmen, and most especially for the television networks. American television reporters are conditioned to cover wars, rebellions and civil uprisings in much the same way they cover fires. You get your camera and soundman on the scene and stick a microphone in front of anyone you can find, the more important the better. The reporter asks questions and the subject gains access to a vast world-wide audience. If the latter has the argumentative skills of, say, a Persian rug dealer, he might be able to persuade the audience that he has hurts and grievances that would make men shudder when in fact what interests him most is the excitement of violence and unaccustomed power.
>
> This kind of coverage, indeed the television medium itself, has some fairly serious limitations, most of which have been debated ever since political and social activists first learned, some 25 to 30 years ago, that they could get the attention of the TV cameras if they could stir up a big enough ruckus. The media event being staged by the Iranians at the U.S. embassy in Tehran is not so different from thousands that have been staged on college campuses and city squares in the U.S. The yelling and waving of fists is a familiar sight. No doubt some of the Iranians running the Tehran show even learned their business on U.S. campuses.
>
> The fundamental problem here is that mass media, television and the printed press as well, impart credibility to the thinnest of causes. TV is particularly vulnerable to this risk because of its attraction to visual excitement, the severe limits available air time places on explanation and elucidation and the massive and not always fully attentive audience.
>
> The upshot is that Americans have been bombarded with a vast amount of anti-Shah and anti-American propaganda in the five weeks since the embassy was captured—and very little in defense of the Shah's successful efforts for so many years to modernize Iran and prevent it from exploding in an inferno of religious hatred, as it now seems to be doing. There has been very little on the tube to convey to American audiences that what now is happening is not a progressive movement but a reactionary retreat towards a more primitive and savage society.
>
> The Ayatollah Khomeini and his followers have achieved much of what they sought in seizing American hostages. They have used American television to persuade Americans, a high percentage of whom have only a superficial knowledge of the history of Iran, that the Shah must have been a pretty bad person to arouse all that hostility. By association, at least in some minds, the U.S. must be pretty bad in having allied itself with him.
>
> The Carter administration is understandably annoyed with this "TV diplomacy." It encourages Iranian leaders to become overcommitted to extreme positions and could weaken the administration's domestic political base for military action, should that become necessary. By now all American newsmen are justifiably hardened to the slings and arrows of American administrations, of course, but we would urge the TV networks not to treat the current administration's annoyance too lightly.
>
> We certainly would not want to see the networks retreat from their aggressive efforts to cover the news where it happens; and we are second to no one in admiring the courage and initiative of individual reporters and crewmen. Yet for all its virtues, television is still a long way from providing the kind of depth and balance in news that a liberal and open society, with vast international responsibilities, needs and deserves.●

DOMESTIC VIOLENCE PREVENTION AND SERVICES ACT

HON. SHIRLEY CHISHOLM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 13, 1979

● Mrs. CHISHOLM. Mr. Speaker, yesterday, the House passed H.R. 2977, the Domestic Violence Prevention and Services Act. This bill creates a modest effort toward alleviating the problem of domestic violence. State and local governments can now become more involved with this problem. H.R. 2816 provides that 75 percent of the $65 million authorized over the next 3 fiscal years is distributed to the States to go directly to community-based programs that give direct assistance to the victims of domestic violence. Throughout the Nation—and probably in many of our own districts—small community-based volunteer groups have been trying to help the men, women, and children caught in the web of domestic violence. Insufficient funding has been the major obstacle to the establishment and maintenance of programs necessary to serve the estimated one out of six families affected by family violence. The passage of H.R. 2977 has removed this obstacle.

In proclaiming the week of November 18, 1979, as National Family Week, President Carter stated:

> Families are the most universal and enduring element in human existence. A family is a reservoir of shared experiences, shared joys and sorrows and, most of all, shared love that spans generations and distances.

He further stated:

> We must nurture the family as it has nurtured us.

Nothing can be more threatening to the existence of the American family than family violence. I am pleased that the House has made this modest but essential effort toward stemming the tide of domestic violence.●

SOVIET PROVOCATION ON IRANIAN CRISIS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. FINDLEY. Mr. Speaker, the Soviet Union is deliberately attempting to inflame anti-U.S. sentiments in Iran in a way that could jeopardize the lives of the hostages and U.S. interests in the area. For example, on December 6, Moscow domestic radio cited a report in a French newspaper that alleged that American commandos were arriving in the Saudi port of Dhahran. The radio report noted that they were dressed in civilian clothing and were attempting to pass themselves off as technical specialists.

This is only one of many Soviet radio and press reports that are intended to increase tension in the gulf. The following New York Times article by Craig Whitney gives details on another Soviet commentary that makes it clear that the Soviet Union is backing Iran in the current crisis.

I would also like to call to the attention of my colleagues the anger and frustration within the U.S. Embassy in Moscow over the Soviet role in this crisis. The frustration felt by American officials is, however, only partially directed at Moscow. It is also aimed at the U.S. Department of State which has issued only a few tepid comments on the Soviet statements and position.

Now that it is clear that the U.S. Senate will not be voting on the SALT II treaty this year, I would hope that the administration will no longer let the treaty ratification process hold hostage an appropriate U.S. response to the deliberate Soviet provocation.

The articles follow:

MOSCOW BACKS IRAN ON HOSTAGES WHILE CONCEDING BREACH OF RULES

(By Craig R. Whitney)

MOSCOW, December 5.—The Soviet Union made it clear in an authoritative commentary today that it was backing Iran in the crisis over the American hostages while recognizing that they were being held in violation of international law.

The commentary in Pravda, the Communist Party daily, said the United States was trying to "blackmail Iran by massing forces on its frontiers" instead of extraditing the deposed Shah, Mohammed Riza Pahlevi, as Iran demands.

The article, which was the first full statement of the Soviet view since the embassy was seized Nov. 4, was taken as an indication that the Kremlin believes its strategic and ideological interests in the Middle East depend more on keeping on the good side of the Iranians than on identifying with the American position on the legality of an embassy takeover.

Pravda called United States naval maneuvers in the Arabian Sea "a gross violation of international legal norms."

"International law does not recognize a double standard," the newspaper said.

It did not allude to yesterday's resolution, supported by all 15 members of the United Nations Security Council, including the Soviet Union, calling on Iran to release the hostages immediately and urging "utmost restraint" on both Teheran and Washington.

The commentary was signed by Aleksei Petrov, a pseudonym used to signal a high-level policy statement. It acknowledged that "the seizure of the American Embassy undoubtedly is not in keeping with the international convention on respect of diplomatic privileges and immunity." But it asserted that "this act cannot be taken out of the overall context of American-Iranian relations."

"Does the stand of those in Washington who reject the demand of the Iranian people for the extradition of the Shah and the return to Iran of his plundered wealth have much in common with international law?" the commentary went on.

The article was viewed by some diplomats as a blow to prospects for Senate approval of the Soviet-American treaty on nuclear arms. To some extent, the Soviet stand on Iran reflects the present state of relations with the United States, strained by American plans to increase military spending and to deploy new nuclear missile systems in the United States and in Western Europe.

INTEREST IN AN ADJOINING NATION

Moscow evidently feels that it cannot afford to antagonize Ayatollah Ruhollah Khomeini, the Iranian leader, as long as he remains in charge in a strategically vital country stretching along 1,200 miles of the Soviet Union's southern frontier. As it did last winter with the Shah, Moscow could drop support for the Ayatollah if he lost control to left-wing forces, but at the moment the pro-Soviet Tudeh Party pays allegiance to the Ayatollah.

"It is logical that the Iranian people should demand the extradition of the Shah to Iran so that he can be put on trial for his crimes," Pravda said. "Nonextradition of the Shah is proclaimed by certain people in the United States as all but 'a matter of national honor,' but concealing a criminal does nothing to enhance a country's prestige and honor."

The article quoted statements critical of the Shah made by Senator Edward M. Kennedy of Massachusetts, who is seeking the Democratic nomination for the presidency, and by Andrew Young, the former delegate to the United Nations.

The Soviet stand has caused embarrassment among some Soviet intellectuals who are aware that this is the 150th anniversary of the death of Aleksandr S. Griboyedov, a playwright who lost his life when a mob sacked the Czarist Embassy in Teheran in 1829.

Mr. Griboyedov was serving as ambassador at the time. The mob decapitated and dismembered his body. As a sign of official regret, the Persians presented an 88-carat diamond to Czar Nicholas I. It is on display in the Kremlin Armory and it is called the "Shah."

U.S. IS IRRITATED BY ARTICLE

WASHINGTON, December 5.—The United States was irritated today by the article in Pravda, the Soviet party daily, which also said that, instead of showing restraint in the current crisis, "certain circles in the United States are putting their bets more and more on force."

The article suggested that the embassy takeover might be "a prologue to a military provocation."

Hodding Carter 3d, the State Department spokesman, said Secretary of State Cyrus R. Vance had told Ambassador Anatoly F. Dobrynin that the Soviet Union should do more to insure the hostages' release and that the Pravda article was "deplorable."

The comments were made in a meeting requested by Mr. Dobrynin, who is returning to Moscow for consultations.

U.S. AIDES IN SOVIET ANGERED OVER IRAN—SOME IN EMBASSY SAID TO DEMAND PRESSURE ON KREMLIN TO HELP

(By Craig R. Whitney)

MOSCOW, December 6.—Anger and frustration over a lack of Soviet cooperation in the crisis over the hostages in Iran have led to unrest among some of their colleagues in the American Embassy here. They feel that the United States has not pressed the Russians hard enough to help.

More than a score of embassy staff members met yesterday with the chargé d'affaires, Mark J. Garrison, for an unusual discussion that one participant described as very tense. An embassy spokesman declined to confirm that the meeting had taken place.

Participants said Mr. Garrison was asked, at times heatedly, to explain the mildness of the American response to Soviet statements that the seizure of the embassy in Teheran was justified because it was "a nest of spies."

STAFF REACTION TO PRAVDA ARTICLE

The focus of the hour-long meeting, according to participants, was a commentary published yesterday in the Communist Party newspaper, Pravda. Apparently reflecting high-level Kremlin views, it said the United States was violating international law by trying to "blackmail" Iran with threats of a military strike unless the hostages were released.

Mr. Garrison has been in charge since Nov. 14, when Ambassador Thomas J. Watson Jr. flew to the United States for a gall-bladder operation. Mr. Watson, who is expected back in mid-December, is a former chairman of International Business Machines Corporation and succeeded Malcolm Toon, a career diplomat with a reputation for outspokenness.

Mr. Garrison has spoken more softly, believing that critical public statements about the Soviet Union's attitude on the hostage situation could discourage whatever constructive actions it might take.

The Russians have assented to three resolutions in the United Nations Security Council calling on Iran to release the diplomats immediately. But publicly they have taken Iran's side, and Pravda said yesterday that it was understandable for Iran to demand the extradition of the deposed Shah, Mohammed Riza Pahlevi.

The embassy meeting yesterday was held before Secretary of State Cyrus R. Vance told the Soviet Ambassador, Anatoly F. Dobrynin, that the Pravda commentary was "deplorable." According to some of those who met with Mr. Garrison, several staff members said they thought the United States needed a better way to express its indignation over what they see as cynical Soviet propaganda.

On Nov. 23, in another outburst of frustration after the attack on the United States Embassy in Islamabad, Pakistan, staff members here canceled invitations to a group of Soviet officials to come to the ambassadorial residence, Spaso House, for a showing of the film "Goodbye Girl." The invitations were withdrawn, a note sent to the guests said, "because of the tragic events at our embassy in Islamabad and in view of the continuing danger faced by our colleagues in Teheran."

SOVIETS ASSAIL U.S. FOR POLITICAL, MILITARY "BLACKMAIL" OF IRAN

(By Kevin Klose)

MOSCOW, Dec. 5.—The Soviet Union denounced the United States today for employing "crude military and political blackmail" against Iran. The attack came one day after the Russians endorsed the U.N. Security Council call that Tehran free its American hostages.

A strongly-worded attack in the authoritative Communist Party newspaper Pravda implied that the United States took the hostage case before the United Nations and the World Court only as a cover for a military assault on Iran. It did not mention Moscow's vote supporting yesterday's U.N. call for immediate release of the hostages.

The Pravda article drew immediate fire in Washington, where State Department spokesman Hodding Carter called it "deplorable" and indicated that Secretary of State Cyrus R. Vance took it up personally with Soviet Ambassador Anatoly F. Dobrynin.

(Carter said Vance and Dobrynin met to discuss Iran and other issues as the Soviet envoy prepared to return to Moscow for consultation. The spokesman called the Soviet position on the Iranian crisis "ambiguous" and declared that "the Soviets can and should do more" to obtain the release of the U.S. hostages.)

While the seizure of the U.S. embassy "is not in keeping" with international law, Pravda said, the Tehran incident "cannot serve as a justification, much less a pretext for violation of sovereignty of an independent state."

Citing a report it attributed to the Washington Post that U.S. fighter bombers in the Persian Gulf "can strike with atomic bombs" at Iran's oilfield, Pravda also implied that Washington may be preparing a nuclear strike against Iran.

The Washington Post never mentioned any atomic or nuclear capability of U.S. forces in the Middle East.

The thrust of Pravda's comments, while obliquely justifying Moscow's support for diplomatic immunity in international forums, appears to be laying the framework for a more aggressively anti-American stance designed to curry favor with Iran's revolutionary rulers.

Never mentioning President Carter, Pravda pointed out that both Sen. Edward M. Kennedy (D-Mass.) and former UN Ambassador Andrew Young in recent interviews had called the deposed shah of Iran a violent despot who had stolen billions from his country. Using their statements to bolster its own pro-Tehran rhetoric, Pravda asserted, "Therefore it is logical that the Iranian people demand the extradition of the shah to Iran so that he should be put on trial for his crimes."

While referring to "the white house" just once and avoiding more specific references, the newspaper aimed its charges at the administration.

Pravda alleged that the "U.S. itself admits" that American diplomatic initiatives "are aimed at convincing the U.S. and international public that the U.S. allegedly exhausted peaceful means of settling the conflict and has no other way out but to use force."

"Instead of showing an example of restraint, responsibility, and composure in the situation, instead of redoubling efforts to find a reasonable way out without giving rein to emotions, certain circles of the U.S. are making an ever greater stake on force."

While declaring it "inadmissable" that the embassy takeover should bring American military counteraction, Pravda did not make any threats of Soviet counter-moves.●

TRADE PROBLEMS: RECOMMENDATIONS FOR ACTION (PART 5)

HON. JOHN H. ROUSSELOT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. ROUSSELOT. Mr. Speaker, today I will conclude this series on the Trade Subcommittee hearing held in San Jose on November 30. As my colleagues know, this hearing dealt with the competitive factors facing the semiconductor industry and the difficulties of trying to compete with the Japanese industry, which is government-subsidized. The final half of Mr. George Scalise's statement will appear today, along with the recommendations of the Semiconductor Industry Association for improving the competitive posture of the American integrated circuits industry. It is my hope that this series has helped the Members of the House understand the effect that other countries' economic and trade policies have on our hard-pressed domestic industries.

It should be our goal, as the Nation's legislators, to eliminate Federal regulations and laws which put our industries in less than competitive positions. The last half of Mr. Scalise's testimony follows:

STATEMENT OF MR. GEORGE M. SCALISE

Of all the foreign governments financing semiconductor enterprises to date, the Japanese effort has been the most effective. Their so-called VLSI subsidy program of at least $360 million over four years (Report, p. 77) is aimed at the commercial development of semiconductors and the manufacture of such products for export—with the goal of acquiring major market shares for the Japanese companies in both semiconductors and computers. The total amount of the state aid is probably even higher, due to unpublished subsidies and assistance from state-owned research facilities.

The Japanese acknowledge the commercial significance of their VLSI program, but counter with the defense that U.S. government practices are identical. The facts are as follows:

Unlike the Japanese, the U.S. government has never financed commercially-oriented research and development of semiconductor products (Noyce Testimony before the ITC, p. 16);

Defense-related U.S. semiconductor research funding ended ten years ago, before many of the present U.S. semiconductor firms were formed, and all commerical byproduct technology has been shared with our trading partners (Noyce Testimony before the ITC, pp. 16–17);

Present U.S. government R&D support for the semiconductor industry is virtually nonexistent and is certainly insignificant (ITC Report, p. 26); and

Even if they exist, any advantages from U.S. government procurement of semiconductor products can be shared by the Japanese if they adopt the "Agreement on Government Procurement" negotiated as part of the Tokyo Round.

Of the foreign semiconductor enterprises, the Japanese are unquestionably the most technologically advanced. The evidence which the SIA presented to the ITC strongly suggests that the Japanese semiconductor industry has plans to exploit its technological advances with a two-pronged strategy:

First, to capture a significant share of the U.S. market as a necessary proving ground for the most advanced products; and

Second and more perniciously, to deny the U.S. semiconductor industry the cash flow required for the capital expansion, research and development which is essential to continue its technological leadership.

This strategy reflects a further refinement of the *modus operandi* used so successfully by the Japanese in the television, steel and other industries: Underprice the U.S. producers for as long as necessary to buy a share of the market. Put another way, an all-out price war, with the financial backing of the Bank of Japan.

John Nesheim testified before the International Trade Commission that there are significant differences between the capital formation processes in the United States and in foreign countries. For some unexplained reason, this very important issue was not discussed in the ITC Report. I will summarize Mr. Nesheim's analysis very briefly.

On the one hand, U.S. semiconductor companies are privately owned and financed. They depend on earnings to generate internal funds which in turn constitute an equity foundation for debt capital raised in the competitive money markets. There is a practical limit, however, to the amount of debt that the free capital markets will allocate to the U.S. firms—the borrowings must be repaid and the market evaluates the risk of possible default. Even with their low debt/equity ratios (compared to Japanese enterprises), both medium companies such as mine and large U.S. companies like Mr. Nasheim's National Semiconductor have, as Mr. Nesheim testified before the ITC, "a bloody battle" borrowing capital in the free markets. Because free market forces determine the allocation of capital in the United States, our firms simply cannot borrow large proportions of money.

We know that the return on sales of the Japanese semiconductor firms average only 1.9% compared to 6% or more for the U.S. firms. Yet semiconductors is a growth industry in Japan. How does a "growth industry" grow when it doesn't make money? The answer is that they "borrow" money in vast amounts, as shown in the following table. This government-directed borrowing is the key to the Japanese advantage in international semiconductor trade:

[In percent]

	Capital structure	
	U.S. semiconductor firms[1]	Japanese semiconductor firms[2]
Short-term debt	5	38.4
Long-term debt	10	25.1
Total debt	15	63.5
Equity	85	36.5
Total	100	100.0

[1] Source: Table, p. 34, ITC report.
[2] Source: Moody's (NEC, Fujitsu, Hitachi).

Rather than make loans on the basis of business risk, Japanese banks apparently receive indirect or informal assurances from the Japanese government that it stands behind preferred borrowers, such as the Japanese semiconductor enterprises. As Mr. Nesheim testified before the ITC, only a government guarantee can explain the very high amounts of debt, particularly short-term debt, advanced by the Japanese banks to the Japanese semiconductor firms. An export-generating target industry such as electronics is so important to the Japanese economy that the government simply will not let it fail. Without Japanese government support, the risk of default would be too great to justify such enormous debts on a limited equity foundation and Japanese banks would not make the loans. Without government backing, these Japanese firms would be bankrupt under our standards.

You may ask, Mr. Chairman, why we are concerned about loan guarantees by the Japanese government. When government loan guarantees release a foreign enterprise from dependence on free capital markets, the beneficiary firm can reorient its market strategies. It need not worry about current earnings to finance growth or to support repayment of principal and interest on loans. It can underwrite massive research projects and fund long-term operating losses necessary to capture market share. In a competitive sense, its hand is strengthened in ways which cannot be matched by U.S. firms.

Once the Japaneese government is committed to an industry, the flow of capital appears endless. However, without the earnings "carrot," inefficiencies arise which must be masked by more and more subsidized capital, resulting in the phenomenally high debt ratios which exist in the Japanese firms. In his testimony before the ITC, Mr. Nesheim demonstrated that the capital utilization efficiency of U.S. semiconductor firms is much higher than that of the Japanese. Thus, by avoiding free capital market incentives, the Japanese system does not benefit consumers by greater efficiencies. It is designed principally to benefit the Japanese by providing jobs and by creating exports—the obvious goals of the Japanese capital formation system.

Let me return to my specific concerns about the ITC Report. The ITC Report ignores Mr. Nesheim's careful analysis and substitutes a questionable calculation at page 73, which the ITC suggests shows that the Japanese firms are more capital efficient than U.S. firms. We disagree with this analysis. The ITC relates annual shipments to new plant investment in the same year. By this test, a firm could claim infinite efficiency by having zero investment in one year, while shipping from plants built in prior years. Obviously, the ITC analysis is faulty.

Mr. Chairman, I am particularly concerned about the erroneous conclusion by the ITC that the U.S. industry fell behind in its investment in the mid-1970's, and that the Japanese have taken up the slack. There are three reasons why the ITC conclusion is wrong:

The ITC conclusion, based on table A-38 in the Report, considers plant additions alone, not plant and equipment. The aggregate statistical data clearly show that U.S. total investment in plant and equipment, as set forth in the following table, exceeded that of the Japanese by a multiple of ten in 1974 and a multiple of five in 1975;

The ITC data, Table A-38, shows a minor decline in new U.S. plant in 1975, but U.S. investment was still $100,000,000 higher than the new Japanese plant built in 1975. However, the Japanese investment in new plant declined about the same percentage, from 1974 to 1975, $41 million in 1974 to $34 million in 1975, and was very small—about 6% of the new U.S. investment in plants.

U.S. equipment investment has increased steadily in each of the past five years; obviously, U.S. producers were upgrading existing plant facilities to produce more sophisticated integrated circuits. Indeed, the Japanese investment in equipment declined in 1975 while the U.S. investment increased in that year over 1974 levels.

Consider the following table:

COMBINED ADDITIONS TO PLANT AND EQUIPMENT—UNITED STATES AND JAPAN

	1974	1975	1976	1977	1978
U.S. firms investment in United States	$411, 352	$399, 505	$476, 983	$510, 225	$678, 202
U.S. firms investment throughout the world	544, 215	542, 598	625, 795	667, 114	897, 053
Japanese firms investment throughout the world	41, 155	33, 714	115, 371	96, 615	172, 131

Source: Computed from tables A-38, A-39, A-63, A-64, ITC report.

There is clearly added capacity in the United States. The problem is that it may not be as profitable to use that capacity in competition with the artificially low Japanese prices.

In 1974 and 1975, Japan's aggregate investment in new plants was only 7.6 percent and 6.2 percent of the U.S. investment, respectively. It is difficult to accept the Japanese argument that their marginal additions to world capacity account for the surge of low-priced imports from Japan which have flooded the United States. The Japanese investment in 1974–75 simply does not explain the surge of low-priced Japanese imports in 1978 and 1979.

During the past five years, the U.S. industry has continued its research and development and has introduced virtually every new process and product in the leading edge technologies of memory and microprocessor products. The Japanese have copied these new U.S. products.

The ITC Report refers to the fact that SIA has recommended improved incentives for capital investment in the United States by amending our tax laws. The ITC refers to tax relief as a partial solution. Report, p. 34. However, given the magnitude of the threat from Japanese government supported enterprises, I want to emphasize that fine tuning of the U.S. tax laws will not sufficiently enhance capital formation by U.S. firms to offset in full the Japanese competitive advantages based on its governmental support. As Mr. Nesheim explained in his ITC testimony, even under the most favorable U.S. tax system imaginable for high-technology industries, incentives such as R&D subsidies and cutting U.S. tax rates would still give the Japanese debt/equity ratios averaging seven times larger than those of U.S. firms. (Table 3 to Mr. Nesheim's Statement.) Perhaps most importantly, the Japanese will still enjoy freedom from the rigors of raising funds in competitive capital markets.

As a final point, Mr. Chairman, the Japanese have argued that they solve trade problems by their investments in the United States. From purely a trade statistics viewpoint, this argument perhaps has limited merit. This Committee might study whether U.S. investments by the Japanese undermine the earning power of U.S.-owned firms, making them less competitive both in the United States and in world markets. For example, the return on color television operations for U.S. producers dropped steadily from 8.7 percent of sales in 1971 to 3.7 percent, 2.8 percent and 1.5 percent, respectively, in 1976, 1977 and 1978. This was the period when Japanese firms shifted from imports of Japanese to U.S. assembly of color televisions. A return of 1.5 percent on sales is hardly conducive to capital formation in free capital markets and the U.S. television firms are not prospering. Television is no longer a growth industry.

1.5 percent also approximates the average return by Japanese semiconductor firms. If Japanese firms, selling from their U.S.-based plants, force such low returns on the U.S. semiconductor companies, the U.S. industry will lose its growth potential and its ability to raise capital, all during a period when the Japanese banks stand ready to supply capital funds for more Japanese-owned plants.

In closing, Mr. Chairman, we hope that our cooperation with the ITC in generating this Report will attract the attention of Congress to our unprecedented problems and will provide the background for an effective solution, including legislation, if appropriate.

RECOMMENDATIONS

Our suggested remedies for the trade problems outlined here today fall into four basic categories:

(1) Meaningful remedies for disruptive imports and artificial pricing by the Japanese.

(2) Tax and financial incentives designed to keep the U.S. industry on a parity with the Japanese firms.

(3) Improved access to the Japanese market.

(4) Guidelines for investments by the Japanese firms in the United States.

(1) Japanese Imports. The key issue is artificial pricing. If the Japanese firms persist in disrupting free market forces in the U.S. market, our government must take steps to resolve the artificial pricing effects which will injure the U.S. industry by diluting our capital formation potential and learning curve benefits.

(2) Tax Incentives. Congress should establish a policy for the United States which provides incentives and other stimuli for those industrial sectors which we can reasonably expect to contribute disproportionately to the productivity, research strength, and trade strength of the national economy. Integrated circuits and computers would place high in this list. The incentives would relate to such parameters as innovation, exports, value added, employment (both qualitative and quantitative) and would stimulate intensified R&D and capital investment in the leading industries.

Specifically, we recommend the following:

Tax credits for year-to-year increases in research expenditures by fast growth, high technology firms;

Rollover provisions—capital gains tax deferral for reinvestment in new securities issues;

Liberalized depreciation, the net effect of which would be a three year write-off of equipment with a commensurate investment tax credit period;

Jointly funded cooperative research on university campuses in high technology areas; and

Tax credits for corporate contributions to universities, not to exceed 10 percent of total R&D expenditures by the corporation.

(3) Access to Japanese Market. Our government should negotiate with Japan for immediate implementation of the MTN tariff cuts, inclusion of Nippon Telephone and Telegraph under the Government Procurement Code, and strict enforcement of the other non-tariff barrier codes.

Japan must immediately eliminate all discrimination against foreign-owned companies with respect to equal access to financing, research and customers.

The Japanese government must also cease all restrictive patent practices and allow foreign-owned companies to acquire Japanese semiconductor patents as freely and openly as the Japanese firms acquire American patents.

(4) Japanese investments in the U.S. Congress should consider legislation which would tax U.S. operations of foreign-owned firms in an amount necessary to offset the structural advantages which they derive from foreign government target industry programs. If Japanese trade practices conducted from plants within our borders disrupt our markets or threaten the U.S.-based industry, appropriate steps must be taken to correct the situation.●

PERSONAL EXPLANATION

HON. MICKEY LELAND

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. LELAND. Mr. Speaker, on December 11, 1979, I was unable to be present on the floor for rollcall vote No. 716, an amendment to S. 423 that sought to strike language establishing a Dispute Resolution Advisory Board. Had I been present, I would have voted "nay."●

PERSONAL EXPLANATION

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. ROTH. Mr. Speaker, due to my absence on December 6, I missed a number of votes. Had I been in attendance I would have cast the following votes:

Rollcall 705: Domestic violence: Passage of House Resolution 498 providing for the consideration of H.R. 2977. "Aye."

Rollcall 706: Child Health Assurance Act: Motion to resolve in the Committee of the Whole. "Aye."

Rollcall 708: Amendment to permit medical assistance for abortions resulting from rape or incest. "No."

Rollcall 709: Substitute amendments that prohibit funding for medical assistance for abortions except when the life of the mother is endangered. "Aye."

Rollcall 710: Amendment which sought to convert financing mechanism for CHAP from an entitlement to a fixed authorization. "Aye."●

SENATE—*Friday, December 14, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 12 meridian, on the expiration of the recess, and was called to order by Hon. MAX BAUCUS, a Senator from the State of Montana.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray.

Eternal Father, help us to love the Lord our God with all our hearts, to love our neighbor as ourselves and to love our colleagues better than we sometimes do. Grant to us clean hands, pure hearts and worthy motives. Since Thou has given us the gift of a new day help us to make it a new beginning with a new spirit. Lead us in sorting alternatives, evaluating options, reconciling differences, overcoming intransigency until we are able to concert a national purpose in accord with Thy will. Keep us from wasting time on the wrong things or on things that do not matter. From the beginning to the end of this day help us fervently to do justly, to love mercy and to walk humbly with our God. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 14, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MAX BAUCUS, a Senator from the State of Montana, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. BAUCUS thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

Mr. WEICKER. I object.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I yield 3 minutes of this time to the Senator from Minnesota (Mr. DURENBERGER) and the remainder of the time will be under the control of the Senator from Kansas (Mr. DOLE).

The ACTING PRESIDENT pro tempore. The Senator from Minnesota is recognized.

(The remarks of Mr. DURENBERGER in connection with the introduction of legislation, are printed in the RECORD under Statements on Amendments Submitted to Printing.)

U.S. DISASTER RELIEF WORK IN JAMAICA AND DOMINICA

Mr. PACKWOOD. Mr. President, just a few weeks ago a special group of Americans returned to the United States after several months of disaster recovery work for two Caribbean island neighbors of ours, the nations of Jamaica and Dominica. For the most part, these men worked under adverse conditions, many living for 3 months in tent camps, eating C and K rations. Their workday was 11 to 12 hours, except on Sunday when they put down their tools for half a day of rest and recreation. For a few of the 150 men, serious illness required emergency evacuations by helicopter and plane to U.S. Navy hospitals.

And yet, Mr. President, this humanitarian effort by the United States has gone largely unheralded. I am particularly pleased to rise at this time, when Americans are held hostage in another part of the world, to pay special tribute to this Caribbean humanitarian undertaking by making this statement for the CONGRESSIONAL RECORD.

The men involved in this effort are Seabees of Naval Mobile Construction Battalion 40 from Port Hueneme, Calif.; NMCB 1 from Gulfport, Miss.; and the 8th Engineer Support Battalion, 2d Force Service Support Group and the Fleet Marine Force, stationed at Camp Lejeune, N.C. The project was under the operational control of the headquarters for Atlantic Fleet Seabees in Norfolk, Va., the Commandant of which is Capt. John Cameron Fraser.

Mr. President, some background is in order. In June of this year Jamaica suffered under 21 straight days of torrential rains. Fifty inches fell on the last 2 days alone and dozens of Jamaicans were killed. Houses and bridges were tossed about like toys and canyonlike gullies were gouged from mountainsides. Roads simply disappeared. One entire town was submerged under a new lake more than 100 feet deep.

The devastation on Dominica occurred in August when Hurricanes David and Frederic struck with full force. Winds from David were clocked at 225 knots. The storms left about 40 people dead and an estimated 60,000 Dominicans out of a total population of 80,000 were left homeless. The island's only hospital, in the capital city of Roseau, lost the roofs on most of its buildings; 80 percent of the island's commercial coconut and banana trees either were toppled or stripped of bark and foliage. Roads were made impassible by mudslides and walls of fallen timber. Wind-driven ocean waters blasted cavernous holes into the roadbed of one coastal road to Roseau, severing it completely in some places and isolating large portions of the island from the capital.

Mr. President, I have received a firsthand report of the work of our U.S. servicemen on the islands and wish to share with my colleagues in the Senate the news of the successful completion of this recovery operation, and the gratitude of the governments involved.

The Jamaican relief effort was the first to get underway. On August 28, the U.S.S. *Portland*, a dock landing ship, arrived in Montego Bay and unloaded 150 Seabees and Marine Corps Engineers and more than 100 pieces of construction equipment, including bulldozers, rock dumps, trucks and a mobile con-

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

crete plant. Enroute to its headquarters camp in the stricken portion of the island, the U.S. convoy passed what our men were told was a Cuban school construction project. It was completely fenced, hidden from the road to Savanna La Mar, near where the Seabees erected their headquarters, which remained open to view by anyone.

Cubans were involved in several projects in the vicinity of the U.S. effort, including the hospital at Savanna La Mar. As a result, local medical help was nonexistent for the Seabees and Marines, and for serious cases of dysentery and work-related injuries that the military camp doctor felt required more care than his field hospital could provide, our men had to be evacuated to Kingston by helicopter and then flown by U.S. military aircraft, ironically, to the Naval Hospital at Guantanamo Bay, Cuba.

In addition to disaster relief, Americans were involved in voluntary projects on Jamaica. Lt. Joel Levine of Watertown, Conn., a Navy doctor, spent 2 days a week treating Jamaicans at a clinic near the camp. And Lt. John J. Pagerkoph, a dentist, devoted some of his time to dental hygiene talks to children at a local school.

On the relief projects, Jamaicans worked alongside the U.S. servicemen at 10 sites, helping to rebuild roads and bridge crossings and working to install culverts designed to prevent flooding.

Mr. President, one project on Jamaica stands out as an engineering achievement of special note, and received special attention from Prime Minister Michael Manley. The effort involved repair of a bridge over the Barham River. One end of the bridge had fallen into the river when flood waters tore up its abutment. The Seabees and Marines spanned the river with an M-6 Bailey Bridge and lowered cables to the fallen bridge. Then, using block and tackle and bulldozers, the 110-ton trestle bridge was pulled from the river bank and held above the water until Seabees could reconstruct one abutment and repair the other and lower the bridge.

Prime Minister Manley told the Seabees he was fascinated by "how you analyzed the problem." He expressed the deep appreciation of his government for the work, saying "it has been a great, great pleasure having you in Jamaica" and that his nation was appreciative not only of what the men had done "but for the way in which you have done it. You've done everything with incredible speed and dispatch but also every report that I've got spoke of the warmest possible personal relations."

Mr. President, I should point out that those relations appeared somewhat in doubt when the detachment arrived. Letters in Jamaican newspapers occasionally expressed warnings about the arrival of the "U.S. Marines," but by the time the men had left at the end of November not a single incident of unfriendliness had marred the visit.

The reception was similar on Dominica, a small nation about 400 miles southeast of Puerto Rico. Before our men departed, the Government informed them that they were to be made honorary citizens. As one minister put it: "You came at a time when we were despondent. This is a small thing we can do to make this memory lasting, so that wherever you are, wherever you may be, when you leave our shores after this magnificent effort of human relief you will remember there is a place, a home away from home that you can call your own."

The "Can-Do" motto of the Seabees was never better expressed than for this deployment: Our men arrived September 17, less than 3 days after they had been notified of their emergency assignment late on Friday, September 14. Yet, by the end of the first day on the island, 40 members of the team and eight U.S. Air Force C-130 air cargo flights of equipment and supplies had arrived from the Roosevelt Roads Naval Base on Puerto Rico and from Gulfport, Miss. By Tuesday, 25 air cargo flights had been completed and the work began.

Before its mission was complete, the detachment was expanded to 70 men and they had repaired more than 50 miles of roads, community water systems, reroofed the hospital, and erected a major storage building to replace port facilities all but destroyed by the storms.

The Dominican detachment was in charge of a New Yorker, Lt. Comdr. Michael Hadbavney of Allegany, a town in Cattaraugus County. He said of his men and the reception they received:

> They helped people in need of help. The people have appreciated it deeply. How else would you explain Dominicans riding four hours on a bus to deliver a petition with 600 signatures thanking me and the United States for being here. To me, that's being welcome.

Mr. President, this example of the United States extending a helping hand to neighbors in need should be noted and these men deserve the thanks of our Government for the sacrifices they have endured in the line of duty. I have been told that they do not believe they were involved in anything special, that they were only doing the jobs for which they were trained. But the way they have worked and comported themselves is in the finest tradition of their organizations and of the United States and I believe that some special mention should be made of this humanitarian effort that not only repaired the physical damage to these islands but which shored up ties of friendship between the United States and the local populations. I ask that all of us take special note of this exercise in international friendship.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate resumed its consideration of the bill (H.R. 3919).

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time under the cloture rule be equally divided between Mr. STEVENS and myself.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, it is not my good fortune, if that is the word, to have been in the Senate on Wednesday night.

I have only this morning finished reading the RECORD of that bizarre evening. As I read it, I was troubled by what is an obvious trend in this body to move toward a lack of respect for precedent, a lack of respect for minority rights, and it troubles me.

I have, along with a few others in my party, supported a very stiff windfall profit tax. I supported Senator BUMPERS on his motion to substitute a House bill for the Senate bill. I supported Senator CHAFEE and Senator BRADLEY to increase their tax rate on tier 2 to 75 percent. I have in the past, Mr. President, with the exception of two occasions, always voted to invoke cloture.

The only two times I failed to support cloture was once during the New Hampshire election contest when I thought the majority party was trying to outright steal the election and hoped to get enough votes to shutoff debate and seat a disputed contestant in the election.

We were, fortunately, successful in stopping that effort and the issue was returned to the voters of New Hampshire for them to decide.

I voted against cloture on the issue of public financing of campaigns because I think it is an effort, again by the majority, to impose through the use of public funds a permanent minority status on the Republican Party and a permanent majority status on the Democratic Party.

On all other occasions, including the windfall profit tax cloture vote this week, I have voted to support cloture.

Too often in the past I have seen the filibuster used not as a method of giving time for sufficient debate so that minds might be changed, or nationwide publicity engendered to try to cause the public to write to the Senators in the hope of changing minds. Too often I have seen the filibuster used as a device to prevent any votes on the substance of the matter. That, in my mind, Mr. President, is not a legitimate use of the filibuster.

But I do say that if the device of appealing from rulings of the Chair is to be used to shut off minority rights, to change precedent, then I am very wary of a minority party giving up its use of the filibuster to protect legitimate minority rights.

Mr. President, my predecessor was Wayne Morse, former dean of a law school, constitutional expert, a good teacher of law. Time and again on the floor of this Senate and in speeches in Oregon, he made the statement:

> Give me control of the procedures of democracy and I will control the substance of democracy.

Mr. President, that is very true.

I was struck in an interview the other day by a remark of a reporter of one of our significant news magazines about the leadership in the Senate, majority and minority. He said that in his interviews he found great respect and appreciation of the Republican leader (Mr. BAKER) and great misgivings in some areas about the majority leader. I asked him why, and he said that any number of Senators were afraid of the unbridled use of majority power, and he indicated that many of those Senators were members of the majority party.

Mr. President, if we look at history, especially English history, from which we molded most of our history, it is almost 500 years from the Magna Carta to the Bill of Rights, a history of an effort to limit the majority, in some cases an effort to limit the right of government to impose restrictions on citizens.

But many of the restrictions that we find in English history that we have adopted are restrictions on the majority within the government to impose unduly decisions on a minority in government without a due respect for comity and civility.

I think, Mr. President, we are not far from a majority devising a way to obtain a ruling from the Chair on the use of extended debate, appealing that ruling, a majority standing behind the Chair, or overruling the Chair depending upon what the ruling may be, and shutting off the rights of the minority to continuing extended debate, by a simple majority vote, without any change of the rules, but simply by an appeal from a ruling of the Chair.

Mr. President, I do not envy the task of the majority leader. As we have seen the demise of political parties in this country in terms of effective power, as we have seen the demise of the power of committee chairmen, as we have seen the demise of the congressional hierarchy of power, it has become more and more difficult for the elected leaders of both parties to make any agreements on which they can necessarily deliver.

I question whether or not congressional reform may have gone too far in stripping from the leaders of the parties the power to enforce some of the agreements they might make and an effort to reach intelligent compromises on legislation.

I know the frustration that the majority leader goes through in trying to get unanimous-consent agreements. I know the difficulties when people want to go home on Friday and come back on Monday at 4 o'clock. I do not envy his task.

Mr. President, I have seldom seen evil people in government. I do not think I have ever met an official who was truly evil and who wanted to do things adverse to the public interest.

The majority leader has made every effort on most occasions to try to reach civil compromises. What I fear, based upon the reading of the RECORD of Wednesday night, is that, on occasion, the passion of the moment, the frustration of trying to lead in a very fractured body, is overcoming the stability and precedents that used to exist in this body. If that happens, it is going to be a dangerous trend for the rights of any minority, be it the Republicans or the Democrats, if that continues.

For that reason, although I have no intention of changing my position on the windfall profit tax, I am going to vote against cloture today, as a protest to the effort of the majority leader, through the simple use of the majority, to override all legitimate precedents in the Senate and to fail to take cognizance of the fact that those precedents were set up, through time and effort and experience, to make sure that respectable and decent debate could occur and legitimate compromises could be arrived at. I do this as a protest to what went on on Wednesday night.

I hope it is not a harbinger of the future. I would not like to think that if my party were in the majority and the minority had been treated as we were on Wednesday night, our first reaction would be retribution, although that is an understandable feeling. But if we are going to come to the place where 51 votes, and only 51 votes, can determine procedure, then it is going to mean that 51 votes any time can determine substance.

In my 11 years in the Senate, I have discovered that we have made more mistakes in haste than we have lost opportunities by delay. For that reason, Mr. President, I will vote against cloture today.

Mr. ROBERT C. BYRD. Mr. President, I yield 5 minutes to Mr. RIBICOFF.

Mr. RIBICOFF. Mr. President, I have listened with great interest to the comments of the distinguished Senator from Oregon, a Senator for whom I have the greatest respect and affection. Although we are on opposite sides of the aisle, there are many issues in which we vote alike and work together, irrespective of the parties to which we belong.

I do believe that his comments concerning the minority leader, Senator BAKER, are proper and apt. Senator BAKER is a man of great character and ability and has the affection and respect of this body.

I have been rather taken aback at the comments of the Senator from Oregon concerning the majority leader. I have been in active public life for 41 years. I have served in a State legislature. I have been a Member of the House of Representatives, the Governor of my State, a member of a President's Cabinet, and have served 17 years in the U.S. Senate.

During this service, in every type of political forum, I have met and dealt with and worked with every conceivable type of political leader, from a member of the State legislature to a President, to a Speaker, to majority and minority leaders, both in the legislative branch and the executive branch. With all these various men and women, I have never worked with an individual who was as thoughtful, considerate, devoted, and as hard working as the distinguished majority leader, Senator ROBERT C. BYRD of West Virginia.

I have never met anybody in the field of politics who has his consummate patience. I do not think there is another person in this body who would be as patient and as thoughtful and considerate of the other 99 Members of this body.

I do not recall a majority leader and a minority leader working as closely and as carefully together. I do not recall a political leader who ever has been in more harmony with this body, in seeking the ultimate good.

I have known the distinguished Senator from West Virginia, our majority leader, and I was proud to vote for him in the Democratic Caucus, that he be our leader. There are few men in politics and in Government who have so grown in stature during their service as has our majority leader.

Time and time again, he has lived up to the highest tradition of a leader seeking the national interest. Day in and day out, from early morning until late at night, no one else keeps his hours. No one else responds to the requests of 100 personalities, diverse personalities, and diverse individuals. It is a difficult position that he carries out in the highest traditions of the legislative process.

I, for one, as a Senator who in another year will be leaving this body, this great institution of the U.S. Senate, find it a matter of great pride that I have been able to serve with our majority leader in this body. Personally, I think all of us owe a great debt of gratitude and appreciation to the majority leader for his hard work, his efforts, his leadership, and the inspirational quality he displays.

I realize that in times such as these, in which the issues are complex and controversial, tempers rise high. But I do know that it is important to have a degree of civility if the U.S. Senate is to work.

I hope that in the week that remains to us, as we consider the hard issues we have to overcome in the national interest, we will be able to work together, based on an integrity of compromise to work out the remainder of our schedule before we go home for the Christmas holiday.

Mr. President, I modify my amendment No. 776 to accept the pending substitute for my amendment.

Mr. STEVENS. Mr. President, reserving the right to object, which amendment is that?

Mr. RIBICOFF. My amendment No. 776.

The ACTING PRESIDENT pro tempore. There is no objection, and the amendment is so modified.

The modified amendment is as follows:

On page 79, between lines 14 and 15, insert the following:

SEC. 4993A. SPECIAL RULES FOR CERTAIN OIL.

(a) TAXABLE CRUDE OIL.—Notwithstanding the provisions of section 4988(a) (1), (2), or (3), newly discovered oil (other than newly discovered oil produced north of the Arctic Circle), incremental tertiary oil, and heavy oil shall, subject to the provisions of this section, be treated as taxable crude oil which is tier 3 oil.

(b) Rate of Tax.—Notwithstanding the provisions of section 4987(a)(2), the amount of the tax imposed by section 4986 with respect to any barrel of crude oil treated as taxable crude oil under subsection (a) shall be 20 percent of the windfall profit on such barrel in the case of incremental tertiary oil, newly discovered oil, and heavy oil.

(c) Base Price.—In the case of newly discovered oil, incremental tertiary oil, and heavy oil, the base price shall be determined by substituting "$16.30" for "$15.30" in section 4990(e), and the inflation adjustment for any calendar quarter under section 4990 (b) shall be determined by substituting for the implicit price deflator referred to in section 4990(b)(1)(A) an amount equal to such deflator multiplied by 1.005 to the nth power where "n" equals the number of calendar quarters beginning after March 1979 and before the calendar quarter in which the oil is removed (or deemed removed) from the premises.

Mr. ROBERT C. BYRD. Mr. President, first, I thank the distinguished senior Senator from Connecticut. I appreciate what he has said. I hope that I can live up to his fine statement and his belief.

UP AMENDMENT NO. 877

(Purpose: Providing a graduated tax on certain oil)

Mr. ROBERT C. BYRD. Mr. President, I call up an amendment which is at the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) for himself and Mr. Bradley, Mr. Stewart, Mr. Ribicoff, Mr. Moynihan, Mr. Leahy, Mr. Muskie, and Mr. Nelson proposed an unprinted amendment numbered 877:

In lieu of language proposed to be inserted by amendment numbered 776, as modified, insert the following:

Sec. 4993A. Special Rules for Certain Oil.

(a) Taxable Crude Oil.—Notwithstanding the provisions of section 4988(a) (1), (2), or (3), newly discovered oil (other than newly discovered oil produced north of the Arctic Circle), incremental tertiary oil, and heavy oil shall, subject to the provisions of this section, be treated as taxable crude oil which is tier 3 oil.

(b) Rate of Tax.—Notwithstanding the provisions of section 4987(a)(2), the amount of the tax imposed by section 4986 with respect to any barrel of crude oil treated as taxable crude oil under subsection (a) shall be 20 percent of the windfall profit on such barrel in the case of incremental tertiary oil and heavy oil and 10 percent in the case of newly discovered oil.

(c) Base Price.—In the case of newly discovered oil, incremental tertiary oil, and heavy oil, the base price shall be determined by substituting "$16.30" for "$15.30" in section 4990(e), and the inflation adjustment for any calendar quarter under section 4990 (b) shall be determined by substituting for the implicit price deflator referred to in section 4990(b)(1)(A) an amount equal to such deflator multiplied by 1.005 to the nth power where "n" equals the number of calendar quarters beginning after March 1979 and before the calendar quarter in which the oil is removed (or deemed removed) from the premises.

(d) Base Price for Tier 2 Oil.—Notwithstanding section 4990(d), for taxable periods beginning after December 31, 1980, the base price for tier 2 oil in the upper tier ceiling price (as of May 1979) for such oil under the March 1979 energy regulations minus $0.25.

Mr. DOLE. Mr. President, as I listened to the amendment, I assume this is maybe the——

Mr. STEVENS. Negotiations are over.

Mr. DOLE (continuing). This is a 20–20——

Mr. STEVENS. Ten.

Mr. DOLE. Ten. And I must say to anyone who may be listening that some of us will be meeting again at 12:30 p.m. to take a look at this possible compromise.

The Senator from Kansas had hoped we had reached an agreement yesterday, but that agreement was not concluded, and I will say there was never any fast agreement with those of us who were meeting, but at least there was a proposal that we had hoped would be acceptable to the majority on the democratic side, and at that point we had gone to the Republican side in an effort to persuade Republicans that under the circumstances that would be the best route to follow.

That was not acceptable. That was not drastically different than the proposed compromise now, but it was a 5-percent minimum tax, and I am not certain what the base price spelled out in that amendment was. Was it 7? The proposal would have been $20 base price on newly discovered oil and 20 percent and 20 percent as reported in the amendment just read with a total revenue figure of around $170 billion.

Mr. ROBERT C. BYRD. $180.1 billion.

Mr. DOLE. But the one yesterday was, I think, $175 or $176 billion. So what we have in fact is an increase——

Mr. ROBERT C. BYRD. Yesterday was $173 billion.

Mr. DOLE. $173 billion in the one we were discussing yesterday.

Today we have an increase of $7 billion and an increase in the tax rate of 5 percent and a decrease in the base price from $20 to $17.

It seems to this Senator that is not much of a compromise, but the Senator from Kansas is willing to discuss it with Members who have a different view on the Republican side of the aisle and will be doing that in the next few minutes.

But notwithstanding that, I hope that, if there is not some agreement reached, those who have opposed cloture will continue and that others who have not will be helpful today so that we could continue negotiations because very honestly once cloture is invoked no doubt about it the negotiations probably cease, and maybe the negotiations have already ceased with the introduction of the amendment.

But in any event, those who have hard-line views on each side must at some point face reality, and the reality is without some agreement it would now be, I assume, the amendment now pending, or it could be 20–20–20, and it could be $185 or $186 billion.

Whether or not cloture will be invoked today is a matter of some doubt because this Senator is not certain there are enough votes to invoke cloture. It is very close. If not today, then perhaps on Monday. But even if cloture is invoked once the positions harden on this side or that side we could be in a prolonged, protracted, postcloture filibuster, or whatever it might be, however it might be characterized, and so there is still some small ray of hope that compromise can be reached.

But finally the Senator from Kansas will say, as I said several times in this Chamber, the Finance Committee voted by a vote of 19 to 1 not to impose a tax on new oil. Eleven of those 19 were Democrats, 8 were Republicans.

This bill ceased to be an energy bill once it reached the Chamber. It became a tax bill. And there were those who felt the $138 billion provided for in the Finance Committee-passed bill was not adequate. Adjustments were made. The independent stripper was broadened. But then the Bradley-Chafee amendment was adopted which ended up with about $155 or $156 billion as of this moment in the bill now in the Chamber.

This Senator does not know of any magic number. We are told by staff and I think they do an excellent job we could be $100 billion off either way so we quibble about $1 billion or $5 billion, but it is a lot of money over a 10-year period. I do not want to be misunderstood. But in the large picture when we talk about oil prices which we cannot predict, this amount, large as it may be, is rather insignificant.

So we now have a tax bill with some exceptions, some exemptions, and some incentives, more incentive for tertiary, more incentive for heavy, a little more incentive for newly discovered oil. But this Senator said there is a principle involved and that is whether or not new oil should be taxed at all. And I still believe that principle is involved but to back up the principle you have to have votes. And I can have all the principle in the world, and maybe it is better to lose with principle than to win without it, but we are looking at the future energy picture in this country, not at oil company profits, or not at some selfish desire of some one or two or a dozen Members on either side in this body.

So, in the final analysis, it seems to me that we have to make a judgment whether this is a compromise, whether it is something that can be sustained in conference, because I do not know of anyone in this Chamber who can stand here and say that there will not be a minimum tax on new oil, even if we did not put one on in the Chamber, when it comes out of conference.

The total revenue raised in the conference bill will probably be around $200 or $210 billion. That is just the way it looks. It may even be higher. And to achieve that higher figure somewhere you have to find revenues. You cannot increase the tax on tier 1. It is already 75 percent.

You cannot increase the tax on tier 2; it is already 75 percent. Now maybe if the Danforth amendment was adopted that would pick up some revenue, and I understand there are a number of votes for that amendment. Maybe there will be some change made in the so-called independent exemption of 1,000 barrels. There are some on this floor, including the distinguished acting minority leader, who feel perhaps that treatment may be a little too preferential.

Maybe there could be a minimum tax applied to State royalties rather than the Danforth approach, that would raise additional revenue. But if all those efforts fail then somewhere in one of the exempt categories it would have to focus some attention and effort to raise additional taxes. That would mean, of course, the tax on newly discovered oil.

So this Senator suggests that we will now go back into another session and, perhaps, I can now yield to the Senator from Alaska.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. STEVENS. Mr. President, what is the time remaining?

The ACTING PRESIDENT pro tempore. The Senator from Alaska has 7 minutes and 17 seconds, and the Senator from West Virginia 20 minutes and 49 seconds.

Mr. STEVENS. Mr. President, I am grateful to the majority leader, and I have spoken about this before. The net effect of the Bentsen amendment was to exclude from taxation up to 1,000 barrels a day produced by independents. In the past when independents have discovered oil, the majors have bought that oil in the ground and produced it.

The effect of the Bentsen amendment to me will mean that the majors will not buy that oil in the ground; they will have the independents produce it under a contract to purchase it and, therefore, the oil is going to go into the stream of commerce without the 75 percent anyway.

The result of the Bentsen amendment was that the Bradley amendment passed, and some people have not noticed that when the Bradley amendment passed at 75 percent, there was an increase, and that increase fell primarily upon the producing areas where there is oil produced by the major companies, that is, tier 2 oil.

It so happens that better than one-sixth of that right now comes from one field, and it is in Alaska, it is Prudhoe Bay.

I supported the Bentsen amendment because I thought at the time we were going to attempt to send into conference a bill that was somewhat near the Finance Committee's proposal which, I will remind the Senate, was $138 billion.

In any event, that Bradley amendment raised it to $155 billion, if my memory serves me correctly, and of that increase $6 billion fell upon the producers of the Prudhoe Bay. It just so happens those producers had already committed to put up $4 billion of their oil income to build the gas pipeline. The gas pipeline would carry Prudhoe Bay gas—which is 10 percent of the known reserves of this Nation's gas—to market in the South 48.

It is almost impossible, it seems, to finance that pipeline without participation. So I offered a plowback amendment trying to see if I could get a credit against the windfall profit tax.

We have investment tax credits against the regular tax. Here we have producers who were prepared to put up $4 billion to build a gas pipeline, but the Senate is unwilling to give them a credit of 50 percent or any credit apparently against the investment in a gas pipeline. No other producer of oil has ever invested in a gas pipeline, particularly no other producer has ever been asked to invest in a situation where 75 percent of their increased returns will go to the Federal Government.

The production at Prudhoe Bay is just the first of the major producing areas of Alaska. It is not a question of whether that new oil is taxed; it is a question of whether there is money to invest in the facilities that are necessary to develop that oil. If 75 percent of the money is going to go into the Treasury, and we are going to make up even more of the difference apparently of an arbitrary figure of $210 billion to $230 billion from old oil, then by definition since we produced one-sixth of the domestic oil of this country, at least one-sixth of this increase has to come from Prudhoe Bay. This is a further disincentive to anyone taking the risk that is involved in developing the oil and gas potential in my State, which is admittedly the most risky, the highest cost oil to produce, the highest cost exploration, and which faces the greatest amount of Government regulation.

Now, for myself I just cannot understand this situation. I have probably spent as much time, I think, in these meetings the last week with my good friend from West Virginia as anyone. As a matter of fact, I told the young ladies in his office this morning that I thought I ought to pay for a new rug because I have walked back and forth across that entry room in his office so much last week. He has tried and I have tried, but what has happened right now is, the signal is, that the negotiations are over. The amendment is 20, 20, 10. It does not raise even the floor for the new oil. It abandons the principle that we should not tax new oil. I support no tax on new oil, including independents, and I do not think there should be any tax on new oil.

All it means is that we are going to become further and further dependent upon foreign sources of oil. More and more people are going to be forced to buy oil abroad and bring it home to sell, instead of spending their money to go look for and produce oil in this country, because, by definition, if you buy foreign oil and make any profit on it, you do not pay any windfall profits tax.

That is what is not seen. There is not one dollar of windfall profit tax to be paid upon the imports of foreign oil.

I hope that before we are through, we might be able to get back to negotiation.

We have not tested out this new cloture procedure. Apparently we will. I hope it will be next week rather than today. But I think it is clear that I am hearing from the minority that they fear that those of us who have been negotiating have given and given and given and given and given, and that we have gotten nothing for our negotiation.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, how much time does the Senator need?

Mr. STEVENS. I would be happy to have 10 minutes, just to finish.

Mr. ROBERT C. BYRD. I cannot yield 10 minutes.

Mr. STEVENS. Five would be fine.

Mr. ROBERT C. BYRD. I yield the Senator 5 minutes.

Mr. STEVENS. I thank the Senator.

Mr. METZENBAUM. Can the Senator yield me 5 minutes?

Mr. STEVENS. Go ahead.

Mr. ROBERT C. BYRD. Does the Senator want his 5 minutes now?

Mr. STEVENS. No; go ahead.

Mr. ROBERT C. BYRD. I yield the distinguished Senator from Maine 5 minutes.

Mr. MUSKIE. Mr. President, I rise to speak in support of the amendment that is before us. It was arrived at after long and diligent negotiations by all concerned. It represents an accommodation of principles, but not a sacrifice of principles. There were those of us who believed that it was important to increase the revenues raised by the windfall profit tax so that the higher prices that consumers would pay, in any case, would be recycled in public uses—tax cuts and public services. And there were those among us who believed that production incentives must be guarded in the interest of energy independence. I believe that this compromise strikes an appropriate balance between these two concerns.

Mr. President, I am a cosponsor of the proposed amendment, and I would like to say at the outset that this amendment is not the optimum, from my point of view, which is that part of the cost imposed upon our economy and our consumers by decontrol should be shared equitably with the consumers who are paying the price.

I have been listening to the argument, on the floor and in the negotiating room, that this is a proposed tax on industry. Well, Mr. President, just this week several of the oil-producing countries, including Saudi Arabia, which has been disposed to be relatively friendly toward the United States, increased their price by $6 a barrel. Now, that adds approximately $35 billion to this country's oil bill.

That is not a tax on the oil companies. That increase in price is a tax on the consumers. And when decontrol is completed, that full increase will be paid to American oil companies as well as to the oil-producing countries abroad.

That is where the tax is, and that $6 does not represent a single penny of increased cost to the American oil companies, which will benefit from the increased price. It is a price arbitrarily set by the oil-producing countries for their own purposes, and obviously they will pursue their national purposes as they see them.

So this windfall profit tax is designed to restore to the American consumer, who will be paying that price, an equitable share of the amount of the burden that is imposed on the economy. The direct burden is $35 billion. This does not count the ripple effect that will move through the economy, increasing the price of every product produced in this country, generating movement behind labor's demand for more pay, generating movement behind demands on the part of those who are dependent upon the Government for income—our older citizens, poor citizens, unemployed people, people employed by the Government—and all of these ripple effects will add tens of billions of dollars to that.

That is what we are talking about. What fair share of that increase in prices that is generated by OPEC, by the spot market overseas, ought to be returned to the American people? That is what the issue is, pure and simple.

This debate has been going on for some 4 weeks, Mr. President. I and other Senators have been involved in negotiations over much of that 4 weeks, in an attempt to find a middle ground between those who oppose the windfall tax in principle and those who support it. There have been many proposals advanced from one side and the other, and as of this moment no agreement has been reached.

As I recall the discussions, and they have been lengthy, I think they have been relatively free of acrimony. All sides and all points of view have been free to express their position, and have been listened to. We are at the point where we must decide whether or not there is a middle ground, or we must fight the battle out on the floor until the issues are finally resolved.

The amendment that has been introduced today by the majority leader and others, including myself, in my judgment represents just such a middle ground. If it is not accepted as an agreement, then Senators will pursue their own convictions as to what would be a fair settlement through the parliamentary snarl that will then develop on the floor of the Senate.

We will be voting shortly on cloture. Whether or not we get cloture today has still not been determined.

The ACTING PRESIDENT pro tempore. The Senator's 5 minutes have expired.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 more minutes.

Mr. MUSKIE. Whether or not we get cloture today, I am convinced that we will get cloture today or next week. When we do, each Member's parliamentary rights and opportunities to debate and offer proposals will be protected. That, I think, will increase the possibility that the Senate can finally reach a result without any agreement on the part of the opposing forces.

I think we can cut that process short, and I think we can do so by supporting the pending amendment; I think it represents a reasonably equitable resolution of the very wide differences that separate the two sides.

Mr. President, this amendment raises the total revenues in this bill to $180.4 billion for the period 1980–90—$25.7 billion above the revenues raised by this bill before this compromise was reached. This is a significant move toward the objective of equity for consumers buffeted by soaring oil prices. It also helps to raise revenues toward the target voted by the Congress in the second budget resolution.

This amendment imposes some tax on the previously exempt categories, newly discovered, tertiary recovered, and heavy oil. I believe that this is appropriate. Supply estimates from the CBO study suggest that much of the oil to be produced in these categories over the coming decade would have been produced even with continued controls:

Sixty-three percent of the heavy oil which we could expect to be produced from 1980 to 1990 would have been produced under continued controls.

Sixty-seven percent of all newly discovered oil, we could expect, would have been produced under continued controls.

Similarly, 90 percent of expected tertiary production would occur under continued controls.

Hence, taxing these categories of oil captures some of that windfall.

At the same time, Mr. President, it must be recognized that these are the types of oil with the highest production costs and the greatest responsiveness to production incentives. If we were to impose a tax on these categories of oil, so great as to significantly discourage production we could be contributing to higher future world prices and greater dependence on foreign sources. Therefore, Mr. President, we have agreed to tax heavy oil and tertiary recovered oil—oil much of which has already been discovered but which will be produced at high costs—at the relatively favorable rate of 20 percent so as to allow for the high production costs.

Oil yet to be discovered is the most sensitive to price incentives. If we had taxed newly discovered oil also at the 20-percent rate, experts have estimated that we might have lost as much as 100,000 barrels per day of production in 1990. Therefore, we decided to lower the tax rate on newly discovered oil substantially to 10 percent. This should assure virtually no production loss from this amendment.

The principal issue involved here is not only the amount of revenue to be generated, but the so-called tax on new oil.

Mr. President, the argument is made that because this new oil has not been discovered yet, there cannot be any windfall associated with it.

From my point of view, that argument is false, for two reasons: In the first place, a large part of that new oil would be developed if there had been no decontrol. To the extent that that is so, that oil is benefiting from these arbitrary increases in prices imposed upon the American consumer, and consequently benefiting from a windfall.

But secondly, if these upward pressures by OPEC are increasing the price of oil, then new oil that is discovered, whether or not it would have been discovered anyway, is benefiting from a price that is higher for no reason associated with cost to the American producer. The price is higher because of OPEC. Prices have been increased, since decontrol began, by 110 percent. That increase in prices is in no way attributable to the higher cost of production. It is largely attributable to the fact that we are at the mercy of the spot market worldwide, at the mercy of OPEC, and that is producing profits for oil companies here that are unearned in the traditional sense of the term; and it is our responsibility, as I see it, to recover a share of those increases in behalf of the American consumer.

Mr. President, this is a compromise amendment arrived at by genuine efforts on both sides. We lay it before the Senate as a new formula for accommodation that should receive every Senator's careful consideration. I believe that it will advance the objectives that we all seek. It will permit higher oil revenues to be returned to those who pay the price. It will do so while recognizing that oil is not all alike but that distinctions are required between categories of oil if we are to preserve production incentives and to advance the cause of energy independence.

A vote on this amendment will allow the Senate to proceed with action on this important bill. It will allow the Senate to move forward with its business—the business of the public.

I urge the Senate to move to a vote on this amendment and I hope that Senators will give it a favorable vote.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I have promised 3 minutes to Mr. METZENBAUM, and the rest of the time to Mr. LONG.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. METZENBAUM. I commend the majority leader and the chairman of the Budget Committee and others who have fashioned this amendment, because I know that their concern is in the right direction and that is that we come out with a fair and equitable bill. And so I do not take issue with the effort to increase the tax or to actually produce a minimum tax on new oil.

However, it should be noted that what we are doing is we are working out, we are striving to find a compromise on the oil companies' terms. The bill that came over from the House provided figures of 50 and 60 percent for the five categories of oil. We are talking about categories of 20 percent, 20 percent, and 10 percent.

As a consequence, we are talking about $96 billion less than the House bill. And when you take into account the fact that the OPEC prices are going up as of this minute, $6 a barrel for some and perhaps more for others—and certainly the future is going to be worse, not better—what is happening is that the oil companies will have won a great victory on the floor of the Senate regardless of what our conclusions are.

As a matter of fact, it should be pointed out that the $276 billion figure was a figure set by a bill fashioned in the House by Congress persons who come from oil States: Mr. MOORE and Mr. JONES from Oklahoma and Louisiana.

That was the—may we have order in the Senate, Mr. President, without charging the time to me?

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senate is not in order.

The Senator from Ohio.

Mr. METZENBAUM. So what we have done is this: We started out with the oil companies' view, fashioned over on the floor of the House, not the bill that the Ways and Means Committee come out with. We came to the Senate Finance Committee and the oil companies cut the bill in half. Then we came back to the floor and took another $10 billion away and we added I think another $26 billion at the same time. And suddenly we found ourselves in a filibuster of 5 weeks.

I stood on the floor 2 years ago and was involved in a consumer-oriented filibuster for 4 days. Everybody screamed and hollered and cried what a terrible thing it was to hold up the U.S. Senate for 4 days. But this time for 5 weeks we held up the U.S. Senate because the oil companies were not happy about it and there was not the same kind of an outcry.

I think it is quite obvious, Mr. President, that what we have here is an effort on the part of the leadership attempting to resolve this issue in a fair manner to bring it up here. But no matter what we do, we will have lost the battle.

The ACTING PRESIDENT pro tempore. The time of the Senator from Ohio has expired.

Mr. ROBERT C. BYRD. Mr. President, I yield 2 minutes to the distinguished Senator from New York (Mr. MOYNIHAN).

Mr. MOYNIHAN. Will the Senator yield me 3 minutes?

Mr. ROBERT C. BYRD. Three minutes.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia (Mr. ROBERT C. BYRD) has only 2 minutes remaining.

Mr. MOYNIHAN. Mr. President, I rise to congratulate the majority leader for what he has done in this matter and the proposed compromise.

I would point out, Mr. President, that the 20 percent, 20 percent, and 10 percent on new oil corresponds to the amendment which I introduced late last week, and it is where we hoped to come out.

I wish to make the point for the RECORD, in this last moment, that adding a 10-percent windfall profit tax to new oil at an estimated cost of $30, with a $17 base, means, after severance taxes, there will be about $12 to be taxed. The $1.20 of this tax that would take place, it being deducted from overall income, would have the net impact to the oil producer of 60 cents a barrel on a $30 barrel of oil.

These are firms which, at this moment, are producing and selling oil at a profit at $9 and $10 and $11 a barrel. We are taxing a windfall created by OPEC. It will not have any discernible effect upon production. If one will remember what we are doing is taking 60 cents on a $30 barrel of oil, you have a sense of the moderation and the wisdom of this measure.

Once again, I would like to thank the majority leader for his steadfastness and the chairman of our committee for his sense of probity and prudence and what is, in the end, a sincere public interest.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. STEVENS. Mr. President, I yield back 3 of the minutes the Senator from West Virginia (Mr. ROBERT C. BYRD) gave to me.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Alaska.

I yield the 3 minutes to the Senator from Louisiana (Mr. LONG).

Why does not the Senator from Alaska keep them for the time being?

Mr. STEVENS. You mean, I got them back again.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized for 5 minutes.

Mr. STEVENS. Does the Senator from Kansas (Mr. DOLE) wish some time for the cloture vote? Does the Senator from Delaware (Mr. ROTH) seek any time?

I yield the balance of my time to the Senator from Delaware.

The ACTING PRESIDENT pro tempore. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I have sent a letter to the leadership on both sides of the Senate indicating that there are at least four Senators who would be willing to vote for cloture, provided that we have had an assurance that there would be an up-or-down vote on tax relief.

I think this is a reasonable request, because it is very clear from the proceedings that this legislation is essentially a tax raising or revenue legislation, and if we are going to secure more funds, I think it is of critical importance that we lay down some guidelines as to what is going to be done with these additional funds.

So what I propose to the leadership is that the Senate would have the opportunity to vote in an up-or-down vote on a proposal that would limit both spending and revenue to the same limits that were adopted last year in the Nunn-Bellmon-Chiles-Roth amendment.

I would again like to make it clear to the leadership that there is a way of bringing about cloture, because the two Senators from Minnesota, as well as Senator HUMPHREY and myself, have all four said that we would vote for cloture. All we ask is that the Senate have the opportunity to vote on a straight up-and-down vote on the amendment I have just described.

Mr. President, I point out that our economy is in serious difficulty. While there have been a few steps that have been encouraging—for example, unemployment has not risen in the most recent period—the fact remains that most economists see serious problems ahead of us in the 1980's and, more important, they see that we will be facing, in the long term, a deteriorating situation if, somehow, this Congress does not have the courage to take the basic steps that are necessary to do something about productivity.

Mr. President, I realize that many people are saying that there will be tax relief and other steps taken next year. The problem is the longer we delay, the longer we fail to take the beginning steps that will do something about productivity, the longer it is going to take to get this economy moving upwards.

For that reason, I think it is of critical importance that we have the opportunity to do something constructive.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. One hour having passed since the Senate convened, the clerk will state the pending cloture motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the reported amendment in the nature of a substitute to H.R. 3919, an Act to impose a windfall profit tax on domestic crude oil.

Robert C. Byrd, Edmund S. Muskie, Gaylord Nelson, Alan Cranston, Paul Sarbanes, Howard M. Metzenbaum, Donald Stewart, Walter D. Huddleston, John A. Durkin, Henry M. Jackson, John Culver, Harrison A. Williams, George McGovern, Frank Church, Daniel Patrick Moynihan, Edward Zorinsky, Carl Levin, Dale Bumpers, David Pryor, Joseph R. Biden, Jr.

CALL OF THE ROLL

The ACTING PRESIDENT pro tempore. Pursuant to rule XXII, the Chair now directs the clerk to call the roll to ascertain the presence of a quorum.

The assistant legislative clerk called the roll and the following Senators entered the Chamber and answered to their names:

[Quorum No. 17 Leg.]

Armstrong
Baucus
Bellmon
Byrd, Harry F., Jr.
Byrd, Robert C.
Chafee
Cochran
Cohen
Danforth
Dole
Ford
Garn
Hollings
Humphrey
Inouye
Javits
Kassebaum
Long
Magnuson
McClure
Melcher
Moynihan
Packwood
Roth
Schmitt
Stafford
Stennis
Stevens
Thurmond
Tower
Wallop
Young

Mr. STEVENS. Regular order, Mr. President, it has now taken 15 minutes to call half the roll.

The ACTING PRESIDENT pro tempore. The regular order is for the clerk to call the roll.

The assistant legislative clerk resumed the call of the roll.

The ACTING PRESIDENT pro tempore. A quorum is not present. The clerk will call the names of the absentees.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

Mr. STEVENS. Mr. President, is there a quorum present?

The ACTING PRESIDENT pro tempore. No; there is not a quorum present.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

Mr. McCLURE. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. McCLURE. There was no second for that motion. The vote would therefore be a voice vote.

The ACTING PRESIDENT pro tempore. The required second is one-fifth of those present.

Mr. McCLURE. One-fifth of those who have answered the quorum to the present time. There was one person who held his hand up, Mr. President.

Mr. FORD. Will the Senator use his mike? I cannot understand him.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

There is not a sufficient second.

The question is on agreeing to the motion to instruct the Sergeant at Arms.

Mr. McCLURE. Regular order, Mr. President.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 5 minutes.

Mr. STEVENS. I ask for the yeas and nays, Mr. President.

The ACTING PRESIDENT pro tempore. Such a motion is not in order in the middle of a quorum call.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be requested to compel the attendance of absent Senators.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion.

Mr. ROBERT C. BYRD. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is not a sufficient second.

The question is on agreeing to the motion.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The Sergeant at Arms will execute the order of the Senate.

Mr. STEVENS. Regular order, Mr. President.

The ACTING PRESIDENT pro tempore. Regular order is for the clerk to call the absentees.

The assistant legislative clerk resumed the call of the roll.

Mr. ROBERT C. BYRD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to compel the attendance of absent Senators and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

Several Senators addressed the Chair.

Mr. STEVENS. It is not in order. It has already been made and it has passed.

The ACTING PRESIDENT pro tempore. It is in order.

Is there a sufficient second?

Mr. McCLURE. The order has already been made?

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. McCLURE. While it is in progress?

Mr. STEVENS. Did the Senate not already vote on this? Is he not already instructed to have the people who are absent——

The ACTING PRESIDENT pro tempore. The Senator is correct. We have already voted, but the Senate may vote on it again.

Mr. McCLURE. Not until the quorum call is completed, Mr. President.

The ACTING PRESIDENT pro tempore. Even before the quorum call is completed.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. STEVENS. Would the majority leader tell me what time the majority would like to vote? We would go to lunch and wait while——

Mr. ROBERT C. BYRD. We would like to have a vote on the motion now.

Mr. STEVENS. There is a stall going on somewhere.

Mr. DOLE. A filibuster.

Mr. STEVENS. Where is the Vice President, or Senator KENNEDY? What is causing the delay?

Mr. ROBERT C. BYRD. Regular order.

Mr. STEVENS addressed the Chair.

The ACTING PRESIDENT pro tempore. The regular order for the clerk to call the roll.

Mr. STEVENS. I ask for a ruling of the Chair in terms of how much time is allotted to call the roll.

The ACTING PRESIDENT pro tempore. The Chair informs the Senator there is no time limit on a quorum call.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

The PRESIDING OFFICER (Mr. BRADLEY). Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 91, nays 4, as follows:

[Rollcall Vote No. 480 Leg.]

YEAS—91

Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Leahy
Levin
Long
Lugar
McClure
McGovern
Magnuson
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Williams
Young
Zorinsky

NAYS—4

Armstrong
Goldwater
Laxalt
Weicker

NOT VOTING—5

Baker
Church
Kennedy
Mathias
Talmadge

So the motion was agreed to.

The PRESIDING OFFICER. A quorum is present.

VOTE

The question now is, Is it the sense of the Senate that debate shall be brought to a close? The yeas and nays are automatic under the rule, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Georgia (Mr. TALMADGE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

Mr. STEVENS. Regular order, Mr. President.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote who have not done so?

Mr. HELMS. Regular order.

Mr. DOLE. Mr. President, may we have regular order?

Mr. WALLOP. Regular order, Mr. President.

The yeas and nays resulted—yeas 56, nays 39, as follows:

[Rollcall Vote No. 481 Leg.]

YEAS—56

Baucus
Bayh
Bentsen
Biden
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Hart
Hatfield
Heflin
Hollings
Huddleston
Inouye
Jackson
Javits
Leahy
Levin
McGovern
Magnuson
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevenson
Stewart
Stone
Tsongas
Williams
Zorinsky

NAYS—39

Armstrong
Bellmon
Boren
Boschwitz
Chafee
Cochran
Cohen
Danforth
Dole
Domenici
Durenberger
Garn
Goldwater
Gravel
Hatch
Hayakawa
Heinz
Helms
Humphrey
Jepsen
Johnston
Kassebaum
Laxalt
Long
Lugar
McClure
Packwood
Percy
Pressler
Roth
Schmitt
Simpson
Stevens
Thurmond
Tower
Wallop
Warner
Weicker
Young

NOT VOTING—5

Baker
Church
Kennedy
Mathias
Talmadge

The PRESIDING OFFICER. On this vote, the yeas are 56, the nays are 39.

Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. ROBERT C. BYRD. Mr. President, the vote today, which shows 56 Senators as having voted for cloture is a positive vote in that we have 4 of our Senators who have been voting with us absent. They will be here on Monday. That would make 60, and I have reasonably good belief, I think I have good reason to believe, we can get some additional votes by Monday. I think it was a good vote. It indicates that the Senate is moving toward cloture.

We have those who voted against yesterday 40 are down to 39 today.

Those who voted for us yesterday, we have 56, with 3 of the Senators who are today absent, yesterday were absent. Four are absent today, so we can count on 60, perhaps 61, votes by Monday.

I hope this will indicate the Senate is tiring of delay, wants to see action, and I hope that during the afternoon we can continue to negotiate and, possibly, wind up action on the bill by tomorrow night.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes, I yield.

Mr. DOLE. I will say that is certainly our hope. We have never given up on negotiations. We do not take great pride in this vote. We are just happy you did not win. So we will be happy to negotiate.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from Kansas, who has at all times negotiated in good faith, and has helped to make progress. The negotiations will continue.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER (Mr. MORGAN). The Senator from Idaho. May we have order in the Senate?

Mr. McCLURE. Mr. President, it took us, today, 50 minutes to do what we did yesterday in 25 minutes. I do not think there is anybody——

Mr. NELSON. Mr. President, may we have order, so we can hear the Senator?

The PRESIDING OFFICER. Yes; the Senator will suspend. Will Senators conversing take seats or retire to the cloakrooms?

The Senate is still not in order. The Senate will be in order.

The Senator may proceed.

Mr. McCLURE. Mr. President, I thank the Senator from Wisconsin and I thank the Chair.

Today it took us 50 minutes to complete what yesterday was completed in 25 minutes. There is no one within this Chamber or anyone anywhere else knowledgeable about the procedures of the Senate who does not realize that there was a stall.

Now, a stall is not unusual, and the majority leader certainly has some tools that he can use automatically. But there will be required a high degree of cooperation, that can come only from fair treatment, if the Senate is going to be able to complete the action that has to be taken before the end of this session.

I would just say to the majority leader and my other friends in the Senate that the abuse of the Senate procedures that we have witnessed does not augur well for that degree of cooperation over the next week or 10 days or possibly 2 weeks.

I thank the Chair.

Mr. ROBERT C. BYRD. Mr. President, I hope that debate will go forward. In order that those who are entering into the discussion—and this is for the protection of both sides—might do so without fear that there would be a sudden vote, I ask unanimous consent that the Senate stand in recess——

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. I withhold my request.

Mr. THURMOND. Mr. President, will the Senator yield?

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. I yield to the Senator from South Carolina. I ask unanimous consent, so that he may not have to speak out of order, that there be a brief period for the transaction of routine morning business of not to exceed 5 minutes.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Mr. President, reserving the right to object, I wonder if I might inquire of the majority leader if it would be appropriate at this time for me to make a unanimous-consent request to bring up the two so-called Danforth amendments at this time.

Mr. LONG. Mr. President, I object.

Mr. ROBERT C. BYRD. It would be appropriate, but there still would be objection.

Mr. STEVENS. Mr. President, will the Senator from South Carolina give me just 1 moment?

I have been requested to inquire whether the religious holiday beginning today will be observed with respect to votes after 6 p.m.

Mr. ROBERT C. BYRD. This is the first notice I have had of it. I will take it under advisement.

I yield to the distinguished Senator from South Carolina.

CAMERAS AND CAPTIVES

Mr. THURMOND. Mr. President, since the seizing of the American Embassy in Tehran, this Nation's television networks have done a good job of bringing pictures of the crisis into homes across the country. Whether or not this coverage has helped our Government's effort to free the hostages is questionable, however.

The networks may, as some suggest, be playing into the hands of Iranian propagandists and may even be aggravating the already explosive situation.

Mr. President, in order to share with my colleagues a recent editorial from the Wall Street Journal discussing this issue, I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

CAMERAS AND CAPTIVES

CBS and ABC refused to air an Iranian-filmed interview with a Marine hostage, bridling at such conditions as it be run in full in prime time. NBC did run the interview, adding the pointed perspective that its subject had been held captive and his remarks must be seen in that light. The networks are showing some sensitivity to what has become a nightly propaganda barrage from Tehran.

Events like the taking of the hostages pose a dilemma for all newsmen, and most especially for the television networks. American television reporters are conditioned to cover wars, rebellions and civil uprisings in much the same way they cover fires. You get your camera and soundman on the scene and stick a microphone in front of anyone you can find, the more important the better. The reporter asks questions and the subject gains access to a vast world-wide audience. If the latter has the argumentative skills of, say, a Persian rug dealer, he might be able to persuade the audience that he has hurts and grievances that would make men shudder when in fact what interests him most is the excitement of violence and unaccustomed power.

This kind of coverage, indeed the television medium itself, has some fairly serious limitations, most of which have been debated ever since political and social activists first learned, some 25 to 30 years ago, that they could get the attention of the TV cameras if they could stir up a big enough ruckus. The media event being staged by the Iranians at the U.S. embassy in Tehran is not so different from thousands that have been staged on college campuses and city squares in the U.S. The yelling and waving of fists is a familiar sight. No doubt some of the Iranians running the Tehran show even learned their business on U.S. campuses.

The fundamental problem here is that mass media, television and the printed press as well, impart credibility to the thinnest of causes. TV is particularly vulnerable to this risk because of its attraction to visual excitement, the severe limits available air time places on explanation and elucidation and the massive and not always fully attentive audience.

The upshot is that Americans have been bombarded with a vast amount of anti-Shah and anti-American propaganda in the five weeks since the embassy was captured—and very little in defense of the Shah's successful efforts for so many years to modernize Iran and prevent it from exploding in an inferno of religious hatred, as it now seems to be doing. There has been very little on the tube to convey to American audiences that what now is happening is not a progressive movement but a reactionary retreat toward a more primitive and savage society.

The Ayatollah Khomeini and his followers have achieved much of what they sought in seizing American hostages. They have used American television to persuade Americans, a high percentage of whom have only a superficial knowledge of the history of Iran, that the Shah must have been a pretty bad person to arouse all that hostility. By association, at least in some minds, the U.S. must be pretty bad in having allied itself with him.

The Carter administration is understandably annoyed with this "TV diplomacy." It encourages Iranian leaders to become overcommitted to extreme positions and could weaken the administration's domestic political base for military action, should that become necessary. By now all American newsmen are justifiably hardened to the slings and arrows of American administrations, of course, but we would urge the TV networks not to treat the current administration's annoyance too lightly.

We certainly would not want to see the networks retreat from their aggresive efforts to cover the news where it happens; and we are second to no one in admiring the courage and initiative of individual reporters and crewmen. Yet for all its virtues, television is still a long way from providing the kind of depth and balance in news that a liberal and open society, with vast international resposibilities, needs and deserves.

DEATH OF GEN. HUGH PATE HARRIS

Mr. THURMOND. Mr. President, Gen. Hugh Pate Harris, a four-star general and former president of The Citadel, died recently, ending a long and distinguished career of public service.

General Harris was a popular and respected man who came to Charleston, S.C., in 1965 and served as president of The Citadel until his retirement in 1970.

He was born in Anderson, Ala., and graduated from the U.S. Military Academy. He served his country nobly for 34 years as a commissioned officer and in two wars. He was one of five regular Army officers who volunteered for assignment to the experimental 88th Airborne Battalion, where he was responsible for the development of techniques for loading transport aircraft.

General Harris earned his first star at the age of 44 and was promoted to four-star general 11 years later.

Among his military decorations were the Distinguished Service Medal, the Silver Star, the Legion of Merit, the Korean Service Medal with three campaign stars, the United Nations Service Medal and the Army of Occupation Medal.

As President of the Citadel, General Harris was instrumental in establishing new programs for recruiting cadets for the Citadel Educational Foundation operational program and initiated a master of arts in teaching program. Also during his term a new chemistry and biology laboratory were built.

General Harris served as chairman of the South Carolina State-Supported College Presidents and president of the South Carolina Association of Colleges. He was also a member of the South Carolina Commission on Higher Education.

He served as Director-at-large of the National Counsel of the Boy Scouts of America, past national president of the Airborne Association, a director of the Infantry, Armor and Women's Army Corps Museums, member of the Reserve Officer Training Corps, Advisory Committee of the Secretary of the Air Force, a director of Human Research Office in Washington, D.C., a consultant with Mellonics Institute, a director of the Association of the U.S. Army and a member of the board of directors of St. Francis Xavier Hospital.

I am extremely proud to have known this outstanding man, and my deepest sympathy is extended to his lovely wife, Kathleen, and his two daughters, Frances Elizabeth and Mrs. Beverly Jenkins. I know that he will be sorely missed, but they can take genuine solace in the lifelong benefits received from a close association.

Mr. President, in order that I may share with my colleagues a few editorials and articles about this fine man from the State on November 8, 1979 and from the Charleston News and Courier on November 4 and November 6, 1979, and a biography compiled by The Citadel, I ask unanimous consent that they be printed in the Record at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the Columbia (S.C.) State, Nov. 8, 1979]

Hugh Pate Harris

Gen. Huge Pate Harris was an example of retired military officers and men with which South Carolina has been blessed.

His was an outstanding military career, which earned him the four stars of a full general, and his decorations were high and numerous. But he will be remembered in this state more for his public service in his retirement.

General Harris was the president of The Citadel from 1965 to 1970. Retiring from that position, he served as a member of the Commission on Higher Education, the S.C. Wildlife Commission, and led an important study for the General Assembly of high-level radioactive waste disposal which set eventual state policy.

General Harris was a gregarious and affable man, ready to be involved with others in worthwhile causes. He was diplomatic in his leadership, attentive to the opinions of others and, true to his training, decisive.

General Harris died Saturday at Walter Reed Hospital in Washington, D.C., at the age of 70 and was buried in Arlington National Cemetery. He served his country and this state with exceptional devotion.

[From the Charleston (S.C.) News and Courier, Nov. 4, 1979]

General Harris Dies in Washington

Gen. Hugh Pate Harris, former president of The Citadel, died Saturday at Walter Reed Army Hospital. He was 70.

Funeral arrangements will be announced.

Harris retired voluntarily from the Army in 1965 to become president of The Citadel, succeeding Gen. Mark W. Clark. He served as president until 1970 when he retired from the post. He and his wife, Kathleen Burns Harris, had lived in Bonneau since his retirement.

Charleston Mayor Joseph P. Riley Jr. said, "I and the citizens of our community are saddened by the death of Gen. Harris. His leadership as president of The Citadel made an indelible imprint upon that institution and our community. He was a military leader, a gifted educator and a true gentleman."

Gen. Harris was born in Anderson, Ala., June 15, 1909. He attended high school in Tennessee before entering the United States Military Academy in 1927. He was graduated and commissioned a second lieutenant in 1931. In 1941, he was one of five regular army officers who volunteered for assignment to the experimental 88th Airborne Battalion. During this period he was responsible for the development of techniques for loading Army combat in transport aircraft and gliders.

General Harris earned his first star in 1953 at the age of 44. He was promoted to four-star general in 1964. He earned a number of decorations in his military career. Among them were the Distinguished Service Medal, the Silver Star, the Legion of Merit, the Korean Service Medal with three campaign stars, the United Nations Service Medal and the Army of Occupation Medal.

He served as commanding general of the United States Infantry Center, of the 7th Army and of the Continental Army Command.

After he became president of The Citadel, Gen. Harris became interested in promoting an educational consortium among the institutions of higher learning in Charleston. During his term as president, a new chemistry and a new biology laboratory were built. A number of other campus renovations took place during his term. He also was instrumental in establishing new programs for recruiting cadets for The Citadel.

He was keenly interested in athletics and was instrumental in enlarging the Citadel Educational Foundation operational program. He also arranged for a long-term lease for College Park, where The Citadel plays its baseball games.

An avid hunter and fisherman, Gen. Harris chose the little community of Bonneau for his retirement home. After his retirement, he was named by then-Gov. John C. West to head a special committee to probe the affairs of the South Carolina Wildlife Commission. He was later appointed to the commission.

Surviving, in addition to his widow, are two daughters.

[From the Charleston (S.C.) News and Courier, Nov. 6, 1979]

General Hugh P. Harris

A popular and respected man, Gen. Hugh P. Harris came to Charleston in 1965 to succeed Gen. Mark Clark as president of The Citadel. In an address to Citadel cadets that year, Gen. Harris said that no one would ever truly succeed Gen. Clark, but he hoped he would follow in his footsteps and achieve some degree of the success that Gen. Clark had attained. His modesty was characteristic and one of the marks of an officer and a gentleman.

Gen. Harris graduated from the U.S. Military Academy in 1931, and worked his way through the ranks in two wars to become in 1964 a four-star general. He retired early from the service to accept the presidency of The Citadel, the role in which Charlestonians knew him best.

After leaving his post at The Citadel in 1970, Gen. Harris remained active in community affairs. He was an avid sportsman. He was a good soldier, a good college president and a good citizen. His death Saturday at age 70 ended a distinguished career of service to the state and nation.

The Citadel—College of South Carolina

It is with deep sorrow that the President of The Citadel announces the death of Gen. Hugh P. Harris, US Army, Retired, former President of The Citadel on Saturday, 3 November 1979.

General Harris, who served as twelfth president of The Citidel from 1 July 1965 to 31 August 1970 came to the military college after a boyhood in the states of Alabama and Tennessee, a broad secondary education acquired in public and private schools, a wide military educational background from the U.S. Military Academy at West Point and other service schools and colleges and from a diversified Army career.

General Harris lived in Alabama only a short time after his birth there. The remainder of his early years were spent in Lawrenceburg, Tennessee. At Columbia Military Academy, which he attended in preparation for entering West Point, he established an enviable academic record which has not been surpassed to this day. He was graduated from the Military Academy in 1931. The 34 years he subsequently served as a commissioned officer in the Army included duty in all grades from second lieutenant to four-star general. Early in his career he served as an infantry officer. Then he volunteered for assignment to airborne forces which led to his serving as operation and training officer of the command which prepared for World War II combat the 82nd, 101st, 11th, and 17th Airborne Divisions and eight additional separate airborne combat teams. General Harris served as Chief of Staff for the 13th Airborne Division from shortly after the unit was activated in 1943 through the unit's employment in the European Theater in World War II until it was inactivated at Fort Bragg in

1946. He then attended the Command and General Staff College at Fort Leavenworth, Kansas, where he remained as a senior instructor for two years. He was also involved in military education at the Parachute School, Fort Benning, Georgia; Command and General Staff College; Air Force School of Applied Tactics; British Offensive Air Support School; and the National War College.

In 1948 he became an exchange officer with Canada and was assigned to the Joint Airborne Training Center in Manitoba where he helped initiate and later supervise airborne training of the Canadian Brigade which served with distinction in Korea. The role of soldier-diplomat was extended to Germany when he became commanding general of Berlin Command. In 1956 he became the commanding general of the 11th Airborne Division, Seventh United States Army, Europe, and he later served in Europe again as Commanding General Seventh United States Army.

Between his last two assignments in Germany the General served as deputy chief of staff for Operations and Training, U. S. Continental Army Command, Fort Monroe, Virginia; Commanding General, United States Army Infantry Center; Commandant, United States Army Infantry School, Fort Benning, Georgia; and Commanding General, I Corps (Group), Korea.

General Harris was promoted to the rank of general and assumed command of the U. S. Continental Army Command on 1 March 1964. He held that position until 28 February 1965 when he retired from the U. S. Army at his own request in order to accept the presidency of The Citadel.

General Harris has been awarded two Distinguished Service Medals, the Silver Star, three Legion of Merit Awards, and many other decorations.

General Harris' influence was felt not only at The Citadel while he was president but in all state-supported institutions, and several private institutions of higher education in the state. At The Citadel—while preserving the traditions of the institution, improving the morale of the Corps of Cadets, and the academic levels of the institutions—he created programs of tremendous educational service to the community. He initiated a Master of Arts in a Teaching program which began at The Citadel in September 1968. It was the first real graduate program to exist in the Charleston area. By creating this program, General Harris improved the overall educational situation in the state by first improving teacher qualifications.

He refined The Citadel's Evening College so that it complements the Master of Arts in Teaching programs.

General Harris expanded The Citadel Summer School and re-instituted the Veterans Program which attracted many Lowcountry veterans.

He rendered great service to the Medical College (now Medical University of South Carolina) by having The Citadel conduct undergraduate courses for nursing students at the Medical College.

During his term as president, a new chemistry and new biology laboratory were built. He also was instrumental in establishing new programs for recruiting cadets for The Citadel.

He was keenly interested in athletics and increased private giving to athletic and academic programs. He also arranged for a long-term lease for College Park, where The Citadel plays its baseball games.

In 1966 he brought to The Citadel a Social Studies History Summer Institute for fifty secondary school teachers which represented every county in South Carolina. He sponsored civil engineering seminars for practicing engineers in the Lowcountry and refresher engineering courses for Naval Shipyard personnel.

He was Governor Robert E. McNair's agent to find a way of saving the College of Charleston which was facing bankruptcy. The Governor commended General Harris for the sound and comprehensive approach he took to analyzing every detail of the situation facing the College of Charleston. Now, as a result of the General's efforts, the College's future is secure.

General Harris served as chairman of the South Carolina State-Supported College Presidents and president of the South Carolina Association of Colleges.

He was a champion of secondary education and indeed with almost evangelical zeal supported a better, more comprehensive kindergarten system for the state.

Two honorary doctor of laws degrees have been conferred on General Harris. One was received from Clemson University in 1969 and the other from The Citadel in 1971.

Aside from his full and fruitful active duty and educator careers, he rendered exemplary service to the State of South Carolina and his community. The General was chairman of the legislative committee on disposal of radioactive waste material in South Carolina. He served as a member of the South Carolina Commission on Higher Education, and chaired a state task force whose recommendations influenced the structuring of legislative and constitutional officer salaries. He was a member of the Board of Directors of St. Francis Xavier Hospital.

General Harris is survived by his wife, Mrs. Kathleen (Kay) Burns Harris, and two daughters, Frances Elizabeth and Mrs. Irving E. Jenkins. Funeral services will be held at 1:00 p.m., Tuesday, 6 November, at Arlington National Cemetery in Virginia. A memorial service will be held simultaneously in Summerall Chapel, The Citadel. As a mark of respect, the flag of The Citadel will be flown at half staff on Tuesday, 6 November 1979.

The President, Board of Visitors, Faculty and Staff, and the Corps of Cadets extend their profound sympathy to the bereaved family.

For the President.

JAMES R. WOODS,
Director, The Citadel Staff.

THE SENTIMENTS OF THE AMERICAN FARMER

Mr. THURMOND. Mr. President, recently a good friend of mine, Harry S. Bell, president of the South Carolina Farm Bureau, was lauded with a standing ovation for his annual president's address to that organization.

Mr. Bell is nationally recognized as an outstanding agricultural leader, a man well respected by his colleagues. His address expresses the sentiments of the American farmer on such vital issues as inflation, energy, Government overregulation, and our international prestige. I wish to share his comments with my colleagues in the Senate and other readers of the CONGRESSIONAL RECORD because his suggestions are wise counsel for us to follow as we enter a new decade.

Mr. President, I ask unanimous consent that his address be printed in the RECORD at the conclusion of my remarks.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

PRESIDENT'S ADDRESS

This is normally the time when I as President report to you on the health of our farm organization, and I do not wish this morning to ignore that responsibility; but I trust that you will permit me to be brief for there are matters which are heavy on my heart and which I wish to address.

Our Farm Bureau is healthy and vigorous in all of its areas of endeavor. The federation during 1979 had a good year. We can point to many areas of success, and progress is being made in many other areas of vital concern to our agricultural community.

The various affiliated organizations are all doing well and progress is evident on many fronts.

I trust that my brevity will not lull any into complacency for the battle is far from being won; but we are moving forward and, with the continued support of a concerned, dedicated, "willing-to-work" membership, we will continue to improve our lot . . . educationally, socially and economically.

The decade of the seventies is virtually history and the decade of the eighties is approaching rapidly. There are matters of national and international concern which are affecting us at this moment and will directly affect us here in South Carolina in the future and which we as an organization are obligated to recognize. It is our responsibility to exert every influence possible to find reasonable, responsible, long-term answers.

Energy and a sufficient supply is critical to our very survival as a Nation—and as producers of agricultural products; and yet we as a nation have permitted ourselves to arrive at a point in history where we import from foreign nations nearly 50% of the very liquid which sustains our productive life. Why—why have we as a nation permitted such to come about? There are a number of answers which when combined add up to a dismal picture of a failure on our part to be responsible stewards of our God-given resources. Oil once withdrawn from its reservoirs beneath the earth is not replenishable for eons of time. We as a nation have frolicked in a sea of cheap petroleum products (at the same time that we have frolicked in a sea of cheap food) but the chickens are coming home to roost: in fact, they are on the roost . . . so far as oil is concerned. This nation, this world, we as farmers cannot sustain our productive capacity, at a time when the demands upon us are escalating in geometric proportions, unless the energy which is our life blood is substituted by yet another source of energy (synthetic if you wish) which will not be cheap and which will not be infinite in its supply any more than petroleum. The arena is filled with contenders, and I firmly believe that each has a contribution to make that must be exploited to the fullest. Ethenol, methenol, solar, wind, tidal, geothermal, nuclear and others all have a place and under proper supervision must be accepted and exploited.

The scare tactics and exaggerated rhetoric of the opponent must be examined and explored but when reasonable scientific assurances of safety are available, we must proceed. Those who have the expertise should be told, today, to proceed with exploration with all reasonable haste and we as a nation should say—to the victor goes the spoils. He who comes home with the talents will be awarded yet other talents. But what do we do—our Congress at the bidding of the President haggles over a windfall profits tax on the oil companies that in actuality is a tempest in a tea pot. We as farmers know what escalating costs are. Is it so difficult to understand that we are not an island unto ourselves but that other peoples and industries have the same escalating costs, and must have sufficient funds to employ as risk capital if they are to succeed to the benefit of us all? We deplore cheap food—we should not expect cheap energy.

Inflation is rampant in this Nation and is depleting our financial resources to the point that we have destroyed much of that for which our forebears fought and worked and bled to pass on to us. The aged find their savings are insufficient—the poor and disabled are unable to sustain a standard of living which will show promise of possible improvement. The young are not able to afford a home of their own and the cost of living causes them to doubt the advisability of starting families. The established must mortgage their birthright to sustain their position in life. These circumstances are unacceptable to me as an American and I believe they are unacceptable to you.

It is imperative that we attack the root cause of this malady with all reasonable haste. The governmental spending of monies which are not theirs and their ability to tax is the culprit. There are proper functions for which monies must be supplied to government but there is a limit and it has been exceeded. The time has come when we must tell big government whoa—stop—you have gone too far. At the federal level we need to support all out the spending limitation proposals such as presented by Senator Stone of Florida and Congressman Heinz of Pennsylvania. We must also look to state government and ask why the 1400 new positions as approved in the last general assembly, and say whoa—stop—you have gone far enough.

This is the year, now is the time to stand and be recognized as advocating in a renewed fashion and with vigor a sensible approach to governmental involvement in our daily lives. It is interesting that in a study soon to be released by the national planning association, a private, independent research group, the conclusion is reached that the United States economy will flourish if we shift more resources away from government and into private hands. This conclusion is reached on the basis that taxes on both individuals and corporations should be reduced by 10%, that the federal government should trim its work force and that state and local governmental entities hold their hiring down. The computer model indicates that under these circumstances the average annual growth rate of the 80's could be 3.5%, which is well above the rate presently projected by most forecasters. The question is "will our elected officials—those in positions to make decisions—hear this voice which says whoa—stop—look—listen—abandon your grandiose social schemes—abandon your regulatory excesses—abandon your empire building—loose the American genius which you have too long bridled." We do not need national health insurance. We do not need additional taxation. We do need fiscal restraint. We do need the preservation of a system where individual rights and individual opportunity is preserved; where the opportunity to succeed and the possibility of failure drives us on to pursue with greater vigor the dream which we pursue. Government must never guarantee us success lest it also dictate our every thought and our every deed.

Thomas Jefferson once said:

"The natural progress of things is for liberty to yield and government to gain ground . . . one of the most profound preferences in human nature is for satisfying one's needs and desires with the least possible exertion, for appropriating wealth produced by the labor of others, rather than producing it by one's own labor . . . the stronger and more centralized the government, the safer would be the guarantee of such monopolies; in other words, the stronger the government, the weaker the producer, the less consideration need be given by him and the more might be taken from him."

We are plying treacherous waters. The seas are rough and some who are within earshot of my voice this day will not return one year hence, but that possibility must not dull the edge on our united determination to work for long-term solutions to the perplexing problems which befuddle us this day. Our world, our national honor and our national will are being challenged at this very moment by the national leader of Iran—the Ayatollah Khomeini—who professes to have a razor at our national jugular and he does hold within his power the lives of 49 American citizens within the bounds of what all diplomatic channels consider to be American soil. This individual, called a lunatic by another islamic leader, President of Egypt Anwar Sadat, has—I understand—a published book available in France which espouses an idea that the Western World is evil, decadent and must be destroyed by a world Islamic uprising and the installation of a world Islamic government. Dare we ignore such idiocy?

This world did in the 1930's. Need I say more? Let us all this night fall upon our knees and pray to God Almighty that U.S. blood will not be spilled in yet another world conflagration brought about by a world too busy and to preoccupied with short term solutions to narrow self-interests to permit us to rally to the flag and to stay hitched when being hitched can really produce some tangible results. We must be willing to accept sacrifice if that be the need. We must be willing to abandon our national bent to fast solutions and adopt the oriental attribute of patience if that be the need. We must not permit those who would goad us into irrational actions to accomplish their goal. We must emulate the Rock of Gibralter and be the staunch defenders of those beliefs and that philosophy and the principles which we espouse.

It will not be easy. May God give us the strength—the will—the determination—and the guidance we so desperately need in this time of trial.

We are farmers. We witness daily the miracles of germination, birth, growth and yes, death, as well—the entire cycle of life in many plant and animal forms. I believe that those experiences uniquely prepare us to be the spokesmen and spokeswomen that must be the flavoring of this nation—the salt and pepper so to speak—that returns a savor to our national purpose—life, liberty and the right to pursue happiness within the bounds of a society that acknowledges and accepts the fact that we are not an island unto itself.

We as farmers will survive and our Nation will survive if:

1. Inflation is moderated sufficiently and government spending at all levels is brought under control.

2. Our energy dependence is dulled and a resolve is established which will never again permit us to be held hostage by this ravenous appetite for foreign oil.

3. Over-regulation is brought to a halt and reversed.

4. Research and development are turned loose to pursue within reasonable bounds the elusive answers to a multitude of national needs which includes at the forefront—agriculture.

5. Environmental zealots and narrow single interest groups are countered with well developed, well thought out, properly tested, adequate solutions to the opportunities we have to improve human existence on this planet.

6. We are allowed the flexibility which will permit efficient and effective use of modern technology.

7. We have ready access to our markets—both domestic and world markets.

8. Farmers are allowed to speak for themselves through their own organizations and do not permit the government to assume a role not intended by those who founded this nation.

9. Profit and the incentive which profit generates are restored to the agricultural segment of our economy and other segments as well (profit is not a four letter word).

10. We as a people resolve that the principles, beliefs, morals, and a dedication to the Christian precepts that have sustained this nation for 200 years plus are still worthy of our support.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess——

Mr. HELMS. Mr. President, will the Senator withhold that and permit me to speak for a minute?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from North Carolina for the purpose of making a statement, with the understanding that I do not lose my right to the floor.

Mr. STEVENS. Mr. President, reserving the right to object, what was the majority leader's previous request?

The PRESIDING OFFICER. That the Senator might yield to the Senator from North Carolina only for the purpose of making a statement.

Mr. STEVENS. I thought I heard a request prior to that something about a recess.

Mr. ROBERT C. BYRD. I withdrew it temporarily.

The PRESIDING OFFICER. The Senator from North Carolina.

PERSONAL STATEMENT OF SENATOR HELMS

Mr. HELMS. Mr. President, I thank the Chair and I thank the distinguished majority leader. I have advised the Senator from Massachusetts (Mr. Kennedy) that I am going to make a statement in connection with a charge that Senator Kennedy made in California last night, at a fundraising dinner.

The PRESIDING OFFICER. Will the Senator suspend momentarily? The Senate will be in order. Senators conversing will please retire to the cloakrooms, so that the Senator may be heard.

The Senator may proceed.

Mr. HELMS. I thank the Chair.

Mr. President, in California last evening, speaking of the nuclear carrier, Senator Kennedy made this statement:

> Every Member of Congress knows that the reason it—

"It" being the nuclear carrier—

> was put in there is so Jesse Helms would withdraw his two staff people from the negotiations in Rhodesia because it meant some jobs in his district.

Mr. President, I am not going to get involved in any Presidential name-calling, but Mr. Kennedy reminds me of a candidate for constable down in North Carolina many years ago who went around saying strange things.

One day a wise old farmer, having heard this day after day, finally said:

> That feller don't know nothing, and he's got that all tangled up.

In any event, Mr. Kennedy may have set a new record in political poppycock. I count at least four errors of fact in one sentence that he uttered last night.

Now, let me be clear: I have always strongly favored building a nuclear carrier, and I have been on record in that regard all along. I have done everything I could to get one. Mr. Carter knows that, and Mr. Kennedy obviously knows it. But in fairness to the President of the United States, I am obliged to say that Mr. Kennedy's suggestion that I made a deal with the President, or that the President made a deal with me, is absolutely false.

I do not really care, Mr. President, what the Senator from Massachusetts says, but to the extent that I am involved in attacks on the President of the United

States, I want to disassociate myself from them, and to say that the President of the United States has not in any way, by implication or otherwise, suggested a deal.

Mr. President, some weeks back there was a contrived report out of the State Department suggesting that Lord Carrington had objected to two of my associates going to London, at my direction, to observe the talks involving Zimbabwe-Rhodesia.

They did go. They stayed 2 days, and they came back. They were back at work in my office when the report came to Senator CHURCH and Senator JAVITS to the effect that Secretary Vance had received a protest from Lord Carrington.

I called the Foreign Office. They said absolutely no protest had been made, and that there was nothing to it. And later this was confirmed by the State Department.

Now, perhaps that was the basis of Senator KENNEDY's remarks last night. But, whatever the basis, if any, I do not want to be a participant in any attack on the President of the United States in his campaign for the Democratic nomination for President.

I thank the distinguished Senator for yielding to me.

A RESPONSE TO SENATOR KENNEDY

Mr. WARNER. Mr. President, on the wire services today, there is a report that Mr. KENNEDY is alleged to have said that the fourth nuclear aircraft carrier of the *Nimitz* class came about as a consequence of some type of "trade-off". Mr. HELMS has spoken for himself on this allegation, and I have taken it upon myself to review the actions taken by the two committees of the Senate—that is, the Armed Services and Appropriations Committees to determine if there is a basis for this disturbing allegation. Mr. President, I want to say quite clearly that I can find no record of such a "trade-off" having occurred in the consideration by the Senate of this carrier.

Further, I just talked with Congressman BENNETT, who is chairman of the House of Representatives Seapower Subcommittee. He informed me that he was present at the White House with Chairman PRICE, House Armed Services Committee and Chairman STENNIS of the Senate Armed Service Committee, when they spoke with the President of the United States about the nuclear carrier. There was no reference at that meeting to any "trade-off." Promptly after that White House meeting the chairmen reported to the Conference Committee, of which I was a member, and urged a nuclear carrier for military and cost reasons.

This morning, the Committee on Armed Services received testimony from the Secretary of Defense, Mr. Brown, and I questioned him with regard to his knowledge about the alleged "trade-off." He assured the members of the Committee that he had no knowledge of such a "trade-off." Further, it was his judgment that, although he continued to prefer a conventionally powered carrier rather than nuclear power, he was clearly of the opinion that the Congress of the United States, in a very orderly process, had arrived at its decision of authorizing and appropriating funds for a nuclear powered carrier.

The purpose of my rising on this question, Mr. President, is that this week, America and the world have witnessed our President urging a stronger defense posture with additional defense spending. The Secretary of Defense has just completed 2 days of testimony detailing the intentions of the President.

Such statements as were made by our distinguished colleague from Massachusetts, in my judgment, send shock waves among the people as to the manner by which Congress makes important decisions with respect to military procurement. In order for us to go forward with a strengthened defense program, we need the support of the President, the support of the Congress, and, equally, the support of the American public, who ultimately must bear the burden of paying the taxes. Therefore, I hope that, in due course, my distinguished colleague from Massachusetts will reexamine his statement and, hopefully, correct the RECORD.

I thank the Chair.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, while there is relatively good attendance in the Chamber, let me say that the Senate will be in tomorrow. I have had a number of Senators ask me whether or not we will be in. I can see no reason why the Senate should not be in or will not be in tomorrow.

Mr. DECONCINI. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes, shortly.

The pending excess profits tax bill has to be finished. And if we cannot finish it, we are not going out early in the evening or we are not going to be out on Saturdays.

I will not state categorically that we will not have a Sunday session. Now, I have my own reasons for saying that and they may be good ones. We have had a few Sunday sessions around here. But I am not planning that. I am not planning that.

But we will be in tomorrow. I hope that we can continue our negotiations this afternoon. I do not think we are far apart. We are so close together that the sparks will fly between the two positions. And, therefore, we will continue.

But, in the meantime, I hope that Senators will plan their schedules accordingly. The Senate will be in this afternoon, the Senate will be in this evening, and the Senate will be in tomorrow.

And I will be offering a cloture motion later today on this bill and there will be a cloture vote on Monday. We will get our Senators back. They will be here on Monday.

And so there is no reason, no reason whatsoever, to think in terms of this Senate not being in tomorrow. And there will be votes. There will be votes.

I have every good reason to believe that we might even finish this bill tomorrow. But that would mean that Senators will have to be around for votes.

I promised, first, to yield to the distinguished Senator from Arizona (Mr. DECONCINI).

I yield the floor to the Senator from Missouri (Mr. DANFORTH).

Mr. DANFORTH. Mr. President, I wonder if I could just inquire of the majority leader: What are we supposed to be doing while we are here? I mean, if we are not permitted to offer amendments, it just seems to me that we are wasting time. I am perfectly willing to cooperate in any way and to stay around for whatever length of time, but we are making absolutely no progress.

Any attempt to set the pending amendment aside and bring up other amendments will be thwarted. And I just do not quite see where all this is leading us.

And, in view of the fact that tomorrow is a religious holiday for some of our number, beginning at sundown tonight, I am curious to know how this is advancing us.

Mr. ROBERT C. BYRD. Mr. President, may I say to the distinguished Senator that he has repeatedly attempted to get his amendment called up and he has shown every understanding of the situation that we are in. Objections have been made to calling up of his amendment at this time. All things are not always what they seem. And while it may appear that the Senate is not making progress, they may be making progress. I think it is. And, in the long run, I think time will be saved.

The distinguished Senator cannot get his amendment up because there will be objections. I realize his frustration. But he has shown the greatest patience and understanding. I hope there will be a time when he can get his amendment called up.

Mr. LONG. Will the Senator yield on that point?

Mr. ROBERT C. BYRD. Yes.

Mr. LONG. Mr. President, may I say to the distinguished majority leader that just because the Senator does not have his amendment called up does not mean we cannot talk about it.

I am pleased to see that the Senator has shifted from Danforth 1 over to Danforth 2. I hope that that means he had a chance to read the speech I made last night, in which I proved beyond any doubt that Danforth 1 is unconstitutional on at least three different bases. So at least the Senator has been persuaded that Danforth 1 is unconstitutional for three different reasons and now he, apparently, has switched over to Danforth 2, which is a very unwise amendment. But, on the other hand, it is not as clearly unconstitutional as the first effort.

So that matter can be discussed. And I would recommend to all Senators that they read what I had to say on that subject, starting on S18461, because I was fearful that cloture would be voted before I had the opportunity to explain how most States could operate and serve its people if the invasion of the State's function occurred as the Senator certainly had suggested.

I think we are making progress from

that horrible concept suggested by the Senator and exposing it for the record. In absence of the committee hearings, I think the best thing we can do is discuss it here. And thanks to the fact that we have had some free time to debate, I had the chance just to discuss it. If we had been under cloture, I would have been under a 1-hour rule, and I would not have completed my speech.

Mr. DANFORTH. Mr. President, will the Senator yield for one sentence?

Mr. ROBERT C. BYRD. Mr. President, I yield for the purpose of a statement or a question.

Mr. DANFORTH. Mr. President, I am no more persuaded by the distinguished floor manager's allegations with respect to unconstitutionality than he was persuaded that the Federal excise tax that we levied on sales of coal from State lands as recently as 1978—which tax was reported out of the Finance Committee, supported by the chairman of the Finance Committee—I am no more persuaded that that particular imposition of the tax on State oil royalties is any more a constitutional problem than the tax last year was on State coal sales.

Mr. LONG. Mr. President, I am very disappointed in the Senator's remarks. I had been led to believe that he was both a good lawyer and a man of high moral principles. I had thought I had convinced him yesterday that he was wrong about the law, and today that I had convinced him he was wrong about the morality of it. But I see I have to do more work.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I hope Senators will understand that I do not want to hold the floor, but I do want us to get into a recess so Senators, Senator Dole and others, can be assured——

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, I yield to the Senator from Rhode Island (Mr. Chafee).

Mr. CHAFEE. Mr. President, I would like to direct a couple of questions, if I might, to the majority leader. First, there are many of us on this side—and I think probably all of us do not particularly enjoy voting against cloture. We are told that negotiations are underway. Yet, we are not privy to what these negotiations are or what progress is being made.

And the majority leader has stated that he is going to have votes here on Monday to invoke cloture, which indicates that those on his side, perhaps, are not too ready to negotiate. Why bother to negotiate, if you are going to win anyway? That is the drift of the nuance that I get from the majority leader.

Yet, at the same time, there are those of us on this side that feel quite strongly about a variety of issues, including the Danforth amendment, both Danforth 1 and Danforth 2, the nongermane one, be included in some agreement so that we can have a vote. I do not know whether they will pass or not, but certainly we would like to see this.

It seems to me that there is considerable thrust for an agreement. But I am distressed that the majority leader has indicated that he is going to win anyway, so I just wonder what difference there is on that side, or are we just waiting for Monday? I am not being critical. I am asking the question.

Mr. ROBERT C. BYRD. Mr. President, no, the Senate is not waiting for Monday. The majority leader is not waiting for Monday.

I feel that we are so close on an agreement—and Mr. Dole can speak for his side, and he is truly one of the experts on this legislation, I am not—I feel that we are so close that we ought to try to get an agreement. Whether or not we get cloture, I would prefer to work out some kind of an agreement so that we do not go down that cloture road, postcloture road, and so on. I feel that we can get one, which will, perhaps, see us complete action on this bill tomorrow.

I do not think I have said without scintilla of a doubt that we can get 60 votes on Monday. I am very highly optimistic that we can get 60 votes on Monday. We would have had 62 votes today if we had our absentees here.

Mr. CHAFEE. May I ask one more question of the majority leader?

Mr. ROBERT C. BYRD. Yes.

Mr. CHAFEE. What do we get when we get to cloture? Then we have an additional 100 hours as a maximum. Even under the new rules, the postcloture proceeding is an interesting one.

Mr. ROBERT C. BYRD. The postcloture rules.

Mr. CHAFEE. And there may be some ingenious person who has an attack that can arise under the postcloture rule that we do not know about. But what bothers me, Mr. President, if I may ask the majority leader, is I do not know whether it is so or not but it appears that perhaps on the majority side each Member has what might be called an absolute veto over any settlements, and any settlement obviously is going to leave people dissatisfied. No one is going to get the whole loaf. I would hope that there is a recognition of that and an urging of the both sides to yield, and both sides meaning the Members, as I understand. I may be unfair, but that is my impression, that any individual Democrat can come in and if they are dissatisfied, the whole thing goes down the drain.

Mr. ROBERT C. BYRD. I am sorry but my friend has been misinformed.

Mr. President, I would like to yield the floor soon but I do want to put the Senate out for a recess.

Mr. McCLURE. Will the Senator yield for a question?

Mr. ROBERT C. BYRD. I would like to yield first to the Senator from Illinois and then the manager of the bill on the minority side.

Mr. PERCY. My question of the majority leader goes back to a colloquy we had on December 13, when the Senator from Illinois asked if two amendments, one dealing with a turnback to States of funds lost through conservation, and the other involving incentives to industries for coal conversion, could be brought up.

The distinguished majority leader said, "I have already indicated it is agreeable to me if a time agreement is put thereon."

There are no constitutional problems of any kind that have been raised with his amendments. They do go to the heart and purpose of this bill.

If we are just going to be spinning our wheels—if we are going to get cloture on Monday anyway—would it not be much better to spend the time today with time limits on two amendments of great interest to every State and industry? Could we see if we could have a vote on those?

If we are ever to get the Chrysler matter on the floor, we have to start today and Saturday, to really go to work on this bill.

I would ask once again for unanimous consent that the two amendments that I have referred to before. Nos. 798 and 682, be in order to be brought up for discussion with a time limitation of 1 hour on each amendment.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, and I will have to object, may I say once again to the distinguished Senator from Illinois, I see the utility of his amendments. I have thoroughly studied them. They are not germane to this bill.

If we invoke cloture, they cannot come in in any event. But if we can show we will invoke cloture, we might be able to get an agreement and that agreement might entail what the Senator wants. But the Senator continues to vote against cloture. If we never get cloture, I do not think he will get his amendment up. If we do get cloture he will not get his amendments up because they are not germane. I would hope he would come with us on cloture so we can get this agreement and avoid cloture. Even if we get cloture, it is not unthinkable that after we get cloture we can still get a unanimous-consent agreement that will invalidate cloture. I have seen us get unanimous-consent agreements, once the cloture motion is entered and before the cloture vote occurs, that avoid the cloture vote. We can even vitiate the cloture vote on Monday, if we get an agreement.

I would hope the Senator would help us to get cloture and be assured of cloture on Monday. I would rather have 63 votes than to have 62 or 61 or even 60. I hope the Senator will help us. This is the only chance he has—the only chance he has—of getting his amendment up.

I love him, I like his amendments, but they are not germane. If we get cloture without his help, he will not ever get his amendments up to this bill. But if we get cloture with his help there might be a little mercy that seasons justice over here. So I urge the distinguished Senator to rethink his position. With that I yield to the distinguished Senator from Kansas.

Mr. PERCY. Will the majority leader let me read what Senator Long said on December 11?

> It is all right with me to consider some amendments but not those which would be so far afield from what we are talking about here that it just turns the bill into a Christmas tree.

Everyone will agree, including Senator Long, that the amendments of the Senator from Illinois pertain right to the bill. The Senator from Illinois had the assurance from the majority leader and from the bill manager that we would act on these amendments and yet here we go day after day with no opportunity to work on them. I know I will be foreclosed with cloture.

Mr. ROBERT C. BYRD. I have heard the Senator from Illinois plead his case with the utmost persuasion but right now I suggest we get on with something else. His request is constantly under development. I hope in the long run something can be done.

Mr. STEVENS. Will the Senator allow me one comment?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. I want to be sure that I have on the record what I informed the majority leader previously, that if cloture is voted I have been instructed in my capacity as the acting minority leader to object to any unanimous-consent agreement during the whole process. So the Senator from Illinois will not be taken by surprise, or anyone else, I have a duty to be carried out from the Members on my side, and that is to object to any unanimous-consent request once we have cloture.

Mr. ROBERT C. BYRD. I thank the Senator. I yield to the distinguished Senator from Kansas.

Mr. DOLE. I will say to the distinguished Senator from Illinois that we also have his welfare at heart. He is voting the right way. Just hang in there. It looks good on you. [Laughter.]

We may be able to work out an agreement that will take care of the distinguished Senator from Illinois. In the meantime, we are going to go back to the drawing boards.

I do not really believe we have reached that impasse. I am not going to concede there are 60 votes on Monday because there are always surprises on both sides. A plane might be late, as it was today, or whatever. But things can happen.

That should not be the focus. The focus ought to be on trying to finish the bill and trying to reach some agreement. I think on either side there will be some who will not be satisfied. There are some who are against any tax, some who want more tax, and some who are against other portions. But I would hope that we might recess and we could adjourn to the majority leader's room and discuss the next best offer.

Mr. BOSCHWITZ. Will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. BOSCHWITZ. I just want to say I share the viewpoint of the distinguished Senator from Rhode Island, that I hope we do indeed make progress and that the threat of cloture is not held over the ability to make that progress. I, and I think many people on my side, have a bottom line like everybody else. That bottom line involves the taxation of new oil. I hope it would be exempted altogether. I thought we had a conclusion worked out last night. I was surprised that it did not hold. As the leader knows, I have been most interested in the negotiations. On my side, I think there are many of us who are very much opposed to a tax on new oil, which is the oil that will perhaps lead us away from dependency on thise countries that are now in turmoil or so unreliable.

Mr. ROBERT C. BYRD. I thank the distinguished Senator. There are Senators on my side who are opposed to a tax on new oil also.

Mr. President, the distinguished Senator from Idaho asked me to yield. I yield only for a brief statement.

Mr. McCLURE. Part of my question has already been answered, I will say to the majority leader, or answered in part. It is my understanding that the majority leader intends to ask for or move for a recess. I understand the difficulty with getting either the Danforth or the Percy amendments up, or matters that are closely related to the critical issue of whether or not cloture is voted.

Is it possible, rather than recessing, that we allow other amendments to come up? There is a whole host of them that will have to be acted on before we finish this bill. I hate to see us just sitting around doing nothing—excuse me—the rest of us doing nothing while negotiations go on in a back room somewhere, when we might well be acting upon some of the amendments that are not controversial.

Maybe the Senator from Illinois has that problem, maybe the Senator from Missouri has that problem, but there are a lot of other amendments that are simply going to take time, but they are not controversial. They are going to be acted on. It seems to me we might use the time to act on those amendments.

Mr. SARBANES. Will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Maryland without losing my right to the floor.

Mr. SARBANES. Mr. President, I wanted to make the point I started to make earlier when the Senator from Missouri and the Senator from Louisiana were speaking.

The debate that took place last night is, in fact, helpful and does, I think, help to move the Senate along. In other words, what it means is that if and when we reach that amendment, we have covered a good bit of the ground that would otherwise have to be covered at that time. In that sense, I do not think the Senate was marking time and it does give us an opportunity to review the constitutional assertions of the Senator from Louisiana and, of course, the position which the Senator from Missouri has put forward. So, at least that debate was not a spinning of wheels with respect to the business of the Senate, even though the amendment itself is not before us and is not in a position to be voted upon.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. McClure, again with the same understanding.

Mr. McCLURE. Mr. President, I wondered if the Senator from West Virginia might respond to the question I had asked, because it does seem we have an opportunity to make some progress with regard to noncontroversial amendments, if there are some, and I believe there may be.

Mr. ROBERT C. BYRD. There may be some merit to that. Right now, objections to the amendment have delayed us for the time being.

I think it is only fair to the distinguished manager of the bill (Mr. Long) and the ranking manager (Mr. Dole) that they be allowed to be off the floor for a little while. I think I would certainly want them to be here to clear the taking up of any amendments. I do not think the request is an unreasonable one, but perhaps, later in the day, there could be other amendments called up by unanimous consent. I cannot say.

Mr. McCLURE. I thank the Senator for yielding. It is not my intention to object to the recess. I thank the Senator for yielding under the circumstance without losing his right to the floor and for this statement only. I just point out that we have not done much really on this bill except negotiation since 2 weeks ago yesterday, when the pending amendment became the blockade to all other action. The determination that we vote on nothing else but the pending amendment has held us largely at a standstill for 2 weeks. I hope that will break soon.

I might say to the Senator from Missouri: Despair not; you are gaining strength. Every time a producing State Senator votes for cloture, you are gaining a lot of votes for your amendment.

Mr. ROBERT C. BYRD. Mr. President, I am glad the distinguished Senator from Idaho is joining me in urging that the Senate move forward on this legislation as expeditiously as possible.

RECESS UNTIL 3:45 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 3:45 p.m. today.

There being no objection, the Senate, at 2:37 p.m., recessed until 3:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Exon).

RECESS UNTIL 3:59 P.M. TODAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 3:44 p.m., recessed until 3:59 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Stewart).

TIME-LIMITATION AGREEMENT—H.R. 4943

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as a message from the House on H.R. 4943, the New York-New Jersey compact, is called up and made the pending business before the Senate, there be a time limitation thereon of not to exceed 5 minutes, to be equally divided between the Senator from New York (Mr. Javits) and Mr. Baucus.

The PRESIDING OFFICER. Without objection, it is so ordered.

NEW YORK-NEW JERSEY PORT AUTHORITY COMPACT

The PRESIDING OFFICER. The Chair lays before the Senate a message from the House of Representatives on H.R. 4943.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

> *Resolved*, That the House disagree to the amendment of the Senate to the bill (H.R. 4943) entitled "An Act granting the consent of Congress to the compact between the States of New York and New Jersey providing for the coordination, facilitation, promotion, preservation, and protection of trade and commerce in and through the Port of New York District through the financing and effectuation of industrial development projects."

Mr. JAVITS. Mr. President, when the matter was before us previously, Senator BAUCUS presented an amendment which was put on the bill. He was gracious enough to say that if the House found it unacceptable, he would withdraw it, so that the bill for which we in New York and New Jersey have waited a long time might pass.

I deeply appreciate it. I wish to express that first to him for his very fine aid.

Now I yield to him.

Mr. BAUCUS. Mr. President, I thank the Senator from New York for his gracious words.

As he stated, I previously offered an amendment to the bill which I hoped would be acceptable to the House conferees. I stated when I offered it that were it not acceptable, I would agree to let the Senate recede from its amendment, and I would find a later appropriate vehicle on which to further my efforts.

Accordingly, Mr. President, if it is in order, I move that the Senate recede from its amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion.

Will the Senators yield back their time?

Mr. JAVITS. I yield back the remainder of my time.

Mr. BAUCUS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, is any further proceeding necessary?

The PRESIDING OFFICER. No.

Mr. JAVITS. I thank the Chair and I thank my colleague.

TIME-LIMITATION AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that with respect to Calendar Order No. 373, S. 493, there be a time limitation thereon, including that only one amendment be in order, that by Mr. MATSUNAGA; that there be a time limit overall, including time on the bill, any amendment, any debatable motion, including the motion to reconsider, of 20 minutes to be equally divided between Mr. HATFIELD and Mr. MATSUNAGA.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEEP SEABED MINERAL RESOURCES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 373.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 493) to promote the orderly development of hard mineral resources in the deep seabed, pending adoption of an international regime relating thereto and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, the Committee on Commerce, Science, and Transportation, and the Committee on Foreign Relations, each with amendments.

Mr. LONG. Mr. President, S. 493, the ocean mining bill comes before the Senate at a time when international negotiations on a Law of the Sea Treaty have been in progress for over 12 years. During the years of debate surrounding both this legislation and the various drafts of the treaty, we have been advised by some quarters that we should await the conclusion of the international negotiations—that the passage of unilateral domestic legislation would be considered "illegal" by the world community and an "affront" to the lesser developed countries of the world.

Mr. President, I want to go on record as stating that many of the articles contained in the draft Law of the Sea Treaty are unacceptable to me and I believe should be so considered by every Member of this body.

The Congress has been accused of "lacking sensitivity" for the negotiations currently underway and for failing to deal in "good faith" with our negotiating partners at the Law of the Sea Conference. Yet, we have refrained from passage of domestic legislation ever since discussions began at the U.N. in 1967 over future uses of the oceans and since the third U.N. Conference was convened in Caracas in 1974.

Even now, in the bill before us, we continue to demonstrate our good faith. We have clearly stated that domestic legislation is to be interim authority for ocean mining, pending signature and ratification of an equitable and fair Law of the Sea Treaty. We have imposed in title V of this bill, an excise tax on the removal of hard mineral resources from the deep seabed. Mining companies, after securing a permit to mine the ocean floor, will be liable for payment of the tax regardless of whether they remove the nodules themselves or authorize a third party to undertake the removal on their behalf. The proceeds of the excise tax will be available for such purposes as Congress may determine by legislation, including the payment of any U.S. share of obligations under an international deep seabed treaty which may be negotiated at the LOS Conference, ratified by and entered into force for the United States. It is estimated that once commercial mining begins, tax collections will amount to approximately $8 million annually.

However, Mr. President, I do not feel kindly disposed toward turning over $8 million of taxes paid by U.S. citizens to an international authority which has as its objective driving those same citizens out of business and out of ocean mining.

Specifically, I refer to those provisions of the treaty which would require a U.S. company attempting to mine on the so-called free access side of the parallel system to:

First, pay an application fee of $500,000;

Second, pay an annual fixed fee of $1 million from the date of entry into force of the contract up to the commencement of commercial production; and

Third, pay, once commercial production has begun, the higher of either a percentage production charge based on the market value of processed minerals or a combination of a smaller production charge percentage plus a share of the attributable net proceeds from mining in the area. U.S. citizens are to pay all of these millions of dollars to an international organization for rights they presently enjoy at no cost under the well-recognized International Law Doctrine of the Freedom of the High Seas.

While under the draft treaty, the contractor is allowed deductions from his payments for certain development and operating costs, he is strictly prohibited from including in such costs corporate income taxes or similar charges levied by States in respect to the operations of the contractor. Thus, the international authority clearly intends to deny tax credits to private mining companies for the various taxes which may be imposed by the countries of their domicile.

Mr. President, in juxtaposition to the situation faced by U.S. companies which would be attempting to mine the seabed, we should examine the position of the ocean mining subsidiary of the international authority—often referred to as the "Enterprise." Under the current treaty draft, the "Enterprise" is not burdened with a similar duty of making payments to the authority. The "Enterprise" is granted a blanket immunity from taxation by any State party to the treaty. I do not believe the members of the Finance Committee, let alone the rest of this body are going to sit back and welcome the creation of a transnational State enterprise which would be allowed to compete with American companies on a tax-free basis.

In addition, Mr. President, other provisions in the draft treaty will provide a hefty beginning bankroll for the "Enterprise"—at the expense of nations such as the United States. Under the treaty, the "Enterprise" must be assured of the funds needed to carry out a fully integrated mining project, from exploration through the marketing of minerals. The proposal does not specify the amount of funds required, because the developing countries objected to including such a figure on the grounds that cost estimates varied greatly—from $560 million to $1 billion or more. The exact amount would be left for decision by a one-nation, one-vote assembly, which could hardly be expected to protect U.S. interests.

This initial project would be financed by loans, half interest-free and half interest-bearing. This is the ratio preferred by the developing countries. The U.S. delegation's position had been for a one-third-two-thirds ratio—but as has been the case with most of the Law of the Sea negotiations, the U.S. position was defeated. The scale for contributions to the United Nation's budget would be the basis for determining how much each State party to the convention must lend the "enterprise"—in the case of the United States this figure is around 25 percent.

The U.S. contributed approximately $300 million to the United Nations in fiscal year 1980 as its 25-percent assessment. Part of these funds were used to finance the Law of the Sea Conference and thereby further the common heritage concept which is so inimical to U.S. interests. Additionally, the draft Law of the Sea Treaty calls for a 25-percent assessment on the United States to fund the entire operations of the Authority. This could cost the United States at least an additional $100 million a year. All told, the treaty could impose a several hundred million dollar direct loan requirement on the United States. U.S. taxpayers would be asked to foot the bill. Thus, in addition to the tremendous financial and other disincentives heaped on American citizens who endeavor to mine the oceans under the current draft treaty articles, hundreds of millions of American tax dollars could be spent in financing our new transnational competitor and its parent, the International Seabed Authority.

The "enterprise" is granted a whole host of other immunities and "financial incentives" not otherwise granted to private companies. The whole system of payments under the current draft treaty is geared to the survival of the State-owned "enterprise" and the extinction of free enterprise.

Mr. President, the United States of America is entering a most difficult period in this second half of the twentieth century. We are a strong economic and military power. We can employ these advantages to protect our democratic heritage or we can concede basic principles of international law which in the years ahead will erode our present strength. The choice is ours.

I want to reiterate that while I am in favor of an equitable Law of the Sea Treaty, the current articles pertaining to deep seabed mining are defective and so one-sided that if called upon to give my advice and consent to the current treaty draft, I would withhold it.

Mr. MAGNUSON. Mr. President, S. 493, the Deep Seabed Mineral Resources Act deserves the Senate's full support. This legislation provides the encouragement necessary for U.S. companies interested in recovering manganese nodules from the deep seabed. These nodules can insure this Nation of a stable future supply of essential minerals with a greatly reduced risk of unreasonable in inflationary price rises. This legislation also provides that this activity will take place in an environmentally sound manner and provide needed research and protection for the ocean environment.

As the administration has advised the Congress on numerous occasions, this legislation is not incompatible with a possible, future Law of the Sea Treaty; it should not be regarded as a threat to the third U.N. Conference on the Law of the Sea; it is needed, regardless of whether a treaty regime is finally agreed upon; and it is needed to serve as the legal framework required as the foundation for private investment.

Mr. President, the bill provides that the lead agency for administering this legislation will be the National Oceanic and Atmospheric Administration. The administration of a deep seabed mining program is by its very nature an integral part of this Nation's efforts to develop and implement an integrated, comprehensive approach to deal with all ocean uses. NOAA is the lead Federal agency responsible for ocean-related activities; it is, therefore, capable of integrating the authority for all pertinent ocean issues such as pollution research, marine environmental monitoring, coastal zone management, and fisheries. The importance of this coordinated authority cannot be ignored, and I commend the Senate for its designation of NOAA as the proper administering agency.

The bill also assures that the minerals recovered by U.S. companies will result in this Nation receiving the corresponding benefits of mineral processing, employment, and market availability. For example, the high technology vessels used in the recovery and potential processing these nodules must be documented under U.S. laws in order to insure that the advanced technology will remain available to the Nation and will not be freely exported to the site of cheapest construction. Second, the activities of these vessels are more likely to affect the quality of the environment, and these requirements will enable the United States to enforce the environmental provisions of S. 493 and Federal safety requirements.

In addition a minimum of one ore carrier will be documented under U.S. laws. This requirement, that each mine site should be served by at least one U.S.-flag vessel, is to insure that there is at least minimum control over the transportation of these mineral resources to the United States. At the present time, there are no U.S.-flag ore carriers in the world fleet. The fact that the remaining number of ore carriers do not have to be documented under U.S. law provides adequate latitude to the interests of foreign interest in the mining consortia and to any reciprocating states. Each mining vessel is expected to utilize between two and four ore carriers.

The legislation also provides that the nodule recovery activities will be conducted in an environmentally sound manner. The bill establishes a comprehensive environmental assessment program, including programmatic and project-specific environmental impact statements. It provides for continuous monitoring of at-sea operations.

It is generally agreed, Mr. President, that it is appropriate to allow deep seabed mining to commence before all environmental research is completed. Therefore, it is important to note that the bill grants NOAA the flexibility to modify or change environmental requirements in light of future research. This flexibility is essential and is properly extended to NOAA's authority to modify and revise both regulations and terms, conditions, and restrictions of the permits. Section 110 of the bill also provides necessary authority to insure sound, proper conservation of these natural resources. Finally, the bill provides that the vessels used in any recovery or processing activities must comply with the Clean Water Act. These issues are dealt with in more detail in the reports by both the Commerce and Environment and Public Works Committees.

Title II of this legislation is addressed in more detail by the statements of my colleagues. Nevertheless, I wish to emphasize, as has been emphasized in numerous committee hearings and reports, that this legislation does not in any way create a legal, moral, or other obligation to compensate mining companies if they are affected by a future Law of the Sea Treaty. The Law of the Sea Treaty is dealing with a number of issues and principles within the seabed negotiations, however, that will result in intense scrutiny by the Senate and will have to be resolved satisfactorily prior to this Nation's signature of any treaty text.

Mr. President, I support the prompt enactment of this legislation and urge my colleagues to give the bill their support also. I also ask that the following article from the July 2 Business Week be printed in the RECORD. It helps shed some further light on the importance of the minerals at issues.

The material follows:

[From Business Week, July 2, 1979]

NOW THE SQUEEZE ON METALS

America's industrial might—already threatened by the deepening energy mess—is in for another resource crunch. Even now, manufacturers of products as diverse as jet engines and home appliances face intermittent shortages and spiraling costs in some of the basic metals from which they fashion their products. Metal users are accustomed to fluctuations in price and supply, but all signs point to longer-range problems in U.S. mineral supplies that will not be solved by cyclic swings in the economy. If not solved, those problems could make U.S. business less competitive, lower Americans' standard of living, and endanger the national security.

Today domestic steel and aluminum production is rapidly falling behind demand. Smelting and refining capacity for lead, copper, and zinc is being slowly strangled by environmental regulation. And supplies of other critical metals are increasingly threatened by an overwhelming U.S. dependence on imports. Already, manufacturers are looking for new ways to conserve metals—such as recycling. And they are scrambling for substitutes for the metals that are in tightest supply.

Most ominous is the growing U.S. dependence on foreign supplies. Such vital metals as cobalt, chromium, and platinum are almost entirely imported from unstable or potentially hostile nations in southern Africa or from the Soviet Union. Even for the more common nonferrous metals, the investments in new mines and processing facilities are going into foreign countries. Meanwhile, the Soviet Union, which has single-mindedly built self-sufficiency in practically every metal of importance during the past decade, is also becoming a dominant supplier and trader in international metals markets. By the mid-1980s, experts warn, the U.S. will be dangerously dependent on foreign sources for a significant portion of its total metals requirements.

All this amounts to a strategic threat every bit as damaging as the energy squeeze. So far, there has been no federal response and almost no interest from the Carter Administration.

The U.S. now gobbles up about $140 billion worth of metals per year, and while imports last year were only $10 billion, that was nearly a 30 percent jump from the 1977 level, according to the Commerce Dept. The U.S. is already a net importer of metals, and one government study warns that by the year 2000, the U.S. mineral trade deficit will approach $100 billion in current dollars.

At the same time, global demand for metals is rising steadily. By the turn of the century, consumption will at least double, predicts Wilfred Malenbaum, professor of economics at the University of Pennsylvania. And as the industrial growth of other nations outpaces that of the U.S., domestic metals users will be in hot competition for supply.

In some ways, the emerging metals crunch is directly analogous to the oil dilemma; Americans have consumed too much, too fast, without adequate regard for future needs. "We seem to be hellbent on the same road of materials myopia . . . that we were in oil and gas," says Representative James D. Santini D-Nev.). "But we can still detour it with a minerals policy."

Santini is one of the few voices in Washington raised today in support of such a policy, although during the past 25 years there have been countless futile attempts—studies, commissions, and legislative initiatives—to address this issue. The latest, a mammoth 14-agency study of nonfuel minerals, was ordered more than a year ago by President Carter, under pressure from Santini and key congressional committees concerned about the nation's access to metals.

The first phase of the study, aimed at pinpointing minerals problems, took 18 months to prepare and is now being condensed into a more manageable form. Phase two is supposed to outline options for a minerals policy, but "we haven't discovered anything that would lead to a sweeping Presidential declaration of a single policy," says Philip M. Smith, associate director for natural resources and commercial services in the White House Office of Science & Technology Policy. Critics say this is because the report is superficial and poorly coordinated. Santini's House subcommittee on mines and mining began oversight hearings on the minerals report on June 13.

The rationale for a minerals policy is that the U.S has no mechanism to calculate the extent of the nation's mineral supply needs and problems or to assess how other U.S. policies—economic, environmental, and social—affect the mineral industries. And because no metal is defined as economically critical, there is no system to signal or respond to shortages or cutoffs.

Supporters of a metals policy say the U.S. can no longer rely on private industry to make supply and demand decisions, because developments of the last decade have drastically reduced the freedom of the marketplace in which it operates. These developments include new emphasis on environmental protection, U.S. attempts to control inflation through price guidelines, and increasing demands by developing countries for a greater share in the wealth from mineral earnings. "If you look at what we've done to these industries in the last 10 years . . . it's a totally different ball game they face," says one government economist.

But while there is growing concern about the problems, there is little hope in industry that a mineral policy designed to address them all will ever be developed. "I'm not very optimistic about the chances of anything coming out of Washington very quickly," says Harold W. Paxton, research vice-president at U.S. Steel Corp. "I haven't seen anything that's encouraged me." In fact, Santini and others accuse the Administration of being indifferent to issues of mineral supply and overly stringent in regulating the mineral industry. "It sometimes looks like there is almost a deliberate attempt to weaken this vital segment of our economy," Santini, whose state is a leading mineral producer, declared at the June 13 hearings.

Already, the industry has been weakened by foreign competition. In the last year, zinc imports increased about 30 percent, while copper imports are up about 20 percent. Most domestic producers were caught with significant overcapacity in the 1974 recession. As prices plunged, foreign producers—most of them government-subsidized—continued to expand production, flooding the U.S. market with lower-priced metals. Since then, U.S. producers have closed down some domestic mines and have almost halted the development of new ones, claiming that prices do not justify the massive investments needed. At the same time, the ever-increasing layers of environmental and health and safety regulations—notably the Clean Air Act of 1977 and its subsequent amendments—have driven production costs up as much as 25 percent, without increasing output.

Some metals experts blame the woes of the domestic metals industries partly on poor management. Metals producers, they say, responded only to the cyclicality of the markets, pushing ahead with production when demand and prices were high and cutting back when prices dropped, with no strategic plan to reduce dependence on these swings.

"Management of these companies made one big mistake in that they used a broken crystal ball," says George H. Cleaver, longtime metals analyst at Merrill Lynch, Pierce, Fenner & Smith Inc. Even going into the 1974 recession, he says, "they believed what the government was telling them—that there would be a long period of a rising economy." Cleaver adds: "They expanded more than was called for and took on large debts." And Simon D. Strauss, former vice-chairman and now a director of Asarco Inc., concedes: "In the mid-1960s we were debt-free. Today nearly every major mining company is burdened with substantial debt."

The combined effect of these ills has been a dramatic change in the strategies of the domestic metals producers. No longer are they much interested in risking substantial capital on new mines or new plants. And, fearing another recession, managers are less likely to use the current strengthening in metals prices to make major new investments. Instead, they are bent on increasing profitability by reducing their dependence on cyclical markets, milking existing facilities, and cutting their production costs.

NO-WIN REGULATIONS

Efforts to pare production costs have been frustrated by the need to meet regulations that "cost money and time and talent with no resulting profit at all," says Pierre Gousseland, chairman of Amax Inc. Copper, lead, and zinc producers claim that they cannot afford to meet increasingly stringent state and federal rules. More and more, these producers are turning to overseas processors in Japan and Germany to smelt and refine their metals. "There's a clear economic pressure to drive us in that direction," says Thomas D. Barrow, chairman of Kennecott Copper Corp. "We're faced with the possibility of having material and not being able to convert it to the end product."

According to industry estimates, the copper industry would have to spend $3 billion by 1985 to meet existing environmental and health and safety regulations. Such a diversion of funds from investment in productive facilities would result in a 17 percent decline in the domestic output of refined copper. Kennecott, for example, spent $280 million to meet Environmental Protection Agency regulations at its Utah Copper Div. smelter, only to be told by the EPA that it may have to meet standards nearly twice as strict. "You keep making investments, chasing this environmental standard you never catch up with," complains Kennecott's Barrow.

Hardest hit is the lead industry, where many producers claim they do not have the technology or money to meet new exposure standards set by the Occupational Health & Safety Administration. Secondary lead producers are now shipping 150,000 tons a year of scrap overseas to be processed, a tripling of 1975 export levels. And although lead prices have climbed a startling 87 percent during the last year because of tight supply on world markets, Asarco's Strauss predicts that "the secondary lead industry will almost completely disappear" in the U.S.

Zinc producers, meanwhile, have closed down 9 out of 14 smelters in the last decade. And although a massive new plant that could supply 12 percent of U.S. needs—with advanced environmental technology—was brought on stream in May by Gulf & Western Industries Inc.'s Natural Resources Group, experts predict that the Clarkesville (Tenn.) facility could be the last major smelter of any kind to be built in the U.S.

The resulting dependence on overseas smelters could drastically undercut the U.S. strategic position. "You get into security of supply problems—physical interruptions, shipping strikes, wars," and local economic problems, says Kennecott's Barrow. "Once our processing capability deteriorates," he says, "our ability to negotiate a good deal deteriorates because processors know we have no choice."

Meanwhile, there is growing alarm over the uncertain future of southern Africa and the present course of Soviet metals policy. These nations produce 93 percent of the world's platinum-group metals, 60 percent of its manganese, and nearly 100 percent of its chromium. And while few would predict an alliance, if supplies from [South] Africa were cut off, the Russians would have us by the throat in these commodities," says Asarco's Strauss.

The Russians have also been on a worrisome buying spree over the past few months, gobbling up massive tonnages of lead, zinc, aluminum, and nickel. And the Russians, who reportedly bought a two-year's supply of cobalt shortly before the Katangan rebel invasion of Zaire that cut off production at the country's mines, have been linked directly to the political troubles there by some analysts.

There is plenty of speculation, but little clear evidence, of Soviet intentions in the metals arena. For example, Western platinum users point out that Russian sales of platinum-group metals—crucial in catalysts—have dropped dramatically in the last two years, even though demand for them is increasing and prices have soared 59 percent in the last year. Thus, the Russians appear to be holding back the vital metal. But some analysts suggest that the Russians are simply consuming more of the metal themselves, and are compensating for a bad production year.

Some international commodities experts say that the worry over an all-out embargo in a particular metal from any country is pretty much unfounded. "Producers of most metals are vastly different from the Arab countries which control oil," says Frank M. Yans, a senior analyst at Arthur D. Little Inc. "Unlike the Arabs, they need the money—they're in a negative payments position."

COMPETITION FOR SUPPLIES

As for the Soviets, metals executives note that right now Russia's real interest is in earning foreign exchange by selling the wide range of minerals in which they are more than self-sufficient. In fact, says Amax's Gousseland, if the price is right, "things that could be in short supply for them five years from now, they will sell today."

But if fears of embargoes by producers of scarce metals are unfounded, says Arthur D. Little's Yans, fears of price manipulations are real. "Supplies realize we would rather pay money for the material than let our economy go down the drain," he says. One example is the 11-nation International Bauxite Assn., which supplies most of the bauxite that the U.S. aluminum industry needs to make alumina. "They couldn't effect an all-out embargo," says Yans, who notes that there are alternatives—albeit costlier ones—to bauxite. Moreover, the large number of undeveloped bauxite deposits act as a further restraint on the IBA.

Still, price manipulations in some imported metals are likely to become easier because the U.S. no longer has the leverage of being the dominant buyer of all metals, says Yans. "It used to be that if you didn't sell to the U.S., you lost money of your business. Now, five other guys are ready to buy if we don't." And the new competition includes not only the Soviet Union but also America's own allies in Europe and Japan. "The U.S. has had a voracious appetite for these materials and has used more than its fair share in the last century," observes James L. McCall, director of materials research at Battelle Columbus Laboratories. "In the future, we will find much more world competition," he adds. "And as other economies grow at a more rapid rate, they will bid and outbid us."

This is already happening in Europe and Japan, where there are little or no significant domestic metal reserves. These countries either have economic stockpile programs or are considering building such stocks to feed industry in case of supply disruptions.

As now formulated, the U.S. stockpile policy is designed to protect the country in a conventional three-year war. "Our basic view is that economic stockpiles would have to be a separate entity," says Paul K. Krueger, acting director of the Federal Preparedness Agency's stockpile operation. Even defense stockpiles can interfere with metals markets by causing speculation and price fluctuations every time acquisitions or disposals are made, says Krueger: "Economic stockpiling is a real Pandora's box," he adds. One fear is that a U.S. Administration might buy or sell metals to further its own domestic political goals.

Still, many U.S. metal suppliers and users are promoting an economic stockpile. "It's the only way I know we can protect ourselves," says Roy S. Somogye, vice-president for purchasing and traffic at Jones & Laughlin Steel Corp. But he adds: "We've talked six years about an energy policy and accomplished nothing. We've been talking even longer about a stockpile policy, with no results."

In the resource crunch, it is steel companies such as Jones & Laughlin, as well as the aluminum companies, that have some of the sharpest concerns. These companies are voracious users of such raw materials as cobalt, manganese, chromium, and molybdenum, which they alloy with their metals to provide strength and heat and corrosion resistance. But as suppliers of basic materials to U.S. industry, the steel and aluminum industries are also part of the problem. For example, because of capacity shortfalls for certain kinds of aluminum, the lead time for delivery of milled aluminum sheet has been at 72 weeks since last December, up from 27 to 40 weeks a year ago, even as aluminum producers ship ingots overseas to get higher prices on world markets. And steelmakers have been pruning their product lines and turning away customers.

JACKING UP PRICES

To help remedy their raw-material problem, steelmen are lobbying for export controls on cobalt-bearing scrap and molybdenum, claiming that, under the current price guidelines, they cannot pass along the higher prices of such metals. "When our own demand is satisfied," says James F. Collins, executive vice-president of the American Iron & Steel Institute, "then these materials should be made available on a nondiscriminatory, most-favored nation basis." Asks E. F. Andrews, vice-president of Allegheny Ludlum Industries Inc.: "Why should we be exporting something we don't have?"

The problem that steelmakers are having in getting molybdenum is one that users fear will happen in other metals, too. Although the U.S. is self-sufficient in reserves of molybdenum, used to make specialty steels that are important to the oil, chemical, and machine-tool industries, there is a short-fall in domestic supply now, exacerbated by a strike at the world's third largest mine in Fraser Lake, B.C. A major new Amax mine in Crested Butte, Colo., is being held up by opposition from environmentalists, and the bullish molybdenum demand overseas is jacking up prices and tightening supply even further. "We've been on allocation for molybdenum for more than two years," says John E. McGee, manager of metals purchasing at Armco Inc. U.S. steelmakers are now purchasing a third of their molybdenum on the spot market—at $32.60 per lb. compared with a producer price of about $6.20 per lb. (up from $4.76 per lb. in March, 1978).

Nearly all U.S. metals producers are taking advantage of strong demand and worries over future supply to boost prices. Copper prices, exempted in February from the Administration's wage and price guidelines, have ranged from 86¢ per lb. to 96¢ per lb. over the last few months, compared with 65¢ per lb. last year. Lead and zinc prices were not exempted, but producers such as Asarco, Amax, and Gulf & Western were able to comply with the guidelines by averaging the metals increases and the prices for other company products or through other exemptions. In the last month, domestic lead prices increased from 48¢ per lb. to 55¢ to 60¢ per lb., and zinc from 39.5¢ per lb. to 41.5¢ per lb.

Because such metals are, for now, still widely available from domestic and friendly foreign sources, the main concern remains focused on imported metals such as chromium, manganese, platinum, and cobalt. Of these, cobalt—used in specialty steels and superalloys for jet engines, power turbines, and cutting and mining tools—is one of the most critical. Producer prices have leaped from $6.40 per lb. in December, 1977, to $25 per lb., and spot or merchant prices rose as high as $50 per lb. in early 1979.

By early June the cobalt situation had eased somewhat, as production in Zaire, which supplies 65% of the free world's cobalt, recovered. According to African Metals Corp., the New York agent for Belgian-refined Zairean cobalt, Zaire plans to at least equal its 1978 production of 13,150 metric tons of cobalt. Zambia has significantly boosted its own capacity and plans to produce 3,000 to 3,500 metric tons of cobalt this year, compared with 1,700 metric tons in 1978.

A COBALT CARTEL?

Any optimism over near-term supply has to be tempered by the fact that, according to an African Metals official, Zambia, Zaire, and Finland plan to meet to discuss cooperative pricing actions. The threat of what amounts to a cartel in cobalt is pushing U.S. users to accelerate moves to design products without cobalt, largely by substituting nickel. Such switches have been aided by the recent emergence of nickel alloys, developed by Inco Ltd., the world's largest nickel producer, that offer the heat resistance previously associated only with cobalt-base alloys.

Just recently, the Pratt & Whitney Aircraft Group of United Technologies Corp. announced that it will use the new Inco alloy in the turbine blades of its J–57 engine, eliminating the need for about 65,000 lbs. of cobalt in 1979. "With the way price and availability are going from politically unstable areas, we are going to minimize the requirements in future design, and, indeed, to get it out where feasible in current design," says P&W Executive Vice-President Richard J. Coar. "There was no reason to change as long as cobalt was $6 a lb.," says Coar. "But at $45 per lb., you make the change."

The aerospace industry is also worried about the scarcity of titanium, which it uses for engine fan blades and disks and aircraft skins and frames. Although the ore is abundant both in the U.S. and overseas, capacity to produce the metal is dangerously low. It is true that capacity for titanium sponge has increased 24% just over the past year. And Howmet Turbine Components Corp. and Dow Chemical Co. in early June announced a venture to build a new titanium sponge plant. But demand for titanium is soaring for nonaircraft uses—notably for chemical process equipment.

Of the critical metals, chromium is unique in that its ore is largely concentrated in only a few remote regions and there is no known viable substitute. Together, Russia, Rhodesia, and South Africa control more than 80 percent of chromium production. Although there have been no significant threats of supply cutoffs or drastic price increases, U.S. users see chrome as an explosive situation.

Chromium gives steel unique resistance to very high temperatures and to attack by strong chemicals and corrosive environments. It is a key ingredient in equipment used to crack petroleum. And unlike cobalt, it cannot be replaced in aircraft components. "If you don't have chromium, you don't have top-quality aircraft engines," declares John F. Elliott, professor of materials science and engineering at Massachusetts Institute of Technology. But because there is no crisis yet, he adds, "the government finds it easy to pass over the chromium situation."

There are efforts under way to ease U.S. dependence on chromium imports, which now run to 1 million tons annually. One of the most promising near-term projects is a $30 million chromium recovery facility that International Metals Reclamation Corp., an Inco subsidiary, started on June 6 in Ellwood City, Pa. The plant, which will eventually double its output, converts 50,000 tons annually of steel mill waste—flue dust, mill scale, and oily grindings—into 25,000 tons of remelt alloys, which it sells back to steel mills. Contained in the remelt alloy will be 9 million lb. of chromium, as well as 4 million lb. of nickel, 600,000 lb. of molybdenum, and 32 million lb. of iron.

REDUCING WASTE

Recycling projects such as the Inco facility are getting renewed attention for all metals. According to the National Association of Recycling Industries, the use of recycled materials as raw materials for the metals industry has been virtually static over the past decade. But interest has been picking up, not only because of the impending resource crunch but also because of environmental concerns and energy costs.

Besides substitution and recycling U.S. metal users are showing increased interest in manufacturing processes and techniques that reduce metal waste. Powder metallurgy, for example, has long been favored as a way to reduce costly machining or to create otherwise impractical alloys; now users of scarce and costly metals are paying more attention to powder metallurgy's potential for saving material. And while engineers have always tried to save metal by "nesting" parts in their die layouts, they are achieving further savings here by using computers to design the layout, at Northrop Corp., a computer achieved savings of 27 percent in heavy aluminum plate.

The U.S. is also counting on deep-ocean mining in the future to provide significant supplies of manganese, cobalt, nickel, and copper. But, although legislation to permit companies to start mining is expected to pass Congress this year, most authorities say it will be 1990 before the oceans play a major supply role. And a full-blown ocean mining operation will cost anywhere from $500 million to $700 million.

For the nearer term, U.S. industry is stepping up projects to develop North American reserves of scarce metals such as chromium and cobalt. The newly established Strategic Materials Center at the Denver Research Institute, funded by the Interior Dept., is focusing its efforts on recovering chromium from deposits in Montana, which contain only half as much chromium per ton of ore as the rich South African deposits. Inco Ltd. plans to double its output of cobalt as a byproduct of its nickel mining operations in Canada. And Toronto based Noranda Mines Ltd. will spend $40 million on a cobalt project in Idaho.

One major mining venture that could reduce the 90 percent import-dependence of the U.S. for platinum-group metals is a project announced in June by Chevron Resources Co. and Johns-Manville Corp. to explore 18,000 acres of land in Montana for platinum and palladium. The land contains what appears to be the largest deposit in the Western hemisphere, and one Bureau of Mines official says that the properties could produce 300,000 oz. of platinum annually.

Platinum is important to Chevron because producing gasoline without lead requires catalysts to achieve high octanes. "Market prices have been giving us a wide ride," says Vice-President John W. Scott, "and the Russians are not the most dependable helpers of U.S. business."

But like other new mining ventures, the Chevron-Johns Manville project is likely to run into environmental and land-use problems: It lies under a national forest. Already, mining companies point out, 80 percent of the federal lands have been either withdrawn or severely restricted from exploration and mineral development, without any real assessment of their mineral potential. The hottest issue now is the proposed withdrawal of nearly all federally owned Alaskan lands, which are rich in copper, nickel, lead, zinc, gold, and silver. Domestic metals companies claim that these withdrawals will severely restrict any attempt to make the U.S. self-sufficient in metals.

When and if companies do open new mines, they say, it will probably be in countries such as Chile, Argentina, and others where there is no longer the threat of nationalization that once existed. Of course, this will do nothing to increase U.S. self-sufficiency and is likely to add to the cost of metals as producing nations demand a share of the profits from these ventures.

Whether the Administration will address the major minerals supply problems in a comprehensive way is in doubt. If anything, says the White House's Smith, the Administration may choose "six or eight specific areas where we must tone up policies," such as assessing the supply problems of critical imported metals such as chromium and the impact of various regulations on the industry.

But this piecemeal approach is unlikely to solve the minerals supply problems facing the U.S., says one government economist who has served on a number of materials advisory boards since 1973. He warns: "Nobody cares about minerals until there's a shortage—and you could have said the same thing about energy before 1973."

Mr. McCLURE. Mr. President, as an original cosponsor, I rise in strong support of S. 493, the deep sea mining bill and urge its immediate passage. It is abundantly clear that there is an overwhelming congressional mandate in this field of ocean mining. That fact is demonstrated by the process by which this bill has come to the floor. Five committees have unanimously reported the bill over the course of this session and the relatively minor differences in the reported bills were quickly worked out by the respective committees, ultimately leading to Senator MATSUNAGA's printed amendment, No. 540, which is before the Senate today. A similar bill, S. 2053, narrowly missed passage last year after similarly having been reported by four Senate committees and after passage of a companion House bill, H.R. 3350, by a vote of 312 to 80, after four House committees favorably reported that bill.

This bill also reflects strong and continuing encouragement and support from the administration, including the law of the sea negotiator, Ambassador Elliott Richardson. The several Federal agencies and departments involved in the Law of the Sea Conference have aided and supported our consideration of this and earlier bills over the past several years. It is fair to say then that there is a strong and positive commitment on behalf of both the legislative and executive branches of our Government supporting this major legislative initiative to accelerate development of our national ocean mining industry.

My interest in ocean mining extends over many years here in the Congress. For instance, I coauthored a letter from members of the Senate Interior and Insular Affairs Committee to Secretary of State Kissinger expressing our strong support for the preservation of a national ocean mining industry prior to the beginning of the latest round of law of the sea meetings. I ask unanimous consent that that letter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON INTERIOR
AND INSULAR AFFAIRS,
Washington, D.C., June 7, 1974.

Hon. HENRY A. KISSINGER,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: As you know, a conference will convene in Caracas on June 20th to attempt to negotiate a treaty or treaties resolving international problems affecting the law of the sea.

The Senate Committee on Interior and Insular Affairs has been following these negotiations closely since the inception of the United Nations Seabed Committee in 1967. Since that time, on a continuing bipartisan basis, members have participated in a special subcommittee chaired by Senator Metcalf. They have sent representatives to nearly every session of the United Nations Seabed Committee. Additionally, the committee has held several hearings related both to proposed ocean mining legislation and to developments which have taken place at the various preparatory sessions conducted by the Seabed Committee. We have also met with the United States delegation to the Seabed Committee usually prior to departure and subsequent to its return from these sessions.

Although several issues will be considered at the Caracas conference, this committee has confined its attention principally to matters affecting the development of mineral and fuel resources. Our principal concern has been directed to the following two issues:

The limits of coastal state jurisdiction over resources of the seabed adjacent to and beyond the territorial sea and the nature and the limitations of coastal state jurisdiction and authority in such areas.

The rights of individual countries and their nationals to explore and develop the natural resources of the seabed beyond the limits of national jurisdiction, the rules and conditions and institutions which might govern such exploration and development, and the distribution of benefits resulting therefrom.

Members of the Committee have frequently made known their views about the policies the United States should adopt regarding each of these issues. With regard to the former, members of the special subcommittee, in their report of December 21, 1970, expressed the following conclusion:

> * * * we adopt the view of the American Branch of the International Law Association regarding the seaward limits of the Continental Shelf. That position is not only consistent with the wisest of policy preferences, but more importantly soundly interprets the present law. It holds that "rights under the 1958 Geneva Convention on the Continental Shelf extend to the limit of exploitability existing at any given time within an ultimate limit of adjacency which would encompass the entire continental margin."

We interpret the meaning of the term "continental margin" to include the Continental Shelf, slope and rise. We understand that a growing number of countries support the principle that coastal state jurisdiction over natural resources of the seabed adjacent to its coast should be limited to that area contained within that part of the seabed which is bounded by a line parallel to and 200 miles distant from the base line from which the territorial sea is measured. We understand that within some executive branch agencies there is support for such a position. We would like to state our strong preference for the view which would allocate to coastal states areas of the seabed adjacent to their coasts which extend seaward 200 miles and, in addition, all portions of the continental margin which extend beyond

200 miles. We have present rights under international law to this area.

As you know, there are several areas of the United States continental margin which extend beyond 200 miles. Because of the Nation's critical energy problems, including our increasing dependence on imported oil, the United States should not forfeit any portion of the continental margin which could be utilized for mineral production, and more particularly, for production of oil and gas. The United States has rights to all natural resources of our continental margin, no matter how far seawardly it extends. We should not jeopardize these rights at Caracas.

Regarding the issue of the regime for the deep seabed, various options have been considered in preparing for the Law of the Sea Conference. Many developing nations have expressed a preference for the establishment of an international seabed mining organization, frequently referred to as "The Enterprise." It would have exclusive authority to explore and develop the resources of the seabed beyond the limits of exclusive coastal state jurisdiction. Through control of "The Enterprise," the developing countries could deny effective commercial access by the technologically advanced states to the natural resources of the seabed lying beyond the limits of exclusive coastal state jurisdiction.

Many developed nations, including the United States, have favored preserving as best they can the existing high seas freedom including, but not limited to, the freedom to conduct scientific research on the high seas and to mine the minerals of the ocean floor beyond the limits of exclusive coastal state jurisdiction. These nations have not opposed the creation of an international organization to administer the exploration and development of seabed resources lying beyond the limits of exclusive coastal state jurisdiction, but they have indicated the preference that such an international organization neither conduct such exploration and development of the mineral resources of the deep ocean floor, nor control production thereof. They have tended to take the view that we should neither restrict opportunities for exploration and development of the deep ocean floor by developing countries, nor object to paying a portion of the value of the mineral production on the ocean floor to an international organization, for the use and benefit of developing countries. Also, they have continually expressed a preference for some sort of equitable licensing system which an international organization would have the authority to administer on a ministerial, rather than discretionary basis. In other words, once an applicant state met the relevant standards, it would automatically be eligible to receive a license from the international authority.

The principal commodity to be mined on the deep ocean floor would be manganese nodules which are rich in copper, nickel, cobalt and manganese. There is a growing reluctance for mineral exporting countries to make these minerals available to the United States on a secure and continuing basis. Our heavy dependence on imports of such minerals places us in a vulnerable position. Specifically, the United States dependency on imports of such minerals is as follows: manganese, 97 percent; nickel, 74 percent; cobalt, 98 percent; and copper, 18 percent.

In light of this dependency, we feel that it is vital to the national interest that the U.S. companies retain their current right of access to mine nodules lying on the deep seabed under terms and conditions conducive to making the investments necessary for their development. We believe this objective should be vigorously pursued at Caracas.

The committee will follow the proceedings at Caracas with great interest, and will look forward to meeting with the members of the delegation upon their return.

Sincerely yours,

Henry M. Jackson.
Alan Bible.
James Abourezk.
Floyd K. Haskell.
Paul Fannin.
Clifford P. Hansen.
James L. Buckley.
James A. McClure.
Dewey F. Bartlett.

Mr. McCLURE. Mr. President, the principles embodied in that 1974 letter are still applicable today, and they lead this Senator to the conclusion that we must have domestic legislation on ocean mining in the face of a proposed Law of the Sea treaty now under negotiation which is unacceptable and offensive to the fundamental national interests of the United States. I would hope that our action today in passage of this bill will send a strong signal to our Law of the Sea negotiators, to the White House and to other nations involved in the Law of the Sea negotiations that this Senate will not stand passive in the face of an unacceptable negotiation and treaty process. Should the U.S. negotiators of the other nations participating in the Conference fail to heed this unmistakable signal from the body whose constitutional responsibility includes consenting to any Law of the Sea treaty, the Senate will have no choice but to refuse that consent and to allow the continued development of our domestic ocean mining industry under the legal regime contained in this bill.

To better understand the seriousness with which I view the current situation, let me briefly point out the problems that I find with the present draft of the proposed treaty.

In 1977, the State Department found it fundamentally unacceptable to allow the creation of a supernational agency, called the International Seabed Authority which would govern all aspects of seabed mining and resource development. The Authority is with us still today. In 1977, we objected to vesting the political power of the Authority in a "Supreme Assembly", governed by the principle of one-nation, one-vote because it would obviously be dominated by Third World developing countries and because there was no other body that had the ability to check the power of such an assembly. The council, the executive organ of the assembly is a 36-person body elected by the Authority and is supposed to make the day-to-day decisions with respect to who gets the right to mine the seabed minerals; however, the language of the treaty is so ambiguous on these provisions that it is apparent that the decisions of the council would be subject to a veto by the assembly through its general policymaking functions. The last General Accounting Office report on Law of the Sea stated:

> [T]he developing countries consider the Council's role to be merely to implement Assembly policies.

In addition, unlike the United Nations Security Council, the United States would not be guaranteed a seat on the Council so that our representation in that body is dependent upon our election by the one nation, one vote and Third World-dominated Assembly. In 1979, this arrangement is still a primary feature of the treaty text. As unbelievable as it may seem, our negotiators appear quite proud of a change in the text so that the pertinent article, instead of reading "[T]he Assembly is the supreme organ * * *", states that "[T]he Assembly, as the sole organ of the Authority * * * shall be considered the supreme organ * * *" This wording change has been listed as a supposed improvement in the treaty text. Mr. President, if someone here or at the State Department can explain the substantive difference of those two phrases I would greatly appreciate it.

In 1977, the State Department found it fundamentally unacceptable to allow the Authority almost complete discretion as to who would receive contracts to mine and who would not. Our position had always been an insistence that rules and regulations for the granting of contracts be considered in the treaty itself. We felt that the appropriate body should be required to issue contracts in a nondiscriminatory fashion to all qualified applicants—in short, much the same as the procedures followed by those U.S. Government agencies that implement our various mineral leasing programs.

In 1979, there is still a tremendous amount of discretion in the contract-granting process of the treaty. The Council is supposed to review applications on behalf of the Authority. This is the same Council of which we just spoke—the one on which the United States is not guaranteed a seat, the one that is supposed to implement the policies of the Third World-dominated Assembly. The Council is supposed to act on these contract applications, submitted in the form of plans of work, after a review by a subsidiary body call the Technical Commission. While the Technical Commission was originally envisioned as a nonpolitical advisory body—I note that its members will be elected by the members of the Council taking due account of "the principle of equitable geographical distribution and of special interests." Whose special interests will be considered? No doubt it will again be those of the Third World developing nations who have cleverly negotiated a political organization which they will control.

As if this is not bad enough, the result of yet another compromise in the last negotiating session might insure that no U.S. citizen would ever have a plan of work approved. The delegation feels that a considerable victory was won when we were able to negotiate a slight change in council voting procedures such that a certain number of States would be able to block action on certain, specified issues. Unfortunately, included in that compromise is language insisted upon by the developing countries which will enable it to also block approval of work plans.

In 1977, the State Department labeled as fundamentally unacceptable, those provisions which spelled out the prerequisite concessions that an individual contractor would have to agree to before a contract would be granted. Those provisions included requirements that a company explore two minesites and submit all the data as to both. The Authority would then decide which one to give to the Enterprise and which one the private concern could keep. A private citizen attempting to mine would also be required to transfer all technology to be used in the mining operations to the Enterprise and Authority; they would have to agree to the imposition of controls over how much metal could be mined from their minesite—in order to protect the export income of metals producing developing countries; they would have to pay extremely high and onerous front end payments to the Authority, to be followed by even higher production changes—all before they were sure that operations would even be able to return a profit; they would have to obtain permission from any third party whose technology would be used to allow for the transfer of such third party's technology and finally, they would have to agree to transfer any other technology in their possession if it was determined by the Enterprise that such technology was not otherwise available on the market.

It is my sad duty to report, Mr. President, that the great bulk of these provisions exists even today. Our negotiators agree that with some "fine tuning" these provisions will be acceptable. I don't believe, however, that these provisions are susceptible to fine tuning. To me, they are still fundamentally unacceptable, they should be scrapped and renegotiated.

In 1977, and indeed since the output of the Third United Nations Law of the Sea Conference, we have found the provisions previously noted that would establish production controls over the amounts of metal capable of being mined "fundamentally unacceptable." Yet those provisions are still with us today.

In fact, the discussion in the latest delegation report leads to the inescapable conclusion that unable to obtain the deletion of these provisions, the State Department decided to accept them and to negotiate further only the question of numbers. Thus the treaty, in addition to its further problems is anti-consumer. The production controls will serve only to maintain the market shares of present land-based producers leading to the maintenance and increasing of artificially high prices that metals consumers throughout the world will have to pay—both for the raw material and finished products derived therefrom. To me, this is still fundamentally unacceptable.

In 1977, Ambassador Richardson felt that it was "fundamentally unacceptable" to allow provisions in the treaty which could be used to share the revenues derived from seabed mining with so-called, self-styled national liberation movements such as the Palestine Liberation Organization. Two, almost 3 years later, the language remains a part of the treaty. The Arab nations that proposed it and their supporters in the developing nations show no sign of relenting on this issue.

In 1977, the informal composite negotiating text was labeled "fundamentally unacceptable" because the so-called paralleled access system was heavily weighted in favor of mining by the Enterprise—the transnational, state owned (that is, Authority owned) mining venture. In 1979, the Enterprise enjoys immunities from states parties taxation not enjoyed by private contractors, enjoys immunity from the heavy front end payments heaped upon private parties, and is granted an absolute priority of right when production controls are in effect and the choice of applicants for a mine site is either the Enterprise or an Enterprise sponsored joint venture and a private party. In addition the Enterprise is to be generously funded by contributions from states parties in accordance with the U.N. Scale of Assessments, by the provisions of no interest loans from states parties and by the guarantee of low-interest loans and associated debt by states parties. Thus, the treaty continues to, in effect, mandate what has been termed a unitary system of joint venture with forced participation by private citizens if they desire to obtain any benefits from deep seabed mining.

Other provisions contained in the 1977 "fundamentally unacceptable" informal composite negotiating text are still present in the draft text of 1979. These include:

First, provisions for a review conference which could halt further mining after 20–25 years—well after the point in time when Department of Commerce and other studies indicate that the world demand for metals will begin to create scarcities of supply unless new sources of production are tapped;

Second, provisions that require applicants to accept as enforceable all rules and regulations adopted by the Authority—without regard to the timing of such adoptions. This would leave the applicants' contracts open to change as the Authority may consider appropriate. When this situation is combined with the lack of provisions that would protect those mining operations underway at the time the treaty takes effect—as mandated by title II of the legislation before us—it will have an obvious chilling effect on the desire of private citizens to engage in the mining of these essential minerals; and

Third, provisions that would limit the number of minesites available to states parties or citizens of such states. The result of these so-called antidensity or antimonopoly provisions would make it doubtful that U.S. citizens could obtain more than one or two minesites during the first 25 years of mining under the treaty. This would result in U.S. corporations working in conjunction with foreign corporations and consequently obtaining sponsorship for mining contracts by another state party. This in turn would lead to the exporting of U.S. jobs and technology.

In sum, Mr. President, I find very little in the 1979 draft of the Law of the Sea Treaty which would dissuade me from the position I held in 1977; that is, the years of negotiation have left the United States with nothing more than a "fundamentally unacceptable" scrap of paper.

It is my fervent hope and I believe that of my colleagues as well, that these negotiations will succeed—that the nations of the world will be able to agree on a set of universal principles governing all users of the ocean.

However, while increasing global economic interdependence would lead us to redouble our efforts, we cannot allow ourselves to be pushed into positions so minimal to our national interest as those we find ourselves trapped in at the present negotiations.

I hope that our actions and our words here today will not go unheeded by either the State Department or the other negotiators at the United Nations Conference. The present treaty is, I repeat, fundamentally unacceptable. If a treaty that is more balanced cannot be negotiated we will allow our citizens to carry on in perpetuity under the schemes established by this legislation. Its interim nature depends upon the renegotiation of just such a balanced document.

Mr. President, in addition to the substantive difficulties I find with the proposed treaty draft now under negotiation, I and many other Members of the Senate also are greatly concerned by the procedures currently being considered by the administration for a provisional entry into force of such a treaty after signature, but before Senate advice and consent has been granted. In that regard, I ask unanimous consent that a letter of October 16, 1979 from myself and 13 other Senators to Ambassador Richardson on this subject be printed in the RECORD at this time.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 16, 1979.

Hon. ELLIOTT L. RICHARDSON,
Ambassador at Large, Department of State, Washington, D.C.

DEAR MR. AMBASSADOR: The recent United States Delegation Report on the resumed eighth session of the Third United Nations Conference on the Law of the Sea had a tone of optimism regarding the possibility of concluding the substantive negotiations next year. In this regard, the report notes that "the Conference decided to hold its final substantive session in two five-week sessions next year, the first in New York beginning February 27, and the second in Geneva beginning July 28."

Because of the possibility that the Law of the Sea negotiations may be nearing a point of conclusion, concerns have been re-expressed recently over the legal consequences and implications of the signature of a treaty by the United States. Specifically, some have suggested that signature of a treaty imposes certain legal obligations upon the signing party. We would like to know if you share that view, and if so, what is the nature of such obligations. We are sure you can appreciate the Senate's interest in any implications that signature of the treaty might have before the Constitutional requirement of Senate advice and consent and Presidential ratification has taken place.

We therefore request the Administration's view on the question of whether signature of a Law of the Sea treaty imposes any legal or other obligations upon a signing party as a matter of customary international law or for any other reason. If it is the Administration's view that legal or other obligations do attach on signature of the treaty, we would appreciate your defining the nature, extent, and consequences of such obligations. In this regard, we would appreciate the Administration's specific analysis of what existing and pending legislation would be impacted by the existence of such an obligation and how such legislation would be impacted.

For example, what implications would result from signature of a Law of the Sea treaty with respect to the domestic implementation of seabed mining legislation and to U.S. companies engaged in the pursuit of deep seabed mining pursuant to U.S. legislation; and would there be any restriction on the applicability of the Fishermen's Protective Act if U.S. vessels were to be seized by nations asserting fishery jurisdiction that is not recognized at the present time by the United States.

Your prompt attention to these issues will be most appreciated.

Sincerely yours,

Warren G. Magnuson, Frank Church, Claiborne Pell, Ernest F. Hollings, Bob Packwood, James A. McClure, Spark M. Matsunaga, Henry M. Jackson, Edmund S. Muskie, Edward M. Kennedy, Ted Stevens, J. Bennett Johnston, Wendell H. Ford, John Melcher.

Mr. McCLURE. Mr. President, myself and the other cosigners of this letter are seriously concerned about the fundamental constitutional principle regarding the rights and responsibilities of the Senate under the advice and consent clause. Members do not wish to see such rights abrogated either in whole or in part by actions taken by State Department treaty negotiators. It is out of this same concern that other members have focused on the issue of the interim nature of this legislation. Whether the legislation is in fact to be interim will be dependent upon whether the current Law of the Sea Conference negotiations will produce a treaty acceptable to this body.

The remarks made on the Senate floor today as they pertain to the contents of this legislation, its relationship to the Law of the Sea Treaty presently under negotiation, and the contents of that draft treaty text are indeed intended to be heard by the State Department as "advice" from the Senate.

We are well aware that during most of the lengthy negotiations which resulted in the formulation of the U.S. Constitution, it was clear that the Senate, not the President, was to negotiate treaties. The plan presented by the Committee of Detail to the Federal Constitutional Convention on August 6, 1787, provided that "the Senate of the United States shall have power to make treaties, and to appoint Ambassadors, and Judges of the Supreme Court." It was not until September 7, 1787, just 10 days before final adjournment of the Constitutional Convention, that the President was made a participant in these powers.

The scholars which authored one of the most authoritative histories of the Constitution, "The Constitution of the United States of America: Analysis and Interpretation" concluded that the advice and consent clause "assumes that the President and Senate will be associated throughout the entire process of making a treaty."

Another authoritative source, U.S. Senator Rufus King of New York, who had earlier been a member of the Constitutional Convention, in 1818, declared on the Senate floor:

> In these concerns the Senate are the Constitutional and the only responsible counsellors of the President. And in this capacity the Senate may, and ought to, look into and watch over every branch of the foreign affairs of the nation; they may, therefore, at any time call for full and exact information respecting the foreign affairs, and express their opinion and advice to the President respecting the same, when and under whatever other circumstances they may think such advice expedient.

That Senator Rufus King's views on the meaning of the advice and consent clause were valid is borne out by State Department testimony presented before the Senate Judiciary Committee. The then Secretary of State stated on April 6, 1953 that—

> This Administration recognizes the significance of the word "advice." It will be our effort to see that the Senate gets its opportunity to advise and consent in time so that it does not have to choose between adopting treaties it does not like, or embarrassing our international position by rejecting one that has already been negotiated out with foreign governments.

That testimony was later incorporated in State Department Circular 175 along with the express admonition to State Department negotiators that its incorporation was to insure that full implementation be given to the policy enunciated by the Secretary. State Department officials were also instructed in the same circular that—

> Treaties are not to be used as a device for the purpose of effecting internal social changes or to try to circumvent . . . constitutional procedures.

Sometimes State Department officials seem to lose cognizance of the intent of the advice and consent clause, and act as though that clause no longer exists in the Constitution and as though the doctrines of separation of powers and checks and balances also no longer exist. It becomes the perpetual duty of this body to remind the State Department that these doctrines do in fact exist and that they must be adhered to.

Last year, for example, on September 8 the Senate adopted Senate Resolution 536. It declared the sense of the Senate that in determining whether a particular international agreement be submitted as a treaty "the President should have the timely advice of the Committee on Foreign Relations through agreed procedures established with the Secretary of State." As a result of the adoption of Senate Resolution 536, State Department Circular 175 was amended to broaden the basis under which that Department would affirmatively seek the advice of the Senate with respect to international negotiations.

From the preceding discussion on the meaning of the advice and consent clause it should be very clear—

First, that the State Department has an affirmative duty to seek advice from the Senate including advice concerning the contents of a treaty during the entire negotiating phase of the treaty;

Second, that remarks made on this Senate floor today concerning this legislation and the treaty which would succeed it if ratified by the United States are intended as such advice; and

Third, as implied by a prior Secretary of State, the State Department has an affirmative duty to listen to such advice of the Senate or else the Senate will be forced to choose between adopting treaties it does not like or embarrassing an administration's international position by rejecting what has already been negotiated out with foreign governments.

The advice this Senator intends the State Department to heed directly pertains to the legal effect of a U.S. signature on any treaty, but in particular on a future Law of the Sea Treaty.

On October 16 of this year, 14 Senators including myself, representing both sides of the aisle and a fair spectrum of the Senate, wrote to the State Department's chief Law of the Sea Treaty negotiator, Ambassador Elliot Richardson. I request unanimous consent, Mr. President, that that letter be inserted in the RECORD at this point in its entirety.

As is obvious from the letter, our underlying concern is predicated upon the apparent intent of the State Department to sign next year the Law of the Sea Treaty and the possible legal consequences which might flow from such action. Specifically, we requested the administration's views as to the legal effect on the United States resulting from a U.S. Government official affixing his signature to a treaty. We have not yet received an answer.

Many of us who signed the letter were aware of the statement made by Ambassador Richardson in response to a question, similar to that asked in our letter, by Congressman JOHN BREAUX and contained in the hearing record compiled by the House Oceanography Subcommittee. In response to the question, Ambassador Richardson stated:

> Signature only serves as a preliminary indication of intent to become a party and, under customary international law, imposes no obligation other than refraining from acts which would defeat the object and purpose of the treaty.

The words "refrain[ing] from acts which would defeat the object and purpose of the [a] treaty" are a quotation from article 18 of the Vienna Convention on the Law of Treaties.

As most of us are aware, Mr. President, the Vienna Convention was adopted by U.N. negotiators on May 22, 1969 and opened for signature on May 23, 1969. The United States signed that treaty on April 24, 1970 and it was submitted to the Senate for advice and consent by the Nixon administration on November 22, 1971. It has never been ratified by the United States because it never received the advice and consent of the Senate.

The Vienna Convention has not received advice and consent because the Senate is aware that its ratification could be used by the State Department to attempt to bind this Nation to international agreements in derogation of the U.S. Constitution's article II, section 2 commandment that treaties be made "by and with the advice and consent of the

Senate * * * provided two-thirds of the Senators present concur."

Further, article VI provides that the Constitution and all laws and treaties approved or made pursuant to it shall be the supreme law of the land. Hence, until the Vienna Convention, or any other treaty which requires the advice and consent of the Senate, receives such advice and consent and is subsequently ratified, it must be subordinated to the Constitution.

In other words, Mr. President, the Senate has not ratified the Vienna Convention on Treaties because it does not want to be bound by the signature of an executive branch official to refrain from taking legislative action which that executive branch official or any other executive branch official claims "would defeat the object and purpose of a treaty" signed by such or any executive branch official.

The State Department apparently holds the view that customary international law already binds the Senate and the Congress as a whole to refrain from taking any action which would defeat the object and purpose of a treaty signed by an official of the executive branch. Assuming merely for the sake of argument that article 18 of the Vienna Convention constitutes an expression of customary international law, does the State Department believe that customary international law overrides the U.S. Constitution? I would certainly hope not.

One purpose behind our forefathers writing the advice and consent clause into the Constitution was to prevent the United States from becoming obligated either to take action or not to take action under any treaty without the prior concurrence of two-thirds of the Senate. Yet, time and time again this body discovers that the horse is already out of the barn. The Senate has been preempted by actions taken by the State Department.

Not only should we insist that the State Department not be permitted to preempt us by declining to heed our advice conveyed to it during the negotiating phase of treaties, we should also insist that the State Department not be permitted to preempt us by asserting that we must refrain from taking any action which would defeat the object and purpose of a treaty one of its officials has signed. For here the State Department, if permitted, would assert that a treaty is binding on the United States prior to the Senate granting advice and consent.

The Law of the Sea Treaty presents us with an opportunity not to be preempted by the State Department.

Are my colleagues aware of how the State Department has begun to lay plans to preempt this body one more time? In November of this year, State Department Law of the Sea Treaty negotiators participated in meetings in Geneva relative to how the Law of the Sea Treaty is to enter into force. We were not consulted about these negotiations or about the intent of the State Deparment regarding the outcome of these negotiations even though they directly pertain to the issue of entry into force of the treaty prior to ratification.

In very general terms, this is the scenario our State Department Law of the Sea team envisions. Next year, an executive branch official would sign the Law of the Sea Treaty. Upon a requisite number of signatures, an international body sanctioned by the Law of the Sea Conference or by the U.N. General Assembly would begin to draft rules and regulations similar in concept to the manner in which an administrative agency promulgates regulations to implement a U.S. statute.

Either prior to completion of such drafting of regulations to implement the Law of the Sea Treaty, or after such formulation of regulations has been completed, the State Department would come to the Senate to seek provisional entry into force of the treaty either by the advice and consent process or by submission of separate legislation or by seeking to amend S. 493—this legislation—if the latter is not already enacted into law. The provisional entry into force would apply for an interim period after which time the Senate would be asked to grant advice and consent to permanent entry into force of the Law of the Sea Treaty and its then completed implementing rules and regulations.

Thus, following signature of the treaty, the Senate would be expected by the State Department to take no action which would defeat the object and purpose of the treaty. In other words, until the Senate would vote to refuse to grant advice and consent to the treaty or even be given the opportunity to do so, it would be expected by the State Department to act as though the treaty were already ratified.

How would such a State Department scenario, if implemented, affect first, entry into force of the treaty; and second, this body's ability to grant or refuse to grant advice and consent to the treaty?

The State Department believes that the provisional entry into force of the Law of the Sea Treaty—with an opportunity for states provisionally party to the treaty to back out and refuse to agree to permanent entry into force—will be an inducement for many nations to sign the treaty. As a result of such provisional entry into force an international bureaucracy would be created. That bureaucracy would be called the International Seabed Authority. It would consist of a one-nation-one-vote Supreme Assembly consisting of all nations provisionally party to the treaty. Accordingly, the Supreme Assembly would be dominated by Third World countries.

The Seabed Authority would also consist of a 36-member council elected by the Supreme Assembly. The treaty would not guarantee the United States a seat on the council. Even if the United States were elected by the Supreme Assembly to a seat on the council, it would not have the absolute veto power it has on the U.N. Security Council. It would have to team up with developed nations and the Soviet Union if it wished to block any council action. In practical terms, even if elected to the council, the United States would be nearly powerless to oppose actions taken by the council which would be binding on the United States of America and on its citizens.

The Authority would also consist of technical commissions and a seabed tribunal all of which also will be dominated by Third World countries.

The treaty also provides for the creation of an Enterprise—transnational state company in direct competition with U.S. citizens.

With such a bureaucracy in place and acting provisionally, it would be almost impossible to prevent the perpetual continuation of the Seabed Authority by refusing to agree to permanent entry into force of the treaty. The United States having signed the treaty could be declared a developed nation brigand if it refused to ratify the treaty.

Thus, upon a requisite number of signatures the International Seabed Authority would come into being provisionally and undoubtedly stay in business permanently.

It should be noted that under the present State Department plan, the Seabed Authority could come into being provisionally even without a U.S. signature on the treaty. And once having come into being provisionally its very existence as well as the existence of the remainder of the treaty's contents would then be declared to be expressive of customary international law. What is already customary international law, the State Department could argue, need not be ratified.

The issue then becomes what is this body's ability to grant or to refuse to grant advice and consent to the Law of the Sea Treaty either provisionally or permanently? As earlier indicated, once an official of the executive branch signs the treaty, the State Department would be expected to argue that under customary international law that neither the Senate nor House may take any action which would defeat the object and purpose of the Law of the Sea Treaty.

Following signature of the treaty, the State Department presently plans to seek provisional entry into force of the treaty either by requesting provisional advice and consent from the Senate, by seeking separate legislation to achieve the same result, or by attempting to amend S. 493 if that bill is still amendable.

As an integral part of its strategy, the State Department may be expected to argue:

First, that the Seabed Authority will come into being provisionally upon a requisite number of signatures, even if the Congress takes no action regarding its provisional entry into force;

Second, that it is in the best interests of the United States to agree to provisional entry into force because that is the only way the United States would be eligible to be represented on the one-nation, one-vote Supreme Assembly and that provisional ratification is the only way the United States could ever hope to be elected to the council or be eligible to nominate a judge to sit on the tribunal;

Third, that Senate failure to provide for provisional ratification would result in representatives from other nations being selected to fill the seats on the council, assembly and tribunal;

Fourth, that therefore the United States will forfeit any opportunity it has to influence the actions of an organization with potential power to bind the United States and its citizens;

Fifth, that provisional ratification by the United States is the only means by which the United States will be permitted to participate in the formulation of the treaty's rules and regulations:

Sixth, that by agreeing to provisional entry into force of the treaty, the Senate can always change its mind about agreeing to advice and consent for permanent entry into force;

Seventh, that absent U.S. provisional ratification, the United States will further alienate itself from the world community and will be inviting international political, economic and legal action by the Seabed Authority which could threaten our national security.

Eighth, that, as a matter of international law, only by granting advice and consent to provisional entry into force, may U.S. citizens be authorized to continue their activities authorized by this legislation; and

Ninth, that any activity conducted by U.S. citizens pursuant to this legislation following U.S. signature of the treaty, absent a U.S. provisional ratification of the treaty, would constitute a violation of international law.

The issue remains: What can this body most effectively do to exercise its constitutional prerogatives relative to the Law of the Sea Treaty in order to avoid preemption by the State Department? We should insist that a U.S. signature on any treaty does not bind this body or the U.S. Government as a whole to take any action or to avoid taking any action with respect to any such treaty. We can and we should also insist that the United States not sign the Law of the Sea Treaty until we are certain that it contains provisions which two-thirds of the membership of this body would be willing to accept.

Mr. President, I am hopeful that my colleagues in this body are similarly committed to preserving the advice and consent clause of the U.S. Constitution. We are accordingly hopeful that the President of the United States will direct the U.S. delegation to the Law of the Sea Conference to continue the treaty negotiations until a draft treaty is properly formulated, properly formulated in the sense that it is responsive to the advice of this body and that this body would be willing to grant consent to its ratification either permanently or provisionally.

Finally, Mr. President, it is the advice of at least this Senator that whether or not the State Department treaty negotiators heed the advice of this body expressed here today or expressed at any other time, past or future, the future affixing of the mere signature of any executive branch official on a Law of the Sea Treaty or any other treaty will not bind this body from taking any action which anyone claims would defeat the object or purpose of the treaty. This advice, Mr. President, is consistent with the intent of the drafters of the U.S. Constitution with respect to the advice and consent clause.

Mr. President, another issue of great significance in the context of this legislation is the so-called grandfather provisions contained in title II. Those provisions are of absolutely critical significance in the ongoing Law of the Sea negotiations and the draft treaty text which I have discussed previously.

Congressional interest in grandfather protection for U.S. ocean miners stemmed from the formation of an ad hoc Seabed Committee within the United Nations General Assembly in 1967 and related efforts to promote a United Nations Law of the Sea Conference at which would be negotiated a treaty for the deep seabed.

In 1969, Senator HENRY M. JACKSON, chairman of the then Senate Interior Committee appointed the late Senator Lee Metcalf to chair a special subcommittee to investigate the entire matter and related ocean law issues. Following a comprehensive series of hearings and careful analysis of the issues involved the subcommittee unanimously concluded:

> We are nevertheless concerned . . . that the American people may derive their fair share of benefits from the exploration and exploitation of the deep seabed beyond the limits of exclusive national jurisdiction . . . Rational and equitable use of deep seabed resources requires the establishment of conditions in any future seabed treaty which will encourage investment and insure protected access to those interested in, and capable of, responsibly undertaking mineral recovery operations.[1]

The present ocean mining legislation evolved from S. 2801 introduced by Senator Lee Metcalf on November 2, 1971 and then cosponsored by Senators JACKSON, Allott, BELLMON, and STEVENS. The bill, throughout its 8 year legislative history, has incorporated two important and interrelated principles. The first is that ocean mining by U.S. citizens is an existing legal right, flowing from the freedom of the high seas doctrine, the continued exercise of which should be encouraged by the congress. Second, that U.S. citizens who undertake ocean mining operations pursuant to the legislation should be afforded some considerable measure of protection against any subsequent change in international law which could abrogate or unfairly restrict their existing legal rights.

As the legislation has evolved since the 92d Congress so too have these twin principles along with it.

Section 2 of S. 493 contains national interest findings and purposes intended to encourage ocean mining by U.S. citizens.

Title II of the bill contains the grandfather language. That title provides:

TITLE II—TRANSITION TO AN INTERNATIONAL AGREEMENT

DECLARATION OF CONGRESSIONAL INTENT

SEC. 201. It is the intent of Congress—

(1) that any international agreement to which the United States becomes a party should, in addition to promoting other national oceans objectives—

(A) provide assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed for United States citizens, and

(B) provide security of tenure by recognizing the rights of United States citizens who have undertaken exploration for, or commercial recovery of, hard mineral resources of the deep seabed under title I before such agreement enters into force with respect to the United States to continue their operations under terms, conditions, and restrictions which do not impose significant new economic burdens upon such citizens with respect to such operations with the effect of preventing the continuation of such operations on a viable economic basis;

(2) that the extent to which any such international agreement conforms to the provisions of paragraph (1) should be determined by the totality of the provisions of such agreement, including, but not limited to, the practical implications for the security of investments of any discretionary powers granted to an international regulatory body, the structures and decisionmaking procedures of such body, the availability of impartial and effective procedures for the settlement of disputes and any features that tend to discriminate against exploration and commercial recovery activities undertaken by United States citizens; and

(3) that this Act should be transitional pending—

(A) the adoption of an international agreement at the United Nations Conference on the Law of the Sea, and the entering into force of such agreement, or portions thereof, with respect to the United States, or

(B) if such adoption is not forthcoming, the negotiation of a multilateral or other treaty concerning the deep seabed, and the entering into force of such treaty with respect to the United States.

EFFECT OF INTERNATIONAL AGREEMENT

SEC. 202. If an international agreement enters into force with respect to the United States, any provision of title I, II, or III, and any regulation issued thereunder, which is not inconsistent with such international agreement shall continue in effect with respect to United States citizens. The Secretary, in consultation with the Secretary of State, shall make every effort, to the maximum extent practicable consistent with the provisions of such international agreement, to provide for the continued operation of deep seabed mineral exploration and commercial recovery activities undertaken by United States citizens prior to entry into force of the agreement. The Secretary shall submit to the Congress, within one year after the date of such entry into force, a report on the actions taken by the Secretary under this section, which report shall include, but not be limited to—

(1) a description of the status of deep seabed mining operations of United States citizens under the international agreement; and

(2) an assessment of whether United States citizens who were engaged in deep seabed mineral exploration or commercial recovery on the date such agreement entered into force have been permitted to continue their operations.

Section 201 declares that it is the intent of Congress that any ocean mining treaty to which the United States becomes a party should "provide assured and nondiscriminatory access" to U.S. ocean miners and provide security of tenure for their existing mining operations after an acceptable Law of the Sea Treaty enters into force with respect to the United States "under terms, conditions, and restrictions which do not impose significant new economic burdens" as compared with those terms, conditions, and restrictions which are established by the legislation. That section further provides that the treaty's mining terms, conditions, and restrictions should allow the continuation of such existing operations "on a viable economic basis."

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[1] Report by Special Subcommittee on Outer Continental Shelf Senate Committee on Interior and Insular Affairs, December 21, 1970, page 31.

Section 202 provides that if an ocean mining treaty enters into force, the legislation and regulations, to the extent consistent with the treaty, should continue in effect wih respect to U.S. citizens. This section also directs that to the maximum extent practicable consistent with the treaty provisions the United States should make every effort "to provide for the continued operation of deep seabed mineral exploration and commercial recovery activities undertaken by U.S. citizens prior to entry into force" of the treaty agreement.

In other words, the intent of section 202 is that U.S. ocean miners are to be protected not only from adverse treaty language itself, but also from the foreseeable adverse effects of the administrative and regulatory implementation of the treaty by the international "Authority" created by the treaty.

It should also be noted that during the legislative history of this title prior to this Congress, insurance provisions contained in earlier versions of the bill were dropped. Such earlier versions provided for an OPIC-type political risk insurance fund. The insurance fund was dropped for a number of reasons. It would have been prohibitively expensive for the Government to bear in the event a claim was made. The ocean mining industry was far more interested in the protection of its ongoing right to continue mining than it was in partial compensation for billions of dollars of capital lost as a result of a treaty, or its implementation, the effect of which would be to force U.S. ocean miners out of business.

Existing international law confirms that among the High Seas Freedoms is the absolute existing legal right to mine the deep ocean floor. That this understanding of present international law is wholly consistent with the position of the U.S. Government taken at the ongoing Law of the Sea Conference is aptly illustrated in a statement delivered last year by the head of the U.S. delegation.

> Legal restraints may be imposed on national action beyond the limits of the jurisdiction of any state only by their inclusion in rules of international law. With respect to seabed mining we are unaware of any such restraints other than those that apply generally to the high seas and the exercise of high seas freedoms, including the prohibition on sovereignty claims, the exclusive jurisdiction of states over their ships and nationals, and the duty to have reasonable regard for other high seas users. States will become subject to additional restraints when they adhere to a treaty that establishes an international authority to manage and oversee seabed mining. They will then have voluntarily accepted the alternation of those freedoms in the broader interest of creating a stable legal regime for the use and management of the world's oceans and their resources. But we cannot accept the suggestion that other States, without our consent, could deny or alter our rights under international law by resolutions, statements, and the like.[2]

The above statement remains the official U.S. position. This was made clear in oversight hearings conducted before the House Merchant Marine Oceanography Subcommittee in February of this year and in yet another address by the head of the U.S. delegation.

The inclusion of grandfather rights language in the legislation is a clear direction from the Congress to U.S. Law of the Sea negotiators to seek treaty language which preserves the existing high seas freedom to mine the deep ocean floor. The essence of the high seas freedom to mine the deep seabed is captured in the phrase "provide assured and nondiscriminatory access * * * to the hard mineral resources of the deep seabed for United States citizens" contained in section 201 of the Foreign Relations Committee reported bill.

This expression of congressional intent could not be more clearly stated.

The inclusion of such grandfather language is further directed toward insuring that the existing legal right for U.S. citizens to mine the deep ocean floor confirmed and exemplified by this legislation and the regulations issued pursuant to it should not be abrogated by any future Law of the Sea Treaty.

Both sections 201 and 202 of the committee language confirm this intent. Also contained within these two sections is the clear understanding that even if a Law of the Sea Treaty is ratified by, and enters into force for, the United States which in some way otherwise limits future access of U.S. miners to the deep ocean floor that such treaty should not abrogate specific rights already granted to U.S. citizens under this legislation. Thus, the language of title II does not envision treaty provisions which would "allow" U.S. companies to "go to the front of the line" for the purpose of filing an application with the internationally run "Authority" for a license to continue mining within their existing operations. In this sense the legislation traditionally "grandfathers" existing ocean mining operations established pursuant to S. 493 from the reach of the terms and conditions contained in the treaty as well as from actions taken as part of any implementation of such treaty insofar as either would be inconsistent with the provisions of S. 493.

Put another way, rights obtained by U.S. citizens through the issuance to them of exploration licenses or mining permits pursuant to this act and the regulations which will implement it prior to entry into force with respect to the United States of the Law of the Sea Treaty, are not to be abrogated by virtue of the fact that such treaty enters into force with respect to the United States.

The equitable doctrine of grandfather protection is well recognized in the law. At the foundation of the grandfather concept is the recognition that those who have already made extensive investments under one body of law, in this case the international law doctrine of the freedom of the high seas coupled with this legislation and the regulations which implement it, should not be penalized by a new body of law which is or may be applied to persons who have not made extensive prior investments. To allow the abrogation of the rights granted under this legislation by a subsequent treaty is no grandfather protection at all.

In enacting this legislation the Senate is not making any prejudgment that the treaty in its present form is in any way consistent with the terms of this legislation or that such treaty is worthy of either U.S. signature or ratification. It may well come to pass that the State Department will be saddled with the unpleasant and nearly impossible burden of persuading this body that the treaty should be ratified because it is either in the national interest or because it is not inconsistent with this legislation.

At page 96 of the committee report (No. 96–307) the Foreign Relations Committee recognized the possibility that a future treaty "could unfairly preempt ongoing development" by U.S. ocean miners "or even drive them out of business."

Its grandfather language states that any treaty to which the United States becomes a party should:

> (1) provide assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed for United States.

This means that no citizen of any other nation nor any transnational ocean mining company which may be created by a Law of the Sea Treaty be given any discriminatory preference of access over any U.S. citizen to mineral resources of the deep seabed. Further, and irrespective of the activities of ocean miners of other nations or of any ocean mining company which may be created by a Law of the Sea Treaty, U.S. citizens be provided with assured access to hard mineral resources of the deep seabed:

> (2) provide security of tenure.

This means at a minimum that U.S. citizens which have obtained rights pursuant to this legislation and its subsequent regulations to explore for and mine hard minerals of the deep seabed at any given location be afforded the continuing right to operate in the same location with the same bundle of rights and duties as was acquired under the legislation after a Law of the Sea Treaty enters into force with respect to the United States:

> (3) by recognizing the rights of citizens who have undertaken exploration for, or commercial recovery of, hard mineral resources of the deep seabed under title I before such agreement enters into force with respect to the United States to continue their operations under terms, conditions, and restrictions which do not impose significant new economic burdens upon such citizens with respect to such operations with the effect of preventing the continuation of such operations on a viable economic basis.

This means that ocean mining operations conducted by U.S. citizens pursuant to this act and its implementing regulations prior to entry into force with respect to the United States should be continued under such treaty which should contain terms, conditions, and restrictions which do not impose significant new economic burdens upon such citizens. "Significant new economic burdens" means any appreciable economic burden under the treaty that does not exist under the legislation. If a U.S. ocean miner's bottom line under the treaty is more burdensome than under this legislation, then the burden on the U.S. ocean miners caused by the treaty would be a significant new economic burden. If the bottom line of any U.S. ocean miner were so adversely affected as a result of the treaty that such U.S. ocean miner would be prevented from the continuation of such operations on a viable economic basis that U.S. miner will have encountered significant new economic burdens.

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[2] Statement by Ambassador Elliot L. Richardson before the Plenary Meeting of the Law of the Sea Conference in New York on September 15, 1978.

The policy direction that title II of S. 493 is presenting to U.S. Law of the Sea negotiators is that they should seek explicit and clear treaty language which actually grandfathers ocean mining operations conducted by U.S. citizens pursuant to this legislation from any terms of the treaty that are inconsistent with this act. This contemplates express recognition in the text of the treaty itself of the rights conferred by this act or any similar ocean mining legislation enacted by any other nation and that such rights should in no way be abrogated by any other terms or provisions of the Law of the Sea Treaty. This is clearly the intent expressed by section 202 of S. 493. That is why the administration in section 202 is required to report to the Congress on whether U.S. citizens, under the treaty, would be able to continue their operations which were initiated pursuant to this act.

Title II is not precatory language intended for U.S. Law of the Sea negotiators to ignore. It is an expression of the will of the U.S. Congress.

Further, paragraph 201(3)(B) of S. 493 provides that if adoption of a Law of the Sea Treaty is not forthcoming and another multinational treaty is negotiated and entered into force with respect to the United States, it should also contain the type of grandfather protection above discussed. This paragraph recognizes that it is not improbable that the Law of the Sea Conference may fail or that the treaty resulting from it may indeed not be ratified by the United States.

Finally, it should be noted that we have chosen the Foreign Relations Committee version of title II because we feel that it speaks most strongly to the world community with respect to the position of the U.S. Congress and because it affords better protection for U.S. ocean miners.

Thus, rather than enact language that would merely allow U.S. citizen ocean miners to continue their existing operations under similar terms and conditions, we want to explicitly provide for their security of tenure by recognizing their existing high seas freedom rights to continue mining. Rather than direct our negotiators to come home with a treaty that will "not substantially impair the value of investments" already made, we want to insure that the terms, conditions, and restrictions for mining under the treaty "do not impose significant new economic burdens" upon any existing mining operations. Further, we must insist that the scheme for mining under the treaty not prevent "the continuation of such operations, on a viable economic basis." Finally, and to these ends, we must insist that once a treaty does enter into force with respect to the United States, our statesmen "make every effort * * * to provide for the continued operation" of those activities undertaken by miners who have invested in deep seabed mining under this legislation. We believe that this directive encompasses and expands upon the language drafted by the other committees which have reported this legislation. It is, we believe, implicit in the bill's language, that in order to provide for the continuation of existing operation the Congress must also insure the integrity of previous instruments.

For all of these reasons, we believe the Foreign Relations Committee's title II language superior, and urge its adoption by our colleagues.

Administration spokesmen have testified before eight different congressional committees that the legislation is necessary and that its early enactment is essential. In such testimony administration spokesmen have insisted that not only would the legislation not adversely affect ongoing law of the sea negotiations, but additionally the legislation would be a positive spur toward successful completion of treaty negotiations.

One important way in which the grandfather language communicates a message to the international community is that it first cogently expresses a clear understanding of part of what would constitute ratifiable terms and conditions in such treaty while concomitantly expressing the view that the legislation is intended to be an interim arrangement pending entry into force for the United States.

These concepts were further embodied in a statement delivered last year by Ambassador Richardson in plenary session of law of the sea negotiators from all countries represented at the conference:

> Finally, I would point out that support of legislation has made it possible for the Executive Branch of the United States Government to work with the Congress in framing legislation that would be compatible with our primary goal—the negotiation of a comprehensive Law of the Sea Treaty . . . the legislation is now fundamentally consonant with the aim of this Conference.[3]

The grandfather language should additionally be considered a quid pro quo for revenue sharing.

Without any legal obligation whatsoever on the part of the United States the Congress is creating by the legislation a fund in the U.S. Treasury from which may be appropriated moneys to meet U.S. obligations under a future Law of the Sea Treaty.

Inasmuch as the right of U.S. citizens to mine the deep seabed is an existing legal right, the creation of such a fund without any legal obligations to do so may be construed as a show of good faith on the part of the U.S. Congress. This demonstration of good faith prior to entry into force of a treaty, let alone conclusion of treaty negotiations, demonstrates that should the terms and conditions contained in the treaty be consistent with those in the legislation, including the grandfather provisions, the Congress should be willing to appropriate moneys to an international authority to meet U.S. obligations under the treaty. This "in advance" demonstration of good faith clearly implies that it is intended as a quid pro quo for future good faith efforts on the part of members of the international community to negotiate a treaty consistent with the terms and conditions of this legislation.

To argue that such grandfather language might adversely affect Senate ratification of a future Law of the Sea Treaty is to argue that the Senate has no business expressing its intent as to the contents of any such treaty.

Admittedly, the inclusion of such grandfather language in S. 493 could possibly affect the ratification by the Senate of a future Law of the Sea Treaty. One major purpose of including grandfather language in the legislation as discussed at length above, is to send a message to U.S. treaty negotiators and to the rest of the world that the United States, as viewed by Members of the 96th Congress, should not blandly and thoughtlessly ratify a treaty which abrogates existing legal rights. To the contrary, the Congress by adopting grandfather language is sending a message that it wants to examine any future Law of the Sea Treaty and to determine whether it preserves or abrogates existing U.S. legal rights before proceeding to ratify such a treaty.

On this very point the chairman and ranking minority member of the Senate Energy Committee wrote a letter, dated August 2, 1978, to Ambassador Richardson, stating in part—

> We would suggest a careful examination of whether or not the United States Senate is prepared to ratify a Law of the Sea Treaty containing terms and conditions as those in the ICNT which would inhibit and prevent deep seabed development by U.S. firms. We are inclined to believe the Senate would not ratify such a treaty.

In a written response to the Jackson-Hansen letter, dated August 28, 1978, Ambassador Richardson stated:

> You asked that I consider ". . . whether or not the U.S. Senate is prepared to ratify a Law of the Sea Treaty containing terms and conditions such as those in the ICNT . . ." Such an examination would be necessary only if I were willing to recommend to the President that he submit such a treaty to the Senate. I am not so willing. When and if a treaty is submitted to the Senate, I intend that it be a treaty that protects U.S. interests in seabed mining.

With both the administration and the Congress dedicated to a ratification of a treaty only if it protects U.S. interests in ocean mining and with both also in agreement that the present draft treaty text does not protect such U.S. interests, any argument that grandfather language might inhibit treaty ratification clearly misses the point. The point being that there is no merit whatsoever criticizing legislative language intended to prohibit ratification of a treaty to which both the administration and the Congress objects. For without prior U.S. acquiescence and signature of the treaty the ratification process cannot even be triggered.

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[3] *Supra* footnote 2 at page 10.

Accordingly, Mr. President, the record of this debate on the meaning of title II of S. 493 is clear. I am hopeful that it will provide a clarification to our Law of the Sea negotiators on the interest of the Senate regarding the imperative need for adequate grandfather protection in the treaty.

Mr. President, I believe that the foregoing discussion makes it abundantly clear that this Senator and a clear majority of the U.S. Senate hold extremely strong views that the current direction by which the administration is approaching the Law of the Sea Conference and our national interest in ocean mining. This legislation must be considered in the context of those strong views. While it is clearly stated to be interim and transitional in nature, there should be no doubt on the part of the State Department, the administration, the Law of the Sea Conference participants and any other interested parties that the U.S. Senate will not allow this administration or any other administration in the context of any international negotiations to forfeit our inalienable rights as a nation to a viable ocean mining industry. We will not allow our national interest to be sacrificed in any international agreement which may be forthcoming in the context of the Law of the Sea Conference. On the contrary, we shall make every effort in the context of the balanced approach contained in this bill to proceed as expeditiously as possible to develop a strong and vital ocean mining industry. Our experience with the economic and diplomatic extortion to which our dependence on foreign oil has inevitable lead will not be repeated in the area of strategic minerals. I hope sincerely that our expression here today will make clear our absolute commitment to that end.

THE ROLE OF THE SENATE IN THE LAW OF THE SEA TREATY

Mr. MUSKIE. Mr. President, several of our colleagues have today discussed the grandfather provisions of S. 493, the ocean mining bill currently before the Senate.

The two reasons for Members concentrating such emphasis on the grandfather provisions contained in this legislation are clear.

First, Members are insisting that our treaty negotiators preserve in the language of the Law of the Sea Treaty text itself the authority codified in this legislation.

Second, Members are equally concerned about the fundamental constitutional principle regarding the rights and responsibilities of the Senate under the advise and consent clause. It is out of this same concern that other Members have focused on the issue of the interim nature of this legislation. Whether the legislation is in fact to be interim will be dependent upon whether the current Law of the Sea Conference negotiations will produce a treaty acceptable to this body.

The remarks made on the Senate floor today as they pertain to the contents of this legislation, its relationship to the Law of the Sea Treaty presently under negotiation, and the contents of that draft treaty text are indeed intended to be heard by the State Department as advice from the Senate.

We are well aware that during most of the lengthy negotiations which resulted in the formulation of the U.S. Constitution, it was clear that the Senate, not the President, was to negotiate treaties. The plan presented by the Committee of Detail to the Federal Constitution Convention on August 6, 1787, provided that—

> The Senate of the United States shall have power to make treaties, and to appoint Ambassadors, and Judges of the Supreme Court.

It was not until September 7, 1787, just 10 days before final adjournment of the Constitutional Convention, that the President was made a participant in these powers.

The American law division scholars at the Library of Congress who authored one of the most authoritative histories of the Constitution, "The Constitution of the United States of America: Analysis and Interpretation," concluded that the advise and consent clause "assumes that the President and Senate will be associated throughout the entire process of making a treaty."

Another authoritative source, U.S. Senator Rufus King of New York, who had earlier been a member of the Constitutional Convention, in 1818 declared on the Senate floor:

> In these concerns the Senate are the Constitutional and the only responsible counsellors of the President. And in this capacity the Senate may, and ought to, look into the watch over every branch of the foreign affairs of the Nation; they may, therefore, at any time call for full and exact information respecting the foreign affairs, and express their opinion and advice to the President respecting the same, when and under whatever other circumstances they may think such advice expedient.

That Senator Rufus King's views on the meaning of the advise and consent clause were valid is borne out by State Department testimony presented before the Senate Judiciary Committee. The then-Secretary of State stated on April 6, 1953, that—

> This Administration recognizes the significance of the word "advice." It will be our effort to see that the Senate gets its opportunity to advise and consent in time so that it does not have to choose between adopting treaties it does not like, or embarrassing our international position by rejecting one that has already been negotiated out with foreign governments.

That testimony was later incorporated in State Department circular 175 along with the express admonition to State Department negotiators that its incorporation was to insure that full implementation be given to the policy enunciated by the Secretary. State Department officials were also instructed in the same circular that—

> Treaties are not to be used as a device for the purpose of effecting internal social changes or to try to circumvent * * * constitutional procedures.

Because from time to time administration officials seem to lose cognizance of the intent of the advise and consent clause, it becomes the perpetual duty of this body to point out that these doctrines do in fact exist and that they must be adhered to.

Last year, for example, on September 8 the Senate adopted Senate Resolution 536. It declared the sense of the Senate that in determining whether a particular international agreement be submitted as a treaty—

> The President should have the timely advice of the Committee on Foreign Relations through agreed procedures established with the Secretary of State.

As a result of the adoption of Senate Resolution 536, State Department Circular 175 was amended to broaden the basis under which that Department would affirmatively seek the advice of the Senate with respect to international negotiations.

From the preceding discussion on the meaning of the advise and consent clause, it should be very clear:

First, that the executive branch has an affirmative duty to seek advice from the Senate including advice concerning the contents of a treaty during the entire negotiating phase of the treaty;

Second, that remarks made on this Senate floor today concerning this legislation and the treaty which would succeed it if ratified by the United States are intended as such advice; and

Third, as implied by a prior Secretary of State, the executive branch has affirmative duty to listen to such advice of the Senate or else the Senate will be forced to choose between adopting treaties it does not like or embarrassing our international position by amending or rejecting what has already been negotiated out with foreign governments.

The advice this Senator intends the executive branch to heed directly pertains to the legal effect of a U.S. signature on any treaty, but in particular on a future Law of the Sea Treaty.

On October 16 of this year, 14 Senators including myself wrote to the U.S. Ambassador to the Law of the Sea Conference, Ambassador Elliot Richardson. I request unanimous consent, Mr. President, that that letter be inserted in the RECORD at this point in its entirety.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., October 16, 1979.

Hon. ELLIOT L. RICHARDSON,
Ambassador at Large, Department of State, New State Building, Washington, D.C.

DEAR MR. AMBASSADOR: The recent United States Delegation Report on the resumed eighth session of the Third United Nations Conference on the Law of the Sea had a tone of optimism regarding the possibility of concluding the substantive negotiations next year. In this regard, the report notes that "the Conference decided to hold its final substantive session in two five-week sessions next year, the first in New York beginning February 27, and the second in Geneva beginning July 28."

Because of the possibility that the Law of the Sea negotiations may be nearing a point of conclusion, concerns have been reexpressed recently over the legal consequences and implications of the signature of a treaty by the United States. Specifically, some have suggested that signature of a treaty imposes certain legal obligations upon the signing party. We would like to know if you share that view, and if so, what is the nature of such obligations. We are sure you can appreciate the Senate's interest in any implications that signature of the treaty might have before the Constitutional requirement of Senate advice and consent and Presidential ratification has taken place.

We therefore request the Administration's view on the question of whether signature of a Law of the Sea Treaty imposes any legal or other obligations upon a signing party as a matter of customary international law or for any other reason. If it is the Administration's view that legal or other obligations do attach on signature of the treaty, we would appreciate your defining the nature, extent, and consequences of such obligations. In this regard, we would appreciate the Administration's specific analysis of what existing and pending legislation would be impacted by the existence of such an obligation and how such legislation would be impacted. For example, what implications would result from signature of a Law of the Sea Treaty with respect to the domestic implementation of seabed mining legislation and to U.S. companies engaged in the pursuit of deep seabed mining pursuant to U.S. legislation; and would there be any restriction on the applicability of the Fishermen's Protective Act if U.S. vessels were to be seized by nations asserting fishery jurisdiction that is not recognized at the present time by the United States.

Your prompt attention to these issues will be most appreciated.

Sincerely yours,

Warren G. Magnuson, Frank Church, Claiborne Pell, Ernest F. Hollings, Bob Packwood, James A. McClure, Spark M. Matsunaga, Henry M. Jackson, Edmund S. Muskie, Edward M. Kennedy, Ted Stevens, J. Bennett Johnston, Wendell H. Ford, John Melcher.

Mr. MUSKIE. As most of us are aware, Mr. President, the Vienna Convention was adopted by U.N. negotiators on May 22, 1969, and opened for signature on May 23, 1969. The U.S. signed that Treaty on April 24, 1970, and it was submitted to the Senate for advice and consent on November 22, 1971. It has not received the advice and consent of the Senate.

Mr. President, the Senate has not approved the Vienna Convention on Treaties and therefore cannot be bound, solely as a result of the signature of an executive branch official, to refrain from taking legislative action because that act "would defeat the object and purpose of a treaty" signed but not approved.

One purpose behind our forefathers writing the advise and consent clause into the Constitution was to prevent the United States from becoming obligated either to take action or not to take action under any treaty without the prior concurrence of two-thirds of the Senate.

Not only should we insist that the executive branch not be allowed to preempt us by declining to heed our advice conveyed to it during the negotiating phase of treaties, we should also insist that the executive branch not be permitted to preempt us by asserting that we must refrain from taking any action which would defeat the object and purpose of a treaty one of its officials has signed. For here the State Department, if permitted, would assert that a treaty is binding on the United States prior to the Senate granting advice and consent.

The Law of the Sea Treaty presents us with an opportunity to underscore the role of the Senate.

Next year, the Law of the Sea Treaty will be signed by the United States. Upon a requisite number of signatures, an international body sanctioned by the Law of the Sea Conference or by the U.N. General Assembly would begin to draft rules and regulations similar in concept to the manner in which an administrative agency promulgates regulations to implement a U.S. statute.

Either prior to completion of such drafting of regulations to implement the Law of the Sea Treaty, or after such formulation of regulations has been completed, the Senate will be asked to approve provisional entry into force of the treaty either by the advise and consent process or by submission of separate legislation or by seeking to amend S. 493—this legislation—if the latter is not already enacted into law. The provisional entry into force would apply for an interim period after which time the Senate would be asked to grant advice and consent to permanent entry into force of the Law of the Sea Treaty and its then completed implementing rules and regulations.

Thus, as a result of signature and signature only, the Congress would be expected to take no action which would defeat the object and purpose of the treaty. In other words, until the Senate would vote to refuse to grant advice and consent to the treaty or even be given the opportunity to do so, it would be expected to act as though the treaty were already ratified.

The issue then becomes what is this body's ability to grant or to refuse to grant advice and consent to the Law of the Sea Treaty either provisionally or permanently? As earlier indicated, once the United States signs the treaty, under customary international law neither the Senate nor House may take any action which would defeat the object and purpose of the Law of the Sea Treaty.

Mr. President, it is the advice of at least this Senator that the affixing of the mere signature of any executive branch official on a Law of the Sea Treaty or any other treaty will not bind this body from taking any action which anyone claims would defeat the object or purpose of the treaty. This advice, Mr. President, is consistent with the intent of the drafters of the U.S. Constitution with respect to the advise and consent clause.

As is obvious from the letter, our underlying concern is predicated on the possible legal consequences which might flow from the act of signing the Law of the Sea Treaty. Specifically, we requested the administrations views as to the legal effect on the United States resulting from a U.S. Government official affixing his signature to a treaty. We have not yet received an answer.

Many of us who signed the letter were aware of the statement made by Ambassador Richardson in response to a question, similar to that asked in our letter, by Congressman JOHN BREAUX and contained in the hearing record compiled by the House Oceanography Subcommittee. In response to the question, Ambassador Richardson stated:

> Signature only serves as a preliminary indication of intent to become a party and, under customary international law, imposes no obligation other than refraining from acts which would defeat the object and purpose of the treaty.

The words "refrain(ing) from acts which would defeat the object and purpose of the (a) treaty" are a quotation from article 18 of the Vienna Convention on the Law of Treaties.

Mr. HATFIELD. Mr. President, today we finally take the last step in approving the Deep Seabed Mineral Resources Act. I have personally watched this legislation, and the preceding United Nations resolutions, evolve since 1967 when I was the junior minority member of what was then the Interior and Insular Affairs Committee.

I continue to be an ardent supporter of the Law of the Sea Treay negotiations, of the need for a timely conclusion of these negotiations, and of the need for a treaty.

The legislation before us, designed to provide an interim legal framework for the mining of deep seabed minerals by citizens of the United States, will not jeopardize that Law of the Sea Treaty process. We have heard that some participants in the treaty deliberations oppose passage by the U.S. Congress of an interim framework for seabed mining. But these parties must surely realize that, as difficult and complex as these negotiations may be, the American companies involved in technology development for deep seabed mining cannot continue to conduct research and survey seabed resources without some formalized assurance of protection of their investments.

Quite frankly, I had hoped for resolution of a treaty before this time. The progress to date has been exceedingly slow. This uncertain progress of the treaty negotiations increases the justification of the United States to proceed with interim statutory guidelines for the mining of manganese nodules.

This country remains highly dependent upon foreign imports of the strategic metals manganese, cobalt, and nickel These metals, along with copper, comprise the nodules to be mined on the deep seabed. If the companies actively pursuing deep seabed mining do not receive the assurances contained in this legislation, they may well determine that postponement of further investments is the only remaining prudent action.

Thus, while we must pursue completion of the Law of the Sea Treaty, we must also act today to protect the technology development and mining investments of those companies working to mine the metals we have grown so dependent upon.

This legislation has been discussed for many years by many present and past distinguished members of this body.

In 1967, after my first election to the Senate, I became the junior minority member of what was then the Interior and Insular Affairs Committee; Senator Thomas H. Kuchel was then the ranking minority member. During that first year in the Senate, the United Nations General Assembly, at the insistence of Malta and other Third World nations, approved Resolution 2340 (XXII) establishing an ad hoc committee "to study the peaceful uses of the seabed and the ocean floor beyond the limits of national jurisdiction." The United States, after much debate in both the executive and congressional branches, granted support to this resolution.

U.S. interest in a United Nations study on Law of the Sea was generated by concern of the Navy Department over the unilateral actions of some nations in declaring either 12- or 200-mile territorial seas. It was with some reluctance, therefore, that this Nation decided to go along with the broader mandate sought by Malta and the other Third World nations. In his statement before the General Assembly, then U.N. Ambassador Arthur Goldberg stated that:

> [W]hatever legal regime for the use of the deep ocean floor may eventually be agreed upon, it should ensure that the deep ocean floor will be open to exploration and use by all States without discrimination.

Hence, from the very beginning, the U.S. position and indeed the language of the legislation before us required recognition of the rights of U.S. citizens to "assured and nondiscriminatory access" to the minerals of the deep seabed.

While proclaiming that the essential reason behind approval of this first seabed resolution was to prevent an arms escalation race located on the ocean floor between the superpowers, Ambassador Pardo of Malta stated that perhaps it would be wise "to establish some form of international jurisdiction and control over the seabeds and ocean floor." Ambassador Pardo proceeded to make it clear that Malta and its sister countries felt the United Nations should entrust an international agency with the responsibility for exploiting the ocean resources.

Based upon the initial report of the ad hoc committee, the United Nations in December of 1968 adopted Resolution 2467 (XXII) establishing a permanent standing Committee on the Peaceful Uses of the Sea-Bed and the Ocean Floor beyond the Limit of National Jurisdiction. This committee was to carry forward the work of the ad hoc committee; namely, the continuation of surveys of existing international agreements concerning the seabeds, past and present activities of the U.N. and its specialized agencies, and, most importantly, to report recommendations regarding the "practical means to promote international cooperation" on uses of the ocean floor. The United States participated in the work of this committee, hoping still to limit the mandate of the global conference that would follow to issues perceived as critical to this Nation's self defense.

By 1970, I was no longer junior on the committee and Senator Gordon Allott had become ranking minority member. The outlook on the U.N. committee had also changed only much more dramatically. It was clear that any Law of the Sea Conference yet to come would have to include an examination of every ocean use known to man. The developing countries of the world had become convinced that a primary goal of the United States in the negotiations was to protect its defense posture through an emphasis on free transit and navigation rights through the international straits and on the high seas, and that these U.S. priorities might make it possible to gain agreement on a complete package of revolutionary new principles of law for the oceans.

Hence, 1970 saw the adoption of two critical resolutions in the General Assembly. Resolution 2749 (XXV) declared such a set of revolutionary legal principles, one of which was the now often heard statement that the seabed and ocean floor and its resources are "the common heritage of mankind." The United States, hoping to minimize the adverse consequences of adoption of this principle accepted it, but stated that the term would be further defined as the result of future negotiations. This was not the view of the Third World nations, which had by now formed a group known as the Group of 77 (but which actually numbered a good deal more), who felt that adoption of the resolution would prohibit the United States and any other nation acting unilaterally from proceeding to utilize deep seabed minerals.

Concurrent with adoption of the legal principles resolution, G–77 nations were making presentations calling for the creation of an international body which would control all ocean functions, from the conduct of marine research to the regulation of prices and the distribution of raw materials.

In Resolution 2750 (XXV), the General Assembly decided to convene in 1973 a Third Law of the Sea Conference which would deal with the establishment of just such an international regime. The enlarged Seabeds Committee, now numbering some 91 nations, was instructed to prepare for the Conference and to draft treaty articles embodying the international regime, bearing in mind the special interests and needs of the developing countries.

While the U.N. committee continued its preparations and deliberations for the eventual convening of the third U.N. conference in Caracas, then scheduled for 1974, our committee began to act. The late Senator Lee Metcalf, whose special subcommittee had held hearing after hearing on the issue, introduced the first version of the bill before us today, S. 2801, on June 2, 1972. This was followed by S. 1134 on March 8, 1973. By this time, Senator Paul Fannin was now the ranking minority member and I was beginning my second term in the Senate and wondering if this Law of the Sea issue would follow me through my entire senatorial career.

In hearings held on S. 1134 in early 1973, executive branch representatives asked us to refrain from enacting domestic legislation, stating that they fully expected negotiations in the conference to adhere to the set schedule so that work on the treaty would be completed by late 1974 or early 1975. The carrot held out to us for delay was the statement that—

> To the extent [the legislation] was devised to provide private companies with a more secure basis for investment decisions, we could not rule out the alternative of interim legislation if a Law of the Sea Conference is not concluded as scheduled . . .

At the conclusion of the final preparatory session in New York in 1973, the demands of the G–77 as to what it wanted included in the treaty were clear:

> An international organization called the International Seabed Authority would be ceated. It would manage and control all activity in the deep seabed. Political power would be vested in the Authority's version of the U.N. General Assembly, and decisions would be based on a one-nation, one-vote principle, thus ensuring control by the third world.
>
> A transnational mining venture would be created by and under the direct control of the Authority. This entity, called the Enterprise, would have the sole right to mine the minerals of the deep seabed.
>
> All revenues generated by this system would be used to carry out the third world's goal of a new economic order, with an ensuing transfer of wealth from developed to developing countries.
>
> Restrictions would be placed over the amount of metals that could be mined from the seabed to maintain prices charged by the developing countries whose primary export earnings are derived from land-based production of these same metals.

The United States on the other hand, still primarily interested in the nonseabed issues of the treaty, hoped that the treaty would:

> create an international organization with overall regulatory powers to protect the environment, and the safety of life and property at sea;
>
> allow private companies and sovereign states to mine the deep seabed under licenses obtained from such an organization; and
>
> establish training and technical assistance programs to better enable developing countries to become active participants in resource development and to strengthen their research capabilities.

Needless to say, the negotiations in Caracas during the summer of 1974 did not go as planned. The U.S. delegation headed by Ambassador John R. Stevenson asserted the U.S. positions above. The Ambassador eloquently rejected proposals which would have limited seabed metals production, agreeing that such would be "seriously disruptive," that they would "deprive States of access to the resources," and that they would "discriminate against all States who may be seabed producers."

The Ambassador also stated that:

> [I]f the Authority has the power to restrict the number of areas available for commercial development and to select among applicants, my government would not be satisfied that our access was secure and free of potential discrimination.

The United States flatly opposed a monopolistic enterprise mining venture and opposed any temporary dual or parallel access systems that permitted both the enterprise and private mining companies to engage in exploration and exploitation of the seabed resources.

Yet, the delegation report was upbeat and optimistic. It stated that Caracas should not be considered a failure, that it was clear, at least in the minds of the State Department negotiators, that most of the conference participants wanted to bring the negotiations to a swift conclusion.

The last 5 years, however, have seen continuing delays. The State Department continues to assure us that the conclusion of the conference is just around the corner.

Let us for a moment examine the treaty issues. In 1976, the delegation report listed as outstanding the following seabed related issues: First, the system of exploitation and access to deep seabed resources; second, economic implications, production limitations; third, relative powers and functions of the assembly and council; fourth, the dispute settlement system; fifth, financing for the Enterprise; sixth council voting; seventh, quota system or the antimonopoly provisions; and eighth, the inclusion of liberation movements as potential beneficiaries and recipients of seabed generated revenues.

During that year a series of compromises were offered by the State Department. Ambassador Scranton was then head of the U.S. delegation. We proposed to allow production controls as an interim measure to protect land based producers; we proposed to allow the creation of the Enterprise which would be entitled to one-half the available minesites; and we proposed to see to the transfer of technology.

Seeing that a new administration was about to come to power in this country, the G–77 expressed some interest in our proposal, but declined to accept it.

Year 1977 saw yet a new minority leader on our committee, Senior Clifford Hansen, and even a new name, for we became the Energy and Natural Resources Committee. A new ocean mining bill was introduced, S. 2053. Yet the pattern of the negotiations continued.

The present administration decided to continue the negotiations and agreed to the preparation of a new draft text, titled the "Informal Composite Negotiating Text" (ICNT). In the ICNT, which Ambassador Elliot Richardson characterized as "fundamentally unacceptable," the following components emerged:

A powerful General Assembly, a weakly defined executive Council, and a dispute settlement organ were established. In principle, private companies and sovereign states were allowed to apply for contracts from an International Seabed Authority. The Enterprise, also entitled to mine, was created. In order for a private company to get a contract, it would have to accept control of its production by the International Authority, agree to transfer all of its technology to the Enterprise, and comply with the rules and regulations of the Authority, which are finally decided upon by the Assembly. Private contractors would be required to assume potentially high financial burdens even before they derived any mineral revenues, and these burdens would escalate before operations became profitable, if they ever become profitable.

Once the company turned over its technology and a projected mine site, the enterprise could obtain low-cost capital through loan guarantees by the United States and other industrialized countries. The enterprise would be given information on applications so that it could make competitive bids to the authority for the minesites discovered by applicants for contracts. The enterprise would be immune from taxation by sovereign States, and it would be given a tax holiday from authority taxes. If two or more companies applied for the same mine site within a period of 4 months, the company which offered to enter into joint ventures with the enterprise would have a clear priority in the selection process.

In addition to the ICNT, a proposal advanced by France and the Soviet Union would limit the number of contracts which any one nation or its citizens could obtain. Thus, U.S. citizens would be limited to perhaps two of the minesites offered during the first 25 years under the treaty.

The "fundamentally unacceptable" nature of this proposal, as described by Ambassador Richardson, spurred the Congress to work harder to enact domestic legislation. Only the press of business kept us from enacting ocean mining legislation last session.

This year, as I began my third term in the Senate, I became the ranking minority member of the Energy and Natural Resources Committee, and I lent renewed support to the enactment of this legislation.

While the year started with the complete support of the administration, we have lately heard from the executive branch that conclusion of the treaty is again just around the corner, and that the Congress should wait. I note, however, that the latest delegation report contains nearly the identical list of items that the 1976 report contained.

The provisions of the 1977 ICNT have been improved little by the publication of the ICNT revision 1 this spring. The negotiations of this summer in New York have not moved the negotiators substantially closer to a successful treaty. However, it appears to me that the State Department feels that with a little fine tuning this draft treaty text can be made acceptable to the Senate.

I have some doubts about this prognosis, but I am truly hopeful the negotiations can come to an agreeable conclusion in a timely manner. A Law of the Sea Treaty is a must. But it is now abundantly clear that we must also move to establish interim rules, and that, Mr. President, is why we need the Deep Seabed Mineral Resources Act.

Mr. HELMS. Mr. President, it is gratifying at last to participate in the consideration of S. 493, the Ocean Mining bill. Prior to its consideration on the floor today, five Senate committees plus the Senate Budget Committee have considered this legislation. All committees voted unanimously to send it to the floor. In all, 73 Senators have voted this year in committee in favor of this legislation.

This bill has been around the Senate since 1972. The only reason it has been delayed this long is that State Department negotiators have insisted that enactment of this legislation may jeopardize the Law of the Sea Treaty presently being negotiated by some 150 nations.

These Law of the Sea talks have been going on since 1967. The formal conference began in 1974 and negotiations have yet to be concluded. What has been concluded is a real disappointment.

Mr. President, before discussing the Law of the Sea Treaty negotiations, let us first discuss why the legislation is needed.

First, there is a need to assure U.S. citizens access on fair and reasonable terms to the minerals found in manganese nodules lying on the deep seabed. This bill provides for such access.

Second, there is a need to provide a reasonably stable legal framework through which to assure the "security of tenure." This bill provides such a framework.

Third, there is a need to provide a reasonably stable legal framework capable of assuring the responsible protection of the marine environment. This bill provides for such environmental protection.

Fourth, there is a need to provide responsibility for developing country participation in the benefits of deep seabed mineral resource development. The revenue sharing features of this bill provide for international participation in the benefits of ocean mining.

Fifth, there is a need to develop seabed mineral resources in a manner that is consistent with U.S. interests in the preservation of certain traditional high seas freedoms. This bill preserves traditional high seas freedoms.

In a manner consistent with U.S. policy interests this bill directs all U.S. negotiators to negotiate in such a manner as to protect the U.S. policy interests as defined by this legislation in order to insure that operations continued under this legislation will be fully protected by any subsequent Law of the Sea Treaty.

Mr. President, Prof. Richard G. Darman of Harvard University raised these and other valid points in the testimony he presented before the Senate Foreign Relations Committee on June 13 of this year in conjunction with S. 493, the Ocean Mining bill. I ask unanimous consent that his testimony be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, Professor Darman presented in his testimony before the Senate Foreign Relations Commitee a superb analysis of the major deficiencies of the Law of the Sea Treaty.

First he points out that as a result of many of the provisions of the treaty the United States is effectively denied access to ocean mining under the treaty. Second, he pointed out that the production control system restricts the amount of metal that can be mined by U.S. citizens. In essence the treaty creates a mini-OPEC for ocean mining.

Third, Professor Darman points out that the international State-owned ocean mining company created by the treaty and called "the Enterprise" is given a plethora of special privileges, over comparatively disadvantaged private enterprise participants who wish to mine ocean minerals. In this context Professor Darman points out that the treaty would force U.S. companies to enter into joint ventures with the Enterprise essentially under terms and conditions dictated by the Enterprise.

Fourth, Professor Darman describes the character of the world government system that the treaty would establish including a one-nation, one-vote supreme Assembly and a Council on which the United States is not even guaranteed a seat let alone a veto.

Fifth, Professor Darman discussed the character of the dispute settlement system to be created by the treaty and indicates in essence that the United States would never get a fair shake if it were to litigate its disputes within such a system.

Sixth, Professor Darman points out that American companies would be forced to transfer their highly sophisticated technology to the Enterprise under terms and conditions that would result in gross inequities to American companies.

Seventh, Professor Darman points out that private companies would have to pay enormous fees in order to obtain a right to mine under the treaty while the Enterprise would have to pay no such fees at all. He also noted that the United States would be forced to underwrite with U.S. taxpayer's money not only the administrative costs of running this new world government organization, but would also have to underwrite the operations of the Enterprise which will be a direct competitor of U.S. private companies. The draft treaty contemplates that the United States will appropriate at least $250 million for the privilege of funding this new world government body and its creature—the Enterprise.

Finally, Professor Darman concluded that we should move full speed ahead with the enactment of this legislation and at the same time significantly toughen our negotiating positions expressed at the Law of the Sea Conference.

I commend this testimony to my colleagues.

Mr. President, in conclusion, America needs to move forward with ocean mining immediately. This bill provides a framework in which such forward movement is given positive encouragement.

EXHIBIT 1

SUPPLEMENT TO ORAL STATEMENT, FOR THE RECORD: LEGISLATIVE POLICY FOR DEEPSEA MINING—IN THE CONTEXT OF INTERNATIONAL LAW OF THE SEA NEGOTIATIONS

(By Richard G. Darman)

(Presented to the U.S. Senate Foreign Relations Committee, June 13, 1979).

The issues associated with the possible enactment of U.S. deepsea mining legislation are hardly new to the Congress. They have been analyzed and discussed in the context of continuing international law of the sea negotiations for the past seven years. Indeed, deliberations in the House of Representatives have already once resulted in an affirmative vote on such legislation—with H.R. 3350 (the immediate predecessor of the bills under current consideration) passing the House by a vote of 312 to 80 (but then encountering procedural difficulties as it arose for Senate consideration in the closing weeks of the 95th Congress).

Given what is now a relatively extensive record of testimony and analysis on this subject, and given also the author's own prior explication of analyses and judgments (see references as noted), it seems appropriate at this point simply to: (A) treat the basic structure of the relevant argument in rather summary fashion; (B) provide further commentary only with respect to the principal new body of information (i.e., that represented by the textual product of the most recent U.N. Conference negotiations (Informal Composite Negotiating Text/Revision 1, 28 April 1979); and (C) note relevant implications for further legislative policy development with respect to deepsea mining.

(A) The basic arguments for and against U.S. deepsea mining legislation.

The following are the major arguments that have been advanced for and against the enactment of U.S. deepsea mining legislation—presented with summary commentary:

(1) There is a need to assure U.S. access, on reasonable terms, to the minerals found in manganese nodules. In addition to many trace minerals (ranging from aluminum to zinc), these minerals include copper, nickel, cobalt, and manganese—all four of which are considered "strategic" minerals in the development of U.S. stockpile policies. While land-based reserves of these minerals appear generally adequate for the next two decades, and while the prospects of cartelization are generally viewed as remote, manganese may present a special problem of potential strategic significance. With current (and currently foreseen) technology, manganese is essential for the manufacture of steel. But, by the year 2000, according to some analyses, acceptable land-based manganese ores from non-Soviet-bloc sources will be available principally from South Africa and Gabon—countries about which there must be considerable political uncertainty. Further, these analyses suggest that non-Soviet-bloc countries may begin to experience a manganese deficit as early as 1987. (See Congressional testimony presented by Robert L. L'Esperance, April 22, 1977, and Franz R. Dykstra, March 29, 1979.) In any case—whether a potential strategic problem exists or not—the U.S. and the world community have an economic interest in obtaining the minerals found in nodules on the most efficient possible basis. (According to some analysts, seabed mining may be more efficient than land-based mining as early as 1983–1985; while others suggest that economics will not favor seabed mining until the 1990's.) It seems now to be highly unlikely that UNCLOS III will provide the "guaranteed" or even the "reasonably assured" access to seabed minerals that the U.S. has sought (although such access remains a theoretical possibility). A legislative framework could provide such access—and, in the views of some, it might also improve the chances of ultimately negotiating satisfactory access within a treaty framework. (See further discussion at points (6) and (7) below.)

(2) There is a need to provide a reasonably stable legal framework through which to assure the "security of tenure" necessary to attract risk capital for investment in seabed resource development. This is particularly important for seabed mining where capital requirements, lead times, technological uncertainties and market uncertainties are high—and where processing technology is specifically designed to accommodate ores from a predetermined minesite. In the absence of a treaty that might provide such a framework, domestic legislation—with reciprocity agreements among states sponsoring seabed mining—can be structured to provide a framework that reduces to acceptable levels the risks of tenure insecurity.

(3) There is a need to provide a legal framework capable of assuring the responsible protection of the marine environment. In the absence of a satisfactory treaty to provide such protection, deep seabed miners could (at least as a theoretical matter) exercise traditional high seas freedoms to mine the deep seabed without being subject to environmental regulation. Domestic legislation, however, can provide a means to regulate U.S. deepsea miners (under the "nationality principle")—thus providing the necessary legal framework through which to assure that the fundamentally important ocean environment may be responsibly protected.

(4) There is a need to provide responsibly for developing country participation in the benefits of deep seabed mineral resource development. This is generally understood to be desirable as a matter of equity. It may also be desirable practically insofar as it might improve the tone of otherwise excessively adversarial "North-South" relations, while (arguably) increasing the apparent legitimacy of developed country development of seabed mineral resources that are widely considered to be "the common heritage of mankind." In the absence of a satisfactory treaty, developing countries could be left to benefit from seabed development only through the indirect contribution of such development to greater global efficiency. But with a framework of domestic legislation, miners could be made subject to a special tax (within the limits of economic reasonableness) in order to provide more direct benefits for developing countries—as e.g., through this special tax's support of a debt-subsidy arrangement to facilitate developing country equity participation in joint mining ventures with developed country partners, or, more conventionally (but perhaps less effectively), through the direct transfer of revenues to developing countries.

(5) There is a need to develop seabed mineral resources in a manner that is consistent with U.S. interests in the preservation of certain traditional high seas freedoms. At an earlier stage, this was thought to be an argument against domestic legislation and in favor of an international treaty. It is now increasingly clear, however, that with respect to the preservation of high seas freedoms, the net contribution of the likely international treaty will be slight. (Indeed, it is arguably negative, on balance.) It is also clear that, at least as a legal and textual matter (if not as a matter of international appearance), it is possible to draft satisfactory deep sea mining legislation in a manner that "does not assert sovereignty or sovereign or exclusive rights over, or the ownership of, any area of the deep seabed." And it is at least noteworthy that the U.S. negotiators—who are among the most concerned advocates of the preservation of high seas freedoms—are nonetheless now (since 1977) also advocates of unilateral deepsea mining legislation. (For a related discussion of U.S. interests in high seas freedoms and the risks of prudent unilateralism, see Darman, 1978a.)

One may note a curious characteristic of the foregoing five arguments: While each can be (and has been) used as an argument for U.S. legislation, each can also be used as an argument for the superiority of an international treaty—provided that the detailed provisions of the presumed treaty are satisfactory with respect to each of the policy interests represented by the arguments. And since a satisfactory treaty with respect to these interests remain a theoretical possibility, a sixth argument is commonly associated with the debate concerning U.S. legislation.

(6) It is desirable to encourage a resolution of key deepsea mining issues in UNCLOS–III that is satisfactory to U.S. policy interests, and having done so, to conclude a comprehensive law of the sea treaty that is widely ratifiable. Putting aside the possible internal contradiction of this desideratum, it presents another curiosity: it is used as an argument both for and against enactment of U.S. legislation. This is so because political judgments differ as to the likely response of the U.N. Conference if faced with U.S. "unilateralism." Opinions range from dire warnings of disaster to confident predictions of G–77 concession. (The view here is somewhere in the middle—a prediction of no significant effect, apart from a transitory increase in the intensity of some G–77 rhetoric offset by a slight flurry of countervailing moderation.) Two significant observations on this question of judgment may be made, however. One is that such judgment is difficult. (Professionals have a hard enough time predicting domestic political responses in a culture that is thoroughly familiar. It should not be surprising, therefore, that predictions of Conference response would differ widely.) The second observation is that the U.S. negotiators—those most intensely and consistently interested in the conclusion of a comprehensive treaty, and those most directly familiar with Conference politics and personalities—have stated that they are in favor of enactment of U.S. deepsea mining legislation. Taking them at their word, one must assume that their informed judgment is (at a minimum) that U.S. legislation would not seriously risk the prospects for Conference agreement.

If the overall argument were left at this point, one might responsibly conclude that the case for enactment of legislation were only mildly affirmative. For one might legitimately ask: If a satisfactory treaty would be preferable, if commercial scale seabed mining is not likely to commence before 1984 in any case, if the manganese deficit is not anticipated until at least 1987, and if the additional lead time required by existing consortia may be as little as four years, why not delay enactment of domestic legislation pending further U.N. negotiation? But the argument cannot be left at this point. For the fact is that the U.N. negotiations have been proceeding very slowly (even if understandably so); and, most serious analysts would agree, the negotiations have resulted in substantive texts that are in many respects highly unsatisfactory. (See Darman and Smith, 1978 c.) In this context, several additional arguments must be given consideration:

7. There is a risk that failure to proceed with legislation would adversely affect the U.S. negotiating posture with respect to the remaining difficult and important substantive issues requiring attention (the negotiation of representation and voting arrangements and of final clauses, and the remediation of current texts in several areas of substantive concern). This risk exists notwithstanding the risk that may be associated with the enactment of legislation. It derives from the fact that the U.S. has implicitly and explicitly been threatening to enact legislation for the past several years. Having explained the 1978 non-enactment as the result of an end-of-session procedural problem, the U.S. is now in a position where failure to proceed could amount to calling its own bluff. This might well be interpreted by others at the international negotiating table as a sign of fundamental U.S. dependence upon the conclusion of a comprehensive treaty—leading some to assume that their relative leverage and the opportunities for advancement of more extreme positions are the greater. And this in turn could, at a minimum, further complicate the negotiating difficulties—increasing the probability of even more unsatisfactory texts.

(8) Although negotiation of a satisfactory mining regime remains a theoretical possibility, the fact that an unsatisfactory outcome appears probable will inhibit further seabed investment (and associated technological development) unless potential investors can have some greater assurance that: either (a) an unsatisfactory mining regime would result in non-ratification by the U.S., or (b) if an unsatisfactory regime were to be ratified, prior investment would nonetheless be protected from this "political risk." Enactment of legislation can suggest a degree of greater assurance (however uncertain) with respect to the ratification issue. And, depending upon how it is drafted, legislation can encourage, or imply, or provide a greater degree of "political risk insurance." If the inhibition is not thus reduced, existing development teams may be disbanded, risk capital will be allocated to other uses, and the lead times for commercial scale seabed mining will be increased.

(9) One unsatisfactory set of draft treaty provisions in particular—the combination of the production control and the applicant selection system—now puts a special premium on early application to the contemplated Authority, and a related premium on early investment. To summarize the matter: it is now entirely possible that if U.S.-led consortia are discouraged from investing, but certain other miners are not (e.g., those from countries with greater concern for their mineral dependence and/or those from countries with a willingness directly or indirectly to subsidize seabed mining), and if U.S.-led consortia are therefore not among the first applicants, the U.S. may be excluded from participation in the area of the seabed not reserved for the Enterprise—at least for a considerable period of time. This problem arises because the number of minesites available under the proposed production control is limited, because the treaty is now structured so that a high percentage of sites (both reserved and non-reserved) is likely to be developed through Enterprise-led joint ventures, and because the Authority would have a high degree of discretion in the selection of applicants as the production ceiling is approached. (See ICNT/Rev. 1 Part XI, article 151 and Annex II, article 7.) Note: Although U.S. negotiators have stated their intention to attempt to improve these provisions, a realistic assessment would have to rate the probability of significant improvement as low.

(10) The contemplated treaty is not likely to enter into force in any case for at least several more years. There remain major substantive issues to be negotiated and renegotiated. There are also important negotiations ahead with respect to preambular and final clauses. There must then be voting on the revised text in order to convert it to the status of a draft convention, followed by a major signing ceremony, and only then (not likely before late 1980 or early 1981) by referral to governments for possible ratification. Although entry into force provisions have not yet been negotiated, it is reasonable to think that for such a global treaty, the number of required ratifications should be set at a rather high level. And yet, it is not at all clear that the necessary number of ratifications would be promptly forthcoming. Several developed countries are likely to have serious reservations with respect to the mining regime. Some Latin American countries may be reluctant to ratify a document that is not fully consistent with their territorialist positions on the economic zone (particularly since they may benefit from the treaty whether or not they have ratified it). Some ideologically concerned developing countries may be expected to have reservations. Many countries may be reluctant to encumber themselves with the capital and debt obligations associated with the financing of the Enterprise. And some countries may wish to see detailed regulations before deciding upon ratification. While this process goes on, arguments against risking a disturbance of the international climate could presumably be said to apply to the same extent as they do today. It is important, therefore, to be clear—particularly given the force of inertia—that the postponement of domestic action, recommended by some as a no-cost action, may amount in fact to an extended self-imposed moratorium.

(11) There is a need—as a matter of national prudence—to protect the United States legal position against the possibility that the U.S. may, in the end, wish not to ratify the treaty that results from the present conference. Regretable though the situation be, the negotiating realities are such that the conference's seabed mining regime is likely to lend itself to interpretation as unsatisfactory to the U.S. in many fundamental respects. (See Darman and Smith 1978c and Darman, 1979b.) It is debatable whether or not an unsatisfactory seabed regime, when viewed in relation to the broader range of interests at stake, would argue for rejection of the treaty. (For one set of views of the range of interests at stake and appropriate frameworks for analysis, see Darman, 1978a, 1978b, 1978d, 1979a, and 1979b.) It is hardly debatable, however, that ratification appears now to be less than certain. If the ultimate treaty were such that the U.S. were inclined not to ratify, the U.S. would presumably wish to mine the seabed as an exercise of traditional high seas freedoms consistent with customary international law. But the interpretation of international law would be contested at that point. And, it is arguable that the U.S. legal position in such a contested situation would appear considerably stronger if the U.S. (and preferably, other mining countries as well) had actually explored and mined the seabed for some time under a framework of domestic law. (Note: This argument also applies, as suggested, to the U.S. interest in preserving the option to mine the seabed during what could be an extended period between treaty signing and entry into force; and it applies with respect to preserving a viable U.S. option of withdrawing from a treaty that proves unsatisfactory.)

At this point—with the addition of the latter five arguments—the overall argument in favor of U.S. deepsea mining legislation seems compelling. And it should be noted that this conclusion is reached without ever engaging the basic but unpopular strategic question as to whether the development of a framework of domestic legislation, harmonized among mining states and suitable for developing country participation, might be generally preferable to the pursuit of a comprehensive LOS treaty within the current U.N. framework. One does not have to reach that strategic question in order to be persuaded that U.S. legislation is now desirable. But it should also be noted that the strength of the overall argument as it stands rests heavily on an assessment of the state of the current UNCLOS negotiations. Because this assessment is as important as it is, it is subject for further discussion below.

(B) A current assessment of the state of the negotiations.

The state of the complex UNCLOS–III negotiations, now in their seventh year, is, of course, generally well known to the concerned committees of the Congress. It seems appropriate therefore, as noted above, to confine discussion here to an assessment of the one significant new body of information, that represented by the Conference's most recent textual product: The Informal Composite Negotiating Text/Revision 1 (dated 28 April 1979, but released by the U.N. on

May 14, 1979). Because this text includes few significant changes in the non-seabeds texts, and because the seabed regime is of most direct concern in the current legislative debate, this assessment is confined to consideration of the fundamental character of the proposed seabed regime of INCT/Rev 1 (hereafter "Rev. 1").

In analyzing this seabed regime, one might usefully compare it to the United States' draft treaty proposals of 1970 (from which the regime is now very far removed). But it might be argued that such analysis is inappropriate for what is intended to be a negotiation, in which it is to be presumed that ultimate results must be different from entering positions. One might rather attempt to describe some reasonable objective referent for comparison; say, the minimum system necessary to assure economic efficiency within a framework that is consistent with international law and with responsible interests in environmental protection and the participation of developing countries (from which the proposed regime is even farther removed, see Darman, 1979b).

Alternatively, one might compare the ICNT/Rev. 1 with its predecessor, the ICNT (in relation to which it shows some, generally minor, technical improvements and drafting clarifications—without changing the fundamental characteristics of the regime). Or one might assess the Rev. 1 regime in relation to the ten criteria suggested by the U.S. when, in Senate testimony of Ambassador-at-Large Richardson (October 7, 1977), it described the ICNT as "fundamentally unacceptable." (Rev. 1 represents a significant improvement with respect to only 1, or with liberal reading 3, of the 10 fundamental criteria.)

But it is probably best, in this context, simply to assess the Rev. 1 regime for what it is in its own right. This can be done, as follows, with respect to the major descriptive categories of interest.

(1) The character of the basic access system. The Rev. 1 "access" system is one of high central discretion, providing only limited, conditional, and uncertain access to qualified applicants. The limits, conditions, and uncertainties are a function of several different problematic elements:

(a) The production control system, the Enterprise-preference system, the political system, the dispute settlement system, the technology transfer requirements, and the financial requirements (all of which are discussed at (2), (3), (4), (5), (6), and (7) respectively below);

(b) the review system, which could terminate access for state-sponsored parties 20–25 years from approval of the first contract or plan of work—either by Conference adoption of a new regime or by Assembly imposition of a moratorium (see Article 155);

(c) the "anti-density" provisions, which, although satisfactory in part, could terminate access for entities sponsored by a state party that "has already had approved" (as opposed, e.g., to "holds") contracts totalling three percent of the non-reserved and non-withdrawn deep seabed area (see Annex II, Article 6, paragraphs 3(d) and (4);

(d) the provisions for a potential non-nodule minerals moratorium, which would likely result from the requirements that "the Authority shall regulate production of minerals from the Area, other than minerals from nodules," and that associated regulations must be both adopted by the Authority and ratified by states before exploration or exploitation of such minerals can commence (see Article 151(3) read in conjunction with Articles 133, 134(5), 137, and 153).

(2) The production control system. The Rev. 1 direct production control system for minerals found in nodules is arbitrary and stringent. It limits future seabed production to levels governed by a fraction of the growth segment of the nickel market—in effect, not only protecting current land-based production, but also allocating future replacement production plus a portion of the growth segment of the market to a small number of land-based producers—without favorable regard to the global interest in seabed mining's possible contribution to efficient mineral resource development. (See Article 151.) When applications threaten to exceed the arbitrary and stringent production ceiling—likely at a very early date—an absolute priority is to be given to the selection of the Enterprise (or the Authority acting through a joint venture) for the development of reserved sites. (See Annex II, Article 7(4)). Note: In addition to these explicit production controls, other restraints on nodule resource development may be provided by financing provisions and provisions giving broad policy and regulatory discretion to the Authority (as discussed further below). Non-nodule mineral resource development is to be regulated by the Authority in a manner not yet determined (see (1)(d) above).

(3) The Enterprise-preference system. The new globally-chartered Enterprise is explicitly given a wide range of preferences. It is given approximately a billion dollars in interest-free paid-in capital and government-guaranteed loans for its start-up activities (Annex III, Article 10(2)(c)). For each minesite to be developed by contractors, the Enterprise is to be given one fully prospected minesite at no cost to it—the cost being paid by contractors (Annex II, Article 8). Applications of the Enterprise are to be selected rather than those of contractors as the production ceiling is approached (Annex II, Article 7(4)). The financial terms required of contractors do not apply to the Enterprise (Annex II, Article 12). The Enterprise shall enjoy such special privileges as states grant to developing countries or their commercial entities plus such additional incentives and privileges as states may grant (Annex III, Article 12(4)(d) and (3). And the Enterprise "shall be immune from taxation" (Annex III, Article 12(5)).

Note: In analyzing the access system as a whole, these Enterprise preferences must be viewed along with the negative aspects of attempting to apply for a contract in the non-reserved area (e.g., technology transfer requirements, "banking" and financing requirements, uncertainties with respect to selection in the face of the production control, and political uncertainties). And they must be viewed along with the provisions giving preference to entities entering joint ventures with the Enterprise (as e.g., in Annex II, Article 7(4) and Article 10). The net effect is what amounts, as a practical matter, to a "unitary system of joint ventures"—for few, if any, rational investors could be expected to seek contracts except as joint venturers with the Enterprise. The system is not, as some still claim, a "parallel access system." Of course, there is nothing necessarily wrong with some forms of joint venture systems. But this particular unitary joint venture system is one that fails to protect potential joint venturers' interests or rights of access. It might have done so through specific treaty provisions (relating to, e.g., security of tenure, means of valuing equity, protections of rights of control, etc.); or it might have done so through the countervailing incentive effects of a reasonable access system for the non-reserved area. But, as it stands, it has done neither.

(4) The character of the proposed political system. The Rev. 1 proposed governmental system for the deep seabed Area would assign general policy responsibility to "the supreme organ of the Authority," the Assembly, an organization to be comprised and managed on the basis of one-nation-one vote (articles 160, 161). This "supreme" Assembly would also have the responsibility of electing the members of the two organizations that might exercise some countervailing influence, the Council and the Seabed Disputes Chamber of the Tribunal (Annex V, Article 36). (Note: The Assembly's election of the Council must respect the distribution requirements of Article 161. These, plus Council voting requirements, offer a theoretical means to protect minority interests, but as drafted in Rev. 1, they serve only to guarantee developing countries—and no other group—a continuing veto power with respect to the Council's functions.) The supreme Assembly is also given primary responsibility for equitably sharing the economic benefits of seabed activities, taking into particular consideration the interests and the needs of the developing countries and "peoples who have not attained full independence or other self-governing status" (Articles 140, 160(2)(j)). This last provision, however humane its motivation, could put the Assembly in the peculiar position of directly supporting groups who are in fundamental political opposition to some member states—thus threatening to narrow the base of political support for the Assembly among sovereign states. (Note: It is, of course, difficult to predict confidently what the substantive policies of the Assembly might, in time, prove to be. For the moment, it is at least noteworthy that the Group of 77, which has shown considerable cohesiveness, would command better than a three-fourths majority in a one-nation-one-vote Assembly. And it is important to note at the same time that one-nation-one-vote majoritarianism bears no sensible relationship whatsoever to either one-person-one-vote, or to the real distribution of power and interests, or even to the real distribution of humane concern.)

(5) The character of the seabeds dispute settlement system. There are two major subheadings of interest here:

(a) The scope of judicial review. This is a complex and uncertain matter. Article 187 would seem to provide broad jurisdiction that is counter-balanced by the first two sentences of Article 190, which state that "the Sea-Bed Disputes Chamber shall have no jurisdiction with regard to the exercise by the Authority of its discretionary powers in accordance with this Part" and "shall not pronounce itself on the question of whether any rules, regulations, or procedures adopted by the Authority are in conformity with the provisions of this Convention. . . ." These sentences are, in turn, counter-balanced to some degree by the third sentence of Article 190, which returns some measure of judicial review with respect to individual cases involving conflicts of rules, regulations, or procedures with contractual or Conventional obligations, or claims concerning lack of competence or misuse of power. The problem is complicated further by uncertainty as to how broad the Authority's discretion (hence the limit on judicial review) may be. This problem is particularly important with regard to the seemingly broad grant of discretionary authority to the Authority to be found in Article 150, "Policies Relating to Activities in the Area" (bearing in mind that "Activities in the Area shall be organized, carried out and controlled by the Authority" (Article 153) and that the "supreme" Assembly has "the power to establish general policies" (Article 160)). At best, it may be said that the scope of judicial review may depend importantly on who is doing the reviewing, which leads to consideration of:

(b) The selection of judicial reviewers or arbitral panels. As noted above, the judges of the Sea-Bed Disputes Chamber are to be elected from among the members of the Tribunal by the one-nation-one-vote Assembly

(Annex V, Article 36). The twenty-one members of the Tribunal from which the Sea-Bed Chamber is to be drawn are themselves to be chosen (in a manner that assures representation of the principal legal systems and equitable geographic distribution) by two-thirds of the State parties present and voting on the basis of one-nation-one vote (Annex V, Article 4). Feeling less than secure with this system, some have sought to increase opportunities for the use of binding arbitral panels. Rev. 1 does so to only a very limited extent—with respect to technology transfer negotiations when any party so requests (Annex II, Article 5 (2)); with respect to disputes between states when all parties to the dispute so request (Article 188 (1)); and with respect to certain contractual disputes "insofar as provided in any contract" (which must, of course, be negotiated with the Authority) (Article 188(2)).

In sum, the scope of judicial review is highly uncertain; and the system of determining who will be the judicial reviewers offers little promise for those who might prefer either significant developed country influence in the selection process or broad application of acceptable arbitration procedures to which any party might have recourse.

(6) The technology transfer system. In addition to the system that applies to states (Article 144 and Annex II, Article 5(3)), there is a mandatory technology transfer system that applies directly to contractors (Annex II, Article 5). All applicants for contracts must undertake to comply with the Article 5 provisions on technology transfer as a condition of qualification for a contract (Annex II, Article 4). And all contractors must fulfill the technology transfer obligations or risk suspension or termination of contractual rights (Annex II, Article 5(2) and Article 17). The mandatory technology transfer obligations themselves are to: (a) submit information describing the technology and its availability, upon application; (b) undertake to use third party technology only with the owner's written assurance of willingness to transfer it to the Enterprise and developing country applicants on fair and reasonable commercial terms (if it "is not generally available on the open market"); (c) undertake to transfer technology which a contractor is legally entitled to transfer, on terms to be negotiated with the Enterprise, "if the Enterprise finds that it is unable to obtain the same or equally efficient and useful technology on the open market and on fair and reasonable terms and conditions"; (d) undertake to facilitate the transfer of third-party technology referred to in (b); and (e) undertake obligations (b), (c), and (d) with respect to developing country applicants for reserved sites. There is no time limit on this set of obligations. Disputes arising with respect to them are to be submitted to binding arbitration. The rules to be applied to such arbitration are UNCITRAL rules; but these may be replaced at any point by such other rules and regulations as the Authority may prescribe. The arbitral tribunal has the power to make "an award"—and since the language does not confine the award to damages, it is arguable that the tribunal might dictate specific terms of performance.

(7) Financing requirements. These may be reviewed with regard to:

(a) Obligations upon contractors. Contractors are obliged to incur significant, fixed, "front-end" payments through the combination of site-banking requirements (Annex II, Article 8) and fixed fees and production charges—as well as escalating royality or proceed-sharing payments at later stages (Annex II, Article 12). Preliminary analysis suggests that these requirements would reduce the contractors' expected rate of return by a few percentage points. When considered in relation to the large early capital requirements, and the risks associated with technological, political, and market uncertainties, it is conceivable that this reduction in the rate of return would prohibit some or all early large-scale investment. (The extent to which it would do so cannot be determined authoritatively, without access to proprietary information.) It is of course clear that, at a minimum, it would make necessary project financing more difficult.

(b) Obligations upon states. States parties are to be assessed by the Assembly, in accordance with the U.N. scale, for the administrative costs of the Authority until it becomes self-financing (Article 160(2) (e)). And they are to be required to finance on an interest-free basis, and to guarantee debt associated with, the Enterprise's start-up administrative expenses and the full costs of exploring and exploiting its first minesite (Annex III, Article 10(2)). This could amount to a financing burden of over 1 billion dollars—with the United States responsible for 250 million dollars (or more, if not all major U.N. financers are states parties, or if Enterprise start-up costs exceed current estimates). It is, of course, not clear that other states—or the U.S.—would be willing to allocate resources for this purpose.

Having outlined the basic elements of the Rev. 1 deepsea mining regime, it is important to make clear what this analysis is and is not intended to imply in this context. It is not intended to imply that Rev. 1 or something like it should or should not be ratified. Any such conclusion requires a broader consideration than is undertaken here of the interests at stake in a comprehensive treaty, the extent to which any given comprehensive text serves those interests, and the extent to which preferable alternatives are or are not available in the specific historical context. It is also not intended to imply that current U.S. negotiators may somehow be failing at their task. Indeed, given a basic policy decision to pursue a comprehensive treaty in the current historical context, while giving special weight to certain navigational interests, it seems responsibly arguable that the type of seabed regime now being negotiated is an inescapable corollary.

What is intended here is merely support for the following contention: that those who may be concerned about the possibility of an adverse seabed mining regime, or about the distance yet to go in attempting to negotiate a satisfactory regime, are provided further cause for concern by an analysis of Rev. 1.

(C) Implications for legislative policy development.

The implications of the combination of (A) and (B) above with respect to legislative policy development seem clear. The U.S. should:

(1) proceed expeditiously to enact deepsea mining legislation;

(2) do so in a manner that is consistent with particular interests in: (a) preserving traditional high seas freedoms in the deep seabed area; (b) reducing investors' sense of "political risk" to manageable levels; (c) assuring the responsible protection of the ocean environment, while attending also to the need for efficient development of ocean resources; and (d) providing for a degree of developing country participation in the development and the benefits of what is widely (although variously) said to be "the common heritage of mankind";

(3) encourage the Executive branch and private parties to proceed expeditiously with necessary rulemaking and subsequent licensing within the legislative framework;

(4) encourage the Executive branch, through Congressional oversight, to:

(a) foster vigorously the development of reciprocating actions among other mining states—consistent with (2);

(b) develop and execute further plans for the protection of the U.S. legal position in relation to its interests in mining—and given the prospect of an extended period before the entry into force of any comprehensive LOS treaty;

(c) develop responsible plans for the practical protection of key U.S. interests in navigation and mining—to the extent that these (arguably) may be adversely affected by legislative initiative or by the failure to conclude a satisfactory LOS treaty;

(d) develop policies to improve opportunities for the conduct of scientific research for the benefit of all mankind within an adverse treaty framework—that is, assuming that an adverse regime for science (such as in Rev. 1) may ultimately enter into force; and

(e) develop plans to attempt to limit adverse precedential effects that might follow from the adoption of a regime such as Rev. 1—with a view toward the structuring of a more favorable new international order.

This framework for further policy development is general—to be elaborated upon, as appropriate, in oral commentary. It may seem less desirable than the prompt conclusion of a satisfactory treaty. But the latter is not, at this stage, a realistic option. And it seems both prudent and responsible, therefore, to pursue the course here outlined.

Note: For further elaboration of selected points cited parenthetically above, see:

R. G. Darman, "The Law of the Sea: Rethinking U.S. Interests," Foreign Affairs, January 1978a;

R. G. Darman, "Choices in Law of the Sea Negotiations: An Analytic Framework and Personal Assessment," in The Oceans and U.S. Foreign Policy, University of Virginia Center for Oceans Law and Policy, Charlottesville, 1978b;

R. G. Darman and J. T. Smith II, "Report of the Committee on Law of the Sea," in Proceedings and Committee Reports of the American Branch of the International Law Association, 1977–78, New York, 1978c;

R. G. Darman, "Statement: Precedential Implications of a Deep Seabed Mining Regime," in Oceanography Miscellaneous II, Hearings before the U.S. House of Representatives Subcommittee on Oceanography, Washington, 1978d;

R. G. Darman, "Science and Other Freedoms: The Stakes in Law of the Sea," American Association for the Advancement of Science, January, 1979a; and

R. G. Darman, "United States Deepsea Mining Policy: The Pattern and the Prospects," in Current Issues in International Resource Management: A Case Study of Deepsea Mining, J. Kildow, ed., MIT Press, forthcoming 1979b.

Mr. WEICKER. Mr. President, the Deep Seabed Mineral Resources Act, has had a long and fascinating legislative history. It was originally introduced on November 2, 1971, by the late Senator Metcalf and cosponsored by Senators JACKSON, Allott, BELLMON, and STEVENS. With each succeeding Congress the list of cosponsors and supporters has grown. The growing support is a testament to the totally bipartisan effort which has attended the development of this legislation.

A strong additional factor in the progress of the deep seabed mining legislation this year has been the unanimous reporting by five Senate committees: Energy and Natural Resources, Commerce, Foreign Relations, Environment, and Public Works and Finance. The Budget Committee, too, granted a waiver to bring the bill to the floor, after receiving assurances that the authorization provision would be changed from fiscal year 1980 to fiscal year 1981.

Including Budget Committee membership, 72 Senators in this Congress reviewed this bill and acted unanimously upon it.

And, in the House, it has so far been reported by three committees.

The nearly universal support for S. 493 in this Congress stems from the truly balanced nature of the bill. It has been refined and re-refined in committee markups for nearly 8 years.

It is balanced because it encourages early development by U.S. citizens of ocean minerals in a manner that is environmentally responsible.

It is balanced because while it is protective of U.S. national interests it is also mindful of international interests. Its revenue-sharing fund and interim nature is a reflection of the extent to which this body has fully taken into account international interests in the amendments included in the Matsunaga substitute.

It is balanced because it recognizes the need for assured U.S. access to nickel, copper, cobalt, and manganese—strategic metals which may otherwise be in critically short supply before the year 2000. Yet in authorizing and encouraging U.S. ocean miners to go forward with responsible ocean mining efforts, this bill makes no claim of sovereignty over the deep seabed.

It is balanced by virtue of the differing interests of the Senate committees which have conducted hearings on it, studied and amended it. The Energy Committee viewed it from the perspective of the need to responsibly develop mineral resources which provide the raw material base for our national economy.

The Commerce Committee viewed it from the need to stimulate domestic and international commerce and to provide for a sound U.S. oceans policy.

The Foreign Relations Committee viewed it from the perspective of insuring national security and promoting world peace.

The Environment and Public Works Committee viewed it from the perspective of insuring ecological balance in the world's oceans.

And the Finance Committee viewed it from the perspective of devising an international revenue sharing scheme which would facilitate the implementation of any Law of the Sea Treaty which the Senate may later ratify.

This legislation neither praises nor condemns the present draft Law of the Sea Treaty text. Rather it leaves the door open for subsequent Senate consideration of whatever Law of the Sea Treaty emerges. Such a treaty would, of course, be subject to the constitutionally required advice and consent of the Senate before it could enter into force with respect to the United States.

Progress of negotiations at the third U.N. Conference on the Law of the Sea has been lackluster, and near-term progress, without substantial concessions on the part of the United States, is unlikely, according to many participants. We should, therefore, pass these protective, interim measures and encourage the House to move expeditiously as well.

Mr. President, I urge my colleagues to support this landmark bill.

Mr. TSONGAS. Mr. President, I rise to speak in opposition to S. 493, the Deep Seabed Mineral Resources Act. At issue is an orderly, multilateral approach to a problem of global scope. This legislation may undercut progress that has been made by the Law of the Sea Conference.

If negotiations at the Law of the Sea Conference were still deadlocked as they once were, a deep seabed mining bill might be useful. But the conference now has made substantial progress toward a treaty that protects U.S. interests. Out of 250 major issues in dispute initially, only 6 major ones remain. Significant progress on the remaining differences already has been made; a treaty is expected by next summer. Under these encouraging conditions, this legislation poses a threat to the conference. It serves no useful purpose and I oppose it.

Let me emphasize that I do not oppose protecting or assisting U.S. mining operations. However, I believe we can protect those interests, our national security, and relations with developing nations best by waiting until the treaty is completed next year. I ask my colleagues to consider the importance of the Law of the Sea Conference, the progress in negotiations to date, and the risks to that progress posed by passage of a deep seabed mining bill at this time.

THE CONFERENCE'S IMPORTANCE

First, the future of our Nation is inextricably interwoven in the world economy. Interdependence is the reality of the future. While we can help to reduce dependence through domestic actions such as conservation, we ought to devote more attention to establishing stable international regimes for interdependence. The Law of the Sea Conference is the first of many international efforts to develop a formula to deal with new global interdependencies. The outcome is critical to our Nation and it is critical to the Third World. The Law of the Sea (LOS) Treaty can help contribute to a more equitable world economic system.

Second. The LOS is very important to Third World nations. When the U.S. economy was industrialized, we had access to an unlimited supply of cheap oil. The developing nations do not have access to cheap oil. They will have to base their industrialization on other resources. For many developing countries, their future depends on access to fish and seabed minerals and the infusion of capital that will result from the Deep Seabed Authority's activities under the treaty.

Third. The situation in Iran underlines the importance of international adherence to the rule of law. There is a pressing need to establish stable and predictable relations that all nations will support. There is a pressing need to establish mechanisms to resolve conflicts and reduce tensions over ocean resources. The LOS Treaty addresses these concerns.

Fourth. The LOS Treaty also will establish the freedom of navigation and overflight—critical U.S. national security interests—to assure global mobility. It will assure access to deep seabed mineral resources and create international standards for the conservation of living marine resources and the control of ocean pollution.

Finally, the treaty will establish a regime for the free conduct of scientific research.

PROGRESS AT THE CONFERENCE

Mr. President, let us consider the remarkable progress already achieved by negotiators. Elliot Richardson, Ambassador-at-Large and our representative to the LOS Conference, has said:

> The successful completion of the Third U.N. conference on the LOS is now in sight . . . All of us have come too far to be deterred. We will go the rest of the way.

Significant progress has been made on those remaining issues. Negotiations on the financial arrangements of the Seabed Authority, decisionmaking procedures, and dispute settlement have made impressive gains. Taxes on miners have been scaled down, making mining ventures more attractive. The Ambassador says that we are on the verge of final compromises. Opposing viewpoints are moving closer together.

The treaty will assure the rights of U.S. interests. Ambassador Richardson has assured us that the treaty will have to include the following guarantees to be acceptable to the administration:

> Nondiscrimination access to seabed minerals and security of tenure for miners;
>
> Economic viability over the long term;
>
> Realistic financial arrangements and production policies; and
>
> Compensation under fair commercial terms and conditions for technology transferred.

RISKS OF THIS BILL

The legislation is provocative. Developing nations may see this bill as a means of forcing them to make concessions. But we should realize that it may have the opposite effect of hardening their position, making further concessions harder to obtain.

The bill could undermine the strength of the moderate factions of the Group of 77. It could trigger other nations to enact unilateral legislation that would throw the Conference into disarray.

The suggestion of unilateral action has brought sharp statements from other nations. Consideration of this bill by the U.S. Congress has brought the good faith of American negotiations into question.

At present the Conference is moving along well. American interests have been protected. We are not being outvoted because the Conference is operating not on a majority vote basis but on a consensus basis. We must not undermine the will to work out such remaining issues as the definition of the Outer Continental Shelf, conditions governing marine research, and mechanisms for the compulsory settlement of disputes.

If the Senate does pass this legislation, I hope that my colleagues can reassure the international community that we do not intend to disrupt multilateral negotiations. We should resolve that this bill will not prejudice our consideration of the treaty.

Mr. President, this legislation has received support because no one expected the Law of the Sea Conference to succeed. Now that negotiators have made unexpected progress, I am concerned that this legislation may stand as an obstacle to the successful conclusion of that Conference. I applaud Ambassador Richardson and the other American negotiators for the progress to date. I hope that no action by the Congress will prevent their successful completion of these complex, important negotiations.

AMENDMENT NO. 540

Mr. MATSUNAGA. Mr. President, I send to the desk, according to the order, the only amendment which is in order, printed amendment No. 540.

The PRESIDING OFFICER (Mr. NUNN). It is not in order until the committee amendments are disposed of, except by unanimous consent. It is not in order until the committee amendments have been disposed of.

Mr. MATSUNAGA. I ask unanimous consent for the immediate consideration of the printed amendment No. 540 to the bill under consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from Hawaii (Mr. MATSUNAGA) proposes amendment numbered 540.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

That this Act may be cited as the "Deep Seabed Mineral Resources Act".

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FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) exploration for and commercial recovery of hard mineral resources of the deep seabed and the conduct of scientific research on and above the deep seabed and above the Continental Shelf are freedoms of the high seas to be exercised with reasonable regard for the interests of other states in their exercise of those and other freedoms of the high seas recognized by general principles of international law;

(2) the United States supported United Nations General Assembly Resolution 2749 (xxv) declaring the principle that the mineral resources of the deep seabed are the common heritage of mankind, but anticipated that this principle would be legally defined under the terms of a comprehensive international Law of the Sea Treaty to be agreed upon in the future;

(3) the United States is engaged in international negotiations to formulate a comprehensive Law of the Sea Treaty;

(4) it is in the national interest of the United States to encourage a widely acceptable Law of the Sea Treaty, which will provide a new legal order for the oceans covering a broad range of United States ocean interests, including exploration for a commercial recovery of hard mineral resources of the deep seabed;

(5) in addition to giving legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind, an acceptable Law of the Sea Treaty must fully protect assured and nondiscriminatory access to the hard mineral resources of the deep seabed for all nations and provide for a regulatory regime adequate to assure protection of the environment.

(6) the environmental effects of recovery of hard mineral resources from the deep seabed are poorly understood, and, in order to comply with the National Environmental Policy Act of 1969, the environmental assessment of such recovery which the United States is presently conducting must be accelerated;

(7) the requirements for hard minerals to satisfy national industrial and security needs will continue to expand and the demand for such minerals will increasingly exceed the available domestic sources of supply;

(8) the United States is dependent upon foreign sources of supply for certain hard minerals and the acquisition of such minerals from foreign sources is an adverse factor in the national balance-of-payments position;

(9) the present and future national security and economic interests of the United States would benefit from the availability of hard mineral resources which are independent of the export policies of foreign nations;

(10) an alternate source of supply of certain hard minerals and metals significant in relation to national needs, including nickel, copper, cobalt, and manganese, is contained in the nodules which are found in great abundance on the deep seabed;

(11) various mining companies are engaged in developing the technology necessary for the commercial recovery and processing of such nodules;

(12) given the necessary investment climate, United States mining companies are prepared to initiate commercial recovery and processing of the hard mineral resources of the deep seabed;

(13) it is in the national interest, and in the international interest in early derivation of benefits from the hard mineral resources of the deep seabed, that the United States maintain a strong and innovative industry devoted to the exploration for and commercial recovery of such resources, that an interim program to encourage exploration and commercial recovery activities of United States citizens be established, and that such activities be regulated in a manner to protect the quality of the environment and to promote the safety of life and property at sea; and

(14) since failure to conclude a Law of the Sea Treaty may retard the development of the technology necessary to commercially recover and process the hard mineral resources of the deep seabed and the acquisition of the information and regulatory experience necessary for the protection of the quality of the environment, transitional domestic legislation is required to provide an interim program to encourage the development of such technology and to assure that the development and application of such technology are accomplished in a manner so as to assure such protection.

(b) PURPOSES.—The Congress declares that the purposes of this Act are to—

(1) encourage the successful conclusion of a comprehensive Law of the Sea Treaty, which will give legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind and which will assure, among other things, nondiscriminatory access to such resources for all nations;

(2) establish, pending the ratification by, and entering into force with respect to, the United States of a superseding international agreement relating to such activities, an interim program to encourage and regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by United States citizens; and

(3) accelerate the program of environmental assessment of exploration for and commercial recovery of hard mineral resources of the deep seabed and assure that such exploration and recovery activities are conducted in a manner which will encourage the conservation of such resources, protect the quality of the environment, and promote the safety of life and property at sea.

INTERNATIONAL OBJECTIVES OF THIS ACT

SEC. 3 (a) DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY.—By the enactment of this Act, the United States—

(1) assures that every United States citizen exercising the high seas freedom to explore for and commercially recover the hard mineral resources of the deep seabed is entitled to the diplomatic protection of the United States;

(2) exercises its jurisdiction in accordance with generally accepted principles of international law recognized by the United States; and

(3) exercises such jurisdiction to regulate United States citizens and vessels and foreign persons and vessels otherwise subject to its jurisdiction in the exploration for, and commercial recovery, of hard mineral resources of the deep seabed; but

(4) does not thereby assert sovereignty or

sovereign or exclusive rights over or the ownership of, any areas of the deep seabed.

(b) Secretary of State.—(1) The Secretary of State is encouraged to negotiate successfully a comprehensive Law of the Sea Treaty, or failing negotiation of such a treaty, to negotiate multilateral treaties or other international agreements, which, among other things, provide assured and nondiscriminatory access to the hard mineral resources of the deep seabed for all nations, give legal definition to the principle that the resources of the deep seabed are the common heritage of mankind, and provide for the establishing of requirements for the protection of the quality of the environment as stringent as those promulgated pursuant to his Act.

(2) Until such a treaty or agreement is concluded, the Secretary of State is encouraged to promote any international actions necessary to adequately protect the environment from adverse impacts which may result from the exploration for and commercial recovery of hard mineral resources of the deep seabed carried out by persons not subject to this Act, and to encourage other nations with an interest in deep seabed mining to adopt provisions consistent with subsection 109(e) of this Act.

(3) On or before January 1 of each year after 1979 in which no treaty or agreement referred to in section 201(3) of this Act has been concluded, the Secretary of State shall report to the Congress on the progress, if any, toward such treaty or agreement and advise the Congress as to any amendments to this Act or any other Act which he believes would be of assistance in concluding such treaty or agreement.

DEFINITIONS

Sec. 4. For purposes of this Act the term—

(1) "commercial recovery" means any activity engaged in at sea to recover any hard mineral resource at a substantial rate, without regard to profit or loss, for the primary purpose of marketing or commercially using such resource, and, if such recovered resource will be processed, or the waste thereof disposed of, at sea, such processing and disposal;

(2) "Continental Shelf", until such time as a new definition of the limits of national jurisdiction over seabed mineral resources of the continental margin may be agreed to as part of a comprehensive Law of the Sea Treaty which enters into force for the United States, means—

(A) the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of two hundred meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such submarine area; and

(B) the seabed and subsoil of similar submarine areas adjacent to the coast of islands;

(3) "controlling interest", for the purposes of section 4(16)C means a direct or indirect legal or beneficial interest in or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates or officers, contractual relations or by any other means whatsoever which substantially impair the independent business behavior of another person;

(4) "deep seabed" means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of and outside—

(A) the Continental Shelf of any nation; and

(B) for the purposes of this Act only, any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States;

(5) "exploration" means—

(A) any at-sea observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) the nature, shape, concentration, location, and tenor of a hard mineral resource; and

(ii) the environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(B) the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design and testing of equipment which is intended to be used in the commercial recovery and processing of such resource;

(6) "hard mineral resource" means any deposit or accretion on the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper;

(7) "Law of the Sea Treaty" means a comprehensive agreement concluded through negotiations at the Third United Nations Conference on the Law of the Sea, relating to (among other matters) the exploration for and commercial recovery of hard mineral resources and the establishment of an international regime for the regulation thereof;

(8) "license" means a license to explore for hard mineral resources issued pursuant to this Act;

(9) "licensee" means any holder of a license issued pursuant to this Act;

(10) "permit" means a permit to engage in commercial recovery of hard mineral resources issued pursuant to this Act;

(11) "permittee" means any holder of a permit issued pursuant to this Act;

(12) "person" means any United States citizen, any individual, and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any nation;

(13) "reciprocating state" means any foreign nation designated as such by the Administrator upon a determination by the Secretary of State, pursuant to section 117;

(14) Administrator means the Administrator of the National Oceanic and Atmospheric Administration;

(15) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States; and

(16) "United States citizen" means—

(A) any individual who is a citizen of the United States; or

(B) any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any of the United States; or

(C) any corporation, partnership, joint venture, association, or other entity (whether organized or existing under the laws of any of the United States or a foreign nation) if the controlling interest in such entity is held by an individual or entity described in subparagraph (A) or (B).

TITLE I—REGULATION OF EXPLORATION AND COMMERCIAL RECOVERY BY UNITED STATES CITIZENS

PROHIBITED ACTIVITIES BY UNITED STATES CITIZENS

Sec. 101. (a) Prohibited Activities and Exceptions.—(1) No United States citizen may engage in exploration or commercial recovery unless authorized to do so under—

(A) a license or a permit issued pursuant to this Act; or

(B) an equivalent authorization issued by a reciprocating state; or

(C) an international agreement which is in force with respect to the United States.

(2) The prohibitions of this subsection shall not apply to any of the following activities conducted by any United States citizen:

(A) scientific research, including that concerning hard mineral resources;

(B) mapping, or the taking of any geophysical, geochemical, oceanographic, or atmospheric measurements or bottom samplings of the deep seabed, if such taking does not significantly alter the surface or subsurface of the deep seabed or significantly affect the environment;

(C) the design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction, or testing (i) is conducted on shore, or (ii) does not involve the recovery of any but incidental hard mineral resources;

(D) the furnishing of machinery, products, supplies, services, or materials for any exploration or commercial recovery activity; or

(E) activities, other than exploration or commercial recovery activities, of the Federal Government.

(b) Existing Exploration.—Subsection (a)(1)(A) shall not be deemed to prohibit any United States citizen who is engaged in exploration before the effective date of this Act from continuing to engage in such exploration—

(1) if such citizen applies for a license under section 103(a) with respect to such exploration within such reasonable period of time as the Administrator shall prescribe after the date on which initial regulations to implement section 103(a) are issued; and

(2) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of certification of the application for, or issuance of, such license.

However, if the President by Executive order determines that immediate suspension of exploration activities is necessary for the reasons set forth in section 106(a)(2)(B) or the Administrator determines that immediate suspension of activities is necessary to prevent a significant adverse effect on the environment or to preserve the safety of the life and property at sea, the Administrator is authorized, notwithstanding other requirements of this Act, to issue an emergency order requiring such United States citizen to immediately suspend his exploration activities. Furthermore, the timely filing of any application for a license under paragraph (1) shall entitle the applicant to priority of right for the issuance of such license under section 103(b). In any case in which more than one application referred to in paragraph (1) is filed based on work plans required by section 103(a)(2) which refer to all or part of the same deep seabed area, the Administrator shall, in taking action on such applications, apply principles of equity which take into consideration, among other things, the date on which the applicants or predecessors in interest, or component organizations thereof, commenced exploration activities and the continuity and extent of such exploration and amount of funds expended with respect to such exploration.

(c) Interference.—No United States citizen may interfere, or participate in interference, with any activity conducted by any licensee or permittee which is authorized to be undertaken pursuant to a license or permit issued by the United States pursuant to this Act or any activity conducted by the holder of, and authorized to be undertaken pursuant to, an equivalent authorization issued by a reciprocating state. United States citizens shall exercise their rights on the high seas with reasonable regard to the interest of other states in their exercise of the freedoms of the high seas.

LICENSES FOR EXPLORATION AND PERMITS FOR COMMERCIAL RECOVERY

Sec. 102. (a) Authority To Issue.—Subject to the provisions of this Act, the Administrator shall issue licenses for exploration and permits for commercial recovery to United States citizens.

(b) NATURE OF LICENSES AND PERMITS.—(1) A license or permit issued under this Act shall authorize the holder thereof to engage in exploration or commercial recovery, as the case may be, consistent with the provisions of this Act, the regulations issued by the Administrator to implement the provisions of this Act, and the specific terms, conditions, and restrictions applied to the license or permit by the Administrator.

(2) Any license or permit issued under this Act shall be exclusive with respect to the holder thereof as against any other United States citizen or any citizen, national or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state. In particular, no such license or permit shall be issued which conflicts with a valid existing license or permit or with an equivalent authorization previously issued by a reciprocating state.

(3) A valid existing license shall entitle the holder, if otherwise eligible under the provisions of this Act and regulations promulgated hereunder, to a permit for commercial recovery. Such a permit recognizes the right of the holder to recover, own, take away, use, and sell the hard mineral resources pursuant to the permit.

(4) Every licensee and permittee shall be entitled to the diplomatic protection of the United States, and, in the event of interference with the exploration or commercial recovery activities of the licensee or permittee by nationals of other states, the Secretary of State shall use all peaceful means to resolve the controversy, by negotiation, conciliation, arbitration, or resort to agreed tribunals.

(c) RESTRICTIONS.—(1) The Administrator may not issue—

(A) any license or permit after the date on which an international agreement pertaining to exploration and commercial recovery enters into force with respect to, and is ratified by, the United States, except to the extent that issuance of such license or permit is not materially inconsistent with such agreement;

(B) any license or permit the work plan of which, submitted pursuant to section 103(a)(2), would apply to an area to which applies, or would conflict with, any work plan submitted with any pending application to which priority of right for issuance applies under section 103(b); any work plan associated with any existing license or permit; or any equivalent authorization which has been issued, or for which formal notice of application has been submitted, by a reciprocating state prior to the filing date of any relevant application for licenses or permits pursuant to this Act;

(C) a permit authorizing commercial recovery within any area of the deep seabed in which exploration is authorized under a valid existing license issued to other than the licensee for such area;

(D) any exploration license before July 1, 1981, or any permit which authorizes commercial recovery to commence before January 1, 1982;

(E) any license or permit the work plan for which applies to any area of the deep seabed if, within the three-year period before the date of application for such license or permit, (i) the applicant therefor surrendered or relinquished such area under a work plan associated with a previous license or permit issued to him, or (ii) a license or permit previously issued to the applicant had a work plan which applied to such area and such license or permit was revoked under section 106; or

(F) a license or permit, or transfer of such, except to a United States citizen.

(2) No permittee may use any vessel for the commercial recovery of hard mineral resources or for the processing of such resources at sea unless the vessel is constructed in the United States and documented under the laws of the United States. Each permittee shall use at least one vessel documented under the laws of the United States for the transportation from each mining site of hard mineral resources commercially recovered under the permit. For the purposes of the shipping laws of the United States, any vessel documented under the laws of the United States and used for the commercial recovery of, for the processing of, or in the transportation from any mining site of hard mineral resources recovered under a permit issued under this title shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936.

(3) Except as otherwise provided in this paragraph, the processing on land of hard mineral resources recovered pursuant to a permit shall be conducted within the United States: *Provided*, That the President does not determine that such restrictions contravene the overriding national interests of the United States. The Administrator may allow the processing of hard mineral resources at a place other than within the United States if he finds, after opportunity for an agency hearing, that—

(A) the processing of the quantity concerned of such resource at a place other than within the United States is necessary for the economic viability of the commercial recovery activities of a permittee; and

(B) satisfactory assurances have been given by the permittee that such resource, after processing, to the extent of the permittee's ownership therein, will be returned to the United States for domestic use, if the Administrator so requires after determining that the national interest necessitates such return.

LICENSE AND PERMIT APPLICATIONS, REVIEW, AND CERTIFICATION

SEC. 103. (a) APPLICATIONS.—(1) Any United States citizen may apply to the Administrator for a license or a permit.

(2)(A) Applications for issuance or transfer of licenses and permits shall be made in such form and manner as the Administrator shall prescribe in general and uniform regulations and shall contain such relevant financial, technical, and environmental information as the Administrator may by regulations require as being necessary and appropriate for carrying out the provisions of title I of this Act. In accordance with such regulations, each applicant for a license or permit shall submit a work plan, as described in subparagraphs (B) and (C) of this paragraph (2), which sets forth the activities proposed to be carried out during the period of the license or permit.

(B) The work plan for a license shall describe the area to be explored and include the intended exploration schedule and methods to be used, the development and testing of systems for commercial recovery to take place under the terms of the license, an estimated schedule of minimum expenditures for the purpose of assisting the Administrator in determining whether the licensee is in compliance with section 108(b), measures to protect the environment and to monitor the environmental safeguards and monitoring systems for commercial recovery, and such other information as is necessary and appropriate to carry out the provisions of title I of this Act. The area set forth in a work plan for a license shall be of sufficient size to allow for intensive exploration.

(C) The work plan for a permit shall include the intended schedule of commercial recovery, environmental safeguards and monitoring systems, details of the area or areas proposed for commercial recovery, the methods and technology to be used for commercial recovery and processing, a resource assessment thereof, and such other information as is necessary and appropriate to carry out the provisions of title I of this Act.

(D) The applicant shall select the size and location of the work plan area, which shall be approved unless the Administrator finds that:

(i) the size of the area is not a logical mining unit; or

(ii) commercial recovery activities in the proposed location would result in a significant adverse impact on the quality of the environment which cannot be avoided by the imposition of reasonable restrictions.

For purposes of this subparagraph (D), "logical mining unit" means an area of the deep seabed—

(i) for a license, which can be explored under the license in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant set out in the work plan; or

(ii) for a permit, in which the mineral resource can be recovered in sufficient quantities to satisfy the permittee's estimated production requirements over the initial twenty-year term of the permit in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technolony of the applicant set out in the work plan; *Provided*, That such area shall not be larger than is necessary to satisfy the permittee's estimated production requirements over the initial twenty-year term of the permit, and that the permittee's estimated production requirements are not found by the Administrator to be unreasonable in relation to the area set out in the work plan.

(b) PRIORITY OF RIGHT FOR ISSUANCE.—Subject to section 101(b), priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications which are in substantial compliance with the requirements established under subsection (a)(2) of this section are filed with the Administrator. Priority of right shall not be lost in the case of any application filed which is in substantial but not full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable period of time as the Administrator shall prescribe.

(c) ELIGIBILITY FOR CERTIFICATION.—Before the Administrator may certify any application for issuance or transfer of a license or permit, he must find in writing, after consultation with other departments and agencies pursuant to subsection (e) of this section, that—

(1) the applicant has demonstrated that, upon issuance or transfer of the license or permit, he will be financially responsible to meet all obligations which may be required of a licensee or permittee to engage in the exploration or commercial recovery proposed in the application;

(2) the applicant has demonstrated that, upon issuance or transfer of the license or permit, he will have the technological capability to engage in such exploration or commercial recovery; and

(3) the proposed work plan of the applicant meets the requirements of this Act and regulations promulgated pursuant thereto.

(d) ANTITRUST REVIEW.—(1) Whenever the Administrator receives any application for issuance or transfer of a license or permit, he shall transmit promptly a complete copy of such application to the Attorney General and the Federal Trade Commission.

(2) The Attorney General and the Federal Trade Commission shall conduct such antitrust review of the application as they deem appropriate and shall, if they deem appropriate, advise the Administrator of the likely effects of such issuance or transfer on competition.

(3) The Attorney General and the Federal Trade Commission may make any recommendations they deem advisable to avoid any action upon such application by the Administrator which would create or maintain a situation inconsistent with the antitrust laws. Such recommendations may include, without limitation, the denial of issuance or transfer of the license or permit or issuance or transfer upon such terms and conditions as may be appropriate.

(4) Any advice or recommendation submitted by the Attorney General or the Federal Trade Commission pursuant to this subsection shall be submitted within ninety days of receipt by them of the application. The Administrator shall not issue or transfer the license or permit during the ninety-day period, except upon written confirmation by the Attorney General and the Federal Trade Commission that neither intends to submit any further advice or recommendation on the application.

(5) If the Administrator decides to issue or transfer the license or permit for which denial of the issuance of the license or permit therefor has been recommended by the Attorney General or the Federal Trade Commission, or to issue or transfer the license or permit without imposing those terms and conditions recommended by the Attorney General or the Federal Trade Commission as appropriate to prevent any situation inconsistent with the antitrust laws, he shall, prior to or upon issuance or transfer of the license or permit, notify the Attorney General and the Federal Trade Commission of the reasons for such decision.

(6) The issuance or transfer of a license or permit shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws.

(e) OTHER FEDERAL AGENCIES.—The Administrator shall provide by regulation for full consultation and cooperation prior to certification, issuance, and transfer of any license or permit with other Federal agencies or departments which have programs or activities within their statutory responsibilities which would be affected by the activities proposed in the application for the issuance or transfer of a license or permit. Not later than thirty days after the date of enactment of this Act, the heads of any Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the recovery or processing of deep seabed minerals shall transmit to the Administrator written comments as to their expertise or statutory responsibilities pursuant to this Act or any other Federal laws. To the extent possible, such agencies shall cooperate to reduce the number of separate actions required to satisfy the statutory responsibilities of these agencies. Each such agency or department shall be offered the opportunity to review each application and, based on its legal responsibilities and authorities, may recommend certification, issuance, or transfer of the license or permit or denial of such certification, issuance, or transfer not later than sixty days after receipt of a complete copy of the application from the Administrator. In any case in which an agency or department recommends denial, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall indicate how the application may be amended, or how terms, conditions or restrictions might be attached to the license or permit, to assure compliance with such law or regulation.

(f) NOTICE, PUBLIC COMMENTS, AND HEARING.—(1) The Administrator shall publish in the Federal Register notice of all applications for licenses and permits; proposals to issue, deny, or transfer licenses and permits; rules and regulations implementing the Act; terms, conditions, and restrictions on licenses and permits; and proposals to modify them significantly. Interested persons shall be permitted to examine the materials relevant to any of these actions, including those portions of the work plan which are not required to be withheld by section 113(c), and shall have at least sixty days after publication of such notice to submit to the Administrator written comments.

(2) The Administrator shall hold at least one public hearing in an appropriate location and shall employ such additional methods as he deems appropriate to inform interested persons and groups about each major action specified in paragraph (1) and to invite their comments thereon.

(g) REVIEW PERIOD.—All time periods for the review of an application for issuance or transfer of a license or permit established pursuant to this section shall, to the maximum extent practicable, run concurrently from the date upon which the application is received by the Administrator.

(h) APPLICATION CERTIFICATION.—Upon considering the public comments received pursuant to subsections (f), and making the applicable determinations and findings required in sections 101 through 103 with respect to any applicant for a license or a permit and the exploration or commercial recovery proposed by such applicant, after completion of procedures for receiving the application required by this Act, and upon payment by the applicant of the fee required under section 104, the Administrator shall certify the application for the license or permit. The Administrator, to the maximum extent possible, shall endeavor to complete certification action on the application within one hundred and eighty days of its submission. If final certification or denial of certification has not occurred within one hundred and eighty days of submission of the application, the Administrator shall inform the applicant in writing of the then pending unresolved issues, the Administrator's efforts to resolve them, and an estimate of the time required to do so.

LICENSE AND PERMIT FEES

SEC. 104. No application for a license or permit shall be certified, nor shall a transfer of a license or permit be approved, unless the applicant agrees to pay to the Administrator a reasonable administrative fee which shall be deposited into miscellaneous receipts of the Treasury. The amount of the administrative fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred in reviewing and processing the application, including the administrative costs of analyzing data, drafting, reviewing, and publication incurred in preparing the environmental impact statement required by section 109(d).

LICENSE AND PERMIT TERMS, CONDITIONS, AND RESTRICTIONS; ISSUANCE OF LICENSES AND PERMITS

SEC. 105. (a) ELIGIBILITY FOR ISSUANCE OF LICENSE OR PERMIT.—Before the Administrator may issue a license or permit, he must find, in writing, after consultation with interested departments and agencies pursuant to section 103(e) and upon considering the public comments received pursuant to section 103(f), that the exploration or commercial recovery proposed in the application—

(1) will not unreasonably interfere with the exercise of the freedoms of the high seas by other states, as recognized under general principles of international law;

(2) will not conflict with any international obligation of the United States established by any treaty or international convention in force with respect to the United States;

(3) will not create a situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict;

(4) cannot reasonably be expected to result in a significant adverse effect on the quality of the environment, taking into account the analyses and information in any applicable environmental impact statement prepared pursuant to section 19 (c) and (d); and

(5) will not pose an inordinate threat to the safety of life and property at sea.

(b) ISSUANCE OF LICENSES AND PERMITS WITH TERMS, CONDITIONS, AND RESTRICTIONS.—(1) Within 180 days after certification of any application for a license or permit under section 103(h), the Administrator shall propose terms and conditions for, and restrictions on, the exploration or commercial recovery proposed in the application which are consistent with provisions of this Act and regulations promulgated hereunder. If additional time is needed, the Administrator shall notify the applicant in writing of the reasons for the delay and indicate the approximate date on which the proposed terms, conditions, and restrictions will be completed. The Administrator shall provide to each applicant a written statement of the proposed terms, conditions, or restrictions. Such terms, conditions, and restrictions shall be generally specified in regulations with general criteria and standards to be used in establishing such terms, conditions, and restrictions for a license or permit and shall be uniform in all licenses or permits, except to the extent that differing physical and environmental conditions require the establishment of special terms, conditions, and restrictions for the conservation of natural resources, protection of the environment, or the safety of life and property at sea.

(2) After preparation and consideration of the final environmental impact statement under section 109(d) on the proposed issuance of a license or permit and subject to the other provisions of this Act, the Administrator shall issue to the applicant the license or permit with the terms, conditions, and restrictions incorporated therein. The licensee or permittee shall be deemed to have accepted such terms, conditions, and restrictions in the license or permit if he does not notify the Administrator within sixty days after receipt of the license or permit of each term, condition, or restriction with which he takes exception. The licensee or permittee may, in addition to such objections as may be raised under applicable provisions of law, object to the terms, conditions, and restrictions if, in his belief, any one or several of them are inconsistent with this Act or the regulations promulgated hereunder. If after the Administrator takes final action on these objections, the licensee or permittee demonstrates that a dispute remains on a material issue of fact, the licensee or permittee is entitled to a decision on the record after the opportunity for an agency hearing pursuant to sections 556 and 557 of title 5, United States Code. Any determination made by the Administrator shall be subject to judicial review pursuant to chapter 7 of title 5, United States Code.

(c) MODIFICATION AND REVISION OF TERMS, CONDITIONS, AND RESTRICTIONS.—(1) After the issuance of any license or permit, the Administrator, after consultation with interested agencies and affording the opportunity of an agency hearing on the record, may modify any term, condition, or restriction in such license or permit (i) if relevant data and other information (including, but not limited to, data resulting from exploration or commercial recovery activities under the license or permit) indicate that modification is required to protect the quality of the environment or to promote the safety of life and property at sea and if such modification is consistent with the regulations promulgated to carry out section 109(b); or (ii) to avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, as determined in writing by the President; or (iii) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, as determined in writing by the President.

(2) During the term of a license or a permit, the licensee or permittee may submit to the Administrator an application for a revision of the license or permit. The Administrator shall approve such application upon a finding in writing that the revision will comply with the requirements of this Act and regulations promulgated hereunder.

(3) The Administrator shall establish, by regulation, guidelines for a determination of the scale or extent of a proposed modification or revision for which any or all license or permit application requirements and procedures, including a public hearing, shall apply. Any increase in the size of the area, or any change in the location of an area, to which a work plan applies, except an incidental increase or change, must be made by application for another license or permit.

(4) Any modification pursuant to this subsection shall be subject to the requirements of section 106(a) (3) and (4) and (b) and to judicial review in accordance with chapter 7 of title 5, United States Code, upon a showing by the licensee or permittee that such modification is likely to result in a significant economic loss under a license or permit.

(5) Prior to making a determination to issue, transfer, modify, or renew a license or permit, the Administrator shall consult with any affected Regional Fishery Management Council, as established pursuant to the Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if the activities taken pursuant to such license or permit would adversely affect any fishery within the Fishery Conservation Zone, or any anadromous species or Continental Shelf fishery resource subject to the exclusive management authority of the United States beyond such zone.

DENIAL OF ISSUANCE, SUSPENSION, AND REVOCATION OF LICENSES AND PERMITS; SUSPENSION AND MODIFICATION OF ACTIVITIES

SEC. 106. (a) DENIAL, SUSPENSION, MODIFICATION, AND REVOCATION.—(1) The Administrator may deny issuance of a license or permit if he finds that the applicant, or the activities proposed to be undertaken by the applicant, do not meet the requirements set forth in section 103(c), section 105(a), or elsewhere in this Act, or regulations promulgated hereunder, for issuance of a license or permit.

(2) The Administrator may—

(A) in addition to, or in lieu of, the imposition of any civil penalty under section 302(a), or in addition to the imposition of any fine under section 303, suspend or revoke any license or permit, or suspend or modify any particular activities thereunder, if the licensee or permittee, as the case may be, substantially fails to comply with any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of the license or permit; and

(B) suspend or modify particular activities under any license or permit, if such suspension or modification is necessary to avoid any conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States, or to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, in either case as determined by the President.

(3) No action may be taken by the Administrator to deny issuance of, or to revoke, any license or permit or, except as provided in subsection (c), to suspend any license or permit or suspend or modify particular activities thereunder, unless the Administrator—

(A) publishes in the Federal Register and gives the applicant, licensee, or permittee, as the case may be, written notice of his intention to deny, suspend, modify, or revoke and the reason therefor; and

(B) if the reason for the proposed denial, suspension, modification, or revocation is a deficiency which the applicant, licensee, or permittee can correct, affords the applicant, licensee, or permittee a reasonable time, but not more than one hundred and eighty days from the date of the notice or such longer period as the Administrator may establish for good cause shown, to correct such deficiency.

(4) The Administrator shall deny issuance of, or suspend or revoke, any license or permit or order the suspension or modification of particular activities thereunder—

(A) on the thirtieth day after the date of the notice given to the applicant, licensee, or permittee under paragraph (3)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, modification, or revocation; or

(B) on the last day of the period established under paragraph (3)(B) in which the applicant, licensee, or permittee must correct a deficiency, if such correction has not been made before such day.

(b) ADMINISTRATIVE REVIEW OF PROPOSED DENIAL, SUSPENSION, MODIFICATION, OR REVOCATION.—Any applicant, licensee, or permittee, as the case may be, who makes a timely request under subsection (a) for review of a proposed denial of issuance, a proposed suspension or revocation, of a license or permit, or a proposed suspension or modification of particular activities thereunder is entitled to an adjudication on the record after the opportunity; for an agency hearing with respect to such denial or proposed suspension or revocation.

(c) EFFECT ON ACTIVITIES; EMERGENCY ORDERS.—The issuance of any notice of proposed suspension or revocation of a license or permit or proposed suspension or modification of particular activities thereunder shall not affect the continuation of exploration or commercial recovery activities by the licensee or permittee. The provisions of subsection (a)(3) and (4) and the first sentence of this subsection shall not apply when the President determines by Executive order that an immediate suspension of a license or permit, or immediate suspension or modification of particular activities thereunder, is necessary for the same reasons as set forth in subsection (a)(2)(B), or the Administrator determines that an immediate suspension of a license or permit, or immediate suspension or modification of particular activities thereunder is necessary to prevent a significant adverse effect on the environment or preserve the safety of life and property at sea, and the Administrator issues an emergency order requiring such immediate suspension.

(d) JUDICIAL REVIEW.—Any determination of the Administrator, after any appropriate administrative review under subsection (b), to issue, deny issuance, transfer, modify, renew, suspend, or revoke any license or permit or suspend or modify particular activities thereunder, or any immediate suspension of a license or permit, or immediate suspension of modification of particular activities thereunder, pursuant to subsection (c), is subject to judicial review as provided for under chapter 7 of title 5 of the United States Code.

DURATION OF LICENSES AND PERMITS

SEC. 107. (a) DURATION OF A LICENSE.—Each license shall be issued for a period of ten years. If the licensee has substantially complied with the license and the work plan associated therewith and has requested extensions of the license, the Administrator shall extend the license on terms, conditions and restrictions consistent with the Act and the regulations promulgated pursuant thereto for periods of five years each.

(b) DURATION OF A PERMIT.—Each permit shall be issued for a term of twenty years and for so long thereafter as hard mineral resources are recovered annually in commercial quantities from the area to which the work plan associated with the permit applies. The permit of any permittee who is not recovering the hard mineral resources in commercial quantities at the end of ten years shall be terminated: *Provided*, That the Administrator shall extend such time period for good cause shown, including force majeure, adverse economic conditions, unavoidable delays in construction, major unanticipated vessel repairs that prevent the permittee from conducting commercial recovery activities during an annual period, or other circumstances beyond the control of the permittee but not beyond the initial twenty-year term of the permit.

PERFORMANCE REQUIREMENTS

SEC. 108. (a) DILIGENCE.—The work plan for a license or permit, approved by the Administrator pursuant to section 103, shall be pursued diligently by the licensee or permittee.

(b) EXPENDITURES.—Each license shall require such periodic reasonable expenditures for exploration by the licensee as the Administrator shall establish, taking into account the size of the area of the deep seabed to which the work plan associated with the license applies and the amount of funds which is estimated by the Administrator to be required to commence commercial recovery of hard mineral resources within the time limit established by the Administrator: *Provided*, That such required expenditures shall not be established at a level which would discourage exploration by persons with less costly technology than is prevalently in use.

(c) COMMERCIAL RECOVERY.—Once commercial recovery is achieved, the Administrator shall, within reasonable limits and taking into consideration all relevant factors, require the permittee to maintain commercial recovery throughout the period of the permit: *Provided*, That the Administrator shall, for good cause shown, including force majeure and adverse economic or other circumstances beyond the control of the permittee, authorize the temporary suspension of commercial recovery activities. The duration of such a suspension shall not exceed one year at any one time, unless the Administrator determines that conditions justify an extension of the suspension.

PROTECTION OF THE ENVIRONMENT

SEC. 109. (a) ENVIRONMENTAL ASSESSMENT.—

(1) DEEP OCEAN MINING ENVIRONMENTAL STUDY, (DOMES).—The Administrator immediately shall expand and accelerate the program of assessing the effects on the environment from the exploration and commercial recovery activities, including both seabased and landbased processing, and the disposal of processing waste, so as to provide

an as accurate as practicable assessment of environmental impacts of such activities to the Administrator in the implementation of subsections (b), (c), and (d).

(2) Supporting Ocean Research.—The Administrator also shall conduct a continuing program of ocean research to support environmental assessment activity through the period of exploration and commercial recovery authorized by this Act. The program shall include the development, acceleration and expansion, as appropriate, of studies of the ecological, geological, and physical aspects of the deep seabed in general areas of the ocean where exploration and commercial development under the authority of this Act are likely to occur including, but not limited to:

(A) natural diversity of the deep seabed biota;

(B) life histories of major benthic, midwater and surface organisms most likely to be affected by commercial recovery activities;

(C) long- and short-term effects of commercial recovery on the deep seabed biota; and

(D) assessment of both seabased and landbased processing.

Within one hundred and sixty days after enactment of this Act, the Administrator shall prepare a plan to carry out the program, including necessary funding levels for the next five fiscal years, and submit the plan to the Congress.

(b) Terms, Conditions, and Restrictions.—Each license and permit shall contain such terms, conditions, and restrictions, established by the Administrator, which prescribe the actions the licensee or permittee shall take in the conduct of exploration and commercial recovery activities to assure protection of the environment. The Administrator shall require in all activities under new permits, and wherever practicable in activities under existing permits, the use of the best available technologies for the protection of safety, health, and the environment wherever such activities would have a significant effect on safety, health, or the environment, except where the Administrator determines that the incremental benefits are clearly insufficient to justify the incremental costs of using such technologies. Before establishing such terms, conditions, and restrictions, the Administrator shall consult with the Administrator of the Environmental Protection Agency, the Secretary of State, the Secretary of the Interior, and the Secretary of the department in which the Coast Guard is operating and take into account, and give due consideration to, the information contained in each final environmental impact statement prepared with respect to such license or permit pursuant to subsection (d).

(c) Programmatic Environmental Impact Statement.—If the Administrator, in consultation with the Administrator of the Environmental Protection Agency and with the assistance of other appropriate Federal agencies, determines that a programmatic environmental impact statement is required, he shall, as soon as practicable after the enactment of this Act—

(1) with respect to the areas of the oceans in which any United States citizen will undertake exploration and commercial recovery or processing under the authority of this Act—

(A) prepare and publish draft programmatic environmental impact statements which assess the environmental impacts of exploration and commercial recovery in such areas;

(B) afford all interested parties a reasonable time after such dates of publication to submit comments to the Administrator on such draft statements; and

(C) thereafter prepare (giving full consideration to all comments submitted under subparagraph (B)) and publish final programmatic environmental impact statements regarding such areas; and

(2) with respect to the area of the oceans in which exploration and commercial recovery and processing by any United States citizen will likely first occur under the authority of this Act, prepare a draft and final programmatic environmental impact statement as required under paragraph (1), except that—

(A) the draft programmatic environmental impact statement shall be prepared and published as soon as practicable but no later than two hundred and seventy days (or such longer period as the Administrator may establish for good cause shown) after the date of the enactment of this Act; and

(B) the final programmatic environmental impact statement shall be prepared and published within one hundred and eighty days (or such longer period as the Administrator may establish for good cause shown) after the date on which the draft statement is published.

(d) Environmental Impact Statements on Issuance of Licenses and Permits.—The issuance, but not the certification, of any license or permit shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969. In preparing an environmental impact statement pursuant to this subsection, the Administrator shall consult with the agency heads cited in subsection (b) and shall take into account, and give due consideration to, the relevant information contained in any other environmental impact statement prepared pursuant to this section. Each draft environmental impact statement prepared pursuant to this subsection shall be published, with the terms, conditions, and restrictions, as proposed pursuant to section 105(b), within one hundred and eighty days (or such longer period as the Administrator may establish for good cause shown in writing) following the date on which the application for the license or permit concerned is certified by the Administrator. Each final environmental impact statement shall be published within one hundred and eighty days (or such longer period as the Administrator may establish for good cause shown in writing) following the date on which the draft environmental impact statement is published.

(e) For purposes of establishing stable reference areas for future resource evaluation and the environmental assessment of deep seabed mining, the Administrator shall designate and establish an appropriate area or areas of the deep seabed as reference zone or zones in which no mining will be allowed by United States citizens and shall designate the size and shape of such area or areas necessary to ensure that their stability will be maintained: *Provided, however,* That this subsection shall not be construed as requiring any substantial withdrawal of deep seabed areas from deep seabed mining authorized by this Act.

(f) For the purposes of this Act, any vessel or other floating craft engaged in commercial recovery or exploration shall not be deemed to be "a vessel or other floating craft" under section 502(12)(B) of the Clean Water Act and any discharge of a pollutant from such vessel or other floating craft shall be subject to the Clean Water Act.

CONSERVATION OF NATURAL RESOURCES

Sec. 110. For the purpose of conservation of natural resources, each license and permit shall contain, as needed, terms, conditions, and restrictions which have due regard for the prevention of waste and the future opportunity to commercially recover the unrecovered balance of the hard mineral resources. In establishing these terms, conditions, and restrictions, the Administrator shall consider the state of the technology, the environmental effects of the exploration or commercial recovery activities, economic and resource data, and the national need for hard mineral resources. As used in this Act, the term "conservation of natural resources" is not intended to grant, imply, or create any inference of production controls or price regulation, in particular those which would affect the volume of production, prices, profits, markets, or the decision by which minerals or metals are to be recovered, except as such effects may be incidental to actions taken pursuant to this section.

PREVENTION OF INTERFERENCE WITH OTHER USES OF THE HIGH SEAS

Sec. 111. Each license and permit shall include such restrictions as may be necessary and appropriate to ensure that exploration or commercial recovery activities conducted by the licensee or permittee do not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under the general principles of international law.

SAFETY OF LIFE AND PROPERTY AT SEA

Sec. 112. (a) The Secretary of the department in which the Coast Guard is operating, in consultation with the Administrator, shall require in any license or permit, in conformity with principles of international law, that vessels documented under the laws of the United States and used in activities authorized under the license or permit comply with conditions regarding the design, construction, alteration, repair, equipment, operation, manning, and maintenance relating to vessel and crew safety and the promotion of safety of life and property at sea.

(b) Notwithstanding any other provision of law, such vessels shall be subject to the provisions of the International Voyage Load Line Act of 1973, and to the provisions of titles 52 and 53 of the Revised Statutes and all acts amendatory thereof or supplementary thereto.

RECORDS, AUDITS, PUBLIC DISCLOSURE

Sec. 113. (a) Records and Audits.—(1) Each licensee and permittee shall keep such records, consistent with standard accounting principles, as the Administrator shall by regulation prescribe. Such records shall include information which will fully disclose expenditures for exploration or commercial recovery, including processing, of hard mineral resources, and such other information as will facilitate an effective audit of such expenditures.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purpose of audit and examination, to any books, documents, papers, and records of licensees and permittees which are necessary and directly pertinent to verify the expenditures referred to in paragraph (1).

(b) Submission of Data and Information.—Each licensee and permittee shall be required to submit to the Administrator such data or other information as the Administrator may reasonably need for purposes of making determinations with respect to the issuance, revocation, modification, or suspension of any license or permit; compliance with the reporting requirement in section 402; and evaluation of the exploration or commercial recovery activities conducted by the licensee or permittee.

(c) Public Disclosure.—Copies of any record, document, report, or other communication received by the Administrator containing data or information required under this title shall be made available to the public upon any request which (i) reasonably describes such communication; and (ii) is made in accordance with rules adopted by the Administrator stating the time, place, fees, not to exceed the direct cost of the services rendered, and procedures to be followed, except that the Administrator shall withhold data or information disclosure of which is prohibited by the Trade Secrets Act (18 U.S.C. 1905).

(d) Criminal Offense.—Any person who knowingly and willfully reveals any trade secret or other confidential or proprietary matter and data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both.

MONITORING OF LICENSEES' AND PERMITTEES' ACTIVITIES

Sec. 114. Each license and permit shall require the licensee or permittee—

(1) to allow the Administrator to place appropriate Federal officers aboard vessels used by the licensee or permittee in exploration or commercial recovery activities to monitor such activities at such time, and to such extent, as the Administrator deems reasonable and necessary and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply with terms, conditions, and restrictions of the license or permit;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects of the exploration and commercial recovery activities and submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate mitigation methods and possibilities.

RELINQUISHMENT, SURRENDER, AND TRANSFER OF LICENSES AND PERMITS

Sec. 115. (a) Relinquishment and Surrender.—Any licensee or permittee may at any time, without penalty—

(1) surrender to the Administrator a license or a permit issued to him; or

(2) relinquish to the Administrator, in whole or in part, any right to conduct any exploration or commercial recovery activities provided by the license or permit: *Provided*, That any licensee or permittee who surrenders a license or permit, or relinquishes any such right, shall remain liable with respect to all violations and penalties incurred by him, and damage to persons or property caused by him, as a result of activities engaged in by him pursuant to such license or permit.

(b) Transfer.—Any license or permit, upon written request of the licensee or permittee, may be transferred by the Administrator: *Provided*, That no transfer may occur unless the proposed transferee is a United States citizen and unless and until the Administrator determines that (i) the proposed transfer is in the public interest, and (ii) the proposed transferee and the exploration or commercial recovery activities the transferee proposes to conduct meet the requirements of this Act and regulations promulgated hereunder.

CIVIL ACTIONS

Sec. 116. (a) Equitable Relief.—Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected, may commence a civil action for equitable relief on his own behalf, in the United States District Court for the District of Columbia—

(1) against any person who is alleged to be in violation of any provision of this Act or any condition of a license or permit issued pursuant to this Act; or

(2) against the Administrator when there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary.

In suits brought under the subsection, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the provisions of this Act, or any condition of a license issued pursuant to this Act, or to order the Administrator to perform such act or duty.

(b) Notice.—No civil action may be commenced—

(1) under section (a)(1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States: *Provided*, That in any such civil action, any adversely affected person may intervene; or

(2) under subsection (a)(2) of this section, prior to sixty days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

(c) Costs and Fees.—The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party whenever the court determines that such an award is appropriate.

(d) Relationship to Other Law.—Nothing in this section shall restrict the rights which any person or class of persons may have under other applicable law to seek enforcement or to seek any other relief. All vessel safety and environmental requirements of or under this Act shall be in addition to other requirements of law.

RECIPROCATING STATES

Sec. 117. (a) Designation.—(1) The Administrator, in consultation with the Secretary of State, and other appropriate departments and agencies, may designate any foreign nation as a reciprocating state if the Secretary of State finds that such foreign nation—

(A) regulates the conduct of its citizens and other persons subject to its jurisdiction engaged in exploration for, and commercial recovery of, hard mineral resources of the deep seabed in a manner compatible with that provided for in this Act and the regulations promulgated hereunder;

(B) recognizes licenses and permits issued under this Act to the extent that such nation prohibits any person from engaging, under its laws, in exploration or commercial recovery which conflicts with that authorized under any such license or permit including the effective date for permits provided for in section 102(c)(1)(D) of this Act;

(C) recognizes, under its procedures, priorities of rights for applications for licenses or permits which are consistent with those provided for in this Act and the regulations promulgated hereunder; and

(D) provides an interim framework for exploration and commercial recovery which does not unreasonably interfere with the interests of other states in their exercise of the freedom of the high seas, as recognized under general principles of international law.

(2) For the purposes of this section, the term "compatible" shall mean: (i) The adequacy of measures for the protection of the environment, the conservation of natural resources, and the safety of life and property at sea; and (ii) the effectiveness of enforcement provisions.

(b) Effect of Designation.—No license or permit shall be issued under this Act permitting any exploration or commercial recovery which will conflict with any equivalent authorization issued by any foreign nation which is designated as a reciprocating state pursuant to subsection (a).

(c) Notification.—Upon receipt of any application for a license or permit, the Administrator shall immediately notify all reciprocating states of such application. The notification shall include those portions of the work plan, or a summary thereof, and any other appropriate information not required to be withheld from public disclosure by section 113(c).

(d) Revocation of Reciprocating State's Status.—The Administrator, in consultation with the Secretary of State and other appropriate departments and agencies, may revoke the designation of a foreign nation as a reciprocating state if the Secretary of State finds that such foreign nation no longer complies with the requirements of subsection (a). At the request of any holder of an equivalent authorization of such foreign nation, who obtained the equivalent authorization while such foreign nation was a reciprocating state, the Administrator, in consultation with the Secretary of State, may decide to recognize the equivalent authorization for purposes of subsection (b).

(e) Authorization.—The President is authorized to negotiate international agreements necessary to implement this section.

(f) International Consultations.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, shall consult with foreign nations which enact, or are preparing to enact, domestic legislation establishing a legal framework for exploration and commercial recovery of any hard mineral resources. Such consultations shall be carried out with a view to facilitating the designation of such nations as reciprocating States and, as necessary, the negotiation of international agreements authorized by subsection (e).

TITLE II—TRANSITION TO AN INTERNATIONAL AGREEMENT

DECLARATION OF CONGRESSIONAL INTENT

Sec. 201. It is the intent of Congress—

(1) that any international agreement to which the United States becomes a party should, in addition to promoting other national oceans objectives—

(A) provide assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed for United States citizens; and

(B) provide security of tenure by recognizing the rights of United States citizens who have undertaken exploration for, or commercial recovery of, hard mineral resources of the deep seabed under title I before such agreement enters into force with respect to the United States to continue their operations under terms, conditions, and restrictions which do not impose significant new economic burdens upon such citizens with respect to such operations with the effect of preventing the continuation of such operations on a viable economic basis;

(2) that the extent to which any such international agreement conforms to the provisions of paragraph (1) should be determined by the totality of the provisions of such agreement, including, but not limited to, the practical implications for the security of investments of any discretionary powers granted to an international regulatory body, the structures and decisionmaking procedures of such body, the availability of impartial and effective procedures for the settlement of disputes and any features that tend to discriminate against exploration and commercial recovery activities undertaken by United States citizens; and

(3) that this Act should be transitional pending—

(A) the adoption of an international agreement at the United Nations Conference on the Law of the Sea, and the entering into force of such agreement, or portions thereof, with respect to the United States; or

(B) if such adoption is not forthcoming, the negotiation of a multilateral or other treaty concerning the deep seabed, and the entering into force of such treaty with respect to the United States.

EFFECT OF INTERNATIONAL AGREEMENT

SEC. 202. If an international agreement enters into force with respect to the United States, any provision of title I, II, or III, and any regulation issued thereunder, which is not inconsistent with such international agreement shall continue in effect with respect to United States citizens. The Administrator, in consultation with the Secretary of State, shall make every effort, to the maximum extent practicable consistent with the provisions of such international agreement, to provide for the continued operation of deep seabed mineral exploration and commercial recovery activities undertaken by United States citizens prior to entry into force of the agreement. The Administrator shall submit to the Congress, within one year after the date of such entry into force, a report on the actions taken by the Administrator under this section, which report shall include, but not be limited to—

(1) a description of the status of deep seabed mining operations of United States citizens under the international agreement; and

(2) an assessment of whether United States citizens who were engaged in deep seabed mineral exploration or commercial recovery on the date such agreement entered into force have been permitted to continue their operations.

TITLE III—ENFORCEMENT AUTHORITY

PROHIBITED ACTS

SEC. 301. It is unlawful for any person who is a United States citizen, or a foreign national on board a vessel documented or numbered under the laws of the United States, or subject to the jurisdiction of the United States under a reciprocating state agreement negotiated pursuant to section 117(e)—

(1) to violate any provision of this Act, any regulation promulgated pursuant to this Act, or any term, condition, or restriction of any license or permit issued to such person pursuant to this Act;

(2) to engage in exploration or commercial recovery after the revocation, or during the period of suspension, of an applicable license or permit issued pursuant to this Act, to engage in a particular exploration or commercial recovery activity during the period such activity has been suspended pursuant to this Act, or to fail to modify a particular exploration or commercial recovery activity for which modification was required pursuant to this Act;

(3) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of this Act, as provided for in sections 114 and 304, to board a vessel documented or numbered under the laws of the United States, or any vessel for which such boarding is authorized by a treaty or executive agreement, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any regulation, term, condition, or restriction referred to in clause (1);

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in clause (3);

(5) to resist a lawful arrest for any act prohibited by this section;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of any hard mineral resource recovered, processed, or retained in violation of this Act or any regulation, term, condition, or restriction referred to in clause (1); or

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person subject to this section knowing that the other person has committed any act prohibited by this section.

CIVIL PENALTIES

SEC. 302. (a) ASSESSMENT OF PENALTY.—Any person subject to section 301 who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 301 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Administrator by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(b) REVIEW OF PENALTY.—Any person subject to section 301 against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title V, United States Code.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person subject to section 301 fails to pay an assessment of a civil penalty against him after it has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) COMPROMISE OR OTHER ACTION BY THE SECRETARY.—The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section unless the matter is in the courts for judicial review or recovery of the penalty.

CRIMINAL OFFENSES

SEC. 303. (a) OFFENSE.—A person subject to section 301 is guilty of an offense if he willfully and knowingly commits any act prohibited by section 301.

(b) PUNISHMENT.—Any offense is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in clauses (3), (4), (5), and (7) of section 301 is punishable by the fine or imprisonment for not more than six months, or both. If, in the commission of any offense, the person subject to the jurisdiction of the United States uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any such Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than ten years, or both.

ENFORCEMENT

SEC. 304. (a) RESPONSIBILITY.—The provisions of this Act shall be enforced by the Administrator. The Secretary of the department in which the Coast Guard is operating shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of the provisions of this Act: *Provided, however,* That the Secretary of the department in which the Coast Guard is operating shall have the exclusive responsibility for enforcement measures carried out at sea which affect the operation of vessels under a license or permit. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise utilize the personnel, services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b): *Provided,* That these officers and employees shall be under the control, authority, and supervision of the Coast Guard. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) POWERS OF AUTHORIZED OFFICERS.—To enforce this Act on board any vessel subject to the provisions of this Act, any Coast Guard officer who is authorized by the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search the vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

(3) arrest any person subject to section 301 if the officer has reasonable cause to believe that the person has committed a criminal act prohibited by sections 301 and 303;

(4) seize the vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any hard mineral resource recovered or processed in violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(6) seize any other evidence related to any violation of any provision of this Act;

(7) execute any warrant or other process issued by any court of competent jurisdiction; and

(8) exercise any other lawful authority.

(c) DEFINITION.—For purposes of this section, the term "provisions of this Act" or "provision of this Act" includes (1) any regulation promulgated pursuant to this Act, and (2) any term, condition, or restriction of any license or permit issued pursuant to this Act.

(d) PROPRIETARY INFORMATION.—Proprietary and privileged information seized or maintained under this title concerning a person or vessel engaged in exploration or commercial recovery shall not be made available for general or public use or inspection. The Administrator and the Secretary of the department in which the Coast Guard is operating shall promulgate regulations which will insure the confidentiality of privileged and proprietary information.

LIABILITY OF VESSELS

SEC. 305. Any vessel documented or numbered under the laws of the United States, except a public vessel engaged in noncommercial activities, used in any violation of this Act, any regulation promulgated pursuant to this Act, or any term, condition, or restriction of any license or permit shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof.

CIVIL FORFEITURES

Sec. 306. (a) In General.—Any vessel, subject to the provisions of sections 304 and 305, including its gear, furniture, appurtenances, stores, and cargo, used, and any hard mineral resource recovered, processed, or retained, in any manner, in connection with or as a results of the commission of any act prohibited by section 301 may be subject to forfeiture to the United States. All or part of such vessel, and all such hard mineral resources, may be forfeited to the United States pursuant to a civil proceeding under this section.

(b) Jurisdiction of Courts.—Any district court of the United States which has jurisdiction under section 307 shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) Judgment.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to the disposition of forfeited property, the proceeds from the sale of forfeited property, the remission or mitigation of forfeitures, and the compromise of claims, shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under the provisions of the customs laws shall, with respect to this Act, be performed by officers or other persons designated for such purpose by the Administrator.

(d) Procedure.—(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 307 shall stay the execution of such process, or discharge any property seized pursuant to such process, upon the receipt of a satisfactory bond or other security from any person subject to section 301 claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value; or (ii) paying the monetary value of such property pursuant to any order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any property seized pursuant to this Act may be sold subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) Rebuttable Presumption.—For purposes of this action, it shall be a rebuttable presumption that all hard mineral resources found on board a vessel, subject to the provisions of sections 304 and 305, which is seized in connection with an act prohibited by section 301 were recovered, processed, or retained in violation of this Act.

JURISDICTION OF COURTS

Sec. 307. The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. These courts may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

TITLE IV—MISCELLANEOUS PROVISIONS

REGULATIONS

Sec. 401. (a) Proposed Regulations.—Not later than two hundred and seventy days after the date of enactment of this Act, the Administrator shall solicit the views of the agency heads cited in section 109(b) and interested parties, and prepare, pursuant to section 553 of title 5, United States Code, such proposed regulations as are required by, or are necessary and appropriate to implement, this Act. The Administrator shall hold a public hearing on such proposed regulations.

(b) Final Regulations.—Not later than one hundred and eighty days after the date on which proposed regulations are issued pursuant to subsection (a), the Administrator shall solicit the views of the agency heads cited in section 109(b) and representatives of interested parties, consider the comments received during the public hearing required in subsection (a) and any written statements on the proposed regulations received by him, and promulgate, pursuant to section 553 of title 5, United States Code, such regulations as are required by, or are necessary and appropriate to implement, this Act.

(c) Amendments.—The Administrator may at any time amend regulations promulgated pursuant to subsection (b) as he determines to be necessary and appropriate in order to provide for the conservation of natural resources as defined in section 110, protection of the environment, and safety of life and property at sea. Such amended regulations shall apply to all exploration or commercial recovery activities conducted under any license or permit issued or maintained pursuant to this Act.

(d) Consistency.—The regulations promulgated pursuant to this section shall be consistent with the requirements of the National Environmental Policy Act of 1969, Fish and Wildlife Coordination Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, Endangered Species Act, and any other applicable Federal laws, treaties, or agreements or regulations promulgated pursuant thereto.

ANNUAL REPORT

Sec. 402. The Administrator shall submit to the Congress on or before October 31 of each year after 1979 a report on the administration of this Act during the period covered by the report. Such report shall contain, but not be limited to, the following information with respect to the reporting period—

(1) licenses and permits issued, modified, revised, suspended, revoked, relinquished, surrendered, or transferred; denials of certifications of applications for licenses and permits; denials of issuance of licenses and permits; required suspensions and modifications of activities under licenses and permits;

(2) a description and evaluation of the exploration and commercial recovery activities undertaken, including but not limited to, information setting forth the quantities of hard mineral resources recovered and the disposition of such resources;

(3) an assessment of the environmental impacts, including a description of, and estimate of the damage, if any, caused by adverse effects, if any, on the quality of the environment resulting from such activities;

(4) the number and description of all civil and criminal proceedings, including citations; and

(5) such recommendations as the Administrator deems appropriate for amending this Act to further fulfill its purposes.

AUTHORIZATIONS FOR APPROPRIATIONS

Sec. 403. There are authorized to be appropriated to the Administrator, for purposes of carrying out the provisions of this Act, such sums as may be necessary beginning in fiscal year 1981.

SEVERABILITY

Sec. 404. If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

TITLE V—TAXATION OF REMOVAL OF DEEP SEABED HARD MINERALS

SHORT TITLE

Sec. 501. This title may be cited as the "Deep Seabed Hard Mineral Removal Tax Act of 1979".

IMPOSITION OF TAX ON REMOVAL OF HARD MINERAL RESOURCES FROM DEEP SEABED

Sec. 502. (a) General Rule.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter F—Tax on Removal of Hard Mineral Resources from Deep Seabed

"Sec. 4495. Imposition of tax.
"Sec. 4496. Definitions.
"Sec. 4497. Imputed value.
"Sec. 4498. Termination.

"Sec. 4495. Imposition of Tax.

"(a) General Rule.—There is hereby imposed a tax on any removal of a hard mineral resource from the deep seabed pursuant to a deep seabed permit.

"(b) Amount of Tax.—The amount of the tax imposed by subsection (a) on any removal shall be 3.75 percent of the imputed value of the resource so removed.

"(c) Liability for Tax.—The tax imposed by subsection (a) shall be paid by the person to whom the deep seabed permit is issued.

"(d) Time for Paying Tax.—The time for paying the tax imposed by subsection (a) shall be the time prescribed by the Secretary by regulations. The time so prescribed with respect to any removal shall be not earlier than the earlier of—

"(1) the commercial use of, or the sale or disposition of, any portion of the resource so removed, or

"(2) the day which is 12 months after the date of the removal of the resource.

"Sec. 4496. Definitions.

"(a) Deep Seabed Permit.—For purposes of this subchapter, the term 'deep seabed permit' means a permit issued under title I of the Deep Seabed Hard Minerals Resources Act.

"(b) Hard Mineral Resource.—For purposes of this subchapter, the term 'hard mineral resource' means any deposit or accretion on or just below, the surface of the deep seabed of nodules which contain one or more minerals, at least one of which is manganese, nickel, cobalt, or copper.

"(c) Deep Seabed.—For purposes of this subchapter, the term 'deep seabed' means the seabed, and the subsoil thereof to a depth of 10 meters, lying seaward of, and outside the Continental Shelf of any nation.

"(d) Continental Shelf.—For purposes of this subchapter, until such time as a new definition of the limits of national jurisdiction over seabed mineral resources of the continental margin may be agreed to as part of a comprehensive Law of the Sea Treaty which enters into force for the United States, the term 'Continental Shelf' means—

"(1) the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas;

"(2) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands; and

"(3) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

"SEC. 4497. IMPUTED VALUE.

"(a) IN GENERAL.—For purposes of this subchapter the term 'imputed value' means, with respect to any hard mineral resource, 20 percent of the fair market value of the commercially recoverable metals and minerals contained in such resource. Such fair market value shall be determined—

"(1) as of the date of the removal of the hard mineral resource from the deep seabed; and

"(2) as if the metals and minerals contained in such resource were separated from such resource and were in the most basic form for which there is a readily ascertainable market price.

"(b) COMMERCIAL RECOVERABILITY.—

"(1) MANGANESE, NICKEL, COBALT, AND COPPER.—For purposes of subsection (a), manganese, nickel, cobalt, and copper shall be treated as commercially recoverable.

"(2) MINIMUM QUANTITIES AND PERCENTAGES.—The Secretary may by regulations prescribe for each metal or mineral quantities or percentages below which the metal or mineral shall be treated as not commercially recoverable.

"(c) SUSPENSION OF TAX WITH RESPECT TO CERTAIN METALS AND MINERALS HELD FOR LATER PROCESSING.—

"(1) ELECTION.—The permittee may, in such manner and at such time as may be prescribed by regulations, elect to have the application of the tax suspended with respect to one or more commercially recoverable metals or minerals in the resource which the permittee does not intend to process within 1 year of the date of extraction. Any metal or mineral affected by such election shall not be taken into account in determining the imputed value of the resource at the time of its removal from the deep seabed. Any suspension under this paragraph with respect to a metal or mineral shall be permanent unless there is a redetermination affecting such metal or mineral under paragraph (2).

"(2) LATER COMPUTATION OF TAX.—If the permittee processes any metal or mineral affected by the election under paragraph (1), or if he sells any portion of the resource containing such a metal or mineral, then the amount of the tax under section 4495 shall be redetermined as if there had been no suspension under paragraph (1) with respect to such metal or mineral. In any such case there shall be added to the increase in tax determined under the preceding sentence an amount equal to the interest (at rates determined under section 6621) on such increase for the period from the date prescribed for paying the tax on the resources (determined under section 4495(d)) to the date of the processing or sale.

"(d) DETERMINATIONS OF VALUE.—All determinations of value necessary for the application of this subchapter shall be made by the Secretary (after consultation with other appropriate Federal officials) on the basis of the best available information. Such determinations shall be made under procedures established by the Secretary by regulations.

"Sec. 4498. Termination.

"(a) GENERAL RULE.—The tax imposed by section 4495 shall not apply to any removal from the deep seabed after the date which is 10 years after the date of the enactment of this subchapter.".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of such Code is amended by adding at the end thereof the following new item:

"Subchapter F. Tax on removal of hard mineral resources from deep seabed."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1980.

ESTABLISHMENT OF DEEP SEABED FUND

SEC. 503. (a) CREATION OF DEEP SEABED FUND.—There is established in the Treasury of the United States a fund to be known as the "Deep Seabed Fund" (hereinafter in this section referred to as the "Fund"), consisting of such amounts as may be appropriated or credit to the Fund as provided in this section.

(b) TRANSFER TO FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Fund amounts determined by the Secretary of the Treasury to be equivalent to the amounts of the taxes received in the Treasury under section 4495 of the Internal Revenue Code of 1954.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) MANAGEMENT OF FUND.—

(1) REPORT.—It shall be the duty of the Secretary of the Treasury to hold the Fund, and to report to the Congress for the fiscal year ending September 30, 1980, and each fiscal year thereafter on the financial condition and the results of the operations of the Fund during the preceding fiscal year and on its expected condition and operations during the fiscal year and the next 5 fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) INVESTMENT.—

(A) IN GENERAL.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) SALE OF OBLIGATIONS.—Any obligation acquired by the Fund may be sold by the Secretary at the market price.

(C) INTEREST ON CERTAIN PROCEEDS.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) EXPENDITURES FROM THE DEEP SEABED FUND.—Amounts in the Fund shall be available, as provided by appropriations Acts, for such purposes as Congress may hereafter provide by law, including the payment of any financial obligations which may be assumed by the United States pursuant to an international deep seabed treaty adopted by a United Nations Conference on the Law of the Sea which is ratified by, and in force for, the United States.

ACT NOT TO AFFECT TAX OR CUSTOMS OR TARIFF TREATMENT OF DEEP SEABED MINING

SEC. 504. Except as otherwise provided in section 502, nothing in this Act shall affect the application of the Internal Revenue Code of 1954. Nothing in this Act shall affect the application of the customs or tariff laws of the United States.

Mr. MATSUNAGA. Mr. President, I send to the desk printed amendment No. 540 as an amendment in the nature of a substitute and ask for its immediate consideration after the amendment is read.

Mr. President, printed amendment No. 540 is an amendment in the nature of a substitute to the text of S. 493. It represents a compromise reached by the five committees to which the bill was referred. It incorporates amendments made by these committees and it reflects each of their primary concerns.

I introduced this amendment on October 22. Pages 29014 and 29015 of the CONGRESSIONAL RECORD of that day show a list of changes which amendment No. 540 would make to the bill as reported by the Committee on Environment and Public Works. (Rept. No. 96-360.) I would like to call attention of the Senate to one error in that list. The amendment on page 20 is to section 102, not section 101, as erroneously printed in the RECORD.

I urge the Senate to adopt my amendment. It represents several months work by five Senate committees.

Mr. President, the Deep Seabed Mineral Resources Act, S. 493, as amended by printed amendment No. 540, is intended to promote the conservation and orderly development of mineral resources from the ocean floor. The act is intended to be interim legislation and expressly provides that it will be superseded by the terms of an international law of the sea, if and when adopted by the United Nations Law of the Sea Conference. The bill has six basic provisions.

First, it recognizes the need for an international legal system for all the uses of the oceans, including ocean mining, and provides an orderly transition from the present situation of no regulation, to U.S. licensing of a domestic industry and then to the international system which would result if a Law of the Sea Treaty is agreed upon and ratified.

Second, U.S. firms would have to obtain a license or permit from the Administrator of the National Oceanographic and Atmospheric Administration before they could engage in exploration for or commercial recovery of manganese nodules from the deep seabed.

Third, the bill would provide incentive to American industry to explore and mine the deep seabed with the assurance that their investments would be protected.

Fourth, in keeping with an effort to show the good faith of the United States and its desire to work toward the legal establishment of the concept of the common heritage of mankind, the act would establish a fund from which expenditures could later be made for the purpose of meeting financial obligations of the United States pursuant to an international deep seabed treaty.

Fifth, the President would be authorized to designate any foreign nation as a reciprocating state for the purpose of mutually advantageous exploitation of the deep seabed.

Finally, S. 493 would encourage the successful negotiation of a comprehensive Law of the Sea Treaty that will legally establish the meaning of the phrase "common heritage of mankind" as it applies to the resources of the deep seabed.

The recovery of ferromanganese nodules from the deep seabed would provide an important new source of cobalt, nickel, copper and manganese. The United States has almost no indigenous sources of cobalt and manganese, and very little of nickel.

Some data on copper prove to be most interesting. The United States, with one-twentieth the world population, produces slightly less than one-third of the world's copper, and uses about one-third the total production and imports between one-fifth and one-third of its needs in any given year. At the current exponential growth rate of copper consumption in the world, the known landmined reserves will be exhausted in 21 years. The numbers are very nearly identical to petroleum just before the energy crisis. The fact that we import nearly all of the cobalt, manganese, and nickel we use in the United States is even more alarming, since these metals are indispensable components of various alloys, without which many American industries cannot continue operating.

The reliability of foreign sources and the possibility of cartel action are subjects of grave concern. The oil crises of the 1970's have made us so acutely vulnerable to a dependency status, to the extent that every effort should be made to secure stable sources of strategic materials to make us, if not totally self-sufficient, at least less dependent on other countries.

American firms today enjoy a lead position in this field but are hesitant to proceed to commercial exploitation without some guarantee of security, for their projected investments can be expected to run up to half a billion dollars for each mine site. The bill, throughout its legislative history, has incorporated two important and interrelated principles. The first is that ocean mining by U.S. citizens is an existing legal right, flowing from the freedom of the high seas doctrine, the continued exercise of which should be encouraged by Congress. Secondly, U.S. citizens who undertake ocean mining operations should be afforded some measure of protection against any change in international law which could abrogate or unfairly restrict their existing legal rights.

These elements of the bill are of critical importance to U.S. mining interests as they prepare to make investment decisions for deep sea mining. A Law of the Sea Treaty may alter the existing right of any party to develop deep seabed resources. However, in passing this bill, the Senate is indicating its intention that any mining activities operating pursuant to this act prior to an international agreement be provided security of tenure with respect both to their right to continue mining and the conditions under which mining is carried out. In expressing this intent, the Senate is advising the executive as to the nature of an international treaty to which the United States should agree.

Mr. President, there has been widespread agreement that the pending legislation can positively influence Law of the Sea negotiations. The conference will begin its ninth session in New York this coming spring. As is clearly stated in S. 493, the proponents of the bill have no intention of substituting U.S. domestic legislation for an international agreement. I want to assure my friends from the Third World of this fundamental intendment. However, I want to clearly state that the Senate is not prepared to wait indefinitely for an agreement on a treaty. Nor is it prepared to ratify a treaty which prevents access to the deep seabed by U.S. industry.

Until 1977, the administration was cautious of speedy legislative action for fear of prejudicing the outcome of the United Nations talks. However, in 1978, Ambassador Elliot Richardson expressed to the 95th Congress the administration's view that:

> It is important both from the domestic and international perspective to have deep seabed mining legislation enacted as soon as possible.

I have again discussed the merits of S. 493 with key administration officials, including Ambassador Richardson, and I can categorically report that the official policy of the executive branch of the Government is one of total support for swift passage in the Senate.

The origins of this legislation are deeply rooted in basic policy questions of our Nation regarding the supply of minerals both now and in a future of vanishing resources. These questions were the subject of hearings before the Special Senate Subcommittee on the Outer Continental Shelf as early as 1969, 10 years ago. The first hearing on ocean mining legislation occurred in 1972 before the Subcommittee on Minerals, Materials, and Fuels.

Mr. President, the principal Senate sponsor of the previous versions of this legislation was our former colleague, the late Senator Lee Metcalf. During our all too brief service together on the Energy and Natural Resources Committee, Senator Metcalf convinced me of the wisdom of the bill's basic objectives and principles. I am proud to carry on the important work which he started. When the Deep Seabed Mineral Resources Act becomes law, it shall stand as a living memorial to Lee Metcalf.

In the 96th Congress, the bill was referred to five Senate committees. The history of the bill in this Congress has been one of close cooperation among all interested parties. The text which I introduced on February 26 was worked out with the chairmen of the committees to which the bill was referred. That there is broad agreement on the bill is evidenced by the fact that none of the committees made major changes to the text, and by the fact that agreement on the substitute amendment, which I introduced, was reached through unimpeded compromise among the committees. It is my hope that the Senate will continue this spirit of cooperation, approve the bill, as amended and send it to the House of Representatives.

In summary, this act will enable the mining industry to develop an important new source of vital raw materials. It should provide new jobs both at sea and on land for American workers in the maritime and metals industries. It should help to reduce our dependence on foreign—in some cases, unreliable—sources of supply. It should also help to reduce our balance-of-payments deficit. Finally, it should help to stimulate realistic negotiations toward a Law of the Sea Treaty which will protect the interests of our people, and the people of other nations—developed and less developed—around the world. Mr. President, I urge my colleagues to vote favorably on S. 493, the Deepsea Mineral Resources Act of 1979.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HATFIELD. I yield to the Senator from Alaska such time as he may require.

Mr. STEVENS. Mr. President, as one of the original cosponsors of this legislation over the course of the past several Congresses, I am quite pleased to participate in the debate which preceeds the Senate's enactment of this important bill. That the legislation is timely and in the national interest has been discussed in great detail by my colleagues.

Accordingly, I intend to focus the thrust of my remarks on the grandfather issue. Title II of the bill is commonly referred to as the grandfather language. The policy content of title II is significant in at least two regards. First, it is a statement of U.S. policy that ocean mining activities conducted pursuant to this act are an exercise of an existing legal right derived from the internationally recognized freedom of the high seas doctrine, the continued exercise of which is to be encouraged by the Congress. This has been the view of the U.S. delegation expressed on the record countless times during many of the sessions of the Law of the Sea Conference. Contained within this statement of congressional policy is the recognition that U.S. citizens which rely upon this legislation as a legal basis for undertaking ocean mining investments are entitled to have those rights protected as against any subsequent change in international law which would or could otherwise abrogate or unfairly restrict their existing legal rights.

The policy content of title II is significant in a second respect. Title II is also a statement made by the Senate as an exercise of its constitutionally ordained advice and consent function. With respect to the Law of the Sea Treaty presently undergoing international negotiations, title II advises State Department negotiators that if the treaty is to receive the consent of the Senate necessary for its ratification by the United States it must contain provisions which fully protect the rights of U.S. citizens confirmed by this legislation. In particular, such rights must be clearly spelled out in the language of the treaty text itself. To repeat—the rights of U.S. citizens confirmed by this legislation must be fully protected in the language of the treaty text itself. That means that the grandfather language to be incorporated in the treaty text may not either dilute the rights confirmed by this legislation or that the treaty as a whole may not dilute these rights.

Mr. President, presently the negotiating text of the treaty contains no grandfather rights at all. This in itself is a shocking disappointment which, if not fully and properly corrected to preserve all the rights of U.S. citizens confirmed by this legislation, could, in and of itself, become a basis for the Senate refusing to grant advise and consent to ratification. Failure fully to achieve recognition of such rights in the treaty could also therefore result in this legislation becoming permanent rather than interm.

Accordingly, our U.S. negotiators should recognize the necessity of their obtaining express grandfather language in the treaty which makes reference to this legislation; which provides assured and nondiscriminatory access to U.S. citizens to continue their ocean mining operations of any kind commenced pursuant to this act; which provides security of tenure for such ocean mining operations by recognizing their rights to continue such operations after an acceptable Law of the Sea Treaty enters into force with respect to the United States, and which contains terms and conditions which do not impose significant new economic burdens compared to the burdens imposed upon U.S. citizens by this legislation; and finally which encourages the continuation of such ocean mining operations on a viable economic basis. Accordingly, the intent of title II is to insure that U.S. ocean miners are to be protected not only from adverse treaty language itself but additionally from the foreseeable adverse effect of the administrative and regulatory interpretation of the treaty by the "International Seabed Authority" created by the treaty.

Mr. President, it is important that the record be made clear that by voting for enactment of this legislation we are putting the State Department on notice that we will not idly sit back and allow the Law of the Sea delegation to fritter away our constitutional rights as U.S. Senators or the rights of U.S. citizens to mine the deep seabed under the freedom of the high seas doctrine as implemented by this legislation.

There are numerous other provisions of the treaty which also are presently unacceptable to the Senate as confirmed repeatedly in testimony by the Chief U.S. Law of the Sea Negotiator presented before the Congress this year and in years past.

I am personally committed to insuring that the United States does not sign any Law of the Sea Treaty until such treaty is fully acceptable to the Senate.

Mr. President. I ask unanimous consent that an article by Mr. Robert F. Pietrowski. Jr., published by the International Bar Association—section on business law, 1979, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTERNATIONAL LAW APPLICABLE TO DEEP SEA MINING

(By Robert F. Pietrowski, Jr.)

1. INTRODUCTION

In December of 1970, the United Nations General Assembly voted to convene a third[1] Conference on the Law of the Sea ("UNCLOS III"). The purpose of the Conference was to attempt to draft a multilateral treaty that would, among other things, establish a new international legal regime to regulate exploration and exploitation in seabed areas beyond national jurisdiction.[2] The following year, a bill was introduced in the United States Congress to regulate the activities of U.S. citizens in seabed areas beyond national jurisdiction.[3] Both of these endeavors were precipitated by growing international interest in a resource known as "manganese nodules."

Manganese nodules are small, potato-shaped concretions of metal oxides which occur on the surface of the seabed. They vary in composition, but generally contain some 25 to 30 minerals, four of which—manganese, nickel, cobalt and copper—are recoverable with existing technology. Nodules of current economic interest are limited to areas of the deep seabed, beyond the limits of national jurisdiction.

Manganese nodules were first recovered from the deep seabed by the *H.M.S. Challenger* in 1875. Commercial exploration began in the early 1960s, and it is anticipated that full-scale production will commence in the mid-1980s.

To date, neither a multilateral treaty nor unilateral domestic legislation has been realized. At present, it is not clear how much longer UNCLOS III will continue its work in an effort to conclude a treaty,[4] but enactment of ocean mining legislation by the United States appears immediate.[5] Other nations with ocean mining capability have indicated that, if the United States enacts legislation, they will do likewise.

Nations are generally in agreement that the resources of the deep seabed, including manganese nodules, are the "common heritage of mankind." However, there is substantial disagreement among nations as to the definition of "common heritage" and its legal implications. The United States and other developed nations interpret the "common heritage" concept as consistent with the "freedom of the seas" doctrine, under which all states enjoy equal and several rights to use the resources of the high seas and the underlying seabed. The developing nations, on the other hand, maintain that the "common heritage" concept permits only joint use regulated by an international agency which remains to be established. This fundamental difference of views has been a major impediment to agreement on treaty provisions at UNCLOS III. Thus, certain of the draft provisions produced by UNCLOS III are fundamentally unacceptable to U.S. interests, and it is doubtful that the United States Senate would ratify a treaty containing these provisions.[6]

The United States and other nations with ocean mining capability have participated in UNCLOS III, but have consistently maintained that existing law—specifically, the freedom of the seas doctrine—permits exploitation of the deep seabed. These nations are of the view that a treaty, while desirable, is not necessary to the lawfulness of ocean mining. The developing nations, acting through the "Group of 77," take the contrary position that unilateral ocean mining is in conflict with the "common heritage" concept and the "Declaration of Principles" adopted by the General Assembly in Resolution 2749 (XXV), and is therefore unlawful.

2. THE ANALYTICAL FRAMEWORK: ARTICLE 38

Any rule of law applicable to the deep seabed must ultimately be determined by recourse to the so-called "sources" of international law. Article 38 of the Statute of the International Court of Justice is generally considered to be a complete statement of such sources,[7] and in any event is a complete statement of the sources which the International Court of Justice is authorized to apply. Article 38.1 directs the Court to apply:

"a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;

"b. international custom, as evidence of a general practice accepted as law;

"c. the general principles of law recognized by civilized nations;

"d. subject to the provisions of Article 59 [which provides that "[t]he decision of the Court has no binding force except between the parties and in respect of that particular case"], judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law."

Article 38.2 authorizes the Court to depart from these sources only when the parties to the case so agree. Thus, any rule applicable to the exploitation of resources in seabed areas beyond national jurisdiction—whether permissive or prohibitive—must result from a treaty, a custom, or a general principle of law, and may be evidenced by judicial precedent or the writings of publicists.

3. CUSTOMARY LAW: THE PRACTICE OF STATES IN SEABED AREAS BEYOND NATIONAL JURISDICTION

It is clear beyond peradventure that international law in the past has permitted the exploitation of resources in seabed areas beyond national jurisdiction. Before the continental shelf doctrine existed, the seabed jurisdiction of a coastal state terminated at the outer limit of the territorial sea. Yet the practice of states permitted the exploitation of living and non-living seabed resources beyond the territorial sea, and hence beyond the limits of national jurisdiction. Numerous states in the exercise of the freedom of the seas doctrine exploited pearl, sponge, coral, oyster and chank fisheries in such areas. These states included Algeria, Australia (Western Australia, Northern Territory, and Queensland), the Bahamas, British Honduras, Ceylon (Gulf of Manaar and Palks Strait), Cuba, England, Egypt, France, Greece (Dodecanese Islands), India (Malabar and Coronmandel Coasts), Indonesia (Aru Islands), Ireland, Italy, Japan, Libya (Cyrenaica and Tripolitania), Mexico, Nicaragua (Pearl Keys, Laguna de Perlas, and Punta de Perlas), Panama (Archipelago de las Perlas), the Persian Gulf States (Oman and the Trucial Shaikhdoms), the Philippines (Moro Gulf), Scotland, Sicily, Tunisia, Turkey, the United States (Florida), and Venezuela.

The rights exercised by these states were generally and consistently recognized by other nations.[8] Thus, in the terms of Article 38, the states exercising these rights were engaged in "international custom, as evidence of a general practice accepted as law."

Although some of these states had exercised rights in the seabed beyond national jurisdiction from time immemorial, immemorial usage was not necessary to establish such rights. Mere exploitation would suffice. As found by the United States Supreme Court Special Master in *United States* v. *Maine*:

"[P]rior to the Truman Proclamation [which was the precursor of the continental shelf doctrine], it was the accepted doctrine of international law, as we have seen, that to be recognized as valid, claims to exclusive rights to the resources of the seabed at least beyond the territorial sea must be based on long enjoyment (prescription) *or on actual exploitation (occupation)*." (Emphasis added.)[9]

The fact that the rule permitting exploitation of resources in seabed areas beyond the limits of national jurisdiction resulted from the exploitation of sedentary fisheries does not prevent it from applying to manganese nodules. Rules of international law are seldom precise.[10] There was not one rule for pearls, another for coral, etc. Those resources that were of economic interest and were recoverable with existing technology were exploited. There is no evidence that any seabed resource was considered to be outside the

Footnotes at end of article.

scope of the rule permitting such exploitation.

Nor is it relevant that these resources were recovered from the continental shelf rather than the deep seabed. Prior to the continental shelf doctrine, the continental shelf and the deep seabed were legally indistinguishable; both were beyond the limits of national jurisdiction. Any rule that developed from practice on the shelf therefore applied with equal force to the abyssal ocean floor. With the emergence of the continental shelf doctrine in the middle of the present century, the seabed beyond national jurisdiction diminished in size; but the law which applied to that area prior to the continental shelf doctrine continued to apply to what remained of the area, *i.e.*, the deep seabed.

4. CONVENTIONAL LAWS THE 1958 CONVENTION ON THE HIGH SEAS

The rule permitting exploitation of resources in seabed areas beyond national jurisdiction is also grounded in conventional law. The 1958 Convention on the High Seas provides in Article 2 that:

"Freedom of the high seas is exercised under the conditions laid down by these articles and by the other rules of international law. It comprises, *inter alia*, both for coastal and non-coastal States:

"(1) Freedom of navigation;

"(2) Freedom of fishing;

"(3) Freedom to lay submarine cables and pipelines;

"(4) Freedom to fly over the high seas.

"These freedoms, *and others which are recognized by the general principles of international law*, shall be exercised by all States with reasonable regard to the interests of other States in their exercise of the freedom of the high seas." (Emphasis added.)

The right to exploit seabed areas beyond the limits of national jurisdiction is not among the freedoms expressly enumerated in Article 2. But the *travaux preparatoires* of the Convention show that this right is embraced by the reference to "others which are recognized by the general principles of international law."

The Convention on the High Seas was drafted by the International Law Commission between 1949 and 1956. The Commission's 1955 report to the General Assembly contains the following explanation of the enumeration of freedoms appearing in Article 2:

"The list of freedoms of the high seas contained in this article is not restrictive; the Commission has merely specified four of the main freedoms. *It is aware that there are other freedoms, such as freedom to explore or exploit the subsoil of the high seas* and freedom to engage in scientific research therein. It is evident that in the high seas covering a continental shelf the latter freedoms can only be exercised subject to any rights over that shelf which the coastal State can invoke. The Commission did not study this problem in detail at the seventh session." (Emphasis added.) [11]

In its 1956 report to the General Assembly, the Commission explained why it had not included the right to explore and exploit the seabed beyond the limits of national jurisdiction among the freedoms expressly mentioned in Article 2:

"The Commission has not made specific mention of the freedom to explore or exploit the subsoil of the high seas. It considered that apart from the case of the exploitation or exploration of the soil or subsoil of a continental shelf—a case dealt with separately in section III below—such exploitation has not yet assumed sufficient practical importance to justify special regulation." [12]

Thus, although the right to exploit the seabed beyond the limits of national jurisdiction is not specifically enumerated in Article 2, it is nevertheless among the "other" freedoms covered by that article.

5. PROPOSED CHANGES OF EXISTING LAW: THE "DECLARATION OF PRINCIPLES" AND THE "COMMON HERITAGE" CONCEPT

In support of its position that ocean mining prior to the entry into force of a new international regime is unlawful, the Group of 77 argues that (i) the freedom of the seas doctrine does not apply to the seabed beyond national jurisdiction, and (ii) a new rule of customary law prohibiting unilateral ocean mining has come into force. These arguments are set forth in a document prepared by the Group of Legal Experts of the Group of 77, which was transmitted to the President of UNCLOS III in a letter dated 24 April 1979.[13]

The argument that the freedom of the seas doctrine does not apply to the seabed beyond national jurisdiction is explained in the letter of 24 April 1979 as follows:

"The customary principle of the freedom of the high seas . . . does not apply to the exploitation of the sea-bed and ocean floors beyond national jurisdiction, *because the exploitation thereof was beyond the capacity of States at the time when that principle came into being.*" (Emphasis added.)

As we have seen, this statement is incorrect as a matter of fact; numerous states exploited living and nonliving resources in the seabed beyond national jurisdiction prior to the continental shelf doctrine. However, the statement is significant because it concedes that customary law can only be made by those states having the capacity to act in a particular sphere.[14] And with respect to the deep seabed virtually every state with the capability to explore and exploit the deep seabed has reserved its right under the freedom of the seas doctrine to do so and has continued operations in the deep seabed while participating in UNCLOS III.

The Group of 77 also argues that if the freedom of the seas doctrine ever applied to the deep seabed, it ceased to be applicable in consequence of General Assembly Resolution 2749 (XXV) of 17 December 1970.[15] This resolution, generally referred to as the "Declaration of Principles," was adopted by a vote of 108 to 0, with 14 abstentions. It provided in pertinent part:

Judge Sorensen's Manual of Public International Law is in accord:

"General customs are those which apply to the totality of states in the international community. They arise from practices which are also general in the sense that they are followed by a great number of states. No one maintains, however, that it is necessary that all states should participate in their creation. As regards the greater number of customary rules, it is evident that not all states have been in a position to contribute to their formation. It is thus clear that states having neither shore nor ships have not been able to contribute in the least to the development of the law of the sea. At the present time only a very small number of states can play a role in the elaboration of a customary law of outer space. The great powers, in the nature of things, take a greater part than do other states in the establishment of practices giving rise to customary rules." Manual of Public International Law 132–33 (M. Sorensen ed. 1968).

"1. The sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction (hereinafter referred to as the area), as well as the resources of the area, are the common heritage of mankind.

"2. The area shall not be subject to appropriation by any means by States or persons, natural or juridical, and no State shall claim or exercise sovereignty or sovereign rights over any part thereof.

"3. No State or person, natural or juridical, shall claim, exercise or acquire rights with respect to the area or its resources incompatible with the international regime to be established and the principles of this Declaration.

"4. All activities regarding the exploration and exploitation of the resources of the area and other related activities shall be governed by the international regime to be established. . . ."

The Group of 77 argues that the Declaration is controlling because it "is a resolution adopted by the General Assembly." However, a resolution of the General Assembly cannot of its own force override a rule of customary or conventional law. The powers of the General Assembly are set forth in Articles 10 through 17 of the United Nations Charter. These powers do not include the authority to enact rules of law binding on members. A proposal to give the General Assembly such authority was expressly rejected at the San Francisco Conference in 1945.[16] Except for certain narrowly defined matters which are not relevant here, a resolution of the General Assembly is merely an invitation or recommendation to member states to enter into a treaty relationship concerning the matters dealt with in the resolution.[17] Therefore, the fact that the Declaration of Principles was embodied in a resolution of the General Assembly does not make the Declaration binding as law (the question of whether the substantive content of the Declaration has become binding by some other means is addressed *infra*).

The Group of 77 also argues that the Declaration of Principles "is an event reflecting a conviction incompatible with *opinio juris sive necessitatis*" indispensable to any customary rule permitting ocean mining. This argument ignores the fact that there is disagreement as to the substantive content of the Declaration, including definition of the "common heritage" concept.[18] The Declaration of Principles was a negotiated document, and its overwhelming approval by the General Assembly was obtained only by including negotiated ambiguities.[19] Thus, it distinguishes between what is referred to as the "area," *i.e.*, the seabed and subsoil beyond national jurisdiction, and the "resources" of the area. It provides that "[t]he *area* shall not be subject to appropriation by any means by States or persons . . .," but it does not provide that the resources shall not be subject to such appropriation. With respect to resources, the Declaration provides that "No State or person . . . shall claim, exercise or acquire rights with respect to the area or its resources incompatible with the international regime *to be established* . . ." and that "[a]ll activities regarding the exploration and exploitation of the resources of the area . . . shall be governed by the international regime *to be established.*" Hence, the provisions dealing with the resources of the deep seabed are not self-executing; they become operative only if and when a new legal regime applicable to the deep seabed comes into force. The Declaration of Principles therefore does not expressly prohibit exploitation of the deep seabed prior to the entry into force of a new law of the sea treaty.

Nor can such a moratorium effect reasonably be inferred from the Declaration. In 1969, the General Assembly passed the so-called "Moratorium Resolution," [20] which expressly prohibited exploitation in seabed areas beyond national jurisdiction prior to the entry into force of a new international regime. This resolution provided:

"(a) States and persons, physical or juridical, are bound to refrain from all activities of exploitation of the resources of the area of the sea-bed and ocean floor, and the subsoil thereof, beyond the limits of national jurisdiction;

"(b) No claim to any part of that area or its resources shall be recognized."

The Moratorium Resolution was adopted by

Footnotes at end of article.

a vote of only 62 to 28, with 28 abstentions. Every nation possessing the capability to engage in ocean mining voted against the Moratorium Resolution. Clearly, those nations would not have voted in favor of the Declaration of Principles if they understood its substantive content to be the same as that of the Moratorium Resolution.[21]

In view of the fact that many of the states which voted in favor of the Declaration of Principles did so with the understanding that it did not purport to have a moratorium effect, it cannot be said that the Declaration is in conflict with the *opinio juris* necessary to any customary rule permitting ocean mining.

Distinct from the substantive content of the Declaration of Principles is the question of whether that content has the force of law. The Group of 77 argues that it has achieved the status of customary law. The letter of 24 April 1979 states:

"The principles set out in resolution 2749 (XXV) (Declaration of Principles Governing the Sea-Bed and the Ocean Floor, and the Subsoil Thereof, Beyond the Limits of National Jurisdiction) are legally binding principles which were proclaimed in this Declaration and upheld by the affirmative vote of 108 States. It should be added that a number of the few States (14) which abstained on that occasion, although without formulating any objection, subsequently expressed, either explicitly or implicitly, their support for those principles, as did other States members of the international community, thus recognizing by their attitude the force of international custom as expressed in resolution 2749.

"This custom has given rise to new general principles of public international law which are the basis or legal foundation of any substantive norms regulating the exploration of the area of the sea-bed and the ocean floor and the subsoil thereof and the exploitation of their resources."

A party invoking an alleged rule of customary law must prove the existence of a constant and uniform practice by the states in question.[22] In support of the proposition that the Declaration of Principles has the force of customary law, the Group of 77 cites a number of General Assembly resolutions. These resolutions may indicate the views of the states that supported them, but they do not constitute the kind of action required to establish a "practice." To establish a customary rule that prohibits ocean mining, it would be necessary to show an abstention from ocean mining activity and a belief on the part of the abstaining states that the abstention is obligatory. It is true that the majority of states is not engaged in ocean mining at present, but this situation can hardly be characterized as abstention since these states do not possess the capability to engage in such activity. On the other hand, those states with the capability to conduct ocean mining operations have continued to do so while participating in UNCLOS III. Therefore, even if the Group of 77's interpretation of the substantive content of the Declaration of Principles were accepted arguendo, the practice necessary to transform this view into a rule of law is lacking.

A final point deserves mention, and this concerns the distinction between *lex lata* (the law in force) and *lex ferenda* (the law which it is desired to establish). Two recent cases are worth noting in this connection because both involved the question of whether positions advocated at UNCLOS III evidenced new rules of customary law. In the *Fisheries Jurisdiction Cases*[23] the International Court of Justice held that Iceland's unilateral claim of a 50-mile fisheries zone violated international law. In reaching this holding, the Court rejected the view that the work of UNCLOS III manifested a new rule of international law with respect to fisheries jurisdiction. The Court said:

"In recent years the question of extending the coastal State's fisheries jurisdiction has come increasingly to the forefront. The Court is aware that a number of States has asserted an extension of fishery limits. The Court is also aware of present endeavors, pursued under the auspices of the United Nations, to achieve in a third Conference on the Law of the Sea the further codification and progressive development of this branch of the law, as it is of various proposals and preparatory documents produced in this framework, *which must be regarded as manifestations of the views and opinions of individual States and as vehicles of their aspirations, rather than as expressing principles of existing law.* The very fact of convening the third Conference on the Law of the Sea evidences a manifest desire on the part of all State's to proceed to the codification of that law on a universal basis, including the question of fisheries and conservation of the living resources of the sea. Such a general desire is understandable since the rules of international maritime law have been the product of mutual accommodation, reasonableness and cooperation. So it was in the past, and so it necessarily is today. In the circumstances, the Court, as a court of law, cannot render judgment *sub specie legis ferendae*, or anticipate the law before the legislator has laid it down." (Emphasis added.)[24]

A similar view was expressed in a different context by the arbitral court in the *English Channel Arbitration* (*France* v. *United Kingdom*).[25] There, the Court rejected the argument of France that the provisions of the Convention on the Continental Shelf have been rendered obsolete by consensus at UNCLOS III on the concept of the "exclusive economic zone."[26]

Agreement within UNCLOS III on fisheries jurisdiction and on the exclusive economic zone is considerably greater than agreement on a new regime to govern the deep seabed. If the work in UNCLOS III has not resulted in the creation of new customary rules concerning fisheries jurisdiction and the exclusive economic zone, then a *fortiori* it has not produced a new rule applicable to the deep seabed.

6. CONCLUSION

Unable to produce the desired result by application of the sources contained in Article 38, the Group of 77 must ultimately base its contention that unilateral ocean mining is unlawful on the fact that the majority of states supports that position. In essence, then, the argument that the Declaration of Principles renders unilateral exploitation of the deep seabed unlawful rests on the theory that rules of international law are made by majority vote in the General Assembly. The International Court of Justice has never applied this novel notion, and indeed is without authority to do so. And until either (i) a new multilateral treaty comes into force, or (ii) in the absence of such a treaty, those states with the capability to engage in ocean mining abstain from further activities in the belief that they are unlawful, the rule permitting exploitation of resources in seabed areas beyond national jurisdiction, which is firmly grounded in the sources specified in Article 38, remains in force.

FOOTNOTES

[1] The first Conference on the Law of the Sea met in 1958 and produced four conventions: the Convention on the High Seas, 450 U.N.T.S. 82; the Convention on the Continental Shelf, 499 U.N.T.S. 311; the Convention on the Territorial Sea and the Contiguous Zone, 516 U.N.T.S. 205; and the Convention on Fishing and Conservation of the Living Resources of the High Seas, 559 U.N.T.S. 285. The second Conference on the Law of the Sea was convened in 1960 to define the limit of the territorial sea, but adjourned unsuccessfully.

[2] G.A. Res. 2750c, 25 U.N. GAOR, Supp. (No. 28) 26, U.N. DOC A/8028 (1970).

[3] S. 2801, 92d Cong., 1st Sess. (1971).

[4] The most recent session of UNCLOS III adjourned 24 August 1979. Future meetings are scheduled to begin in February and July of 1980.

[5] Legislation passed the House of Representatives on 26 July 1978, by a 312–80 vote, but the Senate version, although favorably reported by the jurisdictional committees, could not be scheduled for consideration prior to adjournment of the 95th Congress. New bills were introduced shortly after the 96th Congress convened in January of 1979. Since that time, four Senate committees and two House committees have reported the bills favorably. As of this writing, action by only two more committees is required before the bills are presented for final consideration by the House and Senate.

[6] UNCLOS III has produced a series of "negotiating texts." These documents do not purport to articulate a consensus on the subjects covered, but serve only as a basis for further negotiations. The most recent version is the "Informal Composite Negotiating Text/Rev. 1" (U.N. Doc. A/Conf. 62/WP. 10/Rev. 1). Provisions of this document which, individually or collectively, could obstruct ratification by the Senate are those that would (1) limit access to the resources of the deep seabed, (2) require transfer of technology, (3) establish production controls, cartels, and quotas, (4) reserve one-half of the deep seabed for developing countries, (5) authorize discrimination in favor of developing countries; (6) vest control of the international agency that would administer the treaty in developing countries; (7) give that international agency regulatory powers so broad as to permit effective amendment of the treaty by the agency; and (8) exempt the actions of the agency from effective judicial review. For a detailed discussion of these problems, *see Deep Seabed Mineral Resources Act: Joint Hearings on S. 493 before the Subcomm. on Energy Resources and Materials Production of the Senate Comm. on Energy and Natural Resources and the Senate Comm. on Commerce, Science, and Transportation*, 96th Cong., 1st Sess. 134, 182 (1979).

[7] *See, e.g.*, J. Brierly, The Law of Nations 56–68 (H. Waldock 6th ed. 1963); Manual of Public International Law 116 (M. Sorensen ed. 1968); 1 H. Lauterpacht, International Law 55–56, 86–87 (1970); I. Brownlie, Principles of International Law 3 (2d ed. 1973).

[8] *See, e.g.*, E. Vattel, The Law of Nations or the Principles of Natural Law (1758), in Classics of International Law 107 (C. Fenwick transl. 1916); 1 J. Westlake, International Law 186 (1904); T. Fulton, The Sovereignty of the Sea 696–98 (1911); Hurst, "Whose Is the Bed of the Sea?," 4 *Brit. Y. B. Int'l. L.* 33, at 42–43 (1923–24); P. Jessup, The Law of Territorial Waters and Maritime Jurisdiction 14–16 (1927); Lauterpacht, "Sovereignty over Submarine Areas," 27 *Brit. Y. B. Int'l L.* 376, at 402, 414–31 (1950); Waldock, "The Legal Basis of Claims to the Continental Shelf," 36 *Grotius Society* 115, at 116–142 (1951); International Law Association, Report of the Forty-Fourth Conference 90 (1952); H. Smith, The Law and Custom of the Sea 81 (1959); Goldie, "A General International Law Doctrine for Seabed Regimes," 7 *Int'l Lawyer* 796, at 797–798 (1973).

[9] United States v. Maine, 420 U.S. 515 (1973), Report of the Special Master at 69. *See also* L. Oppenheim, International Law 628–29 (H. Lauterpacht 8th ed. 1955), and Waldock, "The Legal Basis of Claims to the Continental Shelf," 36 Grotius Society 115, 118 (1951).

[10] "International law, as well as domestic law, may not contain, and generally does not contain, express rules decisive of particular cases; but the function of jurisprudence is to resolve the conflict of opposing rights and interest by applying, in default of any

specific provision of law, the corollaries of general principles, and so to find—exactly as in the mathematical sciences—the solution of the problem. This is the method of jurisprudence; it is the method by which the law has been gradually evolved in every country, resulting in the definition and settlement of legal relations as well between States as between private individuals." *Eastern Extension, Australasia and China Telegraph Co. Case*, Nielsen Rep. 40, 75.

[11] Report of the International Law Commission to the General Assembly, 10 U.N. GAOR, Supp. (No. 9) 3, U.N. Doc. A/2934 (1955), reprinted in [1955] 2 Y.B. Int'l. L. Comm'n. 21–22, U.N. Doc. A/CN.4/SER.A/1955/Add. 1.

[12] Report of the International Law Commission to the General Assembly, 11 U.N. GAOR, Supp. (No. 9) 24, U.N. Doc. A/3159 (1956), *reprinted in* [1956] 2 Y.B. Int'l L. Comm'n. 278, U.N. Doc. A/CN.4SER.A/1956/Add. 1.

[13] U.N. Doc. A/Conf. 62/77 (1979).

[14] On this point, Sir Hersch Lauterpacht stated: "[A]ssuming that we are confronted here with the creation of new international law by custom, what matters is not so much the number of States participating in its creation and the length of the period within which that change takes place, as the relative importance, in any particular sphere, of the States inaugurating the change. In a matter closely related to the principle of the freedom of the seas the conduct of two principal maritime Powers—such as Great Britain and the United States—is of special importance. With regard to the continental shelf and submarine areas generally, these two States inaugurated the development and their initiative was treated as authoritative almost as a matter of course from the outset." Lauterpacht, "Sovereignty over Submarine Areas," 27 *Brit. Y.B. Int'l. L.* 376, 394 (1950).

[15] 255 U.N. GAOR, Supp. (No. 28) 24, U.N. Doc. A/8028 (1970).

[16] 13 U.N.C.I.O. Doc. 754 (1945).

[17] "Although decisions of the General Assembly are endowed with full legal effect in some spheres of the activity of the United Nations and with limited legal effect in other spheres, it may be said, by way of a broad generalisation, that they are not legally binding upon the Members of the United Nations. In some matters—such as the election of the Secretary-General, election of members of the Trusteeship Council, the adoption of rules of procedure, admission to, suspension from and the termination of membership, and approval of the budget and the apportionment of expenses—the full legal effects of the Resolutions of the General Assembly are undeniable. But, in general, they are in the nature of recommendations that, although on proper occasions they provide a legal authorization for Members determined to act upon them individually or collectively, they do not create a legal obligation to comply with them." *Advisory Opinion on Voting Procedure*, [1955] I.C.J. 67, 115 (J. Lauterpacht, separate opinion).

[18] As indicated *supra* at G. 1–3, nations disagree as to whether the "common heritage" concept envisions several or joint exploitation of resources.

[19] *See* T. Kronmiller, The Lawfulness of Deep Seabed Mining 36–41 (1979).

[20] G.A. Res. 2574D, 24 U.N. GAOR, Supp. (No. 30) 11, U.N. Doc. A/7630 (1969.

[21] The United States has explained its support of the Declaration of Principles in the following terms:

"While we support the U.N. General Assembly's unanimous declaration that the seabed beyond the limits of national jurisdiction is the common heritage of mankind, we believe neither that title to the deep seabed or its resources is held by the world community, nor that title to any area of the deep seabed or its resources belongs to any state. Instead, we consider that the meaning of the principle of common heritage, as indicated by the principles which follow it in the resolution will be elaborated in the international regime to be established. . . .

"The Executive Branch continues to hold the view that deep seabed mineral exploitation constitutes a reasonable use of the high seas and is presently permitted under international law. We have made this position clear to other nations on many occasions. In this connection, the United States has repeatedly expressed its position that the so-called moratorium resolution is without binding legal effect.

"Some states have suggested that it is possible to interpret the 'Declaration of Principles' (General Assembly Resolution 2749 of December 17, 1970) as legally prohibiting the exploitation of the deep seabed until the new international regime and machinery for that exploitation comes into effect. These states derive this interpretation from their understanding of the common heritage of mankind concept. The United States, however, has consistently maintained that its interpretation of the 'Declaration of Principles' does not permit the derivation of a 'moratorium effect' from this resolution." *Hearings on S. 1134 before the Senate Subcomm. on Minerals, Materials, and Fuels of the Comm. on Interior and Insular Affairs*, 93d Cong., 2d Sess., 989, 994 (1974).

[22] *Asylum Case (Columbia v. Peru)*, [1950] I.C.J. Rep. 266, 276–77. *See also Case Concerning Right of Passage over Indian Territory (Portugal v. India)*, [1960] I.C.J. Rep. 6, 40–43; *North Sea Continental Shelf Cases*, [1969] I.C.J. Rep. 3, 43.

[23] *United Kingdom v. Iceland*, [1974] I.C.J. Rep. 3; *Federal Republic of Germany v. Iceland*, [1974] I.C.J. Rep. 175.

[24] *Id.*, at 29, 198.

[25] 18 I.L.M. 397 (1979).

[26] *Id.* at 417.

Mr. JAVITS. Mr. President, I support the passage of deep seabed mining legislation at this time. It is in our national interest and in the interest of the rest of the world that the development of seabed mining capabilities go forward. Given the enormous investments and long lead times required, and given the potentially critical worldwide need for these minerals toward the end of the century, it is vital that we provide a clear mandate for the continuation of mining development. This was the attitude of the Committee on Foreign Relations, of which I am the ranking minority member.

At the same time, I continue to support the efforts to negotiate a comprehensive Law of the Sea agreement protective of a wide range of U.S. interests, of which a regime for deep seabed mining would be one part. Those negotiations resume again at the end of February, with deep seabed mining the principal issue remaining before the Conference. We must make every effort to see that this legislation is consistent with our general position in the Law of the Sea negotiations and make clear our preference for a widely accepted international solution to the seabed mining problem.

The complex negotiations of the Third United Nations Conference on the Law of the Sea have been the subject of many misconceptions and false accusations. Suggestions that the United States is engaged in a sell out of the riches of the oceans or that it has been imposed on by certain extremists in the developing world are not only misinformed and unfair, they obscure the critical interests which the United States has consistently sought to protect through these negotiations and the considerable success our representatives have thus far achieved on many difficult issues. All the attention given to the newly accessible mineral resources of the deep seabed has tended to obscure the vital and enduring interests of the United States which are also at stake in the Law of the Sea negotiations.

Above all, we must protect our critical interests in navigational freedom, the basis of the traditional "freedom of the seas" principle which has long governed ocean use. While any future Law of the Sea Treaty can be expected to establish so-called "economic zones" of coastal resource jurisdiction out to 200 miles from shore—similar to the 200-mile fisheries zone we established by legislation 2 years ago—such a treaty would also assure that the vital freedoms of navigation and over-flight are preserved in these economic zones beyond a 12-mile belt of territorial seas. Equally important, a treaty would protect such freedoms in the many important international straits which might otherwise be the subject of restrictive national claims.

Our interests in the freedom of navigation are both economic and military. The value of goods moving to and from the United States on ocean vessels is estimated to be well over $150 billion per year. Some $35 billion or more of that total is the foreign oil upon which we have unfortunately, but increasingly, become dependent. Restrictions on the free passage of such goods, either within 200 miles of shore or through international straits, could add enormous costs to our economy, and in some cases could result in harmful domestic delays and shortages. Most of the oil from the Persian Gulf, for example, passes through the Straits of Hormuz which border on Iran. This dependence on ocean transport for vital resources is even more critical for our major European and Asian allies. Therefore, we need the protection for transit through straits which a widely accepted treaty would afford.

Similarly, the military and security interests of the United States depend upon the mobility of our naval forces, both conventional and strategic, in the performance of a range of security functions. Such mobility depends upon the right of overflight for our aircraft, and of submerged transit for our submarines, as well as the unimpeded passage of our surface vessels, through major international straits and in all areas beyond the narrow territorial seas of coastal states. Again, these are guarantees that we have insisted upon throughout the Law of the Sea negotiations and which have come to be accepted by virtually all participants in the Conference.

Mr. President, I will not seek here to discuss all the other U.S. interests at stake in the Law of the Sea Conference, except to note such important areas as fisheries, marine mammals, environmental protection, boundary delimitation, and dispute settlement. Most of these issues seem headed toward arrangements acceptable to the United States, to wit, we would be worse off without such agreements. Other problem areas, such as the severe restrictions being considered on marine scientific research within the economic zones, are more troubling; hopefully, these situations can be improved prior to final consideration of the treaty. But the point is that we have a wide range of interests—as does the rest of the world—caught up in the U.N. Law of the Sea negotiations other than those related to the mining of the deep seabed. The problem for the United States is how best to insure that all of these interests are protected and advanced.

On the one hand, Mr. President, certain observers of the Law of the Sea negotiations argue that the United States can protect its interests without a comprehensive Law of the Sea Treaty, or even that a treaty would add nothing that could not be achieved without one. I have no doubt that if the current negotiations fail to produce an agreement which the Senate can approve, the United States will have to act to safeguard its interests in other ways. We should never give the impression that we will accept any treaty, no matter what it contains.

Nor do I accept the suggestion that failure of the Law of the Sea Conference would lead, necessarily and immediately, to political chaos or to the outbreak of violent conflict around the world. Mankind has lived without a comprehensive Law of the Sea treaty for centuries, and we would no doubt find ways of muddling through in the absence of a formal agreement. Since we may have to do just that, we should not predict inevitable disaster if the LOS Conference does not succeed.

Rather, the real issue, Mr. President, is whether our interests would still be best served by achieving a comprehensive agreement, rather than abandoning or destroying that effort at the present time. In my view, the advantages to the United States are far greater in continuing to pursue a wide-accepted treaty. Those who argue that U.S. interests can better be protected on an ad hoc or bilateral basis—backed up wherever needed with naval force—are, in my opinion, out of touch with present economic and political realities in the world. They are also not the people who would have the responsibility for carrying out such a strategy. The Joint Chiefs of Staff, for example, are firmly behind the LOS treaty approach. The need to use force is precisely what we seek to avoid, not to encourage.

On the other hand, Mr. President, there are those who suggest that because we have such strong interests in the successful conclusion of a Law of the Sea treaty, we should take no action which might adversely affect those negotiations in any way. Specifically, many of those opposing the passage of deep seabed mining legislation fear that our action would provoke even greater intransigence on the part of developing countries involved in the seabed negotiations, and might even result in a breakdown of the entire Conference.

Mr. President, in my view the Law of the Sea Conference is not likely to arrive at any agreement on the deep seabed issue that is acceptable to the United States and to other major industrialized countries—that is, the people with the capability to mine the seabeds—unless it is clear to the developing world that, with all solicitude for their interests, if some of their demands remain unreasonable, we will have proceeded to mine during the next decade without an agreement, albeit trying to give fair protection to their interests.

We have now been negotiating about a regime for seabed mining for more than 10 years. Such international negotiations cannot be an end in themselves. Whether in the United Nations setting, or in SALT negotiations, or in any other realm of foreign relations, negotiations cannot be judged apart from the interest of the countries engaged in them—no matter how eminent and admirable their participants or how long and hard they have labored. It may become necessary even before the conclusion of international negotiations to take actions protective of an important national interest, even though such actions might complicate the resolution of issues under negotiation.

This is a cost that must be weighed in deciding whether and how to proceed. Reasonable men and women may differ in their assessments—as indeed they did very strenuously during our consideration of the Fishery Conservation and Management Act of 1976. But the choice is one that we must make repeatedly in the conduct of our foreign relations. In my judgment, we should no longer delay the passage of this legislation.

However, one point should be clear as we proceed. The mining authorized by this bill is in conformity with generally recognized principles of international law. Deep seabed mining remains a freedom of the high seas, so long as it is conducted with reasonable regard for the interests of other countries. During the consideration of the General Assembly resolution in 1970 declaring certain general principles for the seabed negotiations, the United States made it clear that the notion of the "common heritage" did not preclude existing rights to mine the seabed. We opposed the so-called "Moratorium resolution" of 1969, along with 27 other countries and 28 who abstained, for this very reason. Contrary to the assertions of some representatives at the Conference, the concept of the seabed as "the common heritage of mankind" has always been a phrase in search of meaning, not a legal principle in search of enforcement.

We should not accept a definition of the common heritage which is incompatible with assured access to deep seabed minerals under reasonable terms and conditions for private enterprise. We should be reasonable and fair in these negotiations, and I think we have been, but we cannot not allow an international regime to be established which excludes realistic opportunities for the very enterprises which have developed the capabilities to mine in the first place. That was the basis on which the U.S. negotiators agreed to some of the concessions—on technology transfer and financing of the "Enterprise", for example—embodied in the draft text. If we are asked to accept these provisions we must have the other half of the bargain—assured access under reasonable terms and conditions—in return. The Senate would never accept a contrary result from the Law of the Sea Conference; they should not be asked to.

By the same token, we should not support efforts to declare other nonstate territories as the "common heritage"—such as the so-called "Moon Treaty" provides—while we still have serious doubts about the consequences of such a designation. That was the point of the letter which Senator Church and I wrote to Secretary Vance on October 30 of this year. We are skeptical of an effort to declare something else the "common heritage of mankind" until we see what that is likely to mean for the deep seabed in the Law of the Sea context. I ask unanimous consent that the text of this letter and the response of the Secretary of State which I received on December 3, be printed in the Record.

There being no objection, the letters were ordered to be printed in the Record, as follows:

COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., October 30, 1979.

Hon. CYRUS R. VANCE,
Secretary of State,
Washington, D.C.

DEAR MR. SECRETARY: We are concerned that the United States has apparently concurred in the decision of the UN Committee on the Peaceful Uses of Outer Space to approve the text of a draft treaty on the moon and other celestial bodies. There are several aspects of this draft agreement which could prove damaging to our national economic and security interests, and we urge you to instruct the United States Delegation to the 34th UNGA not to support the opening of this treaty for signature as presently drafted.

The provisions of the so-called "Moon Treaty" borrow heavily from the Third UN Law of the Sea Conference. Of particular significance is the provision (Article XI) declaring the moon and its resources, as well as all other celestial bodies in our solar system, to be the "common heritage of mankind." When the United State first agreed in a 1970 UN General Assembly resolution that deep seabed resources were the "common heritage of mankind," the phrase had no independent legal meaning. The United States position was that the phrase could only be given operative meaning through further negotiations on a legal regime for the exploitation of the seabed. Even then, developing countries claimed that "common heritage" was synonymous with "common property" so that the resources of the seabed could not be exploited by any one country or its nationals without the consent of the rest of the world.

After a decade of negotiations at the Law of the Sea Conference, the set of draft treaty articles now before the Conference sets forth an interpretation of the "common heritage" which does not conform to the national interests of the United States or of other countries with free enterprise/free market economies, particularly as they relate to such matters as production limitations, technology transfer, dispute settlement and competition with the proposed international "Enterprise." Furthermore, the formula for control of the International Authority to regulate seabed mining does not provide adequate protection for developed countries in general and the United States in particular.

We realize that the United States has taken positions in opposition to most of the objectionable portions of this text, but we remain skeptical of further efforts to extend the concept of the common heritage when the understanding of this principle on the part of many countries of the world is so contrary to our own interests. In this regard, suggestions by some participants in the LOS negotiations that Antarctica also be declared the common heritage of mankind are indications of the general trend we are confronting in international forms.

Even if the United States eventually decides not to sign—or the Senate decides not to ratify—a Law of the Sea Treaty with objectionable provisions on the deep seabed, we are concerned that the LOS negotiations could create an irrebuttable precedent for the control of all resources in non-state areas. Furthermore, while the Law of the Sea Treaty may provide protection for a number of important national interests which are unrelated to resources, the same does not appear to be true of the draft moon treaty. Our basic freedoms in space, including on the moon and other celestial bodies, are already protected in the Outer Space Treaty of 1967. That document also prohibits territorial or sovereign claims in outer space. Any refinements to these principles contained in the draft moon agreement seem insignificant in comparison to the risk to our future economic interests contained in the treaty's provisions on resources.

We are concerned that the draft moon treaty could, over the long term, be harmful to our national security interests in two ways. First, it is impossible today to predict what future economic uses might be required of lunar and celestial resources. Yet, the treaty does not even define the term "natural resources," and the scope of the term as used is so broad as to permit arguments that it covers the atmosphere surrounding the moon and the planets, and even the Sun's energy.

Second, the draft moon treaty's provisions on resources could disadvantage the United States to the benefit of the Soviet Union—which may be the reason the Soviets first proposed such a treaty on the moon. In this and similar forums, it has been the apparent objective of the Soviets to erect barriers to free enterprise development of important resources. While they were unable to achieve in the moon treaty the moratorium they initially sought on resource-related activities in outer space, they did achieve a deterrent almost as effective—a commitment to negotiate a subsequent resource regime that could serve as a practical moratorium on private investment in the interim period. (This *de facto* moratorium is probably inevitable, even if the United States successfully preserves its legal position that the draft moon treaty establishes no moratorium on commercial exploitation.) The end result is that the Soviets can move forward in the area of resource development at their own pace under the guise of scientific investigaiton, with no fear of significant competition from the West, which most rely on its industry to provide commercial initiative. Seen from a long-term geopolitical perspective, we believe this outcome could be damaging to fundamental American security requirements.

For all of the above reasons, we urge that the United States Delegation take no action during this General Assembly to further commit the United States to the draft moon agreement. Indeed, we hope that the treaty will be returned to the Committee on the Peaceful Uses of Outer Space and not opened for state signature until revised.

Sincerely,

FRANK CHURCH,
Chairman.

THE SECRETARY OF STATE,
Washington, D.C., November 28 1979.
Hon. JACOB JAVITS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JAVITS: Thank you for your letter of October 30 regarding the Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (the "Moon Treaty") and the Law of the Sea ("LOS") Treaty.

Your letter arrived in the Department only a day before the General Assembly's Special Political Committee adopted by consensus a resolution commending the Moon Treaty and recommending that it be opened for signature. (The resolution was cosponsored by 28 countries, including the United States, Australia, Belgium, Canada, France, the Netherlands, West Germany, the United Kingdom, Italy and Japan.) Under the circumstances, it was not possible to consider adequately the proposals in your letter prior to the Committee's action. We did take the opportunity offered by the debate on the resolution to place in the record our interpretaton of various treaty provisions, including those to which you refer. (Our statement is enclosed for your information.) The resolution will next go to the General Assembly. As a practical matter there would be no support for returning the Treaty to the Outer Space Committee; it will inevitably be approved by the General Assembly.

Of course, our cosponsorship of the resolution and joining in consensus approval of the resolution does not entail legal obligations for the United States. Only ratification of the Treaty after the advice and consent of the Senate can impose binding obligations upon the United States. The Administration has not yet turned to questions relating to signature of the Treaty or its submission to the Senate. When we begin to consider such matters, we will give the most careful consideration to concerns which you and others have raised in regard to the Moon Treaty. I would, however, like to address myself to some of your points in a preliminary way.

In regard to the important matter of the exploitation of the natural resources of the moon and other celestial bodies, the Treaty contains no moratorium on exploitation and, in fact, has provisions designed to facilitate and encourage such exploitation. For example, Article XI(3) of the Moon Treaty makes clear that although the 1967 Outer Space Treaty provides that "Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other means," this "non-appropriaton" principle applies to the natural resources of celestial bodies only when such resources are "in place." Thus, Article XI(3) would permit ownership to be exercised by States or private entities over those natural resources which have been removed from their "place" on or below the surface of the moon or other celestial bodies. (Such removal is permitted by the article contained in the 1967 Outer Space Treaty which states, *inter alia*, that "Outer space, including the moon and other celestial bodies, shall be free for exploration and use by all States. . . .")

We also do not believe that the Treaty would benefit the Soviet Union to the disadvantage of the United States. While the Soviet Union first proposed a Moon Treaty, their draft text contained no detailed provisions concerning exploitation. It was, rather, characterized by the Soviets as a "navigation treaty." It was the United States which in 1972 first proposed detailed provisions concerning exploitation and the common heritage concept. (The 1967 Outer Space Treaty, which the United States has ratified with the Senate's advice and consent, already had provided that outer space was the "common province" of mankind and that "the exploration and use of outer space, including the moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development . . . ." (Article I)). Until July of 1979, the Soviet Union maintained strong opposition to the common heritage concept, and it was essentially because of this opposition that the Treaty was not concluded several years ago. Likewise, the Soviets, as well as the United States, opposed the concept of a moratorium on exploitation of natural resources.

The State Department will, of course, continue to keep Congressional members and staff advised in regard to the status of the Moon Treaty, as we have since negotiations commenced in 1972. We have made special efforts at consultations over the course of the past year and a half.

As you note in your letter with respect to LOS Treaty, the United States is opposed to several features of the negotiating text under consideration by the Third UN Conference on Law of the Sea. Our delegation will be making a major effort at the Conference session scheduled for February 27–April 3, 1980, to negotiate changes that will make the concept of the common heritage fully consistent with our objective of securing assured access to deep seabed mineral resources. I believe that the LOS treaty also offers prospective benefits with respect to a number of other importaant national interests.

Sincerely,

CYRUS VANCE.

Mr. JAVITS. In the final analysis, Mr. President, the question is not whether one favors deep sea mining legislation or a Law of the Sea Treaty. The question is how the Congress should act to protect legitimate American interests at this time. In my view, those interests include the pursuit of a reasonable and comprehensive Law of the Sea agreement, but not to the indefinite exclusion of other actions. We should move ahead with this legislation.

Two final points about the legislation itself, as embodied in Senator MATSUNAGA's compromise amendment. Title II of the bill contains the so-called "grandfather rights" language, which is in fact a declaration of congressional expectations about the deep seabed portions of any future Law of the Sea Treaty. The language of title II was added in our committee.

The basic standards suggested in section 201 relate to "assured and nondiscriminatory access, under reasonable terms and conditions" and to "security of tenure." The test as to whether they are met by any future treaty is to be applied by considering "the totality of the provisions of such agreement," not by any one consideration. Since these are very general standards, I would like to expand slightly on their implications.

Surely we must expect that any future Law of the Sea agreement will include new obligations for the United States and additional requirements for mining operations already underway at the time such an agreement comes into force. On such matters as financial obligations, the availability of technology to the International Enterprise, and the so-called "banking system" regarding prospective mine-sites, we can expect to see obligations for the industry that go beyond those in the present legislation. There will no doubt be other requirements as well.

The point of section 201 is not to rule out in advance any such provisions as part of a larger agreement. As the language of the bill says, we will have to consider such provisions in their totality and on their merits when the time comes. What we do say, however, as a declaration of present congressional intent, is that the totality of deep seabed mining provisions in a Law of the Sea Treaty should not impose such "significant new economic burdens" as to have "the effect of preventing the continuation of such operations on a viable economic basis." In other words, the industry must be able to adjust to the new treaty requirements and not be forced out of business.

That is the very purpose of this legislation—to insure that a viable mining industry can be developed. We cannot approve a treaty which has the effect of completely closing out private enterprise from the deep seabeds. But we are not saying that only the system created by this bill is acceptable in an international agreement.

My last point concerns the requirement in section 102(c)(3) on domestic processing. The bill as referred to our committee required that all land-based processing of minerals be carried on in the United States. The only exception to this rule was where such a requirement would undermine the economic viability of an operation. Members of the Foreign Relations Committee were concerned that such a requirement could cause the United States to be in violation of major international commitments. We therefore added the proviso that the President could suspend this requirement in the name of overriding national interests. I think such flexibility is warranted in this case.

Mr. President, I recommend that we pass this legislation and get on with this important new enterprise. At the same time, I hope that we can also look forward to an international solution to the regulation of this industry in a Law of the Sea Treaty.

Mr. President, I am deeply devoted to the attainment of an international seabed mining treaty, but this can only come about if it is fair to both sides and protects the national interest of the United States. In the meantime, this legislation fully accommodates the possibility of a treaty—indeed, will be supplanted by it in the main—at the same time that it puts some control over what could be an uncontrolled race for minerals on the seabed.

This is critically important to us and critically important to every developing nation in the world which may be unable to go out and do any mining and establish a claim itself. Hence, the legislation is very desirable. We so considered it in the Committee on Foreign Relations.

I express the indebtedness of the country, not only of ourselves, to Senator Matsunaga, who has brought this measure to the floor today. I hope it is passed by the Senate.

Mr. PELL. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I wish to add my support for the passage of amendment number 540 to S. 493. This amendment, in the form of a substitute for S. 493 as originally introduced, represents a compromise between five separate Senate committees. It will provide the Federal Government with the authority necessary to promote the continued development of an entirely new deep seabed hard minerals industry, pending the negotiation of an equitable Law of the Sea Treaty.

For almost a century, man has known that mineral-rich nodules cover large areas of the deep ocean floor beyond nations' territorial claims. However, only within the last decade has technological innovation provided private industry with the potential to commercially recover this resource. These round lumps of rock contain, in various concentrations, over 20 separate metallic elements. Of these elements, the most commercially attractive are cobalt, copper, manganese, and nickel.

Current U.S. sources of these metals are inadequate to meet all of our country's consumption demands. According to 1978 Government figures, the United States annually imports 97 percent of its cobalt at a cost of over $212 million; 98 percent of its manganese at a cost of $174 million; 77 percent of its nickel at a cost of $947 million; and 19 percent of its copper at a cost of $770 million. So our stake in this industry is very great.

Deep seabed mining beyond the area of our soverign control will enable the United States to reduce its great dependence on foreign sources of supply for these important metals. American companies lead the world in the development of deep seabed mining technology, but they need a legal framework for their activities between now and when the U.N. Law of the Sea Conference reaches agreement on an international regime for deep seabed activities.

In this latter connection, I have long been a strong advocate and supporter of the Law of the Sea Conference. In 1967, at about the same time that Malta's Ambassador, Arvid Pardo, announced his government's proposal for a treaty declaring deep seabed resources to be the "common heritage of mankind," I introduced a Senate resolution calling for a treaty governing all uses of ocean space. So I have a deep and long-standing personal commitment to the Law of the Sea conference and would not support any legislation that undercut the efforts under way at that conference.

The Law of the Sea negotiations that began in 1973 have focused a great deal of attention on deep seabed mining issues, and it is these thorny issues that continue to hold up the conclusion of the conference. Because of the uncertainty surrounding the ultimate outcome of the Law of the Sea Conference, legislation compatible with our objectives in the Conference is needed if there is to be any "common heritage" from which to benefit. The bill before us today will accomplish that. It is in no way incompatible with a strong commitment to the Law of the Sea Conference; and, in fact, it reinforces that commitment.

Many participants in the Law of the Sea Conference have expressed concern about unilateral action on our part concerning deep seabed mining. They fear that once legislation has been passed, the United States will not negotiate seriously in the Conference. That is not, however, how the passage of this legislation should be interpreted. S. 493 specifically states in the first item under the "purposes" section that the act is intended to "encourage the successful conclusion of a comprehensive Law of the Sea Treaty. * * *" The second purpose, as stated in the bill, is to "establish, pending the ratification by, and entering into force with respect to, the United States of a superseding international agreement relating to such activities, an interim program to encourage and regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by United States citizens."

So it is clear that this bill, if enacted, would be superseded by a Law of the Sea treaty and is only interim in nature, pending the entering into force of a treaty. Moreover, the bill provides for a fund from which expenditures could later be made for the purpose of meeting financial obligations of the United States pursuant to a Law of the Sea treaty. These provisions, I submit, are not actions of a country bent on abandoning serious negotiations. Rather, these provisions reflect the good faith of the United States in honestly pursuing broadly acceptable treaty articles on deep seabed mining in the Law of the Sea negotiations. Nowhere in the legislative history of this bill is there any indication that this bill is designed as a permanent subtsitute for a Law of the Sea treaty, and I really hope that my many friends in other Law of the Sea delegations would realize that.

My friends in other delegations also ought to reflect on the fact that the Law of the Sea conference has been going on for many years and that American mining companies have been very patient with the international effort to establish rules of the game for deep seabed mining.

Moreover, it may take several additional years before a treaty is finally concluded and enters into force. If there is to be any deep seabed mining to regulate at all, there must be an interim regime that provides a bridging legal basis for and diplomatic protection of deep seabed mining. Otherwise, the mining companies, which are at a critical point in their financial planning, simply will not commit or cannot obtain the investment funds necessary to make deep seabed mining a reality. The entire world would be the loser in that event.

Mr. President, I urge the passage of S. 493.

Mr. President, I ask unanimous consent to have printed in the Record a statement by the senior Senator from Idaho (Mr. Church), the chairman of our committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Statement by Mr. Church

I strongly recommend that the Senate adopt amendment number 540 to S. 493, the Deep Seabed Hard Mineral Resources Act. Our consideration of this legislation is indeed a timely achievement. Originally introduced in 1972 by our late colleague, Senator Metcalf, this bill has undergone almost seven years of close Congressional scrutiny. This year alone, it has passed through five separate Senate committees: Foreign Relations, Energy, Commerce, Environment and Public Works and Finance. The Budget Committee has also reviewed this bill in the normal course of granting a budget waiver. In all, 73 Senators are recorded as having voted to report this legislation.

Having undergone substantial amendment, this compromise bill represents a delicate balance between domestic and international interests:

First, it is transitional in nature and reaffirms the commitment of the United States to the achievement of a fair and effective international Law of the Sea agreement, of which a seabed mining regime would be one part.

Second, it ensures access by U.S. citizens to ocean minerals under a sound legal framework predicated upon the well-recognized international law doctrine of the freedom of the high seas.

Third, it contains provisions which ensure that ocean mining is to be conducted in an environmentally responsible manner.

Fourth, it creates a special tax of three-quarters of one percent on gross proceeds resulting from ocean mining by U.S. citizens which is earmarked for future international revenue sharing once a Law of the Sea treaty is concluded and ratified by the Senate.

Finally, the amendment is carefully drafted to avoid any direct or indirect U.S. claim of sovereignty over the deep seabed beyond the limits of national jurisdiction.

I attach a more detailed summary of the important elements of this compromise amendment for the RECORD.

As I stated earlier, this legislation is interim in nature and will be superseded by the ratification of an equitable Law of the Sea agreement. It is to the issue of the interrelationship of this legislation and a future Law of the Sea treaty that I would like to focus the rest of my remarks.

The Law of the Sea negotiations appear to have reached a critical stage. A 1980 deadline imposed by the Third U.N. Conference of the Law of the Sea for completion of its work is accelerating the resolution of the remaining issues. The interests of the United States with respect to these negotiations have several dimensions. A Law of the Sea treaty will be extremely important to a broad range of U.S. interests, including matters as diverse as military transit, shipping, fishing, scientific research, environmental protection and the exploitation of petroleum and hard minerals. The negotiating text pending before the conference has already contributed dramatically to the emergence of new rules of customary international law with respect to 200-mile economic resource zones. Beyond the oceans context, the Law of the Sea negotiations will also establish precedents for future global agreements on a wide array of subjects. It is not unreasonable to expect that economic and political institutions of the future world order will be profoundly affected by the decisions made at the Law of the Sea conference. The deep seabed regime, currently under intensive negotiation, will provide the greatest contribution to that process.

Two aspects of the future regime with deep ocean mineral development seriously impact long-term economic interests of the United States: access to resources and institutional and economic arrangements. Access to ocean minerals of strategic significance, including cobalt, manganese and nickel, will be important to our national security. The decision-making process in the envisioned International Seabed Authority and economic elements of the deep seabed regime—including provisions for a ceiling on seabed mineral production, representation by the International Authority of private enterprise production of seabed minerals in future commodity arrangements, a probable moratorium on mining after 25 years, and the mandatory transfer of technology as a condition of private access—all will significantly affect investment decisions by private entreprise. The decision-making process will, in a very practical sense, ultimately determine the extent to which the United States is able to reduce its dependence on potential unreliable foreign sources of supply.

The access system for ocean mining will also influence future multilateral arrangements for access to the resources of other international areas. Moreover, a decision-making process dominated by the Third World and Eastern Bloc, as the conference negotiating text now provides, could be expected to influence the structure of other international institutions. As a general proposition, production controls, mandatory transfer of technology and other economic aspects of the current draft text, are inconsistent with established U.S. economic policy and conform with the planned economy models of the Third World and Eastern Bloc.

Assured access by U.S. citizens to deep ocean minerals under a future, comprehensive Law of the Sea treaty has long been a major policy goal of this government. It has been repeatedly represented to the Congress by Administration spokesmen that a treaty failing to provide assured access would be unacceptable.

We all know that any Law of the Sea treaty submitted to the Senate must be judged on the degree to which it protects all of the U.S. interests—of which seabed mining is only one. However, any treaty which: Fails to provide assured access by U.S. citizens and security of tenure to U.S. mining operators; Fails to protect the national interest in sound institutional arrangements; forecloses a substantial contribution to national mineral needs by imposing onerous economic conditions and artificial limitations on seabed production; or Creates seriously adverse precedents for future international agreements; would raise serious questions concerning its acceptance by the Senate. I strongly urge the U.S. Delegation to do all that it can to ensure that these interests are protected by any Law of the Sea treaty that may submit to the Senate for its advice and consent.

It is also my belief that Senate passage of this seabed legislation will not have a significant negative effect on the Law of the Sea negotiations. It may, in fact, provide the U.S. Delegation with a negotiating lever to make the lesser developed nations more accommodating to our legitimate economic interests.

In addition, this legislation will:

(1) guarantee the U.S. a degree of control over minerals essential to our economy at a time when many are predicting an increasing world squeeze for access to such minerals;

(2) help reduce our balance of payments deficit; and

(3) provide new jobs at sea and on land for American workers.

Therefore, I strongly urge my colleagues to vote in favor of this compromise amendment.

The summary is as follows:

The compromise amendment to S. 493, amendment number 540 (Calendar No. 373), contains a number of important elements:

First, it is transitional in nature and reaffirms the commitment of the United States to the achievement of a fair and effective international Law of the Sea agreement, of which a seabed mining regime would be one part. No licenses or permits would be issued under the authority of this Act once such a treaty became binding on the United States. The amendment establishes a mechanism whereby the United States will regulate its nationals who conduct ocean mining until a new international system is created by such an agreement, which, if ratified by the Senate, would supercede U.S. legislation.

Second, no U.S. nationals would be permitted to engage in the exploration for, or commercial recovery of, manganese nodules on the deep seabed without a license or permit issued by the federal government. The substitute amendment designates the National Oceanic and Atmospheric Administration (NOAA) as the administrating agency and prohibits the issuance of a license to explore before July 1, 1981, or a permit for commercial recovery before January 1, 1982. These permits would limit the area to be explored or mined by any one company.

Third, the amendment attempts to stabilize the presently uncertain investment climate in the ocean mining industry caused by the fact that the United States has indicated its willingness to agree to change the present international law which permits unrestricted seabed mineral development. Prospective ocean miners are faced with the possibility that new internationally agreed upon terms and conditions may be imposed on them in the near future which could restrict or deny access by private industry to manganese nodule deposits entirely.

In an effort to address this problem, the amendment contains language urging the U.S. negotiators to make good faith efforts to obtain "grandfather rights" for miners who conduct activities under the authority of this act.

It should be noted that this language should *not* be interpreted to mean that the U.S. Government has a legal or moral obligation to compensate U.S. ocean mining firms for investment losses that may be caused by the entry into force of an international agreement on deep seabed mining. The language in this substitute merely commits the U.S. Government to make every good faith effort to negotiate an *economically sound* "grandfather rights" provision.

Fourth, the amendment authorizes the Administrator of NOAA, after a determination by the Secretary of State, to designate foreign nations as reciprocating states for the purpose of recognizing the licenses and permits issued by those countries.

Fifth, it provides for a tax of .75 percent on the resources removed, with the proceeds to be held in escrow and be available for appropriation by Congress for U.S. contributions to a future international revenue-sharing fund created by any future international agreement ratified by the United States.

Sixth, this substitute requires that all vessels used for mining or processing, and at least one out of the two-to-four vessels used for transportation of minerals from each mining site, must be a U.S. flag vessel—i.e., with U.S. crews and subject to U.S. laws. It further provides that all U.S. flag vessels used in connection with seabed mining shall be eligible for operating and construction differential subsidies, and that mining and processing vessels shall be constructed in the United States.

Finally, the amendment establishes environmental standards and procedures to protect the marine environment during the various phases of mining operations.

Mr. JACKSON. Mr. President, I am very pleased that the Senate will have the opportunity today to vote on the Deep Seabed Mineral Resources Act, S. 493. Although the bill was referred to no less than five committees this year, they have each done their work expeditiously and there is broad agreement on the text of the bill.

A large measure of the credit for this set of circumstances belongs to the Senator from Hawaii, SPARK MATSUNAGA. His leadership during consideration of this bill by the Committee on Energy and Natural Resources plus his continued interest as the bill was considered by other committees has been of enormous value. I would like to thank him for these efforts.

The text which the Senate has before it represents a compromise agreement between the five committees to which the bill was referred. I hope that the Senate will pass it today.

OCEAN MINING AND THE LATE LEE METCALF

Mr. President, the ocean mining bill we are considering today was originally fathered by the late Senator Lee Metcalf. Many of us here know that. But few of us know the history of this bill and Lee Metcalf's fascinating and brilliant involvement with it.

Lee got in touch with me back in 1969 rather concerned about an emerging problem of worldwide political proportions and suggested that the then Senate Interior Committee ought to get involved in the matter and hold hearings as soon as possible. Lee said the whole framework of international law governing the oceans was on the verge of disintegration—

> We don't know how far out to sea we can claim leasing rights for our continental shelf. We want to mine the deep ocean floor, but the legal framework for doing so is inadequate.

He urged that as chairman of the committee I give some thought to the matter.

This was barely a decade after the four Law of the Sea Treaties were agreed upon at Geneva in 1958. They concerned the territorial sea, the high seas, the continental shelf, and fisheries. Three of the important unresolved issues left open ended in the 1958 Geneva conventions were: First, the breadth of the territorial sea; second, free transit through and over narrow straits for military ships and aircraft; and third, the seaward limits of the legal continental shelf. Another Law of the Sea Conference was convened in Geneva in 1960 but was unsuccessful in resolving these issues.

About that time, Chile, Equador and Peru were claiming 200-mile territorial seas and advocating that other countries follow suit. The U.S. Defense Department, fearful of these emerging "creeping jurisdictional claims" and their implications for naval mobility set out with the State Department in the mid-1960's to initiate with the Soviets still another Law of the Sea Conference in order to reach agreement on the above indicated issues unresolved in the 1958 and 1960 Law of the Sea Conferences. They wanted to stop the expanding coastal state territorial claims to broadening belts of high seas areas adjacent to their coasts inasmuch as the effect was to shrink the size of the high seas and to obstruct military navigation and overflight.

About the same time, Ambassador Pardo of Malta arranged the creation of an ad hoc Seabed Committee in the U.N. General Assembly with a view toward promoting international interest in a Law of the Sea Conference which would produce a treaty governing the mining of manganese nodules and other ocean floor minerals. The underdeveloped countries under Pardo's leadership wanted to impose a moratorium on mining seabed minerals until a treaty could be fashioned which would give the underdeveloped countries the lion's share of seabed wealth instead of by default allowing the developed nations to "grab" all the nodules for themselves.

Pardo and the "Group of 77", the underdeveloped nation coalition at the U.N., managed not only to get a U.N. ocean mining moratorium resolution adopted at the U.N., but also succeeded in combining the narrow issue Law of the Sea Conference the United States and U.S.S.R. wanted with the Law of the Sea Conference on seabed mining the underdeveloped countries wanted. This way the underdeveloped countries correctly felt they could hold ocean mining "hostage" for their acceptance of the United States and U.S.S.R.'s goal of preserving the freedom of navigation on and over the high seas and international straits.

By 1969 the Defense Department was getting so desperate, it was promoting as U.S. policy that the United States advocate not only giving away rights to mine seabed minerals but also give away to the U.N., or to an international agency to be created by treaty, the rights to produce oil and gas on that part of the continental margin of the United States and all other coastal countries lying beyond the 200 meter isobath.

In response to this DOD initiative the then Under Secretary of the Interior, Russ Train, prevailed upon me to create an Ad Hoc Subcommittee on the Outer Continental Shelf to start hearings on the matter. Lee Metcalf was the natural person to lead the effort and he was appointed chairman of the Ad Hoc Subcommittee on the Outer Continental Shelf on July 23, 1969, to look into all these matters. The committee asked the mining industry and the oil industry to present testimony on these issues.

The oil industry argued for the broadest possible Continental Shelf and the mining industry argued for domestic legislation to preserve and protect the high seas freedom to mine manganese nodules. There were other views expressed as well over a long and comprehensive set of hearings.

Within a year or two underdeveloped coastal nations recognized it was in their best interest to claim a very broad continental shelf and so the possibility of a "giveaway" of the U.S. Continental Shelf became a moot issue.

On May 23, 1970 President Nixon publically announced a U.S. law of the sea position which favored a partial surrender of U.S. ocean mining rights in the direction demanded by underdeveloped countries in order to obtain their agreement on U.S. navigational objectives.

Lee's subcommittee on December 21, 1970 reached unanimous agreement on a report which concluded in part,

> We are nevertheless concerned as he [The President] that the American people may derive their fair share of benefits from the exploration and exploitation of the deep seabed beyond the limits of exclusive national jurisdiction. We share with the President the desire that such ocean resources be used rationally and equitably for the benefit of mankind. Rational and equitable use of deep seabed resources require the establishment of conditions in any future seabed treaty which will encourage investment and insure protected access to those interested in, and capable of, responsibly undertaking mineral recovery operations.

In the past 9 years two major developments have taken place. A U.N. Law of the Sea Conference was convened in Caracas in 1974. For the past four Congresses Lee's ocean mining bill has been slowly gaining momentum. This year Senator MATSUNAGA has become the bill's leading advocate. His active, diligent, and patient sponsorship of S. 493 has led to its being reported by five Senate committees this year.

THE U.N. LAW OF THE SEA CONFERENCE

Nearly all law of the sea issues, including the Defense Department's navigational objectives have been successfully negotiated in draft treaty article form. The major "hangup" which remains at the Law of the Sea Conference relates to terms and conditions affecting ocean mining.

The result to date is a yet incomplete series of treaty articles which create a supernational agency, called the Authority, to govern ocean mining. It would consist of five organs: First, a "Supreme Assembly" in which each member nation would have an equal vote—thus, it would be dominated by the underdeveloped countries; second, a "Council" which would have some say, but subject to Assembly approval, over who gets the right to mine manganese nodules. How votes would be weighted in the Council and who would get to be represented on it is still unresolved. As of this date, the United States is not guaranteed a seat on the Council; third, several technical "Commissions" which would provide technical advice to the Assembly and Council; fourth, a "Tribunal," that is, ocean mining court; and fifth, the "Enterprise" which would be a supernational state-owned, that is, Authority-owned mining company which would compete with private mining companies and Socialist state-owned mining companies.

The Authority would issue "contracts", similar to leases, to ocean miners.

Nearly half of the over 200 pages of draft treaty text relates to the Authority and to terms and conditions for ocean mining. To generalize, however, part of what a private company would be required to do to obtain a contract to mine from the Authority includes the following:

First. Nominate two adjacent mine sites. The Authority decides which one the private company gets and which one it gives to the Enterprise to mine;

Second. Agree to transfer its highly proprietary technology to the Enterprise;

Third. Agree to be bound by production controls established by the Authority;

Fourth. Pay various fees to the Authority such as an application fee of $500,000 and an annual fixed fee of $1 million, which would be replaced by an annual production fee if such production fee—derived from an as yet unsettled formula—were greater than $1 million. Once commercial production actually begins, the contractor has the option of paying either the fixed fee or production charge, whichever is greater, or a sum which would include a partial production charge and a share of the contractor's net mining proceeds. These payments, in addition to the interest free and low interest loans that must be made by state parties to the Convention all go to subsidize the state owned mining entity—the Enterprise, which would be given tax free privileges and incentives for doing business in the United States and other countries; and

Fifth. Comply with many other equally burdensome and onerous terms and conditions, including possibly being forced to agree to joint ventures with the Enterprise.

The next session of the Law of the Sea Conference will be held in early 1980.

Lee Metcalf held hearing after hearing on the progress of the nations of the world in preparing for the Law of the Sea Conference and he held a multitude of hearings since the Law of the Sea Conference began in Caracas in 1974.

Each time the administration would say we are not ready for legislation because final agreement on a treaty is at hand.

Lee had earlier introduced his first version of the ocean mining bill, S. 2801, on June 2, 1972. This was followed by S. 1134 introduced on March 8, 1973. This was followed by amendment 946 to S. 1134 on January 28, 1974.

This was followed by S. 713 introduced on February 18, 1974. S. 2053 was introduced on August 5, 1977, and the current bill before us, S. 493, was introduced on February 26, 1979.

THE OCEAN MINING BILL

The legal reason why an ocean mining bill is necessary is as follows:

The freedom of the high seas doctrine permits ocean mining beyond areas of national jurisdiction. But no nation may claim as sovereign territory deep seabed real estate. Because freedom of the high seas rights—like fishing—are inclusive rights, that is open to all, it is impossible, absent domestic legislation or a treaty, to grant exclusive rights, that is, security of tenure to any ocean mining company.

The interim ocean mining legislation, S. 493, gets around this problem by prohibiting U.S. nationals to mine without a U.S. permit or license and then recognizes reciprocal legislation enacted by other countries on the basis that if such countries respect deep seabed areas where U.S. nationals have licenses or permits the United States will respect areas where they issue licenses or permits to their nationals and prohibit U.S. nationals from mining such areas.

Since conclusion of a seabed mining treaty and its entry into force with respect to the United States is a long way off and because there is some concern that its present draft terms and conditions may not be conducive to private companies investing in ocean mining, legislation is needed now so the development of U.S. mining technology can go forward with the security of tenure and grandfather protection necessary in order to protect companies providing the substantial financing required.

In testimony before four House and four Senate committees in both the last Congress and again this year, administration witnesses have now stated that the bill is necessary legislation.

Lee regrettably was so patient that he waited too long. Even though his name is not on it, this is the bill he began work on over 7 years ago. Patiently he shepherded it through four different Congresses and listened to and heeded those who wanted to wait for still another Congress and another year. We have now delayed this legislation so long that it no longer bears his name. Those of us who have cosponsored it this year, however, are, indeed, aware of its genesis.

Even though there is total objective justification for the bill when viewed from any perspective, we ought to enact it at least partly for Lee who was its original father.

Lee nearly a decade ago had the vision to see the problem before anyone else did and had the wisdom and patience to prepare an interim solution to the problem. That solution is incorporated in this bill. One hundred years from now international law scholars, ocean mining companies and economic historians will look back on it all and properly recognize that Lee Metcalf had the vision to create a whole new era with his ocean mining bill.

Mr. President, many of my colleagues here today have discussed the need for this legislation. We have discussed and documented the long, often tortured legislative history that has preceded today's momentous action. We have cataloged the even more tortured history of the international negotiations occurring both before and after the convening of the Third United Nations Law of the Sea Conference and have noted that with the presentation of each new draft treaty text the U.S. position vis-a-vis seabed mining has been further eroded.

In spite of the steady erosion, we in the Congress have been almost continually asked to hold up on our domestic legislation by the executive branch so that we would not be accused of disrupting the "progress" of the conference. In 1977 when the informal composite negotiating text was first published, Ambassador Richardson expressed our sentiments completely when he labeled it "fundamentally unacceptable." Two years later, the text remains basically the same and yet the executive branch is beginning that old, all too familiar refrain: "Please hold off on enactment, successful conclusion of the treaty is just around the corner."

I am afraid, Mr. President, that I can hold off no longer. As I just stated, the 1979 revised Informal Composite Negotiating Text does not take care of the problem, so apparent to our negotiators in 1977. Let us examine for a minute a few of the key issues.

In 1977, the State Department found it fundamentally unacceptable to allow the creation of a supernational agency, called the International Seabed Authority, which would govern all aspects of seabed mining and resource development. The Authority is with us still today. In 1977, we objected to vesting the political power of the Authority in a "Supreme Assembly," governed by the principle of one-nation, one-vote because it would obviously be dominated by third world developing countries and because there was no other body that had the ability to check the power of such an Assembly.

The Council, the executive organ of the Assembly is a 36-person body elected by the Authority and is supposed to make the day-to-day decisions with respect to who gets the right to mine the seabed minerals; however, the language of the treaty is so ambiguous on these provisions that it is apparent that the decisions of the Council would be subject to a veto by the Assembly through its general policymaking functions. The last General Accounting Office report on Law of the Sea stated:

> [T]he developing countries consider the Council's role to be merely to implement Assembly policies.

In addition, unlike the United Nations Security Council, the United States would not be guaranteed a seat on the Council so that our representation in that body is dependent upon our election by the one nation, one vote and Third World dominated Assembly. In 1979, this arrangement is still a primary feature of the treaty text. As unbelievable as it may seem our negotiators appear quite proud of a change in the text so that the pertinent article, instead of reading "[T]he Assembly is the supreme organ * * *", states that "[T]he Assembly, as the sole organ of the Authority * * * shall be considered the supreme organ * * *." This wording change has been listed as a supposed improvement in the treaty text. Mr. President, if someone here or at the State Department can explain the substantive difference of those two phrases I would greatly appreciate it.

In 1977, the State Department found it fundamentally unacceptable to allow the Authority almost complete discretion as to who would receive contracts to mine and who would not. Our position had always been an insistence that rules and regulations for the granting of contracts be considered in the treaty itself. We felt that the appropriate body should be required to issue contracts in a nondiscriminatory fashion to all qualified applicants.

In 1979, there is still a tremendous amount of discretion in the contract granting process of the treaty. The Council is supposed to review applications on behalf of the authority. This is the same Council of which we just spoke—the one on which the United States is not guaranteed a seat, the one that is supposed to implement the policies of the Third World dominated Assembly. The Council is supposed to act on these contract applications, submitted in the form of plans of work, after a review by a subsidiary body called the Technical Commission. While the Technical Commission was originally envisioned as a nonpolitical advisory body—I note that its members will be elected by the members of the Council taking due account of "the principle of equitable geographical distribution and of special interests." Whose special interests will be considered? No doubt it will again be those of the Third World developing nations who have cleverly negotiated a political organization which they will control.

As if this is not bad enough, the result of yet another compromise in the last negotiating session might insure that no U.S. citizen would ever have a plan of work approved. The Delegation feels that a considerable victory was won when we were able to negotiate a slight change in Council voting procedures such that a certain number of States would be able to block action on certain, specified issues. Unfortunately, included in that compromise is language insisted upon by the developing countries which will enable it to also block approval of work plans.

In 1977, the State Department labeled as fundamentally unacceptable those provisions which spelled out the prerequisite concessions that an individual contractor would have to agree to before a contract would be granted. Those provisions included requirements that a company explore two mine sites and submit all the data as to both. The Authority would then decide which one to give to the Enterprise and which one the private concern could keep. A private citizen attempting to mine would also be required to transfer all technology to be used in the mining operations to the Enterprise and Authority; they would have to agree to the imposition of controls over how much metal could be mined from their minesite—in order to protect the export income of metals-producing countries; they would have to pay extremely high and onerous front end payments to the Authority, to be followed by even higher production changes—all before they were sure that operations would even be able to return a profit; they would have to obtain permission from any third party whose technology would be used to allow for the transfer of such third party's technology; and finally, they would have to agree to transfer any other technology in their possession if it was determined by the Enterprise that such technology was not otherwise available on the market.

It is my sad duty to report, Mr. President, that the great bulk of these provisions exist even today. Our negotiators argue that with some "fine tuning" these provisions will be acceptable. I do not believe, however, that these provisions are susceptible to fine tuning. To me, they are still fundamentally unacceptable, they should be scrapped and renegotiated.

In 1977, and indeed since the outset of the Third United Nations Law of the Sea Conference, we have found the provisions previously noted that would establish production controls over the amounts of metal capable of being mined "fundamentally unacceptable." Yet those provisions are still with us today. In fact, the discussion in the latest Delegation Report leads to the inescapable conclusion that unable to obtain the deletion of these provisions, the State Department decided to accept them and to negotiate further only the question of numbers. Thus the treaty, in addition to its other problems is anticonsumer. The production controls will serve only to maintain the market shares of present land-based producers leading to the maintenance and increasing of artificially high prices that metals consumers throughout the world will have to pay—both for the raw material and finished products derived therefrom. To me, this is still fundamentally unacceptable.

In 1977, Ambassador Richardson felt that it was "fundamentally unacceptable" to allow provisions in the treaty which could be used to share the revenues derived from seabed mining with so-called, self-styled national liberation movements such as the Palestine Liberation Organization. Two, almost 3 years later, the language remains a part of the treaty. The Arab Nations that proposed it and their supporters in the developing nations show no sign of relenting on this issue.

In 1977, the Informal Composite Negotiating Text was labeled "fundamentally unacceptable" because the so-called parallel access system was heavily weighted in favor of mining by the Enterprise—the transnational, state owned (that is, Authority owned) mining venture.

In 1979 the Enterprise enjoys immunities from taxation not enjoyed by private contractors, enjoys immunity from the heavy front end payments heaped upon private parties, and is granted an absolute priority of right when production controls are in effect and the choice of applicants for a mine site is either the Enterprise or an Enterprise-sponsored joint venture and a private party. In addition the Enterprise is to be generously funded by contributions from states who are parties to the treaty in accordance with the U.N. scale of assessments, by the provisions of no interest loans from states parties and by the guarantee of low interest loans and associated debt by states parties. Thus, the treaty continues to, in effect, mandate what has been termed a unitary system of joint venture with forced participation by private citizens if they desire to obtain any benefits from deep seabed mining.

Other provisions contained in the 1977 "fundamentally unacceptable" informal composite negotiating text are still present in the draft text of 1979. These include:

First, provisions for a review conference which could halt further mining after 20–25 years—well after the point in time when Department of Commerce and other studies indicate that the world demand for metals will begin to create scarcities of supply unless new sources of production are tapped;

Second, provisions that require applicants to accept as enforceable all rules and regulations adopted by the Authority—without regard to the timing of such adoptions. This would leave the applicants contracts open to change as the Authority may consider appropriate. When this situation is combined with the lack of provisions that would protect those mining operations underway at the time the treaty takes effect—as mandated by title II of the legislation before us—it will have an obvious chilling effect on the desire of private citizens to engage in the mining of these essential minerals; and

Third, provisions that would limit the number of mine-sites available to states parties or citizens of such states. The result of these so-called anti-density or anti-monopoly provisions would make it doubtful that United States citizens could obtain more than one or two mine sites during the first 25 years of mining under the Treaty. This would result in U.S. corporations working in conjunction with foreign corporations and consequently obtaining sponsorship for mining contracts by another state party. This in turn would lead to the exporting of U.S. jobs and technology.

In sum, Mr. President, I find very little in the 1979 draft of the Law of the Sea Treaty which would dissuade me from the position I held in 1977, that is, the years of negotiation have left the United States with nothing more than a "fundamentally unacceptable" scrap of paper.

It is my fervent hope and I believe that of my colleagues as well, that these negotiations will succeed— that the nations of the world will be able to agree on a set of universal principles governing all users of the ocean.

However, while increasing global economic interdependence would lead us to redouble our efforts, we cannot allow ourselves to be pushed into positions on deep sea mining so inimical to our national interest as those we find ourselves trapped in at the present negotiations.

I hope that our actions and our words here today will not go unheeded by either the State Department or the other negotiators at the United Nations Conference. The present treaty is, I repeat, fundamentally unacceptable. If a treaty that is more balanced cannot be negotiated we will allow our citizens to carry on in perpetuity under the schemes established by this legislation. Its interim nature depends upon the renegotiation of just such a balanced document.

Mr. STONE. Mr. President, I join my colleagues in supporting enactment of the ocean mining legislation before us, S. 493. This legislation, which establishes a legal framework for the mining of deep seabed minerals by U.S. citizens, is vitally necessary if we care to assure U.S. access, on reasonable terms, to the ocean's minerals.

In addition to the many trace minerals found in the manganese nodules which virtually blanket segments of the ocean floor, metals such as copper, nickel, cobalt and, of course, manganese are contained in these potato sized objects. These four metals are all considered "strategic" in the development of U.S. stockpile policies. While land based reserves of these minerals appear generally adequate for the next decade, studies by both the Government and private industry indicate that we will face increasing pressure for access to such supplies starting well before 1990. The problem is further accelerated by the fact that with the exception of copper, the major sources of supply of these minerals to the United States are and will continue to be the Soviet Union, South Africa, Gabon, and other countries that can at best be described as politically uncertain vis-a-vis a U.S. import reliance.

An examination of the key provisions contained in the draft Law of the Sea Treaty makes it seem highly unlikely that the Third U.N. Conference will provide the guaranteed or even reasonably assured access to seabed minerals that the United States has sought. The treaty access system is a highly centralized discretionary system in which an international bureaucracy has final say as to who will be entitled to mine the ocean floor. It provides only limited, conditional, and uncertain access to qualified applicants. These limits, conditions and uncertainties are a function of several different major shortcomings of the treaty, any one of which will probably provide the basis for the Senate rejecting the treaty.

First. The basic political system grants all of its "sovereign" and discrete powers to the one-nation, one-vote supreme Assembly—dominated by third world nations. This run-away body is the supreme organ of the international bureaucracy created by the treaty. The Assembly in turn is to elect the members of the Council—a 36 person body that is to make the day to day decisions with respect to mining activities. However, the language of the treaty text is so ambiguous that it in effect subjects the decisions of the Council to the veto power of the Assembly. Furthermore the treaty does not even provide for a guaranteed seat on the Council or a veto if ever elected to the Council. On the Security Council of the United Nations, by contrast, the United States has a guaranteed permanent seat and the right to veto all or any Security Council actions, thus blocking any U.N. action contrary to U.S. interests. In the structure of the Council of the Seabed Authority, the United States would be powerless even if it were lucky enough to be elected by the third world dominated Supreme Assembly to a Council seat in the first place.

Second. The treaty also contains a production control system which on its face would constitute a criminal violation of the antitrust acts of the United States were companies to get together to rig prices by agreeing to control production of any commodities, including metals. Under the treaty the mineral exporting nations are not only permitted, but required, to get together to fix production quotas in order to keep the supply of metals in sufficiently short worldwide supply to boost prices. This is how our Law of the Sea negotiators are protecting American consumers. With the trend of those developing nations which are mineral exporters toward cutting off the United States from mineral supplies, such as evidenced by the recent and continuing actions of Iran, can we embrace a treaty which sanctions a world government body to do essentially the same thing? I think not.

Third. The treaty creates a transnational state company called the Enterprise as a direct competition to private companies. The treaty creates a preference system for the Enterprise that grants tax, royalty, and application payment immunities to it and therefore accords it a privileged competitive advantage over private mining companies. These incentives when combined with the absolute preference granted to work plans of the Enterprise when the production limitations are in effect, amount to a system of forced joint ventures with the Enterprise. That is to say the only role for U.S. companies under the treaty is to do business with the Enterprise under terms and conditions that it dictates.

Fourth. The technology transfer system contained in the treaty obligates states parties to aid in the transfer of its citizens' technology and obligates contractors, as a condition to gaining a contract to mine, to turn over their technology to the Enterprise and Authority whenever the Authority decides that such technology is not commercially available. Contractors must also obtain written permission from third parties to allow the transfer of their technology to the Enterprise if the private companies are to be permitted to use that technology in ocean mining operations conducted pursuant to the treaty.

Fifth. The review system demanded by Third World nations could terminate access by U.S. companies to ocean minerals after 20 or 25 years—either by Conference adoption of a new regime or by Assembly imposition of a moratorium on mining by private companies.

Sixth. The so-called antimonopoly system mandated by the treaty could terminate access for private companies sponsored by a state party to the treaty. That is, the Authority would be expected to tell the United States that once one of its companies was given a right to mine under the treaty no more U.S. companies would be allowed to mine ocean minerals.

Seventh. The financing system created by the treaty levies heavy financial burdens upon both private U.S. companies and State-owned mining companies. More specifically—private companies are obliged to incur significant, fixed, front-end payments to the Authority as a condition precedent to obtaining the right to mine. The treaty also requires private companies to make escalating royalty payments to the Authority and make profit-sharing payments to the Authority at later stages. When considered in relation to large, early capital requirements and the risks associated with political, technological, and market uncertainties, it is conceivable that the resulting reduction in the rate of return on private investment would prohibit some or all early large-scale investments under the treaty by private companies.

States parties, including the United States, on the other hand will be assessed fees by the Assembly, in accordance with the U.N. scale. This means that U.S. taxpayers are to be expected to foot 25 percent of the bill to maintain the Authority and pay its administrative costs. States parties, particularly the United States, would be further required under the treaty to finance on an interest free basis, and to guarantee debt associated with one-half of the Enterprise's start-up and administrative costs. The other half is to be provided through low interest loans. This could easily amount to a financing burden on the U.S. Government of at least $250 million. Put another way, the U.S. taxpayer would be required to pay one quarter of the costs of financing a world government body intent on depriving U.S. citizens access to ocean minerals.

These provisions, then, are the cornerstone of the policy assuring nonaccess for U.S. citizens to ocean minerals that has been negotiated by our State Department. This is the treaty that our State Department negotiators wish to replace this legislation.

This bill may not only be the best way to establish a legal system guaranteeing access for all qualified ocean miners to ocean minerals—it may indeed be the only way. In this regard, I note that although this legislation is labeled as interim—it will remain the law of the United States as well as a statement of this Nation's policy until such time as an acceptable Law of the Sea Treaty is submitted to this body for its constitutionally mandated responsibility to review the treaty and grant or deny advice and consent to its ratification. I do not foresee this body granting advice and consent to ratification for quite some time, given the wholesale defects of the present treaty text.

Given the recent events in Iran and elsewhere which exemplifies the tenuous balance between issues of mineral access and national security, it is encumbent upon the Senate to insure that the situation we face in oil does not become the situation we face in these strategic metals. If difficulties with the developing nations of the world which export minerals to us is to remain the trend, this Nation must have the capability to provide for itself. I firmly believe, Mr. President, that this legislation is one method of insuring that capability. If the State Department is going to send the Law of the Sea Treaty to this body and ask this body to agree to its ratification and to agree that the treaty will supersede this legislation, it had better start undertaking some serious reconsideration. Mr. President, I am hopeful that the State Department will get the message from this body that it had better go back to the drawing board and start renegotiating a good part of the treaty before sending it to the Senate and hoping to get it ratified.

Mr. MUSKIE. Mr. President, I support the substitute amendment offered by the Senator from Hawaii (Mr. MATSUNAGA). Amendment No. 540 is a fair compromise of the positions adopted by the several committees with jurisdiction over the deep ocean mineral resources program.

Several provisions of the bill are noteworthy. The amendment incorporated in the substitute as section 109(f), which was authored by the Environment and Public Works Committee, is an amendment of particular concern.

This amendment clarifies the authority of the Environmental Protection Agency to regulate effluent discharges from vessels engaged in ocean mineral exploration, extraction and processing activities. The language of section 109(f) is critical, given the nature of discharges from these vessels. Preliminary analyses of deep ocean mining processes indicate the production of byproducts such as chromium, cadmium, and arsenic. These elements could be toxic to marine life. The presence of these potentially harmful pollutants is sufficient justification for implementation of a regulatory scheme such as the Clean Water Act and regulations promulgated thereunder. This is the intent of section 109(f).

The section 109(f) language clarifies the intent of section 502(12)(B) of the Clean Water Act that vessels not used for the primary purpose of transportation were not intended to be excluded from the national pollutant discharge elimination system by the mere fact that they are operating in or on water. Rather, as the language of section 109(f) states:

> Any discharge of a pollutant from such vessel or other floating craft shall be subject to the Clean Water Act.

As explained in the report of the Environment and Public Works Committee accompanying this legislation (S. Rept. 96-360), section 109(f) clarifies the continued applicability of the Clean Water Act to all offshore mineral exploration, recovery, and processing activities.

As new sources under the Clean Water Act, vessels engaged in exploration, recovery or processing of ocean bed minerals must comply with section 306 of the Clean Water Act. This provision will bring to bear the legal requirements of the National Environmental Policy Act prior to the issuance of permits or licenses, including preparation of environmental impact statements by the permitting agency.

A further point needs clarification. As reported by the Committee on Environment and Public Works, S. 493 deals explicitly with the seabed and water pollution problems associated with deep-sea mining. Less evidence exists relating to the other environmental consequences of deep seabed mining. It is possible, indeed it may be likely, that action will be required to protect other environmental interests. But since none of these facilities has yet been built, we cannot state with certainty what air pollution, toxic pollution, or other consequences may flow from their construction and operation. For this reason, it was not possible to deal with them explicitly.

However, section 105 of S. 493 imposes limitations on the administrator's authority to issue licenses and permits. For the purpose of protecting the range of environmental interests at stake, subparagraph 105(a)(4) requires a finding that the exploration or recovery "cannot be reasonably expected to result in a significant adverse effect on the quality of the environment." This formulation clarifies the duty of the administrator to protect public health and the environment while permitting him the flexibility to deal with circumstances which are presently unknown.

The administrator should protect public health and the environment at least to the extent required under existing domestic environmental statutes. In fact, in some circumstances, it could become necessary to impose even more stringent abatement requirements. Ambient air quality standards, lowest achievable emission rates, and best available technology requirements under the Clean Air Act, environmental- and health-based requirements of the Toxic Substances Control Act, and other related statutes are applicable and should not be waived in the granting of permits under this legislation.

The committee was alerted specifically to the hazards posed to ocean waters, marine life, and the bottom environment by the effluent discharges. Because of the apparent immediacy of the harm, the committee specifically addressed the water pollution problem with the language of section 109(f), the amendment offered last year by Senator Clifford Case. Other consequences are more speculative, hence the committee did not address them with specific language. This should not be interpreted as a desire to leave air emissions and toxic discharges unregulated.

Mr. MATSUNAGA. Mr. President, the principal Senate sponsor of the previous versions of this legislation was our former colleague, the late Senator Lee Metcalf.

During our all too brief service together on the Energy and Natural Resources Committee, Senator Metcalf convinced me of the wisdom of the basic objectives and principles of the bill. I am proud to carry on the important work he started.

When the Deep Seabed Mineral Resources Act becomes law, it shall stand as a living memorial to Lee Metcalf.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MATSUNAGA. I yield.

Mr. JAVITS. Mr. President, I think we pay altogether too little note to Senator Metcalf's career. He was a wonderfully fine human being.

I join Senator MATSUNAGA in his comments in paying tribute to the late Senator Metcalf. I did not know that much about the matter in terms of Senator Metcalf's work in this respect.

I do not know any of us who would not consider some great law or laws as being our best memorial. To hail this law as a tribute to Lee Metcalf is a fine sentiment, in which I join.

Mr. MATSUNAGA. I thank the Senator.

Mr. PELL. Mr. President, I join in that thought. Senator Metcalf contributed to the Nation in many ways, and this is an example of one way in which he did contribute. It is a real monument, one which we would all like with respect to the effect of our ideas and thoughts on generations to come.

Mr. HATFIELD. Mr. President, when I came to the U.S. Senate some 12 or 15 years ago, Senator Metcalf was then on the Interior Committee, and it was my privilege to serve with him for a number of years on that committee, both on the subcommittee which he chaired as well as on the full committee. We had many opportunities to hold field hearings and other hearings in which he presided.

I recall the fairness with which Senator Metcalf presided, as well as the strength of his presiding character. He kept a heavy hand on the gavel, and he was able to make sure that the hearing proceeded in order but that it proceeded in such a way that every witness was given adequate opportunity to testify and the courtesy of a listening committee.

Senator Metcalf was not only a sensitive person but also one who had great background and depth of understanding of this subject.

I affirm and underscore, by virtue of my own personal friendship and relationship to Senator Metcalf, the comments of tribute which have been made.

I also feel that it is appropriate to note that Senator MATSUNAGA picked up that mantel of leadership in this particular piece of legislation and has carried it well. His persistence in bringing it to this point of action is indeed a tribute to his leadership.

Mr. Mike Harvey, of our staff, indicated to me, as we were on our way to the floor today, that after 7 years, this bill has now reached this place, to be voted on for the first time on the floor of the U.S. Senate; and because it has had the careful scrutiny of five committees, 72 Senators this year have cast a vote on this particular piece of legislation, as a result of the activities of those five committees.

I thought that piece of information would be important to illustrate the kind of complexity through which this bill has moved and the leadership Senator MATSUNAGA has given it.

I am ready to yield back the remainder of my time, Mr. President.

Mr. MATSUNAGA. I thank the Senator from Oregon.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Oregon has 5 minutes.

Mr. HATFIELD. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the nature of a substitute.

The amendment in the nature of a substitute (No. 540) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 493

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Deep Seabed Mineral Resources Act".

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FINDINGS AND PURPOSES

SEC. 2. (a) FINDINGS.—The Congress finds that—

(1) exploration for and commercial recovery of hard mineral resources of the deep seabed and the conduct of scientific research on and above the deep seabed and above the Continental Shelf are freedoms of the high seas to be exercised with reasonable regard for the interests of other states in their exercise of those and other freedoms of the high seas recognized by general principles of international law;

(2) the United States supported United Nations General Assembly Resolution 2749 (xxv) declaring the principle that the mineral resources of the deep seabed are the common heritage of mankind, but anticipated that this principle would be legally defined under the terms of a comprehensive international Law of the Sea Treaty to be agreed upon in the future;

(3) the United States is engaged in international negotiations to formulate a comprehensive Law of the Sea Treaty;

(4) it is in the national interest of the United States to encourage a widely acceptable Law of the Sea Treaty, which will provide a new legal order for the oceans covering a broad range of United States ocean interests, including exploration for a commercial recovery of hard mineral resources of the deep seabed;

(5) in addition to giving legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind, an acceptable Law of the Sea Treaty must fully protect assured and nondiscriminatory access to the hard mineral resources of the deep seabed for all nations and provide for a regulatory regime adequate to assure protection of the environment;

(6) the environmental effects of recovery of hard mineral resources from the deep seabed are poorly understood, and, in order to comply with the National Environmental Policy Act of 1969, the environmental assessment of such recovery which the United States is presently conducting must be accelerated;

(7) the requirements for hard minerals to satisfy national industrial and security needs will continue to expand and the demand for such minerals will increasingly exceed the available domestic sources of supply;

(8) the United States is dependent upon foreign sources of supply for certain hard minerals and the acquisition of such minerals from foreign sources is an adverse factor in the national balance-of-payments position;

(9) the present and future national security and economic interests of the United States would benefit from the availability of hard mineral resources which are independent of the export policies of foreign nations;

(10) an alternate source of supply of certain hard minerals and metals significant in relation to national needs, including nickel, copper, cobalt, and manganese, is contained in the nodules which are found in great abundance on the deep seabed;

(11) various mining companies are engaged in developing the technology necessary for the commercial recovery and processing of such nodules;

(12) given the necessary investment climate, United States mining companies are prepared to initiate commercial recovery and processing of the hard mineral resources of the deep seabed;

(13) it is in the national interest, and in the international interest in early derivation of benefits from the hard mineral resources of the deep seabed, that the United States maintain a strong and innovative industry devoted to the exploration for and commercial recovery of such resources, that an interim program to encourage exploration and commercial recovery activities of United States citizens be established, and that such activities be regulated in a manner to protect the quality of the environment and to promote the safety of life and property at sea; and

(14) since failure to conclude a Law of the Sea Treaty may retard the development of the technology necessary to commercially recover and process the hard mineral resources of the deep seabed and the acquisition of the information and regulatory experience necessary for the protection of the quality of the environment, transitional domestic legislation is required to provide an interim program to encourage the development of such technology and to assure that the development and application of such technology are accomplished in a manner so as to assure such protection.

(b) PURPOSES.—The Congress declares that the purposes of this Act are to—

(1) encourage the successful conclusion of a comprehensive Law of the Sea Treaty, which will give legal definition to the principle that the hard mineral resources of the deep seabed are the common heritage of mankind and which will assure, among other things, nondiscriminatory access to such resources for all nations;

(2) establish, pending the ratification by, and entering into force with respect to, the United States of a superseding international agreement relating to such activities, an interim program to encourage and regulate the exploration for and commercial recovery of hard mineral resources of the deep seabed by United States citizens; and

(3) accelerate the program of environmental assessment of exploration for and commercial recovery of hard mineral resources of the deep seabed and assure that such exploration and recovery activities are conducted in a manner which will encourage the conservation of such resources, protect the quality of the environment, and promote the safety of life and property at sea.

INTERNATIONAL OBJECTIVES OF THIS ACT

SEC. 3. (a) DISCLAIMER OF EXTRATERRITORIAL SOVEREIGNTY.—By the enactment of this Act, the United States—

(1) assures that every United States citizen exercising the high seas freedom to explore for and commercially recover the hard mineral resources of the deep seabed is entitled to the diplomatic protection of the United States;

(2) exercises its jurisdiction in accordance with generally accepted principles of international law recognized by the United States; and

(3) exercises such jurisdiction to regulate United States citizens and vessels and foreign persons and vessels otherwise subject to its jurisdiction in the exploration for, and commercial recovery of, hard mineral resources of the deep seabed; but

(4) does not thereby assert sovereignty or sovereign or exclusive rights over, or the ownership of, any areas of the deep seabed.

(b) SECRETARY OF STATE.—(1) The Secretary of State is encouraged to negotiate successfully a comprehensive Law of the Sea Treaty, or failing negotiation of such a treaty, to negotiate multilateral treaties or other international agreements, which, among other things, provide assured and nondiscriminatory access to the hard mineral resources of the deep seabed for all nations, give legal definition to the principle that the resources of the deep seabed are the common heritage of mankind, and provide for the establishing of requirements for the protection of the quality of the environment as stringent as those promulgated pursuant to this Act.

(2) Until such a treaty or agreement is concluded, the Secretary of State is encouraged to promote any international actions necessary to adequately protect the environment from adverse impacts which may result from the exploration for and commercial recovery of hard mineral resources of the deep seabed carried out by persons not subject to this Act, and to encourage other nations with an interest in deep seabed mining to adopt provisions consistent with subsection 109(e) of this Act.

(3) On or before January 1 of each year after 1979 in which no treaty or agreement referred to in section 201(3) of this Act has been concluded, the Secretary of State shall report to the Congress on the progress, if any, toward such treaty or agreement and advise the Congress as to any amendments to this Act or any other Act which he believes would be of assistance in concluding such treaty or agreement.

DEFINITIONS

SEC. 4. For purposes of this Act the term—

(1) "commercial recovery" means any activity engaged in at sea to recover any hard mineral resource at a substantial rate, without regard to profit or loss, for the primary purpose of marketing or commercially using such resource, and, if such recovered resource will be processed, or the waste thereof disposed of, at sea, such processing and disposal;

(2) "Continental Shelf", until such time as a new definition of the limits of national jurisdiction over seabed mineral resources of the continental margin may be agreed to as part of a comprehensive Law of the Sea Treaty which enters into force for the United States, means—

(A) the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, to a depth of two hundred meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such submarine area; and

(B) the seabed and subsoil of similar submarine areas adjacent to the coast of islands;

(3) "controlling interest", for the purposes of section 4(16)C means a direct or indirect legal or beneficial interest in or legal power or influence over another person, directly or indirectly, arising through direct, indirect, or interlocking ownership of capital stock, interlocking directorates or officers, contractual relations or by any other means whatsoever which substantially impair the independent business behavior of another person;

(4) "deep seabed" means the seabed, and the subsoil thereof to a depth of ten meters, lying seaward of and outside—

(A) the Continental Shelf of any nation; and

(B) for the purposes of this Act only, any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States;

(5) "exploration" means—

(A) any at-sea observation and evaluation activity which has, as its objective, the establishment and documentation of—

(i) the nature, shape, concentration, location, and tenor of a hard mineral resource; and

(ii) the environmental, technical, and other appropriate factors which must be taken into account to achieve commercial recovery; and

(B) the taking from the deep seabed of such quantities of any hard mineral resource as are necessary for the design and testing of equipment which is intended to be used in the commercial recovery and processing of such resource;

(6) "hard mineral resource" means any deposit or accretion on the deep seabed of nodules which include one or more minerals, at least one of which contains manganese, nickel, cobalt, or copper;

(7) "Law of the Sea Treaty" means a comprehensive agreement concluded through negotiations at the Third United Nations Conference on the Law of the Sea, relating to (among other matters) the exploration for and commercial recovery of hard mineral resources and the establishment of an international regime for the regulation thereof;

(8) "license" means a license to explore for hard mineral resources issued pursuant to this Act;

(9) "licensee" means any holder of a license issued pursuant to this Act;

(10) "permit" means a permit to engage in commercial recovery of hard mineral resources issued pursuant to this Act;

(11) "permittee" means any holder of a permit issued pursuant to this Act;

(12) "person" means any United States citizen, any individual, and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any nation;

(13) "reciprocating state" means any foreign nation designated as such by the Administrator upon a determination by the Secretary of State, pursuant to section 117;

(14) Administrator means the Administrator of the National Oceanic and Atmospheric Administration;

(15) "United States" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States; and

(16) "United States citizen" means—

(A) any individual who is a citizen of the United States; or

(B) any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any of the United States; or

(C) any corporation, partnership, joint venture, association, or other entity (whether organized or existing under the laws of any of the United States or a foreign nation) if the controlling interest in such entity is held by an individual or entity described in subparagraph (A) or (B).

TITLE I—REGULATION OF EXPLORATION AND COMMERCIAL RECOVERY OF UNITED STATES CITIZENS

PROHIBITED ACTIVITIES BY UNITED STATES CITIZENS

SEC. 101. (a) PROHIBITED ACTIVITIES AND EXCEPTIONS.—(1) No United States citizen may engage in exploration or commercial recovery unless authorized to do so under—

(A) a license or permit issued pursuant to this Act; or

(B) an equivalent authorization issued by a reciprocating state; or

(C) an international agreement which is in force with respect to the United States.

(2) The prohibitions of this subsection shall not apply to any of the following activities conducted by any United States citizen:

(A) scientific research, including that concerning hard mineral resources;

(B) mapping, or the taking of any geophysical, geochemical, oceanographic or atmospheric measurements or bottom samplings of the deep seabed, if such taking does not significantly alter the surface or subsurface of the deep seabed or significantly affect the environment;

(C) the design, construction, or testing of equipment and facilities which will or may be used for exploration or commercial recovery, if such design, construction, or testing (i) is conducted on shore, or (ii) does not involve the recovery of any but incidental hard mineral resources;

(D) the furnishing of machinery, products, supplies, services, or materials of any exploration or commercial recovery activity; or

(E) activities, other than exploration or commercial recovery activities, of the Federal Government.

(b) EXISTING EXPLORATION.—Subsection (a)(1)(A) shall not be deemed to prohibit any United States citizen who is engaged in exploration before the effective date of this Act from continuing to engage in such exploration—

(1) if such citizen applies for a license under section 103(a) with respect to such exploration within such reasonable period of time as the Administrator shall prescribe after the date on which initial regulations to implement section 103(a) are issued; and

(2) until such license is issued to such citizen or a final administrative or judicial determination is made affirming the denial of certification of the application for, or issuance of, such license.

However, if the President by Executive order determines that immediate suspension of exploration activities is necessary for the reasons set forth in section 106(a)(2)(B) or the Administrator determines that immediate suspension of activities is necessary to prevent a significant adverse effect on the environment or to preserve the safety of the life and property at sea, the Administrator is authorized, notwithstanding other requirements of this Act, to issue an emergency order requiring such United States citizen to immediately suspend his exploration activities. Furthermore, the timely filing of any application for a license under paragraph (1) shall entitle the applicant to priority of right for the issuance of such license under section 103(b). In any case in which more than one application referred to in paragraph (1) is filed based on work plans required by section 103(a)(2) which refer to all or part of the same deep seabed area, the Administrator shall, in taking action on such applications, apply principles of equity which take into consideration, among other things, the date on which the applicants or predecessors in interest, or component organizations thereof, commenced exploration activities and the continuity and extent of such exploration and amount of funds expended with respect to such exploration.

(c) INTERFERENCE.—No United States citizen may interfere, or participate in interference, with any activity conducted by any licensee or permittee which is authorized to be undertaken pursuant to a license or permit issued by the United States pursuant to this Act or any activity conducted by the holder of, and authorized to be undertaken pursuant to, an equivalent authorization issued by a reciprocating state. United States citizens shall exercise their rights on the high seas with reasonable regard to the interest of other states in their exercise of the freedoms of the high seas.

LICENSES FOR EXPLORATION AND PERMITS FOR COMMERCIAL RECOVERY

SEC. 102. (a) AUTHORITY TO ISSUE.—Subject to the provisions of this Act, the Administrator shall issue licenses for exploration and permits for commercial recovery to United States citizens.

(b) NATURE OF LICENSES AND PERMITS.—(1) A license or permit issued under this Act shall authorize the holder thereof to engage in exploration or commercial recovery, as the case may be, consistent with the provisions of this Act, the regulations issued by the Administrator to implement the provisions of this Act, and the specific terms, conditions, and restrictions applied to the license or permit by the Administrator.

(2) Any license or permit issued under this Act shall be exclusive with respect to the holder thereof as against any other United States citizen or any citizen, national or governmental agency of, or any legal entity organized or existing under the laws of, any reciprocating state. In particular, no such license or permit shall be issued which conflicts with a valid existing license or permit or with an equivalent authorization previously issued by a reciprocating state.

(3) A valid existing license shall entitle the holder, if otherwise eligible under the provisions of this Act and regulations promulgated hereunder, to a permit for commercial recovery. Such a permit recognizes the right of the holder to recover, own, take away, use, and sell the hard mineral resources pursuant to the permit.

(4) Every licensee and permittee shall be entitled to the diplomatic protection of the United States, and, in the event of interference with the exploration or commercial recovery activities of the licensee or permittee by nationals of other states, the Secretary of State shall use all peaceful means to resolve the controversy, by negotiation, conciliation, arbitration, or resort to agreed tribunals.

(c) RESTRICTIONS.—(1) The Administrator may not issue—

(A) any license or permit after the date on which an international agreement pertaining to exploration and commercial recovery enters into force with respect to, and is ratified by, the United States, except to the extent that issuance of such license or permit is not materially inconsistent with such agreement;

(B) any license or permit the work plan of which, submitted pursuant to section 103(a)(2), would apply to an area to which applies, or would conflict with, any work plan submitted with any pending application to which priority of right for issuance applies under section 103(b); any work plan associated with any existing license or permit; or any equivalent authorization which has been issued, or for which formal notice of application has been submitted, by a reciprocating state prior to the filing date of any relevant application for licenses or permits pursuant to this Act;

(C) a permit authorizing commercial recovery within any area of the deep seabed in which exploration is authorized under a valid existing license issued to other than the licensee for such area;

(D) any exploration license before July 1, 1981, or any permit which authorizes commercial recovery to commence before January 1, 1982;

(E) any license or permit the work plan for which applies to any area of the deep seabed if, within the three-year period before the date of application for such license or permit, (i) the applicant therefor surrendered or relinquished such area under a work plan associated with a previous license or permit issued to him, or (ii) a license or permit previously issued to the applicant had a work plan which applied to such area and such license or permit was revoked under section 106; or

(F) a license or permit, or transfer of such, except to a United States citizen.

(2) No permittee may use any vessel for the commercial recovery of hard mineral resources or for the processing of such resources at sea unless the vessel is constructed in the United States and documented under the laws of the United States. Each permittee shall use at least one vessel documented under the laws of the United States for the

transportation from each mining site of hard mineral resources commercially recovered under the permit. For the purposes of the shipping laws of the United States, any vessel documented under the laws of the United States and used for the commercial recovery of, for the processing of, or in the transportation from any mining site of hard mineral resources recovered under a permit issued under this title shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the Merchant Marine Act, 1936.

(3) Except as otherwise provided in this paragraph, the processing on land of hard mineral resources recovered pursuant to a permit shall be conducted within the United States: *Provided*, That the President does not determine that such restrictions contravene the overriding national interests of the United States. The Administrator may allow the processing of hard mineral resources at a place other than within the United States if he finds, after opportunity for an agency hearing, that—

(A) the processing of the quantity concerned of such resource at a place other than within the United States is necessary for the economic viability of the commercial recovery activities of a permittee; and

(B) satisfactory assurances have been given by the permittee that such resource, after processing, to the extent of the permittee's ownership therein, will be returned to the United States for domestic use, if the Administrator so requires after determining that the national interest necessitates such return.

LICENSE AND PERMIT APPLICATIONS, REVIEW, AND CERTIFICATION

SEC. 103. (a) APPLICATIONS.—(1) Any United States citizen may apply to the Administrator for a license or a permit.

(2)(A) Applications for issuance or transfer of licenses and permits shall be made in such form and manner as the Administrator shall prescribe in general and uniform regulations and shall contain such relevant financial, technical, and environmental information as the Administrator may by regulations require as being necessary and appropriate for carrying out the provisions of title I of this Act. In accordance with such regulations, each applicant for a license or permit shall submit a work plan, as described in subparagraphs (B) and (C) of this paragraph (2), which sets forth the activities proposed to be carried out during the period of the license or permit.

(B) The work plan for a license shall describe the area to be explored and include the intended exploration schedule and methods to be used, the development and testing of systems for commercial recovery to take place under the terms of the license, an estimated schedule of minimum expenditures for the purpose of assisting the Administrator in determining whether the licensee is in compliance with section 108(b), measures to protect the environment and to monitor the environmental safeguards and monitoring systems for commercial recovery, and such other information as is necessary and appropriate to carry out the provisions of title I of this Act. The area set forth in a work plan for a license shall be of sufficient size to allow for intensive exploration.

(C) The work plan for a permit shall include the intended schedule of commercial recovery, environmental safeguards and monitoring systems, details of the area or areas proposed for commercial recovery, the methods and technology to be used for commercial recovery and processing, a resource assessment thereof, and such other information as is necessary and appropriate to carry out the provisions of title I of this Act.

(D) The applicant shall select the size and location of the work plan area, which shall be approved unless the Administrator finds that:

(i) the size of the area is not a logical mining unit; or

(ii) commercial recovery activities in the proposed location would result in a significant adverse impact on the quality of the environment which cannot be avoided by the imposition of reasonable restrictions.

For purposes of this subparagraph (D), "logical mining unit" means an area of the deep seabed—

(i) for a license, which can be explored under the license in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant set out in the work plan; or

(ii) for a permit, in which the mineral resource can be recovered in sufficient quantities to satisfy the permittee's estimated production requirements over the initial twenty-year term of the permit in an efficient, economical, and orderly manner with due regard for conservation and protection of the environment taking into consideration the resource data, other relevant physical and environmental characteristics, and the state of the technology of the applicant set out in the work plan: *Provided*, That such area shall not be larger than is necessary to satisfy the permittee's estimated production requirements over the initial twenty-year term of the permit, and that the permittee's estimated production requirements are not found by the Administrator to be unreasonable in relation to the area set out in the work plan.

(b) PRIORITY OF RIGHT FOR ISSUANCE.—Subject to section 101(b), priority of right for the issuance of licenses to applicants shall be established on the basis of the chronological order in which license applications which are in substantial compliance with the requirements established under subsection (a)(2) of this section are filed with the Administrator. Priority of right shall not be lost in the case of any application filed which is in substantial but not full compliance with such requirements if the applicant thereafter brings the application into conformity with such requirements within such reasonable period of time as the Administrator shall prescribe.

(c) ELIGIBILITY FOR CERTIFICATION.—Before the Administrator may certify any application for issuance or transfer of a license or permit, he must find in writing, after consultation with other departments and agencies pursuant to subsection (e) of this section, that—

(1) the applicant has demonstrated that, upon issuance or transfer of the license or permit, he will be financially responsible to meet all obligations which may be required of a licensee or permittee to engage in the exploration or commercial recovery proposed in the application;

(2) the applicant has demonstrated that, upon issuance or transfer of the license or permit, he will have the technological capability to engage in such exploration or commercial recovery; and

(3) the proposed work plan of the applicant meets the requirements of this Act and regulations promulgated pursuant thereto.

(d) ANTITRUST REVIEW.—(1) Whenever the Administrator receives any application for issuance or transfer of a license or permit, he shall transmit promptly a complete copy of such application to the Attorney General and the Federal Trade Commission.

(2) The Attorney General and the Federal Trade Commission shall conduct such antitrust review of the application as they deem appropriate and shall, if they deem appropriate, advise the Administrator of the likely effects of such issuance or transfer on competition.

(3) The Attorney General and the Federal Trade Commission may make any recommendations they deem advisable to avoid any action upon such application by the Administrator which would create or maintain a situation inconsistent with the antitrust laws. Such recommendations may include, without limitation, the denial of issuance or transfer of the license or permit or issuance or transfer upon such terms and conditions as may be appropriate.

(4) Any advice or recommendation submitted by the Attorney General or the Federal Trade Commission pursuant to this subsection shall be submitted within ninety days of receipt by them of the application. The Administrator shall not issue or transfer the license or permit during the ninety-day period, except upon written confirmation by the Attorney General and the Federal Trade Commission that neither intends to submit any further advice or recommendation on the application.

(5) If the Administrator decides to issue or transfer the license or permit for which denial of the issuance of the license or permit therefor has been recommended by the Attorney General or the Federal Trade Commission, or to issue or transfer the license or permit without imposing those terms and conditions recommended by the Attorney General or the Federal Trade Commission as appropriate to prevent any situation inconsistent with the antitrust laws, he shall, prior to or upon issuance or transfer of the license or permit, notify the Attorney General and the Federal Trade Commission of the reasons for such decision.

(6) The issuance of transfer of a license or permit shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws.

(e) OTHER FEDERAL AGENCIES.—The Administrator shall provide by regulation for full consultation and cooperation prior to certification, issuance, and transfer of any license or permit with other Federal agencies or departments which have programs or activities within their statutory responsibilities which would be affected by the activities proposed in the application for the issuance or transfer of a license or permit. Not later than thirty days after the date of enactment of this Act, the heads of any Federal departments or agencies having expertise concerning, or jurisdiction over, any aspect of the recovery or processing of deep seabed minerals shall transmit to the Administrator written comments as to their expertise or statutory responsibilities pursuant to this Act or any other Federal laws. To the extent possible, such agencies shall cooperate to reduce the number of separate actions required to satisfy the statutory responsibilities of these agencies. Each such agency or department shall be offered the opportunity to review each application and, based on its legal responsibilities and authorities, may recommend certification, issuance, or transfer of the license or permit or denial of such certification, issuance, or transfer not later than sixty days after receipt of a complete copy of the application from the Administrator. In any case in which an agency or department recommends denial, it shall set forth in detail the manner in which the application does not comply with any law or regulation within its area of responsibility and shall indicate how the application may be amended, or how terms, conditions or restrictions might be attached to the license or permit, to assure compliance with such law or regulation.

(f) NOTICE, PUBLIC COMMENTS, AND HEARING.—(1) The Administrator shall publish in the Federal Register notice of all applications for licenses and permits; proposals to issue, deny, or transfer licenses and permits; rules and regulations implementing the Act; terms, conditions, and restrictions on licenses and permits; and proposals to modify them significantly. Interested persons shall be permitted to examine the materials relevant to any of these actions, including those portions of the work plan which are not required to be withheld by section 113(c), and shall have at least sixty days after publication of such notice to submit to the Administrator written comments.

(2) The Administrator shall hold at least one public hearing in an appropriate location and shall employ such additional methods as he deems appropriate to inform interested persons and groups about each major action specified in paragraph (1) and to invite their comments thereon.

(g) Review Period.—All time periods for the review of an application for issuance or transfer of a license or permit established pursuant to this section shall, to the maximum extent practicable, run concurrently from the date upon which the application is received by the Administrator.

(h) Application Certification.—Upon considering the public comments received pursuant to subsection (f), and making the applicable determinations and findings required in sections 101 through 103 with respect to any applicant for a license or a permit and the exploration or commercial recovery proposed by such applicant, after completion of procedures, for receiving the application required by this Act, and upon payment by the applicant of the fee required under section 104, the Administrator shall certify the application for the license or permit. The Administrator, to the maximum extent possible, shall endeavor to complete certification action on the application within one hundred and eighty days of its submission. If final certification or denial of certification has not occurred within one hundred and eighty days of submission of the application, the Administrator shall inform the applicant in writing of the then pending unresolved issues, the Administrator's efforts to resolve them, and an estimate of the time required to do so.

LICENSE AND PERMIT FEES

Sec. 104. No application for a license or permit shall be certified, nor shall a transfer of a license or permit be approved, unless the applicant agrees to pay to the Administrator a reasonable administrative fee which shall be deposited into miscellaneous receipts of the Treasury. The amount of the administrative fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred in reviewing and processing the application, including the administrative costs of analyzing data, drafting, reviewing, and publication incurred in preparing the environmental impact statement required by section 109(d).

LICENSE AND PERMIT TERMS, CONDITIONS, AND RESTRICTIONS; ISSUANCE OF LICENSES AND PERMITS

Sec. 105. (a) Eligibility for Issuance of License or Permit.—Before the Administrator may issue a license or permit, he must find, in writing, after consultation with interested departments and agencies pursuant to section 103(e) and upon considering the public comments received pursuant to section 103(f), that the exploration or commercial recovery proposed in the application—

(1) will not unreasonably interfere with the exercise of the freedoms of the high seas by other states, as recognized under general principles of international law;

(2) will not conflict with any international obligation of the United States established by any treaty or international convention in force with respect to the United States;

(3) will not create a situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict;

(4) cannot reasonably be expected to result in a significant adverse effect on the quality of the environment, taking into account the analyses and information in any applicable environmental impact statement prepared pursuant to section 109 (c) and (d); and

(5) will not pose an inordinate threat to the safety of life and property at sea.

(b) Issuance of Licenses and Permits With Terms, Conditions, and Restrictions.—(1) Within 180 days after certification of any application for a license or permit under section 103(h), the Administrator shall propose terms and conditions for, and restrictions on, the exploration or commercial recovery proposed in the application which are consistent with provisions of this Act and regulations promulgated hereunder. If additional time is needed, the Administrator shall notify the applicant in writing of the reasons for the delay and indicate the approximate date on which the proposed terms, conditions, and restrictions will be completed. The Administrator shall provide to each applicant a written statement of the proposed terms, conditions, or restrictions. Such terms, conditions, and restrictions shall be generally specified in regulations with general criteria and standards to be used in establishing such terms, conditions, and restrictions for a license or permit and shall be uniform in all licenses or permits, except to the extent that differing physical and environmental conditions require the establishment of special terms, conditions, and restrictions for the conservation of natural resources, protection of the environment, or the safety of life and property at sea.

(2) After preparation and consideration of the final environmental impact statement under section 109(d) on the proposed issuance of a license or permit and subject to the other provisions of this Act, the Administrator shall issue to the applicant the license or permit with the terms, conditions, and restrictions incorporated therein. The licensee or permittee shall be deemed to have accepted such terms, conditions, and restrictions in the license or permit if he does not notify the Administrator within sixty days after receipt of the license or permit of each term, condition, or restriction with which he takes exception. The licensee or permittee may, in addition to such objections as may be raised under applicable provisions of law, object to the terms, conditions, and restrictions if, in his belief, any one or several of them are inconsistent with this Act or the regulations promulgated hereunder. If after the Administrator takes final action on these objections, the licensee or permittee demonstrates that a dispute remains on a material issue of fact, the licensee or permittee is entitled to a decision on the record after the opportunity for an agency hearing pursuant to sections 556 and 557 of title 5, United States Code. Any determination made by the Administrator shall be subject to judicial review pursuant to chapter 7 of title 5, United States Code.

(c) Modification and Revision of Terms, Conditions, and Restrictions.—(1) After the issuance of any license or permit, the Administrator, after consultation with interested agencies and affording the opportunity of an agency hearing on the record, may modify any term, condition, or restriction in such license or permit (i) if relevant data and other information (including, but not limited to, data resulting from exploration or commercial recovery activities under the license or permit) indicate that modification is required to protect the quality of the environment or to promote the safety of life and property at sea and if such modification is consistent with the regulations promulgated to carry out section 109(b); or (ii) to avoid a conflict with any international obligation of the United States, established by any treaty or convention in force with respect to the United States, as determined in writing by the President; or (iii) to avoid any situation which may reasonably be expected to lead to a breach of international peace and security involving armed conflict, as determined in writing by the President.

(2) During the term of a license or a permit, the licensee or permittee may submit to the Administrator an application for a revision of the license or permit. The Administrator shall approve such application upon a finding in writing that the revision will comply with the requirements of this Act and regulations promulgated hereunder.

(3) The Administrator shall establish, by regulation, guidelines for a determination of the scale or extent of a proposed modification or revision for which any or all license or permit application requirements and procedures, including a public hearing, shall apply. Any increase in the size of the area, or any change in the location of an area, to which a work plan applies, except an incidental increase or change, must be made by application for another license or permit.

(4) Any modification pursuant to this subsection shall be subject to the requirements of section 106(a) (3) and (4) and (b) and to judicial review in accordance with chapter 7 of title 5, United States Code, upon a showing by the licensee or permittee that such modification is likely to result in a significant economic loss under a license or permit.

(5) Prior to making a determination to issue, transfer, modify, or renew a license or permit, the Administrator shall consult with any affected Regional Fishery Management Council, as established pursuant to the Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), if the activities taken pursuant to such license or permit would adversely affect any fishery within the Fishery Conservation Zone, or any anadromous species or Continental Shelf fishery resource subject to the exclusive management authority of the United States beyond such zone.

DENIAL OF ISSUANCE, SUSPENSION, AND REVOCATION OF LICENSES AND PERMITS; SUSPENSION AND MODIFICATION OF ACTIVITIES

Sec. 106. (a) Denial, Suspension, Modification, and Revocation.—(1) The Administrator may deny issuance of a license or permit if he finds that the applicant, or the activities proposed to be undertaken by the applicant, do not meet the requirements set forth in section 103(c), section 105(a), or elsewhere in this Act, or regulations promulgated hereunder, for issuance of a license or permit.

(2) The Administrator may—

(A) in addition to, or in lieu of, the imposition of any civil penalty under section 302(a), or in addition to the imposition of any fine under section 303, suspend or revoke any license or permit, or suspend or modify any particular activities thereunder, if the licensee or permittee, as the case may be, substantially fails to comply with any provision of this Act, any regulation issued under this Act, or any term, condition, or restriction of the license or permit; and

(B) suspend or modify particular activities under any license or permit, if such suspension or modification is necessary to avoid any conflict with any international obligation of the United States established by any treaty or convention in force with respect to the United States, or to avoid any situation which may reasonably be expected to lead a breach of international peace and security involving armed conflict, in either case as determined by the President.

(3) No action may be taken by the Administrator to deny issuance of, or to revoke, any license or permit or, except as provided in subsection (c), to suspend any license or permit or suspend or modify particular activities thereunder, unless the Administrator—

(A) publishes in the Federal Register and gives the applicant, licensee, or permittee, as the case may be, written notice of his intention to deny, suspend, modify, or revoke and the reason therefor; and

(B) if the reason for the proposed denial suspension, modification, or revocation is a deficiency which the applicant, licensee, or permittee can correct, affords the applicant, licensee, or permittee a reasonable time, but not more than one hundred and eighty days from the date of the notice or such longer period as the Administrator may establish for good cause shown, to correct such deficiency.

(4) The Administrator shall deny issuance of, or suspend or revoke, any license or permit or order the suspension or modification of particular activities thereunder—

(A) on the thirtieth day after the date of the notice given to the applicant, licensee, or permittee under paragraph (3)(A) unless before such day the applicant, licensee, or permittee requests a review of the proposed denial, suspension, modification, or revocation; or

(B) on the last day of the period established under paragraph (3)(B) in which the applicant, licensee, or permittee must correct a deficiency, if such correction has not been made before such day.

(b) Administrative Review of Proposed Denial, Suspension, Modification, or Revocation.—Any applicant, licensee, or permittee, as the case may be, who makes a timely request under subsection (a) for review of a proposed denial of issuance, a proposed suspension or revocation, of a license or permit, or a proposed suspension or modification of particular activities thereunder is entitled to an adjudication on the record after opportunity for an agency hearing with respect to such denial or proposed suspension or revocation.

(c) Effect on Activities; Emergency Orders.—The issuance of any notice of proposed suspension or revocation of a license or permit or proposed suspension or modification of particular activities thereunder shall not affect the continuation of exploration or commercial recovery activities by the licensee or permittee. The provisions of subsection (a) (3) and (4) and the first sentence of this subsection shall not apply when the President determines by Executive order that an immediate suspension of a license or permit, or immediate suspension or modification of particular activities thereunder, is necessary for the same reasons as set forth in subsection (a)(2)(B), or the Administrator determines that an immediate suspension of a license or permit, or immediate suspension or modification of particular activities thereunder, is necessary to prevent a significant adverse effect on the environment or preserve the safety of life and property at sea, and the Administrator issues an emergency order requiring such immediate suspension.

(d) Judicial Review.—Any determination of the Administrator, after any appropriate administrative review under subsection (b), to issue, deny issuance, transfer, modify, renew, suspend, or revoke any license or permit, or suspend or modify particular activities thereunder, or any immediate suspension of a license or permit, or immediate suspension or modification of particular activities thereunder, pursuant to subsection (c), is subject to judicial review as provided for under chapter 7 of title 5 of the United States Code.

DURATION OF LICENSES AND PERMITS

Sec. 107. (a) Duration of a License.—Each license shall be issued for a period of ten years. If the licensee has substantially complied with the license and the work plan associated therewith and has requested extensions of the license, the Administrator shall extend the license on terms, conditions and restrictions consistent with the Act and the regulations promulgated pursuant thereto for periods of five years each.

(b) Duration of a Permit.—Each permit shall be issued for a term of twenty years and for so long thereafter as hard mineral resources are recovered annually in commercial quantities from the area to which the work plan associated with the permit applies. The permit of any permittee who is not recovering the hard mineral resources in commercial quantities at the end of ten years shall be terminated: *Provided*, That the Administrator shall extend such time period for good cause shown, including force majeure, adverse economic conditions, unavoidable delays in construction, major unanticipated vessel repairs that prevent the permittee from conducting commercial recovery activities during an annual period, or other circumstances beyond the control of the permittee but not beyond the initial twenty-year term of the permit.

PERFORMANCE REQUIREMENTS

Sec. 108. (a) Diligence.—The work plan for a license or permit, approved by the Administrator pursuant to section 103, shall be pursued diligently by the licensee or permittee.

(b) Expenditures.—Each license shall require such periodic reasonable expenditures for exploration by the licensee as the Administrator shall establish, taking into account the size of the area of the deep seabed to which the work plan associated with the license applies and the amount of funds which is estimated by the Administrator to be required to commence commercial recovery of hard mineral resources within the time limit established by the Administrator: *Provided*, That such required expenditures shall not be established at a level which would discourage exploration by persons with less costly technology than is prevalently in use.

(c) Commercial Recovery.—Once commercial recovery is achieved, the Administrator shall, within reasonable limits and taking into consideration all relevant factors, require the permittee to maintain commercial recovery throughout the period of the permit: *Provided*, That the Administrator shall, for good cause shown, including force majeure and adverse economic or other circumstances beyond the control of the permittee, authorize the temporary suspension of commercial recovery activities. The duration of such a suspension shall not exceed one year at any one time, unless the Administrator determines that conditions justify an extension of the suspension.

PROTECTION OF THE ENVIRONMENT

Sec. 109. (a) Environmental Assessment.—(1) Deep Ocean Mining Environmental Study, (DOMES).—The Administrator immediately shall expand and accelerate the program of assessing the effects on the environment from the exploration and commercial recovery activities, including both seabased and landbased processing, and the disposal of processing wastes, so as to provide an as accurate as practicable assessment of environmental impacts of such activities to the Administrator in the implementation of subsections (b), (c), and (d).

(2) Supporting Ocean Research.—The Administrator also shall conduct a continuing program of ocean research to support environmental assessment activity through the period of exploration and commercial recovery authorized by this Act. The program shall include the development, acceleration and expansion, as appropriate, of studies of the ecological, geological, and physical aspects of the deep seabed in general areas of the ocean where exploration and commercial development under the authority of this Act are likely to occur including, but not limited to:

(A) natural diversity of the deep seabed biota;

(B) life histories of major benthic, midwater and surface organisms most likely to be affected by commercial recovery activities;

(C) long- and short-term effects of commercial recovery on the deep seabed biota; and

(D) assessment of both seabased and landbased processing.

Within one hundred and sixty days after enactment of this Act, the Administrator shall prepare a plan to carry out the program, including necessary funding levels for the next five fiscal years, and submit the plan to the Congress.

(b) Terms, Conditions, and Restrictions.—Each license and permit shall contain such terms, conditions, and restrictions, established by the Administrator, which prescribe the actions the licensee or permittee shall take in the conduct of exploration and commercial recovery activities to assure protection of the environment. The Administrator shall require in all activities under new permits, and wherever practicable in activities under existing permits, the use of the best available technologies for the protection of safety, health, and the environment wherever such activities would have a significant effect on safety, health, or the environment, except where the Administrator determines that the incremental benefits are clearly insufficient to justify the incremental costs of using such technologies. Before establishing such terms, conditions, and restrictions, the Administrator shall consult with the Administrator of the Environmental Protection Agency, the Secretary of State, the Secretary of the Interior, and the Secretary of the department in which the Coast Guard is operating and take into account, and give due consideration to, the information contained in each final environmental impact statement prepared with respect to such license or permit pursuant to subsection (d).

(c) Programmatic Environmental Impact Statement.—If the Administrator, in consultation with the Administrator of the Environmental Protection Agency and with the assistance of other appropriate Federal agencies, determines that a programmatic environmental impact statement is required, he shall, as soon as practicable after the enactment of this Act—

(1) with respect to the areas of the oceans in which any United States citizen will undertake exploration and commercial recovery or processing under the authority of this Act—

(A) prepare and publish draft programmatic environmental impact statements which assess the environmental impacts of exploration and commercial recovery in such areas;

(B) afford all interested parties a reasonable time after such dates of publication to submit comments to the Administrator on such draft statements; and

(C) thereafter prepare (giving full consideration to all comments submitted under subparagraph (B)) and publish final programmatic environmental impact statements regarding such areas; and

(2) with respect to the area of the oceans in which exploration and commercial recovery and processing by any United States citizens will likely first occur under the authority of this Act, prepare a draft and final programmatic environmetnal impact statement as required under paragraph (1), except that—

(A) the draft programmatic environmental impact statement shall be prepared and published as soon as practicable but no later than two hundred and seventy days (or such longer period as the Administrator may establish for good cause shown) after the date of the enactment of this Act; and

(B) the final programmatic environmental impact statement shall be prepared and published within one hundred and eighty days (or such longer period as the Administrator may establish for good cause shown) after the date on which the draft statement is published.

(d) ENVIRONMENTAL IMPACT STATEMENTS ON ISSUANCE OF LICENSES AND PERMITS.—The issuance, but not the certification, of any license or permit shall be deemed to be a major Federal action significantly affecting the quality of the human environment for purposes of section 102 of the National Environmental Policy Act of 1969. In preparing an environmental impact statement pursuant to this subsection, the Administrator shall consult with the agency heads cited in subsection (b) and shall take into account, and give due consideration to, the relevant information contained in any other environmental impact statement prepared pursuant to this section. Each draft environmental impact statement prepared pursuant to this subsection shall be published, with the terms, conditions, and restrictions. as proposed pursuant to section 105(b), within one hundred and eighty days (or such longer period as the Administrator may establish for good cause shown in writing) following the date on which the application for the license or permit concerned is certified by the Administrator. Each final environmental impact statement shall be published within one hundred and eighty days (or such longer period as the Administrator may establish for good cause shown in writing) following the date on which the draft environmental impact statement is published.

(e) For purposes of establishing stable reference areas for future resource evaluation and the environmental assessment of deep seabed mining, the Administrator shall designate and establish an appropriate area or areas of the deep seabed as reference zone or zones in which no mining will be allowed by United States citizens and shall designate the size and shape of such area or areas necessary to ensure that their stability will be maintained: *Provided, however,* That this subsection shall not be construed as requiring any substantial withdrawal of deep seabed areas from deep seabed mining authorized by this Act.

(f) For the purposes of this Act, any vessel or other floating craft engaged in commercial recovery or exploration shall not be deemed to be "a vessel or other floating craft" under section 502(12) (B) of the Clean Water Act and any discharge of a pollutant from such vessel or other floating craft shall be subject to the Clean Water Act.

CONSERVATION OF NATURAL RESOURCES

SEC. 110. For the purpose of conservation of natural resources, each license and permit shall contain, as needed, terms, conditions, and restrictions which have due regard for the prevention of waste and the future opportunity to commercially recover the unrecovered balance of the hard mineral resources. In establishing these terms, conditions, and restrictions, the Administrator shall consider the state of the technology, the environmental effects of the exploration or commercial recovery activities, economic and resource data, and the national need for hard mineral resources. As used in this Act, the term "conservation of natural resources" is not intended to grant, imply, or create any inference of production controls or price regulation, in particular those which would affect the volume of production, prices, profits, markets, or the decision by which minerals or metals are to be recovered, except as such effects may be incidental to actions taken pursuant to this section.

PREVENTION OF INTERFERENCE WITH OTHER USES OF THE HIGH SEAS

SEC. 111. Each license and permit shall include such restrictions as may be necessary and appropriate to ensure that exploration or commercial recovery activities conducted by the licensee or permittee do not unreasonably interfere with the interests of other states in their exercise of the freedoms of the high seas, as recognized under the general principles of international law.

SAFETY OF LIFE AND PROPERTY AT SEA

SEC. 112. (a) The Secretary of the department in which the Coast Guard is operating, in consultation with the Administrator, shall require in any license or permit, in conformity with principles of international law, that vessels documented under the laws of the United States and used in activities authorized under the license or permit comply with conditions regarding the design, construction, alteration, repair, equipment, operation, manning, and maintenance relating to vessel and crew safety and the promotion of safety of life and property at sea.

(b) Notwithstanding any other provision of law, such vessels shall be subject to the provisions of the International Voyage Load Line Act of 1973, and to the provisions of titles 52 and 53 of the Revised Statutes and all acts amendatory thereof or supplementary thereto.

RECORDS, AUDITS, PUBLIC DISCLOSURE

SEC. 113. (a) RECORDS AND AUDITS.—(1) Each licensee and permittee shall keep such records, consistent with standard accounting principles, as the Administrator shall by regulation prescribe. Such records shall include information which will fully disclose expenditures for exploration or commercial recovery, including processing, of hard mineral resources, and such other information as will facilitate an effective audit of such expenditures.

(2) The Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for purpose of audit and examination, to any books, documents, papers, and records of licensees and permittees which are necessary and directly pertinent to verify the expenditures referred to in paragraph (1).

(b) SUBMISSION OF DATA AND INFORMATION.—Each licensee and permittee shall be required to submit to the Administrator such data or other information as the Administrator may reasonably need for purposes of making determinations with respect to the issuance, revocation, modification, or suspension of any license or permit; compliance with the reporting requirement in section 402; and evaluation of the exploration or commercial recovery activities conducted by the licensee or permittee.

(c) PUBLIC DISCLOSURE.—Copies of any record, document, report, or other communication received by the Administrator containing data or information required under this title shall be made available to the public upon any request which (i) reasonably describes such communication; and (ii) is made in accordance with rules adopted by the Administrator stating the time, place, fees, not to exceed the direct cost of the services rendered, and procedures to be followed, except that the Administrator shall withhold data or information disclosure of which is prohibited by the Trade Secrets Act (18 U.S.C. 1905).

(d) CRIMINAL OFFENSE.—Any person who knowingly and willfully reveals any trade secret or other confidential or proprietary matter and data or information required to be kept confidential by this Act shall, upon conviction, be punished by a fine of not more than $100,000, or by imprisonment for not more than ten years, or both.

MONITORING OF LICENSEES' AND PERMITTEES' ACTIVITIES

SEC. 114. Each license and permit shall require the licensee or permittee—

(1) to allow the Administrator to place appropriate Federal officers aboard vessels used by the licensee or permittee in exploration or commercial recovery activities to monitor such activities at such time, and to such extent, as the Administrator deems reasonable and necessary and to report to the Administrator whenever such officers or employees have reason to believe there is a failure to comply with terms, conditions, and restrictions of the license or permit;

(2) to cooperate with such officers and employees in the performance of monitoring functions; and

(3) to monitor the environmental effects of the exploration and commercial recovery activities and submit such information as the Administrator finds to be necessary and appropriate to assess environmental impacts and to develop and evaluate mitigation methods and possibilities.

RELINQUISHMENT, SURRENDER, AND TRANSFER OF LICENSES AND PERMITS

SEC. 115. (a) RELINQUISHMENT AND SURRENDER.—Any licensee or permittee may at any time, without penalty—

(1) surrender to the Administrator a license or a permit issued to him; or

(2) relinquish to the Administrator, in whole or in part, any right to conduct any exploration or commercial recovery activities provided by the license or permit: *Provided,* That any licensee or permittee who surrenders a license or permit, or relinquishes any such right, shall remain liable with respect to all violations and penalties incurred by him, and damage to persons or property caused by him, as a result of activities engaged in by him pursuant to such license or permit.

(b) TRANSFER.—Any license or permit, upon written request of the licensee or permittee, may be transferred by the Administrator: *Provided,* That no transfer may occur unless the proposed transferee is a United States citizen and unless and until the Administrator determines that (i) the proposed transfer is in the public interest, and (ii) the proposed transferee and the exploration or commercial recovery activities the transferee proposes to conduct meet the requirements of this Act and regulations promulgated hereunder.

CIVIL ACTIONS

SEC. 116. (a) EQUITABLE RELIEF.—Except as provided in subsection (b) of this section, any person having a valid legal interest which is or may be adversely affected, may commence a civil action for equitable relief on his own behalf, in the United States District Court for the District of Columbia—

(1) against any person who is alleged to be in violation of any provision of this Act or any condition of a license or permit issued pursuant to this Act; or

(2) against the Administrator when there is alleged a failure of the Administrator to perform any act or duty under this Act which is not discretionary.

In suits brought under the subsection, the district court shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties, to enforce the provisions of this Act, or any condition of a license issued pursuant to this Act, or to order the Administrator to perform such Act or duty.

(b) NOTICE.—No civil action may be commenced—

(1) under section (a) (1) of this section—

(A) prior to sixty days after the plaintiff has given notice of the alleged violation to the Administrator and to any alleged violator; or

(B) if the Administrator or the Attorney General has commenced and is diligently prosecuting a civil or criminal action with respect to such matters in a court of the United States: *Provided,* That in any such civil action, any adversely affected person may intervene; or

(2) under subsection (a) (2) of this section, prior to sixty days after the plaintiff has given notice of such action to the Administrator. Notice under this subsection shall be given in such a manner as the Administrator shall prescribe by regulation.

(c) COSTS AND FEES.—The court, in issuing any final order in any action brought pursuant to subsection (a) of this section, may award costs of litigation, including reasonable attorney and expert witness fees, to any party whenever the court determines that such an award is appropriate.

(d) Relationship to Other Law.—Nothing in this section shall restrict the rights which any person or class of persons may have under other applicable law to seek enforcement or to seek any other relief. All vessel safety and environmental requirements of or under this Act shall be in addition to other requirements of law.

RECIPROCATING STATES

Sec. 117. (a) Designation.—(1) The Administrator, in consultation with the Secretary of State, and other appropriate departments and agencies, may designate any foreign nation as a reciprocating state if the Secretary of State finds that such foreign nation—

(A) regulates the conduct of its citizens and other persons subject to its jurisdiction engaged in exploration for, and commercial recovery of, hard mineral resources of the deep seabed in a manner compatible with that provided for in this Act and the regulations promulgated hereunder;

(B) recognizes licenses and permits issued under this Act to the extent that such nation prohibits any person from engaging, under its laws, in exploration or commercial recovery which conflicts with that authorized under any such license or permit including the effective date for permits provided for in section 102(c)(1)(D) of this Act;

(C) recognizes, under its procedures, priorities of rights for applications for licenses or permits which are consistent with those provided for in this Act and the regulations promulgated hereunder; and

(D) provides an interim framework for exploration and commercial recovery which does not unreasonably interfere with the interests of other states in their exercise of the freedom of the high seas, as recognized under general principles of international law.

(2) For the purposes of this section, the term "compatible" shall mean: (i) The adequacy of measures for the protection of the environment, the conservation of natural resources, and the safety of life and property at sea; and (ii) the effectiveness of enforcement provisions.

(b) Effect of Designation.—No license or permit shall be issued under this Act permitting any exploration or commercial recovery which will conflict with any equivalent authorization issued by any foreign nation which is designated as a reciprocating state pursuant to subsection (a).

(c) Notification.—Upon receipt of any application for a license or permit, the Administrator shall immediately notify all reciprocating states of such application. The notification shall include those portions of the work plan, or a summary thereof, and any other appropriate information not required to be withheld from public disclosure by section 113(c).

(d) Revocation of Reciprocating State's Status.—The Administrator, in consultation with the Secretary of State and other appropriate departments and agencies, may revoke the designation of a foreign nation as a reciprocating state if the Secretary of State finds that such foreign nation no longer complies with the requirements of subsection (a). At the request of any holder of an equivalent authorization of such foreign nation, who obtained the equivalent authorization while such foreign nation was a reciprocating state, the Administrator, in consultation with the Secretary of State, may decide to recognize the equivalent authorization for purposes of subsection (b).

(e) Authorization.—The President is authorized to negotiate international agreements necessary to implement this section.

(f) International Consultations.—The Administrator, in consultation with the Secretary of State and the heads of other appropriate departments and agencies, shall consult with foreign nations which enact, or are preparing to enact, domestic legislation establishing a legal framework for exploration and commercial recovery of any hard mineral resources. Such consultations shall be carried out with a view to facilitating the designation of such nations as reciprocating States and, as necessary, the negotiation of international agreements authorized by subsection (e).

TITLE II—TRANSITION TO AN INTERNATIONAL AGREEMENT

DECLARATION OF CONGRESSIONAL INTENT

Sec. 201. It is the intent of Congress—

(1) that any international agreement to which the United States becomes a party should, in addition to promoting other national oceans objectives—

(A) provide assured and nondiscriminatory access, under reasonable terms and conditions, to the hard mineral resources of the deep seabed for United States citizens; and

(B) provide security of tenure by recognizing the rights of United States citizens who have undertaken exploration for, or commercial recovery of, hard mineral resources of the deep seabed under title I before such agreement enters into force with respect to the United States, to continue their operations under terms, conditions, and restrictions which do not impose significant new economic burdens upon such citizens with respect to such operations with the effect of preventing the continuation of such operations on a viable economic basis;

(2) that the extent to which any such international agreement conforms to the provisions of paragraph (1) should be determined by the totality of the provisions of such agreement, including, but not limited to, the practical implications for the security of investment of any discretionary powers granted to an international regulatory body, the structures and decisionmaking procedures of such body, the availability of impartial and effective procedures for the settlement of disputes and any features that tend to discriminate against exploration and commercial recovery activities undertaken by United States citizens; and

(3) that this Act should be transitional pending—

(A) the adoption of an international agreement at the United Nations Conference on the Law of the Sea, and the entering into force of such agreement, or portions thereof, with respect to the United States; or

(B) if such adoption is not forthcoming, the negotiation of a multilateral or other treaty concerning the deep seabed, and the entering into force of such treaty with respect to the United States.

EFFECT OF INTERNATIONAL AGREEMENT

Sec. 202. If an international agreement enters into force with respect to the United States, any provision of title I, II, or III, and any regulation issued thereunder, which is not inconsistent with such international agreement shall continue in effect with respect to United States citizens. The Administrator, in consultation with the Secretary of State, shall make every effort, to the maximum extent practicable consistent with the provisions of such international agreement, to provide for the continued operation of deep seabed mineral exploration and commercial recovery activities undertaken by United States citizens prior to entry into force of the agreement. The Administrator shall submit to the Congress, within one year after the date of such entry into force, a report on the actions taken by the Administrator under this section, which report shall include, but not be limited to—

(1) a description of the status of deep seabed mining operations of United States citizens under the international agreement; and

(2) an assessment of whether United States citizens who were engaged in deep seabed mineral exploration or commercial recovery on the date such agreement entered into force have been permitted to continue their operations.

TITLE III—ENFORCEMENT AUTHORITY

PROHIBITED ACTS

Sec. 301. It is unlawful for any person who is a United States citizen, or a foreign national on board a vessel documented or numbered under the laws of the United States, or subject to the jurisdiction of the United States under a reciprocating state agreement negotiated pursuant to section 117(e)—

(1) to violate any provision of this Act, any regulation promulgated pursuant to this Act, or any term, condition, or restriction of any license or permit issued to such person pursuant to this Act;

(2) to engage in exploration or commercial recovery after the revocation, or during the period of suspension, of an applicable license or permit issued pursuant to this Act, to engage in a particular exploration or commercial recovery activity during the period such activity has been suspended pursuant to this Act, or to fail to modify a particular exploration or commercial recovery activity for which modification was required pursuant to this Act;

(3) to refuse to permit any Federal officer or employee authorized to monitor or enforce the provisions of this Act, as provided for in sections 114 and 304, to board a vessel documented or numbered under the laws of the United States, or any vessel for which such boarding is authorized by a treaty or executive agreement, for purposes of conducting any search or inspection in connection with the monitoring or enforcement of this Act or any regulation, term, condition, or restriction referred to in clause (1);

(4) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer or employee in the conduct of any search or inspection described in clause (3);

(5) to resist a lawful arrest for any act prohibited by this section;

(6) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of any hard mineral resource recovered, processed, or retained in violation of this Act or any regulation, term, condition, or restriction referred to in clause (1); or

(7) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person subject to this section knowing that the other person has committed any act prohibited by this section.

CIVIL PENALTIES

Sec. 302. (a) Assessment of Penalty.—Any person subject to section 301 who is found by the Administrator, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 301 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Administrator by written notice. In determining the amount of such penalty, the Administrator shall take into account the nature, circumstances, extent, and gravity of the prohibited act committed, and, with respect to the violator, the history of any prior offenses, his demonstrated good faith in attempting to achieve timely compliance after being cited for the violation, and such other matters as justice may require.

(b) Review of Penalty.—Any person subject to section 301 against whom a civil penalty is assessed under subsection (a) may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within thirty days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Administrator. The Administrator shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Administrator shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2)(E) of title V, United States Code.

(c) Action Upon Failure To Pay Assessment.—If any person subject to section 301 fails to pay an assessment of a civil penalty against him after it has become final, or after the appropriate court has entered final judgment in favor of the Administrator, the Administrator shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) Compromise or Other Action by the Secretary.—The Administrator may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section unless the matter is in the courts for judicial review or recovery of the penalty.

CRIMINAL OFFENSES

Sec. 303. (a) Offense.—A person subject to section 301 is guilty of an offense if he wilfully and knowingly commits any act prohibited by section 301.

(b) Punishment.—Any offense is punishable by a fine of not more than $75,000 for each day during which the violation continues. Any offense described in clauses (3), (4), (5), and (7) of section 301 is punishable by the fine or imprisonment for not more than six months, or both. If, in the commission of any offense, the person subject to the jurisdiction of the United States uses a dangerous weapon, engages in conduct that causes bodily injury to any Federal officer or employee, or places any such Federal officer or employee in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than ten years, or both.

ENFORCEMENT

Sec. 304. (a) Responsibility.—The provisions of this Act shall be enforced by the Administrator. The Secretary of the department in which the Coast Guard is operating shall exercise such other enforcement responsibilities with respect to vessels subject to the provisions of this Act as are authorized under other provisions of law and may, upon the specific request of the Administrator, assist the Administrator in the enforcement of the provisions of this Act: *Provided, however*, That the Secretary of the department in which the Coast Guard is operating shall have the exclusive responsibility for enforcement measures carried out at sea which affect the operation of vessels under a license or permit. The Administrator and the Secretary of the department in which the Coast Guard is operating may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment, including aircraft and vessels, and facilities of any other Federal agency or department, and may authorize officers or employees of other departments or agencies to provide assistance as necessary in carrying out subsection (b): *Provided*, That these officers and employees shall be under the control, authority, and supervision of the Coast Guard. The Administrator and the Secretary of the department in which the Coast Guard is operating may issue regulations jointly or severally as may be necessary and appropriate to carry out their duties under this section.

(b) Powers of Authorized Officers.—To enforce this Act on board any vessel subject to the provisions of this Act, any Coast Guard officer who is authorized by the Secretary of the department in which the Coast Guard is operating may—

(1) board and inspect any vessel which is subject to the provisions of this Act;

(2) search the vessel if the officer has reasonable cause to believe that the vessel has been used or employed in the violation of any provision of this Act;

(3) arrest any person subject to section 301 if the officer has reasonable cause to believe that the person has committed a criminal act prohibited by sections 301 and 303;

(4) seize the vessel together with its gear, furniture, appurtenances, stores, and cargo, used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(5) seize any hard mineral resource recovered or processed in violation of any provision of this Act if such seizure is necessary to prevent evasion of the enforcement of this Act;

(6) seize any other evidence related to any violation of any provision of this Act;

(7) execute any warrant or other process issued by any court of competent jurisdiction; and

(8) exercise any other lawful authority.

(c) Definition.—For purposes of this section, the term "provisions of this Act" or "provision of this Act" includes (1) any regulation promulgated pursuant to this Act, and (2) any term, condition, or restriction of any license or permit issued pursuant to this Act.

(d) Proprietary Information.—Proprietary and privileged information seized or maintained under this title concerning a person or vessel engaged in exploration or commercial recovery shall not be made available for general or public use or inspection. The Administrator and the Secretary of the department in which the Coast Guard is operating shall promulgate regulations which will insure the confidentiality of privileged and proprietary information.

LIABILITY OF VESSELS

Sec. 305. Any vessel documented or numbered under the laws of the United States, except a public vessel engaged in noncommercial activities, used in any violation of this Act, any regulation promulgated pursuant to this Act, or any term, condition, or restriction of any license or permit shall be liable in rem for any civil penalty assessed or criminal fine imposed and may be proceeded against in any district court of the United States having jurisdiction thereof.

CIVIL FORFEITURES

Sec. 306. (a) In General.—Any vessel, subject to the provisions of sections 304 and 305, including its gear, furniture, appurtenances, stores, and cargo, used, and any hard mineral resource recovered, processed, or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 301 may be subject to forfeiture to the United States. All or part of such vessel, and all such hard mineral resource, may be forfeited to the United States pursuant to a civil proceeding under this section.

(b) Jurisdiction of Courts.—Any district court of the United States which has jurisdiction under section 307 shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) and any action provided for under subsection (d).

(c) Judgment.—If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States which has not previously been seized pursuant to this Act or for which security has not previously been obtained under subsection (d). The provisions of the customs laws relating to the disposition of forfeited property, the proceeds from the sale of forfeited property, the remission or mitigation of forfeitures, and the compromise of claims, shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes and provisions of this Act. The duties and powers imposed upon the Commissioner of Customs or other persons under the provisions of the customs laws shall, with respect to this Act, be performed by officers or other persons designated for such purpose by the Administrator.

(d) Procedure.—(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 307 shall stay the execution of such process, or discharge any property seized pursuant to such process, upon the receipt of a satisfactory bond or other security from any person subject to section 301 claiming such property. Such bond or other security shall be conditioned upon such person (i) delivering such property to the appropriate court upon order thereof, without any impairment of its value; or (ii) paying the monetary value of such property pursuant to any order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any property seized pursuant to this Act may be sold subject to the approval and direction of the appropriate court, for not less than the fair market value thereof. The proceeds of any such sale shall be deposited with such court pending the disposition of the matter involved.

(e) Rebuttable Presumption.—For purposes of this action, it shall be a rebuttable presumption that all hard mineral resources found on board a vessel, subject to the provisions of sections 304 and 305, which is seized in connection with an act prohibited by section 301 were recovered, processed, or retained in violation of this Act.

JURISDICTION OF COURTS

Sec. 307. The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. These courts may, at any time—

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem, or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

TITLE IV—MISCELLANEOUS PROVISIONS

REGULATIONS

Sec. 401. (a) Proposed Regulations.—Not later than two hundred and seventy days after the date of enactment of this Act, the Administrator shall solicit the views of the agency heads cited in section 109(b) and interested parties, and prepare, pursuant to section 553 of title 5, United States Code, such proposed regulations as are required by, or are necessary and appropriate to implement, this Act. The Administrator shall hold a public hearing on such proposed regulations.

(b) Final Regulations.—Not later than one hundred and eighty days after the date on which proposed regulations are issued pursuant to subsection (a), the Administrator shall solicit the views of the agency heads cited in section 109(b) and representatives of interested parties, consider the comments received during the public hearing required in subsection (a) and any written statements on the proposed regulations received by him, and promulgate, pursuant to section 553 of title 5, United States Code, such regulations as are required by, or are necessary and appropriate to implement, this Act.

(c) AMENDMENTS.—The Administrator may at any time amend regulations promulgated to subsection (b) as he determines to be necessary and appropriate in order to provide for the conservation of natural resources as defined in section 110, protection of the environment, and safety of life and property at sea. Such amended regulations shall apply to all exploration or commercial recovery activities conducted under any license or permit issued or maintained pursuant to this Act.

(d) CONSISTENCY.—The regulations promulgated pursuant to this section shall be consistent with the requirements of the National Environmental Policy Act of 1969, Fish and Wildlife Coordination Act, Marine Mammal Protection Act, Migratory Bird Treaty Act, Endangered Species Act, and any other applicable Federal laws, treaties, or agreements or regulations promulgated pursuant thereto.

ANNUAL REPORT

SEC. 402. The Administrator shall submit to the Congress on or before October 31 of each year after 1979 a report on the administration of this Act during the period covered by the report. Such report shall contain, but not be limited to, the following information with respect to the reporting period—

(1) licenses and permits issued, modified, revised, suspended, revoked, relinquished, surrendered, or transferred; denials of certifications of applications for licenses and permits; denials of issuance of licenses and permits; required suspensions and modifications of activities under licenses and permits;

(2) a description and evaluation of the exploration and commercial recovery activities undertaken, including but not limited to, information setting forth the quantities of hard mineral resources recovered and the disposition of such resources;

(3) an assessment of the environmental impacts, including a description of, and estimate of the damage, if any, caused by adverse effects, if any, on the quality of the environment resulting from such activities;

(4) the number and description of all civil and criminal proceedings, including citations; and

(5) such recommendations as the Administrator deems appropriate for amending this Act to further fulfill its purposes.

AUTHORIZATIONS FOR APPROPRIATIONS

SEC. 403. There are authorized to be appropriated to the Administrator, for purposes of carrying out the provisions of this Act, such sums as may be necessary beginning in fiscal year 1981.

SEVERABILITY

SEC. 404. If any provision of this Act or any application thereof is held invalid, the validity of the remainder of the Act, or any other application, shall not be affected thereby.

TITLE V—TAXATION OF REMOVAL OF DEEP SEABED HARD MINERALS

SHORT TITLE

SEC. 501. This title may be cited as the "Deep Seabed Hard Mineral Removal Tax Act of 1979".

IMPOSITION OF TAX ON REMOVAL OF HARD MINERAL RESOURCES FROM DEEP SEABED RESOURCES FROM DEEP SEABED

SEC. 502. (a) GENERAL RULE.—Chapter 36 of the Internal Revenue Code of 1954 (relating to certain other excise taxes) is amended by adding at the end thereof the following new subchapter:

"Subchapter F—Tax on Removal of Hard Mineral Resources From Deep Seabed

"Sec. 4495. Imposition of tax.
"Sec. 4496. Definitions.
"Sec. 4497. Imputed value.
"Sec. 4498. Termination.

"SEC. 4495. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed a tax on any removal of a hard mineral resource from the deep seabed pursuant to a deep seabed permit.

"(b) AMOUNT OF TAX.—The amount of the tax imposed by subsection (a) on any removal shall be 3.75 percent of the imputed value of the resources so removed.

"(c) LIABILITY FOR TAX.—The tax imposed by subsection (a) shall be paid by the person to whom the deep seabed permit is issued.

"(d) TIME FOR PAYING TAX.—The time for paying the tax imposed by subsection (a) shall be the time prescribed by the Secretary by regulations. The time so prescribed with respect to any removal shall be not earlier than the earlier of—

"(1) the commercial use of, or the sale or disposition of, any portion of the resource so removed, or

"(2) the day which is 12 months after the date of the removal of the resource.

"SEC. 4496. DEFINITIONS.

"(a) DEEP SEABED PERMIT.—For purposes of this subchapter, the term 'deep seabed permit' means a permit issued under title I of the Deep Seabed Hard Minerals Resources Act.

"(b) HARD MINERAL RESOURCE.—For purposes of this subchapter, the term 'hard mineral resource' means any deposit or accretion on or just below, the surface of the deep seabed of nodules which contain one or more minerals, at least one of which is manganese, nickel, cobalt, or copper.

"(c) DEEP SEABED.—For purposes of this subchapter, the term 'deep seabed' means the seabed, and the subsoil thereof to a depth of 10 meters, lying seaward of, and outside the Continental Shelf of any nation.

"(d) CONTINENTAL SHELF.—For purposes of this subchapter, until such time as a new definition of the limits of national jurisdiction over seabed mineral resources of the continental margin may be agreed to as part of a comprehensive Law of the Sea Treaty which enters into force for the United States, the term 'Continental Shelf' means—

"(1) the seabed and subsoil of the submarine areas adjacent to the coast but outside the area of the territorial sea, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas;

"(2) the seabed and subsoil of similar submarine areas adjacent to the coasts of islands; and

"(3) any area of national resource jurisdiction of any foreign nation, if such area extends beyond the Continental Shelf of such nation and such jurisdiction is recognized by the United States.

"SEC. 4497. IMPUTED VALUE.

"(a) IN GENERAL.—For purposes of this subchapter the term 'imputed value' means, with respect to any hard mineral resource, 20 percent of the fair market value of the commercially recoverable metals and minerals contained in such resource. Such fair market value shall be determined—

"(1) as of the date of the removal of the hard mineral resource from the deep seabed; and

"(2) as if the metals and minerals contained in such resource were separated from such resource and were in the most basic form for which there is a readily ascertainable market price.

"(b) COMMERCIAL RECOVERABILITY.—

"(1) MANGANESE, NICKEL, COBALT, AND COPPER.—For purposes of subsection (a), manganese, nickel, cobalt, and copper shall be treated as commercially recoverable.

"(2) MINIMUM QUANTITIES AND PERCENTAGES.—The Secreary may by regulations prescribe for each metal or mineral quantities or percentages below which the metal or mineral shall be treated as not commercially recoverable.

"(c) SUSPENSION OF TAX WITH RESPECT TO CERTAIN METALS AND MINERALS HELD FOR LATER PROCESSING.—

"(1) ELECTION.—The permittee may, in such manner and at such time as may be prescribed by regulations, elect to have the application of the tax suspended with respect to one or more commercially recoverable metals or minerals in the resource which the permittee does not intend to process within 1 year of the date of extraction. Any metal or mineral affected by such election shall not be taken into account in determining the imputed value of the resource at the time of its removal from the deep seabed. Any suspension under this paragraph with respect to a metal or mineral shall be permanent unless there is a redetermination affecting such metal or mineral under paragraph (2).

"(2) LATER COMPUTATION OF TAX.—If the permittee processes any metal or mineral affected by the election under paragraph (1), or if he sells any portion of the resource containing such a metal or mineral, then the amount of the tax under section 4495 shall be redetermined as if there had been no suspension under paragraph (1) with respect to such metal or mineral. In any such case there shall be added to the increase in tax determined under the preceding sentence an amount equal to the interest (at rates determined under section 6621) on such increase for the period from the date prescribed for paying the tax on the resources (determined under section 4495(d)) to the date of the processing or sale.

"(d) DETERMINATIONS OF VALUE.—All determinations of value necessary for the application of this subchapter shall be made by the Secretary (after consultation with other appropriate Federal officials) on the basis of the best available information. Such determinations shall be made under procedures established by the Secretary by regulations.

"SEC. 4498. TERMINATION.

"(a) GENERAL RULE.—The tax imposed by section 4495 shall not apply to any removal from the deep seabed after the date which is 10 years after the date of the enactment of this subchapter.".

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of such Code is amended by adding at the end thereof the following new item:

"Subchapter F. Tax on removal of hard mineral resources from deep seabed."

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1980.

ESTABLISHMENT OF DEEP SEABED FUND

SEC. 503. (a) CREATION OF DEEP SEABED FUND.—There is established in the Treasury of the United States a fund to be known as the "Deep Seabed Fund" (hereinafter in this section referred to as the "Fund"), consisting of such amounts as may be appropriated or credited to the Fund as provided in this section.

(b) TRANSFER TO FUND OF AMOUNTS EQUIVALENT TO CERTAIN TAXES.—

(1) IN GENERAL.—There are hereby appropriated to the Fund amounts determined by the Secretary of the Treasury to be equivalent to the amounts of the taxes received in the Treasury under section 4495 of the Internal Revenue Code of 1954.

(2) METHOD OF TRANSFER.—The amounts appropriated by paragraph (1) shall be trans-

ferred at least quarterly from the general fund of the Treasury to the Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) received in the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

(c) Management of Fund.—

(1) Report.—It shall be the duty of the Secretary of the Treasury to hold the Fund, and to report to the Congress for the fiscal year ending September 30, 1980, and each fiscal year thereafter on the financial condition and the results of the operations of the Fund during the preceding fiscal year and on its expected condition and operations during the fiscal year and the next 5 fiscal years after the fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

(2) Investment.—

(A) In general.—It shall be the duty of the Secretary of the Treasury to invest such portion of the Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired (i) on original issue at the issue price, or (ii) by purchase of outstanding obligations at the market price.

(B) Sale of obligations.—Any obligation acquired by the Fund may be sold by the Secretary at the market price.

(C) Interest on certain proceeds.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the Fund shall be credited to and form a part of the Fund.

(d) Expenditures From the Deep Seabed Fund.—Amounts in the Fund shall be available, as provided by appropriations Acts, for such purposes as Congress may hereafter provide by law, including the payment of any financial obligations which may be assumed by the United States pursuant to an international deep seabed treaty adopted by a United Nations Conference on the Law of the Sea which is ratified by, and in force for, the United States.

ACT NOT TO AFFECT TAX OR CUSTOMS OR TARIFF TREATMENT OF DEEP SEABED MINING

Sec. 504. Except as otherwise provided in section 502, nothing in this Act shall affect the application of the Internal Revenue Code of 1954. Nothing in this Act shall affect the application of the customs or tariff laws of the United States.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending business is H.R. 3919, the Crude Oil Windfall Profit Tax Act of 1979.

Mr. ROBERT C. BYRD. I thank the Chair.

RECESS UNTIL 4:25 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate, at 4:20 p.m., recessed until 4:25 p.m.; whereupon, the Senate resseambled when called to order by the Presiding Officer (Mr. Nunn).

RECESS UNTIL 4:28:29 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 5 minutes.

There being no objection, the Senate at 4:25:03 p.m. recessed until 4:28:29 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Office (Mr. Nunn).

RECESS UNTIL 4:32 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 3 minutes.

There being no objection, the Senate, at 4:29 p.m. recessed until 4:32 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Nunn).

UP AMENDMENT NO. 877 AS MODIFIED

Mr. ROBERT C. BYRD. Mr. President, I send to the desk an amendment, a modification to my amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd), for himself, Mr. Long, Mr. Dole, Mr. Bradley, Mr. Ribicoff, Mr. Moynihan, Mr. Muskie, Mr. Nelson, Mr. Leahy, Mr. Stewart, Mr. Roth, Mr. Chafee, and Mr. Bellmon proposes an unprinted amendment numbered 877, as modified:

In lieu of language proposed to be inserted by amendment numbered 776, as modified, insert the following:

Sec. 4993A. Special Rules For Certain Oil.

(a) Taxable Crude Oil.—Notwithstanding the provisions of section 4988(a) (1), (2), or (3), newly discovered oil (other than newly discovered oil produced north of the Arctic Circle), incremental tertiary oil, and heavy oil shall, subject to the provisions of this section, be treated as taxable crude oil which is tier 3 oil.

(b) Rate of Tax.—Notwithstanding the provisions of section 4987(a) (2), the amount of the tax imposed by section 4986 with respect to any barrel of crude oil treated as taxable crude oil under subsection (a) shall be 20 percent of the windfall profit on such barrel in the case of incremental tertiary oil and heavy oil, and 10 percent in the case of newly discovered oil.

(c) Base Price.—In the case of newly discovered oil, incremental tertiary oil, and heavy oil, the base price shall be determined by substituting "$16.30" ("$19.30" in the case of newly discovered oil) for "$15.30" in section 4990(e), and the inflation adjustment for any calendar quarter under section 4990 (b) shall be determined by substituting for the implicit price deflator referred to in section 4990(b) (1) (A) an amount equal to such deflator multiplied by 1.005 to the nth power where "n" equals the number of calendar quarters beginning after March 1979 and before the calendar quarter in which the oil is removed (or deemed removed) from the premises.

(d) Base Price for Tier 2 Oil.—Notwithstanding section 4990(d), for taxable periods beginning after December 31, 1980, the base price for tier 2 oil is the upper tier ceiling price (as of May 1979) for such oil under the March 1979 energy regulations minus $0.25.

Mr. ROBERT C. BYRD. I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I want to congratulate the distinguished majority leader for the truly magnificent and noble job he has done in bringing together the warring factions on a compromise which has been very difficult indeed to iron out.

I also want to congratulate the Senator from Kansas (Mr. Dole) for the statesmanlike part he has played in helping people of a wide variety of views to work out about the best conciliatory arrangement that can be made between Senators who feel extremely strongly about this matter.

For those of us who represent the committee view, we feel it goes too far. But for those representing the other side they feel they have, perhaps, gone too far to accommodate us. I think this, perhaps, is the best compromise that can be worked out, and I congratulate both Senators for the fine part they have played.

The Senator from Kansas has worked hard and courageously fought for his position. At the same time he has been willing to consider the point of view of others, and I think he, as well as the majority leader, should receive the heartfelt appreciation of the Senate.

Mr. DOLE. Mr. President, I appreciate the comments of the distinguished chairman of the committee. I also want to thank my colleague, the acting minority leader, Senator Stevens, for his support and assistance, along with many others.

Really though no one deserves the credit. We have been trying to negotiate something that could be agreed upon so that we could move on with this bill.

The Senator from Kansas has not changed his position, but I have become more realistic every time we have another cloture vote.

I still am against a minimum tax on new oil, and I would like to have a chance to vote on that sometime before this bill is completed, but I do believe that sooner or later cloture will be invoked, if not Monday, then on Tuesday. But in the final analysis there will be a minimum tax.

It seemed to this Senator that if that were a foregone conclusion, as I believe it is, then it was my responsibility as one opposed to the tax, and representing a number of Senators who are opposed to any tax, minimum tax or any other tax, that we have to try to achieve the best result possible.

This is not what was proposed yesterday, and it is not what was proposed this morning. It is a step backward. What we do, in effect, is raise the base price on newly discovered oil from $17 to $20. That reduces the revenue by $2.3 billion. It leaves a revenue figure of $178 billion, and it still leaves a 20 percent tax on tertiary oil with a $17 base; a 20 percent tax on heavy oil with a $17 base.

We discussed that with the distinguished Senator from Oklahoma (Mr. Bellmon), from an oil-producing State. We have discussed it with other Republicans, and while I cannot indicate it is going to be widely supported on this side of the aisle, the Senator from Kansas can indicate that at least we are going to get off dead center and start some movement on this bill and, hopefully, complete it by tomorrow evening.

I thank the distinguished majority leader, too, for his patience and the coffee and all those other things we had in his office, cigars——

Mr. STEVENS. Mr. President, will the Senator yield? I want to assure everybody it is not like the old days. The coffee got stronger every day. [Laughter.]

Mr. LONG. Mr. President, some Senators who come from oil-producing States, as I do, might find it easier to vote for the substitute if they keep in mind that this is an amendment to the Ribicoff amendment, and under this proposal producers will pay a lot less taxes than they would under the Ribicoff amendment. So when they vote for this they will be voting to reduce the amount of taxes the Ribicoff amendment would have had them pay.

Mr. ROBERT C. BYRD. Mr. President, I want to thank Mr. Long, the distinguished chairman of the committee and manager of the bill, for the statesmanship, the patience, the realism that he has continued to demonstrate throughout the negotiations on this very difficult matter.

At all times he has been an effective force in bringing the sides together. I commend him, and I salute him.

I want to say about the distinguished ranking Republican manager of the bill that he, too, has demonstrated great statesmanship, courtesy and understanding, and has been a tenacious fighter for his viewpoints. I admire him and respect him, I commend him, and thank him.

As to the acting Republican leader, I want to say he has demonstrated great leadership. It has been difficult for him. This is not 100 percent pleasing to anyone. We all had to give up something; it was give and take. The distinguished acting Republican leader showed the qualifications of leadership that helped move us to the point where we are now. I hope we will vote shortly. Mr. President, I ask for the yeas and nays on the amendment in the second degree.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MOYNIHAN. Mr. President, I, too, would like to echo the sentiments of the majority leader, and, as a member of the Finance Committee, to thank the chairman and ranking Republican member, and remind the Senate that this negotiation having been completed, a larger and much more formidable one now begins with the House of Representatives in the conference committee.

The Committee on Finance will go to that conference as a united committee, that has worked out a Senate position, and we will stand firm in behalf of that position. We will compromise where necessary and hold the line where that is appropriate; and I believe this is the spirit with which we should leave this Chamber to meet with our colleagues in the other place.

The fact that it has come about is so much due to the leadership of the Senator from Louisiana and the Senator from Kansas that I would like to acknowledge that, and thank them for it.

Mr. STEVENS. Mr. President, I would like to note that the present occupant of the chair (Mr. Bradley) has also been involved in all these meetings, as a newly found friend and distinguished adversary on some of these matters. I, too, thank the ranking Republican member of the committee (Mr. Dole) for what he has done to represent the minority through all of the negotiations. He has provided a great deal of leadership and effort as we have tried to work our way out of the complex problem that faces us. I am grateful to Senator Long for his guidance and patience, and to my good friend from West Virginia, not only for the comments he has just made, but also for the coffee and the hospitality he has provided us now for so long. I congratulate the occupant of the chair, the Senator from New Jersey (Mr. Bradley) also for articulating so well and demonstrating his capacity to field numbers as well as he used to field other things.

I do think we ought to bear in mind, and that the Members of the Senate on our side ought to realize, that while we have no agreement, we have a hope that this means that this is the figure. We have a lot more amendments to weave our way through here, but, coming from the State that I represent, it is with some trepidation that I vote for the pending amendment. If necessary, I will vote for it to see that it passes, although I do not like to vote for it. But not if we bring on another amendment which does in fact increase the tax on oil produced in Alaska.

It is my hope that we will finish this bill soon, that we can get to some of these other amendments, germane and nongermane, and that we can work with the majority leader and the chairman and the ranking Republican member to schedule the vote on the bill. I should hope that work on the noncontroversial amendments could continue on tonight, and that tomorrow we will finish as many votes as possible, so that many of us can spend as much time as possible at home over the religious holiday.

Mr. ROBERT C. BYRD. Mr. President, I will take just a minute. I also wish to express my heartfelt gratitude to Mr. Cranston, the distinguished majority whip, to Mr. Ribicoff, to Mr. Moynihan, to Mr. Bradley, to Mr. Muskie, to Mr. Nelson, to Mr. Bumpers, to Mr. Ford, to Mr. Sarbanes—have I missed anyone?

Mr. STEVENS. Mr. Wallop.

Mr. ROBERT C. BYRD. To Mr. Wallop, to Mr. Stewart, to Mr. Exon, Mr. Bentsen, and to all others who have contributed to the progress made in working out an agreement.

I cannot say enough by way of appreciation for them; but I think, in the interests of saving time, now everyone wants to get on with this vote.

Mr. NELSON. Mr. President, the proposal that will be before us is the consequence of some 2 weeks of serious negotiations almost every morning and every afternoon, and some evenings. I wish to join in commending the majority leader, the chairman of the Finance Committee (Mr. Long), Senator Dole, and Senator Stevens, as well as the others who participated and made it possible, after 2 weeks of intensive negotiation, to finally reach an agreement which I suppose not a single soul on either side considered ideal. I wish to join Senator Stevens also in commending Senator Bradley, who is presiding at the moment, for his expertise and for his persistence in pushing for and advocating a position which a number of us shared—the position of providing for a minimum tax.

I supported Senator Bumpers' proposal and joined in cosponsoring the proposal, which would have adopted the House provision, which had about $100 billion more in it than the proposal that is before us. But I go along with the compromise because I recognize it is necessary to get a measure before us, so that the Senate can work its will and the matter can go to conference.

Mr. HEINZ. Mr. President, I rise as a cosponsor of this amendment, which is the product of compromise. As we know, it is vital that we achieve a consensus upon a reasonable energy policy. It is tremendously important that we make progress in this effort. I support this compromise because, while it may not represent exactly what this Senator wants or any other Senator wants, it is good for America. I do support its passage, and I urge my colleagues to vote for it.

Several Senators. Vote! Vote!

Mr. WALLOP. Mr. President, I simply wish to echo the remarks of the majority leader, Senator Long, and Senator Dole about those who worked on this compromise. I have great respect and affection for the Senator from Louisiana whose efforts have been fair and tireless in fashioning this compromise. I add one special word of praise to Senator Dole who, as everyone in this Chamber knows, has political plans that would have been better served by him being somewhere else in the country.

In the opinion of the Senator from Wyoming, the behavior and devotion of duty of the Senator from Kansas is exemplary to all Senators, and he should receive the praise, admiration, and respect of the country. I know it was at personal sacrifice to personal ambition that the Senator stayed here and did the duty of a Senator to the extent of those other interests. It is typical of the career of the Senator from Kansas from his military service through his public life that he has put duty and country before his personal interests.

I yield the floor.

Mr. JEPSEN. Mr. President, I, too, want to echo the accolades and comments that were made with regard to the Senator from Kansas' (Mr. Dole) dedication to duty. Senator Dole has not only spent a great number of hours but, in my opinion, in addition to being very instrumental in putting over one of the very few positive things on this bill, that is, the repeal of the carryover basis tax, in the last week on practically a 24-hour-a-day basis has kept a disastrous catastrophic bill from becoming even worse, and for that we are deeply indebted to him.

I know it has been at a great personal sacrifice, personal political sacrifice, because he could well have spent time somewhere else. I commend him and I thank him on behalf of the Republicans, and certainly myself.

Mr. DOLE. Mr. President, I appreciate the remarks of my colleague from Iowa and also the remarks of my colleague from Wyoming.

I would just suggest that I am not certain about any sacrifice the way I am standing in the polls. But in any event I appreciate the compliments. I only say we are now in the process of moving along on this measure, and a lot of that movement is because we have had solidarity on this side of the aisle and some solidarity on the other side from a different point of view. But those views have been reconciled now, and I think we are ready to move ahead on this bill, which some of us think is a good balance, some do not think much of the balance at all.

The PRESIDING OFFICER. The question is on agreeing to the amendment (UP No. 877, as modified) of the Senator from West Virginia (Mr. ROBERT C. BYRD). The yeas and nays have been ordered.

Mr. BAUCUS. Mr. President, I rise to support the minimum tax amendment.

As a Member of the Finance Committee, I have spent 5 months weighing many considerations in an attempt to arrive at a fair tax—a balanced tax establishing incentives for production, conservation and development of renewable resources.

The key is balance. And that should be the standard by which this entire bill is judged.

If we pass this amendment, Mr. President, we will take legislation into a conference with the House that will collect at least $178 billion in net revenue over the life of the tax. It is likely that more revenue will be added in conference.

If we pass this amendment, we will have achieved legislation that will help develop enough conventional fuels for Americans to live on, while providing substantial incentive to create energy efficiencies and alternatives to oil.

A balanced tax, Mr. President will be more than a signal of unanimity among Senators debating this critical issue, it will send the message that we intend to survive an energy transition to a mixed domestic energy base much less dependent on imports of foreign oil.

In fashioning this necessary balance, we must weigh carefully each proposal to raise or lower the windfall tax. For example, a tax weighted too heavily toward production simply would not yield enough money to develop the alternatives to oil we will need.

A tax, however, that does not include every reasonable incentive to help domestic producers explore and develop the liquid fuel we will all require over the next decade would fall far short of being a useful tax.

Let me take a few minutes to detail the context in which we are shaping this legislation.

We all know that this country confronts a deepening and increasingly uncertain energy future.

Last month, the President ordered American oil companies to stop buying crude oil from Iranian suppliers. In view of the diplomatic options left to us regarding events in Iran, Mr. Carter had little choice but to remove oil as Iran's bargaining tool.

Of course, we should all continue to support this action.

But this step will have consequences. Most experts predict the return of long gasoline lines and another round of other shortages and allocation problems.

We have not adequately prepared for the anticipated loss of up to 10 percent of our imported oil, and depending on how other Islamic states react to the Iranian crisis, we may face a greater loss of imports.

In fact, the Iranian crisis shows again just how fragile our petroleum supply situation really is.

While Americans are living off the momentums of cheap oil economies, we are producing less at home and cementing our dependence on Middle Eastern supplies.

We are still using 17 million barrels a day to fuel nearly 70 percent of everything we use energy for, directly or indirectly.

We are still counting on oil to buy us time to find alternatives to it.

We are still counting on oil when nuclear power frightens us and coal puts us off and when conservation and renewable resources seem out of reach.

As we continue to count on oil, we will not diversify our energy base. We find it hard to modify a demand for oil which hooks us to an extremely unreliable world oil market dominated by Middle Eastern and African producers who are now embracing anti-Western policies.

At home, our ability to maintain a stable domestic oil supply peaked years ago.

Ten years ago, we produced as much oil domestically as we will ever produce.

I am told that we are finding about 1.5 billion barrels a year through accelerated and intensive drilling to support a 3 billion barrel a year production level, or 10 million barrels a day.

We are replacing less and less of what we use from domestic production. If we are lucky and make another north slope-type discovery we might be able to produce as much as 6 million barrels a day by 1990. But even this much production means a 30-percent decline rate over the next 10 years.

Meanwhile, we will be increasingly dependent on the oil we produce at home. We will be increasingly dependent on a declining domestic resource within a volatile world market where politically determined import curtailments will occur without warning.

As we enter the 1980's, the stability of our oil-fed economy hangs on the precarious equilibrium of a world oil market boosted by a "gift" of extra Saudi production or a deferred, politically manipulated Libyan curtailment threat.

Our ability to maintain a transitional oil economy rests increasingly on the assumed "responsibility" of a few impetuous foreign producers to keep Western industrial economies going.

As one Montana editorial writer put it, "every time there's a twitch in the Middle East, America's economy takes another lurch."

We begin to lose confidence that our energy-intensive, highly technical capital markets will ever be stable enough to permit an orderly transition away from oil.

Since the first OPEC price and supply shock to our economy 6 years ago, we have debated energy policy in an atmosphere of anxiety and urgency. We have lacked a dispassionate basis for establishing a clear overview of appropriate steps to take, Mr. President.

We have too often leaned hard on the quick technical fix, as if the expectations for technology alone will always be able to save us.

The Energy Mobilization Board legislation was debated in this context and so was the grand scheme for synthetic fuels.

There are evolutionary constraints on everything we attempt to do. One step is required before another can be rationally taken. It is this kind of thought-through policymaking that always seems to elude us in the face of perceived energy crises.

The fact of the matter is that the end of the era of cheap liquid fuels announced itself in 1973, and an energy base transition is taking place whether we like it or not; whether we plan rationally for it or not.

We have time to sort things out carefully and to take the proper steps to build energy efficiencies and develop alternatives to oil, but not as much time as we would like.

If our overall goal is to insure domestic energy security, we must first squeeze every barrel of oil from domestic wells, and at the same time, create energy efficiences in everything we do. This must be the cornerstones of any policy we make, be it tax or authorization or appropriation.

We must maintain an ability to produce oil domestically at least half the 1978–79 levels by 1990 or the revenues we use from this windfall profit tax to fund alternatives to oil and to help low-income Americans adjust to a harsher energy future probably will not mean much.

Americans must stop wasting energy. We must conserve. We must adapt to limits of conventional supply. We will have to learn that turning off an electric light in an empty room does not lower our standard of living, but rather preserves it.

Mr. President, we must also realize that rationally developed alternatives to our present nondiversified oil energy base will take time.

I consider alternatives to oil dependence as seeds planted in a seedbed of conventional fuels. Alternatives will grow and gradually replace oil if the conventional soil is well tended.

In "Politics of the Energy Transition," Hudson Institute economist Barry Smernoff wrote:

> The transition away from oil will (hopefully) be gradual. So we must give careful attention to sustaining domestic production of oil in order to stabilize the energy supply base from which we are moving.

We should pay the closest attention to the "climates of supply and price stability" as we plant the seeds of alternatives to oil, Smernoff points out.

In questioning the Finance Committee approach to windfall profit, a Washington Post editorial writer favored the House bill. He accepted the Congressional Budget Office analysis that domestic production is "very unlikely to rise regardless of the prices offered," or the tax breaks given.

The writer concedes that the "only real question is how fast production falls. The higher the price, the slower the decline."

This is precisely why we require a balanced windfall profit tax that gives enough incentive to domestic producers.

It seems to me that if we are to maintain the economic equilibrium necessary to develop alternatives to oil, our most important job is to promote policies that will result in the lowest, most stable rate of domestic oil production decline possible.

This is why I support many parts of the Senate bill, Mr. President.

If the task before Congress is to calculate with accuracy how much money will accrue to the oil companies as a result of decontrol, how much "windfall" must be retained by the oil companies for legitimate exploration and production and how the remainder should be spent on other energy-related projects in the national interest, the Senate bill fulfills a balanced, rational approach to an energy transition.

This does not mean that what we are doing here cannot be altered to increase revenues when we need to, such as to aid the poor.

Again, the emphasis of the Senate approach is balance.

We are trying to reach an agreement on a lower rate of tax than that passed by the House and proposed by the administration.

This lower rate is intended to give incentives to categories of production most likely to add incremental domestic supplies over the next 10 years, and includes most of the production performed by independent producers who account for up to 90 percent of the new crude oil found in the United States.

It also includes the so-called heavy oil which is very expensive to produce and oil removed from half-depleted old wells by injecting detergents or chemicals.

In each case of favorable tax treatment, the emphasis we are making is putting additional industry revenues back into domestic production to increase critically needed short term supplies.

Critics of the Senate approach argue that, because it offers a lower overall rate of tax, the legislation is a "giveaway" to big oil.

I do not believe this. If I thought it was, I would never support it.

Distinctions are made between oil produced by integrated multinational companies abroad for the world oil market and oil produced at home by independents.

This needs to be emphasized, Mr. President.

As I understand the development of the Senate approach to a windfall tax, we are not rewarding big oil whose windfall from decontrol and OPEC price rises might be used to increase overseas inventories.

But we are giving the American independent producer the necessary incentive to find oil in America for Americans.

The windfall tax we are considering is a new one, over and above the income tax the industry will pay on added income resulting from the decontrol of oil prices.

If we can resolve our differences and search a consensus on a fair tax, I will do all I can to preserve its unique range of incentives, including promotion of such conservation and renewable resource programs as passive solar home construction, residential and commercial structural retrofitting, use of heat pumps and airtight woodburning stoves and replacement of old, inefficient furnaces with new furnaces meeting stiff efficiency standards.

As a member on the committee, I strongly supported extending the 10-percent investment credit, the 10-percent energy credit, and additional 20-percent energy credits to a much improved range of energy-saving equipment including solar, wind, geothermal, and biomass technologies.

Taken together, the Senate approach offers greater encouragement to homeowners and businesses to invest in alternatives to conventional energy sources; to invest in new equipment, to modify old equipment, to redesign old processes, to build better energy efficiencies into our daily uses of energy.

I have never maintained that the Senate approach to a windfall tax is perfect, nor have I been locked into it. Every vote I have taken has been in the interest of giving equal weight to the two principles of an orderly energy transition: Giving this country enough conventional fuels to do the job of finding alternatives.

And if I find that we do not get the increased production promised by industry representatives who appeared before the committee, I will work with my colleagues next year to make the adjustments that are warranted.

Given the seriousness of our liquid fuel situation and our very great need to accelerate the development of alternatives to oil, I urge this body to accept this minimum tax and to pass this legislation.

Mr. MUSKIE. Mr. President, I rise today to support the compromise amendment proposed by the majority leader and many others. This amendment, if accepted, will help us meet the budget demands of the next decade, as well as the current fiscal year.

The adoption of this compromise amendment will bring this bill into compliance with the second concurrent resolution. The proposed amendment would raise $249 million in fiscal year 1980. Net revenues for fiscal year 1980 generated by the bill would rise to $2.466 billion—a bare $66 million more than assumed in the second concurrent resolution.

The amendment will increase total revenues raised by the bill to $178.3 billion. This represents an increase in revenues raised by the bills of $41.2 billion, when compared to the bill as reported by the Finance Committee.

Mr. President, I urge the adoption of this compromise amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from Idaho (Mr. CHURCH), the Senator from Colorado (Mr. HART), the Senator from Massachusetts (Mr. KENNEDY), the Senator from South Dakota (Mr. McGOVERN), the Senator from North Carolina (Mr. MORGAN), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

I further announce that, if present and voting, the Senator from New Jersey (Mr. WILLIAMS) would vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber wishing to vote who have not done so?

The result was announced—yeas 78, nays 13, as follows:

[Rollcall Vote No. 482 Leg.]

YEAS—78

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Boren
Boschwitz
Bradley
Bumpers
Burdick
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Durkin
Eagleton
Exon
Ford
Glenn
Goldwater
Hatfield
Heflin
Heinz
Helms
Hollings
Huddleston
Inouye
Jackson
Javits
Johnston
Kassebaum
Leahy
Levin
Long
Lugar
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schweiker
Stafford
Stennis
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—13

Cochran
Domenici
Durenberger
Garn
Gravel
Hatch
Hayakawa
Humphrey
Jepsen
Laxalt
McClure
Schmitt
Simpson

NOT VOTING—9

Baker
Biden
Church
Hart
Kennedy
McGovern
Morgan
Talmadge
Williams

So Mr. ROBERT C. BYRD's amendment (UP No. 877), as modified, was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask for the yeas and nays on the amendment in the first degree, as amended.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM SATURDAY UNTIL MONDAY, DECEMBER 17, 1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the

Senate completes its business tomorrow, it stands in recess until the hour of 12 o'clock meridian on Monday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, there will be no more rollcall votes after 6 o'clock p.m. tonight for the remainder of this day. There will be rollcall votes tomorrow. I hope that we can get out tomorrow by 5 or 6 o'clock, but if there is a possibility we could complete action on this bill tomorrow, I hope we can do so.

There will be rollcall votes tomorrow in an effort to complete action on the bill. I hope we shall not go any longer than 5 or 6 o'clock tomorrow. But we will be in at 9 tomorrow morning. There will be no more rollcall votes after 6 o'clock today.

The PRESIDING OFFICER. The question is on agreeing to the amendment (No. 776) as modified and amended.

Mr. ARMSTRONG. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware (Mr. Biden), the Senator from Idaho (Mr. Church), the Senator from Massachusetts (Mr. Kennedy), the Senator from South Dakota (Mr. McGovern), the Senator from North Carolina (Mr. Morgan), the Senator from New York (Mr. Moynihan), the Senator from Georgia (Mr. Talmadge), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that, if present and voting, the Senator from North Carolina (Mr. Morgan) and the Senator from New Jersey (Mr. Williams) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) and the Senator from Delaware (Mr. Roth) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 52, nays 38 as follows:

[Rollcall Vote No. 483 Leg.]

YEAS—52

Baucus
Bayh
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Chiles
Cohen
Cranston
Culver
DeConcini
Durkin
Eagleton
Exon
Ford
Glenn
Hatfield
Heflin
Heinz
Hollings
Huddleston
Inouye
Jackson
Javits
Kassebaum
Leahy
Levin
Magnuson
Mathias
Matsunaga
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schweiker
Stennis
Stevenson
Stewart
Stone
Tsongas
Weicker

NAYS—38

Armstrong
Bellmon
Bentsen
Boren
Boschwitz
Burdick
Byrd, Harry F., Jr.
Cochran
Danforth
Dole
Domenici
Durenberger
Garn
Goldwater
Gravel
Hart
Hatch
Hayakawa
Helms
Humphrey
Jepsen
Johnston
Laxalt
Long
Lugar
McClure
Melcher
Pressler
Schmitt
Simpson
Stafford
Stevens
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NOT VOTING—10

Baker
Biden
Church
Kennedy
McGovern
Morgan
Moynihan
Roth
Talmadge
Williams

So the amendment (No. 776) as modified and amended, was agreed to.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment as modified was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I call up amendment No. 816 and ask for its immediate consideration.

The PRESIDING OFFICER. Under the previous order, the Senator from Kansas (Mr. Dole) and the Senator from Washington (Mr. Jackson) were to be recognized to offer plowback amendments.

Mr. DANFORTH. I ask unanimous consent that it be in order at this time to bring up amendment No. 816.

Mr. LONG. Mr. President, reserving the right to object, it is all right with me for the Senator to bring up the amendment, provided that after the Senator has discussed his amendment for 10 or 15 minutes, I may have the floor for an equal period of time. Is that all right?

Mr. DANFORTH. Yes.

Mr. DOLE. And then vote tonight?

Mr. LONG. Yes; I am not planning to vote on the amendment, but I might want to move to table it. We should advise Senators that there might be one other vote this evening.

Mr. BENTSEN. Mr. President, reserving the right to object, the Senator from Texas needs some time on that amendment, too.

Mr. LONG. The Senator from Texas can have part of my time.

Mr. DOMENICI. Mr. President, reserving the right to object, what is the unanimous-consent request? Is there a time agreement associated with it?

The PRESIDING OFFICER. The Senator from Missouri has the floor.

Mr. DANFORTH. Mr. President, I ask unanimous consent that it may be in order to bring up amendment No. 816 at this time; that we enter into a time agreement of 3 hours, equally divided; that we set a time certain tomorrow at, say, 12 o'clock noon, to vote on it.

Mr. LONG. Mr. President, reserving the right to object, I am not willing to do that. I would be willing to bring up the amendment provided that after the Senator has discussed the amendment for, let us say, 10 minutes, I be recognized for 10 minutes, and that I have the privilege of yielding 5 minutes of that 10 minutes to at least one other Senator. I am not willing to agree to vote at this point.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield.

Mr. DOLE. I understand that there is no objection to bringing up the amendment.

Mr. LONG. Not unless we have an understanding that we are going to share the time.

Mr. DOLE. Just no agreement on when it will be voted on.

Mr. LONG. That is right.

Mr. DANFORTH. Mr. President, I inquire of the majority leader at what time we will come in tomorrow.

Mr. ROBERT C. BYRD. Nine o'clock.

Mr. DANFORTH. Mr. President, I ask unanimous consent that it may be in order to bring up amendment No. 816 at this time and that the vote occur at noon tomorrow.

Mr. LONG. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, I believe it would be just as well if the Senator would bring up his amendment tomorrow. Some Senators already have left, and they might want to hear or read what is said tonight. All speeches we make for the Record will be available to them. I think it would be best for the Senator to bring up his amendment tomorrow and we will debate it. After it is debated for a while, the Senator from Louisiana might want to move to table, or some other Senator might want to move to table.

In any event, Senators will be on notice that we plan to be voting, perhaps by 10 o'clock, maybe sooner. It is hoped that they will be here, and we can debate that amendment. Meanwhile, the Senator can make a speech on his amendment tonight, and I will be glad to respond. The Senator will find that I enjoy a discussion as much as he does.

At this moment, it might be possible for us to vote on something we might like to vote on, between now and 6 o'clock. The only way I would be willing to vote on the Danforth amendment would be to vote to table. So it would be better to vote on it tomorrow, when everybody will be here, and we can all take our chances.

Mr. ROBERT C. BYRD. Mr. President, I think we should have a live quorum call in the morning, the first thing, because progress can be made if all Senators will be here and they are ready to vote. We can have a live quorum call right after we come in at 9 o'clock. That will get everybody here, and we can get rolling, and maybe the distinguished Senator could bring up his amendment early in the morning.

Mr. DANFORTH. That is fine.

Mr. METZENBAUM. Mr. President, will the Senator from Louisiana yield?

The PRESIDING OFFICER. Does the Senator from Missouri yield the floor?

Mr. DANFORTH. I ask this of the majority leader: Can we reach an agreement that this amendment might be brought up at a definite time tomorrow morning?

Mr. LONG. I have no objection to the Senator bringing up the amendment at any time tomorrow. So far as calling it up tomorrow is concerned, it can be 9, 10, 11, or 12; he can name it.

Mr. DANFORTH. Mr. President, I ask unanimous consent that it be in order to call up amendment No. 816 immediately after the live quorum call is completed tomorrow morning.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. METZENBAUM. Mr. President, will the Senator from Louisiana yield?

Mr. LONG. I yield.

Mr. METZENBAUM. The Senator from Louisiana indicated that we might be able to vote on something between now and 6 o'clock. My question to the Senator from Louisiana is this: Is there some amendment to the windfall profit tax bill that the Senator anticipates being brought up between now and that time?

Mr. LONG. I thought it might be possible to vote on a motion to table. I was going to make a motion to table the Danforth amendment after the Senator had debated it for 15 minutes and after I had discussed it. Other Senators want to discuss the matter.

I know of no vote that we could have between now and 6 o'clock. There might be something else that a Senator might like to bring up for discussion.

Mr. METZENBAUM. I thank the Senator.

Mr. PERCY. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. PERCY. The Senator from Illinois would be happy to bring up an amendment, with 10 minutes on each side, for a payback to the States from the windfall profit tax. I think all Senators understand what it is. We have talked about it for days. I think 10 minutes on a side would be adequate.

Mr. LONG. That is all right with me, if the Senator wants to bring it up.

Mr. WALLOP. Mr. President, will the Senator from Illinois use a microphone, so that we can hear what is being said?

Mr. LONG. Mr. President, I believe a 10-minute limitation is too short on that amendment. There is controversy to it. We cannot agree to vote that soon.

The Senator from Washington (Mr. MAGNUSON) has an amendment.

Mr. DOLE. The Senator from Wyoming has three amendments.

The PRESIDING OFFICER (Mr. PRYOR). The Senate will be in order. The Senate will not proceed until the Senate is in order.

The Senator from Louisiana.

Several Senators addressed the Chair.

Mr. WALLOP. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I think the distinguished Senator from Wyoming (Mr. WALLOP) has three technical amendments which I understand are not controversial and will not either increase nor decrease the revenue figure. If that is a fact, I understand we can do that without any votes and tomorrow morning maybe we can bring up the amendment of the Senator from Illinois.

Mr. PERCY. Mr. President, I wonder if it would be possible to get a unanimous-consent agreement, with whatever time limitations the manager of the bill would like, on both of my amendments.

I ask unanimous consent, Mr. President, that with a time limitation of 1 hour equally divided on both sides we discuss the first amendment, payback to States for their conservation efforts. Following that, could we consider the second amendment we have discussed, on coal conversion?

Mr. ROBERT C. BYRD. Mr. President, may I make this suggestion to Senators?

The PRESIDING OFFICER. The majority leader is recognized.

Mr. ROBERT C. BYRD. I am happy to see all this progress. But it can be too fast. Why do we not get a list of the amendments tonight that are serious amendments and in the morning see if we can work out time agreements so that all parties are here and we all know what we are agreeing to?

Is that satisfactory to Mr. RIBICOFF?

Mr. RIBICOFF. I am reluctant in the absence of the chairman and manager of the bill to enter into agreements now because I do not know what his thinking may be. I expect him back within 15 minutes.

I think the suggestion of the majority leader is sound, to get a list of the amendments in which Members are interested and then work out time agreements during the quorum call tomorrow.

Mr. BENTSEN. Mr. President, I think we will all know more about that after we get some feeling about the Danforth amendment.

Mr. ROBERT C. BYRD. Yes. I hope we will not have every Senator rising at the moment and trying to get unanimous consent for a certain amount of time on his amendment. We still have to proceed with some order and dispatch. So if Senators will allow me that understanding, I suggest we wish to have the amendment, know what it is about, and try to work out time agreements.

Is that agreeable to the distinguished minority floor manager of the bill?

Mr. DOLE. I think we can assure the Senator from Illinois we will take up his amendment tomorrow.

Mr. ROBERT C. BYRD. That is fine.

Mr. PERCY. I thank my distinguished colleague. That is perfectly all right.

Mr. ROBERT C. BYRD. Mr. President, Senator WALLOP has a technical amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

UNANIMOUS-CONSENT REQUEST

Mr. WALLOP. Mr. President, I have three amendments which are noncontroversial and technical in nature, which have been cleared with the minority and majority staff of the Joint Tax Committee and the administration.

I ask unanimous consent that it be in order for me to call up amendments No. 786 followed by No. 787 and followed by No. 788.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, reserving the right to object, I indicated to the Senator from Wyoming that tonight I would object not because I am opposed to his amendments but because I do not know what his amendments contain.

Mr. WALLOP. Mr. President, will the Senator yield?

Mr. METZENBAUM. I indicated to the Senator from Wyoming if he would be good enough to hold his request until the morning, to give me a chance to look them over, I feel certain that they will indeed be technical and not have any significant impact.

On the other hand, the Senator from Ohio is aware that many amendments are called technical amendments and they go far beyond that.

I ask my friend from Wyoming to hold his matter until the morning, and I do not really have any desire to object to him bringing them up, but I wish to be informed.

Mr. WALLOP. Mr. President, if I may say so, the amendments are of such simple nature that it will take but little time, if the Senator from Ohio would simply sit in the Chamber and listen. It will take approximately 10 minutes of his time. If he does not like it, we do not have to have a vote on it. He can object to it.

Mr. METZENBAUM. As I indicated to the Senator from Wyoming, I really do not want to object to his amendments. If he forces the issue this evening, I shall find myself constrained to object.

I only am suggesting to him that we are going out in about 15 minutes, as I understand it.

Mr. ROBERT C. BYRD. No.

Mr. METZENBAUM. I am sorry. I did not mean to preempt the majority leader on that score. I understood we were not having any rollcalls after 6 p.m.

I am just suggesting if the Senator from Wyoming will hold his fire, we are going to be here a while longer, and I will be glad to take a look at them. I wish to leave the Chamber for a few minutes now and shall ask someone else to protect me. I ask the Senator from Wyoming to not call them up in my absence and see if we can work the matter out.

Mr. WALLOP. Mr. President, I withdraw my unanimous-consent request.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. What is the pending business?

The PRESIDING OFFICER. The pending amendments before the Senate at this time are the amendment offered by the Senator from New Jersey (Mr. BRADLEY) in the first degree, and the amendment offered by the Senator from West Virginia (Mr. ROBERT C. BYRD) in the second degree, both to the House bill.

AMENDMENT NO. 760

Mr. DOMENICI. Mr. President, I have a printed amendment pending, No. 760, with reference to airtight wood-burning stoves to change the effective date to apply to expenditures made after July 15, 1979. That is the date that the President committed it to the American people, and because of long delays many have already purchased wood-burning stoves, airtight wood-burning stoves, on reliance of the President's commitment.

I wonder if the Senator from Louisiana (Mr. Long) and the Senator from Kansas (Mr. Dole) have any objection to taking it up? It costs $5 million. It is within the budget and is not subject to a point of order because we raised sufficient revenue. I wonder if they would have any objection to bringing that amendment up to make the day July 15, 1979?

Mr. PROXMIRE. Mr. President, will the Senator from New Mexico identify that amendment?

Mr. DOMENICI. Yes. It is amendment No. 760.

Mr. PROXMIRE. No. 760.

Mr. DOMENICI. Yes. The date is October 1 when airtight wood-burning stoves would apply, would be entitled to the special tax treatment as an encouragement to their being purchased. All I am doing is moving it back to July 15.

Mr. PROXMIRE. $5 million?

Mr. DOMENICI. $5 million.

As I understand it, a point of order would not lie because we have raised more than $5 million even in the year 1980, so it is within the budget targets, well within them, and I think the American people were promised July 15, and when we get around to giving it to them we ought to live up to the commitment. We regularly talk about solar and other and wait forever to give the credit. This causes confusion and less incentive.

Mr. DOLE. Mr. President, will the Senator from New Mexico yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. DOLE. All it does is conform the bill to the announcement made by the President?

Mr. DOMENICI. Precisely.

Mr. DOLE. July 15.

Mr. DOMENICI. That is the day he indicated it to the American people. We basically did not get the bill on time, so it is October 1 in the bill.

Mr. DOLE. I think it is a good amendmeint on this side.

Mr. LONG. Mr. President, I would be willing to take the amendment to conference.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the amendment be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOMENICI. Mr. President, I call up amendment No. 760.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. Domenici) proposes amendment numbered 760.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 202(c), on page 101, line 23, strike the period and add "except for the amendment for airtight woodburning stoves which shall apply to expenditures made after July 15, 1979.".

Mr. DOMENICI. For those Senators who heard the discussion between myself and the Senator from Wisconsin, this is amendment 760 which I just described, and I have nothing further to say.

Mr. McCLURE. Mr. President, will the Senator yield for a question? Will these airtight wood-burning stoves burn the Washington Post? [Laughter.]

Mr. DOMENICI. I assume they would burn anything that is flammable.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico.

The amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI. I thank the majority leader and the ranking Republican.

Mr. PERCY. Mr. President, will the distinguished Senator yield for a comment?

Mr. DOLE. I yield.

Mr. PERCY. I just wish it were possible for the American people to understand the complexity of what we have been dealing with. This is one of the most difficult, complex pieces of legislation we have ever had. We had been compelled to forecast what a tax's impact is going to be on producers, on consumers.

I would like to pay tribute to my distinguished minority floor leader, Senator Dole, for the way he has worked throughout the bill. The spirit of compromise he has had, the way he has held his forces together. All the while indicating to the chairman of the Finance Committee, for whom we have great respect and affection, that we can and must work together.

This compromise that has been worked out looked like it was going to fall apart six times, and it did fall apart. It has been put together a seventh time, however, and I think it was done in great spirit. It is a great tribute to both of our distinguished colleagues, and we are grateful to them.

What we are dealing with here is nothing less than the future of the country. This Nation has demanded that we find some way to have an energy policy that will make us less dependent on foreign imports. I think this bill does provide a major step forward. There are lots of things that all of us do not like in it. There are some things we would like to have in it that we have not gotten in yet, and we hope we will get to these to improve the quality of the bill.

But I think, in the best tradition of the U.S. Senate, that we now are making major progress, and I wish to pay tribute to my distinguished colleagues for the contributions they have made.

I wish the American people could appreciate the grueling hours and the grinding schedules that the floor managers of the bill have had. I wish they could see the members of the staff as well, who have been, on both sides of the aisle, absolutely distinguished. If these individuals had overtime pay for the hours they have put in, they would be subject to a windfall profit tax themselves. You just cannot count the hours that were put in.

But I pay tribute to the members of the staff for what they have done, both the minority and majority staff, and our distinguished floor managers.

Mr. PROXMIRE. Mr. President, will the Senator yield briefly? I have listened to all the speeches that have been made about the distinguished Senator from Kansas. If he is elected President of the United States next year it will be a demotion. [Laughter.]

Mr. DOLE. I will only say that I am seated next to the distinguished Senator from Louisiana, and have been for a year, and I have learned a little, not a lot. I now peak over and look at his notes, and I hope it has been helpful. We understand sometimes you have to compromise.

I would say to my distinguished friend from Illinois that I thank him for the compliments respecting the staff. I think he may have accomplished a fair hearing for his amendments tomorrow. They are already leaning in that direction.

I hope there are other amendments, noncontroversial, that can be called up.

Does the Senator from Wisconsin have an amendment ready?

Mr. NELSON. I did not hear the distinguished Senator.

Mr. DOLE. Are there other amendments?

Mr. NELSON. Yes, I have an amendment which the distinguished Senator from Kansas and the Senator from Louisiana are familiar with. It was up the other day, temporarily set aside, and I would like to call it up now if it is acceptable.

(During the foregoing colloquy the following occurred:)

UNANIMOUS-CONSENT AGREEMENT—RESOLUTION ON RHODESIA

Mr. PERCY. Mr. President, will my distinguished colleague yield for just a question of the majority leader?

Mr. NELSON. I yield without losing my right to the floor.

Mr. PERCY. I would like to ask the majority leader if he would like to do this resolution on Rhodesia tonight or tomorrow morning?

Mr. ROBERT C. BYRD. I would be happier to do it tonight, may I say to the distinguished Senator.

I ask unanimous consent that at such time as the distinguished Senator from Illinois (Mr. Percy) proceeds to call up his resolution, which has been cleared all around, that there be a time limitation of 5 minutes thereon to be controlled by Mr. Percy.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Now, Mr. President, I ask unanimous consent, after Mr. Nelson proceeds with his amendment, that Mr. Percy can call up his resolution, because of its 5-minute time limitation.

Mr. PERCY. Can the distinguished Senator from Wisconsin give some idea as to how long his amendment will take?

Mr. ROBERT C. BYRD. After the

amendment by Mr. Nelson and the substitute therefor by Mr. Matsunaga.

Mr. PERCY. Would it be permissible if the Senator from Illinois is able to reduce time down to 3 minutes to dispose of this resolution on Rhodesia before the distinguished Senator takes up his amendment?

Mr. NELSON. I do not think this one is going to take but 3 or 4 minutes in any event.

Mr. PERCY. Go right ahead.

The PRESIDING OFFICER. Is there objection to the majority leader's request? If not, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

AMENDMENT NO. 768

(Purpose: To allow a production tax credit for qualifying processed wood fuel)

Mr. NELSON. Mr. President, I call up my amendment No. 768, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. Nelson), for himself, Mr. Talmadge, and Mr. Matsunaga, proposes an amendment numbered 768.

Mr. NELSON. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 147, beginning with line 11, strike out all through page 148, line 21, and insert in lieu thereof the following: "barrel over such fraction bears to a barrel.

"(f) Termination Date.—This section shall not apply to taxable years beginning after December 31, 2000.

"(b) Technical and Conforming Amendment.—

"(1) The table of sections for subpart A of part IV of subchapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

" 'Sec. 44D. Production of fuels from nonconventional sources.'.

"(2) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out 'and 44C' and inserting in lieu thereof '44C, and 44D'.

"(c) Effective Dates.—

"(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuels produced after December 31, 1979, in facilities placed in service, or from wells drilled, after September 30, 1979, and before January 1, 1990.

"(2) Exceptions.—

"(A) Qualifying processed wood fuels.—In the case of qualifying processed wood fuels (within the meaning of section 44D(d)(2) of the Internal Revenue Code of 1954, as added by subsection (a)), the provisions of section 44D(c)(1) of such Code, as so added, shall not apply, and the amendments made by this section shall apply to fuels sold after September 30, 1980, and before October 1, 1983 and produced in facilities placed in service after April 20, 1977, and before October 1, 1980. In the case of facilities placed in service after September 30, 1980, and before January 1, 1982, such credit shall apply to fuels sold for 3 calendar years following the date such facility was placed in service.

"(B) Biomass steam.—In the case of steam produced from solid agricultural byproducts, the amendments made by this section shall apply to steam sold after December 31, 1979, and before January 1, 1985, and produced in facilities placed in service after September 30, 1978.".

Mr. NELSON. Mr. President, the Finance Committee substitute provides a tax credit for the domestic production of energy from certain alternative sources, including "qualifying processed wood fuel." The credit is equal to $3 per barrel of oil equivalent. A barrel of oil is equivalent to 5.8 million Btu's of energy.

The amount of the credit would phase out as the price of imported crude oil rises from $23.50 to $29.50 per barrel. This amendment provides that the full $3 tax credit would be available to qualifying processed solid wood fuels for a period of 3 years from the date the production facility is placed in service.

Under the amendment, the credit would not phase out in the case of qualified wood fuels as the price of imported crude rises to $29.50.

Under this amendment the full $3 production tax credit would be available as of October 1, 1980 for production facilities placed in service before that date. For these facilities the credit would be available through September 30, 1983. For production facilities placed in service after September 30, 1980, and before January 1, 1982, the full $3 credit would be available for three calendar years following the date the facility is actually placed in service. Since the credit does not become available until October 1, 1980, this amendment will have no revenue impact on the fiscal 1980 budget.

QUALIFYING WOOD FUEL

"Qualified processed solid wood fuel" is a pelletized biomass.

These pellets can be burned in their solid state in conventional coal or wood-fired equipment, or can be converted into a combustible, stable gas in a gas generator to facilitate utilization in gas or oil-fired furnaces. Proven in numerous installations, 1 ton of pellets generates approximately 17 million Btu's, burns with no sulfur emissions, meets EPA particulate emission standards with less than 3 percent ash, handles easily, and can be made available for industrial and residential use today.

The pellets are made from biomass fiber, essentially any organic fibrous waste. To date, the majority of the pellets produced have been made using forest and lumber mill waste products. However, other fibers which have been successfully pelletized include bagasse (sugar cane residue), peat, rye grass straw, copra and rice hulls, hardwood bark, ipril and luan wood, and primary and secondary sewer sludge. Other possible raw material sources include grass, vines, leaves, or cellulose fiber vegetation in the form of fast growing high Btu trees, planted as a crop for that purpose.

Unlike other proposed synfuel technologies, the wood pellet manufacturing process is basically simple, utilizing off-the-shelf machinery and technology available today from the agricultural industry. In producing the pellets, the raw material is pulverized, dried to approximately 20 percent moisture, and then compressed at extremely high pressures (30,000 psi) and temperature (300° F). The heat and pressure not only decrease the volume and increase the density of the raw material, but also further reduce the moisture content and rearrange the fiber structure to increase the amount of carbon readily available for burning in the finished product.

ENERGY PRODUCTION

Each wood pellet plant module produces 100,000 tons of pellets per year, the equivalent of 1.7 trillion Btu's or almost 300,000 barrels of oil per year. If 1,000 plants each produced 300 tons of pellets per day, they would produce the energy equivalent to 300 million barrels of oil per year. At $20 per barrel for imported oil, our Nation's balance of payments would be improved by over $6 billion annually.

ECONOMIC CONSIDERATIONS

The wood pellet concept consists of small efficient plants uniformly distributed throughout a geographic area. In this way, the plants operate in the most efficient manner, decreasing freight costs and providing a more properly balanced employment distribution.

Because of the size and efficiency of the plants, pellets can be produced for approximately $30/ton and transported to the user within a 75-mile radius for an additional $4/ton. The total cost of production is, therefore, around $2/million Btu's. To be equivalent to this cost, coal would have to sell at a delivered cost of $50/ton, No. 6 fuel oil at a delivered cost of 30 cents/gallon ($13/barrel), and natural gas at $2/MCF. It should be noted, however, that the wood pellet figures are production costs, returns on investment incentives are required for the manufacturer to construct and operate plants and for the user to change fuel sources. If modifications are required to the user's equipment he will require a fuel cost savings to justify his capital expenditure.

Other economic advantages are realized by wood pellet production. A thousand plants would employ 20,000 people directly and create an additional 5,000 jobs for transportation and handling of the fuel. These new jobs would generate almost $400 million annually in taxable income for the U.S. Treasury.

The construction of 1,000 plants would not only generate additional taxable income but also revenues on machinery and related equipment for the plants; 1,000 plants would generate expenditures of over $3 billion by pellet manufacturers.

These are a few of the desirable effects of manufacturing fuels from our own natural resources. In addition to helping solve our Nation's energy problems, these plants rechannel money that is going out of the community back into the community by creating new jobs and additional revenues.

THE NEED FOR A PRODUCTION TAX CREDIT

The growth of the processed biomass industry will depend upon the return corporations can realize on their plant investments. A tax credit based on millions of Btu's produced would allow corporations to realize quicker returns, thereby allowing them to increase their capital commitments for plant construction. It is estimated that the suggested tax credit on Btu production would allow a corporation to increase its commitments by a factor of five. With the credit, a corporation could construct 100 plants in 5 years; without the credit, 20 plants could be constructed.

The committee bill provides a $3 production tax credit. However, the credit would terminate if the world price of crude oil rises to $29.50 per barrel.

The current OPEC price is approximately $23.50 per barrel. Moreover, on the spot market, some oil has been trading at $45 a barrel. And OPEC is expected to raise the $23.50 base price to over $30 a barrel within the next few weeks.

Therefore, the $3 production tax credit will probably never be available for the development of alternative energy sources.

This amendment will provide a measure of assistance to those who would risk investment capital for the construction of wood pellet plants. It provides that the tax credit will be available for 3 years regardless of the world price of crude oil. Without this assurance, the plants may not be constructed and the precious energy they would produce will be lost. We cannot afford to take this risk. Industry must be assured that the credit will be available.

This amendment places a moratorium on the phaseout of the credit. The Joint Tax Committee estimates the revenue impact of the proposal would be $286 million between now and 1985 when the credit would terminate.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 819 (AS MODIFIED)

(Purpose: To allow a production tax credit for qualifying processed wood and solid agricultural byproducts)

Mr. MATSUNAGA. Mr. President, I offer a substitute amendment for the amendment of the Senator from Wisconsin.

The PRESIDING OFFICER. Will the Senator suspend for a moment? Is the understanding of the Chair correct that these two amendments are the two amendments previously offered?

Mr. MATSUNAGA. That is correct. The amendment previously offered was called up by the Senator from Wisconsin. However, I am asking unanimous consent to withdraw the original substitute which I offered, and offer this new substitute amendment.

The PRESIDING OFFICER. The Senator has a right to withdraw his previous substitute.

Mr. MATSUNAGA. There is a previous substitute, which I ask unanimous consent to withdraw and in its place offer this amendment No. 819.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Hawaii (Mr. Matsunaga), for himself and Mr. Nelson, proposes an amendment numbered 819 as a substitute amendment for amendment numbered 768.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

In lieu of the language to be inserted insert the following:

"barrel over such fraction bears to a barrel.

"(f) Termination Date.—This section shall not apply to taxable years beginning after December 31, 2000.

"(b) Technical and Conforming Amendments.—

"(1) The table of sections for subpart A of of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 44C the following new item:

" 'Sec. 44D. Production of fuels from nonconventional sources'.

"(2) Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out 'and 44C' and inserting in lieu thereof '44C, and 44D'.

"(c) Effective Dates.—

"(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to fuels produced after December 31, 1979, in facilities placed in service, or from wells drilled, after September 30, 1979, and before January 1, 1990.

"(2) Exceptions.—

"(A) Qualifying processed wood fuels.—In the case of qualifying processed wood fuels (within the meaning of section 44D(d)(2) of the Internal Revenue Code of 1954, as added by subsection (a)), the provisions of section 44D(c)(1) of such Code, as so added, shall not apply, and the amendments made by this section shall apply to fuels sold after September 30, 1980, and before October 1, 1983, and produced in facilities placed in service after April 20, 1977, and before October 1, 1980. In the case of facilities placed in service after September 30, 1980, and before January 1, 1982, such credit shall apply to fuels sold during the 3 calendar years following the date on which such facility was placed in service and the provisions of section 44D(c)(1) shall not apply with respect to such fuels.

"(B) Biomass steam.—For the purpose of applying the provisions of section 44D of the Internal Revenue Code of 1954 in the case of steam produced from solid agricultural byproducts—

"(i) General rule.—The credit allowed by section 44D(a) shall be allowed with respect to such steam sold after December 31, 1979, and before January 1, 1985, which is produced in a facility placed in service after September 30, 1978.

"(ii) Phaseout not to apply to certain production.—Paragraph (1) of section 44D (c) of such Code (relating to phaseout of credit) shall not apply—

"(I) in the case of a facility placed in service after September 30, 1978, and before October 1, 1980, with respect to steam sold after September 30, 1980, and before October 1, 1983, or

"(II) in the case of a facility placed in service after September 30, 1980, with respect to steam sold during the first 3 calendar years of production.

"(iii) Credit to apply only to incremental steam from pre-1978 facilities.—In the case of a facility placed in service before October 1, 1978, the credit allowed by section 44D(a) shall be allowed only with respect to that portion of the steam sold after September 30, 1980, which is attributable to increased production capacity due to additional or replacement equipment placed in service after September 30, 1978.".

Mr. MATSUNAGA. Mr. President, on Friday, December 7, 1979, Senator Nelson and I offered an amendment to provide a 3-year certain period for the production tax credit mentioned by the Senator from Wisconsin, Since the 3-year disregard of the phase out provision would have applied to all alternative fuels under our earlier amendment, the estimated revenue loss would have totaled $3 billion for the life of the credit. Because of this projected revenue loss, the amendment aroused serious unexpected opposition.

With that objection in mind, Senator Nelson and I have redrafted our amendment. The revised amendment applies only to processed wood products and solid agricultural byproducts. As modified, the amendment will incur a revenue loss of only $280 million over the life of the credit.

As we have stated earlier, the production credit would prove useless unless it is modified. The committee bill would phase out the credit when the price of oil reaches $29.50. Since oil has reached that price, the credit would never go into effect.

We earlier had discussed the energy potential of wood and solid agricultural byproducts as alternative fuel. Peanut shells, rice hulls, corn husks, sugar cane bagaste and other solid waste, rye grass, and wood can replace conventional oil and natural gas. Any area of the country with waste wood or agricultural refuse can supplant oil and gas with alternative fuel.

The revised amendment as applied solely to processed wood and solid agricultural byproduct is a reasonable proposal, within the spirit and intent of the committee bill and I urge its adoption.

Mr. WALLOP. Mr. President, I simply wish to say that the Senator from Hawaii falls into a trap that is getting all too common around here. In talking about a bill of $180 billion to $278 billion, he refers to a revenue loss of $280 million as "only $280 million." I remind the Senator that that is 28 percent of $1 billion.

As Senator Dirksen used to say, "A billion dollars here and a billion dollars there, and pretty soon you are talking about real money."

Mr. MATSUNAGA. I would remind the Senator from Wyoming that the projected revenue loss under the original amendment would have been $3 billion.

Mr. WALLOP. In that case, the Senator is correct; that makes it "only."

Mr. DOLE. Mr. President, I think the record is clear that, as the Senator from Wyoming has indicated, the cost has been reduced to $280 million.

Mr. MATSUNAGA. That is correct.

Mr. DOLE. For technology that is now being used; is that correct?

Mr. MATSUNAGA. That is correct.

Mr. DOLE. We have no objection.

Mr. LONG. Mr. President, I am willing to take the amendment to conference.

The PRESIDING OFFICER. The question is on agreeing to the substitute amendment (No. 819) offered by the Senator from Hawaii (Mr. Matsunaga).

The amendment was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment (No. 768) of the Senator from Wisconsin (Mr. Nelson), as amended.

The amendment, as amended, was agreed to.

SENATE RESOLUTION 304—COMMENDING THE GOVERNMENT OF THE UNITED KINGDOM FOR CREATING A BASIS FOR PEACE IN ZIMBABWE-RHODESIA

Mr. PERCY. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of Senate Resolution 304, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated.

The legislative clerk read as follows:

A resolution (S. Res. 304) expressing the sense of the Senate with respect to commending the Government of the United Kingdom for creating a basis for peace in Zimbawe-Rhodesia and the southern African region, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, that was cleared, was it not, all around?

Mr. PERCY. Yes. There was a 5-minute time agreement.

Mr. ROBERT C. BYRD. Three minutes, was it not?

Mr. PERCY. Three minutes is fine.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER (Mr. Tsongas). Without objection, the committee will be discharged and the Senate will proceed to its consideration. The Senator from Illinois is recognized for not to exceed 5 minutes.

Mr. PERCY. Mr. President, last week I introduced a resolution, which now has 17 cosponsors, commending the Government of the United Kingdom for its contribution to peace in southern Africa by conducting negotiations on the future of Rhodesia. Those cosponsors included Mr. Javits, Mr. Church, Mr. Baker, Mr. Pell, Mr. Lugar, Mr. McGovern, Mr. Hayakawa, Mr. Zorinsky, Mr. Biden, Mr. Glenn, Mr. Stone, Mr. Cohen, Mr. Chiles, Mr. Nunn, Mr. Roth, Mr. Helms, and Mr. Jepsen.

Mr. McCLURE. Mr. President, will the Senator add my name as a cosponsor?

Mr. PERCY. I ask unanimous consent that the names of Mr. Sarbanes and Mr. McClure also be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. At the time, Mr. President, I pointed out that there were still difficulties to overcome at the peace negotiations, but I introduced the resolution in the hope that the talks would be concluded successfully. We are more hopeful than ever now for success.

Lord Soames, the distinguished and respected British Governor, has already arrived in Salisbury. Arrangements should soon go forward to implement the cease-fire and proceed with elections for the country's leadership. In less than 4 months the British Government, under the gifted leadership of Prime Minister Thatcher and Foreign Secretary Lord Carrington, have achieved a settlement which has eluded all others before them for 14 years.

The prospect that the killing of innocent people in Rhodesia and surrounding countries will stop, and that the countries of the region can set about the work of developing their economies, is very exciting to contemplate.

Because of the magnificent leadership of the British Government, a peaceful settlement of a very difficult situation has become a reality. They deserve our highest praise and gratitude.

Passage of the resolution at this time would be especially appropriate because Prime Minister Thatcher arrives in the United States on Sunday. Mr. President, I urge the adoption of the resolution.

The PRESIDING OFFICER. Is there any other Senator seeking recognition on this resolution?

Mr. PERCY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the resolution.

The resolution (S. Res. 304) was unanimously agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Expressing the sense of the Senate with respect to commending the Government of the United Kingdom for creating a basis for peace in Zimbabwe-Rhodesia and the southern African region, and for other purposes.

Whereas the status of the Government of Rhodesia (now Zimbabwe-Rhodesia) has been a disputed issue in the world community for over fourteen years; and

Whereas the differences among the concerned parties have resulted in hostile conflict in the region for seven years; and

Whereas the people of the southern African region have suffered great tragedy as a result of the conflict; and

Whereas the Government of the United Kingdom, by authority of Prime Minister Margaret Thatcher and with the skillful assistance of Foreign Secretary Lord Carrington, has brought the parties to the conflict together to achieve a peaceful resolution; and

Whereas the negotiations have resulted in an agreement among the concerned parties: Now, therefore, be it

Resolved, That it is the sense of the Senate that the Government of the United Kingdom merits the commendation and appreciation of all peace-loving and free nations for a major contribution in reducing tensions in Zimbabwe-Rhodesia and the southern African region and establishing a basis for peace.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. PERCY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of the bill.

AMENDMENT NO. 801, AS MODIFIED

Mr. BELLMON. Mr. President, I call up amendment No. 801, as modified.

The PRESIDING OFFICER. The Chair will inform the Senator that it takes unanimous consent to call up the amendment at this point.

Mr. BELLMON. Mr. President, I ask unanimous consent to call up amendment No. 801, as modified.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. Bellmon) proposes amendment numbered 801.

Mr. BELLMON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following section:

SEC. 402. VALUATION OF CERTAIN FARM, ETC., REAL PROPERTY

(a) IN GENERAL.—Paragraph (7) of section 2032A(e) (relating to alternate valuation) is amended—

(1) by redesignating subparagraph (B) as subparagraph (C) and inserting after paragraph (A) the following:

"(B) IN KIND RENTALS.—Net in kind rentals (crop share rentals) from comparable real property in the locality of the farm for farming purposes may be used in the formula provided by subparagraph (A) where there is no such comparable real property from which a cash rental may be determined. For purposes of this paragraph, the term 'net in kind rental' means the excess of—

"(i) the value of the commodity received by the lessor of the land on which such commodity is produced, over

"(ii) the cash operating expenses of growing such a commodity which, under the lease, are paid by the lessor"; and

(2) in subparagraph (C), as redesignated by paragraph (1), by inserting "or in kind rental" after "rental".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

Mr. BELLMON. Mr. President, I rise to offer an amendment containing proposals for revising certain rules affecting the special valuation of family farms under the estate tax laws.

Mr. President, under the estate tax laws in effect prior to 1976, all property was included in a decedent's gross estate at its fair market value. In determining fair market value, it was presumed that the property would change hands between a willing buyer and seller on the basis of a price which reflected the potential "highest and best use" of the property. This price did not necessarily reflect the actual use of the property by the decedent.

This valuation method resulted in higher estate taxes for decedents whose estates included farm land which was used for farming purposes but could have been used for some other, more profitable, commercial purpose. In some cases, this higher tax made it difficult for the family of the decedent to continue to use the land for farming because the income from farming was not sufficient to pay an estate tax based on a speculative, commercial use of the land rather than use of the land as a farm.

In 1976, the Congress recognized that it was inappropriate to value farmland on the basis of its potential highest and best use and changed the law to allow a special valuation of farm property. This provision allows valuation on the basis of use of the property as a farm, not on the property's speculative value under a highest and best use approach.

The provision enacted by Congress in

1976 includes two methods for valuing family farms and real estate used in certain closely held businesses. The first method, which is available only for farms, involves the use of a mathematical formula, and is intended to reduce subjectivity in farm valuation. The second method, available to all property subject to special use valuation, involves the application of a list of commonly accepted appraisal factors, such as the capitalization of income from the property.

Mr. President, my amendment is designed to make one important change in the mathematical formula method of valuation. Under this formula, the average State and local real estate taxes of comparable land are first subtracted from the average annual gross cash rental for comparable land. The result is then divided by the average annual effective interest rate for all new Federal Land Bank loans, and the result is the value of the farm for estate tax purposes.

The Internal Revenue Code currently provides that only comparable gross cash rentals may be used in the formula; it does not allow the use of crop share rentals in the formula. In many areas of the country, it is customary to have crop share rather than cash rental payments. Although the alternative valuation method involving the use of various commonly accepted appraisal factors is available where there is no comparable gross cash rental information, the literal application of the statute means that executors in many areas will not be able to take advantage of the objective and simple formula in the law. My amendment would remove this barrier from the law by allowing the formula to apply to "in kind" rentals for comparable property where there is no comparable property from which a cash rental may be determined.

Mr. President, my amendment simply clarifies the 1976 special use valuation amendment so that crop rent may be used in the special use valuation formula when no comparable cash rents are available. An estate should not be denied the availability of the special use valuation just because the land assets happen to be located in an area where cash rents are not used.

Mr. BELLMON. Mr. President, when the Congress passed the tax reform bill of 1976, we put in a provision making it possible to establish the value of certain land based not upon appraised value but upon the agricultural value of those lands. But we put into the section requiring that that value be established based upon cash rentals.

There is a large part of the country where land does not rent for cash. It rents for crop rent. And the Treasury has had a difficult time—in fact, for all practical purposes, they are not using the provision we put in that act, because, unless there is a cash rental being paid, they are declined to allow the use of crop rentals and, therefore, the law is not being followed.

What this amendment does is simple. It simply makes it possible for that to be established, based on in kind or crop share rentals, rather than cash rentals.

Mr. President, this amendment does not change the present provision for using the cash rental. The Treasury may still go on using cash rental if they choose. But it makes it possible to use cash or crop rental, whichever is customary in the area. I urge the adoption of my amendment.

Mr. President, I have a short article from the Successful Farmer magazine dealing with this matter. I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LIMITED USE OF SPECIAL USE VALUATION?

IRS Code section 2032A of the Tax Reform Act of 1976 permits the executor of an estate of a decedent who died after December 31, 1976, to value the decedent's farm real property on the basis of its current use instead of its higher fair market value.

To clarify the 1978 proposed regulations concerning this special use valuation, the IRS has declared that an executor does not have to show a different or higher potential use for the property other than farming. But executors are required to identify actual comparable property and the cash rental from that property to qualify for the valuation formula. (Crop share rentals cannot be substituted if comparable cash rental property is not available.)

"It's a give-and-take situation," says Paul A. Meints of Country Life Insurance Company of Bloomington, Illinois. "Not having to show a nonagricultural use for farmland will allow more estates to apply for the special use valuation. But the strict cash rental interpretation will severely limit use of the formula."

Expect final regulations soon.

Mr. LONG. Mr. President, this amendment involves an area which the committee should take a careful look. We would like an opportunity to hold a hearing on it and to study it, along with the suggestion to the Treasury.

It is our procedure in the committee, about measures of this sort, to hold a hearing and let all those who have an interest in it have the opportunity to present their views. We especially want to have the views of the responsible Government agencies, which, in this case, would be the Treasury Department.

I would urge the Senator to withhold the amendment at this time. I will be glad to work with him in urging the Senator from Virginia (Mr. HARRY F. BYRD, JR.) to hold a hearing on this subject. I am sure that he would give it sympathetic consideration.

Perhaps we might be able to get action on it for the Senator. I do not think we could agree to it at this point.

Mr. BELLMON. Mr. President, I wonder if the distinguished chairman of the Finance Committee could give the Senator from Oklahoma some idea on how quickly that action might be. The law was passed in 1976. It still has not been effectively applied. I hope we will not have to wait too long to get some action.

Mr. LONG. The subcommittee chairman (Mr. HARRY F. BYRD, JR.) has been very helpful in conducting hearings on matters of this sort. He has made several commitments along this line to hold hearings in January and February on matters of this sort. I would think that he would be happy to assure the Senator, when he is here, that he will hold a hearing on it early next year.

Mr. BELLMON. Mr. President, I assume the reason the chairman of the committee may not be in favor of this, possibly, at this time, is because he may feel this is nongermane.

I would say that there is some question about that, since section 2032A of his amendment is in the bill.

But, at any rate, my question is: Is there another vehicle we might use where this amendment might be considered to be germane?

Mr. LONG. Yes. The committee has reported out three other bills. I think one of them is on the Calendar now. We will have the other two shortly on the Calendar. There might be a chance to act on those bills. In fact, we hope to pass those bills this year. They do include several revenue measures that were suggested by various members of the committee.

Mr. BELLMON. So this amendment might be considered at that time, even before hearings?

Mr. LONG. Mr. President, well, it conceivably could. But I would hope that an effort would be made to try to arrange a hearing on the subject or to at least attain the views of the Treasury Department before we vote on the matter.

Mr. BELLMON. Mr. President, I might say that the amendment, as introduced, had the support of the Treasury Department. We have since taken out the cap at the insistence of some of the members of the Finance Committee. As far as the Senator from Oklahoma is concerned, an amendment in either form would be appropriate.

Mr. DOLE. Mr. President, I think the Senator from Oklahoma is absolutely correct. This is very important to farmers. I do not believe Treasury has properly understood the issue involved.

It would be my hope that the Senator from Oklahoma would contact Senator HARRY F. BYRD, JR.'s subcommittee, discuss it with Senator HARRY F. BYRD, JR. and it might even be possible to have the hearings before the bill referred to by the chairman passes the Senate floor and it could be added on as an amendment at that time. But I prefer the modified version of the Senator's amendment, not the original version.

I am one of those Senators who suggested it be modified. I think, in the present state, it ought to be adopted.

But it could be added to the bill referred to by the chairman. That bill will pass. Many features of it have been requested by the administration.

Mr. BELLMON. Mr. President, I thank the Senator from Kansas. I appreciate his support.

The problem we seem to have around here is that it is hard to get a bill where a matter of this kind can be attached.

There are so few bills that seem to be good vehicles for the attachment of an amendment of this kind.

So if I do withdraw the amendment, which I will do to accommodate the chairman and the ranking minority member, we are not giving up an opportunity of getting some action this year. This is a matter that, in my opinion, needs to be settled.

We passed a law in which we thought we knew what we were doing. The Treasury did not, apparently, understand us, and now we are going to have to clarify it slightly.

So, with the assurance that we are going to get some action, I will withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii (Mr. MATSUNAGA).

Mr. ROBERT C. BYRD. Mr. President will the Senator yield?

I wonder if we could go to morning business now and discontinue action on this bill today.

Mr. MATSUNAGA. Mr. President, if the majority leader will yield, the manager of the bill, Senator LONG, has agreed to engage in a colloquy with me.

Mr. GRAVEL. Will the Senator yield? I have one brief amendment that will not take but 3 or 4 minutes.

Mr. ROBERT C. BYRD. Mr. President, there are a lot of brief amendments. I say to my good friend from Alaska, many of us want to know what they are about.

I withdraw my request for now.

The PRESIDING OFFICER. The Senator from Hawaii.

ADDITIONAL COSPONSOR—AMENDMENT NO. 819

Mr. MATSUNAGA. Mr. President, first, I ask unanimous consent that the Senator from New Hampshire (Mr. DURKIN) may be added as a cosponsor of amendment No. 819 just adopted by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, will the distinguished chairman of the Finance Committee and manager of the bill clarify several matters with regard to the business income tax credit provisions in the committee bill?

Mr. LONG. Yes.

Mr. MATSUNAGA. Biomass property is defined to include, among other items, "equipment for converting biomass into a synthetic solid fuel." Is the intent of this provision to include equipment for biomass unloading, transfer, storage, and preparation (including, but not limited to, washing, crushing, drying, and weighing) at the point of use?

Mr. LONG. It is.

Mr. MATSUNAGA. The manager of the bill is cognizant that sugarcane refuse or bagasse may be used as fuel to generate electricity. Bagasse is the fibrous byproduct remaining after the sugarcane juice is squeezed out. Is it the intent of the business energy tax credit provision to include bagasse as biomass (other than wood, wood products, or timber waste)?

Mr. LONG. Yes.

Mr. MATSUNAGA. Is it also the intent of the production tax credit to include bagasse as a solid agricultural byproduct?

Mr. LONG. Yes.

Mr. MATSUNAGA. I thank the Senator from Louisiana.

AMENDMENT NO. 805

Mr. GRAVEL. Mr. President, I call up amendment No. 805.

The PRESIDING OFFICER. Is there objection to calling up the amendment of the Senator from Alaska?

Mr. METZENBAUM. Mr. President, reserving the right to object, and I will not object until I know about the amendment——

Mr. GRAVEL. Mr. President, before calling up the amendment, I will explain it very briefly.

Mr. METZENBAUM. If the Senator will do that, I will reserve my right to object.

Mr. GRAVEL. Mr. President, I will be happy to do that.

In the Finance Committee, we did not pass out a tax on new oil. Since Alaska Natives, the Indians, in Alaska have no oil, then obviously there was no need to secure exception for Native oil. Indian oil in the United States is not taxed. It would not be taxed under this bill.

All I was seeking to do with this amendment was to go ahead and have Alaska Natives treated just like Indians in the Southwest.

Mr. METZENBAUM. If the Senator from Alaska would be good enough to hold his amendment until tomorrow morning, I would appreciate it.

Mr. GRAVEL. I will be happy to do that. I will be happy to accommodate my colleague.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I believe the Senate has proceeded as far as it can in making progress on this bill today. I thank all Senators. I do want to add the name of Mr. EXON to the name of Senators for whom I express my appreciation and gratitude today in connection with working through many, many hours in my office on this bill.

There may be others whose names I inadvertently overlooked.

Mr. McCLURE. Mr. President, will the Senator from West Virginia yield for a request?

Mr. ROBERT C. BYRD. I yield.

Mr. McCLURE. Mr. President, I had intended to call up an amendment which I believe is noncontroversial, but I understand that it is the desire of the majority leader to lay this bill aside until tomorrow morning.

Mr. ROBERT C. BYRD. Yes.

Mr. McCLURE. If that is so, I will withhold offering my amendment until tomorrow.

Mr. ROBERT C. BYRD. I hope to do that. Mr. DURKIN has an amendment or two he would like to bring up tonight if he can get unanimous consent, but I am in no position to state that that can be obtained.

Mr. METZENBAUM. Will the leader yield?

Mr. ROBERT C. BYRD. Yes.

Mr. METZENBAUM. In the closing hours of tax legislation, many amendments are brought up on the floor and many of us do not know what they contain. I will advise that I intend to be on the floor and object to the calling up of any amendments in which many of us have an interest and have the amendment just quickly passed. I do intend to study this whole bag of amendments. I wish to put Members on notice that I do not mean to be obstreperous, but I do wish to know what we are accepting.

Mr. DURKIN. Mr. President, does that go for amendments we have already discussed with the managers of the bill?

Mr. METZENBAUM. I am sure I will have no objection to the Senator's amendments.

Mr. DURKIN. When? When will you have no objection?

Mr. METZENBAUM. The leader just said that we are going over until tomorrow morning and we will put the bill aside.

Mr. ROBERT C. BYRD. I said Mr. DURKIN had an amendment or two that he might want to bring up and he might get unanimous consent to do that. I did not say whether he would get unanimous consent or not. I do not want us to roadblock amendments just for the sake of stopping all action today.

I would hope that we could have an understanding of amendments before we get unanimous consent to call them up, when we are tired and when it is late, with only a handful of Senators in the Chamber. I do not mean by this to be objecting to the amendment of the Senator from New Hampshire. It may very well be that there will be no problem.

Will the Senator from Ohio take a look at the amendments of the Senator from New Hampshire and see if he can bring them up under unanimous consent?

Mr. METZENBAUM. I will be happy to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if Mr. DURKIN is permitted to bring up these amendments this evening, those be the last amendments today on this measure.

The PRESIDING OFFICER. Is there objection?

Mr. McCLURE. Reserving the right to object, I wonder if one amendment of this Senator can be included in that request?

Mr. METZENBAUM. I will say to my friend from Idaho that I would like to find out what his amendment contains before I indicate I would not object.

I have no objective to the amendments of the Senator from New Hampshire.

Mr. McCLURE. I think the Senator from West Virginia requested if the Senator from Ohio did not object, the amendments of the Senator from New Hampshire would be the last amendment for today. All I asked was whether we might leave room for one amendment of the Senator from Idaho.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENTS NOS. 838 AND 850

(Purpose: To expand the financial assistance for lower income persons suffering increased energy costs to include the use of wood).

Mr. DURKIN. Mr. President, I would like to call up two amendments.

The PRESIDING OFFICER. Is there objection to calling up the amendments en bloc? Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I call up amendments Nos. 838 and 850.

The PRESIDING OFFICER. The amendments will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN), for himself, Mr. LEAHY, Mr. STAFFORD, Mr. COHEN, Mr. TSONGAS, Mr. NELSON, and Mr. Dole, proposes amendment numbered 838:

On page 100, line 1, strike section 202 and insert in lieu thereof the following new section:

Sec. 202. Energy Conservation Expenditures.

(a) In General.—Subparagraph (A) of section 44C(c)(4) (relating to definition of other energy-conserving components) is amended—

(1) by striking out "or" at the end of clause (vii), and

(2) by striking out clause (viii) and inserting in lieu thereof the following new clauses:

"(viii) a heat pump (including a water source heat pump) which replaces an electric resistance space or water heating system or is used as a backup system for a solar hot water heater,

"(ix) an airtight woodburning stove,

"(x) a replacement oil or gas furnace or boiler which meets the requirements of paragraph (9),

"(xi) a replacement coal furnace or boiler which is part of a central heating system, or

"(xii) a replacement woodburning furnace or boiler which is part of a central heating system.".

(b) Technical and Conforming Amendments.—

(1) Section 44C(c) (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraphs:

"(9) Replacement oil and gas furnaces and boilers.—An oil and gas replacement furnace or boiler meets the requirements of this paragraph if—

"(A) in the case of oil, it has an average fuel utilization efficiency rating of 80 percent or more, or

"(B) in the case of gas, it has an average fuel utilization efficiency rating of 75 percent or more.

"(10) Replacement woodburning furnaces and boilers.—A woodburning replacement furnace or boiler meets the requirements of this paragraph if—

"(A) it has been approved by a recognized testing laboratory as being safe, and

"(B) it has been determined to be energy efficient.

"(11) Amount of credit for replacement coal furnace.—In determining the amount of the credit in the case of an energy conservation expenditure for any item described in paragraph (4)(A)(xi), subsection (b)(1) shall be applied by substituting '25 percent' for '15 percent'.".

(2) Clause (i) of section 44C(c)(6)(A) (relating to regulations) is amended by striking out so much of such clause as follows "used in" and inserting in lieu thereof "prescribing performance and quality standards under paragraphs (3), (4), and (5), and".

(c) Effective Date.—Notwithstanding the provisions of subsection (f) (relating to termination date), the amendments made by this section with respect to clauses (viii), (ix), (x), and (xi) of 44C(c)(4)(A) shall apply to expenditures made after September 30, 1979, and with respect to clause (xii) of 44C(c)(4)(A) shall apply to expenditures made after September 30, 1980, and before January 1, 1983.

The Senator from New Hampshire (Mr. Durkin) proposes an amendment numbered 850:

On page 157, line 9, strike out "use." and insert "use, including wood.".

Mr. DURKIN. Mr. President, I ask unanimous consent that amendment 838, previously adopted, be treated as an amendment to "insert" rather than "strike and insert." We inadvertently knocked out the Domenici amendment which we had just accepted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I am proposing today in amendment 838 to extend the residential energy credits to include woodburning furnaces and boilers which are part of central heating systems.

I want to thank my colleagues, Senators Leahy, Nelson, Stafford, Cohen, Tsongas, Humphrey, and Dole for joining me as cosponsors.

The amendment we propose would allow a 15-percent credit on expenditures made for woodburning central heating equipment, within the $2,000 limit for energy conserving components. Expenditures must be made after September 30, 1980, and before January 1, 1983. In order to be eligible for the credit all systems must be approved and certified by a recognized testing laboratory as being safe. All systems must be determined to be energy efficient. The Joint Tax Committee and the Treasury have both estimated that this credit will result in additional revenue losses of $10 million per year, 1 percent above the Finance Committee estimates for the conservation credits.

There is a great need for this tax credit. Already over two-tenths of 1 quad, a significant amount of energy, comes from the use of wood-burning stoves in the residential sector. In New England, well over half of the homeowners use wood as a source of energy. Over 1 million wood stoves were sold in 1978 and indications are that perhaps twice that many will be sold in 1979.

By the end of the year 4 to 5 million families will rely on wood to supply their heating needs. Even more imported oil could be displaced if costly wood burning central heating equipment were more economically attractive to homeowners. Because wood burning central heating equipment have high first costs—typically as much as $2,000 per unit—homeowners are discouraged from purchasing them. In these inflationary times consumers find it difficult, if not impossible, to finance new wood-burning equipment which cost this much. This is particularly true for low-income families. For these reasons, the tax credit we propose is badly needed.

In addition, as advanced low-pollution central heating equipment comes in to the market within the next few years, the tax credit will be especially needed since these advanced systems will be much more costly than today's wood burning equipment. The 15-percent tax credit will stimulate market penetration of heating equipment such as that having secondary combustion chambers for high conversion efficiency.

If our amendment is adopted, both the Joint Tax Committee and the Treasury Department have estimated that additional revenue losses of $10 million each year would result. This is a small price to pay, considering the amount of imported oil that would be displaced as a result of the increased use of wood energy. According to a Department of Energy study, our proposed tax credit would induce the installation of enough additional units to displace about 8,600 barrels per day. If we make the conservative assumption that the average price of oil will be just $25 per barrel between now and 1983, it is clear that we will be displacing, at the very least, $78 million of oil imports yearly. In other words, for a $10 million per year investment, this country will decrease its oil imports by at least $78 million per year.

There are many other nonquantifiable benefits which will come about if our amendment passes. As now drafted, our amendment will encourage the adoption of wood-fired furnaces which have been safety-approved and which are energy-efficient. And, curiously enough, the management and productivity of the Nation's forests can be improved through more intensive use of wood stoves and furnaces. The use of wood for energy creates a demand for low-quality forest biomass. Normally this residue has no economic value and inhibits forest productivity. But in the presence of a demand for wood fuel, this residue acquires an economic value and it becomes economically attractive to harvest it for conversion to energy. The end result is that imported oil is displaced and a larger rather than smaller wood supply is created.

In sum, a vast, almost incalculable energy resource exists—not in some unspecified future world—but in the forests of the Northeast, Southeast, and Northwest today. I urge my colleagues to support our amendment, and tap this vital resource.

Mr. President, amendment No. 850 which I propose would insure that the low-income energy assistance tax credit provided in the Windfall Profit Tax Act would apply to users of wood fuel.

Mr. President, in New Hampshire and all over New England the use of wood for home heating and cooking is widespread. Over 50 percent of the people in New England use wood as a source of energy. Over 55 percent of the people of New Hampshire use wood to heat their homes, and 63 percent of those people use wood as a primary—not a supplemental, but a primary—source of energy.

Because of anticipated shortages of home heating oil this winter, the woods in my home State and throughout the Nation have been subject to heavy cutting. The price of cordwood has skyrocketed. Homeowners have been forced to pay outrageous prices, sometimes exceeding $150 a cord. And, Mr. President, low-income groups have borne a heavy burden as a result of these price increases. Many people, I fear, will have to choose between paying for expensive fuel or expensive food. I fear that many individuals and families will not be able to afford both food and fuel, unless my amendment is passed.

My amendment would statutorily insure that users of wood fuel would be eligible for the low-income energy assistance tax credit. I strongly urge support for my amendment.

Mr. DOLE. Mr. President, the Senator from Kansas is a cosponsor of amendment No. 838. In fact, I believe I offered it in the committee and brought forth material with reference to woodburning furnaces which are more heat efficient than the wood-burning stoves. I believe it is a good amendment. As far as I know, there is no objection on the other side to the second amendment of the Senator from New Hampshire, and we would be willing to accept the amendment on this side.

Mr. DURKIN. I thank the Senator.

Mr. LONG. Mr. President, I am willing to take the amendments to conference.

The PRESIDING OFFICER. Is there objection to agreeing to the amendments en bloc? If not, it is so ordered.

Without objection, the amendments are agreed to, en bloc.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendments were agreed to en bloc.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 595

(Purpose: An amendment to title II, part 2, of H.R. 3919, as reported by the Committee on Finance)

Mr. McCLURE. Mr. President, I ask unanimous consent that it may be in order to call up amendment No. 595.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, what is this amendment?

Mr. McCLURE. This is an amendment to allow a tax credit to the purchaser of an electric vehicle. It has been discussed with the majority and minority managers.

Mr. ROBERT C. BYRD. What is the amount of money involved?

Mr. McCLURE. It would depend on the number of the vehicles actually purchased. It was suggested by the majority staff that in the first calendar years, revenues might decline by $1 billion, in 1981 and 1982, and maybe as high as $14 billion by 1985.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Reserving the right to object.

Mr. President, I hope we shall wait until tomorrow to proceed with further amendments. We are all tired and there are very few Senators on the floor at this time. Of course, I have been the one who has been asking for progress around here and for the Senators to call their amendments up and it puts me in a difficult position to object. Does anybody know of any objection to this amendment? It sounds like a good amendment to me.

Mr. McCLURE. I say to the Senator from West Virginia that a similar provision was passed by both Houses of Congress before but was dropped in conference.

It is not a new proposal. It is one that has been around for quite a little while.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

Mr. McCLURE. I thank the Senator.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McClure), for himself, Mr. Domenici, Mr. Levin, and Mr. Matsunaga, proposes an amendment numbered 595.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

H.R. 3919 is hereby amended by adding on page 139, line 22, a new section 239:

Section 239. Credit for Qualified Electric Motor Vehicles.

(a) General Rule.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44C the following new section:

"Sec. 44D. Qualified Electric Motor Vehicles.

(a) General Rule.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of the cost to the taxpayer of acquiring a qualified electric motor vehicle, or the cost of converting a vehicle powered by an internal combustion engine to the use of electrical power, during the taxable year, which amount shall not exceed $1,000.

"(b) Limitations.—

"(1) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

"(c) Qualified Electric Motor Vehicle Defined.—For purposes of this section, the term 'qualified electric motor vehicle' means any vehicle—

"(1) which is manufactured primarily for use on public streets, roads, and highways (except any vehicle operated exclusively on a rail or rails),

"(2) which is powered primarily by an electric motor drawing current from rechargeable storage batteries or other portable sources of electric current.

"(3) which is acquired by the taxpayer after December 31, 1979, and before January 1, 1987, and

"(4) the original use of which begins with the taxpayer.

"(d) Creditable Conversion Costs.—The costs for converting a vehicle powered by an internal combustion engine to the use of electrical power for which a credit is allowable under subsection (a) include on those costs incurred by the taxpayer for converting a vehicle described in paragraph (1) of subsection (c) which is powered by an internal combustion engine to a vehicle described in paragraphs (1) and (2) of such subsection.".

(b) Technical and Conforming Amendments.—

(1) The table of sections for such subpart A is amended by inserting after the item relating to section 44c the following new item:

"Sec. 44D. Qualified electric motor vehicles.".

(2) Section 6096(b) (relating to designation of income tax payment to Presidential Election Campaign Fund) is amended by striking out "and 44C" and inserting in lieu thereof "44C, and 44D".

(c) Effective Date.—The amendments made by section 1 of this Act shall apply with respect to taxable years beginning after December 31, 1979.

Mr. McCLURE. Mr. President, this is an amendment that has been cosponsored by myself and Senators Matsunaga, Levin, and Domenici. I ask unanimous consent that the Senator from Massachusetts (Mr. Tsongas) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I have already indicated what the amendment does. I think the staff and floor managers on both sides of the aisle have indicated willingness to accept the amendment. If there is no further question, I move the adoption of the amendment.

Mr. LONG. Mr. President, the Senate agreed to the amendment and took it to conference on a previous occasion. The House would not agree to it at that point. It may be that the House may take a different view. I am willing to take it to conference.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I ask unanimous consent that Mr. Bradley be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, has the amendment been adopted?

The PRESIDING OFFICER. The amendment has been agreed to.

Mr. McCLURE. I ask unanimous consent that the Senator from Kansas (Mr. Dole) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BELLMON. Mr. President, I call the attention of the Senator from Ohio to amendment 691. I ask unanimous consent to call it up at this time.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object.

Mr. BELLMON. Let me take a moment to explain the amendment. The bill, as I understand it, provides certain exemptions for gasohol. This amendment would allow the same credit to straight alcohol fuels as well as mixtures of alcohol and methanol made from coal products. It does not provide for exemptions from alcohol produced from petroleum liquids, natural gas or special fuels.

The fact is that coal is the best feedstock for methanol. The way the bill now stands, as I understand it, methanol made from coal is not treated the same way as alcohol made from other materials.

Mr. DOLE. Will the Senator yield?

Mr. BELLMON. I am glad to yield.

Mr. DOLE. I think we take care of the question raised in an amendment to be offered tomorrow by the Senator from Kansas, the Senator from Indiana (Mr. Bayh), the Senator from Pennsylvania, and 20-some cosponsors. We have, I think, done the very thing the Senator suggests in that amendment.

Mr. BELLMON. It has not been done yet.

Mr. DOLE. We shall be doing it tomorrow and it does some other things in addition.

Mr. BELLMON. Would there be objection to taking this amendment now and whatever is done tomorrow—all we are trying to do is encourage the production of methanol from coal.

Mr. DOLE. That is the very thing

Senator HEINZ has been working on, and the staff, for the past 3 weeks. I think it is fairly near agreement. I would like to have Senator HEINZ come to the floor if we are going to pursue it. It is a good amendment.

Mr. BELLMON. My concern is that we do not seem to have a lot to do right now. Tomorrow, we may have a landslide of amendments.

Mr. LONG. Mr. President, we cannot take this amendment right now. If the Senator will join forces with those who are going to raise the subject tomorrow, we can work together and I am sure we can work it out.

Mr. BELLMON. Mr. President, I withdraw my request.

THE DANFORTH AMENDMENT

Mr. LONG. Mr. President, tomorrow, we shall discuss the Danforth amendment. The Senator from Missouri (Mr. DANFORTH) has sent out a "Dear Colleague" letter dated December 14, 1979, in which he seeks to identify his amendment or equate his amendment with the Black Lung Benefits Revenue Act.

Mr. President, the Senator makes one great big mistake in his "Dear Colleague" letter, which is the fundamental mistake he has made all along with his entire amendment.

It is fairly well agreed that, where a State goes into a private business, a State can be taxed on a uniform basis with all other taxpayers in that same business. I explained in a speech I made yesterday that if a farmer owns some land and someone comes to that farmer and wants to pay him some money for the privilege of putting some telephone poles on his land so the telephone wire can go across his land, that does not make a telephone company out of the farmer. Likewise, Mr. President, if someone owns some land and someone pays him some money for the privilege of going on his land and digging down for some coal that does not make a coal miner out of that farmer.

It is the same if someone goes into a restaurant and eats a meal and then leaves the restaurant. That does not make the fellow who ate the meal into a cook, a restaurant owner, or a waiter.

The Senator from Missouri (Mr. DANFORTH) keeps insisting on making the same error over and over again, because to fail to make the error would destroy his amendment. For example, here is a tax the Senator cites as a precedent. I know something about it, because I represented the Senate as the chairman of the Senate conferees. This bill was enacted to impose an excise tax on the coal producers on the sale of coal, and to use the revenues from that tax to establish a black lung disability fund. The producer, the coal mine operator, was taxed.

Here is a letter, Mr. President, sent out by the Internal Revenue Service, the agency which collects the tax, explaining the tax to those who owed it: "These benefits will be funded by an excise tax on coal mine operators."

Mr. President, all one need do is read the bill to see that the tax does not fall on a landowner; it does not fall on a State because it owns some land from which someone else extracts coal; it does not fall on a farmer who owns the surface rights to land where someone else mines coal beneath the surface.

It falls on the operator, the person who extracts the coal. Mr. President, the State of Louisiana does no drilling. It does not produce oil. It does not refine oil. It does not merchandise oil. It does not advertise oil. It does not do any of those things that have to do with the business of extracting, producing, merchandising, or advertising oil. The State's income from oil is purely passive income.

The Senator makes another deliberate error, I would assume. Perhaps I am being unfair. If so, I will have to apologize, but perhaps he does not know any better.

But, Mr. President, the Senator should surely know that when we draft a statute, we use words and define what they mean for the purpose of that act.

So in the black lung bill, it is made clear in the committee report that the producer is the coal mine operator.

In this other bill—keep in mind that here is a completely different bill, an act to impose a windfall profit on domestic crude oil—a producer is defined as follows: "For the purposes of this chapter, the term 'producer' means the holder of an economic interest with respect to crude oil."

Mr. President, the definition of a producer in this bill is entirely different from the definition of a producer in the Black Lung Benefits Revenue Act of 1977.

In other words, in terms of the art of the trade, in the bill that was a tax on coal mine operators, the operator was defined as a producer. He was not defined as one who had a mere economic interest in the coal and, therefore, it was not necessary to exempt the State from the tax.

Mr. HATCH. Will the Senator yield on that?

Mr. LONG. Let me just make a statement and I will be glad to yield the floor.

So, Mr. President, it is very clear from all the studies of this matter that a uniform tax that applies to all can be imposed on a State where the State goes into a business, provided it meets certain other qualifications.

I discussed that matter at considerable length yesterday. It appears in the CONGRESSIONAL RECORD for Thursday, December 13, 1979, on page 36000.

It is clear by carefully studying these cases that, for a tax to be constitutional on a State government, it must be nondiscriminatory.

The Danforth amendment is discriminatory. It exempts the great majority of the producers. It exempts tremendous numbers of landowners. The Danforth amendment would put States in the class of those who are discriminated against.

It is unconstitutional because it discriminates. It is also unconstitutional, Mr. President, because it is a tax on land. The courts, particularly through the pen of Chief Justice Stone, have on at least two occasions made it clear that a tax on the real property of a State—and in that case he was referring specifically to oil produced from school lands—would be unconstitutional. The Court said the tax would be unconstitutional because it would involve the State's management of its lands and its position as a property owner in certain situations essential to the function of a State government.

It would be unconstitutional, Mr. President, in the third instance because the stated purpose of the Danforth amendment is to interfere with the legitimate functions of State governments.

The Senator from Missouri (Mr. DANFORTH) made it very clear what his purpose is. His purpose is to prevent the States from using their revenue to help find jobs and payrolls for their people.

Now, helping people find jobs happens to be a well accepted and recognized function of government—Federal Government, State government, and local government. They all do it. In one way or the other they try to help their people find jobs, support themselves, see themselves through periods of adversity.

For the last 40 years, at a minimum, Mr. President—I know as long as this Senator has been involved in government—State governments as well as the Federal Government have taken an interest in their people.

In fact, what is a State government but people? It is people. It is 220 million people. Practically everyone, almost everyone who is a citizen of the United States is also a citizen of a State.

So, Mr. President, the Senator seeks to tax not oil companies. He seeks to tax people. Not energy producers. He seeks to tax people, Mr. President, children, old people, everybody from the cradle to the grave, including some that have not yet arrived on this planet. His amendment would tax those people as though they were oil companies.

He would do that by taxing their State and local governments. What do those governments do with the money? For example, in Louisiana, the money, in the main, would be used for education. That is what money from State land is usually used for in most States.

In fact, historically, that is what most of the money going to State governments, even from Federal lands, has been used for.

So, Mr. President, as I said, when the States seek to try to help people find jobs, earn a living and sustain themselves, the junior Senator from Missouri fears the States might overdo it and, therefore, he would seek to tax these States.

Louisiana would be one of them. The per capita income in Louisiana is about 70 percent of the average per capita income in the United States. It was far below the average. Regretfully, I say, Louisiana comes near the bottom of the list of States in terms of per capita income, but it would be taxed.

Mississippi, right at the bottom of the list, would be taxed.

Oklahoma, one of the low-income States, would also be taxed by the Senator.

They would be denied money that their governments need for the benefit of their people, for their schools, for their education, for the services to their citizens. This would be denied them on the theory that those States might use some of that money to compete with other States for jobs and economic opportunity.

Mr. President, that is an established, accepted function of State government, and the Senator seeks to levy his tax on the States to prevent them from exercising that function to the extent he fears they would do it.

In so doing, Mr. President, he establishes the purposes of his tax.

Chief Justice Stone made clear in the case of New York against United States, on which the Senator from Missouri relies from time to time, that this is not to be permitted.

Let me just quote what the Chief Justice said on that subject.

His opinion happens to be the majority opinion of the Court in that case. The Senator apparently did not understand that, but I believe he understands it today, after I had a chance to educate him on that subject yesterday.

Mr. HATCH. Will the Senator yield me 30 seconds?

Mr. LONG. In 1 minute, Senator.

Let me read what the Chief Justice said:

> Neither government may destroy the other nor curtail in any substantial manner the exercise of its powers. Hence the limitation upon the taxing power of each, so far as it affects the other, must receive a practical construction which permits both to function with the minimum of interference, each with the other, and that limitation cannot be so varied or extended as seriously to impair . . . the appropriate exercise of the functions of the government affected by it.

I yield the floor.

Mr. CRANSTON. Mr. President, the House-passed version of the windfall profits tax legislation contains an exemption provided for economic interests in crude oil held by States or political subdivisions of States, so long as those revenues are used entirely for educational purposes.

The Senate Finance Committee amendment to the House-passed bill includes language which provides the same exemption so long as the revenues are devoted to any public purposes.

I strongly support the language by the Senate Finance Committee. Certainly, there is no justifiable basis for limiting this exemption only to public revenues devoted to education.

The State of California, under a hard-won compromise which I helped achieve as state comptroller, resolved conflicting interests in the revenues from State-owned tidelands oil, after years of fighting.

California, under this agreement, dedicates a portion of its oil revenues to public purposes other than education, and this agreement, with the approval of the voters of California under a referendum, has been made a part of the State's constitution.

My understanding is that it would require an amendment to the California constitution to rededicate revenues derived from tidelands oil exclusively to educational uses. Even could this be easily accomplished, it would reopen the old fight, long since resolved.

But for this unusual situation, the House bill language would require only the revision of accounting practices in all States with revenues from State-owned interests in oil—except Texas—to avoid the restrictive language of the Pickle amendment contained in the House bill.

This is, States now using oil revenues for noneducational public purposes could make bookkeeping adjustments so that those revenues are substituted for other revenues now used for education, while the other revenues would support the noneducational purposes now supported by State oil revenues.

Aside from being an imposition on the State's accounting systems, this approach would accomplish nothing.

There is no reason why the Federal Government should require that sovereign States in order to qualify for a windfall tax exemption dedicate revenues exclusively to education, rather than to the State's own judgment of public need.

Nor is it clear to me why we as a Federal Government should provide preference—particularly in the face of the energy situation which gives rise to this bill—to revenue devoted to education, rather than, for example, to alternative energy development or to mass transit.

Any public purpose by which a State benefits all of the people should be entitled equally to exemption from the windfall tax.

The principles of federalism strongly suggest that Congress should avoid making determinations for the States as to how they use their revenues.

Clearly, then, if the oil income of States and local governments are to be exempt from this tax, that exemption should apply regardless of the public purpose for which the revenues are used.

But the Senator from Missouri (Mr. DANFORTH) has argued that no exemption at all should be provided to State and local governments who realize revenues from sale of their oil.

The distinguished Senator from Louisiana (Mr. LONG) has pointed out with consummate skill during this debate the strong constitutional reasons why this tax should not and cannot constitutionally be imposed on State and local governments.

I see no reason for me to repeat all of those very persuasive and well-reasoned arguments.

It is sufficient for me to say that I agree with the Senator from Louisiana completely on this matter.

The principles of federalism do not permit a Federal tax on these revenues of State and local governments used for public purposes.

The distinguished Senator from Missouri brings a novel—even radical—notion to this chamber.

He argues in effect that the National Government is entitled to tax those States who enjoy economic benefit from the rising price of oil, as though those sovereign States were merely private corporations.

Mr. President, my State is not the Exxon Corp.

A State is not a taxable entity like a corporation, a business, or an individual.

Once the Federal Government starts down the line of taking or taxing the property, the revenue-producing assets of our various States, we have a totally new approach to tax levying and distribution of revenues among the Federal Government and the several States. It is contrary to the sound Federal system with which we have had very long experience.

The Senator from Missouri's arguments are couched in national terms—based on the need for a national energy policy which treats States equally.

I am in favor of a national energy policy which treats all States fairly. But it is an unwarranted, unprecedented and unconstitutional intrusion on the States under the Federal system to use the Federal taxing power to equalize the resources of the several States. And, after looking at California and Missouri, Mr. President, it could never be done.

My State has a population of more than 23 million people. The State government spends about $17 billion each year on services to its citizens.

Missouri has a population of about 5 million and annual State budget expenditures of slightly more than $2 billion.

On what basis does the Senator from Missouri conceive the idea that the taxing power of the Federal Government should be used to equalize the income from State-owned resources in these two States?

The Senator argues without basis that if California receives large income from its own oil production, and from revenues collected from oil producers in the State, it will use that revenue to make economic warfare on the other States, and this is the prime justification which the Senator from Missouri offers for his possible amendments.

Perhaps that is what the State of Missouri does with its income from timber and lead—which, incidentally, the Federal Government does not tax.

But I can assure the Senator that California has neither the need, nor the intention, of using its resources in this way to attract new industry.

The State of California is now growing at the rate of about 1 percent per year. That is, my State's population now grows by 500,000 people every year. And that is quite enough.

That increment of increase is equal to 10 percent of the present population of Missouri.

California's constant growth since the gold rush of 1849 is not a result of economic warfare, nor a windfall from oil production.

It is a result of natural beauty, of a well-protected environment, of a very pleasant climate, and of a very healthy economy.

California does not need to wage economic warfare on Missouri, Mr. President.

We already are the No. 1 agricultural State in the Union, the No. 1 fishing State in the Union, the No. 2 manufacturing State in the Union, the No. 2 lumber-producing State in the Union. But we only rank fourth in oil production.

The relationship among the States and between the States and the Federal Government is based on the principle of comity—not economic warfare.

I would like to take just a minute to illustrate how the comity between the Federal Government and the States might work, and how failure to exempt State and local governmental revenue from this tax would prevent it from working.

During the course of this session, and the several energy discussions that have been held on this floor during the session, as we have attempted to put into place a national energy policy, the so-called Sohio pipeline has come up many times.

That proposal, as I assume most Senators know, is to connect the Port of Long Beach, Calif., with Midlands, Tex., by a pipeline that would enable us to transport both Alaska and California oil which exceeds the refinery capacity of west coast refineries, to the Midwest and Gulf States, where it would be refined into heating oil, gasoline, and other refinery products to meet the needs of the people in the Midwest and the Northeast.

The "Sohio" route is unique because only 200 miles of the more than 1,000 miles of pipeline route involved are not yet constructed. All of the new construction would be in California.

There has been past disagreement as to why the pipeline is not now being built. But I believe most Senators agree that it is in the national interest and it should be built.

The State of California and the various regulatory agencies which some in this Chamber think—incorrectly, I believe—caused the withdrawal of the Sohio Corp., are currently studying the feasibility of building the pipeline at State expense, as a common carrier pipeline.

While no commitment has yet been made by the State to undertake this expensive project, it is clear that withdrawal of the revenues derived by the State from production and sale of its oil resources would make any State financing of this project extremely difficult, if not impossible.

And it should be noted that this pipeline would permit supply increases of heating oil and gasoline to the energy short States of the Midwest and the Northeast, including the State served by the Senator from Missouri.

That is how comity works, Mr. President.

Throughout his presentations on this issue, the Senator from Missouri has made reference to figures provided by the Treasury Department, which the Senator from Missouri believes accurately represent the "windfall" that will accrue to those States who have State-owned oil production.

But the numbers that the Senator from Missouri is using bear careful examination.

The Senator has combined, for the purposes of his argument, projected estimates for supposed State revenue increases resulting from State income taxes and severance taxes on privately produced oil together with State royalty income on State-owned production to get his totals.

His amendment would not touch the supposed huge State "windfall" from increased revenues on privately held production which is by far the largest part of the "windfall."

Rather, it would be imposed only on State-owned production.

Thus those States with large private production, and hence presumably a huge windfall, but with little or no State-owned production, would be taxed little or not at all by the Federal Government on their supposed "windfall."

Those States which happen to have larger amounts of State-owned production—that is, especially the coastal States—would pay all of this Federal tax, regardless of the amount of their total "windfall" or the way it compares with the "windfall" of other producer States with less State-owned oil production.

What does that do to the Senator's principle of equality?

And if the windfall resulting from State income taxes and severance taxes is the problem, Mr. President, why impose Federal taxes on local governments like cities or school districts in my State or any State that happens to own interests in oil?

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of calendar Nos. 483, 484, 485, 487, 492, 493, 501, 506, 507, and 508.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN LEGION

The bill (S. 1874) to amend the Act incorporating the American Legion so as to redefine eligibility for membership therein, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5 of the Act entitled "An act to incorporate the American Legion", approved September 16, 1919 (41 Stat. 285; 36 U.S.C. 45), is hereby amended to read as follows:

"SEC. 5. No person shall be a member of this corporation unless he has served in the naval or military services of the United States at some time during any of the following periods: April 6, 1917, to November 11, 1918; December 7, 1941, to December 31, 1946; June 25, 1950, to January 31, 1955; December 22, 1961, to May 7, 1975; all dates inclusive, or who, being a citizen of the United States at the time of entry therein, served in the military or naval service of any of the governments associated with the United States during said wars or hostilities: *Provided, however,* That such person shall have an honorable discharge or separation from such service or continues to serve honorably after any of the aforementioned terminal dates."

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96-450), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

AMERICAN LEGION

PURPOSE

S. 1874 would amend the Federal charter of the American Legion in order to redefine eligibility for membership by changing the recognized onset of the Vietnam era from August 5, 1964 to December 22, 1961.

On behalf of all members of the American Legion, this change in membership eligibility is requested to conform to Resolution No. 387 approved during the 61st annual convention of the American Legion in August of this year.

The American Legion has traditionally extended membership to all those who served on active duty during periods of declared or armed conflict. However, the Vietnam-era was not a clearly definable period of hostilities and it is clear that the United States was incurring casualties prior to the Gulf of Tonkin resolution of August 5, 1964. In 1962, the Military Advisory Command Vietnam (MACV) was established with 4,000 U.S. military personnel stationed there and by the end of that year the number had increased to 10,000. Even prior to this establishment, servicemen were assigned dangerous duties and, as a result, the first U.S. combat-related death occurred on December 22, 1961—Spec/4 James Thomas Davis of Tennessee.

This legislation will make appropriate changes in the existing charter to more fully recognize the sacrifices made by those who served in Vietnam. It would at the same time, permit an opportunity for all who served during this period to become eligible for American Legion membership and participate in that organization's civic and humanitarian activities.

OLIVER O. AND CHRISTINE DIANE RATAJCZEK

The bill (S. 328) for the relief of Mr. Oliver O. Ratajczek, his wife, Christine Diane Ratajczek, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding paragraph (14) of section 212 (a) of the Immigration and Nationality Act, for the purposes of such Act, Mr. Oliver O. Ratajczek and his wife, Christine Diane Ratajczek, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of enactment of this Act upon payment of the required visa fees. Upon granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by two numbers during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–451), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to grant the beneficiaries permanent residence in the United States as of the date of its enactment upon payment of the required visa fees. It would also direct that visa number deductions be made.

The beneficiaries, Mr. Oliver Olaf Ratajczek and Christine Diane Ratajczek were born in Germany and New Zealand, respectively. He is stateless and his spouse is a citizen of New Zealand. Mr. Ratajczek was born in Soungen Ohligs, Germany and served in the Australian Military Forces from 1969 to 1971 in Vietnam. He is presently employed by the Commercial Credit Corporation of Provo, Utah as a Trainee Manager. Since July 1976, his occupation has been that of a salesman. His present income is approximately $750 per month and the family's estimated assets are approximately $8,000. Mrs. Ratajczek was born in Marton, New Zealand, and she attended Brigham Young University, Provo, Utah from 1971 to December 1972, and returned to Brigham Young in 1975 earning a B.S. Degree in Child Development, Family Relations and an Associate Degree as a Secretarial Technician. Mr. and Mrs. Ratajczek were married on February 26, 1976, and on December 2, 1976, their daughter Tarra Katie-Lee was born. All three members of the family were paroled into the United States on March 15, 1978, in order for their daughter to have a liver transplant at the University of Colorado Hospital. This hospital is one of the few in the world where liver transplants are performed on young children. The child died March 19, 1978, and was buried in Provo, Utah. The Ratajczeks have had two other children since that time and the illness causing the death of their first child has been diagnosed as possibly being hereditary and they want to remain in the United States close to the University of Colorado where special medical treatment is available.

EZEKIEL TRAIL CLEMONS

The bill (S. 883) for the relief of Ezekiel Trail Clemons, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 883

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Ezekiel Trail Clemons shall be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed on his behalf by the Reverend and Mrs. Jonathan Elijah Clemons, citizens of the United States, pursuant to section 204 of such Act. No natural parent, brother, or sister, if any, of Ezekiel Trail Clemons shall, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–452), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to facilitate the admission into the United States as an immediate relative of the adopted child of citizens of the United States.

The beneficiary, born August 22, 1963, is a native and citizen of the Philippines, and was adopted on October 5, 1978, by the Reverend and Mrs. Jonathan Clemons in Manila, Philippines, after living with them from November, 1977. The Reverend and Mrs. Clemons had to return to the United States in January 1979, and were unable to obtain a visa for their adopted son and he is presently living in the Philippines with an older sister. The Reverend and Mrs. Clemons are United States citizens and he attended Miami Bible College and was ordained and appointed as a missionary for the Association of Christian Evangelists, Inc. in Manila on December 8, 1976. They are now living on a 160 acre farm near High Springs, Florida with their three children. The farm is owned by the Clemons family and the Reverend Clemons is the Vice President of a family business, the Springhill Poultry Farm. He states that a trust fund has been established for the beneficiary's future education and he has been included as a family member on all insurance policies. To date, a preadoption home study by a state accredited agency has not been conducted.

ELIZABETH AND ALEXANDER BERWICK

The bill (H.R. 887) for the relief of Elizabeth Berwick and Alexander Berwick, her husband, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–454), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

ELIZABETH BERWICK AND ALEXANDER BERWICK

PURPOSE

The purpose of the proposed legislation is to waive applicable limitations as to the filing and consideration of claims under the tort claims provisions of title 28, United States Code. This waiver would allow a claim to be filed in behalf of Elizabeth Berwick and Alexander Berwick, her husband, of Eustis, Florida, against the United States for personal injuries which Elizabeth Berwick allegedly suffered as a result of negligent diagnosis or treatment, or both, provided by the U.S. Navy to Elizabeth Berwick during the period beginning on or about January 1, 1971, and ending on July 31, 1975.

JESUS REVELES Y RIVERA

The bill (H.R. 2477) for the relief of Jesus Reveles y Rivera, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–459), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD as follows:

The purpose of this bill, as amended, is to facilitate the adjustment of status to permanent residence of the adopted child of citizens of the United States. The bill has been amended in accordance with established precedents.

RUSSELL W. ALLEN

The bill (H.R. 2531) for the relief of Russell W. Allen, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–460), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the proposed legislation is to compensate Russell W. Allen of Presque Isle, Maine, by payment of an amount not to exceed $52,703.00 to be determined by the Secretary of Agriculture, for business losses incurred through no fault of his own during calendar years 1976 and 1977 directly resulting from the restrictions placed on the interstate movement of his seed potatoes by the U.S. Department of Agriculture. These restrictions were imposed by USDA despite the fact that repeated tests taken on claimant's property failed to provide support for such emergency measures.

VALIDATION OF EFFECTIVENESS OF CERTAIN PLANS FOR USE OR DISTRIBUTION OF FUNDS APPROPRIATED TO PAY JUDGMENTS AWARDED TO INDIAN TRIBES OR GROUPS

The Senate proceeded to consider the joint resolution (S.J. Res. 108) to validate the effectiveness of certain plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups, which had been reported from the Select Committee on Indian Affairs with amendments as follows:

At the top of page 4, insert the following:

Tribe or group, and docket number(s):

Caddo, ICC 226.

Goshute, ICC 326–B and J.

Nisqually, ICC 197.

Potawatomi, Prairie Band, ICC 15–K, 29–J, 217, 15–M, 29–K and 146.

On page 4, line 1, strike "following" and insert "foregoing".

The amendments were agreed to.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was amended and agreed to.

The joint resolution, with its preamble, reads as follows:

Whereas, pursuant to Public Law 93–134 (Act of October 19, 1973; 87 Stat. 466; 25 U.S.C. 1401), the Secretary of the Interior or his designee has submitted plans for the use or distribution of funds appropriated to pay judgments awarded to Indian tribes or groups; and

Whereas none of such plans have been disapproved by congressional action; and

Whereas a recent July 9, 1979, decision of the United States District Court for the District of Columbia in the case of Seminole Indian Tribe of Florida versus Andrus has called into question the effectiveness and validity of those plans submitted to Congress under Public Law 93–134; and

Whereas it is the purpose of this resolution to validate the effectiveness of the plans (other than the plan involved in the Seminole decision and a plan involving the tribes of the Warm Springs Reservation which is the subject of pending litigation) which were submitted to the Congress pursuant to Public Law 93–134 and which had been presumed to have become effective prior to the July 9, 1979, United States district court decision: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following plans for the use or distribution of funds submitted to the Congress pursuant to Public Law 93–134 are hereby declared to be valid and effective as of the dates indicated:

Tribe or group, Docket number(s), and Effective date:

Washoe, ICC 288, September 25, 1974.

Seneca, ICC 342–A and 368–A, September 26, 1974.

Fort Berthold (Three Affiliated Tribes), ICC 350–A, E, and H, October 2, 1974.

Paiute, Northern, ICC 87, October 10, 1974.

Nez Perce, ICC 175–B, October 10, 1974.

Cherokee, Eastern, ICC 282–A through L, October 10, 1974.

Ponca, ICC 322, 323, and 324, November 23, 1974.

Tuscarora, ICC 321, December 18, 1974.

Chippewa, Red Lake, ICC 189, February 3, 1975.

Sioux, Yankton, ICC 332–B, February 7, 1975.

Kikiallus, ICC 263, February 18, 1975.

Skagit, Lower, ICC 294, February 18, 1975.

Lummi, ICC 110, March 3, 1975.

Apache, Chiricahua, ICC 30 and 48 and 30–A and 48–A, March 16, 1975.

Sioux, Cheyenne River, ICC 114, March 16, 1975.

Iowa, ICC 135, March 24, 1975.

Ottawa, Oklahoma, ICC 304 and 305, June 17, 1975.

Peublos de Jemez, Santa Ana, and Zia, ICC 137, June 17, 1975.

Apache, Jicarilla, ICC 22–K, July 8, 1975.

Suquamish, ICC 132, September 14, 1975.

Winnebago, ICC 243, 244, and 245, October 30, 1975.

Cabazon ICC 148, October 30, 1975.

Apache, Western, ICC 22–D, December 3, 1975.

Cherokee, ICC 173–A, November 5, 1975.

Navajo, Ct. Cl. 49692, November 17, 1975.

Creek, Oklahoma, ICC 167–273, November 16, 1975.

Angoon, ICC 278–B, February 1, 1975.

Samish, ICC 261, December 10, 1975.

Swinomish, ICC 233, December 10, 1975.

Shawnee, ICC 334–B, March 5, 1976.

Mohave, ICC 283 and 295, April 12, 1976.

Chippewa, Pillager, ICC 144, April 28, 1976.

Yakima, ICC 161, 222, and 224, May 13 1976.

Colville, ICC 161, 222, and 224, May 21, 1976.

Kiowa-Comanche-Apache, ICC 257 and 259–A, June 8, 1976.

Fort Berthold (Three Affiliated Tribes), ICC 350–F, June 20, 1976.

Flathead (Confederated Salish and Kootenai). Ct. Cl. 50233 No. 8 and No. 9, August 25, 1976.

Seneca, ICC 84; 342–B, C, and 368; 342–F and I, January 29, 1977.

Six Nations and Stockbridge-Munsee, ICC 84 and 300–B, ICC 300, March 4, 1977.

Devils Lake Sioux, ICC 363, July 23, 1977.

Saginaw Chippewa, ICC 57, November 12, 1977.

Fort Berthold Three Affiliated Tribes, ICC 350–C and D, March 13, 1978.

Fort Mohave, ICC 295–A, November 12, 1977.

Potawatomi, ICC 15–K, 29–J, 217, 15–M, 29–K, and 146, March 6, 1978.

Mescalero (Lipan), ICC 22–C, April 9, 1978.

Taos Pueblo, ICC 357–A, April 10, 1978.

Colville-Nez Perce, ICC 186, May 1, 1978.

Creek, ICC 275, June 15, 1978.

Seneca Nation, ICC 342–G, February 1, 1979.

Lake Superior and Mississippi Chippewa, ICC 18–C and 18–T, February 1, 1979.

Sisseton-Wahpeton, ICC 363 (1867 and 1872), March 26, 1979.

Pyramid Lake, ICC 87–B, June 12, 1979.

Bois Forte Chippewa, ICC 18–D, June 5, 1979.

Tribe or group and Docket number(s):

Caddo, ICC 226.

Goshute, ICC 326–B and J.

Nisqually, ICC 197.

Potawatomi, Prairie Band, ICC 15–K, 29–J, 217, 15–M, 29–K and 146.

SEC. 2. The foregoing plans for the use or distribution of funds submitted to the Congress pursuant to Public Law 93–134 are hereby declared to have been validly submitted and are exempted from the submission deadline in section 2 of said Act and shall be effective as provided in section 5 of said Act.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 96–469), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of Senate Joint Resolution 108 is to validate a number of plans for the use and distribution of Indian judgment funds which have been submitted to Congress by the Secretary of the Interior over the last 5 years.

The Distribution of Judgment Funds Act (act of October 19, 1973; Public LaLw 93–134; 25 U.S.C. 1401 et seq.) requires the Secretary of the Interior to develop a plan for the use and distribution of Indian judgment funds and submit such plan to the Congress within 180 days after the funds are appropriated. The act provides for extensions of 90 days. Either House of Congress has 60 days in which to reject such a plan. In the absence of congressional rejection the plan becomes effective. Since the Distribution of Judgment Funds Act was enacted on October 19, 1973, some 62 plans have been submitted to Congress. Only the three most recent plans were filed within the time period provided by statute.

On July 19, 1979, the U.S. District Court for the District of Columbia in the case of the *Seminole Tribe of Florida* v. *Andrus* held that a judgment distribution plan which has not been submitted to the Congress within the time period set by the statute is "null and void." This decision raises serious questions about the legal effectiveness of the many plans submitted to the Congress since 1973. The purpose of Senate Joint Resolution 108 is to validate these plans by treating them as having been timely filed. This legislation does not waive any of the substantive requirements of the Distribution of Judgment Funds Act. Any legal challenge which a tribe or group may be able to make to a judgment fund distribution plan except timeliness of filing will not be affected by this legislation.

BUDGET ACT WAIVER

The resolution (S. Res. 288) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1648, was considered and agreed to, as follows:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 1648, a bill to provide for the improvement of the Nation's airport and airway system, and for other purposes.

Such waiver is necessary to permit consideration of new spending authority (as detailed below) to become effective in a fiscal year for which the first concurrent resolution on the budget has not been agreed to. Specifically, the new spending authority for which this waiver is needed arises from the authorization of funds from the Airport and Airway Trust Fund, as contained in S. 1648, for a future fiscal year not yet considered by the Budget Committee. The total amount of the funding for fiscal year 1981, is $1,665,000,000.

Compliance under section 303(a) of the Budget Act was not possible because of the multiyear nature of airport development projects under the Airport and Airway Development Act. These projects are for airport development and construction that may take several years to complete and call for assurance that Federal funding will be committed to that project in order to permit the airport operator to sell municipal bonds to raise the local authority's share of the project cost. This need for future commitment for planning purposes has been recognized by the Congress since the creation of the trust fund in 1970.

The entitlements contained in S. 1648 represent an extension of existing spending programs under the Airport and Airway Development Act.

Because Congress anticipated possible modification and review of the ADAP program, the legal basis for all authority for expenditures of trust fund moneys expires on September 1, 1980. Yet the need for continued and increased funding for 1981 through 1985 has clearly been demonstrated and is documented by a backlog of over $1,000,000,000 in accumulated requests for ADAP funds above the currently authorized levels, of which over $600,000,000 have been identified by the Federal Aviation Administration as high-priority programs. Without the renewed and increased spending for fiscal years 1981 through 1985 many airport safety programs will not be funded. The Airport and Airway Trust Fund from which expenditures will be made for the programs contained in S. 1648 is currently running a surplus of over $2,500,000,000 and by fiscal year 1981 will accumulate a surplus of $3,250,000,000.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 300) waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3398, was considered and agreed to, as follows:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of H.R. 3398, a bill to amend the Food and Agriculture Act of 1977 relating to increases in the target prices for the 1979 crop of wheat, corn, and other commodities under certain circumstances, and for other purposes. Such waiver is necessary to permit consideration of H.R. 3398, as amended by the Committee on Agriculture, Nutrition, and Forestry, which provides for increased targeted price spending authority to become effective in a fiscal year for which the first concurrent resolution on the budget has not been agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The Senate proceeded to consider the resolution (S. Res. 303) waiving section 403(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2094.

Mr. BELLMON. Mr. President, on Tuesday, December 11, the Senate Budget Committee met to consider a waiver resolution for S. 2094, the Chrysler Corporation Loan Guarantee Act of 1979. A waiver is required because the bill was reported after the May 15, 1979, deadline created by the Budget Act and provides fiscal year 1980 authorizations to carry out a loan guarantee financing program for the Chrysler Corp.

While I did vote to report the waiver resolution favorably, as did the majority of the committee members present, I want to go on record that my support for the waiver resolution was given in the interest of timeliness and fairness, and has nothing to do with the merits of whether or not the Federal Government should set a precedent by bailing out the seriously troubled Chrysler Corp. Further, it should be noted that many of my colleagues on the Budget Committee stated at the meeting that they were voting for the waiver but were withholding judgment regarding their final vote on the merits of the Chrysler issue.

Under the Budget Act, the merits of any legislation should be considered independent of the justification or lack of justification for a budget waiver. The waiver section of the Budget Act was included to impose on all committees of the Senate and the House the discipline of reporting legislation which impacts on spending prior to May 15, the date of completion of the first budget resolution. Consideration of any budget waiver resolution is meant to give us a chance to decide if there is justification for another committee to have missed reporting of the legislation before May 15. In the case of the Chrysler loan guarantee bill, the issue did not even come to the attention of Congress prior to May 15. I am satisfied that the May 15 deadline could not have been foreseen by the Banking Committee, and thus I do not see a basis for denying the waiver and denying the Senate the opportunity to fully debate the issue.

As a matter of fact, based on the analyses of the Chrysler Corp. situation I have seen, I intend to vote against the Chrysler bill. I believe there is a serious question as to whether the Chrysler Corp. can survive even with substantial Government aid. Given the sales trends and financial results of the last several months, and given the highly competitive automotive industry which will exist in the next several years, I wonder how Chrysler can regain its lost market share except at the expense of the other U.S. manufacturers. I would hate to save Chrysler jobs only to throw out of work Ford, AMC, and General Motors employees.

However, regardless of my personal views on this issue, I did feel that Chrysler deserved the granting of a budget waiver so that the issue could be thoroughly debated on the Senate floor. This is a major policy issue and holds a precedent for other corporations which may be in financial difficulty in the years head.

I look forward to an informative debate.

The resolution was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2094. Such waiver is necessary because S. 2094 authorizes the enactment of new budget authority which would first become available in fiscal year 1980, and such bill was not reported on or before May 15, 1979, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations. Compliance with section 402(a) of the Congressional Budget Act of 1974 was not possible in this instance because the committee could not anticipate that the Chrysler Corporation would request Federal financial assistance this year, since such request was made after May 15, 1979. Failure to consider this legislation in the Senate this year would preclude the timely commitment and issuance of guaranteed loans to the Chrysler Corporation as part of the financing plan provided pursuant to this legislation. Such financial assistance is needed to enable the Corporation to continue to furnish goods or services, and failure to meet such need could adversely and seriously affect the economy of, or employment in, the United States or a region thereof.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 985.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 985) entitled "An Act to amend the Consolidated Farm and Rural Development Act", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That the Consolidated Farm and Rural Development Act is amended by—

(1) in section 303(b), deleting paragraph (1) and inserting in lieu thereof—

"(1) the term 'improving farms' includes, but is not limited to, the acquisition, installation, and modification of any qualified nonfossil energy system located on a family farm; and";

(2) in section 306(a)(7) deleting "ten thousand" and inserting in lieu thereof "twenty thousand";

(3) in section 310B(a), inserting at the end of the first sentence immediately before the period "and reducing the reliance on nonrenewable energy resources by encouraging the development and construction of solar energy systems, including the modification of existing systems. For the purposes of this subsection the term 'solar energy' means energy derived from sources (other than fossil fuels) and technologies included in the Federal Non-Nuclear Energy Research and Development Act of 1974, as amended";

(4) in section 312(a), deleting "and" immediately before clause (10) and inserting immediately before the period at the end of clause (10) "and, (11) assisting farmers and ranchers in reducing their dependence on nonrenewable resources by encouraging the development and construction of solar energy system, including the modification of existing systems";

(5) in section 343, striking out "and (6)" and inserting in lieu thereof "(6) the term 'citizens of the United States' includes aliens legally admitted for permanent residence, and (7)";

(6) in section 324, adding at the end thereof the following new sentence: "Any limitation on the amount of loans under this subtitle to any one borrower which may be imposed by the Secretary by regulation shall take into consideration the operations and financial status of each borrower.";

(7) in section 324(a), changing the period

at the end of the first sentence to a comma and inserting the following: "except that for guaranteed loans exceeding the amount of the actual loss, the interest rate shall be such rate as may be agreed upon by the borrower and the lender but not in excess of a rate as may be determined by the Secretary. No loan or portion of a loan exceeding the amount of the actual loss may be made or insured under this subtitle unless the Secretary determines that the applicant is unable to obtain from a private or cooperative lending agency a loan which would be guaranteed under this subtitle sufficient to finance his actual needs. In determining whether an applicant is unable to obtain sufficient credit elsewhere to finance his actual needs at reasonable rates and terms, the Secretary shall require at least one written indication of declination of credit from a legally organized lending institution within reasonable proximity to the applicant which specifies the reasons for the refusal: *Provided*, That in the case of loans over $300,000, the Secretary shall require at least two such written declinations: *And provided further*, That in the case of loans not exceeding $300,000 the Secretary may waive the requirements of this sentence if he determines it would impose an undue burden on any applicant.";

(8) in section 346, inserting "(a)" after "Sec. 346." and adding new subsections (b) and (c):

"(b)(1) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed under the Agricultural Credit Insurance Fund as follows: (A) real estate loans, $1,615,000,000, including $1,500,000,000 for farm ownership loans of which $1,400,000,000 may be for insured loans and $100,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories and $1000,000,000 for water development, use, and conservation loans of which $90,000,000 may be for insured loans and $10,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; (B) operating loans $1,200,000,000 of which $1,150,000,000 may be for insured loans and $50,000,000 may be for guaranteed loans with authority to transfer 25 per centum of such amounts between categories; and (C) emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters. Not more than 75 per centum of the insured loans authorized for farm ownership purposes and not more than 75 per centum of the insured loans authorized for farm operating purposes may be for persons other than low income limited resource borrowers.

"(2) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed, under the Rural Development Insurance Fund as follows: insured water and sewer facility loans, $1,000,000,000; industrial development loans, $1,500,000,000 of which $100,000,000 may be for insured loans and $1,400,000,000 may be for guaranteed loans with authority to transfer amounts between such categories; and insured community facility loans, $500,000,000.

"(c) The Secretary shall develop long-term cost projections for the loan programs authorized by subsection (b) of this section. Such projections shall include an analysis of the long-term costs for the levels of loans requested to be authorized by this section and the long-term costs for increases in such levels beyond those requested to be authorized based upon increments of $10 million or such other levels as the Secretary deems appropriate. Long-term cost projections for the three-year period beginning with fiscal year 1983 and for each three-year period thereafter shall be submitted to the House Committees on Agriculture and on Appropriations and the Senate Committees on Agriculture, Nutrition, and Forestry and on Appropriations at the time the requests for authorizations for those periods are submitted to the Congress. Not later than February 15, 1980, the Secretary shall submit to such Committees long-term cost projections covering fiscal years 1981 and 1982 for such programs."; and

(9) in section 343, striking out ", and (4)" and inserting in lieu thereof the following: ", (3) the term 'owner-operator' shall include in the State of Hawaii the lessee-operator of real property in any case in which the Secretary determines that such real property cannot be acquired in fee simple by such lessee-operator, that adequate security is provided for the loan with respect to such real property for which such lessee-operator applies under this Act, and that there is a reasonable probability of accomplishing the objectives and repayment of such loan, (4)".

Sec. 2. Section 322 of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof the following new sentence: "For the purpose of determining whether to make or insure any loan under this subtitle, the Secretary shall take into consideration the net worth of the applicant involved, including all of the assets and liabilities of such applicant.".

UP AMENDMENT NO. 878

(Purpose: To authorize overall lending levels for the FmHA Farm and Rural Development Loan Programs, establish limitations on the amount of loans individual borrowers may receive under the emergency loan program, and make other improvements in the program)

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House with an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from West Virginia (Mr. Robert C. Byrd) for Mr. Zorinsky, Mr. Talmadge, Mr. Helms, Mr. Eagleton, and Mr. Bellmon, proposes an unprinted amendment numbered 878.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the House amendment, insert the following:

That section 346 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1994) is amended by inserting "(a)" after "Sec. 346." and adding a new subsection (b) as follows:

"(b)(1) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed, under the Agricultural Credit Insurance Fund as follows:

"(A) real estate loans, $1,615,000,000 including $1,500,000,000 for farm ownership loans of which $1,400,000,000 may be for insured loans and $100,000,000 may be for guaranteed loans with authority to transfer amounts between such categories, and $100,000,000 for water development, use, and conservation loans of which $90,000,000 may be for insured loans and $10,000,000 may be for guaranteed loans with authority to transfer amounts between such categories;

"(B) operating loans, $1,200,000,000, of which $1,150,000,000 may be for insured loans and $50,000,000 may be for guaranteed loans with authority to transfer amounts between such categories; and

"(C) emergency insured and guaranteed loans in amounts necessary to meet the needs resulting from natural disasters.

"(2) Loans for each of the fiscal years 1980, 1981, and 1982 are authorized to be insured, or made to be sold and insured, or guaranteed, under the Rural Development Insurance Fund as follows:

"(A) insured water and sewer facility loans, $1,000,000,000;

"(B) industrial development loans, $1,500,000,000, of which $100,000,000 may be for insured loans and $1,400,000,000 may be for guaranteed loans with authority to transfer amounts between such categories; and

"(C) insured community facility loans, $500,000,000.".

Sec. 2. (a) Section 321 of the Consolidated Farm and Rural Development Act is amended by adding at the end thereof the following new sentence: "The Secretary shall conduct the emergency loan program under this subtitle in a manner that will foster and encourage the family farm system of agriculture, consistent with the reaffirmation of policy and declaration of the intent of Congress contained in section 102(a) of the Food and Agriculture Act of 1977.".

(b) Section 323 of the Consolidated Farm and Rural Development Act is repealed.

(c) Section 324 of the Consolidated Farm and Rural Development Act is amended by—

(1) striking out the first sentence of subsection (a) and inserting in lieu thereof the following two sentences: "Except as otherwise provided in subsection (c) of this section, loans under this subtitle shall be (1) at a rate of interest not in excess of 5 per centum per annum for loans covering actual losses caused by the disaster; (2) for insured loans for purposes other than to cover actual losses at rates of interest prevailing in the private market for similar loans as determined by the Secretary; and (3) for guaranteed loans for purposes other than to cover actual losses, at such rates of interest as may be agreed on by the borrower and lender, but not in excess of such rate as may be determined by the Secretary. For any guaranteed loan that includes funds for actual losses, the Secretary may pay an interest subsidy to the lender for that portion of the loan representing actual losses, which subsidy shall not exceed the difference between the interest rate being charged for loans covering actual losses and the maximum interest rate for guaranteed loans as established under the preceding sentence."; and

(2) redesignating subsection (b) as subsection (d) and inserting immediately after subsection (a) new subsections (b) and (c) as follows:

"(b)(1) A loan under this subtitle covering actual loss caused by a disaster shall not exceed the amount of actual loss or $500,000, whichever is less, per disaster.

"(2) A loan under this subtitle for purposes other than to cover actual losses shall not exceed an amount that would cause the total unpaid indebtedness of the borrower for such loans to exceed $1,500,000.

"(c) Notwithstanding the credit elsewhere requirements of sections 321 and 333(a) of this title, the Secretary may make or insure loans under this subtitle to applicants able to obtain sufficient credit elsewhere to finance their actual needs at reasonable rates and terms (taking into consideration prevailing private and cooperative rates and terms in the community in or near which they reside for loans for similar purposes and periods of time) (1) limited to the amount of the actual loss caused by the disaster, but not to exceed $500,000 per disaster, (2) at interest rates prescribed by the Secretary, but not in excess of the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum, and (3) subject to the other terms and conditions for similar loans made or insured under this subtitle.".

(d) Section 330 of the Consolidated Farm and Rural Development Act os amended by striking out "for not to exceed five additional years" and all that follows down through the end of the section and inserting in lieu thereof the following: "for not to exceed two additional years, to eligible borrowers, subject to the limits on loans and the rates of interest established under section 324 of this title.".

(e) The provisions of this section shall be effective with respect to loans approved by the Secretary of Agriculture under subtitle C of the Consolidated Farm and Rural Development Act after the date of enactment of this Act.

SEC. 3. Section 343 of the Consolidated Farm and Rural Development Act is amended by striking out ", and (4)" and inserting in lieu thereof the following: ", (3) the term 'owner-operator' shall include in the State of Hawaii the lessee-operator of real property in any case in which the Secretary determines that such real property cannot be acquired in fee simple by such lessee-operator, that adequate security is provided for the loan with respect to such real property for which such lessee-operator applies under this title. and that there is a reasonable probability of accomplishing the objectives and repayment of such loan, (4)".

● Mr. ZORINSKY. Mr. President, the Senate acted on S. 985 earlier this session. S. 985, as passed by the Senate on May 23, 1979, sets lending limits for loan programs under the consolidated Farm and Rural Development Act for each of the fiscal years 1980, 1981, and 1982 as required under section 346 of that act. The House, in acting on S. 985, amended the bill by adding a number of other provisions dealing with the loan programs under the consolidated act, including the emergency loan program.

The amendment to the House amendment to S. 985 that I have sent to the desk substitutes for the text of the House amendment the original provisions of the Senate bill with new provisions relating to the emergency loan program under the consolidated act and lessee-operators of farmland in Hawaii.

I am pleased that this amendment has been developed with the active participation and support of the chairman of the Committee on Agriculture, Nutrition, and Forestry, Senator TALMADGE, the ranking minority member of the Agriculture Committee, Senator HELMS, and Senators EAGLETON and BELLMON.

This amendment will make changes in the emergency loan program under the consolidated act that are needed at this time, and I urge the Senate to approve it.

The emergency loan program has come under severe criticism recently. It has been charged that multimillion dollar loans have been made to persons not in need of Federal assistance or for purposes not directly related to food and fiber production.

During the debate on S. 985 in the House of Representatives on October 24, 1979, several provisions were added to the bill addressing these abuses. These provisions, first, require the submission by applicants for emergency loans of written evidence that other lenders have refused to make credit available to them, second, prohibit direct emergency loans in excess of actual loss if commercial lenders can supply the needed credit with a Federal loan guarantee, and, third, require the Secretary of Agriculture to take into consideration the net worth of applicants in determining whether to approve emergency loans.

Several days later, Congress approved the conference report on H.R. 4387, the Agriculture appropriation bill for 1980. The report stated that the conferees expected the Department of Agriculture to hold in abeyance the approval of all large emergency loans under the consolidated act pending clarification of the intent of Congress with respect to such loans. The report also encouraged the Farmers Home Administration administratively to limit the size of emergency loans and strengthen the credit-elsewhere test.

Since then, the Farmers Home Administration has held in abeyance applications for emergency loans that would result in the applicant having a total indebtedness for emergency loans in excess of $1 million.

On October 26, the Department of Agriculture sent to the Committee on Agriculture, Nutrition, and Forestry a proposal recommending several legislative changes in the emergency loan program. Under their proposal: First, limits on emergency loans would be set, effective through September 30, 1980, after which the Secretary of Agriculture would be given authority to set emergency loan limits; second, the period during which subsequent emergency loans may be made would be reduced from 5 to 2 years; and, third, the requirement for county committee certification of emergency loan amounts would be deleted.

On November 15, 1979, the Department sent the committee a second letter that set out the administration position on the key provisions of the House amendment. In this letter, the administration expanded its earlier comments on emergency loans by recommending also that S. 985 include provisions authorizing emergency loans covering actual losses to persons who can get credit elsewhere. This would conform to action already taken by both the House and the Senate on S. 918, which is now in conference.

This amendment responds to the problems in the emergency loan program brought to light by the recent reports in the media and adopts several of the changes in existing law recommended by the administration. Its provisions take a different approach to the problem than that of the House amendment. In this regard, it is my hope that the conferees on S. 985 will go into conference with open minds and will act speedily to resolve the differences and develop a workable and equitable compromise.

This amendment requires that the emergency loan program be administered in a manner that will foster and encourage the family farm system of agriculture.

This amendment establishes a $500,000 ceiling, per disaster, on the amount of an emergency loan for actual losses and an outstanding indebtedness ceiling of $1.5 million for any one borrower for emergency loans for purposes other than to cover actual losses.

This amendment also authorizes actual loss loans, with a loan limit of $500,000 per disaster, to applicants who can obtain credit elsewhere.

For actual loss loans to applicants who cannot obtain credit elsewhere the interest rate will be not in excess of 5 percent. If the applicant can receive credit elsewhere, the interest rate will be set by the Secretary, but not in excess of the cost of money to the Government plus an additional charge of not more than 1 percent per year, as determined by the Secretary, and adjusted to the nearest one-eighth of 1 percent.

This amendment authorizes subsequent emergency loans for annual operating purposes for only 2 additional years after the disaster.

The consolidated act now provides for subsequent operating loan assistance for 5 additional years.

The amendment also repeals section 323 of the consolidated act to remove the requirement that Farmers Home Administration county committees certify the loan amount for emergency loans.

The County Committee certification requirement was removed last year for other loan programs under the consolidated act. The amendment will eliminate a source of delay in providing timely assistance to disaster victims.

This amendment also provides that persons who farm land in Hawaii under lease arrangements may be considered as owner-operators of the land for the purposes of the loan programs under the consolidated act. A very large part of the land that is used for farming in Hawaii is farmed under lease arrangements. In 1970, approximately 1,500 farmers in Hawaii operated on about 40,000 acres of leased lands. Under the Hawaiian Home Lands Act of 1920, much of this land cannot be sold, it can only be leased, and is not being fully used because of a lack of credit. This amendment is needed to maintain and improve diversified agricultural production in Hawaii. The House amendment contains the same provision.

Time is of crucial importance in the consideration of this amendment to the House amendment. I say this not only because we only have a few days remaining in this session; the most pressing reason for prompt action is simple fairness to farmers who have applications waiting for decisions.

The Farmers Home Administration currently has applications from 20 farmers in a "hold" status here in the Washington office. Each of those applications is for loans totaling more than $1 million, and each meets the requirements of existing law as to eligibility. The FmHA is awaiting a decision from Congress on whether the size of emergency loans should be limited.

In addition, other applications for emergency loans in excess of $1 million are being received in local farmers home offices and are being routinely screened and analyzed for eligibility; 14 such applications are pending in California alone.

The FmHA has a review team now in California making a thorough, on-the-scene study of all pending applications for more than $1 million. The availability of other credit to the borrower, his financial condition, market prospects, and other factors affecting his financial situation will be examined in detail.

But the FmHA cannot continue to withhold a decision indefinitely, both from a legal standpoint and as a matter of fairness to the people who have filed loan applications in good faith. Applicants who meet the requirements of the law are entitled to a decision in a reasonable time.

Some of the farmers whose applications are being delayed face early bankruptcy, I am reliably informed, unless they can continue operations without further interruption. Some need cash immediately to harvest their crops, or they will lose them and the farm workers who do the harvesting will lose their jobs. In some of these cases, security for previous FmHA loans is being endangered. If the farms fail, those loans will be in default.

Other proposals to change the emergency loan program have been made that are not included in this amendment. By adopting this amendment, we will not be foreclosing further action on these or other changes in the program. We will exercise close oversight of the program and consider additional amendments to the law during the coming year.

I urge my colleagues to join me and the distinguished cosponsors of this amendment in taking an important first step by approving the changes in the program that are needed now.

Mr. President, I ask that the letters from Deputy Secretary of Agriculture Jim Williams to Chairman TALMADGE, dated October 26, 1979, and November 15, 1979, and a comparative analysis of the differences between the House amendment to S. 985 and this amendment be printed in the RECORD.

The material follows:

STATEMENT OF DIFFERENCES BETWEEN THE HOUSE AMENDMENT TO S. 985 AND THE SENATE AMENDMENT THERETO*

(1) Lending limits under the Consolidated Farm and Rural Development Act:

Both the House amendment and the Senate amendment amend the Consolidated Farm and Rural Development Act to comply with the requirement that, beginning with fiscal year 1980, lending limits for the loan programs under the Act must be set for every three year period thereafter. The House amendment and Senate amendment set identical lending limits for insured and guaranteed loan programs under the Act for each of the fiscal years 1980, 1981, and 1982.

(a) The House amendment authorizes the Secretary of Agriculture to transfer not more than twenty-five percent of the authorized amounts for real estate loans between categories of insured and guaranteed loans. (Sec. 1(8))

The Senate amendment authorizes the transfer of the authorized amounts for real estate loans between categories of insured and guaranteed loans without limitation on the amount that may be transferred. (Sec. 1)

(b) The House amendment authorizes the Secretary of Agriculture to transfer not more than twenty-five percent of the authorized amounts for operating loans between categories of insured and guaranteed loans. (Sec. 1(8))

The Senate amendment authorizes the transfer of the authorized amounts for operating loans between categories of insured and guaranteed loans without limitation on the amount that may be transferred. (Sec. 1)

(c) The House amendment requires that at least twenty-five percent of insured loans authorized for farm ownership purposes and at least twenty-five percent of insured loans authorized for farm operating purposes must be for low income, limited resources borrowers. (Sec. 1(8))

The Senate amendment contains no comparable provision.

(d) The House amendment requires the Secretary to develop long-term projections of the costs for (1) the levels of loans authorized under the bill and as may be requested by the Secretary for future three-year periods, and (2) increases in such lending levels beyond those authorized or requested (based on $10,000,000 increments or such other levels as the Secretary determines appropriate).

Such projections for fiscal years 1981 and 1982 must be submitted to the House and Senate agriculture and appropriations committees not later than February 15, 1980; and for each three-year period thereafter, such projections must be submitted to the committees at the time the Secretary submits to Congress a request for authorization for the period. (Sec. 1(8))

The Senate amendment contains no comparable provision.

(2) Loans for renewable resource energy facilities:

(a) The House amendment authorizes the Secretary to provide guaranteed or insured farm ownership loans to qualified persons for the acquisition, installation, and modification of nonfossil energy systems on family farms. Under present law, such loans are limited to systems located in residential structures on family farms. (Sec. 1(1))

The Senate amendment contains no comparable provision.

(b) The House amendment makes clear that the Secretary may provide to qualified persons guaranteed or insured loans that promote rural industrialization through the development of nonfossil energy systems. (Sec. 1(3))

The Senate amendment contains no comparable provision.

(c) The House amendment specifically authorizes the Secretary to provide guaranteed or insured farm operating loans to qualified persons for the development and construction of nonfossil energy systems. (Sec. 1(4))

The Senate amendment contains no comparable provision.

(3) Communities eligible for water, sewer, and community facility loans and grants:

The House amendment increases from 10,000 to 20,000 inhabitants the population of cities and towns eligible for water, sewer, and community facility loans and grants. (Sec. 1(2))

The Senate amendment contains no comparable provision.

(4) Loan eligibility for permanent resident aliens:

The House amendment provides a definition of the term "citizens of the United States", as used in the Consolidated Farm and Rural Development Act, that extends eligibility for loans under the Act to aliens admitted for permanent residence. (Sec. 1(5))

The Senate amendment contains no comparable provision.

(5) Conduct of the emergency loan program to encourage family farming:

The Senate amendment requires the Secretary to conduct the emergency loan program under the Consolidated Farm and Rural Development Act in a manner that will foster and encourage the family farm system of agriculture, consistent with the intent of Congress that no agriculture-related program be administered in a manner that will place the family farm operation at an unfair economic disadvantage. (Sec. 2(a))

The House amendment contains no comparable provision.

(6) Emergency loans—net worth considerations:

The House amendment requires that in determining whether to make or insure any emergency loan the net worth of the applicant must be considered. (Sec. 2)

The Senate amendment contains no comparable provision.

(7) Repeal of county committee certification requirement:

The Senate amendment repeals section 323 of the Consolidated Farm and Rural Development Act, which prohibits the Secretary from making any emergency loan in excess of an amount certified by the county committee. (Sec. 2(b))

The House amendment contains no comparable provision.

(8) Interest subsidy for guaranteed emergency loans:

Under the Consolidated Farm and Rural Development Act, the interest rate for insured and guaranteed emergency loans covering actual losses is not in excess of 5 percent annually.

The Senate amendment provides that, for any guaranteed loan that includes funds for actual losses, the Secretary may pay an interest subsidy to the lender for that portion of the loan representing actual losses not to exceed the difference between the interest rate being charged for loans covering actual losses (up to 5 percent) and the maximum interest rate for guaranteed emergency loans for purposes other than to cover actual losses (both the House amendment and the Senate amendment provide that the interest rate for such loans is to be the rate agreed on by the borrower and lender, but not in excess of such rate as may be determined by the Secretary). (Sec. 2(c)(1))

(9) Limits on emergency loans:

(a) The House amendment provides that any limitation on the amount of emergency loans to any one borrower that the Secretary may impose by regulation must take into consideration the operations and financial status of each borrower. (Sec. 1(6))

The Senate amendment (1) for emergency loans covering actual losses, sets a limit of $500,000 per disaster, and (2) for loans for purposes other than to cover actual losses, provides that the total unpaid indebtedness of any borrower for such loans may not exceed $1,500,000 at any time. (Sec. 2(c)(2))

(b) The House amendment provides that no emergency loan in excess of actual loss may be made or insured by the Secretary unless the Secretary determines that the applicant cannot obtain from a private or cooperative lender a loan guaranteed by the Secretary sufficient to finance the applicant's actual needs. (Sec. 1(7))

The Senate amendment contains no comparable provivsion.

(10) Test for credit elsewhere:

Under existing law, a person who can obtain credit elsewhere is not eligible for an emergency loan under the Consolidated Farm and Rural Development Act.

(a) The House amendment provides that in determining whether an applicant is unable to obtain credit elsewhere, if the emergency loan does not exceed $300,000, the Secretary must require at least one written declination of credit, specifying the reasons for refusal, from a lending institution within reasonable proximity to the applicant, except that the Secretary may waive this requirement if it would impose an undue burden on the applicant. For loans over $300,000, the Secretary must require at least two such declinations. No waiver provisions are provided for such loans. (Sec. 1(7))

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*The Senate amendment contains several conforming and technical changes that are not listed as differences.

The Senate amendment contains no comparable provision.

(b) The Senate amendment provides that the Secretary may approve emergency loans to persons who can obtain credit elsewhere. Such loans (1) would be at an interest rate set by the Secretary, but not in excess of the cost of money to the Government, plus an additional charge of up to 1 percent annually as determined by the Secretary, (2) would be limited to loans covering actual losses, and (3) could not exceed for any one borrower $500,000 per disaster. (Sec. 2(c)(2))

The House amendment contains no comparable provision.

(11) Emergency loans—time limitation on subsequent annual loans:

The Senate amendment reduces from 5 years to 2 years the time during which any emergency loan borrower is eligible for subsequent annual loans to continue the farm operation. (Sec. 2(d))

The House amendment contains no comparable provision.

(12) Emergency loans—effective date of amendments:

The Senate amendment provides that the amendments made to the Consolidated Farm and Rural Development Act emergency loan provisions will become effective with respect to emergency loans approved after the date of enactment of the bill. (Sec. 2(e))

The House amendment contains no comparable provision.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., October 26, 1979.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Washington, D.C.

DEAR MR. CHAIRMAN. Enclosed for the consideration of Congress are proposed unnumbered amendments to the Consolidated Farm and Rural Development Act. The amendments would be added to pending legislation to beneficially change certain insured and guaranteed loan programs administered by the Farmers Home Administration.

The Department of Agriculture recommends that the amendments be enacted.

The first amendment would amend Section 324(a) and add a new Section 324(c) of the Consolidated Farm and Rural Development Act to establish a $250,000 ceiling as the maximum amount for which a farmer could receive a 5 percent interest rate emergency loan for losses caused by one disaster. It establishes a $1,000,000 ceiling on insured loans for amounts in excess of the actual loss at interest rates prevailing in the private market for disasters occurring on or before September 30, 1980. The Secretary will determine the applicable ceiling after September 30, 1980. Where a loan for the amount in excess of the actual loss exceeds this ceiling, the entire amount over the actual loss shall be a guaranteed loan at interest rates agreed by the borrower and the lender (not in excess of that determined by the Secretary) up to $2,500,000 for disasters prior to September 30, 1980. The Secretary will establish the ceiling for guaranteed loans for disasters occurring after that date. This section will limit, not increase, Federal outlays.

The second amendment would amend Section 330 of the Act to provide subsequent emergency loans for annual operating purposes to be made for no more than two additional years, provided the borrower is unable to get the credit needed elsewhere. The current law provides for five additional years. This section will limit, not increase, Federal outlays.

The third amendment would repeal Section 323 of the Act so as to remove the requirement that FmHA county committees certify the loan amount for emergency loans. Public Law 95–334, "The Agricultural Credit Act of 1978," enacted August 4, 1978, removed this requirement for all FmHA farm-type loans except for emergency loans. The FmHA county committees currently certify for all farm-type loans, including emergency loans, that the applicant meets the eligibility requirements for the loan and has the character, industry and ability to carry out the proposed operation, and will, in the opinion of the committee, honestly endeavor to carry out the undertakings and obligations. However, current legislation requires that in addition to this certification by the county committees, they must also certify the amount of the emergency loan. This requirement causes delays in providing timely assistance to disaster victims. This section will not increase Federal outlays.

The Office of Management and Budget advises that there is no objection to the presentation of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

JIM WILLIAMS,
Acting Secretary.

Enclosure.

DEPARTMENT OF AGRICULTURE,
Washington, D.C., November 15, 1979.

Hon. HERMAN E. TALMADGE,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Washington, D.C.

DEAR MR. CHAIRMAN: The House and Senate have passed legislation amending the Consolidated Farm and Rural Development Act. The following represents the positions of the Department of Agriculture on key provisions in the measures before the Conference Committee as well as setting forth some additional proposals.

I. Eligibility for Water and Waste Disposal and Community Facilities Programs—Section 306(a)(7):

The Department of Agriculture opposes the House provision amending Section 306 (a)(7) to raise the eligible population level for these programs from the present 10,000 up to 20,000.

This doubling of the eligible population levels will adversely impact upon the most needy small communities, strain the capacity of Farmers Home Administration to meet the increased demand, and duplicate programs currently available to these larger sized communities such as the HUD Community Development Block Grant Small Cities Program. The change would accord eligibility to an additional 1,194 communities, far beyond the scope of the current program and operating levels. Extension of eligibilty for FmHA funds to these large communities will likely leave the smaller size rural communities a diminished share of Farmers Home Administration assistance.

The existing backlog of loan applications for currently eligible areas in the water and waste disposal program totals 2.382 for over $1.47 billion. The backlog in applications for grants stands at 1,464 for $66.5 million. The backlog in applications for assistance under the community facilities program is 495 for loans totalling $303.19 million and 180 for grants under the industrial development program for $27.18 million.

II. Nonfossil Fuel Energy Systems—303(b), 310(B)(a), and 312(a):

The Department supports a series of House provisions amending Sections 303(b), 310 (B)(a), and 312(a) of the Act that would have the cumulative effect of encouraging the development of nonfossil fuel energy systems in rural communities. These changes, listed below, are consistent with existing Farmers Home Administration programs as well as national energy objectives.

(i) Real Estate Loans—Section 303(b):

The definition of "improving farm" is amended to specifically include the acquisition, installation, and modification of any qualified nonfossil energy system located on a family farm.

(ii) Rural Industrialization Assistance—Section 310(B)(a):

This amendment encourages the development, construction and modification of solar energy systems and defines solar energy to mean energy derived from all nonfossil fuel sources and new technologies.

(iii) Farm Operating Loans—Section 312(a):

This amendment encourages assistance to farmers and ranchers through the development and construction or modification of new or existing solar energy systems.

III. Definition of United States Citizen—Section 343:

The Department supports the House amendment defining citizens of the United States to include "aliens legally admitted for permanent residence". Permanent resident aliens currently are eligible for several Farmers Home Administration programs. This amendment will make them eligible for all FmHA programs except economic emergency loans.

IV. Definition of Owner-Operator—Section 343:

The Department supports the House amendment defining "owner-operator" in the State of Hawaii to include the lessee-operator of real property. This provision will aid the farmers in Hawaii by recognizing their status as lessees on land including State owned property leased as part of their agricultural efforts which cannot be owned in fee.

V. Emergency Disaster Loan Program—Section 324(a) and (c):

The House amendment amends section 324 (a) of the Consolidated Farm and Rural Development Act to require that all FmHA loans for amounts in excess of the actual loss be guaranteed loans at rates of interest agreed upon between the borrower and lender, subject to a maximum interest rate established by the Secretary, unless the applicant can produce the written refusal of a private or cooperative lending agency to extend a FmHA guaranteed loan to the applicant. For the loans in excess of $300,000 over the amount of the actual loss the applicant must provide the written refusal of two private or cooperative lending agencies. For such loans not in excess of $300,000 the Secretary may waive the requirement that the applicant furnish written proof of such refusal if the Secretary determines that this requirement would impose an undue burden upon the applicant.

This Department supports the broader use of guaranteed loans at rates of interest agreed upon between borrower and lender. We are concerned, however, that the requirement that all applicants first seek a guaranteed loan could place an undue burden both on the applicant and on FmHA.

The amendments proposed by the Department impose a ceiling of the lower of the actual loss or $500,000 (actual loss ceiling) on any FmHA emergency loan for actual losses suffered in a single disaster. They also give the Secretary of Agriculture authority to establish limits for insured and for guaranteed loans for amounts over and above the actual loss ceiling. However, until October 1, 1980, the limits established by the Secretary on loans for amounts over the actual loss ceiling may not exceed $1 million for insured loans, except that for loans exceeding this ceiling, the entire loan over the actual loss must be a guaranteed loan up to a maximum of $2.5 million.

In this connection, we believe that the Administration and the Congress should give serious consideration to reviewing later the operating and major adjustment aspects of emergency loans. It is these portions of the emergency loans that are now having a significant impact on the total amount of lending under this program and which are contributing to much of the controversy that surrounds emergency loans.

The annual interest rate on loans for actual losses would be 5 percent. For insured loans for amounts over the actual loss ceiling, up to the limits established by the Secretary, the interest rate would be the rate prevailing in the private market. For guaranteed loans for amounts over the actual loss ceiling, up to the limit established by the Secretary, the interest rate would be such rate as may be agreed upon between borrower and lender, but not more than a maximum interest rate established by the Secretary.

The bill (S. 918), which is presently in conference, contains amendments to the disaster loan authorities of both the Small Business Administration and the Farmers Home Administration. Under the version of the bill which has been recommended to the conferees, we understand that SBA disaster loans would not be available to an agricultural enterprise, to replace property other than residences or personal property, unless the enterprise is or would be declined for disaster loan assistance at substantially similar interest rates by the Farmers Home Administration. We are prepared to recommend that your Committee accept this language on the understanding that the Administration will maintain the interest rates on SBA and FmHA disaster loans for actual losses (other than for replacement of residences or personal property) at the same level; and that, as a practical matter, SBA business physical disaster loans would be available to agricultural enterprises only in circumstances under which an otherwise credit-worthy agricultural borrower would not be eligible for an FmHA emergency loan because (1) the borrower is not a U.S. citizen or alien lawfully admitted for permanent residence, (2) the borrower is an estate or trust, or (3) the borrower is a corporation principally engaged in a business other than farming.

In addition, we understand that under the amendments to the SBA and FmHA loan authorities contained in the conference version of S. 918, a ceiling of $500,000 would be established for SBA and FmHA disaster loans for actual losses suffered by a borrower in a single disaster. For borrowers unable to obtain credit elsewhere, the interest rate would be 5 percent. For borrowers who are able to obtain credit elsewhere, the interest rate must be set at a level which does not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans and adjusted to the nearest one eighth of one percent plus not to exceed one percent.

We are prepared to recommend that your Committee accept these amendments to FmHA disaster loan authorities, provided that borrowers who are able to obtain credit elsewhere would not be eligible for FmHA disaster loans for amounts in excess of actual losses up to $500,000. We adhere to our recommendations, outlined above, under which subtitle C of the Consolidated Farm and Rural Development Act would be amended to empower the Secretary of Agriculture to establish a maximum limit on insured or guaranteed loans for amounts in excess of actual losses.

VI. Subsequent Emergency Loans for Annual Operating Purposes Section 330:

The Department proposes an amendment reducing the time period for subsequent emergency loans for annual operating purposes from 5 to 2 years. This will limit subsequent outlays to a period in greater proximity to the actual disaster and reduce apparent abuses in the program.

VII. Elimination of County Committee Certification of Loan Amounts Section 323:

The Department proposes an amendment repealing Section 323 of the Act. This would be consistent with the Agriculture Credit Act of 1978 which repealed this certification for certain other Farmers Home Administration programs.

VIII. Applicant's Assets—Section 322:

The Department supports the House amendment requiring consideration of the applicant's net worth including assets and liabilities when determining whether to make or insure a loan. This reflects present practices of the Agency.

IX. Waiver of Loan Limits—Section 324:

The Department opposes the House amendment providing for consideration of the operations and financial status of each borrower when imposing any limit on loans. This provision represents a broad catchall waiver that will frustrate the intent and application of necessary ceilings in this program.

X. Insured Loans to Limited Resource Farmers—Section 324(b):

The Department opposes the House provision mandating that at least 25 per centum of the insured loans authorized for farm ownership and farm operating purposes must be for low income limited resource borrowers. We believe that the present flexibility to set the percentage of specially subsidized loans to such borrowers through the annual budget process according to current conditions shall be maintained.

The Office of Management and Budget advises that submission of this letter is in accord with the President's program.

Sincerely,

Jim Williams,
Acting Secretary.●

● Mr. EAGLETON. Mr. President, the institution of the family farm is one of the cornerstones upon which our American way of life has been built. But, it is an institution which is threatened, and not the least of the threats comes from the uncontrollable elements which always have made farming such a risky business. Every farmer lives with the knowledge that the hazards of weather, water or pestilence—all of which operate completely beyond his control—can wipe out a year's livelihood almost overnight.

Because farmers face such high and uncontrollable risks, and because it clearly is in our national interest to preserve family farms, Congress years ago enacted agricultural disaster relief loan programs. Under these programs, which are run by the Farmers Home Administration, farmers with disaster-induced production losses can turn to the Federal Government as a last resort to borrow money to get back into business.

The purpose of the disaster loan program is to aid farm disaster victims who desperately need credit and cannot get it anywhere else. It is a good purpose and a good program. Unfortunately, it also is a program which can be abused.

A recent television "60 Minutes" report focused attention on some of the most flagrant abuses. The program cited the case of a "farmer" in Kern County, Calif. The man owned $40 million worth of land. He was a real estate developer. He owned a hotel. He operated a posh tennis ranch. Clearly, he was not a man in dire financial straits. But following a Federal disaster declaration, he was able to borrow almost $17 million from the Federal Government, at below-market interest rates. What's more, this "struggling dirt farmer" obtained his loan perfectly legally, and within the regulations of the program.

The "60 Minutes" revelations were shocking, but they were not new. The Inspector General of the Department of Agriculture testified on the existence of this sort of problem before our Appropriations Subcommittee on Agriculture, Rural Development and Related Agencies last spring. More recently, the Inspector General told the House Agriculture Subcommittee on Conservation and Credit that—

> A rancher, and bank director, certified he incurred a loss of $3,490 when drought prevented him from planting 1,650 acres of milo. He got a letter from his bank, the bank of which he was a director, stating that he could not get a loan. He then received over $7 million in major adjustment Emergency loans. Investigations established that he had falsely certified he could not obtain credit elsewhere.

The Inspector General also told—

> An audit in Texas disclosed abuse of the test for credit provisions in two countries. Loan approval officials ignored or allowed borrowers to circumvent the "credit elsewhere" provisions of FmHA procedures. Of the 875 borrowers covered in the audit, our statistical projections showed that 175 could have qualified for credit from private sources, and therefore were not eligible for FmHA Emergency partially subsidized interest loans.

The General Accounting Office also has reported abuse of the "credit elsewhere" test. This test is supposed to make sure that applicants for Government loans have exhausted possible sources of private credit. A recent GAO report quoted a bank's credit denial letter, which informed a farmer that:

> The bank has carefully considered your application for a loan, and we have declined your application *per your request* (emphasis added).

I do not believe that it was ever the intent of Congress to provide loans of this magnitude. Despite this, the Farmers Home Administration continues to consider these multimillion dollar loans. I know of at least 33 loans currently pending with the Farmers Home Administration. These applications total more than $103 million, and come from individuals who already have obtained over $50 million in loans from the Federal Government.

In all fairness, I must point out that the Farmers Home Administration has not ignored this problem. They have drafted proposed changes in the law and in their own regulations to deal with the situation. But FmHA simply has not moved quickly enough or effectively enough. If this "big loan" abuse is to be stopped, if this $103 million worth of pending loans is to be sidetracked, Congress is going to have to act.

To do this, we have proposed an amendment to S. 985, the 1979 amendments to the Consolidated Farm and Rural Development Act. This amendment will limit the total amount of emergency loans which can be provided to any one borrower, thus bringing the law back into focus on aiding the family farmer. It will reduce the number of years following a disaster during which farmers may apply for loans and it will give the Secretary of Agriculture the authority to require guaranteed loans as opposed to direct loans in cases where large dollar amounts are involved. Finally, it should be perfectly clear that all loans now pending will become subject to these provisions.

At a time when more and more Americans are finding it almost impossible to get credit, and when those who do secure loans are paying record high interest, this sort of abuse borders on scandal. The disaster loan program has saved many farmers from financial ruin and has helped make our country the world's unchallenged agricultural leader. We owe it to that fine tradition to end "big loan" abuse immediately.●

● Mr. INOUYE. Mr. President, I am pleased that the Committee on Agriculture, Nutrition, and Forestry amendment to S. 985, the Consolidated Farm and Rural Development Act, contains a definition of the term "owner-operator" to include "lease-operator" for programs administered by the Farmers Home Administration.

This provision was in the law during the period September 16, 1966 to September 19, 1970, and through oversight was omitted since then.

This amendment is very important to the people of Hawaii because there are large areas of land which cannot be owned with fee simple deeds but which must be leased for farming or rural housing. It is especially important to native Hawaiians and small farmers who cannot secure adequate capital to farm productively.

The House of Representatives did approve this provision when it passed H.R. 3638 (S. 985) on October 24, 1979.●

● Mr. HELMS. Mr. President, in late May of this year the Senate approved S. 985, to amend the Consolidated Farm and Rural Development Act. The legislation provides specific lending limits for loan programs administered by the Farmers Home Administraiton under the act for fiscal years 1980, 1981, and 1982. Today, the Committee on Agriculture, Nutrition, and Forestry and other interested Senators seek to further modify S. 985, as amended and passed by the House, in order to limit abuse of the emergency loan program.

Currently, there is no statutory limit on actual loss disaster loans made by Farmers Home through the emergency loan program. The amendments proposed here set a maximum loan limit of $500,000 per disaster. This provision will equate the FmHA disaster loan limit for actual losses with a similar program administered by the Small Business Administration. Interest charged on these loans will be at 5 percent if the borrower cannot obtain credit elsewhere, and at a rate equal to the cost of borrowing by the U.S. Treasury, plus up to 1 percent for administrative expenses, if the borrower can obtain credit elsewhere.

Subsequent loans for annual operating or major adjustment expenses made to any eligible borrower cannot exceed an outstanding balance of $1.5 million, under the amendments offered here. The loans may be guaranteed or insured by Farmers Home, at the discretion of the Secretary of Agriculture: Insured loans will bear a rate of interest equal to prevailing private market rates, with the level of interest for guaranteed loans to be agreed upon between the borrower and lender, not to exceed a maximum rate established by the Secretary. Eligibility for subsequent annual loans will be reduced from the present 5 years to a 2-year period.

Additionally, the proposal adds a new section to the law expressing congressional intent that Farmers Home emergency loans are provided for the preservation and protection of family operated farming enterprises, and charges the Secretary to issue necessary regulations to assure proper use of the emergency loan program.

I would like to add at this time Mr. President, that these amendments do represent a compromise achieved among Senators representing not only the Committee on Agriculture, Nutrition, and Forestry, but members of the Committee on the Budget, the Agriculture and Related Agencies Subcommittee of the Committee on Appropriations, and the Select Committee on Small Business. While we all had somewhat different motivations, I feel that all of the Senators who contributed recognize the importance of continuing and supporting the efforts of the Farmers Home Administration in properly assisting the farmers of our Nation, which is its principal responsibility.

The main reason we consider these amendments at this time, and in this manner, is to enact statutory changes that will give FmHA some of the tools it needs to better administer the emergency loan program and grapple with abuse which has taken place. Many will recall the portion of the CBS news "60 Minutes" program aired in early October which brought attention to the ability of certain farmers to obtain millions of dollars in assistance under this program. In fact, the most suspect loans totaled over $5 million and reached upwards of $15 to $16 million. The news program stated that many of these farmer-businessmen had large nonfarm assets, and could be considered as wealthy at the time they received the loan assistance and consequent taxpayer subsidies.

The real problem was not that these individuals engaged in anything improper—but rather that Farmers Home had to make the loans according to the law and the agency's regulations. At no point during processing of these loan applications was there in effect a mechanism that could stop a potentially questionable loan for so large an amount. Naturally, under these conditions these persons sought out low-interest loans for which they were eligible. Hopefully, by our approval of these strengthening amendments, FmHA will be able to use their appropriated funds more wisely.

As of August 1, 1979 over 95,000 emergency loans were outstanding, totaling over $6 billion. Of these loans, only 291 had outstanding balances over $1 million. Only four of those loans were held by farmers living in North Carolina, and those were loans made prior to fiscal year 1979. No new ones of that size were made in my State during the past fiscal year. I believe we must take sight of the fact that about 98 percent of the outstanding emergency loan balances nationwide are under $500,000, and undoubtedly are held by smaller-size farmers who needed assistance to recover from a natural disaster. The fact is, this particular program has been useful and can continue to be so. It should be more closely monitored by USDA and the Congress.

During formation of this compromise, I rejected an earlier proposal that would set the interest rate for subsequent annual loans insured by Farmers Home at a little over the cost of money to the Government. Our compromise now contains a requirement that these insured loans be made at a rate of interest equal to prevailing private market rates. I see no reason to further subsidize individuals or corporations which may be eligible for additional lending in order to recover from a disaster. They are already receiving up to $500,000 at 5 percent interest under this proposal—well below rates charged on funds available from any other source.

Even though my restriction was accepted, I do not feel we have tightened this program as much as we can or should. Early next year I intend to propose that Congress modify the law to place a $250,000 ceiling on loans for actual disaster losses. According to FmHA figures, during the 22-month period ending August 1 of this year, only 490 farmers nationwide held actual loss loan outstanding balances in excess of $250,000. In North Carolina during this same time period, only 25 loans out of over 4,400 outstanding had balances over $200,000. Only three-tenths of 1 percent of the 2,700 borrowers receiving emergency loans in fiscal year 1979 in North Carolina were approved for amounts exceeding $250,000. Thus, practically all farmers in need in my State, and I am sure in many other States, would be protected under this limitation. I think this represents a fair limit on subsidized Government assistance, and will enable those farmers least able to bounce back from a disaster to become productive once again.

I also believe we should closely examine the 5-percent interest rate charged for these loans. It is hard to believe that during our current "credit crunch" some individuals are able to obtain loans at such a low rate—presently one-third of the prime lending rate. I would rather see FmHA tie the interest rate for these disaster loans to the cost of money to the Government, or at current rates charged for the sale of Treasury bills. We must simply stop massive Government subsidization of credit if we are ever to return fiscal responsibility to the management of Government.

In addition, it concerns me that the legislation we now consider contains a provision to permit the actual loss loans to be made in the form of guaranteed or insured loans. I am given to understand that this provision is considered desirable because farmers who are eligible for major adjustment loans in addition to actual loss loans can most practically receive the loans as one transaction.

Now, that may be best from the standpoint of the borrower and the lending institution, but I do not know that it is in the best interest of the taxpayers or the budget process. The Congress needs to monitor loan authorities more closely. I have the suspicion that this provision may make such activity harder to identify and remove the loan activity further from the budgetary and oversight process.

These concerns were not addressed during consideration of the various suggestions that grew into this compromise. However, I plan to address these matters next year, and will urge Congress to act. At that time, I would hope the Committee on Agriculture, Nutrition, and Forestry will not have to compromise—but rather act only in the best interests of farmers and the taxpayers.

If we take subsequent action to improve upon our decisions today, I hope all Senators look to our committee under the leadership of its very capable chairman to propose solutions acceptable to a majority of the Senate and in the best interests of agriculture and the country.●

● Mr. BELLMON. Mr. President, I support the package of amendments proposed by the distinguished Senator from Nebraska (Mr. ZORINSKY) to the Consolidated Farm and Rural Development Act. These amendments will make urgently needed reforms in the Farmers Home Administration disaster loan program to halt the most glaring excesses associated with that program.

As the Senator from Missouri (Mr. EAGLETON) has pointed out, the recent history of the Farmers Home Administration disaster loan program has been one of abuse and questionable management. Many of these charges have been previously leveled in General Accounting Office reports and that of the USDA Office of Inspector General. The issue came to a head, however, with the "60 Minutes" television broadcast on how the program operated in Kern County, Calif.

While other borrowers can obtain no more than $650,000 from Farmers Home for agricultural needs—those that are alleged to have suffered a disaster can obtain as much credit as they want. There is one applicant who already has $13.4 million in FmHA loans and is requestioning another $18.4 million. If his application is approved, his outstanding indebtedness will total $31.8 million—49 times the maximum all other FmHA farm borrowers are limited to.

This amount of money requested by a single individual is more than is authorized, nationwide, for such programs as farm labor housing loans, very low-income housing repair loans, guaranteed farm operating loans, guaranteed soil and water loans, or soil conservation loans—and several other worthy FmHA programs.

The Federal Government cash outlay associated with this one borrower, exceeds the national budget for every grant program of the Farmers Home Administration, except for rural water and waste disposal which serves rural communities.

Mr. President, this blatant misallocation of Federal resources is in a word, intolerable. Even if the Federal budget was balanced, even if credit was freely available in the private markets, even if we were able to meet all the other basic pressing needs of our citizens—giving one farmer in California a $31.8 million loan is intolerable.

And this farmer is not alone. There are at least 47 others who have loans from Farmers Home who have loans exceeding $2.5 million, and at least 33 others who have applications to borrow more than a million dollars.

This type of abuse must be stopped, and the compromise package of amendments offered by the Senator from Nebraska will cut off lending to any borrower in excess of $2 million.

This limit is almost twice as much as I would like, but it is a limit—where none currently exists—and prevents the making of the most seriously abusive loans.

Mr. President, as I indicated earlier, the loan limit being proposed is still nearly four times the limit for other Farmers Home agricultural loans—and I feel very strongly that this is the very maximum that can be authorized for a prudent program.

Additionally, the provisions of the compromise will allow for greater use of loan guarantees, which imposes a lesser administrative burden on the Farmers Home Administration. The compromise also parallels the Small Business Administration provision for actual loss loans—and this will curb "agency shopping" by farm borrowers who have sought out the most lucrative deal from either agency.

The package of amendments also incorporates a provision reaffirming the congressional intent that Farmers Home agricultural loans are for family farms—not some of these corporate entities which have obtained loans in the past.

Mr. President, the method being used to amend a Senate bill already passed by the House is unusual, but it is necessary if we are to take action immediately. The applications for these huge loans which are being held in Farmers Home offices cannot be ignored—and will be processed unless we act.

I am not completely satisfied with the limited reforms contained in the compromise but it is all that can be quickly adopted now.

I have been assured by the Senator from Nebraska and the Senator from Georgia that they will conduct a thorough review of the disaster credit programs of FmHA early next Spring.

With the assurance that further reforms will be considered next Spring, and in recognition of the compelling need for immediate action, we have supported the compromise as proposed by the Senator from Nebraska.

Mr. President, finally, I would like to commend and thank all that have contributed to this compromise—especially the Senator from Georgia, chairman of the Senate Agriculture Committee.

I urge adoption of the amendment.●

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. TALMADGE, Mr. MCGOVERN, Mr. HUDDLESTON, Mr. ZORINSKY, Mr. HELMS, Mr. HAYAKAWA, and Mr. JEPSEN as conferees on the part of the Senate.

INTERNATIONAL ENERGY EXPOSITION

Mr. ROBERT C. BYRD. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on H.R. 5079.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives announcing its disagreement to the amendment of the Senate to the bill (H.R. 5079) to provide for participation of the United States in the International Energy Exposition to be held in Knoxville, Tenn., in 1982, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. ROBERT C. BYRD. I move that the Senate insist upon its amendment and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the confereees on the part of the Senate.

The motion was agreed to; and the Chair appointed Mr. CHURCH, Mr. PELL, Mr. JAVITS, and Mr. BAKER as conferees on the part of the Senate.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, are there any orders for the recognition of Senators on tomorrow?

The PRESIDING OFFICER. There are none.

Mr. ROBERT C. BYRD. I thank the Chair.

EXECUTIVE SESSION—NOMINATIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session for not to exceed 1 minute to consider the first nomination on the Executive Calendar appearing on page 1 of the Executive Calendar and then that the Senate proceed to the consideration of the nominations on pages 2 and 3 throughout.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President. reserving the right to object, that is all of the nominations on the Executive Calendar with the exception of Calendar order No. 496?

Mr. ROBERT C. BYRD. The distinguished acting Republican leader is correct.

Mr. STEVENS. I thank the Senator.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

The legislative clerk proceeded to read nominations on the Executive Calendar.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the aforementioned nominations be considered and confirmed en bloc, that the President be immediately notified of the confirmation of the nominations and that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

Environmental Protection Agency

Eckardt C. Beck, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

National Advisory Council on Women's Educational Programs

Carolyn L. Attneave, of Washington, to be a member of the National Advisory Council on Women's Educational Programs.

Office of the Special Representative for Trade Negotiations

Michael Brackett Smith, of Maryland, to be Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

Superior Court of the District of Columbia

Henry Harold Kennedy, Jr., of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia.

Frank Ernest Schwelb, of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia.

Department of Transportation

Theodore Compton Lutz, of Virginia, to be Urban Mass Transportation Administrator.

Department of State

William Garton Bowdler, of Florida, a Foreign Service officer of the class of career minister, to be an assistant Secretary of State.

Donald R. Toussaint, of Virginia, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Socialist Republic of Sri Lanka, to serve concurrently without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

Mabel Murphy Smythe, of Connecticut, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Cameroon, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

United Nations

H. Carl McCall, of New York to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

Nominations Placed on the Secretary's Desk in the Coast Guard

Coast Guard nominations beginning Lawrence M. Schilling, to be commander, and ending Henry D. Jacoby, to be commander, which nominations were received by the Senate and appeared in the Congressional Record on November 28, 1979.

Coast Guard nominations beginning William F. Nettel, to be lieutenant commander, and ending William J. Wilkinson III, to be lieutenant commander, which nominations were received by the Senate and appeared in the Congressional Record on November 28, 1979.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there morning business?

HUTCHINSON AGAINST PROXMIRE DECISION

Mr. PROXMIRE. Mr. President, The recent Harvard Law Review's analysis of the 1978 term of the Supreme Court contains an excellent examination of the Hutchinson against Proxmire decision, in which the Court severely restricted congressional immunity under the speech or debate clause of the Constitution.

As the Harvard Law Review says:

> The Proxmire decision in particular will inhibit vigorous debate by legislators by opening them to private lawsuits for publicizing their criticism of government programs that involve grants to "private" individuals.

The article concludes:

> The Supreme Court's decision in *Proxmire* will not destroy the capacity of legislators to criticize the government. But it is likely to dissuade legislators from exposing governmental activities to public inspection. As a result, the public's ability to hold its government accountable will be diminished. Ironically, in its effort to hold legislators individually responsible for their libels, the Court's decision may have the effect of minimizing their collective accountability for their actions. In order to avoid potential civil liability for critical statements, the legislator is likely to remember the simple rule that silence is never libelous.

While I will not allow the threat or reality of a lawsuit to silence my criticism of wasteful public spending, it is certainly possible and very likely that a rash of suits in the future will have the effect of limiting vigorous debate and public criticism of Government spending or actions. That, it is hoped, will not happen, and the original purpose for which the speech or debate clause of the U.S. Constitution was established will be reinstated.

I strongly recommend the entire essay to my colleagues and I ask unanimous consent that it be printed in the Record.

There being no objection, the essay was ordered to be printed in the Record, as follows:

[From the Harvard Law Review, November 1979]

Immunity Under Speech or Debate Clause

Legislator's Liability for Repeating Defamatory Statements Outside Halls of Congress.—In 1972, in *Gravel v. United States*,[1] the Supreme Court held that the speech or debate clause of the Constitution[2] did not shield a United States Senator from answering grand jury questions about his arranging private publication of a subcommittee's hearing record. Last Term, in *Hutchinson v. Proxmire*,[3] the Court held that the speech or debate clause did not shield a Senator from liability for defamatory remarks originally made in the Senate[4] but repeated to the press and in newsletters to constituents.[5] Taken together, these cases indicate a retrenchment of the speech or debate privilege. The *Proxmire* decision in particular will inhibit vigorous public debate by legislators by opening them to private lawsuit for publicizing their criticisms of government programs that involve grants to "private" individuals.

In March 1975, Senator William Proxmire initiated the "Golden Fleece of the Month Award" to publicize and decry egregious examples of wasteful governmental spending. Following extensive investigation, he gave the April 1975 Award to several federal agencies for granting Dr. Ronald Hutchinson over $500,000 to study aggressive behavior—such as jaw clenching—in animals and humans.[6] On April 18, Proxmire delivered a Senate speech in which he protested the "transparent worthlessness" of Hutchinson's research.[7] He claimed that "the good doctor [had] made a fortune from his monkeys" and in the process had "made a monkey out of the American taxpayer."[8] Prior to delivering the speech, Proxmire had widely distributed to a press release incorporating the text of his remarks.[9] Following the speech, Proxmire referred to the Award in a newsletter and on at least one television interview program.[10]

Alleging he had been defamed, Hutchinson filed suit against Proxmire.[11] The district court held that some of the Senator's acts—investigating the grants, giving the speech, and issuing the press release—fell within the "investigative" and "informing" functions of Congress and were therefore shielded by the speech or debate clause.[12] The court, however, held that the newsletters and interviews were not immunized by the clause. Nevertheless, the Senator was granted summary judgment as to these two acts because the court found that Hutchinson was both a public official and a public figure who had failed to meet the "actual malice" standard required of such plaintiffs by *New York Times Co. v. Sullivan*.[13] The Seventh Circuit upheld the district court.[14]

The Supreme Court reversed, 8–1.[15] Relying on precedent dating to the English parliamentary struggles with the Crown, the Court determined that "nothing in history or in the explicit language of the Clause suggests any intention to create an absolute privilege from liability or suit for defamatory statements made outside the Chamber."[16] It reaffirmed the view expressed in *Gravel* that the speech or debate clause guards only those legislative activities which are an "integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings."[17] According to the Court, only Senator Proxmire's floor speech fell into that category.[18] Hence, the Court formulated a clear rule: only speech within a "legislative proceeding" is immune from suit.[19] Since the Court also reversed the lower courts' determination that Dr. Hutchinson was a public figure,[20] the suit against Senator Proxmire was allowed to proceed on all the original claims.

The Supreme Court's approach to defining the range of the speech or debate privilege recognized the importance of preserving the legislative chamber as a haven for any speech made by a legislator; the Court, however, failed realistically to account for off-the-floor activity that is also an integral part of the legislative process. Absolute immunity

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Footnotes at end of article.

for floor speech ensures that in the course of a legislative proceeding members of Congress may vote or speak on any subject without fear of legal reprisal.[21] By restricting immunity to communications in such official proceedings, the Court apparently sought to draw a bright line between nonlegislative—or merely political [22]—and legislative acts. This vision defines the legislative sphere too narrowly: what the Court terms "legislative" acts may have significant political overtones, while "political" speeches outside Congress may provide important contributions to legislative debate. For example, giving a floor speech favorable to one's constituents may be an attempt to curry political favor, while giving an interview may result in successfully persuading a colleague to one's point of view. Yet under the Court's test, making the floor speech is an immunized act, but debating one's colleagues in public is merely "political," and therefore totally unshielded by the clause from a lawsuit.

The *Proxmire* Court's definition of the legislative function—and hence the scope of the legislator's immunity—hinges on the place in which and the audience to whom a speech is given and ignores the purpose or content of the speech. Thus, the Court treats the press release—a nearly verbatim republication of Proxmire's immunized floor speech [23]—as beyond the protection of the clause.[24] At the same time, if the media had published identical comments gleaned from the publicly available *Congressional Record*,[25] Senator Proxmire's statements might have received equally widespread publicity, but the Senator would have been immune from suit.[26]

By adopting this wooden view of legislative speech, the Court failed to acknowledge the importance of widespread dissemination to the public of the content of legislative investigations of governmental misconduct.[27] Significantly, the Court refused to extend its definition of immunized "legislative acts" to include congressional speech aimed at informing constituents or the public about the affairs of the federal government. By restricting the "informing function" to just those instances in which Congress "informs itself collectively," [28] the Court disregarded a crucial precept of representative democracy: the public cannot influence legislation or oversee its representatives unless it knows what occurs in the halls of power.[29] The *Proxmire* decision will discourage efforts by legislators to inform the public of governmental affairs and consequently will undermine the ability of the public to oversee its representatives.

Even if the Court was correct that protection for the informing function should reach only communications necessary for Congress collectively to inform itself, the Court's view of this internal process was anachronistic. Today the Congress often informs itself from sources outside its chambers.[30] The mass media are important sources of information about the views of other legislators; the television screen and news pages have to a great extent replaced the floor of the Senate as the forum for resolution of public disputes. Legislators employ the media to engage one another in debate while at the same time catching the public eye.

The majority opinion pays little heed to these developments and instead focuses on the historical roots of the clause. In refusing to extend the speech or debate privilege to remarks republished by legislators, the Court noted that prior to the adoption of the United States Constitution, the English parliamentary privilege, from which the clause was taken,[31] "did not extend to republication of libelous remarks even though first made in Parliament." [32] The Court should have rejected this authority as incompatible with the American Constitutional experience. Prior to the writing of the Constitution, there had never been any civil defamation suits against members of Parilament that involved the speech or debate privilege.[33] When the first such suit arose in 1868, the English court carefully indicated that republished defamatory remarks would be immune from suit if published "bona fide . . . by a member for the information of his constituents." [34]

Further, according to Justice Story, republication of parliamentary debate was "not strictly lawful, except by license of the house." [35] It would have been anomalous if unauthorized publication nevertheless received immunity from prosecution. But in the United States, republication of congressional debate "is a common right, exercised and supported by the direct encouragement of the body." [36] Since congressional rules respecting republication differ from parliamentary practice, the English experience does not provide a valid precedent for interpreting the clause.

The *Proxmire* Court relied upon an earlier case, *United States v. Brewster*,[37] where the Court had urged that the differences between the English and American systems supported a restrictive view of the clause. It observed that the English Parliament "is the supreme authority, not a coordinate branch" of government.[38] Since "[o]ur speech or debate privilege was designed to preserve legislative independence, not supremacy," the Court implicitly concluded that strictly limiting the privilege is more necessary here than in England.[39]

The converse of this argument, however, is at least equally persuasive. Since the English Parliament possesses supreme judicial as well as legislative authority, it has little to fear from judicial encroachment on parliamentary privileges.[40] On the other hand, the Supreme Court has acknowledged that by constricting the speech or debate privilege in civil or criminal cases, the American judiciary might encroach on legislators' independence: "whether a criminal action is instituted by the Executive Branch, or a civil action is brought by private parties, judicial power is still brought to bear on Members of Congress and legislative independence is imperiled." [41] Thus, in our system of separate but coequal branches of government, a more expansive immunity may be needed to ensure against intimidation of legislators.[42]

Instead of viewing legislative speech in isolation from other speech, the Court could have thoroughly examined the speech or debate clause in the context of the extensive judicial development of first amendment doctrine. By examining a variety of factors besides the *place* in which a speech is given,[43] the Court could have formulated a rule that accounted for individual reputation, yet protected essential legislative debate occurring beyond the walls of Congress. One approach would be to focus on the status or conduct of the person alleging harm. This course is reflected in the public figure/private figure distinction developed in the Court's first amendment libel analysis following *New York Times Co. v. Sullivan*.[44] The standard of proof the plaintiff must meet hinges on the plaintiff's own conduct and voluntary participation in activities which were the object of the alleged libel.[45] A second approach would be to focus on the status of the speaker; the Court has intimated, for example, that one's status as a "media defendant" may be grounds for special treatment in libel cases.[46] A third alternative—the one adopted by the *Proxmire* Court—is to consider the external circumstances, such as place or audience, under which a speech is given. Finally, the Court could regulate speech by focusing on its content; "obscenity," for instance, is afforded less protection than political speech.[47]

A content-based approach could be used when the Court considers the applicability of the speech or debate clause to statements made outside official congressional proceedings. In such instances the Court would grant absolute immunity only to public communications involving the affairs of the federal government.[48] Such a content-based principle would protect essential public activities of legislators without subjecting the private affairs of individuals to public scrutiny.

On the other hand, extending absolute immunity to speeches outside Congress may deprive some individuals who deserve protection of relief; even a person casually libeled in a discussion of the national budget would arguably have no cause of action. An alternative to expanding absolute immunity is to grant Members of Congress a *qualified* privilege for communications made outside official proceedings. In the first amendment context, *New York Times* [49] and its progeny [50] established such a standard to regulate libels directed at public officials and public figures. There, balancing the public interest in a free and open discussion of public issues against a state's interest in protecting individual reputation, the Court concluded that a standard permitting liability for any false statement placed too great a burden on public debate.[51] The Court's response was to create the "actual malice" standard, requiring a public official to prove that the speaker knew her statements were false, or recklessly disregarded their truth or falsity.[52]

Analogous considerations support adoption of an "actual malice" standard for libel by legislators speaking outside official proceedings on the affairs of the federal government.[53] Vigorous criticism of government programs—as exemplified in Senator Proxmire's statements—cannot flourish where the speaker must guarantee the truth of his or her statements under penalty of civil liability.[54] As the Supreme Court maintained in New York Times, "the threat of defending suits would otherwise 'inhibit the fearless, vigorous, and effective administration of policies of government' and 'dampen the ardor of all but the most irresponsible in the unflinching discharge of their duties.' " [55]

It is true that the actual language of the clause does not call for a qualified immunity for communications made beyond the floor of Congress. The Court, however, has long eschewed a literal reading of the privilege; [56] immunity has been extended beyond Members to their aides,[57] and beyond what is literally speech or debate. For example, the Court has determined that the clause immunizes official acts such as voting, proposing resolutions, and issuing committee reports.[58]

At the same time, it might be objected that a qualified immunity does not go far enough to relieve legislators from the burden of defending civil suits, a primary purpose of the clause.[59] Moreover, by adding the issue of malice, the qualified immunity standard could complicate the litigation that would arise and might preclude dismissal or summary judgment.[60] Still, the demand that plaintiffs prove actual malice would likely deter some suits and permit summary judgment in others that now would go to trial. Further, this requirement would accord legislators' criticisms significantly greater protection at trial than do the present Proxmire rules.

The Supreme Court's decision in Proxmire will not destroy the capacity of legislators to criticize the government. But it is likely to dissuade legislators from exposing governmental activities to public inspection. As a result, the public's ability to hold its government accountable will be diminished. Ironically, in its effort to hold legislators individually responsible for their libels, the Court's decision may have the effect of mini-

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mizing their collective accountability for their actions. In order to avoid potential civil liability for critical statements, the legislator is likely to remember the simple rule that silence is never libelous.

FOOTNOTES

[1] 408 U.S. 606 (1972).

[2] The speech or debate clause provides that "for any Speech or Debate in either House, [Senators and Representatives] shall not be questioned in any other Place." U.S. Const. art. I, § 6.

[3] 99 S. Ct. 2675 (1979).

[4] Proxmire was uncertain whether he actually delivered the speech on the floor or merely inserted it into the Congressional Record. The Court assumed, without deciding, that a speech printed in the Record carries the same immunity as though it had been delivered on the floor. *Id.* at 2678 n.3.

[5] In another case decided last Term, United States v. Helstoski, 99 S. Ct. 2432 (1979), the Court held that the speech or debate clause prohibits evidence of legislative acts from being introduced in a prosecution of a member of Congress. While the tone of the *Helstoski* opinion—reflecting "the central importance of the Clause for preventing intrusion by [the] executive and judiciary into the legislative sphere," *id.* at 2441—differs markedly from that in *Proxmire*, the cases do not conflict. *Proxmire* seeks to define the scope of immunized "legislative acts." *Helstoski* assumes the existence of a "legislative act" and addresses the issue of whether evidence of such acts may be admitted in a criminal case. In fact, dictum in *Helstoski* supports *Proxmire*'s narrow definition of a legislative act: "A promise to deliver a speech, to vote, or to solicit other votes at some future date is not 'speech or debate.' Likewise, a *promise* to introduce a bill is not a legislative act." 99 S. Ct. at 2440 (emphasis in original). For commentary on the issues reflected in *Helstoski*, see generally Note, *Evidentiary Implications of the Speech or Debate Clause*, 88 Yale L.J. 1280 (1979).

[6] 99 S. Ct. at 2677–78.

[7] 121 Cong. Rec. 10803 (1975).

[8] *Id.* Other portions of the speech include the following:

> The funding of this nonsense makes me almost angry enough to scream and kick or even clench my jaws. It seems to me it is outrageous.
>
> Dr. Hutchinson's studies should make the taxpayers as well as his monkeys grind their teeth. In fact, the good doctor has made a fortune from his monkeys and in the process made a monkey out of the American taxpayer.
>
> It's time for the Federal Government to get out of this "monkey business." In view of the transparent worthlessness of Hutchinson's study of jaw-grinding and biting by angry or hard-drinking monkeys, it's time we put a stop to the bite Hutchinson and the bureaucrats who fund him have been taking of the taxpayer.

Id., cited in 99 S. Ct. at 2679.

[9] 99 S. Ct. at 2678.

[10] *Id.* at 2679 & n.4. An aide, Morton Schwartz, contacted the granting agencies to discuss the funding and, according to Hutchinson, attempted to persuade them to cancel the grants. *Id.* at 2679. Under Gravel v. United States, 408 U.S. 606, 616–22 (1972), a legislator's aide receives the same speech or debate protection as a Member.

[11] In addition to his action for libel, Hutchinson asserted claims based on interference with contractual relations, intentional infliction of emotional distress, and invasion of privacy. Hutchinson v. Proxmire, 431 F. Supp. 1311, 1315 (W. D. Wis. 1977). The court of appeals, after determining that the allegedly defamatory statements were immune, held the privilege extended to the other allegations as well. Hutchinson v. Proxmire, 579 F.2d 1027, 1036 (7th Cir. 1978). According to the Seventh Circuit panel, the other torts were merely "additional allegations of harm" which if permitted to stand would defeat the privilege. *Id.* This result plainly seems correct. Where a court concludes that a particular speech is immune, the form of action the plaintiff uses to attack it should make no difference to the result. The Supreme Court expressly left this question open. 99 S. Ct. at 2681 n.11.

[12] Hutchinson v. Proxmire, 431 F. Supp. 1311, 1321–23 (W. D. Wis. 1977).

[13] 376 U.S. 254 (1964). In *New York Times*, the Court defined actual malice as "knowledge that [a statement] was false or . . . reckless disregard of whether it was false or not." *Id.* at 280. The issue of whether Hutchinson should be classed as a public figure is discussed in note 20 *infra*.

[14] Hutchinson v. Proxmire, 579 F.2d 1027 (7th Cir. 1978). The circuit court's view differed from the district opinion in two respects. First, the district court did not specifically consider whether the follow-up calls were protected by the clause. The Seventh Circuit panel held they were not shielded. *Id.* at 1032 & n.9. Second, unlike the district court judge, the circuit court accorded speech or debate protection to the newsletter. *Id.* at 1033.

[15] 99 S. Ct. 2675 (1979). Chief Justice Burger issued the majority opinion in which all but Justice Brennan concurred. Justice Brennan filed a short dissenting opinion. Justice Stewart dissented from footnote 10 of the Court's opinion. *See* note 48 *infra*.

[16] 99 S. Ct. at 2684.

[17] *Id.* (quoting Gravel v. United States, 408 U.S. 606, 625 (1972)).

[18] In his one paragraph dissent, Justice Brennan asserted that "public criticism by legislators of unnecessary governmental expenditures, whatever its form, is a legislative act shielded by the Speech or Debate Clause." 99 S. Ct. at 2689.

[19] This statement of the rule might be qualified by future decisions. For example, private communications between members outside Congress might be immunized under the Court's definition of the "informing function." *See* p. 166 *infra*.

[20] 99 S. Ct. at 2687–88. The Court held that Hutchinson was not a public figure for the purposes of comment on his receipt of federal funds. That Hutchinson secured substantial federal grants, published in obscure scholarly journals, was occasionally mentioned in local press reports, and received wide press coverage when he responded to the alleged libel did not alter the Court's decision. The majority observed that Hutchinson had not thrust himself into public debate about general governmental expenditures. Further, the Court determined that he did not possess sufficient access to the media before Proxmire's Award brought him notoriety to warrant labeling him a public figure. 99 S. Ct. at 2687–88.

In both *Proxmire* and Wolston v. Reader's Digest Ass'n, 99 S. Ct. 2701 (1979), the Court considered the degree of voluntariness in exposing oneself to the public that is required before one may be labeled a public figure. *Wolston* held that a person convicted of contempt after failing to appear before a grand jury was not automatically a public figure, even for the limited purpose of comment on his conviction. *Id.* at 2707–08. Since the *Wolston* plaintiff did not initiate either the grand jury or the contempt proceedings and did not engage in any activities "calculated to draw attention to himself," *id.* at 2708, that result seems correct.

However, Hutchinson's status is not as easily resolved by an assessment of voluntariness since he actively sought public financial support for his projects and thus could be said to have invited criticism. On the other hand, the Court worried that labeling Hutchinson a public figure would require a similar finding with regard to all federal grant recipients. 99 S. Ct. at 2688. Accordingly, the Court strictly construed the rule that in order to become a public figure with respect to a particular issue, one must "thrust [himself] to the forefront of [a] particular public controvers[y] in order to influence the resolution of the issues involved," Gertz v. Robert Welch, Inc., 418 U.S. 323, 345 (1974). Defining the "public controversy" in question as "a concern about general public expenditures," 99 S. Ct. at 2688, the Court had no difficulty concluding that Hutchinson had never engaged in debate about that general issue.

This reasoning, however, obscures the fact that Proxmire's criticism attacked the merits of the research which Hutchinson himself had sought to promote through his own publications and for which he had actively sought government grants. The opinion thus indicates that the Court may be undermining the very notion of the limited public figure. By defining the relevant "controversy" broadly, the majority opinion makes it unlikely that specific activities of most individuals would be sufficient to establish them as limited public figures.

The *Proxmire* Court also considered the degree of "access" to the media necessary to establish one's status as a limited public figure. It determined that Hutchinson's access was due primarily to the notoriety arising from the Senator's remarks. Consequently, it was not the "regular and continuing access to the media that is one of the accouterments of having become a public figure." 99 S. Ct. at 2688. Thus, the Senator could not create his own defense by making Hutchinson notorious through his libel.

[21] This is true even if the member votes for a measure beyond the authority of the legislature which results in violation of the constitutional rights of an individual. Kilbourn v. Thompson, 103 U.S. 168 (1881); *see* Gravel v. United States, 408 U.S. 606, 615–16 (1972).

One early nonconstitutional case raised the possibility that some floor speech might not be immunized by a speech or debate privilege. Coffin v. Coffin, 4 Mass. 1 (1808) (legislator's comments about matter unrelated to floor proceedings not protected by state speech or debate immunity). Nevertheless, recent decisions have taken for granted that all speech on the floor is constitutionally immune from judicial scrutiny. *See, e.g.,* Gravel v. United States, 408 US. 606, 615–16 (1972).

[22] While the Court does not specifically establish the political-legislative dichotomy in *Proxmire*, it has used this distinction in an earlier case. *See* United States v. Brewster, 408 U.S. 501, 512 (1971).

[23] 99 S. Ct. at 2678. Only introductory and concluding statements were added.

[24] *Id* at 2686

[25] While the Court did not decide whether speeches never delivered to the House but inserted into the Congressional Record were entitled to immunity, 99 S. Ct. at 2678 n. 3, failing to protect such communications would effect a strange result. The Congressional Record provides the only official report of legislative proceedings. It should be viewed simply as the nonverbal counterpart to floor speech. Accordingly, it appears integral to the internal "deliberative and communicative processes" of Congress. *See* Gravel v. United States, 408 U.S. 606, 625 (1972); *cf.* Doe v. McMillan, 412 US 306 (1973) (material introduced into committee record immunized).

[26] 99 S. Ct. at 2686. The press is also immune from suit for accurately reporting legislative proceedings. Id at 2685 n.13. Unless the press is to be accorded special deference, it would seem reasonable to permit others, including Proxmire, a qualified privilege accurately to report legislative proceedings.

[27] *See* Watkins v. United States, 354 U.S. 178, 200 & n.33 (1957) (Congress has the power to "inquire into and publicize corruption, maladministration or inefficiency in agencies of the Government") (dictum).

[28] 99 S. Ct. at 2689.

[29] *Id.* (Brennan, J., dissenting); *see* Gravel v. United States, 408 U.S. 606, 649 (1972) ("the legislator's duty to inform the public about matters affecting the administration of government . . . [lies] at the heart of our democratic system") (Brennan, J., dissenting).

[30] Deposition of Senator Proxmire, app. at 220; Ervin, *The* Gravel *&* Brewster *Cases: An Assault on Congressional Independence,* 118 CONG. REC. 28465 (1972); cf. W. Gropper, *The Senate* (painting portraying an animated Senator pontificating on the Senate floor, while amongst a number of empty chairs one colleague snoozes and another reads a newspaper).

[31] Reinstein & Silverglate, *Legislative Privilege and the Separation of Powers,* 86 HARV. L. REV. 1113, 1121 (1973). The English Bill of Rights of 1689 provides that "the freedom of speech, and debate or proceedings in parliament, ought not to be impeached or questioned in any court or place out of parliament." 1 W. & M. 2, c. 2 (1689).

[32] 99 S. Ct. at 2685.

[33] Reinstein & Silverglate, *supra* note 31, at 1148 n.180. But *cf.* Strode's Case, 4 Hen. VIII, c. 8 (1512) (private criminal case involving privilege when it was still tied to judicial origins). *See also* Veeder, *Absolute Immunity in Defamation: Legislative and Executive Proceedings,* 10 COLUM. L. REV. 131, 132 n.5 (1910).

[34] Wason v. Walter, L.R. 4 Q.B. 73, 95 (1868); *see* Veeder, *supra* note 33, at 136 & n.20. *But see* Gravel v. United States, 408 U.S. 606, 623 n.14 (1972) (asserting Wason was not found on parlimentary privilege).

[35] 2 J. STORY, COMMENTARIES ON THE CONSTITUTION OF THE UNITED STATES § 863, at 330 (1st ed 1833), *quoted in* 99 S. Ct. at 2685 n.13.

[36] J. STORY, *supra* note 35, § 863, at 330.

[37] 408 U.S. 501, 508 (1972); *see* 99 S. Ct. at 2683–84.

[38] 408 U.S. at 508.*q uoted in* 99 S. Ct. at 2684.

[39] 408 U.S. at 508, *quoted in 99* S. Ct. at 2684.

[40] C. WITTKE, THE HISTORY OF ENGLISH PARLIAMENTARY PRIVILEGE 199 (1921) (ordinary courts were considered " 'inferior' to the High Court of Parliament, and therefore could not pass judgment" on its claims of privilege).

[41] Eastland v. United States Servicemen's Fund, 421 U.S. 491, 503 (1975).

[42] *See* United States v. Helstoski, 99 S. Ct. 2432 (1979); Eastland v. United States Servicemen's Fund, 421 U.S. 491, 501–11 (1975); Gravel v. United States, 408 U.S. 606, 616 (1972); United States v. Johnson, 383 U.S. 169, 178–79 (1966).

[43] *See* Gertz v. Robert Welch, Inc., 418 U.S. 323, 333 (1974).

[44] 376 U.S. 254 (1964); *see* cases cited notes 45, 50 *infra.*

[45] *See, e.g.,* Gertz v. Robert Welch, Inc., 418 U.S. 323, 345 (1974); Wolston v. Reader's Digest Ass'n, Inc., 99 St. Ct. 2701 (1979).

[46] 99 S. Ct. at 2687 n.16.

[47] *Compare* Paris Adult Theatre I v. Slaton, 413 U.S. 49 (1973) (upholding injunction against exhibition of hard-core films in "adult" theatre), *with* Cohen v. California, 403 U.S. 15 (1971) (reversing conviction for wearing jacket imprinted with the words "Fuck the Draft").

[48] *See* 99 S. Ct. at 2689 (Brennan, J., dissenting). This Comment proposes extending immunity only to public statements. Only with respect to such communication is the public interest in free and open debate present. More importantly, the check of public scrutiny is absent from a member's private communications, such as attempts to influence administrative agencies. *But see* 99 S. Ct. at 2688–89 (Stewart, J., dissenting from footnote 10) (supporting protection for a legislator's private calls to federal agency officials). For an example of dangers which may arise from a legislator's nonpublic acts, see McSurely v. McClellan, 521 F.2d 1024 (D.C. Cir. 1975) (Senator's agents transported illegally seized documents to Washington, D.C.), *modified,* 553 F.2d 1277 (D.C. Cir. 1976) (en banc), *cert. dismissed as improvidently granted,* 438 U.S. 189 (1979).

[49] 376 U.S. 254 (1964).

[50] Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974); Curtis Publishing Co. v. Butts, 388 U.S. 130 (1967); Associated Press v. Walker, *reported sub nom.* Curtis Publishing Co. v. Butts, 388 U.S. 130 (1967).

[51] 376 U.S. at 271–72.

[52] *Id.* at 279–80.

[53] In the first amendment context, the Court once adopted a standard of qualified immunity for all speech regarding public affairs. Rosenbloom v. Metromedia, Inc., 403 U.S. 29 (1971) (plurality opinion). However, in Gertz v. Robert Welch, Inc., 418 U.S. 323, 341–48 (1974), and Time, Inc. v. Firestone, 424 U.S. 448, 456 (1976), the Court abandoned this approach because it resulted in an "improper balance" between the interest in uninhibited debate and a state's interest in protecting individual reputation. Applying the New York Times standard in the speech or debate context, a Member's public communications on federal governmental affairs might be denied immunity on similar grounds.

However, limiting immunity to a legislator's speech regarding affairs of the federal government protects a more narrowly defined range of speech than did the "public affairs" standard of Rosenbloom. The "federal governmental affairs" standard is strict enough to prevent the personal affairs of individuals from being aired in public. Mere public curiosity about an issue will not activate the privilege. Only those affairs which possess an important connection to issues involving the federal government may be subject to the congressional limelight.

[54] Most importantly, the role of the legislator, both as leader and as representative, mandates that she publicly speak her mind on the affairs of the federal government. It is unfair to hold her to this duty and also to the burden of defending what may be harassing civil suits. In cases in which the Court has considered privileges of members of the other two branches, even where the conduct may have been far more egregious than Proxmire's, it has uniformly held that official acts are immunized from private common law suit. *See* Barr v. Matteo, 360 U.S. 564 (1959) (administrator immune from liability arising from issuance of allegedly defamatory press release); Stump v. Sparkman, 435 U.S. 349 (1978) (state judge absolutely immunized for ordering covert sterilization of 15-year old female in an ex parte proceeding without a hearing and without notice to the girl).

[55] New York Times v. Sullivan, 376 U.S. 254, 282 (1964) (quoting Gregoire v. Biddle, 177 F. 2d 579, 581 (2d Cir. 1949) (L. Hand, J.)).

[56] 99 S. Ct. at 2683.

[57] Gravel v. United States, 408 U.S. 606 (1972).

[58] Kilbourn v. Thompson, 103 U.S. 168, 204–05 (1881).

[59] Eastland v. United States Servicemen's Fund, 421 U.S. 491, 503 (1975). *See also* Dombrowski v. Eastland, 387 U.S. 82, 85 (1967) (per curiam). In addition, the Court has wisely rejected inquiries into motive or intent when considering the applicability of the clause to statements made within official legislative proceedings. *See, e.g.,* United States v. Johnson, 383 U.S. 169, 184–85 (1966) (inquiry into legislator's motivation for introducing legislation prohibited by speech or debate clause).

[60] The *Proxmire* Court indicated that "proof of 'actual malice' calls a defendant's state of mind into question and does not readily lend itself to summary disposition." 99 S. Ct. at 2680 n.9 (citations omitted). *See also* Herbert v. Lando, 99 S. Ct. 1635 (1979), discussed, p. 149 supra.

THE ROLE OF ALCOHOL FUELS

Mr. STEWART. Mr. President, it is no secret that I have been very active this year in attempting to see that the major energy legislation considered by this body give the proper emphasis to alcohol fuels. For time and time again—both on this floor and in committee—I have stated that fuel produced from our Nation's food and fiber holds the key to our attempts to throw off the economic chains by which the oil-rich nations of OPEC now bind us.

As a body, we have already begun to take the steps that I think are necessary if America is to avoid a deepening economic recession. Furthermore, I am pleased to say that virtually every major piece of energy legislation that will be debated on this floor contains some provision for alcohol fuels that I have urged and fought for in committee. I am comfortable with the assumption that by the time the curtain falls on this particular domestic drama, alcohol fuels will have played a key role.

But, Mr. President and distinguished colleagues, Government does not necessarily have to be the initiator of certain alternative-energy programs. In fact, we have seen in Alabama alone that alcohol fuels can be produced without the long arm of the Government interfering. There is no question in my mind that the management creativity of America's private sector has an equally—if not more important—role in our energy future.

And that is why I am rising today, to recognize just such a program.

I would like to direct the Members of this body to the October 20, 1979, issue of Editor & Publisher, the respected weekly magazine of the fourth estate. On Page 20, there is an article headlined "Los Angeles Times Tests Gasohol in Company Cars," which details a program undertaken by the California daily to fuel its automobiles with gasohol, a high-octane, clean-burning mixture of gasoline and alcohol.

I find it heartening that an organization as large and diversified as the Los Angeles Times—or, to the same extent, I suppose, the Times-Mirror Co.—would undertake such a program. With all of the recent advances in communications technology, the media have become vital tools not only in keeping Americans abreast of current events, but also in educating us on the problems that confront us and the manner in which we can solve them. Perhaps more than any other single learning aid, the information media have become society's global textbook.

And if we are ever to get the necessary hold on the energy problem facing us, we must have the capacity to communicate with the communicators: that is, the newspapers and broadcast outlets of America. In other words, we must work together, with the common understanding that our energy problems are universal, and must be universally addressed.

The Los Angeles Times, Mr. President, through this program, is taking part in our universal attack on the energy problem. It is taking the traditional journalistic responsibility of public service one step further. It is becoming a part of the solution, and I think the newspaper—and its management—deserve our commendation and our thanks.

Mr. President, I ask unanimous consent to place this article in the RECORD for all of my colleagues to examine.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LOS ANGELES TIMES TESTS GASOHOL IN COMPANY CARS

The Los Angeles Times has undertaken a 4-month test of gasohol fuel in about 125 company-owned cars in what it describes as one of the largest gasohol evaluation programs launched by a private American firm.

"We are trying it as an extender of our gasoline allocation and as an act of conservation, since it is replaceable energy," purchasing manager Paul Heichman said. The project began October 12.

Gasohol is a mixture of 90% gasoline and 10% alcohol as auto fuel. Several state and local governments, including California and Los Angeles city and county, are experimenting with the new fuel.

Heichman said gasohol will be tested for fuel economy, performance and service but added that he is skeptical about some claims of added mileage from gasohol. He noted that gasohol will cost about 5 cents a gallon more than regular gasoline prices, including a 4 cents per gallon reduction in the federal excise tax on gasoline which is permitted for gasohol sales.

The Times expects to use more than 100,000 gallons of gasohol during the experiment.

Heichman said the newspaper will use gasohol made with ethanol which is denatured 200-proof alcohol. It will be produced from midwest corn by the Archer-Daniels-Midland Company.

DISSENT, RACE, AND GENOCIDE

Mr. PROXMIRE. Mr. President, a recent article by Jacobo Timerman, the former Argentinian political prisoner, is a celebration of freedom. As punishment for expressing his dissenting opinions as editor of a leading opposition newspaper, Mr. Timerman was held for 30 months in his home country. He was freed following international and U.S. pressure and is now living in Israel.

Mr. Timerman can now breathe easier. He may rest assured that he is safe from repression and persecution. Were he living elsewhere, though, he might well be suffering the pains of racial discrimination. Regrettably, division of people along racial lines is not a problem confined to the past. In his article, published in the New Republic, he sympathizes with the persecution of the world's minorities living under the gun. He applauds the civilized West for providing human rights to groups who suffer blatant discrimination elsewhere. He writes:

> Through the streets of many Western cities, I could stroll as a secure citizen, without fearing for my safety as a man or as a Jew.

Respect for human rights and civil rights is a matter of priority and pride for the United States. We condemn violations around the world. We stop the flow of our aid to nations who persist in odious breaches of human rights. We view ourselves as a beacon of human rights. But how can we expect to be listened to when we have declined to ratify the Genocide Convention.

Inaction is tantamount to closing our eyes to the remaining racism that divides humankind to this day. In ratifying the Genocide Convention, we would be saying to the world that ethnic rifts must be bridged. To continue to ignore the Convention is to lend tacit support to those who would continue to pass racial divisions from generation to generation without end.

In this century we have seen mankind at his worst—committing the act of genocide. Before it is forgotten, Mr. President, we must respond with an equal and opposite condemnation of this most abhorrent crime. As Jacobo Timerman reminds us, the scourge of deep-seated bigotry must not go unanswered. I urge my colleagues in the Senate to ratify the Genocide Convention.

LONG ISLAND RAILROAD WORK STOPPAGE

Mr. JAVITS. Mr. President, today marks the seventh day of a work stoppage by employees of the Long Island Railroad which provides daily commuter service to approximately 180,000 daily riders.

If this stoppage continues more and more of these commuters will be forced to find alternate modes of transportation to their places of employment. This means that many of these commuters will have no choice other than to return to the less fuel efficient family car for essential transportation needs. Early reports on the effects of the work stoppage substantiate this conclusion. In addition, commuters are not apparently car pooling enough but many are driving to work alone, causing a terrible waste of scarce and expensive gasoline supplies.

We as a nation cannot afford to have such a substantial segment of the commuting public in this important region of the country leaving mass transit and returning to their automobiles. This is especially true in light of the country's present energy situation. Moreover, if past history is any indication, the Long Island Railroad will lose permanently many of these riders to the automobile once the work stoppage is settled.

Only a week ago, the Secretary of Energy, Mr. Duncan, indicated that gasoline consumption in New York has fallen by 14.6 percent from last year's levels. This reduction, if continued, will be ahead of the administration's target levels for New York. However, if the work stoppage continues, it may be impossible to continue this trend of reducing gasoline consumption.

In addition, there is the issue of gasoline availability in the New York metropolitan area. As we are all aware, the consumption of gasoline increases during this season of the year. At the same time, many oil companies, even before the work stoppage, announced they were cutting allocations to their dealers this month. Mobil dropped 5 percent, Getty 20 percent, Sunoco 25 percent, and Gulf 13 percent. Recent reports indicate that gasoline supplies are extremely tight in the area. It would indeed be an extremely unfortunate event to have gasoline lines reappear during this joyous season.

The problems associated with this LIRR stoppage are not all energy related. The stoppage also can have a direct and immediate impact on the economy of this area, and this is of fundamental concern to all.

The New York metropolitan area is recovering somewhat from its economic slide of recent years. This recovery is made possible by carefully balancing the many diverse interests of an urban area by many New Yorkers making sacrifices to restore our city. However, there is concern that this stoppage can substantially impede this areas' recovery. Already, major retail outlets are bracing for a substantial decline in their retail sales during this the most important time of the year for them.

I certainly wish to see voluntary collective bargaining succeed in ending the stoppage and I appreciate the fact that the MTA and the representatives of the Long Island Railroad employees have resumed bargaining sessions and that their differences seem to have narrowed. I approve these efforts under the careful eye of the National Labor Mediation Board and urge that they continue and am hopeful for their early success. Nevertheless, this important commuter line needs to be back in operation at the earliest moment even while the talks continue. Therefore, I again call on the President to heed my earlier request and exercise his authority under the Railway Labor Act to suspend this work stoppage by instituting a 60-day cooling off period and by establishing an Emergency Board to investigate this dispute and make recommendations for settlement.

RESIGNATION OF MRS. BETTY SOUTHARD MURPHY

Mr. HATCH. Mr. President, unfortunately the Nation has just lost the services of one of the best public servants of our time. On December 7, 1979, Mrs. Betty Southard Murphy resigned her position as a member of the National Labor Relations Board effective today. Her resignation now creates a void and vacuum within that sensitive agency which administers our primary national labor relations law because: first, she has been the only member with private sector experience so essential to understanding and resolving the problems of the real world of labor relations; second, she has been one of the most productive and sensible members of that body, and third, while serving as board chairman she proved to be an extraordinarily talented administrator.

Betty Murphy as a private practitioner is in a select class of labor lawyers who successfully represented both management and labor clients. That is no easy feat in the volatile area of labor relations. You have to know Mrs. Murphy to understand how she can produce the quality results she does while commanding great respect and admiration in that delicate process.

As a Board member she has served ably, consistently, and fairly in deciding those matters to come before that agency. Her distinguished career as a private practitioner and her understanding of how labor relations works in this country is reflected in the quality and integrity of her decisions. Her deep knowledge of the labor relations field as well as her practical application of the law does great honor to the Board and bolsters the public confidence so necessary to facilitate the work of that agency. Betty Murphy has demonstrated the capacity to make collective bargaining a living process and the Nation has been benefited because of her sacrifice to the needs of all working Americans and their employers covered by the NLRA.

I believe her single greatest contribution may be her initiative as the Chairman to actively seek internal regulatory reform to increase the Board's productivity and cutting case processing time. She brought to bear a task force on the NLRB which provided a superb manual of administrative improvements and served as the cornerstone of vital reorganization which hopefully will continue. She further set into motion modern management techniques for the expeditious handling of cases—all to the manifest benefit of the public who are best served by gifted and dedicated public servants like Mrs. Murphy.

I, speaking for my colleagues, wish to publicly thank Mrs. Murphy for the selfless devotion she has given to our citizens over the past several years. It is the challenge of Government to keep quality people like Mrs. Murphy working in the public interest. Apparently this administration has failed in that challenge and we are all losers because of their failure.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of Mrs. Murphy's letter of resignation to President Carter; an NLRB press release on this subject; a Bureau of National Affairs article on the situation; and a letter from Mrs. Murphy to the Honorable John H. Fanning outlining her achievements as Board Chairman.

NATIONAL LABOR RELATIONS BOARD,
Washington, D.C., December 7, 1979.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I have served on the National Labor Relations Board as Chairman and Member for over 4½ years now. I originally came on the Board because Dr. John Dunlop believed that individuals who were experienced in collective bargaining and who were acceptable to both labor and management had a responsibility to serve in public positions. Having represented unions and employers for 14 years in private practice, I was in that category.

It is one of the greatest compliments of my life that after serving a term on the Board I have been urged by both organized labor and the business community to remain. Although I have considered helping to formulate the national labor policy a privilege, I have decided not to accept the offer of an interim appointment conveyed to me on your behalf by the Department of Labor, or renomination for a second term.

Accordingly, I submit my resignation, effective December 14, 1979, in order to return to the private sector where I hope to serve the common interests of constructive labor-management relations.

Sincerely,

BETTY SOUTHARD MURPHY.

MURPHY RESIGNS FROM NLRB RATHER THAN ACCEPT WHITE HOUSE OFFER OF INTERIM TERM

Betty Southard Murphy, the first woman to serve on NLRB, announces that she will resign effective December 14, rather than accept a temporary appointment clouded by political overtones. One of the two Republicans serving on the Board, Murphy was nominated by President Ford and served as NLRB chairman in 1975–77.

In a letter to President Carter, Murphy says she has decided "not to accept the offer of an interim appointment conveyed to me on your behalf by the Department of Labor, or renomination for a second term" even though she had been "urged by both organized labor and the business community to remain."

Although the letter gave no reason for her decision, sources say Murphy was appalled at the White House intention to delay her reappointment pending Senate approval of the nomination of William A. Lubbers, a Democrat, as General Counsel of NLRB. The Lubbers' nomination has encountered vehement opposition from business groups who protest the nominee's long association with NLRB Chairman John H. Fanning. President Carter removed Murphy's chairmanship in April 1977 and appointed Fanning to the post. The move prompted charges from Murphy at that time that Secretary of Labor Ray Marshall had politicized the Board and wanted to become a labor "czar."

A White House aide said last week that "no final decision" had been made with respect to Murphy's seat on the Board. But in behind-the-scenes maneuvering with leaders of the business community, the White House made clear that there would be no reappointment of Murphy to a full five-year term until Lubbers was confirmed. Her term expires on December 16.

CURRENT DEVELOPMENTS

Under a White House offer communicated to Murphy through the Labor Department, she could accept an interim appointment at the Board pending renomination to a second term. But, according to sources, she found the political machinations degrading and rejected as wrong and unacceptable the prospect of holding a seat of a Board member hostage to the nomination of a general counsel.

Murphy, a former UPI reporter, was a labor lawyer in private practice and was administrator of the Wage and Hour Division of the Department of Labor immediately prior to her appointment as NLRB chairman in February 1975.

She had the backing of both business and labor for reappointment to a full five-year term and representatives from both sides issued statements expressing regret at her resignation. AFL–CIO President Lane Kirkland, praised her for doing "an outstanding job" as both chairman and member.

R. Heath Larry, president of the National Association of Manufacturers, said: "The public will be the loser in Betty Southard Murphy's departure from NLRB. She brought a level of intelligence, efficiency and integrity to the Board equal to that it has ever had."

Richard Lesher, president of the U.S. Chamber of Commerce, said she has done "a superb job demonstrating a strong commitment to fairness and objectivity so essential to public confidence. It is the finest tribute to her that both organized labor and business expressed confidence in her work." Lesher added that the Administration's actions represented a departure from the President's earlier commitment to appoint only the most qualified candidates without regard to partisan politics:

"She was entitled to reappointment without being subjected to shabby treatment and political maneuvering. Mrs. Murphy's reappointment . . . was held hostage by the White House pending the outcome of the confirmation of a new NLRB General Counsel. Not only is this unfair to Mrs. Murphy, who is extremely well qualified for reappointment to the NLRB, it is contrary to the President's earlier commitment to appoint the most qualified candidates for government service without regard to partisan politics.

"It will not diminish our opposition to Mr. Lubbers. Rather it only confirms our feeling that the White House is willing to sacrifice qualified individuals in the name of politics. We have always maintained that the two nominations are separate, and that the two ought to be judged on their merits."

In addition to resigning from NLRB, Murphy submitted her resignation from the Council of the Administrative Conference of the United States, which also is a presidential appointment. She retained her appointment by President Ford to the International Center for Settlement of Investment Disputes.

NATIONAL LABOR RELATIONS BOARD,
Washington, D.C.

BETTY SOUTHARD MURPHY RESIGNS FROM NLRB

Betty Southard Murphy today announced she is resigning as a Member of the National Labor Relations Board effective December 14.

In a letter to President Carter, Mrs. Murphy said she had "decided not to accept the offer of an interim appointment conveyed to me on your behalf by the Department of Labor, or renomination for a second term" even though "urged by both organized labor and the business community to remain."

A Republican, Mrs. Murphy served as NLRB Chairman 1975–77 on appointment by President Ford and has continued as Member of the NLRB. Her term expires December 16.

The heads of the AFL–CIO, the National Association of Manufacturers and the Chamber of Commerce of the United States expressed regret at Mrs. Murphy's resignation.

Lane Kirkland, AFL–CIO President, said:

"Mrs. Murphy has done an outstanding job as Chairman and as a Member of the National Labor Relations Board, and we regret her resignation. We know, however, that she will continue to make a real contribution to the improvement of labor-management relations in the United States."

R. Heath Larry, NAM President, commented:

"The public will be the loser in Betty Southard Murphy's departure from the National Labor Relations Board. She brought a level of intelligence, efficiency and integrity to the Board equal to that it has ever had."

Richard L. Lesher, U.S. Chamber of Commerce President, said:

"We regret that Betty Murphy has resigned from the National Labor Relations Board. Both as Chairman for two years and later as a Board Member she has done a superb job demonstrating a strong commitment to fairness and objectivity so essential to public confidence. It is the finest tribute to her that both organized labor and business expressed confidence in her work.

"We are confident that she will continue to be a stabilizing influence on labor-management relations in the country, not only by virtue of her Board experience, but also because of her practical experience prior to her Board tenure."

In addition to resigning from the NLRB, Mrs. Murphy submitted her resignation from the Council of the Administrative Conference of the United States, which also is a Presidential appointment. She retains her appointment by former President Ford to the International Center for Settlement of Investment Disputes.

Mrs. Murphy, a onetime UPI news reporter, is a labor lawyer. Immediately prior to being named Chairman of the NLRB in February 1975, she was Administrator of the Wage and Hour Division, Department of Labor. Before that appointment, she was a partner in a Washington, D.C., law firm where she was one of the few lawyers in the nation representing both unions and employers. Her letter to the President:

DECEMBER 7, 1979.

"Dear Mr. President:

"I have served on the National Labor Relations Board as Chairman and Member for over 4½ years now. I originally came on the Board because Dr. John Dunlop believed that individuals who were experienced in collective bargaining and who were acceptable to both labor and management had a responsibility to serve in public positions. Having represented unions and employers for 14 years in private practice, I was in that category.

"It is one of the greatest compliments of my life that after serving a term on the Board I have been urged by both organized labor and the business community to remain. Although I have considered helping to formulate the national labor policy a privilege, I have decided not to accept the offer of an interim appointment conveyed to me on your behalf by the Department of Labor, or renomination for a second term.

"Accordingly, I submit my resignation, effective December 14, 1979, in order to return to the private sector where I hope to serve the common interests of constructive labor-management relations.

"Sincerely,

BETTY SOUTHARD MURPHY."

NATIONAL LABOR RELATIONS BOARD,
Washington, D.C., April 14, 1977.
Hon. JOHN H. FANNING,
Member, National Labor Relations Board, Washington, D.C.

DEAR JOHN: Although I have heard nothing at all from you, or from the current Secretary of Labor or from anyone in the White House, I understand from my newspaper sources that President Carter will name you today to replace me as Chairman of the NLRB.

I have greatly enjoyed the two years I served as Chairman of this agency and I hope you will enjoy your tenure also. I am very proud of the achievements accomplished during my term. I thought I would, therefore, continue the tradition of giving you a State of the Board message to bring you up-to-date on what has been done by me as Chairman and what remains to be done.

1. Increase in Productivity and Issuance of Cases:

I believe we really began to fulfill the mission of the Act last year when we issued the record number of decisions—a total of 1,033 contested unfair labor practice cases and 645 contested representation cases. I was delighted that the management by objectives techniques and the other management tools which I introduced were successful. This is evidenced, of course, by the 30 percent increase in productivity achieved last year—my first full year as Chairman—by Board Members' staffs. This great increase in productivity is the highest in the NLRB's history and I am very proud of our staffs for responding to the agency's needs. Because of this and the resulting increase in morale and agency worth, I believe the Board should not have any trouble in meeting its fiscal 1977 budget obligations as well.

2. The Chairman's Task Force on the NLRB:

The Task Force first met in January 1976 with the procedural mandate to review and to recommend improvements in the Board's internal procedures. On November 5, 1976, after a great deal of hard work, the Task Force submitted its excellent recommendations to the Board. As you are aware, I have asked the Board on three occasions, so far, to implement the Task Force's Report or to take whatever action it wishes. Thus far, the Board has not chosen to take any action but I am hopeful it will do so soon.

In any event, as you have stated many times, our caseload will continue to increase over the predictable future. In my view the Board will be able to cope only if it is willing to reform itself. The Task Force has provided a superb manual of improvements—but the Task Force can only recommend! It is up to the Board to adopt and to implement the many significant Task Force recommendations. I urge you to continue the vital reorganization which I have started.

3. Increase in Equal Employment Opportunity:

I am most proud of the great strides the agency has made in the field of Equal Employment Opportunity. When I became Chairman on February 18, 1975, the picture for minorities and women in this agency was not good.

All of the Board's Regional Directors were white males. The agency had not promoted any minority employees higher than a GS-14, except for one GS-15 Deputy Chief Counsel, and there were no women counsels on the Board above GS-15.

I am very proud of the fact that we now have two women Regional Directors and one black male Regional Director. We have—for the first time—a Black, superbly qualified, who is Director of Administration and another who has done an outstanding job as Executive Assistant to the Chairman. Both of these jobs are GS-16.

We also achieved another first—a woman in the Executive Secretary's Office who is not a typist. The woman Associate Executive Secretary, who is also the highest ranking Spanish-speaking person employed throughout the agency, has done a fine job.

Another first was achieved—and it is shameful that it took 42 years to do it—with the appointment of a woman as Chief Counsel to a Board Member. Of course, I am that Board Member and my Chief Counsel has done an outstanding job. She would have been a Chief Counsel, a long time ago if she had been a man. No question about that.

In short, I give you an agency in which there is now a greater awareness of and dedication to the principles of Equal Employment Opportunity and Affirmative Action. EEO has become a reality at the NLRB rather than a goal consisting of mere words.

4. Updating Board Bound Volumes:

When I came to the Board two years ago, I was dismayed to find that, among other things, the Board was approximately two years behind in getting its decisions published in bound volumes. As you know so well, no reporting service publishes all Board decisions so it is vitally necessary for the Board's bound volumes to be reasonably current.

I established this as a very high priority and assigned my Executive Assistant Earl Proctor to this project. I am pleased to tell you that we have caught up. Volume 222 is on the shelf and we expect to receive Volume 223 next month. Volumes 224 and 225 are at the printers and Volume 226, which goes to December 1976, is being edited. We have recently opened Volume 228. So, as you can see, we are in much better shape. We have received much applause for this project from the practicing Bar, as you can well imagine.

In addition, a new system has been developed, which I will present to the Board next week, whereby we will obtain our bound volumes in three months. I'm sure you will agree this is very exciting.

When I was in private practice myself, I didn't like the fact that the Board looseleaf decisions were not dated. Board personnel said this could not be done; that it had been tried in the past and failed. I gave this project to our new Director of Administration and he solved it. These decisions are now dated and are, therefore, much more useful.

5. Increase in Administrative Law Judge Productivity:

Perhaps the most serious problem the NLRB faced in February 1975 when I became Chairman was the terrible decline in the number of Administrative Law Judges available to hear cases. There were only about 68 ALJs at that time. Through a very serious recruitment effort on behalf of Chief Judge Kessel and myself—we now have 95 ALJs. We still need more. This remains a very large problem for the Board and for you. We need at least another 30 ALJs, whom I am sure you will be able to recruit.

Aside from the number of Administrative Law Judges, I am delighted to inform you that through the combined efforts of Chief Judge Kessel and the Judges themselves, there has been a significant increase in ALJ productivity. The average number of decisions and settlements for each ALJ increased from approximately 12 when I first came in 1975 to approximately 19 per Judge this past year. Thus, our Judges achieved over a 10 percent increase in productivity last year. I am very proud of the superb response our Judges made to the agency's needs.

6. The Civil Service Commission Advisory Committee:

I have found the Civil Service Commission—both staff and Presidential appointees—to have been extremely cooperative in helping me with the agency's Administrative Law Judge problems—particularly the problem we faced in 1975 when there were only 68 Judges. As a stopgap measure, the Commission—for the first time in history—granted my request to bring back retired ALJs. The Civil Service Commission authorized me to establish the senior judge program for nine months in order to handle the terrible backlog of cases.

The senior judge program, whereby nine of our retired ALJs returned at our request, was a great success. I regret that the Civil Service Commission would not let us continue the program for the second year but it was, I repeat, extremely helpful when we needed it most—in the spring of 1975.

As you may be aware, I have spent a considerable amount of time and effort in trying to convince the Commission to revise and to simplify the procedures for the selection and qualification of ALJs. As a result and in response to my request, the Civil Service Commission established an Advisory Committee on ALJs to study this problem and to make recommendations for improvement. I was honored when the Civil Service Commission named me as a member. I will, by separate letter, inform the Civil Service Commission that I am yielding my membership on that Advisory Committee to you as the new Chairman.

7. Cutting Case Processing Time:

Another serious problem facing the Board is the need to reduce undue delay. I have said over and over again and I believe most strongly that this agency can produce decisions faster without any sacrifice of due process and without any sacrifice of high quality. I abhor the view held by some staff members on various Board Members' staffs "that slow is better." I don't think that "slow is better" or that slow is desirable. I think it is a terrible shame to have cases at this Board for over six months.

We have had some success in cutting case processing time but not as much as I would like. Last year we were able to reduce the time necessary to process a case through the Board from 134 days to 112 days, a marked improvement. However, the problem of undue delay—and anything in my view that takes six months is undue delay—still remains a matter of unfinished business for the new Chairman. I still believe that my goal will be achieved with a little more effort. My goal, of course, is that elections be conducted within 30 days and that the time from issuance of a complaint to issuance of a Board decision will be no more than 180 days.

8. Settlement Increases:

As I know you are aware, settlements are the lifeblood of this agency. For the past two years I have stressed settlement rather than litigation. One of the fond memories I have is the joking reference attributed by some Regional Directors that my real name is Betty "Settlement" Murphy. I urge you, as the new Chairman, to continue stressing settlements for the benefit of all parties. To do this you will have to go to the Regional Office and tell them personally. They do respond.

9. The Necessity of Adequate Appropriations:

The NLRB cannot and should not have to function without proper funding. As I leave the Chairmanship, the NLRB is in the best financial position it has been in in years. We have had great success in convincing OMB and the Congress that our needs are justified. You remember that during my first four months as Chairman, I was able to get a two million dollar cut in our appropriations restored for fiscal 1976.

In no small part, I think our success before Congress has been due to the efforts of Congressman Frank Thompson, Chairman of the House Subcommittee on Labor-Management Relations, who, at my request, has taken the unprecedented step of testifying on the Board's behalf before the House Appropriations Committee for two years in a row.

10. Requirements of the Job:

When I assumed this position, I had no idea of the amount of time it would involve. The Chairmanship carries with it, as you are aware, all the same duties that each Board Member has plus administrative tasks, dealing with agencies, securing appropriations, speaking engagements, and—I really could go on and on.

The only way I have been able to handle both the case work and the administrative duties is to work a 13 hour day.

"As you will find out, an unbelievable number of people write to the Chairman about problems of one sort or another. From the first day I took office, I made it a practice to read each and every letter addressed to me as well as each and every response prepared for my signature. I have also telephoned many of the writers to discuss with them their procedural problems and to offer advice. I think this is very important and I hope you will continue this practice."

Another accomplishment of which I am very proud is the Board's new image. You told me many times in the past two years, John, that the Board now has the most favorable image and the most favorable press in its entire history.

We have received a great deal of publicity, most of it good, about our attempts to modernize, streamline, and reform this agency. I think our new image is reflected in our improved relations with the Congress, which, along with OMB, GSA, the Civil Service Commission, and other agencies, has been most responsive to our needs.

There are many other items I could mention, but I think I've covered the main administrative points. Of course, I have not discussed substantive matters involving decisions or the procedures I've put into effect in conjunction with the General Counsel for expedited 10(j) injunctions. Nor have I mentioned the many items which John Irving and I have worked on together.

There are, I must say, four major areas on which the new Chairman must concentrate if this agency is going to be able to continue to fulfill its mission. These areas are: (1) internal procedural reform; (2) more realistic and effective remedies for unfair labor practices; (3) faster and more streamlined elections; and (4) the procedural reform of our statute.

I hope you will see fit to continue the programs I have started, particularly the management techniques I put into effect. During my remaining time on the Board, I will do all I can to help the NLRB reach its goals and fulfill its mission.

Sincerely,

BETTY SOUTHARD MURPHY,
Chairman.

AFFIRMATIVE ACTION VERSUS EQUAL PROTECTION—V

Mr. HATCH. Mr. President, one of the ironies of the quota system euphemistically known as affirmative action is that it harms those it is supposed to help. There are a number of reasons for this. A key one was pointed out by Father Andrew Greeley in his column in Washington weekly of October 2. If individuals are admitted to and graduated from colleges and appointed to positions of responsibility because of their membership in some officially approved group, neither they nor society at large know if they have in fact met the standards expected of everyone else.

This is demoralizing enough for the individuals concerned. It also compounds their disadvantage. If there is an element of doubt about the competence of a doctor or a lawyer, many people will simply resolve it by avoiding them in favor of others whose credentials were certainly earned by merit. Thus affirmative action will perpetuate the dependence even of those who might otherwise have moved by their own abilities into the mainstream of American life.

I commend this column to my colleagues, and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

RACE QUOTAS

(By Andrew M. Greeley)

A pathetic comment by Donald F. McHenry, our new U.N. ambassador, reveals the stupidity and the folly of tokenism, reverse discrimination and racial quotas. Said Ambassador McHenry, "I hope I got the job because of my ability."

There's nothing in McHenry's excellent record to cast doubt on his qualifications. Yet, many Americans will be convinced that Mr. McHenry was chosen by President Carter as a sop to black "leaders" outraged by the dismissal of Andrew Young. McHenry will be at the U.N., some will think, to fill a black quota.

Like other able and competent minority group members, he will have to "try harder" to prove that he is really good at the job and is not there because of his black skin. Sometimes, one suspects, in the moments of frustration and discouragement that go with his tasks, he will wonder himself.

Quotas are fine for those who cannot make it on their own ability. But they are hell on those who have the ability and who must fight all their life the stigma of being a possible quota choice. Competent members of minority groups must pay the price for a quota system imposed on the country by some white liberals and some black leaders without ever consulting the wishes of the black people.

I asked a very impressive black graduate student once why he had chosen a less prestigious university for his academic appointment rather than some of the more distinguished ones that had made him incredibly attractive offers.

He smiled and winked. "My school made the offer before it saw my picture. I'm not filling anyone's quota there."

You can't have it both ways. Either you have a system of merit based on talent, training and ability or you have a system of quotas based on race or sex or some other criterion. Only a few may get positions on "minority group" grounds but they debase respect for all. A given minority group member may have got a job on sheer ability, but then again he may not have. You are likely to be far more critical in your approach to his work than you are to someone's work who you know was appointed on merit. You assume that the latter is good at what he does. You can make no such assumption about the former.

Most American blacks do not want a separate set of rules. They know they suffer in the long run from such rules. Black leadership, which has benefited enormously from the quota system, does indeed want a double standard. Andrew Young, because he was black, did and said things no white U.N. representative would have imagined doing and saying. When he was forced out, black leaders were furious. They wanted to impose on the country a standard for black U.N. ambassadors that would be intolerable for a white ambassador.

Such a double standard may be fine for Mr. Young, who had a grand old time making his own foreign policy. It's hell on a gifted man like Donald McHenry who must prove to the American people that he is not a "token" and that he will leave the making of foreign policy to the White House and the State Department.

Racial quotas are racist precisely because they discriminate against those they are allegedly designed to help.

AFFIRMATIVE ACTION VERSUS EQUAL PROTECTION—IV

Mr. HATCH. Mr. President, recently I asked to have placed in the RECORD an analysis of affirmative action by Dr. John H. Bunzel, which appeared in the November issue of the British magazine, Encounter.

Dr. Bunzel pointed out to his transatlantic readership that affirmative action in the United States was synonymous with the imposition of racial quotas, and that in several respects it was incompatible with the political values of the United States.

Encounter's distinguished editor, Melvin J. Lasky, published an editorial in the same issue of the magazine, pointing out the bitter irony that actions he considers so well-intentioned have in fact produced so disastrous a result.

I recommend his reflections to my colleagues and ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the article is ordered to be printed in the RECORD, as follows:

EDITORIAL

What Reinhold Niebuhr once called "the irony of American history" is still bitterly at work on the US scene, and in the familiar paradoxical pattern. The American founding fathers were prudent, pessimistic men, fearful of governmental powers, and the US Constitution which they fashioned remains the legal basis for the most powerful centralised bureaucracy the liberal world has ever known. The innovative American ideal was "free and equal rights for all" but for a century and more an enslaved Negro minority was ignored. Ironies proliferated. In order to control intoxicating spirits and abolish alcoholism the Volstead "noble experiment" in Prohibition, constitutionally enacted, produced a vast consumption in rotten illegal "booze" and a violent underworld of gangsterism to distribute it.

The decade-old attempt to legislate "racial equality" is now emerging as the latest "irony in American history." The negative consequences of so-called Affirmative Action are coming home to roost.

Once the vicious hallmark of a narrow exclusivism, the "Quota System" has been reinstated in US life. Once the invidious and humiliating "nosiness" of petty inquisitors, the "Racial Profile" (just how dark is your skin, how long your nose, how swarthy your complexion, and how mixed your grandfather's genes?) is coming to be standard bureaucratic procedure. It is more than ironic, it is well-nigh suicidal. At a point in Western technological society, when brilliance and excellence and the innovative genius of exceptional individuals may help rescue a crisis-ridden civilization. America is unfortunately opting for mediocrity, downward levelling, and an enforced depreciation of standards of talent and merit.

As always in the ironic turns of American history, the disastrous road is paved with the best of intentions. Blacks should finally get their due place in the sun, women should at long last get a crack at all the good jobs so long automatically denied them. And so they should. But of all the roads to "ethnic" progress, the militant fiat of impassioned bureaucrats is surely the worst. They always want total results, instantaneously and across the board. They are ready to pay any civic price. They look no further forward than immediate ideological gratification. The hard clauses of a ministerial command, like the loud chanting of the slogans of yesteryear, are taken to have magical qualities.

The paradox grows and hurts: to affirm is also to deny. In the name of spreading an ethnic or co-sexist or otherwise egalitarian democracy, important values of a democratic ethic are undermined. In the name of greater advantages for all, all become disadvantaged by a kind of high-minded cheating which leads to lower national achievement and to a low cynicism about pseudo-merit and manipulated rewards.

The dilemmas of "Affirmative Action" as they confront American university leaders are sometimes grotesque. If one Dean doesn't appoint more women (and/or Blacks, and/or Puerto Ricans) to the biology and chemistry departments—there are some, but not "enough" (and his appointments committee just couldn't find others with proper qualifications to teach and do original research)—then Washington would cut off the Federal funds which keep his University Medical school functioning. If yet another White American is appointed to a distinguished chair of philosophy (or mathematics, or physics), then the obviously prejudiced culprits will soon feel the full fury of the regulatory commissioners. What price intellectual excellence, or educational competence, or for that matter academic independence and integrity? The dilemmas are cruel, and the compromises often demeaning—all, ironically, in the name of "changing society for the better", not slowly, not consistently, but now.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE ACTION AGENCY—MESSAGE FROM THE PRESIDENT—PM 143

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I am transmitting to the Congress the FY 1978 Annual Report of the ACTION Agency, as required by section 407 of the Domestic Volunteer Services Act of 1973 as amended.

JIMMY CARTER.

THE WHITE HOUSE, *December 14, 1979.*

CAHABA RIVER-ALABAMA WILD AND SCENIC RIVER STUDY—MESSAGE FROM THE PRESIDENT—PM 144

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, with an accompanying document, which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

Pursuant to the Wild and Scenic Rivers Act (Public Law 90–542, as amended), I am transmitting the attached study of the feasibility of adding the Cahaba River in Alabama to the national Wild and Scenic Rivers system. Although the study finds that the river does not possess the qualities to be eligible to be added to the national system, the State of Alabama has initiated efforts to manage the river to protect its attributes, including its recreational qualities.

JIMMY CARTER.

THE WHITE HOUSE, *December 14, 1979.*

PRESIDENTIAL APPROVALS

A message from the President of the United States reported that on December 12, 1979, he had approved and signed the following act:

S. 497. An act to extend for 3 fiscal years the authorizations of appropriations under section 789 and title XII of the Public Health Service Act relating to emergency medical services, to revise and improve the authorities for assistance under such title XII, to increase the authorizations of appropriations and revise and improve the authorities for assistance under part B of title XI of such act for sudden infant death syndrome counseling and information projects, and for other purposes.

The message from the President also announced that on December 13, 1978, he had approved and signed the following act:

S. 239. An act to authorize appropriations for programs under the Domestic Volunteer Service Act of 1973, to amend such act to facilitate the improvement of programs carried out thereunder, and for other purposes.

MESSAGE FROM THE HOUSE

At 4:46 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the bill (S. 423) to promote commerce by establishing a national goal for the development and maintenance of effective, fair, inexpensive, and expeditious mechanisms for the resolution of consumer controversies, and for other purposes, with amendments; that the House insists upon its amendment and requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. KASTENMEIER, Mr. DANIELSON, Mr. MAZZOLI, Mr. STAGGERS, Mr. SCHEUER, Mr. PREYER, Mr. RAILSBACK, Mr. MOORHEAD of California, Mr. BROYHILL, and Mr. RINALDO were appointed as managers of the conference on the part of the House.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following bills and joint resolution:

H.R. 1616. An act for the relief of Caroline M. Babcock;

H.R. 5359. An act making appropriations for the Department of Defense for the fiscal year ending September 30, 1980, and for other purposes; and

H.J. Res. 458. Joint resolution to authorize and request the President to issue a proclamation designating December 18, 1979, "National Unity Day."

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. MAGNUSON).

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2977. An act to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes; and

H.R. 3282. An act to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred as indicated:

H.R. 2977. An act to provide for Federal support and encouragement of State, local, and community activities to prevent domestic violence and assist victims of domestic violence, to provide for coordination of Federal programs and activities relating to domestic violence, and for other purposes; to the Committee on Labor and Human Resources.

H.R. 3282. An act to establish a program for the inspection of schools to detect the presence of hazardous asbestos materials, to provide loans to local educational agencies to contain or remove hazardous asbestos materials from schools and to replace such materials with other suitable building materials, and for other purposes; to the Committee on Labor and Human Resources.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2632. A communication from the Legislative Liaison, Office of the Secretary, Department of the Air Force, transmitting, pursuant to law, a report concerning military construction contracts awarded by the Air Force without formal advertisement for the period October 1, 1978 through September 30, 1979; to the Committee on Armed Services.

EC-2633. A communication from the Secretary of Housing and Urban Development, transmitting, pursuant to law, the annual report of Department of Housing and Urban Development on the Congregate Housing Services Program for fiscal year 1979 and fiscal year 1980 plans; to the Committee on Banking, Housing, and Urban Affairs.

EC-2634. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, a report that the Commission will be unable to render a final decision in Investigation and Suspension Docket No. 9222, Conrail Surcharge on Pulpboard within the specified 7-month time limit; to the Committee on Commerce, Science, and Transportation.

EC-2635. A communication from the Administrator of the U.S. Fire Administration, Federal Emergency Management Agency, transmitting, pursuant to law, the Administrations report entitled "ARSON: the Federal Role in Arson Prevention and Control"; to the Committee on Commerce, Science, and Transportation.

EC-2636. A communication from the Assistant Attorney General, Antitrust Division, Department of Justice, transmitting, pursuant to law, a report on the Voluntary Agreement and Plan of Action to Implement the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2637. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, a notice of a meeting related to the International Energy Program; to the Committee on Energy and Natural Resources.

EC-2638. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, a final environmental impact statement on Imperial Beach Erosion Control, San Diego County, California; to the Committee on Environment and Public Works.

EC-2639. A communication from the Acting Secretary of Commerce, transmitting, pursuant to law, the report on the activities of the Office of Inspector General, Department of Commerce for the period April 1, 1979 through September 30, 1979; to the Committee on Governmental Affairs.

EC-2640. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report on expenditures made from the President's Unanticipated Needs fund during fiscal year 1979; to the Committee on Governmental Affairs.

EC-2641. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, a report on the alteration of a system of records of the National Security Agency for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-2642. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Federal Government Needs A Comprehensive Program To Curb Its Energy Use"; to the Committee on Governmental Affairs.

EC-2643. A communication from the Executive Director of the Pension Benefit Guaranty Corporation, transmitting, pursuant to law, a report on a proposed new system of records for the Corporation for implementing the Privacy Act; to the Committee on Governmental Affairs.

EC-2644. A communication from the Administrator of the General Services Administration, transmitting, a draft of proposed legislation to amend section 5702 of title 5, United States Code, to increase the maximum rates for per diem and actual subsistence expenses of Government employees on official travel; to the Committee on Governmental Affairs.

EC-2645. A communication from the Acting Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports on certain aliens whose visa petitions have been accorded third and sixth preference classification under section 204(d) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-2646. A communication from the Chairman of the President's Advisory Commission on Foreign Language and International Studies, transmitting, pursuant to law, the report of the Commission dated November 1979; to the Committee on Labor and Human Resources.

EC-2647. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on budget rescissions and deferrals for December 1979; pursuant to the order of January 30, 1975, referred jointly to the Committee on the Budget, the Committee on Appropriations, the Committee on Commerce, Science, and Transportation, the Committee on Foreign Relations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Armed Services, the Committee on Energy and Natural Resources, the Committee on Labor and Human Resources, the Committee on Finance, the Committee on the Judiciary, and the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, with an amendment and an amendment to the title:

S. 1991. A bill to amend the Federal Trade Commission Act to change procedures for agency adjudications and rulemaking, to extend authorizations for appropriations for the Federal Trade Commission, and for other purposes (Rept. No. 96-500).

By Mr. MATSUNAGA, from the Committee on Energy and Natural Ressources, with an amendment:

S. 1830. A bill to provide for a research, development, and demonstration program to achieve the early commercialization of ocean thermal energy conversion systems, and for other purposes (Rept. No. 96-501).

By Mr. CANNON, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 314. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1991. Referred to the Committee on the Budget.

By Mr. DECONCINI, from the Committee on the Judiciary, with an amendment:

S. 702. A bill to establish alternatives to criminal prosecution for certain persons charged with offenses against the United States, and for other purposes (Rept. No. 96-502).

By Mr. PRYOR, from the Committee on Governmental Affairs, with amendments and an amendment to the title:

H.R. 2584. An act to amend the provisions of chapters 83 and 89 of title 5, United States Code, which relate to survivor benefits for certain dependent children (Rept. No. 96-503).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

Mr. HARRY F. BYRD, JR. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the following nominations: in the Army, Lt. Gen. Marvin Don Fuller, (age 58), to be placed on the retired list in that grade and Maj. Gen. Richard Edward Cavazos, to be lieutenant general; in the Navy, Vice Adm. Sylvester R. Foley, Jr., to be vice admiral and appointed as senior Navy member of the Military Staff Committee of the United Nations, Rear Adm. John G. Williams, to be vice admiral, and in the Reserve of the Navy there are 12 captains for temporary promotion to the grade of rear admiral (list beginning with John William Cronin, Jr.); and, in the Air Force there are 79 promotions (both temporary and permanent) to the grade of major general and brigadier general (list beginning with Merton W. Baker). I ask that these names be placed on the Executive Calendar.

The PRESIDING OFFICER. The nominations will be placed on the Executive Calendar.

Mr. HARRY F. BYRD, JR. In addition, Mr. President, there are five cadets (graduating class of 1979 U.S. Military Academy) for appointment in the Regular Army in the grade of second lieutenant (list beginning with Michael W. Grant), 587 officers to the grade of colonel and below in the Regular Army (list beginning with Irwin E. Abt), and in the Reserve of the Army and National Guard there are 1,914 promotions to the grade of colonel and below (list beginning with Charles E. Chambers); in the Marine Corps there are 1,706 permanent and temporary appointments to the grade of lieutenant colonel and below (list beginning with William L. Buck III); and, in the Air Force and Reserve of the Air Force there are 97 appointments/promotions to the grade of colonel and below (list beginning with John P. Tindall). Since these names have already appeared in the Congressional Record and to save the expense of printing again, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk appeared in the Record on November 16, 27, 28, and 30, 1979, at the end of the Senate proceedings.)

CHANGE OF REFERRAL

The Committee on Commerce, Science, and Transportation was discharged from the further consideration of S. 2129, a bill to amend the Safe Drinking Water Act with respect to regulations relating to underground injections necessary for oil and natural gas recovery, and the bill was referred to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BAYH:

S. 2132. A bill to require the transmission of an alternate budget and the reporting of an alternate concurrent resolution on the budget for a fiscal year if proposed spending or revenue levels exceed specified percentages of the estimated gross national product; to the Committee on the Budget and the Committee on Government Affairs, jointly, pursuant to order of August 4, 1977.

By Mr. BAUCUS (for himself, Mr. Chafee, and Mr. Pell):

S. 2133. A bill to provide that Federal matching for compensation and training of nursing home inspectors under the medicaid program shall be made permanent; to the Committee on Finance.

By Mr. RANDOLPH:

S. 2134. A bill to provide for the acquisition of certain property in Square 758 in the District of Columbia as an addition to the grounds of the U.S. Supreme Court Building; to the Committee on Environment and Public Works.

By Mr. SCHMITT (for himself and Mr. Domenici):

S. 2135. A bill to authorize the Secretary of the Interior to issue certain patents under the Color of Title Act; to the Committee on Energy and Natural Resources.

By Mr. NELSON (for himself, Mr. Baucus, Mr. Boren, Mr. Matsunaga, Mr. Stewart, Mr. Pell, and Mr. Weicker):

S. 2136. A bill to amend the Internal Revenue Code of 1954 to reduce the rate of tax on corporations; to the Committee on Finance.

By Mr. DeCONCINI (for himself, Mr. Thurmond, Mr. Heflin, Mr. Hatch, and Mr. Simpson):

S.J. Res. 126. Joint resolution proposing an amendment to the Constitution to promote fiscal responsibility; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BAYH:

S. 2132. A bill to require the transmission of an alternate budget and the reporting of an alternate concurrent resolution on the budget for a fiscal year if proposed spending or revenue levels exceed specified percentages of the estimated gross national product; to the Committee on the Budget and the Committee on Governmental Affairs, jointly pursuant to order of August 4, 1977.

SPENDING AND TAX LIMITATION ACT OF 1979

● Mr. BAYH. Mr. President, today I am introducing the Spending and Tax Limitation Act of 1979. This legislation is designed to provide a workable and effective means of bringing the taxation and expenditure policies of the Federal Government under closer public scrutiny and legislative control. It is designed to get a balanced budget by establishing limitations on both Federal taxes and expenditures. I believe this is the only way to bring the goal of a balanced budget within reach.

Under the Spending and Tax Limitation Act the President is required to submit to Congress a budget whose revenues and expenditures would not each succeed 20 percent of the gross national product. These limitations would take full effect in fiscal year 1983; an interim limitation of 20.5 percent would be applied to the 1982 budget. If, because of economic conditions, the President felt that this budget would not be in the best interest of the country, he could submit additional revenue or expenditure proposals which exceed the limit.

Likewise, the bill would also require the Budget Committees of both Houses to report a budget resolution which does not exceed the 20-percent level of revenues or outlays. While the Budget Committees would be permitted to submit a resolution which exceeded those limits, they would be required to also submit one which did not. Furthermore, the budget resolution which stayed within the limits would have to be considered on the floor of both Houses first by rollcall votes. Only if the limited budget was specifically rejected would the Congress be able to consider the budget resolution which exceeded those limits.

Because the Spending and Tax Limitation Act places limitations on both the revenue and spending sides of the Budget it can result in a balanced budget without the drastic increase in taxes which could be necessitated by some other approaches.

Mr. President, for the past 10 months the Subcommittee on the Constitution has been holding an extensive series of hearings on the various proposed amendments to the Constitution which are designed to balance the Federal budget or place a lid on Federal spending. We have heard 38 witnesses including the sponsors of every proposed amendment in the Senate, the Secretary of the Treasury, the Director of the Congressional Budget Office, several distinguished economists and various nongovernmental organizations with a particular interest in this area such as the National Taxpayers Union, the National Tax Limitation Committee, the United Auto Workers, and the AFL-CIO.

When we began this process, Mr. President, I approached the question of a constitutional amendment in this area with an open mind. I have been concerned over the series of deficits we have experienced over the years and the apparently habit forming practice of constantly increasing our national debt. I also sympathize with the rising frustration of the American people over a congressional system of voting for spending which seems to encourage expenditures and discourage savings. After careful study and consideration, however, I have determined that none of the proposed constitutional amendments will succeed in establishing a workable and effective method of budgetary control that is consistent with the tenets of our Constitution. I do, however, believe that we can reach this goal through the legislation which I propose today.

Before I explain the Spending and Tax Limitation Act of 1979 in more detail, I would like to outline why the constitutional amendment approach will cause more problems than it will solve. Essentially, I believe that these proposals are panaceas that appear to offer easy and quick solutions to very complex problems and like many such approaches they may be quick and easy but they are also wrong.

Mr. President, a balanced budget amendment would severely limit the Government's ability to respond quickly to economic recessions. Witness after witness at our hearings have described how necessary it is for the Federal Government to be able to respond to a slowing economy in order to avoid recession or even depression. As former Secretary of the Treasury Blumenthal noted in our hearings:

> It is neither possible nor desirable to reduce the complex process of fiscal policy to the single constraint of budget balance. Flexibility is the necessary element of an effective fiscal strategy. Constitutionally mandating a balanced budget would undermine our efforts to develop and practice prudent economic policy.
>
> A rigid balanced budget mandate could exacerbate economic fluctuations. If income falls unexpectedly, then budget balance can be achieved only if tax rates are raised, or spending for the quarter of the total budget that can be controlled on an annual basis is drastically reduced. But such actions would be counter productive because they would reduce output, employment, and incomes still further, resulting in bigger deficits which would, under a balanced budget mandate, require even larger cuts in spending and/or increases in tax rates. This is a formula for deepening recession, not for promoting economic stability.

In some economic situations a balanced budget can make a bad situation worse. Mr. Martin Gerber, vice president of the United Auto Workers, notes that these amendments would have a crippling effect on the working men and women of this country. In our hearings he stated:

> I can summarize our objections in a few words: the rigid requirement of a balanced budget every year is the best guarantee that a small economic downturn will be converted into a recession, and the best guarantee that a recession will be converted into a depression.

A study by the Council of Economic Advisers of the 1973–75 recession shows that if there were a mandated balanced budget in effect over that period, the unemployment rate would have risen to 12 percent compared with the actual rate of 8.5 percent. Moreover, the GNP in 1975 would have been about 12 percent below the 1973 level. As Secretary Blumenthal notes:

> Rather than just a serious recession, the American economy would have suffered its first real depression since the 1930s.

It should also be noted that under certain economic conditions a balanced budget may be impossible to achieve despite the best efforts of both the President and Congress. As Alice Rivlin, Director of the Congressional Budget Office stated in her testimony to the subcommittee:

> When the economy is sliding into a severe recession, however, attempting to balance a federal budget will almost certainly make the recession significantly worse. Deficits occur automatically in recession since declining incomes produce lower federal revenues and spending for unemployment compensation rises. At such a moment raising taxes, or cutting spending in order to balance the budget would reduce aggregate demand further and throw additional people out of work.

Another of our witnesses, Phillip Saunders, a professor of economics at Indiana University, summed up his concerns in the following way:

> I feel that the effectiveness of our Constitution, which has served us so well, will be seriously undermined if we begin to load it up with amendments that promise things which we might not be able to deliver. At a time when many feel that public confidence in our most basis institutions is eroding, it would be unfortunate to drag something as important as the Constitution of the United States into the hurly burly of the annual budgeting process. Nothing would be gained, and much could be lost, if economic and political realities would cause the Constitution to be treated as we have treated the legislatively-mandated national debt ceiling in recent years.

Some proponents of balanced budget amendments state that while there may be economic problems with mandating a balanced budget under all conditions these proposals have "escape" provisions which would allow deficits if a super majority, usually two-thirds or three-quarters of the Congress, would vote for one. I believe that these provisions provide us with an illusory solution to a very real problem associated with balanced budget amendments. They would, in fact, make it easier for the Congress to declare war than it would for Congress to incur the debt to finance that war.

Mr. President, anyone who has been involved in the legislative process knows how difficult it is to achieve a two-thirds or three-quarter majority on any issue. Such a proposal would have the effect of transferring a very essential function of the Congress from the traditionally democratic principle of majority rules to control by a minority of legislators. Thus, the majority of the people would no longer have their views represented on budget issues in the Congress. It should be noted that while the Constitution requires so-called super majorities for certain actions—amending the Constitution, ratifying treaties, and so forth—these are not the type of functions that concern the day-to-day operation of government. Budgets are necessary to defend the country, to educate our children, to feed the poor, and to help maintain those involuntarily out of work. It does not take much to imagine the uproar we would be thrown into, not only on budgetary items but others as well, if the Constitution required a super majority simply to keep the Government functioning on a day-to-day basis. A super majority requirement would enable a minority to hold the House and Senate hostage with a threat of blackmail until their pet projects are approved.

It should also be understood that an inflexible balanced budget requirement would frequently compel an increase in Federal taxes. This likelihod was underscored at our hearings by Alan Greenspan President Ford's chief economic adviser and a leading conservative economist, who stated:

> But there are more appropriate and effective responses than a Constitutional amendment mandating a balanced budget. Such an amendment, should it come to pass, would, in fact, not achieve the very purposes which those advocating it desire. It, in itself, will not prevent the growth in government and leaves open and, in fact creates, the likelihood that budget balancing would be achieved more through increasing taxation than through curbing expenditures.

Before I turn to my proposal, Mr. President, I would also briefly like to comment on another proposed constitutional amendment which has been considered by the subcommittee; the so-called Friedman proposal, Senate Joint Resolution 56. This approach does not require a balanced budget but does limit the level of spending by the Federal Government to a certain level of gross national product. This amendment is a complicated procedure that is practically as long as the whole Bill of Rights. It incorporates a rather involved approach to Federal spending best illustrated by quoting from a small part of the amendment itself:

> Total outlays of the government of the United States during any fiscal year shall not increase by a percentage greater than the percentage increase in the nominal gross national product during the last calendar year ending prior to the beginning of such fiscal year. If the inflation rate for that calendar year is more than 3 per centum, the permissible percentage increase in total outlays during such fiscal year shall be reduced by one-fourth of the percentage by which the inflation rate exceeds 3 per centum.

As one economist noted, this would be tantamount to incorporating algebra into the Constitution. I do not believe this particular economic approach is so clearly correct, so desirable in itself, that it should be enshrined in the basic law of our land next to immutable principles such as freedom of religion, press, and speech. Our Constitution has survived and succeeded because it is a simple document which incorporates only the basic freedoms and procedures necessary for the survival of our Republic. Justice Holmes stated many years ago that constitutions are intended to preserve practical and substantial rights. A constitution is not intended to embody a particular economic theory. As president of the AFL–CIO, Mr. Lane Kirkland noted:

> The Nation's Founders understood they were drafting a Constitution—a framework for an enduring government—and not a statute book that could become quickly outdated by shifting economic and political trends. They created a system of government capable of meeting the peoples' needs, and left the definition of those needs to the three branches of government.

Mr. President, I would like to make one final point in opposition to the constitutional amendment approach to the budget process, and I believe it to be an important objection. There is no doubt that adoption of these amendments would transfer many of the decisions concerning taxes and spending out of the hands of the people and their elected representatives and into the courts. The enforcement of these amendments in the courts would lead to a blizzard of litigation, constitutional doubt, and judicial review of every budget enacted by Congress. I do not believe we should attempt to resolve the very real problems with the budgetary process by simply shifting that burden away from the legislative process where it belongs and into the courts which are not, and have not, been equipped to deal with these complex, political and economic judgments. I believe that the problems associated with spending and taxation in this country must be resolved in the legislative process where the will of the people is most keenly felt.

Mr. President, the Spending and Tax Limitation Act of 1979, which I am introducing today, will I believe, achieve the goal of more responsible taxation and spending policies while avoiding many of the problems associated with the constitutional amendment approach. Essentially, this act would require the President each year to submit a proposed budget which when fully effective would not exceed 20 percent of the gross national product for either spending or taxation. If the President determines that this type of budget was not economically feasible, then an alternative budget could also be submitted along with the mandated budget.

The Budget Committees would have to report a budget resolution consistent with the 20 percent limitations imposed on the President. Like the President, either Budget Committee would be free to report an alternative budget if it feels that the mandated goals were not economically feasible.

An essential component of this act is the requirement that the mandated budget be voted on by a recorded vote on the floor of the Senate and the House before any alternative budget could be considered. If the limited budget was adopted, this would be binding on Congress.

Mr. President, the Spending and Tax Limitation Act incorporates a comprehensive procedure for a limitation on Federal spending and taxing that is workable and achievable. It includes both the executive and legislative aspects of the process and forces the participants to closely examine the economic implications of their budget plans. Moreover, it does not have the flaws associated with the constitutional amendment approach. It allows flexible responses to changing economic conditions and preserves the tradition of majority control over budgetary decisions. Additionally, it would become effective in fiscal year 1982 and would not entail the rather long and extensive ratification process associated with a constitutional amendment.

Mr. President, one of the foundations of this act is the requirement for rollcall votes on the limited budget. This would require elected representatives to publicly and on the record make their views known on a budget which fell within the guidelines of the Spending and Tax Limitation Act. At the same time if economic conditions necessitated the adoption of a budget outside these guidelines, the Congress would be free to do so providing that they were ready to publicly defend their decision to go beyond the recommended limits.

Mr. President, I believe the Spending and Tax Limitation Act will provide a needed incentive for prudent spending and taxing policies. It retains the people and their elected representatives in their traditional decisionmaking role in budgetary matters. At the same time, it enhances the ability of the voters to oversee the work of their representatives in this process and to pass informed judgments on those who develop and adopt the Federal budget. Those, either in the White House or in Congress, who would tend to ignore the will of the voters in the budgetary process would do so at their political peril.

I believe the Spending and Tax Limitation Act can help us achieve a more prudent fiscal policy. It does not provide magical solutions which appear to eliminate complex problems with the wave of a wand. It does, however, provide a workable tool which can assist us in addressing these problems and insure that the peoples' voice in these matters will be heard loud and clear.

Mr. President, I ask unanimous consent that the text of the bill and an analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 2132

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Spending and Tax Limitation Act of 1979."

SEC. 2. The Budget and Accounting Act, 1921 (31 U.S.C. 1 et seq.), is amended by inserting after section 201 the following new section:

"SEC. 201A. (a) If the Budget transmitted pursuant to section 201 for the fiscal year ending on September 30, 1982 sets forth—

"(1) estimated expenditures of the Government during such fiscal year exceeding 20.5 percent of the estimated gross national product at the close of such fiscal year; or

"(2) estimated receipts of the Government during such fiscal year exceeding 20.5 percent of the estimated gross national product at the close of such fiscal year,

the President shall transmit an Alternate Budget for that fiscal year setting forth estimated expenditures and estimated receipts which do not exceed such percentages of the estimated gross national product.

"(b) If the Budget transmitted pursuant to section 201 for any fiscal year beginning with the fiscal year ending on September 30, 1983, sets forth—

"(1) estimated expenditures of the Goverment during such fiscal year exceeding 20 percent of the estimated gross national product at the close of such fiscal year; or

"(2) estimated receipts of the Government during such fiscal year exceeding 20 percent of the estimated gross national product at the close of such fiscal year,

the President shall transmit an Alternate Budget for such fiscal year setting forth estimated expenditures and estimated receipts which do not exceed such percentages of the estimated gross national product.

"(C) An alternative Budget transmitted pursuant to subsections (a) or (b) for any fiscal year shall be transmitted on the same day as the Budget transmitted pursuant to section 201 for such fiscal year and shall be in the same form and detail as the Budget so transmitted, except that, at the discretion of the President (such Alternate Budget may omit the detail of matters that are the same as the Budget so transmitted).".

SEC. 3. Title III of the Congressional Budget Act of 1974 (31 U.S.C. 1321–1332) is amended by inserting after section 301 the following new section:

"ALTERNATE CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 301A. (a) REPORTING.—If any concurrent resolution on the budget for the fiscal year ending on September 30, 1982, reported under section 301, 304, or 312 by the Committee on the Budget of the House of Representatives or the Senate sets forth—

"(1) a recommended level of total budget outlays during that fiscal year exceeding 20.5 percent of the estimated gross national product at the close of such fiscal year; or

"(2) a recommended level of Federal revenues during such fiscal year exceeding 20.5 percent of the estimated gross national product at the close of such fiscal year.

such committee shall report an alternate concurrent resolution on the budget for that fiscal year setting forth a recommended level of total budget outlays and a recommended level of Federal revenues which do not exceed such percentages of the estimated gross national product.

"(b) REPORTING.—If any concurrent resolution on the budget for any fiscal year beginning with the fiscal year ending on September 30, 1983, reported under section 301, 304, or 312 by the Committee on the Budget of the House of Representatives or the Senate sets forth—

"(1) a recommended level of total budget outlays during such fiscal year exceeding 20 percent of the estimated gross national product at the close of such fiscal year; or

"(2) a recommended level of Federal revenues during such fiscal year exceeding 20 percent of the estimated gross national product at the close of such fiscal year,

such committee shall report an alternate concurrent resolution on the budget for such fiscal year setting forth a recommended level of total budget outlays and a recommended level of Federal revenues which do not exceed such percentages of the estimated gross national product.

"(c) REPORTS.—Each alternate concurrent resolution on the budget reported pursuant to subsections (a) or (b) shall be accompanied by a report explaining the differences between such alternate concurrent resolution on the budget and the concurrent resolution on the budget for which it is an alternate.

"(d) CONSIDERATION.—An alternate concurrent resolution on the budget reported pursuant to subsections (a) or (b) shall be considered separately under the provisions of section 305 and shall be considered before the concurrent resolution on the budget for which it is an alternate. If an alternate concurrent resolution on the budget is agreed to in either the House of Representatives or the Senate, the concurrent resolution on the budget for which it is an alternate reported by the Committee on the Budget of that House shall not be considered.".

SECTION-BY-SECTION SUMMARY OF THE SPENDING AND TAX LIMITATION ACT

SEC. 1. Title.

SEC. 2. of the bill establishes a new Section 201A in the Budget and Accounting Act.

Subsection (a) of Section 201A states that if the Budget submitted by the President for fiscal year 1982 contains estimated expenditures or estimated receipts which exceed 20.5% of the estimated gross national product, the President shall submit an Alternative Budget for that fiscal year which meets those limitations.

Subsection (b) states that if the Budget submitted by the President for any fiscal years after fiscal year 1982 contains estimated expenditures or estimated receipts which exceed 20% of the estimated gross national product, the President shall submit an Alternative Budget for that fiscal year which meets those limitations.

Subsection (c) states that an Alternate Budget shall be transmitted on the same day as the regular budget in the same form and detail except detail of matter identical to the regular budget may be omitted.

SEC. 3. of the bill establishes a new Section 301A in the Congressional Budget Act of 1974.

Subsection (a) of Section 301A states that of Budget Resolutions for FY 1982 reported by the Budget Committees of either House contain budget outlays or recommended Federal revenues which exceed 20.5% of the estimated gross national product, the Budget Committee of that House shall report an alternative concurrent budget resolution which meets those limitations.

Subsection (b) states that if Budget Resolutions for any fiscal year after FY 1982 reported by the Budget Committees of either House contain budget outlays or recommended Federal revenues which exceed 20% of the estimated gross national product, the Budget Committee of that House shall report an alternative concurrent budget resolution which meets those limitations.

Subsection (c) states that each alternative concurrent resolution shall be accompanied by a report explaining the differences between the two resolutions.

Subsection (d) requires that the alternative budget resolution be considered before the concurrent resolution for which it is an alternate. and if the alternative resolution is agreed to, the concurrent resolution for which it is an alternate shall not be considered by that House.

HOW THE SPENDING AND TAX LIMITATION ACT OF 1979 WILL WORK

Mr. BAYH. Mr. President, the Spending and Tax Limitation Act establishes a comprehensive procedure for limiting the Federal Government's taxing and spending powers. It includes in the process both the executive and legislative branches and mandates careful consideration of the economic impact of the limited budget which is required to be submitted under the act. Moreover, because the act seeks to limit both revenues and expenditures it presents a workable and effective system for achieving a balanced budget.

Under the Spending and Tax Limitation Act the President is required to submit to Congress a budget whose revenues and expenditures would each not exceed 20 percent of the gross national product for the coming year. If, because of economic conditions, the President felt that this budget would not be in the best interest of the country he could submit a budget which exceeded the limits. However, at the same time, he must also submit an alternative budget which meets the limits.

Likewise, the bill would also require the Budget Committees of both Houses to report a budget which does not exceed the 20 percent level of revenues or outlays. While the Budget Committees would be permitted to submit a budget which exceeded those limits, they would be required to also submit one which did not. Furthermore, the budget resolution which stayed within the limits would have to be considered on the floor of both Houses first by rollcall votes. Only if the limited budget was specifically rejected would the Congress be able to consider the budget resolution which exceeded those limits.

Because the Spending and Tax Limitation Act places limitations on both the revenue and spending sides of the budget it can result in a balanced budget without a drastic increase in taxes which could be necessitated by some other approaches.●

By Mr. BAUCUS (for himself, Mr. CHAFEE, and Mr. PELL):

S. 2133. A bill to provide that Federal matching for compensation and training of nursing home inspectors under the medicaid program shall be made permanent; to the Committee on Finance.

● Mr. BAUCUS. Mr. President, I am introducing today legislation to maintain the current level of Federal reimbursement for the cost of compensation or training of personnel responsible for inspecting long-term care institutions under title XIX of the Social Security Act. I am pleased to have my colleagues from Rhode Island, Mr. PELL and Mr. CHAFEE, join me in introducing this legislation.

Prior to 1972, the Federal share for inspection of skilled nursing facilities participating in the medicaid program was limited to 75 percent. Under the medicare program, however, Federal compensation for inspection of extended care facilities was and has always been 100 percent of necessary costs.

The Social Security Amendments of 1972 amended the medicaid statute to provide for 100 percent Federal matching for inspection of long-term care facilities participating in the medicaid program. The purpose of the change was to place State inspection systems of medicaid facilities on an equal footing with those of title XVIII nursing care institutions.

The Committee on Finance's committee report on the Social Security Amendments of 1972 explained:

> Present state inspection systems for Medicaid skilled nursing facilities and intermediate care facilities are less effective than they could be, due in part to the reduced reimbursement rate for these inspections which provides an incentive for States to concentrate on Title XVIII reviews. Another result of this difference in reimbursement has been an inadequate number of skilled nursing facilities and intermediate care facility inspectors. The Committee believes that full Federal funding of the reasonable costs of nursing facility inspections would improve the present system of determining an institution's qualifications to participate in Medicaid and Medicare and serve to upgrade and standardize the quality of services provided by nursing facilities.

The provision allowing for 100 percent Federal reimbursement for surveying inspection costs of skilled nursing facilities and intermediate care facilities expired in June 1974. The Congress extended the provision until June 1977. The provision was extended again until September 1980, when it is due to revert back to a 75 percent Federal share/25 percent State reimbursement.

Our bill would extend indefinitely the current Federal reimbursement level. The abilities of States to determine the qualifications of institutions seeking to provide long term care services under medicaid has improved due to the 1972 social security amendments. It has also served to help upgrade and standardize the quality of services provided by long term care nursing facilities.

My State and others have expressed concern that without the Federal financial commitment, States would not be able to adequately staff, train and operate their inspection systems

The cost projections for continuing this authority are minimal. It is anticipated that maintaining the current system will cost $9 million in 1981; $9.8 million in 1982; $10.6 million in 1983; $11.5 million in 1984; and $12.5 million in 1985.

Nothing is more important than seeing that residents of nursing home facilities under title XIX be assured of quality inspections to guarantee the safety of the facility The spate of nursing home scandals in the early 1970's culminating with tragic and fatal fires was a lesson to all of us. Extending the current level of Federal reimbursement for State inspection systems of medicaid participating nursing institutions will help to insure that these facilities are complying with health and safety standards.

I urge my colleagues to act swiftly in approving this legislation in an effort to avoid a feared denigration of State survey and certification activities.

I ask unanimous consent that the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 249B of the Social Security Amendments of 1972 (Public Law 92-603), as amended by section 8 of Public Law 93-368 and section 309(b) of Public Law 95-83, is amended by striking out "and ending September 30, 1980,".●

By Mr. SCHMITT (for himself and Mr. DOMENICI):

S. 2135. A bill to authorize the Secretary of the Interior to issue certain patents under the Color of Title Act; to the Committee on Energy and Natural Resources.

● Mr. SCHMITT. Mr. President, today I am introducing legislation on the behalf of myself and Senator DOMENICI, which deals specifically with a problem in the small community of Dixon, N. Mex.

Dixon is a small northern, rural community bordering on Bureau of Land Management lands. As has happened in many Western States, over the years, families have moved onto public lands unknowingly and paid taxes on the land for many years believing themselves to hold valid title to that land. The Bureau is currently doing cadastral, that is, ownership surveys on these holdings so that title may be transferred to the residents who qualify under the Color of Title Act of 1928, as amended.

Unfortunately, for many families, the transfer of title may not be possible due to the establishment in the early 1900's of a powersite withdrawal order for part of those lands by the Bureau of Reclamation, which is now the Water and Power Resources Service. When the surveys are complete, the Bureau will have to begin to take action either to transfer title to residents on public land or to force them to vacate the land. The establishment of the withdrawal order legally precludes the transfer of title under the Color of Title Act for the families in a withdrawal area.

The Water and Power Resources Service has never made use of this withdrawal site, nor does there appear to be any indication that it will. My legislation would allow the Secretary to transfer title to those persons who otherwise qualify under the Color of Title Act except for the fact that they fall within a power withdrawal site. I am hopeful that the Energy and Natural Resources Committee will see fit to expedite this legislation quickly so that no qualified person will be forced to vacate. Many of the families concerned are not well off financially. Forced eviction from their homes would impose an incredible hardship upon these families and would be inequitable and unnecessary.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2135

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in the administration of the Color of Title Act, as amended (43 U.S.C. 1068), the Secretary of the Interior is authorized to issue a patent under such Act to any applicant for a patent covering lands within the Rio Grande Occupancy Resolution Program Area, New Mexico, if such applicant is otherwise qualified to receive such patent but for the fact that the land covered by the application for such patent involves an adverse claim or claims arising out of, or in connection with, a withdrawal order.●

By Mr. NELSON (for himself, Mr. BAUCUS, Mr. BOREN, Mr. MATSUNAGA, Mr. STEWART, Mr. PELL, and Mr. WEICKER):

S. 2136. A bill to amend the Internal Revenue Code of 1954 to reduce the rate of tax on corporations; to the Committee on Finance.

SMALL FIRMS AND THE ECONOMY NEED REDUCED TAXES FOR THE 1980'S

Mr. NELSON. Mr. President, in behalf of myself and Senators BAUCUS, BOREN, MATSUNAGA, STEWART, and WEICKER, I am introducing a bill entitled the "Small Business Tax Reduction Act of 1979." The bill would further extend the progressivity of the present graduated corporate rate structure enacted by Congress over the past 4 years. This would enable new, small, local, and growing independent enterprises to achieve sounder financial footings in the next decade, so that the small business community can make a maximum contribution to the Nation's economy.

I ask that the bill be appropriately referred, and that the text be printed in the RECORD following my remarks.

WHAT THE BILL WOULD DO

While preserving the basic five-step corporate tax schedule enacted in 1978, this bill proposes the following changes:

For the bottom bracket (zero to $25,000) it would reduce the rates from the present 17 to 15 percent;

For the growth ranges, it would extend the 30-percent rate (currently applying between $50,000 to $75,000) to an expanded $50,000 to $100,000 bracket; and

It would also extend the 40-percent rate, currently applying between $75,000 and $100,000 to an expanded $100,000 and $150,000 bracket.

This tax structure was first suggested by myself and other members of the Senate Small Business Committee last year, when we introduced S. 2669.[1] Most of that bill was enacted as part of the Revenue Act of 1978.[2] The three reductions in this bill would round out the original proposal.

WHY THE RATE ADJUSTMENTS ARE NEEDED

Our 1978 tax proposal was based upon inflation that had already occurred. It was needed early last year before the 7-percent price increases of 1978 and the 13-percent price increases of 1979. This rate structure was considered by 30 business organizations to be a minimum step toward equitable tax treatment of smaller businesses. In 1978 the need was urgent; in 1979 it is critical.

The equities are clear. Small companies must retain a greater portion of the profits which they earn in the marketplace because they are rarely able to raise capital from outside investors.

At present, there is a powerful penalty for retaining earnings: double taxation. The proceeds are taxed once if they are left in the corporation for business purposes, and a second time when they are paid out to individuals as salaries or dividends.

This bill reduces the double tax. It would signal to the 1½ million companies earning less than $25,000 that if they decided to forgo spending their profits and were willing to reinvest this money in improved facilities and more jobs, the maximum combined tax rate on these funds would drop to the following levels:

If later taken as dividends (15 percent plus 70 percent equals 85 percent);

If later paid out in salary (15 percent plus 50 percent equals 65 percent); and

If, at the end of the owner's career, the company were liquidated (15 percent plus 28 percent equals 43 percent).

Therefore, under the most favorable circumstances, the small entrepreneur would receive as compensation for postponing exemption until retirement a tax benefit of 7 percent (compared to the 50 percent maximum for immediate earned income). This supposed advantage is wiped out by a single year's inflation.

So, in my view, this bill is necessary to finish up the work of the 1970's.

But, in addition, I hope the bill will serve as a vehicle for beginning consideration of a thoughtful business taxation policy for the 1980's. The formation of capital is one of the highest priority national needs.

Improved capital formation will allow the Nation's 14 million independent enterprises to cope with the unprecedented financial strains of the 1980's and to take advantage of the unfolding business opportunities of the years ahead. Such a capital formation policy should deal with the 2 million corporations and also 12 million unincorporated businesses, so that all may continue their outstanding contributions to our neighborhoods, our communities, and the Nation.

VALUE OF SMALL BUSINESS

It is one of the strongpoints of our private enterprise system that people will work longer and harder for if they have the freedom of decision and action that comes with business ownership.

The tremendous dynamism of new, small and independent business is reflected in the statistics. The small business community accounts for: More than 90 percent of the new jobs in the economy in the last decade; 55 percent of all jobs in the private sector; about half of U.S. innovations and inventions of the 20th century; 48 percent of business output (gross domestic product); and 43 percent of the gross national product.

Our economy relies on small business for competition, stability, and growth. Small business provides an outlet for the ambitions of those who do not wish to work for large corporations or large institutions but want to run their own businesses in their own way. The economists tell us that small firms employ many of the women, teenagers, and minority groups that might otherwise have difficulties finding jobs. Experience tells us that when the economy turns down these firms are most likely to retain these employees longer because the owners are more likely to be acquainted with them and their family circumstances.

The competitiveness of small firms combats inflation by keeping prices down and finding lower-cost substitutes.

The Nation depends on small business for economic growth. The experts say 40-50 percent of all economic growth comes from innovation, and half of all innovation comes from small business.

People who pay taxes to the Federal Government and to every city and town have a tremendous stake in a healthy small business climate. Testimony on capital formation before the Senate Small Business Committee last year[3] showed that for each $100 of equity capital invested there is a return of $35 per year in Federal, State, and local taxes.

Classic studies by the social scholar C. Wright Mills, Jon Udell and others demonstrate that local, owner-operated businesses gives larger amounts in charitable contributions. These proprietors are likely to be contributing considerable time and energies to charities which are making the town a better place to live.[4]

In summary, small business embodies some of the most deeply held values of this country, and its economic performance makes possible the realization of many of our most important goals.

ESSENTIAL ROLE OF CAPITAL FORMATION

But standing in the way of realizing these goals are a shortage of capital. Everyone knows: "It takes money to make money." It takes money to pay employees, to buy merchandise or materials, to do research on better ideas. The Small Business Committee's Annual Report for 1975[5] pointed out that in the decade between 1963 and 1973 the capital invested for each worker in manufacturing doubled from $20,426 to $41,139. The great majority of the 14 million U.S. small businesses—even those which are "labor-intensive"—still require substantial fixed investment for their buildings, equipment, vehicles, and special facilities.

The smaller the business, of course, the more difficult time it has raising that capital—it is newer, and less known.

One of the great ironies is that, the more successful the business, the more capital-starved it becomes. As its sales grow, it must acquire more workers, more materials, and more equipment. While it waits for new customers to pay their bills—in 30, 60, or 90 days—it must come up with more capital to pay its own bills.

At the end of the year, the entrepreneur must come up with hard cash to pay Federal, State, and local taxes. This need can be especially acute since the capital the firm has been able to earn or raise is already reinvested in its facilities, inventories, and accounts receivable. Taxes are thus a major drain because they absorb capital which would otherwise be available for productive business uses.

Larger corporations are in a much better position to raise money to satisfy these demands. The one-half trillion dollars raised in the bond and commercial paper markets[6] is completely "off-limits" to small business, because these issues are conventionally sold in minimum amounts of $25 million. Institutions such as pensions, which hold another one-half billion dollars, are generally not interested in small businesses.

Small business is at the back of the line for bank credit and when the owner gets to the window, he finds the borrowing cost is between 15 percent and 20 percent. It has become increasingly difficult during the past decade for smaller firms to get a public stock issue. Our hearings show that a company must have almost $1 million in profits and $10 million in sales to qualify.[7] These minimums virtually exclude independent, small and new businesses. It is of great concern to me that only 82 small companies (worth less than $5 million) were able to raise public capital in the past 5 years (1974–78).

These facts make it clear that smaller business must rely to a disproportionate extent on internal capital—retained earnings and depreciation—for capital formation. In my view, tax policy should therefore distinguish between small, medium sized, and large businesses and place the appropriate emphasis on retained earnings for the small enterprises.

Footnotes at end of article.

CONGRESS RESPONDS BY ADJUSTING RATES

In 1975, Congress began to address these questions. At that time, small business paid 22 percent and large businesses paid 48 percent, and the dividing line was at $25,000. The consequence of this system was that a business earning $481 a week found itself in the 48-percent tax bracket as General Motors and A.T. & T. The dividing line had not been substantially changed since 1938.

In the emergency Tax Reduction Act of 1975, Congress accepted the Small Business Committee's arguments and provided partial relief by lifting the dividing line to $50,000. This action cut the rate on the first $25,000 from 22 percent to 20 percent and the rate on the second $25,000 from 48 percent to 22 percent. The reductions were temporary for a period of 1 year, in keeping with the rationale of the 1975 act to stimulate the economy.

In 1976, there was a 1-year extension of these new small business rates.

By the time this matter was reconsidered in 1977, the committee found that the overall inflation index since 1938 had risen 358.9 percent. Prices had increased by 3½ times in the past 40 years. Accordingly we urged that there be permanent changes to the tax structure to compensate for these increases.[8]

Acting upon this information, Congress in 1978 raised the dividing line between small and large companies to $100,000, and made it permanent at that level.

Below $100,000, there is now a four-step structure that recognizes the differences between businesses of different sizes and capabilities. It is gratifying that the new rates are the most progressive they have ever been since that tax was first enacted in 1909. The funds made available for capital formation by that legislation exceed $2 billion annually, as shown in the following table:

TAX SAVINGS RESULTING FROM SENATE SMALL BUSINESS COMMITTEE TAX AMENDMENTS, 1975–79

In percent

Corporate income	1974 tax rate	New tax rate	Maximum dollar saving	Total saved in 1979[1] (millions)
Up to $25,000	22	17	$1, 250	$371
$25,000 to $50,000	48	20	8, 250	616
$50,000 to $75,000	48	30	12, 750	592
$75,000 to $100,000	48	40	14, 750	449
Total				[2] $2, 028

[1] Compared to taxes at pre-1975 rates.

[2] Savings are expected to increase by about 10 percent per year.

In my view this was an excellent start toward modernizing the business tax structure.

We had further proposals for simplification and reform of the depreciation system, which were turned back last year but are presently before the Congress for consideration.[9]

PROBLEMS GETTING WORSE

The climate for capital formation has worsened in the past two years.

Most notable have been the energy problems and the steep increases in inflation: overall price increases of 20 to 25 percent in consumer and producer price indexes. Even more worrisome is the structure of these price increases. The statistics show that costs of intermediate and raw materials have increased faster than the finished product, as follows:

Producer Prices (1978 through October 1979)

[In percent]

Total finishing goods	23. 64
Capital equipment	20. 0
Intermediate materials	27. 2
Raw materials	46. 8

Source: "Economic Indicators", Council of Economic Advisors, October 1979, page 22.

So, big price increases are still in the pipeline. Small businesses will have to pay these increases to stay in business.

At present, the prime interest rate is about 15 percent. Small firms in many parts of the country are paying 3 or 4 points above the prime rate for the money they need.

Most entrepreneurs are faced with double-barreled capital requirements—to finance operations and at the same time to finance sales credit. They are being squeezed at both ends. Suppliers are tightening payment terms at the same time that customers are having greater difficulties in paying on time.

A tax structure which takes the special needs of small business into consideration is thus a matter of survival for millions of businesses in the months and years ahead.

Independent enterprise must also adapt to an environment which has become short on energy as it is on capital. There are millions of businesses which were built on the assumption that the more energy that they and their customers used the less expensive it would be. If these businesses do not make energy-saving alterations, the escalating costs will bleed them to death. But, modernization will require large additional amounts of long-term capital.

These energy costs and energy-saving costs are being imposed on top of large outlays already programed to comply with legal and environment requirements of past years.

SMALL BUSINESS SHOULD SHARE IN OPPORTUNITIES

We are beginning to see predictions for the next decade. We know it will be turbulent and difficult for businesses and households. But, if we look beyond the present economic difficulties, we know there will be areas of growth and opportunity in the 1980's. Innovative businesses in this country, by doing things in a less costly, more productive and efficient manner can develop some of these markets and help our entire economy at the same time. But, where is the capital going to come from?

AN EXAMPLE OF HOW SMALL BUSINESSES CAN HELP

To see what independent enterprise can do, let us examine a company in my own State, which was recently described in a national financial publication.[10] Nicolet Instrument was created in 1967 as the first home-grown, locally owned high-technology company in Madison, Wis. The article states that the company:

> gained a reputation . . . for innovative, high quality electronics products . . .

And so, despite competition from America's premier electronics companies, Nicolet has grown at a rate of 36 percent a year. It now provides about 700 new jobs, a total greater than the two other technical companies in Madison combined. It is contributing substantially to the city's property tax base and the income tax base of the State and Federal governments. About 40 percent of its $35 million in sales in 1978 were overseas. These sales support the U.S. balance of payments and therefore help to dampen inflation.

Suppose 200 such new technology companies were launched in 1979. This is possible. In 1969, 204 such companies were established according to the U.S. Commerce Department.[11] According to my calculations, 200 new ventures of this kind could reap additional balance of payments benefits of about $2½ billion 10 years from now.

CAPITAL FORMATION POLICY FOR THE 1980'S

The capital needs for years ahead are likely to be on a scale far beyond those of previous years.

We must fashion intelligent tax policies so small business can continue to help us to meet our needs.

The bill introduced today would be a measured and reasonable step in the direction for the Nation's 2 million corporations.

In addition, we have too long neglected the special needs of unincorporated businesses. In 1977, our committee made recommendation to the Administration that any tax bill include some consideration for the 12 million proprietorships and partnerships which are essential to our economy.

There have been individual tax cuts which are undoubtedly helpful.

However, entrepreneurs pay taxes at the same individual tax rates as people who take no risks of the economy.

In my view, we must, at a minimum, accomplish drastic simplification of the tax system for those who are willing to take the risks of a business venture.

Three of the most urgent areas for such simplification are depreciation, inventory, and accrual accounting.

Our legislative proposals would effect massive simplification of the complicated depreciation rules for all businesses (S. 110 and S. 1435).

We must find a way to simplify accounting. If we do not, the present inflation will overwhelm a large segment of small business.

Beyond this, we must question whether the individual who risks his capital and his time should not receive some recognition through the Tax Code for subjecting himself and his family to the severe economic strains of the 1980's, the present maze of Federal, State, and local regulations, taxes and controls as well as the rigors of competition.

The Small Business Committee is beginning a study of this area with the hope that we can make recommendations

Footnotes at end of article.

on unincorporated business taxes as it has done in the corporation area.

REVENUE COSTS

The congressional Joint Tax Committee estimates the first order revenue cost of the measure at below $1 billion for the first years after enactment. Those costs would, I believe, be more then made up by increased economic activity and resulting taxes which would be generated.

SUMMARY

Mr. President, we need a revised and revamped business tax policy for the 1980's.

This bill would at modest cost bring us closer to a rational structure of corporate taxation which will take into account the inherent differences between small-, medium-sized, and large corporations. The bill would make it a little easier for new businesses to be created and existing small businesses to grow. It would remove obstacles to investment in the economy, and would increase such investment, with all of the attendant advantages to our economy. The bill would allow us to finish the restructuring of the tax structure for the 1970's and begin consideration of a capital formation policy for the 1980's. This bill is urgently needed to help small business meet the increased financial strains and to take advantage of the business opportunities of the next decade.

It is my hope that this bill can receive consideration as a focus for Congress to develop a well-thought-out capital formation tax policy which will assure to the Nation the continued benefits of the free private enterprise system.

FOOTNOTES

[1] See Introduction of the "Small Business Tax Reduction and Stimulation Act of 1978", (S. 2669), Monday, March 6, 1978, Congressional Record, page 5667, and following.

[2] Public Law 95-600, Approved November 6, 1978.

[3] Testimony of the American Electronics Association, Hearings on "Capital Formation—1," February 8, 1978.

[4] See "Small Business and the Quality of American Life," Print of the Senate Small Business Committee, October 6, 1978.

[5] Public Law 95-629, page 79.

[6] Credit Outstanding, 1979:

[In billions]

Money markets instruments	$159.7
Corporate Bonds	454.8
Mortgages	1,313.2
Federal Government	748.2
State and local government	313.4
Total	2,989.3

Source: "Parameters for the American Financial Markets of the 1980's by Henry Kaufman, November 26, 1979

[7] "Capital Formation", hearings, May 15 and September 21, 1978.

[8] Introduction of S. 2669, March 6, 1978; Senate Report 96-31, pages 35-58.

[9] "The Small Business Depreciation Reform Act of 1979", (S. 110), Congressional Record, January 23, 1979, page 769; "The Capital Cost Recovery Act of 1979", (S. 1435), Congressional Record, June 27, 1979, page 16876.

[10] Nicolet Instrument: Parlaying Technology and Specialization," Dun's Review, November 1979, page 48.

[11] See "Small Business and Innovation", Senate Report 95-1413, December 28, 1978.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2136

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Tax Reduction Act of 1979."

SEC. 2. Subsection (b) of section 11 of the Internal Revenue Code of 1954 (relating to amount of tax on corporations) is amended—

(1) by striking out "17 percent" in paragraph (1) and inserting in lieu thereof "15 percent";

(2) by striking out "$75,000;" in paragraph (3) and inserting in lieu thereof "$100,000;",

(3) by striking out "$75,000 but does not exceed $100,000" in paragraph (4) and inserting in lieu thereof "$100,000 but does not exceed $150,000", and

(4) by striking out "$100,000," in paragraph (5) and inserting in lieu thereof "$150,000.".

SEC. 2. The amendments made by the first section of this Act shall apply with respect to taxable years beginning after September 30, 1979.

ADDITIONAL COSPONSORS

S. 219

At the request of Mr. PACKWOOD, the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 219, a bill to amend the Internal Revenue Code of 1954 to allow the charitable deduction to taxpayers whether or not they itemize their personal deductions.

S. 1874

At the request of Mr. BAYH, the Senator from Wyoming (Mr. SIMPSON) was added as a cosponsor of S. 1874, a bill to amend the act incorporating the American Legion so as to redefine eligibility for membership.

SENATE JOINT RESOLUTION 115

At the request of Mr. RIEGLE, the Senator from Arkansas (Mr. BUMPERS), the Senator from Oklahoma (Mr. BOREN), and the Senator from Alabama (Mr. HEFLIN) were added as cosponsors of Senate Joint Resolution 115, a joint resolution to designate "National Porcelain Painting Art Month."

SENATE RESOLUTION 304

At the request of Mr. PERCY, the Senator from North Carolina (Mr. HELMS) and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of Senate Resolution 304, expressing the sense of the Senate with respect to commending the Government of the United Kingdom for creating a basis for peace in Zimbabwe-Rhodesia and the southern African region, and for other purposes.

AMENDMENT NO. 760

At the request of Mr. STEVENS, the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of amendment No. 760 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 767

At the request of Mr. HART, the Senator from Ohio (Mr. GLENN), the Senator from Connecticut (Mr. RIBICOFF), the Senator from South Dakota (Mr. McGOVERN), the Senator from Texas (Mr. BENTSEN), the Senator from Wyoming (Mr. SIMPSON), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of amendment No. 767 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

SENATE RESOLUTION 314—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. CANNON, from the Committee on Commerce, Science, and Transportation, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 314

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 1991 a bill to amend the Federal Trade Commission Act.

Such waiver is necessary to permit the consideration of legislation authorizing the enactment of new budget authority for fiscal year 1980 for the Federal Trade Commission.

This authorization will not delay the appropriations process, or interfere with the budget process, since authorizing legislation for this purpose was reported by the Committee on Commerce, Science, and Transportation prior to May 15, 1979 (S. 1020).

Subsequently, the committee held 9 days of oversight hearings which resulted in several proposed changes to the Federal Trade Commission Act. The new legislation (S. 1991) will permit consideration of a comprehensive legislative proposal rather than dealing with individual amendments to S. 1020.

SENATE CONCURRENT RESOLUTION 62—SUBMISSION OF A CONCURRENT RESOLUTION URGING THE SOVIET UNION TO ALLOW THE EMIGRATION OF IRINA ASTAKHOVA McCLELLAN TO THE UNITED STATES

Mr. BAYH submitted the following concurrent resolution, which was referred to the Committee on Foreign Relations:

S. CON. RES. 62

Whereas the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights guarantee to all people the right to emigrate; and

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits signatory countries to "deal in a positive and humanitarian spirit" with the applications of persons wishing to emigrate to rejoin relatives; and

Whereas the Final Act of the Conference on Security and Cooperation in Europe commits signatory countries in the cases of marriage between citizens of different states to "apply the provisions accepted for family reunification," and

Whereas the Soviet Union signed the Final Act of the Conference on Security and Cooperation in Europe, is a party to the Universal Declaration of Human Rights, and has ratified the International Covenant on Civil and Political Rights; and

Whereas Irina Astakhova McClellan first applied to emigrate from the Soviet Union to the United States in 1974 to rejoin her husband, Woodford McClellan, a citizen of the United States; and

Whereas the marriage of Irina Astakhova McClellan and Woodford McClellan was only recognized by Soviet authorities; and

Whereas Irina Astakhova McClellan has repeatedly applied for permission to emigrate from the Soviet Union for the past six years; and

Whereas Irina Astakhova McClellan has been subjected to periodic harassment owing to her lawful efforts to emigrate to the United States; and

Whereas Irina Astakhova McClellan has experienced severe mental and physical strain during her efforts to secure permission to emigrate to the United States; and

Whereas several Members of the United States Senate and House of Representatives have individually and collectively expressed support for Irina Astakhova McClellan's efforts over the past several years; and

Whereas the continuing refusal of the Soviet authorities to grant Mrs. McClellan permission to emigrate is a source of great concern to the American people, United States Government and Congress: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that, in accordance with the Final Act of the Conference on Security and Cooperation in Europe, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights, the Union of Soviet Socialist Republics should permit Irina Astakhova McClellan to emigrate to the United States so that she can be reunited with her husband and favorably consider any request by members of her family to join her in the United States at a future date.

SEC. 2. The Congress urges the President, acting directly or through the Secretary of State or other appropriate executive branch officials—

(1) to continue to express at every suitable opportunity and in the strongest and most constructive terms, the support of the people of the United States on behalf of Irina Astakhova McClellan's efforts to rejoin her husband, and

(2) to inform the Soviet Union that the United States, in evaluating its relations with other countries, will take into account the extent to which those countries honor their commitments under international law, particularly with respect to the protection and promotion of human rights.

SEC. 3. The Secretary of the Senate shall transmit copies of this resolution to the Soviet Ambassador to the United States and to the Chairman of the Presidium of the Supreme Soviet of the Union of Soviet Socialist Republics.

IRINA ASTAKHOVA M'CLELLAN

● Mr. BAYH. Mr. President, in May of 1980, 6 years will have elapsed since Irina Astakhova was married to an American college professor, Woodford McClellan. Some months after their marriage in May of 1974, assurances were provided that Irina would be allowed to join her husband in that country. After several applications for an exit visa, Irina is still waiting in Moscow. The Soviet Government has consistently refused to comply with the provisions of the Helsinki Final Act and numerous other international agreements which uphold an individual's right to emigrate in order to rejoin relatives in another country. It is another conspicuous example of the chasm of difference which divides the United States and the Soviet Union in interpretation of basic principles so vital to the improvement of relations in other areas. But more than a matter of issue between two countries, it is a needless tragedy affecting two people.

Today, I am introducing a resolution on behalf of Irina McClellan's persistent efforts to seek permission to come to the United States. On several occasions over the past 3 years, I have indicated my strong personal concern directly to Soviet officials both at their Embassy here in Washington and through our own representatives participating in the Helsinki Review Conference in Belgrade held in 1977. Moreover, representations were presented on Mrs. McClellan's behalf at Vienna in June of this year during the signing of the SALT II treaty. Despite these actions and Mrs. McClellan's status on the Department of State's hardship family-reunification list, she has again been turned down by Soviet authorities in her latest application for an exit visa.

Mr. President, I understand that the Helsinki Final Act will again be the subject of a review session in Madrid in 1980. This event as well as the fact that Moscow is the site of the 1980 summer Olympics ought to provide the Soviets with maximum possible incentive to deal positively and constructively with the McClellan case and other outstanding human rights cases involving their citizens who simply want to leave the Soviet Union to settle in the United States, Israel, or elsewhere. Only by displaying a genuine understanding of the values and interest of the American people can the Soviets reasonably expect the kinds of improvements in relations which they say they seek. To pursue any other course will succeed only in placing additional barriers along the road to such improvements and setting in concrete those barriers which they have actively sought to remove. I must say, quite frankly, that such a result will not be the fault of the American people. It will instead owe heavily to the failure of Soviet leaders to understand that American interests, purpose, and values are indivisible and our determination to pursue the path of principle and justice indestructible.

Such a characteristic, I might add, is not idle rhetoric. It exists and is expressed by the activities by such community groups as the one in Lafayette, Ind., which has persistently supported Mrs. McClellan's efforts and provided proof that she is not alone in her struggle. Many of my colleagues here in the Senate have already supported Irina's efforts and have been impressed by the dedication of those from my State who continue to demonstrate the sincerity of our Nation's commitment to the promotion of human rights at home and around the world.

Mr. President, at this time, I ask unanimous consent that appropriate material on Mrs. McClellan's ordeal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., May 4, 1977.

General-Secretary LEONID BREZHNEV,
Central Committee of the Communist Party of the Soviet Union, Staraya 4, Moscow, U.S.S.R.

DEAR MR. GENERAL-SECRETARY: During his recent mission to the U.S.S.R., Secretary of State Vance presented Foreign Minister Andrei Gromyko with a new U.S. Government Exit Visa Representation List of Soviet citizens refused exit visas to join relatives in the United States. The official concern of our government at this high level was transmitted to your government on behalf of some 366 individuals and 128 family units. Because these cases directly involve United States citizens they are of the highest concern to us.

This latest official representation, we believe, merits favorable review. Among the particularly poignant family reunification cases is that of Dr. Woodford McClellan and his wife, Mrs. Irina Astakhova-McClellan who is now living in Moscow. On May 4, 1974 Professor McClellan married citizen Irina Astakhova. It has, however, been nearly three years since Dr. McClellan has been able to see his wife.

On several occasions, Mrs. McClellan has been denied in her application for an exit visa. Most recently, we are disturbed by reports that she and her daughter have been harassed. Clearly, the refusal to allow Mrs. McClellan to join her husband is completely contrary to the letter and spirit of the Helsinki Final Act's Humanitarian Cooperation provisions pertaining to family reunification and marriage of citizens from two different States. We may only presume from this case that other individuals are facing similar difficulties.

Mr. General-Secretary, the mutual goals of security and freedom enshrined at Helsinki and agreed upon in principle by both of our governments are not served when the separation of families, friends and loved ones is needlessly imposed. Resolution of these matters at the earliest possible date can contribute in the most profoundly positive way toward the realization of the Helsinki principles in terms that the people of the participating states can readily understand.

We look forward to your consideration of this message in resolving these problems on a humanitarian basis.

Sincerely,

Birch Bayh, Hubert Humphrey, Lloyd Bentsen, Edward W. Brooke, Clifford P. Case, Dennis DeConcini, Claiborne Pell, James Abourezk, Joseph R. Biden, Jr., Harry F. Byrd, Jr., John C. Danforth, Robert Dole.

John A. Durkin, Mark O. Hatfield, H. John Heinz III, Jacob K. Javits, Richard G. Lugar, Spark M. Matsunaga, Lawton Chiles, Abraham Ribicoff, Paul S. Sarbanes, Harrison A. Williams, Jr.

Thomas F. Eagleton, S. I. Hayakawa, Patrick J. Leahy, Bennett J. Johnston, Jr., Thomas J. McIntyre, Lee Metcalf, William Proxmire, Donald W. Riegle, Richard Stone, John H. Chafee.

U.S. SENATE,
Washington, D.C., April 11, 1978.

His Excellency ANATOLY F. DOBRYNIN,
Ambassador Extraordinary and Plenipotentiary, Union of Soviet Socialist Republics, Washington, D.C.

DEAR MR. AMBASSADOR: In the past, the Embassy has been helpful in communicating to the proper authorities in the U.S.S.R. my own concern and that of my constituents involving individuals and families wishing to emigrate from the Soviet Union. A number of cases brought to your attention have been resolved and families reunited. However, one case which continues to generate strong and widespread support among my constituents is that of Mrs. Irina Astakhova McClellan who is married to an American citizen but has been unable to obtain permission to join him in this country for nearly four years.

Today it was brought to my attention that Mrs. McClellan had again been detained by authorities for protesting the long delay in her effort to join her husband. This incident occurred at the Lenin Library in Moscow. I am also informed that Mrs. McClellan's daughter is no longer able to secure employment because of a similar desire to emigrate. While courteous treatment was accorded to Mrs. McClellan during her brief detention, this is the second time such an incident has occurred within the past two months. Questions have naturally arisen in Irina McClellan's mind as to whether OVIR authorities ever plan to permit her to emigrate. Such a negative determination could provoke tragic consequences which would not be entirely Mrs. McClellan's responsibility. I would hope that the appropriate authorities would reconsider their most recent refusal to allow Mrs. McClellan to emigrate.

Mr. Ambassador, last May 4, thirty-three of my colleagues here in the Senate joined me in a letter to President Brezhnev in an appeal on behalf of this case. On August 9, 1977 a group of concerned Senators reiterated this interest. To date, these letters have not even been formally acknowledged by the Soviet government. Because of what must have been an inadvertance and oversight, I am sending along copies of this correspondence.

Again, I believe a speedy and favorable resolution of this serious situation can only demonstrate in a convincing fashion the kind of values our respective countries attach to such humanitarian matters. Thank you once again for your past assistance. I look forward to your continuing willingness to assist in solving problems in this area.

Best regards,
Sincerely,

BIRCH BAYH,
U.S. Senator.

U.S. SENATE,
Washington, D.C., January 25, 1979.
President LEONID I. BREZHNEV,
The Kremlin,
Moscow, U.S.S.R.

DEAR PRESIDENT BREZHNEV: for some time, Mrs. Irina Astakhova McClellan and her daughter have been seeking permission to emigrate from the Soviet Union to the United States. In May of 1974, Mrs. McClellan was married in Moscow to Professor Woodford McClellan, now teaching at the University of Virginia in Charlottesville. Mrs. McClellan has repeatedly requested permission to join her husband and has been refused for nearly five years. Mrs. McClellan and her daughter reside in Moscow.

As you may know, significant concern has been prompted by the refusal of Soviet authorities to respond favorably to Mrs. McClellan's applications for an exit visa. We wish to express once again our strong concern about the delay in granting Mrs. McClellan permission to rejoin her husband. It would be an extremely sad situation which finds Mrs. McClellan observing yet another anniversary of her marriage without seeing her husband. Positive consideration of her request would be in full conformity with the letter and the spirit of the Helsinki Final Act and, as well, would demonstrate the kind of commitment the U.S.S.R. is prepared to make in dealing with humanitarian problems in a prompt and constructive manner.

Thank you for taking the time to consider this correspondence.

Sincerely,

Claiborne Pell, Bob Packwood, Robert Dole, Birch Bayh, John A. Durkin, Thomas F. Eagleton.

John H. Chafee, Abraham Ribicoff, H. John Heinz III, Gary Hart, Edward Zorinsky, Thad Cochran, William Proxmire, Harry F. Byrd, Jr., Mark O. Hatfield, Harrison A. Williams, Jacob K. Javits, Paul S. Tsongas, Richard G. Lugar, Carl M. Levin, John C. Danforth, J. J. Exon.

Dennis DeConcini, Spark M. Matsunaga, Strom Thurmond, Sam Nunn, George McGovern, John Melcher, John Warner, Joseph R. Biden, Jr., Patrick J. Leahy, Daniel K. Inouye, S. I. Hayakawa, Harrison Schmitt, Lloyd Bentsen, Paul S. Sarbanes, Richard S. Schweiker.

U.S. SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D.C., June 12, 1979.
Mr. PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing, once again, to express our strong and long-standing concern about the failure of the Soviet government to deal constructively with the matter involving Mrs. Irina Astakhova McClellan, who has sought permission to rejoin her husband, Woodford McClellan, who is an American citizen in this country.

On numerous occasions, the concern of many Senators has been expressed to Soviet President Brezhnev and other officials of the U.S.S.R. This matter has been repeatedly raised both here in Washington and in Moscow. Earlier this year, Senator Bayh personally delivered a letter to the Soviet Embassy here in Washington signed by 37 Senators to President Brezhnev urging that Irina's renewed application for emigration be approved. We have learned that she has been refused again even though five years have elapsed since her employment at an academic institute which some Soviet officials claim brought her into contact with sensitive national security information. To continue to justify refusal on this basis is indeed puzzling since Irina is able to maintain reasonably free access to our Embassy in Moscow.

Your summit meeting with President Brezhnev will provide an opportunity to raise this case and others involving U.S. citizens which are outstanding with the view toward achieving a prompt and affirmative resolution. Less than this result can warrant only a negative assessment of the willingness of the Soviet Union to live up to its commitment to the goals of the Helsinki Final Act and other international agreements.

Thank you for your own continued interest in and attention to this matter.

Sincerely,

Howard Baker, John Danforth, Robert Dole, John Heinz, David Durenberger, Thad Cochran, Carl Levin, Birch Bayh, Paul Tsongas, Abraham Ribicoff, John Durkin, Harrison Williams, Bill Bradley, Strom Thurmond, S. I. Hayakawa, Paul Sarbanes, Roger W. Jepsen, William Armstrong, Thomas F. Eagleton, Patrick Leahy, Lloyd Bentsen, Edward Zorinsky, U.S. Senators.

[From the New York Times, Jan. 7, 1977]

SOVIET AGAIN REFUSES TO GIVE EXIT VISA TO AMERICAN'S WIFE

(By Christopher S. Wren)

MOSCOW, January 6.—In a sparsely furnished room of a drab Moscow communal apartment, Irina Astakhova McClellan waits, as she has for 28 months. She is waiting to join her husband, an American professor in Virginia, and her prospects in 1977 look as bleak as in 1976.

Other Russians sometimes refer to her pejoratively as Amerikanka—the American woman—though she has never seen the United States. She is consigned to the kind of isolation that is reserved for foreigners here, and she exists in a limbo between two increasingly unfamiliar worlds.

On Dec. 29, Mrs. McClellan was summoned once more to the Office of Visa and Registrations, where the director, Vladimir S. Obidin, again refused her permission to leave for the United States. The rejection, her sixth, was accompanied by the same explanation: Her case was "complicated."

Her husband, Prof. Woodford McClellan, was again refused a tourist visa to visit her. But of greater concern to Mrs. McClellan were Mr. Obidin's instructions that she not visit his office during 1977 "because the answer would be negative."

LITTLE HOPE FOR 1978

She said: "I asked about 1978, and he said that he didn't know what it would be."

Mrs. McClellan, a 38-year-old blonde with delicate features and a gentle manner, met Professor McClellan when he was leading a tour group in the Caucasus in 1972. He returned to the Soviet Union later as an exchange scholar, and they were allowed to marry in May 1974.

But when his visa expired in August of that year Professor McClellan had to return to the University of Virginia, where he teaches Russian and Eastern European history. Mrs. McClellan was not allowed to leave with him. Two men at the visa office here told her that she needed a year to "clear" her mind, though of what information was never explained.

United States Embassy officials who have interceded on behalf of the McClellans said that they are baffled why Soviet authorities are keeping the couple apart. "We can't understand why they're being so tough on this case," a diplomat remarked. "They've never given us any reason why they're holding back."

U.S. PRESENTS HARDSHIP LIST

The McClellan case has become the most conspicuous involving marriages between Soviet and American citizens. Mrs. McClellan and her 17-year-old daughter by a previous marriage are among 315 Soviet citizens carried on a hardship family-reunification list that the American Embassy presented last August. So far, 10 of the individuals, representing four families, have been allowed to leave.

Earlier, Secretary of State Henry A. Kissinger promised to look into the matter, but even that has not brought results. After Mr. Kissinger returned home from his arms talks here last January, Mrs. McClellan said that he asked her husband not to raise the matter with the press, since Moscow had promised a decision in May. Mrs. McClellan was put off again in May and then once more in July, without explanation.

"Now I think Kissinger took a year and a half from my life, because we were quiet and he didn't do anything," Mrs. McClellan said.

She insists that she has no idea what secrets she is supposed to possess. Officials of the K.G.B., the state security apparatus, reminded her initially that she once worked for the Afro-Asian Solidarity Committee, a semiofficial Soviet organization, in the early 1960's. She says that she was only a secretary there while she was going to night school.

When she and Professor McClellan met, she was employed in the protocol section of the Institute of International Relations and World Economics, helping arrange visits by foreign scholars. She says that this was not secret work, though she was asked by authorities to inform on visitors, which she refused to do.

"I think the question lies in my husband and not in me," Mrs. McClellan supposed. "Though he is a history professor, he also lectured on the Soviet period, so maybe he's considered a Sovietologist." After she met him, she said, her superior warned her to break off the relationship because he was a spy. Because the job forbade her to associate with foreigners, she quit and then taught English in a school.

Mrs. McClellan resigned her school job in March 1975 after the Office of Visa and Registrations promised her an exit visa in three weeks. But she was turned down again and has not worked regularly since. She and her daughter, Lena, live on the proceeds of her private English lessons and child-support payments from her former husband.

She said that she was against receiving money from her husband because Soviet customs took 35 percent of it as tax.

She said that her daughter had been expelled as a leader of the Young Communist League and harassed at school because of her American stepfather.

"During these two and a half years, my surroundings have changed greatly," Mrs. McClellan said. "I have lost old friends but I have met new ones who are not afraid of the state." She has found more in common with Soviet Jews who have sought to emigrate. Though she is not Jewish, she attends the local synagogue with them on Saturdays.

During the first year Professor McClellan telephoned her once a week from Virginia. Now they talk on the first Sunday of each month.

Mrs. McClellan plans to appeal to Jimmy Carter after he takes office. Her husband assured her that Mr. Carter had promised greater emphasis on the humanitarian aspects of Soviet-American relations.

[From the National Observer, May 16, 1976]

American Says of Wife in Russia: "I'll Wait Forever"

(By Richard Egan)

CHARLOTTESVILLE, VA.—Woodford and Irina McClellan marked their third wedding anniversary last week. There was no celebrating, no anniversary kiss, no exchange of gifts. The McClellans haven't seen each other since Aug. 28, 1974, about 16 weeks after their marriage. And they don't know whether they will ever see each other again.

McClellan, 43 is an American who teaches Russian history at the University of Virginia here. His wife, 38, is a Russian. She barely manages to support herself and her 17-year-old daughter, Elena, by giving private English-language lessons in Moscow, where the McClellans were married on May 4, 1974. Since McClellan left Russia in August 1974, the Russians repeatedly have rejected Mrs. McClellan's efforts to obtain an exit visa to emigrate to the United States. And McClellan who visited Russia a dozen times between 1960 and 1974 without difficulty, has been turned down several times by the Russians in his attempts to obtain a visa to visit his wife.

OBSCENE LETTERS AND CALLS

The McClellans have no idea why the Russians won't allow Irina McClellan and her daughter to emigrate or allow her husband to visit her. "It's utterly bizarre," says McClellan. "There's no rational explanation on the surface. State Department officials tell me this is the most baffling case ever. No one can figure it out." He is convinced the KGB, the Soviet secret police, is responsible for the refusal to allow Mrs. McClellan to leave.

And McClellan says the KGB has gone beyond merely rejecting visa applications. His wife has received "threatening and obscene letters and phone calls." He, too, has received "obscene, pornographic material" postmarked in Moscow. And recently, he says, similar material has been sent to Elena, nis wife's daughter by a previous marriage.

SHE'S VERY STRONG

"It's designed to break my wife's spirit or mine," McClellan says as he sits in his small office here on the University of Virginia "grounds," as the university calls its campus. Books, magazines, and assorted papers clutter the room. On his desk are two photographs—one of his wife, the other of Sigmund Freud. (McClellan says he hopes eventually to write a book about the Soviet attitude toward Freud.)

"The Russians would love nothing better than a propaganda victory: American Professor Denounces Soviet Wife, or something like that. Well, they're not going to get it. They may make us wait a long time. They already have. But I'll never give up and I hope she doesn't. I don't think she will. She's very strong, but she's under an enormous strain."

State Department officials acknowledge that the McClellan case is an unusual one, though the Russians frequently raise difficulties over allowing emigration of Soviet citizens married to foreigners. The average delay is about one year, State Department officials say.

McClellan says he is puzzled about why the Russians would allow him to marry Irina if they had decided not to allow her to leave her homeland. Moreover, after the McClellans were married in a civil ceremony in Moscow, the Russian government, which provides all the housing, assigned them "a spacious apartment on the top floor of a brand-new 14-story building in a rather elegant section of Moscow," he says. "They gave me access to archives, paid all my expenses on a study tour to Leningrad and the Baltic states. Everything was normal. They were acting like any civilized country in the world. As I look back on it, I suppose we could berate ourselves that we were living in a fool's paradise, but who could expect after this normal, decent treatment that we would suddenly be classified as criminals?"

MOTHER WORKED FOR KGB

The McClellans met in August 1972 at a resort in the Caucasus Mountains. McClellan left Russia later that month, returning to see her later in 1972 and in March and July 1973. In December 1973 he went back to Russia for an eight-month stay in an exchange program for college professors.

The Russians made an effort to block the marriage. Irina's mother, who formerly had held a low-level job with the KGB, at first refused permission for her daughter to marry, but then relented. Russian authorities can require parental permission for marriage regardless of the age of the person marrying, though they seldom do so, says McClellan. "The obvious logical, inescapable conclusion is that the KGB decided to apply [the regulation] in our case perhaps because my wife's mother had worked for the KGB."

In December 1972 Irina, then a secretary and translator-interpreter at Moscow's Institute of World Economy and International Relations, was told by her employers that she would be transferred to a lower-status job if she did not break off her relationship with McClellan. She refused to do so, resigned from the institute, and got a job teaching English at a Moscow high school.

YOU KNOW STATE SECRETS

Irina applied for an exit visa soon after the marriage. She received no reply until a few days before McClellan left Russia. "The KGB denied the visa," says McClellan. "They told her, 'No, you know state secrets, and we're going to give you a year to clear your mind.' "

The Soviet explanation for denying the visa made no sense to the McClellans. "Irina never had a security clearance and never did secret work," says McClellan. "One of the best proofs of that is that they let us get married. If she had known any significant secrets, they would not have let me go over and see her all those times. It's a Catch-22."

Since that first rejection of Mrs. McClellan's application for a visa, the Soviets no longer cite "state secrets" for turning her down. "They just tell her her case is 'complicated,' " says McClellan.

SHE QUIT HER JOB

Only once did the McClellans have hope that Irina might be allowed to leave—and that hope was cruelly dashed. In March 1975 a woman at OVIR, the Soviet passport office, phoned Mrs. McClellan and told her she could emigrate in three weeks. Mrs. McClellan sold some of her furniture, bought suitcases and gave the required two weeks' notice of resignation from her job at the Moscow high school.

When she heard no further word from OVIR after three weeks, she went to the OVIR office. A man at OVIR told her the OVIR woman was not authorized to tell Mrs. McClellan she could leave. It was a KGB trick to get Mrs. McClellan to quit her job, McClellan says. "Instead of just firing her from her job, they got her to resign so that they could blame it on her," says McClellan. "She couldn't get her job back, and she's been unable to find regular work since."

McClellan has not sent his wife money because, he says, the Soviet government through taxes and a low exchange rate confiscates 90 per cent of the money remitted. Mrs. McClellan's former husband has been providing support payments for Elena, but can end the payments when she turns 18 on May 26. Elena has been barred from continuing her education beyond high school. "Her mother is considered a criminal under Soviet law—she married a foreigner," says McClellan.

SENATORS SIGN PETITION

The McClellans have sent appeals to Soviet leader Leonid Brezhnev and other top Russian officials. They have received no replies. At least a dozen congressmen have interceded with the Russians on behalf of the McClellans. All to no avail. Last February an interfaith group in Indiana opened a public campaign on behalf of Mrs. McClellan and Dr. Naum Salansky, a scientist from Soviet Lithuania. The group got 7,000 signatures on a petition that was forwarded to the Soviet government. In April Salansky was allowed to leave Russia.

Last week, on the McClellans' third wedding anniversary, the interfaith group, several congressmen, and McClellan placed a conference call to Mrs. McClellan. The Russian operator told them there was no answer, though Mrs. McClellan had been expecting a call from her husband. On the same day, a petition signed by 34 senators and asking that Mrs. McClellan be allowed to leave Russia was delivered to the Soviet embassy in Washington, D.C.

McClellan believes his best chance of getting his wife out of Russia is through a special appeal by President Carter. But, he says, "I couldn't press the right levers in the Ford Administration that would get a Presidential appeal and I don't seem to be able to press the right levers to get a Presidential appeal now.

"The reason I'm asking for special treatment is that my wife has been singled out for special torment by the Soviets. I frankly think that the highest levels of the American Government have not appreciated the seriousness of this case. If they don't take it more seriously, my wife and I are condemned to be apart forever. There is no guarantee that even an appeal from Mr. Carter to Mr. Brezhnev will free my wife. But if it doesn't at least we'll know that the case is hopeless. My wife could try to rebuild her life. It's been shattered almost beyond repair. As for myself I'll wait for her forever."

[From the New York Times, June 23, 1977]

Dissidents in Soviet Found Demoralized—Many See Hopes Under Helsinki Agreement Unfulfilled

(By Christopher S. Wren)

Moscow, June 22.—Recently, Irina Astakhova McClellan was informed once more by the Soviet authorities that she would not be permitted to join her American husband in the United States. The former Moscow teacher has been waiting nearly three years.

"They did it on the eve of Belgrade," said Mrs. McClellan, alluding to the review conference on East-West cooperation. "It seems that they are not afraid of anything. They are doing what they want."

Her situation appears to reflect Soviet intransigence in face of pledges at Helsinki nearly two years ago to promote the freer flow of persons and information. With the Belgrade meetings now underway, the Kremlin has tightened its grip on dissidents.

The result has been demoralization among many who had hoped their lot would be improved by the Helsinki accord. It has not noticeably affected the lives of ordinary Russians, who have displayed only passing interest in the limited Soviet press coverage of the Belgrade meeting.

WESTERN PAPERS ONLY FOR TOURISTS

The Soviet Government says it is importing more Western movies, plays and books but they do not seem more prevalent. Western newspapers are slightly more visible, but exclusively for tourists at selected hotels.

A young student said recently that an ideologically tighter climate since Helsinki had made it riskier to meet foreigners. An older Russian complained that he found it as hard as ever to seek to travel abroad.

The Soviet Union contends that the demands for liberalization constitute a distortion of the Helsinki act and that it was meant to relax tensions between East and West but not provide for intrusion into internal affairs.

The McClellan case, for one, seems tailored to the humanitarian provisions of the Helsinki act. Woodford McClellan, a history professor at the University of Virginia, married Irina Astakhova in May 1974 while on a scholar exchange here. When he left in August, she was not allowed to go along.

PROVISION IN HELSINKI AGREEMENT

The Helsinki accord pledges signers to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating state." Mrs. McClellan has been refused permission and her husband has been denied visas to visit her. No explanations have been given.

"I don't know what to do," Mrs. McClellan said. "I'm so tired after three years. I was waiting for Belgrade and I thought there was a chance."

The disillusion extends to dissidents who had organized committees to monitor Soviet compliance with the Helsinki agreement. At least nine are known to have been jailed; others have been intimidated or given exit visas.

"It is tenser now," said Irina Orlov, whose husband, Yuri F. Orlov was arrested in February. "Look at how few of us there are now."

Irina Zholkovkaya, the wife of Aleksandr I. Ginzburg, the first member to be arrested, said that she and Mrs. Orlov had been unable to see their husbands or learn anything about the charges against them.

Publicly, the dissidents contend that the decimation of their ranks has not lessened their resolve.

"Helsinki lived, Helsinki lives, Helsinki shall live," said Zinaida Grigorenko, the wife of former Gen. Pyotr Grigorenko, in a paraphrase of a well-known Leninist slogan. But the impact of the crackdown is evident.

A campaign has been launched to discourage Russians from meeting Western journalists. This strategy entered a new stage when Robert C. Toth, correspondent of The Los Angeles Times, was interrogated by the security police before being allowed to leave the country.

"The Soviet Union decided to greet Belgrade with a big salute," Miss Zholkovskaya said.

[From the Purdue Exponent, Sept. 12, 1977]

SOVIET HUMAN RIGHTS PRESSED BY LAFAYETTE GROUP

(By Lisa Koger)

Efforts are still being made to obtain a visa which would allow Irina McClellan to emigrate from the Soviet Union, Rabbi Gedalyah Engel of Hillel Foundation said Friday.

McClellan and Soviet dissident Naum Salansky were the focal points of a human rights campaign coordinated by Engel last February. The campaign was based on the premise of the Helsinki Agreement signed by 35 nations in 1975, including Russia and the U.S.

Although the agreement states that "everyone has the right to leave any country including his own, and to return to that country," McClellan was repeatedly denied permission to join her American husband, University of Virginia Professor Woodford McClellan, and Salansky was denied an exit visa to join relatives in Israel.

The freedom drive began with the formation of a local Committee on Human Rights in the Soviet Union. A Human Rights Sabbath in early February resulted in petitions signed by over 7,000 persons in the Lafayette area asking for freedom for McClellan and Salansky.

The petitions, accompanied by letters from Indiana second district Congressman Floyd Fithian, Sen. Birch Bayh (D-Ind.), and Sen. Richard Lugar (R-Ind.), were sent to the Russian embassy in Washington which returned them and denied the receipt. Bayh met with Secretary of State Cyrus Vance and urged Vance to deliver the petitions to the Soviet government during his trip to Russia in late March.

The Human Rights committee sent post cards stressing human rights to Communist Party Secretary Leonid Brezhnev and placed phone calls of encouragement to McClellan and Salansky. In April Naum Salansky was granted an exit visa. McClellan's request was denied.

The fight for McClellan's freedom is far from finished, according to Rabbi Engel. Bayh prepared a follow-up letter on McClellan's behalf, addressed to Secretary Brezhnev on Aug. 9, Engel said.

The letter, which requested that McClellan be allowed to join her husband, contained signatures by Senator Edward Brooke (R-Mass.), Harry Byrd (Ind.-Va.), Hubert Humphrey (D-Minn), Barry Goldwater (R-Ariz.), and Claiborne Pell (D-R.I.), all members of the Helsinki Commission.

"There are some important names on that letter," Engel said, "We are hopeful that this will alert us to Brezhnev's willingness to release McClellan at this point."

Additional efforts will begin Monday evening, Sept. 12 at 7 p.m. at the Hillel Foundation, Engel said. William Fisher, vice-chairman of the Committee on Human Rights in the Soviet Union, will deliver a message asking students for their participation in helping three families leave the Soviet Union. Fisher has just returned from a visit with Naum Salansky in Israel.

Besides McClellan and her daughter by a former marriage, the committee hopes to obtain exit visas for Vladimir Prestin and Arkady and Lina Rabinov.

Prestin, who has fought for the right to leave the Soviet Union for eight years, is a friend of Salansky. The Rabinovs are friends of Andrew and Natasha Rukhin, who left Russia and came to Purdue in April 1977.

A second Human Rights Sabbath has been scheduled for Oct. 1–2 by the ecumenical committee. "We want to collect petitions on behalf of Irina McClellan and the Prestin and Rabinov families. We are hoping for the same kind of cooperation we had last spring," Engel said.

A Town Meeting will be held Saturday, Oct. 8 at 8 p.m. in room 214 of Stewart Center. Among the participants will be Congressman Fithian, Woodford McClellan, husband of Irina McClellan, Andrew and Natasha Rukhin, clergymen from several local churches, and a panel of Purdue authorities on internal affairs in the Soviet Union. Senators Bayh and Lugar, and Marshall Shulman, chief advisor to the President on Russian affairs, have been invited, but are not certain to attend.

Petitions for the Prestin and Rabinov families will be sent to Sec. Brezhnev, Engel said. Petitions on McClellan's behalf will be presented to Shulman to give to President Carter, pending Shulman's acceptance of the invitation.

"It's not that we think internal matters of our own country aren't important," Engel said. "There are many good things about the United States. But what about human rights for people in other countries?"

Engel believes that if enough pressure is applied to the Soviet government, they will agree to trade McClellan's freedom for something else. "If Jimmy Carter speaks up on Irina McClellan's behalf, Russia will listen," he said.

McClellan's case is expected to be reviewed by the Helsinki Commission in Belgrade, Yugoslavia this fall.

[From the Lafayette (Ind.) Journal and Courier, Oct. 8, 1977]

"SOMEDAY I'LL SEE MY WIFE": PROF. SAYS

(By Kevin Cullen)

Woodford McClellan, a University of Virginia history professor, had never been in the Lafayette area before he got off a prop-jet at the Purdue University Airport Friday afternoon.

But he has thousands and thousands of friends here.

McClellan's wife, Irina, was the object of a local petitioning campaign in March. More than 7,000 people signed, asking Communist authorities to grant her permission to leave the Soviet Union and rejoin her husband. The visa has been denied, without explanation, for more than three years.

The effort was apparently fruitless. But another campaign is underway by local clergymen and Purdue students.

This time the signatures will be taken directly to President Jimmy Carter by Sen. Birch Bayh, D-Ind.

After three years of fighting a bureaucratic and almost incomprehensible Soviet government, McClellan is undaunted. In an interview at the airport, he said, "I'll never give up hope. I'm confident that someday I'll see my wife again."

Though he admitted petitions circulated in the U.S. House and Senate by Bayh and Rep. Floyd Fithian, D-Ind., earlier this year had "little, if any effect," McClellan stressed the need to keep the public pressure on the Soviets.

"The Russian government is very aware of their image in the United States," he said. "If enough people show they are dissatisfied with the treatment being given my wife, they might yet release her."

Mrs. McClellan married the professor in Russia in 1974. He was allowed to leave, but she continually has been denied an exit visa without explanation.

"Petitions have been circulated at Purdue, the University of Virginia, Duke University and a few small colleges in North Carolina," McClellan said A total of about 25,000 names have been obtained.

"At this point, our only hope is to make a direct appeal to Mr. Carter. And it takes the names of voters. I've made appeals as an individual—to (former President) Ford and to Carter—but neither had any effect," McClellan said.

Though telephone connections to Mrs. McClellan's Moscow apartment are periodically cut off by Soviet secret police (KGB), McClellan said he's been able to call her once a month through the summer.

"However," he said, "the KGB has been constantly harassing her. They make obscene calls in the night, follow her around on the streets, and demand that she report her whereabouts at all times."

She was fired from her secretarial job, and is able to earn enough money to support herself and her teenage daughter only by tutoring English.

"I try to lead a normal life," McClellan said, "but the idea that she may be arrested or imprisoned is always in the back of my mind. It's just a constant fear.

"That's why the petitions are so vital," he said. "With such a large amount of support, the Soviets can't just 'make her disappear.' Their image, in regards to human rights and the Helsinki Agreement would suffer."

The Helsinki Agreement, signed by the Soviets, states that Soviet citizens are free to leave at will.

Despite all the denials, threats and harassment, Mrs. McClellan is "as resolute as ever," her husband says. "I think she'd hold out forever, just as I will. Even the most barbaric tactics won't make her give up."

McClellan has been unable to send his wife and stepdaughter money because of Soviet "confiscatory" taxation.

Of $100, she would get about $12," he said.

McClellan said local petitions circulated in support of the release of Prof. Naum Salansky were a "splendid success." Salansky was released in May to immigrate to Israel. It gives me hope for Irina," he said.

At 2 p.m. today, McClellan will discuss the Helsinki Agreement at a public meeting at Hillel Foundation, 912 W. State St., W.L.

Then, at 8 p.m. tonight at Room 214, Stewart Center, Purdue, McClellan, joined by Bayh, Fithian and Prof. Rolf Theen will hold a "town meeting" to discuss human rights in the USSR.

McClellan was greeted at the airport by Rabbi Engel; Keith Fogerty, student representative to the Purdue Board of Trustees; Scott Sperling, student body vice president and co-director of the Indiana Federation of Jewish Students; and Allan Grossman, the other co-director.

[From the Indianapolis Star, Oct. 9, 1977]

HUMAN RIGHTS CLOSE TO PROF'S HEART; WIFE CANNOT LEAVE RUSSIA

(By Dennis M. Royalty)

WEST LAFAYETTE, IND.—You can forgive Prof. Woodford McClellan if he seems a bit outspoken on the issue of human rights, because the subject is one that is close to his heart.

McClellan, an American citizen, has not seen his wife since shortly after they married in Russia in 1974. The Soviets will not let her leave her native country.

It is a story of a man and wife separated by foreign borders, thousands of miles, and the philosophy of two nations. In one land citizens cherish their freedom; in another it is categorically denied.

McClellan is a faculty member at the Unisersity of Virginia. But he is from Illinois ("just across the Wabash River") and a well-known figure in the Lafayette area.

The challenge of helping to reunite McClellan and his Russian wife has been accepted by a group of local residents, headed by religious leaders, including Rabbi Gedalyan Engel.

The group is known as the Committee on Human Rights in the Soviet Union. It sponsored a town meeting here this weekend to focus on the cases of individuals denied permission to leave Russia by the Soviet government.

Prof. McClellan traveled to West Lafayette Friday night to participate. He is scheduled to speak to his wife, Irina, via long-distance telephone at 10:30 a.m. Sunday as part of the human rights conference.

Telephone conversations and letters have been the couple's only form of communication since 1974.

"They (Russian officials) told Irina she couldn't leave the country because she knew state secrets," McClellan said in an interview, repeating a story he has lived with for three years.

"But she knows no secrets. There is no reason to keep her from leaving the country."

McClellan, 43, met Irina in 1972 on one of a dozen trips he made to the USSR. As a professor of history interested in Russia, he has written a book on the Russian Revolution to be released next year. He frequently visited the country to do research.

After a two-year courtship McClellan married Irina, now 38, in a ceremony following Russian law. The ceremony was conducted in May, 1974.

"She filed her application to leave the country right afterward," he recalled. "But when I completed a very successful eight-month stay as a visiting professor in August, she was denied permission to leave. There was no appeal."

McClellan said until he married Irina he had no difficulty obtaining visas to enter Russia and was given quick access to archives so he could perform his research.

All that has changed. The professor has been denied permission to re-enter the country since he left in August, 1974. His wife was removed from her position as a school teacher. She has been told many times she cannot leave the Soviet Union.

Mrs. McClellan speaks English and once served the Russian government as a secretary and interpreter. But her husband insists she knew no government secrets. "Why would they have let us marry in the first place if that were true?" he asks.

He fears the circumstances surrounding his wife have become a "test case" the Soviets do not want to give up on.

McClellan's theory is based on widespread publicity about his wife's predicament and the impact it has had in diplomatic circles.

That impact has been substantial. Through his colleagues in the academic profession, McClellan interested former Secretary of State Henry Kissinger in his plight soon after Irina learned her fate.

"I honestly believe Henry Kissinger tried his best (to obtain the release of Mrs. McClellan) but even a secretary of state of his stature cannot always move a foreign government. I will always be grateful to him," said the professor.

Others who have attempted to help the McClellans include United States Sens. Barry Goldwater (R-Ariz.) and Hubert Humphrey (D-Minn.) as well as representatives in the Virginia area.

It has been the efforts of Indiana residents and three Hoosier Congressmen that have been the most persistent, however.

Sens. Birch E. Bayh and Richard G. Lugar and Second District Rep. Floyd Fithian all have participated in the efforts to end the ordeal.

"I cannot praise them enough," McClellan said. "One of the things that has impressed me the most about this effort is how people from different governmental districts have rallied to help us. And I will probably never vote in their districts."

While politicians contact Russian officials in an effort to assist McClellan, Lafayette area residents this month are signing petitions to be forwarded to President Jimmy Carter.

The petitions ask that Irina and her 18-year-old daughter by a previous marriage (who wants to accompany her mother) be permitted to leave Russia in accordance with the Helsinki agreements on human rights.

The Carter administration previously has made inquiries to the Russians concerning the case. But on his trip here this weekend, McClellan said he believes the administration should put even greater pressure on the Soviets.

He wants to see some 300 cases of the Russians denying exit visas and splitting American families to be resolved quickly—including the one close to his heart.

[From the Lafayette (Ind.) Journal and Courier, Oct. 12, 1977]

FOR REUNION

Prof. Woodford McClellan, a University of Virginia history professor who has been unable to get his Russian-born wife out of the Soviet Union for nearly three years, told his sad story here over the weekend.

And thousands who have rallied to his support here, signing petitions and attempting to persuade Soviet officials to allow her departure, learned even more vividly what they had been working for.

The man had met and married with Russian permission while on a visa to Moscow and expected his wife and her daughter to be allowed to leave with him when his work there ended. Unaccountably, permission was refused and still is refused.

Mrs. McClellan and her daughter have been cut off from her regular employment as a secretary and she is tutoring English to provide for them. She has been harassed by the KGB and but for the continuing American concern might "disappear," McClellan fears.

They take heart from the release from Russia of Dr. Naum Salansky, a Soviet Jew, whose cause was adopted by some 7,000 local people in inter-faith groups, who eventually was allowed to emigrate to Israel after much such U.S. interest and efforts by members of Congress from here.

But now the McClellans suffer from separation and uncertainty without knowing why they bear this burden.

Prof. McClellan left here with reassurances of unrelenting local efforts to reunite him with his wife and stepdaughter. New series of activities of support and appeals are being undertaken. And faith continues among thousands involved that one day there will be success.

Local support is based on the same kind of faith and determination that sustains the poor husband: to continue to hope and work for a cause so right and necessary that it simply must prevail.

[From the Purdue (Ind.) Exponent, Oct. 10, 1979]

TEN THOUSAND SIGN SOVIET HUMAN RIGHTS PETITION

(By Lisa Koger)

More than 10,000 signatures advocating freedom of emigration for three Russian families were presented at a town meeting Saturday night in Stewart Center before a crowd of about 75 persons.

On hand to receive the petitions were Rep. Floyd Fithian and Sen. Birch Bayh, Paul Gresh, a representative for Sen. Richard Lugar, also attended.

Petitions on behalf of Soviet citizen Irina McClellan were presented by her husband, Professor Woodford McClellan of the University of Virginia.

McClellan described Fithian's and the senators' involvement with human rights as an exemplification of "that which is unique and noble in our system of government."

After expressing his appreciation to the Lafayette area residents and the local Committee on Human Rights in the Soviet Union, McClellan said, "I am confident that

Irina will be freed. It may take longer than we like, if you can stay the course, I can, she can, and we'll win."

As he accepted the petitions to be sent to President Carter, Bayh told McClellan that he intended to "stay the course."

"Seldom as a senator have I experienced a group of constituents who so enthusiastically and steadfastly pursued a goal so important, yet so fleeting and frustrating," Bayh said.

Bayh spoke of the low confidence the American people have in their government, adding that in many cases their dissatisfaction was not without reason. "Perhaps it takes something like this to convince citizens that their government does care," he said.

Assuring those present that they were not alone in their frustrations, Bayh talked of the problems that the government has in trying to deal with "a totalitarian society half the world away."

"As much as they like to say that what we're doing has no effect on them, they too must listen to a squeaky wheel," he said.

Prof. Andrei Rukhin, who came to Purdue from Russia last April, presented petitions to Fithian on behalf of the families of Vladimir Prestin and Arkady Rabinov who have also been denied exit visas.

In his response, Fithian compared local efforts for human rights to the eternal flame on John Kennedy's gravesite.

"Your efforts here do not really solve the problems of human rights in the world," he said, "but like the eternal flame, your efforts are a symbol, a small flickering light against the darkness of inhumanity."

The presentation of petitions was followed by an open forum on human rights in the Soviet Union. Rolf Theen of Purdue's Political Science Department served as moderator.

In response to a question concerning the possibility of a changing climate in Washington in regard to human rights, Fithian criticized the media. "Sometimes we are subjected to selective broadcasts, selective information coming over the wire services in such proportions that it's difficult to keep all things in front of us," he said.

"There are those in Washington who are of the 'don't rock the boat opinion;' who believe that we should not become involved in human rights in other countries. But I believe that most would come down on the side of human rights."

Commenting on the propriety of U.S. interference in internal affairs of other countries, McClellan said he believed it was his right as a citizen to speak out against a violation of human rights anywhere in the world. "No one is proposing that we send in troops," he said. "I want very much to see my wife, but I cannot advocate anything more than what we are doing except to wish Washington would use stronger language in these cases."

On Sunday morning, McClellan spoke with his wife in Moscow during a conference call at the Hillel Foundation. "I will never give up," he told his wife, expressing affection as a small crowd listened to the conversation. "Sooner the Soviet Union will have Nicholas III on the throne than your husband will give up. We ask nothing but that they accord us simple justice, the right of husband and wife to live together."

An attempt to reach the Rabinov family in Leningrad failed. Another call will be made Monday at 10 a.m.

[From the Purdue (Ind.) Exponent, Oct. 6, 1977]

Bayh, Fithian To Receive Human Rights Petitions

(By Lisa Koger)

Petitions requesting freedom for Russian citizens Irina McClellan, Vladimir Prestin, Arkady Rabinov, and their families will be collected and presented to Sen. Birch Bayh and Rep. Floyd Fithian at a town meeting at 8 p.m. Saturday in room 214 Stewart Center.

The event marks the culmination of a week of signature-gathering which began with a Human Rights Sabbath on Oct. 1 and 2 and involved several churches in the Lafayette area.

Representatives of the Jewish, Protestant, and Catholic faith will be present to deliver the collection of signatures. Sen. Bayh will receive those on behalf of McClellan addressed to President Carter. Petitions for the Prestin and Rabinov families will be given to Congressman Fithian to forward to Communist Party Secretary Leonid Brezhnev.

William Fisher, a Purdue graduate student in social psychology and vice chairman of the local Committee on Human Rights in the Soviet Union, will also participate in the meeting. Fisher will provide information about his recent visit with Naum Salansky, who was granted an exit visa from Russia in April and now lives in Israel.

Professor Rolf Theen of Purdue's Political Science Department will serve as moderator for a panel discussion of human rights in the U.S.S.R. Participants include: Purdue professors Mark Novodvorsky and Andrew Rukhin, who have firsthand experience with the problems involved in trying to leave Russia; Fithian, who is a former Russian history professor at Purdue; and University of Virginia professor Woodford McClellan, husband of Irina McClellan. McClellan will also discuss the Helsinki Agreement at a 12:30 p.m. session of the Indiana Federation of Jewish Students conclave at the Hillel Foundation, 912 W. State St.

McClellan will speak with his wife in Moscow by telephone at 10:30 a.m., Sunday, at the Hillel Foundation. Andrew and Natasha Rukhin will speak with their friends Arkady and Lina Rabinov in Leningrad. The Rabinovs have been denied an exit visa since 1972.

Rabbi Gedalyah Engel of Hillel Foundation, who helped coordinate a human rights campaign last February, said that cooperation for this year's petitioning was even better. "It's much easier to get participation this time because we have concrete results to show for our previous efforts," he said, citing success in Naum Salansky's case.

"Many people stay away from activities like this, however," Engel said. "They may be afraid to find out things they don't want to know which would force them to act. It's one thing to sign your name to a petition; it's an entirely different thing to decide that you, as an individual, want to do something to help."

[From the Lafayette (Ind.) Journal and Courier, Nov. 30, 1977]

In Person

Greater Lafayette had a chance this week to meet—either in person or through the media—Prof. Nachum Salansky, Soviet Jewish scientist, whom thousands of local people supported in his efforts to win permission to leave Russia to live in Israel.

None will ever know what helped most. Many people were trying to help, including scientists who appealed for help through the Russian scientific community. But the local mustering of thousands personally in support of Salansky's emigration, and consequent application of American official interest in the case also must have been impressive to Soviet officials.

When Dr. Salansky came to Greater Lafayette to receive the keys to the cities and honorary citizenship while visiting here from Israel he was greeted as a personal friend. Thousands knew his name and had been involved in efforts in his behalf.

He told of difficulties confronted, ordeals endured, and the way his own efforts to unsnare himself from the Russian bureaucracy fortunately meshed with U.S. emphasis on human rights, the help of fellow-scientists, and the personal involvement of so many Americans here in his behalf. He expressed his gratitude to all.

Greater Lafayette has chosen to involve itself in human rights in behalf of individual cases known to people here. Dr. Salansky, whose plight was known to local scientists, and Mrs. Irina McClellan, Soviet-born wife of a Virginia professor known here, were subjects of simultaneous local efforts.

Mrs. McClellan remains in Russia, still not permitted to leave and join her husband, although petitions carrying thousands of local names have been delivered to the Russians along with expressions of deep concern by American officials.

Dr. Salansky's view: She will get out in due time, if she can find the snag in the bureaucracy that is holding her and clear it as ho did, and if efforts in her behalf like the local one, and through the academic community to Prof. McClellan's colleagues in Russia, continue unabated.

Encouragement enough for the thousands here who have involved themselves in behalf of these people to continue efforts for them and others who come to local attention.

[From the Monticello Daily Herald-Journal, Apr. 21, 1978]

Plug Pulled on Protest

(By Douglas Stanglin)

Moscow.—Soviet authorities early Friday pulled the plug on an American television network sending film via satellite of two Soviet women who chained themselves to a fence outside the U.S. Embassy.

It was the second official interference with an attempt by Western news organizations to transmit pictures of the protest.

The U.S. Embassy Thursday night protested to the Soviet government over the refusal of the official TASS news agency to transmit photographs taken by United Press International and The Associated Press.

State Department spokesman Hodding Carter III, with Secretary of State Cyrus Vance in Moscow for arms talks, said the protest was lodged at the consular level.

A Soviet woman, Mrs. Irina McCellan, and her 19-year-old daughter by a previous marriage, briefly chained themselves to a fence outside the embassy Thursday morning to protest Soviet refusal to allow Mrs. McClellan to join her American husband in the United States.

The demonstration was also filmed by a CBS television network crew.

As CBS was trying to send the story by satellite the feed was cut, at the exact moment the demonstration footage came on the screen, said CBS producer Brian Healey.

"It was a matter of millisecond timing," Healy said. "They took it out at exactly the time it appeared in the spot."

He said a Soviet technician told him that his colleagues had viewed the material "and think it is bad material."

"They did not admit someone sabotaged the feed," Healy said. "What they said was the signal was lost either on Soviet territory or somewhere in this building."

It was the second time Soviet technicians have blacked out a satellite feed. In 1974, during the visit to Moscow by President Nixon, footage on a hunger strike by dissident leader Andrei Sakharov was also blanked during transmission.

The McClellans were married in Moscow in May 1974. Soviet authorities refused to let her emigrate on grounds she had been privy to state secrets in her job as a secretary at the Institute of World Economics.

Mrs. Clellean said she demonstrated to call attention of her plight to Secretary of State Cyrus Vance who was holding disarmament talks six blocks away with Soviet Foreign Minister Andrei Gromyko.

TASS photo director Lev Porter refused to transmit UPI pictures of the incident on grounds they "violate the good spirit of cooperation between our agencies." UPI and other agencies in Moscow transmit their photographs over TASS facilities.

F. W. Lyon, UPI's vice president for newspictures in New York, sent the protest to Sergei Losev, acting director of TASS.

"United Press International wishes to emphatically protest the refusal of TASS to transmit on our Moscow-to-Helsinki circuit two UPI photos of Irina McClellan today," Lyon said.

"TASS' refusal to transmit the pictures in the normal course of business is a direct violation of the letter and spirit of our agreement and I must request urgently that you rescind the order, which amounts to censorship, and allow the pictures to be transmitted to us."

The scene was watched by a number of western correspondents and photographed by Doug Stanglin of the UPI Moscow bureau. The first showed Mrs. McClellan chained to the fence; the second showed her being marched away by police.

Russian Demonstrator "Scolded"

Moscow.—The United States has deplored the police seizure of a woman who chained herself to a fence around the U.S. Embassy to protest Soviet refusal to allow her to join her American husband.

The U.S. Embassy in Moscow also protested the refusal by the official Soviet news agency TASS to transmit photographs of the incident taken by United Press International and The Associated Press. A U.S. spokesman said Secretary of State Cyrus Vance would take up that issue in Kremlin talks today.

Irina McClellan, 39, and her 19-year-old daughter by a previous marriage were quickly hustled off by militiamen moments after they held up signs Thursday calling on the Soviet government to give them exit visas.

They were detained for 90 minutes inside a sentry box near the embassy then taken to a police station. They later were released.

"They scolded me and they shouted at me," Mrs. McClellan said. "They behaved so awfully. They said it is good that I am a woman that if I was a man that they would stop me. But even as a woman it didn't help me at all."

Mrs. McClellan married University of Virginia professor Woodford McClellan while he was visiting Moscow in May 1974. She has been trying without success ever since to obtain official Soviet permission to join her husband in the United States.

U.S. officials said the American Embassy protested the action by TASS which has an agreement with the agencies to transmit their pictures. UPI also sent a protest.

The photos later were flown to Frankfurt, West Germany where they were transmitted directly on the UPI Telephoto network.

[From the Lafayette Journal and Courier, Apr. 21, 1978]

Russian Woman Took "Big Chance"

(By Kevin Cullen)

Rabbi Gedalyeh Engel, a leader of the local Committee for Human Rights in the Soviet Union, said today he's "very optimistic" that Irina McClellan's long hard fight may be nearly over.

The 38-year-old Russian woman, the wife of an American professor, has been held in the USSR against her will for nearly four years.

She was arrested Thursday after a protest, and Secretary of State Cyrus Vance plans to speak on her behalf today.

"I think all this attention will show, once and for all, that this woman has tremendous strength of character. It shows that she will not be intimidated by their ruthless tactics," Engel said.

Following the arrest, American photojournalists were prohibited from transmitting pictures of the protest.

"She was willing to take a big, big chance," Engel said.

She carried posters and wore a shirt that read, "Let me out to my husband," at the time of her arrest. She also distributed leaflets to American newsmen describing her plight.

Mrs. McClellan has been arrested three times in the past two months. On April 11, after the second arrest, she threatened to burn herself in Red Square if ever arrested again.

Engel praised local and national reporters for developing the story of Mrs. McClellan's struggle. "The problem in 1935, with the Jews in Germany, was that people just didn't know what was going on. Through good, thoughtful reporting, Irina's case has never been allowed to be pushed aside."

He said thousands of local petitions showed the Soviets that the Lafayette community "was 100 percent behind Irina."

In the past, he said, the Soviets "were allowed to do whatever they pleased," because they knew the American public did not "really care about human rights."

But, Engel said, that is changing. "And I hope this effort will allow even more progress to be made."

"Most people still don't really want to make a commitment," he said, "but if the Soviets see they can't trade with us unless human rights are honored, then things begin to happen and human rights are respected."

He said Mrs. McClellan has "intimidated the Soviets with her righteousness."

Still, Engel has reservations. A Vance statement doesn't necessarily mean the Soviet woman will be released to rejoin her husband at the University of Virginia.

"We can only hope and pray—pray that someday we will be able to welcome her to our community. I am looking forward to the day when I can kiss her on both cheeks," he said.

"Irina has put her life on the line. She will not be silent. She will not be a slave."

Vance to Ask Soviets About Press Incident

Moscow.—Secretary of State Cyrus R. Vance began his second day of arms control talks in the Kremlin today intending to press for an explanation of Soviet interference with the American media.

U.S. officials said suppression of wire service photographs and CBS film of a protest outside the U.S. Embassy Thursday by the Russian wife of an American college professor appeared to violate the Soviet promise in the 1975 Helsinki Agreement to support freedom of information.

Vance also planned to take up with Soviet Foreign Minister Andrei A. Gromyko the plight of the woman, Irina McClellan, who was seized by Soviet police when she tried to chain herself to the embassy fence. She was released after three hours, but the police put a guard on her apartment, apparently to keep her inside.

Mrs. McClellan, 38, has been refused permission to join her husband, a professor at the University of Virginia.

Although Vance was prepared to give prominence to the human rights issue, U.S. spokesman Hodding Carter said it would not impinge on the negotiations to try to clear up issues blocking agreement on a treaty to limit long-range nuclear weapons.

"The two are separate," Carter said. He reported after the first talks Thursday that Vance and Gromyko were "neotiating seriously on major items" and "the atmosphere is good."

In the past the Soviets have complained that the United States was linking the arms negotiations to domestic issues and imperiling relations between the two superpowers.

Soviet President Leonid I. Brezhnev stayed away from the table again today, but Vance expected to meet with him before the talks end Saturday.

For the second day, the talks concentrated on resolving differences on both sides standing in the way of a new treaty to limit strategic nuclear weapons.

"We have not moved off that," Carter told reporters.

But he said human rights as a subject was on the agenda, along with the Middle East and Soviet activity in Africa.

Moreover, the spokesman said, "The secretary intends to raise the McClellan matter and the photo and film cutoffs directly with Mr. Gromyko."

TASS, the Soviet news agency, refused on Thursday to transmit Associated Press and United Press International photographs of Mrs. McClellan's seizure by police. When CBS attempted to transmit television film of the incident to the United States, Soviet technicians refused, and the satellite feed was blacked out.

Just before the day's meeting began, the U.S. Embassy asked the Soviet government officially about a South Korean airliner with 110 persons aboard which Soviet fighters reportedly forced to land north of the Arctic Circle near the Finnish border.

[From the Purdue (Ind.) Exponent, Apr. 21, 1978]

Rabbi Engel Says U.S. Passive on Human Rights

West Lafayette, Ind.—A spokesman for a group here that has been trying to get a visa for a Soviet woman arrested in Moscow Thursday said her problem continues because the Soviet Union thinks this nation is passive about human rights.

"The Soviets do what they like about human rights because they don't believe American people will react to them when they deny rights to others," said Rabbi Gedalyah Engel, a spokesman for the Committee on Human Rights in the Soviet Union which is based here.

"Americans need to be aware of the struggle of people in the Soviet Union," he said after learning that Mrs. Irina McClellan had been arrested by Soviet police Thursday. The arrest came after Mrs. McClellan tried to chain herself to a fence in front of the U.S. Embassy.

Mrs. Irina McClellan, 38, and her teenage daughter by a previous marriage, staged the protest as Secretary of State Cyrus Vance was concluding a meeting with Soviet leaders. Mrs. McClellan was released after three hours and her daughter was not detained.

Mrs. McClellan has been trying to obtain a visa to leave the Soviet Union for four years. She is the wife of Woodford McClellan a professor of Russian at the University of Virginia, and wants to join him. They were married in Moscow in 1974 when he was an exchange student here.

"You can't have trade agreements and arms agreements when there is no freedom," said Engel.

Then the rabbi talked about Nazi Germany and the recent telecast of Holocaust, which dealt with the terror and extermination of Jews in Europe while Adolf Hitler was in power.

"You can't condemn Nazi Germany and allow the Soviet Union to do what it is doing," said Engel. "And you can't think of Nazi Germany as history. There are people battling for survival today just as hard as those people back in the 1930's and 1940's."

Engle said he tried to call Mrs. McClellan after hearing about her arrest.

"Some man answered her phone and said she wouldn't be available for at least a week," he said.

After hearing of her release Engel said he would make another effort to call her.

Engel said he hoped the visit by Vance would help Mrs. McClellan obtain her visa.

"He (Vance) is very aware of the situation and our feelings," said Engel. "We need to get Irina released because she represents our hope to bring freedom to many others in the Soviet Union who want to leave the country."

A spokesman for Vance said of the arrest, "We deeply regret the forcible action taken against Mrs. McClellan" saying it was "the continuing refusal of the Soviet authorities to grant her exist permission which led her to express her views peaceably."

[From the Lafayette (Ind.) Journal and Courier, Apr. 22, 1978]

VANCE, SOVIETS BROADEN TALKS

Moscow.—Secretary of State Cyrus R. Vance and Soviet Foreign Minister Andrei A. Gromyko broadened their strategic arms limitations talks Friday to cover the Middle East situation and force reductions in Europe. U.S. officials described the discussions as "useful, good and businesslike."

Vance and Gromyko concentrated on the subject of arms limitations, the main purpose of Vance's trip, but few details were available.

"I do not expect that all SALT issues will have been resolved on the basis of this visit to Moscow," said U.S. spokesman Hodding Carter.

Officials said Vance would meet Saturday with Soviet President Leonid I. Brezhnev.

U.S. officials said the morning talks, which dealt mainly with strategic arms, were "not one-sided." There was no direct word on whether Vance was able to clear away obstacles in the path of a new treaty limiting long-range bombers and intercontinental missiles.

In the afternoon, Vance and Gromyko also discussed the Soviet refusal Thursday to transmit wire service photographs and news film of a demonstration at the U.S. Embassy by Irina McClellan, 38, a Soviet woman who has been trying for four years to emigrate and join her husband in the United States.

The U.S. Embassy, with Vance's endorsement, lodged an official protest Friday against the interference with the newsmen. American officials said the Soviet action was a violation of the 1975 Helsinki Agreement on the free exchange of information.

The Russians characterized the incident as "a deliberate provocation by American newsmen." A U.S. spokesman said the Soviets wondered why the American Embassy was "making so much of something that need not be brought up at this time."

The Soviet news agency TASS said Friday that the McClellan incident was designed to create a negative background for the Vance talks, "an extremely unseemly aim." It said that following the incident, "slanderous stories were sent to American bourgeois newspapers with familiar, though threadbare, contentions about the violation of rights of citizens in the U.S.S.R."

[From the Washington Post, Apr. 25, 1978]

RUSSIA TODAY

What is it that accounts for the crudeness so often evident in the Soviet government's dealings with foreigners, even—especially—on issues that don't much matter? We have no good explanation but we take note, in a mood of sadness tinged by anger, of two recent episodes in this vein.

In one, a Korean Air Lines plane that had strayed far off course over northern Russia was shot up by a Soviet interceptor. Two passengers were killed and others wounded; all 100-plus aboard could easily have been lost. Why did the Soviet pilot shoot up an unarmed civilian aircraft? Is that what Soviets regard as vigilance? Or bravery? The authorities, saying that they are investigating, have yet to release the Korean pilot and navigator. But it is Soviet performance that ought to be investigated. It was inexcusable.

In a second incident, Soviet cops roughed up a Soviet woman and her daughter who were demonstrating outside the American Embassy to publicize the Kremlin's refusal to let them join her American husband, Woodford McClellan, of four years. The Soviets then refused to transmit photos and television film of the demonstration, relenting only a day later. It is heartless of the Russians, and contrary to their pledges in the Helsinki agreement, to keep the McClellans apart. It is repressive, and similarly contrary to Helsinki, for them to interfere with the reporting of news. If that is what the Russians intend to do when the international press corps hits Moscow for the 1980 Olympics, then the United States and other Western countries should be building a structure of precedent to deal with the press incidents likely to arise at that time. Meanwhile, the Kremlin must be kept under steady pressure to permit the reunification of families split by the Soviet frontier.

It is, some say, unhelpful to criticize the Russians on these matters: It gets their pride up, recalls the cold war. Nonsense. When people are needlessly killed or injured, when their lives are broken, then pointed criticism is fair, morally necessary and, in our judgment, politically useful in order to encourage more responsible behavior the next time around. These incidents do not involve sensitive internal affairs in which the claim of outsiders to interfere is debatable. They impinge directly on foreigners. If foreigners don't speak up, the crudities will go on.

SENATE CONCURRENT RESOLUTION 63—SUBMISSION OF A CONCURRENT RESOLUTION TO DISAPPROVE THE LOCATION OF CHANCERIES AMENDMENT ACT OF 1979 PASSED BY THE CITY COUNCIL OF THE DISTRICT OF COLUMBIA

Mr. PELL (for himself, Mr. Church, Mr. Javits, and Mr. Percy) submitted the following concurrent resolution, which was referred to the Committee on Governmental Affairs:

S. Con. Res. 63

Resolved by the Senate (the House of Representatives concurring), That the Congress disapproves of the action of the District of Columbia Council, described as follows: The Location of Chanceries Amendment Act of 1979, act 3–120, passed by the Council of the District of Columbia on October 9, 1979, signed by the Mayor on November 9, 1979, and transmitted to the Congress pursuant to Section 602(c) of the District of Columbia Self Government and Governmental Reorganization Act of 1973 on November 19, 1979.

LOCATION OF FOREIGN MISSIONS IN THE NATION'S CAPITAL

● Mr. PELL. Mr. President, the District of Columbia City Council has passed a bill, which was approved by the Mayor over strong protests of the State Department, which would substantially curtail areas in which foreign governments could locate official missions in the capital, and is an attempt to repeal a Federal plan previously adopted in 1977.

The bill, if it is allowed to become law, will create unreasonable interference with the conduct of foreign relations, and clearly violates the separation of powers under the Home Rule Act, an opinion shared by other Federal agencies involved.

The Home Rule Act reserved certain powers for the Federal side, including the authority to plan for international activities, and required that District action not be inconsistent therewith. The National Capital Planning Commission adopted a Federal plan concerning location of foreign missions in October 1977, which would be vitiated by the latest enactment of the District. The City Council, with the Mayor's approval, has thus attempted without authority to repeal the Federal plan.

The bill would effectively limit chanceries to certain commercial and downtown type office building locations, which have been and remain unacceptable from a Federal interest point of view because of security, cost (which especially impacts the lesser funded nation), and other considerations.

The bill was aimed in part at precluding chancery development in certain mixed-use areas, known traditionally for chancery and institutional uses, such as the Northwest Massachusetts Avenue "Embassy Row" area. In addition, modifications or expansions to chanceries already in place in areas such as Massachusetts Avenue would be blocked, which would adversely affect a number of governments, with a resultant detrimental effect on U.S. interests abroad. The bill benefits a relatively small number of residents, without a reasonable balancing of the significant Federal interests involved.

Mr. President, the location of foreign missions in the Nation's Capital is a substantial Federal interest issue; one that affects treaty obligations and U.S. interests both here and abroad on a reciprocal basis.

The ability of the United States to obtain suitable locations in a manner compatible with effective diplomatic relations has been impeded by actions of the District of Columbia which are increasingly nonresponsive to needs of the Federal Government.

Difficult security issues have now rendered the nonresponsiveness of local officials a matter requiring action by the Congress to protect the Federal interest.

This situation has become critical; it will continue to impede the discharge of Federal functions, and leads to adverse actions regarding important U.S. interests abroad, including the security of the location of our missions in more than 150 overseas areas, until the method of handling the Federal interests are readjusted by legislation.

Therefore, Mr. President, I am submitting today on behalf of myself and Senators Church, Javits, and Percy, a concurrent resolution expressing congressional disapproval of the action of the City Council. I ask unanimous consent that a chronology of this problem be printed at this point in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

BACKGROUND

Pre-1960—Few problems existed concerning chancery locations (chanceries are the principal working offices for foreign government representatives; embassies, which are the official residence of the head of a foreign mission, have not become a problem under existing law).

1960—Emergence of many newly independent nations requiring chancery locations; continuing efforts by United States to obtain appropriate treatment in those countries.

1961—The United States Government, as part of its international obligations, is required to assist foreign governments to obtain suitable chancery premises in the capital in accordance with the Vienna Convention on Diplomatic Relations, signed by the United States in 1961, which was generally implemented thereafter pending its entry into force (23 UST 32, TIAS 7502) as a Treaty for the United States in December 1972.

1964—Amendment to zoning laws (D.C. Code, Title 5-418, Public Law 88-659) substantially limiting chancery locations and providing subjective "compatibility" standards for local boards which may operate to prevent location of some countries because of local community concerns or political or racial attitudes, without a proper balance of the federal interest and its impact on foreign relations.

City officials, however, until recently, had cooperated in a number of cases by exercising their authority to rezone in order to secure locations for foreign missions, and avoid a situation where the United States could not effectively comply with its international obligations.

1968—Congressional passage of the International Center Act (Public Law 90-553) provided space for more than 10 smaller nations within one of the few remaining federally owned sites in the District meeting security and other requirements. Development of the sites is presently underway by the Secretary of State through GSA, and new legislation will be forthcoming to expand the area. This will, if passed, after a lead time of up to 5 years assist additional countries, but will not resolve the major problem posed now by current actions of the District government.

1975—Home Rule Act (Public Law 93-198) became effective January 1975, which reserved certain powers to the federal government, including planning for international activities by the National Capital Planning Commission, and a requirement that District actions not be inconsistent therewith.

1977—Adoption in October by National Capital Planning Commission (NCPC) of the first federal element of the new Comprehensive Plan for the District, covering foreign missions and international agencies. The Plan designated areas in which foreign missions would have the right to be located.

1978—Adoption in November of regulations by the Zoning Commission of the District purportedly implementing the NCPC Plan, but in fact extending to virtually all such cases the same subjective criteria for the approval of chancery locations. This eliminated the core of the federal Plan, which had established areas within which foreign missions could locate as of right, subject only to satisfying certain objective criteria, in order to remove the local process from potential conflict with the implementation of foreign policy and the Congressionally authorized federal plan.

1979—City Council Bill 3-47 which had been delayed from passage in 1978 after intercession by the Secretary of State, was adopted in October 1979 in essentially the same form as earlier proposed. The effect of the Bill, discussed previously, not only denies the significant federal interest, but precludes flexibility by the city and administration in its relations with the federal side, leaving the State Department no alternative but to oppose this action in the Congress.

Current—The United States Government, as noted earlier, is required to assist foreign governments to obtain suitable premises for chanceries in the District of Columbia in accordance with the Vienna Convention on Diplomatic Relations of 1961, which entered into force as a Treaty for the United States December 13, 1972. Of equal importance, there is a growing need for reciprocity involving the substantial problems of the United States missions overseas. The Department of State is now unable to meet these obligations due to the current unavailability of suitable chancery sites in the District because of security, cost and restrictive zoning problems. This situation is now creating an adverse impact on our foreign relations and the ability of the United States to support our needs abroad.●

AMENDMENTS SUBMITTED FOR PRINTING

SALT II TREATY—EX. Y, 96-1

AMENDMENT NO. 1443

(Ordered to be printed and to lie on the table.)

Mr. DURENBERGER, as in executive session, submitted an amendment intended to be proposed by him to the treaty between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Strategic Offense Arms and the protocol thereto, both signed in Vienna, Austria, on June 18, 1979 (Ex. Y, 96-1).

Mr. DURENBERGER. Mr. President, last week I joined with my distinguished colleagues, Senators CHAFEE and LEAHY, in submitting some reservations to the SALT II resolution of ratification. Today I am submitting a further understanding which I believe should be added to that resolution. This understanding would make it clear that the United States will raise compliance issues "whenever there is a reasonable probability that the Government of the Soviet Union is not complying with the provisions of the SALT II Treaty."

The report of the Select Committee on Intelligence regarding U.S. capabilities to monitor compliance with the SALT II treaty reached rather mixed conclusions. While compliance with some provisions can be monitored with a high level of confidence, other provisions can be monitored with only low confidence. Moreover, the Intelligence Committee's report noted three very important conditions which must be satisfied if one is to have overall confidence in verification:

A high level of funding for intelligence;

Keeping the Select Committee on Intelligence "fully and currently informed on all intelligence concerned with the monitoring of SALT II Treaty"; and

A steadfast verification policy on the part of the executive branch.

Mr. President, I consider these three conditions to be of the utmost importance. I do not believe that we can consider the SALT II treaty to be adequately verifiable unless all of these conditions are met.

A high level of funding is necesary to insure that our intelligence agencies will have the necessary resources for both collection and analysis of intelligence. Such resources are essential not only for SALT monitoring, but also for the critical task of following situations around the world that can affect American policy. We are entering a period in which the Soviets may perceive that they have the edge on us. We must make sure that they do not use that perception against us in situations like Iran. Only by bolstering our weakened understanding of emerging nations' political systems and pressures can we keep Third World conflicts from becoming a third world war.

Two days ago, I met with the President to discuss the SALT treaty. At that time I presented to him a letter regarding the issue of funding for the U.S. intelligence system. The letter urges the President "to submit to Congress a fiscal year 1981 intelligence budget which demonstrates the commitment to excellence that the Intelligence Committee's report on SALT monitoring calls for."

Last week, my distinguished Intelligence Committee colleagues, Senator CHAFEE and LEAHY, and I introduced an amendment to the resolution of ratification which adresses the need to keep our committee:

> Fully and currently informed of any intelligence information that indicates compliance or possible non-compliance of the Soviet Union with the Treaty and any activity of the Soviet Union that is inconsistent with the objectives of the Treaty.

Such explicit language will help insure that policy makers cannot ignore or deny important intelligence information.

Our amendment also incorporates provisions regarding reports on the results of efforts in the Standing Consultative Commission and the need for the Select Committee on Intelligence to provide reports to the Senate Committees on Armed Services and Foreign Relations. These provisions are similar to ones previously proposed by Senator GLENN and by Senators HUDDLESTON and BAYH and the distinguished majority leader. I am confident that all of us who are concerned about SALT verification will be able to work out agreed provisions on these points.

A "reasonable probability" understanding is needed because of factors which are inherent in SALT monitoring and in the way that intelligence organizations work. Determining whether the Soviet Union is in compliance with SALT provisions is rarely an open-and-shut proposition. Rather, both the intelligence data and the SALT provisions themselves are likely to be somewhat ambiguous.

In such a situation, it is all too easy for a policymaker to avoid tough decisions by sending the intelligence data back down with a request for further studies, asking for an unambiguous answer that may well be impossible to achieve.

Likewise, it is all too easy for intelligence agencies to censor themselves. They may refrain from alerting policymakers until they are absolutely sure of every detail. In either case, precious days or months can be lost while waiting for perfect intelligence. As a result, timely action becomes impossible.

Mr. President, I am confident that the administration will concur with this understanding, which I showed to the President 2 days ago. The understanding is intended not to force the President into unwanted actions, but rather to emphasize and codify an aspect of U.S. policy which is essential to effective SALT verification.

As the understanding is rather short, I would like to read it:

> The advice and consent of the Senate to ratification of the SALT II Treaty is subject to the understanding, which is not required to be communicated to the Government of the Soviet Union, that it is the policy of the United States that, whenever there is a reasonable probability that the Government of the Soviet Union is not complying with the provisions of the SALT II Treaty, the President take appropriate action in accordance with the constitutional processes of the United States, regarding such noncompliance, including the raising of the issue of such non-compliance in the Standing Consultative Commission unless the national security interests of the United States require that such issue not be so raised.

Clearly, this language is not designed to hamstring, so much as to remind the executive branch, while also serving notice to all, that minor ambiguities in intelligence information will not be used as an excuse for inaction in the face of Soviet violations of SALT.

Given this understanding, the understanding and reservations proposed last week, and firm assurances from the President regarding future intelligence funding, my doubts on the verifiability of SALT II would be substantially eased. Without this, however, I will remain sorely troubled.

Mr. President, I ask unanimous consent that a letter to the President of the United States and the understanding be printed in the RECORD.

There being no objection, the letter and understanding were ordered to be printed in the RECORD, as follows:

SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C., December 12, 1979.

The PRESIDENT,
White House, Washington, D.C.

DEAR MR. PRESIDENT: Since the Senate Select Committee on Intelligence issued its report on U.S. capabilities to monitor the SALT II Treaty, I have been considering the difficult question of whether those capabilities are sufficient. To the extent that the Committee's principal findings were optimistic, this optimism was based upon the assumption of substantial budgetary support for the intelligence community.

The Select Committee's finding on "Providing the Necessary Resources for the United States Monitoring System" notes the fragility of some components of our reconnaissance system and cities the need for sufficient back-up and redundancy in these systems. This is especially important in light of the need to maintain our monitoring capabilities throughout the six years that SALT II would remain in force.

The Committee's finding on resources ends with the following points:

"In order to provide these resources a very high budget priority must be given to the intelligence collection systems, as well as to processing and analysis functions.

"The Committee finds that continued improvement and investment will be required during this period to ensure that United States monitoring systems keep pace with the monitoring tasks they must perform. Arbitrary resource constraints must not curtail these needed improvements and investment.

"The Committee also recommends that increased analytic attention to SALT monitoring should be accompanied by the intelligence community's full and careful attention to other areas of Soviet military, political and economic activity and to military, political, social and economic developments in other countries."

As you know, these points are far more than glittering generalities. They are rooted both in two years of studying the SALT monitoring question and in the Committee's annual consideration of the intelligence budget, in which I have participated actively as a member of the subcommittee on Budget Authorization.

Senators Bayh and Goldwater, Chairman and Vice Chairman of the Select Committee on Intelligence, wrote to you in October regarding the need for increased investment in U.S. intelligence for a variety of reasons, including the increasing importance of international political and economic issues, such as energy and other scarce natural resources. Your recent reply, that "[i]ntelligence, like national defense, is and must remain, at the top of our priorities," is a welcome affirmation of our shared sense of the importance of the U.S. intelligence system. It remains unclear, however, to what extent you share our belief that short-term budgetary constraints must not be allowed to inhibit needed improvements in this system.

I strongly urge you to submit to Congress an FY 1981 intelligence budget which demonstrates the commitment to excellence that the Intelligence Committee's report on SALT monitoring calls for. Specific assurances that you accept the need for increased funding which that report stresses would go a long way toward easing my own doubts regarding the verifiability of SALT II.

Sincerely,

DAVE DURENBERGER,
U.S. Senator.

AMENDMENT No. 1443

At the end of the resolution of ratification, add the following:

"The advice and consent of the Senate to ratification of the SALT II Treaty is subject to the understanding, which is not required to be communicated to the Government of the Soviet Union, that it is the policy of the United States that, whenever there is a reasonable probability that the Government of the Soviet Union is not complying with the provisions of the SALT II Treaty, the President take appropriate action, in accordance with the constitutional processes of the United States, regarding such noncompliance, including the raising of the issue of such noncompliance in the Standing Consultative Commission unless the national security interests of the United States require that such issue not be so raised.".

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 1444

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 1445

(Ordered to be printed and to lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1446

(Ordered to be printed and to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1447

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1448

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 1449 THROUGH 1461

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted 13 amendments intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 1462 THROUGH 1479

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted 18 amendments intended to be proposed by him to amendment No. 888 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1480 THROUGH 1495

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted 15 amendments intended to be proposed by him to amendment No. 800 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1496 THROUGH 1499

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted four amendments intended to be proposed by him to amendment No. 1036 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1500 THROUGH 1509

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted 10 amendments intended to be proposed by him to amendment No. 707 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1510 THROUGH 1519

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted 10 amendments intended to be proposed by him to amendment No. 813 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1520 THROUGH 1539

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted 20 amendments intended to be proposed by him to amendment No. 814 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1540 THROUGH 1547

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted eight amendments intended to be proposed by him to amendment No. 816 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1548 THROUGH 1557

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted 10 amendments intended to be proposed by him to amendment No. 815 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1558 THROUGH 1563

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted six amendments intended to be proposed by him to amendment No. 1036 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1564 THROUGH 1572

(Ordered to be printed and to lie on the table.)

Mr. WALLOP submitted nine amendments intended to be proposed by him to amendment No. 1037 intended to be proposed to H.R. 3919, supra.

AMENDMENTS NOS. 1573 THROUGH 1583

(Ordered to be printed and to lie on the table.)

Mr. GLENN submitted 11 amendments intended to be provided by him to H.R. 3919, supra.

ADJUSTMENT ASSISTANCE FOR WORKERS AND FIRMS—H.R. 1543

AMENDMENTS NOS. 1584 THROUGH 1586

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted three amendments intended to be proposed by him to H.R. 1543, an act to improve the operation of the adjustment assistance programs for workers and firms under the Trade Act of 1974.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ENERGY REGULATION

● Mr. JOHNSTON. Mr. President, the hearing previously scheduled by the Subcommittee on Energy Regulation of the Committee on Energy and Natural Resources for Monday, December 17, 1979, at 10 a.m. in room 3110 Dirksen Senate Office Building, has been postponed until the second session of the 96th Congress. This hearing was to have served as a mechanism for the Administrator of the Energy Information Administration and the Assistant Secretary for International Affairs to report to Congress on the current petroleum supply situation. Questions about the rescheduling of this hearing should be directed to Benjamin Cooper or James Bruce at 224-9894.●

ADDITIONAL STATEMENTS

NATIONAL WATER RESOURCES

● Mr. YOUNG. Mr. President, recently the former chairman of the House Interior and Insular Affairs Committee, Wayne Aspinall, spoke at the convention of the National Water Resources Association in Denver, Colo. The Minot Daily News published at Minot, N. Dak., carried an excellent editorial on Mr. Aspinall's remarks, an editorial which I hope all of my colleagues will read.

During his service in Congress, Wayne Aspinall served as chairman of the House Interior Committee, which authorized reclamation projects. Chairman Aspinall was very insistent that before any project be approved by his committee that it be financially sound. He frequently insisted that before his committee approve a project the project sponsors and the Bureau of Reclamation agree to conditions which oftentimes were difficult to meet. It is because of the dedication of public officials like Wayne Aspinall that our reclamation program has been such an outstanding success. Wayne Aspinall was always regarded as one of the outstanding authorities in the country on reclamation matters and on water laws.

Mr. President, I ask that the editorial from the Minot Daily News be printed in the RECORD.

The editorial follows:

ANALYSIS BY ASPINALL

Wayne N. Aspinall, a longtime congressman from Colorado and a former chairman of the House Interior and Insular Affairs Committee, undoubtedly will be judged by historians as a leading figure in advancing the cause of reclamation in the West.

Recently he appeared at the Denver convention of the National Water Resources Association and offered what he dubbed "the catechism of water development according to Aspinall." His long view of the program contrasted sharply with the nit-picking environmentalism of recent years. Here slightly condensed, is Aspinall's 10-point evaluation:

1. Water is one of the two most important of all natural resource values. (Land is the other, we assume.)

2. Water is the foundation of the economic and social stability of the West.

3. The Bureau of Reclamation's water development program has been one of the most successful of all federal programs.

4. The program has been an outstanding example of federal, state and local participation.

5. Very little, if any, money was ever wasted on a reclamation project.

6. "Pork-barrelling" is a false charge used by uninformed critics and provincial zealots.

7. Water, wisely controlled, can "run uphill."

8. Reservoirs "do make water" (by stimulating precipitation, a point long debated).

9. The greatest virtues of Western water resource developers are patience and stick-to-itiveness.

10. In water development, the sun invariably shines through the clouds of misunderstanding, ignorance, provincialism, partisan politics and trials of frustration and despair.●

DOD APPROPRIATIONS CONFERENCE REPORT

Mr. CHILES. Mr. President, with the passage of the DOD appropriations conference report yesterday, we mark an important step in the efforts of many of us to see the Enforcer aircraft built and tested by the Air Force. In this fiscal year 1980 appropriations bill, the conferees provided $6 million and directed that the Air Force build and test an Enforcer aircraft. I want to join with my colleagues in urging the Air Force to develop as expeditiously as possible the testing and evaluation of this aircraft.

SUPREME COURT OPINIONS IN TAIWAN TREATY CASE

● Mr. GOLDWATER. Mr. President, I will have just a few words to say about the Supreme Court decision yesterday in the case which I and 25 other Members of Congress brought to uphold the power of Congress in treaty termination.

On the one hand, I am pleased the Court overturned the decision by the court of appeals, which otherwise would have given a judicial basis for unilateral action by the President to break all of the country's treaty commitments. The Supreme Court very clearly tossed aside the court of appeals ruling and removed any judicial authority for what President Carter has done concerning the Taiwan treaty.

On the other hand, I think the Supreme Court has avoided its responsibility to say what the law is.

By avoiding its duty, the Court would, in effect, allow the President to substitute a system of raw power for the rule of law. If the highest Court will not rule upon an obvious usurpation of legislative power by the President because it involves what the Court calls a "political question," the road is open to a dictator.

Mr. President, it is an irony of history that the Justices are at this moment sponsoring an exhibition of materials and writings by and about John Jay. The Justices who decided yesterday to treat the issue of treaty termination as nonjusticiable would have done well to take a look at their own display of Jay records.

When he was serving as the first Chief Justice of the United States, John Jay wrote a decision precisely on the point erroneously decided by the Court yesterday. In Jones against Walker, Jay discussed in detail the question of treaty annulment and what kind of issues relating to treaty termination are judicial, and which are of a political nature.

Jay concluded that the issue of whether a treaty has been annulled "by those to whom the Nation has committed that power" is judicial and must be decided by the Court.

None of the Justices who decided the case yesterday apparently had heard of the famous decision by John Jay because it is not referred to in any of the opinions. The Court decided the case without the customary fairness of allowing it to be set for argument and briefing and may have missed the Jay opinion for this reason. The internal division in the Court, reflected by five different opinions, would seem to have cried out for an opportuinty to have the case decided after the thorough study it only could have received by allowing a submission of briefs and oral arguments. But not enough Justices agreed with this consideration.

Mr. President, because the decision is of wide interest, I ask that the Court order and the five separate opinions may appear in the RECORD. Also, I ask that the pertinent part of Chief Justice Jay's opinion in Jones against Walker may be printed following the Court decision.

The material follows:

[Supreme Court of the United States, No. 79-856. Decided December 13, 1979]

BARRY GOLDWATER ET AL. *v.* JAMES EARL CARTER, PRESIDENT OF THE UNITED STATES, ET AL.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

ORDER

The petition for a writ of certiorari is granted. The judgment of the Court of Appeals is vacated and the case is remanded to the District Court with directions to dismiss the complaint.

MR. JUSTICE MARSHALL concurs in the result.

Mr. Justice Powell concurs in the judgment and has filed a statement.

Mr. Justice Rehnquist concurs in the judgment and has filed a statement in which Mr. Chief Justice Burger, Mr. Justice Stewart, and Mr. Justice Stevens join.

Mr. Justice White and Mr. Justice Blackmun join in the grant of the petition for a writ of certiorari but would set the case for argument and give it plenary consideration. Mr. Justice Blackmun has filed a statement in which Mr. Justice White joins.

Mr. Justice Brennan would grant the petition for certiorari and affirm the judgment of the Court of Appeals and has filed a statement.

[Supreme Court of the United States, No. 79-856. Decided December 13, 1979]

Barry Goldwater et al. *v.* James Earl Carter, President of the United States, et al.

ON PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

Mr. Justice Powell, concurring.

Although I agree with the result reached by the Court, I would dismiss the complaint as not ripe for judicial review.

I

This Court has recognized that an issue should not be decided if it is not ripe for judicial review. *Buckley* v. *Valeo*, 424 U.S. 1, 113–114 (1976) (*per curiam*). Prudential considerations persuade me that a dispute between Congress and the President is not ready for judicial review unless and until each branch has taken action asserting its constitutional authority. Differences between the President and the Congress are commonplace under our system. The differences should, and almost invariably do, turn on political rather than legal considerations. The Judicial Branch should not decide issues affecting the allocation of power between the President and Congress until the political branches reach a constitutional impasse. Otherwise, we would encourage small groups or even individual Members of Congress to seek judicial resolution of issues before the normal political process has the opportunity to resolve the conflict.

In this case, a few Members of Congress claim that the President's action in terminating the treaty with Taiwan has deprived them of their constitutional role with respect to a change in the supreme law of the land. Congress has taken no official action. In the present posture of this case, we do not know whether there ever will be an actual confrontation between the Legislative and Executive Branches. Although the Senate has considered a resolution declaring that Senate approval is necessary for the termination of any mutual defense treaty, see 125 Cong. Rec. 13672, 13695–13696 (June 6, 1979), no final vote has been taken on the resolution. See *id.*, at 32522–32531 (Nov. 15, 1979). Moreover, it is unclear whether the resolution would have retroactive effect. See *id.*, at 13711–13721 (June 6, 1979); *id.*, at 15210 (June 18, 1979). It cannot be said that either the Senate or the House has rejected the President's claim. If the Congress chooses not to confront the President, it is not our task to do so. I therefore concur in the dismissal of this case.

II

Mr. Justice Rehnquist suggests, however, that the issue presented by this case is a nonjusticiable political question which can never be considered by this Court. I cannot agree. In my view, reliance upon the political-question doctrine is inconsistent with our precedents. As set forth in the seminal case of *Baker* v. *Carr*, 369 U.S. 186, 217 (1962), the doctrine incorporates three inquiries: (i) Does the issue involve resolution of questions committeed by the text of the Constitution to a coordinate branch of government? (ii) Would resolution of the question demand that a court move beyond areas of judicial expertise? (iii) Do prudential considerations counsel against judicial intervention? In my opinion the answer to each of these inquiries would require us to decide this case if it were ready for review.

First, the existence of "a textually demonstrable constitutional commitment of the issue to a coordinate political branch," *ibid.*, turns on an examination of the constitutional provisions governing the exercise of the power in question. *Powell* v. *McCormack*, 395 U.S. 486, 519 (1969). No constitutional provision explicitly confers upon the President the power to terminate treaties. Further, Art. II, § 2 of the Constitution authorizes the President to make treaties with the advice and consent of the Senate. Article VI provides that treaties shall be a part of the supreme law of the land. These provisions add support to the view that the text of the Constitution does not unquestionably commit the power to terminate treaties to the President alone. Cf *Gilligan* v. *Morgan*, 413 U.C. 1, 6 (1973); *Luther* v. *Borden*, 7 How. 1, 42 (1849).

Second, there is no "lack of judicially discoverable and manageable standards for resolving" this case; nor is a decision impossible "without an initial policy determination of a kind clearly for nonjudicial discretion." *Baker* v. *Carr*, 369 U. S., at 217. We are asked to decide whether the President may terminate a treaty under the Constitution without congressional approval. Resolution of the question may not be easy, but it only requires us to apply normal principles of interpretation to the constitutional provisions at issue. See *Powell* v. *McCormack*, 395 U. S., at 548–549. The present case involves neither review of the President's activities as Commander-in-Chief nor impermissible interference in the field of foreign affairs. Such a case would arise if we were asked to decide, for example, whether a treaty required the President to order troops into a foreign country. But "it is error to suppose that every case or controversy which touches foreign relations lies beyond judicial cognizance." *Baker* v. *Carr*, *supra*, at 211. This case "touches" foreign relations, but the question presented to us concerns only the constitutional division of power between Congress and the President.

A simple hypothetical demonstrates the confusion that I find inherent in Mr. Justice Rehnquist's concurring opinion. Assume that the President signed a mutual defense treaty with a foreign country and announced that it would go into effect despite its rejection by the Senate. Under Mr. Justice Rehnquist's analysis that situation would present a political question even though Art. II, § 2, clearly would resolve the dispute. Although the answer to the hypothetical case seems self-evident because it demands textual rather than interstitial analysis, the nature of the legal issue presented is no different from the issue presented in the case before us. In both cases, the Court would interpret the Constitution to decide whether congressional approval is necessary to give a Presidential decision on the validity of a treaty the force of law. Such an inquiry demands no special competence or information beyond the reach of the judiciary. Cf. *Chicago & Southern Air Lines* v. *Waterman Steamship Corp.*, 333 U. S. 103, 111 (1948).[1]

Finally, the political-question doctrine rests in part on prudential concerns calling for mutual respect among the three branches of government. Thus, the Judicial Branch should avoid "the potentiality of embarrassment [that would result] from multifarious pronouncements by various departments on one question." Similarly, the doctrine restraints judicial action where there is an "unusual need for unquestioning adherence to a political decision already made." *Baker* v. *Carr*, *supra*, at 217.

If this case were ripe for judicial review, see Part I *supra*, none of these prudential considerations would be present. Interpretation of the Constitution does not imply lack of respect for a coordinate branch. *Powell* v. *McCormack*, 395 U. S., at 548. If the President and the Congress had reached irreconcilable positions, final disposition of the question presented by this case would eliminate, rather than create, multiple constitutional interpretations. The spectre of the Federal Government brought to a halt because of the mutual intransigence of the President and the Congress would require this Court to provide a resolution pursuant to our duty "to say what the law is." *United States* v. *Nixon*, 418 U. S. 683, 703 (1974), quoting *Marbury* v. *Madison*, 1 Cranch 137, 177 (1803).

III

In my view, the suggestion that this case presents a political question is incompatible with this Court's willingness on previous occasions to decide whether one branch of our government has impinged upon the power of another. See *Buckley* v. *Valeo*, 424 U.S. 1, 138 (1976); *United States* v. *Nixon*, 418 U.S. 683, 707 (1974); *The Pocket Veto Case*, 279 U.S. 655, 676–678 (1929); *Myers* v. *United States*, 272 U.S. 52 (1926).[2] Under the criteria enunciated in *Baker* v. *Carr*, we have the responsibility to decide whether both the Executive and Legislative Branches have constitutional roles to play in termination of a treaty. If the Congress, by appropriate formal action, had challenged the President's authority to terminate the treaty with Taiwan, the resulting uncertainty could have serious consequences for our country. In that situation, it would be the duty of this Court to resolve the issue.

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[1] The Court has recognized that, in the area of foreign policy, Congress may leave the President with wide discretion that otherwise might run afoul of the nondelegation doctrine. *United States* v. *Curtiss-Wright Export Corp.*, 299 U. S. 304 (1936). As stated in that case, "the President alone has the power to speak or listen as a representative of the Nation. He *makes* treaties with the advice and consent of the Senate; but he alone negotiates." *Id.*, at 319 (emphasis in the original). Resolution of this case would interfere with neither the President's ability to negotiate treaties nor his duty to execute their provisions. We are merely being asked to decide whether a treaty, which cannot be ratified without Senate approval, continues in effect until the Senate or perhaps the Congress take further action.

[2] *Coleman* v. *Miller*, 307 U. S. 433 (1939), is not relevant here. In that case, the Court was asked to review the legitimacy of a State's ratification of a constitutional amendment. Four Members of the Court stated that Congress has exclusive power over the ratification process. *Id.*, at 456–460 (Black, J., concurring, with whom Roberts, Frankfurter, and Douglas, JJ., joined). Three Members of the Court concluded more narrowly that the Court could not pass upon the efficacy of state ratification. They also found no standards by which the Court could fix a reasonable time for the ratification of a proposed amendment. *Id.*, at 452–454.

The proposed constitutional amendment at issue in *Coleman* would have overruled decisions of this Court. Compare *id.*, at 435, n. 1 with *Bailey* v. *Drexel Furniture Co.*, 259 U. S. 20 (1922); *Hammer* v. *Dagenhart*, 257 U. S. 251 (1918). Thus, judicial review of the legitimacy of a State's ratification would have compelled this Court to oversee the very constitutional process used to reverse Supreme Court decisions. In such circumstances it may be entirely appropriate for the Judicial Branch of government to step aside. See Scharpf, Judicial Review and The Political Question: A Functional Analysis, 75 Yale L. J. 589 (1966). The present case involves no similar principle of judicial nonintervention.

Barry Goldwater, et al, *v.* James Earl Carter, President of the United States, et al.

On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit

Supreme Court of the United States No. 79–856. Decided December 13, 1979

Mr. Justice Rehnquist, with whom The Chief Justice, Mr. Justice Stewart, and Mr. Justice Stevens join, concurring.

I am of the view that the basic question presented by the petitioners in this case is "political" and therefore nonjusticiable because it involves the authority of the President in the conduct of our country's foreign relations and the extent to which the Senate or the Congress is authorized to negate the action of the President. In *Coleman* v. *Miller*, 307 U. S. 433 (1939), a case in which members of the Kansas Legislature brought an action attacking a vote of the State Senate in favor of the ratification of the Child Labor Amendment, Mr. Chief Justice Hughes wrote in what is referred to as the "Opinion of the Court":

"We think that . . . the question of the efficacy of ratifications by state legislatures, in light of previous rejection or attempted withdrawal, should be regarded as a political question pertaining to the political departments, with the ultimate authority in the Congress in the exercise of its control over the promulgation of the adoption of the Amendment. . . . The precise question as now raised is whether, when the legislature of the State, as we have found, has actually ratified the proposed Amendment, the Court should restrain the State officers from certifying the ratification to the Secretary of State, because of an earlier rejection, and thus prevent the question from coming before the political departments. We find no basis in either Constitution or statute for such judicial action. Article V, speaking solely of ratification, contains no provision as to rejection. . . ." *Id.*, at 450.

Thus, Mr. Chief Justice Hughes' opinion concluded that "Congress in controlling the promulgation of the adoption of a constitutional amendment has the final determination of the question whether by lapse of time its proposal of the amendment had lost its vitality prior to the required ratifications." *Id.*, at 456.

I believe it follows *a fortiori* from *Coleman* that the controversy in the instant case is a nonjusticiable political dispute that should be left for resolution by the Executive and Legislative Branches of the Government. Here, while the Constitution is express as to the manner in which the Senate shall participate in the ratification of a Treaty, it is silent as to that body's participation in the abrogation of a Treaty. In this respect the case is directly analogous to *Coleman, supra*. As stated in *Dyer* v. *Blair*, 390 F. Supp. 1291, 1302 (ND Ill. 1975) (three-judge court):

"A question that might be answered in different ways for different amendments must surely be controlled by political standards rather than standards easily characterized as judicially manageable."

In light of the absence of any constitutional provision governing the termination of a Treaty, and the fact that different termination procedures may be appropriate for different treaties (see, *e.g.*, n. 1, *infra*), the instant case in my view also "must surely be controlled by political standards."

I think that the justifications for concluding that the question here is political in nature are even more compelling than in *Coleman* because it involves foreign relations—specifically a treaty commitment to use military force in the defense of a foreign government it attacked. In *United States* v. *Curtiss-Wright Corp.*, 299 U.S. 304 (1936), this Court said:

"Whether, if the Joint Resolution had related solely to internal affairs it would be open to the challenge that it constituted an unlawful delegation of legislative power to the Executive, we find it unnecessary to determine. The whole aim of the Resolution is to affect a situation entirely external to the United States, and falling within the category of foreign affairs. . . ." 299 U.S., at 315.

The present case differs in several important respects from *Youngstown Sheet & Tube Co.* v. *Sawyer*, 343 U.S. 579 (1952), cited by petitioners as authority both for reaching the merits of this dispute and for reversing the Court of Appeals. In *Youngstown* private litigants brought a suit contesting the President's authority under his war powers to seize the Nation's steel industry, an action of profound and demonstrable domestic impact. Here, by contrast, we are asked to settle a dispute between coequal branches of our government, each of which has resources available to protect and assert its interests, resources not available to private litigants outside the judicial forum.[1] Moreover, as in *Curtiss-Wright*, the effect of this action, as far as we can tell, is "entirely external to the United States, and [falls] within the category of foreign affairs." Finally, as already noted, the situation presented here is closely akin to that presented in *Coleman*, where the Constitution spoke only to the procedure for ratification of an amendment, not to its rejection.

Having decided that the question presented in this action is nonjusticiable, I believe that the appropriate disposition is for this Court to vacate the decision of the Court of Appeals and remand with instructions for the District Court to dismiss the complaint. This procedure derives support from our practice in disposing of moot actions in federal coutrs.[2] For more than 30 years, we have instructed lower courts to vacate any decision on the merits of an action that has become moot prior to a resolution of the case in this Court. *United States* v. *Munsingwear*, 340 U.S. 36 (1950). The Court has required such decisions to be vacated in order to "prevent a judgment, unreviewable because of mootness, from spawning any legal consequences." *Id.*, at 41. It is even more imperative that this Court invoke this procedure to ensure that resolution of a "political question," which should not have been decided by a lower court, does not "spawn any legal consequences." An Art. III court's resolution of a question that is "political" in character can create far more disruption among the three coequal branches of government than the resolution of a question presented in a moot controversy. Since the political nature of the questions presented should have precluded the lower courts from considering or deciding the merits of the controversy, the prior proceedings in the federal courts must be vacated, and the complaint dismissed.

Supreme Court of the United States No. 79–856. Decided December 13, 1979

Barry Goldwater et al. *v.* James Earl Carter, President of the United States, et al.

On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit

Mr. Justice Blackmun, with whom Mr. Justice White joins, dissenting in part.

In my view, the time factor and its importance are illusory; if the President does not have the power to terminate the Treaty (a substantial issue that we should address only after briefing and oral argument), the notice of intention to terminate surely has no legal effect. It is also indefensible, with out further study, to pass on the issue of justiciability or on the issues of standing or ripeness. While I therefore join in the grant of the petition for certiorari, I would set the case for oral argument and give it the plenary consideration it so obviously deserves.

Supreme Court of the United States No. 79–856. Decided December 13, 1979

Barry Goldwater et al. *v.* James Earl Carter, President of the United States, et al.

On petition for writ of certiorari to the United States Court of Appeals for the District of Columbia Circuit

Mr. Justice Brennan, dissenting.

I respectfully dissent from the order directing the District Court to dismiss this case, and would affirm the judgment of the Court of Appeals insofar as it rests upon the President's well-established authority to recognize, and withdraw recognition from, foreign governments. Opinion, App. 27A–29A.

In stating that this case presents a nonjusticiable "political question," the plurality, in my view, profoundly misapprehends the political question principle as it applies to matters of foreign relations. Properly understood, the political question doctrine restrains courts from reviewing an exercise of foreign policy judgment by the coordinate political branch to which authority to make that judgment has been "constitutional[ly] commit[ted]." *Baker* v. *Carr*, 369 U.S. 186, 211–213, 217 (1962). But the doctrine does not pertain when a court is faced with the *antecedent* question whether a particular branch has been constitutionally designated as the repository of political decisionmaking power. Cf. *Powell* v. *McCormack*, 395 U. S. 486, 519–521 (1969). The issue of decisionmaking authority must be resolved as a matter of constitutional law, not political discretion; accordingly, it falls within the competence of the courts.

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[1] As observed by Judge Wright in his concurring opinion below: "Congress has initiated the termination of treaties by directing or requiring the President to give notice of termination, without any prior presidential request. Congress has annulled treaties without any presidential notice. It has conferred on the President the power to terminate a particular treaty, and it has enacted statutes practically nullifying the domestic effects of a treaty and thus caused the President to carry out termination. . . . [¶] Moreover, Congress has a variety of powerful tools for influencing foreign policy decisions that bear on treaty matters. Under Article I, Section 8 of the Constitution, it can regulate commerce with foreign nations, raise and support armies, and declare war. It has power over the appointment of ambassadors and the funding of embassies and consulates. Congress thus retains a strong influence over the President's conduct in treaty matters. [¶] As our political history demonstrates, treaty creation and termination are complex phenomena rooted in the dynamic relationship between the two political branches of our government. We thus should decline the invitation to set in concrete a particular constitutionally acceptable arrangement by which the President and Congress are to share treaty termination." Petition, pp. 44A–45A (footnotes omitted).

[2] This Court, of course, may not prohibit state courts from deciding political questions, any more than it may prohibit them from deciding questions that are moot, *Doremus* v. *Board of Education*, 342 U.S. 429, 434 (1952), so long as they do not trench upon exclusively federal questions of foreign policy. *Zschernig* v. *Miller*, 389 U.S. 429, 441 (1968).

The constitutional question raised here is prudently answered in narrow terms. Abrogation of the defense treaty with Taiwan was a necessary incident to Executive recognition of the Peking government, because the defense treaty was predicated upon the now-abandoned view that the Taiwan government was the only legitimate political authority in China. Our cases firmly establish that the Constitution commits to the President alone the power to recognize, and withdraw recognition from, foreign regimes. See *Banco Nacional de Cuba* v. *Sabbatino*, 376 U. S. 398, 410 (1964); *Baker* v. *Carr*, *supra*, at 212; *United States* v. *Pink*, 315 U. S. 203, 228–230 (1942). That mandate being clear, our judicial inquiry into the treaty rupture can go no further. See *Baker* v. *Carr*, *supra*, at 212; *United States* v. *Pink*, *supra*, at 229.

JONES *v.* WALKER

(2 Paine's Reports 688; 13 Federal Cases (No. 7507) 1059)

Jay, C. J.

The first question which these pleadings naturally suggest is, whether this court has authority to take cognizance of infractions of the treaty by Great Britain, and by reason of them to declare the treaty to be void as to the United States. It is strenuously insisted that the court has such authority: (1) Because, on the distribution of the sovereignty into the three departments of executive, legislative and judicial, such authority became incident to the latter; (2) because treaties being laws of the land, they fall within the jurisdiction and cognizance of the judiciary; (3) because the authority in question is given by the constitution, and is recognized to have been so given by the judicial act of congress.

I begin with the last, for as the power of the judiciary might have been extended, or limited, according to the pleasure of those who, by the constitution, established it, it is proper to inquire whether the constitution does extend that power to the case now before us in the sense now contended for. If it does, it ought to be exercised; if not, it ought not to be assumed. The constitution expressly declares that the judicial power shall extend to all cases in law and equity arising under treaties. It also declares that treaties shall be the supreme law of the land.

The twenty-sixth section of the judicial act [1 Stat. 87] recognizes its power to determine cases where is drawn into question the validity of treaties. Perhaps it may tend to elucidate the subject if we were to consider "validity," applied to treaties, as admitting of two decriptions, viz., "necessary" and "voluntary." By "necessary validity," I mean that which results from the treaty's having been made by persons authorized by, and for purposes consistent with the constitution. To this kind of validity all such questions as these relate, viz.: Has the treaty been made and ratified by the president, by the advice and consent of three-fourths of the senators present? Is it temporary, and has it expired? Is it perpetual? Has it been dissolved with mutual agreement? Has it been annulled and declared to be void by the nation, or by those to whom the nation has committed that power? Does it contain articles repugnant to the constitution? Are those articles void? Do they vitiate the whole treaty? &c., &c. By "voluntary validity," I mean that validity which a treaty become voidable by reason of violations, afterwards continues to retain by the silent volition and acquiescence of the nation. I call it "voluntary," because it entirely depends on the will of the nation, either to let it continue to operate, or to annul and extinguish it. To this head such questions as these relate, viz: Has the treaty been so violated as justly to become voidable by the injured nation? Is it advisable immediatey to declare it void? Would such a measure probably produce a war? Would it be more prudent first to remonstrate and demand reparation, or to direct reprisals? Are we in condition for war? Ought we at this juncture to risk it, or shall we postpone that risk until we can be better prepared for it? Shall we at this moment take any measures, or would it be more prudent to remain silent for the present, and let the treaty go on and continue to operate as if nothing had happened? &c., &c., &c.

On comparing the principles which govern and decide the necessary validity of a treaty with those on which its voluntary validity depends, we cannot but perceive that the former are of a judicial, and that the latter are of a political nature. That diversity naturally leads to an opinion that the former are referable to the judiciary, and the latter to those departments which are charged with the political interests of the state. If the order and proper disposition of the thing strongly indicates this distribution, there is great reason to presume it was intended by the constitution and the judicial act; and, therefore, that the power given the judiciary to decide on the validity of treaties, was, by the nature of the subject, restricted to their necessary validity; necessary, because while performed by one party it rests not on the volition of the other, but on that perfect obligation which contracts authorize and not improperly impose on both the parties.

The history of nations, even the most free, and whose governments were the most popular, affords no examples of their having committed the voluntary validity of treaties to the decision of courts of justice; and thence there is reason to argue, that if an idea so new and singular had been adopted by the convention, they would have pointedly and particularly expressed it in the constitution and not have left it to be inferred from any enlarged sense in which the word "validity" was capable of being understood; especially as it was natural to apprehend that the tribunals of the United States, like the tribunals of all other countries, would understand it only to mean the necessary validity of treaties. When it is considered that the voluntary validity of treaties (except so far as may concern their voidability) is to be decided not by fixed and immutable rules and principles, but entirely by prudential considerations, the inexpediency of committing its decision to two concurrent jurisdictions, that is, to the judiciary and to congress (it being necessarily incident to the right of making war), and that, too, without appeal to any third body, is very apparent; for, in cases of disagreement in opinion, the same treaty might be annulled by the one against the opinion and judgment of the other, and the people would be at a loss to determine how to act, or which opinion ought to prevail. That two such concurrent and probably clashing jurisdictions would unavoidably introduce many inconveniences, is obvious; but it is not easy to discern in what respect they would be useful. In short, it is not, in my opinion, to be presumed that a power so pregnant with discord, political contradiction and national inconsistency, could have been within the intention and meaning of the convention, when, by the constitution, they extended the power of the judiciary to all cases arising under treaties.

2. That treaties being laws of the land, fall within the jurisdiction and cognizance of the judiciary. Whatever distinction there may be between a treaty considered as a great national contract, and a treaty considered as a law of the land, yet it will not warrant the conclusion that as a treaty its voluntary validity may be exclusively determinable by congress, but that as a law of the land, the judiciary are to decide whether it be in force. Every law derives its obligation from the will of those who had authority to enact it. Every treaty derives its obligation from the will of those who had authority to conclude it. Neither of them can be repealed or annulled but by the will of those who have authority to repeal or annul them.●

DANGER OF TECHNOLOGY TRANSFER TO U.S.S.R.

● Mr. BAYH. Mr. President, during the Senate's debate on the Export Administration Act last summer I joined with Senator JACKSON in cosponsoring a series of amendments aimed at tightening export controls over critical goods and technologies in a way that made sense and would not simply place additional barriers in the way of U.S. exporters dealing in nonstrategic items and commodities. It seems to me extremely important to monitor ever more carefully and closely the relationship between "technology leakage" and the enhancement of Soviet military capabilities which could not otherwise take place.

While I think we have been successful in bringing about a new awareness of the nature and possible consequences of the problem, continuing concern and attention is required. Certainly, the Department of Defense is concerned. In the September issue of Military Electronics/Countermeasures, Dr. Ruth M. Davis, then DOD Undersecretary for Research and Engineering, indicated in an interview that while we maintain an overall lead in technology in most areas of military significance, there are certain categories where that advantage is being narrowed. For example, on microelectronics, Dr. Davis had this to say:

> We said we were seven to eight years ahead just three years ago; now we say we are only three to four years ahead so our lead has been halved in the past three years. The reason for the rapid diminution of lead is because of the Russians' very strong and deliberate attempt to acquire our technology and their success at so doing. The cut in our lead, therefore, is not due to an indigenous Russian capability but rather to the acquisition of our technology. That concerns us very much.

Mr. President, the concerns of Dr. Davis were validated by the November 1979 report on technology and East-West trade prepared by the Office of Technology Assessment. These assessments should require the Administration to more rigorously review requests for export licenses on those goods which can have a military application. Lest some believe that such a valid concern reflects only a thinly-guised "cold war" mentality, I think it is important to remember that the late Hubert Humphrey made clear his view we should only sell the Soviet Union that which "they can't shoot back." And most recently, columnist Carl Rowan contributed his own thoughts on this subject in the December 10 issue of the Washington Star indicating the need for the industrial democracies to act in concert in denying technologies to the Soviet Union of "critical military significance."

Denial of such technologies is only one part of an overall strategy which will protect our Nation's security by keeping us at the leading edge of the technology curve. Another crucial element for our future security is to support DOD programs such as the S–1 advanced computer technology project, support for which was provided in the fiscal year 1980 DOD appropriations bill. And whatever the outcome of the SALT II debate, it is increasingly clear that military advantage can be obtained through possession of a superior circuit just as it might occur through numerical superiority. Failing to recognize this feature of modern military strategy can only distort accurate assessment of relative United States and Soviet strengths and such a failure could in itself constitute a weakness in our future defense strategies.

Mr. President, at this point, I request that the following column by Carl T. Rowan, appearing in the Washington Star of December 10 be printed in the Record.

WESTERN TECHNOLOGY AND THE COMMUNIST CAUSE

(By Carl T. Rowan)

Are the Western nations digging their own graves by transferring to the Soviet Union and other communist countries our advanced technologies?

The Office of Technology Assessment of the U.S. Congress says that Western technology obtained through civilian trade definitely has contributed to Soviet military strength. This report also offers evidence that Western technology has contributed to Soviet economic strength, enabling Russia to buy even more technology—and perhaps to finance foreign and other military ventures for which hard currencies are needed.

Investigators for OTA assume that Western contributions to Soviet military strength have been small, but admit that they really do not know.

"In the case of U.S. trade with the Soviet Union, it can be argued that any accretion in Soviet military capacity weighs against the United States in an overall worldwide balance of power," the report says. "Whether the political or economic benefits of trade with the USSR offset the military costs is a matter of judgment."

Here are some examples of actual or probable Soviet usages of Western technology:

Precision-grinding machines sold to the Soviet Union in 1972 allegedly made it possible for Russia to produce the ball bearings needed for the guidance system in the Soviets' multiple independently targetable reentry (MIRV) missiles.

Large computers sold to the Soviet airline Aeroflot can be diverted directly to military functions; they may be used to train military personnel, and they may have been used in "reverse engineering" that enables the Soviets to close the gap between their computer technology and that enjoyed by U.S. firms like IBM.

"Direct diversion after modification occurred when the equipment of the Kama River truck plant was altered to produce military vehicles," the report says—vehicles which today, may be hauling Cuban troops around Africa.

The Office of Technology Assessment points out that even when the West provides turnkey plants for the production of fertilizer, this not only contributes greatly to Soviet agricultural productivity, but it makes it possible for Russia to export food and earn the currencies needed to buy up more Western technology—and, I might add, to finance the high level of industrial espionage the Soviets are undertaking in the West.

OTA reports that the Soviet industries that have been most dependent on Western technology and production capacity have been chemicals, machine tools and motor vehicles—with computers not far behind.

"The question of technology transfer has become vital in the Soviet oil and gas equipment industry," the report says.

There is bitter irony here. While the Russians are suspected of fanning anti-U.S. feeling in Iran, Libya and other nations whose oil is vital to the economic and military security of the West, the Soviets are seeking sophisticated seismic oil prospecting and drilling equipment from the West.

Russia now is the world's leading producer of oil and one of the largest suppliers of natural gas—but could run into a serious energy crisis in the 1980s without Western drill bits, wellhead equipment and other technology.

Should we provide high technology to the Soviet Union when it has become obvious that friendly trade policies have not moderated aggressive Soviet policies in Africa, the Caribbean, the Far East?

Some say that to halt our modest trade with communist countries (4.1 percent of U.S. world trade in 1978) would mean a return to the worst aspects of the Cold War. The OTA report says that the United States alone cannot halt the transfer of technology to the communist bloc because for economic and other reasons, Japan, West Germany, France and Great Britain want to continue the sale of technology.

OTA points out that the U.S. leads in a number of technologies "of critical military significance" and thus may have "a special responsibility to ensure their safekeeping."

But the Western alliance may be in such disarray that the U.S. is helpless to halt what some see as the peaceful handing over of economic and military superiority to our enemies.●

THE HARRY S. TRUMAN ANIMAL IMPORT CENTER, FLEMING KEY, FLA.

● Mr. STONE. Mr. President, a new era in beef production in the United States will begin January 1, 1980. This is the operative date for the arrival of the first consignment of breeding stock directly to the United States from foreign countries where foot-and-mouth and other dread diseases are prevalent.

The first 400 heads of imports to the Harry S. Truman Animal Import Center will be Zebu cattle from Brazil. This breed has been sought by a number of Western livestockmen for use in arid plains of Texas and other border States although it holds promise for Florida's hot, moist climate as well.

The opening of the Truman Import Center closes a long chapter in the livestock industry's history of effort to put such facility into operation. The dedication of the Harry S. Truman Animal Import Center took place at Fleming Key, Florida, on Friday, October 19, 1979. This dedication ceremony was the beginning of a dream come true for the Florida Commissioner of Agriculture, Doyle Conner. Commissioner Conner fought more than a decade to have this import center located within the United States, and the Florida Commissioner should be commended and applauded for his foresightedness on this issue.

American-produced beef is probably the finest found anywhere in the world. This is not to say that it cannot be improved upon both in quality and in yield. Many American cattlemen feel that the introduction of hybrid vigor into the Nation's current domestic stock will improve their cross-breeding programs resulting in more and better beef. In a free marketplace, higher yields could mean lower prices at the supermarket which should make consumers happy along with the prospect for even better beef than is available today.

In operation, the center will receive cattle which have been quarantined in the country of origin for at least 30 days and extensively tested to determine they are free of foot-and-mouth tuberculosis, brucellosis, leptospirosis, bovine leukosis, vibrio fetus and Trichomonas.

At the Truman Center, the incoming cattle will mingle with 100 head of domestic sentinel animals for a period of 5 months before they are released for transportation to the importer's ranch. Following the evaculation of the center by the quarantined herd, the premises will be thoroughly cleaned and disinfected and prepared to receive the next group of animals from abroad.

The facility is a self-contained entity. It has its own water purification and treatment system converting seawater to fresh water, so as not to increase the pressure on the limited consumer supply. It has oil-fired incinerators to dispose of all solid waste and to prevent chemical contamination of the waters surrounding the island. Air pollution from stack gases on the incinerators will be controlled by secondary combustion and scrubbers. Treated waste water will be recycled for non-drinking needs on the facility.

The opening of the Harry S. Truman Animal Import Center at Fleming Key will mark a new era in beef production in the United States. All Floridians should be proud that Commissioner Doyle Conner fought to have it located here in this State and were successful in achieving that end. The perseverance and foresight that Doyle Conner displayed in turning this dream into a reality should be known by cattle producers and beef consumers alike. Doyle Conner is one of the moving forces that brought the center into reality. We thank you Doyle Conner.●

VERIFICATION OF THE SALT II AGREEMENTS

● Mr. BAYH. Mr. President, as the Senate is well aware, verification of Soviet compliance with the provisions of the SALT II treaty is an issue central to the anticipated debate on this issue. For this reason, I request at this time that the "Principal Findings of the Senate Select Committee on Intelligence on the Capabilities of the United States To Monitor the SALT II Treaty" be printed in the Record. This important summary document and the full committee report available to Senators through established security procedures are absolutely essential to the debate on the verification and other aspects of SALT II. I earnestly commend both to the study of my colleagues.

The document follows:

Principal Findings by the Senate Select Committee on Intelligence on the Capabilities of the United States To Monitor the SALT II Treaty

In approaching the duty given to us by the Senate to examine the ability of the intelligence community to monitor Soviet compliance with the SALT II Treaty, the Committee has kept in mind that our reconnaissance system cannot provide absolute certainty. In the past our monitoring system has, in some instances, underestimated the rate of deployment of some strategic weapon systems of the Soviet Union. In other instances it has overestimated the deployment of some strategic weapon systems.

Since 1970, the estimating record has improved as a direct consequence of improvements in the technical capabilities of the United States reconnaissance systems and in the intelligence community's analysis of that data. These improved technical collection and analytical capabilities have resulted in a reduction in uncertainties about the state of development, testing, and deployment of Soviet strategic weapons. Because we are forced by history to bear in mind the analytic error of the "missile gap," as well as the underestimating of the rate of deployment of some strategic weapons systems, the Committee has conducted an independent review and assessment of United States monitoring capabilities. As a result of this review, the Committee has made findings with respect to the following issues:

A. Implications of SALT I record for monitoring SALT II Accords;

B. The degree to which United States SALT II negotiating positions were based on monitoring capabilities;

C. Providing the necessary resources for the United States monitoring system;

D. Improved analysis;

E. Congressional oversight: and

F. The ability of the United States to monitor the SALT II Treaty.

The subject of U.S. monitoring capabilities is so complex that Senators are strongly encouraged to read and study the full text of the classified Report and its accompanying attachments, in order to fully understand these brief Findings.

A. Implications of SALT I Record for Monitoring SALT II Accords.

On the basis of the SALT I record, the Committee believes that the Soviet Union will push to the greatest extent possible any advantages which the provisions or ambiguities of the SALT II Treaty might permit. Further, the Soviet Union will probably continue nearly all its present concealment and deception practices, and additional concealment and deception practices may be attempted. The record also indicates, however, that the Standing Consultative Commision is a valuable forum for resolving compliance issues, and possible ambiguities in intelligence information and Treaty interpretation, when the United States aggressively pursues them. For example, in the case of the expanded pattern of Soviet concealment activities, vigorous pursuit by the U.S. of this issue in the Standing Consultative Commission halted the expansion.

Therefore, the United States must expect that unanticipated Soviet activities may occur during the course of the SALT II Treaty and be willing to raise and aggressively pursue questions of Soviet compliance with the Treaty in the Standing Consultative Commission, which will play an even more significant role during SALT II.

B. The Degree to Which United States SALT II Negotiating Positions Were Based on Monitoring Capabilities.

The Committee has also reviewed in detail the substance and process of SALT II diplomatic negotiations to see how the need for effective monitoring was factored into the actual negotiations in Geneva and elsewhere. Members of the Committee have gone to Geneva repeatedly to observe firsthand the negotiation process, paying particular attention to monitoring questions. We have also examined the diplomatic record of these negotiations, the historical record of the SALT I and the ABM Treaties, and the Proceedings of the Standing Consultative Commission in order better to understand Soviet SALT behavior and the monitoring record concerning those agreements. We have also studied the specific verification provisions of the SALT II Treaty and Protocol and have made our own judgments as to the monitoring requirements of these provisions.

The Committee has reviewed the extent to which the provisions of the SALT II accords contribute to monitoring compliance. There are provisions which enhance our monitoring capability; there are other provisions which reduce monitoring difficulties but retain substantial ambiguities; and there are provisions which impose very difficult monitoring burdens.

The Committee believes that, in most cases, monitoring requirements were given high priority during Treaty negotiations, and that monitoring necessities were reflected in the Treaty provisions. In some cases, however, Treaty provisions were not drawn precisely because of negotiated trade-offs and U.S. and Soviet interest in not impairing the flexibility of some of their respective weapons development programs.

C. Providing the Necessary Resources for the United States Monitoring System.

Although our national reconnaissance system is complex and comprehensive, some of its components are fragile. In order for the reconnaissance system to be effective, sufficient back-up and redundancy must be provided during the period of SALT II.

In order to provide these resources a very high budget priority must be given to the intelligence collection systems, as well as to processing and analysis functions.

The Committee finds that continued improvement and investment will be required during this period to insure that United States monitoring systems keep pace with the monitoring tasks they must perform. Arbitrary resource constraints must not curtail these needed improvements and investment.

The Committee also recommends that increased analytic attention to SALT monitoring should be accompanied by the intelligence community's full and careful attention to other areas of Soviet military, political and economic activity and to military, political, social and economic developments in other countries. It is for this reason that we recommend a very high budget priority for processing and analysis, as well as for intelligence collection systems.

D. Improved Analysis.

The Soviets unanticipated ability to emplace the much larger SS–19 in a slightly enlarged SS–11 silo circumvented the safeguards the United States thought it had obtained in SALT I against the substitution of heavy for light ICBMs. Similarly, the range of the SS–N–8 missile on the Delta class Soviet ballistic missile submarine was greater than expected. This reduced the significance of the Soviet "geographical disadvantage" on the basis of which we conceded to the Soviets in SALT I the right to build a larger number of ballistic missile submarines than were permitted to the United States. The Committee is of the view that the intelligence community should make every effort to minimize intelligence surprises. Recognizing that predicting the future is a very difficult, if not impossible task, the Committee recommends the following:

Soviet SALT negotiating strategy and tactics should be exhaustively studied for hints about future developments which the Soviets may have been trying to protect. On the basis of this analysis, "warning signs" should be formulated whose appearance would alert the analyst to the possibility the Soviets are taking unexpected steps in their weapons development program.

Various possible Soviet "cheating scenarios" should be developed, using technical experts outside the intelligence community who have been given briefings containing information about U.S. intelligence sources and methods roughly comparable to what the Soviets may be expected to possess. On the basis of these scenarios, similar "warning signs" should be formulated.

Competitive analysis, reflecting a full range of expert points of view, should be conducted periodically on important topics in Soviet strategic weapons developments. The results should be analyzed to provide "warning signs" and to suggest collection strategies which would minimize the differences and uncertainties.

E. Congressional Oversight.

It is clear from the SALT I record that intelligence of possible Soviet violation of the Treaty was, in some cases, and for a time, withheld from Executive branch officials who had a need for such information. Lacking an oversight committee for intelligence matters, the Congress was not supplied the intelligence information on SALT I monitoring.

In the course of the hearings held by the Committee on the SALT I monitoring record, the responsible officials in the intelligence community were asked if they would "fully and currently" supply to the Committee intelligence on the monitoring of SALT II Treaty provisions, as required by S. Res. 400 and by Executive Order 12036. The Director of Central Intelligence, the Director of the National Security Agency, and the Director of DIA have said they understood it was their duty to do so. Procedures for handling such reporting have already been established by the Committee.

Other committees of the Senate with the task of SALT II oversight are the Foreign Relations Committee and the Armed Services Committee. Under S. Res. 400, the Select Committee on Intelligence is obliged to keep these committees informed of any intelligence information that might be of significance in carrying out their mandated duties.

The Committee wishes to point out that monitoring compliance with the new strategic arms agreement is only the first step in the SALT process. The capability to determine whether the Soviets had violated the SALT II agreement would be of little consequence if at the same time the United States did not have the will and determination to pursue an aggressive verification policy.

In order to assure effective oversight of monitoring of SALT II, the Committee finds that the Select Committee on Intelligence should be kept fully and currently informed on all intelligence concerned with the monitoring of the SALT II Treaty. The Committee undertakes to keep the Senate Foreign Relations Committee and the Senate Armed Services Committee informed of any significant information affecting their mandated duties. Further, the Senate Select Committee on Intelligence should receive a detailed intelligence annex, to be maintained under the security provisions of S. Res. 400, along with the semi-annual monitoring report supplied by ACDA to the Senate Foreign Relations Committee and the Senate Armed Services Committee.

F. Evaluation of the Ability of the United States to Monitor the SALT II Treaty.

The Committee's examination of the United States monitoring capabilities show that, under current Soviet practices, most counting provisions can be monitored with high or high-moderate confidence. Monitoring qualitative limitations on weapons systems is a far more difficult task and is dependent on the collective capability of a large number of systems. In general, these qualitative limitations present some problems but most can, on balance, be monitored with high to moderate confidence. There are some provisions of the Treaty which can be monitored with only a low level of confidence.*

The Committee also finds that the present capabilities of the national reconnaissance system could be degraded by the use of changed practices on the part of the Soviet Union and through concealment and deception. Some of these changed practices would be permitted under the Treaty; other changed practices which involve deliberate concealment and deception would constitute serious violations of the Treaty. The impact of those changed practices permitted under the Treaty may decrease our confidence in our ability to monitor counting provisions, and a combination of such changed practices could greatly complicate our task of monitoring those provisions involving qualitative limitations.

Overall, the Committee finds that the SALT II Treaty enhances the ability of the United States to monitor those components of Soviet strategic weapons forces which are subject to the limitations of the Treaty. The Treaty permits measures short of "deliberate concealment" which could impede monitoring, and does not indicate what types of collection systems are to be considered national technical means. In the absence of the SALT II Treaty, however, the Soviets would be free to take more sweeping measures, such as unrestrained concealment and deception, which could make monitoring these strategic forces still more difficult.●

LETTER FROM SOVIET AMBASSADOR DOBRYNIN ON CAMBODIA

● Mr. CRANSTON. Mr. President, on November 16 I joined a number of my Senate colleagues in writing Soviet Ambassador Anatoly Dobrynin to express our strong feelings about the tragedy unfolding in Cambodia.

Recently, Ambassador Dobrynin sent me a reply to our letter and asked that I share his response with my Senate colleagues.

Therefore I am submitting the Ambassador's letter and I ask that it be printed in the Record.

The letter follows:

Embassy of the Union of
Soviet Socialist Republics,
Washington, D.C., December 3, 1979.

Hon. Alan Cranston,
U.S. Senate,
Washington, D.C.

Dear Senator Cranston: With reference to the letter you and a group of other Senators sent to me on November 16, 1979 concerning humanitarian aid to Kampuchea, I would like to bring to your attention the following.

The Government of Kampuchea with which we have been in touch, believe that, unfortunately, the real state of affairs and the position of the People's Revolutionary Council, that is of the Kampuchean Government, on this matter are misinterpreted in the United States. There is no lack of willingness on the part of that Government to cooperate with other countries or international organizations in delivering food and medical supplies into the People's Republic of Kampuchea. The Government of Kampuchea is prepared to accept all possible assistance from different sources including the United States, provided such assistance is motivated by humanitarian considerations and is not linked to any political schemes.

Such humanitarian aid can be delivered via the routes that the Government of Kampuchea established for this purpose: by air to Phom Penh, by sea to the Kampuchean port of Kompongsom and by the Mekong river route to Phom Penh through Ho Chi Min City. (The Vietnamese Government has agreed to provide necessary facilities in the Ho Chi Min river port).

The Soviet Union, Vietnam and other socialist countries are providing large-scale assistance to Kampuchea using these routes and experiencing no difficulties. The total volume of this assistance has already well exceeded 200,000 tons, and at the sea port of Kompongsom alone up to 1,500 tons of supplies are unloaded daily.

As to the refusal of the Kampuchean Government to allow deliveries by roads leading from Kampuchea-Thai border into Kampuchean territory they say that they have a well-founded suspicion that these supplies will wind up in the hands of the Pol Pot bands which still remain in some areas of this part of the country.

The positive approach of the Kampuchean Government to the entire question of international humanitarian aid to the people of Kampuchea has been recently confirmed by the statement of the Ministry of Foreign Affairs in Phom Penh to the effect that the People's Revolutionary Council of Kampuchea is prepared to accept assistance from all countries and international organizations, as well as by agreement between Secretary General Waldheim and the representative of the PRK Red Cross Keo Prasat at the recent conference in New York on the aid to Kampuchea, according to which all the aid to the Kampuchean people will be rendered through the People's Revolutionary Council.

In addition the President of the International Red Cross has announced that the Government of Kampuchea expressed the willingness to accept humanitarian assistance from all countries and international organizations, and has also allowed to set up a mission of the International Red Cross and UNICEF in Phom Penh.

It is my sincere hope that these facts will help members of the United States Senate to know the position of the Kampuchean Government and to view the question of food and medical assistance to the Kampuchean people in proper perspective.

I ask you, Senator Cranston, in your capacity of the Majority Whip of the Senate to kindly inform about this letter your colleagues in the Senate who signed the above-mentioned letter of November 16, as well as other Senators who made similar inquiries.

Sincerely,

Anatoly F. Dobrynin,
Ambassador.●

16,305 UNRESOLVED AUDIT REPORTS

● Mr. SASSER. Mr. President, on December 4, 1978, the Comptroller General, Elmer Staats, appeared before the Legislative Branch Subcommittee which I chair.

$4.3 BILLION QUESTION

In the course of that hearing, the Comptroller General revealed that the auditors at the various Federal agencies had written up 16,305 audit reports—questioning the validity of $4.3 billion in Federal expenditures.

All 16,305 of these audit reports were unresolved at the time of our hearing—even though they were all prepared prior to March 31, 1977.

REPORTS GATHERING DUST

In other words—at the time of last year's hearing—some 16,305 internal agency audit reports questioning $4.3 billion in expenditures were not being acted on. Instead they were gathering dust in a warehouse somewhere and nothing at all was being done by the management of the various Federal agencies to resolve the issues raised in the 16,305 audit reports.

EXPIRATION OF STATUTE OF LIMITATIONS

Meanwhile, some of the programs expire. The statute of limitations continues to run. Testimony before the subcommittee indicated that the failure to follow up on these audit reports could mean a very substantial loss in revenues for the Federal Government.

Mr. President, let me give you some examples of the type of issues raised in these audit reports and the effects of inaction by Federal agency managers, as related by the Comptroller General.

HEW EXAMPLE

In one instance, the Department of Health, Education, and Welfare did not send a demand letter to a grantee for recovery of $2.1 million, resulting in a $1.5 million loss because the statute of limitations expired.

EPA EXAMPLE

At the Environmental Protection Agency, an administrator was not actively seeking recovery of over $300,000—nor correction of system deficiencies reported over 3 years earlier.

HUD EXAMPLE

At the Department of Housing and Urban Development, administrators agreed with auditors that a grantee was overpaid $270,000; 10 months later the money had not been recovered. They do not expect to seek collection for another year.

COMMERCE EXAMPLE

An administrator at the Commerce Department failed to act for nearly 2 years to recover $45,000 which auditors found was overpaid to a contractor. The contractor has gone out out of business and recovery is very doubtful.

HEW EXAMPLE

In another case at the Department of Health, Education, and Welfare, officials prepared a demand letter after auditors found that a grantee should return $2.1 million to the agency. Nineteen months later, officials finally issued the letter but reduced their demand to $598,000 because the statute of limitations precluded recovery of the rest.

RESOLUTION OF AUDITS GIVEN LOW PRIORITY

Mr. President, in addition to these examples of questionable resolution of audit findings, the Comptroller General has revealed other examples where Federal agency administrators simply do not give resolution of audit findings a high priority.

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* The terms "high," "high moderate," "moderate," and "low" refer to the monitoring uncertainties (in terms of quantitative measures or probabilities of detection) and do not suggest the military significance of the resulting monitoring uncertainties.

DEFENSE EXAMPLE

A Defense Logistics Agency contracting officer cited higher priority work and personnel changes for the lack of action on $308,000 of a contractor's costs.

HUD EXAMPLE

A HUD official said his staff was too busy approving new housing projects and would not have time for at least another year to collect $270,000 which auditors found HUD overpaid to grantees.

HEW EXAMPLE

Because of other duties, a top official at HEW said his staff did not have time to collect funds or correct a deficiency which had led to an earlier overpayment of $155,000.

ADDITIONAL HEARINGS

Mr. President, on February 7, 1979, I followed up the December 4, 1978, hearing with questions posed to Office of Management and Budget Director, James McIntyre at a Senate Budget Committee hearing. At that time, Mr. McIntyre outlined steps the administration was in the process of implementing to get these 16,305 audit reports questioning $4.3 billion resolved. I personally know that Director McIntyre felt that the situation was intolerable and has worked diligently to get it under control.

FURTHER STEPS BY THE ADMINISTRATION

Audit followup was subsequently included as one of the issues in the administration's financial priorities program. Since then OMB staff have worked with the agencies, the General Accounting Office, and congressional staff to reduce the backlog of unresolved audit reports and to establish policies for prompt and proper resolution of audit findings. This work has resulted in a December 3, 1979, revision to circular A-73, "Audit of Federal Operations and Programs."

NEW AND IMPROVED PROCEDURES FOR RESOLVING AUDITS

The revised OMB circular provides for:

First, a maximum of 6 months to resolve audit recommendations;

Second, reports to agency heads on unresolved audits;

Third, procedures for settling internal differences on corrective action; and

Fourth, periodic evaluations of the audit followup system.

HIGHER PRIORITY TO ADULTS

It is obvious from the new circular that the administration and OMB plans to give a higher priority to timely and proper resolution of audit reports.

I commend the Comptroller General, Elmer Staats, for bringing this problem to the attention of the Congress and the administration. I also commend OMB Director, Jim McIntyre, for his positive response on behalf of the administration and John Lordan of OMB for his cooperative efforts.

CONTINUED CONGRESSIONAL OVERSIGHT

Mr. President, I look forward to continued oversight by the Congress to assure that the matter of 16,305 audit reports questioning $4.3 billion in Federal expenditures is brought to a satisfactory conclusion.●

ARCHBISHOP FULTON J. SHEEN

● Mr. MOYNIHAN. Mr. President, the passing of Archbishop Fulton J. Sheen diminishes us all. He was a distinguished theologian, a captivating speaker, the beloved pastor of millions with no regular church of their own, a staunch patriot, a prolific and eloquent author, a steadfast liberal, a major figure in the affairs of the Roman Catholic Church, a tireless worker for intergroup comity, a celebrated evangelist for his faith, a humanitarian, a philosopher, an inspired and witty speaker, a great teacher, and a powerful force for progressive social thought.

Fulton Sheen spent his early years in the Midwest, and lived thereafter in Europe and in Washington, but for the last several decades he was a resident of New York State, and one of our most esteemed and cherished citizens.

Although born in the 19th century, he was in every sense a contemporary man. Perhaps his most memorable achievement was linking an ancient faith with the most modern technology and bringing the inspiration and teaching of a great pastor into the homes of millions through the electronic magic of radio and television. He demonstrated through the force of his personality, through the power and eloquence of his message, and through the humanity of his teachings, that modernism need not mean Godlessness, that technology is a tool through which mankind can worship rather than something to be worshiped, and that a household could gather around its radio or television for something far more fundamental than entertainment.

He cannot be replaced. He will be deeply missed. And he will forever be remembered.

I request that the following account of his life that was published in the New York Daily News on Monday, December 10, be printed in full in the Record.

[From the Daily News, Dec. 10, 1979]

Bishop Sheen Dies

Archbishop Fulton J. Sheen, 84, one of the best-known and loved Catholic churchmen in the United States, died last night, apparently of a heart attack, in his apartment at 500 E. 77th St.

"He had a peaceful end," said Archbishop Edward O'Meara, Archbishop Sheen's friend who was one of the last people to see him alive. "He was talking to people during the day. Yet, he had been suffering from chronic heart disease for the last three years and it was that that finally took him."

Dr. Simon Stertzer, a cardiologist who had been attending him since his heart operation, pronounced him dead at 7:15 p.m.

A brilliant, witty speaker and a consummate showman, Archbishop Sheen was the Catholic hiearchy's only Emmy-winning prelate, commanding audiences in the millions during years of weekly shows on radio and, later, television.

He also was a prolific writer (more than 30 books), a scholar who taught philosophy for more than a generation at Catholic University, and a priest who guided many famous Americans into his church.

For three years, from 1966 to 1969, he was the Bishop of Rochester. But his liberal policies, profoundly influenced by the late Pope John XXIII and Vatican Council II, proved far too progressive for the congregations of the northern New York diocese and he resigned.

Pope Paul VI then named him the titular archbishop of Newport, Wales—"It was like being named a Knight of the Garter. It's an honor but it doesn't hold up anything," Archbishop Sheen said—and he returned to New York City and resumed his role as one of the most noted preachers of his era. ("I didn't retire. I retreaded," Sheen once quipped.)

HIGHLY POPULAR SPEAKER

His appearances in a pulpit customarily drew overflow crowds. When, in 1972, he became the first Catholic to preach in Marble Collegiate Church, 2,000 jammed the sanctuary, 1,000 heard and watched him on closed-circuit TV in the basement, and 200 were turned away.

Police were forced to close 43d and 44th Sts. between Lexington and Third Aves. to traffic when, on Good Friday, 1977, he preached in St. Agnes Church.

Even during his retirement and into his 80s, his familiar gestures, his piercing, hypnotic, deep-set eyes, pointed index finger and suave delivery remained his hallmark.

Archbishop Sheen opened his national ministry in 1930 when he was invited to conduct "The Catholic Hour" for the National Council of Catholic Men. It ran for 22 years. The council estimated he drew 7.5 million listeners every time he spoke.

He captured even larger audiences when, from 1951 to 1957, he appeared on the weekly "Life Is Worth Living" show on WABC-TV, drawing some 230 million viewers and getting up to 10,000 letters a day. (He had a staff of 30 to help him answer them.)

The Emmy came in 1952. He won Look Magazine TV Awards three years in a row. The prizes were especially significant since Archbishop Sheen's show was pitted against those of such renowned TV people-pullers as Milton Berle and Frank Sinatra.

Archbishop Sheen won his ratings by combining his deeply felt and well thought out Christian message with an actor's skill at dramatizing his talk and with flashes of humor.

Berle called himself "Uncle Miltie" on his show. Archbishop Sheen once delighted his audience by noting on the air: "This is your Uncle Fultie!" He kidded his audiences by claiming that his "angels" erased his blackboard.

BORN IN ILLINOIS

His epigrams were widely quoted: An atheist: "A man without any visible means of support." A Communist: "A man who has given up all hope of ever becoming a capitalist." His parting words were memorized by millions: " 'Bye, and God love you!"

The son of a farmer, Archbishop Sheen was born in El Paso, Ill. Ordained in 1919, he continued graduate studies at Catholic University, the University of Louvain, Belgium, and Angelico University, Rome.

Returning to America in 1926, he was assigned to parish work in Peoria and then to teach philosophy at Catholic University.

As his fame as a preacher grew, Pope Pius XI named him a monsignor, first with the rank of papal chamberlain and then, of domestic prelate.

Archbishop Sheen was named the national director of the Society for Propagation of the Faith in 1960 and, the next year, consecrated a bishop as an auxiliary to the late Cardinal Spellman.

Among his noted converts to Catholicism were the late Heywood Broun, the newspaper columnist; Henry Ford II, the industrialist, and Mrs. Claire Boothe Luce, the playwright and congresswoman.

In his later years, Archbishop Sheen traveled extensively to conduct retreats for priests and other religions.●

SOVIET FORGERIES

● Mr. HUMPHREY. Mr. President, for some time now I have been sharing with my distinguished colleagues excerpts from a DIA study revealing the fact that the Soviet Union has been forging official U.S. documents in order to foster anti-American sentiment within NATO and the Middle East. To date, I have concentrated on the forgeries, themselves. Today I would like to concentrate on the methodology used by the Soviets in this effort. According to the DIA:

> Soviet forgery techniques seem to follow fairly well established patterns. The appearance of a forgery in one area—whether successful or not—usually presages its use elsewhere in the near term. Whenever such appearances capture a receptive public, the Soviet intelligence services follow up by initiating a wide propaganda effort to enhance their impact and gain maximum possible replay in the public press of nearby countries. This orchestrated effort frequently employs the communication apparatus of various communist states together with Soviet media assets and agents of influence as part of a well developed, broadly based effort.

Although the forgeries usually contain errors in fact and format some have been accepted at face value by the recipients and have been given wide readership in the Third World press. I ask my distinguished colleagues to join me in insisting that the White House give the American public the full story behind the extent of Soviet forgery activities.●

DON'T EMBALM THE FTC

Mr. METZENBAUM. Mr. President, the Federal Trade Commission stands out as one of the few Federal agency's that is an effective watchdog for the American consumer.

Nevertheless, in recent weeks, many of the FTC's regulatory activities have come under strong attack by Members of both the House and Senate. In fact, legislation has already passed the House which, among other things, will stop the FTC from insuring that undertakers provide itemized prices to bereaved families.

It will not be long before the Senate examines additional restrictions on FTC regulatory authority. In order to make certain that all sides of the matter are fully aired before then, I am today submitting the second in a series of newspaper editorials which has appeared across the country supporting the FTC's activities.

The editorial I am submitting today appeared in the Berkshire Eagle of Pittsfield, Mass. on November 21. It presents some very sound reasons why Congress should not "embalm the FTC."

I ask that this editorial be printed in the Record in its entirety.

The editorial follows:

A Pine Box for the FTC?

In its efforts to protect the U.S. public from the worst excesses of the free-enterprise system, the Federal Trade Commission has stepped on toes in any number of industries, including the funeral-home business. Now an effort is being made on Capitol Hill by a wide range of industry lobbyists to provide the commission with an unceremonial burial of its own.

Interment would be under not six feet of earth but a welter of congressional bans on specific FTC investigations and a bill that would grant both the House and the Senate a veto power over any FTC decision. The latter proposal is particularly pernicious, since it would set a precedent of letting congressmen overrule at a whim the conclusions arrived at by supposedly independent regulators.

The regulatory commissions play a unique and important role in U.S. government as they attempt to assure that a wide range of economic activities, from air transportation to the selling of prescription drugs, are carried out according to the laws Congress has passed over the years. If Congress wants to no longer promote open trade and fair advertising and discourage monopolies, it should go about changing those basic economic laws, not hounding regulatory commissions like the FTC.

The FTC, though, is a convenient target because, after more than a half-century of relative passivity, it has finally begun in the last decade or so to take its role seriously. This has brought it into conflict with one lobby after another, including potent ones like the insurance industry's. It was just a matter of time before the lobbyists' complaints were reflected in congressional action.

The FTC is not above criticism. In the whole area of restricting mergers and other anticompetitive developments, there is a great deal of overlap between it and the Justice Department's antitust division. While most of the FTC's forays into specific economic or advertising abuses are more than justified, some—like the hearings on television advertising for children—are more interesting than genuinely productive.

But the vote by the House of Representatives last week telling the commission it could not require that undertakers make prices available over the telephone is a good example of how *not* to go about regulating the regulators. Studies by the FTC have shown a pattern of consumer abuse in the funeral-home business that is widespread and costly to families. Instead of correcting these problems, which have been estimated to lead to the waste of at least 10 percent of the $3 billion Americans pay each year for funeral arrangements, the industry would rather just have itself declared above the law.

If the Senate, which has traditionally been less obliging to lobbyists' gripes against regulators than the House, does not stop this bill and the one establishing congressional veto power over individual commission actions, President Carter should. The president deserves credit for appointing aggressive, consumer-minded members to the commissions. But that reputation will not last if Mr. Carter stands by while Congress does its best to embalm the FTC.●

PORK BARREL POLITICS

● Mr. MOYNIHAN. Mr. President, I wish to bring to the attention of my colleagues an article in the Washington Post by Ward Sinclair. That article, entitled "Blasphemv: Senate Heretics Poke Fun at Sacred Dams" details the proceedings of a markup in the Senate Public Works Subcommittee on Water Resources in which Federal water resources policy reform was discussed.

During the markup Senator Domenici and I offered a major water policy reform demonstration project based in part on our bill S. 1241, the Water Resources Policy and Development Act of 1979. The compromise program we offered provides a 5-year, $1 billion per year fast-track route for the authorization and construction of water projects in addition to the existing route.

States could choose to have their projects authorized and funds appropriated through the congressional committees as is done now. Or, for an additional 5 percent up-front cost-sharing requirement, they could have projects authorized by committee resolution and built using their share of the fast-track funds. Fast-track funds would be divided among the States using a formula based half on land area and half on population. Project types eligible for Federal consideration would include all those types presently eligible plus single purpose water projects such as urban water supply and desalinization.

In order to evaluate the demonstration program and the status quo with an eye toward future reform, an independent Presidential Commission would be established to study and compare the two systems. The Commission will report back to Congress during the fourth year of the 5-year demonstration program and will also include in its report recommendations on allocation alternatives, uniform cost-sharing, and the types of work that should be included in federally-funded water projects.

Senator Domenici and I intend to pursue this issue during full committee markup, and we are hopeful for favorable action at that time.

Mr. President, I request that the attached article from the Washington Post of November 29 be printed in the Record. I also ask that an earlier article by Ward Sinclair entitled "Domenici and Moynihan Take Aim at Pork Barrel," be printed in the Record.

The articles follow:

Blasphemy: Senate Heretics Poke Fun at Sacred Dams

(By Ward Sinclair)

In the temple of the Senate Environment and Public Works Committee, where dam-buliding is a religion and engineers the clergy, a band of heretics ran amok yesterday.

As expected, they were defeated on their proposal to change the way Congress distributes water project money. But first they had a little fun. They committed blasphemy.

Bad projects actually were called "turkeys." Public works dams were described as "capers" and "pork." Congress was depicted as "a great barbecue" of political gourmands.

It was, in fact, a morning vitually without precedent in the water resources subcommittee, a group of senators viciously pouncing upon a pending water resources bill that would authorize more than 100 new flood-control and navigation projects at a cost of billions of dollars.

The issue yesterday was an amendment by Sens. Pete V. Domenici (R-N.M.) and Daniel Patrick Moynihan (D-N.Y.) proposing a five-year demonstration scheme that would allot money to each state and allow it to build the water projects it wants.

This approach would abandon benefit-cost ratios ordinarily used to justify projects, remove Congress from site-and-project-selection and require the states to share minimally in construction costs. And traditional public-works program would continue during the demonstration period.

They lost on a 4-to-3 vote, with subcommittee Chairman Mike Gravel (D-Alaska) casting two proxies against them, but the proposal stimulated a rare and enlightening discussion of federal water policy.

"This is the biggest idea to come before the committee since the beginning of the environmental legislation," Moynihan began modestly. "The Senate occasionally needs a big idea—let's see if we can deal with it."

Moynihan said a basic problem with the present system is that the politics of the authorizing and appropriating committees govern the approval and funding of water projects.

The system, Moynihan noted without naming names, has meant that New York, without much clout on the key committees, gets little of the boddle. For example, of the $1.3 billion spent under a 1958 water-supply act, he said New York got "not one penny."

And, he continued, the imbalance has led to projects elsewhere that defy reason. One he cited is the Tennessee-Tombigbee Waterway, which he called "a cloning of the Mississippi River" and which he said "will be an outrage when finally it is found out about." The $1 billion-plus canal, under construction in Alabama and Mississippi, will parallel the Mississippi River.

Sen. Alan K. Simpson (R-Wyo.) contritely talked about "turkeys," and confessed, "I'm backing one back in Wyoming," a water project inherited from a predecessor. "Something novel, new is required," he said.

"One of my great frustrations is to go to the chamber and scrap for fiscal sanity, then come back here and vote for projects that are unpronounceable and that are turkeys," he said.

Well, no more. Simpson said he knew howls of protest will come from home, but he will back no more projects that cannot be justified economically. "I'll be salting down the pork in the bottomless barrel from now on," he said.

Domenici said he will try to get his amendment passed in full committee later on. Coreligionist Moynihan said he would help. Failing that, however, he wryly said he also would have an "extremely long" list of special New York projects he wants authorized.

Amen. And roll out the barrel.

DOMENICI AND MOYNIHAN TAKE AIM AT PORK BARREL

(By Ward Sinclair)

Sens. Pete V. Domenici (R-N.M.) and Daniel Patrick Moynihan (D-N.Y.) entered themselves yesterday in the congressional churl-of-the-year contest.

They introduced a "sweeping" bill designed to break up the pork-barrel procedures that allow powerful legislators to land federal water projects for their districts.

"Before this Congress is over," Moynihan predicted, "we will hear screams and deprecations, we will hear horror" over their proposal for water-policy reform.

"Yes," Domenici said, "we've got a tiger by the tail. . . . This bill eliminates congressional pork barrel on water projects, which has gone on for decades."

How their plan would work:

Congress would be removed from most water-project selection procedures. The states would get block grants ($4 billion annually) to help pay for projects they want, although each state would have to put up a fourth of a project's cost.

A revamped and independent Water Resources Council would have a final veto power over any state-selected project not approved by the federal agency that would build it.

The legislation would cover work now done by the Army Corps of Engineers, the Bureau of Reclamation and the Soil Conservation Service.

Using the federal block grants, based on population and area, governors would be empowered to choose the water projects most desired by their states.

A state's decision for construction would be approved automatically unless the WRC stopped it or if a neighboring state's governor objected that the project would have adverse effects there.

Congress, however, would retain a role in deciding which of the larger, more costly regional projects could go forward. The bill would allow 10 such regional construction projects at any given time.

"The 10 major projects would be a combination of politics, I assume, and needs," Domenici said, acknowledging that he expects strong opposition to his bill from southern legislators.

"Under this bill, two-thirds of the states would gain more money than they have had historically. . . . The South would be the biggest loser," he said.

Although they predicted success for their bill, it more likely will become a part of the larger debate between Congress and President Carter over federal water policy.

Domenici said Carter's newest policy proposal doesn't go far enough, and Moynihan said congressional traditions make reform of any kind difficult.

One of the troubles with the present system, Moynihan said, is that projects tend to go to the states whose legislators have the most clout in Congress.

"The power is held in little fiefdoms. It makes no sense," he said. "If we had a secret vote on this bill, it would pass today. This is major legislation."

The year is young, and there may be other candidates, but that is calculated to make Sens. Domenici and Moynihan front-runners in the churl race.●

THE NEW CARTER DEFENSE BUDGET

● Mr. DOLE. Mr. President, as the administration reverses its policy after 3 years of decline and a world perception of growing U.S. weakness, the Senator from Kansas both welcomes the apparent change of direction and questions its durability.

Like a weathervane facing the winds of change, this administration, in an election year, finds its policies of accommodation with Cuba leading to a resounding defeat on the issue of Russian combat troops, its policy of benign neglect to the Shah resulting in his replacement by a violent anti-American regime whose assault on our Embassy ultimately led to the current hardline defense budget, and American interests everywhere under challenge—in Central America, the Far East, Afghanistan, Pakistan, and Libya—while our own allies give us the minimum of support in the Iranian crisis—and in the case of Japan much less than the minimum—and a lukewarm endorsement of our plan to meet the Soviet challenge against NATO.

It is the hope of this Senator that President Carter's new defense budget is a proposal upon which we can depend, upon which we can build not just this year but over the next 5 years as well. But the record of delay and cancellation by this administration is too strong to ignore. This defense increase—which we do need and which represents a minimum, especially with the unrealistic levels of inflation factored in—would mean more to me if this were not an election year for a President widely perceived as soft on defense and desperately trying to win approval of a SALT II treaty that has been assailed by many on both sides of the aisle as locking the United States into strategic inferiority.

The White House has finally admitted that President Carter's hopes for negotiating deep cutbacks in Soviet and U.S. arms has been a failure. Yet, while we were unilaterally cutting back and delaying our military programs while chasing these unfounded and unrealistic goals, the Soviet Union was pursuing the greatest arms buildup since that carried out by Nazi Germany prior to World War II.

TOO LITTLE, TOO LATE?

After having allowed the American Navy to shrink under his tenure, delaying shipbuilding programs and canceling the nuclear aircraft carrier ordered by Congress, the President now has the effrontery to call for an expanded fleet that would once again be able to project American power around the globe. He projects a Navy of 550 ships by the 1990's but it is not clear to this Senator where he expects to come up with the billions and billions of dollars required to build such a force, even that far into the future.

Many of the 462 ships we now have will need to be replaced by then, not to mention the 88 new ships that will be required. Wanting and keeping a strong Navy is not something you decide upon one year, and then realize in the next. It requires steady, sustained commitment, and notwithstanding the fact that the current occupant of the White House is a graduate of the U.S. Naval Academy, we have not, up until now, seen that kind of commitment. Nor have we seen an effective use of the Navy we do possess. It took 4 weeks before the President could decide to bring our aircraft carriers in the western Pacific to the Persian Gulf during the current Iranian crisis, and we had our carrier steaming in circles in the South China Sea during the last Iranian crisis.

The President's new budget does not say how we are going to get from here to there. I believe seapower is crucial to our global strategy, but I have not yet seen a budget that explains how, under current fiscal restraints, we are going to upgrade our forces. As the President indicated yesterday, the Soviets will have the military advantage in the early 1980's in strategic weapons, in addition to their current edge in conventional arms, and we must prevent them from widening the gap.

WE NEED DEEDS, NOT WORDS

Mr. President, the administration has been claiming a 3-percent real growth in the defense budget for the past year; but from the very beginning such unrealistic inflation figures were used in the budget that actual spending is running somewhere around one-half percent below last year's. I fear the same kind of sleight-of-hand is being prepared again for this new budget. Even if we do achieve a real increase we must figure out a way to raise revenues sufficient to cover such an increase. Had we been paying more attention to our defense needs like we should have over the past few years we would not have to seek such a large, incremental increase, nor wonder where in the overall budget the funds were going to come from.●

IN TRIBUTE TO JEROME P. CAVANAGH

● **Mr. RIEGLE.** Mr. President, Jerry Cavanagh former mayor of the city of Detroit, was a rare man who combined the two essential ingredients of brains and heart. He cared deeply about people and had the ability and drive to turn dreams into reality.

Jerry was a pioneer in the difficult task of urban redevelopment. Moreover he based his visionary plans on the highest human principles—he believed in and built citizen coalitions that included all the people. He was a true public servant—a man of the people—in the full sense.

Jerry's accomplishments have never received the full recognition they deserve. It was he who laid the basic foundation for the later renaissance of Detroit. The civil strife of the 1960's has tended to obscure the fact that Jerry Cavanagh was the initial architect of the new vision of Detroit—both physically and spiritually.

As a person he was warm, caring, encouraging, and helpful. He was a sensitive man who could feel the pain of others, and be driven by a compulsion to help.

He had his share of setbacks along the way, but they never broke his spirit or diminished his best hopes for the future.

His love for his family—and them for him—was at the very center of his feelings and purposes. His loss is a source of heartache to all who knew him and our deepest feelings are with his family at this time.

There is in public service this mysterious exchange process where those of us who are participants learn from each other and are altered in various ways by our working contact at the personal level. In that sense particularly, Jerry Cavanagh is alive and well in the hearts and souls and action of those men and women who shared his vision of how we might better work together for the common good.●

INTERNATIONAL YEAR OF DISABLED PERSONS

● **Mr. HATFIELD.** Mr. President, as we look ahead to the International Year of Disabled Persons proclaimed by the United Nations for 1981, we recognize the great task to be accomplished on behalf of America's 35 million mentally and physically disabled citizens. Over the last 5 years, I have pursued vigorously an increase in the Federal commitment to basic research aimed at an eventual cure for spinal cord injury, and other related disorders. The state of the art of biomedical sciences has brought us to a new threshold where we can view for the first time, the promise of real opportunities for conquering major disabling conditions.

It is not merely enough to think in terms of ways to help the disabled accommodate to their lifestyles. We must think in terms of eliminating the disabilities which so drastically reduce the overall productivity of our society, and which have such serious human consequences. At long last, scientists say we are ready for a real push to solve, and to cure, these problems. Mr. Alan A. Reich, president of the U.S. Council for the IYDP, indicates that increased biomedical research to conquer disabilities is one of the significant goals of the International Year.

For this reason, Mr. President, I was heartened that the U.S. Council for the International Year of Disabled Persons—1981 helped sponsor a seminar recently on this subject at the Woodrow Wilson International Center for Scholars at the Smithsonian. This seminar identified central nervous system regeneration as having potential for conquering one form of serious disability—paralysis. The following article from the Washington Post describes the reversal in thinking that is taking place and which is so uplifting to so many. As we look ahead to IYDP, I encourage my colleagues in both Houses to seek out and support those efforts which eventually will make such an enormous difference in the quality of life.

I request that the article be printed in the RECORD:

SPLICING SEVERED SPINAL CORDS: THE IDEA EXCITES SCIENTISTS

(By Victor Cohn)

A soldier, an athlete, a Gov. Wallace, a motocycle rider—anyone—is shot or gets into an accident that crushes or cuts his spinal cord.

The result has always been an irrevocable sentence to lifelong paraplegia: paralysis from the waist down, the fate of 150,000 Americans today.

The reason is simple and blunt: the main nerve cells of the spinal cord, once severed, cannot grow back together.

Or can they? Scores of the world's best neuroscientists have almost suddenly begun asking this question.

In the last five years there has been an almost complete reversal of opinion about this once hopeless area, several leading scientists agreed at a specially called symposium at the Wilson Center of the Smithsonian Institution last week.

"Let's not raise any false hopes—we don't know how to solve the problem yet," said Dr. Donald Tower, head of the government's National Institute of Neurological and Communicative Disorders and Stroke, part of the National Institutes of Health.

"But the view that there is no hope of restoring the nerve pathways—the view you would have heard from virtually every scientist not long ago—is no longer held."

Two scientific leaders—Dr. Lewis Thomas, president of Memorial Sloan-Kettering Cancer Center, and Dr. Arthur Upton, head of NIH's National Cancer Institute—agreed that the time is ripe for what Thomas called a crash effort to collect information.

"I don't," Thomas emphasized, "mean a crash effort" like an Apollo or Manhattan project to produce a product—the product here being the ultimate way to make the nerves grow—but "a crash program to ask the questions" that could make that goal achievable.

"There is an awareness within the scientific community," he explained, "that an opportunity exists," that "it's time to go."

The "product," the method or knowledge that might make a paraplegic walk, could be "40 or 50 years off" or "a decade off" or "five years off," various scientists said.

But in the last five years, they reported, spending at NIH's neurological disease institute on the needed research has grown from $1 million to $7.6 million a year. The Veterans Administration has begun a $1 million-a-year program as a result of a strategy conference last year. Related scientific papers in world literature increased from a handful in 1970 to nearly 500 last year.

What has happened in the scientists' laboratories to make so amazing a shift possible?

Beginning in the 1950s, said Tower, "A number of observations began to show that the mammalian nervous system does show evidence of attempts to regenerate itself. The machinery for regeneration seems to be there."

The machinery, in essence, is the nerve cell, a main cell body with long axons (or arms) often stretching, in the case of the central nervous system, the brain and spinal cord, very long distance. The spinal cord has millions of such cells, with axons reaching from the brain as far as the base of the spine, 2 or 2½ feet away.

Tower said that in the last half-decade, in some cases the last few months:

"A lot of work" has helped scientists understand the molecular mechanisms, the processes that turn on and support the development of the central nervous system in infants.

Many studies, particularly those of Dr. Carl Cotman at the University of California at Irvine, have shown that in at least one area of the mammalian brain, severed nerve cells can sprout new connections.

Many people are looking at the "trophic factors," the elements of biochemical environments that make it possible for a severed nerve cell not only to sprout new connections but to make the right ones. It's no good for a nerve cell to sprout new fibers, Tower said, if they don't go to the right place to establish useful, not just random, motions.

Malcolm Wood and Melvin Cohen of Yale University reporting in the Oct. 19 issue of the magazine Science, have shown that if they sever the spinal cord neurons or nerve cells of lampreys—eel-like sea creatures—their axons regenerate and successfully form new synapses, or connections, with adjacent cells. And the lampreys again swim.

Wood and Cohen showed this by a promising new method—a way of marking specific nerve fibers "so you know which ones you're looking at," Tower said, "and that you're really looking at the important central nerve cells," not less important "local cells" that are easier to revive. The marking method is injection of a protein called HRP—for horseradish peroxidase—because it comes from the common horseradish.

Finally, Tower said, scientists have discovered new "nerve growth factors," proteins that combine with elements in the cells to help them grow. Rita Levi-Montalcini of the Laboratory of Cell Biology in Rome injected one such factor into the brains of young rats, and achieved not only growth of nerve cell axons but growth in a specific, desired direction.

Some researchers have attacked the problem more directly—cutting the spinal cords of nerve cells of dogs, cats or rodents and trying to restore growth and function.

Last year Dr. Carl Kao, now of the Veterans Hospital and Georgetown University here, told of his work on dogs in Wisconsin, surgically destroying 40 dogs' spinal cords, then transplanting nerves to restore function—even, apparently, walking—in four dogs.

Critics say he did not prove regrowth of the important long axons in the nervous systems, and probably stimulated only some useless walking-like reflexes in the animals' limbs.

Kao and his group are working with cats now, but he warned that there can be no application yet to human paraplegics.

"The science is not ready," he said at the Smithsonian. "We need more basic scientific information."

Dr. Albert Aguayo of McGill University, Montreal, who has also worked with small mammals—rats and mice—said, "You can get the axons to grow a few millimeters. But how do you get them to fill the gap"—to grow enough to cross the synapse or connection between cells—"so that's where we need basic research."

Dr. Richard Wyatt of St. Elizabeths Hospital and the National Institute of Mental Health told of his group's striking new work in grafting brain tissue from healthy to brain-damaged rats to alleviate movement disorders. It is possible, he said, that a grafting method might eventually help implant new nerve cells to correct human movement problems.

One thing scientists cannot say, these scientists emphasize, is where any new science will really take them.

The same facts that may or may not make nerve regeneration or nerve implants possible might combat diseases that attack nerve cells, like rabies and tetanus. Or the same information might combat the many nerve disorders that destroy normal movement, speech and intelligence.

"What we can say," said NIH's Tower, "is that we've now got a lot of very bright people interested and working hard. And that's really the exciting thing. That's really the essential ingredient.

"We're now building up a critical mass that's inevitably going to pay some handsome dividends." ●

THE 50TH ANNIVERSARY OF THE INAUGURATION OF HERBERT HOOVER AS THE 31ST PRESIDENT OF THE UNITED STATES

● Mr. HATFIELD. Mr. President, despite the presence of a Secretary of Labor in the Harding and Coolidge cabinets, Secretary of Commerce Herbert Hoover played perhaps the major role in the formulation of labor policy under those two Presidents. Hoover's keen interest in labor problems resulted from his conviction that they were key to the Nation's ability to recover from the disruption of World War I. Unemployment and labor unrest were rampant after the war. Yet, by 1928, prosperity among the workingman and the improvement in working conditions were such that labor, which had opposed the previous two Republican Presidential candidates, did not enter the partisan fray, and John L. Lewis called Hoover "the foremost industrial spokesman of modern times."

Robert H. Zieger, professor of history at Wayne State University in Detroit, has written an essay discussing Hoover's labor policies during the decade preceding his election to the Presidency in 1928. Professor Zieger has submitted the essay to me for inclusion in the series of essays commemorating the 50th anniversary of the inauguration of Hoover in 1929 as our 31st President.

Hoover's involvement in labor matters predated his Cabinet appointment. Upon his return from Europe in 1919, Hoover accepted appointment to President Wilson's second industrial conference, which unsuccessfully sought solutions to existing labor problems. He later turned the attention of the Federated American Engineering Societies (FAES), of which he was president, to these same problems in the hope that the engineers' scientific approach would contribute to solutions. Hoover appointed a special study group within the FAES to study the problems of waste in industry. The group concluded that business, rather than labor, was primarily responsible for reducing waste and increasing efficiency in industry. The report of the group also endorsed collective bargaining and opposed wage reductions. Naturally, these findings were welcomed by labor organizations.

Hoover wanted to develop a cooperative spirit between business and labor by creating "shop councils," which according to Professor Zieger would be "democratically elected bodies of workmen to cooperate with management to increase production while combating the deadening routinization of what had come to characterize so much of modern production." Despite the personal rapport between Hoover and Samuel Gompers of the American Federation of Labor, the AFL rejected these shop councils as merely extensions of company unions, which many companies were promoting to undermine genuine labor organizations.

As Secretary of Commerce, Hoover had the opportunity to put into place his proposed solutions to unemployment and unrest. Typical of his lifetime approach to social problems, he did not seek legislative or coercive solutions to improve the working conditions of workers. Rather, the Federal Government encouraged State and local governments, private charities, and businesses to press for improvement. As a primary example, he sought a reduction from the 12-hour day to an 8-hour day for steel company employees. By encouraging private studies of the effect of the long working day, warning company leaders of public repugnance against the long hours, and skillful use of the press to further his ends, Hoover finally won the acquiescense of the companies. He was justifiably proud of this accomplishment.

Hoover's primary ends in regard to the labor movement were to create harmony and cooperation where conflict and resentment existed, through improvement in the living standard of workers, and a voice for workers in industrial policies. To obtain the first of these, he favored high wages, tax policies favoring workers, easy credit, and mass ownership of homes and autos. Undeniably, the standard of living of workers improved dramatically in the 1920's. Hoover was less successful in obtaining for workers a voice in their destiny. Even before the Depression, companies were abandoning even the pretense of employee representation.

Mr. President, the 1920's were critical years in the history of our Republic, and Herbert Hoover was as influential as any Government official in those days. His role in industry and labor was particularly important. I recommend Professor Zieger's essay, which objectively analyzes Hoover's successes and failures in the labor field to my colleagues and other readers of the Record.

I request that Professor Zieger's essay and a biographic sketch of the author be printed in the Record.

The requested material follows:

Biographic Sketch of Robert H. Zieger

Born: August 2, 1938.

Education: B.A., Montclair State College, 1960; M.A., University of Wyoming, 1961; Ph.D., University of Maryland, 1965.

Professional Experience: From Assistant Professor to Associate Professor, University of Wisconsin-Stevens Point, 1964–1972; Associate Professor, Kansas State University, 1972–77; Professor of History, Wayne State University, 1977– .

Memberships: American Historical Association; Organization of American Historians.

Publications: From Hostility to Moderation: Railroad Labor Policy in the 1920's, *Labor History,* winter 1968; Republicans and Labor, 1919–1929, University of Kentucky, 1969; Workers and Scholars: Recent Trends in American Labor Historiography, *Labor History,* spring 1972; Herbert Hoover: a Reinterpretation, *American History Review,* 10–76; The Limits of Militancy: Organizing Paper Workers, 1933–35, *J. Am. Hist.,* 12–76; Madison's Battery Workers, 1934–1952: A History of Federal Labor Union 1958, New York State School of Industrial & Labor Relations, 1977; Herbert Hoover, The Wage Earner and the New Economic System, *Bus. Hist. Rev.,* summer 1977.

Solving the Labor Problem: Herbert Hoover and the American Worker in the 1920's

For presidential candidate Herbert Hoover, the contrast between the America that he found upon his return from Europe in 1919 and the land that his campaign crisscrossed in 1928 was startling indeed. In the postwar years, the country had seethed with labor unrest. Unemployment stalked the land, as immigrants and returning veterans competed for jobs. "Discontent and agitation against our democracy were rampant," the candidate recalled. "Fear for the future haunted every heart." Seven years of Republican policies had worked wonders. The country's unparalleled prosperity had dried up unemployment and promised to abolish poverty itself. Home-ownership, mass purchase of automobiles, and wide distribution of telephones, radios, and other appliances stood as testimony to the success of Republican economic programs, most of which bore the imprint of the energetic Secretary of Commerce who now sought the presidency. Throughout the decade, strikes had steadily diminished in frequency and intensity, while organized labor, a source of disputation and conflict after the war, had settled into quiescence. Thus, in his major speeches during the campaign, Hoover had only to remind American workers of their good fortune, pausing but briefly to mention specific issues of concern to the labor movement. Organized labor, outspoken in its opposition to Republican candidates in the past two presidential contests, stood on the sidelines in 1928. "Today," declared AFL secretary-treasurer Frank Morrison, "party spirit has disappeared as far as the great mass of workers is concerned." Hoover, intoned John L. Lewis, was "the foremost industrial statesman of modern times."

It all seemed so easy, so effortless. Yet Hoover knew—and reminded his audiences—that the resolution of the labor problem had taken a major commitment of his energies throughout his busy years as Secretary of Commerce. "This recovery and this stability," he told 10,000 party faithfuls in the Newark Armory in September, "are no accident." The record showed that "sound governmental policies and wise leadership" had caused this happy state of affairs. Of course, in good part, recovery prosperity, and industrial advance stemmed from the GOP's commitment to private enterprise and its avoidance of foreign expedients such as "doles, subsidies, charity, or inflation." Still, Hoover believed that the equitable solutions to outstanding problems of unemployment, industrial unrest, poor living and working conditions, and hostility between employer and employee that America had achieved by the late 1920s were rooted in conscious and energetic policies that the Harding and Coolidge Administrations had pursued. And Hoover, as the chief architect of these policies, proudly ran on the basis of the record they had compiled.

Concern with labor matters loomed large throughout Hoover's tenure as Secretary of Commerce. Even prior to joining Harding's cabinet, Hoover had undertaken significant public efforts to meet the turbulent problems of post-war America. Appointed in November, 1919, to President Wilson's Second Industrial Conference, Hoover had dominated that body which drafted a wide range of recommendations designed to ease labor unrest, to establish permanent machinery for the amelioration of industrial conflict, and to create new structure for labor representation. The failure of these proposals to generate public interest only strengthened Hoover's resolve to press on with the task of bringing informed intelligence and rational debate to the labor problem. Even though the level of overt unrest had declined by the Spring of 1920, when the Conference report appeared, he remained convinced that labor problems remained at the heart of the country's ability to recover from the turbulence of the war and to forge a new and just society.

Increasingly, Hoover turned to the engineering movement to stimulate public awareness of labor and economic problems. In November, 1920, he accepted the presidency of the Federated American Engineering Societies. The FAES was established as a kind of caucus of progressive elements in the various engineering societies and Hoover accepted the presidency as a means of using engineering talent and methods in the resolution of social and economic pathologies. "The problems facing America today," he declared in 1920, "if attacked in the scientific spirit, will yield . . . happy results."

As president of the FAES, Hoover embarked on a two-fold approach to the labor problem. He sought to promote engineering research on the broad problems of industrial dislocation, waste, and resultant social conflict. At the same time, he cast out lines of liaison to the labor movement, seeking to enlist Samuel Gompers and other leaders of the American Federation of Labor in his effort to promote efficiency and harmony, both on the shop floor and in society at large. One of Hoover's first acts as FAES president was to appoint a committee, directed by his chief aide, Edward Eyre Hunt, to study the problem of waste in industry. Published in June, 1921, under the title Waste In Industry, the committee's report focused attention on the organizational and technological problems that lay behind recent social unrest. It endorsed collective bargaining, opposed wage reductions (a popular device among businessmen in the deflationary postwar economy), and attacked the notion that irresponsible labor agitation was primarily to blame for the country's turbulence and discontent. The report went on to argue that the responsibility for reducing waste and improving efficiency lay overwhelmingly with corporations and businessmen, thus implicitly defending workers from the then-widespread charge that erosion of the work ethic, labor agitation, and loss of individual incentive lay at the root of social malaise. Despite the hostility of conservative engineers and some businessmen to the report, Hoover endorsed it as "carefully planned and rapidly executed."

Organized labor also greeted the report enthusiastically, for it endorsed the AFL's opposition to wage cuts and its professions of innocence to charge of agitation and opposition to technological advance. Throughout his tenure as FAES president, Hoover sought to bring organized labor's representatives into fruitful contact with enlightened engineers and corporation executives. He believed the AFL to be a bastion of patriotism and conservatism and regularly castigated those in the business community who attacked the Federation. He corresponded and conferred repeatedly with Samuel Gompers, while his aides and associates maintained close contact with other laborites, themselves seeking reassurance in the increasingly anti-labor post-war atmosphere. In all of these contacts, Hoover and his engineering associates reminded the labor movement that it had friends in the business community and stressed to laborites their view that application of engineering methods to industrial and economic problems was not synonymous with the speed up and would not result in arbitrary changes in protective work rules. At the same time, Hoover urged laborites to appreciate the need to increase productivity, asking them to join in the effort to streamline the work-place and reorganize industrial processes so as to expand output.

The high point of this effort at labor-engineering cooperation occurred on November 16, 1920, when Hoover and fellow engieer and businessman Robert B. Wolf appeared before the AFL Executive Council. The AFL was still reeling from the disastrous defeat that the Republican party had just two weeks before inflicted on labor's candidate, Democrat James M. Cox. Clearly slated for a key role in the next administration, Hoover renewed his efforts to allay the fears of the laborites. At the same time, he stressed the need for efficiency and harmony between employer and employee. In his mind, this was no vague conception but rather a concrete plan of action. It would involve, he felt, moving beyond collective bargaining—which he fully endorsed—to the creation of shop councils at the work place. It would be the function of these democratically-elected bodies of workmen to cooperate with management to increase production while combating the deadening routinization that had come to characterize so much of modern production. Calling for "a renewal of the creative opportunity of the individual workman," Hoover urged organized labor to work with engineers, government officials, and far-sighted businessmen in the creation of a "new economic system" in the years to come.

Grizzled veterans of the labor movement remained skeptical. These "shop councils" bore uncomfortable resemblance to company unions, an increasingly popular stratagem of businessmen seeking to undermine bona fide labor organizations. Laborites welcomed Hoover's endorsement of collective bargaining, his warm words of praise for the AFL, and the engineers' conclusions on the question of waste and inefficiency in industry. Still, although Wolf and Edward Eyre Hunt continued to press AFL leaders to endorse the shop council program, the AFL remained uninterested in such steps toward extra-union labor-management cooperation.

His appointment as Secretary of Commerce in 1921 enabled Hoover to put his ideas directly into action. Throughout his long tenure in the cabinet, Hoover constantly aggrandized the role and functions of the Department, perceiving it as the lynchpin of the government's efforts to encourage and unleash the energies of the free enterprise system. He insisted that he would enter the cabinet only if he would "have a voice on major policies involving labor," for he saw the workingman at the center of the effort to create a viable economic and social system in the wage of war. Since Harding's Secretary of Labor, James J. Davis, was a bland, glad-handing fraternal order executive, Hoover had little difficulty in becoming the major figure in the two GOP administrations of the Twenties in matters concerning labor.

Hoover's aides and associates believed that in the cabinet, their "chief" could put into practice his ideas for social and economic reconstruction. Remarked Hunt, "Mr. Hoover sees in the Department of Commerce a great opportunity to make the work of the engineers effective on a national scale." Quickly, however, the new secretary realized that, before he could move on a broad front, he had to deal with difficult, immediate problems. Thus, much of his time in regard to labor matters was spent on specific problems of industrial unrest and unemployment.

In general, of course, Hoover believed that the proper vehicles for action against social problems were private. Still, occasionally there was a need for forceful public action. If American workers were to achieve the prosperity and self-respect necessary for their full integration into the economic system, such inequities as unemployment and the long working day had to be eliminated. Thus, as joblessness persisted into the early months of the Harding administration, and as criticism mounted against the long working day, especially in the steel industry, Hoover led the administration's efforts to improve conditions.

In acknowledging a role for government, however, Hoover foreswore legislative or coercive actions. The proper response to joblessness, for example, lay not in direct federal aid to the unfortunate or in the creation of government jobs. Instead, he believed that the administration could best alleviate the situation by encouraging private charities, state and local governments, and private business to provide relief and employment. From mid-1921 through early 1922, Hoover mobilized academic and engineering experts, businessmen, labor leaders, and public officials in the President's Conference on Unemployment. Through its various committees, the Conference evolved elaborate plans for coordination of private, state, and local relief efforts. Following Hoover's lead, the Conference illuminated the part played by industrial mismanagement and poor economic integration in creating joblessness. Useful in at least suggesting that government had a proper role in coping with unemployment, and thus helping to dispell the notion that loss of a job was proof of individual unworthiness, the Conference nonetheless had little impact on the country's economic plight. During his presidential campaign, Hoover hailed its work, declaring that "Within a year we restored . . . five million workers to employment," but there is little evidence that the Conference, for all its publicity, had a fraction of this impact.

Hoover's campaign against the long work day had more concrete results. For years, public feeling had grown against the long hours that steel companies required of their employees. The bitter strike of 1919, followed by church-sponsored investigations of working hours and conditions in the industry, increased pressure for change. Hoover believed that the twelve-hour day was anachronistic in a society that sought to improve standards for workers and to integrate wage-earners into a prosperous, consumer-oriented economy. Fearful of renewed labor unrest and apprehensive lest liberal enthusiasts seek legislative solution to a problem that, he believed, was best dealt with through voluntaristic action, the Secretary of Commerce sought to persuade major steel producers to shift to the eight hour day.

Between 1921 and 1923, Hoover undertook a shrewd and energetic campaign to accomplish this end. When personal pressure from himself and from President Harding failed to move the steel men, he called upon academicians and engineers to conduct studies of the economic impact of a reduction in working hours. He "kept the pot boiling in the press," he later recalled, and sponsored meetings with industry leaders, warning them of the massive public repugnance against the long working day. Finally, after two years of carefully applied pressure, the magnates reluctantly agreed to move from the twelve to the eight-hour day. Enormously proud of this accomplishment—the achievement of humane and long-overdue reform without resort to bureaucratic regulation or legislative coercion—Hoover later boasted that "Owing to public opinion and some pushing on our part, the twelve-hour day was on the way out in American industry."

The increasingly-influential Secretary of Commerce also played a significant role in the major industrial disputes of the Twenties. In the great coal and railroad strikes of 1922, which involved almost 1,000,000 workers at one point, he worked energetically to arrange non-coercive settlements. Primarily concerned with the impact of these strikes on the economy, he mobilized nonunion soft coal production in an effort to supply the country's needs and to bring pressure on the United Mine Workers and the unionized soft coal producers. When a new round of bituminous coal strikes threatened in 1924, he worked behind the scenes to bring the two parties together to sign the Jacksonville Agreement, an attempt to achieve permanent peace in the coal fields through a three year contract. In addition, Hoover kept a careful eye on labor relations in the anthracite-producing regions, also a constant arena of labor-management discord. When a major strike erupted in 1925, he worked quietly for a settlement, all the while encouraging homeowners and industrial users to shift to petroleum so as to alleviate individual distress and to free the country of the wasteful effects of continual industrial conflict. In dealing with both coal and railroad strikes, Hoover spoke against those in the administration who urged resort to direct federal intervention, especially resisting those who promoted federal force. He believed that the coal industry was anachronistic and wasteful, a chaotic cockpit of competitive bloodletting and labor disputation.

By encouraging the elimination of uneconomic mining operations, consolidation of large-scale production, and judicious shifting to petroleum, he believed, the government could help the nation move away from the contention and acrimony that had characterized coal mining since the 1870s.

Hoover held that these industrial crises were throwbacks to an earlier day. Unemployment and lengthy working hours, he felt certain, could be eliminated through the rational utilization of labor and technology. While strikes were inevitable in a free society, he looked forward to a time when both labor and management would see that cooperative enlistment in the common task—the boosting of productivity and resultant prosperity—paid dividends to both sides. Thus, although he was indefatigable in response to these holdover controversies, he sought constantly to lay the groundwork for long term readjustments in the economic order.

To this end, throughout the 1920s Hoover supported detailed studies of the functioning of the economic system. While government regularly produced statistical information, census data, and other material, he believed that the engineering and academic communities were the best vehicles for broad investigations of the American economy and social order. The Unemployment Conference eventually spawned three such studies, conducted through the auspices of the National Bureau of Economic Research, on a political research agency funded largely by Rockefeller and Carnegie money. The most significant of these, a two volume study entitled Recent Economic Changes, was published in 1929. It provided detailed information on the growing productivity and affluence of the American economy, highlighting recent developments in technology, consumer trends, and managerial techniques. Along with other NBER studies on business cycles and the construction industry, Recent Economic Trends reinforced the findings of the 1921 Waste in Industry study and the general Hooverite view of an economy functioning at high levels of technological performance and managerial expertise, frustrated in its ability to create the foundations of a uniquely prosperous and harmonious society only by lingering and irrelevant class antagonisms, outmoded industrial practices, and (especially in the construction industry) anachronistic work rules and jurisdictional conflicts.

Insofar as the problem of industrial unrest was concerned, Hoover believed that two key factors would work to substitute harmony and cooperation for resentment and conflict. American workers, he believed, required both a rising standard of living and a real voice in the decisions that affected their working lives. Hoover sought to promote the first of these through general economic growth. Throughout the decade he favored tax policies that would benefit lower income groups. He actively encouraged residential construction and widespread home ownership. An enthusiastic booster of the automobile industry, he favored large-scale road construction and mass ownership of private vehicles. An early and consistent supporter of high wage policies in industry, he helped both the advertising and consumer-credit sectors to generate the purchasing power necessary to fulfill these goals.

Certainly, social scientists throughout the 1920s were struck with the spread of consumer affluence over broad segments of the population. Robert and Helen Merrill Lynd, in their massive study of Muncie, Indiana, observed the apparent weakening of class lines, as workers purchased homes, owned automobiles, and participated increasingly in the community's recreational life. Economist Leo Wolman's chapters in the Recent Economic Changes volume, together with much of the material in another Hoover-inspired study, *Recent Social Changes in the United States*, reinforced these findings and projected them on a national scale. Thus, Hoover was free in his 1928 campaign to buttress his claims with impressive statistics. In the 1920s, he declared, national income had increased by 45 percent and production by 25 percent. "These increases," he insisted, "have been widely spread among our whole people." He pointed to the construction of 3.5 million new homes, the electrification of over 9 million residences, the installation of over 6 million telephones, the purchase of 7 million radios, and the sale of more than 14 million automobiles. Wolman, a trade union economist, developed statistical information in *Recent Economic Changes* that indicated that access to these labor-saving and pleasure-giving devices had reacned well into the working class.

The second requirement for the full integration of workers into American life—their effective representation in American sectors to generate the purchasing power necessary to fulfill these goals.

The second requirement for the full integration of workers into American life—their effective representation in American industry—however, was more problematic. Indeed, Hoover never came to grips with this central problem; only the enfeeblement and lassitude of the labor movement in the late 1920s concealed the extent to which American workers remained largely without power of influence in establishing the conditions of employment under which they toiled. With mebership in unions plummeting from over 5 mililon in 1919 to just over 3 million in 1929 and the vast mass production sector of the economy almost completely bereft of unionism, American workers had little voice through the traditional means of representation.

To some corporate and academic observers in the 1920s, employee representation plans or shop councils filled the void. In the Report of the Second Industrial Conference, Hoover advocated the creation of shop councils, holding that the settlement of labor conflict "must come from the bottom, not the top" through "deliberate organization" of the relationship between workers and employers at the shop level. Hoover supported the efforts of such large modern corporations as Standard Oil, International Harvester, and American Telephone and Telegraph to provide organization for employees through company-sponsored plans of representation. To such executives and personnel specialists as Clarence J. Hicks, Cyrus Ching, Arthur H. Young, and Alexander Legge, all close to Hoover, concern for employee welfare, including efforts to establish communication with workers through various plans of representation, made sense.

For leaders of the mass production industries, employee representation through company auspices usefully challenged the American Federation of Labor. Their objections to the AFL rested less on the view that organized labor, as then constituted, was too radical or too aggressive; rather they felt that the endless craft divisions and jurisdictional quibbling so cherished by the labor chieftains in the Federation made efficient operation of a modern plant and the rational conduct of collective dealing with employees frustrating and even impossible. Moreover, Hicks, personnel director of Standard Oil of New Jersey and one of the most influential proponents of welfare capitalism, believed that the AFL simply did not care about organizing unskilled and semiskilled workers in mass production anyhow. No wonder the AFL was skeptical of employee representation plans, Hicks mused, for the Federation had never seriously sought to represent any but the highly skilled workers anyhow. By the late 1920s, a number of prominent academic observers, including some such as Leo Wolman and George Barnet of John Hopkins University with ties to the labor movement, had concluded that employee representation plans, shop councils, and other forms of worker representation parallel to or in place of traditional unions were permanent features in the American industrial landscape, challenging the traditional labor movement for the allegiance of workers. With over 2,000,000 workers enrolled in such programs by 1929, these analyses seemed entirely plausible.

Employee representation never fulfilled the promises of the 1920s. For every plan that functioned as a real and legitimate vehicle for workers' views, there were a dozen that sought only to deflect worker discontent and undermine bona fide unionism. Even the best-intentioned plans degenerated into trivial collaborationism. Even before the Depression caused many companies to abandon such "frills" as employee representation, few plans functioned with any semblance of democratic legitimacy.

It might have been otherwise. Organizations apart from or parallel to labor unions have played legitimate roles in workers' efforts to control the work place and to assert a voice in industrial government. The shop steward movement in Great Britain, for example, which flourished immediately after the War, bypassed trade union bureaucracies, providing a militant, rank-and-file perspective on the shop floor. In European countries, especially since World War II, plant councils, functioning independently of the unions per se, have become integral parts of the German, French, and Italian industrial relations systems. However, neither Hoover nor the corporate enthusiasts for the shop councils and employee representation plans that arose in the 1920s very clearly articulated what they meant by these devices. Certainly, Hoover who had seen at firsthand some of the angry post-war unrest in England, would not have envisioned an aggressive shop level confrontationist model as appropriate for America. And, while Hicks and other corporate promoters of various representation plans scored points in their deriding of the craft-bound, slothful, and archaic AFL, few of the industry-sponsored plans that they promoted provided autonomous and democratic representation for workers. Certainly, no corporate leader of the 1920s thought in terms of codetermination.

Thus, as he campaigned for the presidency in 1928, Hoover's vision for the American worker remained only partially realized. His speeches extolled the reduction of industrial unrest, the rising prosperity enjoyed by workers and their families, and the efforts that he had sponsored to bring rational intelligence to bear upon economic and social problems. At the same time, he viewed with apparent equanimity the shrinkage of the labor movement and its almost total exclusion from the great mass production industries. Employee representation, he believed, was a natural concomitant of the emerging industrial order, as enlightened managers devised means outside the unions to integrate workers into the system, both on the shop floor and in the larger economy. In 1920, Hoover had asserted that "the friction between employer and employee in developing collective bargaining arises almost wholly over the question of representation and questions of enforcement." The force of that observation would be driven home in thousands of strikes and picket lines in the turbulent years that followed Hoover's successful campaign for the presidency.

Short Bibliography Note

The conclusions in his paper are based largely on research conducted in 1966 and 1973 at the Herbert Hoover Presidential Library, West Branch, Iowa. A short list of published works follows:

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AMERICAN SECURITY

● Mr. STEVENSON. Mr. President, Senator Kennedy recently addressed the Chicago Council on Foreign Relations on American security. He made many thoughtful comments about the position of the United States in a turbulent world little influenced by traditional instruments of power. Mr. President, I commend his address to my colleagues and request for it to be printed in the Record.

The address follows:

Address on "American Security" by Senator Edward M. Kennedy

It is a pleasure to meet again with the members of the Chicago Council on Foreign Relations. From a city in the heartland of the nation, you in this forum look across the seas to the challenges America faces in the wider world.

First, I want to say a brief word about events in Iran. Our primary concern is the safe and early release of our fellow citizens now being held as hostages in Tehran. I fully support our country's effort to free them. Whatever the grievances against the Shah and his regime, there is no justification for terrorist actions and outlaw conduct.

All Americans condemn this flagrant violation of international law. We are one nation indivisible in our determination to protect our diplomats everywhere in the world, and never to submit to blackmail anywhere in the world.

I believe that in the 1980's, Americans can look to the wider world and lead with a new sense of confidence.

There are too many today who see a false image of the United States. They see temporary stumblings as evidence of permanent disability. They suspect that we cannot stand up for our interests and speak up for our ideals.

I reject that vision and that verdict.

I do not believe that any of us would trade America's place in the world with any other nation. We can regain the productive capacity of our industry and sustain the abundance of our agriculture. We can reclaim our leadership in technological innovation and renew the vitality of our economy.

Defense is the cornerstone of foreign policy, but the foundation is the strength and prosperity of our own society. National security begins at home. We will be weak in the world so long as the dollar is weak. We will be insecure in the world so long as inflation subverts our economy. We will be diminished in the world so long as others dictate the terms of our energy supply.

The day is past when foreign policy fit into a neat category of its own separate from the other great issues. In the year ahead, every speech on the economy or energy in effect will also be a speech on foreign policy. Unless we can restore our economy and resolve our energy crisis, our potential role in the world will continue to be questioned by our allies and challenged by our adversaries.

At the same time, new forces of change and instability are erupting around the world. Nations are insensitive and ineffective in meeting the plight of refugees and the continuing shame of global hunger.

We also witness the emergence of new centers of political and economic power. Revolutionary upheavals, religious nationalism and regional conflicts test American resolve. The Yankee trader is being out traded in the global market place. Ten years ago, we had barely heard of OPEC. Today its shadow falls across every American factory, farm and home.

These are the new realities of foreign policy that confront us in the decade of the 1980s. And we must face the fact that the old danger now intrudes with a new and threatening reality. We must deal with the dual danger of a Soviet arsenal of mounting weaponry and a Soviet policy of constant probing wherever they see opportunity and vulnerability.

The painful lesson of the past is that we cannot act as a world policeman. But the emerging lesson of Iran is that we cannot withdraw into heedless hibernation from the world.

The military balance between the United States and the Soviet Union is central to our national defense. What makes the present situation so different from the past is the approximate military parity between our two countries. It took the Soviets almost three decades to match our power. They have spent vast sums on their military, at the expense of their consumer economy. In all probability, they will continue to make other sacrifices in order to expand their military might.

The United States must not retreat in the face of rising Soviet power. This nation must never accept second place in national security.

That is why I favor all necessary spending for effective strategic and conventional forces. That is why I favor the current development phase of the MX mobile missile system, with a full study of alternative missiles and basing structures before proceeding with deployment. That is why I favor the SALT agreement before the Senate. SALT enhances our security, by setting limits on the weapons each side can deploy. The rejection of SALT would damage our security, by removing significant constraints on Soviet strategic arms. It would signal a new era of confrontation between our nations.

And the process of negotiation must go forward.

Beyond SALT II lies the prospect of SALT III and the promise of meaningful reductions in nuclear weapons, instead of mere limits on their growing numbers. By the expiration of SALT II in 1985, the United States and the Soviet Union together could possess some 22,000 nuclear warheads. We must find a way to halt this awesome proliferation of the means of mass destruction.

A second challenge for defense policy is to strengthen our general purpose forces.

The price of weapons has soared over the past three decades. Even excluding inflation, the price of a main battle tank has multiplied by 10, the price of a standard fighter plane by 100, and the price of the radar and other electronics in that plane a 1000 times over.

We must continue to develop sophisticated weapons, because we cannot counter modern Soviet forces with the arsenal of the 1960's. But few experts would contend that the improved performances of these weapons on the battlefield is proportional to their increased price. To pay for more expensive systems within a budgetary ceiling, successive Administrations have sacrificed other values. Despite huge expenditures on defense, the basic values needed to keep a military force ready, reliable and capable of combat have suffered.

Quantity has suffered. While we do need sophisticated weapons, we must not pay for those we do not need. Instead of gold plating every new ship, plane, and tank, we should concentrate on a sufficient quantity of weapons that can do the job. Instead of building one more nuclear aircraft carrier, we could buy six attack submarines.

Readiness has suffered. On any given day, one-third to one-half of our ships and planes are not prepared for battle. Yet it costs only ten percent as much to make a plane combat-ready as it does to buy a new one. If we raised our readiness by ten percent, we could add over 400 Air Force, Navy and Marine Corps planes to our active arsenal.

Training and personnel have suffered. Many pilots fire only one live missile at a target every two years. Weapons are only as good as the people who operate them. The most important personnel problem of our armed forces is not recruitment—which is what the controversy over the All Volunteer Force is all about. The most important problem is retention—retention of adequate numbers of men and women with experience, skills, and motivation in military service.

As civilian executives know, if you cannot keep experienced managers and skilled operators on the job, you have lost the core of the business. The institutional memory is gone. Our armed forces have faced that plight for many years. The chief petty officers who actually run the Navy, the sergeants who run the other services, are forsaking their careers for the added benefits of private life.

We must reverse the drain on our military forces. We must offer the pay, housing, medical care, education, and other facilities necessary to conserve our resources of trained servicemen and women.

As we enter a new decade, our defense priority must be to make our forces ready, reliable, combat-capable—and, in the long run, cheaper.

In the 1970s, Americans spent over a trillion dollars for defense. Because defense takes so much of our money, we owe it to the taxpayers not to play a simplistic game of numbers with the budget for national security. We owe it to the American people not to engage in empty debates over arbitrary percentages of budget growth. The important question is not how much we buy, but whether it enhances our security.

John Stennis, the Chairman of the Senate Armed Services Committee, was right when he said before voting against an amendment for 5 percent real growth in defense spending:

"Beware, beware of this process. It breeds trouble; it does not have the technical basis; it does not have the analysis; it does not have the recommendations, except just the dollar amount."

We must spend to be secure in fact, not for the psychic satisfaction of feeling that military spending is going up.

The challenge of this era in defense and foreign policy is more subtle than mere money for military hardware. No matter how much we have, we cannot pursue our global purposes on our own. We must reinforce our alliances from Western Europe to Asia to the Middle East. We should plan for collective security and for other initiatives—political and economic—that will serve our common interests.

In Europe, the NATO ministers will meet this week to consider how to enhance the Alliance's nuclear deterrent. NATO should move toward modernization of theater nuclear forces while seeking force reductions on both sides.

In the Middle East, Israel is—and will continue to be—a sure and certain ally.

The security of Israel is indispensable to the security of the United States.

We must seek to advance the peace process that President Sadat and Prime Minister Begin so bravely initiated. We must encourage the other nations in the region to join in the negotiations.

And we must never give terrorism the stamp of our approval by openly or covertly dealing with the P.L.O. The P.L.O. cannot contribute to the peace as long as it has an oath registered in its basic covenant to destroy the state of Israel.

In addition to our traditional defense alliances, we must also form a new alliance for energy. A NATO to defend Europe must be matched by an alliance for collective energy security. This alliance should provide for more effective conservation. It should also provide for increased oil sharing in an emergency.

It should offer every nation the opportunity to be a partner; but it should assure that never again will America and its allies become victims. The alliance should help other countries to tap potential resources of energy. According to the World Bank, 44 developing nations need assistance for oil exploration and production.

Within our own hemisphere, we should establish new arrangements of cooperation, not exploitation, with Canada, Mexico, Venezuela and others to develop oil and gas supplies.

Finally, in foreign policy, Americans have always known that strength comes from right as well as might.

On this 31st anniversary of the Declaration of Human Rights, we should reaffirm our commitment to the rights which have always been the highest purpose of our country. It is to the United States that people defect, not to the Soviet Union. And it should be the United States that people see as a source of progress, not the Soviet Union.

Today, one-third of the planet is ill-housed, ill-clothed, and ill-fed. The refugees of Southeast Asia and the families in the huts and villages around the globe seek freedom from both poverty and repression. Our resources of food, technology, and diplomacy can advance our national interests by assisting their efforts to advance themselves.

We need not be late to problems and short on solutions. Surely a nation that could deliver bombs to Cambodian rice fields in a matter of hours can deliver rice to starving Cambodian children without a delay of months.

Other times in our history have brought change and peril. America began as a tiny band of colonists struggling against an empire. We passed from one World War to another and into a Cold War that several times took us to the brink of a final conflict. We have experienced success and setback. But in the long view of history, not the short-sight of a moment, we have always won through to an "ultimate triumph", as Franklin Roosevelt confidently said on the dark day after Pearl Harbor.

Let us be confident again. Let us summon and strengthen all the parts of our power—military, moral, economic and political—and the power of our allies as well, for we are not alone.

Let us shape a policy that will assure the survival and prosperity of our system and our society—and that can secure the ultimate triumph of our ideals.

As Franklin Roosevelt once said, "There are no limitations upon the nation's capacity to obtain and maintain true freedom, no limitations except the strength of our nation's desire and determination." ●

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess daily at the close of business next week and that it convene at the hour of 9 o'clock daily through Saturday of next week with the exception of Monday for which the order has already been entered.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I do not think I have to object, but I state to my good friend that I have been requested to object to such requests if there is to be a cloture motion filed on any one of those days.

Mr. ROBERT C. BYRD. I cannot foresee what day a cloture motion might be filed.

This poses no problem for me whatsoever. I understand the distinguished acting Republican leader, and I withdraw the request.

Mr. STEVENS. Will the Senator rephrase the motion to state that if there is a cloture motion filed that it be voted on on any of those days, that before the vote occur there be a cloture period start at noon? The session will start whatever day the Senator wants at whatever time he wants but that cloture period will start at noon.

Mr. ROBERT C. BYRD. That is very agreeable. I make that request that the 1 hour under cloture begin running at 12 noon on any day of next week. No, I withdraw that. I withdraw the entire request.

I have no problem with coming in at any hour the Senate needs to come in.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will come in tomorrow morning at 9 a.m.

I wonder if the distinguished acting Republican leader will agree to vitiation of the standing order for the leaders or their designees on tomorrow, perhaps cutting it down to a couple minutes each or 3 minutes, or something like that.

Mr. STEVENS. Yes. I am agreeable to that. I do believe I have a request for 3 minutes again tomorrow so if the leader will cut it to 3, I appreciate it.

ORDER REDUCING LEADERSHIP TIME ON TOMORROW

Mr. ROBERT C. BYRD. Yes. Three minutes each on tomorrow. I so ask unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, following the recognition of the two leaders or their designees tomorrow, the Senate will resume consideration of the pending unfinished business and at that time when the Senate resumes consideration I will put in a quorum call. It will be live. There will be a rollcall vote to instruct the Sergeant at Arms to request the attendance of absent Senators. I will do that for the purpose of getting Senators here knowing what our attendance is early and getting movement started on this bill as early as possible tomorrow with amendments to be called up and voted on.

The Senate will be in all day tomorrow. I hope that no Senators will be under any illusions that tomorrow being a Saturday we will be out by 12:30 p.m., 1 p.m., 1:30 p.m., 2 p.m., or 2:30 p.m., or any such.

It is my desire to stay tomorrow until

5 or 6 pm. at the earliest, and I hope that that will be sufficient for the day.

But obviously if the Senate were within shooting distance of final passage of the bill, and I doubt that will be the case, but if it were by 6 p.m., we could finish by 7 p.m., I wish to stay until 7 p.m., but give or take a little I think 6 p.m. tomorrow afternoon will be a good hour.

So I hope Senators and their staffs will be well aware of this so their schedules will be made accordingly.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President. I ask that morning business be closed.

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of H.R. 3919.

Mr. ROBERT C. BYRD. Mr. President, what is the pending business before the Senate now?

The PRESIDING OFFICER. The unfinished business is H.R. 3919.

Mr. ROBERT C. BYRD. I thank the Chair.

CLOTURE MOTION

Mr. ROBERT C. BYRD. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

> We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the reported amendment in the nature of a substitute to H.R. 3919, an Act to impose a windfall profit tax on domestic crude oil.
>
> Robert C. Byrd, Claiborne Pell, Bill Bradley, Spark Matsunaga, Walter D. Huddleston, Dale Bumpers, Gaylord Nelson, Richard Stone, Max Baucus, Donald Stewart, Lawton Chiles, Daniel Patrick Moynihan, Patrick J. Leahy, Abraham Ribicoff, Edmund S. Muskie, Howard M. Metzenbaum, Jennings Randolph, and Carl Levin.

Mr. ROBERT C. BYRD. Mr. President, I wonder if the distinguished acting Republican leader would agree—I already have the order to come in Monday at noon. The reason I set the hour at noon was to permit the 1 hour under cloture to begin running at noon. I would like to come in earlier in the hope that we could finish this bill on Monday, but with the understanding made clear by an order of the Senate that the 1 hour under cloture would start running at noon and not at the hour of convening. I would like to come in at 10 o'clock that morning and the Senate might be able to dispose of several amendments before noon.

Mr. STEVENS. I believe that would be in the best interests of the Senate, and I would have no objection so long as it is clearly understood that the hour for the cloture procedure would commence at noon and a vote would take place after the normal quorum call.

ORDER FOR RECESS UNTIL 10 A.M. MONDAY FROM DECEMBER 15, 1979, AND 1 HOUR UNDER CLOTURE TO BEGIN RUNNING AT 12 NOON ON MONDAY

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

I ask unanimous consent that when the Senate completes its business on tomorrow it stand in recess until the hour of 10 a.m. on Monday, with the understanding that 1 hour under the cloture rule to begin running at 12 o'clock meridian.

The PRESIDING OFFICER. Without objection, it is so ordered.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

Mr. STEVENS. Mr. President, I would not like to close the day without again thanking the distinguished Senator from Kansas, the Senator from Louisiana for the long, hard work they have done.

I share the majority leader's hope now that it may be possible to complete this bill without cloture, and I would urge all Senators to deal with the staffs of both the managers of the bill and, as indicated, the Senator from Ohio has decided he would like to be consulted on each amendment before any consent is requested, and that is his prerogative.

But it does seem to me we might be able to work our way through this bill to the point where we would not even have to go through the cloture procedure on Monday. That would be pleasant, I think, for all of us, and I would be prepared to work for that if it is at all possible, and I hope it will be possible. But the two managers of this bill, as always, in dealing with their revenue measure have been under intense pressure, and I am hopeful we will finish at a decent hour tomorrow evening so that they can spend the evenings on Saturday and on Sunday with their families and be able to come in and finish this bill on Monday.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader. Once again I want to express my appreciation to the Senators on both sides of the aisle who spent many, many hours during a period of several days, and I particularly want to thank the staffs, Messrs. Shapiro and Wetzler——

Mr. STEVENS. And Jack Nutter and Bob Lighthizer over here, who have been similarly engaged.

Mr. ROBERT C. BYRD. They are members of the staffs of the Committee on Taxation and of the Finance Committee.

I want to thank Cindy Lebow, who is a member of the Democratic policy staff, for the contributions that she made. Without those staff people and without their dedicated efforts and their expertise, the Senate would not have made progress to the point that we have reached.

So I personally express my appreciation to all of them and say that the Senate is in their debt.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 7:14 p.m. the Senate recessed until Saturday, December 15, 1979, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate December 14, 1979:

DEPARTMENT OF STATE

James W. Spain, of California, a Foreign Service officer of the class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Turkey.

DEPARTMENT OF COMMERCE

Luther H. Hodges, Jr., of North Carolina, to be Deputy Secretary of Commerce (new position).

THE JUDICIARY

Henry Woods, of Arkansas, to be U.S. district judge for the eastern district of Arkansas, vice a new position created by Public Law 95-486, approved October 20, 1978.

Raul A. Ramirez, of California, to be U.S. district judge for the eastern district of California, vice a new position created by Public Law 95-486, approved October 20, 1678.

Richard W. Arnold, of Arkansas, to be U.S. circuit judge for the eighth circuit vice a new position created by Public Law 95-486 approved October 20, 1978.

IN THE AIR FORCE

The following-named officers for promotion in the Regular Air Force, under the appropriate provisions of chapter 835, title 10, United States Code, as amended. All officers are subject to physical examination required by law:

LINE OF THE AIR FORCE

First lieutenant to captain

Abati, David W., [redacted].
Abbott, James E., [redacted].
Abbott, Steven L., [redacted].
Abernathy, Lynn A., [redacted].
Abrams, Jerry D., [redacted].
Abrams, Lynn J., [redacted].
Accamando, Thomas J., [redacted].
Aceto, Richard A., [redacted].
Acheson, Margo L., Jr., [redacted].
Adams, Catherine M., [redacted].
Adams, Harold R., [redacted].
Adams, Jimmy D., [redacted].
Adams, Kenneth C., [redacted].
Adang, Thomas C., [redacted].
Addison, Johnny O., [redacted].
Addison, Leonard B., [redacted].
Aderhold, David J., [redacted].
Adler, Edward H., [redacted].
Adocchio, Vito A., [redacted].
Adriance, Bruce E., [redacted].
Adsit, Jay R., [redacted].
Agee, David A., [redacted].
Aguirre, Sacasa Rafael E., [redacted].
Ahlberg, Ted M., [redacted].
Aitkencade, Philip B., [redacted].
Akana, Chang K., [redacted].
Akerlind, Nils, Jr., [redacted].
Alba, Roy S., II, [redacted].
Albani, Orlando J., Jr., [redacted].
Albert, Cecilia C., [redacted].
Albert, John G., [redacted].
Albrecht, Franklin J., [redacted].
Alcaparras, Robert J., [redacted].
Alderman, Craig A., [redacted].
Aldrich, Raymon E., [redacted].
Alexaitis, Jon H., [redacted].

Alexander, Glen B., [redacted].
Alexander, Kelly D., [redacted].
Alexander, Ralph Jr., [redacted].
Alfieri, Victor, [redacted].
Alfson, Daniel P., [redacted].
Allen, Andrew R., [redacted].
Allen, Brian R., [redacted].
Allen, Richard K., [redacted].
Allen, Robert H., [redacted].
Allen, Scott C., [redacted].
Alley, Robert L., [redacted].
Allgood, James E., [redacted].
Allwood, Arthur A., Jr., [redacted].
Almeida, James A., [redacted].
Alten, Susan E., [redacted].
Altman, Robert W., [redacted].
Ambrose, Charles E., Jr., [redacted].
Ambrose, Gary A., [redacted].
Ambrose, Janice L., [redacted].
Amend, James B., [redacted].
Amos, Jimmie D., [redacted].
Amrhein, Paul G., [redacted].
Anarde, Russell J., [redacted].
Anastasia, Philip W., Jr., [redacted].
Anawalt, Donald A., [redacted].
Andermann, Brian E., [redacted].
Andersen, Wayne A., [redacted].
Anderson, Emmet D., Jr., [redacted].
Anderson, Erik C., [redacted].
Anderson, Frank J., Jr., [redacted].
Anderson, Gary L., [redacted].
Anderson, Lamarr L., [redacted].
Anderson, Larry O., [redacted].
Anderson, Michael E., [redacted].
Anderson, Ronald C., [redacted].
Anderson, Ronald N., [redacted].
Anderson, Stanley K., [redacted].
Anderson, Steven J., [redacted].
Anderson, Tommy S., [redacted].
Anderson, Walter F., [redacted].
Anderson, Ward M., [redacted].
Anderson, Wayne J., [redacted].
Anderson, William, [redacted].
Andre, Jon T., [redacted].
Andrew, Dennis A., [redacted].
Andrews, Ildiko E., [redacted].
Andrews, Robert L., Jr., [redacted].
Angelico, James V., [redacted].
Angell, Stewart K., [redacted].
Annett, Robert J., [redacted].
Antenen, James L., [redacted].
Apollonio, Thomas P., [redacted].
Appelhans, James T., [redacted].
Apuzzo, Paul J., [redacted].
Arafiles, Virgilio P., [redacted].
Archuleta, Samuel E., [redacted].
Argonti, John J., [redacted].
Arlen, Kenneth D., [redacted].
Armor, James B., Jr., [redacted].
Arms, Anita M., [redacted].
Arnett, James M., [redacted].
Arnold, Arthur W., [redacted].
Arnold, Richard W., [redacted].
Arnold, Vincent A., [redacted].
Arnone, Frank S., [redacted].
Arpin, David A., [redacted].
Artman, David H., Jr., [redacted].
Ashler, Frederick L., [redacted].
Ashman, Thomas R., [redacted].
Ashworth, Jeffrey C., [redacted].
Atherton, Michael J., [redacted].
Atkins, Scott T., [redacted].
Attenborough, Keith R., [redacted].
Aubele, James F., [redacted].
Auerswald, Dennis K., [redacted].
Austin, Dennis L., [redacted].
Austin, William C., [redacted].
Aven, William M., [redacted].
Avila, Edward R., [redacted].
Avvento, Gennaro J., [redacted].
Awtrey, Clyde A., [redacted].
Axelrod, Barry, [redacted].
Ayer, Clifford B., III, [redacted].
Ayers, Thomas K., [redacted].
Babler, Jerry L., [redacted].
Babson, June I. R., [redacted].
Bach, Getorge L., [redacted].
Badger, Arthur D., [redacted].
Badolato, Anthony G., Jr., [redacted].
Baham, Alney A., [redacted].
Bailey, James A., [redacted].
Bailey, Ricky L., [redacted].
Bailey, Stanley D., [redacted].
Baillie, Carl C., [redacted].
Baird, Danny J., [redacted].
Baird, William P., [redacted].
Baker, Allen W., [redacted].
Baker, Curtis A., [redacted].
Baker, James R., [redacted].
Baker, Keith C., [redacted].
Baker, Terry L., [redacted].
Baker, William H., [redacted].
Balash, Lawrence, [redacted].
Balding, Joe M. [redacted].
Ballanco, Edward M., [redacted].
Ballantyne, Ge A. Jr., [redacted].
Ballard, Andrew D., [redacted].
Ballard, Daniel P., [redacted].
Ballard, Ernest J., III, [redacted].
Ballard, Mark R., [redacted].
Baltz, Robert F., [redacted].
Baptiste, Thomas L., [redacted].
Baralli, Janet E., [redacted].
Barbee, Gary M., [redacted].
Barchie, Steven L., [redacted].
Barcus, David M., [redacted].
Barefoot, Thomas R., [redacted].
Baker, William H., Jr., [redacted].
Barlow, Robert A., [redacted].
Barnard, Benjamin H., [redacted].
Barnes, Dieter, [redacted].
Barnes, James H., Jr., [redacted].
Barnick, Ronald S [redacted].
Barr, Barry W., [redacted].
Barranti, John C., [redacted].
Barrett, Charles W., Jr., [redacted].
Barrett, Guy K. [redacted].
Barron, John I., III, [redacted].
Barry, John L., [redacted].
Bartels, Hilmar H., [redacted].
Barthel, Richard L., [redacted].
Bartley, Barbara A., [redacted].
Barton, Harold H., Jr., [redacted].
Bash, Darrell D., [redacted].
Bass, James M. [redacted].
Bass, Roy H., Jr., [redacted].
Bass, William J., [redacted].
Bates, Leonard C., [redacted].
Batt, Miles A. [redacted].
Bauman, Robert H., [redacted].
Baumgartel, Gary P., [redacted].
Baxter, Willie [redacted].
Beal, Byron E., [redacted].
Beal, Earl R., [redacted].
Beally, Timothy N., [redacted].
Beam, Larry C., [redacted].
Bean, Michael D., [redacted].
Beard, John H., [redacted].
Beard, Lee R., [redacted].
Beat, Anthony M., [redacted].
Beauchamp, Dwight E., [redacted].
Beauchamp, Wallace A., III, [redacted].
Beck, William P., [redacted].
Beckett, Edward J., [redacted].
Beckmann, Wilfried N., [redacted].
Bedzyk, William L., [redacted].
Beeler, Carlton E., [redacted].
Beesley, Jon S., [redacted].
Behan, James J., [redacted].
Behr, Robert J., [redacted].
Behrends, Kenneth J., [redacted].
Beigh, Roger A., [redacted].
Belanger, Allen D., [redacted].
Belk, Ronald E. [redacted].
Bell, David G. [redacted].
Bell, Robert A. [redacted].
Bellabona, Joseph A., [redacted].
Bellamy, Acy L., [redacted].
Belle, Donald G., [redacted].
Bender, Duane E., Jr., [redacted].
Bendick, Gordon L., [redacted].
Benefield, Kenneth P., [redacted].
Bennett, Barry L., [redacted].
Bennett, Bruce A., [redacted].
Bennett, Bruce G., [redacted].
Bennett, Charles I., III, [redacted].
Bennett, Douglas L., [redacted].
Bennett, Judith S., [redacted].
Bennett, Keith A., [redacted].
Bennett, Michael G., [redacted].
Bennett, William C., [redacted].
Benoit, Mark E., [redacted].
Bentley, George D., III, [redacted].
Benton, David E., [redacted].
Bentsen, David C., [redacted].
Beres, James A., [redacted].
Bergam, Thomas E., [redacted].
Bergdoll, Robert G., [redacted].
Bernards, Herman J., [redacted].
Berry, James R., [redacted].
Berthold, Robert L., [redacted].
Bertoldi, Thomas R., [redacted].
Bertram, Ronald J., [redacted].
Bessette, Gerald R., [redacted].
Best, Michael A., [redacted].
Bethurum, Leland L., [redacted].
Betka, Bill E., [redacted].
Betts, Denver A., [redacted].
Beyer, Gregory T., [redacted].
Bickhardt, Gerald L., [redacted].
Bielick, Michael J., [redacted].
Bielucki, Michael D., [redacted].
Bierck, William J., Jr., [redacted].
Biggers, Ted H., Jr., [redacted].
Biggs, Charles R., [redacted].
Biggs, John E., [redacted].
Bigum, Randall K., [redacted].
Bishop, John A., Jr., [redacted].
Bishop, Richard H., [redacted].
Bishop, Stephen E., [redacted].
Bittner, Martin M., [redacted].
Bizub, Andrew, Jr., [redacted].
Bjurstrom, Richard G., [redacted].
Black, Arthur N., [redacted].
Black, James O., [redacted].
Black, Roie R., [redacted].
Blackard, Don E., [redacted].
Blaine, Casey L., [redacted].
Blanchard, Samuel A., [redacted].
Blanchette, Jeffrey G., [redacted].
Blandin, Robert R., [redacted].
Blase, Thomas L., [redacted].
Blaylock, Larry D., [redacted].
Blazek, Thomas J., [redacted].
Blecher, John R., [redacted].
Blechschmidt, Douglas A. [redacted].
Blevins, Harrol D., [redacted].
Bley, William R., [redacted].
Block, Leroy A., [redacted].
Blohm, Michael R., [redacted].
Blokland, Gary, [redacted].
Bloomer, Raymond H., Jr., [redacted].
Bloss, Ronald R., [redacted].
Blume, John E., Jr., [redacted].
Boal, Robert H., III, [redacted].
Boden, Daryl G., [redacted].
Boehm, James G., [redacted].
Boehm, Thomas T., [redacted].
Boehmer, Steven C., [redacted].
Boerum, Kenneth R., [redacted].
Bogdanski, Vincent A., [redacted].
Bohlin, Howard R., [redacted].
Bolinger, Robert E., [redacted].
Bolton, James E., [redacted].
Bolton, Jose, [redacted].
Bolton, Robert M., [redacted].
Bonner, Alan L., [redacted].
Bonnett, Bruce J., [redacted].
Bonngard, James E., [redacted].
Booker, Hollis E. [redacted].
Boot, Robert L., [redacted].
Boring, Charles M., [redacted].
Bosi, Louis E., [redacted].
Bosler, Mark E., [redacted].
Bostick, John R. [redacted].
Bottenus, Robert J., [redacted].
Botts, Douglas L., [redacted].
Boudreau, Robert N., [redacted].
Boudreaux, John L., Jr., [redacted].
Bowen, John M., [redacted].
Bowlin, William F., [redacted].
Bowman, Robert L., Jr., [redacted].
Boy, Edmund G., [redacted].
Boyce, Dennis E. [redacted].
Boyd, Harold S., [redacted].
Boyd, John F., [redacted].
Boyd, Thomas J., [redacted].
Boydston, John R., [redacted].

Boykin, Wade [redacted].
Boyle, David R. [redacted].
Boyle, James M. [redacted].
Boyles, Harrell W. [redacted].
Brader, Thomas G [redacted].
Bradford, David G. [redacted].
Bradham, Gary C. [redacted].
Bradshaw, Barry L. [redacted].
Brady, Glen L. [redacted].
Brady, Paul W. [redacted].
Brady, Thomas P. [redacted].
Brady, William A., Jr., [redacted].
Brady, William D., Jr., [redacted].
Brammier, Charles L., Jr., [redacted].
Branch, Milton E., Jr., [redacted].
Brandt, Martin C. [redacted].
Brandt, Ronald V [redacted].
Brasch, Mary K. [redacted].
Bratina, James R. [redacted].
Bratton, Joseph K., Jr [redacted].
Breckenridge, Ronald R., [redacted].
Breerwood, David J. [redacted].
Brehob, Paulette I. [redacted].
Brennan, Scott W. [redacted].
Bridges, Clayton G. [redacted].
Briding, Alan J. [redacted].
Brienzo, Frank L. [redacted].
Brigham, Richard R., [redacted].
Bright, Victor A., Jr., [redacted].
Broadhurst, David A., [redacted].
Brobeck, Gary L. [redacted].
Brock, John T. [redacted].
Bronson, Bruce G. [redacted].
Brooks, James M. [redacted].
Brooks, John W. [redacted].
Brooks, Larry G. [redacted].
Brooks, Stephen L. [redacted].
Brooks, Stephen M. [redacted].
Brousseau, Paul R. [redacted].
Brow, Raymond W., Jr. [redacted].
Brower, John S. [redacted].
Brown, Bruce A. [redacted].
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Brucia, James P. [redacted].
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Comer, Richard L., [redacted].
Conell, Lonnie R., [redacted].
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Conner, Carl W., [redacted].
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Lamar, John D., [redacted].
Lambert, Kirby H., [redacted].
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Landry, Lawrence E., [redacted].

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Lazar, John S., II, [redacted].
Lease, Boyd B., [redacted].
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Leeman, Richard C., [redacted].
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Legrand, Philip J., [redacted].
Lehman, Joseph P., [redacted].
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Leland, James S. [redacted].
Lemons, James L., [redacted].
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Lending, Brian C., [redacted].
Lenz, Eric H., [redacted].
Leonard, C. L., [redacted].
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Lesko, Andrew J., [redacted].
Leslie, William E., [redacted].
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Lilly, Kirk, [redacted].
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Little, Dale K., [redacted].
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Lockler, Phillip W., [redacted].
Lockridge, Ronald H., [redacted].
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Lokey, Luther B., [redacted].
London, George G., Jr. [redacted].
Long, James M., [redacted].
Long, Timothy L., [redacted].
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Longstreet, John M., [redacted].
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Sprowl, Robert V., II, [redacted].
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Torango, Philip E., [redacted].
Tormey, Robert J. [redacted].
Torrey, Samuel R., [redacted].
Totten, William P., [redacted].
Towle, Richard A., [redacted].
Towles, Perry M., [redacted].
Townsend, Ernest K. Jr., [redacted].
Townsend Willie B. Jr. [redacted].
Townsley, Dudley W., [redacted].
Tramel, James H. F. III, [redacted].
Tramontana, Michael W., [redacted].
Trask, Harry A., [redacted].
Traube, Robert J. Jr., [redacted].
Travers, Gerald W., [redacted].
Travis, Charles T., [redacted].
Trent, Phillip W. Jr., [redacted].
Triplett, Gary M., [redacted].
Tritschler, Philip H. Jr., [redacted].
Tron, James P. [redacted].
Trosky, Chester J., Jr., [redacted].
Troutman, Ronald D., [redacted].
Trowbridge, Donald C., [redacted].
Trowel, Laurence M., [redacted].
Troxel, Donald E., [redacted].
Truax, Michael J., [redacted].
Tucker, Chris L., [redacted].
Tucker, George S. [redacted].
Tucker, Ronald E., [redacted].
Tull, Lawrence M., [redacted].
Tulo, Steve J., [redacted].
Turelli, Robert R., [redacted].
Turley, Lynn E., [redacted].
Turner, Glon D., [redacted].
Turner, Michael R., [redacted].
Turnipseed, Jon K., [redacted].
Tworek, Michael L. [redacted].
Tyce, Michael J., [redacted].
Tye, Ernest B., [redacted].
Tynch, David R., [redacted].
Uebelacker, Sally D., [redacted].
Uehara, Albert K. [redacted].
Underwood, Robert W. [redacted].
Unger, David R., [redacted].
Upchurch, Phillip W., [redacted].
Urban, John F., [redacted].
Utz, Bradley W., [redacted].
Valigura, James F., [redacted].
Vance, Gary M., [redacted].
Vandam, Richard A., [redacted].
Vandehey, Dale M. [redacted].
Vanderman, Guy R., [redacted].
Vandeven, Dale E., [redacted].
Vandrie, Gary L., [redacted].
Vanduyne, Nancy M. [redacted].
Vanells, Marc, [redacted].
Vanheeswyk, Leslie R., [redacted].
Vanlommel, Richard E. [redacted].
Vanstone, Mark S., [redacted].
Vanwiggeren, Douglas C., [redacted].
Vanwinkle, Larry D., [redacted].
Vanzandt, Paul H., [redacted].
Varady, Bertalan J., [redacted].
Vargo, Michael D., [redacted].
Varn, George L. E. D., [redacted].
Vaughan, Ronald J., [redacted].
Vazquez, Jose R., [redacted].
Vechik, Gary L., [redacted].
Vela, Arnoldo, [redacted].
Veldman, Francis E. II, [redacted].
Venema, Terry L., [redacted].
Verano, Miguel, [redacted].
Verke, Duane H., [redacted].
Vermillion, Dale M., [redacted].
Verret Lionel R., [redacted].
Verschaeve, Douglas D. [redacted].
Vick, Harry, [redacted].
Vidas, Charles M., [redacted].

Viehe, Thomas F. [redacted].
Villa, Joseph, [redacted]
Vincent, Michael J., [redacted]
Vinsang, Michael W., [redacted]
Vinson, Randall L., [redacted].
Vitale, Philip F., [redacted].
Vitelli, James, [redacted].
Vogel, Kurt C., [redacted].
Vogler, James E., [redacted].
Vogler, Robert C., [redacted].
Voigt, Robert E., [redacted].
Volkert, Peter F., [redacted].
Volkman, Kenneth A., [redacted]
Volodzko, Konstantin, [redacted]
Vonbrandenstein, Doss C., Sr., [redacted]
Vondersaar, Frank J., [redacted]
Voss, Carl, [redacted]
Voss, Larry B., [redacted]
Vought, Ralph D., [redacted].
Voyles, Clyde P., [redacted]
Vrosh, Michael E., [redacted].
Vuckovich, Michael M., [redacted]
Wachs, Calvin O., [redacted].
Wade, William N., [redacted].
Waeber, Gregory G., [redacted].
Wagaman, Richard S., [redacted]
Wagner, Clarence H., Jr., [redacted]
Wagner, Ronald L., [redacted].
Wagner, Ronald V., [redacted].
Walden, Donald H., [redacted].
Waldruff, John L., [redacted].
Walgamott, Carm C., [redacted]
Walker, Carol A., [redacted].
Walker, David C., [redacted].
Walker, Donald L., [redacted].
Walker, Douglas H., [redacted].
Walker, Harry C., III, [redacted]
Walker, Joseph P., [redacted].
Walker, Leon L., Jr., [redacted].
Walker, Michael A. [redacted]
Walker, Samuel S., [redacted].
Walker, William H., [redacted].
Wallace, Horace A. [redacted]
Wallace, Richard B., [redacted].
Wallachy, Bruce E., [redacted].
Waller, Francis J., Jr., [redacted]
Waller, Steven D., [redacted].
Wallgren, Rawn A., [redacted].
Walls, Sandra K., [redacted]
Waln, Christopher A., [redacted]
Walsh, James A., Jr., [redacted]
Walsh, Richard J., [redacted].
Walsh, Robert J., [redacted].
Walters, Thomas P., [redacted]
Walton, David L., [redacted].
Wang, Teddy N. [redacted].
Wark, Robert E., [redacted].
Warner, Hollace H., [redacted].
Warner, John D., Jr., [redacted]
Warner, Richard A., Jr., [redacted]
Warren, Jerry B. [redacted]
Warrick, Robert P., Jr., [redacted]
Washington, John L., Jr., [redacted]
Waters, Thomas R. E., [redacted]
Watford, Larry M. [redacted].
Watson, Anthony P., [redacted]
Watson, Jerry K., [redacted]
Watson, Randall B., [redacted].
Watson, Roger W., [redacted].
Watts, Edward N., Jr., [redacted]
Watts, Harold L., [redacted].
Wauchop, Johnnie H., [redacted]
Way, Spencer Jr., [redacted].
Weasner, Michael L., [redacted]
Weathers, Curry P., Jr., [redacted]
Webb, John A., [redacted].
Webb, Morris D., [redacted].
Weber, Donald L., [redacted].
Webster, James R., [redacted].
Weeks, Richard H., II, [redacted]
Weeks, William S., [redacted].
Weems, Rodney [redacted].
Weerheim, Terry L., [redacted].
Wegemer, Leo B., [redacted].
Wegner, Jon A., [redacted].
Weiford, William L., Jr., [redacted]
Welch, James R., [redacted].
Welch, William P., [redacted].
Wellman, Michael W., [redacted]
Welteroth, James R., [redacted].
Wendt, Richard J., [redacted].
Wenger, Michael S., [redacted].
Wentland, Barry R., [redacted].
Werner, Patrick R., [redacted].
Wernle, Kenneth R., [redacted].
Werthman, Jerry D., [redacted].
Wesley, Jack A., [redacted].
West, James L. [redacted]
West, Paul R., Jr., [redacted].
West, Rodney A., [redacted].
West, Walter D., [redacted].
Westbrook, Chris R., [redacted].
Western, James R., Jr., [redacted]
Wetekam, Donald J., [redacted].
Wheatcraft, Louis S., [redacted].
Wheeler, Richard D., [redacted].
Whetstone, Dan D., [redacted].
Whitaker, Johnny, [redacted]
White, David B., [redacted].
White, David L., [redacted].
White, Fred A., [redacted].
White, Gary A., [redacted].
White, Gerald L., [redacted].
White, Jack R., [redacted].
White, John A., [redacted].
White, Stephen D., [redacted].
White, Thomas W., [redacted].
Whitehead, Donald G., [redacted]
Whitemarsh, Steve L., [redacted]
Whitley, Alfred H., [redacted].
Whitley, David L., Jr., [redacted]
Whitney, Michael J., [redacted]
Whitt, Earl E., Jr., [redacted].
Whittenton, John A., [redacted]
Wiatrek, Kenneth J., [redacted]
Wickware, George R., Jr., [redacted]
Wiedemer, Michael P., [redacted]
Wieder, Wesley R., [redacted].
Wiegand, Kenneth F., Jr., [redacted]
Wieland, Steven M., [redacted]
Wigington, John T., III, [redacted]
Wigle, Gary B., [redacted]
Wilber, Brian H., [redacted].
Wilken, Michael J., [redacted].
Wilkins, Gary, [redacted]
Wilkinson, Daniel E., [redacted]
Wilkinson, Richard D., [redacted]
Wilkinson, William G., [redacted]
Willers, Larry F., [redacted].
Willford, Turner, Jr., [redacted]
Williams, Danny L., [redacted]
Williams, Eugene C., [redacted]
Williams, Howard, [redacted].
Williams, James M., [redacted]
Williams, James R., [redacted].
Williams, Jeffrey J., [redacted]
Williams, Joe E., Jr., [redacted].
Williams, John L., [redacted].
Williams, Kenneth L., [redacted]
Williams, Laforrest V., [redacted]
Williams, Melvin C., [redacted].
Williams, Robert G. [redacted].
Williams, Stephen L. [redacted]
Williams, Wayne E., [redacted]
Williamson, Kenneth R., [redacted]
Willing, Richard T., [redacted]
Willis, Brian E., [redacted].
Willis, James R., [redacted].
Willis, Michael J., [redacted].
Willis, Stephen B., [redacted].
Willison, Daniel P., [redacted].
Wilson, Bobby E., [redacted].
Wilson, Carl R., [redacted].
Wilson, Frank E., [redacted].
Wilson, James L., Jr., [redacted]
Wilson, John R., [redacted].
Wilson, Michael P., [redacted]
Wilson, Scott, [redacted]
Wilson, William D., [redacted]
Wilson, William M., Jr., [redacted]
Wiltz, Roland J., [redacted]
Winchell, Dennis E., [redacted]
Winegar, Lee E., [redacted].
Wingertsahn, Lawrence R., [redacted]
Wingfield, Stephen R., [redacted]
Winkler, Robert E., [redacted].
Winters, Charles M., [redacted]
Winters, Richard W., Jr., [redacted]
Wise, Leslie M., [redacted]
Wise, Walter P., [redacted]
Wisner, Mark E., [redacted].
Wisneski, James H., [redacted]
Witter, Ronald G., [redacted].
Witthoeft, Henry G., [redacted]
Wittkamp, Patrick L., [redacted]
Wittman, Gerard D., [redacted]
Wolf, Keith, J., [redacted]
Wolf, Thomas J., [redacted].
Wolfe, Donald P., Jr., [redacted]
Wolff, Douglas M., [redacted].
Woloszynek, Daniel R., [redacted]
Womack, Kenneth W., [redacted]
Wood, Buddy B., [redacted]
Wood, Daniel E., III, [redacted]
Woodard, Homer O., [redacted]
Wooderson, William M., [redacted]
Woodford, Paul Q. G., [redacted]
Woodford, Steven F., [redacted]
Woodruff, Henry M., Jr., [redacted]
Woods, Thomas D., [redacted]
Wooley, Billy A., [redacted].
Woolman, Guy A., [redacted].
Wootton, Gregory V., [redacted]
Worsley, William H., [redacted]
Wozniak, Vincent E., [redacted]
Wright, Bruce A. [redacted].
Wright, John J. [redacted].
Wright, Maryanne [redacted].
Wrigley, John R., [redacted].
Wrisley, Dale E. [redacted].
Wyman, Keith B. [redacted].
Wynn, Thomas E., Jr., [redacted]
Wysowski, John R. [redacted]
Yagher, Ray A., Jr. [redacted].
Yamato, Masaaki [redacted].
Yates, Larry L., [redacted]
Yates, Steven K. [redacted].
Yavorsky, Philip G. [redacted].
Ybarra, Argelio, [redacted]
Yestness, Steven R. [redacted].
Yoho, Ronald D. [redacted].
Yonika, David P., [redacted]
Youdal, David E., [redacted].
Youel, Roger H., [redacted]
Young, Bradley C. [redacted].
Young, Carlton E., [redacted]
Young, Christopher R., [redacted]
Young, David W. [redacted].
Young, James H. [redacted].
Young, Peter W. [redacted].
Young, Randall W., [redacted].
Young, Roger A., [redacted]
Young, Stuart A., [redacted]
Young Teresa M., [redacted]
Young, Vickie A., [redacted]
Zabowsky, Harold S., [redacted]
Zaniewski, Gregory S. [redacted]
Zauner, Paul F., [redacted]
Zeer, Stephen E., [redacted].
Zeller, Darrell J., [redacted].
Zellmer, David A., [redacted].
Ziegler, David R., [redacted].
Ziegler, Richard L., [redacted].
Zielinski, John J., [redacted].
Ziemacki, Donald E., [redacted]
Zimmerman, Lee W., [redacted]
Zoerb, Daniel R., [redacted].
Zourek, Francis G [redacted].
Zuffoletti, Steven J. [redacted]
Zundel, Erwin R., [redacted].
Zweifel, Frederick J., [redacted]
Zweigler, James N., [redacted].
Zwiebel, John M. [redacted].
Zwirko, Edward J., Jr., [redacted]

CHAPLAIN CORPS

Beason, Kenneth G., [redacted]
Cook, Darrell L., [redacted].
Fueger, Richard F., [redacted].
Higgins, Richard B. [redacted].
Isenberg, Herbert L., [redacted]
Kahn, Justin, G., [redacted].
Timm, Jeffrey T., [redacted]
Wilborn, James A., Jr. [redacted]

DENTAL CORPS

Beck, Brian W., [redacted].
Golden, Gary J., [redacted].
Kretzschmar, Samuel L., Jr., [redacted].
Labbous, Salem E., Jr., [redacted].
Martin, Dwayne K., [redacted].
May, David L. [redacted].
Parrot, Gerald E., [redacted].
Seifert, John H., [redacted].
Sorum, Larry N., [redacted].
Spielberger, Michael C., [redacted].
Stewart, Charles D., [redacted].
Weichel, Erwin, [redacted].
Wood, Leighton W., [redacted].

JUDGE ADVOCATE

Baldwin, Conrad C., Jr., [redacted].
Black, John A., [redacted].
Brummett, Duane L., [redacted].
Buchanan, Bradford L., [redacted].
Duggan, Stephen J., [redacted].
Ely, Richard O., II, [redacted].
Everly, Douglas R., [redacted].
Flaivn, John R. [redacted].
Hoover, Michael J., [redacted].
Kohrt, Douglas H., [redacted].
Loburgio, Nicholas J., [redacted].
Madrid, Michael N., [redacted].
McGrath, Michael D., [redacted].
Owen, Clyde M., Jr., [redacted].
Oxley, Joel M [redacted].
Reinecke, Gregg H., [redacted].
Samelson, Kirk S., [redacted].
Schlabs, Michael W., [redacted].
Shaw, Dennis H., [redacted].
Smith, Milton L., III, [redacted].
Spinner, Frank J., [redacted].
Taravella, Christopher A., [redacted].
Thomas, David L., [redacted].
Titrud, Jeffrey S., [redacted].
Vanness, James G., [redacted].
Wickers, Rodney W., [redacted].

MEDICAL CORPS

Abraham, Robert E., [redacted].
Atwood, Horace D., [redacted].
Bailey, Thomas D., [redacted].
Berdeaux, Donald H. [redacted].
Brown, David M., [redacted].
Chapman, Gregory S., [redacted].
Coffman, Mark R., [redacted].
Cooper, Robert L., Jr., [redacted].
Currier, Thomas J., [redacted].
Diehl, Steven L., [redacted].
Fritz, Marc A., [redacted].
Grassman, Eric D., [redacted].
Hannan, David T., [redacted].
Harrison, Charles R., [redacted].
Hawkins, Robert A., [redacted].
Heironimus, James D., Jr., [redacted].
Houk, Richard W. [redacted].
Ingle, Robert M., Jr., [redacted].
Kalosis, John J., Jr., [redacted].
Knox, Kirby E., [redacted].
Mayer, Michael H., [redacted].
Mazza, Dominic L., [redacted].
Mitchell, Orderia F., [redacted].
Muehlberger, Gerald L., [redacted].
Murphy, Alan R., [redacted].
Parry, Edward L., [redacted].
Pees, Richard C., [redacted].
Penix, Arnold R., [redacted].
Prechter, Gary C., [redacted].
Schenk, David A., [redacted].
Shagets, Frank W., [redacted].
Shore, John W., [redacted].
Stine, Walter S., [redacted].
Taylor, Steven L., [redacted].
Vogler, James B., III, [redacted].
Westfall, Christopher T., [redacted].
Willis, Henry S. K., III, [redacted].

NURSE CORPS

Anderson, Naomi J., [redacted].
Arcaya, Norberto, Jr., [redacted].
Aune, Regina C., [redacted].
Bannister, Eston L., Jr., [redacted].
Bergstrom, Vincent W., [redacted].
Bruce, Scott O. [redacted].
Burley, Joseph T., [redacted].
Carter, Penelope L., [redacted].
Courson, Martha J., [redacted].
Creft, Brenda K. [redacted].
Damore, Barbara A., [redacted].
Davis, Richard L., [redacted].
Deniz, Gloria A., [redacted].
Distelhorst, Gail R., [redacted].
Doney, Melven R., [redacted].
Duckett, Margo L., [redacted].
Dworaczyk, Laura J., [redacted].
Forkner, Mary E., [redacted].
Franks, Betty Z., [redacted].
Gonzales, Linda A., [redacted].
Graziani, Kathryn A., [redacted].
Guzman, Alma, [redacted].
Handy, Patrick R., [redacted].
Hicks, Charles L., [redacted].
Johns, Nancy O., [redacted].
Karaku, Ellen P., [redacted].
Kimmel, Karen D., [redacted].
Laymon, Jill M., [redacted].
Love, Linda L., [redacted].
Lyon, Dixie L., [redacted].
Maes, Richard D., [redacted].
Martin, Shirley J [redacted].
Masarik, Judith A., [redacted].
McKay, Priscilla S., [redacted].
McKenna, Barbara M. [redacted].
Miller, Elizabeth A., [redacted].
Mills, Charles A. [redacted].
Millwee, Mary H., [redacted].
Mindrebo, Ingrid L., [redacted].
Murakami, Howard Y., [redacted].
Nadig, Suzanne M., [redacted].
Ophof, Mary A., [redacted].
Puckett, Michael L., [redacted].
Rasor, Carol A., [redacted].
Reilly, Linda A., [redacted].
Scannell, Elizabeth A., [redacted].
Schmidt, Eddie R., [redacted].
Smith, Cynthia A., [redacted].
Stallings, Linda L., [redacted].
Sutterer, Wanda H., [redacted].
Swanegan, Albert M., II, [redacted].
Temple, Barbara A., [redacted].
Terriberry, Cynthia A., [redacted].
Thompson, Carol D. [redacted].
Warner, Diane F., [redacted].
Wood, Alice S., [redacted].
York, Theresa M., [redacted].
Yousey, Donald J., [redacted].

MEDICAL SERVICE CORPS

Bottoms, James W., Jr., [redacted].
Boyum, David A. [redacted].
Butler, Jeffrey L. [redacted].
Carletti, David L., [redacted].
Childers, Leo F., Jr., [redacted].
Cornali, John G., [redacted].
Dudte, James C., [redacted].
Eurek, Thomas A., [redacted].
Fescenmeyer, William K. [redacted].
Gruendell, Ronald W., [redacted].
Hart, Roy A. [redacted].
Horkovich, Betsy K., [redacted].
Houck, Richard A., [redacted].
Jones, Franklin D. R., [redacted].
Lampton, John A., [redacted].
Lee, John A. [redacted].
Loper, Clifford M., [redacted].
Ludwick, James F., [redacted].
Mayer, Daniel [redacted].
McDavid, Stephen T., [redacted].
O'Reilly, Dennis M., [redacted].
Patchin, John C., [redacted].
Peterson, Richard A. [redacted].
Roark, Richard S., [redacted].
Sanders, William T., II, [redacted].
Scheer, Robert H., [redacted].
Sheehan, John R., [redacted].
Silver, Robert D., [redacted].
Strange, Joe E. [redacted].
Ushijima, Arthur A., [redacted].
Vancleave, Larry B., [redacted].

VETERINARY CORPS

Carolan, Robert J., [redacted].
Cropper, Thomas L., [redacted].
Henningsen, Gerry M., [redacted].
Salomon, Richard A., [redacted].
Wroe, Grover E., [redacted].

BIOMEDICAL SCIENCES CORPS

Beirise, Neal S., [redacted].
Boston, Terry L., [redacted].
Brabon, Alan C., [redacted].
Brewer, Richard E., [redacted].
Brothers, John E., [redacted].
Brown, Edward J., [redacted].
Conwell, Lawrence G., [redacted].
Cooper, Timothy W., [redacted].
Dunlap, James H., [redacted].
Flanagan, Donald R., [redacted].
Fulk, David L. [redacted].
Grossi, John A., [redacted].
Hartson, Richard M., [redacted].
James, George R., [redacted].
Lehmann, Craig R., [redacted].
Livingston, James M., [redacted].
Lubozynski, Frank T. [redacted].
Magnusson, Kent E., [redacted].
Marconi, Royetta, [redacted].
McLean, Kent M., [redacted].
Peters, John E., [redacted].
Peterson, Dale A., [redacted].
Posey, Douglas P., [redacted].
Pratt, George K., [redacted].
Ryberg, Jan A., [redacted].
Stansbury, Charles E., Jr., [redacted].
Swindling, William S., [redacted].
Waggoner, John H., [redacted].
Workman, Wilbur T., [redacted].
Zahler, William A., [redacted].

CONFIRMATIONS

Executive nominations confirmed by the Senate December 14, 1979:

Environmental Protection Agency

Eckardt C. Beck, of New Jersey, to be an Assistant Administrator of the Environmental Protection Agency.

National Advisory Council on Women's Educational Programs

Carolyn L. Attneave, of Washington, to be a Member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1981.

Office of the Special Representative for Trade Negotiations

Michael Brackett Smith, of Maryland, to be a Deputy Special Representative for Trade Negotiations, with the rank of Ambassador.

Department of Transportation

Theodore Compton Lutz, of Virginia, to be Urban Mass Transportation Administrator.

Department of State

William Garton Bowdler, of Florida, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State.

Donald R. Toussaint, of Virginia, Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Socialist Republic of Sri Lanka, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Maldives.

Mabel Murphy Smythe, of Connecticut, now Ambassador Extraordinary and Plenipotentiary of the United States of America to the United Republic of Cameroon, to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Equatorial Guinea.

United Nations

H. Carl McCall, of New York, to be the Alternate Representative of the United States of America for Special Political Affairs in the United Nations, with the rank of Ambassador.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

Superior Court of the District of Columbia

Henry Harold Kennedy, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years.

Frank Ernest Schwelb, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for a term of 15 years.

IN THE COAST GUARD

Coast Guard nominations beginning Lawrence M. Schilling, to be commander; and ending Henry D. Jacoby, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 28, 1979.

Coast Guard nominations beginning William F. Nettel, to be lieutenant commander, and ending William J. Wilkinson, III, to be lieutenant commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on November 28, 1979.

HOUSE OF REPRESENTATIVES—*Friday, December 14, 1979*

The House met at 9 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Eternal God, we praise You for Your goodness, we testify to Your love and we magnify Your holy name. In anticipation of those holy days, help us to remember Your good deeds to us, how You have supported and sustained us. In adversity You have comforted us, in danger You have been near us, and in our weakness, You have forgiven and filled us with strength. Continue Your grace in our lives this day and every day.

We pray for a better world, for understanding, for tolerance and reconciliation, that all people may come to see Your will and live in peace. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. BAUMAN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 255, nays 14, answered "present" 2, not voting 162, as follows:

[Roll No. 731]

YEAS—255

Abdnor
Addabbo
Akaka
Alexander
Anderson, Calif.
Andrews, N.C.
Annunzio
Archer
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Benjamin
Bennett
Bethune
Bevill
Biaggi
Blanchard
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Burgener
Burlison
Burton, Phillip
Butler
Carr
Carter
Chappell
Cleveland
Clinger
Coleman
Conable
Conte
Corcoran
Corman
Courter
Daniel, Dan
Daniel, R. W.
Davis, S.C.
Deckard
Dicks
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
English
Erdahl
Evans, Ind.
Fary
Fenwick
Ferraro
Findley
Fish
Fisher
Fithian
Florio
Foley
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Glickman
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Gudger
Guyer
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Hefner
Heftel
Hightower
Hillis
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Jeffries
Johnson, Calif.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Leland
Lent
Levitas
Lewis
Long, La.
Long, Md.
Lott
Lujan
McClory
McDade
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Matsui
Mattox
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Moakley
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nolan
Nowak
Oakar
Oberstar
Obey
Panetta
Pashayan
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Quillen
Railsback
Ratchford
Regula
Reuss
Rhodes
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Runnels
Satterfield
Sawyer
Scheuer
Schulze
Sebelius
Seiberling
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Solarz
Solomon
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stockman
Stratton
Studds
Synar
Tauke
Taylor
Thomas
Thompson
Traxler
Udall
Vander Jagt
Vento
Walgren
Wampler
Watkins
Weaver
White
Whitehurst
Whittaker
Winn
Wirth
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—14

Anthony
Ashbrook
Coughlin
Derwinski
Fazio
Holt
Jacobs
Lloyd
Lowry
Sabo
Schroeder
Swift
Walker
Whitley

ANSWERED "PRESENT"—2

Forsythe
Williams, Ohio

NOT VOTING—162

Albosta
Ambro
Anderson, Ill.
Andrews, N. Dak.
Applegate
Ashley
Aspin
Atkinson
Badham
Bedell
Beilenson
Bereuter
Bingham
Boggs
Bolling
Brodhead
Brown, Calif.
Buchanan
Burton, John
Byron
Campbell
Carney
Cavanaugh
Cheney
Chisholm
Clausen
Clay
Coelho
Collins, Ill.
Collins, Tex.
Conyers
Cotter
Crane, Daniel
Crane, Philip
D'Amours
Danielson
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Dellums
Derrick
Devine
Dickinson
Diggs
Dingell
Dixon
Dodd
Donnelly
Dornan
Dougherty
Edwards, Calif.
Edwards, Okla.
Erlenborn
Ertel
Evans, Del.
Evans, Ga.
Fascell
Flippo
Flood
Ford, Mich.
Ford, Tenn.
Garcia
Giaimo
Gibbons
Gingrich
Ginn
Goldwater
Goodling
Guarini
Hagedorn
Hall, Ohio
Hall, Tex.
Hanley
Harris
Harsha
Hawkins
Heckler
Hinson
Holland
Hollenbeck
Hutto
Hyde
Ichord
Ireland
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Kastenmeier
Kemp
Latta
Lehman
Livingston
Loeffler
Luken
Lundine
Lungren
McCloskey
McCormack
McDonald
McEwen
McHugh
McKay
Madigan
Mathis
Mavroules
Mazzoli
Mica
Mitchell, Md.
Mitchell, N.Y.
Moffett
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Neal
Nedzi
Nelson
Nichols
O'Brien
Ottinger
Patten
Patterson
Pepper
Price
Pursell
Quayle
Rahall
Rangel
Richmond
Rinaldo
Ritter
Rostenkowski
Rousselot
Rudd
Russo
Santini
Simon
Smith, Iowa
Snyder
Spellman
Stark
Stewart
Stokes
Stump
Symms
Treen
Trible
Ullman
Van Deerlin
Vanik
Volkmer
Waxman
Weiss
Whitten
Williams, Mont.
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wolff
Wydler
Young, Alaska

☐ 0910

So the Journal was approved.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 458. Joint resolution to authorize and request the President to issue a proclamation designating December 18, 1979, "National Unity Day."

☐ 0920

A WORD OF PRAISE FOR AMERICAN SOLDIERS OF MEXICAN DESCENT

(Mr. GONZALEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GONZALEZ. Mr. Speaker, the recent event, the epoch-making interview on national TV with marine Corporal Gallegos, one of the captives in Iran, failed to mention that this young man had been offered the same opportunity to be released on a racial basis as had been the women and the other servicemen previously released by the Iranian captors; and in the great tradition of the bravery and nobility of the American soldier of Mexican descent, Mr. Gallegos lived up to that tradition.

In World War I these soldiers served their country in great numbers with great heroism. In World War II they served in greater numbers and volunteered in greater numbers in proportion to the total population of that element in our country than any others.

Of the seven Congressional Medal of Honor winners in Texas, four were names like Flores, and Garcia and Rodriguez and Gonzalez.

In the Korean war, the first American soldier to die was a man from Texas by the name of Trevino.

They served in Korea in greater numbers than the average. Many of them languished in Communist prison camps in China, but you did not read about one turncoat with a surname like Gonzalez or Garcia or Morales.

In Vietnam, they served in greater numbers in action than any other ethnic group from the United States, and you did not read about any burning flags or turncoating, as some did during the Vietnamese conflict.

I think that Corporal Gallegos has followed this very noble and heroic tradition.

Mr. Speaker, I sing the hymn of great patriotism and bravery of the American soldier of Mexican descent.

NATIONAL GRAIN BARGAINING BOARD SHOULD BE ESTABLISHED

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, the latest OPEC price rise must arouse us to assert our own power in international grain markets. We are the OPEC of grain. We export 85 percent of the soybeans, 70 percent of the corn and 50 percent of the wheat. We must use this power to regain a balance in our international payments.

Mr. Speaker, 10 years ago, wheat and oil were the same price, barrel for bushel. Today, oil is now seven times the price of wheat. We can get a far higher price for our grain, but we must put in a national grain bargaining board in order to do it.

WINDFALL PROFIT TAX SHOULD NOT BE A REVENUE MEASURE

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONABLE. Mr. Speaker, we should all view with dismay one repeated characteristic of the Senate debate on the windfall profit tax. Far from addressing development of an appropriate energy policy, the amendments offered to tax the various classes of oil in differing degrees are being considered solely from the view of how much money they will contribute to Government tax revenues in order to meet a presidentially dictated revenue goal.

This should not be a revenue measure, but part of a plan for establishing priorities among the possible incentives for domestic energy production.

What will the American people think of us if, when we are through, all we have achieved in the windfall profit tax is more taxation ultimately to burden the average American rather than more independence from unstable foreign oil sources?

JAPAN NOT DOING ENOUGH

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. REGULA. Mr. Speaker, a year ago I spoke in this Chamber and called on the Japanese people to assume a greater responsibility for their defense as a contribution to world peace.

I think it appropriate, as we are informed of the defense budget proposed by President Carter, to look at what Japan has done during the past year to alter its defense contribution as a free world ally of the United States.

A year ago Japan was spending less than 1 percent of its gross national product for defense, allocating no funds for military research and development. A year later there was no change in the percentage spent for defense and less than 1 percent of the defense budget was spent for research and development.

In 1977, Japan's expenditure for defense per citizen was $54. In 1978, it was $74. France spent $254 per person in 1977 and $325 in 1978. West Germany increased its defense spending per person from $271 to $337. Great Britain from $214 to $239 and the United States from $480 to $517.

It is clear that Japan continues to spend a grossly inadequate amount of its budget for defense. And this despite the fact that Japan's economy remains the world's third largest.

Americans were spending more than 10 times as much as Japan for defense of the free world in 1977 and continued to do so in 1978.

Despite its interest in a stable Korea, Japan does not contribute 1 cent to keep American Forces there.

I repeat now what I said a year ago. The Japanese need to further augment their defense obligations. They need to lift the defense spending limit of 1 percent of their GNP and become more nearly a full partner in defending their prosperous nation and the free world.

NO MORE BAILOUTS FOR THE MILWAUKEE ROAD

(Mr. SENSENBRENNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SENSENBRENNER. Mr. Speaker, today is the last day to file public comments on plans for restructuring the Milwaukee Railroad pursuant to Public Law 96-101.

The Federal Railroad Administration has prepared an adverse report to the employee-shipper stockownership plan filed pursuant to that law. This report states that the plan is not feasible.

I urge Transportation Secretary Neil Goldschmidt to file this report with the Interstate Commerce Commission so that the Commission can have an accurate estimate of the cost of continued operational subsidies for the Milwaukee Road while considering the ESOP.

Failure to do so will signify that the Transportation Department has buckled to political pressure from powerful Members of the other body and that this Congress will be called upon to bail out another major corporation shortly.

RESULTS OF NATO MEETING IN BRUSSELS, DECEMBER 13, 1979

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. COURTER. Mr. Speaker, from press reports, the results of the NATO meeting that concluded yesterday, had mixed results.

On the question of Iran, all representatives agreed that the actions of the Khomeini regime were illegal and unacceptable and the joint NATO statement did call for the immediate release of our hostages. However, there was a great reluctance to even infer a military option and there was a specific reference to nonintervention into the internal affairs of Iran, meaning NATO, as an organization, will not intervene militarily, with or on behalf of the United States. I understand the need for oil by some of our smaller allies. I must further point out that when some of them, such as the Netherlands, Italy, and West Germany, were experiencing severe problems with terrorism, we offered our full assistance. Therefore, though the United States has not asked for military assistance I am somewhat dismayed that NATO went out of its way to rule out substantive military assistance to us in a situation that may yet call for such action.

On the question of deploying new ground-launched missiles capable of reaching the Soviet Union, the reservations expressed by the Dutch and Belgians may give the Soviets the perception that NATO is internally divided and that both nations are weak links.

I understand that both nations have fragile political coalitions and this topic could sway an election. However, I would like to call upon our Dutch and Belgian friends to review their misgivings about deployments with us and work with us to strengthen NATO.

REPUBLICANS UNITED ON POLICY

(Mr. SHUSTER asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. SHUSTER. Mr. Speaker, today's Wall Street Journal carries a very thoughtful article by Dennis Farney entitled: "Congress Fragmented and Fractious, Gets Less and Less Done." Several of our Democratic colleagues are quoted as being upset with the fragmentation and lack of cohesiveness.

Mr. Speaker, while this may be true on the Democratic side of the aisle, the record is very clear that the Republicans are united. In fact, on the 41 key votes on Republican policy positions and whip calls, Republican Members supported the Republican position 91 percent of the time. So while our friends on the other side of the aisle may be sending confusing signals to the American people, Republicans are united in showing that we stand for less spending, lower taxes, and a stronger America.

The obvious way the American people can realize these objectives, based on clear-cut voting records, is to elect a Republican House.

CONGRESS MUST PASS A WINDFALL PROFIT TAX

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, a recent article in the Washington Post newspaper indicated that the country's 19th largest energy company, Tenneco, plans to purchase a large Texas insurance company for $750 million.

What was particularly disconcerting to me was the fact that the purchase price for this insurance company is almost as much as Tenneco will spend this year on oil and gas production.

Other recent articles and reports have shown that many of the oil companies have increased their rate of investment in nonenergy concerns and their cash reserves have ballooned at an annual rate of 42 percent this year, three times the rate of 1978.

In addition, outlays for the cost of drilling and developing successful oil and gas wells and the construction of refineries and pipelines have declined by 15 percent since 1974. Also, the dividends distributed to stockholders have declined from 44 percent of profits in 1975 to a low of 31 percent this year.

Mr. Speaker, how can the major oil companies expect the Congress to accept their pledge to reinvest profits into energy-related exploration in exchange for a relatively mild windfall profit tax? If this Congress expects to develop a balanced approach to an energy policy, it must realize the importance of the passage of a stiff tax on these $1 trillion in profits which are due to accrue as a result of decontrol of prices of domestic crude oil.

We cannot afford to reward the major oil companies with these unearned profits particularly when they continue to gouge the American consumer with $7.5 billion worth of overcharges since 1973.

REPORTED SOVIET INTERVENTION IN AFGHANISTAN, LAOS, AND VIETNAM NEEDS THOROUGH EXAMINATION

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, recent reports indicate that Soviet combat units are now in the country of Afghanistan. We all know how sensitive that part of the world is and how ominous that event could be for stability and the interests of the United States in that part of the world.

There also have been reports, not as well documented, of possible Russian supplying of poison and toxic gases to the Laotians and Vietnamese for use in Laos and Cambodia.

These reports should be very thoroughly examined. We should make it very plain to the Soviets that we strongly resent these two actions, if they, indeed, prove to be true.

WHEN IS A SACRIFICE NOT A SACRIFICE?

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, there has been much comment in the media about the President's recent speech dealing with national security.

It seems the candidate who pledged to cut the defense budget by $7 billion now, as President, asks for an increase in defense spending. It took the President until the 11th month of the 3d year of his administration to finally understand what President Ford was telling him in 1976. But better late than never, I suppose.

In his speech the President made one of those remarks that typifies his approach to problems. He said, and I quote:

> The defense program I am proposing for the next five years will require some sacrifice—but sacrifice we can afford.

It is as if Winston Churchill told the British people in 1940: "I offer you blood, tears, toil, and sweat—but not enough to really bother anyone."

The President has the habit of sounding the trumpet to charge and then suggesting each of us make our own decisions anyway. That is not leadership. That is practicing group therapy without a license.

If the President calls for sacrifice, the American people will respond. But these halfhearted calls for sacrifice on energy and, now, defense, only serve to reinforce the view that this administration does not know what it wants.

PROVIDING FOR CONSIDERATION OF H.R. 5980, RECESSION AND TARGETED FISCAL ASSISTANCE

Mr. ZEFERETTI. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 506 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 506

Resolved, That upon the adoption of this resolution it shall be in order to move, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) and clause 2(1) (6) of rule XI to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5980) to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, and each section of said substitute shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 5980, the House shall proceed, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93–344) to the contrary notwithstanding, to the consideration of the bill S. 566, and it shall then be in order in the House to move and strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 5980 as passed by the House. It shall then be in order in the House to move that the House insist on its amendments to the said Senate bill and request a conference with the Senate thereon.

The SPEAKER. The gentleman from New York (Mr. ZEFERETTI) is recognized for 1 hour.

Mr. ZEFERETTI. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Maryland (Mr. BAUMAN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 506 provides for the consideration of H.R. 5980, to authorize a program of fiscal assistance during economic recessions, and to authorize a program of targeted fiscal assistance, and for other purposes. The resolution allows for an open rule with 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Government Operations. The introduced bill will require a waiver of section 402(a) of the Congressional Budget Act (and clause 2(1) (6) of rule XI. Section 402(a) of the Congressional Budget Act prohibits the enactment of new budget authority for a fiscal year unless that bill has been reported on or before May 15 preceding the beginning of such fiscal year. Clause 2 (l)(6) of rule XI, is the 3-day layover requirement.

Further the resolution makes in order a committee amendment in the nature of a substitute for purposes of amendment and provides for one motion to recommit with or without instructions.

After passage of H.R. 5980, it shall be in order, section 402(a) of the Congressional Budget Act to the contrary notwithstanding, to strike all after the enacting clause of S. 566 and to insert in lieu thereof the provisions contained in H.R. 5980 as passed by the House. It shall then be in order in the House to move that the House insist on its amendments to the said Senate bill and request a conference with the Senate.

Mr. Speaker, H.R. 5980 amends the State and local Fiscal Assistance Act of 1972, by adding two new titles. Title IV which would authorize fiscal assistance to State and local governments during periods of recession and title V, a program of targeted fiscal assistance for fiscally stressed local governments.

The antirecession provision, title IV, would be activated following two consecutive quarterly declines in the GNP and the national average for wages and prices. It would be funded during each recession quarter at a rate of $15 million for each one-tenth percentage point decline in real wages and salaries, measured from the adjusted prerecession base. One-third of the total would go to State governments and two-thirds would go to local governmental units.

The targeted fiscal assistance program, title V, provides for a one-time fiscal assistance payment to local governments only. The measure authorizes $250 million for this purpose, which would be allocated according to local unemployment rates and the amount of general revenue-sharing funds that the local area is presently receiving.

Mr. Speaker, I would like to commend Chairman BROOKS and the Committee on Government Operations for all the time and effort they have put into this measure. While this type of legislation has in the past met with a great deal of opposition I believe the 27 to 12 vote in full committee is an indication of the strong support for the current version of the bill.

Current predictions point toward declining economic activity and increased unemployment. I believe forecasts such as these demand some sort of standby antirecession fiscal assistance and I applaud the Government Operations Committee for giving us what I believe is a fair and equitable plan.

I urge my colleagues to support House Resolution 506, so we may proceed to the consideration of the antirecession fiscal assistance and targeted fiscal assistance bill.

□ 0950

Mr. BAUMAN. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, there are only 9 shopping days until Christmas, and one of the more interesting packages is about to be unwrapped here a little bit ahead of the holiday. That is the bill that this rule would make in order. I do not know whether or not the U.S. Botanical Gardens maintain any pear trees on the lawn of the Capitol, but I do not think this bill would qualify as a partridge for decorating such a tree—more like a turkey, I would say. So, we should very carefully deliberate about this turkey as we proceed through these days before Christmas.

The bill we have before us has an interesting history, as will be discussed by some of my colleagues on this side. I call attention to title IV, the so-called antirecession fiscal assistance, which will be doled out to State and local governments. This particular program would be triggered by two consecutive calendar quarters in which real wages and salaries and real gross national product decline. Funds would continue to be made available for distribution until the level of real wages and salaries has regained its prerecession peak, adjusted for the potential growth of the economy disrupted by the recession. I call particular attention to that last point since it is a new and interesting factor written into the equation that will trigger this activity.

The amount of money under this bill to be distributed in any one calendar quarter will be determined by the amount of the decline in real wages and salaries from the adjusted two-quarter prerecession average. Funds will be disbursed at a rate of $15 million for each 0.1 percentage point real wages and salaries are below this adjusted figure. Thus, the amount of money available for distribution in any one quarter would depend on the severity of economic decline and activity as measured by real wages and salaries. The funds available for distribution in fiscal year 1980 would be limited to $1 billion, and the program would be, fortunately, subject to the normal appropriations process.

Title V, however, is perhaps more interesting in many ways, because this section provides a one-time payment totaling $250 million to local units of government that have higher than average unemployment rates and do not have extremely high per capita incomes, and are not located in counties in which there has been an extremely high rate of growth in employment. Single payments would be made to each eligible government within 90 days after appropriation, or April 1, 1980, whichever comes first, or before the date of the Presidential political primary in which President Carter is running in that State, one might assume.

I would be glad to provide the Members the reason I think they should pay close attention to the discussion of these formulas, and that is because nobody really knows how they work. So, I think it will behoove each Member to get a pencil and pad and work out the formulas I have given them for each of these programs and figure out whether or not his or her district is getting dumped on or whether it is going to have money dumped into it, because that is pretty much the way this works.

Mr. Speaker, I have a great deal of respect for the gentleman from Beaumont, Tex., Mr. BROOKS, chairman of the Government Operations Committee. He is—well, I will tell the gentleman from Ohio why, since he has asked me and I have the time.

The gentleman from Texas (Mr. BROOKS) is a very distinguished chairman. He has led globe-girdling trips all over the world, and is about to embark on one next week, I am told. The gentleman has long opposed programs of this type, but recently in the warm weather that has been very uncharacteristic here in Washington, he was called to the White House rose garden, and in that warm sunshine apparently the buds were blooming everywhere and he was able to pluck a few buds, I am told. And so, he comes here today, having reversed his historic position, something that I doubt in his long and distinguished career he has ever done before, since I know him to be a man of great consistency.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. If the gentleman has anything better to say than I do, yes.

Mr. ASHBROOK. I have nothing better to say, but I would like to hear that again. Is the gentleman telling us that in the tradition of Mr. Vinson, started many years ago, a trip to the rose garden was taken?

Mr. BAUMAN. Exactly.

Mr. ASHBROOK. I thank the gentleman. That is all.

Mr. BAUMAN. I do not want the gentleman to read anything into that, of course. I lay this groundwork simply to point out that the gentleman from Texas was my leader on this issue up until just recently, and he and I even have been known to cooperate on the activities of the Committee on Rules dealing with this same program. On May 2, 1979, the gentleman from Texas made a statement that will rank along with that of Daniel Webster which is carved on yon wall above us, when he said:

> Even when this program was running it did not do the job it was supposed to do, unless you believe that the only thing Congress is supposed to do is shovel money.

Now, I do not believe that.

He continues:

> If that is our job we are pretty good at that, just shoveling away.

Then later on May 2, rising to the occasion and with great emotion, he said:

> They call it something different now—targeted fiscal assistance—

But, and here is that allusion to the garden:

> . . . but a rose is a rose and a snake is a snake.

Well, during his trip through the rose garden the gentleman from Texas apparently encountered, and did like Adam, embrace the snake. So, we have before us today this legislation, coming from whence we know not.

There are no printouts available describing exactly where this money for the title V program is going. In fact, there is not any clear answer available as to where this money is coming from, since we are about to face a $40 billion fiscal year deficit. There is no listing to tell us which governments will get the money or which communities are eliminated from the whole program.

There are not even any reliable statistics on metropolitan areas or unemployment that will tell us precisely what is to happen.

But I do know that the new formula will undoubtedly deal harshly with rural and suburban areas and perhaps aid—as the coming Christmas season indicates there should be aid—the more urban areas. Quite frankly, I am concerned about this legislation, and I have taken this unusual length of time on the rule to discuss it simply because of that.

I would say to those who are calling for votes, they may have plenty of them today.

Mr. ASHBROOK. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

In the words of Adlai Stevenson a few years ago, he was too old or too proud to cry. I think in my case I am too old, and certainly I am not too proud to cry. Is there not anything we can believe in around here any more?

Mr. BAUMAN. Yes, Santa Claus, as this bill clearly demonstrates.

Mr. ZEFERETTI. Mr. Speaker, I yield 2 minutes to the distinguished Chairman of the Committee on Government Operations, the gentleman from Texas (Mr. BROOKS).

Mr. BROOKS. I thank the gentleman for yielding. I want to say to my distinguished friend, the gentleman from New York (Mr. ZEFERETTI), that I just want to take this time to commend the members of the Committee on Rules for the speed and efficiency with which they handled our request for a rule. They showed great cooperation, and I want them and all the Members to know that I personally appreciate it, and I am sure that the leadership does, and that the people of this country will appreciate it. It is a good rule. It should be adopted.

I have one correction for my distinguished friend, the gentleman from Maryland (Mr. BAUMAN). We are not going to girdle the entire globe; we are just going to go part of the way. As a matter of fact, I am required, and I think it is justified, to go to Brussels, Belgium, for a meeting of the NATO Parliamentarians Executive Committee, made up of the president and the vice presidents of that organization of 15 NATO nations. We are very interested in getting them to support us in our actions against Iran by boycott and otherwise. I think that it is worth while to go over there and participate in that meeting, if for that reason only. So I will leave on Tuesday night and go on a wonderful, wonderful exhilarating trip to Brussels—where I have been about 20 times—and have a meeting all day Wednesday and return on Thursday.

I may be too tired to smile at the comments of the gentleman from Maryland (Mr. BAUMAN) on Thursday, but today I thought they were very clever.

Mr. ZEFERETTI. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. MOAKLEY).

Mr. MOAKLEY. Mr. Speaker, I rise in strong support of this bill, recession and targeted fiscal assistance. It is a simple but inescapable fact, Mr. Speaker, that for a variety of complex reasons, different areas of this country are affected very differently by changes in the economy. Some thrive in good times and are relatively unaffected by recessions; others are not so lucky.

Unfortunately, little can be done, in the short run, to make fundamental changes in that situation. Even in the long run, decades of effort have illustrated clearly just how difficult it is to restructure local and regional economies to effectively encourage expansion and growth.

But there are, at least, some actions we can take to provide some assistance and some protection for the less fortunate areas, the economically hard-pressed cities and localities, of this country.

This particular piece of legislation will address the problem in two ways. First, it provides a program of one-time assistance to areas that are already depressed even before we begin whatever national recession may be facing us.

Such areas that already have high unemployment and comparatively low incomes are generally the first to feel recessions, and are hurt the most. This portion of the bill will help to offset some of the inherent disadvantage with which such areas face a downturn in the national economy.

Second, this bill provides a standby program, essentially an insurance program, to provide assistance to those areas that are hit hardest by a recession—and virtually all economic observers assure us that a recession is to be expected sometime next year. The assistance will help to protect State and local governments against some of the fiscal stress that they otherwise suffer. It will help those governments maintain essential services, even though their tax revenues are shrinking while the demand for those services is rising.

Both of those programs are vitally important, Mr. Speaker, and I would like to commend the Committee on Government Operations for bringing this excellent bill to us. Also, I would particularly like to emphasize the important changes and improvements that are contained in the legislation before us this year.

Legislation with similar titles has been presented to this body before, but there are in fact several fundamental improvements in this year's bill. There is, of course, no way to make this kind of legislation perfect—to insure that the money goes only to the communities that are the most distressed and nowhere else. Any program like this will, for one thing, always be limited by the accuracy and availability of the economic data on which it is based. And, as we all know, that data is often flawed or is received too late to be of any real business.

But, as a result of its oversight efforts, the committee has at least made major strides toward crafting a program that is well targeted and that is responding to real changes in national and regional economies. The committee moved away from unemployment data in some instances, for example, and substituted measures that are more accurately reflective of economic variations, such as changes in the gross national product, and changes in real wages and salaries.

The Government Operations Committee has done an outstanding job with this bill, Mr. Speaker. I hope that the House will proceed to consider it expeditiously, that we will be able to pass it with a minimum of amendment, and that it will be enacted into law soon in order to have this assistance in place as quickly as possible.

Mr. BAUMAN. Mr. Speaker, I yield 10 very brief minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. I thank the gentleman for yielding this time.

Mr. Speaker, I do hesitate a bit to take the time when we are considering the rule to get into some of the content of the measure we are to consider under the rule. But yesterday I pleaded with the Committee on Rules to consider that this is not the time to take up this bill at all. Despite my earnest pleadings, they carried out what they felt to be their duty and reported a rule.

It is an open rule, for which there can be no complaint or criticism because of its openness. There is room, however, to have some concern about the waiver of the Budget Act, section 402, because this bill has in it an authorization provision for $1 billion instead of $525 million, which is what is allowed under the budget resolution for countercyclical fiscal assistance, or as some used to call it, counterfiscal cyclical assistance. There is no reason for the committee not to have reduced that authorization to $525 million when an amendment was offered to do that. All the argumentation about it was that we cannot spend, we cannot disburse that full billion dollars within the fiscal year with which the second budget resolution is concerned. But the amendment was fought and defeated, so the bill comes to us with an authorization for $1 billion while the budget resolution allows $525 million. Of course, an amendment will be offered to lower that figure down to $525 million. I would hope that there would be no partisanship about the consideration of that because, while there was in the committee, I guess, it is eminently sensible that we put our house at least that much in order. We will consider the bill under a rule that waives the Budget Act with respect to that, but despite that fact, I would certainly urge that we respect our own fiscal guidelines contained in the Budget Act and bring that authorization level down to where it ought to be.

I do not purport to suggest that the rule ought to be defeated because of that waiver of the Budget Act. We see that lots of times around here. It is not that unusual. But I would suggest to the Members that this is one of the first times I have seen a waiver of a provision of the Budget Act so clearly in focus. It is clearly focused because it, beyond question, exceeds what is in the second budget resolution.

The matter was debated in the committee; it was fully considered; and the argument went that we cannot spend as much as the authorization says, and still we have an excessive authorization figure in the bill. That is not fiscal responsibility in any sense of the word. Having sat through the full Committee on Government Operations markup, I can tell the House that this legislation is perhaps the finest example of slipshod legislation conceptually to be considered during the 96th Congress so far, I think. The experts tell us that unemployment rates are not good economic indicators, and that these rates have nothing to do with the fiscal health of a particular government. Yet we are using in the bill unemployment rates to make local allocations in the antirecession and the countercyclical titles of the bill, and we use unemployment rates in the so-called targeted fiscal assistance title to determine practically the entire local allocations. The General Accounting Office and the President's Commission on Unemployment Statistics have said that these rates are no good in a program of this type, and yet the committee chose to use them.

☐ 1000

The only improvement is that unemployment figures are used in a comparative sense, taking a low level of unemployment as measured under whatever rules may be applicable at one point in time comparing it to the unemployment figures for that community at a later point in time. We are comparing two unreliable figures so that gives us a little more reliability perhaps.

The committee also chose to ignore the fact that many local governments do not have the faintest idea of what to do with this money when it comes in. The General Accounting Office told us that many communities in fact—the last time we had the countercyclical program in effect—put their countercyclical checks in the bank. Not much help in a recession.

Mr. Speaker, targeted fiscal assistance is the most remarkable part of the bill we would consider under this rule. It should actually be called targeted political assistance. Payments are conveniently timed for April of 1980. This $250 million is the moral equivalent of "walking-around money."

Mr. Speaker, who gets this targeted fiscal assistance? I do not know, the committee does not know, no Member of Congress knows. Yet, we are asking the House to consider this legislation at this time.

The whole point is, if we do not consider this legislation under the rule, today, and get on with it, somebody is going to find out what this bill really does to the communities in his other district and they are not going to be very happy about it. A little more time before consideration of this bill and it could be studied enough to find out what it would do. Right now nobody really knows.

Mr. Speaker, I understand there may have been an attempt to get a printout of how this would work at least as to the targeted fiscal assistance. It may not have the right information in that printout, or the right years, but it is an attempt. That is the only attempt to figure out what this bill will do. We do not know, none of us know how it is going to affect the local governmental units in our districts or the State governments in our respective States.

We hear a lot of talk about Newark, as to how this targeted fiscal assistance would help. Newark, N.J., undoubtedly it has a lot of financial trouble, but these problems could be better handled in Trenton rather than in Washington. I say that because Newark and other cities in New Jersey are forced by State law to operate under a maximum spending limitation each year. Newark could raise more money if only the State government of that State would lift the statutory spending cap but, no, for some reason it is more appropriate for the taxpayers of Ohio, Missouri, Illinois, Minnesota, and other States to help bail Newark out of its troubles.

Mr. Speaker, look at Cleveland in my State of Ohio. They have been in financial trouble recently also. This money would undoubtedly help them. But why should the taxpayers of other places help Cleveland with Federal tax revenues?

My good friend for many years, George Voinovich, the new mayor of Cleveland, I hope, would agree with me in saying that we in Cleveland, we in Ohio, could meet our problems without this particular program.

The amount of help that is going to be available to Cleveland or to Newark out of this program cannot be that significant, either. Cleveland happens to tax itself at lower rates than any other urban government in the Northeast and the Midwest. It is not picking up its own part of the burden in a sense so it is easier to come to the Federal Government and ask for programs like this.

The fact is that the Congress is playing fast and loose with the taxpayers' money if it passes this program. We do not know what we are doing in terms of its local and State effect when we consider it today. I therefore think it entirely appropriate that we vote in an unusual way, against the rule, in effect saying this is no time to consider a program that is designed more for political purposes, quite obviously, than for any fiscal effect that would really help local communities.

Mr. MINISH. Mr. Speaker, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from New Jersey.

Mr. MINISH. If I understand correctly, the gentleman said that if the 5-percent cap were lifted in Newark they could raise more money. Could the gentleman tell me how they can do that?

Mr. KINDNESS. Would the gentleman care to explain it himself?

Mr. MINISH. The gentleman is the one who made the statement. I did not make it.

Mr. KINDNESS. Is it not correct that the State of New Jersey has a limitation on spending and revenue-raising activity?

Mr. MINISH. Exactly.

Mr. KINDNESS. If that is lifted what happens?

Mr. MINISH. If it is lifted they spend more money. They cannot raise it. All they will do is spend more money than they are allowed under the State cap law.

Mr. KINDNESS. The gentleman said they cannot raise more money?

Mr. MINISH. The cap law in the State of New Jersey limits the spending of a municipality. In no way can it be used to raise money, as the gentleman indicated.

Mr. KINDNESS. Can there not be more revenues—can taxes not be raised in New Jersey for some constitutional reason?

Mr. MINISH. Surely taxes can be raised, but it has no connection with the cap law. The cap law is only a limit on spending. I just wanted to be sure the House understands what the New Jersey cap law is.

Mr. KINDNESS. Mr. Speaker, I thank the gentleman for the clarification. The point should have been made clear, as the gentleman indicates, that two factors are involved: if you are going to increase the spending you are going to have to increase the taxes.

Mr. BAUMAN. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I rise to commend the distinguished chairman of the Committee on Government Operations, its ranking minority member and their colleagues on the committee for developing this important legislation, and the members of the Committee on Rules for bringing it to the floor so expeditiously.

In October of this year the Federal Reserve System embarked on a program of significant monetary restraint designed to bring our current unprecedented inflation to an end. That action, coming on top of OPEC's price increases, means we are approaching 1980 with more than the usual economic uncertainty.

Mr. Speaker, while the latest national unemployment figures show no increase, subsequent layoffs in the steel and automotive industries increase the possibility of a general increase in unemployment and make it abundantly clear that at the least there will be serious unemployment in many local areas.

The Federal Government does much to soften the impact of a recession on the private sector. For example, unemployment insurance is available to the individual and loss carrybacks for businesses.

Mr. Speaker, this bill provides a similar safety net during 1980 for State and local governments, which face declining revenues and increased demands for services whenever there is a national or local downturn. Through the proposed targeted fiscal assistance program, local governments facing adverse local economies would receive assistance. Through the standby countercyclical program, both State and local governments will receive assistance in the event of a general economic downturn. The serious economic uncertainties we face in 1980 amply justify these measures. I therefore urge my colleagues to approve the rule and this important bill.

I yield back the balance of my time, Mr. Speaker.

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Speaker, in a popular movie that was around a couple of years ago called "Smokey and the Bandit", Sheriff Beuford T. Justice at one point says, "What we have here is a complete disrespect of the law."

Mr. Speaker, when we take a look at the bill we are considering today under the rule that is to be granted, what we have, it seems to me, is a complete disregard for the purpose of the law. What we are doing in the bill before us today on countercyclical revenue sharing is an exercise in political featherbedding, pure and simple.

Mr. Speaker, as a matter of fact, I have heard it defined, and I think reasonably accurately, that what we have here is the moral equivalent of walkaround money. All you have to do is ask a question about who gets benefits from this program.

□ 1010

What we are given as an answer to that question is, "Well, we have got this formula," but it turns out it is a rather hidden formula we are dealing with. We know that somebody gets something and if you are going to support this legislation, what you hope is that it may be you, it may be your district that is going to get something out of it, but we do not know.

We suspect that the people who wrote the formula do know who is going to get the money, but we cannot find out just where the political fallout is going to be, because there are no printouts.

Now, when we considered this bill in the Committee on Government Operations, over and over again we said, "Why don't you show us some printouts as to exactly what the effect is going to be of this bill across the Nation? You put together a formula. Certainly you can tell us what that formula is going to do, how it is going to apply."

What we were told was, "Well, it's very complicated. We are changing it with amendments. There is no way we can really give you that kind of information."

It was interesting to note, though, the next day the New York Times came out with an article on this bill and sure enough, there in that article were the impacts on the communities in the New York area, which communities were going to get the money, and how much they were going to get. Somebody has got this formula. Somebody has worked it out. Somebody knows where the political fallout is going to be. The only people that do not know, evidently, are the Members of Congress who have to make a decision and we are asked to make a decision on politics alone.

Now, I will tell you that that argument that I use is probably not a very good argument for those of you on the majority side of the aisle. The people on my side of the aisle ought to listen to it, because the fallout is not likely to be in our best interests; but I would say to my friends on the majority side of the aisle, I think you have a reason to question this bill as well. It has to do with the supposed purpose of this bill, namely, that it is antirecession.

Now, it seems to me that when you are talking about a recession, what you are talking about is people who do not have jobs. What we should be concentrating on in an antirecession bill is getting people jobs; yet if you look at the provisions of the bill we are going to consider, you will find out that this is an antijob bill. That is best summed up in the fact that we have a whole portion of this bill, two sections of it, which relate to the Davis-Bacon provisions. Now, if you include the Davis-Bacon provisions and you work out the limited funding in this bill, what you find out is that if you assume that one-third of the money in the bill is spent for construction, which by the way is the only way this bill can create any work at all, the Davis-Bacon provisions in it mean that 11,109 people will not get work, using the figures that have been developed by the General Accounting Office.

Now, I am going to address the whole subject of Davis-Bacon more fully when I have an amendment to repeal these provisions. When it comes up, I will be very glad to go into detail on those figures.

But, I would say to my friends on the majority side that you should certainly question a bill, no matter how politically attractive, which attempts to address recession, but fails to do so in terms of jobs. That has got to be a bad bill, and this one is.

Mr. BAUMAN. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. MINISH). The gentleman from Maryland has 6 minutes remaining.

Mr. BAUMAN. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Speaker, here in the House we do not have illustrations, either in the CONGRESSIONAL RECORD or on the covers of bills that are considered by this body. If we did, the illustration that we ought to have on this particular piece of legislation is, "See No Evil, Hear No Evil, Speak No Evil," because clearly on the majority side we have had in the rule, at least, a very limited explanation, if any, of what is in this bill. We will have that when we get into general debate on the legislation. We will have, through the efforts to amend the legislation, some effort to clean up what is perhaps the most blatant piece of politics that I have seen in the House for some time.

This bill is clearly a bill designed to assist in an election year.

Now, I certainly do not impugn anyone's motives, but the facts are that 1980 is an election year. The facts are we have an incumbent administration under some pressure within its own party. The facts are we will have after the spring primaries a general election and we have the largest concentration of votes in this country located in the largest cities and in the Northeast. And the Northeast happens to be the home area of at least one of the major candidates. So this bill is designed to give to the big cities of the Nation and the Northeastern part of the country in an election year a billion and a quarter dollars, that is 1,250 million bucks of the taxpayers' money.

Now, it is not designed to help the taxpayer or even individuals—well, some individuals, itinerant mayors in some of these big cities. I think you could name them. If you wanted me to try to name them, I could tell you the cities that will benefit. Jane Byrne is probably going to be helped immeasurably by this. I do not know what her political sensitivities are to this kind of legislation or what her political sensitivities are generally, but at least she tends to be convertible in some of her attitudes about who she supports politically.

I would say, therefore, she might be persuaded by some of the money that is going to be available in this bill, and there may be, who knows, other mayors, political leaders in their communities, who might, in fact, respond to some kind of a gift from Uncle Sugar, as administered by the current administration at a sensitive time in the political process so soon before or after the New Hampshire primaries or before or after the conventions that will be held in 1980.

Now, see no evil, hear no evil, speak no evil—I have just spoken evil on this bill and perhaps violated some rule of equity or comity. I hope not, but I will give, I hope, this Chamber an opportunity to hear a little evil about this bill, because I just intend to explain what the bill does and that in itself is evil enough, and who it does it for.

One other statistic. There are 38,000 units of government in this country. They all represent people. Those 38,000 units of government do not share equally in this legislation. As a matter of fact, over half of them will get absolutely nothing out of this bill, if I can figure out what the bill does. Of course, I can only guess, because we have no printout. There are no facts on which to go.

Mr. ASHBROOK. Mr. Speaker, will my colleague yield?

Mr. BROWN of Ohio. I would be happy to yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Speaker, I listened with interest and I think my colleague is a little too harsh on himself to say that he has spoken evil of this.

I thought in the spirit of Christmas the gentleman was being very restrained on this very bad bill. I would congratulate the gentleman for being able to convey a very honest impression with a sense of restraint this bill may not even deserve.

Mr. BROWN of Ohio. The Christmas season is an appropriate time for this bill, because it is a package that nobody knows what is in it, well wrapped, designed to be attractive, and, to tell all those kiddies out there who hold political jobs in major cities, "Be good children, because Santa, or Uncle Sam, or whoever you think is going to give you the money, is not going to give you something come April of 1980."

Mr. KINDNESS. Mr. Speaker, would the gentleman yield?

Mr. BROWN of Ohio. Of course, I yield to the gentleman from Ohio.

Mr. KINDNESS. Mr. Speaker, in the spirit of the Christmas season, I thought the gentleman might want to reconsider his concept of an illustration for the cover of this bill allowing the "Three Wise Men" to be shown.

The SPEAKER pro tempore (Mr. MINISH). The time of the gentleman from Ohio (Mr. BROWN) has expired.

Mr. BAUMAN. Mr. Speaker, I yield my last minute to the gentleman from Ohio (Mr. BROWN).

Mr. KINDNESS. Perhaps the gentleman would consider an illustration for the cover of this bill allowing the "Three Wise Men" to be featured on the cover of the bill. They brought gold, frankincense, and myrrh. In this case we have gold from our Treasury and the sweet, intoxicating fragrance of targeted assistance, and the mirth, not myrrh, of the timing of its delivery, which is April 1.

Mr. BROWN of Ohio. Well, if myrrh is a narcotic, I would say you would have to be "under the influence" to vote for this bill.

□ 1020

Mr. ZEFERETTI. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore. Without objection, the previous question is ordered.

Mr. ASHBROOK. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ASHBROOK. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 271, nays 83, answered "present" 1, not voting 78, as follows:

[Roll No. 732]

YEAS—271

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Broyhill
Buchanan
Burlison
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Cleveland
Clinger
Collins, Ill.
Conte
Conyers
Corman
Coughlin
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Dickinson
Dicks
Dingell
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Emery
Erdahl
Erlenborn
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Hillis
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Lowry
Lujan
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Marlenee
Marriott
Mathis
Matsui
Mattox
Mavroules
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Roth
Roybal
Sabo
Santini
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Skelton
Slack
Solarz
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
White
Whitley
Whitten
Williams, Ohio
Wilson, Bob
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—83

Abdnor
Archer
Ashbrook
Bafalis
Bauman
Bereuter
Brinkley
Broomfield
Brown, Ohio
Burgener
Butler
Cheney
Clausen
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Edwards, Okla.
English
Findley
Forsythe
Frenzel
Gingrich
Goldwater
Grassley
Guyer
Hammerschmidt
Hansen
Hinson
Holt
Hopkins
Jacobs
Jeffries
Jones, N.C.
Kelly
Kindness
Kramer
Lagomarsino
Leach, Iowa
Lewis
Livingston
Loeffler
Long, Md.
Lott
Lungren
McClory
McDonald
Madigan
Martin
Michel
Montgomery
Pashayan
Paul
Petri
Ritter
Robinson
Royer
Satterfield
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Solomon
Spence
Stockman
Tauke
Taylor
Thomas
Trible
Walker
Whitehurst
Whittaker
Williams, Mont.
Winn

ANSWERED "PRESENT"—1

Simon

NOT VOTING—78

Anderson, Ill.
Andrews, N. Dak.
Badham
Beilenson
Bonior
Burton, John
Campbell
Coelho
Cotter
Crane, Philip
D'Amours
Danielson
Dellums
Devine
Diggs
Donnelly
Dornan
Dougherty
Edwards, Calif.
Ertel
Evans, Ga.
Flippo
Flood
Ford, Mich.
Giaimo
Gibbons
Goodling
Hagedorn
Hanley
Harris
Hawkins
Holland
Hollenbeck
Hutto
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Kastenmeier
Latta
Luken
Lundine
McCloskey
McEwen
McKay
Mazzoli
Mica
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelson
Nichols
Price
Pursell
Quayle
Richmond
Rose
Rostenkowski
Rousselot
Rudd
Runnels
Russo
Smith, Iowa
Snyder
Spellman
Stark
Stump
Symms
Treen
Ullman
Van Deerlin
Waxman
Weiss
Wilson, Tex.
Wydler
Young, Alaska

□ 1030

Messrs. DANIEL B. CRANE, SEBELIUS, and LONG of Maryland changed their votes from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

TELLER VOTE

Mr. BAUMAN. Mr. Speaker, I demand tellers.

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. ZEFERETTI and Mr. BAUMAN.

The House divided, and the tellers reported that there were—yeas 187, nays 98.

□ 1040

Mr. ASHBROOK. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 240, nays 115, not voting 78, as follows:

[Roll No. 733]

YEAS—240

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Cleveland
Collins, Ill.
Conte
Conyers
Corman
Daschle
Davis, Mich.
Davis, S.C.
de la Garza
Deckard
Derrick
Dicks
Diggs

Dingell
Dixon
Dodd
Downey
Drinan
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Holtzman
Horton
Howard
Huckaby
Hughes
Ireland
Johnson, Calif.
Jones, Tenn.
Kazen
Kemp
Kildee
Kostmayer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lehman
Leland
Lent
Levitas
Livingston
Lloyd
Long, La.
Lowry
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Marlenee
Mathis
Matsui
Mattox
Mavroules
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Quillen
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Roth
Roybal
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Weaver
White
Whitley
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—115

Abdnor
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Brinkley
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Cheney
Clausen
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Derwinski
Dickinson
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Findley
Forsythe
Frenzel
Gingrich
Goldwater
Gramm
Grassley
Grisham
Guyer
Hammerschmidt
Hansen
Hillis
Hinson
Holt
Hopkins
Hubbard
Hyde
Jacobs
Jeffries
Jones, N.C.
Jones, Okla.
Kelly
Kindness
Kramer
Lagomarsino
Leach, Iowa
Lee
Lewis
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDonald
Madigan
Marriott
Martin
Michel
Montgomery
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Pritchard
Railsback
Regula
Rhodes
Ritter
Robinson
Royer
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Solomon
Spence
Stangeland
Steed
Stenholm
Stockman
Tauke
Taylor
Thomas
Trible
Walker
Watkins
Whitehurst
Whittaker
Whitten
Wilson, Bob
Winn
Young, Fla.

NOT VOTING—78

Anderson, Ill.
Andrews, N. Dak.
Badham
Beilenson
Burton, John
Campbell
Coelho
Cotter
Crane, Philip
D'Amours
Danielson
Dellums
Devine
Donnelly
Dornan
Dougherty
Duncan, Oreg.
Edwards, Calif.
Ertel
Evans, Ga.
Flippo
Flood
Ford, Mich.
Giaimo
Gibbons
Goodling
Hagedorn
Hanley
Harris
Hawkins
Holland
Hollenbeck
Hutto
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Kastenmeier
Kogovsek
Latta
Luken
Lundine
McCloskey
McEwen
McKay
Mazzoli
Mica
Moorhead, Calif.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelson
Nichols
Patten
Price
Pursell
Quayle
Richmond
Rose
Rostenkowski
Rousselot
Rudd
Runnels
Russo
Smith, Iowa
Snyder
Stark
Stump
Symms
Treen
Ullman
Van Deerlin
Waxman
Weiss
Wilson, Tex.
Wydler
Young, Alaska

☐ 1100

The Clerk announced the following pairs:

Mr. Hanley with Mr. Anderson of Illinois.

Mr. Russo with Mr. Goodling.

Mr. Rostenkowski with Mr. Pursell.

Mr. Giaimo with Mr. Quayle.

Mr. Jenrette with Mr. Hollenbeck.

Mr. Mazzoli with Mr. Andrews of North Dakota.

Mr. Murphy of New York with Mr. Rousselot.

Mr. Van Deerlin with Mr. Wydler.

Mrs. Spellman with Mr. McEwen.

Mr. Richmond with Mr. Devine.

Mr. Price with Mr. Young of Alaska.

Mr. Nichols with Mr. Donnelly.

Mr. John L. Burton with Mr. Jeffords.

Mr. Hawkins with Mr. Hagedorn.

Mr. Rose with Mr. Badham.

Mr. Danielson with Mr. Campbell.

Mr. Cotter with Mr. Rudd.

Mr. D'Amours with Mr. Snyder.

Mr. Kastenmeier with Mr. Latta.

Mr. Murphy of Illinois with Mr. Symms.

Mr. Weiss with Mr. McCloskey.

Mr. Ullman with Mr. Dornan.

Mr. Edwards of California with Mr. Dougherty.

Mr. Flippo with Mr. Evans of Georgia.

Mr. Ford of Michigan with Mr. Bonior of Michigan.

Mr. Lundine with Mr. Coelho.

Mr. Beilenson with Mr. Philip M. Crane.

Mr. Holland with Mr. Harris.

Mr. Hutto with Mr. Runnels.

Mr. McKay with Mr. Smith of Iowa.

Mr. Waxman with Mr. Charles Wilson of Texas.

Mr. Stark with Mr. Nelson.

Mr. Stump with Mr. Jenkins.

Mr. Diggs with Mr. Johnson of Colorado.

Mr. Ertel with Mr. Luken.

Mr. Gibbons with Mr. Moorhead of California.

Mr. Dellums with Mr. Nedzi.

Mr. Mica with Mr. Ichord.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MINISH). Without objection, a motion to reconsider is laid on the table.

Mr. BAUMAN. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

Mr. ZEFERETTI. Mr. Speaker, I move to reconsider House Resolution 506, just agreed to.

Mr. FROST. Mr. Speaker, I move to table the motion offered by the gentleman from New York (Mr. ZEFERETTI).

The SPEAKER pro tempore. The question is on the motion to table offered by the gentleman from Texas (Mr. FROST).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BAUMAN. Mr. Speaker, on that I demand a division.

Mr. BOLLING. Mr. Speaker, I demand the yeas and nays on the motion to table.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 242, nays 107, not voting 84, as follows:

[Roll No. 734]

YEAS—242

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Conte
Conyers
Corman
Daschle
de la Garza
Derrick
Dicks
Diggs
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Erlenborn
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Harsha
Heckler
Hefner
Heftel
Hightower
Holtzman
Horton
Howard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lehman
Lent
Levitas
Livingston
Lloyd
Long, La.
Lowry
McCormack
McDade
McHugh
Maguire
Markey
Marks
Mathis
Matsui
Mattox
Mavroules
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Natcher
Neal
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Quillen
Rahall
Rangel
Ratchford
Reuss
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Roybal
Sabo
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Simon
Skelton
Slack
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Weaver
White
Whitley
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NAYS—107

Abdnor
Archer
Ashbrook
Bafalis
Bauman
Beard, Tenn.
Bereuter
Bethune
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Butler
Cheney
Clausen
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Deckard
Derwinski
Dickinson
Edwards, Okla.

Emery
English
Erdahl
Fenwick
Findley
Forsythe
Frenzel
Gingrich
Goldwater
Grassley
Grisham
Guyer
Hagedorn
Hammer-
schmidt
Hansen
Hillis
Hinson
Holt
Hopkins
Hubbard
Jeffries
Jones, N.C.
Kelly
Kindness
Kramer
Lagomarsino
Leach, Iowa
Lee
Lewis
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDonald
McKinney
Madigan
Marlenee
Marriott
Martin
Michel
Mitchell, N.Y.
Myers, Ind.
Paul
Petri
Pritchard
Railsback
Regula
Rhodes
Ritter
Robinson
Roth
Royer
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Smith, Nebr.
Snowe
Solomon
Spence
Stangeland
Stockman
Tauke
Taylor
Thomas
Trible
Walker
Whitehurst
Whittaker
Wilson, Bob
Winn
Young, Fla.

NOT VOTING—84

Anderson, Ill.
Andrews,
N. Dak.
Badham
Beilenson
Bonker
Burton, John
Campbell
Coelho
Cotter
Crane, Philip
D'Amours
Danielson
Davis, S.C.
Dellums
Devine
Dingell
Donnelly
Dornan
Dougherty
Early
Eckhardt
Edwards, Calif.
Ertel
Evans, Ga.
Flippo
Flood
Ford, Mich.
Giaimo
Gibbons
Goodling
Hanley
Harris
Hawkins
Holland
Hollenbeck
Hutto
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Kastenmeier
Latta
Leland
Luken
Lundine
McCloskey
McEwen
McKay
Mazzoli
Mica
Moorhead,
Calif.
Murphy, Ill.
Murphy, N.Y.
Myers, Pa.
Nedzi
Nelson
Nichols
Pashayan
Price
Pursell
Quayle
Richmond
Rose
Rostenkowski
Rousselot
Rudd
Runnels
Russo
Santini
Smith, Iowa
Snyder
Stark
Stump
Symms
Treen
Ullman
Van Deerlin
Watkins
Waxman
Weiss
Wilson, Tex.
Wydler
Young, Alaska

□ 1110

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

REQUEST FOR PERMISSION TO HAVE UNTIL MIDNIGHT, JANUARY 18, 1980, TO FILE REPORT ON HOUSE CONCURRENT RESOLUTION 204, EXTENDING NONDISCRIMINATORY TREATMENT TO PRODUCTS OF PEOPLE'S REPUBLIC OF CHINA

Mr. VANIK. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means have until midnight, January 18, 1980, to file a report on House Concurrent Resolution 204, approving the extension of nondiscriminatory treatment to the products of the People's Republic of China.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. BAUMAN. I object.

The SPEAKER pro tempore. Objection is heard.

RECESSION AND TARGETED FISCAL ASSISTANCE

Mr. BROOKS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5980) to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. KINDNESS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 272, nays 79, not voting 82, as follows:

[Roll No. 735]

YEAS—272

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson,
Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Ashley
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Beard, Tenn.
Bedell
Benjamin
Bennett
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Brown, Calif.
Brown, Ohio
Burlison
Burton, Phillip
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Clausen
Clay
Cleveland
Collins, Ill.
Conte
Conyers
Corman
Coughlin
Daniel, Dan
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Dicks
Diggs
Dixon
Dodd
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Erlenborn
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Fish
Fisher
Fithian
Florio
Foley
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Grassley
Gray
Green
Grisham
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Heckler
Hefner
Heftel
Hightower
Holtzman
Horton
Howard
Huckaby
Hughes
Ireland
Jacobs
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Livingston
Long, La.
Lowry
Lujan
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Preyer
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Reuss
Rinaldo
Roberts
Rodino
Roe
Rosenthal
Roth
Roybal
Royer
Sabo
Santini
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Shelby
Skelton
Slack
Smith, Nebr.
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Trible
Udall
Ullman
Vanik
Vento
Volkmer
Walgren
Wampler
Watkins
Weaver
White
Whitehurst
Whitley
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Wilson, C. H.
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

NAYS—79

Abdnor
Archer
Ashbrook
Bafalis
Bauman
Bereuter
Broomfield
Broyhill
Buchanan
Burgener
Butler
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Daniel, R. W.
Dannemeyer
Derwinski
Dickinson
Edwards, Okla.
Emery
English
Erdahl
Findley
Forsythe
Frenzel
Gingrich
Guyer
Hagedorn
Hammer-
schmidt
Hansen
Hillis
Hinson
Holt
Hopkins
Hubbard
Hyde
Jeffries
Jones, N.C.
Kelly
Kindness
Lewis
Lloyd
Loeffler
Long, Md.
Lott
Lungren
McClory
McDonald
Marlenee
Michel
Mitchell, N.Y.
Myers, Ind.
Paul
Petri
Regula
Rhodes
Ritter
Robinson
Satterfield
Sawyer
Schulze
Sebelius
Sensenbrenner
Shumway
Shuster
Snowe
Solomon
Spence
Stangeland
Steed
Tauke
Taylor
Thomas
Walker
Wilson, Bob

NOT VOTING—82

Anderson, Ill.
Andrews,
N. Dak.
Badham
Beilenson
Burton, John
Campbell
Cheney
Chisholm
Coelho
Cotter
Crane, Philip
D'Amours
Danielson
Davis, S.C.
Dellums
Devine
Dingell
Donnelly
Dornan
Dougherty
Early
Eckhardt
Edwards, Calif.
Ertel
Evans, Ga.
Flippo
Flood
Ford, Mich.
Giaimo
Gibbons
Goodling
Hanley
Harris
Harsha
Hawkins
Holland
Hollenbeck
Hutto
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Kastenmeier
Latta
Luken
Lundine
McCloskey
McEwen
McKay
Mazzoli
Mica
Moorhead,
Calif.
Murphy, Ill.
Murphy, N.Y.
Nedzi
Nelson
Nichols
Price
Pursell
Quayle
Richmond
Rose
Rostenkowski
Rousselot
Rudd
Runnels
Russo
Simon
Smith, Iowa
Snyder
Stark
Stump
Symms
Treen
Van Deerlin
Vander Jagt
Waxman
Weiss
Wilson, Tex.
Wydler
Young, Alaska

□ 1130

Mr. LLOYD changed his vote from "yea" to "nay."

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5980, with Mr. GEPHARDT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. BROOKS) will be recognized for 30 minutes, and the gentleman from New York (Mr. HORTON) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. BROOKS).

□ 1140

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may require.

Mr. Chairman, H.R. 5980 presents a new approach to a problem we have been dealing with for several years here—providing Federal assistance to State and local governments during a national recession.

Before some of my friends rise to remind me that I was not exactly out in front leading the fight for this kind of program in those earlier years, I want to repeat that this is a new program. It is a different program. It is an improved program. It will do what it is supposed to do—and stop doing it when it is supposed to.

What makes H.R. 5980 new—and better—is its use of a different triggering formula than the past versions of the legislation used. They relied on unemployment rates, both to determine when a recession begins and ends, and how much money State and local governments would get. But those rates are not only unreliable, they are not good indicators of cyclical changes in the economy. I think everyone recognized that. But we were told there was no suitable alternative and so we kept getting antirecession bills pegged to unemployment rates. And that is why I opposed them.

Now we do have an alternative. H.R. 5980 contains a triggering and State allocation formula based on wage and salary data that is regularly compiled by the Commerce Department as a component of the gross national product. The program would be triggered nationally whenever there is a two-quarter decline in GNP and total wages and salaries.

Mr. Chairman, a two-quarter decline in GNP is widely accepted as confirmation that we are in a recession. And income from wages and salaries constitutes almost two-thirds of personal income, which is a major source of State and local tax revenues. So we have a formula that is a true indicator of a recession, and of the impact that recession may be having on State and local governments. Furthermore, the wage and salary information, which is collected quarterly, is high quality, reliable data that covers about 95 percent of private, nonagricultural employment.

The gentleman from North Carolina (Mr. FOUNTAIN) and the Intergovernmental Relations and Human Resources Subcommittee, of which he is chairman, have worked long and hard to develop this formula and he will explain it in greater detail in a few minutes.

There is one problem with the formula still, and that is that we cannot get the wage and salary data for local governments until too late to use in allocating money at the local level. So we are forced to use unemployment figures. But there is a big difference in how they are used in H.R. 5980, and how the earlier programs—and the bill passed by the Senate—have used them. They have used them as an absolute measure of the impact of a recession. In H.R. 5980, we use only the change in unemployment from a prerecession quarter to a corresponding recession quarter. That is a much more acceptable use of the unemployment data.

Now, as for the money. The bill authorizes a billion dollars a year for the program once it is triggered, but there is very little likelihood that much will be needed. According to the estimate of the Congressional Budget Office, we may not need any. This is a standby program that will be ready in case we need it. And I want to stress that this is just an authorization. Any money will have to be appropriated. This is not an entitlement program, like general revenue sharing.

There is another part of H.R. 5980 that is intended to provide immediate assistance to cities that are still feeling the lingering effects of the last recession. They were getting money under the old program and their rate of recovery lagged behind the rest of the Nation. We have got $250 million in the bill for a one-time only payment to these cities, and we have tightened up the criteria to try to make sure the money goes only to those that really need it.

Mr. Chairman, as reported by the Government Operations Committee, H.R. 5980 is a responsible, workable piece of legislation. It is also something of a compromise that represents a delicate balancing of many forces and interests. I hope Members will resist the urge to try to shift that balance to something they think might be more favorable for their own special concerns. To do so may endanger the entire bill.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my friend, the gentleman from Pennsylvania.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in support of H.R. 5980. Simply put, this legislation provides authority for a standby countercyclical assistance program should this Nation enter into a period of recession as many in the economic community are now forecasting may soon occur. Additionally, this bill provides authority for a targeted fiscal assistance program to aid some of our Nation's most fiscally distressed areas.

As many of us know, this measure has been a long time in the making. Ever since the last Congress missed the opportunity to renew the then existing countercyclical program during the last day of the last Congress, this Nation has been without a general, nationwide countercyclical program. We have thus been without the antirecession protection which such a program provides. This bill is specifically designed to fill that gap.

If I may, I would like to offer my appreciation and congratulations to both the chairman of the subcommittee to which this legislation was initially referred and to the chairman of the full Government Operations Committee. They have worked long, hard and responsibly to bring this measure to the floor. The fact that this bill has reached the floor at all is largely due to their efforts. As a long time supporter of countercyclical legislation—indeed, as the author of the concept several Congresses ago—I strongly support the general thrust of their efforts and this legislation.

To me, this legislation makes good sense. It is clear that many areas of our country continue to suffer significant fiscal stress—either from having failed to fully recover from the effects of the last recession or simply because they represent areas where fiscal stress is or has become a way of life. These are places where money is desperately needed for all kinds of local activities—the continuation and strengthening of such essential services as police and fire protection; the maintenance of equipment; the continuation of municipal programs; the payment of teachers and the support of the schools—whatever purposes these local communities feel are critical uses of the money involved.

The one-time payment under the targeted fiscal assistance title of the bill is designed to provide the money to help to meet such needs. If we care about such pockets of poverty—if we care about the people who live there and who work there and who depend upon their local governments for all kinds of services—then indeed, targeted fiscal assistance makes good sense for this Congress to promptly pass.

The countercyclical assistance title of this bill also makes good sense. The country is facing a recession. We hear predictions, forecasts, and commentary almost daily indicating that the recession is just around the corner.

As we all know, local governments suffer a decline in revenues during recessionary times—putting a further strain on their ability to deliver services, to maintain jobs, and so forth. What are we to do? Knowing full well that there is a clear and convincing threat that we are on the threshold of a recession, are we to do nothing? Is this Federal Government once again going to be vulnerable to the charge of not being prepared? I hope not. I think not. Countercyclical legislation is the remedy—or at least part of the remedy—for the pains of recession.

We must authorize this standby authority which will be ready if all the warning signs come to pass. Indeed, simply through the enactment of this standby authority we may be providing ourselves with a certain level of deterrence relative to the recessionary threat. Certainly, knowledge that countercyclical moneys will be coming to support their own antirecessionary efforts will cause local leaders to be more willing to do what they feel is necessary in dealing with their own recessionary problems. Again, just as with the targeted fiscal assistance title, the countercyclical assistance title makes good, solid sense.

In sum, I would like to again commend the efforts of the chairmen who made this legislation possible and commend to my colleagues the legislation before them. We need this bill—and we need it now. Thank you.

Mr. ROSENTHAL. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from New York.

Mr. ROSENTHAL. Mr. Chairman, I would like to commend the gentleman from Texas (Mr. Brooks), the chairman of the House Committee on Government Operations, not only for his floor management of this bill but for his leadership in creating compromise and consensus to effectuate successful legislation.

Mr. Chairman, the bill before us today, H.R. 5980, recession and targeted fiscal assistance is the only piece of Federal legislation that is specifically designed to aid local and State governments during a recessionary period. The assistance given by this bill is in the form of unrestricted fiscal aid which allows the most flexible and useful management of such help at the local level.

The purpose of the bill is to provide financial relief to State and local units of government which are experiencing the negative effects of a recession and to reverse the effects of long-term economic decline.

One result of this assistance will be to reduce the pressure on State and local governments to cut back on vital public services during the worst periods of economic distress. It is important for us to remember that the overwhelming majority of services that actually affect the daily lives of our citizens are provided by State and local governments.

Since the revenue sources of our municipalities are highly sensitive to downturns in the economy, it is increasingly necessary for the Federal Government to strengthen these local governments when their incomes are adversely affected by a recession. Only in this way can even essential services like police, fire protection and sanitation be maintained at acceptable levels.

A second benefit of this program would be the reduction of the natural pressures on State and local governments to increase taxes during a recessionary period. Since local income tax and particularly State and local sales tax revenues will inevitably be reduced by a national economic downturn, municipalities must find an alternative source of funding to maintain their services. If local units of government increased taxes they would be working at direct cross purposes with Federal initiatives to stimulate the economy by potentially reducing taxes. The countercyclical program in this bill would provide the needed aid to maintain those local services and would lessen the need for increased local taxation.

Another serious consequence of diminished local revenues will be a sharp increase in unemployment. The last thing local governments should be doing during a recession is contributing to the unemployment problem. The unrestricted nature of the assistance program created by this legislation would allow local governments to use this aid for the salaries needed to maintain their service force.

One important asset of this program is the targeted nature of the fiscal assistance. This is a true antirecessional bill and as such focuses the aid on the local governments that are in distress, when they are in recession. The program provides assistance only to those governments that meet economic hardship standards based on decline in real wages and salaries and it automatically shuts off funding when the need is no longer present.

Mr. Chairman, it is essential for us to ready this Nation for potential economic recession. This bill represents the concern of the Federal Government for the sound economic health of our municipalities. This emergency measure is warmly supported by the administration and is a more financially modest proposal than that passed by the Senate by a 3 to 1 margin earlier this year. Every recognized economic forecast agrees that the amount likely to be distributed under this bill will not exceed the $525 million ceiling set by this House in the second budget resolution.

I urge my colleagues to support this bill in its current form—as reported by a 27 to 12 majority of the Committee on Government Operations.

Mr. Chairman, I strongly support passage of this much needed legislation.

Mr. RODINO. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from New Jersey (Mr. Rodino), the chairman of the Committee on the Judiciary, who was one of the early leaders in efforts to help cities in distress when they had high unemployment difficulties.

Mr. RODINO. Mr. Chairman, I thank the gentleman for yielding.

I would like to commend the gentleman from Texas (Mr. Brooks), the distinguished chairman of the Committee on Government Operations, and his subcommittee chairman, the gentleman from North Carolina (Mr. Fountain), for having diligently pursued this problem—and finally having come up with a workable solution.

I know that the gentleman from Texas (Mr. Brooks) has not come to this conclusion very easily. I know that he has addressed the House on previous occasions and found fault with supporting a countercyclical assistance program. However, the gentleman from Texas now recognizes that in the light of the economic situation the country is faced with. that there is a great need for this kind of an assistance program. The gentleman does a timely service to the country by presenting this legislation to the House and lending it his support as he now does.

I especially want to express appreciation on behalf of the people whom I represent because they will be especially helped. Many economists have acknowledged that we are on the eve of a recession. It might be too late to employ any of the tools we might utilize to deal with the recession if we do not act now. This program is certainly one of the tools which can help.

Mr. Chairman, I hope that the House will see the wisdom of adopting this legislation and do so overwhelmingly. I again commend my friend, the gentleman from Texas (Mr. Brooks).

Mr. Chairman, in January I introduced legislation to reestablish the countercyclical assistance program. Ninety-six of my colleagues joined as cosponsors recognizing, as I do, that many of our local communities across the country are in desperate need of assistance to provide for the basic human needs of their citizens.

Many of our cities—especially the older ones—are still suffering from slow industrial growth and high unemployment caused by the recession of 1975. These cities have been struggling to rebuild neighborhoods, attract new businesses, create permanent jobs, and keep essential services operating. Inflation has put an added burden on these depressed cities which are trying to meet the escalating costs of fuel, pensions, and insurance.

To hundreds of our cities, the countercyclical assistance program of 1977 and 1978 was absolutely essential in their efforts to meet human needs. This became dramatically apparent at the end of 1978 when the House failed to consider extending the program. Its sudden cancellation forced many local governments to choose between two unwelcome alternatives. They could either eliminate local government jobs and then have to reduce services, or they could raise property taxes to meet the mounting costs of these services.

For example, my home city of Newark—where unemployment remains at 14 percent and is even higher among minority youths—has been forced to cut 595 municipal jobs, including 200 police officers and 30 fire officers, as well as parks, public works, and health personnel.

The alternative of increasing property taxes, in a city where the tax base has been dwindling, would serve only to weaken its ability to attract business investment. The long-term effect of this program's absence will be a continuing downward economic spiral for many local economies.

I think it is important for this House to remember that when we talk about national economic decline, we are really talking about human needs and the ability of local governments to provide basic services to their citizens.

While the results of the program in 1977 and 1978 clearly justify its continuation, the importance of countercyclical aid may become even greater in the months ahead, as economists are predicting a national recession.

Mr. Chairman, some Members have suggested that this is not a national problem, and that the Federal Government should not get involved. But I would suggest that when our cities are not producing as they should be, it is a national problem. And when hundreds of thousands of citizens are out of work, it is a national problem.

The question is: Will the Congress accept its responsibility to help our cities in their efforts to overcome the day-to-day erosion of their economies?

Will we help our local governments sustain the quality of life for millions of American citizens—especially the poor, the elderly, and the disadvantaged?

We must accept this responsibility, and I urge my colleagues to vote in favor of the legislation.

Mr. BROOKS. Mr. Chairman, I thank

the gentleman from New Jersey (Mr. Rodino).

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentleman from Georgia, a distinguished member of the committee.

Mr. LEVITAS. Mr. Chairman, I thank my committee chairman for yielding.

Mr. Chairman, as I walked into the House Chamber just now, I was taken aback to find that the chairman of our committee was in the well of the House presenting strong support for the countercyclical legislation.

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I do not know what the reverse of deja vu is, but that is what it was because I have never seen that happen before. But I must say that I have followed the development of this legislation over the last 3 years. Last year, when they tried to hustle a bill with the same name past the House, I joined with my chairman and the chairman of the subcommittee in helping to kill that turkey, and we were successful. But as a result of that action, I think the wisdom that came, came not to the chairman of the subcommittee but indeed to the administration, because the administration, rather than trying to continue with that same poor piece of legislation, adopted the fundamental recommendations which the gentleman from Texas and the gentleman from North Carolina had put forth, to have a true antirecessionary countercyclical program on a standby basis tied to gross national product rather than to the fictitious unemployment figures.

So I think that it was not a question this time of being taken into the rose garden; it was a question that previously we had been led down a primrose path. All of those floral arrangements now are behind us, and we are talking about a new piece of legislation. I would hope that the gentleman, during the course of this debate, will explain to the Members of this body how the first section of this bill, which is a true antirecessionary program and will be effective in meeting the cyclical changes of the economy in a way which previous legislation which we have opposed never was able to do.

Ms. HOLTZMAN. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the gentlewoman from New York, a member of the committee.

Ms. HOLTZMAN. I appreciate the gentleman's yielding.

Mr. Chairman, I want to commend Chairman Brooks for bringing the Antirecession and Targeted Fiscal Assistance Act to the floor. As the Chair of the Task Force on State and Local Government of the Committee on the Budget, I am well aware of the many problems faced by localities around the country. I have worked hard in the past for the enactment of similar fiscal assistance legislation, having introduced my own bill, the Supplemental Antirecession Fiscal Assistance Act, earlier this year.

State and local governments have been increasingly hard pressed to meet the soaring costs of local services. Rising unemployment and the erosion of local tax bases have further strained the ability of governments to meet local needs. With a recession forecast for next year, it is clear the level of local services will continue to decline unless additional aid to local governments is provided.

In the past, the countercyclical revenue-sharing program provided an important vehicle through which fiscal relief could be targeted to hard-pressed local communities. This important program expired on September 30, 1978, and was not extended by Congress, denying much needed assistance to communities struggling with rising unemployment and inflation.

H.R. 5980 provides a similar program of fiscal assistance to State and local governments as the earlier countercyclical revenue-sharing program. The bill authorizes both a standby countercyclical aid program for State and local governments and a targeted fiscal assistance program exclusively for cities and counties.

The programs authorized by this legislation will assist State and local governments during the immediate recession, enabling them to continue vital services that would otherwise be curtailed. These programs are particularly important to New York City and to other cities in my State. I urge my colleagues to support this important piece of legislation.

Mr. HORTON. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, I rise in support of this legislation and to urge my colleagues to act favorably on this very important legislation.

Mr. Chairman, the bill before us would amend the State and Local Fiscal Assistance Act of 1972 to provide antirecession fiscal assistance for State and local governments and targeted fiscal assistance for local governments only in fiscal year 1980.

I would like to emphasize that these two programs are not job programs. They are not designed to subsidize or create jobs. These programs are designed to provide aid to States, cities, towns, counties, and local governments.

The antirecessional fiscal assistance program, which is title IV, provides fiscal relief to State and local governments adversely affected by a recession. And make no mistake about it, if we are not already in a recession, we are certainly on the edges of one. As I was coming over for the debate this morning, I read in the newspaper that they are talking about raising the price of oil $6 a barrel. We also read in the paper and I heard on the radio this morning that one of the large automobile manufacturers is anticipating laying off thousands of workers just before the Christmas season. I expect that there are probably going to be more. So we are on the verge, if we are not already into a recession period.

What we are trying to do is put in place legislation which will help these local governments and these counties and towns.

This antirecession program, a countercyclical program, will serve two important purposes. It will lessen the need for State and local governments to cut back on vital services during times of economic hardship, and it will also reduce the pressure on State and local governments to increase taxes and thus work at cross-purposes with the Federal Government's efforts to stimulate the economy through the reduction of Federal taxes.

The program will only operate in the event of a national recession and will only provide assistance to State and local governments that are actually affected by the recession and will automatically cease providing assistance when the need is no longer there.

This program, the countercyclical program, is greatly improved over the previous countercyclical programs which were enacted by the Congress. This particular program that is in this bill has a tough national trigger that insures that the country is well into a recession before the program can begin. Second, it is a much more sophisticated program in that it recognizes that State and local governments go into and out of recession at different times and are affected to different degrees. And, third, the program provides assistance only to those governments affected by a recession and automatically ceases providing that assistance when the need is no longer there.

The second portion of the bill is a program for targeted fiscal assistance. This program provides a single payment totaling $250 million to local units of government that have higher than average unemployment rates, do not have extremely high per capita incomes and are not located in counties in which there have been extremely high rates of growth and employment.

The purpose of this program is distinctly different from the purpose of the other program, the antirecession or countercyclical fiscal assistance program. While the purpose of the countercyclical program is to provide fiscal relief to governments affected by a temporary downturn in the economy, the purpose of the targeted fiscal assistance program is to provide fiscal relief to those local governments, urban, suburban, and rural, that are suffering from the problems of long-term economic decline, that is, decline that continues even during periods of national growth.

The need for these two programs is well established.

Mr. Chairman, there is room in the budget that we have adopted this year for both of these programs. The budget has set aside $525 million for this purpose in fiscal year 1980. It is anticipated that $195 million will be paid out in fiscal year 1980 under the countercyclical title and that $250 million, a lump-sum payment, under the targeted fiscal assistance program would be paid out, for a total of $445 million, a figure, of course, which is well below the $525 million ceiling.

A final point to consider is that both these programs are inexpensive to operate. They do not require a lot of overhead, they do not create a bureaucracy, and they do not result in excessive redtape, as distinguished from categorical programs. I think it is important for us to remember that. There is very little overhead. The money is going directly on a grant basis to these areas that are affected by it.

I heard some criticism that the President could pick and choose. That is not the basis on which the moneys will be allocated. They are allocated on a determined formula that is set forth in the bill, and those areas that qualify will receive it. If they would get a minimum, they would not receive it.

So, Mr. Chairman, for these reasons I urge the House to act favorably on this legislation.

Mr. BROOKS. Mr. Chairman, I yield 15 minutes to the distinguished gentleman from North Carolina (Mr. FOUNTAIN), the chairman of the subcommittee which handled this legislation and who is the genesis of this splendid new formula.

Mr. FOUNTAIN. Mr. Chairman, I thank my distinguished chairman for his compliment, which prompts me to take just a moment to thank some of the members of the staff who, since 1977, have been working to perfect the approach used in title IV of this legislation. They are Dr. Del Goldberg, who is the professional staff member for the Subcommittee on Intergovernmental Relations and Human Resources, which I have the honor to chair; John Duncan, the committee minority staff director, who has worked zealously along with the subcommittee since that time, and, of course; Bill Jones, chief counsel for the full committee. These members of our staff have worked diligently for over 2 years to develop the best possible antirecession formula so that we might come to the floor with a responsible program. The so-called antirecession fiscal assistance legislation which we have been confronted with in the past, during periods of strong economic growth, was based on unemployment figures which the experts have told the Congress, are unreliable and, therefore, can only result in an irrational and inequitable distribution of the funds.

Mr. Chairman, this bill adds a new title IV to the existing general revenue sharing law for a standby program of fiscal assistance to State and local governments during periods of economic recession. I believe this title offers a sound and responsible program for triggering assistance only when the national economy is in a recession, with the amount of that assistance determined by the severity of the recession. The formula closely tracks the course of the recession by using the same national income data customarily used to define and measure a recession.

The allocation of assistance to State governments is based on equally valid and reliable data, consisting of each State's share of the national decline in wages and salaries, adjusted for inflation, and each State government's tax effort.

The formula for allocating assistance to local governments, unfortunately, is less satisfactory. Measurement of the change in real wages and salaries each calendar quarter for every county area would provide the best available data for this purpose. But, these figures, which are obtained from reports filed by employers, are not presently available on a timely enough basis for use in the allocation formula. However, the wage and salary data are clearly the most suitable measure of a recession's impact on local communities, and I am hopeful that we can speed up the reporting process so this information can be used in the future.

As a practical alternative, we agreed to use local unemployment rates in the formula, but only on the condition that those rates be used properly to measure the change in unemployment for each county area between a recession quarter and the same calendar quarter in the previous nonrecession year. This focus on the change in the unemployment rate for each county area, rather than the rate itself, provides a reasonable measure of the "excess" or increased unemployment attributable to the recession. Comparing similar calendar quarters also neutralizes seasonal influences in these rates.

This is a vast improvement over the administration bill and S. 566—both of which follow the irrational practice of subtracting a uniform 4½ percent from each government's estimated rate to compute that government's recession-related unemployment. Obviously, this practice rewards local governments which normally have high unemployment rates, and penalizes governments which normally have low rates. While a high unemployment rate during good times may indicate structural unemployment and long-term economic problems for a community, it certainly is not relevant in an antirecession assistance program.

Having said this, I want to assure you that my opinion of the reliability and appropriateness of local unemployment rates for fiscal assistance purposes has not changed. To quote a recent statement by the Chairman of the National Commission on Employment and Unemployment Statistics, an expert body appointed by the President:

> We took a hard look at the way Congress depends upon non-existent State and local labor force data, and how lawmakers continue to ask for more of the same. As a result, BLS by law is required to publish random numbers for thousands of communities and substate areas.

In other words, we in the Congress have been guilty of mandating the use of unreliable and inappropriate unemployment rates for distributing Federal assistance. And, the executive branch has copied this bad habit in sending up its own assistance proposals. It is high time that Congress stopped mandating the use of improper unemployment rates in Federal aid formulas. Unemployment rates for most local governments, as the former Commissioner of Labor Statistics told our subcommittee, are no better than random numbers. They are as reliable as numbers picked out of a hat. This is not an acceptable way to spend the taxpayers' money.

The targeted fiscal assistance title of the bill, I must confess, has some of the same basic deficiencies as the so-called antirecession assistance bills that I, along with JACK BROOKS and others, have vigorously opposed in the past.

This approach erroneously assumes that a high unemployment rate represents fiscal distress. I am sympathetic to helping cities and counties in fiscal distress if we can identify them in an objective and responsible way. This, however, cannot be done with unemployment rates. Moreover, the misuse of unemployment rates is compounded when 4½ percent, or any other arbitrary number, is subtracted from every government's rate to represent normal unemployment. If the objective is to help slow-growing and declining urban communities, I believe this can be accomplished more appropriately and effectively through measures that promote economic development, rather than by making these communities more dependent upon Federal assistance for the support of their normal operating expenses.

I agreed to support the targeted assistance title, at $150 million, as part of a compromise with the administration which is intended to bring a responsible antirecession assistance program to the floor. It was also my understanding that targeted fiscal assistance legislation will not be requested again by the administration after this year. In addition, we have improved the administration and Senate versions of targeted assistance by strengthening the eligibility criteria, and by introducing separate unemployment measures and minimum payments for metropolitan and nonmetropolitan governments.

Let me pause to emphasize my position, clearly, however. Despite these improvements, I cannot support an authorization of more than $150 million. Why? Because this would drain money away from the $525 million available in the second budget resolution, for the far more important and meritorious antirecession assistace program authorized in title IV. All of the public interest groups, in testimony before our subcommittee, characterized this standby antirecession assistance legislation as their highest priority after revenue sharing.

The committee report on this bill estimates an outlay of $195 million in fiscal 1980 for the title IV program. This may be misleading to some Members. The title IV formula will actually trigger over $1 billion for the recession quarters in fiscal 1980, based on the Data Resources Inc. of Cambridge, Mass., forecast used by the committee. Over $1 billion is the amount of the obligation from fiscal 1980 money that would be triggered by the formula, despite the fact that four-fifths of this money, if appropriated, would constitute an outlay for fiscal 1981.

Consequently, with a total of $525 million in the second budget resolution for both programs, it would be a bad joke—no, it would be a travesty—if $250 million were paid out next April 1 for the targeted assistance program, leaving only $275 million for antirecession assistance.

I should also point out that the Congressional Budget Office cost estimate is shown as zero in the committee report only because CBO has not yet revised its August economic assumptions which have proved to be incorrect. In reality, CBO should have said it is not in a position at this time to provide a cost estimate.

At the appropriate time, I plan to offer an amendment to reduce the authorization for targeted fiscal assistance to $150 million in order to reserve adequate funding for the antirecession assistance program. I urge your support for that amendment which will make this bill a more acceptable and responsible piece of legislation, which I can support, notwithstanding my lack of enthusiasm for the targeted fiscal assistance portion.

This legislation, if passed substantially as it was reported out of our subcommittee, should make the bill as a whole reasonably satisfactory to the vast majority of the Members of this body. We will have converted the unwise and irresponsible legislation sent to us by the other body into a responsible bill that is far more meritorious than a number of the costly programs we have been passing every week in this Congress.

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The CHAIRMAN. The Committee will rise informally in order that the House may receive a message.

MESSAGE FROM THE PRESIDENT

The SPEAKER pro tempore (Mr. MURTHA) assumed the chair.

The SPEAKER pro tempore. The Chair will receive a message.

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries, who also informed the House that on December 13, 1979, the President approved and signed a bill of the House of the following title:

> H.R. 5871. An act to authorize the apportionment of funds for the Interstate System, to amend section 103(e)(4) of title 23, United States Code, and for other purposes.

The SPEAKER pro tempore. The Committee will resume its sitting.

RECESSION AND TARGETED FISCAL ASSISTANCE

The Committee resumed its sitting.

Mr. HORTON. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio (Mr. BROWN).

Mr. BROWN of Ohio. Mr. Chairman, before we get rushed into voting for this Christmas turkey, let us take a minute to think about what we know and what we do not know about the legislation now before us.

The ink is barely dry on this bill. After a full year of inactivity, the subcommittee finally met on short notice and reported the bill in a meeting lasting about 7 minutes. The full committee rushed the bill through in 2 days. The committee report became available only 2 days ago. As I understand it, one copy of the printout purporting to describe where the money will go under this bill was delivered to the committee last night. Although I have not yet seen it, I have been told that it contains inaccuracies because the formula was not properly applied. Simply put, if ignorance is bliss, then this bill is for you.

Despite the fact that the proponents of this bill cannot tell you where the money is going—or why it is being spent—I think it is important for Members to know what the bill says. There are two titles—targeted fiscal assistance and antirecession fiscal assistance.

The targeted fiscal assistance title will dole out $250 million in payments to local governments in April 1980. Some have had the audacity to point out that this will occur during the thick of the Presidential primary season.

Eligibility for an allocation is determined by four criteria:

First. An unemployment rate in excess of the national average, computed separately for SMSA and non-SMSA governments.

Second. A growth rate in employment of not more than 250 percent of the national average.

Third. A per capita income not in excess of 130 percent of the State average.

Fourth. Qualification for a minimum payment of $6,000 for SMSA governments or $3,000 for non-SMSA governments.

It must be emphasized that no one knows which governments will be included and which will be excluded under these criteria. They are completely arbitrary.

The amount of the allocation to each local government under this title is determined by taking the local government's average unemployment rate over the past 4 years and subtracting from it 4.5 in the case of SMSA governments or 4 for non-SMSA governments.

The resulting figure is then multiplied by the Government's general revenue sharing amount. The proportion of that result to the sum of all such figures for all eligible governments determines the local government's share of the $250 million.

I have been searching for a justification for the expenditure of $250 million under this title, but so far I have heard none. It has been suggested that some governments are still suffering from the lingering effects of the last recession—the one that ended in mid-1975—but that seems a little farfetched.

Others have said it is because of the general economic decline of certain parts of the country, such as the Northeast. But such problems are supposed to be dealt with through Federal programs to aid individuals such as unemployment compensation or supplemental social security or aid to homeowners to help pay their heating bills or food stamps or a variety of other programs including some designed to assist special regional problems like the Trade Adjustment Act, the New York bailout legislation, and the Chrysler loan. So I do not know why this bill should include target fiscal assistance when we have so many other programs designed to do the same thing.

Harry Hopkins once said that the key to success in politics is to "tax and tax, spend and spend, and elect and elect." That seems to be the sole purpose of this bill. Particularly instructive was the comment of my committee chairman, the gentleman from Texas, my loyal friend, JACK BROOKS, when money for this program was requested in the first House budget resolution earlier this year:

> Even when this program was running it did not do the job it was supposed to do, unless you believe that the only thing Congress is supposed to do is shovel money. If that is our job, we are pretty good at that, just shoveling away.

Chairman BROOKS had other words of wisdom that day:

> They call it something different now—targeted fiscal assistance—but a rose is a rose and a snake is a snake . . .

But Chairman BROOKS was not the only source of objection to this legislative approach.

This bill totally ignores the warnings of the General Accounting Office and the President's Commission on Employment and Unemployment Statistics that local unemployment data are unreliable. It is clearly unsuitable for allocating general purpose fiscal assistance to local governments. Studies have shown no correlation between the fiscal health of a local government and the unemployment rate in the community.

This is not designed to help the unemployment bill. This legislation is meant to aid governments, not people. There is no requirement that people be given jobs under this bill.

The other title of the bill—title I—is antirecession fiscal assistance—more akin to the countercyclical programs we have enacted in the past.

I am prepared to acknowledge that this approach is a small improvement over the last countercyclical program, because this title of the bill uses real wages and salaries and gross national product to trigger the program, rather than unemployment rates. However, local governments again will receive the money based on those useless, unreliable local unemployment rates—so we cannot really be sure that the money is going to the places where it is needed.

Further, the bill as presented today skews allocations to favor local governments that had high unemployment before the recession, so we are trying to treat structural unemployment problems in a bill that is supposed to be concerned with cyclical, recession-related problems.

This antirecession title will provide up to $1 billion in the event of a national recession, triggered by a two-quarter decline in the real gross national product and real wages and salaries. The program will distribute $15 million nationally for each 0.1-percent decline in real wages and salaries. One-third of the money will go to States and two-thirds will go to localities. The program will operate until the economy reaches its prerecession level plus 0.3 percent for each quarter of recession. No one has justified the use of any of these statistics in this bill. Why not $10 million for each tenth of a percent decline, why not half to States; why not pressure a 1 percent a quarter growth rate? No one knows.

State governments which have a decline in real wages and salaries will be eligible. Their allocation is determined by multiplying the decline in real wages and salaries by the State tax effort. The proportion of that figure to the sum of all such figures for eligible States determines the State's share.

Local governments located in counties with an increase in unemployment of at least 0.1 percent over the same quarter a year earlier will be eligible as long as they qualify for a $1,500 minimum quarterly payment and their per capita income does not exceed 140 percent of the State average.

County-area allocations are determined by multiplying the increase in unemployment by the revenue sharing amount. For counties with less than 6 percent total unemployment, that figure is reduced by a percent determined by the unemployment rate. The proportion of that result to the sum of all such figures for eligible counties determines the county share.

Allocations to local governments within county areas are then made in proportion to their share of general revenue sharing within the county area.

There is good reason to question the basic premise of this countercyclical assistance concept. A study by the Advisory Commission on Intergovernmental Relations found that during each economic downswing since World War II, State and local fiscal behavior was "correct" (countercyclical) because it added to aggregate demand. In fact, ACIR found that "State and local governments have acted as a stabilizing force over these recessions." They were able to sustain themselves financially by tapping surpluses to make up for any revenue loss.

Mr. Chairman, the dramatic conversion of the distinguished chairmen of the committee and the subcommittee has obscured the major point. The fact that the formula has been tinkered with, that the proposed method of distribution is a little better, does not answer the basic questions: What is the purpose of this program? Why are we being asked to spend another $1 billion that we do not have? The Federal Government will borrow the money at 12 percent interest so that some local governments with surpluses will be able to get Federal funds to put in the bank and make 12 percent by purchasing U.S. Treasury notes.

If the problem is the long-term decline of some of the major industrial cities of the Northeast and Midwest, where is the evidence that $250 million scattered around the country willy-nilly will reverse the decline? The problems involve population shifts, a declining tax base, the flight of major industries to the suburbs and the Sun Belt, and deteriorating central city infrastructures. Certainly, an injection of Federal funds would be welcomed by any city in these circumstances, but would it really help? Would it change anything?

If, on the other hand, the problem is the temporary impact of the recession on cities, whether in long-term decline or not, where is the evidence that a temporary infusion of Federal money will make the recession any shorter, any less severe, or any more bearable? All of the evidence, in fact, points the other way, to a conclusion that the antirecession payments are unnecessary and unproductive, and that we can expect to find the same deteriorating cities begging for more Federal help when the next recession arrives.

The point here is that inflation combined with our crazy unindexed Tax Code creates recessions and layoffs in the private sector. So what does Congress do? It rushes to dump money into the public sector.

As the private sector collapses, real goods and services disappear from the shelves, the scarcity of real production just makes prices go higher. Does Congress really think that more filing clerks at city hall or more paper pickers in city park can make up for fewer steaks in the supermarket freezer, fewer cars in the showroom and fewer suits on the rack?

The Joint Economic Committee annual report last spring called for a different attitude. We need to take the long-run needs of the economy into account even when we make short-run policy. Suppose we have a long-run need for faster depreciation to offset inflation's impact on investment. Suppose it costs $5 billion the first year. Suppose we face a recession, and we know we are going to have a bigger deficit anyway, and want $5 billion in stimulus to keep the recession from getting even worse. Why not kill two birds with one stone and do something we need to do anyway?

Why throw the money away on a countercyclical assistance bill that will increase the deficit and absorb money out of a very limited national savings pool? The money would stimulate the economy just as well in the short run, and go on increasing productivity and providing job opportunities and economic growth that would help our cities in the long run, if it were left in the savings-investment cycle by faster depreciation schedules. The same argument can be made for income tax indexing and tax incentives for savings.

It is time to give up the notion that we can spend our way out of recessions. It is time to reject the idea that a temporary injection of funds will save our cities. The answer to both problems is economic growth.

The Joint Economic Committee Annual Report pleads with the Congress and the President to break out of past shortsighted, self-defeating policies. The short-run recession problem, the long-run inflation problem and the problems of our declining central cities, all are symptoms of the same disease. The illness can be cured with a consistent set of policies.

These policies—moderation in fiscal and monetary policy to fight inflation and uncertainty; reduction of tax barriers to saving and investment to improve competitiveness and increase productivity, growth and employment; better targeted private sector programs to fight structural unemployment, and a concerted effort to reduce redtape and regulation to promote efficiency and speed economic development—will restore the U.S. economy to long-term health at home and a stronger position abroad.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I rise in opposition to this bill.

This is a sweetener to pass the budget. We understand that. Now this is another scoop of sugar in that same cup of tea. I do not believe we need two dips of sugar. We are going to get too fat.

It seems some folks just will not take no for an answer.

Here we have a program that was dead and decently buried with honor. It has run its appointed course. It was phased out September 1978.

We planted the tombstone a little deeper. Now here comes another attempt to roll away that stone and hope for resurrection to bring this dead dog back to life. I do not know how much more can be added.

We have been over the ground again and again. No matter how much you change the dollar amounts, you come out at the same place.

The countercyclical program was a temporary program that stopped when it was supposed to stop, by law.

Even when this program was running, it did not do the job it was supposed to do, unless you believe that the only thing Congress is supposed to do is shovel money.

If that is our job, we are doing pretty good at that, just shoveling away.

□ 1220

Those of you who believe in the sunset approach to legislation should be lining up to cast your vote against this bill. It is a perfect example of the way sunset is supposed to work. It worked last year. You cannot bring the Sun back and have it set again. The countercyclical program was enacted with a built-in termination date. While in operation, the GAO made an extensive study of it. The GAO issued a series of evaluation reports, just the kind of thing all sunset bills floating around here call for. Every one of those reports said that the countercyclical program was not meeting the goals Congress had set for it, and should not be renewed in that form.

They call it something different now—targeted fiscal assistance—but a rose is a rose and a snake is a snake. It does not matter what you call it, there have been no changes in the basic program. It relies on unreliable unemployment figures and other data that have little or no relationship to a city's financial condition.

If you believe in any kind of limited,

tiny amount of fiscal responsibility; if you believe that the Federal Government should not be serving as a city council for communities across the land; if you believe that we should try and cut down on unnecessary, unjustified Federal expenditures like our people want us to do, then you will vote against this bill.

I will not say it will be the end of this fight, but I want you to think about this. The Federal Government now—you, through activities and legislation here—have kindly, graciously, thoughtfully, encouragingly, voted out $16 billion for economic development assistance programs, and that is not counting another $7 billion for general revenue sharing. That makes a total of $23 billion that we are now giving to cities and communities for economic development. It is not like we are being niggardly. We are being pretty gracious, pretty generous. How much do they want to get out of the Federal Treasury?

I think that people who have been getting these golden eggs do not want to see the goose cooked, and they will probably be back here with their shovels trying to dig it up again. They have been on it, they have been mainlining it.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. HORTON. Mr. Chairman, I yield 1 additional minute to the gentleman from Pennsylvania.

Mr. WALKER. We allowed this program to die in September 1978, by law. We kept it buried. I ask you not to dig it up again.

Mr. Chairman, those prophetic words were uttered by the distinguished gentleman from Texas, the chairman of the Government Operations Committee, just 7 months ago. They are as true as they were then. This is the bill that died an honorable death. It should be kept buried. I ask the committee to reject the legislation.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. Mr. Chairman, as a member of both the subcommittee and full committee where this legislation originated, I must rise in opposition to this bill. The basis for my objection is the shoddy way in which it has been presented to the committee and the full House.

The Intergovernmental Relations Subcommittee had a longstanding opportunity to consider legislation on this topic, but instead what we have witnessed is a 2-week timespan from the bill's introduction to its consideration by the full House. I submit that this is not simply a fast track—it is an express.

Just what are we doing by passing this legislation? With a 14-percent inflation rate and a $30 billion deficit, we are authorizing legislation which will potentially cost the American taxpayer $1.25 billion. And where is this money going? No one seems to know. The subcommittee was not told; the full committee was not told, and I doubt that the full House will be told, because there are no printouts available. We have been playing hide-and-seek with printouts. I would simply caution my colleagues who are basing their support of this legislation on the anticipation that their areas will receive this aid, I do state that recently a few selected printouts have been circulated by the Department of the Treasury. I might add that they are inaccurate. Quite simply, ladies and gentlemen, you should not be allayed by the material the Department of the Treasury and others are passing out.

The problem is this: The "targeted fiscal assistance" title uses, among other criteria for eligibility, average unemployment rate during calendar year 1978. I repeat—1978. The unemployment rates used in the Treasury Department printout is not 1978 data. Actually, that data is for 1975, 1976, 1977, and 1978—a 4-year average. Now, we all know that unemployment rates were higher during the 1975, 1976, 1977, and 1978 period than 1978 alone. The consequence of this Treasury error is to lead Members to believe that their areas are eligible when actually they may not be eligible.

Frankly, this is a joke. It is a result of the time pressures to railroad this bill out of the committee. The administration's original proposal of targeted fiscal assistance would have assisted only 12,000 communities, and concentrated 43 percent of the money to New York and California. The last countercylical bill which was passed by the Congress would have assisted 18,000 communities, so you can see a differential between that bill and the bill that is being proposed now except that we do not know how many communities nationally will be affected by this legislation.

The CHAIRMAN. The time of the gentlewoman from Maine has expired.

Mr. HORTON. Mr. Chairman, I yield 1 additional minute to the gentlewoman from Maine.

Mrs. SNOWE. Furthermore, the major cities have succeeded in getting additional self-serving amendments adopted in committee that further concentrate the funds in the cities, and neglect the impoverished rural areas of our Nation. It is very clear to me that this legislation is little more than a blatant attempt to curry favor with those local officials who mav be helpful to the present administration during the 1980 election campaign.

This legislation and the shenanigans that have gone on in the process of bringing it to the floor are nothing more than a cavalier dismissal of the voices of manv hard-pressed taxpayers who for too long have shouldered the effects of Federal spending gone wild. When will Congress get the message?

The countercyclical program was a temporary program that terminated in 1978 by law, and todav I am asking my colleagues not to revive this program. Are we going to create jobs by this program? No, there is no provision in the legislation that determines and requires that communities create jobs, but that has been the misleading guise to sell this program to the Members of Congress.

There seems to be some intense desire to railroad this bill out of here before Christmas. If that is what this House wants to do, fine. But I wonder under whose tree these hastily wrapped gifts will arrive on Christmas Eve. Certainly not at the home of the American taxpayer.

Mr. HORTON. Mr. Chairman, I yield 3 minutes to the gentleman from Ohio (Mr. KINDNESS).

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for yielding this time.

Mr. Chairman, I would just like to add one area of thought to the consideration and the deliberation on this bill; that relates to what may be the future of this bill when we look back upon it as a part of history. The other body passed S. 566 on August 3, 1979. It was called the Intergovernmental Fiscal Assistance Amendments of 1979. It is a bill that is very different from the measure we have before us.

What will happen in conference between the two Houses with this legislation? What kind of negotiations and what kind of results can obtain in the bringing together of this measure and the other body's measure? I submit to the Members that the fragile arguments that justify the approach in this bill can very well be shattered in conference, and we will have an even worse measure than this one.

There are four or five amendments that I would propose to offer at the appropriate time. I would just like to mention quickly that one of them would eliminate States from the coverage of this measure, the countercyclical portion.

☐ 1230

The argument, obviously, is the same as that made for general revenue sharing. There are many in this House who supported the concept that general revenue sharing might continue for local governments, but that for State governments it was inappropriate to continue it. I think the same thing applies to this measure.

In the full committee there was an amendment which did away with the well-tailored part of the bill as it had been reported from the subcommittee that provided for the multiplier effect on the moneys to be used in this program for countercyclical aid to start out with a $15 million multiplier per quarter and to drop down to $10 million for the aggregate wages and real salarv for the quarter preceding and equal to or less than the aggregate for the eligible quarter, and then it would step on down to a $5 million multiplier per quarter as we moved out of a recessionary period. That was wiped out in the full committee and instead there is $15 million as a multiplier every quarter in which it operates, a much more expensive program, obviously.

I will offer an amendment to put back into the bill the section that was tailored by the subcommittee to step down that effect. I will offer an amendment also to bring this within the budget resolution.

• Mr. FRENZEL. Mr. Chairman, H.R. 5980, the countercyclical assistance bill, according to the committee report, "provides financial assistance to help support public services that are the responsibility of States and local governments." Literally translated, that means we are just dishing out more of the taxpayers' money to support some of the President's favorite mayors.

"Countercyclical aid" and "targeted fiscal assistance" and all other euphemisms used to disguise the wanton squandering of the people's money cannot mask the basic irresponsibility of this bill. If this House should suddenly be blessed with the courage and wisdom to defeat the bill, it could save the taxpayers about $1¼ billion.

The cities and mayors who are asking for this money are the same ones who come to Congress every year with a tin cup. Most of them have made little effort to improve the operation of local services or to keep costs down. The allegations of political favoritism, recently boosted by an intemperate statement by a new Cabinet officer, have a measure of nationwide creditability.

Recently, the mayor of New York was quoted in the press complaining that the Congress was crazy to pass all these programs and to saddle local governments with excessive regulations and paperwork. I will bet he wants this program to pass, but I agree that we have too many programs that do not work. I also agree that our programs provide no incentive for local governments to clean up their acts. If we continue to treat cities as cripples, they will continue to limp.

I will vote against this bill, and I urge my colleagues to do so, too. Those who have indicated the need to reduce spending have an excellent opportunity to save over $1 billion by defeating this bill.•

• Mr. WOLFF. Mr. Chairman, in this period of double digit inflation and nationwide economic uncertainty, it is my belief that the U.S. Congress must register its support, both morally and economically, for the towns, cities, and rural areas which comprise the real economic strength of America. The legislation which we are considering today, the antirecession and targeted fiscal assistance bill (H.R. 5980), would do just that. I believe that this legislation is vitally needed to help the economically hardpressed cities and towns of our country; especially in light of the recent forecasts of a recession in the early months of 1980.

This bill represents the continuation of a program which was first enacted in 1976 to assist local governments in areas which were struggling to overcome the effects of high unemployment and a national economic slowdown.

Due to the termination of this program last October, thousands of municipal employees from every region of the country have been dismissed, and cities have drastically cut essential services—including police and fire protection.

As reported by the Committee on Government Operations, the bill under consideration would serve two important purposes: First, it would provide financial assistance to local communities which have been suffering from high unemployment and slow economic growth; and second, it would offer an insurance policy to State and local governments against undue fiscal stress in case of a national recession.

Furthermore, H.R. 5980 utilizes a new, innovative approach to the idea of countercyclical assistance. This new approach has been developed over the past 2 or 3 years by the Government Operations Committee working closely with experts in and out of Government. This legislation has been restructured to provide a more efficient, more equitable, and more responsive antirecession program than any we have considered before. It is an improvement over previous legislation of this sort in that it uses the gross national product and its wage and salary component rather than unemployment figures to measure a recession.

This innovative approach is a substantial improvement in that unemployment data below the national level are of extremely uneven quality and reliability, and local rates based on them are imprecise at best. Even at the national level unemployment rates are not an accurate indicator of a recession, since unemployment insurance, welfare programs and the increasing number of multiworker families provide offsetting influences. Where H.R. 5980 still uses unemployment rates—and at least for the present some must be used—they are treated much differently than in the previous programs.

The GNP, on the other hand, is the principal indicator used to identify and track a recession. And its wage and salary component provides high quality data that have a direct bearing on the revenues of State and local governments. These are the mechanisms that H.R. 5980 has utilized to provide a more workable, more reliable antirecession program.

This bill would provide a responsible, responsive program that will enable the Federal Government to move quickly in times of recession to help State and local governments counter the effects of a recession. Equally important, it would also respond quickly to a recovery, cutting off the flow of funds when adjusted prerecession levels are reached.

I am pleased to support this well written, and badly needed, legislation. I would like to thank my colleagues, Congressman William S. Moorhead, Peter W. Rodino, Jr., and Frank Horton for introducing the original legislation and for initiating the processes necessary for its consideration today. Furthermore, I would like to commend the chairman of the Committee on Government Operations, the Honorable Jack Brooks, for his hard work in bringing this well designed bill to the floor. I would like to close by asking all my colleagues to study this bill closely, for I believe that careful examination of this bill will reveal its benefits and its advantages, and will result in a vote of support for the cities, towns, and rural areas of America.•

• Mr. BIAGGI. Mr. Chairman, I rise to express my full support for the rule to make in order H.R. 5980 the Antirecession and Targeted Assistance Act of 1979. I commend Chairman Brooks and the entire House leadership for recognizing the importance of this legislation and scheduling it for action during this 1st session of the 96th Congress.

The rule being sought is an open rule providing 1 hour of debate. However I must make a plea that we act on this bill expeditiously without crippling amendments. This legislation is already the product of substantial compromise and any further efforts to change it will make it almost useless for those areas in the Nation who are most affected.

H.R. 5980 is a hedge against the potential and inevitable fiscal problems which plague State, county, and local governments in times of recession. We cannot overlook the fact that this Nation has in fact entered a new recession. Further, this legislation is necessary for those areas in the Nation who have yet to fully recover from the last recession—the major one in 1974–75.

Again I urge support for this rule and the legislation as reported. When the record of this Congress is written an affirmative vote for the reestablishment of our countercyclical aid programs will prove to be one of our most important accomplishments.•

• Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 5980, a bill authorizing what is commonly known as the countercyclical fiscal assistance program. I am a strong supporter of the provisions and intent of this bill and I would like to congratulate Chairman Brooks and subcommittee Chairman Fountain as well as the ranking Republican Congressmen Horton and Wydler for reporting this bill to the floor.

In 1977 we were successful in amending the countercyclical program to have a 1-percent set-aside for Puerto Rico and the territories. Under this bill we will retain the 1-percent set-aside. I hope that by the time we again consider countercyclical legislation the Treasury Department, the Government of Puerto Rico and the committee will be able to agree as to the basic data and statistics required to determine the share of Puerto Rico as if we were a State rather than the relatively arbitrary 1-percent set-aside we now have.•

Mr. BROOKS. Mr. Chairman, does the gentleman from New York (Mr. Horton) have any further requests for time?

Mr. HORTON. I have no further requests for time.

Mr. BROOKS. I have no further requests for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the committee amendment in the nature of a substitute recommended by the Committee on Government Operations now printed in the reported bill as an original bill for the purpose of amendment, and each section shall be considered as having been read.

The Clerk will designate section 1.

Section 1 reads as follows:

H.R. 5980

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of October 20, 1972, entitled "An Act to provide fiscal assistance to State and local governments, to authorize Federal collection of State individual income taxes, and for other purposes", is amended—

(1) by striking out the text of section 101 and inserting in lieu thereof the following: "This title and titles IV and V may be cited as the 'State and Local Fiscal Assistance Act of 1972'."; and

(2) by adding at the end thereof the following new titles:

"TITLE IV—FISCAL ASSISTANCE DURING PERIODS OF RECESSION

"Sec. 401. Financial Assistance Authorized.

"(a) Payments to State and Local Governments.—The Secretary of the Treasury (hereinafter referred to in this title and title V as the 'Secretary') shall, in accordance with the provisions of this title, make payments to State governments and units of local government for each eligible calendar quarter to help counter the effects of an economic recession.

"(b) Authorization of Appropriations.—

"(1) Duration of Authorization.—Subject to paragraph (2), there are authorized to be appropriated for each eligible calendar quarter which is 1 of the 4 succeeding calendar quarters (beginning with the calendar quarter which begins on October 1, 1979), for the purposes of payments under this title, an amount not to exceed the amount determined for such quarter under paragraph (3). Any amount so appropriated for any such calendar quarter shall remain available for making payments with respect to such quarter until expended.

"(2) Limitation on total amount.—The total amount which may be appropriated pursuant to this subsection for the 4 quarters described in paragraph (1) shall not exceed $1,000,000,000.

"(3) Quarterly appropriation limits.—The amount which may be appropriated pursuant to this subsection for any eligible calendar quarter shall not exceed the product of the economic decline factor for such quarter multiplied by $15,000,000.

"(c) Division Between Territorial, State, and Local Governments.—One percent of the amount appropriated under subsection (b) for any calendar quarter shall be allocated to territorial governments under section 412. From the remainder of the amount so appropriated, one-third of such remainder shall be allocated to State governments under section 402 and two-thirds of such remainder shall be allocated to units of local government under section 403.

"(d) Definitions.—For purposes of this section—

"(1) Eligible calendar quarters.—An eligible calendar quarter is—

"(A) any calendar quarter which is 1 of 2 consecutive calendar quarters—

"(i) during each of which the aggregate real wages and salaries are less than the aggregate real wages and salaries of the calendar quarter immediately preceding the first of such 2 quarters; and

"(ii) which are immediately preceded by, concurrent with, or partially preceded by and partially concurrent with, 2 consecutive calendar quarters during each of which the real gross national product is less than the real gross national product of the calendar quarter immediately preceding the first of such 2 quarters; and

"(B) any calendar quarter following a calendar quarter which meets the requirements of subparagraph (A) which is—

"(i) not a calendar quarter during which the aggregate real wages and salaries equals or exceeds the adjusted base period amount; and

"(ii) not a calendar quarter following a quarter described in clause (i) of this subparagraph.

"(2) Aggregate real wages and salaries.—Aggregate real wages and salaries during any period are the total amount of wages and salaries received during such period, as determined by the Secretary of Commerce for the purpose of computing the gross national product, deflated by the personal consumption expenditure implicit price deflator developed by the Department of Commerce.

"(3) Real gross national product.—The real gross national product is a measure of the value of the volume of national production in constant dollars, as determined by the Department of Commerce.

"(4) Economic decline factor.—The economic decline factor for any eligible quarter is determined by—

"(A) subtracting the aggregate real wages and salaries for such quarter from the adjusted base period amount;

"(B) dividing the amount determined under subparagraph (A) by the adjusted base period amount; and

"(C) multiplying the resulting fraction by 1,000, and rounding the product to the nearest whole number.

"(5) Base period amount.—The base period amount is the sum of the aggregate real wages and salaries during the national base period divided by two.

"(6) Adjusted base period amount.—With respect to any eligible calendar quarter, the adjusted base period amount is—

"(A) the base period amount plus three-tenths of 1 percent of such amount, in the case of the first eligible calendar quarter following the national base period; or

"(B) the adjusted base period amount for the preceding quarter (as computed under subparagraph (A) or this subparagraph) plus three-tenths of 1 percent of such amount, in the case of any succeeding eligible calendar quarter.

"(7) National base period.—The national base period is the 2 consecutive calendar quarters immediately preceding the first of the calendar quarters which meets the requirements of paragraph (1)(A). Only one national base period shall be established with respect to each series of consecutive eligible calendar quarters.

"Sec. 402. State Government Allocation.

"(a) Allocation of Funds.—For each calendar quarter for which funds are available under this title, the Secretary shall allocate to each eligible State government an amount which shall bear the same ratio to the amount available for allocation under this section for that quarter (in accordance with section 401(c)) as the product of—

"(1) the economic decline factor for such State, multiplied by

"(2) the tax effort factor of such State government,

bears to the sum of such products for all eligible State governments.

"(b) Definitions.—For purposes of this section—

"(1) Eligible state government.—

"(A) In general.—A State government is an eligible State government under this section for a calendar quarter if—

"(i) such quarter is an eligible State quarter; and

"(ii) the adjusted base period amount for such State exceeds the aggregate real wages and salaries of such State for that calendar quarter.

"(B) Eligible state quarter.—A calendar quarter is an eligible State quarter with respect to a State if—

"(i) such quarter is an eligible calendar quarter as defined in section 401(d)(1); and

"(ii) such quarter—

"(I) is 1 of 2 consecutive calendar quarters, occurring within 1 year prior to the beginning of the first eligible calendar quarter (as defined in section 401(d)(1)) or during any such eligible calendar quarter, during each of which the aggregate real wages and salaries of such State are less than the aggregate real wages and salaries of such State during the calendar quarter immediately preceding the first of such 2 quarters; or

"(II) is a quarter following a quarter which meets the requirements of subclause (I) of this clause.

"(2) Economic decline factor.—The economic decline factor for a State for a calendar quarter is a number equal to the number of dollars by which the adjusted base period amount for such State exceeds the aggregate real wages and salaries of such State for that quarter.

"(3) Tax effort factor of state governments.—The tax effort factor of a State government is (A) the total taxes taken into account with respect to such State government under section 109(c)(2) of this Act for the most recent reporting year (as defined in subparagraph (B) of such section), divided by (B) the personal income for such State for such year as determined by the Department of Commerce for national income accounts purposes.

"(4) Base period amount.—The base period amount of a State is the sum of the aggregate real wages and salaries of such State during its base period divided by two.

"(5) Adjusted base period amount.—With respect to any calendar quarter, the adjusted base period amount of a State is—

"(A) the base period amount of such State plus three-tenths of 1 percent of such amount, in the case of the first calendar quarter following the base period of such State; or

"(B) the adjusted base period amount of such State for the preceding quarter (as computed under subparagraph (A) or this subparagraph) plus three-tenths of 1 percent of such amount, in the case of any succeeding calendar quarter.

"(6) State base period.—The base period for any State is the 2 calendar quarters immediately preceding the first of the 2 consecutive calendar quarters described in paragraph (1)(B)(ii). Only one base period shall be established for any State with respect to each series of consecutive eligible calendar quarters (as defined in section 401(d)(1)).

"(7) Aggregate real wages and salaries of a state.—The aggregate real wages and salaries of a State is the total real wages and salaries taken into account with respect to such State under section 401(d)(2) for each calendar quarter.

"Sec. 403. Allocation to Units of Local Government.

"(a) Determination of Allocable Amounts.—

"(1) County area allocable amount.—For each calendar quarter for which funds are available under this title, the Secretary shall determine for each eligible county area an allocable amount which shall be an amount which bears the same ratio to the amount available for allocation under this section for that quarter (in accordance with section 401(c)), as the product of—

"(A) the excess unemployment factor for such county area for such quarter, multiplied by

"(B) the county area revenue sharing amount,

bears to the sum of such products for all eligible county areas for such quarter.

"(2) Unit of local government allocable amount.—

"(A) Indian tribes and Alaskan native villages.—If within a county area there is an Indian tribe or Alaskan native village which has a recognized governing body which performs substantial governmental functions, then the allocable amount for such tribe or village for any quarter shall be an amount which bears the same ratio to the total amount to be allocated for such quarter in such county area as the population of that tribe or village within that county area bears to the population of that county area, as determined by the Bureau of the Census for general statistical purposes for the most recent calendar year for which data are available.

"(B) Units of local government.—The allocable amount for a unit of local government within a county area for any quarter shall be an amount which bears the same ratio to the amount remaining for allocation for such quarter in such county area (after subtraction of the allocable amount determined under subparagraph (A)) as the revenue sharing amount of that unit of local government bears to the sum of the revenue sharing amounts of all units of local government within that county area.

"(b) Allocation Based on Allocable Amounts.—

"(1) In general.—Except as provided in paragraphs (2) and (3), the Secretary shall allocate to each unit of local government, Indian tribe, and Alaskan native village an amount equal to the allocable amount determined under subsection (a) with respect to such unit, tribe, or village.

"(2) Limitations.—

"(A) Per capita income limitation.—Notwithstanding paragraph (1), no allocation shall be made to any unit of local government if, for the most recently completed calendar year for which data are available, the population residing within the jurisdiction of such unit had a per capita income equal to or in excess of 140 percent of the per capita income of the population of the State within which such unit is located, as determined by the Bureau of the Census for general statistical purposes and reported to the Secretary.

"(B) Minimum allocation.—Notwithstanding paragraph (1), no allocation shall be made to any unit of local government, Indian tribe, or Alaskan native village if the allocable amount determined with respect to such unit, tribe, or village for such quarter is less than $1,500.

"(3) Distribution of unallocated amounts.—The Secretary shall add any amounts which, as a consequence of paragraph (2), remain unallocated (to units of local government, Indian tribes, and Alaskan native villages in any county area) to the allocation of the county government for such area, for use in or on behalf of such areas of the county as may otherwise be eligible.

"(c) Definitions.—For purposes of this section—

"(1) Eligible county area.—A county area is an eligible county area for a calendar quarter if the excess unemployment amount for such county area for such quarter equals or exceeds one-tenth of 1 percent.

"(2) Excess unemployment amount.—The excess unemployment amount for a county area for a calendar quarter is equal to a percentage which is (A) the unemployment rate in such county area for such quarter (as determined by the Secretary of Labor and reported to the Secretary), minus (B) the unemployment rate for such county area for the comparable predecline quarter, but shall not be less than zero.

"(3) Excess unemployment factor.—The excess unemployment factor for a county area for a calendar quarter is the product of the excess unemployment amount for such county area for such quarter multiplied by the employment adjustment factor for such county area for such quarter.

"(4) Employment adjustment factor.—The employment adjustment factor for a county area for any quarter is—

"(A) 20 percent in the case of a county area in which the unemployment rate for such quarter (as determined by the Secretary of Labor and reported to the Secretary) is less than 3 percent;

"(B) 40 percent in the case of a county area in which such unemployment rate equals or exceeds 3 percent but is less than 4 percent;

"(C) 60 percent in the case of a county area in which such unemployment rate equals or exceeds 4 percent but is less than 5 percent;

"(D) 80 percent in the case of a county area in which such unemployment rate equals or exceeds 5 percent but is less than 6 percent; or

"(E) 100 percent in the case of a county area in which such unemployment rate equals or exceeds 6 percent.

"(5) County area revenue sharing amount.—The county area revenue sharing amount is the sum of the amounts determined under section 108 of this Act with respect to the units of local government within such county area for the most recently completed entitlement period, as defined in section 141(b) of this Act.

"(6) Unit of local government revenue sharing amount.—The revenue sharing amount of a unit of local government is the amount determined under section 108 of this Act with respect to such unit for the most recently completed entitlement period, as defined in section 141(b) of this Act.

"(7) Comparable pre-decline quarter.—The comparable pre-decline quarter with respect to any quarter is the same 3 months of the 4 consecutive calendar quarters ending with the earlier of—

"(A) the 2 calendar quarters which comprise the national base period (as determined under section 401(d)(7)); or

"(B) the 2 calendar quarters which comprise the State base period (as determined under section 402(c)(6)), if any, of the State within which such county area is located.

"Sec. 404. Statement of Assurances.

"Each State and unit of local government may receive payments under this title only if it has filed with the Secretary, at such time and in such manner as the Secretary prescribes by rule, a statement of assurances. Such rules shall be prescribed by the Secretary not later than 90 days after the date of enactment of this title. The Secretary may not require any State or unit of local government to file more than one such statement during each fiscal year. Each such statement shall contain—

"(1) an assurance that the State or unit of local government will—

"(A) use fiscal, accounting, and auditing procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States); and

"(B) provide to the Secretary (and to the Comptroller General of the United Sates), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this title;

"(2) an assurance that reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this title;

"(3) an assurance that the requirements of section 405 will be complied with;

"(4) an assurance that the requirements of section 406 will be complied with; and

"(5) an assurance that the State or unit of local government will spend amounts received under this title only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

"Sec. 405. Nondiscrimination.

"(a) Prohibition.—

"(1) In general.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a State government or unit of local government, which government or unit receives funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, commonly referred to as Civil Rights Act of 1968, shall also apply to any such program or activity.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any State government or unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under this title.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to October 1, 1978.

"(b) Enforcement and Remedies.—The provisions of subsection (a) of this section shall be enforced by the Secretary in the manner and in accordance with the same procedures as are required by sections 122, 124, and 125 of this Act to enforce compliance with section 122(a) of this Act. The Attorney General shall have the same authority, functions, and duties with respect to funds made available under this title as the Attorney General has under sections 122 (g) and (h) and 124(c) of this Act with respect to funds made available under title I of this Act. Any person aggrieved by a violation of subsection (a) of this section shall have the same rights and remedies as a person aggrieved by a violation of subsection (a) of section 122 of this Act, including the rights provided under section 124(e) of this Act.

"Sec. 406. Labor Standards.

"All laborers and mechanics employed by contractors on all construction projects, 25 percent or more of the cost of which are paid out of payments under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 2776a to 276a–5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"Sec. 407. Government Definitions and Related Rules.

"(a) State.—The term 'State' means any of the several States.

"(b) Units of Local Government.—The term 'unit of local government' means the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes).

"(c) Certain Areas Treated as Counties.—In any State in which any unit of local government (other than a county government) constitutes the next level of government below the State government level, then, except as provided in the next sentence, the geographic area of such unit of government shall be treated as a county area (and such unit of government shall be treated as a county government) with respect to that portion of the State's geographic area. In any State in which any county area is not governed by a county government but contains two or more units of local government, such units shall not be treated as county governments and the geographic areas of such units shall not be treated as county areas.

"(d) Townships.—The term 'township' includes equivalent subdivisions of government having different designations (such as 'towns'), and shall be determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes.

"(e) Units of Local Government Located in Larger Entity.—A unit of local government shall be treated as located in a larger entity if part or all of its geographic area is located in the larger entity.

"(f) Only Part of Unit Located in Larger Entity.—If only part of a unit of local government is located in a larger entity, such part shall be treated for allocation purposes as a separate unit of local government, and all computations shall, except as otherwise provided in regulations, be made on the basis of the ratio which the estimated population of such part bears to the population of the entirety of such unit.

"(g) Boundary Changes, Governmental Reorganization, Etc.—If, by reason of boundary line changes, by reason of State statutory or constitutional changes, by reason of annexations or other governmental reorganizations, or by reason of other circumstances, the application of any provision of this section to units of local government does not carry out the purposes of this title, the application of such provision shall be made, under rgulations prescribed by the Secretary, in a manner which is consistent with such purposes.

"(h) Treatment of the District of Columbia.—For purposes of this title the District of Columbia shall be treated as a county area which has no units of local government (other than itself) within its geographic area.

"Sec. 408. Payments.

"(a) In General.—From the amounts allocated to State governments, units of local government, and Indian tribes and Alaska native villages under sections 402 and 403, the Secretary shall—

"(1) with respect to the two eligible calendar quarters described in section 401(d) (1)(A), pay not later than 120 days after the conclusion of the second of such quarters; and

"(2) with respect to each eligible calendar quarter described in section 401(d)(1)(B), pay not later than 120 days after the conclusion of such quarter,

to each State government, unit of local government, and Indian tribe and Alaskan native village which has filed a statement of assurances under section 404, an amount equal to the amount allocated to such government, unit, tribe, or village under section 402 or 403.

"(b) Adjustments.—Payments under this title may be made with necessary adjustments on account of overpayments or underpayments under this title or under title V.

"Sec. 409. Withholding.

"Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any State government or unit of local government, finds that there has been a failure to comply substantially with any assurance set forth in the statement of assurances of that State government or unit of local government filed under section 404, the Secretary shall notify that State government or unit of local government that further payments will not be made under this title until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this title.

"Sec. 410. Reports.

"(a) Quarterly Reports.—The Secretary shall report to the Congress as soon as is practical after the end of each calendar quarter during which payments are made under the provisions of this title. Such report shall include information on the amounts paid to each State government and unit of local government and a description of any action which the Secretary has taken under the provisions of section 409 during the calendar quarter.

"(b) Annual Report.—The Secretary shall report to Congress as soon as is practical after the end of each fiscal year during which payments are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to State and units of local government under the provisions of this title and any actions with which the Secretary has taken under the provisions of section 409.

"Sec. 411. Administration.

"(a) Rules.—The Secretary is authorized to prescribe, after consultation with the Secretary of Commerce, such rules as may be necessary for the purpose of carrying out his functions under this title. Such rules shall be prescribed by the Secretary not later than 90 days of the date of enactment of this title.

"(b) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary for the administration of this title.

"Sec. 412.—Allocation for Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(a) Allocations.—

"(1) In general.—For each calendar quarter for which funds are available under this title, the Secretary shall allocate to each territorial government an amount equal to the product of the amount available for allocation under this section multiplied by the applicable territorial percentage.

"(2) Applicable territorial percentage.—For the purposes of this subsection, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

"(3) Definitions.—For purposes of this section—

"(A) The term 'territorial government' means the government of a territory.

"(B) The term 'territory' means Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(C) The term 'territorial population' means the most recent population for each territory as determined by the Bureau of Census.

"(4) Application of General Provisions.—The provisions of sections 404, 405, 406, and 409 shall apply to the funds authorized under this section.

"(b) Payments to Local Governments.—The governments of the territories are authorized to make payments to local governments within their jurisdiction from sums received under this section as they deem appropriate.

"TITLE V—TARGETED FISCAL ASSISTANCE

"Sec. 501. Financial Assistance Authorized.

"(a) Payments to Local Governments.—The Secretary of the Treasury shall, in accordance with the provisions of this title, make payments to units of local government.

"(b) Authorization of Appropriations.—There are authorized to be appropriated for the purpose of making payments under this title $250,000,000 for fiscal year ending September 30, 1980.

"(c) Division Between Territorial and Local Governments.—One percent of the amount appropriated under subsection (b) shall be allocated to territorial governments under section 511 and the remainder of the amount so appropriated shall be allocated to units of local government under section 502.

"Sec. 502. Allocation to Units of Local Government.

"(a) In General.—There shall be allocated for each eligible unit of local government, from the amount available for allocation under this section (in accordance with section 501(c)), an amount determined to be allocable to such unit under subsection (b).

"(b) Determination of Allocable Amount.—

"(1) In general.—For the purposes of subsection (a), but subject to the limitations and adjustments required by paragraph (2), the amount allocable to an eligible unit of local government under this subsection is the amount which bears the same ratio to the amount available for allocation under this section (in accordance with section 501(c)) as the product of—

"(A) the excess unemployment factor for such unit of local government, multiplied by

"(B) the revenue sharing amount for such unit of local government,

bears to the sums of such products for all eligible units of local government.

"(2) Minimum allocable amount; reallocation.—

"(A) Limitation.—Notwithstanding paragraph (1), no allocation shall be made to any unit of local government if the allocable amount determined under paragraph (1) with respect to such unit—

"(i) is less than $6,000, in the case of any unit of local government which is located in whole or in part in a standard metropolitan statistical area; or

"(ii) is less than $3,000, in the caes of any unit of local government which is not located in whole or in part in such an area.

"(B) Adjustment.—The allocable amount of each eligible unit of local government which is not subject to the limitation contained in subparagraph (A) shall be increased by an amount which bears the same ratio to the sum of the allocable amounts which, as a consequence of subparagraph (A), may not be allocated, as the allocable amount determined under paragraph (1) for such unit bears to the sum of the allocable amounts determined under such paragraph for all the units of local government which are not subject to such limitation.

"(c) Definitions.—For purposes of this section—

"(1) Eligible unit of local government.—A unit of local government is an eligible unit of local government if—

"(A) the unemployment rate for such unit for the most recent calendar year for which data are available (as determined by the Secretary of Labor and reported to the Secretary) exceeds, by one-tenth of 1 percent or more—

"(i) the average unemployment rate for

all units of local government located in whole or in part in standard metropolitan statistical areas for such calendar year, in the case of a unit of local government located in whole or in part in such an area; or

"(ii) the average unemployment rate for all units of local government not located in whole or in part in such areas for such calendar year, in the case of a unit of local government not located in whole or in part in such an area;

"(B) such unit of local government is located in a county for which the rate of growth in employment (as determined by the Secretary of Labor and reported to the Secretary) for the most recent 3 calendar years for which data are available (expressed as a percent) does not exceed 250 percent of the national rate of growth in employment (as so determined) for such calendar years (expressed as a percent); and

"(C) the population residing within the jurisdiction of such unit did not, for the most recently completed calendar year for which data are available, have a per capita income equal to or in excess of 130 percent of the per capita income of the population of the State within which such unit is located, as determined by the Bureau of the Census for general statistical purposes and reported to the Secretary.

"(2) Excess unemployment factor.—The excess unemployment factor for a unit of local government is a percentage equal to the average annual unemployment rate for such unit for the fiscal years ending on September 30 of 1976, 1977, 1978, and 1979 minus—

"(A) 4.5 percent, in the case of a unit of local government located in a standard metropolitan statistical area; or

"(B) 4.0 percent, in the case of a unit of local government not located in such an area,

but shall not be less than zero.

"(3) Revenue sharing amount.—The revenue sharing amount of any unit of local government is the amount determined under section 108 of this Act with respect to such unit for the most recently completed entitlement period, as defined in section 141(b) of this Act.

"(4) Unemployment rates.—The unemployment rate for a unit of local government for any period shall be the rate of unemployment in the jurisdiction of the unit during the appropriate period, as determined or assigned by the Secretary of Labor and reported to the Secretary, and, in the case of a unit for which the Secretary of Labor cannot determine an unemployment rate for any period, the Secretary of Labor shall assign such unit the unemployment rate of the local government within the jurisdiction of which such unit is located, unless—

"(A) the Governor of the State in which such unit is located has provided the Secretary of Labor with an unemployment rate for such unit; and

"(B) the Secretary of Labor finds such unemployment rate provided by the Governor has been determined in a manner consistent with the procedures and methodologies used by the Secretary of Labor in determining such rates, in which case the Secretary of Labor shall assign such unit the rate provided by the Governor.

"Sec. 503. Statement of assurances.

"Each unit of local government may receive payments under this title only if it has filed with the Secretary, at such time and in such manner as the Secretary prescribes by rule, a statement of assurances. Such rules shall be prescribed by the Secretary not later than 90 days after the date of enactment of this title. The Secretary may not require any unit of local government to file more than one such statement. Each such statement shall contain—

"(1) an assurance that the unit of local government will—

"(A) use fiscal, accounting, and auditing procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States); and

"(B) provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this title;

"(2) an assurance that reasonable reports will be furnished to the Secretary in such form and containing such information as the Secretary may reasonably require to carry out the purposes of this title;

"(3) an assurance that the requirements of section 504 will be complied with;

"(4) an assurance that the requirements of section 505 will be complied with; and

"(5) an assurance that the unit of local government will spend amounts received under this title only in accordance with the laws and procedures applicable to the expenditure of its own revenues.

"Sec. 504. Nondiscrimination.

"(a) Prohibition.—

"(1) In general.—No person in the United States shall, on the ground of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity of a unit of local government, which government or unit receives funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity. Any prohibition against discrimination on the basis of religion, or any exemption from such prohibition, as provided in the Civil Rights Act of 1964 or title VIII of the Act of April 11, 1968, commonly referred to as Civil Rights Act of 1968, shall also apply to any such program or activity.

"(2) Exceptions.—

"(A) Funding.—The provisions of paragraph (1) of this subsection shall not apply where any unit of local government demonstrates, by clear and convincing evidence, that the program or activity with respect to which the allegation of discrimination has been made is not funded in whole or in part with funds made available under this title.

"(B) Construction projects in progress.—The provisions of paragraph (1), relating to discrimination on the basis of handicapped status, shall not apply with respect to construction projects commenced prior to October 1, 1978.

"(b) Enforcement and remedies.—The provisions of subsection (a) of this section shall be enforced by the Secretary in the same manner and in accordance with the same procedures as are required by sections 122, 124, and 125 of this Act to enforce compliance with section 122(a) of this Act. The Attorney General shall have the same authority, functions, and duties with respect to funds made available under this title as the Attorney General has under sections 122(g) and (h) and 124(c) of this Act with respect to funds made available under title I of this Act. Any person aggrieved by a violation of subsection (a) of this section shall have the same rights and remedies as a person aggrieved by a violation of subsection (a) of section 122 of this Act, including the rights provided under section 124(e) of this Act.

"Sec. 505. Labor Standards.

"All laborers and mechanics employed by contractors on all construction projects, 25 percent or more of the cost of which are paid out of payments under this title shall be paid wages at rates not less than those prevailing on similar projects in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act (40 U.S.C. 276a to 276a-5). The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

"Sec. 506. Governmental Definitions and Related Rules.

"(a) State.—The term 'State' means any of the several States.

"(b) Units of Local Government.—The term 'unit of local government' means the government of a county, municipality, township, or other unit of government below the State which is a unit of general government (determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes).

"(c) Certain Areas Treated as Counties.—In any State in which any unit of local government (other than a county government) constitutes the next level of government below the State governmental level, then, except as provided in the next sentence, the geographic area of such unit of government shall be treated as a county area (and such unit of government shall be treated as a county government) with respect to that portion of the State's geographic area. In any State in which any county area is not governed by a county government but contains two or more units of local government, such units shall not be treated as county governments and the geographic areas of such units shall not be treated as county areas.

"(d) Townships.—The term 'township' includes equivalent subdivisions of government having different designations (such as 'towns'), and shall be determined on the basis of the same principles as are used by the Bureau of the Census for general statistical purposes.

"(e) Units of Local Government Located in Larger Entity.—A unit of local government shall be treated as located in a larger entity if part or all of its geographic area is located in the larger entity.

"(f) Only Part of Unit Located in Larger Entity.—If only part of a unit of local government is located in a larger entity, such part shall be treated for allocation purposes as a separate unit of local government, and all computations shall, except as otherwise provided in regulations, be made on the basis of the ratio which the estimated population of such part bears to the population of the entirety of such unit.

"(g) Boundary Changes, Governmental Reorganization, Etc.—If, by reason of boundary line changes, by reason of State statutory or constitutional changes, by reason of annexations or other governmental reorganizations, or by reason of other circumstances, the application of any provision of this section to units of local government does not carry out the puposes of this title, the application of such provision shall be made, under regulations prescribed by the Secretary, in a manner which is consistent with such purposes.

"(h) Treatment of the District of Columbia.—For purposes of this title the District of Columbia shall be treated as a county area which has no units of local government (other than itself) within its geographic area.

"Sec. 507. Payments.

"Not later than the earlier of—

"(1) 90 days after the date of enactment of an appropriations Act making appropriations pursuant to section 501; or

"(2) April 1, 1980,

the Secretary shall pay to each unit of local government which has filed a statement of assurances under section 503, an amount equal to the amount allocated to such unit under section 502.

"SEC. 508. WITHHOLDING.

"Whenever the Secretary, after affording reasonable notice and an opportunity for a hearing to any unit of local government, finds that there has been a failure to comply substantially with any assurance set forth in the statement of assurances of that unit of local government filed under section 503, the Secretary shall notify that unit of local government that further payments will not be made under this title or under title IV until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, no further payments shall be made under this title.

"SEC. 509. REPORTS.

"The Secretary shall report to Congress as soon as is practical after the end of the fiscal year during which payments are made under the provisions of this title. Such reports shall include detailed information on the amounts paid to units of local government under the provisions of this title and any actions with which the Secretary has taken under the provisions of section 508.

"SEC. 510. ADMINISTRATION.

"(a) RULES.—The Secretary is authorized to prescribe, after consultation with the Secretary of Commerce, such rules as may be necessary for the purpose of carrying out his functions under this title. Such rules shall be prescribed by the Secretary not later than 90 days of the date of enactment of this title.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for the administration of this title.

"SEC. 511. ALLOCATION FOR PUERTO RICO, GUAM, AMERICAN SAMOA, AND THE VIRGIN ISLANDS.

"(a) ALLOCATIONS.—

"(1) IN GENERAL.—The Secretary shall allocate to each territorial government an amount equal to the product of the amount available for allocation under this section multiplied by the applicable territorial percentage.

"(2) APPLICABLE TERRITORIAL PERCENTAGE.—For the purposes of this subsection, the applicable territorial percentage of a territory is equal to the quotient resulting from the division of the territorial population of such territory by the sum of the territorial population for all territories.

"(3) DEFINITIONS.—For purposes of this section—

"(A) The term 'territorial government' means the government of a territory.

'(B) The term 'territory' means Puerto Rico, Guam, American Samoa, and the Virgin Islands.

"(C) The term 'territorial population' means the most recent population for each territory as determined by the Bureau of Census.

"(4) APPLICATION OF GENERAL PROVISIONS.—The provisions of sections 503, 504, 505, and 508 shall apply to the funds authorized under this section.

"(b) PAYMENTS TO LOCAL GOVERNMENTS.—The governments of the territories are authorized to make payments to local governments within their jurisdiction from sums received under this section as they deem appropriate.".

Mr. CLINGER. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The call was taken by electronic device, and the following Members responded to their names:

[Roll No. 736]

Abdnor
Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson, Calif.
Annunzio
Anthony
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conyers
Corcoran
Corman
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Davis, Mich.
de la Garza
Deckard
Derrick
Derwinski
Diggs
Dixon
Downey
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Hughes
Hyde
Ireland
Jacobs
Jeffries
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kemp
Kildee
Kindness
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Lott
Lowry
Lujan
Lungren
McClory
McCormack
McDade
McHugh
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, N.Y.
Moakley
Moore
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Quillen
Rahall
Railsback
Rangel
Ratchford
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Sabo
Santini
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Simon
Skelton
Slack
Smith, Nebr.
Snowe
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thomas
Traxler
Trible
Udall
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki

☐ 1240

The CHAIRMAN. Three hundred and seven Members have answered to their name, a quorum is present, and the Committee will resume its business.

Are there amendments to section 1?

AMENDMENTS OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I have five technical amendments. I ask unanimous consent to have the amendments considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. BROOKS: Page 49, beginning on line 25, strike out "as determined by" and everything that follows through line 3 on page 50 and insert in lieu thereof "determined in accordance with section 109(a)(1) and (7) of this Act."

Page 57, line 5, strike out "October 1, 1978" and insert in lieu thereof "January 1, 1977".

Page 72, line 13, strike out "October 1, 1978" and insert in lieu thereof "January 1, 1977".

Page 58, line 15, insert at the end of such line the following new sentence: "Such term also means, except for purposes of sections 403(a) and (b) and 408, the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions."

Page 73, line 23, insert at the end of such line the following new sentence: "Such term also means the recognized governing body of an Indian tribe or Alaskan native village which performs substantial governmental functions."

Page 68, lines 13 and 16, insert "in whole or in part" immediately after "located".

Page 68, beginning on line 9, strike out "fiscal years ending on September 30 of 1976, 1977, 1978, and 1979" and insert in lieu thereof "calendar years beginning on January 1 of 1975, 1976, 1977, and 1978".

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that the technical amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOKS. Mr. Chairman, the first appears on page 49, beginning on line 25. This provision presently requires allocation to Indian tribes or Alaskan Native villages on the basis of the most recent population data available. Unfortunately, the most recent data available is from the 1970 census. The first amendment would permit the Secretary of the Treasury to make population projections under the same procedures as is done for general revenue sharing.

The second amendment appears at page 57, line 5, and page 72, line 13. It would provide an exemption from prohibitions on discrimination on the basis of handicapped status to construction projects begun before January 1, 1977. Presently, H.R. 5980 makes this exemption date October 1, 1978. January 1, 1977, is consistent with the exemption in title I of the General Revenue Sharing Act.

The third amendment appears at page 58, line 15, and page 73, line 23. It would add the governing bodies of Indian tribes and Alaskan Native villages to the definition of units of local government, except for the allocation provisions of the bill.

The fourth amendment appears at page 68, on lines 13 and 16, and would clarify the location of governments in or out of standard metropolitan statistical areas.

The final technical amendment appears on page 68, line 9. It would use as the basis for determining the excess unemployment factor for title V calendar years 1975 through 1978 rather than fiscal years 1976 through 1979. This change is suggested because the data for this time period is more readily available. It preserves the concept of a 4-year average for determining the excess unemployment factor.

I move that these amendments be adopted.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield on that last part?

Mr. BROOKS. I yield to my friend.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for yielding.

The language of the bill at the present time on page 68, lines 9 and 10, refers to the fiscal years ending September 30 of 1976, 1977, 1978, and 1979.

As I understand it, the gentleman's substantive, not technical amendment there, would change that to calendar years 1975, 1976, 1977, and 1978; is that correct?

Mr. BROOKS. That is correct.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman for that clarification.

I would certainly indicate that that makes for a far different set of figures from any that might have been generated by paying some attention to the bill, however that makes a rather substantive change.

I thank the gentleman for that clarification.

Mr. BROOKS. I thank the gentleman.

Mr. KINDNESS. Mr. Chairman, I rise to raise a question, or actually in opposition to the last one of the technical amendments.

I would suggest that a division of the technical amendments would solve the problem, a division that would separate the other truly technical amendments from this one which I would consider to be substantive. It could be argued either way, I suspect.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. KINDNESS. I yield to the gentleman from Texas.

The CHAIRMAN. Is the gentleman from Ohio (Mr. KINDNESS) asking for a division of the amendments?

Mr. KINDNESS. Mr. Chairman, I was suggesting it first to see what the gentleman's reaction might be.

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, let me say that the reason they want to strike and not utilize 1979 is that those figures are not available, and rather than use figures that are not available and just use 3 years, you can get a full 4 years if you will use the calendar years 1975 through 1978.

If 1979 was available now, we would not be making this technical change. We would go on and use 1979.

Mr. KINDNESS. I understand the gentleman's point; but at the same time, the change would result in quite a difference in the unemployment factors, would it not?

Mr. BROOKS. Not necessarily.

Mr. KINDNESS. We would be picking up periods of higher unemployment which would not be covered by the way the bill was drafted, if that is the base.

Mr. BROOKS. It would not change the general spread, I would not think.

Mr. KINDNESS. Mr. Chairman, then I would continue to make the point that this is a truly substantive amendment which would, indeed, change considerably the employment factors that would be applicable in determining the use of the formula.

I would ask that the technical amendments be divided, that the last of the technical amendments would be subject to a separate vote.

The CHAIRMAN. The gentleman has the right to request a division of the question on the amendments for the purpose of voting. If that is the gentleman's request, the first four amendments will be voted on en bloc and then separately the fifth amendment.

Is that the gentleman's request?

Mr. KINDNESS. Mr. Chairman, that is the motion, if I might still yield to the gentleman from Ohio (Mr. BROWN), who has asked me to yield.

Mr. BROWN of Ohio. Mr. Chairman, I appreciate the gentleman from Ohio yielding.

I would ask the gentleman from Texas (Mr. BROOKS), is there any reason why we should not have the most current data for the distribution? I know that it affects the date of distribution. Is there any reason why we are wedded to that date of distribution?

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, no, there is no reason. We would use all the current available data that we have. The 1979 figures are just not available yet. When they become available, we would certainly be delighted to use them. They will not be available until September of 1980, which is almost a year from now.

I think that we are foolish to act like we are going to use anything that is not available and that nobody has.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, if we wait until September of 1980, they will at least be current and the distribution if this passes could be made at that time.

Now, is there any other reason for it being April 1 as in the bill, except that that is April Fool's Day?

Mr. BROOKS. Mr. Chairman, will the gentleman yield further?

Mr. KINDNESS. I yield.

Mr. BROOKS. They would be more current in 1980 but if you wait a year, to pick up another year, they are still just as out of date. They are always going to be about a year behind. I am afraid I cannot change that situation.

Mr. BROWN of Ohio. Mr. Chairman, if the gentleman will yield further, if the purpose is to get the figures before the election and make the distribution before the election, are we not likely to have the distribution made by the time the election rolls around, or is it more aimed at an earlier period, say in the spring?

Mr. BROOKS. We are not trying to get and utilize figures in September for distribution in October. That is not the purpose of this kind of legislation being passed in December.

Mr. KINDNESS. Mr. Chairman, if I might just reclaim my time to ask one more question of the gentleman from Texas. Is there any likelihood that the period of figures to be used should be reduced so as not to include 1975, but then only include calendar years 1976, 1977, and 1978? Has that alternative been considered?

Mr. BROOKS. Mr. Chairman, if the gentleman will yield further, the discussion in the committee was to try and get a 4-year average. In that way you would not get an unnatural distortion of only 1975, which might have been a high unemployment year, or only 1978, which was doing better, but you would get a 4-year average to give you a better spread, a better representation of what the unemployment figures are in the United States; so we were trying to stay with a 4-year average as a little better representative.

Mr. KINDNESS. Mr. Chairman, I demand a division then.

The CHAIRMAN. Is the gentleman demanding a division as to the last amendment in the bloc of five amendments?

Mr. KINDNESS. I am, Mr. Chairman.

The CHAIRMAN. The question is on the first four amendments offered en bloc by the gentleman from Texas (Mr. BROOKS).

The first four amendments en bloc were agreed to.

The CHAIRMAN. The question is on the fifth and last amendment of the amendments offered en bloc by the gentleman from Texas (Mr. BROOKS).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. KINDNESS. Mr. Chairman, I demand a recorded vote.

Mr. BAUMAN. Mr. Chairman, pending the demand of the gentleman from Ohio (Mr. KINDNESS) for a recorded vote, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call.

Members will record their presence by electronic device.

The Chair will announce this is a regular quorum call followed by a 5-minute vote.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 737]

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson,
Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bafalis
Bailey
Baldus
Barnard
Barnes
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Ohio
Broyhill
Buchanan
Burlison
Burton, Phillip
Butler
Byron
Carney
Carr
Carter
Cavanaugh
Chappell
Chisholm
Clausen
Clay
Cleveland
Clinger
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Corcoran
Corman
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
de la Garza
Deckard
Derrick
Dicks
Diggs
Dixon
Downey
Duncan, Oreg.
Duncan, Tenn.
Edgar
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Findley
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Frenzel
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Gingrich
Ginn
Glickman
Gonzalez
Gore
Gradison
Gramm
Gray
Green
Grisham
Guarini
Gudger
Guyer
Hagedorn
Hall, Ohio
Hall, Tex.
Hamilton
Hammer-
schmidt
Hance
Hansen
Harkin
Heckler
Hefner
Heftel
Hillis
Hinson
Hollenbeck
Holt
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ireland
Jacobs
Jeffries
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kelly
Kildee
Kogovsek
Kostmayer
Kramer
LaFalce
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Lloyd
Loeffler
Long, La.
Long, Md.
Lott
Lowry
Lujan
Lungren
McClory
McCormack
McDade
McHugh
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Michel
Mikulski
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Mollohan
Montgomery
Moore
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Ind.
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Pashayan
Patten
Patterson
Paul
Pease
Perkins
Petri
Peyser
Pickle
Preyer
Pritchard
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rose
Rosenthal
Roth
Roybal
Royer
Sabo
Satterfield
Sawyer
Schroeder
Schulze
Sebelius
Sensenbrenner
Shannon
Sharp
Shelby
Shumway
Shuster
Simon
Skelton
Slack
Smith, Nebr.
Snowe
Solarz
Solomon
Spellman
Spence
St Germain
Stack
Staggers
Stangeland
Stanton
Steed
Stenholm
Stewart
Stockman
Stokes
Stratton
Studds
Swift
Synar
Tauke
Taylor
Thompson
Traxler
Trible
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weaver
White
Whitehurst
Whittaker
Whitten
Williams, Mont.
Williams, Ohio
Winn
Wirth
Wolff
Wolpe
Wright
Wyatt
Wylie
Yates
Yatron
Young, Fla.
Young, Mo.
Zablocki
Zeferetti

□ 1310

The CHAIRMAN. Three hundred and twenty-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. KINDNESS) for a recorded vote on the fifth amendment of the amendments offered by the gentleman from Texas (Mr. BROOKS) on which a division of the question has been demanded.

Does the gentleman from Ohio (Mr. KINDNESS) insist on his demand for a recorded vote?

Mr. KINDNESS. Yes, Mr. Chairman.

A recorded vote was ordered.

PARLIAMENTARY INQUIRY

Mr. BROOKS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BROOKS. Mr. Chairman, do I understand the parliamentary situation that a vote "aye" on this is a vote for a technical amendment offered by the committee relating to the years 1975 through 1978?

The CHAIRMAN. The gentleman is correct.

Mr. BROOKS. I thank the Chair.

The CHAIRMAN. Five minutes will be allowed for the vote.

The vote was taken by electronic device, and there were—ayes 245, noes 97, not voting 91, as follows:

[Roll No. 738]

AYES—245

Addabbo
Akaka
Albosta
Alexander
Ambro
Anderson,
Calif.
Andrews, N.C.
Annunzio
Anthony
Applegate
Aspin
Atkinson
AuCoin
Bailey
Baldus
Barnard
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bennett
Bereuter
Bevill
Biaggi
Bingham
Blanchard
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Bowen
Brademas
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Burlison
Burton, Phillip
Byron
Carr
Carter
Chappell
Chisholm
Clausen
Collins, Ill.
Conte
Conyers
Corman
Coughlin
de la Garza
Deckard
Dicks
Diggs
Dingell
Dodd
Downey
Drinan
Duncan, Oreg.
Eckhardt
Edgar
Edwards, Ala.
Erlenborn
Ertel
Evans, Del.
Evans, Ind.
Fary
Fascell
Fazio
Ferraro
Fisher
Fithian
Florio
Foley
Ford, Mich.
Ford, Tenn.
Fountain
Fowler
Frost
Fuqua
Garcia
Gaydos
Gephardt
Gilman
Ginn
Glickman
Gonzalez
Gore
Gramm
Gray
Green
Guarini
Gudger
Hall, Ohio
Hall, Tex.
Hamilton
Hance
Harkin
Heckler
Hefner
Heftel
Hillis
Hollenbeck
Holtzman
Hopkins
Horton
Howard
Hubbard
Huckaby
Hughes
Ireland
Jacobs
Johnson, Calif.
Jones, Okla.
Jones, Tenn.
Kazen
Kemp
Kildee
Kogovsek
Kostmayer
LaFalce
Leach, La.
Leath, Tex.
Lederer
Lee
Lehman
Leland
Lent
Levitas
Lloyd
Long, La.
Long, Md.
Lowry
McClory
McCormack
McDade
McHugh
McKinney
Madigan
Maguire
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Matsui
Mattox
Mavroules
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Mottl
Murphy, Pa.
Murtha
Myers, Pa.
Natcher
Neal
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Perkins
Peyser
Pickle
Preyer
Rahall
Railsback
Rangel
Reuss
Rhodes
Rinaldo
Roberts
Rodino
Roe
Rose
Rosenthal
Roybal
Royer
Sabo
Sawyer
Scheuer
Schroeder
Seiberling
Shannon
Sharp
Simon
Skelton
Slack
Solarz
Solomon
Spellman
St Germain
Stack
Staggers
Stanton
Steed
Stenholm
Stewart
Stokes
Stratton
Studds
Swift
Synar
Thompson
Traxler
Ullman
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Wampler
Weaver
White
Williams, Mont.
Williams, Ohio
Wirth
Wolff
Wolpe
Wright
Wyatt
Yates
Yatron
Young, Mo.
Zablocki
Zeferetti

NOES—97

Abdnor
Archer
Bafalis
Bauman
Beard, Tenn.
Bethune
Brown, Ohio
Broyhill
Buchanan
Butler
Carney
Cavanaugh
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
Davis, Mich.
Derwinski
Duncan, Tenn.
Edwards, Okla.
Emery
English
Erdahl
Fenwick
Findley
Forsythe
Frenzel
Gingrich
Goldwater
Gradison
Grisham
Guyer
Hagedorn
Hammer-
schmidt
Hansen
Hinson
Holt
Hyde
Jeffries
Kelly
Kindness
Kramer
Lagomarsino
Leach, Iowa
Lewis
Livingston
Loeffler
Lott
Lujan
Lungren
McDonald
Michel
Miller, Ohio
Montgomery
Moore
Myers, Ind.
O'Brien
Pashayan
Paul
Petri
Pritchard
Quillen
Regula
Ritter
Robinson
Roth
Satterfield
Schulze
Sebelius
Sensenbrenner
Shelby
Shumway
Shuster
Smith, Nebr.
Snowe
Spence
Stangeland
Stockman
Tauke
Taylor
Thomas
Trible
Walker
Watkins
Whitehurst
Whittaker
Whitten
Winn
Wylie
Young, Fla.

NOT VOTING—91

Anderson, Ill.
Andrews,
N. Dak.
Ashbrook
Ashley
Badham
Burgener
Burton, John
Campbell
Cheney
Clay
Coelho
Cotter
Crane, Philip
D'Amours
Danielson
Daschle
Davis, S.C.
Dellums
Derrick
Devine
Dickinson
Dixon
Donnelly
Dornan
Dougherty
Early
Edwards, Calif.
Evans, Ga.
Fish
Flippo
Flood
Giaimo
Gibbons
Goodling
Grassley
Hanley
Harris
Harsha
Hawkins
Hightower
Holland
Hutto
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Kastenmeier
Latta
Luken
Lundine
McCloskey
McEwen
McKay
Mazzoli
Mica
Moffett
Moorhead,
Calif.
Murphy, Ill.
Murphy, N.Y.
Nelson
Nichols
Pepper
Price
Pursell
Quayle
Ratchford
Richmond
Rostenkowski
Rousselot
Rudd
Runnels
Russo
Santini
Smith, Iowa
Snyder
Stark
Stump
Symms
Treen
Udall

Van Deerlin
Waxman
Weiss
Whitley
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Wydler
Young, Alaska

□ 1320

Mr. MARRIOTT changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FOUNTAIN

Mr. FOUNTAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Fountain: Page 64, line 11, strike out "$250,000,000" and insert in lieu thereof "$150,000,000".

Mr. FOUNTAIN. Mr. Chairman, this is the amendment which I made reference to in my remarks during the general debate, it is designed to reduce the targeted assistance funding from $250 to $150 million, which is the amount reported by the subcommittee and the amount in the bill introduced by the chairman, the gentleman from Texas (Mr. Brooks), the gentleman from New York (Mr. Horton), and me. It was increased in the committee.

Mr. Chairman, my amendment reduces the funding for the title V targeted assistance program from $250 to $150 million, which is the amount reported by the subcommittee.

With a total of $525 million available in the second budget resolution for both the antirecession program and targeted assistance, there is no justification for devoting nearly half of the total funding for targeted assistance.

To do so would drain the money that would otherwise be paid out as antirecession assistance. Antirecession assistance, you should be aware, is the valuable and meritorious program designated by the interest groups in our subcommittee hearings as their first highest priority after revenue sharing.

I would caution my colleagues not to succumb to the illusion that the antirecession program will trigger only $195 million in this fiscal year. It is easy to misconstrue the $195 million figure in the committee's cost estimate. That amount relates only to the outlay for one recession quarter that would be paid during fiscal 1980.

The title IV formula will actually trigger over $1 billion for four recession quarters in fiscal 1980, based on the Data Resources, Inc., forecast used by the committee. Over $1 billion is the amount of the obligation from fiscal 1980 money that would be triggered by the formula, despite the fact that the bulk of this money, if appropriated, would constitute an outlay in fiscal 1981.

It would be a mistake, also, to believe that the 1980 budget ceiling for this purpose will be raised next year to accommodate additional spending. With inflation our No. 1 enemy, and the difficulty Congress will face next year just to keep the deficit from widening, there is virtually no chance this will happen.

With $525 million in the second budget resolution for both programs, it would be a bad joke, in fact a travesty indeed, if $250 million were paid out next April 1 for a questionable targeted assistance program, while leaving only $275 million for payment under the antirecession assistance formula which was very carefully developed as a model for a continuing program.

I want to make my position very clear. I cannot, and will not, support legislation that allocates more than $150 million for targeted assistance at the expense of the responsible antirecession assistance program. I urge you to support my amendment.

Mr. HORTON. Mr. Chairman, I rise in opposition to the amendment.

First of all, I would like to explain that what this does is reduce the amount for the targeted fiscal assistance program from $250 to $150 million.

Now, the bill that was introduced by the gentleman from Texas (Mr. Brooks), the gentleman from North Carolina (Mr. Fountain), and myself, had $150 million in it.

As I understand it, when the bill was introduced, the administration indicated its support for $250 million, and asked that it be offered as an amendment.

I would like to indicate that as far as I know the administration still supports the $250 million allocation.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. The gentleman states it correctly in substance. The administration would like to have this $250 million. In fact, I guess, .it would like to have more if it can get it to pacify certain interest groups.

I want to make it perfectly clear that when we were talking with the President, I informed him that $150 million was the highest amount I could support in good conscience and the amount we were going to put in the bill. Of course, anyone can offer an amendment to change the amount in the bill if they care to do so.

Mr. HORTON. At the full committee meeting an amendment was offered and then accepted by the full committee, raising the amount from $150 to $250 million.

□ 1330

Also at the full committee there was concern expressed over the amount of money in the bill; the $1 billion for countercyclical and the $250 million for targeted fiscal assistance. There was concern expressed that this was in excess of the budget of $525 million.

It was pointed out at the full committee, and I would like to point out to the Members here, that it is expected that only $195 million would be paid out in fiscal year 1980 under the countercyclical section of this bill, plus the $250 million for TFA which is within the $525 million in the budget resolution. That is only $445 million for both programs.

Now, there is some confusion by the members of the committee. I hope we can clear up the confusion concerning the amount that is to be paid out under countercyclical.

It is expected that only $195 million could be spent in fiscal year 1980. After fiscal year 1980, in 1981, there could be more paid out to the extent of $1 billion. But it could not go in excess of $1 billion without having to come back to the Government Operations Committee for authorization.

The reason I think it is so important to keep the $250 million is that those communities which are hardest hit by long periods of economic decline are the areas that are going to benefit from this particular targeted fiscal assistance. It is a one-shot payment. In April of next year these communities are not going to get what they could have expected under the targeted fiscal assistance program that was authorized and approved by the earlier Congresses, and which we did not renew in the last Congress. Those communities that were hardest hit as a result of recession had a gap in their budget. This is to help those communities fill that gap. It does not fill it like it should, but it is a step in the right direction.

So I think it is very important to keep the $250 million, and I urge the amendment be defeated.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. HORTON. I yield to the gentleman from Michigan.

Mr. CONYERS. I want to commend the gentleman from New York because that is exactly what happened in full committee, and for the reasons he has so accurately stated.

I support this position. We need the money. It will not exceed the budget. It will not solve the problem, but I think it represents the administration's position and the majority of the committee position, and certainly those Representatives from the cities that would benefit from this I think would be well served by it.

Mr. HORTON. I thank the gentleman.

Mr. BROOKS. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

I would say very briefly that I offered the bill with Mr. Fountain and with Mr. Horton with the $150 million for targeted fiscal assistance in the bill and the committee raised it to $250 million. I do not mind ultimately going to $250 million, but I thought, very candidly, that we should have raised it to maybe $200 million in the committee and then gone to conference with $200 million. Then we would be lucky to stay at $250 million.

I can live with $250 million, but the other body has $340 million in their bill. I do not want to go in there with $250 million and have them say we will compromise out at $320 million. I would much rather go in to the conference with $150 million and compromise up to the $250, rather than go in with $250 million and compromise at up to $300 million.

For that reason, while the committee did support the amendment, I personally did not vote for the amendment. I will support the amendment today on that personal basis, though the committee vote was otherwise.

Mr. ROSENTHAL. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

I think Mr. Brooks stated the case clearly. But I do not agree with his conclusion.

I think it is a judgment call whether it should be $150 million or $250 million. A majority of the committee felt that $250 million was the apppropriate amount if we were going to consider the significance of targeted fiscal assistance. These funds, there is no question about it, are desperately needed by the most distressed cities, counties, and rural areas. Without a meaningful program, without the $250 million which would make it a meaningful program, these funds will not help local communities prevent layoffs and cuts in essential police, fire, and sanitation services.

The fact of the matter is, Mr. Chairman, a $250 million program is well below the amount of funding provided for this program in the second concurrent budget resolution which includes a total of $525 million for this program and the countercyclical program. It is also below the $340 million provided by the other body.

We expect a total of $440 million to be spent in fiscal year 1980 for countercyclical and targeted fiscal assistance combined, that is for 1980, and the judgment of a majority of the committee, which spent a great deal of time pursuing this matter, felt this was the minimum amount needed to help out the most needy cities, counties, and rural areas to phase out the old, countercyclical program.

These communities many of them across all parts of our country were left with holes in their budgets, large budgetary gaps when the countercyclical program was terminated last year. I am sure the House will support and sustain the action of the committee in voting $250 million. I know under Mr. Brooks' leadership and the cooperation and guidance of Mr. Fountain that the conferees on the part of the House will preserve and maintain the position of the House on this matter.

Taking that into account, I would urge the defeat of the amendment.

Mr. KINDNESS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment. I commend the gentleman from North Carolina for offering the amendment at this point.

I think there are several things about the bill that were changed in the full committee consideration that ought to be changed back toward the way they were at the time the subcommittee reported it to the full committee. I am not praising the bill in general. I think everyone understands that.

But I do think there were some errors made in dealing with the bill in the full committee that made it a much less desirable bill in many respects. But certainly in this amendment I would urge support for the reason that it does take the amount allocated to or authorized for targeted fiscal assistance back down to the $150 million level.

I will, as I mentioned earlier, be offering an amendment at the appropriate time to take the countercyclical fiscal assistance figure back down so it will be within the budget resolution amount. It will be that much more appropriate for that amendment to be adopted also if we take this figure back down to within $150 million instead of $250 million as the amendment offered by the gentleman from North Carolina would accomplish. I would think that would put it in a much saner fiscal outline.

I certainly hope it would not be the impression that there is any unanimity on this side of the aisle about opposing this amendment. There are some of us who really support this amendment.

Mr. CONYERS. Mr. Chairman, I move to strike the last word and rise in opposition to the amendment.

I am struck by the proponents' argument for this amendment that in no way addresses the question, whether this increased amount of money approved by the full committee is justifiable or not.

It strikes me that many urban and rural local governments desperately need the money under this targeted program. We should all be aware of the fact the regions of the country experience very different economic conditions. Some like the Detroit metropolitan area have been experiencing recession-like conditions for years, long before the Nation as a whole.

I am impressed that the funding proposed does not exceed and will not exceed the budget guidelines under which we operate, and so I plead with my fellow colleagues to oppose this amendment to cut targeted fiscal assistance. It is a one-time operation and it is desperately needed in many local areas of this country. I urge defeat of the amendment. I think we are going to move toward some kind of a reconciliation, as has been suggested, in the conference. So I think there would be no need for us to reduce the amount of money for targeted assistance at this point. I oppose the amendment.

☐ 1340

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I take the time, if I could, to pose a couple of questions to the sponsor of the amendment, the gentleman from North Carolina, if he would be kind enough to answer.

Mr. FOUNTAIN. I would be delighted.

Mr. WALKER. In support of the amendment, the one thing I think we should try to clarify is, do we know, whether we spend $150 million or $250 million, where the money is going?

Mr. FOUNTAIN. I must confess that we do not. The only printout we have been given is based on the factors in this legislation. Consequently, they are completely unreliable.

However, I would say to the gentleman that the formula in the program is an improvement over the way in which unemployment rates were used in the earlier ARFA program and in the bill passed by the other body.

For example, the eligibility factors require an unemployment rate above the national average in the most recent calendar year, considered separately on governments in metropolitan areas and those outside metropolitan areas. To be eligible, a local government must also meet growth rate and per capita income requirements.

My main concern is that if we authorize more than $150 million for targeted assistance, which does use to some extent the unreliable unemployment data that I have commented on, we open the door to the possibility that $250 million, or whatever we allocate, will reduce the amount which can be spent for the more important antirecession portion of this bill. Certainly, the antirecession program, which I view as the most important part of this bill, should not be left holding an empty bag because too much of the $525 million is authorized for the title V targeted assistance portion of the bill, which will pay out money first.

Mr. WALKER. I thank the gentleman for that explanation. I think the bottom line is, the people who think they are going to get additional money will end up losing if we go to $250 million, will really have no idea, with what we now know, whether they are going to get anything.

So, therefore, there must be some question in the mind of anybody who votes for increasing funding or, in this case, votes to cut back the funding.

Let me ask the gentleman, do we know what the money is going to go for once it gets to the communities?

Mr. FOUNTAIN. Anything they want to use it for. We would assume it is for basic, essential purposes in keeping with their own laws.

Mr. WALKER. Do we know, for instance, whether or not unemployment figures used as a basis for this have anything to do with the economic situation in a particular community? Could the community be rather well off in terms of its tax base and still have very high unemployment rates?

Mr. FOUNTAIN. The answer is yes, that is true. In fact, the expired ARFA program paid allocations to some of the Nation's wealthiest cities and counties on the basis of high unemployment rates.

Mr. WALKER. Therefore, wealthy communities could end up benefiting from this extra $100 million we are talking about.

Mr. FOUNTAIN. The gentleman is absolutely right. Let me make one further observation.

Mr. WALKER. Be glad to.

Mr. FOUNTAIN. By reducing the funding for targeted assistance, we will make more money available for places which are affected by a recession and therefore can really use this money effectively.

Mr. WALKER. I thank the gentleman for his explanation. I would simply say, to sum up, the question we are dealing with is really to maintain fiscal responsibility. This is the question the Congress must face in these times of great national deficit. Here we are, talking about $100 million, and we do not know where it is going to go. We do not know what it will be used for, and we do not know what it will be going into. We have no idea. We have no figures before us. Yet, we are talking about spending another $100 million.

This amendment, and the reason why Members should support this, is to save that $100 million and try to do the best we can to make this as fiscally responsible a bill as possible.

Mr. ASPIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I would like to get the attention of the gentleman from Pennsylvania, if I might, and the attention of the gentleman who has offered the amendment. It seems to me that there is more misinformation being given out here in the last 30 seconds than I have heard on almost any other occasion on this House floor. There is no connection between the targeted fiscal portion of this bill and the countercyclical part. If we raise targeted fiscal assistance from $150 million to $250 million, that does not cut the amount of money available for countercyclical.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from North Carolina.

Mr. FOUNTAIN. There is some connection in that there is a total of $525 million in the budget resolution for both purposes.

Mr. ASPIN. Exactly, but the gentleman knows that this bill, the countercyclical part, kicks in after two-quarters of downturn; and in the middle of the third quarter we would know whether we have had two quarters of downturn. There is no way that the countercyclical part of this bill can ever kick in except for the last quarter. That is the only quarter that this bill could apply to. So, we are talking about targeted fiscal assistance, and the last quarter of countercyclical. They are not competing.

Mr. FOUNTAIN. The payments are triggered back to the first recession quarter, which is likely to be the quarter we are now in.

Mr. ASPIN. That is right.

Mr. FOUNTAIN. The result is that a tremendous amount of money could be required for title IV.

Mr. ASPIN. It would not affect the amount of money in this bill because the targeted fiscal assistance and the countercyclical are separate parts.

Mr. FOUNTAIN. If the targeted fiscal assistance funds are paid out in April; we could have insufficient money to take care of the antirecession program. We cannot know for certain at this time.

Mr. ASPIN. It cannot happen.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. HORTON. Mr. Chairman, I think the gentleman has explained, and I think it is very important to understand what the gentleman has explained. What he is saying is that there is a difference between allocation and outlays.

Mr. ASPIN. That is right.

Mr. HORTON. The budget resolution deals with outlays. It says that there shall be a lid of $525 million on outlays—not allocations. The bill we are dealing with here deals with $1 billion for countercyclical, which is an authorization. It authorizes and allocates $250 million, which is an allocation, or authorization. Now, there would be an outlay in 1980 of $250 million if this amendment is defeated, and the figures that were furnished me were that approximately $195 million is what they would expect as outlays under countercyclical, which is within the $525 million.

Mr. FOUNTAIN. Mr. Chairman, will the gentleman yield further?

Mr. ASPIN. I will be happy to yield.

Mr. FOUNTAIN. I think we are confusing outlays with obligations. I made the statement, when I offered this amendment, that we should be cautious not to succumb to the illusion that the antirecession program will trigger only $195 million in this fiscal year. It is easy to misconstrue that figure. In the committee, it was estimated that that amount relates only to the outlay for one recession quarter that would be paid out during fiscal year 1980.

The title IV formula will actually trigger over $1 billion for four recession quarters in fiscal 1980, based on the Data Resources, Inc. forecast used by the committee. Over $1 billion is the amount of the obligation from fiscal year 1980 money that would be triggered by the formula, despite the fact that the bulk of this money, if appropriated, would constitute an outlay in fiscal 1981. That is a moral obligation, if not a legally binding obligation for the Congress.

Mr. ASPIN. The figures given by the gentleman from New York were the correct figures if we are talking about targeted fiscal assistance. Whether it should be $150 million or $250 million—and I think it should be $250 million—in talking about countercyclical; countercyclical is a separate program which triggers in under a separate formula. There is no way that money is going to be $194 million.

Mr. FOUNTAIN. They are competing for the same funds.

Mr. ASPIN. No; they are not. In no way is the gentleman correct in saying they compete for the same funds.

□ 1350

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina (Mr. FOUNTAIN).

The question was taken; and on a division (demanded by Mr. VOLKMER) there were—ayes 34, noes 23.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 184, noes 153, not voting 96, as follows:

[Roll No. 739]

AYES—184

Abdnor
Alexander
Andrews, N.C.
Anthony
Archer
AuCoin
Bafalis
Barnard
Bauman
Beard, Tenn.
Bennett
Bereuter
Bethune
Bevill
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown, Ohio
Broyhill
Buchanan
Burgener
Burlison
Butler
Byron
Carter
Cavanaugh
Cleveland
Clinger
Coleman
Collins, Tex.
Conable
Corcoran
Coughlin
Courter
Crane, Daniel
Daniel, Dan
Daniel, R. W.
Dannemeyer
de la Garza
Deckard
Derrick
Derwinski
Dicks
Duncan, Oreg.
Duncan, Tenn.
Edwards, Ala.
Edwards, Okla.
Emery
English
Erdahl
Erlenborn
Ertel
Evans, Del.
Findley
Fisher
Fithian
Foley
Forsythe
Fountain
Frenzel
Fuqua
Gingrich
Ginn
Glickman
Goldwater
Gore
Gradison
Gramm
Grisham
Gudger
Guyer
Hagedorn
Hall, Tex.
Hamilton
Hammerschmidt
Hance
Hansen
Harkin
Hefner
Hinson
Holt
Hopkins
Hubbard
Huckaby
Hyde
Ireland
Jacobs
Jeffries
Jones, Okla.
Jones, Tenn.
Kelly
Kemp
Kindness
Kramer
Lagomarsino
Leach, Iowa
Leach, La.
Leath, Tex.
Lee
Lehman
Levitas
Livingston
Lloyd
Loeffler
Long, Md.
Lott
Lujan
Lungren
McClory
McDonald
Madigan
Marlenee
Marriott
Martin
Mathis
Mattox
Michel
Miller, Ohio
Montgomery
Moore
Myers, Ind.
Natcher
Neal
O'Brien
Panetta
Pashayan
Paul
Pease
Petri
Pickle
Preyer
Regula
Rhodes
Ritter
Roberts
Robinson
Rose
Roth
Royer
Satterfield
Schroeder
Schulze
Sebelius
Sensenbrenner
Sharp
Shelby
Shumway
Shuster
Skelton
Slack
Smith, Nebr.
Snowe
Solomon
Spence
Stangeland
Steed
Stenholm
Stockman
Synar
Tauke
Taylor
Thomas
Trible
Ullman
Volkmer
Walker
Wampler
Watkins
White
Whitehurst
Whittaker
Whitten
Winn
Wirth
Wright
Wyatt
Wylie
Young, Fla.
Zablocki

NOES—153

Addabbo
Akaka
Albosta
Ambro
Anderson, Calif.
Annunzio
Applegate
Ashley
Aspin
Atkinson
Bailey
Baldus
Barnes
Beard, R.I.
Bedell
Beilenson
Benjamin
Bingham
Blanchard
Boggs
Bolling
Bonior
Brademas
Brodhead
Brown, Calif.
Burton, Phillip
Carney
Carr
Chisholm
Clausen
Collins, Ill.
Conte
Conyers
Corman
Daschle
Davis, Mich.
Dingell
Dixon
Downey
Drinan
Eckhardt
Edgar
Evans, Ind.
Fary
Fascell
Fazio
Fenwick
Ferraro
Florio
Ford, Mich.
Ford, Tenn.
Fowler
Frost
Garcia
Gaydos
Gephardt
Gilman
Gonzalez
Gray
Green
Guarini
Hall, Ohio
Harsha
Heckler
Hillis
Hollenbeck
Holtzman
Horton
Howard
Hughes
Johnson, Calif.
Kazen
Kildee
Kogovsek
Kostmayer
LaFalce
Lederer
Leland
Lent
Lewis
Long, La.
Lowry
McCormack
McDade
McHugh
McKinney
Maguire
Markey
Marks
Matsui
Mavroules
Mikulski
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Mollohan
Moorhead, Pa.
Murphy, Pa.
Murtha
Myers, Pa.
Nedzi
Nolan
Nowak
Oakar
Oberstar
Obey
Patten
Patterson
Perkins
Peyser
Pritchard
Rahall
Rangel
Reuss
Rinaldo
Rodino
Roe
Rosenthal
Roybal
Sabo
Sawyer
Scheuer
Seiberling
Shannon
Simon
Solarz
Spellman
St Germain
Stack
Staggers
Stanton
Stokes
Stratton
Studds
Swift
Thompson
Vander Jagt
Vanik
Vento
Walgren
Weaver
Williams, Mont.
Williams, Ohio
Wilson, Bob
Wolff
Wolpe
Yates
Yatron
Young, Mo.
Zeferetti

NOT VOTING—96

Anderson, Ill.
Andrews, N. Dak.
Ashbrook
Badham
Biaggi
Boland
Burton, John
Campbell

Chappell
Cheney
Clay
Coelho
Cotter
Crane, Philip
D'Amours
Danielson
Davis, S.C.
Dellums
Devine
Dickinson
Diggs
Dodd
Donnelly
Dornan
Dougherty
Early
Edwards, Calif.
Evans, Ga.
Fish
Flippo
Flood
Giaimo
Gibbons
Goodling
Grassley
Hanley
Harris
Hawkins
Heftel
Hightower
Holland
Hutto
Ichord
Jeffords
Jenkins
Jenrette
Johnson, Colo.
Jones, N.C.
Kastenmeier
Latta
Luken
Lundine
McCloskey
McEwen
McKay
Mazzoli
Mica
Moffett
Moorhead, Calif.
Mottl
Murphy, Ill.
Murphy, N.Y.
Nelson
Nichols
Ottinger
Pepper
Price
Pursell
Quayle
Quillen
Railsback
Ratchford
Richmond
Rostenkowski
Rousselot
Rudd
Runnels
Russo
Santini
Smith, Iowa
Snyder
Stark
Stewart
Stump
Symms
Traxler
Treen
Udall
Van Deerlin
Waxman
Weiss
Whitley
Wilson, C. H.
Wilson, Tex.
Wydler
Young, Alaska

□ 1400

The Clerk announced the following pairs:

On this vote:

Mr. Nelson for, with Mr. Pepper against.

Mr. Rousselot for, with Mr. Murphy of New York against.

Mr. Quillen for, with Mr. Weiss against.

Mr. Badham for, with Mr. Hanley against.

Mr. Ashbrook for, with Mr. Jeffords against.

Mr. Cheney for, with Mr. Wydler against.

Mr. Campbell for, with Mr. Stark against.

Mr. Devine for, with Mr. Edwards of California against.

Mr. PETRI changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENTS OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Chairman, I offer four technical amendments.

The Clerk read as follows:

Amendments offered by Mr. Phillip Burton: Pages 62, line 20, insert "The Northern Mariana Islands," immediately after "Guam,".

Page 63, line 15, insert "the Northern Mariana Islands," immediately after "Guam,".

Page 77, line 11, insert "The Northern Mariana Islands," immediately after Guam,".

Page 78, line 4, insert "the Northern Mariana Islands," immediately after "Guam,".

Mr. PHILLIP BURTON. Mr. Chairman, by what I am sure was an oversight the Northern Mariana Islands was not included in the list of territories. I ask unanimous consent that the amendments be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. KINDNESS. Mr. Chairman, I reserve the right to object.

Mr. Chairman, reserving the right to object, I would ask the gentleman from California if the sole effect of his amendments is to include the Northern Marianas as one of the territories affected.

Mr. PHILLIP BURTON. The gentleman is correct. There is no funding involved.

Mr. KINDNESS. Does the gentleman have any information available to him as to what would be the effect with respect to the targeted fiscal assistance, whether that would affect the Northern Marianas?

Mr. PHILLIP BURTON. Mr. Chairman, as I understand the formula it would not affect any of the various States. It merely adds the Northern Mariana Islands, a new member of the American family, to share in that limited amount that has been set aside for the territories.

Mr. KINDNESS. Mr. Chairman, further reserving the right to object, some of us are affected by the concern that we cannot tell what the two portions of the bill are going to do with regard to the targeted fiscal assistance and the countercyclical parts. Is there any information the gentleman has available to him that would indicate whether any money would actually go under either of the programs to the Northern Marianas?

Mr. PHILLIP BURTON. Some amount but it would be minuscule. There are only 14,000 people living there.

Mr. KINDNESS. Mr. Chairman, further reserving the right to object, it may turn out this offers a false hope. That was the only question I wanted to raise, that it may not, in fact, result in any allocation of funds.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California (Mr. Phillip Burton) that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN. The question is on the amendments offered by the gentleman from California (Mr. Phillip Burton).

The amendments were agreed to.

□ 1410

Mr. BROOKS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. Gephardt, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5980) to authorize a program of fiscal assistance during economic recessions and to authorize a program of targeted fiscal assistance, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill just considered, H.R. 5980.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

EXPRESSING SENSE OF CONGRESS THAT AMERICAN PEOPLE SEND CHRISTMAS CARDS TO HOSTAGES IN IRAN

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Foreign Affairs be discharged from further consideration of the concurrent resolution (H. Con. Res. 224) expressing the sense of the Congress that the American people should immediately send Christmas cards to the hostages being held in the U.S. Embassy in Tehran as an indication of our concern for their welfare and our support for the Government of the United States as it seeks to secure their release, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin (Mr. Zablocki)?

Mr. MICHEL. Mr. Speaker, reserving the right to object, might I inquire of the distinguished gentleman from Wisconsin, is this the same resolution as appears in next week's program as House Concurrent Resolution 221?

Mr. ZABLOCKI. Mr. Speaker, if the gentleman will yield, no, it is not.

Mr. MICHEL. That is another one relative to the hostages?

Mr. ZABLOCKI. That is another one.

Mr. MICHEL. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin (Mr. Zablocki)?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 224

Whereas Iranian students illegally seized the United States Embassy in Tehran on November 4, 1979, taking United States citizens hostage in grave violation of international law and all concepts of human decency; and

Whereas the Ayatollah Khomeini has indicated his support of the students and their actions; and

Whereas the Ayatollah and the students have indicated these actions were an attack on the Government of the United States and not the American people, saying that they do not believe the Government of the United States currently enjoys the support of the American people in its dealings with the student radicals and the Revolutionary Council of Iran; and

Whereas these actions were taken by people who profess to be religious and as part of a holy war on the Government of the United States; and

Whereas the Christmas season is of special religious significance to the people of America; and

Whereas it is of vital importance that the American public utilize every means available to indicate their concern for the hostages and support for the efforts of the United States Government to free the illegally held hostages: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the American people should immediately send Christmas cards to the hostages being held in the United States Embassy in Tehran as an indication of our concern for their welfare and our support for the Government of the United States as it seeks to secure their release.

The SPEAKER. The gentleman from Wisconsin is recognized for 1 hour.

Mr. ZABLOCKI. Mr. Speaker, quite simply, the purpose of House Concurrent Resolution 224, which was introduced by our colleague, the Honorable Charles W. Stenholm, is to express the sense of Congress of its wish that the American people be encouraged to write to the American hostages held captive in Iran.

It is hoped that the 50 hostages will each be sent a million Christmas cards from their fellow Americans. Various groups around the country have already begun efforts to stimulate correspondence and messages of support to the hostages. While there is no guarantee that the hostages will receive the cards, such a voluminous expression of American concern can only be interpreted as the measure of support for the release and well-being of the Americans in captivity there. Further, it will serve as a display of American solidarity, and symbolically pressure the ayatollah and the Iranian captors to free the Americans sequestered in Tehran.

Mr. Speaker, I urge the passage of this resolution, and strongly urge every American to send a Christmas card to the hostages in Tehran.

The address where cards may be mailed is: American Embassy, 260 Taleghani Avenue, Tehran, Iran.

The SPEAKER. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent to revise and extend my remarks and that all Members may have 5 legislative days in which to revise and extend their remarks on the concurrent resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1297

Mr. DERRICK. Mr. Speaker, I ask unanimous consent that my name be withdrawn as cosponsor of H.R. 1297.

The SPEAKER. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I have asked to proceed for 1 minute for the purpose of inquiring of the acting majority leader the program for next week, and I am happy to yield to my friend, the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, will the gentleman repeat the question?

Mr. MICHEL. Mr. Speaker, I asked permission of the distinguished Speaker to inquire of the acting majority leader the program for next week, and sundry other questions.

Mr. FORD of Michigan. Mr. Speaker, if the gentleman will yield, I would be pleased to run quickly through the program.

The House will convene Monday at noon to consider six bills under suspension of the rules, as follows:

H.R. 5973, miscellaneous changes in Internal Revenue Code;

H. Con. Res. 219, International Conference on Cambodia;

H. Con. Res. 221, relating to hostages;

H.R. 4998, Federal Reserve Act amendments (agree to Senate amendment thereto with an amendment);

S. 716, increase Government contributions to health insurance coverage of certain retired employees; and

H.R. 5523, To establish and improve programs for extra-long staple cotton.

This may be followed by consideration of H.R. 5980, antirecession fiscal assistance. Votes on suspensions may be postponed until the end of consideration of all suspensions.

On Tuesday, the House will convene at 10 a.m. We will take up the Private Calendar and the following two bills:

H.R. 5860, loan guarantee for Chrysler Corp., to complete consideration; and

H.R. 3927, National Visitor Center Act, under an open rule with 1 hour of debate.

Wednesday and the balance of the week, the House will meet at 10 a.m. on Wednesday and Thursday, and at 10 a.m. on Friday, for conference reports, and consideration of the following bills:

H.R. 2585, Traffic and Motor Vehicle Information and Cost Savings Act, under an open rule, with 1 hour of general debate, the rule having been already adopted.

H.R. 5295, earnings test for certain social securities beneficiaries, under a modified rule, with 1 hour of general debate.

H.R. 2816, Refugee Act of 1979, to complete consideration.

H.R. 3994, Resource Conservation and Recovery Act Amendments of 1975, under an open rule, with 1 hour of general debate.

Conference reports may be expected throughout the day on Thursday and Friday, and any further program will be announced later.

Mr. MICHEL. Mr. Speaker, if I might inquire of the distinguished gentleman and reinforce what I think I heard the gentleman say, that on Monday, we will definitely have votes with respect to those suspensions, because after the conclusion of the suspensions, we will continue consideration of the anti-recession fiscal assistance bill that we rose on today; is that right?

Mr. FORD of Michigan. That is correct.

Mr. MICHEL. Now, might I inquire, is it really the intention of the gentleman from Michigan that we can complete action on the Chrysler Corp. bill in one day on Tuesday?

Mr. FORD of Michigan. Mr. Speaker, if the gentleman will yield further, if I may be personal, it is my fervent prayer.

Mr. MICHEL. Then secondly, we know that it is not so easy to get airplane reservations around here anymore, notwithstanding decontrol. Some of the smaller communities are getting less service than they once had. The gentleman makes no mention of a Saturday session. Does this foreclose absolutely any Saturday session?

The SPEAKER. The Chair would be happy to answer, if the gentleman will permit.

Mr. MICHEL. I would be happy to yield to the distinguished Speaker.

The SPEAKER. The present plan does not call for a Saturday session. The House must wait for the action of the Senate. The House could have the windfall profit tax conference report up if it is completed in the Senate by Saturday night of this week. It is the Chair's understanding from the gentleman from Oregon (Mr. ULLMAN) that the gentleman believes the conferees could finish it by Thursday night and have it on the floor by Friday. It is the Chair's present intention that if the House has not completed the conference report by Friday, the House would begin pro forma sessions until January 3. That is the present plan.

Mr. MICHEL. Then it would be the plan of the Speaker to have no adjournment, that rather to go on pro forma sessions?

The SPEAKER. On a pro forma basis.

Mr. MICHEL. May I ask the Chair, when will those pro forma sessions be announced?

The SPEAKER. Well, the leadership will have a better judgment next week. It is regrettable that we cannot tell the House what the program is. The gentleman is aware that the House sent the windfall profits bill to the Senate on June 26 and here it is the eve of the New Year and the bill has not been messaged back. It has to go to conference.

It is the Chair's understanding from the majority leader of the other body that if they do not complete the bill next week, the other body would come back on December 27 and work until it was completed. If and when it is completed, the Chair would immediately call the House back. The House would be in pro forma session. The leadership would call the House back for a regular formal session with the idea of being able to appoint conferees at that particular time.

□ 1420

Mr. MICHEL. But, Mr. Speaker, for the benefit of the entire Membership, there would be no possibility of our being called back between Christmas and New Year's for anything other than something like a declaration of war?

The SPEAKER. Unless there were some emergency concerning Iran, the Chair has no intention of calling the House back, and if the House were to be called back, it would be called back after consulting with the leadership on the minority side. The leadership would not call the House back unless there were an emergency involving the Iranian situation, and our intent is not to come back before January 3.

Mr. MICHEL. If I might ask one more question, Mr. Speaker, is there any change in the date on which we would then formally reconvene?

The SPEAKER. There is the possibility of a change. The House would continue on pro forma sessions until January 22. That was our original plan.

But in the event that the House comes back, to conduct business, the Constitution requires that when the 2d session of the 96th Congress convenes, the House must establish a quorum to conduct business. So it could very well be that when we would come back on or after January 3, if the House has not completed its essential business, with the windfall tax and the Chrysler bills behind us, we could be going into the 2d session of the 96th Congress to complete that business. If and when the House would get those bills completed, by mutual agreement of the leadership on both sides, we would present to the House a schedule as to how long the House would continue in pro forma sessions, and then the House could take a work period or rest period or travel period for the Members.

Mr. MYERS of Indiana. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Indiana.

Mr. MYERS of Indiana. Mr. Speaker, is it our understanding, then, that the windfall profit tax bill would be the only action required to call the Congress back in between next week and January 22 except for some situation internationally on which we could conceivably consider any legislation?

The SPEAKER. The Chair will state that it is our hope that both Houses can finish the Chrysler legislation. It is the Chair's understanding that we intend to have the Chrysler legislation scheduled on Tuesday.

This is my understanding: Were the Senate to finish the windfall profit tax bill by this Saturday evening, the Senate leadership informs the Chair that they would be able to complete the Chrysler legislation before it might be finished in the House. So the House would have a pretty good idea of what the action of the Senate was, and if it passes both branches, we should be able to have a conference committee meeting and complete action by Friday night of next week.

The Chair would make one further statement. The leadership has the countercyclical bill tentatively scheduled, and the gentleman from Texas (Mr. Brooks) has a statement, if the gentleman would yield to him. With due apologies to the gentleman from Michigan (Mr. Ford), the Chair will state that there has been a change in plans for next week, and if the gentleman from Illinois (Mr. Michel) would yield to the chairman of the committee who has been handling the bill, he will explain it to the House.

Mr. BROOKS. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am happy to yield to the gentleman from Texas.

Mr. BROOKS. Mr. Speaker, I thank the gentleman very much for yielding.

Let me say that there have been considerable problems about the program for Monday of next week, as we all know. In view of the suspensions that we have already tentatively planned to consider on Monday and in view of the probability of votes on those bills, although we had scheduled the continuation of the antirecession bill, I believe that it might be just as wise to postpone further consideration of the antirecession bill.

We can act on that bill in January just as well as trying to crowd it in on Monday and work it in around a lot of record votes. In this way we will be able to free up the calendar for Monday, so Monday could possibly be a day without any votes and we could go on to Tuesday with the Chrysler bill and other matters during the week.

Mr. Speaker, we could come back to the antirecession bill when we get back in session in January, and we would still have it take effect in this next year. I do not think we would then inconvenience those Members who do not work on Mondays.

Mr. MICHEL. Mr. Speaker, is the gentleman suggesting that we will not resume that consideration this Monday?

Mr. BROOKS. Mr. Speaker, I am just saying that I am not going to bring it up on Monday. That is a nice way of saying it.

The SPEAKER. In view of the fact that the chairman of the committee has determined he will not bring that bill up on Monday and in view of the fact that he has also determined he will not bring it up until after January 22, it appears to the Chair that there is no need of having votes on Monday, and the Chair will postpone the suspension votes on Monday until Tuesday. If the acting majority leader will make an announcement along that line, the Chair feels certain it will be the will of the House.

Mr. MICHEL. The Speaker has anticipated my next question.

Mr. Speaker, in view of that, then, the votes on suspensions would be carried forward until Tuesday; is that not correct?

Mr. FORD of Michigan. Yes. Mr. Speaker, if the gentleman will yield further, now that we would not have to have the Members here for the conclusion of the antirecession legislation, any votes required on Monday would be carried over to the beginning of business on Tuesday.

Mr. MICHEL. And, Mr. Speaker, I assume that the Members ought to be prepared on next week, on those other days certainly, to stay here at hours beyond 5:30, if we are to complete our program?

Mr. FORD of Michigan. Mr. Speaker, if the gentleman will yield further, I believe it would be wise for us to make no plans for any evening next week, because it is very uncertain with respect to what kind of flow of business there will be, with conference reports to be considered. So virtually every evening is going to present an irregular time of adjournment, and we may go beyond the normal time of adjournment.

Mr. MICHEL. Mr. Speaker, I thank the gentleman.

AUTHORIZING THE CLERK TO RECEIVE MESSAGES FROM THE SENATE AND THE SPEAKER TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS, NOTWITHSTANDING ADJOURNMENT

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that notwithstanding any adjournment of the House until Monday, December 17, 1979, the Clerk be authorized to receive messages from the Senate and the Speaker be authorized to sign any enrolled bills and joint resolutions duly passed by the two Houses and found truly enrolled.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

HOUR OF MEETING ON TUESDAY, DECEMBER 18, 1979

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that when the House adjourns on Monday, December 17, 1979, it adjourn to meet at 10 a.m. on Tuesday, December 18, 1979.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. McCORMACK. Mr. Speaker, reserving the right to object, I would ask the gentleman this question:

In view of the fact that we are not going to have votes on Monday and a lot of airplane schedules will be changed accordingly, is it wise to try to make the hour of meeting at 10 o'clock on Tuesday rather than noon? I ask the question because a good many Members may be coming in late on Tuesday.

The SPEAKER. The Chair would ask the gentleman, how is the House going to get the schedule completed around here if the leadership tries to accommodate every Member?

There will be no votes on Monday, and they will be postponed to Tuesday. There has to be some consideration of getting the work done.

Mr. McCORMACK. Mr. Speaker, do I have the floor?

The SPEAKER. The gentleman has reserved the right to object, and he has the floor.

Mr. McCORMACK. I thank the Speaker.

My point is, Mr. Speaker—and I will be glad to address this to the entire House—that we have just now changed the schedule so that there will be no votes on Monday.

This means there will be a lot of changes in schedules, and many of those Members who are traveling, particularly across the country, will be coming in on Tuesday morning and they will be arriving during the morning.

The question is: Is it wise, then, to try to schedule a 10 o'clock meeting on Tuesday rather than a routine noon meeting? Since we have been changing the rest of the schedule, it would seem to me to be consistent.

The SPEAKER. It is always true that

at this time of the year, with the holidays ahead of us and with a heavy schedule, the leadership tries to accommodate the Members. We have taken off the voting on Monday for the accommodation of the Members. In the Chair's opinion, Tuesday must be a full working day.

We have a most sacred Christian holiday coming along. The Chair would like to be able to adjourn Thursday night or Friday night at the least. It may be Thursday night if we are not waiting for a conference report.

The Members want to get home to their families. The leadership is doing the best it can with regard to the scheduling, and the Chair just hopes that the Members do not interfere along that line, because if we do not do the work that is absolutely necessary, the House would have to come back after Christmas or something of that nature. We are trying not to do that.

We have to accommodate the majority of the House, and we cannot just make exceptions for one or two Members, as regrettable as that may be.

Mr. McCORMACK. Mr. Speaker, further reserving the right to object, I raise the point simply to bring it to the consciousness of the Speaker and the Members of the House.

I am not speaking for myself. I will be here all day Monday, and I will be here Tuesday morning at 8 o'clock. So I am not speaking for myself or any special group, but I would point out that it is terribly difficult to make airplane reservations, particularly for those who are traveling across the country.

Mr. KAZEN. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Speaker, I would imagine that the process of coming in at 10 o'clock on Tuesday would be a help, because as it was, Members would have had to come back Sunday night or early Monday morning. They have now been given the grace period of all day Monday, and they can come in here on Monday night.

Mr. McCORMACK. Yes. Mr. Speaker, I agree that is all right for those who are doing that. I am only talking about the Members who are coming here on Tuesday morning from all across the middle part of the country and the Members who come in overnight from the west coast.

However, Mr. Speaker, I will leave it to the discretion of the leadership on this point. I simply wanted to make a point that should be considered.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, in view of the change in the program that we just saw in midstream, may we rely on the assumption that if we come in at 10 a.m. on Tuesday, the Chrysler bill and the visitors center bill will be the only programed bills?

The SPEAKER. The Chrysler bill will be the first item on the program, and the Chair would have to confirm that it would probably be an all-day program, in view of the fact that there are so many amendments filed at the present time. We would expect to have a late session, even coming in early in the morning.

Mr. BAUMAN. I thank the Speaker. Then I assume there would be no other legislation scheduled?

The SPEAKER. The Chair does not anticipate that there will be any other legislation. I am sure the gentleman from Maryland appreciates the fact that any postponed votes on Monday will come up first on Tuesday, before the Chrysler bill.

Mr. BAUMAN. Mr. Speaker, I thank the Chair, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

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DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ADJOURNMENT TO MONDAY, DECEMBER 17, 1979

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

FY 1978 ANNUAL REPORT OF THE ACTION AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Education and Labor and the Committee on Foreign Affairs:

To the Congress of the United States:

I am transmitting to the Congress the FY 1978 Annual Report of the ACTION Agency, as required by section 407 of the Domestic Volunteer Services Act of 1973 as amended.

JIMMY CARTER.

THE WHITE HOUSE, *December 14, 1979.*

STUDY OF FEASIBILITY OF ADDING THE CAHABA RIVER IN ALABAMA TO THE NATIONAL WILD AND SCENIC RIVERS SYSTEM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Interior and Insular Affairs:

To the Congress of the United States:

Pursuant to the Wild and Scenic Rivers Act (Public Law 90-542, as amended), I am transmitting the attached study of the feasibility of adding the Cahaba River in Alabama to the national Wild and Scenic Rivers system. Although the study finds that the river does not possess the qualities to be eligible to be added to the national system, the State of Alabama has initiated efforts to manage the river to protect its attributes, including its recreational qualities.

JIMMY CARTER.

THE WHITE HOUSE, *December 14, 1979.*

A DAY OF PRAYER AND FASTING FOR THE HOSTAGES IN IRAN

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. GILMAN. Mr. Speaker, I rise to call to the attention of my colleagues in the House the efforts of a group of concerned citizens in my congressional district on behalf of the Americans now being held hostage in Iran.

Coordinated by radio stations WGNY and WFMN in Newburgh, N.Y., and their general manager, Campbell K. Thompson, a group of many Christians and Jews are calling for a nationwide 24-hour period of prayer and fasting for the release of the American hostages in Iran and for peace in the Middle East.

The time selected for this fast is the 24 hours between 6 p.m. December 21 through 6 p.m. December 22. We earnestly hope that by that time no fast will be necessary—that the American hostages will be freed. But if they are still prisoners, this kind of demonstration will be highly appropriate.

The organizers of this demonstration request that participants show their support of the hostages in Iran by driving with their headlights on during the fast day of December 22.

Mr. Speaker, I applaud this demonstration of prayer and support on behalf of the hostages and on behalf of peace and I urge all of my colleagues to call this effort to the attention of their constituents.

I have also written to the President, asking that when he proclaims "National Unity Day," pursuant to House Joint Resolution 458, that he calls for prayers on behalf of peace and for our hostages in Teheran, in conjunction with other activities on that day.

I also hope, Mr. Speaker, that all Americans will show their resolve to resist the pressure of the Iranians by saving at least a gallon of gasoline per week, thereby diminishing our dependence on foreign oil.

At this point in the RECORD, I am inserting a copy of my letter to the President:

HOUSE OF REPRESENTATIVES,
Washington, D.C., December 13, 1979.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I have recently been contacted by a number of my constituents who were interested in having the Congress and the President declare a certain day set aside for prayer and fasting on behalf of our hostages in Teheran and peace in the Middle East.

I advised them of the passage of H.J. Res. 458, which calls upon you to issue a proclamation urging all United States citizens and organizations to observe "National Unity Day" by prominently displaying American flags.

It seems to me, Mr. President, that they are right in asking that we take time out as one People to pray for our hostages and for peace; therefore, I respectfully ask that if you issue the proclamation contemplated in H.J. Res. 458 that you include therein a call for such prayers on the designated day.

With assurances of my continued support of your efforts on behalf of the hostages, and with my very best personal wishes for good health and peace in the New Year, I am,

Sincerely,
BENJAMIN A. GILMAN,
Member of Congress.

SENATOR ALAN CRANSTON—THE VETERAN'S STAUNCHEST FRIEND

(Mr. ROBERTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERTS. Mr. Speaker, last week the House and Senate resolved their differences and sent to the President the bill H.R. 3892, relating to medical care for our Nation's veterans. This is the second major veterans' medical bill sent to the White House this year and the fourth major veterans' bill passed by the House.

The measure of our success reflects the cooperation we have received from the leadership of the House, both the majority and the minority.

A key factor as well is the cooperation and leadership provided by those in the other body who share our concern about the level of benefits and services for our Nation's veterans.

As chairman of the Veterans' Affairs Committee, I can tell you we have received maximum support from everyone on the House side. To a very substantial degree our success this year, and in years past, is due to the splendid cooperation we have received from the Senator from California, the very able chairman of the Senate Veterans' Affairs Committee, ALAN CRANSTON.

Senator CRANSTON has worked closely with us. He has pushed hard for new programs and a liberalization of existing programs that would enhance the lives of Vietnam veterans. I personally want to thank him for his great work. No individual could do more than he has done. I look forward to working with him during the 2d session of the 96th Congress when we review the many programs we have established for all veterans.

Mr. Speaker, recently I read an article by a staff reporter of the San Francisco Examiner that reflected the feelings of Robert Muller, director of the Vietnam Veterans of America, toward Senator CRANSTON. The Senator is recognized by almost everyone as one who has continued to devote much of his time and attention to enhancing the lives of Vietnam veterans.

According to the article, at a symposium on veterans' problems at Sonoma State University, Mr Muller told a group of Vietnam veterans that the senior Senator from California is no friend to the Vietnam veterans, and that veterans should work to bring about his defeat.

Mr. Speaker, I shall not take the time to detail the Senator's many acomplishments relative to veteran matters since coming to the Congress. These were spelled out in some detail in the remarks of the senior Senator from West Virginia, the Honorable JENNINGS RANDOLPH, which appeared in the CONGRESSIONAL RECORD on November 9, 1979. In my view, no individual, except for the Honorable Olin (Tiger) Teague, the former longtime chairman of the House Committee on Veterans' Affairs, has a better record or has worked harder for veterans than the gentleman from California. Mr. Muller apparently is unaware of this fact.

According to the San Francisco Examiner staff writer, Mr. Muller is "a leading veterans' advocate." He may be, but what has he advocated? What we know he has done is to personally attack Senator CRANSTON, the President of the United States, Max Cleland, and the national service organizations. It is difficult to understand why he receives the attention he does in a few newspapers and occasionally the television media. Apparently his accusations, half-truths, and distortions make good copy for some reporters who do not bother to check the records of those subject to Mr. Muller's attacks. Most of the time these articles appear on Veterans' Day, Memorial Day, or the morning before a major veterans' bill, which Mr. Muller opposes, is to be considered by the House or Senate.

One might ask, Mr. Speaker, who is Robert Muller? What makes him the expert on matters pertaining to Vietnam veterans?

Mr. Muller is a Vietnam veteran. He received very serious disabilities during combat in Vietnam. Although he has made a splendid recovery, he remains paralyzed from his wounds and to a few media people he has become a leading advocate for Vietnam veterans. His attacks on Members of Congress, the national veterans' service organizations chartered by Congress to represent veterans seeking benefits and services for disabilities resulting from service, and others, get the attention of the media. According to Mr. Muller, these organizations do not represent Vietnam veterans. He does. Supposedly these organizations have no sensitivity toward Vietnam veterans.

The fact is the American Legion has 742,000 Vietnam veterans and a total membership of 2,690,000. The Veterans of Foreign Wars has 500,000 Vietnam era veterans out of a total 1.9 million members. The Disabled American Veterans has 637,059 members. Twenty-five percent, or 159,265 of these members, are Vietnam era veterans.

Mr. Muller would have us believe he speaks for Vietnam veterans; yet these three organizations have an active membership of over 1.4 million Vietnam era veterans.

Mr. Speaker, apparently Mr. Muller's primary objective is to sit back and criticize the President and the Congress for not doing anything for Vietnam veterans. Yet, he takes no real interest in matters pending before the committee. To the best of my knowledge, he has attended only one or two hearings during my 5 years as chairman of the House Committee on Veterans' Affairs and I understand he has never participated in a hearing before our sister committee in the other body. He has appeared before the Committee on the Budget to criticize the Veterans' Affairs Committees of the House and Senate for not doing anything for Vietnam veterans.

Mr. Speaker, it is easy to be negative about everything. It is difficult to be creative and work within the system to bring about favorable results. Fortunately the majority of Vietnam veterans with leadership abilities have elected to do something constructive. One only has to look at the number of combat disabled Vietnam veterans employed at the Disabled American Veterans national service and legislative headquarters in Washington, D.C., who are constantly working to enhance the lives of their peers. These include:

Rick Heilman, DAV national legislative director, USMC, leg amputee.

Butch Joeckel, DAV assistant legislative director, USMC, double leg amputee.

Ronald Drach, DAV national employment director, U.S. Army, leg amputee.

Charles Thompson, administrative assistant, USMC, leg amputee.

Robert Lenham, DAV special projects officer, U.S. Navy, gunshot wounds.

There are currently 10 positions of major responsibility existing at the DAV's National Service and Legislative Headquarters in Washington, D.C. The above five service-connected disabled Vietnam veterans represent 50 percent of those personnel.

In addition, as of November 26, 1979, the DAV employs 280 full-time, professionally trained national service officers (NSO's) who serve in 67 VA offices located throughout the United States. These NSO's provide representation free-of-charge to any and all veterans, their dependents and survivors in claims for Veterans' Administration benefits and services.

In addition, 241 of the 280 national service officers are Vietnam era veterans; 51 of the supervisory NSO's in charge of the DAV's 67 offices are Vietnam era veterans, and 31 of the assistant supervisory national service officers in the 67 offices are Vietnam era veterans.

A Vietnam era veteran is considered to be a top candidate for election as DAV national commander during the forthcoming national convention which will be held in Hawaii in July 1980.

From the above, it is abundantly clear, Mr. Speaker, that the Disabled American Veterans has fully embraced—both as members and as full-time employees—the Vietnam era veteran. In the very near future, the Vietnam era veteran will occupy the vast majority of leadership positions within the Disabled American Veterans. I wish to emphasize that this will occur because over 10 years ago, the DAV had the foresight to actively recruit and encourage Vietnam era veterans to join the Disabled American Veterans as members and to seek employment with the Disabled American Veterans in positions for which they qualified.

Mr. Speaker, the same is true with the American Legion and the Veterans of Foreign Wars. I have simply used the DAV as an example because I happen to have the information available. The point is, these organizations, with more than 1.4 million Vietnam veterans are working with us to bring about better education and training programs, better housing, better medical programs and facilities, and increased income maintenance for Vietnam veterans.

While many man-hours are spent in bringing about these results, it would seem Mr. Muller prefers to sit back, be negative, uncooperative and attack those who attempt to take a rational approach to solving problems currently facing Vietnam veterans. This is tragic, Mr. Speaker, because Mr. Muller is an intelligent young man. He could be effective were he not, in my view, so bitter, so misguided and so ill-advised. Rather than work with Senator CRANSTON, the Administrator and the White House staff, he elects to attack these individuals, and others who labor in his behalf.

When he personally attacks Max Cleland and ALAN CRANSTON and attempts to convey the message to California veterans that Senator CRANSTON is not working constantly in their behalf, those of us who know better should set the record straight. I have the feeling that California veterans know better.

In summary, Mr. Speaker, I have never had the privilege of working for anyone more dedicated to the welfare of veterans than Senator ALAN CRANSTON.

REPEAL CARRYOVER BASIS

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ROTH. Mr. Speaker, in 1976, Congress passed the so-called carryover basis rule substantially increasing the tax on the sale of inherited property. Since that time, many Members of Congress have had second thoughts about imposing this tax increase on American citizens.

Carryover basis would be particularly harmful to small businesses and family farms, a major concern in my district in Wisconsin. At a time when Americans are experiencing severe economic problems and already high taxes, another tax increase by the Federal Government is hardly appropriate.

Carryover basis is one more threat to productivity and incentive, which are the very cornerstones of our free enterprise system.

I would recommend to my colleagues for reading on this subject an editorial on carryover basis which recently appeared in the DePere, Wis., Journal. It is a very thoughtful and understandable discussion of the subject. I insert it in the RECORD.

The editorial follows:

[From the DePere (Wis.) Journal, Nov. 29, 1979]

"CARRYOVER" ESTATE TAXES

Back in 1976 the tax laws underwent some revisions. One of these changes is very important; but phrased as it is in hieroglyphics, it is not easily understood by us commoners.

In Washingtonese, the change is called "the carryover basis rule of estate taxation." Translated, that means the base figure used when the government taxes profits from the sale of an inherited item—e.g., a share of stock, a farm, a newspaper, a business, etc.—will be the price that the deceased owner originally paid for it rather than its value when handed down to an heir.

Here is an example of how the carryover would work: Let's say that in 1977 Grandpa Jones bought a share of stock for $1. When he died, that share was worth $10 and was passed on to his son, Joe. Two years later, that same share of stock is worth $20 and Joe decides to sell it.

At this point the government steps in and tells Joe to pay a tax on the profit from the sale. Prior to the "carryover rule," Joe would only pay a tax on a $10 profit (the value of the stock when he sold it minus the value when he received it from Grandpa's estate—$20−10 equal $10).

However, the "carryover rule" would require Joe to pay a tax on a $19 profit. According to the "carryover" provisions, the value that the stock accrued while his father had it "carried over" to Joe's earnings. His income, then, becomes the value of the stock when he sold it minus the value when his father bought it—$20−1 equals $19.

This scenario may seem removed from most of us. But when that share of stock is transformed into an heirloom, a farm or a business, then the "carryover rule" hits close to home. All of a sudden, we're not talking about a share of stock but a lifetime of sweat and hard work.

For that reason, we strongly align with those favoring the repeal of the "carryover rule." It is our opinion that since Uncle Sam didn't help sow the seed, reap the wheat or knead the dough, then he shouldn't be entitled to eat the bread either.

INTERNATIONAL TRIAL OF HOSTAGES MUST BE REJECTED

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. PANETTA. Mr. Speaker, with the 40-day-old Iranian crisis still weighing heavily in the minds of the American people, a new threat to international solidarity has come to the fore. That threat comes in the form of a proposal by Iran's Foreign Minister that an international tribunal should be established to try the 50 American hostages.

Until now the international community has spoken with one voice in denouncing Iran's behavior. The United Nations Security Council has called for the release of the hostages. A World Court ruling is expected in the near future opposing Iran's actions and specifically stating the impropriety of putting diplomatic personnel on trial. I hope that such a ruling will be issued without delay.

Now Iran is trying desperately to undermine the unity of world opinion by forming an international tribunal. The United States and the entire community of nations must be unequivocal in rejecting this idea. Any kangaroo court proceeding of this kind would only serve to lend legitimacy to Iran's illegal acts and split the unity of world opinion. There can be no fair trial when the court and jury are controlled by the criminals.

We should make clear to all nations that any official participation in or encouragement of this so-called tribunal by any country would be viewed by the United States as a basis for termination of diplomatic relations with that country. We should state publicly that any government which participates in this kangaroo court would be in effect supporting patently illegal acts against the United States.

There can be no compromise on questions of fundamental principle in international law. Our friends and foes alike in the world, along with those who are part of the nonalined world, have an equal stake in preserving accepted norms of international behavior. There can be no compromise on the question of a trial of our hostages. That message should ring loud and clear throughout the world as a symbol of our resolve to resist government-sanctioned acts of international terrorism.●

THE FRANKENSTEIN STATE

The SPEAKER. Under a previous order of the House, the gentleman from Idaho (Mr. SYMMS) is recognized for 30 minutes.

● Mr. SYMMS. Mr. Speaker, I am inserting into the RECORD an excellent speech which was delivered by Mr. Paul Johnson, a noted British historian and journalist, last evening at the American Enterprise Institute's Third Annual Public Policy Dinner. Mr. Johnson received the honor of presenting the Francis Boyer Lecture on Public Policy, a distinction shared by President Gerald Ford, who presented the lecture in 1977, and the Honorable Arthur Burns, who gave the lecture in 1978.

I wish that Mr. Johnson's speech could have been televised nationally, because what he said needs to be heard by all Americans. He warned the United States about the growth of the state which will eventually destroy our free society. Because the "monster" state has already thrust itself into so many areas of our lives, it has weakened our economy and lessened our productivity while neglect-

ing one of its primary duties to protect our citizens against external enemies.

I wish to commend and thank Mr. Johnson for his superb presentation, and I congratulate him on his appointment to the DeWitt Wallace Chair in Communications in a Free Society at the American Enterprise Institute for 1980.

The speech reads as follows:

The Things That Are Not Caesar's

Tonight I am to spend 30 minutes discussing what is, perhaps, the most important, and certainly the most complex, public issue which faces us today. What is the correct relationship between the State and society as a whole? Or, more precisely, how big should government be? And what should it do? Let me plunge straight into the problem by listing the three essential activities of government, with which no one but an anarchist would quarrel. First, the state has an absolute obligation to protect the nation's territorial and political integrity. Second, it must maintain internal order and administer justice impartially among its citizens. Third, it must issue and maintain a legal currency.

It is at this point that the argument begins: what, in addition to these three basics, should the state do? Now here immediately we come to a widely-held and profoundly mistaken belief. This is that the state, from its first inception to the present day, has slowly and systematically added to its functions—that the expansion of the scope of government is itself a reflection of intellectual advance and moral progress. Nothing could be further from the historical truth. The earliest states were totalitarian. In the first of them, Egypt, the theocratic Monarchy controlled all long-distance commerce and large-scale manufacturers. 3,000 years before Christ, it already had a large bureaucracy, fiercely defending its entrenched interest. An apprentice bureaucrat was taught to copy: "Put writing in thy heart, so that thou mayest protect thine own person from any kind of labour, and be a respected official."

The Code of Hammurabi, the earliest law-code from 2100 BC, has no less than 17 provisions fixing wages and prices.[1] Now that the decyphering of the Linear-B scrip allows us to examine the copious state archives of the Mycenaen-age cities of Greece, we wonder how such a slender agricultural and trading base could support such a prodigious bureaucratic superstructure. But the answer, of course, is that it eventually failed to do so. The societies of antiquity were frequently destroyed by the growth of the state and its parasites.

The successive empires of Greece and Rome were the creation of a new spirit of individual enterprise, and it was the extinction of this spirit by bureaucratic growth which brought about their decline. That decline was already well under way by the time that the Emperor Diocletian issued his famous edict to control wages and prices.[2] Rome's successor, Byzantium, was the bureaucratic state par excellence, in which the government had a monopoly of all industry and trade: and Byzantium was essentially destroyed, not by the guns of the Ottoman Turks, but by the competition of free-enterprise Venice.

At all periods, the monster-state is associated with archaic notions, and is ultimately the progenitor of economic decline and military ruin. I know of no historical exception to this rule. Conversely, the growth of possessive individualism, at the expense of the state, is always associated with economic advance. It is no accident that the industrial Revolution, which began in England in the 1760s, took place against the background of the Minimum State, when government confined itself very largely to discharging its three basic functions.

The coming of industrial capitalism, not only the most important event in secular history but the most beneficial, took place not because of the state but despite it; and its worldwide spread was made possible largely by the withdrawal of government from economic affairs. During the 19th century in every country which was industrialising itself, public expenditure, as a proportion of Gross National Product, fell steadily. In Britain, for instance, during the 60 years 1830–1890—the longest sustained period of rising living standards in British history—public expenditure as a proportion of GNP fell from 15 per cent to 8 per cent.[3] In the United States, the figures are even more striking. Up to 1914, America's GNP was expanding at about four times the speed of government. The state performed merely a nightwatchman's role. In the age of Lincoln and Gladstone, the Minimum State was seen as a vital element in the stream of progress, because it was associated—and rightly associated—not only with the economic betterment of the individual, but with his growing liberty.

Indeed, no student of history can doubt that, in the long run, the direction of mankind is towards greater individual freedom. We have moved progressively from the collectivist communities of antiquity to societies in which the uniqueness of the individual is conceded, theoretically at least, and the universality of human rights is given formal recognition. Few now officially deny the rights of man; virtually all agree, as self-evident truth, that freedom is a public good. Just as hypocrisy is the tribute vice pays to virtue, so constitutions, endorsing human rights, are the homage which the most obdurate and enduring tyranny feels obliged to lay at freedom's feet. Even the most depraved African despot sports some Utopian certificate to give his regime a spurious legitimacy; while the Soviet Union, the most authoritarian and restrictive system of government ever devised, flaunts a constitution of exemplary benevolence.

Of course such documents are fraudulent. Who can honestly claim that the total of human freedom has been enlarged in our century? Two horrifying world wars, in which the high liberal civilisation of Europe and the Western World came close to committing suicide, have dulled our sensibilities and debaunched our instinct for justice. Worst of all, these wars gave birth to that historical throwback, the modern Frankenstein State. Governments have developed not only unprecedented new means to destroy, but new instruments of oppression and new ways to lie.

All over the world, the state has gorged itself on the evil novelties human ingenuity constantly makes available. It is the state which has been the principal beneficiary of our 20th century horrors. True, all but one of the old empires has been dismantled: but the states which replaced them have eagerly embraced and zealously fostered all the imperialist vices, especially militarism and bureaucracy, whie abandoning such virtues, above all respect for the rule of law, which imperialism sometimes possessed.

In all these states, government has become ubiquitous and menacing, mendacious and corrupt, and in consequence arbitrary and destructive of private happiness and property. As for the last and least liberal of the Empires, Russia, it is in rude and brutal health, has enormously enlarged its boundaries, constantly expands its sphere of influence, arms without cease and, within its totalitarian entrails, furtively breeds the ever-expanding organism of police terror.

What is still more disturbing is that, even in the liberal democracies of the Western tradition, the Frankenstein State has contrived to establish itself. It is alive, well, living amongst us and flexing its muscles; looking forward with boundless confidence and insatiable appetite to an indefinite career of growth and consumption. The monster is at large all over Western Europe; and in the United States it is the last, boldest and most insolent of all the immigrants to clamber onto her shores.

If I spend a little time on the British experience, it is partly that in Britain the Frankenstein State has done the most extensive and obvious damage, but still more because I detect unmistakable signs that almost every aspect of the British disease is spreading to the United States. I can assure you, that wherever you are now heading, we have been there before. Take warning from our bitter experience. We ourselves were warned, in vain. In 1861, when Mr. Gladstone established the Public Accounts Committee, as a parliamentary watchdog on the growth of government, he warned: "An excess in the public expenditure, beyond the legitimate wants of the country, is not only a pecuniary waste but a great political and, above all, a great moral evil. And it is characteristic of the mischiefs that arise from financial prodigality that they creep onwards with a noiseless and stealthy step, that they commonly remain unseen and unfelt until they have reached a magnitude absolutely overwhelmingly."[4]

This unheeded warning has been proved justified in every particular. Year after year we in Britain have handed over more and more responsibilities to the state. The Bible has a phrase for it: we have given to Caesar the things that are not Caesar's. In Mr. Gladstone's day, the British government employed only 75,000 people, most of them in the Customs & Excise and Post Office. In the central departments of civil government there were only 1628 officials.[5] By 1974 there were nearly a million of them, and over 8,000,000 employees in the public sector as a whole—27 per cent of the entire working population.[6] By the time public opinion woke up to the magnitude in the rise of public expenditure, in the last two years, it might well be called "absolutely overwhelming." In Mr. Gladstone's day we spent 8 per cent of the GNP on government. By 1974 it had reached nearly 50 per cent, and on a rising curve.[7]

By this point, all rational sense had been lost as to what the government should or should not do. It was—is—doing a bit of everything. One middle-ranking civil servant, taking over new responsibilities, found that in his area alone, government employees were running a gravel pit, a saw-mill, a sign-writing centre, a road-sweeping service, nurseries producing shrubs and trees, a domestic water-supply plant and a machine-maintenance business. The elements of this little empire had only one thing in common: all were "totally uneconomic." In every case, he wrote, "we could buy the same services or the same products for a fraction of the cost elsewhere, even without making allowance for the concealed capital investment which was nearly always involved."[8]

This pattern is repeated, on a gigantic scale, at the national level. By the middle of last year, the British government found itself owning, wholly or in part, 1,104 businesses—the great majority of them running at a loss. A part from that, they seem to have nothing in common. They include businesses making concrete, asbestos, electrical equipment, chemicals, ships, aircraft, marine equipment, engaged in printing, publishing, construction, civil engineering, cold storage, furniture-removals, nuclear power, oil, gas, rolling mills, quarries, canals, harbours, every conceivable kind of transport, hotels, motels, safari lodges, catering, communications of all kinds, textiles, cotton, sugar, tea, cocoa and coffee estates, waste-incineration, laboratories, tanneries, finance

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companies, movie studios—everything including a chain of bars, a string of race horses and a football team.[9] You name it; we own it, and it runs at a loss.

As for government agencies—in addition to the main government departments—we have expanded them from less than 10 in 1900 to (at the latest count) 3,068. Among other things, they tell us how to grow apples and pears, market milk, cure alcoholism, make movies, organise supporting activities, dig china clay, train mid-wives, fix dentistry rates, preserve the Welsh language, make hearing-aids, run the herring industry, control detergents and grow hops. They give advice and enforce laws concerned with horseracing, beer, meat, metrication, medical supplies, pigs, potatoes, red deer, theatres, libraries and water sports—and a thousand other activities. They include a Consultative Council on Badgers, a Commission for Motor Rallies, and a Working Group on Back Pain. In 1975—the last date for which I have full figures—these agencies, Quangos as we call them—employed 184,000 people and cost the taxpayer nearly 5 billion dollars.[10]

The spread of government activities has brought into existence whole new categories of workpeople, whose very existence was undreamed of even 15 or 20 years ago. Here, in the field of social welfare alone, are some of the new officials, using the standard government nomenclature: "Intake Social Workers, Home Help Organizers, Juvenile Delinquency Project Coordinators, Senior Social Workers, Residential Child Care Officers, Deputy Community Education and Recreation Officers, Social Workers for Alcoholics Recovery Projects, Locum Development Workers, Youth Project Leaders, Day-Care Advisers, Senior Playleaders, Houseparents, Group Controllers of Domiciliary Services, Supervising Wardens for Traveller's Sites, Team Leaders, Adventure Playground Leaders, Area Coordinators for Self-help Projects, Long Term Play Leaders, Care Coordinators and Play Specialists." [11] All these people, I may say, are full-time employees, entitled to life tenure and comprehensive civil service benefits, including non-contributory index-linked pensions. And I should add that, when all the social workers in the east London area went on strike in 1978–9, and were absent from duty for nearly a whole year, it appears to have made no perceptible difference, and led to no recorded complaints among the people they were paid to serve.

However, this is not just a case of Ye Olde Englishe customs. The Frankenstein State is America's most recent immigrant; but I have the impression that it is growing even more rapidly over here than in Britain. Between 1971 and 1976, welfare programmes in the United States expanded at the annual rate of more than 25 percent—two and one half times the growth of the Gross National Product. Estimated welfare expenditures in 1977 were 210 billion dollars and in 1979 were 250 billion dollars, so that growth-rate is being well-maintained, despite President Carter's so-called 'reform' programme.[12]

Indeed, I detect areas in which the US is already outstripping Britain in the nurturing of the Frankenstein State. One excellent index of bureaucracy is the level of paperwork generated by central government. I see that Federal expenditure on paperwork doubled between 1955 and 1966, nearly doubled again by 1973, and that in the four years 1973–77, it lept by a further 186 percent, to reach a total of 45 billion dollars a year. A great part of this terrifying increase springs from new or greatly-expanded Utopian programmes, such as Basic Educational Opportunity, Equal Employment Opportunity, Environmental Protection, Occupational Health and Safety, Food Stamps, Student Loans, Price Controls, Supplemental Security Income, and so on. The paperwork involved in licensing a nuclear power plant, for instance, now frequently exceeds 15,000 pages—the size of the *Encyclopaedia Britannica*—and may cost 15 million dollars to the utility which makes the application.[13] Last year the US Comptroller General calculated that US businesses in fulfilling over 2,100 Federal reporting requirements, have to spend nearly 70 million hours a year on government paperwork at a cost of over one billion dollars.[14]

This rapid growth of the public sector is not only an evil in itself: it breeds further evils. It corrupts the political system. We calculated that at Britain's last General Election in May, considerably more than half of all Labour voters were either government workers or in receipt of government assistance. It is now not only technically possible, but even likely, that Labour may be able to win an election entirely by the votes of non-productive workers and welfare recipients. In the United States the position is different but only in degree, not in kind. You already have a welfare industry composed of 5 million public and private welfare workers, distributing government payments and services to 50 million people.[15]

However, by far the most important consequence, though it is little discussed, is that when the state begins to do the things that are not Caesar's, it inevitably begins to neglect Caesar's primary duties. It is not a question of the state taking on additional roles; beyond a certain point, it is a question of alternatives—of either/or. Let us take the government's basic duties in turn. First, the stability of the currency. As long ago as 1945, Keynes, in almost his last warning before he died, argued that a democratic state in peacetime could not take more than 25 percent out of the GNP without generating increasingly rapid inflation. Everything that has happened in the last decade shows how right he was. In the 1970s, the British state was not only grabbing half of the GNP, but in one year, 1976, its borrowing requirements alone were 11 percent of GNP. The result was hyperinflation. The state reneged on its basic obligation to maintain an honest currency. The United States is now undergoing exactly the same experience, and for exactly the same reasons.

Of course the value of the currency is the index of the health of the economy—in my opinion, the only true index in the long run. If the state plunders the nation's resources, the wealth-generating sector must suffer. And it suffers in a fundamental way, by being starved of investment. The studies of Robert Bacon and Walter Eltis in Britain had proved beyond any rational doubt that the growth of the state sector is the primary reason why investment in British industry is so low, and therefore productivity so stagnant.[16] With the growth of the Frankenstein State here, America's recent productivity record has been worse even than Britain's; and as last month's OECD report made plain, this is due to reduced private investment, a lower ratio of research as a proportion of GNP, and increased government regulation.[17]

But why do we need to be told these obvious truths? They were spelt out with admirable clarity by Adam Smith 200 years ago. One of the central themes of his *Wealth of Nations* is that private individuals create wealth, and government consumes it.[18] The more the government consumes, the less the private sector has to invest. So wealth accumulates more slowly; or not at all, or even declines. Of course Smith was thinking in terms of the court of Versailles, the largest, most ostentatious and prodigal of the governments of his day. But in economic terms, there is no difference between an 18th-century court government and a modern welfare bureaucracy. Whether Louis XV gives the cash to Madame du Barry or President Carter spends it on Equal Opportunity programmes, the damaging effects on productive investment are exactly the same.

Near where I live, our local government bureaucrats have, in fact, just built themselves a palace, even larger than Versailles, at a cost of 50 million dollars. Of course it is not called a palace, but a "Community Centre." It does not have a Hall of Mirrors, but it has air-conditioning and an ultra-modern "communications system". Our bureaucrats do not see themselves as parasites. Nor did the Versailles courtiers, who also argued that they performed indispensable functions. And the courtiers at least did not have unions, to protect and swell their numbers, and increase their stipends and privileges. The old-style court, as a vested interest, was a fairly fragile corporation. The modern welfare bureaucracy, by contrast, has powerful institutional defences and a noisy moral ideology.

Which brings me to the second of the state's obligations—the dispensing of justice. Here again, the Frankenstein State makes it increasingly difficult for the primary duty to be discharged. In the United States and Britain, the ideology of the hyperactive state is the promotion of Social Justice. But there is no such thing as social justice; or rather, it is a contradiction in terms. What is meant, of course, is social engineering, for the only form of justice is individual justice. The sole aspect of equality which the state has a right, indeed an overwhelming duty, to promote is equality before the law. The pursuit of social and economic equality is, and must be, the enemy of justice.

Positive discrimination, for instance, does and must mean injustice to individuals, and in almost every case underprivileged individuals. Social engineering in education must mean injustice to individuals; indeed it is deliberately designed to produce it. In that model welfare state, Denmark, the notorious state plan, called U–90, produced by the ministry of Education, states explicitly that particularly bright and well-motivated children should be discouraged from learning, and taught that their individual success and the pursuit of their personal interests is unfair to others and should be suppressed.[19] These methods have been practiced for some years in Sweden and are already reflected in the lamentable economic decline of that bureaucratic country; they are implicit in much educational theory already applied in British and American state schools.

There are other ways in which the Monster State actually impedes its own primary functions of enforcing the law. In Britain, and indeed in America too, it is now a commonplace for social workers to spend much of their time locked in battle with the police and other law-enforcement agencies. In Britain, the state-financed Community Law Centres—an institution we borrowed from America—regards the police and other government bodies as their natural and inveterate enemies, to be fought with every taxpayer's penny they can command. Two of our newest and most active state agencies, the Equal Opportunities Commission and the Race Relations Commision, spend a great and growing proportion of their time "investigating" and suing government departments. We have in Britain, and you will shortly be getting in America, a Frankenstein State so big that it fights internal pitched battles and civil wars, and in which government officials incite and assist citizens to break laws which other government officials are paid to enforce.

The monster state, indeed, is taking us along a road towards a divided and querulous society in which everyone pursues rights and no one accepts duties. In both our countries, government agencies encourage a maximist attitude to rights—that they must be exacted always, to the limit, and regardless of the cost to the community. In Britain, the legal luminaries of the Labour Party now demand a comprehensive and free state legal service, on the grounds that, if rights are guaranteed by law, effective means of en-

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forcing them should also be provided'. They define such rights as 'security in home and employment, minimum income, right to liberty and freedom from physical attack and injury'.[20] I would argue that these are rights that no state can truthfully guarantee and no legal system effectively enforce. Similar demands are made here. It is a formula for a Litigational Society. Such a society cannot produce an extension of rights. It can only end in producing a conflict of rights, since the sum of all our national rights is greater than the amount of freedom available to accommodate them. And a conflict of rights which society is powerless to resolve is bound to end in violence.

The final paradox of the democratic monster state is not only that it destroys its own currency, not only that it undermines its own framework of law and order, but that it cannot even defend its vital interests and the lives of its citizens from external outrage and murder. In Britain and America, while the proportion of the GNP the state takes has been rising steadily, the proportion of that income it spends on defence has been falling. The results are becoming painfully and visibly apparent. You cannot relieve a beleaguered American embassy of airlifting a regiment of welfare workers. You cannot frighten Mr. Brezhnev with Food Stamps. The more the state attempts to invest its citizen with the illusory rights of Utopia, the less able it becomes to guarantee him the ones that really matter—life, liberty and the enjoyment of what he has earned. The more the state expands, the more it loses its credibility as a benevolent and paternal protector. When Caesar becomes a nursemaid, he ceases to be a soldier. The monster state, with its prodigal waste, its promotion of injustice in the name of equality, and its muscle-bound impotence, cannot inspire respect, let alone love: in the last resort the only emotional response it evokes is fear. The citizen becomes a mere subject. Patriotism is replaced by indifference—or even hatred.

I once regarded the state as a means whereby the less fortunate among us could be enabled to achieve the self-expression and moral fulfillment which is their aspiration as creatures made in God's image. While continuing to desire the end, I no longer have any confidence in the state as the means. On the contrary, I have come to see it as the biggest single obstacle to the individual self-expression and moral maturity of all of us, and not least the poor, the weak, the humble and the passive.

My change of view has been brought about by experience, notably the grim record of the last decade in Britain, where the cumulative evils fed by the growth of collective power and state expansion have become overwhelmingly manifest. But it has also been brought about by historical study. History is a powerful antidote to contemporary arrogance. It is humbling to discover how many of our glib assumptions, which seem to us so novel and plausible, have been tested before, not once but many times and in innumerable guises; and discovered to be, at great human cost, wholly false. It is sobering, too, to find huge and frightening errors constantly repeated; lessons painfully learned, forgotten in the space of a generation; and the accumulated wisdom of the past heedlessly ignored in every society, and at all times.

Of all those lessons, the one which history most earnestly presses upon us, and which we most persistently brush aside, is: "Beware the state." Man, as history shows only too clearly, has that element of the divine in him, the element which causes him ceaselessly to strive for the ideal. It is his glory and his ruin. For in his Utopian quest he embraces the political process as the road to perfection. But the political process is itself a delusion, more likely to lead to hell than heaven. If a society is unlucky, the political process, pursued relentlessly enough, will carry it straight to Auschwitz or the Gulag Archipelago. But even the most fortunate societies, such as ours, will find nothing at the end of that dusty track but the same man-made monster, the state, as greedy and unfeeling as it was when man first invented it in the 3rd millenium before Christ, with its cavernous mouth, its lungs of brass, its implacable appetite and unappeasable stomach, but with no heart, no brain, and no soul.

I believe it is possible to detect, on both sides of the Atlantic, hopeful signs that we are learning this lesson. The claims of the monster state are being exposed, one by one, as fraudulent, and the evil consequences of its expansion are being examined and publicized. In those parts of the world where debate is still free, the advocates of collectivism are already on the defensive. We are winning the battle of the intellect, and in time we shall win the battle of government, too. By the end of this century, if western civilization exists at all, it will have resumed its progress toward the liberation (liberalization?) of human spirit and genius. When we look back from the year 2000, I think we shall see the end of the 1970s as the turning point, when the civilized world, not without pain and grief, returned to its senses, and the democratic state ceased to be our master and became again the servant of the people.

FOOTNOTES

[1] Chilperic Edwards: *The Hammurabi Code and the Sinaitic Legislation*, New York 1904, 67–73.

[2] Roland G. Kent: 'The Edict of Diocletian Fixing Maximum Prices', *University of Pennsylvania Law Review*, 1920, 35–47, quoted in Robert Schuettinger and Eamon F. Butler: *Forty Centuries of Wages and Price Controls*, Washington 1979.

[3] Richard Rose and Guy Peters: *Can Governments Go Broke?*, London 1979.

[4] See 'Public Accounts'; Parliamentary Debates (Hansard): House of Commons, Monday 4 December 1978, cols 1036ff.

[5] 1861 Census Returns.

[6] *Economic Trends* No. 268, HMSO February 1976; C. Sanford and A. Robinson: 'Public Spending: a Decade of Unprecedented Peacetime Growth', *The Banker*, No 125, 1975:

[7] Geoffrey K. Fry: *The Growth of Government*, London 1979, 232.

[8] Leslie Chapman: *Your Disobedient Servant*, London 1978, 51.

[9] Susan Warnhurst: *State Interest in British Industry*, London 1978.

[10] Philip Holland MP: *Quango, Quango, Quango: the Full Dossier on Patronage in Britain*, London 1979; Gordon Bowen: *Survey of Fringe Bodies*, Civil Service Department, London 1978.

[11] Selection from public appointments advertised in a single issue of the journal *New Society*, London, June 1978.

[12] Charles D. Hobbs: 'The Goals of the Welfare Industry', *Policy Review*, Washington, Spring 1978.

[13] U.S. Commission on Federal Paperwork: *Final Summary Report*, U.S. Government Printing Office, Washington 1977; Janet T. Bennett and Maxwell H. Johnson: 'The Political Economy of U.S. Government Paperwork', *Policy Review*, Washington, Winter 1979.

[14] Report of the Comptroller-General of the U.S.: *Federal Paperwork: Its Impact on American Businesses*, Washington, November 17, 1978.

[15] Hobbs, *ibid.*

[16] Robert Bacon and Walter Eltis: *Britain's Economic Problem: Too Few Producers*, London 1976; and the subsequent discussion in *Economic Journal*, London, June 1979.

[17] Christopher Lorenz: 'Now America Needs its own "Miracle" Financial Times, London, November 21, 1979.

[18] Especially Book II, Chapter 3.

[19] David Gress: 'Trends in the Scandinavian Left', paper presented at the Institute for European Studies Conference, Milton Hill House, Oxfordshire, November 1979.

[20] Submission by the Society of Labour Lawyers to the Royal Commission on Legal Services, London 1978.●

TRUCKING REGULATION: THE YARDSTICK SHOULD BE PUBLIC'S INTEREST

The SPEAKER. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 10 minutes.

● Mr. CLEVELAND. Mr. Speaker, the Concord, N.H., Monitor, a daily newspaper published in my district, carried an editorial in its October 23 edition that made a useful point to keep in mind as we consider changes in the regulation of the motor carrier industry:

> Regulation is primarily in the public's interest, and that ought to be the yardstick on either removing or applying restraints.

The takeoff point for this observation was a report of the Civil Aeronautics Board claiming that deregulation of the domestic airline industry has been a success. While noting that trucking and civil aviation are not necessarily the same, the editorial suggested the deregulation—if successful with the airlines—should be extended to other areas as well.

This brings to mind a couple of points. First, airlines and trucking are fundamentally different. Airlines carry people who often can avail themselves of rail, bus, or the private automobile as alternative modes. Many trips are discretionary and need not be taken at all. Changes in fares can affect the volume of airline traffic in terms of passengers diverted from other modes or induced to take trips otherwise not taken.

Trucking, by contrast, involves the movement of goods, quite often in the absence of alternative modes. The demand for the transportation depends largely on the demand for the goods and is less subject to discretionary decision.

Hearings held by the Aviation Subcommittee suggest that it may be too early to draw firm conclusions on the results of airline deregulation. Much of the evidence is indeed positive. But there are problems as well involving service to towns and smaller cities, including difficulties in obtaining fuel and equipment for commuter airlines whose expansion is contemplated under deregulation.

Whether interindustry parallels are valid or not, we ought to keep in mind that the adequacy of service in terms of small shipments, smaller shippers and smaller cities and towns is a matter of legitimate concern.

The Congress would do well to continue its oversight of the results of airline deregulation in its own right and, in the area of trucking, concentrate on the realities of that industry and rigorously apply the public interest test advocated in the Monitor editorial.

The editorial follows:

[From the Concord (N.H.) Monitor, Oct. 23, 1979]

DEREGULATION HELPS AIRLINES

The Civil Aeronautics Board in Washington has released a glowing report on the first year of deregulation of the airline industry.

On President Carter's initiative, Congress removed most regulations, except safety, from the airline industry just a year ago tomorrow. It was a bid to get the government out of the route-and-rate business and let the airlines operate by the "rigors of the marketplace."

The CAB report said airline operating costs have dropped, fares have declined, traffic has increased, profits have spurted despite strikes and grounding of the DC–10 and small feeder or commuter airlines have grown.

That doesn't mean deregulation is without controversy. Shippers are complaining of higher rates. Businessmen are complaining because they can't take advantage of lower fares.

The Carter administration is pushing for deregulation in other industries, as well, notably trucking. It's run into a hornets nest of opposition.

But if what the CAB says is true—and we have no reason to doubt it—removing the government restraints from the airline industry has helped both the public and the industry.

This suggests it ought to be tried in other areas, though recognizing that the airlines may have had unique circumstances. Regulation is primarily for the public's interest, and that ought to be the yardstick on either removing or applying restraints.●

TOO MUCH GOVERNMENT

The SPEAKER. Under a previous order of the House, the gentleman from Texas (Mr. Collins) is recognized for 20 minutes.

Mr. COLLINS of Texas. Mr. Speaker, this is the seventh term that I have served in Congress, and every year as we reach the Christmas season I am always impressed with the urgency and the heavy legislative load that comes before the House. Much of the reason for our late adjournment always is due to the way the other body conducts its business. They seem to never get around to key bills until late in the year, and then they go from one filibuster to another. We, in turn, have to stay in session over here.

Congress planned to adjourn October 20. The best thing that could have happened to this country would have been if we would have adjourned on October 20; in fact, the only thing that would have been better would have been if we had adjourned last July, like the book specifies we should.

There are so many spending bills that we keep bringing up. If you just look back through our program of last week, you really wonder, are those matters absolutely necessary? On one of them, the gentleman from Texas (Mr. Brooks), was kind enough to say he would defer it until January. I think he would do well if he deferred it for 3 or 4 years. It is called the countercyclical bill, which is designed to provide funds for the President to use at his discretion so that he can have them available before the election next November. They call it the antirecession bill. If there is ever a recession that happens in this country, it is going to happen because we have too much Government here in Washington. This is a great country, but whether it can carry on its back all of the Government bureaucracy and redtape we legislate, I do not know.

Another bill that was brought up was a bill to provide money for unwed mothers. I checked on that one to see what was needed. I checked an unwed mother up in New York City who had six children. And, incidentally, we already have 19 laws covering that situation, 19 laws. But this particular woman up there, she will get $870 a month and pays no taxes on it. Down in Texas, that is more than the average guy makes when he is working for a living. What I want to know is why we need to pay more to people in New York City to stay on welfare than a person at home is making working for a living.

Another bill we spent a lot of time on was the bill dealing with asbestos inspectors. We are going to flood this Nation with asbestos inspectors, when the schools can do the inspecting by themselves.

We set up a new system of courts to settle disputes. Most of these disputes do not need to be handled, and when they are up for hearing it is going to mean that there will be more bureaucracy. They say there is no system that you can ever establish through Government routine, that will not be as slow as others. The bill that I object to the most; the one which is causing the most delay in the Congress, is called the windfall tax.

That is the special tax to favor the OPEC oil countries. You would think the OPEC countries wrote this bill. The average American does not know what it specifies, but I want to remind the Members again of what it says. In our House, we passed an additional 60 percent tax on U.S. oil companies; over in the other body they said, "Let's make the tax 75 percent on U.S. oil companies."

Here is what it does: It taxes the OPEC oil countries zero percent. Can you believe that? Can you believe that the Congress of the United States would tax U.S. oil companies 60 percent and then would let the OPEC oil companies go scot-free, pay zero percent?

We all know today that on oil, as an example, 70 percent of all of the oil money when you look at the whole revenue that is generated by oil, 70 percent is already being paid for taxes, and here we are going to tax American oil companies another 60 percent and not tax the OPEC countries. That is zero percent OPEC.

The biggest problem in this country is inflation.

You can ask your neighbors, you can ask anybody, and they will tell you the big problem is inflation. And inflation is caused by Congress spending too much money. In 1960 Congress was spending $100 billion. This year we will spend $550 billion. We do not have it, so we print money and print money. That deficit paper money is causing inflation.

America today has more Government than it needs. America has more Government than it wants. We have more taxes than we can afford to pay. The sooner and the longer Congress stays adjourned, the better off America will be.

THE PRIME RATE MUST COME DOWN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. Reuss) is recognized for 5 minutes.

● Mr. REUSS. Mr. Speaker, while we are always grateful for small favors, Citibank's reduction in the prime rate from 15¼ to 15 percent is disappointing when the bank's own formula calls for a reduction to 14¾ percent.

Citibank tells us they do not want to change the rate by more than a quarter percent a week. Why not give us a break and reduce the prime rate as fast as possible? Lower rates are essential to support investment in efficient new plant and equipment that will increase productivity and get the inflation rate down. They are also essential to save housing and smal business from disaster.

A lower rate would be justified by the fundamentals. Business loan demand has fallen sharply during the past 2 months. The rate of growth in the money supply is very slow—only 1.8 percent increase since September 30, easily within the Federal Reserve's own target range.

The prime rate must come down.●

WALT FRAZIER

The SPEAKER. Under a previous order of the House, the gentlewoman from New York (Ms. Holtzman) is recognized for 5 minutes.

● Ms. HOLTZMAN. Mr. Speaker, on Saturday, December 15, New York City will honor Walt Frazier, the inimitable "Clyde," at Madison Square Garden. Members of the New York City congressional delegation have joined in addressing a letter to Walt. The text of the letter follows:

Dear Walt: We members of the New York City Congressional delegation are delighted and honored to join in this tribute to you.

Your qualities are those New Yorkers most admire: superb talent, "cool" and style, and we knew as soon as you joined the Knicks that you belonged to us and to our town. You thrilled us on the court and entertained us off the court and made us prouder than ever of the Knicks and of the "Big Apple." Wherever you may be, you will always have the special respect and affection that New Yorkers reserve for their superstars. As Mary Albert would put it, "Yes, you're good and you count."

With our gratitude and best wishes,

Sincerely,

Elizabeth Holtzman, Lester L. Wolff, Benjamin S. Rosenthal, James H. Scheuer, Stephen J. Solarz, John M. Murphy, Charles B. Rangel, Robert Garcia, Peter Peyser, Joseph P. Addabbo, Geraldine A. Ferraro, Shirley Chisholm, Frederick W. Richmond, S. William Green, Ted Weiss, Jonathan B. Bingham, Richard L. Ottinger.●

GLOBAL SPENDING FOR ARMS INCREASES WHILE MILLIONS STARVE

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, one of

the most significant—and ironic—aspects of the Iran crisis is the inutility of American military power to force a solution or even to exert effective pressure on the Iranian Government, assuming there is one.

The United States—with 2 million men under arms, enough nuclear warheads to destroy every city on Earth, two huge aircraft carriers standing off the Persian Gulf at the head of a powerful naval task force—finds itself unable to use any of these forces to bring to account a septuagenarian ayatollah and a band of several hundred fanatical student kidnappers.

The problem is not only that direct military action by the United States would endanger the lives of the 50 American hostages. Bombing Iran's oil fields, as some have thoughtlessly suggested, would be like shooting yourself in the foot. The major victims would be our allies in West Europe and Japan, which depend on oil from Iran to sustain their economies. An American naval blockade of Iran would have a similar result. An American invasion of Iran could well antagonize the other Moslem countries into a second oil embargo and even lead to a mass uprising of the Moslem world against the United States. Worse yet, being on Russia's doorstep, an American invasion of Iran could trigger a world war.

Perhaps conditions in the real world will require an increase in certain types of American military power. In addition to the perceived need to counterbalance similar increases by the Soviets, there may be occasions where the ability to rapidly deploy American forces to trouble spots around the world will be needed to protect basic American interests. The mere perception that the United States has such a capability could be a stabilizing factor in international affairs. On the other hand, it could also be a provocative factor in our relations with other countries, especially those in the so-called Third World, and could tempt us into future Vietnams.

It must not be forgotten that the real world includes the two-thirds of the human race who live in the less developed countries. Their condition is largely one of abject poverty, disease, and often near starvation. In most of these countries conditions are getting worse not better. As we have had the occasion to observe most recently in Iran, Nicaragua, and El Salvador, military force, whether inside or outside the country, cannot indefinitely repress a people's demand for a voice in running their affairs and for bettering their miserable condition. The demands of the less developed countries for help from the advanced nations have been increasingly more insistent in the United Nations and other international forums. We will ignore them at our peril.

The sad truth is, however, that a government's focus on expanded military power not only fuels inflation and deprives it of the ability to meet the basic needs of its own people. It also soaks up the funds needed to help the people of the less developed countries to relieve the conditions that breed instability, social unrest and hatred.

Every Member of Congress knows, or should know, these elementary truths. Nor can there be much doubt in any thoughtful person's mind as to the kind of "real world" we are heading for unless there is some fundamental change of direction. As stated by the late Lord Mountbatten last May:

> Do the frightening facts about the arms race which show that we are rushing headlong towards a precipice make any of those responsible . . . reach for the brakes? The answer is "No."

Mountbatten's ominous remark was cited in the widely read TRB editorial in the October 20 issue of the New Republic, as an introduction to a recitation of alarming facts about the failure to date of arms control. The source TRB drew on is the remarkable and unsettling study compiled annually by Ruth Leger Sivard under the title, "World Military and Social Expenditures."

Mrs. Sivard's efforts have been supported by the Arms Control Association, the Institute for World Order, the Rockefeller Foundation, the Stanley Foundation, and the Peace Through Law Education Fund. This last organization was organized by members the of congressional caucus, Members of Congress for Peace Through Law, and I have the honor to serve as its president. "World Military and Social Expenditures 1979" is a most impressive, though distressing, revelation of the insane acceleration of the arms race which year by year consumes the world's precious resources as millions starve.

Mrs. Sivard points out in her introduction that by the end of this U.N.-designated "Year of the Child" more than $1 billion per day will have been spent for weapons while 8 million children will have died for want of the most meager nourishment. The $425 billion spent last year on arms by the nations of the world amounts to $92 for every person on Earth. When you consider that a quarter of the Earth's people have average incomes below $200 per year, and that 800 million live below the level for survival, the monstrous nature of this arms burden becomes more apparent.

These facts and many others enumerated in the study were the basis of Lord Mountbatten's warning and his prediction that we are fast approaching the ultimate precipice.

Representatives George Miller, Toby Moffett, Richard Ottinger, and Patricia Schroeder, four of my fellow Members of Congress for Peace Through Law, have joined me in distributing copies of "World Military and Social Expenditures 1979" to the offices of every Member of the House and Senate.

Many newspapers, both American and foreign, have pointed to the Sivard study's careful and thorough examination of the most urgent subject of our age in terms I would like my colleagues to ponder as we prepare to debate the contents of a new and greatly increased military budget. The press comments come from the New Republic, the Chicago Sun-Times, the New York Daily News, the Guardian of London, and the Milwaukee Journal:

[From the New Republic, Oct. 20, 1979]

Plaint by Numbers

Mr. Oz from outer space dropped by the other day to talk about earth. I took him to my favorite elm in Farragut Square and we leaned against the trunk eating take-out lunches and feeding the pigeons. Mr. Oz lives in Galaxy Three (to the right as you pass the Milky Way) and says the people Up there are interested in earth. This is flattering, and to help explain things I brought along the new edition of Ruth Leger Sivard's *World Military & Social Expenditures* ($3.50; Box 1003, Leesburg, Virginia), which she and associates have been compiling annually since 1960, aided by the Rockefeller Foundation, the British Council of Churches, and outfits like that.

Mr. Oz jotted down some new figures: Earth's 4.2 billion people currently spend $425 billion on arms. It works out at around $92 per person. This is a burden for many when you consider that a quarter of earth's population average incomes below $200, and about 800 million live in what Bob McNamara (president of the World Bank) calls "absolute poverty" (i.e. like dogs).

The arms burden puts a strain on many, but not everyone suffers. Mr. Sivard notes that "the most buoyant sector of the world economy is the arms business." Annual sales are booming (if that's the right word) and amount to $120 billion. The big suppliers are the US and USSR, and the best markets are the poor countries. The income gap between the rich and poor countries, by the way, just like the income gap within the poor countries themselves, has been growing. Poor countries have more babies. The Malthusian law seems to be operating. Anyway, Mrs. Sivard says, "five million children die every year from disease which could be prevented by immunization; 100,000 children go blind from lack of Vitamin A."

Farragut Square is agreeable these last fall days, and we flicked crumbs from sandwiches to see the word spread among pigeons. There is nearly always a pigeon panache on Admiral Farragut's cap. Mr. Oz has a rather clinical attitude toward earth, but is rusty on figures. Let's see, there were 21 years between World War I and II weren't there, and there hasn't been a war for 35 years? And nuclear weapons have increased in power all that time? Yes, according to Mrs. Sivard, "one MX missile carries more explosive power than all the bombs dropped in World War II and the Korean war." As to number, the US has 9200 nuclear warheads and Russia 5000 in the strategic (intercontinental) range. But of course these aren't all MXs. Some might destroy only half a city.

Here is what Jimmy Carter said:

"Just one of our relatively invulnerable Poseidon submarines—less than two percent of our nuclear force of submarines, aircraft, and land-based missiles—carries enough warheads to destroy every large and medium-sized city in the Soviet Union. Our deterrent is overwhelming."

Washington pigeons are much like journalists: throw a scrap to one and you get them all, sailing and circling from one side of the park to another and even agitating neighbors in Lafayette Park. Why they rise and alight nobody knows.

Mr. Oz was charmed. He said the people Up There are interested in earth: Galaxy X–Y, Constellation 10, Solar System G, Planet 3—our zip code. Are social and military pressures approaching a critical mass, and is anybody interested? I said, yes, but it's not frontpage news; everyone is aware of it. I quoted Earl Mountbatten, who told a peace group in Strasbourg, May 11, "Do the frightening facts about the arms race which show that we are rushing headlong towards a precipice make any of those responsible . . . reach for the brakes? The answer is 'No'. . . ."

(He said that four months before being murdered by an Irish terrorist bomb.)

Mrs. Sivard's editorial comment is low-keyed. After all, the figures speak for themselves: the earth now supports 100 million soldiers; more nations have arms and use them. There are listed 65 "hostilities" between 1955 and 1979 which have killed 25 million people. I suppose I can see why Mr. Oz is interested: world population grows by 80 million a year (the size of East and West Germany combined); things like oil are getting scarce; the income gap is increasing; the challenge of unemployment "cannot be overstated."

Here's an interesting item for for example: "clean water supplies." Seems upward of 90 percent of those in earth's poor countries don't have access to clean water. That means cholera and typhoid. Malaria seemed almost knocked out a few years ago; now it's made a big comeback.

Mrs. Sivard does in more human and succinct terms what the Stockholm International Peace Research Institute (SIPRI) does in its authoritative, technical 700-page yearbooks. She also compares military and social expenditures. For example:

The $30 billion-plus cost of the proposed MX missile with its elaborate road-rail system and 4,600 concrete shelters, if spent instead on needed urban transit in the US, could provide fuel-efficient, comfortable transport for 35 million passengers a day.

There are entertaining parallel columns showing what the governments of developed countries (28) and the developing countries (112) spend their money on each year. For example, Zambia, population 5,066,000, spends $301 million for military, $162 million for education. Nepal: population 13,000,000; public expenditure per soldier, $650; literacy, 19 percent; population per physician, 38,265; life expectancy, 44 years.

You can see, too, why the chaps in the Pentagon are worrying; consumers complain about the price of lamb chops but look at the military: a destroyer is 37 times more expensive today than in World War II. A squadron of 24 fighter planes is up 155 times. One Trident submarine is 340 times the price of a World War II attack sub.

Put yourself in the general's place—get out your pencil and figure up the cost of a modern H-bomb, for example. Why, it's frightening. No wonder the budget can't be balanced!

Mr. Oz flicked the final crumb to the pigeons and rose politely. I am not sure that our minds met in our final exchange. He said politely that it would be interesting to see how it all came out. There was a chill in the way he said it. "But if we don't solve the problem," I said complainingly, "then what?" "Oh, you can always begin again," he said comfortably. "Evolution, you know; or the bow and arrow."

I still wonder what he meant.

[From the Chicago Sun-Times, Oct. 17, 1979]

WORLD'S ARMS MANUFACTURERS PROSPER AT RECORD PACE

(By Bruce Ingersoll)

WASHINGTON.—Buoyed by record sales of $120 billion, the world's munitions manufacturers last year prospered as never before, a recently released report shows.

Developed and developing nations are acquiring arms, ammunition and military apparatus at a rate "unprecedented in history for a time when there is no head-on conflict among major powers," says economist Ruth Leger Sivard.

In 1978, global arms sales equaled Spain's gross national product of $120 billion and exceeded the GNPs of all but 10 countries, according to her report on worldwide military and social spending trends.

Total military spending amounted to $425 billion last year, nearly 30 percent of which went into weapons procurement for conventional and nuclear warfare, says Sivard, former chief of the U.S. Arms Control and Disarmament Agency's economics division.

Her report, released by the Arms Control Assn. here and the Institute for World Order in New York City, points out that developing countries have increased their military spending 400 percent since 1960. In contrast, developed countries, including the United States and the Soviet Union, have increased their outlays 44 percent.

In maintaining that the world's governments have their priorities grossly out of order in 1979, the Year of the Child, she makes these points:

On the average, governments spend $16,000 a year on each soldier, sailor or airman in their armed forces, yet they spend only $260 a year on the education of each school-age child.

"In pounds per person, the world has more explosive power than food."

"Governments spend more for space research than health research; four times more for research on weapons than on energy."

If the Carter administration were to abandon its $33 billion MX missile system, the savings could provide fuel-efficient mass transit for more than 35 million passengers a day.

Over the last 24 years, the United States has exported more than $50 billion in arms and the Soviet Union more than $21 billion, while an estimated 25 million people have been killed in wars and other conflicts in 65 nations, Sivard reports.

In this era of high technology, she says, the cost of many weapons has increased more than a hundredfold, and so has their killing power.

A squadron of 24 fighter planes today costs 155 times what it did in World War II, she says. A nuclear-powered, missile-firing Trident submarine costs 340 times as much as a World War II attack submarine.

"Electronics warfare is the new mode," she writes. "The emphasis is on remotely piloted vehicles, terminal homing devices, precision-guided munitions, air-to-surface missiles [and] cannon-launched guided projectiles.

"Technology substitutes for the front lines in battle. The man who fires the shot is far removed from the consequences—and the moral implications—of his action. Kill-power is depersonalized."

And in this age of nuclear overkill, she argues, members of the "nuclear club"—the United States, Soviet Union, Britain, France, China, India and, possibly, Israel—have entered the "theater of the absurd."

The explosive power of their nuclear weapons stockpiles has been calculated to equal at least 1 million Hiroshima-type bombs, Silvard notes.

"There is no sanctuary for the civilian," she laments.

[From the Guardian (London), Oct. 15, 1979]

WORLD'S SPENDING ON WAR MATERIAL GOES UP AND UP

(By Harold Jackson)

The countries of the world last year spent the staggering sum of £212,000 millions on various forms of military activity, including £60,000 millions on weapons. On an average they invested £8,000 a year on each of their soldiers compared with £130 a year on education for each school-age child.

The spending on armaments has outpaced inflation for the seventh successive year and, in constant prices, is now running 70 percent higher than it was in 1960.

These figures have been compiled by Mrs. Ruth Leger Sivard, the former chief of the economics division of the U.S Arms Control and Disarmament Agency. She now works for a private organization and her report has been published by a group of sponsors, including the British Council of Churches. The publishers say that her report is the only one produced which compares military and social expenditures.

Mrs. Sivard says in her report: "The most buoyant sector of the world economy is the arms business . . . arms sales are larger than the national incomes of all but ten nations in the world."

In sheer tonnage, for example, there is more explosive material on earth than there is food, and investment in war machinery is running at 2,500 times that of the machinery of peace.

One of the gloomiest statistics is the continued expansion of the military budget in Third World countries. In constant prices, the poor nations have expanded their military spending by 400 percent since 1960, compared with about 44 percent among the developed nations. The average figure has tailed off because of the cutback by Egypt and Iran.

What this means in Ethiopia, as an example, is that it spent £64 millions for military purposes compared with £35 millions on education and £13 millions on health. In Pakistan the figures are £390 millions on armaments, £141 million on education, and £40 millions in Health. Britain, by comparison, spend £5,537 millions on its military needs, £6,673 millions on education, and £5,720 millions on health.

"The increase in numbers, in addition to the flood of modern arms throughout the world, adds significantly to the power and potential danger of the armed forces in the present situation," Mrs. Sivard writes. "In the developing nations in particular, the armed forces may represent the largest block of trained manpower. As a result, they have become an increasingly important political force and in many nations they hold the principal seats of power in civil government. In Latin America and among the relatively new nations of Africa, one government in two is now under direct military control."

The report list 123 armed conflicts which have taken place in 65 countries since 1955, the overwhelming proportion of them in the developing world. In Africa, for example, there is barely a nation running alphabetically from Algeria to Zaire, which has not been involved in combat.

"The link between arming and outbreak of war is not a simple one. Conflicts usually develop out of a complex of causes—political, religious, demographic, social and economic among others—but many of the tensions that lead to conflict are exacerbated by military spending that is excessive?

Military spending, Mrs. Sivard notes, is often defended on the grounds that it is a boon to the economy, a means of nation-building, a stimulus to investment, and that it increases employment and brings greater skills.

"No analytical studies, however, have yet established a positive link between military expenditures and economic development in the broad sense. There is, in fact, a growing body of evidence pointing to retarding effects through inflation, diversion of investment, use of scarce materials, and misuse of human capital."

[From the Daily News, Oct. 14, 1979]

A DISARMING STUDY

(By Neil Lewis)

If there are any doubts about how hostile or suspicious a world we live in, a report released today should quickly dispel them. Despite a global recession in which most national economies are ailing, arms sales escalated to a record $425 billion last year, according to the study commissioned by the Institute for World Order and the Arms Control Association.

Statistics tend to bore, and, taken by itself, that huge figure—$425 billion—merely suggests that, like real estate and gold, the business of dealing on a grand scale in weapons of death is recession-proof. In fact, the arms business may be, in the report's words, "the most buoyant sector of the world economy."

But as the United States makes tentative—and controversial—moves in the direction of arms control, it's good to stand back and achieve some worldwide perspective.

In evaluating the purpose and priorities of governments, it may well be that, as the report contends, "governments neglect elementary social needs in order to expand military power." The report's sponsoring groups are dedicated to arms control and some of the comparisons that are made are contrived to emphasize that view.

But in the end, the figures, boring by themselves, tell a frightening story about leadership in the world today.

For example, nations now invest an average of $16,000 a year per soldier, but only $260 a year in education per school-age child. In the U.S., the comparable figures are $43,600 per soldier, and $1,675 for each school-age child.

One of the most disturbing trends reported is the rapid rise in military expenditures in the developing nations, those countries that can least afford to be part of the global family of warmakers. The military spending in those countries has risen 400 percent since 1960, compared to a 44 percent rise in developed nations.

Not all small countries are strapped for funds when it comes to buying the latest technology that engineers have to offer. The two top nations in dollars spent on arms per person? Kuwait and Saudi Arabia.

A large factor for heightened military spending among the undeveloped nations is certainly their status as clients of the superpowers. It might come as no surprise then that the leading exporter of military hardware is the U.S., accounting for $50 billion. The Soviet Union, the report says, exports only $21 billion.

"It seems obvious that such massive military expenditures represent a serious strain on the economies of developing nations, which are unable to meet the basic human needs of their populations," according to Ruth Leger Sivard, the research economist who prepared the report.

But it is not only poor, small countries that suffer, Sivard contends. The strongest military nation in the world has more than 25 million people who are malnourished—the U.S.

If this were the best of all worlds, how could that $425 billion spent on arms last year be put to better use?

The study offers some suggestions, "not as an organized program but as a stimulus to discussion and action." For example, the authors suggest it would take only $5 billion of it to have an international program for clean air; $4 billion to provide safe water for all within a decade; and $5.5 billion to provide a minimum level of primary schools and teacher training in Third World Nations.

To some, linking defense spending with social goals cannot be done. Traditionally, the basic purposes of governments have always included defense. Social services are a relatively recent development when considering the larger historical picture.

And the Pentagon has always dismissed comparisons between the costs of armaments and social improvements. Anyone who suggests to a general that he should forgo a missile or two so that millions of dollars could be used to refurbish the South Bronx is treated with derision.

The answer, of course, is that the U.S.—or any country with hostile neighbors—can't afford not to have as much as the next country.

And, as if to emphasize that point, American, West German and British military experts expressed concern this week that NATO forces might not be keeping pace with the Soviet bloc.

"The global military machine plows ahead like a runaway bulldozer," Sivard writes.

And the world continues to be made safe and profitable for those in the arms business.

[*Neil Lewis is a reporter on The News national desk.*]

[From the Milwaukee Journal, Oct. 16, 1979]

GLOBAL SPENDING FOR ARMS ZOOMS

(By John W. Kole)

WASHINGTON.—Pushed by inflation, military spending worldwide escalated $34 billion in 1978 to $425 billion, heightening tensions and sapping the ability of many countries to deal with serious social problems.

That was reported in a survey released by the Armys Control Association and the Institute for World Order.

Its author, Ruth Leger Sivard, former chief of the economics division of the US Arms Control and Disarmament Agency, said it was the seventh straight year that increases in military spending exceeded the rate of inflation.

"At a time when we are considering ratification of the SALT II treaty, the worldwide picture for arms control is quite gloomy," said Mrs. Sivard, who otherwise endorsed the strategic arms limitation treaty as a necessary step toward future arms reductions.

"The rate of arms acquisitions internationally is unparalleled for peacetime. . . . In rich and poor countries alike, governments neglect elementary social needs in order to expand military power."

SOCIAL SPENDING SUFFERS

She said budgets for social needs were barely keeping pace with price boosts and expanding population.

Around the world, the report noted, nations invest $16,000 a year in military spending per fighting man, compared with $260 for the education of each school-age child. In the US, it said, the comparable figures are $43,600 and $1,675.

Mrs. Sivard said she was disturbed by increasing military expenditures in developing countries, although the escalation in the last two years was not nearly as sharp as from 1973 to 1976. Annual military spending in developing countries, led by extremely sharp increases in the volatile Middle East, more than doubled from $38 billion to $80 billion in the earlier period; since then, the figure has risen above $90 billion.

Since 1960, the expenditures in the developing countries have increased ninefold from $10 billion. Discounting for inflation, they still are four times as high.

44 PERCENT ABOVE INFLATION

In the developed countries, such as the US, the total has more than tripled from $97 billion in 1960 to about $335 billion last year, or 44 percent above inflation.

For both developed and developing nations, the increase above inflation since 1960 is 70 percent.

Such growth rates "stimulate inflation, contribute to unemployment and slow progress to unemployment and slow progress in solving such critical problems as energy shortage and urban decay," Mrs. Sivard complained.

The study pointed out that in the 19 years from 1960 through 1978, world military expenditures totaled a staggering $4,200 billion—at today's prices $6,600 billion. The total US federal budget for fiscal 1979 was about $500 billion.

Of the total $425 billion in 1978 world military expenditures, an estimated $120 billion went for equipment and weapons, a total that exceeds the Gross National Product of The Netherlands and Poland.

The arms producers are giants, the report noted. In the US, over one-third of $60 billion in orders last year went to 10 corporations.

ARMS INDUSTRY HAS CLOUT

The global arms industry has a unique combination of economic and political power, "a factor of extreme importance in maintaining the momentum of the arms race," said the report.

From 1955 to 1977, the US was by far the leading exporter of weapons and military equipment to developing countries, said the report, with sales totaling more than $50 billion, over twice the amount of the Soviet Union's $21 billion.

William C. Foster, a former director of the US Arms Control and Disarmament Agency, said Saturday the report demonstrated "how futile and dangerous the continued buildup of nuclear arms has become."

PERSONAL EXPLANATION

(Mr. BRADEMAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. BRADEMAS. Mr. Speaker, yesterday, December 13, 1979, on rollcall No. 730, on passage of the conference report on S. 241, to extend the programs of the Law Enforcement Assistance Administration for 4 more years, I was absent. The conference report was approved by a vote of 304 to 83. Had I been present, I would have voted for the conference report.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. NELSON (at the request of Mr. WRIGHT) for today on account of official business.

Mr. DORNAN (at the request of Mr. RHODES) for today on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. CLINGER) to revise and extend their remarks and include extraneous material:)

Mr. MARTIN, for 10 minutes, today.

Mr. SYMMS, for 30 minutes, today.

Mr. CLEVELAND, for 10 minutes, today.

Mr. COLLINS of Texas, for 20 minutes, today.

Mr. KEMP, for 10 minutes, today.

(The following Members (at the request of Mr. MINETA) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. REUSS, for 5 minutes, today.

Ms. HOLTZMAN, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MINETA) and to include extraneous matter:)

Mr. LONG of Louisiana.

Mr. GUARINI.

Ms. MIKULSKI.

Mr. CORRADA.

Mr. BOLLING.

Mr. MAZZOLI.

Ms. OAKAR.

Mr. NOWAK.
Mr. MINISH.
Mr. WOLFF.
Mr. STUDDS.
Mr. CORMAN.
Mr. GIAIMO.
Mr. HEFTEL.
Mr. MURPHY of Pennsylvania.
Mr. EDGAR.
Mr. BARNES.
Mr. LAFALCE.

(The following Members (at the request of Mr. CLINGER), and to include extraneous matter:)

Mr. REGULA.
Mr. GILMAN.
Mr. SHUSTER.
Mr. CONABLE.
Mr. SCHULZE.
Mr. WYDLER.
Mr. FINDLEY.
Mr. RITTER in two instances.
Mr. KEMP in two instances.
Mr. HYDE in four instances.
Mr. CORCORAN.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and a joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1616. An act for the relief of Caroline M. Babcock; and

H.J. Res. 458. Joint resolution to authorize and request the President to issue a proclamation designating December 18, 1979, "National Unity Day."

ADJOURNMENT

Mr. MINETA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 39 minutes p.m.), under its previous order, the House adjourned until Monday, December 17, 1979, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3030. A letter from the Associate Director, Legislative Liaison, Department of the Air Force, transmitting a report covering fiscal year 1979 on military construction contracts awarded by the Air Force without formal advertisement, pursuant to section 604 of Public Law 95-356; to the Committee on Armed Services.

3031. A letter from the Under Secretary of the Interior, transmitting the second progress report on the California Desert Conservation Area, pursuant to section 601(1) of the Federal Land Policy and Management Act of 1976; to the Committee on Interior and Insular Affairs.

3032. A letter from the Assistant Secretary of the Interior, transmitting certification that an adequate soil survey and land classification have been completed on lands of the Oroville-Tonasket Unit Extension, Chief Joseph Dam Project, Wash., and that the lands to be irrigated are susceptible to the production of agricultural crops by means of irrigation, pursuant to Public Law 172, 83rd Congress; to the Committee on Interior and Insular Affairs.

3033. A letter from the Assistant Attorney General (Antitrust Division), transmitting the sixth report on the voluntary agreement and plan of action to implement the international energy program, pursuant to section 252(i) of the Energy Policy and Conservation Act; to the Committee on Interstate and Foreign Commerce.

3034. A letter from the Acting Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting reports concerning visa petitions approved according certain beneficiaries third and sixth preference classification, pursuant to section 204(d) of the Immigration and Nationality Act, as amended; to the Committee on the Judiciary.

3035. A letter from the Chairman, U.S. Commission on Civil Rights, transmitting a report prepared by the Commission's Midwestern Region advisory committees on insurance redlining; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 4685. A bill to provide for the control of the importing into, and the exporting from, the United States of elephants and elephant products; with amendments (Rept. No. 96-661, pt. 2). Ordered to be printed.

Mr. PRICE: Committee on Armed Services. Report on allocation of budget authority and outlays by major program (Rept. No. 96-707). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A BILL SEQUENTIALLY REFERRED UNDER TIME LIMITATIONS

Under clause 5 of rule X,

The following action was taken by the SPEAKER: The Committee on Foreign Affairs, discharged from consideration of bill (H.R. 4685) to provide for the control of the importing into, and the exporting from the United States of elephants and elephant products, and committed to the Committee on the Whole House on the State of the Union, and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, bills and resolutions of the following titles were introduced and severally referred, as follows:

By Mr. ANDERSON of California:

H.R. 6142. A bill Madrona Marsh National Wildlife Refuge Act; to the Committee on Merchant Marine and Fisheries.

By Mr. BEARD of Rhode Island:

H.R. 6143. A bill to amend the Social Security Amendments of 1972 to extend for an additional year the program of 100 percent reimbursement of States for sums expended for inspection of institutions providing long-term care to recipients of medical assistance; to the Committee on Interstate and Foreign Commerce.

By Mr. BONKER (for himself, Mr. ULLMAN, Mr. FOLEY, Mr. DINGELL, Mr. MCCORMACK, Mr. DUNCAN of Oregon, Mr. PRITCHARD, Mr. AUCOIN, Mr. WEAVER, Mr. DICKS, and Mr. SWIFT):

H.R. 6144. A bill to amend the Black Bass Act as it applies to steelhead trout; jointly, to the Committees on Merchant Marine and Fisheries, and Interior and Insular Affairs.

By Mr. GRAMM:

H.R. 6145. A bill to amend title XIX of the Social Security Act to permit States to limit medicaid eligibility with respect to individuals who dispose of resources; to the Committee on Interstate and Foreign Commerce.

By Mrs. HOLT:

H.R. 6146. A bill to amend title 38, United States Code, to authorize the Administrator of Veterans' Affairs to provide headstones and markers for certain close relatives of veterans if such relatives are buried in State veterans' cemeteries; to the Committee on Veterans' Affairs.

By Mr. MCKINNEY (for himself and Mrs. FENWICK):

H.R. 6147. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to reduce from 30 to 7 legislative days the period for congressional review of acts of the Council of the District of Columbia which do not involve a Federal interest, to allow such acts to take effect during a congressional recess or adjournment, to repeal the authority of the Council of the District of Columbia to enact temporary emergency legislation, and for other purposes; to the Committee on the District of Columbia.

By Ms. MIKULSKI (for herself and Mr. ANDREWS of North Carolina):

H.R. 6148. A bill to amend the Older Americans Act of 1965 to provide that area agencies on aging shall have authority to award funds to the providers of home delivered meals for older persons without requiring that such providers also furnish meals to older persons in a congregate setting, and for other purposes; to the Committee on Education and Labor.

By Mr. MINISH:

H.R. 6149. A bill to amend section 2(a) of Public Law 93-100, as amended, to include New Jersey among the States in which depository institutions are permitted to offer negotiable order of withdrawal accounts; to the Committee on Banking, Finance and Urban Affairs.

By Ms. OAKAR:

H.R. 6150. A bill to amend the Older Americans Act of 1965 to require States to provide assistance to older persons with limited English-speaking ability for the purpose of enabling such older persons to participate in programs and receive benefits under the act; to the Committee on Education and Labor.

By Mr. PERKINS:

H.R. 6151. A bill to amend the Employee Retirement Income Security Act of 1974 to provide for emergency assistance to beneficiaries of a multiemployer pension plan terminated due to certain catastrophic and unforeseen circumstances, and for other purposes; to the Committee on Education and Labor.

By Mr. PREYER (for himself, Mr. SCHEUER, Mr. BROYHILL, Mr. OTTINGER, Mr. LUKEN, Mr. NOWAK, Mr. CORCORAN, and Mr. LAFALCE):

H.R. 6152. A bill to facilitate the ability of product sellers to establish product liability risk retention groups, to facilitate the ability of such sellers to purchase product liability insurance on a group basis, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. SATTERFIELD (for himself, Mr. ROBERTS, and Mr. HAMMERSCHMIDT):

H.R. 6153. A bill to amend title 38, United States Code, to revise the special pay provisions for physicians and dentists employed by the Department of Medicine and Surgery of the Veterans' Administration in order to enhance the recruitment and retention of such physicians and dentists, to make the authority to enter into special-pay agreements with such physicians and dentists permanent, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. STUDDS (for himself, Mr. Murphy of New York, Mr. Pritchard, Mr. Biaggi, Mr. Breaux, Mr. Hughes, Mr. Akaka, Ms. Mikulski, Mr. Stack, Mr. Donnelly, Mr. Emery, Mr. Evans of the Virgin Islands, Mr. Corrada, and Mr. Won Pat):

H.R. 6154. A bill to regulate commerce, promote energy self-sufficiency, and protect the environment, by establishing procedures for the location, construction, and operation of ocean thermal energy conversion facilities and plantships to produce electricity and energy-intensive products off the coasts of the United States; to amend the Merchant Marine Act, 1936 to make available certain financial assistance for construction and operation of such facilities and plantships; and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BOB WILSON:

H.R. 6155. A bill to amend title 10, United States Code, to increase the amount the Federal Government may pay for treatment of handicapped dependents of members of the uniformed services; to the Committee on Armed Services.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. EVANS of the Virgin Islands introduced a bill (H.R. 6156) for the relief of Willis A. Hestir; to the Committee on the Judiciary.

DELETION OF SPONSORS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1297: Mr. Derrick.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1784: Mr. Ford of Tennessee, Mr. Gray, Mr. Vento, Mr. Murphy of Illinois, and Mr. Oberstar.

H.R. 1918: Mr. Leland.

H.R. 2557: Mr. Howard.

H.R. 2558: Mr. Howard.

H.R. 2967: Mr. Pepper.

H.R. 3604: Ms. Ferraro, Mr. Drinan, Mr. Blanchard, Mr. Florio, Mr. LaFalce, Mr. Hughes, Mr. Ford of Michigan, Mr. Ottinger, Mr. Rangel, Mr. Brown of California, Mr. St Germain, Mr. Kostmayer, Mr. Atkinson, Mr. Scheuer, Mr. Hanley, Mr. Bedell, Mr. Wolpe, Mr. Maguire, Mr. Stewart, and Mr. Stokes.

H.R. 4631: Mr. Won Pat, Mr. Thompson, Mr. Young of Missouri, and Mr. Horton.

H.R. 5164: Mr. Treen, Mr. Breaux, Mr. Jones of North Carolina, Mr. Stack, Mr. Myers of Pennsylvania, and Mr. Emery.

H.R. 5225: Mr. Daniel B. Crane.

H.R. 5504: Mr. Lundine.

H.R. 5610: Mr. Roe.

H.R. 5671: Mr. Skelton, Mr. Solarz, and Mr. Akaka.

H.R. 5759: Mr. Grassley.

H.R. 5865: Mr. Edwards of Oklahoma.

H.R. 6008: Mr. Fazio and Mr. Jenrette.

H.R. 6012: Mr. Rinaldo, Mr. Roe, Mr. Pashayan, Mr. Wirth, Mr. Duncan of Tennessee, Mr. Hyde, Mr. Murphy of Pennsylvania, Mr. Montgomery, Mr. Leach of Louisiana, Mr. Petri, Mr. Kramer, Mr. McDade, Mr. Hanley, Mr. Mottl, Mr. Evans of the Virgin Islands, Mr. Kemp, Mr. Ambro, Mr. Hall of Texas, Mr. Luken, Mr. Bafalis, Mr. Lujan, Mr. Kogovsek, Mr. Lowry, Mr. Stack, Mr. Lagomarsino, Mr. Yatron, Mr. McDonald, Mr. Fithian, Mr. Evans of Indiana, Mr. Gudger, Mr. Williams of Ohio, Mr. Wolff, Mr. Broyhill, Mr. Grassley, Mr. Courter, Mr. Fuqua, and Mr. Hopkins.

H.R. 6066: Mr. Abdnor, Mr. Clinger, Mr. Corcoran, Mr. Dougherty, Mrs. Fenwick, Mr. Hughes, Mr. Kramer, Mr. Lundine, Mr. Neal, Mr. Ottinger, Mr. Pepper, and Mr. Scheuer.

H. Con. Res. 224: Mr. Howard, Mr. Whitehurst, Mr. Kemp, Mr. Rousselot, and Mr. Lagomarsino.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5860

By Mr. GREEN:

(Amendment to the Moorhead amendment in the nature of a substitute.)

—In the first sentence of section 3 of the matter proposed to be inserted, strike out "the Secretary of Transportation" and insert in lieu thereof "the Comptroller of the Currency".

H.R. 5980

By Mr. LEVITAS:

—Page 62, line 17, redesignate subsection (b) as subsection (c) and insert immediately before such line the following new subsection:

"(b) Procedure for Congressional Veto.—

"(1) Transmission to congress.—The Secretary shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any rule promulgated with funds appropriated under this title or relating to funds appropriated under this title.

"(2) Resolution of disapproval.—Such rule shall not take effect, if—

"(A) within the 45 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That the Congress disapproves the rule promulgated by the Secretary of Transportation with respect to   , such rule having been transmitted to the Congress on   .", the blank spaces therein being appropriately filled; or

"(B) within the 30 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 15 calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(3) Taking effect of rules.—If, within the 30 calendar days of continuous session of the Congress after the date of the promulgation of such rule, no committee of either House of the Congress has reported, or has been discharged from further consideration of, a concurrent resolution disapproving the rule, and neither House has adopted such resolution, the rule may take effect. If, within such 30 calendar days, a committee has reported, or has been discharged from further consideration of, such resolution, or either House has adopted such resolution, the rule may not take effect prior to the date which occurs after the 45 calendar days of continuous session of the Congress after the date of the promulgation of such rule.

"(4) Definitions.—For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of the Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 15, 30, and 45 calendar days of continuous session of the Congress.

"(5) Effect of inaction or rejection of resolution.—Congressional inaction on, or rejection of, a resolution of disapproval pursuant to this section shall not be deemed an expression of approval.

—Page 77, line 8, redesignate subsection (b) as subsection (c) and insert immediately before such line the following new subsection:

"(b) Procedure for Congressional Veto.—

"(1) Transmission to Congress.—The Secretary shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of any rule promulgated with funds appropriated under this title or relating to funds appropriated under this title.

"(2) Resolution of disapproval.—Such rule shall not take effect, if—

"(A) within the 45 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, both Houses of the Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That the Congress disapproves the rule promulgated by the Secretary of Transportation with respect to   , such rule having been transmitted to the Congress on   .", the blank spaces therein being appropriately filled; or

"(B) within the 30 calendar days of continuous session of the Congress which occur after the date of the promulgation of such rule, one House of the Congress adopts such concurrent resolution and transmits such resolution to the other House and such resolution is not disapproved by such other House within the 15 calendar days of continuous session of the Congress which occur after the date of such transmittal.

"(3) Taking effect of rules.—If, within the 30 calendar days of continuous session of the Congress after the date of the promulgation of such rule, no committee of either House of the Congress has reported, or has been discharged from further consideration of, a concurrent resolution disapproving the rule, and neither House has adopted such resolution, the rule may take effect. If, within such 30 calendar days, a committee has reported, or has been discharged from further consideration of, such resolution, or either House has adopted such resolution, the rule may not take effect prior to the date which occurs after the 45 calendar days of continuous session of the Congress after the date of the promulgation of such rule.

"(4) Definitions.—For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of the Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 15, 30, and 45 calendar days of continuous session of the Congress.

"(5) Effect of inaction or rejection of resolution.—Congressional inaction on, or rejection of, a resolution of disapproval pursuant to this section shall not be deemed an expression of approval.

EXTENSIONS OF REMARKS

THE SOVIET NAVY: A NEW ROLE?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. MICHEL. Mr. Speaker, One of the most amazing and yet little understood political facts of our time is the sudden growth of the Soviet Navy. I call this a political, rather than a military, fact because the ultimate importance of Soviet naval supremacy—and that is what they are aiming for—would have severe and widespread political repercussions for the United States.

Drew Middleton, of the New York Times, reports that the Soviet fleet is taking on a new dimension, one aimed at demonstrating Soviet power to the Third World. If the idea of using fighting ships as propaganda devices sounds strange to us, the fault is ours. The Soviet leaders know that a nation can send very strong and unmistakable political messages by the kind of weapons it builds.

Middleton, in a recent article, examines this aspect of the Soviet naval build-up and also offers some opinions from American naval experts as to the problems the Soviet naval strategy faces. All in all, it is an article worth reading.

At this point I wish to insert in the RECORD, "Russian Navy: A New Interest in the Third World" by Drew Middleton, the New York Times, December 10, 1979:

RUSSIAN NAVY: A NEW INTEREST IN THIRD WORLD

MILITARY ANALYSIS

(By Drew Middleton)

The pattern of naval construction in the Soviet Union suggests that Russian maritime strategy is to expand naval power into the third world. The new ships are not so much designed for battles with another great power but instead would have "powerful impact" in demonstrating Soviet strength in less developed areas of the world.

One indication of this trend, according to United States naval authorities, is the construction of at least two and probably four nuclear-propelled, 32,000-ton cruisers at Leningrad's Baltic Yards. These are the biggest surface combat ships, aside from aircraft carriers, built by any major naval power in the last 20 years.

American officers regard the arming of the first of these cruisers, the Sovetsky Soyuz, with 7.3-inch guns as a give-away indication of the shift in strategy.

"These are the biggest guns to be mounted on a warship since the end of World War II," an officer said. "Their usefulness in action against a modern fleet equipped with missiles would be minimal. But a view of these guns is likely to have a powerful impact in third world countries whose weaponry has not moved into the missile era."

ALSO TO CARRY MISSILES

The battle cruisers also will carry SS-N-4 surface-to-surface missiles and surface-to-air missiles.

Guns also will be the main armament of the three Kirov-class cruisers being built at the Zhdanov Yard in Leningrad. These ships also have surface-to-surface and surface-to-air missiles.

According to Jane's Fighting Ships, the authoritative British publication, the Sovetsky Soyuz was launched in December 1977 and will be commissioned next year. The first of the Kirovs was launched in December 1978 and also will enter service in 1980.

Another indication of the trend toward building ships for overseas operations was the commissioning of the 40,000-ton Berezina, a logistic support ship and the first of its class, and of the Ivan Rogov, an assault landing vessel, which is to be followed by several similar ships.

The Russian naval infantry, roughly equivalent to the United States Marine Corps, is being expanded, and the size and number of LST's, or landing ship tanks, is being increased.

2 NEW AIRCRAFT CARRIERS

The Soviet Navy has put into service two new aircraft carriers, the Kiev and the Minsk. Two more, the Kharkov and Novorossisk, are scheduled for commissioning in 1980 and 1983. American analysts emphasize that the primary mission of these vessels is antisubmarine warfare and air defense of surface warships and that they cannot be compared to the United States Navy's attack carriers.

Several senior American officers, however, believe that the next step in the expansion of the Soviet Navy will be the building of a 60,000-ton attack carrier, probably followed by three more.

This movement of the Soviet Navy into a position where it will be able to respond in strength to global military contingencies is being carried out at a high cost. Adm. Harry D. Train 2d, Supreme Allied Commander in the Atlantic, estimated recently that Russian expenditure for the navy is 20 to 40 percent greater than that of the United States.

A weakness of the Soviet fleet has been its restriction to ocean areas where ships would have the protection of long-range, land-based naval aviation. American opinion is that the air defense system aboard the cruisers about to join the fleet will be able to protect the vessels from any air attack except a saturation strike from an enemy aircraft carrier.

A pressing reason for development of a Soviet all-ocean navy is the present constriction of war operations because of the "choke points" through which Soviet vessels would have to pass to inflict serious damage on an enemy.

DANGEROUS PASSAGES

The Northern Fleet would have to turn Norway's North Cape and then venture through the Greenland-Iceland-United Kingdom gap before reaching the North Atlantic. The Baltic Fleet could reach the North Sea only by threading the narrow straits between Denmark and Sweden. The Black Sea Fleet would have to move through the Bosporous, the Sea of Marmora and the Dardanelles before reaching the Mediterranean.

The Pacific Fleet could reach that ocean from Vladivostok only by going eastward through La Pérouse Strait between the Japanese island of Hokkaido and the Soviet islands of Sakhalin or by moving southward to the Strait of Korea between the Korean mainland and the island of Tsushima.

In war these choke points would present formidable obstacles to exercise of Soviet sea power. Correcting this problem is believed to have been the major purpose of establishing distant naval and air bases as well as the building of a fleet with all-ocean capability.

The Soviet presence on the West African coast, close to the main north-south shipping lanes, was established in the Gulf of Guinea 10 years ago. Recently the Soviet naval and air presence in the area has increased. Soviet reconnaissance aircraft, which originally flew from Conakry in Guinea, now operate also from Luanda in Angola.

REPORTS ON MOZAMBIQUE

There have been unconfirmed reports from South Africa that the Russians are building a naval and air base on the coast of Mozambique in east Africa.

The Soviet Navy has weaknesses besides those involving the choke points.

Admiral Train, the Atlantic commander, enumerated these as a shortage of sea-based tactical air power, the vulnerability of land-based naval air forces, the inability to sustain forces at sea for long periods, the absence of naval allies and "the lack of a historical maritime perspective and the associated sense of confidence in their ability to wage a successful war at sea."

The first and third of these weaknesses will be corrected to a large degree if the Russians build aircraft carriers and continue their present programs of building logistic support ships.●

UNRESTRICTED LOAN GUARANTEES

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. RITTER. Mr. Speaker, at this time when the House confronts the issue of unrestricted use of taxpayers dollars for off-budget loan guarantees to assist the Chrysler Corp., we should be particularly attentive to the fact that neither the Government's agencies nor the Congress has the information essential to see that more than $500 billion in guarantees, contracts, and treaties are handled properly.

To this end I have acted to cosponsor H.R. 5683, the Federal Credit Program Control Act of 1979, to establish new procedures making direct loans and loan guarantees an integral part of the congressional budget process.

I also welcome the statement and hearings on this important issue by House Appropriations Chairman WHITTEN. On December 12, I am pleased to note that Chairman WHITTEN now concludes that on the basis of hearings before his committee, new legislation is urgently needed to resolve this problem of unrestricted Government loan guarantees as solutions to difficult business-economic problems. I concur with Chairman WHITTEN's observations and urge that the House investigate and resolve this pressing matter of uncontrolled use of Federal loan guarantees.●

HAROLD K. MILKS—A NEWSPAPERMAN'S NEWSPAPERMAN

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. RUDD. Mr. Speaker, earlier today I paid tribute in the House to the great personal integrity and accomplishments of Harold K. Milks, a former Associated Press bureau chief and managing editor of the Arizona Republic, who passed away yesterday at his home near Phoenix.

No tribute from anyone outside the journalism profession can adequately testify to all the great attributes of this man, whose loss is a great loss to our country itself.

A news story and column from today's Arizona Republic, which Harold Milks faithfully served up to his death, more fully express why he will be remembered as "a newspaperman's newspaperman."

I include these tributes at this point in the RECORD:

[From the Arizona Republic, Dec. 13, 1979]

NEWSMAN HAROLD K. MILKS DIES IN HIS SLEEP

(By Jerry Hickey)

He was acclaimed as one of the last great foreign correspondents.

He had traveled the globe, reporting on historic events and mingling with world leaders.

Yet he was unassuming.

His friends called him "Heinie."

He died peacefully in his sleep at his Paradise Valley home early Wednesday morning at 71.

But, in life, Harold K. Milks seemed to thrive on excitement and danger.

"He wasn't the type to sit in a hotel lobby or press room somewhere . . . while the action was going on elsewhere," a colleague recalled admiringly. "He gave his best effort to every story he covered."

A native of South Milford, Ind., Milks joined The Arizona Republic in 1967 as Latin affairs editor after serving for 28 years abroad as a foreign correspondent for the Associated Press.

In 1971, he became the newspaper's managing editor. He retired as managing editor in March 1978 and resumed his post as Latin affairs editor.

He was on the job Tuesday as usual.

During his career with AP, Milks served in more than 30 countries. He was chief of AP bureaus in India, China, Russia, South America and Europe.

"Heinie Milks was a many-talented newspaperman, but, above all, he was a fine reporter," said Eugene S. Pulliam, president of Phoenix Newspapers Inc., which publishes The Arizona Republic/The Phoenix Gazette.

"He had many interests and many friends all over the world," Pulliam said. "They combined to make his reporting and writing outstanding and earned for him the respect and esteem of his peers, not only at The Republic but in the worldwide journalistic fraternity."

Milks attended Lombard College at Galesburg, Ill., and later worked for the Kendallville (Ind.) News Sun as a reporter and for the Fort Wayne (Ind.) Journal-Gazette as a reporter and editor before joining the AP in Chicago at the height of the gangster era.

He then was assigned to Columbus, Ohio, and to New York before taking his first foreign assignment in Buenos Aires, Argentina, in 1938.

A highlight of his South American service was his coverage of the sea battle between the feared German pocket battleship Graf Spee and there British cruisers.

He spent 47 months on active military duty in World War II and was discharged as a major in the Army Air Corps. After the war, he returned to AP and was assigned to China.

In 1946, he covered Gen. George Marshall's peace mission in Shanghai. Later, he became a roving AP correspondent in China.

During his three-year stint in China, Milks saw much of that vast country, causing some of his Chinese friends to say that he knew their homeland better than they did. He left China with the fall of the Chiang Kai-shek government.

His travels within the country took him from Sian-fu, deep in western China, to Peiping, now the Chinese capital of Peking. A tour with Marshall led him to the hidden Chinese Communist capital in Yunan, where he first met the late Communist leader Mao Tse-tung.

He later was sent to London as AP correspondent. He then served a six-year stint as AP regional chief in India, Pakistan, Afghanistan, Nepal and Ceylon and had his headquarters in New Delhi, India.

While in India, he became friends with the late maharajah of Indore— a former princely state midway between New Delhi and Bombay.

As a result of the friendship, Milks was permitted to use the maharajah's vast hunting preserve.

Under the maharajah's tutelage, Milks became so proficient at big-game hunting that he was allowed to lead other Americans into the jungles in search of big cats. During his six-year stay in India, he killed a trophy tiger each year—all of them cattle stealers—and helped other hunters bag at least that many more.

From 1956–59, he served as AP bureau chief in Moscow, where he reported on the rise to power of Premier Nikita Khrushchev and the first sputnik the U.S.S.R. put into orbit around the Earth.

His next assignment was in Havana as chief of the AP Caribbean service. There he witnessed Fidel Castro's transformation of Cuba into a communist state. He spent the last six weeks of his stay there in a friendly embassy after the Bay of Pigs invasion.

He reportedly was the only American journalist to have known and reported on the three Communist leaders—Khrushchev, Castro and Mao Tse-tung.

Milks lost prized Indian tiger and leopard trophies in 1961 when Castro's G–2 agents raided and looted his apartment in Havana.

He spent his last six years of AP service as chief of the bureau for Spain, Portugal and Portuguese Africa.

Earlier, he had been AP correspondent in Argentina, Uruguay and Paraguay and AP chief for northern South America, including Venezuela, Colombia, Ecuador and Panama, with headquarters in Bogota.

In 1972, Milks and his wife, Evelyne, flew to Santiago, Chile, for a meeting of the Inter-American Press Association at the height of the first uprising against the country's then Marxist president, Dr. Salvador Allende.

Mason Walsh, publisher of The Republic, called Milks' death a great loss.

"I knew Harold Milks long before he joined our papers and shared the respect his colleagues had for the work he had done over the years for Associated Press," Walsh said.

"I worked with him closely during the years he was managing editor of The Republic. This is a great personal loss as well as a loss to our newspaper.

During the years he headed The Republic's newsroom, Milks pressed constantly for better and better reporting.

"As managing editor, Milks insisted on detailed documentation and attribution of information in The Republic's stories so that the readers got the most accurate presentation possible," Walsh said.

Milks, who resided with his wife in Paradise Valley, had returned recently from a trip to South Africa. Earlier this year, he had made a two-week tour of Japan.

"I was privileged to have known Heinie for more than 20 years as a colleague and valued friend," said John Koehler, AP deputy director for Latin America and Asia. "I respected him as a gifted professional and admired him especially for his realistic views of the world around him, his grasp of international affairs and his professional enthusiasm.

"He was a pragmatist with strong personal convictions and a deep love for his family and his country. I shall treasure his memory as a caring and compassionate friend and confidant. I will miss him greatly."

Keith Fuller, president and general manager of AP, said Milks' death diminishes the field of journalism by one of its very best.

"Few AP newsmen could match Heinie Milks' record of assignments during a career that spanned 33 years and 30 countries. . . . But even after his retirement from AP in 1967 . . . he went on to distinguish himself as managing editor of The Arizona Republic."

Stan Swinton, another AP colleague, said, "Heinie Milks was a legend in journalism. . . . He covered the world, saw history made and interpreted it for the American people with honesty and clarity."

Lewis Tambs, history professor at Arizona State University and chairman of the university's Honorary Degrees Committee, said Milks was being considered for an honorary doctorate at the time of his death.

Milks was founding president of the Madrid Foreign Press Club and had been a member of Sigma Delta Chi, the Shanghai Foreign Press Club, London Press Club, New Delhi Foreign Press Club, Army-Navy Club in Washington, Madrid Shooting Club, American Club in Havana, Phoenix Country Club, Phoenix Press Club and the Arizona Press Club.

He and his wife had observed their 50th wedding anniversary Oct. 10.

Memorial services will be held Saturday at 3 p.m. in Messinger Mortuary, Scottsdale.

[From the Arizona Republic, Dec. 13, 1979]

A NEWSPAPERMAN'S NEWSPAPERMAN

(By Frederic S. Marquardt)

Harold Milks was a newspaperman's newspaperman.

He had been chief of the Associated Press bureaus in Moscow, Peking, New Delhi, Havana and Madrid.

He had been managing editor of The Arizona Republic. But he preferred being a reporter.

During the last few weeks three stories of his have appeared on Page 1 of The Republic, with other reports and photos scattered through the paper. His last trip was to South Africa, from which he returned with thoroughly researched and well-written stories about the mining industry in that country. At the age of 71 he was planning to visit South America on a reporting trip next year.

He died suddenly yesterday morning. I talked with him the previous afternoon in The Republic newsroom, and he seemed in the best of spirits.

"I played golf Saturday and I never hit

the ball farther and better in my life," he said. "But I never three-putted more often," he added ruefully. He certainly didn't sound like a man with only a few hours to live.

During the '60s Publisher Eugene C. Pulliam heard in Madrid that Milks was taking early retirement and offered him a job in Phoenix. Heinie, as his friends called him, came to The Republic in 1967 as Latin affairs editor.

He spoke Spanish well, and frequently helped reporters who were talking to Mexican-Americans. Few Latin American dignitaries came to town without being interviewed by Milks.

He took a special interest in foreign languages and knew enough Russian to get around the Soviet Union. He could joke with his hosts in halting Chinese at a Shanghai or Taipei dinner party.

In Peking he knew Chou En-Lai, foreign minister for the Peoples Republic of China, well. In fact he believed he took the only picture ever made of Chou, Mao Tse-tung and Chu Teh together. They were the three top leaders in the Communist revolution in China.

Once in Jakarta, covering a meeting of the non-aligned nations, Heinie spotted Chou in the crowd and started to speak to him. The Chinese pretended he didn't know Milks.

Later, in Moscow, Chou saw Milks at a diplomatic affair and crossed the room to speak to him. "How come you didn't know me in Indonesia and you do know me in Moscow?" Milks asked Chou.

"Things are different," was the airy response. In Jakarta, Chou wanted to show the Third World delegates his independence of Americans. In Moscow he didn't care.

While he traveled the world, reporting from some 30 or 40 foreign countries, Milks always had a warm spot in his heart for Latin America. Perhaps that was because his first foreign assignment was in Buenos Aires, which also was the scene of probably his greatest newspaper scoop. The year was 1939, and World War II had started.

The *Graf Spee*, Germany's famed pocket battleship, was trapped in the Rio de la Plata, a broad estuary between Argentina and Uruguay, by three British cruisers. After four days of firing, the German giant was put out of commission. Its captain scuttled the *Graf Spee* off the coast of Uruguay rather than let her fall into British hands.

Milks covered the fight from a small craft and from land. His photos are still classics in naval history. And he was launched on one of the most varied and constructive careers of any newspaperman of our times.●

GREEK REINTEGRATION INTO THE NATO MILITARY COMMAND

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. HAMILTON. Mr. Speaker, I would like to bring to the attention of my colleagues correspondence I have had with the Department of State regarding the status of efforts to try to bring Greece back into the NATO military command, which she left in 1974.

In October of this year, the American Hellenic Institute (AHI) issued a position paper on the matter of Greek reintegration. I wrote the State Department asking for their comments on the AHI position paper and for a statement regarding current efforts to resolve this NATO problem.

Attached are a copy of the AHI position paper and the State Department's comments on it. I think we all realize it is important for outstanding tensions between Greece and Turkey to be reduced for reintegration to be achieved expeditiously and for the strength of NATO in the eastern Mediterranean to be bolstered. It is clear that we need to do more to resolve this problem.

The correspondence follows:

DEPARTMENT OF STATE,
Washington, D.C., December 5, 1979.

DEAR MR. HAMILTON: Thank you for your letter of November 16, requesting our comments on the newsletter of the American Hellenic Institute concerning the reintegration of the Greek armed forces into the NATO military structure.

The newly-restored civilian Government of Greece did, indeed, remove its armed forces from the NATO military structure in August 1974. The decision to do so was taken to protest perceived inaction by NATO in the face of Turkish military intervention in Cyprus. As you will recall, the initial intervention in July 1974 was occasioned by the overthrow of the Government of Cyprus in a *coup* instigated by the Greek Government of that time. The removal of Greek forces from NATO was not a complete withdrawal from the Alliance, and Greece continued to participate in Alliance political activities as well as in certain military activities.

Subsequently Greece sought to reintegrate its armed forces on the basis of what it termed a "special relationship." The Allies welcomed the potential return of Greek forces because their removal from the NATO integrated command structure had weakened the Alliance's southern flank, although it was recognized that the circumstances under which they might return would have to be carefully defined. To accomplish this, a process was developed within the appropriate NATO bodies through which the NATO allies would work with Greece to resolve a number of substantive and procedural problems concerning Greece's relationship with various elements of the NATO military structure. Among these problems were the subordination of Greek forces and command and control arrangements in the Aegean. To enable work to proceed on these technical matters, SACEUR was given a mandate to explore the issues raised by the Greek request.

The development of command arrangements in the Aegean acceptable to all proved to be the most difficult problem. As a result of the removal of Greek forces, changes were effected in the overall command arrangements on the southeastern flank, and Greece's desire to reintegrate its forces led to a requirement for yet another set of command arrangements to meet these changed circumstances. Naturally, all member countries have an interest in this, but those directly affected have the greatest interest. Both Greece and Turkey regard NATO command arrangements as having implications for their respective positions in their unresolved dispute over the Aegean.

The original reintegration arrangements developed as a result of consultations by SACEUR with General Davos were appropriately submitted to the Military Committee for review and comment in the fall of 1978. Turkey was not able to accept these arrangements and so indicated in the Committee. It is somewhat misleading to say that Turkey vetoed these arrangements as no vote was taken. The Committee was operating on a consensus basis, as it does in all important decisions. Consensus is an important operating concept of the Alliance, and although it is not spelled out in explicit detail or concerning every section of the Charter, it has proved to be the only effective way for the Alliance to deal with issues of consequence. It should be pointed out that most other members of the Alliance would accept any arrangements for reintegration that are acceptable to both Greece and Turkey. They would not, however, seek to dictate to either.

In view of the problems raised by the initial reintegration arrangements, SACEUR was asked to attempt to amplify them so that they could be acceptable to all. General Haig undertook to do this and on leaving the post passed the responsibility on to General Rogers. He is continuing the effort.

It should be noted that this is a matter of Greece's relationship with the entire NATO Alliance and not solely with the United States. We are not directly involved with the reintegration arrangements SACEUR is now discussing with the Government of Greece, but we understand that Greece is not being asked to give up any element of its sovereignty. We continue to believe the best prospects for a resolution of the Greek reintegration issue lie with the continuation of the efforts which the Alliance has initiated to this end in military channels. We will help support this effort and do everything we usefully can to make it succeed.

As noted above, the reintegration of Greece is a matter of interest to the entire NATO Alliance. The issues involve national interests as well as sensitive military questions. Therefore, we do not share the view, expressed in the circular of the American Hellenic Institute's Public Affairs Committee, that a Congressional investigation or public debate would advance the security interests of the United States or the NATO Alliance.

The Cyprus issue, which the American Hellenic Institute paper mentions, is not related to developing a military basis for the reintegration of the Greek armed forces discussed above. NATO is not involved in seeking a Cyprus settlement nor have any of the parties suggested that it should be. Resolution of the Cyprus issue is being sought by the parties directly involved under the auspices of UN Secretary General Waldheim. We continue to fully and actively support this process.

Sincerely,

J. BRIAN ATWOOD,
Assistant Secretary for Congressional Relations.

October 29, 1979.

Hon. CYRUS VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR MR. SECRETARY: I attach for your consideration and critique a position paper of the American Hellenic Institute dated October 22, 1979 dealing primarily with the issue of Greece's reintegration into NATO military command structure.

I would like the Department's comments on the statements made in this paper and would also like to know what efforts are currently underway to try to resolve the matter of Greece's reintegration into NATO's military command.

I appreciate your consideration of this matter.

With best regards.

Sincerely yours,

LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East.

GREECE'S REINTEGRATION INTO NATO MILITARY COMMAND STRUCTURE—THE ISSUES AND UNITED STATES-GREEK RELATIONS

(By Eugene T. Rosides)

A serious situation has developed in United States-Greek relations stemming in large part from the position of the United States in support of (1) Turkey's blocking of Greece's reintegration into the military command structure of NATO, and (2) Turkish efforts to control the air space over Greece's Aegean Islands. The position of the Carter-Mondale Administration damages United States and NATO security interests in the area on a continuing basis.

BACKGROUND

In the Fall of 1974 Prime Minister Karamanlis of Greece modified Greece's relationship with the military command structure of NATO, when NATO failed to act against Turkey's aggression in Cyprus and Turkey's violation of the fundamental principle of the NATO Charter which prohibits the use of force in the settlement of international disputes (See Preamble and Article 1 of the North Atlantic Treaty). Karamanlis did not alter Greece's status as a party to the North Atlantic Treaty and Greece is a member in good standing in NATO.

In October 1975 Prime Minister Karamanlis, in a policy statement, stated that the Greek government was proposing the reintegration of Greece into the military command structure of NATO on the basis of a special operational relationship. This policy was and continues to be opposed by the opposition parties in Greece.

In September 1976 Greece submitted specific proposals for operational reintegration of the Greek armed forces into the NATO military command structure. Thereafter discussions were held between NATO and Greek officials regarding the proposal. In March 1978 discussions were held between NATO Supreme Commander General Alexander Haig and General Ioannis Davos, Chief of the Greek General Staff.

In July 1978 General Haig, as Supreme Commander, reported favorably a proposal to the NATO military committee for Greece's operational reintegration into the military command structure of NATO. All allied governments except Turkey agreed to Greece's reintegration.

Subsequent to Turkey's "veto", General Haig visited with Turkish officials. Instead of urging Turkey to agree to the proposal he had worked out with Greece, and which all other allied governments had agreed to, General Haig unilaterally disregarded the agreement reached with Greece and adopted a position favorabe to Turkey. That position would dilute Greece's control of its own air space over its own Aegean Islands in favor of Turkey. Turkey has been seeking control of the air space over the Eastern Aegean including Greece's Aegean Islands. Up to the time of his retirement in June 1979, Haig was pressuring Greece to accept such a position.

Prime Minister Karamanlis has recently completed a visit to the Soviet Union, the first such visit for a Greek Prime Minister. A Greek shipyard has recently contracted to repair Soviet merchant marine ships and unarmed naval supply vessels.

DISCUSSION

Greece did not leave NATO, therefore there is nothing to veto

Greece did not leave NATO. It did not alter its status as a party to the North Atlantic Treaty. It is still a member in good standing of the NATO alliance. It modified its operational arrangements with the military command structure of NATO. Its signature on the Treaty is unaltered. Haig's proposal to NATO's military committee, as negotiated with Greece, was not and is not subject to unanimous consent of all members of NATO. It is not a situation subject to veto under the NATO Charter. There is nothing to veto.

Assuming arguendo that Greece did leave NATO, what authority does Turkey have under the NATO charter to block Greece's reintegration into the military command structure of NATO?

Turkey by preventing the reintegration of Greece into the military command structure of NATO has seriously damaged NATO's southeastern flank and United States and NATO interests generally in the area.

One may well ask what authority does Turkey have to veto Greece's reintegration into the military command structure of NATO? Apparently Turkey bases its position on the argument that NATO, as an alliance of sovereign nations, operates on the basis of unanimous consent. This argument does not hold up when one considers Article 10 of the Treaty.

Article 18 of the NATO Treaty calls for "unanimous agreement" of the Parties *only* on the question of inviting "any other European State in a position to further the principles of this Treaty and to contribute to the security of the North Atlantic area to accede to this Treaty." There is no other reference to unanimous consent in the North Atlantic Treaty.

What are NATO's obligations under the treaty regarding Turkish actions in Cyprus?

NATO is obligated to reject Turkey's objections because Turkey is in continuing violation of the fundamental principle and purpose of the Treaty (See Preamble and Article 1) in its illegal invasion and continuing illegal occupation of Cyprus. Under the unclean hands doctrine, Turkey has no standing in NATO to block Greece's operational reintegration into the NATO military command structure.

NATO could and should take cognizance of the official Report of the Human Rights Commission of the Council of Europe, released August 31, 1979, which found Turkey guilty of atrocities in Cyprus, and reject Turkish objections to Greece's reintegration into the military command structure of NATO under the unclean hands doctrine.

The Carter-Mondale administration and General Haig have seriously damaged United States and NATO security interests in the Eastern Mediterranean

The actions of the Carter-Mondale Administration and General Haig in unilaterally going back on an agreement with Greece as to the operational terms of Greece's reintegration into the military command structure of NATO, which had been approved by all members of the NATO military committee except Turkey, and then pressuring Greece to accept a position basically favorable to Turkey as to control of the air space over the Greek islands in the Aegean, have seriously damaged U.S. relations with Greece and U.S. and NATO security interests in the area.

It is difficult to understand how the United States could pursue a policy of attempting to get Greece to authorize Turkish control, of whatever nature, of the air space over Greece's Aegean Islands. But apparently, this is the case. The continuing appeasement of Turkey and giving in to Turkish blackmail are harmful to United States and NATO interests.

In the interests of U.S. foreign policy the issue of Greece's return to the military command structure of NATO must be fully aired and discussed in the Congress and the public arena. We must not have policies regarding United States interests in Greece, the Eastern Mediterranean, or anywhere made in secret and without full discussion of its consequences to the United States.

The harm to United States interests is so grave that it calls for a Congressional investigation and a full public hearing and discussion. The position of the United States should be to insist on the reintegration of Greece into the NATO military command structure in accordance with the proposal submitted to the NATO military committee in July 1978 and approved by all allied governments, including the United States, except Turkey.●

INDEPENDENT INVENTORS AND SMALL FIRMS, BACKBONE OF AMERICAN TECHNOLOGY

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. ROTH. Mr. Speaker, throughout our history, independent inventors and small firms have been the backbone of American technological innovation. However, during the past two decades, increasingly sophisticated technology and high investment costs associated with invention and innovation have made it increasingly difficult for the individual and small business to make this contribution. For example, the percentage of patents issued to private citizens has decreased by 22 percent since 1963. As a result, four countries (Sweden, Switzerland, Germany, and Japan) now issue more patents on a per capita basis than the United States. Another alarming fact is that the rate of invention and innovation in the United States has declined slightly, while the number of U.S. patents issued to foreign nations has grown by 85 percent.

If we are concerned about the declining innovation and productivity in this country, we then have a responsibility to assess the problem and propose ways in which Government can help reverse our present trends. It is for this reason the Science and Technology's Subcommittee on Investigation and Oversight has focused extensively on the problems of innovation and productivity. Our focus has been specially aimed at the small, high-technology firms.

As we discuss innovation and productivity it is important that we take our guidance from those directly involved. On Monday of this week, December 10, our subcommittee traveled to Appleton, Wis., my district, for a hearing on this subject. It was one of the most enlightning hearings our committee has held on the subject of innovation and productivity.

What is needed to produce more innovation? Not surprisingly, the major request is that Government simply get off the backs of small business, and give them the freedom to invest and try new methods and products. Today's economic, environmental, industrial, and patent regulations effectively keep small businesses in this country from entering the field of innovation and productivity. And although Government claims to have a special interest and incentive to assist such small establishments, the paperwork and regulations effectively prevent the average industry from participating in the Government program.

The patent system in this country is symbolic of the many problems faced by those small businesses participating in innovation. Gerhard Willecke, of Miller Electric in Appleton suggested the patent system be overhauled to handle the volume of about 1,000 patents per week. He discussed how one of his first duties with the company was to defend them in an infringement lawsuit brought by a larger business. Said Willecke:

> We eventually were found not to have infringed, but the two companies together spent more than $900,000 to take the case through the legal process.

Small businesses cannot afford this legal process, and thus often choose simply not to enter the innovation field.

A second small businessman, Rudy Small, suggested that we should totally revamp the patent system. In making the call, he suggested that we establish a judicial system to work exclusively with patents. In doing so, he told of how one must now spend long periods of time simply educating the lawyers and judges on the technical aspects of patent cases. This type of change would be a major asset to small businesses that presently do not have the capital to finance long legal challenges.

A second major deterrent to innovation among small businesses is the financial constraints. The large investments needed for innovation are often beyond the private capabilities of small firms. Thus, they must constrain their business activities to present proven produce lines. Paul Groth, of Riverside Papers, suggests Government should provide a revamped depreciation schedule which would allow a company to recapture its investment costs in much shorter periods of time.

Finally, while Government considers reform in the patent and depreciation areas, we must again realize that these efforts alone will not spur new innovation. We must also revise our total regulation of small business in order to give them the freedom to innovate. As Bob Shade of Shade Information Systems said, unless we assist the small businesses in the field of innovation, "The big companies are just going to chew us up and have us for breakfast."

The challenge is there. The agenda is clear. We, as members of the Federal Government, must take the necessary actions to restore our strengths in the area of innovation and productivity.●

ETHICAL CONDUCT

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. CLINGER. Mr. Speaker. representing national and constituent interests demands the highest ethical conduct and behavior by Members of Congress. To expect anything less from officials elected to one of the highest offices of the land would be a violation of the rigorous standards that rule the House of Representatives.

Congressmen make hundreds of decisions that impact on the livelihoods of thousands of Americans. In order to avoid even the appearance of impropriety on my part, I recently relinquished my personal oil and gas holdings. It is my judgment that this action frees me from any potential conflict of interest on petroleum issues in legitimately representing the interests of my district.●

FTC REPORT ON LIFE INSURANCE: AN EDITORIAL VIEWPOINT

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. BEREUTER. Mr. Speaker, I commend to the Congress a recent editorial from the York (Nebr.) News Times. It discusses in relevant terms the editor's objection to the July 10, 1979, staff report on life insurance of the Federal Trade Commission. It expresses great concern about the FTC report—a concern shared by many of my constituents.

Headlines disparaging the institution of life insurance and one of its staple products, whole life insurance, were generated by the misleading press release of the FTC. Few citizens will be able to read the full report, and are left with the misunderstandings spread throughout the country. The careless calculations of an industry average yield, a number which, even if correct, would be of little practical value to the buyer of life insurance, constitutes an unwarranted Government-sponsored criticism of reputable business people and sales representatives who have provided a valuable service to the public in the form of permanent life insurance products.

The editorial points out effectively the difference between life insurance and the traditional form of individual savings. I would add my endorsement to those who seek appropriate clarification by the FTC. This agency must be held accountable for its investigations, notably its approach to the press in connection with the staff report of July 1979.

I have reservations about the activities of the FTC in several areas. That is why I enthusiastically endorse the provisions of the House reauthorization measure which require congressional oversight and veto authority over all regulations promulgated by this agency.

The editorial follows:

COMPARISON UNFAIR

(By Don Gillen)

A publisher friend in Nebraska recently wrote that he was upset—well, maybe "really mad" is a better description—at a recent Federal Trade Commission report. Although I didn't see the report to which he referred, the one that supposedly was an in-depth study to the value of life insurance as compared to savings accounts or other investment areas, the mere fact it came from the FTC is enough to make it a laugher.

The problem with the report is that the FTC contracted with a group of experts at Purdue University to conduct the study. I've got nothing against Purdue except that it was from there that OSHA's infamous "manure slippage" booklet for farmers was spawned a few years ago. In itself, that fact tends to crumble the credibility of Purdue, OSHA and the FTC.

Even worse, the comparison of life insurance as a savings value isn't possible against pure savings accounts or investments in stocks, bonds or anything else. Only life insurance gives an individual instant savings in case of death. Because of this, the cost of life insurance and the savings resulting from it aren't comparable to pure investment plans.

But, unconcerned as the FTC is with facts, the experts plod right along with their theory of comparing the taste of apples with oranges. The unfortunate part is that some people will read the FTC report and believe it, not realizing it is all hokum and hogwash and hardly worthy of publication.

For example, the FTC report on the average investment yield was way off with examples in many areas of life insurance earning more than five times what the FTC report indicated.

Price competition, FTC said, doesn't exist in the life insurance industry. Well, unless actuaries are all using different data the probability of death can't vary too much and the pricing difference would come from how well the company is managed and how low the operating costs are. In the last quarter century the number of life insurance companies has nearly tripled, so there is obviously a wide range of prices for life insurance.

In regard to profits, the FTC says insurance companies are raking in huge net incomes at the expense of policyholders. But the substantiated profit and loss statement for the insurance indusry shows that out of the average premium dollar, only one cent went for profit. This is huge?

And the FTC says a life insurance policy doesn't compare favorably with bank savings on their respective returns. Huh? How can a comparison be made? For example, A put $3,500 into a savings bank and B buys a $100,000 life insurance policy. Two months later they are in an auto accident and both are killed. A's survivors get his $3,500 back plus interest for two months. B's survivors get $100,000 back. Which return is better in this case?

This is not to say that insurance is better than savings. You've got to have a mix of each. You need the instant liquidity you have with savings accounts as well as you need the instant security you have with life insurance.

If this sounds like a life insurance salesman, you're wrong. Life insurance is an individual decision. Because it is, I don't think the FTC should be fouling up the waters with half-witted statements about return on investment when it is not possible to compare life insurance with other investments simply on the return expected.

I've got life insurance and I've got savings and other investments. I hope that I won't need to get the instant return on the life insurance. But I don't want the FTC telling me that life insurance is a bad deal and that I should invest all my money in savings.

If something happens to me, at least I have the satisfaction of knowing that my family won't have to scrimp and save to simply live from hand-to-mouth. Even the stupid FTC can't take that away.●

GOV. OTIS R. BOWEN OF INDIANA URGES PASSAGE OF PRESIDENT'S LOAN GUARANTEE PROGRAM FOR CHRYSLER

HON. JOHN BRADEMAS

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. BRADEMAS. Mr. Speaker. I think it is significant that the distinguished Governor of Indiana, Otis R. Bowen, M.D., in a message last month to all members of the Indiana congressional delegation urged support of President Carter's loan guarantee program to forestall the collapse of the Chrysler Corp.

I believe, Mr. Speaker, that the fact that Governor Bowen is a Republican calling for support of a proposal of a Democratic President is indication of the bipartisan support that exists for this legislation.

At this point in the RECORD, Mr. Speaker, I insert Governor Bowen's message to Members of the Indiana congressional delegation:

OFFICE OF THE GOVERNOR,
Indianapolis, Ind., November 28, 1979.

To all members of the Indiana Congressional Delegation:

I would urge your support for the President's loan guarantee program—or some variation that would achieve the same purpose—in order to forestall the collapse of Chrysler Corporation.

Chrysler's importance to Indiana has been documented on numerous occasions and I need not restate it. A limited form of government assistance seems to be justified in this situation.

Kindest personal regards,

OTIS R. BOWEN, M.D.,
Governor.●

TO SERVE WITH PRIDE

HON. MICKEY EDWARDS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. EDWARDS of Oklahoma. Mr. Speaker, no job, no profession, no occupation, no other calling in life offers a man a greater opportunity to serve his fellow citizens or to create a better, richer society than service in the U.S. Congress.

That is not merely a chauvinistic statement, expressing some inordinate amount of pride in the country or the Congress, though I admittedly have great pride in both. It is more than that: It is a frank admission that here in America, a nation blessed with natural riches, guaranteed freedoms and unparalleled opportunities, we who are elected to the Congress have an opportunity—and a responsibility—most men will never know.

I recently discovered a short poetic essay by a man named Ed Seabough, part of a small book entitled "After the Riot." It is not a literary masterpiece, certainly; in fact, it is probably stretching the point a bit to credit this small work with being exceptionally profound.

Yet there are words, Mr. Speaker, that stop us cold; make us think; make us ask ourselves questions we have put out of our minds. This short verse had that effect on me.

You know the kind of thing I am talking about, Mr. Speaker. It is the sort of knife thrust, or splash of cold water, one feels on reading "Babi Yar," by Yevtushenko, or "Renascence," by Millay; and while this new work may not rise to the quality of either, it just as effectively causes one to stop and ask: "This is my life; what have I done with it?" It triggers questions that demand answers.

It happens, Mr. Speaker, though we would just as soon not talk about it, that all of us in Congress come here with great ideals and great ambitions. For some, perhaps, the ambitions are personal, and the goals selfish, but I prefer to think that there are in this body, on both sides of the aisle, men of great emotion and passion and outrage and sympathy and sentiment—who truly do want to make this a better world; to help people who need our help; to create a society in which people can live better, without hunger, without cold, with a chance at a good education, a chance for a life that goes beyond survival and adds fulfillment.

And what happens to us when we get here, Mr. Speaker? You know as well as I do what happens. Time compresses and demands press in on us from every direction: Tens, hundreds, thousands, tens of thousands of letters to answer; dozens, hundreds of votes to cast, some on issues of great importance and many of practically no significance at all, each bringing us from our offices to the House floor, interminable round trips, eating hours out of every day to approve the previous day's journal, or grant an uncontested and noncontroversial rule or to vote on issues which should never occupy our attention in the first place—special favors for special interests, proclamations of this or declarations of that. Multiple committee meetings are scheduled one on top of another.

And to top it all off, Mr. Speaker, there are the hordes of lobbyists and interest groups, some from our districts, many not, inviting us to receptions, breakfasts, luncheons, dinners, shows, parties, and pouting mightily if we do not come and help them deplete their bottomless liquor supplies.

I read when I got here, Mr. Speaker, that the average Member of the Congress has 11 minutes of time each day to "read." I thought that meant 11 minutes to read what one wants, or needs, to read; to study; to think. Granted, 11 minutes a day is not much—but I would love to have it, Mr. Speaker.

I would love to have it because the one thing there is no time for here, is the simple act of backing away from the day's work and asking: "What are we trying to accomplish?" What kind of society do we want to create, Mr. Speaker? What kinds of opportunities do we want to provide? How much can we do provide those opportunities ourselves without interfering with the freedoms which God grants and our Constitution guarantees?

The truth is, Mr. Speaker, if we cannot find a way to have the time to think those thoughts, we will all end up at the end of our careers asking ourselves the very sad words Mr. Seabough has written. Let me read them to you:

Where is the man I'd hoped to be?

Where is the truth I meant to speak
Where is the love I intended to give
Where are the ill I wanted to heal
Where are the hungry I planned to feed?

Where is the man I'd hoped to be?

Where is the change I brought about
Where is the battle I helped to win
Where is the wrong that I made right
Where is the good that I have done?

Where is the man I'd hoped to be?

Where are the dreams I have fulfilled
Where are the goals I have reached
Where is the faith I have shared
Where is the life I meant to live?

Where is the man I'd hoped to be?

Mr. Speaker, I, too, have a goal, a vision of the kind of man I would like to be, of good I want to do; of healing the ill, feeding the hungry, righting wrongs, speaking truths. Like my colleagues in the Congress, I do my best in the time I have. And I know the futility of fighting institutions; maybe the improvements in scheduling I seek are not to be.

But, Mr. Speaker, we have such marvelous opportunities here. We in the Congress, more than most men, have the opportunity to become the kind of men we would really like to be—with the means for investigating and finding truth, and the forum for stating it loudly and clearly; with the ability to shape the kind of society, with freedom and opportunity for everybody, and a chance to see to it that our society spreads those opportunities equally and fairly. We can bring about changes. Patrick Henry had a vision of a society in which men would be free from the tyranny of government; Martin Luther King had a dream of a society in which black men would have the same rights and opportunities white men have; Susan B. Anthony dreamed that women would have the rights and opportunities men have; Henry Ford had a far more utilitarian dream—but in a free society it created jobs for tens of thousands of men and women and gave the whole world—men both rich and poor—greater mobility, more leisure, more productivity than ever before in history.

Ed Seabough is a religious man, and when he talks of the truth, of love, of faith, he talks of sharing and achieving as part of God's world, and creating the society God would have us create. But it has been given to us to do our best to come close to that perfect society here on Earth.

Perhaps my colleagues are satisfied; they have seen their names on bills that have passed—as, indeed, I have—or have won battles they thought had to be won—as I have—and they feel satisfied and sure. Not me. Not at all. Ed Seabough's words run through me like a cold dagger, stopping me in my tracks and saying, "are you speaking loudly and clearly for what you believe—as loudly and clearly as you should and can?" Or "are you doing all you can for others?" Or "are you finding wrong and making it right?"

Mr. Speaker, many depend on us. Let us do our best to be the men we, and God, want us to be.●

AN INTERESTING LETTER BY DR. TIBOR MACHAN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. PAUL. Mr. Speaker, my friend, Dr. Tibor Machan, who is as good a writer as he is a scholar, sent a short and eloquent letter to the National Endowment for the Humanities last month. This letter contains much good sense and I would like to call it to my colleagues' attention.

NOVEMBER 5, 1979.

JOSEPH B. NEVILLE, Jr.,
Program Specialist, Division of Fellowships, National Endowment for the Humanities, Washington, D.C.

DEAR MR. NEVILLE: As I explained on previous occasions when I was contacted by your office, I never asked for the NEH fellowship and was told by the Hoover Institution people that I got it only after I went there thinking they gave me their private funds.

In general, I disapprove of fellowships by the government to people like me. Scholars, as other citizens, ought to earn their living, not get funds through political means, however well intentioned and nobly spent. Our country is almost bankrupt, so I wish you people went out of business instead of hustling money for the likes of me from Congress (instead of private foundations, corporations, and individuals who'd be giving their own money).

TIBOR R. MACHAN.●

THE CHRYSLER SUBSIDY—THE TAXPAYER LOSES, SAYS SENATOR PROXMIRE

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. DANIEL B. CRANE. Mr. Speaker, the distinguished Senator from Wisconsin (Mr. PROXMIRE) has devoted his entire December 1979 constituent newsletter to the arguments against using taxpayers' money to subsidize a private company—in this case, Chrysler Corp.

It is far and away the best analysis of the dangers of Government "bailouts" of free enterprise that I have seen. As the Senator points out, if we take this unwise action and thus clear the way for taxpayer-subsidies to private business, millions of products and services we do not want would be produced. Efficient firms would suffer unfairly because their inefficient competitors were, in effect, being subsidized by the Government. Clearly, such largesse would be the end of the free enterprise system.

I urge my colleagues to study this well-reasoned case against the Chrysler "bailout" before casting their vote—a vote which could very well determine the fate of free enterprise in the United States.

Senator PROXMIRE's newsletter follows.

THE CASE AGAINST BAILING OUT CHRYSLER

You're chairman of the Senate Banking Committee. You're in a position of responsibility and decision in considering any bailout of the floundering Chrysler Corporation that involves credit. The two kinds of bailouts most likely to be used, a loan or a loan guarantee, involve credit. So the ball's in your court. What do you do?

The answer will depend upon how you feel about a few basic points. As a matter of principle, for example, who's to blame when a corporation gets in trouble? What are the alternatives to a Chrysler bailout? What are the stakes for the millions of taxpayers a Senator is supposed to be representing?

Last year, more than 6,000 American businesses of every size and variety went bankrupt. In some cases, the bankruptcies were caused by the incompetence of the management, or by the vigor and good luck of competitors. In some cases, midtown companies folded when their customers moved out to areas made convenient by newly constructed Federal highways. In some cases, the public just stopped buying the company's product—it had become obsolete, gone the way of the buggy whip.

But in virtually all cases, an infusion of capital—a loan guarantee or a favorable loan—could have staved off bankruptcy. Question: Why didn't the Federal Government just step in? A lot of misery could have been avoided: the nightmare vision that haunts many owners of firms in this country of losing their whole investment; the anguish of being poor, out of work, marked a failure, the hardship for the family.

Last year alone, we could have preserved hundreds of thousands of jobs. We could have prevented losses of millions of dollars by banks and other creditors. Suppliers caught in the fall of their customers could have been saved. All these slings and arrows could have been avoided by a Government with the good heart to step in and say, "You're not going to fail. We won't let you. You say you need a thousand dollars or a million or a hundred million or—in the case of a Chrysler—a billion? Here it is. Try again. We're with you."

What's wrong with that? Answer: Just about everything. Millions of products and services we don't want would be produced. Efficient firms would suffer unfairly because their inefficient competitors were, in effect, being subsidized by the Government. Clearly, such largess would be the end of the free-enterprise system.

We all know that failure, or rather the possibility of failure, is a linchpin of the free-enterprise. If you can't put together the smart management and the skilled work force and the capital, and if you can't keep it together, you're out. It is in part the specter of failure that over the years has kept American companies producing. Lenders and investors, insiders and outsiders, know they are on their own. They have to exercise judgment; if they misjudge, they pay the price.

Yes, the system can be cruel. It can throw innocent, hard-working men and women out of a job. It can ruin a good and conscientious man because he has made a mistake, or simply bebause he has been unlucky. But, by and large, the system accomplishes its basic missions.

It reduces, even if it doesn't eliminate, incompetence in management. It provides the rewards and punishments that foster good judgment on the part of lenders and investors. It eliminates products when the market for those products has disappeared, whether they be gas-guzzling automobiles or sailing schooners.

What would happen if Government chose to go down that long road of bailing out failing firms? For a start, the incompetence and misjudgments that led to failure in the first place would simply be cast in concrete. Moreover, one of the oldest laws of Government spending would come into effect: once the Government invests in an enterprise, it has little choice except to continue. Failure to keep the Federal money flowing would bring about the conditions that inspired assistance to begin with—jobs lost, banks in dfficulty, competition reduced. But even worse for the Government personnel who had made the decision, such a change of signals would expose the stupidity and waste involved in making the investment to begin with. So the bailouts would continue and expand.

That prospect has kept the Government out of the save-everybody business to date, but a very dangerous precedent was established in the matter of the Lockheed Corporation. The Government bailout in that case was a $250 million loan guarantee. Lockheed was the Nation's biggest defense contractor, with two-thirds of its production going to the Government for military weapons, and the national security was cited by those in favor of the loan. Those who opposed the loan pointed out, among other things, that the troubled segment of Lockheed's operation was outside of defense and Government procurement, but to no avail. The loan guarantee went through.

I was against the Lockheed bailout. I am, if it is possible, even more opposed to the Chrysler proposition. And my opposition is based not only upon principle, but upon certain realities that tend to get obscured in what little serious discussion the issue has received.

Chrysler has argued, for example, that the only options for the company are bailout or bankruptcy, and that bankruptcy would be an unmitigated disaster. Actually, there is a real possibility that Chrysler could make it on its own. But leaving that aside, what would bankruptcy mean? Would the 10th largest corporation in America evaporate overnight, leaving its plants idle and rusting, its workers, dealers and suppliers out on the street?

Our bankruptcy laws have always been expressly designed to keep that from happening, to give a failing company a breathing spell while it works out its problems. In fact, a revised law that took effect Oct. 1 makes it even easier to reorganize and continue functioning. Under the law, the company goes to court to file for bankruptcy and gets an automatic stay of its debts while it tries to work out with its creditors a plan for getting back on its feet. Meanwhile, the plants keep operating, management stays in place and most workers are kept on the job.

Of course, this is not to suggest that bankruptcy is without pain. Once the plan is agreed upon, there may be plant closings and job losses. New management may be required. Stockholders may suffer a loss; they almost certainly will be forced to do without dividends for some time. Creditors may have to stand back and wait for satisfaction.

Bankruptcy is a tough solution, but it is not an unthinkable solution. What it really means is a chance to save the healthy elements of a company, to give it a fresh start.

That issue aside, what are the arguments offered for a Chrysler bailout? Some are so thin as to be almost invisible.

Is Chrysler, as some would suggest, a struggling little outfit—a veritable mom-and-pop operation that just needs a friendly banker, a little more capital, to keep going? Not exactly, with its 1978 sales of more than $13 billion on operations around the world. It may be smaller than Ford and General Motors, but that doesn't make it small.

Does Chrysler provide an essential product or service, vital to the national health or safety, that could not be supplied by others? Obviously its passenger vehicles do not seem to fall in that category. Chrysler does sell about 5 percent of what it produces to the Government for defense. Its tanks are turned out at a profit to the corporation and to the customer's satisfaction. No matter what happened to Chrysler, however, those defense goods would continue to be produced, in all likelihood, by Chrysler itself.

There are other justifications offered for a Chrysler bailout that at first glance seem to have greater weight.

BAILOUT ARGUMENT NO. 1: JOBS

According to a Department of Transportation study, Chrysler operating full-blast provides 119,500 direct jobs and 292,000 indirect jobs (through dealers and suppliers) for a total of 411,500. If these people were thrown out of work, they would cut back on their purchases, which would in turn affect still more jobs.

One "worst-case" scenario that has been bruited about claims that, assuming a total

Chrysler shutdown, 500,000 direct and indirect jobs would be lost temporarily and about 200,000 permanently. In fact, such figures are patently ridiculous. No major bankruptcy has ever led to such a high proportion of job loss, and this one certainly would not.

That some jobs would be lost in the event of bankruptcy is inevitable. But some of those jobs would have to be lost in any event. The company, if it is to be profitable and have any chance of recovery, must peel off its high-cost, losing units. That means some plants employing thousands of Chrysler workers must shut down. However, the difference in the number of jobs between a Chrysler that is bailed out by the Federal Government and a Chrysler that is in default and operating under a court-reorganization procedure might be relatively small. In addition, the number of cars bought by the American public will not diminish simply because Chrysler goes into bankruptcy. The other two automobile companies, moving in to fill the void, will hire many Chrysler employees.

BAILOUT ARGUMENT NO. 2: COMPETITION

Just how important is it that Chrysler be saved from bankruptcy in order to preserve competition in the automobile business? The argument is that a Big Three is oligopolistic enough. The disappearance of No. 3 would be the death knell of competition in the industry.

On the face of it, that seems logical enough. But with foreign competition providing the principal performance as well as price options for American customers, the actual benefits of a weak third competitor are probably quite modest.

There is actually a more important consideration as to the impact of a bailout on the competitive climate. What kind of competition can we expect when one of the Big Three has the Government, with its endless resources, as principal creditor?

The bailout terms the Treasury recommends and the terms the Congress accepts almost certainly would, the first time round, avoid giving Chrysler an unfair capital advantage over its competitors.

But suppose—as seems likely—that Chrysler doesn't make it on that first round. Rather than lose the investment it has already made in the company, the Government will inevitably put in more. And what will be the effect of these extra funds? They will enable Chrysler to keep trying performance and engineering and style innovations until it hits pay dirt with a model or two that can win a big slice of the market.

Now comes the next stage of the bailout. Chrysler's forward surge is making trouble for Ford, which comes knocking on Washington's door. And at this point, having helped out one competitor, what can the Federal Government do except to provide necessary capital to help the other competitor?

What a prospect! The Federal Government up to its neck in the business of bankrolling two of the Big Three producers in the industry that—above all others—has long been hailed as the flower of the free-enterprise system.

BAILOUT ARGUMENT NO. 3: FEDERAL REGULATION

Chrysler's problems, some say, are not of its own making but rather the result of Federal regulations calling for cars that produce less air pollution, are safer and have greater fuel efficiency. The argument goes this way: A smaller company like Chrsyler has to spend as much as General Motors to develop the technology to meet such Federal requirements. But since Chrysler makes so many fewer cars than G.M., the per-unit cost of that technology is higher, putting Chrysler at a competitive disadvantage in the market.

There's something to this argument. Government regulations may well have an unequal impact on the three competing auto makers—as they do on companies of differing size in other industries. But clearly this is not the major reason for Chrysler's problems. (More important causes are a series of bad management decisions: immediately after the Arab embargo, the company failed to go with smaller, more fuel-efficient cars and stuck with the larger automobiles; it purged engineers and designers to reduce cost and overhead, although strong engineering had been Chrysler's prime strength; and during the past decade, it made heavy and poorly timed investments in European facilities in order to compete with the international growth of Ford and General Motors.) In any event, no one has seriously suggested that the Government should resolve the inequality among American companies by paying the difference in cost to outfits bearing a higher relative burden. It would require billions upon billions of dollars a year.

As to Chrysler's complaints about the fuel-efficiency requirement, the company tries to argue it both ways. On the one hand, Chrysler says it has been unfairly damaged by the cost of meeting the ruling. On the other hand, the company says that its development of the fuel-efficient Omni and Horizon make it more competitive with the other companies. Yet it seems unlikely that Chrysler would have developed these high-mileage cars in the absence of those painful Government requirements.

BAILOUT ARGUMENT NO. 4: THE ECONOMY

A Chrysler bankruptcy, it is suggested, would have a disastrous overall effect on the economy. Recession would be deepened and perhaps lengthened.

This argument wholly overlooks the reality of a bankruptcy proceeding. Most of the company's operations would continue. Most employees would come to work at the same time every day. Cars would be produced. Dealers would continue to sell the cars. Suppliers would continue to provide the necessary parts. The company might be smaller, but the parts of the company dropped would be the losers. Any short-term damage done to the economy would be more than compensated for in relatively short order.

Some have also suggested that the loss of Chrysler as the third of the Big Three, with its presumed effect of decreasing competition, would have an inflationary impact. Less competition presumably would bring higher prices. In fact, a reorganized company, with its excess baggage peeled away, could offer better, tougher, stronger and certainly more enduring competition than that offered by a company barely limping along, dependent upon Government-subsidized capital.

My conclusion: A decision by the Congress to bail out Chrysler would be a disaster for American business, for the American economy and for the American taxpayer, it would be a signal to line up at the trough. To date, the only major petitioners for a bailout have been big cities like New York (which got it) or utilities like Penn Central Railroad (which did not) or the country's major defense contractor. A bailout for Chrysler would open the floodgates. And the United States would thereby have put into effect a sure-fire system for insuring incompetence and unwanted products and services, achieved at colossal new cost to the Federal Government.

And yet, in spite of the importance of this issue and for all of the danger it poses to the public, the issue of the Chrysler bailout is all but decided. The company is going to get its helping handout. And one of the saddest things about the situation is that it will be no contest.

In my years in the Senate, I have seen many close and fascinating fights over legislative decisions. Sometimes Presidents win, sometimes they lose. Sometimes labor wins, sometimes it loses. Sometimes the banks or the aerospace industry or the educational lobby or the conservation people or the consumer groups win; sometimes they lose. And I have seen it happen, occasionally, that a cause will win though the preponderance of lobbying power and know-how is on the other side. But not this time. Chrysler can't lose. The fix is in.

Just about all the power, all the clout, all the money, all the influence is on one side.

The President of the United States is for Chrysler, and so is the entire executive branch, including Treasury, Commerce, Budget, Labor, Defense, the works.

The United Automobile Workers union with its hundreds of thousands of members all over the country is for a Chrysler bailout. Its president has made this his top-priority issue. The U.A.W. has a special clout as a labor organization because it is so highly respected. It is clean. It is honest. Its leadership is highly competent. It is generally a solid public-interest-oriented force. So when it goes for a special payoff, it carries one whale of a wallop.

The banks are for Chrysler. The company is into the banks for billions of dollars. If Chrysler goes bankrupt, the banks in some cases might suffer significant losses, at least temporarily. And these are not just a few Wall Street banks, nor are they confined to the six states where Chrysler has its greatest production; these are banks all around the country. And since bankers are community leaders who frequently either contribute or lend large sums to members of Congress to finance election efforts, bankers are listened to with great respect in Congress. On the Chrysler issue, they can be counted upon to speak out and write and buttonhole.

The hundreds of thousands of Chrysler workers and members of their families in six states with 12 Senators are an imposing political force, and they favor a Chrysler bailout. They will write letters, corner their Congressmen and Senators in person and on the telephone.

Chrysler suppliers, who employ hundreds of thousands more in many states and Congressional districts, are behind the company. They will let their Congressional representatives know their feelings, so will Chrysler dealers by the score, in every part of the nation.

Then there are the lobbyists Chrysler has hired, the best money can buy—and that is very, very good. Thomas Boggs of the law firm Patton, Boggs and Blow, is working with the Democrats, and William Timmons, another prominent Washington lobbyist and former Nixon and Ford White House aide, is working with the Republicans. According to a Wall Street Journal article last September, "Chrysler's current efforts . . . dwarf what it has done before. . . . By the end of September, Mr. Boggs says, 'at least a dozen' of the 60 or so attorneys in his law firm [were] working full time to 'sell the company on a one-to-one basis' to every member of Congress." Such lobbyists know how to appeal to liberals and conservatives. They are winners and they're going to win this one big because they have everything going for them.

But what, you may ask, about the opposition? Who is on the other side? Who is saying the taxpayer should not be called upon to bear the loss or the risk of a loss that stockholders and creditors are rewarded for bearing? Who is going to say that to bail out Chrysler would be a precedent that could haunt our system for many years to come as our businesses lose the courage to accept the consequences of their mistakes.

The answer: Virtually no one. Oh, there has been some editorial protest. The National Association of Manufacturers, an organization I do not always find in my corner, has indicated that it disapproves of special Government financial assistance for Chrysler, though it seems unlikely that the N.A.M. will mount a major lobbying campaign on that issue. In fact, all the power, all the money, all the skilled lobbyists, all the labor clout and business clout and banking clout, plus the force of hundreds of thousands of Americans who have an immediate stake in the decision, are on one side.

The Chrysler bailout can't lose. But the American taxpayer can—and will.●

HUMAN FREEDOM RESTS ON GOLD REDEEMABLE MONEY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. PAUL. Mr. Speaker, the late Howard Buffet gave distinguished service in this House during the late 1940's and early 1950's as Representative from Nebraska. He was a man of immense courage, vision, and knowledge, and he accurately predicted the results of inflation.

The only way to stop inflation, the expansion of the money supply through the printing of unbacked paper money, and credit creation in the banking system, is to make the dollar redeemable in gold.

Howard Buffet saw this, and saw what we would reap from our inflationary policies—chaos and collapse, and the end of freedom.

In 1948 he spoke before the Conference of American Small Business Organizations here in Washington. I would like to call this magnificient address to my colleagues' attention. It is far more relevant today, as we enter the last stages of inflation, than it was 31 years ago.

He emphasizes quite correctly the relationship of freedom to sound honest money. This relationship has been ignored for too long.

The address follows:

HUMAN FREEDOM RESTS ON GOLD REDEEMABLE MONEY

(By Howard Buffet)

Is there a connection between Human Freedom and A Gold Redeemable Money? At first glance it would seem that money belongs to the world of economics and human freedom to the political sphere.

But when you recall that one of the first moves by Lenin, Mussolini, and Hitler was to outlaw individual ownership of gold, you begin to sense that there may be some connection between money, redeemable in gold, and the rare prize known as human liberty.

Also, when you find that Lenin declared and demonstrated that a sure way to overturn the existing social order and bring about communism was by printing press paper money, then again you are impressed with the possibility of a relationship between a gold-backed money and human freedom.

In that case then certainly you and I as Americans should know the connection. We must find it even if money is a difficult and tricky subject. I suppose that if most people were asked for their views on money the almost universal answer would be that they didn't have enough of it.

In a free country the monetary unit rests upon a fixed foundation of gold or gold and silver independent of the ruling politicians. Our dollar was that kind of money before 1933. Under that system paper currency is redeemable for a certain weight of gold, at the free option and choice of the holder of paper money.

REDEMPTION RIGHT INSURES STABILITY

That redemption right gives money a large degree of stability. The owner of such gold redeemable currency has economic independence. He can move around either within or without his country because his money holdings have accepted value anywhere.

For example, I hold here what is called a $20 gold piece. Before 1933, if you possessed paper money you could exchange it at your option for gold coin. This gold coin had a recognizable and definite value all over the world. It does so today. In most countries of the world this gold piece, if you have enough of them, will give you much independence. But today the ownership of such gold pieces as money in this country, Russia, and all diverse other places is outlawed.

The subject of a Hitler or a Stalin is a serf by the mere fact that his money can be called in and depreciated at the whim of his rulers. That actually happened in Russia a few months ago, when the Russian people, holding cash, had to turn it in—10 old rubles and receive back one new ruble.

I hold here a small packet of this second kind of money—printing press paper money—technically known as fiat money because its value is arbitrarily fixed by rulers or statute. The amount of this money in numerals is very large. This little packet amounts to CNC $680,000. It cost me $5 at regular exchange rates. I understand I got clipped on the deal. I could have gotten $2½ million if I had purchased in the black market. But you can readily see that this Chinese money, which is a fine grade of paper money, gives the individual who owns it no independence, because it has no redemptive value.

Under such conditions the individual citizen is deprived of freedom of movement. He is prevented from laying away purchasing power for the future. He becomes dependent upon the goodwill of the politicians for his daily bread. Unless he lives on land that will sustain him, freedom for him does not exist.

You have heard a lot of oratory on inflation from politicians in both parties. Actually, that oratory and the inflation maneuvering around here are mostly sly efforts designed to lay the blame on the other party's doorstep. All our politicians regularly announce their intention to stop inflation. I believe I can show that until they move to restore your right to own gold that talk is hogwash.

PAPER SYSTEMS END IN COLLAPSE

But first let me clear away a bit of underbrush. I will not take time to review the history of paper money experiments. So far as I can discover, paper money systems have always wound up with collapse and economic chaos.

Here somebody might like to interrupt and ask if we are not now on the gold standard. That is true, internationally, but not domestically. Even though there is a lot of gold buried down at Fort Knox, that gold is not subject to demand by American citizens. It could all be shipped out of this country without the people having any chance to prevent it. That is not probable in the near future, for a small trickle of gold is still coming in. But it can happen in the future. This gold is temporarily and theoretically partial security for our paper currency. But in reality it is not.

Also, currently, we are enjoying a large surplus in tax revenues, but this happy condition is only a phenomenon of postwar inflation and our global WPA. It cannot be relied upon as an accurate gauge of our financial condition. So we should disregard the current flush treasury in considering this problem.

From 1930–1946 your government went into the red every year and the debt steadily mounted. Various plans have been proposed to reverse this spiral of debt.

One is that a fixed amount of tax revenue each year would go for debt reduction. Another is that Congress be prohibited by statute from appropriating more than anticipated revenues in peacetime. Still another is that 10 percent of the taxes be set aside each year for debt reduction.

All of these proposals look good. But they are unrealistic under our paper money system. They will not stand against postwar spending pressures. The accuracy of this conclusion has already been demonstrated.

THE BUDGET AND PAPER MONEY

Under the stream-lining Act passed by Congress in 1946, the Senate and the House were required to fix a maximum budget each year. In 1947 the Senate and the House could not reach an agreement on this maximum budget so that the law was ignored.

On March 4 this year the House and Senate agreed on a budget of $37½ billion. Appropriations already passed or on the docket will most certainly take expenditures past the $40 billion mark. The statute providing for a maximum budget has fallen by the wayside even in the first two years it has been operating and in a period of prosperity.

There is only one way that these spending pressures can be halted, and that is to restore the final decision on public spending to the producers of the nation. The producers of wealth—taxpayers—must regain their right to obtain gold in exchange for the fruits of their labor. This restoration would give the people the final say-so on governmental spending, and would enable wealth producers to control the issuance of paper money and bonds.

I do not ask you to accept this contention outright. But if you look at the political facts of life, I think you will agree that this action is the only genuine cure.

There is a parallel between business and politics which quickly illustrates the weakness in political control of money.

Each of you is in business to make profits. If your firm does not make profits, it goes out of business. If I were to bring a product to you and say, this item is splendid for your customers, but you would have to sell it without profit, or even at a loss that would put you out of business—well, I would get thrown out of your office, perhaps politely, but certainly quickly. Your business must have profits.

In politics votes have a similar vital importance to an elected official. That situation is not ideal, but it exists, probably because generally no one gives up power willingly.

Perhaps you are right now saying to yourself: "That's just what I have always thought. The politicians are thinking of votes when they ought to think about the future of the country. What we need is a Congress with some 'guts.' If we elected a Congress with intestinal fortitude, it would stop the spending all right!"

I went to Washington with exactly that hope and belief. But I have had to discard it as unrealistic. Why? Because an economy Congressman under our printing-press money system is in the position of a fireman running into a burning building with a hose that is not connected with the water plug. His courage may be commendable, but he is not hooked up right at the other end of the line. So it is now with a Congressman working for economy. There is no sustained hookup with the taxpayers to give him strength.

When the people's right to restrain public spending by demanding gold coin was taken from them, the automatic flow of strength from the grass-roots to enforce economy in

Washington was disconnected. I'll come back to this later.

In January you heard the President's message to Congress, or at least you heard about it. It made Harry Hopkins, in memory, look like Old Scrooge himself.

Truman's State of the Union message was "pie-in-the-sky" for everybody—except business. These promises were to be expected under our paper currency system. Why? Because his continuance in office depends upon pleasing a majority of the pressure groups.

Before you judge him too harshly for that performance, let us speculate on his thinking. Certainly he can persuade himself that the Republicans would do the same thing if they were in power. Already he has characterized our talk of economy as "just conversation." To date we have been proving him right. Neither the President nor the Republican Congress is under real compulsion to cut Federal spending. And so neither one does so, and the people are largely helpless.

But it was not always this way.

Before 1933 the people themselves had an effective way to demand economy. Before 1933, whenever the people became disturbed over Federal spending, they could go to the banks, redeem their paper currency in gold, and wait for common sense to return to Washington.

RAIDS ON TREASURY

That happened on various occasions and conditions sometimes became strained, but nothing occurred like the ultimate consequences of paper money inflation.

Today Congress is constantly besieged by minority groups seeking benefits from the public treasury. Often these groups control enough votes in many Congressional districts to change the outcome of elections. And so Congressmen find it difficult to pursuade themselves not to give in to pressure groups. With no bad immediate consequence it becomes expedient to accede to a spending demand. The Treasury is seemingly inexhaustible. Besides the unorganized taxpayers back home may not notice this particular expenditure—and so it goes.

Let's take a quick look at just the payroll pressure elements. On June 30, 1932, there were 2,196,151 people receiving regular monthly checks from the Federal Treasury. On June 30, 1947, this number had risen to the fantastic total of 14,416,393 persons.

This 14½ million figure does not include about 2 million receiving either unemployment benefits or soil conservation checks. However, it includes about 2 million GI's getting schooling or on-the-job-training. Excluding them, the total is about 12½ million or 500 percent more than in 1932. If each beneficiary accounted for four votes (and only half exhibited this payroll allegiance response) this group would account for 25 million votes, almost by itself enough votes to win any national election.

Besides these direct payroll voters, there are a large number of State, county and local employees whose compensation in part comes from Federal subsidies and grants-in-aid.

Then there are many other kinds of pressure groups. There are businesses that are being enriched by national defense spending and foreign handouts. These firms, because of the money they can spend on propaganda, may be the most dangerous of all.

If the Marshall Plan meant $100 million worth of profitable business for your firm, wouldn't you invest a few thousands or so to successfully propagandize for the Marshall Plan? And if you were a foreign government, getting billions, perhaps you could persuade your prospective suppliers here to lend a hand in putting that deal through Congress.

TAXPAYER THE FORGOTTEN MAN

Far away from Congress is the real forgotten man, the taxpayer who foots the bill. He is in a different spot from the tax-eater or the business that makes millions from spending schemes. He cannot afford to spend his time trying to oppose Federal expenditures. He has to earn his own living and carry the burden of taxes as well.

But for most beneficiaries a Federal paycheck soon becomes vital in his life. He usually will spend his full energies if necessary to hang onto this income.

The taxpayer is completely outmatched in such an unequal contest. Always heretofore he possessed an equalizer. If government finances weren't run according to his idea of soundness he had an individual right to protect himself by obtaining gold.

With a restoration of the gold standard, Congress would have to again resist handouts. That would work this way. If Congress seemed receptive to reckless spending schemes, depositors' demands over the country for gold would soon become serious. That alarm in turn would quickly be reflected in the halls of Congress. The legislators would learn from the banks back home and from the Treasury officials that confidence in the Treasury was endangered.

Congress would be forced to confront spending demands with firmness. The gold standard acted as a silent watchdog to prevent unlimited public spending.

I have only briefly outlined the inability of Congress to resist spending pressures during periods of prosperity. What Congress would do when a depression comes is a question I leave to your imagination.

I have not time to portray the end of the road of all paper money experiments.

It is worse than just the high prices that you have heard about. Monetary chaos was followed in Germany by a Hitler; in Russia by all-out Bolshevism; and in other nations by more or less tyranny. It can take a nation to communism without external influences. Suppose the frugal savings of the humble people of America continue to deteriorate in the next 10 years as they have in the past 10 years? Some day the people will almost certainly flock to "a man on horseback" who says he will stop inflation by price-fixing, wage-fixing, and rationing. When currency loses its exchange value the processes of production and distribution are demoralized.

For example, we still have rent-fixing and rental housing remains a desperate situation.

For a long time shrewd people have been quietly hoarding tangibles in one way or another. Eventually, this individual movement into tangibles will become a general stampede unless corrective action comes soon.

IS TIME PROPITIOUS

Most opponents of free coinage of gold admit that that restoration is essential, but claim the time is not propitious. Some argue that there would be a scramble for gold and our enormous gold reserves would soon be exhausted.

Actually, this argument simply points up the case. If there is so little confidence in our currency that restoration of gold coin would cause our gold stocks to disappear, then we must act promptly.

The danger was recently highlighted by Mr. Allan Sproul, President of the Federal Reserve Bank of New York, who said:

> "Without our support (the Federal Reserve System) under present conditions, almost any sale of government bonds, undertaken for whatever purpose, laudable or otherwise, would be likely to find an almost bottomless market on the first day support was withdrawn."

Our finances will never be brought into order until Congress is compelled to do so. Making our money redeemable in gold will create this compulsion.

The paper money disease has been a pleasant habit thus far and will not be dropped voluntarily any more than a dope user will without a struggle give up narcotics. But in each case the end of the road is not a desirable prospect.

I can find no evidence to support a hope that our flat paper money venture will fare better ultimately than such experiments in other lands. Because of our economic strength the paper money disease here may take many years to run its course.

But we can be approaching the critical stage. When that day arrives, our political rulers will probably find that foreign war and ruthless regimentation is the cunning alternative to domestic strife. That was the way out for the paper-money economy of Hitler and others.

In these remarks I have only touched the high points of this problem. I hope that I have given you enough information to challenge you to make a serious study of it.

I warn you that politicians of both parties will oppose the restoration of gold, although they may outwardly seemingly favor it. Also those elements here and abroad who are getting rich from the continued American inflation will oppose a return to sound money. You must be prepared to meet their opposition intelligently and vigorously. They had 15 years of unbroken victory.

But, unless you are willing to surrender your children and your country to galloping inflation, war and slavery, then this cause demands your support. For if human liberty is to survive in America, we must win the battle to restore honest money.

There is no more important challenge facing us than this issue—the restoration of your freedom to secure gold in exchange for the fruits of your labor.●

DeCONCINI AMENDMENT TO GIVE LAW ENFORCEMENT OFFICERS ACCESS TO A PERSON'S TAX RETURNS WITHOUT A COURT ORDER REJECTED

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. STARK. Mr. Speaker, I am delighted to hear that my colleagues in the U.S. Senate Tuesday rejected, 65 to 8, an amendment by DENNIS DECONCINI that would have effectively overturned a law protecting citizens against Government witch hunts into individual tax returns. The defeated amendment would have required the IRS to disclose tax return information to any Federal agency upon written request. It would have eliminated current legal requirements that an agency seeking the information must obtain a court order, show that the information cannot be obtained from other sources, use the information only as evidence of criminal wrongdoing and not for other investigative purposes. To issue an order under current law, a U.S. district court must determine that the tax return is likely to provide criminal evidence and that the information cannot reasonably be gotten from any other source.

As a right to privacy proponent, the proposal, instigated by the Justice Department, wrongly chips away at private rights in order to make life easier for Federal investigators. But, one must ask, how about the private citizen? Does he or she not have the right to know when and why someone wants to look at their tax return and to argue against permitting such an intrusion?

Again, I want to applaud my colleagues in the Senate for rejecting an amendment which would have effectively eliminated one of the most significant confidentiality protections of the Tax Reform Act of 1976.●

THE IRAN SITUATION—A GRASSROOTS RESPONSE

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. TAUKE. Mr. Speaker, the critical, dangerous situation which continues to unfold in Iran, has been felt in the hearts of every American. We read our newspapers, listen to our radios, and watch our televisions, hoping for a breakthrough.

The media, however, oftentimes neglects to show us the efforts and feelings of thousands of Americans who, on the grassrots level, are protesting peacefully the shocking tragedy which is taking place in Tehran.

Such an effort has occurred in my hometown of Dubuque. Radio station WDBQ called upon the residents of the community and surrounding area to join together in a show of strength to voice their support of our Government's action in trying to free the remaining fifty American hostages.

For 2 days, on December 1 and 2, WDBQ personnel called upon their listeners to band together in signing a letter voicing support of our Government.

Did the residents of Dubuque and the surrounding area respond? They certainly did; 4,215 citizens signed that letter. In addition, a petition was circulated throughout the student body of Stephen Hempstead High School in Dubuque with 860 students endorsing the efforts of America's leaders in trying to end this appalling situation.

I, along with my colleague from the eastern bank of the Mississippi River, Wisconsin Congressman ALVIN BALDUS, also cosigned the letter.

As Phillip Kelly, president and general manager of WDBQ stated:

> We know that this (letter) in itself is not enough to free the American hostages, but it does show that the people of Dubuque, Iowa, a great American city, and the people of the surrounding area, do care. You have our support.

Mr. Speaker, this grassroots effort, expressing the beliefs and feelings of thousands of Americans, along with similar peaceful attempts elsewhere in our Nation, should not go unnoticed. I would like to share with my colleagues the letter pleading with the Iran Government to "Let Our People Go."

> WDBQ,
> *Dubuque, Iowa, November 30, 1979.*
>
> Sirs: We address you from Dubuque, Iowa, a city located in the Mid Western United States, a community on the banks of the mighty Mississippi River. Dubuque is in a region comprised of people with roots in the soil of three great American states, Iowa, Wisconsin and Illinois.
>
> We Americans, who have for so long been looked to as quote, "The bread basket of the world" end quote, who have taken our mission of providing food and fiber to the disadvantaged millions of this planet as a noble unquestioned responsibility, no matter the political leaning or the strategic alignment of the recipient. We American people are outraged by the reprehensible and totally unjustified taking of innocent American hostages at our embassy in Tehran. We join our government in demanding their immediate release.
>
> We support our government in its efforts to secure that release, and we will continue to support our government when it acts to insure that such a dastardly undertaking will never again be precipitated against any duly appointed emissary of any nation, in any embassy on the globe. We Americans have, and will continue to endure the brickbats of world opinion thrown against this nation for whatever the reason. We will quote, "turn the other cheek", end quote, when placards are raised, chants are orchestrated, oil is withheld, even when our own precious flag is burned. We won't like it, but we will watch it all with restraint.
>
> But make no mistake, when any foreign government actively supports and participates in the uncivilized violation of our single outpost of reason and communication with another people, we will no longer stand idly by, no longer endure, no longer turn the other cheek, for such action is considered by us, the American people, to be an act of aggression against our sanctity as a nation, and indeed against the sanctity of civilization itself.
>
> We address you as a free people, free to address you in any way we see fit, a people who need no guidance from our government in what to say, or how to say it, for we speak with one calm but clear and unmistakable collective voice. You can hear it in our church bells.
>
> Let our people go. Now.●

THE PRESIDENT'S MILITARY BUDGET CONTRADICTS THE PRESIDENT'S HUNGER COMMISSION

HON. RICHARD NOLAN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. NOLAN. Mr. Speaker, on Monday of this week, President Carter accepted the first report of the President's Commission on World Hunger. As a member of the Commission, I listened to him tell us he was "excited and pleased" about embarking on a project to help end hunger and malnutrition in the world by the year 2000. He assured us that all members of his administration will participate enthusiastically in implementing the recommendations.

Our report to the President clearly concluded that the present U.S. policy of encouraging the arms race and flooding developing nations with military hardware is endangering the security of the United States and the peace of the world, because in the process we are fueling revolutions and anti-American sentiment by neglecting the food and development needs of billions of hungry, needy people. I left the White House on Monday optimistic about new directions in American policy.

On Thursday, the President announced his plan to increase the military budget by almost $30 billion next year, with more huge increases over the next 5 years. Apparently, the President is harboring the ridiculous notion he can convince individuals like BARRY GOLDWATER and Ronald Reagan to support the SALT II Treaties.

By accepting the Hunger Commission's report, and then announcing the new defense budget request, the President has further eroded his own credibility. Clearly, he does not intend to take the Hunger Commission's recommendations seriously. Instead, he plans to continue a suicidal policy of fueling the international arms race with billions of dollars more of inflationary, unnecessary, military spending which will render the SALT II Treaties useless even if the Senate does ratify them.

The Commission's report states that:

> Promoting economic development in general, and overcoming hunger in particular, are tasks far more critical to the U.S. national security than most policymakers acknowledge or even believe. Since the advent of nuclear weapons most Americans have been conditioned to equate national security with the strength of strategic military forces. The Commission considers this prevailing belief to be a simplistic illusion. Armed might represents merely the physical aspect of national security. Military force is ultimately useless in the absence of the global security that only coordinated international progress toward social justice can bring. The Commission is firmly convinced that a major worldwide effort to conquer hunger and poverty, far from being a gesture of charity to be offered or withheld according to temporary political whims, holds the key to both global and national security. The most potentially explosive force in the world today is the frustrated desire of poor people to attain a decent standard of living. The anger, despair, and often hatred that result represent real and persistent threats to international order.

History has shown us it is impossible to give the world both guns and butter. President Carter, despite 15 months of work by his own Commission on Hunger, has chosen to continue to give the world guns. He will bear the consequences of that decision, as will our entire Nation, and a world which continues to spend, collectively, $400 billion annually on weapons of destruction, while billions of people go hungry or starve to death.●

NICARAGUA—PART VI: THE REVOLUTION AND NEIGHBORING LANDS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. HAMILTON. Mr. Speaker, news reports with Central American datelines have given us little comfort in recent months. The Nicaraguan revolution, notable for its ferocity if not its duration, dominated the wires and airwaves through early summer. Late summer and fall brought further stories of social instability and economic hardship as the Nicaraguan people struggled to pick up the pieces of a shattered nation. The news from Nicaragua alone overshadowed, but did not completely obscure, ominous reports from El Salvador, Guatemala, and Honduras, Nicaragua's northern neighbors on the Central American isthmus.

It is no exaggeration to say that Central America's "northern tier" of nations is simmering with unrest. Social fragmentation, economic distress, underdevelopment, and slow political change are just a few of the factors that could bring unrest in the region to a boil.

The situation in tiny but populous El Salvador has been especially critical. Unchecked violence on both the left and right caused the Salvadoran military to move against the government of President Carlos Humberto Romero in mid-October, replacing it with a five-member junta of civilians and soldiers.

The Salvadoran coup d'etat has been greeted with enthusiasm by some, but others have not been so sanguine about its chances for success. No one can discount the view that the coup, like political assassinations in Guatemala or shooting incidents on the borders of Honduras, may simply be another turn in a rising spiral of regional turmoil.

Members of the congressional mission to Nicaragua were well aware of the generally volatile conditions in Central America today. We were determined to convince our Nicaraguan hosts that their attitudes toward regional tension would do much to shape American attitudes toward their revolution.

Of special concern to us were unsubstantiated reports that Nicaragua might be "exporting" its revolution with the aid of Cubans who were in the country training guerrillas. Directorate member Tomas Borge, who heads the national police in his capacity as interior minister and serves as a deputy commander of the Sandinista armed forces, denied as absolutely false the allegation about the presence of Cubans to train guerrillas, and he added that at no time had the new government considered revolutionary involvement in any other nation. He offered the oath that Nicaragua would never take part in other revolutions.

Mr. Borge told us of Sandinista soldiers who had been detained on his orders because of their intention to forment revolution abroad. He noted as well that foreign nationals who fought on the side of the Sandinistas had already been asked to leave the country. Mr. Borge's opinion of Nicaragua's military requirements expressed a clear preference for a small, highly trained force armed with denfensive weapons, not offensive ones.

Another of our hosts, directorate member Bayardo Arce, denied that Nicaragua was interfering in the affairs of other nations, and he sugested that we take into account the sources of such rumors. It was his idea that the rumors were launched by Nicaragua's enemies to lower Nicaragua's standing with its neighbors.

Nicaragua's attitudes toward tension in the national life of its neighbors are of paramount importance to the United States. Its commitment to and practice of the principle of noninterference would lay the groundwork for close ties between our two countries.

However, any attempt by Nicaragua to serve as a platform for agents of violent change in the region would constitute a challenge to the interests on the United States. We must have more than verbal assurance that noninterference will be the policy of Nicaragua leaders. We must see the policy of noninterference at work in the thinking and action of the new government.

To begin, the history of Nicaragua tells the new government that it has a vested interest in seeing that the principle of noninterference is followed. Indeed, if the new government is as sensitive to the past as it appears to be, its desire to promote a climate of noninterference may very well be greater than that of any other government in the hemisphere.

I believe Nicaraguan leaders know that they can best insure the inviolability of Nicaragua by accepting the inviolability of other nations. The questions they asked us about American intentions toward them are reason enough to think so.

Another factor looms just as large in these considerations. All Nicaraguan physical and mental energies are currently being channeled into a reconstruction effort so massive that it almost seems too much for that high-spirited people. Social reconstruction is to begin with a nation-wide literacy campaign and the establishment of a uniform health care delivery system. Economic reconstruction will require new programs of repair and recapitalization in agriculture, mining, manufacturing, retailing, and other commercial sectors.

Political reconstruction awaits a census, the formation of political parties, and various rounds of elections. There are, in addition, serious problems with common crime in the city and guerrilla activity in the countryside. To anyone who has seen the battered face of Nicaragua, the argument that the nation might now embark on foreign military adventures is less than persuasive.

There is good reason to believe that prudence and necessity are combining to influence Nicaragua's actions with respect to its neighbors. On November 22, just 4 days after the departure of the congressional mission from Nicaragua, the new governments of Nicaragua and El Salvador met in Managua and issued a joint communique defining their relationship. The text touched on numerous subjects of mutual concern, but most prominent in it was the depth of commitment to noninterference.

The governments expressed their "rejection of foreign interference which encroaches on our sovereignty and the interests of our peoples," recognized "that the principle of nonintervention in the affairs of other states is essential," and proclaimed "that neither Salvadoran nor Nicaraguan territory will ever serve as a base for an attack on the other." Words of this kind, spoken in public, are not a recipe for plots or conspiracies of one country against another.

It would be naive to suppose that the Nicaraguan revolution in no way will exacerbate tensions in other parts of Central America. The example of the revolution itself will be a casual force of appreciable proportions, heightening both the fears of those in power and the hopes of those who oppose the status quo. The force of example, however, is altogether distinct from the force of arms. We will object to the latter in no uncertain terms, but the former we must accept.●

CHESTERFIELD COUNTY RALLIES TO DISPLAY PATRIOTISM

HON. DAVID E. SATTERFIELD III

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. SATTERFIELD. Mr. Speaker, last week, participants in a rally in Chesterfield County, Va., embraced the American flag with a renewed sense of patriotism. Angered by the mistreatment of the 50 Americans being held hostage in Tehran, and infuriated over the Iranian Government's flouting of international law, nearly 400 persons from all walks of life turned out for the rally at Manchester High School sponsored by the Chesterfield Unity Committee, a committee of local Democrats, Republicans, Jaycees, and representatives of veterans organizations.

Mr. Speaker, it was not just another anti-Iran demonstration. It was a deeply pro-American rally which offered visibility to the convictions held by the people of my district and the country in general that the recent conduct of the Iranian Government is intolerable, and that the official efforts of our President to obtain the safe release of the hostages must be wholeheartedly supported.

It was a joyous rally, Mr. Speaker, where the participants, instead of shouting angry slogans, raised their voices in patriotic song. Instead of taking to the streets, they took to prayer. Typical of the sentiment, obvious to all, were the words of Nathan Nelson, a former Navy diver who lost a lung while serving his country. Mr. Nelson, who carried the American flag on stage, said, "I had one hand to salute the flag. I'd like to have used the other arm to embrace it. I've never felt so close to the flag." Then there was Charles Wooldridge, a veteran who was blinded in World War II. "If we're wanted," he said speaking for members of the Disabled American Veterans Chapter 50 of Chesterfield, "we stand 350 veterans, ready to enlist."

Standing near 50 red roses, each one signifying an American hostage, was the wife of Comdr. Paul Galanti, a former prisoner of war in Vietnam. Mrs. Galanti reflected upon the similarities between Tehran in 1979 and Hanoi in 1973. In both places, she told the crowd, hostages were forced to make statements, were paraded before the cameras, and were threatened with trials. And then she made a very telling point:

> There is no doubt in my mind that the same ideology is behind these groups * * * we all know for what they stand * * * world domination, and this is one more step in their plan.

Mr. Speaker, what Mrs. Galanti says is true, and because it is true, I consider these actions by people in my district very important, for they have shown that fury can be channeled into a constructive patriotic display of support for this country and its current efforts. They have demonstrated that love of flag and country is alive and well. The example they set last night is worthy of emulation in every locality in the country. Rallies like the one in Chesterfield County send a clear signal to the world—if not to the Ayatollah Khomeini—that the American people are united in this hour of concern and that they are firm in their resolve not to knuckle under to the threats of fanatical terrrorists.●

A PROBLEM IN ADOLESCENT GYNECOLOGY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. PAUL. Mr. Speaker, the proabortionists sometimes talk as if the killing of unborn children were a positively healthy experience for the mother. Of course, every physician knows it is, in fact, just the opposite. And every honest physician will say so.

Recently, my fellow obstetrician and gynecologist, Matthew J. Bulfin, M.D., of Fort Lauderdale, Fla., wrote a very important article for the Southern Medical Journal. Dr. Bulfin discusses some of the serious complications he has seen in teenage girls who have had abortions.

There is no way of knowing the exact extent of these serious aftereffects of abortion, but we do know it is very widespread.

I would like to call this article to my colleagues' attention. Dr. Bulfin's scientific and clinical experience deserves to be taken very seriously.

The article follows:

A NEW PROBLEM IN ADOLESCENT GYNECOLOGY

ABSTRACT

(By Matthew J. Bulfin, M.D.)

As more abortions are being done on teenage girls than ever before, an unusually large number of complications are being seen by some private practitioners. Because many of these adolescent patients in whom complications develop do not return to the physicians who did the abortions, accurate data on the incidence of abortion complications are difficult to obtain. It is only reasonable that the teen-ager be given all the facts available on the significant complications of abortion and its possible effects on future childbearing.

In 1976 the United States reported the highest number of legal abortions in the world—988,267.

Of those countries which reported abortions by woman's age, the United States had the highest percentage of teen-agers (32%) who obtained legal abortion. In contrast, only 2 percent of Japanese women who obtained abortions were teen-agers.[1] Never before have teen-agers undergone abortion operations in such vast numbers, and the gynecologist in private practice is beginning to see the fallout from abortion in teen-agers.

In 1972 I began seeing a marked increase in the number of patients who had had legal abortion. At that time I also began seeing patients with significant complications after legal abortion. Because it seemed that an inordinately high number of these patients were teen-agers, I began keeping an office log with the patient's name, age, and type of complication.

During the years 1972 through 1978, I saw a total of 54 patients, ranging in age from 15 to 19, who incurred significant complications after legal abortion. There were no deaths, but several patients had complications significant enough to warrant serious concern (Table).

TABLE.—*Complications associated with legal abortion in 54 teen-age girls*

Damage to reproductive organs		23
Uterine rupture or perforation	3	
Endometritis	7	
Salpingitis, pyosalpinx	7	
Cervical lacerations	6	
Severe emotional and psychiatric sequelae		9
Hemorrhage, intractable		7
Pelvic pain and dyspareunia		6
Infertility and repeated miscarriages		4
Incomplete operations; subsequent passage of fetal parts and tissue		4
Bowel resection with colostomy		1

Some of the cases are summarized as follows:

CASE REPORTS

Case 1. A 19-year-old woman who was ten weeks pregnant had a "lunch hour" vacuum curettage abortion at a neighborhood clinic. She was released home one hour later. Low pelvic pain intensified during the ensuing hours, and her temperature was 104 F (40 C) by 7 that evening. An emergency room physician diagnosed her condition as pelvic peritonitis and transferred her by ambulance to a large teaching hospital, where perforation of the uterus with peritonitis was diagnosed. The patient was critically ill in intensive care for four days. Laparotomy had been scheduled for possible hysterectomy but was canceled when the patient began responding to massive antibiotic therapy. She was released from the hospital 12 days after admission. She required psychiatric care for subsequent depression and is still being treated for a tender adnexal mass and residual inflammatory disease.

Case 2. A 17-year-old girl, nine weeks pregnant, had a suction abortion at a local clinic. Fever, chills, and pelvic pain became progressively worse during ensuing days, and she was hospitalized when a pelvic mass failed to respond to cephalexin (Keflex) and ampicillin. Her condition deteriorated despite intensive IV antibiotic therapy, and laparotomy on the eighth day after abortion revealed a perforated uterus with massive pyosalpinx and pelvic abscesses, necessitating total hysterectomy and bilateral salpingo-oophorectomy. The patient improved steadily after operation and was discharged on the eighth day after hysterectomy.

Case 3. A 19-year-old woman, ten weeks pregnant, had suction curettage abortion at a clinic in a large metropolitan area. During the procedure, she had excruciating pelvic pain radiating to the upper abdomen. The physician stopped the operation, instituted antishock measures, and transferred her to a nearby hospital where her condition was deemed critical due to internal hemorrhage. Laparotomy revealed uterine rupture and laceration of the bowel. The uterine rent was repaired, 14 inches of bowel was resected, and a colostomy was done. The patient suffered a stormy postoperative course, was hospitalized for 41 days, and required psychiatric care after her release from the hospital.

Case 4. In a 17-year-old girl severe hysteria developed four days after a suction curettage abortion at a local clinic. Bleeding and cramping had been present daily since the abortion. When the pain became excruciating she went into her bathroom and began passing recognizable fetal parts into the toilet bowl. She fainted and was brought into the office by a neighbor. She had been told at the abortion clinic that all there was to the pregnancy was a little tissue. She could not accept the realization that she had "destroyed a baby."

Case 5. A 17-year-old girl, supposedly eight weeks pregnant, suffered cervical lacerations and severe hemorrhage after a clinic abortion. She was told that she had "twins" and that her operation was therefore more complicated and traumatic. She suffered prolonged disability, remorse, and guilt, and regretted very much having had the procedure. In the four years since the abortion she has been unable to become pregnant.

Case 6. A 16-year-old girl was seen the day after a suction curettage abortion at eight weeks' gestation. She had been bleeding since the operation. She was hospitalized because of fever, chills, pelvic pain, and a purulent discharge. A right adnexal mass was palpable. Intensive intravenous antibiotic therapy was continued for four days, when culture of the vaginal discharge was reported positive for gonorrhea. She evidently had had acute gonorrhea when the abortion was done, and though she recovered, pelvic pain, tenderness, and dyspareunia persisted for many months afterwards.

Case 7. A 16-year-old girl, coerced by her parents to have a suction abortion at ten weeks' gestation, suffered cervical laceration and hemorrhage, for which reparative surgery was done six hours after the abortion. The patient was hospitalized for five days. She subsequently married the boy who was responsible for her pregnancy, and during the ensuing three years the patient had two miscarriages. She harbors deep resentment and bitterness toward her parents.

DISCUSSION

Of the 54 teen-age patients seen with significant complications after legal abortions, one factor common to all of them stands out. None of them felt they had been afforded any meaningful information about the potential dangers of the abortion operation. Incongruously, some had actually stopped the birth control pill because they had read that it was "too dangerous," believing that since abortion was legal, it had to be safe.

The diversity of complications that can occur in teen-age girls after legal abortion is startling. Although the exact number of significant complications will never be known, it would be most helpful if private physicians had available means of reporting such complications. Serious complications and even deaths may go unreported for the following reasons:

(1) There is no mandatory reporting of legal abortions and their sequelae in most states.

(2) Often the physician who does the abortion never knows of his complication, as the patient will often go to the emergency room of the nearest hospital with her problem.

(3) Vital facts may be omitted from death certificates.

(4) The average physician will not report the complication because of the paperwork involved.

The teen-ager, frightened and mentally and physically traumatized by her abortion will often not seek help until she is almost moribund. Her parents may be the last to know. If the family does become aware of her complications they may not want any publicity or further embarrassment to occur.

More teen-agers are having abortions in the United States now than in any other country in the world. Many of them are foregoing oral contraception because of the avalanche of adverse publicity concerning its potential and theoretic dangers and side effects. Some teen-agers actually believe abortion is safer than the pill. It is hoped that the Department of Health, Education, and Welfare is fully apprised of this most recent trend with all its far-reaching implications.

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[1] Center for Disease Control: *Abortion Surveillance 1976*, issued August 1978. US Department of Health, Education, and Welfare, Public Health Service.

The teen-age girl, pregnant and about to undergo an abortion, certainly should have the right to know the risks to her health and well-being and future reproductive capabilities as a result of this elective procedure.

The same amount of educational information should be available to teen-age girls concerning the inherent dangers of the abortion operation as is available to them regarding the dangers and side effects of the birth control pill so that the teen-ager may be able to render a truly informed consent when she is confronted with the abortion decision.●

LOCAL INVOLVEMENT IN ENERGY SOLUTIONS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. PATTERSON. Mr. Speaker, with all talk about solutions for our energy problems these days, I have noticed that very little attention has been focused on local involvement, yet, many of these solutions will have to be implemented at the local level under the direction of our community leaders.

Today, at the Senate Banking Committee's hearing on the relationship of energy to community planning and development, an outstanding community leader from the city of Garden Grove, Calif., Councilman Leonard Holland testified on Garden Grove's involvement with the General Motors Corp. on an urban assessment project. This multiyear project, which is sponsored jointly by GM and a selective group of local governments, is directed at collecting data on energy use and developing contingency responses to potential short-term crises and long-range energy planning. Councilman Holland also spoke about the need for legislation to an energy block grant program, modeled similarly to the community development block grant program.

Mr. Speaker, for the benefit of my colleagues, I am submitting a copy of Councilman Holland's testimony and I ask my colleagues to join me in commending Councilman Holland for his efforts in getting local governments involved in solving the energy crisis:

TESTIMONY OF MR. LEONARD HOLLAND, COUNCILMAN, GARDEN GROVE, CALIF.

(On behalf of Cities of Anaheim, Costa Mesa, Fullerton, Garden Grove, La Habra, Orange, and County of Orange, Calif.)

On S. 2095, the Comprehensive Local Energy Block Act of 1980.

Before the Subcommittee on Housing and Urban Affairs, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, December 13, 1979.

Mr. Chairman and Members of the Subcommittee, my name is Leonard Holland, City Councilman from Garden Grove, California. I'm speaking today for a group of local governments in the Orange County, California area currently working with the General Motors Corporation on an Urban Energy Assessment Project. Other Orange County participants include the cities of Anaheim, Costa Mesa, Fullerton, La Habra, Orange and the County of Orange. GM is also working in this pilot project with groups of local governments in the Fort Lauderdale, Florida and suburban Chicago areas.

Although we are still in the initial stage of a multi-year project which began this past summer, our discussions with federal officials concerned with energy suggest that the project concept and some of our initial experience may be pertinent to federal policy development regarding local government roles in energy. General Motors officials were unable to participate in today's hearing, but we would like to offer you some perceptions on the project from the local government perspective.

Let me outline briefly what's involved in the Urban Energy Assessment Project. In the initial phase, GM staff are inventorying and refining data on energy use. What kind of energy are we using, who has been using it and for what purpose, and what is likely to develop in the future in terms of need, availability, cost, etc.? In the course of this analysis, the GM staff are working with us to identify key problems. In subsequent stages of the project, the staff will develop methodologies for policy analysis and assist in developing contingency responses to potential short-term crisis and longer-range energy futures for our area. The basic objective is to make some sense of the very complex information about energy prospects, and provide our local decision-makers with the means to make some good decisions to secure longer-range economic and social well-being for our communities. Most of the project work is being conducted by GM staff. Each of the participating local governments is paying approximately $3,500 towards covering project costs. General Motors will be contributing at least double the local government contributions.

Why is General Motors investing in this kind of effort? The Committee may wish to explore this question with GM representatives at some later date. Our understanding is that at least three points are involved:

First. GM is interested in exploring whether there is a viable market for assistance to other local governments using the approaches developed in this pilot project.

Second. In the course of the project, the Corporation will be identifying possible commercial applications of technologies and products of the various GM divisions.

Third. Because of the wide range of GM operations located in communities across the country, the Corporation recognizes a general, long-term common interest with cities and counties in improved local government energy management. Regarding the preservation of local economies and quality of life in the face of increasingly severe energy problems, the public and private sectors will have far more common concerns than differences.

Our own motivation for participation in the project is basically to tap into the substantial resources and expertise of a major private corporation and focus them on our local energy problems. The name General Motors naturally suggests automobiles, and we are interested in adapting GM research in such areas as alternative fuels to achieve greater energy efficiency in our own vehicle fleets. We think the potential payoff from the project goes well beyond that, however. Let me suggest a few examples:

Like most major private corporations, GM has been pursuing an aggressive program of energy conservation in its own operations in recent years. Since 1972, in spite of major expansions in jobs, output, and space utilization, GM has reduced overall energy use by 16 percent through conservation efforts, saving the equivalent of 1.2 million barrels of oil. In-house conservation will be a major element in our own energy strategies. We think GM expertise will be applicable to many of our operations, and we want to use it.

In addition, various GM divisions are involved in such areas as solar and waste heat utilization equipment, standby generators and co-generation facilities, and other energy-related products.

The assessment project has introduced us to GM personnel with expertise in these various areas, and we are already discussing some specific applications.

How does this relate to the topic of energy and community development? We are enthusiastic about S. 2095 and similar proposed legislation to create an energy block grant program modeled on the Community Development Block Grant program. CDBG has been enormously successful in our communities in encouraging and supporting a local government leadership role in combating urban deterioration. We see a similar opportunity and need regarding energy. Let me emphasize three points in this regard:

First, public/private partnership.—With active encouragement from the Department of Housing and Urban Development, CDBG funds have given us the resources to take a lead role in focusing private sector expertise and resources on priority redevelopment needs. We have developed increasing sophistication in using limited public funding to leverage substantial private investment. Our work with GM and with local utilities and financial institutions suggests a similar opportunity exists regarding energy.

Second, the question of local government capacity.—While all of our cities have staff working on various energy-related issues, none have people with the time and expertise to support our elected officials in developing and implementing overall energy strategies. Limited local resources will handicap us in developing the needed capacity.

Third, energy block grants would be an opportunity to move on local strategies for concurrent planning and action.—We need the analysis and planning the GM assessment project will provide, but we don't have to wait for completed planning documents to begin acting. For example, we are putting together a project to improve financing available to homeowners for conservation measures.

We want to package available loan funds from utilities and financial institutions with some public funds to leverage more attractive terms. We are also exploring a marketing arrangement for GM solar equipment which could further reduce homeowner costs. We think local government leadership in packaging this type of project can accelerate conservation action substantially, and we have developed expertise and relationships with the private sector through similar programs for housing rehabilitation which will be helpful.

However, the limited funding we can divert from CDBG and local funds will fall short of the opportunity and the need. Energy block grants would be an ideal mechanism to meet local government needs for both planning and immediate action.

In conclusion, our experience suggests that the opportunity for effective local government leadership is there, particularly with regard to coordinating public and private resources to achieve energy goals. We will do what we can with the limited resources we have. Energy block grants would move the process ahead much faster, and we strongly support legislation to create such a program.●

DEFENSE EXPENDITURES AND SALT II

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. KEMP. Mr. Speaker, the proposed defense budget for fiscal year 1981 and the outcome of SALT II ratification debate are very much intertwined. To a considerable extent, the SALT II-Defense budget debate has been conducted in terms of specified increases in aggregate defense expenditure. Aggregate expenditure does not improve the U.S. defense posture—only defense programs do that. The budget proposals made by the President, and amplified by Secretary Brown in his testimony before the Senate Armed Services Committee are pitifully short on a programmatic response to the defense environment the United States will face in the coming decade.

Nowhere is the lack of an adequate programmatic response more evident than in the realm of strategic forces. Few of the major strategic nuclear initiatives will be available for deployment before the mid 1980's (the sole exception being the air-launched cruise missile); well beyond the time when the gravest danger will appear. A leading specialist in the field of strategic nuclear warfare, Francis P. Hoeber, has produced an essay drawn from a forthcoming book that considers the serious extent of our military dilemma, and proposes viable and reasonable solutions which can affect our strategic nuclear posture far sooner than the program offered by the administration in their fiscal year 1981 defense budget and 5-year defense program. The text of Mr. Hoeber's essay was published in the October 1979 issue of the National Security Record of the Heritage Foundation.

The essay follows:

DEFENSE EXPENDITURES AND SALT II*

For some years, since Viet Nam first diverted funds from strategic forces and then turned the public against all things military, the defense budget has been a political orphan. Some dramatic event that would change this apathy has been awaited by those who have long been concerned about the approaching Soviet strategic superiority in the early 1980s. Surprisingly, such an undefined but hoped-for "event" came in July, in the form of the debate in the Senate on the SALT II Treaty. It was brought out in the debate that it was not SALT but U.S. actions (and non actions) that had brought about the Soviet strategic superiority of the early 1980s, codified in SALT II as "parity" was in SALT I.

SELF-IMPOSED U.N. INFERIORITY

These actions started with the insistence by McNamara in the 1960s that the Soviets had "given up the quantitative" race with the United States and that they would stop building when they caught up with us, establishing a stable state of "Mutual Assured Destruction." Throughout the 1960s and 1970s a series of underestimated "National Intelligence Estimates" (NIEs) were produced to rationalize this position. Not only were further quantitative increases in strategic systems abjured in this country, but qualitative improvements were postponed as well, especially in the realm of increased accuracy, which might seem to threaten a "destabilizing" first strike capability.

With the signing of the ABM Treaty in 1972, alleged to confirm Soviet acceptance of Mutual Assured Destruction and its underlying mutual-hostage assumption, strategic defenses were also abandoned by the United States, despite palpable Soviet emphasis on such defenses.

The trend toward Soviet superiority was accelerated in the late 1970s by a series of Administration decisions to cut U.S. strategic programs unilaterally, without waiting on or attempting arms control bargaining: cancellation of B-1 procurement; delay in the cruise missile, MX, and Trident programs; closing of the Minuteman III production line; and rejection of the neutron bomb.

DEFENSE SPENDING—DIVERTING THE ARGUMENT

Senator Nunn was the first to dramatize the issue by his demand for a 4 to 5 percent real increase in the defense budget before he would consider voting for ratification of the Treaty. At the time of this writing, the Administration has replied in effect, "Billions for defense, not one point over 3 percent in tribute for SALT." But the political battle lines have been drawn; with an assist from the Soviet by their actions in Cuba, the debate will apparently be shifted for a time from the terms of SALT II to the question of what the U.S. must do to redress the balance and restore an adequate line of U.S. deterrence/defense.

While the nation has benefited from the renewed emphasis on defense expenditures, several problems exist with the approach of only specifying a percentage increase in spending:

(1) It is politically vulnerable to the familiar charge that "throwing money at problems doesn't solve them."

(2) Four to five percent may not be enough.

(3) Even if it proves to be enough, it won't make a bad treaty good—the inequities, omissions, and unverifiabilities of the Treaty should still be examined and amendments/reservations to remove them considered on their merits.

(4) A percentage increase, without specification of its use, may be quickly dissipated, primarily to the general purpose forces and their support.

(5) Most importantly, it won't work.

Point 5 refers not to the President's opposition, or the possibility that the Treaty might be purchased with promises on which delivery would not be made, but rather to some built-in problems that operate against the specified increase being realized. It has been widely pointed out that inflation is likely to exceed predictions and may thus swallow up the intended real, or constant dollar, increases. This is exactly what happened to the 3 percent increase promised in 1977 in agreement with NATO.

There is an institutional explanation for these problems. The Director of the Office of Management and Budget (OMB) issues guidelines for estimating inflation, and the DOD Comptroller issues specified directives for the factors to be used in estimating defense costs. (The latter has been done since 1972, when "then-year" costing of long-term programs was mandated by a Congress exasperated by weapons system cost overruns.) Now, clearly, in an inflationary period, the Director of OMB—or any other representative of the Administration—cannot say, "Our attempts to fight inflation are not going to work. The President has issued 7 percent wage price guidelines, but inflation will be 12 percent." This would be a self-fulfilling prophecy—both the unions and corporations would see to that. The official government estimates become part of the inflation fight, however unconvincing they may be. This is a venial fact of life in a world of uncertain economic behavior and unpredictable inflation rates.

AN ALTERNATIVE APPROACH: THE IMPORTANCE OF NAMING PROGRAMS

Fortunately, there is a better way to deal with our strategic problems. Henry Kissinger mentioned it in his subsequent SALT II testimony. NSR touched on it in its August issue. The better way is to examine what is needed for defense and then to demand that the appropriate programs be funded. DOD can estimate what they will cost, and the Congress can evaluate whether restoring the health of U.S. defense is worth it. Congress can also consider whether savings are available elsewhere, although in general one asks, if so, why have not the other measures already been considered?

The August issue addressed the most important single problem of the strategic forces in the 1980s, that of the vulnerability of the ICBM force, and pointed out that there are ways to decrease that vulnerability. These ways have been developed for the MX, or the next-generation ICBM, full development of which was recently approved by President Carter. But the MX will be available in the *late* 1980s, *after* the SALT II Treaty expires (December 31, 1985). It is therefore necessary to proceed with a "multiple aim point" system for the Minuteman. Such a system appears to be feasible at a cost of not more than 3 to 4 billion dollars over three years.

NSR also advocated systems which would give the Minuteman III enough accuracy to have a hard target kill capability, which brings us to the necessity to abandon the declaratory policy of Assured Destruction, as was done in a vague way in the DoD *Annual Report* for FY 1980. This means not ceding to the Soviet Union the sole right to a counterforce capability, which the United States must also have if its "extended deterrence" is to be credible to its NATO allies. Doctrinal change, which can contribute to restoring the balance and to making deterrence more credible, does not come free of cost but requires additional expenditures for better intelligence on Soviet targets and better command and control for U.S. forces, as well as adequate accuracy/yield combinations in our ICBMs. These additional strategic programs deserve from $500 million to $1 billion per year over the next three years.

The U.S. should also immediately re-open the Minuteman III production line to give it the option of deploying more MIRVed ICBMs. The cost for re-opening production of Minuteman III missiles would be $200–$400 million per year.

Other options should also be considered. The SALT I Interim Agreement on Strategic Offensive Arms, the Vladivostok Accords and the SALT II Treaty all apply to the control of offensive forces only. The Soviet Union, but not the United States, has pursued strategic defense as well as offense throughout the SALT period, with the prospect of considerable success, since it is designing defenses against known, not unknown, offensive forces. The effectiveness of our interior strategic offensive forces (SOF) under SALT II would be further degraded by these Soviet defenses. It behooves the United States, therefore, to do two things: (1) improve our capability to penetrate Soviet defenses; and (2), rebuild *our* defenses.

On (1), we note that even the U.S. SOF numbers in the "Data Base" appended to the SALT II Treaty have been exaggerated. We have claimed 573 heavy bombers—230 of which are mothballed B-52s, many of them partially cannibalized and none fit for restoration to combat service, even though we have acceded, so far, to the exclusion of the Backfire and other "medium" bombers, which would have a free ride against the negligible U.S. air defenses. We can only assume that this exaggeration of the size of our bomber force was to reassure the American public, not to fool the Soviet negotiators.

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* Note: The above is largely excerpted from a chapter by Francis P. Hoeber in a forthcoming book, ***Arms, Men and Military Budget: Issues for Fiscal Year 1981***, by Francis P. Hoeber, Norman Polmar, and William Schneider, Jr. Mr. Hoeber is the President of Hoeber Corp., Arlington, Virginia.

An important next step, therefore, is to promptly reinstitute the B-1 bomber program. Production will not be as easy as in 1977, when the leadtime was estimated at thirty-two months, because work forces and subcontractors have been dispersed; nevertheless, under pressure, with full government backing ("DX Priority"), that leadtime could probably still be achieved. Thus, in 1932, with the strategic balance nearing its worst, the B-1 could start coming on line. Moreover, the B-1 could be built in several versions, with little additional R & D and great commonality, permitting "learning curve" cost savings on a large portion of total costs. A sensible program would be:

Start with penetrating B-1s, as now designed and tested;

Build some B-1 cruise missile carriers, to be available not long after the first cruise missiles are available in quantity;

Build a cheaper B-1 (by some thirty percent) optimized for high-altitude subsonic cruise with minimum fuel consumption and tanker requirements (tankers being a current high-cost, high-risk component of the bomber force);

Build a few B-1s with the high-altitude supersonic capability (Mach 2.2, as originally planned and then reduced for minor cost savings).

This mix would stress Soviet air defenses to the maximum, retaining the low-altitude penetration capability, with short-range attack missiles (SRAMs) for defense suppression, adding the stand-off cruise missile capability for high-altitude attack to force the flushing of interceptors prematurely (to avoid destruction on the ground) and thus disrupt defense planning. The program would also decrease the burdensome and risky tanker requirements. All versions of the aircraft would have the advantage of greater pre-launch survivability against SLBM attack, for which the B-1 was designed (nuclear hardness; quick take-off; ability to use shorter, more numerous runways than the B-52).

Such a force would be economical, taking advantage of (1) the $5.9 billion of past, "sunk" B-1 RDT & E costs, which would have to be repeated (and probably exceeded) to develop a new bomber for the 1990s and to develop or adapt an inferior cruise missile carrier for the 1980s; and (2) a great deal of commonality among the several types of aircraft, which could be built in one facility, with much common tooling and "learning curve" savings on the common engines, wings, empennage, most of the fuselage, landing gear, and some of the avionics. The original program number of 244—pulled out of the air at the time—would not have to be decided on now. The potential would exist for building that number or more, and the Soviets would know it during the SALT II negotiations. The average annual cost of these B-1 programs over the next three years would range from $1.0-$1.5 billion per year.

THE NEED FOR STRATEGIC DEFENSES

The U.S. inferiority on the defensive side is also a self-inflicted wound. Healing it will take time, but some things can be done rapidly. We could start by increasing the dispersal of our bomber force, including the use of inland bases. This could cost up to a quarter of a billion dollars, but it would be a one-time cost and increased operating costs would be only a few million dollars a year. Such a "passive" defense program would also make it possible to increase the alert rate of the bombers, now a nominal thirty percent, so that more could survive an SLBM attack. Given the additional runways provided by the dispersal program, higher alert rates could be achieved by spending $300-$600 milion a year on increased flight and maintenance crews as well as the fuel and maintenance costs of the flying time that would be required for crew training and readiness. However, a hidden cost would be an increase in the rate at which the aging B-52 force would wear out. Thus, this "quick fix" increases the urgency of a follow-on B-1.

Since submarines are vulnerable when in port, a comparable program of increasing the number of crews and the speed of maintenance could result in increasing the submarine at-sea rate, again at a cost of perhaps $300-$600 million per year.

We should deny the Soviet bombers a free ride by starting to rebuild our air defenses, increasing the rate of deployment of the airborne warning and control system (AWACS) and deploying F-14s, with Phoenix missiles, to replace the six squadrons of obsolete 1950s F-106s. This action would be quite outside of the SALT domain and might possibly cost 2 to 3 billion dollars per year. We should consider adding Patriot local surface-to-air missile defenses as well. (Patriot is now being developed for field—overseas theater—use only.)

We should spend perhaps another half-billion dollars annually on R & D for anti-satellite (ASAT) and antiballistic-missile (ABM) defenses. This R & D would accelerate our offsetting of the Soviet operational ASAT capability and of their large ABM R & D program which is likely to give them a capability for rapid breakout from the ABM Treaty in the 1980s.

We should also revive the moribund U.S. civil defense program. A 300-million-dollar-a-year trial balloon proposal was floated by Secretary Brown in early 1979, but President Carter withdrew his support and it has quietly floated away.

Estimated additional cost for new strategic programs, 1980–82

[Annual average in billions of 1979 dollars]

Program	*Projected annual cost**
Minuteman III/MAPS	1.0–1.3
Re-open MM III Line	.2– .4
B-1 Programs	1.0–1.5
Bomber Dispersal	.1– .2
Bomber Alert Rates	.3– .6
Submarine Alert Rates	.3– .6
Air Defenses	2.0–3.0
ASAT/ABM R & D	.5– .7
Civil Defense	3– .6
Other (C^3, etc.)	.5–1.0
Total	6.0–10.0

* These projections are cost estimates for strategic programs that could be started immediately and be funded over the next three years. The costs could rise due to an escalation in inflation or to delays in the initiation of the programs.

There *are* things that can be done. Clearly, they will cost several billion dollars per year. A 4 to 5 percent increase would be only 1 to 2 percent above the 3 percent already promised to NATO, i.e., 1¼ to 2½ billion dollars—which is not sufficient. But if a few billion dollars a year in the early 1980s will prevent Soviet superiority, they are negligible. The cost of not restoring the nuclear balance could be more conventional forces and/or loss of allies and other concessions of vital interests, i.e., *far* more costly than the above programs for the strategic forces.

SPENDING MONEY WON'T MAKE A BAD TREATY GOOD

Even if the above programs would make the U.S. strategic position more acceptable, the Treaty must still be evaluated on its merits. At a minimum, the Treaty should be revised to meet the spirit of the Jackson Amendment which required that any SALT II Treaty not set inferior levels of U.S. forces. While the numbers of permitted launchers are made equal for both sides under the Treaty, the gross inequity of permitted throw weight must be removed. The 308 "heavy" ICBMs (SS-18s) permitted to the Soviet Union and denied to the United States have twice the throw weight of the largest U.S. ICBM. The other great inequity that must be removed is the exclusion of the Backfire (and older Badger) bombers, while B-52s are included. It is contended that the Backfire is a medium bomber only and promised that it will not be used against the United States. But the Backfire, with refueling, could reach the United States, just as the B-52, with refueling, could reach the Soviet Union. The Treaty should be amended to include the Backfires and Badgers or exclude the B-52s and B-1s.

Also, we cannot allow the Soviets to be the sole judges of whether encrypted telemetry would be relevant to our verification of the terms of the Treaty.

The Protocol to the Treaty prohibits certain activities through the end of 1981. These include the deployment of surface-launched cruise missiles of greater than 600 kilometer range, a prohibition of potentially great significance for our European allies, and the testing and deployment of mobile missiles.

It is argued that we would not do these things before 1982 in any event, but this misses the point. It may be very difficult to prevent extension of the Protocol. We are today in the *eighth* year of the *five-year* Interim Agreement. No Senate "reservation" can bind future Administrations or Congresses. The Protocol should be excluded from any Senate approval of ratification.

It has been argued that these programs will be intolerable to the Soviets. The latter might increase their programs—but the CIA tells us that their economic strains are growing and limiting their capabilities for the 1980s. An alternative hypothesis has also been raised: if we threaten to close the so-called "window in time" of Soviet superiority, they may feel compelled to attack while they can. This is a dubious thesis—the Soviets cannot want nuclear war unless they perceive a vital interest that cannot otherwise be secured, and they will certainly not want a nuclear war without a large margin of superiority.

If this analysis does underestimate the risk of preemptive attack in the face of new U.S. programs, then we can only assume that the risks of being coerced by the Soviets in the 1980s are already near 100 percent. The time to counter the Soviet drive toward a usable strategic superiority is now.●

INTERNATIONAL COOPERATION IN DRUG ABUSE CONTROL

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. GILMAN. Mr. Speaker, as co-chairman of the Narcotics Select Committee's Task Force on International Narcotics Prevention and Control, I arranged for our task force to meet on October 5, 1979, with Donald McHenry, our Ambassador to the United Nations, and with several members of our delegation to the U.N.: William vanden Heuvel, Deputy Representative to the U.N.; Esther Coopersmith, Representative to the U.N. General Assembly; James Baker, Deputy Representative to the U.N. Economic and Social Council, and David Cardwell, Adviser to the Economic and Social Council.

In conjunction with our visit to the U.N., George Dalley, Deputy Assistant

Secretary of State for the Bureau of International Organizations, hosted a series of meetings with Dr. Samir I. Sobhy, Counselor, Permanent Mission of Egypt to the U.N. and Chairman of the U.N. General Assembly's Third Committee (Economic and Social); Doudou Diene, Acting Director of the UNESCO Office for Liaison with the United Nations; Padmanabh Gopinath, the International Labor Organization's (ILO) Special Representative to the United Nations; and Ambassador Coopersmith.

The purpose of our visit to the U.N. was to meet with Ambassador McHenry and our delegates to the U.N. to help raise the profile of drug-related issues before the U.N. General Assembly. We urged our representatives to bear in mind that the abuse of narcotics is an extensive problem, and that the United Nations, if it is intent upon waging "war" on drug trafficking and abuse, must develop a comprehensive, coordinated global strategy to interdict narcotics trafficking, to eradicate the illicit production of drugs at their source, to educate citizens throughout the world about the dangers of drug abuse, and to adequately treat and rehabilitate those individuals who have become dependent upon or addicted to drugs.

We also stressed the immediate need for more nations to contribute to the United Nations Fund for Drug Abuse Control (UNFDAC) and to increase their level of contributions to the Fund. We requested the implementation of U.N. Resolution 32/124 (the Wolff Resolution), pertaining to international cooperation in the treatment and rehabilitation of narcotics drugs.

On December 5, 1979, under the leadership of our delegation to the U.N., especially through the efforts of Esther Coopersmith, who personally appealed to potential supporters of the U.S. resolution promoting international cooperation in drug abuse control, the U.S. resolution was adopted by the General Assembly's Third Committee. The U.S. resolution was cosponsored by Australia, Bahamas, Denmark, Italy, Lesotho, Mali, Mauritania, Mauritius, Mexico, Morocco, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Senegal, Sinapore, Somalia, and Thailand.

I am particularly pleased to inform my colleagues that the resolution adopted included a request that the U.N. Commission on Narcotic Drugs finalize at its special session next year "a meaningful drug abuse control strategy and policies aimed at eradicating illicit demand for, production of and traffic in narcotic drugs and psychotropic substance." The resolution also expressed "its disappointment at the low levels of financial support being provided to the United Nations Fund for Drug Abuse Control and appeals to member states to make new, sustained or increased cash contributions to the Fund as well as further financial or in-kind contributions in support of its projects and activities." This appeal results from the disappointing and uncooperative attitudes by member nations which our Narcotic Select Committee has been continually voicing to leaders of the international community.

Mr. Speaker, in an effort to share with my colleagues information concerning the U.S. initiative at the U.N. to prevent and control global narcotics trafficking and drug abuse, at this point in the RECORD I am inserting the complete text of the U.S. adopted resolution, together with the supporting statement by our delegation, and I urge my colleagues to support this U.N. effort to wage "war" on the worldwide drug problem.

The material follows:

REPORT OF THE ECONOMIC AND SOCIAL COUNCIL

(International co-operation in drug abuse control: Australia, Bahamas, Denmark, Italy, Lesotho, Mali, Mauritania, Mauritius, Mexico, Morocco, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Senegal, Singapore, Somalia, Sweden, Thailand and United States of America.)

The General Assembly,

Noting the continuing spread of drug abuse in many parts of the world and its harmful impact on developing and industrialized countries,

Viewing with concern the detrimental effects drug abuse can have on all societies and individuals, particularly young people,

Recognizing that illicit traffic in drugs and the profits accruing therefrom to traffickers' criminal organizations pose a threat to the social-economic well-being of many countries and should be addressed through development assistance programmes together with intensified law enforcement, education and demand reduction efforts,

Noting with satisfaction the positive results that have been attained in a number of countries, but at the same time expressing concern for the lack of realization of many of the objectives for drug abuse control set forth in the drug control treaties as well as in the resolutions and documents of the Commission on Narcotic Drugs, the International Narcotics Control Board, the International Labour Organisation, the United Nations Educational, Scientific and Cultural Organization, and the World Health Organization,

Recalling General Assembly resolution 33/168 of 20 December 1978, in which the Assembly requested more extensive and co-ordinated co-operation between Governments and relevant bodies of the United Nations and specialized agencies in the designing and implementation of programmes aimed at the eradication of illicit demand for and illicit traffic in drugs.

Bearing in mind the necessity for international drug abuse control policies and strategy, as requested in General Assembly resolution 32/124 of 16 December 1977 and reiterated in resolution 8 (XXVIII) of the Commission on Narcotic Drugs of 23 February 1979,

Having received the Commission's report, noted in Economic and Social Council decision 1979/19, proposing principles to guide future international drug abuse control activities,

1. *Takes note* of the Commission's report and requests all agencies and organizations concerned to implement operative paragraphs 2 and 3 of the aforementioned resolution of the Commission and to elaborate a practical and dynamic drug abuse control programme, taking into account these principles, and to provide within the existing regular budget for the monitoring of the implementation of the programme by the Commission;

2. *Requests* the Commission to finalize at its next special session, to be held in 1980, a meaningful drug abuse control strategy and policies aimed at eradicating illicit demand for, production of and traffic in narcotic drugs and psychotropic substances, and to report to the Economic and Social Council at its first regular session in 1980 on the progress achieved in this respect;

3. *Invites* Member States to take into account the principles set forth by the Commission in allocating, within their capabilities, national resources to drug abuse control programmes—including programmes to combat the illicit production of and trafficking in narcotic and psychotropic substances and to reduce the demand for these drugs—and calls for greater technical and financial contributions to those developing countries which are constrained by limited national resources in their efforts to implement drug abuse control programmes;

4. *Further invites* Member States to take appropriate measures for the prevention of uncontrolled or illicit manufacture and export of psychotropic substances and the chemical precursors of drugs of abuse such as acetic anhydride;

5. *Urges* States which have not yet become parties to the international drug control treaties to adhere to them and to make maximum efforts to implement them;

6. *Further urges* greater action by the specialized agencies and programmes of the United Nations system—especially the United Nations Educational, Scientific and Cultural Organization, the Food and Agricultural Organization of the United Nations, the International Labour Organisation, the World Health Organization and the United Nations Development Programme—in developing and implementing, within their mandates, programmes aimed at the reduction of illicit production and demand for drugs, and specifically requests these agencies to make this activity a regular item on the agendas of their governing bodies;

7. *Requests* the agencies and programmes of the United Nations system, the international financial institutions and member Governments within their bilateral and multilateral development assistance programmes to provide, when requested by a recipient State and if possible, appropriate assistance for the implementation of drug abuse prevention and control measures, particularly activities which promote new income sources that can substitute for illicit production of narcotics raw materials production and which promote the reduction in demand for dangerous drugs;

8. *Further requests* the United Nations and the specialized agencies with programmes having an impact on narcotics, as a means of expediting a concerted international effort to substantially reduce illicit drug activities, to report annually to the General Assembly on their activities and proposed projects in this field;

9. *Appeals* to Member States, in accordance with their individual development goals, to consider within their national development programmes the inclusion of appropriate drug abuse control measures;

10. *Reiterates* its continued support for the initiatives of the United Nations Fund for Drug Abuse Control in helping countries reduce the demand for, production of and traffic in illicit narcotics;

11. *Expresses* its disappointment at the low levels of financial support being provided to the United Nations Fund for Drug Abuse Control and appeals to Member States to make new, sustained or increased cash contributions to the Fund as well as further financial or in-kind contributions in support of its projects and activities;

12. *Requests* the Secretary-General to report annually to the General Assembly on the progress being made in the implementation of this resolution and resolution No. 8 of the Commission on Narcotic Drugs of 23 February 1979, and to transmit the first resolution to Governments and concerned international agencies.

STATEMENT

Mr. Chairman: In his statement at the twenty-eighth session of the Commission on Narcotic Drugs, United States Congressman Benjamin Gilman said the following: "Drug abuse has reached epidemic proportions for both heroin producer nations and heroin user nations, for both the developed and the less developed nations. Interdicting narcotics trafficking, eradicating the illicit production of drugs at its source, alerting the world's citizenry to the dangers of drug abuse, and treating and rehabilitating those who have become addicted to drugs is a staggering problem. The enormity of the drug problem is beyond the capability of any one nation to single-handedly resolve."

It is my government's conviction that the problems associated with illicit narcotics will not be solved until there is a global strategy for combatting them, in which all affected nations participate. The unique organization capable of conceiving and carrying out such a plan is the United Nations. In this regard the United States is pleased to introduce, on behalf of the other cosponsors, draft resolution A/C.3/34/L.63/Rev. 1.

The resolution before us takes us one step closer to such global cooperation against illicit narcotics; not to approve it would impede useful progress against a set of problems which we all, to one degree or another, face.

The United Nations has proven itself repeatedly in the health field. Just the past year, we have witnessed what we hope was the final elimination of smallpox, due to the patient and dedicated efforts of this institution. If we can unite against one dread disease, there is no reason why we cannot also develop an effective strategy against the death, disease and corruption inherent in illicit narcotics production and abuse.

The resolution itself does not contain radically new ideas. On the contrary, its goal is to reaffirm and move forward ideas, suggestions and plans which have already been discussed in many fora and on which a firm consensus among nations has been reached. The resolution draws upon work done by the Commission on Narcotic Drugs in its February 28, 1979, resolution entitled, "Launching of a Programme of International Drug Abuse Control Strategy and Policies." This document proposes principles to guide future international drug control activities. In supporting today's UNGA resolution, the United States is working toward a goal and a framework defined and created by the UN. We view this resolution as an important incremental step in the field of drug abuse not only for member nations but also the UN itself.

Although the ideas in the resolution are not radically new, they are important. Certain aspects of the illicit narcotics problem receive new emphasis. Certainly, the United States approach to drug abuse in the world community has developed and changed in nearly two decades of intensive research and experience. We feel that the best recent thinking on the subject by the world scientific and political communities is present in the resolution and the CND document to which it refers.

I would like to refer specifically to two concerns covered by the resolution. The first is related to the UN as an institution. One important thing the resolution does is ask the UN agencies themselves to become more active in carrying out narcotics control activities. Since the UN and its members have committed themselves individually and collectively to control illicit narcotics, translating this into practical steps to be taken should pose no problem for the General Assembly. It is the logical next step and the only way for rhetoric to produce results.

The second concern in the resolution which I consider especially important is the emphasis on illicit narcotics control in the context of national economic consumption, or supply and demand. Economic development assistance can play a critical role in reducing the supply of illicit narcotics, by providing an alternative source of income for producers of illicit narcotics.

The United States has come to understand that development assistance does not simply involve an offer of substitute crops, but instead requires an integrated developmental effort which will generate a reliable income for former illicit narcotics producers. At the same time, effective illicit narcotics control measures necessarily remain a part of such a developmental program. The cost and complexity of combined developmental assistance and narcotics control are massive. It requires an international commitment, international financial backing, and the patience to put different pieces into place over a long period of time. The United States is committed to this long-term effort; we hope other countries will demonstrate their agreement with this emphasis by supporting the resolution.

This text before us is the result of wide-ranged consultations in this committee. We wish to thank all who have contributed to and cooperated in the drafting of the resolution. We trust that as was the case with previous General Assembly resolutions of this nature, L.63/Rev.1 will be adopted by consensus.●

ADVANCED MEDICAL TECHNOLOGY

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. PAUL. Mr. Speaker, Dr. Harry Schwartz, former member of the editorial board of the New York Times and now editorial writer for Private Practice, has written a wonderful article about medical technology and why Government planners are hostile to it.

I would like to call excerpts from this article to my colleagues' attention:

HURRAY FOR ADVANCED TECHNOLOGY

(By Harry Schwartz, Ph. D.)

Not far from where I live, in Hastings, New York is the Institute of Society, Ethics and the Life Sciences, which is the outstanding United States center for the study of medical ethics. A few years ago Senator Edward Kennedy and some of his associates approached the Hastings Center—as the Institute is usually called—with a unique problem. The senator had heard that a mechanical heart was very near to successful invention so that it could be used widely. All this apparently appalled the senator because he realized that once a workable mechanical heart was available, tens of millions of people with heart trouble would want one. The cost, Senator Kennedy reportedly realized, would be immense and could bankrupt the country if the successful mechanical heart coincided with adoption of the Kennedy-sponsored national health insurance bill. The ethical problem the senator apparently posed was how the government, under national health insurance, could grant the mechanical heart to some who would want it, while denying that aid to most people.

As matters turned out, the mechanical heart was much further from successful completion than Senator Kennedy had feared; the ethical problem he had raised remained theoretical. Nevertheless, for years the story has stuck in my mind as the archetypical example of the reformers' hostility toward medical technology in all its forms. These modern liberal Ludddites sometimes seem to detest all scientific medical advances from drugs to X-rays to intensive care units, hip replacements and CAT-scanners. These and other examples of modern medical technology are regularly denounced as sources of fiscal hemorrhage, either because they are overused by supposedly vallainous doctors or because those same "wastrels" refuse to put cost ahead of everything else, daring even to prescribe brand-name drugs over generics.

But I have noticed in my own family and among my friends that patients in general are pro-technology, not anti-technology. If there is a new machine, a new drug, or a new procedure that will help me or some other patient cheat death or improve the quality of our lives, we patients think that's fine. When we are sick, we want maximum help and relief, not advice from a brainwashed cost accountant who sees the world as consisting of nothing other than dollar signs.

Two recent events have added strength to my conviction that the anti-technology fervor of, say, Health Systems Agencies' staffs and other bureaucrats is very foreign indeed to the thinking of patients and potential patients.

One was the decision of the Nobel Assembly of the Karolinska Institute in Stockholm to award the 1979 Nobel Prize in Medicine to two pioneers in the development of the CAT-scanner, Godfrey Newbold Hounsfield of Britain and Allan MacLeod Cormack of Tufts University, Boston.

In its citation, the Nobel Committee said of the CAT-scanner and the remarkable tomographs it produces. "It is no exaggeration to state that no other method within X-ray diagnostics within such a short period of time has led to such remarkable advances in research and in a multitude of applications."

What an honest, open, and deserved tribute to this major, even revolutionary, advance in medical diagnosis! And how sharply the Nobel Commission statement and its prize award contrast with the churlish, paranoid, and sometimes simply ignorant attitudes of the HEW bureaucrats and their HSA subordinates all over the country. To the latter, the word CAT-scan evokes only negative images, and their preoccupation is only with denying as many hospitals as possible permission to get such machines. . . .

Sometimes I wonder whether the people who make HEW policy are operating on the assumption that they and their loved ones are immortal and will never need the fruits of present or possible future advances in medical technology.●

AGAINST TRUCKING DEREGULATION

HON. JIM SANTINI

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. SANTINI. Mr. Speaker, as the deliberations over the controversial subject of trucking deregulation continues, I would like to share with my colleagues a particularly well-considered editorial from the November 25, 1979, Las Vegas Sun. I think the editorial brings to the debate some salient points which merit close scrutiny.

The editorial follows:

TRUCKING DEREGULATION NOT GOOD FOR NEVADA

A recent hearing by Sen. Howard W. Cannon in Fallon didn't receive the publicity it deserves in Nevada. The hearing, vital to

Nevada, was on deregulation of the trucking industry.

AIR SERVICE DEREGULATED

Deregulation, because of the action taken last year for the airlines, has received much favorable publicity. This action allowed immediate new air service for Las Vegas with cut-rate fares. Today we are watching several of the airlines that rushed in to give us more flights at less cost drawing back from their expanded role and raising the cost of their tickets.

This is easily explained by people pushing deregulation as the result of rising fuel costs. We are not certain that the same thing would not have been necessary, economically speaking, if the fuel shortage had not hit us when it did. It is our opinion the fares would not have almost doubled on some flights, but they would have gone up, and there is little doubt the number of flights would have been cut back even if an inexhaustible supply of new oil had been discovered.

PRESSED BY CARTER, KENNEDY

President Carter and Senator Kennedy are now pressing for deregulation of the trucking industry. This sounds good, but overlooks the fact that most of the present regulations exist to serve the public—not the industry or the drivers.

Nevada must count on good trucking service to grow and prosper. Most of our small towns and cities have no other means of transportation. Even Reno and Las Vegas must depend upon good trucking service which many firms do not wish to provide because they haul goods into us but must, in most cases, return to Salt Lake City, San Francisco, Portland, Phoenix, San Diego and Los Angeles partially loaded or oftentimes empty. They provide the service because it is required by present Interstate Commerce Commission (ICC) regulations.

GOOD RESULTS

ICC trucking regulations have accomplished the following:

Assured service that is available to all on a nondiscriminatory basis.

Assured service to every point in the nation at published rates that are subject to challenge by shippers and the public.

Maintained a high degree of competition; there are 16,500 federally regulated motor carriers.

Set rate-making machinery that safeguards shippers and the consuming public against unfair pricing.

Established national safety standards for trucks, drivers and operations.

BAD PREDICTIONS

Deregulation affects the above accomplishments as follows:

Eliminates service or vastly increases prices to small communities that now must be served under certificates of public convenience and necessity.

Puts small shippers everywhere at a competitive disadvantage against those shippers large enough to demand rate concessions.

Throws pricings into turmoil to the detriment of shippers and at the ultimate cost of consumers, who proabbly will have to pick up a higher transportation tab.

Eliminates the ICC's "economic muscle" to enforce minimum safety standards for trucks and truckdrivers.

REGULATION NEEDED FOR NEVADA

Nevada, largely dependent upon good trucking services, is fortunate in having Senate Commerce, Science and Transportation Committee Chairman Howard W. Cannon in a position to protect our state and small communities over the nation from being deprived of good trucking services.

He realizes some changes must be made in the ICC, as do we; however, deregulation is far too drastic for our system.●

A PUSH FOR UNITY AGAINST OPEC

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. WOLFF. Mr. Speaker, I would like to call to the attention of my colleagues an article published in the December 3 edition of Business Week magazine. The article raises a very important point. Historically the industrialized nations have presented an unorganized front when dealing with the Organization of Petroleum Exporting Countries (OPEC). This unorganized front has been one reason for the continued price increases of OPEC oil. OPEC is scheduled to meet again on December 17, where another increase is expected. The disarray among the consuming nations will certainly not help in pressuring OPEC to exercise some restraint in pricing.

I applaud the recent effort of the United States to initiate some type of agreement from the consuming nations. It is an idea that is long overdue. An agreement should encompass more than just supply shortages. A dialog should be instituted which includes the OPEC nations so that an agreement on price can be negotiated.

H.R. 4574 would provide the framework for a comprehensive and vigorous discussion on these issues. This legislation would express the intent of Congress that the President should establish the Council of Oil Importing Nations (COIN). COIN would be charged with the responsibility of negotiating with OPEC to determine a fair base price for their oil. Over 30 Members of the House have joined me in support of this effort along with 8 Members of the Senate who have sponsored a similar measure. I hope you will join me in establishing a permanent forum for the consuming nations and OPEC to negotiate a price agreement.

The complete text of the Business Week article follows:

A PUSH FOR UNITY AGAINST OPEC

With the outlook uncertain for continued Iranian oil production, the U.S. is gambling that it can get an agreement from other consuming nations to share the burden of any substantial reduction in supplies. At a Nov. 16 meeting of the International Energy Agency (IEA) in Paris, the U.S. requested—and got—a ministerial meeting just a week before the Organization of Petroleum Exporting Countries meets on Dec. 17 in Caracas to set prices for 1980. The U.S. hopes that the closeness of the two meetings will pressure the industrial nations into unified action.

The U.S. move comes as sources in Iran report that oil production there fell on Nov. 18 to 1.8 million bbl. a day, well below the 3.3 million-bbl.-a-day level that prevailed before the U.S. banned Iranian imports. The drop could be an aberration, but it could also signal policy changes within the government or difficulty in the Iranian oil fields.

The risk in calling the meeting is obvious. Any disarray among the consuming nations would be a signal to OPEC to price more aggressively. And agreement is by no means assured. The West Germans and Swiss still think that it is best to rely on prices to solve the shortrun supply problems. The U.S., on the other hand, wants national import targets, backed by specific measures developed by each country to hold demand to an agreed level. "We do not have an agreement on how to deal with a supply shortage, and the differences are fundamental," admits a U.S. official at the Organization for Economic Cooperation & Development.

Optimism. Nonetheless, U.S. officials who attended the IEA meeting in Paris are optimistic they can get agreement on actions to cut demand in all countries, even if the shortage is less than the 7 percent level needed to trigger formal IEA sharing arrangements as they are now constituted. Julius Katz, Assistant Secretary of State for economic and business affairs and head of the U.S. delegation, says of the meeting: "There was a lot more general concern with the oil supply and greater willingness to face up to the uncertainties of the situation than in the past." He adds, "I sense more determination to bite the bullet, paralleling the shift in U.S. public opinion."

Chances for agreement were no doubt improved by a certain defensiveness on the part of Europeans, in marked contrast to past finger-pointing at the U.S. for its profligate energy use. "It's easier to find scapegoats than to try and meet one's commitments, and no partner has fully lived up to IEA or [Tokyo] summit commitments," says a Bonn government official. "But that doesn't mean failure. I expect cooperation will get better despite national politics. Just think of the alternatives."

The OPEC meeting in Caracas will certainly focus attention on those alternatives. The spot market has stabilized somewhat in recent days despite the turmoil in Iran, but it is still running as high as $40 per bbl., despite an official OPEC price ceiling of $18 to $23.50. The Saudis, whose $18-per-bbl. oil now is the cheapest in OPEC, have hinted they may raise prices even before the Caracas gathering, as have the Kuwaitis. It will take dramatic action from consumers to counter the argument that the market indicates oil is heavily underpriced.

There will have to be some fundamental changes in thinking if the U.S. gamble is to pay off, however. So far the West Germans and Japanese, operating from a strong balance of payments situation, have been willing to pay heavily to get oil for stocks as well as for current consumption. But there are growing hints that stocks may now have reached high enough levels in these countries to bring about some changes.

Japan and Germany. The Japanese Ministry of International Trade & Industry has told oil companies not to pay more than $40 per bbl. in the spot market. So far this is the only concrete move to discourage imports from Iran or any place else into Japan. But both the Japanese and West Germans have indicated they will not pursue the Iranian oil that previously went to the U.S., even though the U.S. has not asked other countries to resist buying it.

Instead, their aim is to avoid uncontrolled bidding for Iranian oil previously sold under relatively low contract prices. In addition, both countries may be nervous about increasing dependence on Iran in the present political climate. But the commitment of Japan and Germany to moderate their purchases does not extend to the Iranian oil they have been buying up to now. If Iranian production remained low for an extended period, there could still be a bidding war, as both countries competed for the reduced amount of Iranian oil.

Officials are convinced that the U.S. bore the brunt of the cutoff in Iranian oil production last winter and since then has done a better job in making and holding to commitments agreed to by IEA members in March and later at the June summit in Tokyo. U.S. oil use now is running 2 percent below last year's level, while West German demand is up

3 percent, and consumption in Britain is running 2.9 percent higher. In fact, most IEA member nations have taken few, if any, politically unpopular steps to reduce consumption.

The U.S. made it clear in Paris that the Administration feels it has done as much as it can for now and that it wants to see other countries take more positive action before it goes further. In part this reflects pressure from Congress. The Senate voted overwhelmingly in November to give Congress a say before the President implements oil import quotas.

"The American authorities feel that if they could point to really effective and parallel action by other IEA members, they would have better luck getting action at home," says one official in the British foreign office. "We're concerned about it." ●

CONGRATULATIONS TO THE DEPARTMENT OF ENERGY—THEY HAVE FOUND THE CAUSE OF HIGH ENERGY PRICES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. KEMP. Mr. Speaker, since its inception the Department of Energy has set as one of its major goals the finding of the cause of high energy prices in this country. Confident that there is indeed a culprit in the private sector somewhere, DOE has spent millions of dollars seeking out this culprit. This has been a mission of gravest importance, for, when the Department of Energy finds and eliminates the cause of high energy prices, all American consumers can have as much gasoline as they want without worrying about prices or long gasoline lines. International prices are irrelevant as America should be energy self-sufficient.

I am pleased to announce today that the Department of Energy has isolated the cause of high energy prices in New York State and Buffalo area. The Government has been vindicated—the cause is indeed in the private sector. In fact, the cause of high energy prices in New York State has been found to be none other than Fred Walentynowicz's ARCO station on the corner of Elmwood and Hodge in Buffalo, N.Y.

Fred Walentynowicz, you must understand, is an independent gasoline station owner. Between August 1 and October 19, 1979, Fred violated DOE gasoline pricing regulations by overcharging two-tenths of 1 cent per gallon of regular unleaded gasoline, four-tenths of 1 cent per gallon of regular leaded gasoline, and 1 cent per gallon of premium leaded gasoline.

These are serious charges.

On October 24, the U.S. Department of Energy served Fred a subpena, wherein he was "required" to appear before an officer of the Department of Energy in Pittsburgh, Pa., on November 5, 12 days later, and to produce the following records for Fred's ARCO station:

General ledger for 1973, 1977, 1978, and 1979;

General journal for 1973, 1977, 1978, and 1979;

Purchase journal for 1973, 1977, 1978, and 1979;

Sales journal for 1973, 1977, 1978, and 1979;

Inventory records for 1973, 1977, 1978, and 1979;

Inventory reconciliation sheets for 1973, 1977, 1978, and 1979;

Schedule of discounts granted to customers—that is, price book, discount list, et cetera—for 1973, 1977, 1978, and 1979;

A description of and/or a list of customers for each class of purchaser for each covered product for 1973, 1977, 1978, and 1979;

Credit memos from suppliers for 1973, 1977, 1978, and 1979;

Copies of all sales invoices for May 1973 and the period October 19, 1977 to October 19, 1979;

Purchase invoices or other data needed to verify the inventory value on May 15, 1973, and the period October 19, 1977 to October 19, 1979;

Purchase invoices for the period October 19, 1977 to October 19, 1979;

Cash receipts book or equivalent; that is, sales reports, journal voucher, and so forth;

Cash disbursements book or equivalent; that is, check or voucher registers; and

Freight invoices for May 1973 and the period October 19, 1977 to October 19, 1979.

Additionally, Fred Walentynowicz was informed—

> DOE may, after its initial review, need to examine similar data for later periods. . . . Failure to obey this subpoena will result in referral to a United States District Court for enforcement.

Faced with this startling demand, Fred Walentynowicz was forced to engage an attorney. This was the first Fred had heard about any charges that his prices at the pump had violated Federal law. He had been pricing his product in good faith according to the procedures laid out for him by the Department of Energy. Under these procedures, Fred had to determine the price charged to him by the ARCO distributor from an invoice which the oil company provides. He then determined the appropriate New York sales tax and added it to that amount, and then add 15.4 cents which DOE has ruled to be the "appropriate profit margin" for gasoline stations.

While this formula seems relatively simple, the problems were created when Fred attempted on his own to determine the appropriate New York State sales tax. Prior to November 1979, Fred was given no assistance by the State in determining that sales tax. This month, Fred and other independent gasoline station owners were finally provided with a 4-page tax table for New York State sales taxes with 24 columns of numbers and 1,037 different possible sales taxes.

It is questionable whether the Federal and local governments should be involved in the pricing of a product in a free enterprise country such as ours in the first place. But, it is very possible that under these mountains of redtape and bureaucratic requirements Fred did overcharge by two-tenths of 1 cent on a gallon of regular unleaded gasoline. If hauling Fred before a Federal official hundreds of miles away from his home and place of business and demanding that he produce literally hundreds of pages of personal records in 12 days to defend himself against the U.S. Government is the way the American people want their tax dollars spent, then there is something seriously wrong with our system of representative government.

The case of Fred Walentynowicz, small businessman, is not an isolated one. Literally thousands of other individuals across the country are being harassed by arbitrary and burdensome regulations put out by the Department of Energy—a bureaucracy that is trying to divert attention from itself as the primary cause of American gasoline shortages and leaping prices.

In the past year, all U.S. citizens have experienced the havoc that DOE regulations on the energy industry have produced. As a result of those regulations, an Iranian oil shortage of only 4 percent of our total crude oil supplies—between 700,000 and 800,000 barrels—was quickly translated into selective gas shortages of 25 and 30 percent at the gas pump. Virtually no one disputes the fact that the only reason the United States, unlike all other countries, had gasoline lines is that only the United States had the DOE's gasoline allocation program.

Due to the serious situation presently in Tehran, it is likely that the Iranian oil cutoff will continue much longer than the 69-day interruption of supply last winter. It is entirely possible that this time, the cutoff will be permanent.

If the DOE continues with its senseless and ridiculous regulations which DOE officials themselves admit "exacerbated" last summer's shortages, not only are consumers going to be saddled with permanent gasoline lines and uncertain supply, but independent gas station owners like Fred Walentynowicz are going to take the hint and get out of the gasoline business. When that happens, DOE will have succeeded in removing small business from the energy industry, and guaranteeing the supremacy of the major oil conglomerates in the industry of gasoline services to the citizens of this country.●

A WELFARE PROGRAM FOR CHRYSLER

HON. RICHARD KELLY

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 13, 1979

● Mr. KELLY. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

DECEMBER 4, 1979.

Hon. BERYL ANTHONY,
U.S. House of Representatives,
Washington, D.C.

DEAR BERYL: Have I got a deal for you: a welfare program for Chrysler!!!

Your constituents will love this. You have the opportunity to establish a welfare program for a huge corporation with a net worth of $2.2 billion (the tenth largest in the nation), its bankers and its creditors—and hand your constituents the bill.

The Chrysler legislation:

Includes a direct gift or grant to Chrysler of up to $5 billion.

Testimony before the Banking Committee indicated that the financial condition of Chrysler is such that it cannot obtain capital on the open market by voluntary action. If it could, it would pay up to 20 percent. Under this bill the total cost to Chrysler will be 11 percent including all fees. The difference is a gift or grant to the company of up to $5 billion, depending upon the terms of the loans. This gift is not available to the citizens we represent, who have only the pleasure of paying for special interest legislation such as this.

Extends public liability of up to $4.25 billion, not $1.5 billion.

The administration's proposed bail-out of Chrysler, as passed by the Banking Committee, has no ceiling on the total liability which the Federal government can assume. It has only a limit of $1.5 billion on the outstanding principal amount of loans guaranteed. If an outstanding principal amount of $1.5 billion is maintained over the ten-year life of the program, at 11 percent compounded annually, the total liability assumed would be about $4.25 billion. The extension of this liability is done without any of the safeguards which would be found in the marketplace. The rights of the American taxpayer as a creditor may be subordinated to the rights and interest of other creditors under the provisions of the administration's bill. Congress should not be willing to take this type of risk with the public's money on behalf of the nation's tenth largest corporation.

Benefits the company's bankers, creditors and top management.

Banks and other lending institutions have extended to Chrysler and Chrysler Financial a $4.8 billion line of credit. To date, $3.8 billion of that credit line has been used. Although these parties have a substantial interest in keeping the company afloat, they have refused to extend additional credit to Chrysler without a federal loan guarantee. By freezing credit at that level, these institutions have, in essence, decided that protection of past investments is not worth the risk of further loans. Since 1977, Chrysler stock has declined steadily from $22 per share to $6 per share. Yet, despite a net loss of $205 million in 1978, $65 million in dividends were paid to stockholders.

Chrysler's history of mismanagement is legend, including the 1978 dividend payment, the election to continue its sales bank of unordered cars and a series of incorrect judgements regarding market trends. Yet, we are being asked to guarantee artificially high salaries for Chrysler executives. Compare what they make to what a Congressman makes and then consider that they are working for a company which claims to be on the verge of bankruptcy. Asking the average American to underwrite the high salaries of corporate executives and the investments of bankers and other creditors is truly establishing a Robin Hood-in-reverse welfare system.

Finances a U.A.W. Chrysler pay raise of $1.3 billion in wages and benefits.

The single most outrageous distortion of truth is the idea that the United Auto Workers union is helping Chrysler and has made a "sacrifice." The U.A.W.-Chrysler wage settlement will cost the company $1.3 billion over the next three years. It is true that this is $200 million less than the $1.5 billion the contract might have cost Chrysler, but the idea that it could be counted as a "concession" or termed a "sacrifice" is, on its face, ridiculous.

Chrysler and the Federal government, if it is to become involved in any manner, should insist on a wage cut for the next three years. Only a pay cut can rightfully be counted as a concession. Simple arithmetic tells us that, as currently structured, the $1.5 billion in loan guarantees can guarantee little more than the union's $1.3 billion pay raise.

In addition, the union will receive a $25 million gift through required contribution to an employee stock ownership plan. If the union were serious about saving its jobs, it could, of course, purchase a large block of Chrysler stock at market rates. However, without anyone having requested it, the Banking Committee has seen fit to include a plan whereby the unions will get even more than they bargained for.

Subsidizes increases in wages already far in excess of those of the average American production worker.

Under the recently ratified U.A.W.-Chrysler settlement, the average worker's wage-benefit package is worth over $15 per hour for the first year and substantially more in the succeeding years. Under the U.A.W.-Chrysler contract which lapsed on September 13, 1979, the average worker's wage-benefit package was worth over $14.00 per hour. The average American industrial worker's wage-benefit package is worth about $7.50 per hour.

Therefore, the union could take a 25 percent pay cut from the level in the old contract and its members would still make almost 50 percent more than the average American industrial worker. In testimony before the Committee, U.A.W. President Douglas Fraser testified that in his opinion the workers "would take a pay cut" of 15 percent if that would save the Chrysler Corporation, but stated, "We haven't been asked to do that." Yet, U.A.W. Chrysler had already rejected Chrysler's request for a wage freeze which would have saved the company $1.5 billion.

The U.A.W. has proudly proclaimed that it is moving toward its goal of a four-day work week and that it has secured extra holidays and cost-of-living protection for its workers, all at the financial detriment of workers who do not have these benefits.

The current wage-benefit package represents a 33 percent increase over the next three years, or an average of 11 percent per year, a raise well in excess of the wage-price guidelines established by the Administration, per year. Alfred Kahn, Chairman of the Council on Wage and Price Stability, termed the Chrysler-U.A.W. settlement "outrageous". Obviously, the Administration does not take its own inflation-fighter seriously, or it would not support the inflationary wage-support bail-out legislation. The U.A.W. can save its own jobs if anyone can, but only the Federal government will bail out the raise.

It is not necessary to prevent massive unemployment.

The threat of massive job loss is a scare tactic. The truth is that liquidation is not inevitable. The studies relied upon by proponents of the bail-out are "worst case" studies which assumed total collapse of the company, but did not predict that it would happen. In fact, our current bankruptcy laws are designed to allow a company like Chrysler to shed its non-profitable operations and remain in business by forestalling payment of existing debts and keeping lines of credit open. Present management could be maintained and a plan for recovery would be worked out between Chysler and its creditors. Therefore, the more reliable result is that of a study done by a Wall Street firm based on retrenchment of Chrysler. This analysis is also a "worst case" study, but it reflects the worst possible outcome of reorganization rather than total collapse. The study found that layoffs through the first quarter of 1980 would reduce employment at its peak by about 240,000.

However, it predicted that 25 percent of those laid off would be absorbed into the labor force during 1979 and that the rate would increase to 90 percent by the end of 1980. If Chrysler goes through reorganization, the net impact on employment would be, in the "worst case", a loss of about 24,000 jobs and not the 200,000 to 300,000 job loss figures which have been used as a part of the con job. It is noteworthy that while the retrenchment analysis takes into account market redistribution of the labor force, it does not consider any allowance for jobs produced by the investment of capital in small businesses and housing, assuming that the guarantees are not used to target that capital for Chrysler. Such investment in productive ventures should account for a net gain in employment for the nation as a whole.

Will insulate a huge multinational corporation against loss while letting 6,000 to 8,000 businesses fail each year.

Not only does this bill give an unwarranted preference to big business, but by using loan guarantees to channel investment capital to large inefficient users, we are directly hurting small-and-medium sized businesses and homebuyers. Small businesses generate more jobs than big businesses. In the years 1970–1976, small-and-medium sized businesses accounted for 61.8 percent of the total gain in employment, while big business accounted for less than 1 percent. Every job saved by a Chrysler bail-out will be at the cost of at least one job elsewhere in the economy.

Taking into account the fact that the loans would otherwise go to more efficient users of labor and capital, it probably will be more on the order of two jobs lost for every one saved. The Federal government, as a matter of policy, should not be bailing out big corporations. Clearly, it cannot help everyone. To the contrary, since the Federal government produces nothing, what it gives to one person or company it must take from another, through taxation, inflation, credit allocation or a combination of them.

Government has only the power to redistribute wealth, not to produce it, and we should be wary when the wealth of our constituents is redistributed to the more fortunate, especially large corporations. If we take money and invest it to save one job, we are using money which would otherwise be used to create or sustain a job for someone else.

Pushes an unsuspecting America to the brink of socialism.

President Fraser of the United Auto Workers initially recommended that the United States buy $1 billion worth of Chrysler stock. In return for the so-called "sacrifices" the union has made, Mr. Fraser insisted on and received nomination to the Chrysler board of directors. Ralph Nader recommended that the government take a 30 percent share of Chrysler stock which would allow the government to give direction to products manufactured by Chrysler. The Administration's loan guarantee bill would authorize the Secretary of the Treasury to require management changes prior to issuing any loan guarantee. This is clearly the threshold of socialism.

If considerations of profitability and productivity are supplanted by questions of union interests and government programs, investment cannot be adequately rewarded and the future viability of the economy is all but ruled out. I do not believe that Americans want the government and the U.A.W. to dictate what products will be offered in the market place. Powerful forces in our nation and government advocate socialism and much of the propaganda and the policies that we are subjected to are designed to bring about socialism in America. The Chrysler bail-out is one of them.

Contains no safeguards to prevent loans from being used to finance production and create jobs in foreign countries.

A safeguard which is noteworthy by its absence is a control on the purposes for which expenditures may be made. The money provided by the loan guarantees in this bill can be used to finance production in foreign countries. Wholly-and-partially owned subsidiaries of Chrysler are located in Canada, Mexico, Republic of South Africa, England, France, Australia, Switzerland, Panama, West Germany, Norway and the Netherlands Antilles. Even if the bill were amended to limit expenditures of guaranteed funds to American projects, funds from other sources could simply be diverted to foreign producers and projects.

In addition, nothing in the bill prevents Chrysler from merging with a foreign corporation and having the benefit of the Federal loan guarantee. On the other hand, even the "worst case" reorganization scenario predicts that the company will retain between 3 and 4 percent of the car and truck market over the next two years and that other domestic auto makers would absorb 90 percent of Chrysler's lost market share by the end of 1980.

The net gain by foreign imports is predicted to be only 10 percent of Chrysler's loss, or 0.5 percent of the total market by the end of 1980. When you consider that only 75 percent of the American automobile manufacturing capacity is currently being used, according to Federal Reserve Board figures, it is clear that a Chrysler reorganization will cost America almost nothing in foreign penetration.

Is an aid bill for foreign automobile manufacturers.

Because of Chrysler management's history of accession to the exorbitant union demands, it has been forced in the past to go into the marketplace with an inferior product at non-competitive prices. That is one of the causes of Chrysler's current problems and is a major contributor to the capture of a large share of the U.S. market by foreign manufacturers. The average Japanese automobile worker produces 40 cars a year, the average American automobile worker produces 25 cars. The average hourly wage for Japanese automobile workers is $6.50 an hour, the Chrysler contract just agreed to in the last 30 days provides for over $15 an hour. You and I don't have to be economists to know this is unreal and if it continues, American automobile production will cease to exist. A bail-out by artificially propping up exorbitant union demands will hasten its demise.

Is not a sincere exercise.

If the bail-out exercise were sincere, there would be a frantic effort to reduce wages, reduce regulatory burdens and establish a tough national energy policy. Instead, the exercise has been one in which the Company has sought to get all that it could in commitments of taxpayers' dollars, with the amount of guarantees increasing steadily even as the Committee considered the bill.

A short-term infusion of capital will not change the overall picture and the long-range problems will not have been solved. Repressive government regulations will still be in place, exorbitant union wage demands will still be acceded to, market trends, heavily influenced by the uncertain energy picture will continue to elude management's forecasting ability. If the government bails out Chrysler without curing the root cause of its problems, nothing will have been accomplished. Government hand-outs are not the solution to falling productivity.

The real long-range solution for this problem is the elimination of unnecessary regulations combined with a freeze on both the enforcement of existing regulations which are not cost-effective and the promulgation of new regulations which will have a negative impact on our already staggering economy. In addition, the federal government should restructure tax laws to stimulate savings and investment and restrict its loan guarantee programs to insure that capital will flow to its most efficient users.

The truth is that those with a vested interest in these proceedings are using human consideration as an excuse to gain selfish advantage over the rest of the American people. The Chrysler bail-out is a rip-off of the American worker, industry, the taxpayer and the consumer. It is the rich receiving charity from the poor at the direction of Congress.

I ask that you join me in opposing the welfare program for corporations, banks and creditors.

Warm personal regards,

RICHARD KELLY.●

RESULTS OF 1979 SURVEY

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. REGULA. Mr. Speaker, I have just finished tabulating the responses to a questionnaire I recently mailed to all postal patrons in the 16th District of Ohio.

The information these questionnaires provide gives me a good reading on the thinking of my constituents as it applies to current issues before the Congress.

I am submitting the tabulation results for printing in the RECORD so that my colleagues also may benefit from a study of my constituents' views:

Do you favor a federally financed national health insurance program? Favor, 29 percent. Oppose, 71 percent.

Would you protect U.S. jobs by restricting imports even if it meant higher prices? Favor, 67 percent. Oppose, 33 percent.

Do you support passage of a law to allow young persons to be employed part-time for less than the minimum wage? Favor, 71 percent. Oppose, 29 percent.

Should nuclear power research and development be continued with increased attention to safety? Favor, 88 percent. Oppose, 12 percent.

Do you favor selective service registration? Favor, 69 percent. Oppose, 31 percent.

If we establish selective service registration, should women be included? Favor, 55 percent. Oppose, 45 percent.

Do you favor a constitutional amendment requiring the federal government to balance the budget even if particular programs you favor must be cut back? Favor, 84 percent. Oppose, 16 percent.

Should air-pollution controls be relaxed to allow greater use of coal and oil-bearing shale to supply energy? Favor, 87 percent. Oppose, 13 percent.

Do you favor setting aside additional acreage in Alaska as wilderness and prohibiting mineral exploration and development in designated areas? Favor, 42 percent. Oppose, 58 percent.

Do you support ratification of the SALT II agreement? Favor, 40 percent. Oppose, 60 percent.

Should there be tuition tax credit for parents of students attending private elementary and secondary schools? Favor, 42 percent. Oppose, 58 percent.

Do you favor rationing fuel as a conservation measure? Favor, 41 percent. Oppose, 59 percent.●

REPUBLICANS UNITED WHILE DEMOCRATS FRAGMENTED AND FRACTIOUS

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. SHUSTER. Mr. Speaker, today's Wall Street Journal carries a very thoughtful article by Dennis Farney entitled: "Congress Fragmented and Fractious, Gets Less and Less Done." Several of our Democratic colleagues are quoted as being upset with the fragmentation and lack of cohesiveness.

Mr. Speaker, while this may be true on the Democratic side of the aisle, the record is very clear that the Republicans are united. In fact, on the 41 key votes on Republican policy positions and whip calls, Republican Members supported the Republican position 91 percent of the time. So while our friends on the other side of the aisle may be sending confusing signals to the American people, Republicans are united in showing that we stand for less spending, lower taxes, and a stronger America.

The obvious way the American people can realize these objectives, based on voting records, is to elect a Republican House.

Mr. Farney's article follows:

CONGRESS, FRAGMENTED AND FRACTIOUS, GETS LESS AND LESS DONE

(By Dennis Farney)

WASHINGTON.—"There are only two words for this Congress," growls Congressman Frank "Thompy" Thompson. "Screwed up."

Rep. Thompson, a white-haired, tart-tongued pragmatist, ought to know. The New Jersey Democrat can truthfully claim to have been "in and out of every House reform in the past 25 years."

But when this liberal warhorse looks out on the House floor today, what he sees frequently dismays him. The place, he says, is awash in "bed-wetters" with "blow-dry hairdos"—those timid, post-Watergate Congressmen whose prime concern seems to be getting reelected.

"You don't know what they stand for," Rep. Thompson sighs. "You don't know what they are, Democrat or Republican. They just do their own thing."

George Danielson, a quiet, down-to-earth man of 64, sees the same phenomenon. The California Congressman, one of four deputy Democratic whips, must round up Democratic votes on issue after issue. The job is getting harder.

FEW FOLLOWERS

"We have leadership—there's just not much followership," he says. "If people up here are no longer willing to be part of any consensus—well, I just worry about how we as a country can keep going."

"Vote, vote, vote. All we do is vote," grumbles Sen. Barry Goldwater of Arizona, plain-spoken as ever. "Christ, in my first Senate term (1953 to 1959), I doubt we had more than 150 votes a year. Now there are days when we have 18 or 20. Not on important things, just procedural questions. It's a much less attractive job now."

Three men, three perspectives. Each sees a troubled Congress: drifting, fragmented, immersed in minutiae at a time of intensifying national problems. A Congress that works harder and harder—and accomplishes less and less.

PAROCHIAL VOTING

"This is a gutless House," says Rules Committee Chairman Richard Bolling, a 31-year veteran who knows the House as few do. "On the Republican side, you have a group of deliberate obstructionists, out to block everything. On the Democratic side, people are voting the easy way, the parochial way, not the way needed for the welfare of the country."

There are other perspectives, of course, probably 535 in all in this 535-member institution. One point often made is that a succession of internal changes has made this perhaps the most open, the most truly democratic, Congress in history. Although this has resulted in more wrangling and delay, some see these developments as signs of vitality.

"The system is complicated, fragmented and messy—and was intended to be," argues Rep. John Brademas of Indiana, the House majority whip. "That's what this place is for. It's a forum of tugging and hauling and fighting."

PUBLIC DIVIDED, TOO

In the end, Mr. Brademas and others argue, the necessary bills do get passed, the money appropriated. And if Congress sometimes fails to resolve sweeping issues, it's often because the nation itself is extraordinarily divided on many matters these days.

"People are dissatisfied with Congress, I think, because Congress represents them too well," says Maine's Sen. Edmund Muskie.

Even Rules Committee Chairman Bolling agrees that, on balance, he prefers today's House to that of two decades ago. "People talk about the good old days when Sam Rayburn had all that power," says Rep. Bolling, a one-time Rayburn protege. "Well, in the good old days, Rayburn was losing." Mr. Bolling explains that the Speaker had to contend with the often-dominant conservative coalition of Republicans and Southern Democrats.

But all agree that Congress has changed enormously in recent years, in ways that have brought new problems. Those changes help explain not only the seeming indecisiveness of many national policies today but also the political problems of Jimmy Carter. "Moses himself couldn't lead the country under these circumstances," says Rep. David Obey, a Wisconsin Democrat who seems near despair over Congress's performance.

A visit to Capitol Hill finds a Congress being transformed by what Mr. Obey describes as "tremendous centrifugal forces."

It is a Congress that buries itself in roll-call votes. On a recent day, for instance, the House voted at 5:18 p.m. on whether to cut off debate at 5 p.m. (The exercise took 15 minutes, but the answer was yes.) The increasingly militant Republican minority forces many of these votes to harass the Democrats. In 1978 the House had 942 roll calls, which consumed roughly 300 hours of its time. Three of its 435 members, all conservative Republicans, demanded 194 of them.

And so, all through the day and sometimes into the night, bells clang and buzzers buzz in the Capitol, making it sound like some great ocean liner in distress. It's the sound of Congress, summoning its members to yet another vote.

Meanwhile, a congressional work force swollen to 18,400 scurries about: aides, secretaries, waitresses, chefs, publicists distributing press releases. ("Dannemeyer irate over Iran," a freshman California Republican recently announced to the world.) The Capitol police force, 1,187 strong, is bigger than the army of Luxembourg. It costs $550 million a year to pay all these people, up from $150 million a decade ago.

COMPUTERIZED WISDOM

Equally striking is the proliferation of electronic gadgetry. Computer-linked typewriters stand ready in almost every congressional office, programmed with answers to questions that constituents may not have even thought of yet. Most offices also have computer terminals that can spew out facts, figures, correlations and summaries on almost any conceivable topic. Color-television sets, about 425 of them, flicker all over the House side of the Capitol. House debates are covered by TV cameras now; members can watch them from their offices.

And at nightfall, when the workmen stop building the Senate's new $116.5 million Hart Office Building, when the lights come up in the House's almost equally expensive Rayburn Office Building, glasses tinkle and laughter rings out from congressional receptions for constituents and lobbyists. Capitol Hill is like a convention hotel at that hour, lighthearted and bustling.

Yet beneath all the activity is an air of unreality. "I have an interest in a small business back in Ohio," Republican Congressman Clarence Brown observed on the House floor not long ago. "That's what I do in real life."

ON THEIR OWN

The unreality stems from a steady progression of symbolic gestures: hearings, proposals and laws that appear to address problems but in fact sidestep them. Illusion has always been a part of politics, but today's media-oriented legislators have elevated it to an art form.

In a sense they have to. Decades ago, the two parties used to handpick their candidates and get them elected. In return, the politicians were loyal to certain broad party principles. But today "parties can't elect us, they can't even protect us," says Republican Sen. Bob Packwood of Oregon. The party organizations have disintegrated. So every politician is on his own, selling himself as best he can.

Into the leadership vacuum have come hordes of single-interest groups, armed with money for campaign donations. There are more than 1,800 of these groups lobbying on Capitol Hill now, along with scores of other groups ranging from the AFL–CIO to Common Cause.

CONGRESS AT WORK

The result is a Congress so tugged and pulled, its power so evenly divided among differing viewpoints, that bold changes in existing policies are extremely difficult to bring about. Even, it seems, when existing policies aren't working.

Glimpses of Congress at work:

Six years after the 1973–74 Arab oil embargo, elements of a meaningful national energy policy are finally moving through this Democratic Congress. What is striking is how closely the broad outlines of this policy—decontrol of oil prices, a "windfall-profit" tax, incentives for conservation and production—resemble the proposals of Presidents Nixon and Ford years ago.

Why did it take six years? Perhaps the main reason is that congressional Democrats initially took the easy way out. They chose to hold prices down through price and distribution controls—controls that made last spring's gasoline-station lines worse. In a double irony, energy prices paid by consumers skyrocketed anyway.

The congressional budget system now is five years old. It's supposed to bring spending into line with income, and most observers agree that it has been an improvement. Even so, it clearly has a long way to go.

This year, for example, the House voted to cut defense spending while increasing social welfare spending. The Senate took the opposite tack. Then budgeteers from both houses met to resolve this basic difference. They compromised by increasing both defense and civilian spending.

An angry House Budget Committee chairman, Connecticut's Robert Giaimo, recently startled his colleagues by declaring that he is "becoming convinced that this Congress cannot control itself" in spending money. "I have had it!" he shouted.

What upset Mr. Giaimo was an "emergency" $1.6 billion appropriation to help the poor meet heating bills this winter. The measure had grown from a $200 million start in only three years, and it was so loosely drawn that much of the money would go for air-conditioning bills in the South.

It passed by an overwhelming margin shortly after Mr. Giamo's outburst.

Congress's willingness to increase defense spending reflects, in part, a considered reaction to a continuing Soviet arms buildup. But it also illustrates how frequently Congress elevates symbolism over substance.

In September, for example, the Senate voted to raise fiscal 1980 defense spending $3.2 billion (beyond increases voted earlier in the year). But no Senator knew exactly how the extra money would be spent.

Most Senators supporting the increase thought in terms of buying more hardware: missiles, tanks, planes. The Pentagon was thinking of spending its windfall on such unglamorous items as moving expenses, salaries and fuel. Even today, no one can be sure where the money will go.

This spectacle of spending first and thinking later was too much for Sen. Nancy Kassebaum, an independent-minded freshman Republican from Kansas. She voted against the increase. "Just as doubling HEW's budget doesn't make HEW doubly effective," she said, "neither does throwing money at the Pentagon give us a stronger defense." She also voted against the emergency aid for heating bills, again because no one had thought very hard about how the money would be distributed.

"We do these things to salve our consciences," Sen. Kassebaum thinks.

HARD TIMES FOR MODERATES

Rep. Obey, the reform-minded Wisconsin Democrat, also sees a political process growing steadily less thoughtful." One busy day this session, he sat in the Speaker's lobby, just off the floor, and talked wearily of the frustration he feels.

"This country," he began, "is being devoured by banshees on every major issue in sight." (A banshee, by his definition, is a noisy extremist, whether a vociferous lobbyist or a rigid ideologue in Congress.) "People who are trying to be moderate, who are trying to take thoughtful positions on any issue, are just being devoured.

"Voters are more cynical now, and who can blame them? When all people hear, from the New Right and the easy-answer left, is that somebody is sticking it to them, that their problems may be the result of a conspiracy of some kind, what can we expect?

"Up here, the effort required to get people to do what they know they ought to do is just incredible."

From the House floor, just beyond the quiet lobby, came a roar of "no!" The House was voting down someone's amendment. Mr. Obey went on. "Sometimes," he said tiredly, "I really think that what is missing from this place is a sense of pride." ●

NORTHEAST-MIDWEST CONGRESSIONAL COALITION

HON. ROBERT W. EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. EDGAR. Mr. Speaker, the Northeast-Midwest Congressional Coalition has played an active role in educating our membership on H.R. 5980, the Anti-

recession and Targeted Fiscal Assistance Act. I commend my cochairman, Representative FRANK HORTON of New York for his great leadership on this important issue. The following illustrates some of the work we have done in support of this bill:

NORTHEAST-MIDWEST
CONGRESSIONAL COALITION,
December 13, 1979.

DEAR COALITION MEMBER: Once again this year, the House of Representatives is faced with a clear choice of helping state and local governments throughout the nation protect themselves against the fiscal and economic upheavals of a recession. The Antirecession and Targeted Fiscal Assistance Act (H.R. 5980), as reported by the Committee on Government Operations, deserves our strong support. This important bill is scheduled to come before the House of Representatives for consideration on Friday, December 14.

This measure, aimed at providing a cushion against the expected effects of a recession, means the difference between fiscal security and crisis for many state and local governments within the Northeast-Midwest region.

As Treasury Secretary G. William Miller recently told the Joint Economic Committee, "the New England, Middle Atlantic, and East North Central regions are expected to bear the brunt" of a recession. Many of the communities which are predicted to be hardest hit by the current economic downturn have not yet recovered from the 1974–75 recession. These governments continue to face the difficult task of providing needed social services from the diminished tax base of a stagnant or declining economy.

Even though this legislation has its historical roots in the antirecession fiscal assistance passed by the Congress in 1976, it is a new program. It amends the State and Local Fiscal Assistance Act of 1972 (the General Revenue Sharing Act) by adding two titles:

The first title authorizes a program of antirecession fiscal assistance to state and local governments which would be triggered by two consecutive quarterly declines in real gross national product (GNP) and real wages and salaries—income adjusted for inflation.

This is a change from the earlier antirecession fiscal assistance program, which used national unemployment rates as the trigger to start and stop payments to state and local governments.

The second title provides $250 million for a program of targeted fiscal assistance to hardpressed local governments which have not fully participated in the nation's general recovery from the 1974–75 recession.

The earlier antirecession program did not provide additional assistance to communities which continued to suffer from severe fiscal problems and structural economic decline.

In short, the Antirecession and Targeted Fiscal Assistance Act is a responsible measure which addresses both the needs of state and local governments as they enter a recession and the needs of those local governments which have not yet recovered from the last economic downturn.

This legislation also is consistent with the $525 million set aside for antirecession and targeted fiscal assistance in the fiscal 1980 Second Concurrent Budget Resolution. Outlays under the antirecession title is expected to be about $195 million in the last quarter of the year, while spending under the targeted fiscal assistance title is authorized at $250 million The total of $445 million is well below the $525 million budget ceiling.

Finally, the need for this legislation among state and local governments within the Northeast-Midwest region cannot be overstated. A program of fiscal assistance which automatically responds to changes in economic conditions at the national, state, and local levels would be on the books before the onset of a recession. This feature will allow state and local governments to plan for economic stabilization before an economic downturn and help them avoid layoffs, service curtailments, and tax increases.

For these reasons, we strongly urge you to support the Antirecession and Targeted Fiscal Assistance Act (H.R. 5980), as reported by the Committee on Government Operations when it comes to the House floor. Attached please find a summary of the legislation.

Cordially,

ROBERT W. EDGAR,
SILVIO O. CONTE,
FRANK HORTON,
JAMES L. OBERSTAR.

SUMMARY

ANTIRECESSION AND TARGETED FISCAL ASSISTANCE ACT (H.R. 5980)

On December 5, the House Committee on Government Operations reported legislation which amends the State and Local Fiscal Assistance Act of 1972 (the General Revenue Sharing Act) by adding two titles. The first title authorizes a program of fiscal assistance to state and local governments during recessions. The second title authorizes a program of targeted fiscal assistance for local governments that have not yet recovered from the 1974–75 recession and continue to suffer from severe fiscal hardship and econimic decline. Both programs would expire with the General Revenue Sharing Act on September 30, 1980.

On December 13, the House Rules Committee recommended an open rule providing for one hour of general debate. The bill will be managed by Representative Jack Brooks, Chairman of the Government Operations Committee.

ANTIRECESSION FISCAL ASSISTANCE

National trigger and funding level

The program would be triggered by two consecutive quarters in which real gross national product (GNP) and real wages and salaries—income adjusted for inflation—declined. Payments under the program would cease when real wages and salaries in one quarter equal or exceed their level before the recession, adjusted for that economic growth which could be expected had the recession occurred.

Funding during each recession quarter would be $15 million for each 0.1 percent decline in real wages and salaries. It is important that *this funding level remain constant* throughout the recession since state and local governments within the Northeast-Midwest region are expected to be among the first to enter the recession and the last to recover from it.

Total payments in fiscal 1980 would be limited to $1 billion and would be subject to the normal appropriations process. One-third would be distributed to state governments and two-thirds to local governments.

State eligibility and allocation

A state government would be eligible if it had two quarters of decline in real wages and salaries either during eligible national quarters or during a one-year period immediately preceding the two quarters of national decline.

Thus, for those states which enter a recession early the state prerecession base period can "float" backwards up to a year. The effect of this is to give relatively larger payments to states that have entered the recession before the two quarters of national decline.

An eligible state government would receive an allocation determined by its decline in real wages and salaries and its tax effort.

Local eligibility and allocation

All funds distributed to local governments would be allocated first to eligible county areas and then to eligible local jurisdictions within those county areas.

County areas

A county area would be eligible if it has at least a one-tenth percentage point increase in its unemployment rate from a comparable prerecession quarter.

An eligible county area would receive an allocation based on its increase in unemployment during the recession and its general revenue payment, weighted by the level of its unemployment. The weights would be:

County-Area Unemployment Rate:	*Weight*
0.0—2.9 percent	0.2
3.0—3.9 percent	0.4
4.0—4.9 percent	0.6
5.0—5.9 percent	0.8
6.0 percent or more	1.0

Local governments

A local government would be eligible for assistance if it is located within an eligible county and would receive an allocation proportionate to its share of the General Revenue Sharing payments within the county area.

No unit of local government, however, may receive its allocation if its per capita income is greater than 140 percent of its state average per capita income. This use of state per capita income will help many economically distressed communities in the Northeast-Midwest region which might be excluded from the program if a ceiling based on national per capita income were used.

Also, no local government may receive its allocation for any quarter if it is less than $1,500. All amounts earmarked for local governments whose per capita incomes are too high or whose allocations are less than the minimum would be to their county governments.

TARGETED FISCAL ASSISTANCE

This program provides $250 million for a one-time targeted fiscal assistance payment to hardpressed local governments. This authorization level, coupled with $195 million for antirecession assistance this year, is well within the $525 million included in the fiscal 1980 Second Concurrent Budget Resolution for both programs.

Special provisions will insure that rural communities fully participate in the program.

Program eligibility

A local government would be eligible for assistance if it has:

An annual average unemployment rate above the national average for SMSA's or non-SMSA's, in whichever category the community falls;

A rate of employment growth for the most recent three years that is less than 250 percent of the national average; and,

A per capita income of less than 130 percent of the state average. Again, the use of a state, rather than a national, measure should benefit communities in the Northeast-Midwest region since it would reflect geographic variations in cost of living.

Also, to qualify for assistance, an eligible government would have to receive at least $6,000, if located within an SMSA, or $3,000 if it is located outside an SMSA.

Funding allocation

A local government allocation would be based on its General Revenue Sharing payment and its average unemployment rate for the last four years, less 4.5 percent for governments located in SMSA's and 4.0 percent for those outside SMSA's. This difference in unemployment rates recognizes that unemployment rates in rural areas traditionally have been low relative to urban areas. The half-percentage point spread is based upon an average of the differences between rural and urban employment.

NORTHEAST-MIDWEST CONGRESSIONAL COALITION—LEGISLATIVE ALERT

ISSUE

Anti-Recession and Targeted Fiscal Assistance (H.R. 5980)

BACKGROUND

This compromise bill, reported out by the House Committee on Government Operations, amends the State and Local Fiscal Assistance Act of 1972—the General Revenue Sharing Act—by adding two titles. The first title authorizes a program of fiscal assistance to state and local governments during recessions. The second authorizes a program of targeted fiscal assistance for local governments that have not yet recovered from the 1974–75 recession and continue to suffer from severe fiscal hardship and economic decline. Both programs would expire on September 30, 1980.

ANALYSIS

Even though this legislation has its roots in the anti-recession fiscal assistance passed by Congress in 1976, it is a new program. Anti-recession fiscal assistance would be triggered not by unemployment rates but by two consecutive quarterly declines in the real gross national product (GNP) and real wages and salaries—income adjusted for inflation. Payments under the program (estimated at $195 million for fiscal 1980) would stop when real income in one quarter equals or exceeds its pre-recession level, adjusted for that economic growth which could have been expected in the absence of a recession.

The targeted fiscal assistance program would provide $250 million for a one-time payment to hard-pressed local governments still recovering from the last recession. Special provisions will insure that rural communities are able to fully participate in the program.

REGIONAL IMPLICATIONS

This measure, aimed at providing a cushion against the expected effects of a recession, means the difference between fiscal security and crisis for many state and local governments in the Northest-Midwest region.

As Treasury Secretary G. William Miller recently told the Joint Economic Committee, "the New England, Middle Atlantic, and East North Central regions are expected to bear the brunt" of a recession. Anti-recession fiscal assistance will provide needed protection to state and local governments in those regions.

The targeted fiscal assistance program is particularly important to the Northeast-Midwest region because it provides help to communities which continue to suffer from severe fiscal problems and structural economic decline.

SUMMARY

H.R. 5980 is a responsible compromise which addresses both the needs of state and local governments as they enter a recession and the needs of those local governments that have not yet recovered from the last economic downturn.

This legislation also is consistent with the $525 million set aside for such assistance in the Second Concurrent Budget Resolution for fiscal 1980.

Finally, the need for this legislation among state and local governments in the Northeast-Midwest region cannot be overstated. A program of fiscal aid which automatically responds to changes in economic conditions at the national, state, and local levels would be on the books before the onset of a recession. This feature will allow state and local governments to plan for economic stability before an economic downturn forces layoffs, service curtailments, and tax increases.

For these reasons, we strongly urge you to support H.R. 5980 when it reaches the House floor.●

BILL TO AMEND THE OLDER AMERICANS ACT OF 1965

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Ms. OAKAR. Mr. Speaker, today I have introduced legislation which will amend the Older Americans Act of 1965 to include older Americans who have been excluded from outreach services because they do not speak English. Specifically, we are talking about more than 3 million people who are foreign born and past the age of 65. These language-disabled elderly cannot communicate with the providers of services, and therefore very often go without them. Services such as nutrition, housing, transportation, health and social services are vital and necessary, especially for the elderly. For the most part, these are people who have emigrated from Europe and Asia many years ago, and still speak their native tongues although most of them are American citizens.

This bill will amend the Older Americans Act of 1965 to provide assurances that if a substantial number of the older Americans residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each planning and service area to:

First, deliver outreach services by workers who are fluent in the language spoken by a predominant number of such people.

Second, to designate an individual employed by the area agency on aging on a full time basis whose responsibilities will include appropriate counseling assistance be made available to these people and to assist them in receiving and participating in programs provided under the Older Americans Act.

I urge my colleagues to cosponsor this bill and assist me in getting this legislation passed.

October 16, 1979

H.R. 6150

A bill to amend the Older Americans Act of 1965 to require States to provide assistance to older persons with limited English-speaking ability for the purpose of enabling such older persons to participate in programs and receive benefits under the Act

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307(a) of the Older Americans Act of 1965 (42 U.S.C. 3027(a)) is amended—

(1) in paragraph (15), by striking out "and" at the end thereof;

(2) in paragraph (16), by striking out the period at the end thereof and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(17) provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—

"(A) to utilize, in the delivery of outreach services under section 306(a)(2)(A), the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and

"(B) to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—

"(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this Act; and

"(ii) providing guidance to individuals engaged in the delivery of social services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to effectively take into account linguistic and cultural differences.".●

BOTH CALLED LEHIGH

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. RITTER. Mr. Speaker, Lehigh University has long played a major role in the community life of the Lehigh Valley which I represent.

Another giant stride forward was taken on December 1 when the $3.7 million Stabler Athletic and Convocation Center was dedicated at the university.

Donald B. Stabler of Harrisburg, the major donor of funds for the facility, said it most eloquently when he told 4,000 guests at the ceremony he views the center as "a further bridge between a campus and a valley, both called Lehigh."

The showcase center, made possible by a generous gift to the university from Mr. and Mrs. Stabler in memory of Mr. Stabler's parents, is one of the largest facilities of its kind in Pennsylvania and is aleady recognized as among the best.

Mr. Stabler, an alumnus and trustee of Lehigh, is chairman of the board and chief executive officer of Stabler Companies, Inc., Harrisburg, and president of Eastern Industries, Inc., Wescosville.

Mr. Stabler pointed out that the sacrifices of his parents, Mr. and Mrs. George W. Stabler, made it possible for him and his brother to attend Lehigh. "My education at the univesity has been a significant factor in what I have been able to accomplish in life, but without the encouragement and support of my parents it could not have happened," he said.

The new building in Lehigh's Saucon Valley campus area has been planned and designed to serve all constituencies of the university—students, faculty, staff, and alumni—and all segments of the surrounding community in numerous different ways. It will be a showplace not only for those types of activities inherent in its official name, but also for much more. Mr. Stabler commented that the center will be able to accommodate as many different functions as there are needs for a facility of its size and design.

Having already accommodated Lehigh's commencement exercises and alumni reunion earlier in the year, a large banquet, a United Way kickoff dinner, several intercollegiate athletic events, and an ice show, the center will in the future be used for cultural programs, conferences, concerts, trade shows, exhibitions, opera, circuses, theater, and major lectures.

The building is designed to seat 6,000 people, and has a total of 55,400 square feet of space under one roof with 19,720 square feet of floor space. It has 2,077 permanent armchair seats and 2,496 bleacher type seats along with 1,240 retractable armchair seats, providing the ultimate in flexibility for a wide range of spectator events.

There is a large lobby area with trophy cases, four dressing and locker areas, ticket offices, a suite of staff offices, storage areas, an audio-visual control room, first aid room, news media facilities, portable basketball floor, wrestling mats, refreshment stands, restrooms, and lighting to accommodate television and still photography. The center is situated in a beautifully landscaped area of the campus, and is surrounded by extensive parking space.

Other participants in the dedication stressed the versatility of the center and the sharing by the university family and the community in the many events envisioned for its future.

Mr. Speaker, I was honored to be a guest at the dedication. This center reaffirms my conviction that a university and community can live together and grow together. Significant resources can be made available to the community as a result.●

NORMAN L. WILLIAMS ATTAINS RANK OF EAGLE SCOUT

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. MURPHY of Pennsylvania. Mr. Speaker, the Boy Scouts of America is an institution that admirably encourages our young citizens to serve their fellow Americans. Confidence in themselves, and service to their community, is enhanced by encouraging the young participants to excel through the ranks of this scouting organization by assisting in civic activities. These activities create worthwhile services to the American public.

I commend Norman L. Williams for attaining the esteemed rank of Eagle Scout for which he worked diligently to attain. Norman, the son of Mr. and Mrs. Norman T. Williams, has been an active member of the Uniontown community for a number of years. As a high school student, he was involved in many athletic and civic activities including, football, wrestling, and the area 4-H Capon Club. During this period Mr. Williams displayed both leadership and a responsible attitude toward the Boy Scouts of America, representing Troop 609 as the patrol leader, senior patrol leader, and as a member of the Brotherhood Order of the Arrow. As a result of these qualities displayed by this young man, it is only fitting that we recognize his accomplishments exemplified by this distinguished award.

During this difficult times that have faced this country, a large percentage of our leaders, who have led us to prosperity, have been former scouts. Today in government, business, and industry, many of the decisionmakers who direct our country's fate are former scouts. Certainly, when tomorrow's generation receives the torch of leadership, Norman L. Williams will be among those who continue this country's proud tradition and heritage.●

SENATE—*Saturday, December 15, 1979*

(Legislative day of Thursday, November 29, 1979)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DONALD STEWART, a Senator from the State of Alabama.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, who at creation declared, "Let there be light," and there was light, shed Thy light upon us at this holy season. May the dedicated lights of Hanukkah and the luminous ray of Bethlehem guide us to the truth that sets men free and to that peace of heart which the world can neither give nor take away. Rekindle the altar fires in the soul of the Nation that we may become a people that love and serve Thee. Shine through the things that are seen and temporal the values that are unseen and eternal.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. MAGNUSON).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., December 15, 1979.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD STEWART, a Senator from the State of Alabama, to perform the duties of the Chair.

WARREN G. MAGNUSON,
President pro tempore.

Mr. STEWART thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

Mr. STEVENS. Mr. President, in behalf of the Senator from Connecticut (Mr. WEICKER), I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Under the previous order, the majority leader is recognized for not to exceed 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I have no need for my time. I yield it back.

RECOGNITION OF THE ACTING MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the previous order, the acting minority leader is recognized for not to exceed 3 minutes.

Mr. STEVENS. Mr. President, I yield my time to the distinguished Senator from Virginia (Mr. WARNER).

RESOLUTION ON TREATMENT OF THE HOSTAGES

Mr. WARNER. Mr. President, I thank the distinguished acting minority leader and also the distinguished majority leader for yielding to me at this time, and for giving me guidance and direction in the preparation of a resolution I have laid on the desks of Senators, and intend to send to the desk shortly.

This resolution, very simple in language, provides that the President of the United States calls upon all the followers of the religion of Islam to prevail upon their brethren to release the American hostages, and until such time as that can be effected, it calls upon all the followers of the religion of Islam to prevail upon their brethren in Iran to permit our hostages to observe the religious holidays. Today, of course, is Hanukkah; and shortly we will observe the highest point of the Christian religion, Christmas.

Mr. President, I am honored that some 35 Members of this distinguished body have joined me as cosponsors, and I ask that during the course of the day, with the assistance of the distinguished majority leader, we might contact one of the Senators who is absent from the Chamber today in the hope that we can

● **This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.**

obtain unanimous consent that the Senate, before it recesses today, can vote on this resolution.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield?

Mr. WARNER. Yes.

Mr. ROBERT C. BYRD. Will he add my name as a cosponsor?

Mr. WARNER. I would be highly honored.

Mr. President, I yield the floor.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the unfinished business, H.R. 3919, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3919) to impose a windfall profit tax on domestic crude oil.

Mr. ROBERT C. BYRD. Mr. President, as I indicated on yesterday that there would be a live quorum at the very beginning of today, I shall shortly suggest the absence of a quorum.

I also indicated yesterday that there would be a vote on instructing the Sergeant at Arms, so I hope Senators have been alerted. I hope that the Senate will complete action on this bill today. I think it is possible that that can be done, and I believe it can be done and hope it will be done.

I suggest the absence of a quorum.

Mr. NELSON. Mr. President——

Mr. ROBERT C. BYRD. I withdraw that suggestion.

Mr. NELSON. Is there any agreement on the order in which amendments will be taken up?

Mr. ROBERT C. BYRD. There is not at this moment, may I say to the distinguished Senator from Wisconsin. The only order entered was that the Senator from Missouri (Mr. DANFORTH) be recognized immediately following the establishment of a quorum to call up his amendment.

Mr. NELSON. Under the legislative order of business, there is noted the Dole plowback amendment.

Mr. ROBERT C. BYRD. That amendment has been, by order of the Senate, the next amendment to be called up for several days. That amendment repeatedly has been set aside, but by unanimous consent it has retained its place in order.

Mr. STEVENS. Mr. President, I object.

Mr. NELSON. Is there a time limitation on it?

Mr. ROBERT C. BYRD. There is not a time limitation on that at this point.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. STEVENS. It was my understanding last evening that the Danforth amendment would be the first order of business, and that that was without prejudice to the Senator from Kansas.

Mr. ROBERT C. BYRD. Without prejudice, that is correct, yes.

Mr. STEVENS. So that following the Danforth amendment, the Dole amendment would still be in order.

Mr. ROBERT C. BYRD. Yes; we were just discussing that.

Mr. NELSON. And there is no time limitation on the Dole amendment?

Mr. ROBERT C. BYRD. That is correct.

Mr. NELSON. I have an amendment, which is joined in by the Senator from Virginia (Mr. HARRY F. BYRD, JR.), which is a very minor amendment. Do we just seek recognition whenever——

Mr. ROBERT C. BYRD. Yes, once the amendment by Mr. DANFORTH is disposed of, any Senator may seek recognition. Mr. DOLE has the privilege of calling up his amendment at that time, but unanimous consent has continued to be given by Mr. DOLE so that other Senators may call up their amendments. So I have a feeling other Senators will be able to get their amendments in.

Mr. STEVENS. Mr. President, if the Senator will yield, I am sure the Senator from Kansas would have no objection to the Senator from Wisconsin calling up his amendment after the Danforth amendment is disposed of, as long as his rights are protected.

Mr. NELSON. Mr. President, I ask unanimous consent that I be permitted to call up my amendment immediately following the disposition of the Danforth amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DANFORTH. Mr. President, reserving the right to object, I have two amendments which I intended to try to get votes on today. As far as the second one is concerned, it does not make very much difference, but it seems to follow in sequence with the first, and it might be more logical to offer the one, get the vote, and then offer the second.

Mr. NELSON. Mr. President, I have no objection. My amendment, in which Senator HARRY F. BYRD, JR., joins me, is a very minor amendment to a provision that is in the bill that came out of the Finance Committee. It will not take much time, but it does not matter to me whether it comes ahead of or behind——

Mr. LONG. Mr. President, reserving the right to object, I would ask——

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Why does not the Senator from Wisconsin just withdraw it for now?

Mr. NELSON. Well, if I can get it in later.

Mr. LONG. Mr. President, reserving the right to object, I am willing to go ahead with the Danforth amendment, but I do not want to agree to any further Danforth amendment until we have a chance to see what the situation is at that moment.

Mr. NELSON. I ask unanimous consent that I be recognized immediately after the first Danforth amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object, I want to preserve the rights of the Senator from Kansas in that order.

Mr. ROBERT C. BYRD. Mr. President, could we make it subject to his approval, subject to Senator DOLE's approval?

Mr. BENTSEN. Mr. President, reserving the right to object, will the Senator from Wisconsin (Mr. NELSON) tell us the subject matter of his amendment?

Mr. NELSON. Mr. President, the Finance Committee adopted a provision with a tax credit for the production of electricity from garbage, so forth and so on. But it could only be sold directly to the——

Mr. BENTSEN. Mr. President, the Senator from Texas withdraws his objection.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. Mr. President, I again ask that the unanimous consent be conditioned upon preserving the rights of the Senator from Kansas (Mr. DOLE), with regard to his plowback amendment.

Mr. NELSON. Mr. President, may I phrase it this way: That I be permitted to follow the Senator from Missouri (Mr. DANFORTH), unless the Senator from Kansas (Mr. DOLE) desired to proceed, in which event I would follow the Senator from Kansas.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. STEVENS. Mr. President, that does not totally, as I understand the rules, protect the Senator from Kansas. I want his right to call up that plowback amendment preserved.

Mr. ROBERT C. BYRD. Subject to his approval.

Mr. STEVENS. Yes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk called the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 18 Leg.]

Bentsen
Boschwitz
Bumpers
Byrd,
  Harry, F., Jr.
Byrd,
  Robert C.
Chafee
Danforth
Exon
Hayakawa
Huddleston
Javits
Leahy
Long
McGovern
Metzenbaum
Muskie
Nelson
Ribicoff
Stafford
Stewart
Tower
Warner
Young

Mr. ROBERT C. BYRD. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of the absent Senators. I ask for the yeas and nays on the motion.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD). The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Indiana (Mr. BAYH), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Iowa (Mr.

Culver), the Senator from Arizona (Mr. DeConcini), the Senator from Missouri (Mr. Eagleton), the Senator from Alaska (Mr. Gravel), the Senator from Hawaii (Mr. Inouye), the Senator from Massachusetts (Mr. Kennedy), the Senator from Washington (Mr. Magnuson), the Senator from Hawaii (Mr. Matsunaga), the Senator from North Carolina (Mr. Morgan), the Senator from New York (Mr. Moynihan), the Senator from Arkansas (Mr. Pryor), the Senator from Mississippi (Mr. Stennis), the Senator from Georgia (Mr. Talmadge), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Kansas (Mr. Dole), the Senator from New Mexico (Mr. Domenici), the Senator from Oregon (Mr. Hatfield), the Senator, from North Carolina (Mr. Helms), the Senator from Kansas (Mrs. Kassebaum), the Senator from Nevada (Mr. Laxalt), the Senator from Idaho (Mr. McClure), the Senator from South Dakota (Mr. Pressler), the Senator from Delaware (Mr. Roth), and the Senator from Wyoming (Mr. Simpson) are necessarily absent.

The ACTING PRESIDENT pro tempore. Is there any other Senator in the Chamber who desires to vote and has not done so?

The result was announced—yeas 70, nays 2, as follows:

[Rollcall Vote No. 484 Leg.]

YEAS—70

Armstrong
Baucus
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Byrd,
  Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
Durenberger
Durkin
Exon
Ford
Garn
Glenn
Hart
Hatch
Hayakawa
Heflin
Heinz
Hollings
Huddleston
Humphrey
Jackson
Javits
Jepsen
Johnston
Leahy
Levin
Long
Lugar
Mathias
McGovern
Melcher
Metzenbaum
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Proxmire
Randolph
Ribicoff
Riegle
Sarbanes
Sasser
Schmitt
Schweiker
Stafford
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Young
Zorinsky

NAYS—2

Goldwater
Weicker

NOT VOTING—28

Baker
Bayh
Burdick
Church
Culver
DeConcini
Dole
Domenici
Eagleton
Gravel
Hatfield
Helms
Inouye
Kassebaum
Kennedy
Laxalt
Magnuson
Matsunaga
McClure
Morgan
Moynihan
Pressler
Pryor
Roth
Simpson
Stennis
Talmadge
Williams

So the motion was agreed to.

The ACTING PRESIDENT pro tempore. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, it is my intention to call up amendment No. 816 in the very near future. I do not intend to debate the matter at great length personally because, over the past few weeks, the Senator from Louisiana and I have had several occasions to debate it at great length. I think that we have already covered it for about 7 or 8 hours on the floor of the Senate. I have written three "Dear Colleague" letters on the subject; an editorial from the Boston Globe in support of this amendment has been distributed to the desks of all the Senators. However, I think that probably some others will want to be heard also on this amendment. For that reason, unless we can get some agreement about no tabling motion before a certain hour, it will be my intention to debate the amendment now and, maybe, follow it up in an hour or so.

Mr. LONG. Mr. President, I should think that proponents of the amendment would propose to make a tabling motion at some time. We are not seeking any advantage over the Senator. I should think that we would be willing to agree that there would be no tabling motion before 10:30. If we would like to make it 11 o'clock—what time does the Senator suggest?

Mr. DANFORTH. Mr. President, I would think 11 o'clock might be about right. We might move it up by mutual agreement before that. I do not want to prolong the debate myself, but I do not want to shut anybody out, either. It seems to me we could reach some such agreement; I could call up the amendment and ask for the yeas and nays at this time while some people are on the floor.

Mr. LONG. Mr. President, if the Senator wishes to call his amendment up and ask unanimous consent that it not be in order to move to table before 11 o'clock, we would have no objection here.

Mr. DANFORTH. All right.

Mr. President, I ask unanimous consent that a tabling motion on amendment No. 816 not be in order before 11 o'clock.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 816

(Purpose: To eliminate the exemption for State or local governments)

Mr. DANFORTH. Mr. President, I call up amendment No. 816 and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. Danforth), for himself, Mr. Ribicoff, Mr. Chafee, and Mr. Durenberger, proposes amendment numbered 816.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 74, beginning with line 1, strike out all through page 75, line 2.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays on this amendment.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, may we have order in the Senate?

The ACTING PRESIDENT pro tempore. The Senator is correct. The Senator will suspend.

Let us have order in the Senate. The Senator will suspend until we get order in the Senate.

The Senator may proceed.

Mr. DANFORTH. Mr. President, I would like at this time to speak for a very short time, maybe 10 minutes or so, and in almost outline fashion summarize what this amendment is, what the reason for it is, what it hopes to accomplish, and why.

Mr. President, in the Senate Finance Committee, a special exemption was inserted in the bill for oil royalties received by State and local governments. This was a special exemption put in the bill which has the effect of reducing the revenues otherwise produced by this bill by $10.5 billion.

Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. The Senate will be in order. All Senators carrying on conversations are asked to leave the floor, go to the cloakrooms. Let us have order in the Senate.

The Senator from Missouri.

Mr. DANFORTH. Mr. President, this exemption for State and local government royalties is at a cost of some $10.5 billion over the period of the bill. That is, the total revenues produced by the bill would be increased by $10.5 billion if my amendment is adopted by the Senate.

The test for exemptions found in the bill to date is a very simple test and it has to do with production effects of the exemptions. That is to say, that over and over again it was argued in the Finance Committee and on the floor of the Senate that this exemption or that exemption is justified because it relates to national energy policy, that, if the Federal Government foregoes revenues by the exemption route on certain types of oil, those exemptions will be justified by production effect on types of oil that are thought to be sensitive to the taxation on its production.

Therefore, Mr. President, we proceeded with certain special treatment under the bill for newly discovered oil, incremental, tertiary, heavy oil, and the like.

This exemption for State governments has no production response. It does not produce an additional barrel of oil. It does not lead to the creation of an additional barrel of the equivalence of oil, synthetic fuel, and the like. It does not lead to an additional inch of insulation.

It is simply funds made available to certain State and local governments as a special exemption, with no energy-related purpose attached to it.

Mr. President, one of the questions we have, and maybe the main question we have before us, is whether the Congress of the United States is able to fashion a national energy policy. Are we able to pull together as a nation to meet a common threat to the entire Nation? Do we view the energy crisis as a crisis? Do we view it as a threat to America as a whole?

If we do, are we able to fashion a policy which is capable of addressing that crisis?

To the extent that an energy bill diverts its attention from the national energy crisis and, instead, confers a special benefit on a few States, solely for the sake of benefiting those States, and without any relationship whatever to creating more energy or saving more energy, we turn what should be attention on a national energy problem into, at least to some extent, special interests, special pleading legislation.

Mr. President, may we have order?

The ACTING PRESIDENT pro tempore. Let us have order in the Chamber. The Senator may proceed.

Mr. DANFORTH. Mr. President, under the statistical assumptions that have been made, and all the computations with respect to this bill; namely, a 2-percent real increase annually in the cost of oil worldwide over a $30 base, the effect of decontrol on State revenues, State and local governmental revenues, between now and 1990, is $128 billion increase in those revenues, $128 billion on a very conservative assumption.

I do not think anybody believes the cost of oil will go up but 2 percent. As a matter of fact, it is my understanding that last year the price of oil went up 60 percent.

But on the assumption of only a 2-percent real increase in the price of oil, Mr. President, State revenues between now and 1990 will increase by $128 billion as a result of decontrol.

That increase is comprised of two parts. About $95 billion of the $128 billion is increased State taxes, revenues on the production of oil, primarily severance tax increases. The balance, some $33 billion, is increased State revenue from royalty payments. The total is $128 billion.

This amendment would remove an exemption which is worth $10.5 billion. Therefore, from the standpoint of the State and local governments, we are talking about whether or not we should reduce the $128 billion increased revenues to $117.5 billion—$128 billion or $117.5 billion. That is what all the shouting has been about.

Of this $128 billion, 83 percent would go to only four States. That is, the additional money for State and local governments as a result of the decontrol of oil prices is not evenly distributed to all States. It is not made available to everyone. Eighty-three percent of it is targeted into four States. That is to say that $100 billion or so would go to these four States. The four States are Alaska, Texas, California, and Louisiana.

Mr. President, on the assumption of a $128 billion increase in oil revenues over this period of time, the State of Alaska alone will have increased State revenues of $37.3 billion. It would mean $37.3 billion more money into the State of Alaska, into it as a State government—not into the private sector but into the State government of Alaska. Texas will have increased revenues of more than $33 billion; California will have increased revenues of almost $22 billion; Louisiana, almost $14 billion.

It is well-known that State governments, as an aggregate, have a surplus in their budgets. Whereas the Federal Government has a deficit year after year, State governments, in the aggregate, have a surplus. These four States—Alaska, Texas, California, and Louisiana—account for 50 percent of the aggregate surplus in State budgets.

So it is not exactly the kind of extra bonus or assistance necessary in emergency situations to bail out States which are hard up. This is money for States that are very well to do. As I say, it is not just the cake, it is the frosting on the cake.

Mr. PERCY. Mr. President, will the Senator yield for a question at some point?

Mr. DANFORTH. I should like to finish the outline, and then I will be happy to yield.

Mr. President, one of the problems I have tried to focus on over the last week or so, on the floor of the Senate, which I have called to the attention of the Senate, has to do with the general economics of what is happening in this country. The general economic problem is that a tremendous additional amount of State revenue will be going to a very small number of States, which is bound to have economic consequences for the country as a whole.

For example, the State of Texas has no income tax and has no corporate tax, now. The State of Texas has a substantial surplus in its budget, now. What is the effect if, in addition to that very sound economic situation, we funnel an additional $33 billion, over a decade, into the State government of Texas?

My concern for what would happen to the rest of the country is that we would arm that State, as a State, with tremendous economic power, which power can be used against the rest of the country; that the rest of the country will be the subject, then, of economic raiding parties; that unbelievably attractive packages will be put together to lure factories, plants, job opportunities away from Illinois, away from Missouri, into these four States. There is no possibility that this additional source of funds, over and above what the States are now spending for their purposes—they are now earning surpluses—there is no possibility that this tremendous increase in funds, tens of billions of dollars over a decade, can occur without its having wrenching economic effects on the rest of the country. I mean the loss of factories, the loss of jobs, the loss of economic opportunities for people.

Mr. President, several arguments have been made by opponents of my amendment, primarily by the chairman of the Finance Committee, and he has done so brilliantly, as he always does. I will address those arguments very briefly, and I hope very clearly.

First of all, the Senator from Louisiana argues that if we adopt the Danforth amendment and strike the special exemptions for State governments, this is some sort of novel precedent which will break new ground in the relationship between Federal and State governments and will open some sort of Pandora's box which never has been opened before.

My response to that argument that it simply is not true. As a matter of fact, this would be no new precedent. The Federal Government, on many occasions, has imposed excise taxes broadly across the country, which excise taxes have applied to, among others, State and local governments.

There is no requirement of any kind that a special exemption must be carved in every and all circumstances to take care of State governments. Other excise taxes are now on the books in which the Federal Government imposes those taxes on State and local governments.

As recently as last year, the Congress of the United States enacted into law section 4121 of the Internal Revenue Code, imposing a Federal excise tax on sale of coal. That tax on coal is an excise tax. It is imposed on the coal itself, and it is imposed on the coal whether it is produced on State land or private land.

Mr. LONG. Mr. President, will the Senator yield for a question at that point?

Mr. DANFORTH. I wonder whether I can finish my outline, and then I will be happy to yield the floor.

Mr. LONG. In fairness, I have responded to the Senator, and we ought to sharpen the issue on that point. He is completely in error, and he should be willing to meet that point right now. Will the Senator yield for a question?

Mr. DANFORTH. No, I do not, at this point. I am going to yield to the Senator from Illinois.

Mr. LONG. I submit it is because the Senator does not dare yield for a question on that point. Just to sharpen the issue, will the Senator yield for a question?

Mr. DANFORTH. Mr. President, I was hoping to finish my comments in order, and then I will be happy to entertain a question.

Mr. LONG. Will the Senator yield for a question at that point?

Mr. DANFORTH. No.

The ACTING PRESIDENT pro tempore. The Senator from Missouri has the right.

Mr. LONG. The Senator would not dare.

Mr. DANFORTH. Mr. President, as recently as last year, the Congress of the United States, in order to finance the black lung program, imposed an excise tax on coal. It is an excise tax just as the windfall tax is an excise tax. There was no effort back in 1978 to do some special pleading for the States. There was no effort in 1978 to carve out some special exemption for State and local governments. States were perfectly free to take their chances with everyone else and to be treated like everyone else, for the sake of national policy. But such is not the case today with oil.

Mr. President, the suggestion is said to include State and local governments within this tax for the sake of a national energy policy and for the sake of equity. Immediately, the argument is made that if we do this everything else will immediately fall and then there will be absolutely no limits to what the Federal Government can do in taxing State and local governments.

The argument is made over and over again if we do this somehow we are going to start taxing municipal bonds.

I submit to the Senate that is not a sound or a fair argument. We are not going to start taxing municipal bonds. If we need some precedent for doing it, if the precedent argument is a sound argument at all, we already have examples of Federal excise taxes which are imposed on the States. We do not need any other example. We already have them on the books. They have been enacted by Congress, signed by the President, litigated in the courts, and decided by the Supreme Court of the United States in some cases. We do not need any other precedent. But the fact of the matter is because we passed one law, dealing with one national emergency; namely, energy, in an effort to establish one national policy to meet this problem which is, I hope, what we are about as we address the windfall tax, that does not mean that forever even after the Members of Congress are turned into so many wooden Indians, so many puppets who sit dumbly in their seats and vote automatically on issues.

We are entitled to use judgment, to hold hearings, to vote. There is no rule that we must inexorably pass one law and one tax after another because we meet the issue of a national energy policy as we are doing here.

Mr. President, the argument is made that to not carve out this special exemption for State and local governments would be unconstitutional. I only say that I do not think it is very fruitful to conduct a lengthy legal debate in the Chamber of the Senate.

Legal issues are of a sort which should be determined by going to the law library, studying the books, researching the subject and writing a legal opinion where the merits can be addressed in some detail.

And that work has been done. We have asked for the legal opinions. The law libraries have been visited. The cases have been read.

The Treasury Department was asked for an opinion on the constitutionality of deleting this special exemption for State and local governments. It hit the books. It wrote a legal opinion.

The Congressional Research Service was then consulted and asked for its legal opinion and it did the scholarly research, read the cases, and wrote a legal opinion.

And in both cases it was held quite clearly that to delete this special exemption for State and local governments would not pose a constitutional problem.

Mr. LONG. Mr. President, will the Senator yield for a question at that point?

Mr. DANFORTH. No.

Mr. President, it is argued that somehow Congress cannot put any limits under any circumstances on what a State can receive in the sale of its minerals. Since when? Mr. President, we do it now. Right now we have limitations on what a State can get in royalty payments.

Oil today is sold under a system of Federal controls. Those controls restrict the price of oil. The Federal Government imposes the controls and those controls are imposed equally on State and local governments as well as everyone else. There is no rule that a State must get anything it can possibly get from the sale of oil, presumably to serve some national purpose which purpose I do not happen to agree with, by the way. Oil prices were controlled. The Federal Government controlled them. The Federal Government artificially reduced the price of oil. And it reduced the price of oil whether it was sold by some entrepreneur, some independent producers, some big oil company, or by the State itself.

So, Mr. President, there is ample precedent in the Internal Revenue Code, in court decisions, and in the way we presently treat the production and sale of oil by States or anyone else for limiting what a State can receive on the sale of oil.

I might say that this amendment reducing from $128 billion to $117.5 billion the total amount of revenues in State and local governments over a decade seems very modest indeed.

I might add, Mr. President, that the House bill which came over to us from the House of Representatives recognized that there was no problem in imposing a tax on State and local governments. The House of Representatives bill provides that there can be a tax and that a tax will be imposed on State and local governments unless the States use the money produced by the royalties for educational purposes. If they use it for any other purpose under the House bill, then according to the House of Representatives the tax is imposed.

Now, Mr. President, one final point and that is a matter of practicality because I know that it concerns a number of Members of the Senate who feel that this special exemption for States which are already going to do very, very well really does not make very much sense. It is really contrary to a national energy policy. It is not justified by any production response whatever. It is not a precedent which shakes the world. It is not compelled by the Constitution of the United States. But maybe we just better go along with it. Maybe we just better pay this price. Maybe we better pay the price because without it we will not get a windfall bill. The bill will be killed. The Chrysler bill will never come up. And to those Senators I will just say this: The price that we are asked to pay is not $10.5 billion. It is much greater than that. The price that we are asked to pay involves the economic strength of our country, the economic strength of those States which are not fortunate enough to have this massive escalation in their State revenues with which they can conduct economic warfare on the rest of the country.

It is a price that they are going to pay in closed factories and in lost jobs. It is a human price not just another $10.5 billion in a Congress which already spends half a trillion dollars a year. It is the human price of jobs and economic dislocation which we are asked to pay at the expense of our own constituents.

Further, Mr. President, we are asked to pay a price in giving up what should be a national energy policy in which all Americans and all parts of the country are asked to make sacrifices and which everyone is asked to roll up his sleeves and pitch in so that our country no longer be in the position it is now, totally vulnerable to countries located halfway around the world that owe absolutely nothing to us whatever.

For the sake of avoiding that constant dependency, America requires a national energy policy; and to the extent that one section or another sees this as an opportunity to be unjustly enriched, then, Mr. President, we have given up a national energy policy in the name of regionalism.

Mr. DURENBERGER. Mr. President, will the Senator yield?

Mr. DANFORTH. I am happy to yield to the distinguished Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I am terribly proud, as a member of the Finance Committee, of the work that committee did on the windfall profit tax. I am not as happy with what has happened to that tax since it got to the floor of the Senate. I am very proud of the leadership of that committee, both the chairman of the committee and the ranking Republican member.

One of the areas of disagreement that we had on the committee was on the issue that the Senator from Missouri has so eloquently and so long spoken to over the last couple of weeks. It is a sympathy that I share with him. I shared it with him in the committee, I shared it with him in another committee on which both of us served, and I share it with him today on the floor of the Senate. I would like to take just a couple of minutes of the Senate's time to develop an additional factual——

Mr. LONG. Mr. President, I object to the Senator farming out the floor. He has the right to yield for a question, but he appears to be farming out the floor.

The PRESIDING OFFICER (Mr. PRYOR). The Senator from Missouri does have the floor, and can yield only for a question.

Mr. DANFORTH. Mr. President, that is what I have done. I have yielded for a question.

The PRESIDING OFFICER. Is the Senator asking a question?

Mr. DURENBERGER. Yes, I am asking a question, but I need to lay a foundation for that question.

Mr. LONG. Mr. President, it seems fair that some of us on this side of the issue should have an opportunity to speak. The Senator from Missouri has used up half the time that we estimated would be used, and has taken his seat. I think some of us should have an opportunity to be heard. He has the right to yield for a question, but he took his seat.

Mr. BENTSEN. Mr. President, as an original author of the amendment, I think in all fairness I should be entitled to be heard.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state his inquiry.

Mr. DANFORTH. Is there a time certain for the vote on this amendment?

The PRESIDING OFFICER. There is not a time certain for the vote.

Mr. DANFORTH. I thank the Chair.

Mr. LONG. Mr. President, I ask to be recognized.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, I think it is fair that we have an opportunity to be heard. We have a unanimous-consent agreement that no one on the side opposed to the Danforth amendment would move to table before 11 o'clock, and implicit in that is the inference that at that time someone on our side may move to table. I think we have a right to be heard. Mr. President, I regret——

Mr. DANFORTH. Mr. President, a parliamentary inquiry. Who has the floor?

The PRESIDING OFFICER. Does the Senator from Louisiana yield for a parliamentary inquiry?

Mr. LONG. Well, Mr. President, I will make a parliamentary inquiry. Who has the floor?

The PRESIDING OFFICER. The Senator from Louisiana has the floor.

Mr. LONG. Mr. President, when the Senator was objecting to the——

Mr. DANFORTH. Mr. President——

Mr. LONG. Mr. President, I ask for the regular order.

Mr. DANFORTH. Mr. President, I have never yielded the floor.

Mr. LONG. Mr. President, I saw the Senator sit down in his seat. You cannot hold the floor from your seat. I asked to have the floor.

The PRESIDING OFFICER. The Senator from Louisiana has been recognized.

Mr. LONG. Mr. President, I ask the Senator to yield when he discussed the black lung tax, and he preferred not to yield. I must admit, Mr. President, that I was rather concerned that the Senator would not yield, because it seemed to me that he was completely in error. I was the manager of the black lung bill and also the chairman of the Senate conferees on the black lung tax. I wanted to speak to a matter where the Senator, in my judgment, was completely in error—so completely in error that one would wonder how he could possibly have continued his error; but he still insisted that he would not yield under any circumstances.

Mr. President, in view of the fact that the Senator from Louisiana was the manager of the black lung tax, I know something about that law. I know that the black lung tax applied to everybody to whom it was directed.

It is a tax on coal mine operators. I suggest that the Senator call the people who administer the act, and ask them how many States are paying the black lung tax on the coal mined in their State. Find out: go call them, Senator. You will find that not one of them, not one State, is paying the black lung tax, for a very simple reason. It is a tax on coal mine operators.

Mr. President, if the States were operating coal mines, it might very well be that they should pay the black lung tax. There is no argument about that. That is not what is involved here.

The President, the black lung tax defines a producer in a different fashion—and it makes a difference—from the way we define a producer under this bill. For purposes of the black lung tax, a producer is defined as "the owner of the coal immediately after it has been mined." That is the coal mine operator. In no case it is the State goverment. Why would we want to say the State is exempted, when the State is not taxed to begin with?

Furthermore, Mr. President, the Senator refers to two opinions which he says support the constitutionality of his amendment. Mr. President, they do no such thing. One of his opinions was written for Mr. Don Lubick, Assistant Secretary of the Treasury for Tax Policy. Mr. Lubick asked three specific questions, and someone in the General Counsel's office responded to the three questions.

I analyzed that opinion very carefully in a speech a couple of nights ago. I referred my analysis to the Senator. He attempted to respond to it without having read it. Unfortunately, he apparently has not read the opinion to this time. Nowhere does that opinion say the Danforth amendment is constitutional. It does not refer to the overall constitutionality of the Danforth amendment at all. I pointed out that that opinion is erroneous on one important point, but that even if it were right on that one point, there would still be two or three other bases on which the Danforth proposal would be unconstitutional.

As a matter of fact, Mr. President, my staff has reviewed the black lung tax and discussed the law with the Department of Labor and the IRS. Nowhere in the act does it say a State will be taxed, nor was there ever any intent to tax the States. The Senator from Missouri is grossly in error.

The Senator says there are other cases where a State pays an excise tax. Of course there are. For example, if the Governor of a State puts a letter in the U.S. mail he has to put a U.S. postage stamp on it. He has to pay. That is a Federal service, and everybody pays. No one complains about that. No problem.

I also was the manager of the airway user tax bill, which had to do with the fact that we had to pay for air safety, and everyone was expected to pay his part.

We specifically exempted States from the gasoline tax on air users, but we said everybody had to pay a registration fee, so we said the States should pay the aircraft registration fee.

In that case, the State of Massachusetts was sort of offended by the fact that they had a police helicopter, and they had to put a registration number on that police helicopter and pay a $131 registration fee. So they went to court about it, and the court found that the act discriminated in favor of the State, it did not discriminate against the State.

Now, Mr. President, let me tell you about the second "legal opinion" which the junior Senator from Missouri keeps referring to in support of the constitutionality of his amendment. It seems that someone wrote a letter over to the Library of Congress. A little old lady over at the Library of Congress got this letter. She wrote back and said that it looks as though you could tax the State if the State was in the business of drilling for oil and producing oil.

I do not argue about that. As far as I am concerned, it is totally irrelevant. And I would be willing to say, for the sake of argument, that you can.

But Louisiana, Texas, and almost every other State are just like any landowner. They sign a lease and let somebody extract the minerals from their property. That does not make the State a mineral producer, any more than it makes a State a coal mine operator when the State permits someone to remove coal from the land of a State.

Mr. President, I cited for the Senator extensive legal authorities, which I guess he does not care to discuss. That is all right, if he does not want to discuss it. I would hope he would read it at some point because, Mr. President, the constitutional authorities are very clear. It is wholly unconstitutional to levy a tax that discriminates against a State government.

My full statement on the unconstitutionality of the Danforth amendment appears in the CONGRESSIONAL RECORD on December 13, 1979, beginning at page 35991.

When this bill was in the House of Representatives, the proposed tax at that point was a tax on everybody; somewhat like the tax we put on airplanes. That tax applied even to the Federal Government itself. If we have an Air Force or an Army plane, even the President's plane, the Federal Government itself has to pay a tax to register it, to put the number on the wing of the airplane to identify it. A completely nondiscriminatory tax, under certain circumstances, as in that case for a user fee, can be upheld.

But that is not the case here, Mr. President. The House sought to pass a nondiscriminatory tax. The Senate committee did not, and the full Senate has not agreed to a nondiscriminatory tax, and it will not.

What we have here, Mr. President, is a tax that taxes major oil companies. It does not tax independent producers. It is a tax that taxes some landowners if their land is beneath major company wells. It does not tax landowners if their land is beneath wells owned by independents. It exempts hospitals. It exempts certain charitable groups and universities. It exempts Indian tribes, as well as a majority, 95 percent, of all the producers.

So it is clearly discriminatory tax. We do have the right to discriminate as between corporations and individuals, and the courts have upheld that. We do not have any right to discriminate against the State governments, Mr. President, and the Senator is seeking to levy a tax which would put the States among those who are being discriminated against. Clearly that is unconstitutional. And every judge who has even spoken to it has said it was unconstitutional.

I gave the Senator the legal authorities. The best we could get in reply from him is complete ignorance—and I say "ignorance," because it is a matter of ignoring the authorities. He does continue to refer us to that research memorandum written by the little old lady, saying that if the State goes into the business of producing oil, like any other oil company, it can be taxed. No argument. We have no argument with that little lady down there. She did not say the Danforth amendment was constitutional, so we have no quarrel with her whatever.

Listen to what the little lady said:

> Therefore, it would appear that there would be no constitutional problem with

> taxing lessees of State lands on their windfall profits from extracting oil—

Get that, "lessees * * * extracting oil."

> nor does there appear to be a constitutional problem with taxing a State which extracts and sells oil as if it were a private company.

I do not quarrel with that. What I quarrel with is the Danforth amendment, which has nothing to do with that.

What is in issue is the case where a State really owns land and someone comes and produces oil from that land. Mr. President, it does not make a farmer into a power company, just because a power company signs a lease to put a powerline across his property. It would not make any Senator a restaurant owner, just because he goes into a restaurant and eats a meal, and it does not make him a cook because he eats a meal. He is just a customer in the place of business, and he is not the one engaged in that particular business. Now, that is the distinction the Senator has failed to make all the way through.

Mr. President, I would ask the Senator to present us with the authority, what quotation would he present from any judge who ever served on the Supreme Court, for example? I presented him with a host of them to say that his proposal is unconstitutional, applied to this type of situation.

For example, here is the language of Chief Justice Stone prior to the time he became Chief Justice. He, by inference, referred to it again when he later decided the New York case, which is the case on which the Senator relies. And in the earlier case, Group Number One Oil Corporation against Bass, when Justice Stone talked about property in the following quote, remember that he was talking about oil and gas from State-owned school lands.

> Property sold or otherwise disposed of by the government, either state or national, in order to raise revenue for government purposes is, in a broad sense, a government instrumentality, with respect to which the property itself before sale, nor its sale by one government, may be taxed by the other.

Now, that is clear enough. You cannot do what the Senator is seeking to do: Tax the property of the State when it sells its real property. Oil and gas, being minerals, are part of the real property under both State and Federal law. That is the law. There is Mr. Justice Stone, later Chief Justice of the U.S. Supreme Court, speaking in a unanimous opinion.

In New York against United States, Chief Justice Stone wrote another opinion which the Senator thinks gives him some support which, instead, demolishes his argument.

That opinion laid down three tests which must be met before Congress can tax a State. One, income from State-owned lands is immune from Federal taxation. Two, discrimination against a State will not be permitted; that is unconstitutional. Three, the Federal tax cannot interfere with the sovereign functions of the State government being taxed.

Now, the Senator has stated that the real purpose of the amendment is to prevent the States from seeking economic opportunities from their people or for their people, seeking jobs, seeking payrolls.

Mr. President, it is not the function of the Federal Government to say how far a State should go to try to find some jobs for its people. In the case of Louisiana, our per capita income is only about 70 percent of the national per capita income. We are not doing nearly as much to try to attract industry as some States are doing, and perhaps it is because we do not need to do as much to attract other industries. We are doing reasonably well.

But it seems unfair to us, when our per capita income is 70 percent of the national per capita income, for some State to try to tell us that we must not do even as much as we are, or more; pass judgment on what we do to try to provide jobs for our people.

It is not the function and it is not the role of the Federal Government, by way of its taxing power, to restrain the States in trying to provide economic opportunities for their people. And so, again, the Senator's proposal fails the constitutional test. It fails it on all three counts.

Mr. President, some Senators like to take the view that it is not for me to decide whether something is unconstitutional; that is for the other guy, that is for the courts.

Well, Mr. President, when each Senator took an oath to defend this Constitution against all enemies, foreign and domestic, we did not qualify it by saying we would pass the buck to the Supreme Court. Each of us were sworn to defend the Constitution, everything that is a part of it, as each of us understood it. And there are all the authorities.

Mr. President, speaking for one Senator, my conscience cannot let me vote to destroy the Constitution when it is very clear, from all the decisions and all the precedents, that that is what I would be voting to do.

Mr. President, the Senator has referred to some very large numbers. Those numbers have been analyzed by the State governments. The analysis we get from Louisiana is his numbers are exaggerated more than 2 to 1 as to what the possible revenue of the State government would be due to oil price decontrol. And I believe the analysis from Texas comes in that it would be about one-third the figure that the Senator is estimating that the State revenue might be increased by virtue of its taxes, its revenues, and other respects.

Mr. President, furthermore, there is a question of Federal land policy. The policy since the beginning of this Nation has been that the Federal Government would not tax the lands of the various States and has not sought to do it for over 200 years. This is the first time in the 200 years that an effort has been made to tax the lands of the various States.

Quite the contrary, the policy of the Federal Government has been to permit the State to keep those resources and develop them for the use of the people of those States. Even the Federal lands located within those States have been, by Federal law, dedicated to the benefit of those people. Just a few years ago, in 1976, we passed a law to increase the States' share from 37.5 percent to 50 percent of all the revenues from timber, coal, oil, and other resources from Federal lands.

I want to ask the Senator with regard to the tax on black lung. That tax does not apply to a State owning land and it does not apply to a landowner under whose land coal is being mined. The Senator from Missouri mistakenly thought the States are liable for the tax. I would ask him despite his error, are you in favor of that, would you favor taxing the landowner and taxing the State, which the black lung tax does not? That is a question I know that many Senators would like the Senator from Missouri to respond to.

Mr. President, there are other Senators desiring to be heard.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, I would like to trace a little history of this and how it was put into the bill in the Finance Committee. The Senator from Texas originally introduced the amendment to exempt the royalty income from State-owned lands utilized for educational purposes. After that, the Senator from Wyoming (Mr. WALLOP) expanded that amendment beyond what the House amendment is, to exempt all of that royalty income dedicated to a public purpose. I think he was right in doing so. I voted for the amendment.

Mr. President, the Danforth amendment is dangerous and unprecedented. It is punitive. It lacks any constitutional basis. It is in direct conflict with fundamental principles of State-Federal relations. It is a product of rampant regionalism and has no place in this debate. The Danforth amendment was considered and roundly rejected by the Finance Committee and deserves a similar fate on the floor of the Senate.

Leaving aside for the moment the important legal and constitutional questions raised by this amendment, what is it the Senator from Missouri seeks to accomplish? He proposes, quite simply, to break with 200 years of history and slap a Federal tax on State property.

Mr. President, anyone who acknowledges the validity of States rights, a concept fundamental to the success of our American experience, will find this amendment repugnant. In proposing that a Federal tax be levied on State property, the Senator from Missouri does violence to the constitutionally implied immunity of the States and State instrumentalities from taxation by the Federal Government—an immunity that has been recognized time and again by the Supreme Court.

I can think of no prior instance in which the Senate has ever agreed to such a transparent, blatent infringement on the rights of the States.

For years, Mr. President, the Department of the Treasury has been looking for a handle, for an excuse, to tax State property, and they have not been able to find one. Why? Because it does not exist. And now the Senator from Missouri proposes to hand them that opportunity on a silver platter.

Does the Department of the Treasury support this amendment? You bet they do. It would provide the sort of windfall profit—windfall tax revenue—that the Treasury could well embrace.

What is it that compels the Senator to make this unprecedented attack on States rights? Well, he has gone to Treasury, they ran their computers and produced some statistics suggesting that a group of States—Texas prominent among them—will see a dramatic increase in revenues over the next decade as a result of decontrol. In the case of Texas, the Treasury figure is $33 billion; that figure may be high by a factor of almost 3 to 1, but I will come back to that.

The Senator from Missouri then makes the assumption that States such as Texas, Alaska, Louisiana, and California will use these new revenues—if I may use his own words—

> To conduct the most effective economic warfare against the rest of the country ever dreamed of * * * they will do this in order to make a very appealing package of economic incentives for business and industry to move into these States.

So we can see, Mr. President, that the Danforth amendment is rooted in regionalism; it springs from the fear that four States are going to monopolize plant capacity in the United States of America. The Senator—who likes to caution his colleagues against conjuring up a "list of horribles" that could result from the precedents of his amendment—does not hesitate to base his proposition on the assumption of a second war between the States.

However, look at per capita incomes in the Sun Belt, and you will see that the region is still below the national average. Sure, we are making progress—progress that is our right as American citizens. We are enjoying some of the prosperity that has been lacking in our region for more than a century, but we are not prospering at the expense of other regions.

The State of Louisiana, that great economic colossus of the future that is going to ravage the Nation's industrial base, has a per capita income substantially lower than the State of Missouri. I have great respect for the people of Louisiana; they are neighbors and I know them well. But Louisiana, Mr. President, is one of the least economically advantaged States in the Union. Is that to be their lot for eternity? Are these good people permitted no hope for the future?

My own State, the State of Texas, has prospered recently, and as a result we are right about at the average for per capita income. We have still got a long way to go before we catch up to Connecticut, I can assure you. And let me also point out that the poorest regions of this country are not in the ghettos of the northeast, but in the south of Texas.

New Mexico, another neighbor, derives substantial income from royalty revenue. Take a look at per capita income in New Mexico and then tell me that the State does not need that revenue.

So let us understand, Mr. President, that the Sun Belt is not robbing anyone's prosperity. We are in the process of redressing longstanding historical inequities that have worked to the disadvantage of our region. Proponents of this amendment would like to punish us for trying to catch up with the rest of America; for creating an economic environment attractive to business and investment. If that is our crime, then the rest of the Nation would do well to emulate it.

In arguing for his amendment, the Senator from Missouri likes to talk about the "big 4" by which he means Alaska, California, Louisiana, and Texas. New Mexico, which receives almost $50 million a year in royalty revenue might also qualify for membership in this exclusive club of intended victims.

In focusing his attack on the big 4, the Senator might also wish to make reference to "the little 16"—States with oil royalty income ranging from $11 million to less than $100,000 per year—that would also fall prey to the Senator's proposal.

The little 16, Mr. President, are Alabama, Arkansas, Colorado, Florida, Indiana, Michigan, Montana, Nebraska, Mississippi, North Dakota, Ohio, Oklahoma, Tennessee, Utah, Wyoming, and South Dakota.

Unfortunately, the State of Missouri does not appear on this list, and we can conclude that the Senator's amendment will not cost Missouri a cent.

In fact, I think it is safe to assume that the only reason the Senate is even considering this unprecedented proposal is because States with royalty income are a minority. It may seem like good politics to some to trample on the Constitution and attempt to harvest a windfall revenue of $10 billion by ganging up on those States fortunate enough to have oil and gas on State-owned lands.

If the Federal Government can tax a State property—and clearly it should not—then why limit the punishment to oil and gas income? The price of timber has been rising dramatically, and there may be a windfall involved. Missouri produces timber from State-owned lands; so does Wisconsin, Ohio, Nevada, Montana, Minnesota, Michigan, Idaho, and Arizona.

Now, if the Senator from Missouri were to ask me: would I join him in supporting this amendment if he agreed to an excise tax on all production from State-owned lands, I would respond in the negative.

I would still oppose this amendment because there is a fundamental question of principle involved. The imposition of a Federal tax on a State nonbusiness property would be poor public policy. It would be in direct conflict with basic principles of Federal-State relations. It would be an initiative without precedent and would constitute an unwarranted infringement on the right of State governments to determine the most appropriate manner to finance local expenditures.

I mentioned earlier, Mr. President, that I wanted to discuss some of Senator DANFORTH's facts and figures which provide the only basis for his argument in favor of punitive taxation against a select number of States.

The Senator maintains, presumably on the basis of figures provided by Treasury, that Texas will gain over $33 billion in increased revenue from decontrol over the life of this bill. That is obviously a very difficult prediction to make, particularly since income will be highest at the end of the decade. I think the Senator would acknowledge that—under the best of circumstances—these figures are no more than a rough estimate.

I asked the comptroller of public accounts for the state of Texas to do the same analysis for me, using the same pricing assumptions as Treasury. This is the office that provides the facts and figures used by the State of Texas in drawing up its budget.

That comes to $13.9 billion additional income over 11 years. Mr. President, we could throw in an additional $2 billion just to be on the safe side, and the total would still be less than half that cited by Senator DANFORTH.

I cannot guarantee that the figures from the comptroller of public accounts of the State of Texas are correct any more than Senator DANFORTH can vouch for the acccuracy of his 11 year prognosis. But I would conclude, and suggest very strongly to my colleagues, that the Danforth figures may well be high, possibly twice as high as reality.

In arguing for his amendment, the Senator from Missouri makes the point that an exemption for royalties from State-owned lands will not contribute to additional energy production or decreased consumption.

Mr. President, is the purpose of the windfall profit tax to extract revenue from every activity in this Nation that does not contribute to greater energy self-sufficiency?

Royalties earned by the State of Texas from oil and gas on State-owned lands are committed to education. They help serve the educational requirements of 13 million people all across the State. Of course they do not contribute to greater energy production. No one has ever made a claim to the contrary.

These royalties are exempt from the windfall profit tax because there is no sound basis for Federal taxation of a nonbusiness State activity. We have not done anyone or any region a favor by exempting these royalties. We are simply acting in accordance with the law of the land.

Finally, what conceivable justification could there be for including State royalties in the windfall profit tax? In his April 26 message to the Congress, the President stated:

> To prevent unearned, excessive profits which the oil companies would receive as a result of decontrol and possible future OPEC price increases, I proposed a windfall profit tax.

The purpose of the tax could not be clearer; it is targeted at the oil companies. The States, Mr. President, are not oil companies. They are not profit-making enterprises. They are not the intended targets of this tax. To broaden its provisions to include State royalties would be clearly inconsistent with the stated purpose of the windfall profit tax. It would also be unconstitutional.

The Danforth amendment has its origins in the darkest reaches of regionalism. The Senator has conjured up this phony vision of a future Sun Belt assault on the industrial base of the Northeast and Central States and calls for a preemptive strike to deprive certain States of resources that lawfully belong to them, resources they have no intention of using as he suggests.

Like all preemptive strikes, this one is dangerous and could backfire. It would set unfortunate, far-reaching precedents. It would be an unprovoked, unnecessary assault on the concept of States rights. This amendment is punitive; its sole purpose is to punish unjustly those States whose only crime is to have oil on State-owned land.

Mr. President, I urge the defeat of the Danforth amendment.

Mr. PERCY. Will the distinguished Senator yield on that point?

Mr. BENTSEN. I will yield for a question only.

Mr. PERCY. The Senator from Illinois has been very disturbed about this being called a windfall profit tax right from the beginning. I have always referred to it as a "so-called" windfall profit tax. The only reason the Senator from Illinois has supported a strong so-called windfall profit tax is that I am positive if we do not have a substantial enough one, we are going to go back to controls. That would be a disastrous route for us to follow. I believe we have to have free market pricing in energy and I supported strongly decontrolling both gas and oil pricing.

I have been very troubled by the pending amendment. I know the sincerity of purpose of my distinguished colleague from Missouri, Senator DANFORTH. It is a demonstration to the country and the Senate that you can have sharp differences of opinion without any acrimony between members of the same committee. Though Senator LONG runs the Finance Committee with a firm hand, he is not a dictator. Every member has a right to disagree with him, to do so and not lose his friendship and respect.

I have been concerned about this amendment because of several reasons. I have counseled, for instance, with my own governor, Governor Thompson, on it. He is very concerned about the State sovereignty aspect of it. I am not a constitutional lawyer and I shall not get into that end of it. But there is a certain amount to be said about the fact that we all have certain benefits inherent to our States.

The Senator from Missouri used the terminology that four oil States are "unjustly enriched."

Are we unjustly enriched in Illinois because we can tax all of our abundant commerce, industry, and business? We just raised our business tax over 50 percent this year. Millions of additional dollars will come in. We could use that to attract more industry, just as oil States can use their new revenues to attract industry.

Are we unjustly enriched because we have the Mississippi River on one side, which we can use for low-cost transportation up and down, and Lake Michigan on the other, where we can bring ocean traffic directly into Chicago?

All States have certain special benefits. In Illinois, we have seen our farmlands go up every single year, compound in value 15 percent. Are all Illinois farmers thus "unjustly enriched"?

Are we unjustly enriched because inflation is so heavy that it is better to own "things" than hold money? Art collections have gone up astronomically in value. Also, because gold prices are going up and silver as well, are we going to somehow tax States that have silver mining interests?

I must say to my distinguished friend Senator DANFORTH that philosophically, I am bothered by that. I cannot say that these States are "unjustly enriched."

I am therefore concerned about this amendment. I know the purpose of my distinguished colleague. I am concerned that we in our State might have this oil revenue used by these four States to attract our industry away. I put it to our Governor who is responsible for our economic growth. He said he would put supreme the State sovereignty issue. He will take his chances that Texas, Louisiana, and others, are not going to take these extra revenues that they are going to have and plunder our industry. But he thinks the principle is important. I have come to that conclusion, too, because I always like to support my distinguished colleague from Missouri whenever I can. I have tremendous respect for the way he has carried this fight on. But I do think the point made by the distinguished Senator from Texas is properly made and I appreciate very much his yielding.

Mr. BENTSEN. I thank the distinguished Senator from Illinois for his perception. I do not want to take much time because I know others want to speak.

I do want to again refer to the numbers the Senator from Missouri gave us, when he talks about $33 billion for Texas. I do not know how that number was derived. I went to the comptroller of accounts. This is the fellow who has to work out numbers for Texas so they can set their budget. He says we are talking about less than one-half of what the Senator from Missouri is talking about.

This amendment ought to be voted down just as decisively as it was in the committee.

Mr. STENNIS. Will the Senator yield to me for 5 seconds for a question?

Mr. BENTSEN. I am glad to yield.

Mr. STENNIS. I want to ask the Senator, has his attention been brought to the fact that we have at least one State—I think there are others—but I know Mississippi has a clause in the grant by the Federal Government. The Federal Government once owned the territory now comprising Mississippi and Alabama. The Federal Government put a clause in the grant to the part that comprises Mississippi that forever there should be reserved the 16th section in every township of land reserved for the public schools of the township. They were called townships in those days.

That is the law from the Federal Government. It is in the Mississippi constitution and religiously followed. We reserve all those funds now from oil, timber, and anything else to the public schools. Has that been brought to the attention of the Senator?

Mr. BENTSEN. No, that has not. I think that is a very helpful piece of information.

Mr. STENNIS. One other question goes with it. If we have the Federal Government now taxing that land that is in trust and reserved there for the public use, does that not open the door for the State in turn to tax the Federal property that may be within the State? That is, they both came out of the same idea of exemption each for the other and if we destroy one, then the foundation of the other will fall. Is that not correct?

Mr. BENTSEN. That is an interesting point, Mr. President.

I yield to the Senator from California.

The PRESIDING OFFICER. Does the Senator from Texas yield the floor?

Mr. BENTSEN. Yes, I yield.

Mr. CRANSTON. Mr. President, if I could have the attention of the Senator from Missouri, I would like to address a question to him.

I ask the Senator from Missouri if he stated in the course of his remarks earlier this morning that his amendment would increase revenues to the Federal Government by $10.5 billion?

Mr. DANFORTH. Yes, Mr. President. the value of the exemption is $10.5 billion, so that the revenues otherwise produced by the bill—there may have been some adjustments because the bill itself has been altered on the floor of the Senate. But all the figures are the Treasury Department figures. The figures with respect to the total value of the exemption, the figures with respect to the $128 billion of increased State revenue; the figures with respect to the $37 billion increase in revenues from the State of Alaska, the $33 billion increase in revenues from the State of Texas and so on—these are not my figures. These are the Treasury Department figures, and they are the same figures that we have been working with throughout consideration of this bill.

Mr. CRANSTON. Mr. President, while there might be some question about some of those figures, I do not propose to debate them at this point. I am sure the Senator understands his amendment. I am sure he understood the bill as it came out of the committee. Apparently, the Senator does not understand the bill in its present form; therefore, he does not understand the impact or the effect of his amendment.

What the Senator has failed to take into account is the consequence that flows from the adoption of the Moynihan amendment, which sets a ceiling on what can be produced in revenues by the windfall tax. There is a ceiling. When you reach that ceiling, you stop. No more revenue, no more additional $10.5 billion, not $1. Therefore, the actual effect of the

Senator's amendment, which I am quite certain he did not intend since he drafted it before the Moynihan amendment was adopted—but, I would like to point out, he did not rewrite it after it was adopted. Therefore, the effect of the Senator's amendment is a $10.5 billion windfall to the oil companies.

The effect of his amendment is to reduce the tax to be paid by the oil companies by $10.5 billion and the other effect is to tax the people of Alaska, the people of California, the people of Louisiana, the people of Texas, and the people of a lot of other States—Oklahoma and many other States. Let me run through the list. The tax will be on them instead of on the oil companies. That is a rather odd thing to be seeking to do on the floor of the Senate.

We shall be taxing about 82 million people residing in the following States: Alabama, Alaska, Arkansas, California, Colorado, Florida, Louisiana, Michigan, Montana, New Mexico, North Dakota, Oklahoma, Tennessee, Texas, Utah, Wyoming, South Dakota, and the State of Mississippi.

The reason for that, the reason the effect of the Senator's amendment is to take money away from the citizens of those States and, instead, relieve the oil companies of $10.5 billion in tax, is the impact of the Moynihan amendment.

So the effect of the Senator's amendment is to hit the people of the oil producing States who own, they do not produce, but they own. The beneficiary will not be the non-oil-producing States, will not be the citizens of Missouri or the other States that cannot produce, will not be the Federal Treasury, and certainly not the taxpayers in any State in the Union, particularly not taxpayers in those States which would be subjected to this new Federal tax depriving the States of revenue.

It is they who will lose the benefit of this State income which will be, instead, transferred—transferred I say—to the major oil companies.

Mr. DANFORTH addressed the Chair.

Mr. CRANSTON. Let me just run through this briefly.

The Senator refused to yield to Senator LONG. I now refuse to yield for a moment to the Senator from Missouri.

No, the U.S. Treasury will not be one cent richer as a result of the approach of the Senator from Missouri.

Nor would the nonproducing States benefit in any way.

But the oil companies would indeed benefit, if the amendment of the Senator from Missouri is added to this bill.

Let me explain how that works, Mr. President.

The Senate decided when it adopted the Moynihan amendment that the windfall tax would have a limited duration—a limited duration.

The so-called phase-out provision adopted by the Senate terminates the windfall tax, once a specific revenue ceiling is reached.

That ceiling, or cap, has been set by the Moynihan amendment at $214 billion.

The windfall tax cannot produce one cent more in revenues beyond $214 billion. Revenues are expected to reach that cap sometime between mid-1994 and mid-1997.

The Senator from Missouri argues that States that own interests in oil production should turn over to the U.S. Treasury under this tax $10.5 billion of the income they expect to realize from those petroleum resources—to use Senator DANFORTH's computation.

If the Senator's amendment is adopted, the only effect would be to reduce—reduce—by $10.5 billion the taxes otherwise collectible from the oil companies.

It would not help the Treasury—which would still be limited to a total take of $214 billion.

It would not help the non-oil-producing States compete with other States.

It would certainly not help taxpayers in those States that would lose the benefit of State income from State oil resources.

No, Mr. President, it would help only—only—the major oil companies avoid a portion of the windfall tax that they would otherwise have to pay.

None of the expressed concerns of the Senator from Missouri were about the importance of moving public funds from State government, from the citizens of many States, to large oil companies. Nor, I am sure, was that the actual intent of the Senator's amendments.

But that is the impact. Therefore, I urge him to withdraw his ill-conceived and now ill-drawn amendment.

The plain fact is that there is no more revenue to come to the Federal Government under the Senator's amendment, only less revenue to be paid by the oil companies.

I grant there would be a slight delay in receiving the revenue because it would start coming from the States at the same time we started collecting from the oil companies, and that would produce a little bit of early revenue. But should we give the oil companies a $10.5 billion bonanza, relief, to that extent, just because of a slight delay collecting perhaps $1 billion?

I say "No" and I am confident the Senate will say "No."

Several Senators addressed the Chair.

Mr. CRANSTON. I yield to the Senator.

Mr. METZENBAUM. Would the Senator from California agree that, a, the Moynihan amendment is not adding finality because the House has not accepted it, and that the impact with respect to the oil companies would only come sometime in 1994, after 1990, according to the Senator's own statement, whereas the people of the other States would be bearing this unfair tax burden between now and that time, with the thought that at that time the oil companies might gain some relief, if at that time Congress did not change the action as pertaining to the Moynihan amendment?

Mr. CRANSTON. Of course, that is not presently law, any more than any portion of this is law. But we are working from the bill the Senator proposes to amend, and the fact we take it in that context.

I grant there would be some delay receiving funds. But why relieve the oil companies? I had not understood the Senator wanted to help them.

Everything he has done here is to the contrary if he supports that amendment, it is, in effect, granting $10.5 billion tax relief to the oil companies.

Mr. METZENBAUM. Would the Senator from California then suggest an amendment to the Senator from Missouri's amendment to add that $10 billion on to the Moynihan amendment, is that what the Senator is suggesting? Because I think this is a new argument being made, that this is somehow relief to the oil companies, whereas the Senator from Missouri stood here for days and talked about the unfair burden being placed on the rest of the States by reason of the fact that five States, and it is really four or five States, will gain by reason of this exemption.

Mr. CRANSTON. The Senator made that argument because he has not understood the impact of his amendment.

I yield to the Senator from Louisiana.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. JOHNSTON. Mr. President, I would find this whole exercise rather amusing, in fact, downright funny, if it would not impact my own State so unfairly and so illegally.

Listen to what the Senator from Missouri has said, that the State of Louisiana, because we are going to get about 3 percent a year additional revenue, and that is all it amounts to, that we will—what did he call it—economic raiding parties—economic raiding parties—with 3 percent additional revenue, we are going to raid Missouri.

Mr. President, if there was ever a ridiculous argument made on the floor of the Senate, that is it. Raiding parties, he calls it.

A State which is 43d in per capita income, well below Missouri, a State which I hate to admit is at the bottom in terms of illiteracy, that poor State, trying to get up out of the economic bondage still left over from Reconstruction days, somehow will use 3 percent additional revenue that belongs to us. It is under our ground. It is our heritage. It is our birthright.

It is not given us by the Federal Government, except in the Constitution, which was a compact, an agreement at the time we came into this Union.

Mr. CRANSTON. I would like to ask the Senator to exclude my State from those States under economic bondage.

Mr. JOHNSTON. The Constitution of the United States is to a lot of people an anachronism. It is a worrisome document that gets in the way of trying to accomplish some ends they want to accomplish.

But, Mr. President, that Constitution lives, whether it is inconvenient, whether it is 200 years old, it lives today. We have all taken an oath, as my colleague from Louisiana says, to uphold it.

Mr. President, each one of us, not because we want to bring Louisiana up out of 43d in per capita income, that is the job of my colleague and I to do, but because the Members of this Senate, Mr. President, should uphold that

Constitution, because it is an agreement, a compact between the State and the Federal Government, and if we breach it in such a fundamental way as this Danforth amendment would do, Mr. President, it would destroy the federal system, the relationship, that finely tuned balance, by which each part of our Government respects the other in their ownership, their powers, and their ability to function in separate governments.

Mr. LONG. Will the Senator yield for a question?

Mr. JOHNSTON. I will, indeed.

Mr. LONG. With regard to this argument about our State raiding other States for their industries, I ask the Senator, as one who has served with distinction in the State legislature, one, is it not true that Louisiana's severance tax is dedicated to the schools, the schoolchildren, and the school teachers, which is most of what Louisiana's revenue would be?

Two, the royalty on State lands involves perhaps $150 million a year. About what portion of $150 million, at that State legislature, could be grabbed off by the Department of Commerce and industry, if it were up for grabs?

Mr. JOHNSTON. I say to my colleague that that represents about 3 percent of the State budget, and the school teachers want all of that and more, and zero would go to the Department of Commerce and industry.

Mr. President, we must uphold the Constitution. It is important to us all. I ask the Senate not to visit on our State a new form of economic discrimination, because that which taxes us today will tax other States tomorrow. As it were, we will get this hour, but that hour will soon be gone. We will have a few years of oil income in my State.

I hope and pray that we will use the money wisely. I think we will, because we need it for education in my State, to get off the bottom of the list with respect to illiteracy. I hope we will, and I think we will. It is our right under the Constitution to use that money for those purposes.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. JOHNSTON. I yield.

Mr. MAGNUSON. I want to make an observation. What bothers me about the Danforth amendment is that we do not have oil in our State, but we have hundreds of miles of timberland, State timberland, given to us when we became a State. The proceeds from the State timberland go exactly to where they do in Louisiana, to the schools. Could this not be applied to spreading the receipts from timberland? That is a natural resource, just as oil, is it not?

Mr. JOHNSTON. The principle is precisely the same.

Mr. MAGNUSON. It is precisely the same.

What bothers me is that, although the Danforth amendment deals with oil, the next thing to come would be timber. That is a natural resource. It belongs to the State, and the State administers it well, and the proceeds go to the schools. We have been a little more fortunate with respect to illiteracy than has the State of Louisiana.

The next thing that is going to happen is that they will spread the Danforth idea to other natural resources, and in our State the main one would be timber. Is that correct?

Mr. JOHNSTON. The Senator is precisely correct. The point is precisely identical.

Mr. MAGNUSON. California has timber, too.

Mr. STENNIS. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. CRANSTON. I yield for a parliamentary inquiry.

Mr. STENNIS. Is time controlled, Mr. President?

The PRESIDING OFFICER (Mr. INOUYE). There is no time limitation.

Mr. STENNIS. Does the Senator from California have the floor?

Mr. CRANSTON. The agreement was that a tabling amendment would not come before 12 o'clock.

Mr. STENNIS. I would like a few minutes.

Mr. CRANSTON. I yield, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. I thank the Senator from California.

Mr. WALLOP. Mr. President, does the Senator yield for a question?

Mr. CRANSTON. I yield to the Senator from Mississippi.

Mr. STENNIS. I agree that the Senator yields me 3 minutes.

Mr. President, I strongly oppose the amendment offered by the distinguished Senator from Missouri. I am firmly convinced that it is unconstitutional and beyond the power of the Congress.

The Danforth amendment would eliminate the exemption from the windfall profit tax which the bill now provides for the royalties of State and local governments. In my State, this would apply primarily to 16th section and lieu lands held for the benefit of the schools.

When Mississippi was admitted to the Union as the 20th State in 1817, there was granted to the new State 16th section lands or, in some areas of the State, certain lands in lieu thereof when the 16th sections were unavailable. These lands were granted for educational purposes and section 211 of the Constitution of 1890 enjoins the Mississippi Legislature to reserve these lands for the support of the township schools. Revenues from oil and gas where it has been discovered on 16th sections is devoted to the support of the schools and for no other purpose. I do not see how the Congress can now assert the power or right to tax the oil revenues from these lands. The power to tax, it has often and correctly been said, is the power to destroy. This amendment, if approved, could lead to action which would entirely negate the purpose for which the 16th sections were granted.

In addition, the proposed tax would be a tax directly on the State governments and their political subdivisions. It would constitute an unprecedented and unwarranted extension of the Federal taxing power over the State and local government. There are no cases directly involving such a tax since the Federal Government has never even tried to go this far. On at least two occasions, however, the Supreme Court has indicated that, if such a tax was attempted, it would be unconstitutional.

In any event, a tax on the States' finite and nonrenewable natural resources is an ill-considered precedent for future tax policy. It can open the door for Federal taxes to be imposed on many other kinds of State property, as well as for many other kinds of taxes bearing directly on the States and their local governments. I submit that the Congress ought not to start down this road since it is capable of great harm and mischief. I hope the amendment will be defeated.

The fact is that Mississippi—I think it is still true in Alabama and Georgia—in the original grant, owned the land extending all the way from the east Georgia coastline to the Mississippi River. Later, after the creation of the Federal Government, the State of Georgia ceded that land, or transferred that land, to the Federal Government, under the present Constitution.

Later, the Federal Government disposed of that land in an act providing that it become eventually two States, now Alabama and Mississippi, but with the express condition that the 16th section in every township in that whole territory would be reserved in perpetuity for the public schools of the township in which the section was located. That is now reflected in the Constitution. They had to put it in there in order to get it approved here, because constitutions have to be approved before States can come into the Union. That is the law today, and that is the practice today.

This would be a direct repudiation by the Federal Government of its condition, the grant of over 100 years ago. Alabama has the same rule or has a substitute for the rule.

Mr. HEFLIN. The same rule.

Mr. STENNIS. The same rule applies there.

So here is a factual case on what I used to call the bare, bald facts, which cannot be contradicted or repudiated by the Federal Government. Those conditions have been laid down and have been followed gladly.

I hope this amendment will be defeated for other reasons, too. This seems like a mighty strong case to me.

Mr. CRANSTON. I thank the Senator from Mississippi for his very fine statement.

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from California has the floor. Does he yield for a parliamentary inquiry?

Mr. CRANSTON. I yield.

Mr. DANFORTH. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from California.

Mr. DANFORTH. Mr. President, may the Senator from California use the floor to parcel time to other Senators to talk?

The PRESIDING OFFICER. By unanimous consent, he may do so.

Mr. DANFORTH. Mr. President, has the Senator from California asked unanimous consent?

Mr. CRANSTON. I did.

The PRESIDING OFFICER. In the case of the Senator from Mississippi, the Senator from California did ask unanimous consent.

Mr. WALLOP. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Does the Senator yield for that purpose?

Mr. CRANSTON. I yield.

Mr. WALLOP. I raise this point: The point of fact is that the Senator from California did not have the floor, having yielded to the Senator from Louisiana, who yielded to the Senator from Washington.

Mr. CRANSTON. The Senator from California reclaimed the floor after that in his own right.

Mr. President, on the matter of raiding, the State of Texas uses all the money from all State-owned oil for education. In my State of California and in many other States, money is received by school districts from oil leases. School districts own the oil.

It is hard to conceive of a raid on Missouri or some other State by school districts. I do not know what kind of raid they would conduct on other school districts or on other States. Maybe they would like to get a few good teachers. We have plenty in California, and there are plenty in Texas. There are too many students in some school districts, which is a cost to Government. The raid argument is strange in all its aspects.

On the issue of the impact of the Senator's amendment with respect to raiding, one other point: My State of California is growing at a rate of one-tenth of the State of Missouri each year. In 10 years, we acquire a population increase equal to that of the State of Missouri. We do not want to reach out for more people. We do not need to reach out for more industry.

Industry comes to California because of its climate, because of a huge market of consumers, because of its proximity to markets in Asia. We have no intention of using any funds received from oil sold by the State of California to raid another State.

I now turn to the Senator from Missouri, who asked me to yield in the course of some remarks I made earlier, and I did not choose to yield at that point. I ask the Senator from Missouri if he has any response to the statements I have made. I am convinced that the impact of his amendment is a $10.5 billion reduction in taxes to be paid by oil companies at the expense of the citizens of some 30 States.

Mr. DANFORTH. Mr. President, of course I have a response to that.

First of all, the idea of a phaseout was in the Finance Committee bill, in the first place. It is not a novel notion which has been added on the floor of the Senate. The case for a phaseout has been in the Finance Committee bill.

Mr. CRANSTON. That does not change the impact.

Mr. DANFORTH. Mr. President, we now have spent 4 or 5 weeks on the floor of the Senate arguing about how much the tax should be on tier 2 oil, arguing about whether or not we should have a minimum tax. I take it that those were matters of great consequence and that the fact that eventually the tax would be phased out was not sufficient solace to Senators that they were not concerned about the immediate impact.

I say this to the Senator from California: The issue is very clear. The issue is whether all of us have a stake in solving a national energy policy or, instead, whether we in the U.S. Senate will carve out a special exemption for a special group of States and say, "Oh, no, they should be treated differently."

They should be put on a pedestal by themselves. They have nothing to contribute to the national solution. They have no role to play.

This is a token amount really, $10.5 billion; $10.5 billion is not by itself going to reverse the economic trend that I fear is going to happen. But it is at least something. Without my exemption, these States on the conservative assumption of only a 2-percent increase in oil prices will have $128 billion.

Mr. CRANSTON. The Senator from Missouri is not answering my question.

Mr. DANFORTH. All my exemption would do is to reduce the $128 billion to $117.5 billion, and that is what we are arguing about.

I cannot frankly see how we can say to the American people that we have a national energy policy and that we are all in this together and that the State of California, the State of Texas, the State of Louisiana, and the State of Alaska are part of the solution when we say "Wait a second, $117.5 billion is not enough; we need $128 billion."

Mr. CRANSTON. The State of California, the State of Louisiana, the State of Alaska, and the State of Texas are part of the solution because from those States comes oil which is part of the answer to our energy needs.

The Senator has not answered two fundamental questions I posed. The question that I posed, and I wish to have a direct answer to it, is does the Senator's amendment increase revenues to the Federal Treasury, as he stated earlier it did? Does he still stand by that statement?

Mr. DANFORTH. Yes, I do.

Mr. CRANSTON. How does it increase revenues since we have a cap?

Mr. DANFORTH. It might eventually accelerate the time at which the phaseout would occur by a few weeks or a month. It might do that. But as far as the immediate production of generation of revenues for the purpose of financing the national energy policy, of course, it would. It would increase the total amount under the bill.

Mr. CRANSTON. The Senator says we are not going to get more than $214 billion in revenue due to his amendment.

Mr. DANFORTH. I do what?

Mr. CRANSTON. The Senator apparently concedes the point that we are not going to increase the take by the Federal Government by 1 penny more than $214 billion as a consequence of his amendment.

Mr. DANFORTH. Over the long run, that is right.

Mr. CRANSTON. That is correct. Fine. He has granted that point.

My second point is this: Does the Senator also grant that the impact of his amendment is to transfer the tax to the tune of $10.5 billion from oil companies to the residents of the States that I have listed?

Mr. DANFORTH. Quite frankly, I think that that is a very, very far out argument. What does——

Mr. CRANSTON. The revenues would come not from the oil companies but they would come from the citizens of California, Louisiana, Texas, Alaska, and a lot of other States.

Mr. DANFORTH. That is not correct. They would come from State governments. That is what they would come from.

Mr. CRANSTON. What is the State government? It represents the people of the State. The money comes out of the pockets of programs designed to meet the needs of the people of those States: Education in Texas, education in California, transit in California, and other programs.

Mr. LONG. People are the government.

Mr. CRANSTON. The government is the people. We, the people of the United States, established a government.

Mr. DANFORTH. I do not think we have gotten to the point yet in this country where government is absolutely everything, that it has become totally identical with the people. I think the government is representative of the people but not entirely identical to them.

Mr. CRANSTON. The Senator will grant it will not be the oil companies that will pay the tax. Someone else will be paying that tax.

Mr. LONG. The people.

Mr. DANFORTH. I am sorry. I am sure that it is a very clever point that totally escapes me. The simple point, it seems to me, is do we or do we not have a special exemption for certain States that are going to do very well anyhow?

Mr. CRANSTON. The close point is, however——

Mr. DANFORTH. Do we add icing to their cake? That is the simple point. Do we take the position that $117.5 billion is not enough for these States? Do we take the position that Texas cannot do with a mere addition of $33 billion or Alaska cannot do with a mere addition of $37 billion and we have to sweeten the pot even more? That is the issue that is before us. It is a matter of basic equity. It is a matter of whether we are all in this together and it is a matter of whether or not we have severe economic dislocation, which is just partially mitigated by the amendment that I offer, as a result of the colossal, fabulous, extravagant increase in State governmental revenues as a result of decontrol. That is the only issue.

Mr. CRANSTON. I submit the Senator is denying that his amendment provides an exemption of $10.5 billion for the oil companies.

I yield to the Senator from Texas.

Mr. TOWER. Mr. President, will the Senator yield to me just to respond to that suggestion?

Mr. DANFORTH. Mr. President, I raise the point of order. Can the Senator from California yield to the Senator from Texas for a point of making a statement?

Mr. TOWER. I ask unanimous consent that the Senator from California be permitted to yield to me for a response.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Mr. President, reserving the right to object, the tabling motion can be made any time after 11 o'clock. I have no objection to the Senator from Texas proceeding at any length whatever. There may be some Senators who agree with the Danforth amendment who want to be heard, and I honestly do not think it is right to just parcel out time on one side of the agreement with a view of shutting out people who may want to talk on the other side.

Mr. President, I do not want this debate to go on forever. We have carried it on now for a period of weeks, but I do feel that if we are going to have parceled out time on one side then anyone who cares to be heard on the other side should be permitted.

Mr. TOWER. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from California has the floor.

Mr. LONG. Mr. President, reserving the right to object, I wish to amend that unanimous-consent request to say that further debate during the next 40 minutes will be equally divided between the Senator from Missouri (Mr. DANFORTH) and the Senator from Louisiana (Mr. LONG).

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, I say to my good friend from Louisiana, I wish to be heard. I think actually literally on the Danforth amendment, my State is one of the most affected.

Mr. LONG. I have the Senator's name down here.

Mr. DOMENICI. I understand, out of the 20 minutes, he will yield some few minutes to the Senator.

Mr. LONG. Yes.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Mr. President, reserving the right to object.

Mr. WALLOP. Mr. President, reserving the right to object.

Mr. SCHMITT. Mr. President, reserving the right to object.

Mr. DANFORTH. Mr. President, I do not know how long I spoke at the outset, maybe 15 or 20 minutes, and for the last hour the floor has been totally dominated by the other side. It seems to me that an even distribution is not really fair. I am willing to enter into an agreement, but it seems to me that an even distribution of the time is just not fair.

Mr. TOWER. Mr. President, reserving the right to object, the Senator from Missouri is trying to gag me, and I have spoken maybe a total of 8 minutes on this issue. And my State is vitally affected by it. The Senator from Missouri has offered an amendment that is the most divisive, that is doing the most to foment regional ill-will and destruction of almost anything I have seen in this body, and his suggestion that this is going to create vast economic dislocations is the biggest batch of balderdash that I have heard, and we call it something else in west Texas.

Mr. DANFORTH. Mr. President, a point of order. Point of order, Mr. President.

Mr. TOWER. I want to be heard on this.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. DANFORTH. Mr. President, I make a point of order that this kind of debate is not in order.

The PRESIDING OFFICER. Under rule XIX, the Senator is correct.

Is there objection to the unanimous-consent request submitted by the Senator from Louisiana?

Mr. DANFORTH. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from California has the floor.

Mr. LONG. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CRANSTON. I yield for a unanimous-consent request.

Mr. LONG. Mr. President, I ask unanimous consent that the next 50 minutes, or the next 60 minutes, be divided with 35 minutes to the Senator from Missouri and 25 minutes to the Senator from Louisiana, to be controlled by those two Senators.

The PRESIDING OFFICER. Is there objection?

Mr. TOWER. Mr. President, reserving the right to object, I am not sure I agree to that. If I am not going to be given the opportunity to say what I want to say on this matter, I might move to table the amendment of the Senator from Missouri myself. So I am not sure I agree to that.

Mr. LONG. Mr. President, I am not saying anything about a motion to table. I just requested that we divide the next 60 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I yield the remainder of my time to the Senator from Louisiana.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 5 minutes.

Mr. TOWER. Mr. President, the Senator from Missouri, I think, has engaged in some of the most irresponsible rhetoric I have heard in this Chamber in trying to generate regional animus on this amendment. He has suggested that some kind of vastly funded industrial foundation is going to be established in certain States to steal industry away from other parts of the country.

Mr. President, that is not true. There is nothing ongoing in any of these States to suggest that. If they were going to do that, they would have done it off oil revenues long ago. In fact, industry has moved steadily toward the less densely populated areas of the country over the last 100 years, and the same thing is true of the people of this country.

If we adopt the amendment of the Senator from Missouri, we will have really precipitated regional warfare in this body. Unfortunately, there is too much regional warfare going on right now. We see it every time there is a formula proposed for the disposition of housing and urban development funds. We see it on labor legislation. We see it on formulas devised for various other Federal programs. And the West and the South, the areas of the country to which there is demographic movement, have generally suffered as a result.

One thing the Danforth amendment ignores is the fact that the capital this bill will preempt from the private sector is capital that would be invested in the producing States to develop more energy and to develop the satellite industries that are attendant thereto. The fact is that most industry has moved to the producing States, has moved there by virtue of the fact that there is production of oil and natural gas there, and most of the real growth has been in the so-called satellite industries. That is going to continue whether this amendment is adopted or not.

Senator DANFORTH has submitted four amendments dealing with the State royalty exemption. One pair would strike from the Finance Committee's windfall profit tax bill the exemption for royalty income of State and local governments that is dedicated to public purposes. The other pair, a spinoff of the first, would condition the exemption on a decision of the State governments not to increase severance taxes on the so-called windfall element of revenues generated by oil price decontrol.

Mr. President, it is hard to tell which pair of these amendments is worse. All four are inimical to the concept of States' rights and would establish an outrageous precedent that would provide the entering wedge in destroying the traditional tax-exempt status for interest on State and local bonds, the lifeblood of State and municipal financing.

The distinguished Senator from Louisiana has previously articulated the reasons why the Danforth amendments, if adopted, would undermine the principle of federalism by revoking the constitutionally conferred right of States to control the disposition of their own resources.

The primary Danforth amendments, by killing the State royalty exemption entirely, expropriate the capital of a State; the auxiliary amendments, intended to be less potent but which in fact are equally offensive, would repeal the exemption if the States choose to exercise their unmistakable right to adjust their own severance taxes on oil production. This not only confiscates the capital of States, it also confiscates the States' very taxing power. Taken together, the amendments are a vicious affront to the concept of State sovereignty and deserve the support of no Member of the U.S. Senate.

Subjecting State royalties to the windfall profit tax simply cannot be defended by law or by economics. It would impose a Federal tax on State property, an action which is totally inconsistent with the purpose of the windfall profit tax in the first place, namely, to convert revenues from oil decontrol to the public benefit.

Let there be no mistake about the severity of the economic burden that this tax would place on those States blessed with substantial interests in oil production, where the revenues are essential in providing important governmental services to their citizens. For the Federal Government to confiscate this source of States and local finance could likely provoke an increase in existing taxes at all levels of government—Federal, State, and local.

The administration, of course, opposes the exemption under the committee bill, by analogizing that if these revenues were held by private parties, instead of by State or local governments, the revenues would be taxable under the windfall profit tax. The administration further insists, incredibly, that an exemption for State and local governments is an unwarranted form of "revenue sharing" that can and should be withdrawn from oil producing States for the good of the public at large.

These arguments are not only specious, but also smack of a Federal Government projecting its arrogant authority into the affairs of the States. They are based on the inverted reasoning that all revenues are, first and foremost, the property of the Federal Government, to be shared with the States and localities only out of its own benevolence. States should not be made to pay the Federal Government for the privilege of exercising its sovereign powers already guaranteed them by the Constitution.

It should be understood that the rationale for a windfall profit tax is not at all applicable to situations where oil is owned by the States. The possibility of so-called "excess" profits going to private corporations or individuals simply does not exist—the income from State-owned oil production accrues to the State government to be expended for the public benefit. This is particularly true in the area of education, where the endowments of many State colleges and universities are directly dependent on State-owned oil royalties. Subjecting this vital source of income to the windfall profit tax would only mean that the lost State revenues must made up elsewhere, inevitably from the pockets of State and Federal taxpayers.

The arguments advanced in support of the proposed amendment reveal a complete misunderstanding of the actual role of the State and the nature of its economic interest in oil-producing property. The State is not, as some Senators would suggest, "in the oil business," or actively engaged in a commercial enterprise. The State possesses only a royalty interest, which is a nonoperating right to receive a specified fraction, in kind or value, of the total oil production from the property, free of expense of development or operation. It is a mineral interest, stripped of the burdens and rights of development of the property. It is the holder of the "working" interest, on the other hand, that is burdened with the cost of development and operation. The State, as lessor of the property and holder or only a passive, royalty interest, does not share in the costs of developing the property.

Furthermore, a State is made no richer from the production of minerals by another party under its lands. The execution of an oil lease by a State for mineral development is just another form of real estate transfer, such as a sale of surface land. True, a natural resource is converted, but the State's net worth does not increase one dime.

It is, therefore, totally misleading to say that these States enjoy a "windfall," and—as if they were private parties—should be taxed on the additional revenue that, as some would have us believe, would be "squandered" to the detriment of the public. The State is the public, and the royalties are applied wholly for their benefit.

Proponents of this amendment carelessly cast the State in the role of active operator of a commercial enterprise, in competition with private business, by citing cases which have upheld Federal taxes on certain State activities. But these references provide no analogy at all to the matter before us. They distort the true role of the State in the oil lease context—the holder of only a passive interest in oil production.

For the Senator to declare that the mere conversion of crude oil in the ground to royalty payments is a taxable event—with no incremental change in the wealth of the State—is to impose a levy on the capital of the State. If taxing State-owned oil property in this way is constitutional, it is worth asking what other natural resource is next—timber, water, submerged lands, coal?

Senators should see what is at stake here and understand that this is not just a narrow, parochial issue affecting only a few States. In fact, there are 25 or more States that have development or natural resources on their own lands. The proposed amendment would revoke the right of States to govern the development of these resources, by opening up the door for the Federal Government to tax, little by little, more and more property interests of the individual States. I think Senators from these States should have more than just a casual interest in the precedent that would be established here today and recognize that they all have a stake in the outcome of the vote on this ill-conceived amendment.

I hope that the Senate will reject this amendment, because I predict that if it is adopted, it will create a climate of bitterness and rancor along regional lines in this body that will spill over into the consideration of other measures. So I hope that, in fairness, the Senate will reject it, because I can see it being the harbinger of proposals to tax assets that are peculiar to other States than the oil-producing States.

There are several industries in the State of the Senator from Missouri that outperform the 20 largest corporations engaged in the production of petroleum. There is no tax being levied on them. The petroleum industry average last year was 13.1 percent. If they want additional revenues in Missouri, why do they not tax Emerson Electric, which made 19.3 percent; Butler Manufacturing, 17.5 percent; Kelwood, 17.1 percent; Ralston Purina, 15.9 percent; Anheuser-Busch, 14.7 percent; Chromalloy, 14.5 percent; Brown Corp., 13.6 percent; or McDonnell Douglas, 13.4 percent?

McDonnell Douglas is a big defense contractor. It benefits from tax money collected all over the United States. In fact, I have voted for authorizations for purchases from the McDonnell Douglas Co. They purchased some very fine defense equipment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TOWER. But I have never suggested that the State of Missouri should give up tax revenues to be derived from that.

The PRESIDING OFFICER. Who yields time?

Mr. WALLOP. Mr. President, will the Senator from Louisiana yield 4 minutes to the Senator from Wyoming?

Mr. LONG. I yield the Senator 4 minutes.

Mr. WALLOP. Mr. President, the Senator from Texas (Mr. **BENTSEN**) was correct in tracing the history of this amendment he offered in the Finance Committee, and correctly stated that I had added the further provision that the restriction that the House of Representatives had placed on the ability of States to use this money was unwise; and, frankly, it is because in my State of Wyoming we use those moneys in addition to schools, to run hospitals and asylums for the blind, the aged, and other things; and those public purposes are just as beneficial to the citizens of our State as any public purpose directly related to education.

Frankly, the House of Representatives was dead wrong when it decided that, in its wisdom or the wisdom of Congress, we could dictate to the States what to do with their own revenues in any constitutional way. We cannot do that.

The Senator from Missouri is also dead wrong when he says that the State of Wyoming and other States are levying severance taxes on Federal coal. That is because of a misunderstanding of the process that goes on there.

The Federal Government owns the coal, true, and they make a deal with the producer of that coal, true. They get the royalty and the revenue. After that time, it becomes subject to a property tax; it becomes the property of the producer of the coal, and that is where the tax takes place. It is not a tax on the Federal coal at all. The circumstance does not work in reverse.

Finally, I guess I would have to ask the Senator from Missouri what amount of enrichment is just and what amount of enrichment is unjust, and who is to make that decision? Is Congress to make the decision as to who or what is just, and in what amount? Is Congress to make a decision as to what bank account the State shall use for all deposits in terms of its natural resources? That is an impossibility.

Congress has no way of telling a State that it must give up its future, that it must produce. The Senator from Missouri says there is no effect on production. On the contrary, what power has the Federal Government to tell a State that it must produce any amount of its mineral resources? It is just not possible, and if it becomes detractive enough, the State can say, "We will stop participating in your welfare programs, and States across the border can bear the burden; and when you stop this silly business we will start them up again."

So, Mr. President, I support the Finance Committee bill's provisions to exempt State and local governments from the windfall profit tax where funds are dedicated to any public purpose. This provision will guarantee that State and local governments will not be faced with a new punitive tax imposed by the Federal Government. By retaining this exemption, the Congress will avoid the constitutional problems raised by a proposed excise tax on State-owned oil, a subject I will come back to.

Mr. President, the windfall profit tax, as passed by the House of Representatives, shortsightedly placed an undue burden on State and local governments, and upon the many worthwhile programs sponsored by the funds these governments receive from oil and gas production on publicly owned lands.

The House-passed windfall profit tax bill exempts State and local oil production from the tax only if 100 percent of the proceeds are dedicated to education. The House-passed bill would impose a tax on oil funds going to other State or local public programs, and the tax would also fall on crude oil interests held in trust by or for Indians or Indian tribes.

The windfall profit tax places an inequitable burden on local and State governments, and the Indian tribes who depend so heavily on oil production income for maintaining public programs.

It was for this reason that the Finance Committee adopted an amendment which exempts from the windfall profit tax oil in which the Federal, State, or local governments own the economic interest, provided that the proceeds from the sale of the oil are used for public purposes.

The Finance Committee bill also recognizes the long-standing tax exempt status of Indian tribes by exempting them from the tax.

Income received by State or municipal governments should be exempt from the tax, whether or not they utilize the income solely for education. There is little reason to place an arbitrary distinction on the value of one public service provided by the State, such as education, as opposed to other worthwhile State or municipal services. Historically, oil-producing States have relied heavily on their public lands as a means of financing education. However, there are numerous government services including health care, hospital funds, penal reform funds, wildlife refuges, and others which are financed by income from public lands.

There is no logical policy basis for making a distinction for tax policy purposes between various types of State and local government services.

The State and local governments should not be prodded through tax policy to dedicate all of their oil production revenue to education. Many of these States and municipalities are faced with the burden of providing a wide range of public services for energy impacted comunities. They face difficult choices in allocating their limited financial resources to address community and State problems. Their decisions should not be distorted by a Federal tax that exempts one type of public service and imposes a heavy tax on income dedicated to other public programs.

I would like to point out that over the past 7 years, these State and local governments have had their oil production income held arbitrarily low, through the imposition of oil price control. Oil is a depletable asset, and once these resources are used, State and municipal governments will be left only with the income derived solely from interests on oil trust funds.

Mr. President, the Senate should be aware of Pandora's box of problems that might one day arise if we fail to continue the long-established tax exempt status of State owned mineral producing lands. If we are to adopt an excise tax on State produced oil, why not extend the tax to all State mineral producing properties? We could just as well apply the tax to State-owned interests in coal, uranium, shale oil, or any other mineral in which the State holds an economic interest.

As the distinguished Senator from Oregon (Mr. PACKWOOD) pointed out in the Finance Committee, there is no reason why this departure from long-standing tax policy need be confined to taxing mineral interests. Those who advocate taxing State oil with this excise tax could argue in a similar vein that State-owned timber interests should fall prey to some future timber production tax. The problems and potential for mischief is endless.

Moreover, the proposed amendment to eliminate the State exemption from the tax is of questionable constitutional validity. A review of case law and relevant policy leads to the conclusion that such action would be beyond Congress power to tax the States (art. I, sec. 8 cl. 1) the power to regulate commerce (art. I, sec. 8, cl. 3) and a violation of the 10th amendment.

The windfall profit tax is without direct precedent: This would be the first instance in which the Federal Government has imposed a gross excise tax on royalty income accruing to the State by reason of the sale of a nonrenewable resource removed from the State lands.

Therefore, the cases relied upon by the amendment's authors in support of its constitutionality, while useful, are not dispositive of the constitutional question raised by the amendment itself. In light of its novelty, the proposed amendment should be evaluated in terms of the fundamental constitutional doctrine of implied immunity of State governments from Federal taxation.

State's immunity from Federal taxation was judicially implied from the State's role in the constitutional scheme. According to the doctrine, the Federal Government may not use its taxing power to control, unduly interfere with, or destroy a State's ability to perform essential services.

Under this rubric, there can be no question but that the reduction of royalty income to a State for the sale of its oil through imposition of the tax at hand would intrude upon the State's ability to perform essential services. This is because royalities typically are used to fund a panoply of governmental services, programs and projects. Take my own State, for example. Royalties from oil removed from the land owned by the State are deposited into the permanent land income trust fund. Moneys from the trust fund are used for sewers, water systems, and water improvement projects, impact mitigation programs, equipment, and a variety of other services which are traditionally governmental in nature.

Any diminution in the trust fund necessarily would impair the ability of the State to provide the services it has determined would be funded from royalties. Similar uses are made of royalties from oil and other minerals in other States.

This is a clear cut case in which the Federal tax contemplated by this amendment would be violative of the doctrine of implied immunity of State governments from Federal taxation. In an area of law in which "all agree that not all of the former immunity is gone" (Justice Rutledge in his concurring opinion in *New York* v. *United States*, 326 U.S. 572,584 (1946)), today's court would in all probability hold the States immune from the windfall profit tax as applied to State royalty income on the grounds that it unduly interferes with the State's ability to perform essential services.

The 1976 case of *National League of Cities* v. *Usery* (426 U.S. 833) limited congressional power under the commerce clause for very similar reasons. In that case, the court prohibited the extension of the Fair Labor Standards Act to State and local government employees, holding that the commerce power does not extend to the regulation of traditional government activities of State government.

It is unlikely that the proposed amendment, if enacted, would withstand a league of cities-type scrutiny for the same reasons it would not survive a constitutional attack founded on the taxing clause. However, this line of argument assumes that the imposition of the windfall profit tax on State royalties would be an appropriate exercise of Congress power to regulate commerce, an assumption which itself is subject to challenge. Unlike the State of New York in the Saratoga waters case cited by the proponents of the amendment, States receiving oil royalties are not engaged in business or commercial activities. Rather, the State is merely exercising its rights as a landowner by either leasing or selling an interest in its real property.

Even assuming the applicability of the commerce clause to the proposed amendment, Justice Rehnquist's dissenting opinion in the 1978 case of Massachusetts against United States is pertinent in the present context and worthy of our consideration here in Congress. At page 472 of the opinion, the Justice opines:

> I am at a loss to know why the court feels obligated to draw on cases decided under the commerce clause . . . . to establish validity of a statute, since cases regarding intergovernmental relations raise significantly different considerations. Commerce clause cases, while no doubt useful analogies, are not required to deal with the fact that the payer . . . is a state in our constitutional structure and that its essential sovereign interests are entitled to greater deference than is due to ordinary business enterprises which are regulated by state and federal governments.

In due deference to the States, this amendment should be rejected.

One of the reasons given for the amendment is that the—

> . . . exemption for State and local government . . . reduces federal revenues which would otherwise be available for energy programs . . . (Dear Colleague letter dated 28 November 1979).

The revenues raised by the bill are, at least as of the time of the debate on this amendment, intended to be spent for assistance to low-income individuals to help them meet the rising costs of energy, to improve rail and other mass transit systems, and to provide incentives toward energy conservation.

These may well be appropriate expenditures by the Federal Government. However, would it not be more in keeping with traditional notions of our federalist system and the 10th amendment, which reserves to the States and the people all the powers not delegated to the Federal Government by the Constitution, to allow the States to retain royalty incomes to expand or create new services either to supplement or take the place of the Federal programs which would otherwise be paid for out of those revenues? Surely we should not, at the Federal level, supplant or in any way undermine the ability of the State and local governments to provide services of the kind they are most appropriately suited to provide. Protecting and providing for the general welfare of its citizens is certainly within the province of the States.

If none of the foregoing arguments—policy and constitutional—have proved sufficiently convincing, then in the interest of avoiding lengthy, costly, time-consuming and court-clogged litigation between the States and the Federal Government on this proposed amendment, this amendment should be defeated.

I urge the Senate to support the committee's amendment to exempt State and local government lands from the windfall profit tax. Any action to the contrary would only create inequities and financial hardships for the oil producing State, local, and tribal governments.

Mr. President, I yield back the remainder of my time to the Senator from Louisiana.

The **PRESIDING OFFICER.** Who yields time?

Mr. **METZENBAUM.** Mr. President, I ask the Senator from Missouri to yield me 10 minutes.

Mr. **DANFORTH.** Yes, Mr. President, I yield 10 minutes to the Senator from Ohio.

The **PRESIDING OFFICER.** The Senator from Ohio is recognized for 10 minutes.

Mr. **METZENBAUM.** Mr. President, I rise to commend the Senator from Missouri for making this effort, which has been a valiant one. It is going to lose. He knows he is going to lose.

But he is not necessarily going to lose on the basis of the merits. He is going to lose for the same reason that the people of this country lost yesterday when we agreed to place a maximum on the windfall profit tax bill coming out of the Senate of $178 billion.

He is going to lose because we have been told that if the Danforth amendment is adopted, there will be a filibuster and there may never be a windfall profit tax bill. He is going to lose for the same reason that we went to $18 billion yesterday, which was heralded as a great victory—and I commend the leadership of the Senate for their efforts in that respect—but the fact is it is $98 billion less than the House bill which, to begin with, was a bill that was formulated, drafted, by those in the House sympathetic to oil company concerns.

Now, what the Senator from Missouri is saying, in simple terms, he is not saying, "I want to go in and tax those States." What he is saying is the President of the United States has decontrolled the price of oil and in decontrolling the price of oil there are windfall profits that are created, windfall profits that really do not belong to the owners of oil but come about by reason of the windfall which results from the President's action.

I previously stated, and I repeat, the President should not have decontrolled the price of oil. The very minimum he should have done was not decontrol it until such time as he had a windfall profit tax bill on his desk.

But now the Senate is told that we cannot go beyond $178 billion because, if we do, there will be a continued filibuster and there will be no windfall profit tax bill. We are told that regardless of the merit of the proposal of the Senator from Missouri, we cannot take it because, if we take it, we will never bring the debate on this bill to a conclusion.

And I have heard all sorts of arguments made with respect to that particular proposal, including the one from my good friend from California today, that somehow we are now saying that if you take this $10.5 billion from the State that really ought to be paying it, paying their fair share of our governmental obligations, that sometime in 1994, or somewhere down in that period, if the Moynihan amendment stays in the bill and the House accepts, that in 1994 the oil companies will be paying something less.

But the amendment of the Senator from Missouri says something. It says that in 1980, 1981, 1982, 1983, 1984, and every year between now and that time that the people of this country will fairly share the tax burden. And it means approximately—and I pick a figure out of the air and I am not sure of the exactitude of it—something in the area of a billion dollars a year that the rest of the Nation will be buried, while the people of those States reap in those extra dollars.

Then the Senator from California says, "Yes, but down in 1992 or 1993 or 1997 the oil companies will not have to pay that tax." Well, a lot of things can happen between 1979 and 1994.

One of the things that can happen is that the House can insist that the Moynihan amendment be changed to reflect the effect of the Danforth amendment, if we had the temerity to pass it, which we will not. That can be changed. We can still change it on the floor of this Senate.

So that to say the oil companies are going to get a bonanza and the Senator from Missouri is attempting to tax the people of those particular States to save the oil companies taxes, I do not think has real validity.

I think the real question is: Should a few States in this country be able to not pay their fair share of these windfall profits, these extra dollars that come about by reason of decontrol?

Now, I think that the merits will never be—they have been debated, and they have been debated very eloquently by the Senator from Missouri and the Senator from Louisiana. Both of them have addressed the issue itself. But I have been hearing in the cloakrooms and all the other places around the Senate, all the arguments having to do with subjects totally extraneous to the merits of this particular amendment.

And the real issue is: Will the Senate be willing to vote for the Danforth amendment if, in doing so, it may mean a filibuster by a number of Senators in order to keep the entire windfall profit tax bill from coming to a vote? The answer is: We will not. The answer is: The Danforth amendment, when the time comes, will be laid on the table.

But it will not be because it does not have merit. It will not be because it is not right. It will be because a combination of circumstances, including a threat of a continuing filibuster, will persuade a number of Senators to vote against the Danforth amendment, to table the Danforth amendment, just as we have already agreed to limit the Senate windfall profit tax bill to $178 billion, which was a wrongful conclusion to begin with.

Mr. **MELCHER** addressed the Chair.

The **PRESIDING OFFICER.** Who yields time?

Mr. **MELCHER.** Will the Senator yield?

Mr. **LONG.** Mr. President, I yield 3 minutes to the Senator from Montana.

Mr. **MELCHER.** I thank the Senator for yielding to me.

I call to the attention of the Senate that if the Danforth amendment were adopted what an unlikely or a poorly conceived time to say: "Here, Merry Christmas to the public schools of my

State and such other States where the income derived from school lands goes for the benefit of the public school system of that State."

It has been thrown around here that the Danforth amendment, perhaps, would raise $10 million in additional taxes for the Federal Treasury over the next 10 years. That may be true. But think of where it comes from to get it to the Federal Treasury. It would come out of the tax imposed upon the income from oil royalties in my State, all of which go to the permanent school fund.

Now, perhaps $6 million a year does not sound like much. But that is $60 million a year over the next 10 years that would be taken away from the public school system of Montana and placed in the Federal Treasury and would deal real harm to public schools in Montana.

I cannot think of any more unfair way of arriving at tax revenues for the Federal Treasury. It takes away from our State the very fundamental resource that was reserved for the public school system of Montana from the time that Montana came into the Union. Reserving for the State or setting aside for the State, sections 16 and 36, in each township, for the benefit of the public schools of Montana was a very wise decision.

The income that is derived off of that land, no matter what it is, no matter what the income is, all goes into that permanent school fund. Oil revenues amounting to several million dollars a year for that fund would be subjected to a 75-percent windfall profit tax if we adopt Danforth. That is basically wrong from every concept. I hope the amendment is defeated.

The PRESIDING OFFICER. The Senator's 5 minutes has expired. Who yields time?

Mr. DANFORTH. Mr. President, I yield 15 minutes to the Senator from Minnesota (Mr. Durenberger).

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 15 minutes.

Mr. DURENBERGER. Mr. President, the Senator was not here when I started to ask my question. Now the Senator will receive my answer and will have to presume what the question was.

Mr. President, people who have spoken on the floor today against the Danforth amendment have been the leaders in the U.S. Senate and in this country in warning us about the problems of energy independence. They were the leaders originally in recommending that in the matter of national policy we impose oil import quotas. They were the leaders in opposing price control on crude oil. I believe the whole discussion we have had on energy in the Senate during the past year, they have been proven right.

But in the last 2 weeks, we have had the opportunity to listen to another prophecy. Unfortunately, this prophecy is being imposed by the same people who had the foresight to tell us what our energy problems were going to be and how we ought to resolve them.

Frankly, I do not expect that Senator Danforth is going to be successful in his amendment. I do expect, however, that his prophecy is correct. Let me share with you my feelings about the arguments which have been made. They really come in two basic forms.

First, the form that is so well and so eloquently made, that a Federal tax on this oil is an unconstitutional infringement on the powers of State and local governments.

Senator Danforth has ably replied to this assertion by citing well-established precedent in case law. I would only add an observation to his remarks. We, the Congress, clearly have the power to legislate in this area as is demonstrated by the oil price control program which has existed since 1971. State and local royalty oil is not exempt from price controls and no one to my knowledge ever seriously questioned Federal authority to establish the price. If we have the power to regulate this commerce by price control, we most certainly have the power to regulate the same commerce through taxation.

Second, many of my colleagues on this side of the aisle, although agreeing to the constitutional soundness of the Danforth amendment, may still doubt the wisdom of this policy, and Senator Percy was the last to do so. We Republicans are often the only voice speaking for the powers of State and local governments. In most cases you will find me a solid Republican in this regard. But in this instance, faced with a national emergency and the necessity to do as much as we are able in the next decade to increase our domestic energy supply, I will not stand on principle, the practical effect of which does serious damage to our efforts, as a nation, to achieve energy independence.

However, I would like to put a few facts on the record before moving on to other issues.

In 1977 production of crude oil and natural gas liquids in the United States averaged 9,796,068 barrels per day. Crude oil was produced in 31 States, but only a handful of States accounted the largest percentage of the total. Forty percent was produced by one State, Texas. Louisiana added 18.9 percent; California, 10 percent; Oklahoma, 5.6 percent; Alaska, 4.7 percent; New Mexico, 3.6 percent; Wyoming, 3.4 percent; and Kansas, 2.5 percent. These eight States produced 88.7 percent of all the domestic oil, which was added to our national energy supply in 1977.

Mr. President, I have a table drawn from a publication, "The Oil Producing Industry in Your State" by the Independent Petroleum Association of America which shows 1977 production levels, State by State and the value of this oil per barrel and in total. I ask unanimous consent that it be published along with my remarks at this point in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

1977 PETROLEUM AND NATURAL GAS LIQUIDS PRODUCTION BY STATE

State	Barrels per day	Total value	Dollars per barrel
1. Texas	3, 919, 554	$12, 612, 573, 000	$9. 00
2. Louisiana	1, 852, 104	5, 215, 429, 000	8. 00
3. California	979, 621	2, 349, 703, 000	6. 53
4. Oklahoma	549, 441	1, 887, 048, 000	9. 85
5. Alaska	465, 497	1, 079, 311, 000	6. 35
6. New Mexico	348, 589	1, 111, 757, 000	9. 35
7. Wyoming	335, 361	930, 505, 000	7. 60
8. Kansas	240, 523	762, 016, 000	10. 25
9. Florida	150, 206	609, 583, 000	11. 75
10. Colorado	133, 063	469, 858, 000	10. 05
11. Mississippi	118, 863	340, 437, 000	7. 85
12. Michigan	108, 122	419, 141, 000	11. 25
13. Utah	97, 614	345, 675, 000	9. 85
14. Illinois	91, 971	395, 518, 000	13. 25
15. Montana	90, 762	294, 214, 000	8. 90
16. North Dakota	67, 717	209, 369, 000	8. 50
17. Arkansas	57, 042	209, 123, 000	10. 10
18. Alabama	51, 739	206, 277, 000	11. 00
19. Ohio	32, 781	158, 536, 000	13. 25
20. West Virginia	28, 537	84, 149, 000	13. 50
21. Kentucky	27, 761	112, 167, 000	13. 50
22. Nebraska	16, 854	57, 416, 000	9. 50
23. Indiana	14, 068	69, 323, 000	13. 50
24. Pennsylvania	8, 882	43, 434, 000	13. 50
25. Tennessee	2, 247	11, 275, 000	13. 75
26. New York	2, 030	10, 004, 000	13. 50
27. South Dakota	1, 938	9, 077, 000	13. 50
28. Nevada	1, 814	7, 513, 000	11. 50
29. Arizona	1, 175	2, 360, 000	5. 50
30. Missouri	184	838, 000	12. 50
31. Virginia	8	37, 000	12. 50

Source: Independent Petroleum Association of America.

Mr. DURENBERGER. Mr. President, I have a second table taken from the same source which shows the total value of State and local severance taxes paid by the oil and gas industry in 1977. I ask unanimous consent that this table be printed at this point in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

1977 STATE AND LOCAL SEVERANCE TAXES AS A PERCENTAGE OF PETROLEUM AND NATURAL GAS WELLHEAD VALUES

State	Total value, petroleum and natural gas	State and local severance taxes	Taxes as percent of total value
1. Texas	$19,007,782,000	$902,801,000	4.75
2. Louisiana	9,878,136,000	485,339,000	4.91
3. California	2,728,870,000	6,841,026	.25
4. Oklahoma	3,099,138,000	193,614,535	6.25
5. Alaska	1,172,478,000	52,946,037	4.52
6. New Mexico	2,247,951,000	132,516,583	5.89
7. Wyoming	1,088,829,000	36,520,846	3.35
8. Kansas	1,285,233,000	0	0
9. Florida	666,904,000	34,636,654	5.19
10. Colorado	585,188,000	6,032,762	1.03
11. Mississippi	408,353,000	24,501,217	6.00
12. Michigan	561,082,000	9,729,175	1.73
13. Utah	386,558,000	6,441,000	1.67
14. Illinois	397,243,000	0	0
15. Montana	324,562,000	6,884,718	2.12
16. North Dakota	225,939,000	9,603,903	4.25
17. Arkansas	228,322,000	9,206,033	3.19
18. Alabama	256,802,000	11,528,608	4.49
19. Ohio	266,776,000	1,146,000	.43
20. West Virginia	200,474,000	0	0
21. Kentucky	160,167,000	408,131	.25
22. Nebraska	57,591,000	1,241,000	2.15
23. Indiana	69,548,000	722,535	1.04
24. Pennsylvania	122,634,000	0	0
25. Tennessee	11,350,000	27,551	.25
26. New York	22,094,000	0	0
27. South Dakota	9,077,000	17,934	.19
28. Nevada	7,513,000	0	0
29. Arizona	2,460,000	0	0
30. Missouri	858,000	0	0
31. Virginia	9,166,000	11,737	.12

Source: Independent Petroleum Association of America.

Mr. DURENBERGER. In 1977 when U.S. produced oil sold for an average $8.57 per barrel, domestic oil and gas producers paid a total of $1,932,721,000 in State and local severance taxes. As one might expect, severance tax payments, like oil production, were concentrated in a few States. Texas with 40 percent of the production collected 46.7 percent of the severance tax. Louisiana which supplied 19 percent of our domestic oil, took 25 percent of the tax payments. Oklahoma collected 10 percent of these taxes and New Mexico 6.9 percent.

Two States, California and Kansas, which were among the top eight producing States in 1977 did not impose a significant tax. In fact, Kansas has no State or local severance tax even though the oil and gas industry draws a billion dollars of energy resources from Kansas soil every year. Reviewing the record in other energy and mineral producing States, I do not know whether it is more appropriate to praise their forbearance or doubt their wisdom but I will say to my friend from Kansas, the distinguished ranking member of the Finance Committee that he has every right to be proud of the contribution that his State makes to our national energy supply. Senator DOLE has many times during this debate stated that all Kansans, including its two Senators, will support a national energy policy that is fair both to producing States and to consuming States. That Kansas contributes so much without imposing a severance tax is solid foundation for the Senator's statement.

Mr. President, severance taxes are only one part of the payments to State and local governments by oil and gas producers. Another part is the royalty payment, the subject of the pending Danforth amendment. I have a third table here which shows the role of royalty payments in State and local government finances. This table is taken from a U.S. Bureau of the Census publication and I ask unanimous consent that it be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

1977 STATE GOVERNMENT REVENUES FROM SEVERANCE TAXES AND ROYALTIES

[Dollar amounts in thousands]

	Total revenues	Total severance taxes	Oil and gas severance	Percent of total	Total royalties	Percent of total
Albama	$3,124,417	$13,757	$3,843	0.12	$1,045	0.03
Alaska	1,391,605	23,705	23,705	1.70	38,375	2.76
Arizona	2,107,037	×	×	×	8,292	.39
Arkansas	1,568,624	10,495	NA	NA	196	.01
California	26,108,228	1,530	1,530	0	107,695	.41
Colorado	2,394,258	2,320	2,244	0	23,678	.99
Connecticut	2,857,967	×	×	×	×	×
Delaware	712,204	×	×	×	×	×
Florida	5,707,077	47,076	26,439	.46	×	×
Georgia	3,579,450	×	×	×	2,391	.07
Hawaii	1,456,564	×	×	×	1,035	.07
Idaho	785,989	203	NA	NA	3,493	.44
Illinois	9,582,612	×	×	×	×	×
Indiana	3,763,796	580	580	0	79	0
Iowa	2,542,726	×	×	×	13	0
Kansas	1,766,107	816	816	.05	547	.03
Kentucky	2,980,435	113,005	408	0	×	×
Louisiana	3,685,114	495,498	485,339	13.45	220,514	5.98
Maine	1,024,998	×	×	×	×	×
Maryland	3,933,699	×	×	×	×	×
Massachusetts	5,669,948	×	×	×	×	×
Michigan	9,689,212	9,574	9,459	.10	13,545	.14
Minnesota	4,385,035	59,718	0	0	3,793	.09
Mississippi	2,030,629	25,358	23,417	1.25	292	0
Missouri	3,099,660	×	×	×	×	×
Montana	850,823	43,543	6,884	.80	14,454	1.70
Nebraska	1,119,368	1,131	NA	NA	8,874	.79
Nevada	762,457	105	NA	NA	527	.07
New Hampshire	636,339	144	0	0	108	.02
New Jersy	7,038,175	×	×	×	×	×
New Mexico	1,349,306	102,783	96,196	7.13	110,094	8.16
New York	22,667,068	×	×	×	203	0
North Carolina	4,574,592	×	×	-------	467	0
North Dakota	736,073	15,418	9,288	1.26	5,494	.75
Ohio	8,975,675	3,918	1,146	.01	1,134	.01
Oklahoma	2,283,116	191,351	NA	NA	18,290	.80
Oregon	2,638,018	3,680	0	0	749	.03
Pennsylvania	11,091,470	×	×	×	10,318	.09
Rhode Island	1,037,637	×	×	×	8,476	.82
South Carolina	2,414,949	×	×	×	459	.01
South Dakota	543,702	536	NA	NA	2,245	.41
Tennessee	2,933,213	2,052	NA	NA	14	0
Texas	8,847,332	907,281	902,801	10.20	318,186	3.60
Utah	1,237,698	8,931	6,441	.52	8,233	.66
Vermont	572,997	×	×	×	×	×

Mr. DURENBERGER. This table shows total State government revenues, total severance taxes on all fuels and minerals, oil and gas severance taxes, and total royalties. Unlike the previous table these figures do not include local government payments. These are State finances, only.

This Census Bureau data indicates that the State of Texas, in addition to its $903 million in revenues from oil and gas severance taxes, also takes $318 million dollars in royalty payments. The State of Louisiana receives $485 million from the severance tax and $221 million from royalty payments. New Mexico which takes $96 million in oil and gas severance taxes recovers even more, $110 million, from royalty payments. The other State with significant royalty income is California at $108 million. All of this financial data is for the year 1977 when the price of oil averaged $8.57 per barrel.

I have reorganized this census data into a fourth table which shows all severance taxes and royalty payments including those for nonenergy minerals as a percentage of State revenues for the eight States that depend most heavily on this form of income. These figures show that one-fifth of all revenues for the State of Louisiana come from severance taxes and royalty payments. In New Mexico 15.8 percent of income is derived from these sources. For Texas, the figure 13.9 percent; Wyoming, 11.4 percent; and for Oklahoma, 9.2 percent. Again, these flures are for the year 1977 when the price of oil was controlled.

I ask unanimous consent that this table be printed at this point in the RECORD.

There being no objection, the table was ordered to be printed in the Record, as follows:

1977 royalties and severance taxes as a percentage of State government revenues

Rank:	*Percent*
1. Louisiana	19.43
2. New Mexico	15.78
3. Texas	13.85
4. Wyoming	11.42
5. Oklahoma	9.18
6. Montana	6.82
7. Alaska	4.46
8. Kentucky	3.79

Mr. DURENBERGER. Mr. President, I am pleased to say that Minnesota, although energy poor, is not without its own natural resources. Along with Michigan, the State of Minnesota has a virtual monopoly on taconite ore, the raw material of our domestic iron and steel industry. The Iron Range of Minnesota produces 60 percent of all the iron ore processed at U.S. steel mills. If we were so inclined, I think Minnesotans might be able to raise significant revenues with a staff severance tax. Yet, the taconite production tax in Minnesota provided only 1.4 percent—$60 million—of our State revenues in 1977. Our forbearance is perhaps not as noteworthy as the Kansas example, but with Kansas we need not apologize to our sister States for taking unfair advantage of nature's blessing.

Of course, the oil States have not had the opportunity to do so up to this point, either. Prices have been controlled for the last decade, but decontrol is now upon us and some Senators are pushing for a full and unfair advantage in this new situation. Revenue estimates indicate that State and local governments will receive an additional $128 billion from decontrol over the next decade and that most of these new revenues will go to a very few States. This money will be taken through income taxes, severance taxes, and royalty payments. Unlike the windfall profit tax, these taxes are not structured to include production incentives and the revenues will not be used for alternative energy development.

There is much more that can be said on this subject, Mr. President, much that has already been said, and too much left unsaid, I think, because we lack the necessary data.

I close by complimenting Senator Danforth for sounding the alarm about what we are doing to designate intergovernmental relations in this country. The alarm will probably not have the effect in this body that the Senator desires because so few of his colleagues understand the incredible economic consequences of the untimely coincidence of oil decontrol, a deteriorating foreign policy, and the failure of Presidential leadership on energy independence. Just as the distinguished Senators from Florida, Texas, Alaska, California, and from other oil States have been historically correct in their opposition to price control and their pleas for energy independence, so Jack Danforth is correct in his position.

I thank the Chair.

Mr. DOMENICI. Mr. President, will the Senator from Louisiana yield time to the Senator from New Mexico?

Mr. LONG. How much time does he require?

Mr. DOMENICI. How much time can he yield to me?

Mr. LONG. I yield to the Senator 4 minutes.

Mr. DOMENICI. I thank the Senator.

Mr. President, much has been said about the effect of the Danforth amendment on four States. I am surprised, as we look at the direct impact of his amendment, that nobody has mentioned my State. It is because of that that I rise. So there will not be any misunderstanding, New Mexico, a poor State—44th in per capita income—will be directly affected by the Danforth amendment to the tune of $606 million over the next 10 years. The reason for that, Mr. President, is that the State of New Mexico happens to own a significant amount of land in its own right as compared with Federal royalty lands or as compared with severance.

This land is owned by the State of New Mexico; for the most part, it was owned when we came into the Union. The assets that are on that land have been recognized as belonging to the State of New Mexico since we came into the Union.

When we came into the Union, we ceded to the Federal Government the Federal lands as a part of an agreement which verified and ratified our State land and confirmed our royalty rights to the Federal land.

The Senator from Missouri speaks of unjust enrichment. Let me say, so no one will misunderstand who is going to be enriched in the State of New Mexico and how, I just explained the contract with our Federal Government when we came in, but a constitution, a contract with the people of our State, was entered into at the same time. For those who are worried that our State will use this money to compete with other States economically, that constitution, that document of basic rights and use of State assets, provided for a State permanent fund. Ninety percent of what the State gets from its State land by way of royalties, be it gas, oil, or minerals, goes into a permanent fund that will be used only for educational purposes. The other 10 percent goes for public purposes, none of which is economic development.

New Mexico will be enriched through that arrangement because its citizens, its young people, its public institutions will, not unjustly but justly, be the beneficiaries of an asset owned by the State of New Mexico and confirmed in ownership when we entered the Union. So there is no unjust enrichment. There is just enrichment under a State constitution and covenant when we came into the Union that it will flow to the basic, basic needs of a government to educate its people.

I do not understand how we are off on a tangent of equating government with business. That is the basic problem here. The only reason for the bill that is before us is that, as a national policy, we are deciding—not necessarily this Senator, but we are deciding that as we move from a controlled market to an open market, as we move from decontrolled price to controlled price, an enterprise system might be making too much. I consider that in error, but that is the theory. How can we confuse profits with State government, State ownership, State rights?

It appears to me that to assume that an asset of a State is only worth a certain amount of money to that State and to arrive at that conclusion through a taxing mechanism is to confuse business and an enterprise system with assets and ownership of rights that a State has. That is the real issue.

If we want to say here in a so-called windfall profit tax that we are going to apply that same theory to ownership and activities of our States, then I believe it is fair to say that that is unprecedented, that is unjust. That has nothing whatsoever to do with a so-called windfall profit. "Profit" is in the name of the bill. How is my State going to make a profit when it is not in business? Its only business is to educate its students with this money. I hope the Senate will resoundingly refuse to break a precedent of the type that exists in this country.

Mr. LONG. Mr. President, I yield 4 minutes to the Senator from Montana.

Mr. BAUCUS. Mr. President, I rise to speak in opposition to the amendment that would permit the Federal Government to tax the royalties States receive from oil and gas produced on State lands.

In my view, such a proposal is unconstitutional and would be a flagrant intrusion by the Federal Government into legitimate State enterprise.

The relationship between the Federal Government and States is central to our debate on energy policy. I voted against legislation to create both an Energy Mobilization Board and a synthetic fuels corporation because I considered these entities a threat to the rights of States to control the development of energy resources.

Today we are discussing a proposal that would limit the revenue States receive from energy production.

Senator Danforth proposes to tax the windfall portion of State oil royalty income. He proposes to do this because State royalty income does not meet his "test" for "special treatment" accorded certain classes of producers.

He proposes to do this because he feels that revenue from State royalty income increased by the decontrol of oil "transfers wealth from the country as a whole to a few States lucky enough to hold royalty interest on oil."

But advocates of this amendment overlook two essential points.

The elimination of the State royalty exemption sets a strong precedent to tax the increased value of any other depletable resource.

The amendment also overlooks the costs resource States, particularly Western States, will be forced to bear to provide the energy this Nation so desperately needs.

The whole Nation will be requiring energy-producing States like my own

Montana and Colorado and California and Alaska and Louisiana to produce more and more energy.

The whole Nation will be looking to the resource States to provide a reliable domestic energy supply to help stabilize energy prices shocked by an uncertain OPEC-dominated world market.

So, Mr. President, it seems to me to be very untimely for Mr. DANFORTH to call for a completley unprecedented extension of the Federal power to tax to siphon away the resource income from the very States we are all counting on to pull us through a risky energy transition away from imported oil.

In other words, the States west of the Mississippi are being called upon to bear the effect of exploration, extraction, and production of most of the energy this Nation is going to produce in the next 10 years.

Let us not handcuff these energy-producing States by adopting an amendment that prevents them from providing public services needed to complement increased energy production.

For example, Mr. President, Montana uses its royalty income to pay for educating our State's children. Last year that amounted to $2.8 million.

But if this amendment passes, our State would lose over $60 million by 1990. Such a loss would cripple our State's education program.

What kind of a transfer of wealth are we talking about?

From a Montana viewpoint, the rest of the Nation has traditionally benefitted from Montana resources.

Much of Montana's wealth is in its natural resources, and throughout the State's history, these resources have been exploited for use elsewhere.

As a result, the State's economy has been inextricably tied to forces and decisions beyond its control.

And now, the Senator from Missouri would impose a tax to further strip Montana of its sovereignty, of its ability to perform its own public services, not the least of which is to develop its own resource management policies.

The amendment to eliminate the State royalty income exemption infringes on inviolable State's rights. It sacrifices an essential ingredient of federalism.

If this amendment passes, Mr. President, its effects could set in motion events we cannot possibly foresee at this time.

I urge my colleagues to defeat the amendment offered by the Senator from Missouri.

Mr. LONG. Mr. President, I had agreed to let the Senator from Missouri have 35 minutes and we would have 25, but I have four speakers. Therefore, not for myself, I ask the Senator if he would let me have 5 minutes to yield to others?

Mr. DANFORTH. Certainly.

Mr. LONG. Then it is agreed I would have another 5 minutes.

I yield 4 minutes to the Senator from Michigan (Mr. LEVIN).

Mr. LEVIN. I thank the Senator from Louisiana.

Mr. President, I rise in opposition to the amendment of the Senator from Missouri. The amendment would raise $11 billion from the States over a period of approximately 10 years.

This $11 billion income which would be realized by the Federal Government from the States would be a part of the $210 billion total the Moynihan amendment established.

This is a critical point, because the Senate has established a revenue ceiling, the windfall tax revenue to the Federal Government will be $210 billion under the Senate bill whether we tax the States or not. The question we then have before us is not how much the Federal Government will recover in this tax, but who will pay the tax. If the States do not pay the $11 billion in tax, it will not be lost to the Treasury

The $11 billion not collected from the States will be collected from the oil companies. Every billion dollars paid by the States under the Danforth amendment is a billion dollars which will not be paid by the oil companies.

The distinguished Senator from Missouri warns of the economic consequences to the rest of the country if we allow a few particularly blessed petroleum States to reap the full benefit of the royalty income resulting from decontrol. But the die is cast with or without the Danforth amendment since the only difference the Danforth amendment will make is whether a handful of States get $128 or $117 billion in added oil revenues.

If those oil revenues going into State coffers are used by some States to the detriment of other States, I am afraid the extra $11 billion out of a total $128 will not make much of a difference.

If the handful of oil blessed States conduct economic warfare against the rest of the country using oil revenue created surpluses as their weapon, they have the opportunity to do so with or without Danforth.

The argument by the Senator from Missouri does reflect a frustration on his part, shared by many others including me. The older industrial sectors of this country are in trouble. Steel, coal, auto, and other industries are in doldrums or decline that must be addressed on a national level. A programmatic approach to the economic problems of this country is necessary. We must as a Congress, face the conditions that underlay the recent lay offs in the steel and coal industries and the plight of the auto industries and other industries employing large numbers of people.

The Danforth amendment has highlighted the uneven growth in economic resources that may take place. But that uneven growth, Mr. President, is going to take place whether or not the Danforth amendment is adopted. Hopefully, Senators from oil-producing States will see the deep concern behind the amendment and will be particularly sensitive to programs needed to assure economic health to those sectors of the country which are not so blessed with oil riches.

I cannot agree with the Senator from Louisiana on the constitutional issue.

The Danforth amendment simply strikes the special exemption in the bill. The real issue then becomes whether the Constitution requires us to write into our bill, or leave in our bill, a special exemption for the States. I know of no such constitutional doctrine.

But while I do not agree with the Senator from Louisiana on the constitutional issue, I do agree with his conclusion.

In summary, I oppose the Danforth amendment because the U.S. Treasury will be no poorer under our bill for granting an exemption to the States since the ceiling we have adopted means the oil companies will pay the tax the States do not, because the States which will benefit so greatly from OPEC price increases have social and public needs for which those revenues can be spent because the collection of the tax from the States will make only a small difference in the windfall dollars going to the oil-producing States and because the sensitivity and support of oil-producing States are needed if we are going to address the problems of the older industrial States and we may be more likely to see that if we avoid the resentment created by the Federal Government taxing State owned resources.

For all the reasons I have stated, Mr. President, I think this amendment should be defeated.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I compliment my colleague on his very thoughtful speech. I believe it is extremely well taken.

I yield 1 minute to the Senator from Wyoming.

Mr. SIMPSON. Mr. President, let me take a brief minute to commend my friend, Senator DANFORTH, who stands bloody, but unbowed, in this Chamber, because that is the kind of person he is.

I have been listening to the debate proceed. Certainly, the Louisville sluggers have been out. He has done quite well.

Mr. President, I will speak against the amendment. I concur that it is a severe intrusion on the States. My colleague (Mr. WALLOP) stated it well. We not only use those funds in Wyoming for education, but for operating State institutions.

But there is an additional use of those moneys that has not been fully touched upon. That is the use of those funds for meeting the social and economic needs of the energy impact.

If we are going to have more inducement for production, we are going to have more exploration. If we have more exploration, we are going to have more people. If we are going to have more people, we are going to have more problems, and that is why we in my State require those funds.

Mr. President, striking the exemption for interests held by State governments and imposing the windfall profit tax on royalty income from oil produced on State lands would be a severe blow to the efforts of States like mine to provide badly needed services in our heavily energy-impacted areas which utilize those revenues.

These funds, used for public purposes and most noteably for education in my

State of Wyoming—make it possible to meet the needs of areas that are growing and expected to continue to grow at an astonishing rate as we strive for energy independence. To transfer the royalty interest funds to the country as a whole—via the Federal Treasury—would break with tradition and enter the dangerous field of Federal taxation of State interest which many of us feel is an unconstitutional undertaking. The chairman of the Senate Finance Committee, Mr. Long, is correct when he warns that starting down that road—this form of taxation—strips away the last vestige of State sovereignty and jeopardizes other vital areas such as timber, coal, and interest income on State and municipal bonds.

This type of an approach, precipitated by the Danforth amendment, could lead to destruction of our carefully crafted concept of States rights. I trust that this will not occur. Should it, then all citizens will be the losers.

Mr. President, yesterday both of the distinguished gentlemen from Montana and California, Mr. Melcher and Mr. Cranston, made when some highly perceptive remarks about the inadvisability of the Danforth amendment which I think bear further attention.

The senior Senator from Montana, Mr. Melcher, noted that when Montana came into the Union sections 16 and 36 of each township were reserved for public school purposes. Two sections out of every 36 in each township, therefore, were set aside for that purpose. This is the same situation that we have in the State of Wyoming.

These lands, as the Senator from Montana has pointed out, are school lands and they are not taxed by the State, nor are they taxed by the counties in which they are located. But the land and minerals are used. And when that land generates income—royalty income from the production of oil and gas or from grazing leases—the income goes to permanent funds of the State of Wyoming for public purposes, particularly for school or education purposes and for highway construction.

These are important sources of funds, Mr. President, and if the Federal Treasury should receive the money instead of the State of Wyoming—under the terms of the Danforth amendment—we would suffer from not having the benefit of the use and revenue from those sections as granted when the State of Wyoming was admitted to the Union of States.

I would urge that the Danforth amendment be defeated. It would be the wedge for imposition of Federal taxes on other State revenues from other resources of the States. The entire theory does great damage to the concept of the reason for the reservation of the school lands in the first place and the use of the revenues generated for public purposes for that State's citizens.

Mr. President, the senior Senator from California, Mr. Cranston, makes other valid points which should assist in convincing my fine colleague on the Veterans' Affairs Committee to vote against the Danforth amendment.

He has noted that the principles of federalism do not permit a Federal tax on the revenues of State and local governments used for public purposes, and that a State is not a taxable entity like a corporation, a business, or an individual.

Further, Mr. President, the gentleman from California has pointed out that "once the Federal Government starts down the line of taking or taxing the property, the revenue-producing assets of our various States, we have a totally new approach to tax levying and distribution of revenues among the Federal Government and the several States. It is contrary to the sound federal system with which we have had very long experience."

I strongly concur and agree with that judgment and trust that a majority of my colleagues will also ascribe to that logic.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Will the Senator from Louisiana yield?

Mr. LONG. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has less than 4 minutes.

Mr. LONG. Mr. President, after the time expires, I will have to ask for more time because other speakers want to be heard.

I yield to the Senator.

Mr. SCHMITT. I thank the Senator.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, I am sorry to see on this floor a certain amount of demagoguery with respect to the issue of producing States versus the industrialized States.

I think it is safe to say that the older industrialized States are already in trouble, by their own doing. It may be that the State revenue exemption efforts, as the Senator from Missouri paints it in terms of revenue impact, will wake those States up to their plight.

Their taxes are too high. Their business regulations are onerous. Their labor laws are repressive. They are dependent on foreign oil far more than they should be. Their schools are inadequately supported. Their law enforcement and prison systems are inadequately supported, and so on.

The net result of this is that business will look elsewhere. People will look elsewhere. I know a great many of the new constituents I serve in New Mexico come from those very States that are having these kinds of difficulties. Unfortunately, they are difficulties brought on by themselves with the encouragement, unfortunately, of the Federal Government.

These States have squandered their opportunity to continue to grow and prosper. They can get it back, but it will take action on their part, not on the part of this Senate.

They have taxed and taxed and regulated and regulated until their natural resources—I repeat, their natural resources—their industry and jobs are fleeing. Industry and business are fed up and they are leaving.

The distinguished Senator from Missouri would ask special protection, rather than asking the States to clean up their own house.

I certainly volunteer my efforts, to the degree the Federal Government can help, to help those States clean up their house. But a great deal of effort will have to be their own.

Mr. President, I feel we will be making a serious mistake if the Senate were to eliminate the exemption for crude oil interests held by State or local governments if the earnings are used for public purposes, as they almost invariably will. This is not an issue of oil producing States versus nonproducing States, although it has become so on the floor of the Senate. It is an issue which affects the entire country, more than any one State.

It is difficult to understand why the positive impact of decontrol on producing States has not been fully recognized, and the importance of that positive impact on the country as a whole. The revenues that are derived by the States from the oil industry actually helps the rest of the country. By denying States these revenues, the tax burden on all the citizens in this country is increased indirectly. Additionally, there did not seem to be any past desire by the people who now want to impose this tax on States, because of decontrol to compensate for the loss of revenue by States due to the imposition of price controls placed on crude oil.

I know that in New Mexico the oil industry is the largest single contributor of State tax revenue. During 1978, New Mexico collected $48 million in State royalty payments. This revenue is placed in a permanent trust fund and the earnings on this fund are used for public purposes. The New Mexico constitution delineates the purposes for spending money. Almost 90 percent of the earnings are used for educational purposes. The remainder is used for such things as the State penitentiary, the State mental institution, and water projects.

Mr. President, I would like to list the breakdown of expenditures for my State from these earnings:

> A sum of 98.16 percent is used for education; 0.68 percent is used for public capitol buildings; 0.01 percent is used for the New Mexico Boys School; 1.99 percent is used for the state penitentiary; 0.37 percent is used for the New Mexico State Hospital; 0.69 percent is used for improvements of the Rio Grande; 0.67 percent is used for charitable and penal reform; 0.87 percent is used for the Miners Hospital.

If this State is to lose $30 to $40 million annually as a result of this provision being taken out of the bill, what alternatives are they faced with? They must either seek Federal funding or increase taxes. In my view, neither of these alternatives make for sound fiscal policy. If a State can pay its way, it should—and this is a way New Mexico, a poor State that is 45th in per capita income can contribute its share to reducing Federal expenditures and aiding in the economic well-being of our Nation.

A measure to impose this tax directly on State governments would constitute an unprecedented extension of the arm of the Federal Government around States. It is difficult for me to believe that we are now punishing a State for the resources within that State; although, we recognize the differences between States other resources. States that happen to own land that produce oil are not "big oil" and let us not take out the negative feelings expressed here toward "big oil" on our own State governments. Later on we may take it out on agriculture resources, or industry resources other resources. We are quickly losing sight of the intended purpose of this bill by doing so.

Let me reiterate, the loss of revenues to a State because of the imposition of this tax is not a State issue but a national issue. We would be penalizing a State for its production of valuable domestic crude oil; for its contribution to lessening our dependence on foreign, insecure countries and for its contribution to our national security. The rationality for this is beyond my comprehension. I encourage my colleagues to closely examine the consequences of eliminating the exemption that is currently in the bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time? The Senator from Louisiana has no time remaining.

Mr. McCLURE. Mr. President, will the Senator from Missouri yield for a unanimous-consent request?

The PRESIDING OFFICER. The Senator from Missouri has all the remaining time.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. DANFORTH. I yield.

Mr. McCLURE. Mr. President, I understand that the Senator from Missouri has some 11 minutes remaining. He would like to make the concluding statement and use his time for that. The Senator from Idaho would like some time. Therefore, I ask unanimous consent that the Senator from Idaho may be recognized at this time for not to exceed 8 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. DANFORTH. Mr. President, reserving the right to object, is the request to take the 8 minutes out of my 11 minutes?

Mr. McCLURE. No, not to take it out of the time of the Senator from Missouri.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. McCLURE. Mr. President, I thank my colleague for the accommodation with respect to this time.

It is not my intention to prolong the debate unnecessarily, but I think a couple of points need to be made, and then there are a couple of points I should like to make that perhaps are peripheral to the current discussion but nevertheless associated with it.

The point that should be made is that we are involved in this discussion about revenue to the States because that necessarily arises out of the basic theory in this bill. We should be talking about a tax on profits of producers and marketers of oil. We should not be talking about a tax on the production of oil that is unrelated to profits.

If this bill were couched in the correct manner, dealing with profits of those who produce and market oil, who are in the business of doing that, we would not be involved in trying to exempt States from something which they would not be doing.

We started out with an excise tax on the production of oil that really is the basic problem. Therefore, we are now trying to say we are going to have an excise tax, but we will not have an excise tax on State production but will have an excise tax on the production of everybody else. That seems to me to be wrong basically.

At some point, we should have recognized what some smart politicians recognize: that this is a substitute for the crude oil equalization tax that the President suggested some time ago and could get no support for. They found out very quickly that not only could they not get support for it, but also, that perhaps it was politically unwise, in the first place; because if the Federal Government had a crude oil equalization tax whose design was to equalize the price by imposing a tax on the difference between the controlled price and the market price of oil, the Federal Government, rightly, would be blamed for causing the increase in price for the domestically produced oil when it reached the marketplace, and the consumer at the oil pump, whether it be for gasoline or home heating oil, would correctly assess the fault as being the greed of the Federal Government.

However, they found a unique, a more subtle, and a more dangerous way to do that, and that is to allow the oil proucers to produce the oil and raise the price and sell it and then tax away the profit. That way, the oil companies get the blame for the price and the Federal Government gets the revenue.

Then, rather than relate it to profit, we relate it to production. Therefore, without regard to whether or not they make a profit, the Federal Government gets the windfall. So this is a windfall tax, but it is not a windfall profit tax, and the windfall is a windfall to Government, not a windfall to anyone else. That is why we are involved in trying to exempt the State, because we started in the wrong direction.

Having said that, I cannot buy the argument of the Senator from Missouri that a producing State is guility of something if they sell something that belongs to them and get some money for it and that they have done the people wrong. That is not the case at all.

As a matter of fact, as a legislator from a rural State, I feel somewhat like a third-world representative, because we are a natural resource State that buys from the industrial States. The industrial States make money out of our markets, but they pay no taxes to our markets.

Efforts have been made over a good many years to pass the Uniform Interstate Allocation of Income for State Tax Purposes Act, in order to allow some of us in consuming States—consuming the manufactured products of the industrial States—to share in the profits that are generated by that manufacturing.

The industrial States say to us, "Oh, no. We will take your raw resources. We will manufacture them, and we will make the profits, and we will tax those profits, and we will keep those profits in the industrial States; but we are not going to share in that with you. We will take your timber products, we will take your raw materials, and we will manufacture them and make the profits, and we will sell the industrial products back to you. But we are not going to share any of that profit with you. We just want to make the profit in your markets. We want to take your raw materials, at low prices, but we will keep all the income that is generated by that manufacturing."

So this is not a one-sided thing. This is a basic problem that runs throughout our entire economy.

I close, Mr. President, by referring for just a moment to a basic problem that lies in a Federal Government that seeks continually to encroach upon the States and the people in those States.

I was pleased to hear the Senator from Mississippi talk about the State school sections that were granted to the State when they came into the Union. Sections 16 and 26 of every township in my State were granted to the State for State school purposes. But two-thirds of my State is still owned by the Federal Government.

Those of us from public lands States have been trying to urge upon our colleagues to listen with some sympathy when we urge that what happens to those public lands has a unique impact upon those of us in our States.

When we in this body legislate wilderness, it has an impact upon our rights in our States. When we talk about public land management, it has an impact upon us in our States that is unique.

I welcome the expression of interest of the Senators from Mississippi and Louisiana in particular, because those are not public land States in the sense we are. But the problem they are addressing today is precisely the kind of problem that has led to the sagebrush rebellion—those of us who come from States in which the Federal Government still maintains control of basic resources and will not allow us to manage those resources, will not allow us to make up our mind as to the kind of State we want to live in, will not allow us to have any direct voice in the management of those resources and those public lands in our States. The issue is identical.

The Senator from Missouri says, "I want to control what happens in the revenues from State lands, the revenues of State oil," just as others in this body want to say to us in the public land States, "We want to control your destiny. We want to be able to control your lands for the benefit of the public."

I hope this amendment is defeated. I hope that those who vote against this amendment will remember when we talk about public land issues.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. DANFORTH. Mr. President, I yield 3 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I support the amendment of the distinguished Senator from Missouri. It makes sense, and I suppose that is one of the problems it has against it here.

Everybody is saying that we have to raise taxes, but we do not want to raise taxes on oil, where it might inhibit production.

There might be a disincentive, which is the key word.

Here is a tax that would tax some of those windfall profit that come from the State-owned lands and will not hinder production one iota.

I know that we have been tangled up here in constitutional arguments. Constitutional arguments really cut both ways. Those who are against the proposition come up with a constitutional argument. If they are in favor of the proposition they say let the Constitution work its way out. And frankly the citations given by the distinguished Senator from Missouri convince me just as they convinced me in the Finance Committee.

So, Mr. President, I hope we will move on and hope we will support this amendment. It will provide some $10 billion for the Federal Treasury. It will not hurt the production of oil one iota.

I must say I was intrigued by the ingenious argument of the Senator from Michigan (Mr. Levin) as reported. I did not happen to hear it. But somehow he got it figured out that this is a big oil amendment. That is one of the most skillful arguments, if indeed he put it forth, that anyone could have conceived.

What this amendment does is try and raise some revenue for the Federal Government, as the majority has been on the floor constantly saying this $185 billion, this sacred figure that has been plucked from the air, will do it; it will not inhibit production one bit.

Mr. President, I ask unanimous consent to print in the Record an editorial from the Boston Globe of yesterday, that supports this amendment by the Senator from Missouri, which I hope others in the Chamber will as well.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

Where Will the Windfall Fall?

Behind the national issues in the Senate's continuing debate over the windfall profits tax—now focused primarily on the question of a minimum tax—is a regional issue that could hurt the Northeast and other oil-consuming areas of the country.

As now drafted, the Senate bill would exempt oil drilled on state-owned land from any windfall profits tax. With full decontrol of oil, states with oil wells on publicly owned land stand to reap about $128 billion over the next decade in income, severance taxes and royalties. That money will come primarily from the pockets of consumers.

The question is whether states fortunate enough to have oil deposits on publicly owned land deserve not only the increase in royalties and taxes they will receive in any event with decontrol of oil prices but also the extra state revenue that will come to them (and from us) if those deposits are exempted from the windfall profits tax.

Sen. John C. Danforth, a Missouri Democrat, thinks not and we agree. He is seeking Senate approval of an amendment that would eliminate the favored status for oil on publicly owned land. He estimates that would add $10.5 billion over the next decade. Straight math would lead one to expect his amendment was a sure winner. After all, 83 percent of the increased state revenues that will arise from oil decontrol will go to only four states—Texas, Alaska, California and Louisiana. Straight math, however, does not include the enormous power of Louisiana's Sen. Russell Long, chairman of the Senate Finance Committee.

Oil-consuming state senators will have to muster their political courage to vote with Danforth and against Long. But they should do so. At stake is more even than the $10.5 billion.

If that money goes to the oil states, it will be calculated as state taxes and factored into what is known as each state's "taxing effort." That factor is used, in turn, to calculate how much federal revenue sharing each state is due. Thus, defeat of the Danforth amendment will not only cost the national treasury $10.5 billion in taxes over the next decade, it also will cost consuming states significant amounts of federal revenue sharing. The Senate, especially those from the big consuming states, should reject this double whammy.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I hope to have the attention of the Senate. I very much wish to wind this debate up.

I shall proceed for a very few minutes and then I am sure that the Senator from Louisiana or someone else will want to make a tabling motion. But I hope, Mr. President, that I may have order as I proceed.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DANFORTH. Mr. President, I have only one concern about the nature of this debate, not exactly a regret but close to it, and that is that the debate has been so passionate and the feelings have been so strong that I think sometimes they may have been too bitter and it has tended to be injurious I think maybe to personal relations and perhaps even to the Senate itself

I regret that. And insofar as I have triggered it, I have to say to the Senate that I am sorry.

I entered into this fight with no illusions whatever about the chance of winning it. I knew that it would be a very, very difficult battle. I knew that on the other side was the distinguished chairman of the Finance Committee, Senator Long, who is perhaps the most able Member of the Senate and a person for whom I have the highest regard and respect. He is an unbelievable formidable opponent, and on this particular issue it is said he felt stronger than about any other single issue in years. So I had no illusions about it, Mr. President.

But I believed that it was a fight that should be fought on the basis of principle and that when We are elected to the Senate we are not elected only to fight the ones we know we can win, even if we know that the odds are tremendously against us, as they have been all along in this case. If we believe in something, we were sent here by your constituents to stand up for what we think is right for our country and right for the constituents who sent us here in the first place. That is what I have been trying to do.

The principles, and basically it boils down to two, that have concerned me, Mr. President, are these:

First of all, can we operate as a Nation? Can we work together as a Nation to solve a national emergency? Or, in the alternative, must we approach even the most important issues from the standpoint of what advantage can I get for one section of the country or another?

I believe that the energy problem is a national crisis. I believe that it is a genuine threat to all of the American people. I believe that the increased prices caused not by the market system, but by the operations of the OPEC cartel, have been injurious to all Americans and that all parts of this country equally must join together in fashioning some national strategy for dealing with it.

To the extent that we carve out special exemptions, and when those exemptions have no relationship whatever to the production or conservation of oil, then I believe those exemptions should be rejected not because I want to hurt Texas or hurt Louisiana, or hurt any other State—I hope that the Members of the Senate do not think that of me—but simply because if we have a national crisis we all have to pull together and when OPEC, not the market system, raises the prices, that truly is enrichment which comes from something other than the natural operation of the marketplace and I believe that all parts of the country should at least in some way be a part of the solution.

The second concern, Mr. President, has to do with the flow of economic power in America. It is the opinion of the Senator from Missouri that there is absolutely no way that a single State can see its State revenues increased by $30 to $40 billion in a 10-year period of time without that having serious economic consequences for the rest of the country.

I cannot conceive of a State which has no income tax and no corporate tax right now virtually doubling its State income without that increased economic power being used to the disadvantage of the rest of the country.

Those are the two principles, Mr. President, which I have tried to raise, not in order to pick a fight, not in order to hear myself talk, and not in order to win the animosity of people I respect and admire as much as I do the chairman of the committee where I seem to spend about 90 percent of my time. It is not for those reasons at all, but because I absolutely believe that the issues and the principles that are involved in this amendment will be with us for a long, long time; that the consequences of what is happening to our country today in the Senate and over the next few years as a result of decontrol will be consequences that will be felt by the entire country for years to come; that it will affect our way of looking at ourselves; and that it will affect our economic opportunities and jobs for our people. And that is why I believe that this is a fight that is worth fighting.

I have no illusions about the possibility of victory but, Mr. President, if I had it all to do again, I would do exactly the same thing.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Time has expired.

Mr. LONG. Mr. President, I ask unanimous consent there be an additional 10 minutes on both sides. I need at least that much.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Virginia (Mr. WARNER).

Mr. WARNER. Mr. President, I would like to say to my colleague, Senator DANFORTH, I admire what you have done here today, and if any feelings are bruised, this, too, shall pass. But, regrettably, I must stand in opposition because of the States rights question which is dear to my State, Virginia, as well as coal which, hopefully, some day will supply the energy needs of this country commensurate with oil.

I thank the Chair.

Mr. LONG. I yield 1 minute to the Senator from California (Mr. CRANSTON).

Mr. CRANSTON. Mr. President, I would like to respond briefly to the remarks of the Senator from Michigan, who is not now on the floor. I sought to do so but it was impossible because of the controlled time.

He spoke in terms of the needs of Members of this body to recognize the needs of different sections and different regions and different States. We should do this, and I want to assure the Senator from Michigan, and I think I can speak also for the Senator from Louisiana in saying, when there is a section that has a real problem and there is a State that has a real problem, as Michigan happens to now have, along with other States in the Chrysler matter, there will be efforts by Members of this body to be of assistance.

The Senator from Montana stated that this Nation's motto was "E pluribus unum." We are one for many. We must work in that, and we will do so.

I want to assure the Senator from Michigan so far as I am concerned when there is a particular problem in a particular State or particular region I will be seeking to be of help.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Alaska (Mr. GRAVEL).

Mr. GRAVEL. Mr. President, I would like to associate myself with the remarks of the Senator from Louisiana.

Mr. President, Chief Justice John Marshall once said that the power to tax is the power to destroy. Taxing oil royalties is the power to destroy a State's rights to returns on its own resources. States, like people, are endowed with certain natural advantages and disadvantages. They must utilize their natural advantages to overcome their disadvantages and to achieve the productive goals they set for themselves. Striving toward and reaching those goals give States and individuals alike the motivation to work and the pride derived from having a special identity.

One of Alaska's blessings, from which it is just beginning to realize substantial benefits, is oil. Among the benefits it derives from owning oil are the royalties received from companies who take the oil out of the ground. Royalty oil is merely that oil which a State retains when selling the right to extract crude oil resources from State land. When the oil runs out, which it will in about 20 years in Alaska, the royalties will also expire. Those royalties—12.5 percent of all the oil in the ground—represent the ownership rights that the State exercises over its own natural resources. They are used to help the State compensate for the economic disadvantages the State faces.

Alaska must offset many natural disadvantages in its economy including: adverse weather conditions, a total lack of agricultural land, and a tremendous shortage of productive infrastructure, including roads, bridges, transportation, and communications facilities. Alaska applies the returns on its oil royalties toward realizing the collective goals of the people of the State. Those goals include the development of transportation, communications, energy, and capital infrastructure which will be of benefit to the people of Alaska long after its depletable oil and gas resources have been exhausted.

Other States also have natural advantages which they utilize productively to make up for the benefits they lack. Some States, for instance, benefit from the irrigation and navigation afforded by being situated along the Mississippi River. Others benefit from huge tracts of arable land for growing grain and other large crops for domestic and foreign sale. Many States in the West have benefited from the discovery of gold, silver, and other precious minerals on their land. West Virginia and Pennsylvania have benefited for many years from the generous coal deposits discovered within State boundaries.

The Danforth amendment to the windfall profit tax bill proposes to delete the exemption from Federal taxes extended to States on royalty oil. It is clear that taxing a State's oil would constitute a discriminatory action against that State. Such an action would also clearly interfere with a State's ability to enhance its attractiveness with returns on its own special resource endowments. Lastly, such a provision would clearly set a dangerous precedent for eroding the principle of State immunity from Federal taxation. There is, in fact, a good case to be made for such a tax being unconstitutional.

Therefore, Mr. President, I join with my distinguished colleague from Louisiana, and several other Members of this body, in calling for the defeat of this ill-conceived amendment. The energy difficulties and problems which are facing the country today will not be alleviated by reducing the resources with which a State fends for itself. If the Federal Government begins to tax States in a period of energy transition, what will occur in future periods of economic transition when different resources are depleted, and when certain States' industries prosper while those of other States die out. These transitions, too, will be difficult for the Nation as a whole.

This precedent cannot be set at a time when people are confused by the economic changes occurring around them. The Congress must take the lead in preserving the best laws and traditions of our Democratic system, among which is the sanctity of a State's right to benefit from the productivity of its naturally endowed resources.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Oklahoma (Mr. BOREN).

Mr. BOREN. Mr. President, I thank the Senator. I have great respect for the Senator from Missouri and his sincerity in this matter. I know it is a matter of concern with him that he offers this amendment. But, with due respect, I have to urge that the Senate vote down this amendment.

I think it would be the start of additional regional controversy which will not be helpful to our country-at-large, and I would say we cannot look at just one industry or one aspect of a State's economy. While it is true we have oil and gas in Oklahoma we are still a State that is well below the national average in per capita income.

Because we have oil and gas we are also faced with certain drawbacks. For example, our State's electricity is generated heavily by natural gas. Now our citizens, as we switch from natural gas to other fuels, to coal, for example, will face one of the highest-cost burdens in the country in terms of utility conversion, and our consumers will be faced with a very significant impact, four or five times that of the national average.

So I would say that we have to look at the entire situation and also at the precedent we will set. Taxing State revenues or setting restrictions upon revenues that States can raise, as to the primary industry, will vary from State to State. So I urge that this amendment be rejected, and I thank the Senator.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from California.

Mr. HAYAKAWA. Mr. President, I thank the distinguished Senator from Louisiana. I, too, want to pay tribute to the distinguished Senator from Missouri for his courage and perseverence in bringing up his amendment. At the same time, however, I, too, am opposed to it, and I want to associate myself with the distinguished Senator from California (Mr. CRANSTON) in his earlier remarks against the Danforth amendment.

Mr. President, I am opposed to the attempt by Senator DANFORTH to delete the exemption for income received by States or municipal governments from oil produced on State lands where the income is used for public purposes.

I am certainly aware of the State-Federal confrontation which has developed over the constitutionality of imposing a direct tax on State governments. I believe this would establish an unhealthy precedent by setting the stage for the imposition of further Federal taxes on State property. Furthermore, such a tax would presumably result in long and expensive litigation.

Let us not ignore some basic facts in order to pursue a legal argument. I do not believe this exemption violates the intent of the legislation, nor hampers its objectives. The tax will raise billions upon billions of revenue to insure our country an adequate energy program and to fund such needed causes as home energy assistance and mass transit. Denying the States an exemption does not significantly strengthen these national programs. Surely, they do not depend on the revenue from State-owned oil. Mr. President, we are talking about revenue from less than 5 percent of all domestic production; that is, 500,000 barrels per day. For an oil-producing State. this money is a big slice of the pie, but looking at the entire Nation, it is only a sliver. Furthermore, the money has typically been directed toward public education, levee development, water and irrigation projects.

The House passed a much stronger version of the tax but still granted this exemption. Members of the Senate Finance Committee concurred with this decision. I urge my colleagues to support the Finance Committee's recommendation, and to free State's oil revenue from Federal tax restraint.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Texas.

Mr. BENTSEN. Mr. President, as the original author of this provision of the committee bill, as expanded by my friend from Wyoming, I wish to make it clear income from State property is not a subsidy, and the only people who can believe it is a subsidy are those who believe all State income belongs to the Federal Government. The only way you can call it a subsidy is if you maintain that it all belongs to the Federal Government and that it is sent back by the Federal Government in sufferance to the States.

What I am talking about here is money dedicated by the State constitution to the schoolchildren in Texas, the schoolchildren of my State. That is where those funds would be expended, not in trying to raid industry from other States.

When they talk about these oil-rich States, just remember that Louisiana, as was stated this morning, has a per capita income which is substantially below that of the State of Missouri. The amount of money they would get in increased revenues amounts to only 3 percent of the State's budget. When they talk about $33 billion from Texas I do not know where that number comes from, because the comptroller of accounts for Texas, as we went over each specific item, said the actual increase in revenues for Texas will only be one-third of the amount quoted by the Senator from Missouri. So the revenue figures that have been quoted here are greatly exaggerated and bear no resemblance to reality.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Kansas (Mr. DOLE).

The PRESIDING OFFICER (Mr. CANNON). The Senator from Kansas.

Mr. DOLE. Mr. President, I think there has been adequate debate on this. I would like to say that I really believe Senator DANFORTH has done an outstanding job, probably would win. [Laughter.] So I am making a statement for the RECORD in mild opposition.

Mr. President, I oppose the proposed amendment to strike the exemption for royalties held by State and local governments.

I believe the Finance Committee acted properly in exempting State and local royalties from the windfall profit tax where those royalties are dedicated to education or any other public purpose. The whole rationale for the so-called windfall profit tax was to prevent private oil companies in this country from reaping unwarranted profits. This was made clear in the April 26, 1979, message to Congress in which the President states that he proposed a windfall profit tax, "(t)o prevent unearned, excessive profits which oil companies would receive as a result of decontrol and possible future OPEC price increases."

Obviously State and local governments are not oil companies, nor are they profit-making enterprises. To the extent that these governments receive additional royalty revenues as a result of decontrol, these revenues will be used for the public benefit of the citizens of that State or locality. This is hardly an evil result. Nor is it sufficient justification to institute a new form of "reverse revenue sharing" by imposing a Federal tax on State property interests dedicated to a public purpose.

Mr. President, much of the debate about this exemption has revolved around the Federal Government's constitutional power to tax State royalties. I have heard eloquent and persuasive arguments made on both sides of the legal issue. In my judgment, there is no conclusive Supreme Court precedent on this issue. The New York against United States decision, which has been cited by some as controlling, seems factually distinguishable. Thus, I believe there is some legitimate concern about the constitutional power of the Federal Government to tax State royalties.

Nevertheless, I do not think that the State royalty question needs to be, nor should it be, resolved on a narrow legal basis. As a matter of legal policy, State and local royalty interests should be exempted from the tax even if the Federal Government has the constitutional power to tax them. It is quite clear that the Finance Committee bill, together with a bonanza of additional corporate income taxes, will raise more than enough revenue to fund an ambitious energy program, including a program to aid the poor with their energy bills. We simply do not need to take revenues away from State government uses, just for the sake of taxation.

In supporting the Finance Committee's decision to exempt State royalties, I want to make it clear that the State of Kansas will not be a major beneficiary of the exemption. Kansas produces less than 2 percent of the country's oil, and presumably the State of Kansas will receive far less than 2 percent of State royalty income. When the revenue impact of this provision was computed, Kansas royalties were simply lumped into the "other States" category. Nevertheless, I believe it would be wrong to approach this issue from the perspective of narrow regional self-interest. Accordingly, I hope my colleagues will reject the proposed amendment and retain the exemption for State and local royalty interests.

Mr. LONG. Mr. President, I yield 1 minute to the Senator from Alaska (Mr. STEVENS).

Mr. STEVENS. Mr. President, I stated my position on this the other day in a long dialog with the Senator from Missouri. I, too, want to respond to his comments about animosity as a result of the long debate.

I assure him no one whom I know has any animosity. He has presented his position very well and forcefully, and it has been a very unique position to present. I hope he does not win, but I do congratulate him for the fight he has made.

Mr. LONG. Mr. President, I yield my remaining time to the majority leader.

Mr. ROBERT C. BYRD. Mr. President, over the past weeks of debate on the windfall profit tax, there has been considerable discussion of the amendment offered by the distinguished Senator from Missouri. This amendment concerns the taxation of revenues derived by certain States from the sale of State-owned property—in this case, oil. The distinguished Senator from Missouri contends that the windfall revenues accruing to certain States as a result of oil price decontrol and rising oil prices should be taxed by the Federal Government in a manner similar to the levy to be imposed upon other oil producers. Such a precedent would have far-reaching consequences and is a step which should not be taken by the Congress.

The distinguished chairman of the Finance Committee has, at various times during this debate, presented several persuasive arguments against this amendment. This measure would constitute a tax directly on the State governments themselves, which raises serious constitutional questions. Before the Senate decides to tax Louisiana on its oil or, at some later time, West Virginia on its coal, or Kentucky on its coal or Virginia on its coal or Florida on its phosphate, we should seriously consider whether any tax on State-owned property is constitutional. There are valid legal arguments on both sides of this issue and Supreme Court quotations are available to support either case. I do not believe that this is the time or the place to decide this complex question.

I am convinced that passage of this amendment would lay the groundwork for a new revenue sharing scheme whereby the individual States would be deprived of the right to benefit from their own natural resources. Such a policy would be directly contrary to the theory of land management which Congress has repeatedly articulated. We must be aware of where the Federal Government's power to tax the States begins and ends. The Danforth amendment would seek to impose a Federal tax on the income to be obtained from State lands—a policy which, I believe, is unwise, unnecessary, and unconstitutional.

I respect the concern which the Senator from Missouri has expressed regarding the economic disparity among States which may result from windfall oil revenues. I would deplore the economic warfare which he predicts will be waged by oil producing States upon other members of the Union. However, I do not share his belief that this will be the case. The policy incorporated in the Danforth amendment would challenge valued principles of our Federal constitutional system and would result in unwise public policy at a time of urgent national need.

I respect the Senator from Missouri. I think he is a very fine Senator. He is dedicated, he has fought a good fight, and I apologize for having to take the opposite view today with respect to his amendment, but I urge the Senate to table the Danforth amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield 1 minute to the Senator from New York.

Mr. JAVITS. Mr. President, I had not intended to participate in this debate at all, but I am brought to my feet by what Senator DANFORTH said about his fight, which was a very gallant one, and I think a very useful one, especially when he said we were sent here to do what our consciences dictated in the interests of the whole Nation and the interests of the people of our States.

I have been here a long time, Mr. President, and Mr. DANFORTH is a young man who has been here a relatively short time. I want very much to encourage him and every other Senator in that spirit. I deeply believe that whatever may be his impression of the irritation it may have caused by his raising this very serious question to so many States and, therefore, their Senators, it is still a very useful exercise to have the matter debated and resolved by the Senate today, and I congratulate him on it.

I hope other Senators will emulate that example. Having served here a long time, I do not believe that even those who he believes are today irritated with him or resentful will persist in that once the struggle is over. That is not the spirit of this place or the spirit of the individuals who have given it the great state which it holds in our country and in the world.

Mr. MUSKIE. Mr. President, it is with regret that I oppose the amendment of Senator DANFORTH. He has done the Senate a service by bringing to our attention the tremendous disparities in the fortunes of various States as a result of OPEC oil price increases and decontrol of crude oil prices. This is a matter which should be of concern to the Senate.

But the Danforth amendment would do little to correct these disparities and it would create a potentially troublesome precedent regarding Federal taxation of State revenues from resource-related activities.

I have studied with interest the data on the revenue gains that will accrue to various States because of rapidly rising oil prices. It is indeed awesome that $127.6 billion of additional State and local taxes on oil-related earnings, severance taxes and oil royalties will go to State and local governments over the next decade. It is indeed striking that 83 percent of this will go to four States—Alaska, Texas, California and Louisiana.

But it is also important to note that only $33.1 billion of the total revenue gain is in the form of royalties. Only in the case of Alaska do royalties constitute a large proportion of current revenues. And it is only royalties that are tapped by the Danforth amendment.

Therefore, the Danforth amendment can do little to correct regional disparities in income gains from the explosion of oil prices. It would absorb well under 10 percent of the total expected rise in oil-related State and local revenues. And by absorbing these added revenues, this amendment could contribute to a more rapid phase-out of the entire windfall tax, to the benefit of the oil companies.

However appropriate it might seem to redistribute some of the revenue gains that are disproportionately concentrated in a few States, it would be unwise to attempt a small step in the direction of equity at a large cost in terms of precedents relating to the tax code.

The issue of Federal taxation of State activities associated with State-owned properties is a complex one. When is an activity truly commercial and when is the role of the State passive? What activities are uniquely governmental and what are not? When is a tax nondiscriminatory—when it applies to production of all oil whether publically or privately owned, or only when it applies equally to all mineral production? We have heard many cases cited and legal arguments presented.

I shall not add to that debate but simply note that the Danforth amendment, were it to be adopted, would surely be litigated in the Supreme Court with highly uncertain consequences for the tax status of other State activities. I wonder whether any benefits from the Danforth amendment justify creating these legal uncertainties with potentially very significant effects. There are many revenue producing activities—other than conventional taxes—that are engaged in by many States. If revenues from these sources were to be reduced by Federal taxation, State and local taxes would have to make up the difference.

It cannot be said what the regional economic consequences of such legal changes would be until we know to what other revenue raising activities a Danforth precedent might extend. Oil riches are distributed unevenly around the country. So are mineral deposits and timber lands. And some States rich in oil or other natural resources nonetheless have low-income populations. Some States lacking a current natural resource advantage may have a strong industrial base because of other accidents of history.

Disparities in regional economic circumstances and prospects are important concerns for national policy—and I appreciate Senator DANFORTH's concern with this issue. But these disparities cannot be addressed by a piecemeal approach. For these reasons, I oppose the Danforth amendment while having supported efforts to obtain reasonable revenues from the windfall profit tax and looking forward to an equitable distribution of those revenues by region, income class and other relevant criteria of public policy.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, I yield back the remainder of my time.

Mr. LONG. Mr. President, on behalf of myself and the distinguished Senator from Texas (Mr. TOWER) I yield back the remainder of my time. I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment (No. 816) of the Senator from Missouri (Mr. DANFORTH). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. PELL (after having voted in the negative). Mr. President, on this vote I have a pair with the Senator from North Dakota (Mr. BURDICK). If he were present and voting, he would vote yea. If I were at liberty to vote, I would vote nay. Therefore, I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER) is necessarily absent.

The PRESIDING OFFICER. The Senate will be in order. Are there any Senators in the Chamber desiring to vote, who have not done so?

The result was announced—yeas 65, nays 28, as follows:

[Rollcall Vote No. 485 Leg.]

YEAS—65

Armstrong
Baucus
Bellmon
Bentsen
Boren
Bumpers
Byrd, Harry F., Jr.
Byrd, Robert C.
Cannon
Chiles
Cochran
Cohen
Cranston
DeConcini
Dole
Domenici
Durkin
Eagleton
Exon
Ford
Garn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Johnston
Kassebaum
Laxalt
Levin
Long
McClure
Magnuson
Matsunaga
Melcher
Morgan
Muskie
Nunn
Packwood
Percy
Pryor
Randolph
Riegle
Sarbanes
Schmitt
Schweiker
Simpson
Stennis
Stevens
Stewart
Stone
Thurmond
Tower
Wallop
Warner
Young
Zorinsky

NAYS—28

Bayh
Biden
Boschwitz
Bradley
Chafee
Culver
Danforth
Durenberger
Glenn
Heinz
Javits
Jepsen
Leahy
Lugar
Mathias
McGovern
Metzenbaum
Moynihan
Nelson
Pressler
Proxmire
Ribicoff
Roth
Sasser
Stafford
Stevenson
Tsongas
Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Pell, against.

NOT VOTING—6

Baker
Burdick
Church
Kennedy
Talmadge
Williams

So the motion to lay on the table was agreed to.

Mr. LONG. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. There is not order in the Senate. May we have order?

Under the previous order, the Senator from Wisconsin (Mr. NELSON) is recognized.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator from Wisconsin yield to me?

Mr. NELSON. Yes, I yield.

The PRESIDING OFFICER. The Senate is not in order.

RESOLUTION RELATING TO AMERICAN HOSTAGES IN IRAN

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Virginia (Mr. WARNER) and other Senators are cosponsoring a resolution on which a time agreement has been cleared on both sides.

I would ask unanimous consent that the time limitation be 10 minutes overall, with Mr. WARNER and Mr. PELL in control of the time. There will be a rollcall vote on the resolution.

With the indulgence of the distinguished Senator from Wisconsin (Mr. NELSON), Mr. Warner could state in about 30 seconds what would take me 15 minutes to say.

Will the Senator identify the content of his resolution?

Mr. WARNER. I thank the distinguished majority leader.

May I ask for the yeas and nays?

Mr. MAGNUSON. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senate is not in order.

Mr. MAGNUSON. Mr. President, reserving the right to object.

Mr. ROBERT C. BYRD. Let the Senator explain what it is.

Mr. WARNER. Will the clerk read the first paragraph of Senate Resolution 315?

Mr. JAVITS. Mr. President, I did not hear the unanimous consent agreed to.

Mr. STEVENS. Mr. President, it was not agreed to.

The PRESIDING OFFICER. There has been no unanimous consent agreed to.

The clerk will state the resolution by title.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 315) to call upon the followers of Islam throughout the world to prevail upon their brethren to immediately release the Americans being held hostage in Iran; and, until such time as they are set free to allow them to worship in accordance with their religious faiths, and to allow clergy of their faiths to minister to them.

Mr. ROBERT C. BYRD. Mr. President, that is what the resolution does. I ask unanimous consent that there be a 10-minute time limitation on the amendment, with no amendments in order, and that the vote then occur on the resolution.

Mr. JAVITS. Mr. President, reserving the right to object, and I shall not object, I am a cosponsor of the resolution. As I may not have an opportunity to participate in the debate, may I say that it is the policy of the Foreign Relations Committee to have resolutions of this kind referred to the committee; that we have a number of other comparable resolutions which have been referred to the committee and which will be considered in a hearing on Tuesday.

I hesitate to consent to this procedure because of the desire to be fair to all parties. It is now felt by Senator PELL, in the absence of Senator CHURCH, that in view of the fact that this resolution is based upon the season and that it should be referred to in churches and places of worship throughout the world, beginning immediately, that we should make an exception in this particular case, to which I have agreed. But I wish the Senate to understand that this is strictly an exception because of the big support it has here based upon the fact that it is so uniquely timely. Therefore, Mr. President, I shall interpose no objection.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request? Without objection, it is so ordered.

Who yields time?

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

Mr. ROBERT C. BYRD. Mr. President, the next order of business will be the amendment by the Senator from Wisconsin.

Mr. WARNER. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. MAGNUSON. Mr. President——

The PRESIDING OFFICER. Who yields time? The time is controlled by the Senator from Virginia and the Senator from Rhode Island.

Mr. ROBERT C. BYRD. I did not ask that the resolution run ahead of Mr. NELSON.

Mr. NELSON. Is there a time limitation on this?

Mr. ROBERT C. BYRD. Yes, 10 minutes.

Mr. NELSON. I will yield to this resolution if I may be permitted to follow immediately with my amendment.

Mr. ROBERT C. BYRD. Very well. Then in that case Mr. WARNER has the time with Mr. PELL.

Mr. JACKSON. Will the majority leader yield?

Mr. ROBERT C. BYRD. Someone else will have to yield time.

Mr. PELL. I am glad to yield to the Senator from Washington.

Mr. MAGNUSON. I have been standing here for 3 days now waiting to bring up a noncontroversial part of the energy bill, gasohol. It will take only about 15 minutes. Every time I do somebody else gets the floor for some amendment that is maybe not as germane to the bill as this. This is section 2 of the bill. This is the important part of the bill. We have to get at it.

The Senator from Kansas and I were going to move, if the Senator from Wisconsin will allow us, to call up the amendment, a modification of section 2. Everybody has agreed on it. There were some difficulties we had but we have all agreed upon it. It is submitted by Senator BAYH, the Senator from Kansas, myself, and others. It is an important part of this bill. It is not a simple amendment. It is section 2 of the whole bill.

Mr. ROBERT C. BYRD. Mr. President, Senators should know that the order for the recognition of Mr. NELSON to call up his amendment at this time was entered how many hours ago?

Mr. STEVENS. At 9 o'clock this morning.

Mr. ROBERT C. BYRD. The manager of the bill was here at that time. The Senator from Wisconsin, by virtue of the order entered into 4 hours ago, is entitled to call his amendment up at this time.

Mr. JACKSON. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. JACKSON. Will the Senator yield 30 seconds?

Mr. PELL. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. PELL. I yield 1 minute.

Mr. JACKSON. The majority leader knows of the Jackson plowback amendment which Senator HOLLINGS, Senator DURKIN, and others, are cosponsoring. The unanimous-consent agreement was entered days and days ago to follow on the Dole amendment. I have no objection to deferring to Senator NELSON and Senator MAGNUSON. But I would like, for purposes of orderly procedure, to know just where I fit in. I have been following the Dole amendment. I thought I would be notified if there was a modification of that, but I was not.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the time which is running not be charged against Mr. PELL.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the only way that amendments can be called up at this time is by unanimous consent because Mr. DOLE still has the order to call up his amendment. Every amendment that is being brought up is being brought up by unanimous consent. Under that order his amendment was to be called up and we have been continuing to set it aside to call up other amendments. He still has the right to call up an amendment but he has been gracious in letting other amendments come up by unanimous consent. I must say to the distinguished Senator from Washington the only way his amendment can be called up would be by unanimous consent.

Mr. JACKSON. May I say if we are going to change the order in which they are being called, I think the general rule should continue to follow in this body, that the one who is there earlier should be advised that a unanimous-consent request is going to be made to change that order.

Mr. ROBERT C. BYRD. Mr. Dole was here this morning when the order was entered allowing Mr. Nelson to call up his amendment, or it was cleared with him.

Mr. JACKSON. Will the Senator from Kansas offer his amendment?

Mr. DOLE. If the Senator will yield, it is my understanding, and I am willing to offer the amendment, in this little informal agreement we had there would be no revenue losers or revenue gainers. I guess they can be offered but I guess the agreement was they probably would not be adopted. The Senator's amendment would increase revenue and mine would decrease revenue.

Mr. JACKSON. May I say my amendment is in the same category. It simply is to require that those who get a tax exemption from the windfall profit tax bill shall put their mouth where their statements have been, that they are going to plowback. That is all I am attempting to do. I would like to have unanimous consent that I may follow on my amendment immediately after Senator Magnuson, who follows Senator Nelson. I understand his amendment is not controversial.

Mr. ROBERT C. BYRD. The manager of the bill would have to be here to agree to that.

Mr. JACKSON. I was not notified of the change in my order.

Mr. ROBERT C. BYRD. All Senators have been notified for days that the Dole amendment and then the Jackson amendment on plowback would be the order.

Mr. JACKSON. But I think that Members who had a previous unanimous-consent understanding should be advised that there will be that change in the sequence in which the amendments will be called.

Mr. ROBERT C. BYRD. There will only be that change by unanimous consent.

Mr. JACKSON. I understand by unanimous consent, but I think we should be protected. I was on the floor at 5 minutes after 9 and was not advised of this. I think we can settle this.

Mr. STEVENS. May I say to the distinguished Senator from Washington that I did protect the order of the Dole amendment which automatically protects the Senator from Washington at the same time. We have a list of amendments we have been trying to raise on both sides. We have sent out on the hotline asking what amendments will be called up. We are trying to get an order schedule to see if we can finish this afternoon. That requires considering whether some people are going to stay and raise their amendment, if they can, before they are scheduled to leave today or whether they are going to say, "I am not going to bring it up and I want you to protect me so I can bring it up Monday."

I urge the Senator not to seek any further unanimous-consent agreement right now. He is protected and so is the Senator from Kansas.

Mr. JACKSON. I know, but I do not want to wait that long. I am not going to take more than 20 minutes.

Mr. STEVENS. I know, but we are going to work out a schedule. I hope we can do it by 6 o'clock this afternoon so we can get out of here by 6 o'clock.

Mr. DOLE. I want to say to the Senator that we will work it out. I think he does come before the others because he brought it up earlier.

Mr. JACKSON. That is correct. My consent understanding occurred at the same time that the consent agreement of the Senator from Kansas occurred.

Mr. ROBERT C. BYRD. That has not been changed. When the Dole amendment is out of the way, the amendment of the Senator from Washington would be next up.

Mr. MAGNUSON. That is our amendment?

Mr. ROBERT C. BYRD. No, this is another amendment.

Mr. DOLE. My understanding is that the senior Senator from Washington will follow the Senator from Wisconsin.

Mr. MAGNUSON. The Senator from Louisiana has been asking me and the Senator from Kansas to bring up the gasohol amendment. It has to be done.

Mr. DOLE. We are going to do that in just a few moments.

Mr. ROBERT C. BYRD. Mr. President, could we have order?

Mr. MAGNUSON. All the time we have been talking, we could have disposed of it.

Mr. ROBERT C. BYRD. Will the Senator let me try to help him?

While the acting minority leader is here, could we relieve the anxieties of the distinguished senior Senator from Washington by asking unanimous consent that, upon the disposition of the amendment of the Senator from Wisconsin, then the Senate proceed with the consideration of the amendment by Mr. Magnuson?

Mr. STEVENS. As long as we do not go any farther than that right now, because we have to protect some people who have asked us if we are going to finish today and get their amendments called up so they can catch some airplanes.

Mr. JACKSON. Will the Senator agree that the junior Senator from Washington can follow the senior Senator from Washington? This is the plowback.

Mr. STEVENS. Reserving the right of the Dole amendment, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. What is that agreement, Mr. President?

The PRESIDING OFFICER. The agreement is that the amendment of the junior Senator from Washington will follow that of the senior Senator from Washington and the Dole amendment is protected.

Mr. STEVENS. It is my understanding, then, that it will be Nelson, the Magnuson amendment, the Jackson amendment, and the Dole amendment, at that time, will still have the right to be offered.

Mr. JACKSON. That is right.

Mr. ROBERT C. BYRD. I have no objection to that. It is the responsibility of the manager of the bill.

Mr. LONG. It is all right with me if Senators bring them up.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object.

Mr. JACKSON. I shall agree to a time limitation.

Mr. LONG. I understand. There is no time agreement at the moment. They are just asking to bring it up and bring up the amendment of the senior Senator from Washington.

Mr. JACKSON. That is correct.

Mr. ROBERT C. BYRD. I have no objection.

Mr. DOLE. Reserving the right to object, I am just stating that we are not waiving the point of order on the Budget Act or——

Mr. LONG. We are not waiving anything.

Mr. DOLE. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the resolution introduced by the Senator from Virginia, on which there is a time limit of 10 minutes, equally divided between the Senator from Virginia and the Senator from Rhode Island.

Who yields time?

Mr. PELL. Mr. President, in behalf of Senator Church, I gave our consent in the Foreign Relations Committee that this resolution be brought up at this time because I understand that action is being taken in various churches across the country tomorrow, Sunday.

It is an irregular procedure, one I do not like, but I believed it best to give this assent. It is a good resolution, and its passage can bring solace to our hostages.

The PRESIDING OFFICER (Mr. Bayh). The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, may we have order before the Senator from Virginia proceeds?

The PRESIDING OFFICER. The Senate will come to order.

RESOLUTION RELATING TO AMERICAN HOSTAGES IN IRAN

The PRESIDING OFFICER. In accordance with the previous order the Senate will proceed to the consideration of the resolution, which will be stated by title.

The legislative clerk read as follows:

The Senator from Virginia (Mr. Warner) for himself and Mr. Stennis, Mr. Hatfield, Mr. Nunn, Mr. Helms, Mr. Armstrong, Mr. Baucus, Mr. Bayh, Mr. Bellmon, Mr. Boren, Mr. Boschwitz, Mr. Robert C. Byrd, Mr. Harry F. Byrd, Jr., Mr. Cannon, Mr. Cochran, Mr. Cranston, Mr. Danforth, Mr. DeConcini, Mr. Domenici, Mr. Durenberger, Mr. Durkin, Mr. Exon, Mr. Ford, Mr. Garn, Mr. Glenn, Mr. Goldwater, Mr. Hatch, Mr. Hayakawa, Mr. Heflin, Mr. Humphrey, Mr. Inouye, Mr. Javits, Mr. Jepsen, Mr. Johnston, Mr. Leahy, Mr. Levin, Mr. Long, Mr. Lugar, Mr. Magnuson, Mr. McClure, Mr. McGovern, Mr. Melcher, Mr. Metzenbaum, Mr. Muskie, Mr. Pell, Mr. Percy, Mr. Randolph, Mr. Ribicoff, Mr. Riegle, Mr. Roth, Mr. Sarbanes, Mr. Schmitt, Mr. Schweiker, Mr. Simpson, Mr. Stevens, Mr. Stewart, Mr. Stone, Mr. Thurmond, Mr. Tower, Mr. Wallop, Mr. Young and Mr. Zorinsky, proposes a resolution (S. Res. 315) to call upon the followers of Islam throughout the world to prevail upon their brethren to immediately release the Americans being held hostage in Iran; and, until such time as they are set free, to allow them to worship in accordance with their religious faiths, and to allow clergy of their faiths to minister to them.

Mr. WARNER. Mr. President, I thank my distinguished colleague (Mr. Pell), and I thank my distinguished colleague (Mr. Javits), together with the distinguished majority and minority leaders, for assisting me in expediting consideration of this resolution by the Senate.

I feel it is imperative, before the Senate recesses today, that we, as a body, address the plight of our fellow citizens being held hostage in Iran and, in particular, that we recognize their right under our Constitution to exercise religious freedom, particularly in this holiest of all seasons in the Judeo-Christian world. It has been my privilege to speak personally to some 60 Members of this distinguished body, all of whom have readily joined as cosponsors.

Mr. President, I ask unanimous consent that this resolution remain at the desk for a period of 1 hour following the vote so that other Members of the Senate who wish to acknowledge their participation as cosponsors may do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the inspiration for this resolution came as a result of my participation in the Senate Prayer Breakfast Group. Dr. Elson was present, as well as Senator Stennis and Senator Hatfield and, with the encouragement of these distinguished Members of the Senate, together with our Chaplain, I drafted this language.

I thank the Chair. I yield back the remainder of my time now, since the contents of this resolution are well known to the Members of this body.

Mr. PELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from Massachusetts (Mr. Kennedy), the Senator from Mississippi (Mr. Stennis), the Senator from Georgia (Mr. Talmadge) and the Senator from New Jersey (Mr. Williams) are necessarily absent.

I further announce that, if present and voting, the Senator from North Dakota (Mr. Burdick) and the Senator from Mississippi (Mr. Stennis) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker) is necessarily absent.

The PRESIDING OFFICER. Are there other Senators who desire to vote?

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 486 Leg.]

YEAS—93

Armstrong
Baucus
Bayh
Bellmon
Bentsen
Biden
Boren
Boschwitz
Bradley
Bumpers
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cannon
Chafee
Chiles
Cochran
Cohen
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Durkin
Eagleton
Exon
Ford
Garn
Glenn
Goldwater
Gravel
Hart
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Hollings
Huddleston
Humphrey
Inouye
Jackson
Javits
Jepsen
Johnston
Kassebaum
Laxalt
Leahy
Levin
Long
Lugar
McClure
McGovern
Magnuson
Mathias
Matsunaga
Melcher
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Packwood
Pell
Percy
Pressler
Proxmire
Pryor
Randolph
Ribicoff
Riegle
Roth
Sarbanes
Sasser
Schmitt
Schweiker
Simpson
Stafford
Stevens
Stevenson
Stewart
Stone
Thurmond
Tower
Tsongas
Wallop
Warner
Weicker
Young
Zorinsky

NAYS—0

NOT VOTING—7

Baker
Burdick
Church
Kennedy
Stennis
Talmadge
Williams

So the resolution (S. Res. 315) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Resolved, To call upon the followers of Islam throughout the world to prevail upon their brethren to immediately release the Americans being held hostage in Iran; and, until such time as they are set free, to allow them to worship in accordance with their religious faiths, and to allow clergy of their faiths to minister to them.

Whereas a liberty most dearly prized by free men and women worldwide is the right to express their religious faiths and to worship in accordance with the dictates of their individual consciences; and

Whereas, with celebration of Hanukkah and Christmas, the Judeo-Christian world is entering one of its holiest seasons of the year; and

Whereas earlier this month, Shiite Moslems freely marked the holiest day of their religious calendar with observances according to their faith; and

Whereas fifty American citizens are wrongfully being held hostage in Iran and, among many deprivations, are being denied the opportunity to practice their religious faiths, other than through silent prayer; and

Whereas the continued denial of such a fundamental human right is an unconscionable indignity and contrary to the teachings of all the great religions of the world: Now, therefore, be it

Resolved, That the Senate of the United States calls upon the faithful followers of the religion of Islam, in whatever land they may reside, to prevail upon their brethren to permit the Americans being wrongfully held hostage in Iran to return immediately to their families and homeland; and until such time as they are released, to permit them to worship regularly and on a continuing basis in accordance with their religious faiths; and to permit clergy of their faiths to meet regularly with them, to minister to their spiritual needs, and to conduct religious services.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with consideration of the bill.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be listed as a cosponsor of Senator Domenici's wood stove amendment as passed last night, No. 760.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, last evening, after the impasse over the minimum tax amendment had been resolved, the Senate moved with alacrity to consider a number of amendments. One of the several amendments considered and accepted was one offered by the Senator from New Hampshire (Mr. Durkin) to extend the residential energy tax credits to wood furnaces and boilers.

I am an original cosponsor of the wood furnace amendment and I am very pleased it has been approved by my colleagues. Because of the time consideration last night, I did not speak on the amendment.

Mr. President, I was pleased to join the Senator from New Hampshire (Mr. Durkin) and our other colleagues in offering this amendment.

For several years, Senator Durkin, Senator McIntyre, and I have been extolling the virtues of wood energy and praising the residents of our States for leading the country in using our most abundant natural resource—or forests—as an energy resource. In 1977, Senator McIntyre and I offered an amendment to the Energy Tax Act, enacted last year, to provide a 20-percent tax credit for wood stoves. The amendment was accepted by our colleagues, but was eventually dropped by the conference committee.

Since that time, the price of heating oil has almost doubled in my State, making wood and wood stoves very attractive alternatives, not only in New England, the region most dependent on No. 2 heating oil and imported oil, but in many other regions of the country as well. Earlier this year, Senator Durkin and I introduced a bill to extend the Energy Tax Act's residential energy credits to wood stoves.

As part of his energy program, the President, this spring, proposed a 15-percent tax credit for air-tight wood stoves. I must commend my colleagues on the Finance Committee for including that recommendation, the wood stove tax credit, within this bill. Wood stoves have a proven capability of reducing residential oil consumption, and the tax credit will provide more people the incentive to purchase a stove.

The amendment we offered last night will augment the efforts of the Finance Committee, which extended the residential energy credits to replacement oil, gas and coal furnaces and boilers, as well as to wood stoves. Our amendment would make the expenditures for a replacement woodburning furnace or boiler, which is part of a central heating system, eligible for a 15-percent tax credit. The credit would apply to expenditures made between September 30, 1980, and January 1, 1983, and for heating systems that had been tested and approved by a recognized testing laboratory. This requirement will encourage the purchase and installation of safe and efficient wood heating systems.

The Treasury Department and the Joint Committee on Taxation estimate total revenue losses of $31 million over three fiscal years, an increase of less than 1 percent above the total costs of the other residential credits. However, the benefits that will be derived from extending this credit to wood furnaces and boilers, and from the increased use of wood, will more than compensate for the revenue lost.

My State of Vermont has had a 25-percent State tax credit for wood furnaces in effect since 1978. In the first year, 1,556 residential and commerical taxpayers claimed the credit for wood furnace expenses. That means that these wood furnaces are supplying the heating equivalent to 1.5 million gallons of home heating fuel.

Mr. President, although Vermont is a very beautiful State and one of its greatest attractions is winter skiing, our winters are very long and very cold. The average household consumes over 1,000 gallons of heating oil over the year. Two years ago, with over 100,000 homes using No. 2 heating oil, Vermonters consumed 158 million gallons of heating oil. But 2 years ago 1 gallon cost 49 cents. Today a gallon costs 80 cents or more.

Vermonters are reknowned for their Yankee ingenuity. In the face of adversity and high heating oil prices, they have turned to the Green Mountain forests to heat their homes, offices, shopping centers and factories. Wood use has increased from less than 1 percent of Vermont's total energy use in 1972 to over 10 percent of the total in 1978. Almost two-thirds of Vermont's homeowners use wood to provide at least some of their heating needs. One-third use wood as their only heating source.

Years ago, a joke was made that there were more cows in Vermont than people. Today, people are saying that one cord of wood will be cut this year for every person in the State. The State Energy Office predicts that a total of 550,000 cords of wood will be used this year, 400,000 cords alone for residential heating. This is a marked increase over the total 400,000 cords consumed last year.

Wood energy is not a fad in Vermont, nor is it an exotic fuel. It is a fuel of necessity, available, renewable, and efficient. Since 1977, Vermonters have reduced their consumption of heating oil by 20 million gallons, to 138 million gallons. This year, by using more wood, they will save an additional 47 million gallons of heating oil and save at least $45 million in fuel costs. This figure does not include additional fuel saving from conservation and better insulation of the buildings.

Mr. President, I request unanimous consent that some articles on wood energy and figures on the amount of fuel displaced by wood be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Fuel Displaced in Vermont (1979) as a Result of Burning Wood

(Based on an estimate of 550,000 cords of wood burned.)

Residential, No. 2 heating oil, 47,000,000 gallons; electricity, 127,000,000 Kwh, 30 MW peaking capacity.

Industrial, No. 6 oil, 12,000,000 gallons.

Institutional, No. 6 oil, 600,000 gallons.

Utility, coal, 8,000 tons; natural gas, 150,000,000 ft.^{3}

Commercial, No. 2 oil, 150,000 gallons.

Compiled by Alan C. Turner, Vermont State Energy Office, October 11, 1979.

Final Report on the Use of Wood As a Heat Source and the Quality of Insulation in Vermont Households

EXECUTIVE SUMMARY

Wood

Wood Burning in General:

The use of wood has increased considerably since 1976.

Almost two-thirds of all home owners in Vermont burned wood to some degree in 1978; only slightly more than one-half burned wood in 1976.

More importantly, the use of wood as a primary heat source more than doubled from 1976 to 1978 (7 percent to 18 percent).

In wood burning households, wood accounted for a substantially greater proportion of the total household heat in 1978 than it did in 1976 (41 percent vs. 26 percent).

Those who burned wood used more in the 1978 heating season than they did in 1976 (31 percent vs. 19 percent five cords or more).

In both 1978 and 1976, the vast majority of wood users had their own source of wood supply (70 percent and 64 percent).

In the 1978 heating season, most wood users burned seasoned hardwood (approximately 70 percent).

The average price paid for a cord of wood in 1978 ranged from $45 to $54.

Wood users in general tend to be: widely distributed among all age groups, from households with $10,000 or more in total income, college educated, from larger households with two to five members.

A wood user is most likely to own a: single family dwelling, constructed after 1960, heated primarily with oil, with a furnace and hot air ducts, and seven or more rooms.

Wood Stoves:

Wood stove ownership increased considerably since 1976, up 11 percent from the usage figure of 1976 to 42 percent.

About one-third of wood stoves in use today were installed within the last three years.

The airtight stove is by far the most commonly used type of wood stove. It's popularity has increased substantially since 1976 (43 percent vs. 17 percent of all wood stoves).

Most wood stove owners have not had any formal training in wood stove operation (81 percent).

Fewer than one-half of wood stove owners are aware that their fire department provides inspection of stove installations. More importantly, a very small proportion (12 percent) of wood stove owners indicated that they had their installation inspected.

Most wood stove owners clean their chimneys once a year or more often (85 percent).

Wood stove users tend to be: between 25 and 44 years of age, from households with an income of $10,000 or more, college educated, from households with two to five residents.

Potential Wood Stove Purchasers:

18 percent of all Vermont home owners indicate an interest in buying a wood stove in the next three years.

The probability of purchase of a new stove is greater among current stove users than among home owners who do not have a stove.

Potential wood stove purchasers tend to be: between 25 and 44 years of age, from households with a total annual income of $10,000 to $14,999, college educated, from households with two, four or five members.

Cooking and Heating Water with Wood:

About one-third of wood stove users use their wood stoves for cooking. This proportion remained constant from 1976 to 1978.

Wood stove users who cook with wood are most likely to be: between 25 and 44 years of age, from middle income households, college educated, from households with four or more residents.

The demographic profile of stove users who cook with wood is no longer as young or as concentrated in the lower income group as it was in 1976.

16 percent of wood stove users use their stoves to heat hot water.

Wood detailed findings

Wood Usage:

Almost two-thirds (63 percent) of all home owners in Vermont burn wood to some degree.

For the most part, wood is used as a supplementary heat source (46 percent of all Vermont households).

Wood is used as a primary heat source in 18 percent of all Vermont households.

Wood usage is highest in the North East Kingdom (74 percent) and lowest in Rutland County (44 percent).

Overall, the level of wood usage is much higher in 1978 than it was in 1976 (63 percent vs. 54 percent). More importantly, wood as a primary heat source more than doubled from 1976 to 1978 (7 percent vs. 18 percent).

The level of wood use for both the North East Kingdom and Rutland County was much closer to the norm in 1976 than it is in 1978.

Type of Wood Burning Device Used:

More home owners use wood stoves (42 percent) than any other wood burning device.

Fireplaces are utilized by 29 percent of households.

Few home owners (6 percent) have wood burning furnaces.

Wood stoves and furnaces are most popular in the North East portion of the State (55 percent and 12 percent), and least popular in Rutland County (27 percent and 1 percent).

Fireplaces are most likely to be found in Chittenden and Bennington/Windham Counties (37 percent).

Wood stove usage increased in the past two years from 31 percent in 1976 to 42 percent in 1978. This increase was evident throughout the State, with the exception of Rutland County where wood stove usage remained relatively low.

Proportion of Household Heat Derived from Wood:

41 percent of Vermont home owners who burn wood estimate that they derive at least half of their household heat from wood, a substantial increase relative to the 1976 findings where only 26 percent reported this.

Cords of Wood Burned:

Only 27 percent of home owners who burn wood indicated that they burned one cord or less.

Almost a third (31 percent) of wood burners stated that they used five cords of wood or more in the 1978 heating season.

The amount of wood burned per winter has increased from 1976 to 1978. In 1976, 36 percent of home owners who burned wood used one cord of wood or less as opposed to 27 percent who did so in 1978. Conversely, in 1976 only 19 percent burned five cords or more while in 1978 this increased to 31 percent.

Number of Wood Stoves in Household:

A total of 21 percent of the households equipped with wood stoves have more than one such unit. This parallels a similar finding in 1976 (22 percent).

Proportion of Wood Stoves Installed in Last Three Years:

39 percent of the wood stoves in use today were installed within the last three years.

In 1976, substantially more of the wood stoves being used were installed within this time period (62 percent).

Number of Fireplaces in Household:

Only 14 percent of the fireplace-equipped households have more than one fireplace. In 1976, approximately 20 percent of the fireplace-equipped households had more than one unit.

Likelihood of Buying a Wood Stove:

18 percent of all home owners indicated that there is a strong likelihood that they will buy a wood stove within the next three years.

The probability of purchase of a new stove is greater among current stove owners (23 percent) than among those who burn wood but do not own a stove (15 percent).

The same pattern was noted in 1976, with 17 percent in total indicating a likelihood in purchasing a wood stove. In that year also, those who currently owned a stove were more likely to express interest in purchasing a new one than were non-owners of wood stoves (25 percent vs. 13 percent).

Type of Wood Stove Used:

The airtight stove is by far the most popular type of stove, with it accounting for 43 percent of all stoves in use. In fact, they have shown a dramatic increase in use relative to 1976, when they accounted for about 17 percent of all wood stoves in use.

Franklin stoves, box stoves and cook stoves are considerably less popular, accounting for 17 percent, 14 percent and 10 percent of wood stove use respectively.

Wood User/Demographic Profile:

Age:

Wood users are about equally distributed among all age groups over 24 years of age; 28 percent are between 25 and 34, 24 percent are 34 to 44, 22 percent are 45 to 54 and 23 percent are 55 or older.

Non-users of wood are more likely to be 55 years of age or older (49 percent) than are home owners who burn wood (23 percent).

Income:

Wood users have their greatest representation among home owners who fall within the $10,000-$14,999 income category (25 percent).

They also tend to be more upscale than home owners who do not burn wood. (49 percent of those who burn wood have incomes of $15,000 or more versus only 21 percent of non-users.)

Education:

Over half (53 percent) of those who burn wood have had some college education as compared to only 27 percent of those who do not do so.

Family Size:

Vermont households, in general, most commonly consist of two persons; wood burning households parallel this trend (30 percent).

They are also more likely to be larger than non-wood burning households (66 percent vs. 51 percent 3 or more family members).

Trend:

The demographic profile for wood users versus non-users of wood described above also held true in 1976. Only minor differences are observeable.

Wood User/Dwelling Description:

Type of Dwelling:

Almost all home owners who use wood live in single family dwellings (94 percent).

The incidence of mobile home ownership is much smaller among wood users than among non-wood users (1 percent vs. 11 percent).

Construction Date:

Most wood users have homes that were built prior to 1940 (39 percent) or after 1960 (45 percent).

Main Fuel:

A little over half (54 percent) of all wood users consider oil their primary source of heat.

Approximately 28 percent of all wood users claim that wood is their primary source of heat. (This translates to 18 percent use of wood as a primary heat source among the total home owner population.)

Furnace Ownership:

Most wood users (85 percent) also have a furnace in their home.

Heat Distribution System:

Hot air ducts (52 percent), hot water pipes (30 percent) and radiant heat (15 percent) are the most frequently cited means of heat distribution among wood users.

Trend:

The major difference in dwelling description that exists relative to 1976 is that in 1976 only 13 percent of wood users considered wood to be their primary source of heat, while in 1978 28 percent did so.

Number of Rooms:

Large houses, with seven rooms or more dominate the wood user profile (57 percent).

Insulation Quality:

Wood users are most likely to claim that their home insulation is either "Very Good" (45 percent) or "Excellent" (28 percent).

Additionally, it is interesting to note that wood users are more likely than non-wood users to feel that the quality of their insulation is "Excellent" (28 percent vs. 19 percent).

Fire Protection Devices:

31 percent of all wood users have both a fire extinguisher and smoke detector. 39 percent own only an extinguisher, and 10 percent have only a smoke detector.

Importantly, 20 percent of wood users own no fire protection device.

HEAT EQUIVALENTS OF SEVERAL COMMON FIREWOODS

It may come as a surprise, but firewood can compete in cost with fossil fuels. Even a cord of white pine, the wood with the lowest heating value, is equivalent in heating value to 123 gallons of oil. At 50 cents a gallon for oil, you could afford to pay $61.50 for a cord of pine and get as much heat value for your money. At the opposite end of the scale, a cord of hickory—the best wood for burning—is equivalent to 251 gallons of oil. You could spend $125.50 for a cord of this wood and still get the same energy value. The table illustrates the great energy differences in wood species. The efficiency of your wood burning stove or furnace must also be considered, but it is obviously important to know what wood to burn.

Species (1 standard cord)*	Available heat of 1 cord wood (Btu)†	Anthracite coal (tons)‡	No. 2 fuel oil (gallons)**	Natural gas (100 ft^3)‡	Heat value rating	Splitability	Coals	Sparks	Other characteristics
GREATEST HEAT EQUIVALENTS—1 CORD-1 TON OF ANTHRACITE COAL (APPROXIMATELY)									
Apple	23, 877, 000	1. 09	244	298	Best	Tough	Good	Few	Wood cooks' favorite; great aroma.
Beech, American	21, 800, 000	. 99	222	273	do	do	do	Few	Seasons readily when split.
Hickory, shagbark	24, 600, 000	1. 12	251	308	do	Fair to tough	Excellent	Few	Green hickory great for smoking meats.
Ironwood (hardhack)‡	24, 100, 000	1. 09	246	301	do	Split green or forget it!	do	Few or none	Thrives in shelter of large timber—looks like elm.
Oak, white	22, 700, 000	1. 04	232	284	do	Tough	Good	do	One of the heaviest and strongest.
HIGH HEAT EQUIVALENTS—1 CORD-9/10 TON OF ANTHRACITE COAL (APPROXIMATELY)									
Ash, white	20, 000, 000	0. 91	204	250	Average	Fair	Good	Few	Best of all wood to burn green.
Birch, white	18, 900, 000	. 86	193	236	do	do	do	Moderate	Must be split to avoid spoilage.
Birch, yellow	21, 300, 000	. 97	217	286	do	do	do	do	Do.
Maple, sugar	21, 300, 000	. 97	217	286	Best	Tough	Excellent	Few	North American favorite (for fuel as well as maple syrup).
Oak red	21, 300, 000	. 97	217	286	do	Fair	do	Few or none	Abundant (more than 40,000,000 ft in the United States.
MODERATE HEAT EQUIVALENTS—1 CORD-8/10 TON OF ANTHRACITE COAL (APPROXIMATELY)									
Elm, American	17, 200, 000	0. 78	176	215	Average	One of the toughest.	Excellent	Few	Requires a lot of attention but gives lovely yellow blaze.
Maple, red	18, 600, 000	. 84	190	232	do	Fair	do	Few	Much lighter than sugar maple.
Tamarack (Eastern larch)	18, 650, 000	. 85	190	233	do	Easy	Good	Few	The one softwood that's passable for fuel.

Footnotes at end of table.

Species (1 standard cord)*	Available heat of 1 cord wood (Btu)†	Anthracite coal (tons)‡	No. 2 fuel oil (gallons)**	Natural gas (100 ft³)‡	Heat value rating	Splitability	Coals	Sparks	Other characteristics
LOW HEAT EQUIVALENTS—1 CORD-9/10 TON OF ANTHRACITE COAL (APPROXIMATELY)									
Aspen (popple)	12,500,000	0.57	128	156	Poor	Easy	Poor	Many	Quick hot and quick out.
Pine, white	12,022,000	.55	123	150	do.	do.	do.	do.	Best for kindling.

* 1 standard cord equals 128 ft³ wood and air; 80 ft³ solid wood; 20 percent moisture content 1 lb of this wood contains 5.780 Btu (British thermal unit) (1 Btu equals amount of heat required to raise temperature of a pound of water through 1° F.)

† It is assumed that available heat of wood is oven-dry, or calorific value, minus loss due to moisture, minus loss due to water vapor formed, minus loss due to heat carried away in dry chimney gas. Stack temperature 450° F, no exess air. Efficiency of burning unit equals 50 to 60 percent.

‡ Contains 28,000,000 Btu per ton, but available heat is only 22,000,000 Btu per ton. 1 lb of coal contains 11,000 available Btu. Coal burned under similar conditions to wood.

** 1 gal contains 140,000 Btu, but is burned at 70 percent efficiency, providing 98,000 available Btu.

†† 100 ft³ equal 1 therm equals 100,000 Btu, but is burned at 80 percent efficiency providing 80,000 available Btu.

‡‡ Hophornbeam. Eastern.

Note: To determine available heat (caloric value minus loss due to moisture, minus loss due to water vapor formed, minus loss in heat that goes up as chimney gas. Flue temperature 450° F, no excess air) deduct approximately 6,000,000 Btu for the above fuel value figures.

[From the Energy Forum in New England, Fall 1979]

ALLEVIATING THE HOME HEATING OIL CRISIS WITH WOOD

The rapidly escalating costs of home heating oil and warnings of potential shortages have precipitated a sudden shift to burning wood for heating New England's homes. As a result, firewood demand for residential uses this winter will increase by 50 percent above last year's level of 1.5–2 million cords, and could increase by 100 percent or more. This poses a certainty of shortages and steeply rising cordwood prices for those who cannot cut their own. Facing this serious situation, several states have initiated programs to alleviate the expected problems.

Secretary of Agriculture Robert Berglund announced last month a $1.2 million award to the six New England states to supplement a $375,000 Pilot Fuelwood Project currently serving New Hampshire, Vermont, Maine and Massachusetts. Administered by county Agricultural Stabilization and Conservation Service offices, the project enables landowners to consult with foresters to supervise marking, felling, and removal of trees from their woodlots. As many as 190,000 cords of firewood may be harvested in New England by the spring of 1981 under this new federal program.

Other activities have been coordinated by the state energy offices. Vermont and New Hampshire have contracted with private loggers to cut firewood in the state forests, bring it to roadside, and cut it in various lengths. The wood is being sold to consumers in amounts ranging from 5 to 50 cords. New Hampshire expects to generate 2500 cords through this program; Vermont, 8,000. Additionally, New Hampshire is expanding the outright sale of its firewood stumpage on public lands by offering lots of 10 to 100 cords through public advertising. Sales are being made to fuelwood dealers, individuals and groups of homeowners at market prices, and state foresters are supervising to assure that appropriate forest management practices are observed. New Hampshire expects the harvesting of 5,000 cords under this program.

The Maine Office of Energy Resources has negotiated with several paper companies to commit several thousand cords of stockpiled wood for residential use in the event of life-threatening fuelwood shortages this winter. Although distributing thousands of cords remains a difficult strategic problem, the willingness of the paper companies to assist in an emergency reduces the prospect of panic-induced firewood purchases and consequential shortages. Like New Hampshire and Vermont, Maine now reports fewer calls from wood-burners inquiring about sources of firewood.

New Hampshire is also expanding its Fuelwood Permit Program. 750 more individuals will be issued permits, ranging from $5 to $10 in cost, allowing the harvesting of up to two cords on state lands. State and private consulting foresters have been marking trees in state forests for this program. The state goal for this program is 1,500 cords.

New Hampshire and Vermont have also intensified their landowner assistance programs to reach out to more woodlot owners. By prioritizing expansion of firewood harvesting this summer and fall, state and county foresters are spending more of their time talking to moderate and small sized landowners about the advantages and techniques for utilizing their land for firewood production. Even today, many woodlot owners are not aware of the financial incentives for wood energy harvesting. Others are poorly informed about proper forest management practices and harvesting techniques. A successful outreach program by foresters could result in the production of tens of thousands of cords by woodlot owners and contracted loggers this year.

The northern New England states and Massachusetts have also acted as referral agents to prospective buyers, keeping lists of fuelwood suppliers by county and making them available to energy office callers. New Hampshire has also brought loggers and woodlot owners together via a telephone referral service. Many loggers have had difficulty finding additional stumpage, particularly this summer and fall in the wake of the substantial increase in firewood demand. The Massachusetts Office of Energy Resources is also making names of nearby wood stove dealers available to callers.

What impact will the states' planning and program efforts have upon the firewood supply available to residential consumers this fall and winter? David Brooks, a forester and wood energy specialist in the New Hampshire Energy Office has outlined a strategy which should net 18,500 cords for his state. Allen turner, architect of the wood energy program efforts in the Vermont Energy Office, does not know precisely how many cords his program will produce, but feels that additional public sector efforts are warranted. Accordingly, his office is currently planning workshops for loggers to familiarize them with small-scale harvesting equipment and to help them obtain financing for new equipment purchases. Taken together, these state efforts to expand the firewood supply may add up to 100,000 additional cords, or 4–6 percent of the total residential wood consumption this heating season. Such a total represents the equivalent of over 12,000,000 gallons of No. 2 heating oil.

Curtis Mildner, wood energy specialist for the New England Regional Commission, views the emergency planning required this summer and fall as an opportunity for overdue long-term planning. Initiating an overall forest planning effort, coordinated by the U.S. Forest Service and each state forestry department, is an important priority identified by Mildner and many others working in public policy roles. Fashioning a wood energy plan as part of an overall state energy plan is an effort state energy officers should undertake. Forestry departments and energy offices could have a greater impact if they work together.

Expanding and reorganizing the forestry management services, particularly those provided by the U.S. Forestry Service, County Extension Services and state forestry departments is a strong recommendation of the Energy Congress. For New England, at least $5 million in additional federal funds would be required to hire new personnel and redirect federal funds towards (1) developing an integrated forest management plan; (2) working with landowners to develop their own management plans and teaching good forestry management practices; (3) cooperating with appropriate agencies to help wood energy entrepreneurs and marketers in developing marketing plans and instituting sound business practices; and (4) completing accurate and periodic subregion total biomass surveys.

The Energy Congress has made several other recommendations designed to help facilitate the utilization of wood within the residential sector. Funding from the Department of Energy's Wood Commercialization Program is requested to help bring order to the fuelwood market with a variety of strategies to assist loggers and inform consumers. More support for processing techniques and the development of small-scale harvesting equipment are specific examples of what is needed.

This fall and winter the Implementation Group of the Energy Congress will make detailed and comprehensive recommendations concerning the Department of Energy's wood programs. Additionally, financial incentive for loggers and landowners will be examined, and programs will be suggested at the state and federal levels. Facilitating a climate for longer term wood energy planning throughout the region will be another charge to the Implementation Group's Wood Committee.

[From the Rutland (Vt.) Herald]

DEMAND IS STRONG FOR WOOD FURNACES

(By Megan Price)

"In the Twenties, you could go down an entire street and you'd find nothing but coal and wood furnaces. Out of a hundred homes, maybe two would be burning oil," L. C. Kelley said shaking his head.

The voice of experience, the heating and plumbing specialist from Mount Holly has seen home heating techniques in this century come full circle.

Homeowners will find most area heating and plumbing installers booked solid at this time.

Many wholesalers say they are backlogged on their orders for wood-and-coal-burning furnaces as well.

"I sent a check in for 10 furnaces, paid in full and all," Kelley said. "The company still told me they would be behind in sending them. I can't install them until they get here. What can you do?" Kelley said.

Of four Rutland area wholesale plumbing and heating suppliers, all reported delays in obtaining furnaces. And they claim the story will be the same wherever you go.

Young's Farm Equipment in Fair Haven, which sells Riteway stoves and furnaces, reports the Virginia-based company that supplies the local outlet is backlogged with orders into next May for some boiler-furnace models.

A scramble, and the inevitable compromise between economy and need, is under way under the impetus of the earliest snow on record Tuesday.

"We have to see what is available and then whether it will fit the house's requirements," said an official at Dundon's Plumbing & Heating in Orwell. "And then we have to double-check to see if and when we can get one."

According to Mark Christie, manager of Colonial Supply of Vermont, a plumbing and heating wholesale business located on Woodstock Avenue, "It doesn't matter what brand it is, there's a terrible problem," in meeting area contractors' current demands for wood furnaces. Colonial handles the American made Duo-Matic and Tarm, which is manufactured in Scandinavia.

"We're back-ordered into the middle of November for both hot-air and hot-water, wood-fired boilers," Christie said.

He said while orders for the Duo-Matic are keeping pace with the supply, orders for the Tarm are now lagging 27 units behind.

Christie predicts the problem will "smooth out by the end of November." But he added that the problem is "much worse" than last year.

"It was bad last year, but this year it is dramatically worse," he said. "By the time they (wood furnaces) get in here, they're sold."

Kenneth Brown, manager of Blodgett's, another Rutland wholesale supplier of wood furnaces, said there is "a tremendous problem." He attributes much of it to the increase in freight, fuel and steel prices this past summer.

Brown declined to name the furnaces supplied by his firm, but said he was unable to keep up with demand.

Brown added that while Vermonters are faced with severe problems because of their obvious need, many homeowners in southern states are also planning to ease their fuel bills by burning wood. Thus the problem is not a local but a national one.

A spokesman for F. W. Webb in Rutland Town estimated the firm is awaiting a backlog order of 20 to 25 furnaces. The company handles half-a-dozen different wood furnaces.

All those contracted felt there was little danger of people going cold as a result of the lagging wood furnace supply.

"Most are conversions, from oil to a combination," one distributor said.

But a Vermonter hoping to move into a home built late this summer could literally be left in the cold while awaiting the arrival of a wood furnace.

According to Brown, wood furnace supply and demand in the area has not yet reached its peak and will continue to be a problem.

"It's the same thing with firewood right now too," he pointed out.

But that's another story. . . .

[From the Rutland (Vt.) Herald]

State Study Shows More Are Using Wood

(By Candace Page)

Montpelier, Vt.—Vermonters this winter will burn about one cord of wood for every man, woman and child in the state, according to preliminary results of a state energy office study.

The study also indicates half of all Vermont households—apartment dwellers as well as homeowners—now get at least a portion of their heat from wood.

Wood energy specialist Alan Turner said Tuesday the study indicates while the number of homes burning wood is no longer growing at a fast rate, homeowners already heating with wood are increasing their reliance on it.

Turner said it appears Vermont, with between 400,000 and 500,000 residents, will burn between 400,000 and 500,000 cords of wood this winter. That is an increase from about 300,000 cords burned last year.

"It might be even higher except that we've got an inadequate supply of wood this winter. Some people won't be able to buy wood, at least at a price they can afford," Turner said.

Turner said the results came from a detailed study by the energy office of 552 homes. The results are now being analyzed by the U.S. Agriculture Department and should be available later this month.

Other preliminary findings of the study show:

Only 5 percent of renters whose heat is included in their monthly rent heat with wood.

Nearly 25 percent of renters who must pay their own heating bill burn wood.

And about 60 percent of owner-occupied dwellings now burn wood. The percentage varies, as expected, from rural to urban areas.

Turner said results of the statewide study are confirmed by two more limited reports and by his personal observations.

"I gave talks to about half the sixth graders in Orange and Washington Counties recently," he said. "Each time I asked everybody who burned wood at home to raise their hands.

"In the rural areas, it was only one or two in each class who weren't burning wood, and even in the cities, at least half the kids were using wood at home."

One recent report on wood heat is an Environmental Conservation Agency study of wood-burning in the town of Waterbury.

The agency surveyed 96 percent of Waterbury 350 single-family homes and found 40 percent of all homes were burning some wood. About 17 percent of the homes got most of their heat from wood.

The study showed 10 percent of all homeowners in the small town were planning to install a wood stove in the near future.

A second study, done privately and still unreleased, indicates residents of northwestern Vermont this year will double the amount of wood they burned in 1977, Turner said.

[From the Rutland (Vt.) Herald, Nov. 14, 1979]

Vermonters Using Less Heating Oil, More Wood

(By Louis Berney)

Montpelier.—Gov. Richard Snelling reported Tuesday that Vermonters have reduced their consumption of heating oil by 20 to 25 percent this year.

At the same time, the governor endorsed a federal Energy Department program aimed at encouraging further conservation of residential fuel in New England.

He also expressed strong support for the president's decision to halt the importation of Iranian oil, and said that action should serve as still another incentive toward energy conservation in the United States.

"Vermonters are already conserving and turning to alternative fuels," Snelling said at a press conference. He said he had learned from the state Energy Office that consumption of heating oil "per fuel degree day" had been reduced between 20 and 25 percent from last year.

But bcause the cutoff of Iranian oil would reduce the nation's fuel supply by approximately 4 percent, Snelling said, "We're going to have to be even more concerned about conservation."

In that regard, he threw his support behind the federal government's "Low Cost-No Cost" energy conservation program.

The $2.8 million program involves a mailing to 4.5 million New England residences of a pamphlet listing 11 specific ways citizens can cut back their energy consumption while simultaneously saving costs.

Included in the mailing, which is to begin Wednesday, will be a small red "shower flow controller," which, when attached to a shower nozzle, will reduce the amount of gallonage consumed.

"I endorse this effort to create an additional awareness of the need for home energy conservation," Snelling told reporters.

The purpose of the brochure is to offer residents "economic incentives" for taking steps to conserve energy, explained Joseph Barrow of the federal Energy Department, who participated in Snelling's press conference.

The publication lists the amount of money consumers can save on their fuel bills for such actions as insulating and turning down the thermostat on their hot water heaters and using the shower flow controller.

Barrow said the federal government is hoping that 10 percent of the New England population will be able 10 reduce its home fuel consumption by 25 percent as a result of the program.

If that goal is reached, 11,500 barrels of oil will be conserved a day, at an annual cost savings of $105 million, the federal energy official said.

Should the program prove successful in the six New England states, it will be expanded to other regions of the country, he reported.

Regarding the president's decision to cease the importation of Iranian oil, Snelling said, "I am very glad that President Carter took the action that he did."

The move, Snelling said, should end the perception by some that the United States is dependent on Iranian oil.

The governor said his administration is attempting to learn "what percentage of the supply (of oil) in Vermont starts off in Iran."

He has been assured by the White House, Snelling said, that the consequences of the Iranian oil action will be spread equally across the country.

The governor emphatically stated, however, that "there is no justification for concerns" about gasoline lines or shortages in home heating oil.

"There is really no reason for us to react to this change as if it were a crisis," said Snelling.

What the loss of Iranian oil supplies does do, Snelling suggested, was underscore the need for conservation.

[From the Rutland (Vt.) Herald, Nov. 14, 1979]

Survey: 400,000 Cords, for Fuel

(By Louis Berney)

Montpelier.—Residents of Vermont are saving approximately $30 million this year by burning wood instead of oil to heat their homes.

And the aggregate savings are expected to grow higher in 1980, according to state energy officials.

A survey conducted by the state Energy Office projects that homeowners will burn approximately 400,000 cords of wood during the 1979 calendar year, an increase of almost 33 percent over two years ago.

If residents using that wood had burned oil instead, they would have consumed approximately 32 million gallons of heating fuel.

The cost of that oil would have been about $39 million, based on an average estimated price of 75 cents a gallon from January through December.

But the cost of the 400,000 cords of wood to Vermonters is only $9.8 million, based on an average cost of $60 per cord, and taking into account that about 60 percent of those who use wood cut their own.

Thus the difference between the wood and oil amounts to $29.4 million, according to Alan Turner, the state's wood energy specialist.

Turner estimated Tuesday that two-thirds of all Vermont households depend on wood, to some degree, to heat their homes.

He also said that close to 25 percent of all households rely on wood as their primary heating source.

While the number of persons who use wood has remained relatively steady in recent years, those who burn it for their primary source of heat has risen from less than 20 percent to almost 25 percent in just two years, according to Turner.

He therefore believes the increase in the number of cords comes from heavier use by those who traditionally have burned wood, rather than from novices.

State Energy Director Ronald Allbee said Tuesday that while the amount of wood being burned in Vermont continues to rise, the gallonage of oil being consumed is dropping.

Last year, Allbee said, Vermonters consumed 130 million gallons of oil to heat their homes.

This year, he predicted, the number of gallons being burned is off by as much as one-quarter.

"Sources say that retail home heating oil sales are off by 25 percent." Allbee said, quoting from a New England summary in the current issue of Oil Buyers Guide.

"Dealers are telling us the same holds true for Vermont," the state energy director said.

Initially, oil distributers doing business in the state predicted sales would be down 15 percent in 1979, but they now are putting the figure between 20 and 25 percent, according to Allbee.

That trend toward conservation, coupled with the fact that oil prices are rising more rapidly than wood prices, causes Allbee and Turner to project that Vermonters will save even more money next year than the $30 million they are saving this year by relying on wood.

"There will be more savings because the price of oil is going up faster than the price of wood," said Turner.

Last winter a gallon of number two home heating oil (the most commonly used fuel) sold for about 60 cents, and now carries a price tag of about 90 cents.

Experts anticipate that the price will continue to escalate before the arrival of spring.

An average cord of wood, depending on whether it has been seasoned and whether it is delivered, sells for about $70 to $75 this winted, compared to about $60 last winter, according to the Energy Office.

[From the Washington Star, Nov. 1, 1979]

VERMONTERS TURN EN MASSE TO WOOD FOR HOME HEAT

(By Duncan Spencer)

UNDERHILS FLATS, VT.—The snow which stays through April has already dusted the shoulders of Mt. Mansfield, the state's highest mountain; damp evening air flows down to this valley to lie in a cold curtain which looks at first like mist.

It is not mist but smoke, the smoke of a thousand wood fires, the palpable evidence of Vermont's wood revolution, during which almost half of the state's 465,000 people have switched from other sources of heat, whether electricity or oil, to wood to heat their homes.

From Bennington to Beecher Falls, Brattleboro to Burlington, the fires are shining, the fragrant smoke flows from flues and chimneys, and always nearby sit the woodpiles, sometimes stacked to the eaves, often piled precisely as the stone walls.

Wood heat is not a labor of love or beauty here. Vermonters, increasingly since the winter of '73–'74, have had their backs against the wall in the fight to stay warm and feed their families.

If the stone-faced Yankees here have one common yearning, it's to beat the "damn Arabs" out of dollars by their own devices.

Wood use for residential heating was "negligible" before 1973, though it has always been a staple in the wild "Northeast Kingdom" of the state near the Canadian border. But this winter 60 percent of all homeowners used wood to heat their homes, 47 percent of all households used wood, and nearly 20 percent of all households used wood alone for heating in Vermont.

Last year a cord of wood was cut in the state for every man, woman and child, but officials estimate that did not match the amount of wood—"biomass" as they term it—that grew in Vermont forests and forecast that even if wood use in Vermont were to quadruple it couldn't damage the immense growth of the forests, estimated at 5 million cords annually.

Industry figures say that from 1972 to 1977 the number of wood stoves in use nationwide jumped from 250,000 to 2 million, and the last two severe winters certainly greatly increased that number. But as experts on wood burning note, many of the stoves, rushed into production by small firms, are wasteful of fuel and sometimes dangerous.

With a mainly rural population, low per-capita income cut off from seaports, Vermont is literally at the end of the energy piplines. Every bit of oil that comes into the state is trucked from Portland, Maine, or Portsmouth, N.H., or Albany, N.Y. and until 1973 the state was almost completely dependent on foreign oil for domestic supplies.

With little government help, Vermont is the nation's leader in nonoil energy use, with the country's only wood-fired electric generating plant, its own nuclear plant, and the highest per-capita use of wood for fuel in the nation.

Vermonters are also leading the nation in development of new fuel systems using wood, which include turning trees, bark, branches, sawdust, even leaves and waste paper, into fuel pellets which can be shipped, piped in bulk, stored easily, are uniform and much cheaper than oil.

Wood chips the size of matchbooks, cut by large mobile chippers from every kind of waste tree, are already a standard fuel source for some industial plants.

On the personal level, it's easy to see why Vermont turned to wood. At Underhill Flats it is often difficult to see the forest—or anything else—for the trees. Seventy percent of the state's area is covered with them, and the amount is increasing yearly.

Vermont is sometimes thought of as a timeless rocky aracadia spotted with tight towns of fresh white and warm brick, yet nothing could be further from the truth, which is that the state has changed completely in the last 120 years, from the nation's foremost producer of wool and wheat with 70 percent of its land area cleared for crops and stock to a vast, second-growth hardwood forest whose towns and cities are mere clearings in a relentless jungle of maple, ash, beech, birch, and other trees.

The wood revolution may change it once again.

Gana Lamphere can look from her bright new kitchen to the bumpy ridge of the mountain. When they are dark at Underhill, the light still glows on the tops, making the horizon bright. She and her husband, Michael, are generations-back Vermonters who last year built a big house here, a house heated entirely with wood.

Under the kitchen's floor in a normal sized basement is a rectangular metal box, indistinguishable from the furnaces of a million U.S. homes. Coils containing water line the firebox, and the water is heated and pumped to the baseboards of every room of the house, just as it would be with an oil-fired furnace. A load of split hardwood logs two feet long are added once per eight or nine hours.

Few New Englanders have gone as far as the Lampheres, who two years ago rejected the wood stove as an outmoded concept, and having experimented with a home-made wood hot-water heating system, started a search for a truly modern wood heating system.

On the way, they founded Alternative Energy Associates, a tiny firm that has pioneered in wood technology by updating ideas which were normal practice 40 to 50 years ago.

In spite of the euphoria of seeing fuel oil bills dwindle to nothing (in the past two years, the Lampheres have spent $126 for for fuel) the couple admits that wood heat is hard work.

"You have to move the wood five times," said Gana. Not to mention cutting and stacking the six cords necessary to get through the long winter.

The beauty part is in the economics. According to the U.S. Department of Energy, one cord of wood is the equivalent of 200 gallons of No. 2 or 6 heating oil, so Michael Lamphere's woodpile is worth $1,080 in 90 cent-a-gallon oil. His cost: $10 for chain-saw fuel.

These days Michael and Gana Lamphere look forward to reading the energy news in the paper. With a certain amount of malice, both of them rejoice every time they read of an energy price increase. "I've got to admit it," said Lamphere at the icy headquarters of Alternative Energy Associates, "almost everything bad about energy is good for business."

Mr. LEAHY. Mr. President, although wood furnaces are susbtantially more expensive than wood stoves, with an average cost of $1,500 per heating system, they have added advantages over wood stoves, all of which result in fuel savings.

As part of a central heating system, a wood furnace or boiler provides 100 percent of a home's heating needs. The furnaces manufactured today have large, air-tight combustion chambers and thermostatically controlled dampers to regulate the air flow and which result in a more efficient use of wood. And because the furnace is installed as a central heating plant, as a replacement or in addition to existing heating systems, and not placed in the home's living area, the furnace has significant safety advantages.

The increased interest in wood energy is not indigenous to Vermont and New England. The far Northwest—Oregon, Washington, and Idaho, the northern Midwest—Michigan, Wisconsin, and Minnesota, and the Southeast—Georgia, Alabama and Mississippi, all have great wood energy potential.

This fall Senator LAXALT and I held a hearing in Vermont of the Appropriations Subcommittee on the Interior. The subjects of the field hearing were wood energy and woodlot management. The general consensus was that wood has great potential as an energy source, in Vermont and in the Nation. But the benefits derived from wood energy are far greater than just a warm hearth.

Mr. Alan Turner, Chief Wood Energy

Specialist of the State Energy Office, highlighted those benefits in his testimony before the subcommitee. I will just summarize his comments here.

A significant portion of Vermont's vast and underutilized forest resources could be used as an energy source without detracting from other uses, commercial or recreational, or from the forest's production. Mr. Turner predicts that up to 40 percent of Vermont's total energy needs could be met with wood, with proper harvesting and forest management techniques. The benefits derived from that increased utilization of wood are prodigious, but the greatest benefit will be in reduced consumption of heating oil, imported oil. By using a native, renewable resource, in lieu of an imported fossil fuel, we will put a brake on the continuing drain on our economy. We will not be exporting our dollars for foreign oil but investing in our forests and our own economy.

Mr. President, I must add that, in his statement, Mr. Turner prefaced his remarks with an all-too-familiar caveat. The near-term potential for wood energy may be realized, but it will depend on our commitment to wood energy. For several years, I have seriously questioned the commitment of the Federal Government to wood energy. My colleagues on the Appropriations Committee know the extent of my commitment to wood energy. But I have often felt that, with the other cosponsors of this amendment, we have been standing alone in our commitment to develop this resource, in our endorsement of wood as a viable energy resource.

The President has recommended a tax credit for wood stoves. The Finance Committee has recommended a 15 percent tax credit for air-tight wood stoves. I am recommending to my colleagues that we approve this amendment, that we extend the 15 percent tax credit to purchasers of replacement wood furnaces and boilers and that, by doing so, we show our commitment to wood energy and our resolve in reducing oil imports.

AMENDMENT NO. 812

(Purpose: Relating to certain tax-exempt bonds)

Mr. NELSON. Mr. President, I call up my amendment No. 812.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. Nelson) proposes an amendment numbered 812.

Mr. NELSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

Sec. . Solid Waste Disposal Facilities.

(a) In General.—Section 103(g)(1) (relating to governmental use of electrical power generated in connection with a solid waste disposal facility), as added by section 237(a)(2), is amended by striking out all that follows "United States" the first place it appears and inserting in lieu thereof "if the facility is owned and operated by or for a State or political subdivision thereof".

(b) Facilities.—The last sentence of section 103(b)(4), as added by section 237(a)(1), is amended by inserting after "steam" the following: "or into a fuel other than oil or natural gas (or any product thereof other than alcohol fuels)".

(c) Effective Date.—The amendment made by subsection (a) shall apply with respect to obligations issued after September 30, 1980.

Mr. NELSON. Mr. President, the Senator from Virginia (Mr. Harry F. Byrd, Jr.) and I cosponsor this amendment. I ask unanimous consent that the names of Senator Moynihan, Senator Tsongas, Senator Bayh, and Senator Durkin be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, this amendment provides that municipally owned solid waste disposal plants financed with tax exempt bonds may sell electricity produced by the facility to the private sector. It also provides that solid waste disposal facilities which convert waste material into alcohol based fuels may be financed with tax exempt bonds.

Under current law, interest on State and local government obligations generally is exempt from Federal taxation. However, with certain exceptions, interest on industrial development bonds is not exempt from tax.

One exception provides that interest on industrial development bonds used to provide solid waste disposal facilities is exempt from tax. However, where solid waste is converted into a fuel or alcohol before burning, it is unclear whether property used to burn the fuel and to convert the heat into steam can be financed with tax exempt bonds. Property used to produce alcohol may not be financed with tax exempt bonds. Moreover, if the Federal Government purchases all the electric energy produced by a solid waste disposal plant, the IRS has taken the position that the interest on the obligation is not exempt from tax.

The Finance Committee substitute provides that tax exempt bonds may be used to finance property which converts solid waste into steam. However, under the committee substitute any electric energy produced by the facility may only be sold to a Federal or State governmental unit. The electricity may not be sold to the private sector. Moreover, the committee substitute does not permit tax exempt financing for solid waste disposal facilities which produce alcohol.

This amendment will provide incentives for the production of energy from waste materials by removing the restrictions imposed by the committee substitute on the sale of electric energy by a solid waste disposal facility. It provides that electricity produced by plants financed with tax exempt bonds may be sold to the private sector as well as to governmental units. Furthermore, the amendment would permit solid waste disposal plants to produce alcohol based fuels and receive tax exempt financing for their construction. This provision would provide a much needed incentive for the construction of facilities which convert the solid waste into alcohol for use in the production of "gasohol."

Mr. President, the United States generates more than 135 million tons of municipal solid waste per year. In many areas of the country, the traditional methods of solid waste disposal simply are not working. Landfills, uncontrolled incineration, and ocean dumping are methods that have become too expensive or environmentally unacceptable. Future solid waste disposal must be considered in the context of multifaceted systems which incorporate waste reduction, recycling, composting and, in particular, technologies for converting waste materials into useable forms of energy.

In a recent study, the Office of Technology Assessment (OTA) estimates that we could satisfy up to 1.9 percent of our current energy requirements from solid waste materials. According to OTA, nearly 80 percent of our municipal solid waste can be effectively burned to provide various forms of useable energy. This energy can be recovered and converted into solid fuel, steam, electric power, gas or liquid fuel such as alcohol for gasahol, depending on the needs of local markets.

Mr. President, at this time I ask unanimous consent that a table prepared by OTA which shows the amount of energy that could be removed from 1 ton of solid waste be printed in the Record.

There being no objection, the table was ordered to be printed in the Record, as follows:

Energy form:	*Energy recoverable per ton of solid waste*
Dry fuel	9 million Btus
Steam	5,700 pounds
Gas	6 million Btus
Electricity	400 kWh

Mr. NELSON. Mr. President, as this table demonstrates, significant quantities of useable energy can be recovered and produced from solid waste. Moreover, a recent report prepared by the General Accounting Office (GAO) indicates that even greater amounts of energy can be produced from future solid waste material. I ask unanimous consent that a table prepared by GAO be printed in the Record.

There being no objection, the table was ordered to be printed in the Record. as follows:

ENERGY POTENTIAL RECOVERABLE FROM MUNICIPAL SOLID WASTE (MSW)

Year	Tons of MSW[1] (millions)	Energy potential[2] (quads)	Oil equivalent[3]	
			MMBBL	MMBBL/D
1975	136	1.22	211	0.58
1980	175	1.58	272	.75
1985	201	1.81	312	.85
1990	225	2.03	350	.96

[1] As stated in EPA's "Fourth Report to Congress" (SW600), Aug. 1, 1977.

[2] Based on 9,000,000 Btu's per ton of MSW, the generally accepted energy value of "as received," unprocessed waste. 1 quad equals a quadrillion Btu's.

[3] Based on 5,800,000 Btu's per barrel of oil and 365 days per year. MMBBL equals millions of barrels per year; MMBBL/D equals millions of barrels per day.

Mr. NELSON. Mr. President, as this table shows, by 1990 the United States will generate an average of 225 million tons of solid waste per year. This material could be converted into almost 1 million barrels of oil equivalent per day or enough energy to satisfy 5 percent of our current energy requirements. Clearly, we cannot afford to ignore this virtually inexhaustible alternative energy source. Providing incentives for the development and construction of solid waste disposal facilities would serve an important national purpose. We will be able to rid ourselves of tons of "garbage" from center cities and at the same time produce substantial quantities of useable energy.

This amendment would allow solid waste disposal plants financed by tax exempt bonds to sell electricity to any purchaser in the market place. It removes the restriction that sales must be solely to governmental units. The amendment treats the sale of electricity in the same manner as the sale of steam under the committee substitute. The amendment provides a measure of flexibility which will enhance the economic feasibility of constructing solid waste facilities in almost any area of the country.

Unlike steam which generally cannot be transported more than 1 mile from point of production, electricity can be transmitted almost anywhere. Permitting these plants to sell electricity will encourage their construction in areas where ready markets for steam do not exist, or where the local unit of Government cannot use the electricity produced by a solid waste plant. Moreover, since steam transportation has a limited radius, the possibility of building a solid waste facility in a rural area where a user of steam energy may not be available may be precluded by restricting the sale of electricity.

If a local governmental unit cannot utilize the electric power generated by a solid waste facility, there is no reason why the electricity should not be sold to a private power company for either local use or transmission to a regional powergrid. In my view, it would be counterproductive to provide an incentive for solid waste disposal plants through tax exempt financing for their construction and at the same time limit their potential by restricting the market for their essential product.

Mr. President, the second part of this amendment would permit solid waste disposal plants to produce alcohol based fuels and receive tax exempt financing for their construction.

The Gulf Oil Co. recently patented the technology for the conversion of solid waste into alcohol. The company has donated the technology to the University of Arkansas Foundation. In my own State of Wisconsin, the Wisconsin Solid Waste Recyling Authority is planning a demonstration project for converting solid waste into alcohol. Based upon data collected by Gulf Oil, one alcohol plant could produce up to 25 million gallons of alcohol per year. This figure is based on the available tonnage of municipal solid waste available per year in the United States.

Obviously, not all solid waste would be used to produce alcohol, and it would take a considerable number of years and facilities to realize the potential that alcohol provides. Nevertheless, conversion of solid waste to alcohol can begin to make meaningful contributions to domestic sources of energy and at the same time contribute to the solution of the solid waste disposal problem. One additional attraction of the alcohol process is that it can recycle certain types of papermill byproducts.

If just 100 alcohol plants were constructed, 2.5 billion gallons of alcohol (ethanol) would be produced per year. This 2.5 billion gallons of alcohol could be blended with nine times that volume of gasoline to produce 25 billion gallons of gasohol per year.

Mr. President, I wish to stress two final points. This amendment only applies to solid waste facilities which are owned for tax purposes by a State or political subdivision thereof. Second, the provisions of this amendment become effective after September 30, 1980. Accordingly, there will be no revenue impact on the fiscal year 1980 budget. The Joint Tax Committee estimates the total cost of the proposal would be $29 million between 1980 and 1990.

Mr. President, under current law, tax exempt bonds may be issued by municipalities for the purpose of building solid waste disposal plants. However, if they produce steam or electricity from those plants to sell, those parts of the facilities required for the production of this energy are not subject to the tax exemption of the industrial revenue bonds.

In committee, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) offered an amendment which provided that the municipality that builds a solid waste disposal plant may produce electricity and steam and may sell the steam to any buyer and may sell the electricity to any governmental unit and still retain the tax exemption for the cost of building those facilities to convert the solid waste into steam or electricity.

This amendment expands the Byrd proposal to provide that the electricity may be sold not only to a governmental unit but also, if they have an excess, to any other buyer.

No. 2, the amendment provides that the solid waste disposal plant may produce alcohol-based fuels from solid waste and sell those fuels.

That is all there is to this amendment. The cost over a 10-year period is estimated to be $29 million.

I yield the floor.

The PRESIDING OFFICER (Mr. RANDOLPH). The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, this amendment was discussed in committee. While the committee did not take a formal vote, as I recall, it was the consensus of the committee—if I recall accurately—that the amendment offered by the distinguished Senator from Wisconsin is a desirable one and one in which the committee could concur. I feel that it is a good amendment. It leaves the committee amendment, which applies beginning on October 18, 1979, in effect, and on September 30, 1980, the Nelson amendment, which expands the committee amendment, goes into effect.

I should like to add one caveat: It expands the principle which the committee adopted which was offered by the Senator from Virginia, as the Senator from Wisconsin has just pointed out.

If we run into difficulties in conference as a result of the floor amendment being offered today, I hope the Senator from Wisconsin and the Senator from Virginia could work together to the end that the original proposal adopted by the Finance Committee, which will be in effect from October 18, 1979, until September 30, 1980, affecting the Virginia localities, would not go down the drain if the House conferees should enter objection to the expanded proposal offered by Senator NELSON.

Mr. NELSON. I assure the Senator from Virginia that I would not be interested in breaking up the conference over that point.

I offered the amendment because, obviously, it is an important governmental purpose in this country to find the best ways possible to dispose of solid waste, which is being produced at a rate approaching 200 billion tons a year.

I think the Senator from Virginia was very wise to offer the amendment which was adopted, to facilitate the utilization of solid waste for the purpose of producing energy. I thought the limitation in the sale to a governmental unit was too narrow. I discussed it with the Senator from Virginia, who agreed with me.

After all, if we produce enough from the solid waste disposal plant to supply the local government or any governmental unit that was available and had surplus remaining, it should not be wasted. It should be available to go into the power grid.

I added the other provision, that they may convert solid waste into alcohol, which is also an energy source we are trying to develop in this country. I think the amendment is a good addition to the Senator's original proposal.

However, I repeat that if there were serious opposition or a refusal on the part of the House to accept all or some part of the amendment I have offered to the Senator's proposal, in a willingness to accept this proposal, I would go along with that, because his proposal is a very long step in the right direction.

Mr. HARRY F. BYRD, JR. I thank the Senator from Wisconsin. Not only do I support his amendment today on the floor of the Senate, but also, I am a cosponsor of it. I believe it is a sound amendment, a good amendment.

There should be no opposition to this amendment, because what is proposed is to take municipal waste—mainly, garbage—and turn it into energy. That does two things at once: It gets rid of the environmental problem for municipalities of disposing of solid waste and creates energy while doing so. So I do not anticipate that there will be opposition. It seems to me to be a very sound proposal.

I want to say just a word about the original amendment, which will remain in effect until September 30, 1980, which the pending amendment would amend by expanding the original amendment. There are six Virginia cities and two Virginia counties which have formed an authority, the Southeastern Public Service Authority of Virginia.

The purpose of that authority is to construct a facility which will get rid of municipal waste, principally garbage, at the same time create additional energy in the form of steam and electricity.

That municipal authority would not need to seek congressional approval for the issuance of tax exempt bonds, except for one thing, that is, that the principal purchaser of the electricity will be a unit of the Federal Government, namely, the U.S. Navy. Because the U.S. Navy will be the principal buyer or the principal customer, then, under Internal Revenue Service interpretation of present law the issuance of the bonds to build the facility by the municipalities will not be tax exempt.

This IRS position is very foolish—it seems to me—to say that the municipalities could do exactly what they plan to do provided they do not sell any electricity to the Federal Government. To me that does not make much sense.

The interpretation of present law by the IRS is a matter, I might add, which is the subject of much dispute as it was not the intent of Congress to prohibit tax-exempt financing in situations where the Federal Government may purchase the product of that financing.

I think the original proposal as approved by the Finance Committee is sound. I think the proposal offered by the Senator from Wisconsin is sound.

So far as the acting manager of the bill is concerned, I am perfectly willing to accept the amendment offered by the able Senator from Wisconsin.

Mr. NELSON. Mr. President, I ask unanimous consent that Mr. Randolph be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. Bayh). Without objection, it is so ordered.

Mr. NELSON. I yield the floor.

Mr. RANDOLPH. Mr. President, I have listened with intense interest to the explanation of the amendment by the able Senator from Wisconsin (Mr. Nelson).

I have also listened to the colloquy between the knowledgeable Senator from Virginia (Mr. Harry F. Byrd, Jr.) who is now the acting manager for the majority of this important legislation dealing with windfall profits.

The only reason that I use this time is to indicate that, within the Committee on Environment and Public Works, resource recovery has been a major legislative matter.

In the recent past, as we considered clean air and pure water thoroughly there was a reluctance to tackle the problem of garbage. I must state, and Senator Muskie will not mind this, that I finally had to take on this chore myself even though at that time I was not a member of the subcommittee.

I express appreciation to Senator Muskie and others in connection with the splendid work within our committee on the Clean Air and Clean Water Acts and associated legislation which looks after the air and water of our country. With the adoption of the Resource Conservation Act which I sponsored in 1976, we also started toward an environmental goal to free our Nation of the clutter and uncontrolled litter, trash, and garbage while seeing that scarce materials were used and reused effectively.

So in all of these matters for many, many years the members of our Committee on Environment and Public Works have been diligent in trying to work with industry to clean our environment and protect the health and safety of our citizens. Recently, I had the opportunity to go to Charleston, W.Va., and to address a conference which was sponsored by the West Virginia State Chamber of Commerce on solid waste disposal, being considered in the pending amendment. This was an indication to me that industry—commerce, business—was itself beginning to realize that it could have a leadership role. And I spoke at that conference, saying that the Resource Recovery Act was based on the premise that solid waste management is essentially a local problem best lending itself in most instances to local solutions. For that reason it provided for full Federal involvement and control only in those areas where clearly necessary—such as in regulation of hazardous waste disposal—and for maximum participation of State and local authorities in planning for the achievement of its other objectives.

It was recognized then that this would not be the quickest route to that goal—that it would take time to establish those planning mechanisms and to develop the regulations and guidelines necessary for their eventual operation. At the Hazardous/Solid Waste Seminar we had approximately 250 men and women who came together for that conference from 31 of our 55 counties in West Virginia. The mayors were there. The members of the city councils were there. The members of the county commissions were there. And, in addition, other municipalities from 12 States joined the seminar activities.

With these public representatives we also had the leadership of industry, commerce, and business, many of these corporations are not headquartered in West Virginia but do have plants in West Virginia. Union Carbide, or Monsanto, or any of several other companies that have begun to realize and act on resource recovery programs.

My discussion does not discuss specifically tax exempt bonds for municipally owned solid waste disposal plants but it does indicate that here in this forum we can once again emphasize the importance of attempting to cope with useful garbage.

There are now at least 53 plants either operating or under construction in the country designed for materials recycling, solid waste recovery or fuel and energy conversion. They represent a total investment of close to $1.5 billion and a wide range of innovative concepts.

It is significant to note that 11 cities on that list are constructing small modular combustion units to produce steam from burning of municipal waste and six others have projects underway for recovery of methane-containing gas mixtures from sanitary landfills with a capacity for purification to pipeline quality.

These and other energy conversion efforts assume a special importance now in a time of increasingly severe fuel shortages and escalating costs. And they reflect a belated recognition of the value of materials which for far too long and at much to great a cost had been buried or discarded to blight the Nation's landscape. In West Virginia we have even built landing strips for airplanes out of recovered material.

Significant as these efforts are, they represent only the first step in tapping the vast potential of these resources. The Environmental Protection Agency assesses the scope of that opportunity with an estimate that if all cities were to convert their garbage into energy, fuel savings could equal half of the oil we get from the Middle East.

Other figures I came across recently indicate how far we still have to go to reach that goal and how badly we lag behind some other nations in that respect. Those statistics credit this country with only a 1-percent rate of garbage-to-energy conversion, compared to 60 percent in Denmark, 30 percent in Sweden, and 20 percent in West Germany.

If that comparison is even close to accurate, it poses a challenge which we can ill-afford to ignore.

I am convinced that Senator Nelson's amendment will quicken progress on resource recovery in both local and State governments.

By the same token, the private sector has already provided us with dramatic evidence of the soundness of the local control approach to solid waste management and resource recovery and of the vast potential the program offers for development in those fields.

So when I speak of figures, and make comparisons with other countries that are certainly not of the magnitude of size and acreage and population as is the United States, I do it to emphasize that Congress has not been stagnant in this area, but that we can do more. I express a genuine compliment to the Senators who are trying within this body to use this vehicle, the windfall profit tax legislation, to enhance the constructive use of solid waste. Senator Nelson, your amendment will enhance the quality of living in the United States.

So, what you are doing as a part of this bill by drawing attention to solid wastes, to waste materials, to garbage, is a creative amendment; one that will reflect not so much credit upon the Congress, but will reflect the American people's desire. When they see what we are doing in this instance they will say, "Well done. We wish to cooperate."

Mr. HARRY F. BYRD, JR. Mr. President, I do not know of anyone who has provided greater leadership in the effort to enhance the quality of living of the American people than has the able Senator from West Virginia (Mr. Randolph). He has done that consistently over a long period of time, and his appraisal of the pending amendment and his strong support for it, in my mind means it has unusual merit. I hope the Senate will approve this amendment.

Before asking for the disposal of the amendment, I ask unanimous consent that Mr. Durenberger be added as a cosponsor.

The PRESIDING OFFICER (Mr. Bayh). Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. May I also say my colleague from Virginia (Mr. Warner) has been active in behalf of the amendment which was adopted by the Finance Committee and is now part of the bill, that amendment making it possible for the eight communities in our State to utilize tax-exempt bonds even though the energy might be sold to a governmental unit.

I want to say again there would be no question but that the communities could utilize the tax-exempt route except for the fact that the Navy is purchasing a part, and a major part, of the product. Under the Internal Revenue Service's interpretation of the law as it exists today such bonds under those conditions would not be tax exempt. The Finance Committee proposal would make it certain that such bonds are tax exempt. It does not, however, acknowledge in any way that the position of the IRS is correct.

Mr. President, may I ask the distinguished minority manager of the bill whether this amendment would gain his approval?

Mr. DOLE. Mr. President, I have listened carefully to the distinguished Senator from Virginia and the Senator from West Virginia, and also to the sponsor of the amendment, the Senator from Wisconsin. It was discussed in our committee. This side has no objection to it. We are willing to move on.

Mr. HARRY F. BYRD, JR. I thank the Senator from Kansas.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Washington.

AMENDMENT NO. 837

(Purpose: Division II of unprinted amendment numbered 843, relating to alcohol fuels (modified))

Mr. MAGNUSON. Mr. President, I ask unanimous consent to call up amendment No. 837, which is a modification of division II of unprinted amendment No. 843; and that when this is the pending business, Senator Dole be recognized to present an amendment to this submitted by himself, Senator Bayh, myself, and others.

The PRESIDING OFFICER (Mr. Exon). The Senator from Ohio.

Mr. METZENBAUM. Mr. President, reserving the right to object, and I do not intend to object, I understood what the Magnuson amendment originally was. Do I understand Senator Dole will have an amendment to the Magnuson amendment?

Mr. MAGNUSON. We set aside division II in order to work out certain details of the so-called gasohol amendment. They have been worked out by Senator Dole, Senator Bayh, myself, the Senator from Nebraska, and all the rest of us, and Senator Dole is about to present that, which is in the nature of a substitute.

Mr. METZENBAUM. As I understand it, Senator Dole is proposing to offer an amendment in the second degree to the Magnuson amendment, and is it understood that if and when the amendment in the second degree is accepted by the Senator from Washington that under the unanimous-consent agreement it would provide that no further amendments could be offered without unanimous consent?

Mr. MAGNUSON. That is correct.

Mr. METZENBAUM. Is that the understanding? If that be the understanding, and it is on that basis that the unanimous-consent request was made, that after the Dole amendment is accepted that the amendment will not be subject to any other amendment without unanimous consent, the Senator from Ohio has no objection. But if the matter on the floor is wide open after that the Senator from Ohio would object.

Mr. DOLE. We do not know of any other amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. Magnuson) for himself, Mr. Young, Mr. Muskie, Mr. Proxmire, Mr. Garn, Mr. Stennis, Mr. Stevens, Mr. Cannon, Mr. Hatfield, Mr. Chiles, Mr. Schweiker, Mr. Hollings, Mr. McClure, Mr. Inouye, Mr. Weicker, Mr. Sasser, Mr. Laxalt, Mr. Burdick, Mr. Schmitt, Mr. Leahy, Mr. Domenici, Mr. DeConcini, Mr. Armstrong, Mr. Durkin, Mrs. Kassebaum, Mr. Exon, Mr. Boschwitz, Mr. Hart, Mr. Cochran, Mr. Pryor, Mr. Bayh, Mr. Hayakawa, Mr. Eagleton, Mr. Bumpers, Mr. Humphrey, Mr. Morgan, Mr. McGovern, Mr. Kennedy, Mr. Biden, Mr. Percy, Mr. Culver, and Mr. Simpson, proposes amendment numbered 837. The amendment is as follows:

On page 120, beginning with line 9, strike out all through page 134, line 14, and insert in lieu thereof the following:

Sec. 236. Gasohol.

(a) Credit for Alcohol Fuels.

(1) In general.—Subchapter B of chapter 64 (relating to rules of special application for abatements, credits, and refunds), as amended by section 101(i)(1), is amended by adding at the end thereof the following new section:

"Sec. 6430. Alcohol Used in Fuels.

"(a) General Rule.—Except as provided in subsection (f), after September 30, 1980, the Secretary is authorized, to the extent provided in appropriation Acts, to pay (without interest) to any producer of alcohol an amount equal to the product of—

"(1) 40 cents, multiplied by

"(2) the sum of—

"(A) the number of gallons of alcohol used by the producer in the production of a mixture of alcohol and gasoline or a special fuel for sale or use in a trade or business,

"(B) the number of gallons of alcohol sold by such producer during the taxable year for use by the purchaser, or for resale by the purchaser to a second purchaser for use, in the production of a mixture of alcohol and gasoline or a special fuel but only if such mixture is to be held for sale or use in a trade or business, and

"(C) the number of gallons of alcohol with respect to which the producer has been notified that—

"(i) such alcohol has been used in the production of a mixture of alcohol and gasoline or a special fuel for sale or use in a trade or business; and

"(ii) no payment under this section or credit under section 44G has been allowed with respect to such alcohol.

"(b) Definitions and Special Rules.—For purposes of this section—

"(1) Alcohol defined.—The term 'alcohol' includes methanol and ethanol but does not include alcohol produced from petroleum or natural gas.

"(2) Special fuel defined.—The term 'special fuel' includes any liquid fuel of a type referred to in section 4041.

"(3) Section applies only to domestically produced and used alcohol.—No payment shall be made under subsection (a) with respect to any alcohol which—

"(A) is not produced in the United States from a substance produced in the United States, or

"(B) is mixed with gasoline or a special fuel for sale or use outside of the United States.

"(4) Alcohol made from coal.—In the case of alcohol produced from coal, subsection (a) shall be applied by substituting '10 cents' for '40 cents' in paragraph (1).

"(c) Time for Filing Claims; Period Covered.—

"(1) General rule.—Except as provided in paragraph (2), not more than one claim may be filed under this section by any person with respect to alcohol produced and sold or used during the taxable year, and no claim shall be allowed under this paragraph with respect to such alcohol during any taxable year unless filed by the taxpayer not later than the time prescribed by law for filing a claim for credit or refund of overpayment of income tax for such taxable year. For purposes of this paragraph, a person's taxable year shall be his taxable year for purposes of subtitle A.

"(2) Exceptions.—

"(A) In general.—If $1,000 or more is payable under subsection (a) to any person with respect to alcohol produced and sold or used during any of the first three quarters of the taxable year, a claim may be filed under this section by the producer with respect to such alcohol during such quarter.

"(B) Time for filing claim.—No claim filed under this paragraph shall be allowed unless filed on or before the last day of the first quarter following the quarter for which the claim is filed.

"(d) Diversions of Alcohol to Other Users.—In any case in which—

"(1) any person has certified to, or notified, the producer of alcohol that such alcohol is to be sold or used in the production of a mixture of alcohol and gasoline or a special fuel for sale or use in a trade or business, and

"(2) such alcohol is sold or used for a purpose not described in paragraph (1),

then there is hereby imposed on the person who sold or used such alcohol for such other purpose a tax in an amount equal to 40 cents (10 cents in the case of alcohol produced from coal) multiplied by the number of gallons so sold or used.

"(e) Applicable Laws.—

"(1) In general.—All provisions of law, including penalties, shall insofar as applicable and not inconsistent with this section, apply in respect of—

"(A) the payments provided for in this section to the same extent as if such payments constituted refunds of overpayments of a tax imposed under this title; and

"(B) any tax imposed on any person as provided in subsection (d).

"(2) Examination of books and witnesses.—For purposes of ascertaining the correctness of any claim made under this section, or the correctness of any payment made in respect of any such claim, the Secretary shall have the authority granted by paragraphs (1), (2), and (3) of section 7602 (relating to examination of books and witnesses) as if the claimant were a person liable for tax.

"(f) Payment in Lieu of Income Tax Credit.—

"(1) Persons not subject to income tax.—Payment shall be made under this section only to—

"(A) the United States or an agency or instrumentality thereof, a State, a political subdivision of a State, or any agency or instrumentality of one or more States or political subdivisions, or

"(B) an organization exempt from tax under section 501(a) (other than an organization required to make a return of the tax imposed under subtitle A for its taxable year).

"(2) Exception.—Paragraph (1) shall not apply to a payment of a claim filed under subsection (c)(2).

"(3) Allowance of credit against income tax.—For allowance of credit against the income tax imposed by subtitle A for alcohol produced and used or sold for use in an alcohol fuel, see section 44G."

(2) Conforming amendment.—The table of sections for such subchapter B is amended by adding at the end thereof the following new item:

"Sec. 6430. Alcohol used in fuels.".

(b) Credit Against Income Tax.—

(1) In general.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed), as amended by section 301(a), is amended by adding at the end thereof the following new section:

"Sec. 44G. Alcohol Used in Fuels.

"(a) General Rule.—In the case of a producer of alcohol, there is allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount payable to the taxpayer under section 6430 (determined without regard to section 6430(f)).

"(b) Application With Other Credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than the credits allowable by sections 31, 39, and 43.

(2) Conforming amendments.—

(A) The table of sections for subpart A of part IV of subchapter A of chapter 1, is amended by inserting immediately after the item relating to section 44E the following new item:

"Sec. 44G. Alcohol used in fuels.

(B) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 301, is amended by striking out "and 44F" and inserting "44F, and 44G.".

(c) Credit To Be Included in Income.—

(1) In general.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"Sec. 86. Alcohol Fuels Credit.

"Gross income includes an amount equal to the sum of—

"(1) the amount of the credit allowable to the taxpayer under section 44G, and

"(2) the amount of any payment under section 6430(c) during such taxable year.".

(2) Conforming amendment.—The table of sections for such part II is amended by inserting at the end thereof the following new item:

"Sec. 86. Alcohol fuels credit.".

(d) Exemption From Distilled Spirits Rules.—

(1) In General.—Subchapter B of chapter 51 (relating to distilled spirits, wines, and beers) is amended by redesignating section 5181 as section 5182 and by inserting after section 5180 the following new section.

"Sec. 5181. Distilled Spirits for Fuel Use.

"(a) In General.—On such application and bond and in such manner as the Secretary may prescribe by regulation, a person may establish a distilled spirits plant solely for the purpose of producing, processing, storing, using, and distributing distilled spirits to be used exclusively for fuel use.

"(b) Authority To Exempt.—The Secretary may by regulation provide for the waiver of any provision of this chapter (other than this section or any provision requiring the payment of tax) for any distilled spirits plant described in subsection (a) if the Secretary finds it necessary to carry out the provisions of this section.

"(c) Withdrawal Free of Tax.—Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises of a distilled spirits plant exclusively for fuel use as provided in section 5214(a)(12).

"(d) Prohibited Withdrawal, Use, Sale, or Disposition.—

"(1) In General.—Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use.

"(2) Rendering unfit for use.—For protection of the revenue and under such regulations as the Secretary may prescribe, distilled spirits produced under this section shall, prior to withdrawal from the bonded premises of a distilled spirits plant, be rendered unfit for beverage use by the addition of substances which will not impair the quality of the spirits for fuel use.

"(e) Definition of Distilled Spirits.—For purposes of this section, the term "distilled spirits' does not include distilled spirits produced from petroleum or natural gas.".

(2) Technical and conforming amendments.—

(A) Section 5601(a) (relating to criminal penalties) is amended by adding the word "or" at the end of paragraph (14) and by inserting immediately after paragraph (14) the following new paragraph:

"(15) Unauthorized withdrawal, use, sale, or distribution of distilled spirits for fuel use.—withdraws, uses, sells or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;".

(B) Section 5214(a) (relating to withdrawal of distilled spirits from bonded premises free of tax) is amended by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(12) free of tax in the case of distilled spirits produced under section 5181.".

(C) Section 5004(a)(2)(B) (relating to lien for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

(D) Section 5005(d) (relating to person liable for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

(E) The table of sections for subchapter B of chapter 51 is amended by striking out the item relating to section 5181 and by inserting after section 5180 the following new items:

"Sec. 5181. Distilled spirits for fuel use.
"Sec. 5182. Cross references."

(e) Repeal of Exemption From Excise Tax.—Subsection (k) of section 4041 (relating to exemption from tax on special fuels mixed with alcohol) and subsection (c) of section 4081 (relating to exemption from tax on gasoline mixed with alcohol) are repealed.

(f) Credit Not Paid From Trust Fund.—Paragraph (6) of section 209(f) of the Federal Aid Highway Act of 1956 is amended by adding at the end the following: "No amount shall be transferred from the Trust Fund with respect to the credit allowed under section 44G for alcohol produced and used or sold for use in an alcohol fuel.".

(g) Reports.—

(1) In general.—Subsection (c) of section 221 of the Energy Tax Act of 1978 is amended to read as follows:

"(c) Reports.—On April 1 of each year, beginning with April 1, 1981, the Secretary of Energy, in consultation with the Secretary of the Treasury and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

"(1) a description of the firms engaged in the alcohol fuel industry.

"(2) the amount of alcohol fuel sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels,

"(3) the revenue loss resulting from the payment by the Secretary under section 6430 (c) for alcohol used in alcohol fuels, and the credit against income tax for alcohol used in alcohol fuels under section 44G, and

"(4) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels not mixed with alcohol.".

(2) Conforming amendment.—The first sentence of section 221(d) of the Energy Tax Act of 1978 is amended by striking out "gasoline described in section 4081(c) (or in producing liquid fuel described in section 4041(k)) of the Internal Revenue Code of 1954" and inserting in lieu thereof "alcohol fuels".

(h) Effective Date.—

(1) In general.—

(A) Gasohol provisions.—Except as provided in subparagraph (B), the amendments made by this section shall apply to alcohol sold or used by the producer after December 31, 1979, and before January 1, 2000.

(B) Distilled spirits plants.—The amendments made by subsection (d) shall take effect on the first day of the first calendar month beginning more than 60 days after the date of enactment of this Act.

(2) Transitional rule for tax-paid gasoline.—

(A) In general.—If any gasoline on which tax is imposed by section 4081 of the Internal Revenue Code of 1954 is used during calendar year 1979 by any person in producing a mixture described in section 4081(c) of such Code, as in effect before the amendments made by this section, which was sold or used during such calendar year in such person's trade or business, the Secretary shall pay after September 30, 1980, to the extent provided in appropriations Act (without interest) to such person an amount eual to the aggregate amount of the tax imposed on such gasoline.

(B) Filing of claim.—No payment shall be made under subparagraph (A) unless the person producing such mixture files a claim for such payment before July 1, 1980.

(C) Coordination with other repayment provisions.—No payment shall be made under subparagraph (A) with respect to any gasoline with respect to which credit or refund of the tax imposed by section 4081 was made under any provision of such Code.

(D) Applicable laws.—To the extent not inconsistent with the provisions of this paragraph, the provisions of section 6427(g) of such Code shall apply to any payment made under subparagraph (A).

(3) Transitional rule for alcohol transferred by the producer prior to January 1, 1980.—For purposes of sections 44G, 86, and 6430 of such Code, if—

(A) alcohol (other than alcohol produced from coal) has been transferred by the producer prior to January 1, 1980,

(B) such alcohol is mixed with gasoline or a special fuel before April 1, 1980, and

(C) the mixture is sold or used in a trade or business after December 31, 1979, and before April 1, 1980,

then, the person who mixed such alcohol and gasoline or special fuel shall be treated as if such person had produced and used or sold such alcohol on January 1, 1980. For purposes of the preceding sentence, section 6430 of such Code shall be applied without regard to subsection (b)(3).

UP AMENDMENT NO. 879

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of myself, Senators Bayh, Packwood, Talmadge, Exon, Percy, Church, McGovern, Stewart, Baucus, Nelson, McClure, Morgan, Bellmon, Byrd of West Virginia, Magnuson, Heinz, Pressler, Wallop, Huddleston, Domenici, Mathias, Schmitt, Javits, Jackson, Metzenbaum, Bradley, Hayakawa, Bumpers, Jepsen, Byrd of Virginia, Stevens, DeConcini, Boschwitz, Culver, Kassebaum, Melcher, Pryor, Cochran, Zorinsky, Sasser, Sarbanes, Thurmond, Garn, Laxalt, Hatch, and Durenberger.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. Dole) proposes an unprinted amendment numbered 879.

The amendment is as follows:

In lieu of the matter proposed to be inserted by the Senator from Washington and others in Amendment numbered 837, insert the following:

Sec. 236. Alcohol Fuels.

(a) Extension of Exemption to 2000.—Section 221(a)(2) and (b)(2) of the Energy Tax Act of 1978 are each amended by striking out "October 1, 1984" and inserting "January 1, 2000".

(b) Credit Against Income Tax.—

(1) In general.—Subpart A of part IV of subchapter A of chapter 1 (relating to credits allowed), as amended by section 301 (a), is amended by adding at the end thereof the following new section:

"Sec. 44G. Alcohol Used as Fuels.

"(a) General Rule.—There shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the product of—

"(1) the applicable amount, multiplied by

"(2) the sum of—

"(A) the number of gallons of alcohol (other than alcohol produced from coal) used by the taxpayer in the production of a mixture of alcohol and gasoline or a special fuel which is sold or used during the taxable year by the taxpayer in a trade or business,

"(B) the number of gallons of alcohol (other than alcohol produced from coal) used in a trade or business by the taxpayer during the taxable year directly as a fuel, and

"(C) the number of gallons of alcohol produced by the taxpayer from coal—

"(i) used directly as a fuel by the taxpayer in a trade or business or used in the production by the taxpayer of a mixture of alcohol and gasoline or special fuel for sale or use in a trade or business, or

"(ii) sold to a person who certifies to the taxpayer that such alcohol is to be used, or sold for use, directly as a fuel in a trade or business or in a mixture described in clause (i).

"(b) Limitations.—

"(1) Tax-exempt mixtures.—No credit shall be allowable under subsection (a) with respect to any alcohol used in the production of a mixture of alcohol and gasoline or special fuel if such gasoline or special fuel is exempt from the tax imposed by section 4081 or 4041 solely by reason of section 4081 (c) or 4041(k).

"(2) Later separation.—No credit shall be allowed under subsection (a) with respect to alcohol described in subsection (a)(2)(A) for any taxable year if the taxpayer separates the alcohol from the mixture of alcohol and gasoline or special fuel.

"(3) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this subpart having a lower number or letter designation than this section, other than credits allowable by sections 31, 39, and 43.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Applicable amount.—The term 'applicable amount' means—

"(A) 40 cents in the case of alcohol (other than alcohol produced from coal) with a proof of 190 or greater,

"(B) 39 cents in the case of alcohol (other than alcohol produced from coal) with a proof which is 150 or greater but less than 190, and

"(C) 20 cents in the case of alcohol produced from coal.

"(2) Alcohol defined.—

"(A) In general.—The term 'alcohol' includes methanol and ethanol but does not include—

"(i) alcohol produced from petroleum or natural gas, or

"(ii) alcohol with a proof of less than 150.

"(B) Determination of proof.—The determination of the proof of any alcohol shall be made before the addition of any denaturants.

"(3) Special fuel defined.—The term 'special fuel' includes any liquid fuel (other than gasoline) which is suitable for use in an internal combustion engine.

"(4) Diversion of alcohol.—

"(A) In general.—In any case in which—

"(i) any person has certified to the producer of alcohol under subsection (a)(2)(C) (ii) that such alcohol is to be used directly as a fuel or to be sold for use or used in the production of a mixture of alcohol and gasoline or a special fuel for sale or use in a trade or business, and such alcohol is sold or used for any other purpose, or

"(ii) any person other than the taxpayer with respect to whom the credit was allowed separates alcohol described in subsection (a) (2)(A) from such a mixture,

then there is hereby imposed on such person a tax in an amount equal to the applicable amount multiplied by the number of gallons of alcohol so sold, used, or separated.

"(B) Applicable laws.—All provisions of law, including penalties, shall, insofar as applicable and not inconsistent with this section, apply in respect of any tax imposed under subparagraph (A).

"(5) Volume of alcohol.—For purposes of determining—

"(A) under subsection (a) the number of gallons of alcohol with respect to which a credit is allowable under subsection (a), or

"(B) under section 4041(k) or 4081(c) the percentage of any mixture which consists of alcohol, the volume of alcohol shall include the volume of any denaturant (including gasoline) which is added under any formulas approved by the Secretary to the extent that such denaturants do not exceed 5 percent of the volume of such alcohol (including denaturants).".

(2) Technical and conforming amendments.—

(A) Section 4081(c)(3) (relating to definition of alcohol) is amended by inserting "with a proof of 190 or greater (determined before the addition of any denaturant)" after "ethanol".

(B) The table of sections for subpart A of part IV of subchapter A of chapter 1 is amended by inserting immediately after the item relating to section 44F the following new item:

"Sec. 44G. Alcohol Used in Fuels.".

(C) Section 6096(b) (relating to designation of income tax payments to Presidential Election Campaign Fund), as amended by section 301, is amended by striking out "and 44F" and inserting "44F, and 44G".

(c) Credit To Be Included in Income.—

(1) In general.—Part II of subchapter B of chapter 1 (relating to items specifically included in gross income) is amended by adding at the end thereof the following new section:

"Sec. 86. Alcohol Fuels Credit.

"Gross income includes an amount equal to the amount of the credit allowed to the taxpayer under section 44G for the preceding taxable year.".

(2) Conforming amendment.—The table of sections for such part II is amended by inserting at the end thereof the following new item:

"Sec. 86. Alcohol Fuels Credit.".

(d) Refund of Tax on Gasoline Used to Produce Certain Alcohol Fuels.—

(1) General rule.—Section 6427 (relating to fuels not used for taxable purposes) is amended—

(A) by redesignating subsections (f), (g), (h), (i), and (j) as subsections (g), (h), (i), (j), and (k), respectively; and

(B) by inserting after subsection (e) the following new subsection:

"(f) Gasoline Used to Produce Certain Alcohol Fuels.—

"(1) In general.—Except as provided in subsection (i), if any gasoline on which tax is imposed by section 4081 is used by any person in producing a mixture described in section 4081(c) for sale or use in such person's trade or business, the Secretary shall pay (without interest) to such person an amount equal to the aggregate amount of the tax imposed on such gasoline. The preceding sentence shall not apply with respect to uses described in such sentence after December 31, 1999.

"(2) Coordination with other repayment provisions.—No payment shall be made under subsection (d) or (e) of this section or under section 6420 or 6421 with respect to any gasoline with respect to which an amount is payable under paragraph (1).".

(2) Quarterly refund allowed where $200 or more is payable.—

(A) Subparagraph (A) of section 6427(g) (2) (as redesignated by subsection (a)(1)) is amended by striking out "or" at the end of clause (i), by inserting "or" at the end of clause (ii), and by inserting after clause (ii) the following new clause:

"(iii) $200 or more is payable under subsection (f),".

(B) Subparagraph (B) of section 6427(g)

(2) (as redesignated by subsection (a)(1)) is amended to read as follows:

"(B) Special rule.—If the requirements of clause (ii) or clause (iii) of subparagraph (A) are met by any person for any quarter but the requirements of subparagraph (A)(i) are not met by such person for such quarter, such person may file a claim under subparagraph (A) for such quarter only with respect to amounts referred to in the clause (or clauses) of subparagraph (A) the requirements of which are met by such person for such quarter.".

(3) Treatment of subsequent separation.—Paragraph (2) of section 4081(c) (relating to later separation of gasoline) is amended by inserting "(or with respect to which a credit or payment was allowed or made by reason of a use described in section 6427(f)(1))" after "this subsection".

(4) Technical amendments.—

(A) Subsections (a)(4) and (b) of section 39 are each amended by striking out "6427(h)" and inserting in lieu thereof "6427(i)".

(B) Subsections (a), (b)(1), (c), (d), and (e)(1) of section 6427 are each amended by striking out "(h)" and inserting in lieu thereof "(i)".

(C) Subsection (g)(1) of such section 6427 (as redesignated by subsection (a)(1)) is amended by striking out "(a), (b), (c), (d), or (e)" and inserting in lieu thereof "(a), (b), (c), (d), (e), or (f)".

(D) Subsection (i)(2) of such section 6427 (as redesignated by subsection (a)(1)) is amended by striking out "(f)(2)" and inserting in lieu thereof "(g)(2)".

(E) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) are each amended by striking out "6427(g)(2)" each place it appears and inserting in lieu thereof "6427(h)(2)".

(e) Exemption From Distilled Spirits Rules.—

(1) In general.—Subchapter B of chapter 51 (relating to distilled spirits, wines, and beers) is amended by redesignating section 5181 as section 5182 and by inserting after section 5180 the following new section:

"Sec. 5151. Distilled Spirits For Fuel Use.

"(a) In general.—On such application and bond and in such manner as the Secretary may prescribe by regulation, a person may establish a distilled spirits plant solely for the purpose of producing, processing, storing, using, and distributing distilled spirits to be used exclusively for fuel use. In prescribing regulations under the preceding sentence and in carrying out the provisions of this section, the Secretary shall, to the greatest extent possible, take steps to—

"(1) expedite all applications;

"(2) establish a minimum bond; and

"(3) generally encourage and promote (through regulation or otherwise) the production of alcohol for fuel purposes.

"(b) Authority-To-Exempt.—The Secretary may by regulation provide for the waiver of any provision of this chapter (other than this section or any provision requiring the payment of tax) for any distilled spirits plant described in subsection (a) if the Secretary finds it necessary to carry out the provisions of this section.

"(c) Special Rules for Small Plant Production.—

"(1) Applications.—

"(A) In general.—An application for an operating permit—for an eligible distilled-spirts plant shall be in such a form and manner, and contain such information, as the Secretary may by regulations prescribe, except that the Secretary shall, to the greatest extent possible, take steps to simplify the application so as to expedite the issuance of such permits.

"(B) Receipt of application.—Within 15 days of receipt of an application under subparagraph (A), the Secretary shall send a written notice of receipt to the applicant, together with a statement as to whether the application meets the requirements of subparagraph (A). If such a notice is not sent and the applicant has a receipt indicating that the Secretary has received an application, paragraph (2) shall apply as if a written notice required by the preceding sentence, together with a statement that the application meets the requirements of subparagraph (A), had been sent on the fifteenth day after the date the Secretary received the application.

"(C) Multiple applications.—If more than one application is submitted with respect to any eligible distilled spirits plant in any calendar quarter, the provisions of this section shall apply only to the first application submitted with respect to such plant during such quarter. For purposes of the preceding sentence, if a corrected or amended application is filed, such application shall not be considered as a separate application, and the 15-day period referred to in subparagraph (A) shall commence with receipt of the corrected or amended application.

"(2) Determination.—

"(A) In general.—In any case in which the Secretary under paragraph (1)(B) has notified an applicant of receipt of an application which meets the requirements of paragraph (1)(A), the Secretary shall make a determination as to whether such operating permit is to be issued, and shall notify the applicant of such determination, within 45 days of the date on which notice was sent under paragraph (1)(B).

"(B) Failure to make determination.—If the Secretary has not notified an applicant within the time prescribed under subparagraph (A), the application shall be treated as approved.

"(C) Rejection of application.—If the Secretary determines under subparagraph (A) that a permit should not be issued—

"(i) the Secretary shall include in the notice to the applicant of such determination under subparagraph (A) detailed reasons for such determination, and

"(ii) such determination shall not prejudice any further application for such operating permit.

"(3) Bond.—No bond shall be required for an eligible distilled spirit plant.

"(4) Eligible distilled spirits plant.—The term 'eligible distilled spirits plant' means a plant which is used to produce distilled spirits exclusively for fuel use and the production from which does not exceed 10,000 proof gallons per year.

"(d) Withdrawal Free of Tax.—Distilled spirits produced under this section may be withdrawn free of tax from the bonded premises (and any premises which are not bonded by reason of subsection (c)(3)) of a distilled spirits plant exclusively for fuel use as provided in section 5214(a)(12).

"(e) Prohibited Withdrawal, Use, Sale, or Disposition.—

"(1) In general.—Distilled spirits produced under this section shall not be withdrawn, used, sold, or disposed of for other than fuel use.

"(2) Rendering unfit for use.—For protection of the revenue and under such regulations as the Secretary may prescribe, distilled spirits produced under this section shall, prior to withdrawal from the bonded premises of a distilled spirits plant, be rendered unfit for beverage use by the addition of substances which will not impair the quality of the spirits for fuel use.

"(f) Definition of Distilled Spirits.—For purposes of this section, the term 'distilled spirits' does not include distilled spirits produced from petroleum or natural gas.".

(2) Technical and conforming amendments.—

(A) Section 5601(a) (relating to criminal penalties) is amended by adding the word "or" at the end of paragraph (14) and by inserting immediately after paragraph (14) the following new paragraph:

"(15) Unathorized withdrawal, use, sale, or distribution of distilled spirits for fuel use.—Withdraws, uses, sells or otherwise disposes of distilled spirits produced under section 5181 for other than fuel use;".

(B) Section 5214(a) (relating to withdrawal of distilled spirits from bonded premises free of tax) is amended by striking out the period at the end of paragraph (11) and inserting in lieu thereof a semicolon and the word "or" and by adding at the end thereof the following new paragraph:

"(12) free of tax in the case of distilled spirits produced under section 5181.".

(C) Section 5004(a)(2)(B) (relating to lien for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

(D) Section 5005(d) (relating to person liable for tax) is amended by striking out "or (11)," and inserting "(11), or (12),".

(E) Section 221(d) of the Energy Tax Act of 1979 is repealed.

(F) The table of sections for subchapter B of chapter 51 is amended by striking out the item relating to section 5181 and by inserting after section 5180 the following new items:

"5181. Distilled spirits for fuel use.
"5182. Cross references.".

(f) Study of Imported Alcohol.—Within 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall furnish to the Committee on Finance of the United States Senate and to the Committee on Ways and Means of the United States House of Representatives recommendations as to what methods, if any, may be used to limit the importing of alcohol into the United States for fuel purposes, including, but not limited to—

(1) denial of the exemption under sections 4041(c) and 4041(k) of the Internal Revenue Code of 1954 or of the credit under section 44G of such Code to fuels produced from imported alcohol,

(2) import quotas and duties on such alcohol, and

(3) strict surveillance of such imports to monitor their effect on the domestic fuel alcohol industry.

(g) Reports.—Subsection (c) of section 221 of the Energy Tax Act of 1978 is amended to read as follows:

"(c) Reports.—On April 1 of each year, beginning with April 1, 1981, and ending with April 1, 2000, the Secretary of Energy, in consultation with the Secretary of the Treasury, and the Secretary of Transportation, shall submit to the Congress a report on the use of alcohol in fuel. The report shall include—

"(1) a description of the firms engaged in the alcohol fuel industry,

"(2) the amount of alcohol fuel sold in each State, and the amount of gasoline saved in each State by reason of the use of alcohol fuels,

"(3) the revenue loss resulting from the exemptions from tax for alcohol fuels under sections 4041(k) and 4081(c) of the Internal Revenue Code of 1954 and the credit allowable under section 44G of such Code and the impact of such revenue loss on the Highway Trust Fund, and

"(4) the cost of production and the retail cost of alcohol fuels as compared to gasoline and special fuels not mixed with alcohol.".

(h) Effective Dates.—

(1) Subsections (b) and (c).—The amendments made by subsections (b) and (c) shall apply to taxable years beginning after September 30, 1980.

(2) Subsection (d).—

(A) In general.—The amendments made by subsection (d) shall take effect on January 1, 1979.

(B) Transitional rule.—Any use on or after January 1, 1979, and before the date of the enactment of this Act which is described in section 6427(f)(1) of the Internal Revenue Code of 1954 (as amended by subsection (a)) shall, for purposes of section 6427 of such Code, be treated as occurring on the date of the enactment of this Act.

(3) Distilled spirits plants.—The amendments made by subsection (e) shall take effect on the first day of the first calendar month beginning more than 60 days after the date of enactment of this Act.

Mr. MAGNUSON. Mr. President, this amendment by Senators Bayh, Dole, myself, and several other Senators, represents a growing concern to find ways to assist the gasohol industry in this country.

I really do not need to mention to this body the concern all of us share about this country's dependence on foreign sources to meet our energy needs. The developing gasohol industry is one way of addressing the need for innovative programs in the energy field.

There seems to be overwhelming support for the programs involved in the gasohol industry. Although it is a relatively new field, a great deal of progress and increased production have been demonstrated—and have begun to help.

The Senators who are most concerned about this area have made a diligent, and I might add, bipartisan effort to reach a compromise position that satisfies as many concerns as possible.

This compromise still contains a special type of payment that ordinarily the Appropriations Committee would consider entitlement spending and be opposed to. However, this particular payment is an entitlement in only the technical sense of the word.

It differs from others in that the amount refunded is equal to an excise tax already paid on gasoline. It takes it out of one hand and puts it in the other, with no impact on the Treasury.

Given the special nature of this payment—the widespread support the gasohol amendment has and my own interest in increasing gasohol production—I support this amendment as a substitute to division II of my amendment.

Mr. DOLE. Mr. President, I will just take a couple of minutes, and then I will yield to the Senator from Maine, the Senator from Indiana, the Senator from Illinois, and others.

Let me say, as the Senator from Washington has pointed out, this amendment has strong bipartisan support. There has been a nonpartisan effort in the development of the amendment, to satisfy some of the concerns of different groups that will, I think, help us promote gasohol over the next decade and beyond. I would guess that this amendment is supported by every Senator in this Chamber—Republican, Democrat, and Independent.

The present amendment, which will supplant the alcohol fuel provisions in the Finance Committee bill, would essentially do the following:

First, the amendment will extend the current 4-cent-per-gallon Federal excise tax exemption for gasohol through the year 2000. Under current law the gasohol excise tax exemption will terminate in 1984.

Second, for alcohol fuel uses not eligible for the excise tax exemption, the amendment would provide a nonrefundable tax credit to the blender or users. This credit would amount to 40 cents per gallon for alcohol fuels above 190 proof and 30 cents per gallon for alcohol fuels between 150 and 190 proof.

These credits are available for alcohol used straight as a fuel or used in blended form with gasoline or some other fuel. Thus, the credit would be available to a farmer who uses alcohol straight in his farm truck or blended with sunflower oil in his tractor. By defining the term "special fuel" as any liquid fuel, other than gasoline, which is suitable for use in an internal combustion engine, it is not intended to limit the credit to alcohol fuel used in such engines. For example, these credits would also be available for alcohol used to fuel utility turbines.

Third, the amendment will provide a 20-cent-per-gallon nonrefundable tax credit for the producers of alcohol fuels from coal.

Fourth, the amendment seeks to streamline the regulations of the Bureau of Alcohol, Tobacco, and Firearms as they apply to alcohol fuel production. The amendment would establish a new category of distilled spirits plant—the alcohol fuel plant. The amendment provides the Secretary of Treasury with broad authority to waive or otherwise simplify many of the existing BATF permitting, bonding, and paperwork requirements as they apply to alcohol fuel manufacturers.

Fifth, the amendment would provide special BATF rules for small alcohol fuel producers. For small alcohol fuel producers no bond would be required and the Treasury would be required to act on a completed permit application within 60 days or the application will be automatically approved.

Sixth, the amendment would provide that a person purchasing tax-paid gasoline that is used in the production of tax-exempt gasohol may receive a payment equivalent to the amount of Federal excise tax paid.

Finally, the amendment requires the Secretary of the Treasury to make recommendations within 180 days of enactment as to what methods, if any, may be used to limit the importation of foreign alcohol for fuel purposes.

This amendment will have no fiscal year 1980 revenue effect. It will, however, have a $237 million revenue loss over the period 1980 to 1990 when compared with provisions of Finance Committee bill which it replaces.

Mr. President, I believe that this amendment represents a significant improvement on the alcohol fuel provisions in the Finance Committee bill. I am particularly pleased to see the 4-cent-per-gallon excise tax credit extended under this amendment. The Senator from Kansas, along with Senator Percy and Senator Curtis, was one of the original authors of this gasohol exemption. The gasohol excise tax exemption has been in place for about 1 year, yet it has worked to stimulate a significant growth in gasohol production and consumer interest. There are currently more than 2,000 service stations around the country involved in the sale of gasohol and I am committed to seeing that number increased. The National Gasohol Commission has identified about $690 million in domestic alcohol production plants in the final stages of financing. These plants would have the capacity of producing approximately 466 million gallons of alcohol per year. What is needed is stability in Federal tax policy toward gasohol so that long-term planning and financing of these alcohol plants can go forward.

The Senator from Kansas strongly believes that this amendment will significantly increase the production and use of alcohol fuels throughout the United States. The move to alternate fuels such as domestic alcohol is all the more pressing when seen in the light of more recent hostile actions by foreign oil-producing countries. The more we can rely on our own resources and technology, the freer we will be to maneuver in both the energy and diplomatic realms.

Several Senators addressed the Chair.

Mr. DOLE. I yield first to the Senator from Indiana (Mr. Bayh).

Mr. BAYH. Mr. President, I appreciate the courtesy of the Senator from Kansas. This amendment is the product of several weeks of labor.

I appreciate the cooperation we have had from the chairman of the Appropriations Committee, the Senator from Washington (Mr. Magnuson), the Senator from Kansas (Mr. Dole), the Senator from Nebraska (Mr. Exon), the chairman of the Budget Committee (Mr. Muskie), and a number of other Members of this body who have been very helpful. I thank them for their efforts.

Mr. President, the Senate has an opportunity today, by adopting the substitute amendment I have jointed with Senator Dole and a number of our colleagues in introducing to the windfall profit tax bill, to provide a real boost for alcohol fuels in this country. The incentives incorporated in our amendment can play a vital role in encouraging greater reliance on available domestic energy resources. The fact is that alcohol fuels produced from renewable farm and forest resources are one of the very few alternative fuels which are immediately available, and which can help us reduce our dangerous reliance on imported energy in the near future. While it is important to make a firm national commitment to a variety of alternative energy sources, including synthetic fuels, we must recognize that synfuels and other promising energy sources are comparatively long-term positions, and we need alternatives now.

I have been interested in the potential of alcohol fuels supplementing our liquid fuel supplies for years now. It is imperative that we start thinking in new terms about our energy future. We need to think in terms of developing many sources of energy, and no longer relying on one or two major fuels. We need to start converting resources now considered waste products into useful products. We need to develop those resources which are inexhaustible. We need to develop those resources which are environmentally benign.

As we move toward the 21st century, our energy supplies are going to come from many sources, and every contribution is going to count. We may well find different fuel mixes in different regions, depending on local resources and needs. My belief is that diverse, locally or regionally tailored energy facilities, fed by America's abundant agricultural and forestry supplies and waste materials, are feasible, practical, and desirable.

In recent years, we have witnessed vast changes, increased productivity and the marvels of science and engineering that have transformed our agricultural sector. We have seen the development of new crops, harvesting equipment, and technology for efficiently converting farm commodities into other products. I believe that analogous developments on the alcohol front can help solve our energy problems. This is essential, for as we all realize now, our vulnerability to a sudden liquid fuel cutoff is greater than ever. Ethanol is the only near-term substitute for petroleum products.

I remember welcoming a caravan of farmers, truly the vanguard of the gasohol movement, to the steps of the Capitol back in October of 1977. Since then, we have come a long way. Gasohol is being sold at thousands of outlets, and there is widespread and growing public knowledge and acceptance of this new product. There is strong interest among jobbers and retailers in distributing gasohol. A number of States are actively encouraging gasohol, providing us in effect with minilaboratories through which to increase our knowledge about gasohol. Some of the major oil companies themselves are coming to realize the importance of gasohol, and are conducting test marketing programs and doing gasohol research. The major auto companies have warranted their cars for gasohol use.

The situation today, Mr. President, is this. We have a growing gasohol market. We have distributors who are anxious to market gasohol. We have gasohol feedstocks to supply a major national effort. Yet projected gasohol sales are limited by production capacity even though well qualified and experienced engineering firms exist for design and construction work.

We find ourselves, then, in a chicken-egg situation; potential producers are ambivalent about investing in production facilities because of uncertainty about market potential and security, and sales are thus limited because of production. The policy question the Senate must address is how to break out of this circle, and once we do, how to assure that we use the most efficient means possible. It seems to me that the amendment we are considering today will go a long way toward speeding gasohol development.

EXTENSION OF THE EXCISE TAX EXEMPTION

This amendment, Mr. President, addresses a number of needs in the alcohol fuel area, and will provide a range of incentives. It will extend the excise tax exemption for gasohol, enacted in 1978, to the year 2000—beyond the 5-year time limit of 1984 originally enacted. Our experience since this exemption has been in effect indicates that such an extension is needed. The administration has endorsed extending the exemption, even making it permanent.

The evidence suggests that, when faced with the end of the exemption in 1984, many private sector investors considering capital investments in alcohol fuel production facilities became hesitant about making commitments of the scale needed to commercialize alcohol fuels. Lending institutions have also been reluctant to provide long-term financing which would outlive the duration of the Federal tax benefit. Extending the tax exemption through 2000 gives a clear signal to potential investors and lenders of stability in Federal tax policy.

The gasohol tax exemption is also, in my judgment, the most practical way to assure that the benefits of these Federal incentives are felt directly by those purchasing gasohol at the retail level. My view has been that we must encourage the American people to view gasohol as a viable alternative motor fuel. But to provide tax advantages which do not result in direct benefits to the American people seems to me to be counterproductive to this goal.

The original proposals reported by the Senate Finance Committee would have replaced the excise tax exemption with a tax credit for those producing alcohol for blending with gasoline. I was concerned that, through this attempt to encourage greater production, we might negate much of the progress we have made in gasohol sales through the institution of the excise tax exemption. My concern, which was widely shared with the gasohol community, was that the production credit, substituted by the Finance Committee for the excise tax exemption, might not be reflected in retail prices.

Because of this concern, I wrote to Senator Long about this issue in late October, and to Stewart Eisenstat, Assistant to the President for Domestic Affairs and Policy, in mid-November, as the Senate started consideration of the windfall profit tax bill. I ask unanimous consent to have these letters printed in the Record at this point in my remarks.

There being no objection, the letters were ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, D.C., October 22, 1979.
Hon. Russell Long,
Chairman, Senate Committee on Finance,
Washington, D.C.

Dear Russell: I would like to take this opportunity to commend the Committee for the interest it has shown in alcohol fuels development during consideration of H.R. 3919, the Crude Oil Tax Bill. I am pleased that two proposals I made to provide for regulatory simplification as well as a method for refunding excise taxes paid on gasohol were adopted as amendments to this legislation. I was quite pleased that the Committee extended the existing excise tax incentive to the year 2000.

I would, however, like to raise a concern with you about the amendment adopted by the Committee which would replace the existing excise tax exemption with a tax credit. It is my understanding that this credit will most likely be made available only to those firms actually producing alcohol, rather than those buying alcohol for blending in order to make gasohol for retail sale. If the credit is to be limited to alcohol producers, it is imperative to assure that the benefit of this tax incentive will be directly passed along to those at the retail level. If this is not assured, I am concerned that much of the recent stimulus to alcohol sales, attributable to the incentive provided by the excise tax exemption, may come to a halt.

I hope that the Committee will address this issue in the Committee report on H.R. 3919. By its action, the Committee has demonstrated its commitment to using the tax laws to encourage alcohol fuels production. It seems to me, however, that if we are truly interested in providing a tax incentive to alcohol fuels, we must assure that benefits be reflected in retail gasohol prices. I understand the Committee view that a tax credit limited to a few producers would be easier to administer than one available to a fairly large number of blenders. But, unless we can assure that the tax benefit is passed along to consumers, much of the momentum we have achieved toward the establishment of a nationwide gasohol sales network will be lost. If this is the case, the Committee's very worthwhile aim is extending and enlarging the credit will surely be frustrated.

I hope the Committee can address this issue before formally reporting the Crude Oil Tax Bill and I would be happy to work with you to accomplish our joint goals.

Sincerely,
Birch Bayh,
U.S. Senator.

U.S. Senate,
Washington, D.C., November 16, 1979.
Mr. Stuart Eizenstat,
Assistant to the President for Domestic Affairs and Policy, the White House,
Washington, D.C.

Dear Stu: We are writing to clarify the Administration's position on tax provisions included in HR 3919, the Crude Oil Windfall Profit Tax Act of 1979, currently being considered by the Senate. As you probably know, the Senate Finance Committee included provisions in HR 3919 which repeal the existing excise tax exemption for gasohol and substitute, in its place, a 40¢ per gallon refundable tax credit limited to domestic alcohol. This credit is to be made available to producers on a sliding scale, with the incentive varying in direct proportion to the actual amount of alcohol blended with gasoline. The benefit will apply from January 1, 1980 to January 1, 2000.

All of us are strong proponents of aggressive development of a domestic alcohol fuels industry. Alcohol produced from America's abundant renewable resources is one of our nation's few possibilities for supplementing our domestic liquid fuel supplies in the near term. We write because of our concern that the provision in HR 3919 may adversely affect the progress we have made over the last year as a result of the market incentive that has been provided by the excise tax exemption.

Last June the Department of Energy, in its Report of the Alcohol Fuels Policy Review, recommended, as its major initiative, permanently extending the excise tax exemption for gasohol. In addition, it recommended limiting federal incentives to domestic alcohol. Subsequently, the President also endorsed the extension, by including it in his energy message to the Congress.

The Finance Committee supports its gasohol tax provisions by reference to several arguments:

1. By applying the credit to the producer

level, it is possible to exclude extending the credit to imported gasohol.

2. The producer tax credit would extend the incentive to several gasoline and diesel users who are currently exempt from the 4¢ federal tax.

3. The sliding scale credit would provide incentives to those who would blend alcohol in amounts greater than or less than 10%.

We agree that each of these arguments has merit. On the other hand, we are concerned about the following:

1. The credit would be available only to those firms actually *producing* alcohol, rather than those buying alcohol for blending in order to make gasohol for retail sales. By giving the credit to producers, there is no assurance that the benefit of this tax incentive will be directly passed along to those at the retail level. If it is not, we are concerned that much of the recent stimulus to gasohol sales, attributable to the incentive provided by the excise tax exemption, may come to a halt.

2. Under the Clean Air Act, only gasohol blended in a 90/10 ratio has been provided with a waiver under section 211(f), which prohibits new additives to gasoline without agency approval.

3. There is considerable confusion, and some apprehension, among alcohol producers and distributors about the changes in the law. Most people we have heard from who will be affected by this tax prefer to stay with the existing system, but extend it permanently to provide certainty to the tax benefit in order to get financing.

4. Gasohol is now standardized as a well known product of 90 percent gasoline and 10 percent alcohol. Introducing the sliding scale would result in various products at the pump, possibly adding confusion to marketing efforts and reversing industry interest in alcohol fuels.

The auto makers have warranted their cars for a 90/10 gasohol blend. It is unclear how they would respond to the uncertainty of alcohol/gasoline blends of varying concentrations.

We would like very much to cooperate with the Administration in addressing these concerns. As you know, we are operating under some serious time constraints. H.R. 3919 is currently pending before the Senate. Should cloture be invoked on this bill, we will not be able to introduce any new amendments to H.R. 3919 under the Senate rules. Therefore, we seek your earliest possible response. It could be that extension of the exemption, coupled with extension of a 40 cents refundable tax credit to tax exempt users might be a good compromise. However, this would have to be coupled with some means of assuring that these tax dollars are not used to subsidize imports at the expense of encouraging production of domestic alcohol from domestic feedstocks.

Our understanding is that no imported alcohol is currently benefiting from the existing excise tax exemption. We want to assure that this continues to be the case. Therefore, if in fact it is a violation of our trade agreements to restrict a retail tax benefit to domestic alcohol alone, it might be appropriate to couple the excise tax exemption with strict federal surveillance of alcohol imports and ask the Treasury Department to make recommendations to the Congress about how this conflict might be resolved.

We appreciate your consideration of this matter and look forward to working with you on this.

Best regards,
Sincerely,
BIRCH BAYH,
J. JAMES EXON,
FRANK CHURCH,
GEORGE S. MCGOVERN,
DONALD W. STEWART,
U.S. Senators.

Mr. BAYH. I am pleased, therefore, that we have been able to reach agreement to retain the excise tax exemption.

ALCOHOL PRODUCTION CREDIT

Our substitute proposal also recognizes that some alcohol producers manufacture alcohol fuels which cannot benefit from the excise exemption. Alcohol fuels which do not qualify for the exemption, those other than the 90-percent gasoline, 10-percent alcohol blend currently eligible for the exemption, also deserve Federal support. I have long felt that alcohol is a versatile fuel which can substitute for crude oil products in a number of settings. In particular, we need to consider the case of farmers who produce alcohol for onfarm uses, or manufacturers producing methanol from wood or municipal waste which may be used for utility peaking units or boilers. For these and other such producers, our amendment would provide a 40 cent per gallon production credit, which should serve to stimulate diversified use of alcohol.

This credit would also be available for alcohol produced to be blended in other than the traditional 90–10 blend. Included in this would be alcohol used by a refiner primarily as an octane booster. Alcohol used as an octane booster not only displaces a small amount of gasoline, but also cuts down on refiners use of crude oil to boost the octane level of unleaded gasoline, an increasingly difficult problem for refiners.

REGULATORY SIMPLIFICATION

Our amendment will also remove one of the most difficult barriers that prospective alcohol producers have had to hurdle—the maze of Government regulations which currently govern alcohol production. The Finance Committee agreed on the need for regulatory simplification, and incorporated the provisions of S. 1200, legislation I introduced earlier this year along with 20 cosponsors, into H.R. 3919 as reported. The administration also supports these revisions.

The regulatory section of our amendment, Mr. President, will provide the Secretary of the Treasury with the authority to waive some regulations and modify others which currently govern alcohol production, but which were designed to respond to the vastly different problems associated with alcohol production for beverages rather than alcohol produced for fuel use. This legislation fulfills the mandate Congress fashioned in the 1978 Energy Tax Act in which we required the Bureau of Alcohol, Tobacco, and Firearms to send up legislation recommending changes in BATF regulations necessary for alcohol to be used for energy purposes.

The regulations redrawn by the Treasury Department would vary depending on the size of the production facility, and would be adjusted given the producer's ability to comply and the risk of revenue loss to the Government. Such a system would provide that small producers would no longer be required to post a bond, a requirement which has hindered the efforts of many to produce small quantities of alcohol fuel. This provision also insures speedy processing of permit applications and should be especially valuable for farmers interested in producing alcohol on their own farms for their own energy needs.

REFUND MECHANISM FOR EXCISE TAXES PAID

Further, the substitute before the Senate today incorporates the tax refund provisions of S. 1746. I introduced this legislation to permit gasohol distributors who purchase tax paid gasoline to receive excise tax refunds due them under the exemption but which they have been denied because of a lack of authority on the part of the Department to make such refunds. It is clearly the intent of Congress that marketers receive a refund for the total amount of the Federal excise tax paid to their supplier for gasoline that is used to make gasohol. This congressional expectation is being stymied by an unanticipated lack of Treasury Department authority. The refund mechanism created in our amendment would merely return to the marketer taxes already paid, but meant to be exempted from the excise tax. If we do not provide for such a refund mechanism, jobbers and service station dealers, who play such a vital role in our developing national gasohol sales network, will be unable to market gasohol. Mr. President, I ask unanimous consent that a letter from the National Oil Jobbers Council on these provisions be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL OIL JOBBERS COUNCIL,
Washington, D.C., November 29, 1979.

Hon. BIRCH BAYH,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR BAYH: On behalf of the National Oil Jobbers Council, I wish to offer NOJC's support for the compromise gasohol amendment to be offered to H.R. 3919, the Windfall Profit Tax bill. This amendment combines the best of both the Packwood 40 cent tax credit for alcohol production and your amendment extending the 4 cent federal excise tax exemption for gasohol.

The most critical aspect of this amendment for the independent small business petroleum marketers represented by NOJC, is the refund procedure for those marketers who buy gasoline tax paid from their supplier. The compromise amendment would allow those marketers to receive a refund for the total amount of Federal excise tax paid to their supplier for gasoline that is eventually used to make gasohol. The Treasury would merely be returning to the marketer taxes already paid. Without this provision many small independent businessmen will be unable to market gasohol.

Tho National Oil Jobbers Council sincerely appreciates your efforts and those of your staff on this issue. We stand ready to assist in final adoption of this compromise amendment in whatever fashion most appropriate.

Respectfully,
PHILLIP R. CHISHOLM,
Director of Legislative Affairs.

ALCOHOL IMPORTS

Our amendment contains several other important provisions. Language in the amendment clearly states that it is not the intent of Congress to subsidize imported alcohol. While alcohol for fuel use is not now being imported into the United States, several large distillers and marketers have indicated an interest in importing alcohol. Under current law, and the changes proposed in this amendment, they would be able to do so and still benefit from the tax incentives we have provided. Surely none of us wants to see the incentives properly intended to stimulate a domestic alcohol fuels industry go to foreign producers. In order to deal with this problem, we have required in this amendment that the Treasury Department monitor the import situation closely and recommend to Congress within 6 months ways in which we can continue the tax incentive for domestic alcohol and deny subsidies to imported alcohol.

ALCOHOL FROM COAL

Two other important initiatives are included in this amendment, Mr. President. The first extends a 20-cent credit to alcohol produced from this Nation's abundant coal reserves. I have long favored development of both ethanol and methanol, as well as much more aggressive use of our coal resources, and am pleased that this particular section has been included in the amendment.

DENATURANTS

We have also acted in this proposal to clarify an unfortunate situation regarding the use of denaturants for gasohol. Proposed BATF regulations would permit gasoline to be used as a denaturant for alcohol for fuel use. This is not permitted under current law. Our amendment would remove this obstacle, and permit BATF to implement these new regulations. It is estimated that this minor change could reduce the cost of alcohol by 4 cents per gallon. We have the full support of the Department of the Treasury for this effort, and I think we will find that it will be an effective means of stimulating greater alcohol production.

Mr. President, in the last few weeks, the Senate has had a number of opportunities to express support for alternative fuels, including gasohol. During our consideration of the synthetic fuels bill a few weeks ago, the Senate endorsed alcohol production goals of 60,000 barrels/day by 1982 and the replacement of 10 percent of gasoline with alcohol by 1990. These are ambitious but flexible goals. I think the provisions in our amendment are important to making progress toward meeting these goals. I am very pleased with the amendment we have developed and urge its adoption by the Senate.

Mr. DOLE. I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, I see no reason to discuss this amendment at length. I am delighted to join in it as a cosponsor and support it. I am pleased to join with the distinguished senior Senator from Washington in supporting the gasohol compromise proposed by Senators Bayh, Packwood, and Dole.

Mr. President, the compromise eliminates the refundable portion of the gasohol tax credit. That credit is essentially the same as direct Government spending to encourage alcohol production, but would not be subject to the normal authorization and appropriation process.

This direct spending is duplicative of the Federal financial incentives incorporated in S. 932 which authorizes $5.4 billion in direct appropriations, loans and loan guarantees, price guarantees, and purchase agreements for alcohol and biomass energy development.

In addition to S. 932 there are eight other programs either in current law or on which the Senate has acted that provided a multibillion dollar effort to encourage both large and small scale gasohol production. A ninth program, the tax credit provided for in H.R. 3919 would also serve to encourage such production.

Mr. President, I ask unanimous consent that a list of the nine additional programs be printed in the Record at this point.

There being no objection, the list was ordered to be printed in the Record, as follows:

Current Programs and Expenditures

National Alcohol Fuels Commission—current authorization $1.5 million.

Office of Energy—USDA—current funding $0.3 million—coordinates all USDA energy activities.

Agriculture Act of 1977—authorizes $60 million in CCC loan guarantees for 4 pilot projects to produce energy from agricultural and forestry products. Research grants of $1.0 million also are being made under the authority of this Act.

Economic Development Administration (EDA)—$11 million in grants, low interest loans and loan guarantees for the construction of 100 small scale alcohol fuel plants.

Department of Energy—spent $12 million on research and development on alcohol fuels in FY 1979.

Energy Act of 1978—provided for a motor fuel excise tax exemption for gasohol worth 40 cents per gallon of alcohol and 4 cents per gallon of gasohol with a 10 percent blend.

BILLS PASSED OR REPORTED IN SENATE

S. 892—passed the Senate in May and authorizes increase in the CCC loan guarantees for pilot energy projects to $500 million.

S. 932—passed the Senate on November 8, 1979. The gasohol title in this bill included $1.2 billion in loan and price guarantees and purchase agreements for large scale alcohol fuel projects. Grants, loans and loan guarantees of $3.7 billion over 5 years are also authorized by the bill for rural biomass and alcohol fuel projects. Biomass and wood energy research and development programs totaling $1.0 billion over 5 years are also authorized.

S. 914—passed the Senate in August and authorizes EDA to make grants of up to $28 million for alcohol, small scale hydro and other small scale energy production facilities when these will create or preserve jobs in small towns. Direct loans of $7.5 million and loan guarantees of $90 million are authorized for these purposes.

Windfall Profit Tax Bill—as reported by the Finance Committee includes a 40 cent per gallon tax credit for alcohol fuel. This has the same effect as the existing excise tax exemption but allows more subsidies for gasohol blends above 10 percent alcohol. Revenue losses from this provision would total $1.9 billion by 1990.

Mr. MUSKIE. Mr. President, removing the refundable portion of the tax credit will not undermine the effectiveness of the remaining tax credit in encouraging the use of gasohol. Total payments under the gasohol provisions will be negligible over the next 5 years. By that time incentives may not be required to make gasohol competitive in price with gasoline. Indeed, the Wall Street Journal recently reported the decision of a major corporation to move into gasohol production on a commercial basis.

Mr. President, I support the compromise amendment.

Mr. EXON. Mr. President, I am pleased to join in this bipartisan effort to maintain and extend the current Federal excise tax exemption for gasohol to the year 2000. This has been successful because of the invaluable work and cooperation of Senator Dole, Senator Long, Senator Magnuson, Senator Bayh, and the other sponsors.

Certainly the help of Senator Dole has been invaluable. Great assistance was offered by the chairman of the Finance Committee (Mr. Long); and certainly Senator Magnuson has been most gracious all the way through.

Our amendment provides for a nonrefundable income tax credit for uses of alcohol fuels which cannot benefit from the excise tax exemption, particularly to encourage on-farm use of alcohol fuels. Our amendment also provides that a person purchasing tax-paid gasoline that is used in the production of tax-exempt gasohol may receive a payment equivalent to the amount of excise tax paid. This payment of the tax on tax-paid gasoline is fundamentally different than the credit in the Finance Committee proposal. Our amendment represents a return of excise taxes that were paid, but meant to be exempt under the excise tax exemption. Finally, our amendment would mandate a study and strict monitoring of alcohol imports to prevent the development of a dependence on foreign sources for this important alternative energy resource.

This amendment which we offer today goes far toward the goal to create a constant business environment for decisionmaking by the investment community regarding gasohol and alcohol fuels development and also to improve and maintain the current Federal incentives to assure economic competitiveness of gasohol in addition to encouraging all uses of alcohol as a substitute or extender of our petroleum supply. A distinction must be made between gasohol and other alcohol fuels. Gasohol is a blend of 10-percent alcohol and 90-percent gasoline. Under the current law only this blend can receive benefits from the 4 cents motor fuels excise tax exemption. Alcohol in other blends is useful as a fuel source for off-highway uses and industry. The tax credit in our amendment is designed to encourage these other uses of alcohol fuels.

The strong bipartisan support of this amendment provides clear evidence recognizing that the development of gasohol and other alcohol fuels represents an immediate and partial solution to our current petroleum supply crisis. Regardless of party or State, we all acknowledge that by using our own ingenuity and resources here at home, alcohol fuels will directly contribute to reducing our crippling dependence on foreign energy as part of our mixed energy economy of tomorrow.

Mr. President, one of the components of the National Energy Act passed in

1978, was the Energy Tax Act. This measure contained a major provision for alcohol fuels, the motor fuel excise tax exemption which exempts gasohol, that is gasoline containing at least 10 percent ethanol or methanol alcohol, from the motor fuels excise tax of 4 cents per gallon. This provision expires on October 1, 1984. An extension of the gasohol exemption to the year 2000, would significantly increase the incentive for production of this energy source by maintaining gasohol's price competitiveness and providing the continued demand for the product which investors using long-term financing mechanisms need. Also, under current EPA regulations and automobile warranties, only 90–10 blend gasohol can be utilized for highway use.

The current 4 cents per gallon excise tax exemption has proven to be an effective marketplace incentive for gasohol. Since enactment of the measure just last year, gasohol sales have risen rapidly. According to the DOE, in 1 year, the number of retail outlets marketing gasohol has increased from a few stations to nearly 1,000 in 28 States across the Nation. Under the current incentives, gasohol is sold at a price equal to or less than premium unleaded gasoline with an octane rating between regular and premium unleaded gasoline. A lower selling price of gasohol, due to the Federal and State excise tax exemptions, is a significant factor in contributing to increasing demand for gasohol. Since marketers have only the 4 cents excise tax exemption as an incentive, it is imperative that we insure the maintenance of that incentive in view of the successes we are beginning to realize. This amendment provides a clear and consistent message to the industry and financial institutions regarding future alcohol fuels development.

Last October, the Senate Finance Committee recommended the elimination of the current law in favor of a direct tax credit of 40-cents-per-gallon of alcohol to domestic alcohol producers. This would transfer the economic carrot from the gasohol consumer level, to the alcohol producer level, with no assurance that this incentive would be passed along to the retail level. The Finance Committee proposal would have removed the incentive several steps backward from the consumer, moving away from the retail level where the alcohol is blended with gasoline to make gasohol, away from the distribution level, back to the alcohol producer level. We can only speculate as to whether this benefit to the producer would ever be passed on through to the retail level to maintain gasohol's price competitiveness which the current law now affords at the pump.

Furthermore, Mr. President, the Finance Committee's proposal would have been a refundable tax credit. Concerns have properly been raised by the Senate Appropriations and Budget Committees regarding this refundable aspect. Such a provision would directly overlap with the gasohol provisions of title II in S. 932, the Energy Security Act which the Senate recently passed. In addition, the refundable tax credit would amount to uncontrolled spending without ever being authorized or appropriated. With a refundable tax credit as the Finance Committee had recommended, the taxpayer is entitled to receive a direct cash payment from the Treasury for the amount by which the credit exceeds his tax liability. Refundable tax credits, within the context of the windfall profit tax bill, provides spending authority as entitlement spending programs, and are inconsistent with the budget and appropriations process established by the Budget Act.

Our amendment provides for nonrefundable tax credits for end uses of alcohol which cannot benefit from the excise tax exemption. In particular, this is aimed at on-farm production and use, as well as industrial uses of alcohol fuels in blends other than 90–10. This will encourage the production and use of alcohol as an alternative energy source in various circumstances.

In addition to preserving and extending the existing law and its application to 90–10 blend gasohol, our amendment builds upon its success in promoting the phenominal growth of gasohol, to promote the expanded use of alcohol fuels.

Anhydrous alcohol, 190 proof or greater would benefit from a 40-cent-per-gallon nonrefundable income tax credit. Nonanhydrous alcohol, between 150 and 190 proof, would receive a tax credit of 30 cents per gallon, and alcohol produced from coal would receive a tax credit of 20 cents per gallon.

The agricultural sector of our Nation receives a twofold benefit from our proposal. Our amendment would provide incentives for the production and use of alcohol fuels on the farm in tractors and homes. This measure would also promote the use of our domestic agricultural resources in the production of alcohol for fuel rather than encourage dependence on foreign energy sources. It is important, both economically and in the interests of national security, that we employ the ever renewable products of American farmers and their productive genius to help this Nation in its time of critical need.

Concerns have rightly been raised about the dangers of developing a reliance on foreign sources of alcohol. If we have learned anything from our energy problems it is that we must concentrate on eliminating foreign dependence on any energy source.

Warnings to the American alcohol fuels industry will hopefully deter this course of action. A check of our trade status indicates that very little ethanol is now being exported to the United States, although there have been reports of possible plans to import alcohol by some American companies. Any possible problems in this area would depend on the development of alcohol trade flows over the next several years.

Our amendment provides for the study and monitoring of future imports of alcohol. The Treasury is directed to report to the Congress in 180 days regarding alcohol imports with recommendations for future policy options. Should a serious problem arise, the Congress and the President can then take appropriate action consistent with our trade agreements, particularly under the general agreement on tariffs and trade, which obligates us to avoid domestic tax policies which would adversely affect normal competition between domestic industries and foreign exports.

Mr. President, as a Senator from Nebraska, a State which has provided an early leadership in gasohol research and development, I would urge adoption of this amendment in the interests of maintaining a sure and proven mechanism for insuring the development of alcohol fuels, and also as another significant step forward by this distinguished body toward reducing our dependence on foreign energy sources. I thank my distinguished colleagues and their staffs for their efforts in arriving at this excellent compromise measure, and commend their continued leadership in promoting the development of the domestic alcohol fuels industry.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. GRAVEL). The Senator from Montana.

Mr. BAUCUS. Mr. President, I, too, will not prolong the debate, except to recall that it was only a few years ago when only Senator BAYH and a few other lonely souls advocated the use of gasohol. I am heartened, this afternoon, to see such broad-based and widespread support for the development of gasohol, a product, to use an overworked term, whose time has come. It actually came some years ago. I am glad to see it reaching fruition, because we are proud of our development of gasohol as an alternate energy source.

ALCOHOL FUELS

Mr. President, the windfall tax bill we are debating today contains important provisions to encourage production of alcohol fuels.

First, the bill will eliminate much of the burdensome redtape that is now required for alcohol fuel producing facilities.

Second, the bill provides tax credits and exemptions to encourage domestic production of alcohol fuels.

Mr. President, I am convinced that alcohol fuels produced from renewable resources must be a cornerstone of this Nation's efforts to attain energy independence. For this reason, I support the alcohol fuel provisions of H.R. 3919.

The Finance Committee's windfall tax bill originally provided a refundable income tax credit of 40 cents a gallon for domestically produced alcohol used in motor fuels.

With a refundable credit, if the amount of tax credit claimed by an alcohol fuel producer exceeded his tax liability, he would receive a cash refund from the Federal Treasury.

Thus, the credit would treat all alcohol fuel producers equally. A farmer cooperative or individual farmer would receive the full benefit of the credit even if he did not normally have a large income tax liability.

In 1978, Congress exempted fuels containing at least 10 percent alcohol from the 4-cent per gallon Federal excise tax.

The problem with the excise tax exemption is that it encourages consumption, rather than production of alcohol fuels. Maximum benefit is obtained for mixtures in which alcohol constitutes 10 percent; therefore, there is no incentive to make alcohol a greater percentage of the fuel. There is no incentive for tax-exempt users, or persons purchasing for tax-exempt uses (such as on-farm use) to use alcohol fuels. In addition, the excise tax exemption encourages imports of alcohol. We do not want to be dependent on foreign alcohol sources any more than we want to be dependent on the OPEC countries.

The 40-cent-per-gallon tax exemption provided in H.R. 3919 would have avoided these problems. It provided a direct and strong incentive to encourage the maximum possible domestic production of alcohol fuels.

Mr. President, some segments of the alcohol fuel industry are concerned that the Finance Committee's original bill which replaced the 4-cent per gallon Federal excise tax exemption with a producer tax credit would disrupt business arrangements that have been made on the basis of the exemption. In addition, members of the Budget and Appropriations Committees oppose refundable tax credits.

I have joined Senators DOLE, BAYH, and others in introducing an amendment which addresses these concerns.

Our amendment will retain the current Federal excise tax exemption for gasohol and extend it through the year 2000. For alcohol fuel uses not eligible for the excise tax exemption, the proposal provides a nonrefundable tax credit to the blender or user. The amount of this credit would be 40 cents per gallon for alcohol fuel above 190 proof and 30 cents per gallon for alcohol fuel between 150 and 190 proof.

Our amendment, which combines the excise tax exemption with a 40-cent per gallon credit, will stimulate the use of alcohol instead of petroleum for fuel use. I would encourage my colleagues to support this amendment.

Under present law, the Bureau of Alcohol, Tobacco, and Firearms must license plants and persons involved in the production of alcohol.

This licensing scheme was designed to control the production and use of alcohol for human consumption. It requires approval of the details of plant construction, provides for supervision of production by Federal bureaucrats, and requires that the operator of a distilled spirit plant be bonded.

These requirements impose incredible redtape which discourages the construction and use of on-farm stills. Montanans tell me that it can easily take 6 months, and often much longer to cut through the redtape required to set up and use an on-farm alcohol fuel production plant.

The windfall profit tax legislation will wipe out most of this redtape by providing a special, relaxed set of regulations for alcohol fuel producers. The bill gives the Bureau of Alcohol, Tobacco, and Firearms broad authority to waive or reduce existing regulatory requirements for these new types of plants.

Congress expects that application and recordkeeping procedures will be simplified to encourage small alcohol fuels production facilities.

Mr. President, alcohol fuels offer opportunities for small-scale, widely dispersed energy production. Alcohol fuels are produced from renewable resources—grains, crop residues, and wood waste products—that are plentiful throughout the Nation.

If we had a strong domestic alcohol fuels industry, we would not have to worry about the actions of OPEC or the eventual end of nonrenewable resources.

The agricultural community is prepared to take a strong role in alcohol fuel development. In fact, efforts of agricultural organizations including Women Involved in Farm Economics and the American Agricultural Movement, have been instrumental in convincing Federal decisionmakers that alcohol fuels can play a crucial role in our energy future. The technical amendments I have recommended will assure the agricultural community full benefit of incentives provided in this bill.

The Senate recently enacted legislation recommended by the Agriculture Committee to provide for research, technical assistance, and loan guarantees to alcohol fuel producers.

The tax credits and exemptions and the elimination of red tape provided by H.R. 3919 complement our earlier efforts.

Mr. President, by encouraging production of alcohol fuels we can diversify and expand our energy sources in a cost-effective and environmentally acceptable way. H.R. 3919 provides meaningful incentives to encourage broad-based alcohol fuels production from renewable resources.

Mr. PERCY. Mr. President, I can recall it was just a few years ago that Senator DOLE and I worked together on this matter. There were not too many converts then, but it was an idea whose time had come. The leadership provided by Senator BAYH on this matter has been deeply appreciated. It would be a real reversal to change the signals now.

Illinois has become the largest producer of gasohol. Archer-Daniels' plant in Decatur is now in very high-scale production, and is prepared to move ahead.

Six months ago, 50 stations in Illinois were offering gasohol. After talking with Standard Oil of Indiana and its chairman, John Swearingen, Shell Oil, and others, I have seen a growing interest in this fuel. They looked on it with skepticism just a few months ago, but they now see we must move ahead. Not only will it provide a tremendous market for our surplus crops, waste forestry products, and city waste, but it will prove an efficient way to operate our vehicles.

I joined in a 1-week experiment with other Members of Congress when we all had an opportunity to fill our vehicles with gasohol. We saw for ourselves how much better our vehicles operated. Mr. President, if Brazil can do this, it is about time America catches up. If Germany could do it years ago, it is about time the United States of America caught up. This is not a new era; it is only a new era for us. Because oil is now depleting, running out, and becoming terribly expensive we must act now and move ahead.

This amendment concerning gasohol is a substitute for the language originally adopted in the windfall profits tax by the Senate Finance Committee, which would have ended the current excise tax exemption December 31, 1979. The committee put in its place a 40-cent refundable tax credit to producers. This amendment, which I cosponsored along with Senators DOLE, EXON, PACKWOOD, TALMADGE, CHURCH, MCGOVERN, STEWART, BAUCUS, NELSON, MCCLURE, and MORGAN would be an improvement over the original proposal by the Senate Finance Committee.

It has been just over 2 years ago that I originally introduced, along with Senator DOLE, the 4-cent Federal excise tax exemption amendment for gasohol. At that time, America's gasoline consumption was rapidly increasing, which meant greater dependence on foreign imports of oil, and an unstable economy.

Public policymakers were looking for a viable alternative to help decrease our growing dependence on foreign oil. Renewable energy resources were the most logical approach. One such resource was alcohol produced from agricultural surpluses and wastes, forest products, and even garbage. It had been proven to be usable in present automobile engine designs when mixed with gasoline in amounts less than 20 percent. When we speak about alcohol production, we are not talking about the energy resource of the future; we are dealing with an industry that is operating now, and can help this Nation to significantly cut back on imports of foreign oil today.

The major hurdle that kept the alcohol industry from increasing its production, though, was the extensive capital involved in building a new plant or retrofitting, for example, a food processing plant capable of producing alcohol. Alcohol production is more costly than that of gasoline, and therefore, less profitable. Economics of scale would not be realized until the use of alcohol fuel became widespread.

Hence, a catalyst was needed to get this industry underway, and provide a real incentive for private industry to begin mass production. The 4-cent-per-gallon Federal excise tax exemption on blends of alcohol-gasoline fuels provided the boost needed to make the price of gasohol competitive with conventional fuels.

The commercialization and use of gasohol has grown. There are presently 1,800 gasohol stations nationwide, and 600 more coming on-line in the next 3 months. There is now about $690 million worth of private-sector money invested in alcohol production, and production has increased many times over since the 4-cent excise tax exemption went into effect. But demand for gasohol still outstrips supply.

When a tax exemption like this is working so well, it seems counterproductive to step sideways and propose a new tax approach, which in the end serves the same purpose. Especially at this critical juncture in our Nation's energy situation—with our cutting off of oil imports from Iran, escalating OPEC prices, and a finite supply of fossil fuels—we need to move forward. We must add to measures that already work to decrease our dependence on foreign oil.

Just last month, the Secretary of Energy, Charles Duncan, visited my home State, one of the leading gasohol-use States in the country, to view the different methods being used to produce alcohol. He also had an opportunity to meet with some food processing companies' executives—such as Quaker Oats and A. E. Staley—whose plants are capable of producing alcohol from the waste released in their processing of agricultural products.

At that meeting Secretary Duncan asked them what single Government action could be taken to give them the proper incentive to incur the expense to retrofit a part of their plant to begin making alcohol. The unanimous opinion was that Congress should extend the current Federal excise tax exemption. This would guarantee them a demand for their alcohol because the price would be competitive with conventional fuels. Without that demand, they would be unable to get a return on their initial investment.

One of the shortfalls of the present excise tax exemption, though, is that it only benefits the alcohol-gasoline mixture sold at the pump as gasohol. The farmer, for example, producing it for on-farm use receives no price incentive to increase his production, especially if he can buy gasoline that is cheaper. If we are to follow through with our objective to decrease our consumption of oil, we must encourage the production of alcohol fuels entirely, in every sector of society, whether it is mixed with gasoline or not. If the farmer can use a straight blend of alcohol, it still means less consumption of gasoline.

That is one of the benefits that the 40-cent tax credit for the producer could have, as originally proposed in the Windfall Profit Tax by the Senate Finance Committee. The problem with the Finance Committee's proposal is that the tax credit only applies to people who make the anhydrous, or 200-proof alcohol. So for the most part, it helps the same people who are presently benefiting from the excise tax exemption. Most small-scale producers do not have the capability nor the need to make such a high grade of alcohol because it takes more technology and expense, and they are able to use a lesser proof.

The amendment I am cosponsoring today includes the Finance Committee's provision for a 40-cent tax credit for the anhydrous alcohol, but expands it to also include a 30-cent tax credit for 150- to 190-proof alcohol that is more common for small-scale producers. This will encourage farmers—one of our Nation's largest energy users—to use alcohol, and to produce their own alcohol, thus cutting back significantly on demand for gasoline.

The amendment also allows for a person who is purchasing tax-paid gasoline, which is common in the rural communities, that is used in the production of tax-exempt gasohol to receive a payment equivalent to the amount of excise tax paid. This provision was included to clarify some questions that had arisen since the excise tax exemption was first implemented 1 year ago.

One of the major concerns from the alcohol industry is imports undercutting the domestic market and benefiting from the excise tax exemption as well. The extent to which this is a problem is unknown and the best way to remedy it is undecided. Therefore, the amendment requires that within 180 days after enactment, the Secretary of the Treasury is directed to recommend to Congress ways in which these tax benefits can be denied to fuels containing imported alcohol.

Senator BAYH is to be commended for all of his work pertaining to the regulatory simplification aspect of alcohol production, and this amendment includes his proposal to expedite permit application procedure for small producers of alcohol. This will help to speed up our Nation's production of alcohol.

This amendment combines the outstanding aspects of the Senate Finance Committee's proposal with the existing Federal excise tax exemption for gasohol. I am confident that it is a major improvement, and will work to encourage both small- and large-scale producers of alcohol.

I am convinced that this renewable resource is a viable alternative to our Nation's increasing dependence on imported oil, especially at a time when our country is long on cars and short on fuel.

Mr. HEINZ. Mr. President, I commend the people who have worked to put this amendment together. It will be a major step forward in developing alternatives to the use of petroleum for liquid fuel.

I phrase it that way because the development of alcohols in this country, which can be used in so many applications, not only in the development of gasohol but also as industrial boiler fuels, as methanol in particular—which is made from coal, for which it is particularly well suited—can play an enormous role in making us independent of imported petroleum.

I am particularly pleased that this amendment not only has a strong incentive for the development of ethanol from grains and biomass, which is important in my State of Pennsylvania, which has probably the largest rural population of any State in the Nation—3.25 million Pennsylvanians live in rural areas—but it also provides a credit for the production of methanol, which is an alcohol made from coal. The balanced approach, therefore, in this amendment, will enable us to utilize both our resources—both the resources on the surface of our land, which is where our grains and biomass come from, as well as those underneath our lands, which is where coal is found.

So I rise in strong support of the amendment. I particularly commend Senator DOLE, our ranking minority member on the Finance Committee, for his leadership in this area. I would be remiss, Mr. President, not to point out that he has been a staunch and consistent advocate of gasohol and incentives for the production of methanol, and he has been extremely fairminded and broadminded in making sure that in this amendment, we also provide appropriate producing incentives for methanol to be made from coal.

So I support the amendment, and I thank all the Members who have worked on it.

I want to call special attention to two particular provisions of the amendment which relate to some of my own work in the Finance Committee. One raises the tax credit for methanol—that is, alcohol produced from coal—from 10 to 20 cents per gallon. The second makes the credit for methanol only available to the producer of the fuel.

The Finance Committee, recognizing the potential of methanol as a domestically obtainable alternative to foreign oil, approved an amendment I offered to provide the 10 cent per gallon credit for methanol. However, cost estimates recently developed by the Office of Technology Assessment have indicated that a credit of 20 cents per gallon would be appropriate to bring the credit for methanol into line with the 40 cents per gallon credit provided in the bill for ethanol, alcohol produced by biomass. By including a 20-cent credit for methanol, the Dole amendment would insure that our tax laws provide equitable treatment for production of fuel from coal. Equally important, by providing the methanol credit to the producer, the amendment would create a more meaningful incentive to undertake the tremendous capital investment required to construct a methanol plant.

In a report on nonconventional energy technologies, the Congressional Research Service concluded that "Federal subsidies such as the tax break for alcohol fuels in the energy tax legislation would have been more helpful if they had been extended to cover methanol derived from coal, which is perhaps the most promising source of alcohol fuels at this time."

Methanol produced from coal can be used to displace both gasoline and No. 2 boiler fuel. A mixture of 10 percent methanol and 90 percent gasoline, equivalent to the "gasohol" mixture made with ethanol and now being sold across the country, can be used in current automobiles with minimal modifications. Extensive tests of such a methanol/gasoline mixture have been performed by the Volkswagen company as part of an effort to determine how Germany could use its coal resources to reduce its dependence on imported oil. After a million miles of testing, Volkswagen concluded that newly-produced cars could be inexpensively equipped to use methanol, and that drivability using this mixed fuel is comparable to that achieved using straight gasoline. Volkswagen's experience has been duplicated in the United States. Furthermore, studies have shown that methanol could be used alone to power automobiles. Some modifications to engines would be required to permit use of 100 percent methanol fuel, but no new technology is involved.

What makes methanol especially attractive, however, is its ability to serve as a substitute for No. 2 boiler fuel. The approach of winter, and the threat once again this year of an inadequate supply of heating oil, show the critical need to develop some alternative to our continuing reliance upon instable foreign sources for the fuel needed to heat our Nation's homes. Methanol produced domestically from coal could be precisely the answer we are seeking.

Coal is our Nation's most abundant fossil energy resource. At the present time, our coal industry has an excess capacity of 150 million tons per year. And there are thousands of unemployed American coal miners whose skills are going to waste. If we were to put those miners to work producing coal from the idle excess capacity of our coal industry, and if we then converted that coal to methanol, we could produce 940 million barrels of methanol a year. That would mean 2.57 million barrels of fuel each day that could be used to displace fuel products made from imported oil. If used solely as a gasoline substitute, that methanol would cover about 36 percent of our national average gasoline needs. If used as a substitute for No. 2 boiler fuel as well, that methanol would insure that we have an adeuate supply of fuel to heat our homes in winter regardless of any import interruptions caused by political turmoil and irresponsibility abroad.

The cost of the methanol credit presently in the bill is $120 million for the entire 1980–90 10-year period. Increasing the credit to 20 cents per gallon will add an additional $132 million over 10 years to the cost. This compared to the $1.48 billion cost of the credit for ethanol. It is also important to note that this portion of the Dole amendment has no fiscal year 1980 budget impact because no plants are currently in existence.

Mr. President, it makes no sense to continue to increase imports of oil when a domestically produced alternative is just waiting here—ignored—in the form of our vast national coal reserves. The Carter administration has repeatedly stated that coal is the cornerstone of our national energy policy. The amendment offered by the Senator from Kansas will help to translate the administration's commitment into action. I urge my colleagues to support it.

The PRESIDING OFFICER. The Chair recognizes the Senator from Ohio (Mr. Metzenbaum).

Mr. METZENBAUM. Mr. President, I rise to support this amendment having to do with gasohol. I think it is one of the most salutory and desirable portions of this legislation.

Our dangerous dependence on foreign oil and the impending shortage of liquid fuels make it imperative that the United States develop alternative supplies. The production of alcohol fuels from our Nation's renewable resources represents an opportunity to develop those supplies. This amendment which provides incentives for alcohol fuel production is an important step in helping to turn the vast energy and resourcefulness of our Nation's farmers to the production of alcohol fuel. I commend the sponsors of this amendment and am pleased to join them in support of incentives to develop much needed gasohol production.

The PRESIDING OFFICER. The Chair recognizes the Senator from Kansas (Mr. Dole).

Mr. DOLE. Mr. President, I think there are a number of Senators who may not have been aware of the amendment and who would like to join as cosponsors. We will be happy to add other Senators as cosponsors.

Another way to do it would be to have a rollcall vote, but I do not see any reason to do that.

I have recently added as cosponsors Senator Jackson, Senator Metzenbaum, Senator Javits, Senator Mathias, Senator Domenici, Senator Schmitt, Senator Hayakawa, Senator Wallop, Senator Bradley, and we will check with others who may wish to be cosponsors.

Mr. MAGNUSON. Mr. President, I ask unanimous consent to have the amendment offered and then add cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I point out that much of the pioneer work was done by the distinguished Senator from Oregon (Mr. Packwood). We appreciate that very much. In fact, I think it was Senator Packwood who thought of the idea of the tax credit in the first place. That has been very helpful.

We have also had the help of the National Alcohol Fuels Commission and the staff of the National Alcohol Fuels Commission, of which Senator Bayh is the chairman, I thank every other staff in the Senate who has an interest in gasohol in trying to move it forward. This has been a big cooperative and coordinated effort.

I want to raise one additional question. It is my understanding—I guess I can answer this myself—that if four or five farmers join together, not as a farm cooperative but as individuals, to make the ethanol that they would be entitled to the tax credits under this amendment if these farmers use the ethanol straight in their farm vehicles or equipment or if they blend in with gasoline or other fuels in a form not eligible for the excise tax exemption. This is the understanding of this Senator how the credit will work.

I want to make that part of the legislative history, in the event someone down the line would indicate otherwise.

Mr. MAGNUSON. Mr. President, that is my understanding.

Mr JAVITS. Will the Senator yield briefly?

Mr. DOLE. Yes.

Mr. JAVITS Mr. President, just briefly, as I was one of the originals in this with Carl Curtis who first took us down the back street and had us put some gasohol in our tanks, I wish to just say that we in the city—and that should be emphasized—consider this as a possible solution to the problem of disposal of garbage. This is a very critical point for us, getting very critical for many cities. I hope, therefore, in the implementation of the whole gasohol idea, it will be borne in mind that biomass is an equally valid source and that we may be helped, because the big cities and the older cities are in such trouble and they have the possibility for producing most of the raw material, that we may be helped on that basis, because it will pay to be able to turn fully to this.

I thank my colleague for yielding.

Mr. PACKWOOD. Will the Senator yield?

Mr. DOLE. I yield

Mr. PACKWOOD. Mr. President, I have enjoyed working with several Senators in developing revisions to the alcohol fuels tax incentives contained in H.R. 3919 as reported by the Senate Finance Committee. This amendment improves the alcohol fuels incentives in H.R. 3919 by assuring that broader and more effective encouragement for their use is provided while the incentives available under current law remain in place.

The alcohol fuels incentives of H.R. 3919 originated with a provision of S. 1760, a bill I introduced September 17, 1979, cosponsored by 15 other Finance Committee members. The alcohol fuels provisions of S. 1760 sought to broaden the gasohol incentives of current law. Under current law, a fuel mixture of 10-percent alcohol and 90-percent gasoline, commonly called "gasohol," is exempt from the 4 cents per gallon Federal gasoline and diesel tax. S. 1760 would have repealed this exemption and replaced it with a 40-cent tax credit for each gallon of alcohol sold in an alcohol-gasoline or alcohol-diesel mixture. The Finance Committee added this provision to H.R. 3919.

I am happy to say, Mr. President, that the amendment we are offering today retains the tax credit approach to encouraging the use of alcohol fuels. A major advantage of this approach is its flexibility. An increased proportion of alcohol in the fuel mixture would earn increased tax benefits. For example, under the present 4-cent-per-gallon exercise tax exemption, 10 gallons of gasohol (that is 1 gallon of alcohol mixed with 9 gallons of gasoline) earns a 40-cent tax exemption. Under the 40 cents per gallon of alcohol tax credit approach, the 10 gallons of gasohol—containing 1 gallon of alcohol—would receive a 40-cent credit, or essentially the same benefits as conferred by present law. However, if the alcohol content increases to 2 gallons of alcohol and 8 gallons of gasoline, present law still allows only a 40-cent exemption, while the tax credit approach would provide an 80-cent credit. In sum, the tax credit approach creates an incentive to increase the alcohol content of fuels.

Another important advantage of the tax credit is that it would extend the incentive for using alcohol as a fuel to many gasoline and diesel users who are currently exempt from the 4-cent Federal gasoline tax and therefore are not affected by the gasohol exemption. For example, under current law, the gasohol incentive has no effect on non-highway use of alcohol, such as by farmers or as industrial fuel. The credit extends the incentive to these areas.

The Finance Committee agreed with the importance of these changes, and adopted the tax credit approach. However, concern has been expressed that those who are now taking advantage of the incentives of present law, the 4-cent-per-gallon Federal excise tax exemption, should be able to continue to do so. I understand this concern and I am pleased that this amendment will resolve it. This amendment provides that the current 4-cent-per-gallon excise tax exemption will be continued, but it also creates a 40-cent-per-gallon of alcohol tax credit approach for many situations not now affected by the 4-cent exemption.

In the interest of doing as much as possible to stimulate the use of alcohol fuels, Mr. President, this amendment combines the best features of current law with the best features of the tax credit approach. There is no question of the energy potential of alcohol, and our development of this energy resource here in the United States can reduce our dependence on foreign oil.

Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Will the Senator from Kansas (Mr. DOLE) or the senior Senator from Washington (Mr. MAGNUSON) yield for a question?

Does the amendment take into account the issue of the development of what is commonly called an infrastructure or gathering and distribution system related to the raw material, as well as the refined product of alcohol? That is, will there be tax incentives for the improvement of that system? I have been a supporter of gasohol or development of an alcohol or ethanol industry for many years. But in my experience in the energy game, the one stumbling block that you keep running across is the unavailability of a broad collection and distribution system that will make it truly competitive economically and quantitatively.

Could the Senator from Kansas indicate whether or not that also will be stimulated by this amendment? That is, in a sense, a nontechnical issue but, nevertheless, an extremely important one for the ultimate realization of this extremely valuable source of energy.

Mr. DOLE. Mr. President, the amendment focuses the user and the blender of alcohol fuels, thereby stimulating consumer interest and the development of a marketing system. It is my understanding the distinguished Senator from Idaho may have an amendment later on in the day that would address the area of production credits which may be of direct interest to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I hope, that if in fact the Senator does offer such an amendment, that it will get the support this particular amendment obviously has. Because, if we think back over a period of time, we have had a lot of gasohol amendments and initiatives in Congress but, for some reason, it is not up there nearly at the level where we would like to have it.

I think it is safe to say that the reason is because we just cannot put together that infrastructure that makes it possible.

Mr. DOLE. Mr. President, I am advised by staff that there are about $690 million worth of alcohol fuel projects now in some stage of financing. So there is quite a bit of activity going on.

Mr. SCHMITT. Mr. President, I do not deny that, that it is going on. But we still keep hearing, if you are out there in the sticks, of the difficulty in actually getting this stuff, first of all, the raw materials gathered, whether it is waste biomass or natural biomass, together into concentrations so that you can economically produce the ethanol and, second, begin the distribution to the service stations so that it can, in fact, be blended and then distributed. That still seems to be a hangup out there in this community that is so very, very interested and vitally interested in this energy source.

I will discuss this with the Senator from Idaho and hope that this amendment does, or can be modified so that it does encourage that.

Mr. DOLE. I thank the Senator from New Mexico.

I yield the floor.

Mr. HARRY F. BYRD, JR. Mr. President, this is a very important amendment offered jointly by the distinguished Senator from Washington (Mr. MAGNUSON) and the distinguished Senator from Kansas (Mr. DOLE).

It has been persuasively argued for in the Senate this afternoon by some eight or nine different Senators. It is the work of a coalition of some six or eight Senators who have taken a particularly active part in developing legislation dealing with gasohol. It has the support of a large part of the Senate. It has, in my judgment, great merit, and I ask unanimous consent that the Senator from Virginia be made a cosponsor of the amendment.

Mr. President, as acting manager of the bill and on behalf of the Finance Committee, I would join with the distinguished Senator from Washington (Mr. MAGNUSON), the distinguished Senator from Kansas (Mr. DOLE), and those who spoke in behalf of this amendment in urging that it be adopted.

ALCOHOL FUELS INCREASE U.S. ENERGY INDEPENDENCE

Mr. ROBERT C. BYRD. The alcohol fuels amendment, which I am pleased to cosponsor, is a positive step toward greater energy independence for the United States. Domestic resources will be used to produce alcohol for use as a motor fuel and as a heating fuel. The tax credits provided by this amendment—ranging from 20 to 40 cents per gallon—will encourage the production of clean-burning methanol and ethanol from coal, agricultural products, and wood. Our abundant supply of each of these raw material feedstocks constitutes a valuable national treasure in oil-short times.

A spirit of cooperation and accommodation prevailed throughout the long drafting process which has produced this amendment. I commend the distinguished chairman of the Finance Committee (Mr. LONG), for his consideration of this matter. His labors have been prodigious on this bill. The distinguished ranking minority member of the committee (Mr. DOLE), has devoted a tremendous amount of time and energy to this amendment. He is a leader in the gasohol field. The distinguished Senator from Indiana (Mr. BAYH) has contributed in equal measure to the cause of alcohol fuels. As members of the President's Commission on Alcohol Fuels, both Senators have applied their great expertise in this area to the amendment before us.

I also express my appreciation and regard for the distinguished chairman of the Appropriations Committee (Mr. MAGNUSON), who has brought to the attention of the Senate certain potential difficulties related to refundable tax credits. His views have had a substantial effect on the nature of the tax credits contained in this amendment. Mr. MUSKIE, as the distinguished chairman of the Budget Committee, was also instrumental in this process.

A tax credit of 20 cents per gallon will be available to producers of methanol from coal. This is an appropriate level of incentive for a fuel source which has the potential to replace gasoline, home heating oil, jet fuel, kerosene, and diesel fuel.

Methanol can be made from coal at a low cost per unit of production. In order to operate at a profit, a methanol from coal plant will have to produce large quantities of fuel. Current estimates suggest that a plant which uses up to 2 million tons of coal each year is the optimal size for methanol production.

Coal mines in West Virginia, Pennsylvania, Ohio, Kentucky, and other States are ready to supply the coal for plants of this kind. Miners who have been laid off or unable to find sufficient work will be given an opportunity to build a better future for themselves and their families.

Every ton of coal converted into methanol helps us maintain clean air and water. Combustion of methanol is also very clean and efficient.

The distinguished Senator from Pennsylvania (Mr. HEINZ) and the distinguished senator from Ohio (Mr. GLENN) have played a major role in the formation of the methanol portion of this amendment. My distinguished colleague from West Virginia (Mr. RANDOLPH), the distinguished Senator from Kentucky (Mr. HUDDLESTON), and the distinguished Senator from Pennsylvania (Mr. SCHWEIKER), have also made valuable contributions to the discussion of this provision.

I appreciate their efforts, and I thank all Senators involved for their able work in this matter.

Mr. PRESSLER. Mr. President, I join in this effort to upgrade the use of gasohol, ethynol, and methanol. It is a mystery to me that we have not developed gasohol on a larger basis. Wartime Germany developed a hugh wood alcohol program. Brazil is going to a program of 100 percent alcohol. Wartime Cuba (1941–45) made alcofuels from sugar and sugar cane.

The gasohol industry need not be controlled by the big oil companies. Indeed, there could be stills owned by individuals, farmers, cooperatives, corporations, small businesses, and groups of citizens. Indeed, I hope we structure the gasohol industry as a small business industry. That is the real strength of the free enterprise system. Gasohol must not be controlled by big oil, and this amendment will help.

● Mr. ZORINSKY. Mr. President, I commend the Senator from Kansas for introducing this amendment which would retain the current 4-cent exemption from the Federal excise tax on motor fuels for gasohol, and extend it to the year 2000.

The Finance Committee has proposed a 40-cent refundable tax credit to the producers of domestic alcohol in lieu of the excise tax exemption. I feel it is unwise to reject what has been proven to be a very effective incentive for the use of alcohol blended with gasoline as a motor fuel.

In 1974 the Nebraska Agricultural Products Industrial Utilization Committee registered the name "gasohol" as a tradename. The name applies solely to a blend of 10 percent anhydrous ethanol and 90 percent unleaded gasoline. The trademarking action was initiated to protect the integrity of the alcohol blended fuel. Blends containing greater percentages of alcohol, or using methanol in place of anhydrous ethanol, have not been successfully substituted for more traditional motor fuels. Indeed, only the trademarked formula is allowed by the Environmental Protection Agency, and only this formula is accepted by major automobile manufacturers to meet new car warranties.

The 40-cent-per-gallon tax credit is not an adequate substitute for the 4-cent-per-gallon excise tax exemption for the trademarked Gasohol. The excise tax exemption has been a proven incentive to market the alcohol fuel. An extension of that exemption would be a clear message to the people of the United States that the Federal Government solidly endorses the production and the use of gasohol. To remove the 4-cent exemption and substitute for it a more complicated income tax credit for producers and blenders will obscure that message.

Nevertheless, Mr. President, we should not preclude the development and further utilization of alcohol fuels, other than the 10-percent mixture. Incentives for developing alcohol from coal and for using alcohol in other blends with gasoline or with diesel fuel are necessary. It is important that the second portion of the amendment proposed by my colleague from Kansas be retained also, and that the income tax credit be made available to alcohol fuels not eligible for the excise tax exemption.

Finally, some have argued that the excise tax exemption would stimulate imports of alcohol, leading to yet another dependence on foreign fuel sources. But I would take exception to this line of thinking. I am as convinced as any of my colleagues that our country must end its dependence on foreign oil. I have opposed as consistently as any of my colleagues any circumstances which could lead us to a similar dependence on any foreign nation for vital commodities, be they fuel, sugar, or fertilizer.

But let us not see bogeymen where there are none. There is little or no anhydrous alcohol available in the world market, and little danger of our country ever importing significant amounts of fuel alcohol. Domestic sources of alcohol must and can be developed, assuring a secure future supply.

We should not allow ourselves to become so needlessly frightened of any imports, that we deliberately deprive ourselves of an effective means of encouraging domestic marketing and therefore production of an alternative fuel.

I feel that this amendment provides an excellent compromise which will further the development of alcohol fuels, and I urge its adoption.●

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree offered by the Senator from Kansas (Mr. Dole).

The amendment (No. 879) was agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment in the first degree offered by the Senator from Washington (Mr. Magnuson), as amended.

The amendment No. 837, as amended, was agreed to.

Mr. HARRY F. BYRD, JR. I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington (Mr. Magnuson).

Mr. MAGNUSON. Mr. President, in order to keep the record clear, I ask unanimous consent that division II of my original amendment numbered 843 be withdrawn, in view of the action taken by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Washington (Mr. Jackson).

Mr. JACKSON. Mr. President, I yield to the Senator from Oregon (Mr. Packwood).

AMENDMENT NO. 820

(Purpose: To modify the provisions for tax-exempt bonds for hydroelectric power generating projects)

Mr. PACKWOOD. Mr. President, I ask unanimous consent to call up amendment No. 820.

The PRESIDING OFFICER. Is there objection?

Mr. JACKSON. Mr. President, reserving the right to object, and I shall not object, with the understanding that my amendment will continue to be in order.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, is the amendment of the Senator from Oregon the one we discussed?

Mr. PACKWOOD. Yes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. Packwood) proposes an amendment numbered 820.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 136, between lines 18 and 19, insert the following:

Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (H), a facility the construction of which was completed prior to October 25, 1979, shall be treated as a facility the construction of which was commenced after October 24, 1979, where—

"(i) acquisition or construction of the facility was financed with the proceeds of an obligation described in subsection (a) (1),

"(ii) the facility is owned and operated by a State or political subdivision thereof,

"(iii) no more than 60 percent of the electric power and energy produced by the facility is to be sold to anyone other than exempt persons within the meaning of subsection (b) (3), and

"(iv) the agency of the State in which the facility is located which has jurisdiction over water rights had granted prior to October 25, 1979 a water right which contemplates expanded power and energy generating capability for the facility.

The provisions of the previous sentence are effective October 1, 1980.".

Mr. PACKWOOD. Mr. President, when the Finance Committee sent this bill out, it made an error in that it overlooked a situation that affects the Northwest very greatly. We indicated that small dams, which are quite prevalent in the East and in the Midwest, were qualified for industrial development bonds if they were smaller than 25 megawatts or large hydroelectric dams if they were built after October 24, 1979.

We have a number of dams in the Northwest, however, which are large dams, which were built before October 24, 1979.

This amendment would simply grant to those dams that are run by the Grant County Public Utility District, which were built before October 24, 1979, the right to qualify, when they expand their facilities, for industrial development bonds. The amendment has been cleared on both sides. I think there is no objection to it. It is offered on behalf of myself, Senator Jackson, Senator Magnuson, and Senator Hatfield. With that I yield the floor.

Mr. MAGNUSON. Mr. President, I am pleased to join my colleagues from Washington and Oregon in supporting this amendment.

The Senator from Washington (Mr. Jackson) has already described the specific need for this amendment.

With this amendment, we are trying

to make sure that a change in the Tax Code does not block the construction of several additions to dams in the Pacific Northwest.

Mr. President, the Grant County Public Utility District is trying to add 800 megawatts of primarily peaking capacity at their existing dams.

These additions have been planned ever since the PUD originally built the dams.

This additional power is very important.

The Pacific Northwest is facing projected shortfalls of electricity in the 1980's.

The generators that Grant County PUD plans to install would help meet the region's demand for electricity.

Mr. President, without additions to the Pacific Northwest's hydroelectric system, the region will have to turn to combustion turbines—fueled with oil or natural gas—to meet electrical demands.

By installing this added hydroelectric capacity we will reduce the need for combustion turbines and thereby help meet this Nation's goal of reducing the use of nonrenewable fossil fuels.

Mr. President, as you know, I have been a strong supporter of the use of hydroelectric power during my entire career in Congress.

This amendment would allow the PUD to complete this much needed project.

I urge the Senate to adopt it.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I am pleased to join with my colleagues from Washington and Oregon to propose this amendment. The amendment addresses a transitional situation which has arisen in the Northwest as a result of a change in tax law.

The Grant County Public Utility District undertook a hydrodevelopment project on the Columbia River. The project was initially financed pursuant to the rules which then applied to the issuance of tax exempt bonds under section 103. Long-term contracts for the sale of electric power were signed committing shares of the output of the project and any expansions of the project to particular utilities. The design of the facility contemplated expansion by adding generators when electric load conditions warranted. The PUD obtained water rights permits from the State of Washington allowing the expansion.

Subsequent to the initial construction of the facility Congress changed section 103 in a way which would cause bonds issued to finance the expansions originally contemplated in the engineering designs and contractual arrangements to be ineligible for exempt status. When this occurred the sponsor of the project had no opportunity to alter the contractual arrangements governing the planned expansion. Had the PUD known that the Congress would change the law it could have included provisions in the contracts to permit compliance with section 103.

The amendment proposed by Senator PACKWOOD of which I am a cosponsor along with Senator MAGNUSON and Senator HATFIELD, would, in effect, provide a transitional rule to cover this particular situation. It would allow the PUD, which began this project acting in good faith and in reliance upon the then existing rules, to complete the project on the same basis.

The generators which would be added at the Grant County project would primarily supply peak-load power. They would add 800 megawatts of capacity. The alternative to building this hydropeaking in the Northwest is to build combustion turbines designed to burn natural gas or oil. Utilities which would use the power produced by these additional generators have already begun planning to build combustion turbines if they are unable to meet loads through other resources. In the years immediately ahead the Northwest is projected to be short of peak-load power. Thus, there will be a direct saving of scarce oil and natural gas if these hydro facilities are built.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I would think we probably have too many industrial development bond provisions in this bill now. In view of the fact that we have this many, I suppose we might as well have one more. Therefore, I will not resist the amendment.

Mr. JACKSON. Vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I will defer for the moment my amendment if there are other amendments to be offered.

Mr. DOLE. The Senator from Hawaii has an amendment, I believe. Did Senator PERCY speak?

Mr. JACKSON. He was here a moment ago and he has an amendment, as I understand.

AMENDMENT NO. 759

Mr. DOMENICI. Mr. President, I have a technical amendment. It is amendment No. 759 that clarifies the intention of the distinguished Senator from Wyoming (Mr. WALLOP) in the matter that we have debated pertaining to State royalties and Federal royalties. It would not take over a minute or two, as I understand it.

The PRESIDING OFFICER. Is there objection to the consideration of the amendment?

Mr. METZENBAUM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LONG. Mr. President, I would hope that the Senator from Ohio would reconsider. It is my thought, and I am advised by the staff, that all this amendment does is clarify something which is part of the bill anyway.

Mr. DOMENICI. That is correct.

Mr. METZENBAUM. That may very well be so. But there is a pile of amendments sitting before us, and until I know what is in the amendment I will object. I indicated last evening that I would do that. I do not have an objection to substance but I object to what I am being called upon to agree to.

Mr. LONG. Mr. President, I am just going to offer an amendment exempting all Federal royalties from the tax. That being the case, I do not believe we would have a problem with this. I do not think there is any intention to tax Federal royalties anyway. I do not think there ever was an intention. The bookkeeping for the Federal Government is just a matter of taking it from one pocket and putting it in another pocket. On the other hand, it is true that we have a way that we distribute royalty income under laws that have been passed by Congress. That is part of a Federal land policy that has been evolving for 100 years. That would just carry out what the Congress has consistently done down through the years until no later than 1976.

I will have such an amendment to offer when it is drafted. I think that will solve the problem. I will tell the Senator from Ohio that I will just offer the amendment in due course and then what I am talking about would not need any clarification.

Mr. METZENBAUM. So the Senator from Louisiana understands exactly what my position is, I just think that with this big pile of amendments we need some advance notice. This reads:

> On page 74, line 18, delete the period and insert in lieu thereof: "and the term 'economic interest' held by a State includes all moneys paid to the Federal Government to be remitted to a State in accordance with section 191 of title 30, United States Code.".

I am frank to say that I do not know what this section is nor do I know what is on page 74 line 18. Therefore, until I find out, I intend to object.

Mr. LONG. May I suggest that I have an amendment here which I would like to offer which will solve the same problem. I think it is so clear. It is kind of like that law we are trying to pass about the insurance policies, that they have to write the policies so that the consumers can tell what they say.

Let me read this to the Senator:

> Exemption for interest of the United States.
>
> If an economic interest in crude oil is held by the United States, then no tax shall be imposed by section 4986 with respect to crude oil properly allocable to such interest.

That is to say that the Federal Government does not collect that tax from the Federal Government. Is that all right with the Senator?

Mr. METZENBAUM. If the Senator from Louisiana will let me see it before it is called up at a later point, I will be happy to read it.

Mr. LONG. I will have a copy made and submitted to the Senator. Perhaps after he studies it he might be willing to agree that in view of the fact that we have decided we are not going to tax the State governments, maybe we might be able to agree that the Federal Government is not going to tax the Federal Government in this bill either.

Mr. METZENBAUM. I do not know how the Federal Government can tax the Federal Government.

Mr. LONG. It can be done and I have brought our bills to do exactly that. But it is not our intention to tax the Federal Government. I think if we are not going to tax the State government we should not be taxing the Federal Government either in this bill. I will be glad to provide the Senator with a copy. After he has studied it, perhaps he can agree with it.

Mr. METZENBAUM. I will be glad to read it.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. JACKSON. Does the Senator want to offer an amendment?

Mr. BUMPERS. Yes.

Mr. JACKSON. Mr. President, I yield to the Senator from Arkansas for the purpose of offering an amendment, with the stipulation that the amendment which I have pending will not lose its place in line here, and that there will not be amendments to the amendment.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Mr. President, reserving the right to object, and I shall not object, I wonder if it is possible to get in line behind the distinguished Senator for two amendments I have been trying to offer for 5 days.

Mr. JACKSON. I will yield to the Senator next with the same stipulation.

Mr. PERCY. Then I ask the Chair that, with the same stipulation reserved by the Senator from Washington, amendments 798 and 694 be the two amendments to follow, without the Senator from Washington losing his right to the floor.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. I object.

Mr. JACKSON. And with the further understanding there will be no amendments to the amendments.

Mr. METZENBAUM. Reserving the right to object, and I do not say that I will object, I want to be certain that the Senator's amendments, when called up, will not be subject to amendment.

Mr. JACKSON. I did that. That applies to both the amendment to be offered by the Senator from Arkansas and the amendment to be offered by the Senator from Illinois.

Mr. PERCY. I would like to amend my own amendment so that it can conform with the budget. It is a technical amendment.

Mr. METZENBAUM. Is the Senator from Ohio correct in the understanding that the amendment of the Senator from Illinois has to do with tax credits for coal-burning equipment?

Mr. PERCY. The second amendment, 798, is a coal-conversion amendment, with incentives for industry coal conversion. The first amendment, 694, for which I shall offer a technical amendment, is a turnback to States. It provides incentives for the Governors of the 50 States to continue conservation efforts.

Mr. METZENBAUM. I shall have objection to the latter amendment. I do not have objection to the first amendment.

My objection is based on the fact that we would only be paying back to the States money for a job that they are already doing. If the amendment of the Senator from Illinois were to provide that the States had to reach certain objectives as far as conforming with the 55-mile-per-hour speed limit, the Senator from Ohio would have no objection. As I understand the amendment of the Senator from Illinois at the present time, it is merely a question of allocating some of these funds back to the States for a job which, in reality, they are not doing very well. So I will object to the Senator's second amendment having to do with the payback to the States. I shall not object to the amendment having to do with the coal conversion tax credit.

Mr. PERCY. The Senator from Illinois would like to point out that, as the distinguished Senator from Ohio well knows, the Senator from Illinois has been in the forefront on conservation. We cannot have any disincentive for the Governors to enforce the 55 mile per hour limit, to reduce the size of their own cars, to do everything possible to conserve energy. Presently, a disincentive exists—States are losing billions of dollars.

My amendment would provide a $70.3 million payback over a period of 5 years to the State of Ohio. This would partially—not fully—repay the State for the taxation that it has lost on gasoline. Of course, Senator, your revenue is diminishing, but your asphalt costs and operating costs are going sky high.

Both of my amendments are earmarked only for measures that will help further conserve energy. The Senate 2 years ago passed overwhelmingly an amendment identical to 694, but without earmarking the funds for conservation. Now there are earmarked funds.

So far as the Senator from Illinois knows, not a single Governor in the 50 States opposes this amendment. The National Governors' Association's transportation committee does so, and the State highway officials do as well.

I urge my colleague to reconsider his objection to this amendment. It goes, really, to the heart of this whole bill, and everything that the two of us have been working on for years.

Mr. METZENBAUM. If the Senator from Ohio thought this would actually help mandatory conservation and get the States to do the job they should be doing, I would be in the forefront trying to help with the amendment. The fact is that the amendment does not do that.

I point out that there is legislation pending in Congress—I had hoped I would have the help of the Senator from Illinois on it—requiring the States, saying they have to do something about getting the 55-mile-per-hour speed limit enforced. The law that we presently have says that you do not lose any interstate highway funds unless more than 70 percent of the people on the highway are violating the law. That is so absurd that it cannot possibly happen. I do not mean the Senator's amendment is absurd.

Mr. PERCY. The Senator from Illinois will support every reasonable "mandatory" amendment. This Senator had an earlier bill with a mandatory 55-mile-an-hour prerequisite and a penalty for States that failed to enforce it. But the Senate simply would not accept that.

The Senator from Illinois supports mandatory building standards, mandatory coal conversion for all utility boilers. The Senator from Illinois is thoroughly conversant with and sympathetic to the need to move in that direction. I hope that consideration will be given to this amendment.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Washington?

Mr. METZENBAUM. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. JACKSON. Mr. President, I yield briefly to the Senator from New York (Mr. MOYNIHAN).

Mr. PERCY. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. PERCY. Is it true that the one amendment on coal conversion, 798, will be the next pending business, and that there has been objection to amendment 694?

Mr. METZENBAUM. As far as this Senator is concerned.

The PRESIDING OFFICER. Objection has been heard to the entire request of the Senator from Washington.

Mr. PERCY. That is one amendment.

The PRESIDING OFFICER. Objection has been heard on the entire request of the Senator from Washington. That is both amendments and also the request of the Senator from Arkansas. Objection has been heard on all three.

Mr. JACKSON. Mr. President, I yield again to the Senator from Arkansas.

Mr. BUMPERS. Mr. President, I have an amendment at the desk. I ask unanimous consent that we proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object.

Mr. PERCY. Reserving the right to object, Mr. President.

Mr. DOLE. Mr. President, the Senator from Kansas does not have any strong objection to the procedure, but I do not know how Senator JACKSON became the traffic cop. Does the Senator from Washington intend to call up his amendment or de wo have to start clearing with the Senator from Washington and the Senator from Ohio and the chairman of the committee and others?

Mr. JACKSON. My amendment is pending. It is in a sort of negotiable situation. I want to protect my rights, here.

Mr. DOLE. The Senator from Kansas is in the same position. He cannot fault the Senator from Washington.

Mr. JACKSON. I understand that. I shall cooperate with him.

Mr. DOLE. As long as they are moving, but we have so many hurdles here. We do not have any confidence in the committee, apparently; we are to clear it with the Senator from Ohio. That is a little frustrating.

Mr. JACKSON. Let me yield first to the Senator from New York.

Mr. PERCY. Mr. President, is there a unanimous-consent request still pending?

Mr. DOLE. I have no objection.

The PRESIDING OFFICER. The request of the Senator from Arkansas is pending.

Mr. PERCY. Reserving the right to object, Mr. President, I should like to clarify now whether or not there is an objection to the Senator from Illinois following the Senator from Arkansas, without the Senator from Washington losing his right to the floor. The Senator from Illinois would only bring up amendment No. 798, the coal conversion amendment.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. It being understood that it would not be amendable?

Mr. PERCY. I ask unanimous consent that coal conversion be the next pending business.

Mr. METZENBAUM. With the understanding that the amendment shall not be amendable.

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. We would like to amend it simply to reduce the number of years so as to reduce the budget impact.

Mr. JACKSON. With that stipulation, I have no objection, Mr. President.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico will state his objection.

Mr. SCHMITT. Mr. President, I am interested to know about the rights of other Senators who have amendments. Is this the way the operation is going to be run the rest of the day? If we are going to start having piecemeal agreements, I think it ought to be up to the leadership, particularly the managers of the bill, to work out a sequence of amendments. As it is right now, we are subjected to objections on the basis of whether you like the amendment or not.

I do not know whether the Senator from Ohio is going to like my amendment or not right now or whether I can get an agreement on it. Can we at least request that we agree to this particular unanimous-consent request, and that there be proposed to us a sequence of amendments, particularly those that are nongermane?

Mr. JACKSON. If the Senator will yield, the Senator from Washington is trying to put together two or three amendments here so we can move along very rapidly. I am prepared to yield again to the Senator from Arkansas and the junior Senator from New York so that we can get these amendments lined up.

I do not think there is any controversy on these pending amendments.

Mr. DOLE. As long as we rotate.

Mr. JACKSON. That is all right.

Several Senators addressed the Chair.

Mr. JACKSON. The amendment the Senator from New York will be offering, I say to the Senator from Kansas, is also of great concern to the Senator from Oregon (Mr. PACKWOOD).

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. METZENBAUM. If the Senator will yield——

The PRESIDING OFFICER. Is there objection?

Mr. PERCY. Reserving the right to object, I would still like a clarification.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. PERCY. Is there objection to calling up my amendment?

Mr. ROBERT C. BYRD. Who has the floor?

Mr. BUMPERS. I yield to the Senator from West Virginia without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, could we get an understanding that Senator BUMPERS could go with his and then alternate, take up Senator PERCY'S——

Mr. DOLE. And Senator MOYNIHAN.

Mr. ROBERT C. BYRD. And then Senator WALLOP'S, and go from there.

Mr. METZENBAUM. I object to that, Mr. President.

Mr. ROBERT C. BYRD. Cut it down a bit, at least get Mr. BUMPERS and Mr. PERCY.

Mr. JACKSON. And Mr. MOYNIHAN.

Mr. ROBERT C. BYRD. Could we get those?

Mr. METZENBAUM. Understanding it is only the coal conversion one of Senator PERCY?

Mr. JACKSON. Correct.

Mr. METZENBAUM. I have no objection.

Mr. JACKSON. Mr. President, with the understanding there will not be any amendments to the amendments, with the exception of the modification the Senator from Illinois previously indicated.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

Mr. DURKIN. One aspect, do I understand the request, there is to be no amendment?

Mr. JACKSON. To the amendment.

Mr. DURKIN. To the Percy amendment, or the other——

Mr. JACKSON. That is right. They would be limited, except a perfecting amendment or a modification of his own amendment. But the Senator understands that if we get unanimous consent, we give it on the amendment, someone else can come in with an amendment to the amendment, that is not even covered.

Mr. DURKIN. I have no objection.

Mr. JACKSON. All right. Let us agree to that.

Mr. WALLOP. Reserving the right to object, it is my understanding of the Senator's objection, I thought I had cleared objection to my amendments——

Mr. METZENBAUM. It has no objection to those. I did not. If it was these three, I have no objection.

Mr. WALLOP. These have been cleared with the chairman and everybody. I have been rather patient with everybody about it.

Mr. JACKSON. There is no problem.

Mr. President, I ask the amendments——

Mr. ROBERT C. BYRD. I already have a request in.

Mr. STEVENS. What is the request?

Mr. ROBERT C. BYRD. I ask unanimous consent that Mr. BUMPERS be followed by Mr. PERCY, by Mr. MOYNIHAN, and by Mr. WALLOP.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Reserving the right to object, I have all day been trying to interject myself. I certainly sympathize with the Senator from Illinois, he has been trying all week.

If I could just find out whether or not we are going to be subjected for the rest of the day to the whims of any Senator, or whether or not the last amendment, if it is going to get into the sequence. I thought this body worked on the basis of majority vote.

Mr. PERCY. If the Senator will yield on that point, I would hope the leadership could work out a sequence so we can start to plan ahead.

Mr. ROBERT C. BYRD. I am delighted to have that assignment, to let the leadership work it out—great. I am delighted to hear that.

Days ago, we established a sequence under which we would have certain amendments. It came down to Mr. DOLE and Mr. JACKSON, the only two amendments left in that sequence. Those have not been disposed of.

We cannot get any amendment up except by unanimous consent. The leadership can pray about it, we can plead, we can go off and play the fiddle.

Mr. STEVENS. I was told not to call it a fiddle—a violin.

Mr. ROBERT C. BYRD. Except by unanimous consent.

So let us get these amendments up that we are talking about and go from there. When we get that done, perhaps we will get another platter of amendments.

I beg the Senator from New Mexico not to object in this instance. Let us get these out of the way and then start to see if we can go with his first.

Mr. DOLE. And he will be at the top.

Mr. SCHMITT. Reserving the right to object——

Mr. ROBERT C. BYRD. The top of the new request.

Mr. SCHMITT. I communicated with the leaders early last week my interest in having this amendment part of the agreement. It did not appear as part of that agreement under which we are operating.

I would like to see it start to look to me like it is going to appear.

Mr. STEVENS. The Senator is right. He did ask me, but we had already entered the agreement between the time the Senator mentioned that and when we entered another agreement, and he wished his to be included.

Unfortunately, we have not been able to get to that other agreement yet.

I still have a list of at least eight amendments not worked in here, where people have complied with our request. but, unfortunately, we get these "I will not object if" type of amendments coming in.

So why do we not just announce we will object to any further amendments coming in at all, after these are done. I understand there is a back and forth here——

Mr. BUMPERS. This could have all been done in this length of time.

Mr. STEVENS. But we will establish a list. I think the request is valid.

So I shall object to any further amendments coming in under the "I will not object but" type of approach.

I will not object this time, but I will work with my good friend to work up the list and accommodate the Senator from New Mexico before the next agreement is made.

Mr. ROBERT C. BYRD. All right. We will try to see what we can do toward establishing a list, but may we have this one request granted?

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. PERCY. Will the majority leader yield for a question?

The PRESIDING OFFICER. The Senator from Arkansas has the floor.

Mr. BUMPERS addressed the Chair.

Mr. PERCY. Could the majority leader advise us about how late he would like us to be working today?

Mr. ROBERT C. BYRD. Well, I would think that 5:30 or 6 o'clock, at most, would be enough on today, because we cannot complete action on the bill today.

We will have 2 hours, actually 3 hours on Monday morning before the quorum is called. We will have 2 hours before we start running under the rule, and then we will have that 1 hour, we can use that, so it is 3 hours on Monday.

Mr. DOLE. If the Senator will yield, if they would speed up the process, it might even be a little earlier than that.

Mr. ROBERT C. BYRD. Good.

Mr. DOLE. If the Senator tells them 6, they may talk until that point.

Mr. ROBERT C. BYRD. Say 5:30 then.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 1039 (AS MODIFIED)

(Purpose: To require certain importers of petroleum and petroleum products to file reports with the Department of Energy)

Mr. BUMPERS. Mr. President, may I have my amendment stated?

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Arkansas (Mr. BUMPERS), for himself, Mr. JACKSON, and Mr. MOYNIHAN, proposes an amendment numbered 1039, as modified.

Mr. BUMPERS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place in the bill, insert the following section:

(a) Any person importing petroleum or petroleum products into the United States shall file a monthly report with the Administrator of the Energy Information Administration of the Department of Energy, in a form determined by the Administrator, indicating the quantity, quality, and first sales price of petroleum or petroleum products sold by that person worldwide and the quantity, quality, and first sales price of petroleum or petroleum products imported into the United States.

(b) For purposes of this section—

(1) a "person importing petroleum or petroleum products" means an individual, partnership, joint venture, corporation, trust, or other entity, and any subsidiaries or other affiliated entities, which imported a total of 200,000 barrels of petroleum or petroleum products in the same quarter of the previous year;

(2) the "first sales price" means the amount paid by the first buyer to the first seller of petroleum, including the amount attributable to the crude oil from which any petroleum products were derived.

Mr. BUMPERS. Mr. President, there has been a great deal of controversy in this Nation, in the past 3 months, especially, since the last OPEC price-setting arrangement.

The controversy has surrounded the Aramco four sisters of Exxon, Socal, Mobil, and Texaco, and what they have been doing with Saudi Arabian oil.

Could we have order, Mr. President?

The PRESIDING OFFICER. There will be order in the Senate.

Mr. BUMPERS. Mr. President, the Saudi Arabians are producing 9.5 million barrels a day, and 90 percent or 8.5 million barrels of that goes to the four oil companies I just named. What is happening to it?

Those companies are buying the Saudi oil for $18 a barrel, which means they are subsidizing the Western World to the tune of about $100 million a day.

Saudi Arabia could be getting $25 to $30 a barrel for their oil, but they have been selling it for $18 to these companies.

Who is getting the benefit of that subsidy?

They have been bringing about 1.5 million of that to the United States, and the rest has been going to Western Europe and Japan. That may or may not be one of the reasons for the big oil company profits of the last quarter, which they said resulted from overseas operations.

What I want to know is, what are they doing with the oil? In that light, it should be pointed out that some of the big oil companies in the world—notably, the four I have mentioned—have a lot of agreements with other countries.

For example, in many countries they are entitled to royalty oil. They literally do not pay anything for it. They are entitled to a percentage of the oil that a particular well produces in Libya, which is a prime source of their royalty oil. So they pay nothing for it, in effect. Where is that oil going? How does it figure into their composite costs?

They have an arrangement with the Saudi Arabians, a long-time arrangement based on the old Aramco Corp., and they are being subsidized about $100 million a day.

What are they paying on the world market for oil and who is getting the benefit of it?

It is possible—that they sell the Saudi oil in Western Europe and Japan, because there are no controls there, and they can sell it at the very highest possible price. If they had brought it to the United States, under whose flag they fly, their profit would be limited because of our controlled prices.

If the bottom line is all you care about, you cannot blame them, but there is more involved than that. If they want us to protect their ships, if they want us to rescue them wherever they get in in trouble in the world, if they have a sense of loyalty to the United States, they should bring that oil into the United States.

These oil companies have been middlemen. They have been selling oil to smaller companies. But if they face reductions in sales, they are cutting back on the amount of oil they are willing to sell companies such as Union and other small companies which may not have the ability to buy on the world market or the opportunity to buy at the advantageous prices at which the big majors can buy.

That is translating into the big oil companies having a much cheaper cost of their oil. The small refineries, such as FINA and Oklahoma Refining have to buy on the spot market, pay whatever prices they have to pay, and pass that cost on to their jobbers, distributors and dealers.

What does that mean? That means we may have a whole host of Chrysler Corporations on our hands before long, because a lot of small refineries are going to go under.

There is a differential right now between what Exxon is charging its distributors for gasoline and, for example, FINA, or the small independent refinery —a difference of 17 cents a gallon.

I am not suggesting at this point that we institute a national oil import corporation, but they should report to the Department of Energy every month what they bought on the world market, what their composite cost was, how much of it they brought to this country, and the composite cost of what they brought to the country.

I want Congress and the American people whether or not we are being treated fairly.

I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, I commend the distinguished senior Senator from Arkansas for offering this amendment. This amendment is long past due.

There is no reason in the world why there should not be a full disclosure of the financial activities of the major oil companies abroad. It is clear that the companies, themselves, have admitted that these enormous increases in earnings in the third quarter are directly related to the course of conduct that is covered by the amendment offered by the Senator from Arkansas.

This would plug another loophole—there are a lot of them around—but I must say it is long past due. I hope this amendment will be agreed to without delay.

Mr. MOYNIHAN. Mr. President, I believe the committee is prepared to vote on this matter at this time.

Mr. BUMPERS. Before doing so, I just want to say that the Senator from Washington (Mr. JACKSON), the Senator from New York (Mr. MOYNIHAN), the Senator from Indiana (Mr. BAYH), the Senator from Colorado (Mr. HART), and the Senator from New Jersey (Mr. BRADLEY) are cosponsors of this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BUMPERS. I move to lay that on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 798 (AS MODIFIED)

(Purpose: To provide a 20 percent energy investment credit for certain coal-fueled boilers and related equipment)

Mr. PERCY. Mr. President, I call up my amendment No. 798 in a modified form, by changing the final date to December 31, 1984. I would like the clerk to assign a number to that amendment.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. PERCY) for himself, Mr. BAYH, Mr. RANDOLPH, Mr. HEINZ, and Mr. HUDDLESTON proposes an amendment numbered 798, as modified.

Mr. PERCY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 108, between lines 2 and 3, insert the following:

"(vi) COAL BOILERS AND OTHER EQUIPMENT.—For qualified investment (as determined under subsections (c) and (d)) in property described in section 48(l) (3) (A) (i) and (iv) (relating to boilers and modification equipment) which use coal (including lignite) as the primary fuel, section 48(l) (3) (A) (vi) (relating to pollution control equipment) where such pollution control equipment is installed on or in connection with boilers or modification equipment which uses coal (including lignite) as a primary fuel, and section 48(l) (3) (A) (vii) (relating to certain handling equipment), where such handling equipment is installed on or in connection with boilers which use coal (including lignite) as a primary fuel, the energy percentage is 10 percent for the period beginning October 1, 1978, and ending on December 31, 1980, and 20 percent for the period beginning on January 1, 1981, and ending on December 31, 1984.

On page 108, line 3, strike out "(vi)" and insert "(vii)".

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. PERCY. I yield.

Mr. ROBERT C. BYRD. Mr. President, I am asking Senators on both sides of the aisle to work with the joint committee staffs and indicate whether or not they have amendments they would like to call up this afternoon, so that we could see whether or not there is a chance that we could finish action on this bill today, even if it means staying beyond 6 o'clock. I hope we can finish by 5:30 or 6 today. If we cannot finish, we will go over. But if there is a reasonable chance of finishing this bill by staying later, I believe we should do that.

So if Senators on both sides of the aisle will indicate to the joint staffs their wishes and identify their amendments, maybe we can work out some sequential arrangement which would see us move faster and dispose of amendments.

I make that request of Senators who are present and those within the reach of the cloakroom.

Mr. PERCY. Mr. President, will the majority leader and the acting minority leader be able to determine by 4 o'clock whether or not we should stay on?

Mr. ROBERT C. BYRD. We will be delighted to try to do that.

Mr. STEVENS. I think Members should indicate the amount of time they think their amendment would consume on the floor, in order that we can make this arrangement.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for yielding.

Mr. MOYNIHAN. Mr. President, may we have order?

The PRESIDING OFFICER. Senators will please take their seats.

Mr. PERCY. Mr. President, in our debates here on the Senate floor over the windfall profit tax, we have discussed providing incentives to increase the development of nearly every type of domestic energy source—crude oil, solar power, conservation. But one vital energy source, I am afraid, has gotten a terribly short shrift in this bill up until now. I urge the Senate to consider doing something about our oversight today.

The energy source that we have overlooked is coal. Beyond conservation, which must be our first order of business and our first and highest priority, coal is next in line. Conservation efforts are permanent and long lasting. Once we install conservation measures, they permanently serve all forms of energy, no matter what the source. But second is coal.

Coal is the most abundant single resource now available to us for development of domestic energy. We need to strengthen encouragement for exploration and development of gas and oil, but we need not do a thing to provide incentives to explore for coal. We have it. In fact, we have thousands of unemployed miners—20,000 today—with excess coal supply. What we lack, tragically, is a market.

The PRESIDING OFFICER. May we have order in the Senate?

Mr. DURKIN. Mr. President, will the Senator from Illinois yield for a question?

Mr. PERCY. I yield for a question, of course.

Mr. DURKIN. In the Senator's definition of coal in amendment No. 798, does his definition of coal include solvent refined coal which is coal that the sulphur has been taken out, resolidified as shipment of coal to be burned as oil or coal depending on the configuration of the burner?

Mr. PERCY. If industry boilers use it, yes.

Mr. DURKIN. I was wondering if the Senator from Illinois will accept the specific language including lignite and be willing to include specifically solvent refined coal?

Mr. PERCY. I will be happy to look at your language and discuss it with my distinguished cosponsor, Senator JENNINGS RANDOLPH of West Virginia, and our respective staffs. We certainly will take a look at it.

Mr. President, the amendment I am offering would do much to encourage America's industries to stop burning oil and natural gas in their heating boilers and burn coal instead. The amendment would extend the existing 10-percent energy investment credit we provided to industries in the Energy Tax Act of 1978 to the end of 1984. Presently, it is due to expire at the end of 1982. Because of the vast potential for oil savings we can realize through additional coal use, the amendment would also increase the energy investment credit another 10 percent for coal-burning equipment.

While this 10-percent increase may seem like a lot, I remind the Senate that it is exactly the same increase the Finance Committee gave in H.R. 3919 to industries for purchase of solar, wind, geothermal, oceanthermal, smallhead hydro, and biomass property. We have seen fit, in our wisdom, to extend an additional 10-percent credit to other sources of energy, but not to coal.

Why not extend it to a source of energy that is time tested, right here on our own shores, with 400 to 500 years of supply ahead of us? Why not provide adequate incentive so we can go ahead and start to burn and use this coal?

Coupled with the regular 10-percent incentive tax credit all businesses now take for investments, my amendment would give a 30-percent tax credit for the purchase of coal-burning equipment, an amount that has been cited by industry and independent analysts as one sufficient to spur significant industry conversions.

My amendment could lead to hundreds of thousands of barrels of oil being saved. The Joint Committee on Taxation has placed the 4-year cost of the amendment at $1.1 billion, or $275 million annually.

Of course, Mr. President, if industries find the cost of converting to coal to be still too expensive for them, they will not take advantage of the credit, and the Government will lose nothing. That appears to have happened with the existing 10-percent energy investment credit, which has had almost no takers since it went into effect last year. But I believe this will be sufficient inducement to bring about coal conversion and that, after all, is what we are after. Every study that I know of indicates that this level of incentive is necessary and that this level of incentive is adequate.

Before anyone decides that my amendment is too expensive, let us look at how its adoption might improve the overall economy of the Nation. I think the Senate will see that bearing an immediate cost to restore vitality to America's coal industry is a small price to pay indeed.

It is news to no one that, despite the ever-increasing price of oil, America's coal industry today is in a desperate struggle for survival. No one knows that better than the coal expert in the Chamber, Senator JENNINGS RANDOLPH. He is one who can go back into the history of coal and recite exactly why we are in our present predicament. I have worked with him for years, and am honored to work with him now, to remove step by step every single barrier that exists.

Nothing is more important in the national interests. Nothing will contribute more to national security. Nothing will contribute more to the vitality of the entire American economy than to get moving again in this country.

The Carter administration had hoped that, by doubling the output of coal by 1985, it could become a practical, cheap alternative to oil and natural gas everywhere.

Instead, coal today supplies only about 18 percent of our energy needs, a scant 1 percent increase since the 1973 Arab oil embargo. That is an utter disgrace for this Nation. Here we are in 1979, 6 years after the embargo, and we have only increased our coal usage by 1 percentage point. And we are more dependent on imported oil than ever before.

One obstacle is to blame for this tragedy, and that is cost. A ton of coal contains nearly the same energy content as four barrels of oil, and at about $25 a ton for long-term contracts it is about a quarter as expensive.

But for many industrial plant managers, these savings are completely offset by the enormous expense that must go into the transporting and burning of the coal—especially into the multimillion dollar scrubbers that are often required to comply with the Environmental Protection Agency's stringent environmental regulations; whereas a manufacturer can purchase an average size oil boiler of 200 million Btu's an hour today for about $1,000,000, a comparable coal boiler, with the necessary crushing and hauling equipment and air pollution control devices, can cost as much as 15 times that amount. In fact, the average boiler cost today is about $17 million.

Mr. President, the legislation we have passed to date Congress to get industries and utilities to convert to coal simply has not been effective. We passed both the Energy Supply and Environmental Coordination Act of 1975 and the Power Plant and Industrial Fuel Use Act of 1978 to mandate coal use by utilities and industries. But both pieces of legislation allowed exemptions wherever the cost of burning coal could be seen to be significantly more expensive than oil or gas. As a result, to date far more exemptions have been issued than conversion orders. The one tax incentive plan we have legislated to overcome this obstacle, the 10-percent energy investment credit I mentioned before, has been nearly ignored to date. In fact, the Treasury Department has never even issued its regulations regarding implementation of the credit.

Last summer, the President's Commission on Coal, of which I am a member, warned President Carter that unless a new aggressive coal-conversion program were created in the near future, one "without exemptions, extensions, exceptions, or waivers," our chances of reversing America's growing energy crisis were slim to none. The administration now, I understand, is about to respond with legislation pertaining to utilities that will require substantial conversions to coal. The plan includes about $12 billion in grant moneys for conversions, and a system whereby utilities will only be able to burn oil or natural gas through the obtaining of "consumption rights" tickets.

This may be a major step in the right direction for utilities, Mr. President, but it does not do a thing to speed industries' conversions to coal. Indeed, it is quite clear that at this point it simply is not practicable for industry to substantially increase its use of coal. We have known for years that industries should be relying more on coal—witness the legislation we have passed—but have done next to nothing to effect a real change.

President Carter proposed his "national energy plan" in April 1977. The administration estimated that industries' use of coal in 1985 would be 2½ times the 1976 levels. However, the most recent data from the Department of Energy indicate that industry coal consumption in 1979 is nearly the same as 1975–1976 levels. According to DOE, the industrial sector consumed about 20 percent of the oil used in the United States in 1978, 42 percent of the natural gas, and about 12 percent of the coal. Not counting coal used for coke in steelmaking, coal is now used for only about 5 percent of the energy used in industry.

How much of an additional tax credit does industry need to overcome its reluctance to switch to coal? There is really no way to know, but a recent book by Charles Mann and James N. Heller—"Coal and Profitability, An Investor's Guide," published by McGraw-Hill—suggests that a 30-percent total tax credit could be enough. These authors estimate that with a 30-percent credit—which is what we would be offering should my amendment pass—could cause industry to increase its use of coal by 13 million tons per year in 1985, from an estimated 105 million tons to 118 million tons. If this increased coal use substituted for imported oil, we would be able to reduce foreign oil purchases by nearly $2 billion in 1985 alone. At the same time, we would be increasing domestic production of coal and putting our unemployed miners back to work.

If these gentlemen are anywhere close to being right, the future of America's coal industry, and our balance of payments, could be greatly affected by the action the Senate takes today.

I believe, Mr. President, that together with certain amendments offered by some of my distinguished colleagues, this could do more for coal miners and the coal industries in Ohio, Illinois, West Virginia, Kentucky, and many, many other States than any other single action we have taken to date.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. PERCY. I would be happy to yield.

Mr. DURKIN. I have discussed this with Senator RANDOLPH and your staff and Senator HUDDLESTON and others vitally concerned with the coal amendment. I was wondering if the Senator from Illinois would be willing to accept an amendment on page 2, line 1, just inserting the words "solvent refined coal." Solvent refined coal might be considered not to be coal as we understand it.

Mr. PERCY. As the author of the amendment, I find the change acceptable, as long as it is a technical one and is not contrary to the unanimous-consent agreement.

Mr. HUDDLESTON. I believe the amendment suggested by the Senator from New Hampshire would be a very important improvement because of the two solvent refined coal processes one of them leads coal to be in a state very similar to oil, and it could be that a ruling might be made that it would no longer be considered as coal and, consequently, would not be available for the credit that the bill is intended to give. So I think to clarify that and make sure it is a direct derivative of coal and is in fact coal, although this is turned into a different form, this amendment is necessary.

Mr. PERCY. I ask unanimous consent, Mr. President, that the technical modification of the amendment be in order and accepted.

The PRESIDING OFFICER. Under the unanimous-consent agreement the Senator's amendment cannot be amended, but the Senator can modify the amendment, if he will send it to the desk.

AMENDMENT NO. 798 (AS MODIFIED FURTHER)

Mr. PERCY. Mr. President, I ask that the amendment be so modified.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

Mr. DURKIN. Yes, it is right here.

The PRESIDING OFFICER. The clerk will report the modification.

The assistant legislative clerk read as follows:

On page 2, line 1, after the word "lignite" insert a comma and add "and solvent refined coal."

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified further, is as follows:

On page 108, between lines 2 and 3, insert the following:

"(vi) COAL BOILERS AND OTHER EQUIPMENT.—For qualified investment (as determined under subsections (c) and (d)) in property described in section 48(l)(3)(A)(i) and (iv) (relating to boilers and modification equipment) which use coal (including lignite) as the primary fuel, section 48(l)(3)(A)(vi) (relating to pollution control equipment) where such pollution control equipment is installed on or in connection with boilers or modification equipment which uses coal (including lignite, and solvent refined coal) as a primary fuel, and section 48(l)(3)(A)(vii) (relating to certain handling equipment), where such handling equipment is installed on or in connection with boilers which use coal (including lignite) as a primary fuel, the energy percentage is 10 percent for the period beginning October 1, 1978, and ending on December 31, 1980, and 20 percent for the period beginning on January 1, 1981, and ending on December 31, 1984."

On page 108, line 3, strike out "(vi)" and insert "(vii)".

Mr. PERCY. I thank my distinguished colleague from New Hampshire. I think the clarification is an improvement that will help put more miners back to work.

Mr. DURKIN. I thank the Senator from Illinois.

Mr. PERCY. Mr. President, without additional tax incentives, it is highly likely that our industries are going to continue to defer decisions on whether to make modifications of existing oil or natural gas boilers. They are going to continue to ask for and seek exemptions from the Fuel Use Act. I would like to remind this body that, today, virtually everyone asking for exemptions is getting them. We are simply not taking any steps forward under the Fuel Use Act today.

Let us remember—we are motivated to do things in business for economic reasons. We are motivated to take actions we would not otherwise take if they are in the economic interests of our business. We are dealing now with hundreds of thousands of companies that are making economic decisions concerning coal conversion. Should we, in the national interest, convert from oil and gas to coal? Business persons ask. They may say it is in the national interest, but they also say, "it is too expensive. I cannot afford a $17 million boiler."

We are not going to get a positive reaction without this incentive. This is the breakeven point. This is the point at which many of those boards' decisions will be made.

Mr. President, it cannot be any simpler. We need to provide a significant incentive now to industry to overcome the logjam that is preventing increased use of coal and less reliance on imported oil and on natural gas by our Nation's industrial sector. I think my amendment goes far in this direction. I urge the Senate to adopt it.

I certainly yield to my distinguished colleague from West Virginia.

Mr. RANDOLPH. Mr. President, I have listened with intense interest to the correct documentation of the agreements for pending amendment, as modified.

The Senator from Kentucky (Mr. HUDDLESTON) and the Senator from Illinois (Mr. PERCY) and I have been members of the President's Commission on Coal for the past year. We are grateful to the leadership of the Senate in giving us the opportunity to address this subject matter as members of the Commission in a sense, perhaps more detailed and exhaustive than other Members of the Senate who are as knowledgeable per se but have not, perhaps, given the time in a program as that in which we participate. Our work is, in part, reflected in this pending measure.

Mr. PERCY. Mr. President, let me take this opportunity to join the Senator from West Virginia in indicating that we are grateful for the opportunity the Senate has given to us to serve on the Coal Commission. We have a voice there, but not a vote. Governor Rockefeller, the Governor of my distinguished colleague's State, has a vote as chairman. But we work intimately together toward a common goal.

Mr. RANDOLPH. That is true. I did not want to admit that we do not have votes on the Commission.

Mr. PERCY. We do have a voice.

Mr. RANDOLPH. We have, hopefully, the power of counseling, which we have done exhaustively.

I am not going to talk over a minute or two because as I have said, you have correctly described the situation. I do want to add that we can save 150,000 barrels of oil every 24 hours in the United States of America if we do the job of converting industrial boilers as provided for in our amendment.

I think it can be done. I understand the opposition from those who do not agree with us, as they look at the bottom line, the cost, but I point out to my colleagues that it is a minimal cost, for a result which, as I have stated, releases 150,000 barrels of oil every day for other uses.

I think it is very important for us not to think only in terms of coal or oil shale. I remember when we were working with forestry and agricultural products, and we know that they are feasible, very frankly, as substitutes for oil or natural gas, when processed. What we are faced with today is to determine whether or not, in an amendment of this kind, we are ready, not just to spend dollars but to spend dollars that actually return a dividend—a dividend to the American public; a dividend to the security of the people of the United States of America.

This is a subject that has been worked on in this body for a long time. I want to add that: and I am not referring to any specific administration, but administration after administration has not acted upon, frankly, the legislation which has been passed in this body to promote the utilization of coal. Legislation is in statute which mandates that we move forward in the conversion to coal from natural gas and petroleum in boilers, industrial and utility.

I am not against petroleum. I am certainly not against natural gas. These are products that come from the earth in West Virginia, just as does coal, either through surface or deep mining.

Here, in the United States, as the Senator from Illinois has said, is our most abundant fossil fuel. It does not have to be brought 5,000 miles, or whatever the miles, to this country from unstable and unfriendly sources positioned around the world. Coal is here—in abundance.

It is here in Wyoming. It is in the mine at Gillette—the largest coal mine in all the world. It is not only in West Virginia or Pennsylvania or Kentucky. Coal is all over America—in New York, Illinois, Alabama, Tennessee, Ohio, Indiana, Missouri, North Dakota, South Dakota, Montana, Wyoming, Utah, Colorado, New Mexico, and other States. It is ready to be used. It would be a mistake not to avail ourselves of the opportunity to use coal at this time.

I think my colleagues may perhaps think I am a little impassioned as I speak on the subject of coal and its relationship to the men and women of this country, the people of our Nation. I believe in what I am saying, and I hope the Senate will respond to the well-reasoned appeal which this amendment provides.

Mr. PERCY. Mr. President, I thank my distinguished colleague. We all recognize that when he speaks with emotion, as he has been here, it is because he knows he is speaking for the welfare of the people of the United States and of the people of West Virginia, which he has so ably represented for so many years.

I think it is important to note that we have pared this amendment down to a period of 4 years, at a billion dollars in cost. If, after that 4-year experiment, we find the new credit is working, we may want to extend it to 1990. If we do that, it is estimated that we can conserve 270,000 barrels a day by 1990. Ninety-nine million barrels could be saved in that year, at a cost to the Government of $5.97 per barrel savings. Compare that with the government's cost per barrel of $10.60 for synthetic fuels, in the bill we created last month.

Certainly this kind of amendment, and the amendment to be offered by our distinguished colleague from West Virginia on utility conversions, which I am cosponsoring will really provide incentives to obtain energy independence and decrease our importation of foreign oil.

Mr. President, I am glad to yield to the Senator from Kentucky (Mr. HUDDLESTON), also a member of the Coal Commission.

Mr. HUDDLESTON. Mr. President, I would not attempt to match the eloquence of the Senator from West Virginia in behalf of this amendment. Just let me say that I agree with him. I agree with what has been said by the several sponsors, and I am pleased to cosponsor the amendment by the Senator from Illinois to extend and increase the energy investment tax credit for coal-burning equipment.

For years, coal has been heralded as a cornerstone of our drive for energy independence. Our ability to break the OPEC stranglehold and free ourselves of the strategic and economic consequences of oil dependence centers upon large scale conversions to coal. We have known this for a long time. But, large scale conversions just are not happening.

Coal today supplies about 18 percent of our total energy needs, barely 1 percent more than it supplied in 1973 at the time of the Arab oil embargo.

The problem is not a lack of coal. We have enough right here in this country to last hundreds of years.

The problem is not a lack of miners. Over 20,000 are unemployed or on short workweeks, and anxious to return to full time, permanent work.

The problem is not a lack of productive capacity. The coal industry estimates that they have 150 million tons excess capacity this year.

The problem—and it is a problem which affects every single American—is that there simply is not the market for coal that there should be.

The problems associated with the use of coal dictate that there must be financial incentives to coal users such as this amendment provides if we ever hope to replace oil and natural gas with coal in industrial and utility boilers. The national interest is served every time a barrel of foreign oil is replaced with domestic coal, and it is well within the national interest to help pay for it.

The coal itself is not that expensive. At an average cost of about $25 per ton under long-term contracts, a ton of coal is a bargain compared to the four barrels of oil it can replace.

But in many instances long-term fuel cost savings are overshadowed by the unusually high initial capital investments associated with coal-fired equipment. Whereas an average 250 million btu per hour oil boiler costs about $500,000, a comparable coal boiler could cost up to 30 times as much by the time you add the necessary crushing and hauling equipment, and the air pollution devices you need to meet Federal, State, and local environmental requirements.

The Coal Commission, on which I serve with Senators PERCY and RANDOLPH, has estimated that this amendment could encourage sufficient conversions to coal to save 270,000 barrels of oil per day by 1990. A new book by Charles Mann and James N. Heller projects that a tax credit along the lines of our amendment could cause industry to increase its use of coal by 13 million tons per year in 1985, and save us almost $2 billion in overseas oil payments in 1985 alone. That is at today's prices, so in reality the figure is sure to be much higher.

I sincerely hope these calculations are right. If anything, I hope they are low. But, if they are wrong—if industry does not take advantage of the credits offered by this amendment to decrease their use of foreign oil—then at least the amendment would not have cost us anything. We have a lot to gain from this amendment, and nothing to lose.

This amendment offers the real possibility of substantial oil savings in a cost effective manner. It is an important part of a comprehensive range of incentives and initiatives which I believe must be offered to realize coal's potential in our efforts toward energy independence.

Mr. BAYH. Mr. President, will the Senator yield?

Mr. PERCY. I am happy to yield to the Senator from Indiana.

Mr. BAYH. Mr. President, I would like to salute the Senator from Illinois and join with our colleagues who have spoken earlier, the Senator from West Virginia and the Senator from Kentucky, in supporting this amendment.

Mr. President, I am pleased to join with Senators PERCY, HUDDLESTON, RANDOLPH, and other Senators in sponsoring an amendment to increase the investment tax credit available to industry for expenses associated with converting boilers off oil and gas to coal, and extend the current expiration date of the existing 10 percent business investment tax credit.

This credit will be made available for those who purchase new coal-burning boilers, instead of oil and gas burners, and for equipment which converts old boilers, air pollution control equipment and onsite equipment used to unload, store, and prepare coal for boilers.

This credit would be in addition to the existing business investment tax credit of 10 percent. It extends to coal the same provisions the Finance Committee included in this bill for solar, wind, geothermal, ocean thermal, and hydropower.

Mr. President, unfortunately the coal-producing States of our Nation are not heavily represented on the Finance Committee and, thus, incentives for direct use of coal are frequently given short thrift. As has been stated by the other sponsors of this amendment, adoption of the Percy-Randolph-Huddleston-Bayh amendment may do more to save oil than most of the tax credits incorporated by the Finance Committee into this bill.

Mr. President, the news from the oil front is bleaker every day. This week Saudi Arabia and three other OPEC cartel members announced a $6/barrel increase in oil prices—a move that may cost U.S. consumers between 5 and 10 cents a gallon more for gasoline and home heating oil. This represents a 33-percent increase for the Saudis, OPEC's largest producer and one of our major oil suppliers. The OPEC meeting coming up next week will likely add still further to our oil import bill through yet another round of increases. We just must move to stimulate heavier reliance on domestic energy sources.

Coal is at the top of this list. The President's Commisssion on Coal estimates that this extension of a 20-percent energy investment tax credit to 1984 would consume 270,000 barrels of oil per day by 1990.

Mr. President, the major obstacle to coal conversion today is the heavy expense involved for up-front capital expenditures for coal conversion. The heavy expenses here are for boilers and air pollution control devices. While the cost of coal itself is one-half to one-third as much as oil, coal burning and pollution control equipment is at least three times as expensive as similar equipment for oil or gas. It is these heavy up-front expenses that give pause to those industrial facilities that would convert to coal. We must get them over that hump.

Mr. President, as has frequently been said, coal can be this country's ace in the hole. We have more than enough capacity to supply those industrial facilities who would burn coal with this source of energy. Right now, we have excess capacity of 150 million tons of coal in this country which is not being utilized. In my own State, where coal mine after coal mine has been closed, and hundreds of frustrated coal miners are out of work, we are producing far less coal than we could.

Mr. President, this amendment should have the effect of stimulating direct use of coal now. It can cut the United States use of oil in the near term.

Mr. President, we are spending $60 million or more a year for foreign oil. I fear that at some point—maybe sooner than most of us would like—we will not be able to supply our petroleum needs no matter how much we pay for oil. We need to cut oil consumption just as quickly as we can. There are probably only three ways to do this: Conserve; expand production of alcohols from agricultural, forest products, and coal; convert oil- and gas-fired boilers to coal.

Beyond these three efforts, we are out there on a limb until synfuels and other alternative energy sources come on line.

I urge my colleagues to support this amendment.

Mr. MUSKIE. Mr. President, after hearing others speak with a great deal of conviction in support of the amendment——

Mr. LONG. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. MUSKIE. I must say that when I contemplate my role in opposition, I feel like the proverbial skunk at a lawn party.

But there are budgetary costs to this amendment which need to be considered, especially in the context of the revenues that the pending bill would now raise and the other budget demands of the 1980's which I discussed with the Senate, it seems like a century ago.

But what this bill does is extend the present credits, tax credits available for the same purposes for 4 years, from 1981 to 1984. That is the current 10-percent energy investment tax credit and the 10-percent standard investment credit. Both of those are part of present law.

The pending amendment would double the energy investment tax credit from 10 to 20 percent. The amendment, in its original form, would have extended those credits until fiscal year 1990. And the distinguished sponsor of the amendment (Mr. PERCY) has indicated that if it works in the first 4 years, it should, of course, be extended until 1990. And the cost would be $5.89 billion for that period.

And the cost for the 4-year period is, as stated by Senator PERCY, $1.1 billion.

Now, the question that we need to face, I think, is not only whether or not this budgetary cost, as balanced off against all the other budgetary demands we are facing in the 1980's, is necessary; whether—if oil prices escalate as almost everyone I have talked to in this Senate over 4 years expects them to do, above $30, above $40, and beyond—the existing incentives will prove to be sufficient to stimulate the development of our coal resources.

And I would agree, surely, with the distinguished chairman of the Environment and Public Works Committee (Mr. RANDOLPH), as I have in all the years of my membership on that committee, that that objective is in the national interest.

But now my immediate objective is to set aside a sizable portion of the revenues to be generated by the pending bill to balance the budget. I have heard all these other proposals to set aside revenues for this purpose or that purpose, or to create tax credits for this purpose or that purpose.

I would like to propose that we preserve some of these revenues to meet the objective of balancing the budget. We now have a commitment to do that in fiscal year 1981, which is the first year of the Percy amendment. Well, I think maybe, in that connection, the Senate ought to be interested in the present status of this bill.

When I presented the budget demands of the 1980's in the context of the status of the bill as it came out of the Finance Committee, what did it reveal? What did that analysis reveal with respect to the 4 years in which the Percy amendment would now be effective, fiscal years 1981, 1982, 1983, and 1984?

Our budgetary demands included nothing more than current law (indexing for inflation where mandated by law), indexing for a discretionary inflation, providing the real growth in defense that the Senate has already approved—which, incidentally, is less than the President is now recommending—reflecting 1980 energy legislation, incorporating the House-passed welfare reform, allowing for the catastrophic health insurance bill now being considered in the Finance Committee and reflecting the $55 billion tax cut in 1982 which the budget resolution assumes, and assuming tax cuts in the later years consistent with the Nunn-Chiles-Bellmon tax cutting resolution included in the 1978 tax law. Making those budget assumptions, and assuming the windfall bill as it came out of the Finance Committee, we projected a deficit of $19 billion in 1981, instead of a surplus; and $18 billion deficit in 1982, a $27 billion deficit in 1983, and an $18 billion deficit in 1984.

Now, we have increased the revenues in the pending bill. How does that increase change the picture? That is the important question.

These are very rough and tentative figures that I have gotten from the Joint Committee on Taxation, and they need to be refined and qualified. But, nevertheless, they are useful.

What we have done to increase revenues in the current bill is add $1.4 billion in fiscal year 1981, as against the deficit of $19 billion to which I referred a moment ago.

In fiscal year 1982, we have added $1.4 billion, as against a deficit of $18 billion, to which I referred a moment ago.

For 1983, we have added $2.1 billion, as against a deficit of $27 billion, to which I referred a moment ago.

And, in 1984, we have added $2.6 billion, as against a deficit of $18 billion for that year, to which I referred a moment ago.

So, Mr. President, notwithstanding this week-long effort to add $40 billion, roughly, to the Finance Committee bill, the struggle that involved balancing off the interests of those who believe in maximum incentives for oil production, and so on, as against those who were worried about the budget and the consumer, what we have produced out of all of that has not been sufficient to significantly reduce the projected deficits for 1981, 1982, 1983, and 1984, which will be driven by the tax cuts everybody seems to want. We have had three proposals in the course of the debate on this bill for earlier tax cuts than I have assumed; and there still are the increases in energy spending already mandated in other legislation and increases in defense spending more modest than the President is now proposing. I mean, the deficits reflect all of that.

And, notwithstanding these efforts to raise revenues—and I think that what we have done, given the differences of opinion in this body, by way of raising revenues has been a significant achievement—the increase does not make a significant impact on deficits already projected if we do all the things that we have said we want to do and that I have described.

And so, notwithstanding the merits of pushing as hard as we can for maximum utilization of our coal in the interest of reducing our dependence upon oil, we should recognize that we already have incentives written into law which ought to work, given the projected continuing escalation in oil prices. It seems to me that balancing off all of these considerations, we really ought to begin saying no. And surely we are not going to be asked to say no to obviously bad propositions.

I mean, in this day of concern about energy, almost anything proposed in the name of conserving energy or maximizing production or developing alternative sources is going to be regarded as good.

But we cannot say yes to all of them. We have got to make selective judgments. We have got to make choices and we have got to trade them off against these other provisions of the bill.

Mr. LONG. Will the Senator yield at that point?

Mr. MUSKIE. Yes, I yield to my good friend from Louisiana.

Mr. LONG. Mr. President, I believe the Senator's speech is illustrating what I have been trying to say on occasions, that it is beyond the capability of the Finance Committee, just like I believe it is beyond the capability of the Senate to raise money with taxes as fast as other imaginative Senators can find ways to get rid of the money.

So that this amendment would cost a great deal, as the Senator has said, many billions of dollars, especially if you carry it through with what it implies. And I think you would have to do that. And so, having made all this battle, as the Senator suggests, to add the money to the bill, we will be right back into the same old deficit position by offering a couple of amendments like this.

Mr. MUSKIE. Mr. President, I say to the Senator from Louisiana that when I think of the blood that we had to sweat to add that last $5 billion more revenue in this bill over a 10-year period, here, with one amendment, we are going to spend more than that.

Mr. LONG. There she goes.

Mr. MUSKIE. Over that same 10-year period. And that is exactly what I am talking about.

And I understand the worthiness of this amendment. There is no mistaking the intentions of the sponsors of this policy, that it prevail for the entire decade, even though this particular amendment has been cut down to 4 years.

The sponsors want it continued. Once it is on the book, it will be continued by a minor amendment somewhere down the line.

That is my case, I say to Members. I am pleading for reserving a little money, hopefully moving toward that balanced budget to which we all commit ourselves in speech after speech on the Senate floor. I see no reason to add anything more to the debate at this point.

Mr. MOYNIHAN. Mr. President, in the interest of coming to a conclusion, and we have heard clear and persuasive arguments on both sides, I ask unanimous consent that there be 20 minutes equally divided on this amendment, the amendment of the Senator from Illinois, until we come to a resolution of the matter. Is that agreeable?

Mr. PERCY. That is agreeable.

Mr. HEINZ. Reserving the right to object, can I get a sense of how many people there are who want to speak? I would like about 2 minutes.

Mr. PERCY. The Senator from Illinois would be happy to yield 2 minutes. The Senator from Illinois will require 5 minutes to reply to my distinguished colleague from Maine. Unless there are others who want to speak, I will yield back the remaining time. I am anxious to bring this to a vote as quickly as I can. Is it the intention of the manager of the bill to object to the amendment?

Mr. MOYNIHAN. Yes.

Mr. PERCY. Mr. President, I ask for the yeas and nays.

Mr. WALLOP. Will the Senator withhold that? On our time, I want to ask a question of the Senator from Illinois about the possibility of pulling down the amendment and putting it in with hearings promised in the debate on this floor on another program directly related to the same subject.

Mr. PERCY. I am honor bound to go ahead with the amendment.

Mr. MOYNIHAN. We would not object if the Senator wishes a vote. We would be happy to give him a vote. The Senator from Wyoming wishes to make a proposal which we think has merit and is worthy, and the Senator may want to hear it.

Mr. PERCY. I would be happy to listen to it.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York? Without objection, it is so ordered.

Who yields time?

Mr. PERCY. If the Senator from Pennsylvania would wait until I respond to the Senator from Maine, I will be happy to yield.

For the benefit of my distinguished colleague from Maine, I do not have to remind him that we worked together as authors of the Budget Reform Act, which I was also coauthor by former Senator Sam Ervin. I have great respect for that act and have consistently voted to support and maintain the principle and back that up.

But I cannot think of an amendment that is more in line with what the Senator from Maine wants to accomplish.

I agree. There ought to be enough proceeds left over to reduce the deficit. I would hope that we would have billions of dollars that could be applied toward that. I hope we would not find enough ways to spend all the money.

But I remind my distinguished colleague that in this case, we are talking about a maximum expenditure of only $1.1 billion over 4 years, the potential for which is absolutely huge.

There would be no expenditure—it is not an expenditure amendment but a tax credit amendment. There will be no cost at all unless industries all over this country make the decision that they have not yet made, to convert to coal. If that occurs, 70 percent of the money will be private money, cash on the barrelhead.

There is only one reason that they will do that. They will only convert to coal because they think it will enhance their profitability, reduce their cost, increase their assurance of supply and energy. The Federal Government shares in that, with 50 percent of whatever savings are made ending up in the Federal Treasury in the way of taxation. So this is one way of increasing our revenue.

One other thing. Let us look at my amendment from a cost-effective standpoint. How does it compare with expenditures made for other energy sources? We have decided to go ahead with synthetic fuel. I have already cited the figures by authorities in the field. This investment for boilers for coal is twice as cost effective as for synthetic fuel, twice as effective. We would pay less than $6 per barrel of oil displaced, versus over $10 per barrel for synfuels.

Who would dispute that this kind of investment is a good return on investment? The Federal Government gains, industry gains, and we strengthen the dollar. The potential, as I have stated before, is $2 billion a year saved in oil imports. Lessen our petrodollars by $2 billion, and that automatically stengthens the dollar. It strengthens its buying power abroad, reduces our cost for goods purchased abroad, reduces inflation. It certainly lessens our dependence in a very material and important way on the imported oil which is making us hostage to the whims of certain persons abroad.

Though I am sympathetic with the goals and objectives of the chairman of the Budget Committee, this amendment is a cost-effective amendment. It increases the chances we have for strengthening our economy and strengthening our budgetary position.

I am happy to yield 2 minutes to my distinguished colleague from Pennsylvania.

Mr. HEINZ. Mr. President, I thank my colleague from Illinois for yielding time. I commend him on his amendment. I am pleased to be a cosponsor of it.

I think the importance of the amendment is very straightforward. We know that we must convert just at every possible opportunity our facilities that use imported oil to using coal. We have an excess capacity today of 150 million tons of coal. We have several thousand coal miners who are in fact unemployed because we do not use the existing capacity, notwithstanding the fact that we have had three administrations—this administration, the Ford administration, and the Nixon administration before that—which promised this country that we would be turning to coal.

The only turning we have done on coal is to turn the clock back, and that is against the first and best interests of this country. It is time that we turn the clock forward.

We can do this with the amendment of the Senator from Illinois. Indeed, unless we take some positive steps forward, unless we address the obvious problems that exist in converting to coal—it is expensive, there are pollution control devices and procedures that must be followed, there is a need to develop a climate that is positive and dependable with respect to coal—we can expect to be sitting here another 5 or 10 years from now having this same colloquy and debate. I hope that is absolutely unnecessary, and we will be able, as a result of adopting this amendment today, to be able to say we have done something constructive and positive.

I thank the Senator from Illinois for yielding.

Mr. MUSKIE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. How much time does the Senator from Maine wish?

Mr. MUSKIE. Five minutes.

Mr. MOYNIHAN. Mr. President, I yield 5 minutes, which is half of the time this side has.

Mr. MUSKIE. Mr. President, the Senator reminds me of what happens to me in January. Christmas is coming next week. In January I will begin getting the Christmas bills. They will exceed my January income. Then the white sales will come on, as they do every January. My wife will say, "Honey, can I go down and buy and save some money at these sales?"

My reply will be, "Honey, we cannot afford to save that kind of money."

The distinguished Senator from Illinois has given me a conventional response whenever the question of budgetary restraint is raised that, in the long term, we shall make it up. But when is the long term? He, himself, in evaluating the cost of his amendment for 4 years, stated a budget cost of $1.1 billion—not a profit, but a budget cost. Over a 10-year period, he, himself, stated the budget cost at $5.89 billion.

I have no doubt whatsoever that the development of our coal resources will be in the public interest and will strengthen our economy in the long term, but in the short term, if we do not find a way to balance this budget and to reduce the burden on our taxpayers, spending money in this fashion is going to be counterproductive to a healthy budget and a healthy economy, not productive.

The second question is, In order to do this, do we have to provide everything that is asked for or should we not legitimately consider that what we have already done will achieve this objective, if not in quite as costly a manner?

Mr. President, when it comes to balancing the budget, there is always an excuse why my project is justified even though it adds to the deficit, even though it adds to spending. In order to balance the budget, we are going to have to say no to the good projects. There are not enough bad ones, in the name of energy, to save the kind of money needed to balance the budget.

Mr. President, since last spring, when we committed ourselves to a balanced budget in 1981, we have been moving in the opposite direction. Time after time after time, on issue after issue after issue, on program after program after program, and always in the name of the public interest, people rise on this floor and say, "Yes, I am for a balanced budget. But in the long run, my amendment will so strengthen the economy that the investment is worth while, even though, in the short term, it works against a balanced budget."

I have heard that argument so many times that sponsors of those kinds of amendments do not have to make them for my benefit any more; I can make them and save the time.

All I know, I say to the Senate, is that we have to learn to say no. It took us 3 days of hard negotiations to raise $5 billion more revenue, in the majority leader's office; 3 days. Here, with one amendment, we are going to spend more than $5 billion in the same 10-year period. We cannot go that way toward a balanced budget, Mr. President. We just cannot.

I yield the floor.

Mr. PERCY. Will the distinguished Senator yield for a question?

Mr. MUSKIE. Yes.

Mr. PERCY. Did he say this will cost $5 billion?

Mr. MUSKIE. I think the Senator heard me. The Senator's original amendment was $5.89 billion. So, as a result, he cut it to 4 years, which is $1.1 billion. But then, in his remarks, he made it very clear that he would like to see the policy extended throughout the decade to 1990, even though his amendment does not provide for it.

I say to the Senator, once we get this on the books, come 1984, extending it through the decade will be done on the unanimous consent calendar some day on a very innocuous bill, and we shall have it for 10 years. So if we put it on the books today, you can get your boots that the ultimate price tag for the decade is going to be $5.89 billion.

Mr. PERCY. How much time does the Senator from Illinois have left?

The PRESIDING OFFICER. The Senator from Illinois has 3 minutes and 49 seconds.

Mr. PERCY. I should like to make the record very straight. The original amendment of the Senator from Illinois did cost $5 billion. This amendment costs $1.1 billion. The Senator from Illinois said—and I shall review the transcript—that it will be his hope that after 4 years experience, it will be proven so cost-effective that we shall want to extend it.

There is the case. We have to have some proof. The Senator from Illinois is confident enough of this amendment that he is willing to shorten the time period and not ask for the 10-year credit, but ask only for a 4-year trial credit. If that 4-year trial credit proves so effective, then of course I will try to advance it. If that is the case, I am sure the Senator from Maine, on the basis of experience, will vote resoundingly and affirmatively to support that position.

But the cost of this amendment let us make it clear, over a period of 4 years, would be $1.1 billion, a fraction of the Government's cost of the per-barrel equivalent of synthetic fuel.

I am happy to yield to my distinguished colleague from West Virginia.

Mr. RANDOLPH. Mr. President, I ask my colleague from Illinois, when we talk about expenditures and investment, have we not spent, in 1 year—12 months—as much as $60 billion American dollars to buy oil from abroad to meet our oil demands?

Mr. PERCY. That is true. If we keep going at the present rate, that will be the lowest amount put out per year. It will just go up and up.

The interesting thing is, this is not an expenditure. This is a tax credit, used only if someone decides to put his 70 percent up, only if it proves it to be cost effective.

Mr. RANDOLPH. Then it is a balance-of-payments outflow, the $60 billion figure, is it not?

Mr. PERCY. Absolutely.

Mr. RANDOLPH. I shall say no more, because I commend my colleague from Maine, with whom I work. I understand his responsibility and perhaps his deep regret that he cannot personally support this amendment because he has his responsibility as chairman of our Budget Committee. He shares this responsibility with others in this body.

Having said that, I come back to the fact that it will be the individual assessment of this amendment by each Member of this body which will determine its fate. I am only hopeful that the appeal of the amendment, the validity of the amendment, will cause it to be approved.

Mr. PERCY. Mr. President, I reserve the remainder of my time.

Mr. WALLOP. Mr. President, I yield myself so much time as I may use.

I come from a coal-producing State. Last year, we were the leading coal-producing State in America. That achievement was, at least in part, due to the effect of the prolonged coal strike, but Wyoming shall continue to be one of the most important coal-producing States.

Mr. President, the industrial energy conservation bill, which the Senator from Wyoming has introduced along with Senator Simpson includes cost effective tax credits to encourage energy conservation and conversion to coal, our most abundant natural resource. The credits are measurable in their cost effectiveness and the plan approaches industrial conservation in a way that will take care of the concerns of the Senator from Maine (Mr. Muskie).

With all respect for the Senator from Maine, there is a potential that his budget figures are probably not right, partly due to the balance-of-payments figures along with other economic variables.

I agree with the Senator from Illinois that we have to get on with the business of coal conversion. We have to do it. I voted for the Coal Conversion Act and since we have had it, we have used less coal than before.

The part of the big shoe that is pinching is, frankly, not the economic circumstances surrounding the coal industry but the Federal inabilities to make decisions that make it possible for people to convert to coal.

It is less an economic problem right now, altholgh I share the Senator's concern and I think his proposal would be an important initiative in our efforts to convert to coal.

I will second his request for the yeas and nays, but I ask him if he would consider supporting the Senator from Wyoming's bill which already has coal conversion credits as a central feature of the legislation. Hearings were promised by the distinguished chairman of the Finance Committee to be held early in the next session.

Mr. PERCY. In response to the question of my distinguished colleague, this is a case where the Senator from Illinois can have his cake and eat it too, I think. And on Saturday afternoon, or Saturday evening if we are still here, that might not be at all bad.

I would like to have a vote up or down on this amendment. I feel absolutely obligated to my sponsors to do so. This is an issue studied to death.

Mr. WALLOP. Fine. We will give it to the Senator.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. WALLOP. We would like to use the rest of our time.

Mr. PERCY. I will use my remaining time to comment further on the hearings.

Mr. MOYNIHAN. If the Senator will yield, as the Senator knows, next year the Finance Committee will be taking up the question of changing the depreciation schedules and rates on capital equipment, and I believe he is interested in accelerating depreciation. I am. The Senator from Texas is.

I would like the body for a moment to recognize what a 30 percent tax credit is with an accelerated depreciation such as we might get. A 30 percent tax credit with the present raise means the Government pays for more than half the equipment. If we go further, we might find the Government paying for 75 percent of an investment, which cannot be, I think, a prudent investment.

Mr. WALLOP. I think that is right, especially at a moment in time when the economics are being forced by the very subject that brings us to this floor.

Mr. MOYNIHAN. If I may say, I do not want this decision to inhibit our judgment by accelerated depreciation, and I fear it would. The Senator may agree with me.

Mr. WALLOP. I do.

Mr. President, I reserve the remainder of our time.

Several Senators. Vote! Vote!

Mr. PERCY. If the Senator will yield, I would like to remind the distinguished floor manager (Mr. Moynihan) that all we are asking for is an extension of the action the Finance Committee already approved, extending a 30 percent tax credit for the purchase of solar, wind, geothermal, ocean thermal, smallhead hydro, and biomass property. Just extend it to coal.

The present credits have not been used. We thought we were acting in wisdom in creating them, but the Treasury Department tells me that virtually no credits have been applied for.

Now, what good does it do us to continue offering a small credit alone which is not being utilized? We know it will be through an addition. Study after study has indicated this.

We are simply saying, let us try it for 4 years.

The PRESIDING OFFICER. The time of the Senator from Illinois has expired.

Mr. PERCY. I, therefore, yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from New York yield back his time?

Mr. WALLOP. Mr. President, I will say briefly, in quick response to the Senator from Illinois, because I really favor what he is trying to do, but I think there is a better way to achieve his goals, and that is why I oppose the amendment.

But, frankly, what he says proves it is not the lack of economic incentive, but the Environmental Protection Agency. It is the lack of ability to get coal contracts which has, in effect, put us in a position where we cannot make the decision to switch to coal.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MUSKIE. Mr. President, I move to lay on the table the amendment of the Senator from Illinois and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Illinois (No. 798, as modified). The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from North Dakota (Mr. Burdick), the Senator from Idaho (Mr. Church), the Senator from Massachusetts (Mr. Kennedy), the Senator from Georgia (Mr. Talmadge), and the Senator from New Jersey (Mr. Williams) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. Baker), the Senator from Maryland (Mr. Mathias), and the Senator from South Dakota (Mr. Pressler) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The result was announced—yeas 45, nays 47, as follows:

[Rollcall Vote No. 487 Leg.]

YEAS—45

Baucus
Bentsen
Boren
Bradley
Bumpers
Byrd, Robert C.
Cannon
Chafee
Chiles
Cranston
Culver
Danforth
DeConcini
Eagleton
Exon
Gravel
Hart
Hollings
Inouye
Jackson
Johnston
Kassebaum
Leahy
Long
Magnuson
Matsunaga
McClure
McGovern
Metzenbaum
Morgan
Moynihan
Muskie
Nelson
Nunn
Pell
Proxmire
Ribicoff
Riegle
Sasser
Stafford
Stennis
Stewart
Stone
Tower
Wallop

NAYS—47

Armstrong
Bayh
Bellmon
Biden
Boschwitz
Byrd,
Harry F., Jr.
Cochran
Cohen
Dole
Domenici
Durenberger
Durkin
Ford
Garn
Glenn
Goldwater
Hatch
Hatfield
Hayakawa
Heflin
Heinz
Helms
Huddleston
Humphrey
Javits
Jepsen
Laxalt
Levin
Lugar
Melcher
Packwood
Percy
Pryor
Randolph
Roth
Sarbanes
Schmitt
Schweiker
Simpson
Stevens
Stevenson
Thurmond
Tsongas
Warner
Weicker
Young
Zorinsky

NOT VOTING—8

Baker
Burdick
Church
Kennedy
Mathias
Pressler
Talmadge
Williams

So the motion to lay on the table amendment No. 798, as modified, of the Senator from Illinois was rejected.

The PRESIDING OFFICER. The question recurs on agreeing to the amendment of the Senator from Illinois.

Mr. PERCY. Mr. President, have the yeas and nays been ordered on the amendment?

The PRESIDING OFFICER. The yeas and nays were ordered.

The question is on agreeing to the amendment of the Senator from Illinois.

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Idaho (Mr. CHURCH), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Georgia (Mr. TALMADGE), and the Senator from New Jersey (Mr. WILLIAMS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Maryland (Mr. MATHIAS), and the Senator from South Dakota (Mr. PRESSLER) are necessarily absent.

The PRESIDING OFFICER. Are there other Senators in the Chamber desiring to vote who have not done so?

The result was announced—yeas 42, nays 49, as follows:

[Rollcall Vote No. 488 Leg.]

YEAS—42

Armstrong
Bayh
Byrd,
Harry F., Jr.
Byrd, Robert C.
Cochran
Cohen
Durkin
Ford
Garn
Glenn
Goldwater
Hatch
Hatfield
Heflin
Heinz
Helms
Huddleston
Humphrey
Javits
Jepsen
Laxalt
Levin
Lugar
Melcher
Metzenbaum
Morgan
Packwood
Pell
Percy
Pryor
Randolph
Roth
Sarbanes
Sasser
Schweiker
Simpson
Stevenson
Stewart
Thurmond
Warner
Young
Zorinsky

NAYS—49

Baucus
Bellmon
Biden
Boren
Boschwitz
Bradley
Bumpers
Cannon
Chafee
Chiles
Cranston
Culver
Danforth
DeConcini
Dole
Domenici
Durenberger
Eagleton
Exon
Gravel
Hart
Hayakawa
Hollings
Inouye
Jackson
Johnston
Kassebaum
Leahy
Long
Magnuson
Matsunaga
McClure
McGovern
Moynihan
Muskie
Nelson
Nunn
Proxmire
Ribicoff
Riegle
Schmitt
Stafford
Stennis
Stevens
Stone
Tower
Tsongas
Wallop
Weicker

NOT VOTING—9

Baker
Bentsen
Burdick
Church
Kennedy
Mathias
Pressler
Talmadge
Williams

So Mr. PERCY's amendment (No. 798), as modified, was rejected.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I expect further rollcall votes this evening. I had earlier expressed the hope that we might be able to finish by around 6 o'clock. I do not think we can do that. So I want to make it clear that I expect further rollcall votes today.

I have been discussing the possibility of getting agreement on this bill that would see a final vote no later than 6 o'clock p.m. on Monday—or we could say 6 o'clock specifically, or whatever other Senators wish to do.

I ask unanimous consent that a final vote occur on the pending bill at—I think we ought to say at 6 o'clock, so all Senators would know, and no one would have cause to miss the vote by being unaware of just when it would occur—at 6 o'clock p.m. on Monday, with paragraph 3 of rule XII being waived; that no nongermane amendments be in order unless the two managers agree that such nongermane amendments could be taken up; that there be 2 hours for debate, controlled equally by the two managers of the measure; that there be a 30-minute limitation on any amendment and a 20-minute time limitation on any debatable motion, appeal, or point of order, if such is submitted to the Senate; and that the two managers may yield from the time under their control for debate to any Senator on any amendment, debatable motion, appeal, or point of order, if such is submitted to the Senate.

Mr. STEVENS. Mr. President, will the Senator yield to me?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. We have discussed this, and I have discussed it with the manager of the bill on our side and with the Senator from Wyoming (Mr. WALLOP) and other Senators who are deeply involved.

I am sure this would permit some of the nongermane amendments that would be cut off by cloture on Monday to be considered, if it is agreed that they are amendments that should be considered by the Senate. There are many nongermane amendments that will be cut off by cloture on Monday if agreements are not entered into. Therefore, I think this would be the wise course, provided we can make certain that no Senator takes a majority of the time between now and then on any one amendment. Did the majority leader state a time limitation on one amendment?

Mr. ROBERT C. BYRD. Yes, I did.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, I would hope that the Senator does not mean by that that the managers of the bill would not be in a position to object if we are against nongermane amendments.

Mr. STEVENS. No, it specifies that if either one of you objects, nongermane amendments may not come up.

Mr. ROBERT C. BYRD. In effect, either of you would have a veto on nongermane amendments.

Mr. STEVENS. Up until the time of the vote on cloture at 1 o'clock.

Mr. McCLURE. Mr. President, reserving the right to object, I think one of the things this Senator would like to know before the unanimous-consent request is put is how long we will be going today, when we would be coming in on Monday, and whether or not other business would intervene to absorb some of that time.

Mr. ROBERT C. BYRD. Mr. President, I will be glad to include in my request that inasmuch as the Senate is coming in on Monday at 10 o'clock, no other business intervene on Monday, so that the time before the cloture vote—as a matter of fact, the cloture vote could be vitiated if it appeared advisable—so that all the time on Monday could be taken on this bill.

Mr. McCLURE. So there would be 8 hours on Monday?

Mr. ROBERT C. BYRD. Yes, there should be.

Mr. McCLURE. For this bill?

Mr. ROBERT C. BYRD. Yes, the Senator is correct.

Mr. McCLURE. I thank the Senator.

Mr. STEVENS. Mr. President, reserving the right to object again, it is not an agreement, but there is an understanding we have entered into, sort of—not an agreement, but we have an understanding that there would not be any amendments to increase or decrease the amount of the tax provisions, other than one to be considered, but there is no commitment on that.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. LONG. The Senator had reference to title I, windfall profit.

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. I yield.

Mr. JACKSON. Mr. President, reserving the right to object, I want it understood that the amendment that I have pending does not fall in that category, to make sure it will be pending.

I am going to lay it down so it will be pending business.

Mr. STEVENS. If the Senator will yield, we can disagree whether it is in that category or not. In my opinion, it is in that category and the Senator from Washington can argue it is not. The question is what the Senate is going to do with it.

We have not barred anyone from offering an amendment to increase or decrease the amount. It is just the understanding that all agreements are off if we do go either way, as I understand it.

Mr. MELCHER. Mr. President, reserving the right to object, if I could have the attention of the majority leader and the managers of the bill and my colleagues, I would like to be in the position of not objecting. I have introduced some amendments on November 5. Unless I can have some agreement of a limited time for taking up the amendments, I think I would be forced to object.

Mr. ROBERT C. BYRD. Mr. President, are the amendments by the distinguished Senator from Montana germane?

Mr. MELCHER. Mr. President, they are not germane.

Mr. STEVENSON. Mr. President, reserving the right to object, I have one amendment.

Mr. MELCHER. Mr. President, I am forced to object at this time.

Mr. STEVENSON. Mr. President, I am in the same position. I do not want to object. I have one amendment that I believe is germane, but I am told by the Parliamentarian that it is not germane. I would have to object, also.

Mr. ROBERT C. BYRD. I fully understand the objections by the distinguished Senators and thank the Senators for at least considering the matter.

There are those who want to press on today and call up their amendments. I am not opposed to that. But I want to say, once again, that there may be rollcall votes tonight. I will not say there will not be rollcall votes tonight.

So if you want to take someone else's word, you may take it. But be willing to suffer the consequences if it turns out to be wrong.

Mr. STEVENS. Mr. President, if my good friend—and he is my good friend—from Washington (Mr. JACKSON) is going to offer his plowback amendment, there will be votes tonight.

Mr. JACKSON. Mr. President, I am going to lay it down so that it will be pending business. Not right now. But I do not think there will be a vote on it today, tonight, or whatever.

Mr. STEVENS. Mr. President, there will be a vote on it when the Senator stops talking.

My problem is that the Senator from Washington is being in a position of somewhat something like a traffic cop. He says what can or cannot come up.

Mr. JACKSON. I learned that from your side.

Mr. STEVENS. I have learned it now, and the amendment will be disposed of soon.

Mr. JACKSON. Let us just move along here. I do not think it is as bad as the Senator portrays it.

Mr. STEVENS. Well, I like to rattle the cage a little bit once in a while.

Mr. JACKSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. Under the previous order, the Senator from New York (Mr. MOYNIHAN) is recognized to introduce his amendment.

AMENDMENT NO. 723, AS MODIFIED

(Purpose: Technical amendment to clarify that pumped storage hydroelectric facilities are included among hydroelectric facilities qualifying for tax-exempt industrial development bonds)

Mr. MOYNIHAN. Mr. President, I call up amendment No. 723, as modified, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) for himself, and Mr. JACKSON, Mr. JAVITS, Mr. MAGNUSON, Mr. PACKWOOD, and Mr. DURKIN proposes amendment numbered 723, as modified:

Strike line 15 on page 136 and insert the following: "Is the generation of hydroelectric power, including pumped storage facilities, owned and operated by a power authority or public utility district, other than".

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Senators JAVITS, MAGNUSON, PACKWOOD, and DURKIN be listed as cosponsors of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, this is in the nature of a clarifying amendment. Due to a simple misunderstanding, the report language on the windfall profit tax bill indicated that pumped storage facilities would not be eligible for industrial development bonds as would other hydroelectric facilities. This was not the intention of the committee.

I believe this is understood on both sides. I would ask that the committee accept this, stating that it is also our intent, in submitting this amendment, to make it clear that a pumped storage facility not yet under construction is to be considered a new facility, rather than the retrofitting of an existing dam which, in some cases, will be part of the proposed pumped storage facility.

The PRESIDING OFFICER. Without have order in the Senate? Order in the Senate.

Mr. JACKSON. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to the Senator.

Mr. JACKSON. Mr. President, I want to express my support for the amendment proposed by Senator MOYNIHAN. The amendment would clarify a provision in the bill which allows hydroelectric projects to be eligible for tax exempt bond financing.

The committee bill does not specifically address the question of whether a "pumped storage" type facility would be included under this provision. As I understand the amendment of the Senator from New York, it would clarify this point by allowing tax exempt financing under specified circumstances.

Mr. President, a "pumped storage" type facility is exactly the kind of hydroelectric project which should be encouraged. It is designed to provide peak load power which typically would be otherwise provided by a combustion turbine generator which would burn natural gas or oil. Pumped storage is a direct substitute for oil and gas and should be specifically included in order to avoid any confusion about the intent of the committee.

Mr. JAVITS. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield to my senior colleague.

Mr. JAVITS. Mr. President, the fact of the matter is that this will add the generation of power by displacing the use of water for the use of oil, will it not?

Mr. MOYNIHAN. Mr. President, approximately 1.9 billion barrels per year will be saved.

Mr. JAVITS. I thank my colleague.

Mr. RIBICOFF. Mr. President, this is a clarifying amendment acceptable to the committee.

Mr. MOYNIHAN. I thank the distinguished Senator.

Mr. DOLE. Mr. President, will the Senator from New York yield?

Mr. MOYNIHAN. Mr. President, I am happy to yield.

Mr. DOLE. Mr. President, the Senator from Kansas discussed this amendment with both the Senators from New York and I think it really is offered to clarify what this Senator considers to be a mistake in the report itself. I do not believe there was ever an intention to so restrict the amendment. The amendment should be adopted and we are happy to accept it.

Mr. JAVITS. I thank my colleague.

Mr. MOYNIHAN. I thank the Senator.

Mr. DURKIN. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. DURKIN. Mr. President, as one who has been involved in the fight to bring the restoration of hydroelectric power in this country, especially in the Northeast, I am not only pleased to cosponsor Senator MOYNIHAN's amendment, but I urge its adoption.

Mr. MOYNIHAN. I thank my friend.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York (Mr. MOYNIHAN).

The amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Wyoming (Mr. WALLOP) is recognized to call up his amendment.

AMENDMENT NO. 786

(Purpose: To limit application of the tier I tax to oil benefiting from decontrol of prices)

Mr. WALLOP. Mr. President, I call up amendment No. 786 and ask it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes amendment numbered 786.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 41, strike lines 1 through 4 and insert in lieu thereof the following:

"(2) would be lower tier oil if the base production control lever for such oil were reduced for January 1980 and each month thereafter by 1½ percent (instead of 3 percent): *Provided, however,* That the amount to be taken into account as lower tier oil shall not exceed in any month the amount which would have been lower tier oil if the provisions of the March 1979 energy regulations for adjusting the base production control level were utilized for such month.".

Mr. WALLOP. Mr. President, this amendment and three others are technical in nature, somewhat complex, but they have been looked at in detail by my colleague from Ohio (Mr. METZENBAUM) who would not allow the Senator from Wyoming to escape with anything.

I will not take the Senate's time, unless the Senate requires it.

Mr. President, amendment No. 786 briefly is as follows:

OIL SUBJECT TO TIER I TAX

The Finance Committee adopted a staff amendment intended to prevent the tier I tax from applying to oil which would have sold as upper tier oil under the pricing regulations in existence prior to phased decontrol. The proposal which was adopted had two parts: First, producers would be allowed a property-by-property election to use for tax purposes whatever BPCL they elect for pricing purposes, and second, production from a property above the adjusted BPCL in the pre-decontrol regulations would not be subject to the tier 1 tax (but would be subject to the tier 2 tax).

Unfortunately, the Finance Committee bill, as drafted, does not incorporate language excluding from the tier 1 tax any production above the adjusted BPCL in the pre-decontrol regulations (item 2 above). The report on page 32 states:

> Oil taxed as tier one is oil which would have been lower tier for pricing purposes had the old pricing regulations been continued.

But without specific legislative language excluding production above the old adjusted BPCL, this result may not be obtained.

The proposed amendment would modify the definition of tier 1 oil to clearly exclude production from a property above the property's adjusted BPCL in the pre-decontrol regulations.

It has no revenue effect, Mr. President, and it is my understanding that both the majority, the minority, the staff, and the Joint Tax Committee have agreed to this amendment.

Mr. RIBICOFF. Mr. President, this amendment is satisfactory. It is a clarifying technical amendment. It is acceptable to the committee.

Mr. WALLOP. Mr. President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, I believe I am recognized for two more amendments under the order.

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 787

(Purpose: To make a technical correction to the special rule for transfers of proven oil or gas properties under the net income limitation)

Mr. WALLOP. Mr. President, I call up amendment No. 787 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes a printed amendment numbered 787.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

On page 44, strike lines 11 through 18, and insert in lieu thereof the following:

"(A) IN GENERAL.—In the case of any proven oil or gas property transfer which, but for this subparagraph, would result in an increase in the amount determined under paragraph (3)(C) with respect to the transferee, paragraph (3)(C) shall be applied with respect to the transferee by taking into account only those amounts which would have been allowable with respect to the transferor under paragraph (3)(C) and those costs incurred during perods after such transfer.".

Mr. WALLOP. Mr. President, again, this is a technical amendment.

TAXABLE INCOME LIMIT—TRANSFER RULE

Mr. President, the Finance Committee bill defines windfall profit to be the excess of the removal price of a barrel of crude oil over the sum of the adjusted base price and the severance tax adjustment for such barrel. Windfall profit, however, is limited for any barrel to 90 percent of the net income attributable to the barrel. Net income for these purposes is defined as taxable income with the following adjustments: No percentage depletion deduction is allowed, intangible drilling costs on productive wells must be capitalized, and cost depletion is allowed for the current and all prior tax periods.

The Finance Committee bill, like the House bill, contains a special "transfer rule" to prevent purchasers of oil properties from receiving a new cost basis that would make the net income limitation apply to them. In the case of transfers of proven oil or gas properties made after 1978, the transferee would be allowed a cost depletion deduction only with respect to costs incurred after the date of the transfer.

The amendment would modify the transfer rule for proven oil or gas properties to make it work more precisely by denying the transferee a new, increased basis equal to his purchase price for the property. The amendment would, however, at the same time allow the transferee to take into account those amounts which would have been allowable with respect to the transferor had the property not been transferred, plus those costs incurred during periods after such transfer (as the Finance Committee bill allows).

If the amounts which would have been allowable with respect to the transferor had he not transferred the property are denied the transferee in computing his cost depletion deduction, a very detrimental bias against the purchase and sale of high cost properties would be written into the law. If the transfer would result in the loss of the high costs allowable to the transferor in computing the 90 percent of net income limit, the particular property will be subject to a much higher windfall profit tax in the hands of the transferee than it would have been in the hands of the transferor and therefore a transfer of such property might be effectively prevented.

The proposed amendment would, however, prevent the abuse which both the Finance Committee bill and the House bill are designed to prevent in that the transferee will still be denied a new basis equal to his purchase price for the property.

It prevents an abuse in both directions, Mr. President.

This has been cleared with the majority and the minority staff, and the Joint Tax Committee.

Mr. RIBICOFF. Mr. President, it is a clarifying amendment and it is acceptable to the committee.

Mr. WALLOP. Mr. President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 788

(Purpose: To conform the method of adjusting tier 1 and tier 2 base prices under the windfall profit tax to the method of adjusting lower and upper tier ceiling prices under Department of Energy regulations)

Mr. WALLOP. Mr. President, I call up amendment No. 788 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wyoming (Mr. WALLOP) proposes an amendment numbered 788.

Mr. WALLOP. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 49, after line 13 and before line 14, insert the following:

"(3) Notwithstanding paragraph (1), the Secretary may make such modifications in the inflation adjustment as are reasonably necessary to conform the adjusted base price for tier 1 oil and tier 2 oil with the ceiling price for lower tier oil and upper tier oil, as adjusted for inflation, after May 1979, under the energy regulations.".

Mr. WALLOP. Mr. President, this is the last technical clarifying amendment.

Mr. President, both the House and Finance Committee versions of the windfall profit tax provide for adjustments to the tier 1 and tier 2 base prices by the GHP deflator which is the same inflation adjustment factor used by DOE in adjusting upper and lower tier ceiling prices. However, the mechanics of the inflation adjustment provided in the tax are significantly different from those under the pricing regulations. For example, the pricing adjustments are made monthly and are expressed as cents/barrel equally applicable to ceiling prices for all crudes. The tax adjustments on the other hand would be made quarterly and would be expressed as a percentage increase which would then be applied to the individual base price of each individual crude.

While it is obviously not intended that any windfall tax be associated with crude oil still selling at the controlled ceiling price, the differences in the mechanics of the inflation adjustment could produce such a result. This will cause immense implementation and administrative problems for industry and IRS as de minimus amounts of windfall profit are tacked through accounting systems and because the coverage of the tax is extended to much greater volumes of crude oil.

Further, when it is considered that all producer and purchaser accounting and computer systems are currently set up to handle a DOE-type adjustment, requiring a separate and different type of calculation would be both a tremendous complication and unnecessary. This is an especially important consideration since less than 1 month will be available for the companies to prepare for implementation of the tax.

There is recognition of this problem on page 33 of the Finance Committee report, however, the method of solution is entirely inadequate. The amendment would correct this problem by granting the Treasury Secretary discretionary authority to conform the mechanics of the inflation adjustments under the tax bill to the mechanics urged by the DOE for adjusting the ceiling prices.

The same situation applies here.

Mr. RIBICOFF. Mr. President, this amendment is acceptable to the committee.

Mr. WALLOP. Mr. President, I move the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WALLOP. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

The PRESIDING OFFICER. The Senator from Washington is recognized to call up an amendment.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the Senator from New Mexico without losing my right to the floor.

Mr. DOLE. For the purpose of calling up an amendment?

Mr. JACKSON. I do not know yet.

Mr. SCHMITT. That is my next thing. I hope the Senator from Washington will agree to a unanimous-consent request to call up amendment No. 809. This amendment is an energy-related modification of title III of S. 1597, which is the Savings and Investment Encouragement Act of 1978, introduced by the Senator from Missouri (Mr. DANFORTH), with 40 cosponsors, on July 30, 1979.

I want to call that up for the purposes of having it attached to this bill.

The text of the amendment is as follows:

At the appropriate place in the bill insert the following new subsection (b) in section 231:

(b) ALLOWANCE OF INVESTMENT CREDIT FOR ENERGY RESEARCH AND EXPERIMENTAL EXPENDITURES.—

(1) QUALIFIED INVESTMENT FOR RESEARCH AND EXPERIMENTAL EXPENDITURE.—Paragraph (1) of section 46(c) (relating to qualified investment) is amended—

(A) by striking out "plus" at the end of subparagraph (A),

(B) by striking out the period in subparagraph (B) and inserting in lieu thereof ", plus", and

(C) by inserting immediately after subparagraph (B) the following new subparagraph:

"(C) the amount of qualified research and experimental expenditures (as defined in section 48(q)) paid or incurred by the taxpayer during such taxable year in connection with production, conversion, and conservation of energy.".

(2) DEFINITION.—Section 48 (relating to definitions and special rules) is amended by redesignating subsection (q) as (r), and by inserting immediately after subsection (p) the following new subsection:

"(q) QUALIFIED ENERGY RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this subpart, the term 'qualified energy research and experimental expenditures' has the same meaning as the phrase 'research and experimental expenditures' in section 174.".

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to expenitures made in taxable years beginning after September 30, 1980.

Mr. METZENBAUM. Mr. President, reserving the right to object, and it is likely I will object, what is the cost of the amendment proposed by the Senator from New Mexico?

Mr. SCHMITT. It is my understanding that the static cost—that is, the direct cost—without considering the impact of the research and development incurred by the amendment, would be approximately $2 billion over the period of the bill. But I defer to the staff of the majority on the Finance Committee for confirmation of that estimate. I received that from them.

Mr. RIBICOFF. If the Senator will yield?

Mr. SCHMITT. I am happy to yield.

Mr. RIBICOFF. This amendment would cost, over the period of 10 years, about $2 billion. It is an amendment that may have considerable merit. However, it was not considered by the committee. We had no testimony. It seems to me that there is enough merit in it to guarantee hearings by the committee on the proposal, but, since we did not have hearings and did not focus on it, it will be impossible for us to approve or accept it at this time.

I could say, in behalf of the chairman, that there is willingness on the part of the chairman to hold hearings on the amendment, because there is considerable merit to it.

Mr. SCHMITT. I appreciate that, but I think that would be very important to do, because this is a little more specific than the hearings that were conducted earlier this year on the similar bill that was a more general research and development amendment. That was title III of S. 1597.

Those hearings were held on June 18 of 1979 and, I think, developed a considerable body of testimony in favor of this approach. This is more specific and does deal directly with the energy-related research and development. The commitment by the committee to hold hearings—I hope in January or February—in order to get this issue before the Senate at the earliest possible time is a very important commitment. It will allow us to look directly at a part of the total research and development problem in this country.

With that understanding, that it would be early next year, I shall yield first to the Senator from Kansas.

Mr. DOLE. Let me say to the Senator from New Mexico that I discussed this with him, and, some months ago, discussed it with the Senator from Missouri. There is a great deal of interest, I think, on both sides in this approach. Certainly, the Senator from Kansas, as a member of the Committee on Finance, will be pleased to cooperate with the chairman and the distinguished Senators from Connecticut and Missouri in assuring the Senator from New Mexico that there will be bona fide hearings early next year.

Mr. SCHMITT. I thank the Senator from Kansas also for his courtesy and commitment in guaranteeing that. I think it is very important that the Senate recognize that this initiative is the extension of an initiative begun by the Senator from Missouri and also by many others in this body. I believe there is general agreement that this kind of tax credit by the Senate, an investment credit, will be a very important addition to rejuvenating the productivity and the technology base of this country.

Mr. President, I shall not insist on the consideration of the amendment at this time. I look forward to working with the committee on hearings early next year and the introduction of a bill or consideration of a bill or an amendment as an appropriate vehicle sometime during the next session of Congress.

(1) SLOW GROWTH OF GNP

Between 1962 and 1977, our GNP grew 3.5 percent as compared with 8.3 percent in Japan, and 4 percent in West Germany. In 1978 our GNP grew 3.9 percent. In the first quarter of 1979 it increased at an annual rate of only 0.8 percent. Preliminary indications are that real GNP declined slightly in the second quarter.

(2) DECLINE IN PRODUCTIVITY

Between 1962 and 1977 productivity in America grew 2.7 percent compared to 8.4 percent in Japan, 5.5 percent in West Germany, 2.7 percent in the United Kingdom, and 5.7 percent in France. In 1978, our productivity grew only 1.1 percent. In the first quarter of 1979 it fell at an annual rate of 3.5 percent.

(3) INADEQUATE PERSONAL SAVINGS

As individuals, Americans are consumers, not savers. Americans save a meager 6.5 percent of disposable income compared to 25 percent by the Japanese, 15 percent by the West Germans, and 13 percent by the British.

(4) LIMITED INVESTMENT IN FUTURE GROWTH

From 1966 to 1976, America invested 13.5 percent of its GNP in plant and equipment compared to 26.4 percent in Japan, 17.4 percent in West Germany, 14.9 percent in the United Kingdom, and 16.7 percent in France. In 1978, we invested only 10.6 percent and in the first quarter of 1979, 10.8 percent (annual rate). We are spending a smaller percent of GNP on research and development than we have historically. We now spend 2.25 percent on R. & D. compared to 2.84 percent in 1968.

These are by no means the only problems facing our economy. With a 14-percent inflation rate since January, unemployment expected to go to 7 percent or higher by next year, and a Federal deficit of over $30 billion annually, action on a variety of fronts is called for.

Mr. President, the basic question that we face economically in the immediate future is how to create deflationary pressures in an economy that has gone from less than 4-percent inflation at the beginning of the Carter administration to one now estimated to be running at about 13-percent inflation, and rising.

There are a number of ways to create deflationary pressures. We can decrease the money supply, which has not worked too well with a high rate of increase of Federal spending. We can increase goods and services, or we can increase productivity. All of those would serve us very well.

Research and development by the Federal Government in many areas can be inflationary, and we must remember that as we attempt to cut the Federal deficit. But research and development in the private sector has been and should be the principal foundation by which we work toward creating deflationary pressures in our economy; for the private sector is the sector that can most rapidly increase goods and services. It is the sector of our Nation that can most rapidly increase productivity. But the regulatory and tax policies of recent times have inhibited this effort by the private sector.

Mr. President, during the last session of the Congress and the 1st session of the 96th Congress, the Commerce Committee conscientiously fulfilled its responsibility for science and technology oversight by holding a probing series of hearings on the state of research and development and innovation in the United States.

During the 20 years following World War II, American technology contributed to an annual rate of productivity increases of 3.4 percent. Since 1966, that rate of increase has been cut in half. While America is still the most productive country in the world, it is clear that our leadership is being challenged. Other countries are spending higher percentages of their gross national product on research and development, and they are gaining the benefits of greater innovation and high productivity increases.

The hearing records developed by the Commerce Committee to date has clearly pointed to excessive regulation and inappropriate tax policies as the major impediments to innovation. We have only begun to recognize the role that R. & D. plays in our economy and what effect productivity has in this regard.

Testimony in previous subcommittee hearings cited various indications of lagging U.S. industrial innovation. Most of these indicators reflect only a part of the innovation process—for example, R. & D. expenditures—are subject to very different interpretations—for example, international patent "balances" or are influenced by many factors other than technological innovation—for example, productivity growth and trade balances. However, two recent trends are more directly related to innovation and are disturbing from the point of view of U.S. economic growth, productivity, and international trade competitiveness:

First. There has been an astonishing drop in the formation of new small high-technology companies which have been responsible for a disproportionate share of innovations. Several years ago, 200 to 300 new venture companies entered the market with new-issue underwritings each year; in 1975 there were four.

Second. Existing first in R. & D. intensive leading industries have shifted their investments from major new product and manufacturing innovations to relatively minor product and process improvements promising short-term returns. Not only has there been a shift from research to development, although total industrial R. & D. spending has generally kept pace with inflation, but there has also been a decline in investments in new plant and equipment which may incorporate new technology.

Both trends represent reduced risk taking on the part of investors and corporate managers in the face of slow economic growth, inflation, and general economic uncertainty. Witnesses have asserted that various Government policies and changing Federal R. & D. priorities create a new disincentive to industrial R. & D. and innovation; but we have taken relatively little action to try to alleviate some of the roadblocks currently hindering innovation.

Mr. President, I believe we are finally beginning to recognize some of the factors that contribute to our Nation's economic well-being. Productivity and innovation are concepts that are being talked about, and we must now make a conscious effort to offer incentives to spur innovation so that the 1980's will not be a time of living off of past achievements but a time of creatively dealing with current and future situations.

Mr. President, I ask unanimous consent to have printed in the RECORD an article dated January 16, 1978, by Louis Harris describing a poll that was taken on what Americans feel makes America great. I think it is extremely important in the context of this morning's discussion. The first three items at the top of the list are rich natural resources, a hard-working people, and scientific research; then such other factors as technological genius, industrial know-how, and a government that responds to people's needs. Those are in fact what made America great. It is clear that the American people understand that.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Jan. 16, 1978]

CHANGES AHEAD IN FACTORS THAT MAKE AMERICA GREAT

(By Lou Harris)

Americans believe the combination of factors that will make this country great in the future is somewhat different from the one that made it great in the past.

In order of importance, the public attributes America's present greatness to "rich natural resources," "a hard working people," "scientific research," "industrial know-how" and "technological genius." As they look ahead, people are convinced the United States will depend more on scientific research, industrial know-how and technological genius, and work.

Also gaining importance as factors in the future are "government that responds to people's needs," "giving every race and creed an equal chance to get ahead," and "a free, unlimited education to all qualified."

Of 20 major factors tested in a Harvard Survey of 1,520 adults nationwide, six are projected to be more important over the next 25 years than they were in the past. The shifts:

At the top of the list is "scientific research." While 89 per cent think this was an important factor in past greatness, 91 per cent believe it will be a major factor in America's future success.

"Technological genius" is felt to have been a key element in America's past greatness by 75 per cent. Seventy-eight per cent believe it is a key to future national greatness, while 80 per cent continue to think that industrial know-how will also be crucial.

"A government that responds to people's needs" is named by 61 per cent as having made a major contribution to the country's greatness in the past. Seventy per cent think this will play a more important role in the future.

While 59 per cent believe the "giving every race and creed an equal chance to get ahead" has been a major contributor to this country's greatness in the past, 70 per cent think that this will be a key factor in the future.

In the past, according to 72 per cent, a major contributor to the country's greatness was a "free, unlimited education to all qualified." In the future, 75 per cent think it will be important.

Mr. SCHMITT. Mr. President, I ask unanimous consent that an article from

Technology entitled "Biting the Hand That Leads Us," be printed in the RECORD, as well as that article by Russell W. Peterson entitled "Impacts of Technology" from "American Scientist" be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

BITING THE HAND THAT LEADS US

The 1977 Nobel Prize Ceremony resulted in an almost embarassing domination by American scientific achievement. It was acclaimed by many as yet another glowing testimonial to the long tradition of American scientific and technological superiority.

But the 1977 Nobel Prize Ceremony and the acclamations that followed are a smoke screen covering an increasingly critical problem that could dramatically affect all our lives very soon.

The prizes American scientists received in 1977 were the result of work begun in the late 1950s and early 1960s. Since then, our interest in investment in scientific inquiry and technological development have dramatically declined. We appear to have taken our tradition of technological supremacy for granted. Even placed it under suspicion. As a result, we have not made the investment in time, talent and money to make certain the technologies we will need to solve tomorrow's critical problems will be available and not mere dreams.

Unless we somehow renew our commitment to science and technology, we won't be invited to the Nobel Prize Ceremonies in the 1980s. But even more important, we will have to suffer the consequences of our inaction.

Technology has significantly improved the quality of our lives over the past 200 years. Where did it really come from?

If you made a list of the major scientific developments over the past 200 years, your list, no doubt, would include the computer, the electric light bulb, the transistor, the internal combustion engine, television, the laser, atomic fission, radar, penicillin, the airplane and space science.

When you examine the specifics of the development of these technologies, it becomes apparent that our image of technological supremacy is more illusion than fact, and that we need to better understand where we are now, how we got there, and where we should be going. Consider:

1. Most of the discoveries listed above were initially the result of work people did, or began, in other countries. American scientists principally applied basic research from abroad, refined it, or extended it.

2. The majority of the technological extensions listed above evolved from work done on American college or university campuses. From minds trained on American soil and supported by American business.

3. Most of the recent advances in science and technology have resulted from a national emphasis on and reward for scientific achievement that reached a peak in the 1950s and 1960s—not from work done in the 1970s.

It may look to us like a lot is going on. But our new pocket calculators and business machines, computers, video games, microwave ovens, digital watches, fuel-injected automobiles, supersonic aircraft, space satellites, and telecommunications systems are really the result of the application and extension of 10- to 15-year-old science.

For the past 10 years, the public and government have viewed "new science" as a luxury we can't afford. Thus, investment in and support of scientific inquiry have been extremely conservative.

Technological progress, however, is still the cornerstone of our social system. But it requires gifted people, not "tinkers." Today's scientists, and tomorrow's, will need extensive training if they are to develop the scientific solutions we need to solve the critical problems now, and in the future. Where will that training come from? Our colleges and universities, of course. But that may not be possible.

Our colleges and universities are no longer able to provide the facilities, programs, and professors that tomorrow's scientists will need.

The well is running dry. For the past 10 years, The Council for Financial Aid to Education has warned business and the public that America's colleges and universities are in serious financial trouble.

Government funding and support, expressed in constant 1967 dollars, has declined by more than 20 percent since that year. Funds for equipment and facilities have been cut by more than 50 percent since 1967. Grants have been eliminated. University scientists are hampered by instability in federal funding and by red tape in the administration of contracts. Long-term projects designed to evolve the solutions to tomorrow's problems have been abandoned and replaced by fewer short-term projects aimed at providing stop-gap solutions to more immediate problems. And financial stringency has limited the career opportunities of young scientists and threatens to drive them to other, less productive environments.

There is a reason. Our political system naturally poses pressures to satisfy the majority and spread its resources over a large number of claimants. If there is too little money to satisfy all claims, the needs of institutions of special quality—such as research-oriented schools—are readily dismissed as elitist and unnecessary.

As a result, the underlying foundation of American science—our colleges and universities—is today inadequate to support and direct the progress of future technological growth.

Significantly reduced R&D investment by American business is the other half of the problem.

In 1976, industry spent $38 billion for R&D. Measured in deflated dollars, this represents a 5 percent drop from 1968. As a percentage of our GNP, R&D spending has averaged 2.4 percent in the 1970s thus far, as compared to 2.9 percent in the 1960s, a reduction of over 17 percent. In contrast, Japan has steadily accelerated investment in R&D by 74 percent since 1950. And West Germany has increased R&D investment by 40 percent since 1968.

The federal budget reveals a major reason for the dwindling dollars. In 1965, 12.6 cents of every dollar spent by the government went for R&D. By 1975, this share had dropped to 5.7 cents. Industry R&D spending has barely held even with inflation.

No wonder the list of technological achievements is getting shorter.

Basic research, applied research, or development? Where should our money be?

R&D involves three kinds of efforts, "Basic research," where new knowledge is sought. "Applied research," which works toward practical application of existing knowledge. And "development," where new products emerge.

Financially, "basic research" has suffered the most—dropping about 10 percent from 1968. Because industry and the public have demanded more emphasis on short-term application R&D that will provide quick results rather than invest in more expensive, long-term inquiry that could solve many of the world's health, energy, food, population, and economic problems.

"Applied research" also suffers from lack of funding. Up to now, this area has been responsible for our technological reputation. But now industry must direct much of its R&D effort and funds toward creating products that comply with new federal regulations—such as pollution control, worker safety, and product safety—and divert funding from other, less immediate projects. As a result, there isn't enough left over to pay for the kind of widespread effort that has been largely responsible for our rapid technological growth over the past century.

"Development" is what we now have most. That's why the public thinks we're still technologically superior and moving ahead. But development can only occur as the final step. We must invest first in basic and applied research. Only then can development evolve the answers to our critical problems.

All too often, we overlook the facts behind our tradition and embrace the illusions.

Fact 1: Up to 1880, our technology was imported.

Up to 1850, we were basically an agricultural country that imported both the equipment and technology to help us grow.

Between 1850 and 1880, America changed from an agricultural economy to an economy increasingly dependent upon the technology that would create whole industries and complex products.

The first stage of technological progress involved laying the railroad tracks, stringing the telegraph and telephone lines, and digging the coal, copper, and steel that industry needed. And during this period the older arts of cotton manufacturing, iron casting, and forging shared popular attention.

The technologies and research needed were brought, or bought, from abroad. For we had little time to spend in the labs. And we didn't have the labs to spend the time in.

Fact 2: From 1880 to 1940, technology evolved by shrewd guessing.

As the need for increased scientific inquiry and research grew in response to the demands of the industrial revolution, so too did the environment for technological growth.

Our basic science was still imported. But American scientists began to work toward extending and applying the principles imported from abroad.

Yet our country was not led by scientific management. Instead, popular opinion and shrewd guessing directed technological growth. The probabilities of good fortune and success were exceedingy high—witness the work of Edison, Rockefeller, Ford, Carnegie—but it was still guessing. Guessing, characterized by scientific insight that brilliantly applied the ideas and theories of others to evolve such technological achievements as the automobile, the telephone, electric lamps, agricultural machinery, the radio, motion pictures, medical machines, the airplane, and sophisticated photography.

But it is one thing to provide an environment for the application of science—as we did up to 1940—and quite another thing to provide the continuing environment that will stimulate basic scientific inquiry that will ultimately lead to the development of significant new technologies. *That* we haven't done.

Fact 3: After 1940, technological development was more a smorgasbord approach to scientific achievement than a disciplined attack on a specific problem.

The Depression of the 1930s, followed by the traumatic world war of the early 1940s, made us abundantly aware of our scientific inadequacies. We could no longer depend on science from abroad to act as the catalyst for our technological progress. And we needed immediate answers to extremely complex problems. Answers that only scientists could provide.

As a result, American scientists on college campuses, in the laboratories of industry, and in the military were encouraged to do one thing. Expand the scope of scientific inquiry.

The results of this emphasis on scientific achievement were remarkable. Colleges and universities filled classes with young people intent on scientific careers, built new facilities, added complex new courses, and brought in expert faculties. Scientists, both young and old, produced a vast collection of new ideas and discoveries. And science was considered by the general public to be the ultimate panacea.

It was hoped that this "smorgasbord" of scientific results would bring solutions to our most pressing immediate and long-range problems. In fact, to some degree it did. For the '50s produced the development of the transistor, the entire semiconductor industry, the development of nuclear science and discovery of nuclear fission silicones and modern polymerchemistry, the first commercial computer, the refinement of radar, microwave communications, masers and lasers.

Fact 4: Sputniks did less than we think.

It is fashionable to date the increase in emphasis on applied science and technology back to the Russian launching of Sputnik. But it is also a mistake to attribute more to Sputnik than is actually there.

Basically, the launching of Sputnik did two things: (1) Russia threw down the gauntlet and challenged American science to maintain its reputation for technological superiority, and (2) more importantly, Sputnik proved "it could be done" if science were properly applied to the accomplishment of an important mission—and if funds were available.

Fortunately, we responded to the challenge of Sputnik. President Kennedy promised that we would have a man on the moon by 1970 and provided the stimulus and funding to do the job. By 1969, man walked on the moon.

But the emphasis on the close association between scientific inquiry and technological development in the late '50s and '60s wasn't due only to the challenge of Sputnik.

The recessions of 1958 and 1963 dramatically decreased unrestricted scientific inquiry and unlimited funding of basic research. Thus, government and business were forced by sheer economics to abandon the smorgasbord approach and emphasize the application of scientific inquiry toward the solution of a few specific problems.

Fact 5: In the mid-1960s, people expected more from technology than technology was prepared to give.

In the mid-1960s the achievements of American scientists were proclaimed throughout the world's media.

Our space program was nearing completion; we would win the space race. The challenge of space exploration that had so dominated public attention for 10 years had been met. But the price tag bothered people.

Then our attention turned to Vietnam. This was the war that technology would win—almost by remote control—in perhaps a week's time. All we had to do was apply our tremendously superior technology and the situation would no longer exist.

The harsh facts of war quickly exploded our illusions. And our exaltation of science as panacea diminished dramatically. As well, scientific and technological development outpaced social acceptance. People were exposed to complex new ideas and revolutionary new products daily. Ideas that forced them to change job status, economic levels, and lifestyles—changes most weren't prepared to make.

Technology had let us down.

And, due to previous recessions and military research spending, the faucet of research funding that had flowed so freely 10 years before was turned off—and wasn't turned on again.

Ultimately, our nation rebelled against technology. For technology didn't provide a ready solution to our deep social problems. It didn't have immediate answers to war and social disruption. All it did was promote change and cost a lot of money.

As a result, emphasis on scientific inquiry decreased drastically and was placed under strict control. Government and business withdrew their commitments to technological growth—and their funding. And colleges and universities with dwindling funds were faced with large bills to pay. Business became conservative, content to develop or refine products based on old science. And young people turned away from science to such humanities-oriented programs as law, journalism and teaching.

Perhaps we expected too much from technology. For neither science nor technology is capable of solving all our problems. Certainly not our social and political problems.

But in our desire to blame technology for our problems, we let the pendulum swing too far in the reverse direction.

Fact 6: Now we are at the crossroads.

During the past 10 years of decreasing emphasis on, and investment in, scientific inquiry and technological development, three major things have happened:

1. Foreign competitors have crept up, quietly. We are in the process of being beaten in the world market. Countries like West Germany and Japan have invested heavily in support of scientific inquiry and technological development. And the results are beginning to pour into our country and challenge our own competitive products.

2. There are a number of serious problems we must resolve immediately. Problems that a continuing commitment to technological progress might have prevented or solved. The energy crisis and its related problems. Productivity in the steel industry. The demand for more fuel-efficient automobiles. The need for alternate sources of energy. The need for cost-efficient pollution control. And the need for more electronics research to counteract foreign imports.

3. We seem to have lost our scientific spirit. Government, business, and the general public now appear skeptical of the contributions of technology. And the spirit of scientific inquiry that was the hallmark of the "golden age of science in the 50s and 60s" has been all but forgotten.

Perhaps this is why government and industry are unable to provide the leadership and encouragement required for the investment of the same kind of talent, time and funds they applied to winning the race to the moon to the discovery of short- and long-term solutions to the energy crisis. Had we done so, technology might well have helped prevent the problem.

Fact 7: Technological development doesn't take as long as you may think.

One way people have of ignoring the problem is to suggest that technological development takes a long time. It does. But certainly not as long as we may think.

The time technological development takes actually is directly related to the ability of a society to accept it.

But in an environment where technology is suspect and funding lacking, technology will take a long time to evolve. And that is basically where we stand today.

What we need is not so much a return to the "golden age of science of the '50s and '60s," but the beginning of an era where government both directly and indirectly supports and encourages scientific inquiry, rather than exercises control over it.

Universities can press the case for support of research more stringently than in the past.

Up to now, this task has been largely left to individual scientists, who have worked effectively with their counterparts in the National Science Foundation and HEW. But scientists cannot fully appreciate the needs of universities as a whole. They have little contact with members of Congress or with other key officials in government. And they find it difficult to attract support from representatives of business and other sectors who have a stake in a vigorous science development program.

What can be done? University organizations—especially the Association of American University Professors—must make a sustained effort to develop an effective policy for the financial support of research. And they need to create an effective forum in Congress and in the Executive Branch where they can discuss this policy not only at budget time, but also on a more informal, long-term basis.

Above all, a much more forceful case must be made by university officials for the importance of research universities to the nation's technology welfare. There is a need for a "national research commitment," including federal support to universities and colleges as a "critical national resource," to combat nations who have a more substantial commitment to R&D. A sound continuing commitment would sustain a vigorous research effort in all basic fields of knowledge, as opposed to using universities as vehicles to attack only immediate problems.

Government holds the key to the future.

Government hasn't totally ignored the problem. But government hasn't been totally responsive to the immediacy of the problem, either.

To effect the changes needed to encourage technological growth in the future, government needs to change its attitude from a desire to control technological growth to a spirit of mutual cooperation and encouragement to all spheres of scientific endeavor.

The 10.9% increase in federal funding of research proposed for 1979 is a step in the right direction. But a small step nonetheless.

Recently, U.S. News & World Report updated their 1976 survey of public opinion on the ability of 25 institutions and groups to get things done, and on their honesty, integrity, and dependability.

Science and technology, a new addition to the list, was rated highest in both performance and dependability, while "politicians" and "the federal bureaucracy" rated lowest.

No wonder funding lags behind desire.

Perhaps government can learn a lesson from our foreign competitors. In Japan, for instance, government encourages industry and research laboratories to work together. And provides a good deal of the funds to support scientific inquiry.

Our government can do the same thing. By supporting scientific inquiry and creating a positive environment for technological growth.

By increasing federal research funding to colleges and universities, and to private industry.

By developing programs that would provide tax incentives to industries that increase their investment in R&D.

By providing incentives to people or businesses who come up with solutions to our most pressing problems.

By speaking out in favor of the spirit of inquiry.

By educating the public about the true role of science and technology and its relevance to our future.

There's one thing we all can do.

Give technology a chance to solve our problems.

First, we must all recognize what technology can do. And what it cannot do.

Then we must direct technology to meet specific challenges the future brings. And support scientific inquiry as enthusiastically as we did in the late '50s and early '60s.

As it has in the past, technology will provide the solutions.

We have a great tradition of technology that must be preserved and encouraged. Its enemies must be overcome even if they happen to be "us."

Science and technology can solve many problems. If they don't, what else will?

IMPACTS OF TECHNOLOGY

Where have science and technology taken us as a people, and, more important, where are they likely to take us in the future? Helping the Congress to map that course is essentially the task of the Office of Technology Assessment. How we as a society do that mapping is serious business: it determines the heritage or debt we leave to posterity.

Nothing has had more impact on the quality of life than the application of science—both positively and negatively. The obvious challenge is to apply our scientific knowledge in ways that will maximize the positive and minimize the negative. But for every force there is a counterforce. For every giant step we take for mankind, we seem inexorably to slip backward a little. For every button we push on the gigantic game board of science, another seems to pop up elsewhere on the board.

What the American Indian and some other ancient cultures have known all along is now generally recognized—a change anywhere affects everything else. The more science advances us, the more we come to realize the seamless web that is man and nature, the eternal interrelationship of things. Furthermore, it is now appreciated that a decision made today may well have a delayed impact twenty, thirty, or forty years from now. And it is increasingly clear that the success of the life adventure of each of us depends on what other individuals all over the world are doing. And finally, whether like it or not, we have come to understand that man must live in harmony with nature.

As science and technology advance and as we unravel more of nature's secrets, we hear the question: Can science solve our major problems? The experience of recent decades suggests that too much has often been expected of our scientific and technological know-how. Consider these recent expectations: antibiotics would wipe out disease; the atom would provide a boundless source of energy; the green revolution would conquer world hunger. Failure of technology to meet our expectations is, in part, a reflection of the simple truth that each new advance serves not only to meet old needs but also to create new needs almost simultaneously.

As the National Science Foundation recently reported, the most significant thing we have learned may be that technological solutions are unlikely to be permanent or complete solutions. Antibiotics may have curbed disease, but as they have helped in making inroads on the historic scourges to mankind's health, other diseases—cancer, heart disease, diabetes—have moved to the forefront. The atom has indeed provided a new and important source of energy, but at the possible cost of saddling future generations with the surveillance of radioactive wastes. Medical technology and improved nutrition have produced a great success—lower infant mortality—but in so doing have created the population explosion.

The new problems generated by each advance involve thorny institutional, cultural, or political dimensions that are difficult to resolve. It is not too much to say that science and technology by themselves are often inadequate to ensure enhanced social welfare. It is with that understanding that the Congress has acted in recent years, for example, to form the Office of Technology Assessment. We are now more cautious and more realistic in our assessment of technology. We now must demand critical analyses of what an advance can and cannot be expected to do, in what time period, and with what social and cultural costs and benefits.

Perhaps for the first time, we are seriously trying to anticipate costs as well as benefits. We have at last begun to expand our vision to try to assess the distant effects of a new technology—economic, environmental, political, and social—before the technology has even been shown to be workable. Is the technology wise? Will it inhibit progress more than it helps? Is it in the public interest, and in the interest of posterity?

It is easy to bemoan the problems that have resulted from some applications of science and technology and to advocate a return to the simpler life-styles of yesterday, to a society less dependent upon technology. Those simpler times were possible primarily because there were fewer people, with more limited aspirations. Certainly we cannot turn back the clock. Today we have no choice but to go forward, striving to increase our understanding of science and of the world around us in order that we may better our condition. To this end we must cultivate our scientific and technological resources and steer their application in directions that will benefit man and preserve his ecosystem.

THE NECESSITY FOR CHOICES

In the years ahead we will be able to do almost anything we want to do, but certainly we cannot do everything. We have to make choices as we seek better things for better living through science—if I may paraphrase an old commercial slogan. But what choices?

Our choices are determined not only by the options of which we are aware but also by our values, attitudes, and perceptions. To complicate the picture there appears to be a revolution occurring in our midst—a paradigm shift, a change in values, attitudes, and perceptions, a change in the way many people look at the world around them. The environmental ethic, simpler life-styles, conservation of resources, emphasis on renewable energy sources—these are all manifestations of this revolution.

But one thing doesn't change. Each day persists in having only 24 hours, and the competition for these hours grows and grows. And the short-term or crisis demands dominate the scene. As Henry Kissinger has said, "The biggest problem in government is that the urgent steals all the time from the important." While we are busy with the short term, we are being swept into the future by the momentum of the status quo.

It must be the scientist's challenge to step back occasionally from the immediate task to reflect on that "seamless web" I mentioned, to consider just what kind of world it is that we want for future generations and to consider whether the work we are doing is leading in the right direction. If not, the scientist should have the courage to change course, even if it means near-term personal sacrifice. It requires just that—courage—to speak and act against the status quo. But we can bring about the essential changes. To do so will require that we look at things comprehensively and work toward worldwide goals that provide for improving the quality of life everywhere.

Scientists have traditionally divided their endeavors into specific disciplines for their own convenience and hence have perceived reality from many different, and relatively narrow, perspectives. Such specialization has been necessary for progress. But we must remember that the world around us is not neatly compartmentalized: it comes as a whole package, made up of interrelated components, each part of which affects other parts. That means we cannot simply muddle through, concentrating only on the problem immediately before us. We can pride ourselves on our perceptions of truth in our areas of specialty, but we must broaden our perceptions to include a holistic perspective. Otherwise, the really important is not always obvious—and we risk missing the main point.

While I have become more and more convinced of the importance of making decisions from a holistic perspective, I have at the same time become increasingly appreciative of the great strengths of a pluralistic society. These seemingly contradictory convictions stem from the same considerations: each action affects everything else; the impact of today's actions may be delayed for decades; the cumulative impact of desirable and tolerable single actions can, in the aggregate, become intolerable; there is a limit to the supply of nonrenewable resources; people everywhere are becoming more interdependent; man must live in harmony with nature; we are ill equipped to measure progress. These considerations certainly call for a comprehensive understanding of our global environment and the ability to bring such understanding to bear on our decisionmaking.

At the same time the complexity of the world around us makes it impossible for any person to understand adequately the many forces at work and their long-term impacts. If you couple this with the priority we give to our selfish interests such as making a dollar, getting reelected, and providing for our own security, you can see why we must be concerned about the adequacy of decisionmaking for the long-term public interest.

We have many great institutions in our country and tens of thousands of good ones—institutions of learning, communication, government, business, and culture. If each of these institutions strives to acquire leaders of even broader understanding and each makes its separate contribution with only that government constraint essential to control abuses and protect the public interest, this holistic pluralism will probably do a good job of steering our course into the future. A similar approach by the world family of nations—each nation recognizing its dependence on all the other institutions of the world for its long-term security and well-being—would be a great gift to our children and grandchildren.

If I can record no other achievement as Director of OTA, I will happily settle for bringing this holistic approach to the role of adviser to the Congress on the impacts of technology. For that, I believe, is what the Congress intended when it established this office in 1972. Here is the way we have proposed to fulfill that mission.

CRITICAL TECHNICAL ISSUES

Obviously, the range of technological applications that OTA might analyze far exceeds its resources. Until now, we have worked primarily on items requested by congressional committees. We wish to continue to be responsive to such requests, but we are now also in the process of evolving a list of priority projects to work on.

The question is, What are the critical technical issues of the world about which we should be advising Congress? We want to present comprehensive, even-handed, authoritative messages on these issues to provide Congress with options for action. For each option, we will weigh its long-term beneficial and adverse impacts on society. At the moment, our preliminary list contains thirty projects ranked in order of priority. In arriving at it, we considered over 4,000 possibilities and involved several thousand leaders from all over the country. Each year, we will work on as many on the list as appropriated funds permit. The priority list will be a dynamic entity, periodically re-ordered and added to on the basis of new knowledge and events.

In order for any project to appear on the list, the question of strategies for applying science and technology must be at issue. Take, as one example, the issue of applied genetics. This is one of the projects that has been approved recently by the Technology Assessment Board, and on which we plan to complete a report by May 1980. We want, quite simply, to find out whether advances in the technologies of applied genetics may be accompanied by serious risk. So far, the short-run view has been taken: the federal government has focused on only one technology—recombinant DNA—and one issue—containment of new and possibly harmful organisms. Little attention has been given to other technologies, such as cell fusion, and other issues, such as costs and benefits, social and ethical questions, and the long-term implications of man's increasing ability to direct his own evolution.

We have asked these questions: If regulation is desirable, who should exercise it and how extensive should it be? Considering such delicate issues as public rights versus property rights and incentives to innovation, who should "own" new life forms that have commercial value and could benefit—or harm—mankind? We have yet to ask, although we will now ask: What are some key opportunities for society through applied genetics? What are some of the potential problems? Is it desirable for the government to regulate genetics research, if we weigh freedom of scientific inquiry against social values and risks to the public?

Or take, as a second example, the broader area of health promotion and the prevention of disease. The federal presence in the health sector is large and growing: the government currently funds more than two-thirds of all health research. But the federal influence goes far beyond research; the government now contributes almost one-third of all health spending in the country. The percentage of the GNP spent on health has almost doubled in the past twenty-five years, while annual per capita expenditures on health care have increased nearly tenfold over the same period. And as much as any other part of our economy, health costs have been dramatically increased by inflation.

Thus, we have ample motivation for asking: What should be our national strategy for using science and technology in the health area? It is clear that our health policies are geared more toward curative than preventive medicine. They lay great stress on ensuring that, once illness strikes, people have access to adequate health care, but they lay much less stress on keeping people healthy in the first place. Thus, Medicare will reimburse you for the treatment of your pneumonia but not for the preventive innoculation with the appropriate vaccine.

Public health research tells us that the environment, personal behavior, and genetics are the three major influences on health, but many diseases linked to them cannot be corrected even by the most sophisticated medical procedures. Thus Congress is often asked to enact legislation designed to prevent illness by removing environmental health hazards and restructuring components of the medical-care delivery system to stress preventive health care. The benefits and costs of preventive technologies need to be compared with the equivalent advantages and disadvantages of treatment technologies. The goal of the OTA, of course, is to provide Congress with the broadest possible authoritative picture as it plays the central role in the mounting national debate over health care and its delivery.

Some other projects at OTA include impacts of telecommunications technologies, disposal of nuclear wastes, future energy alternatives, regulations and technological innovation, effects of nuclear war, future global food alternatives, and utilization of extraterrestrial space. The holistic approach requires that in each of these projects we analyze the social, economic, envionmental, and political implications of the technologies involved. Issues such as these and the many other complications raised by scientific and technological development cannot be addressed on a piecemeal basis.

THE QUALITY OF LIFE

Another obstacle to progress, along with our traditional proclivity for the fragmented approach to science, is that we are flying blind. We have no means of measuring growth in quality of life. We have become enamored with the concept of Gross National Product and have made a religion out of it, failing to recognize how inaccurate it is for measuring and motivating the movement of human beings toward a better life. Of course, GNP remains a useful tool for assessing the total activities of a nation that involve a financial transfer, but it lumps together all activities, whether they enhance or detract from the quality of life, and it does not measure at all many activities that greatly affect that quality.

If we produce a million dollars worth of carcinogens, this weighs as much on the GNP scale as a million dollars worth of antibiotics. If we hire a housekeeper, this counts toward GNP, but when one's spouse manages a home it does not count. Teaching counts, but learning does not. The Gross National Product does not count the hungry, the unemployed, the sick, the ill-housed, the illiterate, the oppressed, the depressed, the frightened, the unhappily employed, or those who have reached their highest level of fulfillment. Nor does it measure the waste of our resources, the spending of our national capital such as oil, or the befoulment of our life-support systems.

We need an additional concept to help organize our affairs—one that would directly measure the quality of life resulting from our total activities and environment. Certainly, this would require some subjective measurements—anathema to many economists and businessmen—yet I know from personal experience in industry that major ventures have been steered to success by just such subjective measurements. As one example of attempts being made throughout the world to develop new means of measuring progress, the Overseas Development Council has developed an index of the physical quality of life that uses infant mortality, life expectancy, and literacy as measures. The index shows, for instance, that Sri Lanka, whose GNP per capita is near the bottom of the scale at $130, has a physical quality of life index of 83, well above the 67 average for the upper-middle-income countries whose average GNP per capita is eight times higher.

Such a measurement gives technology something to shoot at—and us assessors of technology some hard guidelines by which to measure the wisdom of the costly and far-reaching innovations under consideration at any given time. We must place science and technology in its proper setting, against the backdrop of the entire national and global society in which it operates. We must understand society in all its complexity so that we may understand not only technology's impact on it but also society's impact upon technology.

For example, the industrial revolution grew out of the application of technology, but the social and economic changes resulting from industrialization in turn markedly influenced the nature and rate of technological change. This contributed to the industrial boom of the 1920s, which floundered into one of the world's most serious depressions, leading to a redirection of science and technology toward meeting the basic needs of human beings.

Today, wherever we are on the road of world history, science and technology have played a major role in carrying us there. Hundreds of millions of people today live in excellent health, with good shelter, food, education, and fulfillment. Technology has been a prime contributor in bringing that group of fortunate people to vastly higher numbers than only a century ago. Yet today the world has more people living in abject poverty than ever before, as a result of the great technological success in reducing death rates, which, in turn, contributed to one of the world's most serious problems—the population explosion. Now this problem is gradually being brought under control in many parts of the world by the application of family planning technology, albeit this, too, has brought some negative side effects.

The greatest expenditure of R & D resources has gone into the military, culminating in an abundance of nuclear weapons that might, on the one hand, frighten the leaders of the world from launching another war, while, on the other hand, their availability might some afternoon lead to a nuclear holocaust that, among other things, would make this discussion academic indeed.

Our tremendously successful industrial enterprise, fueled by the output of its laboratories, has bestowed on us a stream of useful products that we have hastened to add to our standard of living. Until recent years, this giant force ran roughshod over our environment, spewing the by-products of its technological marvels into the air, the water, the land—threatening the very systems that sustain our lives. Now we enlist the environmental sciences to harness the industrial machine and divert its effluents into safer and, to be sure, more profitable conduits.

Our chemical laboratories created tens of thousands of products to improve our food, shelter, clothing, transportation, and communication, to fight disease, and to control pests. Today we know that some of their creations behave like time bombs, triggering off, ten to forty years after they are planted in our bodies, an explosion of cancer. Many thousands now labor in our laboratories to bring this dreadful disease under control.

By assessing the potential impacts of a new technology early in its development, we should be able to further its positive impacts which inhibiting the negative. While exercising diligence and foresight we must be careful not to get in the opposition of the centipede in that bit of nineteenth-century doggerel:

The centipede was happy quite
Until a toad in fun
Said, "Pray which leg goes after which?"
That worked her mind to such a pitch.
She lay distracted in a ditch
Considering how to run.

The time has come—indeed, is long since past—for us to do a much better job of judging the usefulness of a given technology. Toward this end we must enlist the aid of our pluralistic society.

Albert Einstein wrote these words long years ago: "It is of great importance that the general public be given an opportunity to experience—consciously and intelligently—the efforts and results of scientific research. It is not sufficient that each result be taken up, elaborated, and applied by a few specialists in the field. Restricting the body of knowledge to a small group deadens the philosophical spirit of a people and leads to spiritual poverty." Today our technological advances are leaping into the public consciousness at a speed that perhaps even Einstein might not have envisioned. The increased scrutiny of technology decisions reflects a growing public awareness of their significance.

But clearly, the public at large does not possess the wherewithal to monitor our work as scientists and administrators skeptically and thoroughly. Clearly, posterity will not have that chance. Clearly, men and women of science and technology must bear the prime responsibility for the monitoring. It is important that they understand that they are in a position of enormous trust—for the citizens of the world today and for generations to come. That is why we cannot afford to be blinded by the promises of science to the possible threats that their development may pose to humankind's very survival, or be so frightened by the threats that we ignore the promises. And that is why we must constantly question the wisdom of what we are doing in the light of our enormous obligation to posterity.

CHANGES AHEAD IN FACTORS THAT MAKE AMERICA GREAT

(By Louis Harris)

Americans believe the combination of factors that will make this country great in the future is somewhat different from the one that made it great in the past.

In order of importance, the public attributes America's present greatness to "rich, natural resources," "a hard-working people," "scientific research," "industrial know-how" and "technological genius." As they look ahead, people are convinced the United States will depend more on scientific research, industrial know-how and technological genius, and work.

Also gaining importance as factors in the future are "government that responds to people's needs," "giving every race and creed an equal chance to get ahead," and "a free, unlimited education to all qualified."

Of 20 major factors tested in a Harris Survey of 1,520 adults nationwide, six are projected to be more important over the next 25 years than they were in the past. The shifts:

At the top of the list is "scientific research." While 89 percent think this was an important factor in past greatness, 91 percent believe it will be a major factor in America's future success.

"Technological genius" is felt to have been a key element in America's past greatness by 75 percent. Seventy-eight percent believe it is a key to future national greatness, while 80 percent continue to think that industrial know-how will also be crucial.

"A government that responds to people's needs" is named by 61 percent as having made a major contribution to the country's greatness in the past. Seventy percent think this will play a more important role in the future.

While 59 percent believe that "giving every race and creed an equal chance to get ahead" has been a major contributor to this country's greatness in the past, 70 percent think that this will be a key factor in the future.

In the past, according to 72 percent, a major contributor to the country's greatness was a "free, unlimited education to all qualified." In the future, 75 percent think it will be important.

Mr. DURENBERGER. Will the Senator from Washington yield to me?

Mr. JACKSON. Mr. President, I yield to the Senator from Minnesota with the stipulation that I not lose my right to the floor.

Mr. DOLE. Mr. President, is that for the purpose of offering an amendment?

Mr. JACKSON. I do not know what his purpose is.

AMENDMENT NO. 751

Mr. DURENBERGER. Mr. President, I ask unanimous consent to call up my amendment No. 751, which would amend section 103(b) of the Internal Revenue Code that will allow State and local government units to issue tax exempt industrial development bonds, the proceeds from which can be used to construct cogeneration facilities at utility and industrial plants. The treatment parallels the provisions of the committee bill which is under discussion for small-scale hydroelectric power and complements the 10 percent energy tax credit for cogeneration included in this legislation.

The Joint Committee on Taxation estimates the cost in fiscal 1980 of this amendment to be $10 million and the cost over the decade to be $50 million.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Reserving the right to object, and I do not believe I will object, this is only for cogeneration facilities?

Mr. DURENBERGER. That is correct, it is only for cogeneration.

Mr. METZENBAUM. And the bill already provides for funds in what amounts to other facilities? What is the percentage amount involved of the investment tax credit? An additional 10 percent?

Mr. DURENBERGER. This is under 103(b), the exemption for tax for industrial——

Mr. METZENBAUM. Mr. President, I have no objection.

Mr. RIBICOFF. Mr. President, this is an important amendment. I think it will have a considerable effect on cogeneration of energy for electricity, steam, heat, to be used for industrial, agricultural, and commercial space heating purposes. It is acceptable to the manager of the bill.

The PRESIDING OFFICER. Without objection, the clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER) proposes amendment numbered 751.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 136, strike lines 6 through 18 and insert the following:

(b) TREATMENT OF STATE AND LOCAL OBLIGATIONS FUNDING CERTAIN HYDROELECTRIC POWER GENERATING AND COGENERATION PROJECTS.—Paragraph (4) of section 103(b) (relating to certain exempt activities) is amended by striking out "or" at the end of subparagraph (F), by striking out the period at the end of subparagraph (G), and by inserting in lieu thereof a comma, and by inserting immediately after subparagraph (G) the following new subparagraphs:

"(H) facilities the primary function of which is the generation of hydroelectric power other than a facility, the construction of which commenced before October 25, 1979, the installed capacity of which is more than 25,000 kilowatts, or

"(I) equipment and facilities the primary purpose of which is the cogeneration of electric energy and steam, heat or other forms of useful energy (other than electric energy) to be used for industrial, agricultural, commercial or space-heating purposes at new or existing facilities.".

Mr. JACKSON. Mr. President, the amendment is being offered subject to the earlier stipulation, of course, that I do not lose my right to the floor.

Mr. DOLE. Yes.

Mr. METZENBAUM. And with the further stipulation that no amendment will be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DURENBERGER. I yield to the Senator from Kansas.

Mr. DOLE. The Senator from Kansas indicates to the Senator from Connecticut that we have no objection to the amendment. We will accept the amendment and are happy to do that.

Mr. RIBICOFF. Will the Senator tell us the number of this amendment?

Mr. DURENBERGER. No. 751.

Mr. President, in 1978 one-third of the energy consumed in the United States was used to produce electricity. That includes all of our nuclear power, almost all of our coal, all of our hydro power, one-tenth of our oil, and one-seventh of our natural gas supply. But two-thirds of that energy never turned a motor, lighted a room, or heated an oven. Of the 23.76 quadrillion Btu's that we invested in the production of electricity in 1978, only 7.6 quads were made available for our use.

The remaining 68 percent was lost in the process of conversion from mineral resources to electrical energy. Those wasted 16 quads represented more energy than we used to heat all the homes in America and more energy than was consumed by our 100 million automobiles. This energy went up the stack or was piped to a cooling tower where it was vented as waste heat into the atmosphere.

Mr. President, today I am offering an amendment that would overcome some of the economic and institutional barriers that keep this wasted energy from being used. Amendment No. 751 adds a new item to section 103(b) of the Internal Revenue Code that would allow State and local government units to issue tax-exempt industrial development bonds the proceeds from which could be used to construct cogeneration facilities at utility and industrial plants. This treatment parallels the provisions in the committee bill for small-scale hydroelectric power which I authored with Senator NELSON and complements the 10-percent energy tax credit for cogeneration included in this legislation.

Cogeneration is a term that applies to the simultaneous production of electrical energy and steam, heat or other forms of energy for use in agricultural, industrial and commercial processes or for district heating.

Cogeneration is not a new concept. Various technologies to make use of waste heat have been employed in the United States and Europe since the turn of the century. Today in West Germany 29 percent of all the energy consumed is derived from cogeneration processes. One-third of all the homes in Denmark and Sweden are heated by district heating systems connected to refuse incinerators, electric plants, or oil-fired burners.

In 1977, 70 percent of the urban heat demand and 54 percent of the entire space and water heat load in the Soviet Union was met by district heating.

Mr. President, cogeneration and district heating are not unknown technologies in the United States. In fact, as late as 1950 cogenerated energy accounted for 17 percent of the U.S. total production. But by 1974 that figure had declined to 4 percent. The drop occurred as a result of changing economic circumstances. Electric costs from central generating plants which could take advantage of the thermal efficiencies of scale declined during this period, making purchased electricity cheaper than cogeneration. In addition, regulatory and institutional arrangements tended to discourage electric generation by anyone other than a franchised utility. Finally, utilities instituted rate schedules that included high demand charges which discouraged the use of backup utility power and made it more economic to purchase the entire load rather than cogenerate a portion of it as a part of the industrial process.

Times have changed, however, and the recent rapid escalation in fuel and capital costs for industry and the utility sector has stimulated new interest in industrial cogeneration. This interest has led to many studies of the cogeneration and district heating potential in the United States. In 1977 specialists with the Library of Congress estimated that cogeneration could save 700,000 barrels of imports a day and $16 billion in utility investments by 1985, if the Congress provided the proper incentives to development. I believe that the amendment I am offering today will make a substantial contribution to achieving that goal.

Mr. President, I would like to take an extra minute to dwell on one aspect of cogeneration, that being district heating, and share with my colleagues the unique experience of Minnesota with this technology. Since World War II, 29 Minnesota cities and towns have used district heating systems to employ the waste heat from municipal and industrial generators and make the most efficient use of heat and steam from boilers that burned coal or wood wastes. Many of these systems were first constructed in early 1900's and employ steam to carry the thermal energy from powerplants through piping systems to the downtown commercial district and in a few cases to many of the homes in the community. Unfortunately steam is not the most efficient medium to transfer this heat. Since World War II the district heating systems that have been built in Europe have relied on hot water which is far more effective than steam. In fact, hot water systems can double the efficiency rating of the typical electric powerplant.

Since the mid-1960's 15 of Minnesota's 29 district heating systems have been closed down and others are threatened by the high costs of capital and maintenance. The managers of many of these municipal systems are looking for ways to convert to hot water and to reorganize their business status so that they might continue to contribute to our State's energy supply. Some believe that conversion to hot water and incorporation as a semi-public industrial development authority provide the best hope for additional years of service. The amendment that I am offering today can supply the capital and the corporate instrument to assure that district heating will continue to be an important part of the energy supply in Minnesota through the turn of the next century.

Mr. President, I have two articles, one from the October issue of Public Power and another from a DOE publication, Cogeneration: Technical Concepts, Trends, Prospects, which outline the situation in Minnesota and provide some insight into the potential of cogeneration. I ask unanimous consent that these articles be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

DISTRICT HEATING SAVES ENERGY (IN EUROPE)

(By Jack Gleason)

Both Eastern and Western Europe are far ahead of the United States in use of a major energy conservation technology which, ironically, was developed in the United States a century ago. The process is "district heating." It is a variation of central heating of individual buildings, which Americans adopted as they abandoned the combinations of wood and coal stoves, fireplaces and blankets that had warmed them since colonial times.

District heating involves the distributon of steam or hot water to buildings from a central energy source through a pipe distribution network. Its great benefits—increasing as the cost of fuel rises—are that it uses energy that often is otherwise wasted, and does not require high temperatures. Moreover, district heating possibly can also be adapted to high temperature fossil fuel and nuclear processes.

One-third of the Danes and Swedes stay warm through the long Scandinavian winters through district heating systems connected to refuse incinerators, electric plants and oil-fired burners. West Germany, where 29 percent of the total energy derives from cogeneration—the simultaneous production and use of heat and energy—has a network of 350 group heating plants and 474 district heating networks. Finland's extensive district heating systems reaches 14 percent of its population.

District heating is most widely used in eastern Europe. By early 1977, according to Science, "70 percent of the urban heat demands and 54 percent of the entire space and water heat load" in the Soviet Union was met by district heating.(*) Development there was expedited by the government's requirement that waste heat produced by large power plants be used. West Germany and the Soviet Union have planned large increases in district heating in conjunction with development of nuclear power.

In sharp contrast, district heating systems serve not more than 1 percent of Americans. More than 80 percent of the space and water heating and air conditioning demand (which account for a fourth of U.S. energy consumption) is supplied by direct combustion of fossil fuels. They are burned at 3,500 degrees Fahrenheit (1,900 degrees Celsius) to heat air and water to 70 to 150 F (20 to 65 C).

This is a costly and wasteful use of nonrenewable resources in the land of Birdsill Holly, the inventor who, in 1877, initiated the first successful district heating system. He installed a short underground steam pipe to several residences in Lockport, N.Y. from a steam plant where he was experimenting with steam delivery to fire engine pumps and residences.

EARLY U.S. DEVELOPMENT

By the turn of the century several steam turbine cogeneration systems had been developed in the U.S. A Lawrence, Mass., textile mill maintained a 5,000-kw unit and a southern mill operated 500-kw and 1,500-kw units. Cogeneration supplying industrial process heat and steam grew to appreciable proportions in the U.S., peaked before World War II, and declined thereafter as a result of the increased economies of scale then possible in ever-larger power generation units.

Significant district heating capacity was installed in some of the large cities of the industrial Northeast and North Central states with high levels of heat demand due to a cold climate. Although many of these systems have shrunk or gone out of business in recent years, considerable cogeneration capacity continues to meet some needs in numerous urban areas, including New York City, Philadelphia, Detroit, Boston and Indianapolis.

In addition, about 160 municipally owned systems in the country produce some steam. A number of district heating systems also serve U.S. college and university campuses. The U.S. effort is nevertheless puny, when compared with European countries. What are the reasons for this?

STEAM VS. HOT WATER

For one thing, U.S. district heating systems have relied primarily on steam rather than hot water. Steam is sometimes appropriate for district heating systems serving industries with process requirements for steam and for central business districts which have high heat loads. However, steam is not appropriate for wide distribution, especially in areas with low heat loads. The high pressures and temperatures required for steam transmission result in energy loss. Condensation limits transmission and requires use of expensive plumbing. Steam district heating systems are thus limited to only a few miles of distribution lines.

This is the primary technical reason for the failure of U.S. district heating to expand beyond high-heat-load service areas to wider markets. Thus, despite the fact that district heating was invented in the U.S. more than 100 years ago, and has been developed in this country for about 75 years, district heating is essentially a new and very unfamiliar idea for most Americans.

In Europe, district heating had confronted conditions very favorable to its development—dense residential commercial and industrial areas and high heat loads as a result of a cold climate. However, external factors were by no means the sole reason for the widespread acceptance which district heating achieved in Europe. Important technical advances by Europeans spurred its development. Chief among them was the substitution of hot water for steam.

Although steam contains a greater amount of energy per unit mass than water, on a volume basis, the thermal content of steam is far less than that of water. Thus hot water is more adaptable than steam to long-distance distribution and the service of areas with lower heat demand. The European switch to hot water also allowed much higher efficiencies for the cogeneration of heat and power.

The production of steam, especially at high temperatures and pressures, entails significant sacrifices of electricity. This can reduce efficiency and feasibility of a cogeneration scheme. Conversely, the lower the temperature of hot water required for a district heating distribution system, the less electricity sacrifice is necessary.

HIGH EFFICIENCY

Modern cogeneration-supplied district heating systems have a practical efficiency of up to about 85 percent. In contrast, modern power stations usually do not experience efficiencies higher than 40 percent. The remaining 60 percent of the energy produced by electric generation is dumped into the environment as waste heat. If a low-temperature, hot-water district heating system is used, less electricity is sacrified to boost waste heat temperatures to levels where this heat reaches the relatively low temperature needed for a large proportion of U.S. energy requirements.

Another reason for greater use of district heating in Europe is that the continent faced a serious energy shortage more than 30 years ago. In energy-scarce post-war Europe, gross waste of fuel could not be tolerated. It was in this period that cogeneration began to be applied in earnest. District heating was developed in conjunction with post-war urban reconstruction programs.

The Swedes and Danes, especially, have improved the efficiency of pipes used in district heating. Pipes are fabricated in the factory with insulation such as polyurethane or calcium silicate, and covered with an outerjacket, usually separated from the insulation layer by an air space. The pipes carrying the hot water are often made of steel, copper or polyvinyl chloride. A few years ago Sweden introduced a flexible, plastic, insulated pipe-in-pipe of cross-linked polyethelene. Such pipes can be easily installed, at costs far lower than those of conventional, rigid, distribution pipes.

District heating distribution systems typically include two pipes—one for supply and the other for return. In some cases an additional pipe carries warm water if it is required for individual building heat distribution systems with steam or absorption cooling requirements. Another pipe can be installed to transport chilled water for use in direct air conditioning. Thus up to four space heat and hot water pipes can be used in a single district heating system. However, two-pipe systems have been favored in the past due to the considerable expense of distribution systems.

STOCKHOLM TUNNELING

The distribution system typically accounts for from one-half to two-thirds of a district heating system's capital costs, sometimes more, depending upon difficulty of installation and the number of pipes required. A number of novel ways to cut costs have been tried. Stockholm's municipally owned utility is tunnelling in the bedrock which underlies the city. The tunnels will carry high-volume hot-water distribution pipe throughout the city, surfacing with vertical shafts to supply individual blocks or neighborhoods.

Although this method of installation is very expensive, it is less so than tearing up nearly all of Stockholm's streets which—if they bear any resemblance to other densely populated urban areas—are probably clogged with a tangle of pipes and wires that would otherwise require circumvention or displacement. Such techniques offer hope that America's largest and most densely populated cities can be successfully retrofitted with district heating systems.

Another significant capital cost of district heating systems is the connection of individual consumers to the distribution network, and the adaption of individual building heat distribution systems to thermal supplies. Buildings which have hot air or hot water are easy to retrofit. Steam heating systems using hot water distribution temperatures and pressures which significantly exceed those in individual buildings require installation of expensive heat exchangers. Systems using lower temperatures and pressures which do not substantially exceed the requirements of individual buildings, as in Denmark, can dispense with these expensive connection costs, and opt for more simple and less expensive connections.

DISTRIBUTION COSTLY

The highest initial cost in district heating is the distribution system. Another major component in the overall capital cost of a district heating system is spent on new cogeneration units. Retrofit of power stations is less expensive and more practical if a power station is close to the load.

European energy policymakers find district heating's flexibility regarding energy sources highly attractive. Most oil-fired cogeneration units supplying district heating systems can readily be converted to coal-firing, or, as is more often the case, to dual-firing.

Environmental hazards often preclude the use of coal in individual heating systems in urban areas. The coal may be burned in large coal-burning cogeneration units subject to air pollution controls. The retrofitting of existing cogeneration units to burn coal, and development of district heating systems supplied by modern coal-fired cogeneration units, have become an integral part of most national district heating programs in Europe. Such policies allow the substitution of costly and vulnerable supplies of imported oil and natural gas with more abundant, less costly and less precarious supplies of coal.

PLANNING NEEDED NOW

The countries which have developed district heating to its greatest extent are its most enthusiastic proponents. The District heating systems frequently require up to 20 years to reach full development. It is important that planning begin soon if communities are to avoid the worst of the widely forecast energy scarcity and price-induced economic problems of the '80s and '90s. Bleak energy supply and price forecasts suggest that a greatly increased involvement by municipalities, and especially municipal utilities, may be required in the area of community energy planning in the years ahead.

This time lag allows municipal energy planners to look at a number of other sources of heat supply for district heating. Industrial waste heat is one example of a heat source which can be tapped by many communities at relatively low cost to the consumer and with a potentially significant benefit to the supplier. Renewable heat sources such as solar and geothermal are also most readily available at lower temperatures.

The Swedes are currently testing use of centralized solar collectors and seasonal heat storage in district heat systems. Incinerators which burn urban, agricultural and forestry wastes are used in Europe.

One new waste-burning technology which is particularly promising as a source of heat for district heating is the fluidized-bed burner, which burns waste with pulverized coal and limestone suspended in a high pressure stream of air. This system can use waste alone or with solid fuel to produce heat more efficiently, and with less expense and environmental damage, than conventional technology.

Anaerobic digestion—organic decay in the absence of air—has long been used both in the U.S. and abroad to produce methane. If appropriate, methane produced from sewage could be used to produce heat for the distribution system. Sewage effluent can also be used after digestion as a heat source for a heat pump. Heat pumps can be driven by a number of sources of energy including gas (methane), solar or wind. The use of mechanically driven wind-heat pumps or wind-driven turbulence cells or friction tanks (by which a viscous fluid is stirred by a paddle or a drive shaft, generating heat through friction) could provide an important heat source for a district heating system which derives most of its heat supplies from the renewable sources.

WIND IS IDEAL BACKUP

Unlike other renewable heat sources, which are usually not available in sufficient amounts to meet demand during peak periods, the highest winds usually occur during the winter when heat needs are also highest. Thus wind energy is an ideal backup for renewable heat sources, which require seasonal storage in order to be available for use during periods of peak heat demands.

Seasonal thermal storage techniques are currently undergoing rapid develpoment. Research and development programs both in the U.S. and abroad are currently focusing on a number of promising methods including storage in aquifers, excavated surface tanks and lakes. All of these methods involve the storage of hot water, which is by far the most inexpensive storage medium. Large scale, inexpensive thermal storage is the key to maximizing a community's supplies of heat from renewable sources. With the exception of wind, renewable heat sources occur out of phase with heat requirements. Urban waste must be burned as soon as posscale, inexpensive thermal storage is the key problems. Solar energy, although on an annual basis sufficient to provide most of the space heating and hot water needs of even the most northerly communities within the contiguous 48 states, are of course concentrated during the summer months. With adequate seasonal heat storage methods, renewable heat sources can provide a very large proportion of a community's total heat requirements.

LOCAL INITIATIVE NECESSARY

In order for district heating using renewable or fossil fuel heat sources to become a reality soon in the United States, considerable increases in government support of research, development and demonstration programs will be necessary. All of the responsibility for energy policy cannot and should not be laid at the doorstep of the federal government. At least some accountability for future U.S. energy policy must rest with American communities which can contribute much to the realization of their own energy and economic independence.

Many localities have begun to formulate ambitious but realistic demand management programs. In the near future, communities can be expected to take a greater role in planning for energy supplies as well. If district heating using fossil and/or renewable heat sources is a viable energy supply option for a community, then a substantial degree of involvement in the planning of these systems will be required. Many municipal utilities are likely catalysts for such efforts. The energy and economic futures of many communities could in large part be determined by their capacity to act in areas with which they have not been traditionally involved, but which currently require the exertion of effective leadership.

THE SCORE IN MINNESOTA: 14 OPERATING, 15 CLOSED

(By Karen Anderson and Mary Williams)

Minnesota probably has more district heating systems than any other state. But they are an endangered species. Fifteen systems have been abandoned since the mid-60's. Only 14 are now operating. One of them—Worthington—plans to close in two years. All 29 operating or former systems except one—Duluth, which is still operating—are among the 127 communities in the state with public power systems.

"We're losing about one system a year," said Dick Kirkham, executive director of the Minnesota Municipal Utilities Association. A long-term supporter of district heating, he has lobbied the governor and state energy office for funds to keep the local systems going.

The state energy office has earmarked about $1.2 million—including some federal money—for district heating. This has funded preliminary studies of installing new district heating in several cities, one of which—Moorhead—has its own electric system. But most of the funds have been channeled to big, dramatic projects such as one proposed for Minneapolis. Most of the state's district heating systems are in towns with populations between 2,500 and 25,000. However, systems are operating in Duluth and on the University of Minnesota campus in Minneapolis. The economic bases of communities with district heating range from mining, tourism and shipping—in the northern communities—to meat packing, food processing, manufacturing and large educational and health institutions in the central and southern parts of the state.

* * * * *

and residential customers are served by the 14 systems. Most of them limit service to commercial districts, industries and small portions of their residential areas. However, two towns on the Iron Range in northern Minnesota—Hibbing and Virginia—have heavy residential loads.

District heating began in Minnesota at the turn of the century. Steam engines produced power for factories, sawmills and electric generators. Coal and scrap wood fueled these early boilers. The exhaust steam from the factory or municipal generators fed distribution pipelines connecting the generators to the heating districts. Later on, technological changes and availability of other heat sources and fuels created a variety of problems for the systems.

WHY DID THEY CLOSE?

The towns which have abandoned their systems list rehabilitation and maintenance costs, high fuel costs and rates, and the availability of lower cost natural gas to the steam customers as the major reasons for shutting down.

"Blame it on a combination of old age and high cost," said Don Meyer, superintendent of the New Prague Municipal Utilities. That system, in service since 1936, closed on June 1. The system itself was fairly efficient; the town had purchased new diesel equipment and switched from coal to natural gas in the 1950s. But curtailment of natural gas and rising prices for diesel fuel triggered the shutdown.

Ironically, while gas was unavailable to the municipal utility to provide electricity and heat, it was available at retail prices to residents, small businesses and institutional customers, for heating. Gas was also available on an interruptible basis to industrial customers in the area.

Virginia, Minn., claims the largest residential district heating system in the U.S., supplying central steam heat and hot water to more than 3,600 homes. Public Utilities Superintendent Ed Kozan said that the steam department is independent, and still financially solvent. But, he points out, insulation has deteriorated badly along the 50-odd miles of buried steam main.

"If we had to start from scratch today," he said, "we would probably prefer to go with central hot water."

Virginia wants to do just that, but the upgrading and system conversion to hot water is estimated to cost $55 million. No help is likely from the state energy agency—which took one look at the utility's figures and said they were 30 percent too high—or the federal government.

The town of Sleepy Eye voted to shut down its system in 1977, then changed its mind. Sleepy Eye's steam, supplied in winter by cogeneration from a coal-fired plant and in summer by a boiler which produces only steam, still operates in the black. But repair costs are rapidly becoming prohibitive, said David Logue, the new superintendent of utilities. Maintenance has been spotty over the last few years. More than $5,000 has been spent correcting obvious problems this year.

Nevertheless, Logue said, it would hurt the town to lose its district heat. The system's 136 customers include all of the town schools, most churches and main street businesses.

ELECTRICITY SUBSIDIZED STEAM

How did district heating become an endangered technology? Years ago, when most of these cogeneration systems were planned, district heating was viewed as the "suckling pig" to electric generation. The cost to steam customers was the incremental cost of extracting steam from the turbines. This kept the price of steam low for district heating customers. By not taking on a higher proportion of the overall costs, district heating was, in effect, subsidized by generation.

This worked well at first, but when the cost of electricity produced by large, outside central station sources began to decline, a town's district heating customers—often downtown merchants—began to feel the pressure from disgruntled residential electric consumers. The two options for district heating systems, both unattractive, were dramatically higher steam rates or expensive conversion to individual units.

If the electric generating systems could have been integrated with the regional power grids, the municipal utilities would have had a ready market for their electricity. Instead, many communities abandoned their turbines, and brought in simple boilers to supply steam only for the district heating system, thus eliminating cogeneration and its inherent efficiencies.

CHEAP HYDRO HURT

As more federal power and other low-cost power sources became available, the city of Alexandria found it would be uneconomical to continue operating its generating plant. Alexandria found it would have to raise its steam rates 65 percent in order to operate a self-sufficient steam system. So the Alexandria system—which generated 3,700 kw of electricity and distributed 41,374,000 pounds of steam through an extensive system—was abandoned.

Economic studies comparing district heating with alternatives can lead to misleading conclusions unless care is taken to consider several factors, according to Herb Blinder, APPA director of technical services.

"Often the need to shift from a 'suckling pig' district heating system to a primary heating system appears shocking to heating customers," said Blinder. "Over the long run a district heating system ought to compete favorably with separate customer-operated heating systems. Then, if some by-product electricity can be added to the district heating operation it ought to enhance its feasibility. But there has to be consistency in the analysis. The fixed charges and operating costs should be examined over equally long periods corresponding to the usual financing of public debt. Realistic inflation factors for retail fuel supplies should be incorporated in the study."

It is difficult for community leaders to oppose purchase of more electricity at 1.6 cents per kwh when the locally generated electricity costs 3.5 cents to 5 cents per kwh, due to the high fuel costs and limitations on their systems. Federal electricity poses problems for five of the 14 district heating systems which have contracts to buy it. Other systems are unable to purchase federal power even though they would contract for whatever they could get. While this is an inequity for the systems that cannot buy federal power, they may benefit from retention of their local ability to cogenerate both.

WORTHINGTON PLANT CLOSING

When Worthington shuts down its system in 1981, it will probably buy all of its electrical requirements from the federal government, and the electric plant will be put on standby. Water and Light Commission Manager Leroy Schindler said he cannot quarrel with the decision to shut down. Although steam was once produced as a by-product of electric generation, lower cost electricity is available elsewhere and the steam load has grown larger than the electric load. Logically, steam rates should rise to about $10 per thousand pounds, he said. But that would force Worthington's 159 steam customers to pay a premium price for their heat—about $100 per month—as opposed to $65 per month for gas heat.

It is unlikely that the small, abandoned district heating systems can be saved, at least without substantial, subsidized repair or reconstruction. There is a shortage of studies comparing costs of district heating with alternatives at today's and tomorrow's higher fuel costs. There may be time to save existing systems, if there is the will to do so.

Mr. DURENBERGER. Mr. President, so that my colleagues will know that this is not another one of those parochial amendments to the windfall profit tax to benefit one or a few States at great expense to the Federal Treasury, I would like to point out that the most successful examples of cogeneration applications do not occur in Minnesota. In fact, the DOE publication to which I have referred makes reference to many planned and operating facilities throughout the Nation. In Texas City, south of Houston, the American Oil Co., the Monsanto Chemical Co., and Union Carbide are planning a large cogeneration facility in cooperation with a municipal utility, Community Public Service, that will provide steam, process heat, and electricity for refineries and chemical plants.

In Woburn, Mass., the General Foods Corp. has constructed a cogeneration unit that provides all of the electricity and process steam necessary for its operations at that location. It is working with Boston Edison to arrange for the sale of excess power unto the utility grid.

In California, the San Diego Gas and Electric Co. operates several cogeneration plants that provide steam to U.S. military bases and electricity for its residential and commercial customers.

Since 1930, the Gulf States Utilities Co. in Baton Rouge, La., has been providing steam and electricity from the operations of one plant. This plant has a current capacity of 5 million pounds of steam per hour and is rated at 240 megawatts electric. The steam is used by the Ethyl Corp. and Exxon.

Mr. President, each of these examples in its own way points to the tremendous potential for cogeneration. But there are problems. I would like to return to Minnesota to explain one of them.

The City of St. Paul, our capital city, is currently engaged in a citizen-directed effort to transform its daily pattern of life to make it a center for the efficient use of energy. One aspect of this planned development is a district heating system that would make use of thermal energy from a nearby powerplant to heat the buildings of the downtown district. Retrofitting the powerplant and laying the pipe to distribute this energy will be a very expensive capital investment for the city. The city fathers and officials from our State energy agency have created an industrial development corporation to undertake the project. Acquiring the necessary capital is the biggest obstacle. The city is not in a position to issue municipal bonds and operate a district heating system itself. And the high rate of interest that prevails for private bonds today could prohibit the St. Paul District Heating Development Co., Inc., from entering the market itself. Amendment 751 provides the mechanism by which this creative, citizen effort to save energy might be successful.

Mr. President, we have sought revenue estimates for this amendment from the Joint Tax Committee staff who have indicated that the revenue loss in fiscal year 1980 will be $5 million. Over the next decade tax exempt industrial development bonds would cost the Federal Treasury $50 million. Mr. President, I am sure my colleagues would agree that this is an appropriate use of the revenues from the windfall profit tax. Investments in cogeneration will save additional investments in utility capacity, reduce our daily oil imports, reduce the thermal pollution from our electric powerplants and industrial boilers and replace fuel being consumed for space heating. I hope that this amendment will receive the support of my colleagues and will become a part of the energy program that we are about to enact.

Mr. President, I have two further points that I would like to raise. First, almost as important as the support of my colleagues is the support of the regulators at the IRS. The purpose and promise of this amendment could be denied by a restrictive interpretation of the intent of this measure. The very heart of a district heating system is the pipes that carry the thermal energy from the source of generation to the space heating load. It is not possible to achieve cogeneration in the district heating mode without pipes. Compared to the capital investment in pipes the rest of a district heating system is almost inconsequential in cost, if that system uses waste heat from an existing utility or industrial source. This amendment is worded so that it would include bonds to cover the capital costs of pipes in district heating and I will seek language in the conference report to make that point clear.

Second, Mr. President, I ask unanimous consent that Senator Ribicoff of Connecticut be added as a cosponsor to this bill.

The PRESIDING OFFICER. Without objection, so ordered.

Mr. DURENBERGER. Mr. President, I also ask that this amendment remain open for cosponsor throughout the remainder of today's business.

Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (No. 751) was agreed to.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. JACKSON. Mr. President, I yield to the junior Senator from Montana, with the stipulation I not lose my right to the floor, for the purpose of offering an amendment, and I will offer an amendment to his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, the Senator from Kansas does not want to object, just no more rollcalls this evening.

Mr. JACKSON. I am not asking for one. I do not think there will be any argument on this.

Mr. BAUCUS. I doubt seriously there will be a rollcall.

Several Senators addressed the Chair.

Mr. JACKSON. The junior Senator from Montana will accept the amendment I will offer.

Mr. METZENBAUM. Am I correct, that will eliminate the last paragraph of the amendment?

Mr. BAUCUS. Correct.

Mr. METZENBAUM. All right.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 767

(Purpose: To permit gas produced from tight sand formations to be treated as a qualified fuel for purposes of the credit for production of fuels from nonconventional sources)

Mr. BAUCUS. Mr. President, I call up amendment No. 767 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. Baucus), for himself and Mr. Hart, proposes an amendment numbered 767.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 143, line 4, strike out "or".

On page 143, between lines 4 and 5, insert the following:

"(ii) a tight formation, or".

On page 143, line 5, strike out "(ii)" and insert in lieu thereof "(iii)".

On page 145, strike out lines 12 through 18, and insert in lieu thereof the following:

"(C) Reference price.—For purposes of this paragraph, the term 'reference price' means, with respect to a calendar year—

"(i) the average refiner acquisition cost of a barrel of imported crude oil during the calendar year, as determined by the Secretary after consultation with the Secretary of Energy, and

"(ii) in the case of gas from tight formation described in subsection (d)(1)(B)(ii), the average cost of high cost natural gas (as defined under section 107(c)(5) of the Natural Gas Policy Act of 1978 and determined in accordance with section 503 of that Act), as determined by the Secretary after consultation with the Chairman of the Federal Energy Regulatory Commission.".

On page 147, between lines 11 and 12, insert the following:

"(7) Gas from a tight formation.—The term 'gas from tight formation' means—

"(A) until such time as the Federal Energy Regulatory Commission by regulation defines the term 'tight formation' under section 107(c)(5) of the Natural Gas Policy Act of 1978, and such regulations become final, natural gas from a tight formation (as defined by the Commission under such section) with an average matrix permeability to gas of—

"(i) in the case of wells less than 3,000 feet in depth, not more than 1 millidarcy (measured in situ), and

"(ii) in the case of wells 3,000 feet or more in depth, not more than .1 millidarcy (measured in situ); and

"(B) after such regulations become final, natural gas from a tight formation (as defined by the Commission under such section).

"(f) Special Rules for Gas From Tight Formations.—For the purpose of applying this section with respect to the production of gas from a tight formation—

"(1) Amount of credit.—Subsection (b) shall be applied by substituting '50 cents per mcf' for '$3 multiplied by the barrel-of-oil equivalent'.

"(2) Phaseout of credit.—Paragraph (1) of subsection (c) shall be applied by not increasing the 50 cents per mcf amount and by substituting '$4.17' for '$23.50' and '$1' for '$6'.

"(3) Reduction for federal funding.—Paragraph (2) of subsection (c) shall be applied by treating any reference in that paragraph to a barrel of oil or its equivalent as a reference to an mcf of gas.

"(4) Adjustment for inflation.—Paragraph (3) of subsection (d) shall be applied by substituting '$4.17' for '$23.50' and '$1' for '$6'.

"(5) Credit allowed only for new production.—The amount of the credit allowable under subsection (a) shall be determined without regard to any production attributable to gas from a tight formation from which gas was being produced before the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979.

"(6) Credit allowed only with respect to gas under price regulation.—No credit shall be allowed under subsection (a) with respect to the production of gas the price of which is not regulated by the United States.

"(7) Mcf.—The term 'mcf' means a thousand cubic feet.

"(8) Special effective date.—No amount shall be allowed as a credit with respect to the production of gas from a tight formation produced before September 1, 1980.".

On page 147, line 12, strike out "(f)" and insert "(g)".

On page 147, between lines 23 and 24, insert the following new subsection:

"(c) Application of Certain Other Provisions of Law.—The credit allowed by section 44D of the Internal Revenue Code of 1954 with respect to the production of gas from a tight formation described in section 44D(d)(1)(B)(ii) of such Code shall not be considered a credit, exemption, deduction, or comparable adjustment applicable to the computation of a Federal tax for purposes of subsection (d) of section 107 of the Natural Gas Policy Act of 1978.".

On page 147, line 24, strike out "(c)" and insert in lieu thereof "(d)".

Mr. BAUCUS. Mr. President, the amendment I am offering, very simply, provides for a 50-cent tax credit for tight sand unconventional natural gas. It is my feeling that in our effort to stimulate various forms of energy production and in our efforts to conserve energy in a various number of ways, to a very great degree we have overlooked another way to produce energy, and that is tight sand unconventional gas.

This amendment provides for a 50-cent credit for the production of tight sand gas.

It is the view of Senator HART and me, and others who cosponsored this amendment, that there is an immense volume of natural gas in tight sand formation throughout the country, but that it is very expensive to produce. It is very expensive to get it and we need additional incentive to unlock the tight sand gas now in various difficult formations.

There are all kinds of estimates of how much gas this will produce. Everyone has an estimate. Everyone has his own point of view. The DOE estimates vary from approximately 500,000 barrels a day up to about 1.8 million barrels a day equivalent by 1985.

No one knows, but at the very least, with sufficient incentives, we can produce a lot of tight sand gas.

We would prefer that FERC grant a higher incentive price for unconventional gas, particularly this tight sand gas.

Unfortunately, FERC, the Federal Energy Regulatory Commission, has been dragging its heels.

It is our thought that this amendment will give a little incentive to FERC to raise the incentive price for this kind of gas, so that FERC is doing its job rather than forcing us in Congress to do the job.

Natural gas is the cheapest form of energy. It is the cleanest. It is environmentally the safest. The technology is present to produce gas from these formations.

We are rushing to produce synthetic fuels, as we should. But we all know the technology is not yet available. We hope it is there. We do not know precisely whether it is, or not. Certainly, tight sand gas technology is available. It seems to me all the more reason for going forward to produce gas from this kind of formation.

This amendment has the endorsement of the administration. The administration feels that we should move much more quickly to produce natural gas.

There have been various editorials in favor of this amendment. The Washington Post, the New York Times, also suggest we proceed with dispatch and very quickly.

Essentially, Mr. President, it is designed to give a boost to FERC, so we can proceed and unlock some difficult to obtain natural gas in deep formations.

Several Senators addressed the Chair.

Mr. BAUCUS. I yield to the Senator.

Mr. JACKSON. Will the Senator yield for the purpose of offering an amendment?

Mr. HART. As a cosponsor, could I just——

Mr. JACKSON. Yes.

Mr. HART. I thank the Senator for yielding.

Mr. President, I offer these remarks in support of the amendment which Senator BAUCUS and I have introduced to provide a tax credit for the production of natural gas from "tight sands" formations. The tax credit offered in this amendment will provide the needed incentive to develop natural gas supplies from the formations known as "tight sands," which are located in the West, the Southwest, and the Appalachian East.

In the President's energy message early this summer, there was a proposal to provide a 50 cent per thousand cubic feet tax credit for the production of gas from tight sands. While there was no substantial opposition to this proposal, for some reason the Finance Committee did not include it in the bill before the Senate today. Gas from tight sands is one of the most promising alternative energy resources in the country. Gas from tight sands is environmentally clean, both to produce and to burn, and this gas will be economically practical at prices competitive with the costs of oil imports.

In the Natural Gas Policy Act, which Congress passed more than a year ago, was a provision to provide an incentive price for gas produced from tight sands. This fall, FERC, the Federal Energy Regulatory Commission, proposed an incentive price for tight sands gas. FERC proposed a price which is 150 percent of the price of other gas otherwise defined as new. So far, FERC has not made a final rulemaking so that tight sands gas still would sell at the $2.25 price currently available for other new gas.

It is uncertain at this time whether FERC will decide speedily on an incentive price, and, furthermore, it is uncertain whether the incentive price will be high enough to encourage the maximal amount of tight sands gas. While the Environmental Protection Agency has been strongly supportive of efforts to produce gas from tight sands, it has recently advised FERC that a programmatic environmental impact statement is needed before a final rulemaking is made.

If it is finally decided that an EIS is needed, then it could be 2 years or more before a final impact statement is completed. This could substantially delay the production of new gas from tight sands formations.

Our amendment, which would provide a tax credit of 50 cents per mcf, would effectively raise the price of tight sands gas by about $1. Until a final rulemaking is made by FERC, this tax credit will have the impact of raising the price of tight sands gas from $2.25 to $3.25. I believe that the facts show that this movement toward a higher price is needed to produce tight sands.

I also believe the facts show that even at $3.25 the price of tight sands gas is not high enough in high-cost areas. In particular, I have been informed of studies by the Department of Energy that a price in the $4 per mcf range is needed. Therefore, our amendment would allow a producer to receive the 50 tax cents per mcf credit in addition to whatever incentive price that FERC may decide upon.

This amendment is carefully drawn, however, to insure that producers would not receive a tax credit once the price of tight sands gas is raised to the equivalent level of oil import prices. As my colleagues know, new gas produced from depths greater than 4,000 feet will be deregulated according to the Natural Gas Policy Act in 1985. At this time, it is expected that the price of natural gas will rise to the equivalent price of world oil. This amendment phases out the tax credit completely when the price of tight sands gas, whether it gets there as a result of FERC incentive prices or through deregulation, reaches $5.17 per mcf. This level is equivalent to the $29.50 per barrel level which phases out the other tax credits provided in the windfall profit tax bill.

In other words, this tax credit provides a needed incentive which gives producers roughly the equivalent of a price near the deregulated price now. The tax credit would be phased out when the actual sales price of this gas is at the deregulated price.

Mr. President, the administration strongly supports this amendment. Indeed, with the amendment which was submitted last Friday, we submitted a letter from Don Lubik, the Assistant Secretary of the Treasury, which expresses the administration's strong support for this amendment. There is one provision in this amendment which limits the tax credit in accordance with policy goals of the administration. In particular, the 50 cent per mcf tax credit is not indexed for inflation, as is the tax credit for other incentives provided in the Finance Committee bill. The administration has consistently asked that tax credits of this nature not be indexed for inflation, and our amendment complies with this policy objective.

For several years, the Congress and the administration have been struggling to develop a good definition of tight sands gas. This amendment, I believe, contains a very good definition, acceptable both to the Federal Energy Regulatory Commission and to the industry. This definition is based on the principles that FERC used in its definition for its proposed incentive price this fall. Two important changes are made, however.

The first change relates to the categorization of a tight formation. In FERC's original proposed rulemaking, a well had to be drilled into a formation with an expected permeability of 0.03 millidarcies. A 0.03 millidarcy, in effect, means that the natural gas formation is closer to concrete than sand in terms of the amount of gas that can flow through it. In hearings before FERC, many witnesses argued that this definition was too strict, that not enough gas would qualify to significantly affect the amount of drilling for this precious resource.

The definition in our amendment would qualify a formation with a permeability of 0.1 millidarcy. This is three times the permeability in FERC's original proposal. However, I believe that the analysts in FERC now are convinced that such a wider definition is useful.

The administration supports this definition.

Based on evidence for the major tight sands formations in the country, approximately 80 percent of all these formations will qualify for tight sands formation under definition of 0.1 millidarcy. This area is surely sufficient to provide good hunting grounds for drilling over the next several years. By 1985, all of this gas will be deregulated so that gas with higher permeability will qualify for the deregulated price.

For wells below 3,000 feet, our definition qualifies formations having a permeability of 1.0 millidarcy. In some formations below 3,000 feet depth, the gas pressure is so low that a permeability up to 1.0 millidarcy still requires expensive fracturing techniques to recover the gas.

BIG PICTURE

Now let me put this into a broader context in light of what this all means. In most of the initiatives that Congress has taken over the past several years with regard to bringing on new energy supplies, the policy objective has been to stimulate private industry to do sooner what it will probably do anyway at a later date. Due to the urgent need of reducing oil imports, it is appropriate to provide economic incentives which will induce industry to do in 1980 what they would otherwise do in 1985. Our amendment to provide a 50-cent-per-mcf tax credit for tight sands gas does just this.

The additional $1 per mcf, an effective price due to the tax credit, will initiate a greater amount of drilling on the Western tight sands. Sooner drilling means that the pipeline companies will initiate construction to transport this gas sooner. With the earlier construction of pipelines and with earlier development and application of techniques to produce gas from tight sands formations, this country will be able to reduce oil imports by a larger amount sooner.

Mr. President, there are estimates that natural gas produced from tight sands formations are extremely large. Some estimates indicate that there could be 600 to 800 trillion cubic feet of gas. By way of comparison, this country consumes less than 20 trillion cubic feet of natural gas per year.

The question is how soon and how fast this gas could be produced. It is estimated that with proper incentives at this time the industry could be producing the equivalent of several hundred thousand barrels of oil a day of gas from tight sands formations within the next decade. This means that tight sands formations can produce enough energy to compensate for the loss of oil imports from Iran.

COLORADO IMPACT

Mr. President, this amendment to accelerate the production of gas from tight sands formations is particularly important for my State of Colorado. The major gas deposits in tight sands formations occur in Wyoming, Colorado, and Utah. Of course, there are other substantial formations in the Southwest and throughout the Western States, and in the East.

In particular, in the Piceance Basin in Colorado, there are estimated to be 210 trillion cubic feet in place. If processes to stimulate the production can be effectively employed, approximately 50 percent of this gas in place can be recovered.

This means that in the Piceance Basin of Colorado, we can recover 100 trillion cubic feet or five times the total annual consumption of natural gas in this country.

Mr. President, there are over 500 small- and intermediate-sized, independent oil and gas companies in Colorado. In addition, the major oil companies, in particular Amoco, are also active in this region. It is my fond hope that the economic incentives we have provided earlier with the exemption of independent producers from the windfall profit tax and incentives such as this one for tight sands gas can make a substantial difference in the amount of drilling activity these companies undertake and eventually in the amount of oil and gas production these companies provide for the country.

COSTS OF PROPOSAL

The Joint Committee on Taxation has provided an estimate of the costs of this tax credit proposal. The amendment is tightly drawn so that only those formations that are in need of this incentive will qualify. The amendment is tightly drawn so that the tax credit phases out as the market price of this gas rises to world oil price levels. The Joint Committee on Taxation estimates that this tax credit will cause a loss in Treasury revenues of approximately $1.1 billion over its lifetime.

A sum of $1.1 billion is not a small sum in light of the types of proposals that Congress has considered before this year. However, compared to the magnitude of the $150 to $250 billion of revenues that the eventual windfall profit tax bill will gain, it is quite small. The important question is whether $1.1 billion is going to produce a substantial amount of more gas for this country at a time when we really need it.

Mr. President, I believe strongly that this tax credit will substantially accelerate the production of gas from tight sands formations. It will induce companies to drill into formations in 1980 while they otherwise might wait until 1985 or 1986. This production will help us toward our national policy objective of energy independence. I urge my colleagues to support this amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD the New York Times editorial of November 16, 1979, which I think accurately embodies the concept of this amendment and its purposes; the letter from the administration Secretary Donald C. Lubick, of the Department of the Treasury to Senator BAUCUS, dated November 21, 1979; and the Washington Post article of November 26, 1979.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Nov. 16, 1979]

GAS EMBEDDED IN ROCKS AND CONTROLS

Of all the unconventional fuels that could ease the nation's dependence on foreign oil, none is more promising than the huge deposits of natural gas trapped in rocks in the American West. By failing to provide adequate incentives for recovering this "tight sands" gas, Congress and energy regulators may be denying the country a desperately needed leg up on OPEC.

Somewhere between 50 and 400 trillion cubic feet of gas are known to be available in tight formations of sandstone and limestone. That range would be roughly equivalent to total American oil reserves. Tight sands already provide about 5 percent of America's natural gas, and research commissioned by the Energy Department suggests that their yield could be increased four times by 1985, as much as eight times by 1990. A fourfold increase would replace about 1½ million barrels of foreign oil—as much as the President's massive synthetic fuels program. Unlike fuels produced from coal, tight sands gas would not much harm the environment, either at the source or when burned.

But its costs, and price controls, are holding back production. Extracting gas from tight sands is far more expensive than taking it from conventional wells. It requires shattering rock formations miles below ground and saturating them with chemicals. Under current price controls, there is little reason for private energy companies to pursue the effort.

The Federal Energy Regulatory Commission, which administers the gas price controls, is aware of the problem. But has been reluctant to provide more generous incentives because a few producers with less than average costs would then reap a windfall. It proposes to raise the price by about 50 percent, to the equivalent of $18-a-barrel oil. But that is an abstract compromise. The standard of $18 is substantially less than what the Energy Department believes necessary to reach the maximum potential production of tight sands gas—which could replace 2 million to 4 million barrels of oil a day. And $18 is less than we already pay for Arab oil. It is less than we have agreed to pay Mexico for natural gas. It is far less than the projected cost of pipeline gas from Alaska.

The simple solution would be a change of mind at the commission. It could tie the price of tight sands gas to the price of foreign oil—a price so high that tight sands gas would, in effect, become deregulated. Congress set a precedent last year by exempting four other high-cost gases from price controls; a fifth could be added in the same spirit.

Unfortunately the commission appears immovable. It has traditionally placed a higher priority on protecting low prices for consumers than on assuring them adequate supplies. That leaves the matter up to Congress. There is little hope that it will directly exempt tight sands gas from price controls; hardly anyone wants to reopen the bitter gas debate that held up energy legislation for more than a year. But Congress could promote this promising gas by making it eligible for a tax subsidy.

The available vehicle for subsidy is the "windfall" oil profits tax now being debated in the Senate. The Finance Committee advocates a tax credit equal to $6 a barrel of oil for some types of high-cost gas. If the bill were amended to include tight sands gas, and the regulators granted the $18 ceiling, the return to producers would be raised to $24.

A tax subsidy would be less desirable than letting free markets establish the price. Someday, perhaps, the costs of energy price controls will be more widely understood. But the nation needs this clean and plentiful fuel too much to quibble. Congress should make certain that tight sands gas becomes available as fast as the industry can extract it.

[From the Washington Post, Nov. 26, 1979]

THE MISSING FUEL

For reasons no one completely understands, one potentially major energy resource has been largely ignored in the debate over the right mix of fuels for the coming decades. We are referring to the several types of natural gas known collectively as unconventional gas. That unmemorable name refers to the unusual geologic deposits in which this gas is found, including such unfamiliar types as tight sands located in the Rockies and geopressurized methane reserves around the Gulf of Mexico.

Assuming a price equivalent to $23.50 per barrel of oil (already surpassed by escalating ing OPEC prices), the administration estimated last summer that somewhere between 5,000 quads and 65,000 quads of such gas could be recovered in the United States. The estimate is so broad because there has been little exploratory drilling in these reserves and because several uncertain economic assumptions have to be made to arrive at a guess of how much of the total can be recovered at a given price. Nevertheless, since the country's total annual energy consumption is 75 quads, even the lowest estimate amounts to 70 years of the country's total energy needs—a pretty staggering number, to say the least.

The technology for extracting some types of unconventional gas already exists, though there is much room for improvement. But it is well enough understood for the Department of Energy to have predicted that these reserves could yield the equivalent of four millon barrels of oil a day by 1990—double the amount of the most optimistic predictions for synthetic fuel production, at a lower cost and with fewer environmental hazards. Of all the fossil fuels, for example, synthetic fuels contribute most to carbon-dioxide buildup in the atmosphere; natural gas the least.

With all these attractive qualities, why does unconventional gas need government help in entering the marketplace? The answer is that it shouldn't, but two related government policies—heavy subsidies for other competing energy sources, such as synthetic fuels, and an artificially low price for natural gas—could prevent, or seriously delay, its development. Before completing its consideration of the president's energy proposals, particularly the Energy Security Corporation to promote the development of synthetic fuels, Congress should therefore make sure that, in the rush to do something about energy, it has not unwittingly set up a system that will inhibit the production of an at least equally promising resource.

DEPARTMENT OF THE TREASURY,
Washington, D. C., November 21, 1979.
Hon. MAX BAUCUS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR BAUCUS: You have asked for the Administration's comments on an amendment intended to be offered by yourself to H.R. 3919, the Windfall Profit Tax Act of 1979, as reported by the Senate Finance Committee.

Your amendment would provide a $.50 per mcf credit for new production of unconventional gas from tight formations. The credit would begin to phase out as the price of tight formation gas (as determined by the Secretary of the Treasury after consultation with the Chairman of the Federal Energy Regulatory Commission) reached $4.17 per mcf and would terminate when the price of natural gas from tight formation reached $5.17 per mcf. The $4.17 to $5.17 phase out range is to be adjusted for post-1979 inflation, as measured by changes in the GNP deflator from its average level in 1979. The $.50 per mcf credit would not be indexed for inflation.

The Administration strongly supports your amendment.

As you know, the President's program proposed an unconventional gas production tax credit which included gas produced from tight formations. However, the credit in the Senate Finance Committee bill excludes tight formation gas. We believe that the exclusion was an error.

Tight formations are already yielding an equivalent of 500,000 barrels of oil a day. However, most tight formation gas is still too expensive to produce.

The $.50 per mcf credit phases out at a different level than do the other production credits in that Senate Finance Committee bill. This phase out level is justified since production of tight formation gas is still subject to price controls, unlike the other energy sources receiving credits under that bill. If tight formation gas is deregulated, justification for the credit no longer exists and your amendment, therefore, terminates the credit in the event of such an occurrence.

The Office of Management and Budget has advised the Treasury Department that the positions stated in the letter are in accord with the Administration's program.

Sincerely yours,
DONALD C. LUBICK,
Assistant Secretary (Tax Policy).

Mr. JACKSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Wahington.

UP AMENDMENT NO. 880

(Purpose: To amend amendment numbered 767 to strike the provisions which override the Natural Gas Policy Act of 1978)

Mr. JACKSON. Mr. President, I offer an amendment, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

> The Senator from Washington (Mr. JACKSON) proposes an unprinted amendment numbered 880 to the Baucus amendment numbered 767:
>
> On page 5 of amendment numbered 767, strike lines 1 through 8 and renumber accordingly.

Mr. JACKSON. Mr. President, the amendment by the Senator from Montana (Mr. BAUCUS) eliminates the "choice" requirement in the Natural Gas Policy Act. I must say that we spent a lot of time making it possible for FERC to recognize these special situations we are discussing here, the tight sand rock formations, and FERC has authority to grant special incentive prices for tight sand gas. I have an amendment to the pending amendment which will reinstate the "choice" requirement. A producer must choose between a tax credit and a special incentive price at present. I want things to remain that way.

My amendment will mean there will not be any revenue loss as a result of our action here today.

Mr. President, I rise in reluctant opposition to the amendment by the Senators from Montana (Mr. BAUCUS) and Colorado (Mr. HART).

As the sponsors of the amendment know, I am very much in favor of providing incentive prices if necessary to spur additional natural gas production.

As a matter of fact, I am the author of the provision in the Natural Gas Policy Act which deregulates natural gas produced from very deep wells, geopressured brine, coal seams, and Devonian shale. That same provision—which is section 107 of the Natural Gas Policy Act—gives the Federal Energy Regulatory Commission authority to provide incentive prices for any other type of natural gas which the Commission determines warrants special prices.

The FERC has issued a proposed rulemaking which would allow gas from tight formations to be sold for $3.10 per million Btu's. That price is 150 percent more than most development wells get under the NGPA. I support the Commission's efforts in this regard. As a matter of fact, if they determine that an even higher price is necessary and justified, I would go along with that, too.

Unfortunately, however, I cannot go along with the pending amendment. The Senate Finance Committee considered giving tight sand formation gas a tax credit but declined to do so. The staff of the Joint Committee on Internal Revenue Taxation estimated that such a tax credit would cost $15 billion between now and 1990. I suspect their estimate is too high, but I do agree that substantial revenues are involved.

However, my main problem with the amendment is that it is a back-door amendment to the Natural Gas Policy Act.

I am sure that my colleagues remember the weeks and weeks of debate that went into the natural gas bill. Some of us have barely recuperated from the debate and time involved.

While no one agrees with all of the provisions of the gas act, I can assure my colleagues that it is working. There were 4,090 natural gas wells completed the first 5 months of 1977, 4,856 the first 5 months of 1978, and 5,553 the first 5 months of 1979. Gas well completions for the first 6 months of 1979 were 14.2 percent greater than the first 6 months of last year. This is especially impressive if you consider the fact that gas well completions in 1978 were at an all-time high.

I can see no earthy reason to go back and start unraveling the Natural Gas Policy Act. Make no mistake about it; that is what this amendment does.

The NGPA gives producers of high-cost gas a choice. They can either have the special high prices provided for their gas, or they can take advantage of any available tax credit for high cost natural gas. They cannot use both and must file an election with the FERC if they wish to use the price provisions rather than any available tax advantage.

The pending amendment eliminates the "choice" requirement.

Let me assure my colleagues that once you start tugging at one provision in the NGPA—especially if it is a price provision—the whole thing comes unraveled.

Now is not the time to begin that process. We are already planning to be here until Christmas Eve this year. If you start on the Natural Gas Policy Act, everyone might as well plan to spend New Year's Eve in the Capitol, too.

I must oppose the amendment unless it is amended. Accordingly, I have sent an amendment to the desk to strike the provision which amends the "choice" requirement.

So I ask for a vote on the amendment to the amendment offered by the Senate from Montana.

Mr. BAUCUS. Mr. President, I have no objection. I have no objection to the Senator's amendment.

The reason I am accepting this amendment is that, very frankly, I do not want to get involved in opening up the Natural Gas Policy Act. This is a battle that has inflicted many wounds and bruises on Members of the Senate before I arrived and it is not one we want to open here today.

For that reason, I accept the amendment.

Regrettably, the immediate effect of the amendment, as a practical matter, will be that there will not be quite the same incentive for natural gas producers.

However, I think the message we are sending today by accepting the initial amendment to FERC will sufficiently encourage them, at least that is my hope, to raise the incentive price.

Mr. JACKSON. I think the only difference, of course, is the feeling the Senator from Montana might have as to what FERC might do. Under the existing law, FERC has to do whatever necessary to provide the incentive.

Of course, I support what the Senator from Montana is seeking to do, and that is to provide additional incentives for this higher cost natural gas. I want that clear in the record.

I think the question is how much, and currently they have allowed $3.10, which is an increase of 150 percent.

So we are not in disagreement on that. It is just a question of policy here, taking the lid off everything.

I think we can agree. Why not just vote on this amendment now, the amendment to the amendment?

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Washington to the amendment of the Senator from Montana.

The amendment (UP No. 880) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. RANDOLPH addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. If agreeable to the knowledgeable Senator from Montana, could I make an observation?

Mr. BAUCUS. Absolutely.

Mr. RANDOLPH. I understand the amendment, I am supporting the amendment.

I would not want the record, however, to remain not challenged because of something the Senator said, but only to reply to the statement he made that the technologies for the development of synthetic liquid fuels are yet to be found. They have been known, known, known for approximately 40 years.

They were successful in Germany as it fought World War II, using synthetic liquid fuels for its motorized equipment on the ground and its Luftwaffe in the skies, for the programs in South Africa that have been developed successfully, for what we have done in this country at an earlier period, in the 1940's.

I say, without argument, that we have the technologies, but we never have used them. That is why we find ourselves now in the backwash of unstable and unfriendly countries, why we now have our hostages in Tehran, and why the whole American population of 230 million people are hostages. We have not—and we know it now—moved into a program of synthetic liquid fuels in this country, as we should have done long ago.

Mr. BAUCUS. I thank the Senator for the observation. He is absolutely correct.

The technology is certainly progressing very rapidly as to commercial production of synthetic fuels. My only point is that, as the Senator knows, tight sand technology is presently available.

Mr. RANDOLPH. And I support it.

Mr. SCHMITT. Mr. President, will the Senator yield for a question?

Mr. BAUCUS. I yield.

Mr. SCHMITT. Does the Senator feel that this solves the nationwide program of tight sands for gas production?

Mr. BAUCUS. Absolutely not. In my view, it is just a step in the direction of trying to encourage FERC and others to find sufficient incentives to find that gas.

Mr. SCHMITT. The present discussions that have been going on have indicated a reluctance to give definitions of what a tight sand is that is adequate to really take into account the real world not only of economics but also of where gas is and how to get it out of the ground.

I hope the distinguished Senator from Washington, the distinguished Senator from Montana, and others will work to put even more pressure on FERC to get a realistic definition under their regulatory order. If they do not, then we will attempt the appropriate statute.

Although this is a step in the right direction—the Senator from Montana is correct—nevertheless, it is not yet where we should be, by a long shot. I hope that he and others will work to accomplish that.

Mr. GLENN. Mr. President, will the Senator yield?

Mr. BAUCUS. I yield.

Mr. GLENN. The amendment I am about to bring up in a few minutes will address itself to part of the concerns of the Senator from New Mexico, in which we expand into Devonian shale, coal seams, and geopressurized brine, where there are trillions of additional cubic feet of gas.

Mr. SCHMITT. The Senator's amendment sounds attractive, but there are many so-called plays of potentially productive natural gas horizons where the 0.1 millidarcy at great depth is completely unrealistic.

Mr. BAUCUS. The Senator is correct. It is practically concrete, it is so tight. The definition is about .03 millidarcy, and it is our hope that FERC will expand that to 0.1 millidarcy, and maybe even up to 1 at different depths, and different kinds of formations.

It is my thought, however, that it would be improper for us here today to try to formulate a definition in a statute as it applies to the Natural Gas Policy Act. It would not be proper here today. Those hearings will be held later, and the battles should be fought next year.

It is my intention to send a strong signal to the Federal Energy Regulatory Commission to make those changes administratively, themselves, so that they will allow more incentives, so that we can produce more gas.

Mr. SCHMITT. I hope that signal is heard, and I hope the distinguished chairman of the Committee on Energy and Natural Resources will also make it very clear that if they do not begin to become significantly realistic in their definitions, we will do it by changing the statute.

We are losing a great deal of available energy just by an unrealistic definition of what a tight sand is. It is another of these incomprehensible things that the bureaucracy gets themselves into. I hope they get the message.

I congratulate the Senator from Montana for making this effort.

Mr. SIMPSON. Mr. President, I support the amendment of Senator BAUCUS. I want to assist him in promoting the concept, and also assist him in sending the message out on this issue of tight sands.

I hope we will be able to attempt to correct what happened so many years ago with natural gas, which industry suffered under an artificial pricing structure for so many years, to the detriment of that industry, and to the detriment of the consumer.

Mr. President, I wish to speak briefly about the amendment presented to permit gas produced from tight sands formations to be treated as a qualified fuel for purposes of the credit for production of fuels from nonconventional sources.

The amendment proposes forgoing $1 billion in revenue to produce the natural gas equivalent of 175 million barrels of oil over 4 years.

It does so by extending a tax credit of 50 cents per thousand cubic feet to new production of gas from tight sands formations.

Tight sands gas is the only high cost gas which will remain under price control through 1985 and the only high-cost gas excluded from a credit in the bill now before us, although it was included in the President's original tax credit proposal.

It is also the only unconventional gas that will show significant production gain in the next decade.

It does not pollute air, water, or the earth, and we have a tremendous supply right here in the United States much of it lies in the West and South.

Mr. President, we know how to get it, and we know it is there. All we need is the further economic incentive to pull it from the ground.

By 1990, the Department of Energy estimates we could recover 4 million barrels equivalent per day and that is nearly half of our current imports.

It is an energy resource roughly equal to all the proven oil reserves in the United States.

The Department of Energy estimates that it may cost the equivalent of $24 per barrel to produce the bulk of our tight sands gas. This type gas is currently controlled at the rate of $18 per barrel. This amendment, offering a $3 a barrel credit equivalent on the producer's tax, will make up this difference and make it attractive to produce. It will cover new wells only.

We are only interested in making this resource competitive with other forms of energy. As the price increases over the next years, the credit will decrease and gradually be phased out, when the price reaches the equivalent of $29.50 a barrel, probably by 1985 or so.

Mr. President, I would urge that my colleagues support this amendment. It offers a necessary incentive to encourage production of natural gas and would allow natural gas to play a more important role in the Nation's energy mix. There is no question but that increasing the production of natural gas is a wise course of action because, overall, it is the least environmentally damaging fossil fuel to extract, transport, and burn. This aspect, alone, justifies this financial incentive to production in the Baucus amendment.

I support the amendment fully and commend Senator BAUCUS on its introduction.

Mr. JACKSON. Mr. President, I ask unanimous consent that notwithstanding the previous unanimous-consent agreement, the Senator from Ohio (Mr. GLENN) may offer an amendment covering Devonian shale, coal seams, and geopressurized brine, with the further understanding that my rights to the floor will be maintained as previously agreed to.

Mr. STEVENS. Mr. President, reserving the right to object, it is my understanding that a similar request is pending by the Senator from Idaho. Will that be granted?

Mr. JACKSON. I already have talked to him.

Mr. STEVENS. Will that be granted by the other Senator from Ohio?

Mr. METZENBAUM. I do not know about any request of the Senator from Idaho. He has talked with me about an amendment he expects to bring up, but I doubt very much that we will have any problem with it.

Mr. STEVENS. There is a request pending now, and I am going to object to the request by the Senator from Ohio unless the amendment by the Senator from Idaho is similarly considered.

Mr. JACKSON. I have heard no objection.

Mr. STEVENS. I object, unless we hear that the Senator from Ohio (Mr. METZENBAUM) is going to permit the Senator from Idaho a similar courtesy.

Mr. METZENBAUM. From what I have seen of the amendment of the Senator from Ohio, I do not have any objection to it, and he is not identified with me on it.

Mr. STEVENS. I am not going to permit any Senator to be a traffic cop on this floor, and I am not. If there is going to be fairness, there is going to be fairness. I have great respect for the Senator from Ohio (Mr. GLENN), but the Senator from Idaho has been waiting for a similar courtesy.

Mr. JACKSON. There is no problem, I say to the Senator from Alaska. It is the old story—you have won your case.

Mr. STEVENS. All I need is the consent of the Senator from Ohio.

Mr. JACKSON. Mr. President, I ask unanimous consent that the previous unanimous-consent request include, with the same stipulations, the proposed amendment dealing with biomass, to be offered by the Senator from Idaho.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, as I understand the request of the Senator from Idaho, it is to increase to 30 percent the investment tax credit for equipment converting biomass into an alcohol fuel, from the 20 percent.

Mr. McCLURE. It would increase the 10 percent to 20 percent. It will be modified, I say to the Senator from Ohio, to make it effective through 1984.

Mr. METZENBAUM. And the cost through 1984 would be $112 million?

Mr. McCLURE. The Senator is correct.

Mr. METZENBAUM. I have no desire to prevent Senator GLENN from proceeding, but I say to the Senator from Alaska that yesterday the Senator from Idaho asked unanimous consent for a request he had, which appeared to be reasonable, having to do with electric motors, and the Senator from Ohio did not object.

I did not make the rules applicable at the moment. The rules are that the Senate put itself into this situation, and I am not objecting to that.

However, when I attempted to bring up an amendment the other day, and stood on this floor for 3 or 4 hours—an amendment having to do with closed steel plants in Ohio—it was objected to time and time again. I tried 2 or 3 times.

All I am saying is that we have some understanding that we are not going to be talking about any increases or decreases. One hundred and twelve million dollars is not exactly hay, and that is a decease.

The PRESIDING OFFICER. Is there objection?

Mr. GLENN. Mr. President, a parliamentary inquiry.

Mr. ROBERT C. BYRD. Mr. President, does the Senator object?

Mr. McCLURE. Mr. President, will the Senator withhold his objection for just a moment?

Mr. METZENBAUM. I withhold.

Mr. McCLURE. Mr. President, reserving the right to object, and it is not my intention to object, of course, I hope the Senator from Ohio will remember that the revenue increase and decrease was with respect to title I, and my amendment is not to title I. It does not breach that agreement in any way.

Mr. METZENBAUM. I understand the Senator's point with respect to that. The fact is, $112 million is still $112 million, although it does not come out of the windfall profit tax.

Mr. STEVENS. Mr. President, reserving the right to object, the point is the Senator from Ohio assumes an ayatollah role by saying one vote can cancel another amendment by another Member.

The Senator from Idaho is not asking for the concept for its approval. He wishes to offer it. If it takes a rollcall, it will carry over until Monday. But he is entitled to have a chance to raise it, as is my good friend from Ohio, the Senator's colleague.

That is all I am trying to do. I am trying to bring some fairness into this procedure as long as we are operating under this circumstance where we have a roadblock.

Mr. GLENN. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. STEVENS. Yes.

Mr. ROBERT C. BYRD. The Senator from Washington has the floor.

Mr. STEVENS. I suggest the Senator from Ohio permit the Senator from Idaho to raise his amendment. He can have his arguments against it, and have a vote on it Monday morning, and there will be no problem whatsoever.

Mr. GLENN. Mr. President, will the Senator yield for a parliamentary inquiry?

Mr. JACKSON. I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. GLENN. Is it necessary for me to have unanimous consent to amend the Baucus-Hart amendment in the second degree?

The PRESIDING OFFICER. The Chair will state unanimous consent is not required since the amendment by the Senator from Ohio is an amendment to the amendment of the Senator from Montana.

Mr. GLENN. All right. Unanimous consent is not required.

The PRESIDING OFFICER. The amendment will be in order.

Mr. JACKSON. May I say to the Chair, to keep the record straight, and I think I am right on this, in my unanimous-consent agreement previously on the amendment offered by the Senator from Montana, I made the request—I believe I did—that there be no amendments in the second degree except the one that I offered. I may be wrong, but I thought that was my request. I have been doing it each time.

Mr. LONG. Mr. President, my impression is that the Senator from Washington did exactly that, that he made that a standing proposition, that if he yielded for an amendment, it would not be subject to amendment in the second degree.

The PRESIDING OFFICER. The Chair will state that the Journal does not show that there was an agreement reflecting amendments in the second degree. Therefore, the amendment by the Senator from Ohio would not require unanimous consent.

Mr. LONG. Mr. President, I stood right here and heard the Senator from Washington say that he was willing to yield for an amendment to be offered with the understanding that it would not be amended in the second degree. He said that and I heard him say that. And unanimous consent was given on that basis.

I do not think it would have been given otherwise because the Senator wanted to know what it was he was standing aside for.

Mr. JACKSON. The Senator is precisely right. It was not to be amended in the second degree except by my amendment.

Mr. LONG. I am not against unanimous consent.

Mr. JACKSON. I am all for the amendment offered by the Senator from Ohio, and I am prepared. I have no objection to it.

Mr. LONG. The point is I am not against the unanimous-consent request.

Mr. JACKSON. I also include the Senator from Idaho.

Mr. LONG. The point is I am not against the unanimous-consent request. It is all right with me for the Senator to offer his amendment and it be agreed to. It is all right with me for the amendment, and the amendment to the amendment, to be agreed to, but I am positive it was agreed that it would take unanimous consent. I am willing to give it. Let us see if we can get it.

Mr. GLENN. Mr. President, I was not trying to bypass what I also had thought was the agreement that the Senator from Washington had established here. I was just trying to get around this small impasse we are having back and forth in another vein here.

Mr. LONG. Mr. President, let me say this, that if the Senator is permitted to amend the amendment, I assure the Senator from Idaho (Mr. McClure) that he will have an opportunity to offer his amendment. His amendment is germane anyway. So if cloture is voted, he may still offer it, and we can legislate on that.

The PRESIDING OFFICER. The Chair will have to state that in this case the Journal controls, and the Journal, as the official proceedings, states that under the agreement the Senator from Montana be recognized to present his amendment and the Senator from Washington to submit an amendment but did not restrict others from also offering amendments in the second degree.

Mr. JACKSON. Let us go ahead. I am not going to appeal from the Journal.

UP AMENDMENT NO. 881

(Purpose: To determine the credit for production of unconventional gas based upon a reference price related to gas prices rather than oil prices)

Mr. GLENN. Mr. President, I send to the desk my amendment to amendment No. 767, and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. Glenn) proposes an unprinted amendment numbered 881.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, between lines 14 and 15 add the following:

"(iii) in the case of gas from Devonian shale, coal seams and geopressured brine described in subsection (d) (1) (B) (i), the average cost of high cost natural gas (as defined under section 108(c) (2), (c) (3), and (c) (4) of the Natural Gas Policy Act of 1978 and determined in accordance with section 503 of that Act), as determined by the Secretary after consultation with the Chairman of the Federal Energy Regulatory Commission."

On page 4, between lines 21 and 22 insert the following:

"(g) Special rules for gas from Devonian shale, coal seams and geopressured brine.—For the purpose of applying this section with respect to the production of gas from Devonian shale, coal seams and geopressured brine (as defined in subsection (d) (1) (B) (i))—

"(1) Amount of credit.—Subsection (b) shall be applied by substituting '50 cents per mcf' for '$3 multiplied by the barrel-of-oil equivalent'.

"(2) Phaseout of credit.—Paragraph (1) of subsection (c) shall be applied by substituting '$4.05' for '$23.50' and '$1.03' for '$6.00'.

"(3) Reduction for Federal Funding.—Paragraph (2) of subsection (c) shall be applied by treating any reference in that paragraph to a barrel of oil or its equivalent as a reference to an mcf of gas.

"(4) Credit and phaseout adjustment based on inflation.—Paragraph (3) of subsection (c) shall be applied by substituting '$4.05' for '$23.50' and '$1.03' for '$6.00'.

"(5) Credit allowed only for new production.—The amount of the credit allowable under subsection (a) shall be determined without regard to any production attributable to a property from which gas from Devonian shale, coal seams and geopressured brine was being produced before the date of enactment of the Crude Oil Windfall Profit Tax Act of 1979.

"(6) Mcf.—The term 'mcf' means a thousand cubic feet.

"(7) Special Effective Date.—No amount shall be allowed as a credit with respect to the production of gas from Devonian shale, coal seams and geopressured brine produced before October 1, 1980."

On page 4, strike line 22 and insert in lieu thereof the following:

"On page 147, line 12, strike out "(f)" and insert "(h)".

Mr. GLENN. Mr. President, I am an enthusiastic cosponsor of the Baucus-Hart amendment. That amendment will extend the producion credit of $3 per barrel of oil equivalent to gas produced from tight sand formations. I believe this to be an extremely important production incentive which could help to increase production from tight sand formations such as the Clinton formation in Ohio.

My amendment to the Baucus-Hart amendment would provide for a more effective production credit with respect to unconventional types of gas than that presently in the bill.

At present, the bill provides for a production credit of $3 per barrel of oil equivalent for production of energy from alternative sources. Among the types of energy to be eligible for the credit are natural gas from Devonian shale, coal seams, and geopressured brine.

The problem with the credit occurs when the phaseout of the credit is applied to gas produced from these sources. The bill provides that the production credit begins to phase out when the average refiner acquisition cost of imported crude oil reaches $23.50 per barrel and is completely phased out when the cost reaches $29.50 per barrel. At the present cost of imported oil, the credit will not go into effect at all. In other words, gas would be left out because it is tied to oil.

I believe that the phaseout of the production credit for gas produced from Devonian shale, coal seams, and geopresured brine should more reasonably be based upon the price of natural gas rather than the price of imported oil. In order to do this, my amendment provides that the production credit for these types of gas would only begin to phase out when the price of gas reaches the Btu equivalent price of oil at $23.50 per barrel, and it would terminate when the price of gas reaches the Btu equivalent price of oil at $29.50 per barrel. That Btu equivalent price is $4.05 per mcf at $23.50 per barrel for oil and $5.08 per mcf at $29.50 per barrel for oil. These price levels correspond to the phaseout prices for oil provided for in the bill.

Since natural gas pricing policy is not tied to oil pricing policy, it is more reasonable, I believe, to provide a production credit for gas which is more closely related to gas prices.

A production incentive to encourage the production of natural gas from these unconventional sources is vitally necessary if we are to tap the vast potential of these resources. The administration's national energy plan II estimates the resource base of gas from Devonian shale at 25–400 tcf, coal bed methane at 50–700 tcf and geopressured brine at 5,000–63,000 tcf. With respect to gas from Devonian shale, the Devonian Shale Task Group of the National Petroleum Council Committee on Unconventional Gas Sources in a recent study estimates that, given a 15-percent rate of return, the potentially recoverable amount of gas from Devonian shale in the Appalachian basin would increase substantially at higher prices. At a price per mcf up to $2.50, the amount of potential recoverable reserves would increase by 1.8 tcf. This amount would increase substantially to 7.6 tcf at a price per mcf between $2.50 and $5. This increase in recoverable reserves could be a big step in helping us become more energy self-sufficient.

With respect to the cost of my amendment, there will be no revenue loss this fiscal year because the effective date of the credit is October 1, 1980. The Joint Committee on Internal Revenue Taxation estimates that the tax credit encompassed by my amendment would result in a total revenue loss of $32 million.

I urge my colleagues to support this amendment.

I believe this is acceptable to both sides of the aisle. I move its acceptance.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. GLENN. I yield.

Mr. JACKSON. Does the amendment by the Senator from Ohio override the

National Gas Policy Act choice provision?

Mr. GLENN. No, it does not.

Mr. JACKSON. Mr. President, under those circumstances I will certainly not object to the amendment. But I do wish to make one point here:

I have the same interest the Senator from Ohio has in trying to develop these very difficult areas of potential gas supplies. But I think all Members of this body ought to remember this: That Devonian shale gas is already deregulated. That was provided for in the Natural Gas Act. So is gas from coal seams, already deregulated. So is gas from geopressurized brine, already deregulated.

It is a bit ironic, Mr. President, when we go back to the debate on the gas bill where we were told that we can get all the gas in the world if we only deregulate.

I must say it proves the point that you reach that particular, shall we say, area, where you really cannot get more even if you throw money at it. That is what I am trying to say. It is deregulated, and we were told that we would get the gas.

But I am willing to go along with the distinguished Senator from Ohio. The clear intent of Congress was to say that within 1 year of the act, which is now past, all of these various difficult types of gas from coal seams and Devonian shale and geopressurized brine could be available in quantity by simple deregulation.

But other conditions may have entered into this. I think it is something we ought to watch closely. I am willing to go along with the amendment offered by the Senator from Ohio.

Mr. SCHMITT. Mr. President, will the Senator yield for a comment? I am sure the amount of time which has elapsed since we deregulated those difficult gas sources is not great in that we have in the meantime seen a further aggravation of our energy supply problem in that the kind of things we need to do in order to make sure that these extremely useful and very environmentally sound energy sources; namely, natural gas and derivatives, are available and may even go beyond the amendment of the Senator from Ohio.

So I still believe we are going to see an increase in production from these difficult gas sources, but it is not going to be the kind of increase that is going to get us out of this mess we are in today, at least not for a while. Deregulation was important, but these kinds of measures are also important.

Mr. JACKSON. Let us try the route that has been suggested here by the amendment of the Senator from Montana and the amendment I offered and the amendment that is now pending of the Senator from Ohio. I think we can all agree on it. I suggest that we vote.

Mr. GLENN. I am prepared to vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question now recurs to the amendment of the Senator from Montana.

UP AMENDMENT NO. 882

Mr. McCLURE. Mr. President, I send an amendment in the second degree to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 882 to the Baucus amendment.

The amendment is as follows:

As an amendment to the pending amendment add at the end thereof the following new section:

SEC. . (a) IN GENERAL.—Clause (v) of section 46(a)(2) (relating to energy percentage), as amended by section 231(a), is amended by striking "and (iv)" and inserting ", (iv), and (vi)".

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 48(1)(15) (relating to biomass property), as amended by section 232(a)(7), is amended—

(1) by striking out "or" at the end of clause (iv),

(2) by striking out "or gaseous fuel." in clause (v) and inserting "(other than alcohol fuel) or gaseous fuel, or", and

(3) by adding at the end thereof the following:

"(vi) is equipment for converting biomass into an alcohol fuel.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect October 1, 1980, and shall expire on September 30, 1984.

Mr. McCLURE. Mr. President, this is an amendment which I have discussed and we were discussing a little earlier about arranging to have it considered this evening. It deals with a question of an investment tax credit for the production equipment on biomass conversion.

The purpose of it is to allow the small production facilities across this country to get a little help on the capital investment. The Finance Committee utilized a direct payment on gasohol or alcohol fuels, but they did not deal with the production side.

I think that is a good way to approach the question of alcohol fuels where there is large-scale production for the commercial market. But it does almost nothing for the small-scale conversion that might happen down on the farm or behind the barn or for a circle of neighbors where an investment tax credit can be helpful.

This amendment would increase the investment tax credit to that which is allowed for the conversion of biomass to solid fuel to make that available for the conversion of biomass to liquid fuels at a 20-percent investment tax credit.

I have limited that to a period of years starting on October 1, 1980 and expiring on September 30, 1984.

Mr. President, I have discussed this with the managers of the bill on both sides of the aisle. I have discussed it with the Senator from Ohio, and earlier when I was going to take another route to the vote, and it is my understanding that there is no srong objection to this amendment from any of these quarters, and I hope the amendment will be agreed to.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. McCLURE. I would be happy to yield to the Senator from Maine for a question without losing my right to the floor.

Mr. MUSKIE. There is a budgetary cost in this of $112 million. There is no cost for fiscal year 1980, so it is not subject to challenge under the present budget.

I am troubled by the fact that we are, in much smaller increments than was the case with the Percy-Randolph amendment, adding to the tax credit costs of this bill.

Mr. McCLURE. Might I respond to that, Mr. President, by saying that I understand the Senator's concern, and he knows I have the same concern in the budgetary sense.

Let me say these estimates of revenue loss are based upon the assumption that there will be a very active increase in the amount of money devoted to the production of biomass liquid fuels. To get to a revenue loss of $112 million you would have to assume that there would be a billion dollar investment between now and 1984 in the production of alcohol fuel. I think that is a very optimistic projection, although I hope if the amendment is adopted that it might stimulate us to move in that direction and, thereby, decrease our dependence on imported fuel.

Mr. MUSKIE. I understand that. But I say to the Senator there have been two or three amendments—Senator GLENN's amendment adds maybe $32 million with the same kind of rationale, if it is used, and so on. I am just concerned that for the rest of this day and Monday these rather small increments will add up to a lot of money, as Senator DIRKSEN put his very familiar phrase, and since it does not impact on the 1980 budget I only have whatever powers of persuasion I have, and I do not want to make a major case out of every increment that is added. But I would like to indicate at least my objection, and I hope the Finance Committee, in conference, will take a look at the cumulative total of these.

If I had before me the cumulative total of what is going to be proposed and what might be added, I could make a more rational case. If this incentive does not work and it is not spent there is no budgetary cost. But the best guess is that it is going to be $112 million over 4 years, and if it is continued through the decade we do not know what the cost will be, and if the incentive begins to develop as intended the costs would be enormous.

So I simply want to indicate, without forcing another rollcall vote at this point, my objection to the addition to these additional increments of cost. And if they begin to add up to a significant total taken together, then it would seem to me, we would have to consider an amendment cutting back on these expenditures.

UP AMENDMENT NO. 883

Mr. LONG. Mr. President, I have a series of 53 technical amendments that are needed on this bill so that the staff can work on these perfecting amendments, and I ask unanimous consent that I might be able to offer these amendments and the Senate might be able to agree on them at this point. They are technical amendments and have been cleared on both sides by Senators who——

The PRESIDING OFFICER. Does the Senator from Idaho yield for that purpose?

Mr. McCLURE. I yield upon condition that I do not lose my right to the floor and it does not affect my pending amendment.

Mr. JACKSON. Mr. President, I believe I have the floor under the consent agreement.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. JACKSON. I yielded though for that original purpose, and I yield to the chairman of the Finance Committee for his purpose without losing the right of the floor to the Senator from Idaho or myself.

The PRESIDING OFFICER. The Senator from Idaho has the floor. When the Baucus amendment is completed the Senator from Washington will return to having the floor.

Mr. LONG. Mr. President, I simply ask unanimous consent that the Senate proceed to consider the amendments because I am sure the Senate will agree to them.

The PRESIDING OFFICER. Is there objection?

Mr. METZENBAUM. Mr. President, reserving the right to object, I did not hear what the Senator asked.

Mr. LONG. I just asked unanimous consent that the Senate might consider 53 technical amendments that were shown to the Senator, so that the staff could be working on the technical part of the perfecting amendments over the weekend.

Mr. METZENBAUM. I have no objection.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. LONG) proposes an unprinted amendment numbered 883.

The amendment is as follows:

On page 51, line 3, after "reduced" insert "(but not below zero)".

On page 51, line 7, after "before" insert "the month after".

On page 53, line 13, strike out "and".

On page 53, lines 18 and 19, strike out ", and continues to meet,".

On page 53, lines 23 and 24, strike out ", and continuing to meet,".

One page 54, line 2, delete the end period and insert a semicolon and "and".

On page 54, insert the following between lines 2 and 3:

"(E) the operator submits (at such time and in such manner as the Secretary may prescribe by regulations) to the Secretary a certification from a petroleum engineer that the project continues to meet the requirements of subparagraphs (A), (B), and (C).

On page 57, strike lines 14 through 17, and insert the following:

"(iii) the jurisdictional agency and a petroleum engineer certify that continuing the terminated injection process would be ineffective or counterproductive".

On page 65, line 2, after "property" insert "(other than a stripper property)".

On page 66, strike out lines 8 through 10, and insert in lieu thereof:

"(a) PRODUCER AND OPERATOR.—For purposes of this chapter—

"(1) PRODUCER.—The term 'producer' means the holder of the economic".

On page 68, line 18, strike out "paragraphs (4) and (5)" and insert in lieu thereof "paragraph (4)".

On page 71, beginning with line 13, strike out all through page 72, line 13.

On page 75, line 25, strike out "(vii) or".

On page 76, insert the following between lines 21 and 22:

"(j) CROSS REFERENCE.—

"For the holder of the economic interest in the case of a production payment, see section 636".

On page 79, line 5, strike out "Federal Government" and insert "United States".

On page 83, strike out lines 15 and 16, and insert "4986 by reason of section 4988 (a) (1), (2), or (3),".

On page 85, strike out lines 11 through 20, and insert:

(f) DEFICIENCY PROCEDURES.—

(1) IN GENERAL.—Subchapter B of chapter 63 (relating to deficiency procedures in the case of income, estate, gift, and certain excise taxes) is amended—

(A) by striking out "and 44," each place it appears and inserting in lieu thereof "44, and 45,",

(B) by striking out "or 44," each place it appears and inserting in lieu thereof "44, or 45,", and

(C) by inserting "or of chapter 45 tax for the same taxable period," immediately before "except in the case of fraud".

(2) CLERICAL AMENDMENTS.—

(A) Sections 6161(b) and 6344(c) are each amended by striking out "or 44" each place it appears and inserting in lieu thereof "44, or 45".

(B) Section 6512 is amended—

(i) by striking out "charter 41, 42, 43, or 44 taxes" and inserting in lieu thereof "certain excise taxes", and

(ii) by striking out "or" immediately after "decedent," each place it appears and by inserting ", or of chapter 45 tax for the same taxable period" immediately after "petition relates" each place it appears.

(c) The heading for section 6601(c) is amended by striking out "Chapter 41, 42, 43, or 44" and inserting in lieu thereof "Certain Excise".

(D) Section 7463(a) is amended by striking out "or" at the end of paragraph (2), by inserting "or" at the end of paragraph (3), and by inserting immediately after paragraph (3):

"(4) $5,000 for any taxable period, in the case of the tax imposed by chapter 45,".

On page 88, line 16, strike "4989(b)(3), 4991(d)(2)(B)(ii)" and insert in lieu thereof "4989(b), 4991(d)".

On page 89, line 7, strike "4986(B)(3), 4991(d)(2)(B)(ii)" and insert in lieu thereof "4989(b), 4991(d)".

On page 91, strike out lines 1 through 15, and insert in lieu thereof the following:

SEC. 102. PROVISIONS RELATING TO THE TAX COURT.

(a) EXCLUSIVE JURISDICTION OVER WINDFALL PROFIT TAX CASES.—Subchapter C of chapter 76 (relating to the Tax Court) is amended by adding at the end thereof a new part V to read as follows:

"PART V—CIVIL ACTION FOR REFUND OF WINDFALL PROFIT TAX

"SEC. 7480. CIVIL ACTION FOR REFUND.

"(a) IN GENERAL.—The Tax Court shall have exclusive jurisdiction of any civil action against the United States for the recovery of any tax imposed by chapter 45 (relating to windfall profit tax on domestic crude oil).

"(b) POWERS.—The Tax Court shall have the same powers as a United States District Court would have in a civil action brought before it.".

(b) NUMBER OF JUDGES.—Subsection (a) of section 7443 (relating to membership) is amended by striking out "16" and inserting in lieu thereof "19".

(c) CONFORMING AMENDMENTS.—

(1) Section 7451 (relating to fee for filing petition) is amended by striking out "or for a declaratory judgment under part IV of this subchapter or under section 7428." and inserting in lieu thereof ", for a declaratory judgment under part IV of this subchapter or under section 7428, or for a civil action for refund under section 7480.".

(2) Section 7459(c) (relating to date of decision) is amended by inserting "or refund" after "amount of deficiency" each place it appears.

(3) Section 7463 (relating to disputes involving $5,000 or less) is amended by adding at the end thereof the following new subsection:

"(f) ACTION FOR REFUND.—For purposes of subsection (a), a petition for refund under section 7480 (relating to windfall profit tax) shall be treated as a petition for a redetermination of a deficiency."

(4) Section 7482(b) (relating to venue for appeal of decision of Tax Court) is amended by adding at the end thereof the following new paragraph:

"(4) CIVIL ACTIONS FOR REFUND.—For purposes of subparagraphs (A) and (B) of paragraph (1), a civil action for refund under section 7480 (relating to windfall profit tax) shall be treated as a case involving the redetermination of tax liability.".

(5) Section 1346 of title 28 (relating to the jurisdiction of district courts) is amended by adding the following subsection at the end thereof:

"(g) The district courts shall not have jurisdiction for any civil action against the United States for the recovery of any tax imposed by chapter 45 of the Internal Revenue Code of 1954."

(6) Section 1491 of title 28 (relating to jurisdiction of Court of Claims) is amended by adding the following paragraph at the end thereof:

"The Court of Claims shall not have jurisdiction for any civil action against the United States for the recovery of any tax imposed by chapter 45 of the Internal Revenue Code of 1954.".

(7) The table of parts for subchapter C of chapter 76 is amended by adding at the end thereof the following new item:

"Part V. Civil Action for Refund of Windfall Profit Tax.".

On page 90, after the item following line 21, insert the following:

(j) PARTNERSHIPS.—

(1) PARTNERSHIP COMPUTATIONS.—Section 703 (a) (2) (relating to deductions not allowed to partnership) is amended—

(A) by striking out "and" at the end of subparagraph (E),

(B) by striking out the period at the end of subparagraph (F) and inserting ", and", and

(C) by adding at the end thereof the following:

"(G) the deduction allowed by section 164 (a) (5) to the extent such tax is treated under section 4991 (d) (3) (C) as having been paid by the partner.".

(2) Basis of partner's interest.—Section 705 (a) (relating to determination of basis of partner's interest) is amended—

(A) in paragraph (1)—

(i) by striking out "and" at the end of subparagraph (B),

(ii) by striking out the period at the end of subparagraph (C) and inserting ", and", and

(iii) by adding at the end thereof the following:

"(D) income attributable to an exemption from the tax imposed by section 4986 by reason of section 4991 (d) (3).";

(B) by striking out "and" at the end of paragraph (2);

(C) by striking out the period at the end of paragraph (3) and inserting "; and "; and

(D) by adding at the end thereof the following:

"(4) decreased by the amount of the exemption of the partner from the tax imposed by section 4986 by reason of section 4991 (d) (3).".

On page 90, line 22, strike out "(j)" and insert "(k)".

On page 98, line 14, strike out "and individual" and insert in lieu thereof "any person".

On page 99, line 7, after "percent" " insert "(or for '25 percent' in any case in which subsection (c) (10) applies)".

On page 99, between lines 13 and 14, insert the following:

"(D) Coordination with section 38.—No credit shall be allowed under subsection (a) with respect to any amount for which a credit has been allowed under section 38.

On page 117, lines 14 and 15, strike out "paragraph (3) (A" and insert in lieu thereof "subparagraph (A)".

On page 140, lines 12 and 13, strike out all after "fuels", and insert in lieu thereof the following: "attributable to the taxpayer for the taxable year".

On page 140, strike out lines 16 and 17, and insert the following: "the barrel-of-oil equivalent of qualified fuels sold during the taxable year the production of which is attributable to the taxpayer.".

On page 143, strike lines 21 through 23, and insert the following: "has a Btu content per unit of volume or weight which is at least 40 percent greater per unit of volume or weight than that of the wood from which it is produced. A taxpayer shall elect under this paragraph as to whether the Btu content per unit shall be determined on a volume or weight basis and such election shall—

"(A) apply to all production from a facility;

"(B) be effective for the taxable year with respect to which it is made and, unless the taxpayer secures the consent of the Secretary, for all subsequent taxable years; and

"(C) be made at such time and in such manner as the Secretary may by regulations prescribe.".

On page 144, line 2, insert before the period the following: "on the date on which it is used".

On page 146, line 2, strike out "production" and insert the following: "sales during such year of qualified fuels".

On page 146, line 3, strike out "during such year".

On page 146, line 5, strike out "production" and insert "sales".

On page 146, line 7, strike out "production" and insert "sales".

On page 146, strike line 19, and insert the following: "sales during such year of qualified fuels produced from such facility as".

On page 146, line 21, strike out "production" and insert "sales".

On page 146, line 23, strike out "production" and insert "sales".

On page 147, lines 16 and 19, strike out "of such Code".

On page 148, line 12, insert "produced and" after "fuels".

On page 148, line 19, insert "produced and" after "steam".

On page 151, line 20, strike out "of such Code".

Section 325(a) of the bill is amended, in paragraph (1), by inserting "the State's plan approved under" immediately after "dependent children under".

Section 326(a) of the bill is amended by striking out all that precedes paragraph (3) thereof and inserting in lieu thereof the following:

'Sec. 326. (a) (1) From 95 per centum of the sums appropriated pursuant to section 324(b) for the fiscal year 1981 and for each fiscal year thereafter, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the aggregate residential energy expenditure in such State bears to the aggregate residential energy expenditure for all States.

"(2) From 95 per centum of such sums, the Secretary shall allot to each State an amount which bears the same ratio to one-half of such 95 per centum as the total number of heating degree days in such State squared, multiplied by the number of households in such State having incomes equal to or less than the lower living standard income level, bears to the sum of such products for all States.".

Section 326(a) (4) of the bill is amended—

(1) by striking out "allotment percentage for any State shall equal (a)" and inserting in lieu thereof "allotment percentage for any State shall be equal to (A)",

(2) by striking out "$25 million" and inserting in lieu thereof "$25,000,000",

(3) by striking out "consisting of one individual", each place it appears, and inserting in lieu thereof "consisting of only one individual",

(4) in subdivision (i) of clause (B), by (A) striking out "subsection (A)", each place it appears, and inserting in lieu thereof "subsection (a)", and (B) striking out "if, purposes of such paragraph", and inserting in lieu thereof "if, for purposes of such paragraph",

(5) in subdivision (ii) of clause (B), by striking out "determined under subparagraph (i)" and inserting in lieu thereof "determined under subdivision (i)", and

(6) in the next-to-the-last sentence thereof, by striking out "paragraph (A) of this subsection" and inserting in lieu thereof "subparagraph (A) of this paragraph".

Section 326(a) (8) of the bill is amended by striking out "section 4(B)" and inserting "section 324(b)".

Section 326(b) (1) of the bill is amended by striking out the matter designated as subparagraph (C) and inserting, immediately after the second sentence thereof the following new sentence: "Twenty per centum of the total amount transferred under subparagraph (B) may be utilized without regard to the requirements of the preceding sentence.".

Section 326(b) (2) of the bill is amended by striking out "section 8(b)" and inserting in lieu thereof "section 328(b)".

Section 326(b) (3) of the bill is amended—

(1) in subparagraph (A) (i), by striking out "Part" and inserting in lieu thereof "part",

(2) in subparagraph (A) (ii), by striking out "of this paragraph", and

(3) in subparagraph (B), by—

(A) striking out "The" and inserting in lieu thereof "That part of the", and

(B) by inserting "which is" immediately after "section 324(b)".

Section 326(b) (4) (A) of the bill is amended—

(1) by striking out "subsection (b) (1) (A)" and inserting in lieu thereof "subsection (b) (1) (B)", and

(2) by striking out "Part" and inserting in lieu thereof "part".

Section 326(g) (3) of the bill is amended by striking out the first two words and inserting in lieu thereof "In order".

Sections 328, 329, 330, 331, 332, and 333 of the bill are each amended by striking out "Part", each place it appears therein, and inserting in lieu thereof "part".

Section 330(a) of the bill is amended by striking out "section 329" and inserting in lieu thereof "section 328".

The section which follows section 332 of the bill is amended by striking out the section designation and inserting in lieu thereof "Sec. 333.".

On page 177, line 15, strike out the comma.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Louisiana.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I yield to the Senator from New Mexico for a question, without losing my right to the floor.

Mr. SCHMITT. Mr. President, I thank the Senator from Idaho. My question is that we have heard the Senator from Maine and others refer to the cost of an amendment such as that that the Senator from Idaho has proposed on numbers fairly precisely indicated, with three significant figures, at any rate.

I would ask the Senator from Idaho, the mere fact that he indicated that the amount suggested by the Senator from Maine would represent something like a billion dollar investment, does that not mean that taxes are going to be paid, or that the direct and indirect benefits of that billion dollar investment would far outweigh the cost of this amendment?

Mr. McCLURE. I think the Senator is correct. I think that is the other side of the coin, that as a matter of fact if these investments do occur, they also stimulate other business activity, which in turn becomes taxed. There will be additional wages which will themselves be taxed, and there will be offsetting revenues which are not included in this figure.

Mr. SCHMITT. And, of course, this would apply to all the other discussions we have had; so where there are legitimate and well-conceived tax credits, we cannot just look at the static cost. The Senator from New Mexico was discussing an energy research and development tax credit a moment ago, and it was mentioned that the cost was $2 billion.

Mr. McCLURE. I would say to the Senator from New Mexico that if as a matter of fact the activity stimulated by the amendment is additional activity that would not otherwise take place, there would be offsetting revenues. If, on the other hand, it was simply a conventional tax credit, or activities which would occur anyway, then there would be a loss of revenues that would otherwise have occurred.

Mr. SCHMITT. Exactly.

Mr. McCLURE. I think the Senator is correct in that observation.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Maine, without losing my right to the floor.

Mr. MUSKIE. I understand about that. When we spend tens of billions of dollars on educational grants, they are going to pay off. They are going to increase skills and income-earning capabilities. But not in the year in which the investment is made. You still have to have a budget, to determine how much you can afford to invest in a given year.

With respect to the proceeds of these figures, I do not argue that they are that precise. We are talking about projections extending through the next decade.

The revenue projections for 10 years are not precise. They are of orders of magnitude, and based on projections. The only thing I actually know I will spend tomorrow is the amount of gas I will use to go to church. I can estimate the cost of my automobile over the next year, but not with precision.

I think it is not fair to force those Senators who are interested in the development of coal to meet the test of a rollcall vote challenge, because they have a $1.1 billion amendment over the next 4 years, and close my eyes to a $112 million item of the same character because it is not as big. It seems to me I am being unfair if I subject one of those two amendments to the test, and not the other.

So I am troubled by this accumulation of relatively smaller amounts that tend to serve the same purpose. Coal is fully as valuable as biomass and tight sand gas and all the rest; we are interested in all of them. But I cannot concur in the cumulative addition of these amounts which are basically small, but cumulatively amount to a great deal.

So it seems to me we ought to have a rollcall vote on this amendment. I am not sure how that fits into the plans or fits into the understandings that have been given to Senators. I would hope that perhaps we could put this amendment over for a vote on Monday, and let everybody have a chance to think about it, unless it is the leadership's intention to have further rollcall votes, still, tonight.

Mr. McCLURE. Mr. President, I wonder if the Senator from Maine could indicate if he is going to demand a rollcall vote on my amendment.

Mr. MUSKIE. Mr. President, I think I should.

Mr. McCLURE. Mr. President, I wonder why a rollcall on mine, and yet not the Senator from Ohio, who just offered one——

Mr. MUSKIE. I think there should be one on that. I think there should be one on every amendment. That is the only way I can be fair.

Mr. McCLURE. You see, Mr. President, I understand the concerns of the Senator from Maine, but I think this amendment is certainly no more objectionable than others we have talked about. I have discussed it with the managers of the bill on both sides, while I have cut the amendment back twice, in two different ways, in order to reduce the amount and the limit so that Congress and the committees of Congress could take a look at it in a shorter period of time, to see whether the revenue estimates were right, to see whether the effects predicted were good or bad effects in terms of what they would do for energy production and in terms of what they would do to the budget; and I think I have accommodated the concerns expressed by the majority floor manager of the bill and the minority floor manager of the bill, and I would hope the Senator from Maine might not object to my amendment, as he did not on that of the Senator from Ohio and that of the Senator from Montana, and then we could complete the business tonight as we would on Monday.

Mr. MUSKIE. First of all, the amendment of the Senator from Montana was corrected to avoid the impact on the budget. Your amendment is to the Glenn amendment?

Mr. McCLURE. My amendment is an amendment in the second degree to the Glenn amendment.

Mr. MUSKIE. Let me apologize to the Senator from Idaho. I was puzzled as to how to deal with amendments like the Glenn amendment. Thirty-two million dollars over 10 years; I was thinking, let us not subject every amendment to a rollcall, let us have a de minimis test. Then we have one offer of $112 million, then somebody comes in with $150 million, then we come in with one for $1.1 billion, that we had quite a row about earlier this afternoon.

So I decided I was wrong about that, that the $32 million amendment or the $112 million amendment ought to be subjected to the same kind of scrutiny as the $1.1 billion. I hesitate to reach that conclusion, because it could mean we are going to have an awful lot of rollcall votes about relatively small amounts of money, but I do not know how else to be fair.

Mr. McCLURE. Mr. President, I would hope that the Senator from Maine would withhold that, and allow us to dispose of an amendment like the Baucus amendment and the Glenn amendment. I understand and I share his concern.

Mr. MUSKIE. May I ask the Senator this——

Mr. McCLURE. I yield to the Senator for a question without losing my right to the floor.

Mr. MUSKIE. I would like to see what we are going to be faced with in the way of a problem. If I agree to $32 million amendments without knowing what else is coming, there could be 20 or 30 or 40 of them, and I could be stuck with a self-imposed test, such that we would be stuck with a lot of additional tax credits, and dissipate the revenues we have worked so hard to put into this bill. If the Senator could withhold his amendment until Monday, perhaps we could get a better fix.

Mr. JACKSON. Mr. President, will the Senator yield at this point?

Mr. McCLURE. I am happy to yield to the Senator from Washington without losing my right to the floor.

Mr. President, I hope that the pending matter would be put over until Monday morning.

Mr. LONG addressed the Chair.

Mr. JACKSON. I am not suggesting something contrary to what the leadership has in mind. But I suspect that this will go on for quite sometime, unless we can put it over until Monday and have a chance to reflect on it a little more.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

I would ask the Senator from Idaho to withdraw the amendment at this point and agree that the McClure amendment will be the first thing on Monday. We will dispose of the Baucus amendment now and dispose of the McClure amendment on Monday.

Mr. McCLURE. That is agreeable with me. I would ask unanimous consent that it might be done in that manner.

The PRESIDING OFFICER. Is there objection?

Mr. JACKSON. Mr. President, with the further stipulation that I not lose my right to the floor when the matter of the pending amendment by the Senator from Idaho comes up.

Mr. METZENBAUM. Mr. President, is it my understanding that the amendment of the Senator from Idaho will be separate and apart from the Baucus amendment?

Mr. JACKSON. Yes.

Mr. METZENBAUM. Mr. President, with the understanding that no amendments would be proper with respect to the amendment of the Senator from Idaho (Mr. McClure) as well as any further amendment of the Senator from Montana (Mr. Baucus).

Mr. LONG. Fine.

Mr. METZENBAUM. With that understanding, I have no objection.

Mr. LONG. Agreed.

Mr. JACKSON. Will the Senator yield further?

Mr. METZENBAUM. Yes.

Mr. JACKSON. Mr. President, with the further understanding that amendments in the second degree to the amendment being offered by the Senator from Idaho not be in order.

Mr. STEVENS. I object.

Mr. METZENBAUM. As well as no amendment in the second degree to—

Mr. JACKSON. We are going to vote on that now.

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Idaho has the floor.

Mr. SCHMITT. Will the Senator from Idaho yield?

Mr. McCLURE. Mr. President, I yield to the Senator from New Mexico, without losing my right to the floor.

Mr. SCHMITT. Mr. President, I hope the Senator from Maine will, as he approaches this new problem—it is not a new problem for him—the problem for all of us on how to estimate revenue impact and how to vote one way or the other on that basis, if the Senator will try to distinguish, as the Senator from Idaho did a few moments ago, between those measures which are going to stimulate new investment and those which, in the case of coal conversion, probably just reward the investment that is already going to have to take place and will be a true cost.

And I hope, as the Senator views that, and I supported not the tabling motion but I supported the Senator from Maine in the up-or-down vote on the Percy amendment partly for that reason, but for some others.

But I do think it is important to draw that distinction. And that is what we all must do on each of these. Is there a net revenue gain or a net revenue loss? And every one is going to be a different case.

Mr. MELCHER. Will the Senator yield to me, without losing his right of the floor.

Mr. STEVENS addressed the Chair.

Mr. McCLURE. Mr. President, I yield to the Senator from Alaska (Mr. Stevens), without losing my right to the floor.

Mr. STEVENS. Mr. President, I would like to renew the request that was made for the separation of the McClure amendment to be an independent amendment to be taken up after the Baucus amendent on Monday, with the right for me to call up my amendment 592, as modified, as an independent amendment separate from that following the McClure amendment's disposition.

Mr. MELCHER. Mr. President, reserving the right to object, and I hope I do not have to object, but I would like to get some kind of an agreement for bringing up an amendment that I have been waiting on very patiently. And might I point out to the Senator from——

Mr. STEVENS. Mr. President, I would ask that the Senator from Montana be allowed to follow me. Some of us have been waiting for 4 or 5 days to bring up an amendment, and we finally found a way to do it.

Mr. LONG. Mr. President, I have sat here and tried to get all these things agreed to. I do not think we are going to do anything tonight. I think we ought to go on to something else. I am just not willing to agree to any more unanimous-consent requests.

We are not able to get anywhere. We are just spinning our wheels. We ought to come back in here and vote on cloture on Monday morning and see if we can pass this bill.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho has the floor.

Mr. ROBERT C. BYRD. Mr. President, I hope we could get unanimous consent and let the Senator from Idaho proceed with his amendment, singularly. That was, I thought, pretty much understood, even though it would not be done. But following the amendment by Mr. Baucus, Mr. McClure would be able to call up his amendment as a separate amendment. I would hope we could agree on that basis.

Mr. LONG. Mr. President, that is all right, if we could agree that the amendment is not going to be subject to amendment. But it is going to be subject to amendment——

Mr. ROBERT C. BYRD. Yes; that is agreeable.

Mr. METZENBAUM. And, therefore, if I may say, Mr. President, that leaves the door wide open with respect to the Baucus amendment, second-degree amendment. If we can close that door——

Mr. ROBERT C. BYRD. We could vote on the amendment of Mr. Baucus tonight, with the understanding that Mr. McClure would call up his amendment next.

Mr. STEVENS. I am not going to object again. I understand traffic cops and the day will come when I will be a traffic cop. The door swings both ways.

Mr. MELCHER. Mr. President, if I could object. I would like to make my point.

Mr. McCLURE. Mr. President, does the Senator from Montana (Mr. Melcher) desire the Senator from Idaho to yield the floor to him?

Mr. MELCHER. Yes.

Mr. McCLURE. Mr. President, I ask unanimous consent that I be able to yield the floor to the Senator from Montana without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. I thank the Senator.

The Senator from Idaho has been offering an amendment that is very attractive. There is a question about whether or not $112 million would be a significant budgetary impact. And the Senator from Maine has pointed out perhaps one item of that magnitude is not much. But then he is afraid there will be several that will come up. I understand that.

I have been waiting here patiently to discuss an amendment that would add, over the next 10 years, $5 billion. It is an old subject here. It is a question of whether or not we should allow deferral of tax on foreign income.

I merely would like to ask for about a half-hour's time on Monday to present that. I wonder whether that would be agreeable.

Mr. LONG. Mr. President, if all the Senator from Montana wants is to make a speech for half an hour, that is fine. We will try to accommodate the Senator.

Mr. McCLURE. Mr. President, I will yield to the Senator from Louisiana, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. But, Mr. President, there are Senators who would object to voting on the amendment at that point. And so, if the Senator wants to make a speech about it, he can make a speech, Mr. President. But there are Senators who object to voting on it.

Mr. JACKSON. Let us get a vote on the Baucus amendment.

The PRESIDING OFFICER. Is there an objection to the pending unanimous-consent request by the Senator from West Virginia (Mr. Robert C. Byrd)?

Mr. McCLURE. Mr. President, my understanding of the unanimous-consent request is that the Senator from Idaho will be permitted to withdraw his amendment in the second degree—the pending amendment, and let the vote thereupon occur on the Baucus amendment—as amended by the Senator from Ohio, and that the amendment of the Senator from Idaho, thus withdrawn, would be the pending business as an amendment in the first degree.

Mr. STEVENS. Unamendable.

Mr. McCLURE. And not amendable in the second degree on Monday, and that the Senator from Washington (Mr. Jackson) would be recognized upon the disposition of the McClure amendment.

Mr. METZENBAUM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. METZENBAUM. Mr. President, it is my understanding, therefore, on the basis of what has been stated, that no amendment can be offered in the second degree to the McClure amendment and no further amendment may be offered to the Baucus amendment?

The PRESIDING OFFICER. The Senator is correct.

Is there objection to the request? Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I withdraw my amendment.

Mr. JACKSON. Mr. President, let us vote on the amendment of Mr. Baucus.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana (Mr. Baucus).

The amendment was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HART. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 838—WOODBURNING FURNACES AND BOILERS

Mr. COHEN. Mr. President, last evening the Senate approved amendment 838 to extend the residential energy credits to include woodburning furnaces and boilers which are part of central heating systems. As a cosponsor of this important amendment, I submit for the Record a statement I have prepared in support of the amendment.

Mr. President, I am pleased to join wtih Senators Durkin, Leahy, Stafford, and Tsongas in cosponsoring this amendment to provide homeowners with a limited tax credit for the purchase of woodburning replacement furnaces and boilers that are installed as part of a central heating system.

At the outset, I would like to commend the Senate Finance Committee for extending the residential conservation tax credits to include airtight wood stoves and replacement oil and gas furnaces and boilers. The replacement furnaces and wood stoves will help decrease our dependence on imported oil, and the credits will also encourage the installation of more efficient heating systems.

The amendment we are considering would allow the costs of a replacement woodburning furnace or boiler to be eligible for the residential conservation credit. To be covered by the credit, the heating system must be approved by a recognized testing laboratory, such as the Underwriters Laboratory, insuring that the system is energy efficient.

It is estimated that over the 20-year lifespan of each wood-fueled furnace or boiler, every individual unit will save approximately 20 barrels of oil per year. This represents a total saving of 400 barrels of petroleum over the life of each furnace or boiler.

While in the past homeowners have burned wood in woodstoves or fireplaces, the recent introduction of wood-fired furnaces and boilers in this country represents a major breakthrough in biomass technology. These new furnaces and boilers are:

First. Airtight to maximize safety and efficiency;

Second. Function as central heating systems. Usually installed in a basement, they deliver heat evenly throughout a house, utilizing the existing plumbing or duct work. Temperature is controlled by the living room thermostat; and

Third. Often combined with an already installed oil-fired burner or furnace to allow the homeowner the flexibility of choosing either wood or oil heat, depending on fuel availability, price, and convenience.

If the homeowner cuts his own wood supply, as many New Englanders do, payback time for the installed furnace or boiler can be as little as 2 years. If the homeowner buys delivered, split cord wood, the furnace or boiler will pay for itself within approximately 5 years. In short, the proposed tax credit we are considering will not, in effect, subsidize an uneconomical energy source, but rather will help low- and middle-income families meet the initial purchase and installation cost of an efficient and economical wood-fueled furnace or boiler.

Permit me for a moment to comment on the importance of this amendment to New England residents, and, specifically, my Maine constituents. New England, which accounts for less than 6 percent of the U.S. population, consumes 25 percent of all the home heating oil bought in this country. In fact, New England consumes 20 percent more oil per capita than the rest of the country. And because energy prices in New England are 26 percent higher than the national average, it costs hundreds of dollars more a year to heat a New England home. We are not, however, faced only with extremely high energy prices, but an insecure energy supply as well. In Maine, 75 percent of the State's annual energy demand is accounted for by oil, with most of this petroleum, an estimated 80 percent, coming from foreign countries. Recent events in Iran have underscored the importance of moving quickly toward reliance on domestic fuel supplies.

Reducing our dependence on expensive, insecure oil supplies will require that New England tap its indigenous energy sources. One such available resource is wood.

A recent statewide firewood use survey conducted by the Maine Audubon Society indicated about half of all Maine homeowners now depend on wood to ease the burden of extremely expensive and rising oil bills. Should this amendment be approved, I have no doubt that thousands of other New England families will switch to woodburning units.

The New England Energy Congress, in its recent report, estimated that over 50 percent of Maine's energy demands could be met by wood in the mid-1980's, with the figures for Vermont and New Hampshire following at 30 and 18 percent, respectively. As the report noted:

> Wood is the clear leader in terms of present usage and near-term potential. It is possible that by the mid-1980's, energy from wood could supply nine percent of New England's energy supplies.

Put in slightly different terms, it has been projected that properly managed New England forests could supply, between now and the year 2000, the energy equivalent of 2.3 billion barrels of oil, which is equal to 540 million tons of coal or the total output of 10 nuclear powerplants operating from now to the start of the next century. In short, passage of this proposed tax credit would be an effective step toward eliminating OPEC's death grip on the Northeast's economic future.

I would like to stress that it is not just the Northeast that would benefit from this amendment. At present, there are 488 million acres of commercial forest land in the United States. A total of 6½ quadrillion potential Btu's exist in excess growth, noncommercial timber, logging residue, and standing cull and dead timber, with an additional 3.1 quadrillion Btu's available in the form of material that could be obtained from thinning and mill waste. Thus, wood biomass, on an annual basis, can produce 9.6 quadrillion Btu's of energy, or over 10 percent of this Nation's yearly needs.

As the recent Harvard Energy study indicated—

> Wood and dry crop wastes have an energy content of 16 million BTU's per ton, comparable to the energy content of coal, which range from 16 million BTU's per ton for western coal to 25 million BTU's for good eastern coals . . . There are three major markets where a potential 3 million barrels a day of oil could be saved by conversion to wood fuels . . . the forest products industry, residential wood heating, and industrial firms and utilities that employ coal fired burners.

And yet, there are more than energy benefits that would result from an increased reliance on our forests. Wood can, as studies have indicated, produce $8 to $10 billion in fuel sales, or about $20 billion worth of total domestic economic activity.

The tax credit we are considering today would encourage residential wood heating and thereby help the Nation realize the 3 million barrels a day of petroleum savings mentioned above. The Joint Committee on Taxation and the Senate Finance Committee have estimated that the Federal revenue losses that would result from this amendment amount to approximately $36 million, less than 2 percent above the Finance Committee's recommendation for total conservation credits. Certainly this is a small price to pay for the significant reduction in oil consumption that should result.

Mr. President, this amendment will not create another energy bureaucracy to solve our energy problems, or lead to the expenditure of billions of dollars on the research and development of an energy source which might promise significant energy returns in the future. Rather, this amendment simply seeks to help low- and middle-income families throughout the Nation help themselves and, in the process, reduce our Nation's unacceptable reliance on insecure foreign oil supplies.

SANCTIONS AGAINST ZIMBABWE-RHODESIA LIFTED

Mr. HELMS. Mr. President, earlier this afternoon, the State Department notified me that President Carter would at 3 p.m. today order the lifting of U.S. sanctions against Zimbabwe-Rhodesia Sunday night at midnight. This is in keeping with the understanding given me about a month ago by the President and Secretary of State Vance.

So, Mr. President, all must hope that the turmoil in that country is being resolved. And the United States owes it to this friendly nation, which has sought all along to be our ally and supporter, to do everything reasonable and proper to hasten the restoration of stability in Zimbabwe-Rhodesia.

The lifting of sanctions is a recognition of the will of the Senate, as expressed time and time in votes on this question. However, no purpose would be served in rehashing the history of this issue, and my comments here this afternoon are intended only to pay my respects to the President, and to the Secretary of State, for having taken this action.

In that connection, Mr. President, I would again commend our distinguished colleague from Virginia (Mr. HARRY F. BYRD, JR.) for the fine work he has done on this issue for a decade or more.

Also, Mr. President, I would pay my respects to the distinguished Prime Minister of Great Britain, Mrs. Margaret Thatcher, with whom I discussed this matter at 10 Downing Street back in July. She has made good on her promise, as have the leaders of the Conservative Party in the House of Commons, with whom I met while in London.

And, finally, Mr. President, I extend my congratulations to Bishop Abel Muzorewa, the Prime Minister of Zimbabwe-Rhodesia. I extend to him and to the people of his country my best wishes as they set about the task of building the economy of their nation.

I fervently hope, Mr. President, that the United States will never again impose sanctions against a loyal friend and ally, and especially one that has been so stalwart in its opposition to communism.

I thank the distinguished Senator from Wyoming for yielding to me, and I thank the Chair.

ZIMBABWE-RHODESIA

Mr. JAVITS. First, Mr. President, let me pay my tribute to my friend from North Carolina (Mr. HELMS) and my friend from Virginia (Mr. HARRY F. BYRD, JR.). Their action has resulted in an equitable solution in this Congress. The President has lifted sanctions. We had the power to lift them. It was unnecessary to use that power, so long as he was ready to lift them. And I think at just the right time to be of the greatest aid to a Rhodesian settlement.

Like the Senator, I will not rehash the past. I do earnestly hope that further bloodshed will be spared and that the Patriotic Front will realize that this is their only move with destiny, and that in the eyes of the United States the President would not have lifted sanctions if he did not feel that they had a fair chance, that it was a fair deal, and if the people of Zimbabwe-Rhodesia want them they can have them.

I hope very much that they will realize that this long-drawn-out process of lifting sanctions represented the desire of the United States to give every element there an opportunity. Now I hope they do not destroy that opportunity by again plunging Zimbabwe-Rhodesia into violence and bloodshed.

THE TRADE AGREEMENT WITH MAINLAND CHINA

Mr. HARRY F. BYRD, JR. Mr. President, I think the time has come for approval of Senate Concurrent Resolution 47, the trade agreement with the People's Republic of China.

I am concerned that the Congress not act precipitously in approving Senate Concurrent Resolution 47, the proposed trade agreement with the People's Republic of China. A full understanding of the consequences of such approval is essential before action is taken.

Under the Trade Act of 1974, Senate Concurrent Resolution 47 is not amendable and, therefore, it is important that the Congress decide correctly the issue presented. We face a "take it or leave it" proposition, without any room for compromise, and thus, before following either course, the Congress must have all the facts.

Although the Senate Subcommittee on International Trade was briefed yesterday on this matter by officials of the Department of State, I do not believe we have sufficient information to decide. We do not know just what adverse consequences may flow to American industry, to American workers, and to American taxpayers.

First, I do not feel that the Congress has at this time a clear picture of the possible adverse impact on American workers and families which could be caused by permitting and encouraging the importation of massive quantities of Chinese textiles, specialty steels, and consumer electronics. Yet this could easily happen once most-favored-nation status is granted.

Second, I am disturbed by the testimony of former Secretary of Commerce Juanita Kreps who has stated that China can obtain some $23 billion in credit from Western governments and banks. I am disturbed about that possibility because I know, inevitably, the U.S. taxpayer will be involved in footing the bill for at least some of these transactions. Vice President MONDALE has already promised $2 billion in Export-Import Bank credits.

Vice Presidents have gotten into the habit of offering American tax dollars as they travel around the world.

While the granting of Export-Import Bank credits is not part of the trade agreement submitted to the Congress, it is logically and economically related to the proposed accord with China. The agreement certainly will stimulate the credits.

The Export-Import Bank provides financing at concessional interest rates of roughly 8 percent for long-term periods sometimes exceeding 35 years. In contrast, the U.S. Treasury borrows money at much higher interest rates.

Currently, money borrowed on 6-month Treasury bills costs the Government 12.51 percent in interest, and 12-month Treasury bills cost the Government 11.83 percent in interest. To lend Export-Import Bank funds, the American taxpayer must make up the difference.

Additionally, if the inflation rate in future years were to stay as high as 13 to 15 percent, these concessional long-term loans of the Export-Import Bank could involve an American taxpayer grant or gift factor of over 50 percent because of the loss to inflation in repaid principal compounded over a long term. A dollar lent today will not be the same dollar paid back 35 years from now.

Then, too, in proposing a $2 billion loan to China, of which approximately $1 billion could be considered a grant, did the Vice President take into account China's debt to the United States of approximately $300 million? That is the figure given to the Subcommittee on Taxation and Debt Management by Julius Katz, Assistant Secretary of State for Economic and Business Affairs. It is substantial and yet no attempt appears to have been made to recover it.

Third, I am concerned that mainland China is making efforts to develop strategic nuclear weapons capable of attacking the United States. I note particularly Chinese development of the CSS-X-4 intercontinental ballistic missile and Chinese development of nuclear-powered ballistic missile submarines. China already possesses the ability to attack European Russia with intermediate range ballistic missiles. So it appears logical to me that one reason for developing an ICBM may be to achieve the ability to attack the United States with nuclear weapons and to enter a strategic nuclear arms race with our country.

If not closely monitored, large-scale exports to China could help to create an industrial technology capable of supporting large strategic nuclear forces.

In short, major expansion of exports to mainland China could repeat the error made in our trade relations with Russia; namely, the error of permitting a potential opponent's military buildup by providing to that nation the technology and economic support necessary for that buildup.

Finally, there is no confirmation that the requirements of the Jackson-Vanik amendment have been met. The statute requires assurances that a nonmarket economy country will permit the free emigration of its citizens. The fact is that the emigration procedures in effect in mainland China are unknown to the Congress and, apparently, to our Government.

Let me say that my position in this matter does not constitute opposition to expansion of trade with mainland China. I feel that over the years, such increase in commerce between the two nations may well prove of benefit to both.

All I am urging today is that the Senate not rush into a decision concerning a trade agreement with enormous potential impact upon many American citizens.

COMMENDATION TO SENATOR CANNON AND COMMERCE COMMITTEE FOR REPORTING S. 1390, THE COMMERCIAL MOTOR VEHICLE SAFETY ACT OF 1979

Mr. PERCY. Mr. President, the Committee on Commerce, Science, and Transportation has voted out S. 1390, the Commercial Motor Vehicle Safety Act of 1979.

As the author of this legislation, and in behalf of Senators KENNEDY, PACKWOOD, and MAGNUSON who joined me in introducing the bill, I wish to express my appreciation for the thoughtful and expeditious consideration given to this important measure by the committee chairman, Senator CANNON, and other members of the committee. I look forward to early Senate consideration and continued progress in the legislative process for S. 1390.

Mr. President, the death toll on our Nation's highways due to unsafe trucking practices continues to mount. The lives and property of the American people continue to be threatened on a daily basis by the sloppy maintenance and operating procedures of an irresponsible minority in the trucking industry.

Nearly 3 million heavy trucks roll down America's highways every day. In 1977 alone, intercity freight transported by trucks amounted to 561 billion ton miles. And yet, the Bureau of Motor Carrier Safety (BMCS), the lead agency in enforcing truck safety, has only 158 inspectors and safety officers. Clearly, we need to bring far greater resources to bear on this life-threatening problem.

The provisions of this bill would greatly enhance the effectiveness and efficiency of DOT in regulating and enforcing truck safety by supplementing these resources, enlisting the assistance of the States, providing civil and criminal penalties for violations of safety rules and regulations, and expanding Federal truck safety jurisdiction to include all commercial motor vehicles over 10,000 pounds.

In addition, S. 1390 would provide protection for the health and safety of America's truckdrivers, a group of workers glaringly omitted from protection under the Occupational Safety and Health Act. It is inexcusable that protections accorded truckers lag so far behind those offered to other workers. Vibration, exhaust fumes, and extreme temperatures all make truck driving a serious risk to driver health and to the safety of the public. The legislative remedies offered by S. 1390 in these areas are urgently needed.

The Commercial Motor Vehicle Safety Act of 1979 is the product of over 2 years of painstaking study and negotiation. It has been made possible through the outstanding efforts of the International Brotherhood of Teamsters, the Professional Drivers Council, and the American Trucking Associations. They all support S. 1390. I believe it deserves Senate support as well.

The commercial trucking industry is critical to the business of America and continues to grow in leaps and bounds. The Highway Users Foundation predicts that, during the next 15 years, the number of trucks on the road will double. The safety of this industry should be of vital concern to all Americans.

Mr. President, a special commendation is due to the staff of the Commerce Committee for their outstanding efforts in preparing this legislation for committee consideration. Without the diligence and concern of Cindy Douglas, Dan Jaffe, and Wil Ris, the swift and unanimous committee action on S. 1390 would not have been possible.

CLAYTON KIRKPATRICK: A TRUE JOURNALIST IN EVERY SENSE

Mr. PERCY. Mr. President, recently the National Press Club honored Clayton Kirkpatrick, president and chief executive officer of Chicago Tribune Co., for his excellent and devoted work to journalism.

Clayton Kirkpatrick received the 1979 Fourth Estate Award, which is given to a person who has contributed greatly to the journalism profession. In accepting the award, Clayton Kirkpatrick gave an outstanding and inspirational speech concerning the major challenges in the future facing newspapers.

The insight and personal experience that he has to contribute to this subject is unmatched my most journalists, and I think it would be beneficial for all of my colleagues to read what he said concerning the importance of the written word and the role it plays in our society. Stanton Cook, publisher of the Chicago Tribune Co., described Clayton Kirkpatrick's ability best when he said:

> He more than anyone else was responsible for the changes and adaptations that have kept the paper in tune with its audience and with society.

Clayton Kirkpatrick is a living example of what a newspaperman should be made of, and has practiced exactly what he preached the other night at the National Press Club.

Mr. President, I ask unanimous consent that his remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

SHOP TALK

Tonight I want to affirm my faith in the printed word and my belief that news will be printed on paper and distributed to readers for decades to come. The sun is not setting on the American newspaper. The black boxes, the home computers, the electronic slates at everybody's elbow will not replace news in print, on paper, portable and accessible. This is not to say that newspapers as they exist today may not go through radical changes.

I also would like to raise some questions about how well we gather, select, print, and distribute the news—how well we perform these functions judged by the needs and criteria of our readers rather than ourselves. The evidence is strong that we are not performing as well as we should to win and hold a place in the homes of our present and potential readers.

First the positive testimony and then the questions: Let me ask you to consider some very common phrases in our oral expression.

Put it in writing.

Give me a memo.

I'd like a copy of that.

Permit me to add another—one that is sometimes heard around broadcasting studios, on speaker's platforms, and other places where words gush and flow like mountain streams below a mighty glacier in the heat of an August sun. Frequently it is spoken with a hint of desperate urgency:

Where's my script?

The connotation of all these is that while talk may be cheap, there is something precious and valuable about the printed word. And it is not a matter of simple aide-memoir either, although this, to be sure, is part of the value. Much of the worth we attribute to the printed word arises from the process of its creation. Writing is work—frequently lonely, agonizing work. As in all human endeavor, it is labor that creates value.

Written discourse rarely takes the form of idle chatter, even among practitioners with a very light and amusing style. When you sit down to write, you are forced to think, you are forced to select, you are forced to organize, you are forced to provide a fund of information from which the writing flows. Somehow when the words are filtered through the fingers, nonsense and bombast and error and ignorance tend to be strained out. Almost without exception the noblest, clearest, most perceptive, and most persuasive expressions of human intelligence are written. It is true, of course, that these writings may have great power as declamations.

The Gettysburg Address, for example. Witnesses were pretty well agreed that Lincoln's message gained little from his delivery. His voice was high-pitched and not particularly pleasing. Certainly it lacked the pear-shaped tones so much admired today. His delivery was plain, innocent of the oratorical arts so skillfully displayed that day by Edward Everett.

For all who heard Lincoln that day, however, the message was unforgettable. The power came from thoughts painfully distilled through mediation, from moods somberly conditioned by compassion, and from words polished and matched in cadence as they were placed one after another on paper.

Our world has suffered much from demagogues. Now that television is here in almost overwhelming force, augmented by the theatrics and imagery, the danger of demagoguery is far greater. The gabby guy with a bag of oratorical tricks and pleasing manner and features can exert enormous influence in our society.

But I urge you to consider this: The authentic demagogues of my generation could write nothing worth reading. Hitler, for example. From time to time television brings us film clips of the mad dictator on his platforms. The films faithfully portray the frenzy he could generate when he spoke.

He was a writer, too, of course. His chief work, Mein Kampf, is still in libraries. But who reads it now except as an historical curiosity? Error, ignorance, dishonesty, insanity stand forth from its pages. He could sway millions with his oratory. His writing revealed the poverty of his spirit, the limitations of his intelligence.

Mussolini rose to power on a spouting torrent of words. If his words had been written rather than spoken, nobody, including his family, would have bothered to read such nonsense. His influence would have been minor at most. As a struggling journalist, he was a nuisance. As an orator he became a monster.

Huey Long. How high would he have gone if someone with power to direct had said, "Shut up and put it in writing?"

And so I hail writing as the highest form of expression, the most communicative form of communication. Men and women have found satisfaction in writing since they first began to gouge out symbols on the walls of their caves. They will be practicing it when they colonize the planets.

As journalists we are the inheritors of a splendid instrument. How well have we done with it?

By economic standards the answer is, Very Well. Most newspapers are prospering and many of them are setting new records for advertising revenue each year.

Newspapers continue to be highly prized business commodities. They sell for 30 to 40 times earnings and there are not enough of them to satisfy the demand. They are getting bigger. Newsprint consumption has just about doubled since 1950.

They lead all other media in advertising revenue with a total of $12.7 billion in 1978, as compared with the closest runner-up, television, at $8.8 billion.

While these figures are encouraging, when you look at the trends over a period of years, the outlook is not quite so rosy.

From 1950 to 1978 the newspapers' portion of the nation's advertising dollar slipped from 36 percent to 29 percent. Much of this was due to the phenomenal growth of television. Although it might be assumed that the great period of expansion of television might have been over by 1977, it still was outgaining newspapers from 1977 to 1978 by a margin of 16 percent to 14 percent. During that year magazines, an old and traditional competitor, outgained newspapers in the competition for advertising dollars by 20 percent to 14 percent. And in that same year the catchbag of "other" media, direct mail, billboards, etc., scored a 14 percent increase, equalling that of newspapers.

These figures do not permit anybody in our business to become complacent. However, they are not the most disturbing, in my opinion.

If you agree that bad news can be stimulating, then I suggest that you take a look at the figures representing our penetration of the reading market. They are dismaying and should persuade you of a need for action.

Daily newspapers have failed by a wide margin to keep up with the growth of their potential audience. The latest comprehensive study I have been able to find was compiled from figures assembled by the Bureau of the Census on population. Editor & Publisher on newspaper circulation, and the Newspaper Advertising Bureau on the circulation of other print media.

They showed that from 1960 to 1975 the number of households increased by 35 per cent, the population in the 18–64 group increased by 25 per cent, daily newspaper circulation increased by 5 per cent, Sunday newspaper circulation increased by 10 per cent, news magazine circulation increased by 90 per cent, total magazine circulation increased by 55 per cent, weekly newspapers increased by 70 per cent, and paperback book sales increased by 50 per cent. During this period the number of households with television sets increased by 50 per cent.

The trend for daily newspaper consumption was nearly flat although other print media was showing increases that outpaced household and population growth. Although the statistics are somewhat outdated now, I am sure that the trends are still valid.

If you should assume that households increased from 1975 to 1978 at the 1960–75 pace, and if you assumed newspaper circulation had increased proportionately, the total daily circulation of newspapers in 1978 would be some 87 millions rather than the 61.9 millions actually recorded.

We have excused our failure to keep newspapers growing at a pace relative to the growth of our potential market sometimes by asserting that great numbers of people cannot or do not read as much as they once did. There would be validity in this excuse only if we ignored the evidence that magazines, weekly newspapers, and paperback books have achieved a rate of growth surpassing increases in both population and households.

The old excuse that newspapers are not being read because too many people are spending all their time watching television is also losing its persuasiveness.

Television has lost its first mysterious enchantment. Marketing studies show that the people who watch television news are also avid newspaper readers. The impulse to read is there if the product is right.

We who work with paper and presses have a franchise and it is a good one with a long history of success. We have an instrument, the printed word, and it is superbly suited to reporting news. We also have an overall, encompassing problem: too many of our readers do not consider newspapers vitally interesting, useful, necessary, or amusing.

So much for the testimony. Now for the questions.

The first question I would raise is this, Do we offer the correct content to gain the maximum potential audience? And is that content correctly shaped—edited—to fulfill our goals.

Newspapers considered in historical context are better than ever. They are written by better educated, better trained writers. They are edited by editors more professional in their approach to presenting the news. They are better designed, both in organization and graphics. They are increasingly better printed as we move more and more toward offset presses. They are more responsible, less biased, more polished. They are to a considerable degree the product of a reaction against the personal journalism that resulted in huge mass circulations and astonishingly deep readership penetrations 50 to 100 years ago.

There is a marked contrast in content and tone between those earlier newspapers that sold so well and those we produce today which do not seem to sell so well.

The question we might ponder is whether in the reaction against the abuses of personal journalism we have overreacted. Have we made our newspapers too cool, too slick, too professional, too impersonal? Have we taken ourselves and our highflown sense of mission too seriously? Have we laundered the smell of humanity out of our newspapers? Have we forgotten that in the past success in newspaper publishing has been accompanied by content that was sometimes opinionated, partisan, outspoken, angry, audacious, even outrageous, occasionally unfair and irresponsible? To be sure, that earlier content did not succeed if it was consistently and knowingly mendacious and corrupt.

If we have forgotten some of that history, have we contemplated the rise of the alternative press and in many cases the continued and impressive success it has enjoyed with a salty cargo that is in some respects a throwback to the primitive days of journalism?

Most editors now look down on the stunts that earlier editors loved to plan in order to inject a sense of adventure into their papers. It has been a long time since an editor has held the world by the eyes as the editor of the New York World did in 1889 when he sent Nellie Bly scurrying around the world in 72 days to beat the mythical record of 80 days set by Phineas Fogg in Jules Verne's novel. But that most sober of journals from Wall Street recently sent a girl reporter to a farm to drive a huge corn harvesting combine around a field—a minor stunt, but it conveyed a sense of adventure.

The abuses of personal journalism as it was once practiced would be unacceptable today, but should some of the color and vitality be recaptured?

Two commentaries are worth considering. One of them is rooted deep in the past although extending into the immediate present. The other is totally up to date, the product of market research by latest scientific methods.

In the latest issue of the Bulletin of the American Society of Newspaper Editors, Turner Catledge, a great editor who spoke here last year at a Fourth Estate Awards ceremony, writes a tribute to John S. Knight who was given the award in 1976.

"With particular reference to newspapers," Catledge wrote, "Knight feels they've grown dull and mercilessly hard to read. Some of them 'have all the warmth you would expect from a plate of cold fish.'"

A strikingly similar assesment of modern newspapers comes from a report on a readership project commissioned by ASNE and carried out by Ruth Clark of the research firm of Yankelovich, Skelly & White, Inc. It was based upon hundreds of interviews with newspaper readers.

"There is strong evidence," the report states, "that the impersonal nature of most newspapers, their remoteness from ordinary people, is an important factor in declining readership. . . . Readers feel little emotional attachment and less loyalty to newspapers whose editors and reporters are strangers to them. . . . (Readers) want stories told in terms of people and with human feeling, even compassion. They want to participate vicariously in news events—to feel and see what is happening—through vivid, you-are-there reporting."

Another question that might be raised about the vitality of newspapers is, How aggressively do they now react to competition? We know that at one time the competition between newspapers was fierce and the methods of competing were primitive and punishing. The fires of competition have cooled somewhat now. Television should be regarded as the chief competitor and the reaction to that stimulus could be described as less than innovative.

Consider how far the broadcasters have come along the road toward a major role in reporting the news. They learned early in the 1950s and '60s that news is a merchantable commodity. They had been focused on entertainment, but the trend toward news as a valuable and productive program staple developed rapidly.

The growth of television revenues from news broadcast has been steady and substantial. In 1965 it amounted to $220 millions. The figure rose to $420 millions in 1970, $700 millions in 1975, and $1.05 billion in 1978.

We are all familiar with the increasing emphasis on news programming with time for news broadcasts stretching from 15 minute segments of reading wire copy to segments running to half an hour and later on up to an hour and a half or more with heavy staff contribution and participation.

It is interesting if not ominous to observe how broadcasting has invaded areas which print journalists have regarded as impregnable fortresses for newspapers. One of these is investigative reporting. They have plunged into it with gusto.

They have executed their projects with frequent crudeness and bias that newspapers have largely eliminated because of superior experience, training, and professionalism.

However flawed their work might be, the aggressiveness of their approach has tended to create a public impression that broadcasters have become the prime practitioners of investigative reporting and the defenders of the public interest, a role newspapers once jealously protected as their own. If you should ask an ordinary citizen for the name of the country's foremost investigative reporter I think he is more likely to name Mike Wallace or Dan Rather than Bob Woodward or Seymour Hersh.

A third major question about newspaper performance is this, Do we serve our reader very well as a customer? Here we are concerned primarily with the problems of distribution. We are to a great extent in the home delivery business and this is and has been for some time a sick business with a large factor of failure. The small boy or girl struggling under an increasingly heavy load and a longer and longer route as penetration declines becomes a very weak link in the chain we have expensively forged from news source to news desk to type processor to press, to circualtion truck, to neighborhood distribution system. The whole process is slow and cumbersome compared with the lightning speed of electronic communication, but where it frequently breaks down sadly is in its final lap.

Study of other agencies with similar problems might offer clues to solutions. Federal Express and United Parcel Service have demonstrated that comprehensive delivery systems including home delivery can be profitable. When housewives begin shopping by computer terminal there will be a big demand for services to deliver those parcels. How about newspaper trucks manned by professionals on full work shifts delivering papers early and parcels late? Improved delivery might be the biggest factor we can identify in increasing the audience for newspapers.

There are many more questions I would like to bring into this little discourse on shop talk, but I'll focus on a final one. That is the question of how do we focus our newspapers. Can a single comprehensive newspaper serve all the needs of a diverse audience? Should we go the route of General Motors and turn each newspaper organization into a source for several newspapers each targeted to a particular interest group in our community?

Is today's newspaper trying to cover too broad a spectrum of its audience? Magazine and radio stations have gone the special interest route with considerable success. The old broad interest magazines, Look, Life, Saturday Evening Post, Colliers, flourished and then failed while they still had large but not very loyal or committed audiences.

Shall we have only a few elite national or regional newspapers dedicated to truly distinguished national and international news with the top of the local news? And will the high cost of such newspapers be subsidized by an array of related local and special interest newspapers that will penetrate the market deeply while the supersheet covers it widely?

In our quest to bring newspapers up to the audience levels we all would like to see, we shall be struggling to answer many of the questions outlined here tonight. These are challenges that can be met. I would predict that when the National Press Club names its 25th Fourth Estate Award winner in 1998, all these qeustions will have satisfactory answers, all these problems will be solved. But there will be new ones to keep the challenge green for that new generation of journalists.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LONG, from the Committee on Finance, with an amendment to the title:

H.R. 2297. An act to continue until the close of June 30, 1982, the existing suspension of duties on synthetic rutile (Rept. No. 96-504).

EXECUTIVE REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Human Resources:

William A. Lubbers, of Maryland, to be General Counsel of the National Labor Relations Board.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DURKIN:

S. 2137. A bill for the relief of Alberto Feliciano Jentimane and Nancy Mwatindodini Jentimane, husband and wife; to the Committee on the Judicary.

By Mr. HATCH:

S. 2138. A bill to limit the jurisdiction of certain courts of the United States in matters relating to abortion; to the Committee on the Judiciary.

By Mr. STEVENSON:

S. 2139. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of disposable glass hypodermic syringes; to the Committee on Finance.

By Mr. DURKIN:

S. 2140. A bill for the relief of Roland Belhumeur; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH:

S. 2138. A bill to limit the jurisdiction of certain courts of the United States in matters relating to abortion; to the Committee on the Judiciary.

HUMAN LIFE ANTI-INJUNCTION ACT

● Mr. HATCH. Mr. President, I am introducing legislation that would limit the jurisdiction of the lower Federal courts to issue any restraining order or temporary or permanent injunction in certain types of cases involving abortion. More precisely, the legislation would prohibit such acts in cases: First, involving or arising out of any Federal or State law or municipal ordinance that prohibits, limits, or regulates abortion; or second, involving or arising out of any Federal or State law or municipal ordinance that prohibits, limits, or regulates the provision at public expense of funds, facilities, personnel, or other assistance for the performance of abortions.

This legislation parallels the Norris-LaGuardia Act (47 Stat. 70, 1932) which imposed similar restrictions upon Federal courts in the area of labor disputes. In *Lauf* v. *Shinner* 303 U.S. 323 (1938), the Supreme Court upheld the constitutionality of the act, observing—

> There can be no question of the power of Congress thus to define and limit the jurisdiction of the inferior courts of the United States.

Having been reaffirmed on several occasions, see *Boys Market* v. *Retail Clerks Union* 398 U.S. 235 (1970), Lauf is clearly authority for the proposition that there is no inherent power in these courts to issue injunctions in contravention of statutory provisions.

The present legislation is not only similar in structure to the Norris-LaGuardia Act, but is motivated by much the same difficulties. In each instance, policies adopted by representative legislative bodies, in some area of substantial public controversy, have been nullified and overturned by a single, appointed Federal judge. Policies that have been adopted through the arduous give-and-take and compromise of the legislative process have been summarily rejected by individual judges.

The Human Life Anti-Injunction Act would not remove subject-matter jurisdiction over abortion from the Federal courts. It would simply require that injunctions or temporary restraining orders on the matter of abortions—a matter in which I and many others would argue individual life is at stake—be issued by the highest and most final court of the land. In addition, State courts would be permitted to issue such orders subject, of course, to State law.

Federal law presently prohibits the issuance of injunctions by Federal courts against nonviolent union activities, tax collections, and utility rate changes. I do not believe that we can tolerate hasty decisionmaking in the area of abortion any more than we can in these areas. Innocent lives have been lost by the tens of thousands while lower court decisions in such cases as Maher against Roe have wended their way to the Supreme Court, only to have the Court reaffirm an elected legislature's right to refuse to fund abortions. Whatever substantive decisions are ultimately reached by the judicial branch on these issues, I simply do not feel that we can continue to allow the considered judgment of representative bodies to be subordinated during that period of time prior to a high court decision.

I ask unanimous consent to have printed in the RECORD at this point the text of the Human Life Anti-Injunction Act, as well as an outstanding, scholarly look at the concept incorporated in the act by Basile J. Uddo, an associate professor of law at the Loyola University School of Law. It is from a recent issue of the Tulane Law Review.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2138

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision of law, a court of the United States may not issue any restraining order or temporary or permanent injunction in any case—

(a) involving or arising out of any Federal or State law or municipal ordinance that prohibits, limits, or regulates abortion (including any such law or ordinance relating specifically to abortion clinics or persons that provide abortions); or

(b) involving or arising out of any Federal or State law or municipal ordinance that prohibits, limits, or regulates the provision at public expense of funds, facilities, personnel, or other assistance for the performance of abortion.

SEC. 2. As used in this Act, the term "court of the United States" means any court, other than the United States Supreme Court, established by or under Article III of the Constitution of the United States.

A WINK FROM THE BENCH: THE FEDERAL COURTS AND ABORTION

(Basile J. Uddo)

(The hearing on the case before the panel of three federal district judges was my first contested case. I was petrified. I remember that Sarah Hughes . . . was one of the judges. At one point during the hearing, when my nervousness was obviously showing, Sarah winked at me as if to say, "It's going to be all right." Sure enough, it was.)

INTRODUCTION

Roe v. Wade and *Doe v. Bolton,* decided by the Supreme Court in 1973, effectively nullified as unconstitutional the antiabortion laws of all fifty states. The public and scholarly reaction to those opinions were tumultuous and, for the most part, highly critical of the Court. But, for all that those opinions did to frustrate the historical protection of the unborn child, their constitutional and methodological infirmities necessarily left unanswered a broad spectrum of abortion related questions. Predictably, there have been many subsequent attempts to legislate and regulate consistent with the hazy holdings of the abortion cases. These demonstrably legitimate attempts to reconcile the states' remaining police power in the area with the *Roe* and *Doe* decisions have been met with an unfortunate hostility in the lower federal courts.

This current phenomenon of consistently pro-abortion results in the lower federal courts is uncomfortably similar to the anti-union bias expressed by these same courts during this country's struggle toward unionization in the early part of the twentieth century. Then, the problem loomed so large that Congress finally stemmed the tide by enacting the Norris-LaGuardia Act, a bill seriously restricting federal court jurisdiction in labor disputes, with special emphasis on the dreaded labor injunction. The time has come for Congress to recognize a similar problem in the area of abortion litigation and to take steps to remove abortion cases from the jurisdiction of the lower federal courts.

The ensuing discussion will focus on three major points: first, the power *vel non* of Congress to legislate in this area; second, the propriety of treating the labor context as a valid paradigm for the suggested action; and third, the problem of the federal courts' treatment of abortion legislation and the need for congressional intervention.

I. THE POWER OF CONGRESS TO CONTROL FEDERAL COURT JURISDICTION

Any discussion of congressional power over the federal judiciary necessarily begins with article III of the Constitution. Section 1 of that article vests the judicial power of the United States in the Supreme Court, "and in such inferior Courts as the Congress may from time to time ordain and establish." It is this statement, coupled with its history, that has consistently supported the conclusion that Congress not only has power over lower federal court jurisdiction, but that this power is in essence plenary. This conclusion was not, however, without its critics. Despite the words expressing an apparent option on the part of Congress, some early legislators suggested that article III *required* Congress to create lower federal courts as a mechanism for assuring that all jurisdiction, especially that which the Supreme Court could not exercise as original, would be vested at all times in some federal court. Nonetheless, the contrary position was recognized in the first Judiciary Act, wherein Congress did not grant the full judicial power of the United States to federal courts.

Of course, the supporters of broader congressional power over federal jurisdiction were bolstered by the rather clear history of article III. During the debates of the Constitutional Convention, several proposals were offered to make mandatory the establishment of lower federal courts. In opposition, at least one proposal sought to prohibit interior federal courts altogether. The conflicting proposals were referred to the Committee of the Whole. Initially the Randolph proposal—requiring interior courts—was accepted. Subsequent opposition, however, argued the efficacy and propriety of relying exclusively upon state courts for original litigation, combined with "the right of appeal to the supreme national tribunal . . . to secure the national rights and uniformity of Judgments [sic] . . ." James Madison became concerned that if such a view were to become part of the Constitution, appellate review would be an inadequate remedy for state court bias; hence "[a]n effective Judiciary establishment commensurate to the legislative authority, was essential. A Government without a proper Executive and Judiciary would be the mere trunk of a body without arms or legs to act or move." Madison (along with James Wilson) ultimately proposed a compromise that would forever bear his name; the Madisonian Compromise, which made the creation of inferior federal courts optional with Congress, carried the day. The history, with its resulting compromise, has been properly interpreted not only as evidence of Congress' discretion in creating inferior federal courts, but also as the basis for the conclusion that Congress controls the scope of such jurisdiction once the courts are created. Certainly, if Congress is not constitutionally required to create the inferior federal courts, it can abolish them once created, and a *fortiori*, can exercise the lesser power of restricting or removing certain parts of their jurisdiction. The Supreme Court, testing a portion of the Judiciary Act of 1789, said as much in 1850 in *Sheldon* v. *Sill*.

In *Sheldon* the petitioners claimed that a provision of the act that excepted suits based upon assigned promissory notes from federal jurisdiction was a restriction violative of article III of the Constitution. The Court, through Justice Grier, said:

"It must be admitted, that if the Constitution had ordained and established the inferior courts, and distributed to them their respective powers, they could not be restricted or divested by Congress. But as it has made no such distribution, one of two consequences must result—either that each inferior court created by Congress must exercise all the judicial powers not given to the Supreme Court, or that Congress, having the power to establish the courts, must define their respective jurisdictions. The first of these inferences has never been asserted, and could not be defended with any show of reason, and if not, the latter would seem to follow as a necessary consequence. And it would seem to follow, also, that, having a right to prescribe, Congress may withhold from any court of its creation jurisdiction of any of the enumerated controversies. Courts created by statute can have no jurisdiction but such as the statute confers. No one of them can assert a just claim to jurisdiction exclusively conferred on another, or withheld from all.

"The Constitution has defined the limits of the judicial power of the United States, but has not prescribed how much of it shall be exercised by the Circuit Court; consequently, the statute which does prescribe the limits of their jurisdiction, cannot be in conflict with the Constitution, unless it confers powers not enumerated therein.

"Such has been the doctrine held by this court since its first establishment. To enumerate all the cases in which it has been either directly advanced or tacitly assumed would be tedious and unnecessary."

Clearly, the Madisonian Compromise had produced plenary congressional power over lower federal court jurisdiction.

To be sure, however, the contrary view of the broad pro-Constitution men, mentioned above, did from time to time find its supporters. Perhaps the most famous was Justice Story. In the landmark opinion of *Martin v. Hunter's Lessee*, Justice Story supported the nondiscretionary view of Congressional power over inferior federal courts. For him the article III phrase "shall be vested" meant that the entire federal jurisdictional power *had* to be vested in one federal court or another. Consequently, he concluded that since the Supreme Court lacked most original jurisdiction, "Congress are bound to create some inferior courts, in which to vest all that jurisdiction which, under the constitution, is exclusively vested in the United States, and of which the Supreme Court cannot take original cognizance." In pursuit of this conclusion, Story ignored entirely the history of the Convention and the particular significance of the Madisonian Compromise. Similarly, he mistakenly assumed that to meet what he saw as the constitutional imperative that federal jurisdiction "shall be vested," inferior federal courts had to be formed, and that relying upon state courts coupled with Supreme Court appellate review was not sufficient. The latter, however, would have certainly achieved his desire for total vesting at some level. Nonetheless, Story subsequently reaffirmed his position in his *Commentaries on the Constitution*, notwithstanding that the Supreme Court had consistently rejected his reasoning and conclusion.

Recently, however, several commentators have questioned Congress' heretofore unfettered control over lower federal court jurisdiction and have suggested alternate analyses and different conclusions. Each of these theories harbors fatal weaknesses, but more importantly, none would prevent Congress from limiting lower federal court jurisdiction in abortion cases. In fact, one writer suggests that his thesis is, in part, dependent upon a recognition of Congress' power to restrict jurisdiction in abortion cases. Theodore Eisenberg's theory has been called the "changing circumstances" theory, because his basic premise is not that article III originally limited congressional discretion, but that changes in times and circumstances now require a different conclusion to give "contemporary validity" to the theory of the article III compromise. In Eisenberg's words:

"If, because of changing circumstances, the framers' aspirations for the national judiciary cannot be fulfilled today without lower federal courts, then there is a conflict between the Hart and Wechsler view of the decision to leave creation of lower courts to Congress' whim and the constitutional definition of the judiciary's role."

Eisenberg then examines the intended role of the judiciary and concludes that, though multifaceted, its ultimate role is "to be able to hear and do justice in all cases within its jurisdiction." Consequently, he suggests that while Supreme Court review might have realistically performed that function for the young Republic—as the framers felt it would—modern realities belie that conclusion:

"Since the early days of the republic, however, the number of federal cases has increased dramatically. . . . This increase in case load has had significant consequences for both the Supreme Court and lower federal courts. The Supreme Court is clearly no longer capable of providing a federal forum to hear the merits of every case involving a federal question. If Congress were to abolish the lower federal courts, this aspect of the national judiciary's role would fall upon the Supreme Court in the form of review of state court decisions. The inevitable result would be that few litigants with federal claims could be heard in a federal court even on appeal. The burden of Article III, as understood by the framers, would fall upon one Court—the Supreme Court."

Eisenberg suggests, however, that not all congressional control of federal jurisdiction is invalid; "neutral" statutes, *intended* to avoid case overload and to promote efficiency are acceptable. Conversely, assuming that there is a distinction between neutral and substantive jurisdictional statutes, substantive statutes, those that attempt to do through jurisdictional control what Congress could not do through substantive regulation, are invalid. "[T]hat is, [Congress] may enact any jurisdictional statute that does not prevent vindication of a constitutional right."

Eisenberg recognizes, however, that his analysis runs head-long into the constitutionally valid Norris-LaGuardia Act. That Act severely restricts federal court jurisdiction over the issuance of injunctions and temporary restraining orders in labor disputes. Eisenberg suggests that such a jurisdictional limitation is valid because Congress could have achieved the same result by substantive rule; but as Eisenberg recognizes, the substantive validity of the Norris-LaGuardia Act was not at all clear when it came before the Supreme Court. In fact, prior to the enactment of this legislation, the Supreme Court, in *Truax v. Corrigan*, had ruled that a state statute strikingly similar to the Norris Act was an unconstitutional denial of due process. Eisenberg maintains however, that the Act was nonetheless substantively valid because *Truax* was based upon discredited notions of substantive due process. This, he suggests, was in the Court's mind when it upheld the Norris-LaGuardia Act in *Lauf v. E. G. Shinner & Co.*:

"*Lauf's* holding . . . would present no problem if, at the time it was decided, *Truax* was already *discredited*, for then the Norris-LaGuardia Act would merely have the effect of accomplishing through jurisdiction what Congress could do through substantive rulemaking. By the time *Lauf* was decided, *Truax* was already *in peril;* substantive due process, the approach employed in *Truax*, saw its demise the year before."

At this point Eisenberg offers a footnote that is tremendously important if his theory is to be consistent. It also explains how his theory would apply in the abortion context. He states that:

"[t]he Court's inability to tie the privacy-related decisions such as Griswold v. Connecticut . . . and Eisenstadt v. Baird . . . to the constitutional text again raises the spectre of substantive due process as epitomized by Lochner v. New York . . . . One commentator makes a plausible case for viewing the Court's most recent foray into privacy, the abortion case, Roe v. Wade, . . . as less justifiable than the thoroughly discredited *Lochner* decision."

There is little doubt that by this statement Eisenberg, in accommodating the Norris-LaGuardia Act, is recognizing that certain

Supreme Court decisions are so uniquely unprincipled and distant from the text, structure, and history of the Constitution that Congress can limit jurisdiction in these areas because such limitations would not, *in any real sense*, conflict with the protections of the Constitution. Just as *Truax* was bad constitutional law, so are *Roe* and *Doe*. Just as Congress recaptured labor law from the clutches of substantive due process, it might do the same for the traditional state interest in abortion. Just as illusory substantive economic due process rights were not allowed to hamper congressional jurisdictional power, neither should illusory privacy rights be allowed to do so.

In sum, the case is clear and strong for plenary congressional control of lower federal court jurisdiction, especially in abortion cases. In the abortion area, even the more formidable detractors from the overwhelmingly majority view recognize as legitimate congressional control of lower federal court jurisdiction. All that is necessary is a clear statement from Congress that lower federal courts will no longer be allowed to exercise jurisdiction over abortion cases.

II. THE EXPERIENCE LEADING TO THE NORRIS-LA GUARDIA ACT

The use of the Norris-LaGuardia Act as a paradigm for legislation limiting federal court jurisdiction in abortion cases is not meant to suggest that it is model legislation. There have been many attempts to limit jurisdiction that demonstrate the mechanics of the suggested legislation as well as, if not better than, the Norris-LaGuardia Act. The significance of this particular act is that the circumstances and events leading up to its enactment and those currently developing in the field of abortion regulations are similar. To be sure, there is no exact parallel, but discomforting similarities exist.

As with abortion, the problems leading up to the Norris-LaGuardia Act began with several Supreme Court and lower federal court opinions that set the stage for continual federal court involvement in labor-management relations. The starting point of this judicial involvement has not been precisely placed. It has been suggested, however, that the early uses and interpretations of the Interstate Commerce Act to gain federal jurisdiction over labor disputes was the thin edge of the wedge, but more devastating encroachments came with judicial interpretations of several other statutes. Prominent among these was the Sherman Act, which declared illegal "[e]very contract, combination . . . or conspiracy in restraint of trade." The Act was primarily directed toward the social and economic ramifications of the concentration of capital, yet "[t]he courts in fact proceeded to hold unions liable for antitrust violations in more instances than manufacturers or distributors. . . ." This trend found Supreme Court approval in the famous *Danbury Hatters* case and again in *Gompers* v. *Bucks Stove & Range Co.*

Labor responded vehemently to this debilitating use of the Sherman Act and focused its efforts on remedial federal legislation; efforts apparently rewarded by the Clayton Anti-Trust Act. By the enactment of this Act labor seemed to have two important victories: (1) An express union exemption from the anti-trust laws, and (2) a limitation upon the federal courts' injunction jurisdiction in labor disputes. But labor's celebration of what Samuel Gompers called an "industrial Magna Carta" was short lived. Again the judiciary dashed the hopes of workingmen and frustrated the will of Congress when, in *Duplex Printing Press Co.* v. *Deering*, the Supreme Court upheld a private injunction against a secondary boycott by a group of machinists supporting the attempts of others to unionize a printing-press manufacturer. The hope that the Clayton Act had "swept out of the federal courts the precedents at common law and under the Sherman Act which had proved to detrimental to the labor movement" was in vain. Justice Pitney held that the *Duplex* boycott constituted an illegal restraint of interstate commerce under *Loewe* v. *Lawlor* and was not protected by the Clayton Act. Furthermore, speaking for a six-man majority, Justice Pitney concluded that the Act's anti-injunction provision applied only "to those who are proximately and substantially concerned as parties to an actual dispute respecting the terms or conditions of their own employment, past, present, or prospective"—a prerequisite not met by secondary boycotts.

Dissenting, Justice Brandeis scorned the majority for ignoring the clear intent of Congress to put such labor activities beyond the reach of the antitrust laws and federal injunctions. Nonetheless, with *Duplex* and its progeny, the wedge had been driven. Through the fissure rushed an era of harsh judicial intervention that came to be known as "government by injunction." There were varying estimates of the degree of federal court intervention into labor activities during this period. Similarly, there was some dispute as to the degree to which such intervention was the reflection of bias rather than of good faith overzealousness. However, there was little disagreement that federal court intervention, fueled by *Duplex*, was inimical to the rise of unionism.

Predictably, pressure once again mounted for legislative relief. The original purpose of the Clayton Act had clearly been frustrated, and labor was without adequate protection in its legitimate attempts to organize. Some degree of protection came in 1932 in the form of a limitation on federal court equity jurisdiction: the Norris-LaGuardia Act. The primary purpose of the Act was urgently stated by the House Judiciary Committee: "The purpose of the bill is to protect the rights of labor in the same manner the Congress intended when it enacted the Clayton Act. . . . which act, by reason of its construction and application by the Federal courts, is ineffectual to accomplish the congressional intent." This purpose would be achieved by various means, but with emphasis upon the creation of specific jurisdictional limitations and restrictions. For example, federal courts were *prohibited* from issuing injunctions or restraining orders against a raft of essential union activities, which had previously fallen prey to such "equitable" relief. In addition, the Act specified exacting procedures as prerequisites to issuing permissible injunctions—those against picket-line violence or destruction of property. The balance of the Act attempted to provide a broad remedy for the problem of federal court obstacles to union activity.

The effects of the Act were immediate and positive. The Supreme Court upheld the constitutionality of the Act in *Lauf v. E. G. Shinner & Co.* and soon thereafter began reinterpreting the use of the antitrust laws in the labor relations field. Additionally, the lower court abuses of the injunction procedure declined significantly. Congress' purpose had been achieved; labor was no longer subject to judicial caprice.

The judicial animus toward labor, which threatened to substitute judicial will for legislative will, was evident in the sum and substance of the federal court opinions of the time. Recognized for what it was, Congress acted to balance anew the scales of justice. Congress acted wisely and well. Now, a similar animus is evolving against state attempts to regulate, however minimally, the abortion procedure. Part III of this article will show that the point has been reached when similar remedial legislation is needed to restore the balance that existed prior to the appearance of this judicial bias.

III. THE ABORTION CASES AND THE FEDERAL COURTS

Since 1973 the number of federal court incursions into state abortion regulation cases has understandably increased. These cases address a plethora of abortion issues but can be generally grouped into three categories: General facility and procedure regulations, spousal and parental consent provisions, and refusal to use public funds. The ensuing discussion will focus upon those cases in each category that best illustrate lower federal court attitudes toward abortion cases.

A. General facility and procedure regulations

In *Roe* v. *Wade*, the Supreme Court, through Justice Blackmun, made the following statement:

"It follows that, from and after this point [the first trimester], a State may regulate the abortion procedure to the extent that the regulation reasonably relates to the preservation and protection of maternal health. Examples of permissible state regulation in this area are requirements as to the qualifications of the person who is to perform the abortion; as to the licensure of that person; as to the facility in which the procedure is to be performed, that is, whether it must be a hospital or may be a clinic or some other place of less-than-hospital status; as to the licensing of the facility; and the like.

"This means, on the other hand, that, for the period of pregnancy prior to this 'compelling' point, the attending physician, in consultation with his patient, is free to determine, without regulation by the State, that, in his medical judgment, the patient's pregnancy should be terminated. If that decision is reached, the judgment may be effectuated by an abortion free of interference by the State."

Soon after those words appeared, they were being read by lower federal courts as an admonition to sacrifice constitutional analysis to perfunctory, literal application. Virtually every reasonable attempt to assure that abortions would be performed with some regard for individual safety and the commonweal was rejected as unconstitutional under *Roe*.

Indicative of this response is *Doe* v. *Rampton*, where a district court swept away with a broad brush an entire state statute that attempted to regulate, as much as constitutionally permissible, the performance of abortions. Because the statute was enacted soon after *Roe* and because of the uncertainty of *Roe*'s proscriptions, the Utah State Legislature included a severability clause reflecting a concern for that uncertainty. Despite this clear legislative intent to exercise its regulatory power to the extent permitted by *Roe*, two of the three judges on the panel invalidated the entire legislative effort as having an "overriding purpose and dominant effect . . . of making the obtaining or performing of an abortion in Utah extremely burdensome or impossible." The court ignored the presumptive validity of the state's action, and instead attributed to the legislature an impermissible *motive* in enacting the legislation, though admittedly much of the statute dealt with questions wholly unanswered in *Roe* and therefore proper subjects of legislation. In dissent, Judge Anderson persuasively noted "that established principles governing severability and judicial scrutiny of legislative intent require a contrary ruling."

A similar simplicity of treatment was reflected by a panel of the Seventh Circuit in *Friendship Medical Center, Ltd.* v. *Chicago Board of Health*. A private abortion clinic had sought injunctive relief and declaratory judgment against abortion regulations promulgated by the board of health. The regulations, though extensive, required in part, "[t]hat an abortion be performed by a licensed physician . . . in a facility that complies with [regulations]. Each facility is required to keep records [concerning patients] . . . [and] prepare monthly reports which are to include . . . the name and address of patients who developed complications following the abortion and a description of such complications. . . .

"All equipment and supplies must be maintained in proper working order, and necessary solutions, drugs and medications must be available. There must be . . . an elevator that can accommodate a stretcher if any abortion service is located above ground level, anesthesia and such other equipment as is necessary to treat for hemorrhage . . . and other emergencies. . . .

"In addition every non-hospital abortion service must have a written affiliation agreement with a licensed Chicago hospital allowing the use of its laboratory facilities and providing for the treatment of its patients requiring emergency care. The abortion service must have immediately available organized transportation facilities [for emergency transportation to a hospital]."

In addition, the regulations required that the facility be supervised by a qualified physician and have a registered professional nurse with post-graduate experience in obstetric or gnecological nursing on duty whenever the abortion facility was in use. The regulations also required a twenty-four hour waiting period between the initial examination and the abortion to permit review of required laboratory tests and to allow thorough consideration of the abortion decision.

The court's response was that these regulations, to the extent that they applied to the first trimester of pregnancy, interfered with a fundamental right, and that only a compelling state interest could sustain such interference. *Roe*, it was maintained, "was declaring broad health and safety regulations for the first trimester impermissible." The court based its decision upon a most literal and unreasonable reading of *Roe* and *Doe*. Unreasonable because the very underlying premise of the Supreme Court's conclusion was that first trimester abortions are so safe that the state has no interest in maternal health. But if the state cannot regulate the abortion facility *at all*—even to assure compliance with the most minimal safety standards—what assurance is there that first trimester abortions would remain safe? How much need the standards degenerate before the state can act? Indeed, under this literalist approach could the state ever act?

Clearly, the literalist approach is wrong. Not only does it fall of its own weight, but it requires the court to ignore other language in the Supreme Court opinions. In *Doe* v. *Bolton*, the Court said:

"We feel compelled to agree with appellants that the State must show more than it has in order to prove that only the full resources of a licensed hospital, *rather than those of some other appropriately licensed institution*, satisfy these health interests. We hold that the hospital requirement of the Georgia law, because it fails to exclude the first trimester of pregnancy . . . is also invalid."

The emphasized language is as clear as other language cited in *Friendship Medical Center, Ltd.;* it suggests, contrary to the court's conclusion, that a state may establish appropriate licensing standards. The *Friendship* court suggested, however, that the *Doe* language "flies in the face of the more direct and controlling language" that it preferred. But why is this statement any less direct or controlling than other language quoted therefrom? Nevertheless, the court preferred a construction that invalidated as *unconstitutional* regulations which, *inter alia*, required an elevator large enough to accommodate a stretcher so that a hemorrhaging woman could be more safely and effectively transported to emergency care.

Another example of the broad judicial opposition to any state role in the abortion procedure is the district court opinion in *Wolfe* v. *Schroering*. After *Roe* and *Doe*, Kentucky enacted a nineteen section law regulating abortions. Plaintiff-physicians, representing a class, sought declaratory and injunctive relief against the enforcement of the statute. Although Judge Bratcher accepted the statute's flexible definition of viability as consistent with the flexibility that inheres in the *Roe* definition, most of the statute was less favorably treated. Amazingly, the court declared unconstitutional a provision requiring the physician, before performing a *post-first trimester* abortion, to inform the patient of the physical and mental consequences of *having or not having* the abortion. More astonishing is the judge's reason for so holding: "For the period subsequent to the first trimester, and prior to viability, the state must confine its regulation to the protection of maternal health and apply it only to the abortion procedure." The Kentucky requirement was nothing more than a codification of the widely recognized common law requirement of informed consent for any significant surgical or medical procedure. Furthermore, it fit the precise standard that the district judge applied: It was both protective of maternal health and applicable only to the abortion procedure; unless of course the judge saw the procedure as only the actual touching of the patient. If so, his vision was regrettably narrow. The medical literature makes it quite clear that the abortion procedure is more than a mere physical act upon a patient to be considered separately from its possible effects upon the patient's full person.

Similarly, the court invalidated a requirement that twenty-four hours elapse between examination and abortion. The court saw this requirement as an impermissible intrusion into the abortion decision-making process, both before and after the first trimester. Yet the opinion is uniquely unclear as to how this result was reached. Presumably, with respect to first trimester abortions, the judge's concern was a product of literalism. As to post-first trimester abortions the conclusion seemed to be that the waiting period requirement was impermissible as an attempt to regulate the abortion decision-making process. However, such a requirement has nothing to do with obstructing or burdening the choice to abort; rather it is reasonably related to maternal health concerns similar to those Kentucky tried to protect by assuring a woman necessary information prior to deciding. To further undermine Kentucky's decision to foster informed consent to abortions, the court invalidated a requirement of written consent because it failed "to meet constitutional scrutiny in that it [was] overbroad; it [intruded] into the decision-making process and [included] the first trimester." Again, the court's conclusions were unsupported. How can a written consent requirement be overbroad? What does it mean to *intrude* into the decision-making process? Moreover, after the first trimester, a great deal of intrusion is allowed, especially when, as in this case, it is directed toward maternal health.

When the Supreme Court selected viability of the fetus as a point of special significance in the abortion decision, it not only made a biological mistake but a practical one. Trying to ordain by judicial fiat an essentially meaningless point in the life continuum, the Court was confronted with the hopeless task of suggesting some degree of precision where there is none. Understandably, however, many states have attempted to give some real meaning to viability as a point at which they may assert some protection on behalf of the fetus.

Minnesota, for example, defined viability as the point when a fetus is "able to live outside the womb even though artificial aid may be required." Furthermore, "[d]uring the second half of its gestation period a fetus shall be considered potentially 'viable'." This definition was challenged in *Hodgson v. Anderson* as ignoring the definition announced in *Roe*: "Viability is usually placed at about seven months (28 weeks) but may occur earlier, even at 24 weeks." Plaintiffs suggested that the Minnesota law would establish viability at twenty weeks. Other provisions of the Minnesota law prohibited an abortion of a "potentially viable" fetus without certification by a physician that in his best medical judgment the abortion was neecssary to preserve the life or health of the mother. In addition, when such an abortion was performed, "to the extent consistent with sound medical practice the abortion [was to be] performed under circumstances which [would] reasonably assure the live birth and survival of the fetus." Finally, the Minnesota law ascribed a duty to preserve the life of a live born fetus who survived an abortion performed after the period of potential viability.

The three-judge panel invalidated these provisions, reasoning that they were based upon an improper definition of viability. The court felt that there was something sacrosanct about the *Roe* references to trimesters and concluded that "the state must consider the separate trimester test." The flaw, according to the court, was that Minnesota's stringent test of viability would allow it to apply the more rigid post-viability standard to an abortion being performed during the second trimester. Thus, the court chose to give inflexible significance to *Roe*'s ambivalent reference to twenty-four weeks as a possible point of viability.

"Using 24 weeks as the earliest point of viability places a decision to terminate pregnancy between 20 and 24 weeks in the second part of the *Roe* test. Thus at any point prior to 24 weeks and subsequent to approximately the end of the first trimester, the state may regulate only insofar as such regulations are related to maternal health.

"So words and numbers become more important than reality. The Supreme Court's mere *mention* of twenty-four weeks as a possible point of viability converts that number into a talisman capable of overriding the deliberations and fact-finding of the Minnesota legislature. Of course, if Minnesota were acting arbitrarily and their selection of twenty weeks had no basis in fact, the court's result would not be as discomforting, but testimony from a trial in a similar case is a sobering backdrop to what this three-judge panel has done.

"Mr. Morris: Doctor, as one who performs abortions I want to read you a sentence and ask you what it means to you. The sentence is, "Viability means capability of a fetus to live outside the woman's womb albeit with artificial aid". . . .

Dr. Mecklenberg: I would agree with that definition of viability. I think that it has been current. I think it is a definition that takes into account medical progress, *the fact that it is constantly changing*. My perusal of the medical literature would lead me to believe that *potential or continued life exists as early as 20 weeks*—not in the current edition of Eastman's Obstetrics Book, but in the previous edition, the earliest report a survivor was reported as a delivery at 20 weeks gestation. In my own experience I have—the earliest survival that I have had is a patient who was 21 weeks from the time of conception or 23 weeks from the first day of her last menstrual period. The child is a year and a half old and normal."

Minnesota, therefore, seems to have acted reasonably in exercising its police power to protect viable fetuses, yet the *Hodgson* court tells us that the Constitution says no! In fact, the *Hodgson* court tells us that Dr. Mecklenberg must be wrong: "In any event, under present technology, it [viability] *does not* arise prior to 24 weeks." This deception of language gives strength to a conclusion not reflective of reality and remains etched in the "case law" to steer others astray.

Pennsylvania is another state that attempted to give meaning to the Supreme Court's viability test. In 1974 the legislature enacted the Abortion Control Act, which *inter alia*, defined viability as "the capability of a fetus to live outside the mother's womb albeit with artificial aid." Based upon this definition, the Act further provided that one who performs an abortion shall determine according to his "experience, judgment or professional competence that the fetus is not viable," and if the fetus may be viable, the person performing the abortion "shall exercise that degree of professional skill, care and diligence" necessary to preserve the life and health of the fetus as though it were intended to be born and not aborted. Also, to the extent it is consistent with the life or health of the mother, "the abortion technique employed shall be that which would provide the best opportunity for the fetus to be aborted alive." Those who failed to adhere to these provisions were subject to "such civil or criminal liability as would pertain to him had the fetus been a child who was intended to be born and not aborted."

In *Planned Parenthood Association* v. *Fitzpatrick*, plaintiffs objected to all of the foregoing as impermissibly vague and overbroad since there was a "difference of opinion among physicians as to the period of gestation indicated" by the state's definition of viability. Defendants argued that Pennsylvania's definition was consistent with the flexible *Roe* definition, especially since *Roe* specifically stated that viability was tied to that stage at which the fetus was "potentially able to live outside the mother's womb, albeit with artificial aid." With a broad brush, the three judge panel declared the entire viability provision unconstitutional. Their chief concern was the imposition of criminal sanctions for failure to attempt to save a viable fetus, since there was disagreement among physicians as to the point of fetal development at which the statute would require the operating physician to exercise care for the life of the fetus.

The *Fitzpatrick* court did several things that seemed inappropriate under the circumstances. First, it rejected Pennsylvania's flexible definition of viability, which was a virtual quotation from *Roe*, deciding initially that:

"*Roe* makes it abundantly clear that the compelling point at which a state in the interest of fetal life may regulate, or even prohibit, abortion is not before the 24th week of gestation of the fetus, at which point the Supreme Court recognized the fetus then presumably has the capability of meaningful life outside of the mother's womb."

Of course, no such conclusion is abundantly clear; it is a great deal clearer that, read a a whole, *Roe* eschewed any such rigidity as certainly it had to. Even more dismaying, however, is the *Fitzpatrick* court's next statement:

"Consequently, *Roe* recognizes only two periods concerning fetuses. *The period prior to viability*, when the state may not regulate in the interest of fetal life, and *the period after viability*, when it may prohibit altogether or regulate as it sees fit."

Amazingly, the court did not seem to realize that it was begging the question. If the state's interest is dependent upon viability, it should be free to exercise that interest whenever the *facts* establish viability. Unless 24 weeks can be firmly established as the *only* possible point of viability, a state's regulations cannot be so circumscribed in asserting its "compelling interest" in fetal life. As demonstrated above, and as the *Fitzpatrick* court was shown, 24 weeks is simply not dispositive of the viability question. In fact, what this court held was that there are admittedly viable fetuses who will be at the mercy of the aborting physician in derogation of rights guaranteed to such fetuses by *Roe*. The state's compelling interest was arbitrarily sundered for those fetuses.

Similarly, the court rejected the state's attempt to require the exercise of due care for the life and health of a potentially viable fetus who survives an abortion. The legislature, in effect, was trying to achieve some "equality of protection" for two groups of persons—the viable fetus who survives the abortion, and the premature child, born spontaneously at the same stage of fetal development. The court ignored the hiatus it created by disallowing protection for one group, while allowing the other to be given the full protection of the civil and criminal law.

Undoubtedly the court's fear of statutory vagueness cannot be easily dismissed, but such concerns can typically be settled by abstaining and allowing adequate limits. In *Planned Parenthood v. Danforth*, which involved a Missouri statute very similar to the one passed by Pennsylvania, Justice White said in dissent:

"The statute would appear then to operate only in the gray area after the fetus *might* be viable but while the physician is still able to certify "with reasonable medical certainty that the fetus is not viable." . . . Since the State has a compelling interest, sufficient to outweigh the mother's desire to kill the fetus, when the "fetus . . . has the capability of meaningful life outside the mother's womb," . . . the statute is constitutional."

* * * * *

"At worst [the statute] is ambiguous . . . and the District Court should be directed to abstain until a construction may be had from the state courts. Under no circumstances should [it] be declared unconstitutional at this point."

This approach seems the better part of wisdom since any other one would create the very real prospect that the state's compelling interest in viable fetuses would be, for the most part, an unprotectable one. Conversely, the only burden that abstention would place upon the abortionist is the exercise of greater caution in the "gray" area.

Doe v. Poelker serves as a final example of the problem of lower federal court aversion to *any* abortion regulations. In that case, the plaintiff, a pregnant woman seeking an abortion, objected to "an official St. Louis city policy promulgated by the mayor prohibiting the performance of abortions in the city-owned public hospitals for reasons other than to save the mother from grave physiological injury or death." In addition to this policy, the court noted evidence that the method of staffing the hospital's obstetrics-gynecology clinic was part of a "procedure and practice" that barred the performance of abortions. The appellate court felt that the combined effect of the city policy and the clinic staffing procedures was "that indigent pregnant women who desire[d] abortions [were] unable to find a physician at the city OB-GYN clinic who [would] perform one."

With a disturbing lack of clarity and in an unacceptably conclusory fashion, the court decided that the St. Louis policy and staffing procedures violated the equal protection clause of the Constitution; exactly how was not discussed. Rather, with the mention of abortion, the court seemed to assume that ordinary rules of constitutional analysis were suspended. First the court said: [Plaintiff] asks that the city not deny her equal protection of the law by interfering in her decision of whether to bear a child or have an abortion simply because she is indigent and unable to afford private treatment." What was the class that was being discriminated against? Indigent women? Indigent pregnant women? Indigent pregnant women who desire abortions? Are any of these "suspect classes"? What standard of judicial review should have been applied? Deferential? Strict scrutiny? All of these were essential questions, questions that are the sine qua non of any equal protection analysis. Yet the court never mentioned any of these points. Rather it compounded confusion by referring to what was apparently another "defect" in the St. Louis policy and procedure.

"Stripped of all rhetoric, the city here, through its policy and staffing procedure, is simply telling indigent women . . . that if they choose to carry their pregnancies to term, the city will provide physicians and medical facilities for full maternity care; but if they choose to exercise their constitutionally protected right to determine that they wish to terminate the pregnancy, the city will not provide physicians and facilities for the abortion procedure. . . ."

Again, the court failed to explain the relevance of this analysis. Was the court suggesting that the classification was indigent pregnant women who seek abortions as opposed to indigent pregnant women who seek full term delivery? Would the answer to that question shed light on the degree of scrutiny applied by the court? Or is the court suggesting that Roe not only created the right to choose abortion, but also the right to have it publicly financed? Unfortunately, the court never answered any of these questions, but, sub rosa, applied what can only be called a very rigid standard of scrutiny. Rigid because under the more acceptable rationality standard, the court would have had to conclude that a state may rationally prefer childbirth to abortion as a matter of state policy as long as it does not deny women the choice to abort. Any other reading of Roe is baseless.

The court did not stop with its perplexing equal protection "analysis." Two of the three judges decided to punish Mayor Poelker for adopting this policy that mysteriously offended the equal protection clause. Contrary to the common law and American federal authority, the court awarded attorney's fees to plaintiffs. The court justified its action under an exception to the general rule that allows awarding of attorney's fees "when the losing party has 'acted in bad faith, vexatiously, wantonly, or for oppressive reasons.'" This exception is rarely invoked, and when it is, the case is exceptional. Moreover, the decision is usually within the discretion of the *trial* court and seldom made, in the first instance, by an appellate court. Contrary to widely accepted rules of federal procedure, the appellate court in *Poelker* awarded attorney's fees even though the issue was not raised at trial, but was raised for the first time on appeal. Furthermore, the argument on appeal was to award fees under the "private attorney general" theory, not bad faith. Since an intervening Supreme Court decision had rejected the use of the "private attorney general" approach except where provided by Congress, the appeals court, *sua sponte*, awarded fees on the bad faith theory *without* prior fact finding, notice to the defendants, or proper arguments before either the trial court or the court of appeals. This clearly abusive procedure was forcefully objected to by Judge Van Oosterhout in his dissent:

"It is unfair to the trial court and the litigants to allow the recovery of attorneys' fees on the basis of an issue not raised in the trial court or properly raised upon appeal. Under such circumstances, the litigants are not afforded a fair opportunity to meet the issue by evidence or briefs. Upon the original submission of the appeal the bad faith issue was not briefed.

"No fact finding on the bad faith issue was made by the trial court . . . .

"We have no right to try cases de novo. Thus if contrary to what has heretofore been said, the bad faith exception is properly before us, the case should be remanded to the trial court for determination of such issue.

"The discretion for awarding attorneys' fees under appropriate circumstances . . . rests in the trial court subject to review for abuse of discretion. We cannot substitute our discretion for that of the trial court."

Given this dramatic departure from ordinary notions of justice and procedure, one might assume that the argument against Mayor Poelker was overwhelming. Certainly it was not. The court's condemnation of a popularly elected official's implementation of a publicly approved policy stems from an overly generous assumption that *Roe* v. *Wade* is somehow a "clear" decision. The court suggested that state and city officials had "delayed complying with the clear dictates of the Supreme Court" and had "obstinately continued to implement and enforce statutes, regulation and policies designed to circumvent the constitutional law declared by the Supreme Court." "More specifically" the court continued, the "history of this particular litigation reveals a wanton, callous disregard for the constitutional rights of indigent pregnant women continuing long after those rights had been clearly enunciated by the Supreme Court. . . ." What clarity there might be in the Supreme Court decisions does not relate to the questions that were raised in the *Poelker* case. Neither *Roe* nor *Doe* nor any other Supreme Court decision prior to *Poelker* had made it clear that the freedom to choose abortion included a right to have it publicly subsidized. To require any official to so conclude under pain of being held in bad faith is unreasonable at best. Only if one assumes, as apparently this court did, that the invocation of the word abortion somehow suspends all of the ordinary rules of procedure, constitutional analysis, and fairness can one agree with the *Poelker* result. In fact, the Supreme Court said as much when it reversed *Poelker* in *Poelker* v. *Doe*.

Contrary to the circuit panel's conclusion that *Roe* clearly required the reversal of Mayor Poelker's policy and his punishment for acting in "bad faith," the Supreme Court said:

"We agree that the constitutional question presented here is identical in principle with that presented by a State's refusal to provide Medicaid benefits for abortions while providing them for childbirth. This was the issue before us in *Maher v. Roe*. . . . For the reasons set forth in our opinion in that case, we find no constitutional violation by the city of St. Louis in electing, as a policy choice, to provide publicly financed hospital services for childbirth without providing corresponding services for nontherapeutic abortions."

Apparently, Mayor Poelker's reading of *Roe* and *Doe* was more accurate than the Eighth Circuit's.

Virtually every attempt to place even the most minimal regulations on abortion facilities and procedures has met with judicial hostility. Provisions for adequate emergency services have typically fared no better than absolute prohibition. Moreover, at every step of the way the lower federal court opinions have sacrificed analysis for result and have expanded *Roe* and *Doe* beyond their limits. Although the problem has gone unchecked, it has not been unnoticed. In *Sendak v. Arnold*, the Supreme Court summarily affirmed a three-judge court ruling that an Indiana statute requiring that first trimester abortions be performed in a hospital or a licensed health facility having basic health safeguards and hospital backup was unconstitutional. Justice White, dissenting from the summary affirmance, spoke for himself, the Chief Justice, and Justice Rehnquist:

"There is nothing in the United States Constitution which limits the State's power to require that medical procedures be done safely, and were it not for some language in this Court's recent decisions in cases touching on abortions, the District Court's decision should and would be summarily reversed.

* * * * *

"Statutes passed by the legislatures of the States may not be so lightly struck down. *Normal principles* of constitutional adjudication apply even in cases dealing with abortion."

Unfortunately, it seems that not all judges agree with this reasoning.

B. Third party consent

Since *Roe* expressly left open the question of the interest of the spouse or parents in the abortion decision, most states enacted regulations to recognize these legitimate concerns. Consistently, however, lower federal courts seemed incredulous that someone other than the woman and her physician would have an interest in the abortion decision. The underlying assumptions regarding marriage and family relationships upon which these courts proceeded are unprecedented and disturbing.

1. Spouse

The interest of the spouse in the abortion decision has fared particularly poorly before the courts. Only one court has recognized the husband as anything more than a menacing interloper in the exclusive domain of woman and physician. A Florida case will serve well to illustrate the point.

Coe v. Gerstein invalidated a state statute requiring the physician of a married woman seeking an abortion to obtain "the written consent of her husband, unless the husband [was] voluntarily living apart from the wife" or the abortion was necessary to preserve the woman's life. The district court treated the entire abortion decision as though the subject of abortion could simply be divided into two issues: Maternal health and fetal protection. Of course, neither of these issues denies the independent, though overlapping, interest of the husband/father. But by relying exclusively upon *Roe* and *Doe*, even though the court recognized their inapplicability, the judges locked themselves into a categorical analysis that simply was not intended to solve this problem. The court concluded that:

"[I]f the State cannot interfere to protect the fetus' interest in its potential life . . . neither can it interfere on behalf of husbands . . . to protect their interests in that potential life until the fetus becomes viable. . . . [I]f the State cannot interfere to protect the pregnant woman's physical or mental health until approximately the end of the first trimester, neither can it interfere on behalf of husbands . . . to protect their interests in her health. . . ."

It would be more palatable if the court had stopped there, and we could conclude that it simply missed the point. Continuing, however, the panel recognized that possibly the husband's interests "fall completely outside the categories of protection of maternal health and potential life." Furthermore, the court recognized that "the interest of the husband in the embryo or fetus carried by his wife . . . is *qualitatively* different from the interest which the mother may have in her health and the interest of the viable fetus in its potential life." Yet the court eschewed further analysis of the constitutional significance of this *qualitatively* different interest expressly left open in *Roe* and *Doe* and held the requirement unconstitutional because it permitted a veto of the wife's decision to abort. Thus, the court begged the question. The nature of the husband's interest must be more fully understood before state advancement of that interest can be judged—perhaps the respective husband-wife interests are equally weighty and a balancing procedure is appropriate.

On appeal to the Fifth Circuit, the husband's interest received a somewhat more serious treatment. The appellate court examined more closely the state's justifications for requiring spousal consent. First, the state contended that the provision was consistent with its general interest in the marriage relationship. Second, the state contended that the statute was necessary to protect the husband's interest in the abortion decision. As to the marital relationship, the circuit panel asserted, somewhat summarily, that this interest was narrow and did not extend to "intrafamilal decision-making processes with regard to childbearing decisions." Therefore, the "state's societal interest in this aspect of the marriage relationship (was) not sufficiently 'compelling' to justify the statute."

Can the state's interest in marriage be so easily dismissed? Does this analysis really address the larger question of what is the state's interest in marriage? For example, the Supreme Court has said that the state's interest extends to the need to protect the "regularity and integrity of the marriage relation." Accordingly, the traditional state interest clearly transcends the mere formulation and dissolution of the relationship; it is also concerned with marriage as an institution. Under this more accurate understanding of the state's interest, can it be so easily asserted that the state has no interest in requiring that important decisions affecting a marriage be forestalled in the absence of unanimity? Could not a state preserve and protect the integrity of the marriage unit by requiring unanimity on questions of adoption, artificial insemination, and voluntary sterilization? Admittedly, all these questions relate to the "child-bearing" decision, yet they seem vulnerable under a view of marriage that holds the parties to be simply two independent individuals who happen to be cohabitating.

In bold contrast to the Fifth Circuit's view of the state's interest in marriage, the words of the district court in *Planned Parenthood v. Danforth* are instructive:

"Other testimony at the trial merely supports what should be obvious—that those things which foster mutuality and trust in a marriage tend to strengthen the relationship and the institution of marriage. . . . In the area of procreation, which is a fundamental aspect of that relationship. The state's interest in protecting the integrity of the marriage unit and the mutuality of decisions made by the partners to that unit becomes particularly compelling. It is difficult to see how marital harmony could possibly be preserved if husbands were precluded from participating in decisions which affect the very essence of the marriage relationship.

"The interest of the state in protecting the mutuality of decisions vital to the marriage relationship is compelling at all times during the marriage. It does not vary in importance at different times during the relationship, and certainly is not subject to distinctions between trimesters of the wife's pregnancy."

Clearly, nothing in *Roe* or *Doe* compelled the Fifth Circuit to reject this more firmly established view of the state's societal interest in marriage.

The second asserted state interest—the husband's concern over the abortion decision—was thought to be more substantial. The court saw both a current and a future interest assertable by the husband: a present interest in the protection of the threatened fetus and a future interest in procreation potential. Since this familial interest in the fetus had only recently been threatened, it was considered de novo. Astonishingly, however, the court rejected the father's interest primarily because the statute did not base its consent requirement on paternity as opposed to status as a spouse: "The statute therefore seems to base the husband's interests upon his marriage to the woman rather than his paternity of the fetus." Without determining the identity of the constitutional defect, the court concluded that "[a]s a consequence, the rights of the husband which arguably spring from his interest in the fetus are of doubtful applicability in this case." Given the opportunity, a state court could certainly have construed the statute to make it consistent with the court's concern, yet the Fifth Circuit chose to assume, without giving the state courts a chance to give the statute a narrowing construction, that the case of the adulterous progeny invalidated the entire attempt to recognize the admitted paternal interest. Perhaps perceiving the weakness of its conclusion, the court asserted, as an independent reason for invalidation, "that the father's interest in the fetus is not sufficiently weighty to prevent the exercise of the woman's fundamental right." The court reasoned that because the fetus is not a person and therefore not a child, then "a fortiori" the father's interest in the fetus is less significant than his interest in live born children. Of course, *Roe's* conclusion that a fetus is not protected under the Constitution does not inexorably lead to the conclusion that a fetus is not a child, and it will certainly come as a shock to many fathers that the *Constitution* says they cannot be as concerned about and protective of their children in utero as of their live born children. So too will many courts and commentators be shocked by such a notion since a testator's interest in his children has been recognized to include those who have been conceived but not born; moreover, the parental interest in the life and health of the fetus has been widely recognized in the tort law. Therefore, it seems that the premise upon which the court distinguished prenatal from postnatal children is flawed, and as a result, so too is its preference for the "weightier" maternal interest. There is nothing in constitutional law or logic that can support the position that the mother's interest in a dead baby is somehow "weightier" than a father's interest in a live one. As Justice White has recently said, "[i]t by no means follows, from the fact that the mother's interest in deciding 'whether or not to terminate her pregnancy' outweighs the *State's* interest in the potential life of the fetus, that the husband's interest is also outweighed and may not be protected."

Finally, the Fifth Circuit examined the husband's interest in the procreative potential of his marriage. It recognized abortion and procreation as competing fundamental rights but concluded that since procreation takes a willing partner, cases recognizing the fundamentalness of procreation "merely safeguarded . . . procreative potential from state infringement." Consequently, the right to procreative potential is less weighty than the right to abort.

The court's grounds for decision are nothing more than conclusions and are not analytical statements of constitutional principle. What did the court mean when it said that "we do not read *Skinner* to permit state infringement upon the woman's fundamental right to abortion"? Why did the court read *Skinner* so narrowly and *Roe* so broadly that the abortion right was expanded to exclude the entire spousal interest—a result not mandated by *Roe?* The long constitutional tradition of which *Skinner* is only a small part seems to clearly outweigh, in history, precedent, and fact, two relatively infant decisions that broke entirely new ground and were unsupported by, and in fact contrary to any legal, moral, or historical tradition. Yet the word abortion seems to turn constitutional law on its ear, achieving balancing acts that defy the law of gravity.

2. Parents

While some courts have been mildly more sensitive to the role of parents in the abortion decision, many courts have rejected parental involvement, and others have allowed only minimal consultation. Though there are many cases that represent the attitude of the lower federal courts toward a state's attempts to involve parents in the minor's abortion decision, *Baird* v. *Bellotti* is most representative of the judicial recalcitrance that has continually rejected the traditional parental role. In the district court's first brush with this case, it faced a challenge to a Massachusetts statute that provided:

> "If the mother is less than eighteen years of age and has not married, the consent of both the mother and her parents is required. If one or both of the mother's parents refuse such consent, consent may be obtained by order of a judge of the superior court for good cause shown, after such hearing as he deems necessary. Such a hearing will not require the appointment of a guardian for the mother."

The plaintiff, representing a class, was "Mary Moe," an unmarried sixteen-year-old living with her parents in Massachusetts. At the time this case began, Mary Moe was eight weeks pregnant and desired an abortion without having to inform her parents of her condition or her desire to abort. The district court agreed that all Mary Moes should be free to abort without parental consultation or consent. The opinion is notable for its unsupported conclusions, both factual and legal. For example, the court casually attempted to diminish the medical significance of the abortion procedure. "There is a possibility of infection and other complications, as with any procedure, and there is a possibility, minor, or very remote, depending on whose testimony is accepted, of subsequent sterility." The court did not say whose testimony it accepted, but it obviously preferred to ignore the magnitude of the problem in order to reach its conclusion. Along the way the two-judge majority continually recognized facts that would support the parental role in the abortion decision, but they nonetheless reached opposite conclusions. As to the emotional stress involved in the abortion decision, they stated: "All experts agreed that pregnancy in an unmarried minor is a period of great emotional stress: that support is needed, and that parental support, if forthcoming, is most desirable. Probably most parents are supportive." Yet amazingly and without support, the court stated: "We are obliged to find, however, that an appreciable number [of parents] are not [supportive], for a variety of reasons. This "finding" colors the remainder of the opinion and creates a judicial view of the parent-child relationship that is jaundiced at best. This view is further advanced by the court's insistence that the rights of minor and parents are necessarily in conflict. The court considered the statute fatally flawed because it recognized independent rights in the parents, and "[the question [became], accordingly, do parents possess, apart from right to counsel and guide, *competing* rights of their own?" Why should the court assume that if the state recognizes rights in the parents that they are necessarily *competing?* What accounts for the court's rejection of the traditional view that parents will act in the best interest of their children?

More than once the Supreme Court has recognized a parental interest, presumably promotable by the state, to act broadly on behalf of their minor children. In *Pierce v. Society of Sisters*, the Court said that "those who nurture [the child] and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional [*e.g.*, religious, moral, and patriotic] obligations. What accounts for the parents' loss of this right and high duty at the moment of a most important moral decision? Similarly, Justice Douglas, a principle promoter of the right to privacy, said in his concurring opinion to *Doe v. Bolton* that the protected privacy that permits the woman to decide to abort also includes *"freedom of choice . . . respecting marriage, divorce procreation, contraception, and the education and upbringing of children.* Can it be seriously contended, or reasonably accepted, that an unwed minor daughter's pregnancy and possible abortion are not matters that fall within the category of child rearing? Astonishingly, two of three judges comprising the district court panel said yes.

Finally, the court concluded that the statute was further defective because it permitted a parental "veto" as opposed to a more limited "consultation." The court was unimpressed by the statutory scheme that provided the minor a procedure for overriding a parental decision against abortion—a seemingly reasonable solution to the veto problem.

Having examined the court's startling tunnel-vision in passing upon Massachusetts' attempt to foster and preserve the family as a unit, rather than as diametrically opposed individuals, it would be helpful to examine some of the implications of the decision. The most serious implication concerning the immediate affect on minors is well stated in the dissent of Judge Julian:

> "In order for consent to be informed, a minor must understand the emotional as well as the physical consequences which may follow from an abortion. . . . No testimony was offered, however, concerning the emotional consequences the abortion may or will have upon Mary Moe. . . . The majority disregard that aspect of informed consent which requires that a minor must understand the emotional consequences which may follow an abortion."

Undoubtedly, the majority's omission was a serious one. Recall the *Roe* v. *Wade* recognized the magnitude of the abortion decision and implicitly assured emotional assistance in making the decision by requiring consultation with, and the concurrence of, the woman's physician. Unfortunately, however, abortion clinics are primarily business enterprises, and the *Roe* assumption that patients will be sensitively counseled by a trained physician prior to making the decision is more illusion than reality. This point was emphasized by Justice Stewart in the *Danforth* case. Referring to the record in that case, Justice Stewart questioned whether "a girl of tender years, under emotional stress" would receive "adequate counsel and support . . . at an abortion clinic." In a footnote, citing the *Bellotti* brief, he quoted:

> "The counseling . . . occurs entirely on the day the abortion is to be performed. . . . It lasts for two hours and takes place in groups that include both minors and adults who are strangers to one another. . . . Counseling is typically limited to a description of abor-

tion procedures, possible complications, and birth control techniques. . . .

"The abortion itself takes five to seven minutes. . . . *The physician has no prior contact with the minor*, and on the days that abortions are being performed at the [clinic], the physician . . . may be performing abortions on many other adults and minors. . . . On busy days patients are scheduled in separate groups, consisting usually of five patients. . . . After the abortion [the physician] spends a brief period with the minor and others in the group in the recovery room. . . ."

This is hardly a setting for sensitive, personal counseling preferable to parental involvement. Can it be that the Constitution prevents a state from assuring the parents a role in helping their minor daughter face such a difficult decision in such an impersonal environment? To a large extent the Supreme Court has answered that question in the negative and has cast doubts on *some* of what the district court did in *Baird*. Without testing the merits of the statute, the Court unanimously concluded that the statute was susceptible to a narrowing construction that could clearly preserve its validity, and such a construction had been advanced by the officials charged with enforcing it. Accordingly, the district court had erred in not abstaining from deciding the merits "pending authoritative construction . . . by the Supreme Judicial Court of Massachusetts."

Subsequently, the district court certified certain questions concerning the construction of the statute to the Massachusetts Supreme Judicial Court. Plaintiffs in the initial action requested a stay against the operation of the statute as construed pending the district court's determination of its constitutionality. Once again the district court favored the pro-abortion argument and ignored the legislative will; it stayed the operation of the statute. The court gave three reasons for its action. First, the statute as construed did not expressly advise parents that they could consider only the minor's best interest. Since the statute would be read by parents who might be ignorant of the effect of the Massachusetts court's construction, minors might well be forced to go to court to enforce their rights—an eventuality which the district court felt would place a substantial, and therefore unconstitutional, burden upon obtaining an abortion. Second, the state court's interpretation was not clearly consistent with the Supreme Court's suggestion as to what would be permissible, in that the state court saw parental consultation as required in every case; even in cases where the minor requests a court order for an abortion, her parents would have to be *notified*. Third, the state court had rejected the proposition that a "mature minor" could give consent to an abortion even if her parents and the court decided that a contrary decision would be in her best interest. Here the district court admitted that it did not perceive the constitutional significance of this point. Nonetheless, it was thrown in for good measure. In sum, the district court felt that the stay would be appropriate because these points demonstrated a probability of success on the merits by the plaintiffs.

What the majority did not discuss was the failure of the plaintiffs to carry their burden of proof consistent with a request for a preliminary injunction. That burden requires that the plaintiffs prove a *substantial* likelihood of their prevailing on the merits; *and* that without the injunction, they would suffer *irreparable* harm. Of course, the plaintiff's "failure" might better be characterized as the court's kindness, for, in fact, the majority very nearly relieved them of that burden altogether. In its opening comments, the opinion reverses standard procedure and refuses to "[hypothesize] the constitutionality of the statute." Of course, that is precisely what the court must hypothesize. To do otherwise assumes that the statute is unconstitutional and shifts to the defendant the burden of proving that the injunction *should not* issue.

The dissent of Judge Julian correctly pointed out this inexplicable flaw in the majority's analysis. Additionally, Judge Julian demonstrated how the three points raised by the majority were without merit. As to the concern that the statute did not explain on its face the standard to be used by parents, Judge Julian responded: "It is an established rule of law that a state court's interpretation of its own state statutes is binding on the federal courts. Therefore, the statute was comprised not just of the words in the law itself; rather, it included the construction given to it by the highest state court. So, as construed, the proper parental standard was part of the statute, and the court should have considered it as such." Similarly, a "state court's construction . . . is deemed to be notice to all concerned of what the statute provides," and it is no defect in the statute that parents must know the construction in order to apply the proper standard. Regarding the majority's second point, Judge Julian again went to the heart of the issue: the majority had misread *Danforth*. The Massachusetts Supreme Judicial Court had not read the statute to require parental *consent*, only parental *consultation*. *Danforth* had condemned only a requirement of consent, since that would amount to a veto. "The Massachusetts statute as construed [did] not create any such absolute power." Examining the third asserted basis for granting the injunction. Judge Julian confessed: "[I]t is still unclear to me what that third reason might be." Perhaps the majority's uncertainty as to the constitutional significance of this point emanated from the realization that it had none. Finally, and most profoundly, the dissent questioned how the majority could find—though not demonstrate—that failure to stay the statute would cause the plaintiffs irreparable harm, without even considering what harm would accrue to the defendants. Judge Julian examined that issue much more closely. The only harm that could have been suffered by most of the plaintiff class was the necessity of complying with the statutory mandate; and "requiring the minor to comply with minimal legal procedures, though perhaps inconvenient, or even unpleasant, [did] not constitute irreparable harm." If in a rare case, a minor's parents and a state judge concur that an abortion would not be in her best interest, the result is still not irreparable harm. Certainly enforcement of a state statute which prevents a minor from undergoing a surgical procedure which is found by both her parents and the Court to be contrary to her own best interests, cannot sensibly be said to cause her "irreparable harm." As to plaintiffs Baird and Zupnick, their possible loss of income because some minors might forego abortions "would certainly not be ruinous."

In stark contrast, however, Judge Julian demonstrated how staying the operation of the statute left a pregnant unmarried minor who would admittedly "profit from parental support and guidance at this critical juncture in her life" in an emotional state that might cause her to act against her best interest and might produce physical or emotional problems for life. In a far too infrequent display of judicial courage, Judge Julian concluded with a statement of what was really at stake in the district court's action:

"The action of this Court . . . removes for an indefinite period the only legal barrier in this state against the exploitation of pregnant adolescents by operators of unregulated and unsupervised abortion facilities who may be motivated by concerns which are far removed from the minor's own best interest. The stay granted by the majority is legally unjustified and does not serve the best interests of either the minor or the public."

Through their Procrustean efforts, the *Baird* majority managed to delay indefinitely the effect of a statute that the Massachusetts legislature had intended to implement as a protection of the vulnerable pregnant minor as long ago as November 1974. Along the way, they also advanced the rather startling assumption that abortion clinics and hired abortionists are better able to protect the minor's interests than are her parents. Why the court was so willing to assume the worst about parents and the best about abortion clinics—all contrary to the judgment of the people of Massachusetts—is indeed perplexing. The recalcitrance of this court is only thinly disguised as constitutional law.

Spouses and parents have not been well treated by the lower federal courts. Virtually every attempt to recognize their legitimate roles in the abortion decision has been squelched by an unrelenting judicial opposition. Even in those cases where the Supreme Court has delineated areas of valid state interest, especially on behalf of parents, the lower court response has been one of continued hostility.

C. Public funds

Another of the many questions created by *Roe* and *Doe* was whether the "fundamental" right to choose an abortion included a similar right to have it financed by the public fisc. Of course, even though *Roe* and *Doe* did not address the question, traditional statutory interpretation and equal protection analysis would probably have predicted a negative response by the court to any assertion that publicly funded abortions were *required*. Nonetheless, most lower federal courts have found such a right to exist. For the purposes of discussion, these cases have been divided into those arising before and after the Hyde Amendment.

1. Before the Hyde Amendment

In *Doe* v. *Wohlgemuth*, plaintiff welfare recipients challenged Pennsylvania's policy of not reimbursing abortion costs for elective abortions. The plaintiffs objected upon both statutory and constitutional grounds, alleging that the state policy was proscribed by Title XIX of the Social Security Act (Medicaid) and the equal protection clause of the fourteenth amendment. Recognizing the flexible nature of the Medicaid program and the significant latitude left to the states under that program, the district court concluded that the Social Security Act did not require Pennsylvania to pay for elective abortions. To buttress this conclusion the court alluded to an amicus curiae brief filed by the United States in a similar case. That brief presented the government's position that "in substance . . . the Social Security Act *did not require*, but would not prevent, a Federally funded State Medicaid Program to pay for abortions that were not medically indicated. Unfortunately, however, the court's constitutional analysis was not as clear nor as thorough as its statutory analysis. At first, the two-judge majority seemed to perceive what was at issue when it said:

"Whatever may be the private view of an individual or group of individuals, or the members of this Court, we are bound by the now established principle of law that *a negation of an individual's choice in the matter of abortion during the first trimester of pregnancy is an unwarranted invasion of that person's fundamental rights. . . .*"

The court seemed to clearly understand that the "fundamental right" was the choice to abort, not the abortion itself, and that only the negation of that choice by the state would run afoul of the constitutional protection. Clearly, the state's failure to provide the service is not a negation of that choice. Yet the court went on to hold the state policy violative of equal protection. In the process, the court managed to be singularly confusing as to how it reached its conclusion. For example, the two-judge majority continually blurred the distinction between equal protection and due process and never clearly identified the appropriate standard of judicial review. For the majority, the classification was one between indigent women who choose to carry their pregnancies to term—for whom the state will pay medical expenses—and indigent women who seek abortions without valid medical justification—for whom the state will not pay. Clearly, this is not a suspect classification; therefore, it is not subject to rigid scrutiny. Accordingly, the court purported to apply "traditional Equal Protection standards," seeking only a "legitimate State interest." Under this standard the legislative choice of means is given great deference, and the state interest is presumed legitimate. Inexplicably, however, the court found all of Pennsylvania's asserted interests to be invalid. Perhaps the explanation lies in the court's confusing revision of its view of the right created by *Roe* and the scrutiny required.

"During the first trimester, State regulations impinging in any manner with a fundamental right must be examined with close scrutiny by the Courts.

* * * * *

"Therefore, since the [Pennsylvania program] serves to regulate the elective decision of the pregnant woman and her doctor . . . they [*sic*] are too broad and overreach the State's legitimate interest."

Accordingly, the court found the state's justification of its distinction between necessary and nonnecessary medical services, insufficient. The court concluded that *Roe* made all abortions necessary:

"We believe, however, that the Supreme Court in *Roe* v. *Wade* . . . recognized that abortion is a necessary medical service for it may prevent specific and direct harm which is medically diagnosable (e.g. psychological harm), may protect the woman's future mental and physical health, and may prevent the distress associated with the unwanted pregnancy and child. . . . The State's classification of what is medically necessary must have some reasonable relation to the rationale behind the classification, and the non-therapeutic abortion, in the light of the *Roe* decision, cannot be validly classified as unnecessary."

The dissent by Judge Weis answered well the anomalous reasoning of the majority. Judge Weis made it clear that the state program refused to pay for only those abortions "where there is no threat to the life or health of the mother and the election of an abortion is purely because of personal preference."

"The issue is whether the Constitution has thrust upon Pennslyvania and affirmative burden to pay for an elective abortion because the legislature has decided that the State will pay for those abortions for the indigent arising from medical necessity."

The dissent concluded that the Constitution required no such result. *Roe* simply did not make "all abortions, elective or not, into medically necessary ones." Therefore, traditional notions of equal protection should have been applied, and the state determination should have been validated. "[T]he State is presumed to have acted within its constitutional powers, even though in practice some inequality may have resulted. . . . A statutory discrimination may not be invalidated if any set of facts may reasonably be conceived to justify it."

On appeal the Third Circuit disagreed with the district court's statutory interpretation. The appellate court concluded that the Social Security Act, even though it was intended to give states great flexibility in their Medicaid programs, required that once a state decided pregnancy was a condition for which treatment was "necessary" under the Act, elective abortion could not be excluded as one means of treatment. The court held that the Act required "that once the state [had] decided to finance full-term delivery and therapeutic abortion as methods for the treatment of pregnancy, it [could not] decline to finance non-therapeutic abortions. Dissenting from the appellate court's decision, Judge Kalodner noted the weight of judicial authority against the majority's conclusion. He criticized the failure of the majority to recognize and follow the clear statements of the Solicitor General of the United States and the Medical Assistance Services Administrator of HEW that Title XIX was neutral on the question of Medicaid payment for non-therapeutic abortions. Additionally, Judge Kalodner felt that the majority's interpretation was without support in either the text or legislative history of the statute. Obviously, Judge Kalodner had demonstrated the majority's unusual concern with result—so strong that it led two judges to ignore precedent, procedure, and accepted rules of statutory interpretation.

A similar case, *Wulff* v. *State Board of Registration for Healing Arts*, involved an attack by two physicians on a Missouri statute that, *inter alia*, limited state Medicaid reimbursement for abortions to those that were "medically indicated." Granting a motion to dismiss for lack of standing, the district court concluded that the state Medicaid payments were made for the benefit of the needy recipients, not the physician, therefore, unless some exception to standing rules could be articulated, the needy individual would be the best party to object to the policy. As to exceptions to this general standing rule, the court concluded that the affected individual was not precluded from asserting her own rights, and third-party physicians were not better able to represent these interests or constitutional rights. The court found no direct injury to the physicians. Unlike *Doe v. Bolton*, the statute in *Wulff* related only to payment for abortion services and imposed no criminal penalty for performing an abortion. "The only possible detriment the plaintiffs in the instant case can suffer . . . is the possibility that their patients who are eligible for medical assistance . . . will not be able to pay for the services the plaintiffs have rendered to them in giving them an abortion operation." Therefore, the court concluded that the physicians did not meet the standing tests imposed by the Supreme Court to assure the best presentation of constitutional questions.

With remarkable ease the Eighth Circuit reversed the lower court's dismissal. For the circuit panel, it seemed quite clear that *Roe* and *Doe* had changed the traditional rules regarding standing to assert the interests of third parties. Unfortunately, the panel's discussion dealt with cases involving the direct regulation of physicians and their role in abortions but not the more sensitive issue of when a party may assert the rights of others not before the court. In *Wulff* such a discussion was essential because the portion of the statute under discussion clearly involved, most directly, the rights of Medicaid *recipients*. The panel's more egregious error, however, was in reaching the merits of the case rather than reversing the dismissal and remanding the case to a district court panel. The judges seemed undaunted by the fact that there was no record, no fact-finding, and no lower court discussion of the merits *at all*. Nevertheless, the court, with some degree of arrogance, concluded: "There is little direct authority for the propriety of our reaching the merits. Nevertheless, we are satisfied that under the circumstances of this case and in the interest of judicial economy and logic we should now address the merits of this controversy." And what were the circumstances that made it so clear that this extraordinary departure from accepted judicial procedure was required to serve "economy and logic"?

"Mr. Justice Clark in writing for the Supreme Court has indicated that effective judicial administration requires disposal of the case on appeal rather than remanding, *where the point to be decided is clear* . . . ."

* * * * *

"The statute in question is *obviously unconstitutional*, and it is our view that the case might well have been decided [without the need for a three-judge panel] . . . . Accordingly, we choose to make final determination of this case."

Then, with an embarrassing paucity of analysis the opinion writer, doggedly pursuing a conclusion, summarily decided: "[T]he statute here provides medical payments if the pregnancy is carried to term or for therapeutic abortions but not if a nontherapeutic abortion is performed. This classification is a clear violation of the Equal Protection Clause of the Fourteenth Amendment." Amazingly, the court discerned this unquestioned lucidity and "obvious unconstitutionality" in a case concerning facts *never touched* on by any of the Supreme Court's abortion decisions and certainly not mandated by any analogous decisions.

On certiorari the Supreme Court affirmed the circuit panel on standing but firmly reversed its inappropriate pursuit of the merits:

"[P]etitioner [defendant] filed in the District Court only a preanswer motion to dismiss for lack of standing. He filed no answer, and no other pleading addressed to the merits. He did answer some interrogatories . . . but stipulated to no facts, and gave no intimation of what defenses, if any, he might have other than the plaintiffs' alleged lack of standing. The District Court granted his motion to dismiss and no more . . . [O]n appeal petitioner limited himself entirely to the standing determination that underlay it. *In short, petitioner has never been heard in any way on the merits of the case.*"

But what about the circuit court's confidence in the "obvious unconstitutionality" of the statute and its concern for economy and logic? "The issue resolved by the Court of Appeals has never been passed upon in any decision of this Court. This being so, injustice was more likely to be caused than avoided by deciding the issue without petitioner's having had an opportunity to be heard." Hence, the circuit panel's alleged concern for judicial economy resulted in even greater delay and judicial diseconomy. Moreover, the result was injustice—again seemingly produced by the mere mention of the word abortion.

Roe v. *Norton* addressed the same basic funding problem and resolved it in constitutional terms. In its first brush with a Connecticut policy against Medicaid reimbursement for elective abortions, the district court held that Title XIX required such payment. On appeal the Second Circuit reversed, holding the Act to be neutral as to abortion funding. On remand the district court granted a summary judgment to plaintiffs, finding a denial of equal protection. With a familiar disregard for analysis, the district court decided that the distinction between state funding for childbirth and that for elective abortions "infringe[d] upon a fundamental interest"; therefore, the state must assert a compelling interest to justify the infringement. There was no suggestion as to how the actual performance of the abortion, as opposed to the right to choose to abort had become fundamental. Nor did the court suggest how—even if the right is to an abortion—the failure to finance it was an infringement. Perhaps because there were none, the court cited no cases that would support its determination. Having so framed the question, the court virtually assured the condemnation of the policy since almost any asserted state interest would fall as not compelling.

It is submitted that the more appropriate analysis would have isolated the right to choose an abortion as the right made fundamental by *Roe*. Accordingly, failure to fund would not obstruct or deter that right, and traditional equal protection analysis would apply. In this context, the state would have asserted a valid interest—encouragement of childbirth over abortion. However, the court seemed to anticipate this possibility and found such a state interest inadequate: "The state has advanced no interest in not paying for elective abortions that would satisfy the compelling state interest test—*nor even one that would satisfy the less rigorous rational relationship test*." Could this be true?

Is it really irrational for the state to prefer childbirth and to reflect that preference in its Medicaid program? In a very telling footnote, the court suggested why it would so decide. "The view that abortion and childbirth, when stripped of the sensitive moral arguments surrounding the abortion controversy, are simply two alternative medical methods of dealing with pregnancy may be gleaned from the various opinions in *Roe* and *Doe*." Of course, no such conclusion can be *gleaned* from those cases. In fact, the contrary seems well supported. The Court in *Roe* was careful to note that the state has an "important and legitimate interest in protecting the potentiality of human life," and this interest grows in "substantiality as the woman approaches term." Furthermore, the "pregnant woman cannot be isolated in her privacy . . . [Her] privacy is no longer sole and any right of privacy she possesses must be measured accordingly." There can be no doubt that this language rejects the view of Judge Newman that abortion and childbirth are merely two sides of a coin and that the state cannot prefer and encourage one over the other.

The district court's selective analysis was corrected by the Supreme Court in *Maher v. Roe*.

"*Roe* did not declare an unqualified "constitutional right to an abortion," as the District court seemed to think. Rather, the right protects the woman from unduly burdensome interference with her freedom to decide whether to terminate her pregnancy. It implies no limitation on the authority of a State to make a value judgment favoring childbirth over abortion, and to implement that judgment by the allocation of public funds."

But again, a lower court had, on the thinnest evidence, adopted an interpretation that favored the pro-abortion position. In the process it frustrated state policy for more than three years and placed in the law books an influential but incorrect precedent that encouraged similar mistakes pending its ultimate correction.

2. After the Hyde Amendment

In 1976 Congress included in its appropriation act for the Department of Health, Education, and Welfare a provision that specifically withheld any appropriation of money for the payment of elective abortions under state Medicaid programs. The provision reads: "None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term." Soon after this provision became effective, several attempts were made to enjoin its operation. One such attempt was made before Judge Dooling in the Eastern District of New York, where several plaintiffs, including one indigent pregnant woman, Planned Parenthood of America, and the American Civil Liberties Union, asked the judge to invalidate the Hyde provision. Plaintiffs were in essence seeking not only an invalidation of the Hyde Amendment, but also an order from Judge Dooling directing the U.S. Treasury to reimburse states for elective abortions. The plaintiffs did not seem deterred by the fact that under the U.S. Constitution, our separation of powers prohibits any drawing of money from the Treasury unless it has been properly appropriated. Specifically, article I, section 9, clause 7 provides: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." Presumably, even if the judge found some basis for invalidating the Hyde Amendment, he had no constitutional authority to order the government to pay. Undauted, Judge Dooling, without reaching the merits, decided that the plaintiffs would probably prevail at trial because the Amendment was unconstitutional. His conclusion was little more than that—a conclusion. Judge Dooling rejected the argument that the Hyde Amendment was part of a valid pattern of encouraging state plans for family planning and discouraging abortions and that such exclusions had been approved in other areas of Medicaid funding. Additionally, he relied upon a variety of lower federal court decisions disallowing state plans to exclude Medicaid reimbursement for elective abortions; however, none of those decisions suggested that Congress must, as a constitutional proposition, pay for elective abortions.

Arguably, though, the real reason why Judge Dooling felt that the Hyde Amendment was unconstitutional was that:

"Divisions between sober and God-fearing people so deep and equal deny to civil authority any power to intervene by direction or indirection, either to compel abortion as a measure of population control or to deny medical assistance to the needy who act on their own beliefs. When the power of enactment is used to compel submission to a rule of private conduct not expressive of norms of conduct shared by the society as a whole without substantial division it fails as law and inures as oppression."

Thus, while it is oppression for substantial numbers of taxpayers to conscientiously object to the funding of abortions with their money, it is not oppression to compel their contributions to such abortions. In other words: "Judge Dooling adopted the argument of Planned Parenthood that, as the morality of abortion was disputed by 'Godfearing people,' the government would be required to be neutral. And 'neutrality' meant the government should be on Planned Parenthood's side and pay for abortions!"

Having decided that the case had merit and should be set for trial, Judge Dooling overcame the "appropriations" problem by concluding that the Hyde Amendment "sought only to restrict the circumstances in which the funds can be used to pay providers of lawful abortional services." The money, he suggested, had been fully appropriated, and if the Hyde restriction is declared unconstitutional, as he concluded it would, the already appropriated funds would simply be freed. "Payment of funds [would]follow, but not by an act equivalent to appropriation."

To reach this conclusion Judge Dooling had to ignore congressional rules and traditions that clearly considered amendments to appropriation bills as part of the bill and thus a limit on the appropriation itself. When the Hyde Amendment was offered under House Rule XXI, the Holman Rule, it was accepted as "being germane to the subject matter of the bill" and as "retrench[ing] expenditures by . . . the reduction of amounts money covered by the bill." Such being the case, the Hyde Amendment must be read as an explicit statement by Congress that no funds have been appropriated for the proscribed purpose, *i.e.*, elective abortions. To invalidate the amendment and order payment is tantamount to judicial usurpation of a power textually committed to Congress.

Attempting to bolster his unusual conclusion, Judge Dooling cited *United States* v. *Lovett* for the proposition that "the section [was] a constraint on the use of *appropriated funds*, and, if the constraint [was] one that [could not] be lawfully imposed for constitutional reasons, as it was in *Lovett*, then there [was] no bar to the payment of the money for abortional services." A closer examination of *Lovett*, however, belies this conclusion. *Lovett* did not involve the rejection of one portion of an appropriations act to reach funds appropriated by that act. Rather, Robert Lovett, an executive assistant to the governor of the Virgin Islands, and two other government employees were considered "subversives" by the Un-American Activities Committee. Because the government refused to fire them, Congress in the Urgent Deficiency Appropriations Act of 1943 prohibited payment of their salaries. The three continued to work for the government and sued for their compensation in the Court of Claims. That court decided that the claimants were entitled to the money but did not order Congress to appropriate the funds. The court said instead that:

"Congress, by enacting Section 304, did not foreclose itself from thereafter appropriating for the payment of these salaries. Congress even now may appropriate, and authorize a selected disbursing agency to pay them. Claims therefor, presented to Congress, may be satisfied by an appropriation to pay them, as claims. Judgments, recovered here, may be satisfied by any appropriation out of which the judgments may be by Act of Congress, payable."

The Supreme Court affirmed the Court of Claims and held the salary prohibition an unconstitutional Bill of Attainder, forbidden by article I, section 9 of the Constitution. But again, no order was made to appropriate or pay the funds. That determination was properly left to Congress. The Court merely allowed compensation; it did not reach back to the appropriation, stripped of the salary prohibition, and order payment as though the funds had been appropriated and illegally constrained.

Clearly, Judge Dooling misunderstood *Lovett* and "ignored the House's own understanding of its legislative process; that a vote for an amendment to an appropriation act, forbidding use of appropriated funds for a given purpose, was a vote not to appropriate for that purpose."

Perhaps this case would deserve less attention if it had not taken two additional steps that seem particularly inappropriate. First, Judge Dooling found irreparable harm sufficient to enjoin the Amendment even though a three-judge court (of which Judge Dooling was a member) had previously enjoined the State of New York from refusing to pay for elective abortions. That injunction was still in effect and was adequate assurance that no harm, much less irreparable harm, could have come to indigent women seeking free elective abortions. The latter injunction was unaffected by the Hyde Amendment. Second, and even more surprising, Judge Dooling's order operated on the Secretary of HEW *throughout* the United States, a result that would have presumably required a showing of irreparable harm in each state. Yet the opinion refers to only one affidavit from a New Mexico official indicating that that state would not pay for unreimbursed elective abortions. Thus, in one fell swoop a single federal judge in Brooklyn had managed to thwart the expressed will of Congress throughout the entire country.

State and federal attempts to limit the use of tax funds for elective abortions have met with the same judicial frustration that has been demonstrated in other areas of the abortion saga. Unlike any other area of litigation since the anti-union cases, the results have consistently favored one side of the issue.

CONCLUSION

The evidence is overwhelming: the lower federal courts have demonstrated a consistent and unexplainable accommodation of the pro-abortion position. Every attempt to affect any aspect of the abortion issue has met with judicial hostility. This hostility threatens the public's perceptions of the courts every bit as much as it threatens the policy-making role of state and federal legislators. Whenever the judiciary so flirts with bias, the entire system, including its indispensable balance, is pushed precariously to the edge of the precipice. Clearly, the time has come for Congress to act. It has been shown that Congress has the power to correct this unfortunate situation. It has also been shown that Congress has the precedent to do so. When the federal courts were threatening the growth of labor unions at a critical stage in their development, Congress reasserted its authority to protect the legislative advancement of a movement with less public support than the one that is now being thwarted. So, just as the Norris-La Guardia Act checked and balanced judicial excess, so, too, would an act to limit federal court jurisdiction in abortion cases.

To further support the conclusion that a problem exists, one can look to the judiciary itself, where more than once a warning has been heard. Dissenting voices have urged caution and self-assessment. The words of District Judge Allen Sharp are poignant:

"It [the right to privacy] has now become a watery constitutional concept that can run in any direction chosen by at least five members of the highest Court. . . . When such water tends to erode the basic right to life itself under the Fourteenth Amendment, all members of the Judiciary, regardless of where they sit, should be extremely careful. This is manifestly an area for the greatest of judicial restraint."

So too, we can learn from the admonitions of Circuit Judge Adams:

"Powerful responses are evoked by the subject of abortion and it is open to some doubt whether the courts are the institution best equipped to resolve the complex societal interests that exist in the abortion field.

* * * * *

". . . [W]e must be mindful that the acts of a popularly chosen legislature are not to be lightly invalidated—surely, not on the basis of what a court or a particular judge deems wise or desirable from the standpoint of public policy."

But perhaps the most consistent critic of this developing trend is the one who saw-the mistake of judicial involvement from the beginning. Since then his voice has been raised—most often fruitlessly—in admonishing his Brothers to take stock. Recently, Justice Byron White said:

"It is truly surprising that the majority finds in the United States Constitution . . . a rule that the State must assign a greater value to a mother's decision to cut off a potential human life by abortion than to a father's decision to let it mature into a live child. Such a rule cannot be found there, nor can it be found in *Roe* v. *Wade*. . . . These are matters which a State should be able to decide free from the suffocating power of the federal judge, purporting to act in the name of the Constitution."

Justice White has also recognized the apparent shift in ordinary legal rules when abortion is the issue: "I am not yet prepared to accept the notion that normal rules of law, procedure, and constitutional adjudication suddenly become irrelevant solely because a case touches on the subject of abortion."

These, however, are the unheeded words of the minority. Counterposed to them are the constant statements, seen throughout, of those jurists who have plunged unhesitatingly and selfassuredly into this sensitive issue. Indicative of that view is Justice Thurgood Marshall:

"When this Court decided *Roe* v. *Wade* and *Doe* v. *Bolton*, it properly embarked on a course of constitutional adjudication no less controversial than that begun by *Brown* v. *Board of Education*, 347 U.S. 483 (1954). The abortion decisions are sound law and undoubtedly good policy . . . . The logic of those cases inexorably requires invalidation of the present enactments. Yet I fear that the Court's decisions will be an invitation to public officials . . . to approve more such restrictions . . . . When elected leaders cower before public pressure, this Court, more than ever, must not shirk its duty to enforce the Constitution for the benefit of the poor and powerless."

Even ignoring the judicial arrogance that congratulates itself on rejecting the policy-making role of all fifty state legislatures and Congress, and focusing only on the words "undoubtedly good policy," there is still cause for concern. Where shall the writer of those words direct us for the affirmation of the truth of his conclusion? Certainly not to the legislatures of the several states. Before 1973 every state denied emphatically the wisdom of the pro-abortion policy, and since that year the states have tried valiantly to protect woman and fetus against exploitation and harm. Similarly, the "undoubted" wisdom of abortion is not affirmed in the hearts and minds of the American people, who have rejected the utilitarian solution to hard problems that is offered by the abortionists. Neither can this "undoubtedly good policy" find support in the halls of Congress—the real policy-makers of this nation. Time and time again Congress has rejected the wisdom of fetacide. Even less can the conclusion be affirmed by the grim statistics of abortion—each year there are over one million aborted lives and countless complications for the women who have them. Nor can the wisdom be affirmed by those who candidly react to their daily involvement in abortion.

Indeed, the only affirmation possible comes from the subjective perception by some that this is the way it should be. Unfortunately, that perception has been too influential in recent lower federal court incursions into the abortion issue. But should we expect any more from a judicial enterprise that got its start with a wink from the bench? ●

By Mr. STEVENSON:

S. 2139. A bill to amend the Tariff Schedules of the United States to provide for the duty-free entry of disposable glass hypodermic syringes; to the Committee on Finance.

● Mr. STEVENSON. Mr. President, I introduce today a bill to provide for duty-free entry into the United States of disposable glass hypodermic syringes. Imported syringes are presently subject to a 21-percent ad valorem customs duty.

I am informed there are no American producers of disposable glass syringes which are imported for use in U.S. hospitals, yet such syringes are subject to 21-percent duty. The duty is a tax on the importer, on hospitals, and ultimately on medical patients. It serves no apparent purpose. My bill would establish a separate duty-free category for imported disposable glass hypodermic syringes, helping in a small way to reduce medical cost.●

ADDITIONAL COSPONSORS

S. 2084

At the request of Mr. Simpson, the Senator from Utah (Mr. Hatch) was added as a cosponsor of S. 2084, a bill to deny eligibility for unemployment compensation benefits to certain members of the Armed Forces who are discharged from active duty before completion of at least five-sixths of their initial enlistment obligations.

SENATE JOINT RESOLUTION 126

At the request of Mr. Boren, his name was added as a cosponsor of Senate Joint Resolution 126, a joint resolution proposing an amendment to the Constitution to promote fiscal responsibility.

SENATE RESOLUTION 308

At the request of Mrs. Kassebaum, the Senator from Mississippi (Mr. Cochran), the Senator from Maine (Mr. Cohen), the Senator from Nebraska (Mr. Exon), the Senator from Utah (Mr. Hatch), the Senator from New Hampshire (Mr. Humphrey), the Senator from Michigan (Mr. Levin), the Senator from Washington (Mr. Magnuson), the Senator from Connecticut (Mr. Ribicoff), the Senator from Delaware (Mr. Roth), the Senator from Tennessee (Mr. Sasser), the Senator from Alaska (Mr. Stevens), the Senator from South Carolina (Mr. Thurmond), and the Senator from North Dakota (Mr. Young) were added as cosponsors of Senate Resolution 308, expressing the sense of the Senate in support of parity for women's track and field events in the 1984 Olympic games.

AMENDMENT NO. 443

At the request of Mr. Javits, the Senator from Louisiana (Mr. Johnston) was added as a cosponsor of amendment No. 443 intended to be proposed to S. 1204, the Child Health Assurance Act.

AMENDMENT NO. 1437

At the request of Mr. Schmitt, the Senator from South Carolina (Mr. Thurmond) was added as a cosponsor of amendment No. 1437 intended to be proposed to H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENTS SUBMITTED FOR PRINTING

RAILROAD TRANSPORTATION POLICY ACT OF 1979—S. 1946

AMENDMENT NO. 1587

(Ordered to be printed and to lie on the table.)

Mr. McGOVERN submitted an amendment intended to be proposed by him to S. 1946, a bill to reform the economic regulation of railroads, and for other purposes.

WINDFALL PROFIT TAX—H.R. 3919

AMENDMENT NO. 1588

(Ordered to be printed and to lie on the table.)

Mr. MATHIAS submitted an amendment intended to be proposed by him to

H.R. 3919, an act to impose a windfall profit tax on domestic crude oil.

AMENDMENT NO. 1589

(Ordered to printed and to lie on the table.)

Mr. HART submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 1590 AND 1591

(Ordered to be printed and to lie on the table.)

Mr. HEINZ (for himself, Mr. DOLE, Mr. DOMENICI, Mr. BOSCHWITZ, Mr. STEVENS, and Mr. McCLURE) submitted two amendments intended to be proposed by them to an amendment to be proposed to H.R. 3919, supra.

AMENDMENT NO. 1592

(Ordered to be printed and to lie on the table.)

Mr. PERCY submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENT NO. 1593

(Ordered to be printed and to lie on the table.)

Mr. LONG submitted an amendment intended to be proposed by him to an amendment intended to be proposed to H.R. 3919, supra.

AMENDMENT NO. 1594

(Ordered to be printed and to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to H.R. 3919, supra.

AMENDMENTS NOS. 1595 AND 1596

(Ordered to be printed and to lie on the table.)

Mr. JACKSON submitted two amendments intended to be proposed by him to H.R. 3919, supra.

MOTION SUBMITTED FOR PRINTING

WINDFALL PROFIT TAX—H.R. 3919

MOTION

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted the following motion in writing:

I move that the bill (H.R. 3919) reported by the Committee on Finance on November 1 (legislative day, October 15), 1979 (Rept. No. 96-394) be recommitted to the Committee on Finance, with instructions to report such bill with all amendments in place back to the Senate forthwith, with the following amendment:

At the appropriate place insert the following new section:

SEC. . PROHIBITION OF TAX ON NEWLY DISCOVERED OIL

Notwithstanding any other provision of, or amendment made by, this Act, no tax shall be imposed under chapter 45 of the Internal Revenue Code of 1954 on newly discovered oil (within the meaning of section 4991(a) of such Code).

ADDITIONAL STATEMENTS

AMERICA'S REAL GOLD SUPPLY

● Mr. McGOVERN. Mr. President, each day financial consultants all over the world watch markets intensely as gold continues to soar in London, Zurich, and the German markets. Americans marvel at the price of this commodity which, once regulated at $35 an ounce, now approaches $450 an ounce.

It is lamentable that too few of us pay attention to the real gold harvest in our Nation each fall as farmers go into their fields to gather a renewable gold resource, which this year will be worth $61 billion, even at prices which many times fail to return production costs to farmers.

This phenomenon is taken for granted by 97 percent of the Nation's population who each year are the best fed nation on Earth and who spend less of their disposable income on food than any other nation in the industrialized world. The 3 percent farm population who feed the 97 percent town and urban settlements remain the unsung heroes of the Nation's economy—gaining little either in the form of recognition or in terms of worldly compensation.

Hugh Sidey, who writes regularly for Time magazine, is one who does not forget his underpinnings. Brought up in the farm areas of Iowa and graduating from Iowa State University, one of the Nation's better known schools of agriculture, he is often best known for his analyses of Presidents or the Presidency. In the Time edition of October 22, 1979, however, he writes eloquently of farms and farmers. Mr. President, I ask that the Sidey article "Where the Real Gold Is Mined," be printed in the RECORD.

His article follows:

WHERE THE REAL GOLD IS MINED

(By Hugh Sidey)

In the middle of the U.S. the greatest harvest in all history is rolling in. Washington, obsessed with Jimmy Carter's polls and Teddy Kennedy's plans, has hardly noticed, a lamentable failure in understanding the nation's soul.

American strength rests on this miracle of food. Without it Carter might be hoeing peanut plants for the Queen and Kennedy might be a barkeep in Ireland. While we falter in other global competition, this season the U.S. harvest of corn, soybeans, wheat and other grains will humble even mythology. The Soviets know. With tensions high over the troops in Cuba, Secretary of Agriculture Bob Bergland was not sure Moscow's grain negotiators would even show up a few days ago to review purchases.

They did, and signaled that they would buy 25 million metric tons of grain, a new high. Burly, dark-haired Boris Gordeev, Deputy Minister of Foreign Trade, leaned across a table and told about the hot dry weather that had pinched Soviet production (by as much as 20 percent, American experts estimate). That may be the only confession of weakness we will get from the Soviets in the next years—but it could be everything.

From the Appalachians to the Rockies, the combines are churning through our land. Some of these $100,000 monsters can spew out $118,000 worth of soybeans in a day. The U.S. crops—the result of near perfect weather, rich land, technology and extraordinary enterprise—will be worth $61 billion this year (up 17 percent over last year's record of $52 billion).

The achievement stuns one's senses. The corn would fill 2 million jumbo hopper cars that would stretch 13 times across the U.S. Those 320,000 machines at work in the fields now, if lined up wheel to wheel, could harvest the state of Iowa in a day. (This harvest by 5 million farm workers would have taken, before machines, 31 million people using 61 million horses and mules.)

Bergland, the stoic Norwegian, even gets a little poetic when he contemplates the fall drama. "American gold," he calls the soybeans, which sell for $6.57 per bu. and which we export at the rate of 1 billion bu. a year. "A storybook,"the Secretary says of this. The Soviet leaders study it line by line.

"How often do you change your tractor tires?" Aleksei Kosygin, the Premier, asked Farmer Bergland on his last Kremlin visit. "About every 4,000 hours, he answered. "Engines?" asked the cool-eyed Soviet, a fellow normally associated with missiles and megatons, not farm machinery. "Every 10,000 to 15,000 hours," replied Bergland. The old Russian thought a few seconds and then gave his people a short lecture about the disadvantages of the Soviet policy of replacement by the calendar, not actual need.

"If we are going to talk peace," says Agricultural Historian Wayne Rasmussen, "a sufficient supply of food is one of the best assurances."

Nor are we at the outer limits of this miracle. Corn now grows with leaves that stick up like pineapple so stalks can be closer together. They have discovered a perennial variety in Mexico, and there are distant dreams of having crops regenerate like lawns. Geneticists are marching ahead with plans to make corn return nitrogen to the soil, which would save 13 million tons of fertilizer made from natural gas and the energy it takes to apply it.

Last week an editor on the prairie was talking about the gold bullion panic as he drove along the fields. As far as one could see, the ripe soybeans and corn were bathed in soft sunlight suffused by the fall haze. The land was pale gold. Looking around with a discerning eye, he said: "It means more than the metal stuff. If only we could get that through our heads." ●

TAIWAN

● Mr. GOLDWATER. Mr. President, this is for the information of those members of the State Department, those members of the Carter administration and those Members of the Congress who have doubts in their minds of the existence of an island called Taiwan. These people, because of the action of President Carter about a year ago stopping a mutual security treaty with Taiwan, seems to think that that rather crude method literally erased Taiwan from the face of the globe.

Let me advise them that this is not so, that Taiwan exists, all 18 million people of them with probably one of the finest working economic systems in the world. Less than 1 percent unemployed. One of the highest gross national products in the world. These same people might think that the recognition of the People's Republic of China automatically caused tremendous changes in that country.

Let me tell them that that is not true because judging from the seething unrest on the Chinese mainland where people are rising in protest to the utter lack of freedom, a poverty-stricken daily life, and deprivation of human rights, the perils confronted by the Peiping regime are truly unprecedented. The people on the mainland have thoroughly been convinced that they have been deceived and cheated by the Chinese Communists at every turn in the past 30 years and they are demanding the authorities to provide them with essential food, clothing, and basic freedoms, especially freedom from arrest and persecutions.

The people's grievances aired on the "Democracy Wall," which attracted countless thousands of protestors and demonstrators against the Peiping regime, constituted typical examples of the awakening by the people about Chinese Communist deceit and trickery. The mass demonstrations staged by the peasants, workers, and students represented the voice of the people of all walks of life. Their denunciation of the inhuman Chinese Communist regime has been noted and reported by Western mass media which could not be suppressed by the Chinese Communists. The arrests of a few noted human rights fighters like Wei Ching-sheng and Fu Yueh-hua and the sentencing of Wei to a long prison term have caused great consternation and anger on the part of world opinion. Free people everywhere have noted with sympathy and support the plight of those human rights fighters, and are sending letters and telegrams of protest to the Peiping regime.

In contrast to the disunity and turmoil on the Chinese mainland, there exists in the Republic of China unprecedented political stability, genuine democracy, freedom and economic prosperity plus the greatest unity and determination to achieve the mainland recovery task. President Chiang has told the nation that the China Communists have failed to destroy us in the past and we will surely emerge victorious in the future.

I would like to suggest, particularly to the State Department, that they recall what the President of the United States said when he announced dissolution of the mutual defense treaty, that it would be the only treaty of some 58 that the United States would touch relative to Taiwan. They have already tried to sneak through one destruction of a treaty relative to air transportation, but thanks to the vigilance of Members of the Senate and others, this was stopped and while what has been worked out is not to the best interest of either country, nevertheless the treaty has been kept intact.

I would like to warn the State Department that any further malicious efforts to go past the word of the President will be met with the same resistance by those of us who feel that the United States still retains a sense of honor toward commitments made to other countries. It would not hurt the State Department one bit to have this sense trickle down through their staffs and allow that Department to operate in the best interest of the United States, instead of having the Congress constantly in the position of explaining why certain people hidden in the walls of the State Department can literally do what they want with the foreign policy of our country.

Now I conclude by reminding these people that Taiwan is still there, she's very friendly to the United States, she does not hold an embittered feeling against us for what we did to her. In fact, I think she is rather happy that she may be disengaged from a treaty with a country that she can no longer trust, but I do know that if President Carter's words were true that he would look upon an attack on Taiwan as an attack upon our own shores, that they continue to welcome the support of the United States in their military needs. I do not know why it is that people in our Government cannot understand the importance of Taiwan to the whole political picture of the Far East, a picture which is almost daily being changed from our favor to the favor of our potential enemies.●

RAILROAD REHABILITATION TRUST FUND

● Mr. DURKIN. Mr. President, I support wholeheartedly the establishment of a railroad rehabilitation trust fund. For generations the railroads of America have played a critical role in the development of this Nation. They have continued their prominence into the 1970's—hauling 1½ billion tons of freight, directly employing more than half a million people, and investing over $2.25 billion in plant and equipment each year.

Unfortunately, the railroads have also been mired in a prolonged decline since the late 1920's and the situation is becoming more desperate each day. There are many reasons for the railroads' plight; and there are a number of potential solutions. Some of these are now being considered or already have been adopted by the Congress.

Notwithstanding our past efforts, the railroad tragedy continues. It is one of the astonishing ironies of this decade that we lack both affordable energy and a sound, energy-efficient rail transportation system. Today, we are faced with the grim prospect that a very energy-efficient form of freight transportation could simply unravel in the 1980's. That outcome is a virtual certainty unless we take firm and decisive steps to insure that the rail industry will have sufficient capital to rebuild its undermaintained plant and equipment. We must:

Upgrade our rail facilities in order to haul more coal, grain, freight, and as soon as possible, more passengers;

Electrify some of the principal rail lines to further increase energy efficiency; and

Undertake the badly needed research and development essential to modernization of this crucial industry.

A recent study by the Federal Railroad Administration makes it clear that the railroad industry could face enoromus capital shortages—on the order of $13 to $16 billion by 1985—if present trends continue. These disquieting projections do not consider the prospects of a prolonged recession—an economic reality that would hit the railroads harder than most segments of the economy.

The adoption of the rail trust fund amendment would establish the promise of a more balanced system of Federal transportation assistance and would commit the Nation to a realistic program of long overdue rail rehabilitation.

The amendment is surprisingly simple in its provisions. As you know, the proposed windfall profit tax measure specifically sets aside 25 percent of the tax proceeds in a transportation trust fund. A $15 billion ceiling is placed on the total amount that can be appropriated from the proceeds. The rail trust fund amendment simply extends that ceiling to $25 billion. The initial $15 billion would still be available for general mass transit purposes. The amendment does not change or diminish in any respect the mass transit program—a program which I believe is urgently needed if we are ever to offer mass transit as a realistic alternative for senior citizens, those with low and moderate incomes, the handicapped, and the public in general.

The rail trust fund amendment simply specifies that an additional $10 billion be reserved for a variety of rail rehabilitation programs—redeemable preference shares, local rail service assistance, aid to Amtrak for capital and operating expenses, and other appropriations. These funds would remain subject to the authorization and appropriations process and would also require scrutiny and approval by the Secretary of Transportation before release.

In sum, the rail trust fund amendment would enable us to respond to the virtually certain rail capital shortage of the early 1980's. It would place our energy efficient railroads on a more nearly equal footing with other modes of transportation. And it would be a clear signal to the private capital markets that the United States will take the necessary steps to assure the viability of our rail system.

Mr. President, we simply cannot afford to let the railroads of this Nation deteriorate any further. If the railroads are to contribute to the resolution of our nationwide transportation and energy crisis, we must act now to provide the balanced program of assistance we know they will need. I urge my Senate colleagues to join me in support of this vital program.●

REGINALD H. JONES

● Mr. RIBICOFF. Mr. President, the journal Financier recently published an interview by Williard C. Rappleye, Jr., of Mr. Reginald H. Jones, chairman of the General Electric Co. and cochairman of the Business Roundtable. I found it interesting and instructive and would like to share it with my colleagues.

Reg Jones is an insightful business leader who has contributed significantly to communication and understanding between business and Government leaders. He has offered useful advice on our Nation's economic problems and has been in the forefront of efforts to increase our exports.

In the Financier interview Reg Jones offered some thoughts regarding the need for industrial and financial managers to be able to function effectively in the area of public policy. I found his thinking reflective of a man who has effectively bridged those two communities and ask that the interview be printed in the RECORD.

The interview follows:

REGINALD H. JONES: BUSINESS' ROLE IN NATIONAL POLICY

(By Williard C. Rappleye, Jr.)

Despite the need for fiscal discipline, which he fully acknowledges as essential to the fight against inflation in the long run, Mr. Jones strongly favors a tax cut of $20 to $25 billion in size, as soon as possible, as essential in the struggle to revive investment and productivity in the short run.

"We're not going to cure this inflation by eliminating the Budget deficit in a given period of time," he explained. "This is going to be a very long fight.

"We're going to have to stay with prudent fiscal policy, prudent monetary policy. And we've got to develop a meaningful energy policy. And we've got to do something to minimize the impact of this jungle of regualtions on our costs in industry. These are the fundamentals.

"No, this is a very unusual form of inflation that we're seeing in the U.S. It's not the classic demand pull, nor the classic cost push.

"Statistics would indicate that to some degree wages have lagged, and actually have been behind the rate of inflation. At the same time we haven't had the capacity crunches that we've had in past inflations that have given us demand-pull problems.

"This is an inflation, that may be a little bit of each of those, but superimposed on them have been these exogenous factors—particularly energy.

QUESTION OF SELF-DISCIPLINE

"And because it is a different kind of inflation, because it has been so endemic and so ingrained," Mr. Jones noted, "I've raised the question as to whether we in the U.S. have the self-discipline, the restraint, and the good judgment to put up the good fight for as long as we're going to have to put it up to correct this problem.

"So much of our economy today is indexed that there are very large segments of our population who are not going to look with favor on taking diminished standards of living while we attempt to correct this problem. And yet we must. It will destroy our economy unless we can correct it.

"Now to be very specific, just the bracket effect alone of a progressive rate structure will take out this $20–25 billion that I've been talking about as the amount of the tax cut. In other words you're not impairing the Federal Government's share, I'd say, by that size tax cut.

"Yes, you will be increasing the deficit by that amount," he acknowledged. Necessary increases in defense spending, too, "will mean a further problem in this area of Budget deficit."

"I would hope that we would have the courage and sufficient determination to cut back on some of the growth we've expected in the social programs, the many transfer programs, so that we can have the funds for defense spending, and that these cuts will help us keep our deficit under control," Mr. Jones declared.

LOWER STANDARDS OF LIVING

He emphasized the need to assess the energy problem not in terms of inflation alone, but also in terms of inevitable lowering of standards of living. "That's really what it does mean," he asserted.

"Energy is so basic in its impacts on our economy that when the days of cheap energy go—and they have gone—we all to one degree or another, have to face up to the diminution of standards."

The poor have not been ignored, he insisted. "We have attempted in this country to recognize the problems of the impoverished, those in the lower income strata, by indexing Social Security. It is fully indexed. So are many of the welfare programs, and other transfer programs that we have. The practical effect is that they do move up, not only politically ratcheted, but by some of the legislation itself—there are automatic adjustments in some of these programs. So that I think that we have recognized that problem and we've attempted to deal with it."

Among employed workers, "a very high percentage today are impacted by cost of living adjustments," Mr. Jones pointed out. "It's not just the 20–25 percent of the work force that is operating under union contracts containing COLAs that are indexed, but what is done in those cases in one way or another is spread across the entire work force.

"Now I don't think that executive salaries have appreciated over the last several years out of line with what happened to income levels for the different classes of workers and professionals and technical people in the total work force," he continued. "I saw some figures that did indicate that for just one year, 1978, there was a percentage increase in executives' total compensation that was a few points above that of the hourly work force. And that came about because profits were up rather substatnially and many of these people are tied in bonus contracts to profit performance. As you head into a recession I think you will see those percentages drop and perhaps be below the average in the overall work force. They are more volatile."

DANGER OF COMPRESSION

Furthermore, he warned: "If you don't move up the professional, technical and managerial compensation, then you have this terrible problem of compression. And once that sets in, then motivation is gone.

"If you have inadequate differentials between different levels of managerial personnel, then the incentive to give that extra hour a day, give that Saturday and Sunday, to put that much more effort into your work, disappears," he explained. "And if there's anything we need in this economy, it's increased incentives, not decreased incentives. I get concerned when we talk of some of these so-called inequities that we fail to realize that this enterprise system of ours succeeds because of the incentives in it."

He considered the possibility that affluence might affect motivation, and admitted that in some cases it might. "But fortunately," he maintained, "it's been my experience in the industrial sector that there are still enough young tigers out there who want to show their mettle."

MORE TIME ON GOVERNMENT

More and more of their striving, he continued, will be in the area of Government relations; Mr. Jones noted that he spends more than half his own time in this work, and expects that his successors will have to devote even more effort to it.

"We no longer have the private enterprise system that runs the economy and a Government that in effect has a hands-off approach to the economy, and lets the private sector work at will," he observed.

"Ours now is a very mixed economy where Government makes decisions which have greater impact on the private sector than the decisions made in the Board Room.

"It therefore behooves the managers of the industrial and the financial sectors of our economy to be sure that as Government makes these decisions, it is aware of the impacts these decisions will have on those arenas.

"Now how do you get managers that are capable in the disciplines of business also able to function effectively in the area of public policy?" he asked.

"The one who does excel in the business disciplines obviously demonstrates a level of both intelligence and intellect that is required to understand public policy.

"Then you're looking for someone who's also very sensitive, with long antennae and a thin skin—not the hard-nose types who are somewhat Neanderthal and therefore not as successful—aware of the world outside the corporation, conscious of the demands of the people, and aware that politicians must be responsive to those demands if they're going to stay in office.

"And then you've got to look for someone who's willing to spend the time to take those extra hours, to do the outside reading, to talk with a variety of publics, to develop the necessary empathy for the politician.

"He has a very difficult role," Mr. Jones emphasized. "In today's highly politicized economy, the politician is beset with demands from such a wide variety of special interest groups, on such a huge and diverse variety of issues, that he welcomes someone who can come to him with a relatively objective point of view.

NOT JUST THE INTERNAL WORLD

"We recognize the problem that the public figure has. And in the corporation what we're trying to do in our many management meetings is to discuss these public policy issues, to be sure that our younger management gains an understanding of, develops an interest in them so that they don't confine themselves to just the internal world of the corporation.

"I think that over time we will develop a generation of business management that will, as I've put it, swim in these societal waters of public policy as comfortably as we have been swimming in the areas of the functional disciplines of business, be they marketing, manufacturing, engineering, finance, or whatever," Mr. Jones predicted.●

SOVIET PROPAGANDA? NATO FORCE MODERNIZATION

● Mr. GARN. Mr. President, recently we have witnessed a massive Soviet propaganda campaign aimed at stopping NATO plans to deploy Pershing II's and cruise missiles which are essential to modernizing the alliance's theater nuclear forces, as well as countering the growing Soviet SS-20 threat. Coupled with this propaganda barrage has been a number of demonstrations in West European cities against deployment.

Clearly this is a replay of the Soviet antineutron warhead campaign which was so successful in splitting NATO and intimidating the Carter administration. Because of this a much needed defensive weapons system was deferred. Now we see similar signs of splits within NATO over Pershing II and cruise missile deployment.

Of interest, therefore, is an article from the Dutch newspaper De Telegraaf entitled "Leader of Operation 'Stop the Bomb' Admits To Being Supported by the Soviet Union." The story points out how easily the Soviets were able to "pull the wool over the eyes" of some of our allies with respect to the public's opposition to the neutron bomb.

It is essential for the Congress, the Carter administration, and other NATO governments to recognize the great effort the Soviet Union will exert in order to gain its foreign policy objectives. Obviously one such objective is the "Finlandization" of Western Europe and the disintegration of NATO. Another major objective, of course, is Senate ratification of the SALT II treaty.

Therefore, in light of the De Telegraaf article, as well as other evidence that has come forward, illustrating the well-orchestrated efforts in Western Europe by the Soviet Union to sell its point of view, it would be wise to reconsider the neutron warhead decision. For the same reason, it would be prudent to view with caution any "spontaneous" public demonstrations in Western Europe against theater nuclear force modernization, or for that matter, in favor of the SALT II treaty.

Mr. President, I ask unanimous consent that the De Telegraaf articles as translated by the Congressional Research Service, be printed in the Record.

The article follows:

[Source: De Telegraaf, no date given]

Leader of Operation "Stop The Bomb" Admits to Being Supported by the Soviet Union

(From our parliamentary correspondent)

The Hague, Wednesday.

The leader of the action group "Stop the Neutron Bomb," Nico Schouten, has admitted, according to the sources cited by the AP office, to having obtained financial support from the Soviet Union.

He and some of his supporters received airplane tickets from Moscow "in order to wage their campaign." The group flew to New York twice at the expense of the Russians. The tickets were collected in Moscow.

Last year, operation "Stop the Neutron Bomb" brought about 40,000 demonsrators to their feet and collected more than one million signatures.

Representatives of the Free Democratic Party W. Keja finds it "scandalous that the Dutch had the wool pulled over their eyes by somebody who was bribed by the Russians." According to the Representative, "the anti-Neutron bomb movement has shown its true colors."

According to the Associated Press, Mr. Schouten was not available for comments. It is understood that he remains in New York at the expense of the Soviet Union.●

VIETNAM VETERANS

● Mr. **DURKIN**. Mr. President, since coming to Congress and serving on the Senate Veterans' Affairs Committee, I have fought for GI bill improvements. This major program of education and vocational assistance has helped millions of veterans readjust to civilian life. As a matter of fact, it has been singled out as one of the most successful Federal programs in the history of our Government. I want to make it better.

My concern today is for the future of those Vietnam-era veterans who are unemployed or underemployed—those who were never able to make effective use of GI bill benefits to which they are or were entitled. I believe we owe these men and women, and this Congress, a crucial last chance to meet our veterans' most important readjustment need; a good job. A job that is commensurate with their aspirations and at a wage sufficient to support them and their families.

I would like to approach this issue by discussing my support for the proposed delimiting period extension.

The 1979 GI bill amendment is far more limited than the Senate-passed legislation I introduced last Congress. It is a one-shot, targeted extension of the delimiting period. That is, an educationally disadvantaged veteran or other deserving veteran who demonstrates a special need for additional GI bill assistance may have until December 31, 1982, to pursue a secondary school education or vocational training, or to enroll in an apprenticeship or other on-the-job training program.

Members of the committee who join me in cosponsoring the targeted delimiting period extension feel confident that veterans in serious pursuit of a secondary education or vocational training will be the ones to benefit from the enactment of our proposal.

The cost of this extension is relatively small—and there are sufficient funds to accommodate its enactment. This leads me to another important point that I feel must be raised during our floor discussion of the proposed GI bill extension period. Can we afford not to extend the delimiting date, given the revenue loss due to unemployment and underemployment? To put it mildly, I think not.

Although improvements have been made in this area over the last year, the need of Vietnam-era veterans who are unskilled and without jobs, is very much evident in their continued higher rates of unemployment as opposed to their nonveteran counterparts.

Yes, the war of Vietnam seems long over for some Americans, however I hope this Senate knows better than to forget our Nation's debt to the veterans of that era. Too many of them were not only forced to fight an unpopular war in Indochina but must still do battle with the fallout of that event today.

In my view, the proposed targeted delimiting period extension is a crucial legislative counterpart to the Veterans' health care package that was cleared by Congress earlier this year. It reflects careful, compassionate, and constructive support for those who seek help through the new psychological readjustment program.

And so, in addition to making long-range economic sense, I firmly believe we owe this 1979 GI bill amendment to the Vietnam-era veteran.

This is a tightfisted Congress, and I believe it should be. However, our veterans are the victims, not the cause of inflation. With this concern in mind, limited Veterans' Administration resources must be directed to areas of greatest need. The proposed delimiting period extension is a sound investment in education, and in hard-fought employment investment in education, in our economy, and in hard-fought employment opportunities every Vietnam-era veteran deserves to have. Therefore, I urge my Senate colleagues to join me in support of the extension of the delimiting date for the veterans.●

ROTH-DOMENICI TAX CEILING

● Mr. **SCHMITT**. Mr. President, recently my distinguished colleagues from New Mexico and Delaware introduced a proposal which would have limited taxes to a percent of the gross national product.

The importance of this legislation was pointed out in a December 12, 1979, editorial in the Wall Street Journal. I ask that the editorial be printed in the Record.

The editorial follows:

Preserving Budgetary Indiscipline

Installed to impose budget discipline on the Congress, the Budget Act is sometimes used instead to block efforts to tighten the purse strings. Most recently just last week.

Between fiscal year 1976, when the budget process began, and the Budget Committee's projection for fiscal year 1981, the tax burden as a percent of GNP will have risen by 3 percentage points. That's a big increase, and it's caused some pause among Senators about to pile on top of it a big new tax known as the "windfall profits" tax, "the largest single tax-raising measure in American history," said Senator Domenici.

An ever upward ratcheting tax burden, various Senators noted, isn't likely to result in much budget discipline. Seeing other big taxes like VAT in the wings and higher marginal rates brought by inflation, Senator Roth (R., Del.) of the Finance Committee and Senator Domenici (R., N.M.) of the Budget Committee argued that the only remedy is to limit taxes as a percent of GNP. They wanted the tax burden held to 20.5% of GNP in 1981, 20% in 1982 and 19.5% thereafter.

The Roth-Domenici amendment looked like a winner. There weren't many Senators even among the big spenders who wanted the heat of voting down this one. Panic was spreading. But Senator Muskie (D., Maine), chairman of the Budget Committee, was not worried. He knew this attempt at budget discipline would never get past the Budget Act.

Taking the floor leading the fight against the amendment, the Budget Committee chairman invoked a technicality of the Budget Act, claiming jurisdiction and pointing out that this amendment was not reported out by the Budget Committee. Seizing the opportunity thus afforded to get the big spenders off the hook, Majority Leader Robert Byrd (D., W. Va.) turned the vote on the tax limitation into a procedural vote on tabling a motion to waive the Budget Act. With the issue sufficiently obscured from the voters back home, the big spenders found a 5 vote margin to dispatch a tax limitation by 49 to 44.

Watching the use of the Budget Act to throttle an effort at budget discipline, Senator Jepsen (R., Iowa) couldn't hlep note that "everytime we try to do something for the American taxpayer, it is the Budget Committee which raises an objection. But it appears to me that very little of the same effort goes into cutting spending."

Budget Committee member Orrin Hatch (R., Utah) was next to stick in the long needle. The Budget Commitee chairman, he observed, was less concerned about minor technicalities in the Budget Act when the issue was expanding spending rather than limiting taxes. For example, in April 1976 Senator Muskie had found it convenient to sweep the Budget Act under the rug when he wanted to expand food stamp spending.

Summing up, Senator Jepsen observed that the Budget chairman's objection to the tax limitation "confirms the view that many people now have that the purpose of the Budget Act is to justify high levels of spending and to frustrate efforts to cut taxes."●

THE SALT SYNDROME: A DANGEROUS PROPAGANDA FILM

● Mr. **McGOVERN**. Mr. President, in an attempt to scare the American people into opposing the SALT II treaty, the American Security Council is circulating a film entitled, "The SALT Syndrome." It features a great deal of Soviet propaganda film about Soviet military forces. It also features interviews with General Haig, General Singlaub, and other former officers.

This film has been shown several times in South Dakota. I have received inquiries from my constituents asking whether the film is accurate. "The SALT Syndrome" is certainly an effective propaganda film for the anti-SALT special interest groups. But the film presents such a totally distorted view of our present military situation and the facts about SALT that I feel it is necessary to set the record straight.

The film tries to make its case a number of major false assertions which are supposedly backed up with so-called facts. But when these false assertions and the "facts" offered to support them are examined, the film's whole case collapses.

First. The film falsely asserts that in the past 15 or 20 years the United States has been unilaterally disarming. The fact is that during this period U.S. strategic nuclear forces have been undergoing constant expansions and modernizations.

Second. The film falsely asserts that the Soviet Union has reached strategic superiority over the United States. It does so by grossly exaggerating Soviet capabilities while unfairly denigrating U.S. capability.

Third. The film falsely asserts that the SALT II treaty freezes the United States into inferiority while allowing the Soviets to advance. In fact, the SALT II treaty does not inhibit a single U.S. weapons program, but does permit both sides to deploy too many new weapons.

Let me examine these assertions one by one.

First. The film falsely asserts that in the past 15 or 20 years the United States has been unilaterally disarming.

ASSERTION

Dropping the Skybolt missile in the early 1960's was an example of U.S. "disarmament."

FACT

The Skybolt missile was dropped because research showed that it would not work as planned. The decision had nothing to do with a decision to "disarm."

ASSERTION

One thousand American B–47 strategic bombers were phased out beginning in 1961.

FACT

The B–47 was a medium-range bomber based at vulnerable, overseas bases. It was phased out because it was being replaced by our long-range B–52 bombers, our Polaris submarine-launched missiles, and our Minuteman ICBM's.

ASSERTION

Our supersonic B–58 strategic bombers were deactivated in 1970.

FACT

This bomber was obsolete even before it was (briefly) put into operation.

ASSERTION

President Carter accelerated our unilateral disarmament. In 1977, he canceled the B–1 bomber, which was to replace our obsolete B–52 bombers.

FACT

The President's decision to cancel the B–1 had nothing whatever to do with a desire to disarm or show arms restraint. SALT played no role in the B–1 decision. The President was persuaded that the new air-launched cruise missile could do the same job better than the B–1. In addition, the B–52 bomber is by no means obsolete. Billions of dollars have been spent to modernize this bomber and it will be able to carry out its missions for many years to come.

ASSERTION

The number of U.S. strategic missiles was frozen at the 1967 level. (Refers only to ICBM's.)

FACT

The quality of these missiles and the numbers of nuclear weapons they can carry has been increased since 1967. Replacement of older Minuteman 1 and 2 ICBM's with 550 Minuteman 3 missiles added 1,100 new, more accurate nuclear weapons to our ICBM force. Since then, the accuracy of these missiles has been doubled again and on 300 missiles the explosive power of the nuclear weapons is about to be doubled.

ASSERTION

The number of U.S. sub-launched ballistic missiles was frozen at the 1967 level.

FACT

Due to the addition of the newer Poseidon submarine missiles beginning in 1971, the number of nuclear weapons carried by our sub-launched missiles increased by over 4,000 even as the number of ballistic missiles remained the same.

In sum, the fact is that during the period in question U.S. strategic nuclear forces have undergone constant expansion and modernization.

The film falsely aserts that the Soviet Union has reached strategic superiority over the United States.

ASSERTION

The Soviets have at least 1,000 extra missiles for refire, making their advantage in ICBM's at least 2,400 to our 1,054.

FACT

There is no reliable evidence for such an assertion.

ASSERTION

The newest Soviet submarines, the Delta class, have a ballistic missile, the SS–N–8, with a range of 5,500 nautical miles, 3,000 miles longer than any of our sublaunched ballistic missiles.

FACT

The U.S. Trident I sub-launched missile, now being deployed, has a range of 4,000 nautical miles. Range, in any case, is of little importance. What counts is that, at any given time, the U.S. has thousands more nuclear weapons safely hidden at sea than the Soviet Union. The Russians are at a definite geographical disadvantage in submarine warfare.

ASSERTION

In attack submarines, the Soviet advantage is 3 to 1.

FACT

Nonetheless, by all accounts U.S. antisubmarine warfare capabilities remain far superior to those of the Soviet Union. Many of the Soviets' subs are diesel powered and older models.

ASSERTION

One problem with this no defense theory is that the Soviets don't agree. They are defending themselves. The Soviet civil defense program provides shelters for military and civilian leaders and protection for a large percentage of industry.

FACT

According to a recent CIA study, the Soviets "cannot have confidence * * * in the degree of protection their civil defense would afford them, given the many uncertainties attendant to a nuclear exchange. We do not believe that the Soviets' present civil defenses would embolden them deliberately to expose the U.S.S.R. to a higher risk of nuclear attack."

Further studies by the U.S. Arms Control and Disarmament Agency and the Congressional Office of Technology Assessment have shown that nuclear war would be disastrous for the Soviet Union. No rational Soviet military or political leader could make war without risking the absolute destruction of Soviet civilization.

ASSERTION

The Soviet Union also built a massive strategic defensive weapons system backed by 100 times as many radars as we have.

FACT

Less than 4 percent of Soviet strategic nuclear weapons are carried by their bomber force. Therefore, even a much larger U.S. air defense program would add little to our over-all defense. In contrast, U.S. strategic bomber force has 10 times as many weapons tagged for the Soviet Union. In addition, hundreds of United States and NATO aircraft in Europe, as well as Chinese aircraft in Asia, could reach the Soviet Union. It is not surprising that the Soviets have a much larger air defense force. Even so, the Commander of the Strategic Air Command has estimated that even in 1985 at least 75 percent of U.S. bombers could be expected to penetrate the Soviet Union. In other words, the massive Soviet expenditure on air defense has been largely wasted.

ASSERTION

When you combine the SA–5 (an antiaircraft missile) and the massive Soviet particle beam weapon effort, I foresee a time very soon, early in the 1980's, when the Soviets will believe they are largely immune to attack from abroad.

FACT

Despite such alarmist assertions, there is no evidence whatsoever that the Soviets have, or are anywhere near to having, an ability to defend themselves against ballistic missiles. Assertions to the contrary are just plain false and do a great disservice to American defense.

In sum, the film grossly exaggerates Soviet strategic nuclear capabilities while unfairly denigrating those of the United States.

The film falsely asserts that the SALT II treaty freezes the United States into inferiority while allowing the Soviets to advance.

ASSERTION

SALT II will codify the current American military position vis-a-vis the Russians and will in fact concede superiority to the Russians.

FACT

During the period to be covered by the SALT II treaty, the United States has plans which will involve the manufacture of more than 10,000 new strategic nuclear weapons. These weapons will either replace older ones on present delivery systems or go to arm brand new delivery systems.

Here is a list of the new nuclear weapons delivery systems that can reach the Soviet Union that the United States has planned for the next 5 years.

Trident I submarine launched ballistic missiles.

Air-launched cruise missiles.

Ground-launched cruise missiles (to be based in Europe).

Pershing II ballistic missiles (to be based in Europe).

In addition, the United States will begin building the MX intercontinental ballistic missile to be deployed after 1985 and may be developing the Trident II submarine-launched missile for the late 1980's.

ASSERTION

Over 200 B–52's, retired to the aircraft boneyard in Arizona, are counted against the U.S. limits as strategic weapons * * *. Yet the 150 deployed, operational Soviet Backfire bombers are not counted as strategic weapons in the Soviet limits.

FACT

Counting the 200 mothballed B–52's is in the U.S. interest: it prevents the Soviets from building reserve weapons, storing them, and failing to count them under SALT. At the same time, the United States is perfectly free to dismantle these old bombers and replace them with the most modern delivery systems.

The Backfire bomber is a medium range bomber deployed by the Soviets against ocean targets and Western Europe and China, not against the territory of the United States. The United States has made it clear that if the deployment of these bombers is changed, it will no longer be bound by SALT limits. The SALT package does include restrictions on Backfire capabilities and production. The Soviets have agreed to limit production of the Backfire bomber. Without SALT, there will be no such limitations. Finally, the United States has about 66 FB–111 bombers in the United States and about 150 F–111 bombers in Europe that could reach the Soviet Union (in fact, this is the stated purpose of the FB–111's). The United States has hundreds of other aircraft in Europe as well that can reach the Soviet Union. After 1982, the United States is planning to deploy another 572 missiles in Europe that can reach the Soviet Union. None of these weapons is limited by the SALT II treaty.

ASSERTION

The treaty grants the Soviet Union a unilateral right to 308 launchers for heavy ICBM's.

FACT

The treaty allows the Soviets to keep the heavy ICBM's they already have, but prohibits them from building more. Without SALT, there would be no such limit. In addition, the treaty prohibits mobile heavy ICBM's, thus making their heavy missiles vulnerable to the U.S. MX program by the 1990's.

The U.S. military have not been interested in a missile as big as the heaviest Soviet ICBM. At the same time, the treaty permits the United States to go ahead with the MX ICBM, which will have military capabilities virtually identical to those of the Soviet heavy ICBM's.●

SMALL BUSINESS TAX REDUCTION ACT OF 1979

● Mr. DURKIN. Mr. President, I am pleased to be an original cosponsor of the Small Business Tax Reduction Act of 1979, (S. 2136). I am strongly committed to tax equitability for our Nation's small enterprises. The measure expands upon the reforms initiated over the past several years by providing a much more equitable tax structure for small business. It will reduce the corporate income tax rate for a business earning under $25,000 from 17 to 15 percent. That will provide immediate relief for our 1½ million smallest enterprises.

The measure would also increase the boundaries of the 30-percent tax bracket to include corporations earning between $50,000 and $100,000. Last, it would expand the 40-percent bracket to include small businesses earning between $100,000 and $150,000.

Mr. President, small business is good business. Today the backbone of our economy, nationally, and especially in New Hampshire, is small business. The contributions of small business to our country's growth cannot be emphasized enough. Small business creates almost 70 percent of the new jobs in the United States and employs over 50 percent of the private sector workforce. Well over half of our inventions and technologies emerge from the small business community. And, perhaps most impressively of all, the aggregate output of small business accounts for almost 50 percent of the gross national product.

Despite these considerable contributions, small business has frequently been relegated to the low rung of the legislative ladder. Since coming to the Senate 4 years ago, I have worked diligently to redirect this misguided policy and to bring the concerns of small business to the top of the legislative agenda. Simply stated, to insure the resurgence of our free enterprise system, we must take immediate measures to revitalize the small business community. The prompt passage of the Small Business Tax Reduction Act is an important step in that direction.●

THE EROSION OF AMERICA'S COMPETITIVE POSITION IN WORLD COMMERCE

● Mr. TOWER. Mr. President, one of the most distressing developments in recent years has been the marked erosion of America's competitive position in world commerce. The demise of our ability to compete effectively with our international trading partners is not accidental, but rather is a direct result of past legislation and governmental policies that have discouraged Americans from living and working abroad.

Nowhere is this development more apparent than in our tax laws, showing that the United States is the only major country in the world that subjects its citizens to tax on their foreign earnings. Meanwhile, the few tax incentives that are accorded Americans working abroad are subject to constant attack. Without sufficient inducement for our citizens to live overseas, we are penalizing the American economy by missing out on a sizable share of world commerce.

The decline in America's presence abroad has a pervasive effect both domestically and internationally. The days of surpluses in foreign trade are memories of the past, having been overtaken in recent years by chronic trade deficits brought on by lagging exports and swelling imports. We must reverse this trend by reshaping our tax and trade policies before the problem intensifies.

The President is required by law to analyze the impact of past legislation and administrative regulation that has adversely affected Americans abroad. For the benefit of my colleagues, I submit for the RECORD a letter articulating this important point written by several organizations whose members must contend daily with the discriminatory climate produced by our mistaken policies of the past. Their message is an important one that must be faced squarely if we ever are to be able to regain our once pivotal position in world commerce.

The letter follows:

AN OPEN LETTER TO PRESIDENT JIMMY CARTER

From: Federation of International American Clubs, Federation of American Women's Clubs Overseas, Association of American Residents Overseas, American Citizens Abroad, European and Mediterranean Council of American Chambers of Commerce, U.S. & Overseas Tax Fairness Committee.

DEAR MR. PRESIDENT: Nearly one out of every hundred American citizens lives outside the United States. Our overseas Americans are in the front lines of the international competition for products, services, ideas and ideologies. Most of the countries against whom we compete in the major markets of the world have long recognized that the rights of their citizens abroad must be carefully protected while they are away from home. Many of these countries have provided incentives to encourage their citizens to live and work abroad. It has become more and more clear that the United States, on the contrary, is alone in not appreciating the value of its citizens overseas. Indeed, it actually penalizes them for being there.

Last year the Congress asked you (Section 611, PL–426) to prepare a report addressing how American laws and regulations might be discriminating against Americans abroad. The report you submitted to the Congress on August 27th of this year gave the impression that you had very little understanding of such questions and that you felt that equitable treatment could be defined as ubiquitous obligations on the basis of citizenship, but only restricted benefits for those abroad because these are usually predicated on U.S. residency. Since this impression conflicts with your statements about the need to encourage exports, and other statements concerning fair treatment of Americans abroad, we suspect that you probably did not have the time to thoroughly study this report and we hope that you would have been as displeased by its mediocrity and incoherence as we were.

This year the Congress has asked you once again (Section 407, PL 96–60) to address the problems being faced by overseas Americans from a more comprehensive perspective. This time, in addition to questions of equitable treatment compared to Americans at home, the Congress also invited you to analyze how our laws and regulations affect the ability of Americans abroad to compete against individuals of other nationalities who are subject to different laws and regulations and who have other benefits provided by their home countries when they are away from home.

We understand that several Members of the Congress have written to you to clarify the intent of the Congress in passing this legislative mandate. They have asked you for leadership in stating the basic policy guidelines that should underly the various individual laws and regulations that affect Americans abroad. Only from such a clear and coherent background can the individual laws be assessed as to whether they are really equitable, and whether they are competitively helpful or harmful.

We understand that you have asked the Secretary of the Treasury to prepare a report on U.S. tax policy and its impact on Americans abroad. While taxation on the basis of citizenship is one of the many areas in which the United States has been at variance with the practice of our principal competitors, it is far from being the only issue that must be addressed. Moreover, given what we see as the inadequacy so evident in the treatment of the equity questions in your first report, it is obvious that an entirely new study is urgently required.

We, therefore, strongly urge you to take this new opportunity to lead us all in staking out a clear definition of real equity and essential competitive equality with our international rivals so that America can once again be a strong and healthy competitor throughout the world.

Our thanks for your kind consideration.

Most sincerely,

ROGER DICKINSON,
President, Federation of International American Clubs.

AGNES S. COPPIN,
President, Federation of American Women's Clubs Overseas.

GEORGE J. MARTIN,
President, Association of American Residents Overseas.

ANDY SUNDBERG,
Director, American Citizens Abroad.

WILLIAM H. SINGLETON,
Chairman, European and Mediterranean Council of American Chambers of Commerce.

ROBERT M. GANTS,
Director, U.S. and Overseas Tax Fairness Committee.

ROME, ITALY, *November 12, 1979.*●

FARMERS AND CONSUMERS: A BAD DEAL FOR BOTH

● Mr. McGOVERN. Mr. President, over my years of Senate service, I have from time to time pointed out the disparity of prices received by farmers, and prices paid by consumers. The constant conclusion is that farmers receive too little, and consumers pay too much.

The American agricultural movement struck Washington several years ago and it has left its mark on the congressional scene. The organization has grown in stature and support and now publishes a weekly newspaper called American Agriculture News. The December 11 edition of the American Agriculture News carried a current tabulation of what the farmer receives, and what the consumer pays. Interestingly enough, the items carried, with the exception of bread, have no value added by the middleman. When the consumer buys these products at the supermarket, they are as raw as they were when they came off the farm. It should be noted that consumers pay more for a ton of sheep manure they use in lawn fertilizer than farmers receive for a ton of any of their raw products.

Mr. President, for purposes of illustration, I ask that the table entitled "Farmers Keep America Alive," from the newspaper to which I have referred above, be printed in the RECORD.

The table follows:

FARMERS KEEP AMERICA ALIVE—SUPPORT THE AGRICULTURE MOVEMENT TO RESTORE PARITY AND PROSPERITY TO OUR NATION

Item	Price to farmer, September 1979	Price to consumer, 1978	Price to consumer, 1979
Bread	3.9¢ per loaf/$78 per ton	52¢ per loaf/$1,040 per ton	56¢ per loaf/$1,120 per ton.
Onions	¼ of 1¢ per pound/$5 per ton	29¢ per pound/$580 per ton	49¢ pei pound/$980 per ton.
Oranges	3½¢ per pound/$70 per ton	49¢ per pound/$980 per ton	49¢ per pound/$980 per ton.
Tomatoes	1¾¢ per pound/$35 per ton	29¢ per pound/$580 per ton	69¢ per pound/$1,380 per ton.
Potatoes	4¢ per pound/$80 per ton	33¢ per pound/$660 per ton	33¢ per pound/$660 per ton.
Cabbage	1½¢ per pound/$30 per ton	25¢ per pound/$500 per ton	23¢ per pound/$460 per ton.
Carrots	1½¢ per pound/$30 per ton	39¢ per pound/$780 per ton	45¢ per pound/$900 per ton.
Lettuce	1.9¢ per head/45¢ for 24 head box	49¢ per head/$11.75 per box	69¢ per head/$16.56 per box.
Sheep manure		$120 per ton	$120 per ton.

Notes:

[Consumers pay more per ton for manure to put on their lawn than farmers get paid for the food they produce.]

All the above items except bread have no value added by the middleman. They are as raw as they come off the farm. It takes the farmer a whole season to make his few cents. If the farmer gave his produce away, your grocery bill would go down very little! Does the farmer cause inflation?

These commodities were bought in 3 different stores in Stillwater and Perkins, Okla., by Wayne Allen of Perkins, Okla. The farm prices were reported by Marcus Wick of McAllen, Tex. ●

BRUCE ANDERSON—FOUNDER AND PRESIDENT OF TOTAL ENERGY ACTION

● Mr. DURKIN. Mr. President, I would like to take this opportunity to commend Mr. Bruce Anderson, the founder and president of Total Energy Action, Inc., of Harrisville, N.H., who was just recently named chairperson of Solar Lobby, a Washington political action organization.

As the director of Total Energy Action, a conservation research and education firm, Mr. Anderson has spearheaded the drive to promote the widespread development and use of solar power. As a designer, engineer, and lecturer, he has been instrumental in bringing the cost-savings of solar energy within the reach of the hardworking homeowner. This is especially important today as temperatures drop while the prohibitively high cost of home heating fuels continue to rise.

Mr. Anderson is also a respected author in the energy field. His two books, "The Solar Home Book" and "Solar Energy: Fundamentals in Building Design" highlight the commonsense which active and passive solar systems can bring to solving our energy crisis.

Far from being exotic or expensive, tapping the Sun's resources makes sense today, and in the future. The Sun shines freely on New Hampshire's homes.

While popular opinion seems to accept solar energy in a warm area such as the Southwest United States, where the Sun shines all day throughout the year, there is widespread skepticism about the viability of solar energy for a region like New England. However, solar energy is just as feasible and has even greater potential for New England. Despite cold winters and periodic cloud cover, solar energy could provide almost 100 percent of the heating needs of a carefully designed home in anything but the most severe winter. With Mr. Anderson at the helm of the Solar Lobby I am confident that our national policy will more quickly realize this untapped potential of the Sun.

Solar power, in its broadest sense, including hydro, wood, and wind commercialization, could provide a clean, inexpensive source of energy not subject to the dangerous and expensive whims of international politics. With quick action and the elimination of bureaucratic redtape, this country could supply 25 percent of its energy from natural resources by the year 2000.

With the help of hardworking, dedicated individuals like Bruce Anderson, America's goal of abundant, affordable energy will soon become a reality.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4 PERMITTING ACCEPTANCE OF A GIFT OF TRAVEL FROM A FOREIGN GOVERNMENT OR FOREIGN EDUCATIONAL OR CHARITABLE ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD a notice of a Senate officer or employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization. The Select Committee on Ethics has received a request for a determination under rule 43 which would permit Senator BARRY GOLDWATER, during the period from December 9, 1979, to December 14, 1979, to participate in a program sponsored by Fu-Jen Catholic University of Taiwan. It has been determined that Senator GOLDWATER's travel, the costs of which will be borne by Fu-Jen Catholic University, is in the interests of the Senate and the United States.●

NOTICE OF A DETERMINATION BY THE SELECT COMMITTEE ON ETHICS UNDER RULE 43, PARAGRAPH 4, PERMITTING ACCEPTANCE OF A GIFT OF EDUCATIONAL TRAVEL FROM A FOREIGN ORGANIZATION

● Mr. HEFLIN. Mr. President, it is required by paragraph 4 of rule 43 that I place in the CONGRESSIONAL RECORD this notice of Senate employees who propose to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received requests for a determination under rule 43 which would permit staff members to participate in a program cosponsored by a foreign educational organization, the Konrad Adenauer Foundation of the Federal Republic of Germany, and the Heritage Foundation of Washington, D.C., October 27–31, 1979.

It has been determined that participation by the following Senate staff members in the program in West Germany, at the expense in part of the Konrad Adenauer Foundation, to discuss economic issues is in the interests of the Senate and the United States: William E. Pursley, Jr., staff of Senator STONE; Stephen Markman, staff of Senator HATCH, and Jeffrey T. Bergner, staff of Senator LUGAR.●

ORDER OF PROCEDURE

Mr. ROBERT C. BYRD. Mr. President, I would hope that the distinguished acting Republican leader would ask Mr. WEICKER to come to the floor.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be able to yield to the Senator from California (Mr. HAYAKAWA) for not to exceed 1 minute, with the understanding that I do not lose my right to the floor and for the purpose only of the Senator making a statement.

SANCTIONS LIFTED AGAINST ZIMBABWE-RHODESIA

Mr. HAYAKAWA. Mr. President, I apologize to my distinguished colleagues for interrupting with a piece of good news, on a nonrelated subject.

Mr. President, it is good news indeed that sanctions against Zimbabwe-Rhodesia are finally going to be lifted. I have worked for this outcome a long, long time, and am glad it will take place at midnight tomorrow, December 16, 1979.

One of the arguments that has kept the sanctions for so very long is that lifting them would be a hostile action against the front-line nations. However, Mr. President, I have always believed that lifting the sanctions would greatly benefit the front-line nations as well as Rhodesia. So the news today is good news indeed.

A solution to the long-run problems of an emergent Zimbabwe-Rhodesia must be sought by rising above tribal rivalries, rising even above national politics, and thinking of Zimbabwe-Rhodesia as part of a great and potentially rich and powerful region. The region of southern Africa, excluding the Republic of South Africa, covers an area almost equal in size to all of Europe. It includes Botswana, Lesotho, Swaziland, Zambia, Malawi, Zimbabwe, Mozambique, Angola, and Namibia. Only the last three have direct outlets to the sea. The climate ranges from the almost total aridity of great areas of Namibia and Botswana to the tropical rain forests of Angola and Mozambique. Seventy percent of the region consists of marginally arable grassland, which ranges in use from animal husbandry in central Malawi to crop production in Zimbabwe, Zambia, and Lesotho. The region is characterized by a small number of large rivers, so that there is a great unexploited potential for power and irrigation in the major basins. The natural resources of the region suggest the possibility of self-financed, rapid, socioeconomic growth and development.

Angola, Botswana, Mozambique, Namibia, Zimbabwe, and Zambia are known to have deposits of petroleum, coal, diamonds, copper, iron ore, chrome, bauxite, tungsten, and uranium. At the present time these resources produce little or no income because of political turmoil, transportation difficulties, energy shortages and the lack of investment capital. Zimbabwe, Angola, Lesotho, and Mozambique have the potential to develop low-cost hydroelectric power in excess of their present installations. Reduction of energy costs in the region would encourage overall development, improve the quality of life, and provide thousands and thousands of jobs.

The U.S. Agency for International Development indicated that "there is reason for optimism about the future social and economic development of southern Africa." According to the Agency, the region is sufficiently well endowed so that once political and institutional constraints are dealt with, and an adequate infrastructure is provided, these countries should be able to finance their own development.

Undoubtedly, the economy of Rhodesia is the most advanced of any of the countries in southern Africa, except for the Republic of South Africa. In Zimbabwe the industrial sector has remained strong in spite of the difficulties caused by sanctions. By contrast the industrial sector of neighboring Zambia requires government subsidies and protection. It is clear that sanctions, despite the problems they presented, have had the beneficial effect of forcing industrial innovation and diversification, thereby contributing to the long-run strength of Rhodesia's economy. Diversification has enhanced self-sufficiency and pride.

In an open regional economy, an independent Zimbabwe will be the most convenient and probably the least expensive source of many industrial products, especially manufactured goods, for most of the countries in the region. If Mrs. Thatcher and Lord Carrington should succeed in ending the guerrilla war, and finding a solution acceptable to all, Zimbabwe will be the central force in the region's economy. The competitive edge that the country has had in the past will make itself felt again; exports will increase and thereby stimulate the overall economy. As the U.S. Agency for International Development recently pointed out, prosperity in Zimbabwe will spill over into the rest of the region. Rising incomes in Zimbabwe will create a growing market for its neighbors' products and auxiliary industries will appear in surrounding countries. The opening of the border will give Zambia easier access to the rest of the world, raising its income, which in turn will benefit its neighbors.

As I see it, if a regional pattern of economic cooperation can be developed, an independent pacified Zimbabwe would give the entire region a forward push in which growth in one country will generate growth in others.

If tribes, political factions, and nations in Southern Africa, can bury the hatchet, there is a shining future ahead for Zimbabwe-Rhodesia and all her neighbor nations.

I thank the Chair. I thank the distinguished Senator from West Virginia for yielding.

Mr. ROBERT C. BYRD. Mr. President, I am awaiting the arrival of Mr. WEICKER in the Chamber.

CRUDE OIL WINDFALL PROFIT TAX ACT OF 1979

The Senate continued with the consideration of the bill H.R. 3919.

Mr. McCLURE. Mr. President, will the Senator from West Virginia yield to the Senator from Idaho for a statement only?

Mr. ROBERT C. BYRD. Yes. I yield to the distinguished Senator from Idaho (Mr. McCLURE) for 2 minutes, with the understanding that I not lose my right to the floor and for the purpose of his making a statement.

The PRESIDING OFFICER. Without objection, it so ordered.

AMENDMENT NO. 595

Mr. McCLURE. Mr. President, as you know, the Senate yesterday approved the McClure amendment No. 585 to H.R. 3919, to allow a tax credit for acquiring a qualified electric vehicle or the cost of converting a vehicle powered by an internal combustion engine to electricity. This amendment is cosponsored by Senators DOLE, DOMENICI, MATSUNAGA, TSONGAS, BRADLEY, and LEVIN.

Under present law, no energy tax credit is available for the purchase of any motor vehicle used on public streets, roads, and highways. Motor vehicles used in a trade or business may be depreciated over the useful life of the vehicle. Operating and maintenance expenses may be deducted currently. The regular investment credit is allowed for motor vehicles used in a trade or business in accordance with the useful life provision of the Internal Revenue Code.

Under my amendment, Mr. President, a taxpayer would be allowed a tax credit of 10 percent, up to a maximum of $1,000, of the cost of acquiring a new electric motor vehicle, or of the taxpayer's cost of converting a vehicle with an internal combustion engine to use electrical power. A qualified electric vehicle would be manufactured primarily for use on public streets, roads and highways and primarily would be powered by electric current from a storage or other portable battery. Original use must begin with the taxpayer. The credit will be available for purchases or conversions after December 31, 1979, and before January 1, 1987.

The revenue effect of this amendment, as calculated by the Joint Taxation Committee and the Office of Tax Analysis of the Treasury Department, is minimal. Calendar year tax liabilities would decline by $1 million in 1980 and 1981, and $14 million in 1985. Fiscal year budget receipts would decline by less than $1 million in 1980, $1 million in 1981, and $18 million in 1986. For the period of 1980–86, the revenue loss would be $54 million.

Mr. President, this is not a new proposal. It is one that has been around for several years.

During consideration of the Energy Tax Act provisions of H.R. 5263, which led to the Energy Tax Act of 1978 (Public Law 95–618), several Senators proposed amendments similar to the one adopted by the Senate yesterday. At that time the conferees were considering two of my amendments to H.R. 5263, relating to investment tax credits for purchasing electric vehicles. One amendment in section 1033 of the Senate bill provided an additional 15 percent refundable investment tax credit for equipment used in construction of, and in research and development of, electric highway motor vehicles. The second amendment, in section 1032 of the Senate bill, provided for an additional 10 percent nonrefundable investment credit for electric motor vehicles purchased for use in a trade or business.

In addition, both section 2029 of the House bill and section 1028 of the Senate bill had a special income tax credit provision with respect to the purchase of an electric vehicle. The House bill provided for a nonrefundable tax credit—that is, the credit cannot exceed the taxpayer's tax liability—for the first $300 of the purchase price of a new four-wheeled electric motor vehicle—manufactured primarily for use on public roads—purchased by an individual for personal use on or after April 20, 1977, and before January 1, 1983. This credit was intended to apply only to new vehicles, not to used vehicles or vehicles converted to electricity.

The Senate bill credit was generally the same as the House bill. As a result of a floor amendment by Senator SCHMITT, the credit was extended to apply to electric motor vehicles even if they do not have four wheels, although they must have been manufactured for use on the public roads. The Senate provision would have been effective for acquisitions on or after April 20, 1977, and before January 1, 1986.

The House conferees receded to the Senate provision during conference action on these provisions on November 10, 1977. Unfortunately, like so many other important and valuable features of the bill, the amendments were dropped at the end of that conference.

On June 4, 1979, I chaired a special appropriations committee hearing on the role of electric vehicles in U.S. transportation. At that hearing there was discussion of the value of tax credit as a tool to expedite electric vehicle commercialization. Testimony given at that hearing prompted me to introduce S. 1320 on June 12, 1979, which is identical to the amendment to H.R. 3919 which was accepted yesterday. I remind Senators that a copy of the June 4 hearing record was sent to their offices in September.

Mr. President, the Congress must do everything it can to encourage production and sale of electric vehicles. There are four major arguments for encouraging electric vehicle production and commercialization. The first of these is that current electric vehicles meet perhaps 80 percent of the average driving missions in the United States, which is less than 20 miles per trip. Second, only about 15 percent of the electricity generated in the United States is produced from oil. The introduction of electric vehicles into our automotive fleet would begin to shift our transportation energy base away from oil and toward coal, nuclear, hydropower, and ultimately, solar energy and fusion. Third, a strong argument can be made that there is a need to develop alternatives to petroleum-based transportation systems in the event that an abrupt shortage of petroleum-based fuels occurs in the future. Fourth, the introduction of EV's in the early 1980's will provide urban areas with a nonemitting automobile to replace some gasoline vehicles. The latter vehicles will still be emitting considerable amounts of hydrocarbon, carbon monoxide, and nitrogen oxide pollutants even when they are attaining the toughest legislatively mandated emission standards of 0.41, 3.4, and 1.0 grams per mile, respectively, for the above pollutants.

At this time about 80 metropolitan areas in the United States are in violation of the air quality standard for ozone. Under the Clean Air Act Amendments of 1977, those areas have until no later than 1987 in order to attain that standard. In many of those regions, the substitution of new vehicles (emitting less hydrocarbons than the older vehicles which are replaced) will not be sufficient by itself to allow the region to be in compliance with the ozone standard. Those regions will have to resort to additional programs which would be costly to implement.

It is obvious that a technological expedient, such as the use of electric vehicles, would go far to alleviate many of the potential costs and personal mobility restrictions which are possible when a metropolitan area must use transportation controls in order to attain the air quality standard for ozone by 1987.

We must, through the mechanism of the tax credit, not only give people the incentive to purchase an electric vehicle but also reward them for taking the risks. The public now perceives the electric vehicle as being somewhat more risky an investment for them, even though it may be reduced to the point where it is a competitive investment otherwise. Perhaps if the Congress gives the public this incentive, though, we will begin to reduce the vulnerability that we are building in our society to the distortions of the market caused by our tremendous demand for petroleum and by the fact that there is a marginal world supply of petroleum produced.

Mr. President, I ask unanimous consent that the following items be placed in the RECORD at this point. First, two tables prepared by the Office of Tax Analysis of the Treasury Department which show the estimated revenue effect of my electric vehicle amendment. Second, an article entitled "Electric Vehicles: Still An Open Question," which appeared in the November 1979 Electric Power Research Institute Journal. I remind Senators that I sent both them, and our colleagues in the House of Representatives, a copy of this article on December 13. Third, an article concerning the DOE/GE/NASA hybrid vehicle which appeared in the December 10 Energy Insider, an internal Department of Energy publication. Fourth, two recent articles from the Washington Star and New York Times relating to a new hybrid vehicle prototype and the future of the automobile, respectively.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TABLE 1.—ELECTRIC VEHICLES—10-PERCENT TAX CREDIT EFFECTIVE OCT. 1, 1979

	Calendar year—												
	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1979–90
Sales of electric vehicles (thousands)	0.6	1.7	2	3	5	8	15	25	120	130	140	160	610.3
Sales to tax exempt organizations (thousands)		0.7	0.5	[1] 0.5									
Sales eligible for credit (thousands)	0.2	1.0	1.5	2.5	5	8	15	25	120	130	140	160	608.2
Average credit (dollars)[2]	900	900	900	925	950	950	950	950	950	950	950	950	
Total credit (million dollars)	0.2	0.9	1.4	2.3	4.8	7.6	14	24	114	124	133	152	578.2
Commercial (80 percent) (million dollars)	0.2	0.7	1.1	1.8	3.8	6.1	11.2	19.2	91.2	99.2	106.4	121.6	462.5
Private (20 percent) (million dollars)	0	0.2	0.3	0.5	1.0	1.5	2.8	4.8	22.8	24.8	26.6	30.4	115.7

[1] Sales to tax-exempt organizations are expected to be a less substantial portion of total sales after 1982 and have not been separately estimated for 1983-90.

[2] Assumes that 90 percent of sales in 1983 and subsequent years are new vehicles at $10,000 or more. The price of the remaining sales, conversions and "city cars", is estimated at $5,000 per vehicle. It is assumed that for the later vehicles improvements in production will balance increases in the general price level.

Note: The estimates of total sales assumes that electric vehicles are not perceived to be cost effective in most applications during the 1980's. The tax credit will be less than 10 percent of price in most instances and is not expected to materially increase the number of applications perceived by users to be cost-effective. The sales projections shown represent an intermediate path between Department of Energy goals and projections by a DOE contractor, SRI, which assume that no American manufacturer is fully at mass production during the 1980's and emphasize inherent limitations of the electric vehicle relative to gasoline and diesel.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

TABLE 2.—ELECTRIC VEHICLE (ON THE ROAD VEHICLES) TAX CREDIT OF 10 PERCENT UP TO $1,000—REVENUE LOSS

[Credits in millions of dollars]

	Calendar year—												
	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1979–90
Sales of vehicles eligible for credit (thousands)	0.2	1.0	1.5	2.5	5	8	15	25	120	130	140	160	608.2
Average credit per vehicle (dollars)	900	900	900	925	950	950	950	950	950	950	950	950	
Total credit	(*)	1	1	2	5	8	14	[2] 24	114	124	133	152	578
Calendar year credit:													
Personal income tax credit	(*)	1	1	2	4	6	11	19	91	99	106	122	462
Corporate income tax credit	(*)	(*)	(*)	1	1	1	3	5	23	25	27	30	116
Addendum: Induced sales included in above (thousands)	0	(1)	(1)	(1)	(1)	(1)	(1)	1	6	6	7	8	

[1] Sales for the period 1980-85 include 10,000 vehicles for the DOE subsidy program. Sales induced as a consequence of the credit during this period are assumed to be induced in the 10,000.

[2] Revenue loss for credit effective included through 1986 is $55,000,000 for the period 1979-86.

*Less than $500,000.

Source: Office of the Secretary of the Treasury, Office of Tax Analysis.

Electric Vehicles: Still an Open Question

Consider these developments of the last few years. Programs to develop and demonstrate capable EVs have sprouted in most of the highly industrialized countries of the world. Congress has asked DOE to carry forward a $160 million program to develop EVs and accelerate their commercial introduction. The U.S. Postal Service is about to purchase several hundred more EVs for mail delivery because of the favorable experience with its first 350. General Electric Co. and Chrysler Corp. have teamed up to develop a sleek EV prototype that is said to have a range of 70 miles under stop-and-go conditions, a 55-mph cruising speed, and the potential to be mass-produced for about $6,400. The president of General Motors Corp. has stated publicly that GM plans to produce and sell EVs in the mid-1980s.

Do these and other recent developments herald the advent of EVs as a broadly accepted mode of transportation? Perhaps. No definitive answer to this intriguing question is presently possible. Clearly, the EV has several significant limitations. Even if some of these can be overcome in time, the economic and logistic hurdles involved in making a major shift in an institution as pervasive as the automobile are formidable. This month's lead article explores some of these limitations and hurdles and, in doing so, develops perspective on the likely capabilities and possible impact of electric vehicles. It makes several key points:

Even today's imperfect EVs can perform a number of useful jobs, but to date their role has been limited and their impact minimal.

If they find widespread use, EVs could materially reduce our dependence on oil, and they could significantly reduce environmental pollution in urban areas.

It is possible to think about and pursue several technological avenues that could help bring about the broader use and societal benefits expected of EVs.

At the same time our present assessment must leave open several very important questions. How far can we expect to push the capabilities of batteries and, consequently, the range, performance, and general appeal of EVs? To what extent can we improve all the other functional parts of EVs, while reducing their cost? What are the potential markets, the eventual oil savings, and the resource conservation impacts of EVs that have different capabilities? What impact will a growing population of EVs have on the distribution, transmission, and generation capabilities of electric utilities? What can the major parties involved—the automotive and electric equipment industries, federal and state governments, the electric utility industry, and, of course, the potential users—do in the critical years ahead to more fully realize the potential of EVs?

The answers can only come from vigorous programs to assess, develop, demonstrate, and if appropriate, commercialize EVs and the supporting energy and service systems. The electric utilities, and EPRI with them, can play a key part in the required national effort, and plans for different levels of involvement are just now being formulated at EPRI and reviewed with supporting utilities. Although these plans are not yet fully detailed, I see emerging an important role for EPRI, working closely with utilities, industry, and government, in improving the technologies and creating the conditions that will help EVs become a nationally significant response to key energy and environmental problems.

The Promise and Puzzle of Electric Vehicles

Dormant for half a century, the electric vehicle (EV) is being revived. The prospect of slashing oil dependence and urban pollution in tandem is enough to inspire hope and stimulate large-scale research into such technical problems as batteries. But even here success will not be enough. Mass production and widespread use of EVs will require thoughtful development of every element in the transportation infrastructure—from energy delivery to parts manufacture to service, maintenance, and insurance. How it will all be put together is an open question. No one has yet written the assembly instructions for complete systems integration. This time around, the social benefits of EVs loom considerably larger—but so do the obstacles.

Invented in the 1880s, the electric vehicle (EV) soon emerged as a bright, new alternative to the horsedrawn buggy. By 1904 an estimated one-third of all the vehicles in Boston, New York, and Chicago were electrics.

But just as the battery-powered EV was gaining the spotlight, it was muscled offstage by an even more exciting performer, the internal combustion vehicle (ICV). The ICV, propelled by its so-called explosion engine, could outperform the EV in so many ways that consumers rushed to trade in their electrics, and the manufacture of these vehicles all but stopped.

Today, the internal combustion car can still outperform the electric, but EVs are getting a long second look.

WHY THE RENAISSANCE?

EVs are edging toward the spotlight again because they offer certain energy, environmental, and transportation benefits that conventional cars do not. Their biggest asset is that they don't use gasoline. In Henry Ford's day, oilfield bonanzas fueled the popularity of the then-new motorcar. Now all that has changed, with fuel prices climbing and oil supplies threatening to dry up.

Today, the energy promise of EVs begins with two basic facts: About half the oil we use is for transportation, and about half the oil we use is imported. Putting these two facts together suggests a conclusion: Switching from oil to electricity for transport power could wipe out our need for imports.

Even the most ardent EV enthusiasts see snags in this simple equation, however. For a start, it is highly unlikely that electricity can replace all our petroleum-based fuel needs because electric batteries store so much less energy for a given weight or volume than do fuel tanks. Electricity probably won't replace diesel fuel for long-distance trucking, nor will it replace jet fuel for the nation's air fleet. Generally, whenever vehicles must cover appreciable distances over varying routes, chemical fuels—derived from oil now, from coal and biomass in the longer term—will be more convenient and versatile sources of transportation energy.

Transportation in the United States consumes about 8 million barrels of oil every day. If only 25 percent of the miles driven in conventional vehicles were driven in electrics instead, it would save about 2 million barrels daily, totaling a yearly cutback of more than 700 million barrels. To put this figure in perspective, it represents more oil than all the nation's electric utilities burn in one year.

In the long run, with more specialization of vehicles for different transportation modes, a much higher level of substitution appears possible, particularly when we consider the full range of potential vehicle electrification. If all the vehicles that could run on batteries rather than liquid fuels—city buses, light trucks, light vans, and passenger cars used for short-distance driving—were actually to convert, about 70 percent of the oil used in the transportation sector might eventually be replaced by electricity.

Another big reason for interest in EVs (and the main reason prior to the gasoline crunch) is the fact that electrified transport can help preserve the environment. The internal combustion engine is known to be responsible for much of our urban smog. Air quality modeling in 24 urban areas has shown that a full switch to EVs should slash polluting hydrocarbon and cardon monoxide emissions just about in half. EVs could glide almost silently through the canyons of our big cities, leaving no exhaust trails in their wake.

Coal power plants that produce much of the electricity to run these cars have emissions of their own, of course. Prime among these are sulfur oxides from fossil fuel plants, emissions that could increase by perhaps 20 percent if all passenger cars were electrified. But it is both more efficient and cheaper to control air pollution at a relatively few stationary sources than at millions of mobile sources. Nuclear power plants, of course, would not have any of these emissions, not even carbon dioxide. Combining these two technologies could make a long-range contribution by containing any problems associated with the rising levels of carbon dioxide. So the net effect of vehicle electrification would still be cleaner air, especially in those traffic-clogged cities that need it most.

Further, EVs could offer unique transportation benefits. Being more compatible with automated-vehicle operation and control, EVs would capture many of the strong points of mass-transit schemes without sacrificing the comfort and convenience of the private car. Centrally controlled automation, besides reducing high-speed collisions and banishing traffic snarls, could move more vehicles through a narrower corridor, saving many acres of land that would otherwise be gobbled up by an ever-expanding freeway system.

This, then, is what a massive switch to EVs could do. But there is no assurance that such a switch will actually take place. Turning from future possibilities to present realities, we need to look at some of the obstacles that may determine whether or not EVs can make it on their second chance.

OPERATING EXPERIENCE

So far, there are only about 3000 EVs on American roads. And with the exception of a handful owned by futurists and technology buffs, almost all belong to experimental programs.

The U.S. Postal Service runs the largest program and operates about 350 EVs nationwide, although most are in California. With a daily range of only 20 miles and a top speed of 33 mph, these vehicles would hardly meet the needs of the average motorist, but they have done well in filling the more limited and specialized role of postal route vehicles. Operating problems have dropped from 1.5 failures for conventional vehicles per month to only 0.4 for EVs, and the Postal Service plans to enlarge its fleet with several hundred more electrics in the months ahead.

Other nations are also forging ahead with EV use. Great Britain, where driving distances are shorter and where gasoline traditionally costs at least twice as much as it does in the United States, is the historical leader in vehicle electrification. Upwards of 40,000 British EVs regularly deliver mail, milk, and other commodities, functioning mostly as route vehicles for local, low-speed stop-and-go driving.

West German vehicle manufacturers and electric utilities now have several joint research ventures in progress, including some novel arrangements for vehicle recharging. France is experimenting with electric buses, and Fiat is developing electric vans in Italy. The Japanese, working through a well-coordinated government and industry program, have been pushing ahead with vehicle design and battery research. Tokyo, Kobe, and Osaka operate battery-powered buses in public transport service.

But even on a worldwide scale, current use of EVs remains minimal, and it is limited almost entirely to fleet operations: commercial route vehicles and public transport. Is this sort of use enough to make a dent in the oil consumption problem?

For the United States, probably not. The majority of the nation's roughly 150 million vehicles are private cars. And the immediate market for electric route vehicles comes to no more than a few hundred thousand a year. Even adding the market for electrified public buses fails to approach the penetration level (perhaps some tens of millions) necessary to reduce oil imports.

So it appears the long-term target for EV commercialization will have to be the private passenger car. And here is where serious doubts arise. Can the American consumer ever be persuaded to give up the cherished gas guzzler, or even the compact, for an electric car that will, in all likelihood, offer more limited performance at a higher purchase price?

The first question for a wary consumer eyeing the EV is the obvious one: Will it work? The answer is yes, for certain uses. Even the EV built today can perform quite well in local driving, such as short trips to work, to school, to shopping malls, or to the supermarket. And the U.S. Department of Transportation estimates that 90 percent of the average motorist's driving falls into this short-trip category (20 miles or less).

But an EV won't take you on your summer vacation. Current models can only go about 20–40 miles before they have to stop for gradual, hours-long recharging. Adding to this range problem is the EV's leisurely pace. Most of them can't go faster than 40–55 mph, and if maintained, that top speed will drain the batteries more rapidly than driving at a low, constant speed.

Poor acceleration is another drawback. Current electric vehicles take 10–20 seconds to struggle from 0 to 30 mph. Because this could be a traffic hazard in high-speed areas, it's best to stay off the freeways. And many EVs don't take hills very well, either. Finally, cold weather and battery aging can add to these problems by further depressing battery performance.

THE BATTERY DILEMMA

Today's EV runs on massive banks of lead-acid batteries, most of them of the type used in modern golf carts and not very different from the batteries used in the turn-of-the-century electrics. Many an EV advocate sees more efficient batteries as the only cure for the vehicle's shortcomings.

The technical suitability of any battery for EV use hinges on two measures: energy density (the ratio of usuable energy to battery weight) and cycle life (the number of times a battery can be charged and recharged before it wears out).

What limits the range of current EVs is the low energy density of the lead-acid battery, which typically is only 27–33 Wh/kg (12–15 Wh/lb). At this level, extending EV range to about 100 miles would require more than 2 tons of lead-acid batteries because today's vehicles need between 0.5 and 1.5 kWh a mile.

Building lead-acid batteries with thinner electrode plates could reduce weight and thus improve energy density, but thinner plates wear out more quickly. Thicker plates have better cycle life, but this merely aggravates the weight problem. So the potential of the lead-acid battery, while not yet fully exploited, appears limited by the conflicting requirements of energy density and cycle life.

Because of these limitations, battery research is trying new electrochemical combinations: nickel-iron, nickel-zinc, zinc-chlorine, and others. A nickel-zinc battery, for example, may be able to deliver the same usable energy as the lead-acid battery at less than half the weight, which would effectively double the energy density. Short cycle life and high cost still restrain this battery hope, although recent work at GM indicates potential for a solution.

More advanced possibilities, such as the sodium-sulfur and lithium-iron sulfide batteries, promise even better energy density. Here the major snag is high operating temperature, on the order of 300–450°C (570–840°F), a feature that could intensify safety problems under recharging or collision conditions. Overall, what shows up in a scan of battery prospects over the next few years is a series of trade-offs as researchers try to improve battery characteristics in some areas without sacrificing too much in others.

RANGE: THE FUNDAMENTAL LIMITATION

Improving energy density is a primary target of battery research because it means extending range. And range, according to Fritz Kalhammer, director of EPRI research on EV technology, is "the most fundamental limitation" in making an electric car acceptable to a broad cross section of the American public.

Anthony Lawrence, who manages Institute studies on the EV's economic aspects, concurs, adding that the range problem is really a problem of waiting. Americans don't like to wait, which is a major reason why they prefer private cars to public transportation. Enduring long recharging layovers would be even worse than standing at a bus stop or sitting in a gasoline line.

Reports abound of electric test cars that have run for 100 miles or more on a single charge, but that doesn't mean the 100-mile EV is here in any practical sense. Test models are often stripped down to compensate for the weight of the lead-acid batteries, a move that increases range but can run afoul of safety standards. The range of EVs driven at a constant speed under ideal weather conditions is in no way typical of what the average motorist would get in stop-and-go driving under real-world weather and traffic conditions.

The challenge of boosting real range has inspired several quite different efforts toward a solution. There is the drive to achieve a breakthrough in battery technology. But Kalhammer cautions against placing too much faith in this prospect. "The probability that we are going to develop a battery that will give us a 100-mile range or more on a single charge at reasonable cost is not very high, less than 50 percent," he estimates. "Even if we succeed in developing advanced batteries with greater energy density than the lead-acid, cost rather than weight is likely to limit the amount of storage capacity we can afford to carry in an electric vehicle. This doesn't mean we shouldn't look vigorously for more-capable and less-expensive batteries. But we should not tie the mass development of EVs absolutely to batteries with capabilities far beyond the lead-acid battery."

Setting aside a battery breakthrough, what other options are there for extending range and moving ahead with EV commercialization? The possibilities are varied: a massive network of public recharging outlets, electrified highways, greater emphasis on hybrid vehicles, battery exchange, and a whole reassessment of our current system of privately owned automobiles, to name some of the most discussed.

Public recharging networks and electrified highways are both intriguing schemes. The concept of a hybrid vehicle (one with a small engine in addition to an electric drive powered by batteries) is straightforward, and some prototypes already exist. For short trips, a hybrid would operate on batteries alone. The engine would take over on longer trips, boosted occasionally by the electric motor for acceleration and help in climbing hills. Increased cost and complexity would be the drawbacks, plus the fact that hybrids wouldn't save as much petroleum as all-electric vehicles.

The idea of pulling into a battery-switching station may seem far-fetched, given the size and weight of current battery banks, but proper equipment for carrying out the switch could help make this a viable option. A bigger problem would be capital cost. The battery represents a major part of an EV's price tag, and keeping an adequate inventory of vehicle-size batteries would require a substantial investment, as would the forklifts and other special machinery needed to accomplish a safe, rapid battery transfer. Experimental stations already exist for electric buses in Düsseldorf, West Germany, but the complexities and cost of such an operation make it unlikely that stations will pop up on every street corner to service private passenger cars.

More remote still is the possibility that Americans would be willing to switch cars entirely when the battery charge ran out. The idea of maintaining a public system of exchangeable EVs might work in theory, but in practice it would challenge the intensely personal relationship that many Americans have with their cars. Who would pay for these public EVs, and who would maintain them? Furthermore, who would mastermind their deployment in all the proper places?

None of these alternatives for range extension is problem-free. The reason for considering them is that they could make the difference between success and failure in commercializing the electric vehicle on a significant scale without waiting for a miraculous breakthrough in battery technology.

CAN EV'S COMPETE IN COST?

Another key question for prospective purchasers: Can the EV compete economically with the conventional car?

When making cost comparisons with an eye to the EV's commercial future, several facts need to be borne in mind. One is that today's EV is really an abstraction. There is no mass-produced EV on the market. There are only limited-production experimental models of various capabilities, most of them converted from conventional cars and some of them hand-built, one-of-a-kind prototypes. This means they lack the engineering refinement and volume cost savings available in mass-produced, conventional cars.

Even with mass production of at least 100,000 vehicles a year, an EV would still cost more than a comparable ICV. The 25–40% premium would represent the cost of the battery bank itself because the cost of all other functional parts (the electric component system versus the internal combustion system, for example) would just about balance out. A $6000 EV, then, would be comparable to a conventional car priced roughly in the $4500 range (1979 dollars). To be economically competitive, the EV must make up for this higher price tag by offering lower operating and maintenance costs.

Let's look at the EV's prospects in this area, beginning with the price of fuel. Electricity is already somewhat cheaper than gasoline as vehicle fuel (perhaps 2–4 cents versus 3–6 cents per vehicle mile). It is likely that this gap will widen as gasoline prices increase and/or liquid synthetic fuels made from coal appear on the transport market.

The economic viability of coal-based fuels is actually a source of vigorous debate. Some say that converting coal into synthetic gasoline rather than electricity is the logical choice because it would relieve our oil dependency without the big changes that a switch to EVs might entail. Others point out that synfuels will cost more than gasoline and far more than electricity per vehicle mile once the as-yet-unknown environmental cleanup costs tied to synfuels are factored in.

To save 50,000 barrels of oil a day, we would have to spend an estimated $1–$2 billion on synfuel production but only $0.5–$1.5 billion on building and recharging EVs, according to recent studies at Purdue University. Another option to use coal for transportation energy—production of utility-grade synfuels for use in power plants that supply EVs—also appears more efficient and cheaper than the large-scale production of synfuels for direct use in automobiles. If fuel cost is the criterion, then, the days of the ICV may dwindle as the supply of natural oil dwindles, and the advent of the EV may be only a matter of time.

Reliable data on comparative EV–ICV operating costs are sparse and available mostly for light commercial vehicles. Long Island Lighting Company (Lilco) reports an operating cost of only 2.4 cents a mile for its electric route vehicles, using off-peak storage rates plus fuel adjustment. In contrast, a standard vehicle averaging 15 mpg at 90 cents a gallon costs about 6 cents a mile to operate. This comparison does not include the cost of EV battery replacement, however, which could add substantially to the lifetime operating expenses of the vehicle.

Routine EV maintenance is expected to pose few problems. An EV has fewer parts to break down or need replacement because of wear. It has no starter, spark plugs, distributor, fuel pump, carburetor, pistons, valves, water pump, radiator, muffler, oil filter, or pollution control device. With tuneups abolished and expensive repairs held to a minimum, the EV owner could look forward to substantially lower maintenance costs than the owner of a conventional car.

FEDERAL COMMERCIALIZATION PROGRAM

The EV, as a fledging technology, faces market competition with the mature ICV. To succeed, the EV needs all the help it can get. Because the market risks/capital costs of this undertaking are so great and because the commercialization of EVs could help so much in solving our energy problems, the federal government is playing a major role in supporting such a move.

The genesis of the federal EV program is the Electric Hybrid Vehicle Research, Development, and Demonstration Act (P.L. 94–413) passed by Congress in 1976. This act provides funds to conduct research on improving EV performance, to support demonstration programs designed to acquaint the public with EVs and show that they can work, and for loans to potential EV manufacturers. The initial price tag is $160 million for the first five years.

Federal research focus falls mainly on new batteries and improved vehicle technology. Batteries that show a potential for rapid improvement and early availability are the first target. Private contractors are now at work on upgraded lead-acid batteries, nickel-iron batteries, and nickel-zinc batteries to be delivered for federal testing by the end of 1981.

Originally, 7500 vehicles were to participate in the demonstration phase of the federal program. Now that number has been boosted to 10,000. So far, only a few dozen of the lead-acid test cars are actually on the road, but DOE hopes to have 2000–3000 in operation by 1982 and 10,000 by 1985.

Private sector EV demonstrations actually began several years before the federal effort, with the Electric Vehicle Council's plan that placed more than 100 battery-powered vans in use at about 60 electric utilities across the United States and Canada. Now, in addition, the federal program has experimental electric vans for AT&T's coin-telephone repair crews in New York City and electric service cars for Lilco's meter readers on Long Island. In what is expected to be a trend-setting move, Lilco has posted special low nighttime rates for EV users. From midnight to 7 a.m., the recharging rate is only 1.73¢/kWh, less than half the utility's normal rate.

Despite a promising start, the DOE demonstration program could be running into trouble. In spring 1979 the General Accounting Office (GAO) issued a report raising questions as to whether the demonstrations will really win public acceptance for EVs. Given the current EV's problems with reliability, safety, performance, and cost, cautioned the report, the program could backfire.

The program "may be placing vehicles in uncontrolled situations where any such failures will be highly visible and could damage public acceptance of more advanced vehicles when they become available," according to GAO. Rather than muddying the waters with uncontrolled demonstrations in the private sector, the report recommends confining the test vehicles to the federal sector for the immediate future.

Other government efforts to spur EV commercialization zero in on economic incentives. For example, a bill is now before Congress to offer a 10 percent tax credit, up to $1,000, to consumers who buy EVs or convert their conventional cars to electrics. Similar tax breaks for pospective EV manufacturers would help reduce the risk of unsuccessful forays into the marketplace and provide an incentive to take on the huge capital investment required to begin mass production. Furnishing a guaranteed market by buying an estimated 300,000–500,000 vehicles for government use might be another federal move that could help spur comercialization of EVs.

Retooling of auto parts manufacture and assembly lines to mass-produce EVs would be a huge adjustment, but important legislation now before Congress could make it worthwhile. Auto manufacturers are under the gun to make their new cars more fuel-efficient: an average of 27.5 mph by 1985, according to the government's corporate average fuel economy (CAFE) standards. The proposed amendment would allow manufacturers to count the gasoline-equivalent mileage of any EVs they produce in meeting those efficiency standards.

Including EVs in the CAFE standards could hike their potential market penetration by as much as 40 percent, according to some observers. DOE has pegged 8.6 million vehicles as a likely figure for EVs in the year 2000. But with the CAFE incentive, DOE estimates that figure could jump to 12 million, a number that crosses the threshold to significant market penetration.

COMPLEMENTING THE FEDERAL PROGRAM

EPRI's own work in EV R&D is designed to complement in the federal effort by focusing on those aspects of commercialization that would be most important for the energy supplier, the nation's electric utilities. As the energy supplier, utilities could play a significant role in the commercialization of EVs, say Jerry Mader, EPRI project manager for electric transportation. Initially, it will be important for utilities to understand the effects of this potential new load on the utility system. For example, impact on utility feeder distribution systems and load curves could appear locally first and then spread to a national scale. This means that utility-oriented EV research needs to take a careful look at what will be required in the way of efficient battery recharging and electric power availability in order to support any wide-spread shift to EVs.

EPRI is now conducting a small, closely controlled two-year pilot demonstration at the Tennessee Valley Authority (TVA) to learn more about how EVs work in a real-world environment. Preliminary tests at Southern California Edison Co. have permitted the selection of 10 Volkswagen electrics (5 vans and 5 microbuses) to undergo more intensive evaluation at TVA. Central to vehicle choice was the idea that test EVs should be standard models with reliable manufacturer backup, models that would be viable candidates for future upgrading and eventual mass production.

These 10 vehicles (and another 10 to be selected later) will be used for van pooling, small delivery, and service and maintenance trips in the Chattanooga area. In the words of Ralph Ferraro, EPRI technical manager for electrical integration, the point of the monitoring effort is "to build a real-world data base to focus research, design, development, and demonstration efforts for future EVs.

"Until we observe exactly what current lead-acid batteries can and cannot do in service applications, for example, there is no way of telling what real progress is being made in battery technology. Until we discover how operating costs stack up, we won't have adequate information to determine where to concentrate in making the EV economically competitive. Until we see whether the charger, for example, can charge the battery without disrupting the rest of the electric network, we are unable to fully define how well the components of an EV system function together. And until we know what sort of infrastructure EVs need to keep on operating (recharging facilities, service, and so on), we cannot fully evaluate the costs of EVs or their impact on the electric utility industry and other industries."

In the Energy Analysis Department, EPRI economists are looking at electric vehicles as a potential load impact. Both the level and the pattern of electricity demand will be important. Will there be enough EVs to create a significant new load for electric utilities? If so, how will that load be distributed? Will EVs aggravate peak-load problems with daytime recharging?

The first and biggest question is how many EVs there are going to be. "Once we have an idea of the total number involved," says Lawrence, "figuring out their load impact will be fairly easy."

It will be fairly easy, that is, if one accepts three basic assumptions common in the field. The first is that EVs will replace ICVs on a one-to-one basis, rather than representing an entirely new market, such as the market for mopeds, which often supplement the ICVs in a household rather than replace them. The second is that motorists will maintain roughly the same short-distance driving patterns in EVs that they have in ICVs, rather than creating entirely new patterns, such as the weather-dependent patterns of the moped. Third, most EV recharging will take place at night, during off-peak hours.

Because the critical target for EV market penetration is the private passenger car, finding ways to project future demand in this sector is a top priority. Contractors Charles River Associates Inc. and the University of California at Berkeley are currenty exploring the market for EVs and the consequent impact on electric utilities, building on an earlier EV demand model developed for EPRI by Mathtech, Inc. And Howard R. Ross Associates is examining electricity needs for future transportation systems as a whole.

Economist Lawrence believes that electric transportation systems could conceivably replace the ICV for private passenger use by the year 2000, just as the jet engine has replaced the piston engine for air travel in a similarly brief span. But the prospects for such a change, he emphasizes, must be considered in the broader context of the nation's priorities, present and future. What role will transportation systems play in future lifestyles? How important will environmental issues of noise and air pollution be? What about the huge investment that oil companies and their dealers have in existing motor transport? Will Congress subsidize displacement of oil by EVs?

EV CONTINGENCIES

Anyone seriously contemplating the future of electric vehicles is left with a bundle of ifs. If petroleum grows increasingly scarce and expensive; if synthetic liquid fuels prove too polluting or too costly to replace petroleum-based fuels; if ICV technology fails to achieve a major breakthrough in fuel efficiency; if we succeed in extending EV range, either through battery advances or special recharging arrangements; if air quality and noise laws grow tougher; and if the large infrastructures required to support such a change can be put in place rapidly, with a high degree of cooperation between government, industry, and consumers, then the EV could indeed be the car of the future.

The hurdles are very real, but so is the promise. The EV can relieve major problems that have emerged since its abortive debut many decades ago. Today's America has needs that yesterday's America did not. So the time may finally be ripe to embrace the unique advantages that the EV has to offer.

DOE's Gasoline-Electric Automobile to Offer Range, Flexibility, Economy

A new experimental passenger car with two drive systems—one gasoline-powered and the other electric—will be designed and built for DOE by General Electric Co. (GE) under contract to the NASA Jet Propulsion Laboratory.

Called a "hybrid," this vehicle will use less fuel than conventional internal combustion automobiles and have far greater range and all around motoring flexibility than all-electric cars. Although an experimental car, its design is planned to be suitable for mass production in the mid-1980's at a consumer price of about $7,600 (1978 dollars).

This development is part of an overall DOE program aimed at stimulating commercialization of electric and hybrid vehicles as a means of reducing petroleum consumption.

The selection of General Electric Corporate Research and Development of Schenectady, N.Y., followed a year-long competitive preliminary design study (Phase I) for DOE's Near-Term Hybrid Vehicle Program. Under terms of the second phase contract award, GE will deliver two automobiles for test and evaluation. Proposed cost of the 30-month contract is approximately $7 million.

The baseline vehicle selected by GE is a 1979 Chevrolet Malibu four-door sedan, which will be modified for this application.

VOLKSWAGEN ENGINE

A four-cylinder, 1.6-liter fuel-injected Volkswagen engine and a GE-developed 20-horsepower electric motor will power the front wheels. The transmission is a three-speed automatic.

Lead-acid batteries for the electric drive system will be provided by Globe-Union Inc. of Milwaukee, Wis. Battery weight is 770 pounds.

The electric motor and gasoline engine will operate separately or in parallel, with the electric motor primary at speeds under 30 miles per hour and in all low-speed maneuvers such as parking and operating in reverse gear. The gasoline engine will be primary for highway driving. Near equal sharing of load between motor and gasoline engine will occur when both are needed. Vehicle operation will be controlled by a system microprocessor.

Researchers believe that with 1,000 miles per month use, the hybrid vehicle could save 41 percent of the petroleum and 5 percent of the total energy which would be used by a comparable gasoline-powered car.

Batteries will be recharged by regenerative braking, by the gasoline engine and overnight by ordinary house current.

GE selected Triad Services, Inc., of Dearborn, Mich., for vehicle redesign. The exterior of the Malibu will be redesigned for improved aerodynamics. Curb weight of the five-passenger automobile will be 3,928 pounds.

Through its Office of Energy and Technology Applications, the Jet Propulsion Laboratory (JPL) manages the Electric and Hybrid Vehicle Research and Development Project for the Department of Energy. The JPL work is done under an interagency agreement between DOE and the National Aeronautics and Space Administration.

Hybrid Cars Would Rather Switch . . . From Gasoline to Batteries and Back Again

(By Charles Ewing)

Two experimental hybrid vehicles designed to operate on a combination of gasoline and battery power differ widely in appearance and specifications. But both offer interesting potential as alternatives to conventionally powered cars for a segment of the personal transportation requirements of Americans facing higher prices on scarcer oil.

The Centaur II prototype, developed by Hybricon Inc., North Hollywood, CA., is a 2,180-pound subcompact sedan with an automatic transmission (electric-to-gasoline and back again). The developer reports the 32-horsepower, two-cylinder 600cc gasoline engine gets 41 miles per gallon with a four-speed transaxle driving the front wheels. Two DC motors drive the rear wheels through electric clutches and helical gears. The electric power comes from eight six-volt, 200-amp acid batteries located between the rear seat and the truck.

Cautioning that no mass production of the Centaur II is planned by Hybricon and that no cars will be available for sale in quantity to the general public, the firm says it hopes to sell the hybrid vehicle to "a major manufacturer who has the capability of mass-producing the car."

The firm says the Centaur II batteries can be 80-percent recharged during one hour of expressway or highway driving on its gasoline engine.

The other newcomer, named simply "Hybrid," was displayed in Milwaukee the other day by Briggs & Stratton Corp., which builds the small gasoline engines which power many lawnmowers and other garden and farm equipment. The sporty sedan body, designed by Brooks Stevens Associates of Mequon, Wis. to accommodate a concept originated by Marathon Vehicles of Quebec, is supported on six wheels. The four rear wheels carry a 1,000-pound pack of 12 six-volt lead-acid batteries divided into two 36-volt banks. The total weight of the vehicle is 3,200 pounds, and 1,200 pounds on the front wheels and a thousand pounds on each of the two rear axles.

The gasoline power is from a horizontally opposed two-cylinder, four-cycle, air-cooled engine which generates 18 horsepower at 3600 rpm. The fuel capacity is seven gallons.

The B&S Hybrid's electric motor is operated on direct current, which a rating of 8 horsepower in continuous operation, with an intermittent capability of 20 hp.

The passenger capacity is stated as "two adults and two children."

The projected range of the Hybrid is 30 to 60 miles on the electric motor and 175–280 miles on the engine, both "depending on road conditions and driver performance." In the hybrid mode, varying between electric and gasoline limits, the effective range is reported to be "in excess of 200 miles between stops."

In both the Centaur II and the B&S Hybrid, the vehicle's proprietors say the maximum legal speed of 55 mph can be attained by using the gasoline engine to accelerate and to climb hills, then switching to the battery operation at cruising speed.

Briggs & Stratton, President Frederick P. Stratton Jr. says his firm has no plans to manufacture automobiles. "We only want to demonstrate that the hybrid electric car design is a practical alternative to the standard-size auto."

For the Automobile, the End of the Road

(By Lester R. Brown)

The automobile came of age when oil was priced at less than $2 a barrel and supplies seemed inexhaustible. The spectacular 7 percent annual growth in world oil output between 1950 and 1973 was closely paralleled by the 6 percent annual growth in automobile production. But now this golden age for the automobile appears to be coming to an end. In recent years growth in both oil output and automobile output have been slowing. All signs indicate that world oil production will not expand much further.

Everyone senses that the future of the automobile, like that of other oil-using technologies, will be affected by the leveling off of world oil production. But the automobile's plight is far more serious because of the projected increase in almost all the other more essential uses of oil—to produce food, to heat homes, to run factories, and to power transit, trucks and buses. As these expanding demands press against fixed supplies of petroleum, there will be less and less fuel for cars.

The tightening of petroleum supplies will force political leaders to establish priorities in its use. Experience to date indicates that most countries, regardless of stage of development or position on the ideological spectrum, put the automobile at the bottom of the list when allocating scare oil supplies.

In the United States, priorities in fuel allocation became clear in the spring of 1979 when there was a shortage of diesel fuel, which is now used in cars, trucks and farm tractors. The Department of Energy had little choice but to give the agricultural sector first claim on the scarce fuel supplies. As a result, farmers were able to plant their crops on schedule, but truckers were piqued because of the lower priority accorded their needs, and they went on strike. Variations on this theme are certain to be repeated in country after country as the more essential demands for oil press against limited supplies.

In many developing third world countries, too, food production is likely to have the first claim on oil supplies. Their demand for food is expected to double over the next generation, yet the principal techniques for expanding food output—mechanization, irrigation and the use of chemical fertilizers—depend on oil. For many developing countries, particularly those now beginning to mechanize, vast increases in agricultural energy use are projected as food needs soar between now and the end of the century.

In China, for example, where a fifth of humanity resides and where the mechanization of agriculture is one of the "four modernizations" now being officially pursued, the use of fossil fuels is projected to quintuple well before the end of the century. Such growth in the demand for energy—principally petroleum—will be the rule, not the exception, as third world countries attempt to feed their expanding populations. As these demands expand, fuel supplies for the automobile will be progressively squeezed.

Job creation will also place heavy demands on available oil supplies over the next few decades. New entrants into the world job market by the year 2000, most of whom are already born, will approach 700 million—more than in any comparable period in human history. Providing jobs for these people will require the construction of tens of thousands of factories, all of which will require energy in some form. Many will use petroleum either as an energy source, as a raw material, or as both.

Much of the world's petroleum is used to heat homes, offices and factories in the advanced industrial countries, a need that ranks on the list of government priorities. Long gas lines at service stations in the United States in the spring and early summer were due in part to Washington's decision to set aside enough petroleum to insure adequate supplies for this winter's home-heating needs. Reducing automobile use may be inconvenient, but running out of home-heating fuel where winters are severe can be disastrous.

While in many industrial countries the choice is between using oil to heat homes or to run cars, in many third world countries the choice is between kerosene for cooking and gasoline for automobiles. As third world population pressures have intensified, and as forests have begun to disappear, both villagers and urban dwellers have turned to kerosene for cooking. Kerosene use in Asia is now fully two-thirds that of gasoline. In Sri-Lanka, where kerosene is widely used as a cooking fuel, the Government has responded to higher oil prices by sharply raising the price of the gasoline fraction of the output of refineries in order to discourage the use of gas as well as to hold down the price of kerosene.

In African countries where the forests are also disappearing, the demand for kerosene is growing by leaps and bounds. As the need for cooking fuel takes precedence over gasoline for private automobiles, governments will be forced to shift the refining mix toward kerosene and away from gasoline. For Africa as a whole, kerosene use is now one-third that of gasoline.

Within the transport sector itself, the automobile occupies the lowest priority. When forced to choose between cuts in freight and passenger service, governments customarily give freight priority. The movement of raw materials and goods in the arteries of commerce is essential to the functioning of an economic system, while much automobile driving is not.

The automobile's low priority compared with the other petroleum claimants means that it will absorb a disproportionately large share of any reduction in oil supplies. While there are opportunities to increase the efficiency of oil use in virtually all sectors, any government would find it difficult to reduce markedly the allocation to such vital areas as food production, industrial production or freight transport. Reductions that proved disruptive in such areas would be economically disastrous and politically suicidal.

With gasoline supplies being squeezed by both the leveling off of oil production and the low priority accorded automotive fuel supplies, there is a risk that the world aumobile fleet will outgrow its fuel supply. This may already be happening. Witness the gas lines in the United States and Turkey, the gasoline rationing recently introduced in Tanzania, the Sunday closing of gasoline stations in Japan and Brazil and the lowering of speed limits in most of Western Europe. Both those who manufacture automobiles and those who buy them would do well to proceed with caution.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished acting Republican leader, with the understanding that I do not lose the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

BERNIE BECKMAN

Mr. STEVENS. Mr. President, last evening, after the Senate went out of session, one of our good friends on the staff of the Senate Sergeant at Arms suffered a severe heart attack.

Bernie Beckman has served the Senate for over 7 years as a floor assistant to the Sergeant at Arms, and I simply want to express, on behalf of all Members on this side of the aisle, my sincere hope that he will recover and that our prayers are with him and his family at this unfortunate time.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Wisconsin, with the understanding that I do not lose my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

BILL OF RIGHTS DAY AND THE END OF HUMAN RIGHTS WEEK

Mr. PROXMIRE. Mr. President, today is Bill of Rights Day and the end of Human Rights Week. On December 15, 1791, ratification was completed on the first 10 amendments to the Constitution. Today we celebrate the strength the Bill of Rights has shown in protecting Americans' rights for 188 years.

The fact that no bill of rights was included in the original Constitution caused some of our Founding Fathers to think twice before supporting the Constitution. And within 3 years of the Constitution's ratification, the Bill of Rights was drafted and ratified as well, establishing a guarantee of liberty for each American citizen.

It is fitting that we celebrate the anniversary of this document, one that has proven at once firm and flexible. What began as idealistic principles in the 18th century have evolved into solid protections for all of us. The authors of the Bill of Rights could not have foreseen the extensive legal haggling to which it would be subjected. Constantly held up to the critical light of case-by-case scrutiny, these rights are surrounded by an ever-growing body of precedent.

As the decade nears its end and we prepare for the 1980's the Bill of Rights will have a special relevance. Our rights will remain intact as 1984. Orwell's global doomsday for individual rights, comes and goes. The rights of Americans are secure. And even as we keep a constant vigil on our own rights, we are trying to help others around the world build and add to their own.

The Bill of Rights bears an interesting parallel to its global counterpart, the Universal Declaration of Human Rights. Just as the establishment of the Bill of Rights followed the Constitution, so was there a hiatus between the ratification of the United Nations Charter and the Universal Declaration. Neither document was an afterthought; rather, each served to complete the document that preceded it. Both stand for the birthrights of individuals and are exemplary of the human rights awareness that has grown around the world, especially in this century.

The Universal Declaration of Human Rights was inspired by something else * * * something terrible. Both documents followed and were influenced by long and devastating wars. The first was a war of national liberation. And one was a war to thwart the designs of a genocidal maniac.

The broad human rights goals of the declaration were intended to be implemented by conventions in specific areas. The first of these is the Genocide Convention which embodies the spirit of the Bill of Rights and the Universal Declaration of Human Rights.

In many ways it is the most basic, guaranteeing the most essential of human rights—the right to live.

Mr. President, the Genocide Convention set the cornerstone for international human rights law and I can think of no better way to commemorate Bill of Rights Day and Human Rights Week than through ratification of this important human rights covenant.

The time for ratification of the Genocide Convention is now. We have already waited far too long.

CHRYSLER

Mr. ROBERT C. BYRD. Mr. President, the Senator from Connecticut (Mr. WEICKER) is now on the floor.

Mr. President, I have stated that it was my intention to proceed to the consideration of the legislation dealing with the Chrysler problem before the Senate adjourns sine die for the session.

I have also indicated that it would be my intention to finish action on the excess profit tax bill and then go to the treaty, except for the fact that the Chrysler legislation appears to be very emergent in nature and, therefore, that there would be an opportunity for the Senate to act on that bill.

I have not made a final decision with respect to the legislation. I understand that there are various versions floating around and amendments being considered, and so on. But I feel that I do have a responsibility to do whatever I can to get this bill up and have the Senate act upon it one way or the other.

Mr. President, I understand, from reading the newspapers, that Mr. WEICKER intends to filibuster the legislation, and that is his right, of course, to utilize the rules to whatever advantage he may seek.

I also know that he has been on the floor the last 2 days—not today, but he was on the floor yesterday and the day before—and objected to my request that the Journal of the proceedings be approved to date.

This morning, the distinguished acting Republican leader objected to the approval of the Journal on behalf of Mr. WEICKER.

So there was every indication that Mr. WEICKER intended to filibuster on the motion to proceed.

I intend to move in just a moment to proceed to take up S. 2094, but I wanted Mr. WEICKER to be on the floor before I made that motion. He is here now, and I am delighted to proceed.

Before I proceed, Mr. President, if the distinguished Senator from Connecticut (Mr. WEICKER) wishes to say anything in response to what I have stated, I will be glad to yield to him for that purpose, and for that purpose only.

Mr. WEICKER. Mr. President, it is a little bit disheartening to understand that the intelligence information of the distinguished majority leader comes from newspapers rather than from his own firsthand knowledge of what is going on here.

I do not think I have ever indicated that I would use a term that the distinquished majority leader uses, filibuster.

I did make the statement that I felt that a $1.5 billion matter was not going to be something that was rushed through the Senate under the threat of people not getting home for Christmas.

This tactic is typical, as I have expressed myself, of the MO of the distinguished majority leader.

I feel if this is a matter of such importance, and I feel that a $1.5 billion Federal bailout of a private business is just that, that it certainly should receive the consideration worthy of the talent on this floor. At no time have I indicated anything other than that.

The fact is that we also have some rather important legislation before us.

I am not prepared to go ahead and say that we should divert our attention to another matter while we have that matter in front of the U.S. Senate.

My response to the majority leader is, everything in due course. I do not think I particularly care to get bulldozed by his style of operation into a quick decision on 1.5 billion dollars worth of taxpayers' funds to finance what is a political deal.

In that regard, the flow of legislation is entirely within his control, in the sense of applying our best efforts and the best minds of those who sit on both sides of the aisle to the problems at hand.

I believe that is all I insist upon. Beyond that, let us see where we go. We do not have the legislation before us. That is what surprises me. I know, not from reading the newspaper but very frankly from contacting colleagues on the House side, that we have three versions of this bill being considered. Do any Members know what it is that they are being asked to pass upon this evening? Never mind the fact that we have three versions of the bill. There might be another point of view that there should be no bill at all.

I am not prepared to fight the battle on those terms, that there is a choice between three versions of a bill.

Some people feel, in fact about 75 percent of the American people, regardless of the wishes of the majority leader, that a Federal bailout is not a proper subject for $1.5 billion of our taxes. I do not know what the effect is, insofar as the budgetary aspect is concerned, of this $1.5 billion bailout. All I am saying here today is that I think it is worthy of your careful attention.

I plan to oppose it. Yes, I am opposed to any bill. But I also think that, as with everything else I have done out here, I expect to bring an element of reason to that opposition.

Now, if somebody is panting to bring something to the floor, to the exclusion of the determination of my colleagues, I am going to oppose it. If somebody is panting to bring something to the floor under the threat that we will be deprived of those normal times when we get together with our families you all go home; go home and enjoy those times. I am going to stay here. I can assure the Senate that there will be plently of time for judging this matter—not under threats but in terms of common sense and logic and the facts that happen to be involved in this case.

There is my response. I can assure you that it will always be a reasoned response throughout the debate, vis-a-vis the subject matter of the debate. It will never be subject to the pressures of either partisanship or the power of the majority leader.

The PRESIDING OFFICER (Mr. PROXMIRE). The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, the majority leader does not have much power. This business about the power of the majority leader—I wish I had some power. I think I would know how to use it. One of the attributes of real power is the knowledge of when to use it and when not to use it. I trust that I would know when to use it and have the good judgment to know when not to use it if I had power.

I do not intend to engage in a diatribe here with the distinguished Senator from Connecticut. I am not going to; I am not interested in engaging in the kind of discussion that is attributed to me. I have made no threats. Anybody can look at the calendar and see what day Christmas comes—the 25th of December. Anybody who wishes to be fair and reasonable understands why we are in session right now. They understand.

I said many months ago that we would try to clear the decks to take up the energy legislation—the Energy Mobilization Board legislation, the omnibus energy bill, the energy tax bill—and then the treaty. I also said, when the Chrysler situation emerged, that the Senate would certainly try to find time to deal with any emergency legislation. So I have had to deal with the situation as I have found it.

The Committee on Energy and Natural Resources worked diligently to bring out the energy legislation. That committee thought that it would be able to bring out that legislation before the August recess, but it became evident at that time that the omnibus energy bill had budgetary implications that required the study by that committee of several weeks. Mr. Muskie indicated that both he and Mr. Bellmon felt that a task force ought to be appointed by the Committee on the Budget to study the budget implications of the energy bill. It could not be done in a matter of days; it would require a matter of weeks.

Mr. Ribicoff indicated that there were some factors involved that would be under the jurisdiction of his Committee on Governmental Affairs. Mr. Randolph indicated that there were environmental problems.

Well, that is pretty much common knowledge to most people around here. So that bill could not be expedited any more hastily than was done. I compliment the distinguished chairman of the committee (Mr. Jackson), and the ranking member and the members on both sides who are on that committee. They brought out the Energy Mobilization Board legislation, the omnibus energy bill.

The energy tax bill was in the Finance Committee for months. Any high school student knows that tax bills, revenue-raising bills, have to be originated in the other body. We cannot originate those bills over here. They have to start in the other body. So the committee obviously had to wait on that legislation to come over from the other body before it could begin to act.

There were those who said the energy tax bill was dead before it was ever even sent up to the Hill. Under the very wise and skilled managership of Mr. Long and Mr. Dole, the committee reported out a bill and the Senate took up that bill as soon as it could be taken up.

Now, the Chrysler situation cries out for action. I have not said what I shall support. The "wishes of the majority leader" have nothing to do with the substance of the legislation. At this point, as I indicated, there are various ideas floating around. What the final substance of the bill will be, I do not know. Whether the Senate will approve a bill, I do not know. But I do say it is my duty as a majority leader, and I was elected to this post by my colleagues on this side of the aisle—and they can make a different choice any time they wish to. I shall call a caucus any day my colleagues on this side of the aisle want to choose another leader. They can do it.

Talk about the majority leader having power. My friends on this side of the aisle will determine the length of the term of this majority leader unless, by an act of God, it is cut short otherwise.

I think it would be recreant of the Senate and recreant of this majority leader if he failed to do everything within his power to bring this bill up for action.

The Senator from Connecticut has talked for days about threats, threats, threats. I did not wait for the Senator from Connecticut to leave the floor. I never responded to him. Ample response was made by a Member on his side of the aisle (Mr. Dole). I do not care to carry that any further, except to say that he has repeated this business tonight about threats.

I have issued no threats. Who is threatening the Senate? I have not threatened the Senate with a filibuster.

Mr. WEICKER. Will the distinguished Senator yield?

Mr. ROBERT C. BYRD. I will in a moment.

Mr. WEICKER. Would he like to——

Mr. ROBERT C. BYRD. I will yield in a moment.

Mr. WEICKER. Mr. President——

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. Mr. President, I have not threatened the Senate with a filibuster. I went to the Senator and said, "I understand you are going to filibuster this. Instead of many filibusters, how about letting us have one filibuster on the bill itself?"

Mr. WEICKER. I recall no such conversation with the Senator from West Virginia.

Mr. ROBERT C. BYRD. It occurred right there.

Mr. WEICKER. I ask the Senator from West Virginia where——

Mr. ROBERT C. BYRD. Mr. President, I do not yield for 1 moment.

Mr. WEICKER. You do not yield for logic.

Mr. ROBERT C. BYRD. I will not shut off the Senator. I will give him every opportunity. I will not talk behind his back. I will talk right here and I will give him every opportunity to respond.

I asked him if he would avoid putting the Senate through a filibuster on a motion to proceed. And I asked him to at least think about it—at least think about it.

If we are going to have a filibuster. Let's just have one.

I asked if he could just think about it. We stood right there on the floor, right in front of Mr. Stevens' desk. And he indicated that he would think about it.

So, Mr. President, as far as threats go, the threats that confront this Senator are the threats of not just one filibuster, not two filibusters, but any number of filibusters, whatever may be the potential.

Finally, Mr. President I do not have to respond to statements about panting, panting, panting to take up legislation.

I now yield to the distinguished Senator, with the understanding that I not lose my right to the floor and for the purpose of a statement only or a question only.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. WEICKER. I would not particularly worry, if I were the distinguished Senator from West Virginia, about any rules in this Chamber. Those were basically all tossed over the other night on the basis of his power.

I would be glad to apologize to the Senator from West Virginia if he can produce before this Chamber one statement, either in the Record of this Chamber or in the media, where this Senator—where this Senator—is directly quoted as saying that he would filibuster the Chrysler legislation. The distinguished majority leader has made the statement. He has made the statement; I have never made it.

I made the statement in the committee hearings on the Chrysler matter, in response to a statement, I believe, and I am not positive, of one the Senators from Michigan who made the statement during the hearings, that, obviously, the matter would receive some further extended debate during the course of floor action. Yes, indeed, there will be such debate. Therefore, it was pointless to continue a great amount of discussion before the committee.

That is the only comment that could even be interpreted as indicating a filibuster.

Now, I remember the incident the distinguished Senator from West Virginia talked about. In some jocular manner here on the floor he asked me. Well, all I said, it was Christmas, anything is possible. He said, "I hope the Senator will not delay us on Chrysler."

There was no reference to a filibuster, even at that time.

Why were we not all in session when more than 200 businesses in my State of Connecticut went out of business last year? And I sit as the ranking member of the Small Business Committee.

Why not then all the rush to go ahead and achieve some sort of equity and some sort of fair judgment for them?

Why the pressure? Because Chrysler is the 10th largest corporation in the United States? Because the sitting President wants to have an accommodation with the UAW for his renomination and reelection? Certainly a bailout can not be justified on the basis of the facts.

Does it deserve all the powers on the other side of the aisle?

To me, one company going out of business, unemploying one person who has a family to feed, is as important as the Chrysler Corp. Both deserve equal treatment from the Senate.

All I have indicated here today is that. I am not going to allow us to pass on Chrysler legislation in a matter of 24 hours, or 48 hours.

None of the Senators know, as I do not know, what it is we are finally being asked to pass upon.

The reason for the necessity of this colloquy this evening is the fact the energy bill has run too long and now there is a time bind. But that is not the reason for passing, or for rejecting, a particular piece of legislation.

I think we have both expressed ourselves on the matter with as much substance as probably ought to be discussed here this evening.

I can assure Senators that I do not think the Chamber did itself any great justice or did it achieve any great marks the other evening in a raw display of power. I would hope that this will not be the case for the Chrysler legislation, but, rather, this issue is resolved in the normal course of events.

I am perfectly satisfied, that when Chrysler comes up, we will all be debating the merits of whatever is before us.

I may have my differences on the substance of this matter. I have no doubt we will get to that point. But a $1.5 billion or $1.25 billion bailout in the closing minutes, in the waning minutes of this session—no. That I am not going to permit.

I have called time and time again, in a variety of matters, for some relevance between what it is this Chamber deems important and what it acts upon, and that which the American people feel important, and that which they ask action upon.

For years—for years—no energy policy, no conservation, no production. No energy policy for whatever the excuse. Yet, in a matter of days, we are going to attend to Chrysler.

God, if we attended in a matter of days to our energy policy, those 50 people would not be hostage in Iran.

No.

I do not know what form my opposition is going to take yet. I really, truly, do not.

But do I think this is an important matter, both in terms of money and in terms of principle? Yes.

If you deliberated as long as you have—we have—on the matter of energy, then certainly we can spend a few days on the Chrysler matter, both in terms of its importance in dollars and in terms of its importance to the concept of free enterprise.

I am sorry if somebody's politics will be "bugged" up. I am sorry if somebody's leadership is going to be impeded. I am sorry, gentlemen, both on this side of the aisle and the other, that the holiday, your holiday schedule is going to be—I know the word I would like to use—but that your holiday schedule is going to be ruffled around a little bit.

But the answer is that at this juncture I do not intend to get rolled by the majority leader. I intend to use my head, my brains, to do what I think is right.

Believe me, when the record book is spread out, with the exception of the Lockheed matter in which I joined with Senator PROXMIRE and Senator Taft, I never engaged in a filibuster.

If Senators want to take a look at the record of filibusters, then please look to my friend over here on the other side of the aisle. Do not look to the Senator from the State of Connecticut.

(Mr. LEVIN assumed the chair.)

Mr. ROBERT C. BYRD. Mr. President, I am delighted the distinguished Senator, if I interpret what he has said correctly, does not intend to engage in any filibuster.

He has every right to oppose the bill, oppose any amendments that are called up to it, and he has a right to engage in a filibuster. He has a right to utilize the rules.

But if he is going to engage in a filibuster, it is not my intent to roll him over.

I do not know that I have ever rolled anybody over around here. I have been rolled over a few times myself.

But I get up each day and think I have a new day and forget yesterday.

If this majority leader went around harboring grudges, I would never have any support in the effort to keep the legislative process moving.

Every other Senator has that luxury. Senator HUDDLESTON, if he wishes to, may carry a grudge against another Senator and say, "I will get even with you one day. When you have an appropriation you are interested in, I will vote against it."

Senator JACKSON can do the same.

I do not have that luxury because I always have to remember that there is going to be another vote down the road, and even though a Senator will not support me on this bill, I always try to keep in mind that there is another bill coming and he may be the very Senator who will provide a majority vote on that one.

So I do not have the luxury of rolling anybody over, or carrying any chips on my shoulder.

So I am very content to let bygones be bygones. But, naturally, I have the feeling that any other Senator has who stands on the floor and someone criticizes him unduly, I like to at least be able to defend myself.

So far as I am concerned, I am not interested in carrying on a heated debate with the distinguished Senator from Connecticut. I have no vendetta against him. I never have done him any harm that I know about. I never have spoken an unkind word to him on this floor. I have done him a few favors and may do him a few favors again. Not once have I done a wrong to the Senator from Connecticut. I have never said an unkind word to him on this floor, in front of him or behind him. Any time I ever have any criticism of him, I will ask that he come to the floor so that he can respond.

So I have no ill will against the distinguished Senator and if he carries on a filibuster, I do not have any ill will against him.

The master of carrying on filibusters was the late Jim Allen, and I guess he was one of the best friends I had in the Senate. We had very heated clashes. They were never personal. I was always the Senator who had to do the spear carrying in those days.

I knew I was up against a Senator who knew the rules, who was courtly in the use of them, who never sought to take advantage, and who was a gentleman. But we did not carry those feelings from the floor.

Each day, when the doors closed, we walked out there with our arms around one another. Many is the time he said to me, "Bob, I love you"—in those exact words.

We can have filibusters, we can have heated clashes on this floor, without becoming personal.

We cannot operate in the Senate if we are going to be personal, if we are going to make little personal digs.

If I have done the Senator any wrong, if I have ever been unfair to him, if I have ever said an unkind word to him on this floor, if I have ever attacked him here, I am ready to apologize.

The Scripture says:

> No man, having put his hand to the plow, and looking back, is fit for the kingdom of God.

So I am not interested in looking back. I hope the Senator will get away from this business of referring to threats and power and "m.o." modus operandi—and all that business.

I would rather let bygones be bygones. If the Senator is not going to filibuster, I would like to ask unanimous consent that the Senate proceed to the consideration—I had thought he was going to filibuster. I thought that was why he objected to the approval of the reading of the Journal each morning—and based on our discussion here and based on the headlines, I believe, in the Star one day, that he was going to carry on a filibuster. I did not see a retraction from the distinguished Senator, so I had every right to believe that.

But that does not cause me to dislike the Senator, because he wants to filibuster. I have been engaged in many filibusters here. I have been engaged in a few myself.

Mr. PROXMIRE. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. I yield. To the distinguished chairman, I should yield. I will yield in a moment.

I will come more than halfway across the aisle and shake the Senator's hand.

Mr. WEICKER. I am delighted to shake the Senator's hand. I am delighted to agree with him on the sense of what is proper on this floor.

Mr. ROBERT C. BYRD. I have never said a word of harm to him, and tonight I am willing to love him as I love every Member of this body.

Mr. WEICKER. Merry Christmas. [Laughter.]

Mr. ROBERT C. BYRD. The same to you.

Before I make my unanimous-consent request, I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I simply want to say to my good friend, the majority leader, that this bill has had two sessions of hearings. We had one session in which we went into considerable study of the Chrysler situation—the economic effects, and so forth. That lasted for some time. We had a second session of hearings on the bill that was before us, which lasted for 6 days, morning and afternoon.

So we have a very solid record on this. It is not as if the Senate is being presented with something that has not been very carefully debated, discussed, and considered by the members of the Committee on Banking, Housing, and Urban Affairs.

I agree with the sentiments of the majority leader and the sentiments of the Senator from Connecticut that this bill should be debated thoroughly and carefully on the floor. It is an extremely important bill.

As I have told the majority leader, I hope we can handle it in a matter of several days, because it is not as complicated as the bill we have pending at the moment. I think we can do full justice to the bill in a matter of 3, 4, or 5 days. I cannot understand why we should have more than that, particularly in view of the fact that the committee has explored this matter in great detail, meticulously. We have had a number of witnesses on both sides of the question; they have been cross-examined; and they understand that the record is now available to all Senators.

So I hope we can proceed in a deliberate way and with reasonable promptness.

Mr. ROBERT C. BYRD. I thank the Senator.

Mr. President, I do not want to proceed in any fashion, if I can avoid it, that appears to be other than by unanimous consent. I prefer to go that way. I do not seek to do this except to get the Senate onto the bill in due time, let the Senate debate it, and if the distinguished Senator from Connecticut wants to debate it, he can do so as long as he wishes. He can stand on his feet as long as other Senators. I may have to offer a cloture motion at some point, but I think that would be my duty. I do that with some of my colleagues here sometimes.

Mr. President, I ask unanimous consent that upon the disposition of the excess profit tax bill, the Senate proceed to the consideration of S. 2094, a bill to authorize loan guarantees for the benefit of the Chrysler Corp. This will leave the bill open to debate. It merely will assure that the Senate, upon the disposition of the excess profit tax bill, will immediately go to the consideration of that measure.

The PRESIDING OFFICER (Mr. PROXMIRE). Is there objection?

Mr. WEICKER. Mr. President, reserving the right to object, I only say this, at this juncture: I appreciate, deeply appreciate, the reconciliation at the initiative of the distinguished majority leader of our differences here on the floor. Those are behind us.

Obviously, I have to think about this matter, and I would object to this unanimous-consent request. But I want to make it clear that it is not the type of objection which disregards what the majority leader has said.

It is late on a Saturday evening. We are going to be here on Monday. I will be more than glad to sit down with the majority leader and discuss this aspect of the situation.

I really have in my mind a debate as to whether or not I particularly care to impede in any way the motion to proceed. I just do not want to be forced to that decision here this evening.

Therefore, though I may object, I want to make it clear that this is a matter I want to think about and that I am perfectly willing to discuss.

Mr. ROBERT C. BYRD. I will be happy to discuss it with the distinguished Senator. I only have to say this: If we discuss it on Monday and then the distinguished Senator will not allow me to bring it up by unanimous consent, then I will have lost a day in the attempt to bring up the measure. I would much prefer to get the bill up without a filibuster on the motion to proceed.

Mr. WEICKER. The difficulty with that is that, obviously, I have to inject a point of order. The rules are very clear as to a motion to proceed to the consideration of a bill, resolution, or report. I do not want to do that. Let us not get into another parliamentary hassle here. I think the rule states very clearly that it cannot be done today.

If we want to start the fight now, then I have to start to use all the tools at my command now. Obviously, we are going to go to rollcall votes now. I hope that will not be the case.

Whatever I say, I also say out front. That probably is the failing of the Sentor from from Connecticut, whether it is on the floor or anywhere else.

When I say that I am willing to consider this matter—and, indeed, I have been debating from a practical point of view as to whether or not I care to call on votes, wherever they may exist, on the point of order. That is a real question in my mind.

If the Senator forces me here now, I will object for the reasons I have stated.

Maybe the Senator knows something I do not know. But unless we get into another one of these strange rulings, rule XXVI is clear on what we can do here vis-a-vis this motion.

Mr. RIEGLE. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. RIEGLE. Many of us, of course, have a deep interest in the problems. Having served on the Banking Committee, going through the hearings that the chairman has described over some period of time, it would seem to me that the issue of allowing the motion to proceed is the most elemental step in being able to at least examine the question.

I will wait until the Senator from Connecticut is free because I wish to engage him on the issue.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. TSONGAS. Mr. President, will the Senator yield?

Mr. RIEGLE. May I have the attention of the Senator from Conecticut?

Mr. ROBERT C. BYRD. Mr. President, I yield for that purpose only.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. WEICKER. I apologize.

Mr. RIEGLE. I wish to just say to the Senator from Connecticut that it seems to me that the motion to proceed, which lets us bring up the issue is an elemental step. The Senator has a strong interest in it, I certainly do, and certainly most of our colleagues do. I must say it escapes me as to why it is that we would have to postpone the decision as to whether or not we can decide just to proceed. It seems to me that the Senator's rights and everyone else's rights are fully protected down the line. If there is a need or a desire for an extended debate certainly that can happen at the point at which the substance of the legislation is before us.

But it seems to me as to the most elemental question, namely, the question of deciding just to proceed when we finish the bill that is before us to be able to go to the Chrysler issue, I must say I am hard pressed to understand why there would be an objection to at least letting the issue come up so we could begin the discussions.

Mr. WEICKER. I will be glad to respond to the distinguished Senator from Michigan on that point.

Mr. ROBERT C. BYRD. I yield to the Senator for the purpose of making a response.

Mr. WEICKER. Regardless of whether it was this majority leader or any majority leader, as I wish to make clear my comments are not personal, I do not particularly care to fight this issue in my last trench.

Mr. ROBERT C. BYRD. Those are the exact words that the distinguished Senator used right here in the Chamber.

Mr. WEICKER. Upon reflection, that is exactly correct. The Senator from West Virginia is correct.

Now there comes a point where I have to balance the weight of power and by that I mean partisan and legislative power, political power, on the one hand, and the merits of the situation on the other.

That is why I have said I want to study it. I think the merits of the situation are sufficient to have the Senate reject any of these proposals, although again I have to repeat we do not know precisely what proposal will finally be before us. But I want to make sure everyone understands what it is that is involved.

When I started out with the distinguished Senator from Wisconsin now in the Chair (Mr. PROXMIRE) and the Senator from Ohio, Senator Taft, on the Lockheed matter, and the Nixon administration and its advocate, Mr. Connally, were twisting the arm of everyone in the Chamber, we were not anywhere near to knocking that out of the box. We were nowhere near.

On the matter of substance, we finally lost by one vote, but it did take a little bit of time to educate people and it was a very complex matter.

Believe me, Chrysler is complex.

If, for example, I were given 24 hours to explain why it should be rejected, does the Senator think that would be enough? Or 48 hours, or 72 hours?

All I am saying here this evening late on a Saturday night is that my concern right now with this procedural move, admittedly, is where do I take the stand? Where do I feel that I am sure that I am going to have enough time to explain why it should be rejected as a matter of substance? I do not want to be unreasonable. Forget the Senator's side of the aisle. I think I have problems with that on my side of the aisle because I think I have a lot of Senators on this side of the aisle who substantively are opposed to Chrysler but probably would not support me on this procedural motion.

These are the same thoughts—I am sort of laying out the thought process to the whole world as to what runs through all our minds on any issue.

Mr. RIEGLE. Mr. President, will the Senator yield at that point?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. ROBERT C. BYRD. There will be ample time to debate the substance. I wonder if the distinguished Senator from Connecticut will agree. I am certainly willing and will be happy to sit down and talk with him on Monday about the bill to see if we can work out some procedure whereby we can take the bill up.

I hope he will not object, and I will not press the request. I hope he will not object to the request that I made a moment ago, that upon the disposition of the excess profits tax bill, the Senate go to S. 2094, the Chrysler legislation. This would give him ample opportunity once we went on to debate it. I would be happy to ask that.

Mr. WEICKER. Mr. President, if the distinguished Senator will yield, all I am saying to him is I wish to sit down with him on Monday morning and discuss this matter, and I can honestly say—I will not pull one. As far as what is in the back of my mind, it is 50 to 50—no better. I am not sure that is my strongest wicket. I may not want to go outside on something that does not relate to the basics of the issue when I do not have the facts on my side. I am expressing this. I do not wish to be pressed here on this point tonight. That is the only point I am making.

If I had it firm in my mind that I was going to oppose them. I would tell them.

Mr. ROBERT C. BYRD. I hope the Senator will not point his finger at me. People in the galleries will think he is angry with me.

Mr. WEICKER. I mean this in a friendly way. I am not pointing my finger at him. I am saying I hope the point will not be pressed. I do not think any time is to be gained, frankly. He and I can discuss it on Monday.

What he is asking here is probably going to happen anyway. Let me put it this way. I have no objection on my side of the aisle—maybe others do—to show my good faith in the matter. I wonder if the distinguished Senator from Alaska will listen to what I am about ready to say.

Others may have objection, and I have already lodged objection with my leadership, over a time certain for final disposition of the windfall profit tax.

Obviously, if I can go ahead and use the football terminology—throw the line into the backfield—that is as an effective way to stop a play as anything else.

Mr. STEVENS. Mr. President, will the Senator yield to me right there?

Mr. WEICKER. Let me finish.

Mr. STEVENS. Will the Senator yield to me for one observation?

The PRESIDING OFFICER. The Senator from West Virginia has the floor.

Mr. STEVENS. Will the Senator yield to me for one observation? I wish to sort of work this out if I can.

Mr. ROBERT C. BYRD. No. I think it is on the way of being worked out. I wish to hear the Senator finish what he is going to say.

Mr. WEICKER. It is simple. I would withdraw my objection to a time certain on the final disposition of the windfall profit bill. I am saying I cannot speak for the rest of my side on that point. But I would be glad to go ahead and withdraw my objection. Then I hope, as I said before, we would not proceed on this other matter in the hopes that we could talk this out on Monday.

Mr. TSONGAS. Mr. President, will the majority leader yield?

Mr. ROBERT C. BYRD. Not at the moment.

Let me finish this and then I will be willing to yield.

I am willing to go the extra mile with the distinguished Senator and I will sit down and talk with him on Monday.

Will he object to a unanimous-consent that I shall make now that the Journal be approved to date?

Mr. WEICKER. Yes.

Mr. ROBERT C. BYRD. Will the Senator object to that?

Mr. WEICKER. No.

Mr. ROBERT C. BYRD. All right.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of Proceedings be approved to date.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, will the Senator yield to me now?

Mr. ROBERT C. BYRD. No, I wish to have the attention of the distinguished Senator from Connecticut

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in adjournment for 1 minute, provided, further, that there be no morning business following the adjournment, provided further that no resolutions come over under the rule, and that that request being granted the Senate will resume the consideration of the unfinished business.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object.

Mr. ROBERT C. BYRD. That will put us out for tonight. I will keep my word to the distinguished Senator from Connecticut about Monday. I will greet him with joy and embrace him with great warm feeling and hope that we can agree on a time and an MO by which we can get to the consideration of the Chrysler bill.

I think this is the way. This is the Christmas spirit.

Mr. JACKSON. And the Senator is wearing his red jacket.

Mr. ROBERT C. BYRD. And I am wearing my red jacket, and I wish to get on to the Christmas party that I am having for my staff.

Mr. STEVENS. Mr. President, reserving the right to object.

May I suggest to my two friends that, perhaps, we might make an agreement that would be that the Senator from Connecticut would have the weekend to consider, but if he decides to object on Monday that the motion of the majority leader on cloture would have been deemed to have been filed on Saturday?

Mr. ROBERT C. BYRD. That would be fine with me.

Mr. WEICKER. No. Whose leader are you? No. [Laughter.]

Mr. STEVENS. You have the time to work it out if we are going to get to the timeframe anyway, the same timeframe.

Mr. ROBERT C. BYRD. I do not think everyone should laugh at that. I think the distinguished acting Republican leader was speaking of the cloture motion on the motion to proceed.

Mr. STEVENS. That is all.

Mr. ROBERT C. BYRD. Not on the bill itself. So the distinguished Senator would be giving away nothing.

Mr. WEICKER. No, but the answer is I was satisfied with the way matters were presented in the first instance by the majority leader, fully understanding this was not some sort of a ploy to get over the rule that I was citing.

I just want to make certain we have a chance to discuss this matter on Monday and that we are not all of a sudden tonight after 5 minutes of adjournment going back into session.

Mr. ROBERT C. BYRD. Mr. President, I can assure the Senator I have nothing like that in mind.

Mr. WEICKER. That is wonderful.

Mr. ROBERT C. BYRD. I will sit down with him on Monday and discuss this.

I think things have taken a pleasant turn. I really believe there is a Santa Claus, and I hope the Senate will agree to my request.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Would the distinguished Senator from West Virginia merely restate the unanimous-consent request?

Mr. ROBERT C. BYRD. Yes. That the Senate stand in adjournment for 1 minute; that the reading of the Journal, because I would have to do that anew upon the adjournment, the reading of the Journal be dispensed with; and that there be no morning business; that nothing come over under the rule, rule XIV, and that nothing at the desk proceed to second reading; and that the Senate, upon coming back in after the 1 minute, stand in recess under the order until 10 o'clock on Monday morning next.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object, Mr. President, there will be no motion to proceed to the Chrysler matter?

Mr. ROBERT C. BYRD. No. Once we go into adjournment and come back the Chair will automatically recess us.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ADJOURNMENT

There being no objection, the Senate, on Saturday, December 15, 1979 at 7:13 p.m. adjourned until 7:14 p.m., the same date.

AFTER ADJOURNMENT

SATURDAY, DECEMBER 15, 1979

The Senate met at 7:14 p.m., pursuant to adjournment, and was called to order by the Honorable WILLIAM PROXMIRE, a Senator from the State of Wisconsin.

RECESS UNTIL MONDAY, DECEMBER 17, 1979, AT 10 A.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 10 o'clock on Monday.

Whereupon the Senate, at 7:14 p.m., recessed until Monday, December 17, 1979, at 10 a.m.

EXTENSIONS OF REMARKS

NATIONAL PRESS CLUB HONORS CLAYTON KIRKPATRICK

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. HYDE. Mr. Speaker, those of us from the metropolitan Chicago area take special pride when a national organization recognizes that true merit is not confined to the east coast.

Recently the National Press Club bestowed its prestigeous Fourth Estate Award to Clayton Kirkpatrick, president and chief executive officer of the Chicago Tribune Co., and Mr. Kirkpatrick's remarks on that occasion are worth my colleague's attention.

They are contained in a news story of December 12, 1979 published in the Chicago Tribune as follows:

PRESS UNIT HONORS TRIBUNE PRESIDENT

Clayton Kirkpatrick, president and chief executive officer of Chicago Tribune Company, honored Tuesday night with the National Press Club award for "outstanding contributions to journalism," said newspapers face major challenges in the future.

In accepting the 1979 Fourth Estate Award at a dinner in Washington, Kirkpatrick said, "I want to affirm my faith in the printed word and my belief that news will be printed on paper and distributed to readers for decades to come.

"The sun is not setting on the American newspaper."

He warned, however, that daily newspapers "have failed by a wide margin to keep up with the growth of their potential audience."

Citing census, circulation, and advertising figures from 1960 to 1975, he noted that daily newspaper circulation grew by 5 per cent and Sunday newspaper circulation by 10 per cent while circulations of news magazines, all magazines, weekly newspapers, and paperback books at least doubled the 25-percent increase in population of age group 18 to 64.

During that same 15-year period, he said, the number of American households increased by 35 per cent and households with television sets increased by 50 per cent.

Circulation gains by periodicals and paperbacks belie the belief that people "cannot read or do not read as much as they once did," Kirkpatrick said. The contention that newspapers have lost readers to television has also been refuted, he said, because "marketing studies show that people who watch television news are also avid newspaper readers."

He then offered a series of questions which he said must be answered "in our quest to bring newspapers up to the audience levels we would all like to see."

Though newspaper editors and writers are better educated and more responsible, and their product is better designed and organized and less biased and personal than earlier newspapers, "have we made our newspapers too cool, too slick, too professional, too impersonal?" Kirkpatrick asked. "Have we laundered the smell of humanity out of our newspapers?"

Questioning how aggressively newspapers react to competition, Kirkpatrick suggested that with the decrease in competing metropolitan papers, "the fires of competition have cooled somewhat now," and newspaper reporters don't see TV reporters as a threat even though TV has made dramatic inroads in areas such as investigative reporting, "which print journalists have regarded as impregnable fortresses for newspapers."

Another major question newspapers must answer, he said, is "Do we serve our reader very well as a customer?" Citing the time factor in competition with "the lightning speed of electronic communication," Kirkpatrick said, "Improved delivery might be the biggest factor we can identify in increasing the audience for newspapers."

Despite their problems, he said, most newspapers are prospering and setting new records for advertising revenue each year.

Their best hope for the future is that "while talk may be cheap, there is something precious and valuable about the printed word," he said, adding, "The authentic demagogues of my generation could write nothing worth reading."

Among those making introductory remarks was Stanton R. Cook, publisher of the Chicago Tribune. He said of Kirkpatrick—who started as a reporter, and has been city editor, managing editor, executive editor, and the editor of the Tribune—"He more than anyone else was responsible for the changes and adaptations that have kept the paper in tune with its audience and with society."●

CARRYOVER BASIS AND THE BAR

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. CONABLE. Mr. Speaker, the issue of carryover basis has been with us for 3 years now. Tax lawyers have had to face its complexity, and they now provide us with their view. It is nearly unanimous; those who must work in this area have frequently expressed their view that carryover basis should be repealed. Such a repeal is attached to the Senate version of the windfall profit tax as a defense against a promised Presidential veto.

It is interesting that most nonlawyers assume that members of the bar favor complex laws; that makes lawyers more important. But every single State bar association that has taken a position on this issue favors repeal. This is so because lawyers it seems are concerned with the administrability of our legal system. A system which cannot be administered obviously will not be respected, and society pays a great price in that situation.

When the Ways and Means Committee held 1 day of hearings on carryover basis last month, not a single representative of a State bar association was allowed to testify. So it seems appropriate to use this forum to make Members aware that 37 State bar associations support immediate and total repeal. Not one State bar association favors the retention or "cleanup" of carryover basis.

The associations involved are:

STATE BAR ASSOCIATIONS FAVORING TOTAL REPEAL OF CARRYOVER BASIS

Alabama, Alaska, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, and Mississippi.*

Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Wisconsin, and Wyoming.●

THE INTERNATIONAL OLYMPIC COMMITTEE POLITICIZES THE 1980 OLYMPICS BY ITS TREATMENT OF THE REPUBLIC OF CHINA OLYMPIC TEAM

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. KEMP. Mr. Speaker, I am deeply distressed over the increasing politicization of the Olympic games.

During the last decade, we have seen the games misused as a political forum to promote ideology and values contrary to the principles of brotherhood, traditions of fair competition and the universality on which Olympic competition was founded.

The most recent example of this disturbing trend is the International Olympic Committee's (IOC) decision to instruct the Republic of China Olympic Committee to abandon its national identification by changing its name to the Chinese Taipei Olympic Committee, to adopt a new flag and a different anthem as conditions for continuing competition in the games.

Announced last month, the decision clearly indicates that the IOC, under the leadership of Lord Killanin, has caved in to the pressure of the Peoples Republic of China which dropped out of the IOC in 1958.

Since 1975, the mainland Chinese have been seeking reentry at the expense of the Republic of China and at the same time insisting that the Taiwan athletes be treated as a contingent from the mainland government.

As one who competed in amateur athletics and played professional football for 13 years, and as a former member of the President's Commission on Olympic Sports, I am convinced that the victims of this political squabble are the Republic of China athletes. Years of disciplined training and hard work as well as their pride will be lost if the IOC's decision is allowed to prevail.

Mr. Speaker, I cannot comprehend

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* Indicate Tax Committee position.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

how the IOC can consider its decision proper, and not purely political. The Republic of China has not broken any IOC rules. It is only necessary for Taiwan to belong to five of the IOC's possible 26 sports federations to maintain Olympic eligibility. The Republic of China Olympic Committee is officially recognized by 15 of the 26 federations which makes the IOC's decision totally arbitrary.

This unjust decision reaffirms my belief that the integrity of the IOC's governing body began crumbling when the Trudeau government in Canada insisted that the Republic of China change its name as a condition for participation in the 1976 games in Montreal.

The Republic of China Olympic Committee is taking the new demands of the IOC very seriously. On November 15, legal counsel representing the Taiwanese filed suit in Lausanne, Switzerland, charging the IOC's executive board with violating the IOC charter and acting in a discriminatory manner against the Republic of China Olympic Committee.

Such an action is necessary because of the IOC's continuing politicization of Olympic events. This is a distressing commentary on how far the IOC has deviated from its traditional role of assuring fair competition.

Mr. Speaker, I commend to the attention of my colleagues to a Washington Star editorial on this travesty against sportsmanship which appeared November 28, 1979. The editorial follows:

[From the Washington Star, Nov. 28, 1979]

CHINA IN THE OLYMPICS

The International Olympic Committee's attempt to solve the "two China" problem has only one thing to recommend it. The ruling approved by a 62-17 vote comes in advance of the 1980 Games, and should head off at least some of the political unpleasantness we have come to expect on the very eve of the competition.

Otherwise, the "solution" will not appeal to fair-minded people. By making onerous demands on one rival and not the other, it does not pretend to be evenhanded.

Under the formula proposed by the IOC's executive board, athletes from the People's Republic of China will be allowed to compete under that national designation, and use their country's anthem and flag. But Olympic competitors from the Republic of China on Taiwan would have to change their name to "the Chinese Taipei Olympic Committee," and give up the use of the Nationalist Chinese flag and anthem in favor of substitutes subject to IOC approval.

What the international Olympic body has done is to accept Peking's terms for participating in the Games for the first time since the communist takeover of mainland China in 1949. In the case of Olympic competition, Peking authorities apparently are willing to let the Nationalists stay if they drop the trappings of their government's claim to the mainland. In the diplomatic field, recognition of Peking normally entails the nonrecognition of Taipei because of the Nationalists' claim to be the legitimate government of all China.

The new Olympic rule sets too demeaning a condition for the inheritors of Chiang Kaishek. They have threatened to sue the Olympic organization, but the prospect for a judicial reprieve is uncertain. The Chinese from Taiwan in that case will probably be absent from the Winter Games in Lake Placid and the Summer Games in Moscow.

Such a dreary result would recall the grim scene at Montreal in 1976, when the Canadian hosts decided to flatter Peking by making similar unacceptable demands of the Republic of China representatives. Canada relented somewhat under the pressure of Olympic officialdom, finally insisting only on a change of name for the Nationalist Chinese, allowing them their anthem and flag. But the Taiwan delegation withdrew in a huff anyway.

The Montreal Games also were marred by a boycott by African countries because New Zealand had earlier played host to a South African rugby team. It's impossible to say who will be boycotting whom at next year's Olympic gatherings, but political demonstrations are coming to be expected.

By now, the bum's rush in international affairs of both large and small moment is a familiar experience for the Nationalist Chinese. Expulsion from the United Nations and Embassy Row is only part of the story. They have also been supplanted in such organizations as the International Badminton Association.

It remains a mystery to us why the sports bureaucracies, avowedly non-political, have let themselves be drawn into such irrelevancies as who are the rightful governors of China, and what flag the athletes from Taiwan should be allowed to wave. But when they are forced to choose between rival claimants, we wish they would try harder to give each side an even break, the way good sports referees do.●

RESPECT AMERICA WEEK

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. RITTER. Mr. Speaker, I would strongly urge support for "Respect America Week," December 10–17, 1979, in every way possible to demonstrate this country's response to the events in Tehran. The world should not doubt in any way the resolve of the American people to obtain the freedom of the hostages who remain in Iran. Until the appropriate time when we can demonstrate to the Khomeinis of this world that we are not a people to be stepped on, we should show to all that partriotism and the American spirit live. I fully concur with the call from American veterans leaders for "Respect American Week." I would urge timely and responsible patriotic shows of support for the U.S. Government's demand for freedom for the hostages at this time of trial for our Nation in Iran.

Mr. Speaker, another point should be made clear to the world with respect to Americans held hostage in Iran. This is that we shall not bow to the ayatollah's terror and suspend America's commitment to morality and legality. The ayatollah's demand for the Shah's extradition runs counter to our Anglo-Saxon heritage of due process of law. The world community needs to view America as absolutely firm on this point. For Members information, I would place in the RECORD, Nicholas N. Kittrie's guest editorial in the Washington Star on this point:

THE AYATOLLAH'S TERROR AND AMERICAN LAW

(By Nicholas N. Kittrie)

The future standing of the United States in the world community will be affected not only by the success of the practical measures taken for the protection of its citizens but also by its moral and legal stance in the conflict with the ayatollah.

The world community has already been apprised of Iran's position. The ayatollah's conduct is one of the few recorded instances in the history of diplomacy when a host government has condoned and endorsed terrorism and lawlessness against those subject to its protection.

What the world community does not fully understand is why America has not responded to the demand that it surrender "the greatest Iranian criminal of all times." This refusal is not a product merely of humanitarianism, national pride and politics. The issues involved have deep moral and legal foundations.

There is nothing in international law or in our domestic law obliging, requiring or even permitting us to surrender the shah. The law of nations regarding extradition is of ancient origins. As early as 1280 B.C. a peace treaty between Rameses II of Egypt and a Hittite prince by the name of Hattusili provided for the return of the criminals of one country who were found in the territory of the other.

The first extradition treaty entered by the United States was with Great Britain in 1979. Known as the Jay Treaty, it provided only for the extradition of persons charged with murder or forgery, and only upon the submission by the requesting state of evidence sufficient to have such persons arrested and brought to trial in the country of refuge. Since then, we have entered into extradition agreements with more countries than any other nation:

By 1970, the United States had established extradition relations with 81 foreign states. These treaties, in the opinion of a leading non-American expert, "represent without doubt the most consistent and most comprehensible effort by any state to cooperate with other states in the suppression of fugitive criminals.

But the United States is authorized neither by treaty nor by domestic law to surrender to Iran any other Iranian found within its boundaries. "It is clear that states do not extradite criminals in the absence of a treaty or a municipal law that empowers them to do so,' says Australian extradition expert I. A. Shearer.

Even had a treaty existed between Iran and the United States, extradition could not be handled in the manner expected by the ayatollah. The summary proceedings utilized recently by Iran in its criminal cases are abhorent to our system of justice.

American law requires the requesting state to make out a alleged *prima facie* case of guilt against an alleged fugitive criminal. No arrests are allowed by our Constitution in the absence of "probable cause." The conduct charged against the fugitive must also be one that constitutes a crime in this country. Moreover, this country will not usually surrender a person charged only with political offenses or for whom a fair trial would not be possible due to political bias.

Due process of law is the most important heritage of our Anglo-Saxon background. Insistence upon government legality has distinguished this pluralistic society from other nations and has made it viable. The Watergate catharsis, to this day incomprehensible to many foreign spectators, nevertheless earned respect for America's commitment to morality and legality.

In the ayatollah's demand for the shah's extradition, we again face one of the historical conflicts between legality and expediency. It is important, therefore, that we and the world be fully aware of our position. Let us make certain that this position is widely proclaimed everywhere: for in this case the contest is between the ayatollah's reign of terror and America's due process of law.●

MORGAN MURPHY CALLS IT A DAY

HON. RICHARD BOLLING

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. BOLLING. Mr. Speaker, the following article describes a first-rate public servant whose friend I am proud to be. I have worked with Morgan Murphy for most of his 10 years of service in the House of Representatives. I know that he has made an exceptional contribution to this institution, and to this country.

We will miss him in the House, and we will miss him in the Committee on Rules.

May he have good health and a long and pleasant life with his beloved family.

The article follows:

Morgan Murphy Calls It a Day

(By Bob Wiedrich)

Once you have stood with a man in the shadow of death a few times, you get to know him very well.

In those moments of fear, you know his knees are shaking, just like yours. You know he wishes he were somewhere else, just like you. But he stands and sweats beside you. And he doesn't run.

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Our joint ventures have taken us to such diverse lands as Thailand, Laos, Afghanistan, Iran, Pakistan, Turkey, Mexico, and Western Europe.

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He has been privileged to serve the American people and they have been fortunate to have his services. He will be missed in Washington.●

THE IRANIAN HOSTAGES

HON. JOSEPH L. FISHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. FISHER. Mr. Speaker, for the past month we have been involved in a major crisis with the country of Iran. While all Americans must be frustrated and angry at the continuing crisis, these emotions must be nothing compared to those being experienced by the hostages themselves and by their families here in the United States.

On December 7, the families of the hostages made a plea on behalf of the captives in Tehran. It is a plea worth remembering and following, and I ask to include it in the Record.

Those we love are being held hostage in Iran. We wish to speak with one voice on behalf of all of them in thanking you, the American people, for your strong, steady and calm support during the last few weeks.

Today, we are asking that you let the Iranian people know that all Americans are united in calling for the release of the hostages. We are asking that you each send a postcard, or that a group of you send a petition, to the Embassy of Iran in Washington saying only:

"To the Iranian people: The American people ask that the hostages be freed immediately."

Please limit your message to these few words. This is just a simple human plea for the release of fellow Americans and a show of support for them. Collect the signatures of as many people as you can, as soon as you can, and mail the petitions or individual post cards to:

The Embassy of Iran
Washington, D.C. 20008

We thank you with all our hearts.●

THE REAL PROBLEMS OF THE 1980'S

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. HYDE. Mr. Speaker, our colleague from Georgia, Newt Gingrich had a reply to Irving Kristol's recent column on the coming decade published in the Wall Street Journal, December 10, 1979. Professor Kristol is always illuminating, which renders Congressman Gingrich's response all the more worth our study. I am pleased to share it with my colleagues:

[From the Wall Street Journal, Dec. 10, 1979]

What Will Be the Real Problems of the 1980's?

(By Congressman Newt Gingrich)

I was amazed to see Irving Kristol abandon his previous work and say ("The Worst Is Yet to Come," Nov. 26, 1979):

"The truly important problems of the American economy during the years to come will result from . . . things that happen elsewhere in the world."

This seems to be a complete turnaround by the man who has done the most to alert us to the fundamental problem our nation faces: The need for economic opportunity and incentive right here at home to restore our national vigor.

Those of us battling to create economic opportunity have just begun to win some skirmishes. Is Mr. Kristol now rushing off from the front lines to treat mere symptoms of the real crisis—symptoms like the Iranian crisis?

This Iranian crisis isn't the real problem. Neither is the Chrysler failure. In fact, inflation isn't the real problem.

Each of these is only a symptom of our fundamental problem: Our government has closed off opportunity, discouraged entrepreneurs, limited productivity and stifled freedom. Yet the government's moral attitude is that it's doing just the opposite.

For example, while preaching alternative energy sources, our government has priced the development of new technology and resources out of the market. This decade should have been one of transition to a system of more sophisticated energy use. Instead, it's a period of prolonged and probably worsening energy shortage.

If the U.S. had encouraged the production of energy, and allowed adequate rewards for its discovery and production, we could virtually ignore Iran.

In the short run, the most dangerous part of Mr. Kristol's focus on foreign affairs is that it gives every member of Congress's liberal coalition a scapegoat.

Yet these people are responsible for the entire shape of the economy. The Kennedy-O'Neill types determine the conditions of every family's budget when they decide on the federal budget. By blaming the symptoms of our fundamental problems on overseas villains those people will be able to keep governing (a mirror image of Khomeini, in fact).

However, the graver danger of a foreign affairs focus is that those of us who believe in creating economic health will back off from the central conflict over productivity and real growth. We can't afford to.

We may have won a few skirmishes—teaching people to use the word "productivity," passing a cut in capital gains taxes, defeating Hospital Cost Containment—but we have yet to win any real battles in the struggle. The nation is still dominated and governed by the forces which are pro-inflation and pro-recession.

To change that reality, we must win a political struggle to restore incentive and innovation to our economic system. We must develop tax, regulatory and other economic changes which will bring about a rebirth of opportunity so we can win the moral and philosophical struggle to restore values of creativity, growth and freedom to our economic system.

In the 1980 congressional election, the voters must be given the choice between the potential of 15 more Chrysler-type failures, or real growth opportunities for American families.

While foreign policy is important, we must focus first on the struggle for economic health. With economic health, overseas events will become just that: events—not shocks.●

MORGAN MURPHY, A GREAT PUBLIC SERVANT

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. LONG of Louisiana. Mr. Speaker, it was with sad heart that I learned my friend and colleague Morgan Murphy has decided not to stand for reelection to his Second Congressional District seat representing the people of Chicago.

I first came to know Morgan when I was appointed to the Committee on Rules and took a seat next to him. From our many hours in committee together over the past years, I can attest that Morgan is a man of compassion, fair-mindedness, courage, and great intellectual capacity. I am only one of many Members who will miss Morgan's camaraderie in the House of Representatives. This institution of Government, which has so greatly benefitted from his service, will be deprived by his absence.

Bob Wiedrich, in an article in the December 11, 1979, Chicago Tribune, sets forth an eloquent testimonial to Morgan's many fine qualities as a person and a public servant. I offer it for the Record so that those who do not know Morgan personally will understand his friends' and constituents' sense of loss at his retirement next year.

The article follows:

[From the Chicago Tribune, Dec. 11, 1979]

Morgan Murphy Calls It a Day

(By Bob Wiedrich)

Once you have stood with a man in the shadow of death a few times, you get to know him very well.

In those moments of fear, you know his knees are shaking, just like yours. You know he wishes he were somewhere else, just like you. But he stands and sweats beside you. And he doesn't run.

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INSPIRING WORDS FOR OUR NATION'S FUTURE LEADERS

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. SCHULZE. Mr. Speaker, with the world in a state of increasing unrest, and the Nation's morale in need of an uplift, it is indeed a pleasure to share with my colleagues the inspiring remarks of Mr. David Close, president of the board of trustees of The Hill school at Pottstown, as he addressed the class of 1979.

The remarks follow:

Commencing With Some Closing Remarks

It is my great honor and privilege on behalf of the Board of Trustees to be the first to address you as alumni of The Hill. I extend to you heartiest congratulations and a very warm welcome as your class takes its place in that distinguished body.

Now—having signed and presented you with your diploma, shaken hands, and congratulated you, I should retire from the scene. Instead, however, I am going to ask your indulgence to permit me to address a few words to you from the vantage point of forty-five years as an alumnus before we say farewell.

A few weeks ago while signing your diplomas I felt the urge to talk to the members of the graduating class about yourselves and your growth from this point forward. It is hard to articulate forty-five years later what my feelings were on my own Commencement, but I have sought to piece together in retrospective reflection a guideline or modus vivendi for you who are departing The Hill today. I have termed it The Capacity for Self-Renewal—and I promise to be brief!

In your mid teens you became old enough so that your parents could stop punishing you. Now you're old enough to stop punishing your parents! Somewhere between seven and eleven, you were old enough to begin saying clever things. Now you're old enough to desist from saying clever things! At sixteen you were made self-conscious by the apparent attention of others. Now you're old enough to know that most people are not studying you critically—they're thinking of themselves.

It's a melancholy thing to reflect on what you gain and what you lose as you grow up. When I was seventeen I had the ability to look into a man's eyes and tell instantly whether he was a hero or a bum. Then at eighteen, I lost it. At sixteen you are old enough to doubt. Now you're old enough to believe again and to bring doubt and belief into some kind of productive balance.

I'm interested particularly in how long you'll keep the capacity to learn. Some people keep it as long as they live. Until the day they die, they keep a sense of wonder, of curiosity, of zest. They care about things. They reach out. They enjoy. They risk failure. They discover new things about themselves. You're very sure now that you'll be that kind of person, but to estimate your chances more objectively, have a look at the people you now know who are twenty to thirty years older than you. How many would you count as individuals who are still learning and growing? Or to reverse the question, how many seem to have lost their zest, lost their capacity to care, or their curiosity; or their willingness to try new ways?

Now, as to those who cease somewhere along the line to be vital, growing human beings, do you suppose they wanted it to be that way? Or do you suppose that they were once as eager and open and ready to learn as you, confident that they would never be otherwise? Could it be that what life did to them it will do to you?

My answer is that it need not. Believe me, I have the deepest respect for the blows and defeats that life can administer, and if you do not have such respect, you soon will have. From this point on, every step along the road will give you a more tolerant understanding for those who have not made of their lives what they would have liked to have made of them.

But you don't need to run down like an unwound clock. You need not die before you're dead. You can stay alive in every sense of the word until you've failed physically. We build our own prisons and we serve as our own jailkeepers. The prisons are constructed of habit and apathy and fear and selfishness and self-deception. But if we build the prisons ourselves, we can tear them down ourselves. We could free ourselves of the habits and attitudes that prevent self-renewal. Self-renewal depends on your capacity to remain versatile and adaptive, not to be trapped in techniques or procedures or routines; not to be imprisoned by your own pet theories or comfortable habits or customary ways.

The self-renewing person keeps a certain flexibility of mind, a willingness to listen and learn, an eagerness to try it a new way. You're very sure now that you'll be that kind of adult, but when you reach the age of 30, ask yourself how long since you've made a new friend. At the age of 50, ask yourself how long since you've gotten into an argument with someone of fundamentally different views and come out thinking the other fellow was right. It should happen occasionally. I wonder if your parents and my Board of Trustees are listening!

Self-renewal depends on your capacity to continue throughout your lives the process of self-delivery. It's sad, but true, that most human beings go through their whole lives only partially aware of the full range of their capacities. The self-renewing person is always exploring his own interests and capacity, always trying new things. He doesn't mind a failure now and then as long as he's learning and growing.

At the age of forty you might want to ask yourself how long since you have failed at anything. If it is long, you're in poor shape. If you're sufficiently adventurous, sufficiently willing to try new things, you'll stumble fairly often. It's the price of growth!

Finally, self-renewal depends upon your motivation. Have you ever noticed the youthful enthusiasm and energy of people who care very deeply about what they're doing? They never seem to tire. Now obviously all of us can't spend all our time pursuing our deepest convictions. But everyone, either in his career or in his part-time activity, his after-work activity, should be doing something about which he cares deeply, something that's related to his deepest values.

One of the enemies of sound, life-long motivation is a rather childish conception of the kinds of rewards that life has to offer. We insist on imagining that there is some tangible, concrete, finite, describable goal toward which our efforts drive us. We want to believe that there's a point at which we feel we can arrive, that we have arrived. We want a scoring system that tells us when we've piled up enough points so that we can count points so that we can count ourselves successful. So you scramble and sweat and climb to reach what you thought was the goal, and when you get to the top, you stand up and look around and chances are you feel a little empty, perhaps more than a little empty. You wonder whether you climbed the wrong mountain, but it's wrong to think that life is a mountain that has a summit. It isn't and it hasn't. Nor is it, as some people suppose, a riddle that has an answer, nor a puzzle that has a solution, nor a game that has a final score.

Life is a continuing process and the meaning is in the process. The really important tasks are never finished; interrupted perhaps, but never finished. And all the significant goals recede before one. In other words, with respect of life's deepest goals, you never really arrive. If you think you've arrived, it can only mean that you're thinking in terms of fairly shallow goals.

In trying to set your course, in the endless task of sorting out what is worth preserving in the tempest and tumult of events, I urge you to give full weight and support to the fundamentals to which you have been exposed during your years at The Hill, both in ends and means—the search for the true and the good and the beautiful (as expressed in the wonderfully simple words of our school's motto) and the use of reason, restraint, and respect for the rights of others in their pursuit.

Do not lightly abandon this legacy in the new power and opportunities before you. I hope the process of self-education will go on for the rest of your lives and that The Hill can play a continuing part in it. Involvement of this sort offers a way of renewing one's sense of much that has been valid from the past as well as awareness of new discoveries relevant for the future.

The conventional thing for me to do in closing would be to wish you success, but success as the world measures it is too easy. I'd like to wish you something considerably more difficult to come by. I'm going to wish you meaning in your life. Meaning is not something you stumble across like the answer to a riddle or the prize in a treasure hunt. Meaning is something you build into your life, starting fairly early and working at it fairly hard. You build it out of your own past, out of your affections and loyalties, out of the experience of mankind as it's passed on to you, out of your own talent and understanding, out of the things you believe in, out of the values for which you're willing to sacrifice something. The ingredients are there. You're the only one who can put them together in that unique pattern that will be your life. Let it be a life that has dignity and meaning for you. If it does, then the yardstick by which the world measures success will hardly be relevant.

And so my young friends—the time has come to say good-bye. I hope that we shall meet again one day—let it be here on the campus that means so much to all of us present today. I shall always remember the Class of 1979 with great warmth and affection.

Good luck and God speed.●

SHOW TRIAL IN TEHRAN

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. FINDLEY. Mr. Speaker, I would like to call to the attention of my colleagues the following piece by George Ball which appeared in Sunday's issue of the Washington Post. It is an excellent and eye opening editorial. It certainly makes clear one of the many reasons why it would not be in our interests for our American compatriots in Tehran to be tried. It also, of course, provokes questions about the role of the Soviet Union in the present crisis. These questions add to the many others which arise from statements and actions of the Soviet Union toward the United States and toward Iran during the current very difficult situation.

The article follows:

[From the Washington Post, Dec. 9, 1979]

SHOW TRIALS

(By George W. Ball)

As some French correspondents have been insisting, the capture of our embassy in Tehran has seemed too well planned and executed to be the work solely of young amateurs. Though no one can prove it, there is some basis to believe that the whole operation is being orchestrated by well-trained Marxists whose objective is not to secure the return of the shah so much as to damage America's position throughout the Third World, and particularly the Middle East. The evidence is worth considering.

The "students" have shifted the emphasis from returning the shah to trying the embassy personnel as spies. The idea of a trial was not originated by the ayatollah; he merely endorsed a plan the students had already announced. In their treatment of the captives, the "students" seem to be following the technique used by "brainwashing" experts in preparing the Soviets' infamous show trials in the 1930s, which Stalin devised to eliminate his opposition. The students have already taken the same first steps used by the Russians to prepare their show trials: isolating the victims for a month and keeping them separated, forbidden to talk to one another, blindfolded, bound and insulated from any news of the outside world. Recently it was announced that the captives are being subjected to inquisition by "professional interrogators," which parallels precisely the Soviet method.

In the case of the Soviet trials, Stalin ostensibly turned the matter over to a prosecutor and left for a holiday. The ayatollah remains in Qom, leaving the trials to the "students." Whether he could control the "students" even if he tried is by no means clear.

One of the returned hostages reports that he was compelled at gunpoint, under the threat of death, to sign a statement demanding that the shah be returned. If the show-trial procedures continue to be followed, one would expect the accusations to be read to the victims at the beginning of the trial and—as a result of their brainwashing—they would, on inquiry, reject the right to counsel and plead guilty. During the trial they might be compelled to authenticate forged documents allegedly proving their guilt and sign confessions that the whole embassy was a "nest of espionage."

Were all this to occur—and it remains only a speculation—not only would the prospects for the hostages be grim, but the future for American interests in the Middle East would be dark indeed.

A victim of the infamous "Slansky show trial" in Czechoslovakia recently wrote that, although the "very smoothness of the judicial machinery ought to have alerted every thinking person to its phoniness," the people listening to his voice on the radio accepted the trial as genuine. Consider the far greater effect today if the brainwashed victims were to be televised as they spoke their dictated lines.

Throughout the Western world the trials would be recognized for what they were and largely discounted—except by those intellectuals who enjoy thinking ill of America. Even in the United States, there might be a fringe of the silly and gullible who automatically welcome any disparagement of their country. Self-flagellation, after all, is not confined to the Shiites.

But is is in the Third World, and particularly in Islamic countries, that such show trials could have a profound effect. For this we should in part blame ourselves. While emasculating the CIA, we wallowed so masochistically in the disclosures of its wickedness—its ham-handed efforts in Chile and its abortive attempts to assassinate Castro—that we have created the impression not only that the agency is guilty of every misdeed but also that it is 20 feet tall, with almost magical capabilities for evil.

Thus we could expect our enemies, particularly in the Middle East, to use the bogus disclosures at such a trial to blame the CIA for every act of violence that may occur in an area where violence is endemic. By stimulating anti-Americanism, the new show trials might compel major oil-producing states, including Saudi Arabia, to reduce their production under pressure from their more radical neighbors.

Obviously, the creation of a new wave of anti-American hatred throughout the Middle East could greatly facilitate Soviet penetration, since Moscow might then appear as the lesser of two evils. Or, alternatively, the Soviets might intend the trials to goad the United States into military action, since an American attack on Iran would inevitably send shock waves throughout the whole Persian Gulf area. By turning the Middle East against America, the Soviets might hope to extend their penetration not merely into a badly shaken Iran but into various soft spots in the Arab world.

The hypothesis I suggest would, if true, change some of our assumptions regarding the use of military force. The prevailing view has been that, if the United States were to use force, the hostages would be promptly shot. But the recent emphasis on the trials leads to another possibility—that, in case of an American attack, the "students" would still keep the hostages alive until they had extorted their "confessions," since it is the confessions, and not the shah, that would best serve communist objectives.●

GEORGE ANASTAPLO IS HONORED

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. HYDE. Mr. Speaker, George Anastaplo is a professor of political science at Rosary College in my district and was the recipient of the Chicago Council of Lawyers and the Fund for Justice award for "commitment to ideals in both word and deed" on October 12, 1979.

Professor Anastaplo had been denied admission to the Illinois Bar many years ago because of his refusal, on principle, to answer certain questions he viewed as violative of his constitutional rights. He has remained steadfast over the years in his devotion to the Constitution, and I am pleased to share with my colleagues his remarks upon receiving his award:

One's Character Is One's Fate?

Since I was excluded from the Illinois bar originally in 1950, from the Soviet Union in 1960 and from Greece in 1970, I look forward with a curiousity not untouched by concern as to what 1980 will bring. Thus, I may especially need your support next year.

This is not to be taken, I hasten to add, as a covert announcement of my candidacy for the United States Senate, to say nothing of even higher office. Nor is any disavowal here of candidacy to suggest, I should also hasten to add, that I consider myself unqualified for such public service—but I have noticed that it takes awhile, indeed even decades, for influential people to arrive at the same high opinion of myself that I have, and a political career necessarily marches to a faster drummer than that.

Also by way of preface is the acknowledgment that it is good to share this program today with my law school classmate, Abner Mikva, who is a much faster marcher than am I. He not only was one of four lawyers—the others were Leon Despres, Alexander Polikoff and Bernard Weisberg—who submitted in 1954 the first amicus brief on my behalf, but he also was most helpful (as a member of Congress) in having several of my articles about the reckless Greek dictatorship entered in the Congressional Record between 1967 and 1970. In fact, he did such a conscientious job as my publisher in Washington that I became persona non grata in Athens. Perhaps it is just as well that he has given up the publishing business for the Court of Appeals. Certainly, he should do us proud wherever he happens to be.

Finally, still by way of preface, is my observation that many of those who once condemned me as members of the Committee on Character and Fitness continue to thrive. Not a single one of them has ever repudiated publicly what he did to my career at the bar. From time to time, one of them dies unrepentant, but always in apparent prosperity—which would make someone less self-confident than I am wonder about what kind of a world this is anyway. Be that as it may, one of my inquisitors—perhaps the worst-behaved of the lot, it should be said—has even turned up (I have noticed from your program) as a no doubt respected member of your 10th anniversary committee. But this is a festive occasion and hardly the time to call special attention to the bane of my life in the days of my youth. It suffices, in recalling such misguided men (whose principal punishment is to remain precisely themselves)—it suffices to invoke the Schiller poem, "Friend and Foe": "Dear is my friend—yet from my foe, as from my friend, comes good; My friend shows what I can do, and my foe shows what I should." So much, then by way of preface.

I do thank you for your award. It is for me a high honor, as well as a special pleasure, to have had this award presented by Calvin Sawyier. It is he (sometimes at the urging of my old teachers, Malcolm Sharp and Harry Kalven, and their old colleague in creative mischief, Elmer Gertz)—it is he, without any cooperation at all from me, who has been primarily responsible for reviving my bar admission matter from time to time during the past two decades. The generous Calvin Sawyier recently succeeded in enlisting in his intermittent crusade the determined decency of Richard James Stevens, of the present Committee on Character and Fitness, with the curious results the past year in Springfield (both in the Supreme Court and in the General Assembly) about which all readers of that useful journal, the *Chicago Lawyer*, know.

Had there been around Chicago in 1950 *any* substantial organization of your principles, dedication *and connections*—whether a bar association, a law school faculty, a daily newspaper or even a single distinguished law firm—things would probably have turned out differently then for that young man, so recently returned to civilian life from his wartime service as a flying officer, who dared defend the Declaration of Independence before a so-called character committee of the bar.

However that may be, much is to be said for leaving my status at the bar much as it has been for years now. I had my day, indeed my decade, in court and hence do not intend ever to reapply for admission to the Illinois bar. My present status *is* quite instructive for us all. Thus, as I have explained to the bar authorities of this state, "I do consider my case something of a public resource with which I personally should be reluctant to tamper." And, as I explained in 1977 in response to an inquiry from those authorities about my intentions, "Any official action now worthy of respect would have to be one which made it clear, to anyone consulting the Illinois Reports, that the bar of this state had reconsidered my matter on its own motion, that the actions theretofore by the character committee and by the Illinois Supreme Court had been repudiated, and that I had been invited to take the constitutional oath as an attorney.

Thus, it should be made evident, to anyone who consults hereafter the standard guides to citations (such as Shepard's), what had happened to my matter and how. Otherwise, a misleading, if not even disturbing, ambiguity would result from my admission to the bar." Since it is hardly likely that our court can bring itself, with or without still another application on my part, to enter in the Illinois Reports the required repudiation of its reported decisions heretofore with respect to me, I should be considered permanently retired from the practice of law. Besides, who is prepared to demonstrate that things have not turned out for the best in all this?

Your award, if it means anything, testifies that I am being commended now for having been fortunate enough to have seen a quarter century ago what only a few other Americans trained in the law could see about the Declaration of Independence and its right to revolution, and about related issues of that desperate period in the life of our country.

My appreciation for your award—my appreciation, if it is to mean anything—should take the form of continuing to comment in the years ahead upon what I consider questionable in what all too many of our fellow-citizens believe about the issues of the day. Permit me, as a token of future performance, to draw upon my reputation as a constitutional scholar as I indicate my reservations about three opinions that the "better" lawyers and judges among us hold these days. The few minutes I am limited to permit me to do little more than to voice bare conclusions:

My first dissenting opinion is that we now face here in Chicago, in the prospect of mandatory busing of public school children, a tiresome ritual which promises to do little in this city for education and the invaluable neighborhood school, for racial justice, or for ordinary people's faith in the Constitution, bureaucrats and federal judges. It would make far more sense, and hence be a far better use of the passions and resources which forced busing will waste, to do something (if only in the form of an urban equivalent of the Civilian Conservation Corps) about the scandalous unemployment rate, especially among the young, in the remarkably patient Negro community.

My second dissenting opinion is that the virtually unlimited abortion now available in this country is an unconscionable state of affairs. The Roman Catholics among us are substantially correct in their deep opposition to what we now have, even though they (because of a misunderstanding of the dictates of natural law) have long been misled by their leaders with respect to birth control. Particularly serious here is the unwarranted reading of the Constitution by the United States Supreme Court, which has left local governments paralyzed in any attempt to deal compassionately but firmly with our dreadful abortion epidemic (which represents, among other things, a callous exploitation of women).

My third dissenting opinion is rooted in the argument, which I have made again and again in my publications, that the primary purpose of the First Amendment is to protect our right and duty to discuss fully, as a sovereign people, the political questions that come before us from time to time. (The clear and present danger" test is, in these matters, simply without support in the Constitution.) Among the questions always open for discussion is that of what the community should do to train itself and its citizens for self-government and for a decent life together. Certainly, no community is obliged, in the name of liberty and self-expression, to allow itself to be corrupted by the demented, the vulgar, the selfish, the thoughtless or the doctrinaire.

Each of the three dissenting opinions I have just shared with you requires an extended argument—which many of you are better equipped to develop, if challenged to do so, than am I. I hope that what I have said does challenge some of you. Serious thinking about the matters I have touched upon today is sorely needed among men and women in public life. In any event, I have intended, by making these remarks, to express proper appreciation both for your generous award and for your dedication to justice and the common good. After all, is not the most appropriate appreciation anyone in my circumstances can exhibit that of continuing to remind people such as you from time to time of the ethical, political and constitutional principles upon which we all so much depend as students of the law? I can only hope that I have indeed earned, and continue to deserve, your recognition as a colleague of sorts whose primary concern in what I have said in my public capacity over the past quarter century has been for the moral fitness, the informed sensibility, and the enduring security of that troubled nation to which a vulnerable world must look for prudent leadership if it is not to perish.●

OUR BATTERED GRANDPARENTS—A MARK AGAINST AMERICAN SOCIETY

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. BIAGGI. Mr. Speaker, I wish to bring to the attention of my colleagues an article which appeared in the December 5 issue of the Christian Science Monitor. The title of the article—"Battered Grandparents—Hidden Family Problem."

We have in our society still another form of domestic violence. In fact, with respect to abuse this Nation has run the gamut from child abuse now to abuse directed against the elderly. In the former case—we have enacted legislation known as the Child Abuse Prevention and Treatment Act. Very recently this Congress adopted House Joint Resolution 428, which I introduced, which designated December 1979 as National Child Abuse Prevention Month. President Carter has in fact issued the proclamation.

Yesterday, this House passed H.R. 2977, the Domestic Violence Prevention Act. The majority of the victims of domestic violence were thought to be wives. Yet this article says another group within the home is falling victim to violence—the older family member.

The most startling statement in the article:

> University of Rhode Island sociologist Richard J. Gelles who recently completed a national study of violence in the American family estimates that each year at least 500,000 persons aged 65 and over who live with younger members of their family are physically abused by them.

One can only hope that the exposing of this fact may lead to its eradication. As an original member of the House Select Committee on Aging I have a special concern about the ramifications of these figures. I intend, in the very near future, to conduct some hearings on this problem. Our committee has already been advised of physical abuse problems directed against older persons living in nursing and adult-care homes. Now we must look at domestic violence, and its impact on the elderly.

No matter the type of crime, the older person is highly vulnerable. The consequences of domestic violence against the elderly are dire from the standpoint of the present and the future. Traditionally, it has been the family which has provided the majority of care for older relatives. In the future, as the number of elderly increase, so too will responsibilities on families for care.

Today mounting economic pressures are contributing to incidents of violence being committed against elderly relatives. It is violence bred from frustration. We obviously do not have the total answer to the problem; however, we do have a moral obligation to try and reduce violence against our older citizens.

I urge my colleagues to read this startling article and join with me in a campaign to end this especially tragic form of domestic violence in America.

The article follows:

BATTERED GRANDPARENTS: HIDDEN FAMILY PROBLEM

A national problem little known to most Americans—and thus getting little attention from government or private agencies—is that of the battered grandparent.

Most attention regarding violence in the family has focused on child abuse, or more recently on spouse abuse (previously tagged wife abuse but now including abuse of husbands).

What notice there has been of physical abuse of elderly persons has centered mostly on those living in nursing homes or other institutions. But University of Rhode Island sociologist Richard J. Gelles, who recently completed a national study of violence in the American family, estimates that each year at least 500,000 persons age 65 or over who live with younger members of their families are physically abused by them.

The problem is not new, Dr. Gelles, suggests, just little-documented until now.

Monitor interviews with more than two dozen social-service professionals, researchers, government officials, and others across the United States indicate that:

Abuse of the elderly by younger family members living with them is occurring in all parts of the country.

The most common physical abuse is beating or punching, although scalding, burning with cigarettes, and starvation are among the most severe forms of mistreatment.

Most commonly, the abuse occurs when younger family members feel burdened by financial or emotional demands on them from the elder family member living with them.

Little is being done in response to the problem. Public and government awareness of it is very limited. But there is a growing realization that more needs to be done.

"I know there's a need," says June Zeitland, head of the new Office of Domestic Violence in the U.S. Department of Health, Education, and Welfare. But her small staff is focusing primarily on abuse between spouses and has "no immediate plans" to address the battered grandparents question, she says.

At least as common as physical abuse is neglect of grandparents, experts say. This typically involves denial of adequate food or medical attention or just being socially ignored for long periods, they explain.

The consequences of verbal, emotional, or even unintentional neglect can be just as fatal as physical abuse," says Richard Douglass of the Institute of Gerontology at the University of Michigan.

Some specialists see the problem of abuse of older persons increasing as more of them are obliged to live with younger family members. As Americans are living longer, these specialists point out, the price of separate housing and nursing-home care continues to climb rapidly. Even if affordable, some of the best nursing homes have long waiting lists.

Abuse of grandparents is very much hidden," says John Von Glahn, executive director of the Family Service Association of Orange County, California. Often the grandparent is dependent on those children. If the grandparent reports abuse, he or she is probably going to be cast off," he says. And, he adds, today's grandparents grew up in an age when you didn't go outside the family" to solve a problem.

Yet, increasingly, cases of abuse of older persons are coming to light.

In the past two years 30 cases of battered grandparents have been referred to United Charities of Chicago—"a significant increase over past years," executive director Gerald Erikson says. "We feel the violence we're seeing is just the tip of the iceberg," he says.

A recent study of abuse of older persons in Massachusetts found that 70 percent of the cases reported were detected by nonfamily members. The researchers assume that many more cases remain undetected.

The typical victim was 75 or older, a woman, and "frail," says Helen O'Malley, who directed the study by Legal Research and Services for the Elderly in Boston. Eighty-four percent of the abusers were relatives and 75 percent of the victims lived with their abusers, she says. Three-quarters of the victims had physical or mental disabilities, she adds.

"The hale and hearty grandma" is not so likely to be abused, says Suzanne K. Steinmetz of the University of Delaware, who has done research on the problem. Often, the more dependent the elder family member is, the more pressured younger family members feel, she says.

A couple in their mid-50s, perhaps with their children still in college, may suddenly find themselves housing an 80-year-old who requires considerable attention and financial support, she says. It's a "middle-age crunch" that some people can't cope with, so they turn their frustrations into violence against the older family member, she adds.

In a report to be published in December, Marilyn Block of the Center on Aging at the University of Maryland states that the abuse of persons aged 60 or older by younger family members cuts across economic lines, but most occurs among lower- and middle-income families. The statewide study also found that women tend to be the most frequent abusers—and the most frequent victims of abuse. When the abuse is by grandchildren, it is usually by ones in their late teens or early 20s, according to the study. A theme running through suggestions on reducing abuse and neglect of the elderly is an urgent need for grandchildren and parents to face the often-complex issue of what it means to take an elderly relative into their home.

Some families, experts note, may not be able to cope financially or emotionally with the added responsibility; others may be able to do so, but may not want the "burden."

In cases where an elderly relative really is not wanted at home, a nursing home may be a better answer, Dr. Douglass says. Housing an elderly family member but making the grandparent feel resented—letting him or her know, for example, "that the kids really want their room back—is devastating," he says.

In addition to honest appraisals by families of what is involved in caring properly for an elder family member, specialists suggest the following:

Greater awareness: Responding to a nationwide spot telephone survey of social-service agencies, professionals in some cities expressed no familiarity with the problem of elder abuse. Yet, in the few states where even an initial statewide assessment of the problem has been made (such as Pennsylvania and Massachusetts), the results indicate the problem is much more prevalent than previously assumed.

Federal familiarity with the problem is especially limited. An administrator in the National Institute on Aging says it has no programs focusing on the problem. The official was not even aware that the federal Office of Domestic Violence had been established earlier this year. (But that new office is not focusing on the problem of elder abuse, either.) The Law Enforcement Assistance Administration of the Justice Department has sponsored two pilot studies of the issue, one of them by Dr. Douglass.

ELDER ABUSE REPORTING LAWS

Connecticut's law is probably the nation's most complete, says Jacqueline Walker, ombudsman for elder affairs in that state. Physicians, clergy, coroners, social workers, and certain others are required to report detected abuse cases within 72 hours (or sooner in case of emergencies). Social service investigators then visit the home concerned. If needed, homemaker services are provided to relieve family tensions. If appropriate, alternative living arrangements are made for the abused.

TEMPORARY CARE

In Denver, the York Street Center provides abused persons, including the elderly, with referrals to temporary housing, emergency food, and family counciling.

Also needed, Denver social worker Katherine Saltzman suggests, are daytime nursing homes (which would be much cheaper than 24-hour care) where the elderly could get proper care while younger family members work.

ARRESTING THE ABUSER

Atlanta social worker Jack Mallory or one of his seven staffers accompanies local police on domestic violence calls. He urges the elderly to file arrest warrants if they are physically abused by a grandchild. This, he says, will help the older person reassert some authority in the family.

Others caution against filing criminal charges against the abuser (especially if the abuser—the son or daughter—is the homeowner) because it might leave the elderly person with no place to live but an institution.

Other suggestions include: better training of social-service workers and other professionals to recognize elder abuse when they see it; financial assistance to families caring for a handicapped elderly person; improved nursing homes; meetings among members of families caring for the elderly—to swap positive ideas and obtain encouragement; and further research of the issue.●

MORGAN MURPHY TO RETIRE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. HYDE. Mr. Speaker, one of the finest Congressmen ever to serve in this body has decided not to run for reelection next year. It may seem strange that I, as a member of the Republican party should express profound regret at MORGAN's decision, but candor compels me to say that Illinois and America will miss his energetic, intelligent, and loyal service, and, will miss the opportunity to enjoy his friendship on as frequent a basis as I would like.

Chicago Tribune columnist Bob Wiedrich, in an article December 12, 1979, expresses so well the admiration and affection we all feel for Congressman MURPHY. I would like to share his column with my colleagues:

[From the Chicago Tribune, Dec. 12, 1979]

MORGAN MURPHY CALLS IT A DAY

(By Bob Weidrich)

Once you have stood with a man in the shadow of death a few times, you get to know him very well.

In those moments of fear, you know his knees are shaking, just like yours. You know he wishes he were somewhere else, just like you. But he stands and sweats beside you. And he doesn't run.

Then you know your companion is a man dedicated to the job that he has set out for himself. And you know that if ever the two of you share another real jam, that man will stand with you, even in the face of death.

Such a man is Rep. Morgan Murphy Jr., the 47-year-old Democrat who has announced his intention not to seek reelection to his South Side 2d Congressional District seat.

I am proud to know him. I am proud to have worked with him.

And my life and profession have been enriched by the dangers we shared during seven years of investigating the international narcotics traffic in some of the most God-forsaken places on this earth.

I know Morgan Murphy probably better than any other public official with whom I have had contact in more than 30 years of newspapering.

Our joint ventures have taken us to such diverse lands as Thailand, Laos, Afghanistan, Iran, Pakistan, Turkey, Mexico, and Western Europe.

And on each of these journeys, covering many thousands of miles of desert, jungle, and Mediterranean back alleys, Murphy devoted his skills as an attorney to gathering the facts needed to give American drug agents the legislative tools required for their endless fight.

Most often, Murphy used his own vacation time to conduct those inquiries in behalf of the House committees on narcotics, crime, and intelligence on which he served during his 10 years on Capitol Hill.

Very often he dug into his own pockets to bankroll portions of the trips so that he never would be accused of junketeering at taxpayer expense.

I know, because I was there. And I know that Murphy ran me ragged, working 12 hour days under the most extreme conditions of physical and mental stress.

He believed that the work he was doing might save the lives of young Americans being deluged by overseas heroin. He knew that Congress should be in the forefront of that battle.

As a firm believer in the first-hand gathering of information, Murphy often had to overcome bureaucratic obstacles placed in his path by his own government.

However, it was the risk of personal investigations in some of the most ferociously primitive parts of the world that almost cost Murphy his life several times.

Once, Murphy nearly plunged through the unlocked door of a helicopter over the Burma-Laos border during a violent maneuver to avoid hostile hill tribesmen dealing in dope.

Once, we held on in fear together as a jumbo jet suddenly dropped 1,000 feet to avoid a midair collision enroute to Central Asia.

And once, Murphy narrowly escaped a trap laid by opium overlords with whom he was attempting to negotiate a settlement in the jungles of northern Thailand. The settlement would have prevented several tons of narcotics from reaching the United States.

Murphy's congressional career, however, spanned more than the drug wars. He represented his district ably in other ways. He fought for a revival of Midway Airport. He fought to get federal help for the Port of Chicago and to generate more Great Lakes shipping.

He fought against the illegal dumping of TV sets by Japan that was costing American workers jobs. He successfuly battled to win government guarantees of $90 million in loans to save the Wisconsin Steel Co. works in South Chicago from folding.

And he devoted his energies to providing American intelligence agents and the FBI with proper charters to protect national security and prevent constitutional abuses.

During his 10 years in Congress, Murphy lived in one room at the Washington Hilton Hotel, preferring to keep his family in his home district and returning on weekends to work in his Chicago office.

During that decade, his office handled 26,000 individual cases involving constituents with the federal government, ranging from Social Security claims to government home foreclosures.

In between, Murphy lectured school children on the dangers of drug abuse. And in 1972, he was first to disclose the growing herion addiction problem among American troops in Viet Nam.

Now, Morgan Murphy Jr. is burned out. For reasons of health, he has decided not to seek election to a sixth term.

He intends to resume the private practice of law and devote more time to his family.

He has been a conscientious and dedicated public servant as well as an effective member of Congress. Next year, Murphy would have ranked second in seniority on the vital Rules Committee, through which all legislation funnels.

He could have gone on to become one of the most influential men on Capitol Hill. But he has given 10 years of his life to the service of his country. And now because his health is impaired, he will retire.

He has been privileged to serve the American people and they have been fortunate to have his services. He will be missed in Washington.●

ARCHBISHOP FULTON J. SHEEN

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. GUARINI. Mr. Speaker, America has lost its golden voice. On Thursday afternoon, in St. Patrick's Cathedral, a Mass of Christian Burial was held for Archbishop Fulton J. Sheen.

I am sure my colleagues in the House will join me today in paying tribute to this man of God whose contributions will live forever. Archbishop Sheen, who has been proclaimed as the foremost Catholic preacher and one of the most powerful speakers of our time, died December 9, 1979, at his home in New York City. He was 84 years of age.

Archbishop Sheen rose to national prominence in the 1950's when he hosted "Life is Worth Living," a weekly television program that reached 30 million people a week. He received as many as 30,000 letters a day in response to his spoken words broadcast over radio and television, in pulpit and sanctuary. His appearances in Jersey City at St. Aedan's Church, attracted thousands of listeners. By 1956, he was operating on 123 television stations around the world. His columns, entitled "God Love You" and "Bishop Sheen Speaks," were acclaimed by millions.

A man of medium height and slender build, his thin face and deep set penetrating eyes joined his rich cultivating voice in captivating audiences throughout the country.

Born in El Paso, Ill., on May 5, 1895, he lived at his parents' farm before entering St. Mary's School and Spalding Institute, a secondary school conducted by the Christian Brothers in Illinois. He was also a member of the debating team at college that defeated Notre Dame for the first time in its history.

After studying theology at St. Paul's Seminary in Minnesota, he was ordained to the priesthood on September 20, 1919. After obtaining degrees in theology and canon law at the Catholic University of America in 1920, he studied in Belgium where he was awarded a Ph. D. He also attended the Sorbonne in Paris and the Anglicum University in Rome, where he was awarded a doctorate in theology in 1924.

After preaching and teaching in England, he returned to the United States in 1926. In 1950, he was named national director of the Society for the Propagation of the Faith, the Church's principal mission organization.

It was during these years that he exhibited a great appeal for ordinary people, instilling them with religious pride.

Paterson Bishop Frank J. Rodimer said upon learning of the death of Archbishop Sheen:

> Archbishop Sheen must have been the greatest English-speaking preacher of this century. Certainly, he reached more people than anyone else by the spoken word in pulpit and sanctuary, and even more over radio and television.
>
> He was the greatest in his ability to turn a phrase and thereby turn minds to the Lord, whom he dramatically and vividly portrayed through what once was called sacred oratory. He has been the church's undisputed Master Orator of our age.
>
> He was the foremost exponent of the divine verity that life is worth living. His own life, dedicated to Jesus and embellished by his inveterate devotedness to Mary, also proved that death is not worth fearing. The death of a master saddens us but also challenges us to proclaim the beauty of life given us by God.
>
> I was honored to be his host at St. Paul's parish in Clifton when he spent three days at the rectory and drew crowds in the church when he preached on seven occasions. I learned much from him then and came to enjoy his wit and his versatility. He spoke at length to the Lord before preaching, but he also spoke warmly to my own father about baseball.
>
> He was human, and he knew how to apply eternal truths to human needs.
>
> May God be praised for the gift of Fulton J. Sheen.

Bishop Sheen played a part in the conversion to Catholicism of many famous people, including violinist Fritz Kreisler; author, congresswoman and later Ambassador to Italy Clare Boothe Luce; American Newspaper Guild founder Heywood Broun; entertainer-night club owner Ada Smith DuConger—better known as Bricktop; and former Communist agents Louis Budenz (originally, Catholic) and Elizabeth Bentley, among others.

The world is poorer today because of Archbishop Sheen's passing. He was a man of many facets who had great sensitivity to the needs of the Third World.

Archbishop Sheen was a master of communication on all levels, bringing the gospel message to every corner of the Earth. He told the story of the Bible with enchanting eloquence.

As Henry Van Dyke said:

> The largest and most important influence of the Bible in literature lies beyond all these visible effects upon language and style and imagery and form. It comes from the strange power of the book to nourish and inspire, to mould and guide, the inner life of man. "It finds me," said Coleridge; and the word of the philosopher is one that the plain man can understand and repeat.
>
> The hunger for happiness which lies in every human heart can never be satisfied without righteousness; and the reason why the Bible reaches down so deep into the breast of man is because it brings news of a kingdom which is righteousness and peace and joy in the Holy Spirit. It brings this news not in the form of a dogma, a definition, a scientific statement, but in the form of literature, a living picture of experiences, a perfect ideal embodied in a Character and a Life. And because it does this, it has inspiration for those who write in the service of truth and humanity.
>
> The Bible has been the favorite book of those who were troubled and downtrodden, and of those who bore the great burden of a great task. New light has broken forth from it to lead the upward struggle of mankind from age to age. Men have come back to it because they could not do without it. Nor will its influence wane, its radiance be darkened, unless literature ceases to express the noblest of human longings, the highest of human hopes, and mankind forgets all that is now incarnate in the central figure of the Bible—the Devine Deliverer.

Afflicted with a heart problem, Archbishop Sheen reduced his preaching, although he continued to make television appearances, and he never lost his touch. His wit continued to sparkle; his sense of the dramatic inflection or gesture never faded.

In July 1977, the archbishop, then 82, underwent open heart surgery and by November was called fully recovered by the chief surgeon of the operating team.

His public appearances became less frequent thereafter, but did not stop.

Archbishop Sheen was indeed an artist with words. As he crossed the George Washington Bridge one evening, he commented to a friend. "The city at night is like a lady in candlelight."

Archbishop Sheen appeared on television again on October 1st as the Pope arrived in the United States. In the taped program, he said of the Pope, "He tells young people that love is a self-giving that results in recovery. His mysticism of rights and liberties is not very different from our American Constitution. It is a mysticism that he has been talking about from the border of Russia for many years. He knows that in America, our hands are full but our hearts are empty." In his characteristic signoff, he finished the October commentary, to his listening public, "Thank you and God love you."

He showed his tenacity to live, overcoming tuberculosis as a child. He showed his humility working in the Lord's vineyard Ad Majoreum Dei Gloria—"all for the glory of God."

I would like to say to Archbishop Sheen, "one of the princes of the church"—good night sweet prince—God love you.●

ECONOMIC SANCTIONS AGAINST IRAN

HON. JOSEPH G. MINISH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. MINISH. Mr. Speaker, the Americans being held captive in Iran now have suffered through 40 days of anguish at the hands of their kidnapers. Meanwhile, the administration is attempting to discover the correct combination of actions necessary to obtain our countrymen's release.

It is apparent that the keystone of this country's plan will involve economic sanctions against Iran. Obviously, if such a strategy is to be successful, we will need the complete cooperation of our allies.

While the response by our traditional Western allies remains to be seen, one so-called ally has acted with total disregard for our needs. I refer to Japan and its recent decision to undercut American efforts by purchasing the Iranian oil we have foregone.

Mr. Speaker, one need not look back very far in the history books to understand what an ungrateful act this is on the part of the Japanese. For those who do not remember, the United States poured billions of dollars into that country after World War II, in an unprecedented commitment to rebuild a defeated enemy. Our efforts there are directly responsible for the strong economic position enjoyed by Japan today. I dare say that the Japanese people owe a great deal of their present prosperity to the American Government and the American people.

Now it has been revealed that the Japanese oil companies have purchased at outrageous prices 20 million of the 30 million barrels of Iranian oil that normally would have been exported to the United States. Not only does this threaten to undermine our efforts to free the hostages, but also, it provides the OPEC oil ministers with the knowledge that some nations are willing to purchase OPEC oil at any price.

The action by Japan is not the simple act of a nation desperate for oil looking out for its own best interests. It is also alleged that Japan has promised technical and other assistance to the Iranians to replace that which we once provided. This is rumored to be the price exacted by Iran to provide Japan with long-term future oil contracts. If the Japanese wish to make themselves more dependent on the ayatollah and his unpredictable policies that is their business. But at the very least they should have the decency to wait until our citizens have been released.

Mr. Speaker, as we seek the all-out support of our allies to free the hostages, we must watch their responses very carefully. If Japan, or any nation, attempts to take advantage of this delicate situation, then we should immediately begin to reconsider the liberal trade accommodations we have always provided.

In addition, the American people are capable now of taking action on their own to show Japan that they support their government's efforts to bring the hostages home. As we enter the height of the Christmas season, it would be most fitting for American shoppers to refrain from purchasing Japanese products. Action of this sort would soon convince the Japanese that there is very much more at stake here than a little bit of oil. This situation is far too sensitive for any opportunistic nation to attempt to better its position at our expense.●

INNOVATION AND INTERNATIONAL CARTEL COMPETITION

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. RITTER. Mr. Speaker, the controversy surrounding the decline in U.S. productivity was addressed in yesterday's industrial innovation special order and I would urge Members who have not done so to read the Record on this important issue affecting the American economy and people.

There is little doubt that the deterioration in U.S. productivity growth in recent years is a major factor in exacerbating inflation. Also, many House Members believe that the lag in innovation is one important factor in decreasing U.S. productivity rates. There are, however, a number of other factors at issue here, some of which were touched on yesterday in the colloquy sponsored by M.C.'s AuCoin and Brown, and others interested directly in this matter.

I would like to point out that fairer trade policies for American industry also are at issue if jobs are to be maintained and individuals' productivity increased. For instance, in the heavy electrical equipment competition on world markets, a cartel based in Switzerland may be undermining the American position in this market by unfair competitive practices.

I would enclose in the Record for Members' attention the following Washington Post report of December 10, 1979, on this new revelation of international cartel attacks on American competitors:

Documents Show Global Cartel in Electrical Gear

(By Morton Mintz)

South Bend, Ind.—In a rare glimpse inside the secret world of international cartels, a University of Notre Dame economist and two associates have obtained documents showing price-fixing, bid-rigging and elaborate other collusion in the worldwide sale of nearly $2 billion a year in heavy electrical equipment.

The documents are from an organization called the International Electrical Association. Its offices are in Switzerland; its members, as of 1977, were 49 West European and six Japanese manufacturers of gear for generating electric power in both conventional and nuclear plants.

No American firms belong. On the contrary, the documents and an accompanying draft report by the university economist and one U.S. associate indicate the cartel is powerfully squeezing U.S. companies, blocking them out of export markets. The domestic heavy electrical equipment industry is withering, and this is one reason, the two suggest.

The documents also indicate that, at least in years past, the cartel companies have heavily overcharged their weaker customers, sometimes by as much as 60 percent and particularly in less developed countries of the Third World. The report estimates the likely present-day proceeds of this price inflation at $300 million to half a billion dollars a year.

The Japanese companies involved in IEA are Fuji Electric, Mitsubishi Electric, Toshiba Shibaura, Hitachi Limited, Mitsubishi Heavy Industries and Meidensha Electric. They are known inside IEA as the JPA. The JPA periodically designates an executive from one of its companies to speak for all in Lausanne; he becomes "Mr. Japan."

IEA's European members were, as of 1977: 11 Italian firms, including Fiat Termomeccania e Trubogas; nine British, including General Electric Co. Ltd., which is unrelated to the U.S. GE, and C. A. Parson Co.; eight French, including Compagnie Generale d'Electricite (Delle-Alsthom); five West German, including AEG-Telefunken, Siemens, and their joint venture, Kraftwerk Union, five Swiss, including Brown Boveri; four Swedish, including ASEA; two each Austrian, Dutch and Norwegian, and one Finnish.

The report also points out that cartel companies are now moving into the U.S. market for the first time and starting to form joint ventures with weakened U.S. competition. "In effect, the United States firms have become distributors for their former overseas rivals,'" the report says.

The material shows no clear violations of U.S. antitrust laws. But the 300 documents covering 2,000 pages lay bare a fascinating, generally unseen world of detailed compacts and coded communications, secret punctilio and bureaucracy. There is an "Agreement Y," an "Agreement X(W)," a reference in some of the documents to a "Mr. Japan." There is an elaborate nine-page set of "Conciliation Rules" to resolve disputes among members.

There is a pre-bid notification system—members must notify headquarters in Lausanne in advance of almost all bids they intend to make—which the report says has "been the backbone of the cartel's operations since 1930." There are also carefully worked out systems, product line by product line, for formulating prices before bidding and allocating sales among members, and procedures in some cases whereby designated winning bidders pay compensation to the "losers."

The Notre Dame economist is Richard S. Newfarmer. His associates are Barbara Epstein, also an economist and now vice president of Horace J. DePodwin Associates Inc., a New York consulting firm, and Kurt R. Mirow, a businessman who says the cartel impeded expansion of an electrical equipment company he owns in Brazil.

The documents, which detail activity into 1977, were leaked to them by an unidentified former member of the IEA staff.

They have written about the international electrical equipment industry before: in 1977, the United Nations Conference on Trade and Development published a report on the industry by Epstein and Mirow, and the next year published another by Newfarmer. Epstein and Newfarmer wrote the new report, which is based mainly on the 300 new documents. Newfarmer made the report and documents available last week to The Washington Post.

The Organization for Economic Cooperation and Development in Paris says that, as of 1974, there were more than 500 registered international and national cartels involved in world trade. The best known today is OPEC, the Organization of Petroleum Exporting Countries. The industrialized countries that are its main customers deplore OPEC's effect, and wince at talk that other raw material cartels may form along the OPEC model in the Third World.

Newfarmer and Epstein find irony in this, in light of IEA and other industrial cartels. "Tolerance of clandestine cartels places home governments in an increasingly awkward position when they express opposition to raw materials or other cartels in the Third World," they say.

Efforts last week to reach Derek F. French, IEA's secretary-general, for a response to the Newfarmer-Epstein report were unavailing.

Major U.S. companies claimed to know almost nothing of the cartel and reacted warily to the main recommendation. Newfarmer and Epstein make, which is that there be a federal investigation of the cartel's impact on U.S. exports and domestic commerce.

In Fairfield, Conn., a General Electric Co. spokesman said the company "certainly would be interested . . . in any facts that would provide us with a clearer picture of any cartel situation that might exist."

In Pittsburgh, a Westinghouse Electric Corp. official said, We are not in a position to judge whether the information now available would indicate whether any government inquiry should or should not occur." In a 1971 complaint against dumping of large power transformers, Westinghouse told the U.S. Tariff Commission it was evident that a price-fixing agreement exists or did exist . . . among the European producers."

In Milwaukee, an Allis Chalmers Manufacturing Co. spokesman said any recommendations would be premature since we have no knowledge of the IEA or its operations and activities." Allis Chalmers is a 50-50 partner in a domestic joint venture with Siemens of West Germany, a founding member of the cartel.

In Washington, Bernard H. Falk, president of the National Electrical Manufacturers Association, after being given a summary of the documents, told a reporter without commenting specifically on IEA that "Congress should give attention to any unfair, illegal, unethical international trade practices." NEMA's 575 members make all kinds of electrical gear.

The IEA was founded in 1930. Two U.S. firms, International General Electric and Westinghouse Electric International, were among the founders. Of the other founding companies, four were British, two German and one Swiss.

By 1939 the cartel had 39 members. Its activities were interrupted by World War II. After the war, the Federal Trade Commission forced the U.S. members to withdraw, on grounds their participation was a violation of antitrust laws.

In a 1948 report on the cartel the FTC said its purpose was to help member companies "get together for . . . discussing and agreeing upon price quotations and terms."

The most important postwar enlargement of the cartel came in the late 1960s, with the corraling of the renascent Japanese, who posed an increasing competitive threat to the older European members.

"The most critical change in cartel operations in recent years has been the incorporation of the Japanese manufacturers," Epstein and Newfarmer say.

They describe the firms as full "participants in IEA's cartel practices." Yet, the report notes, Japan in 1947 passed a law prohibiting its corporations from entering "into an agreement or international arrangement which contains such matters as constitute unreasonable restraint of trade or unfair business practices."

Partly because of this law, it appears the Japanese firms pay dues to the IEA on a different basis than the European. This "has the merit of establishing that you are not members," Secretary-General French said in a March 1978 letter to the Japanese firms.

Epstein and Newfarmer, however, note wryly that these Japanese nonmembers contribute one-fourth of IEA's entire budget.

For their estimates of cartel pricing practices, Epstein and Newfarmer rely heavily on IEA records of members' sales of large transformers in the years 1965 through 1967. The records—the best set the economists have—list base prices from points of shipment and exclude transportation and insurance costs.

Newfarmer and Epstein then looked at the prices paid, under various bidding conditions, by various countries, none of which is able to manufacture such equipment. They found three patterns.

First, higher prices, on average, were paid by developing than by developed countries. Second, prices were higher when cartel rules required winning bidders to compensate losers than when such rules weren't applied. Third, prices were highest—and the developing-developed country differential was the greatest—where only one IEA member bid than where several did.

In this last case, the economists found that developed countries (such as Australia, Greece, Ireland and Israel) paid 114 percent of the base price, on average, while developing countries (including Brazil, India, Indonesia, Mexico, and such OPEC members as Saudi Arabia and Venezuela) paid an average 162 percent.

Newfarmer said that sometimes there was only one bidder, apparently by pre-arrangement within the cartel. The authors also note in their report that the Japanese had not yet been brought into the cartel when this one set of transformer sales was made. After the Japanese joined up, they say, the number of "special arrangements" increased "substantially."

Their estimate of the proceeds from price inflation by the cartel is mainly an extrapolation from the 1965–1967 transformer accounting records at the IEA to allow for all product lines and present-day prices.

Many U.S. industries have lost some ground in world export markets over the last 20 years to resurgent competitors from Western Europe and Japan. In the electrical equipment industry, Newfarmer and Epstein suggest, the U.S. share of exports to countries covered by the cartel has fallen, probably in part because of the IEA's activities.

Here they note two patterns. Some U.S. companies have gone out of business; others have gone into joint ventures with IEA companies. They cite these examples:

In 1959, four American firms produced hydroelectric turbines. Today, there is only one major U.S. producer, Allis Chalmers.

In 1972, the Tariff Commission found that the eight U.S. producers of large power transformers had been injured by dumping, at depressed prices, by European IEA members. These, the commission warned, have the capacity "to threaten the continued existence" of the U.S. large-transformer industry.

A year later, one of the eight firms shut down. In 1976, a second stopped making such gear. Also in 1976, Allis Chalmers announced it was halting production and forming a joint venture with Siemens of West Germany to import transformers.

(The Allis Chalmers spokesman said that Siemen-Allis operates under an agreement providing, "without any limitations," for doing business "anywhere in the world without control by either of the parent companies.")

Westinghouse is the only U.S. firm with its own technology for power circuit breakers. (Its spokesman recalled that "promptly" after acquiring a Belgian member of the IEA called ACEC, Westinghouse compelled it to resign from the organization. He declined to explain why.)

GE and Hitachi have formed a joint venture, High Voltage Breakers Inc., under which GE imports Hitachi main parts from Japan for assembly here. (This GE spokesman termed the agreement "very limited, specific, and entered into in the exercise of proper business purposes—in this case, to obtain the necessary technology that gives us a competitive product which is attractive to U.S. utilities.")

Brown Boveri bought Studebaker-Worthington's gas turbine division in 1977 and has a turbine servicing facility in Richmond.

Siemens-Allis is offering a full line of "engineered electrical equipment," some of it made in the United States and some in West Germany.

GE and Westinghouse have moved from temporary layoffs in turbine-generator production facilities to actual reductions in employment and manufacturing capacity.

As further indications of new IEA interest in the American market, Newfarmer and Epstein cite Agreement Y and Agreement X(W).

Under Agreement Y, cartel members began in 1974, for the first time, to report to Lausanne the value of orders from American buyers.

"At least on its face this isn't collusive," Newfarmer said in an interview. "But we don't know enough about it. It may indicate an increasing concern in the cartel for the American market."

Agreement X(W) requires cartel members who make water turbines to notify Lausanne whenever they plan to tender a bid to a prospective U.S. buyer.

"This creates the same opportunity for pre-bid price-fixing on orders in the United States as exists for developing countries in all of the product categories," Newfarmer told a reporter.

The report says that "there is no reason to believe that the European and Japanese firms colluding 'in the morning' on sales in the developing countries would be able to resist the temptation to do so 'in the afternoon' on sales in the United States."●

INVENTORY ACCOUNTING AS A BURDEN ON THE CAPITAL FORMATION PROCESS

HON. HENRY J. NOWAK

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. NOWAK. Mr. Speaker, as chairman of the House Small Business Subcommittee on Access to Equity Capital and Business Opportunities, I have become keenly aware of how certain provisions of the tax law can be burdensome on the capital formation process. Small business groups generally say that besides the depreciation provisions, the tax regulations on inventories are the most complex. Tax simplification of the inventory accounting methods is important to small businesses, as it would increase cash flow and thus, aid capital formation.

The American Bar Association and the American Institute of Certified Public Accountants have recognized inventory accounting as being a burden on small business. In addition, the White House Conference on Small Business has included the topic of inventory accounting as part of its option paper on Capital Formation and Retention for the January 1980 Conference.

Since small businesses are primarily retailers and wholesalers, the largest asset category on their balance sheet is often the inventory classification. With respect to the economy as a whole, the importance of the inventory classification should not be understated. For example, in 1975 there was an approximate total of $341.4 billion of inventory (not including farm inventories) carried by sole proprietorships, partnerships, and corporations.

The Federal tax law requires the use of inventories where the production, purchase, or sale of merchandise is an income-producing factor. Thus, even though a retailer, wholesaler, and manufacturer would keep an inventory to insure proper management control, he must also keep one for tax considerations.

Inventory costing for small business manufacturers is a tremendously complicated area. Manufacturers are required to use the full absorption method of inventory costing. This method requires a small business manufacturer to take into account both direct and indirect production costs in the computation of inventoriable costs. There are nine pages of regulations alone defining what constitutes direct or indirect production costs.

The small businessman has several ways in which to value his inventory. In general there are three accrual methods of determining the cost of items in the closing inventory. These three ways are: specific identification; the first-in, first-out (FIFO) method; and the last-in, first-out (LIFO) method. FIFO states that those items which are first acquired are the first sold in a business. LIFO is a statutory exception to the general methods of determining cost; LIFO states that those items last acquired are the first sold.

It has become apparent from informal discussions with small businessmen that they earnestly try to determine the cost of their closing inventory according to these three methods. The complexity of the law makes proper compliance with these valuation methods a nightmare. As a result, many small businesses simply cannot afford the highly trained tax professionals necessary to set up a proper inventory accounting system. For example, when a professional accountant takes a physical inventory count for a business, he generally charges a 1-percent fee based on the value of the inventory. This fee does not take into account the fact that the small business must close during the inventory count, and thus forgo sales and profits.

Small businesses generally find it all but impossible to adopt the LIFO inventory method. However, LIFO is the most beneficial method of valuing inventories in periods of high inflation, as it lessens taxable income. For example, the cost of goods sold under LIFO is computed at the higher inventory prices which, due to inflation, are nearer to the end of the business' taxable year. On the other hand, under FIFO, the businessman would have a lower cost of goods sold at the end of the taxable year due to using inventory prices from the beginning of the year for valuation purposes.

Although the LIFO method is very beneficial in periods of high inflation, a small business finds it difficult to administer the detailed recordkeeping needed to compute the proper number of inventory pools or to establish an accurate statistical index. As stated above, a business must, in most situations, hire highly paid tax professionals to make these computations, and to insure a proper LIFO election.

Even though small business finds it difficult to comply with the letter of the law when it comes to inventory accounting, the Internal Revenue Service will generally not raise the issue of a business' inventory on an audit. As provided by the tax law and regulations, a business would be properly reporting its inventory if the following two criteria are met: First, the inventory method must conform as nearly as possible to the best accounting practice in the trade or business; and second, the method must clearly reflect income.

Due to lack of manpower, time constraints on an audit, and the sheer complexity of the tax law, the IRS gives greater weight to the consistency of the taxpayer's inventory practice from year to year than to any particular method of inventorying or basis of valuation. Thus, the IRS will generally not raise the inventory issue on an audit unless there is no consistency of inventory practice from year to year. This may occur when a businessman has written down the value of his ending inventory due to some catastrophe, for example, losses in a flood.

The National Federation of Independent Businesses (NFIB), a small business group with over 580,000 members, is promoting the need for allowing small business members to use the cash receipts and disbursement method of accounting. Under this method, expenditures are deducted in the tax year in which they are actually paid. The cash method is beneficial to small businesses in that it simplifies the need for recordkeeping. Besides its simplicity, the cash method would assist business in complying with the law.

The accounting profession and the Department of the Treasury are generally opposed to allowing small businesses, such as retailers, to use the cash method of accounting. Both see that such a change in the tax law is a departure from generally accepted accounting principles (GAAP). The use of the cash method, in the eyes of the accounting professional, leads to a distortion of income, as there is not a proper matching of income and expenses. The Treasury Department sees this as a potential area of tax-shelter abuse, analogous to the cattle breeding area.

Another argument against the use of the cash method is that it would lead to bad business decisions on the part of small business. Various accounting professionals envision small businessmen going out and purchasing large quantities of inventory at year's end to reduce taxable income for that year. This is seen as a bad business decision because the small businessman may find himself with large quantities of inventory that he does not need and thus, cannot sell in the subsequent taxable year. To avoid this kind of decisionmaking and to insure proper management control, accounting professionals believe that small businesses should take a physical inventory count at year's end.

This subcommittee, in conjunction with NFIB, is conducting a survey to determine the magnitude of the inventory accounting problem on small business. The survey will attempt to resolve such issues as which groups of small businesses are most affected, the type of inventory accounting method they are using, and why they are using that accounting method.

The subcommittee, in addition, is conducting extensive discussions with various small businessmen, accountants, and academics, in order to find the ideal inventory accounting system for small business. Ideally, such a system would ease the capital formation burdens on the small business, have simplicity, and clearly reflect income.●

HAD CONVENTION—DENVER

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. CORRADA. Mr. Speaker, Hispanic unity in this country is a fact and Hispanic political power is in the rise as the second largest ethnic minority in our country now and most likely the largest ethnic minority in the United States within the next decade or two.

Last weekend the Hispanic American Democrats (HAD) held their founding convention in Denver. As a founder of HAD and a member of its executive board I am glad to report to my colleagues that I was extremely impressed by the proceedings of the convention and particularly the spirit of unity that I felt there among Mexican Americans, Puerto Ricans, Cubans, and other Latinos who live in this Nation. It is also of interest to note that blacks and Hispanics have opened their political lines of communication and are now working together in many areas.

Since Hispanics are becoming a force in almost every State and in almost every congressional district I think that many of my colleagues may be interested in my remarks at the opening session of the HAD founding convention.

HAD CONVENTION—DENVER, DECEMBER 7, 1979

It is a great pleasure for me to be here today in the opening of the Hispanic-American Democrats National Founding Convention.

For those of us who have been involved in HAD since that very first day during the

Memphis Mid-Term Conference of the Democratic Party last year it has been a long, arduous road, but at the same time, and I may add incredibly, it has been a very satisfying one. I say incredibly because I had my doubts that the Hispanics of this Nation, Mexican-Americans, Puerto Ricans, Cubans and all others from Latin America, the Caribbean and Spain who live here could finally get their act together, resolve troublesome differences, and unite in an effort to attain common goals.

Luckily, the men and women elected in Memphis to serve the HAD Steering Committee are persons of vision. They realized that if we were ever going to have an impact in National Democratic politics we had to unite. Those here knew then and know today that there are in this country many who would like to see us divided, who have fun when our family quarrels. By our actions and by pooling together, we have charted a course which can only help build a stronger American society—a society where our rights to education, jobs, health and housing are fully recognized and supported.

As Hispanic-Americans we have good reasons to know the best of the glory as well as the weakness underlying the great American democratic tradition. In this country, we have opportunity and kindness and generosity as provided by the Constitution, the law and the majority of the people on the one hand; but, on the other we see hatred and injustice still entrenched in the attitudes of many government officials, private employers and some segments of the population. Here is a tradition of equality, supported by the law and by the country and yet opposed by some self-serving citizens seeking only their privilege.

Fortunately, an extraordinary factor, the American democratic impulse, is always a source of change and reform in our society. And within that society we—the Hispanic-American community—contribute much to improve our lot as well as the American society as a whole. Already the fastest-growing minority in the country, we are on the way to political influence and economic development.

The Hispanic presence has been evident in the life of the United States from the very beginnings of the country—from the days when Don Juan Ponce de Leon was searching for the Fountain of Youth in Florida in the 16th Century through the end of the 18th Century when Fray Junipero Serra was founding his missions in California. We were discoverers, explorers and settlers of this Nation. When particularly in the 20th Century we came to this Nation as immigrants we were coming home to a place where history did not make us strangers.

All these developments Americans have long since come to more or less understand, yet the broad awareness of the scope of the Hispanic presence in this country did not materialize until perhaps the last two or three decades. During those years, I believe the country began to become aware of the struggles of the Mexican-American farmworker in the Southwest, the plight of the Puerto Ricans in "El Barrio," and the advent of the Cuban political refugee in Miami and other places.

Today, Hispanics are present in many U.S. cities in search of better jobs, creating Latino "ambientes" from the crowded barrios of East Los Angeles and Spanish Harlem to the tidy suburbs of Dade County, Florida.

Just as Black Power became a moving reality in the Sixties, so Hispanic Power is fast becoming a political watchword of the decade ahead. By Government estimates, there are 12 million Hispanic-Americans in the United States—even without considering the large number who have arrived without being counted by the statistic-makers and the substantial undercount of the 1970 census.

At a conservative estimate, some 3.5 million "undocumented" Hispanics raise the actual total of our kind to more than 15 million, and the Hispanic population of the United States population to seven percent. If you add to that the 3.2 million inhabitants of Puerto Rico we can see that very soon—in ten years—we will be the largest minority in this country.

Because the rate of population increase among Hispanics is 1.8 percent per year—0.5 percent higher than that for blacks—and because Hispanic immigration (legal and illegal) is running at an estimated one million people a year, Hispanics may outnumber American blacks before the decade of the eighties is out, or very shortly thereafter.

Despite differences among the various Hispanics—and the differences are many—we have, as a group, brought some distinctive characteristics already in the process of incorporation into the American liefstyle. We are generally united by powerful forces: language, culture, and religion, Hispanics have a strong sense of family and maintain close kinship ties across the generations, at a time when the weakenings of traditional family bonds is a focus of national concern.

As has happened with almost every ethnic group in America, Hispanics are finding that growing number and assertiveness often produce hostility. They also are learning another hard lesson—that latecomers are expected to start at the bottom. Training, experience and ability, not time of arrival, should determine where you start. Nearly 27 percent of Hispanic families in the United States earn less than $7,000 a year. Only 16.1 percent of non-Hispanic families fare as badly as that. Hispanics in general are the most under-educated of Americans—despite our own deep belief in the maxim 'saber es poder'. Only 40 percent have completed high school, as compared to 46 percent of American blacks and 67 percent of non-Hispanic whites.

The slow growth of Hispanic-American affluence and educational attainment is reflected in American politics. There are only six Hispanics in the House of Representatives as opposed to 17 blacks. Mexican-American ballots nailed down Texas' 26 electoral votes for Jimmy Carter in 1976 and 89 percent of the Puerto Ricans in New York voted for him. The President reciprocated by appointing more Hispanics to Federal positions than had any of his predecessors. Yet, despite these steps which indicate some measure of progress, the road ahead for the Latino Community and the continuing struggle for full equality has some stark facts which must be fully realized.

Among them is the fact that, despite attempts at broadened employment, Hispanics hold only 3.5 percent of the jobs in the Federal bureaucracy and blacks hold only 16 percent. The same pattern of under-representation holds true at State and local levels.

There are a number of reasons for the under-representation: the relatively recent emergency of Hispanics as an important minority; our traditional preoccupation with community affairs rather than broad political issues; and plain old, outright discrimination against our people.

Another major reason for this bleak state of affairs is that only 37.8 percent of Hispanics eligible to vote are registered, as compared with 66.7 percent of the population as a whole—and with Hispanics, as with everybody else, the tie between politics and jobs is emphatically a major factor. Whoever fails to get the politician's ear has little chance if any. And insofar as most politicians are concerned, unregistered voters never get a hearing of any kind.

Voter registration campaigns are, therefore, one of the most vital endeavors at this time, as we seek ways to improve conditions of our people. As a political association we at HAD must squarely face the responsibility of getting our people to register and vote.

The problems and the promise of the Hispanic-American experience in the United States may best be illustrated by what is happening in three major cities: Miami, Los Angeles, and New York. In Miami, Hispanics constitute almost three-fifths of the city's population, and a majority, as you know, are middle-class Cuban refugees.

Their enterprise has transformed Miami and the rest of Dade County into a dynamic commercial center. Latinos generate an estimated $2.2 billion in annual income and have created 100,000 jobs. Forty percent of Dade County's Hispanics earned more than $12,000 last year; nearly two-thirds own the homes they live in. Cuban children make up one-third of Dade County's student population, sometimes scoring well above other Dade students in English and Math achievement tests. Seventy-two percent went on to college in 1976.

Despite this progress, Cuban-Americans have no representatives in the Florida legislature or in the U.S. Congress. Much of the blame for this can be traced to a sense of impermanence on the part of many Cuban residents, only 57 percent of whom are American citizens, even as of now. Some still see themselves as absentees from their island home. In the meantime, however, they are allowing others to dominate the politics of their current homeland, without asking their opinion as to what needs to be done, one way or the other. The trend is shifting, however, and Cubans are taking out American citizenship, nowadays, at a record rate of a thousand per month.

In Los Angeles the Hispanic element is exceedingly large, becoming increasingly powerful, and with the passage of time, will be a major political force in the City for years to come. At a conservative estimate, some 1.6 million of the city's seven million residents are Hispanics, overwhelmingly of Mexican descent. By 1970, Hispanics replaced blacks as the largest minority in both the city and the county of Los Angeles. They now are overtaking the whites, whose share of the city population has declined from 80.9 percent in 1950 to a projected 44.4 percent in 1980.

In recognition of this change of political realities, Governor Brown of California named a Chicano Secretary of Health and Welfare, and appointed 30 Mexican-American Judges. But, while Chicanos make up 15.8 percent of the California population, they held only two percent of the State's 20,000 elective posts, including only eight seats of 120 in the legislature.

Part of the problem has been political passivity which includes a hesitancy on the part of many longtime Mexican residents to become U.S. citizens, often because of strong ties to Mexico. But a political awakening has begun. During a three-week period in 1976, members and supporters of the United Farmworkers registered 311,000 voters in the State, bringing total Hispanic registration to an estimated 52 percent of its existing potential. We hope to see that improved in 1980.

In New York City, most of the Hispanic residents are American citizens by birth. Yet, despite that political advantage, most of the over one million Puerto Ricans in New

York live in grim, crumbling tenements. For them, life is mostly a grinding struggle for survival. Nationwide, 44 percent of Puerto Rico families earn less than $7,000 a year.

With Puerto Rican children now comprising 24 percent of the public-school population of New York, one of the community's highest priorities is education. But the Puerto Rican high school drop-out rate is staggering—some 85 percent. Uneducated, they have difficulty landing jobs and serve as prime prospects for membership in the city's underclass, contributing greatly to the ghetto plagues of violent crime, drug abuse, and other anti-social behavior.

Despite such discouraging statistics, the New York Puerto Ricans are making certain progress—mainly political. Just 13 years ago Congressman Herman Badillo was the only Puerto Rican elected to a political office. Now the community can boast of three New York City councilmen, five State representatives, and two State Senators, in addition to one Congressman, my good friend and colleague Robert Garcia.

In short, the story of Hispanic accomplishment in the United States is one of ups and downs, encouragements, disturbing developments, and occasional success of the greatest magnitude.

Underlying everything, however, is politics and economics. Hispanics need jobs, like everybody else. The best way to get jobs is to attract the notice of the politicians and electing our own people and that begins with registering voters and getting out the vote.

To achieve Fairness—that fundamental principle in our society—we need political clout: our own political clout.

If we Hispanics are to make it in the United States we must obtain an entrance to the front door of the economic temple. And that can hardly be arranged if we lack the political means, which is voter registration and the age-old practice of getting to the polls on voting day.

This, in essence, is what democracy is all about.

This, I submit, is what HAD is all about.●

A PROPOSAL FOR PARTICIPATING IN THE MARYLAND ENERGY EXTENSION SERVICE (EES)

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. BARNES. Mr. Speaker, the city of Rockville, Md., will soon be proposing to develop an energy saver cooperatives program under the Department of Energy's Energy Extension Service (EES). This will organize consumers to seek energy auditing services, conservation materials, and construction services as well as energy improvement loans, all at reduced cost and enhanced convenience to the consumer. I believe that this innovative approach has excellent potential for encouraging serious energy conservation initiatives at the individual level. For the benefit of my colleagues, I would like to include a copy of Rockville's proposal in the CONGRESSIONAL RECORD:

A PROPOSAL FOR PARTICIPATING IN THE MARYLAND ENERGY EXTENSION SERVICE (EES)

ENERGY COOPERATIVES

Background

The principal standard for the program design of EES activities is that they provide simple and direct assistance to citizens and small businesses. Montgomery County has been responsive in this regard and already has several "outreach" programs in place—Home Improvement Course, Energy Conservation Speakers Bureau and a growing list of energy related references available at local libraries. The Energy Cooperative proposal is intended to enhance present outreach efforts and combine them with a practical action oriented approach to energy conservation. The concept of cooperatives is a familiar one. Cooperatives have long been an effective tool for meeting a common need within a population at minimum cost and effort. Rural cooperatives help farmers market their produce and purchase needed supplies and equipment. Food cooperatives provide basic groceries in bulk supply at significantly reduced prices. Credit unions are cooperatives that permit employees to borrow and save at rates better than can be attained at commercial institutions. The key element in any cooperative effort is the existence of a common need among people who can conveniently combine their resources to achieve significant savings and overcome obstacles that would normally deter individual action.

Energy is a most basic need in any population, and saving energy has become a corollary need. Most energy users have a similar need for information and technical assistance, materials, and financial resources in order to achieve energy savings. Saving energy, therefore, is a concept which can be readily incorporated into a cooperative structure.

Program objectives

It is the intent of this proposal to foster energy cooperatives among residences and small business establishments in the County. The cooperative should serve to (a) facilitate access to available information and services regarding energy conservation and management; (b) pool resources for the purchase and installation of energy saving materials and systems; and, (c) acquire basic energy conservation materials and services at near wholesale prices or reduced rates.

A successful cooperative movement should also serve to stimulate the business community, especially those enterprises involved in the marketing of energy saving materials.

Tentative work plan

Phase I—Negotiation of Agreements for Benefits to Cooperatives: Prior to the start of the EES funded portion of this program, the local jurisdictions involved will meet with local utilities, contractors, suppliers, and financial institutions to develop agreements on services and related costs that can be made available to cooperatives. Utilities will be asked to provide energy audit consulting services and reduced rates for cooperative groups; suppliers and contractors will be asked to provide reduced costs for materials purchased in quantity and for group installations. Financial institutions will be approached about providing reduced interest rates or other financial incentives to cooperative groups for energy conservation projects. These agreements will form the basis for developing the energy saver cooperatives.

Phase II—Publicity and Promotion: This will be the principal effort during the first year of the EES funded program: It will focus on identifying and publicizing the benefits available to cooperatives for energy conservation projects plus existing programs and tax incentives for installation of energy conservation materials and systems. Energy cooperative packets will be developed using EES funds and existing materials outlining the steps involved in energy conservation through cooperatives. They will detail in steps a program of auditing, audit evaluation, purchase of materials and services and documentation of results. The packet could be developed by a consultant, a subcommittee of participating groups or a temporary hire.

Phase III—Organizational Seminars: In response to the promotion and publicity phase, "pre-cooperative" groups will be identified and an organization seminar will be scheduled. This seminar will include audio-visual presentations on energy conservation and management, re-emphasis on the benefits of the cooperative organization approach, and assistance in establishing the coop's structure, leadership and operating procedures.

Phase IV—Follow-On Services and Monitoring: Once a number of cooperatives are formed and operating, it will be necessary to maintain momentum by providing continued information, developing additional benefits, and monitoring and reporting energy saving results. This will be best undertaken by the cooperatives themselves through a Cooperative Association.●

GIRDING TO FIGHT FOR RIGHTS GLOBALLY

HON. JAMES C. CORMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. CORMAN. Mr. Speaker, I want to call my colleagues' attention to a remarkable article appearing in the New York Times of December 12, 1979, bearing the above title. It is written by Jacobo Timerman, a former newspaper publisher of Argentina, who spent 29 months in detention as a political prisoner, and who experienced firsthand the horrors and injustices of being denied freedom of any kind for these long months. Particularly telling is his reactions to freedom upon his release.

Mr. Timerman's cry is not about his own loss of freedom, as difficult as that was—his cry is that the aggression against human rights is widespread and a dangerous threat globally in the years that lie ahead.

Mr. Speaker, the words of Jacobo Timberman have been the hallmark of President Carter's struggle for human rights the world over. From the moment he took the oath of office—and in his total adult life—the loss of human freedom any where in the world is—and was—a battle cry for the President. We need only to contemplate his enormous burden to free the hostages in Iran, and his extraordinarly sensible handling of the crisis to know that the cause of human rights is an article of faith with Mr. Carter; more, it is, I believe, fair to say, it is his whole existence. I share this with him, strongly, faithfully and ideologically.

The article follows:

[From the New York Times, Dec. 12, 1979]

GIRDING TO FIGHT FOR RIGHTS GLOBALLY

(By Jacobo Timerman)

I have not yet visited all the people and institutions that fought for my freedom for two and one-half years. If I have not done so in spite of the fact that I left Argentina toward the end of September, it is because I was left bewildered by my first encounters in Tel Aviv, New York and Washington. I thought everyone expected to experience a moment of happiness, and I was willing to express my gratitude. But they were not interested in my gratitude and there was not much happiness. I found overwhelmingly defeated men.

Jail and torture weigh so heavily upon the life of a prisoner that it becomes difficult for him to conceive an idea of the world that goes beyond his daily sorrows. When these sorrows end, he believes an entire world has changed. That is not so. In my first conversations, I understood that very little had changed except that one political prisoner—just one—was now a free man. That does not suffice to change the world. Nor does it suffice to change the spirit of those who fought for that freedom.

I found overwhelmingly defeated men who asked me questions with no easy answers. I had believed that these fighters for human rights knew all the answers. I was anxious to learn details of the struggle; they were anxious to know whether the struggle was worth carrying out. They told me about all they did and the little they got for their pains. As the days went by and we spoke, the headlines would bring more disasters than triumphs in the struggle for human rights: Vietnam, Laos and Cambodia, sentences in Prague, hostages in Teheran, assassinations in El Salvador, disappearances in Argentina.

Statistics are dangerous, because it is difficult to know the point of reference from which a statistic on human rights departs. The Soviet Union feels proud that 20 million heroes fell in the struggle against Nazism, but in the Gulags 25 million Russians have been assassinated to date. Statistics keep the count of all those freed from jails throughout the world, but they do not keep count of all those—the majority—that survive, that find strength to keep from dying, as a result of the few news stories about the struggle for human rights. There is a statistic that tells us that in spite of the defeat of Nazism and of Stalinism (that equally destructive phenomenon), horrors that are also unimaginable constantly reappear in places that one would not suspect—Uruguay, Chile. It is a statistic that completely destroys the spirit of struggle because the price humanity paid to defeat Nazism should have abolished horror from the earth.

Until now, the struggle for human rights has resulted from the solidarity expressed through innumerable institutions, individuals and just one Government, the United States. Today, the overall threat against rights easily surpasses the threat that could emerge from just a single state, as in the cases of Hilter's and Stalin's or that could originate from a particular ideology. Aggression against human rights has become the recourse of all ideologies, of all tendencies. Whether in a minuscule rightist country such as Uruguay or in an immense leftist country such as China, the simplest formula for arriving at and staying in power is the unlimited destruction of human rights. When aggression against humanity centered on a symbol—Hitler or Stalin—it was easy to understand; it was easy to organize against its apocalyptic message. But today aggression against humanity is widespread, broken into tiny particles of infinite variations of aggression. As we enter the 80's, as we prepare to conclude this century, which saw the greatest, most beautiful, most original accomplishments of the spirit as well as the greatest horrors, it would appear that the final 20 years will be marked by horror.

Thus, the fighters for human rights should adjust themselves to this new situation. What has been a feeling of solidarity should now be transformed into an ideology. What until now has been an endless sequence of isolated institutions should solidify into a worldwide movement for human rights—a private movement without intervention of governments so that it will never feel the temptations of "reasons of state." What up to now has been the struggle for the rights of free speech, of information, of religious freedom, should convert itself into the struggle for only one right—the right to life.

Little news pierces the jail cell's darkness. Usually, it comes as whispers. But the news of this movement, of its ideology, would arrive. Even as he remained in his cell, the prisoner of conscience would find a way to use this news to survive. This first step would swell us with joy—even if it were just a first step, because the struggle for human rights will never conclude as long as men live. Herein lies its beauty, its tragic beauty.●

LEGISLATION FOR MEALS ON WHEELS

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Ms. MIKULSKI. Mr. Speaker, the voluntary meals on wheels programs throughout the Nation are in real danger of being supplanted by federally funded home-delivery programs unless Congress acts immediately to amend an ambiguous passage in the Older Americans Act.

Sometime early next year the Administration on Aging will issue final regulations addressing the Older Americans Act of 1977 amendments. Unfortunately, in certain areas these regulations will be no different than the proposed regulation issuesd last July which aroused a storm of protest from voluntary groups. They will state that in order for a home-delivered meal program to receive Federal funding, it must also serve meals in a congregate setting. Of course, for most programs throughout the country, this is totally impossible. They have been operating out of people's kitchens, or church basements.

What this requirement does, in effect, is to empower the congregate nutrition sites (which have been federally funded for several years) with the funding mechanism to see that home-delivered meals are provided. They could subcontract to any meals on wheels-type program, or use a caterer, or deliver the food themselves, if no other able provider exists.

The voluntary effort which has been operating so successfully in so many communities could be demolished. The proud volunteers—many of them retirees and senior citizens—would be replaced by Government-paid employees.

Despite overwhelming opposition to this plan, both from the Congress and communities, the Administration on the Aging continues to insist that it is merely interpreting the Older Americans Act amendments passed in 1977.

I know, firsthand, that when the Congress decided to give Federal assistance toward the feeding of the homebound elderly, it did not intend to supplant the existing voluntary network. It intended to supplement this network to give it a shot in the arm with some financial assistance. Unfortunately, because the Congress was not totally explicit on this point, the Nation could conceivably lose one of its most valuable resources.

With my colleague, Mr. ANDREWS, chairman of the Subcommittee on Human Resources, which has jurisdiction over this issue, I have today introduced legislation to see that this does not happen. Its passage would accomplish what we believe Congress intended when it first acted to bring home-delivered meals into the nutrition network for the elderly.

We would amend the Older Americans Act to specify that home-delivered meals programs do not have to also provide meals in a congregate setting in order to receive direct Federal funding. Our legislation states that the area agencies on aging may award funds for home-delivered-meals services directly to the organization providing that service. We encourage continued utilization of the voluntary sector for the provision of home-delivered meals.

It is imperative that we clarify congressional intent on these points, and it is equally imperative that we act now. We will soon be entering the second fiscal quarter of 1980. It will not be easy to rebuild the voluntary structure which will be lost to us if we do not act promptly.

I implore my colleagues to join with Mr. ANDREWS and me on this matter.●

INTRODUCTION OF OCEAN THERMAL CONVERSION ACT OF 1980

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. STUDDS. Mr. Speaker, I am today introducing the Ocean Thermal Energy Conversion Act of 1980, which will provide a Federal framework for the licensing, siting, and financing of ocean thermal energy conversion facilities and plantships located beyond the territorial seas of the United States.

During oversight hearings on ocean energy held earlier this year by the Committee on Merchant Marine and Fisheries Subcommittee on Oceanography, which I chair, we learned that ocean thermal energy conversion (known as OTEC) is a technology which will soon be ready for commercial use, and which could provide a major new, renewable energy source for the United States.

OTEC is a concept which was first proposed by a French physicist, Jacques d'Arsonval, in 1881. While some working models have been constructed since then by Georges Claude and others, the first OTEC plant to generate more power than it consumed was placed in operation off Hawaii in August of this year. That plant, called "Mini-OTEC", is a joint project of the State of Hawaii, Lockheed Corp., and Dillingham Corp. The small test plant produced a net 10 to 11 kilowatts of electricity.

The OTEC technology uses the temperature difference between cold, deep ocean water and ocean surface water heated by the Sun to run a thermodynamic cycle similar to that used in refrigerators. By using large amounts of the hot and cold water, an OTEC plant can generate a large amount of electricity, which can either be sent to shoreside electric power company grids by submarine cable, or used on the OTEC platform itself to manufacture ammonia or some other energy-intensive product. OTEC is a form of solar energy, using the surface waters of the ocean as a solar heat collector.

Mr. Speaker, during our oversight hearings this year we learned that recent engineering and technological breakthroughs have removed the major barriers to construction of large-scale OTEC plants. My own estimate of the potential of OTEC, based in part on the 1974 Project Independence study and statistics from the most recent Department of Energy (DOE) annual report to the Congress, is that if we take prompt action to accelerate and alter DOE's current development strategy, OTEC could provide as much as 5 to 20 percent of all new electrical generating capacity constructed in the United States between now and the year 2000. Attainment of that goal does, however, require prompt legislative and administrative actions.

It appears to me that the principal barriers to immediate commercial application of OTEC are: First, the need for demonstration of large-scale OTEC systems, and second, the need for enactment of a Federal regulatory framework and financing assistance provisions. The OTEC demonstration bill sponsored by Mr. FUQUA (H.R. 5796) and Senator MATSUNAGA (S. 1830) provides for the needed demonstrations. The Ocean Thermal Energy Conversion Act of 1980, which I am introducing today, will establish the needed Federal regulatory framework and financing provisions. I believe that these two pieces of legislation are complementary, and that passage of both is needed to assure prompt commercial development of OTEC.

The bill I am introducing today provides for one-stop Federal licensing of OTEC facilities and plantships by the National Oceanic and Atmospheric Administration; provides that OTEC facilities and plantships be treated as vessels for most purposes under U.S. laws; allows owners of OTEC facilities and plantships to use the capital construction fund tax treatment now available to vessel owners under the Merchant Marine Act, 1936; and makes both commercial and demonstration OTEC facilities and plantships eligible for Federal loan guarantees under title XI of the Merchant Marine Act, 1936. The bill's provisions are completely in accord with the current negotiating text of the Third United Nations Conference on the Law of the Sea.

Mr. Speaker, ocean thermal energy conversion is a technology and an opportunity we cannot afford to let pass. I urge my colleagues to join in the legislative efforts to make certain that OTEC is demonstrated on a large scale promptly, and to remove the legal and financial barriers which would otherwise impede OTEC's entry into the commercial marketplace.

I include a brief summary of the major provisions of the Ocean Thermal Energy Conversion Act of 1980, which I introduced today:

SUMMARY OF THE OCEAN THERMAL ENERGY CONVERSION ACT OF 1980

Section 2 of the bill states that the purposes of the Congress in passing the Act are to (1) authorize and regulate the construction, location, ownership, and operation of ocean thermal energy conversion (OTEC) facilities standing on or moored to the Continental Shelf of the United States beyond its territorial sea, consistent with international law, (2) authorize and regulate the construction, location, ownership, and operation of OTEC plantships documented under the laws of the United States, consistent with international law, (3) authorize and regulate the construction, location, ownership, and operation of OTEC plantships by U.S. citizens, consistent with international law, (4) provide for the protection of the marine and coastal environment and other ocean users, (5) make applicable to OTEC facilities and plantships certain of the financing provisions of the Merchant Marine Act, 1936, (6) to protect the interests of the United States, and (7) to protect the rights and responsibilities of adjacent coastal States.

Section 3 defines the major terms used in the bill. An OTEC facility is an OTEC plant which is standing on or moored to the U.S. Continental Shelf beyond the territorial sea, and an OTEC plantship is an OTEC plant which moves through the water while operating. All Commonwealths, territories, and possessions over which the United States has jurisdiction are included in the definition of State.

Title I of the Act sets out the procedures and requirements to be followed in regulation of OTEC facilities and plantships. Section 101 prohibits any person from engaging in the ownership, construction, or operation of an OTEC facility without a license, and prohibits any U.S. citizen from engaging in the ownership, at-sea construction, or operation of an OTEC plantship without a license. The section also authorizes the Administrator of the National Oceanic and Atmospheric Administration (NOAA) to issue, transfer, amend, and renew licenses when applications meet the requirements of the Act. The Administrator is required to establish bonding requirements to assure removal of OTEC apparatus from the ocean and seabed when operations cease. The maximum term of a license is 25 years, with preferential rights for renewals not to exceed 10 years at a time.

Section 102 sets out the detailed administrative procedures to be followed in issuing regulations, receiving and processing applications, and issuing licenses. The Administrator is instructed to make every effort to complete issuance of regulations to implement the Act within 270 days after its enactment. Applications must include detailed plans of the proposed OTEC facility or plantship, other detailed information listed in subsection (d)(2), and such other information as the Administrator deems necessary or appropriate. When an application for a license relating to an OTEC facility (not a plantship) is received, the Administrator is to designate an "application area" which includes the proposed location of the facility. Other persons interested in applying for a license to place an OTEC facility within the designated application area have 60 days to submit notice of intent, and a total of 90 days to submit their completed applications. If more than one application to place an OTEC facility in the same application area is received, public hearings and other proceedings on those applications are consolidated. Subsection (i) specifies criteria to be used by the Administrator in choosing between competing applications for the same designated application area.

Section 101 also establishes a single-application procedure for all required federal approvals, with other involved agencies making recommendations to the Administrator of NOAA on elements of the licensing decision within their legal responsibilities. Public hearings must be held before issuance, transfer, or renewal of a license. All public hearings on plantship applications must be completed within 150 days, and all public hearings on facility applications must be completed within 240 days. Final decisions on properly filed applications must be made within 90 days of the time public hearings are concluded. The time schedule established by section 102 requires a final decision on an application relating to an OTEC plantship within 266 days of its submission, and a final decision on an application relating to an OTEC facility within 356 days of its submission.

Section 103 makes it a misdemeanor to break or injure any submarine electric transmission cable or equipment being constructed or operated under a license, and specifies penalties for any violation. The section requires licensees to pay the owner of any anchor or fishing gear which is sacrified in order to avoid damaging the licensee's electric transmission cable or equipment, and requires any licensee who causes injury to any type of submarine cable or pipeline to pay for its repair.

Section 104 provides for a 90-day antitrust review of each application by the Federal Trade Commission and the Attorney General. The reviews and actions taken under this Act in no way prejudice any other actions to enforce the antitrust laws of the United States.

Section 105 requires the Administrator to designate as an "adjacent coastal State" for an application any State which will be directly connected to an OTEC facility by cable or pipeline, and any State within 15 miles of a proposed facility location. Other potentially affected States may also be designated as adjacent coastal States. If a designated adjacent coastal State has an approved coastal zone management program, its Governor is given the right to veto the application. No license may be issued for an OTEC facility directly connected to a State by cable or pipeline unless that State has an approved coastal zone management program. The consent of Congress is given to two or more States to enter into agreements or compacts for the purpose of applying for licenses under the Act.

Section 106 requires each licensee to pursue diligently the construction and operation of the OTEC facility or plantship to which the license applies. If the Administrator determines that diligence is not being shown, he is required to start proceedings to terminate the license.

Section 107 requires the Administrator to start a program to assess (through research, baseline measurements, and monitoring of OTEC operations) the effects of OTEC facilities and plantships on the environment. Subsection (a) sets out several specific questions which the program must be designed to answer, including whether any of the cumulative enviromental effects require that a ceiling be placed on the number or capacity of OTEC facilities or plantships to be licensed for simultaneous operation, either overall or within specific geographic areas. Subsection (c) states that the issuance of a license is deemed to be a major Federal action significantly affecting the quality of the human environment; this requires preparation of an environmental impact statement for the issuance of a license. The subsection provides that a single consolidated environmental impact statement be prepared, rather than separate statements by each agency involved.

Section 108 requires the Secretary of the department in which the Coast Guard is operating to issue and enforce regulations governing marking, safety equipment, vessel movement, and other aspects of OTEC facility or plantship operation which may affect pollution of the marine environment or safety of life and property. The Secretary is also authorized, after consultations, to establish safety zones around OTEC facilities and plantships. OTEC facilities and vessels are deemed to be vessels for the purposes of the vessel inspection laws.

Section 109 requires that each license include conditions to ensure that construction and operation of the OTEC facility or plantship do not unreasonably interfere with navigation, fishing, or other uses of the high seas by U.S. citizens or other countries. The Secretary of the department in which the Coast Guard is operating is required, in conjunction with the Administrator, to promulgate regulations governing the movement of OTEC plantships to ensure that any ocean temperature changes caused by the plantship do not unreasonably impinge on other OTEC operations or on any other country.

Section 110 provides for placement of Federal observers on board licensed OTEC facilities and plantships, and requires licensees to provide environmental monitoring data to the Administrator.

Section 111 provides procedures for suspension or revocation of a license when a licensee has failed to comply, and permits the Administrator to issue orders to cease or alter construction or operation under certain specified conditions.

Section 112 requires licensees to keep records described in regulations and to submit such reports as the Administrator requests. The section also provides for availability of information and documents to the public, and contains provisions to protect trade secrets as defined in 18 U.S.C. 1905.

Section 113 provides that a licensee may at any time surrender a license, or relinquish part or all of his rights under the license, to the Administrator, but does not thereby relieve himself of any liabilities or obligations.

Section 114 provides authorization for citizen civil suits to force enforcement or compliance with the Act.

Section 115 allows any person who is adversely affected and who participated in the administrative proceedings, 60 days during which to seek judicial review by the United States Court of Appeals of the Administrator's decision with respect to an application.

Title II of the bill contains amendments to the Merchant Marine Act, 1936, which insure that OTEC facilities and plantships will be included within the coverage of certain provisions of that Act. Section 201(a) states that for the purposes of section 607 of the 1936 Act any OTEC facility or plantship licensed under this Act; and any vessel providing shipping service to or from such an OTEC facility or plantship, is deemed to be a vessel operated in the foreign or domestic commerce of the United States. The substantive effect of this statement is to clarify that OTEC facilities and plantships, and vessels serving them, are eligible to use the capital construction fund provisions of the 1936 Act.

Section 201(b) states that for the purposes of the shipping laws, any vessel documented under the laws of the United States and used in providing shipping service to or from an OTEC facility or plantship licensed under this Act shall be deemed to be used in, and used in an essential service in, the foreign commerce or foreign trade of the United States, as defined in section 905(a) of the 1936 Act. The substantive effect of this statement is to clarify that vessels serving OTEC facilities and plantships are eligible for construction and operating differential subsidies under the provisions of the 1936 Act if they meet the specific requirements for receipt of those subsidies.

Section 202 amends section 1101 of the 1936 Act to include a definition of OTEC facilities or plantships, and to include them in the definition of vessel. Section 203 amends section 1104 of the 1936 Act to include OTEC facilities and plantships in the list of items to which the section applies, and to provide a ceiling of 87½ per centum of actual cost for an OTEC facility or plantship which is built without the use of construction-differential subsidy. The net effect of all these amendments is that OTEC facilities and plantships would be eligible for mortgage obligation guarantees up to a maximum of 87½ per centum of their cost, under the program established by title XI of the 1936 Act.

Section 204 amends title XI of the 1936 Act to set up a special subaccount in the Federal Ship Financing Fund to handle mortgage obligation guarantees for OTEC demonstration facilities or plantships which would not satisfy the "economically sound" criterion of section 1104(d). Such demonstration plants would have to be approved or participated in by the Department of Energy, and the mortgage obligation guarantee could cover 100 per centum of the actual cost of the demonstration plant. The limit on all mortgage obligation guarantees for OTEC demonstration plants would be set at $2 billion, and the special provisions of section 204 could be used for not more than 5 OTEC demonstration projects.

Title III of the bill contains enforcement provisions, including specification of criminal and civil penalties, issuance of compliance orders by the Administrator, enforcement responsibilities, powers of enforcement officers, jurisdiction and venue of courts, and other enforcement matters.

Title IV of the bill contains miscellaneous provisions. Section 401 requires the Administrator to modify regulations issued pursuant to this Act to conform them to the provisions of any Law of the Sea treaty ratified by the United States.

Section 402 exempts demonstration OTEC projects designated as such by the Secretary of Energy from the licensing and other requirements of Title I of the Act, and requires the Secretary of Energy to make such demonstration projects abide by as many of the substantive requirements of title I as he determines to be practicable.

Section 403 specifies the relationship of activities under this Act to other laws. The Constitution, laws, and treaties of the United States would apply to licensed OTEC facilities and plantships to the same extent they would to a Federal enclave located within a State. If an OTEC facility is connected to a coastal State by cable or pipeline, the laws of that State would apply to the facility so long as the State laws do not conflict with Federal law. U.S. customs law would not apply to OTEC facilities and plantships, but payment of duty would be quired on foreign articles used in the construction of the facility or plantship.

Section 404 requires the Administrator, in cooperation with other interested Federal agencies, to establish and enforce regulations for the safe construction and operation of submarine electric transmission cables and equipment under U.S. jurisdiction.

Section 405 requires the Administrator to submit an annual report to the Congress for each of the first three years after enactment of the Act. Section 406 authorizes appropriations of $3.0 million for fiscal year 1981 and $3.5 million for each of fiscal years 1982 and 1983 to implement the Act. Section 407 provides that if any provision or application of the Act is held invalid, the holding does not affect the validity of the remainder of the Act or other applications.●

THE ENERGY SYNDROME: DESPERATE AND DISMAL

HON. JOHN W. WYDLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. WYDLER. Mr. Speaker, I think it is important to recognize that the senior citizens of this country are speaking out unequivocably on the need for assured energy supply. Recently, the Honorable James H. Cromwell, former war Ambassador to Canada under Franklin D. Roosevelt, spoke to the American Association of Retired Persons, and other senior citizens groups, on "The Energy Syndrome: Desperate and Dismal."

The following are important excerpts from Mr. Cromwell's speech which indicated an understanding of the key role that nuclear power must play in solving America's No. 1 problem. He relates our energy situation to national security and our vulnerability in the Middle East and Africa.

I recommend these excerpts to my colleagues as dramatic confirmation of one citizen's keen interest on the energy problem.

The excerpts follow:

THE ENERGY SYNDROME: DESPERATE AND DISMAL

When one achieves the age of retirement, he finds himself, insofar as current events and problems are concerned, involuntarily ensconced in a mediative Ivory Tower. From that impartial perspective, with no axe whatsoever to grind, I address this message to my fellow citizens of the Conservative persuasion.

I am convinced that energy is America's number one problem—preceding even inflation—and this conclusion is based upon nearly three decades in the business of producing oil and gas. Bluntly, I am sick with apprehension as I watch this great Nation teetering on the edge of a horrendous precipice. By that analogy I mean a 50 percent shortfall in our daily requirements of petroleum; an event which can occur any day without any notice. Horrendous is no exaggeration for such a catastrophe and yet, because we are almost totally dependent upon the forbearance of the Arabs and the Russians, it can happen, to repeat, any day and without any notice.

The Russians, you say? Yes, the Russians I say. Why do you think they are injecting their "advisors," their stooges and their war materials into Middle East and African areas which threaten our petroleum lifelines? It is common knowledge that they have bled their people white to gain superiority over us in nuclear missiles and every other variety of offensive weaponry. Russia is not now and never has been a maritime nation—why do they need a navy equal to our own?

I do not see how any informed American can live without profound anxiety when confronted with such facts. And it is beyond my comprehension how the incumbent Administration and some Democratic members of the Senate and House can keep on assuring us that we remain impregnable and are still the number one superpower. In that respect, listen to Mr. Schlesinger, former Secretary of both defense and energy in his farewell speech just last August 16; surely our foremost authority for both defense and energy and a new born impartial witness if there ever was one. Said he:

"Soviet control of the oil tap in the Middle East would mean the end of the world as we have known it since 1945 and of the association of free nations."

IS ANYBODY LISTENING?

What have we done since the Arab political cut-off in 1973 to remedy our dire dependence upon unfriendly and unreliable sources of our economic lifeblood? After six years double zero is the answer. President Carter is trying to expand our domestic production of petroleum (about 50 percent of our daily consumption) by abolishing price controls, the over-riding factor responsible for the decline of drilling; but even that seems in doubt. And what is being done to expedite prompt development of our next best source of proven energy, nuclear power?

For guidance let us listen again to our top authority upon that subject, former Secretary Schlessinger, on August 16th:

"Unless we achieve greater use of coal and nuclear power over the next decade, this society may just not make it."

In coal, America possesses its ultimate life-preserver, however, synthetic salvation has a serious time lag—probably about a decade—and in our precarious posture every day counts. Besides that, energy independence via coal liquification requires much higher gasoline and fuel oil prices, perhaps $2.50 a gallon, to meet the enormous costs of the new installations. Solar energy, windmills, organic fuels, etc., are unknown quantities and while mildly helpful can only scratch the surface, without a miraculous breakthrough.

WHY THIS SOCIETY MAY JUST NOT MAKE IT

One of the weirdest manifestations observed from the Ivory Tower is the violent opposition of some of our over-exuberant youth—plus some professional activists, against nuclear power. Not all the so-called "Anti-Nukes" can be listed in that category but I have yet to see or hear a really prominent nuclear scientist join the chorus of fearmongers. As a worried but I hope, impartial investigator in the overall field of energy, it seemed to me that nuclear power was a well proven and large scale answer to our prayers for clean and competitively priced energy available without undue delay. I repeat, without undue delay.

The first nuclear power plant in the U.S.A. commenced operations eighteen years ago in the city of Chicago. Since then new and improved plants now supply more than eight percent of total national electrical production. All without the loss of even a single life. Says the President of the Chicago plant, "They're a production man's dream." Despite this matchless record the media has seized upon nuclear power and has mounted a campaign of sensational allegations about imaginary devastations encompassing entire States with death for tens of thousands of people!

The accident at Three Mile Island, still without injury or loss of life was, nevertheless, a bonanza for more media sensationalism and accelerated violence by the "Anti-Nukes" and fellow travellers. And so the most promising and immediate contributor to the solution of our desperate energy problem appears to be sentenced, like many another promising industry, to expire in the maze of government regulations, conflicting commissions, mountains of papers and the destructive costs of years and years of delay. Doesn't anybody give a damn if "this society may just not make it"?

TOO BAD FOR EVERYBODY

Obviously the outstanding local victim of the "Anti-Nukes" and their ilk is our own Lilco. In my innocence and as a fellow industrialist, I had always thought of Lilco as being an unusually efficient corporate entity. One which reliably supplied me with electricity and gas and repaired my breakdowns with surprising neatness and dispatch. Also I was naive enough to admire and envy the superb plans of a far-sighted management for utilizing excellently situated sites for two A1 nuclear plants which would guarantee the people of Long Island ample electric power for years to come.

But no. How wrong can one be? Imagine my consternation when my ingenuous notions were destroyed by learning from our erudite local press, from our infallible political guardians and the fierce "Anti-Nukes" that, in reality, Lilco is a greedy octopus, with a demoniacal management, overcharging its customers and plotting to subject them to horrible death, mutilation and despair! Too bad for Lilco. Too bad for our desparate energy crisis. Also too bad for Long Island and last but not least, too bad for the U.S.A. Unfortunately, the anti-business attitude illustrated so dramatically by the vicious and unwarranted attacks upon Lilco are widespread throughout America.●

HOME HEATING FUEL CRISIS—PART XII*

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. GILMAN. Mr. Speaker, I rise to draw the attention of my colleagues to the latest developments in the home-heating fuel crisis.

However, I would first like to specify that although the title I have chosen for the past 11 reports is on the home-heating fuel crisis, it is not restricted to it as such, simply because the present home-heating fuel crisis is just one development of the overall complex energy problem facing our Nation at the moment. Unlike the gas shortage confronting us this past summer, the present concern is whether we will be able to adequately heat our homes this winter, and whether we will be able to pay the fuel bills.

During the late summer, there was some question about our ability to stockpile the fuel needed to see us through the winter, and more importantly, whether or not our citizens could pay for the high-priced home-heating fuel. As it stands today, the oil companies report that their stockpiled fuel is being pumped into the distribution pipelines, and into the storage tanks of the independent dealers before the cold weather sets in, and since the price has not gone down, the Federal Government has passed legislation that will provide Federal funds for all those people who will be burdened with financial hardship in trying to meet their fuel bills.

The overall oil supply situation is still tense and should be monitored accordingly. The latest DOE statistics indicate that the U.S. refineries operated at an average of 87.6 percent of capacity during the week of November 30, 1979, up from the previous week's average of 84.4 percent. Crude oil runs to distillation units averaged 15.1 million barrels a day for the week, an increase of 3.7 percent over the previous week's average. Crude oil runs are now about 1.3 percent below the average a year ago.

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*Part XII is part of a series of reports on the home heating fuel crisis with Nos. 1 thru 11 appearing in the CONGRESSIONAL RECORD on 9/17, 9/22, 9/29, 10/11, 10/19, 10/26, 11/2, 11/9, 11/16, 11/29, and 12/6, respectively.

Due to both the seasonal changes and the overall improvement in conservation measures, the petroleum product supplies for the 4 weeks ending November 30, 1979, were supplied at a rate of 18.3 million barrels a day, which is 4.9 percent lower than the rate a year ago. Motor gasoline was supplied at a rate of 6.8 million barrels a day for the period, 9.8 percent below the rate for the comparable period last year. Distillate fuel oil was supplied at a rate of 3.7 million barrels a day, 1.9 percent higher than the rate a year ago.

In sum, the present situation seems to indicate that as a result of conservation measures, the gap between supply and demand has narrowed to the point where we are not, at this time, experiencing any gas lines, and the independent dealers of home-heating fuel are being adequately supplied with the oil they need to stave off the first few months of winter.

Yet, as I have repeatedly argued in the past, it would be exceptionally foolhardy for us to believe that the critical nature of the energy crisis is over. We know it is not. As long as the United States is not self-sufficient in energy, we can expect to be subjected to further oil supply shortages and higher oil prices. In fact, in just a few days the cartel of oil producing nations is meeting in Caracas to decide just how much they will tack onto the price of each barrel of oil. It has been estimated that the OPEC price increase will be in the neighborhood of 30 percent, which translates into a 13-cent increase per gallon at our pumps. So much for the end of 1979. We can only speculate what will happen in the new year just ahead of us.

I stress to my colleagues that we must maintain a vigilant scrutiny of the oil supply situation in our districts, and above and beyond that, attempt to overcome potential problems by keeping abreast of changing circumstances.

At this point in the RECORD, I would like to insert two recent articles which appeared in Time magazine on December 10, 1979, and in Newsweek on December 10, 1979, respectively, explaining how the turmoil within the OPEC nations could translate into further problems for the United States. In light of such information it could be shortsighted to contend that just making it through the winter will do.

The articles follow:

[From Time magazine, Dec. 12, 1979]

HERE THEY COME AGAIN—CONSERVATION, CARTEL-STYLE: LESS PRODUCTION, MORE PROFIT

When the oil ministers of the world's least beloved cartel jet into Caracas next week for their final sock-it-to-'em meeting of the decade, there will be some important and worrisome differences from past gatherings. OPEC will be fixing prices against a backdrop of almost unprecedented global upset brought on in large part by its own actions. More than that, in its headlong rush for profits, the 13-nation cartel has been rapidly losing even the appearance of self-control over pricing and production.

As a result of OPEC's policies, worldwide inflation has been sent soaring to ever increasing heights. Meanwhile, global economic growth has stalled and the international financial system itself has been thrown into turmoil. In 1980, oil-importing nations expect to hit what economic jargoneers have labeled a "synchronized recession." Now no one can be sure how high the cartel will push oil prices beyond their present official maximum of $23.50 per bbl., but demand for petroleum makes a substantial increase certain. Single shipments of crude are being sold on the spot market for as much as $40 to $45 per bbl. This shows just how much people are prepared to pay for oil in the pinch that has been created by the loss, for much of this year, of some 2 million bbl. of crude per day from Iran.

A further big rise in price would do shocking damage. For example, a jump to $30 per bbl. would lift OPEC's total 1980 revenues to about $300 billion, constituting a huge new international tax on economies everywhere.

More and more OPEC members are discovering that they can collect just as much by cutting production. Kuwait, Iraq, the United Arab Emirates, Algeria and Libya have all announced cutback plans for 1980, and others are likely to follow. Warns Gulf Oil Corp. President James Lee: "We estimate that OPEC could cut its exports by about 8 million bbl. per day, or nearly 25 percent and still maintain balanced economies for its members." Reason: as the cartel sold less oil, the price for the diminished supply would automatically surge.

While OPEC becomes richer, the rest of the world will grow poorer. For example, suppose oil hits $30 before the end of next year. Instead of a projected balance of payments surplus in 1980, the U.S. could wind up with a deficit of $15 billion, further weakening the dollar.* Overall, the combined balance of payments deficit for all industrial nations would climb from this year's $16 billion to perhaps as much as $40 billion in 1980. Developing nations would be hurt worst, since many of them have no exports of real value to count on at all. Their debts, which already total some $300 billion, would swell to perhaps another $60 billion, requiring poor nations to borrow yet more billions.

The outlook is clouded for OPEC itself, especially for the so-called dollar-surplus states of Saudi Arabia, Kuwait, the Emirates and Qatar, which together hold more than $90 billion in U.S. dollars and other U.S. financial assets that will continue to slip in value as the cartel's prices climb. These surplus states probably will not go along with any effort to dump the dollar as the currency of the world oil trade, a move that would undermine the value of the greenbacks they already hold. But Iran and Libya are urging OPEC to switch from dollars to a so-called basket of currencies, which presumably would include German marks, Swiss francs and other Western money, and a fight at next week's meeting seems likely. In the doubtful event that OPEC did take such a step, demand for those currencies would send their value soaring on money markets as the dollar plunged.

The days are gone when Saudi Arabia, by far the biggest producer with 30 percent of the cartel's output, was able to exert a moderating influence. More and more cartel members, and even factions in the royal family itself, view the desert kingdom's traditional support for the U.S., and Washington's repeated pleas for maximum OPEC output at the lowest price, as ultimately damaging to the producing states. Anti-American rioting in Iran has made involvement with the U.S. seem even more unwise. Such oil ministers as Iraq's fiery Tayeh Abdul-Karim and the Emirates' Mani Said Utaiba argue that it is stupid to swap valuable and nonrenewable oil for increasingly inflated dollars that Washington might some day freeze anyway, as it has done in the case of Iran.

Saudi Arabia can no longer even hold down prices by threatening to flood the world market with crude, a tactic that Petroleum Minister Ahmed Zaki Yamani successfully employed as recently as late 1976. The key reason is that the Saudi fields are reaching maturity, and it would take years of work and billions of dollars in fresh investments to boost daily production of about 9.5 million bbl. by very much for any length of time.

A new power alignment seems likely to emerge in Caracas: a loose coalition among Saudi Arabia, Iraq and Kuwait, the Persian Gulf's three biggest Arab producers, which now dominate the Persian Gulf trade as Iran sinks deeper into internal chaos. Instead of moderate price increases, higher production and cooperation with Washington, the outlook for the cartel as a whole seems to be for substantially higher prices, tighter supplies and increasing disinterest in whatever the U.S. seeks.

[From Newsweek, Dec. 17, 1979]

THE KHOMEINI CONTAGION

In Tripoli, Libya, 2,000 protesters chanting support for Ayatollah Ruhollah Khomeini advanced on the American Embassy—which was guarded by a single Libyan policeman. The twelve American staffers just managed to slip out a side door before the mob sacked and burned the building—the third such symbol of U.S. "imperialism" to fall within a month.

Crates of sophisticated military hardware were piled up again on the docks of North Yemen. Nine months ago, the U.S. had rushed tanks and jet fighters to the little Red Sea nation in an effort to "draw the line" against Soviet advances on the Arabian Peninsula. This time Washington strategists were dismayed to find that North Yemen's new bonanza of military aid had been delivered courtesy of the Kremlin.

After rounding up the last of the terrorists who had invaded the Grand Mosque Mecca, the rulers of Saudi Arabia ordered swift Islamic justice—reportedly including decapitation—and tightened the security net over their desert kingdom. But even as they reasserted control, hints leaked out that the siege in Mecca was actually the spearhead of a coup attempt that had come perilously close to succeeding.

Suddenly, political turmoil was sweeping the Islamic world, threatening the U.S. position and prestige in an area that supplies nearly half the oil of the Western allies and Japan (map). The Soviet Union has been vigorously peddling its influence in the area—particularly in the Horn of Africa, the Yemens and Afghanistan—but the more immediate challenge to U.S. interests has been inspired by revolutionary Iran and by its patriarch Khomeini, who has fired religious fervor against a "satanic America" and the Western world in general. "In some ways, Khomeini is very like Mao Tse-tung," said one Western diplomat in Teheran. "He's the idea man and other people turn his words into action."

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*In 1979, the U.S. will spend some $62 billion on imported oil, an average of $800 per American household.

The Khoemini contagion has spread throughout the lands of the Persian Gulf as inflammatory tape cassettes, revolutionary tracts and rabid broadcasts from Iran circulate among faithful members of the ayatollahs Shiite Muslim sect. In Saudi Arabia's eastern oil fields, at least one Shiite demonstration has turned violent. In Bahrain, the Shiite majority has openly challenged the ruling sheiks. In Kuwait, a wave of arrests has swept up voluble Shiite clergymen. Its restiveness has reached the cosmopolitan center of Dubai and even the isolated, security-conscious nation of Oman at the strategic mouth of the Gulf.

DIFFERENCES

U.S. policymakers believe they can sweat out the ayatollah ague. Khomeini's own nation is showing signs of internal divisions. Iran also has a tradition of cultural differences with its Arab neighbors, and the Shiites who constitute Iran's majority are outnumbered in most other nations of the Sunni Muslim world. Yet the tremors from Iran could complicate the Mideast peace process, create a dangerous power vacuum in the Gulf—and make life difficult for some of America's strongest friends in the region.

What role the passions raised by Khomeini played in the assault on Mecca's Grand Mosque may never be fully known. Last week, Saudi Arabia announced that it finally had secured the holiest shrine in Islam after two weeks of heavy fighting. The Saudis blamed the siege on right-wing religious fanatics. But European diplomatic sources told Newsweek that the incident apparently was part of an organized and widespread effort to overthrow, or at least destabilize, the Saudi Government. According to this version—doubted by the U.S. State Department—the coup nearly succeeded.

The Mecca attack took place while two of Saudi Arabia's principal leaders, Crown Prince Fahd and National Guard chief Prince Abdullah, were out of the country on business. King Khalid had planned to pray at the Grand Mosque on the day of the attack, but apparently bowed out at the last minute because of a minor ailment. Consequently, none of the three major leaders was on hand when terrorists took the mosque and, at the same time, staged an assault on the city of Medina.

In the aftermath, it turned out that some of the invaders were armed with Soviet-made assault rifles smuggled across the border, while others carried late-model U.S. automatic weapons that apparently had been obtained from the Saudi National Guard. Newsweek's Arnaud de Borchgrave reported that some of those involved had received training from underground Marxist groups in North Yemen. Credit for the attack was claimed by two previously unknown organizations—the Union of the Peoples of the Arabian Peninsula and The Muslim Revolutionary Movement in the Arabian Peninsula. But most of the rebels belonged to the bedouin Oteiba tribe, which traditionally makes up much of the National Guard. There were unconfirmed reports that during the government's counterattack on the mosque, many guardsmen either joined the rebels or refused to fire at them, forcing Saudi generals to call in army units to root out the occupiers.

PASSIONS

To make matters worse, there were persistent reports of trouble among the 300,000 Shiites in Saudi Arabia's eastern oil province—notably the coastal towns of Qatif and Seihat. Travelers from the area said that mourners at a funeral in Qatif had raised political passions by playing tapes of Khomeini's fiery speeches. When Saudi police tried to break up the procession, several hundred mourners began throwing rocks and breaking windows. By the end of the day, five people were dead. Jittery Saudi officials refused to acknowledge that there had been any trouble, but the reports were widely accepted. "Everyone had always banked on Saudi Arabia being the rock of stability," said a Western diplomat. "The rioting was over in a day, but it is an episode that leaves a very bad taste."

The Khomeini factor also was apparent in the chants of the mob that sacked the U.S. Embassy in Libya. Applying lessons from earlier take-overs of embassies in Teheran and Islamabad, Pakistan, the skeleton U.S. diplomatic staff quickly escaped. (Despite the opening line of the Marine Corps hymn, Libya has not permitted Marine guards on the shores of Tripoli since 1973.) The U.S. State Department protested Libya's lax security and demanded that Muammar Kaddafi's radical Islamic regime admit responsibility, pay for fire damage and tighten security. State also announced that the embassy would suspend "normal operations" with a regime that supplies 11 percent of America's oil imports. Late in the week, Libya agreed to pay for repairs.

OPPORTUNITY

It is difficult to gauge the full impact on the Islamic world of Khomeini's call for revolution and religious fundamentalism. Some U.S. officials fear that it may destabilize the area to the ultimate benefit of the Soviet Union, though Khomeini seems to despise the Soviets as much as he does the West. Iran has sharply reduced natural-gas supplies to Russia and denounced the tight government control over 30 million Soviet Muslims. Still, the chaos in Iran presents Moscow with an opportunity. "The Russians must steer their course very carefully," said an Arab diplomat in Moscow. "But the bottom line is that an extended crisis situation like this plays right into Moscow's hands, because it erodes the U.S. position across the Islamic world."

The Soviets have long pursued a goal of strategic superiority in and around the Persian Gulf. U.S. officials estimate that the Soviet advisory corps in Afghanistan has expanded to include as many as 4,000 military personnel and another 1,500 civilians. In North Yemen, the Soviet Union has reopened a military supply line that the Carter Administration thought it had replaced last spring when the U.S. sent nearly $400 million worth of weapons to help North Yemen turn back an invasion by Marxist South Yemen. The shipment of about a half-dozen Soviet MiG–21 fighters raised the possibility of an eventual union of the Yemens under Soviet control on Saudi Arabia's southern flank. In the view of some Administration experts, however, North Yemen actually sought out the Soviet weapons to demonstrate independence from Saudi Arabia and to compete with its southern neighbor—not join it.

The repercussions of Khomeini's campaign also threaten to spread beyond the Persian Gulf—and they might jeopardize the sensitive Middle East peace process. West Bank Palestinians, some of whom have supported Iran's "retaliatory action," may become even more reluctant to sit at the peace table with the U.S. The Administration's best Arab friend—Egypt—could become even more isolated from other Arab governments that are forced by Islamic militancy to keep their distance from the U.S.

NEW ALLIANCE

The spreading ferment may call for a containment strategy. Some Western policymakers think a new political alliance would work; French experts are preparing one plan for a loose regional grouping that would include the conservative Saudis, the smaller gulf states and the more radically inclined Iraqis. Such a combination would check Iranian adventurism, the French believe, and also pull Iraq—a traditional competitor of Iran—steadily into the camp of Arab moderates. The worst strategy, most Arabists agree, would be a U.S. military move against Iran. "Those who dare attack the Islamic people in Iran should realize that such an attack must be deemed an attack on all Islamic states," warned a conference of Islamic scholars in Qatar. A Western diplomat in Kuwait agreed: "It would be a kamikaze act. It could set the whole place on fire."

Some observers think Khomeini's movement eventually will falter outside Iran. "We are not seeing a sweep of anti-Americanism across the Arab world," said a U.S. Mideast expert. The Administration hoped the ayatollah ultimately would self-destruct. In the meantime, the power of his call for a return to Islamic fundamentalism would carry significant risks for the West's links with the oil-rich powers of the Muslim world.●

PERSONAL EXPLANATION

HON. TOM CORCORAN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. CORCORAN. Mr. Speaker, due to a previous commitment on Tuesday, I was unable to be present and vote on two matters before the House. If I had been present, I would have voted in the following way:

Rollcall No. 711: On suspending the rules and adopting H.R. 5870, air traffic controllers training amendments, "yea."

Rollcall No. 712: On an amendment offered to H.R. 4962, Child Health Assurance Act of 1979, which sought to prohibit the use of funds to perform abortions except where the life of the mother would be endangered if the fetus were carried to term, "yea." ●

WHEAT MAN OF THE YEAR

HON. JOHN J. CAVANAUGH

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Friday, December 14, 1979

● Mr. CAVANAUGH. Mr. Speaker, on Tuesday, the Kansas Wheat Growers Association named our colleague, Congressman Dan Glickman, Wheat Man of the Year. The award has been made annually over the last 20 years to the person the Kansas Wheat Growers see as having done the most for agriculture during the year. In his position on the House Agriculture Committee, Congressman GLICKMAN has indeed shown himself to be dedicated to the well-being of the American farmer-at-large, as well as those in his home State of Kansas. He has taken an active part in a wide range of agricultural issues, and has taken a leadership position, both in the House Agriculture Committee, and here on the House floor, in efforts to see that our farmers are able to make a go of it.

I would like to take this opportunity to commend the Kansas Wheat Growers for an excellent selection, and to congratulate our colleague from Kansas on the honor he has received.●